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SENATE—*Thursday, June 29, 1995*

(Legislative day of Monday, June 19, 1995)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Almighty God, You know what we need before we ask You, and yet, You encourage us to seek, knock, and ask. When we truly seek You and really desire Your will, You do guide us in what to ask. When we ask what You guide, You provide.

Our day is filled with challenges and decisions that will test our own knowledge and experience. We dare not trust in our own understanding. In the quiet of this moment fill our inner wells with Your Spirit. Our deepest desire is to live today for Your glory and by Your grace.

We praise You that it is Your desire to give good gifts to those who ask You. You give strength and courage when we seek You above anything else. You guide the humble and teach them Your way. We open our minds to receive Your inspiration. Astound us with new insight and fresh ideas we would not conceive without Your blessing.

Make us maximum by Your Spirit for the demanding responsibilities and relationships of this day. Then we will say with the Psalmist, "Lord is my strength and my shield; my heart trusted in Him, and I am helped; therefore, my heart greatly rejoices."—Psalm 28:7. Amen.

RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 10:30 a.m., with Senators permitted to speak therein for not to exceed 5 minutes each.

FRESHMAN THOUGHTS ON THE BUDGET

Mr. THOMAS. Mr. President, as has been our custom recently, the freshman class would like to take some time this morning to talk about topics that are of primary interest. This morning we want to talk about the budget.

This is an exciting day. We will pass the budget balanced for the first time in 30 years.

Mr. President, let me yield to the Senator from Oklahoma.

Mr. INHOFE. Mr. President, I thank the Senator from Wyoming for yielding.

I think he said it right. This is really a historic day, a day we have been waiting for—many Members—for years, since the 1960's, when this country decided that the Great Society days were coming in and Government would play an expanded role, and that we would be able to take care of everyone from birth to death.

A lot of people realize that this cannot be done. The resources are not there. The money was not there, so we borrowed it.

Over the years, we have established huge deficits and huge debts. Finally, today, we will be passing a budget resolution that is going to put the United States in a position to balance the budget by the year 2002.

In other words, we will be in a position where we will have eliminated our deficit at that time, and then can start paying off this huge, huge, debt that is out there.

A lot of things happened in the last few weeks. President Clinton submitted a budget to this body. It was a pretty big spending budget resolution. It went down by a margin of 99 to 0.

Then a short while after that, the Republicans came forth with essentially what we will be voting on today and passed it. This was a resolution that would eliminate our deficit by the year 2002.

A week after that, the President came with another resolution that would have had the effect, he said, of eliminating the deficit by the year 2005. Until we started looking at it. The Congressional Budget Office looked at it and said, well, wait, in the next 10 years, you will be increasing the debt by about $200 billion a year. When I multiply that out, that would be a $2 trillion increase in our Nation's debt by the year 2005. That is certainly not bringing the deficit under control.

I would like to quote the President. During the speech that was made to a joint session, the President came out and talked about what he was going to do with the deficit. He praised the Congressional Budget Office by saying,

> Well, you can laugh, my fellow Republicans, but I'll point out that the Congressional Budget Office was normally more conservative in what was going to happen and closer to right than the previous Presidents have been.

Yet it was the CBO that came out and said that it was a phony budget resolution, that it did not reduce the deficit. It certainly did not reduce the deficit.

This is an exciting time. We have heard over the last few months of debate that this is not a fiscal issue that we will be dealing with today. This is a moral issue, in that someone who is born today—like young Daniel that was born, and his new father, standing proudly behind me, the Senator from Pennsylvania—young Daniel, in his lifetime, would have to pay 82 percent of his lifetime earnings if we stayed on the track that we are on today to the Federal Government. This is something we are not going to allow to happen.

I am very proud, Mr. President, to be here today and be able to say, finally, a historic moment has arrived. We are participating in it. I am very proud of the participation of the 11 freshmen, the new Members of the U.S. Senate, who participated in putting this together.

● This "bullet" symbol identifies statements or insertions which are not spoken by a member of the Senate on the floor.

Today is an exciting day. I thank the Senator from Wyoming for yielding to me.

Mr. THOMAS addressed the Chair.

The PRESIDING OFFICER (Mr. ASHCROFT). The Senator from Wyoming.

Mr. THOMAS. Mr. President, let me comment just briefly before I yield to my friend from Pennsylvania.

This is, I think, a day to which we have been looking forward. All 11 freshmen who came to the Senate this year supported the balanced budget amendment. All 11 freshmen will support this balanced budget resolution.

I think it is indicative of the fact that we were on the campaign trail, probably more than anyone else, because we were seeking our first election to the Senate. I think we found among all the issues that the idea of a responsibility in budgeting, the idea of responsibility in spending, was the issue that most people cared about.

Through all these years, we have put it on the charge card. The old charge card is maxed out, and most people know that. So we have a chance, and we will pass a balanced budget today for the first time in many, many years.

Now, I think it is honest and fair to say that passing this budget resolution is the easiest part. After this, of course, given these parameters, we have to go in and determine where the cuts are specifically. Where the additions will be, specifically. How the money is apportioned, and what the priorities are. That, of course, will be the difficult part.

The nature of it, obviously, is that each Member in our own program says we want to balance the budget but not on my program. We want to balance the budget, but we ought to take it away somewhere else. Members would be amazed at the number of folks who say, "We need a little more money because it will save money in the long run."

Probably true. Nevertheless, next year's budget is what we are talking about when we have to do something with it. It does demonstrate on the part of this Congress and on the part of the House, and I am proud of, some discipline, some concern for the future.

We had 50 4-H youngsters from Wyoming in yesterday, talking about what is going on, about their future. Talked about the fact that if we do not do something by the time the 4-H'ers are at their high-earning capacity in middle-age they will be paying 80 percent of their income in taxes.

It is not a question of whether we change but how we do it. It is difficult. Everyone said in the balanced budget amendment, I am for a balanced budget amendment—but. But. We have a dozen reasons we cannot do it this way or why we cannot do it in another way. We will hear that, of course, all through this debate, "I want to balance the budget, but we cannot do it on the backs of the farmers, but we cannot do it on the backs of these people."

We have to find a way, and we will find a way. I am delighted the President has finally come around to a balanced budget. Even though he does it in a different way, the principle is there and, finally, some commitment to balancing the budget.

He said in his letter, which I was a little disappointed in where he threatens to veto, "We share the goal of balancing the Federal budget," he says, "but we must do it in the right way."

The right way is his right way, of course. Each of us has a right way. So it will be difficult, and I understand that. I understand it is a great debate. There are bona fide differences in views, how people think the Government should function. There are those who have a notion that spending more is better; that the Government's job is to collect more taxes and spend it out in the right way. That is a legitimate point of view. I do not happen to share it. I think the real thrust in this country is that the Federal Government is too big and costs too much; that is the general notion. But the other view—it is shared by a number of people in this Congress—is a legitimate one.

So it is a great debate. And, of course, people sometimes say, "Why can't you guys get together and pass something?" There are differences of view about it. So it will not be easy, and there will be endless posturing going on defending this little group and defending that group. But through it all, in honesty, there are different sets of priorities. People push those priorities in good faith.

Let me make just a couple of points that I think are important. One is, defense will be one of the areas of great concern. Let me just say I do not know the number, I do not know where it ought to be. But certainly defense, among all the other functions of the Federal Government, is one that is a legitimate one. The Federal Government is the only unit that can carry out defense. This is not a peaceful world. How much you spend, sure, we can debate that. Should we have a strong defense establishment? Of course.

The other one, which I think is interesting in terms of principle, is Medicare. Medicare part A is financed by withholding in Social Security. So there is a fund that comes in, spending comes out. That fund is going to go broke, according to the trustees, in 7 years. There is no question about that. The real issue is, do you take general tax revenues and prop up the fund or do you cause the fund to be self-sustaining, as it should be? Even in part B, where a portion of it is paid for by the recipient, the question is do you fund those things out of general tax revenues with no control over the spending? Or do you seek to fix the program as it is by reducing the spending from 10 percent a year to 7 percent a year?

Mr. President, we have a great opportunity to do some things that need to be done, some things of principle that must be done. We have that exciting opportunity today, and then to move within that budget resolution to the appropriations for the remainder of the year.

I yield at this time to the Senator from Pennsylvania.

Mr. SANTORUM. I thank my friend, the Senator from Wyoming, for yielding, and I thank him for his steadfast effort to come to the floor on a regular basis and organize the 11 freshman Republican Members of the Senate to come and talk about the important issues facing this country today. Obviously, the one on all of our minds is the issue of the budget.

I think the comments of the Senator from Wyoming were right on point. We have a great opportunity today to make history, and I believe we will do so. It is just the beginning of the process. We have a long way to go from passing this budget resolution, which is simply a blueprint. This budget resolution does not get signed by the President. It is a working document, in a sense, for the Congress to follow, laying forth the blueprint as to how we should get to a balanced budget over the next 7 years.

Then it is our job, over the next several months, before the end of the fiscal year, by the end of September, to craft a reconciliation package that brings in line the spending with the projections made in the budget resolution. So we have the actual reductions in the programs over the next several months—not just the blueprint as to how you get to a balanced budget. That is the tough one. That is where we have the disagreement, as the Senator from Wyoming stated, between those of us in the Congress and the President, on the "right way" to go about balancing the budget.

I will say, I am at least heartened by the fact that the President now accepts the premise of a balanced budget. When he submitted this budget—this is the President's fiscal year 1996 budget—when he submitted this budget back in February, he did not accept the premise that the Congress and the President should work together to balance the Federal budget, because this budget, according to the Congressional Budget Office and his own budgeteers, had perpetual deficits of over $200 billion a year for as far as the eye could see, in fact, increasing 5 or 6 years out. So his first submission did not accept that premise.

He, also, when he submitted this—and this was during the balanced budget debate—suggested that a balanced budget was harmful; a time certain set for a balanced budget was a harmful thing for the economy, was bad for this country, was bad for people. Now he, surprisingly, has flip-flopped and suggested that a balanced budget is a good idea for a time certain; that we can do it in 7 years—or he suggests 10 years—but a date certain to arrive at a balanced budget is not a catastrophic event as his advisers and many of the President's close advisers suggested during the last several months.

So we have now seen that he first said a balanced budget was not necessary, and now he says it is. He first said we did not need a date certain, now he says we can set one. Then we find out the President says we should not be attacking Medicare. And now, in the most recent budget submission—and by the way, this is it. This is the President's new budget. Just to give a comparison, this is the original President's budget. This is the new President's budget.

You might wonder how you condense all of this into this. It is very simple. There is not much here, relative to what is here. There just is not the specificity, if you look at these pages. It is 20-some pages. You have an executive summary in the first four pages or so. Then you have six pages, double sided—I will admit that, it is double sided, which we save paper on; double sided—of the specifics of the President's budget. This is it. This is the entire new President's budget.

All you have heard about is, "The President submitted and comes to the table with this great new budget he talked about." It is six double-sided pages. Understand this, this is six double-sided pages to describe how we are going to spend, over the next 10 years, somewhere in the area of $16 trillion; six double-sided pages, $16 trillion. Just to put it in perspective a little bit. But this is it.

The other part here are charts. We always have to have charts. So we have charts here at the back that show how he is going to get his numbers down.

He was very critical of the Republicans in their budget that came out of the House and Senate, of cuts in Medicare. He was to draw a line in the sand. Now with this new budget, in fact, the first thing he talks about is reducing the growth in Medicare and contrasts his cuts—which he says are modest, necessary and modest—to ours.

His reductions are around the area of $120 billion over 10—7 years. Ours are a little more than double that, $270 billion over 7 years. The interesting thing is, Budget Director Alice Rivlin testified before the Joint Economic Committee last week, and she went on and just excoriated the Republicans for their horrible reductions in Medicare.

I asked her a very simple question. I said, I look at your budget and the budget numbers. I look at the Republican budget numbers on Medicare. The Republican's budget asks for more money to be spent on Medicare than you do every year. We actually spend more money on Medicare every year. She said we spend less. Their cuts are draconian and terrible, and ours are not. How does that figure? You say most people say how can you spend more money every year on a program and cut less? This is how. Here is the rub. The rub is that the President in all of his projections projects a slower rate of growth in all of these programs. So he assumes that Medicare is not going to grow that much and then only cuts from a lower rate of growth. So he cuts less but he assumes less growth in the first place, which nobody else by the way assumes; just him.

As a result, we have less cuts but lower numbers which is sort of a strange thing. You can argue both sides as to who is being cruel to Medicare. Are you being cruel because you have cut more money, or are you being cruel because you are spending actually less money per year? I would think the people in Medicare would be more concerned about how much money you spend as opposed to what you are required to cut.

We are suggesting more spending on Medicare. But at least the President has suggested that Medicare needs to be fixed and that we have to do something to reduce the rate of growth of spending in Medicare. So he has at least come to the table on that issue. Again, that is not where he was a few months ago in railing against the Republicans.

Finally, I will be willing to say that the President still has a tax cut in his proposal. So he is in agreement with us that we do need some tax relief for middle-income families in America. So there are bases for us to be encouraged about some sort of commonality, even though the President has come up woefully inadequate and short in his budget, his new budget does not balance even though he says it does. The Congressional Budget Office, which is the numbers that we use, the minority leader, the Senator from South Dakota, just last week said, you know, the President cannot be fooling around with these funny numbers. He has to use Congressional Budget Office numbers. This is the minority leader, the Democratic leader of the Senate, who says the President has to come up with a serious proposal that uses the Congressional Budget Office numbers, what his trumped-up, optimistic assessment that the world, the United States is going to continue to grow and inflation is going to be down, all these rosy scenarios so we get to balance by not having to cut as much. We have to use the Congressional Budget Office. The CBO says this budget, this detailed summary here, does not bring us to balance in 10 years like the President said. It does not bring us to balance. In fact, by the year 10 of this budget the deficit is over $200 billion. In fact, the deficit stays about $200 billion over the next 10 years.

So it does not work. This is not a real budget. You hear so much about the argument saying your way or my way, and my way is the right way. His way is no way. No way does this thing get us to a balanced budget. This does not work.

So while I sincerely give the President credit for coming to the table and saying we have to address this issue, we agree on a date certain, we agree that we have to balance the budget, we agree we have to do something with Medicare, we agree we need to do something with tax cuts, you know I appreciate that. It does form a working basis for relationship to try to move forward and not end up at a horrible confrontation come the end of this fiscal year. I think the President has to go back and get real and get real with the numbers, get real with what every business person would use, which is, you know, the most likely or conservative estimates of growth and things like that. The President has not done that.

Mr. DORGAN. Will the Senator yield to me for a question?

Mr. SANTORUM. I will be happy to yield in a minute.

So I have to continue to count the days before the President has come up with a balanced budget proposal. He has still not come to the table scoring to the Congressional Budget Office numbers we have to use here in this place, and that the President agreed in his first State of the Union Address he would use. He has not come to the table with a balanced budget that is credible. And, as a result, we have to continue to do the counting. I think that is unfortunate but I am hopeful that the President will come forward.

I am happy to yield.

Mr. DORGAN. I appreciate the Senator yielding.

I, too, find fault with the President's budget. I have no difficulty with the assertion of the Senator from Pennsylvania that there are some difficulties with the budget, with the numbers in the budget. I am willing to do that.

I wonder if the Senator from Pennsylvania is willing to take a look at page 3 of the budget resolution that he brings to the floor and says is a balanced budget. On page 3 the majority party brings to the floor a budget document that page 3, paragraph (4), deficits—in the year 2002, it says the deficit is $108 billion. The speaker before the Senator from Pennsylvania, the Senator from Pennsylvania, and I expect the speakers after the Senator from Pennsylvania, will continue to insist that this budget is a balanced budget in the year 2002. If that is the case, why on page 3 does it say in the year 2002 there is a budget deficit of $108 billion?

Will the Senator from Pennsylvania not agree that is what it says in this document, and that is what we will have in the year 2002, not a balanced budget but in fact a deficit of over $100 billion?

Mr. SANTORUM. All I know is the Congressional Budget Office scores this document as a balanced budget. I would defer to the Senator from New Mexico as to the specifics of that particular page. This is the first time I have seen it. But from all the scoring that we have had, this was scored by the Congressional Budget Office as a balanced budget according to the Senator from New Mexico. So the Senator's question is with him as to what this document says versus what he has represented to the Congressional Budget Office has told him. That is all I can respond to.

But I will say that, if, in fact, this budget is not balanced, we should go about the process of getting one that does come into balance.

So I guess I do not know the answer to the question.

Mr. DORGAN. If the Senator will yield further, and I appreciate his indulgence, he apparently has found what I found on page 3. This is a condition in the original budget as well. I do not think there is a conflict with what the Congressional Budget Office says and what this document says. I think if the Senator, following his presentation, will check he will discover, as the Senator from New Mexico or Congressional Budget Office and with everyone else has, that, in fact, this budget is not balanced by 2002; this budget on page 3 says the deficit at 2002 is $108 billion. That is a problem.

Mr. SANTORUM. All I would say is that is a very good question. I would like to get the answer. I do not have the answer.

Mr. DORGAN. My point is I think the Senator from Pennsylvania is wrong about the question of whether this budget will balance. That is my only point.

Mr. SANTORUM. I know where the Senator is coming from.

Mr. DORGAN. My only point is, if this is a balanced budget, zero in the year 2002, it does not say zero. It says by the year 2002 there will be a $108 billion deficit. I would say that I do not think there is disagreement among us about whether or not we ought to be in balance. There may be a disagreement about the priorities in spending. But there is no disagreement about the need to balance the budget. The only reason I come and raise the point is that this does not balance the budget. It still remains at a $108 billion deficit in the year 2002, and much more remains to be done.

Mr. SANTORUM. I appreciate that. I assure the Senator that I will bring this matter before the chairman of the Budget Committee for his response to that. I am sure he has a response to that.

What I will say is that we have put forth an honest effort, according to all the numbers that I have seen, that this does bring us to a balanced budget in 7 years, and it does so in the way that I think is really the only way possible to do it: By containing the growth of Government. Under this budget resolution, the Federal Government's budget continues to grow 3 percent a year. Growth is continuing in Government spending. It does not freeze. The spending goes up 3 percent a year. It does not go up as fast as it would had we not changed some of the things here in the budget.

So I am excited about today. I think it is a great opportunity for us to do something for—I see some young people up in the audience—to do something for the next generation of Americans, and provide some rays of hope for them, that we are going to get our economic ship right and give them the opportunity for a successful economy so that they can seek their dreams and fulfill those dreams in a free and prosperous America.

I thank the Senator from Wyoming. I see the Senator from Tennessee is here to speak on this issue. I would be happy to yield at this point to the Senator from Tennessee.

Mr. MURKOWSKI. Mr. President, I make an inquiry, if I may?

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. I thank the Chair. Is there a prescribed time this morning for Senators?

The PRESIDING OFFICER. The following are the conditions under which morning business was to be conducted: The Senator from Wyoming [Mr. THOMAS] was recognized for up to 30 minutes. He had yielded time to the Senator from Pennsylvania and was to yield time to the Senator from Tennessee. The Senator from Alaska was to be recognized to speak for up to 15 minutes, the Senator from North Dakota recognized to speak for up to 30 minutes, and the Senator from California [Mrs. FEINSTEIN] recognized to speak for up to 15 minutes. Morning business was to close at the hour of 10:30.

Mr. MURKOWSKI. I thank the Chair and wish the President good day. I yield to my colleague from Tennessee.

The PRESIDING OFFICER. The Senator from Tennessee.

A HISTORIC OCCASION

Mr. FRIST. Mr. President, my fellow freshman colleagues and I are here to continue the discussion and would like to close the discussion with the importance of balancing the Federal budget and to mark this historic occasion for final passage of the 1996 budget resolution conference report.

It was just 18 months ago that I was performing heart and lung transplant surgery in the operating rooms at Vanderbilt University, and at that point in time I worked taking out enlarged, worn-out hearts and replacing them with strong, powerful new hearts that were healthy. These operations gave people with heart disease, heart disease which had crippled their lives, new hope, a new opportunity, a new chance, a new beginning.

Today, I believe we are doing the same thing for our Government. We are reversing the out-of-control spending habits of the past. We are instituting discipline over the spending process. We, indeed, are reenergizing a tired, worn-out Congress with a strong, healthy one; and after 40 years, a new heart is beginning to beat. A new spirit of federalism is flowing out of Washington, and this budget sets forth the blueprint for returning power to the States and to the American people.

The budget resolution conference report eliminates waste. It consolidates duplicative programs and calls for reform of obsolete programs in anticipation of governing in the 21st century. It recognizes the need to phase out programs gradually and responsibly, still mindful of the ever-mounting interest and Federal debt. Franklin Roosevelt once said, "We can afford all that we need, but we cannot afford all we want."

Today, the Republicans will complete a dramatic first step towards reforming Government so that it provides all that we need and yet does not provide more than the American taxpayer is willing to pay for.

Mr. President, despite ever-changing tax rates, the amount of revenues paid to the Federal Government have hovered consistently near 19 percent of GDP, gross domestic product, for the last 30 years, and yet Federal spending has risen from 19 percent of GDP in the early 1960's to a high of 24.4 percent in 1983, settling at about 22 percent of GDP today. It is that 3 percent gap between the amount of Government services the American public would like to have and the amount which taxpayers are willing to pay for that is really at the heart of the matter.

Republicans never said it would be easy to close this gap between Federal spending and Federal revenues, and there really should be no misconceptions. This budget makes tough choices. But the American people did not send us here last November to shrink from what they knew would be a mammoth task, that of balancing the budget and reexamining nearly every aspect of modern American Government.

As President Harry Truman has pointed out, no government is perfect. And yet as he said, "One of the chief virtues of democracy * * * is that its defects are always visible and under democratic processes can be pointed out and corrected." And today, America is correcting one of its greatest problems, that is, that of fiscal irresponsibility. And tomorrow we will move on to tackle the other problems that plague our Nation—crime, decay of the inner cities, and breakdown of the American family. The primary step toward solving all of these problems is to rely less on the Federal Government, as we have done in this budget, and to empower America's citizens once again.

All of the Members of the 104th Congress can be proud that democracy has worked, that we have made great strides in addressing the Nation's budget deficit. When our founders sacrificed so much that America might be independent and free, we accepted a trust to preserve this Nation for future generations.

This conference report is a historic first step, and we must continue to stand tall through the entire reform process.

I will close with a list of 10 points, often attributed to Abraham Lincoln that I believe we should be mindful of as we consider reform of nearly every government program in the coming months:

First, you cannot bring about prosperity by discouraging thrift.

Second, you cannot strengthen the weak by weakening the strong.

Third, you cannot help small men up by tearing big men down.

Fourth, you cannot help the poor by destroying the rich.

Fifth, you cannot lift the wage-earner up by pulling the wage-payer down.

Sixth, you cannot keep out of trouble by spending more than your income.

Seventh, you cannot further the brotherhood of man by inciting class hatred.

Eighth, you cannot establish sound social security on borrowed money.

Ninth, you cannot build character and courage by taking away a man's initiative and independence, and

Tenth, you cannot help men permanently by doing for them what they could and should do for themselves.

Mr. President, I thank the Chair and yield the floor.

The PRESIDING OFFICER. The time controlled by the Senator from Wyoming has expired.

Mr. DORGAN addressed the Chair.

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

ORDER OF PROCEDURE

Mr. DORGAN. Mr. President, my understanding was that morning business allocated one-half hour to the Republican side, controlled by Senator THOMAS this morning, and then one-half hour to our side controlled by myself. Is that correct?

The PRESIDING OFFICER. The order provided to the Chair was that the Senator from Wyoming [Mr. THOMAS] was to be recognized to speak for up to 30 minutes, the Senator from Alaska [Mr. MURKOWSKI] recognized to speak for up to 15 minutes, the Senator from North Dakota [Mr. DORGAN] recognized to speak for up to 30 minutes, and the Senator from California [Mrs. FEINSTEIN] recognized to speak for up to 15 minutes.

Mr. DORGAN. Was it to have been in that order? My understanding was that——

The PRESIDING OFFICER. There is no specific sequence. That is the way in which it was provided.

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. I do not want to complicate this by any means. I think that there is some legitimate confusion relative to the process here. I asked for morning business. I was told that my time, the 15 minutes, began at 9:30. It is just a little after 9:30. I do not want to belabor it. My only effort in coming over was that I have to chair a hearing at 10 o'clock. So I attempted to try to come over in order to make that. With the indulgence of my colleagues, with no objection, I prefer to make a brief statement and then go and open my hearing.

Mr. DORGAN. Mr. President, if I might just respond, I arrived at 9 o'clock and our caucus at the moment, our Democratic caucus, is meeting on regulatory reform. All of us have problems.

My understanding was that we were going to have one-half hour over there and one-half hour over here. If that was not locked in, I guess I would be willing to be flexible on that. But I say that I arrived here at 9 o'clock. I know the Senator from New Mexico is missing the same caucus that I am missing, and I very much did want to respond to some of the points in the budget.

The Senator from Alaska intends to take how long for his presentation?

Mr. MURKOWSKI. I will not take a full 15 minutes, in response in the Senator from North Dakota. I encourage the floor managers, or however the process works, if this could be alleviated perhaps. I am not being critical, but I appreciate the concern of my friend. We are both in the same situation. Maybe the best thing to do is for me to start and get out of here, and then I can yield to my friend from North Dakota the remaining time that I have.

Mr. DORGAN. Mr. President, I will not object to that. I hope that we will be able to sequence it in the future, if that side has 30 minutes, perhaps, if we have 30 minutes reserved, we would be recognized for the next 30 minutes. If the Senator from New Mexico has no objection, I would be happy to allow the Senator from Alaska to proceed at this point and assume the time following that.

The PRESIDING OFFICER. The Chair thanks the Senator from North Dakota. The Senator from Alaska.

Mr. MURKOWSKI. I thank my friend from North Dakota. I wish him a good day.

RISK ASSESSMENT

Mr. MURKOWSKI. Mr. President, I am going to use my time to speak on risk assessment. I had intended to do that at 10:30. However, the hearing which I have to chair, as chairman of the Energy and Natural Resources Committee, is a joint hearing with the Environment and Public Works Committee on a very important and timely topic, and that is the Komi oilspill which has taken place in Russia at this time as I speak. The significance of this spill is unprecedented in relationship to any spills that we have ever experienced previously. Approximately 400,000 barrels of oil per day are leaking from various pipelines in Russia. That equals twice the *Exxon Valdez* spill, which, of course, was one incident. This volume of 400,000 barrels a day is occurring each and every day. The joint committee that will be meeting today will be attempting to focus on this and generate notoriety and, hopefully, a plan to assist in cleanup and to ensure that this terrible, terrible tragedy does not continue.

My statement this morning, Mr. President, is to call attention to the reality that listening to some people in Congress, listening to some people in the executive branch, you might not think it, but I think those of us who have been listening understand that this town was given a very simple message last November. And that message is that it is time for the Federal Government to wake up and reform the way it does business.

It just so happens we now have bipartisan legislation to help point us in that direction. That legislation is the Comprehensive Regulatory Reform Act of 1995. Its purpose is to protect public health and safety and to protect the environment while sparing people, you and I and those out there, from the nasty side effects of overregulation. It is a statement in favor of freedom, common sense, and responsible government, and one more, and that is accountability.

From the air we breathe to the food we eat and the ground we walk on, Federal regulations govern almost every phase of our lives. Their stated purpose, of course, is to help make people healthier and safer by reducing exposure to a variety of risky substances and products and by regulating various activities.

In many cases, Mr. President, these goals are accomplished. However, in others, regulations focus on unsubstantiated or minute risks to health, safety or the environment, and end up wasting a lot of taxpayers' money and time that could be spent on more pressing problems. Worst of all, unnecessary regulations, duplication, take away our freedoms. Our freedoms are lost bit by bit by empowering bureaucrats in Washington to tell us what we can and cannot do and almost on a worst-case basis.

Last year, Mr. President, Americans spent an estimated $647 billion on regulations. That is more than every element of the average person's budget except housing. Yes, that is even more —$104 billion more, as a matter of fact—than America spent in paying its tax bill in 1994. But, unlike taxes and the other bills we pay, much of the costs of regulations are hidden in the price of goods and services, so most people do not know about their true costs to each of us.

Let me make it perfectly clear, Mr. President. We do need regulations that actually do protect health, safety and welfare. No one wants to turn back the clock on the progress that we have made in protecting our health and safety. But there is a movement in grassroots America to shrink the size, expense, and scope of the Federal Government and to reform the way the Federal Government regulates.

We need to respond by making sure that the benefits derived from particular regulations are worth the cost and that we use sound science, not emotion, to address and assess risk to health safety and the environment.

We also need to rebuild public confidence in Government's risk assessments so people will listen when real threats to health and safety are detected. I want to thank the majority leader, Senator DOLE; the ranking member of the committee that I chair, Senator BENNETT JOHNSTON; and the Energy and National Resources Committee for their efforts on this front. I also want to thank my fellow chairmen, Chairman HATCH and Chairman ROTH, who worked with us on the creation of this consensus legislation. My committee and theirs each reported a bill addressing regulatory reform.

Now, to those who ask, Do we need reform? Well, there is absolutely no question. Recognizing that there are many horror stories, let me just share one that occurred in my State of Alaska: Anchorage, AK, is our largest city. The water comes down from the mountains, flows into the gutters for the most part, has very little contamination in it, just what it might pick up on the streets. And the Environmental Protection Agency came down with the ruling mandating that before the water moves in the drains and could be dumped into Cook Inlet where we have 30-foot tides a day, that we must remove 30 percent of the organic matter in the water.

Well, Mr. President, there was no organic matter there. There was absolutely nothing to remove. As a consequence, the city of Anchorage was in violation of their permit from the Environmental Protection Agency and subject to substantial fines. Finally, an enterprising entrepreneur suggested that they put some of the fish waste in the water. So 5,000 pounds of fish waste was put into the water system so it could be removed so that they could comply.

Now, once it became known and the heat began to focus on EPA, they were rather embarrassed and they actually wrote out a press release and said, well, we did not make them do it; they did it themselves. You can imagine the type of an example that sets and the reflection that the people of Anchorage have on the Environmental Protection Agency for coming down in a ruling like that.

We had another situation in Fairbanks. We have cold winters. We pick up a little snow. The city properly would bar parked buses from the road, and buses get snow on them. They were moved onto the back lot. They were cited for dumping the snow on the adjacent lot. We have a hard time understanding that, Mr. President. We have a number of other points I am not going to read. I just want to bring your attention to a few.

Now, finally, I think as we look at the principles contained in the risk assessment bill passed by my committee, we recognize that while the risk assessment process is used by many Federal regulatory agencies, their application and standards are wildly divergent, and there is no set standard for all uses. In fact, the EPA, OSHA, and FDA often differ in their assessment of chemical carcinogens and other matters that are of great interest and concern.

Finally, Mr. President, let me just focus on one more item with regard to our legislation because it provides several important improvements to the risk assessment process requiring Federal regulators to use the following:

Sound science and analysis as the basis for conclusions about risk; the appropriate level of detail for the analysis; the mandate to be reasonable in reviewing the data; using assumptions only when actual data is not available; characterize risk in a clear and understandable manner; do not express risk as a single, high-end estimate that uses the worst-case scenario; compare the risk to others people encounter every day to place it in perspective; describe the new or substitute risks that will be created if the risk in question is regulated; use independent and external peer review to evaluate risk assessment results; and provide appropriate opportunities for public participation.

Let me close by reading a passage that I think sums up the efforts of all who support this risk assessment regulatory reform. I quote:

> The American people deserve a regulatory system that works for them, not against them: a regulatory system that protects and improves their health, safety, environment, and well-being and improves the performance of the economy without imposing unacceptable or unreasonable costs on society; regulatory policies that recognize that the private sector and private markets are the best engine for economic growth; regulatory approaches that respect the role of State, local, and tribal governments; and regulations that are effective, consistent, sensible, and understandable. We do not have such a regulatory system today.

Now these are the words of President Clinton in his Executive order on regulatory planning and review.

So I say to the Senate, the time has come to stem the sea tide of regulation that threatens to engulf us all. We need commonsense health and safety regulations based, again, on sound science and not emotion. We do not need and we must take steps to reform the current Federal regulatory tyranny.

I yield the remainder of my time to the Senator from North Dakota and wish him a good day.

Mr. DORGAN. Mr. President, of the 30 minutes allotted to me in morning business, I yield 10 minutes to the Senator from New Mexico, Senator BINGAMAN.

Mr. BINGAMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. I thank the Senator from North Dakota for yielding me time. I do believe that it is heartening that we have a consensus for deficit reduction here in the country. I believe the President led the way in that effort during the first 2 years of his term, and I commend my Republican colleagues for the commitment they have shown to bringing us back to that important goal this year in this Congress.

But, Mr. President, I want to express some concerns that arise when I look at the budget resolution that has been brought to the floor by the Republican majority, concerns that we may be losing sight of our real objective in this budget-cutting exercise.

It seems to me the sole purpose of deficit reduction is to increase our investment in the future. What we are attempting to do is to get the Government to live within its means so as not to leave the bill for this generation's largesse to our children.

Mr. President, indiscriminately slashing budgets is no recipe for growth and is a bad way to organize investments for the future. To leverage our investment, I believe that we need to support programs, particularly education programs, technology programs, and export promotion programs that contribute to our economy's growth and that help create high-wage jobs that enhance the standard of living for all Americans.

I will speak separately on the importance of maintaining our investment in education, but let me first discuss the issues of technology and export promotion.

In this analysis of what works and what does not work, what Government should focus on and what it should not, we need to worry about tomorrow's bottom line just as much as we worry about today's bottom line. Growth policies that help keep our economy strong are vital in looking at that bottom line for tomorrow.

America has much to be proud of in its technology infrastructure, but it would be wrong to believe that Government did not help lead in building that infrastructure, but it would be wrong to believe that Government was not an essential partner with the private sector in helping to innovate and to nurture technologies that the corporate world has further developed.

The conference report on the budget resolution promises to seriously damage our Nation's future vitality. I have a number of problems with the plan, none greater than handing the bill for this balanced budget to those least able to pay and leaving the wealthiest in society in better shape. But I also know that if our Government fails to remain steadfast in its commitment to a national technology infrastructure and to the funding of civilian research and development and to programs that support and help finance export efforts, then our economy will continue to erode; and we will forgo the gains and growth from high-technology developments and will become a nation built on a lower paying service economy.

Mr. President, in this Chamber, we have heard a great deal about leaving things to the market; that the private sector and the invisible hand will solve our problems most effectively if we essentially shut down many areas of Government. I believe, as do all of us, in a lean and a streamlined Government, but I do not believe that the market alone can solve all the problems of our citizens. And I do not believe that we should ignore the fact that our Government has a good track record and has gotten a great deal right in technology support and in export assistance. There is no doubt that we would be eating our own seed corn if we were to go forward and dismantle these programs.

I recommend to those who frequently call on the ghost of Adam Smith and subscribe to a prescription of the invisible hand that Smith referred to in the "Wealth of Nations," that they go back and reread some of that treatise that he wrote.

Smith clearly outlined a role for Government, a perspective with which I agree.

He states that first, the state has a "night-watchman function" to see to the safety and security of its citizens. He argues that the state must educate its labor force, something that we have not done well in this Nation. He continues that the state must build infrastructure on which commerce depends; that is the Government must build roads, canals, and bridges. In the modern context, that means airports and a national information infrastructure and basic research laboratories and export assistance offices.

The Government must pay for itself and must, therefore, tax and charge for its services and the Government must support development of those technologies that are not at first easily commercializable. In his day, an example was shipbuilding, and in our day an example is nuclear energy. Adam Smith himself outlines these as indispensable functions of Government, of minimalist Government, as he saw it and leaves the rest to be fixed by the market.

Those of us who are tasked with the responsibilities of writing budgets and voting on budgets, as we will today, cannot neglect the indispensable roles that Government does have to play. But I believe that the theologies that are driving the Republican budget we are dealing with here have neglected many of these roles. And we must revisit this effort knowing that while we must cut our budget deficit, we must also promote high-end economic growth which creates high wage jobs and a better standard of living for our citizens. And enmeshed as we are in a global economy, we have to export more and erase the chronic deficits that represent real job leakage from our economy.

As I have previously stated in this Chamber, our Government's program in civilian research and development under this budget will be cut by 30 to 40 percent by the year 2002 and will be pushed to a 40-year low as a percentage of the gross domestic product. In contrast, the research communities in Germany and Japan continue to receive increased resources as the growth they have generated for their nations has been recognized and rewarded.

Yet in the United States, we are abandoning those who won the cold war, those who put men on the Moon, who initiated genetic research and biotechnology efforts, who created computers and advanced electronics, who have fought disease and revolutionized a myriad of enhancements in agriculture. Our national investments in science and technology, that have yielded semiconductors, molecular biology advances, and materials science development, have paid off tremendously for the Nation.

In 1969, when the Federal budget was last in balance, Federal civilian research spending was 0.76 percent of gross domestic product. Only the Bush administration stands out among the administrations of the last several decades in trying to correct the downward decline in commitment by this country to technology support. This present administration has maintained the commitment that the Bush administration demonstrated. Today, our support of civilian research and development is running at approximately 0.46 percent of gross domestic product, and in the Republican budget plan is estimated to fall to 0.27 percent of GDP.

The real impact, the impact on our children and on the citizens of this great Nation, is that we will strip them of their opportunities in the future if we go the path that this budget resolution calls for. Are we prepared to do that? Are we prepared to forfeit the important leadership role the United States has played in technological innovation and growth? I hope that we give a resounding "no" to those questions.

I have to say that our ambivalence about these issues has already allowed Japan to quickly rise to parity with this Nation in the number of patents produced and in the overall excellence of its technological and manufacturing infrastructure. It is anachronistic to say that Japan simply licenses American technological wizardry. They have their own stable of wizards now, and we must compete. We simply cannot role over and allow ourselves to become followers in the field of high technology advancement. That would be an unforgivable legacy to leave to our children.

I strongly encourage my colleagues on both sides of the aisle to reconsider our Nation's technology support program. I think that most would agree that our Government should not be engaged in picking winners and losers. That is not the issue. What we need to understand is that the combination of fierce market forces and the globally competitive environment we are in rarely support the precompetitive stage of product development. Despite the prospect of substantial reductions in federally supported civilian research and development, the Wall Street Journal has reported that numerous private commitments to research and development are also being cut. In fact, the Wall Street Journal reported that AT&T, General Electric, IBM, Kodak, Texaco, and Xerox have all announced intentions to cut their research budgets.

While other nations ensure that they will build and maintain a strong foundation for research support in their private sector, our Nation is turning away from this strategy and seems all too ambivalent about letting advanced manufacturing move abroad, allowing high-wage jobs to disappear, and allowing the responsibilities and rewards of innovation to be taken by our competitors. If we hope to restore the economic health of our Nation, then we should embrace these proven growth-producing programs which help our industry and help our citizens, rather than running from those programs. Adam Smith, if he were here today, would argue that our precompetitive technology programs are indispensable to the national interest.

Export assistance programs are also in our national interest. On the 19th of June, Senator BOND outlined for us the important role that the International Trade Administration and the Bureau of Export Administration of the Department of Commerce play in our international trade activities and in our economy. I agree with him that these governmental functions need to be maintained. To the degree that the conference report fails to support these activities, we need to go back to the drawing board.

Let me first point out that our great Nation spends less than 2.8 cents supporting each $100 of exports. On one hand, given that export related jobs tend to earn higher wages and, on the other, that our Nation is approaching a $200 billion trade deficit this year, our support for export activities is a worthwhile investment. In fact, our investment in exports is too paltry as it is.

Comparatively, as a recent report from the Economic Strategy Institute reports, the lowest level of export assistance support among other developed nations is about 10 times the U.S. level. The recent trade agreement that was just consummated yesterday between ourselves and Japan should highlight for the American people and for this body the importance that trade plays in our ability to maintain good-paying jobs in this country.

A gauge often used to assess the jobs impact of exports is that a billion dollars of exports equals about 20,000 jobs in the American economy. If you run the numbers, it is clear that our economy is losing about 4 million jobs because of trade deficits. Cutting the budget deficit should help increase the overall health of the economy, should lower interest rates, and should help spur business activity in the Nation. But it is also clear that the export sector will become an even more important driver of our economic growth. Given these trends, it is important that Government address market failures in the export sector.

Exports are important to this economy. And exports create jobs, good jobs. Export-related jobs are growing seven to eight times as fast as the growth of total employment. A decade ago, less than 7 million Americans worked in export-related jobs while today the number is close to 12 million. In another 5 years, the number will approach 16 million. And given what we know about the stagnation of wages in this Nation, that despite high corporate profitability today, our workers are not benefiting from increased productivity, it is important to underline the fact that export jobs pay more, in fact, about 15 percent more than other manufacturing jobs.

Companies that manufacture for export are more productive, and they are less likely to be caught in the tailspin of a shrinking manufacturing sector. We ought to consider putting manufacturing jobs on the endangered species list, Mr. President, if we turn away from our efforts to export. To be clear about the financial impact: white-collar manufacturing workers earn an average of $20.50 an hour in wages and benefits, blue collar workers earn $16.69 an hour, and people employed in the service sector average just $8.39 an hour. Every time we replace a manufacturing job with a service job, we are cutting our wages in half. Mr. President, just going with this trend cannot be in the national interest. We need to support our export base and support our technology base. Anything else would be irresponsible.

Some might ask, why not leave a sector that is growing—and that is the export sector—that seems healthy and headed in the right direction, free from any Government meddling? First of all, this export activity has been achieved through private partnerships with Government. When the market fails to provide critical export financing, the Ex-Im Bank, a classic example of Government/private sector partnerships, absorbs credit risks that private institutions would not absorb. And has the Ex-Im Bank been a deficit creator? No. During the last fiscal year, the Ex-Im Bank took $785 million from the U.S. Treasury and provided $15 billion in financing that supported $17 billion in United States exports, with nearly half of this going to the fastest-growing big emerging markets such as China, India, Indonesia, Malaysia, South Korea, Argentina, and Brazil.

There are many other examples of how we have helped in promoting exports in this economy, Mr. President, through Government/industry partnerships. Addressing risks that the private sector would not, the Overseas Private Investment Corporation, a quasi-Government institution, has provided the insurance to make global trade and investment more secure. OPIC, which has not paid out any large claims since the mid-1970's, has actually generated significant returns to the treasury. But even when discussions have been held about privatizing this activity, private providers contend that they will not make insurance commitments that OPIC can. These are examples of the Government addressing failures of the market; and they happen to be examples where the costs, if any, to the Government, have been turned into strong positive gains.

In the international arena, when foreign markets are truly free, then the Department of Commerce and USTR need not negotiate for and protect American economic interests, but such free markets exist only in theory. A realistic look at world trade would show the French subsidizing their export financing; Chancellor Kohl offering $2 billion in low cost loans to China linked to purchases of German products; and Tokyo pouring over $2 billion a year for foreign aid into Indonesia to grease the way for its firms.

The neoclassical economist would argue, no problem. They would argue that American consumers still win, and these other governments are only harming themselves and their people. The problems with that line of reasoning are many, but in particular, we are not engaged in a perfect world economy. In Japan, producers' interests are dealt with more preferentially than consumers'. And as we know in this Nation, consumers' interests are not generally subordinate to producers. Over the long run, specialization will occur, and production will move to areas like Asia where consumer interests have been constrained. To prevent further erosion of the American manufacturing and export base, we need to support industry efforts to penetrate otherwise closed foreign markets.

The Department of Commerce estimates that over $1 trillion of infrastructure projects will come on line in Asia in the next decade. Virtually all of these projects will be awarded by governments, and virtually all will be hotly contested by companies supported by their home governments. I believe that we cannot responsibly afford to further diminish the meager support that we provide our exporters just as other competitors are expanding theirs. We need our Government on the front line to make sure that American firms and American workers get a good share of these projects.

Furthermore, over the last 40 years, the American economy has been the robust growth market on which our firms have focused and which firms around the world have targeted. Our corporations have not developed the same skills base and support structures that other nations have developed to promote exports. For smaller and mid-size firms, international opportunities are new and important, and America has hardly tapped the tremendous potential of this sector. For these companies, acting purely on their own, the task of penetrating foreign markets is expensive and overwhelming.

Fifty large firms account for about half of America's exports. We need to do better, and we need to, as a Government, support an infrastructure for export growth. That means that we need to support the efforts of the Foreign Commercial Service, need to broaden our counseling activities, and need to continue to connect our small firms, which are the backbone of our economy, with resources to achieve export-led growth. This is what Government is supposed to do. And I would propose to you that such a jobs-growth strategy complements our budget reduction goals, the combination of which will maximize our investment in the future.

Let me briefly share with you two brief stories of encounters of firms from the great State of New Mexico with the Department of Commerce, that so many here seem bent on dismantling. FMI, an Albuquerque developer of software applications for barcode scanners, had never exported to the Mexican market. With the assistance of the Santa Fe office of the International Trade Administration, FMI participated in RepCom '94, a show organized under the State of New York trade division that enabled the firm to secure important distributors, establish relations with potential client firms, and even yielded a significant direct sale. The firm has just secured its first-ever sales in to the Mexican market and expects its position to grow. Second, United States Cotton, a manufacturer of cotton pads and other cotton cosmetic products, recently reported the signing of a joint venture agreement with a firm in Chile, where it too had never traded before. Using the Gold Key Service Program of the Department of Commerce, U.S. Cotton has been able to generate first-year sales approaching $500,000. The firm anticipates that expanded production capabilities in Chile will result in expanded sales and will create additional jobs.

Let me also add that the great State of New Mexico, which has led the Nation in terms of export sector growth over the last 5 years, trades today nearly as much with Japan as with Mexico. And New Mexico exports to the Asian region in total are actually much greater than to Mexico. Last year, New Mexico exported approximately $100 million in goods to Mexico, $80 million to Japan, and $150 million to the Asian region. The combined efforts of the state's trade development offices and the Santa Fe office of the International Trade Administration in the Department of Commerce as well as the resources of the Small Business Administration have helped New Mexico to participate in the global economy. We have a long way to go in our great State, but supporting exports, supporting technology development make sense for New Mexico and make sense for America.

In conclusion, Mr. President, we need to heed Adam Smith's word. We need to make sure that Government addresses those tasks that the private sector cannot or will not address. We need to maintain our investment in civilian research and development efforts, and we must continue to build the export platform that has been under construction for some time. To fail to do this would limit our leverage in building a more prosperous future and securing continued American leadership.

I would like to remind my Republican colleagues that their opposition to these export programs is an entirely new development. Letters of support for the Foreign Commercial Service, for expansion of International Trade Administration domestic service centers, and for prevention of reduced staffs for sites have been sent to the Secretary of Commerce by Senators BROWN, CAMPBELL, COVERDELL, D'AMATO, DOMENICI, HATCH, HATFIELD, and numerous others. I realize that we are all facing a confluence of tough choices in our budget deficit reduction efforts, what to cut and what not to cut—but I would argue that our colleagues' earlier intentions were correct, that supporting our small and mid-sized businesses into the international arena was the correct strategy to jump start growth, spur jobs, and create a more healthy economy.

Claims that these programs significantly impact our budget deficit are not supported by the facts. We spend less than a billion a year for all export programs in a $1.2 trillion annual budget, but reducing this amount would harm our business sector, reduce growth, stifle incomes and keep us blocked out of important growing economies. We would effectively be handing over to other nations important, high-paying jobs that would otherwise go to American workers.

That, Mr. President, is not what we have been elected by the citizens of this great Nation to do.

Mr. President, let me just urge that in finalizing a budget resolution between this Congress and the President, we need to keep our eye on the ball of those programs that will promote job creation and promote more economic growth in the future. This budget, as it comes before us today, does not do that. Mr. President, I hope that can be corrected before final action is taken by this Congress.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER (Mr. MACK). The Senator from North Dakota.

Mr. DORGAN. Mr. President, I yield myself as much time as I may consume of my remaining time.

The PRESIDING OFFICER. There are 20 minutes remaining of the Senator's time.

THE 1996 BUDGET: TRUTH AND PRIORITIES

Mr. DORGAN. Mr. President, today we will consider the conference report on the budget. It is interesting that we saw, today, a big chart on the floor of the Senate, again, entitled Where is Bill? I indicated the other day that if I were someone inclined to do that sort of thing, I would bring a chart that says Where is the Bill?

This budget conference report comes to the floor of the Senate, I believe, nearly 75 days after the law required that it be brought to the floor. But, frankly, I think that is less important than the question of what is brought to the floor. I do not think there is much difference here on the floor of the Senate with respect to our desire to balance the budget. No one who is thinking very clearly in this Senate or in this Congress or in the country could believe that we can spend money we do not have very long and remain a strong nation.

The question is not whether. The question is how do we put our fiscal house in order and balance the budget?

In 1993, I voted for an initiative recommended by President Clinton to cut $500 billion from the projected deficits. The $500 billion cut in deficits included some very controversial things. It included some tax increases that were not popular, some specific spending cuts that were not popular. And I understand why a number of people did not want to vote for it. In fact, it passed the Senate by one vote. It passed the House of Representatives by one vote.

In the Senate, in fact, we did not even have one Member of the minority vote for that resolution—not one. I understand that as well. They felt strongly that it was a resolution that did not have the correct priorities, so they did not want to support it. Many of us voted for it, even though it was very controversial, in order to reduce the deficit. We felt it was necessary to do so. Now we have folks saying, well, the Democrats do not care about the deficit, and they do not want to do anything. The fact is that we had to produce all the votes in 1993 on the $500 billion deficit reduction package. We did not get help from one Republican.

But what is past is past. The question is what do we do now for the future? The majority party brings a budget resolution to the floor of the Senate today. First of all, let me give them credit. I think this is the right issue. We need to reduce the deficit. In fact, some were critical of the President this morning, and I share that criticism. I have indicated to the President that the initial budget he sent to this Congress had deficits that were too large, and I assume that is why he sent us a supplemental budget recently. I share that criticism. I think we have to do this in a manner that is right and real for the American people.

A while ago, I asked one of my colleagues on the floor of the Senate to look at page three of the budget resolution. The budget resolution, which is on every Senate desk, which we are going to vote on today, says on page three, line four, Deficits. It says, "For the purposes of the enforcement of this resolution, the amounts of the deficits are as follows * * *" And then it indicates that in the year 2002 the deficit is $108 billion.

I have been watching people break their arms patting themselves on the back this morning, saying that this is a balanced budget. I come from a town of 300 people where people talk pretty straight about these things. If you look at this and read page three, they would say, wait, if you say this is a balanced budget, why in the year you claim there is a budget in balance do you have a $108 billion deficit? This is not a balanced budget.

The only way they can claim it is to say: We will reduce this $108 billion to zero by taking the trust funds in the Social Security account for that year, and we will show this as a zero debt. Well, let us say a business has lost $100 million. If a business did what this budget does, if you told business people to take the money from their employees' pension accounts and bring it into their books and claim they have lost no money, the folks that did that will be fast on their way to jail. This is not an honest way to budget. This budget is not in balance. That is point No. 1.

We need to balance the budget. We need to do it without misusing the Social Security trust funds. Those Social Security trust funds coming from taxes taken from the paychecks of workers, contributions made by businesses, which go, by law, into a trust fund. They are not to build star wars, or to offset other kinds of spending in the Federal budget, but only for the purposes of funding Social Security. This budget is out of balance.

The only way they can put it in balance—even though on page three it says it is a $108 billion deficit in the year 2002, the only way they can put it in balance, and the way they come to the floor and claim it is in balance is to misuse the Social Security trust funds. That is not an honest thing to do; it is not the right thing to do.

Second, with respect to priorities. Previous speakers today said the fact is that we need to cut spending. I do not disagree with that. I sent to the Budget Committee recommendations on over $800 billion of deficit cuts, most of it spending cuts.

But this budget comes to the floor with more money for defense. This budget comes to the floor with a special accommodation made so we can continue to build star wars, SDI, or ballistic missiles defense, BMD. I happen to think that is a priority that is out of whack. There is no disagreement about cutting spending. But at this time and place, we say in a budget we are going to make it harder for kids to go to college, but it is time now to build star wars when the Soviet Union is gone, is that a priority that makes sense, or is that going to strengthen or weaken our country? I would switch that around and take the billions for star wars and pump it back into allowing kids to go to school, allowing kids to get a higher education. That is what strengthens our country. In my judgment, that is the right priority.

The budget that is brought to the floor of the Senate today says that we need a tax cut. I understand why that is popular. If one were to take a poll and say to people, "Would you like a tax cut?" the answer would be, "Heck, yes, I would like a tax cut."

But the job before us is not first to cut our revenue. The job before us is first to get our fiscal house in order and reduce the Federal budget deficit. When that is done, then I think we ought to talk about trying to relieve the tax burden on middle-income families in this country, but only when we have solved the deficit problem. The fact is that this budget resolution brings with it to the floor of the Senate a $108 billion deficit in the year 2002 and brings with it a $250 billion or so tax cut, most of which will go to the upper income families in this country.

Now, I do not have the specifics of a Senate tax cut, but we know that this budget is closer to the House tax cut, and we do have the specifics of that, as measured by the Congressional Budget Office. It shows that the bulk of the tax cut is going to go to upper income families. So we are saying that we are going to leave a $108 billion deficit in the year 2002, and we are going to embark on the effort to provide lower taxes for upper income folks. I do not share that priority.

I understand why calling it a family middle-income tax cut is popular. I understand why promising a tax cut is popular. My children would love it if I promised them dessert before dinner. The tax cut is enormously popular. But the fact is that we have a responsibility to cut the budget deficit and balance the budget. That ought to be the honest responsibility that is brought to the floor of the Senate.

I fully understand that the easiest possible political course for anyone is merely to be critical, and that is not enough for our country. We have, in this country, it seems to me, far too much criticism and far too little examples of rolling up one's sleeves and doing what is necessary to fix what is wrong in our country.

We also have too many people who are part of the blame America first crowd who get up, as I said the other day, get up crabby and are determined to share that mood with the rest of America.

This is a remarkable, very special country, with very special strengths and attributes. We have done a lot of things, a lot of wonderful things, which I support.

We had someone speaking on the floor today about regulations. Boy, I, more than most, understand what a pain regulations can be, and some of them go way too far. We have folks who work in the permanent bureaucracy who say, "Well, we will impose this regulation despite the fact that it may make no common sense at all." And it makes people angry with Government. I understand that.

Let me give another side of the same issue so we do not decide immediately to get rid of all regulations. Twenty years ago we used twice as much energy in America as we do today, yet we have less pollution in America today. We have cleaner air now than we did 20 years ago, and we use twice as much energy.

Why do we have cleaner air in America today? Because of regulations. We said to the captains of some industries, we are sorry, but you cannot keep dumping this pollution into our air. It may cost a little more to retrofit your smokestacks, and so on, but that cost is worth it because America must have an environment in which it is healthy to live.

So we have cleaner air today than 20 years ago. That is not by accident. That is because some people had the strength to stand on the floor of the Senate and the House of Representatives to say there are rules. One rule is you cannot dump chemicals into the streams, cannot send pollution up into the air.

We want a clean place for our children to live. We have cleaner streams and cleaner water and cleaner lakes in America today than we did 20 years ago. Why is that? We have less acid rain. Why? Because we decided 20 years ago that we would require the right things. We will say that if you do certain things you have to do them right.

Not only is production good, creating jobs is important. That is the golden goose, there is no question. But the private sector, in creating jobs and advancing the standards in this country, also must respect the environment. We have said that. Those in many cases are regulations that I would not want our country to back away from.

So, we must do things, it seems to me, in a whole range of areas, whether it is regulation, or the budget. We must do things that we think represent the economic interests in our country, to advance the standard of living in our country, and advance the interests of all Americans. That includes the economic interest and it includes the interests that we have to live in a country that is not polluted and not despoiled. All of those things come to bear in one document. That document is the budget.

None of us will be around 100 years from now. None of us. Not one in this room will be around 100 years from now to answer for any of this. But anyone, 100 years from now, who is interested in who we were and what we felt was dear to us and important to the future of our country, can simply search our records or the history of the Senate and take a look at a budget document. They can say, at least with respect to public resources, here is what that group of men and women thought were the priorities for their future. Here is how they decided to spend their money.

This budget document says we are going to spend our money on star wars, because star wars must be deployed. And we are going to decide that we do not have as much money to send children to college, so we make it harder for families to send their kids to colleges. That is what the budget says—a priority I do not share.

We could flip that and we could say, well, the Soviet Union is gone, we will not build star wars—it is a gold-plated weapon system we do not need—and we well invest for the future. We will make sure that our Nation's children can become the best they can be, have the best education that their talents will allow them to have.

Well, that would represent the priority, I think, that is important for this country. We can do that all in the context, still, of making decisions that have the right priorities that still lead to a balanced budget.

In the aggregate, we only have so much money to spend. The question is not whether—it is how we balance the budget. That is the fight about priorities.

I always get a kick when we come to these debates in the Senate, we have people, especially people who have been speaking currently in recent months, that say, "Well, we want to balance the budget, the other side does not care. Therefore, we are responsible and the other side is not."

I do not share that view of this body. I think we have terrific people all around this body on both sides of the political aisle. I think all Members should share a responsibility and a determination to try to do what we can to bring this budget in balance.

There is not any question that we have different priorities about what we think is important. The political process is the process by which we make those choices. This is a great process.

John F. Kennedy used to kid, he said, "Every mother kind of hopes that her child might grow up to be President, as long as they do not have to get involved in politics." But of course, politics is a system by which we make choices in America. It is a great system.

In some cases, I am on a side that loses, in some cases I am on a side that wins; but my responsibility is always to fight for the things I think are important for the future of this country.

My kids, and everybody's kids—they are all that we have in this country, today and tomorrow and in the future. The question is, what makes this a better future for America? When I look at what our ancestors left us, it is pretty striking and pretty remarkable. And the courage and the strength and the determination with which they approached life and with which they made decisions were really quite remarkable.

We have been a nation of builders and doers. This country has not gotten to where it has gotten in the world stage by deciding to sit back and do nothing. We have been out rolling up our sleeves and doing and creating. We have led the world in dozens of areas, even in pollution control and civil rights.

If we have a problem, we face it. A lot of countries just push it aside because it is too painful. Part of the genius of this country is to face these issues and fight about them, and to make public decisions in a consensus in our political system about the issues.

That is what this budget debate is. Nobody ought to be concerned about the fact that we are fighting about priorities. That is what this is about. That is the political system. It is the genius and the wonder of the political system.

I hope in the end stage of this process, that good will and determination expressed by people on all sides of the political aisle, and including the President of the United States, will result in compromises that really do balance the budget, No. 1, to put our fiscal house in order; and, No. 2, do it in a way that advances the interests of all the people in this country, so that this country can have a brighter and better future.

How much time remains?

The PRESIDING OFFICER. There are 3 minutes and 38 seconds remaining.

Mr. DORGAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HARKIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

JORDANELLE STATE PARK

Mr. HATCH. Mr. President, the Jordanelle State Park, located in Wasatch County, UT, will soon become Utah's newest and most modern recreational facility. Funded through the Bureau of Reclamation as part of the Central Utah Project [CUP], this project represents the cumulative efforts of nearly 50 interfacing agencies, scores of special interest groups, and an extensive public input process. The Jordanelle State Park will not only contribute to Utah's critically needed water reserves, but it will also provide excellent recreational opportunities for residents and visitors.

The Jordanelle recreation development deserves recognition for achieving its project-specific objectives by maximizing each participant's resources. With a multimillion dollar project such as the Jordanelle, a burden rests on the shoulders of responsible agencies to make certain that appropriated funds are conscientiously expended. Those associated with the Jordanelle project have set and achieved this goal.

The effort to provide recreational use of Jordanelle Reservoir has served as a model of intergovernmental cooperation among the Federal, State, and local agencies that have institutional control over the project. This same level of cooperation and trust was generated with the public during numerous informational meetings. An uncommon dedication to common goals existed, most notably among the U.S. Bureau of Reclamation, the Utah Division of Parks and Recreation, and interested parties from throughout the State of Utah. This mutual dedication grew out of an important understanding of one another's expectations and values. All of these factors have brought about a refreshing and healthy partnership that has produced wonderful results.

A significant achievement is being reached in the mountains east of Salt Lake City today with the dedication of the Jordanelle State Park. The water resources of Utah will be significantly supplemented with the completion of Jordanelle Reservoir, and millions of recreationists across this country will have the opportunity to utilize and enjoy Jordanelle State Park for years to come.

In my view, this two-fer is an excellent tribute to the resourcefulness and stewardship of Utahns. I congratulate everyone on a remarkable achievement.

TRIBUTE TO FORMER CHIEF JUSTICE WARREN E. BURGER

Mr. HEFLIN. Mr. President, America lost one of its great constitutional thinkers and jurists with the death of former Chief Justice Warren Earl Burger on Sunday, June 25. He served as Chief Justice for 17 years, longer than any other in this century. While he pointed the Court toward a more centrist course during his tenure, he nevertheless presided at a time when the Supreme Court was still seen as being at the forefront of social change in this country.

As my colleagues know, I have an abiding interest in judicial administration, and I always looked to Justice Burger as a true leader in improving the administration of justice. My term as chief justice of the Alabama Supreme Court coincided with his as the U.S. Chief Justice. He was a tremendous help with our efforts to pass the judicial article and with the court reform movement in our State. He was keenly interested in judicial education not only for legal professionals, but for people from all walks of life, believing that knowledge of the system could help individuals improve their lives.

Chief Justice Burger advocated the unified court system for States and founded the National Center for State Courts. He helped organize State and Federal judicial councils to ease the friction that tended to result between State and Federal courts at the time.

He developed the Federal Judicial Center, an educational and research arm for the Federal court system. He persuaded Senior Judge Alfred Murrah—for whom the Federal building in Oklahoma City was named—to serve as head of the Judicial Center. Judge Murrah's leadership resulted in enormous strides for the center. Justice Burger was also a strong supporter of the National College of the Judiciary.

We might say that Justice Burger's passion was more the overall administration of the law as opposed to the hard substance of the law. He believed that the process of the law was important to preserving its substance. He strove to make the courts run better. He pushed Congress to create more judgeships and to raise judges' salaries. To help eliminate congestion and reduce case backlog, he promoted the streamlining of court procedures. He has been called the guiding force in helping State courts improve their judicial administration.

Born in St. Paul, MN, Warren Burger spent his early life on a farm. He worked his way through the University of Minnesota and the St. Paul College of Law, now the Mitchell College of Law. After obtaining a law degree in 1931, he practiced law in Minnesota for over 20 years.

In 1953, President Eisenhower appointed him as an assistant U.S. Attorney General for the Justice Department's Civil Division. Three years later, he was placed on the Court of Appeals for the District of Columbia Circuit. In 1969, President Nixon elevated him to the High Court to succeed retiring Chief Justice Earl Warren. The Senate overwhelmingly approved Chief Justice Burger on June 9, 1969, after a judiciary committee hearing that reportedly lasted but an hour and 40 minutes, something that is hard to imagine happening today.

As Chief Justice, Warren Burger was tough on criminal defendants, but he was neither a hard-line conservative nor an activist willing to reverse rulings of the Warren Court. After he retired in 1986, he spoke regularly at judicial conventions. He wrote a recent book, "It Is So Ordered: A Constitution Unfolds," in which he narrated in detail 14 major Supreme Court cases.

From 1987 until 1991, the former Chief Justice headed the commission on the bicentennial of the U.S. Constitution, a job he pursued with great passion, energy, and intensity. While he believed the Constitution to be a living document, allowing for the evolution of national governmental institutions, he also believed in following the letter of the law in reaching decisions. He once told an interviewer, "If you follow your conscience instead of the Constitution, you've got 1,000 constitutions, not one. A judge must decide cases quite often in a way that he doesn't like to decide them at all."

Of course, Chief Justice Burger wasn't ignoring the role of one's conscience in interpreting the Constitution, for that is an important part of deciding cases. To him, the role of a jurist's conscience was to ensure that he followed the law as written, regardless of personal or political beliefs.

Warren Burger will stand in history as one of our great Supreme Court Chief Justices. He served during a time of swift social change in our Nation, and will long be remembered for the balance, moderation, and consistent thoughtfulness he brought to the Court and to the administration of justice in general.

TRIBUTE TO GEN. CARL E. MUNDY, JR., U.S. MARINE CORPS COMMANDANT

Mr. HEFLIN. Mr. President, as most of my colleagues know, Gen. Carl E. Mundy, Jr., Commandant of the U.S. Marine Corps since 1991, will soon be retiring.

I have had the personal pleasure of knowing General Mundy as a close friend and fellow Marine for several years. He has enjoyed an outstanding career and has compiled an impeccable record with the Marine Corps.

I like to think of General Mundy as a native son of Alabama. He was born in Atlanta, but moved to the State Capital of Montgomery as a young boy. He graduated from Sidney Lanier High School and went on to attend Auburn University. Following his graduation from Auburn, he received his commission as a second lieutenant and began his illustrious military career.

As I have said on previous occasions, I know my Senate colleagues from Georgia disagree with me over the issue of General Mundy's state of allegiance. I suppose we can correctly say that he was born in Georgia but that Alabama is proud to consider him an adopted son.

General Mundy is a highly decorated officer and a graduate of the Marine Corps Command and Staff College and the Naval War College. He is a recipient of the Legion of Merit, the Bronze Star, the Purple Heart, two Navy commendation medals, and the Vietnamese Cross of Gallantry.

Carl Mundy rose through the ranks from his early service in the Second Marine Division, aboard the aircraft carrier *Tarawa* and the cruiser *Little Rock*, to become a member of the Joint Chiefs of Staff as the Marine Corp's top soldier. In between, he served numerous tours of duty in Vietnam, including stints as operations officer and executive officer of the Third Battalion, 26th Marines, and Third Marine Division. He was also an intelligence officer with the Third Marine Amphibious Force Headquarters.

Prior to being named as a brigadier general in 1982, General Mundy served as aide de camp to the Assistant Commandant of the Marine Corps; as commanding officer, Second Battalion, Fourth Marines, Third Marine Division; as chief of staff, Sixth Marine Amphibious Brigade; and as commanding officer, Second Marines, Second Marine Division and 36th and 38th Marine Amphibious Units.

He quickly climbed the Marines' career ladder, advancing to major general in April 1986 and lieutenant general in March 1988. He was the commanding general of the U.S. Atlantic Fleet Marine Force when he became commandant 4 years ago after the retirement of his also-renowned predecessor, Gen. Al Gray.

Among the most endearing qualities of General Mundy—one of which most of his colleagues and subordinates are not fully aware—is that of his family life. I know he has a loving wife Linda, a wonderful daughter, Betsy, and that he has had a great influence on his sons, who have followed in his footsteps. Like their father, both Carl III and Timothy graduated from Auburn University and now serve as Marine Corps officers. They have both adopted his unyielding dedication to the Marines. General Mundy lives and breathes the Marine Corps, both in the field and at home.

In living and breathing the Marine Corps for many years, Gen. Carl E. Mundy, Jr., has served his country with great distinction, pride, and honor. He has been an outstanding commandant who has guided the Marines through some difficult times. On behalf of the Senate, we thank him and wish him a long, happy, and healthy retirement. At the same time, we hope that we have not seen the end of his public service. "Semper Fidelis."

I have a copy of an article which appeared in the summer 1994 edition of Auburn Magazine entitled "First Among The Few." It gives a detailed account of General Mundy's life and career and captures the essence of this consummate Marine and military leader. I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Auburn Magazine, Summer 1994]

FIRST AMONG THE FEW

(By Mary Ellen Hendrix)

"Semper Fidelis." Always faithful. He wanted to drop out of high school to go fight in Korea. Why stay in school? After all, he'd known he wanted to be a Marine ever since he was five years old and the Japanese bombed Pearl Harbor. He'd grown up absorbing the aura of a nation which hailed its Marines for bravery in a world blanketed by war. Wake Island, Guadalcanal, Iwo Jima. The names echoed in the movies the youth's father carried his only son to see. John Wayne may have glamorized the boy's dreams on the big screen, but the real stories of real Marines became the genesis of the young patriot's tunnel-visioned goal.

By the time Carl E. Mundy, Jr. reached high school, Korea was the war of the day and the would-be Marine determined he would trade his schooling for defending his country. His mother, who was from a family of 13 children, and his father, who was one of seven, determined otherwise. They had not achieved college degrees; they were adamant that their only child continue his schooling. The two generations struck a deal—one year of college, then the younger Mundy could choose his own path.

If Mundy couldn't go to Korea, he tried for the next closest thing—military school at The Citadel. Before his senior year in high school, however, his parents had moved from western North Carolina to Montgomery, Alabama.

"The Citadel was enormously expensive," Mundy said. "Auburn was land-grant, in-state, 60 miles up the road; I could work for my meals and be a dorm counselor to cut down on college expenses. So, initially, coming to Auburn was an economic move. But it only takes your first 10 days at Auburn to realize there's nowhere else like it, and that's where you really wanted to be in the first place. I quickly became a very happy rat on the plains of Auburn. After one year of college, the war ended and Auburn was a pretty good place, so I stuck around."

Mundy left Auburn in 1957 with a degree in business administration and an ROTC commission as a second lieutenant. Thirty-seven Marine years later, Mundy has completed his third year as Commandant of the Marine Corps over a total active force of nearly 174,000. A four-year appointment, the command of the service branch carries with it a seat on the Joint Chiefs of Staff.

Mundy's office in the Navy Annex less than a mile down the road from the Pentagon is elegant—stately, as one would expect. The grown-up boy with a dream of being a Marine climbed single-mindedly to the pinnacle of the Corps, and the weighty charge fits him well. Sabers and silver and family portraits mingle with the fine furnishings and flags—and an Auburn football presented to Mundy from Coach Bowden last year.

"I had a lot of fun while I was at Auburn," reminisced Mundy with a smile, "and managed also to graduate. It was a formative time an education in values and an education in friendships, many of which persist today. There was a spirit at Auburn that said much to me about loyalty to an institution, which is very much a part of being a Marine.

"The Southern values I had grown up with, patriotism if you choose to call it that, loyalty to friendships, honesty, all those things were well manifested at Auburn. Those four years helped me form and reinforce my own views of the future."

Mundy's four years on the plains were filled with activities he loved squeezed amongst his classes—the Marine Corps reserve, ROTC, commanding the Auburn Rifles, Chewacla, Phi Kappa Tau (which he called his second fraternity because ROTC was his first), drilling on the parade field. "I have always been fascinated by and bound toward military life," he said. "That was reflected in my readings, studies, associations, and role models. Vince Dooley was one of those role models and still is a good friend. He was a senior when I was a freshman and, of course, was a campus hero. He went into the Marine Corps for his two years, came back as a lieutenant, and was my reserve platoon commander at Auburn my senior year."

Thus, Mundy crafted a Marine life of his own at Auburn—and away from Auburn during the summers when he attended training sessions. Once he graduated, he said, "the Marine Corps was nothing but excitement and absolute joy and fulfillment." (He also married in 1957 the former Linda Sloan of Waynesville, North Carolina, whom he had known since fourth grade.) Talking about his career now, more than 35 years later, Mundy still carries that same purity of admiration for his Marine Corps, even under the potentially disillusioning clouds of post-Cold War military downsizing and D.C. politics.

This consummate Marine, naturally a team player, downplays his individual accomplishments. But even a glance at his resume impresses. After early assignments with the 2nd Marine Division, he pulled duty abroad the aircraft carrier *Tarawa* and the cruiser *Little Rock*, then served as an instructor at Marine Basic School and as Officer Selection Officer.

Vietnam was "his" war, and he served there 1966–67 as operations officer and executive officer of the 3rd Battalion, 26th Marines, 3rd Marine Division, and as an intelligence officer in the Headquarters, III Marine Amphibious Force, in the mid-seventies he was among the troops evacuating Saigon. Most of Mundy's decorations resulted from his time in Vietnam—two of them, a Bronze Star and Purple Heart, from an engagement at Conthien. He was wounded in the leg when a mortar shell hit his base near Khe Sanh; after an aid-station patch-up and a little limping, he was on his way.

"I was a battalion operations officer in those days," he said. "I remember some nights nearly being overrun up around Conthien. There were a few tight moments there, but that comes to all of us who experience combat. Wehn someone is shooting at you, or incoming artillery rounds are hitting around you * * * there are many, many brave men who performed very well who still wished their mama was right there with them from time to time.

"Combat has been characterized as days and hours of sheer boredom broken by moments of sheer terror. And that's probably right. Vietnam was an infantry war, a jungle war, at close range. You usually saw the people you were shooting at, and they saw you, and sometimes you would physically engage them.

"Close combat is an adrenaline endeavor. It's win or lose, kill or be killed."

Mundy doesn't shy away from the grim realities. "We train people how to kill because that is our business. As unappealing as that may be to those who say it's revolting to think of killing another human being—and, indeed, it is—that is why you have us. We train people, if you will, in the art of killing. That means we train gun crews, machine gunners, riflemen; we train you how to fight with a bayonet, in hand-to-hand combat, all those things. But there is no way of conditioning somebody to kill somebody else. At that point, it becomes an instinctive, kill-or-be-killed situation.

After Vietnam, Munday's climb through the ranks paralleled his breadth of assignments, including: Commanding Officer, 2nd Battalion, 4th Marines, 3rd Marine Division; Chief of Staff, Sixth Marine Amphibious Brigade; and Commanding Officer, 2nd Marines, 2nd Marine Division, and 36th and 38th Marine Amphibious Units.

After promotion to brigadier general in 1982, he served as personnel procurement director; Commanding General, Landing Force Training Command, U.S. Atlantic Fleet; and as Commanding General, 4th Marine Amphibious Brigade. After promotion to major general in 1986, he was Director of Operations at Marine Headquarters before being named lieutenant general in 1988.

Following were assignments as Deputy Chief of Staff for Plans, Policies and Operations at Headquarters and Operations Deputy to the Joint Chiefs of Staff; Commanding General of the Fleet Marine Force Atlantic, the II Marine Expeditionary Force, the Allied Command Atlantic Marine Striking Force, and designation to command Fleet Marine Forces which might be employed in Europe; and promotions to general and present duties in 1991.

By the time of Desert Storm, Mundy was providing forces instead of fighting with them. Among the troops sent to the desert was one of Mundy's three children, Tim, "to the chagrin of the older brother and the father who sat back and watched the baby of the family go off to war."

Mundy's other children are Betsy and Carl, III (Sam). Sam and Tim are both captains in the Marine Corps, with Sam selected for promotion to major in the next year. Also like their father, they're both Auburn graduates; Sam is the Class of 1983 and Tim 1987.

One of the wars Mundy fights these days is a war of numbers. "I think the biggest challenge I have or will face is being able to maintain a viable Marine Corps in the face of the drawdowns that we have experienced in the U.S. forces," the Commandant said. "The amount the American taxpayer is spending on defense right now is the lowest it has been in 45 years; percentage-wise, defense expenditures are pre-World War II."

Mundy arrived to the Commandancy on the heels of the Pentagon's Base Force proposal, which he called "a rather unanalytical decision to take about 25 percent off the top of all the services." He immediately went about proving the analysts wrong, overseeing a bottom-up review of his sacred Corps which asked the key question, "What do we have to do?

They had to do a lot as it turned out. They had to train, they had to guard the 140 embassies and consulates around the world, etc. "We built ourselves from the bottom up," said Mundy. "Then I went to see General Powell, the Secretary of Defense, and took it to the Congress and said, 'You're cutting the Marine Corps too dramatically.' That worked."

Mundy's review concluded that the Corps needed about 177,000 Marines to continue its duties. They now stand at approximately 174,000, a cut of about 22,000 since Mundy took over in 1991. While that number is much better than the original target of 159,000, he still feels the strain on his budget and his people. "Out of every dollar, 77 cents is spent to pay or take care of people. When you're trying to operate on 23 cents out of every dollar, it's very difficult to maintain equipment, training, and facilities and to take care of Marines and their families to the degree that you'd want."

The full seriousness of Mundy's statement comes through especially in light of events in recent years. Last year Mundy ordered a flight suspension for 48 hours to review safety and training procedures after a series of fatal mishaps with six Marine helicopters and a fighter jet that resulted in the deaths of 12 servicemen.

In addition to taking care of equipment and training, Mundy has attempted to deal with supporting Marine families—which was his intent with last year's media-labeled "singles only" order. The directive's focus, he said, was to counsel new recruits on the stress of deployment, which averages 12 months of the first four years of active duty, and to help the young Marines assess their readiness for marriage. The order, which was reversed, initially would have capped married incoming Marine recruits to about five percent.

But the Commandancy is no stranger to politics, and Mundy recognizes and deals with that part of his job. Even the political hornet's nest of gay rights in the military is met with a philosophy of historical perspective. "The military services are a microcosm of society," he said. "The nation, at the present time, is focused on a number of issues that pervade the military as well. We've faced societal changes, integration, for example, in the military that have worked out fine. In fact, the Armed Forces are way ahead of society in general in terms of cultural diversity.

Whatever the politics of the day, Mundy's motive of management has always been the good of the Corps. He cares fiercely for his people and defends their mission. "The Marine Corps consumes in total about five percent of the Department of Defense budget. You don't save anything by taking down the number of Marines and you lose a lot. We are the force of economy in all of our arsenal.

"The Marine Corps has long been a crisis response force. It can fight in major land operations but, by and large, we send smaller organizations of Marines around the world to take care of the brush fires, if you will."

With the many "hot spots" in the world—Haiti, Somalia, Bosnia, North Korea, etc.—the Marines don't seem slowed down by the lack of a Cold War. When asked whether intervention for humanitarian reasons really makes a long-term difference, Mundy said, "In some cases I would answer 'yes,' in some 'we hope so,' and in one or two 'probably no.' After a typhoon swept through Bangladesh in 1992, we swung some Marines who were on their way back from the Gulf War through there and did some nation building. We helped them re-establish their nation. Yes, that is a very worthwhile involvement of military forces.

"That generally was a focused, specific goal. Panama has returned to a relatively stable situation, and, in five years, we'll be passing over the Panama Canal to that government. In Somalia, if you get outside Mogadishu, which is the center of the clan conflict, you'll find crops are growing and people aren't starving where before they were. So the intervention there will have to be measured in a longer period of time as we watch what occurs with the various factions in Mogadishu.

"You can only help so much and then the leadership has to be seized by the nation itself. So, there are some true success stories and some that were not as successful."

Although Mundy's term runs out in July 1995, he said his plans are only to "make it until July of '95. This is a consuming job, and I owe it to you and everybody else who pays my salary to focus on this job until the finish line." In a job in which one would expect every day to be a new crisis, he said there is a routine of sorts. "I wear two hats. I wear the hat of a service chief, as the Marine Commandant, and my responsibilities are to recruit, train, organize, and equip the Marine Corps. I also wear a hat as the Marine member of the Joint Chiefs of Staff, which is a national security position as an advisor to the Secretary of Defense and the President."

The Joint Chiefs meet two to four times a week and take priority over other duties. Any crises, Mundy said, result from national security situations such as the Haitis, Koreas, Bosnias, or Somalias. "In my day-to-day job as a service chief, the crises tend to be much fewer."

Having entered his final year as a Marine, Mundy still shuns talking about any personal glories when asked to reflect on his career. "I have never really focused upon an image, a legacy. If I could be remembered well by the people with whom I've served and as a good Commandant, that would be good enough for me. I'd just like to be remembered as a good Marine."

THE RETIREMENT OF MARINE GEN. CARL MUNDY

Mr. LEAHY. Mr. President, I rise today in tribute to Gen. Carl Mundy, who retires this Friday after 38 years of service to our Nation.

Carl Mundy has made his career around a title that we as Americans have held sacred for over 200 years: leader of Marines. He was commissioned in 1957, at the height of the cold war, and served a tour in Vietnam, where he was wounded and decorated for bravery.

Carl Mundy has had the difficult job of leading the corps during the difficult transition out of the cold war and into the uncertainties of today's world. But under his leadership, as the Marines have reduced their forces, they have maintained the professionalism and esprit that have been demonstrated throughout our history.

On Carl Mundy's watch, Marines participated in dangerous operations around the world that were executed with such quiet excellence that many Americans barely notice. The mission in Somalia was fraught with danger, and from the initial intervention to the recent quiet withdrawal of U.N. forces, General Mundy's Marines were there.

The Haiti invasion was equally dangerous, and our Nation's Marines were up to the task of bringing democracy back to that poor nation.

Most recently, Marines showed their flexibility and bravery by rescuing downed Air Force pilot Scott O'Grady from hostile Bosnia, an extraordinary feat that demonstrated why I call the Marines our 911 force—they are the ones you call in the middle of the night and who are ready to go.

Throughout it all, Carl Mundy's determined leadership was there, extending from the halls of the Pentagon down to the fresh privates who march with that unique Marine swagger off the famous drill fields of Parris Island, SC. I know, because my son Mark was one of those young privates.

The life of a Marine is difficult, and when Marines are gone for months at a time doing dangerous work, no one bears that burden more than the families who are left back at home. They are the unsung heroes of our military, and I want to pay special tribute to Carl's wife Linda, and his children Elizabeth, Carl III, and Timothy. I know that Carl is proud that both his sons wear the Marine uniform, and that serves as further testimony to the sense of duty that pervades the Mundy family.

Carl may come across as the prototypical square jawed Marine, but I know him as a man with a sense of humor and the confidence to laugh at himself. I also have it on good authority that he has a secret life as Carl Mundy, the country and western songwriter who can work a mean cut bucket bass and can sing every verse of "Mountain Dew."

Mr. President, I have gotten to know General Mundy in the last 4 years through my work on the Defense Appropriations Subcommittee. I have found him to be a vigorous advocate for the Marine Corps and, I am proud to say, a friend. On behalf of many of us here in the Senate, I want to extend my sincere thanks to Carl Mundy for a career of service to our Nation, and offer our best wishes to the Mundy family for a fulfilling and well-deserved retirement.

LAWYERS, GARDEN SLUGS AND CONSTITUTIONAL LIBERTY

Mr. HEFLIN. Mr. President, I recently had the opportunity to read a commencement speech given on May 21, 1995, by my longtime friend, the Hon. Loren Smith, chief judge of the United States Court of Federal Claims, to the graduating class of the John Marshall Law School, in Atlanta, GA.

The title of the speech is "Lawyers, Garden Slugs and Constitutional Liberty," and its theme deals with the relationship of the lawyer in our society to the concept of constitutional liberty. Chief Judge Smith makes some significant points that I think are worthy of consideration by my colleagues, and I ask unanimous consent that it be printed in the RECORD at this time.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

LAWYERS, GARDEN SLUGS AND CONSTITUTIONAL LIBERTY

(By Loren A. Smith)

A couple of years ago, I spoke at another law school's commencement on the topic of our Constitution. Now this may sound like a somewhat weighty topic, perhaps even an overly academic one. After all, this day marks the end of your law school career; not some guest lecture during the second year. However, I thought it was an appropriate speech because the Constitution is both the base and pinnacle of the legal system in which you will spend the rest of your legal careers. Every law you will ever deal with must be consistent with the Constitution's commands. How's that for some heavy thoughts on what will otherwise be a happy and well-earned day of celebration?

Well, I hope this speech will strike you as just right. And what do I mean by just right? I am thinking of the Colonel who gave his orderly a bottle of scotch for Christmas. After the holiday he asked the orderly how it was. The orderly replied: "Just right." "That's kind of a funny expression," the Colonel responded, "what do you mean?" The orderly noted: "Well, if it had been any better you wouldn't have given it to me, and if it had been any worse I wouldn't have been able to drink it!"

I hope my speech is not "just right" in that sense. However, you have to drink it and for that I hope I won't have to apologize to you.

I believe that as important as the Constitution is as the foundation of our legal system, it is far more important for the central significance it has to American life. That significance lies in the fact that the Constitution makes us Americans. It is the very basis of our nationality.

We the people of this land are not defined by race; we are black and white, brown and yellow. We are not defined by religion; we are Protestant, Catholic, Jewish and also Moslem, Hindu and Orthodox. We are not defined by national origin as all of our ancestors immigrated to this continent from somewhere else. Even the first Americans crossed the Bering land bridge from Asia. We are men, women and children, English speakers, Spanish speakers and speakers of a thousand other tongues. What makes us Americans, however, is a simple concept expressed in a few words: we uphold, support and defend Our Constitution. In no other Nation, past or present, has such a nationality existed. All one has to do to be considered an American is take an oath to support and defend the Constitution.

This idea is a fitting topic for a law commencement speech because each graduate joins a profession whose duty is to give life to the rights, responsibilities, and promises found in our Constitution and the laws enacted under it.

Thus, it would be easy for me to read the same speech I delivered in 1993, as I assume only a particularly weird masochist would put his- or herself through two law schools, and there isn't likely much faculty overlap with over 165 U.S. law schools. However, I won't give the same speech. On this your last day of law school, you are entitled to something new, after three years of reading used precedent that is based upon even more used precedent.

Thus, I have crafted two profound topics—Would you believe stimulating? Would you believe the subject of possible college term papers? Okay.

Topic One: Why does the general public seem in recent years to have the view that lawyers are somewhere on the evolutionary scale between pond scum and garden slugs?

Topic Two: What do we mean by liberty?

Of course, you also want to know what is the relationship between these two topics.

With respect to the first topic, there has been a profound change over the past 25 years in the way society views lawyers. In the 1950s and 60s and for many earlier decades lawyers were social heros. They were the trustees, who could be trusted. They were the advocates of just causes who sought and more often than not achieved justice. They were the guardians who faithfully guarded our liberties.

Lawyers were at the forefront of struggles for economic liberty, for civil rights, for fair government, and for protecting the rights of the unpopular as well as the popular. They made the criminal justice system achieve justice whether by convicting the guilty or acquitting the innocent. And perhaps overlying all of this they were the wise and practical counselors of our society. Prudence or practical wisdom was their province. Calling someone a good attorney meant they were a person of character.

On TV they were the heros whether as Mr. District Attorney or Perry Mason. President John F. Kennedy's book "Profiles in Courage" is replete with lawyers. Lawyers crafted the Constitution, achieved its ratification, and played a critical role in the survival of our republic. Abraham Lincoln was a very successful practicing lawyer, as were John Adams, Thomas Jefferson, and James Madison. Alexis de Tocqueville saw lawyers as America's aristocracy. And Americans on the whole agreed with this view for most of our history.

What has happened to change this in the last 25 or so years? And when thinking about that question remember the OJ trial has not been going on that long, but only seems like it has.

Here is perhaps where the second topic is related to the first. What is the nature of liberty? It seems to me that the proper definition of liberty must be contrasted with government. Simply put, liberty is the state of being left alone by government. Now, this means more than not having the government be able to bother you. It means having a legitimate expectation that government will not interfere with you as long as you meet some minimal conditions—such as not interfering with other people's rights to be left alone. In this sense liberty is an exclusively negative concept. It is not a claim on government. It is not a right to have government do something you want it to do. It is a "right" to engage in the pursuit of happiness free from government restraint except as already noted.

The Framers of our Constitution talked about life, liberty and property as fundamental, indeed natural rights. What they meant by this was not three separate interests. Rather they were referring to the fundamental integrity of the human person. James Madison, perhaps the most influential figure in our Constitution's birth and development, made this clear when in 1792 he wrote, in an essay entitled, "Property".

"This term in its particular application means 'that dominion which one man claims and exercises over the external things of the world, in exclusion of every other individual.'

"In its larger and juster meaning, it embraces every thing to which a man may attach a value and have a right; and which leaves to every one else the like advantage.

"In the former sense, a man's land, or merchandize, or money is called his property.

"In the latter sense, a man has property in his opinions and the free communication of them.

"He has a property of peculiar value in his religious opinions, and in the profession and practice dictated by them.

"He has property very dear to him in the safety and liberty of his person.

"He has an equal property in the free use of his faculties and free choice of the objects on which to employ them.

"In a word, as a man is said to have a right to his property, he may be equally said to have a property in his rights."

Life, liberty and property for the Framers meant the protection of the fundamental integrity of the human person against government. It sometimes meant that protection must be maintained against the democratic majority. Liberty was opposed to arbitrary power whether legislative, executive or judicial. The system established by the Constitution was not designed for efficiency, but precisely the opposite purpose, to contain and control, to check and limit what was seen as a very real threat to human happiness: government.

This is not to suggest that the Framers were anarchists. They were wise and practical people (and lawyers) who perceived that fallen humans at times need the restraining hand of government to protect them from one another. However, they saw this as a purely negative role. While government might prevent some unhappiness, it could never create happiness.

Now let me try to tie my two themes together. When lawyers serve in the traditional mode as officers of the legal system—and this means guardians of constitutional liberty—they are heroic figures. They keep the dangerous yet necessary leviathan of government within its proper sphere. This is a role that gives dignity to the profession. It is also what I contend has been responsible for the extraordinarily good image the profession has had for most of our history.

This, of course, is a simplification. There have been notorious examples of bad lawyers and judges throughout the American past. In fact, like any group of human beings, most lawyers and judges never lived up to the ideal. Of course, very few human beings ever live up to their ideals, which is the reason why real saints and heros are in short supply even in free market economies. However, the ideal was a very real part of our culture for much of our history. It ennobled the profession and gave individuals something to strive for. Lawyers had the role of guardians of the citizens' liberty and property. Both lawyers and citizens accepted this role.

Today, however, that image has changed. Beginning in the later part of the 19th century, as has been noted by Dean Anthony T. Kronman of Yale Law School in his book "The Lost Lawyer," the idea took shape and developed slowly through the 20th century that lawyers were social engineers or power brokers or the mediators between private and public "rights." The names changed with the years but the concept was that the legal system's purpose was to reform and improve society.

No longer were lawyers the guardians against power, they were the apparatchiks, to use a Soviet term, or the henchmen of power. They had become the sorcerer's apprentices. Increasingly, lawyers' incomes and economic prospects became attached to the operation and growth of the administrative state. Lawyers increasingly became the functionaries of that state. To be sure, their ideal goal was to make that system relatively fair and efficient. Still, they were no longer the guardians who kept it in check or the knights-errant who fought against it when necessary.

This fundamental shift in the relationship of the lawyer to constitutional liberty is, I would submit, the principle reason for the drastic decline in the public's view of lawyers over the last quarter century. The people have never liked the king's agents, even when they have liked the king. To manipulate power is not an ideal. In many ways it is a curse. A hundred new model codes of professional conduct, backed up by a thousand disciplinary boards, will not restore the profession's sense dignity, status and self worth. Stature comes not from self-regulation but from self-definition. And the choice of self-definition is fairly simple: user of power or defender of liberty against government.

I should add, lest there be any confusion, this is not an attack upon government attorneys. In fact, they are the frontline guardians of liberty against government. Whether in recent decades or before, their commitment to liberty against government has been no worse, and sometimes better, than non-government attorneys. Those in government often know best the blessings of limited government and most clearly understand the dangers of the leviathan state.

What is to be done? That really is the challenge you face. There are no immutable laws of history or culture as the recent transformation of Russia has proved. Daily in this nation and abroad we see what several decades ago was thought impossible in science, medicine, economics or politics become the facts of the nightly news. The historical junkyard is littered with the ruins of many so-called "laws of history," which decreed how inevitable were their bleak and sterile visions of the future.

Each generation has the power to restore true values, and more importantly each individual has the ability to determine his or her own destiny and path toward salvation. The values you hold and the goal of your life are within your power to create and achieve. It's up to you. On this your graduation day, as Holmes said—Sherlock that is, not Oliver Wendell—"The game's afoot." May God speed and bless that game for each of you. And may you each treat that precious degree, stained with sweat and tears, and possibly highlighter and beers, if not blood, as your sword and shield to guard, defend and further liberty.

THE 1995 BASE CLOSURE LIST

Mrs. FEINSTEIN. Mr. President, I rise today in strong opposition to the 1995 base closure list and to urge the President to reject the Base Closure Commission's recommended hit list.

In this base closure round, the Commission voted to close or realign 9 out of the 12 military bases in California that were reviewed, many against the recommendation and advice of the Secretary of Defense.

In addition to the adverse national security impact of the Commission's action, the economic impact on California—particularly the cumulative economic impact—will be enormous.

ECONOMIC IMPACT OF BASE CLOSURES

California is being hit disproportionately hard by base closures. In three previous rounds, 22 major bases in California have been slated for closure or realignment—more than double any other State.

California is home to only 15 percent of all Defense Department personnel. Yet, California has lost more than 82,000 of the nearly 120,000 net direct jobs—military and civilian—lost nationwide since 1988 as a result of base closures alone.

All total, these actions have resulted in the loss of more than 200,000 direct and indirect jobs and $7 billion in annual economic activity in California.

I do not believe it is appropriate to proceed with another base closure round when the full impact of previous base closures has not yet been felt. In California, bases slated for closure in 1988 are just now starting to close their gates, and few are having success in reuse and redevelopment efforts.

If the current base closure round goes forward, 58,000 additional direct and indirect California jobs will be impacted—7,900 direct military and 19,000 direct civilian personnel. Major bases in California which the Commission has targeted include:

McClellan Air Force Base in Sacramento;

Long Beach Naval Shipyard in Los Angeles County;

Onizuka Air Station in Sunnyvale;

Oakland Army Base in Alameda County;

Sierra Army Depot in Lassen County; and

Fort Hunter Liggett in Monterey County.

With the addition of defense industry layoffs in California—which have claimed 250,000 jobs in just the past few years—California stands to lose more than half-a-million jobs as a result of base closures and defense downsizing.

And, defense industry downsizing is expected to continue through the end of the decade with the loss of another 250,000 jobs. Enough is enough.

By law, economic impact must be considered by the Commission when determining what bases to recommend for closure or realignment. The inclusion of economic impact as a criteria is for good reason: to prevent the piling on of base closures on one single community or State.

Yet, it is clear to me that the Commission disregarded the economic impact of currently proposed and previously announced base closures on California when it made its final recommendation to close or realign nine California bases.

CALIFORNIA'S FRAGILE ECONOMY

The California economy cannot take additional base closures at this time. California was once the land of golden opportunity, where good paying jobs were available and investments in real estate resulted in high-paying dividends. Today, that dream of golden opportunities has disappeared.

California's unemployment rate is nearly 3 percent higher than the national average. More than 1.28 million Californians are out of work. In fact, California has 17 percent of all the unemployed workers in America.

As cuts in jobs, both military and civilian, loom on the horizon, consumer confidence has dwindled. Consumers are unwilling to move into homes and purchase durable goods as long as the State's economic prospects remain dim.

"Disappointing, disturbing, and traumatic"—those are the words used by the president of the California Association of Realtors to describe the current challenge of being a real estate agent in California.

The facts about the current real estate market in California are startling. Home sales dropped 21 percent in California during the first quarter of 1995. In Los Angeles County alone, home prices dropped 23 percent from January 1991 to January 1995. Prices fell another 3 percent in March of this year.

The crisis of confidence in California's economy extends well beyond the real estate market and the sheer number of unemployed residents. People are simply unsettled about the State's economic future.

Orange County filed bankruptcy, and just this week, while hoping to earn $30 million in a real estate auction, had to settle for $15 million. Bill Lange, who conducted the auction, remarked, "On a scale of one to 10, it's about a five. It'd be an eight or nine if the real estate market wasn't in the tank." In any case, it is still a small fraction of the county's $1.7 billion in investment loses.

Los Angeles County, the largest in the Nation, is faced with the prospect of eliminating a $1.2 billion deficit. Laying off more than 18,000 employees—one out of five county workers—seems inevitable. Closing the County-U.S.C. Medical Center is another likely budget-cutting measure that will be implemented.

Twelve months ago, California's leading indicators were running slightly above the national trend. Six months ago, California dropped to next to last among all States. In a 3-month moving average of leading indicators—as compiled by the WEFA Group of Bala Cynwyd, Pennsylvania—California comes in dead last.

If California continues to suffer blow after blow, not only will this slow our economic recovery, but could set it back. I cannot predict the total consequences of further devastating cuts.

This is the Nation's largest State, and a weakened and uncertain economy here can lash like a chain reaction through our national economy and our balance of trade. Closing California's military bases can only make matters worse. Our economy, simply put, will continue its steep downward spiral with no end in sight.

BASE CLOSURES COST MORE THAN ANTICIPATED

Base closures have turned out to be a lot more expensive than originally estimated, primarily because environmental costs are not included in closure estimates. As history indicates, costs for closing military bases in California have sky-rocketed:

BRAC 88 clean-up costs were originally estimated at $126 million in 1990. By 1994, the costs had quadrupled to $598 million;

The costs to clean up bases from BRAC 91 were originally estimated at $389 million. Now, these costs have risen to $1.3 billion.

Clean-up costs for BRAC 93 bases were originally estimated at $230 million in 1990. By 1994, these costs had risen more than five-fold, to $1.4 billion.

The costs to clean up and close California's bases for the first three rounds alone is nearly $3.5 billion, up from the $745 million that was originally estimated and budgeted. California bases alone could absorb all of the funds appropriated for clean-up in all the BRAC accounts from fiscal year 1990 through 1995.

And the total costs to clean up BRAC 95 bases that were originally recommended for closure or realignment is estimated at more than $1 billion—and these are just initial estimates. If history is any indication, then these costs will increase two-, three-, four-, or even five-fold. McClellan Air Force Base's environmental costs alone will more than double the original estimated clean-up costs for BRAC 95.

Mr. President, I would like to discuss some specific details on the two largest bases in California that were targeted by the Commission: McClellan Air Force Base and Long Beach Naval Shipyard.

MCCLELLAN AIR FORCE BASE

McClellan Air Force Base was targeted for closure by the Commission, against the recommendation of the Secretary of Defense and despite protests by the Air Force's military and civilian leadership. McClellan is northern California's largest industrial employer, with nearly 15,000 mostly civilian workers.

I believe that the Commission's action to target McClellan for closure will adversely impact U.S. national security and drain needed fiscal resources from higher priority programs and initiatives in the Pentagon budget.

The Air Force has stated that the cost to close one Air Logistics Center is estimated at $500 million, excluding environmental cleanup costs. These prohibitively high closure costs would be greater than the total cost the Air Force has budgeted over the next 6 year for all of its base closures and realignments nationwide.

According to a recent letter from Air Force Chief of Staff General Fogelman and Secretary of the Air Force Sheila Widnall, the Commission's action will:

> Cost the Air Force hundreds of millions of additional dollars (in excess of $1 billion in environmental and military construction costs) during the next five years; disrupt military readiness because of the total restructuring of the Air Force logistics and depot system; preclude the Air Force from carrying through on vital readiness and modernization programs; and have a devastating impact on as many as 25,000 DoD employees in Texas and California who would lose their jobs or have to relocate to other Air Force installations at great personal and public expense.

I ask unanimous consent that the full text of the letter, as well as a letter from General Moorman, the Air Force Vice Chief of Staff, be printed in the RECORD at the end of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibits 1 and 2.)

Mrs. FEINSTEIN. I have visited McClellan several times over the last few years. McClellan is an excellent base with superb, state-of-the-art facilities and is one of the most advanced installations in the entire military.

McClellan has its own one-of-a-kind industrial nuclear reactor, a nondestructive aircraft inspection facility, logistics retrofit engineering capabilities, and a technical laboratory with specialized logistics facilities. McClellan is truly a unique asset to our Nation's defense.

Finally with regard to McClellan, if economic impact—particularly cumulative economic impact—is going to be considered, then the impact on the northern California region must be considered when looking at McClellan.

Already in the Sacramento area, Mather Air Force Base and the Sacramento Army Depot have been slated for closure, resulting in the loss of nearly 7,000 direct jobs. And, in nearby Vallejo, the closure of Mare Island Naval shipyard will result in the loss of an additional 9,000 direct jobs.

LONG BEACH NAVAL SHIPYARD

I do not believe that the Pentagon's recommendation to close Long Beach Naval Shipyard makes sense. In 1993, the Base Closure Commission addressed the issue of whether to close the Shipyard, and the Commission recognized the vital role that Long Beach plays in support of the Pacific Fleet and kept it open.

Long Beach Naval Shipyard is strategically located in southern California—near 70 percent of the Pacific Fleet in San Diego—and has a large dry-dock capable of docking every class of ship in the U.S. Navy's inventory, including large aircraft carriers. Other Naval shipyards are long distances from the west coast mega-port: Puget Sound is located 1,135 nautical miles from San Diego and Pearl Harbor is located 2,600 nautical miles away.

Long Beach is also the most cost-effective shipyard in the Navy. It is the only one of the eight Navy shipyards that operates in the black with annual retained earnings. In just the last 6 fiscal years, Long Beach has been consistently under budget and $102.7 million has been returned to the Navy budget.

The closure of Long Beach Naval Shipyard will also have a devastating economic impact. 13,000 jobs and $539 million in annual economic activity will be lost if Long Beach closes. Los Angeles County has taken the brunt of the State's defense downsizing and Long Beach previously suffered from a large base closure: Long Beach Naval Station.

Former Chairman of the Joint Chiefs of Staff Colin Powell may have provided the best defense of Long Beach when he said in 1991 that the:

> closure of Long Beach Naval Shipyard would seriously degrade the dry dock capability for all large ships in the Southern California area. Alternatives in Hawaii and Washington simply could not provide the services found at Long Beach.

General Powell was right. Long Beach Naval Shipyard should not be closed.

ONIZUKA AIR STATION

Onizuka Air Station has existed in Sunnyvale since the mid-1950's and was created to provide a place where the Air Force satellite control mission and other classified Defense Department tenants could function in collocation.

While the Air Force has proposed realigning Onizuka and shifting many of its functions to other bases outside California, the Air Force's proposal actually amounts to a stealth closure of this state-of-the-art base. In the short-term, nearly 3,000 jobs will be lost as a result of Onizuka's realignment. In the long term, Onizuka's closure will cost several thousand additional jobs.

In addition to the economic impact on the northern California region, I believe that Onizuka's realignment could have an adverse impact on U.S. national security, particularly with regard to the Nation's satellite control and communication network. I also question the cost-effectiveness of Onizuka's proposed realignment in light of the long pay-back period—7 years—and the fact that the base will continue to operate well into the next century.

I am also concerned that the recommendation to realign Onizuka could have been tainted by a 1993 internal Air Force study on the closure of Onizuka. This study was conducted outside of the official BRAC process and estimated the true cost to close Onizuka at hundreds of millions of dollars more than originally estimated by the Air Force. Unfortunately, the existence of this study—which was originally denied by the Air Force—was uncovered late in the BRAC process, thus impeding its full utilization.

I ask unanimous consent that the copy of a 1993 Air Force letter, which initiated a study of Onizuka Air Station's closure outside of the official BRAC process, be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 3.)

OAKLAND ARMY BASE

Mrs. FEINSTEIN. Once again the Commission rejected the recommendation of the Secretary of Defense, as well as the pleas of the Army's military and civilian leadership, and targeted Oakland Army Base for closure. In addition to being vital to U.S. national security, Oakland Army Base's closure will have an adverse impact on a region still feeling the brunt of previous base closures.

The Oakland Army Base's mission is to support the rapid deployment of military equipment and other large cargo in times of peace and war. As the only exclusive use, Army-owned secure access facility on the west coast, the Oakland Army Base is crucial to the Pentagon's strategy of being able to fight and win two nearly simultaneous regional conflicts.

The senior Army leadership closely reviewed Oakland Army Base when preparing their 1995 base closure recommendations. The closure of the Oakland Army Base was flatly rejected by Secretary of the Army Togo West on operational grounds because there simply are insufficient commercial port facilities on the west coast to support the Army's military requirements.

I personally spoke with General Sullivan, the Army Chief of Staff, who said he strongly opposes the closure of the Oakland Army Base. In a recent letter to me, General Sullivan wrote that:

> its loss represents an unacceptable risk. Oakland is essential for the deployment of our CONUS-based forces to respond to any national security threats which would emerge in the Pacific. . . . The Army needs this critical facility to support the rapid deployment of equipment during peace and war.

In addition to its adverse impact on U.S. national security, the closure of Oakland Army Base will result in the loss of at least 700 jobs in the San Francisco Bay Area, an area hard hit by previous base closures. As you may recall, the 1993 base closure process claimed more than 30,000 jobs with the closure of Alameda Naval Air Station, Mare Island Naval Shipyard, Treasure Island Naval Station, and other facilities. The bay area's economy simply cannot take another major blow.

I ask unanimous consent that the full text of General Sullivan's letter be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 4.)

FORT HUNTER LIGGETT

Mrs. FEINSTEIN. In addition to the strong military and fiscal arguments for keeping the TEXCOM Experimentation Center at Fort Hunter Liggett, the realignment of the base will have an adverse economic impact on an area already suffering the consequences from one of the biggest BRAC actions in the county: the closure of Fort Ord. Monterey County's already fragile economy cannot afford the realignment of another major base.

Fort Hunter Liggett provides a total test and experimentation package to the Department of Defense. TEXCOM's isolated location provides unequaled access to extremely versatile training areas with a wide variety of weather and terrain conditions, controlled airspace to 24,000 feet, a 360-degree high energy laser testing area, isolation from ambient light and minimal radio frequency interference.

While Fort Hunter Liggett was evaluated in the BRAC process only as a training area, the base performs vital test and evaluation functions. Thus, the recommendation to realign Fort Hunter Liggett and move TEXCOM—a test and evaluation asset—is based on a flawed analysis that did not take into account TEXCOM's unique capabilities. The Director of Operational Test and Evaluation at the Defense Department has stated that moving TEXCOM would be a "show stopper."

Finally with regard to Fort Hunter Liggett, I do not believe that the proposed realignment is cost-effective. Information presented to the Commission staff by Monterey County officials regarding one-time costs, return on investment, and accumulated savings showed that the realignment of Fort Hunter Liggett is not cost-effective. However, I understand that this new information was not utilized by or presented to the Commission.

I ask unanimous consent that the full text of a letter from Mr. Phil Coyle, the Director of Operational Test and Evaluation, be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 5.)

CONCLUSION

Mrs. FEINSTEIN. Mr. President, California has been hit disproportionately hard by base closures once again. While California is willing to do its fair share of base closures and defense downsizing, this base closure round is simply not fair to the State.

It is my contention that if this round of base closures goes through as proposed by the Commission, the cumulative economic impact of base closures on California will have a devastating impact on California and affect the State's recovery from the recession.

Just after three base closure rounds, it is apparent in California that when base closures are combined with ongoing large-scale defense downsizing, there is a substantial impact on jobs for working people. Therefore, a worker who loses a job in the defense industry or on a base, loses retirement benefits, health insurance and a good salary. Similar replacement jobs are simply not available.

I strongly urge the President to reject the 1995 base closure list because of the devastating economic impact—including the cumulative economic impact—of base closures on California.

In addition, several of the Base Closure Commission's recommendations are opposed by the Secretary of Defense, as well as our military and civilian leadership at the Pentagon, because of their adverse impact on U.S. national security. Surely our military leaders know what is best for the Nation's defense.

EXHIBIT NO. 1

SECRETARY OF THE AIR FORCE,
Washington, DC, June 21, 1995.

Hon. ALAN J. DIXON,
Chairman, Defense Base Closure, and Realignment Commission, Arlington, VA

DEAR MR. CHAIRMAN: The Air Force approach to the depots is prudent because it saves money for the taxpayers and protects military readiness. it is also the product of exhaustive analysis by military professionals and senior leadership who have been working the proposal for over a year.

Our depot proposal is simple. Building on the personnel reduction that have already been taken from the Air Logistic Centers and depots during the last five years (over 26,000 people), the pending Air Force proposal would reduce and realign the depots by an additional 1,987 jobs (with a net present value of $975 million). While there would be some disruption, the business of the Air Force—flying combat and transport aircraft, and maintaining our command and control and space network—would continue unimpeded. This total Air Force depot reduction of 28,000 jobs is almost two and a half times the total depot reduction achieved by all other DoD components in all four BRAC rounds combined.

On the other band, the staff generated BRAC proposal described to us will cost the Air Force hundreds of million of additional dollars (in excess of $1 billion in environmental and military construction costs) during the next five years; disrupt military readiness because of the total restructuring of the Air Force logistics and depot system; preclude the Air Force from carrying through on vital readiness and modernization programs; and have a devastating impact on as many as 25,000 DoD employees in Texas and California who would lose their jobs or have to relocate to other Air Force installations at great personal and public expense.

Most importantly, the essential business of the Air Force—operations, logistics and budget dollars that are critical to future modernization—would be greatly disrupted. Since the end of the cold war, the Air Force has reduced its budget by more than $20 billion and reduced personnel by over 200,000 people. Some further reductions and savings are necessary; however, they must be taken in a way that permits the Air Force to continue to carry out its essential mission. The Department of Defense proposal does that; the Commission staff alternative does not.

Sincerely,

RONALD R. FOGLEMAN,
General USAF, Chief of Staff.

SHEILA E. WIDNALL,
Secretary of the Air Force.

EXHIBIT NO. 2

DEPARTMENT OF THE AIR FORCE,
U.S. AIR FORCE,
Washington, DC.

Hon DIANNE FEINSTEIN,
U.S. Senate,
Washington, DC 20510

DEAR SENATOR FEINSTEIN: This responds to your request for my views on McClellan Air Force Base, California, pertaining to that base's consideration by the Defense Base Closure and Realignment Commission. Given our limited fiscal resources, the Air Force views the budgetary impact of a closure of any of the depot installations as inconsistent with other budget priorities. The estimated one-time cost of a closure of McClellan AFB, not including environmental restoration costs, is more than $500 million. Incurring these costs would be harmful to our efforts in modernization, readiness, and quality of life initiatives. The Air Force strongly opposes the closure of any of our depot installations, including McClellan AFB.

I understand the Commissioners were impressed during their recent visit to McClellan AFB with the quality and scope of the work performed there. As you know, McClellan AFB possesses several Air Force maintenance centers of excellence and was recommended as a Technical Repair Center receiver location for a number of commodities in the Air Force proposal to downsize Air Force depots. These commodity workloads include such vital areas as composites and plastics, hydraulics, injection molding, and electrical/mechanical support equipment. The approval of our recommendation in the BRAC process will clearly establish the Sacramento Air Logistics Center as Air Force Materiel Command's number one provider of these commodities for the future.

The skilled workers and leadership at McClellan AFB are essential to the Air Force proposal. The Commission's recognition of their deserved reputation for quality, efficiency, and pride in their work will commend the approval of the downsizing initiative. I trust this information will prove helpful and please let me know if you would like to discuss.

THOMAS S. MOORMAN, JR.,
General, USAF, Vice Chief of Staff.

EXHIBIT NO. 3

U.S. ARMY,
THE CHIEF OF STAFF,
May 24, 1995.

Hon. DIANE FEINSTEIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR FEINSTEIN: As we discussed by phone yesterday, the Army's position regarding the recent decision by the Defense Base Closure and Realignment Commission to consider the closure of Oakland Army Base remains unchanged. The Army studied the feasibility of closing the port at Oakland and concluded its loss represents an unacceptable risk. Oakland is essential for the deployment of our CONUS-based forces to respond to any national security threats which could emerge in the Pacific.

Although our initial analysis indicated some financial benefit, the resulting operational risk is unacceptable. The Army needs this critical facility to support the rapid deployment of equipment during peace and war. Its closure would leave the Army without a port facility on the west coast.

While it has been difficult for the Army to identify the excess infrastructure necessary for divestiture, we clearly understand the impact of BRAC on our fellow Americans. Our choices for realignment and closure are the right ones and balance requisite infrastructure with the warfighting capability needed to forge the Army into the 21st century.

We will make certain the Commission clearly understands the Army's position on Oakland Army Base. I appreciate your personal interest in and support of the Army.

Sincerely,

GORDON R. SULLIVAN,
General, U.S. Army.

EXHIBIT NO. 4

DEPARTMENT OF THE AIR FORCE,
HEADQUARTERS U.S. AIR FORCE,
Washington, DC, February 10, 1993.

1. During his visit to Onizuka AFB in 1992, Gen McPeak asked about the cost and operations impacts of closing Onizuka. This alternative is being considered by the Space & C31 Resource Allocation Team [RAT] as a possible cut during upcoming budget exercises. Request a joint study be initiated to assess the impacts of such a closure, document the development and support impacts of such a closure, and determine if the mission of the AFSCN could continue while meeting operational and User requirements.

2. I recently received an AFSCN status. It described the current Network, the acquisition methodology, and provided detail on the planned Improvement and Modernization programs essential to maintaining the AFSCN infrastructure, and providing User support. These efforts must continue and may provide the architecture that will allow a closure of Onizuka that minimizes operational impacts and improves operational efficiency in the future.

3. All these considerations should be taken into account in this study. The primary output of this study should be a briefing and report fully defining the AFSCN mission in light of the current world environment, updating the operational and acquisition impacts of a closure, and fully describing what must be done to accomplish the AFSCN mission in the future. As you are aware, the AF will have to respond to budget actions resulting from the new administration as well as prepare for the FY 96 POM (the effect on the space community will exceed $1.5B in FY 96). We need to be certain all current and planned missions of the AFSCN are well understood, and the operational impacts of a closure of Onizuka include all AFSCN Users. Initial output of this study should be a plan, to include a schedule, with interim milestones, and a final briefing and report. We would like the AFSCN PEMs in SAF/AQSL and AF/XORS to participate in this study and would like to have access to the interim data to support any on-going exercises. Please provide your plan and schedule by 5 Mar 93.

SANFORD D. MANGOLD,
Colonel, USAF.

EXHIBIT NO. 5

OFFICE OF THE SECRETARY OF DEFENSE,
Washington, DC, February 10, 1995.

MEMORANDUM FOR ASSISTANT SECRETARY OF DEFENSE FOR ECONOMIC SECURITY (ECONOMIC REINVESTMENT AND BRAC)

Subject: Functional Assessment of Proposed Military Department Base Realignment and Closure Actions.

Proposed BRAC actions by the MILDEPs as available on 9 February 1995, have been reviewed, and except as identified in the attachments, determined to be acceptable from the perspective of the DoD test and evaluation mission. Of those in the attachments, two are considered to be major showstoppers (regarding Dugway Proving Grounds and Fort Hunter-Liggett), and another a minor showstopper (Tunnel 9 inclusion in the White Oak closure). The remainder are considered incomplete requiring additional alternatives to be analyzed before we can agree to them.

PHILIP E. COYLE,
Director, Operational Test and Evaluation.

JOHN A. BURT,
Director, Test, Systems Engineering, and Evaluation.

ISSUE

The Army's proposal to move its Test Battalion from Fort Hunter-Liggett (FHL) to Ft. Bliss would de facto "close" FHL and remove its capabilities from operational test use.

RATIONALE

1. The TEXCOM Experimentation Center (TEC), located at Fort Hunter-Liggett, California, has the unique capability to provide a total test/experimentation package. TEC's isolated location provides unequaled access to extremely versatile training areas with a wide variety of weather and terrain conditions, controlled airspace to 24,000 feet, a 360 degree high energy laser play area, isolation from ambient light, and minimal radio frequency (RF) interference.

2. The terrain at FHL resembles Korea and is unlike that in any of the desert test ranges. Its diverse terrain features—mountains, hills, rivers, creeks and lakes—were the reason FHL was selected as a field laboratory site in 1957 and FHL remains a unique asset today. For example, operational testing prior to the final IOT&E of the SGT YORK was at Ft. Bliss where only flat terrain was encountered. In the IOT&E at FHL the valley walls caused ground clutter breakthrough which rendered the radar useless. Also, FHL has a unique capability—a natural 360 degree "bowl"—and the necessary state permits—to test high power military lasers. Recent Longbow Apache tests at FHL required this capability, revealing important limitations in modeling and simulation.

3. By moving to Ft. Bliss a further test restriction would be created. Radio frequency jamming essential to creating a realistic test environment in a location that is close to large metropolitan areas, international airports, and an international border will be difficult to recreate and will increase risks of not having an adequate test environment.

4. Operating temporarily at FHL with mobil assets will be more expensive. Just four years ago in March 1991, all of TEC's command staff and operational functions were consolidated at FHL because operating in temporary duty status was too expensive. The projected savings reflected in the Army's submission, the reduction of 17 military and 5 federal civilians, would be trivial when considering giving up this valuable and important operational test capability.

RECOMMENDATION

Army withdraw proposal to move its test Battalion from Fort Hunter-Liggett to Ft. Bliss.

JAMES D. WOLFENSOHN: BRILLIANT LEADERSHIP FOR THE KENNEDY CENTER

Mr. KENNEDY. Mr. President, it is a privilege to take this opportunity to pay tribute to James Wolfensohn who is stepping down as chairman of the board of trustees of the Kennedy Center to accept President Clinton's appointment as the new chairman of the World Bank. Jim is a well-known and widely respected investment banker. During the course of his brilliant career, he has also earned an outstanding reputation as a persuasive advocate for the arts. So it was no coincidence that the Kennedy Center turned to Jim 5 years ago to become the chairman at the center. Despite his many commitments, Jim accepted this major responsibility and did a magnificent job.

The Wolfensohn years brought the center into its own in fulfilling its intended role as a national performing arts center. Jim Wolfensohn's leadership developed a clear vision for this mission, and put the center on a sound financial basis. He improved and expanded the scope of its programming, and reached out to new audiences in the community. He has placed special emphasis on education programs. He has been instrumental in developing new dance initiatives for young people, commissioning new productions, and, most recently, establishing an international arts fellowship exchange program.

The Kennedy Center is vastly improved as a result of Jim's chairmanship, and more Americans than ever from across the country will have greater opportunities to enjoy the impressive programs and productions that have resulted from Jim's work. I'm sure that President Kennedy would be proud of the new vitality and energy that Jim has brought to my brother's memorial here in Washington, and so are all of us in the Kennedy family.

I know that Jim will bring the same excellence of vision and leadership to his new responsibilities at the World Bank, and I wish him well.

Mr. SIMPSON. Mr. President, I am so very pleased to join with my fine colleagues in paying tribute to one great fellow, my friend, James D. Wolfensohn, as he takes on the tremendous task of being president of the World Bank. That is a capacity he is well suited for—it truly merges his vast expertise in finance, his marvelous capability in public service, and his generous and caring nature. I have no doubt at all he will be a good and powerful force at that institution. But he will certainly be deeply missed at the Kennedy Center.

I have the richest and soundest respect for Jim Wolfensohn. He has worked doggedly on behalf of the Kennedy Center for the past 5 years—and he loved it and he did it for free. His staff is aggressive and competent and under his very sharp eye and supervision—they have cultivated and nurtured the Kennedy Center into its original status as a first-class arts institution of rare and abiding quality.

Jim truly stands head and shoulders above the rest—and above the fray. His splendid leadership will be sorely missed by those of us in the Senate who remain committed to ensuring the future of an appealing and vibrant Kennedy Center.

God bless Jim and his bright and gracious wife Elaine as they embark on this new and vitally important mission.

Mr. CHAFEE. Mr. President, today I join with several of my colleagues in paying tribute to the outgoing chairman of the board of trustees of the John F. Kennedy Center for the Performing Arts, Mr. James D. Wolfensohn. As many in the Senate are aware, Mr. Wolfensohn is leaving the Kennedy Center to become chairman of the World Bank.

The Kennedy Center, a national monument and living memorial, could not have been blessed with a more talented and resourceful steward than James Wolfensohn. Mr. Wolfensohn came to the center more than 5 years ago with superb credentials and many remarkable accomplishments—so it is no surprise at all that he leaves the institution in far better condition than it was when he arrived.

As the Washington Post editorialized on June 5, 1995,

> The Kennedy Center went looking for a new chairman in 1989 who could straighten out a place burdened with debts, artistic confusion and a wobbly relationship with its own trustees. Five years later, all those things have changed for the better—in large measure because of the man the trustees tapped—investment banker and former Carnegie Hall chairman James Wolfensohn.

Mr. President, I could not agree more with this assessment. In fact, I'd like to identify another area that Mr. Wolfensohn has worked hard on for the betterment of the Kennedy Center and numerous communities across the country—education and outreach. One of Mr. Wolfensohn's proudest achievements is the Kennedy Center's enhanced series of arts education programs.

Under James Wolfensohn's leadership, the Kennedy Center is now making use of cutting-edge computer and telecommunications technology by working with the National Endowment for the Arts, the Education Department, teachers, schools, and parents across the Nation to establish an interactive arts information network. This and other computer-based projects will now link schoolchildren and adults alike to the enriching study and performance of fine arts.

Locally, Kennedy Center staff and performing artists have increased their exposure to public schools in and around Washington, DC, by helping to integrate arts into the curriculum and by conducting more than 200 special performances for children and students.

These are but a few examples of the Kennedy Center's desire to play a role in the continuing effort to improve education. I want to credit Mr. Wolfensohn for placing such a high priority on the education side of the center's existence.

Mr. President, as chairman of the Environment and Public Works Committee, I have come to be familiar with another Wolfensohn project—reversing the decay and neglect of the Kennedy Center building. I am convinced that many in the Senate and around the country would be alarmed to know of this facility's physical condition.

The Kennedy Center has welcomed more than 70 million people since it was opened in 1971. It is terrific that so many people from around the world have had the opportunity to visit the site—but much wear and tear has resulted. Many of the structure's mechanical systems have existed beyond their useful life—and have been rendered primitive by advancements in technology. In addition, numerous interior and exterior furnishments have fallen into severe disrepair. Why has this happened? In large part, because of an unclear division of responsibility.

Until last year, the Park Service split responsibility with the Kennedy Center Board for operations, repairs, maintenance, and security. Now, as a result of Mr. Wolfensohn's 4-year efforts, the Kennedy Center Act Amendments of 1994 assigns these responsibilities and federal funding directly to the board of trustees. This legislation will now give the people closest to the problems, the board of trustees, the opportunity to solve them. This sensible allocation of duties would not have been possible without the diligence of James Wolfensohn.

So, Mr. President, I would like to thank James D. Wolfensohn for his many contributions. From reconciling a debt—to expanding education programs—to attracting new world-class performing artists—Mr. Wolfensohn has been a tremendous Kennedy Center chairman. I wish him well in his new position at the World Bank and hope that he is able to continue an involvement with the John F. Kennedy Center for the Performing Arts.

Mr. HATFIELD. Mr. President, as a member of the Kennedy Center Board of Trustees, I am pleased to extend my thanks and best wishes to James D. Wolfensohn as he prepares to leave the chairmanship at the close of the year.

The vision of Jim Wolfensohn when he came to the Kennedy Center 5 years ago was to see the center become the national center for the performing arts. Since 1990, the Kennedy Center has developed into one of the strongest artistic presences in the country and continues to gain prestige throughout the world.

Jim has secured for the center the artistic expertise of Leonard Slatkin and Placido Domingo. He has heightened the profile of the center through a vast array of educational programs operated through the center. He has worked diligently to stabilize funding for the center at a time when budgets in the private and public sectors are strained. The energy, enthusiasm, the wealth of knowledge and interests Jim Wolfensohn has brought to the Kennedy Center have all contributed to its rejuvenation for the benefit of the entire Nation.

While the guidance of Jim Wolfensohn will be difficult for the Kennedy Center to replicate, the bittersweet timing of his departure was fortunate in one important regard. Jim was chairman long enough to see fully implemented during his tenure the Kennedy Center Fellowships of the Americas program.

The program, envisioned and developed by Jim Wolfensohn, will provide 20 fellowships annually to artists from central and South America to study at institutions across the United States. The first award recipients will be announced this fall. With the continued input of the program's founder, the distinguished program will no doubt gain international acclaim.

Jim Wolfensohn will prove to be a stellar head of the World Bank. Assuming his new post will involve sacrifices for Jim, with time away from his family perhaps the most trying. But he took the position because, quite simply, he wanted to help people. I have no doubt he will succeed.

Mr. President, a true leader inspires others to service through his own conduct and example. Jim is a superior leader and an extraordinary man. I am honored to call him my friend and wish him well in the years ahead.

IN HONOR OF THE 85TH BIRTHDAY OF WILLIAM O. FARBER, JULY 4, 1995

Mr. PRESSLER. Mr. President, on July 4, 1995, family, friends, colleagues and students past and present will join Dr. William O. Farber of Vermillion, SD, to celebrate his 85th birthday. Dr. Farber, professor emeritus of political science at the University of South Dakota [USD], is a mentor and respected friend of mine. I would like to take this time to pay tribute to a man who has been influential in the lives of thousands of students of public policy.

It is fitting that Dr. Farber celebrate his birthday on the same day we celebrate the birth of this great Nation. He exemplifies many of the characteristics upon which our country was founded: hard work and dedication, honesty and compassion, and the love of and commitment to a democratic society.

The June 20, 1995 issue of the Sioux City Journal contained an article entitled, "Retired Professor Still Serving." The story highlighted many of Dr. Farber's philosophies and attainments. I ask unanimous consent that the article be placed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. PRESSLER. Farber began his teaching career at USD in 1935 after receiving his Ph.D. in political science from the University of Wisconsin, at Madison. As many of my colleagues know, Wisconsin was—and continues to be—one of the elite schools in political science.

While at Wisconsin, Dr. Farber had the opportunity to study and learn his craft under the best educators in the field. These professors would often host student-initiated debates in their homes. Dr. Farber brought this practice with him to South Dakota. He would invite students to participate in Sunday discussion groups at his house. Here students could deliberate and express their opinions on given topics.

Dr. Farber has a long list of notable accomplishments and I would like to mention a few of them. He taught government at the University of South Dakota from 1935 until 1976. Prior to his retirement, he served as chairman of the USD Department of Government for 38 years. During his tenure at the university, he was active in many other public service endeavors as well. In 1964, he served as president of the Midwest Political Science Association. He also was instrumental in establishing the South Dakota Legislative Research Council [SDLRC], serving as its director from 1951 until 1955. To this day, the SDLRC is the principal staff arm of the South Dakota Legislature.

Some of Dr. Farber's other achievements include creating the Government Research Bureau and the Indian Institute, both at USD. He advised former U.S. Senator Karl Mundt, and was inducted as an honorary member into the National Academy of Public Administration.

Perhaps Dr. Farber's greatest accomplishment is his uncanny ability to motivate students through the vigorous drive he exhibits. He was willing to help students in any way possible. It was through Dr. Farber's advice and encouragement that I sought and became a Rhodes scholar.

As I stated before, the classroom lecture was just one tool Dr. Farber used to educate his students. He included students in the various research and other government-focused projects he conducted. Students were invited to accompany him on trips across the country and overseas. Dr. Farber often served on a placement officer, helping students secure internships in South Dakota, Washington, DC, and wherever else a student's interests might be directed.

Although he officially retired almost 20 years ago, Dr. Farber has not lost interest in the lives and education of students at the University of South Dakota. After his 1976 retirement, an internship and travel fund was established in his name. Through private donations from former students and colleagues, Dr. Farber uses the fund to pay for travel and other expenses incurred when students travel to internships and attend political science functions. In fact, this past May, Dr. Farber accompanied 15 students to Washington, DC, for an annual study tour, and once again I had the privilege to meet with him.

As long as I will know Bill Farber, I will forever remember the inspiration he has given me and so many others. I dare say the world is a better place because of the advice and inspiration thousands of students have received from Dr. Farber. Certainly, it would be even better if all could benefit from his wisdom.

As I conclude my remarks, I would like to convey the attitude Bill Farber has taken toward his career by his quote from a Sioux City Journal article. He stated, "I am the luckiest person alive to have been able to do what I love to do—I love to read, I love to write, I love to talk. A professor does all this."

I sincerely hope all Americans will have a safe and happy Fourth of July, especially Bill Farber on his 85th birthday. My wife Harriet joins me in wishing him many more.

EXHIBIT

[From the Sioux City Journal, June 20, 1995]

RETIRED PROFESSOR STILL SERVING

(By Beverly G. Merrick)

Vermillion, S.D.—William O. Farber apparently decided there could be no better life for a Yankee Doodle Dandy born on the Fourth of July than to be a political science professor in public administration.

At 84, he has served the University of South Dakota longer than anyone. He has taught about and served in local, state and national government since 1935, when the Phi Beta Kappa from Geneseo, Ill., arrived on campus with a newly minted doctorate.

The professor emeritus officially clocked off the job in 1976, just days short of his 66th birthday. However, students past and present continue to make pilgrimages to Farber House, across the street from the office of the university president, in search of knowledge and advice.

The octogenarian says he has had the most fortunate of lives as a teacher: "I am the luckiest person alive to have been able to do what I love to do—I love to read, I love to write, I love to talk. A professor does all this."

He has worked with Regents, college presidents, faculty and faculty organizations. He has served in many university service posts, including being the chairman of the planning committee of the I.D. Weeks Library. He also played a key role in establishing the Indian Institute on campus.

Farber says he has learned the lessons longevity brings, especially having a positive outlook and believing in possibilities.

"If you survive until your 80s, people will forgive you for just about anything," he says. "But I am getting pretty close to the edge of the cliff and wonder when I am going to go over."

HE SERVES IN VARIETY OF WAYS

From 1969 to 1976, Farber served on the state's Constitutional Revision Commission, in which 17 articles were revamped and seven were passed by the Legislature.

He calls South Dakota a place of reluctant change, primarily because of great distances to travel in a land with a low-density population.

Karl Mundt, a former United States senator from South Dakota, used Farber as a consultant on government projects until the end of his career in public service in 1972.

In the early 1940s, he was the state pricing administrator for the Office of Price Information, but he was drafted into the Air Corps shortly after that.

As for his views on government, he likes home rule. Through working on a local government study commission, he came to believe that small governmental units could operate more efficiently and effectively by simplifying structures and unifying efforts among town, township and county.

One of his disappointments was that the populace could not be convinced, he says.

"This effort would have resulted in fewer and larger units of government," he says, "But how does one convince people less is more?"

Speaking again of government, Farber says an understanding of history is one of the differences between managers and true leaders.

"Can a manager lead? We could be raising a generation of managers when we need leadership to guide us through a time of uncertainty," the professor says.

Farber says that today there are more challenges to public administration than there ever have been because of new technology.

"The political, social and environmental problems are at once local and global, and the solutions need to be interdisciplinary," he says.

TRAVEL IMPORTANT

Farber says he has done as much as he can to encourage students to travel. The Farber Fund for student travel and internships was established at his retirement dinner.

"I think it important for students to travel and see the world, to broaden one's education by extending one's horizons," he says.

In the late 1950s, Farber went to Korea with a USD group, where he studied the 23 levels of bureaucracy of the governmental system.

"Koreans value history," he says. "While in Korea, I obtained a new perspective on everything that involved values."

He also viewed programs in public administration in Vietnam, Japan, Thailand and the Philippines. In Saigon, he was entertained at a country club and visited a cathedral.

"It just breaks your heart to know what came later," he says.

At the end of the study tour, he says, "At the least, we Americans ought to be very humble. Travel gives one the sense that the world is not the same it has always been. Travel helps one understand what we are to each other on a fundamental level. Travel helps us discover how one can make a difference."

Farber visited Cuba at a time when Fidel Castro was beginning to come into power. While there, Farber was arrested by a soldier with Castro sympathies when he took a picture at a church in Havana. The magistrate, who was appointed under the old system, took him aside and told him to protest mightily. Farber says that was not difficult for him to do given the prospect of a jail term.

"The magistrate took the film, but left me the Nikon, which satisfied the soldier," Farber says.

He also has a personally autographed photo of former Yugoslavian President Tito.

In 1974, Farber traveled with the Rev. Robert Schuller to the Holy Land. The trip helped him understand the Bible as a historical document.

In 1978, he went to China, where auto theft was virtually non-existent because only government officials were allowed vehicles.

"If someone stole a bicycle, the perpetrator had to meet with neighbors and talk about how bad it was," he says. "Communities tried to work out problems at the local level . . ."

He once took a tour of the Nile River, and he saw the Pyramids in Egypt.

HE STAYS ACTIVE

Farber says he was brought up to be tolerant, but that the idea of tolerance is not a uniform standard: "What is right for Bill Farber to do is not what is right for everyone else to do."

He once asked writer Arnold Toynbee how he could explain the Holocaust in that one of the most civilized of cultures carried out one of the most barbaric acts ever.

"Toynbee says that you must always remember there is a thin veneer on civilization and when it is scratched the man becomes the brute," Farber says.

He is in his 40th year with the Vermillion Lions Club. He is one of the oldest members of the American Associaton of Political Science, having joined the organization in 1939. For five years he served as president of the Midwest Political Science Society.

On May 8, 1975, he was honored at a USD retirement dinner called "The Wide, Wide World of Farber." His many students noted his accomplishments.

Nearly a score of years has passed since then, yet Farber is still going strong. Recently, he was off to Washington, D.C., with two faculty members to show 18 students government close up.

"Growing old is like a passing dream," he says. "It comes upon us so quickly, the winter of our years. The change is so gradual that the better things become the best things of life. We live on. We are not old."

WAS CONGRESS IRRESPONSIBLE? THE VOTERS HAVE SAID YES

Mr. HELMS. Mr. President, on that evening in 1972 when I learned that I had been elected to the Senate, I made a commitment to myself that I would never fail to see a young person, or a group of young people, who wanted to see me.

It has proved enormously beneficial to me because I have been inspired by the estimated 60,000 young people with whom I have visited during the nearly 23 years I have been in the Senate.

Most of them have been concerned about the magnitude of the Federal debt that Congress has run up for the coming generations to pay. The young people and I always discuss the fact that under the U.S. Constitution, no President can spend a dime of Federal money that has not first been authorized and appropriated by both the House and Senate of the United States.

That is why I began making these daily reports to the Senate on February 22, 1992. I wanted to make a matter of daily record of the precise size of the Federal debt which as of yesterday, Wednesday, June 28, stood at $4,892,751,687,771.67 or $18,572.97 for every man, woman and child in America on a per capita basis.

SHEILA BICKLE—MYTH BUSTER OF THE YEAR

Mr. BAUCUS. Mr. President, I rise today to pay tribute to Sheila Bickle of Ismay, MT. Mrs. Bickle was recently honored as the myth buster of the year by the Research, Education, and Endowment Foundation of the Montana Stockgrowers Association.

Mr. President you might ask, "what is a myth buster?" Well Mr. President, a myth buster is a person, a volunteer, who promotes the beef industry in Montana. During this time, a year in which Congress must write a new farm bill, thank goodness we have people out there who not only know and understand agriculture, but are willing to educate others about its importance. I should mention however, that this is Sheila's second job. Sheila and her husband Bill raise cattle near Ismay, MT.

Mrs. Bickle was instrumental in getting a science video produced with beef checkoff dollars into the fall catalog of CTN educational TV network, used by 106 San Francisco Bay area schools.

Mrs. Bickle also was the motivation behind a recent project by the Montana Cattle Women designed to educate third graders about beef nutrition.

Every time we educate our urban citizens about agriculture, we have helped bring the country closer together. When a person volunteers to help educate our children, like Sheila, our country and society is better for it.

Thank you Shelia, thank you for being a myth buster, for helping promote agriculture in our home State and in one of our largest urban areas. I wish we had some myth busters here in Washington to enlighten some of the press about what a great job our farmers and ranchers are doing for not only America but the world.

Mr. President, I yield the floor.

THE SITZ FAMILY RECEIVES THE MONTANA ENVIRONMENTAL STEWARDSHIP AWARD

Mr. BAUCUS. Mr. President, Donn Sitz and her adult children—son Bob and his wife Jennipher, son Jim, and daughter Sherrie and her husband Mark Stokman were recognized for enhancing the natural resources and contributing to wildlife diversity on their ranch. Their registered Angus seedstock operation in the Madison Valley of southwestern Montana is nationally recognized for excellent cattle. And now they've been recognized for their stewardship as well. The Montana Stockgrowers just awarded the Sitz family their Montana Environmental Stewardship Award.

Among the many projects they completed to enhance the Montana environment include:

They planted thousands of trees along streambanks to help stabilize riparian areas.

They obtained a grant from the Montana Department of Fish, Wildlife, and Parks to enhance spawning habitat for trout on their private land. The project has made significant improvements in three major spawning areas, increasing fish numbers and enhancing water quality.

They have improved the vegetation of their grazing lands by using a rest rotation grazing system, intensive grazing, controlled burns, and weed spraying.

It's always an honor for me to recognize Montanans who stand for everything we all should be doing, working hard and doing all you can to improve your local environment. One of the well known environmental slogans states "we should think globally and act locally". The Sitz family is doing exactly that, improving their local water quality and wildlife habitat, and by their actions they improve not only their ranch but the environment under Montana's big sky. What a wonderful example for all of our ranchers and farmers all across the Nation.

Donna Sitz credited her late husband Bob Sitz, who was tragically killed in a tractor accident in 1989 for the family's commitment to stewardship. Donna said, "Bob was a strong conservationist. I want the kids to be like their father, to run an honest outfit, and to leave things better than they found them." But let's also credit Donna for carrying on her husband's legacy, saving the ranch, and obviously raising an outstanding family to carry on.

I congratulate Donna and her family, for being recognized for this stewardship award. And I thank them for the shinning example they set for all of us to follow.

TRIBUTE TO IRVINE CRAIG PORTER, JR.

Mr. HEFLIN. Mr. President, I want to pay tribute to my friend Irvine Craig Porter, Jr., a longtime Alabama attorney and community leader who passed away recently.

Irvine was active in numerous professional and civic organizations throughout his life. He was a member of the Birmingham, AL, and American Bar Associations and was the city attorney for Homewood and Irondale, both Birmingham suburbs, for many years. He was secretary, treasurer, and general counsel for The Club; a member and chancellor of All Saints' Episcopal Church; and the chaplain of the Homewood Lions Club.

Irvine was awarded the Selective Service Medal in 1946, the Alabama Commendation Medal in 1968, and the Army's Distinguished Rifleman Badge in 1962. He also served as president of the University of Alabama National Alumni Association and of the board of directors of the downtown YMCA.

Irvine Porter was born on May 22, 1910 in Florence, AL. He attended the public schools in Florence and Birmingham, graduating from Phillips High School in 1926, Florence State Teachers' College—now the University of North Alabama—in 1928, and the University of Alabama School of Law in 1932.

Irvine was a thoughtful and honest adviser during the many years I had the pleasure of knowing him. He had a keen legal mind, and always seemed to have his finger on the pulse of the people and what they were thinking. I extend my sincerest condolences to his wife, Sarah, and her entire family in the wake of this loss.

Mr. HARKIN. Mr. President, I understand we are still in morning business, is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. HARKIN. Mr. President, how much time is left, if I might inquire, in morning business?

The PRESIDING OFFICER. The Senator may speak for up to 5 minutes.

Mr. HARKIN. Mr. President, I ask unanimous consent to be allowed to speak for up to 10 minutes in morning business.

The PRESIDING OFFICER. I will inform the Senator that morning business will conclude at 10:30, which is 7 minutes.

EXTENSION OF MORNING BUSINESS

Mr. HARKIN. Mr. President, I ask unanimous consent that morning business be extended to 10:35.

The PRESIDING OFFICER. Without objection, it is so ordered.

BUDGET PRIORITIES

Mr. HARKIN. Mr. President, this debate is about priorities, fairness, and choices, and I am talking about the debate on the budget that we are on today. I guess we will be voting on it a little bit later this afternoon.

It is not just about numbers. This debate is about, really, the choices we will make as a society, how we deal with the fundamental issue of fairness, being fair to people in our country, and on what we will choose to spend the tax dollars that we collect from our hard-working citizens. We all agree on the bottom line. We agree on balancing the budget and bringing deficit down. I voted that way. But, unfortunately, how we get there is really what we are debating.

If you take a look at the national budget, what you see are pages and pages of numbers, numbers of statistics. But on every page and behind every number there are real people, there is a real individual someplace. So this budget debate is not just about numbers, it is about, as I said, choices and priorities, and about people and how people are going to be affected in their daily lives in this country.

All through this year I have listened to people in meetings I have held across my State. Iowans have shared their thoughts and concerns about the budget. Everywhere I have gone I have heard the same message: Yes, we want to balance the budget; yes, we want to bring the deficit down; but let us do it responsibly and let us be fair about the way we do it. So the question we have to ask ourselves is how fair and how responsible is this budget? How fair or responsible is it to cut and gut the investments that we have made in education?

The previous speaker, Senator DORGAN from North Dakota, I think laid it out very well. What will we say? What will our children and grandchildren say 50 years from now—he said 100, I do not think it will even be that long; 25 to 50 years from now—when we find an ill-educated society; when we find we cannot compete in the world marketplace because we just did not invest in education in this country?

As a Nation, how can we deal with the growing number of children who will grow up to be burdens on our society instead of being productive taxpaying citizens? How can we deal with that when, No. 1, we are going to eliminate the in-school interest subsidy?

What this is, Mr. President, is we are levying a tax. There is a new tax in this budget on college students. And it is going to amount to $3,000 or more on about 4 million college students and their families. It is an additional tax burden they are going to pay that they do not have to pay right now. One million college students can lose their college aid or have it drastically reduced because of cuts in Pell grants. We are going to cut as much as half a million preschoolers from the Head Start Program. We are going to gut the Safe and Drug Free Schools Program.

Again, let me talk a little more about this tax we are levying on students. Some people say, "Why should we, as taxpayers, support the sons and daughters of sometimes middle-income wage earners in this country to go to college? After all, when a young person goes to college that person stands to gain and make more money during his or her lifetime, so why should we foot the bill?"

I think to look at it that way is to look at it very narrowly, too narrowly. The more young people who get through college and become better educated, the better off we are as an entire society. So we have an interest in education. We are better off if we fund education for young people. We had the GI bill after World War II; this was not even loan money. We just gave money to young people to go to college. We did not even ask them to pay it back. But they paid it back a thousand fold over in increased earnings, increased taxes, and increased productivity for our entire Nation. So it is a national responsibility that we ensure that our young people have affordable quality education.

How responsible or fair is it to break our contract with seniors and impose the largest cuts in Medicare and Medicaid in history, socking seniors with perhaps as much as $900 more every year in out-of-pocket costs, and burdening families who are struggling to take care of their ailing parents? The original Senate budget resolution cut Medicare by $256 billion. This conference goes from bad to worse by slashing Medicare by $270 billion.

Just think about that, we are slashing Medicare $270 billion, affecting one of the most vulnerable parts of our society, seniors, the elderly. How responsible or fair is it to these seniors? To students? To families? While we lavish tax cuts on a privileged few, the upper 1 percent of our income earners? And we refuse to even consider the swamp of waste in the Pentagon. This budget actually increases military spending by $36 billion in just the first 4 years by $7 billion next year alone. We are giving money to the Pentagon for programs which even the Pentagon does not want. The Pentagon does not want the B–2 bomber, but we are going to say, "You have to take more; you have to have more." So we are throwing money at the Pentagon when they do not even need it.

Mr. President, I have used this chart a few times in the past. I want to refer to it again today in the budget debate to give you a graphic illustration of what we are talking about in defense spending. Right now the United States is spending about $206 billion for the Pentagon. I have along the bottom here all of our potential enemies in the world. There is Russia, China, North Korea, Iraq, Iran, Libya, Syria, and Cuba. You add them all up. The total they spend is about $54 billion next year on their defense, their military spending. So right now we are spending about five times more in this country than all of our potential enemies put together.

But then when you add the United States and our allies together, we are spending over $500 billion, a half a trillion dollars. That is almost 10 times more than what our potential enemies are spending. Yet we are being told that we have to spend more; this is not enough; we have to increase Defense Department spending next year.

So is it fair, or is it responsible when we throw money at the Pentagon to buy items that they do not even want? Yet, we take food away from hungry people, we increase taxes on our college students and make them pay for their college education, we cut down on Medicare and health care for the elderly, we cut Medicaid and health care for the poorest of our citizens? Is this fair? Of course, it is not fair. It is not fair at all.

So in simply human terms, what does the budget say? Forget about the numbers. What does it say? It says if you are a part of the privileged few, this is your lucky day. It is going to be Christmas in June. If you are in the top 1 percent of the income earners, you are going to stuff your stocking with a brandnew credit card with thousands of dollars of new credit.

But guess what? You do not have to worry about paying, this budget resolution says. We will send that bill to the students. We will sock them with another $3,000 for their college education. We will send the bill to the seniors who depend on Medicare. They are going to pay another $900 per year. They will pay the bill. We will send the bill to the family farmers and the working families making the minimum wage. They will pay the bill.

This budget, in simple human terms, says that one child in Waterloo, IA, who needs a Head Start Program will be forced to pay more through budget cuts than the entire Pentagon. One senior living in Dubuque, IA, on a fixed income, one family farmer struggling in Albia to get by this year, one student in Storm Lake working their way through college, one family in Mason City who has lifted themselves up from welfare to work, each one of those will be forced to pay more for deficit reduction than the entire Pentagon. Talk to me about fairness and responsibility. That is what is lacking in this budget—fairness and responsibility. What happened to the notion of shared sacrifice, responsibility, and fairness?

Mr. President, this budget is about priorities and choices. This budget chooses the Pentagon over hungry kids. It chooses tax cuts for the top 1 percent of wage earners over health care for seniors. It does not close the corporate tax loopholes, but it does tighten the family budget for those trying to pay for a college education.

Some call this resolution a compromise. They are right about that. It compromises the promise of good, reliable health care for our seniors. It compromises the opportunity for middle-income families to afford a college education. It compromises our commitment to the family farmers who feed the world.

Yes, we need to balance the budget for the good of our Nation and our future. But, plain and simple, this is not the way to do it. Let us scrap this plan and do what the American people want us to do; that is, work together not as Democrats, not as Republicans, but as concerned Americans. That is what we are going to do with the rescissions bill. The Senate passed it 99–0. It went too far to one side in conference. Now it has been reworked. I think we have an excellent chance of passing it.

So now let us craft a responsible budget, a fair budget that does not tax seniors, students, and families. Let us craft a responsible budget that recognizes that the cold war is over. We can do it if we work together, not as Democrats or Republicans, but as responsible legislators adhering to the concepts of justice and fairness and equality for our people. So we can do it. We ought to surprise the American people and do it right for once.

Mr. President, I yield the floor.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, I will be very, very brief. I just want to compliment my friend and colleague from my neighboring State of Iowa for his excellent remarks.

The PRESIDING OFFICER. The Chair informs the Senator that the time for morning business is concluded.

Mr. EXON. I ask unanimous consent that I be allowed to proceed as if in morning business for 2 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EXON. Mr. President, I want to thank my friend and colleague from Iowa for his excellent remarks, especially with regard to the fairness on the budget that we are going to vote on today. I think this is a very, very critical vote that is upcoming. I thank the Senator from Iowa for his input, and the excellent remarks by the Senator from Massachusetts yesterday, and all of the other constructive suggestions that have been made.

Let us scrap this bill and try to come up with something, almost anything, that would be better.

I yield the floor.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I see the Senator from Delaware on the floor at this moment. I would like to address the Senate for 8 minutes. I could ask consent to proceed in morning business, or we can lay the bill down, whatever is the desire of the floor manager about the way to proceed. I am glad to have the bill laid down and ask that my remarks be printed in the appropriate place in the RECORD.

Mr. ROTH. Mr. President, I suggest that the Senator just proceed on that basis.

Mr. KENNEDY. Mr. President, I ask unanimous consent to extend the morning hour for 8 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. KENNEDY. Mr. President, I ask unanimous consent that Ross Eisenbrey, a fellow on the staff of the Labor Committee, be granted privileges of floor during the pendency of the regulatory reform bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

REGULATORY REFORM BILL

Mr. KENNEDY. Mr. President, it is no accident that the United States today has the cleanest air and water we have had in decades, perhaps the cleanest in the world. We have the safest and most affordable food and the safest, most advanced, and most effective drugs. American workplaces are safer than they have ever been before. Our national productivity is the envy of the world. In short, our regulatory system is achieving the goals we have set. There is no justification to scrap it or trash it.

We can improve the current system, especially to streamline it, and reduce redtape, bureaucracy and delays. But I will not support a bill that carves gaping loopholes in the current system.

We all know what is going on here. The extremist Republican majority in Congress has given the keys of the store to profit-sharing business lobbyists and an unholly collection of special interest groups.

We know that many well-heeled enterprises have no use for Government regulations that cramp their profits or protect the public interest. There is no love lost for regulations that make them clean up pollution they cause, or that prohibit them from marketing dangerous or unhealthy products, or that make them spend part of their profits to protect the health and safety of their workers.

Are the costs of this kind of regulation way out of line? Have we spent too much safeguarding health and safety and protecting the environment? On the whole, we have not. We heard estimates yesterday about the cost of regulations. But we heard nothing about the benefits of those regulations.

It is no surprise or wonder that those who care about the environment and public health and public interest are deeply concerned about this bill. We can only hope that the cost-benefit analyses mandated by the bill will be more balanced than our debate about the costs and benefits of regulation. If the Congress does not protect the public interest, who will?

In fact, there is good evidence that the estimates cited yesterday are greatly exaggerated. In the first place, about half of the entire regulatory burden comes from a single agency—the Internal Revenue Service—which is not even covered by the bill.

The Environmental Protection Agency, and environmental regulations generally, are said to be the next biggest culprit. But the Bureau of Labor Statistics has been surveying businesses about the causes of their layoffs for years, and the businesses themselves attribute only one-tenth of one percent of their layoffs to the burdens of environmental laws and regulations. If environmental regulations caused the kind of impacts that the supporters of this bill claim, we would expect the businesses themselves to be aware of them.

We have all heard stories of regulatory excesses, and a small number of them are true. There have been regulators who have overreached and made unjustifiable decisions, such as the inspector who cited a company for a violation when employees violated OSHA standards to rescue the victim of a trench cave-in.

But honest, accurate examples of regulatory excess are relatively rare, considering the size and complexity of the economy. We hear the same handful of anecdotal examples over and over again. But we hear less about the benefits of our regulatory system, which are taken for granted and are undeniable. We have never had a Chernobyl or a Bhopal or a thalidomide tragedy in the United States. We should be proud of that record—and cautious about making changes that could make tragedies more likely.

The reckless practices that led to dangerous workplaces, to American rivers catching fire, and to the near-extinction of the bald eagle have given way over the past quarter century to rules which help ensure that today's children can look forward to safe and healthy places to work and a clean environment that reflects the best of our heritage. We need to keep these priorities in mind and in perspective as we consider this bill.

We also need to remember that we are not writing on a clean slate. Congress and the President have recently made important changes to improve the regulatory process, and other sensible changes are on the way. In March, President Clinton signed the Unfunded Mandates Act, which requires all rules that have an impact on the economy of $100 million or more to have a cost-benefit analysis and a risk assessment. The President's executive order on regulation, signed last year, has similar requirements.

The Senate has passed the Nickles-Reid bill, which requires every regulation to lay over for 45 days before becoming effective, in order to allow Congress to block regulations that do not make sense or which impose excessive costs. We need that kind of oversight of the regulatory process, and it is being put in place and should be given a chance to work.

Unfortunately, much of the pending bill is overkill. The Dole-Johnston draft is an improvement over the Judiciary Committee bill. But without additional, significant changes, it could severely undermine the health of large numbers of American families, leave major areas of the environment ravaged by pollution, and threaten the health and safety on the job of millions of American workers. In too many ways, the Dole-Johnston is still, like the bill reported from the Judiciary Committee, a blueprint to paralyze the regulatory process.

Rulemakings under the Occupational Safety and Health Act would have more than 20 new steps, making an already slow process much slower. OSHA's 5-year-long rulemaking on cadmium, which causes cancer and kidney disease, would have become a 10-year ordeal.

The Food and Drug Administration has proposed a rule requiring label warning statements and single-dose packaging on certain dietary iron supplements, which cause about 10,000 poisonings of children a year. Iron tablet overdoses can cause intestinal bleeding, shock, coma, seizures, and death in children. Because of the bill's retroactive effective date, FDA will have to redo its risk assessment and cost-benefit analysis to meet the rigid, one-size-fits-all requirements of the bill. This will create unnecessary costs, and delay a rule that will save children's lives and prevent $250 million a year in medical, litigation, and other costs.

The State of Illinois had a very negative experience with this kind of one-size-fits-all regulatory reform. The Illinois law's mandated cost-benefit analyses did nothing to improve the quality of regulation. But according to a story in the Chicago Tribune, the requirement added as much as 42 months of delay to every rule. In 1992, after 14 years of experience, Illinois repealed the law.

The Wall Street Journal, which supports regulatory reform, admitted in one of its editorials that the bill is designed to ensnare the bureaucrats in redtape. But creating redtape is not the answer to any regulatory problems the American people want solved. It will not in any way expedite the approval of needed drugs and medical devices. It will not focus regulation on the worst problems, and it will not allow agencies to rely on common sense. In fact, it will do just the opposite.

By creating multiple, overlapping, and uncontrollable petition procedures to review all existing regulations, the Dole-Johnston bill will tie up so many resources that agencies will be forced to abandon their examination of new issues, new problems and new solutions. That is the clear and obvious purpose of the petition process, and it is unacceptable.

Without substantial additional budgets and personnel, agencies like the FDA will be forced to shift resources, and will not have enough people to work on approving new products. The Federal work force has been cut by 75,000 workers, and another 125,000 will be cut in the near future. Yet the Dole-Johnston bill piles on new procedural requirements that will cost the agencies hundreds of millions of dollars a year and require more staff, not less.

Compounding the problem, the Dole-Johnston bill literally gives every regulated business the right to compel every agency to examine each separate regulation and decide whether each individual business should be exempted from it. This is a radical, extremist proposal that fundamentally undermines the rule of law. A more honest approach would be to simply repeal the workplace safety, environmental, and public health laws. The Dole-Johnston bill repeals them indirectly through a kind of stealth process.

A sausage maker, for example, who decided he no longer wanted to comply with food safety laws and worker safety laws could petition the FDA and OSHA for exemptions from every applicable regulation. The agencies would be compelled to respond in writing to each factual and legal claim within 180 days, although the bill provides no standard for the decisions they would have to make.

The agencies would be totally overwhelmed if just one-tenth of one percent of the 6 million regulated businesses petitioned for exemption from a single regulation, let alone from multiple regulations. Because a denial of the petition would be immediately reviewable by the courts, the agencies would be forced into an explosion of litigation—or else grant the petitions.

In these and other ways, the bill is a veritable gold mine for lawyers and lobbyists. On issues ranging from securities law, to product liability, to medical malpractice, the effort in Congress has been to reduce litigation in our society, not encourage it. But now, when big business is the plaintiff, the authors of this bill want to widen the courthouse door.

This bill has many other problems. It would make it extremely difficult to protect crops from imported pests, since extensive, peer-reviewed risk analyses would have to be performed before quarantine orders could be issued.

Environmental regulations such as those put in place under the Clean Air Act of 1990, which are removing more than a billion pounds of toxic emissions from the air each year, would be subject to reopening by any regulated business. EPA could be forced to redo its cost-benefit analysis of these enormously successful regulations in order to examine such foolish alterations as making the standards voluntary.

Regulations on veterans benefits suffering from gulf war syndrome would be delayed until cost-benefit analyses and risk assessments could be completed. Drug-testing regulations for truck drivers and congressionally-mandated standards for mammograms would be delayed. FAA air-worthiness and air safety rules would be subjected to cost-benefit tests and the additional paperwork of risk assessments and peer reviews.

Finally, the bill contains a provision that as a practical matter repeals the Delaney clause, the provision in the Food, Drug and Cosmetic Act that protects the American people from cancer-causing pesticides and additives in food. I agree that the 37 year-old Delaney clause should be modernized in light of modern scientific knowledge about the risks of chemicals. But the sweeping and extremist approach in this bill poses a grave threat to all Americans, especially children whose diet and metabolism render them especially vulnerable to cancer-causing chemicals in their food.

Our water and air are not too clean. Our workplaces are not too healthy. Our air traffic and highway systems are not too safe. Our children are not too protected from dangerous products. This bill will delay further progress and undo much of the progress we have made. Without major changes, I cannot support it.

CONCLUSION OF MORNING BUSINESS

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Is the pending business regulatory reform?

The PRESIDING OFFICER. It will be as soon as morning business is closed.

The time for morning business is closed.

COMPREHENSIVE REGULATORY REFORM ACT

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of S. 343, the regulatory reform bill, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 343) to reform the regulatory process, and for other purposes.

The Senate resumed consideration of the bill.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, as I understand it, both Senator ROTH and I would like to make statements on regulatory reform, but we deferred to Senator KENNEDY. I say to the Senator from South Carolina, as I understood it, Senator D'AMATO was going to make a short statement. Then could we go to the Senator right after that?

Mr. HOLLINGS. Go right ahead on the opening statements.

Mr. HATCH. We would be happy to go to Senator D'AMATO and then to Senator HOLLINGS, if we can, and then if we could make our statements, we would appreciate it.

I ask unanimous consent that be the order.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. D'AMATO. Mr. President, let me thank my colleague from South Carolina and my colleague from Utah. I wish to be able to proceed as if in morning business and not interrupt the flow of agenda, and I will attempt to make my remarks succinct.

MEXICO CRISIS REPORT AND CHRONOLOGY

Mr. D'AMATO. Mr. President, since February, I have repeatedly voiced my concern over the Clinton administration's bailout of Mexico. Today, I am releasing a comprehensive report and chronology of the Mexican economic crisis.

Since January, the Senate Banking Committee has held three hearings to examine this crisis. This report and chronology is based on testimony from these hearings and from information contained in numerous internal administration documents. It brings together for the first time a full description of the United States Government's internal and external communications regarding Mexico.

My office will have available the complete report and chronology. We cleared the releases and declassification of many internal documents for use in this report. It does not include or refer to any classified documents.

It does include the background of the Mexican economic crisis; the administration's monitoring of the crisis; the contradictions between the administration's rosy public statements about Mexico during 1994 and the private, far more negative, views the administration and officials had; the failure of the administration taxpayer-funded bailout; and we conclude that the administration should not—the administration should not—send another $10 billion of taxpayers' money to Mexico.

The report and chronology culminates weeks of work and a review of hundreds of documents and testimony. I appreciate the cooperation of Secretary Rubin and Chairman Greenspan in producing the documents used to prepare this report and chronology.

Mr. President, on February 7, 1995, I spoke in this Chamber about the economic crisis in Mexico. I asked the question: What did the administration know about the situation in Mexico and when did they know it? After reviewing the information, the answer is clear.

The administration's own records indicate that key officials, including Under Secretary Summers, knew about the deteriorated economic condition of Mexico as early as February 1994. Administration officials, however, repeatedly painted a rosy public picture of the Mexican economy.

Again, sadly, this will appear as a pattern of this administration. It has a history of not leveling with the American public. This report and the chronology and the administration's own internal documents sadly demonstrate that this has taken place over and over and over again.

The administration's repeat of public praise of the Mexican economy during

1994 stands in stark contrast to the looming signs of economic disaster reflected in internal administration documents. The underlying documents demonstrate that the administration was aware that Mexico was on the road to economic disaster, but the administration did not tell the truth to the American people.

That was wrong. The administration did not tell the truth to the American economists. And that was wrong. The administration has placed $20 billion of American taxpayer dollars at risk to bail out the Mexican Government. The Mexican Government is using these dollars to reward local speculators who bought high-interest-rate short-term Mexican Government notes or tesobonos. The administration has already sent $10 billion to Mexico and beginning on July 1—July 1 we will be out of session—the administration will begin to send another $10 billion to Mexico.

Now, Mr. President, the administration and the Mexican Government officials repeatedly assured Congress and the American people that the second $10 billion would not be needed this year. But again, they have a pattern of saying one thing and doing another, painting one picture and then discovering another.

The Mexican Government financial plan expressly states, "The second $10 billion of the U.S. Government funds is not"—is not —"intended to be used in 1995, but will be available for unforeseen contingencies."

This Senator said a long time ago that you are kidding the people. That $10 billion is gone. The next $10 billion is gone. You will have the same disastrous result. The administration should not sink the United States and the American taxpayer any deeper into this Mexican quagmire. The first $10 billion has not solved the economic crisis. The only people who benefited are speculators. Global speculators, not the Mexican people, not the Mexican economy. In July and August Mexico faces a payment bubble of more than $6 billion to pay off tesobonos that are coming due. Now, where is that money going to come from? Guess. The United States taxpayer. That is where. The U.S. taxpayers' money to Mexico to pay off, who? Private speculators, private investors who bought high-risk, high-return investments. And now we are going to pay that off. The United States does not do that for our own citizens. Why should we do this for private speculators who support Mexican tesobonos? Mexico's basic economic problems have not been solved. It is clear that the administration's bailout has not benefited the Mexican people. The Mexican people are worse off because of the austerity measures demanded by the administration.

Middle-class Mexicans and small business owners have been devastated. And in the past few months inflation in Mexico has skyrocketed to almost 80 percent. Mortgage interest rates have risen to 75 percent. Consumer credit card interest rates increased from 90 percent to 100 percent. The peso 6 months after the administration bailout stands at 6.28 to the dollar, still near record highs. Last month Mexican citizens and business leaders told the Banking Committee that the Mexican bailout is a failure and that the Mexican economy is in shambles. When the Clinton administration first tried to sell the Mexican bailout to Congress they told us they would commit $40 billion in loan guarantees to help Mexico through its short-term liquidity crisis. They reassured Congress that taxpayer funds would not be at risk. After Congress refused to support a bailout, the administration then unilaterally decided to give Mexico $20 billion through the United States exchange stabilization fund, an unprecedented and legally doubtful use of this fund.

The problems with the Mexican economy are not new. They are well-known to administration officials. Throughout 1994, as the documents and the chronology demonstrate, over and over again, the administration officials were alerted to unmistakable signs of economic distress in Mexico. Yet throughout the year the same administration officials continue to issue glowing public statements about the Mexican economic condition and strong support for the Mexican economic policies. The record is clear. Let me give you a few brief highlights.

On March 24, 1994, Under Secretary of Treasury Summers informed that the Mexican Government "is looking for some comforting Treasury words to soothe the press." Secretary Bentsen then issued a statement saying: "We have every confidence that Mexico is on the right economic path." Mr. President, clearly again, a pattern of the administration not leveling with the American people, not leveling with the Congress.

In a news conference that same day President Clinton said, "Mexico's institutions are fundamentally strong * * * they have a great future and we do not expect any long-term damage." Mr. President, clearly the statement is at variance with the facts in the record. Again, a pattern of not leveling with the American people.

Again on April 26, 1994, Under Secretary Summers said publicly, "Mexico is fundamentally sound and has a fundamentally sound currency." Earlier that same day however in an internal memo, the same day that he talks about a sound economy, a sound currency, Summers informs Secretary Bensten that the Bank of Mexico had been intervening to support the peso and that "Mexico's dependency on the financing of its large account deficit from largely volatile investment remains a serious problem." Again, a pattern of deception of saying one thing when the facts are clearly different.

Now, how can you come and say that the economy is fundamentally sound, publicly, when at the same time you are informing the Secretary of the Treasury that there are severe problems? In the fall of 1994 the Mexican Government policies were the cause of concern among administration officials. In an internal memo on September 27, Under Secretary Summers questioned the Mexican Government's decision to maintain a highly overvalued peso. And November 18, 1994, another Treasury Department memorandum discusses the weakening of the peso and that Mexicans commitment of their dwindling resources to prop up the peso. Nevertheless, on the same day, the United States Ambassador to Mexico, Jim Jones, told a group of American investors that those journalists who were predicting financial problems in Mexico were alarmists. Again, a pattern of deception. Just wrong. Just wrong.

Despite the administration's obvious internal concerns and knowledge, on November 21, 1994, Under Secretary Summers said "Mexicans would very much like for Bentsen to make a statement today." Summers told the Secretary that he "has worked out" a proposed press statement for him for the Government of Mexico. Why were officials of the United States Government working on public relations for the Mexican Government, and I might add, putting out false information, aligning themselves to false information being circulated?

The letter to the Washington Post, my colleagues, Senators SPECTER and KERREY, advised, "We believe—based on a reading of United States analysis since last spring, that policymakers were adequately forewarned of Mexico's declining financial position and of domestic political pressures that made it difficult for the Mexican Government to take timely action in the economic sphere."

Mr. President, internal administration documents make clear that Under Secretary Summers and other treasury officials were not forthcoming to the Congress and the American people. I agree with A.M. Rosenthal of the New York Times who wrote on April 4, 1995, in a column entitled "Cover-Up Chronology," "Real concern for Mexico would have meant public warnings from Washington as soon as trouble was discovered. Legitimate confidentiality does not include deceiving the world."

I think that bears repeating: "Legitimate confidentiality does not include deceiving the world." That is what we have a pattern of, deception.

There are vital lessons to be learned from the handling of the Mexican crisis. The American people and their elected representatives were entitled to the truth about Mexico's precarious and deteriorating condition during 1994. Mr. President, the official reports by the Mexican Government and the positive public statements made by the United States administration were completely contradictory to the true condition of Mexico's economy. The American taxpayers should not be forced to bear further financial risk. U.S. dollars should not be used to bail out private investors who gambled on high-risk, high-return instruments. We should not be sending another $10 billion in American taxpayer dollars based upon a web of half-truths, distortions, and concealments. That is wrong. The American people have a right to be outraged that their tax dollars are going to bail out local speculators and not improve the plight of the Mexican people. Congress should be outraged as well.

Mr. President, I thank my colleagues for giving me this opportunity to make this report to the American people.

I yield the floor.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER (Mr. CAMPBELL). The Senator from Utah, Mr. HATCH, is recognized.

COMPREHENSIVE REGULATORY REFORM ACT

The Senate continued with the consideration of the bill.

Mr. HATCH. Mr. President, we now resume consideration of S. 343, the Comprehensive Regulatory Reform Act of 1995, and in doing so, I am reminded of an ancient story. When Hercules was tested, one of his tasks was to slay the Hydra, a nine-headed serpent. Yet, for every head of the Hydra that Hercules cut off, two more grew in its place. It seems that regulations have become the 20th century Hydra, the only difference being that at least the Hydra was mythical and regulations are not.

For hard-working, middle-class Americans, trying to cope with thousands upon thousands of regulations is indeed a Herculean task. Today, a small business person needs a law firm, an accountant and a doctor in order to cope with the regulations and barriers they impose. Why a doctor? First, for the headaches he or she will have trying to decipher all of the gobbledygook, and later for the heart attack when the agency issues citations for violations he or she did not even realize were violations.

I recall testimony the Labor Committee received back in 1981 when we were considering legislation to revamp the CETA Program. I remember it because I was so impressed with the specific numbers cited to demonstrate the regulatory burden of the then Federal program. The testimony from the county job training official in Ohio pointed out that CETA regulations "cross-referenced 75 other laws, Executive orders and circulars. The Department of Labor has issued an average of over 400 field memoranda, more than 1 per day, including Sundays and holidays."

This is not how Government is supposed to work, and it has to stop. The problem is that the bureaucracy is replacing democracy, and it is imposing high costs on private citizens and impinging on private rights and productivity. This bill remedies that by imposing common sense, rational decisionmaking on agencies. When any rational person is trying to make a decision, he or she weighs the cost of the action and the benefits that the action will bring. Now that is just simple common sense. That is what this bill does.

There are some who will say, "Oh, we are going to do away with clean water and clean air" and all the other regulations they claim are so important to all of us, and they are important. No, we are not going to do that. We are just going to make sure there is common sense in these regulations, and they have to meet a cost-benefit analysis and some risk-assessment matters as well.

I just have to say the Federal bureaucracy in this country does not have common sense, and we are in danger of losing our country. Nobody ever contemplated that the bureaucracy would become the fourth branch of Government, but it is now the fourth branch of Government and it may be more powerful than the other three that are constitutionally set apart.

Under current law, when the bureaucracy considers making another rule, it often considers only the benefits and not the costs. It comes as no surprise that everything looks like a good idea if you have to only look at the benefit side and you do not have to pay for it.

I am reminded of the headline in the Wall Street Journal not too long ago that spoke volumes. It read something like: "If you're buying, I'll have sirloin." All this bill seeks to do is to make sure the agencies look at the cost side as well. I cannot believe that anyone in this body would find that objectionable.

Let me briefly explain how the bill works. The Comprehensive Regulatory Reform Act of 1995 is aimed at stopping regulatory abuses and curbing excessive costs. The bill embodies the most basic notion of decisionmaking: Justify the costs. That is all the American people ask of their Government, that it justify the costs of its actions.

Indeed, it is only common sense that when an action would produce more harm than good, it should not be taken. Accordingly, the centerpiece of the bill is the requirement for cost-benefit analysis of proposed rules. Right now, agencies are notorious for only looking at the benefits of rules and ignoring the cost to society. This bill forces the agencies to put both costs and benefits on the table.

This provision is eminently reasonable and sensible. For one thing, it applies only to major rules which are defined as those having an annual effect on the economy of $50 million or more. In general, the agency must set out the costs and benefits and identify the reasonable alternatives. The agency then selects the best option in conjunction with requirements in the underlying statute.

Significantly, the cost-benefit provisions of this bill work in harmony with the particular statutes that the Federal agencies implement. The cost-benefit criteria do not override specific statutory criteria for agency decisionmaking. Instead, they supplement those criteria to fine tune the regulatory process.

Complementing the cost-benefit analysis is a risk-assessment provision. This sets out guidelines for how various risks are to be evaluated. Right now, agencies sometimes regulate for minuscule risks but at a tremendously great cost to the country. If, for example, we applied the same test to driving an automobile as we do to marketing of some food additives, drugs or medical devices, no one would be driving a car in this country. You could not afford to do it and you would not be able to.

Also, agencies sometimes evaluate the risks based on questionable scientific techniques. By requiring a risk assessment and by establishing standards for scientific quality, this bill will ensure reliable results when agencies determine the costs and benefits of regulation. It will also improve the consistency and risk assessment across Federal agencies.

In a related vein, the bill modifies the much-criticized Delaney clause of the Federal Food, Drug and Cosmetic Act. The Delaney clause requires that no processed foods, products containing a color additive or animal drug may be sold unless they do not contain even trace amounts of materials that have been demonstrated to cause cancer to humans or animals. That may have sounded good in the abstract, in reality it has become a burdensome rule that does not further the health and safety goals that it was designed to address.

Let us take food, for example. Given modern technology, it is possible to detect the smallest amount of chemicals in food. When Delaney was enacted, it was parts per thousand. Today it is parts per quadrillion that we can actually determine. Under the Delaney clause, those materials cannot be included, the smallest amounts of chemicals in food, if they are carcinogenic, in any amounts or under any circumstances, even though there is basically no risk in eating the food.

The problem is that many materials may be carcinogenic only if given in extraordinarily large doses and may be carcinogenic in animals for reasons for which there is no comparable reaction in humans. In this way, the Delaney clause has irrationally forbidden the inclusion of even trace amounts of materials in foods, even when scientists unanimously agree that there is absolutely no harm to humans from its consumption.

The scientific evidence has shown us the Delaney clause, despite its laudable goals, does not really work in practice. That is why we must modify it in this bill. In addition to the substantive reforms, this bill also includes several review provisions to ensure openness and accountability in the regulatory process.

The congressional review process, for example, provides Congress with an ability to stop a proposed rule if it disapproves of that rule. This gives Congress the opportunity to examine those rules before they take effect and do the harm. If within 60 days of the rule's adoption both Houses vote to disapprove the rule, and the President agrees, the rule will not be effective.

The effective dates of major rules are also held off for those 60 days during the congressional review period. This provision maintains a congressional role in the regulatory process and adds another guarantee that regulators will be held accountable for their actions. In addition, a separate type of review is involved to ensure that agencies conduct their own periodic review to fix outdated and insufficient or inefficient regulations.

Agencies, it seems to me, have an obligation to keep their regulations current. Under this provision, agencies would promulgate a list of existing regulations that the agency feels are appropriate for review, along with a schedule for agency review of those regulations, over a 10-year period. The agency must apply the cost-benefit analysis to the rule and then decide whether to extend, modify, or rescind the rule. Any rules in the schedule that are not acted on in accordance with the agency schedule would automatically expire.

In addition, the bill includes a petition process, whereby any interested party may seek to get a major rule review. An agency must grant the petition. If the agency finds a reasonable likelihood that the rule would not meet the cost-benefit test to ensure correct decisionmaking, the agency's decision is then subject to judicial review. Through these processes, a petition can be filed to challenge an existing rule to ensure that it satisfies the cost-benefit and risk-assessment standards.

The agency itself also has the duty to ensure that its current rules satisfy those standards. This keeps the agency accountable to the public, gives the American people a role in the process, and ensures that all rules continue to be justified.

Finally, accountability of Federal regulators is further guaranteed through a judicial review. Perhaps the most important provision in the bill is the provision permitting judicial review of agency action. By allowing courts to enforce the requirements of the bill, the bureaucrats will be accountable in court for their actions.

Unfortunately, the way things stand today, the bureaucracy is out of control. Those who churn out regulations day after day should, just like every other American, be accountable for their actions. Without this important judicial enforcement mechanism, and without the other review provisions, this bill would be a little more than a weak statement of policy. The added review makes this bill a powerful tool to reshape the Federal agencies.

Now, Mr. President, in spite of everything, there are still those who oppose this bill and defend inefficient, irrational agency regulations. The opponents of this bill have only one weapon with which to attack, and that is fear. I expect that opponents of the bill will lay out a litany of unknown horrors that, according to them, only unbridled bureaucracies will somehow be able to handle.

These scare tactics are nothing more than that, tactics to derail these needed reforms. They have nothing to do with the reality of the bill and everything to do with preserving big Government.

The fact is that this bill will only change inefficient regulations and require that rules be updated so that they remain efficient. Let me be perfectly clear that this bill will not prevent agencies from protecting Americans from unsafe drugs, unsafe workplaces, polluted air and water, or discrimination. It will not prevent agencies from responding to disasters when and where the Government's help is needed. Rules that truly add to society are completely secure under this bill.

Mr. President, in conclusion, let me just say that too much of anything, even a good thing, is bad. Federal regulation has reached that point. The Comprehensive Regulatory Reform Act of 1995 is the response to a bureaucracy run wild.

It is the response we must make to a bureaucracy that no longer sees the American taxpayer and American business, especially small business, as clients to whom Federal agencies should be accountable. It is the response we need to restore the balance between costs and benefits, between protection and freedom.

Those rules that truly provide a benefit to the country will remain on the books. This bill does not backdoor repeal a host of other statutes, many of which I voted for, by preventing agencies from issuing regulations.

But the senseless regulations that create more problems than they solve must either be fixed or scrapped.

The neighborhood grocer in south central Los Angeles, the rural Utah county landowner, the farmer in Kansas, the auto manufacturer in Detroit, or the university in Pennsylvania, have all just had it up to here with regulation and with overregulation. All Americans are united in their frustration with an unresponsive, inflexible, inefficient and overweight Federal bureaucracy.

If the 1994 elections told us anything, it was that the American people are fed up. The number and scope of Federal regulations are just additional indications that Government has gotten too darn big.

This bill is as direct an answer as we can give to their pleas that we can, in fact, control the Federal Government, not be controlled by it.

I urge my colleagues to support this important bipartisan, commonsense initiative. I thank my colleague from South Carolina and my friend from Delaware for being patient as I delivered these few remarks.

The PRESIDING OFFICER. The Senator from Delaware [Mr. ROTH] is recognized.

Mr. ROTH. Mr. President, the suggestion has been made on this floor earlier today that regulatory reform is primarily a matter of trying to satisfy the needs of special interests. Nothing could be further from the truth. I think it is fair to say that is recognized on both sides of the political aisle.

I was pleased to note that the distinguished ranking member of the Governmental Affairs Committee and former chairman, Senator GLENN from Ohio, in his opening statement noted that

> . . . when the press writes about what happened on the floor today, they [should] get away from the idea that this is the ultimate in confrontation, which seems to be what the questions lead to when we go out of the Chamber—talking about regulatory reform—because, today, I would hope the message would go out that we are united in the Senate of the United States, Democrat and Republican, on one thing: We need regulatory reform.

Those words are echoed by the distinguished senior Senator from Michigan, who is also a member of the Governmental Affairs Committee, in his remarks yesterday on the floor of the Senate. He said:

> Let me commend all those involved in this effort. It is a very complicated effort, and most importantly perhaps, an essential and bipartisan effort.

He goes on later in his statement to say that:

> We need regulatory reform. We must have cost benefit analysis. We need risk assessment. But we also need to be sure that what

> we are achieving protects, in a sensible way, the environment and the health and the safety of the people of the United States.

With that, I can strongly agree. And I would agree with those who have said that our air is cleaner, our water is cleaner and safer, and our environment is better because of many of the regulations. But, at the same time, there has been recognition by many that the regulatory maze does not work in the best interests of environmental protection or good government generally.

Mr. President, yesterday I stood to speak on behalf of the Dole-Johnston compromise. I outlined how this legislation, S. 343, the Comprehensive Regulatory Reform Act of 1995, is a real and workable solution to the overbearing Government regulation that threatens America's future.

I cited the costs of such regulation and the need to restore balance to the regulatory process.

And I explained that I support this legislation because it will make the Federal Government—our regulatory agencies—more efficient and effective in carrying out their responsibilities.

The simple fact is, Mr. President, that if we reduce Government waste and inefficiency, we ultimately will improve, not hinder, Government programs, including environmental protection efforts. If we reduce the costs of regulation, we have greater resources to do more good than before.

For example, it has been estimated that a reallocation of resources to more cost-effective programs could save an additional 60,000 lives per year at no additional cost, or the same number of lives we are currently saving could be saved for $31 billion less. So I think it is only fair to say that there is plenty of room to improve our regulatory system.

I personally could not support an effort to gut environmental protection. But strong reform is something I can support. To say that the benefits of regulation should not justify its costs is to argue for irrational and wasteful regulation.

Senator DOLE's compromise bill broadly defines benefits and costs. It is not a black-box approach that reduces everything to dollars and cents. This bill allows agencies to consider nonquantifiable benefits and costs. And the definition of benefits expressly includes favorable environmental and social effects. The agencies are given leeway to consider all of the benefits and costs that are relevant to making a responsible regulatory decision.

Mr. President, there is another important reason why I support this legislation. I support it because I am concerned that the rising costs of regulation are undermining the faith of the American people in Government; I believe these overbearing costs are, in a very real way, undermining support for the environmental movement. Americans treasure the beauty of this country; they value a clean environment.

But in last November's elections, the American people also clearly demanded a government that is balanced—a government that is dedicated to common sense and workable solutions in achieving environmental protection and economic security. In short, they demanded a government that is efficient and effective.

I believe our countrymen are right to demand this fundamental change, and all of us involved in the current debate must respond to their request. We must recognize that we cannot regulate a totally risk-free world or remove every last molecule of pollution.

But we can, and should, use our resources wisely to achieve the greatest benefits at the least cost. We can, and should, continue to be a world leader in environmental protection while still having a healthy economy and a high standard of living.

We have reached a point where there is broad and bipartisan support for regulatory reform and the tools to achieve it. In his thoughtful book, "Breaking the Vicious Circle: Toward Effective Risk Regulation," Justice Stephen Breyer analyzes our regulatory system and concludes that it badly prioritizes the health and environmental risks we face.

In the June 1993 Carneigie Commission Report, "Risk and the Environment: Improving Regulatory Decision Making," a distinguished and bipartisan panel of experts concluded that the Nation must develop a more comprehensive and integrated decision-making process to set priorities and regulate risks.

President Clinton's chief spokesperson on regulatory reform, Sally Katzen, the Administrator of OMB's Office of Information and Regulatory Affairs, submitted a statement to the Governmental Affairs Committee on February 7, 1995, saying:

> Regrettably, the regulatory system that has been built up over the past five decades * * * is subject to serious criticism * * * [on the grounds] that there are too many regulations, that many are excessively burdensome, [and] that many do not ultimately provide the intended benefits.

My friend, George McGovern, a well-known liberal throughout his political career, also testified before my committee about the urgency of regulatory reform. George recounted his experience as a small businessman running an inn after he retired from the Senate.

He described how a venture as harmless as running an inn was so burdened by a multitude of complicated and irrational regulations that it failed. he concluded:

> Doubtless most of these regulations that we chafe under have some benefit. They do benefit somebody; either the public or someone benefits from them in some way. But the big question is are those benefits more than equal to the costs and burdens they place on business, especially small businesses.

Justice Breyer, the Carnegie Commission, the Clinton administration, and George McGovern are only a few of the authorities that have recognized the need for regulatory reform. Others include Resources for the Future, the Harvard Center for Risk Analysis, the Brookings Institution, the American Enterprise Institute, and other think tanks, commissions, and independent scholars throughout the country.

Without significant reform, the costs of regulatory will only continue to grow. As has already been mentioned on the floor, the total annual cost of Federal regulations has been estimated by Prof. Thomas Hopkins at $560 billion in 1992; it is expected to rise another $100 billion by the year 2000. About 75 percent of that cost increase is due to new risk regulations.

These rising regulatory costs have a serious impact on America and the quality of life of our families, businesses, and communities. Let me give you an example: under the Clean Air Act, the State of Delaware was required to implement an enhanced inspection and maintenance—or I/M—program this year.

EPA mandated this program, stating that it would result in significant pollution reductions. However, Delaware environmental officials ran their own data and found that this program would do little to improve air quality in our State. The small reduction in pollution would be overshadowed by high costs and consumer inconvenience at the auto inspection lanes. Delaware has come up with an alternative test that meets the Clean Air Act requirements but is much less costly.

This regulatory reform bill would prevent the EPA from mandating burdensome requirements such as the I/M test to the States without making sure that the benefits justify the costs.

The problem is, these costs have not been adequately scrutinized in the past. No doubt one reason for this neglect is that these regulatory costs were not constrained by a budget. The decisions to create new regulatory programs typically do not include the kind of serious debate about cost that is required to create new on-budget programs.

Another reason why we have neglected regulatory costs is that most regulations are imposed directly on businesses and governments. This creates the perception that regulatory programs provide free benefits to the public—in contrast to tax-and-spend programs.

But the costs of regulations are not simply absorbed by businesses and governments. These costs, of course, are passed on to the American consumer, wage earner, and taxpayer in the form of higher prices, diminished wages, increased taxes, or reduced government services. It is not just big corporations that are being hurt by red tape and bureaucracy; it also is the Federal Government, State, and local governments, small business, and the American public. As I have said, Federal regulations cost the average American household about $6,000 per year.

Equally important, we never see the factories not built, the products not made, ah entrepreneurial dreams not realized because, as in the case of George McGovern, they were drowned in the sea of regulatory process. Without a doubt, rising regulatory costs, limited resources, and a desire to preserve important protections and benefits all necessitate a smarter, more cost-effective approach to regulation.

Early in this session, I emphasized the need to achieve bipartisan consensus on reforming the regulatory process. I congratulate the majority leader for forging that consensus around his bill with Senators BENNETT JOHNSTON and HOWELL HEFLIN.

Back in February, when I chaired a series of hearings on regulatory reform, Senator DOLE came to the first hearing to express his strong desire to restore some common sense to the regulatory process. The leader's commitment to that goal has been critical to the consensus that this bill represents. I also want to thank my other colleagues for their efforts—including BENNETT JOHNSTON, ORRIN HATCH, HOWELL HEFLIN, FRANK MURKOWSKI, KIT BOND, DON NICKLES, and many others for their significant contributions.

The Dole-Johnston compromise bill is aimed at restoring common sense to the regulatory process. I share this goal, along with many Members of the Senate on both sides of the aisle. Indeed, there have been a number of recent initiatives in the Senate to reform the regulatory process. I introduced S. 291, the Regulatory Reform Act of 1995, early in this Congress. S. 291 was a good proposal for regulatory reform, and was unanimously endorsed by the 15 members of the Governmental Affairs Committee. Senator MURKOWSKI also introduced S. 333, a risk assessment bill, that was approved by the Energy Committee.

This floor vehicle is an amalgamation of Senator DOLE's S. 343, which Senator HATCH guided through the Judiciary Committee, with S. 333 and S. 291. Indeed, as the author of S. 291, I can tell you that the major provisions of S. 291 are reflected in the Dole compromise bill. These provisions include:

Cost-benefit analysis: The benefits of a regulation must justify its costs, unless prohibited by the underlying law authorizing the rule.

Market-based mechanisms and performance standards: Flexible, goal-oriented approach are favored over rigid command-and-control regulation.

Review of existing rules: Old rules on the books must be reviewed to reform or eliminate outdated or irrational regulations.

Risk assessment: Agencies must use sound science to measure and quantify risks to the environment, health, or safety.

Comparative risk analysis: Agencies must set priorities to achieve the greatest overall risk reduction at the least cost.

Reform of the Regulatory Flexibility Act: The Regulatory Flexibility Act is strengthened to make agencies more sensitive to the impact of regulations on small businesses and small governments.

Congressional review of rules: Rules will not become effective until they are reviewed by Congress. Congress can veto irrational or ineffective regulations.

Regulatory accounting: The Government must compile the total costs and benefits of major rules.

Like S. 291, the pending Dole-Johnston amendment has limited judicial review so agency rules will not be invalidated for minor procedural missteps. However, it also improves upon S. 291 by having a more focused cost-benefit test. Regulators must directly set regulatory standards so that the benefits of a rule justify its costs, unless prohibited by the law authorizing the rule.

This bill does not override existing law. If the underlying statute does not allow for a regulation whose benefits justify its costs, the Dole-Johnston compromise merely asks the regulator to select the least-cost option among the alternatives allowed by the underlying statute.

This should not be a radical idea. I do not believe that the American people think it is radical to ask that the benefits of regulations justify their costs.

I urge my colleagues on both sides of the aisle to support the Dole-Johnston compromise to put common sense back into our regulatory process. Our goal in crafting reform should be to strike a balance that is strong but workable. We should keep that goal in mind as the final vote approaches. The floor vehicle may not be perfect, but it is a crucial step forward. I congratulate all those who have played a bipartisan role on this important issue.

Mr. President, I yield the floor.

Mr. ABRAHAM addressed the Chair.

The PRESIDING OFFICER (Mr. THOMAS). Who seeks recognition? The Senator from Michigan [MR. ABRAHAM].

Mr. ABRAHAM. I thank the Chair.

I rise today, Mr. President, to urge my colleagues to seize the historic opportunity we now have to reform the regulatory process. In my judgment, we can and must reform this process so that we may reduce the regulatory burden on American businesses and consumers.

Certainly, we can all agree that some regulation is needed to protect human health and safety and preserve the environment. But all too often the cost of regulation far exceeds the benefits. Too many regulations impose huge costs on our economy and people while providing little if any benefit.

Excessive regulation constitutes a hidden tax on America. It adds to the price of everything from paint to potato chips and, by increasing costs for our State and local governments, ends up raising direct taxes as well.

Mr. President, the tide of regulation in this country is high and it is rising. If left unchecked, it threatens to drown our economy in a sea of red tape.

Consider the following:

First, excessive regulation imposes an enormous burden on our economy.

A recent GAO analysis of existing academic literature found that regulation in 1994 cost $647 billion. According to Wayne Crews, of the Competitive Enterprise Institute:

> Looked at differently, that is more than the entire economic output of Canada or more than the combined GNP's of Australia and Mexico.

Or, put another way, an amount greater than all U.S. pretax corporate profits combined, which were $456.2 billion in 1993.

In other words, the cost of regulation in 1994 was estimated to be more than all of the corporate profits of every corporation of this country. Here on the floor of the Senate, we often hear talk about corporate profit taking, corporate profiteers, and so on. I think this puts in perspective how costly regulations have become in our country.

The second point that needs to be made is the size of Government bureaucracy has increased to record levels under the current administration. According to the Center for the Study of Americans Business, the number of bureaucrats devoted to implementing regulations was 124,648 in 1995, an all-time record. The center has also calculated that the amount of Government spending on regulatory programs was $11.9 billion, the highest amount ever spent to run the regulatory apparatus.

Third, the number of pages in the Federal Register, the document in which all new regulations are published, was 64,914 in 1994, the highest since 1980.

Fourth, and perhaps most disturbing of all, the cost of Government regulation per American family is now $6,457 a year. Combined with the cost of taxes per household, the total cost of Government per family today is almost $20,000.

Now, according to the Americans for Tax Reform, in 1994 the average American had to work full time until July 10 to pay his or her share in the combined cost of Government taxes and regulations, a week longer than was the case in 1990. And that is not the only issue. Like any other tax, regulations raise the cost of consumer goods and services, lower wages, and increase unemployment. Regulations dampen investment and reduce technological innovation.

But the facts and theory do not tell the entire story. So let me share with you a few stories from my State of Michigan that illustrate the problem with Washington's excessive and overreaching regulatory system. Take, for example, the impact of the EPA's recent regulations governing the use and removal of lead-based paint on bridges. Because of this regulation, the toll on cars to cross the Mackinac Bridge in the Upper Peninsula of Michigan—and this connects the Upper and Lower Peninsula—is currently $1.50, one-third more than it would otherwise be.

There is a story behind this as told by Burton Fulsom of the Mackinac Center for Public Policy:

> For nearly 30 years after the Mackinac Bridge was completed in 1957, it was painted with a lead-based paint. Every 9 years or so, it was sandblasted and repainted. . . .To comply [with the EPA's paint regulation], the MACKinac Bridge Authority will soon be removing the bridge's paint by a process called "enclosure," whereby the structure is cleaned with a tent-like covering to keep paint chips from falling into the water or blowing onto populated areas. The cost of the "enclosure" is staggering: Nearly $50 million, which the Authority wants to pay for by budgeting $2.2 million each year for the next 21 year. . .. Unfortunately, this "enclosure" scheme is a huge—

Huge and very questionable—

> spending of money.
>
> No one has ever documented any harm caused by paint chips falling off the Mackinac Bridge. The greater risk, in fact, may be to workers [who will be within the enclosures] inhaling the paint particles or having accidents during the enclosure process.

Mr. Fulsom further notes that the expenses and risks of EPA's mandated paint removal process are being undertaken despite the fact that the health risk from lead has been dramatically reduced.

For example, the Department of Health and Human Resources reports a sevenfold drop in national levels of lead in human blood in the last 25 years. Further, Lakes Michigan and Huron are up to four times cleaner than they were 25 years ago. And finally, as Mr. Fulsom has pointed out, most of the lead paint problem was from paint inside buildings, not outside, and especially not from the bridges.

Mr. President, this is a prime example of a rule promulgated by Washington bureaucrats that is too far reaching and that will produce little if any environmental gain but still will impose great costs on the citizens and businesses of Michigan's Upper Peninsula. Sometimes regulatory agencies actually demand that more dangerous procedures be used merely in order to protect the agency's power and authority.

To take another example from Michigan: The sediment on the bottom of Lake Michigan's Manistique Harbor contains quantities of PCB's. These contaminants can be cleaned either by capping them with a layer of clay or by dredging them up and out of the harbor. Capping would cost about $3.5 million. Dredging would cost nearly $15 million. Separate studies conducted by the EPA and private parties both concluded that capping would protect the environment better than dredging, which necessarily would stir up and release the PCB's into the harbor. Because capping is obviously the most cost-effective remedy, Michigan's Governor, John Engler, and the Michigan Department of Natural Resources and the Manistique local government, State representatives, and our congressional delegation all expressed support for capping rather than dredging the PCB's in the harbor.

Yet, for months on end, the EPA indicated it would require that the harbor be dredged. The EPA generally prefers dredging over capping, and an internal EPA memorandum states that allowing the harbor to be capped would set a "risky precedent." Adherence to this position would bankrupt the Manistique economy, putting many people in the community out of work; all this while actually increasing PCB contamination.

Fortunately, it now appears that the EPA will allow the harbor to be capped, but this comes only after Manistique businesses incurred enormous legal fees and after I and the other members of the Michigan delegation repeatedly expressed our vehement opposition to dredging the harbor. Absent those extraordinary circumstances, there is no doubt that the EPA would have required that the harbor be dredged. Here then was one near miss in terms of regulatory overreach. But even if the regulations and their interpretations were rational, the cost of conforming with EPA paperwork requirements would still be staggering.

In yet another example, Kent County, MI, recently spent $300,000 on EPA-ordered work at a closed landfill. Of that amount, $80,000 was strictly for the cost of preparing reports for the agency. This means, Mr. President, that the taxpayers of Kent County, MI, paid $80,000, more than a quarter of the full cost of compliance, merely for paperwork filing. Nationwide, individuals and businesses spent about $200 billion to process paperwork and to pay legal and accounting fees, according to economist Thomas Hopkins from the Rochester Institute of Technology.

Mr. President, the need to lift the excessive red tape burden on America's small businesses—which are engines of job creation in our economy—is perhaps the most compelling reason for regulatory reform. Because of huge administrative and paperwork costs, regulation is disproportionately a burden to small- and medium-sized businesses. Small businesses simply do not have the resources to absorb the direct costs of regulation or hire lawyers, consultants, lobbyists, and accountants to comply with paperwork requirements. Indeed, complying with Government regulation has replaced making a profit or a better product as the primary concern of many of America's small business people.

According to a recent Arthur Andersen survey of 1,000 midsized businesses, 52 percent said Government regulation was their biggest challenge, while only 18 percent said turning a profit.

Mr. President, it seems clear, in my judgment, that regulations often unnecessarily distort business decisions. They make business people put their resources into filing paperwork instead of making profits. This increases product prices, reduces consumer choice, lowers quality, and even causes some businesses not to hire new workers. The Center for the Study of American Business provides real world examples of the negative consequences of regulation on job creation. Dr. Murray Weidenbaum of that center reports that:

> World Class Process Inc., a new and growing Pittsburgh processor of flat-rolled steel coils, has increased its work force to 49. According to the company's chief financial officer, "We are going to keep it at 49 as long as we can," in order to avoid being subject to the 50 or more employees threshold for coverage under [various programs such as the Family Leave Act.]

Similarly, other studies indicate that firms are using 50 employees or other similar numerical limits as a basis to avoid various paperwork requirements of the Federal Government.

Mr. President, this does not help our economy. I submit we no longer can afford to ignore the concerns of small businesses. I understand that there will be amendments offered to our regulatory reform bill by Senators DOMENICI and BOND to ensure that the needs and certainly the problems of small business are adequately represented in the regulatory process. I will certainly support those efforts and urge my colleagues to do the same.

Mr. President, we have already begun to act with a new awareness to solve the problem of overregulation. Our legislation, in regard to unfunded mandates, which was passed and signed into law earlier this year, is a case in point. Through it, we recognized that Federal demands bring costs with them, and that these costs do not necessarily represent the best use of a city's, State's, or business' money.

But the most important step we can take to stem the tide of regulation, in my view, is the regulatory reform bill we will be debating. This bill will require rules to be cost-effective and require agencies to use sound science in assessing dangers to the public. It will help prioritize risks, thereby targeting the use of our resources toward those activities and substances that pose the greatest risks. It will see to it that agencies take all pertinent information and all viable options into account before increasing the regulatory burden on the American people.

When combined with the unfunded mandates law, this regulatory reform bill will do much to free the American people from unnecessary regulations. In this way, it will increase consumer options, lower prices, increase productivity and, most important, increase the amount of freedom enjoyed by the American people.

Mr. President, in closing, I want to congratulate the majority leader and Senators HATCH, ROTH, NICKLES, MURKOWSKI, JOHNSTON, and others for their efforts in putting together this compromise measure. I believe there are provisions in this bill that could have been much stronger, such as the decisional criteria, judicial review, and sunset provisions, but I believe we have worked very conscientiously and in good faith on both sides to move us to the point of completing a very important piece of legislation, and I applaud those who have been central to those discussions.

It is my hope that ultimately we will have the kind of strong bill come out of our final deliberations and conference that will create the proper balance between the necessary health and safety and environmental needs of the American people, on the one hand, and the freedom and liberty that we all seek for our country on the other.

Mr. President, I yield the floor.

BUDGET RESOLUTION

Mr. ABRAHAM. Mr. President, I ask unanimous consent that the Senate now begin controlled debate on the budget conference report, and when the Senate receives the conference report, the time consumed be subtracted from the overall statutory time limitation.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. FEINGOLD addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, I ask unanimous consent to speak as in morning business, and the time I consume not be charged.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FEINGOLD. I thank the Chair.

(The remarks of Mr. FEINGOLD pertaining to the introduction of S. 983 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, are we on the resolution?

The PRESIDING OFFICER. Yes, we are debating the conference report. The Republicans have 2 hours 18 minutes. The Democrats have 2 hours 42 minutes.

Mr. DOMENICI. Mr. President, I want to speak for a moment to the offices of our Republican Senators. We have 2 hours 18 minutes and, hopefully, we are going to vote on this around 5 o'clock. I would even like to yield back some of our time. I will not do that until we have explored that with our Senators.

Senator COATS is going to speak now. The Senators that have asked me to speak—and I will confirm this now and if they or their administrative assistants would let us know if they will—are Senators NICKLES, STEVENS, MURKOWSKI, SNOWE, HELMS, COVERDELL, HUTCHISON, LOTT, BOND, GORTON, and DEWINE. Are there any others who would like to speak? And of these that I mentioned, could they call and tell us how much time they would like? Senator THOMAS is on the list now, too. I would like each Senator not to take more than 10 minutes. Does the Senator from Indiana need 15 minutes?

Mr. COATS. I do not think I will need more than that.

Mr. DOMENICI. I yield 15 minutes to the Senator from Indiana.

Mr. COATS. Mr. President, first, I want to take this opportunity to congratulate Senator DOMENICI and Congressman KASICH and the budget conferees for producing a historic blueprint that reprioritizes our Federal spending. It is a monumental piece of work, and they deserve a great deal of congratulations for the tireless efforts they put into producing this document.

Finally, Congress, under the leadership of Republicans, has delivered on a solemn promise made to the American people to balance the Federal budget. I am particularly pleased that the conferees recognized that they were able to balance the budget and provide family tax relief and economic growth incentives. These were once described as "mutually exclusive goals." We have demonstrated by the budgets brought forth in each body, and resolved in conference, that they are not mutually exclusive goals. Meeting these objectives will ensure that our economy continues to thrive and our families find real relief, even as Federal spending is restrained.

Mr. President, there is courage in this budget—courage that I do not believe we have seen for decades, courage that makes this a historic moment. But I think if we are honest, we have to admit that it is courage without alternatives. The status quo may be comfortable for the time being, but it is not sustainable. The road that we have been marching down for these last several years has been wide and has been easy and has been politically pleasing; but that road ends with a precipitous drop into an abyss, from which this country may not recover. I think there has been a recognition of that, and that recognition has produced this document which we are debating today.

The figures are familiar, but they have not lost their power to shock. Our national debt currently stands at $4.8 trillion, which translates into $19,000 for every man, woman, and child in this Nation. And that figure as projected, if we do nothing except retain the status quo, will jump to $23,000 for every man, woman, and child by the year 2002. If we ignore this crisis, if we ignore this reality, a child born this year will pay $187,000, or more, over his or her lifetime just in interest on the national debt. That is unacceptable. We have recognized that as unacceptable, and we now bring forth a plan designed to address that very problem.

This argument for immediate change and immediate restraint is simple. It is one of the highest moral ideals and traditions in this Nation for parents to sacrifice for the sake of their children. It is the depth of selfishness to call on children to sacrifice for the sake of their parents. If we continue on the current path, we will violate a trust between generations, and we will earn the contempt of the future, and we will deserve that contempt.

What we are doing is wrong. It has been virtually immoral. It has violated a fundamental tradition and value that, I think, most Members hold to.

Now, there is no doubt that we need cuts in Government to balance the budget. But there is another reason. We need cuts in Government because Government itself is too large—too large in our economy, too large in our lives. Even if the books were balanced today, even if we faced no budget deficit, we would still need to provide a sober reassessment of the Federal Government's role and reach in our businesses, in our daily lives. This is not just a matter of money alone. We require cuts in Government because endless, useless, duplicative programs should not be reinvented, as the administration defines it. They should be eliminated.

We reject the vision of a passive Nation, where an arrogant Government sets the rules. We want to return not only to an affordable Government, but to a limited Government. Those limits will help unleash limited potential of our economy and of our people.

Now, the votes that we will make, or have to make in implementing this budget through the appropriation process and the reconciliation process, will likely be some of the toughest votes that any elected Member of Congress has ever been asked to cast.

If we are honest, again, most of those votes would not be tough calls for the people that we represent. They would not be tough calls for most Americans, though they seem momentous here as we look at it and try to weigh the political consequences.

But that is not what I find as I travel through Indiana. When I talk to the men and women of Indiana, they see what we are doing as a minimal commitment to common sense. A minimal commitment to doing what we should have done a long time ago. A minimal commitment to doing what we are required to do or should feel we were required to do.

Changes made by this budget are bold, but they are not radical. They are ambitious, but they are not dangerous. It is a careful plan to meet a specific need. Listen to some of the facts: Under the budget resolution, Government spending will rise from its current legal of $1.5 trillion to $1.9 trillion by the year 2002. This is an increase of 30 percent. So all the doomsayers and the political rhetoric that is floating around this town and floating around the country, that we are undermining the very foundation of Government services, is simply not the case. It will be a 30-percent increase in Government spending over the next 7 years.

The difference is that increase is going to be a lot lower than what it would have been if we leave everything the same. We are going to increase spending at a slower rate. That increase at a slower rate is going to produce the savings necessary to bring our budget into balance.

A good example, if we take a family currently making $45,000 a year, if the income grew at the rate we allow Government to grow under this plan, that family would be making $63,000 into the year 2002, 7 years from now. Surely, a family could construct a budget to meet this higher level of spending. The Federal Government is being asked to do the same.

Now, there are honest disagreements about the merits and priorities of many of these reductions. I expect we will continue to have an honest, hard-fought, debate. We must not allow these deliberations to be ruled by half-truths or distortions. We will not allow, we cannot allow, political charges which are simply untrue, to remain unrebutted.

Every American, no matter what their age, has an interest in a strong, viable, Medicare System. But Medicare faces an impending crisis. The President's own commission concluded that Medicare will be bankrupt in 7 years.

The Republican budget ensures that this will not happen, that Medicare will remain a viable program. But we have no choice but to reduce the rate of growth, hopefully through reforms in the system, that can continue to provide a central medical care to our elderly and have a fund available to do that for those that will be approaching retirement age some time in the future.

It is important to note that Medicare will continue to increase at a 6.4-percent annual rate, to ensure the solvency of that program. That is down from its current double-digit growth rate of a little more than 10 percent.

But it is absolutely necessary to do this or we lose the whole system. It is the President's own commission and the President himself, now, who has acknowledged that this is the step that we must take, to ensure the solvency of Medicare and to assure that this program is available in the future.

As promised, Social Security remains untouched. Spending will increase in Social Security from the current annual total of $340 billion to $480 billion in 2002. One of our central goals here has been to protect the integrity of the Social Security System. We have done that. Social Security benefits must be preserved for the retirees who have paid into that system and count on that system. We have done that.

I firmly support this budget. It tackles not only our unsustainable budget deficit but also the needs of our families. America's deficit crisis concerns not only our budget but also a deficit in the resources of families to care for their own.

This deficit has been widened by ever-increasing taxation, and a steady erosion of the personal exemption. Many families are in current recession directly caused by Government policy.

A balanced budget and family-oriented, growth-oriented tax relief are part of the same movement in America, a movement to limit our Government on the one hand, and empower our people on the other. One idea implies and requires the other.

When we reduce public spending, we should increase proportionately the resources of families to meet their own needs. If Government no longer is going to provide and meet those needs or attempt to meet those needs, I should say, because as well-motivated and as well-intended as some of the Government programs are to reach family needs and reach social needs in this country, they have been a dismal failure, eaten up by administrative costs and simply not achieving their goals.

The results are beginning to address the problem. As we downsize the one, we increase the capability of the other. We give families, we give individuals, we empower communities, we empower nonprofit organizations, with the ability to reach out and address those needs in a much more effective way.

That is a good investment. That is a sound investment, because $1 spent by our families is far more useful than $1 spent by Government.

It is time to admit when our families fail, so does our society. Their financial crisis is as urgent and as important as any other priority in this debate. Now, Mr. President, another priority of mine has been to ensure that the Nation is represented to defend its interest and ideals in the world. The administration has pushed us to the razor's edge of readiness, through dangerous defense cuts, while extending our military commitments beyond our national interests. It is a recipe for disaster.

This budget ends that hemorrhaging. Even though it does not restore us to full strength, it stops the hemorrhages and begins to move toward a path of correcting the problems. For that reason, I am grateful as we markup, today, the defense bill for the next fiscal year, we are dealing with many of these difficult issues about what is necessary for our preparedness, what is necessary to provide an adequate, sound, defense.

Nobody can argue that is not a priority of the Federal Government. There is a role for Federal Government and this is, perhaps, its primary role.

Our decisions today in the Armed Services Committee, meeting as I speak—and I will be back there as soon as I am done—is easier today because of the decisions that the Budget Committee made in their conference. They have given the tools to address more readily some of these problems. We are thankful for that, although we did not get all we wanted.

Mr. President, we have come to the beginning of the end of deficit spending in America. Let me repeat that: We have come to the beginning of the end of deficit spending in America.

We have come to this place because there is no alternative for us. The work before us is not a task for the timid, but it is nothing more than what most Americans expect of us. We have come to a time that is unique and historic, an authentic moment of decision. It is a moment to act—worthy of our words—and keep faith with the future.

Again, I thank the Senator from New Mexico for the time and for his diligent efforts in this entire task, and again congratulate him for the magnificent work he has accomplished in this past year.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I thank Senator COATS for his remarks today and for his steadfast support of us getting to a balanced budget and his willingness to take some very, very hard stands with reference to getting there. In particular, I thank him for his kind remarks this morning.

We yield the floor on this side.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, I would like to advise all Senators on this side, and I think I probably speak for my colleague on the other side, we are trying to compact time as best we can and yet give everybody at least a chance to make remarks they think are appropriate and very important. There are a lot of Senators who have indicated to me on this side, and I believe to Senator DOMENICI on that side, that they want to talk.

We need you here to talk. We cannot have you talking unless you are here to talk. So I certainly extend the invitation to all the Members on this side of the aisle who wish to talk; this will be a good time to come over here. Or, very likely, we will begin to be yielding back some time, if I can make an arrangement to that effect with my colleague from New Mexico.

With that, I yield 7 minutes to my colleague from Washington.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Mr. President, this conference report takes a bad budget and makes it worse. No one disputes the fact the deficit must be reduced. For the past 2 years, we worked—with common sense—to slash one-third of the deficit we inherited in 1993. We made tough choices. We eliminated hundreds of programs, and cut hundreds more.

The new majority in this body has built upon our good record of cutting spending. I commend my friends on the other side of the aisle—they have responded to a call for smaller Government, and reduced spending.

But, they have gone too far. They are misunderstanding the needs of average Americans. The revolution has certainly come to Washington, DC, Mr. President, and, let us see who wins and who loses in the battle.

The richest Americans win, Mr. President. This conference report overflows with tax cuts for wealthy Americans. Households who earn $200,000 per year win—they get a nice tax break for their kids. What about families at the lowest end of the income scale? they are not even eligible for this tax break. And, what about the kids of middle-class Americans? They lose in the revolution, Mr. President. Ten billion dollars is slashed from student loans. And, children of low-income families will see their health insurance cut. Despite the fact the Senate voted unanimously for my amendment to protect impact aid from the budget ax, children who rely on this program are put in jeopardy.

And, what happens to the kids of our family farmers? They lose, too. This revolution will drive small family farmers out of business. This budget cuts $13 billion out of commodity programs over the next 7 years. There is no hope for them to inherit their family farms, and rural America will be changed forever by this budget resolution.

And, what happens to my generation—the children of elderly parents? We lose, too. Medicare—the safety net for our Nation's elderly—is pulled away from our parents, by a $270 billion cut. In this revolution, Mr. President, the children of America lose. The elderly lose. Farmers lose. And, veterans lose. Average Americans, trying to raise their kids, go to work, run a business, and care for elderly parents—they all lose.

Our Nation's precious environment is a loser in the revolution. This budget clear-cuts funding for environmental and natural resources initiatives. It proposes the leasing of the Arctic National Wildlife Refuge. It cuts environmental spending by 30 percent by the year 2000.

My friends and neighbors in Washington State know I will fight to maintain funding to clean up the Hanford Nuclear Reservation. With this budget, funding will be difficult to find. But, I refuse to turn my back on Hanford.

Of course, ultimately, our economy loses. This plan will place our economy at risk. Since the new majority has been in place, consumer confidence has been dropping and the economy has been slowing down. Americans feel embattled. Everyday people feel there is no hope. This budget does nothing to restore hope.

Mr. President, I will do all in my power to give hope to average Americans. To maintain the high standard of life we enjoy in this country. That is why I supported amendments in the Budget Committee and here on the floor last month—amendments that would have restored some Medicare and Medicaid cuts without increasing the deficit; amendments to lower the proposed taxes on America's working families. It is plain and simple—by cutting the earned income tax credit, this budget will raise taxes on 224,000 taxpayers in my home State alone.

Unfortunately, Mr. President, these attempts to restore some fairness and common sense to the budget were rejected.

But, this is just one step in the process. We have 13 appropriations bill, and a reconciliation bill, which must come before us—and go across the President's desk—before these cuts become reality. It is going to be a long, hot summer, Mr. President. As a member of the Appropriations Committee, I know the real work is yet to come. And, I will be working to make sure we retain programs that are important to average Americans.

As we see today, the budget that emerged from the House-Senate conference is too radical. It gives Goliath an advantage. I congratulate my friends on the other side of the aisle. This is their day. It is the day for the wealthiest among us to celebrate. But, it is a sorry day for average Americans.

I oppose this conference report, and urge all colleagues to vote against this budget.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, I thank my friend and colleague from Washington for a very excellent statement. She is a very valuable member of the Budget Committee and I hope her remarks are taken to heart.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. HOLLINGS. Mr. President, I thank also the distinguished colleague from Delaware. I will be brief.

Mr. HOLLINGS. Mr. President, Mark Twain stated many years ago that, "The truth is such a precious thing, it should be used very sparingly."

Therein, of course, is the approach that we use in our budgetary and fiscal concerns here and problems and responsibilities in the U.S. Government.

I want to talk of the fraud that this particular budget, which we will vote upon, is exacting upon the American people. It is very striking and ironic that we have spent the past week talking about fraud on the investors, defrauding the taxpayers, and everything else. But the greatest fraud to be perpetrated is going to occur right here on the floor of the U.S. Senate later today. It is, once again, the so-called "balanced budget plan." We have been lying about that balanced budget plan for some 15 years.

In that context, I think of my friend Vaclav Havel of Czechoslovakia. The late Senator from Washington, Senator Jackson, and myself had a unique opportunity. We were told in Prague, "When you go out and see this dissident, you will be trailed." We went out in the residential area, and we sat down in a bedroom and waited to make sure that we were not followed. After about a half-hour, they said all was clear. Out of the closet door in the bedroom came Vaclav Havel. He had been in there for the last half-hour while we were waiting.

Trying to impress Mr. Havel with respect to the United States' commitments to getting these dissidents out, Senator Jackson mentioned Jackson-Vanik. Mr. Havel said, "Jackson-Vanik?" Jackson said, "Yes, that is where we bring economic pressure so that we can get you out of Czechoslovakia." I will never forget Havel. He said, "Mr. Senator, Czechoslovakia was raped in 1938, in 1958 and in 1968." He said, "If I and my generation do not see it through here and stay in Czechoslovakia, the world will never know Czechoslovakia as we have known it." He said, "We have no idea of leaving. We are not interested in Jackson-Vanik."

On the way to the airport, I broke the silence and said, "Scoop, that fellow is very courageous, but he is not going to see a free Czechoslovakia, and we are not going to see it in our lifetime." But of course, Czechoslovakia is now free. I was very interested in Havel's remarks after taking over as the President of Czechoslovakia. He said:

> For 40 years, we have been lied to. For 40 years, we have grown sicker, saying one

thing and believing another. I assume you did not elect me to continue this 40 years of lying. We have to deal with our problems, and no one else can solve them but us.

In a parallel situation, Mr. President, that is exactly the way this Senator rises—as a member of the Budget Committee since its institution, as former chairman of that Budget Committee, as a Senator who voted for a balanced budget under Lyndon Johnson, and who, as chairman of that Budget Committee, reduced the deficit back in 1981 under President Carter with the first reconciliation bill, as a Senator who worked with the then majority leader, Howard Baker of Tennessee, on a freeze that we could not enact, and as a Senator who worked on a bipartisan fashion again with Senators GRAMM and Rudman on not only a freeze but cuts in Government spending, then, as the Senator who appeared 5 years ago before the Finance Committee saying, "Of course we need the freeze, the cuts, and the taxes," recommending a value-added tax.

I have been in the vineyards for quite a while and hate to see this fraud perpetrated. The fraud and the lie, Mr. President, is that they have no idea of balancing the budget.

Turn to page 3 of the conference report, and you will see under the word "Deficits," for the year 2002: $108.4 billion. There is no presumption that the budget is going to be balanced.

Let me point out now by turning to page 4, the true deficit. Page 3 shows the amounts that we will owe Social Security, but the figures on page 4 include borrowed monies from the other trust funds that must be repaid. We all know about building airports, building highways; all of the other trust funds are used to obscure the size of the deficit in this fraud. We all participate in it.

There on page 4 where it says "debt increase," we find in fiscal year 2002, the debt will increase by $185.1 billion.

After all the eliminations of the Department of Commerce and other departments, getting rid of public broadcasting—whatever—that is where we end up 7 years from now if we use the most favorable assumptions.

But when those assumptions do not come about, like a house of cards, if one falls, the whole thing will come apart. That is what will happen. I will make the bet. Give me the odds and give me the amount. I bet we will borrow over $185.1 billion. I have made this point ad nauseam since January when we started on this task with a new Congress.

Mr. President, I ask unanimous consent to have printed in the RECORD, the realities on truth in budgeting.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

HOLLINGS RELEASES REALITIES ON TRUTH IN BUDGETING

Reality No. 1: $1.2 trillion in spending cuts is necessary.

Reality No. 2: There aren't enough savings in entitlements. Have welfare reform, but a jobs program will cost; savings are questionable. Health reform can and should save some, but slowing growth from 10 to 5 percent doesn't offer enough savings. Social Security won't be cut and will be off-budget again.

Reality No. 3: We should hold the line on the budget on Defense; that would be no savings.

Reality No. 4: Savings must come from freezes and cuts in domestic discretionary spending but that's not enough to stop hemorrhaging interest costs.

Reality No. 5: Taxes are necessary to stop hemorrhage in interest costs.

	1996	1997	1998	1999	2000	2001	2002
Deficit CBO Jan. 1995 (using trust funds)	207	224	225	253	284	297	322
Freeze discretionary outlays after 1998	0	0	0	−19	−38	−58	−78
Spending cuts	−37	−74	−111	−128	−146	−163	−180
Interest savings	−1	−5	−11	−20	−32	−46	−64
Total savings ($1.2 trillion)	−38	−79	−122	−167	−216	−267	−322
Remaining deficit using trust funds	169	145	103	86	68	30	0
Remaining deficit excluding trust funds	287	264	222	202	185	149	121
5 percent VAT	96	155	172	184	190	196	200
Net deficit excluding trust funds	187	97	27	(17)	(54)	(111)	(159)
Gross debt	5,142	5,257	5,300	5,305	5,272	5,200	5,091
Average interest rate on debt (percent)	7.0	7.1	6.9	6.8	6.7	6.7	6.7
Interest cost on the debt	367	370	368	368	366	360	354

Note.—Figures are in billions. Figures don't include the billions necessary for a middle-class tax cut.

Here is a list of the kinds of nondefense discretionary spending cuts that would be necessary now as a first step to get $37 billion of savings and put the country on the road to a balanced budget:

Nondefense discretionary spending cuts	1996	1997
Cut space station	2.1	2.1
Eliminate CDBG	2.0	2.0
Eliminate low-income home energy assistance	1.4	1.5
Eliminate arts funding	1.0	1.0
Eliminate funding for campus based aid	1.4	1.4
Eliminate funding for impact aid	1.0	1.0
Reduce law enforcement funding to control drugs	1.5	1.8
Eliminate Federal wastewater grants	0.8	1.6
Eliminate SBA loans	0.21	0.282
Reduce Federal aid for mass transit	0.5	0.1
Eliminate EDA	0.02	0.1
Reduce Federal rent subsidies	0.1	0.2
Reduce overhead for university research	0.2	0.3
Repeal Davis-Bacon	0.2	0.5
Reduce State Dept. funding and end misc. activities	0.1	0.2
End P.L. 480 title I and III sales	0.4	0.6
Eliminate overseas broadcasting	0.458	0.570
Eliminate the Bureau of Mines	0.1	0.2
Eliminate expansion of rural housing assistance	0.1	0.2
Eliminate USTTA	0.012	0.16
Eliminate ATP	0.1	0.2
Eliminate airport grant in aids	0.3	1.0
Eliminate Federal highway demonstration projects	0.1	0.3
Eliminate Amtrak subsidies	0.4	0.4
Eliminate RDA loan guarantees	0.0	0.1
Eliminate Appalachian Regional Commission	0.0	0.1
Eliminate untargeted funds for math and science	0.1	0.2
Cut Federal salaries by 4 percent	4.0	4.0
Charge Federal employees commercial rates for parking	0.1	0.1
Reduce agricultural research extension activities	0.2	0.2
Cancel advanced solid rocket motor	0.3	0.4
Eliminate legal services	0.4	0.4
Reduce Federal travel by 30 percent	0.4	0.4
Reduce energy funding for Energy Technology Develop.	0.2	0.5
Reduce Superfund cleanup costs	0.2	0.4
Reduce REA subsidies	0.1	0.1
Eliminate postal subsidies for nonprofits	0.1	0.1
Reduce NIH funding	0.5	1.1
Eliminate Federal Crop Insurance Program	0.3	0.3
Reduce Justice State-local assistance grants	0.1	0.2
Reduce export-import direct loans	0.1	0.2
Eliminate library programs	0.1	0.1
Modify Service Contract Act	0.2	0.2
Eliminate HUD special purpose grants	0.2	0.3
Reduce housing programs	0.4	1.0
Eliminate Community Investment Program	0.1	0.4
Reduce Strategic Petroleum Program	0.1	0.1
Eliminate Senior Community Service Program	0.1	0.4
Reduce USDA spending for export marketing	0.02	0.02
Reduce maternal and child health grants	0.2	0.4
Close veterans hospitals	0.1	0.2
Reduce number of political employees	0.1	0.1
Reduce management costs for VA health care	0.2	0.4
Reduce PMA subsidy	0.0	1.2
Reduce below cost timber sales	0.0	0.1
Reduce the legislative branch 15 percent	0.3	0.3
Eliminate Small Business Development Centers	0.056	0.074
Eliminate minority assistance score, small business interstate and other technical assistance programs, women's business assistance, international trade assistance, empowerment zones	0.033	0.046
Eliminate new State Department construction projects	0.010	0.023
Eliminate Int'l Boundaries and Water Commission	0.013	0.02
Eliminate Asia Foundation	0.013	0.015
Eliminate International Fisheries Commission	0.015	0.015
Eliminate Arms Control Disarmament Agency	0.041	0.054
Eliminate NED	0.014	0.034
Eliminate Fulbright and other international exchanges	0.119	0.207
Eliminate North-South Center	0.002	0.004
Eliminate U.S. contribution to WHO, OAS, and other international organizations including the United Nations	0.873	0.873
Eliminate participation in U.N. peacekeeping	0.533	0.533
Eliminate Byrne grant	0.112	0.306
Eliminate Community Policing Program	0.286	0.780
Moratorium on new Federal prison construction	0.208	0.140
Reduce Coast Guard 10 percent	0.208	0.260
Eliminate Manufacturing Extension Program	0.03	0.06
Eliminate coastal zone management	0.03	0.06
Eliminate national Marine sanctuaries	0.007	0.012
Eliminate climate and global change research	0.047	0.078
Eliminate national sea grant	0.032	0.054
Eliminate State weather modification grant	0.002	0.003
Cut weather service operations 10 percent	0.031	0.051
Eliminate regional climate centers	0.002	0.003
Eliminate Minority Business Development Agency	0.022	0.044
Eliminate Public Telecommunications Facilities Program grant	0.003	0.016
Eliminate children's educational television	0.0	0.002
Eliminate national information infrastructure grant	0.001	0.032
Cut Pell grants 20 percent	0.250	1.24
Eliminate education research	0.042	0.283
Cut Head Start 50 percent	0.840	1.8
Eliminate meals and services for the elderly	0.335	0.473
Eliminate title II social service block grant	2.7	2.8
Eliminate community services block grant	0.317	0.470
Eliminate rehabilitation services	1.85	2.30
Eliminate vocational education	0.176	1.2
Reduce chapter 1 20 percent	0.173	1.16
Reduce special education 20 percent	0.072	0.480
Eliminate bilingual education	0.029	0.196
Eliminate JTPA	0.250	4.5
Eliminate child welfare services	0.240	0.289
Eliminate CDC Breast Cancer Program	0.048	0.089
Eliminate CDC AIDS Control Program	0.283	0.525
Eliminate Ryan White AIDS Program	0.228	0.468
Eliminate maternal and child health	0.246	0.506
Eliminate Family Planning Program	0.069	0.143
Eliminate CDC Immunization Program	0.168	0.345
Eliminate Tuberculosis Program	0.042	0.087
Eliminate agricultural research service	0.546	0.656
Reduce WIC 50 percent	1.579	1.735

Nondefense discretionary spending cuts	1996	1997
Eliminate TEFAP:		
Administrative	0.024	0.040
Commodities	0.025	0.025
Reduce cooperative State research service 20 percent	0.044	0.070
Reduce animal plant health inspection service 10 percent	0.036	0.044
Reduce food safety inspection service 10 percent	0.047	0.052
Total	36.941	58.402

Note.—Figures are in billions of dollars.

Mr. HOLLINGS. Mr. President I ask unanimous consent to have a list of the gross Federal debt, the real deficit and the gross interest costs printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Year	Gross Federal debt	Real deficit	Percent change	Gross interest
1945	260.1	—	(—)	
1946	271.0	+10.9	(+4.2)	
1947	257.1	−13.9	(−5.1)	
1948	252.0	−5.1	(−2.0)	
1949	252.6	+0.6	(—)	
1950	256.9	+4.3	(+1.7)	
1951	255.3	−1.6	(−0.6)	
1952	259.1	+3.8	(+1.5)	
1953	266.0	+6.9	(+2.7)	
1954	270.8	+4.8	(+1.9)	
1955	274.4	+3.6	(+1.3)	
1956	272.7	−1.7	(−0.6)	
1957	272.3	−0.4	(−0.1)	
1958	279.7	+7.4	(+2.7)	
1959	287.5	+7.8	(+2.8)	
1960	290.5	+3.0	(+1.0)	
1961	292.6	+2.1	(+0.7)	
1962	302.9	+10.3	(+3.5)	9.1
1963	310.3	+7.4	(+2.4)	9.9
1964	316.1	+5.8	(+1.8)	10.7
1965	322.3	+6.2	(+2.0)	11.3
1966	328.5	+6.2	(+1.9)	12.0
1967	340.4	+11.9	(+3.6)	13.4
1968	368.7	+28.3	(+8.3)	14.6
1969	365.8	−2.9	(−0.8)	16.6
1970	380.9	+15.1	(+4.1)	19.3
1971	408.2	+27.3	(+7.2)	21.0
1972	435.9	+27.7	(+6.8)	21.8
1973	466.3	+30.4	(+7.0)	24.2
1974	483.9	+17.6	(+3.8)	29.3
1975	541.9	+58.0	(+12.0)	32.7
1976	629.0	+87.1	(+16.1)	37.1
1977	706.4	+77.4	(+12.3)	41.9
1978	776.6	+70.2	(+9.9)	48.7
1979	829.5	+52.9	(+6.8)	59.9
1980	909.1	+79.6	(+9.6)	74.8
1981	994.8	+85.7	(+9.4)	95.5
1982	1,137.3	+142.5	(+14.3)	117.2
1983	1,371.7	+234.4	(+20.6)	128.7
1984	1,564.7	+193.0	(+14.1)	153.9
1985	1,817.6	+252.9	(+16.2)	178.9
1986	2,120.6	+303.0	(+16.7)	190.3
1987	2,346.1	+225.5	(+10.6)	195.3
1988	2,601.3	+255.2	(+10.9)	214.1
1989	2,868.0	+266.7	(+10.3)	240.9
1990	3,206.6	+338.6	(+11.8)	264.7
1991	3,598.5	+391.9	(+12.2)	285.5
1992	4,002.1	+403.6	(+11.2)	292.3
1993	4,351.4	+349.3	(+8.7)	292.5
1994	4,643.7	+292.3	(+6.7)	296.3
1995 est	4,961.5	+317.8	(+6.8)	340.0

Mr. HOLLINGS. Mr. President, what really happens is that there is a total disconnect in the American people. Over the years, we have led the American public to really believe that all we need to do is eliminate foreign aid, cut welfare, get rid of public broadcasting and a few of the subsidies for the farmers—and that if we can get rid of those things, we will have a balanced budget.

Not at all. No chance whatever. The bigness of Government that we all complain about, and we all say Government is too big, is the interest cost on the national debt. The interest cost on the national debt jumps this year for a total amount of $340 billion. When we balanced that budget, as I referred to, under President Johnson, the interest cost on the entire debt for 200 years of history—the revolutionary world, World War I, World War II, Korea, all the wars—the interest on the national debt was only $4 billion. Today, this fiscal year, it is estimated at $340 billion.

We are like Alice in Wonderland, to stay where you are, you have got to run as fast as you can; to get ahead, you have to run faster. We need freezes, yes; the cuts, yes; the loophole closings, yes; and yes, the taxes. We do not tell the American people the truth, and that is the source of the disconnect.

What we have is this particular budget that has no idea, really, of achieving balance. The scheme adopted by our friends in the House is to appear traumatic and race around and say, "Get rid of Energy, Education, Housing, the Department of Commerce, do it all, those friends over in the Senate will save us. They will not get rid of all these departments. While we have their attention up here, down here we will give them a tax cut. We will get the White House next year, and get credit for a balanced budget plan. Then we can say that the reason it did not work is those tax and spend liberals who held it up."

Now, that is the fraud being perpetrated. Mr. President, I ask unanimous consent to have printed in the RECORD the Washington Post editorial lauding this budget as an enormous service, and my response.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Washington Post, June 25, 1995]

THE REPUBLICAN LONG MARCH

At every step along the way, the prediction has been that the congressional Republicans would falter in their drive toward a balanced budget. So far it hasn't happened. The astonishing spectacle instead has been of a party doing pretty much exactly what it said it would. What a breach of the rules that is.

House and Senate conferees have now agreed on a plan to eliminate the budget deficit in seven years and, once the necessary spending cuts are made, to enact a tax cut as well. The president and other Democrats say the spending cuts would be too deep, in Medicare and Medicaid especially, and carry the risk of recession. But the president himself has proposed a plan that he says would get to balance over 10 years. They're arguing not over whether to shrink the government, but over how much and how fast. That's the Republicans' accomplishment.

The budget resolution that has emerged from the conference committee is an outline only. The hard part of filling in the blanks—making the specific cuts in specific programs that will be required to carry the good intentions out—has yet to come. That's what the president and the Republicans are going to be disputing all summer. What are some of the principles that should guide them?

(1) A balanced budget is a useful political beacon but otherwise an artificial goal. The important thing is not so much achieving balance as getting the deficit down to a manageable level. Interest costs were a tenth of the budget at the start of the Reagan administration. They've become a seventh today. The more that has to be spent to service the debt, the less that remains . . . the kudzu has to be cut back.

(2) A tax cut now remains a bad idea. If the deficit is the problem, why begin by compounding it? Nor should cuts be made in health care and other programs for the poor in order to finance a tax cut, some large part of which will be of principal benefit to the better-off.

(3) The Republicans are trying to balance the budget on too narrow a base. By taking Social Security off the cutting block (together with defense and interest on the debt), they've left themselves less than half the budget with which to work. That's why they've had to propose such deep cuts in the health care programs; the cuts they've set out for Medicaid in particular would do great social harm. The program for the poor and near-poor now covers a seventh of the population. Savings can be had, but nowhere near the savings the budget resolution suggests without adding greatly to the number of uninsured in the society. Surely there's no gain in that. The budget-balancing process ought to extend across the board. We've suggested an indexation holiday—a one-year suspension of indexation of Social Security and other retirement benefits and the indexed features of the tax code—as one method. There are others.

But in writing the resolution that they have, the Republicans have performed an enormous service. If the deficit comes down substantially this year, it will be because they forced it to. You can argue all you want that it was their party that mainly drove it up in the 1980s and that resisted the deficit-reducing steps that Mr. Clinton proposed earlier in his term. That was then; this is now.

SENATOR HOLLINGS' RESPONSE

The Washington Post's muddled praise Sunday of the Republican budget plan proves that, when it comes to budget-balancing, if you are not confused, you are not paying attention. Here are the three budgetary myths to which the Post unfortunately gave credibility:

First, Republicans complain long and loud that big government has produced big deficits. Nonsense. We have had big government with deficits and without deficits. We also have had a country with and without big government. History suggests that big government is a fact of life if we want a high standard of living—superhighways instead of winding State roads, safe landings at big airports instead of private puddle-jumpers, insured bank deposits instead of shocking runs, benefits for veterans instead of a mere thank you, and heart surgery if necessary instead of unknown on the death certificate. Name any other country that has our standard of living and less government—you can't.

The second myth is that the Republican plan is a budget balancing plan. No, it is a tax cut plan for a Republican constituency. Budget conferees had a knockdown fight to provide tax cuts big enough to satisfy certain constituents in next year's elections. Other budget items for the sick elderly and children were then cut to fit the tax cut goals.

The third myth is that this tax cut plan represents government reform. More accurately, it is a phenomenon known in sports

> as the buddy pass—a player trapped by an on-rushing opponent makes a quick pass to a near-by buddy, who then gets crushed instead. In this case, Congress will invite the 50 Governors and thousands of mayors to cut welfare and Medicaid $282 billion. Also fantastically large Medicare cuts will be suggested by a future Commission and then rejected by a bipartisan Congress. while this interesting charade plays itself out, the Republican Congress will hand out the abovementioned capital gains cut. If this process produces a balanced budget or a reformed government instead of devastation for hospitals and cities, I will eat my hat.
>
> These myths hide the central truth of recent budget history: Skyrocketing costs for interest on the debt are the main cause of apparent big government. Since 1980, we have added an extra $275 billion in creditor payments for government debt service to the taxpayer's bill. In other words, taxpayers have bought an extra Defense Department or Medicare program—take your pick. Without having it delivered. Last year, interest costs rose $44 billion; Medicare rose $16 billion—which one is being attacked? The Republican plan to hand out a certain huge tax cut and unrealistic program cuts will continue to result in a continued Reagonomic interest spiral. By now, the Post should know that this is not an enormous service.

Mr. HOLLINGS. Then why is the budget not real, Mr. President? Simply speaking, it calls for $499 billion in cuts. All along Republicans have been carping that it was entitlements that were the problem. But now to finance a tax cuts, massive reductions must be required in programs like biomedical research and education that will never occur.

Mr. President, I tried for half the level of discretionary cuts back during Gramm-Rudman-Hollings. But when we got to the short rolls in 1990, we bugged out and repealed the fixed deficit targets of Gramm-Rudman-Hollings. I raised the point of order at 12:40, on October 19, 12:41 a.m, and Senator GRAMM and Senator Rudman voted to repeal it. This Senator did not. I raised a point of order. If we could not do it then, how are we going to do it now?

The next thing, of course, Mr. President, is the $270 billion in Medicare. The President tried his first year and we finally compromised without a single Republican vote, cutting $57 billion. That is what we had the compromise down to. Last year the President proposed another $120 billion as part of comprehensive health care reform, and they rebuffed him, ridiculed his wife, and said, "No way."

Now they come with a totally unrealistic figure of $270 billion, and because they do not want to endorse any specific cuts, they give it to a commission. What a copout. Talk about "Where's Bill," and all these signs on the floor—where is the Congress' responsibility? Give it to a commission—come on.

Then they cannot find $182 billion in specific cuts for Medicaid. That is not going to happen. So they give that to the States. Also, $100 billion in welfare cuts. They do not want to do it, give that to the States.

Then they come around with the greatest gimmick of all, what they call the interest or fiscal dividend—the interest bonus of $170 billion.

Now, Mr. President, we tried that in 1990. I am going to insert in the RECORD the exact figure. Here it is: The fiscal year 1991 budget, 5 years ago. Under that plan, the deficit in 1991 was supposed to go down to $64 billion, and in 1992 down to $8.9 billion; 1993, we were to have a surplus of $44.8 billion; 1994, $108.5 billion; 1995, this fiscal year, Mr. President, imagine that—here we have a document that said this year we are going to have a surplus of $156.2 billion.

We got that using the fiscal dividend. We had all these bonuses—how the interest costs were going down and everything else, so we have been through this 5 years ago. If you read Time magazine, the cover says, "First Balanced Budget Presented in Decades." False, we presented a surplus just 5 years ago.

Look at these plans. Sober up. Tell the truth to the American people. No chance of that welfare cut, that Medicare cut, that Medicaid cut, and the program cuts. Other Members know it and I know it. So the distinguished chairman of the Budget Committee comes over on the Senate side and says, "No, no, no, wait a minute. We want the cuts before we get the tax cut." See, the $170 billion is used for a tax cut.

I want everyone to turn to page 89, going quickly. "The conferees agree that the $245 billion net tax cut represents an appropriate balance between accommodating the tax cuts in the House-passed Contract With America and the need to put the deficit on a declining path to a balanced budget in the year 2002."

What balanced budget? Turn to page 4; it says a $185 billion deficit. But here on page 89, now, the Senate has yielded to the House and they have in here—all you have to do is give your assumptions to CBO and the CBO says yes, with those assumptions that will happen. And with that assumption verified just by giving it to them—not the actual cuts, not the actual votes for it—then you give it to the Finance Committee and they authorize for a $245 billion tax cut.

And therein, again, is the conspiracy, the conniving conspiracy going into that conference, where they did not invite this Senator, I can tell you. We had opening statements when we had the communications bill. When they finally agreed, they came to my staff and said, "Does Senator HOLLINGS want to sign the conference report?"

He said, "He hasn't even been to a meeting. You would not even let us come to a meeting. But he could maybe sign it. Let us look at it and see it."

He said, "No, we cannot give you the details. You either sign it or do not sign it."

So we did not sign it. Because they knew good and well I can read, and I have been reading them for 20-some years now. This is an absolute fraud on the American public. What you have now is a tax cut. You are going to have bigger deficits. You are going to have the interest costs going from $300 billion at least, to $500 billion by the year 2002. And we have the same act, the same scene.

In conclusion, let me just read, so we get a historical perspective here, and the historical perspective is what was stated by our friend, David Stockman, who handled all of these budgets in years past. Stockman said 5 years ago:

> The root problem goes back to the July 1981 frenzy of excessive and imprudent tax cutting that shattered the Nation's fiscal stability, a noisy faction of Republicans that willfully denied this giant mistake of fiscal governance and their own culpability in it ever since. Instead, they have incessantly poisoned the political debate with a mindless stream of antitax venom, while pretending that economic growth and spending cuts alone could cure the deficit. It ought to be obvious by now that we cannot grow our way out.

There it is, Mr. President. They do not give this to CBO. They do not give it to the Democratic colleagues. They do not have it scored. They just come in here with a quick, "We got 5 hours more left. Let's just vote it up or down and, whoopee, we will go home for the Fourth of July; we have a balanced budget."

We are lying to the American people and it should stop.

Mr. EXON. Mr. President, I see no one on the floor so I suggest the absence of a quorum, with the time being equally charged. Which is another way of saying to anyone who wishes to speak, the longer the quorum call is in effect, the less time you will have to talk.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. THOMAS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. GREGG). Without objection, it is so ordered.

Mr. THOMAS. Mr. President, I rise again on what I think is a momentous day in which, for the first time in many years, this Congress is going to agree to balance the budget. I think clearly that message has been delivered by the voters in the country; more specifically, in the last election in November. When I say clearly, the people said the Federal Government is too large, it costs too much, that it continues to grow, and it continues to be more predominant.

So, Mr. President, I think this is the delivery on some of the promises that have been made, made by this party, made to some extent by this Congress. But I am very proud of this budget that has been brought forward by the majority party.

So it seems to me that we have delivered on the promise to balance the budget for the first time in over a generation. The Congress will pass a blueprint to bring a balanced budget in the year 2002. It means a dropping of interest rates of up to 2 percent, the creation of 6 million jobs in 10 years, increasing per capita incomes, and over 7 years the Federal Government will spend $12 trillion instead of $13 trillion. Spending will increase at a rate of 3 percent instead of 5 percent.

I think the majority party is, and those who support this budget proposal are, delivering by not using smoke and mirrors. I think it is fair to say that, over the years, there has been an awfully lot of smoke and mirrors on financial matters, saying things that feel good somewhere out in the future. Somehow those future years never come. But this budget resolution relies on the estimates of the Congressional Budget Office which President Clinton in 1993 insisted be used as a yardstick.

So I think we are delivering on the idea of no smoke and mirrors, delivering on the idea that the figures can be counted on. I believe supporters of this resolution are delivering on their promises to cut taxes. As you will recall, this administration hardly waited to unpack its bags before raising taxes $251 billion in 1993.

One of the steps involved in this proposition, however, is to give American families a tax refund, $245 billion that will relieve the burden on families, that will allow potentially for the per child tax credit for families, capital gains reduction, marriage penalty relief, American dream savings, new IRA's, senior citizens tax relief, and progrowth economic tax incentives. But a very important aspect of it is that, in order for those tax reductions to be made available, there has to be a certification by the Congressional Budget Office that the growth reductions will yield a dividend to do this, that will yield a dividend to allow for tax reductions.

Supporters of this resolution are delivering on their promise to downsize Government. It started right here in the Congress. It started this year—reduce some of the expenditures of the legislative branch. Foreign aid is being reduced, overall discretionary spending is down by $190 billion, and the Commerce Department phased out.

Supporters will be delivering on their promise to strengthen the Nation's defense. The conference report restores more than $33 billion of President Clinton's $150 billion defense cut over the next 7 years, defense being certainly a priority issue, a priority function of the Federal Government.

Supporters of this budget are delivering on their promise to preserve and protect and strengthen Medicare. We have been over this. Clearly, if nothing is done, Medicare is bankrupt; without a reserve fund in 2 years, bankrupt in 7 years. Nobody wants to see that happen. But you have to make some change. We organize the delivery of services and reduce that level of spending from 10 percent a year to 7 percent a year. Spending will increase on a per capita basis from $4,800 a year now at the end of 7 years to $6,400 a year, which includes growth in the numbers.

Supporters of this resolution are delivering on their promise to improve Medicaid. Bureaucracy is eliminated in favor of allowing States to decide. I can tell you that there is a lot of difference in the kind of delivery program that is necessary in Ten Sleep, WY, than in Philadelphia. There needs to be that kind of flexibility to do it. The Federal Medicaid spending will grow, however, from $89 billion this year to $124 billion. We heard all of this talk about cuts. That is the kind of growth.

Supporters of this resolution will keep their promise to protect Social Security. During the debate on the balanced budget amendment, you will recall that the opposition continued to say they were going to balance the budget on the back of Social Security. That is not true. Social Security is not a part of this balanced budget.

Also, the supporters of this resolution keep their promise in reforming welfare. This conference report contemplates a savings of nearly $100 billion in welfare, again by moving these kinds of decisions to the States.

So, Mr. President, I think it is not only a remarkable day in terms of the fact that for the first time in many years we will agree to balance the budget, but I think maybe more importantly in a republic, in a democracy, it is vital that you and I as voters are given information that is valid, are given information that is true, information that we can depend on.

So I think the supporters of this budget conference report have delivered on these promises, and I am very pleased and very proud to be a supporter of this conference report.

Mr. President, I yield the floor.

Mr. EXON. Mr. President, I yield 15 minutes in combination between three Senators who wish to discuss this very important matter, the Senators from Connecticut, Washington, and Wisconsin. I will allow them to divide the 15 minutes among themselves as they see fit.

Mr. DODD. Mr. President, I thank our colleague from Nebraska. I do not yet see our colleague from Wisconsin. I know he may be on his way over here, so we will do the best we can.

First of all, Mr. President, let me commend the chairman of the Budget Committee, my friend and colleague from New Mexico, Senator DOMENICI, for doing a good job. I have strong disagreements with the conference agreement, but I say to my colleagues that the efforts made by our colleagues on the Republican side here are certainly vastly superior to what our Republican colleagues on the House side were proposing. They have managed to pare back the House proposal. But I am still deeply concerned about the direction, the agenda, and the priorities included in this budget.

So I thank them for the work they have done, but, frankly, it was not successful enough, in my view. It asks seniors, students and working Americans to get out and pull the wagon by themselves—while those best able to do the work sit back comfortably and enjoy the ride.

My concern is that with this budget, no matter how you cut this, no matter how you sort it out, at the end of the day, does the following things: It slashes Medicare substantially and, in my view, and unnecessarily. It goes after education in this country. It slashes college opportunities, a critical issue for working families in this Nation. And it goes after wages of working families as well.

I might point out that the tax cuts go far beyond what I think ought to be part of a budget resolution that has as its underlying goal to achieve a balanced budget, and distribute responsibility and sacrifice fairly in this country.

Mr. President, despite the efforts of our friends on the other side of this Chamber, the fact is this budget still is unfair, no matter how you look at it.

Mr. President, let me just point out, if I can, a couple of things. My colleague from Washington is here, and I am going to ask her to join me in this discussion. The fact is the Medicare savings in this budget—despite all of these charts, no matter how they try to engage in the old shell and pea game of moving the numbers around quickly—are going to have a very significant impact on older Americans—35 million today. They are going to have their out-of-pocket Medicare costs go up roughly $3,400 over the life of this budget proposal. Presently, Americans over the age of 65 are paying about $3,000 in out-of-pocket expenses. In my State, it is higher because it is a higher cost State, but roughly $3,000.

Now, I want my colleagues to keep in mind these numbers. Of the 35 million people who are on Medicaid, about 95 percent of them have incomes of $50,000 or less. 8.8 million—of the 35 million have incomes of $10,000 or less. The median income of a Medicare recipient is roughly $17,000 a year.

Today, you have $3,000 in out-of-pocket expenses, and if this budget is adopted, over the life of this budget, those out-of-pocket expenses will increase by $3,400. Now, if you are making $17,000 a year and on Medicaid, and you have those kinds of out-of-pocket expenses, I do not care how you try to sell this, that is a heavy, heavy burden to bear.

So I ask my colleagues—and I see them both here—from Wisconsin and the State of Washington, I do not know exactly what the numbers are in their States, but I ask them whether or not this is going to also hit their elderly population as strongly as it is going to hit those in Connecticut. I ask my colleague from Washington if she would care to comment on this.

Mrs. MURRAY. I thank my colleague from Connecticut. He has hit exactly why I am so saddened and concerned by this budget proposal that obviously has the numbers and will pass this Congress this week.

He has pointed out to us who is going to be hurt in this budget, and it certainly is middle class, average Americans. And they are going to see it everywhere. It is for people like me before I came to this body, who are responsible for raising their kids and taking care of their parents and earning middle-income salaries, who are going to feel the effects. Their kids will not be able to go to college; they will not be able to afford it. Programs in their schools will be gone. Goals 2000, the one hope we have given to kids that we were going to try to improve their education, parents will see that removed for their children.

The young families who are worried about their aging parents on Medicare not only have to worry about the costs to their parents going up by $3,200, as my colleague has pointed out, but those families that are trying to rush to work and care for their kids and worry about their education are going to receive increased calls from their parents saying: Can you help me out? I cannot get to the doctor today. I just cannot afford it. That burden and that stress is going to come out in every walk of our families' lives.

And who will bear the real brunt of that stress as we go through this will be the children. So much we hear about children on this floor and why they need a balanced budget. Well, the stress that is put on our kids, the loss to them is really going to be felt, and I think it is a sad day.

I think my colleague from Connecticut would agree with me.

Mr. DODD. I ask my colleague from Wisconsin if he would care to comment on this as well.

Mr. FEINGOLD. I thank my colleague. I have had a very nice week here, meeting some of my constituents from Wisconsin, my home State, a lot of kids with farm backgrounds, rural backgrounds, kids from Future Farmers of America and 4-H. These are all groups that have helped produce the backbone of our State throughout our history and it continues today, with the very hard times of farm families.

The interesting thing I noted was that the concern was consistent with regard to the rural kids and the urban kids. Their question was, what is this budget going to do to my opportunity to go to college? What is this going to mean in terms of student loans, in terms of Pell grants?

It is bad enough as it is. Families even before we started looking at the Republican budget were worried sick about paying for college education, even at a State institution such as the University of Wisconsin. When I went to the University of Wisconsin, a 4-year education with all the trimmings, the apartment, everything, the food, the whole thing was only $10,000.

We thought that was quite a bit of money in those days. Now you cannot even get a year at most institutions—maybe just tuition—for that.

So they asked me: What is going to happen in the budget? And I had to tell them that there were three areas that were being completely protected by the Republican budget, a small portion of which would have taken care of all those issues having to do with student loans and a lot of other things that the Senator from Washington has mentioned.

Let me just mention what I like to call three sacred cows, because I come from a State where cows are very important, but these are sacred cows. And the first sacred cow is a $245 billion tax cut that has been sealed in this budget resolution. As the Senator from Connecticut has pointed out, $245 million just dwarfs the amount of money that is needed to restore some of the family issues we are talking about. These cuts are proven to be not necessary in most cases by the very reality that the Republicans feel compelled to deliver a huge tax cut at the same time when this horrible sacrifice is being asked of our young people who are just asking for a decent future and the opportunity to come out of college without being hopefully in debt or maybe not being able to go to college.

Mr. DODD. I put up this chart for the benefit of my colleagues. The Senator talked about the equity of approving this $245 billion tax cut while we are asking seniors and students to sacrifice greatly. Today, if you are 45 years of age and you have a parent who is maybe 65 and you have a child around 10, you are looking at a train wreck in your family as that child reaches the age of 18 and your parent reaches the age of 70 or 75, when their health care problems are going to become more pronounced and your child wants to go get an education. You are looking at an incredible increase in out-of-pocket expenses for tuition and health care.

Then look at who gets the $245 billion tax cut. Now, if you make between zero and $30,000, you can expect a $124 tax cut. That is a great tax cut you get. If you go to the other end here, and you make in excess of $350,000, you get a $20,000 tax cut. Now, I ask my colleagues from Washington and Wisconsin, would they explain the fairness of this to me? Why would we give a tax cut, 51 percent of which goes to the top 10 percent of income earners in this country? Why are you going after Medicare and education? Can anyone explain to me what the logic of that is? Where is the balance in that?

Mr. FEINGOLD. Mr. President, I say to my friend from Connecticut, there is no fairness in it. And the only way they are getting away with it is if the American people do not find out what is being done here. We found out what we have to do on the floor of the Senate. We have to say it over and over again on the floor of the Senate. That is what we are going to do. I have done that since last December, when I found out what the plans were for the crown jewel of the Republican contract: To deliver this tax cut even though the American people are not falling for it and even though it is totally unfair.

Mr. DODD. Are those the Senator's words, "the crown jewel"?

Mr. FEINGOLD. No, Mr. President, I believe they are the words of the Speaker of the other House. That is the most important provision—not balancing the budget, not regulatory reform, not term limits, not school prayer. The most important thing, the crown jewel, is delivering a tax cut for upper-income people. All the American people should be aware of that.

Mrs. MURRAY. Mr. President, if the Senator will yield, can the Senator from Connecticut tell us how much money you will get back if you earn, say, $30,000, $40,000, $50,000, under this tax cut?

Mr. DODD. I said from zero to $30,000, you get $124. If you make between $30,000 and $75,000, you get $760. You divide that by 10 or 12, you get some idea. You are talking about $70, $80 a month as opposed to those—look at the $200,000 category; $11,000 back. I mean, I am dying for someone to explain what is the justification of that kind of imbalance—why you go after Medicare, go after education, and go after the earned-income tax credit—the tax credit we offered to lower-income working people in this country.

Mrs. MURRAY. Mr. President, I say to my colleague, what really is unfair is those people who are only going to get $760 back are the ones who are going to see all of the impacts to their family. Their kids will not be able to go to college. Their out-of-pocket expenses for health care are going to go up dramatically. They are going to see real-life costs to them. They are not going to see $760. They will have to pay more for doctors visits and more for their kid's education. They are going to see more costs to them. And then they are going to turn around to their neighbors, wealthier neighbors, and see them benefit dramatically from this budget proposal.

Mr. DODD. When the Senator mentions that, I presume $30,000 to $75,000 is thought of as middle-income in this country.

Mrs. MURRAY. Absolutely.

Mr. DODD. They do not qualify for Pell grants. If you are very poor, you get some assistance in that education. If you are very affluent and get that kind of a tax break, you do not need it. God help you if you fall into the middle, where you foot the bill on your own. Here you get about a $75-a-month tax break, while you are watching $3,000 increases for one child over the life of this budget, and God help you if you have a parent you are helping to take care of. That is an additional $3,400 over the life of the budget coming out of your pocket, I presume, given the category of these people. There is $760 for you in a tax break, while those at the upper-income levels—God bless them, I do not fault them. The people of my State who fall into this upper-income category are scratching their heads. They have said to me over and over again: Why are we getting a tax cut? You know, with all due respect, we are doing well. If deficit reduction is the name of the game, why did you not scrap this tax cut idea and get about the business of deficit reduction and minimize the hardship to working families?

I never had one wealthy person yet say they are dying for that tax cut.

Mr. FEINGOLD. This is the same experience I have had in Wisconsin. I like to think the people in Wisconsin have the best common sense of any State in the 50 States. It sounds as if this common sense is everywhere. It does not matter if I go to the Rotary Club or a United Farm Workers hall or to a farm or the city, everybody is saying the same thing: We do not need this tax cut. Business people, the leading CEO's of my State, are against the tax cut. These are the people who have been the leading advocates many times for tax cuts. But they have the realization, because they have to meet the bottom line in their business, that it is not the right time from any point of view, economic or from the point of view of fairness, to do this.

The analogy I like to use is this is kind of like a family that realized it cannot make the house payment. Things are tight. They sit down together and they figure out what they have to do to balance their home budget. They get it done, and they are happy. This is like going out an hour later and buying $10,000 worth of new furniture. That is, in effect, what this is. That is why these CEO's agree with our blue-collar people. This does not make any sense.

The PRESIDING OFFICER. The time of the Senator from Wisconsin has expired.

Mr. DODD. I would ask that we have 1 additional minute to give the Senator from Wisconsin and the Senator from Washington a chance to respond.

Mr. EXON. I compliment my three colleagues for the excellent presentation. I yield them an additional 5 minutes, and ask them to divide that up. I am only doing this because we are running out of time.

Mr. DODD. I appreciate that. My colleague from Washington—I said about $75 or $80 a month. I notice she has done the math. The Senator from Washington is probably a lot better as a student of math. What does this actually work out to be for the people in that middle-income category?

Mrs. MURRAY. Someone earning between $30,000 and $75,000 will get back $14.62 a week. I have to tell my colleagues that I have had a number of families say to me: I know I have to pay my taxes, but I want something in return. And what I want in return is to know that my kids are going to get a good education, to know that my parents are going to be taken care of when they are sick and elderly and dependent on me. I want a quality of life. For $14.62 back, I will give that back to the Government.

But we are not giving it back to them. We are taking everything away—their education, their care for their parents, and their security.

Mr. DODD. Mr. President, I ask my colleagues as well, because this is not a debate about whether or not we ought to reduce the deficit or whether or not we ought to balance the budget, but what path we should follow and what priorities we should set to represent best the diverse population of our country. We are all committed to achieving a balanced budget. But the question is, how can we achieve this goal over a similar period of time without imposing this kind of burden on the very people who fight the wars and pay the taxes, and raise their families?

Mr. FEINGOLD. Mr. President, if the Senator will yield, I believe that the budget could be balanced earlier than the Republicans say they want to balance it if we do not do this tax cut. I mentioned two other sacred cows. If we do something about the exponential growth in loopholes, tax loopholes, a 24-percent growth. There are hundreds of billions of dollars available there if we simply slow the growth—the same language the Republicans use when they talk about slowing the growth in Medicare and Medicaid. What about slowing the growth in corporate loopholes?

Third, the Republican budget not only does not touch defense, it increases the Defense Department. So that is the question of priorities that the Senator from Connecticut is pointing out, and the Senator from Washington. We have here protecting defense, protecting loopholes, and protecting tax cuts as the three sacred crows that come ahead of kids and seniors and families. And that is what this budget is all about.

Mr. DODD. My colleague from Washington.

Mrs. MURRAY. Mr. President, as I stated many times, we are all in this body working to get to a balanced budget. I spent 2 years on the Budget Committee doing that. It was difficult, but we were moving toward it.

I say to my colleagues, $245 billion in tax cuts, if we took that back, would go a long ways in helping kids get education and caring for our senior citizens.

Mr. DODD. I appreciate my colleagues' comments on all of those points. Again, to sort of reiterate where we are in all of this, Mr. President, we are not making up these numbers. These are the assumptions we are told will be the case.

Seniors' Medicare costs up $3,400 over the life of this budget. That is in addition to what they are presently paying. And they are not in the upper-income categories. The median income is $17,000.

We are going to watch elementary and secondary education cuts hit 65 million children. We are looking at veterans who are going to get serious cuts. My colleague, the ranking member of the Budget Committee, has talked eloquently about what happens to veterans here.

We are going to watch student loans go up $3,000 a year over the life of this budget and, again, that may not seem like much to the people with sharp pencils in this town, but it is a great deal to the millions of middle-income families that struggle every year to make ends meet. Like fingernails on a blackboard, they hear about a $245 billion tax cut, the bulk of which goes to people who, frankly, do not have these kinds of problems, and will be the first to tell you so. These families do not have a Medicare problem. They do not have a student loan problem. They do not have a problem trying to hold down a job. And they are the ones, if they were in this Chamber, who would tell you, "Senators, scrap your tax cut; get about deficit reduction and make this a shared burden."

Mr. President, we urge this budget be rethought. The President has put a proposal on the table. He has asked the distinguished majority leader, and others, to consider his offer. Frankly, there has been nothing but silence in response to it, after all the clamoring about how the President suggested we get to balance. He gives a response, and now there is silence on the other side.

We need to come together on these issues and find a commonsense approach that would minimize the burden—not eliminate it. We all know that burdens have to be borne—but they can be minimized if we share the pain equally among those across the spectrum of this country who make this a great and vibrant Nation. Average, working families must wonder sincerely why it is, once again, they are being asked to bear the heaviest part of this burden; why we reward, we absolutely reward, those who are in the least need of relief.

So we urge the rejection of this budget, and we hope that there will be some rethinking of spending priorities as the appropriations and reconciliation process proceeds.

I thank both of my colleagues for their comments.

Mr. FEINGOLD. Mr. President, I want to offer some comments on the conference report of the concurrent budget resolution.

After several months, the blueprint for the 1996 fiscal year budget is before us.

Though the specifics of that budget will take a good portion of the rest of the summer to be revealed, the budget outline before the body does give us a good idea of what the priorities of the Republican leadership are for our country.

Mr. President, I share the goal of a balanced Federal budget.

That has been my highest priority since first coming to the Senate.

But other priorities as provided in this budget are deeply flawed, and even the broadly shared goal of a balanced Federal budget is very much at risk because of the fundamental defects of the resolution.

Others have made eloquent statements about who will be shouldering the burdens imposed by this budget resolution, and the evidence is compelling that working families will bear the brunt of the cuts proposed by this budget.

But perhaps as revealing of this budget's priorities as identifying where the cuts fall is to examine where they do not.

While this budget cuts almost every area of the Federal budget, as it should if we are to achieve a balanced budget, three items—three sacred cows—are off the cutting table, exempted from the shared pain that is necessary to balance the budget.

The first is defense spending. Far from cutting an already bloated defense budget, this resolution actually provides a $58 billion increase.

This lavish level of spending comes despite the end of the cold war, and despite the massive reductions that are being made to the programs that provide health care to the elderly, poor, and disabled—Medicare and Medicaid.

Second, this budget fails to adequately address what may be the fastest growing entitlement program in this resolution—the tax loopholes that often benefit the wealthiest individuals and corporations in this country.

While this budget squeezes savings out of programs for veterans, farmers, students, and the disabled, it seems that the explosive growth in spending done through the Tax Code for the rich and powerful—already $400 billion annually—is to remain virtually unchecked.

Mr. President, the third area—the third sacred cow—is the $245 billion tax cut included in the budget.

With annual budget deficits of $200 billion staring us in the face, the tax cut can only be described as reckless and fiscally irresponsible.

The political calculus that produced this monstrosity could only have taken place in the murkier regions inside the Washington beltway.

Certainly my constituents in Wisconsin do not buy it, and this skepticism is shared across the Nation.

Poll after poll show that the American people strongly feel that reducing the deficit is more important than a tax cut.

The authors of the tax cut seem to have a poor opinion of the American people.

They reason that the Nation needs a bribe in order to accept the severe cuts to Medicare and other provisions of the Republican agenda.

The American people want a budget that cuts fairly, that shares the pain fairly.

They rightfully resent being treated like children who are promised ice cream if they eat their spinach.

Mr. President, more than any other feature of this budget, the $245 billion tax cut jeopardizes our ability to reach a balanced Federal budget.

This Nation has been asked to make great sacrifices in order that we might finally get our fiscal house in order.

And the American people are ready to make those sacrifices.

Mr. President, the American people are willing to accept cuts in even the most popular programs because they recognize the need for shared sacrifice in order to balance the Federal budget.

But when they see a budget resolution that includes a $245 billion tax cut, they will rightly ask if they are being asked to sacrifice to prevent our enormous budget deficits from burdening their children and grandchildren, or to provide politically motivated tax cuts—tax cuts that will almost certainly be distributed disproportionately to the richest in our society.

The great tragedy of this resolution is that it may very well squander the greatest asset we have in the fight to eliminate the deficit, namely, the willingness of the American people to share in the sacrifices needed to balance the budget.

Sometimes I am amazed at the strength of character of our Nation.

After the social upheaval of the 1960's, after the assault made on our Constitution during the Watergate era, after the fiscal self-indulgence of the 1980's, after the gridlock of the early 1990's, and after the failed promise to finally achieve comprehensive health care for everyone that could never be taken away, the American people are still willing to endure significant burdens to achieve a balanced budget.

After all that has happened during the last 30 years to undermine their trust, they are still willing to follow leaders who ask the entire community for sacrifice.

The tax cut and this budget betray that trust.

It is a return to the politics of division, selfishness, and greed—the politics of the past.

I very much hope to support the individual appropriations and reconciliation bills that will come to the floor. It is through those bills that the real work of deficit reduction is done, and I want to support efforts that move us toward the goal of a balanced budget.

I also recognize that the budget resolution before us is only a broad outline of how we will proceed, that nothing binds the committees to any specific action.

To that end, I especially look forward to working with many of my friends on the other side of the aisle to stop this irresponsible tax cut.

But I must also say that we have missed a great opportunity in this budget resolution to provide the American people with a package of spending cuts that is fair, and that achieves a balanced Federal budget, even before the year 2002 at which the authors of this budget are aiming.

The flaws in this resolution are real, and they may well be insurmountable.

The budget sacrifices are not distributed fairly, and the budget windfalls are given to a privileged few.

The inequities are obvious and will be keenly felt.

Mr. President, it need not have been that way.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. LOTT. Mr. President, I yield myself 15 minutes.

Mr. EXON. Mr. President, will the Senator yield for 30 seconds on my time?

Mr. LOTT. I will be glad to yield for 30 seconds on his time.

Mr. EXON. Mr. President, I would like to compliment my colleagues, Senator DODD from Connecticut, Senator FEINGOLD from Wisconsin, and Senator MURRAY from Washington, for an excellent presentation. I hope that Senators heard their presentation so that they will cast their votes the way I would like to see them cast their votes sometime this afternoon. I thank my friend.

Mr. LOTT. Mr. President, the profligate spending party of the past 40 years is over. What we are talking about today is fiscal responsibility to assure our children's future. This will be a debate today on a critical piece of legislation, the blueprint which will lead this Nation to a balanced budget by the year 2002.

I never really thought I would see the day that I would have the opportunity to vote for such a balanced budget, but here it is today. And that is what really is at stake here. I urge my colleagues in the Senate to take advantage of this unprecedented agreement between the House and the Senate and fulfill this promise to the American people. Democrats and Republicans should vote for this, and I ask you to think about it: Do you want to be on record against the first opportunity in more than a generation to put the Federal Government on a path toward fiscal responsibility and a balanced budget? I hope the answer is that you would want to be for that effort.

Before I get into responding to some of the things that have just been said and making some other comments, I must, once again, commend the distinguished chairman of the Senate Budget Committee, Senator DOMENICI. He showed, once again, his wise New Mexico wisdom. He was patient. He was diligent. He had to make some changes, some concessions he did not always support, but he always did it in a very responsible and honest way. We would not be here today with this resolution, this historic resolution, without the leadership of Senator DOMENICI, and I commend him for it.

Congressman KASICH, the chairman of the Budget Committee in the House, has been a dynamic force, an energetic force. The two of them together have moved this process forward. They have shown real leadership. I think their names will go down in history as the great leaders that turned this country around and headed it toward fiscal responsibility.

It was just stated a moment ago that there had been criticism of the President's original budget. Yes, there had been, because it allowed for $200 billion deficits or more as far as the eye could see, and there were a number of other problems with it.

But then when his second plan came in, it was suggested that there has been silence. As a matter of fact, there has not been silence. Many Republicans pointed out, rightfully so, that this was his second plan of the year; that his numbers were not based on CBO analyses, as he had said in the State of the Union Address a year ago that he would always do, although I understand now he has come around to saying,"Yes; we will go with CBO"; and also the fact of the matter is his 10-year plan, which goes out 3 years farther than this resolution, still would not get us to a balanced budget. We would still have deficits after 10 years of an estimated $200 billion or more.

But, the noise you heard on this budget, as a matter of fact, did not really come from this side of the aisle; it came from the other side. There was screaming about the fact that the President validated the fact that we should be working together for a balanced budget, No. 1. He validated the fact that we can get a balanced budget while giving the people some tax relief, some needed and justified tax relief, and he also validated the fact that we have to do something to preserve and protect Medicare.

That is what the President did, and we commended him for validating those three very important points. But the screaming has been coming from the same people who are now saying, "Oh, we don't want this particular budget resolution."

It is very simple: Do you want to get to a balanced budget or not? Do you want fiscal responsibility or not? If you do, you have to make some tough choices. Surely, we could all go down the list and say, "Don't cut anything that affects my State. Don't cut anything that would affect me or my mother or maybe even my children." You could say, "Oh, we can't make any changes in education."

And what about veterans? As a matter of fact, the number that is in this budget resolution is the same number requested by the President of the United States. Same number.

They do not want to make improvements and corrections in the solvency problem for Medicare. They do not want to touch Medicaid. I have a couple of differences with this resolution—one is I would like to maybe soften the blow to agriculture. But I am voting for it. This difference is not stopping me. Opponents of this resolution, though, are trying to find little disagreements to excuse not supporting the resolution.

The bottom line is, they do not want to do anything about controlling spending. They want to continue the same old stuff that we have been dealing with for years in Washington, and that is spending more and more and more of the taxpayers' dollars.

What I heard in the discussion a moment ago is, "Oh, what we need to be doing is close the tax loopholes." In Washington, when the people are allowed to keep their own money, it is called a tax expenditure, and when you want to raise taxes you say, "Let's close tax loopholes." Do not forget that that is what closing a tax loophole is, that is raising somebody's taxes. I would like to ask you, which tax would you propose to increase? Medical deductions? No; you would not want that. Would you want to eliminate the home mortgage interest deduction? "No, no, we didn't mean that." Are you talking about research and development?

There is a long list of good and worthy opportunities for the people to keep their own hard-earned tax dollars that some people call tax loopholes.

My tax cut would maybe be somebody else's tax loophole, and vice versa. We already tried the tax increase side. That was done 2 years ago, over my objections and a lot of others. We have already had a whopping tax increase. Now it is time we face the music and deal responsibly with controlling the rate of growth in spending, and that is what this resolution does.

It has been said on the other side this morning that this balanced budget plan slashes Medicare. The President's own Medicare board of trustees came up here and said if we do not do something, there is going to be a solvency problem, including his own Secretary of HHS. I think three of the trustees were from the President's own Cabinet.

What we are talking about here is preserving and improving and protecting Medicare. We are talking about controlling the rate of growth. We are concerned about the shaky state of Medicare. So what we would do over the period of years is have some reforms, give our senior citizens some greater opportunities for choices on their own, while allowing Medicare to grow up to a gross figure of $345 billion over the next 7 years.

Where I come from, when it grows over 7 years by $345 billion, that is not a cut. But still, the numbers are so big. Let us put it in personal terms. What does it mean for an individual? Our resolution would allow each Medicare beneficiary to have their benefits for Medicare grow from $4,816 in 1995 to $6,334 in the year 2002. That is a 40 percent increase over 7 years.

So we are going to make some changes in Medicare and Medicaid. We are going to try to control the rate of growth in Medicaid. We are going to try to improve those programs. But it is blatantly unfair to say that we are going to slash Medicare. It is not true.

Now, about the statement that was made here a few moments ago that our kids will not be able to go to college because of this balanced-budget plan. The changes in the loan program do not even apply to undergraduate students. It would only be applicable, under the assumptions in this resolution, to graduate, law, and medical students.

Kids will be able to go to college. I worked for 2 years for a university in placement and financial aid. I worked with low-income and poor people, because that is all we have in my State of Mississippi. We are going to have grants available to these students, two or three different kinds of loan programs, such as the direct loan, NDSL, as well as the GSL loan program. There will still be funds for work study and for scholarships. We want to encourage this.

I ask unanimous consent to have printed in the RECORD some information on college costs, how they would be impacted by this resolution along with some charts.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COLLEGE COSTS REDUCED UNDER BALANCED BUDGET RESOLUTION

Here are the facts! Under the Conference agreement, students will receive $26.6 billion in loans in 1996. The level of available loans will continue to rise to $33 billion in 2000. Over the next five years $151.4 billion in student loans will be available.

The Conference agreement will not limit access to student loans. According to CBO, availability of loans for students, at much lower costs than what they could receive in the consumer market, will not be limited in any way under this agreement.

In 1995, the Federal Government will pay in-school interest costs for loans totaling close to $15 billion. Approximately 87 percent of these loans go to undergraduates. Under this budget plan, the Federal Government will continue to pay these interest costs—no changes.

Under this agreement, there will be no changes from current law regarding caps on student loan interest rates, loan limits, federal guarantee of loans, repayment options, or conditions for deferral of repayment.

For the typical graduate, professional—medical and law students who may have increased costs under this plan, none will see increases greater than $1 dollar a month on average, in their repayment.

Less than 10 percent of the reforms will affect undergraduates while they are in school. For undergraduates, their repayment costs may increase $1 per month, on average, as well.

UNDERGRADUATE STUDENT BORROWS A TOTAL OF $10,000 OVER 4 YEARS IN SUBSIDIZED STUDENT LOANS AND REPAYS ACCORDING TO A STANDARD 10-YEAR PLAN

	Current law	Senate balanced budget resolution	Difference
Original principal amount borrowed	$10,000	$10,000	0
Amount used to pay fees	400	450	+$100
Amount, available to pay education costs over 10 yrs	9,600	9,500	−100
Original principal amount at repayment	10,000	10,000	0
Accrued interest during 6-month grace period	0	330	+330
Total principal amount at repayment	10,000	10,330	+330
Repayment at standard 10-year monthly payment	123	124	+1
Cummulative repayment	14,702	14,844	+142

MEDICAL STUDENT BORROWS A TOTAL OF $30,000 OVER 4 YEARS IN SUBSIDIZED STUDENT LOANS AND REPAYS ACCORDING TO A STANDARD 10-YEAR PLAN OR A 20-YEAR GRADUATED PLAN

	Current law	Senate balanced budget resolution	Difference
Original principal amount borrowed	$30,000	$30,000	0
Total principal amount at repayment	30,000	35,033	+$85,033
Repayment at standard 10-year monthly payment	368	399	+31
Cumulative repayment	44,160	47,824	+3,444
Repayment at 20 year, graduated plan monthly payment	[1] 267	[1] 268	+1
Cumulative repayment	63,829	64,395	+566

[1] Average payment.

Mr. LOTT. There are a couple of points I should make here. Again, one, it would not apply to undergraduate college students. Second, for the typical graduate student, who may have increased costs under this plan, none will increase greater than $1 a month, on average, in their repayment, which does not even begin until they graduate. Now, most law students and every medical student, when they graduate, could afford to pay back their loans, which they should do, with a little more responsibility with the in-school interest.

Now, if I had my choice, would I have included that? No. But everybody has to be able to ante up and kick in a little bit here. You have to do your part. You cannot say, do it in Nebraska, or do it in New York, or do it somewhere else, do not affect me. You have to make the tough choices. But you get something in return. When you talk about college students and being able to help your children go to school, what is the best thing you can do? Pass this resolution, show fiscal responsibility, give some tax relief, and do you know what will happen? The Fed will lower interest rates. The quickest way to help senior citizens living on a fixed income, or parents that want kids to go to college, is to be able to get the money they need at a lower, affordable interest rate. We are talking about real help in the future by controlling spending and by taking actions that will lead to responsibility in the way our programs are run, and will also lead to lower interest rates.

I think this is a real vision for the future. We are not talking about draconian cuts. We will still have $12 trillion spent over the next 7 years. We are cutting $1 trillion. When I try to explain to the people in Pascagoula, MS, or Hazelhurst, MS, $1 trillion, what is it? How much is it? That is what happens to us around here. We start talking billions and trillions, and it is not even real it is so big. We are talking about controlling that rate of growth. We will spend $894 billion less by controlling wasteful Government spending.

Let us talk about this tax cut item a little bit. First of all, sometimes I wonder who among us speaks for the working, tax paying people in this country—in my State, the shipyard worker, International Paper worker, the farmer, the small businessman and women. Everybody says, "We do not need to give tax relief." When I was growing up, we did not even have any rich people in my home county. One guy had a Cadillac. I am the son of a blue-collar shipyard working, pipe fitting union member. I am worried about that guy, and my mother, by the way. I will not go down the list here. Everybody says, "We do not want tax cuts."

Which one of these tax cuts do you not want that is assumed in this bill? How about a spousal IRA? How about letting the working mother in the home be able to have a little opportunity for an individual retirement account when she gets old, or maybe when her husband is deceased? Is anybody against that? No. You will not rise against that. And then how about getting rid of the marriage penalty. Can anybody explain to me why, when you get married, a couple pays more taxes, even though they make the same income? I have been hearing for 10 years in Congress that we are going to get rid of the marriage penalty. It is still in there. Does anybody want to stand up and speak against that fairness change in the Tax Code?

How about a little help for families with children? The $500 per child tax credit. Let the parents choose how they should spend money on clothes, food, or education. How come our maternalistic government in Washington can decide what should be best for you in education, or all these other decisions involving your children. How about letting the parents make that choice? That is one way we can help with education. Let the parents keep their own money for a change, for Heaven's sake.

And there is one other way that we can reduce this deficit. It is called growth, incentives that create jobs, and opportunities. Again, in my State, you cut the capital gains tax rate on timber and watch what happens. Yes, some of the big landowners get some benefit, but you know who will get the first benefit? That guy driving a raggedy old pulpwood truck that has slick tires on it and probably not even a tag because he gets to get the timber out of the woods. It will turn things over in the county. People will buy and sell. Again, it will have a positive impact on interest rates, and it will create the jobs we need.

How about senior citizen relief? All the worrying about trying to improve Medicare—how about if we let people that are 66 years of age that want to keep working be able to do it without a tax penalty, or without a penalty by taking away Social Security benefits?

So go down the list and come over here and tell me you do not like these tax cuts that are fair and will provide growth and development and activity in our economy.

So I think the number we have in terms of tax relief is not as much as I would like to have, but it is enough that we can go up to that $245 billion and provide this relief I have just talked about.

I would like to have more in this budget resolution for defense. I am on the Armed Services Committee. I serve with the distinguished Senator from Nebraska. I do not really like the defense number. I want more. But let me emphasize this. In this budget resolution, over the next 7 years, defense spending continues to go down, and over 7 years will go down $19 billion. But defense also made its contribution. I will conclude, since my time is expiring.

We are talking about balancing the books. This resolution will do it. Let us pass it today.

I yield the floor.

Mr. EXON. Mr. President, I yield 8 minutes of our time to my fine colleague from the State of Illinois.

Ms. MOSELEY-BRAUN. I rise in opposition to this budget resolution.

Mr. President, the conference report on House Concurrent Resolution 67, the budget resolution, proposes close to $1 trillion in deficit reduction over the next 7 years. Substantial deficit reduction is the right objective, in part, because of another large number, $4.8 trillion in national debt.

The Federal Government cannot continue on its current path. Unless we face our budget problems, by 2030 the Federal Government will consume over 37 percent of our total gross domestic product. Unless we change, by that year, budget deficits would amount to 18 percent of our overall economy. And unless we change, by that year, more than $1 out of every $4 the Federal Government spends will go to paying interest on the national debt.

We must face our budget problems, and we must act now. That is the only way to meet our obligation to our children and to the future. We have no right to leave future generations of Americans a legacy of debt. We have no right to send them the bill for what we have already consumed. Most of all, we have no right to leave as our legacy a future of impaired economic growth and diminished opportunities for individual Americans and for our Nation as a whole. I supported the balanced budget amendment for this reason.

There is now bipartisan agreement in the Congress on the need for substantial deficit reduction. There is no dispute between the Congress and the President on the importance of that objective. Despite the consensus on making deficit reduction our top priority objective, however, there is not universal, bipartisan, support for this budget resolution.

The principal reason for that, of course, is the priorities this budget sets are the wrong ones. This resolution trumpets deficit reduction, but, in the details, goes on to hamstring that goal by providing for $245 billion in tax cuts over the next 7 years. A tax cut now, however, is just fiscal foolishness. Tax cuts can not reduce deficits. Tax cuts can not stop the explosion of our national debt that has already driven it from the $1 trillion level to $4.8 trillion in just the last 15 years. And tax cuts do nothing to reverse the fiscal trends that are driving us towards fiscal bankruptcy and eventual economic collapse.

Anybody who is paying attention to our budget situation knows that a tax cut now works against achieving lasting, meaningful deficit reduction. As the Chicago Tribune put it in a recent editorial, "this is filling the hole by digging it deeper."

The tax cut, however, is not the only reason to question this resolution's commitment to real deficit reduction. It sets priorities that do real harm to our national interest.

How we bring back fiscal discipline makes a real difference. If we care about our children, if we care about our future, if we care about our Nation and ensuring an opportunity for every American to achieve the American Dream, we cannot abandon our commitment to education, to access to health care, and to creating economic opportunity.

Deficit reduction that does not reflect these priorities is not real deficit reduction at all. It amounts to accounting gamesmanship. It is hiding the deficit by, in effect, moving it off budget. But the deficit is still there. It may come off the books of the Federal Government, but it has simply been placed on the backs of the American people.

The budget resolution's education proposals illustrate how misplaced its priorities are. Under this resolution:

Four million college students from working American families will have their college costs increased by over $3,000 because they will now have to pay interest on their loans even while they are in school; another one million college students could lose their college aid or have it drastically reduced because of cuts in the Pell Grant Program; 550,000 preschoolers could be dropped from the Head Start Program; and 3,000 American schools will lose funding they need to prepare our students to meet and beat the ever-increasing international competition we are facing.

Think about the impact these cuts will have on American families. Do you think they would prefer a tax cut, or that they would prefer that their children have the opportunity to get the education they need? Do you think they would prefer spending scarce public resources on more B–2 bombers that have no real mission and that the Defense Department has said are not needed, or do you think they might prefer to avoid imposing $3,000 in additional college loan expense on each of their children who attend college? Do you think they will agree that real deficit reduction has been achieved and that we have met our obligation to the future if their children are denied educational opportunity, and are less able to achieve the American Dream?

The answer to all of these questions is obvious. Education, like the rationale for deficit reduction, is all about the future. American families know that education is the key to a better life. They know a college graduate earns almost twice as much annually as a high school graduate, and that students who earn a professional degree have an average income that is six times higher than students who do not finish high school. And those higher incomes do not just benefit the students; they benefit the entire country. Because the fact is that we are all linked together. A better educated work force works smarter and produces more. The economy is therefore more productive, and generates higher economic growth. And the result of that is that the United States competes more effectively in world markets.

Education is clearly an essential investment in our country's future, as well as the future of our children. Laura Tyson, in her hearing before the Banking Committee when she was nominated to be chairman of the Council of Economic Advisors, said that a country's only real, enduring assets are its people. Failing to invest in our people by cutting our investment in education is neither in our national interest nor in the interest of Americans individually. It is simply wrong, and it has no place in this budget proposal.

Medicare and Medicaid are another illustration of the misplaced priorities reflected in this resolution. The proponents of this budget make much of the fact that, even with the cuts of $270 billion in Medicare, and $182 billion in Medicaid, Medicare spending will grow from $178 billion this year to $274 billion in 2002, and Medicaid spending will grow from $90 billion this year to over $124 billion in the year 2002. They argue that they are therefore not cutting Medicare or Medicaid at all; rather, they are simply reducing the growth rate of these two programs.

However, that argument is more than a little disingenuous. There is no question that senior citizens and many other Americans will have to spend substantially more out of their own pockets for health care—or go without care—because of this budget resolution. If the cuts are evenly distributed between health care providers and beneficiaries, American seniors would face an additional $860 in out-of-pocket health care costs in the year 2002, and the typical senior citizen would have to pay $3,345 more over the next 7 years. That certainly sounds like a cut to me.

Medicaid would be turned into a block grant, and turned over to the States. The growth rate in Medicaid spending would be cut from its current 10.5-percent level to around 4 percent. And what that means is that States would likely have to reduce the number of people helped by Medicaid by an average of 7.6 percent. That, too is a real cut.

The truth is that the reductions in Medicare and Medicaid are clearly cuts when you look at them from the viewpoint of individual Americans, instead of a Government balance sheet. Again, deficits are not really eliminated; they are simply moved from the Federal balance sheet to the balance sheet of American families.

Medicare and Medicaid must be reformed, but this budget does not provide that reform. This budget does nothing to cut health care inflation, which would help Americans and save the Federal Government money. It does nothing to preserve access to health care, or to preserve the quality of care. And it does nothing to ensure that people are able to continue choosing their own doctor. What it does do is to give the American people just what the proponents of this resolution said that they opposed last year when they filibustered comprehensive health care reform on the floor—less health care at higher cost, lower quality care and less choice.

Americans know that reducing budget deficits has to affect them. They don't expect it to be cost-free. They do, however, expect it to be fair; they do expect every American to do their part.

Achieving real deficit reduction must be based on shared sacrifice, but that's not what this budget proposes. Instead, Americans earning over $350,000 annually—less than 1 percent of our population—would receive a $20,000 tax break, while Americans earning less than $28,000 would see a tax increase. Instead of a budget that brings us together, Americans see a budget that divides them from one another, a budget that designates some Americans as "winners" deserving of tax breaks, and others as "losers" who will see their access to health care and nursing home care reduced, their children's access to education reduced, and their out-of-pocket costs increased. Instead of a budget designed to help every American achieve the American Dream—a budget that would help create opportunities for every American to live better than their parents did—this budget's design represents a return to the shortsighted approach of trickle-down economics. That approach failed in the 1980's, and it will fail now.

Instead of helping to create a better life for every American, it will exacerbate the increases in income disparities that have arisen since the 1980's, and that makes the economic future for almost all of us more precarious. We can do better—and we must.

I am strongly for deficit reduction, Mr. President. I cosponsored and voted for the balanced budget constitutional amendment because I know we must reduce budget deficits. I served on the Bipartisan Commission on Entitlement and Tax Reform because I know that the entitlement area—Social Security, Medicare, Medicaid, and other retirement programs—is where the money is, and that there is no way to achieve significant deficit reduction if this area is off limits. Deficit reduction, however, is not just about numbers. If it is to be more than just a shell game, we have to be mindful of our obligation to the future, and to reduce deficits in a way that does not undermine our ability to make the essential investments the future demands.

Moreover, budgets are about people. If we are to meet our obligation to the American people, including Americans who need our help the most, we have to reduce Federal deficits in a way that addresses their needs, and that meets their priorities.

Unfortunately, this budget does not meet those tests. It is not a budget for our future, nor for our present. It does not put the interests of the American people first. It does not invest in the future. It fails the first test of any budget because it does not recognize that we are all in this together, and that we are all better off if every American has the opportunity to participate in our economy and in our society to the fullest extent of their abilities.

We cannot succeed as a country by failing our people. Our future economic well-being is inextricably linked to the kind of society we create. We are all diminished, and our future as a country is diminished, if we fail to make essential investments in all of our people. On the other hand, our future will be brighter if we recognize our obligation to one another, and recognize that our future success ultimately depends on people—on human capital. As we work to reduce budget deficits, therefore, we have to do so in a way that keeps the American people's concerns paramount, and in a way that does not stint on the essential investments in human capital on which our future as a people ultimately depends.

Making these essential investments does not mean sacrificing deficit reduction as an objective. Both objectives must be national priorities, and both can be achieved. We can reduce Federal deficits, while making the necessary investments in our future if we set the right priorities. What is important is to recognize that the fundamental purpose of both is the same—achieving a brighter future for our country, and ensuring that every American has the opportunity to live the American Dream. That fundamental purpose cannot be achieved unless we reduce budget deficits, but it also cannot be achieved unless our society—our people—have the tools they need to meet the challenges the future holds.

But this budget does not help achieve the kind of future prosperity we all want. It does not help enhance the ability of our children to have a better life than their parents did. Our parents ensured we had the chance to do better than they did. We owe our children—and their children—no less.

This budget is supposed to be designed to save money, but it costs us. It costs us opportunity, and competitiveness, and economic growth, and security. It diminishes our future, and endangers our community. I cannot support it. I urge the Senate to reject this conference report.

Mr. EXON. Mr. President, I thank my friend and colleague from Illinois for the excellent statement.

Mrs. HUTCHISON. Mr. President, I yield myself 8 minutes from the majority's time.

Mr. President, this is a watershed day for America. Finally we are at the crossroads. The question is simple: Do we put America on course for a healthy, prosperous future? Or do we once again, as we have done year after year after year in this Congress, mortgage our future, our children's future, and our country's future with more and more debt?

America has prospered because our parents and grandparents saved their money and invested it in businesses and farms to create jobs and to give their children a better life. We can pass the American dream on to our children by saving for tomorrow—not by spending and borrowing for today.

America is finally going to have the promises kept. We promised in 1994 that we would be different, and we are keeping our promise.

The old Congress never proposed a balanced budget. It was always tax, borrow, spend. If that did not work, they taxed some more.

The taxers and spenders think that if they can just squeeze one more dollar out of the taxpayers of this country, that Americans will somehow be better off. It is time for Congress to look to the future for our children and grandchildren.

The deficit will be over $200 billion a year again, unless we change. Under President Clinton's first budget, the debt would grow to $23,000 for every man, woman, and child in America by the year 2002. The Congressional Budget Office said the President's second budget was a little better, but not much, and it continued deficit spending.

We have a chance for change now, with a budget that does some very important things. It saves Medicare from bankruptcy. It keeps a safety net with more money for Medicaid, school lunches, and food stamps.

This budget shrinks big Government. We start that very tough process by cutting overhead and bureaucracy, by cutting Congress' budget, and by freezing Congress' pay. The budget terminates outdated programs. It protects the taxpayers from the excesses of past Congresses and the President.

This plan does not cut overall spending. It does not cut overall spending. Spending rises at the rate of inflation. That is what we try to do in our homes. That is what we try to do in our businesses. If we are lucky enough to get pay raises or more sales, we often spend the increase on inflation just to stay even. And that is what we must do in the Federal Government.

Then, after we have done the first work of cutting the budget, we are going to give the profits to the American people, the taxpayers. We are going to give the tax cuts to the American family, for homemakers to have

IRA's, because their work is every bit as important as anyone else's work in this country. It is about time that they were recognized for their efforts with their own opportunity to save for retirement security.

There will be other savings for people, too. Because if we balance this budget, interest rates will go down so your home mortgage interest rate will be lower. Your car loan will be lower. It will help small businesses borrow so they can continue to prosper and create new jobs to keep this economy going.

The people, not the Government, built this country. We must stop spending the people's money and their children's money and their grandchildren's money if we are going to keep the prosperity that our grandparents gave us and our parents gave us.

Thomas Jefferson said it is immoral for one generation to rob the next by spending more than it has today. It was wrong in his time and is wrong today.

We have the chance to be responsible leaders in this country, and that is exactly what the majority party is doing. Look at this budget resolution. Do you agree with everything in it? No. Do I agree with everything in it? No. I would like to have had more spending for defense. There are some important programs that I would like to expand further.

But, just like we do in our families, we have to make priority choices. That is what this budget resolution does. We have taken the first responsible step of leading. We have done something very different from Congresses of the past by keeping our promises. If you do not agree with everything we have done, we understand that, but look at the big picture. Look at the long term.

Think of our parents, who said we are going to do what is right, even sometimes when it is harder for our families to make ends meet. That is what my father always did. That is what he taught me. Even if it was not in the best interest of his small business, he would act for the good of the community because he knew in the end a healthy community would be better for all of us.

I hope my colleagues will put aside their partisan differences, put aside the small differences that we might have on the specifics of this budget resolution. Let us do what is right for America. Let us do what is right to give to our children and grandchildren the same kind of America that we have been able to grow up in and have the benefit of—and that we love. That is our responsibility. That is the crux of the vote we are about to take.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. Mr. President, of the minority time, I yield myself 8 minutes.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. FORD. Mr. President, it is interesting to sit here and listen to "we are here for change." Change? You know, the more things change, the more they stay the same. This budget is not for people. It is against the elderly, the students, the young people, and for the wealthy. So the Republicans have not changed one iota from the time I started growing up until today. It is the same. Change, only a small difference—small difference. The small difference is, if you are rich, you get a tax break. If you are poor, you get a tax increase. If you are a student trying to go to school, they reduce the amount of your ability to get an education. So the more things change, the more they stay the same.

Years ago, when I grew up I heard someone say that "Christmas is a time when kids tell Santa what they want and adults pay for it. While deficits are when adults tell the Government what they want—and their kids pay for it." Thanks to this Republican budget resolution, we can now add that tax cuts are when well-off adults tell the Government what they want, and the elderly will have to pay for it.

I have an editorial today from the Kentucky Post. I will read just a little bit from it.

> True, the Congressional Budget Office must certify in September that the lawmakers are meeting their spending targets—but those targets are only for fiscal 1996, when the cuts are comparatively mild. (Like most budget plans, this one saves the hardest hits for later years.)

The tax cut up front, the increase in the latter part of the budget cycle. We went through that under President Reagan. We gave the big tax cuts. We never cut spending for Government. And what happened? We kept right on increasing the deficit and increasing the debt.

> We have been down this road too often: [this editorial says] Tax cuts now, with the promise of spending cuts later; somehow the spending cuts never come and the nation goes deeper into hock. Moreover, tax cuts in an election year tend to pick up irresistible momentum.
>
> Tax cuts are fun and popular. Enacting the rest of the resolution will be neither.
>
> The congressional Republicans say they're prepared to fight to get spending under control. It would be a shame to see that resolve thrown away on an ill-considered tax cut.

I ask unanimous consent that the editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

DO THE HARD WORK FIRST

> The House and Senate have reached a compromise on a budget resolution which, if Congress sticks by it, could reasonably be called historic.
>
> The resolution also requires that Congress show restraint on an election-year tax cut—and that would be historic, too.
>
> The plan calls for a balanced budget—and even an embryonic surplus—in 2002. This goal would be achieved by holding the federal budget's annual increase to 3 percent, about the rate of inflation, meaning there would be little "real" growth. Still, federal spending, now $1.5 trillion, would be close to $1.9 trillion in 2002.
>
> The GOP-drafted resolution will shortly be passed, over near-unanimous Democratic opposition, and will then become Congress' blueprint for funding the government.
>
> The resolution is realistic, if draconian, but it has one big pitfall; a $245 billion tax cut to begin taking effect next year when Republicans hope to take the White House and tighten their grip on Congress.
>
> True, the Congressional Budget Office must certify in September that the lawmakers are meeting their spending targets—but those targets are only for fiscal 1996, when the cuts are comparatively mild. (Like most budget plans, this one saves the hardest hits for later years.)
>
> We have been down this road too often: Tax cuts now with the promise of spending cuts later; somehow the spending cuts never come and the nation goes deeper into hock. Moreover, tax cuts in an election year tend to pick up irresistible momentum.
>
> Tax cuts are fun and popular; enacting the rest of the resolution will be neither.
>
> The congressional Republicans say they're prepared to fight to get spending under control. It would be a shame to see that resolve thrown away on an ill-considered tax cut.

Mr. FORD. Last fall, Republicans campaigned on the notion that all we had to do was cut wasteful spending and we could both eliminate the deficit and have tax cuts. What they did not tell voters is that by wasteful spending the Republicans meant programs affecting seniors, like Medicare and Medicaid; and that by tax cuts they meant cuts for well-off Americans.

The more things change, the more things stay the same for the Republican Party.

Look at the numbers. Whenever that tax cut for the well-off goes up, so do the cuts to Medicare and Medicaid. Is that just a coincidence? I do not think so. The bigger the tax break, the more they gouge out of Medicare and Medicaid.

A $245 billion tax break, where the majority of the benefits—the majority of the benefits—go to those making over $100,000 a year, and a $452 billion cut from Medicare and Medicaid—that is the Republican's notion of a middle-income tax break and that is the Republican's notion of cutting waste.

Make no mistake, this has nothing to do with the health of the Medicare trust fund. Just like someone has to pay for gifts from Santa, and just like someone has to pay for the deficit, someone has to pay for this tax cut for the well off. That someone turns out to be America's elderly, and America's middle-income families are right behind them.

Because those cuts hit middle-income Americans not once, but twice. The obvious hit comes when families have to pick up the costs that Government no longer provides. That is no small task when you consider that before Medicare was created, at least half of all seniors went without health insurance and nearly 30 percent lived in poverty. Today, less than 1 percent go without health insurance, and 88 percent of our seniors have incomes above the poverty level.

But the second hit comes from the failure to address the causes for high Medicare expenditures. Without critical changes, from cracking down on fraud to lowering costs to market reforms, providers will simply shift costs, raising premiums and making it that much harder for middle-income families to obtain insurance and employers to provide insurance.

Everyone in this Chamber agrees that we cannot keep telling Government what we want, and then simply let our children pay for it. But, by instituting these irresponsible tax cuts for America's most well-off, we are sending our children the bill just as surely as we did with deficit spending.

Of the top 140 institutions of higher learning in the world, 127 of them are located in the United States. Yet, instead of making these institutions more accessible and our children better prepared to compete in the global economy, this budget makes $10 billion in unnecessary cuts to education. For many of the students in my State, that cut could mean the difference between continuing their college education or settling for a minimum wage service job.

There is no question that if they cannot get the education and training they need, they will be paying for that tax cut in lost wages.

So, do not kid yourself about who is paying for that tax cut—America's elderly and America's children.

When we go from converting the numbers in this budget plan to the actual changes in specific programs necessary to achieve these numbers, everybody knows this budget is going nowhere because we all know about vetoes and we can all count votes.

I believe the American people deserve better than this. This budget was put together behind closed doors by one party. The American people clearly want to see a bipartisan effort to craft a budget that calls on all of us to contribute equally to the solution.

Mr. President, I will ask a couple of questions. How does the Republican budget conference report cut more in Medicare and Medicaid than the original Senate-passed budget, yet still produces less deficit reduction?

Think about that for a minute.

The answer: Because it increases tax breaks for wealthy Americans by an even greater amount, from $170 billion to $245 billion.

Ask this question: If the Republican plan produces a true balanced budget, then why on page 3 of the conference report that we have heard about all day today, and no one has given an answer, does it show a deficit in the year 2002 of $108.4 billion?

Answer: Because the Republican plan does not really balance the budget. It produces a fiscal year 2002 deficit of $108 billion.

It is only when you count the projected $114.8 billion off-budget surplus in the Social Security Trust Funds that you can claim a "balanced budget" by 2002.

FINANCING FOR THE FAA

Mr. President, the budget proposal before us today does not provide in detail how we will finance one of Government's most important safety agencies—the Federal Aviation Administration.

This budget plan does, however, propose to cut transportation funding for highways, Amtrak, the Coast Guard, and aviation by an additional $10 billion beyond the President's proposal.

That tells me one thing—someone is going to feel the squeeze—and aviation is a prime target. What we are looking at is a budget that could undermine the safest air transportation system in the world. That is wrong.

My colleagues will not be surprised to learn that the demands on the FAA are greater today than ever before and they are expected to grow.

FAA operates the world's largest air traffic control system, handling an average of two flights per second, every minute, every hour, 365 days a year.

Their safety, security, and airport safety professionals conduct nearly 1,000 inspections on an average day.

Their maintenance technicians every day keep 30,000 pieces of complex safety equipment across the Nation operating with an almost perfect reliability record of 99.4 percent.

No other transportation system is as safe as American aviation.

The question is—can it be even better? Absolutely.

Under the current leadership of Administrator Hinson and Deputy Administrator Daschle, the agency has established a new safety goal of "zero accidents". The agency is taking aggressive steps to reach this new goal and I wholeheartedly support their efforts.

But the real challenge for the FAA is that they are pursuing their "zero accident" objectives at a time they are being asked to absorb ever increasing budget cuts.

For that reason, Mr. President, I am worried that this budget resolution marks a retreat from that important safety objective.

FAA should not be and has not been totally immune from budget cuts. Over the past 2 years, the agency has seen its budget decline by 6 percent-some $600 million—while at the same time experiencing a 6-percent increase in air traffic.

The FAA has been able to do more with less by eliminating programs no longer needed, overhauling others, and by reducing their nonsafety work force by nearly 5,000 employees. That's progress. But we can not, and should not let this budget resolution undermine the FAA's mission.

Those savings were achieved through strong management and thoughtful and tough decisions. I worry that our budget decisions are exactly the opposite. We do not want to make aviation cuts with no rhyme nor reason.

It is my hope that after the bickering and posturing end on this budget, we will return to what I have always valued, a bipartisan consensus on the importance of a safe and efficient aviation system. The administration also must understand that its proposal for a corporation has no support. They can sit and watch as the reform movement goes on, if they so choose, but that is their choice. I will work with my colleagues here on meaningful reform that moves the aviation system forward. We must begin with looking at how to reform the FAA. Senators INHOFE and BURNS have put forward a proposal, and I know the Commerce Committee is seeking a bipartisan approach to FAA reform.

We must also make a real commitment to providing the necessary funds. If we do not, I am afraid they will redo that old country saying—"that dog don't hunt"—to "that plane don't fly."

Mr. COHEN addressed the Chair.

The PRESIDING OFFICER (Mr. DEWINE). The Senator from Maine.

Mr. COHEN. Mr. President, I yield myself 8 minutes.

Mr. President, it is interesting listening to the latest statements made by the other side that the American people deserve a better plan than this. If so, where has it been? Where is the plan that has been proposed by the minority? They talk about these Republican cuts in Medicare and Medicaid. Let me say that the President of the United States recently had the fortitude and the courage to measure up to the problem confronting Medicare and Medicaid. These programs are going broke. The trustees of the Medicare trust fund have reported that it will be insolvent in 6½ to 7 years. I suppose we could just put that off until after the next election and not deal with it. But six or seven years from now there will be no payments made to any hospital or to any doctor on behalf of anyone. President Clinton at least has had the courage to face up to the challenge facing us and say that he has a plan—a 10-year plan versus the 7-year plan, but at least he has a plan. I did not hear anybody over there endorse it. If they had an endorsement I suppose it would be forthcoming now.

So I take some challenge or question about the notion that somehow this is a Republican design simply to inflict pain and suffering upon the elderly. I think there is a legitimate issue to be raised about cuts in Medicare and Medicaid. But at least the President of the United States has faced up to it. He deserves a good deal of credit for having done so.

Insurance market reforms, portability, malpractice reforms—all of that has been proposed on a bipartisan basis. Action has yet to be taken. I do not have the time to go into who has held up those kind of reforms in the past. But nonetheless, they are there. And I think they are there for the taking if there is a bipartisan spirit to do so.

This is a blueprint, as has been described by the chairman of the Budget Committee. It is not faultless. It is not flawless. But I believe Senator DOMENICI deserves a great deal of credit at least for trying to come up with something that is not made of smoke and mirrors, that has not been a "triumph of politics," as David Stockman wrote in his book, but something that has some real numbers behind it. It is not a "free toss," as the critics of the balanced budget amendment suggested when we debated that issue before and lost by one vote. The critics said that individuals could vote for a balanced budget amendment but would never measure up when the budget comes through.

I think this conference report is adequate rebuttal. Those who supported a balanced budget amendment also are committed to producing a balanced budget for the consideration of this Congress.

I am one who has questions about the level of taxation included here. I think the tax cut is too high. I have told that to the chairman of the Budget Committee personally and I reiterate it again today. I think it applies or could apply to those who are not in need. I intend to raise such issues when we come to authorization, appropriations, and reconciliation.

So I am not fully committed to each and every detail contained in this particular blueprint. I hope to change it. I know there are a number of colleagues on this side who share my views, that we are not going to support some of the provisions in this particular blueprint. But let me say that this at least comes to grips with the entitlement issue.

Several years ago Senator DOMENICI and Senator NUNN offered an amendment on the floor dealing with entitlements. There were only 28 votes; 28 people who were willing to face up to the fact that we must curb the growth in entitlement programs. Today's blueprint represents a majority, not 28.

So I want to give Senator DOMENICI credit for his persistence in coming to grips with the difficult problem that we all have known about but have been unwilling to face.

There have been, in my opinion, cuts too deep in the field of biomedical research, education, and nutrition. Again, I have made that very clear to my friend from New Mexico, that I intend to support efforts to reverse some of those proposals.

But, Mr. President, I listen again and again to the attacks against this proposal coming from those who say: We have a better idea.

I have not heard it. Not one has come forward with a balanced budget plan. I have listened to speeches this afternoon saying, "I am for a balanced budget. But not this one." It is much like St. Augustine saying, "Dear Lord, give me chastity, but not yet" when I hear them saying, "Give us a balanced budget, not this one, not now, sometime in the future, but not yet."

So, in spite of my reservations that I have expressed privately to Senator DOMENICI and to others, I believe that it is important for the first time since my service in Congress to go on record in favor of a balanced budget before this Congress, to approve it in spite of the fact that I have reservations about the tax cuts; approve it in spite of questions about the level of funding for research.

My Aging Committee had hearings just this week, which pointed out that we are being penny-wise and pound-foolish; that, if we invest a small amount of money in medical research, we can save as much as $70 billion by delaying for 5 years the onset of Alzheimer's, or a stroke, or Parkinson's. Those are the kind of investments we ought to make, and those are the kind of investments I am going to support when the time comes to vote on the authorization and the appropriations bills.

Mr. President, I want to go on record as saying I do in fact favor a balanced budget. This is a proposal. It is the only one before us. Until I hear a better one, I intend to support the Senator from New Mexico.

Mr. DOMENICI. Mr. President, how much time remains on the conference report?

The PRESIDING OFFICER. The Senator from New Mexico has 1 hour and 20 minutes. The Senator from Nebraska has 1 hour and 53 minutes.

Mr. DOMENICI. Let me once again on my time say to the Republican Senators, I do not want to cut anybody short. We have 1 hour and 20 minutes. I hope those who want to talk essentially agree to a minimum amount of time. I do not think I can give anybody more than 10 minutes and most 7½. Having said that, we are trying to make a list and get people in order.

Mr. President, let me say to my good friend, Senator COHEN, from the State of Maine, first of all, from the very beginning of my efforts in this regard, one of the stalwarts—there is a lot of talk of who is conservative, who is moderate, and who is liberal. From the very outset, Senator BILL COHEN of Maine has been for reining in the Federal Government and he has not been kind of a rainy day guy. He has been there when you try to get at the entitlement programs that are making it so there will not be any money for research in the National Institutes of Health on the dreaded diseases he is so concerned about. He has been there starting 4 years ago when Senator NUNN and I began the first idea of capping entitlements. We did not have anybody around. He surprised many people, BILL COHEN of Maine. The Senator from Maine was there with a tiny few of us.

Now, today, he expresses his enthusiasm again for getting to a balanced budget for the future of our country, if I understand him correctly.

Now, he is entitled to come to the floor of the Senate and say there is no other plan and I am going to vote for this one, and he is right. The President's plan did not come close even after he goes to all the effort of trying again. There is none from the other side. And so he is saying he is going to vote for it because of that.

On the other hand, he is entitled to say he is not going to be 100 percent for each and every assumption here, as it works its way through appropriations. He may argue that he wants less money for transportation, and more for cancer research. He may want to argue that he wants more money in education and less money in the Economic Development Administration or Appalachian Regional Commission. I read him that way.

Am I reading the Senator right?

Mr. COHEN. Right.

Mr. DOMENICI. And he is saying on some of the entitlements, look, there may be a better way than to take the subsidy away from postgraduate students in college. This resolution assumes they will pay a little more of the subsidy Americans are generously giving to them. He does not like it that much, and he may want to change it as a Senator from Maine, this process works.

Mr. COHEN. And I may wish to cut back on the level of tax reduction as such to alleviate cuts in some of the programs we just talked about.

Mr. DOMENICI. In which event everybody understands; budget resolutions and the product thereof are a little different from average legislation. The good Senator knows how onerous and difficult it is to change a reconciliation bill, but he stands before us committed to the good of this country, and for our children and our future he is voting even for some things he is not quite sure that he will support in their final form. And he is at liberty to do that. I thank him and acknowledge that that is, in my opinion, a very forthright and acceptable level of support, and I appreciate it.

Mr. COHEN. I thank the Senator. I simply wanted to indicate to him that there will be times as we go through this process that I will put my colleagues on notice that I do not share the assumptions contained in the resolution and will work to modify them.

Mr. DOMENICI. Mr. President, might I just complete these remarks?

I think everybody should understand that is the case. There may be Senators on that side of the aisle who, as this reconciliation process goes forward, support some of the propositions. I would not think they would be against each and every one. Some on this side are not going to support each. But let me suggest that in the final analysis we will have tax cuts for the American people only when we get a balanced budget. That is the premise of this budget resolution. We will have bills before us ready to be enacted that will get a balance before the tax cuts will be viable. I think the Senator from Maine knows that.

So to the extent we cannot balance the budget, we are putting at risk the tax cuts. And I think for some that will be a very important issue and a very important event. For others, it will not be that important. But it seems that everybody is saying it is important to get a balanced budget. That is how I see it and how I read it.

Mr. COHEN. If the Senator will yield.

Mr. DOMENICI. I will be pleased to yield.

Mr. COHEN. I think it is really important that we try to move away from this debate on class warfare, that once again it is Republicans simply bailing out the rich and it is the Democrats standing up for the elderly and the young and the poor. Senator LOTT is the son of a shipyard worker, a blue-collar worker, a union worker from Mississippi. I am the son of a small-town baker in Bangor, ME. My father does not have very much in the way of material goods. He works really hard—my mother and father both. He is 86 and still works 18 hours a day. And all he has is what he makes, period, each day.

I take offense that supporting this budget is somehow akin to bailing out the rich. I will tell you what I am concerned about. I have two sons, both married, both starting out, and they have a future that is pretty bleak. They have a future that is bleak because of what we have been doing. We have been eating their seed corn, their food and then asking them to pay the bill.

When I look at their futures in terms of what they will have to pay in interest payments on the debt, unless we change our ways, then I have real apprehension for their future. They are not rich. They are not wealthy. One has gone back to graduate school after being out of college for 10 years, and another has decided to go into college after being away. So I have two now, one in graduate school and one in undergraduate school. It is not easy. They are going to have a tough time. But they are going to have a much tougher time unless we change the way we have been dealing with their futures.

So that is the reason I support a balanced budget, not because of any interest in bailing out the rich or passing out benefits for the wealthy. What I want to do is make sure we start curbing our appetites so that we do not simply eat away their future. As Thomas Jefferson stated, "whenever one generation spends money and then taxes another to pay for it, that first generation is squandering futurity on a massive scale." That is what we are doing; we are squandering our children's future on a massive scale. In my judgment, that amounts to fiscal child abuse and we have to stop the beating and stop the bleeding.

Mr. DOMENICI. Mr. President, let me once again thank the Senator for his very articulate, sound statements regarding this effort in the Chamber of the Senate. I am very pleased to lead this effort because of that very set of concerns.

Mr. President, I do not think I want to once again state how I came into this world, but I will share it with you. I am the son of immigrant parents and my father never went to school and never learned how to write English. He was a success, however.

In fact, I say to my friend, if I have a liking for small business, it is because my dad had a little grocery store and when they bought a new truck, it was not just an event in business; it was an event of the family. He brought the truck home to show that his hard work was getting something and there was a new truck to deliver goods, and he could perhaps support us better.

I am not supporting this balanced budget because I feel I wish to vote for a tax cut for the very wealthy in this country. To be truthful, to be truthful, that issue will be decided by the Senate. Anybody who wants to talk about where it is going to be, the Senate is going to vote on that issue. So if the other side wants to continue with the rich and the poor and wants that fight to go on forever while we try to help everybody with a balanced budget, have at it.

The truth of the matter is there is nothing in this budget resolution that says the Senate is on record, off record, assumptions, nothing that says we know how this tax cut is going to be put through by our Finance Committee and this Senate.

Now, let me make one other point, I say to the Senator. He made it, and let me make it and then yield to him for a moment. He made an excellent point.

Whenever you try to balance the budget, it is very easy for those who do not want to join your team to say, "We are for it but." And then let me suggest if we kept a litany of the "but," or "however," or "I wouldn't do this," if we would have kept that list, we would be back out of balance and we would not be in balance until the year 2020 because everything that is difficult somebody on the other side of the aisle says, "We would not do that." Now, not everyone on that side, but a host of Senators with a litany of, "I wouldn't do that; it will hurt the seniors; it will hurt the poor."

Mr. President and fellow Senators, when are we going to balance the budget? You know what we ought to put up here when they put that picture up and Senator LAUTENBERG says, "Whose side are you on?" We should have a picture of every main street and every shopping center in America. That is what we should have, I say to Senator COHEN, with thousands of Americans, some of them wearing a cowboy hat, some of them boots, some of them swank clothes, and we ought to say, when he asks that question, "We are for all of them. All of them." The poor, the rich, the old, the less than old, the kids and even the unborn kids. I do not know how we would put them up there, but maybe a space over on the side and say, let your imagination carry you on a little bit. Because a balanced budget is even for the unborn Americans who, if we do not fix this fiscal policy, will be paying our bills and have nothing left over for themselves. That is the issue as I see it.

How much more do we want to ignore our adult responsibility? How many more years? How many more years do we want the excuses? It is easy to make excuses. You can have excuses by the thousands. You can even find an economist, perhaps one that works for the President, who will tell you it is not the right time.

Well, I say one more time, when will it ever be the right time? If it is not the right time when you can do it, then it will never be the right time. If it is early in a business cycle when everything is going good, Oh, do not harm that growth. Right? Do not do it now. Let it grow. You get it in the middle of the business cycle, Oh, you might be a little early. Now like maybe the waning tip of the business cycle, Not right now. That is what is wrong with us—on both sides of this aisle. We wait around for our time. And much of that turns out to be political time. Our time, meaning what is best politically.

Well, I submit we took some real risks here. And we are going to defend it across this land. And we believe that when it all turns out, we are not asking for credit. We are just asking that the people of this country reserve their antagonism toward this or their sense of urgency, or concern, about what we are doing, reserve it for a while, and let us see how much better America will be when we decide to pay our own bills instead of letting our children do it.

Mr. COHEN. If the Senator would yield. You mentioned one of the President's economic advisers. Let me repeat what I said earlier. I think President Clinton deserves a good deal of credit for coming forward with his second budget proposal saying, let us do it in 10 years, not 7.

By the way, he recognized what his trustees in Medicare told him—the system is going bankrupt. Starting next year the payments going out under Medicare will exceed the revenues coming in. Then it goes into a steep decline in the year 2002 and it is broke. President Clinton had the courage to change and recognize his mistake in the first budget and to say now that we have got to fix it.

Now, we may disagree in terms of what level of funding is necessary, but at least he faced up to the responsibility; he did not try to exploit the issue, saying it is Republicans trying to do in the old folks. We have got to save the fund. We have got to save the Medicare fund. He seems willing to do it. We are willing to do it. There ought to be a way to work it out. But I have not heard any suggestion on the other side. I have heard no resolution being offered, or even being contemplated, endorsing President Clinton's second budget. I heard none forthcoming.

If I could have one more comment.

Mr. DOMENICI. Please.

Mr. COHEN. On this class warfare issue, we have been through this year after year after year. When the tax debate took place several years ago, many on the other side said it is time to tax the rich. We have to go after the fat cats. Let us put a luxury tax on furs, on jewelry, on yachts, on cars. And what happened? They aimed at the rich, and whom did they hit? The working men and women. We lost jobs in my State. You know why? Because the rich bought their boats elsewhere. Hinkley Boat Yard, one of the finest shipbuilders in the country——

Mr. DOMENICI. Went broke?

Mr. COHEN. Did not go broke, but it had real serious problems for several years thereafter. Those on the other side said, "We made a mistake. We tried to get the rich. We got the working men and women."

We have got to stop the notion that somehow only Democrats preserve the interests of those who are working and we are just protecting the rich. What we are trying to do is generate an economy in which everybody benefits.

So I must say this notion, this dangling conversation that never seems to end, that the Democrats are the only ones concerned about working men and women, it does not correlate to the background that I come from. It is not the background that the Senator from New Mexico comes from.

My folks do not have anything. They do not have any retirement plans, nothing but Social Security and what they are able to produce day in and day out from their hard labor. So the notion that somehow I am out here advocating programs for the rich really strikes me as offensive. And so I want to commend the Senator from New Mexico once again. The conference report to House Concurrent Resolution 67 is not a perfect plan; it is one that I will disagree with in some instances in the future with regard to the details, but I think he has done an outstanding job. And I wanted to rise and advocate my support for it.

Mr. DOMENICI. Mr. President, let me close these remarks by saying, obviously when the Senator from New Mexico alludes to this side of the aisle being Republican and that side of the aisle being Democrat, I want to make it very clear that I do not paint every Republican in one picture. I do not think they all agree on the same things. And what I said about opposition to this budget does not fit every Democrat in the same way. There are many Democrats that, I believe, with two or three changes, would probably support what we are doing in this budget resolution. It may very well be one would put off tax cuts for a while. That is their prerogative. But I submit that there are a number of Democrats who are just as willing to take on the entitlement packages, the entitlement problems of this country, as we are. Anything I said in my remarks about it is never the right time and never the right program, certainly I did not intend that to apply with a brush to everyone on the other side, because it is not so. I yield the floor. I thank Senator COHEN.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, I listened with great interest, and I was wondering if we could agree now when I finish my very brief remarks that I could have two Senators from this side speak, given the fact that the majority side has taken considerable time. I intend to yield 4 minutes to the Senator from Wisconsin, and then, following that, 2 minutes to the Senator from Vermont. Would that be acceptable?

Mr. DOMENICI. Yes.

Mr. EXON. Let me make very brief remarks. There have been a lot of questions asked and charges made talking about class warfare. The question has been asked, when are we going to balance the budget?

Well, in the first place, Mr. President, I do not stand here—I stand here proud of the fact that the people on this side of the aisle are going to say very loud and they are going to say very clear that we tell the truth about the tax policy that came out of the conference, that is, there are $245 billion of tax cuts in this horrible piece of legislation before us, and if we point out that that the benefits are going to the rich, it is because that is the truth. I do not like class warfare, but the truth never hurt anybody.

When are we going to balance the budget? I think we can get together and balance the budget as soon as the majority gets off the kick that they are on, a $245 billion tax cut that basically helps the rich. That is the time when those of us on this side of the aisle are prepared to march shoulder to shoulder. In the meantime, we will not. We think it is unfair. We think it is wrong. We think it is ill-advised and ill-timed and it could not be worse.

Just let me point out, Mr. President, that under the bill that came out of the conference, as nearly as we can understand it, while I would agree that the final details have to be worked out in the Finance Committee and then with the comparable committees on the other side of the Hill, that basically, under this bill families with incomes of over $200,000—that is about 2.5 percent of all the families in the United States of America—those families would get an average tax break of $11,266 a year, while on the other hand, other Americans not so fortunately situated, those taxpayers with incomes below $30,000 a year, which represents about 40 percent of the taxpayers in the United States of America, they would get an average tax break of $124 a year; $11,266 a year for the 2.5 percent of our citizens that make over $200,000, and $124 for those who make under $30,000.

We are not going to be part and parcel to that type of an arrangement, however much it is clouded, however much we are accused of playing class warfare. We are not going to saddle up to that kind of a plan.

I yield 4 minutes to my colleague from the State of Wisconsin. When he finishes, 2 minutes to my friend from Vermont.

Mr. KOHL. Mr. President, I thank the Senator. I am pleased to be here to say a couple of words about this budget proposal we are voting on today.

I am voting against it. Like Senators COHEN and DOMENICI, I am also the son of immigrant parents and worked most of my life in the private sector. I have been very fortunate. I am among the most wealthy and well off in our society. Mr. President, I would be embarrassed to go back and tell the people I represent in Wisconsin that the balanced budget amendment that I voted for asked nothing from me, zero, and I voted for it. It asks a lot from middle-income people, lower-income people, students, from everybody in our society except the well off.

This balanced budget proposal I voted for asks nothing from the well off, and it is not inadvertent and it is not an accident and it is not something that we should hold out to the American people as something of which we are proud and endorse. We should not say now, "Well, we'll change it later."

Why do we not have a consideration for what I just suggested in this balanced budget proposal that we are discussing? We have a situation in this country today in a way which is more skewed than any society in the world. The wealthiest 1 percent controls 40 percent of our assets in this country, and the most well off 20 percent control 80 percent of the assets in this country, and it is going in the wrong direction.

Here we come up with an economic proposal which does not take that into consideration at all. In fact, for those most well off, they will come out of this with an economic benefit—a tax cut. They will be asked not to do one thing to help to balance our budget. If this represents fairness, then everything that I have been taught about what is fair in the years that I have lived on this Earth does not make any sense at all.

There was an opportunity that Senator COHEN and Senator DOMENICI had to vote for a balanced budget proposal that did contain fewer tax cuts, and those tax cuts were aimed at people in the middle-income brackets that needed them the most; that did contain fewer cuts in Medicare and Medicaid and nutrition programs and student loan programs. Senator COHEN and Senator DOMENICI did not vote for those proposals. So they are talking now about a balanced budget proposal, in Senator COHEN's words, that is more fair in the ways he just described which are exactly like some of the proposals we made early on in the process: Senator BRADLEY's proposal, Senator CONRAD's proposal. Senator COHEN did not vote for it.

So now we have just one proposal to consider, and that is this proposal which is, in my judgment, most unfair and it is not a way in which we should go to the American people and ask them to support our concept of a balanced budget proposal. So I have to vote against this balanced budget proposal. I am very regretful, Mr. President, because I am a supporter of the balanced budget amendment.

I recognize having been in business all my life how important it is not to spend money you do not have. I am a supporter of a line-item veto. I am convinced we have to come up with a balanced budget proposal, and I hope before this process is over this year I will be able to vote for a balanced budget proposal.

But, Mr. President, it has to be fair. It has to be something that the American people can look at and say, this represents equity in the quest to balance our budget.

So I must say I cannot support this proposal. I am looking forward to continuing the dialog. I very much hope before October rolls around that we will come up with something that I can support out of fairness. In my judgment, this proposal is not fair. Thank you, Mr. President.

Mr. EXON. Mr. President, I yield myself 1 minute. I want to pose a question to my friend from Wisconsin. I do not wish to embarrass him, but I think it is a good time for me to make the point, once again, that I have been making.

Since I know the Senator from Wisconsin very well, he is a very talented Member of this body, a very humble soul. I think it would be safe to assume, and I would like to ask, if I would not embarrass my friend from Wisconsin, I just guess that the Senator from Wisconsin very likely might be in the category that I referenced earlier, the 2.5 percent of the families in America that would receive an average $11,266 a year in tax cuts. Is that the understanding of the Senator from Wisconsin?

The PRESIDING OFFICER. The Senator's 1 minute has expired.

Mr. EXON. I yield whatever additional time I need.

Mr. KOHL. Yes, that is true, I say to the Senator. As I said in my earlier remarks, I would be flatout embarrassed to go on back to Wisconsin and tell people that I voted for a balanced budget proposal that is going to cost them money out of their pockets, money that they really need, and for myself I voted a tax cut. I mean, this is not fair, and if we do not represent fairness, then what do we represent?

Mr. EXON. Does the Senator from Wisconsin feel that I am practicing class warfare against him by putting out the fact which he agreed to?

Mr. KOHL. I want to point out to the Senator from Nebraska that it is just the opposite. It is the inequitable distribution of wealth that has been occurring the other way year after year for a decade or two. Whenever people get up and talk about trying to distribute more equitably the wealth we have in our society, the other side is saying you are practicing class warfare. It is just the opposite. They are the ones who are doing it with their policies that are more and more concentrating wealth in the hands of fewer and fewer people, and when somebody brings it up, they point a finger and say, "class warfare." It just is not fair.

Mr. EXON. I thank my friend.

Senator LEAHY is next to be recognized.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I compliment my friends on the other side of the aisle for their strong support of a balanced budget. I just wish they had that same strong support during the eighties. Instead, they strongly supported President Reagan as he tripled our national debt. If they did not give strong support then, we would not have the difficulty getting a balanced budget today.

Mr. President, I fear the Republican congressional leadership and the President are heading for a train wreck on the budget, a wreck that is going to force the entire Government to abruptly stop this fall.

I think a bipartisan summit of the budget is needed, something building on the spirit of cooperation we saw in New Hampshire with President Clinton and Speaker NEWT GINGRICH on taxes, welfare reform, entitlement reform, spending reductions and the time it is going to take to get a balanced budget. It will be a tough and difficult summit, but it would be worthwhile.

I think both Republicans and Democrats agree we have to consolidate unnecessary Government programs, reform welfare, control Medicare and Medicaid spending. We may disagree on the details, but we know it has to be done.

In 1990, a President and the Congress of a different party failed to reach an agreement, and we had to shut down the Federal Government for almost a week. Social Security recipients, students, farmers, millions of others were hurt by it. Nothing was accomplished. The same thing is going to happen this fall if we do not get together.

I think it is time to put our political differences aside and come together on a budget summit before the crisis. I think once we get the budget on solid footing, then let everybody run for President.

Just a few weeks ago, we saw a brief glimpse of bipartisan cooperation. In New Hampshire, President Clinton and House Speaker GINGRICH actually sat down together to discuss their differences on a wide range of important issues—without 15-second sound bites aimed at scoring cheap political points.

And 2 weeks ago, President Clinton laid out a 10-year blueprint to balance the budget and called for bipartisan cooperation to reach some compromise with Republican congressional leaders.

Unfortunately, the Republican congressional leadership rejected the President's offer to a bipartisan solution to balancing the Federal budget. This budget conference agreement completely ignored all of the President's recommendations.

This deal makes a bad budget even worse. It is not a compromise, but a much more extreme budget than the Senate-approved resolution.

Nearly 60 percent of the total projected savings of this so-called compromise plan come from cuts in Medicare and Medicaid. These Medicare and Medicaid cuts will pay for a tax cut package of $245 billion—$75 billion more than the Senate-approved budget—over the next 7 years.

This tax cut package includes a $500-per-child tax credit for families making up to $200,000 a year. But this credit is not available for poor families that do not make enough money to pay taxes.

This agreement cuts Medicare by $14 billion more than the Senate-approved budget over the next 7 years.

This means Vermont will lose over $350 million in Medicare funding over this time.

Split equally between beneficiaries and providers, the average Vermont senior will pay about $2,000 more out-of-pocket over the next 7 years.

This budget deal also makes deeper cuts in Medicaid, which provides medical care for our most needy citizens.

The so-called compromise would cut Vermont Medicaid funding by over $300 million over the next 7 years.

These cuts come at a time when Vermont is working on a plan to cover more uninsured Vermonters through expanded Medicaid coverage. As a Vermonter, I am afraid these cuts could jeopardize Vermont's plan. Vermont is moving in the right direction while this budget deal takes the country in reverse.

I fear that the Republican congressional leadership and the President are heading for a train wreck on the budget—a wreck that will force the entire government to an abrupt halt this fall.

An immediate bipartisan summit on the budget is needed, building on the spirit of cooperation established by President Clinton and Speaker GINGRICH in New Hampshire.

For a summit to succeed, everything must be on the table: Taxes, health care reform, entitlement reform, further spending reductions, and the time it will take to get to a balanced budget.

Such a summit will be a grueling, sometimes acrimonious encounter. But anyone who has studied the various blueprints can see the outlines of an agreement—providing there is the political will.

Both Republicans and Democrats agree that we must consolidate unnecessary Government programs, reform welfare, and control Medicare and Medicaid spending. We may now disagree on some of the details for accomplishing these goals, but that is why we need a bipartisan summit—to hammer out the details of a compromise.

Until now, both sides share the blame for the fix we find ourselves in. This year's budget debate has been just partisan bickering.

Congressional Republicans did not seek cooperation from the Democrats, and Democrats in turn, almost unanimously opposed the budget resolution. Party-line votes, unfortunately, are nothing new in Washington budget debates.

When Democrats controlled the majority, the same thing happened. Democrats did not reach out to Republicans, and not a single Republican in the House or Senate voted for the 1993 budget bill.

In 1990, a President and Congress of different parties failed to reach a bipartisan agreement on the budget.

The result was a shutdown of the Federal Government for almost a week: This hurt Social Security recipients, students who relied on Federal loans, farmers who relied on Federal support programs, and millions of others.

Luckily, the Government shutdown did not last long enough to imperil our air traffic control system or meat inspections.

I foresee the same thing happening this fall—but with the potential for a far longer and more acrimonious stalemate.

Before adopting a more conciliatory tone in New Hampshire, NEWT GINGRICH was issuing partisan ultimatums.

He recently told Business Week, his strategy of forcing President Clinton's hand: "The appropriations bills—if you don't sign them, there is no government. Which of the two of us do you think would be more worried by that?"

Just yesterday, House Budget Committee Chairman KASICH said that a Government shutdown this fall "would give the best explainers on Capital Hill" a chance to make the case for the Republican budget plan.

Shutting down the Government is an attempt to score political points will only bring more scorn of our political system.

It is time to put our political differences aside and come together in a bipartisan budget summit—before the crisis.

I still hope that Democrats and Republicans can work out a more reasonable plan than the budget before us. A budget that would cut out agricultural subsidies for wealthy absentee farmers, cut out wasteful projects like the space station and B-2 bomber, but out tax loopholes, and look at entitlement reform.

Once we get the budget on a solid footing, there will be plenty of time for a Presidential campaign next year.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, I thank my friend from Vermont, with whom I have had the pleasure of serving for 17 years, for his help, his support and thoughtfulness. I also would like to take a moment to thank my talented colleague from the State of Wisconsin for his remarks.

Mr. President, I have two more speakers, but it is the turn of the other side.

Mr. DOMENICI. Mr. President, I say to my colleague, Senator Snowe, we have the time to allow her 10 minutes to speak. I yield 10 minutes to the Senator from Maine.

Ms. SNOWE. Mr. President, I want to thank the chairman for yielding me 10 minutes. I want to commend him for the effort that he has undertaken to put this budget proposal together.

Mr. President, to paraphrase Winston Churchill's famous remark, I feel we finally have reached the "end of the beginning" of what I hope will eventually be known as the first 7-year budget to reach a balance in over a generation. I say the "end of the beginning" because we still have a tremendous amount of work lying ahead of us over the next few months.

While this resolution moves Congress forward light years, rather than leap years, in our quest to achieve a balanced budget by 2002, we still have a challenging reconciliation process to overcome.

As a member of the Budget Committee, I know that has been a tough target to reach, but it has been a goal well worth fighting for.

I have had concerns about this conference proposal, not necessarily because it has some tax cuts, not necessarily because of some spending cuts, but I believe a careful balance has been tilted in a manner that could put at risk the very goal of this entire process.

This afternoon, I would like to offer some constructive words and views to this very important process—a process for whose goal I have been fighting throughout all of my years in the Congress, including when I served for 16 years in the House of Representatives.

Getting us closer to balancing the budget has not exactly been a "walk in the park" for those of us who worked hard and diligently to unlock the fiscal handcuffs that have bound our country.

I speak especially of the distinguished chairman of the Budget Committee, Senator DOMENICI, our distinguished majority leader, Senator DOLE, and all of the Senate members of the conference committee who represented the views of this body and the American people with a firmness of resolve and commitment to our goals.

Those are goals that even the President has finally agreed to—after a considerably long leave of absence—that we should reach by a date certain, the most important of which is the total elimination of the budget deficit.

Let it be known that while we on this side of the aisle had the guts from day one to forge a 7-year fiscal vision about where we wanted to take America, there are those in this institution, on the other side of the aisle, who never had it in their hearts to fight for a balanced budget, and never had the stomach to make it a bipartisan fight.

A balanced budget is not only making the Federal Government accountable to sound fiscal policy, but it is also a commitment to compassion and common sense that must be made in the process.

It is said that "every rose has its thorn," and this historic budget proposal is no different. That "thorn," as it turns out, stemmed from wide-ranging differences between the House and Senate budget numbers, and specifically on the issues of tax cuts. When this budget was reported out of this Chamber on its way to the conference committee, an agreement was reached among Senators regarding the size and scope of proposed tax relief. The House gave a $345 billion tax cut package. From here, it was agreed that a total of $170 billion would be held in reserve to be used if—and only if—two things happened. First, that we had an economic dividend over 7 years, and, second, that the Congressional Budget Office would actually certify that a balanced budget would occur by the year 2002.

Let us be clear right up front about one thing: The entire purpose of this balanced budget process was not to craft and produce tax relief in sum totals that were unrealistic or inconsistent with achieving balance in a fair and rational manner.

The singular goal of our efforts from the outset has been this, and only this: To sensibly and carefully craft a 7-year plan to reach balance by the year 2002, without being sidetracked by other goals and proposals.

In our plan, we identified a potential for a $170 billion dividend that would be held in reserve to be used for tax relief. But in the conference committee, a final figure of $245 billion was reached.

I happen to consider the original Senate plan a fair and reasonable approach: Taxpayers who have been asked to make sacrifices to reach a balanced budget could receive the dividend of reaching balance in the form of a tax cut.

I credit Senator DOMENICI as chairman of the committee for having reached, I think, a very fair and reasonable proposal in addressing some of these issues with respect to a tax cut plan.

The compromise agreement from the budget conference, however, allows for the possibility of an additional $75 billion in tax cuts.

From this point, there are three ways to proceed: Offsets may be chosen from the jurisdiction of the Finance Committee; higher deficits may be called for in the first years of the plan to absorb the high cost of this tax cut proposal; or we can simply reduce the size of the tax cut reported by the Finance Committee. The budget only stipulates that the tax cut not exceed $245 billion; it does not say that it must be $245 billion.

My point is that I do not think we want to hinder the progress of the balanced budget caravan by attaching a larger-than-necessary bulky trailer to its hitch.

To this Senator, it is one issue to return the economic dividend derived from balancing the budget to taxpayers in the form of a tax cut, but it is quite another to ask them to absorb additional cuts in programs to support further tax cuts of larger-than-life proportions.

As we move forward, other issues concerning the budget resolution will also be addressed in reconciliation—issues of tremendous importance to me and to other Senators, such as maintaining adequate levels of funding for education and student loans. When we talk about the goal of the balanced budget for our children, nothing could be as important as investing in the education of our children's future, and we must see to it that this investment is maintained.

We must also fight to ensure that the Medicare system is not only solvent, but a healthy provider of quality service as well. We must fight to protect biomedical research, funding for the National Institutes of Health, and nutrition programs—again, in the sole interests of protecting and providing for America's children.

I believe we can maintain these priorities and maintain the moral imperative of a balanced budget which must come first and foremost.

I know that this is the price and the cost for righting 26 years of wrong in America—26 years of budget deficits, 26 years of allowing Congress to treat the budget like a charge card, 26 years of adding unceremoniously to our national debt.

We are not going to treat the Federal Government like an ATM machine anymore. We are basically going to revoke its credit-card privileges, and it is about time we do so.

In the final analysis, my hope is that we can look upon this document for what it is—a "binding blueprint." Its parameters have been drawn and set, but its contents have yet to be fully shaped. The opportunity for further imprints is, for many of us, one of its shining qualities, and reconciliation will be its end result.

This document gives committees the opportunity to meet these balanced budget targets. And we must accomplish this without harming the most vulnerable in our society.

Mr. President, with these caveats in mind, and with the knowledge that we are merely at the "end of the beginning," I am concluding at this stage of this historic process that the momentum forward toward a balanced budget should not be stopped.

We are, in the end, finally tilting the fiscal scale to balance.

In this proposal for a balanced budget, we reach our goals by cutting Federal spending, by eliminating waste and unnecessary bureaucracy in Government, by saving Medicare from bankruptcy, by not taking a dollar from the Social Security system, by cutting over $900 billion from the deficit over 7 years, and without raising taxes.

In a final note, I want to assure my colleagues that I intend to do everything I can to work diligently and constructively throughout this process, with as much resolve and vigor as I entered into it with, to ensure that we have a balanced budget. I want to work to ensure that we have fairness and reasonableness in this process.

I want to make sure that the working Americans and working families are treated fairly, and that we have middle-class America facing relief in the future from the enormous debt that has been certainly hampering their economic security. And we have to look at single parents who often work two jobs to make both ends meet, as well as those trying to educate their children in this uncertain time. We also have to look at the young Americans whose future and financial security is already at risk.

In this budget we have asked Americans to contribute in some form or another to our bold effort to balance the budget. Already, we have asked them to make difficult choices. Already, we have joined with them to make our mark on history. So, once again, we ask for their trust and confidence as we take the next step forward.

I hope that although we have not had a strong, bipartisan effort to balance the budget—we have not had a plan from the other side—I think it is important from this point forward that we have set the goals for a balanced budget, that we work in unison and harmony to fashion the most fair and reasonable approach possible, to ensure that we provide the economic security that Americans deserve.

I yield the floor.

Mr. EXON. Mr. President, we will continue as best we can. I would like just a moment to recognize the Senator from Florida, who has been waiting patiently. Following Senator GRAHAM, depending on the flow of what speakers are available—I would like to at this particular time yield to the Senator from Florida 10 minutes; followed by the Senator from Minnesota, 12 minutes; followed by Senator BOXER, the Senator from California, for 10 minutes, in that order.

Mr. DOMENICI. Mr. President, if the Senator will yield so I may respond to Senator SNOWE, then we will proceed with your side.

Mr. EXON. I yield.

Mr. DOMENICI. I just wanted to say to Senator SNOWE, we would not be here with a balanced budget but for her participation in the Budget Committee. When she was selected, I do not think any of us knew we were going to have this kind of job ahead of us, nor that we were going to accomplish this much. Whether we like every single piece or morsel of it is another issue, but the Senator was a very active participant in our budget markups and our floor debate.

I thank her for that. I want to say, I did not know her very well, but she has a lot of what some of us call "guts." "You are tough." From me, that is a great compliment and I hope my colleague takes it that way.

Ms. SNOWE. I certainly do.

Mr. DOMENICI. It has been very exciting to have her on the committee. We had a great committee. They did their job, and the Senator from Maine was one of them.

Ms. SNOWE. I thank the chairman for the work he did on the committee to bring us together to make this day possible. And it is a historic moment, to think this is the first time in 26 years we have established a balanced budget resolution. But it is due to the chairman's credit, his demeanor, and to his approach to the committee to bring this forward, that we cut a trillion dollars from the next 7 years. Without the chairman's efforts and input and his experience as chairman of the Budget Committee, this day would not be possible.

So, I thank my colleague and look forward to working with him in the future.

Mr. DOMENICI. I thank Senator EXON for yielding.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. Mr. President, I, too, wish to join those who have complimented our colleague, Senator DOMENICI, and also the ranking member, Senator EXON, for their outstanding work on behalf of the U.S. Senate and our goal of bringing the U.S. Federal budget into balance. They have taken on a very difficult, challenging task. They have performed their task with great skill.

I want to say that I stand shoulder to shoulder with others in this Chamber who are committed to the goal of balancing the Federal budget and doing so as rapidly and surely as possible. I am proud to wear the label of being a deficit hawk.

I have supported the constitutional amendment to require us to balance the budget. I hope when that amendment returns, we will have the votes to carry it one step further and that is to be prepared to balance the Federal budget without relying on the Social Security surplus as a means of doing so. By adding that additional component, that is denying ourselves the luxury of balancing by using the expanding Social Security surplus, we will have, in fact, achieved our goal of a sustained, permanent balancing of the U.S. Federal budget and a cessation of the constant increases to the national debt.

I also support the line-item veto as a necessary discipline of the executive in the process of national fiscal affairs. I supported the 1993 economic plan of President Clinton which I think history will demonstrate is one of the most important actions that this Congress has taken, in terms of moving beyond rhetoric to actually making the difficult political decisions to balance the Federal budget.

I cosponsored, during the debate on this budget resolution, the Fair Share plan, which went beyond this budget in terms of what it would have done toward balancing the Federal budget by the year 2002 and beyond. While I admire and appreciate the effort that has gone into the budget plan which is before us this afternoon, I do not believe even its most ardent advocates would attempt to say that it is Biblical; that is, that this is the only way, this is the divinely disclosed manner that is necessary in order to achieve the objective of a balanced budget.

Balancing the budget is both a matter of commitment and then a matter of values, of priorities, of choices. This plan represents values, priorities and choices. Frankly, they are not my values, priorities, or choices, because I believe this is not a plan which meets the ultimate test of being fair to all the American people.

When one of our colleagues has the courage to stand up on the floor and describe himself as being one of the most advantaged Americans, and then to say he is embarrassed about the fact that he is being asked to vote for a budget plan that will substantially reduce his taxes while denying services to many other Americans who are substantially less well off—I think that is indicative of the fundamental unfairness which is a fundamental flaw of this budget plan.

I think there are three other flaws in this plan. First, the plan ignores, in too many critical areas, the consequences on real Americans, on real people. If I could use as an example a meeting that I participated in yesterday with the presidents of four, predominantly African-American, colleges and universities in my State. One of those Presidents was Dr. Oswald Bronson who is the president of Bethune-Cookman College in Daytona Beach. Bethune-Cookman College has, as its first name, the name of a great American, Mary McLeod Bethune, whose statue graces Lincoln Park, just a few blocks from where we are this afternoon.

Those presidents told me that if the cuts in student financial aid which are contemplated as a result of this budget plan become reality, it is not a matter of a few students being economically pressed in terms of continuing their education. It is not a matter of a sustainable dropoff in admissions to their institutions. It is a matter of survival of their institutions. So many of their students are dependent upon programs like the PELL grants, that if we make the kinds of cuts that we are contemplating, we place those institutions in jeopardy. That is the impact on real people that this plan will inflict.

Second, I think this plan is flawed in that it is top down. Big numbers were arrived at without any apparent attempt to determine what those big numbers would mean to the programs that were affected and the people who depended upon those programs. I want to particularly talk about that flaw as it relates to the two big Federal health care programs: Medicare, health care for the elderly; and Medicaid, health care for the poor.

Third, I think this plan is unsustainable. We may get some degree of glow of accomplishment, should this plan pass today—and I assume it will. But I predict with a high degree of confidence that when the Members of this body and our colleagues in the House begin to look at the actual consequences of this budget, particularly in areas such as education and health care, that we will see them to be what I think they clearly are, and that is inappropriate, adverse to the interests of average Americans, and therefore unsustainable.

There are some who would suggest, in this health care debate, that we have just opened the scene to an absolutely new stage; that we never saw any of the issues in health care until we came to this budget resolution. The fact is, we have known about the status of American health care for a long time. It has been a status which has been declining in some very important indicators. It has been declining in terms of the number of persons covered by effective financing for their health care costs. It has been declining in terms of some important indicators of the health of our people, such as the immunization of our youngest children. And it has been declining in terms of its economic status.

It was no secret that the Medicare program has been in financial distress. That was why the President, in his 1993 plan, made what I think was a courageous proposal, to provide a substantial amount of additional funds for Medicare, which has allowed its impending bankruptcy to be deferred for some considerable period of time.

We need, now, to have a reform of our health care plans which is reasonable, which is in the context of comprehensive health care reform, and which will be sustainable.

One of the major debates of 1994 was whether health care could be reformed program by program or whether these programs are so interrelated that it had to be done on a comprehensive basis. Those who argued for the former position won the day; that we did not have to have comprehensive health care reform, that we could do it a different path. It is now going to be their challenge to figure out if that, in fact, is true.

I personally do not believe it is true. I believe we are going to find that there will be substantial cost shifting as a result of these draconian cuts in Medicare and Medicaid. We will find private insurance rates going up. We will find the cost to local governments increasing. Circumstances such as just occurred in the largest public hospital in Los Angeles—the Los Angeles County Hospital now is on the verge of closure because, in large part, of the impact Federal Government health care policies that have been narrowly focused on that one hospital and have caused or contributed substantially to its collapse.

We also are seeing declining coverage. One of the things that is occurring is that the percentage of Americans covered by private health insurance is declining. The estimate is that by early in the 21st century less than half of working Americans and their dependents will have coverage at the point of their employment. And the result of that is that the rolls of Medicaid, the safety net for many of those people who have lost their coverage in the private sector, has been growing almost in direct proportion. We are going to continue to see that. Yet, with these cuts, $181 billion below what health care economists both in the previous Republican administration and the current Democratic administration had considered as necessary to maintain the same level of coverage and quality, we are going to have $181 billion of cuts below those levels.

Mr. President, while I admire the fact that we are now moving toward the goal of a balanced budget, there has to be a different way to achieve that goal. So I must vote "no" on this plan with full expectation that before this year is over I will have the opportunity to vote "yes" for a plan which is fair, which is sustainable and in the interest of all Americans.

Thank you, Mr. President.

Mr. KYL. Mr. President, promises made, promises kept. That's what the fiscal year 1996 budget resolution is all about. We promised the American people that we would find a way to balance the Federal budget, and we did. This resolution puts the budget on a path to balance by the year 2002.

We promised that we would protect Social Security, and we did. This resolution doesn't touch Social Security retirement benefits or cost-of-living adjustments.

We promised to protect Medicare, and we did. This resolution allows Medicare spending to grow at a sustainable pace.

We promised to provide tax relief for American families and businesses, and we did. This resolution will accommodate 245 billion dollars' worth of tax relief over the next 7 years.

We promised that we would begin to shrink the size and scope of Government, and we did. This resolution provides for the elimination of the Commerce Department and numerous other programs, commissions, agencies and functions of Government.

Promises made, promises kept. That's what this resolution is about—keeping the promises we made to the American people, and keeping faith with future generations of Americans.

Now, make no mistake. We'll hear throughout this debate about all of the pain this budget inflicts. Let's put this budget into perspective.

Over the next 7 years, the Federal budget will grow from $1.5 trillion to $1.875 trillion. That represents an annual growth rate of about 3 percent. So, total Federal spending isn't being cut at all. We're just not increasing it as much as some in this Chamber and at the other end of Pennsylvania Avenue would like.

Take a look at Medicare in particular. Spending will grow from $178 billion this year to $274 billion in 2002. That's an annual growth rate of about 6.4 percent. Medicare spending per beneficiary will grow from about $4,350 this year to $6,070 by 2002. Total Medicare spending over the next 7 years will top $1.6 trillion. So, we're not slashing Medicare at all.

We do heed the warning of the Medicare Board of Trustees and limit growth to more sustainable levels to prevent Medicare from going bankrupt in 2002. That is what is necessary to ensure that seniors do not lose their benefits altogether as a result of bankruptcy in 7 years.

Medicaid spending will grow from $89 billion this year to $124 billion by the year 2002. That is an average annual growth rate of just under 5 percent.

So, spending on many important programs is continuing to increase, even as the budget moves toward balance.

What about taxes? We hear a lot of rhetoric about tax cuts for the rich. The fact is, a tax bill has yet to be written, so we don't even know what taxes will be cut or who will benefit. If you look at the bill the House passed back in April, about 75 percent of the benefit of the $500 per child tax credit would go to families earning less than $75,000 per year. Ninety percent of the benefit would go to families with annual incomes of less than $95,000. There is language in the resolution before us that says the tax cuts should go to working families. In other words, most of the benefits will go to families of more modest means.

But even if some of the benefits go to wealthy individuals, I would ask, "What's wrong with that?" People don't hide their money away in a mattress. They invest it, and that creates new job opportunities across the country. You don't help job seekers by penalizing job creators.

Capital gains reform is a case in point. When capital gains tax rates are high, people need only to hold on to their assets to avoid the tax indefinitely. No sale, no tax. But that also means less investment, fewer new businesses and new jobs, and far less revenue to the Treasury than if capital gains taxes were reduced.

According to a study by the Institute for Policy Innovation, the 50 percent capital gains exclusions and indexing contemplated in the House bill would help lower the cost of capital by about 5 percent, inducing investors to increase the capital stock by $2.2 trillion by the year 2002.

That larger capital stock, in turn, would create 721,000 new jobs and increase total gross domestic product by almost $1 trillion by the year 2000. And, of course, that will help increase revenues to the Treasury.

Mr. President, this resolution is about promises made, promises kept; about a healthier economy. More important, however, it is about the future. It's about Casey Crandall, a young scout in Herber, AZ, who wrote to me recently to say we shouldn't spend money we don't have; that there is no reason to send this country farther into debt.

It is about young Brandon Loos in Scottsdale who wants his representatives in Congress working hard to balance the budget and get us out of debt.

It is the future of these young people that is on the line. The national debt now amounts to about $4.8 trillion—about $18,500 for every man, woman and child in the country—$18,500 apiece for young Casey and Brandon in Arizona.

If the Federal Government continues to run $200 billion annual deficits, as President Clinton has proposed, Brandon and Casey can expect to pay an additional $5,000 in taxes over their lifetimes. The $1 trillion in new debt that President Clinton proposed in his 5-year budget plan represents an additional $25,000 in taxes—an additional $25,000—for every young man and woman.

And the burden of the national debt doesn't just show up in people's tax bills. It also adds a surtax to interest rates that people pay on car loans and student loans, credit cards and mortgages. The estimate is that the debt surtax adds about 2 percent to those interest rates. On a $74,000 30-year mortgage, that surtax amounts to over $37,000. By balancing the budget, we can help to eliminate that surtax and make a home purchase more affordable—make it easier for families to send their children to college.

Mr. President, every generation before us has worked hard to ensure that their children and grandchildren has had the chance to lead a better life. Let's not have ours be the first generation to rob the future of its chance for a better life just so we can continue to spend to excess on ourselves. Let's give Casey Crandell, Brandon Loos and all of the other children across the country the chance to work for a better America for themselves and their children, not just the obligation to pay our debts.

Mr. President, this is an historic occasion; the first time in nearly three decades that we have a chance to vote on a balanced Federal budget. Let's pass the balanced budget resolution.

Ms. MIKULSKI. Mr. President, I rise in strong opposition to the conference report to the budget resolution. It will have negative consequences for seniors, children, veterans and the people who serve people—our Federal employees. It will also hamper our ability to make investments in our future for job creation and economic growth.

This conference report violates the most basic contract we have with the American people—to provide for a safe and secure future for our children.

Let me make this perfectly clear—I support the goal of a balanced budget.

However, I believe that in balancing the budget, we must be guided by certain principles that uphold our commitment to our seniors, our children, our veterans and our federal employees.

This budget resolution upholds none of these principles.

This budget resolution could have devastating consequences for Maryland. The Baltimore Sun reports that this seven year budget plan could cost the State of Maryland 100,000 jobs over the next ten years. This means that Maryland could be thrown into an economic depression as a result of this budget resolution.

For all of these reason, I am vehemently opposed to this resolution and I urge my colleagues to vote against it.

Mr. President, this conference report makes unprecedented cuts in Medicare—this is outrageous.

The proposed cuts to Medicare send a clear message to the G.I. Joe generation—the generation that saved western civilization. Thank you for saving humanity, but we are going to cut your health care when you may need it most.

On the 50th anniversary of the end of World War II, we are turning our backs on our veterans. It is shameful.

Is this what they fought for?

To have their Government turn its back on its senior citizens?

Under this budget resolution, our seniors will have to pay more and get less—less choice, less coverage and less security.

Our seniors deserve better than this. And so do our Federal employees.

This budget resolution is a declaration of war against Federal employees. To the people who answered John Kennedy's call to service—NASA employees who put us on the moon, NIH employees who are trying to find a cure for cancer and FBI and Secret Service agents who risk their lives trying to make our streets safer—this Congress decides to cut their benefits and reduce their retirement.

This violates our contract with these employees. It is unfair, it is unjust and this Congress should be ashamed for the action it is taking today.

This budget resolution also makes dramatic and potentially crippling cuts to student loans.

How can we turn our backs on middle class families who are hoping to send their children to college?

We are taking away the ladder of opportunity for millions of students and the families who have sacrificed for their children.

This resolution fails in another fundamental way. It fails to make the investments in science and technology. It fails to create high wage jobs. It fails to promote economic growth.

In my own State of Maryland, agencies such as NASA, NIST and NIH are in the forefront of developing new technology. I support this effort. But this budget resolution means less money, less research and less benefits to the economy and the people of this country.

Mr. President, with this budget resolution, I believe we are breaking our promise to our seniors, our Federal employees, our children and our veterans. I find this unconscionable.

This Congress must recognize that balancing the budget must be based on principles that protect our most vulnerable citizens and preserve the ladders of opportunity for the next generation. We must never forget the contributions of our Federal employees and the vital role they play in preserving our prosperity.

Unfortunately, this Congress has rejected these principles. For this reason, I oppose the conference report to the budget resolution and I urge my colleagues to do the same.

Mr. DOMENICI. Mr. President, we have been going back and forth. Sometimes that does not work timewise because somebody speaks 10 minutes on one side and 5 on the other. What we will try to do now is—I ask unanimous consent that Senator KASSEBAUM and Senator MURKOWSKI proceed in that order, with Senator KASSEBAUM having 5 minutes and Senator MURKOWSKI 3½. Then we will proceed back to the Democrat side. What would their pleasure be there?

Mrs. BOXER. We ask that Senator WELLSTONE have 10 minutes, and I understand that Senator NICKLES would like 10 minutes, and then Senator KERREY would like to have 5 minutes at that time.

Mr. DOMENICI. Can we get Senator DEWINE at 5 minutes?

Mr. KERREY. Mr. President, what we would like is 15 minutes to the side under the control of myself, Senator ROBB, and Senator NUNN.

Mrs. BOXER. We would have Senator KERREY for 15 minutes.

Mr. DOMENICI. DEWINE 5, BURNS 5, and COVERDELL for 5.

Mr. WELLSTONE. Mr. President, might I have 10 minutes?

Mrs. BOXER. Yes. The Senator will be going immediately after Senator MURKOWSKI and Senator KASSEBAUM.

I say to my chairman, I am looking to speak for 10 minutes for myself at some point before I have a meeting in the minority leader's office. I am wondering whether it would be all right with the chairman if I went before he had used up 15 minutes.

Mr. DOMENICI. I want to accommodate the occupant of the chair, who has a time schedule also. Let me say it this way: We have Senator KASSEBAUM and Senator MURKOWSKI, then Senator WELLSTONE for 10, and Senator NICKLES for 10.

Mrs. BOXER. Senator KERREY for 15.

Mr. DOMENICI. Senator DEWINE for 5.

Mrs. BOXER. And if Senator BOXER could go in there for 7 or 8.

Mr. DOMENICI. Fine. Then we will come back and see where we are. It looks like Senator BURNS and Senator COVERDELL will follow thereafter for about 5. We will see how those work out.

Mrs. BOXER. Has the Senator formulated the unanimous-consent request?

Mr. DOMENICI. Let me say that is understandable. Let us make that a unanimous consent.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. I thank the Chair.

Mrs. BOXER. I thank my colleague.

Mrs. KASSEBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mrs. KASSEBAUM. Mr. President, first, I would like to recognize the superb leadership on the master plan of this budget, the chairman of the Budget Committee, Senator DOMENICI. I used to serve on the Budget Committee a long time ago. It is not easy putting together a truly substantive budget, but, indeed, this budget is that. It is putting us on a path that is going to be a sound and a sensible direction for the future. It may not be what we all would like. I am sure there are parts of it that we might not be truly comfortable with in the short term. But it envisions what we can do with the short term, but more importantly, what we will be able to do for the future.

Mr. President, I am struck by some of the debate that we heard back and forth yesterday and today about the sense of finality that some are imposing on this debate. Depending on your perspective, it is as if this resolution, on its own, will either save our economy or wreck it. The fact of the matter is that the vote on this budget will not end the debate on how to restore fiscal responsibility and set priorities. In many ways, the debate—and the work—is just beginning.

This budget resolution, like all budget resolutions, provides a framework for the tasks that will fill the rest of the year, and years ahead, as a matter of fact. It does not and cannot prescribe specific actions. It paints, in broad strokes, the outlines of Federal spending and revenues over the next 7 years. That picture is a good one, because it shows a Federal Government that has slowed the rate of its growth and trimmed away the excess spending that adds to our national debt.

The details of the picture, however, will be painted by the authorizing and appropriating committees with jurisdiction over individual programs and policies. The budget requires only that we stay within the lines of the resolution that is before us. As difficult as it has been to produce this outline, producing the finished picture will be much more challenging.

For example, I will mention one that was mentioned by the Senator from Maine, Senator SNOWE. I am very concerned about the magnitude of cuts this budget would have us make in Federal student loan programs. During the recent debate on the Senate resolution, we rejected the idea of stripping away loan subsidies for college students. Senator SNOWE's amendment gave 67 of us the opportunity to make ourselves very clear on that point. Yet, the budget resolution assumes we will cut $10 billion from the program in 7 years. This was worked out through the compromise with the House and the Senate, and it is now before us.

I think it will be very difficult for the Committee on Labor and Human Resources—and the full Senate, for that matter—to agree to the cuts the budget resolution assumes we will make to meet its instruction.

As chairman of that committee, I can only say that I will do the best I can. And, obviously, it is very important that indeed we achieve that goal.

I also am not convinced that the mechanism this resolution sets up for certifying spending cuts and triggering a $245 billion tax cut will be effective. Nor am I convinced that a tax cut of that size is wise while we are still running deficits. That has been a concern of a number of us. Even if CBO certifies that our planned spending reductions are sufficient to cover the lost revenues, we still could balk when the time comes to follow through with the spending cuts. Seven years is a long time. Before I vote for any tax cut this fall, I will have to be convinced that we have locked in real spending cuts.

And that is, indeed, the responsibility of the authorizing and appropriating committees.

I also have to mention that I do not agree with some of the discretionary spending assumptions this budget makes. A good example, I think, is spending on public health and basic research. I remain concerned about the funding reductions for the National Institutes of Health and other programs in the U.S. Public Health Service. The budget resolution assumes a 1-percent reduction in NIH funding in 1996 and then a 3-percent reduction for each year thereafter. That does not seem like a lot. But I think it takes away from that budget some very important funding that is necessary for us in the future.

And I am worried about the detrimental impact of any NIH budget reduction. I believe that biomedical research advancement and breakthroughs could slow dramatically, and I think this is a concern we all share. We want to make sure we can do it the right way. However, I am pleased that the conference agreement would allow for a 1-year transition period before the full impact of any reduction would occur. This is necessary because the National Institutes of Health will need time to plan for the discontinuation of some ongoing research projects to fund new initiatives. As chairman of the Committee on Labor and Human Resources, I am committed to working with NIH to find ways to achieve these budget reductions without harming basic biomedical research. In fact, we will explore these options when the committee takes up the NIH reauthorization next year.

The PRESIDING OFFICER (Mr. INHOFE). The Senator's time has expired.

Mrs. KASSEBAUM. If I may just have 2 more seconds to finish.

Mr. DOMENICI. Two additional minutes.

Mrs. KASSEBAUM. Just 1 minute will do it.

Mr. DOMENICI. One additional minute to the Senator.

Mrs. KASSEBAUM. Let me just add this, Mr. President, and I realize everybody has time they want to use. Throughout the debate on this budget, much has been made of the idea of shared sacrifice. And this is always tough. But let me just tell you when a student who is worried about a student loan reduction will say to me, "So what is going to happen to you?" I think in order to accomplish the goal of balancing the budget and restoring sound fiscal policy, all of us have to be willing to do our part.

That is why I consider it essential that those of us in Congress take action to freeze our own salaries until our budget is in order. Already this year we have made significant cuts in legislative branch spending, and the budget calls for more cuts next year. The conference report does not explicitly say that we will freeze our salaries but that we can. We should enact legislation soon to implement that freeze. I believe, Mr. President, while saving $72 million is not large in the context of our entire budget, it is a step we must take.

I strongly support this budget because I believe that it outlines and points to fiscal responsibility, and I congratulate again the chairman and those who have worked hard to make this possible.

I yield back my time. I thank the Chair.

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. Mr. President, I join my colleagues in commending the chairman of the Senate Budget Committee, Senator DOMENICI, for developing a foundation for this truly historic budget resolution conference report. This resolution commits this Government to finally ending the nearly four decades of deficit spending that have brought our Nation's Government to the very verge of bankruptcy.

Starting in 1961 and in every year but one, we have run an unending string of deficits and debt. During the past 34 years, our national debt has grown by 1700 percent, from $298 billion in 1961 to nearly $5 trillion, and we have done nothing—we have done nothing, Mr. President—that is adequate. And if we continue to do nothing, interest on the debt, currently at $235 billion, will approach $300 billion in nearly 4 years and interest costs will exceed Federal spending for national defense in 1997.

Mr. President, in the face of these massive, unending deficits, our President has failed to present anything close to a credible plan to balance the budget. In February, the President submitted his budget. When the Congressional Budget Office [CBO] analyzed his budget, they found that he had cooked the books down at the White House. The President's budget was out of balance by more than $1.2 trillion and his deficit projections were off by 40 percent. Not a single Member of this body supported the President's budget, which was defeated 99 to nothing last month.

Mr. President, 2 weeks ago, the President went on national television to announce that he had finally developed a 10-year plan to balance the budget. If one looks at that plan, all the cuts are in the last 3 years, and even then according to CBO, the budget would be out of balance by more than $200 billion a year.

Let there be no misunderstanding, Mr. President. The only plan that will bring about a balanced budget is the plan crafted by the House and Senate budget conferees, and there is simply no other choice available. That is why I will support this budget resolution.

Finally, let me address the issue of tax cuts in this resolution, and let me be very clear on the issue. I do not believe we ought to be cutting taxes in 1995 and 1996 while we simultaneously run deficits of more than $170 billion. Although this budget resolution slows the growth in our interest bill, the fact is that all Federal borrowing today and for the foreseeable future is simply to pay interest on the debt. This is the clearest indicator I know of how broke we are in Washington. And when you are broke, it is no time to go out and declare a dividend.

I am a member of the Finance Committee, Mr. President. The committee will consider tax cuts in September. I hope I can convince my colleagues that all savings, or a considerable amount of those savings, should be used to reduce the carrying costs on the interest and thereby reducing the accumulated debt. In other words, we simply ought to be using savings to reduce the debt, not for tax cuts.

I thank the Chair, and I thank my colleagues for the time. I wish them a good day.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from California controls time.

Mrs. BOXER. I believe under the unanimous consent agreement Senator WELLSTONE has 10 minutes at this time.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, I appreciate the views of my colleagues, but there is no shared sacrifice in this budget proposal. When the conferees came out of conference committee, tax cuts for wealthy people and very large and profitable corporations, tax cuts which go overwhelmingly to very wealthy people, ballooned from about $170 to $245 billion. Under this budget, if you have an income of over $350,000, you get a break of $20,000 a year. If you do not, you are pretty much out of luck. In fact, under this budget, on average, working people will pay a very large price.

Mr. President, at the same time that we are putting into effect these tax cuts which flow disproportionately to the wealthiest citizens in this country, we are calling for draconian cuts in Medicare, Medicaid, child nutrition programs, and student loans.

At the same time that we have a $20,000 a year break per person in tax cuts over the next 7 years, we are asking Medicare recipients to pay about $3,200 per person. By the year 2002—oh, yes, the cuts are backloaded, so it gets steeper—they will pay about $900 additional dollars per year for Medicare.

Mr. President, without system-wide health care reform, reform of the Medicare and Medicaid programs will not work. We have had this discussion in the Chamber before, and I have challenged my colleagues to debate this. With Medicare, we are talking about $270 billion in cuts and Medicaid $182 billion—in my State of Minnesota, about $4.7 billion in Medicare and over $2 billion in Medicaid.

First of all, let us consider the average income profile of people on Medicare. Let us stop assuming that elderly people are greedy geezers, as some critics have said. The median income for male beneficiaries is about $16,000 a year; female, about $8,000 a year. Households with people 65 years of age and over pay about four times more in medical care costs right now than those under 65 years of age.

What we are going to be doing with $270 billion in Medicare cuts is calling on the beneficiaries—and that is what it is, an insurance program for elderly people—to pay more out of pocket in copays and deductibles, and for many people they will not be able to, and will have to go without care. But above and beyond that, make no mistake about it, this will lead to major cost-shifting. We went through this before, I say to my colleagues, when we debated health care policy, and the cost shifting will go on like this just as it has.

In the metropolitan areas, where the providers can shift the cost to the private health insurance, they will do so because Medicare will not cover the reimbursement for the cost of delivering care, and then private health insurance companies raise the rates of those who receive private health insurance, and then employers have more trouble covering people, and then we continue the trend of employers dropping people from coverage. That is precisely what is going to happen. This is a shell game. Someone is going to pay for this.

Second, Mr. President, in rural Minnesota—and I come from a State where rural communities matter and count—many of our care givers will not be able to continue to operate, because 75 and 80 percent of their payment mix right now is Medicare, because of the disproportionate number of elderly people, disabled people, low-income elderly people, that live in our communities.

Finally, Mr. President, I come from a State where with Medicare we go through the HMO's. A Medicare perperson reimbursement over $350 goes to RHMO's, whereas in Kings County, NY, it is $600 per enrollee. I am speaking as a Senator from Minnesota. We have cut the fat. We kept the costs down in Minnesota, and now we have this slash-and-burn approach to health care policy? The effect of this will be severe in my State. And the effects of this will be cruel to Minnesota's elderly.

Mr. President, let us talk for a minute about another major problem with this budget, and that is the $182 billion of cuts in Medicaid. Let us talk about Medicaid. Actually per person, which is the way we ought to do it in terms of the number of people who are beneficiaries, we are going to go from about 7 percent per year increase to about 1.3 percent per person. Seventy percent of Medicaid, I say to my colleagues, is for nursing home expenses. And people are not in nursing homes and receiving Medicaid unless they are, by definition, low income. Who is going to pick up the cost? How are these nursing homes going to make up the difference? Are there going to be fewer staff? Are we going to provide people with even less care? Or is it going to be our county governments and our State governments that pick it up? And who is going to pick up the cost for covering children? Medicaid happens to be an important safety net program that covers many children within this country, children who would otherwise go without care.

Mr. President, this budget also hits farmers disproportionately hard. It instructs the Agriculture Committee to effect $48.4 billion in cuts over 7 years; from the commodity programs we are talking about $12 billion a year. So I am assuming we are talking about $35 billion of cuts in nutrition programs in 7 years, food stamps, school lunch, school breakfast, and the Women, Infant and Children program.

Mr. President, I had an amendment on this floor that said that the Senate will take no action that would increase hunger or homelessness among children. Three times I lost. The fourth time it was passed by unanimous consent. I guess I am going to have to bring this amendment back on the floor.

Why do you think we expanded the Food Stamp Program? It is the most important safety net program in this country. Yes. There are imperfections, and some reform might be necessary, but the fact of the matter is, we expanded the food programs after we saw the hunger and malnutrition in the late 1960's and we saw children with scurvy and rickets and distended bellies. And the Food Stamp Program has been enormously successful in removing that hunger and malnutrition. Are we going back to that again? How generous we are sometimes with other people's suffering. And I am told that this is shared sacrifice? I do not buy it.

Mr. President, I was a college teacher before I ran for the Senate. And I am saddened, and angered, that now some in this body are moving to cut the student financial program. This budget would slash about $10 billion in student loans. Students in Minnesota, I say to my colleague, in Minnesota, some of whom sell plasma at the beginning of the semester to buy textbooks. I meet students who work 35 and 40 hours a week while going to school. That is why it takes them 6 years. Now we want to eliminate part of the exemption on the loans? Mr. President, I do not see the shared sacrifice.

I see huge amounts of tax cuts, $245 billion, in the main, going to those people in our country who already have the economic resources. I do not see any real effort to take on corporate welfare. We have got a joint tax committee, Mr. President. We have got a joint tax committee that tells us that we have, roughly speaking, over 400 billion in what are called "tax expenditures," some of which are justified, like the mortgage interest and charitable contribution deduction, both of which serve important public purposes, but others of which are loopholes and outright tax giveaways. Is it too much to ask that we might look at some of those giveaways as sources of deficit reduction? Tobacco companies, pharmaceutical companies, insurance companies, oil companies. Are we going to ask any of those large corporations and financial institutions to be a part of this tightening of the belt? I do not see any standard of fairness here.

Mr. President, at the same time that it calls for slashing Medicare, Medicaid, and student loans, this budget calls for increases of about $58 billion over the next 7 years in the Pentagon budget, an increase of $58 billion over the next 7 years, in the post-cold-war period. I was in a debate the other night with a colleague in the House who said we needed to eliminate legal services for the poor, all in the name of deficit reduction. The total cost of legal services for the poor is $400 million. It is not even 40 percent of the cost of one B-2 bomber. Mr. President, I do not see the standard of fairness.

What we have done here is we have massive tax cuts, with almost all the benefits flowing to the most affluent citizens. We have draconian cuts in Medicare and Medicaid which will not work on good health care policy. And, in addition, we cut financial assistance for students for higher education, and we cut into nutrition programs for the most vulnerable citizens. But we do not touch corporate welfare or ask military contractors to be a part of this at all. And when it comes to health care, we do not have any health care reform, any system of wide cost containment.

Mr. President, I will introduce a resolution soon which will then be recrafted as an amendment to the first appropriate legislative vehicle to express the sense of the Senate that by the end of the 104th Congress the Senate should pass health care legislation to provide all Americans with coverage at least as good as what the Senate provides for itself. That sounds familiar because we are back to health care. This does not meet the Minnesota standard of fairness. And I hope before it is all over we get back to some shared sacrifice. This budget I believe is unconscionable. It signals an outrageous and historic abandonment of our commitment to vulnerable Americans, our commitment to farmers, our commitment to the elderly and to children and to college students. It signals a rejection of our commitment to the common good of all, not the special interests of the relatively few in America who are wealthy and powerful , and who will benefit enormously from the tax breaks in this budget. It is an abandonment of our commitment to some modicum of economic and social justice, and it should be roundly rejected by this body. I urge my colleagues to vote against it.

The PRESIDING OFFICER. The Senator's time has expired.

Who yields time?

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. NICKLES. First, I wish to join my colleagues in complimenting Senator DOMENICI for his stewardship of this budget because this is truly a historic budget. I have been in the Senate 15 years. We never passed a budget that anyone could really credibly call a balanced budget. This one we can. The Congressional Budget Office says this is a balanced budget. This is truly an historic occasion.

This is the first budget I have voted for that will curtail the growth of entitlements. Every other budget, including those under the Reagan administration, the Bush administration, and the Clinton administration never attempted to reduce the rate of growth of entitlement programs. In this budget we have done just that.

I compliment the chairman of the Budget Committee for his leadership, and also Senator DOLE, as well as our colleagues in the House, because everyone has been a contributing partner in this budget. The House is passing the budget right now. And my hope is that we will pass it in a couple of hours.

Mr. President, I think we are making history. I think we are making the right kind of history. The American people have asked for a balanced budget. And we are finally going to start delivering.

When we debated a couple months ago on the floor of the Senate whether or not to pass a constitutional amendment to balance the budget, many people on both sides of the aisle said we should balance the budget regardless of whether or not we have a constitutional amendment. And I agreed with that statement. However, we have to vote yes today in order to achieve that balanced budget. I hope our colleagues on both sides will support this budget resolution because it is the only resolution that leads towards a balanced budget.

President Clinton, during his campaign talked about balancing the budget. The budget that he proposed in February of this year was not a balanced budget. As a matter of fact, the deficit under this budget increased every single year, from $200 billion to almost $300 billion.

The budget that he introduced very late in the game, just a few weeks ago, would balance the budget over 10 years according to his estimates. But according to CBO he did not balance the budget. CBO says the deficit under the President's new plan would stay in the $200 billion range forever. So it is not a balanced budget. He has suggested basically a perpetual deficit of a couple hundred billion dollars.

The only budget proposal that will get anywhere close to a balanced budget is the one that we have before us. The compromise between the House and the Senate calls for a balanced budget by the year 2002. Some people, said why did you pick the year 2002? That was the date proposed in the constitutional amendment. Sixty-six senators agreed to balance by that date. That is what we have done in this resolution.

Mr. President, I will insert in the RECORD three or four charts that show the facts, because I heard my colleague from Minnesota say that this budget did not do very much, or it cut too much in some areas. I want to give people the facts.

First, I just want to compare this budget agreement to President Clinton's latest budget in June. You will see in this chart that our budget has a steady decline in the deficit. Every single year under our budget we have a steady decline in deficit figures to where we get to a balanced budget by the year 2000. In the President's budget, the deficit stays in the $200 billion range. These are the figures. These are the facts. I will put these numbers in the RECORD. I think people are entitled to their own opinion. I do not think they are entitled to their own facts.

I heard my colleague from Minnesota say we are slashing Medicare, we are slashing Medicaid and slashing student loans and slashing several other programs. Mr. President, I do not consider those comments to represent the facts. When you talk about these programs, you have to consider how much money we are spending this year and how much money we are spending next year. If we are spending more money next year, I do not consider that slashing a program. I will put another table in the RECORD which compares what we are going to be spending under this budget compared to if we actually froze spending. We are going to increase spending in Social Security compared to 1995 levels, $556 billion. Under Medicare we are going to spend $355 billion more than this year.

In other words, every single year we will spend more. I am going to print those facts in the RECORD.

Medicare, for example: Spending in 1996 goes up $13 billion compared to 1995; 1997, $24 billion; 1998, $36 billion; 1999, $48 billion. All increases over the 1995 level—and I could go on —we will spend a total of $355 billion more in Medicare than what we would have spent if we had a straight freeze.

Under Medicaid, we will spend $149 billion more than we would if we froze Medicaid for 7 years.

I heard my colleague from Minnesota say this budget spends billions more on defense. He said the Pentagon. He said we are spending $58 billion more in the Pentagon. Mr. President, that is not a fact, or he is using some weird baseline.

The facts are, in defense we are spending $270 billion this year. In the year 2002, we are going to spend $271 billion, and spending actually declines in the interim. We are actually going to spend $13 billion less. In other words, if we froze defense at this year's level for 7 years, we would spend $13 billion more than we would under this budget.

So my colleague said we are spending $58 billion more, but not more compared to 1995. Defense would do much better if we froze it at 1995 levels and left it at that level, with no adjustments for inflation. I know I heard my colleague from Minnesota say we are spending $58 billion more for the Pentagon. Not so. We are going to spend

$355 billion more in Medicare, $149 billion more in Medicaid, and spend actually $13 billion less in defense.

Mr. President, those are the facts. Again, people certainly are entitled to their opinion. If you use a baseline, you should use a baseline of what we are spending this year, so if you have an increase from this year, it is an increase; if you are spending less than this year, that is a decrease, not some hypothetical baseline that is inflated for all kinds of things.

I will make another comment on Medicare. I hear a lot of colleagues say these are draconian cuts in Medicare. Medicare per capita spending in 1995 is $4,816. In the year 2002, it will be $6,734. That is a significant increase, almost $2,000 more per capita after 7 years in Medicare than we are spending today. That is an increase in every single year.

Some of our colleagues say that is a draconian cut. I do not think so. I might mention, too, Mr. President, if we do not do something in Medicare, we have serious problems. We are walking away from a problem because Medicare, according to the President's own trustees, is going bankrupt; it is going broke.

Actually, in the year 1997, the Medicare trust fund starts spending more money than is coming in, and it begins to drain the so-called trust funds. Frankly, there are no magical trust funds, there is simply an IOU in the account, and we will have to borrow money to redeem that IOU.

By the year 2002, the $125 billion IOU is gone. Medicare cannot borrow from other trust funds. So we have two options, you either reduce the rate of growth of spending in Medicare or you increase payroll taxes. Payroll taxes are already pretty high and most of us do not think that is the right solution.

Most people say keep the funds solvent by reducing the rate of growth of spending in Medicare. Under our proposal, we allow Medicare spending to grow by 6.4 percent annually, which is two or three times the rate of inflation projected for the outyears. So let us be responsible, let us save the Medicare system. It is going broke right now. If we do nothing, as originally proposed under President Clinton's budget in February, the system will go broke. It will not be able to pay hospital and doctor bills, and that is not responsible. That is not an acceptable solution.

I just hope my colleagues will think a little bit about what we are doing today and remember some of the speeches we make back in our home States before the chambers of commerce and the rotary clubs that we believe in a balanced budget; we do not think the Government should spend more than it takes in.

We have a chance today to substantiate that belief. We have a chance today to say, "Let us live within our means."

I will say this budget may not be perfect. I heard some other colleagues say, "I don't agree with each particular part of the budget." This budget is just a guideline. The authorizing committees are going to have to make the tough decisions. The authorizing committees are going to have to make decisions about where we are going to cut spending, how we are going to allocate it, how we are going to reduce the rate of growth in some of these entitlement programs. We do not do that here. That process will occur in a reconciliation bill, and the President will have to sign it.

We keep hearing rumors that he will not sign it. I think that would be irresponsible. We have to adopt this budget today, which is a tough vote for some, but the tougher votes will be in the reconciliation package.

I hope my colleagues stand up and say, "Let's work together."

I see my colleague from Nebraska, Senator KERREY. He, Senator SIMPSON, and others, have talked about significant entitlement reform, and I compliment them. Many of us talked at various times in the past about working in a bipartisan fashion to see if we can balance the budget. Let us be responsible. Let us not continue to pile up trillions of dollars of debt.

Today is the first step. Today we have to pass the budget resolution, and sometime probably in September we have to pass a reconciliation package to make it happen.

I hope we will show courage today, and I hope we will show courage in September to truly get us on a path to balancing the budget in a responsible way; not by taking taxes from hard-working Americans, but by reducing the rate of growth of spending.

Mr. President, I ask unanimous consent that the charts to which I referred be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DEFICIT COMPARISON

	1996	1997	1998	1999	2000	2001	2002	Sum 96–02
Conference	(170)	(152)	(116)	(100)	(81)	(33)	6	(646)
Senate	(157)	(128)	(98)	(86)	(74)	(30)	1	(572)
House	(156)	(176)	(140)	(134)	(108)	(61)	1	(773)
President 1	(211)	(232)	(231)	(256)	(276)	n/a	n/a	n/a
President 2	(196)	(212)	(199)	(213)	(220)	(211)	(210)	(1,461)
Conference compared to:								
Senate	(13)	(24)	(19)	(14)	(7)	(3)	5	(74)
House	(14)	24	24	34	27	28	6	127
President 1	41	80	115	156	195	n/a	n/a	n/a
President 2	26	60	83	113	139	178	216	815

Sources: CBO, SBC majority staff.

GOP BALANCED BUDGET CONFERENCE AGREEMENT

	1995	1996	1997	1998	1999	2000	2001	2002	Sum 96–02
Defense discretionary	270	264	266	265	268	272	271	271	1,877
Domestic discretionary	278	270	258	253	248	249	246	244	1,768
Social Security	334	352	371	391	411	433	456	480	2,894
Medicare	178	191	202	214	226	239	255	274	1,601
Medicaid	89	96	102	106	110	115	119	124	772
Other mandatory	146	156	162	163	177	186	192	200	1,236
Net interest	235	259	266	270	276	282	283	284	1,920
Total outlays	1,530	1,588	1,627	1,661	1,718	1,778	1,822	1,876	12,070
Total revenues	1,355	1,417	1,475	1,546	1,618	1,697	1,789	1,883	11,425
Deficit surplus	(175)	(170)	(152)	(116)	(100)	(81)	(33)	6	(646)

Source: Senate Budget Committee majority staff.

GOP BALANCED BUDGET CONFERENCE AGREEMENT COMPARED TO 1995 LEVELS

	1996	1997	1998	1999	2000	2001	2002	Sum 96–02
Defense discretionary	(6)	(4)	(5)	(2)	2	1	1	(13)
Domestic discretionary	(8)	(20)	(25)	(30)	(29)	(32)	(34)	(178)

GOP BALANCED BUDGET CONFERENCE AGREEMENT COMPARED TO 1995 LEVELS—Continued

	1996	1997	1998	1999	2000	2001	2002	Sum 96–02
Social Security	18	37	57	77	99	122	146	556
Medicare	13	24	36	48	61	77	96	355
Medicaid	7	13	17	21	26	30	35	149
Other mandatory	10	16	17	31	40	46	54	214
Net interest	24	31	35	41	47	48	49	275
Total outlays	58	97	131	188	248	292	346	1,360
Total revenues	62	120	191	263	342	434	528	1,940

Source: Senate Budget Committee majority staff.

Mrs. BOXER. Mr. President, under the unanimous-consent request, Senator KERREY of Nebraska has 15 minutes under his control.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. KERREY. Mr. President, I yield 5 minutes to the distinguished Senator from Virginia.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. ROBB. Mr. President, I rise reluctantly.

As most of our fellow Senators know, I believe it is critical that this Nation become more fiscally responsible.

Accordingly, I joined Senators SAM NUNN and BOB KERREY in voting for the original Senate budget resolution last month, even though I disagreed with many of the underlying priorities and was fundamentally opposed to any possibility of any tax cut before true balance is actually reached.

I did so because I thought it represented a commitment to serious deficit reduction and deserved bipartisan support.

I wanted very much to be able to vote for the conference report we are now considering for the same reasons. But I cannot vote for the conference report, Mr. President, because the conferees insisted on changes I simply cannot support in good conscience.

I differ with many of our colleagues because I believe it is essential that we make some very difficult but necessary cuts in our projected spending, and I am willing to take the heat with those who have the fortitude to make them. In fact, when President Clinton was kind enough to ask me recently for advice regarding his role in the current budget process, I not only urged him to reenter the debate with his own revised proposal, but I also urged him to stick to the 7-year goal the Congress had already established and to abandon his own more modest and better targeted tax cut, because I thought it was paramount that the progress he had begun on deficit reduction in 1993 be continued. There is no question that his 10-year plan is fairer and more practical than the one we will vote on today, although I wish he had stuck to CBO figures.

Mr. President, if this conference report better reflected the priorities of the chairman of the Senate Budget Committee, I would still be prepared to support it, and I believe my colleagues, Senator NUNN and Senator KERREY, would as well.

Instead, however, as compared with the resolution we passed last month, the conference report we vote on today is less fiscally responsible in every way. Compared to the original Senate resolution, this resolution increases the deficit every single year before the year 2002. It increases the national debt. It postpones most of the politically difficult decisions until we are so far down the road that we will not be credible, and it places the burden primarily on those least able to bear it, all to provide a tax cut that would disproportionately benefit those with incomes well above the national average.

Then, to add insult to injury, it is now structured in such a way that the tax cut can be guaranteed this year to start taking effect immediately, while most of the savings from which it is theoretically derived would not begin to show up until after the turn of the century.

Mr. President, that is not credible and that is not conscionable. I will continue to work with our colleagues on both sides of the aisle to make the tough decisions that lie ahead, and they are going to be far tougher than those willing to vote for this conference report are willing to acknowledge at this point. But I cannot be a party to guaranteeing a tax cut now that will not be paid for until much later, or to endorsing a much less fiscally responsible approach to the serious debt and deficit challenges facing this country.

Mr. President, I voted for the original Senate budget resolution. But regrettably I will have to vote against this conference report, because it is less credible, less responsible, and less fair.

Mr. President, I thank the Chair and yield the floor.

Mr. KERREY addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. KERREY. Mr. President, I, too, come reluctantly and with considerable regret to vote "no" on this conference report. All of us have come to the floor and talked about the deficit and what it does. There is no question that the deficit reduces savings in America, reduces productivity, the standard of living; and perhaps as significantly as anything, it reduces Americans' confidence and hope and reduces the world's confidence in the United States' capacity to lead.

So I applaud the distinguished chairman of the committee, the courageous Senator from New Mexico, for saying to the United States of America, and to this Congress, that we have to change courses and go in a different direction. That changed course is going to require different kinds of attitudes and different kinds of behavior. It is going to require political courage to do things that will be unpopular. It is going to require hard choices and tough work. It is going to require deferred gratification, and, most important, it is going to require us to say to the American people that we are moving in the direction of becoming an entitlement society and we need to start moving in the direction, once again, of becoming an endowment society, which our country was when my parents' generation was in charge.

I regret voting "no" on the straw that broke this small camel's back, which was the desire, as I see it, to do something that is much easier and more popular, that is to cut taxes for some individuals in some businesses. It was done in the name of growth and in the name of the American family. Far better, I must say, in the name of both growth and family security, would have been for us to have taken the proposal of the Senator from New Mexico and the Senator from Georgia, Senators DOMENICI and NUNN, for a U.S.A. tax that would have eliminated the income tax altogether and been a powerful incentive for all American families to acquire wealth. We have missed an opportunity, in my judgment, Mr. President, to produce a truly bipartisan conference report. I was willing to cross and make it bipartisan and to defend against a tax, and will still, in some key and difficult areas.

Mr. President, in addition to deficits growing and debt growing in the United States of America and us moving in the direction of becoming an entitlement society, there are two other trends we must face directly that are bad for free enterprise capitalism and for a liberal democracy, such as the United States of America.

Trend No. 1 is a decline in real wages, salaries, and benefits as a proportion of U.S. output. Trend No. 2 is an increased concentration of wealth. I argue, Mr. President, that in order to be able to constructively reverse both of those trends, we have to do a number of things. One, we have to fix the cost of entitlements in the United States—our Federal entitlement programs—at some percentage that we all decide is an agreeable and appropriate amount, and then allow the balance of our budget to go for those things that will give us the opportunity of lifting wages, salaries, and benefits.

Mr. President, I heard many people come to the floor and say, "I am against the cuts in Medicare, cuts in education, but I am for deficit reduction." It is going to be impossible for us to do both of those things. One of the biggest flaws of this budget resolution is that we go from 34 percent of our budget, going to domestic programs, to 25 percent. If you extend it out beyond retirement of the baby boom generation, which begins in 2008, we eventually get to a point where 8 percent of our budget is for domestic spending and 92 percent is for entitlements. That will require us to do something that very few want to do, that is to put retirement on the table. It is our biggest spending program. Those who say that the previous generation—the generation that won World War II and the cold war—is unwilling to participate in deficit reduction to provide opportunities for our children, I believe, are misjudging that generation. We are pandering, responding in political fear of what happened in 1985 or 1986.

Mr. President, we have to put retirement on the table, or we cannot fix entitlements as a percent of our budget, and we will never have the money we need to invest in education, transportation, infrastructure, research and technology, and all the things that a majority of Republicans and Democrats acknowledge will, if we get them out there, help Americans lift their standards of living, wages, salaries, and benefits.

Second, on the trend to increase concentration of wealth, again, we have to reform our retirement programs. They are not a savings program, Mr. President. As a consequence, Americans do not enjoy the benefits of that 12.4 percent payroll tax.

Senator SIMPSON and I have a proposal that would create a 2 percent personal investment plan. Not only does our proposal help fix the cost of entitlement programs but, in addition, it generates a trillion dollars of new wealth, Mr. President, new wealth owned by 137 million people in the work force. We do not just have to end the course we are on of deficits and rising debts, but the increasing concentration of wealth and decline of real wages and benefits and salaries of American working people ought to alarm anybody who believes that the United States of America needs to continue to lead with our example of free enterprise capitalism and liberal democracy.

Mr. President, I was going to talk only until Senator NUNN came to the floor.

Mrs. BOXER. If the Senator will yield, Senator NUNN is delayed and will be here later in the debate. So if the Senator wishes to continue for his full 15 minutes that he has under his control, that would be all right.

Mr. KERREY. I thank the Senator from California. I will try to summarize in a brief fashion.

Again, I believe we need to change courses. This is very much about us deciding whether or not we have the capacity in 1995 and the decision to impact our future. Can we change our future? Can we change the way the future looks in America?

There is no question that this budget resolution will change the future in that our deficit will be gone. But, Mr. President, it does not do it in either a fashion that I can comfortably say is fair, because it reduces, in my judgment, taxes unnecessarily and inadvisedly. It does not give us the hope that we are going to have the capacity to reverse another trend, and that is the decline of wages, salaries, and benefits of working Americans, and the trend toward increasing the concentration of wealth.

I am prepared to make difficult decisions. I am prepared to join with the Republicans in changing the course of this country, in saying that we are going to do the difficult and not the easy things. I regret very much that this resolution did not survive as a bipartisan resolution. I understand that there was great enthusiasm to put an even larger tax cut and lock it in.

I regret that the conference yielded to that demand, if not threat, and produced, in the end, a budget resolution that will have no bipartisan support. I think, as a consequence, Mr. President, we will have a much more difficult time persuading Americans that we can change course and that we need to change course as soon as possible.

I yield the floor.

Mrs. BOXER. Parliamentary inquiry, Mr. President. I trust the Senator will yield——

Mr. KERREY. I yield the balance of my time.

Mrs. BOXER. Will he yield it to the manager of the bill rather than give it up, since our time is short?

Mr. KERREY. I yield the remainder of my time to the manager of the bill.

Mrs. BOXER. I thank my friend. I know the Senator from Ohio has been waiting for his 5 minutes.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. DEWINE. Mr. President, I rise today in strong support of this budget resolution. With this budget, we begin to deliver on the promises that were made to the American people last November. This Congress will do what prior Congresses have not done. It will pass a realistic budget for the U.S. Government.

The current direction of the U.S. budget policy is simply not sustainable. Congress has already amassed a $4.7 trillion national debt that our children and our grandchildren are going to have to pay off. We are already paying over $235 billion a year just in interest on the national debt. By the year 2002, just 8 years from now, spending on entitlements and interest will exceed 70 percent of our entire budget. Take out defense, that leaves just 15 percent of the budget for all the discretionary spending on domestic needs—that is 15 percent of the whole budget: 15 percent, for education, for job training, for Women, Infants, and Children programs; just 15 percent for all of these domestic needs. That is just if we stay on our present course.

Really, it does not get any better after the year 2003. By the year 2012, just 17 years from today, there will be nothing left in the budget for these social needs—zero. No money for our children. Every last penny in the Federal budget will go for entitlements and interest payments. That is the future, bankruptcy on top of a breathtakingly high mountain of debt.

When my parents graduated from high school in the early 1940's, the debt on each child who graduated that year was $360. By the time my wife Fran and I graduated in the mid-1960's, it was up to $1,600 on each child. When our older children, Patrick and Becky and Jill, graduated in the mid-1980's, that figure stood at $9,000. If we continue to go the way we have been going, by the year 2012—just 1 year after our grandson Albert graduates from high school, and just 1 year after our daughter Anna enters college—by that year, 2012, that figure will be $25,000. That will be $25,000 in debt for each person in this country and no money at all to pay for urgent national needs.

I believe this is much more than a budget question. It is much more than a question of accounting and bookkeeping. It is a fundamental moral question about the kind of people we, as Americans, really are. I believe we do not have the right—I do not think we have the right to leave our children a bankrupt America. They deserve a lot better from us than that.

Another way of looking at it, when my parents were growing up, back in the 1930's, each family in this country had to work until about March 8 to pay for their taxes. By the time I was growing up in the 1960's, a typical family had to work until April 16. Today, 1995, American families have to work up until May 6, to pay their taxes. We have gone from March 8 to April 16 to May 8. That is simply going in the wrong direction.

Last November, the American people decided they were sick and tired of this. They demanded a fundamental change of course, and they are right. I believe today, with what I hope will be the passage of this budget, we begin to bring about the change the people of this country voted for last November. This budget is based on a simple idea. First, we cut Government spending. Then we have a sensible, realistic tax cut. Because two things are necessary if we want to ensure America's prosperity as we move into the 21st century. First, we have to make sure Congress does not spend more than it takes in. Second, we have to give some tax relief to American families. We have to let families keep more of their own resources so they can save for their own future and invest in America's future.

In conclusion, this conference report I believe is in fact a realistic blueprint for an American future we can be proud to leave our children. I congratulate Chairman DOMENICI and Chairman KASICH for their outstanding work.

I intend to vote "yes" on this conference report, and I yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, I believe I have 8 minutes. I appreciate the cooperation of all sides here in helping us move this debate forward.

First of all, I am a little disappointed the Senator from New Mexico is not here. I wanted to thank him for one small thing in this budget. I disagree with this budget very much, and I am going to explain why. But there was one small part of it which dealt with the Presidio, which is a national park in San Francisco. There was a move to sell it off and cooler heads prevailed. Republicans and Democrats got together and we have a terrific approach to that park. Now the new conference language is we will not sell the Presidio. We will, in fact, try to maximize the revenues from leasing the various buildings and put that toward running the park.

So I am very grateful to my colleagues on the Budget Committee for that. And I think that about ends my compliments on this budget. I do not think anyone in the Chamber would be that surprised. As a member of the Budget Committee, I really fought for other priorities and I would like to explain why.

First of all, I would like to correct the record. The Senator from Oklahoma, Senator NICKLES, and a couple of others said this was the first time the CBO ever said that there would be a surplus.

That is not the case. I have here an official document, where the CBO shows that in fact there was going to be a surplus. I ask unanimous consent that be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

HOUSE REPORT 101-820—CONCURRENT RESOLUTION ON THE BUDGET—FISCAL YEAR 1991

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the concurrent resolution (H. Con. Res. 310) setting forth the congressional budget for the United States Government for the fiscal years 1991, 1992, 1993, 1994, and 1995, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate to the text of the resolution and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

That the budget for fiscal year 1991 is established, and the appropriate budgetary levels for fiscal years 1992, 1993, 1994, and 1995 are hereby set forth.

MAXIMUM DEFICIT AMOUNTS

SEC. 2. The following levels and amounts in this section are set forth for purposes of determining, in accordance with section 301(i) of the Congressional Budget and Impoundment Control Act of 1974, as amended by the Balanced Budget and Emergency Deficit Control Act of 1985, whether the maximum deficit amount for a fiscal year has been exceeded, and as set forth in this concurrent resolution, shall be considered to be mathematically consistent with the other amounts and levels set forth in this concurrent resolution:

(1) The recommended levels of Federal revenues are as follows:

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the concurrent resolution (H. Con. Res. 310) setting forth the congressional budget for the United States Government for the fiscal years 1991, 1992, 1993, 1994, and 1995, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment to the text of the resolution struck out all of the House resolution after the resolving clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House resolution and the Senate amendment.

EXPLANATION OF CONFERENCE AGREEMENT

The following tables show the functional allocations and budget aggregates included in the conference agreement over five years for the total budget, the on-budget amounts and the off-budget amounts. In addition, a table is included which breaks out the credit amounts by function.

CONFERENCE AGREEMENT TOTAL BUDGET

[In billions of dollars]

	1991	1992	1993	1994	1995
Budget authority	1,485.6	1,562.6	1,582.4	1,593.4	1,668.4
Outlays	1,236.9	1,269.3	1,305.0	1,324.8	1,355.5
Revenues	1,172.9	1,260.8	1,349.8	1,433.3	1,511.7
Deficit (−) / surplus (+)	−64.0	−8.5	44.8	108.5	156.2
050 National Defense:					
Budget authority	288.3	290.9	291.1	351.5	364.9
Outlays	297.0	295.0	292.0	341.7	351.5
150 International Affairs:					
Budget authority	19.2	19.8	20.6	22.4	23.8
Outlays	17.4	18.0	18.5	19.7	20.7
250 General Science, Space and Technology:					
Budget authority	15.2	15.9	16.5	17.1	17.7
Outlays	15.2	15.7	16.1	16.8	17.4
270 Energy:					
Budget authority	6.4	5.6	6.4	6.8	7.2
Outlays	4.0	4.4	5.0	5.3	5.2
300 Natural Resources and Environment:					
Budget authority	18.8	19.9	20.5	21.2	22.0
Outlays	18.9	19.6	20.2	20.6	21.2
350 Agriculture:					
Budget authority	18.0	22.6	20.4	18.2	19.2

Mrs. BOXER. So, this is not the first time the CBO stated we would be in surplus.

Let me say I listened very carefully to the opening debate on the budget, and there were many points made by my colleagues on the other side of the aisle. They feel very good about this budget. I feel happy for them, that they do. But they kept saying this budget is a compromise. This budget they bring before us is a compromise.

I asked myself, compromise with whom? Usually, if you have a compromise, you take different viewpoints and you reconcile them and you call that a compromise. Then I realized, it was the Republicans in the House compromising with the Republicans in the Senate. There was no compromise between different ideas. There was no compromise with the President, who laid out his own ideas. It was a compromise between the Republicans in the House and Republicans in the Senate. And they are congratulating themselves for reaching a compromise.

That is like me saying congratulations for reaching a compromise with Senator PATTY MURRAY, with whom I agree 98 percent of the time. It is like looking at yourself in the mirror saying "Nice tie," and the mirror says "Nice tie" back. That is not a compromise. That is a love fest.

Let us face it, the Republicans are proud of their Republican revolution. They stated clearly what it was going to be. They wanted to give tax breaks to the wealthiest among us, and they did. But they did not have to really compromise. Oh, there were some changes around the edges on that. But essentially that is what we have.

I want to take a look at this with my colleagues, the chart that we have that shows the impact of these cuts. If you look at the budget—how did they get the tax cuts? They talk about deficit reduction, deficit reduction, deficit reduction. I voted for a balanced budget. BILL BRADLEY had one out here. KENT CONRAD had one out here. We did not give tax cuts to the wealthiest. Do you know what that meant? We did not have to hit so hard on Medicare and the elderly. We did not have to hit so hard on kids and education. We did not have to decimate environmental programs. No, we did not. Because we do not think the people in the upper income brackets need a huge tax cut.

Then, when you bring this up, my friends on the other side say, "Class warfare; there they go again, class warfare."

Look, the American dream that everyone has in this country is that they will work hard, play by the rules, and become comfortable—wealthy. That is an American dream. And that is fine. We all work toward that—work hard, play by the rules, and be sure we can manage our finances and our families.

But here, what we are saying in this budget, is the middle class will pay to give tax breaks to the rich. The children will pay to give tax breaks for the rich. That is the Republican revolution.

I am on the Budget Committee. I was on it for many years in the House. I look at this budget. It is pretty clear to me.

Oh, they say, we are not cutting Medicare. We are not cutting it. I ask you a question. If the demographics are changing and more people get old and more people need Medicare, of course you have to increase spending. If you do not increase it enough, people will not get the program. If they wanted to talk about reforms first, I would have been right there. We showed you can cut Medicare half as much and save the elderly, as long as you do not give that tax break to the upper incomes.

Look at this chart. If you earn over $200,000, you are in for a treat. You are going to get back $9,000 every year. But if you are middle class, if you look at the cuts here—to the children, to the college students, to the elderly—you are going to take a terrible hit. Those between $75,000 and $100,000, they are going to be hit by $676; and guess what, folks, if you earn less than $30,000, you are going to be hit by $1,183; while those over $200,000 get back $9,000.

This is an abomination. This is the Republican revolution. Hear it loud and clear. Hear ye, hear ye. The rich get richer and everybody else stays the same. The poor get poorer. The middle class gets poorer.

Mr. President, I think the choice is clear for my colleagues. They can stand up for the middle class. They can stand up for the working poor. They can stand up for the average American, which is what Democrats do. That is the difference between the parties. This is why I like this budget debate. It is why I wanted to be on the Budget Committee. Or you can stand up for the wealthiest. One of my colleagues says he never got a job from a poor person. Well, I would ask a question. Could the wealthy person have ever made money if there were not working people in this country? Let us be fair. This budget is not fair.

So to summarize, it seems to me very clear. If you want to slash Medicare, vote for this budget. If you want to slash Medicaid, vote for this budget. And by the way, two-thirds of Medicaid goes to old people in nursing homes. Vote for the budget if you want to hurt those people. Vote for the budget. Do you want to hurt the kids? Vote for the budget. It cuts education. It makes it harder to get a student loan.

I ask one question. We worry so much about crime, and we should.

I ask unanimous consent for 1 additional minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. BOXER. Mr. President, we worry a lot about crime, and we should. I have not seen a scientific survey on it, though, so if anyone wants to correct me, I will stand corrected. But I do not know too many burglars, too many robbers, too many drug dealers who have a college education. I really do not. I think a lot of our problem stems from the fact that we do not give opportunity. What are we doing here? Cutting student loans.

So, Mr. President, I think we have a chance to stand up for what we believe in. Do I believe in a balanced budget? You bet. I voted for two versions. President Clinton authored one. Some people say it did not go far enough. The bottom line is he made the point. You do not have to decimate this country to balance the budget. Vote no on this Republican budget. Vote no, and do it proudly, because when you vote no, you are standing up for the average American.

I yield the floor.

Mr. BURNS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BURNS. Mr. President, I rise today to talk about the concurrent budget resolution. But before I do that, I would like to take this opportunity to recognize the efforts of Senator DOMENICI, Representative KASICH, and the members of the budget resolution conference committee in presenting us with a concurrent budget resolution which balances the Federal budget by fiscal year 2002. I support the overall direction that this budget mandates for the country.

For the first time in over a generation, we are about to pass a budget resolution that will—we are not there yet—bring the Federal budget into balance. I do not think anyone will dispute the overwhelmingly positive impact that balancing the Federal budget will have on America's economy, and consequently, upon the American family standard of living. By every account interest rates will drop. Per capita incomes will rise. Millions of jobs should be created. More money will be available for investment. Thus expanded economic opportunity. Also, once this budget is balanced, we will finally be in a position to begin to make meaningful payment to retire the Federal debt. That would reduce our yearly interest payment on the Federal debt, which will, in turn, free up more money in the Federal budget in future years for other purposes. One thing is certain, though, if we do not take these steps now, we will certainly mortgage our children's future.

I believe that this budget proposal achieves a balance in a responsible way, and that is why I am supporting it. It reduces the size of the Federal Government, streamlines governmental operations, and slows the rate by which Federal spending increases.

I think most folks agree that the Federal Government has gotten too big to operate efficiently. This budget proposal addresses this problem by reducing legislative branch spending by $200 million. I strongly believe that, if we are going to ask other Federal agencies to tighten their belts, Congress has got to be willing to accept our share of the reductions.

This budget resolution also calls for a $1.9 billion reduction over 7 years in spending in natural source management in an effort to streamline Federal land management agencies. As I stated a couple of weeks ago. I support such a reduction in spending, so long as it is targeted toward new land acquisitions, new construction, and new land use planning starts. These reductions in spending should not be made in resource programs that return positive benefits to the land, to the Federal Treasury, and to local economies. Reductions in resource programs, while attractive in the short-run, are bad fiscal policy in the long-run, and I oppose such reductions.

This budget resolution also calls for the continued funding of the interest subsidy for undergraduate study which I firmly support. I believe that such an investment will have long-term benefits that outweigh the short-term costs of such assistance. I am, however, disappointed that the TRIO Program, a program that assists disadvantaged students in acquiring the minimum skills necessary to complete undergraduate coursework, was not specifically provided for in the conference report. I strongly encourage the budget committees in both the House and Senate to influence the authorization and appropriations committees to continue funding for this and like programs.

You know, we have heard a lot over the past 2 days about how this budget resolution slashes Medicare. The numbers just do not tell such a story. You cannot get around the fact that total Medicare spending over the next 7 years will exceed $1.6 trillion, which is nearly double the amount spent on the program during the last 7 years. You can't get around the fact that Federal Medicare spending will grow from $4,350 per beneficiary in 1995 to $6,070 per beneficiary in 2002. This is a $1,720 per beneficiary increase—a 40-percent increase. So when you hear people saying that this budget resolution is cutting Medicare, what you are really being told is that funding for Medicare didn't increase by as much as we had hoped that it would. Calling that a cut makes sense only inside the beltway. We need to get back to defining a cut as a cut, and this budget resolution does that.

While I generally support the goals outlined in this concurrent budget resolution, this is not to say that I do not have some concerns with some of its details.

This budget proposes a reduction of agriculture research by 10 percent, which would reduce total outlays to this program by $1 billion. As I explained a couple of weeks ago. I have concerns with this provision. At a time when wheat yields are dropping, we need to keep a safety net out there. Agriculture research gives our farmers and ranchers the vital tools that they need. Cutting this research now would have a devastating impact on our farm and ranch communities down the road and thus upon the Federal Treasury. I believe that our first priority here should be to protect our farm and ranch families, and I am opposed to any reduction in this funding. Furthermore, agriculture has taken more than its fair share of reductions in Federal spending in the past. I do not oppose all reductions in agriculture spending; I do, however, oppose agriculture suffering disproportionate spending reductions.

This budget resolution also proposes the privatization of PMA's. I likewise have concerns with this provision. PMA's generate substantial revenues for the Treasury. It makes no sense to me to count the revenue received from the sale of the PMA's and ignore the revenue foregone over the long-term due to the loss of the availability of those assets for power sales. Consequently, I believe that the scoring of revenue derived from the sale of PMA's is poor fiscal policy, and I am likewise opposed to the privatization of PMA's.

Finally, I am concerned about the tax cuts proposed in this concurrent budget resolution. While I support the enactment of middle class tax relief and tax incentives to stimulate the economy and enhance wages, I believe that our first priority should be to balance the budget. Consequently, I believe that any tax bill should be contingent upon CBO certification that we are moving toward a balanced budget and should be limited to the $170 billion CBO certified dividend. I believe that any tax cuts which exceed the $170 billion dividend or which are not tied to deficit reduction are irresponsible, and I will oppose them.

In conclusion, I would like to praise Senator DOMENICI, Representative KASICH, and the members of the budget resolution conference committee in presenting a responsible budget resolution, and I pledge to work with them to develop a policy that works for all Americans.

Mr. President, I have heard all of the figures here today. Everybody has had an opportunity to hear them in every speech that I have heard across the aisle. "I believe in a balanced budget. I believe in getting this deficit under control. But." We leave that for the American people to judge. "But" what? This is not the right time? I have to say that. We have to recognize that, and stand for one thing. And I think the Senator from California hit the nail right on the head. I am going to stand for the American dream.

If we continue to plunge this Government into debt, the American dream is gone. How would you like to be a young person sitting down here that looks at the prospect, whenever they go into the work force, of 85 percent of their paycheck going just to pay the interest on the national debt? I do not think that is a very good prospect. I do not think it is very responsible. I think we are immoral to do that.

For the first time in this generation, we are about to pass a budget resolution that will bring this budget into balance—not this year or next year or the next—by the year of 2002. And we do it with a minimum of hurt. Yes, there is going to be some hurt. But everybody in America said we will participate. We will help you. If you will help us, we will help you. That is kind of what we are doing in this message. Because if we do not, the balancing of the American budget will have an effect on the American economy and consequently on the American family, which is under strain now, and that family's standard of living. By every account, interest rates will drop. Per capita income will rise. And who benefits from that? The American family. That is who benefits from that.

So we are in a meaningful position right now. Sure, I do not agree with all of it. I signed a letter. I said let us not worry about cutting taxes until we get this spending under control. I still stand with that. They put a message into that which says OK, Finance Committee, you cannot cut any taxes until the Congressional Budget Office tells you that you are in balance, that we can still pay our bills and give some money back to the American taxpayer, the person who is pulling this wagon.

That language is in here. It is in this resolution. Remember, this resolution does not become law. The President does not sign this. This is a blueprint to get us to where we are going. When we pass the reconciliation, that is when we start shooting with real bullets, and we will find out who really wants to balance the budget and who does not. So I am going to support this budget resolution. So for the first time since I have been here, we are on the right track.

I believe it is getting us there in a responsible way. So I am going to stand with all Americans—rich, whatever—all of them because I happen to believe very much in the American dream.

I am probably a product of that American dream. I started out on 160 acres with two rocks and some dirt. I did not have anything. The American dream means something to me. That was back in the days when you worked and you tried to get ahead.

So this resolution calls for a $1.9 billion reduction over the 7-year spending in natural resource management. We are a resource State. But if it is responsible, we can handle that. I will tell you what we have to do. We have to make those natural resources available to the entire American public, and not just lock it up for a chosen few. We have to approach it with a different mindset.

So I urge my colleagues to vote for this resolution. The right language is in there. Yes, there are some cuts that I do not like. They are not in Medicare. They are not in Medicaid. We are not cutting those folks. Those continue to go up. Every year, they go up. Only in this 13 square miles of logic-free environment does an increase mean a cut. I never figured that out.

So basically, we are back at zero-base budgeting to fund those and make us set the priorities of what we should be financing, and what the true role of Government is.

Mr. President, I yield the floor.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER (Mr. BURNS). The Senator from Alaska.

Mr. STEVENS. Mr. President, I yield myself 10 minutes.

(The remarks of Mr. STEVENS pertaining to the introduction of S. 1004 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. STEVENS. Mr. President, the budget deficit this year stands now at $176 billion. It is projected to remain roughly at $200 billion a year through the end of the century if we support the position presented to us by the President's budget.

Our debt is now growing at an astounding rate of $335,000 a minute—$20 million an hour, $482 million a day. I believe we are mortgaging our children's future. A young couple just getting started in life now will pay $113,200 in interest on that debt if nothing is done about it. I am concerned about this.

Last year, my youngest son, Ben, and his new wife, Elizabeth, blessed me and our family with a new granddaughter. The day baby Suzie was born in Anchorage—it was last year—was a happy one for our Stevens family. But I do not think it was such a happy day for baby Suzie if you think about it. Suzie was born owing the Federal Government $18,500. That is really her share of the total national Federal debt. Under the no-balance budget submitted by the President, Suzie's share of the debt will increase by 25 percent in 5 years to over $23,000. Suzie, I think, would not like it too well when she learns that she will pay $187,000 in income tax over her life just to pay the interest on the national debt if it stays static, just like it is right now.

The Federal debt and the deficit, unfortunately, will grow right along with Suzie. When she buys her first car or buys her new house, she will pay higher interest rates because of the debt and the deficit.

Recent estimates show that interest rates are 2 percent higher than they would be if the debt and the deficit were under control. Suzie's taxes will be out of sight based on all local, State and Federal taxes. Even President Clinton's budget projects her lifetime net tax rate at 82 percent. Unfortunately, the more taxes my little granddaughter Suzie would pay, the less she will get back. The benefits, the services of the Federal Government just will not be there. Most of her taxes will go to pay the interest on the debt, about $3,500 every year of her life, and by the time she is 17 we calculate that all of the taxes Suzie will pay will be consumed by interest on the debt and the entitlements. And when her parents, my son Ben and his wife Elizabeth, retire, there will not be a Medicare trust fund. Unless they are careful savers, Suzie will probably have to take her mom and pop in and take care of them. That is the way it was when I was a kid, Mr. President. I think people forget that those who have the greatest stake in what we are doing are the parents of young children now, and they do not want to have to go back and live with their children when they get to be of retirement age.

The Medicare board of trustees, including President Clinton's Cabinet Members, warn that the Medicare trust fund will be bankrupt in just 7 years. That is when Suzie will start the first grade.

Now, as her Senator and, even more importantly, as her grandfather, I believe I have a duty to join in the action now to try to ensure a brighter future for her and all American children. And that is why I join today with my friend from New Mexico to support the resolution and the conference report on which he has worked so hard. This resolution will put our country on a glidepath to a balanced budget by the year 2002. We will increase the growth in Federal spending by 3 percent a year instead of 5 percent a year as President Clinton proposed, and, if we did nothing else, we would reach a balanced budget by the time Suzie reaches the second grade.

This deficit reduction plan starts with the Congress. Let me point out again—I am sure others have—this conference report assumes there is a 7-year freeze on congressional pay, judges' pay and the salary of Government's top officials. As one who has been active for many years in that area of post office, civil service, Government service, I regret deeply that it has to be done, but it has to be done, and I am pleased to state, as chairman of the Rules Committee, that we have already carried out the instructions we received to cut committee staff of the Senate by 15 percent and support staff by 12.5 percent.

This budget eliminates over 100 unnecessary Government programs and projects and proposes to do away with at least one major department and, as many know, I am working on a plan to consolidate a series of Federal departments in the interest of savings.

This measure will protect Alaska's sourdoughs, our retired people. It allows Medicare to grow at a rate of 6.4 percent to account for inflation and the growing aged population. The average Alaskan's benefits will actually increase now from $4,350 a year to $6,070 a year under Medicare. And our State will have the ability to decide how best to administer additional funds. Alaskans know what Alaskans need much better than Federal officials thousands of miles away here in Washington, DC.

Medicaid spending for the poor will increase from $89 billion a year this year to $124 billion in 2002. That is a 5 percent increase a year, and I keep hearing that we are cutting Medicaid spending. We are reducing the rate of growth. We are not cutting spending. And not one penny will be cut from Social Security. We will keep our promise to America's seniors, and we will find some way to assure that Social Security will be a solvent safety net for them on into the next century.

This resolution calls for a major downsizing of the Federal bureaucracy. Discretionary spending will be reduced by $190 billion over 7 years. Foreign aid would be cut by another $23 billion. But as chairman of the Defense Appropriations Subcommittee, I am pleased to note that under the Budget Committee's actions, our national defense will remain strong under this proposal. The conference report actually restores $33 billion to the proposed cut in defense over the next 7 years.

Now, we still are facing a substantial reduction in defense spending. That is the one area which will continue to go down, not up, Mr. President. But we believe that the budget as planned is one with which we can live. We can learn to do better with less money. We have targeted the increase that is in this conference report to the strengthening of our readiness, which has declined, and to the improvement of the quality of life for our troops.

The budget resolution also calls for savings of $100 million in Federal welfare programs over the next 7 years. But it does provide that able-bodied Americans will be trained in order that they may work, and a safety net will remain in place for those who are disabled or unemployable, those who truly need and deserve our help.

I am here to say that I am pleased that Alaska and Alaskans will be given the chance to make a significant dent in this budget deficit. This legislation assumes that the tremendous oil and gas potential of the Arctic coastal plain will be explored and developed. The desolate coastal plain will raise over $2 billion in Federal bonus bids and lease payments over the next 5 years, and there will be tens upon tens of billions of dollars in royalties and income taxes paid by those who explore and develop the oil in the North Slope. We have proven that we can develop oil in the North Slope without adversely affecting the environment. Since oil and gas development began in Prudhoe Bay, for instance, the local caribou population there has increased by 600 percent, and I constantly hear that we are going to endanger the wildlife population.

The measure also includes a tax cut. President Clinton socked us with the largest tax increase in the history of this Nation—$251 billion.

In striking contrast, this resolution proposes the biggest tax refund in history—$245 billion.

That includes family friendly tax reductions like the $500 per child tax credit, marriage penalty relief, adoption tax credits, and cuts for senior citizen.

The tax proposals will also stimulate the economy. They include a capital gains reduction and an American dream savings plan, a new kind of IRA.

Even with the tax cuts, overall spending will be reduced by a whopping $1 trillion over 7 years.

And the deficit will be reduced by nearly $900 billion during that same period. In the year 2002, the deficit will be zero.

Alaskans are willing to tighten their belts. They are demanding a smaller government, and we are going to give it to them in this resolution.

Just as we all sacrificed during World War II to achieve a greater good, we are willing to do it now to save our children and our country from certain bankruptcy.

I commend Chairman DOMENICI for the brilliant job he has done in putting this resolution together.

On behalf of Suzie and all Alaskans, I thank him for his leadership and pledge my support of this resolution.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. EXON. Mr. President, we have had two speakers from that side. We now would go to two speakers on this side, if that is acceptable to the Republican manager.

Mr. DOMENICI. Could I use 50 seconds of my time before the Senators proceed?

Mr. EXON. Yes.

Mr. DOMENICI. Mr. President, might I say to Senator STEVENS from Alaska, I listened to his speech here today. I am very pleased that he has done such a good job of analyzing this as it affects his constituents. More than almost any Senator here, this Senator from Alaska watches out for his people, and he has analyzed this budget from their standpoint. I think that is the way we ought to do it, and I commend him for it. But I also want to thank him for the support. He has been very, very helpful.

Mr. EXON. Mr. President, I am very pleased now to recognize two of my closest friends and associates in the Senate; first, the chairman of the Armed Services Committee, Senator NUNN from Georgia, for 5 minutes; following that, 20 minutes to my friend and colleague from West Virginia, Senator BYRD.

Mr. NUNN. I thank my friend from Nebraska. I thank him for his leadership on this overall issue of budget deficit reduction. I also want to commend my good friend, Senator PETE DOMENICI, chairman of the Budget Committee, and his staff. I know how hard they have worked. I know my friend from New Mexico had to make many difficult decisions to reach a conference agreement on this bill.

Mr. President, I will vote against this conference report reluctantly, because I voted for it in the Senate and I hoped to be able to vote for this overall conference report package. It is very important. The most significant improvement over past attempts to balance the budget is the inclusion of recommendations to restrain significantly the projected growth of Federal mandatory or entitlement spending, which now represents over 50 cents of every dollar the Federal Government spends and will continue to increase even with this resolution.

Mr. President, I thought the Senate bill represented a credible approach to balancing the budget. I did not agree with all of it. But I did support it because I thought it was about as good as could be achieved in this climate this year and certainly an improvement over past years. In many areas this conference agreement is similar to the Senate bill, but in some areas it is significantly different. In one area, defense, it is stronger. And I applaud that. I think that the modest increases for defense in this conference report, as well as the firewalls for the first 3 years, are significant improvements.

However, Mr. President, this conference report shares one similarity with previous attempts to balance the budget. I think it could be a fatal flaw. And that is, its inclusion of very large tax cuts up front. I regret the conference report does not reflect the Senate position on this issue when it rejected, by a vote of 69–31, the mandatory tax cut amendment offered by Senator GRAMM.

I certainly do not say this as a criticism of the floor manager, Senator DOMENICI. The leadership of the House made it abundantly clear there would be no conference agreement without a very large tax cut. So I am under no illusion that there was any real flexibility on this point on the part of the House.

But the objection I have with this tax cut is that it is unsound from a fiscal standpoint and, most importantly, makes the spending cuts required to reach a balanced budget both larger and much less likely to be implemented as time passes. I will elaborate on that very briefly.

A major difference between this bill and the Senate bill was, under the Senate bill, the tax cuts had to come in a separate bill after the deficit reduction was enacted, whereas in the conference agreement before us now, the tax cuts will be included in the same bill with the spending cuts so there will no longer be an opportunity to enact the spending cuts and reject or postpone the tax cuts until the spending cuts are implemented or until we are confident they will be implemented.

Mr. President, the Senate budget resolution which we passed out of here made a tax cut possible. The conference report we vote on today makes a tax cut inevitable. I am not opposed to eating dessert after we have taken the caster oil. I am opposed to serving both on the same platter because I have been here awhile. I know what is likely to happen. The Congress is likely to eat the dessert, while pledging to swallow the caster oil at a later point.

The problem is that most of the spending cuts, or what I call the caster oil, is in the final 2 or 3 years of the 7-year plan under the conference report while the tax cuts are up front, and as soon as they are made, any attempt to change that if spending cuts have to be rolled back will be viewed as a tax increase and will be vehemently opposed. The result of all that is that we are eating the dessert before we are taking the caster oil, and we are pledging to take the caster oil, but we may not be willing to take it when the time comes, which is really, in large measure, several years from now.

This means that the tax cuts will become locked in and the spending cuts, while on the books, are likely to be rolled back in subsequent legislation as the pain begins to be felt. It also means that those of us who believe that tax cuts should be reserved until we make sure that the spending cuts stick, because we may have to modify some of those spending cuts, with this $170 billion now that will go into the tax cuts, we have no way of holding up the tax cuts as a contingency reserve should spending cuts be rolled back or moderated.

I will close with these thoughts. I think most of us agree that such a dividend that we are now claiming for tax cuts, which I believe is $250 billion now, exists if we balance the budget. However, I still believe that the most appropriate use of this dividend would be to apply it to deficit reduction. And that is why I supported the Feingold amendment. If Congress is unwilling to apply this fiscal dividend to the deficit, then I would prefer to use the dividend to ease the most severe impacts of the spending reduction even if we waited for a while, kept it as a contingency fund and determined which are the most severe impacts, because projecting for 7 years and making these impacts before we even know how we are going to modify the health care program is high risk. And we have all been through that before. We went through it on the catastrophic bill and we saw how quickly that one was repealed when people started feeling the impact.

This would make the spending cuts more likely to stick. I fear that Congress may enact the tax cuts and the spending cuts called for in this resolution and then later reverse itself on the spending cuts. Such action by Congress is not difficult to imagine—just recall

Congress reversing itself on the Catastrophic health care bill. It was enacted and then terminated 18 months later—before it was even implemented.

Mr. President, I will continue to fight to address these priorities as this process continues and we debate the specific details in the reconciliation legislation that will carry out the specifics of this plan. I also believe that tax expenditures should not be exempt from review. Balancing the budget requires shared sacrifice, and as we cut spending we should also review revenue-losing tax breaks which may not be justified.

The general direction required to balance the budget is clear. If there was an easy way or a painless way to balance the budget without cutting spending on popular programs, we would have done it long ago. But that is simply not possible. To say it is, or to try and candy coat it with upfront tax cuts, only perpetuates such the myth that you can sustain the programs popular with the public, provide tax cuts, and simultaneously balance the budget. These numbers just do not add up.

I recognize that this conference report will pass and I remain hopeful that fiscal responsibility and prudence will come to the forefront as we move on to the reconciliation process. We have no other choice, because we cannot afford to continue with the status quo. Many times when priorities are debated the public is led to believe that only deficit reduction is painful. But the status quo is not painless either, nor is it sustainable. We simply cannot continue to pile $200 to $300 billion in additional debt each year on our children and grandchildren.

Again I commend my friend from Nebraska for his hard work and my friend from New Mexico for his diligent effort on this resolution. I hope I am wrong in my projection of what is likely to happen. But having been here awhile I have seen this caster oil/dessert business in the past and it is certainly a lot easier to eat the dessert than take the caster oil. And I am afraid that is what we are doing here today.

Mr. EXON. Mr. President, for just a brief moment, let me take from our time to thank my friend and colleague from Georgia. That was an excellent statement to get right on the edge of the problem we have with this. I like the caster oil/dessert. We have been through caster oil and dessert way back in the 1980's. I am sure that is what the Senator is referring to. This is the time to face up to reality. And I hope we will defeat the Republican budget.

I believe the next speaker would be the Senator from West Virginia.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. BYRD. Mr. President, I, too, extend my congratulations and my thanks to the two managers, Mr. DOMENICI and Mr. EXON, for their excellent performance, for their skill in dealing with this very difficult matter. And I have something of an understanding of the pressures which they were both under.

Mr. President, when the FY 1996 budget resolution was being debated in the Senate, I spoke at some length in opposition to it. I did so even though I strongly support a continuation of efforts to achieve a balanced Federal budget.

Despite the partisan rhetoric to the contrary, this is not the first budget resolution to come before the Senate promising to balance the Federal budget. Despite the fervent wishes of many of the other side of the aisle to the contrary, there have been four other occasions when budget resolutions came before the Senate promising to balance the budget. The 1980, 1981, 1982, and 1991 budget resolutions also projected a balanced budget at the end of 5 years. In fact, the 1991 budget resolution, which was adopted after the 1990 Bipartisan Budget Summit, projected a budget surplus after 5 years, without using the Social Security surplus. By way of comparison, if one takes away the use of the Social Security surplus in the pending budget resolution conference agreement, there will still be a deficit in excess of $100 billion in 2002, rather than a balanced budget.

The 1990 Budget Summit was the last bipartisan effort to balance the Federal budget. President Bush proposed no further deficit reductions in his last two budgets—for fiscal years 1992 or 1993.

When taking office, President Clinton did propose a deficit reduction package which Congress enacted in October of 1993, without a single Republican vote in either House of the Congress. That reconciliation bill cut the deficit by almost $500 billion over 5 years.

Now, I raise these matters to make the RECORD clear that I, along with many others in both Houses of Congress, and on both sides of the aisle, have struggled with these huge Federal deficits year after year over a long period of time. We made many, many tough choices in the past and in the hopes of balancing the budget.

We have been assured on a number of occasions in the past, in budget resolutions such as this one, that budget balance would be achieved. None of these past efforts have met expectations; none have achieved a balanced budget, despite the expertise and objectivity of the budget estimators at the Office of Management and Budget and the Congressional Budget Office.

So here we are today debating another in a long series of budget resolutions which projects a balanced budget in the year 2002, if we use the Social Security surplus to offset what would otherwise be a deficit. Furthermore, we are told that the calculations contained in this budget resolution do not allow for any recessions over the next seven years. Yet, history tells us that there surely will be one or more recessions between now and the year 2002. I, therefore, greatly doubt that this agreement will result in a balanced budget, even if we adopt it and then enact all of its proposals.

This brings me to the specifics of this agreement. Mr. President, first, let me say that I opposed the Senate-passed budget resolution because I felt that it provided a wrongheaded approach and a misguided blueprint for the Nation's fiscal and social policy over the next seven years. I reached this conclusion reluctantly, knowing how difficult it is to achieve nearly $1 trillion in deficit reduction, as the Senate-passed budget resolution and as this conference agreement would do.

I voted against the Senate budget resolution for a number of reasons. Among them was the fact that the Senate-passed budget resolution called for non-defense discretionary spending cuts totalling $190 billion below a 1995 freeze, while military spending would not be cut at all over the next seven years. I did so, as well, because the Senate-passed budget resolution called for cutting Medicare by $256 billion and Medicaid by $175 billion, mainly for budgetary reasons, without any plan to improve health care or to contain health care costs. And, I did so because the Senate-passed budget resolution called for a tax cut for the wealthiest in our society of $170 billion over the next 7 years.

Mr. President, as bad as the national spending priorities in the Senate-passed budget resolution were, the pending conference agreement is worse in virtually every area. For nondefense discretionary spending, this conference agreement would cut $499 billion, or $2 billion more than the Senate-passed budget resolution, while at the same time military spending would go up $33 billion above CBO's capped baseline over the next 7 years. In other words, while we will be destroying the programs which are investments in our future and that of our children by cutting nondefense discretionary spending—cuts totalling $500 billion—we will be adding $33 billion over the baseline to military spending, even though we have repeatedly seen massive boondoggles and wasteful military spending uncovered in the past, and I am sure that we will again see them in the future.

Mr. President, the budget agreement would increase defense spending by some $6 billion for fiscal year 1996, and the Armed Services Committee is now allocating that money to additional spending. Does the Nation really need to bump up the defense budget by such a large sum at a time when the threat of the Soviet empire has essentially vanished?

The preoccupation with defense spending at the very time when cold war tensions are a memory stands logic on its head. For what will the extra money be going? Are we going to dust off the big ABM projects of the early years of Mr. Reagan, outmoded concepts of strategic defense involving big new systems, expensive new surveillance systems, space-based interceptors and the like? Are we going to junk the ABM Treaty to make way for new, expensive strategic defense gadgetry? Has the Soviet Union been reconstituted? Hardly. It continues to disintegrate. Are there new threats confronting us? Certainly. But those new threats, including terrorism, biological proliferation and warfare, and activities of powerful drug cartels and criminal syndicates and, particularly, brutal economic competition do not cry out for a neo-Reagan Star Wars response. We do not have billions to waste on such systems.

The same kind of inexplicable drive to enhance and protect the defense accounts has led the committee to erect firewalls between domestic and defense spending for 3 fiscal years. Therefore, we cripple our ability to respond to unforeseen needs as the fiscal year evolves, allowing money to be shifted to areas of greatest need, or to respond to emergencies. It is as if we trust our judgment only when we put the budget resolution together, erecting numbers which must be treated as sacred icons, and we do not trust our judgment to make sensible adjustments thereafter. With the limited resources that we are working with for all our needs, this is not either efficient or wise.

For Medicare, the conference agreement calls for cuts of $270 billion, or $14 billion more than the Senate-passed budget resolution. And, for Medicaid, the cuts amount to $182 billion, $7 billion greater than the Senate-passed budget resolution. But, for the wealthiest in our Nation, this conference agreement calls for a tax cut of $245 billion, $75 billion greater than was projected in the Senate-passed budget resolution.

The specifies of this $245 billion tax package have not been decided. However, it will likely contain many of the key elements of the so-called "Contract With America."

Who would get the lion's share of the benefits from these tax cuts? According to a Treasury Department analysis, less than 16 percent of the benefits of the bill as passed by the House Ways and Means Committee would go to the 60 percent of all families with incomes below $50,000. The top one percent of families with incomes of $350,000 or more a year would receive 20 percent of the tax benefits, while more than half of the tax goodies would go to the top 12 percent of families—those with incomes over $100,000 per year.

According to an analysis by the Treasury Department, over half the benefits from the House Ways and Means Committee's capital gains provisions would go the wealthiest three percent of families who have incomes over $200,000, while three-fourths of the benefits would go to the top 12 percent of families who have incomes over $100,000 a year; and the House Ways and Means Committee's reduction in the proportion of Social Security benefits that are subject to taxes would give a tax break to the top 13 percent of Social Security beneficiaries.

Similarly, the changes proposed by the House Ways and Means Committee in rates of depreciation and the repeal of the corporate Alternative Minimum Tax would substantially reduce taxes paid by the Nation's largest corporations.

How are we to be sure, Mr. President, that the $245 billion windfall will actually take place over the next 7 years which will enable the tax cuts called for in this conference agreement to be undertaken without adding to the deficit? Senators will recall that under the Senate-passed budget resolution, no tax cuts would be allowed until after a reconciliation bill had been signed into law. At that time, CBO would advise Congress of the so-called windfall amount, which could be used for a tax cut. What happened to that requirement in the conference on the budget resolution? It simply disappeared.

The conference agreement no longer requires that the reconciliation bill be enacted into law prior to consideration of any tax cut. Instead, the procedure set forth in this conference agreement would have the CBO compute the deficit reduction that would take place under the reconciliation proposal, prior to its enactment, and then the Budget Committees would be able to allocate whatever the CBO-estimated windfall will be to the tax-writing committees of Congress, thus enabling them to report tax cut legislation which will be incorporated into the reconciliation bill.

In other words, if we adopt this conference agreement and enact the reconciliation bill (including these tax cuts) into law, we will be providing massive tax cuts for the wealthiest people and corporations in our society before any deficit reduction actually takes place—before, before any deficit reduction actually takes place; tax cuts for those who clearly do not need them and who clearly should be participating in our efforts to balance the Federal budget, rather than taking more.

At the same time, by adopting this conference agreement, we will be reducing our investments in our physical and human resources which will greatly hamper our ability to compete in the world marketplace and, I fear, set the stage for this Nation to evolve into a second-class power in the next century.

Just one example, this conference agreement proposes termination of the Department of Commerce. If this is intended to save the taxpayer money, or make government more efficient, or help the economy, it is a rash initiative which will cost us dearly if it is carried out. Its effect would be to cripple our ability to promote exports, protect against unfair imports, and create good jobs in the growing export sector.

The Commerce Department's International Trade Administration is one of the bright success stories of our government in decades. It does far more than pay for itself. I am referring here to the International Trade Administration of the Department.

It is not necessary here to convince my colleagues that exports are essential to our national economy, and to jobs. Export-related jobs are growing seven to eight times the growth rate of total employment. Ten years ago, seven million Americans worked in export-related jobs. Today the number is about 12 million, and, if we keep pushing, by the turn of the century, it could be about 16 million. That is, we could create one million jobs per year from now through the turn of the century through vigorous export promotion. That is what this Department has excelled at.

So what is the response in this resolution? Dismantle the Department. We do not want to create more jobs. Let our trade competitors mop us up. Increase our trade deficit.

Mr. President, I could not feel more strongly than I do that the adoption of this budget resolution and the reconciliation and tax measures it calls for could not be more wrongheaded economic and social policies, nor could it be more cruel to the youth of this Nation, nor to the elderly, upon whose shoulders the greatest burdens will fall, while the rich will get richer.

I yield back such time as I did not utilize.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. Mr. President, I yield Senator JEFFORDS 7½ minutes.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. Mr. President, I rise today to speak on the budget resolution. Like many of my colleagues I am concerned with some of the choices made during the budget conference, and would like to take a few moments to express some constructive comments about the conference report.

Mr. President, in reaching a balanced budget we must be careful not cut those programs which could be counterproductive to balancing the budget. In other words, cuts in one program can result in increased costs in other programs, thus making it more difficult to balance the budget.

One example of this dilemma is in cuts in health research. We are nearing discoveries and new treatments to the causes of many illnesses and diseases such as Alzheimers and Parkinsons. To reduce spending on this research now could mean a continuation of tens of billions of dollars in health care costs needlessly spent, only to save a few million dollars in the short-term. Internationally we are seeing deadlier viruses emerging, we can not afford to weaken our commitment to investigating, identifying and eventually eradicating these diseases.

Another example is in cutting nutrition programs. For instance, cuts in WIC benefits for pregnant women, studies have shown, would increase health care costs by over $3 for every one dollar cut. Further, our food stamp program provides necessary stability for low-income families at the most essential level—putting food on the table. This Nation's future id dependent upon how well we prepare our children for adulthood. Hungry children can not learn.

In addition, in the area of cutting education. This Nation faces a crisis—a crisis which is costing us hundreds of billions of dollars in lost revenues, decreased economic productivity and increased social costs, such as welfare, crime and health care.

Mr. President, business leaders warn us that unless improvements are made in our educational system, our future will be even bleaker. The rising costs of higher education combined with the lower income levels of middle income families in causing thousands not finish college, and fewer to attend graduate school in critical areas such as math, science and engineering. As chairman of the Education Subcommittee, I am particularly concerned about maintaining funding for education, and will work with my colleagues during the appropriation and reconciliation process to ensure that education programs receive adequate funding.

Mr. President, thus in order to help solve the deficit problem, as importantly, to prevent the unnecessary hardship to individuals I wish to put the leadership on notice, I will find it difficult to support a reconciliation bill or appropriation bills that could produce counterproductive budget results and needless hardship for millions of Americans, as outlined above.

Mr. President, I recognize that the budget resolution is not a law and is advisory in nature. Therefore, I will vote for the budget resolution, since I am committed to balancing the federal budget.

Mr. President, I can not make it any clearer that I remain firm in my commitment to not see the budget process be used to make counterproductive cuts, just to pay for a tax cut. I am committed to balancing this budget, but not on the basks of the poor, the elderly and our children to simply provide a tax cut.

In closing, action needs to be taken now by Congress to balance the budget for the sake of our children and grandchildren.

Mr. President, I voted for the balanced budget amendment, and I supported the budget agreement that came out of the Senate Budget Committee after it was amended. However, when it traveled over to the House and was conferenced, substantial and unfortunate changes were made, resulting in what I believe to be counterproductive cuts. Therefore, I reluctantly support this budget resolution. I do this, since I believe that it is critical for this Nation to balance the federal budget to give our children a future. But, I will still do all I can to change the cuts that were made in health care, the NIH, nutrition, and in education, in particular. I join speakers today—Senators COHEN, KASSEBAUM and SNOWE—and will join them in their efforts to accomplish that same purpose.

Notwithstanding the huge votes that the NIH and the education amendments had—85–14 for NIH, 67–32 for education—they came back with additional cuts. I understand that during conference negotiations, everyone needs to take some additional cuts to create a compromise. But these changes are counterproductive. I stand today to highlight some of these concerns. When you are in a budget situation, there are programs you can cut that will help reduce the budget, but there are also some programs within the federal budget that by decreasing them it will increase your costs in other programs. That is the potential here.

With respect to NIH research, we are on the verge of many breakthroughs in curing illnesses and diseases, such as Alzheimer's and Parkinsons. By cutting back their research funds by just 1 to 3 percent per year, we hamper that possibility in the near future for finding answers. If these answers can be found in the next few years, the result could be tens of billions of dollars in federal savings.

In addition, I point to education spending, because that is where I have a role to play as chairman of the Senate Education Subcommittee. I point out that, in this particular matter, what we may be cutting over the next 7 years could be counterproductive to our Nation. Reduced education expenditures could lead to reduced incomes, reduced revenues and increased social costs.

As for the $10 billion in mandatory cuts that the Labor Committee is instructed to find, let me quickly talk about some of my concerns.

Mr. President, let us look at education generally. Education is the key to the success of this Nation. It is the key to our growth. It has been the key to our growth over the past 60 years. From 1929 to 1990, 45 percent of the growth was due to improved education—45 percent. The amount of economic income that resulted from this growth is surely in the trillions of dollars. But what are we going to do about it? We must be careful in how we reduce federal education spending over the next 7 years to ensure that we will not make these problems worse. Mr. President, that is my goal as chairman of the Education Subcommittee.

Let me highlight what this chart shows; this indicates what the annual taxes by family were in 1991. As you can see, those who do well in this Nation, who pay our taxes, are those who made it not only through college but through graduate school. High school graduates and those that do not make it through high school do very poorly. If we can increase those educational levels—and we are not doing well with education right now on all these levels, we can increase federal revenues and decrease federal costs on social programs. But let us talk about higher education because that is where my concerns are greatest.

Let us look at the next chart we have. This shows the average annual earnings by profession and educational level, again, indicating the revenues we lose by not allowing our kids to be sufficiently educated. Right now, if you do not finish high school, the yearly earnings are $12,000, and for graduate school graduates, it is up to $74,000.

The key to us continuing increasing our revenue is our education, as well as increasing our national productivity.

This next chart shows the difference between high school dropouts and college graduates. This is what has happened over the last 20 years. The high school dropout has seen a decrease in his or her income of 35 percent—family income. The only ones that have shown a real increase are those that are post-graduates, the ones we are picking on first. College graduates stayed about even. Some others have gone down.

If we do not improve the educational levels of this Nation, we are going to continue to see a drop in our revenues. The next chart is helpful in letting us understand what is happening. This indicates where my state of Vermont is on education. This shows what has happened in our State over the last 8 years, as to what debt a college student has to hold through the 4 years. It has gone from $8,000 in 1990 to $21,000, and it is going up off the chart in the future.

Mr. President, we need to work hard at improving educational costs for students. The other charts that I have here will indicate how serious it is. I will highlight these charts at a later time.

Now let us take a look at this. Now, on top of these figures, consider the proposal to eliminate the in-school interest subsidy for graduate and professional students. I will work my colleagues over the summer to find the best ways to maintain educational spending. We need to work on ways to keep the cost to students that borrow to a minimum. For instance, if a student is using a subsidized Stafford loan, as an undergraduate that student may borrow up to $23,000. Upon graduation, this student decides to earn an advanced degree in math or science and begins to think about the cost. With the interest subsidy in place, he could borrow an additional $8,500 per year through the subsidized Stafford Loan Program. Assuming a 4-year graduate program, now that student would owe $57,000 upon graduation. My job over the next few months is to find appropriate cuts within the Labor Committee's instructions to protect the interest subsidy and keep that same student from owing almost $65,000. Mr. President, as chairman of the Education Subcommittee that is my job. It is not one that I relish, but one that needs to be done.

Mr. President, since I am committed to balancing the Federal budget to ensure the future of our children, I will vote most reluctantly for this budget resolution, but I am committed to working with my distinguished chairman of the Budget Committee to improving on these counterproductive cuts in education, health, and nutrition.

Mr. DOMENICI. Mr. President, I yield myself 30 seconds.

Might I say to the distinguished Senator, Senator JEFFORDS, how much I personally appreciate—and I am sure the people of this country will appreciate—your vote today. Although the Senator has some questions about how it will be implemented, I think when the Senator votes "aye" today, the Senator is voting for a very important thing for America's future—as important overall as anything we will do.

And the things the Senator holds dearly, that are part of the plan of our Government to help our people, the Senator holds dearly to, and are important to many.

I am very grateful that the Senator will seek to follow this course in changing things, without making it more difficult for, to get a balanced budget before this Congress, and let them proceed to try to get there.

Mr. JEFFORDS. I thank the chairman for his comments.

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that I be allowed to speak for 10 minutes.

The PRESIDING OFFICER (Mr. GRAMS). Without objection, it is so ordered.

Mr. ROCKEFELLER. Mr. President, I rise to explain why I strongly believe the Senate should reject the budget plan before us.

The hard-working families and senior citizens of America had better hold onto their wallets. The budget before us is the equivalent of a stick-up. It may as well carry a script that says "put your hands up, and hand it over." This is a budget that robs you of your tax credit if you are a family working, not on welfare, and struggling to make ends meet and raise your children. It will steal your plans to get a student loan if you are a middle-class family or high school student counting on college to get ahead. It raids $270 billion from the Medicare trust fund and beats up Medicaid. It will slash spending for veterans programs and lead to closings of VA hospitals and clinics.

If you are already having problems paying your Medicare premiums, buying prescription drugs, or getting decent health care, more trouble lies ahead with this budget. If the only way you can get health care for your children or long-term care for your older parents is through Medicaid, sorry, this budget has to take that away from you. If you rely on VA for your health care, watch out, that will soon begin to disappear.

This budget is packaged as the bold, courageous plan to balance the budget. It is bold, alright. It has the audacity to cut education, eliminate student loans, kill off part of the earned income tax credit, and raid the Medicare trust fund—but it bags $245 billion for more tax breaks for Americans who are already well-off.

Mr. President, this is a budget that should be sent to the penitentiary. It is a felony against the people I represent, West Virginia families, senior citizens, students, veterans, and everyone else. It is a direct assault on the basic promise made for years and even decades when it comes to education, student loans, Medicare, veterans benefits, and the tools that create jobs and growth in this country. It is a crime against the basic principles of fairness and shared responsibility that any budget—a family budget or the Federal Government's budget—should be based on.

It is not as though this is the only way to balance the budget. In fact, I voted for a very different way to get to the same bottomline. To eliminate the Federal deficit and the red ink. To crack down on excessive spending, including the tax breaks that are growing faster than inflation. Just about every Senator on this side of the aisle voted for the Conrad or the Bradley alternatives, because they spread the burden of balancing the budget so it does not crush something as basic as student loans or school lunches or a tax credit for the families with the most to lose.

After what we saw happen to this country and my State of West Virginia back in the 1980's, I never thought I would see the day again when the Senate agrees to a budget that steals from the middle-class to give tax breaks to Wall Street and wealthy citizens. Once again, we're told that trickle-down economics will do its magic, and to wait for the jobs to grow and the prosperity to spring up. As Governor of West Virginia, I did that already. I watched the country sit on its hands as our foreign competitors took over industries and took our jobs. I watched the tax breaks feed a mania for mergers and junk bonds, leaving our people high and dry.

My State has been climbing out of that rut of the 1980's when voodoo economics did its terrible damage. West Virginians want to work, no matter how little they have. Our workers and our industries want to be the best, and we are moving into the markets of competitors like Asian countries as this country gets tougher in demanding open markets and fair trade. Our families want good schools and a chance for West Virginia's high school graduates to go to college.

As I have traveled around my State in recent weeks, it is not just senior citizens who have shared their worries about the plan to cut Medicare by $270 billion or Medicaid by $180 billion. The administrators of some of our hospitals talk about being forced to close their doors. Families wonder how a grandparent can stay in the nursing home. Physicians worry about children not coming in for checkups. Veterans worry about the country's willingness to continue to honor its commitments to those who served in time of peril.

This budget is out to disarm us economically. Maybe some of my colleagues have a hard time figuring out what the Departments of Education or Commerce do. For families who think education is what counts, it is not so difficult. For the businesses in West Virginia that count on the Government to enforce our trade laws, help them export, and stay on top of technologies that turn into products, it is not so difficult.

Take a company called Touchstone Research Laboratory, a two-person operation 15 years ago that now hires 40 people with $3 million annual sales. The two-person team, who worked themselves to the bone in the 1980's to get the company going, say that it was when the Federal Government—through the Economic Development Administration—helped our State build a research park near Wheeling, that things finally picked up. With that footing, they could turn to something called the United States and Foreign Commercial Service office in West Virginia, run by the Department of Commerce, for advice on how to do business abroad and sell their terrific, high-tech products. That led to contracts, jobs, and profits that this small business believes never would have happened without a Department of Commerce whose mission is creating jobs and opportunity.

The steel plants in West Virginia, and their workers, might not exist today if there had not been a cop on the trade beat when foreign countries were dumping their steel inside our borders. Again, trade enforcement done out of a Department of Commerce with a very real mission.

Mr. President, I know the proponents of this budget plan before us are very proud of their work and their dedication to balancing the budget. But this is the wrong way to achieve the right goal. And it is not the only way. If West Virginians and our fellow Americans succeed in rebelling against this highway robbery—against hard-working families and seniors, young people with dreams, and even our businesses—we can get to work to balance the budget in the way that it should be done. I fear for my State and for the country if this budget ever becomes reality. At this point, I will vote against it, and do everything I can to replace it with a course that stands up for the values of work, of education, of opportunity, and of fairness.

Mr. CRAIG. Mr. President, I rise in support of the conference report on House Concurrent Resolution 67, the fiscal year 1996 budget resolution.

I congratulate the chairman of the Budget Committee, Senator DOMENICI, as well as the other members of his committee who have worked long and hard to produce this conference agreement. I also commend the other Senators who have contributed to this historic, balanced budget, by pushing for a balanced budget, a responsible downsizing of Government, and pro-family and pro-growth tax relief.

Winston Churchill once said that democracy was the worst possible form of government except for the alternatives.

This budget is like that. You can nitpick it, but you can't produce a better one that does what what needs to be done and passes.

There are 100 perfect budgets in this body. But holding out for the perfect budget means condemning the American people to the economic tyranny of the status quo and an extra trillion dollars of debt over the next 7 or 8 years.

There is honest disagreement over the priorities in this budget. But the important thing is, for the first time in more than a generation, we are passing a budget that sets priorities.

For 34 out of the last 35 years, the Federal Government has had only one priority: Spend more. Tax more. Borrow more.

At long last, this budget adopts the priority of the American people: Balance the budget—let the Government spend no more on programs than the people are willing to pay in taxes.

Under this budget, no one program, State, or segment of the population will pay a disproportionate share in fiscal discipline.

When I visit with Idahoans, they think this is fair. They are patriotic—they are ready to share in the discipline of balancing the budget, as long as everyone does so.

I wish we could have had more defense spending. I wish we could have had more in tax relief. I am concerned about the future of agriculture. In fact, some of the details in the assumptions in this budget resolution will be changed in the appropriations and authorizing committees. As Senator SNOWE said, this is the end of the beginning of the budget process, and it is a good beginning.

The status quo is the least tolerable alternative.

The General Accounting Office's 1992 report said, "(I)naction is not a sustainable policy. * * * (T)he nation cannot continue on the current path."

The Bipartisan Entitlement Commission's final report, issued in January of this year, said, "The present trend is not sustainable."

DRI/McGraw-Hill, in testimony before the Senate Budget Committee in January, said, "(T)he current economic strength is not sustainable. * * * A balanced budget would be a major boost to the long-term growth of the U.S. economy."

This budget gives us a chance to vote for the future, instead of the failed past.

This is the vote that counts. This is our chance to vote for a true balanced budget. The only effective plan to balance the budget is the one that passes.

This compromise budget does the most important thing possible: It provides for a balanced budget by 2002, on a reasonable, gradual glide path.

We've heard a lot about winners and losers in this debate.

Who really wins under this budget?

Our children and grandchildren, because balancing the budget hands them a healthier economy and real opportunity for the future;

Senior citizens, because a Medicare system now on the verge of bankruptcy is going to be reformed and rescued; Medicare is going to be there for those who need it because of this budget;

People who want to work, because balancing the budget means economic growth and more jobs;

People in the greatest need who rely on essential Government programs, because ever-bigger interest payments on an ever-growing debt increasingly crowd out all other spending.

The deficit hurts all Americans. The debt is the threat. With this balanced budget, all American are winners.

This budget does not represent a draconian cut in spending. It simply calls for reducing the rate of growth in Federal spending.

Spending still grows an average of 3 percent a year, down from the current 5.4 percent a year.

Only special interest groups and liberals inside the capital beltway can say a 3 percent raise is really a "draconian cut".

Total Federal spending in fiscal year 2002 will be $346 billion more than this year—fiscal 1995.

Only in Washington, DC, does anyone claim that a $346 billion increase is really a $236 billion cut.

What does balancing the budget mean in people terms?

It means restoring the American Dream of economic opportunity, starting now and extending to the next generation.

The cruelest budget cut of all is the cut in every American's living standard that has occurred because of Government's failure or refusal to balance the budget.

The damage done by the borrow-and-spend status quo must be undone.

Living standards are lower today, Social Security checks buy less today, our children face a depressed future, because of a spiraling, crushing debt burden.

According to the National Taxpayers Union Foundation, for every year in which the Federal Government runs a $200 billion deficit, the average child of today will pay $5,000 in additional taxes over his or her lifetime.

President Clinton's fiscal year 1995 budget projected that current trends will force future generations to face a lifetime net tax rate of 82 percent to pay off the current generation's bills, counting taxes at all levels of government.

In contrast, balancing the budget by fiscal year 2002 means a better future.

The econometrics firm DRI/McGraw-Hill said it means: 4 to 5 percent more nonresidential investment, 2.5 million new jobs, a GDP that is 2.5 percent higher, and another $1,000 in the pocket of the average household.

Balancing the budget means a better standard of living for our children.

GAO's 1992 report estimated that balancing the budget would raise our children's standard of living between 7 and 36 percent by the year 2020.

Balancing the budget means more jobs.

The last Federal balanced budget was in 1969. Unemployment from 1970 to 1990 averaged 6.7 percent, compared to 5.7 percent for the entire post-war period. In the first three decades of this century, when balanced budgets were the norm, unemployment averaged 4.5 percent.

This budget reforms and rescues Medicare. Under this budget, Medicare increases an average of 6.4 percent a year, which is more than twice the rate of inflation.

Under this budget, Medicare spending will be $86 billion more—53 percent more—in fiscal year 2002 than in 1995.

Nothing here cuts services or drives up needy patients' costs.

This budget calls for Medicare reform—that more choice and market competition and consumer information will slow down the runaway costs we see now. It says reforms should give priority to identify and eliminate fraud and abuse. It calls for a bipartisan commission that would make recommendations for the solvency of the system.

A vote for this budget is a vote to rescue Medicare. Under the status guo, that system goes broke in fiscal year 2002.

Who says so? The Medicare board of trustees that includes three of President Clinton's Cabinet Secretaries, the Commissioner of Social Security, and two public trustees.

The trustees also said, in their April 3, 1995, report:

> (T)he trust fund does not meet the Trustees' short-range test of financial adequacy. . . . (It) fails to meet the Trustees' test of long-range close actuarial balance . . . by an extremely wide margin. . . . Congress must take timely action to establish long-term financial stability for the program.

The tax relief in this budget is reasonable, modest, and fair.

It is also contingent on reaching a balanced budget by 2002. It is perfectly reasonable to say to America's families, If you help with balancing the budget, you get a small dividend—you get to keep just a little more of what you have earned.

This conference report does not say what kind of tax relief will be provided.

I plan to support, a pro-family proposal like the $500-per-child tax credit in the House-passed Contract With America tax bill and the Coats-Grams-Craig bill in the Senate. This would mark one tiny step in recognizing the way the dependent exemption has been eroded by inflation and tax hikes over the years. That part of a family's income necessary to cover the basic costs of living just should not be taxed.

I also will support pro-growth, pro-jobs tax relief for capital gains, small business, and family-owned farms and businesses passed on through an estate.

These proposals would benefit all Americans, across the income spectrum.

And they are modest. Even when fully phased in by fiscal year 2002, at a level of $50 billion, that tax relief would amount to well under 3 percent of the total revenues collected that year.

Back in January and February, some opponents—and a few supporters—of the balanced budget amendment to the Constitution said they wanted to see a plan for exactly how to balance the budget. Well, here's our plan, and it gets the job done in a fair, equitable way.

Now that those who demanded, "Where's your plan?" have been given a plan, I expect that 67th Senator should come forward and finally help us pass the balanced budget amendment to the Constitution.

We still need the balanced budget amendment.

The budget resolution before us today is a 7-year plan. That gives some Members of Congress and the special interest groups 6 years and three elections to try and knock us off track.

Can we balance the budget without the balanced budget amendment? The first Republican Congress in 40 years is proving we can, but can is no guarantee.

We have heard Senator after Senator say, "This debate isn't about whether to balance the budget." Well, let's turn this Congress's promise to balance the budget into an ironclad, constitutional promise that the budget will stay balanced.

Let us now go back and pass the balanced budget amendment.

Mr. BIDEN. Mr. President, I voted for the balanced budget amendment earlier this year, and more recently I cosponsored with Senator BRADLEY a budget resolution that achieved balance by the year 2002.

I want to restore balance to the Federal budget, Mr. President, but not for its own sake. The balance I seek is a means to achieve more concrete, more human, more important goals than the abstract satisfaction of a tidy balance sheet.

Our country is blessed, Mr. President, in many ways. By many measures our economy is strong.

In the past couple of years we have enjoyed healthy growth in the productivity and output of our economy, by many measures the strongest on the planet.

More Americans have found jobs, and, while you couldn't tell it from the comments of some of my colleagues, Mr. President, the first 3 years of the Clinton administration have seen the first three consecutive reductions in the deficit since the Truman administration.

But there remain fundamental problems, Mr. President, problems that we must not lose sight of as we set our Nation's priorities with the budget resolution vote before us today.

Two fundamental trends have kept the real achievements of our economy from benefiting the majority of Americans.

Those trends are the stagnation, even decline, in the wages and salaries of working Americans, and the increasing inequality in wealth and income that threatens the middle-class stability that has been the ballast of our Nation since its founding.

In many ways, Mr. President, the issues that concern me today are the issues that brought me into public life: How to meet our shared responsibility as public officials.

Our responsibility is to provide for our Nation's future, by nurturing and educating our youth, and by investing in the knowledge and technology on which the economy of the future will be built.

And we must also, Mr. President, honor our commitments to the generations whose achievements in war and peace secured for us our rich inheritance.

The budget resolution before us today sets our Nation's priorities for the next 7 years. How does it measure up to our responsibilities?

I am afraid, Mr. President, that this budget resolution before us today, the compromise struck by Senate Republicans with the House Republicans fails to meet the challenges before us.

I voted against the earlier budget resolution, Mr. President, because it cut too deeply into education and nutrition programs, because it neglected our responsibility to lay the foundations in research and technology on which our future must be built, and because it took too much from our senior citizens and from struggling workers.

Mr. President, this budget resolution is worse than the earlier one.

It cuts $10 billion from student loans. It cuts $270 billion from Medicare, $182 billion from Medicaid. By cutting the earned income tax credit, it raises taxes on working families who are giving their all to stay afloat.

It does all this, Mr. President, at the same time that it envisions tax breaks that would, if they follow the so-called Contract with America, give those among us who are already the most comfortable an even greater share of our national wealth, including the very wealthiest among us.

By slighting investments in our children, by cutting resources for education and research, by increasing the price of college loans, this budget fails to meet our obligation to provide for our Nation's future.

By cutting Medicare and Medicaid, it fails to honor our contract with the generations that went before us.

By increasing taxes on the poorest working families, it reduces the take-home pay of those Americans already struggling to keep body and soul together.

And by saving its generosity for those among us who—deserving as they might be—need it least, this budget drives a wedge of resentment deeper into the cracks already forming in our society.

I will continue to seek ways to restore balance to our Nation's finances, Mr. President. And I will continue to seek ways to restore balance to our Nation's priorities. But I will vote against the budget resolution before us today.

Mrs. FEINSTEIN. Mr. President, we all know the budget cannot be balanced by waiving a magic wand. Reducing a $200 billion budget deficit will impose real pain on American families. The painful cuts would be worth it, however, if through shared sacrifice, we brought our fiscal house in order.

I am disappointed I cannot endorse the budget resolution. While I support balancing the budget, I cannot support the priorities the majority imposes to try to get us there in 7 years. The Republican plan will impose too much pain on too many families. Those who will suffer the most under this Republican budget resolution will be middle class families across America. From preschool education to nursing home care for the elderly, middle-class families will bear the biggest burden in overcoming our Nation's budget deficit.

This budget, though not signed into law, will set the stage for the appropriations and budget reconciliation battles later this year. This resolution sets the Federal Government on course to cut vital services for American families across the country. This is a course I cannot accept. This is how families will be hurt:

Medicare: The $270 billion cut over the next 7 years is the largest Medicare cut in history. Yet middle-income families will carry the burden—97 percent of all Medicare spending go to families with annual incomes of $50,000 or less.

Education: The resolution will cut $40 billion over the next 7 years, cutting back on Pell grants, student loans, and Head Start. Nearly one half of all Pell grant recipients have annual incomes of less than $10,000. The elimination of the forbearance of in-school interest will force students to carry higher debt just as they enter the work force. This will hurt the young as they struggle to get on their feet.

Medicaid: The resolution's $182 billion cut could force 8 million to lose Medicaid coverage by 2002, more than an 18-percent reduction over the next 7 years.

Earned Income Tax Credit: The resolution reverses the EITC coverage for childless workers adopted in 1993. This provision only partially compensates these workers for the five payroll tax increases they have been forced to accept during the 1980's. The cut will force low-income workers with incomes below the poverty level to pay a higher tax burden next April.

We have heard a great deal that the budget resolution represents a glide path toward a balanced budget. However, I am afraid this budget resolution is more of a crash landing than a glide path.

By contrast, the administration has challenged the path of the majority in Congress, offering a slower path to balance in exchange for a reduction in the cuts for important Federal programs. When the President announced his proposal, he was criticized by Republicans for its economic assumptions. However, the Republican plan assumes an unprecedented 11 consecutive years of economic growth to justify its harsh cuts in Medicare, Medicaid, and other programs.

As we start down the path the majority lays out today, we will need to continue to review both the plan and the timeline the resolution adopts to balance the budget. The value of balancing the budget in 7 years will be measured by the economy the cuts will help to create in each of those 7 years and every year afterward. The Federal budget must address our national economic needs and not weaken an already fragile economy.

STATE ECONOMY CANNOT TAKE THE CUTS

Mr. President, the California economy is beginning the painful process of emerging from its longest recession since the Great Depression. While the rest of the country suffered as well, California's recession was both longer and more severe than the rest of the Nation.

California's unemployment rate is nearly 3 percent higher than the national average.

More than 1.28 million Californians are out of work. In fact, California has 17 percent of all the unemployed workers in America.

To these burdens, the Republican budget resolution will impose more than $50 billion in additional budget cuts for California for Medicare, Medicaid, and the earned income tax credit alone, during the next 7 years. I cannot support these additional burdens for California families on our already strained economy.

MEDICARE AND MEDICAID CUTS

Mr. President, this budget resolution imposes its biggest cuts on health care programs for the elderly and those most in need of Federal assistance. The $450 billion in cuts from Medicare and Medicaid go too far, too fast, without any assurances that our health care system and the economy will not be significantly undercut. Health care spending represents more than one-seventh of the Nation's total economy. We cannot make the sweeping changes proposed without imposing significant burdens on families, medical providers, hospitals, and State and local governments.

We all know that Medicare and Medicaid spending cuts are necessary. The real questions are how much to cut, how to make sure the cuts are distributed fairly, and how to make sure the cuts can work?

The proposed resolution cuts over $450 billion out of Medicare and Medicaid over the next 7 years—more than 60 percent of the $1.3 trillion in cuts represent Medicare, Medicaid, food stamps, or other entitlements. The impact of these cuts would affect California enormously—more than almost every other State.

The Health Care Finance Administration suggests the $270 billion in Medicare cuts may cause over $35 billion in total cuts to California hospitals and patients over the next 7 years.

Despite having only 9.5 percent of the Nation's Medicare population, California would pay for over 13 percent of the Medicare cuts.

The alarming trend is repeated when we turn to Medicaid. The Kaiser Commission on the Future of Medicaid issued a new Urban Institute report that projects that California and just five other States would bear over 40 percent of the total Medicaid budget cuts, and cost-saving measures would cut at least 5 million additional people off of Medicaid nationwide.

Total California Medicaid funding are expected to be reduced by nearly $20 billion over 7 years.

The Medicaid cuts will force States to spend more, undercut the efforts of our safety net hospitals, increase the numbers of uninsured persons, and shift even more costs to the private employer-based health care system.

EDUCATION AND INVESTMENT

Mr. President, U.C.L.A.'s Center for the Continuing Study of the California Economy reports the principal threat to job and income growth in California is the lack of a strategy to establish priorities and fund critical public investments. The center reconfirmed previous studies, calling for investment in education and infrastructure to strengthen the economy. I agree—only by investing in the next generation through education, we can provide for a stronger future.

Yet the Republican budget resolution cuts discretionary and mandatory programs for education by $40 billion, the largest education cut in U.S. history. The resolution will cut support for education at all levels, including elementary, secondary, and higher education. This budget resolution will lead to cuts in student loans for 4 million students, making it more difficult for families to send children to school and adding to the debt students will carry for years.

We cannot move forward unless we invest in our most important resource—our children. Only by carefully investing, can we build a stronger, more capable and competitive nation. These cuts will leave us less able to prepare for the future.

CONCLUSION

Mr. President, the priorities we spend our scarce dollars on are just as critical as how much we spend. I am very concerned these budget cuts could damage an already strained economy and fail to prepare our next generation for the competitive world of the future, weakening our long-term economic goals.

Congress needs to carefully consider cuts in spending because the value of balancing the budget in 7 years will be measured by the economy the cuts will help to create. Regaining our full economic strength in California will take years. We cannot take economic recovery for granted and we must work to maintain economic vitality in an increasingly competitive global economy. I will work to ensure Congress takes the right action to strengthen the economy and create jobs, without igniting another round of economic strains for California businesses and families.

I am concerned this budget resolution will not protect families or provide opportunity and could worsen our current fragile economic state. I cannot support deficit reduction which imposes such a heavy cost on those least able afford it.

Mr. HATFIELD. Mr. President, I rise to speak briefly on the impacts of this budget resolution on the appropriations process for the fiscal year 1996.

TRANSPORTATION FUNDING

Mr. President, I would first like to address the impacts of this budget resolution on our Nation's transportation systems. I have the privilege of chairing not just the full Appropriations Committee, but also the Transportation Subcommittee. I took that post because I understand the critical role that transportation plays in our economy and our way of life. In Oregon, we take great pride in our balanced transportation system, and in the planning process that we use to make investments in the most effective, efficient, and environmentally sensitive manner. The State of Oregon is, I believe, a model for the country to follow. The concerns that I want to raise today are not just for the future of Federal involvement in Oregon's transportation network, but for the role that the Federal Government will play in meeting the entire Nation's transportation needs.

Whether we are talking about investment in our Nation's highways and transit systems, the critical operations of the Coast Guard, or the direction of air travel through the FAA's air traffic control system, adequate funding for transportation is vital for this country to maintain and enhance its economic position.

In setting our economic agenda, deficit reduction clearly is our top priority. And, transportation must play a role in achieving savings. But, my concern is that this not just become a budget-cutting exercise. Simply lowering the Federal contribution to transportation without rethinking and adjusting the Federal role is a big step in the wrong direction, and could have disastrous impacts.

While the conferees agreed on transportation cuts less severe than those that passed the Senate, I continue to have serious concerns about how we achieve those cuts. I was pleased to note that Chairman DOMENICI raised many of these issues in the Senate Budget Committee's report, which discussed the need to restructure transportation programs and reconsider what role the Federal Government plays versus State and local governments and the private sector. The committee report assumed that savings in transportation would be achieved not just through reducing spending, but through steps such as consolidation of the Department of Transportation's agencies and programs, and by privatizing the air traffic control system. The conference report repeats those assumptions, calling for program downsizing, streamlining, and consolidation of DOT, and for ATC privatization. While these changes may be controversial, the consequences of moving forward with business as usual and just cutting funding would be destructive. It is critical that we now look at how we maintain our commitment to sound transportation at the same time that we carry through with our commitment to deficit reduction. That is going to mean doing things differently.

My concern is that the changes assumed in the budget resolution are just that—assumptions. What are real are the spending cuts. I tell my colleagues that the Appropriations Committee will comply with the targets laid out by the resolution. But to do so without having the benefit of the authorizing changes assumed in the resolution will be devastating because, in the end, we will still be bound by the outlay reductions. In order to achieve those reductions, we will be forced to make severe and devastating cuts in fast-spending programs, such as: Coast Guard operations, which includes search and rescue and drug interdiction activities; FAA operations, which will have direct impacts on the viability of the air traffic control system; transit operating assistance, which will harm many of our cities; and Amtrak. Or, we will be forced to impose even more drastic cuts in capital programs, such as the highway program, transit new starts and modernization, badly needed new equipment for Amtrak, and the FAA's modernization program, which is already behind schedule and over budget.

It is in this respect that I would like to engage the distinguished chairman of the Budget Committee, Senator DOMENIC, in a discussion. Let me first ask my colleague, who is also a valued member of the Transportation Appropriations Subcommittee, if it is correct that the assumptions in the resolution are not binding.

Mr. DOMENICI. The distinguished chairman of the Appropriations Committee is correct. For transportation, the conferees set outlays at $244.8 billion over 7 years, as compared to $227.5 billion in the Senate resolution, and $252.3 billion in the House. As the Senator noted, with our committee reductions, we also assumed that much of it would be achieved through fundamental restructuring of the Department of Transportation and through privatization of the air traffic control system. The conferees retained those assumptions. We want savings to come out of administrative and bureaucratic costs before programs are hit. The conferees included the assumption of ATC privatization. I believe this can and should be done. Frankly, I believe that the private sector can better provide these services, that safety and efficiency will be enhanced, and that the American taxpayer and traveler will be better off.

Mr. HATFIELD. Let me then ask my distinguished colleague how he envisions us moving from the budget resolution to the appropriations process. My intention is to work with the authorizing committees toward enactment of the changes that the resolution assumes?

Mr. DOMENICI. Mr. President, there is clearly a need to move forward with changes. As noted in our assumptions, the funding levels provided under the resolution do not support the transportation programs as they currently exist. There were no reconciliation instructions because the resolution assumes discretionary, not mandatory, savings. However, there is no reason why legislation to restructure the DOT and its programs and to privatize the ATC system should not be moved separately. It is my intention to work with the authorizing committees to see such change enacted.

Mr. HATFIELD. I welcome the Senator's involvement, and suggest his continued engagement in this process will be critical to achieving the dual goals of deficit reduction and sound transportation. I appreciate the time and efforts of the chairman of the Budget Committee, and look forward to working with him. Mr. President, I would next like to comment on the impacts of the budget resolution on programs falling under the jurisdiction of the Commerce, Justice, State Appropriations Subcommittee.

Mr. President, President Clinton and Members of Congress on both sides of the aisle support funding increases for law enforcement. The President's budget requests a 21-percent funding increase for justice and a 15-percent increase in funding for the judiciary. That translates into a 20-percent increase in funding for the Federal criminal justice system—and grants to States—for almost 60 percent of the fiscal year 1995 Commerce, Justice, State appropriations bill. Even though the budget resolution conference report assumes drastic changes across the Government in order to balance the budget, the conferees agreed to make funding for law enforcement a top priority. The conferees' actions are consistent with the Republican crime bills in both Houses of Congress which would change priorities among violent crime reduction trust fund accounts, providing a net increase in authorized trust fund spending for law enforcement and prison construction.

The budget resolution conference agreement assumes a major reorganization in the executive branch—including an overhaul of State Department elimination of the Commerce Department. It is my hope that the various authorizing committees with jurisdiction over portions of these proposals will make quick action on these reorganization proposals a top priority.

A full debate on these issues would be extremely helpful to the Appropriations Committee as we attempt to find the savings assumed in the budget conference report. As chairman of the Appropriations Committee, I hope to avoid situations where major legislative changes are attached to appropriations bills that must be enacted before the end of the fiscal year.

Last, Mr. President, I would like to speak to the budget resolution's impacts on the Labor, HHS, and Education Appropriations Subcommittee.

The conference agreement reduces funding for discretionary health programs in fiscal year 1996 by approximately 8 percent. For Public Health Service Act programs under the jurisdiction of the Labor, HHS and Education Subcommittee this would mean an aggregate cut of $1.5 billion. Purportedly, these reductions are to be achieved through a 1-percent cut in funding for medical research supported by the National Institutes of Health, the consolidation of numerous categorical programs into State administered block grants, a 50-percent cut in funding for the National Health Service Corps, the Maternal and Child Health Block Grant and the Preventive Health Services Block Grant, and the elimination of a number of agencies and subagencies of the Public Health Service, such as the Agency for Health Care and Policy and Research. To date, however, no legislation to streamline Public Health Service agencies or consolidate its programs has been considered in the Senate. The end result for fiscal year 1996 is that the savings will be achieved by cuts in research, services and training, and not achieved through greater administrative efficiencies.

Some of the steepest reductions in funding are reserved for education, training, employment, and social services programs. Hardest hit are the job training programs of the Department of Labor. The budget resolution conference agreement assumes a 20-percent cut in funding for job training programs as a result of consolidating over 100 Federal job training programs into block grants. Legislation reported by the Labor and Human Resources Committee, however, would not implement these changes until July 1, 1998. Thus, for fiscal year 1996, the Appropriations Committee will be confronted with substantial cuts without the benefit of a reformed job training system. Particularly vulnerable will be funding for the 1996 Summer Youth Jobs Program which had historically received advanced funding.

Funds also are jeopardized for readjustment assistance and services for dislocated workers. Presently, the only funding for retraining is through Dislocated Worker Program authorized by title III of the Job Training Partnership Act. In the wake of the recent recommendations of the Base Realignment and Closure Commission and job layoffs in timber dependent communities in the Pacific Northwest, increased demand will be placed upon these services. Estimates are that an additional 34,000 workers on military bases and installations will be dislocated during the next 2 years. Absorbing increased demand for these services likely will necessitate cuts exceeding 20 percent in other training programs, such as Job Corps, School to Work, and the employment service.

Nearly $10 billion currently is spent to process mandatory claims for unemployment compensation, Social Security old age and survivors benefits, disability, and Medicare claims, and yet the processing costs are part of the Appropriations Committee's discretionary outlays. As a result of increases in workload, outlays for these activities are projected to increase significantly, about $850 million in fiscal year 1996 alone. Adding to these costs is legislation reported by the Finance Committee which requires the Social Security Administration to conduct more disability reviews. The Congressional Budget Office estimates the increased requirements will cost the committee an additional $300 million in fiscal year 1996. Yet the conference report assumes a freeze in discretionary funds for both the Medicare and Social Security Programs.

Mr. KEMPTHORNE. Mr. President, I rise today in support of the conference report on the concurrent resolution on the budget for fiscal year 1996. This budget achieves what the people of America and Idaho want: A balanced budget.

The last time this Nation had a balanced budget, I was a junior in high school. My daughter will be a junior in high school next year. It has been a generation since our country's books have been balanced. When I was in high school the last thing I thought about was a balanced budget. But now, $5 trillion later, I wish the adults of that era had. I am the father of two great kids, Heather and Jeff, who will both be in high school next year. They, like every other American today, owe $19,000 on the national debt. That is their share of the national debt but did nothing to run up this bill. That is what they will inherit from this generation. That is a national disgrace.

This budget conference report is a present to my son and daughter, to the children of every American family, because in 7 years we will attain a goal which has not been accomplished in nearly 30 years.

If we do nothing, at the present rate of spending the deficit would grow to almost $200 billion next year. But, under this budget the deficit will be reduced to $170 billion next year, continue to decrease each year thereafter, and ultimately yield a budget surplus of $7 billion by the year 2002. Total deficit reduction achieved by the Republican budget over 7 years will be nearly $900 billion.

More importantly, the Republican plan will balance the budget entirely through spending cuts; not tax increases. In fact, after the Congressional Budget Office certifies that the spending cuts have yielded a dividend, this Republican budget will provide Americans with the biggest tax cut in history; $245 billion of reductions, including a $500 per child tax credit, capital gains tax reduction, a new type of individual retirement account—the "American Dream Savings Account", senior citizen tax relief, and pro-growth economic tax incentives. The Republican budget accomplishes this deficit reduction, budget balancing, and tax relief without cutting a single dollar from Social Security.

Idahoans are worried about the deficit and the cost of the interest on that debt. They are concerned about where spending cuts will be made, how deep those cuts will be, and if the cuts will be fairly distributed. The budget before us accomplishes a balanced budget through many significant reforms that are important to both the Nation and to Idaho. This budget preserves, protects, and enhances important programs such as Medicare and Medicaid. Both of those programs need substantial reform simply to remain solvent. The impending bankruptcy of Medicare is a threat to every hard-working American who has faithfully paid into the system. Imagine if you are 55 years old and have contributed to Medicare for every year of your working adult life. You expect your government will do its part and make good on its promise to you. You expect Medicare to be there when you need it. Yet the Medicare trustees say the program will go broke in 7 years unless changes are made. This budget does that. It slows the growth of spending on benefits to 6.4 percent annually. That will save $270 billion. However, and this is important: Total Medicare spending will increase from $4,350 per beneficiary in 1995 to $6,070 in 2002—an increase of 40 percent.

Some are calling this a cut. Well that is just the way Washington does it's math. Because let me tell you that in Idaho, when you say something will increase at a slower rate, we do not call that a cut.

Medicaid will become a block grant program to the States and calls for slowing the rate of growth from the present 10 percent to 4 percent over 7 years—resulting in savings of $181 billion. And it should improve service. Who would an Idahoan rather call if there is a question about Medicaid—someone in Boise or someone in Washington, DC? I guarantee you it will be a whole lot easier to find the right person to talk with and solve the problem in Boise. That is improving service for taxpayers.

The Republican budget downsizes the Federal bureaucracy by:

First, reducing discretionary spending by $190 billion over 7 years.

Second, eliminating the Commerce Department and other commissions, agencies, and functions that are duplicative or obsolete.

Third, reducing foreign aid by $23 billion over the next 7 years.

The budget also:

Fourth, makes good on the promise for welfare reform by achieving mandatory savings of $100 billion by combining AFDC, SSI, Food Stamps, child care and child nutrition programs into a single block grant to the States and by modifying the earned income tax credit by eliminating benefits for undocumented workers and persons with no dependent children.

While certainly there are program cuts that I would prefer not be made, I feel that we must apply the sacrifice evenly to all areas of the budget if we are to be successful. The most troublesome reductions for me are the cuts in agricultural production program outlays of $13 billion, a 28 percent reduction in community development block grant moneys to cities, and changes in the student loan program.

Idahoans tell me they are perfectly willing to do their share if they know the impacts of this budget are spread evenly across the country. If everyone has to bite the bullet, then it is something that must be done. This country cannot afford to spend beyond it's means. Congress must demonstrate the will to tear up its credit card and get the Nation's fiscal house in order.

I believe that the interest we are paying on the debt is destroying our present well-being while it is denying future opportunities to our children and grandchildren. The opportunity to balance the budget, reduce the deficit, and offer tax relief to hard working families is too important to ignore.

After all, we are talking about the American taxpayer's money—it is not the government's money—and it is time that we start leaving more of it in the taxpayer's pocket.

Mr. SMITH. Mr. President, this is truly a historic debate. At no point in recent times have the differences between the two major political parties been more apparent. The choice is clear and defining. You either: support $200 plus billion deficits through the next century, or you do not; support balancing the Federal budget by the year 2002, or you do not; want to pass along a greater debt to your children and grandchildren, or you do not; want to let working Americans keep more of what they earn, or you do not.

Mr. President, this country is $4.8 trillion in debt. There were some interesting budget facts in the Wall Street Journal a few months back. Shaquille O'Neal—the basketball star who plays for the Orlando Magic—earns about $30 million each year in salary and endorsements. Shaquille O'Neal would have to play 158,400 seasons to earn $4.8 trillion, our current national debt.

The O.J. Simpson trial has captivated many in this Nation. Again, according to the Wall Street Journal, Mr. Simpson is paying about $55,000 a day in legal fees. The trial would need to last 78 million days before Mr. Simpson paid $4.8 trillion.

Mr. President, this is not a laughing matter, far from it. It is of the most grave concern to all Americans. If we do not balance the budget soon, we won't have a country to pass along to our children. That's what this debate is all about.

I have three children. Like most Americans, I would like to pass along to them my assets, my wealth, when I leave this world. They should not inherit a mountain of debt. We must stop thinking about the next election, and start thinking about the next generation.

Mr. President, if the Senate does not pass this balanced budget plan, there is no coming back. If we do nothing: the national debt will exceed $6 trillion in 2002; Interest payments on that debt will be $331 billion in 2002; The federal deficit will exceed $200 billion, with no end in sight.

That should be unacceptable to every American.

This budget conference report is bold, and it is fair. It would balance the Federal budget in the year 2002. It would provide incentives for Americans to save and invest, and help the economy to grow. It would allow for penalty free withdrawals from IRA's for first time home buyers, education, and medical expenses. It would cut the capital gains tax rate, and index it for inflation. It would provide tax relief for families in the form of a $500 tax credit per child. Most important, Mr. President, the tax cuts are paid for with additional spending cuts.

Cutting taxes is not a sin. It is not wrong or irresponsible to let Americans keep more of their hard-earned dollars. After all, it's not the Government's money. History shows that tax cuts create jobs, a goal we all share. But history also shows that unless we cut spending, no amount of growth will balance the budget. I believe this budget proves that we can, and should, do both.

In 1993, every Republican Senator and House member voted against President Clinton's $250 billion tax increase. The tax cuts included in this package total $245 billion. We don't even get as far cutting taxes as the President went in raising taxes. This is clearly an issue that unites Republicans.

I would like to praise the hard work of Senator DOMENICI, and others on the budget committee, for a job well done. Many of us have waited a long time for this day. I have been talking about balanced budgets for 11 years. Now we have a rare chance to act. I urge my colleagues to support the conference report.

Mr. LEVIN. Mr. President. I cannot support the conference report to accompany House Concurrent Resolution 67, the congressional budget resolution which has been presented to the Senate by the Republican majority virtually without the participation of the Democratic members of the conference committee.

That budget proposal has been described by our Republican colleagues as achieving balance by the year 2002 although it will not. It relies heavily on surpluses in the Social Security trust funds to achieve balance. In fact, in 2002, there will remain, under the terms of the budget before, a more than $108 billion deficit, masked by the use of the Social Security trust funds.

This is one crucial reason that I supported the Conrad substitute when the budget resolution was before the Senate last month. That substitute would have reduced the deficit even farther than the Republican budget by 2002 and would have provided for a truly balanced budget, without the use of Social Security funds, by the year 2004.

The Republican proposed budget resolution before us is unbalanced in another important way. The budget blue print penalizes middle-income working families, reduces our investment in education, and penalizes our senior citizens, in order to provide for a tax reduction which will benefit mostly the wealthiest of Americans. The budget before us has its priorities wrong. It is simply a question of fairness.

The Republican budget hits our senior citizens very hard. Medicare would be cut by $270 billion, $14 billion more than the Senate-passed resolution which already went too far. This is by far the largest Medicare cut in history. It is the most vulnerable who are hit hardest. Nearly 83 percent of Medicare benefits go to beneficiaries with incomes less than $25,000. Two-thirds are below $15,000. Only 3 percent go to individuals or couples with income in excess of $50,000. Over the 7-year period, these cuts could cost the average individual beneficiary $3,345 more.

Another $182 billion, under the Republican budget, is cut from Medicaid. Many people don't realize that 70 percent of Medicaid costs are long-term care for the elderly and the disabled. Many middle-income elderly wind up relying upon Medicaid for nursing home and other care after their resources are expended.

Another way in which the Republican priorities are wrong is that in order to pay for a tax cut for the most well-off among us, they have cut funding for college loans and educational improvement. This is perhaps the most shortsighted aspect of their budget proposal. Investment in the education of our children is investment in America's future. There are few ways to better and more efficiently spend our dollars than educating America's future generations.

The budget contains a large $245 billion tax cut. While the specifics of the tax proposal are not apparent in the conference report before us, the intentions are clear. The House tax cut provides more than half of its benefit to the wealthiest 12 percent of Americans. And, the Republicans cut the Boxer amendment from the bill. Senator BOXER's amendment was sense-of-the-Senate language which called for 90 percent of the benefit from any tax cut to go to working families with income less than $100,000 per year—90 percent of the taxpayers. Our Republican colleagues praised this language during the Senate consideration of the Budget Resolution, as a way of deflecting criticism of the tax cut. But, the conferees dropped the language.

This tax cut amounts to borrowing from our children. This budget creates a large tax cut long before the budget is balanced. How can we contemplate spending $245 billion largely for the benefit of better-off Americans, when the deficits remain, when massive cuts in Medicare and Medicaid are being proposed, and when cut-backs in education funding are being put forward?

The minority claims that $170 billion, a so-called economic dividend is locked in to pay for the tax cut. Well, obviously, that $170 billion, if it materializes, will not pay for a $245 billion tax cut. Moreover, the dividend itself is far from certain. It is based on a set of economic assumptions by the Congressional Budget Office. The CBO, itself, in making the projections states:

> The estimates—are subject to two kinds of uncertainty. The first—is the substantial uncertainty about the effects of balancing the budget, assuming that other outcomes match CBO's January expectations. The second kind of uncertainty arises because many things will happen—not just in the area of fiscal policy but in the rest of the economy—that CBO could not anticipate in its January forecast.
>
> Such events beyond the domain of fiscal policy could easily obscure the impacts on growth and interest rates that balancing the budget would set in motion. For example, if the weakness of the dollar continues, the Federal Reserve might be unwilling to lower interest rates as quickly as the budget-balancing scenario assumes. The estimates—should therefore be viewed with appropriate caution: a few years down the road, it may be impossible to disentangle the effects of balancing the budget from other forces operating at the same time in the U.S. economy.

Well, when we look closely at such projections, we find that, according to the OMB, if the CBO has overestimated the gross domestic product by the average amount that they have overestimated that measure of the economy over the past 12 years, the effect would be a loss of more than $166 billion in only 5 years. In other words, the economic dividend which is being put forward as insurance for the costs of the tax cut for wealthier Americans would disappear, leaving our children to pay the bill.

Mr. President, the issue before us is not whether the federal budget should be balanced in the years ahead. The issue is how we do that. What are the priorities and who bears the burden. I believe that the priorities in the budget which our Republican colleagues have proposed are wrong. They place too much of the burden on the backs of the elderly, students in school, and working families, while cutting taxes for the most well-off. That budget is simply not fair.

And, Mr. President, it fails to get the job done. It continues the use of the Social Security trust funds to hide the real deficit.

I supported many amendments aimed at improving the budget resolution, making it more fair, without affecting the deficit reduction. Virtually all were rejected by the Republican majority along nearly straight party lines. Now, it will be possible for the Republican majority to ram through the budget resolution which it wants. However, as we go forward in the weeks ahead in the appropriations process and in reconciliation, I am hopeful that the Republican leadership will be more willing to work with the President, and with the minority in the Congress. If we are truly to make progress in balancing the Federal budget, and if we are to adopt a set of priorities which are wise and fair, we must do so in a bipartisan way. Unfortunately, the set of priorities reflected in this Republican budget resolution, in my judgment, are neither wise nor fair.

Mr. AKAKA. Mr. President, last week, House and Senate Republican conferees reached an agreement on the fiscal year 1996 budget resolution, which in my mind, is more damaging then the original 7-year budget resolution that the Senate adopted last month.

The compromise budget resolution still promises tax cuts for wealthy Americans financed by a $270 billion cut in Medicare. Medicaid also lost out on the Republican proposal and will be cut an additional $7 billion, for a new total of $182 billion. Stricken from the resolution is the Boxer amendment that expressed the sense of Congress that 90 percent of the benefits of potential tax cuts go to the middle class.

I also note that my Republican colleagues call the cuts to entitlement programs such a Medicare and Medicaid a way of restricting growth. Well, Mr. President, I don't know how my colleagues define the word restricting, but I know a budget cut when I see one.

The Senate Budget Committee resolution assumed a $256 billion cut in Medicare spending over 7 years, by far the largest Medicare cut in history. Well, Mr. President, it appears that the Republican budget conferees want to go even further and the adverse impact on beneficiaries and providers is clear.

If Medicare cuts of this magnitude are approved, the Department of Health and Human Services estimates that senior citizens' out-of-pocket medical expenses will increase by $860 a year or a total of $3,345 over the 7 years. As 83 percent of Medicare benefits go to beneficiaries with incomes of $25,000 or less, it is obvious who will be hurt by these cuts.

In addition, cuts to providers would have serious ramifications on overall health care costs as cuts in provider reimbursement are often passed on directly to other payers. Provider cuts could also have a potentially devastating impact on urban safety-net hospitals which already bear a disproportionate share of the Nation's growing burden of uncompensated care.

Not all the pain will be felt in urban areas, however. The reductions in Medicare payments could also endanger access to care in rural areas. Nearly 10 million Medicare beneficiaries—25 percent of the total—live in rural areas. Often there is only a single hospital in their county. Significant cuts in Medicare have the potential of causing rural hospitals to close or increase the number of providers that refuse to treat Medicare beneficiaries.

Under the conference agreement, Medicaid would be turned into a block grant and cut by $182 billion. As I mentioned, this cut is $7 billion more than the Senate-passed version and $5 billion less than the House. States would likely have to reduce the number of people served by an average of 7.6 percent, affecting nearly 3.5 million people.

While I fully recognize the critical need to ensure long-term stability in the Medicare Program and support efforts to balance our budget, I am opposed to using arbitrary cuts in the Medicare Program to finance a tax break for wealthy Americans.

Just as health care benefits are being cut for our senior citizens dependent on Medicare, the new GOP budget would also pay for tax breaks for the rich by making unprecedented cuts in education. During last months's debate on the Senate budget resolution, a bipartisan amendment passed which reduced cuts to the student loan program by closing tax loopholes for the rich. The conferees chose to ignore this bipartisan action and cut education even more.

Under the new GOP resolution, millions of children and college students nationwide will be affected. Five hundred fifty thousand pre-schoolers could be dropped from the Head Start Program; 3,000 schools across the Nation will lose funds to implement reform efforts to better prepare students for the challenges of the 21st century; and 4 million college students from middle-class families will have their college costs increase by over $3,000 since the GOP budget eliminates the in-school interest exemption on student loans.

Mr. President, the impact will be tremendous. The Republicans would eliminate 33 percent of the Federal investment in education by year 2002, according to the Congressional Budget Office. A good example of the devastating impact can be seen in the $30 billion cut in Federal aid to college students over the next 7 years. Given the fact that half of all college students receive Federal financial aid, and that 75 percent of all student aid comes from the Federal Government, it is obvious how this cut will affect our students' futures.

Mr. President, the Republican cut in Medicare, Medicaid, education, and other social programs are simply, in my eyes and in my heart, unacceptable. You cannot single out health care for one segment of the population without serious consequences. Nor should we broker the future of our country's youth in order to satisfy the Republicans' Contract With America. The senior citizens of today and the leaders of tomorrow should not shoulder balancing the budget alone. I therefore urge my colleagues to reject the conference report on the budget resolution.

FAA/ATC REFORM

Mr. MCCAIN. Mr. President, I want to both thank and congratulate the Senate and House Budget Committees for successfully completing a very difficult task. For the first time in far too many years, the American people can look forward to having a balanced Federal budget. Fiscal responsibility has long been missing from the Federal budget process—until now. The Budget Committees deserve great credit for this remarkable achievement.

As chairman of the Senate Aviation Subcommittee of the Committee on Commerce, Science, and Transportation, I noted with particular interest, the proposal in the budget regarding privatization of the Nation's Air Traffic Control [ATC] System. The safety and efficiency of the system that manages the airways is of great importance to both the traveling public and the Nation's economy. Unfortunately, the FAA has been slow, inflexible, and wasteful in its effort to modernize the ATC System.

The motivation behind the Budget Committee proposal to change the system is quite understandable. Although our airways remain the safest in the world, potential problems loom on the horizon. As the National Commission To Ensure a Strong Competitive Airline Industry pointed out in its report to the President, the airline industry is the only major commercial industry the operating efficiency of which is dictated by the efficiency of the Federal Government. That is certainly reason enough for concern. The inefficiencies and inadequacies of the current system must not be allowed to jeopardize safety or constrain the struggling air carrier industry.

Although there is a consensus that the FAA needs significant change, disagreements exist over how the agency should be reformed. The Aviation Subcommittee will hold hearings in July to carefully look at the current reform proposals, including the Budget Committee's idea of full privatization. The administration has a proposal introduced in the House that would convert the ATC System into a wholly owned government corporation. Under this plan, the corporation would be free from the personnel, procurement, and budgetary constraints that presently burden it as a government bureaucracy.

Two other reform bills would remove the FAA from the Department of Transportation and make it an independent agency, freeing it from certain Federal bureaucratic restraints. A final approach may simply be to retain the current structure but to revise the laws and regulations that are said to hold back the FAA in its efforts to modernize the ATC System.

Although these approaches have significant differences, they all stem from a common belief that the FAA is in need of meaningful reform. The FAA must become more responsive and more proactive in nature. As the Aviation Subcommittee examines all the options, we will keep this goal in mind. In that regard, I would like to thank the distinguished chairman of the Budget Committee for his contribution to this important debate, as well as for his outstanding work on the budget.

We will seek a solution that will bring greater efficiency to the FAA and promote its mission of safety in the conduct of air transportation.

Mr. HATCH. Mr. President, I stand here today to do something that I was beginning to think I would never be able to do—rise in support of a balanced budget resolution. I have stood before the Senate several times over the last 18 years arguing about the need to balance the budget. In fact, I spent several weeks on this very floor earlier this year fighting for a constitutional amendment to balance the Federal budget. I believe that a balanced budget is important enough to this country to warrant a constitutional amendment requiring it.

During that debate, many of my colleagues from the other side of the aisle argued that we did not need a constitutional amendment, that we could—and should—balance the budget without an amendment. American taxpayers were told that their elected Members of Congress should have the fortitude to make the tough decisions.

Well, Mr. President, the new majority has, in fact, done just that. We have made the difficult decisions required to balance the budget in 7 years. Not every Senator or House Member who voted for this conference report likes every single provision in it. Each of us, were we king or queen of America, would no doubt have done this resolution differently in one way or another.

But, for the first time in a generation, the absolute necessity of attaining a balanced Federal budget was put ahead of individual preferences and ahead of short-term political considerations. For the first time in 26 years, we thought about the long-term economic future of our country and about the dismal prospects for our children and grandchildren who will inherit it.

I regret that my colleagues on the other side could not bring themselves to make these tough decisions. And, fortunately, the worst decision they make is failing to take a long-term view. Instead of embracing a plan that will balance the budget, lower net interest payments on our staggering national debt, and lower taxes on hard-working Americans, my colleagues on the other side are moaning that the cuts are too deep and too fast.

Unlike my Republican colleagues whose commitment to fiscal responsibility transcended their own particular preferences, my Democratic colleagues are waiting for a perfect balanced budget. In fact, they seem to be waiting for a budget resolution that does not require them to make any hard decisions at all.

Mr. President, I may not agree with every spending cut assumed in this conference report. However, I do believe that the most important thing that this Congress can do for the future of this country is balance the budget.

Why is this so important to the citizens of this country? A balanced budget will mean interest rates that are as much as 2 percent lower. It means the creation of over 6 million jobs in the next 10 years. And, this budget resolution could mean an increase in per capita incomes by over 16 percent. Mr. President, these changes are not just for a few, they benefit everyone.

Of course, I am aware that one of the most contentious issues in this balanced budget proposal is the question of tax cuts. Some of our colleagues would be pleased to see a resolution that contained little or no room for tax cuts. They make an interesting point, one that we should consider. After all, if the goal is to bring the budget into balance as quickly as possible, isn't it easier and smarter to do so without reducing the tax inflow of cash to the Treasury?

At first glance, the answer to this question seems obvious. However, this assumes that our tax system is perfectly efficient and that it is delivering revenue to the Treasury in the most beneficial way possible.

I believe the answer to this question is yes; there are policies we can and should enact. Generally, we need to ensure that the Tax Code is providing proper incentives for individuals to save and invest, for companies to expand and create jobs and to compete in the global marketplace. Unfortunately, the Internal Revenue Code is striking out on all of these goals.

As Americans, we save too little and consume too much. Our colleague from Oregon, Senator PACKWOOD, has been holding hearings in the Finance Committee that reinforce this point. We've heard panel after panel of experts testify that our savings rate is dangerously low. A lot of the fault lies with the Tax Code, which rewards the wrong kind of behavior. We have very little incentive to save and invest because our tax system, in effect, taxes twice the gains from such saving and investing, and at a discouragingly high rate for most people.

The most effective way to reduce this double taxation is to change the way this country taxes capital gains. I can think of nothing that would get our economy moving and growing like a significant cut in the capital gains rate. Simply stated, lower capital gains taxes will lead to more jobs. Jobs don't create themselves: businesspeople create them when capital is used to start or expand a business.

And, as America's entrepreneurs can tell us, capital is too scarce and costs too much. Fortunately, it appears that a capital gains tax cut, like the one included in the Hatch-Lieberman Capital Formation Act, would go a long way toward reducing the cost of capital. A drop in the after-tax costs of equipment, land, buildings, and investments would provide the incentive for billions of dollars of new, productive investment.

We also need to make changes in the Tax Code in order to enhance our Nation's international competitiveness. Many elements of our Tax Code were designed at a time when the United States had little, if any, competition from foreign manufacturers. Today, we ignore the reality of global competition at our peril.

One area of the Tax Code that stands in need of change is the research and experimentation tax credit. Since 1981, the credit has been extended six times and modified four times. Twice it was extended only retroactively. Firms making long-term plans cannot rely on this kind of a track record. American industries spend over $75 billion each year on research and development. Unlike a few years ago, these companies don't have to perform that research within U.S. borders.

Should the U.S. continue with its intermittent support for R&D, or worse, allow the credit to expire altogether, much of this spending, and the jobs that go with it, may well be transferred overseas. Congress needs to demonstrate its commitment to America's future by enacting policies such as the permanent extension of this credit. A bill I am sponsoring, S. 351, would do just that.

Similarly, the semiconductor industry is laboring under outmoded laws that could drive their facilities overseas. Currently, under Japanese law, a company can depreciate up to 88 percent of its semiconductor equipment cost in the first year, while U.S. law permits a mere 20 percent first-year depreciation. When multinational semiconductor firms are deciding where to spend their investment dollars, a depreciation gap this large can be decisive.

Repairing flaws such as these in our Tax Code will strengthen American companies, create jobs, and restore business confidence.

Mr. President, tax cuts are a vital component of this budget resolution. I am pleased that the conferees from both the Senate and the House were able to keep a reasonable allocation for making some of these important adjustments to the Internal Revenue Code, once we have certified that our budget will be balanced. And, I look forward to working with my colleagues on the Finance Committee to formulate a package of tax cuts that will maximize the ability of our economy to produce jobs and for our companies to compete internationally.

Mr. President, another of the more controversial issues in this budget resolution is funding for Medicare and Medicaid.

Two other provisions of the conference agreement have a bearing on Medicare.

First, the resolution expresses the sense of the Senate that a Commission should be established to make immediate recommendations on the most appropriate way to ensure Medicare's solvency. Under section 307, that Commission will report its recommendations to Congress by February 1 of next year.

While I generally am skeptical about Commissions which can often just delay action on an issue, in the case of Medicare, it is obvious to me that Congress needs all the help it can get. This program is too vital for us to act precipitously and make changes that will not work. An expert Commission can give us valuable input.

Second, the budget conference report contains language expressing the sense of the Congress that the relevant Committees should give high priority to proposals which will ferret out waste, fraud, and abuse in Medicare, and that any funds resulting from those efforts will be used to enhance the solvency of Medicare.

I think those efforts are absolutely crucial; and I am very supportive of this language. As my colleagues are aware, I did have concerns about the Senate version in that it would have advocated using health care fraud and related fines to finance investigations. Historically, Congress has frowned on financing law enforcement activities through criminal and civil fines and penalties.

Mr. President, the bottom line is that there are myriad financial problems with both Medicare and Medicaid. Everyone knows it. It is no secret.

The question remains this: How do we improve the programs? That will be a responsibility that falls to the Finance Committee. As a member of the Finance Committee, I take this responsibility very seriously.

I want to make sure that both Medicare and Medicaid beneficiaries have the services they need, that the services are of the highest quality possible, and that they are cost-efficient.

I want to make sure that the services are available in rural as well as urban areas. I want to make sure that we have a system which provides incentives for providers to deliver cost-efficient, high-quality care.

I will be working with my colleagues on Finance to meet those goals. Good solutions be hard to achieve, but we cannot simply sweep the problems away because they are too hard. It is necessary that we tackle these issues. We cannot evade this duty because it is unpleasant and may involve difficult choices.

I want to turn for a moment to two crucial components of this budget compromise: the targets we have set for Medicare and Medicaid funding.

I am not insensitive to all the concerns which have been expressed about the possibility of reductions in the rate of increase of these two programs. As many of my colleagues have pointed out here today, the targets we are setting with this bill are ambitious and unprecedented.

But they are also very necessary.

The reason I support this budget resolution, is very simple.

This country is going bankrupt. And so is Medicare.

And if it weren't a jointly administered, State/Federal program, appropriated annually from general revenues, Medicaid would be going bankrupt also.

And, let's not forget one more thing: Without a fiscally solvent country, our country cannot have fiscally solvent programs.

Let me turn for a minute to the specifics.

The budget compromise provides $773.1 billion in budget authority and outlays for Medicaid over 7 years. As the conference noted, that level will allow Medicaid to grow 7.2 percent in 1996, 6.8 percent in 1997, and 4 percent thereafter. Or, the resolution holds out the possibility that the rate of increase could be higher, if the so-called disproportionate share hospital payments are frozen.

The resolution is flexible in that it allows the Committee on Finance to decide how the program should be restructured, that is, to consider the myriad issues which have been raised about Medicaid, such as whether there should be changes to its eligibility, benefits, payment rates, financing, distribution formula, and entitlement status.

For Medicare, the budget conference report provides $1.457 trillion in budget authority and $1.443 trillion in outlays for Medicare over the 7-year period. Again, the budget resolution is flexible in how we meet that target.

It is important to note that the conference agreement predicated its Medicare spending levels on funding necessary to preserve and protect Medicare, which every knowledgeable expert predicts is headed rapidly for bankruptcy, and to start the structural reforms which are necessary to make Medicare solvent in the long-term.

As with the Medicaid targets, the resolution allows the Finance Committee the flexibility to design Medicare program reforms.

Mr. President, this budget resolution is the right thing to do for this country. The Republicans have stepped up to the plate and made the difficult decisions necessary to balance the budget. It was not easy and I don't necessarily agree with every single one of the choices assumed in this resolution. There were difficult decisions regarding specific programs, overall priorities, and general reforms.

Mr. President, this budget resolution contains no actual changes in the law, but it does assume some important changes in the way the Federal Government operates and a significant shift in its role in the lives of the American people. In the budget resolution, the Republicans downsize government. We strengthen the national defense system. We reform Medicare to preserve and protect it. We improve Medicaid and protect Social Security. And, we reform a destructive welfare system that drags our families down into a cycle of dependency.

Most importantly, this Budget resolution balances the budget by 2002. Instead of balancing the budget on the backs of the taxpayers with tax increases, this budget resolution will provide tax relief. This budget resolution gives the American people back some of their hard-earned money and includes provisions to expand economic growth and create new jobs.

We have set the stage for important reforms in the way the Federal Government operates. We have set out to make government smaller, more responsive, and more effective.

Mr. President, this resolution is the best thing we can do for the American people. We must get them out from under the heavy burden of deficit spending and the ever increasing public debt.

The PRESIDING OFFICER. The time of the Senator has expired. Who yields time?

The Senator from Nebraska.

Mr. EXON. Mr. President, I yield myself 8 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EXON. Mr. President, I want to make a few final observations on this Republican budget.

The distinguished chairman of the Budget Committee has the votes, and I congratulate him for steering the Republican budget to a successful conclusion which I suspect will be basically on a party line vote.

However, as we head home to our families, loved ones, and neighbors, I hope that my colleagues on the other side of the aisle will take a little time to think about their budget outside of the confines of Washington. Because back home is the best place to put this budget in its proper setting and context. Back home is the place to see the havoc and suffering this budget will wreak upon our fellow Americans.

My colleagues know how proud I am of Nebraska and its people. They are tough and spirited. They are hard working and patriotic. They are everything one could want in a neighbor.

Mr. President, when a family is facing difficult times, its members pull together. They work and they sacrifice. That is how we should approach our Nation's fiscal crisis. We should get our priorities in order. We should call for fair and reasonable sacrifice for the greater good.

But that did not occur in this Republican budget agreement. We did not get a balanced budget for the American family.

We got a budget that asks the most of those who have the least.

We got a far-right wing budget with twisted priorities and convoluted thinking.

We got a budget so far out of step with the American people that it is laughable when my Republican friends call it "mainstream."

I would say that the $245 billion tax cut for the wealthy is the heart and soul of this budget. But this Republican budget lacks all heart, and it has no soul.

In a family, you look out for each other. You do not unfairly rip away medical care from the elderly, our poor, our disabled and our children. You do not mortgage your family's future by cutting education and job training. You do not kick a man when he is down, like this budget does to rural America.

And, make no mistake, this budget will devastate our rural economy. Our Nation's farmers are having the rug pulled out from under them. Medicare cuts of this magnitude will close rural hospitals and eliminate jobs. To complete this devastation, we are reducing rural economic development efforts and slashing rural housing. This budget does not offer a helping hand, it gives rural America the back of its hand.

You should not do all of this merely to finance a $245 billion tax cut for the wealthiest. You do not do this to satisfy some ideological itch. You do not do this to score points in a political poll.

Mr. President, you do not do this to your family. And Mr. President, I could not inflict this misguided budget upon the families of Nebraska.

In the seeks that lie ahead, I hope that cooler heads will prevail and that my colleagues on the other side will come out from behind their closed doors. They have no choice now but to face the music.

Yesterday, both President Clinton and OMB Director Alice Rivlin weighed in against this budget. In his letter to the Republican leaders, President Clinton said:

> I hope we can work together and avoid the situation in which I have no choice but to use my veto authority.

Director Rivlin echoed the President's sentiments on the misguided priorities in the Republican budget. She states:

> If reconciliation and appropriations legislation implementing these policies were presented to the President, I would strongly recommend that he use his veto authority.

These are strong words but I believe they are right on target.

So I say one more time, that if my Republican colleagues want a balanced budget that is fair and reasonable, they will find in this Senator a fair and reasonable man who is willing to listen and willing to help. I say to my friends on the other side of the aisle, "The choice is yours."

I will be there to help when and if I can.

I reserve the remainder of my time and I yield the floor.

Mr. DOMENICI. I yield 2 minutes to Senator BOND, the Senator from Missouri.

Mr. BOND. Mr. President, many very significant things have happened in this body during the 8½ years I have been here. Some have changed people's lives in America for the better and some have laid the groundwork for a better America in the future.

Notwithstanding, I believe that this budget resolution is the most important thing we have done for America since I have been a Member of the Senate, and probably the most important since the Vietnam war.

Why? Because we have committed ourselves to completing something the American people have wanted us to do for decades, but the Congress lacked the courage to go forward with it—that is making the very tough decisions to get our annual budget in balance and begin to lift the enormous burden of debt we have left for the next generation of Americans to carry.

Mr. President, this had to happen and we have to see it through.

Now we have the blueprint, but the tough part is just beginning. In the next 2 months, the authorizing committees and appropriations committees must do the heavy lifting of specifying in detail and in law, how we are going to squeeze down Federal spending to meet this ambitious plan. Make no mistake, this will not be easy. We are going to hear from every imaginable interest group and every one of our friends. All will share the goal of balancing the budget, but all will also want us to protect their individual interest.

Here is where the American people want us to show some courage. For the good of the whole, we must resist the pressures that will come from those only interested in the few. These will be tough and important decisions, but I believe we will see them through.

When I became Governor of Missouri in 1981, I was faced with a similar situation. The State's budget was seriously out of balance. Most believed that the tough things we had to do would so anger the powerful special interests that I could not survive taking them on. Well, from that experience I learned something. People are willing to stick with you, even though a vocal minority make it their mission to bring you down, if you make the cuts fairly, and everyone contributes to solving the problem.

I believe this budget resolution meets that test.

This budget resolution allows Federal spending to grow, just at a slower rate. It does not rely on smoke and mirror accounting to achieve balance in 2002. And, it courageously confronts the entitlements, which we all know must be confronted if we are going to get the job done.

Also, I am pleased that the tax relief for families and economic growth are conditioned upon actually realizing the revenue dividend that will come from balancing the budget. This is a responsible way to make sure deficit reduction is a condition precedent to tax cuts and I'm glad the Senate's position prevailed on this issue in conference.

I hope that as the authorizing and appropriations committees begin their work, that we all will think of our children and the children of future generations. When the special interest cries begin, let's not forget what has already been done to future generations and ask ourselves, "Can we put this off any longer?" I believe the answer is no. Let's commit ourselves to seeing through this national priority and allow the good of the whole to override the good of the few. The American people will reward us for our commitment.

CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 1996—CONFERENCE REPORT

Mr. DOMENICI. Mr. President, I submit a report of the committee of conference on House Concurrent Resolution 67 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee on conference on the disagreeing votes of the two Houses on the amendment of the Senate to the concurrent resolution (H. Con. Res. 67) setting forth the congressional budget for the United States Government for fiscal years, 1996, 1997, 1998, 1999, 2000, 2001, and 2002, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of June 26, 1995.)

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, that means that this is before us officially and formally at this point; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. DOMENICI. I think the Chair.

Mr. President, as now printed, the Statement of Managers in the conference report on the concurrent resolution on the budget for fiscal year 1996 (H. Rept. 104–159) contains several technical and typographical errors. Under the rules of the Senate, the conference report is not amendable so I submit the following list for the information of Senators and other interested parties only.

On page 40, in the table showing the aggregate and functional levels in the House resolution, the outlays in fiscal year 2000 for Function 350: Agriculture should be 9.0.

On page 48, the "Conference Agreement—Discretionary Totals" tables should end after the outlay line for "Nondefense". Following that line, the header "CONFERENCE AGREEMENT—Mandatory Totals" should be inserted.

On Page 49, at the top of page, the header should be "CONFERENCE AGREEMENT—MANDATORY TOTALS.".

On Page 51, in the second sentence of the first paragraph, the word "separated" should read "separate".

On Page 56, in the table "Allocation of Spending Responsibility to House Committees", the Discretionary action outlay subtotal for the House Transportation and Infrastructure Committee should be "-63".

On Page 94, at the end of the second sentence in the third full paragraph, "in the Senate" should be inserted.

On Page 94, in the third sentence of the third full paragraph, "Senate Budget Committee is" should be substituted for "Budget Committees are".

On Page 94, in the first and second sentences of the fifth full paragraph, the phrase "tax writing committees are" should be "Senate Finance Committee is".

On Page 95, in the first and second full paragraph, references to "205(e)" should be to "205(c)".

On Page 95, in the second full paragraph, references to "204(a)" should be to "205(a)".

On Page 98, in the last sentence of the explanation on the IRS Allowance the phrase "to this Congress" should read "in this Congress".

Mr. HELMS. Mr. President, I commend the distinguished Senator from New Mexico for the mammoth task he is about to complete—to pass a resolution putting the United States on track to balance the Federal budget by 2002. The Foreign Relations Committee is committed to do its part to put the international affairs budget function on a trajectory for meeting the targets specified in the budget blueprint that lies before us. That said, I respectfully request to ask my friend from New Mexico to engage in a colloquy to clarify for the RECORD the terms of the conference report on the budget resolution relating to the international affairs budget function.

Mr. DOMENICI. I will be delighted to enter into a colloquy with my good friend on this point.

Mr. HELMS. The House resolution contains an agreement to restructure the various foreign affairs activities by consolidating AID, USIA, and ACDA into the Department of State. Is my understanding correct?

Mr. DOMENICI. Yes, that is correct.

Mr. HELMS. It is my further understanding that the Senate budget resolution also assumed major restructuring of the U.S. foreign affairs apparatus, including support for the consolidation of ACDA, USIA, and AID into the Department of State and any cost savings which it generates. Is that correct?

Mr. DOMENICI. Yes.

Mr. HELMS. So, in other words, the House and Senate budget conference report accommodates the Senate Foreign Relations Committee reorganization proposal to abolish the Agency for International Development, the United States Information Agency and the Arms Control and Disarmament Agency, and fold their essential functions and personnel into the Department of State, and when the Senate decides to abolish these agencies the budget resolution will support it. Is that correct?

Mr. DOMENICI. Yes.

Mr. HELMS. I thank my distinguished friend from New Mexico for his support and look forward to celebrating his remarkable victory later today.

Mr. DOMENICI. Mr. President, I yield 1 minute to Senator SIMPSON, from the great State of Wyoming.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. SIMPSON. Mr. President, I have been here 16-plus years. There are a lot of people who do a lot of work in this place, but the senior Senator from New Mexico is, in my estimation, much like a true patriot. He practically has given his life to the budget and he has learned it, and I think we must respect him.

My good colleague from Nebraska, who came here when I did, has dedicated a lot of his energy and time. But, ladies and gentlemen, this is it. Either we start now or we leave nothing —nothing—for people between 18 and 45, because when they are 63, the cupboard will be picked clean: Medicare broke in 7 years, disability insurance broke in 2016, Social Security itself broke in the year 2031. Who is telling us that? Appointees of the President of the United States.

So this is it. No more fun and games. No smoke and mirrors. Step up to the plate.

Buy—the things are on me.

I have heard many criticisms of this budget from the other side of the aisle, but even the harshest critics of the budget admit that its numbers are honest, indeed conservative, and there is no "smoke and mirrors" employed here to create an illusion of balancing the budget. To put it very simply, if we and future Congresses adhere to the requirements of this budget, we will get the job done.

I will only take a short time to review where we are with respect to the economic future of this country. We currently have a national debt approaching $5 trillion. Early in the next century, the baby boom generation will begin to retire, and this will place untold strains on our working population. By the year 2013, under current law, the Social Security System will begin to experience a deficit, and we will have to cut benefits or raise payroll taxes to meet that challenge. Also under current law, by the year 2002, Medicare will be broke—flat broke.

I have heard it said—even the President has said it—that 7 years' time is "too short" a time in which to force the budget into balance. I cannot understand this. Where in the world will we find the money to provide for the baby boomers' retirement and health costs if we continue to use up the Federal budget with ever-increasing interest payments? If we do not balance the budget shortly after the turn of the century, we will never do it.

I have reviewed this budget conference report unusually carefully, even skeptically, because of the great importance that I attach to meeting this dire situation now, and meeting it properly. I have been greatly concerned about doing anything in the way of tax cuts that could undermine the objective of reaching a balanced budget.

My colleagues well know that I joined with 11 other Republicans in signing a letter urging Senator DOMENICI and the conferees to uphold the Senate's CBO-certification provision. This would verify that we are on course to balancing the budget before permitting any tax decreases. I am greatly pleased that the certification mechanism is a component of this conference agreement.

It is, however, in slightly different form than it was in the original Senate version, so I believe it is necessary to review the substance of what we are talking about, in order to more fully explain my support for this agreement.

We have been told by various economists, and by the Congressional Budget Office, that certain benefits will accrue from balancing the budget. Economic activity will increase, investment in our economy will increase, growth will increase, and interest rates will drop due to a lessening of the pressures of debt. All of this will tend to bring in more revenue to the Federal Government.

It is reasonable to ask what we would do with that revenue if it did materialize. It seemed only proper that the revenue should be returned to fortify and strengthen the private economy from which it came, to be given back to the hard-working American families who created it, rather than to give it to Government to spend.

This was the origin of the provision in the Senate budget resolution. Estimates were that a dividend of $170 billion would be created if we did our work properly and balanced the budget. So we would—in the original Senate provision—therefore have permitted $170 billion in tax decreases to be enacted if we were indeed on course to balance.

Now, let me sound a note of caution here, that note of skepticism—that ornery Wyoming strain. It's in each of us who is from the land of high altitude and low multitude.

It has not escaped my attention that even the CBO certification of an economic dividend would be something of a speculation. We would be projecting the economic benefit, and allowing ourselves to commit to returning it before it had all completely materialized. Future Congresses could "chicken out," could fail to follow through with the spending cuts. CBO certification would not bind future Congresses. We would still have the chance to hand out the tax goodies, to fail to finish all of the spending cuts in the out-years, and make the debt problem worse.

But this is where my position on the Finance Committee comes in. I remind my colleagues that the work of making the promise of this budget resolution a reality will be done in the reconciliation process. and I am going to work doggedly to ensure that when the Finance Committee makes changes in our entitlement programs to meet the terms of this conference report, that we lock in all of that reduced growth carefully. Because if we do that, we will do a great deal to slow future Government spending—even if future Congresses fail to hold to our restraints on appropriations.

Although the conference did retain the Senate provision requiring a CBO certification before proceeding with revenue decreases, I was initially concerned upon reading that the total amount of the tax cuts in the conference report would be $245 billion, somewhat higher than the $170 billion figure which we understood to be the size of the dividend projected by CBO.

However, I am satisfied that this budget conference report will indeed bring us to a balanced budget if we adhere to its terms, and I intend to help Finance Committee chairman, BOB PACKWOOD, to do just that in the entitlements and tax area.

One key is that not more than $50 billion of the tax cuts can be concentrated in the year 2002. If we enact more than that, then the budget will not be balanced in 2002, the target year. The tax cuts must be spread out over the 7 years properly in order to meet this objective, and I have every confidence that we in the finance committee can accomplish this.

As we pass this conference report, I would remind my colleagues again that the real tough work of balancing the budget still awaits us in the future. We in the Finance Committee will still have to enact the restraints on entitlement programs, and this and future Congresses must adhere to the plan for reducing annual appropriations. Only if we do this can we have the balanced budget and the tax relief at the same time.

While no budget conference report can guarantee that this work will be done properly, I believe that the conference report gives us our best chance to do the job. The numbers are tough, realistic, conservative. If tax relief stimulates additional economic growth, speeds it to the rates assumed by President Clinton in his own budget proposal, then we will perhaps advance even faster toward the target of a balanced budget. That its a real possibility, given the tough assumptions used by CBO and our budget negotiators.

In all cases, it is clear that this budget is far preferable to the status quo, and this is why I will vote for it. The status quo would permit absolutely intolerable increases in spending, particularly entitlement spending. We cannot afford growth rates of 10 percent per year in these programs. But that is what we will continue if we defeat this agreement.

I therefore urge the adoption of this conference report and I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. Mr. President, I understand we have very little time on our side.

The PRESIDING OFFICER. The Senator from New Mexico has 2 minutes remaining.

Mr. DOMENICI. I wonder if the Senator from Nebraska would yield me 5 minutes, if he has 5 minutes?

The PRESIDING OFFICER. The Senator from Nebraska has 17 minutes 50 seconds.

Mr. EXON. Mr. President, we had one cancellation. Therefore, I have some extra time that I do not have obligated. I am very pleased to accommodate my friend by yielding him 5 minutes from our time.

Mr. DOMENICI. I thank the distinguished Senator.

Mr. President, first I want to thank Senator EXON. In spite of the remarks he made today about the budget of the Republicans that is before us today, and that is before the people of this country today, I believe he is a man of great respect. I happen to disagree with almost everything he said about this budget. But in 7 minutes I cannot go through point by point. I would just say it is an enormous exaggeration to say that this is aimed at harming rural America. Anyway we look at it, the only part that could even be considered is the health care reform package that we have here. Let me say to rural America, what we have done is save Medicare from bankruptcy, from going broke. And on Medicaid, what we have done is said let us deliver that program more efficiently by letting the Governors and legislators have more to say about how we do that.

I can hardly believe that is going to harm rural America. We might even get fooled, and find that by saving Medicare we make it more efficient and better for seniors and by saving Medicaid, which we could hardly afford to pay for the next 7 years, by saving it and making it more responsive at the local level, we might even do better by rural America.

Having said that, Mr. President, most Americans start this weekend celebrating a great, great American holiday. That holiday is Independence Day, the Fourth of July. And it is more than symbolic that just before Independence Day, when we treat ourselves to the joy of freedom, of opportunity, that these Forefathers brought to us, it is more than a coincidence that a budget resolution before the Senate is going to free America up. It is going to say to the American people that future generations are free to earn more money and make a better living. It is going to free up the interest rates where they will come down instead of going up. It will make America's dollar stronger here and in the world markets, all of which means a better life for more and more Americans. And it means we are not going to force the young people of our country to pay our bills, whether they are bills for seniors, bills for education, bills for veterans.

We have asked everybody to look at this somberly and decide with us that we can do it better and do it for less. And for those who claim, as Senator ROCKEFELLER did here on the floor in those exaggerated words which some master of public relations wrote up for him, but when he comes down and talks about all it is doing, fellow Americans, we are saying the budget cannot grow at 5 percent a year. It can only grow at 3. You tell me. An American budget that is growing at 3 and instead of 5 percent a year, starting at $1.6 trillion that we are doing something draconian. What those who are opposing it piece by piece are saying is they do not want to do anything. They would like to leave the deficit hang around our necks and hang around our young people's necks until it throttles them. They will work for the Government instead of their families. Is not that an interesting Fourth of July, to say bondage for our children instead of freedom because we do not have the guts to cut Federal spending?

And for those who come to the floor and claim we are going to hurt our senior citizens, we are going to make this program of health care solvent instead of sitting by and watching it get to a point where you cannot even pay the bills in 7 years. And we will do it in an orderly manner, and they will get as good or better health care when we are finished reforming it than they are today. There will be less Government. But who today wants more Government?

Are those on the other side who are chastising this budget with such strange words as "felonies" and "misdemeanors," what would they do? They talk about being for a budget. The only budget I know that was offered on the other side had the highest tax increase in the history of the Nation in it. Is that how we want to balance the budget? Sure. They call it "loophole closures." Loophole closures? The five largest loopholes belong to every American who has a house and it has been mortgaged. That is the largest of all loopholes. Then in order after that, for deducting health care expenses, that is the second largest. Is that a loophole that we ought to just close, or will not that be increasing taxes? How about charitable deductions? It is the fourth largest. It is a loophole. We can go on from there. One man's loophole is another man's or another woman's increase in taxes. So there is no plan.

And I want to close today, as I have done one other time or two other times, by quoting none other than a liberal professor from Harvard University, Laurence Tribe. Let me close my remarks by building on a statement that he made when we were speaking of the balanced budget. Listen carefully. He said:

> Given the centrality in our revolutionary origins of the precept that there should be no taxation without representation, it seems especially fitting in principle that we seek somehow to tie our hands so that we cannot spend our children's legacy.

That is a pretty good statement of why we should balance the budget, or, conversely, what we have been doing. We have been spending our children's legacy, future, and opportunity.

So I say just before the Fourth of July, 220 years ago, the brave forefathers of this country crept onto a ship in Boston Harbor where, in order to protest a cruel system of taxation, they cut up boxes of British tea and dumped it into the water. That too was described as a revolutionary act, but it was one which helped to bring a better future for many people in America and for this young land.

So, Mr. President, it has been my privilege to lead the Republicans in a spirit of that Boston Tea Party. We are saying free our young people from this debt. We are saying that we want to declare war on deficits, and we want to give deficits the death penalty for, indeed, they are debt for our children, ultimately death for our growth and prosperity. And I am proud of this budget. When we get it implemented, almost every American will be also.

Mr. President, I yield the floor.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. All time for the majority has expired. The Senator from Nebraska controls the remaining 13 minutes.

Mr. EXON. Mr. President, I yield myself 5 minutes.

Mr. President, I listened with great care to my good friend. We use that term around here, and people listening might say: How can they be good friends when they carry on as they did? But we are good friends. We just happen to differ very strongly on this matter.

My good friend from New Mexico, the chairman of the Budget Committee, whom I have worked with for 17 years, complained about some of rhetoric and some of the phraseology that was used by those on this side of the aisle, attacking it. I listened very carefully to my good friend who used time that I yielded to him——

Mr. DOMENICI. For which I am most grateful.

Mr. EXON. To make some statements that I must at least indicate that I do not agree with. I thought that I had maybe concluded my statement. But I must make note of some statements that were made by the distinguished chairman of the Budget Committee.

To say that this budget saves Medicare is doubly misleading.

So in the first instance, even by their own terms and by their own figures, the Republican budget will only postpone and not save the insolvency of the Medicare trust fund that we have heard so much about. They would only extend it for 3 years. That is hardly saving it. And I hope that everyone will understand that those are the facts and they are indisputable.

Secondly, and equally as important, they seek to save this program by dramatically slashing benefits. If that is a savings, and if that is saving this program, I would hate to see what they would do if they really wanted to attack the program.

The bottom line is that the average Medicare beneficiary will have to pay $3,345 more over the next 7 years than he or she would have spent without the Republican budget. That is a fact.

I hear time and time again how this is going to save the Nation, how we are making sacrifices, how we have to help the younger generation. The younger generation, I assure you, Mr. President, is not going to be helped by the $245 billion tax giveaway, most of which goes to the most wealthy Americans, those making over $200,000. That is not a benefit to the younger generation.

I simply say that were it not for the $245 billion tax cut mainly going to the wealthiest Americans, I am not sure that the chairman of the Budget Committee and myself, the ranking member, would be that far apart. I cannot swallow it, and I will not swallow it. I think it is wrong. You cannot save and protect the younger people and protect the older people and have a budget that works if you are going to have that large of a giveaway to the most affluent in our society.

I reserve the remainder of our time which will be assigned to the minority leader, Senator DASCHLE, when he comes to the floor. In the meantime, I would suggest the absence of a quorum with the time charged to our side of the aisle.

The PRESIDING OFFICER. Is there objection?

Will the Senator withhold his request?

Mr. EXON. I withhold the request in view of the fact the majority leader is in the Chamber.

How much time is remaining on this side?

The PRESIDING OFFICER. The Senator from Nebraska controls 8 minutes and 44 seconds.

Mr. EXON. Eight minutes and 44 seconds is being reserved for the minority leader.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

If no one yields time, the remaining time will be deducted from the minority side.

Mr. DASCHLE. Mr. President, I understand most of the time has expired?

The PRESIDING OFFICER. There are 5 minutes remaining.

Mr. DASCHLE. Given that, I will use the 5 minutes and whatever additional time I may need by calling upon my leader time for that purpose.

The PRESIDING OFFICER. The Senator has that right.

Mr. DASCHLE. Mr. President, the real disappointment in this budget is that it did not result in a debate between Democrats and Republicans in the conference itself but between the right and the far right, and the far right won. Rather than consensus, it represents confrontation. Rather than accomplishment, it represents missed opportunity. Rather than success, it represents avoidable failure.

For many of us, for the country, for the future, this budget represents disappointment. Why? Because it is more extreme in every way than what was originally voted on when we passed this resolution in the Senate—more extreme, more unfair, more unacceptable in every one of the criteria we laid out during the debate on this budget several weeks ago.

Our Republican colleagues say that they are worried about our children, but what do they do? They gut the very investments that this Nation has made in its children.

They say they want to fix Medicare, but what do they do? They gut the program and want us to believe that things will somehow get better.

They say they want to get people off welfare, but what do they do? They gut the very thing which keeps people out of welfare and taxes them right back onto the welfare rolls. Why? Not in the name of a balanced budget; not in the name of deficit reduction.

The reason they have made these choices is now there for all Americans to see. They want to find a way to pay for a quarter of a trillion dollar tax break, a tax break which in large measure goes to the richest people in America.

The problem is that it does so to an even greater degree than the original budget resolution.

My colleagues have already stated the facts. Medicare is cut $270 billion, $14 billion more than the Senate bill, the largest cut by far in the history of the program.

Medicaid is cut by $182 billion, $6 billion more than the Senate bill. Over 40 percent of the real cuts in this budget come from two programs: Medicare and Medicaid. This extreme budget more than doubled the cuts in student loans. Instead of a $4 billion reduction in the availability of student loans as called for in the original budget resolution, the figure is now $10 billion. It still asks American families to cough up $21 billion in new taxes. And while the Senate version at least—at least—had a sense-of-the-Senate provision urging that 90 percent of tax cuts go to families with incomes of less than $100,000, that disappeared completely in the extreme budget conference report we have before us now.

Mr. President, we have had the opportunity to analyze just exactly what this budget conference report will do. We have asked a number of budgetary authorities to examine the figures, and this is the report that we have now been given:

The average middle-class family will see $900 in loss to their pocketbooks over the course of this budget resolution. Those making under $75,000 will lose $900. And what about the wealthiest 1 percent of others in this country? They will see an increase of $20,000 as a result of this budget resolution.

Mr. President, I think it is very important to look at how this breaks down in terms of the demographics in this country just to see who wins and who loses once this budget resolution goes into effect. Those who make less than $75,000, 77 percent of the American families, as I said, will lose $900. Those in the $75,000 to $100,000 category, 12 percent of the population, will lose $600. Those who fall in the category that most Members of Congress fall in, $100,000 to $200,000, we will see a $200 increase in our income over the course of this budget resolution. That 3 percent of the population whose incomes fall between $200,000 and $350,000 will see a $9,000 increase in their incomes. And, finally, those with incomes over $350,000, 1 percent of the country's population, will see $20,000.

Mr. President, the American people are catching on. They are beginning now to understand. The more they see, the less they like. The closer they look, the more concerned they get. And that has been in evidence with virtually every poll that has come out in the last several weeks. The Time/CNN poll, which is probably the most demonstrative of this fact: Which one of the following do you think should be the top priority for Congress in the next 6 months? people were asked, and without equivocation 42 percent said protecting Medicare from the deep cuts that are proposed in this budget are by far and away the most important thing that we could do.

Which of the following budgets do you favor, the Republican plan or the President's plan, the plan proposed by President Clinton? Nineteen percent of those who responded said they would support the Republican plan; 37 percent said they would support the President's plan.

Asked whether or not the Republican proposals to reduce Government programs will generally help or hurt various people, 71 percent of the American people said wealthy Americans are going to benefit from the Republican budget as it has been proposed; 57 percent of all of those who responded to this poll said that the middle class are going to be hurt and hurt badly.

In poll after poll, Mr. President—the Gallup poll on June 5 and 6, the NBC/

Wall Street Journal poll, again, in the latter part of this month—each and every one have come out as unequivocally as the American people can through the data that has been presented to them, each and every American has said without equivocation, do not do this. You are hurting those very people that you claim to be protecting. You are hurting the future of this country. You are devastating the investments in our people, and you are doing so, as we have seen with this chart, to benefit the people who do not need help at all.

Mr. President, this budget will probably pass today. And when it does, it will pass with great disappointment. We can do better than this. Democrats have proposed specific alternatives to do just that. The American people expect more of us than what we have before us right now. Extreme budgets like this do not merit our support. And many of us believe that we can do better. Many of us believe that when the vote is cast today, we have no recourse but to vote "no" because we know we can do better.

But this is the easy part. This is the blueprint. The tough choices come next. When those tough choices are made, it is imperative that we move from the far right to the middle, away from deep cuts in Medicare, away from gutting education, away from tax breaks we cannot afford, and toward a future we all want. It is not too late, Mr. President. It is now past time to do the right thing. I yield the floor.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. Leaders' time was reserved; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. DOLE. Mr. President, first I want to thank all my colleagues on both sides of the aisle. We have had a good debate. We will be voting here in just a few moments, and the conference report will pass.

I am just sitting here thinking about President Clinton and what he said on June 4, 1992, about balancing the budget on the Larry King Show. President Clinton was asked if he would submit a balanced budget soon. "I would present a 5-year plan to balance the budget." In an earlier question, he said he balanced the budget 11 times in Arkansas. Of course, that was required by law. If we had a balanced budget amendment, we might have a balanced budget out here in 2 or 3 years. We have one in 7 years. The President started off with 5.

Then he sent us a budget earlier this year and we had a vote on it, 99–0, opposing the President's budget. Not a single Democrat would vote for it. And then in June the President had a 10-year plan. I mean, if 5 years was too painful and 7 years was too painful, let us try 10 years. If it is too painful, we will try 12 years, 15 years, 20 years. Before long it does not make any sense at all.

So I want to congratulate my colleagues and my colleagues in the House for passing the conference report and what I believe will happen here in a few moments. I listened to my friend from New Mexico, Senator DOMENICI, talk about July 4th and Independence Day, to gather and celebrate our independence and our freedom. And I really believe, though maybe not every American will talk about the budget resolution on July 4th; I am not certain many will unless they are having a problem, we will talk about it—it is historic—because it is a little bit unexpected, I assume, in some cases, but it is going to bring about more freedom and more independence for all Americans. And the first freedom is going to be freedom from crushing debt.

The Senator from New Mexico closed his debate by talking about the children and the grandchildren. And I think most people are concerned about that. Let me share with you some very wise words, which I will quote:

> If the nation is living within its income, its credit is good. If, in some crisis, it lives beyond its income for a year or two, it can usually borrow temporarily at reasonable rates. But if, like a spendthrift, it throws discretion to the wind, and is willing to make no sacrifice at all in spending . . . if it extends its taxing to the limit of the people's power to pay . . . if it continues to pile up deficits, then it is on the road to bankruptcy.

Now, those are not the words of this Senator. They are not the words of the Senator from New Mexico, Senator DOMENICI, or the chairman of the House Budget Committee, Congressman KASICH. They are instead the words spoken 62 years ago by President Franklin Roosevelt. So this is not something new that cropped up here in the last few years. It has been a concern for a long, long time.

He was absolutely right. So we have thrown discretion to the winds. We have had more spending, more taxes, more spending, more taxes. President Clinton gave us the biggest tax increase in the history of the world in 1993 and is proud of it.

So I suggest there is just a different philosophy on that side of the aisle: Do not touch any spending; if you have a problem, raise taxes. They believe it, and that is probably the way it ought to be.

We have a different philosophy, and we believe it. We believe taxes have been extended to the limits of Americans' power to pay. We have the deficit about as high as we can pile it, and we are well down the road to bankruptcy, as Roosevelt predicted 62 years ago, unless we begin to change directions, and that is precisely what we are doing today. We are going to change directions, avoid bankruptcy, and set a course for a balanced budget by the year 2002. Here it is right on this chart.

President Clinton's budget has deficits as far as the eye can see in the range of $200 billion, his budget proposed June 10. Our budget, the Republican budget: Balanced by the year 2002. We do it without cooking the books, without smoke and mirrors, without throwing seniors, children, and the less fortunate out on the street, though it has been suggested by some here today that we are heartless, we lack compassion, we do not care about anybody.

We do it by making tough decisions, by slowing the rate of growth of Federal spending. Yes, it eliminates some of the bureaucracies, and a few others will have to learn to make do with less than they receive now. But the vast majority will actually be receiving increases, just not as much as they have been accustomed to. The rate of growth is going to be slowed, as most Americans would suggest we should do.

We are going to achieve about $894 billion through reductions in Government spending and savings. Still, Government spending will increase $1.5 trillion this year to $1.876 trillion in the year 2002, as the Senator from New Mexico also indicated just a few moments ago.

Let me repeat those numbers, because it is going to continue to grow: From $1.5 trillion this year to $1.876 trillion in the year 2002. Now, that may come as a surprise to some who may have believed what they have been hearing from some on the other side of the aisle.

If you believe what they said, you would think the Republicans are shutting down the entire Government once and for all and every Federal program, taking money from education, taking money from Medicare, taking money from Medicaid, taking money from rural America. That is not the truth. That is not accurate.

It is not what we proposed. I do not care how often they repeat it, repeat it, and repeat it, and how often the media picks it up, picks it up, picks it up, and spins it. It is not going to sell with the American people.

So freedom from crushing debt, number one; freedom from excessive taxation, number two.

On this Independence Day, the American people can also celebrate the fact they will have the freedom to save and spend more of their hard-earned money as they see fit. Whoever said the Government had a monopoly on taxpayers' money, on what you make, whether you are a wage earner or in some other business or some other vocation?

So we have a $245 billion tax relief package. The House wanted more. This was the figure we agreed upon. It is large enough to accommodate the family tax credit, which the Presiding Officer has been so interested in in the past several years when he was in the House and also now in the Senate.

We believe the American families are overtaxed. Maybe the Democrats do not believe that, and they certainly have every right to say that everywhere they go, "You are not taxed enough; we want to tax you some more."

We believe our tax system should encourage rather than discourage investment in job creation. We believe we ought to overhaul the tax system. So we have a tax commission headed by our former colleague, Jack Kemp, to talk about economic growth and tax reform. They will report to the Speaker and majority leader later this year. It is a 15-member commission.

So is it wrong to have $245 billion in tax relief for overtaxed Americans? I do not believe so.

Marriage penalty relief, opportunity to increase savings and investment, capital gains rate reduction, and I do not believe the Democrats will oppose if we have some estate tax relief for small family-held businesses and farms and ranches across America where if somebody dies, the Government ends up with half the estate. We want to correct that. So it seems to me that we are on the right track.

They do not take effect unless and until the nonpartisan Congressional Budget Office certifies that we are absolutely on the path to a budget that is balanced in the year 2002. That is the safety valve; that is the safety valve. They do not take effect until that has been certified, as the chairman has pointed out time after time.

So freedom from crushing debt, freedom from excessive taxation, freedom from big Government. We are going to make the Government leaner and more efficient and more cost-effective and return more power to the States and the communities and our other citizens.

I think also we ought to point out it is going to be freedom from worries of Medicare survival. I was on the 1983 Social Security Commission, a Commission appointed by Senator Howard Baker, the majority leader at that time; by Ronald Reagan, a Republican President; by Tip O'Neill, a Democratic Speaker of the House. Social Security was on the verge of bankruptcy. We had a bipartisan Commission. We rescued Social Security, and it is going to be in good shape, at least until the year 2020 and maybe beyond.

We want to do the same with Medicare, because if it goes bankrupt, you cannot pay part A or part B, you cannot pay the doctor, you cannot pay the hospital in about 5 or 6 years. We have an obligation to America's seniors to correct it.

We have had a lot of political rhetoric on this floor, but it is less than somewhat since President Clinton's budget proposal acknowledged that we were right; we must slow the rate of growth of Medicare if we are going to protect, preserve, and improve it.

There are always those who try to scare the American seniors, always those who engage in class warfare, always those who say we are going to slash Medicare. What are they going to do? What are all those people out trying to scare America's senior citizens going to do? Nothing. What are they going to do in 4 or 5 years when we cannot pay the hospital bill or the doctor bill of some senior in Minnesota, Kansas, New Mexico, or wherever in America?

So it seems to me we are on the right track. We are trying to avoid the bankruptcy of Medicare. We are not going to allow Medicare to go bankrupt. We are not going to allow Medicare to be cut to the bone. Indeed, under this Medicare proposal in our budget, we are going to increase beneficiary spending from $4,860 a year to $6,732 by the year 2002—a big increase.

Finally, I think what we are doing here in a broad way is safeguarding our freedom and independence.

I hope that under this resolution—and this is just the start; the hard part comes after we pass the resolution—Americans will also know that their freedom and independence, which was purchased by the sacrifice of countless Americans who risked and lost their lives, will remain secure. That is what this debate is all about: The future of America, going into the next century in the year 2002. This budget resolution maintains our commitment to national security second to none.

So I am pleased with the work that has been done by the budget conferees and by the Republicans on the Senate Budget Committee and the House Budget Committee.

There is a saying that has been around about as long as America has. There are two ways to get to the top of an oak tree: One is to climb and the other is to find an acorn and sit on it and it will grow into a tree some day and you will be up on top.

We are going to do it the first way. We have been sitting on the acorn too long in this Congress hoping that somehow our deficits could be reduced and a balanced budget would be magically sprouted and we would be sitting on top of the world. Americans for a long time, because they have been ahead of us, hoped that we would find a different course. We chose a different course—a balanced budget—to get to the top by climbing the tree, and there is a lot of climbing left to do.

Mr. President, let me salute Senator DOMENICI for his tireless efforts in making this moment possible. He has the toughest job around here. The taxpayers of America have no better friend than the senior Senator from New Mexico.

I also want to thank the Senate budget conferees for their dedication and hard work: Senators BROWN, GORTON, GRASSLEY, GREGG, LOTT, and NICKLES, and thanks as well to Speaker GINGRICH and House Budget Committee chairman JOHN KASICH and their conferees, because this has been a one-party effort. The other party did not want to participate. They like to raise taxes. They do not want to reduce the rate of growth of spending anywhere, and that is precisely what we did.

So I believe we have reached the right result. It is not perfect. A lot of hard work is left, but we are ready for it. I hope that everybody will vote aye on the conference report.

CLOSING THANKS

Mr. DOMENICI. Mr. President, there are a number of people I want to briefly thank for bringing this year's budget resolution to completion.

We all know, however, that this is not the end of the budget process—it is just the first step. But a very critical and important first step.

Let me first begin by thanking my friend and leader, BOB DOLE and the Republican Conference Chairman Senator COCHRAN for allowing me to serve as chairman of the Budget Committee this year.

To my fellow Senate Budget Committee members—and particularly the ranking member, Senator EXON—thank you for the long hours we spent together earlier this year in hearings, debate, and markups.

Not too many Senators realize that the Budget Committee also marked up and reported unfunded mandates and line-item veto legislation while also working on the budget. The committee has been busy.

I want to pay particular thanks to three members of the Budget Committee—Senators BROWN, GORTON, and GREGG. Thank you for chairing three critical working groups earlier this year on discretionary, entitlement, and privatization issues.

Those groups' input was critical to the design of the resolution.

Let me also thank the three freshmen of the Budget Committee—Senators ABRAHAM, SNOWE, and FRIST. I cannot remember a time when freshmen on the Budget Committee were more active—in field hearings, participation, and just plain old input into the design of a resolution.

Finally, behind the scenes throughout has been the committee's staff—both majority and minority. They have worked tirelessly for the past 6 months to bring us to this conclusion today. But their work is not finished. They now must help to oversee that the resolution is implemented and enforced.

There are a number of staff that should receive special recognition. I will insert into the RECORD a list of the committee staff. While small, the staff has been very effective in their work product and helping us as Senators do our job better.

Let me give special recognition to Austin Smythe and Jennifer Smith, the committee's counsels, for their hard work in getting this product drafted and before the two Houses today. There is no question that without their dedication this product would never have been possible.

I want to also pay special tribute to Anne Miller, without her hard, consistent, and careful scrutiny of the numbers this product also would never have been possible.

Thanks to Cheri Reidy, Denise Ramonas, and Carol McGuire on taxes and appropriations crosswalks.

Special thanks to Peter Taylor who has been the chief economist on the committee for the last few years. Peter will be leaving to join the Joint Committee on Taxation after the recess.

Thanks to Keith Hennessey for all his work on Medicare and Medicaid, and Ricardo Rel on agriculture issues.

Thanks to Brian Riley, Mike Ruffner, Lisa Cieplak, and Jim Hern for the work on transportation, welfare, education, and housing issues.

Thanks to Roy Phillips and Greg Vuksich for their continued work on defense and foreign affairs funding issues.

Behind them all, getting the briefing books put together and copies, copies, copies—stand Christy Dunn, Andrea Gatta, Mieko Nakabayashi, Karen Bilton, and Beth Wallis.

And finally, we all need our communications people and I have one of the best in Bob Stevenson and his excellent assistant, Melissa Longoria.

Trying to keep all these people coordinated has been the job of my staff director—Bill Hoagland.

Thank you all. Now get back to work and implement it.

SENATE BUDGET COMMITTEE REPUBLICAN STAFF

Bill Hoagland, Majority Staff Director.

Carole McGuire, Assistant Staff Director.

Austin Smythe, Assistant Staff Director.

Anne Miller, Budget Review.

Cheri Riedy, Sr. Analyst for Budget Review.

Jennifer Smith, Counsel.

Jim Hearn, Sr. Analyst for Government Finance and Management.

Lisa Cieplak, Sr. Analyst for Education, Social Service & Justice.

Mike Ruffner, Analyst for Income Security and Veterans.

Keith Hennessey, Economist for Social Security and Health.

Ricardo Rel, Sr. Analyst for Agriculture and Natural Resources.

Peter Taylor, Economist.

Brian Riley, Sr. Analyst for Transportation and Science.

Roy Phillips, Sr. Analyst for Defense.

Denise Ramonas, General Counsel.

Brian Benczkowski, Asst. to General Counsel.

Greg Vuksich, Sr. Analyst for International Relations.

Bob Stevenson, Communications Director.

Melissa Longoria, Asst. to Communications Director.

Christy Dunn, Asst. to Staff Director.

Andrea Gatta, Staff Assistant.

Karen Bilton, Staff Assistant.

Beth Wallis, Staff Assistant.

Mieko Nakabayashi, Staff Assistant.

Mr. President, even though we are under a time constraint, I want to say thank you, once again, to one person. There are many, but I have to tell you, we would not be here if it were not for the staff of the majority of the U.S. Senate. Mr. Hoagland, we thank you. Every member of this institution thanks you. Anybody that has dealt with you in this arena thanks you. You know more than anyone around, and your temperament and approach has been marvelous.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. EXON. Mr. President, I echo what has been said. I echo my thanks to Bill Hoagland and the great staff on the Republican side on this matter. They worked very hard. We are also indebted to Bill Dauster, who is over here, and the members of his staff. Both staffs did a tremendous job. I think the chairman of the committee would agree.

The PRESIDING OFFICER. The question is on agreeing to the conference report accompanying House Concurrent Resolution 67.

The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 54, nays 46, as follows:

[Rollcall Vote No. 296 Leg.]

YEAS—54

Abraham
Ashcroft
Bennett
Bond
Brown
Burns
Campbell
Chafee
Coats
Cochran
Cohen
Coverdell
Craig
D'Amato
DeWine
Dole
Domenici
Faircloth
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hatch
Hatfield
Helms
Hutchison
Inhofe
Jeffords
Kassebaum
Kempthorne
Kyl
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Packwood
Pressler
Roth
Santorum
Shelby
Simpson
Smith
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner

NAYS—46

Akaka
Baucus
Biden
Bingaman
Boxer
Bradley
Breaux
Bryan
Bumpers
Byrd
Conrad
Daschle
Dodd
Dorgan
Exon
Feingold
Feinstein
Ford
Glenn
Graham
Harkin
Heflin
Hollings
Inouye
Johnston
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moseley-Braun
Moynihan
Murray
Nunn
Pell
Pryor
Reid
Robb
Rockefeller
Sarbanes
Simon
Wellstone

So the conference report was agreed to.

Mr. DOMENICI. Mr. President, I move to reconsider the vote.

Mr. BENNETT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The minority leader.

COMMENDING C. ABBOTT SAFFOLD (ABBY) FOR HER LONG, FAITHFUL, AND EXEMPLARY SERVICE TO THE U.S. SENATE

Mr. DASCHLE. Mr. President, it's my sad duty today to announce to my colleagues the retirement of Abby Saffold, who has served as Secretary to our caucus since her appointment to that post by then-majority leader, Senator BYRD, in 1987.

Together with the majority leader, Senator DOLE, Senator FORD, Senator LOTT, Senator BYRD, Senator THURMOND, and all other Senators, I send a resolution to the desk to express the gratitude of the Senate to Abby Saffold for her years of service to the Senate of the United States.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 143) commending C. Abbott Saffold (Abby) for her long, faithful and exemplary service to the United States Senate.

Whereas Abby Saffold has faithfully served the Congress in many capacities over the past 28 years, 25 of which were spent in service to the Senate;

Whereas Abby Saffold was the first women in the history of the Senate to serve as Secretary for the Majority and the first to serve as Secretary for the Minority;

Whereas Abby Saffold has at all times discharged the important duties and responsibilities of her office with great efficiency and diligence;

Whereas her dedication, good humor, and exceptional service have earned her the respect and affection of Democratic and Republican Senators as well as their staffs: Now therefore, be it

Resolved, That the Senate expresses its appreciation to Abby Saffold and commends her for her lengthy, faithful and outstanding service to the Senate.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to C. Abbott Saffold.

[Applause, Senators rising.]

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

The PRESIDING OFFICER. The minority leader.

Mr. DASCHLE. Mr. President, Abby's service to the Senate covers a quarter of a century. Her service to the Congress runs from 1967. When she became Secretary to the majority in 1987, she was the first woman to hold that post in the history of the Senate.

The Democratic caucus has been extraordinarily fortunate to have Abby's services for so long. It is no exaggeration to say that Abby has prevented more than one disaster from becoming a debacle. We, who rely on her, know that much of the Senate operation depends on her knowledge and skill in making certain that the procedural hurdles do not become roadblocks.

I believe the entire Senate, not just the Democratic caucus, owes Senator BYRD a large debt of gratitude for the fact that it was his excellent judgment that first brought Abby to the floor staff in 1979 and the caucus 8 years later.

I am extremely sorry that it falls to my lot to have to announce Abby's retirement.

It is well known that the great American author, William Faulkner, served as the postmaster in Oxford, MS. What is not as well known is why he decided to quit the job after many years of service, particularly at a time and in a place where good, stable jobs were hard to come by.

Asked why, Faulkner replied: "I couldn't stand for one minute longer being at the beck and call of anyone just because he has three cents in his pocket."

I would not want to think Abby Saffold made the decision to retire because, after 16 years, she could not stand for another minute being at the beck and call of anyone just because they had been elected to the U.S. Senate.

But it is a fact Abby has served Senators—and been at their beck and call—for a long time. I believe I state the sentiments of Senators on the Republican side as well as Members of the Democratic caucus when I say that Abby has been unfailingly cheerful and helpful to Senators regardless of party.

Abby Saffold's departure is a sad day for everyone in the Senate, most particularly for Senators, who have come to rely on Abby's advice, seek her counsel, and listen to her jokes. Somehow, because Abby served the Senate so well and for so long, we had come to think she would always be here for us.

Although many of the men and women with whom she worked elected, and unelected alike, may be better known to the American people than Abby, not many will be more well-loved by those who know her. Few will have a record of service and integrity to match hers.

I have been an admirer of Abby's since my first days in the Senate. She has been a good and tireless friend to me and other Members of the Senate. It is with great regret that I say goodby to Abby Saffold today.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. Mr. President, there's a story told about an incident that occurred here on the floor several years ago, when Howard Baker was Senate majority leader.

Senator Baker was leading a floor debate, while Republican and Democrat Senators worked out a timetable in back of the Chamber.

Finally, Senator Baker could proceed no further until negotiations were finished.

He looked to the back of the room, sized up who was involved in the negotiations, and who was key to their successful conclusion, and said for the record, "We're just here waiting for Abby."

He was, of course, referring to Abby Saffold, who has served as Secretary for the Democrat side of the aisle for more than 8 years, and who served as manager of the Democrat floor staff for the 8 years prior to that.

As has been indicated by my good friend, Senator DASCHLE, Abby is retiring this Friday afternoon, after nearly three decades of service on Capitol Hill—a career that saw her rise from serving as a caseworker to a Congressman to becoming the first woman in the history of the Senate to occupy the post of Secretary for the majority.

I know I speak for all Members of the Senate in saying that she will be greatly missed.

We spend a great deal of time here on the Senate floor. And frequently, negotiations and discussions can get a bit tense. Abby has been involved in hundreds of those negotiations and discussions.

Even though Abby's duties here on the floor require her to look after the interests of the Democrats, there has never—there has never been a moment where I questioned her professionalism, fairness, or honesty.

And through all the discussions and debates, Abby has always exhibited a great deal of courtesy, and an unfailing good humor. In short, as my good friend, George Mitchell, once said, "Abby helps to make our long days on the Senate floor more tolerable."

I share the view expressed by my colleague, Senator DASCHLE, and I know that all Senators join with me in wishing Abby good luck, and in thanking her for her service to the Senate and to America.

Thank you.

[Applause, Senators rising.]

Mr. LAUTENBERG. Mr. President, I join with my colleagues in paying tribute to Abby Safford on her retirement from the Senate. Knowing Abby, I can only imagine that when she leaves us, she is planning a full life of travel and continued learning and challenge. Anyone familiar with her energy, sharp intelligence, political commitment and love of the Senate knows she will continue to follow our activities with close attention. I know all of us are going to miss her advice, incredible attention to our needs, her knowledge of the Senate and her ability to help make this institution work.

On the eve of her retirement from the Senate I want to wish Abby the very best and hope that her next 25 years will be as satisfying as those she spent in the Senate, and filled with challenge, satisfaction, love, and contentment. She has made an enormous contribution to this institution and the many Senators who have occupied these desks since she began here many years ago, sitting in the staff gallery following the Senate floor for her Senator. It is a pleasure to simply say, in return, "Thank you, Abby."

The PRESIDING OFFICER. Without objection, the resolution is agreed to.

Without objection, the preamble is agreed to.

TRIBUTE TO CHICK REYNOLDS

Mr. DODD. Mr. President, I rise to pay tribute to Chick Reynolds, the former Chief Reporter of Debates for the Senate. As my colleagues know, Chick passed away earlier this month. He will be sorely missed by each and every one of us.

The Reporter of Debates is one of those unheralded jobs without which this institution could not run. The Reporter is the bridge between the Senator and his constituents and between this institution and history. By faithfully transcribing the proceedings of the Senate, the Recorder ensures that ordinary Americans can follow the work of their elected representatives and that historians will have an accurate record of the great debates of our time.

Chick Reynolds was considered one of the fastest and most accurate reporters in the United States. As a result, he recorded many of the most momentous political events of the latter half of the twentieth century, including the McCarthy and Jimmy Hoffa hearings and President Kennedy's famous speech in Berlin.

In 1974, Chick Reynolds was appointed an official reporter for the Senate, and he went on to become chief reporter in 1988. He served in that job with distinction, and he was scheduled to retire, in fact, next month.

I join my colleagues in extending my sympathies to Chick's wife, Lucille, on her loss.

Mr. President, I yield the floor.

Mr. BURNS. Mr. President, parliamentary inquiry: What is the order of business?

The PRESIDING OFFICER. The regular order is that the regulatory reform bill will be laid down.

Mr. BURNS. Mr. President, I ask unanimous consent that I might proceed as if in morning business for no more than 2 minutes for the purpose of introducing a bill.

Mr. GLENN. Mr. President, reserving the right to object, I will not object; may I ask, is it going to be a couple of minutes? That will be fine. I know Senator John KERRY has some remarks he would like to make. We will put the bill in and yield to him for some remarks, if that is OK. And then we will go on with remarks on the bill.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. BURNS. I thank my friend from Ohio.

THE PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BURNS. I thank the Chair.

(The remarks of Mr. BURNS pertaining to the introduction of S. 1000 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

COMPREHENSIVE REGULATORY REFORM ACT

The PRESIDING OFFICER. The clerk will report the pending business.

The assistant legislative clerk read as follows:

A bill (S. 343) to reform the regulatory process, and for other purposes.

The Senate continued with the consideration of the bill.

Mr. GLENN addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. GLENN. I thank the Chair.

Mr. President, I ask unanimous consent that Senator KERRY be permitted to make some remarks without losing my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Massachusetts.

Mr. KERRY. Mr. President, I thank the Senator from Ohio. I just wanted to rise for a few moments to say some words about the regulatory reform bill, and where we find ourselves now. Then I will make further comments at a later time. I thank the distinguished manager for the Democrats.

Mr. President, I think it is fair to say that if you ask most people in the United States Senate, "Do you favor regulatory reform?" people are going to say, "Yes; I am in favor of regulatory reform." We all understand that in the course of the last few years, regrettably, there have been some excesses that every single American has come to understand. And unfortunately, because of the negativity and conflict orientation of the press nowadays, the negative aspects of what has happened in environmentalism sometimes supersedes people's perceptions on the positive side.

The truth is, in America, there have been remarkable gains over the course of the last 25 years in the particulates that we breathe, and in the level of our health as a consequence of better air. Today, cities can literally be viewed from airplanes, and from outside the city where, this one not be the case, a decade ago if you were in Denver or Los Angeles given the air pollution levels and smog. There are still problems, but the level is so markedly reduced from what it was that we tend to forget the benefits.

If you look all across this country, there are rivers where salmon have returned and rivers that you can swim in and fish in. This was not the situation a number of years ago. There has been just an incredible increase in the quality of life for all Americans and the opportunities that are available as a consequence of positive choices we have made for the environment.

On the other side of the ledger, there have been some terrible disasters in terms of our efforts to do better. The Superfund Program is a classic example of one of those efforts that has not done as well as intended. However, the Superfund Program is not really a reflection of what we need to do in regulatory reform. Yet it somehow finds its way into the bill that is currently on the floor.

Likewise, with the Toxics Release Inventory, over the years since 1986, we have reduced over 40 percent the level of toxic releases into the atmosphere. And, there again, has been an enormous gain in terms of people's knowledge of what is happening in their community. That is all—just knowledge. That knowledge has empowered communities to make better choices and, in fact, many industries have voluntarily made choices based on the fact that they knew a particular community knew what was being released into the air. People have benefited. We have had an enormous reduction in the level of toxic releases. All by virtue of a community right-to-know program that is simply informative. All it does is let people know. It does not require a company to do anything. It does not take any chemical off the market. It does not prohibit it from being sold. It does not levy any fines. There is no administrative process except reporting information to the public.

Yet, in this bill, there is a wholesale discarding of that particular process. It does not belong here. It should not be here.

Similarly, the Delaney clause, which prevents people from being exposed to carcinogens in food additives. This is a critical program. Most people agree that there have been some problems in its administration, and we need to fix it. I agree, we ought to fix it. The Labor and Human Resources Committee and others have been working diligently on a fix. They are in the process of working within the committee with jurisdiction to rework the program. Then along comes this approach of just grabbing out of thin air and plunking into this bill what is not a fix, but an absolute eradication of the Delaney protections. That does not make sense. I do not think Americans have come in and said, "Hey, expose me to a whole new set of carcinogens, and it really does not matter what is in my food." But that is the effect of what is in this legislation.

Those were the "special fixes," the provisions that do not relate to regulatory reform and that should not be in the legislation before us.

In addition, Mr. President, I have some concerns with a number of provisions in the bill that actually address regulatory issues. For starters, this bill lowers the threshold for the definition of a "major" role in the rulemaking process. When the EPA or another agency decides that something is a major rule which then affords it a certain set of administrative procedures, the threshold today for a major rule is $100 million of annual economic impact. First, you have to make a determination that the rule will have an effect of $100 million of consequence, and then it is treated as a major rule.

In the bill that is on the floor, the sponsors lower that threshold to just $50 million. The $100 million threshold was set in 1975 by President Ford.

That 1975 value is worth just $35 million. It is not very hard to get to a $35 million current value in terms of rulemaking impact. If you lower that by half, to an $18 million impact, any lawyer worth his salt can come in and achieve that; particularly since the definition in this bill allows you to take indirect costs into account, you can very rapidly get to a $50 million consequence.

What is the impact of that? Here is a bill that talks about being regulatory reform yet will open up a whole expanse of new rules subject to major rulemaking procedures which makes it then subject to court review.

Currently, EPA spends $120 million per year to conduct risk assessment and cost-benefit analysis for major rules at the $100 million level. EPA estimates that it will need an increase of 191 percent to 458 percent to keep up with the increased workload. Nowadays the EPA handles approximately 10 rules per year that qualify as major rules. Under the $50 million threshold, we are going to go to 75 major rules per year just for rule at the $50 million threshold. In addition, in this bill before us, S. 343, the Superfund is lowered even further to a threshold of just $10 million which will cause a minimum of an additional 650 rules that need this new complex administrative procedure. Every one of us knows that no one is going to come down here and say "add personnel to EPA, appoint more judges, give us the people to achieve this and make this work."

So what you have here is not just an effort to have a legitimate reform of a system that I acknowledge needs reform. What you have is a totally calculated capacity to create gridlock within the system so the rules cannot be made and many of the rules on the books get eliminated.

Now, there are a host of other problems with S. 343. There is a problem with the effective date. The effective date of this bill is upon enactment. The implication of this term will require going back to scratch and being over to develop any rules that are in the entire

Federal Government system on that date, whatever that day may be. The impact may well be enormous from meat inspection regulations to drinking water protections and other things that would literally stop in midstream as a consequence.

I do not think that is the intention of the authors. However, that will be the effect. These are the types of problems of which colleagues must be aware. This legislation currently leaves open to question a number of concerns such as this.

Another very significant area is judicial review and the petition process developed in this bill. The bill before us has at least seven different tiers to its petition process. Unless it has been changed to reflect negotiations we have been having in the last few days, that opens up a Pandora's box of judicial review. You are going to have the capacity to go on for year after year after year with lawyers expending huge sums of money; this process will transform the whole regulatory process into the hands of somebody who has money rather than an evenhanded administrative process that seeks to balance the needs of the country.

Mr. President, I want to emphasize I want to have a legislative reform bill. I think we must. I also want to emphasize that it is appropriate to have cost-benefit analysis and risk assessment. We should be making some determination of the benefits and the costs but we should not do it in a way that is so rigid that we literally deny ourselves the ability to include certain benefits to the country; even if an option is not the least cost alternative it may be something we want to do and we should not take away the discretion or the capacity of somebody to make that decision on the appropriate standards.

Let me give an example from the air quality standards in the Clean Air Act. For 25 years it has been understood that the Federal Government would base its national ambient air quality standards not on a cost-benefit test, but on health protection standards—and I might add that even after 25 years of hard work over 100 million Americans still live in areas where these standards are not met. If this bill becomes law, I believe that it will be virtually impossible for EPA to base its standards on health protection, and it will begin an endless court process that will serve to set back.

Under this bill, for example, if there is an existing statute that has a standard to achieve, for health reasons and other reasons, so many parts per million in air emissions and it is determined that number is a minimum standard, a floor level of protection, but that the agency has the discretion to go to a higher level in the statute because we want to get to at least a minimum standard knowing there is a minimum health benefit for getting to that minimum standard; and this minimum standard costs $10 million to achieve and it is the least cost alternative. Now, for $11 million, you may be able to get exponentially further in terms of public benefits, but it is not the least cost, the agency will not be able to go to the higher standard of benefit even if you want to spend the additional resources to get the vastly greater level of benefits.

Under this bill, you will not be able to go to the higher standard of benefit because it is not the least cost alternative—even though that higher standard of benefit may give you other benefits of hospitalization reduction, long-term care reduction, quality of health, a whole number of important benefits, just because it is not the least cost for the purposes of the underlying statute's minimum gain you cannot do it.

Now, Mr. President, in keeping with what I said to the Senator from Ohio, I am not going to go on, and I am not going to go through a complete analysis of the bill at this time. But I think it is absolutely essential that we approach this bill with a sober intention to legislate, not just to walk in lockstep to make happen what has come here in a very hasty process.

The Environment Committee was bypassed. The chairman of the Environment Committee, a Republican, has signed on to an alternative version of this bill with Senator GLENN, and he will talk about that. The Judiciary Committee never got a chance to consider but a handful of amendments before the bill was forced out on a procedural maneuver. Senators wanted to, but they were never heard or given a chance to consider a vast number of amendments in committee.

On the other hand, the Governmental Affairs Committee sent a bill out by a vote of 15 to nothing, yet that bill has been ignored. And it is essentially that bill with a couple of minor changes that the Senator from Ohio and the Senator from Rhode Island will introduce, and I am glad to be a cosponsor of that, Mr. President.

This bill has far-reaching implications for the health and safety and well-being of the United States of America. This bill should not become a grab bag, a greed effort by a lot of people who never wanted the EPA, who never wanted the Clean Air Act, never wanted the Clean Water Act, never wanted the Safe Drinking Water Act, never wanted the national parks program, never wanted any of these efforts in the first place. And we should not allow them under the guise of regulatory reform to undo 25 years of progress and effort, notwithstanding I emphasize a genuine need to have regulatory reform and to change the way we have been doing business in this city.

So I am prepared to embrace a very legitimate effort to get there. I joined with a number of my colleagues to meet with the Senator from Louisiana, Senator JOHNSTON, Senator HATCH, and others and we thought we were making some progress. I think we did make some progress. It is my hope that over the course of the next week we can continue that effort and hopefully work out the kinks in this bill in order to come up with a very significant vote in the Senate for regulatory reform.

I wish to thank my colleague, Senator GLENN, very much for his gracious forbearance here, and I particularly thank him for his leadership on this effort. He is the person who has been working for years to come up with a reasonable alternative on this, and I am glad to be working with him on it.

Mr. GLENN. I thank my colleague from Massachusetts for his comments. I have noted his efforts for this legislation. He has worked tirelessly for the last couple of weeks almost in trying to work something out on this, and we are glad to have him with us on this. In fact, we hope to have the whole Senate working with us.

Mr. ROTH. Some of my colleagues have questioned why I support the Dole-Johnston compromise when the bill I originally wrote received unanimous support in the Committee on Governmental Affairs. The bill I introduced in January, S. 291, the Regulatory Reform Act of 1995, was—in my opinion—a good proposal for regulatory reform. I am pleased that it received unanimous support from all 15 members of the Governmental Affairs Committee. But S. 291 was itself a compromise. It was, in my view, a good bill, but not a perfect bill.

The Dole-Johnston substitute improves upon S. 291 in some key respects, especially the use of a stronger cost-benefit test. I believe, to the extent practical, the benefits of a regulation should justify its costs. The pending amendment is the product of the three committees that proposed regulatory reform legislation, and many other Senators. It likewise may not be perfect from everyone's point of view, but it is a strong effort to make Government more efficient and effective.

When you review the key provisions of S. 291, you can see they are reflected in the Dole-Johnston amendment. These provisions include:

Cost-benefit analysis: The benefits of a regulation must justify its costs, unless prohibited by the underlying law authorizing the rule.

Market-based mechanisms and performance standards: Flexible, goal-oriented approach are favored over rigid command-and-control regulation.

Review of existing rules: Old rules on the books must be reviewed to reform or eliminate outdated or irrational regulations.

Risk assessment: Agencies must use sound science to measure and quantify risks to the environment, health, or safety.

Comparative risk analysis: Agencies must set priorities to achieve the greatest overall risk reduction at the least cost.

Reform of the Regulatory Flexibility Act: The Regulatory Flexibility Act is strengthened to make agencies more sensitive to the impact of regulations on small businesses and small governments.

Congressional review of rules: Rules will not become effective until they are reviewed by Congress. Congress can veto irrational or ineffective regulations.

Regulatory accounting: The Government must compile the total costs and benefits of major rules.

Most important, the Dole-Johnston amendment, like S. 291, has limited judicial review so agency rules will not be invalidated for minor procedural missteps. But the Dole-Johnston amendment also improves upon S. 291 by having a more focused cost-benefit test. Regulators must directly set regulatory standards so that the benefits of a rule justify its costs, unless prohibited by the law authorizing the rule. Of course, neither S. 291 or the Dole-Johnston amendment contains a supermandate that overrides the substantive goals of any regulatory program.

The three provisions that lie at the heart of any good regulatory reform proposal are: First, decisional criteria, such as the cost-benefit test; second, judicial review; and third, review of existing rules. The Dole-Johnston amendment is better on the first provision and equal on the second, as I have previously suggested. On the third provision, review of existing rules, it is also better since the provision in S. 291 has significant administrative difficulties.

S. 291 said that every major rule on the books had to be reviewed by the appropriate agency within 10 years, plus a possible 5-year extension, or terminate. The basic problem with that approach is what constitutes "a rule." Most rules are amendments to existing programs which upon becoming effective merge into the text of the program. What you have on the books are programs which have been molded by a whole series of prior rules. So how can one mandate that the rules must be reviewed? On which page of the Code of Federal Regulations does a rule begin and end? What grouping of concepts constitutes a rule? A major rule? When 10 years has elapsed, what exactly has terminated?

S. 291 meant well, but it was silent on such questions. The Dole-Johnston amendment, in contrast, provides a clearer alternative: the agency establishes a schedule of the rules to be reviewed. This list is published for all to see. Only rules on that list are subject to termination under the legislation.

In turn for its workability, however, a vulnerability arises. Suppose the agency list is underinclusive, then what? The Dole-Johnston amendment allows petitioners to request inclusion and, if denied, sue the agency. However, the burden that a petitioner must meet in court is purposefully high, lest any agency be overwhelmed by such petitions.

The Dole-Johnston provision is a balanced, workable, and fair resolution of the thorny issue of how agencies are to review existing rules. It is the product of fruitful negotiations with Senators KERRY, LEVIN, BIDEN, JOHNSTON, HATCH, NICKLES, MURKOWSKI, BOND, and myself.

In short, the Dole-Johnston amendment is the newer, better product—representing the cumulative wisdom of months of negotiations on different options in three committees. When we voted to report S. 291 from the Committee on Governmental Affairs last March, that version may well have been the best text available. But it no longer is.

From the day I introduced S. 291 it has been my objective to produce the best possible bill—one that achieves real reform, that passes both Houses, and that is signed into law. From that day I have found myself as the Senator in the middle, serving as a bridge between various opposing viewpoints. I believe that I have been able to achieve significant progress by bringing opposing sides closer together. The policy gap on this legislation has closed and is closing.

Today Senator DOLE will lay down the Dole-Johnston amendment that represents the current state of progress. Some on the other side of the aisle have introduced a slightly modified version of S. 291. I am somewhat alarmed that this is being done after substantial progress has been made in talks with Senators representing all colors of the political spectrum. I hope that their action does not indicate that their position is hardening on this legislation.

S. 291 was a good bill. But the Dole-Johnston amendment is an improvement, thanks in part to suggestions made by those who seek to rally around a modification of S. 291.

Mr. GLENN. Mr. President, Senator DOLE has made his proposals here. I know he wants to make some remarks in a moment.

Without losing my right to the floor, I ask unanimous consent to yield the floor to Senator DOLE, and then Senator KASSEBAUM has remarks on a different subject.

The PRESIDING OFFICER (Mr. BENNETT). Without objection, it is so ordered.

SENATE SCHEDULE

Mr. DOLE. Mr. President, I thank the Senator from Ohio. I wish to give my colleagues, after several inquiries, the schedule for the balance of the day and the balance of the week.

We still have the rescissions package which is in the process of passing the House. I have indicated that if we could get a unanimous-consent agreement to take care of that by a voice vote and also have two amendments pending for votes on Monday, July 10, we would not have any additional votes tonight or any votes tomorrow.

I am not certain we can get consent on the rescissions package. There may have to be votes, and those votes would occur tonight and, if necessary, tomorrow, because I think it is important. It has money in there for Oklahoma City; it has money for California earthquakes. There are a lot of different areas that have been waiting for a long time because the President vetoed the bill.

I hope we can work out any disagreements, and I will get back to my colleagues as soon as I have additional information. But if we can get a consent on the rescissions package, even if we have to have a couple of votes tonight, or pass them on a voice vote, and then we have two amendments that would be debated on Monday, July 10, to the pending bill on regulatory reform, those votes would occur after 5 o'clock on Monday, July 10. If we cannot reach an agreement, then we will be here tonight and tomorrow.

Mrs. KASSEBAUM. Mr. President, I very much appreciate the Senator from Ohio letting me speak for a few minutes as if in morning business.

ARREST OF NIGERIAN GENERAL OBASANJO

Mrs. KASSEBAUM. Mr. President, I rise this evening to express my deep concern about the deteriorating situation in Nigeria. And I thought it was important to express my concern about what was happening there that has been illustrated by the arrest and detention of General Obasanjo of Nigeria and 23 other political prisoners. Recent reports indicate the military dictatorship in Lagos may be trying General Obasanjo in a secret tribunal on unspecified charges possibly leading to capital sentencing.

I join with President Clinton, Foreign Secretary Hurd of Great Britain, and much of the international community in strongly condemning the arrest and continuing detention of General Obasanjo. I have known General Obasanjo for a number of years and have long respected his intellect and leadership abilities. He is one of the few leaders in African history to peacefully step down from power in favor of a civilian democratic regime.

Despite the unbanning of political parties, I remain deeply skeptical about the commitment of the Nigerian military government to a democratic transition. The continuing imprisonment of General Obasanjo and disregard for basic human rights and due process only reinforces the mistrust of the current regime.

To date, I have supported the administration's policy of limited sanctions and diplomatic engagement in Nigeria. I believe the time is coming, however, where the United States, together with our European allies, should consider tougher and more aggressive steps to pressuring the Nigerian Government into political reform. I will chair a hearing of the Subcommittee on African Affairs of the Senate Foreign Relations Committee on July 20 to explore further options of U.S. policy.

Mr. President, I have long believed that Nigeria held the key to development of a large portion of Africa. It has been a large and rich and bountiful nation. It is a country with tremendous economic and human potential. It is also a country with a history of deep-seated ethnic and religious division. For these reasons, the continuing intransigence of the current military leadership is particularly troubling. It could lead, I fear, to further political and economic instability and great tragedy in Nigeria.

I firmly hope, together with all friends of Nigeria, that the Nigerian Government will move quickly toward reestablishing democratic, civilian rule. Only then can Nigeria fulfill its true promise and stand in its rightful place as one of the great countries in Africa and the world.

Mr. President, I would like to thank again the Senator from Ohio [Mr. GLENN] for yielding to me because certainly the debate on regulatory reform is a very important debate that needs the most thoughtful consideration. I appreciate him for yielding to me.

I yield the floor.

Mr. GLENN addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. GLENN. Mr. President, I was glad to yield to the distinguished Senator from Kansas. I know from my days way back on the Foreign Relations Committee when something came up like this where there was a tragedy internationally and some people were suffering, no one was on their feet first ahead of her to bring this to the attention of the Senate, to bring it to the attention of the American people, and to try to do something about it. That is what needs to be, a response from the Senate in these areas. And once again, she is fulfilling that role here. She sees a pending tragedy, which we all do, and is speaking out and hoping we can avert some of that tragedy.

I compliment the Senator on her statement.

(The remarks of Mr. GLENN pertaining to the introduction of S. 1001 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. GORTON. Mr. President, I ask unanimous consent to proceed as in morning business for not more than 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

MICROSOFT SOFTWARE RELEASE

Mr. GORTON. Although many in Congress and legions across the country will be on vacation in August, Microsoft people will be working overtime to make sure that their long-awaited new operating system software for personal computers is officially released as scheduled on August 24.

The company is convinced that Windows 95 will help make personal computers significantly easier to operate, more fun, and more productive for millions of Americans.

On that same day, Miscrosoft plans to launch a new online information service, the Miscrosoft Network, as a competitor to existing online services like America Online, CompuServe, and Prodigy.

Microsoft is not alone in anxiously awaiting August 24 in this new product and online service. As the Wall Street Journal reported recently, hundreds of other computer hardware companies, equipment manufacturers, and independent software developers and content providers all stand to benefit enormously from the introduction of Windows 95 Microsoft Network. The Journal speculated much of the continued growth of the high technology economy and the overall stock market is tied to the timely and successful launch of this online service.

It is not surprising, therefore, that several commentators have questioned the Department of Justice's belated investigation of Microsoft's decision to include access software for the Microsoft Network as a feature of Windows 95, a decision announced last year.

I share the commentators' concern with the timing of this investigation, and hope that this 11th hour investigation will not delay the introduction of Microsoft's much anticipated software, an introduction that will increase both consumer choice and competition.

In the event my colleagues missed the articles, I ask unanimous consent they be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, June 19, 1995]

Wall Street Anxiously Awaits Microsoft's Windows 95—System's Reception May Affect Stocks for Months to Come

(By Dave Kansas)

It's the second-hottest topic on Wall Street after interest rates, a driving force that could well influence the course of the stock market for months to come.

What's the big deal? Windows 95.

With so-called beta test sites littered across the country, anxiety about the late-August launch of Microsoft's new operating system is intensifying. Questions about the software are sweeping through Wall Street, and for a market that discounts future news months early, investors are already betting on the answers. Will it arrive on time? Will it work? Who will benefit? Who will lose?

The Windows 95 operating system has become the most important product introduction in decades for the stock market. With the technology sector firmly in the forefront of the six-month-old stock-market rally, the success of the program has taken on immense significance, becoming in essence the linchpin of the market's future direction.

A bad stumble by Microsoft in launching the product would spill into the technology group and then ripple through the rest of the market with dismal effect. But a successful roll-out will spur another cycle of technology upgrades. That means personal-computer purchases, demand for more powerful semiconductors, a plethora of new software and other products. If it works, the entire technology sector will get a lift and that, in turn, will take the broad market higher into record territory.

"This is big-time important, and not just for Microsoft," says Robert Doll, executive vice president at Oppenheimer and head of the Oppenheimer Growth Fund, a big holder of Microsoft stock."If Microsoft were to announce that they were having big problems and they'd have to put off the introduction for more than two months, then we'd have a problem not just with Microsoft, but throughout the sector."

One reason for the nervous anticipation of Windows 95 is the technology sector's uninterrupted rise this year. Traditionally, the technology group has experienced a correction in the late spring or early summer. That correction has yet to occur, creating anxiety among some analysts who figure tech stocks have risen too-far too fast.

But other analysts argue that expectations of a successful Windows 95 introduction late this summer has helped the group defy history and avoid the annual pullback, thereby upping the stakes for the product's introduction.

Microsoft insists that Windows 95 remains on track. But the path leading to introduction hasn't been smooth. Originally code-named Chicago, the product was first expected to arrive late last year. That was postponed and the delay extended to mid-1995, and now to late August.

According to the company, final versions of the operating systems will reach hardware makers in the next several weeks. Industry insiders say Microsoft has managed to jawbone computer makers into including Windows 95 personal computers, to be shipped for the crucial Christmas shopping season.

The importance of Windows 95 stems from the intricate interrelationship of products and companies in the personal computer sector. Windows 95, in many ways, is the equivalent of a brand-new engine that many new cars will require. In turn, other companies make products akin to doors, tires, frames, windshield wipers, brakes and lights. Dataquest, a market research firm, projects sales of nearly 30 million copies of Windows 95 in the first four months, not to mention an increase in personal-computer purchases.

"It's believed that Windows 95 will increase the number of personal computers sold by a large number, especially in the home, because it makes games and entertainment software more accessible," says Irfan Ali, an analyst with Massachusetts Financial Services in Boston. "There's no question that Windows 95 is the key to another wave of product upgrades in the personal-computer area, and that's key for not only for Microsoft, but for the whole sector."

Indeed, more than 500 mutual funds own chunks of Microsoft, and are, in a sense, wagering on Windows 95. Among them are such big names as Fidelity Magellan, Janus Twenty and Twentieth Century Ultra, according to recent industry data.

For Microsoft, a successful Windows 95 introduction already is largely reflected in the price of its stock, money managers say. Trading at a whopping 36 times earnings, many investors are already counting on Windows 95 to provide the Redmond, Wash., software company with another leg of explosive growth. Even the unraveling of its bid to purchase Intuit, a maker of popular finance software such as Quicken, has failed to halt Microsoft's stock rise.

But analysts say other areas of the market still represent value to those looking to bet on Window 95. Among them, big semiconductor firms such as Intel, Texas Instruments and Advanced Micro Devices. Also, makers of the computers that would use the new operating system: Compaq Computer, Dell Computer and Gateway 2000.

"As investments, Compaq and other hardware companies don't yet reflect the big surge that is likely if Windows 95 succeeds," says Roger McNamee of Integral Capital Partners in Menlo Park, Calif. "If you want to look at bang-for-your-buck, the hardware area will likely be a better sector."

Perhaps the largest fear would be any unexpected problems with the new generation operating system. And some money managers, like Oppenheimer's Mr. Doll, concede that Windows 95 could face a modest delay, which the market could swallow. Anything more serious, however, would be a setback.

"Any disappointments could hit the rest of the personal-computer industry, and that could make people rethink the whole technology sector," says Neil Hokanson, president of Hokanson Financial Management in Encinitas, Calif. "Whatever happens with Windows 95, we're going to see a significant ripple effect throughout the whole market. It will affect the whole food chain."

One possible stumbling block for Windows 95 is the Justice Department's concern about Windows 95 inclusion of the Microsoft Network, the software maker's own on-line network. Competitors such as America Online complain that Microsoft's inclusion of the on-line network in the operating-system software is anticompetitive. Many analysts think time is too short for the Justice Department to prevent Microsoft from rolling out Windows 95 without the network.

Even if Microsoft shakes the department's inquiry, and does get Windows 95 out in time, that still doesn't guarantee success.

The big "question is whether people upgrade to Windows 95 immediately, or do it over time," says Frederick J. Ruvkun, a money manager at Bessemer Trust in New York. "It could happen right away, or it may take a little while. But in any case, this product is the key event for the industry, and the market."

FRIDAY MARKET ACTIVITY

Stocks mustered modest early gains built mostly on trading related to the expiration of options and futures. Equities then settled into a listless session and finished narrowly ahead.

The Standard & Poor's 500-stock index advanced 2.71, or 0.50%, to 539.83. The New York Stock Exchange Composite Index gained 1.20, or 0.42%, to 289.96. The Dow Jones Equity Market Index added 2.55, or 0.50%, to 507.15. The Nasdaq Composite Index jumped 5.97, or 0.66%, to 908.65, while the American Stock Exchange Market Value Index climbed 0.68, or 0.14%, to 495,40.

For the week, the Dow Jones Industrial Average added 86.80, or 1.96%. The S&P 500 gained 11.89, or 2.25%. The Nasdaq Composite shot up 24.26, or 2.74%.

Many telecommunications and media companies posted gains on enthusiasm for the new telecommunications-deregulation legislation working its way through Congress.

Capital Cities/ABC rose 3¼ to 106, Clear Channel Communications added 4⅝ to 69 and Time Warner gained 1½ to 40⅝%.

Among telecommunications companies, Ameritech advanced ⅞ to 46¼, Bell Atlantic moved up 1½% to 57 and BellSouth climbed 1⅛ to 63⅞.

Microsoft jumped 2⅛ to 87 on Nasdaq after a federal appeals court held that a lower court judge shouldn't have rejected the Justice Department's antitrust settlement with the software maker over software-discounting practices.

Caremark International advanced 1⅞ to 21⅞. The home health-care services provider reached a settlement with criminal investigators that will end an inquiry into kickbacks. The company agreed to plead guilty and pay about $159 million in civil damages and criminal fines. In the wake of the news, Rodman & Renshaw raised its rating on the company to "buy" from "neutral.".

WHO MAY BENEFIT FROM WINDOWS 95

CompUSA (CPU)—Computer superstore retailer should see a pickup in traffic with customers looking for the Windows 95 upgrade.

Integrated Silicon Solutions (ISS)—As Windows 95 requires more memory, conputer makers will likely be placing orders with this SRAM memory-chip maker.

Symantec (SYMC)—Windows 95 users will need new utilities (such as backup and virus-protection programs) from Symantec, which controls 75% of software-utilities market.

Diamond Multimedia (DIMD)—Graphics-broad and multimedia-chip maker will see more orders as consumers want to take advantage of all of Windows 95 capabilities.

Microcom (MNPI)—More consumers will want high-end modems and communications products for faster on-line service (particularly if Windows 95 comes with Microsoft Network).

WINDOWS 95—SUCCESSFUL LAUNCH WOULD BE A BOON TO DOZENS OF FIRMS

(By Molly Baker)

Microsoft's Windows 95 may create a tidal wave in the technology and financial markets, but investors looking to profit by it should search among the ripples.

Certainly no one should underestimate the significance of the new operating system, scheduled to be shipped on Aug. 24, less than 10 weeks from now.

"This is a broad infrastructure change that will have ramifications not seen before," proclaims Chris Galvin, a software analyst with Hambrecht & Quist. "This is not your normal upgrade cycle; it is a very significant event."

Obviously, Microsoft has the most to gain or lose from Windows 95 and its price already reflects that. But changes the system will bring—providing, of course, that it is successful—will be a boon to dozens of other companies.

REPLACING PC'S

Consider, for instance, that the new operating system probably will make obsolete many of the personal computers sold in the past decade. The sheer number of people who will be seeking to replace or upgrade their existing PCs suggests that computer retailers like CompUSA will be mobbed.

"With its ease of use, [Windows 95] will also draw new users to computers for the first time. It's likely to be one incredible Christmas season," says Shelton Swei, a technology analyst and portfolio manager at Fred Alger Management.

"Because CompUSA is more on the consumer side, they will benefit from the consumers' quick adoption rate," says Mr. Swei. "They'll get traffic from people in the stores getting the upgrade and those people just might pick up a game or two at the same time."

Wholesale distributors such as Tech Data and Merisel can also expect burgeoning orders for both hardware and software. They are two of the largest middlemen that put computer equipment and supplies from the major manufacturers on the shelves of retailers.

UTILITIES PROGRAMS

Along with Windows 95, consumers will also be snapping up new utilities programs, such as virus protection and hard-drive backup tools, as the old set won't work Windows 95. Many money managers are betting on Symantec, which controls about 75% of the utilities market.

"Our logic with Symantec is real simple. Once [Windows 95] gets released, the utilities upgrades will be pervasive, just like when Windows 3.0 was introduced," says Edward Antoian, a portfolio manager with Philadelphia-based Delaware Management.

Then there are the memory makers. Windows 95 will gobble up memory, requiring at least eight megabytes of random-access memory, or RAM, to run its various tools. Most consumers have been buying computers with just four megabytes of RAM and will be turning to the memory providers for upgrades.

"I think eight megabytes of RAM will be underpowered, and most are going to be looking for 16 megabytes," predicts Charles F. Boucher, a semiconductor analyst with Hambrecht & Quist.

Although the big RAM makers such as Micron and Texas Instruments are the obvious names, smaller companies could profit from the memory demand.

"When it comes to Windows 95, anyone selling anything remotely related to memory will benefit—because you'll need it," comments Lise Buyer, an analyst with T. Rowe Price's Science and Technology Fund.

Integrated Silicon Solutions, which makes the higher performance SRAM memory circuits, is already producing at capacity and orders are expected to increase. The Sunnyvale, Calif., company's shares, which rose ¼ to 51 Friday on the Nasdaq Stock Market, have soared from an initial offering price of 13 in February.

Another 1995 IPO that might ride Windows 95 to bigger gains is Oak Technology, a maker of semiconductors and software specifically for multimedia applications. Multimedia is supposed to be one of Windows 95's especially strong suits. Oak's stock has been rising in tandem with consumer demand for CD-ROM-equipped computers. Shares have more than doubled since Oak's first-quarter IPO at 14 a share to Friday's close of 34¼, up 3¼.

Once armed with the latest turbocharged computers and the new operating system, consumers will turn to software developers to write more advanced multimedia titles to take advantage of that power. To hear and see all of the bells and whistles of the new programs, computer makers and consumers will be loading their PCs with all kinds of graphic accelerator chips and boards.

SOARING SHARES

A number of smaller companies specialize in the graphic chips market, and their stocks have been soaring this year. S3 has more than doubled this year, closing Friday at 34⅝, down 1. Trident Microsystems has gained 64% this year to close at $19.25 a share on Friday, up ½, while Chips & Technologies, which focuses on the portable PC market, has gained 55% since January to end last week at $11.125, up 1.

S3 got an added boost last week when Compaq Computer said it would use an S3-produced multimedia chip package in one of its PC lines. Following the announcement, S3 said it was comfortable with analysts' sales estimates for the year of $300 million, compared with $140 million in 1994.

The second quarter played host to two hot IPOs of companies which make boards combining the various graphics and multimedia chips. Diamond Multimedia Systems and Number Nine Visual Technology should both get a boost from consumers who want to upgrade their capabilities without buying a new computer.

In addition to selling the boards, Number Nine also makes its own high-end 128-bit graphics card—enabling computing to run at near Mach speeds compared with the current 16-bit standard and Windows 95's breakthrough 32-bit capabilities.

"It's a small market right now, but that's where a lot of the growth will be coming from in the next few years," says Brad Hoopman, a technology analyst with Philadelphia-based PNC Small Cap Growth Fund.

With increased memory and the speed of the new system, more consumers will be turning to the Internet for entertainment and information. They might need high-performance modems made by Microcom and U.S. Robotics.

One warning from the analysts: Software makers that aren't ready for Windows 95 when it arrives could be in for some hard times. They recommend evaluating software stocks in light of their ability to offer Windows 95 products.

"Clearly it's something that has to be thought of in the overall investment equation," advises Fred Alger's Mr. Swei. "When considering the technology stocks, you've got to think about whether the product can complete or will it just become irrelevant" in the post-Windows 95 world.

FRIDAY MARKET ACTIVITY

The week ended with the small-capitalization stock rally intact. On Friday, the Russell 2000 index of small-cap stocks was up 0.51, or 0.18%, at a record 280.80, and the Nasdaq Composite Index, at a record 908.65, rose 5.97, or 0.66%.

The New York Stock Exchange Composite Index rose 1.20, or 0.42%, to a record 289.96, and the Dow Jones Industrial Average, at a record 4510.79, rose 14.52, or 0.32%.

Nasdaq advancing issues led decliners, 1,836 to 1,542, on overall volume of 403.2 million, down from 412.3 million Thursday.

For the week, the Russell 2000 was up 5.59, or 2.03%, and the Nasdaq composite rose 24.26, or 2.74%.

Bird Medical Technologies was up 1¾, or 25%, at 8¾ after the Palm Springs, Calif., respiratory care and infection-control products company received an unsolicited acquisition proposal from Allied Healthcare Products of $9.50 a share, 51% of which would be in stock and 40% in cash.

Earlier this month, Bird Medical signed a letter of intent to be acquired by Thermo Electron that prohibits Bird from engaging in discussions with any third-party bidders for a one-month period ending July 9. But Bird said it isn't precluded from considering other proposals and intends to evaluate the Allied offer seriously.

Medaphis dropped 8¼, or 26%, to 23¾ after the Atlanta-based company, which provides business-management services for doctors and hospitals, disclosed late Thursday that it was the subject of a criminal investigation by federal authorities in California.

Aramed was up 1¼, or 14%, at 10¼ after the San Diego pharmaceuticals-research company agreed to be acquired by Gensia for a combination of cash, stock and contingent value rights. Aramed, which was formed by Gensia in 1991, will become a unit of Gensia, a San Diego biopharmaceuticals company. Gensia was up ⅛, or 3.1% at 4⅛.

Sunshine Jr. Stores (AMEX) added 1¼, or nearly 12%, to 11¾ after the Panama City, Fla., convenience-store operator agreed to be purchased by E-Z Serve for about $20.4 million, or $12 a share.

Hutchinson Technology rose 4, or about 10%, to 42½ on news the Hutchinson, Minn., disk-drive component company entered an agreement with International Business Machines in which the companies will cross-license patents and work to develop certain products. Hutchinson said the combined effects of strong demand and improving manufacturing efficiencies should result in third-quarter earnings of 85 cents a share, doubling the 42 cents it made in the year-earlier period.

Finlay Enterprises added 1⅛, or 9.2%, to 13⅝ after Goldman Sachs raised its rating on the New York City jewelry company to "trading buy" from "moderate outperformer," citing the company's strong results so far this year.

Lakehead Pipe Line Partners (NYSE) dropped 5¼, or more than 17%, to 25 following a ruling by the Federal Energy Regulatory Commission that threatens to erode revenue and earnings for pipeline partnerships. The commission said Lakehead can't include in its cost of service an income tax allowance for income attributable to limited partnership interests held by individuals.

[From the Washington Times, June 16, 1995]

SUIT AGAINST MICROSOFT DOESN'T SERVE PUBLIC

(By Jeff Nesbit)

There's a funny little principle missing at the core of the Justice Department's ongoing antitrust wars with Microsoft Corp. It's called the "public interest."

Antitrust laws are, allegedly, about the government's job to protect you and me—the "public"—from big, bad monopolies that charge higher prices for basic goods and annihilate any of their would-be competitors.

The federal government is clearly trying to establish a principle that Microsoft is a "monopoly"—in the ever-changing computer world.

Justice may still revive its 5-year-old antitrust suit against Microsoft. It killed off Microsoft's bid to acquire Intuit. And the government is scrutinizing Microsoft's entry into on-line services (competing against Vienna-based America Online and others) later this summer.

But there is something very, very wrong about all of this monopoly-busting activity. What's missing is that funny little principle at the heart of the antitrust laws—the need to protect the "public interest."

Ignore the Justice Department's—and U.S. District Judge Stanley Sporkin's—cyberspeak nonsense about how Microsoft rules the software world with an iron fist. They don't know what they're talking about.

The truth is that the public is being served—with better products, more of them and cheaper prices—right now in the cutthroat world of software development.

The software industry is exploding with growth, and the consuming public is being served by this. Microsoft is playing a central role in this, to be sure, but not the only role.

IBM is buying Lotus, for crying out loud. That purchase alone tells the world that competition is very much alive in the software industry.

It's IBM, by the way, that controls more of the software market world-wide—not Microsoft. IBM holds 14.6 percent of the global software market, compared with just 6.2 percent for Microsoft. And other computer companies, such as Novell, Oracle, Hewlett-Packard and Digital, own significant software market shares worldwide as well.

No, despite Justice's protests, the software industry is growing and competing right off the charts—and the pubic is being served.

Software is the fastest-growing industry in the United States. It grew by 270 percent between 1982 and 1992. In 1994, $77 billion of software was sold worldwide, an increase of 11 percent over 1993. And it will likely grow another 10 to 15 percent again in 1995.

Is Microsoft responsible for all of this growth? And, in the process, is it pushing players out of the marketplace, dominating competitors, gouging consumers by running up prices and generally skewing software industry practices? Nope.

There are three times as many independent software vendors today as there were five years ago. Eight of the top 10 software industry growth leaders are new to the industry charts this year.

Many of these software companies are experiencing astronomical growth rates. A company called Shapeware, for instance, grew 2,444 percent last year. Others, such as Interplay, MicroHelp and Citrix Systems, grew by more than 100 percent.

But that's the industry. What of consumers? Are they hurt or helped by Microsoft? What's happened to their choices as Microsoft has gotten bigger and better?

The answer is that Microsoft and its thousands of small and large competitors now offer consumers a dizzying array of choices. Today, software is more powerfully, easier to use and costs less than in years past. That trend is the result of fierce competition, not a monopoly.

In 1986, the state-of-the-art microprocessing chip could process information at about 3 "millions of instruction" (MIPS) per second. Today, Intel's Pentium chip processes at 100 MIPS.

Multimedia computers cost more than $4,000 several years ago. Today, you can buy a state-of-the-art multimedia computer with a Pentium chip for less than $2,000.

And what about the area where Microsoft has the most direct "monopoly"—in sales of operating systems? Early versions of the DOS operating system once sold for $100. Today, you can buy Microsoft's vaunted MS-DOS and Windows together for the same price. Consumers are hardly being gouged there.

Are software companies being killed off in this fierce price-cutting atmosphere, which might lead Justice to believe Microsoft is cutting prices to drive competitors away? Nope. Among the top 100 software companies in the United States, the ones with the most competitive consumer prices also saw the greatest revenue growth. As a group, these top 100 grew by 25 percent last year.

And what about choices? Are consumers being denied choices by big, bad Microsoft? Nope. There were fewer than 200 CD-ROM titles available to consumers in 1993. Today, there are more than 2,000 titles. And consumers can choose from about 31,000 packaged software products today. Most of them didn't exist a few years ago.

So never mind all the fireworks and histrionics from competitors and related industries that are worried about Microsoft, and that have persuaded the federal government to target Bill Gates and his vaunted empire. Just ask consumers if the "public interest" is being served by antitrust harassment of Microsoft. The answer is clearly "no."

[From Upside, July 1995]

BAD BOY

(By Eric Nee)

In the eyes of much of the high-technology community, Bill Gates is well on his way to entering the rogues' gallery. There he will join the ranks of other business executives who have used their power and wealth for evil intent, such as the fictional banker Mr. Potter in the movie "It's a Wonderful Life" and Mr. Burns in the TV show "The Simpsons," or the real-life John D. Rockefeller and Michael Milken.

Demonizing successful business executives is part of a long tradition in the United States. As a nation, we have always been schizophrenic in our attitude toward wealth. We pride ourselves on being a nation of risk-takers and entrepreneurs, yet are suspicious of anyone who really succeeds.

If that's all there was to the attacks on Gates, we wouldn't have that much to worry about. As they say, "It comes with the territory."

But the attacks on Gates are more insidious. By appealing to the legal powers of the federal government, Microsoft's competitors are trying to stop the company from extending its reach into any new area. If successful, this effort would not only emasculate one of the country's premier high-tech companies, but establish legal precedents that could be used to stop other companies from entering new businesses as well.

The first battle was won by those aligned against Microsoft, when they were able to get the company to drop its attempted acquisition of Intuit. Gates beat a hasty retreat on the issue, hoping to avoid a drawn-out battle with the Justice Department. But he is likely to find that instead of declaring victory and going home, Justice will pursue him into the next arena, Microsoft Network.

Microsoft's foes argue that the company would have an unfair advantage in on-line services if it is allowed to bundle Microsoft Network with Windows 95. As an alternative, they want Justice to force Microsoft to unbundle the two products or offer other on-line services alongside Network on the operating system.

A central issue in the debate is whether Microsoft's dominance of the PC operating system should prevent it from moving into new markets or from adding functionality to the OS. Those who argue that Microsoft should be restrained, a view championed by Gary Reback's White Paper, claim to be taking a dynamic view of the computer market based on leverage and future change. In fact, they are taking a very static view that projects the present into the future.

Microsoft's opponents believe a fixed line can be drawn between the operating system and other applications, but it is natural and preferable for the OS to absorb new features as they become standard. Technology is not static.

Microsoft opponents also say that the company's dominance of operating systems gives it leverage to move into adjacent markets, such as on-line services, and dominate those as well. Again this is a static view of the industry. On-line services such as CompuServe and America Online may indeed go down in flames, but if they do it is more likely to be because of the growing popularity of the World Wide Web than because of Microsoft bundling Network and Windows 95. In fact, Microsoft Network may be dead on arrival because of the growing popularity of the WWW.

If Microsoft's foes succeed, other companies had better watch out. Intel may be told that it cannot push native signal processing because of its dominance of microprocessors. Novell may be told it cannot offer networking enhancements to its applications suite because of its dominance of LAN OSes. And Netscape may be told to drop its home page because of its dominance of WWW browsers. Let's put our trust in the market, not in illogical, artificial constraints.

[From PC Week, June 5, 1995]

DESPITE APPEARANCES, IS THE DOJ ALL WET?

(By Stan Gibson)

Watching big, bad Microsoft "lose one" and the Clinton administration "win one" has got to make all those who favor the underdog happy. But it is not clear whether there is more competition today than there was two weeks ago. Further, the Justice Department may have created a precedent of involvement in the computer industry and electronic commerce that will be difficult to sustain.

Wasn't Intuit, with more than 80 percent market share among personal-finance software makers, the real monopolist?

Why wasn't Justice going after it years before Microsoft showed any interest?

Now that Justice has discovered Intuit is dominant in its market and had previously acquired National Payment Clearinghouse Inc., will Anne Bingaman's hordes seek to break it up? Perhaps they should. Microsoft's—almost Novell's—Money has never needed more help competing than it does now.

What about other software makers that gain, for a few years, a stranglehold on a given market? Lotus' 1-2-3 at one time was a near-monopoly. Should Ashton-Tate have been broken up in 1986?

Notes had the groupware arena all to itself until recently. Meantime, Lotus was attempting to leverage one of its monopoly products, Notes, with the E-mail market leader, cc:Mail, which it acquired without complaint.

Now that Lotus has had an embarrassing quarterly loss, does it deserve federal help in restraining its Redmond rival?

Maybe this means it is all right to have a monopoly, as long as you are small, incompetent, or both.

If Intuit is not to be broken up, who could buy it? Could Novell? Would Novell be judged sufficiently incompetent that it could not cobble together any meaningful synergy between its NetWare, WordPerfect, TCP/IP, Unix, and network-management wares?

The big question is whether the Justice Department can practically regulate the software industry, an industry that is vastly different from the big oil, railroads, or even the IBM of the 1970s, that it once grappled with.

The single most apparent fact of the computer industry is that today's market-share leader is tomorrow's loser.

Trying to level the playing field through legal maneuvering is too cumbersome a procedure for today's markets, where innovation and risk-taking can bring about surprising reversals.

Maybe the fact that Microsoft will not own Intuit is for the best. But where will the Justice Department act in the future? It is highly speculative to say that, because a company has been successful in the past, it is likely to dominate a market such as electronic commerce that has barely come into being.

We can't help but think that the Justice Department is trying to create legal order that, like sand castles built near the water's edge, will be gone in the next tide.

PUBLIC SERVICE AND THE RULE OF LAW—GRADUATION ADDRESS BY BILL GOULD

Mr. KENNEDY. Mr. President, last month, Bill Gould, chairman of the National Labor Relations Board, addressed the graduating class of the Ohio State University College of Law. In his address, Chairman Gould speaks eloquently of the important role that public service has played in the Nation's history, from President Franklin Roosevelt's creation of the Civilian Conservation Corps through President Kennedy's creation of the Peace Corps and President Clinton's establishment last year of the National and Community Service Trust.

It is gratifying that so many young men and women in all parts of the country are considering careers in public service. Chairman Gould's address is an excellent contribution to that high purpose and I ask unanimous consent that his address, entitled "Serving the Public Interest through the Rule of Law: A Trilogy of Values," may be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SERVING THE PUBLIC INTEREST THROUGH THE RULE OF LAW: A TRILOGY OF VALUES

(Address by William B. Gould IV, Chairman, National Labor Relations Board, Charles A. Beardsley, Professor of Law, Stanford Law School (On Leave); delivered at the Ohio State University College of Law graduation ceremony, May 14, 1995, Mershon Auditorium, the Ohio State University, Columbus, OH)

Ladies and gentlemen. Members of the faculty. Honored guests. I am indeed honored to be with you here today in Columbus and to have the opportunity to address the graduates of this distinguished College of Law School as well as their parents, relatives, and friends on this most significant rite of passage. Looking backward 34 years to June 1961, my own law school graduation day was certainly one of the most important and memorable in my life. It was the beginning of a long involvement in labor and employment law as well as civil rights and international human rights.

But I confess that today I am hardly able to recall any of the wise words of advice that the graduation speaker imparted to us that shining day at Cornell Law School in Ithaca, New York. So, as I address you today I don't have any illusions that what I say is likely to change the course of your lives. But my hope is that my story will provide some context relevant to the professional pathways upon which your are about to embark.

Both governmental service and the furtherance of the rule of law by the legal profession have possessed a centrality and thus constituted abiding themes in my professional life. I hope that my remarks to you here today will induce some of you to consider government as an option at some point in your careers, notwithstanding the anti-government tenor of these times.

The tragedy of Oklahoma City has dramatized the contemporary vulnerability of these values to sustained attack, both verbal and violent. As the New York Times said last month, we must "confront the reality that over the past few years the language of politics has become infected with violent words and a mindset of animosity toward the institutions of government." The columnist Mark Shields has noted that this phenomenon has been fueled by the idea that the "red scare" should give way to the "fed scare."

My own view is that government does best when it intervenes to help those in genuine need of assistance—but I am aware that those point does not enjoy much popularity in Congress these days. Again Shields, in discussing recent comments of Senator Robert Kerrey of Nebraska, put it well when he characterized the conservative view of the nation's problem: "The problem with the Poor is that they have too much money; the problem with the Rich is that they have too little."

Although I cannot recall the Great Depression and its desperate circumstances, a trilogy of values have always made up my inner core. The first of these is the idea that I heard in Long Branch, New Jersey's St. James' Episcopal Church every Sunday, i.e., that it is our duty to live by the Comfortable Words and to help those who "travail and are heavy laden." Fused together with this was a belief, inculcated by my parents, that the average person needs some measure of protection against both the powerful and unexpected adversity. The third was based upon personal exposure to the indignity of racial discrimination which consigned my parents' generation to a most fundamental denial of equal opportunity. It is this trilogy of values which fostered my philosophical allegiance to the New Deal, the New Frontier and the Great Society.

Simply put, I came to the law and Cornell Law School because of my view that law and lawyers can reduce arbitrary inequities and the fact that Chief Justice Earl Warren's May 17, 1954, opinion for a unanimous Supreme Court in Brown v. Board of Education represented an accurate illustration of that point. As you know, the holding was that separate but equal was unconstitutional in public education.

A unanimous Court rendered that historic decision—in some sense a corollary to President Harry Truman's desegregation of the Armed Forces—which possessed sweeping implications for all aspects of American society. The High Court's ruling prompted a new focus upon fair treatment in general and discrimination based upon such arbitrary considerations as sex, age, religion, sexual orientation and disabilities in particular.

As a high school senior reading of NAACP Counsel Thurgood Marshall's courageous efforts throughout the South—and one who was heavily influenced by the Democratic Party's commitment to civil rights platforms in 1948 and 1952, as well as President Truman's insistence upon comprehensive medical insurance—I thought that the legal profession was one in which the moral order of human rights was relevant. The prominence of lawyers in political life, like Adlai Stevenson who "talked sense" to the American people, was also a factor in my choice of the law as a career.

More than anything else, though, the struggle in South Africa made me see the connection between the development of the rule of law and dealing with injustice. I watched the United Nations focus its attention upon that country when a young lawyer named Nelson Mandela and so many other brave activists were imprisoned, or, worse yet, tortured or killed for political reasons. My very first publication was a review of Alan Paton's "Hope for South Africa" in "The New Republic" in September 1959. In the early 1990s I had the privilege to meet Mr. Mandela twice in South Africa—and then to attend President Mandela's inauguration just a year ago in Pretoria.

The Brown ruling, its judicial and legislative progeny and the inspiration of lawyers dedicated to principles and practicality—lawyers like Marshall, Mandela, Stevenson and President Lincoln in the fiery storm of our own Civil War—promoted my belief in the rule of law. And the fact is that my faith in the law as a vehicle for change has been reinforced and realized over these many years through the opportunities that I have had to work in private practice, teaching and government service.

My sense is that there is a great opportunity for lawyers to serve the public good through the public service today—even in this period of government bashing by the 104th Congress. More than three decades ago President John F. Kennedy called upon the sense of a "greater purpose" in a speech at the University of Michigan when he advocated the creation of the Peace Corps during the 1960 campaign. President Bill Clinton's National and Community Service Trust Act (AmeriCorps), designed to allow young people tuition reimbursements for community service, echoes the same spirit of commitment set forth by President Kennedy—and at an earlier point by President Franklin D. Roosevelt through the Civilian Conservation Corps.

This sense of idealism and purpose was at work in the New Deal which brought so many bright, public spirited young people to Washington committed and dedicated to the reform of our social, economic and political institutions. The same spirit has been rekindled by both President Kennedy as well as President Bill Clinton since the arrival of this Administration in Washington almost two-and-one-half-years ago.

In a sense, this has come about by virtue of the Clinton Administration's commitment—not only to child immunization initiatives and helping the less financially able to use available education opportunities and to provide a higher minimum wage to those who are in economic distress—but also, most particularly, through the National Service.

You have an unparralleled opportunity in the '90s to serve the public good. Your course offering which includes Social and Environmental Litigation, Right of Privacy, Society, Deviance and the Law, Foreign Relations Law, Employment Discrimination Law and Law of Politics, to mention a few, reflect our times and provide you with a framework that my contemporaries never possessed.

Though most of my words today are focused upon government or public service as a career or part of a career, the fact is that your commitment to the public interest and the rule of law can be realized in a number of forms. It is vital to the public interest that those committed to it are involved in a wide variety of legal, business and social careers—representing, for instance, corporations, unions, as well as public interest organizations.

But our commitment to law and the public interest is made more difficult given the fact that our legal profession is in the midst of a tumultuous and confusing environment. On the one hand, lawyer bashing, sometimes justified and sometimes not, seems to be moving full steam ahead. Part of this phenomenon seems to be attributable to the fear that the production of so many law students will soon result in too many lawyers for a society's own good.

Only two years ago a "National Law Journal" poll showed that only five percent of parents, given the choice of several professions, wanted their children to be attorneys. Undoubtedly, this unpopularity is what has fueled a number of the legal initiatives undertaken by the Republican Congress to the effect, for instance, that the loser in litigation should pay all costs, that caps be devised for punitive damages, etc.

A 1993 ABA poll comparing public attitudes toward nine professions ranked lawyers third from the bottom, ranking higher than only stockbrokers and politicians in popularity. In attempting to discover the reasons for the low public opinion of lawyers the poll asked what percentage of lawyers and of five other occupations lack the ethical standards and honesty to serve the public.

The results revealed an appalling ethical image of lawyers. Lawyer ranked well below accountants, doctors and bankers and barely above auto mechanics. According to the ABA poll half of the public thinks one-third or more of lawyers are dishonest, including one in four Americans who believe that a majority of lawyers are dishonest. The pollster concluded that "the legal profession must do some soul searching about the status quo, resolve to make some sacrifices to ensure a positive future, and, above all, clean up its own house."

One way for the profession to clean its own house is to find new substitutes for lengthy litigation, frequently both wasteful and unnecessarily acrimonious, such as alternative dispute resolution—particularly in my own area of employment law. More than a decade ago I chaired a Committee of the California State Bar which recommended that new methods be devised for many employment cases, and that where employees could have access to economical and expeditious procedures, it was appropriate to limit or cap damages. But the difficult balance involved is to avoid limitation of the basic rights of ordinary people to sue for the enforcement of consumer and employment related legislation.

Attitudes towards lawyers are inevitably affected by one's view of the law and the legal process. I hope that you will look very seriously at government service as you seek to use your newly acquired skills to better the position of your fellow human being. This is the most basic contribution that lawyers can make to society—and it is obvious that an increased commitment to government or, if you choose private practice or some other area of activity, pro bono work is central to this effort.

I am particularly proud to head an agency which is celebrating its 60th anniversary this summer and which, from the very beginning of its origins in the Great Depression of the 1930s, has contributed to the public good through adherence to a statute which encourages the practice and procedure of collective bargaining—as well as in other portions of our law. Since its inception, the National Labor Relations Board has possessed a culture of commitment to hard work, excellence, and to the promotion of a rule of law which is designed to allow both workers and business to peaceably resolve their difficulties through their own procedures.

Illustrative of this process was the NLRB's prominent role in the baseball dispute. It was not the Board's job to take sides between the players and the owners or to determine whose economic position ought to prevail. Consistent with this approach, it was our job to decide whether there was sufficient merit, as reflected by the facts and law, to proceed into federal district court to obtain an injunction against certain unilateral changes in conditions of employment made by the owners. The Board handled the baseball case as it does any other case.

Nor is it our job to take into account policy arguments arising out of the peculiarities of this industry, the income or status or notoriety of particular individuals on either side. The statute applies—properly in my judgment—to the unskilled and the skilled, to those who make the minimum wage and those who are financially secure.

In the baseball case, the public was able to obtain a brief glimpse of the Board's day-by-day commitment to the rule of law in the workplace. Where parties are involved in an established collective bargaining arrangement, our mandate under the statute is to act in a manner consistent with the fostering of the bargaining process—and I believe that we discharged our duty in baseball in a manner consistent with that objective.

What may have been overlooked in the public view was the fact that the Board was able to proceed through a fast track approach and make the promise of spontaneous and free collective bargaining in the workplace a reality. I hope that the players and owners will now do their part and bargain a new agreement forthwith!

Our March 26 decision to seek an injunction seems to have facilitated the resumption of baseball and thus was a great victory for the public in renewing its contact with the game which, like the Constitution, the Flag, and straight-ahead jazz is so central to the essence of the country. Hopefully, it will have the effect of promoting the collective bargaining process sooner rather than later.

Frequently, the public gains its impressions of lawyers and law from such high visibility cases and from exposure through television rather than books. I can tell you that another factor stimulating my interest in the law was watching the McCarthy-Army hearings in the spring of 1954, that fateful spring when Brown was decided. The hearings focused upon the Wisconsin Senator's investigation of alleged Communist infiltration of Ft. Monmouth, New Jersey, where my father worked. Because of ideological hysteria, "guilt" by association and rank anti-Semitism, many of our closest friends were dismissed—and, indeed, I feared that this would be my father's fate, particularly because of his announced sympathy for Paul Robeson, a hero to so many black people of his generation.

Later I had the opportunity to attend the so-called Watkins Hearings in the following September in Washington which ultimately led to McCarthy's censure. Ft. Monmouth and the McCarthy-Army hearings demonstrated how excessive government authority can trample upon individual civil liberties—and the aftermath of the Watkins Hearings redeemed our country's constitutional protection of individual rights of belief and association.

Since then, I think that televised Congressional hearings, the Watergate hearings for instance, have contributed to the public understanding about the rule of law and its relationship to the preservation of this Republic's principles. Though, regrettably less conclusive, it may be that the Iran-Contra hearings of 1988 and the Hill-Thomas hearings of October 1991 performed a similar function in that the assumption underlying both proceedings was that government, like private individuals, must adhere unwaveringly to the rule of law.

Again, this is to be contrasted with the spectacle of law as show business on television. In my state of California, the O.J. Simpson trial has treated the nation to an episodic soap opera which appears to be more about the business of the money chase than the real substance of law and the legal profession. As Attorney General Janet Reno said about the trial:

"I'm just amazed at the number of people who are watching it. If we put as much energy into watching the O.J. Simpson trial in America . . . into other issues as Americans seem to have done in watching the trial, we might be further down the road."

A recent Los Angeles Times Mirror poll reported by Peter Jennings last month revealed that only 45 percent of adults surveyed said that they had read a newspaper the previous day, and a quarter of those responding said they spent so much time watching the Simpson trial that they did not have time for the rest of the news. At best, the siren song of sensationalism is a distraction—and, at worst, it reinforces excessively negative perceptions of law and lawyers.

My hope is that many of you will dedicate yourselves as lawyers or in other careers to a concern for the public good. Now, when Oklahoma City has made it clear that the idea of government itself as well as the law is under attack, it is useful to reflect back upon what government, frequently in conjunction with lawyers, has done for us in this century alone in moving toward a more civilized society.

Justice Holmes said, "Taxes are what we pay for civilized society,"—an axiom often forgotten in the politics of the mid-'90's. What would our society look like without the trust busters of Theodore Roosevelt's era and the Federal Reserve System created by Woodrow Wilson? Regulatory approaches to food and drug administration, the securities market, the licensing of radio and television stations, labor-management relations (with which my agency is concerned) and trade practices are all part of the Roosevelt New Deal legacy which few would disavow in toto.

It should not be forgotten that all three branches of federal government took the lead in the fight against racial discrimination and other forms of arbitrary treatment. And as Judge (now Counsel to the President) Abner Mikva has noted: "The history of the growth of the franchise is a shining example of why we needed . . . the federal approach."

Today, the challenge of public service in Washington has never been more exciting or inspirational. As I have indicated, President Clinton's National Public Service echoes anew the similar initiatives undertaken by both Roosevelt and Kennedy.

I urge you to think of the government as a career in which you can use your legal experience in pursuit of the public interest. That does not mean that you have to be a Washington or "inside the Beltway" careerist, although that is another way in which to make a contribution. Many of you may choose to serve in your communities throughout the country and, at a point where your career is well-developed, elect to serve through an appointment such as mine.

In particular, if you accept such an appointment consisting of a limited term (in the case of the Board five years), I hope that you will keep in mind President (then-Senator) Kennedy's characterization of eight law makers who were the subject of his book, "Profiles in Courage." Said the junior Senator from Massachusetts:

"His desire to win or maintain a reputation for integrity and courage were stronger than his desire to maintain his office . . . his conscience, his personal standards of ethics, his integrity or morality . . . were stronger than the pressures of public disapproval."

This is a particularly vexatious problem for those who are appointed and not elected because of the inevitable and appropriate subordination of appointees—even in the arena of independent regulation—to the people's elected representatives. My own view on serving in Washington is to do the very best you can to implement the public interest in the time allocated in your term, with the expectation that you will return to your community, reestablish your roots and feel satisfied that you have—to paraphrase President Kennedy—done your duty notwithstanding some of the immediate "pressures of public disapproval."

While I consider the term limits issue to be an entirely different proposition—the people ought always to be able to freely choose their elected leaders amongst the widest possible number of candidates—my view is that the proper standard for those who are subordinate to such leaders is that attributed to Cincinnatus, the Roman general and statesman of the fifth century, who upon discharging his public duty, returned to his community rather than taking the opportunity to seize power and perpetuate himself in office.

The independence of administrative agencies might be enhanced by legislation limiting Board Members or Commissioners to one term of service. The temptation to please elected superiors might decline accordingly.

Of course, all of us cannot win victories within 15 days, like Cincinnatus, and be back on our farms or in our communities so quickly. But true public service involves a self-sacrifice which rises above the immediate pressures. Do the best that you can to serve the public good.

This does not assure success or complete effectiveness. But it allows you to make use of your acquired expertise for the best possible reasons. And this, in turn, puts you in the best position to see it through to the end with a measure of serenity that comes when you have expended your very best effort despite setbacks and criticisms you may endure in the process.

As President Lincoln said:

"If I were to try to read, much less answer, all the attacks made on me, this shop might as well be closed for any other business. I do the very best I know how—the very best I can and I mean to keep doing so until the end. If the end brings me out all right, what is said against me won't amount to anything. If the end brings me out wrong, ten angels swearing I was right would make no difference."

You graduate from a distinguished institution in the most exciting political period since the reforms undertaken by the Administration of the 1960s. I hope that some of you will be attracted to public service and help advance our society through the rule of law.

As you embark upon the excitement of a new career and challenges in the days ahead, I wish you all good luck and success on whatever path you choose.

Mr. GORTON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT OF THE DISTRICT OF COLUMBIA'S PROPOSED FISCAL YEAR 1996 BUDGET—MESSAGE FROM THE PRESIDENT—PM 59

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Governmental Affairs.

To the Congress of the United States:

In accordance with section 446 of the District of Columbia Self-Government and Governmental Reorganization Act, I am transmitting the District of Columbia's Proposed FY 1995 Second Supplemental Budget and Rescissions of Authority Request Act and the Proposed FY 1996 Budget Request Act.

The Proposed FY 1996 Budget has not been reviewed or approved by the District of Columbia Financial Responsibility and Management Assistance Authority, created by Public Law 104–8, the District of Columbia Financial Responsibility and Management Assistance Act of 1995 (the "Act"). It will be subject to such review and approval pursuant to section 208 of the Act.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *June 29, 1995.*

MESSAGES FROM THE HOUSE

At 4:49 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following joint resolution, in which it requests the concurrence of the Senate:

H.J. Res. 79. Joint resolution proposing an amendment to the Constitution of the United States authorizing the Congress and the States to prohibit the physical desecration of the flag of the United States.

The message also announced that House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the concurrent resolution (H. Con. Res. 67) setting forth the congressional budget for the United States Government for fiscal years, 1996, 1997, 1998, 1999, 2000, 2001, and 2002.

MEASURES REFERRED

The following joint resolution was read the first and second times by unanimous consent and referred as indicated:

H.J. Res. 79. Joint resolution proposing an amendment to the Constitution of the United States authorizing the Congress and the States to prohibit the physical desecration of the flag of the United States; to the Committee on the Judiciary.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC.1136. A communication from the Chairman of the Securities and Exchange Commission, transmitting, pursuant to law, the report of the Securities Investor Protection Corporation for calendar year 1994; to the Committee on Banking, Housing, and Urban Affairs.

EC.1137. A communication from the Secretary of the Federal Trade Commission, transmitting, pursuant to law, a report relative to domestic cigarettes; to the Committee on Commerce, Science, and Transportation.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HATCH, from the Committee on the Judiciary, with an amendment:

S. 531. A bill to authorize a circuit judge who has taken part in an en banc hearing of a case to continue to participate in that case after taking senior status, and for other purposes.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. THURMOND, from the Committee on Armed Services;

The following named officer for appointment to the grade of general while assigned to a position of importance and responsibility under Title 10, United States Code, Section 601:

To be general

Lt. Gen. Richard E. Hawley, xxx-xx-xxxx, United States Air Force.

(The above nomination was reported with the recommendation that it be confirmed.)

By Mr. HATCH, from the Committee on the Judiciary:

Tena Campbell, of Utah, to be United States District Judge for the District of Utah.

George H. King, of California, to be United States District Judge for the Central District of California vice a new position created by Public Law 101–650, approved December 1, 1990.

Robert H. Whaley, of Washington, to be United States District Judge for the Eastern District of Washington.

Diane P. Wood, of Illinois, to be United States Circuit Judge for the Seventh Circuit.

(The above nominations were reported with the recommendation that they be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. KYL (for himself, Mr. LEAHY, and Mr. GRASSLEY):

S. 982. A bill to protect the national information infrastructure, and for other purposes; to the Committee on the Judiciary.

By Mr. FEINGOLD (for himself and Mr. MCCAIN):

S. 983. A bill to reduce the number of executive branch political appointees; to the Committee on Governmental Affairs.

By Mr. GRASSLEY (for himself, Mr. LOTT, Mr. HELMS, and Mr. COCHRAN):

S. 984. A bill to protect the fundamental right of a parent to direct the upbringing of a child, and for other purposes; to the Committee on the Judiciary.

By Mr. CAMPBELL (for himself and Mr. BROWN):

S. 985. A bill to provide for the exchange of certain lands in Gilpin County, CO; to the Committee on Energy and Natural Resources.

By Mr. D'AMATO (for himself, Mr. MOYNIHAN, Mr. NICKLES, and Mr. INHOFE):

S. 986. A bill to amend the Internal Revenue Code of 1986 to provide that the Federal income tax shall not apply to U.S. citizens who are killed in terroristic actions directed at the United States or to parents of children who are killed in those terroristic actions; to the Committee on Finance.

By Mr. HELMS (for himself and Mr. FAIRCLOTH):

S. 987. A bill to provide for the full settlement of all claims of Swain County, NC, against the United States under the agreement dated July 30, 1943, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. HELMS:

S. 988. A bill to direct the Secretary of the Interior to transfer administrative jurisdiction over certain land to the Secretary of the Army to facilitate construction of a jetty and sand transfer system, and for other purposes; to the Committee on Environment and Public Works.

By Mrs. KASSEBAUM (for herself, Mr. COATS, Mr. GORTON, and Mr. HATCH):

S. 989. A bill to limit funding of an executive order that would prohibit Federal contractors from hiring permanent replacements for lawfully striking employees, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. DOLE (for himself and Mr. INOUYE):

S. 990. A bill to expand the availability of qualified organizations for frail elderly community projects (Program of All-inclusive Care for the Elderly [PACE], to allow such organizations, following a trial period, to become eligible to be providers under applicable titles of the Social Security Act, and for other purposes; to the Committee on Finance.

By Mr. SIMPSON (by request):

S. 991. A bill to amend title 38, United States Code, and other statutes, to extend VA's authority to operate various programs, collect copayments associated with provision of medical benefits, and obtain reimbursement from insurance companies for care furnished; to the Committee on Veterans Affairs.

S. 992. A bill to amend title 38, United States Code, to increase, effective as of December 1, 1995, the rates of disability compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for survivors of such veterans, and for other purposes; to the Committee on Veterans Affairs.

S. 993. A bill to amend title 38, United States Code, to provide for cost-savings in the housing loan program for veterans, to limit cost-of-living expenses for Montgomery GI bill benefits, and for other purposes; to the Committee on Veterans Affairs.

S. 994. A bill to amend title 38, United States Code, to clarify the eligibility of certain minors for burial in national cemeteries; to the Committee on Veterans Affairs.

S. 995. A bill to amend title 38, United States Code, to restrict payment of a clothing allowance to incarcerated veterans and to create a presumption of permanent and total disability for pension purposes for certain veterans who are patients in a nursing home; to the Committee on Veterans Affairs.

S. 996. A bill to amend title 38, United States Code, to change the name of Servicemen's Group Life Insurance program to Servicemembers' Group Life Insurance, to merge the Retired Reservists' Servicemembers' Group Life Insurance program into the Veterans' Group Life Insurance program, to extend Veterans' Group Life Insurance coverage to members of the Ready Reserve of a uniformed service who retire with less than 20 years of service, to permit an insured to convert a Veterans' Group Life Insurance policy to an individual policy of life insurance with a commercial insurance company at any time, and to permit an insured to convert a Servicemembers' Group Life Insurance policy to an individual policy of life insurance with a commercial company upon separation from service; to the Committee on Veterans Affairs.

By Mr. D'AMATO:

S. 997. A bill to amend the Internal Revenue Code of 1986 to make permanent the exclusion for amounts received under qualified group legal service plans; to the Committee on Finance.

By Mr. BAUCUS:

S. 998. A bill to require the Secretary of Agriculture to terminate the Far West spearmint marketing order, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mrs. HUTCHISON:

S. 999. A bill to amend the Immigration and Nationality Act and other laws of the United States relating to border security, illegal immigration, alien eligibility for Federal financial benefits and services, criminal activity by aliens, alien smuggling, fraudulent document use by aliens, asylum, terrorist aliens, and for other purposes; to the Committee on the Judiciary.

By Mr. BURNS (for himself, Mr. NICKLES, Mr. HATCH, Mr. MURKOWSKI, Mr. BREAUX, Mr. D'AMATO, Mr. MACK, Mr. GRAMS, and Mr. INHOFE):

S. 1000. A bill to amend the Internal Revenue Code of 1986 to provide that the depreciation rules which apply for regular tax purposes shall also apply for alternative minimum tax purposes, to allow a portion of the tentative minimum tax to be offset by the minimum tax credit, and for other purposes; to the Committee on Finance.

By Mr. GLENN (for himself, Mr. CHAFEE, Mr. LEVIN, Mr. LIEBERMAN, Mr. COHEN, Mr. PRYOR, Mr. KERRY, Mr. LAUTENBERG, Mr. DASCHLE, Mrs. BOXER, Mr. KOHL, Mr. SIMON, Mrs. MURRAY, Mr. AKAKA, Mr. KENNEDY, Mr. DODD, Mr. DORGAN, Mr. JEFFORDS, and Mr. BIDEN):

S. 1001. A bill to reform regulatory procedures, and for other purposes; to the Committee on Governmental Affairs.

By Mr. CHAFEE (for himself, Mr. GRAHAM, Mr. PRYOR, Mr. JOHNSTON, and Mr. SIMON):

S. 1002. A bill to amend the Internal Revenue Code of 1986 to provide a credit against income tax to individuals who rehabilitate historic homes or who are the first purchasers of rehabilitated historic homes for use as a principal residence; to the Committee on Finance.

By Mr. PRESSLER:

S. 1003. A bill to suspend temporarily the duty on certain motorcycles brought into the United States by participants in the Sturgis Motorcycle Rally and Races, and for other purposes; to the Committee on Finance.

By Mr. STEVENS (for himself, Mr. PRESSLER, Mr. HOLLINGS, and Mr. KERRY):

S. 1004. A bill to authorize appropriations for the U.S. Coast Guard, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. BAUCUS:

S. 1005. A bill to amend the Public Buildings Act of 1959 to improve the process of constructing, altering, purchasing, and acquiring public buildings, and for other purposes; to the Committee on Environment and Public Works.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DASCHLE (for himself, Mr. DOLE, Mr. FORD, Mr. LOTT, Mr. BYRD, Mr. THURMOND, Mr. ABRAHAM, Mr. AKAKA, Mr. ASHCROFT, Mr. BAUCUS, Mr. BENNETT, Mr. BIDEN, Mr. BINGAMAN, Mr. BOND, Mrs. BOXER, Mr. BRADLEY, Mr. BREAUX, Mr. BROWN, Mr. BRYAN, Mr. BUMPERS, Mr. BURNS, Mr. CAMPBELL, Mr. CHAFEE, Mr. COATS, Mr. COCHRAN, Mr. COHEN, Mr. CONRAD, Mr. COVERDELL, Mr. CRAIG, Mr. D'AMATO, Mr. DEWINE, Mr. DODD, Mr. DOMENICI, Mr. DORGAN, Mr. EXON, Mr. FAIRCLOTH, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. FRIST, Mr. GLENN, Mr. GORTON, Mr. GRAHAM, Mr. GRAMM, Mr. GRAMS, Mr. GRASSLEY, Mr. GREGG, Mr. HARKIN, Mr. HATCH, Mr. HATFIELD, Mr. HEFLIN, Mr. HELMS, Mr. HOLLINGS, Mrs. HUTCHISON, Mr. INHOFE, Mr. INOUYE, Mr. JEFFORDS, Mr. JOHNSTON, Mrs. KASSEBAUM, Mr. KEMPTHORNE, Mr. KENNEDY, Mr. KERREY, Mr. KERRY, Mr. KOHL, Mr. KYL, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEVIN, Mr. LIEBERMAN, Mr. LUGAR, Mr. MACK, Mr. MCCAIN, Mr. MCCONNELL, Ms. MIKULSKI, Ms. MOSELEY-BRAUN, Mr. MOYNIHAN, Mr. MURKOWSKI, Mrs. MURRAY, Mr. NICKLES, Mr. NUNN, Mr. PACKWOOD, Mr. PELL, Mr. PRESSLER, Mr. PRYOR, Mr. REID, Mr. ROBB, Mr. ROCKEFELLER, Mr. ROTH, Mr. SANTORUM, Mr. SARBANES, Mr. SHELBY, Mr. SIMON, Mr. SIMPSON, Mr. SMITH, Ms. SNOWE, Mr. SPECTER, Mr. STEVENS, Mr. THOMAS, Mr. THOMPSON, Mr. WARNER, and Mr. WELLSTONE):

S. Res. 143. A resolution commending C. Abbot Saffold (Abby) for her long, faithful, and exemplary service to the U.S. Senate; considered and agreed to.

By Mr. WELLSTONE (for himself and Mr. FEINGOLD):

S. Res. 144. A resolution to express the sense of the Senate that, by the end of the 104th Congress, the Senate should pass health care legislation to provide all Americans with coverage that is at least as good as the Senate provides for itself; to the Committee on Labor and Human Resources.

By Mr. DASCHLE:

S. Res. 145. A resolution to elect Martin P. Paone Secretary for the Minority; considered and agreed to.

By Mr. DOLE:

S. Con. Res. 20. A concurrent resolution providing for a conditional recess or adjournment of the Senate on Thursday, June 29, 1995, or Friday, June 30, 1995, until Monday, July 10, 1995, and a conditional adjournment of the House on the legislative day of Friday, June 30, 1995, until Monday, July 10, 1995; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. KYL (for himself, Mr. LEAHY, and Mr. GRASSLEY):

S. 982. A bill to protect the national information infrastructure, and for other purposes; to the Committee on the Judiciary.

THE NATIONAL INFORMATION INFRASTRUCTURE PROTECTION ACT OF 1995

• Mr. KYL. Mr. President, I introduce the Kyl-Leahy National Information Infrastructure Protection Act of 1995. I thank Senator LEAHY for his sponsorship of this bill, and his leadership in combating computer crime. I am pleased to introduce this bill, which will strengthen current public law on computer crime and protect the national information infrastructure. My fear is that our national infrastructure—the information that bonds all

Americans—is not adequately protected. I addressed this issue in the terrorism bill and I offer this bill as a protection to one of America's greatest commodities—information.

Although there has never been an accurate nationwide reporting system for computer crime, specific reports suggest that computer crime is rising. For example, the computer emergency and response team [CERT] a Carnegie-Mellon University reports that computer intrusions have increased from 132 in 1989 to 2,341 last year. A June 14 Wall Street Journal article stated that a Rand Corp. study reported 1,172 hacking incidents occurred during the first 6 months of last year. A report commissioned last year by the Department of Defense and the CIA stated that "[a]ttacks against information systems are becoming more aggressive, not only seeking access to confidential information, but also stealing and degrading service and destroying data." Clearly there is a need to reform the current criminal statutes covering computers.

Many computer offenses have found their origin in our new technologies. For example, the horrific damage caused by inserting a virus into a global computer network cannot be prosecuted adequately by relying on common law criminal mischief statutes. The need to reevalute our computer statues on a continual basis is inevitable; and protecting our nation's information is vital. I, therefore, introduce the National Information Infrastructure Protection of 1995.

Mr. President, the Internet is a worldwide system of computers and computer networks that enables users to communicate and share information. The system is comparable to the worldwide telephone network. According to a Time magazine article, the Internet connects over 4.8 million host systems, including educational institutions, government facilities, military bases, and commercial businesses. Millions of private individuals are connected to the Internet through their personal computers and modems.

Computer criminals have quickly recognized the Internet as a haven for criminal possibilities. During the 1980's, the development and broadbased appeal of the personal computer sparked a period of dramatic technological growth. This has raised the stakes in the battle over control of the Internet and all computer systems. Computer criminals know all the ways to exploit the Internet's easy access, open nature, and global scope. From the safety of a telephone in a discrete location, the computer criminal can anonymously access personal, business, and government files. And because these criminals can easily gain access without disclosing their identities, it is extremely difficult to apprehend and prosecute them successfully.

Prosecution of computer criminals is complicated further by continually changing technology, lack of precedence, and weak or nonexistent State and Federal laws. And the costs are passed on to service providers, the judicial system, and most importantly—the victims.

Because computers are the nerve centers of the world's information and communication system, there are catastrophic possibilities. Imagine an international terrorist penetrating the Federal Reserve System and bringing to a halt every Federal financial transaction. Or worse yet, imagine a terrorist who gains access to the Department of Defense, and gains control over NORAD. The June 14 Wall Street Journal article reported that security experts were used to hack into 12,000 Defense Department computer systems connected to the Internet. The results are astounding. The experts hacked their way into 88 percent of the systems, and 4 percent of the attacks went undetected.

An example of the pending threat is illustrated in the Wednesday, May 10 headline from the Hill entitled "Hired Hackers Crack House Computers." Auditors from Price Waterhouse managed to break into House Members' computer systems. According to the article, the auditors' report stated that they could have changed documents, passwords, and other sensitive information in those systems. What is to stop international terrorists from gaining similar access, and obtaining secret information relating to our national security?

In a September 1994 Los Angeles Times article about computer intrusion, Scott Charney, chief of the computer crime unit for the U.S. Department of Justice, stated, "the threat is an increasing threat," and "[i]t could be a 16-year-old kid out for fun or it could be someone who is actively working to get information from the United States."

He added, there is a "growing new breed of digital outlaws who threaten national security and public safety." For example, the Los Angeles Times article reported that, in Los Angeles alone, there are at least four outlaw computer hackers who, in recent years, have demonstrated they can seize control of telephones and break into government computers.

The article also mentioned that government reports further reveal that foreign intelligence agencies and mercenary computer hackers have been breaking into military computers. For example, a hacker is awaiting trial in San Francisco on espionage charges for cracking an Army computer system and accessing files on an FBI investigation of former Philippine President Ferdinand Marcos. According to the 1993 Department of Defense report, such a threat is very real: "The nature of this changing motivation makes computer intruders' skills high-interest targets for criminal elements and hostile adversaries."

Mr. President, the September 1993 Department of Defense report added that, if hired by terrorists, these hackers could cripple the Nation's telephone system, "create significant public health and safety problems, and cause serious economic shocks." The hackers could bring an entire city to a standstill. The report states that, as the world becomes wired for computer networks, there is a greater threat the networks will be used for spying and terrorism. In a 1992 report, the President's National Security Telecommunications Advisory Committee warned, "known individuals in the hacker community have ties with adversary organizations. Hackers frequently have international ties."

A 1991 Chicago Tribune article detailed the criminal activity of a group of Dutch teenagers who were able to hack into Defense Department computers which contained sensitive national security information, including one system which directly supported Operation Desert Storm. According to the article, Jack L. Brock, former Director of Government Information for the General Accounting Office, said that "this type of information could be very useful to a foreign intelligence operation."

These startling examples illustrate the necessity for action. Mr. President, that is why I am here today—to take action. I would, at this time, like to highlight a few provisions of the bill. This bill strengthens the language currently in section 1030 of title 18 of the United States Code. I would eliminate the ambiguity surrounding the definition of "trespassing" in a government computer. This bill toughens penalties in current law to ensure that felony level sanctions apply when unauthorized use of the computer is significant. Current law does not adequately address the act of trespassing into a computer. But a breach of a computer security system alone can have a significant impact. For example, an intruder may trespass into a computer system and view information—without stealing or destroying it. The administrator of the system will spend time, money, and resources to restore security to the system. Damage occurs simply by trespassing. We can no longer accept mere trespass into computers, and regard these intrusions as incidental.

This bill redefines a protected computer to include those computers used in foreign communications. The best known international case of computer intrusion is detailed in the book, "The Cuckoo's Egg." In March 1989, West German authorities arrested computer hackers and charged them with a series of intrusions into United States computer systems through the University of California at Berkeley. Eastern bloc intelligence agencies had sponsored the activities of the hackers beginning in May 1986. The only punishment the hackers were given was probation.

This bill deters criminal activity by strengthening the penalties on computer crime. It will elevate to felony status, the reckless damage of computer trespassers and it will criminalize computer trespassers who cause negligent damage. A new subsection is added in section 1030 of title 18, United States Code to respond to the interstate transmission of threats directed against computers and computer networks. In certain cases, according to the Department of Justice, individuals have threatened to crash a computer system unless they are granted access to the system and given an account. The provision will protect the data and programs of computers and computer networks against any interstate or international transmission of threats. The statutory language will be changed to ensure that anyone who is convicted twice of committing a computer offense will be subject to enhanced penalties. This bill will make the criminals think twice before illegally accessing computer files.

Everybody recognizes that it is wrong for an intruder to enter a home and wander around; it doesn't make sense to view a criminal who breaks into a computer system differently. We have a national antistalking law to protect citizens on the street, but it doesn't cover stalking on the communications network. We should not treat these criminals differently simply because they possess new weapons.

These new technologies, which so many Americans enjoy, were developed over many years. I understand that policy can't catch up with technology overnight, but we can start filling in the gaps created by these tremendous advancements. We cannot allow complicated technology to paralyze us into inactivity. It is vital that we protect the information and infrastructure of this country.

Because not everyone is computer literate, there is a tendency to view those who are computer literate as somewhat magical and that the normal rules don't apply. Hackers have developed a cult following with their computer antics, which are regarded with awe. These criminals disregard computer security and authority. In 1990, a hacker cracked the NASA computer system and gained access to 68 computer systems linked by the Space Analysis Network. He even came across the log on screen for the U.S. Controller of the Currency. After being caught, the hacker's comment about NASA officials was, "I still think they're bozos," and he added "[i]f they had done a halfway competent job, this wouldn't have happened."

Mr. President, the Kyl-Leahy National Information Infrastructure Protection Act of 1995 will deter criminal activity and protect our Nation's infrastructure. I urge my colleagues to support this bill.●

Mr. LEAHY. Mr. President, I am pleased to introduce with Senators KYL and GRASSLEY the "National Information Infrastructure Protection Act of 1995" [NIIPA]. This bill will increase protection for both government and private computers, and the information on those computers, from the growing threat of computer crime.

We increasingly depend on the availability, integrity, and confidentiality of computer systems and information to conduct our business, communicate with our friends and families, and even to be entertained. With a modem and a computer, a business person can communicate with his or her office, a student can access an on-line encyclopedia at home, or researcher can get weather information from Australia over the Internet. Unfortunately, computer criminals can also use this technology to pry into our secrets, steal confidential Government information, and damage important telecommunications systems. With the advances in global communication, these criminals can do this virtually anywhere in the world.

The facts speak for themselves—computer crime is on the rise. The computer emergency and response team at Carnegie-Mellon University reports that, since 1991, there has been a 498 percent increase in the number of computer intrusions, and a 702 percent rise in the number of sites affected. About 40,000 Internet computers were attacked in 2,460 incidents in 1994 alone. We need to increase protection for this vital information infrastructure to stem the online crime epidemic.

The NII Protection Act seeks to improve the Computer Fraud and Abuse Act by providing more protection to computerized information and systems, by designating new computer crimes, and by extending protection to computer systems used in foreign or interstate commerce or communications. The bill closes a number of gaps in our current laws to strengthen law enforcement's hands in fighting crimes targeted at computers, computer systems, and computer information.

First, the bill would bring the protection for classified national defense or foreign relations information maintained on computers in line with our other espionage laws. While existing espionage laws prohibit the theft and peddling of Government secrets to foreign agents, the bill would specifically target those persons who deliberately break into a computer to obtain the Government secrets that they then try to peddle.

Second, the bill would increase protection for the privacy and confidentiality of computer information. Recently, computer hackers have accessed sensitive data regarding Operation Desert Storm, penetrated NASA computers, and broken into Federal courthouse computer systems containing confidential records. Others have abused their privileges on Government computers by snooping through confidential tax returns, or selling confidential criminal history information from the National Crime Information Center.

The bill would criminalize these activities by making all those who misuse computers to obtain Government information and, where appropriate, information held by the private sector, subject to prosecution. The harshest penalties would be reserved for those who obtain classified information that could be used to injur the United States or assist a foreign state. Those who break into a computer system, or insiders who intentionally abuse their computer access privileges, to secret information off a computer system for commercial advantage, private financial gain or to commit any criminal or tortious act would also be subject to felony prosecution. Individuals who intentionally break into, or abuse their authority to use, a computer and thereby obtain information of minimal value, would be subject to a misdemeanor penalty.

Third, the bill would protect against damage to computers caused by either outside hackers or malicious insiders. Computer crime does not just put information is at risk, but also the computer networks themselves. Hackers, or malicious insiders, can destroy crucial information with a carefully placed code or command. Hackers, like Robert Morris, can bring the Internet to its knees with computer "viruses" or "worms." This bill would protect our Nation's computer systems from such intentional damage, regardless of whether the perpetrator was an insider or outside hacker.

Under the bill, insiders, who are authorized to access a computer, face criminal liability only if they intend to cause damage to the computer, not for recklessly or negligently causing damage. By contrast, hackers who break into a computer could be punished for any intentional, reckless, or negligent damages they cause by their trespass.

Fourth, the bill would expand the protection of the Computer Fraud and Abuse Act to cover those computers used in interstate or foreign commerce or communications. The law already gives special protection to the computer systems of financial institutions and consumer reporting agencies, because of their significance to the economy of our Nation and the privacy of our citizens. Yet, increasingly computer systems provide the vital backbone to many other industries, such as the telecommunications network.

Current law falls short of protecting this infrastructure. Generally, hacker intrusions that do not cross State lines are not Federal offenses. The NII Protection Act would change that limitation and extend Federal protection to computers or computer systems used in interstate or foreign commerce or communications.

Fifth, this bill addresses a new and emerging problem of computer-age blackmail. In a recent case, an individual threatened to crash a computer system unless he was granted access to the system and given an account. The bill adds a new provision to the law that would ensure law enforcement's ability to prosecute these modern day blackmailers, who threaten to harm or shut down computer networks unless their extortionate demands are met.

Finally, the statutory scheme provided in this bill will provide a better understanding of the computer crime problem. By consolidating computer crimes in one section of title 18, reliable crime statistics can be generated. Moreover, by centralizing computer crimes under one statute, we may better measure existing harms, anticipate trends, and determine the need for legislative reform. Additionally, as new computer technologies are introduced, and new computer crimes follow, reformers need only look to section 1030 to update our criminal laws, without parsing through the entire United States Code.

The Kyl-Leahy NII Protection Act would provide much needed protection for our Nation's important information infrastructure. It will help ensure the confidentiality of sensitive information and protect computer networks from those who would seek to damage these networks.

I commend the Department of Justice for their diligent work on this bill, and their continued assistance in addressing this critical area of our criminal law. I look forward to working with my colleagues on refining and improving this bill, as necessary.

Mr. President, I ask unanimous consent that additional material be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NATIONAL INFORMATION INFRASTRUCTURE PROTECTION ACT OF 1995—SECTION-BY-SECTION ANALYSIS

The National Information Infrastructure Protection Act of 1995 amends the Computer Fraud and Abuse Act, 18 U.S.C. §1030, to increase protection for the confidentiality, integrity and security of computer systems and the information on such systems.

Sec. 1. Short Title. The Act may be cited as the "National Information Infrastructure Protection Act of 1995."

Sec. 2. Computer Crime. (1) The bill amends five of the prohibited acts in, and adds a new prohibited act to, 18 U.S.C. §1030(a).

(A) Subsection 1030(a)(1)—Protection of Classified Government Information.

The bill amends 18 U.S.C. §1030(a)(1) to increase protection for computerized classified data. The statute currently provides that anyone who knowingly accesses a computer without, or in excess of, authorization and obtains classified information "with the intent or reason to believe that such information so obtained is to be used to the injury of the United States, or to the advantage of any foreign nation" is subject to a fine or a maximum of ten years' imprisonment. The amendment would modify the scienter requirement to conform to the knowledge requirement in 18 U.S.C. §793(e), which provides a maximum penalty of ten years' imprisonment for obtaining from any source information connected with the national defense. Unlike §793(e), however, §1030(a)(1) would require proof that the individual knowingly used a computer without, or in excess of, authority in obtaining the classified information.

As amended, §1030(a)(1) would prohibit anyone from knowingly accessing a computer, without, or in excess of, authorization, and obtaining classified national defense, foreign relations information, or restricted data under the Atomic Energy Act, with reason to believe the information could be used to the injury of the United States or the advantage of a foreign country, and willfully communicating, delivering or transmitting, or causing the same, or willfully retaining the information and failing to deliver it to the appropriate government agent. The amendment specifically covers the conduct of a person who deliberately breaks into a computer without authority, or an insider who exceeds authorized access, and thereby obtains classified information and then communicates the information to another person, or retains it without delivering it to the proper authorities.

(B) Subsection 1030(a)(2)—Protection of Financial, Government and Other Computer Information.

The bill amends 18 U.S.C. §1030(a)(2) to further protect the confidentiality of computer data by extending the protection for computerized financial records in current law to protecting information from any department and agency of the United States and on computers subject to unauthorized access involving interstate or foreign communications.

This amendment is designed to protect against the interstate or foreign theft of information by computer. This provision is necessary in light of United States v. Brown, 925 F.2d 1301, 1308 (10th Cir. 1991), where the court held that purely intangible intellectual property, such as computer programs, cannot constitute goods, wares, merchandise, securities, or monies which have been stolen, converted, or taken within the meaning of 18 U.S.C. §2314.

The seriousness of a breach in confidentiality depends on the value of the information taken or on what is planned for the information after it is obtained. The statutory penalties are structured to reflect these considerations. Specifically, first-time offenses for obtaining, without or in excess of authorization, information of minimal value from government or protected computers is a misdemeanor. The crime becomes a felony, subject to a fine and up to five years' imprisonment, if the offense was committed for purposes of commercial advantage or private financial gain, for the purpose of committing any criminal or tortious act in violation of the Constitution or laws of the United States or of any State, or if the value of the information obtained exceeds $5,000.

(C) Subsection 1030(a)(3)—Protection for Government Computer Systems.

The bill would make two changes to §1030(a)(3), which currently prohibits intentionally accessing, without authorization, computers used by or for any department or agency of the United States and thereby "adversely" affecting "the use of the Government's operation of such computer." First, the amendment would delete the word "adversely" since this term suggests, inappropriately, that trespassing in a government computer may be benign. Second, the amendment would replace the phrase "the use of the Government's operation of such computer" with the term "that use by or for the Government." When a computer is used for the government, the government is not necessarily the operator, and the old phrase may lead to confusion. The amendment would make a similar change to the definition of "protected computer" in §1030(e)(2)(A).

(D) Subsection 1030(a)(4)—Increased Penalties for Significant Unauthorized Use of Computers.

The bill amends 18 U.S.C. §1030(a)(4) to insure that felony level sanctions apply when the fraudulent use of a computer without, or in excess of, authority is significant. The current statute penalizes, with fines and up to five years' imprisonment, knowingly and with intent to defraud, accessing a computer without, or in excess of, authorization to further the fraud or obtain anything of value, unless the object of the fraud and the thing obtained is only the use of the computer. The blanket exception for computer use is too broad since trespassing in a computer and using computer time may cause large expense to the victim. Hackers, for example, have broken into Cray supercomputers for the purpose of running password cracking programs, sometimes amassing computer time worth far more than $5,000. The amendment would restrict the exception for trespassing, in which only computer use is obtained, to cases involving less than $5,000 during any one-year period.

(E) Subsection 1030(a)(5)—Protection from Damage to Computers.

The bill amends 18 U.S.C. §1030(a)(5) to further protect computers and computer systems covered by the statute from damage both by outsiders, who gain access to a computer without authorization, and by insiders, who intentionally damage a computer. Subsection 1030(a)(5)(A) of the bill would penalize with a fine and up to five years' imprisonment anyone who knowingly causes the transmission of a program, information, code or command and intentionally causes damage without authorization to a protected computer. This would cover anyone who intentionally damages a computer, regardless of whether they were authorized to access the computer.

Subsection 1030(a)(5)(B) of the bill would penalize with a fine and up to five years' imprisonment anyone who intentionally accesses a protected computer without authorization and, as a result of that trespass, recklessly causes damage.

Finally, subsection 1030(a)(5)(C) of the bill would impose a misdemeanor penalty of a fine and no more than one year imprisonment for intentionally accessing a protected computer without authorization and, as a result of that trespass, causing damage.

The bill would punish anyone who knowingly invades a computer system without authority and causes significant losses to the victim, even when the damage caused is not intentional. In such cases, it is the intentional act of computer trespass that makes the conduct criminal. Otherwise, hackers could break into computers or computer systems, safe in the knowledge that no matter how much damage they cause, it is no crime unless the damage was intentional or reckless. By contrast, persons who are authorized to access the computer are criminally liable only if they intend to cause damage to the computer without authority, not for recklessly or negligently causing damage.

As discussed more fully below, the bill adds a definition of "damage" to encompass significant financial loss of more than $5,000 during any one year period, potential impact on medical treatment, physical injury to any person, and threats to public health and safety.

(F) Subsection 1030(a)(7)—Protection from Threats Directed Against Computers.

The bill adds a new section to 18 U.S.C. §1030(a) to provide penalties for the interstate transmission of threats directed against computers and computer systems. It is not clear that such threats would be covered under existing laws, such as the Hobbs Act, 18 U.S.C. §1951 (interference with commerce by extortion), or 18 U.S.C. §875(d) (interstate communication of threat to injure the property of another). The "property" protected under these statutes does not clearly include the operation of a computer, the data or programs stored in a computer or its peripheral equipment, or the decoding keys to encrypted data.

The new subsection (a)(7) covers any interstate or international transmission of threats against computers, computer systems, and their data and programs, whether the threat is received by mail, telephone, electronic mail, or through a computerized messaging service. Unlawful threats could include interference in any way with the normal operation of the computer or system in question, such as denying access to authorized users, erasing or corrupting data or programs, slowing down the operation of the computer or system, or encrypting data and then demanding money for the key.

(2) Subsection 1030(c)—Increased Penalties for Recidivists and Other Sentencing Changes. The bill amends 18 U.S.C. 1030(c) to increase penalties for those who have previously violated any subsection of §1030. The current statute subjects recidivists to enhanced penalties only if they violated the same subsection twice. For example, a person who violates the current statute by committing fraud by computer under §1030(a)(4) and later commits another computer crime offense by intentionally destroying medical records under §1030(a)(5), is not treated as a recidivist because his conduct violated two separate subsections of §1030. The amendment would provide that anyone who is convicted twice of committing a computer offense under §1030 would be subjected to enhanced penalties.

The penalty provisions in §1030(c) are also changed to reflect modifications to the prohibited acts, as discussed above.

(3) Subsection 1030(d)—Jurisdiction of Secret Service. The bill amends 18 U.S.C. §1030(d) to grant the United States Secret Service authority to investigate offenses only under subsections (a)(2) (A) and (B), (a)(3), (a)(4), (a)(5) and (a)(6). The current statute grants the Secret Service authority to investigate any offense under §1030, subject to agreement between the Attorney General and the Secretary of the Treasury. The new crimes proposed in the bill, however, do not fall under the Secret Service's traditional jurisdiction. Specifically, proposed §1030(a)(2)(C) addresses gaps in 18 U.S.C. §2314 (interstate transportation of stolen property), and proposed §1030(a)(7) addresses gaps in 18 U.S.C. §§1951 (the Hobbs Act) and 875 (interstate threats). These statutes are within the jurisdiction of the FBI, which should retain exclusive jurisdiction over these types of offenses, even when they are committed by computer.

(4) Subsection 1030(e)—Definitions. The bill contains three new definitions for "protected computer," "damage," and "government entity."

The term "protected computer" would replace the term "federal interest computer" used currently in §1030. The new definition of "protected computer" would slightly modify the current description in §1030(e)(2)(A) of computers used by financial institutions or the United States Government, to make it clear that if the computers are not exclusively used by those entities, the computers are protected if the offending conduct affects the use by or for a financial institution or the Government.

The new definition of "protected computer" would also replace the current description in §1030(e)(2)(B) of a covered computer being "one of two or more computers used in committing the offense, not all of which are located in the same State." Instead, "protected computer" would include computers "in interstate or foreign commerce or communication." Thus, hackers who attack computers in their own State would be subject to this law, if the requisite damage threshold is met and the computer is used in interstate commerce or foreign commerce or communications.

The tern "damage," as used in new §1030(a)(5), would mean any impairment to the integrity or availability of data, information, program or system which (A) causes loss of more than $5,000 during any one-year period; (B) modifies or impairs the medical examination, diagnosis or treatment of a person; (C) causes physical injury to any person; or (D) threatens the public health or safety. Computers are increasingly being used for access to critical services, such as emergency response systems and air traffic control. "Damage" is therefore broadly defined to encompass the types of harms against which people should be protected from any computer hacker or those insiders who intentionally cause harm.

The term "government entity," as used in new §1030(a)(7), would be defined to include the United States government, any State or political subdivision thereof, any foreign country, and any state, provincial, municipal or other political subdivision of a foreign country.

(5) Subsection 1030(g)—Civil Actions. The bill amends the civil penalty provision in §1030(g) to reflect the proposed changes in §1030(a)(5). The 1994 amendments to the Act authorized victims of certain computer abuse to maintain civil actions against violators to obtain compensatory damages, injunctive relief, or other equitable relief, with damages limited to economic damages, unless the violator modified or impaired the medical examination, diagnosis or treatment of a person.

Under the bill, damages recoverable in civil actions would be limited to economic losses for violations causing losses of $5,000 or more during any one-year period. No limit on damages would be imposed for violations that modified or impaired the medical examination, diagnosis or treatment of a person; caused physical injury to any person; or threatened the public health or safety.

By Mr. FEINGOLD (for himself and Mr. MCCAIN):

S. 983. A bill to reduce the number of executive branch political appointees; to the Committee on Governmental Affairs.

EXECUTIVE BRANCH POLITICAL APPOINTEES LEGISLATION

Mr. FEINGOLD. Mr. President, along with my good friend the senior Senator from Arizona [Mr. MCCAIN], I am introducing legislation today to reduce the number of political employees who are appointed by the President. Specifically, the bill caps the number of political appointees at 2,000. The Congressional Budget Office [CBO] estimates the current number averages 2,800. Thus an estimated 800 of these positions would be saved. The measure, based on one of the options outlined by the CBO in its publication "Reducing the Deficit: Spending and Revenue Options," is estimated to save $363 million over the next 5 years. The savings for fiscal year 1996 is estimated to be $45 million.

Mr. President, this proposal is consistent with the recommendations of the Vice President's National Performance Review, which called for reduction in the number of Federal managers and supervisors, arguing that "over-control and micromanagement" not only "stifle the creativity of line managers and workers, they consume billions per year in salary, benefits, and administrative costs."

That argument may be particularly true will respect to political appointees, whose numbers grew by over 17 percent between 1980 and 1992, over three times as fast as the total number of executive branch employees. And if we look back further, to 1960, the growth is even more dramatic. In his recently published book, "Thickening Government: Federal Government and the Diffusion of Accountability," author Paul Light reports a startling 430-percent increase in the number of political appointees and senior executives in Federal Government between 1960 and 1992.

The sentiments expressed in the National Performance Review were also reflected in the 1989 report of the National Commission on the Public Service, chaired by former Federal Reserve Board Chairman Paul Volcker. Arguing that the growing number of Presidential appointees may "actually undermine effective Presidential control of the executive branch," the Volcker Commission recommended limiting the number of political appointees to 2,000, as this legislation does. Mr. President, it is essential that any administration be able to implement the policies that brought it into office in the first place. Government must be responsive to the priorities of the electorate. But as the Volcker Commission noted, the great increase in the number of political appointees in recent years has not made Government more effective or more responsive to political leadership.

The Commission report cited three reasons. First, it noted that the large number of Presidential appointees simply cannot be managed effectively by any President or White House. This lack of control is aggravated by the often competing political agendas and constituencies that some appointees might bring with them to their new positions. Altogether, the Commission argued that this lack of control and political focus "may actually dilute the President's ability to develop and enforce a coherent, coordinated program and to hold cabinet secretaries accountable."

Second, the report argued that the excessive number of appointees are a barrier to critical expertise, distancing the President and his principal assistants from the most experienced career officials. Though bureaucracies can certainly impede needed reforms, they can also be a source of unbiased analysis. Adding organizational layers of political appointees can restrict access to important resources, while doing nothing to reduce bureaucratic impediments.

Author Paul Light says, "As this sediment has thickened over the decades, presidents have grown increasingly distant from the lines of government, and the front lines from them." Light adds that "Presidential leadership, therefore, may reside in stripping government of the barriers to doing its job effectively . . ."

Finally, the Volcker Commission asserted that this thickening barrier of temporary appointees between the President and career officials can undermine development of a proficient civil service by discouraging talented individuals from remaining in Government service or even pursuing a career in Government in the first place.

Mr. President, former Attorney General Elliot Richardson put it well when he noted:

> But a White House personnel assistant sees the position of deputy assistant secretary as a fourth-echelon slot. In his eyes that makes it an ideal reward for a fourth-echelon political type—a campaign advance man, or a regional political organizer. For a senior civil servant, it's irksome to see a position one has spent 20 or 30 years preparing for preempted by an outsider who doesn't know the difference between an audit exception and an authorizing bill.

Mr. President, many will recall the difficulties the current administration has had in filling even some of the more visible political appointments.

A story in the National Journal in November 1993, focusing upon the delays in the Clinton administration in filling political positions, noted that in Great Britain, the transition to a new government is finished a week after it begins, once 40 or so political appointments are made. That certainly is not the case in the United States, recognizing, of course, that we have a quite different system of government from the British Parliament form of government.

Nevertheless, there is little doubt that the vast number of political appointments that are currently made creates a somewhat cumbersome process, even in the best of circumstances. The long delays and logjams created in filling these positions under the Clinton administration simply illustrates another reason why the number of positions should be cut back.

The consequences of having so many critical positions unfilled when an administration changes can be serious. In the first 2 years of the Clinton administration, there were a number of stories of problems created by delays in making these appointments. From strained relationships with foreign allies over failures to make ambassadorship appointments to the 2-year vacancy at the top of the National Archives, the record is replete with examples of agencies left drifting while a political appointment was delayed. Obviously, there are a number of situations were the delays were caused by circumstances beyond control of the administration. The current case involving the position of Surgeon General of the United States is a clear example.

Nonetheless, it is clear that with a reduced number of political appointments to fill, the process of selecting and appointing individuals to key positions in a new administration is likely to be enhanced.

Mr. President, let me also stress that the problem is not simply the initial filling of a political appointment, but keeping someone in that position over time. In a report released last year, the General Accounting Office reviewed a portion of these positions for the period of 1981 to 1991, and found high levels of turnover—7 appointees in 10 years for one position—as well as delays, usually of months but sometimes years, in filling vacancies.

Mr. President, I recognize that this legislative proposal is not likely to be popular with many people, both within this administration and perhaps among members of the other party who hope to win back the White House in the next election.

I want to stress that I do not view efforts to reduce the number of political appointees to be a partisan issue. Indeed, I think it adds to the credibility and merits of this proposal that a Democratic Senator is proposing to cut back these appointments at a time when there is a Democratic administration in place.

The legislation has been drafted to take effect as of October 1, 1995. It provides for reduction in force procedures to accomplish this goal. In other words, this administration would be required to reduce the number of political appointees to comply with this legislation. It would obviously apply to any further administration as well.

The sacrifices that deficit reduction efforts require must be spread among all of us. This measure requires us to bite the bullet and impose limitations upon political appointments that both parties may well wish to retain. The test of commitment to deficit reduction, however, is not simply to propose measures that impact someone else.

As we move forward to implement the NPR recommendations to reduce the number of Government employees, streamline agencies, and make Government more responsive, we should also right size the number of political appointees, ensuring a sufficient number to implement the policies of any administration without burdening the Federal budget with unnecessary, possibly counterproductive political jobs.

Mr. President, when I ran for the U.S. Senate in 1992, I developed an 82-point plan to reduce the Federal deficit and achieve a balanced budget. Since that time, I have continued to work toward enactment of many of the provisions of that plan and have added new provisions on a regular basis.

The legislation I am introducing today reflects one of the points included on the original 82-point plan calling for streamlining various Federal agencies and reducing agency overhead costs. I am pleased to have this opportunity to continue to work toward implementation of the elements of the deficit reduction plan.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 983

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REDUCTION IN NUMBER OF POLITICAL APPOINTEES.

(a) DEFINITION.—For purposes of this section the term "political appointee" means any individual who—

(1) is employed in a position on the executive schedule under sections 5312 through 5316 of title 5, United States Code;

(2) is a limited term appointee, limited emergency appointee, or noncareer appointee in the senior executive service as defined under section 3232(a) (5), (6), and (7) of title 5, United States Code, respectively; or

(3) is employed in a position in the executive branch of the Government of a confidential or policy-determining cheracter under Schedule C of subpart C of part 213 of title 5 of the Code of Federal Regulations.

(b) LIMITATION.—The President, acting through the Office of Management and Budget and the Office of Personnel Management, shall take such actions as necessary (including reduction in force actions under procedures established under section 3595 of title 5, United States Code) to ensure that the total number of political appointees shall not exceed 2,000.

(c) EFFECTIVE DATE.—This section shall take effect on October 1, 1995.

By Mr. GRASSLEY (for himself, Mr. LOTT, Mr. HELMS, and Mr. COCHRAN):

S. 984. A bill to protect the fundamental right of a parent to direct the upbringing of a child, and for other purposes; to the Committee on the Judiciary.

THE PARENTAL RIGHTS AND RESPONSIBILITIES ACT OF 1995

Mr. GRASSLEY. Mr. President, today I am introducing the Parental Rights and Responsibilities Act of 1995 to reaffirm the right of parents to direct the upbringing of their children. While most parents assume this right is protected, some lower courts and Government bureaucrats have acted to limit this basic freedom. The bill I am introducing will protect the family from unwarranted intrusions by the Government. Congressmen STEVE LARGENT and MIKE PARKER have joined me to pursue this initiative.

While the Constitution does not explicitly address the parent-child relationship, the Supreme Court clearly regards the right of parents to direct the upbringing of their children as a fundamental right under the 14th amendment to the Constitution. Fundamental rights, such as freedom of speech and religion receive the highest legal protection.

Two cases in the 1920's affirmed the Court's high regard for the integrity of the parent-child relationship. In Meyer versus Nebraska, the Court declared that the 14th amendment,

> [W]ithout doubt, . . . denotes not merely freedom from bodily restraint but also the right of the individual to . . . marry, establish a home and bring up children, to worship God according to the dictates of his own conscience. . . .

The second important case was Pierce versus. Society of Sisters. In this case, the Court declared that:

> [In] this day and under our civilization, the child of man is his parent's child and not the state's . . . It is not seriously debatable that the parental right to guide one's child intellectually and religiously is a most substantial part of the liberty and freedom of the parent.

The Court went on to hold that parents are chiefly responsible for the education and upbringing of their children.

While the Supreme Court's intent to protect parental rights is unquestionable, lower courts have not always followed this high standard to protect the parent-child relationship. The recent lower court assault on the rights of parents to direct their children's education, health care decisions, and discipline is unprecedented.

Several examples of lower court cases will demonstrate the need for this bill. A group of parents in Chelmsford, MA, sued when their children were required to sit through a 90-minute AIDS awareness presentation by "Hot, Sexy, and Safer Productions, Inc." In this so-called group sexual experience students were instructed to engage in activities which some parents considered outrageous and pornographic. When the parents challenged the propriety of the school's actions, the court held that the parents, who were never told about the presentation, did not have a right to know and consent to this sexually explicit program before their children were required to attend.

The Washington State Supreme Court ruled that it was not a violation of parents' rights to remove an eighth-grade child from her family because she objected to the ground rules established in the home. The parents in this case grounded their daughter because she wanted to smoke marijuana and sleep with her boyfriend. She objected, and the courts removed her from the home. Most parents would consider these rules imminently reasonable. But the court held that although the family structure is a fundamental institution of our society, and parental prerogatives are entitled to considerable legal deference, they are not absolute and must yield to fundamental rights of the child or important interests of the state.

Recent news accounts reported of a father who was accused of child abuse because he publicly spanked his 4-year-old daughter. When she deliberately slammed the car door on her brother's hand, her father acted promptly to discipline her by a reasonably administered spanking. A passer-by called the police and the father had to defend against the charge of child abuse. While the father won his case, it is amazing to most parents that they could be dragged into court against their will to defend against such an outrageous charge as child abuse for disciplining their child for open rebellion.

Unfortunately, these cases are only a few of the many examples of parents' rights being violated when trying to direct the training and nurturing of their children. Recent public debate has also contributed to the movement to violate parental rights.

Dr. Jack Westman of the University of Wisconsin-Madison proposes that the State license parents as a means of conveying the seriousness of the parental responsibility. While there is no question of the awesome responsibility to raise and nurture a child, the proposal to have the State license potential parents for the right to have children raises many serious questions. Who will decide what will be the appropriate standards for parenthood? These and other questions stretch the imagination of freedom loving American parents.

With recent lower court cases and the flow of public debate around "Parental licensing", it is easy to see the need for the Parental Rights Act of 1995.

The goal of the PRA is to reaffirm the parental right to direct the upbringing of their children in four major areas: First, Directing or providing for the education of the child; two, making health care decisions for the child; three, disciplining the child, including reasonable corporal discipline; and four, directing or providing for the religious teaching of the child.

The PRA accomplishes this goal by simply clarifying for lower courts and administrative tribunals that the proper standard to use in disputes between the Government and parents is the highest legal standard available. This standard, known as "The Compelling Interest Standard" means that before the Government can interfere in the parent-child relationship, it must demonstrate that there is a compelling interest to protect and that the means the Government is using to protect this interest is the least restrictive means available.

Practically speaking, this means that the law in question is not so broad in application that it sweeps in more than is necessary to protect the interest in question.

An example will help to clarify this point. Unfortunately, there are parents who abuse and neglect their children. Clearly, protecting children from abuse and neglect would fit into any reasonable person's definition of a compelling interest of the State. One of the stated purposes of the PRA is to protect children from abuse and neglect.

Another stated goal is to recognize that protecting children in these circumstances is a compelling Government interest. Abusing or neglecting your child has never been considered a protected parental right.

Using the least restrictive means available to protect children from abuse and neglect means that a parents who are appropriately meeting their child's needs could not fall victim to an overzealous State law. The law would be written in such a way that it would cover parents who are abusing or neglecting their children but it would not cover parents who are not.

If the law is written so poorly that even good, loving parents could be accused of child abuse, it would not pass the test of being the least restrictive means available and would have to be modified.

You might ask, "How is the PRA going to work?" It uses the traditional four-step process to evaluate fundamental rights which balances the interests of parents, children and the Government. First, parents are required to demonstrate that the actions being questioned are within their fundamental right to direct the upbringing of their child.

Second, they must show that the Government interfered with this right. If the parents are able to prove these two things, then the burden shifts to the Government to show that the interference was essential to accomplish a compelling Government interest and that the Government's method of interfering was the least restrictive means to accomplish its goal.

In these cases, the court would balance the parents' right to make decisions on behalf of their children against the Government's right to intervene in the family relationship and decide what was the proper balance.

While it would be better if lower courts and administrative agencies would use the appropriate legal standard outlined by the Supreme Court without Congress having to clarify the standard, the history shows this is not likely to occur. My bill will clarify this standard with finality.

Two specific concerns were raised that I want to address. The first is from child abuse prosecutors and advocates. As we moved through discussions on the early drafts of this bill, I made clear that I firmly believed child abuse and neglect is a compelling Government interest.

With this in mind, I incorporated suggestions from prosecutors and advocates on this issue. I am comfortable that the changes made address their concerns.

The second issue was infanticide and abortion. The National Right to Life Committee was concerned that the bill would overturn the baby doe laws protecting handicapped children after birth. After consultation with other attorneys who agreed that this was a concern, I changed my draft to clarify that the PRA could not be used in this way.

The second point that NRL raised was that the PRA would somehow empower parents to coerce a young woman to have an abortion against her wishes. This is because the PRA allows parents to make health care decisions for their child unless the parents' neglect or refusal to act will risk the life of the child or risk serious physical injury to the child. I have consulted with other pro-life organizations and advocates who do not share this concern and have endorsed the bill.

I urge my colleagues to support this bill. It is critical to the proper balance of parents' rights against the Government's actions. Without the PRA, lower courts, Government bureaucrats, and administrative tribunals will continue to interfere needlessly in the parent-child relationship.

By Mr. CAMPBELL (for himself and Mr. BROWN):

S. 985. A bill to provide for the exchange of certain lands in Gilpin County, CO; to the Committee on Energy and Natural Resources.

THE GILPIN LAND EXCHANGE ACT

• Mr. CAMPBELL. Mr. President, I, and my colleague, Senator BROWN, are introducing legislation to exchange approximately 300 acres of fragmented Bureau of Land Management lands near Black Hawk, CO, for approximately 4,000 acres that will be added to Rocky Mountain National Park and to other Department of the Interior holdings in Colorado, while dedicating any remaining equalization funds to the purchase of land and water rights for the Blanca Wetlands Management Area near Alamosa, CO.

This legislation is supported by local governments, environmental groups, and land developers in Colorado. More specifically, the bill: Will enable Rocky Mountain National Park to obtain an adjacent 40-acre parcel known as the Circle C Ranch. The Park Service has long sought to acquire the ranch to avoid its subdivision and development; will result in the public acquisition of approximately 4,000 acres of elk winter range and other important wildlife habitat at the headwaters of La Jara Canyon and Fox Creek, approximately 10 miles from Antonito, CO; and will create a fund from cash equalization moneys that may be paid to the United States as a result of the exchange, with the fund to be used to augment fish and wildlife habitat in the BLM's Blanca Wetlands Management Area. The BLM has wanted funds for these purposes for many years.

In exchange for picking up over 4,000 acres of land, 130 parcels of highly fragmented BLM land totalling about 300 acres will be made available for private acquisition. Of these 130 parcels, 88 are less than 1 acre in size. The BLM, through its established land use planning process, has already identified these lands as appropriate for disposal.

I hope my colleagues will support this effort, and I ask unanimous consent that the text of the bill, along with letters of support from the city of Central, the city of Blackhawk, the Gilpin County Board of County Commissioners, and the Huerfano County Board of County Commissioners be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 985

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) certain scattered parcels of Federal land in Gilpin County, Colorado, are administered by the Secretary of the Interior as part of the Royal Gorge Resource Area, Canon City District, Bureau of Land Management;

(2) these land parcels, which comprises approximately 133 separate tracts of land, and range in size from approximately 38 acres to much less than an acre have been identified as suitable for disposal by the Bureau of Land Management through its resource management planning process and are appropriate for disposal; and

(3) even though the Federal land parcels in Gilpin County, Colorado, are scattered and small in size, they nevertheless by virtue of their proximity to existing communities appear to have a fair market value which may be used by the Federal Government to exchange for lands which will better lend themselves to Federal management and have higher values for future public access, use and enjoyment, recreation, the protection and enhancement of fish and wildlife and fish and wildlife habitat, and the protection of riparian lands, wetlands, scenic beauty and other public values.

(b) PURPOSE.—It is the purpose of this Act to authorize, direct, facilitate and expedite the land exchange set forth herein in order to further the public interest by disposing of Federal lands with limited public utility and acquire in exchange therefor lands with important values for permanent public management and protection.

SEC. 2. LAND EXCHANGE.

(a) IN GENERAL.—The exchange directed by this Act shall be consummated if within 90 days after enactment of this Act, Lake Gulch, Inc., a Colorado Corporation (as defined in section 4 of this Act) offers to transfer to the United States pursuant to the provisions of this Act the offered lands or interests in land described herein.

(b) CONVEYANCE BY LAKE GULCH.—Subject to the provisions of section 3 of this Act, Lake Gulch shall convey to the Secretary of the Interior all right, title, and interest in and to the following offered lands—

(1) certain lands comprising approximately 40 acres with improvements thereon located in Larimer County, Colorado, and lying within the boundaries of Rocky Mountain National Park as generally depicted on a map entitled "Circle C Church Camp", dated August 1994, which shall upon their acquisition by the United States and without further action by the Secretary of the Interior be incorporated into Rocky Mountain National Park and thereafter be administered in accordance with the laws, rules and regulations generally applicable to the National Park System and Rocky Mountain National Park;

(2) certain lands located within and adjacent to the United States Bureau of Land Management San Luis Resource Area in Conejos County, Colorado, which comprise approximately 3,993 acres and are generally depicted on a map entitled "Quinlan Ranches Tract", dated August 1994; and

(3) certain lands located within the United States Bureau of Land Management Royal Gorge Resource Area in Huerfano County, Colorado, which comprise approximately 4,700 acres and are generally depicted on a map entitled "Bonham Ranch-Cucharas Canyon", dated June 1995: *Provided, however*, That it is the intention of Congress that such lands may remain available for the grazing of livestock as determined appropriate by the Secretary in accordance with applicable laws, rules, and regulations: *Provided further*, That if the Secretary determines that certain of the lands acquired adjacent to Cucharas Canyon hereunder are not needed for public purposes they may be sold in accordance with the provisions of section 203 of the Federal Land Policy and Management Act of 1976 and other applicable law.

(c) SUBSTITUTION OF LANDS.—If one or more of the precise offered land parcels identified above is unable to be conveyed to the United States due to appraisal or other problems, Lake Gulch and the Secretary may mutually agree to substitute therefor alternative offered lands acceptable to the Secretary.

(d) CONVEYANCE BY THE UNITED STATES.—(1) Upon receipt of title to the lands identified in subsection (a) the Secretary shall simultaneously convey to Lake Gulch all right, title, and interest of the United States, subject to valid existing rights, in and to the following selected lands—

(A) certain surveyed lands located in Gilpin County, Colorado, Township 3 South, Range 72 West, Sixth Principal Meridian, Section 18, Lots 118–220, which comprise approximately 195 acres and are intended to include all federally owned lands in section 18, as generally depicted on a map entitled "Lake Gulch Selected Lands", dated July 1994;

(B) certain surveyed lands located in Gilpin County, Colorado, Township 3 South, Range 72 West, Sixth Principal Meridian, Section 17, Lots 37, 38, 39, 40, 52, 53, and 54, which comprise approximately 96 acres, as generally depicted on a map entitled "Lake Gulch Selected Lands", dated July 1994; and

(C) certain unsurveyed lands located in Gilpin County, Colorado, Township 3 South, Range 73 West, Sixth Principal Meridian, Section 13, which comprise approximately 11 acres, and are generally depicted as parcels 302–304, 306, and 308–326 on a map entitled "Lake Gulch Selected Lands", dated July 1994: *Provided, however*, That a parcel or parcels of land in section 13 shall not be transferred to Lake Gulch if at the time of the proposed transfer the parcel or parcels are under formal application for transfer to a qualified unit of local government. Due to the small and unsurveyed nature of such parcels proposed for transfer to Lake Gulch in section 13, and the high cost of surveying such small parcels, the Secretary is authorized to transfer such section 13 lands to Lake Gulch without survey based on such legal or other description as the Secretary determines appropriate to carry out the basic intent of the map cited in this subparagraph.

(2) If the Secretary and Lake Gulch mutually agree, and the Secretary determines it is in the public interest, the Secretary may utilize the authority and direction of this Act to transfer to Lake Gulch lands in sections 17 and 13 that are in addition to those precise selected lands shown on the map cited herein, and which are not under formal application for transfer to a qualified unit of local government, upon transfer to the Secretary of additional offered lands acceptable to the Secretary or upon payment to the Secretary by Lake Gulch of cash equalization money amounting to the full appraised fair market value of any such additional lands. If any such additional lands are located in section 13 they may be transferred to Lake Gulch without survey based on such legal or other description as the Secretary determines appropriate as long as the Secretary determines that the boundaries of any adjacent lands not owned by Lake Gulch can be properly identified so as to avoid possible future boundary conflicts or disputes. If the Secretary determines surveys are necessary to convey any such additional lands to Lake Gulch, the costs of such surveys shall be paid by Lake Gulch but shall not be eligible for any adjustment in the value of such additional lands pursuant to section 206(f)(2) of the Federal Land Policy and Management Act of 1976 (as amended by the Federal Land Exchange Facilitation Act of 1988) (43 U.S.C. 1716(f)(2)).

(3) Prior to transferring out of public ownership pursuant to this Act or other authority of law any lands which are contiguous to North Clear Creek southeast of the City of Black Hawk, Colorado in the County of Gilpin, Colorado, the Secretary shall notify and consult with the County and City and afford such units of local government an opportunity to acquire or reserve pursuant to the Federal Land Policy and Management Act of 1976 or other applicable law, such easements or rights-of-way parallel to North Clear Creek as may be necessary to serve public utility line or recreation path needs: *Provided, however*, That any survey or other costs associated with the acquisition or reservation of such easements or rights-of-way shall be paid for by the unit or units of local government concerned.

SEC. 3. TERMS AND CONDITIONS OF EXCHANGE.

(a) EQUALIZATION OF VALUES.—(1) The values of the lands to be exchanged pursuant to this Act shall be equal as determined by the Secretary of the Interior utilizing nationally recognized appraisal standards, including, to the extent appropriate, the Uniform Standards for Federal Land Acquisition, the Uniform Standards of Professional Appraisal Practice, the provisions of section 206(d) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(d)), and other applicable law.

(2) In the event any cash equalization or land sale moneys are received by the United States pursuant to this Act, any such moneys shall be retained by the Secretary of the Interior and may be utilized by the Secretary until fully expended to purchase from willing sellers land or water rights, or a combination thereof, to augment wildlife habitat and protect and restore wetlands in the Bureau of Land Management's Blanca Wetlands, Alamosa County, Colorado.

(3) Any water rights acquired by the United States pursuant to this section shall be obtained by the Secretary of the Interior in accordance with all applicable provisions of Colorado law, including the requirement to change the time, place, and type of use of said water rights through the appropriate State legal proceedings, and to comply with any terms, conditions, or other provisions contained in an applicable decree of the Colorado Water Court. The use of any water rights acquired pursuant to this section shall be limited to water that can be used or exchanged for water that can be used on the Blanca Wetlands. Any requirement or proposal to utilize facilities of the San Luis Valley Project, Closed Basin Diversion, in order to effectuate the use of any such water rights shall be subject to prior approval of the Rio Grande Water Conservation District.

(b) RESTRICTIONS ON SELECTED LANDS.—(1) Conveyance of the selected lands to Lake Gulch pursuant to this Act shall be contingent upon Lake Gulch executing an agreement with the United States prior to such conveyance, the terms of which are acceptable to the Secretary of the Interior, and which—

(A) grant the United States a covenant that none of the selected lands (which currently lie outside the legally approved gaming area) shall ever be used for purposes of gaming should the current legal gaming area ever be expanded by the State of Colorado; and

(B) permanently hold the United States harmless for liability and indemnify the United States against all costs arising from any activities, operations (including the storing, handling, and dumping of hazardous materials or substances) or other acts conducted by Lake Gulch or its employees, agents, successors or assigns on the selected lands after their transfer to Lake Gulch: *Provided, however*, That nothing in this Act shall be construed as either diminishing or increasing any responsibility or liability of the United States based on the condition of the selected lands prior to or on the date of their transfer to Lake Gulch.

(2) Conveyance of the selected lands to Lake Gulch pursuant to this Act shall be subject to the existing easement for Gilpin County Road 6.

(3) The above terms and restrictions of this subsection shall not be considered in determining, or result in any diminution in, the fair market value of the selected land for purposes of the appraisals of the selected land required pursuant to section 3 of this Act.

(c) REVOCATION OF WITHDRAWAL.—The public Water Reserve established by Executive order dated April 17, 1926 (Public Water Reserve 107), Serial Number Colorado 17321, is hereby revoked insofar as it affects the NW¼SW¼ of Section 17, Township 3 South, Range 72 West, Sixth Principal Meridian, which covers a portion of the selected lands identified in this Act.

SEC. 4. MISCELLANEOUS PROVISIONS.

(a) DEFINITIONS.—As used in this Act:

(1) The term "Secretary" means the Secretary of the Interior.

(2) The term "Lake Gulch" means Lake Gulch, Inc., a Colorado corporation, or its successors, heirs or assigns.

(3) The term "offered land" means lands to be conveyed to the United States pursuant to this Act.

(4) The term "selected land" means lands to be transferred to Lake Gulch, Inc., or its successors, heirs or assigns pursuant to this Act.

(5) The term "Blanca Wetlands" means an area of land comprising approximately 9,290 acres, as generally depicted on a map entitled "Blanca Wetlands", dated August 1994, or such land as the Secretary may add thereto by purchase from willing sellers after the date of enactment of this Act utilizing funds provided by this Act or such other moneys as Congress may appropriate.

(b) TIME REQUIREMENT FOR COMPLETING TRANSFER.—It is the intent of Congress that unless the Secretary and Lake Gulch mutually agree otherwise the exchange of lands authorized and directed by this Act shall be completed not later than 6 months after the date of enactment of this Act. In the event the exchange cannot be consummated within such 6-month-time period, the Secretary, upon application by Lake Gulch, is directed to sell to Lake Gulch at appraised fair market value any or all of the parcels (comprising a total of approximately 11 acres) identified in section 2(d)(1)(C) of this Act as long as the parcel or parcels applied for are not under formal application for transfer to a qualified unit of local government.

(c) ADMINISTRATION OF LANDS ACQUIRED BY UNITED STATES.—In accordance with the provisions of section 206(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(c)), all lands acquired by the United States pursuant to this Act shall upon acceptance of title by the United States and without further action by the Secretary concerned become part of and be managed as part of the administrative unit or area within which they are located.

CITY OF BLACK HAWK, CO.
May 24, 1995.

Senator BEN NIGHTHORSE CAMPBELL,
Russell State Office Building,
Washington, DC.

DEAR SENATOR CAMPBELL: This letter is to reaffirm the City of Black Hawk's support for the land exchange proposal between Lake Gulch, Inc. and the U.S. Bureau of Land Management which you sponsored last year. We support the proposal and hope that you will see fit to seek its reintroduction before the Congress.

As our letter to you last August indicated, the lands which Lake Gulch Inc. is seeking to acquire through the exchange are scattered parcels ranging from 38 acres in size to as little as one-one hundredth of an acre. Because they are mostly interspersed with private lands which are owned or under option to Lake Gulch and its affiliates, it is our belief that there is little rationale for the BLM to retain them, but common sense logic supporting Lake Gulch's acquisition.

We feel the proposed acquisition by Lake Gulch will benefit our area by consolidating land that can be used for future residential and non-gaming purposes. As you may be aware, real estate prices within our existing city limits have escalated so rapidly since the advent of gaming that little land is realistically available at the present time for uses other than gaming and its ancillary facilities such as parking, lodging and restaurants. Therefore, we view it is highly desirable to see additional land consolidation into private ownership in our community so that there will be increased opportunities for the location of affordable housing, stores, gas stations, and other needed services.

We finally note that the legislation which you sponsored last year contained a provision in Section 2(d)(3) giving us the right to acquire easements or rights-of-way through the lands to be conveyed to Lake Gulch as might be necessary to serve future utility line or recreation path needs. We would request that this provision be included in the legislation again this year.

Thank you for your sponsorship of the legislation last year. We hope you will be able to lend your assistance again this year.

Sincerely,

KATHRYN ECKER,
Mayor.

CITY OF CENTRAL,
Central City, CO., May 25, 1995
Senator BEN NIGHTHORSE CAMPBELL,
Russell Senate Office Building,
Washington, DC.

DEAR SENATOR NIGHTHORSE CAMPBELL: I am writing to reaffirm the City of Central's support, as first expressed to you in our letter of August 5, 1994, for the proposed Gilpin County land exchanged as embodied in bills S. 2470 and H.R. 5016 introduced in Congress last year. It is our understanding that Lake Gulch Inc. and its associates will be seeking reintroduction of the legislation this year, and we are supportive of their efforts provided that the legislation contains, as it did last year, a provision prohibiting the transfer to Lake Gulch of any lands in Section 13 for which we have submitted a formal transfer application.

We have re-examined the proposed land exchange boundaries with representatives of Lake Gulch Inc. and have reached agreement with them that the proposal will exclude the lands known as parcels 310, 305, and 307. The City of Central is currently seeking a land use permit and possible future purchase for those three tracts. With this exclusion, there should be no overlap between their proposal and our current application.

Please let us know if we can provide any assistance in this matter. We hope that the legislation can be reintroduced and moved forward expeditiously.

Yours Truly,

DAVID C. STAHL
Interim City Manager

BOARD OF COUNTY COMMISSIONERS,
GILPIN COUNTY,
Central City, CO., June 6, 1995.
Senator HANK BROWN,
Hart Senate Office Building,
Senator BEN NIGHTHORSE CAMPBELL,
Russell Senate Office Building,
Congressman SCOTT MCINNIS,
Cannon House Office Bldg.,
Congressman DAVID SKAGGS,
Longworth House Office Bldg.,
Washington, D.C.

DEAR CONGRESSMEN AND SENATORS: Last August we contacted your offices indicating the County's support of the proposed land exchange between the U.S. Bureau of Land Management and the Lake Gulch Organization, provided that the conveyance of the BLM lands to Lake Gulch would be subject to the existing easement for Gilpin County Road 6. We understand that the legislation failed due to Congress' adjournment last fall, but that Lake Gulch will be requesting its reintroduction in this Congress.

As we indicated last year, Gilpin County is supportive of the idea of taking any steps that would allow consolidation into private ownership of the land holdings involved in this land exchange. Given the extremely scattered nature of the BLM lands, we do not believe any purpose is served by their continued public ownership under BLM control whereas our County has the need for additional private land near the rapidly expanding communities in Black Hawk and Central City. Lake Gulch and its affiliates have represented that they own or control most of the private land surrounding the land they are seeking to acquire from the BLM, hence the requested land consolidation appears logical.

While we have no detailed knowledge of the principals, resources or objectives associated with Lake Gulch, we agree with the idea of taking any steps that would allow consolidation of land holdings in this area, including the transfer of BLM lands to Lake Gulch or some other entity that could demonstrate an ability to assemble a significant amount of privately held tracts in this area. Without knowing more about the company or its principals, we cannot say whether Lake Gulch is or is not the best entity to accomplish this goal.

Although the proposed bill reserves a right-of-way for County Rd. 6, which now runs through this area, no width is specified. We would expect the recipients of the public lands to recognize a no less than 60 foot right-of-way for County Road 6, in an alignment acceptable to the county.

While the county believes that the type of transfer contemplated in the proposed legislation is appropriate for the BLM lands in question, we also feel that other BLM lands in Gilpin County should be investigated for possible transfer to the county or other public or quasi-public entities for preservation and other uses which could directly benefit the residents of the county and surrounding areas. We look forward to a continuation of the ongoing discussion with BLM representatives on this matter.

Thanking you in advance for your attention to this important matter. Please do not hesitate to contact us if we can be of any assistance to you in your deliberations.

Sincerely,

RALPH H. KNULL,
Chairman

HUERFANO COUNTY BOARD OF
COUNTY COMMISSIONERS,
Walsenburg, CO., June 7, 1995.
Senator BEN NIGHTHORSE CAMPBELL,
Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR CAMPBELL: We understand that you may shortly be considering a land exchange proposal which would involve up to 4700 acres of land in Huerfano County currently belonging to Mr. Orville Bonham being exchanged to the Bureau of Land Management.

Our Board is familiar with the land in question and is aware of BLM's ongoing interest in acquiring all or a portion of Mr. Bonham's land to protect Cucharas Canyon for future public uses such as hunting, fishing and other outdoor recreation. We are also aware that Mr. Bonham is willing to sell or exchange his lands to BLM. We, therefore, believe that public interest, as well as the interests of our County, would be well served by making such an exchange in Cucharas Canyon.

Thank you for your attention to this matter. Cucharas Canyon is a beautiful place where land ownership consolidation is logical to round out BLM's existing holdings.

Sincerely,

WILLIAM REINETS,
Chairman.
XAVIER E. SANDOVAL,
Commissioner.
NEAL J. COCCO,
Commissioner.•

By Mr. D'AMATO (for himself, Mr. MOYNIHAN, Mr. NICKLES, and Mr. INHOFE):

S. 986. A bill to amend the Internal Revenue Code of 1986 to provide that the Federal income tax shall not apply to United States citizens who are killed in terroristic actions directed at the United States or to parents of children who are killed in those terroristic actions; to the Committee on Finance.

THE TERRORISM VICTIMS TAX RELIEF ACT OF 1995

• Mr. D'AMATO. Mr. President, today I am introducing the Terrorism Victims Tax Relief Act of 1995, a bill that was prompted by the recent Oklahoma City bombing, and the 1993 World Trade Center bombing. I am pleased that my distinguished colleagues, Senators MOYNIHAN, INHOFE, and NICKLES join me in introducing legislation that we believe will provide some relief to families of Americans who fall victim to domestic terrorism directed against the U.S. Government.

Mr. President, of February 26, 1993, Americans were shocked when we experienced the most dramatic terrorist attack in our history. On that fateful day, the bombing of the World Trade Center brought international terrorism to this country. It was a heinous act that killed 6 people and injured over 1,000. This bombing was, in part, responsible for legislation recently passed that will provide our Federal law enforcement officials with more effective ways of fighting both domestic and international terrorism.

A little more than 2 years later, on April 19, 1995, in America's heartland, Oklahoma City was the scene of something far more heinous and devastating, the bombing of the Alfred P. Murrah Federal Building. This cold and calculated act ultimately killed 168 Americans, including 19 innocent children. The images of that day will remain with us forever, but most of all, the lives of family members will be forever changed.

Mr. President, it is for this reason that we introduce this legislation today. We believe it is our duty to do what we can, no matter how small, to lessen the emotional and financial burden on the families of the victims of these two horrible tragedies. This legislation would amend Internal Revenue Code section 692(c), which exempts from taxation the wages of military and civilian employees of the United States who die as a result of wounds or injury incurred outside the United States in a terroristic or military action.

This proposed legislation would amend the law to extend the provisions of section 692(c) to U.S. citizens, including the parents of children, who fall victim to either domestic or international terrorism. To take into consideration those American who died in the World Trade Center bombing, the effective date of this legislation would be for tax years beginning after December 31, 1992.

Mr. President, although we in Congress can do nothing to fill the void left by these tragedies, it is our belief that this legislation will help relieve the heavy burden felt by those who lost their husbands, wives and children. I hope that our colleagues on both sides of the aisle will join us in sponsoring this important legislation.

I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 986

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. INCOME TAX NOT TO APPLY TO UNITED STATES CITIZENS KILLED BY TERRORISTIC ACTIONS AGAINST THE UNITED STATES OR THEIR PARENTS IN THE CASE OF MINOR CHILDREN.

(a) APPLICATION TO ALL UNITED STATES CITIZENS AND PARENTS OF MINOR CHILDREN.—Section 692(c) of the Internal Revenue Code of 1986 (relating to taxation of the United States employees dying as a result of injuries sustained overseas) is amended by redesignating paragraphs (2) and (3) as paragraphs (3) and (4) and by inserting after paragraph (1) the following new paragraph:

"(2) EXTENSION TO ALL CITIZENS AND PARENTS OF MINOR CHILDREN.—Paragraph (1) shall also apply to—

"(A) a citizen of the United States who dies as a result of wounds or injury incurred in a terroristic action described in paragraph (3)(A) in which the individual was not a participant, and

"(B) if the individual described in subparagraph (A) has not attained the age of 19 prior to death, the parent of the individual, but only for the taxable year of the parent in which the individual died and only if the parent is allowed a deduction under section 151 for the individual for the taxable year (without regard to this subsection)."

(b) EXTENSION TO ACTIONS WITHIN THE UNITED STATES.—Paragraph (1) of section 692(c) of the Internal Revenue Code of 1986 (relating to taxation of United States employees dying as a result of injuries sustained overseas) is amended by striking "outside the United States".

(c) CONFORMING AMENDMENTS.—

(1) Paragraph (4) of section 692(c) of the Internal Revenue Code of 1986, as redesignated by subsection (a), is amended by striking "paragraph (2)" and inserting "paragraph (3)".

(2) The heading for section 692(c) of such Code is amended to read as follows:

"(c) CERTAIN INDIVIDUALS DYING AS A RESULT OF TERRORISTIC OR MILITARY ACTIONS.—".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to individuals dying after December 31, 1992.•

By Mr. HELMS (for himself and Mr. FAIRCLOTH):

S. 987. A bill to provide for the full settlement of all claims of Swain County, NC, against the United States under the agreement dated July 30, 1943, and for other purposes; to the Committee on Energy and Natural Resources.

THE SWAIN COUNTY SETTLEMENT ACT OF 1995

Mr. HELMS. Mr. President, today I introduce the Swain County Settlement Act of 1995, fulfilling a promise I made to the people of tiny Swain County, NC, two decades ago when I promised that I would do everything in my power to require the Federal Government to keep a commitment it made in writing to them back in 1943, more than a half-century ago.

This is the third time this legislation has been introduced. On October 22, 1991, I introduced the Swain County Settlement Act of 1991, and on January 26, 1993, I reintroduced this legislation as the Swain County Settlement Act of 1993. Unfortunately, the Senate did not pass this legislation in the 102d and 103d Congresses.

For those unfamiliar with this legislation, it merely directs the Secretary of the Interior and the Secretary of the Treasury to honor the 1943 contract between the people of western North Carolina and the Federal Government.

Mr. President, at the outset I make this point: At issue here is whether the U.S. Government will keep its word, and live up to a very clear commitment it made in writing 52 years ago in exchange for the right to flood thousands of acres of Swain County to create the Fontana Lake. By what we do, or fail to do, the integrity of the Federal Government, and those of us who serve in Congress today, will be decided in the minds of people who have been waiting for 52 years.

Specifically, the Helms legislation proposes three things: First, it orders the Secretary of the Interior to begin construction of the road promised by the Federal Government in 1943; second, it directs the Secretary of the Treasury to pay Swain County, North Carolina the sum of $16 million to compensate the county for the destruction of North Carolina Highway No. 288; and third, it orders the Park Service to erect a historical marker at Soco Gap to honor the contributions of the Cherokee Nation to the people of North Carolina and to the United States.

Senators should be aware of what happened 52 years ago to understand why I so vigorously support full settlement of this matter. In 1943, the Federal Government and the Tennessee Valley Authority decided that in order to generate hydroelectric power they needed to flood land taken from the farmers in Swain County. Literally thousands of Swain County residents packed up and left their homes because the Federal Government needed their land. The Government did not relocate them, nor did the Government give North Carolina families additional land. The Government merely offered a few dollars for the land, buy many Swain County citizens never received even one dime for their land.

I don't have to remind Senators, Mr. President, that in 1943, World War II was raging in Europe and the Pacific. Many of the men from the Swain County area were overseas fighting for our freedom—at the very time their land back home was being seized by the Federal Government.

When the Government took the 44,400 acres of land north of Fontana Lake, it agreed: First, to reimburse Swain County for an existing highway that was flooded in order to create Fontana Lake; and second, to build an around-the-park road to, among other things, provide access to gravesites left behind when the people were forced off the land.

In case any Senator cares to see it, I have a copy of the North Shore Road contract signed by FDR's Interior Secretary Harold Ickes and North Carolina's Gov. J. Melville Broughton.

In July 1943, shortly after the agreement was signed, a Tennessee Valley Authority supervisor wrote the families about gravesite removal. The letter stated:

> The construction of Fontana Dam necessitates the flooding of the road leading to the Proctor Cemetery located in Swain County, North Carolina, and to reach this cemetery in the future [it] will be necessary to walk a considerable distance until a road is constructed in the vicinity of the cemetery, which is proposed to be completed after the war has ended. We are informed that you are the nearest surviving relative of a deceased who is buried in this cemetery.

Because of the understanding mentioned in this letter—that the road would be completed shortly after the war—families in Swain County agreed to leave their deceased relatives on the land taken by the Federal Government.

Mr. President, documents dating back to 1943 show that the Government did fulfill its promise to pay for Highway No. 288. In 1943 the Government paid to the State of North Carolina approximately $400,000, an amount which represents the principal which Swain County owed on outstanding bonds.

According to my information, the Federal Government paid that amount to the State of North Carolina as trustee. A letter dated November 22, 1943, from the Treasurer of the Tennessee Valley Authority to the Treasurer of the State of North Carolina confirms that payment was indeed made.

The full payment never reached Swain County because it went into the State's general highway fund account and the Federal Government never fulfilled its obligation to build the road. There were a few false starts. In 1963, the Federal Government built 2.5 miles of the road; in 1965, it built 2.1 miles; and in 1969 it built 1 additional mile and a 1,200-foot tunnel. Then the environmentalists got into the act and the project was shut down.

Now, Mr. President, you can visit one of western North Carolina's best-known sites, the "Road to Nowhere." It is a travesty—a monument to a broken promise by the U.S. Government.

The payment of $16 million to Swain County, which is to compensate the county for the destruction of North Carolina Highway No. 288 in 1943, will certainly help this economically poor county. However, it will never be able to cover all the economic distress that Swain County and most of western North Carolina have suffered because of the increasing amount of land in western North Carolina being acquired by the Federal Government and taken off the tax rolls.

Over the years, people in western North Carolina have watched the Federal Government seize their land for one purpose or another. They have very little industry. They have little tax base. The unemployment rate is high.

No one can fully appreciate how the Government has crippled the economy in western North Carolina until he or she looks at how much land the Federal Government has already seized. In Swain County alone, out of 345,715 acres, the Federal Government has taken 276,577 acres. Nearby Graham County has the same problem. Of the 193,216 acres in that county, the Federal Government has taken 138,813 acres. Of the 353,452 acres in Haywood County, the Federal Government has taken 131,111 acres.

I mention all this to emphasize the frustration in western North Carolina. Meanwhile, in the four Tennessee counties bordering the Great Smoky Mountains National Park for instance, the Federal Government owns less than two fifths of the land. I have no quarrel with our friends in Tennessee, but facts are facts.

Although the Great Smoky Mountains National Park is the most visited national park in the country, few tourists who travel through the Smokies have a place to pause on the North Carolina side of the park. The road in Swain County, promised over 52 years ago, would change that. It would attract industry and tourists—not to the detriment of the scenic beauty of the Smokies but for the betterment of the citizens of western North Carolina. In fact, I would like the road to become a part of the Blue Ridge Parkway system.

The Helms legislation takes care of Department of the Interior regulations and so-called environmental guidelines that would prevent the construction of the road because it orders, notwithstanding any other provision of law, the Secretary of the Interior to build the road.

As Paul Harvey put it, "Now you know the rest of the story." And as I stated at the outset, I made a commitment to the people of western North Carolina years ago. I promised to fight for their interests. If I lose, the Federal Government will lose the respect and confidence of thousands of North Carolinians.

Mr. President, I ask unanimous consent that the full text of S. 987 be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 987

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Swain County Settlement Act of 1995".

SEC. 2. SETTLEMENT OF CLAIMS.

(a) FINDINGS.—Congress finds that—

(1) Swain County, North Carolina, claims certain rights acquired pursuant to an agreement dated July 30, 1943, between the Secretary of the Interior, the State of North Carolina, the Tennessee Valley Authority, and Swain County, North Carolina (referred to in this Act as the "1943 Agreement");

(2) the 1943 Agreement provided that the Department of the Interior would construct a road along the north shore of the Fontana Reservoir to replace a road flooded by the construction of Fontana Dam and the filling of the reservoir; and

(3) the road has not been completed.

(b) PURPOSE.—The purpose of this section is to settle and quiet all claims arising out of the 1943 Agreement.

(c) SETTLEMENT.—

(1) COMPLETION OF ROAD.—Notwithstanding any other provision of law, the Secretary of the Interior shall complete the road along the north shore of the Fontana Reservoir according to the terms of the 1943 Agreement.

(2) PAYMENT TO SWAIN COUNTY.—

(A) IN GENERAL.—After completion of the road under paragraph (1), the Secretary of the Treasury shall pay Swain County, North Carolina, the sum of $16,000,000, which shall be deposited in an account in accordance with the rules and regulations established by the North Carolina Local Government Commission.

(B) EXPENDITURE.—

(i) PRINCIPAL.—The principal of the sum may be expended by Swain County only under a resolution approved by an affirmative vote of two-thirds of the registered voters of the county.

(ii) INTEREST.—Interest earned on the unexpended principal of the sum may be expended only by a majority vote of the duly elected governing commission of Swain County.

(d) RESTRICTION ON USE OF FUNDS.—Money made available pursuant to this section may not be paid to or received by an agent or attorney on account of services rendered in connection with the claims settled by this section.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

SEC. 3. CHEROKEE HISTORICAL MARKER.

The Secretary of the Interior shall allocate the funds and personnel necessary to place a suitable historical marker at or near the approach to the Cherokee Qualls Reservation at Soco Gap, North Carolina, in recognition of the historical importance of Soco Gap and the contribution of the Cherokee Nation to the State of North Carolina and the United States.

By Mr. HELMS:

S. 988. A bill to direct the Secretary of the Interior to transfer administrative jurisdiction over certain land to the Secretary of the Army to facilitate construction of a jetty and sand transfer systems, and for other purposes; to the Committee on Environment and Public Works.

THE OREGON INLET PROTECTION ACT OF 1995

Mr. HELMS. Mr. President, in offering the Oregon Inlet Protection Act of 1995, I would emphasize that this is legislation of vital importance to thousands of citizens of both North Carolina and other States and especially the citizens of the Outer Banks along the northeastern coast of my State. The commercial and recreational fishermen who risk their lives each day attempting to navigate the hazardous waters of Oregon Inlet have been pleading for this legislation for decades. It is, in fact, a matter of life or death for them.

On December 30, 1992, a 31-foot commercial fishing vessel sank in Oregon Inlet—the 20th ship to go down in those waters since 1961. Fortunately, both crewmen were rescued, but the Coast Guard has never found the wreckage. At last count, 20 fisherman have lost their lives in Oregon Inlet in the past 30 years.

This legislation proposes to spend no money, nor authorize new expenditures nor new projects. It requires the Secretary of the Interior to transfer two small parcels of Interior Department land to the Department of the Army so that the Corps of Engineers may begin work on a too long-delayed project authorized by the Congress in 1970, 25 years ago.

This legislation transfers 100 acres of land, adjacent to Oregon Inlet in Dare

County, NC, to the Department of the Army.

Mr. President, in October 1992, then Interior Secretary Manuel Lujan issued conditional permits for the Corps of Engineers to begin the construction process. However, the Clinton administration revoked those permits. The bill I am offering today serves notice to the self-proclaimed environmentalists who have stalled this project that I will continue to do everything I can to protect the lives and livelihoods of the countless commercial and recreational fisherman who have been denied greater economic opportunities because of the obstinacy of the federal government.

A brief review of the history of this problem may be in order:

In 1970, Congress authorized the stabilization of a 400-foot wide, 20-foot deep channel through Oregon Inlet, and the installation of a system of jetties with a sand-by-pass system. The U.S. Army Corps of Engineers was authorized to design and build the jetties.

Ever since 1970, however, the project has been repeatedly and deliberately delayed by bureaucratic roadblocks contrived by the fringe elements of the environmental movement. As a result, many lives and livelihoods have been lost. North Carolina's once thriving fishing industry has deteriorated, and access to the Pea Island National Wildlife Refuge and the Cape Hatteras National Seashore has been threatened.

Throughout the past 25 years critics of this project have claimed more studies were needed and more time was essential to determine the impact the jetties will have on the Outer Banks. Pure stalling tactics, Mr. President, while men died and livelihoods were lost. Twenty-five years of studies. Is this not enough of bureaucratic stalling?

Mr. President, the proposed Oregon Inlet project surely is the most overstudied project in the history of the Corps of Engineers and the Department of the Interior. Since 1969, the Federal Government has conducted 97 major studies and three full blown environmental impact statements but, of course, the environmentalists demand more. As for the cost/benefit factor, the Office of Management and Budget found—as recently as March 14, 1991—the project to be economically justified. Then, in December 1991, a joint committee of the Corps of Engineers and the Department of the Interior recommended to then Interior Secretary Lujan and then Assistant Secretary of the Army for Civil Works, Page that the jetties be built. But the people of the Outer Banks, NC are still waiting.

The time has come to get off the dime. Too many lives have been lost and the very existence of the Outer Banks is now in question because nothing has been done to manage the flow of sand from one end of the coastal islands to the other. If very much more time is wasted, the environmentalists won't have to worry about turtles or birds on Cape Hatteras, because a few short years hence, Oregon Inlet will have disappeared.

To understand why this project has become one of the Interior Department's most studied and controversial and to see how out of touch these environmental extremists are, the October 1992, edition of the Smithsonian magazine is highly instructive. In an article entitled, "The beach boy sings a song developers don't want to hear," the magazine chronicles the adventures of a professor at a major North Carolina university who has made his living organizing opposition to all coastal engineering projects on the Outer Banks—Oregon Inlet in particular. The article further relates how, when confronted by an angry Oregon Inlet fisherman—a man who works for a living made more hazardous by the failure to keep a safe channel at Oregon Inlet open—this professor retorted that he and his radical friends will not be satisfied until "all the houses are taken off the shore to leave it the way it was before."

Mr. President, this from a professor whose home occupies a large plot of land 200 miles west in the middle of North Carolina. Yet, the professor is all too ready to deprive other North Carolinians of their rights to live and prosper.

That is not environmental activism. It is environmental hypocrisy.

As the poet said, "that does not even make good nonsense".

Mr. President, the issue is clear. The time for delay is over. It is time to put these long-neglected citizens of North Carolina first. This legislation should mark the beginning of the end of the jetty debate on the Outer Banks.

Mr. President, I ask unanimous consent that the full text of S. 988, the Oregon Inlet Protection Act of 1995 be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 988

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Oregon Inlet Protection Act of 1995".

SEC. 2. FLOOD CONTROL IMPROVEMENTS.

(a) IN GENERAL.—

(1) JOINT DESIGNATION.—Not later than 60 days after the date of enactment of this Act, the Secretary of the Interior and the Secretary of the Army, acting through the Chief of Engineers of the Army Corps of Engineers, shall jointly designate the tracts of land for the jetty and sand transfer system for the Oregon Inlet on the Coast of North Carolina, approximately 85 miles south of Cape Henry and 45 miles north of Cape Hatteras (as described on page 12 of the Report of the House of Representatives numbered 91-1665), authorized under the River and Harbor Act of 1970 and the Flood Control Act of 1970 (Public Law 91-611; 84 Stat. 1818), and the Secretary of the Interior shall transfer administrative jurisdiction over those tracts to the Secretary of the Army.

(2) FAILURE TO JOINTLY DESIGNATE.—If the Secretary of the Interior and the Secretary of the Army fail to jointly designate the tracts of land by the date that is 60 days after the date of enactment of this Act, the Secretary of the Army shall designate the tracts of land pursuant to a description prepared by the Secretary of the Army, in consultation with the Chief of Engineers, and shall notify the Secretary of the Interior of the designation, who shall transfer administrative jurisdiction over those tracts to the Secretary of the Army.

(b) SIZE.—

(1) LIMITS.—Except as provided in paragraph (2), the quantity of acreage in the tracts referred to in subsection (a) shall not exceed—

(A) with respect to the tract in the Cape Hatteras National Seashore Recreational Area, 65 acres; and

(B) with respect to the tract in the Pea Island National Wildlife Refuge, 35 acres.

(2) EXCEPTION.—If the Secretary of the Army and the Secretary of the Interior jointly designate the tracts of land pursuant to subsection (a)(1), the area of each tract may exceed the acreage specified for the tract in paragraph (1).

(c) MODIFICATION.—Notwithstanding subsection (b)(1), if, after designating the tracts of land pursuant to subsection (a)(2), the Secretary of the Army determines that any tract is inadequate for the construction, operation, and maintenance of a jetty and sand transfer system for the Oregon Inlet, the Secretary of the Army may designate, not earlier than 60 days after providing notice of a designation to the Secretary of the Interior under subsection (a)(2), an additional tract of land adjacent to the inadequate tract.

By Mrs. KASSEBAUM (for herself, Mr. COATS, Mr. GORTON, and Mr. HATCH):

S. 989. A bill to limit funding of an Executive order that would prohibit Federal contractors from hiring permanent replacements for lawfully striking employees, and for other purposes; to the Committee on Labor and Human Services.

STRIKER REPLACEMENT LEGISLATION

Mrs. KASSEBAUM. Mr. President, I rise today to introduce, along with Senators COATS, GORTON, and HATCH, the Fairness in Federal Contracting Act, a bill to prohibit the administration from using any appropriated funds to administer its striker replacement Executive order. I encourage my colleagues to join with me in supporting this important legislation.

Mr. President, I have been involved with this issue for the last 4 years. Quite frankly, I had hoped that this whole matter of hiring permanent replacements for striking workers had been put to rest. Apparently, I was mistaken.

As my colleagues may know, for over 60 years, Federal labor law has permitted workers to strike and employers to continue to operate during a strike, if necessary with the assistance of permanent replacements. During the 102d and 103d Congresses, the Senate debated whether to prohibit permanent striker replacements. Ultimately, however, we did not amend Federal labor law.

Members may disagree on whether we made the right decision over the last two sessions of Congress, but everyone will agree that the matter was properly before us. The Congress of the United States should decide important matters of national labor policy.

That changed on March 8, 1995, when the President issued an Executive order permitting the administration to cancel Federal contracts with companies that have hired permanent striker replacements. Through the Executive order, the President attempted to change our Federal labor laws.

Mr. President, we cannot allow our system of Government to be undermined. The Congress makes the laws, and the executive branch enforces them.

The legislation I propose today will reassert congressional authority over Federal labor policy by the only means that we now have, which is the power of the purse. This bill will prohibit the administration from spending any appropriated funds to implement or enforce the striker replacement executive order.

I hope that my colleagues, whatever their view of the striker replacement issue, will recognize the fundamental, constitutional principle at stake here and will support this legislation.

I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 989

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Fairness in Federal Contracting Act of 1995".

SEC. 2. FINDINGS AND PURPOSES.

(a) FUNDINGS.—Congress finds that—

(1) it is the role of Congress, as the representative body of the people, to decide the policy of the United States with respect to relations between management and labor; and

(2) the executive branch should not use the Federal procurement process to initiate major changes in the labor-management relations of the United States.

(b) PURPOSE.—The purpose of this Act is to ensure that the Congress decides important labor-management relations policy by prohibiting the executive branch from spending any appropriated funds for the purpose of implementing an executive order that would debar or in any way limit the right of Federal contractors under common law to use permanent replacements for lawfully striking employees.

SEC. 3. LIMIT ON APPROPRIATED FUNDS.

None of the funds made available under any appropriations Act for fiscal year 1995 may be used to issue, implement, administer, or enforce any executive order, or other rule, regulation, or order, that limits, restricts, or otherwise affects the ability of any existing or potential Federal contractor, subcontractor, or vendor to hire permanent replacements for lawfully striking employees.

By Mr. DOLE (for himself and Mr. INOUYE):

S. 990. A bill to expand the availability of qualified organizations for frail elderly community projects (Program of All-inclusive Care for the Elderly) [PACE], to allow such organizations, following a trial period, to become eligible to be providers under applicable titles of the Social Security Act, and for other purposes; to the Committee on Finance.

THE PACE PROVIDER ACT OF 1995

Mr. DOLE. Mr. President, I am pleased to introduce today, along with the distinguished Senator from Hawaii, Senator INOUYE, the PACE Provider Act of 1995. PACE—the Program of All-inclusive Care for the Elderly—is a cost-effective managed care system pioneered by On Lok Senior Health Services in San Francisco.

PACE programs provide a comprehensive package of primary acute and long-term care services. All services, including primary and specialty medical care, adult day care, home care, nursing, social work services, physical and occupational therapies, prescription drugs, hospital and nursing home care are coordinated and administered by PACE program staff.

Mr. President, PACE programs are cost effective in that they are reimbursed on a capitated basis, at rates that provide payers savings relative to their expenditures in the traditional Medicare, Medicaid, and private pay systems.

The PACE Provider Act does not expand the number of individuals eligible for benefits in any way. Rather, it makes available to individuals already eligible for nursing home care, because of their poor health status, a preferable, and less costly alternative.

Specifically, the act would increase the number of PACE programs authorized from 15 to 30 in 1995; to 40 in 1996; to 50 in 1997; and to an unlimited number in 1998.

Mr. President, today, 11 PACE programs provide services to 2,200 individuals in eight States—California, Colorado, Massachusetts, New York, Oregon, South Carolina, Texas, and Wisconsin. At least 45 other organizations are actively working to develop PACE in many other States.

By expanding the availability of community-based long-term care services, On Lok's success of providing high quality care with an emphasis on preventive and supportive services, can be replicated throughout the country. PACE programs have substantially reduced utilization of high-cost inpatient services. In turn, dollars that would have been spent on hospital and nursing home services are used to expand the availability of community-based long-term care.

Mr. President, analyses of costs for individuals enrolled in PACE show a 5- to 15-percent reduction in Medicare and Medicaid spending relative to a comparably frail population in the traditional Medicare and Medicaid systems.

States have voluntarily joined together with community organizations to develop PACE programs out of their commitment to developing viable alternatives to institutionalization. This is particularly relevant as the demand and responsibility for long-term care expands.

Mr. President, as our population ages, we must continue to place a high priority on long-term care services. Giving our seniors alternatives to nursing home care and expanding the choices available, is not only cost effective, but will also improve the quality of life for older Americans.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 990

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "PACE Provider Act of 1995".

SEC. 2. WAIVER AUTHORITY AND PROVIDER ELIGIBILITY FOR PACE PROJECTS.

(a) TRIAL PERIODS.—

(1) IN GENERAL.—The Secretary of Health and Human Services (hereafter for purposes of this Act referred to as the 'Secretary') shall grant waivers of certain requirements of titles XVIII and XIX of the Social Security Act (42 U.S.C. 1395 et seq., 42 U.S.C. 1396 et seq.), or of any other applicable title of such Act, to public or nonprofit community-based organizations for a trial period to enable such organizations to demonstrate their capacity to provide comprehensive health care services of proper quality on a cost-effective capitated basis to frail elderly patients at risk of institutionalization. An organization shall be eligible to be a provider under such titles if the organization successfully completes the trial period described in the preceding sentence.

(2) APPROVAL OF APPLICATIONS.—An appropriately completed application for a waiver under this Act is deemed approved unless the Secretary specifically disapproves it in writing—

(A) not later than 90 days after the date the completed application is filed in proper form; or

(B) not later than 90 days after the date additional information is provided to the Secretary if the Secretary requests reasonable and substantial additional information during the 90-day period described in subparagraph (A).

(3) SOLE AUTHORITY.—The Secretary shall have sole authority to approve or disapprove the eligibility of an organization for a waiver under this Act and shall make such determinations in a timely manner.

(4) CONSIDERATION OF EXISTING SITES.—In reviewing an application for a waiver under this Act, the Secretary shall—

(A) consider whether any existing organization already operates under a waiver granted under this Act in the proposed service area identified in the application; and

(B) if the Secretary determines that such an organization exists, assure that the potential population of eligible individuals to be served under the proposed waiver is reasonably sufficient to sustain an additional organization without jeopardizing the economic or service viability of any other organization operating in that service area.

(b) Terms and Conditions for Waivers.—

(1) In general.—Except as otherwise provided by law or regulation, the terms and conditions of a waiver granted pursuant to this Act shall be substantially equivalent to—

(A) the terms and conditions of the On Lok waiver (referred to in section 603(c) of the Social Security Amendments of 1983 and extended by section 9220 of the Consolidated Omnibus Budget Reconciliation Act of 1985), including permitting the organization to assume the full financial risk progressively over the initial 3-year period of the waiver; and

(B) the terms and conditions provided under the Protocol for the Program of All-inclusive Care for the Elderly (PACE), as published by On Lok, Inc. as of April 14, 1995, and made generally available.

(2) Not conditioned on information.—

(A) In general.—The Secretary's approval of a waiver for a trial period shall not be conditioned upon an organization collecting information for purposes other than operational purposes, including monitoring of cost and quality of care provided.

(B) Research.—The Secretary may require information from an organization operating under a waiver under this Act for purposes of general research or general evaluation, but only if an organization agrees to participate in such research or evaluation and is appropriately compensated for any expenses incurred, or where such research is undertaken entirely at the expense of the Secretary.

(3) 3-year waiver limit.—

(A) In general.—Except as provided in subparagraph (B), a waiver granted under this Act shall be for a trial period not to exceed 3 years.

(B) Exception.—The Secretary may extend a waiver granted under this Act beyond the 3-year period during the consideration of an application from an organization under subsection (c).

(4) Number of organizations authorized.—

(A) Prior to July 1, 1998.—

(i) In general.—The Secretary shall grant waivers under this Act to not more than—

(I) 30 organizations before July 1, 1996;

(II) 40 organizations before July 1, 1997, and after July 1, 1996; or

(III) 50 organizations before July 1, 1998, and after July 1, 1997.

(ii) Section 9412(b) and On Lok waivers included.—For purposes of clause (i), the number of organizations specified in such clause shall include any organization established and operating under a waiver granted under section 603(c) of the Social Security Amendments of 1983 or any organization established and operating under a waiver granted under section 9412(b) of the Omnibus Budget Reconciliation Act of 1986 (as such sections were in effect on the day before the date of the enactment of this Act).

(B) On and after July 1, 1998.—On and after July 1, 1998, the number of organizations operating under a waiver under this Act shall no longer be limited.

(c) Eligibility To Be a Provider.—

(1) In general.—Upon successful completion of the trial period established under this Act, an organization which continues to meet the requirements of this Act shall be eligible to be a provider under any applicable title of the Social Security Act, including under titles XVIII and XIX of such Act (42 U.S.C. 1395 et seq.; 42 U.S.C. 1396 et seq.), and may apply to be recognized as such in accordance with regulations promulgated by the Secretary.

(2) Requirements.—No organization may be eligible to be a provider under any applicable title of the Social Security Act if—

(A) the Secretary specifically and formally finds that projected reimbursement for such organization would not, without any reimbursement modifications specified in the Secretary's finding, result in payments below the projected costs for a comparable population under the medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) and the medicaid program under title XIX of such Act (42 U.S.C. 1396 et seq.), or under any other applicable title of such Act, or that the care provided by such organization is significantly deficient; and

(B) such projected reimbursement costs or significant deficiencies in quality of care are not appropriately adjusted or corrected on a timely basis (as determined by the Secretary) in accordance with the specific recommendations for reimbursement adjustments or corrections in the quality of service included in the Secretary's formal finding under subparagraph (A).

(3) Not conditioned on information.—The provisions of subsection (b)(2) shall apply to an organization eligible to be a provider under any applicable title of the Social Security Act after successfully completing a trial period under this Act.

(d) Reimbursement.—

(1) In general.—Notwithstanding any other provision of law, and except as provided in paragraph (2), an organization that is granted a waiver under this Act, or that is eligible to be a provider under any applicable title of the Social Security Act as a result of this Act, shall ordinarily be reimbursed on a capitation basis. Any such organization may provide additional services as deemed appropriate by the organization for qualified participants without regard to whether such services are specifically reimbursable through capitation payments. To the extent such services, in terms of type or frequency, are not reimbursable, no payments for such services may be required of participants.

(2) Exception.—In the case of an organization receiving an initial waiver under this Act on or after October 1, 1995, the Secretary (at the request of the organization) shall not require the organization to provide services under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) on a capitated or other risk basis during the first or second year of the waiver, in order to allow such an organization to progressively assume the financial risk and to acquire experience with such a payment method.

(e) Application to On Lok Waivers.—The provisions of this Act also shall apply to an organization operating under the On Lok waiver described in subsection (b)(1)(A).

(f) Application of Income and Resources Standards for Certain Institutionalized Spouses.—Section 1924 of the Social Security Act (42 U.S.C. 1396r–5) (relating to the treatment of income and resources for certain institutionalized spouses) shall apply to any individual receiving services from an organization operating—

(1) under a waiver under this Act; or

(2) as a provider under title XIX of such Act, after a determination that the organization has successfully completed a trial period under this Act.

(g) Promotion of Additional Applications.—The Secretary shall institute an ongoing effort to promote the development of organizations to acquire eligibility, through participation in a trial period under this Act, to become providers under any applicable title of the Social Security Act.

(h) Provision of Services to Additional Populations.—Nothing in this Act shall prevent any participating organization from independently developing distinct programs to provide appropriate services to frail populations other than the elderly under any provision of law other than this Act, except where the Secretary finds that the provision of such services impairs the ability of the organization to provide services required for the elderly.

(i) Definition of Provider.—The term "provider" means a provider of services which—

(1) has filed an agreement with the Secretary under section 1866 of the Social Security Act (42 U.S.C. 1395cc);

(2) is eligible to participate in a State plan approved under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.); or

(3) is eligible to receive payment for such services under any other applicable title of the Social Security Act.

SEC. 3. APPLICATION OF SPOUSAL IMPOVERISHMENT RULES.

Section 1924(a)(5) of the Social Security Act (42 U.S.C. 1396r–5(a)(5)) is amended to read as follows:

"(5) Application to individuals receiving services from certain organizations.—This section applies to individuals receiving institutional or noninstitutional services from any organization—

"(A) operating under a waiver under—

"(i) section 603(c) of the Social Security Amendments of 1983 (as in effect on the day before the date of the enactment of the PACE Provider Act of 1995);

"(ii) section 9412(b) of the Omnibus Budget Reconciliation Act of 1986 (as so in effect); or

"(iii) the PACE Provider Act of 1995; or

"(B) which has become a provider under this title after a determination that the organization has successfully completed a trial period under the PACE Provider Act of 1995.".

SEC. 4. REPEALS; EFFECTIVE DATE AND APPLICATION TO EXISTING WAIVERS.

(a) Repeals.—Section 603(c) of the Social Security Amendments of 1983, section 9220 of the Consolidated Omnibus Budget Reconciliation Act of 1985, and section 9412(b) of the Omnibus Budget Reconciliation Act of 1986 are repealed.

(b) Effective Date.—

(1) In general.—Except as provided in paragraph (2), the provisions of subsection (a) shall be effective on the date of the enactment of this Act.

(2) Application to existing waivers.—

(A) In general.—To the extent that any organization is operating on the date of the enactment of this Act under the On Lok waiver (referred to in section 603(c) of the Social Security Amendments of 1983 and extended by section 9220 of the Consolidated Omnibus Budget Reconciliation Act of 1985), or a waiver granted under section 9412(b) of the Omnibus Budget Reconciliation Act of 1986, the provisions of such sections (as in effect before the date of the enactment of this Act) shall continue to apply with respect to such waiver until—

(i) the organization is eligible to be a provider under this Act;

(ii) the Secretary issues and implements the regulations referred to in section 2(c)(1); and

(iii) the organization has had a reasonable opportunity to apply to be recognized as a provider, such application has been formally considered by the Secretary, and a final determination on the application has been made.

(B) CONTINUATION OF WAIVER UNTIL EFFECTIVE DATE.—The waiver authority of any organization applying for recognition under subparagraph (A) shall continue until—

(i) the date that the Secretary determines that such organization is eligible to be and can actually serve as a provider under this Act; or

(ii) if the Secretary determines that the organization is not eligible to be a provider under this Act, the expiration of the waiver.

(C) CONSIDERATION OF PERIODS OF OPERATION PRIOR TO THIS ACT.—In determining whether an organization is eligible to be a provider under subparagraph (A), the Secretary—

(i) in determining whether the organization has successfully completed a trial period under this Act, shall consider any period before the date of the enactment of this Act during which an organization was operating under a waiver described in subparagraph (A); and

(ii) shall treat the organization as eligible to be a provider under this Act for periods after the date of the enactment of this Act and before such determination if the organization meets the requirements of the regulations issued under section 2(c)(1) during such periods.

By Mr. SIMPSON (by request):

S. 991. A bill to amend title 38, United States Code, and other statutes, to extend VA's authority to operate various programs, collect copayments associated with provision of medical benefits, and obtain reimbursement from insurance companies for care furnished; to the Committee on Veterans' Affairs.

VETERANS' LEGISLATION

• Mr. SIMPSON. Mr. President, as chairman of the Veterans' Affairs Committee, I have today introduced, at the request of the Secretary of Veterans Affairs, S. 991, a bill to amend title 38, United States Code, and other statutes to extend VA's authority to operate various programs, collect copayments associated with provision of medical benefits, and obtain reimbursement from insurance companies for care furnished. The Secretary of Veterans Affairs submitted this legislation to the President of the Senate by letter dated March 3, 1995.

My introduction of this measure is in keeping with the policy which I have adopted of generally introducing—so that there will be specific bills to which my colleagues and others may direct their attention and comments—all administration-proposed draft legislation referred to the Veterans' Affairs Committee. Thus, I reserve the right to support or oppose the provisions of, as well as any amendment to, this legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD, together with the transmittal letter and the enclosed analysis of the draft legislation.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S 991

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That except as otherwise expressly provided, whenever in this Act an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

SEC. 2. Section 1720A(e) is amended by striking "1995" and inserting in lieu thereof "1997".

SEC. 3. Section 1720C(a) is amended by striking "1995" and inserting in lieu thereof "1996".

SEC. 4. Section 1722A(c) is amended by striking "1998" and inserting in lieu thereof "2000".

SEC. 5. (a) Section 1732 is amended—

(1) in the heading by striking "and grants";

(2) by striking subsection (b) and redesignating subsections (c) and (d) as (b) and (c);

(3) in subsection (b) as redesignated by striking "or grant" both places it appears;

(4) in subsection (c) as redesignated by striking "and to make grants".

(b) The table of sections at the beginning of chapter 17 is amended by revising the item relating to section 1732 to read as follows:

"1732. Contracts to provide for the care and treatment of United States veterans by the Veterans Memorial Medical Center".

SEC. 6. Section 3735(c) is amended by striking "1995" and inserting in lieu thereof "1997".

SEC. 7. Section 7451(d)(3)(C)(iii) is amended by striking "1995" and inserting in lieu thereof "1999".

SEC. 8. Section 7618 is amended by striking "1995" and inserting in lieu thereof "1999".

SEC. 9. Section 8169 is amended by striking "1995" and inserting in lieu thereof "1997".

SEC. 10. Section 115(d) of the Veterans' Benefits and Services Act of 1988, Public Law 100–322, is amended by striking "1995" and inserting in lieu thereof "1998".

SEC. 11. Section 7(a) of Public Law 102–54 is amended by striking "1995" and inserting in lieu thereof "1998".

SEC. 12. Section 8013(e) of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508) is amended by striking "1998" and inserting in lieu thereof "2000".

SEC. 13. The Secretary of Veterans Affairs may carry out the major medical facility projects for the Department of Veterans Affairs, and may carry out the major medical facility leases for that Department, for which funds are requested in the budget of the President for Fiscal Year 1996, and authorization is required under section 8104(a)(2) of title 38, United States Code.

SEC. 14. (a) There are authorized to be appropriated to the Secretary of Veterans Affairs for Fiscal Year 1996—

(1) $224,800,000 for the major medical facility projects authorized in section 13; and

(2) $2,790,000 of the major medical facility leases authorized in section 13.

(b) The projects authorized in section 13 may only be carried out using—

(1) funds appropriated for fiscal year 1996 pursuant to the authorization of appropriations in subsection (a);

(2) funds appropriated for Construction, Major Projects for any fiscal year that remain available for obligation; and

(3) funds appropriated for Construction, Major Projects for any fiscal year for a category of activity not specific to a project.

SEC. 15. Section 1710(e)(3) is amended to read as follows:

"(3) Hospital and nursing home care and medical services may not be provided under or by virtue of subsection (a)(1)(G) of this section—

(A) after December 31, 1996 in the case of a veteran described in paragraph (1)(A);

(B) after September 30, 1997 in the case of a veteran described in paragraph (1)(C)."

SEC. 16. Section 1712(a)(1)(D) is amended by striking out "December 31, 1995" and inserting in lieu thereof "September 30, 1997".

SEC. 17. Section 1729(a)(2)(E) is amended by striking "1988" and inserting in lieu thereof "2000".

SECTION-BY-SECTION ANALYSIS

Section 2: Section 2 would amend 38 U.S.C. §1720A to extend through December 31, 1997, VA's authority to contract for care, treatment, and rehabilitative services for eligible veterans suffering from alcohol or drug dependence or abuse disabilities. Section 1720A specifically authorizes VA to contract for the appropriate care with halfway houses, therapeutic communities, psychiatric residential treatment centers, and other community-based treatment facilities. Before October 1, 1997, the Department will complete an evaluation of this program's effectiveness to determine whether it should be permanently authorized. Under existing law, authority to enter into such contracts expires on December 31, 1995.

Section 3: Section 3 would amend 38 U.S.C. §1720C(a) to extend through September 30, 1996, VA's authority to conduct its Pilot Program for Noninstitutional Alternatives to Nursing Home Care. Under existing law, authority for this recently implemented pilot program will expire on September 30, 1995. The program allows VA to contract for provision of home-based care, and other noninstitutional care for veterans who are either receiving nursing home care or who are in need of nursing home care. Extension of the authority will allow VA to fully assess the cost-effectiveness of the program as an inexpensive alternative to costly nursing home care.

Section 4: Section 1722A of title 38, United States Code, requires VA to charge a $2 copayment for each 30 day supply of medication furnished to veterans, except service-connected veterans rated at least 50 percent, veterans receiving the medication for a service-connected disability, and nonservice-connected veterans with low incomes. Subsection (c) of section 1722A provides that the copayment requirement will expire on September 30, 1998. Section 4 of this proposal would extend the authority to collect the copayments through September 30, 2000.

Section 5: Section 5 would amend section 1732 of title 38, United States Code, to delete all provisions pertaining to authorization of appropriations for VA to make certain grants to the Veterans Memorial Medical Center (VMMC) in the Philippines. For a number of years, section 1732(b) authorized appropriations for VA to make grants to assist the Philippines in the replacement and upgrading of equipment and in rehabilitating the physical plant and facilities of the VMMC. Although the authorization of appropriations expired on September 30, 1990, Congress has continued to appropriate funds for the grants in VA's annual appropriation Act. No funds for the grants are being sought in the President's budget for Fiscal Year 1996. There is no reason to retain the provisions in section 1732, and section 5 would therefore delete them.

Section 6: Section 6 would amend 38 U.S.C. §3735(c) to extend through December 31, 1997, VA's authority to sell, lease, or donate certain real property for use by homeless veterans. The law permits VA to convey real property acquired under the Department's home loan guaranty program to nonprofit organizations, states, and local governments which agree to use the property solely as a shelter primarily for homeless veterans and their families. Under existing law, authority for the program will expire on December 31, 1995.

Section 7: Section 7 would amend 38 U.S.C. §7451(d)(3)(C) to extend through April 1, 1999, the authority of VA medical center directors to use nurse anesthetist contract agency compensation data to adjust locality-based nurse anesthetist pay rates where a VA locality survey provides insufficient data. A medical center may use this authority only if, after exhaustion of all available administrative authority, it is unsuccessful in conducting a VA local survey.

Section 8: Section 8 would amend 38 U.S.C. §7618 to extend through fiscal year 1999, VA's authority to award scholarships under VA's Health Professional Scholarship Program. The program assists VA in recruiting and retaining various health professionals, most notably nurses, physical therapists, occupational therapists, nurse anesthetists, and respiratory therapists. VA furnishes students in the above professions with scholarships during the final year or two of their educational program. In return, the student agrees to work for VA for a specified period of obligated service. Under existing law, authority for the scholarship program will expire on December 31, 1995.

Section 9: Section 9 would amend 38 U.S.C. §8169 to extend through December 31, 1997, authority for VA's enhanced-use leasing program. Under the program, the Secretary may enter into long-term leases of VA real property and in return, obtain goods and services from the lessee with little or no expenditure of appropriated funds. For example, VA might lease real property to a 3rd party who constructs a nursing home on the property, and agrees to provide VA with a certain number of nursing home beds at a discount rate. During the next two fiscal years, VA will complete a report evaluating the cost effectiveness of this program. Under existing law, authority for the enhanced-use leasing program will expire on December 31, 1995.

Section 10: Section 10 would amend section 115(d) of Public Law 100–322 to extend through September 30, 1998, authority for VA's pilot program to assist homeless chronically mentally ill veterans. Under this widely recognized program, VA conducts outreach among homeless veterans, and furnishes residential care to those who are chronically mentally ill. Care is primarily furnished on a contract basis. Under existing law, authority for the program will expire September 30, 1995.

Section 11: Section 11 would amend section (7)(a) of Public Law 102–54 to extend through September 30, 1998, authority for VA's compensated Work Therapy/Therapeutic Residence Program. This program permits VA to operate transitional housing for veterans who are participating in VA's compensated work therapy program. It serves many veterans who are homeless or at risk of becoming homeless, and who suffer from substance abuse disabilities. Under existing law, authority for the program will expire September 30, 1995.

Section 12: Section 8013 of Public Law 101–508 amended 38 U.S.C. §1710 to expand the categories of veterans required to agree to pay copayments in order to receive VA health-care benefits. That law also imposed additional new copayments on certain veterans amounting to $10 per day for hospital care, and $5 per day for nursing home care. Subsection (e) of section 8013 originally provided that the changes made by the section would expire on September 30, 1991, but that date has subsequently been extended several times. Most recently, section 12002 of Public Law 103–66 extended the provisions to September 30, 1998. Section 12 of the draft bill would extend the provision for two years to September 30, 2000.

Section 13: Section 13 would authorize the VA to undertake the major medical facility construction and leasing projects requested in the President's Fiscal Year 1996 budget.

Section 14: Section 14 would authorize appropriations of $224,800,000 to carry out the major medical facility construction projects authorized in section 13, and $2,790,000 for the leases authorized in section 13.

Section 15: Section 15 would extend the expiration dates for the authority provided in 38 U.S.C. §1710(a)(1)(G). Section 1710(a)(1)(G) requires VA to furnish needed hospital and nursing home care in three unique situations described in section 1710(e). First, VA must furnish such care for disorders possibly associated with exposure to ionizing radiation from nuclear testing, or from participation in the American occupation of Hiroshima and Nagasaki at the end of World War II. Second, VA must provide care to Vietnam veterans for disabilities which may be associated with exposure to dioxin or a toxic substance found in herbicides used in Vietnam. Third, subsection (e) provides that VA shall furnish hospital and nursing home care to Persian Gulf veterans for disabilities possibly related to exposure to a toxic substance or environmental hazard during Gulf service.

The authority to provide care for disorders possibly associated with exposure to ionizing radiation will expire on June 30, 1995. Section 2 would make permanent the requirement that VA furnish such care. The authority to provide care for disorders associated with exposure to dioxin or a toxic substance found in a herbicide will expire on June 30, 1995. Section 15 would extend that authority through December 31, 1995. Finally, the requirement that VA provide care to Persian Gulf veterans exposed to a toxic substance or environmental hazard expires on September 30, 1995. Section 15 would extend the authority through September 30, 1997.

Section 16: Section 16 would extend provisions of 38 U.S.C. §1712 which require VA to provide priority outpatient care to Persian Gulf veterans for disabilities possibly related to exposure to a toxic substance or environmental hazard during Gulf service. Under current law, the authority to furnish such priority care will expire on September 30, 1995. Section 16 would extend the authority for two years through September 30, 1997.

Section 17: Section 1729 of title 38, United States Code, authorizes VA to recover or collect from insurance companies, the reasonable cost of care it furnishes to a veteran for a nonservice-connected disability. VA may collect or recover to the extent the veteran would be eligible to receive payment for such care from the insurance company. VA may not collect for care furnished for a service-connected disability. If the veteran has a service-connected disability, and receives care for a nonservice-connected disability, section 1729 authorizes VA to recover from the insurance company, but that authority currently exists only through September 30, 1998. Section 17 would extend that authority for two additional years through September 30, 2000.

THE SECRETARY OF VETERANS AFFAIRS,
Washington, DC, March 3, 1995.

Hon. AL GORE, Jr.,
President, U.S. Senate,
Washington, DC.

DEAR MR. PRESIDENT: There is transmitted herewith a draft bill, "To amend title 38, United States Code, and other statutes, to extend VA's authority to operate various programs, collect copayments associated with provision of medical benefits, and obtain reimbursement from insurance companies for care furnished." We request that it be referred to the appropriate committee for prompt consideration and enactment.

Authority for a number of important VA health care programs are time limited and will soon expire. Some of the programs provide veterans with needed benefits; others provide mechanisms by which the Government obtains funding to help defray the cost of providing nonservice-connected health care benefits. The Department has assessed the continuing need for these programs and authorities in the development of the President's budget for fiscal year 1996, and has determined that extensions of the expiring authorities are warranted. Also included in the draft bill are the Administration's proposals for major medical facility construction projects and leases. We urge that Congress act favorably on this measure.

COST-SAVING PROVISIONS

In 1986, Congress first authorized VA to begin collecting funds from insurance companies for the cost of care furnished to nonservice-connected veterans who have health insurance. The law permits VA to recover to the extent the veteran would otherwise be eligible to recover. In 1990, Congress extended the authority to collect to insured service-connected veterans who receive care for nonservice-connected conditions. However, that authority will expire on September 30, 1998.

Similarly in 1990, laws were enacted requiring VA to impose certain new copayments on veterans to help defray the cost of delivering care. VA is required to charge a $2 copayment for each 30 day supply of medication furnished to veterans, except service-connected veterans rated at least 50 percent disabled, veterans receiving the medication for a service-connected disability, and nonservice-connected veterans with low incomes. Additionally, the law requires veterans with relatively higher incomes, who have no service-connected disabilities, to pay copayments amounting to $10 per day for hospital care, and $5 per day for nursing home care. These copayment requirements will expire on September 30, 1998.

The draft bill would extend the foregoing authorities through Fiscal Year 2000.

Extension of the 3rd party insurance recovery provision would result in saving of $312.5 million in Fiscal Year 1999, and $318.8 million in Fiscal Year 2000. Extension of the copayment provisions would result in savings of $39.4 million in both Fiscal Year 1999, and Fiscal Year 2000.

SPECIAL TREATMENT AUTHORITIES

The draft bill would also continue VA's special authority to provide hospital and nursing home care in three unique situations. First, it would permanently authorize treatment for disorders which may be associated with exposure to ionizing radiation following the detonation of the two bombs in Japan, and during subsequent nuclear weapons testing. It would extend through December 3, 1996, the authority to treat Vietnam veterans for disabilities which may be associated with exposure to Agent Orange. It would extend through September 30, 1997, the authority to treat Persian Gulf veterans for disorders which may be associated with exposure to environmental contaminants during service in the Gulf.

In 1981, Congress first authorized VA to provide treatment for disorders possibly associated with exposure to ionizing radiation from nuclear testing, or from participation in the American occupation of Hiroshima and Nagasaki at the end of World War II. Congress initially authorized treatment while scientific studies took place to more clearly determine the effects of exposure. The authority has been extended several times. Over the years, scientific evidence has been amassed linking various cancers to exposure to radiation. Given the current state of knowledge about diseases related to exposure to radiation, permanent treatment authority is warranted, as provided in the draft bill.

In 1981, Congress also first authorized VA to treat Vietnam veterans for disabilities which may be associated with exposure to dioxin or a toxic substance found in herbicides used in Vietnam. The authority was time limited, but has been extended on several occasions as scientific work has continued regarding disorders which may be associated with exposure. For some time, the National Academy of Sciences (NAS) has been conducting a study of the matter. The NAS released preliminary findings of its work in 1993, and is scheduled to provide a further report to VA in late 1995. That report may provide VA with information to better tie the treatment authority to specific disorders that may have resulted from exposure. Until that time, it is appropriate to extend the blanket treatment authority. The draft bill would extend the existing authority through December 31, 1996, a period sufficient to allow VA officials time to receive and assess the NAS report, and determine what further legislative action is needed.

In 1993, Congress authorized the Secretary to provide care to Persian Gulf veterans for disabilities possibly related to exposure to a toxic substance or environmental hazard during Gulf service. The authority is needed to care for veterans while the scientific community seeks answers to questions about what might be causing illnesses and conditions experienced by some Persian Gulf veterans. At this time research is continuing. Until further work is completed, VA's authority to provide priority care to effected veterans should be extended. The draft bill would extend the authority for two years. The estimated cost of this provision is $36 million for Fiscal Year 1996.

NONINSTITUTIONAL CARE AND PROGRAMS FOR THE HOMELESS

The draft bill would extend five separate programs which provide noninstitutional care or facilitate care of the homeless and those suffering from substance abuse disabilities. Since 1980, VA has had authority to contract for care, treatment and rehabilitative services for eligible veterans suffering from alcohol or drug dependence disabilities. The Department contracts for these services with halfway houses, therapeutic communities, psychiatric residential treatment centers, and other community-based treatment facilities. Begun as a time limited pilot program, the contract authority has been extended several times. The draft bill would extend this program through December 31, 1997. By that date, VA will have completed a study evaluating the effectiveness of this program to determine whether it should be permanently authorized. The estimated costs of this provision are $9.5 million in Fiscal Year 1996.

The draft bill would also extend, through Fiscal Year 1996, authority for a pilot program which allows VA to contract for provision of home-based care for veterans who are receiving nursing home care or are in need of nursing home care. Continued authority is needed to allow VA to fully assess the cost effectiveness of the program as an alternative to expensive nursing home care. The Department will complete a report evaluating the effectiveness of this program. The estimated costs of this provision are $17.3 million in Fiscal Year 1996.

Authority for VA's two most prominent programs to assist homeless veterans will expire in 1995 and must be extended. Under the well known Homeless Chronically Mentally Ill Veterans (HCMI) Program, VA outreach teams work with veterans in the streets, and assist those who are eligible to enter into a contract residential treatment program. The estimated cost of this program is $28 million in Fiscal Year 1996, and $88.2 million over three fiscal years. Under the Compensated Work Therapy/Therapeutic Residence (CWT/TR) Program, VA operates transitional housing for veterans who participate in VA's compensated work therapy programs during the day. Participants work in the community pursuant to contracts VA has with private entities, and use their earnings to pay rent for the transitional housing. The estimated operating cost of this program is $6.9 million in Fiscal Year 1996, and $21.5 million over three fiscal years. The draft bill would extend authority for both programs through September 30, 1998.

The bill would also extend through December 31, 1997, VA's authority to sell, lease, or donate certain real property for use by homeless veterans. The authority permits VA to convey real property acquired under the Department's home loan guaranty program to nonprofit organizations, states, and local governments which agree to use the property solely as shelter primarily for homeless veterans and their families.

ADMINISTRATIVE PROVISIONS

The draft bill would extend for two more years, VA's enhanced-use leasing program. The program permits the Secretary to enter into long-term leases of VA real property and in return, obtain goods and services from the lessee with little or no expenditure of appropriated funds. For example, VA might lease real property to a 3rd party who constructs a nursing home on the property, and agrees to provide VA with a certain number of nursing home beds at a discount rate. During the next two years, the Department will complete a study evaluating the cost-effectiveness of this program to determine whether it should be continued beyond Fiscal Year 1997. Enactment of the measure will not result in new costs.

VA also proposes extension of the Health Professional Scholarship Program. The program assists in recruiting and retaining various health professionals, most notably nurses, physical therapists, occupational therapists, nurse anesthetists, and respiratory therapists. VA furnishes students in the above professions with scholarships during the final year or two of their educational program. In return, the student agrees to work for VA for a specified period of obligated service. The estimated costs of the extension are $10.4 million in Fiscal Year 1996, and $41.6 million for the four year extension.

Finally, the bill would extend for four more years a sunset provision in VA's authority to use nurse anesthetist contract data in adjusting VA locality nurse anesthetist salaries. There would be no additional costs associated with this measure.

PHILIPPINES.

The draft bill includes provisions to repeal statutory language authorizing appropriations for grants to the Philippine government for upgrading equipment and making improvements at the Veterans Memorial Medial Center (VMMC). VA has long made grants to the Philippine-run hospital which has served both Filipino veterans and those Filipinos who are United States veterans. The law authorizing appropriations for the grants expired in 1990. Subsequent to that, grants were made because Congress continued to appropriate funds for the grants. United States veteran admissions to the VMMC have been suspended due to many problems and deficiencies in the physical plant and equipment. Therefore, no funds are being sought in the President's 1996 budget, and there is no reason to retain the authorization language in the law.

CONSTRUCTION AND LEASES

As a final matter, the draft bill includes language that would authorize those major medical construction projects and leases proposed in the President's Fiscal Year 1996 budget that must be specifically authorized by law. It would authorize $224.8 million for six construction projects, and $2.79 million for two leases. The six construction projects are construction of a new medical center and nursing home in Brevard County, Florida, renovation of nursing home units in Lebanon, Pennsylvania, environmental improvements in Marion, Illinois and Salisbury, North Carolina and replacement or renovation of psychiatric beds in Marion, Indiana, and Perry Point, Maryland. The two leases are for a satellite outpatient clinic in Bay Pines, Florida, and a footwear center in New York City.

The estimated costs for the various programs being extended have been provided to the extent they are available. Extension of the programs will not result in new costs. Sections 4 and 12 of the draft bill—provisions extending certain copayments for veterans medical services—would increase receipts. Therefore, the draft bill is subject to the pay-as-you-go requirement of the Omnibus Budget Reconciliation Act of 1990 (OBRA). The copayment provisions would result in pay-as-you-go savings of $39.4 million in each of Fiscal Years 1999–2000. In addition, sections 6 and 9—provisions extending certain leasing authorities—are also subject to the pay-as-you-go requirement of OBRA because they affect both direct spending and receipts. In total, the pay-as-you-go effect of the leasing provisions in zero.

We have been advised by the Office of Management and Budget that there is no objection to the submission of the draft bill to Congress and that its enactment would be in accord with the program of the President.

Sincerely yours,

JESSE BROWN.●

By Mr. SIMPSON (by request):

S. 992. A bill to amend title 38, United States Code, to increase, effective as of December 1, 1995, the rates of disability compensation for veterans with

service-connected disabilities and the rates of dependency and indemnity compensation for survivors of such veterans, and for other purposes; to the Committee on Veterans' Affairs.

THE VETERANS' COMPENSATION COST-OF-LIVING ADJUSTMENT ACT OF 1995

• Mr. SIMPSON. Mr. President, as chairman of the Veterans' Affairs Committee, I have today introduced, at the request of the Secretary of Veterans Affairs, S. 992, a bill entitled the "Veterans' Compensation Cost-of-Living Adjustment Act of 1995," to amend title 38, United States Code, to increase, effective as of December 1, 1995, the rates of disability compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for survivors of such veterans, and for other purposes. The Secretary of Veterans Affairs submitted this legislation to the President of the Senate by letter dated March 1, 1995.

My introduction of this measure is in keeping with the policy which I have adopted of generally introducing—so that there will be specific bills to which my colleagues and others may direct their attention and comments—all administration-proposed draft legislation referred to the Veterans' Affairs Committee. Thus, I reserve the right to support or oppose the provisions of, as well as any amendment to, this legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD, together with the transmittal letter and the enclosed analysis of the draft legislation.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 992

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

(a) SHORT TITLE.—This Act may be cited as the "Veterans' Compensation Cost-of-Living Adjustment Act of 1995."

SEC. 2. INCREASE IN COMPENSATION RATES AND LIMITATIONS.

(a) IN GENERAL.—The Secretary of Veterans Affairs shall, as provided in paragraph (2), increase, effective December 1, 1995, the rates of and limitations on Department of Veterans Affairs disability compensation and dependency and indemnity compensation.

(2)(A) The Secretary shall increase each of the rates and limitations in sections 1114, 1115(1), 1162, 1311, 1313, and 1314 of title 38, United States Code, that were increased by the amendments made by the Veterans' Compensation Cost-of-Living Adjustment Act of 1994 (Public Law No. 103–418; 108 Stat. 4336). This increase shall be made in such rates and limitations as in effect on November 30, 1995, and except as provided in subparagraph (B) shall be by the same percentage that benefit amounts payable under title II of the Social Security Act (42 U.S.C. 401 et seq.) are increased effective December 1, 1995, as a result of a determination under section 215(I) of such Act (42 U.S.C. 415(I)).

(B) For purposes of this subsection, as well as for purposes of any cost-of-living adjustment in rates of dependency and indemnity compensation enacted for fiscal years 1997 through 2000, the amount of any increase in the rates of dependency and indemnity compensation in effect under section 1311(a)(3) of title 38, United States Code, will be equal to 50 percent of the amount (rounded down, if not an even dollar amount, to the next lower dollar) by which the rate of dependency and indemnity compensation in effect under section 1311(a)(1) increases.

(C) In the computation of increased rates and limitations pursuant to subparagraph (A), and for purposes of computing any cost-of-living adjustment in such rates and limitations enacted for fiscal years 1997 through 2000, any amount which as so computed is not an even multiple of $1 shall be rounded down to the next lower whole-dollar amount.

(b) SPECIAL RULE.—The Secretary may adjust administratively, consistent with the increases made under subsection (a)(2)(A) and (C), the rates of disability compensation payable to persons within the purview of section 10 of Public Law No. 85–857 (72 Stat. 1263) who are not in receipt of compensation payable pursuant to chapter 11 of title 38, United States Code.

(c) PUBLICATION REQUIREMENT.—At the same time as the matters specified in section 215(i)(2)(D) of the Social Security Act (42 U.S.C. 415(i)(2)(D)) are required to be published by reason of a determination made under section 215(I) of such Act during fiscal year 1995, the Secretary shall publish in the Federal Register the rates and limitations referred to in subsection (a)(2)(A) as increased under this section.

SEC. 3. EXTENSION OF LIMITATION ON PENSION FOR CERTAIN RECIPIENTS OF MEDICAID-COVERED NURSING-HOME CARE.

Section 5503(f)(7) of title 38, United States Code, is amended by striking out "September 30, 1998" and inserting in lieu thereof "September 30, 2000".

SEC. 4. EXTENSION OF "SUNSET" LIMITATION.

(a) Subsection (g) of section 5317 of Title 38, United States Code, is amended by striking out "1998" and inserting "2000" in lieu thereof.

(b) Subparagraph (D) of section 6103(1)(7) of the Internal Revenue Code of 1986 is amended by deleting "1998" in the penultimate sentence and inserting "2000" in lieu thereof.

SECTION-BY-SECTION ANALYSIS

Section 1. This section contains the short title of the bill, the "Veterans' Compensation Cost-of-Living Act of 1995."

Section 2. This section authorizes a December 1, 1995 COLA in disability compensation and DIC rates for surviving spouses and children. Most rates would increase by the same percentage as Social Security rates will effective the same date. The only exception is for "grandfathered" DIC recipients, i.e. certain surviving spouses of veterans who died before 1993. These rates would increase by one-half the dollar amount of the increase in the basic DIC rate for survivors of veterans whose deaths occurred during or after 1993. All rate computations would be rounded down to even-dollar amounts. Provisions for rounding down the COLA computations and limiting to one-half the COLA for certain DIC recipients would also be made to apply to any FY 1997–2000 COLA's in these rates.

Section 3. This provision extends for 2 years, until September 30, 2000, the provision in law (38 U.S.C. §5503(f)) which limits to $90 the payment of VA pension to patients receiving Medicaid-covered nursing-home care who have no dependents.

Section 4. This provision would extend for 2 years, until September 30, 2000, the authority of VA to access unearned income information from the Internal Revenue Service (IRS) and wage and self-employment income information from the Social Security Administration (SSA) for purposes of income verification in determining eligibility for VA means-tested benefits such as pension and medical care.

THE SECRETARY OF VETERANS AFFAIRS,
Washington, DC., March 1, 1995.

Hon. ALBERT GORE,
President of the Senate,
Washington, DC.

DEAR MR. PRESIDENT: There is transmitted herewith a draft bill to authorize an FY 1996 cost-of-living adjustment in the rates of disability compensation and dependency and indemnity compensation, and for other purposes. I request that this bill be referred to the appropriate committee for prompt consideration and enactment.

Section 2 of this bill would provide a cost-of-living increase, effective December 1, 1995, in the rates of compensation for service-disabled veterans and of dependency and indemnity compensation (DIC) for the survivors of veterans who die as a result of service. The rate of increase would in most respects be the same as the cost-of-living adjustment (COLA) that will be provided under current law to veterans' pension and Social Security recipients, currently estimated to be 3.1 percent.

Compensation under title 38, United States Code, is payable only for disabilities resulting from injuries or diseases incurred or aggravated during active service. Payments are based upon a statutory schedule of rates which vary with the degree of disability assigned by the Department of Veterans Affairs (VA), and additional amounts are payable to veterans with spouses and children if the veteran's disability is rated 30-percent or more disabling. DIC benefits are payable at statutorily directed rates to the surviving spouses or children of veterans who die of service-connected causes, or who die of other causes if they suffered service-connected total disability for prescribed periods immediately preceding their deaths. This proposed cost-of-living increase will protect these benefits against the eroding effects of inflation.

Two features of this COLA proposal, as outlined in the President's FY 1996 budget request, would substantially reduce its cost. First, we propose that the dollar increase in rates of DIC payable for certain pre-1993 deaths, i.e., those rates which exceed the rate payable for deaths occurring during and after 1993, be only 50% of the dollar increase in the rate for the later-occurring deaths. Such a limitation, which was also a feature of the December 1, 1993 COLA, would lessen the disparities in rates payable to these two categories of beneficiaries. Second, under our proposal, in computing the higher compensation and DIC rates, VA would be required to round down to the next lower whole dollar any computations which yielded amounts not evenly divisible by $1. This policy is consistent with both the 1993 and 1994 COLA's.

The two limiting features would be effective for each year's COLA beginning in FY 1996 through 2000. Our proposal would reduce FY 1996 costs by $29 million and five-year (FY 1996–2000) costs by $582 million. Net costs of the FY 1996 COLA would be an estimated $340 million in FY 1996 and $1.969 billion over five years.

Section 3 of our bill would extend, through FY 2000, the $90 limitation on monthly VA pension payments that may be made to beneficiaries, without dependents, who are receiving Medicaid-covered nursing-home care. The current payment limitation, which is due to expire at the end of FY 1998, works to the advantage of these nursing-home residents because it permits them to keep the $90 to apply toward personal expenses rather than have it "pass through" the homes to the Medicaid program. We estimate this two-year extension would result in VA savings of $497.2 million in FY 1999 and a total of $1 billion during FY's 1999 and 2000.

The final provision in our bill, Section 4, would amend titles 26 and 38, United States Code, to extend certain income verification provisions of the Omnibus Budget Reconciliation Act of 1990.

This section would extend he current September 30, 1998, "sunset" limitation on VA access to Internal Revenue Service (IRS) and Social Security Administration (SSA) income information until September 30, 2000. Experience has shown that authority to match unearned income information from IRS and wage and self-employment income information from SSA with VA data for purposes of income verification in determining eligibility for or the proper amount of VA means-tested benefits has been an effective savings measure.

The amendment would permit VA to continue its proven techniques. In the compensation and pension category of VA means-tested benefits, savings are estimated to total $89.4 million in FY 1999 and FY 2000.

The ability to match income information improves integrity in the pension program by reducing overpayments that occur when self-reported income is the only information used to verify eligibility. In this regard, we note that authority to match income information with IRS and SSA has had a significant program-abuse deterrent effect.

Certain medical-care eligibility is also means tested. Continuation of authority to match income information in that program would allow VA to more effectively identify and collect copayments from higher income veterans. The combined savings in FY 1999 and FY 2000 are estimated to total $88.1 million. Combining the VA means-tested benefits categories of medical care and compensation and pension, it is estimated that a total of $177.5 million could be saved in FY 1999 and FY 2000 with the extension of the "sunset" limitation.

The bills' provisions to round down benefits, provide a half COLA for certain DIC recipients, limit pensions for certain veterans in nursing homes, and the income verification proposals would result in pay-as-you-go savings as noted above.

We have been advised by the Office of Management and Budget that there is no objection to the transmittal of this draft bill to Congress and that its enactment would be in accord with the program of the President.

Sincerely yours,

JESSE BROWN.•

By Mr. SIMPSON (by request):

S. 993. A bill to amend title 38, United States Code, to provide for cost-savings in the housing loan program for veterans, to limit cost-of-living increases for Montgomery GI bill benefits, and for other purposes; to the Committee on Veterans' Affairs.

THE VETERANS' HOUSING LOAN PROGRAM AND MONTGOMERY GI BILL COST-REDUCTION ACT OF 1995

• Mr. SIMPSON. Mr. President, as chairman of the Veterans' Affairs Committee, I have today introduced, at the request of the Secretary of Veterans' Affairs, S. 993, a bill entitled the "Veterans' Housing Loan Program and Montgomery GI Bill Cost-Reduction Act of 1995," to amend title 38, United States Code, to provide for cost-savings in the housing loan program for veterans, to limit cost-of-living increases for Montgomery GI Bill benefits, and for other purposes. The Secretary of Veterans Affairs submitted this legislation to the President of the Senate by letter dated March 2, 1995.

My introduction of this measure is in keeping with the policy which I have adopted of generally introducing—so that there will be specific bills to which my colleagues and others may direct their attention and comments—all administration-proposed draft legislation referred to the Veterans' Affairs Committee. Thus, I reserve the right to support or oppose the provisions of, as well as any amendment to, this legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD, together with the transmittal letter.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 993

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled. That this Act may be cited as the "Veterans' Housing Loan Program and Montgomery GI Bill Cost-Reduction Act of 1995".

TITLE I—HOUSING LOANS

SEC. 101. REPEAL OF LOAN DEBT COLLECTION RESTRICTIONS.

(a) Subchapter III of chapter 37 of title 38, United States Code, is amended by striking out section 3726 in its entirety.

(b) The table of sections for such subchapter is amended by striking out:

"3726. Withholding of payments, benefits, etc."

and inserting in lieu thereof:

"[3726. Repealed.]".

SEC. 102. MANUFACTURED HOME LOAN DOWNPAYMENT AND FEE.

(a) Section 3712(c)(5) of title 38, United States Code, is amended by striking out "95" and inserting in lieu thereof "90".

(b) Section 3729(a)(2)(A) of title 38, United States Code, is amended by:

(1) inserting "(i)" immediately after "(A)";

(2) striking out "of this title or for any purpose specified in section 3712 (other than section 3712(a)(1)(F))";

(3) inserting "or" immediately after "amount;"; and

(4) inserting at the end thereof the following new clause.

"(ii) in the case of a loan made for any purpose specified in section 3712 (other than section 3712(a)(1)(F)) of this title, the amount of the fee shall be two percent of the total loan amount;".

(c) Section 3729(a)(2)(D)(ii) of title 38, United States Code, is amended by striking out "one" and inserting in lieu thereof "two".

(d) The amendments made by this section shall apply to all loans closed on or after October 1, 1995.

SEC. 103. EXTENSION OF LOAN FEE INCREASE.

Section 3729(a)(4) of title 38, United States Code, is amended by striking out "1998," and inserting in lieu thereof "2000,".

SEC. 104. EXTENSION OF FEE FOR MULTIPLE USE OF LOAN ENTITLEMENT.

Section 3729(a)(5)(C) of title 38, United States Code, is amended by striking out "1998." and inserting in lieu thereof "2000.".

SEC. 105. EXTENSION OF NO-BID FORMULA.

Section 3732(c)(11) of title 38, United States Code, is amended by striking out "1998." and inserting in lieu thereof "2000.".

Title II—MONTGOMERY GI BILL

SEC. 201. LIMITATION REGARDING COST-OF-LIVING ADJUSTMENTS FOR MONTGOMERY GI BILL BENEFITS.

For Fiscal Year 1996 and each subsequent fiscal year through 2000, the cost-of-living adjustments in the rates of educational assistance payable under chapter 30 of title 38, United States Code, and under chapter 1606 of title 10, United States Code, shall be the percentage equal to 50 percent of the percentage by which such assistance would be increased under section 3015(g) of title 38, and under section 1631(b)(2) of title 10, United States Code, respectively, but for this section.

SECTION-BY-SECTION ANALYSIS

TITLE I—HOUSING LOANS

Section 101. Repeal of Loan Debt Collection Restrictions: Subsection (a) would repeal 38 U.S.C. §3726. Section 3726 currently prohibits VA, in most cases, from offsetting against Federal payments, other than VA benefits, debts owed to the Government resulting from the foreclosure of VA guaranteed or direct housing loans. This provision would permit VA to collect these debts by offsetting Federal salaries and income tax refunds as permitted by other Federal debt collection laws. Veterans would have the right to challenge the existence and amount of the debt through VA's normal administrative process, including review by the Court of Veterans Appeals, prior to such offset. Veterans would also be able to seek waiver of the debt if collection would be against equity and good conscience under current law.

Subsection (b) would make a conforming change to the table of sections.

Section 102. Manufactured Home Loan Downpayment and Fee: Subsection (a) would amend 38 U.S.C. §3712(c)(5) to require a 10 percent downpayment on VA guaranteed loans for the purchase of a manufactured home. Current law requires a 5 percent downpayment.

Subsection (b) would amend 38 U.S.C. §3729(a)(2)(A) to increase the fee most veterans must pay to VA for obtaining a VA guaranteed loans for the purchase of a manufactured home to 2 percent of the loan amount. The current fee for such a loan is 1 percent. This amendment would not affect the exemption from the fee current law grants to certain disabled veterans and surviving spouses.

Subsection (c) would amend 38 U.S.C. §3729(a)(2)(D) to increase the fee veterans whose only qualifying service was in the Selected Reserve must pay to VA for obtaining a VA guaranteed loan for the purchase of a manufactured home to 2 percent of the loan amount. The current fee for such a loan is 1 percent. This amendment would not affect the exemption from the fee current law grants to certain disabled veterans and surviving spouses.

Subsection (d) would make these amendments apply to all manufactured home loans closed on or after October 1, 1995.

Section 103. Extension of Loan Fee Increase: Would extend for 2 years the sunset of the temporary VA loan fee increase. Section 12007(a) of the Omnibus Budget Reconciliation Act of 1993 increased by 75 basis points, or 0.75 percent of the loan amount, the fee that veterans must pay to VA for most VA guaranteed housing loans. This increase is now set to expire on September 30, 1998. This amendment would continue the increased fees for all loans closed through the end of Fiscal Year 2000.

Section 104. Extension of Fee for Multiple Use of Loan Entitlement: Would extend for 2 years the sunset of the fee for multiple use of VA housing loan benefits. Section 12007(b) of the Omnibus Budget Reconciliation Act of 1993 imposed a fee of 3 percent of the loan on veterans who had previously obtained a VA home loan. This fee does not apply to certain refinancing loans or to loans where veterans make a downpayment of 5 percent of more. The multiple use fee is now set to expire on September 30, 1998. This amendment would continue this fee for all loans closed through the end of Fiscal Year 2000.

Section 105. Extension of No-Bid Formula: Would extend for 2 years the sunset of the VA "no-bid formula" contained in 38 U.S.C. §3732(c). This formula determines VA's liability to a loan holder under the guaranty and whether or not the holder would have the election to convey the property to the VA following the foreclosure. As amended by section 12006 of the Omnibus Budget Reconciliation Act of 1993, the no-bid formula requires VA to consider, in addition to other costs, VA's loss on the resale of the property. The no-bid formula applies to all loans closed before October 1, 1998, regardless of the date the loan is terminated. This amendment would make the formula apply to all loans closed before October 1, 2000.

TITLE II—MONTGOMERY GI BILL

Section 201. Limitation Regarding Cost-of-Living Adjustments for Montgomery GI Bill Benefits: Would limit by half the annual cost-of-living adjustment (COLA) payable to participants in the Montgomery GI Bill (MGIB) (chapter 30 of title 38 and chapter 1606 of title 10, United States Code) for Fiscal Years 1996 through 2000. The MGIB currently provides that the monthly rate of basic educational assistance shall be subject to an annual COLA based on the Consumer Price Index. Section 12009 of the Veterans' Reconciliation Act of 1993 limited the MGIB COLA for Fiscal Year 1995 to 50 percent of the otherwise mandated adjustment (i.e., increase). This section would continue that 50 percent reduction of the annual COLA through Fiscal Year 2000.

THE SECRETARY OF VETERANS AFFAIRS,
Washington, March 2, 1995.

Hon. AL GORE,
President of the Senate, Washington, DC.

DEAR MR. PRESIDENT: Transmitted herewith is a draft bill "To amend title 38, United States Code, to provide for cost-savings in the housing loan program for veterans, to limit cost-of-living increases for Montgomery GI Bill benefits, and for other purposes." This bill would implement several cost-savings proposals contained in the President's budget for Fiscal Year 1996. I request that this measure be referred to the appropriate committee and promptly enacted.

Title I of this draft bill, entitled the "Veterans' Housing Loan Program and Montgomery GI Bill Cost-Reduction Act of 1995," would make amendments to the Department of Veterans Affairs (VA) housing loan guaranty program to reduce the costs of this program, while continuing to provide eligibility for all veterans. In brief, the bill would extend for 2 years; i.e., until September 30, 2000, three cost-savings measures enacted by the Omnibus Budget Reconciliation Act of 1993 and increase the downpayment and fee required for VA guaranteed manufactured housing loans. In addition, this bill would repeal a restriction on the collection of debts owed to the Government arising from the loan program.

The VA home loan program has been and continues to be of great importance to present and former members of the Nation's Armed Forces who seek to become homeowners. We are mindful that the cost to the taxpayers of operating the program and paying claims on loans resulting in foreclosure are significant. Since the loan guaranty program provides a unique benefit for a select group of beneficiaries, we believe the measures proposed are reasonable, and are necessary to preserve this important benefit.

Title II of the draft bill would continue through Fiscal Year 2000 the limitation on cost-of-living adjustments under the Montgomery GI Bill enacted by the Omnibus Budget Reconciliation Act of 1993.

A detailed section-by-section analysis of the draft bill is enclosed. We are also enclosing an analysis of changes proposed to be made in existing law by title I of the draft bill (title II of the bill does not amend any current provision of the United States Code).

VA estimates that enactment of title I of this bill would produce a savings of approximately $0.02 million of budget authority and $89.64 million in outlays in Fiscal Year 1996, and a 5-year savings of approximately $372.02 million in budget authority and $461.64 million in outlays. The 5-year savings includes a saving of $371.90 million in the Guaranty and Indemnity Program subsidy (which includes the interactive effects of the extension of the three sunsets) and $0.12 million in the Loan Guaranty Program subsidy.

Enactment of title II would produce savings in Fiscal Year 1996 of approximately $12.55 million, and a 5-year savings of $202.17 million.

The bill's provisions affecting VA's home loan program and title II's limitation on cost-of-living adjustments under the Montgomery GI Bill would result in pay-as-you-go savings as noted above.

We have been advised by the Office of Management and Budget that there is no objection to the transmittal of the draft bill to Congress and that its enactment would be in accord with the program of the President.

Sincerely yours,

JESSE BROWN.●

By Mr. SIMPSON (by request):

S. 994. A bill to amend title 38, United States Code, to clarify the eligibility of certain minors for burial in national cemeteries; to the Committee on Veterans' Affairs.

VETERANS' LEGISLATION

● Mr. SIMPSON. Mr. President, as chairman of the Veterans' Affairs Committee, I have today introduced, at the request of the Secretary of Veterans Affairs, S. 994, a bill to clarify the eligibility of certain minors for burial in national cemeteries. The Secretary of Veterans Affairs submitted this legislation to the President of the Senate by letter dated May 10, 1995.

My introduction of this measure is in keeping with the policy which I have adopted of generally introducing—so that there will be specific bills to which my colleagues and others may direct their attention and comments—all administration-proposed draft legislation referred to the Veterans' Affairs Committee. Thus, I reserve the right to support or oppose the provisions of, as well as any amendment to, this legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD, together with the transmittal letter.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 994

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. That paragraph (5) of section 2402, title 38, United States Code, is amended by adding the following at the end thereof: "For purposes of this paragraph, a 'minor child' is a child under 21 years of age, or under 23 years of age if pursuing a course of instruction at an approved educational institution."

THE SECRETARY OF VETERANS AFFAIRS,
Washington, May 10, 1995.

Hon. ALBERT GORE,
President of the Senate, Washington, DC.

DEAR MR. PRESIDENT: There is transmitted herewith a draft bill to clarify the eligibility of veteran's children for burial in our national cemeteries. I request that this bill be referred to the appropriate committee for prompt consideration and enactment.

Among those eligible for interment in the National Cemetery System under section 2402 of title 38, United States Code, are the minor children of veterans and certain others eligible for national cemetery burial. The term "minor child" is not defined in the statute.

When Congress enacted the National Cemeteries Act of 1973, transferring from the Department of the Army to the Department of Veterans Affairs (VA) the responsibility for operating national cemeteries, it reenacted without change the prior title 24 provisions regarding eligibility. The Department of the Army, in exercising its authority, had interpreted title 24's "minor child" provision as including children under age 21. Because Congress indicated an intent that similar eligibility rules should apply under VA's management of the cemetery system, this Department's regulation at 38 C.F.R. §1.620(g) governing burial eligibility generally defines a minor child as being under 21 years of age. In keeping with the general definition of a "child" for title 38 purposes, the age limit is 23 if the individual was pursuing a course of instruction at an approved educational institution.

The present situation occasionally results in confusion since the general title 38 definition of a "child" is in one significant respect more restrictive than the regulatory definition of "minor child" for purposes of burial eligibility. Under section 101(4) of title 38, an individual is generally not considered a "child" after reaching age 18 unless, as indicated above, the individual is pursuing an education. We do not believe Congress intended to restrict burial eligibility in this manner. Accordingly, we are proposing to amend statute governing burial elibility to incorporate the regulatory definition of "minor child."

Because enactment of our proposal would affect only technical clarification of the law as currently being applied, there would be no attendant costs or savings.

We have been advised by the Office of Management and Budget that there is no objection to the submission of the draft bill to Congress from the standpoint of the Administration's program.

Sincerely yours,

JESSE BROWN.●

By Mr. SIMPSON (by request):

S. 995. A bill to amend title 38, United States Code, to restrict payment of a clothing allowance to incarcerated veterans and to create a presumption of permanent and total disability for pension purposes for certain veterans who are patients in a nursing home; to the Committee on Veterans' Affairs.

THE VETERANS' BENEFITS REFORM ACT OF 1995

● Mr. SIMPSON. Mr. President, as chairman of the Veterans' Affairs Committee, I have today introduced, at the request of the Secretary of Veterans Affairs, S. 995, a bill entitled the "Veterans' Benefits Reform Act of 1995," to amend title 38, United States Code, to restrict payment of a clothing allowance to incarcerated veterans and to create a presumption of permanent and total disability for pension purposes for certain veterans who are patients in a nursing home. The Secretary of Veterans Affairs submitted this legislation to the President of the Senate by letter dated May 10, 1995.

My introduction of this measure is in keeping with the policy which I have adopted of generally introducing—so that there will be specific bills to which my colleagues and others may direct their attention and comments—all administration-proposed draft legislation referred to the Veterans' Affairs Committee. Thus, I reserve the right to support or oppose the provisions of, as well as any amendment to, this legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD, together with the transmittal letter.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 995

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Veterans' Benefits Reform Act of 1995."

SEC. 2. CLOTHING ALLOWANCE FOR INCARCERATED VETERANS.

(a) IN GENERAL.—Chapter 53 of title 38, United States Code, is amended by inserting after section 5313 the following new section:

"SEC. 5313A. LIMITATION ON PAYMENT OF CLOTHING ALLOWANCE TO INCARCERATED VETERANS.

"In the case of a veteran incarcerated in a Federal, State, or local penal institution for a period in excess of sixty days and furnished clothing without charge by the institution, the amount of any clothing allowance payable to such veteran under section 1162 of this title shall be reduced on a pro rata basis for each day on which the veteran was so incarcerated during the twelve-month period preceding the date on which payment of the allowance would be due under regulations promulgated by the Secretary."

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 5313 the following new item:

"5313A. Limitation on payment of clothing allowance to incarcerated veterans."

SEC. 3. PRESUMPTION OF PERMANENT TOTAL DISABILITY FOR CERTAIN VETERANS WHO ARE NURSING-HOME PATIENTS.

Section 1502(a) of title 38, United States Code, is amended by inserting "is 65 years of age or older and a patient in a nursing home or, regardless of age," after "such a person".

SECRETARY OF VETERANS AFFAIRS,
Washington, DC, May 10, 1995.

Hon. ALBERT GORE,
President of the Senate,
Washington, DC.

DEAR MR. PRESIDENT: There is transmitted herewith a draft bill entitled the "Veterans' Benefits Reform Act of 1995." I request that this bill be referred to the appropriate committee for prompt consideration and enactment.

Section 2 of the draft bill would amend chapter 53 of title 38, United States Code, to restrict the payment of a clothing allowance to incarcerated veterans who are furnished clothing without charge by a penal institution. Under 38 U.S.C. §1162, the Department of Veterans Affairs (VA) is required to pay a clothing allowance to each veteran who, because of a service-connected disability, wears or uses a prosthetic or orthopedic appliance which tends to wear out or tear the veteran's clothing, or who uses medication prescribed for a skin condition which is due to a service-connected disability and which causes irreparable damage to the veteran's outergarments. Although 38 U.S.C. §5313 limits payment of compensation to certain incarcerated veterans, that statute does not restrict payment of the clothing allowance to incarcerated veterans, even though they generally do not pay for their institutional clothing.

A clothing allowance for incarcerated veterans is unnecessary where they receive institutional clothing at no personal expense. We therefore recommend legislation to limit payment of the clothing allowance to incarcerated veterans furnished clothing without charge by the institution in which they are incarcerated. This proposal would affect direct spending; therefore, it is subject to the pay-as-you-go requirement of the Omnibus Budget Reconciliation Act of 1990. This provision would reduce direct spending by less than $500,000 annually.

Section 3 of the draft bill would create a presumption of permanent and total disability for pension purposes for veterans 65 years of age or older who are patients in a nursing home. Section 8002 of the Omnibus Budget Reconciliation Act of 1990, 104 Stat. 1388-342, eliminated the presumption of total disability for pension purposes for persons 65 years of age and older. As a result, it is currently necessary for a VA rating board to evaluate disability before pension can be paid to any veteran, regardless of age or physical condition.

We propose that 38 U.S.C. §1502(a) be amended to provide, for pension purposes, a presumption of permanent and total disability for persons 65 years of age or older who are patients in a nursing home. Enactment of this amendment would reduce the time necessary to process disability-pension claims because, once a veteran's age and status as a nursing-home patient is confirmed, it would no longer be necessary to develop and evaluate medical evidence regarding the veteran's disability.

Adoption of this proposal would not affect the integrity of VA's pension program because an individual 65 years old who is a patient of a nursing home would almost certainly meet the current requirements of section 1502(a), which state that a person is considered to be permanently and totally disabled if he or she is unemployable as a result of disability reasonably certain to continue throughout the life of the disabled person or suffers from a disease or disorder which justifies a determination of permanent, total disability. In addition, VA could adopt procedures to reevaluate entitlement to pension in the event a notice of discharge is received from a veteran whose pension is based on age and confinement in a nursing home.

Enactment of this proposal would result in estimated administrative cost savings of $304,000 in fiscal year 1996 and $1.6 million for the five-year period fiscal year 1996 through fiscal year 2000.

We urge that the House promptly consider and pass these legislative items.

We have been advised by the Office of Management and Budget that there is no objection to the submission of the draft bill to Congress from the standpoint of the Administration's program.

Sincerely yours,

JESSE BROWN.●

By Mr. SIMPSON (by request):

S. 996. A bill to amend title 38, United States Code, to change the name of Servicemen's Group Life Insurance Program to Servicemembers' Group Life Insurance, to merge the Retired Reservists' Servicemembers' Group Life Insurance Program into the Veterans' Group Life Insurance Program, to extend Veterans' Group Life Insurance coverage to members of the Ready Reserve of a uniformed service who retire with less than 20 years of service, to permit an insured to convert a Veterans' Group Life Insurance policy to an individual policy of life insurance with a commercial insurance company at any time, and to permit an insured to convert a Servicemembers' Group Life Insurance policy to an individual policy of life insurance with a commercial company upon separation from service; to the Committee on Veterans' Affairs.

THE VETERANS' INSURANCE REFORM ACT OF 1995

● Mr. SIMPSON. Mr. President, as chairman of the Veterans' Affairs Committee, I have today introduced, at the request of the Secretary of Veterans Affairs, S. 996, a bill entitled the "Veterans' Insurance Reform Act of 1995," to amend title 38, United States Code, to change the name of the Servicemen's Group Life Insurance Program to Servicemembers' Group Life Insurance Program, to merge the Retired Reservists' Servicemembers' Group

Life Insurance Program into the Veterans' Group Life Insurance Program, to extend Veterans' Group Life Insurance coverage to members of the Ready Reserve of a uniformed service who retire with less than 20 years of service, to permit an insured to convert a veterans' group life insurance policy to an individual policy of life insurance with a commercial insurance company at any time, and to permit an insured to convert a servicemembers' group life insurance to an individual policy of life insurance with a commercial company upon separation from service. The Secretary of Veterans Affairs submitted this legislation to the President of the Senate by letter dated May 10, 1995.

My introduction of this measure is in keeping with the policy which I have adopted of generally introducing—so that there will be specific bills to which my colleagues and others may direct their attention and comments—all administration-proposed draft legislation referred to the Veterans' Affairs Committee. Thus, I reserve the right to support or oppose the provisions of, as well as any amendment to, this legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD, together with the transmittal letter.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 996

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; REFERENCES TO TITLE 38, UNITED STATES CODE.

(a) SHORT TITLE.—This Act may be cited as the "Veterans' Insurance Reform Act of 1995".

(b) REFERENCES.—Except as otherwise expressly provided, whenever in this Act an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

SEC. 2. REMOVAL OF GENDER REFERENCES.

(a) IN GENERAL.—

(1) Section 1315(f)(1)(F) is amended by striking out "servicemen's" in the first place it appears and inserting in lieu thereof "servicemembers' "; and

(2) Sections 1967(a), (c), and (f), 1968(b), 1969(a)–(e), 1970(a), (f), and (g), 1971(b), 1973, 1974, 1977(a), (d), (e), and (g), 3017(a), and 3224(1) are amended by striking out "Servicemen's" each place it appears and inserting in lieu thereof "Servicemembers' ".

(b) CONFORMING AMENDMENTS.—(1)(A) The heading of subchapter III of chapter 19 is amended to read as follows:

"Subchapter III—Servicemembers' Group Life Insurance (Formerly Servicemen's Group Life Insurance)".

(B) The item relating to such subchapter in the table of sections at the beginning of such chapter is amended to read as follows:

"Subchapter III—Servicemembers' Group Life Insurance (Formerly Servicemen's Group Life Insurance)".

(2)(A) The heading of section 1974 is amended to read as follows:

"§ 1974. Advisory Council on Servicemembers' Group Life Insurance (formerly Servicemen's Group Life Insurance)".

(B) The item relating to such section in the table of sections at the beginning of chapter 19 is amended to read as follows:

"1974. Advisory Council on Servicemembers' Group Life Insurance (formerly Servicemen's Group Life Insurance)".

SEC. 3. MERGER OF RETIRED RESERVIST SERVICEMEMBERS' GROUP LIFE INSURANCE AND VETERANS' GROUP LIFE INSURANCE AND EXTENSION OF VETERANS' GROUP LIFE INSURANCE TO MEMBERS OF THE READY RESERVES.

(a) Section 1965(5) is amended—

(1) in subparagraph (B), by inserting "and" at the end thereof;

(2) by striking subparagraphs (C) and (D); and

(3) redesignating subparagraph (E) as subparagraph (C).

(b) Section 1967 is amended—

(1) in subsection (a)—

(A) in paragraph (1) by inserting "and" at the end thereof;

(B) by striking paragraphs (3) and (4) in their entirety; and

(C) by striking "or the first day a member of the Reserves, whether or not assigned to the Retired Reserve of a uniformed service, meets the qualifications of section 1965(5)(C) of this title, or the first day a member of the Reserves meets the qualifications of section 1965(5)(D) of this title,"; and

(2) by striking subsection (d) in its entirety; and

(3) by redesignating subsections (e) and (f) as subsections (d) and (e) respectively.

(c) Section 1968 is amended—

(1) in subsection (a)—

(A) by striking "subparagraph (B)(C), or (D) of section 1965(5)" and inserting "section 1965(5)(B)" in lieu thereof;

(B) in paragraph (4) by striking—

(i) "—(A)" and inserting a comma in lieu thereof;

(ii) subparagraphs (B) and (C) in their entirety; and

(C) by striking paragraphs (5) and (6) in their entirety; and

(2) in subsection (b) by striking the last two sentences.

(d) Section 1969 is amended—

(1) in subsection (a)(2) by striking "is assigned to the Reserve (other than the Retired Reserve) and meets the qualifications of section 1965(5)(C) of this title, or is assigned to the Retired Reserve and meets the qualifications of section 1965(5)(D) of this title,";

(2) by striking subsection (e) in its entirety; and

(3) by redesignating subsections (f) and (g) as subsections (e) and (f) respectively.

SEC. 4. CONVERSION TO COMMERCIAL LIFE INSURANCE POLICY.

(a) Section 1968(b) is amended by—

(1) adding "(1)" following "the date such insurance would cease," in the first sentence;

(2) redesignating clauses (1) and (2) in the first sentence as (A) and (B) respectively;

(3) striking "title." at the end of the first sentence and inserting in lieu thereof "title, or, (2) at the election of the member, shall be converted to an individual policy of insurance as described in section 1977(e) of this title upon written application for conversion made to the participating company selected by the member and payment of the required premiums."; and

(4) adding "to Veterans' Group Life Insurance" following "automatic conversion" in the second sentence.

(b) Section 1977 is amended—

(1) in paragraph (a) by striking the last two sentences and inserting in lieu thereof the following: "If any person insured under Veterans' Group Life Insurance again becomes insured under Servicemembers' Group Life Insurance but dies before terminating or converting such person's Veterans' Group Insurance, Veterans' Group Life Insurance will be payable only if such person is insured for less than $200,000 under Servicemembers' Group Life Insurance, and then only in an amount which when added to the amount of Servicemembers' Group Life Insurance payable shall not exceed $200,000."; and

(2) in paragraph (e) by striking the third sentence and inserting in lieu thereof the following: "The Veterans' Group Life Insurance policy will terminate on the day before the date on which the individual policy becomes effective."

SEC. 5. EFFECTIVE DATE.

The Servicemembers' Group Life Insurance of any member of the Retired Reserve of a uniform service in force on the date of enactment of this Act shall be converted, effective ninety days after that date, to Veterans' Group Life Insurance.

THE SECRETARY OF VETERANS AFFAIRS,
Washington, DC, May 10, 1995.

Hon. ALBERT GORE,
President of the Senate,
Washington, DC.

DEAR MR. PRESIDENT: There is transmitted herewith a draft bill entitled the "Veterans' Insurance Reform Act of 1995." I request that this bill be referred to the appropriate committee for prompt consideration and enactment.

Section 2 of this draft bill would amend title 38, United States Code, to change the name of the Servicemen's Group Life Insurance program to Servicemembers' Group Life Insurance to reflect gender neutrality.

Section 3 of the bill would merge the existing Retired Reservists' Servicemen's Group Life Insurance (SGLI) program into the Veterans' Group Life Insurance (VGLI) program. Currently, when members of the Ready Reserve retire with 20 years of service or are transferred to the Retired Reserve under the temporary special retirement authority provided in 10 U.S.C. §1331a, they may continue their SGLI coverage as Retired Reservists' SGLI until they receive their retired pay or reach age 61, whichever comes first. Members of the Ready Reserve who retire with 20 years of service also have the option to convert their SGLI policy to a commercial life insurance policy. We propose to discontinue the Retired Reservists' SGLI program and instead place the insured Retired Reservists in the VGLI program. This proposal would benefit Retired Reservists by making available the lifetime coverage provided under the VGLI program and would save administrative expenses. However, Retired Reservists who are over 44 years of age would have to pay increased premiums for the lifetime VGLI coverage. For example, the monthly premium for $100,000 of SGLI coverage for Retired Reservists who are ages 50–54 is currently $56, and the monthly premium for $100,000 of VGLI coverage for the Retired Reservists who are ages 50–54 would be $65. This proposal would have no adverse effect on any other insured member or on the SGLI or VGLI programs and would involve no cost to the Government.

Section 3 would also extend the benefit of VGLI lifetime coverage to members of the

Ready Reserve of a uniformed service. When the Veterans' Insurance Act of 1974 was enacted. Congress stated that members of the Ready Reserve who separate with less than 20 years of service would not be eligible to convert their SGLI coverage to VGLI, unless they are disabled and uninsurable at the time of release. This proposal would improve the overall financial performance of the VGLA program by creating an additional pool of potential insureds and involve no cost to the Government. In addition, it would not adversely affect the SGLI or VGLI programs.

Section 4 of the draft bill would expand the opportunities of SGLI and VGLI insured to convert their coverage to commercial life insurance. VGLI coverage is provided under a five-year level premium term plan that is renewable every five years for life. Premiums are based on the insured's age at the time of issue and/or renewal and are increased accordingly at the beginning of each five-year renewal period. Although term policies provide low cost coverage for younger insureds, term insurance becomes very expensive for older insureds. Under the current law, VGLI insureds have the option of converting their VGLI coverage to permanent life coverage with the commercial insurance company at the end of each five-year term period. A permanent life insurance policy, which provides coverage at a level premium throughout the premium paying period of the policy, is an alternative to the ever-increasing cost of term coverage. Since the cost of the converted policy increases as the insured's age increases, required insureds to delay conversion until the end of the five-year period increases the cost. For example, if a VGLI insured converts his or her policy at age 41, the monthly premium for $100,000 of whole life coverage would be $170. However, under the draft proposal, if the insured were allowed to covert at age 36, rather than waiting until the end of the five-year renewal period, the premium would be $133.

For the same reason, the draft bill would also extend this conversion privilege to SGLI insureds at the time of their separation from service. Currently, SGLI insureds must first convert to VGLI and thereafter can convert their VGLI policy to a commercial permanent life policy at the end of their five-year VGLI period. This increases the cost of conversion to a commercial life policy as discussed above.

Expansion of the conversion privilege would expand the life insurance options of our insured veteran and lower their cost of conversion to a commercial permanent life policy. We do not anticipate any negative effect on the SGLI or VGLI program or any cost to the Government if this proposal were enacted. However, changing the VGLI conversion features may change the composition of VGLI policyholders and result in a change to premium rates.

We have been advised by the Office of Management and Budget that there is no objection to the submission of this draft bill to Congress from the standpoint of the Administration's program.

We urge that the House promptly consider and pass this legislative item.

Sincerely yours,

JESSE BROWN.•

By Mr. D'AMATO:

S. 997. A bill to amend the Internal Revenue Code of 1986 to make permanent the exclusion for amounts received under qualified group legal services plans; to the Committee on Finance.

THE EMPLOYER-PROVIDED GROUP LEGAL SERVICES EXCLUSION ACT OF 1995

• Mr. D'AMATO. Mr. President, today I am introducing legislation to reinstate, and make permanent, the employee exclusion for amounts received under qualified employer-provided group legal services plans. During the 103d Congress I sponsored this legislation along with Senators PACKWOOD, RIEGLE, and LEVIN. Unfortunately, it was one of the extenders that was allowed to expire on June 30, 1992. I believe it is time to reinstate this measure which will provide affordable legal services to individuals and their families who cannot afford a private lawyer, and are above the maximum income range to receive a public defender.

This bill amends section 120 of the Internal Revenue Code and becomes effective for tax years beginning after December 31, 1994. It provides that an employee does not have to pay income and social security taxes for a qualified employer-provided group legal services plan. The annual premium is limited to $70 per person. In order to qualify, a plan must fulfill certain requirements, one of which states that benefits may not discriminate in favor of highly compensated employees.

The tax exclusion of group legal services is not a new provision. In fact, prior to its expiration in June of 1992, employees had been allowed to exclude such benefits from their gross income since 1976, albeit through seven extensions from Congress. Making this exclusion permanent will be a positive and substantial step forward. Group legal services have provided valuable and necessary assistance to millions of Americans. Today's economic conditions have increased the need of low and moderate Americans for legal counsel. Whether its a real estate transaction, preparation of a will, or a simple divorce, Americans are frequently confronted with problems of a legal nature, which makes access to a lawyer indispensable. Employer-provided group legal services are a low cost, effective source for legal assistance.

Mr. President, there is no reason why we should not reinstate and make permanent this tax exclusion. By doing so, we remove the burden hanging over the businesses that provide these services and the 2.5 million working Americans who gain access to critical legal services through these plans.

In the past, the Senate repeatedly affirmed its commitment to assuring the availability of legal services. I urge my colleagues to join me in this effort to reinstate employer-provided group legal services.

I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 997

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PERMANENT EXTENSION OF EXCLUSION FOR AMOUNTS RECEIVED UNDER QUALIFIED GROUP LEGAL SERVICES PLANS.

(a) GENERAL RULE.—Section 120 of the Internal Revenue Code of 1986 (relating to amounts received under qualified group legal services plans) is amended by striking subsection (e) and by redesignating subsection (f) as subsection (e).

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to taxable years beginning after December 31, 1994.•

By Mr. BAUCUS:

S. 998. A bill to require the Secretary of Agriculture to terminate the Far West spearmint marketing order, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

THE FAR WEST SPEARMINT MARKETING ORDER TERMINATION ACT OF 1995

• Mr. BAUCUS. Mr. President, today, I introduce legislation to end one of the most inequitable and unjust farm policies ever conceived. I am introducing a bill that will terminate the Far West spearmint marketing order.

The Far West marketing order was issued in April 1980 and controls production in Washington, Oregon, Idaho, Montana, and Utah. The intent, at that time, was to include all areas which were currently producing or which had the potential to produce spearmint. While there were attempts to include Montanans in the process, no one was producing the crop at that time in Montana. Therefore, they had no participation and were not allotted any base for selling the crop. Without the base you can't sell the crop.

In the past few years farmers in Montana looking for alternative crops to grow, looking for ways to rotate crops and improve their land, have determined that spearmint would be an ideal crop for many of them. Agronomists from Montana State University have shown that we have ideal soils and climate to grow spearmint in parts of our State. Producers in northwest Montana have been successful producing peppermint since about the time the order was created. Spearmint, due to different agronomic characteristics, represents a potential crop to use in rotation with peppermint to break tough disease cycles. But alas, we cannot plant spearmint because we can't sell spearmint oil. Who would want to produce a crop you can't sell.

At it's inception, the order covered the majority of spearmint oil produced and consumed in the United States. Today, nearly 50 percent of the domestic spearmint production occurs outside the boundaries of the Far West order. In addition, we are now importing over 10 times the quantity that was imported at the time the Far West order was started.

Currently, a small amount of base is allotted by lottery each year in the order. It amounts to between 20 and 40 acres of production each year being awarded to each State. This absurdly low amount has failed to attract Montana producers.

Montana farmers believe a more fair policy would be to establish a larger base of 3,000 acres in the State. Other producers in the order have refused to allow the establishment of spearmint production in Montana. This doesn't sound fair to me. It would take decades for enough farmers to build base to the point where they could use spearmint as an alternative crop. Montana farmers need more flexibility to be able to grow crops that not only improve their land but also allow them to remain profitable. Spearmint is such a crop.

The USDA has tried to correct this problem. However, an administrative solution to this crisis has evaded us. In the past, USDA has withdrawn three orders that dealt with citrus. USDA feared litigation, the appearance that the orders are not working as they should, and the inability to achieve citrus industry consensus on the issue.

These same factors exist in the spearmint program, with the exception of the legal action. It would appear that the Montana requests, dating back over 5 years, continue to be ignored because there no legal action has been taken.

Therefore, in an effort to save Montana farmers the expense of taking legal action and to end this unfair marketing order I offer legislation to end this program.

I have participated in numerous farm bill hearings this spring on the Agriculture, Nutrition, and Forestry Committee. One of the underlying themes in these hearings has been that farmers and ranchers want the farm programs to be simpler, easier to understand. Mr. President, this bill eliminates bureaucracy and allows farmers to grow what they choose to grow. I believe in America we call this concept freedom. I urge and welcome my colleagues to join me in this effort.•

By Mr. BURNS (for himself, Mr. NICKLES, Mr. HATCH, Mr. MURKOWSKI, Mr. BREAUX, Mr. D'AMATO, Mr. MACK, Mr. GRAMS, and Mr. INHOFE):

S. 1000. A bill to amend the Internal Revenue Code of 1986 to provide that the depreciation rules which apply for regular tax purposes shall also apply for alternative minimum tax purposes, to allow a portion of the tentative minimum tax to be offset by the minimum tax credit, and for other purposes; to the Committee on Finance.

THE ALTERNATIVE MINIMUM TAX REFORM ACT OF 1995

• Mr. BURNS. Mr. President, I join my colleagues Senator NICKLES, Senator HATCH, Senator MURKOWSKI, Senator BREAUX, Senator D'AMATO, Senator MACK, Senator GRAMS, and Senator INHOFE, in offering this bill to reform the corporate alternative minimum tax. The intent of this bill is to make the alternative minimum tax system work more as Congress originally envisioned when it enacted this scheme back in 1986—as a backstop so that truly profitable companies pay their fair share of the tax burden. Under this bill, companies will not be able to escape paying their fair share of taxes; but, the Government will not be allowed to take more than its fair share either.

While the overall goal of the AMT is noble, its present practical effect is to discourage capital investment, to threaten the competitiveness of American businesses in the global market, and to increase taxes operating close to the margin at a time when they can least afford an increase in taxes. Because the AMT increases the cost of capital projects by negating the benefits of accelerated depreciation which was designed to foster capital formation and investment, reducing capital investment in one of the only ways that a taxpayer can extract itself from AMT status. Further, the AMT is the worst capital cost recovery system among the industrialized nations; most of the other industrialized nations allow industry to recover the cost of capital expenditure over much shorter periods in order to encourage investment in cost-effective, efficient environmentally updated equipment; under the current AMT depreciation rules, American companies are discouraged from doing so.

Finally, the costs of compliance with AMT are oppressive to most small businesses. Essentially, every company in America which might fall into AMT status must keep separate books on depreciation for every piece of plant and equipment: one set of books for regular tax depreciation, and one for AMT depreciation. Also, all of these companies must take the time to conduct two tax computations to determine if they fall into AMT status. These tax computations are highly complicated and extremely time-consuming to complete. According to statistics compiled by the National Association of Manufacturers, approximately 90% of the companies who incur these compliance costs to determine whether they fall into AMT status do not end up paying the AMT tax. They still, however, have to incur the costs of making that determination.

It is clear that the AMT is not working as Congress intended. For many cyclical capital-intensive companies, AMT has become their primary system of taxation. AMT was originally intended to operate as a backstop to prevent truly profitable companies from paying little or no tax. It was never intended to provide disparate tax treatment for investment in the same asset. Yet this has been the practical result of AMT. Those industries most affected include airline, mining, transportation, and utility businesses, and producers of automobiles, chemicals, energy, and paper. And the effect of AMT on these industries is to increase the costs to the consumers, decrease the efficiency of these businesses, and decrease the businesses' ability to compete globally.

Many companies have made substantial AMT payments over the past few years in excess of their regular tax liability. These payments—AMT credits—are supposed to be returned to these companies when their regular tax liability exceeds their AMT tax, so that, over time, these companies will pay no more in tax than is required by the regular income tax system. Many taxpayers, however, find that the limitation on use of AMT credits is too severe and, therefore, they cannot be used in a meaningful time frame. Our legislation addresses these concerns in the following ways:

First, depreciation reform: This legislation would allow companies to use the same depreciation system for AMT purposes as they use for regular tax purposes. Investment in plant and equipment and other business use assets is essential for American businesses to increase productivity and modernize and maintain international competitiveness. The current AMT depreciation system penalizes companies for making these job-creating investments and is contributing to inadequate replacement of capital assets necessary for long-term economic growth. Furthermore, this change eliminates the burden of keeping separate depreciation books for all plant and equipment purchased after enactment of the AMT. This would substantially reduce the compliance costs that these companies incur, and, in so doing, free up money for increasing salaries, job creation, and investment.

Two, accumulated minimum tax credits: This legislation also allows taxpayers who have unused accumulated minimum tax credits for any 3 of the past 5 years to use a portion of those credits to offset up to 50 percent of their current year AMT liability. When Congress originally imposed the AMT, it was intended to accelerate the timing of tax payments rather than permanently increase tax payments. Therefore, Congress allowed companies to receive credit in future years for the amount of AMT they paid in excess of their regular tax liability. For many companies, the limits on the use of AMT credits have effectively prevented them from recovering their excess payment of taxes in a timely manner. The Government is, in effect, under the present scheme enjoying an interest-free loan from these taxpayers, many of whom had to borrow the money to pay the AMT liability. This provision would bring AMT into line with its original intention and assure that low-profit, capital intensive companies are not subject to an unintended permanent tax increase.

I conclude my remarks today by emphasizing that enactment of this legislation would result in the AMT operating as Congress originally intended that it should—as a backstop system so that truly profitable companies would not escape taxation. It would correct the current problem of excessively taxing investment during recessionary periods, and it would ensure that investments in similar assets are taxed the same. Because it will result in economic growth and significant new job creation in high wage, high-skilled industries, I encourage my colleagues to support this bill.•

• Mr. GRAMS. Mr. President, I am pleased to join my Senate colleagues in support of the Minimum Tax Reform Act of 1995. It will reform the alternative minimum tax, or AMT, that is imposed on profitable U.S. companies. By reforming the way the system works, our businesses will be able to create more high-wage and high-skilled jobs, leading to greater economic growth.

The current AMT is a job killer. Companies are penalized for making needed investments in new plant equipment and technology that improve productivity and keep prices competitive. Not only is job creation impaired, but existing jobs are put in jeopardy as companies lose out to foreign competition. The AMT is an impediment to job creation in basic industries such as manufacturing, transportation, and energy production. For small growing firms, the AMT is particularly burdensome since their revenue stream is insufficient to pay start-up and expansion costs as well as the taxes they will owe down the road.

I have heard from many businesses in my home State of Minnesota who say the AMT is severely impeding their ability to invest in productivity-improving assets and development activities. As a result, their ability to compete on a level playing field with other domestic and international companies is severely frustrated.

By removing the current AMT penalty on capital investment, businesses of all sizes will be freed to reinvest and expand their operations. This will create new jobs not only for the company making the investment, but for companies supplying materials and labor as well.

Republicans and Democrats alike have sponsored bills to reform the AMT. With this bipartisan measure introduced today, we will enable U.S. companies to create more jobs with better wages for American workers, increase economic growth, and improve the standard of living for all Americans.•

Mr. NICKLES. Mr. President, I rise today to introduce the Minimum Tax Reform Act of 1995 with my friend from Montana, Senator BURNS, and several other colleagues. In this legislation, we are attempting to correct some major Tax Code inequities related to the alternative minimum tax.

The alternative minimum tax, or AMT as it is commonly known, was enacted for what I believe is a good reason. Prior to the Tax Reform Act of 1986, there was a great deal of media attention directed at large, profitable corporations, who for a variety of reasons, paid no corporate income tax. The chairman of the Senate Finance Committee, Senator PACKWOOD, created the AMT in 1986 to make sure corporations who report economic income to their shareholders pay taxes. I basically agree with that premise, Mr. President. I believe it is important to the average citizen to know that large, profitable corporations are paying their fair share of this country's tax burden.

It is this issue of fairness, or the perception of fairness, which has always been the driving force behind the AMT. The driving force most certainly is not simplification or revenue generation, because the AMT is neither simple nor a major revenue source. It is ironic that the 1986 tax reform effort to simplify taxation created an entirely new Tax Code in the AMT, and now most corporations must plan for and comply with two Tax Codes instead of one. Even more ironic is the fact that in 1992 the regular corporate tax yielded $96 billion, while the AMT corporate tax yielded only $2.6 billion.

Unfortunately, Mr. President, in the real world the AMT has reached far beyond its original purpose. As it is currently structured, the AMT is a massive, complicated, parallel Tax Code which places huge burdens on capital intensive companies.

The biggest problem with the AMT, Mr. President, is that it denies many corporations the benefit of accelerated depreciation. If you really want to boil it down to the bare truth, the AMT is a 20-percent surtax on accelerated depreciation. This is very bad news for businesses who must invest heavily and often in new equipment to compete or to maintain their technological edge.

Essentially, the AMT requires businesses to compute their depreciation deduction using longer recovery periods and slower depreciation methods. The difference between the regular tax depreciation and AMT depreciation is then added to taxable income.

For example, a chemical company invests $1,000 in equipment in 1994. Under the regular tax, they would follow the guidelines of the Modified Accelerated Cost Recovery System [MACRS] to compute a first-year depreciation deduction of $400—200 percent declining balance method over 5 years. However, under the AMT they would only be allowed a depreciation deduction of $158—150 percent declining balance method over 9.5 years.

The difference between the two calculations of $242 would be added to their alternative minimum taxable income [AMTI]. After adding other preferences and adjustments, AMTI is taxed at 20 percent to arrive at the tentative alternative minimum tax [TAMT]. To the extent TAMT exceeds regular tax the chemical company would owe the larger amount.

As complicated as that example may sound, Mr. President, it is, in fact, greatly simplified compared to real life. What the example does clearly show, however, is the inequity of allowing a reasonable business deduction under one Tax Code, and then taking it away through another Tax Code. Meanwhile, the businessman is caught in the crossfire. His cost of capital is increased and he must hire more employees simply to keep up with the paperwork.

I understand that there are some people in Washington, DC, who believe regular tax depreciation is too generous and should be curtailed, but this is an extremely complicated and convoluted way to accomplish that goal, Mr. President.

The Minimum Tax Reform Act we are introducing today would conform AMT depreciation with regular tax depreciation. This one simple reform will remove the disincentive to invest in job-producing assets, put capital intensive businesses on the same footing as their international competitors, and greatly simplify AMT compliance and reporting.

The second major problem with the AMT is that for many categories of businesses it has become a permanent tax system, a result which was not anticipated in 1986. Reviewing the history of the AMT reveals that its creators believed businesses would pay AMT for a couple of years before becoming regular taxpayers again. For this reason, they developed a provision which allows businesses who have paid AMT in a prior year to credit those payments against their regular tax liability in future years.

Unfortunately, many capital-intensive businesses, as well as many oil, gas, and coal companies, have become chronic AMT taxpayers. They continue to pay AMT year after year with no relief in sight, and as a matter of function they have accumulated billions in unused AMT credits. These credits are a tax on future, unearned revenues which may never materialize. They represent an interest-free loan to the Federal Government, and because of the time-value of money their value to the taxpayer decreases every year.

To address this problem the Minimum Tax Reform Act includes a unique new provision which would allow chronic AMT taxpayers to utilize unused prior-year AMT credits to offset 50 percent of their tentative minimum tax. This provision will help chronic AMT taxpayers dig their way out of the AMT and allow them to recoup at least a portion of these accelerated tax payments in a reasonable manner and timeframe.

Mr. President, much of the tax debate this year has focused on providing incentives for savings and investment. An important part of that process should be to first eliminate the investment disincentives created by the AMT.

Will the Minimum Tax Reform Act take care of every business' AMT problems, Mr. President? No, it will not. This bill addresses the depreciation adjustment, but there are many other AMT adjustments, preferences, and limitations which are not dealt with. These provisions have little to do with preventing corporations from zeroing out, but they have a lot to do with profitability and competitiveness. I hope all these issues will be examined when the Senate Finance Committee considers AMT reform.

Mr. President, the issues surrounding the alternative minimum tax are very complicated. I hope my colleagues will take the time to study them and join me in this initiative.

By Mr. GLENN (for himself, Mr. CHAFEE, Mr. LEVIN, Mr. LIEBERMAN, Mr. COHEN, Mr. PRYOR, Mr. KERRY, Mr. LAUTENBERG, Mr. DASCHLE, Mrs. BOXER, Mr. KOHL, Mr. SIMON, Mrs. MURRAY, Mr. AKAKA, Mr. KENNEDY, Mr. DODD, Mr. DORGAN, Mr. JEFFORDS, and Mr. BIDEN):

S. 1001. A bill to reform regulatory procedures, and for other purposes; to the Committee on Governmental Affairs.

THE REGUALTORY PROCEDURES REFORM ACT OF 1995

Mr. GLENN. Mr. President, I believe very strongly in the need for regulatory reform. I do not believe that is something that is debatable back and forth across the center aisle, where we so often have our differences. I think we are united as Republicans and Democrats in the Senate of the United States in saying that we all feel a need for regulatory reform.

Now, while I recognize the tremendous value of many rules in protecting public health and safety and the environment, I also understand that Federal agencies too often ignore the costs of regulation on businesses, State and local governments, and on individuals who feel they are put down and overregulated. They see regulations that do not make any sense. They resent that. And I resent it right along with them.

But through sensible reform, we can restore common sense to Government decisions, and thereby improve the quality and reduce the burdens of Federal regulations.

Mr. President, any bill on the subject of regulatory reform to be deserving of support, I feel, must pass a test that is twofold. No. 1, does the bill provide for reasonable, logical, appropriate changes to regulatory procedures that eliminate unnecessary burdens on businesses and on individuals? And, No. 2, does the bill maintain the Government's ability to protect the health, the safety, and the environment of the American people?

Now, if the answer is yes to both questions, then the bill should be supported. But any bill that relieves regulatory burdens and at the same time threatens the protections for the American people in health and safety and the environment should be opposed. Now, maybe that is obvious. Maybe those two conditions are obvious. But I think they need to be stated so that we set the ground rules for the debate that will occur on this legislation.

What regulatory reform should not become is a backdoor way to stop and reverse the progress made over the past 25 years in protecting the health and the safety of the American people and the environment. And I very firmly believe that we can retain those protections for food and for water and air, and those things that protect every family and individual in this Nation, and at the same time cut out the excessive regulatory requirements that have truly and unnecessarily plagued business and individuals.

Regulatory reform should not mean tying up Federal agencies in needless paperwork and throwing the regulatory process into disarray. And it should not become a lawyer's dream, creating endless ways for individuals to sue the Government. Our goal should be to make the Government become more efficient and effective, and less prey to special interests.

Now, Mr. President, the Committee on Governmental Affairs has been involved in this issue for many years. This goes clear back into the mid-1970's, and even before. This year, under the leadership of Senator ROTH, the chairman of our committee, the committee crafted a comprehensive regulatory reform bill, S. 291. It was reported out of committee by a unanimous, bipartisan vote. I repeat that: A unanimous vote out of committee. We have eight Republican members on our committee. We have seven Democratic members on our committee. And this legislation, basically this same legislation, was reported out of committee by a unanimous bipartisan vote. I think it proves beyond any shadow of a doubt that we can have bipartisan action on this subject in this Congress, and in this Senate.

Last week, Senators DOLE and JOHNSTON entered into the RECORD a "discussion draft" for regulatory reform. And yesterday, a revised version of that draft was also entered into the RECORD. In response to these drafts, I have sent to the desk for introduction a bill entitled "The Regulatory Procedures Reform Act of 1995." This bill is based primarily on our bipartisan Governmental Affairs Committee bill.

Now, I would like to take a moment to thank Senator ROTH for his leadership and hard work in making the Governmental Affairs Committee bill a strong and fair regulatory reform bill—a strong and fair regulatory reform bill. Through Senator ROTH's efforts, we have a solid foundation for real regulatory reform. I am happy to have worked with Senator ROTH in the committee and again, our work together is largely reflected in this bill.

Like the Governmental Affairs bill, the bill that I introduced today is bipartisan.

I offer the legislation for the RECORD because I have serious questions about the balance in the current version of the Dole-Johnston draft and whether the reforms it contains are outweighed by the creation of new opportunities to stop environmental and health and safety protections for the American people.

We are not trying to retain everything in every regulation that has been proposed or is even in effect now. We know that many must be reconsidered. But when we set the ground rules for how rules and regulations will be promulgated in the future, there must be balance, weighing the regulatory concerns against the benefits that may come from that regulation.

Whether the current version of the Dole-Johnston draft and the reforms it contains are outweighed by its limits to environmental health and safety protections for the American people is what I mean when I mention the word balance.

I want to provide an opportunity for our colleagues to approach this very important issue of regulatory reform from another angle, and I invite Members to compare these proposals. I would like each Senator to ask himself or herself which proposal or which combination of both proposals—a melding—which combination of these proposals better fulfills the twin tasks of eliminating unnecessary regulatory burdens on business and individuals, while at the same time providing no diminution of the ability of the Government to protect the health and safety and environment of the American people.

I believe that the legislation I am submitting is a very strong reform proposal. It requires cost-benefit analysis. It requires risk assessment. It requires peer review. It requires congressional review of significant rules. And it requires review of existing rules. It provides much-needed reform without paralyzing agencies. Issues, such as judicial review and how we should handle existing rules, are critical to this debate. Discussions on these issues are continuing, and we wish to make a positive contribution to these discussions by providing an alternative for consideration on the floor.

It is my hope that the principles embodied in this alternative will find their way into the final legislation that will be adopted by the Senate, because I am convinced that we will pass a bill. This bill may be one of the most important pieces of legislation we pass this year. I know it is arcane. I know it is uninteresting. I know sometimes it is about as interesting as watching paint dry or mud dry. These issues involve peculiarities of law and one-word interpretations in the courts, and things like that. But these are the things of which this legislation is made, and these are the things that are so important to every business and person in this country.

So discussions on these issues are continuing, and we want to make a positive contribution to that. I hope that this legislation I am proposing can be considered in that regard.

Let us look at some of the principles we see that I think should be our guideposts for regulatory reform:

No. 1: Cost-benefit and risk assessment requirements should apply only to major rules, which has been set at $100 million for executive branch review since before President Reagan's time. I think actually the $100 million threshold goes back to President Ford's time.

Our bill applies to rules that have an impact on the economy of $100 million or more. The Dole-Johnston bill applies to rules that have an impact on the economy of $50 million or more.

It is my view that a $50 million threshold overloads the capability of most agencies to do the job because there are probably few rules proposed that could not be construed to have a $50 million impact on the country. While agencies are being cut back and staffs are being cut back and dollars are being reduced in the agencies, it would seem to me advisable to start at the $100 million level. If we find later that the agencies are fully capable of administering everything at the $100 million level, then we can add this requirement for the $50 million level.

No. 2: Regulatory reform should not become a lawyer's dream opening up a multitude of new avenues for judicial review. By judicial review, we mean can a court case be filed against it, in simple terms.

Our bill limits judicial review to determination of, first, whether a rule is a major rule, in other words, $100 million impact on the country; and second, whether a final rule is arbitrary or capricious, taking into consideration the whole rulemaking file developed in arriving at that final rule.

Specific procedural requirements for cost-benefit analysis and risk assessment, of which there could be hundreds of unlimited opportunities to delay for no legitimate reason is not subject to judicial review in our bill except as part of the whole rulemaking file. The final rule, however, before it could be put into effect, would be subject to judicial review. The current Dole-Johnston bill will lead to, I feel, a litigation explosion that could swamp the courts and could bog down agencies, because it would allow review of many steps in risk assessment and cost-benefit analysis, in addition to the determination of a major rule and of agency decisions to grant or deny petitions.

The petitions, the assessments, the cost-benefit analysis, whether it is a major rule or not, these all provide a myriad of places where the Dole-Johnston legislation would allow suits. If the court turned one down, they would still be free to file at the next stage, the next stage, and the next stage. The Dole-Johnston bill simply provides a means, as I see it, for almost unending delay of whatever rule is being considered.

The Dole-Johnston bill further alters the APA, the Administrative Procedures Act, standards in ways that undermine legal precedent and invite lawsuits. Finally, it seeks to limit agency discretion in ways that will lead inevitably to challenges in court.

No. 3: Regulatory reform legislation should focus on procedures and not be a vehicle for special interests seeking to alter specific laws dealing with health, safety, the environment or other matters. Our bill focuses on the fundamentals of regulatory reform and contains no special-interest provisions.

The current Dole-Johnston bill provides relief to special business interests that more properly should be considered in the context of something other than regulatory reform legislation. And I am referring to the Dole-Johnston language that has the effect of restricting, for instance, the Toxics Release Inventory, It also limits the Delaney clause and it delays and increases costs of Superfund cleanups.

I will not go into all sorts of details on these things now, but the Toxics Release Inventory provides that plants in communities have to put together information so people will know what it is they are breathing or what is happening to the water in their communities.

To take that up in regulatory reform and alter the requirements of that legislation without the appropriate committees or without everyone being heard on this seems to me not the right way to go.

With regard to the limitation on the Delaney clause, I happen to think the Delaney clause does need some modification, but this would change it dramatically. I am sure most people would agree this is not something we want to go into lightly. Again, regulatory reform is not the place to take up a specific program reform.

It would also fundamentally affect Superfund cleanups, causing significant delays and increasing costs.

No. 4: Regulatory reform should make Federal agencies more efficient and more effective and not tie up agency resources with additional bureaucratic processes.

Our bill requires cost-benefit analysis and risk assessment for major rules and requires agencies to review all their major rules by a time certain, not just prospectively, but also existing rules that have a $100 million impact or more. So we do go back and try and correct some of the problems that are so vexing to business people in particular.

Now, the current Dole-Johnston bill covers a much broader scope of rules and has several convoluted petition processes for what are called "interested parties," for example, to amend or rescind a major rule and to review policies or guidance. These petitions are judicially reviewable and must be granted or denied by an agency within a specified timeframe.

Now, I think the petition will eat up agency resources and allow the petitioners, not the agencies, to set agency priorities. What we want to do is not swamp agencies, we want to make changes that are workable, ones that are of benefit to everyone in the whole country.

No. 5: Regulatory reform legislation should improve analysis but not override existing statutes, including environmental, safety, and health laws. This is what has been referred to as the "supermandate".

We have spent a generation or more putting into effect environmental laws, safety laws, and health laws for the benefit of the people of this country. I am not standing here to defend all of those laws. Some may have gone too far. Some rules and regulations written pursuant to those statutes, I am the first to say, have gone too far. But we also have made major improvements in our environment, in clean air and clean water, and health standards for our people. And to say that we will just pass a bill that says all that previous legislation—no matter how effective and how important—is automatically wiped off the book, I think, goes too far.

Our bill does not override existing statutes. It requires agencies, however, to explain whether benefits justify costs and whether the rule will be more cost-effective than alternatives. It does not allow cost-benefit determinations to override existing statutory requirements. It leaves intact environmental, safety, and health laws. But we do require all major current rules to be reviewed and set up a process for those that are considered inappropriate now to be reviewed.

Now, the current Dole-Johnston bill has three separate decisional criteria that control agency decisions, regardless of the underlying statutes. These overriding provisions are created for major rule cost-benefit determinations, for environmental cleanups, and for Regulatory Flexibility analysis. The Reg Flex override actually conflicts with the cost-benefit decisional criteria. The cost-benefit test limits agencies to the cheapest rule, not the most cost effective.

No. 6: There should be sunshine in the regulatory review process. Our bill ensures that agencies and OMB publicly disclose the status of regulatory review, of related decisions, documents, and communications from persons outside of the Government. The current Dole-Johnston bill has no sunshine provision to protect against regulatory review delay, unsubstantiated review decisions, or undisclosed special interest lobbying and political deals.

Now, we have gone through a period in the past decade or so where we had people doing things more in secret than in public in the executive branch of Government. We have come to regret that. Some of it we were able to stop. Some only stopped after this administration came in and took strong action against secrecy. I do not need to open up some of those old wounds at this point. But there is still a need to cut out the secrecy that can happen when rules are put through OMB and the Office of Information and Regulatory Affairs. Again, in the past, we have had some real problems with this. That is the reason why we feel so strongly that openness in Government—sunshine in the regulatory review process—should be included as any part of regulatory reform legislation.

Mr. President, the text of this alternative bill is almost identical to S. 291, the regulatory reform act of 1995, which, again, was reported unanimously from the Senate Committee on Governmental Affairs.

This discussion bill—I put this forward for discussion—is like S. 291 in the following ways: No. 1: It covers all major rules with the cost impact of $100 million or more. I will explain a slight change we made to what was in S. 291, which I will address a bit later.

No. 2: It requires cost-benefit analysis for all major rules.

No. 3: It requires risk assessment for all major rules related to environment, health, or safety. There is also a small technical change to the risk provisions in S. 291. I will address that later as one of three changes in the legislation.

No. 4: It requires peer review of cost-benefit analysis and risk assessments.

No. 5: It limits judicial review to the determination of major rules and to the final rulemaking file.

No. 6: It requires agencies to review existing rules every 10 years with a Presidential extension of up to 5 years. This has changed slightly from the original S. 291, also. I will address that later as one of the three changes from the original bill.

No. 7: It provides judicial review of Regulatory Flexibility Act decisions, allowing 1 year for small entities to petition for a review of agency compliance with the Reg Flex Act.

No. 8: It requires public disclosure of regulatory analysis and review documents to ensure sunshine in the regulatory review process.

No. 9: It provides legislative veto of major rules to provide an expedited procedure for Congress to review rules. In other words, every major rule will come back to Congress for 45 days for review by the Congress before it becomes effective. We passed a similar measure in the Senate 100 to 0 3 months ago.

No. 10: It requires risk-based priority setting for the most serious risks to health and safety and the environment.

No. 11: It requires regulatory accounting every 2 years on the cumulative costs and benefits of agency regulations. In other words, agencies have to report back to Congress at least every 2 years on how this legislation is working, and what the costs and benefits are of the rules and regulations.

So, in other words, we put this in, too so Congress can better monitor the cumulative burden and benefits of regulations. We no longer can just pass laws and forget the rules that follow. We are required to monitor these rules, because we will be advised at least every 2 years on the cumulative costs and benefits of agency regulations.

I mentioned three changes. The bill I am introducing differs from S. 291 on basically three points.

No. 1: It does not sunset rules that fail to be reviewed. Rather, it establishes an action-enforcing mechanism that uses the rulemaking process. It is not an arbitrary reversal of a major rule without public comment and review, which could occur if we ran out to a certain time period without review. The rule would have been declared no longer in effect because it had not been reviewed in that 10-year period. Instead of this automatic sunset, we have an action-enforcing mechanism that uses the rulemaking process.

No. 2: We do not include any narrative definitions for "major rule." For example, one that would be a major rule because it has an adverse effect on wages, or something like that, or similar narrative definition. So we leave those out.

No. 3: It incorporates some technical changes to risk assessment, to track more closely recommendations made by the National Academy of Sciences, and to cover specific programs and agencies.

Now, those are the only three changes we made from the legislation, S. 291, that was voted out of the Governmental Affairs Committee unanimously—Republicans and Democrats.

This alternative discussion bill, I repeat, discussion bill, presents, I believe, a comprehensive approach and a very tough, but workable requirement for regulatory reform.

Mr. President, I urge my colleagues to examine this draft closely. We have a week and a half while we are out of session. I want it to be published in the RECORD so it can be available for staff to consider, and consider parts of it they think can supplement the proposal that is before the Senate now on the floor, or use this as a substitute and perfect this with amendments that people might wish to put forward.

It is my intent that further negotiations on regulatory reform go forward. It is my hope that ways will be found to incorporate the principles that I have enunciated this evening that ultimately could be supported by everyone.

I believe an appropriate melding of language of this bill with that of the Dole-Johnston draft could be the basis for a widely supported bill that produces tough and workable—tough and workable—regulatory reform, at the same time keeps intact the ability to protect the health, safety, and environment of the American people.

That kind of balanced bill will truly be in the public interest.

Mr. DASCHLE. Mr. President, let me commend the distinguished Senator from Ohio for his excellent statement and for the leadership he has demonstrated over the last several months on this important issue. No one has worked more tirelessly and more effectively to accomplish what the legislation he has introduced today represents.

The legislation now enjoys bipartisan support, and a growing number of people have examined it and found it much to their liking. That is no accident. It has happened as a result of the tireless efforts of the distinguished Senator from Ohio and his staff.

I look forward to working with him in the coming weeks to see if we can bring this effort to a successful resolution.

As the Senator from Ohio said, this is not the end. It is just the beginning. We hope we can work in a bipartisan fashion to take into account all the good work that has been done by others, as well.

The senior Senator from Louisiana, the senior Senator from Utah, and many other Senators have worked a good deal to bring the Senate to this point.

I leave tonight with the expectation that, indeed, we can resolve the remaining differences and work through many of the difficulties that remain. I certainly hope that is the case.

Indeed, I think it is true that Democrats and Republicans agree on the need for regulatory reform. But we also agree on the need for public safety. We also recognize that it is critical the American people retain confidence in their health and safety and the regulations and laws that promote and protect that health and safety.

The Senator from Ohio has provided us an excellent way to begin the debate when we get back, with the expectation that, indeed, this is an issue on which there can be accommodation and compromise.

Again, let me commend him for his excellent efforts and join with many others in cosponsoring this piece of legislation this afternoon.

By Mr. CHAFEE (for himself, Mr. GRAHAM, Mr. PRYOR, Mr. JOHNSTON, and Mr. SIMON):

S. 1002. A bill to amend the Internal Revenue Code of 1986 to provide a credit against income tax to individuals who rehabilitate historic homes or who are the first purchasers of rehabilitated historic homes for use as a principal residence; to the Committee on Finance.

THE HISTORIC HOMEOWNERSHIP ASSISTANCE ACT

• Mr. CHAFEE. Mr. President, all across America, in the small towns and great cities of this country, our heritage as a nation—the physical evidence of our past—is at risk. In virtually every corner of this land, homes in which grandparents and parents grew up, communities and neighborhoods that nurtured vibrant families, schools that were good places to learn and churches and synagogues that were filled on days of prayer, have suffered the ravages of abandonment and decay.

In the decade from 1980 to 1990, Chicago lost 41,000 housing units through abandonment, Philadelphia 10,000 and St. Louis 7,000. The story in our older small communities has been the same, and the trend continues. It is important to understand that it is not just buildings that we are losing. It is the sense of our past, the vitality of our communities and the shared values of those precious places.

We need not stand hopelessly by as passive witnesses to the loss of these irreplaceable historic resources. We can act, and to that end I am introducing today the Historic Homeownership Assistance Act along with my distinguished colleagues Senator GRAHAM of Florida, Senator PRYOR, Senator JOHNSTON and Senator SIMON.

This legislation is patterned after the existing historic rehabilitation investment tax credit. That legislation has been enormously successful in stimulating private investment in the rehabilitation of buildings of historic importance all across the country. Through its use we have been able to save and re-use a rich and diverse array of historic buildings: landmarks such as Union Station right here in Washington, DC, the Fox River Mills, a mixed use project that was once a derelict paper mill in Appleton, WI and the Rosa True School, an eight-unit low/moderate income rental project in an historic school building in Portland, ME.

In my own State of Rhode Island, Federal tax incentives stimulated the rehabilitation and commercial reuse of more than 266 historic properties. The properties saved include the Hotel Manisses on Block Island, the former Valley Falls Mills complex in Central Falls, and the Honan Block in Woonsocket.

The legislation that I am introducing builds on the familiar structure of the existing tax credit, but with a different focus and a more modest scope and cost. It is designed to empower the one major constituency that has been barred from using the existing credit—homeowners. Only those persons who rehabilitate or purchase a newly rehabilitated home and occupy it as their principal residence would be entitled to the credit that this legislation creates. There would be no passive losses, no tax shelters and no syndications under this bill.

Like the existing investment credit, the bill would provide a credit to homeowners equal to 20 percent of the qualified rehabilitation expenditures made on an eligible building that is used as a principal residence by the owner. Eligible buildings would be those that are listed on the National Register of Historic Places, are contributing buildings on National Register Historic Districts or in nationally certified State or local historic districts, or are individually listed on a nationally certified State or local register. As is the case with the existing credit, the rehabilitation work would have to be performed in compliance with the Secretary of the Interior's standards for rehabilitation, although the bill clarifies that such standards should be interpreted in a manner that takes into consideration economic and technical feasibility.

The bill also makes provision for lower-income homebuyers who may not have sufficient Federal income tax liability to use a tax credit. It would permit such persons to receive a historic rehabilitation mortgage credit certificate which they can use with their bank to obtain a lower interest rate on their mortgage.

The credit would be available for condominiums and co-ops, as well as single-family buildings. If a building were to be rehabilitated by a developer for sale to a homeowner, the credit would pass through to the homeowner. Since one purpose of the bill is to provide incentives for middle-income and more affluent families to return to older towns and cities, the bill does not discriminate among taxpayers on the basis of income. However, it does impose a cap of $50,000 on the amount of credit which may be taken for a principal residence.

The Historic Homeownership Assistance Act will make ownership of a rehabilitated older home more affordable for homebuyers of modest incomes. It will encourage more affluent families to claim a stake in older towns and neighborhoods. It affords fiscally stressed cities and towns a way to put abandoned buildings back on the tax rolls, while strengthening their income and sales tax bases. It offers developers, realtors, and homebuilders a new realm of economic opportunity in revitalizing decaying buildings.

In addition to preserving our heritage, extending this credit will provide an important supplemental benefit—it will boost the economy. Every dollar of Federal investment in historic rehabilitation leverages many more from the private sector. Rhode Island, for example, has used $24 million in public funds over the years to generate $216 million in private investment. This investment has created more than 10,000 jobs and $187 million in wages.

Mr. President, this bill is no panacea. Although its goals are great, its reach will be modest. But it can make a difference, and an important difference, in communities large and small all across this Nation. The American dream of owning one's own home is a powerful force. This bill can help it come true for those who are prepared to make a personal commitment to join in the rescue of our priceless heritage. By their actions they can help to revitalize decaying resources of historic importance, create jobs and stimulate economic development, and restore to our older towns and cities a lost sense of purpose and community.

Mr. President, I ask unanimous consent that the text of the bill and an explanation of its provisions be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1002

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Historic Homeownership Assistance Act".

SEC. 2. HISTORIC HOMEOWNERSHIP REHABILITATION CREDIT.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to nonrefundable personal credits) is amended by inserting after section 22 the following new section:

"SEC. 23. HISTORIC HOMEOWNERSHIP REHABILITATION CREDIT.

"(a) GENERAL RULE.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 20 percent of the qualified rehabilitation expenditures made by the taxpayer with respect to a qualified historic home.

"(b) DOLLAR LIMITATION.—

"(1) IN GENERAL.—The credit allowed by subsection (a) with respect to any residence of a taxpayer shall not exceed $50,000 ($25,000 in the case of a married individual filing a separate return).

"(2) CARRYFORWARD OF CREDIT UNUSED BY REASON OF LIMITATION BASED ON TAX LIABILITY.—If the credit allowable under subsection (a) for any taxable year exceeds the limitation imposed by section 26(a) for such taxable year reduced by the sum of the credits allowable under this subpart (other than this section), such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such succeeding taxable year.

"(c) QUALIFIED REHABILITATION EXPENDITURE.—For purposes of this section:

"(1) IN GENERAL.—The term 'qualified rehabilitation expenditure' means any amount properly chargeable to capital account—

"(A) in connection with the certified rehabilitation of a qualified historic home, and

"(B) for property for which depreciation would be allowable under section 168 if the qualified historic home were used in a trade or business.

"(2) CERTAIN EXPENDITURES NOT INCLUDED.—

"(A) EXTERIOR.—Such term shall not include any expenditure in connection with the rehabilitation of a building unless at least 5 percent of the total expenditures made in the rehabilitation process are allocable to the rehabilitation of the exterior of such building.

"(B) OTHER RULES TO APPLY.—Rules similar to the rules of clauses (ii) and (iii) of section 47(c)(2)(B) shall apply.

"(3) MIXED USE OR MULTIFAMILY BUILDING.—If only a portion of a building is used as the principal residence of the taxpayer, only qualified rehabilitation expenditures which are properly allocable to such portion shall be taken into account under this section.

"(d) CERTIFIED REHABILITATION.—For purposes of this section—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the term 'certified rehabilitation' has the meaning given such term by section 47(c)(2)(C).

"(2) FACTORS TO BE CONSIDERED IN THE CASE OF TARGETED AREA RESIDENCES, ETC.—

"(A) IN GENERAL.—For purposes of applying section 47(c)(2)(C) under this section with respect to the rehabilitation of a building to which this paragraph applies, consideration shall be given to—

"(i) the feasibility of preserving existing architectural and design elements of the interior of such building,

"(ii) the risk of further deterioration or demolition of such building in the event that certification is denied because of the failure to preserve such interior elements, and

"(iii) the effects of such deterioration or demolition on neighboring historic properties.

"(B) BUILDINGS TO WHICH THIS PARAGRAPH APPLIES.—This paragraph shall apply with respect to any building—

"(i) any part of which is a targeted area residence within the meaning of section 143(j)(1), or

"(ii) which is located within an enterprise or empowerment zone,

but shall not apply with respect to any building which is listed in the National Register.

"(3) COOPERATIVE AGREEMENTS.—The term 'certified rehabilitation' includes a certification made in accordance with a contract or cooperative agreement between the Secretary of the Interior and a State Historic Preservation Officer which authorizes such officer (or a local government certified pursuant to section 101(c)(1) of the National Historic Preservation Act), subject to such terms or conditions as may be specified in such agreement, to certify the rehabilitation of buildings within the jurisdiction of such officer (or local government) for purposes of this section.

"(e) DEFINITIONS AND SPECIAL RULES.—For purposes of this section:

"(1) QUALIFIED HISTORIC HOME.—The term 'qualified historic home' means a certified historic structure—

"(A) which has been substantially rehabilitated, and

"(B) which (or any portion of which)—

"(i) is owned by the taxpayer, and

"(ii) is used (or will, within a reasonable period, be used) by such taxpayer as his principal residence.

"(2) SUBSTANTIALLY REHABILITATED.—The term 'substantially rehabilitated' has the meaning given such term by section 47(c)(1)(C); except that, in the case of any building described in subsection (d)(2), clause (i)(I) thereof shall not apply.

"(3) PRINCIPAL RESIDENCE.—The term 'principal residence' has the same meaning as when used in section 1034.

"(4) CERTIFIED HISTORIC STRUCTURE.—

"(A) IN GENERAL.—The term 'certified historic structure' has the meaning given such term by section 47(c)(3).

"(B) CERTAIN STRUCTURES INCLUDED.—Such term includes any building (and its structural components) which is designated as being of historic significance under a statute of a State or local government, if such statute is certified by the Secretary of the Interior to the Secretary as containing criteria which will substantially achieve the purpose of preserving and rehabilitating buildings of historic significance.

"(5) ENTERPRISE OR EMPOWERMENT ZONE.—The term 'enterprise or empowerment zone' means any area designated under section 1391 as an enterprise community or an empowerment zone.

"(6) REHABILITATION NOT COMPLETE BEFORE CERTIFICATION.—A rehabilitation shall not be treated as complete before the date of the certification referred to in subsection (d).

"(7) LESSEES.—A taxpayer who leases his principal residence shall, for purposes of this section, be treated as the owner thereof if the remaining term of the lease (as of the date determined under regulations prescribed by the Secretary) is not less than such minimum period as the regulations require.

"(8) TENANT-STOCKHOLDER IN COOPERATIVE HOUSING CORPORATION.—If the taxpayer holds stock as a tenant-stockholder (as defined in section 216) in a cooperative housing corporation (as defined in such section), such stockholder shall be treated as owning the house or apartment which the taxpayer is entitled to occupy as such stockholder.

"(f) WHEN EXPENDITURES TAKEN INTO ACCOUNT.—In the case of a building other than a building to which subsection (g) applies, qualified rehabilitation expenditures shall be treated for purposes of this section as made—

"(1) on the date the rehabilitation is completed, or

"(2) to the extent provided by the Secretary by regulation, when such expenditures are properly chargeable to capital account.

Regulations under paragraph (2) shall include a rule similar to the rule under section 50(a)(2) (relating to recapture if property ceases to qualify for progress expenditures).

"(g) ALLOWANCE OF CREDIT FOR PURCHASE OF REHABILITATED HISTORIC HOME.—

"(1) IN GENERAL.—In the case of a qualified purchased historic home, the taxpayer shall be treated as having made (on the date of purchase) the qualified rehabilitation expenditures made by the seller of such home.

"(2) QUALIFIED PURCHASED HISTORIC HOME.—For purposes of this subsection, the term 'qualified purchased historic home' means any substantially rehabilitated certified historic structure purchased by the taxpayer if—

"(A) the taxpayer is the first purchaser of such structure after the date rehabilitation is completed, and the purchase occurs within 5 years after such date,

"(B) the structure (or a portion thereof) will, within a reasonable period, be the principal residence of the taxpayer,

"(C) no credit was allowed to the seller under this section or section 47 with respect to such rehabilitation, and

"(D) the taxpayer is furnished with such information as the Secretary determines is necessary to determine the credit under this subsection.

"(h) HISTORIC REHABILITATION MORTGAGE CREDIT CERTIFICATE.—

"(1) IN GENERAL.—The taxpayer may elect, in lieu of the credit otherwise allowable under this section, to receive a historic rehabilitation mortgage credit certificate. An election under this paragraph shall be made—

"(A) in the case of a building to which subsection (g) applies, at the time of purchase, or

"(B) in any other case, at the time rehabilitation is completed.

"(2) HISTORIC REHABILITATION MORTGAGE CREDIT CERTIFICATE.—For purposes of this subsection, the term 'historic rehabilitation mortgage credit certificate' means a certificate—

"(A) issued to the taxpayer, in accordance with procedures prescribed by the Secretary, with respect to a certified rehabilitation,

"(B) the face amount of which shall be equal to the credit which would (but for this subsection) be allowable under subsection (a) to the taxpayer with respect to such rehabilitation,

"(C) which may only be transferred by the taxpayer to a lending institution in connection with a loan—

"(i) that is secured by the building with respect to which the credit relates, and

"(ii) the proceeds of which may not be used for any purpose other than the acquisition or rehabilitation of such building, and

"(D) in exchange for which such lending institution provides the taxpayer a reduction (determined as provided in such regulations) in the rate of interest on the loan.

"(3) USE OF CERTIFICATE BY LENDER.—The amount of the credit specified in the certificate shall be allowed to the lender only to offset the regular tax (as defined in section 55(c)) of such lender. The lender may carry forward all unused amounts under this subsection until exhausted.

"(i) RECAPTURE.—

"(1) IN GENERAL.—If, before the end of the 5-year period beginning on the date on which the rehabilitation of the building is completed (or, if subsection (g) applies, the date of purchase of such building by the taxpayer)—

"(A) the taxpayer disposes of such taxpayer's interest in such building, or

"(B) such building ceases to be used as the principal residence of the taxpayer,

the taxpayer's tax imposed by this chapter for the taxable year in which such disposition or cessation occurs shall be increased by the recapture percentage of the credit allowed under this section for all prior taxable years with respect to such rehabilitation.

"(2) RECAPTURE PERCENTAGE.—For purposes of paragraph (1), the recapture percentage shall be determined in accordance with the table under section 50(a)(1)(B), deeming such table to be amended—

"(A) by striking 'If the property ceases to be investment credit property within—' and inserting 'If the disposition or cessation occurs within—', and

"(B) in clause (i) by striking 'One full year after placed in service' and inserting 'One full year after the taxpayer becomes entitled to the credit'.

"(j) BASIS ADJUSTMENTS.—For purposes of this subtitle, if a credit is allowed under this section for any expenditure with respect to any property (including any purchase under subsection (g) and any transfer under subsection (h)), the increase in the basis of such property which would (but for this subsection) result from such expenditure shall be reduced by the amount of the credit so allowed.

"(k) PROCESSING FEES.—No State may impose a fee for the processing of applications for the certification of any rehabilitation under this section unless the amount of such fee is used only to defray expenses associated with the processing of such applications.

"(l) DENIAL OF DOUBLE BENEFIT.—No credit shall be allowed under this section for any amount for which credit is allowed under section 47.

"(m) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out the purposes of this section, including regulations where less than all of a building is used as a principal residence and where more than 1 taxpayer use the same dwelling unit as their principal residence."

(b) CONFORMING AMENDMENT.—Subsection (a) of section 1016 of such Code is amended by striking "and" at the end of paragraph (24), by striking the period at the end of paragraph (25) and inserting ", and", and by adding at the end the following new item:

"(26) to the extent provided in section 23(j)."

(c) CLERICAL AMENDMENT.—The table of sections for subpart A of part IV of subchapter A of chapter 1 of such Code is amended by inserting after the item relating to section 22 the following new item:

"Sec. 23. Historic homeownership rehabilitation credit."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to rehabilitations the physical work on which begins after the date of enactment of this Act.

THE HISTORIC HOMEOWNERSHIP ASSISTANCE ACT

Purpose. To provide homeownership incentives and opportunities through the rehabilitation of older buildings in historic districts under the Federal Historic Rehabilitation Tax Credit. To stimulate the revival of decaying neighborhoods and communities and the preservation of historic buildings and districts through homeownership.

Rate of Credit: Eligible Buildings. The existing Historic Rehabilitation Tax Credit, which provides a credit of 20% of qualified rehabilitation expenditures to investors in commercial and rental buildings, would be extended to homeowners who rehabilitate or purchase a newly-rehabilitated eligible home and occupy it as a principal residence. In the case of buildings rehabilitated by developers and sold to homeowners, the credit would be passed through by the developer to the home purchaser. Eligible buildings would be buildings individually listed on the National Register of Historic Places or a nationally certified state of local register, and contributing buildings in districts listed in the National Register or in state or local historic districts that have been nationally certified.

Both single-family and multifamily residences, through condominiums and cooperatives, would qualify for the proposed credit. In addition, the credit could be claimed for that portion of a building used as a principal residence, notwithstanding the use of other portions of the building for other purposes, including residential rental and commercial uses for which the existing Federal Historic Rehabilitation Tax Credit could be used. The proposal would make no changes in the limitations on the use of the credit.

Maximum Credit: Minimum Expenditures. The amount of the homeownership credit would be limited to $50,000 for each principal residence. The amount of qualified rehabilitation expenditures would be required to exceed the greater of $5,000 within a 24-month period or the adjusted tax basis of the building (excluding the land) except for buildings in census tracts targeted as distressed for Mortgage Revenue Bond purposes under IRC Section 143(j)(1) and Enterprise and Empowerment Zones, where the minimum would be $5,000. At least five percent of the qualified rehabilitation expenditures would have to be spent on the exterior of the building.

Pass-Through of Credit: Carry-Forward: Recapture. In the event that a certified rehabilitation is performed on an eligible property by a developer who sells the residence to a home buyer, the credit would accrue to the home buyer and not to the developer, who would, in effect, pass it through to the home buyer. The entire amount of the credit could be used to reduce Federal Income Tax liability, subject to Alternative Minimum Tax limitations, in the year in which the expenditures were made by the taxpayer either directly (if the taxpayer makes the expenditures himself or herself) or at the settlement, if the taxpayer purchases the newly-rehabilitated residence from a developer. Any unused amounts of credit would be carried forward until fully exhausted. In the event the taxpayer failed to maintain his or her principal residence in the building for five years, the credit would be subject to ratable recapture.

No "Passive Loss"; No Income Limit. The credit would not be treated as a "passive loss" because the taxpayer would be actively living in the building. Further, since the proposed legislation is intended not only to foster homeownership and encourage rehabilitation of deteriorated buildings, but also to promote economic diversity among residents and increase local ad valorem real property, income and sales tax revenues, individual taxpayers would be eligible for the credit without regard to income.

Secretary's Standards: Interiors. Rehabilitation would have to be performed in accordance with the Secretary of the Interior's Standards for Rehabilitation. The proposed legislation would clarify the directive, set forth in 36 CFR 67, that the Standards are to be interpreted in a manner which takes "into consideration economic and technical feasibility." It would provide that in determining whether to certify rehabilitation of a building, all or a portion of which is to be used as an owner-occupied residence that is a "targeted area residence" within the meaning of IRC Section 143 (J)(1) or is located within an Enterprise or Empowerment Zone and is not individually listed in the National Register of Historic Places, the Secretary give consideration to (I) the feasibility of preserving existing architectural or design elements of the interior of such building, (ii) the risk of further deterioration or demolition of such building in the event that certification is denied because of the failure to preserve such interior elements, and (iii) the effects of such deterioration or demolition on neighboring historic properties.

Cooperative Agreements: Earmarking of Fees. The Secretary of the Interior would be authorized to enter into cooperative agreements with State Historic Preservation Officers ("SHPO's") granting to the states (and, upon the recommendation of a SHPO and with the consent or the Secretary, to a Certified Local Government within that state deemed qualified to perform such functions), subject to the terms and conditions of such cooperative agreements, authority to certify the rehabilitation of certified historic buildings within their respective jurisdictions. The states would have authority to levy fees for processing applications for certification, provided that the proceeds of such fees are used only to defray expenses associated with processing the application.

Historic Rehabilitation Mortgage Credit Certificates. Lower income taxpayers may not have sufficient Federal Income Tax liability to make effective use of a homeownership credit. In order to make the benefits of the credit available to such persons, the proposed legislation would permit any recipient of a credit to convert it into a mortgage credit certificate which can be used to obtain an interest rate reduction on his or her home mortgage loan.

Taxpayers entitled to the credit would be able to elect to receive in lieu of the credit an Historic Rehabilitation Mortgage Credit Certificate in the face amount of the credit to which the taxpayer is entitled. The election would be made at the time of receipt by the taxpayer of the approved Part III certification of the historic rehabilitation (certification that the completed rehabilitation meets the Secretary's Standards, and setting forth the taxpayer's estimate of the costs solely attributable to the rehabilitation, to which the 20 percent credit is applied).

The taxpayer would then transfer the certificate (evidencing the right to claim a federal tax credit in an amount equal to 20 percent of the qualified rehabilitation expenditures) to the mortgage lender in exchange for a reduced interest rate on the home mortgage loan. The mortgage lender would be permitted to reduce its own federal income tax liability by the face amount of the certificate, subject to Alternative Minimum Tax limitations. However, the credit claimed by the bank would not be subject to recapture. The amount of reduction in the mortgage interest rate which the homeowner would obtain in exchange for the certificate would be determined by a "buy-down" formula.

Although the right to receive an Historic Rehabilitation Mortgage Credit Certificate would be available to all persons entitled to the credit, the certificate could not be used by a person precluded from using the credit because of the Alternative Minimum Tax limit at the time of original entitlement to the certificate.●

By Mr. PRESSLER:

S. 1003. A bill to suspend temporarily the duty on certain motorcycles

brought into the United States by participants in the Sturgis Motorcycle Rally and Races, and for other purposes; to the Committee on Finance.

MOTORCYCLE DUTY SUSPENSION LEGISLATION

Mr. PRESSLER. Mr. President, today I am pleased to introduce legislation that would allow for the temporary suspension of duties on motorcycles originally manufactured in the United States, exported, and brought back into the country for the purpose of participating in the Sturgis Motorcycle Rally and Races.

The Sturgis Rally and Races, held annually in Sturgis, SD, is the largest motorcycle show in the world. Created in 1938 by Sturgis motorcycle shop owner J.C. "Pappy" Hoel, the rally has evolved from a small gathering of 19 motorcycle enthusiasts, to a major international event. Besides attracting American motorcyclists from all 50 States, citizens from more than 60 foreign countries travel to attend. This year, the 55th Annual Rally and Races will be held from August 7–13, and is expected to draw in more than 200,000 people, including nearly 3,000 participants from abroad. The rally is, without question, one of the most important tourism events in South Dakota. With ever-increasing international participation, it quickly is becoming a significant element of foreign tourism revenue. As the new co-chair of the Senate Tourism Caucus, I want to do everything I can to increase the international flavor of tourist events like the Sturgis Rally and Races. Our economy only stands to benefit.

Although the Rally has, in recent years, expanded its program to include guided tours of the Black Hills area and motorcycle expositions, the central attraction remains motorcycle racing. For Sturgis participants, the vehicle of choice is the Harley-Davidson. As my colleagues know, the Harley—Davidson company is the only remaining American manufacturer of motorcycles. Its two plants, located in Milwaukee, WI, and York, PA, are the sole remaining facilities where Harley's are made. In 1994, approximately 70 percent of the motorcycles present at the Rally were Harleys.

Mr. President, as I mentioned, international participation is on the rise. We certainly welcome these foreign tourists and want to do all we can to encourage their participation. However, when foreign travelers bring their motorcycles with them, the temporary importation requirements of the U.S. Customs Service come into play. Specifically, when a foreign-owned motorcycle is admitted into the country, a bond must be posted that is equal to approximately twice the value of the motorcycle's import duty—or, roughly 6 percent of its total value. The purpose of the bond is to safeguard against motorcycles being brought into our country presumably for vacation purposes, but then are sold, which circumvents our import quotas and tariffs. Although the bond is refundable, administrative fees associated with securing the bond are not. Mr. President, Harley-Davidsons are American-made. As I have mentioned, the purpose of these bonds is to prevent foreign goods from being sold in this country duty free. Therefore, there is no need to impose the bonding requirement on American-made Harleys brought back into this country. This requirement is becoming increasingly onerous for foreign Rally participants, creating what I view as an unnecessary roadblock for increased foreign participation.

This problem was brought to my attention during a meeting I had with South Dakota tourism leaders in Rapid City, SD earlier this year. In particular, I want to acknowledge and thank Francie Reubel Alberts, executive director of the Sturgis Motorcycle Rally and Races, for all her help in this matter. Those involved in the Sturgis Rally and Races know of her dedication and hard work over the years to make this yearly event such an enormous success. When we started work on this matter, it was our hope that the situation could be resolved administratively through existing Customs regulations. It now appears legislation is the only solution.

Therefore, the legislation I am introducing today would temporarily suspend the duties on foreign-owned Harley-Davidson's that are being brought back into our country for the purpose of participating in the Sturgis Motorcycle Rally and Races. Under my bill, foreign rally participants would be allowed to forgo the costly, time-consuming procedure of securing a bond for the few weeks their motorcycles would be in the country.

Mr. President, this bill, by encouraging foreign participation in the Sturgis Rally and Races, is good for South Dakota tourism. It is good for American tourism in general. Furthermore, it sends a message that this Congress is serious about promoting America as a tourist destination.The Sturgis Rally and Races is quintessentially all-American, but it has become a world-renowned, world-class event. With this legislation, it is my hope that this grant event in the great State of South Dakota will attract even greater worldwide representation. I urge my colleagues to support this legislation. Just as important, I hope to see friends, neighbors, and motorcycle enthusiasts in Sturgis later this summer.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1003

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TEMPORARY DUTY SUSPENSION FOR CERTAIN MOTORCYCLES.

(a) IN GENERAL.—Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9902.98.05	Motorcycles produced in the United States, previously exported and brought temporarily into the United States by nonresidents for the purpose of participating in the Sturgis Motorcycle Rally and Races	Free	No change	Free	On or before 8/15/95"

(b) ARTICLES TO BE SUBJECT TO INFORMAL ENTRY; TAXES AND FEES NOT TO APPLY.—Notwithstanding section 484 of the Tariff Act of 1930 (19 U.S.C. 1484) or any other provision of law, the Secretary of the Treasury may authorize the entry of an article described in heading 9902.98.05 of the Harmonized Tariff Schedule of the United States (as added by subsection (a)) on an oral declaration of the nonresident entering such article and such article shall be free of taxes and fees which may be otherwise applicable.

SEC. 2. EFFECTIVE DATE.

The amendment made by this Act applies to articles entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

By Mr. STEVENS (for himself, Mr. PRESSLER, Mr. HOLLINGS, and Mr. KERRY):

S. 1004. A bill to authorize appropriations for the U.S. Coast Guard, and for other purposes; to the Committee on Commerce, Science, and Transportation.

THE COAST GUARD AUTHORIZATION ACT OF 1995

• Mr. STEVENS. Mr. President, I am pleased today to introduce bipartisan legislation to authorize spending for the important activities of the U.S. Coast Guard in fiscal year 1996.

I am joined by Senators HOLLINGS, KERRY, and Chairman PRESSLER on this bill.

On March 15, 1995, we held a Commerce Committee hearing to review the Coast Guard's request for the authorization of appropriations and for various changes to the law that will allow it to more effectively carry out its mission.

I believe the package we are presenting today includes all of the highest priorities identified by the Coast Guard for action this year.

It also includes authorization levels for fiscal year 1995, since we were unable to pass a bill at the end of the last Congress.

Before my summary, I want to point out that the package only includes provisions requested by the Coast Guard.

Simultaneous to our introduction of today's legislation, we are working on a more comprehensive package of amendments the Subcommittee on Oceans and Fisheries will present to the full Commerce Committee at a markup, hopefully in July.

We will try in the comprehensive package to include as many of the provisions that we can that are of interest to members of the Committee and the Senate.

We are also reviewing the provisions included in the Coast Guard authorization bill passed by the House (H.R. 1361) for possible inclusion in this subcommittee package.

I appreciate the interest and support of Commerce Committee Chairman PRESSLER in our efforts on this reauthorization.

I look forward to continuing to work with the other subcommittee members in the coming weeks to complete our larger package for the full committee's consideration.

SUMMARY OF LEGISLATION

The bill would authorize appropriations for the Coast Guard in the amounts of $3.69 billion in fiscal year 1995 and $3.71 billion in fiscal year 1996.

The end of year military strength for active duty Coast Guard personnel would be set at 39,000 for fiscal year 1995 and 38,400 for fiscal year 1996.

The bill would also authorize several personnel management improvements requested by the Coast Guard.

In the area of marine safety and waterway services management, the bill would increase civil penalties for documentation, marine casualty reporting, and uninspected vessel manning violations.

The bill would renew authorization for several advisory committees that provide the Coast Guard with key private sector input.

It would also authorize the electronic filing of certain vessel commercial instruments, making filing easier both for vessel owners and the Coast Guard.

The bill would improve the management of the Coast Guard Auxiliary, a 36,000 member volunteer organization that provides the Coast Guard with low-cost assistance in its boating safety mission.

First, it would define the status of, and provide certain protections for auxiliary members while they are performing official Coast Guard duties. It would also improve their ability to cooperate with State authorities and obtain excess Coast Guard resources.

The bill makes an important change in recreational boating safety by restructuring the process for providing States with recreational boating safety grants and stimulating nontrailerable vessel facility construction.

A key provision of the bill would reduce the regulatory burden on U.S. commercial vessel operators by: Shifting away from excessive U.S. vessel standards toward accepted international standards; authorizing the use of third party and self-inspection programs as alternatives to Coast Guard inspections; and extending U.S. vessel inspection intervals.

Both the Coast Guard and industry strongly support these changes. They will enable Coast Guard inspectors to focus more on the problem of substandard foreign vessels calling on U.S. ports.

The bill also includes numerous technical changes to establish alternate vessel measurement requirements that will enable U.S. vessel designers and operators to be competitive in the international vessel market.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1004

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Coast Guard Authorization Act of 1995".

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

TITLE I—AUTHORIZATION

Sec. 101. Authorization of appropriations.
Sec. 102. Authorized levels of military strength and training.

TITLE II—PERSONNEL MANAGEMENT IMPROVEMENT

Sec. 201. Provision of child development services.
Sec. 202. Hurricane Andrew relief.
Sec. 203. Dissemination of results of 0–6 continuation boards.
Sec. 204. Exclude certain reserves from end-of-year strength.
Sec. 205. Officer retention until retirement eligible.
Sec. 206. Contracts for health care services.

TITLE III—MARINE SAFETY AND WATERWAY SERVICES MANAGEMENT

Sec. 301. Increased penalties for documentation violations.
Sec. 302. Clerical amendment.
Sec. 303. Maritime Drug and Alcohol Testing Program Civil Penalty.
Sec. 304. Renewal of the Navigation Safety Advisory Council.
Sec. 305. Renewal of the Commercial Fishing Industry Vessel Advisory Committee.
Sec. 306. Renewal of Towing Safety Advisory Committee.
Sec. 307. Electronic filing of commercial instruments.
Sec. 308. Civil penalties.

TITLE IV—COAST GUARD AUXILIARY AMENDMENTS

Sec. 401. Administration of the Coast Guard Auxiliary.
Sec. 402. Purpose of the Coast Guard Auxiliary.
Sec. 403. Members of the Auxiliary; Status.
Sec. 404. Assignment and Performance of Duties.
Sec. 405. Cooperation with other Agencies, States, Territories, and Political Subdivisions.
Sec. 406. Vessel Deemed Public Vessel.
Sec. 407. Aircraft Deemed Public Aircraft.
Sec. 408. Disposal of Certain Material.

TITLE V—RECREATIONAL BOATING SAFETY IMPROVEMENT

Sec. 501. State recreational boating safety grants.
Sec. 502. Boating access.

TITLE VI—COAST GUARD REGULATORY REFORM

Sec. 601. Short title.
Sec. 602. Safety management.
Sec. 603. Use of reports, documents, records, and examinations of other persons.
Sec. 604. Equipment approval.
Sec. 605. Frequency of inspection.
Sec. 606. Certificate of inspection.
Sec. 607. Delegation of authority of Secretary to classification societies.

TITLE VII—TECHNICAL AND CONFORMING AMENDMENTS.

Sec. 701. Amendment of inland navigation rules.
Sec. 702. Measurement of vessels.
Sec. 703. Longshore and harbor workers compensation.
Sec. 704. Radiotelephone requirements.
Sec. 705. Vessel operating requirements.
Sec. 706. Merchant Marine Act, 1920.
Sec. 707. Merchant Marine Act, 1956.
Sec. 708. Maritime education and training.
Sec. 709. General definitions.
Sec. 710. Authority to exempt certain vessels.
Sec. 711. Inspection of vessels.
Sec. 712. Regulations.
Sec. 713. Penalties—inspection of vessels.
Sec. 714. Application—tank vessels.
Sec. 715. Tank vessel construction standards.
Sec. 716. Tanker minimum standards.
Sec. 717. Self-propelled tank vessel minimum standards.
Sec. 718. Definition—abandonment of barges.
Sec. 719. Application—load lines.
Sec. 720. Licensing of individuals.
Sec. 721. Able seamen—limited.
Sec. 722. Able seamen—offshore supply vessels.
Sec. 723. Scale of employment—able seamen.
Sec. 724. General requirements—engine department.
Sec. 725. Complement of inspected vessels.
Sec. 726. Watchmen.
Sec. 727. Citizenship and naval reserve requirements.
Sec. 728. Watches.
Sec. 729. Minimum number of licensed individuals.
Sec. 730. Officers' competency certificates convention.
Sec. 731. Merchant mariners' documents required.
Sec. 732. Certain crew requirements.
Sec. 733. Freight vessels.
Sec. 734. Exemptions.
Sec. 735. United States registered pilot service.
Sec. 736. Definitions—merchant seamen protection.
Sec. 737. Application—foreign and intercoastal voyages.
Sec. 738. Application—coastwise voyages.
Sec. 739. Fishing agreements.
Sec. 740. Accommodations for seamen.
Sec. 741. Medicine chests.
Sec. 742. Logbook and entry requirements.
Sec. 743. Coastwise endorsements.
Sec. 744. Fishery endorsements.
Sec. 745. Convention tonnage for licenses, certificates, and documents.

TITLE I—AUTHORIZATION

SEC. 101. AUTHORIZATION OF APPROPRIATIONS.

(a) FISCAL YEAR 1995.—Funds are authorized to be appropriated for necessary expenses of the Coast Guard for fiscal year 1995, as follows:

(1) For the operation and maintenance of the Coast Guard, $2,630,505,000, of which

$25,000,000 shall be derived from the Oil Spill Liability Trust Fund.

(2) For the acquisition, construction, rebuilding, and improvement of aids to navigation, shore and offshore facilities, vessels, and aircraft, including equipment related thereto, $439,200,000, to remain available until expended, of which $32,500,000 shall be derived from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990.

(3) For research, development, test, and evaluation of technologies, materials, and human factors directly relating to improving the performance of the Coast Guard's mission in support of search and rescue, aids to navigation, marine safety, marine environmental protection, enforcement of laws and treaties, ice operations, oceanographic research, and defense readiness, $20,310,000, to remain available until expended, of which $3,150,000 shall be derived from the Oil Spill Liability Trust Fund.

(4) For retired pay (including the payment of obligations otherwise chargeable to lapsed appropriations for this purpose), payments under the Retired Serviceman's Family Protection and Survivor Benefit Plans, and payments for medical care of retired personnel and their dependents under chapter 55 of title 10, United States Code, $562,585,000.

(5) For alteration or removal of bridges over navigable waters of the United States constituting obstructions to navigation, and for personnel and administrative costs associated with the Bridge Alteration Program, $12,880,000, to remain available until expended, which may be made available under section 104(e) of title 49, United States Code.

(6) For environmental compliance and restoration at Coast Guard facilities (other than parts and equipment associated with operations and maintenance), $25,000,000, to remain available until expended.

(b) FISCAL YEAR 1996.—Funds are authorized to be appropriated for necessary expenses of the Coast Guard for fiscal year 1996, as follows:

(1) For the operation and maintenance of the Coast Guard, $2,618,316,000, of which $25,000,000 shall be derived from the Oil Spill Liability Trust Funds.

(2) For the acquisition, construction, rebuilding, and improvement of aids to navigation, shore and offshore facilities, vessels, and aircraft, including equipment related thereto, $428,200,000, to remain available until expended, of which $32,500,000 shall be derived from the Oil Spill Liability Trust fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990.

(3) For research, development, test, and evaluation of technologies, materials, and human factors directly relating to improving the performance of the Coast Guard's mission in support of search and rescue, aids to navigation, marine safety, marine environmental protection, enforcement of laws and treaties, ice operations, oceanographic research, and defense readiness, $22,500,000, to remain available until expended, of which $3,150,000 shall be derived from the Oil Spill Liability Trust Fund.

(4) For retired pay (including the payment of obligations otherwise chargeable to lapsed appropriations for this purpose), payments under the Retired Serviceman's Family Protection and Survivor Benefit Plans, and payments for medical care of retired personnel and their dependents under chapter 55 of title 10, United States Code, $582,022,000.

(5) For alteration or removal of bridges over navigable waters of the United States constituting obstructions to navigation, and for personnel and administrative costs associated with the Bridge Alteration Program, $16,200,000, to remain available until expended, of which up to $14,200,000 may be made available under section 104(e) of title 49, United States Code.

(6) For environmental compliance and restoration at Coast Guard facilities (other than parts and equipment associated with operations and maintenance), $25,000,000, to remain available until expended.

(c) AMOUNTS FROM THE DISCRETIONARY BRIDGE PROGRAM.—Section 104 of title 49, United States Code, is amended by adding at the end thereof the following:

"(e) Notwithstanding the provisions of sections 101(d) and 144 of title 23, highway bridges determined to be unreasonable obstructions to navigation under the Truman-Hobbs Act may be funded from amounts set aside from the discretionary bridge program. The Secretary shall transfer these allocations and the responsibility for administration of these funds to the United States Coast Guard.".

SEC. 102. AUTHORIZED LEVELS OF MILITARY STRENGTH AND TRAINING.

(a) AUTHORIZED MILITARY STRENGTH LEVEL.—The Coast Guard is authorized an end-of-year strength for active duty personnel of—

(1) 39,000 as of September 30, 1995.

(2) 38,400 as of September 30, 1996.

The authorized strength does not include members of the Ready Reserve called to active duty for special or emergency augmentation of regular Coast Guard forces for periods of 180 days or less.

(b) AUTHORIZED LEVEL OF MILITARY TRAINING.—The Coast Guard is authorized average military training student loads as follows:

(1) For recruit and special training—

(A) 2,000 student years for fiscal year 1995; and

(B) 1,604 student years for fiscal year 1996.

(2) For flight training—

(A) 133 student years for fiscal year 1995; and

(B) 85 student years for fiscal year 1996.

(3) For professional training in military and civilian institutions—

(A) 344 student years for fiscal year 1995; and

(B) 330 student years for fiscal year 1996.

(4) For officer acquisition—

(A) 955 student years for fiscal year 1995; and

(B) 874 student years for fiscal year 1996.

TITLE II—PERSONNEL MANAGEMENT IMPROVEMENT

SEC. 201. PROVISION OF CHILD DEVELOPMENT SERVICES.

(a) IN GENERAL.—Title 14, United States Code, is amended by inserting after section 514 the following new section:

"§ 515. Child development services

"(a) The Commandant may make child development services available for members and civilian employees of the Coast Guard, and thereafter as space is available for members of the Armed Forces and Federal civilian employees. Child development service benefits provided under the authority of this section shall be in addition to benefits provided under other laws.

"(b)(1) Except as provided in paragraph (2), the Commandant may require that amounts received as fees for the provision of services under this section at Coast Guard child development centers be used only for compensation of employees at those centers who are directly involved in providing child care.

"(2) If the Commandant determines that compliance with the limitation in paragraph (1) would result in an uneconomical and inefficient use of such fee receipts, the Commandant may (to the extent that such compliance would be uneconomical and inefficient) use such receipts—

"(A) for the purchase of consumable or disposable items for Coast Guard child development centers; and

"(B) if the requirements of such centers for consumable or disposable items for a given fiscal year have been met, for other expenses of those centers.

"(c) The Commandant shall provide for regular and unannounced inspections of each child development center under this section and may use Department of Defense or other training programs to ensure that all child development center employees under this section meet minimum standards of training with respect to early childhood development, activities and disciplinary techniques appropriate to children of different ages, child abuse prevention and detection, and appropriate emergency medical procedures.

"(d) Of the amounts available to the Coast Guard each fiscal year for operating expenses (and in addition to amounts received as fees), the Secretary shall use for child development services under this section an amount equal to the total amount the Commandant estimates will be received by the Coast Guard in the fiscal year as fees for the provision of those services.

"(e) The Commandant may use appropriated funds available to the Coast Guard to provide assistance to family home day care providers so that family home day care services can be provided to uniformed service members and civilian employees of the Coast Guard at a cost comparable to the cost of services provided by Coast Guard child development centers.

"(f) The Secretary shall promulgate regulations to implement this section. The regulations shall establish fees to be charged for child development services provided under this section which take into consideration total family income.

"(g) For purposes of this section, the term 'child development center' does not include a child care services facility for which space is allotted under section 616 of the Act of December 22, 1987 (40 U.S.A. 490b).".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 13 of title 14, United States Code, is amended by inserting after the item related to section 514 the following:

"515. Child development services.".

SEC. 202. HURRICANE ANDREW RELIEF.

Section 2856 of the National Defense Authorization Act for Fiscal Year 1993 (Pub. L. 102–484) applies to the military personnel of the Coast Guard who were assigned to, or employed at or in connection with, any Federal facility or installation in the vicinity of Homestead Air Force Base, Florida, including the areas of Broward, Collier, Dade, and Monroe Counties, on or before August 24, 1992, except that funds available to the Coast Guard, not to exceed $25,000, shall be used. The Secretary of Transportation shall administer the provisions of section 2856 for the Coast Guard.

SEC. 203. DISSEMINATION OF RESULTS OF 0–6 CONTINUATION BOARDS.

Section 289(f) of title 14, United States Code, is amended by striking "Upon approval by the President, the names of the officers selected for continuation on active duty by the board shall be promptly disseminated to the service at large.".

SEC. 204. EXCLUDE CERTAIN RESERVES FROM END-OF-YEAR STRENGTH.

Section 712 of title 14, United States Code, is amended by adding at the end the following new subsection:

"(d) Members ordered to active duty under this section shall not be counted in computing authorized strength in members on active duty or members in grade under this title or under any other law.".

SEC. 205. OFFICER RETENTION UNTIL RETIREMENT ELIGIBLE.

Section 283(b) of title 14, United States Code, is amended—

(1) by inserting "(1)" after "(b)";

(2) by striking the last sentence; and

(3) by adding at the end the following:

"(2) Upon the completion of a term under paragraph (1), an officer shall, unless selected for further continuation—

"(A) except as provided in subparagraph (B), be honorably discharged with severance pay computed under section 286 of this title;

"(B) in the case of an officer who has completed at least 18 years of active service on the date of discharge under subparagraph (A), be retained on active duty and retired on the last day of the month in which the officer completes 20 years of active service, unless earlier removed under another provision of law; or

"(C) if eligible for retirement under any law, be retired.".

SEC. 206. CONTRACTS FOR HEALTH CARE SERVICES.

(a) Chapter 17 of title 14, United States Code, is amended by inserting after section 644 the following new section:

"§ 644a. Contracts for health care services

"(a) Subject to the availability of appropriations for this purpose; the Commandant may enter into personal services and other contracts to carry out health care responsibilities pursuant to section 93 of this title and other applicable provisions of law pertaining to the provision of health care services to Coast Guard personnel and covered beneficiaries. The authority provided in this subsection is in addition to any other contract authorities of the Commandant provided by law or as delegated to the Commandant from time to time by the Secretary, including but not limited to authority relating to the management of health care facilities and furnishing of health care services pursuant to title 10 and this title.

"(b) The total amount of compensation paid to an individual in any year under a personal services contract entered into under subsection (a) shall not exceed the amount of annual compensation (excluding allowances for expenses) allowable for such contracts entered into by the Secretary of Defense pursuant to section 1091 of title 10.

"(c)(1) The Secretary shall promulgate regulations to assure—

"(A) the provision of adequate notice of contract opportunities to individuals residing in the area of a medical treatment facility involved; and

"(B) consideration of interested individuals solely on the basis of the qualifications established for the contract and the proposed contract price.

"(2) Upon establishment of the procedures under paragraph (1), the Secretary may exempt personal services contracts covered by this section from the competitive contracting requirements specified in section 2304 of title 10, or any other similar requirements of law.

"(d) The procedures and exemptions provided under subsection (c) shall not apply to personal services contracts entered into under subsection (a) with entities other than individuals or to any contract that is not an authorized personal services contract under subsection (a).".

(b) The table of sections for chapter 17 of title 14, United States Code, is amended by inserting after the item relating to section 644 the following:

"644 a. Contracts for health care services.".

(c) The amendments made by this section shall take effect on the date of enactment of this Act. Any personal services contract entered into on behalf of the Coast Guard in reliance upon the authority of section 1091 of title 10 before that date is confirmed and ratified and shall remain in effect in accordance with the terms of the contract.

TITLE III—MARINE SAFETY AND WATERWAY SERVICES MANAGEMENT

SEC. 301. INCREASED PENALTIES FOR DOCUMENTATION VIOLATIONS.

(a) CIVIL PENALTY.—Section 12122(a) of title 46, United States Code, is amended by striking "$500" and inserting "$10,000."

(b) SEIZURE AND FORFEITURE.—

(1) IN GENERAL.—Section 12122(b) of title 46, United States Code, is amended to read as follows:

"(b) A vessel and its equipment are liable to seizure by and forfeiture to the United States Government—

"(1) when the owner of a vessel or the representative or agent of the owner knowingly falsifies or conceals a material fact, or knowingly makes a false statement or representation about the documentation or when applying for documentation of the vessel;

"(2) when a certificate of documentation is knowingly and fraudulently used for a vessel;

"(3) when a vessel is operated after its endorsement has been denied or revoked under section 12123 of this title;

"(4) when a vessel is employed in a trade without an appropriate trade endorsement;

"(5) when a documented vessel with only a recreational endorsement is operated other than for pleasure; or

"(6) when a documented vessel, other than a vessel with only a recreational endorsement operating within the territorial waters of the United States, is placed under the command of a person not a citizen of the United States.".

"(2) CONFORMING AMENDMENTS.—Section 12122(c) of title 46, United States Code, is repealed.

"(c) LIMITATION ON OPERATION OF VESSEL WITH ONLY RECREATIONAL ENDORSEMENT.—Section 12110(c) of title 46, United States Code, is amended to read as follows:

"(c) A vessel with only a recreational endorsement may not be operated other than for pleasure.".

"(d) TERMINATION OF RESTRICTION ON COMMAND OF RECREATIONAL VESSELS.—

"(1) TERMINATION OF RESTRICTION.—Subsection (d) of section 12110 of title 46, United States Code, is amended by inserting ", other than a vessel with only a recreational endorsement operating within the territorial waters of the United States," after "A documented vessel"; and

"(2) CONFORMING AMENDMENT.—Section 12111(a)(2) of title 46, United States Code, is amended by inserting before the period the following: "in violation of section 12110(d) of this title".

SEC. 302. CLERICAL AMENDMENT.

Chapter 121 of title 46, United States Code, is amended—

(1) by striking the first section 12123; and

(2) in the table of sections at the beginning of the chapter by striking the first item relating to section 12123.

SEC. 303. MARITIME DRUG AND ALCOHOL TESTING PROGRAM CIVIL PENALTY.

(a) IN GENERAL.—Chapter 21 of title 46, United States Code, is amended by adding at the end a new section 2115 to read as follows:

"§ 2115. Civil penalty to enforce alcohol and dangerous drug testing

"Any person who fails to implement or conduct, or who otherwise fails to comply with the requirements prescribed by the Secretary for, chemical testing for dangerous drugs or for evidence of alcohol use, as prescribed under this subtitle or a regulation prescribed by the Secretary to carry out the provisions of this subtitle, is liable to the United States Government for a civil penalty of not more than $1,000 for each violation. Each day of a continuing violation shall constitute a separate violation.".

(b) CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 21 of title 46, United States Code, is amended by inserting after the item relating to section 2114 the following:

"2115. Civil penalty to enforce alcohol and dangerous drug testing."

SEC. 304. RENEWAL OF THE NAVIGATION SAFETY ADVISORY COUNCIL.

Section 5(d) of the Inland Navigational Rules Act of 1980 (33 U.S.C. 2073) is amended by striking "September 30, 1995" and inserting "September 30, 2000".

SEC. 305. RENEWAL OF THE COMMERCIAL FISHING INDUSTRY VESSEL ADVISORY COMMITTEE.

Subsection (e)(1) of section 4508 of title 46, United States Code, is amended by striking "September 30, 1994" and inserting "September 30, 2000".

SEC, 306. RENEWAL OF TOWING SAFETY ADVISORY COMMITTEE.

Subsection (e) of the Act to Establish A Towing Safety Advisory Committee in the Department of Transportation (33 U.S.C. 1231a(e) is amended by striking "September 30, 1995" and inserting "September 30, 2000".

SEC. 307. ELECTRONIC FILING OF COMMERCIAL INSTRUMENTS.

Section 31321(a) of title 46, United States Code, is amended by adding at the end the following new paragraph:

"(4)(A) A bill of sale, conveyance, mortgage, assignment, or related instrument may be filed electronically under regulations prescribed by the Secretary.

"(B) A filing made electronically under subparagraph (A) shall not be effective after the 10-day period beginning on the date of the filing unless the original instrument is provided to the Secretary within that 10-day period.".

SEC. 308. CIVIL PENALTIES.

(a) PENALTY FOR FAILURE TO REPORT A CASUALTY.—Section 6103(a) of title 46, United States Code is amended by striking "$1,000" and inserting "not more than $25,000".

(b) OPERATION OF UNINSPECTED TOWING VESSEL IN VIOLATION OF MANNING REQUIREMENTS.—Section 8906 of title 46, United States Code, is amended by striking "$1,000" and inserting "not more than $25,000".

TITLE IV—COAST GUARD AUXILIARY

SEC. 401. ADMINISTRATION OF THE COAST GUARD AUXILIARY.

(a) Section 821, title 14, United States Code, is amended to read as follows:

"(a) The Coast Guard Auxiliary is a nonmilitary organization administered by the Commandant under the direction of the Secretary. For command, control, and administrative purposes, the Auxiliary shall include such organizational elements and units as are approved by the Commandant, including but not limited to, a national board and staff (Auxiliary headquarters unit), districts, regions, divisions, flotillas, and other organizational elements and units. The Auxiliary organization and its officers shall have such rights, privileges, powers, and duties as may be granted to them by the Commandant, consistent with this title and other applicable provisions of law. The Commandant may delegate to officers of the Auxiliary the authority vested in the Commandant by this section, in the manner and to the extent the Commandant considers necessary or appropriate for the functioning, organization, and internal administration of the Auxiliary.

"(b) Each organizational element or unit of the Coast Guard Auxiliary organization (but excluding any corporation formed by an organizational element or unit of the Auxiliary under subsection (c) of this section), shall, except when acting outside the scope of section 822, at all times be deemed to be an instrumentality of the United States, for purposes of the Federal Tort Claims Act (28 U.S.C. 2671, et seq.), the Military Claims Act (10 U.S.C. 2733), the Public Vessels Act (46 U.S.C. App. 781–790), the Suits in Admiralty Act (46 U.S.C. App. 741–752), the Admiralty Extension Act (46 U.S.C. App. 740), and for other noncontractual civil liability purposes.

"(c) The national board of the Auxiliary, and any Auxiliary district or region, may form a corporation under State law, provided that the formation of such a corporation is in accordance with policies established by the Commandant.".

(b) The section heading for section 821 of title 14, United States Code, is amended after "Administration" by inserting "of the Coast Guard Auxiliary".

(c) The table of sections at the beginning of chapter 23 of title 14, United States Code, is amended in the item relating to section 821, after "Administration" by inserting "of the Coast Guard Auxiliary".

SEC. 402. PURPOSE OF THE COAST GUARD AUXILIARY.

(a) Section 822 of title 14, United States Code, is amended by striking the entire text and inserting:

"The purpose of the Auxiliary is to assist the Coast Guard, as authorized by the Commandant, in performing any Coast Guard function, power, duty, role, mission, or operation authorized by law.".

(b) The section heading for section 822 of title 14, United States Code, is amended after "Purpose" by inserting "of the Coast Guard Auxiliary".

(c) The table of sections at the beginning of chapter 23 of title 14, United States Code, is amended in the item relating to section 822, after "Purpose" by inserting "of the Coast Guard Auxiliary".

SEC. 403. MEMBERS OF THE AUXILIARY; STATUS.

(a) Title 14, United States Code, is amended by inserting after section 823 the following new section:

"§ 823a. Members of the Auxiliary; status

"(a) Except as otherwise provided in this chapter, a member of the Coast Guard Auxiliary shall not be deemed to be a Federal employee and shall not be subject to the provisions of law relating to Federal employment, including those relating to hours of work, rates of compensation, leave, unemployment compensation, Federal employee benefits, ethics, conflicts of interest, and other similar criminal or civil statutes and regulations governing the conduct of Federal employees. However, nothing in this subsection shall constrain the Commandant from prescribing standards for the conduct and behavior of members of the Auxiliary.

"(b) A member of the Auxiliary while assigned to duty shall be deemed to be a Federal employee only for the purposes of the following:

"(1) the Federal Tort Claims Act (28 U.S.C. 2671 et seq.), the Military Claims Act (10 U.S.C. 2733), the Public Vessels Act (46 U.S.C. App. 781–790), the Suits in Admiralty Act (46 U.S.C. App. 741–752), the Admiralty Extension Act (46 U.S.C. App. 740), and for other noncontractual civil liability purposes;

"(2) compensation for work injuries under chapter 81 of title 5, United States Code; and

"(3) the resolution of claims relating to damage to or loss of personal property of the member incident to service under the Military Personnel and Civilian Employees' Claims Act of 1964 (31 U.S.C. 3721).

"(c) A member of the Auxiliary, while assigned to duty, shall be deemed to be a person acting under an officer of the United States or an agency thereof for purposes of section 1442(a)(1) of title 28, United States Code.".

(b) The table of sections for chapter 23 of title 14, United States Code, is amended by inserting the following new item after the item relating to section 823:

"823a. Members of the Auxiliary; status.".

SEC. 404. ASSIGNMENT AND PERFORMANCE OF DUTIES.

Title 14, United States Code, is amended by striking "specific" each place it appears in sections 830, 831, and 832.

SEC. 405. COOPERATION WITH OTHER AGENCIES, STATES, TERRITORIES, AND POLITICAL SUBDIVISIONS.

(a) Section 141 of title 14, United States Code, is amended—

(1) by striking "General" in the section caption and inserting "Cooperation with other agencies, States, Territories, and political subdivisions";

(2) by inserting "(which include members of the Auxiliary and facilities governed under chapter 23)" after "personnel and facilities" in the first sentence of subsection (a); and

(3) by adding at the end of subsection (a) the following: "The Commandant may prescribe conditions, including reimbursement, under which personnel and facilities may be provided under this subsection.".

(b) The table of sections for chapter 7 of title 14, United States Code, is amended by striking "General" in the item relating to section 141 and inserting "Cooperation with other agencies, States, Territories, and political subdivisions.".

SEC. 406. VESSEL DEEMED PUBLIC VESSEL.

The text of section 827 of title 14, United States Code, is amended to read as follows:

"While assigned to authorized Coast Guard duty, any motorboat or yacht shall be deemed to be a public vessel of the United States and a vessel of the Coast Guard within the meaning of sections 646 and 647 of this title and other applicable provisions of law.".

SEC. 407. AIRCRAFT DEEMED PUBLIC AIRCRAFT.

The text of section 828 of title 14, United States Code, is amended to read as follows:

"While assigned to authorized Coast Guard duty, any aircraft shall be deemed to be a Coast Guard aircraft, a public vessel of the United States, and a vessel of the Coast Guard within the meaning of sections 646 and 647 of this title and other applicable provisions of law. Subject to the provisions of sections 823a and 831 of this title, while assigned to duty, qualified Auxiliary pilot shall be deemed to be Coast Guard pilots.".

SEC. 408. DISPOSAL OF CERTAIN MATERIAL.

Section 641(a) of title 14, United States Code, is amended—

(1) by inserting "to the Coast Guard Auxiliary, including any incorporated unit thereof," after "with or without charge,"; and

(2) by striking "to any incorporated unit of the Coast Guard Auxiliary," after "America,".

TITLE V—RECREATIONAL BOATING SAFETY IMPROVEMENT

SEC. 501. STATE RECREATIONAL BOATING SAFETY GRANTS.

(a) TRANSFER OF AMOUNTS FOR STATE BOATING SAFETY PROGRAMS.—

(1) TRANSFERS.—Section 4(b) of the Act of August 9, 1950 (16 U.S.C. 777c(b); commonly referred to as the "Dingell-Johnson Sport Fish Restoration Act") is amended to read as follows:

"(b)(1) Of the balance of each annual appropriation remaining after making the distribution under subsection (a), an amount equal to $15,000,000 for fiscal year 1995, $40,000,000 for fiscal year 1996, $55,000,000 for fiscal year 1997, and $69,000,000 for each of fiscal years 1998 and 1999, shall, subject to paragraph (2), be used as follows:

"(A) A sum equal to $7,500,000 of the amount available for fiscal year 1995, and a sum equal to $10,000,000 of the amount available for each of fiscal years 1996 and 1997, shall be available for use by the Secretary of the Interior for grants under section 5604(c) of the Clean Vessel Act of 1992. Any portion of such a sum available for a fiscal year that is not obligated for those grants before the end of the following fiscal year shall be transferred to the Secretary of Transportation and shall be expended by the Secretary of Transportation for State recreational boating safety programs under section 13106 of title 46, United States Code.

"(B) A sum equal to $7,500,000 of the amount available for fiscal year 1995, $30,000,000 of the amount available for fiscal year 1996, $45,000,000 of the amount available for fiscal year 1997, and $59,000,000 of the amount available for each of fiscal years 1998 and 1999, shall be transferred to the Secretary of Transportation and shall be expended by the Secretary of Transportation for recreational boating safety programs under section 13106 of title 46, United States Code.

"(C) A sum equal to $10,000,000 of the amount available for each of fiscal years 1998 and 1999 shall be available for use by the Secretary of the Interior for—

"(i) grants under section 502(e) of the Coast Guard Authorization Act of 1995; and

"(ii) grants under section 5604(c) of the Clean Vessel Act of 1992.

Any portion of such a sum available for a fiscal year that is not obligated for those grants before the end of the following fiscal year shall be transferred to the Secretary of Transportation and shall be expended by the Secretary of Transportation for State recreational boating safety programs under section 13106 of title 46, United States Code.

"(2)(A) Beginning with fiscal year 1996, the amount transferred under paragraph (1)(B) for a fiscal year shall be reduced by the lesser of—

"(i) the amount appropriated for that fiscal year from the Boat Safety Account in the Aquatic Resources Trust Fund established under section 9504 of the Internal Revenue Code of 1986 to carry our the purposes of section 13106 of title 46, United States Code; or

"(ii) $35,000,000.

"(iii) for fiscal year 1996 only, $30,000,000.

"(B) The amount of any reduction under subparagraph (A) shall be apportioned among the several States under subsection (d) of this section by the Secretary of the Interior.''.

(2) CONFORMING AMENDMENT.—Section 5604(c)(1) of the Clean Vessel Act of 1992 (33 U.S.C. 1322 note) is amended by striking ''section 4(b)(2) of the Act of August 9, 1950 (16 U.S.C. 777c(b)(2), as amended by this Act)'' and inserting ''section 4(b)(1) of the Act of August 9, 1950 (16 U.S.C. 777c(b)(1))''.

(b) EXPENDITURE OF AMOUNTS FOR STATE RECREATIONAL BOATING SAFETY PROGRAMS.—Section 13106 of title 46, United States Code, is amended—

(1) by striking the first sentence of subsection (a)(1) and inserting the following: ''Subject to paragraph (2), the Secretary shall expend under contracts with States under this chapter in each fiscal year for State recreational boating safety programs an amount equal to the sum of the amount appropriated from the Boat Safety Account for that fiscal year plus the amount transferred to the Secretary under section 4(b)(1) of the Act of August 9, 1950 (16 U.S.C. 777c(b)(1)) for that fiscal year.''; and

(2) by amending subsection (c) to read as follows:

''(c) For expenditure under this chapter for State recreational boating safety programs there are authorized to be appropriated to the Secretary of Transportation from the Boat Safety Account established under section 9504 of the Internal Revenue Code of 1986 (26 U.S.C. 9504) not more than $35,000,000 each fiscal year.''.

(c) EXCESS FY 1995 BOAT SAFETY ACCOUNT FUNDS TRANSFER.—Notwithstanding any other provision of law, $20,000,000 of the annual appropriation from the Sport Fish Restoration Account in fiscal year 1996 made in accordance with the provisions of section 3 of the Act of August 9, 1950 (16 U.S.C. 777b) shall be excluded from the calculation of amounts to be distributed under section 4(a) of such Act (16 U.S.C. 777c(a)).

SEC. 502. BOATING ACCESS.

(a) FINDINGS.—The Congress makes the following findings:

(1) Nontrailerable recreational motorboats contribute 15 percent of the gasoline taxes deposited in the Aquatic Resources Trust Fund while constituting less than 5 percent of the recreational vessels in the United States.

(2) The majority of recreational vessel access facilities constructed with Aquatic Resources Trust Fund monies benefit trailerable recreational vessels.

(3) More Aquatic Resources Trust Fund monies should be spent on recreational vessel access facilities that benefit recreational vessels that are nontrailerable vessels.

(b) PURPOSE.—The purpose of this section is to provide funds to States for the development of public facilities for transient nontrailerable vessels.

(c) SURVEY.—Within 18 months after the date of the enactment of this Act, any State may complete and submit to the Secretary of the Interior a survey which identifies—

(1) the number and location in the State of all public facilities for transient nontrailerable vessels; and

(2) the number and areas of operation in the State of all nontrailerable vessels that operate on navigable waters in the State.

(d) PLAN.—Within 6 months after submitting a survey to the Secretary of the Interior in accordance with subsection (c), an eligible State may develop and submit to the Secretary of the Interior a plan for the construction and renovation of public facilities for transient nontrailerable vessels to meet the needs of nontrailerable vessels operating on navigable waters in the State.

(e) GRANT PROGRAM.—

(1) MATCHING GRANTS.—The Secretary of the Interior shall obligate not less than one-half of the amount made available for each of fiscal years 1998 and 1999 under section 4(b)(1)(C) of the Act of August 9, 1950, as amended by section 501(a)(1) of this Act, to make grants to any eligible State to pay not more than 75 percent of the cost of constructing or renovating public facilities for transient nontrailerable vessels.

(2) PRIORITY.—

(A) IN GENERAL.—In awarding grants under this subsection, the Secretary of the Interior shall give priority to projects that consist of the construction or renovation of public facilities for transient nontrailerable vessels in accordance with a plan submitted by a State submitted under subsection (b).

(B) WITHIN STATE.—In awarding grants under this subsection for projects in a particular State, the Secretary of the Interior shall give priority to projects that are likely to serve the greatest number of nontrailerable vessels.

(f) DEFINITIONS.—For the purpose of this section and section 501 of this Act the term—

(1) ''Act of August 9, 1950'' means the Act entitled ''An Act to provide that the United States shall aid the States in fish restoration and management projects, and for other purposes'', approved August 9, 1950 (16 U.S.C. 777a et seq.);

(2) ''nontrailerable vessel'' means a recreational vessel greater than 26 feet in length;

(3) ''public facilities for transient nontrailerable vessels'' means mooring buoys, day-docks, seasonal slips or similar structures located on navigable waters, that are available to the general public and designed for temporary use by nontrailerable vessels;

(4) ''recreational vessel'' means a vessel—

(A) operated primarily for pleasure; or

(B) leased, rented, or chartered to another for the latter's pleasure; and

(5) ''State'' means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Marianas.

TITLE VI—COAST GUARD REGULATORY REFORM

SEC. 601. SHORT TITLE.

This title may be cited as the ''Coast Guard Regulatory Reform Act of 1995''.

SEC. 602. SAFETY MANAGEMENT.

(a) MANAGEMENT OF VESSELS.—Title 46, United States Code, is amended by adding after chapter 31 the following new chapter:

''CHAPTER 32—MANAGEMENT OF VESSELS

''Sec.
''3201. Definitions.
''3202. Application.
''3203. Safety management system.
''3204. Implementation of safety management system.
''3205. Certification.

''§ 3201. Definitions

''In this chapter—

''(1) 'International Safety Management Code' has the same meaning given that term in chapter IX of the Annex to the International Convention for the Safety of Life at Sea, 1974;

''(2) 'responsible person' means—

''(A) the owner of a vessel to which this chapter applies; or

''(B) any other person that has—

''(i) assumed the responsibility for operation of a vessel to which this chapter applies from the owner; and

''(ii) agreed to assume with respect to the vessel responsibility for complying with all the requirements of this chapter and the regulations prescribed under this chapter.

''(3) 'vessel engaged on a foreign voyage' means a vessel to which this chapter applies—

''(A) arriving at a place under the jurisdiction of the United States from a place in a foreign country;

''(B) making a voyage between places outside the United States; or

''(C) departing from a place under the jurisdiction of the United States for a place in a foreign country.

''§ 3202. Application

''(a) MANDATORY APPLICATION.—This chapter applies to the following vessels engaged on a foreign voyage:

''(1) Beginning July 1, 1998—

''(A) a vessel transporting more than 12 passengers described in section 2101(21)(A) of this title; and

''(B) a tanker, bulk freight vessel, or high-speed freight vessel, of at least 500 gross tons.

''(2) Beginning July 1, 2002, a freight vessel and a mobile offshore drilling unit of at least 500 gross tons.

''(b) VOLUNTARY APPLICATION.—This chapter applies to a vessel not described in subsection (a) of this section if the owner of the vessel requests the Secretary to apply this chapter to the vessel.

''(c) EXCEPTION.—Except as provided in subsection (b) of this section, this chapter does not apply to—

''(1) a barge;

''(2) a recreational vessel not engaged in commercial service;

''(3) a fishing vessel;

''(4) a vessel operating on the Great Lakes or its tributary and connecting waters; or

''(5) a public vessel.

''§ 3203. Safety management system

''(a) IN GENERAL.—The Secretary shall prescribe regulations which establish a safety management system for responsible persons and vessels to which this chapter applies, including—

''(1) a safety and environmental protection policy;

''(2) instructions and procedures to ensure safe operation of those vessels and protection of the environment in compliance with international and United States law;

''(3) defined levels of authority and lines of communications between, and among, personnel on shore and on the vessel;

''(4) procedures for reporting accidents and nonconformities with this chapter;

''(5) procedures for preparing for and responding to emergency situations; and

''(6) procedures for internal audits and management reviews of the system.

''(b) COMPLIANCE WITH CODE.—Regulations prescribed under this section shall be consistent with the International Safety Management Code with respect to vessels engaged on a foreign voyage.

''§ 3204. Implementation of safety management system

''(a) SAFETY MANAGEMENT PLAN.—Each responsible person shall establish and submit to the Secretary for approval a safety management plan describing how that person and vessels of the person to which this chapter applies will comply with the regulations prescribed under section 3203(a) of this title.

''(b) APPROVAL.—Upon receipt of a safety management plan submitted under subsection (a), the Secretary shall review the plan and approve it if the Secretary determines that it is consistent with and will assist in implementing the safety management system established under section 3203.

"(c) PROHIBITION ON VESSEL OPERATION.—A vessel to which this chapter applies under section 3202(a) may not be operated without having on board a Safety Management Certificate and a copy of a Document of Compliance issued for the vessel under section 3205 of this title.

"§ 3205. Certification

"(a) ISSUANCE OF CERTIFICATE AND DOCUMENT.—After verifying that the responsible person for a vessel to which this chapter applies and the vessel comply with the applicable requirements under this chapter, the Secretary shall issue for the vessel, on request of the responsible person, a Safety Management Certificate and a Document of Compliance.

"(b) MAINTENANCE OF CERTIFICATE AND DOCUMENT.—A Safety Management Certificate and a Document of Compliance issued for a vessel under this section shall be maintained by the responsible person for the vessel as required by the Secretary.

"(c) VERIFICATION OF COMPLIANCE.—The Secretary shall—

"(1) periodically review whether a responsible person having a safety management plan approved under section 3204(b) and each vessel to which the plan applies is complying with the plan; and

"(2) revoke the Secretary's approval of the plan and each Safety Management Certificate and Document of Compliance issued to the person for a vessel to which the plan applies, if the Secretary determines that the person or a vessel to which the plan applies has not complied with the plan.

"(d) ENFORCEMENT.—At the request of the Secretary, the Secretary of the Treasury shall withhold or revoke the clearance required by section 4197 of the Revised Statutes (46 U.S.C. App. 91) of a vessel that is subject to this chapter under section 3202(a) of this title or to the International Safety Management Code, if the vessel does not have on board a Safety Management Certificate and a copy of a Document of Compliance for the vessel. Clearance may be granted on filing a bond or other surety satisfactory to the Secretary.".

"(b) CLERICAL AMENDMENT.—The table of chapters at the beginning of subtitle II of title 46, United States Code, is amended by inserting after the item relating to chapter 31 the following:

"32. Management of vessels .... 3201".

"(c) STUDY.—

(1) IN GENERAL.—The Secretary of the department in which the Coast Guard is operating shall conduct, in cooperation with the owners, charterers, and managing operators of vessels documented under chapter 121 of title 46, United States Code, and other interested persons, a study of the methods that may be used to implement and enforce the International Management Code for the Safe Operation of Ships and for Pollution Prevention under chapter IX of the Annex to the International Convention for the Safety of Life at Sea, 1974.

(2) REPORT.—The Secretary shall submit to the Congress a report of the results of the study required under paragraph (1) before the earlier of—

(A) the date that final regulations are prescribed under section 3203 of title 46, United States Code (as enacted by subsection (a)); or

(B) the date that is 1 year after the date of enactment of this Act.

SEC. 603. USE OF REPORTS, DOCUMENTS, RECORDS, AND EXAMINATIONS OF OTHER PERSONS.

(a) REPORTS, DOCUMENTS, AND RECORDS.—Chapter 31 of title 46, United States Code, is amended by adding the following new section:

"§ 3103. Use of reports, documents, and records

"The Secretary may rely, as evidence of compliance with this subtitle, on—

"(1) reports, documents, and records of other persons who have been determined by the Secretary to be reliable; and

"(2) other methods the Secretary has determined to be reliable.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 31 of title 46, United States Code, is amended by adding at the end the following:

"3103. Use of reports, documents, and records.".

(c) EXAMINATIONS.—Section 3308 of title 46, United States Code, is amended by inserting "or have examined" after "examine".

SEC. 604. EQUIPMENT APPROVAL.

(a) IN GENERAL.—Section 3306(b) of title 46, United States Code, is amended to read as follows:

"(b)(1) Equipment and material subject to regulation under this section may not be used on any vessel without prior approval of the Secretary.

"(2) Except with respect to use on a public vessel, the Secretary may treat an approval of equipment or materials by a foreign government as approval by the Secretary for purposes of paragraph (1) if the Secretary determines that—

"(A) the design standards and testing procedures used by that government meet the requirements of the International Convention for the Safety of Life at Sea, 1974;

"(B) the approval of the equipment or material by the foreign government will secure the safety of individuals and property on board vessels subject to inspection; and

"(C) for lifesaving equipment, the foreign government—

"(i) has given equivalent treatment to approvals of lifesaving equipment by the Secretary; and

"(ii) otherwise ensures that lifesaving equipment approved by the Secretary may be used on vessels that are documented and subject to inspection under the laws of that country.".

(b) FOREIGN APPROVALS.—The Secretary of Transportation, in consultation with other interested Federal agencies, shall work with foreign governments to have those governments approve the use of the same equipment and materials on vessels documented under the laws of those countries that the Secretary requires on United States documented vessels.

(c) TECHNICAL AMENDMENT.—Section 3306(a)(4) of title 46, United States Code, is amended by striking "clause (1)-(3)" and inserting "paragraph (1), (2), and (3)".

SEC. 605. FREQUENCY OF INSPECTION.

(a) FREQUENCY OF INSPECTION, GENERALLY.—Section 3307 of title 46, United States Code, is amended—

(1) in paragraph (1)—

(A) by striking "nautical school vessel" and inserting ", nautical school vessel, and small passenger vessel allowed to carry more than 12 passengers on a foreign voyage"; and

(B) by adding "and" after the semicolon at the end;

(2) by striking paragraph (2) and redesignating paragraph (3) as paragraph (2); and

(3) in paragraph (2) (as so redesignated), by striking "2 years" and inserting "5 years".

(b) CONFORMING AMENDMENT.—Section 3710(b) of title 46, United States Code, is amended by striking "24 months" and inserting "5 years".

SEC. 606. CERTIFICATE OF INSPECTION.

Section 3309(c) of title 46, United States Code, is amended by striking "(but not more than 60 days)".

SEC. 607. DELEGATION OF AUTHORITY OF SECRETARY TO CLASSIFICATION SOCIETIES.

(a) AUTHORITY TO DELEGATE.—Section 3316 of title 46, United States Code, is amended—

(1) by striking subsections (a) and (d);

(2) by redesignating subsections (b) and (c) as subsections (a) and (b), respectively; and

(3) in subsection (b), as so redesignated, by—

(A) redesignating paragraph (2) as paragraph (3); and

(B) striking so much of the subsection as precedes paragraph (3), as so designated, and inserting the following:

"(b)(1) The Secretary may delegate to the American Bureau of Shipping or another classification society recognized by the Secretary as meeting acceptable standards for such a society, for a vessel documented or to be documented under chapter 121 of this title, the authority to—

"(A) review and approve plans required for issuing a certificate of inspection required by this part;

"(B) conduct inspections and examinations; and

"(C) issue a certificate of inspection required by this part and other related documents.

"(2) The Secretary may make a delegation under paragraph (1) to a foreign classification society only—

"(A) to the extent that the government of the foreign country in which the society is headquartered delegates authority and provides access to the American Bureau of Shipping to inspect, certify, and provide related services to vessels documented in that country; and

"(B) if the foreign classification society has offices and maintains records in the United States.".

(b) CONFORMING AMENDMENTS.—

(1) The heading for section 3316 of title 46, United States Code, is amended to read as follows:

"§ 3316. Classification societies".

(2) The table of sections for chapter 33 of title 46, United States Code, is amended by striking the item relating to section 3316 and inserting the following:

"3316. Classification societies.".

TITLE VII—TECHNICAL AND CONFORMING AMENDMENTS

SEC. 701. AMENDMENT OF INLAND NAVIGATION RULES.

Section 2 of the Inland Navigational Rules Act of 1980 is amended—

(1) by amending Rule 9(e)(i) (33 U.S.C. 2009(e)(i)) to read as follows:

"(i) In a narrow channel or fairway when overtaking, the power-driven vessel intending to overtake another power-driven vessel shall indicate her intention by sounding the appropriate signal prescribed in Rule 34(c) and take steps to permit safe passing. The power-driven vessel being overtaken, if in agreement, shall sound the same signal and may, if specifically agreed to take steps to permit safe passing. If in doubt she shall sound the danger signal prescribed in Rule 34(d).";

(2) in Rule 15(b) (33 U.S.C. 2015(b)) by inserting "power-driven" after "Secretary, a";

(3) in Rule 23(a)(i) (33 U.S.C. 2023(a)(i)) after "masthead light forward"; by striking "except that a vessel of less than 20 meters in length need not exhibit this light forward of amidships but shall exhibit it as far forward as is practicable;";

(4) by amending Rule 24(f) (33 U.S.C. 2024(f)) to read as follows:

"(f) Provided that any number of vessels being towed alongside or pushed in a group shall be lighted as one vessel, except as provided in paragraph (iii)—

"(i) a vessel being pushed ahead, not being part of a composite unit, shall exhibit at the forward end, sidelights and a special flashing light;

"(ii) a vessel being towed alongside shall exhibit a sternlight and at the forward end, sidelights and a special flashing light; and

"(iii) when vessels are towed alongside on both sides of the towing vessels a stern light shall be exhibited on the stern of the outboard vessel on each side of the towing vessel, and a single set of sidelights as far forward and as far outboard as is practicable, and a single special flashing light.";

(5) in Rule 26 (33 U.S.C. 2026)—

(A) in each of subsections (b)(i) and (c)(i) by striking "a vessel of less than 20 meters in length may instead of this shape exhibit a basket;"; and

(B) by amending subsection (d) to read as follows:

"(b) The additional signals described in Annex II to these Rules apply to a vessel engaged in fishing in close proximity to other vessels engaged in fishing."; and

(6) by amending Rule 34(h) (33 U.S.C. 2034) to read as follows:

"(h) A vessel that reaches agreement with another vessel in a head-on, crossing, or overtaking situation, as for example, by using the radiotelephone as prescribed by the Vessel Bridge-to-Bridge Radiotelephone Act (85 Stat. 164; 33 U.S.C. 1201 et seq.), is not obliged to sound the whistle signals prescribed by this rule, but may do so. If agreement is not reached, then whistle signals shall be exchanged in a timely manner and shall prevail.".

SEC. 702. MEASUREMENT OF VESSELS.

Section 14104 of title 46, United States Code, is amended by redesignating the existing text after the section heading as subsection (a) and by adding at the end the following new subsection:

"(b) If a statute allows for an alternate tonnage to be prescribed under this section, the Secretary may prescribe it by regulation. Until an alternate tonnage is prescribed, the statutorily established tonnage shall apply to vessels measured under chapter 143 or chapter 145 of this title.".

SEC. 703. LONGSHORE AND HARBOR WORKERS COMPENSATION.

Section 3(d)(3)(B) of the Longshore and Harbor Workers' Compensation Act (33 U.S.C. 903(d)(3)(B)) is amended by inserting after "1,600 tons gross" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 704. RADIOTELEPHONE REQUIREMENTS.

Section 4(a)(2) of the Vessel Bridge-to-Bridge Radiotelephone Act (33 U.S.C. 1203(a)(2)) is amended by inserting after "one hundred gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title,".

SEC. 705. VESSEL OPERATING REQUIREMENTS.

Section 4(a)(3) of the Ports and Waterways Safety Act (33 U.S.C. 1223(a)(3)) is amended by inserting after "300 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 706. MERCHANT MARINE ACT, 1920.

Section 27A of the Merchant Marine Act, 1920 (46 U.S.C. App. 883-1), is amended by inserting after "five hundred gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title,".

SEC. 707. MERCHANT MARINE ACT, 1956.

Section 2 of the Act of June 14, 1956 (46 U.S.C. App. 883a), is amended by inserting after "five hundred gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 708. MARITIME EDUCATION AND TRAINING.

Section 1302(4)(A) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1295a(4)(a)) is amended by inserting after "1,000 gross tons or more" the following: 'as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 709. GENERAL DEFINITIONS.

Section 2101 of title 46, United States Code, is amended—

(1) in paragraph (13), by inserting after "15 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title";

(2) in paragraph (13a), by inserting after "3,500 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title";

(3) in paragraph (19), by inserting after "500 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title";

(4) in paragraph (22), by inserting after "100 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage, measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title";

(5) in paragraph (30)(A), by inserting after "500 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title";

(6) in paragraph (32), by inserting after "100 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title";

(7) in paragraph (33), by inserting after "300 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title";

(8) in paragraph (35), by inserting after "100 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title"; and

(9) in paragraph (42), by inserting after "100 gross tons" each place it appears, the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 710. AUTHORITY TO EXEMPT CERTAIN VESSELS.

Section 2113 of title 46, United States Code, is amended—

(1) in paragraph (4), by inserting after "at least 100 gross tons but less than 300 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title"; and

(2) in paragraph (5), by inserting after "at least 100 gross tons but less than 500 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 711. INSPECTION OF VESSELS.

Section 3302 of title 46, United States Code, is amended—

(1) in subsection (c)(1), by inserting after "5,000 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title";

(2) in subsection (c)(2), by inserting after "500 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title";

(3) in subsection (c)(3), by inserting after "500 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title";

(4) in subsection (c)(4)(A), by inserting after "500 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title";

(5) in subsection (d)(1), by inserting after "150 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title";

(6) in subsection (i)(1)(A), by inserting after "300 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title"; and

(7) in subsection (j), by inserting after "15 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 712. REGULATIONS.

Section 3306 of title 46, United States Code, is amended—

(1) in subsection (h), by inserting after "at least 100 gross tons but less than 300 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title"; and

(2) in subsection (i), by inserting after "at least 100 gross tons but less than 500 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14101 of that title".

SEC. 713. PENALTIES—INSPECTION OF VESSELS.

Section 3318 of title 46, United States Code, is amended—

(1) in subsection (a), by inserting after "100 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title"; and

(2) in subsection (j)(1), by inserting after "1,600 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 714. APPLICATION—TANK VESSELS.

Section 3702 of title 46, United States Code, is amended—

(1) in subsection (b)(1), by inserting after "500 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title";

(2) in subsection (c), by inserting after "500 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title"; and

(3) in subsection (d), by inserting after "5,000 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title";

SEC. 715. TANK VESSEL CONSTRUCTION STANDARDS.

Section 3703a of title 46, United States Code, is amended—

(1) in subsection (b)(2), by inserting after "5,000 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title";

(2) in subsection (c)(2), by inserting after "5,000 gross tons" each place it appears the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title";

(3) in subsection (c)(3)(A), by inserting after "15,000 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title";

(4) in subsection (c)(3)(B), by inserting after "30,000 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title"; and

(5) in subsection (c)(3)(C), by inserting after "30,000 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 716. TANKER MINIMUM STANDARDS.

Section 3707 of title 46, United States Code, is amended—

(1) in subsection (a), by inserting after "10,000 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title"; and

(2) in subsection (b), by inserting after "10,000 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 717. SELF-PROPELLED TANK VESSEL MINIMUM STANDARDS.

Section 3708 of title 46, United States Code, is amended by inserting after "10,000 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 718. DEFINITION—ABANDONMENT OF BARGES.

Section 4701(1) of title 46, United States Code, is amended by inserting after "100 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SECTION 719. APPLICATION—LOAD LINES.

Section 5102(b) of title 46, United States Code, is amended—

(1) in paragraph (4), by inserting after "5,000 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title";

(2) in paragraph (5), by inserting after "500 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title"; and

(3) in paragraph (10), by inserting after "150 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 720. LICENSING OF INDIVIDUALS.

Section 7101(e)(3) of title 46, United States Code, is amended by inserting after "1,600 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 721. ABLE SEAMEN—LIMITED.

Section 7308 of title 46, United States Code, is amended by inserting after "100 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 722. ABLE SEAMEN—OFFSHORE SUPPLY VESSELS.

Section 7310 of title 46, United States Code, is amended by inserting after "500 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 723. SCALE OF EMPLOYMENT—ABLE SEAMEN.

Section 7312 of title 46, United States Code is amended—

(1) in subsection (b), by inserting after "1,600 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title";

(2) in subsection (c)(1), by inserting after "500 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title";

(3) in subsection (d), by inserting after "500 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title";

(4) in subsection (f)(1), by inserting after "500 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title"; and

(5) in subsection (f)(2), by inserting after "500 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 724. GENERAL REQUIREMENTS—ENGINE DEPARTMENT.

Section 7313(a) of title 46, United States Code, is amended by inserting after "100 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 725. COMPLEMENT OF INSPECTED VESSELS.

Section 8101(h) of title 46, United States Code, is amended by inserting after "100 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 726. WATCHMEN.

Section 8102(b) of title 46, United States Code, is amended by inserting after "100 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 727. CITIZENSHIP AND NAVAL RESERVE REQUIREMENTS.

Section 8103(b)(3)(A) of title 46, United States Code, is amended by inserting after "1,600 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 728. WATCHES

Section 8104 of title 46, United States Code, is amended—

(1) in subsection (b), by inserting after "100 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title";

(2) in subsection (d), by inserting after "100 gross tons" and after "5,000 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title";

(3) in subsection (l)(1), by inserting after "1,600 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title";

(4) in subsection (m)(1), by inserting after "1,600 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title";

(5) in subsection (o)(1), by inserting after "500 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title"; and

(6) in subsection (o)(2), by inserting after "500 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 729. MINIMUM NUMBER OF LICENSED INDIVIDUALS.

Section 8301 of title 46, United States Code, is amended—

(1) in subsection (a)(2), by inserting after "1,000 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title";

(2) in subsection (a)(3), by inserting after "at lease 200 gross tons but less than 1,000 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title";

(3) in subsection (a)(4), by inserting after "at least 100 gross tons but less than 200 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title";

(4) in subsection (a)(5), by inserting after "300 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title"; and

(5) in subsection (b), by inserting after "200 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 730. OFFICERS' COMPETENCY CERTIFICATES CONVENTION.

Section 8304(b)(4), of title 46, United States Code, is amended by inserting after "200 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 731. MERCHANT MARINERS' DOCUMENTS REQUIRED.

Section 8701 of title 46, United States Code, is amended—

(1) in subsection (a), by inserting after "100 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of the title"; and

(2) in subsection (a)(6), by inserting after "1,600 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC 732. CERTAIN CREW REQUIREMENTS.

Section 8702 of title 46, United States Code, is amended—

(1) in subsection (a), by inserting after "100 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title"; and

(2) in subsection (a)(6), by inserting after "1,600 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 733. FREIGHT VESSELS.

Section 8901 of title 46, United States Code, is amended by inserting after "100 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 734. EXEMPTIONS.

Section 8905(b) of title 46, United States Code, is amended by inserting after "200 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 735. UNITED STATES REGISTERED PILOT SERVICE.

Section 9303(a)(2) of title 46, United States Code, is amended by inserting after "4,000 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 736. DEFINITIONS—MERCHANT SEAMEN PROTECTION.

Section 10101(4)(B) of title 46, United States Code, is amended by inserting after "1,600 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 737. APPLICATION—FOREIGN AND INTERCOASTAL VOYAGES.

Section 10301(a)(2) of title 46, United States Code, is amended by inserting after "75 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 738. APPLICATION—COASTWISE VOYAGES.

Section 10501(a) of title 46, United States Code, is amended by inserting after "50 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 739. FISHING AGREEMENTS.

Section 10601(a)(1) of title 46, United States Code, is amended by inserting after "20 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 740. ACCOMMODATIONS FOR SEAMEN.

Section 11101(a) of title 46, United States Code, is amended by inserting after "100 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 741. MEDICINE CHESTS.

Section 11102(a) of title 46, United States Code, is amended by inserting after "75 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 742. LOGBOOK AND ENTRY REQUIREMENTS.

Section 11301(a)(2) of title 46, United States Code, is amended by inserting after "100 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 743. COASTWISE ENDORSEMENTS.

Section 12106(c)(1) of title 46, United States Code, is amended by striking "two hundred gross tons" and inserting "200 gross tons as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 744. FISHERY ENDORSEMENTS.

Section 12108(c)(1) of title 46, United States Code, is amended by striking "two hundred gross tons" and inserting "200 gross tons as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title''.

SEC. 745. CONVENTION TONNAGE FOR LICENSES, CERTIFICATES, AND DOCUMENTS.

(a) AUTHORITY TO USE CONVENTION TONNAGE.—Chapter 75 of title 46, United States Code, is amended by adding at the end the following:

"§ 7506. Convention tonnage for licenses, certificates and documents

''Notwithstanding any provision of section 14302(c) or 14305 of this title, the Secretary may—

''(1) evaluate the service of an individual who is applying for a license, a certificate of registry, or a merchant mariner's document by using the tonnage as measured under chapter 143 of this title for the vessels on which that service was acquired, and

''(2) issue the license, certificate, or document based on that service.''.

(b) CLERICAL AMENDMENT.—The analysis to chapter 75 of title 46, United States Code, is amended by adding a new item as follows:

''7506. Convention tonnage for licenses, certificates and documents.''.●

Mr. PRESSLER. Mr. President, as chairman of the Senate Committee on Commerce, Science, and Transportation, I am pleased to cosponsor the Coast Guard authorization bill for the current and next fiscal years. The Coast Guard is one of our Nation's oldest agencies, tracing its roots to the year 1790, but it also is one of our most efficient. The Coast Guard has broad ranging responsibilities, from enforcing America's maritime laws to ensuring the safety of recreational boaters in places like the beautiful Lewis and Clark Lake in my home State of South Dakota.

I believe this bill makes a serious effort to improve the Coast Guard's efficiency while maintaining its effectiveness. It is clear the American taxpayers are demanding a smaller, more accountable Federal Government. At the same time, the demand for certain Government services, including those provided by the Coast Guard, continues to be great. I intend, by working with my colleagues on the Commerce Committee and along with other Senators who are interested in the Coast Guard, to meet this challenge.

Mr. President, the core provisions of this bill are consistent with the agenda of the new Congress. For example, the bill includes important provisions that enhance recreational boating safety for the Nation's 50 million boaters by providing vital funding to the States to continue essential boating safety programs while eliminating the need to fund the program through annual appropriations. It also provides a stable source of funding to improve the safety of highway bridges that cross navigable waters. It reduces unnecessary and costly regulations on industry, thereby improving the competitiveness of the U.S. maritime industry. It also addresses the operation of the Coast Guard auxiliary, a 36,000 volunteer organization, and it improves the management and efficiency of the service.

I am pleased to have the very capable Senator STEVENS of Alaska, chairman of our Oceans and Fisheries Subcommittee, spearheading this authorization process. I'm hopeful the Commerce Committee will be able to act on this bill in an expedited fashion. I ask my colleagues to work with me as we authorize the Coast Guard.

By Mr. BAUCUS:

S. 1005. A bill to amend the Public Buildings Act of 1959 to improve the process of constructing, altering, purchasing, and acquiring public buildings, and for other purposes; to the Committee on Environment and Public Works.

THE PUBLIC BUILDINGS REFORM ACT OF 1995

● Mr. BAUCUS. Mr. President, I introduce the Public Buildings Reform Act of 1995.

This law will change the way our Government puts up Federal buildings.

SPENDING ON COURTHOUSES

Montanans want Government to cut waste, and spending on Federal buildings is a place where you can find a lot of waste.

As chairman of the Environment and Public Works Committee last year, I investigated several large Federal courthouse construction projects. I found that there is little control over the design and costs of Federal courthouse projects.

Courthouses sound small, but they are big money. Last year, GSA requested over $420 million for courthouse projects.

And for this fiscal year, GSA is asking for a courthouse construction budget more than 50 percent higher. GSA wants more than $645 million for courthouses. About two out of every three tax dollars spent by GSA goes to build courthouses.

WASTE IN COURTHOUSES

Mr. President, these are huge numbers—a billion dollars in 2 years for Federal courthouse construction. And, to be charitable, this money is not always spent wisely.

Many courthouses are way too expensive. Quite a few have cost us over $200 million, and one has run up bills in excess of $500 million. And what is particularly galling, some of these courthouses are practically palaces.

You can find courthouses around the country with such extravagant furnishings as mahogany and rosewood interior panelling, brass doorknobs, private kitchens for judges, boat docks, and more. There is no reason for it. We would be better off not spending the money for these things at all.

There are even cases where the judges have set such high design standards for courthouses that they can only be satisfied by building a new courthouse, even though renovating the existing building may actually make more sense.

THE GENERAL SERVICES ADMINISTRATION

So why has this happened? To find out, we have to look at an obscure agency called the ''General Services Administration'' or GSA.

The GSA is the Federal Government's landlord. It leases and builds Federal office buildings, courthouses, border stations, and other Federal structures. And GSA has the responsibility to make sure the Government spends its money wisely for real estate transactions. But unfortunately, GSA does not have the legislative tools to make wise real estate decisions.

First of all, it does not set priorities. Each year, GSA submits a budget request to Congress that delineates the projects to be funded, there is no way for Congress to know which projects are the most important based on need.

And GSA is not solely to blame. It is often forced to adopt pet projects on behalf of individual Members of Congress, rather than basing its decisions on an overall vision of what construction is necessary. Each year, Congress approves projects, especially courthouse projects, that are not necessary and worthy but rather frilly and wasteful.

Second, responsibility for final designs is spread among different areas of Government, meaning that no one person is finally accountable for making sensible fiscal decisions. I was stunned to find, for example, that the Administrative Office of the Courts set its own design guidelines for courthouses. This is one reason you suddenly find that a relatively responsible building has suddenly sprouted fountains and grown rosewood panels.

In effect, the courts themselves design their own courthouses just as a king can design his own palace. The temptations are obvious even in theory. And they are glaring when you go to visit some of the courthouses we investigated last year. To make matters worse, the design guidelines are constantly changing at the whim of the AOC. Virtually nobody knows what they are. And, according to the General Accounting Office, the AOC frequently inflates the projected number of judges to be housed in a particular courthouse.

TIME FOR REFORM

Mr. President, it is time for reform. A more rational, accountable process can cut waste, save money and make Government more responsive to taxpayers, that is what my bill would do: To improve oversight, it will require GSA each year to submit a biennial plan to Congress that prioritizes Federal building projects; to ensure accountability, it will rewrite the courthouse design guide and require GSA to establish a uniform, responsible set of design standards; To improve oversight, it will require GSA to submit more information to Congress on each project, such as a realistic projection of the number of judges to be housed by a new courthouse; To cut waste, it will require GSA to fully justify the need and cost of each project. This must include a benchmark cost, to let the public see whether a project is extremely expensive for that particular area of the country, and on top of that, it will impose a 9-month moratorium on the spending of money for any new construction projects so we can get these other reforms in place.

CONCLUSION

Mr. President, we all have to prioritize our own personal budgets and needs. GSA and the courts should do the same. This bill will help them do that. And I look forward to working with the chairman of the Environment and Public Works Committee and other Members to see it happen.

I ask unanimous consent that a copy of the bill and a section-by-section be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1005

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Public Buildings Reform Act of 1995".

SEC. 2. SITE SELECTION.

Section 5 of the Public Buildings Act of 1959 (40 U.S.C. 604) is amended by adding at the end the following:

"(d) CONSIDERATION OF COSTS.—In selecting a site for a project to construct, alter, purchase, or acquire (including lease) a public building, or to lease office or any other type of space, under this Act, the Administrator shall consider the impact of the selection of a particular site on the cost and space efficiency of the project.".

SEC. 3. CONGRESSIONAL OVERSIGHT OF PUBLIC BUILDINGS PROJECTS.

(a) IN GENERAL.—Section 7 of the Public Buildings Act of 1959 (40 U.S.C. 606) is amended—

(1) in subsection (a)—

(A) by striking the last sentence;

(B) in the first sentence, by striking "In order" and inserting the following:

"(2) PREREQUISITES TO OBLIGATION OF FUNDS.—

"(B) APPROVAL REQUIREMENTS.—

"(i) CONSTRUCTION, ALTERATION, PURCHASE, AND ACQUISITION.—In order";

(C) in the second sentence, by striking "No" and inserting the following:

"(ii) LEASE.—No";

(D) in the third sentence, by striking "No" and inserting the following:

"(iii) ALTERATION.—No";

(E) by striking "SEC. 7. (a)" and inserting the following:

"SEC. 7. SUBMISSION AND APPROVAL OF PROPOSED PROJECTS.

"(a) IN GENERAL.—

"(1) PUBLIC BUILDINGS PLAN.—

"(A) IN GENERAL.—Not later than 15 days after the President submits to Congress the budget of the United States Government under section 1105 of title 31, United States Code, the Administrator shall submit to Congress a public buildings plan (referred to in this subsection as the 'biennial plan') for the first 2 fiscal years that begin after the date of submission. The biennial plan shall specify such projects for which approval is required under paragraph (2)(B) relating to the construction, alteration, purchase, or acquisition (including lease) of public buildings, or the lease of office or any other type of space, as the Administrator determines are necessary to carry out the duties of the Administrator under this Act or any other provision of law.

"(B) CONTENTS.—The biennial plan shall include—

"(i) a 5-year strategic capital asset management plan for accommodating the public building needs of the Federal Government that reflects the office space and other public buildings needs of the Federal Government and that is based on procurement mechanisms that allow the Administrator to take advantage of fluctuations in market forces affecting building construction and availability;

"(ii) a list—

"(I) in order of priority, of each construction, alteration, purchase, or acquisition (including lease) project described in subparagraph (A) for which an authorization of appropriations is—

"(aa) requested for the first of the 2 fiscal years of the biennial plan referred to in subparagraph (A) (referred to in this paragraph as the 'first year'); or

"(bb) expected to be requested for the second of the 2 fiscal years of the biennial plan referred to in subparagraph (A) (referred to in this paragraph as the 'second year'); and

"(II) that includes a description of each such project and the number of square feet of space planned for each such project;

"(iii) a list, in order of priority, of each lease or lease renewal described in subparagraph (A) for which an authorization of appropriations is—

"(I) requested for the first year; or

"(II) expected to be requested for the second year;

"(iv) a list, in order of priority, of each planned repair or alteration project described in subparagraph (A) for which an authorization of appropriations is—

"(I) requested for the first year; or

"(II) expected to be requested for the second year;

"(v) an explanation of the basis for each order of priority specified under clauses (ii), (iii), and (iv);

"(vi) the estimated annual and total cost of each project requested in the biennial plan;

"(vii) a list of each public building planned to be vacated in whole or in part, to be exchanged for other property, or to be disposed of during the period covered by the biennial plan; and

"(viii) requests for authorizations of appropriations necessary to carry out projects listed in the biennial plan for the first year.

"(C) PRESENTATION OF INFORMATION IN PLAN.—

"(i) FIRST YEAR.—In the case of a project for which the Administrator has requested an authorization of appropriations for the first year, information required to be included in the biennial plan under subparagraph (B) shall be presented in the form of a prospectus that meets the requirements of paragraph (2)(C).

"(ii) SECOND YEAR.—

"(I) IN GENERAL.—In the case of a project for which the Administrator expects to request an authorization of appropriations for the second year, information required to be included in the biennial plan under subparagraph (B) shall be presented in the form of a project description.

"(II) GOOD FAITH ESTIMATES.—

"(aa) IN GENERAL.—Each reference to cost, price, or any other dollar amount contained in a project description referred to in subclause (I) shall be considered to be a good faith estimate by the Administrator.

"(bb) EFFECT.—A good faith estimate referred to in item (aa) shall not bind the Administrator with respect to a request for appropriation of funds for a fiscal year other than a fiscal year for which an authorization of appropriations for the project is requested in the biennial plan.

"(cc) EXPLANATION OF DEVIATION FROM ESTIMATE.—If the request for an authorization of appropriations contained in the prospectus for a project submitted under paragraph (2)(C) is different from a good faith estimate for the project referred to in item (aa), the prospectus shall include an explanation of the difference.

"(D) REINCLUSION OF PROJECTS IN PLANS.—If a project included in a biennial plan is not approved in accordance with this subsection, or if funds are not made available to carry out a project, the Administrator may include the project in a subsequent biennial plan submitted under this subsection.";

(F) in paragraph (2) (as designated by subparagraph (B))—

(i) by inserting after "(2) PREREQUISITES TO OBLIGATION OF FUNDS.—" the following:

"(A) IN GENERAL.—Notwithstanding any other provision of law, the Administrator may not obligate funds that are made available for any project for which approval is required under subparagraph (B) unless—

"(i) the project was included in the biennial plan for the fiscal year; and

"(ii) a prospectus for the project was submitted to Congress and approved in accordance with this paragraph."; and

(ii) by adding at the end the following:

"(C) PROSPECTUSES.—For the purpose of obtaining approval of a proposed project described in the biennial plan, the Administrator shall submit to Congress a prospectus for the project that includes—

"(i) a brief description of the public building to be constructed, altered, purchased, or acquired, or the space to be leased, under this Act;

"(ii) the location of the building or space to be leased and an estimate of the maximum cost, based on the predominant local office space measurement system (as determined by the Administrator), to the United States of the construction, alteration, purchase, or acquisition of the building, or lease of the space;

"(iii) in the case of a project for the construction of a courthouse or other public building consisting solely of general purpose office space, the cost benchmark for the project determined under subsection (d); and

"(iv) in the case of a project relating to a courthouse—

"(I) as of the date of submission of the prospectus, the number of—

"(aa) Federal judges for whom the project is to be carried out; and

"(bb) courtrooms available for the judges;

"(II) the projected number of Federal judges and courtrooms to be accommodated by the project at the end of the 10-year period beginning on the date; and

"(III) a justification for the projection under subclause (II) (including a specification of the number of authorized positions, and the number of judges in senior status, to be accommodated)."; and

(G) by adding at the end the following:

"(3) EMERGENCY AUTHORITY.—

"(A) OVERRIDING INTEREST.—If the Administrator, in consultation with the Commissioner of the Public Buildings Service, determines that an overriding interest requires emergency authority to construct, alter, purchase, or acquire a public building, or lease office or storage space, and that the authority cannot be obtained in a timely manner through the biennial planning process required under paragraph (1), the Administrator may submit a written request for the authority to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives. The Administrator may carry out the project for which authority was requested under the preceding sentence if the project is approved in the manner described in paragraph (2)(B).

"(B) DECLARED EMERGENCIES.—

"(i) LEASE AUTHORITY.—Notwithstanding any other provision of this section, the Administrator may enter into an emergency lease during any period of emergency declared by the President pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) or any other law, or declared by any Federal agency pursuant to any applicable law, except that no such emergency lease shall be for a period of more than 5 years.

"(ii) REPORTING.—As part of each biennial plan, the Administrator shall describe any emergency lease entered into by the Administrator under clause (i) during the preceding fiscal year.";

(2) in subsection (b)—

(A) by striking "(b) The" and inserting the following:

"(b) INCREASES IN COSTS OF PROJECTS.—

"(1) INCREASE OF 10 PERCENT OR LESS.—The"; and

(B) by adding at the end the following:

"(2) GREATER INCREASES.—If the Administrator increases the estimated maximum cost of a project in an amount greater than the increase authorized by paragraph (1), the Administrator shall, not later than 30 days after the date of the increase, notify the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives of the amount of, and reasons for, the increase.";

(3) in subsection (c), by striking "(c) In the case" and inserting the following:

"(c) RESCISSION OF APPROVAL.—In the case"; and

(4) by striking subsection (d) and inserting the following:

"(d) DEVELOPMENT OF COST BENCHMARKS.—

"(1) IN GENERAL.—The Administrator shall develop standard cost benchmarks for projects for the construction of courthouses, and other public buildings consisting solely of general purpose office space, for which a prospectus is required under subsection (a)(2). The benchmarks shall consist of the appropriate cost per square foot for low-rise, mid-rise, and high-rise projects subject to the various factors determined under paragraph (2).

"(2) FACTORS.—In developing the benchmarks, the Administrator shall consider such factors as geographic location (including the necessary extent of seismic structural supports), the tenant agency, and necessary parking facilities.".

(b) INCLUSION OF REQUESTED BUILDING PROJECTS IN BIENNIAL PLAN.—Section 11 of the Act (40 U.S.C. 610) is amended—

(1) by striking "SEC. 11. (a) Upon" and inserting the following:

"SEC. 11. REPORTS TO CONGRESS.

"(a) REPORTS ON UNCOMPLETED PROJECTS.—Upon"; and

(2) in subsection (b)—

(A) by striking "(b) The Administrator" and inserting the following:

"(b) BUILDING PROJECT SURVEYS AND REPORTS.—

"(1) IN GENERAL.—The Administrator";

(B) in the second sentence of paragraph (1) (as so designated), by inserting before the period at the end the following: ", and shall specify whether the project is included in a 5-year strategic capital asset management plan required under section 7(a)(1)(B)(i) or a prioritized list required under section 7(a)(1)(B)"; and

(C) by adding at the end the following:

"(2) INCLUSION OF REQUESTED BUILDING PROJECTS IN BIENNIAL PLAN.—The Administrator may include a prospectus for the funding of a public building project for which a report is submitted under paragraph (1) in a biennial public buildings plan required under section 7(a)(1).".

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Section 7 of the Act (40 U.S.C. 606) is amended by striking "Committee on Public Works and Transportation" each place it appears and inserting "Committee on Transportation and Infrastructure".

(2) Section 11(b)(1) of the Act (as amended by subsection (b)(2)) is further amended by striking "Committee on Public Works and Transportation" and inserting "Committee on Transportation and Infrastructure".

SEC. 4. FEDERAL GOVERNMENT ASSET MANAGEMENT.

Section 12 of the Public Buildings Act of 1959 (40 U.S.C. 611) is amended—

(1) by striking "SEC. 12. (a) The Administrator" and inserting the following:

"SEC. 12. FEDERAL GOVERNMENT ASSET MANAGEMENT.

"(a) DUTIES OF ADMINISTRATOR.—

"(1) IN GENERAL.—The Administrator";

(2) in subsection (a), by adding at the end the following:

"(2) REPOSITORY FOR ASSET MANAGEMENT INFORMATION.—The Administrator shall use the results of the continuing investigation and survey required under paragraph (1) to establish a central repository for the asset management information of the Federal Government.";

(3) in subsection (b)—

(A) by striking "(b) In carrying" and inserting the following:

"(b) COOPERATION AMONG FEDERAL AGENCIES.—

"(1) BY THE ADMINISTRATOR.—In carrying";

(B) by striking "Each Federal" and inserting the following:

"(2) BY THE AGENCIES.—Each Federal"; and

(C) by adding at the end the following:

"(3) IDENTIFICATION AND DISPOSITION OF UNNEEDED BUILDINGS.—

"(A) IDENTIFICATION.—Each Federal agency shall—

"(i) identify public buildings that are or will become unneeded, obsolete, or underutilized during the 5-year period beginning on the date of the identification; and

"(ii) annually report the information on the buildings described in clause (i) to the Administrator.

"(B) DISPOSITION.—The Administrator shall find more cost-effective uses for, or sell, the public buildings identified under subparagraph (A).";

(4) in subsection (c), by striking "(c) Whenever" and inserting the following:

"(c) IDENTIFICATION OF BUILDINGS OF HISTORIC, ARCHITECTURAL, AND CULTURAL SIGNIFICANCE.—Whenever"; and

(5) in subsection (d), by striking "(d) The Administrator" and inserting the following:

"(d) REGARD TO COMPARATIVE URGENCY OF NEED.—The Administrator".

SEC. 5. ADDRESSING LONG-TERM GOVERNMENT HOUSING NEEDS.

(a) REPORT ON LONG-TERM HOUSING NEEDS.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the head of each Federal agency (as defined in section 13(3) of the Public Buildings Act of 1959 (40 U.S.C. 612(3)) shall review and report to the Administrator on the long-term housing needs of the agency. The Administrator shall consolidate the agency reports and submit a consolidated report to Congress.

(2) ASSISTANCE FROM ACCOUNT MANAGERS.—The Administrator of General Services shall designate an account manager for each agency to assist—

(A) the agency in carrying out the review required under paragraph (1); and

(B) the Administrator in preparing uniform standards for housing needs for—

(i) executive agencies (as defined in section 13(4) of the Act (40 U.S.C. 612(4)); and

(ii) establishments in the judicial branch of the Federal Government.

(b) REDUCTION IN AGGREGATE OFFICE AND STORAGE SPACE.—By the end of the third fiscal year that begins after the date of enactment of this Act, the Federal agencies referred to in subsection (a)(1) shall, to the maximum extent practicable, collectively reduce by no less than 10 percent the aggregate office and storage space held by the agencies on the date of enactment of this Act.

SEC. 6. MORATORIUM ON CONSTRUCTION OF PUBLIC BUILDINGS.

(a) IN GENERAL.—Notwithstanding any other law, during the period beginning on the date of enactment of this Act and ending on the date that is 270 days after the date of enactment, the Administrator of General Services may not expend funds on any project relating to the construction, purchase, or acquisition of a public building with respect to which no funds (including no funds for site selection, design, or construction) have previously been expended.

(b) DEFINITIONS.—In this section, the terms "construct" and "public building" have the meanings provided in section 13 of the Public Buildings Act of 1959 (40 U.S.C. 612).

SEC. 7. DESIGN GUIDES AND STANDARDS FOR COURT ACCOMMODATIONS.

(a) REPORT.—Not later than 60 days after the date of enactment of this Act, the Administrator of General Services, in consultation with the Director of the Administrative Office of the United States Courts, shall submit a report to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives that specifies the characteristics of court accommodations that are essential to the provision of due process of law and the safe, fair, and efficient administration of justice by the Federal court system.

(b) DESIGN GUIDES AND STANDARDS.—

(1) DEVELOPMENT.—Not later than 180 days after the date of enactment of this Act, the Administrator, in consultation with the Director of the Administrative Office of the United States Courts and after notice and opportunity for comment, shall develop design guides and standards for Federal court accommodations based on the report submitted under subsection (a). In developing the

design guides and standards, the Administrator shall consider space efficiency and the appropriate standards for furnishings.

(2) USE.—Notwithstanding section 462 of title 28, United States Code, the design guides and standards developed under paragraph (1) shall be used in the design of court accommodations.

SECTION-BY-SECTION ANALYSIS

Section 1. Short Title.

Provides that the Act may be cited as the "Public Buildings Reform Act of 1995".

Section 2. Site Selection.

This section provides that in selecting a site for a federal buildings project undertaken by the General Services Administration (GSA), the impact of the site selection on the cost and efficiency of the project shall be considered.

Section 3. Congressional Oversight of Public Buildings Projects.

The purpose of this section is to require a prioritization of GSA projects requiring Congressional approval and to provide Congress with additional information on each GSA project.

The section:

Requires GSA to submit to Congress, as part of an ongoing two year planning cycle, its authorization and appropriations requests, in order of priority, of constructing, altering, purchasing, acquiring or leasing government office space.

Prohibits the Administration from obligating funds for any prospectus-level project unless the project is part of the biennial plan for the fiscal year and unless a prospectus for it is also submitted to and authorized by the appropriate Congressional committees, as required under current law.

Requires the GSA to include additional information in each project prospectus submitted to the Senate Environment and Public Works Committee and the House Transportation and Infrastructure Committee for approval. Each prospectus shall include:

(a) a brief description of the project, including scope and tenant agency;

(b) the location of the project and the estimated maximum cost;

(c) the cost benchmark for the project;

(d) the current number of Federal judges and courtrooms as of the date of submission of the prospectus; and

(e) the projected number of Federal judges and courtrooms expected to be accommodated by the proposed project;

(1) the projected figures must be justified by including information on the authorized judicial positions and Federal judges expected to be in senior status.

Gives GSA the emergency authority to submit a prospectus for a project not contained in the biennial plan if there is an overriding interest. Should such a prospectus be submitted under this emergency authority, the prospectus must still be approved by the appropriate committees.

Allows the Administrator to enter into an emergency lease, of no more than 5 years, if there is a Presidentially declared disaster issued pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act.

Provides that should GSA seek a reprogramming request from the Congressional Appropriations Committees for a project, GSA must notify the appropriate committees of the reasons for the request and the reprogramming amount.

Ensures that an 11(b) project request made by Congressional committees are considered as part of the overall biennial planning process and not authorized separately. Included in the 11(b) report will be a priority ranking of the project.

Section 4. Federal Government Asset Management.

This section establishes a central repository at GSA to house the asset management information of the Federal Government. Each agency will identify—through a long-term plan—unneeded, obsolete and underutilized public buildings and annually report the information to GSA. The GSA, in turn, will find cost-effective uses for the public buildings, including asset sales.

Section 5. Addressing Long-Term Government Housing Needs.

This section provides that within one year, each agency shall report to Congress on the long-term housing needs of the agency in an attempt to reduce the Federal space needs. GSA will designate managers to each agency to assist in this review. By the end of the third year, each Federal agency shall, to the maximum extent practicable, reduce by no less than 10 percent its aggregate office or storage space.

Section 6. Moratorium on the Construction of Public Buildings.

This section provides for a nine month moratorium on new construction, purchase or acquisition projects. The moratorium applies only to those projects in which no funds have previously been expended on any phase of the project.

Section 7. Design Guides and Standards for Court Accommodations.

This section provides that no later than 60 days after enactment, GSA, in consultation with the Administrative Office of the Courts, shall submit a report to the appropriate committees on the basic characteristics of court accommodations. GSA shall use the results of this report to develop, in consultation with the Administrative Office of the Courts, design guides and standards for Federal court accommodations. These design guides and standards shall then be used in the construction of Federal courthouses.●

ADDITIONAL COSPONSORS

S. 50

At the request of Mr. LOTT, the name of the Senator from New Hampshire [Mr. SMITH] was added as a cosponsor of S. 50, a bill to repeal the increase in tax on Social Security benefits.

S. 67

At the request of Mr. INOUYE, the name of the Senator from Vermont [Mr. JEFFORDS] was added as a cosponsor of S. 67, a bill to amend title 10, United States Code, to authorize former members of the Armed Forces who are totally disabled as the result of a service-connected disability to travel on military aircraft in the same manner and to the same extent as retired members of the Armed Forces are entitled to travel on such aircraft.

S. 254

At the request of Mr. LOTT, the name of the Senator from Virginia [Mr. ROBB] was added as a cosponsor of S. 254, a bill to extend eligibility for veterans' burial benefits, funeral benefits, and related benefits for veterans of certain service in the U.S. merchant marine during World War II.

S. 304

At the request of Mr. MACK, his name was added as a cosponsor of S. 304, a bill to amend the Internal Revenue Code of 1986 to repeal the transportation fuels tax applicable to commercial aviation.

At the request of Mr. SANTORUM, the name of the Senator from South Dakota [Mr. PRESSLER] was added as a cosponsor of S. 304, supra.

S. 327

At the request of Mr. MACK, his name was added as a cosponsor of S. 327, a bill to amend the Internal Revenue Code of 1986 to provide clarification for the deductibility of expenses incurred by a taxpayer in connection with the business use of the home.

S. 369

At the request of Mr. HEFLIN, the name of the Senator from Alabama [Mr. SHELBY] was added as a cosponsor of S. 369, a bill to designate the Federal Courthouse in Decatur, AL, as the "Seybourn H. Lynne Federal Courthouse," and for other purposes.

S. 594

At the request of Mrs. BOXER, the name of the Senator from Kansas [Mr. DOLE] was added as a cosponsor of S. 594, a bill to provide for the administration of certain Presidio properties at minimal cost to the Federal taxpayer.

S. 650

At the request of Mr. SHELBY, the name of the Senator from Missouri [Mr. ASHCROFT] was added as a cosponsor of S. 650, a bill to increase the amount of credit available to fuel local, regional, and national economic growth by reducing the regulatory burden imposed upon financial institutions, and for other purposes.

S. 684

At the request of Mr. HATFIELD, the name of the Senator from New Mexico [Mr. BINGAMAN] was added as a cosponsor of S. 684, a bill to amend the Public Health Service Act to provide for programs of research regarding Parkinson's disease, and for other purposes.

S. 692

At the request of Mr. GREGG, the name of the Senator from Maine [Ms. SNOWE] was added as a cosponsor of S. 692, a bill to amend the Internal Revenue Code of 1986 to preserve family-held forest lands, and for other purposes.

S. 724

At the request of Mr. KOHL, the name of the Senator from Illinois [Ms. MOSELEY-BRAUN] was added as a cosponsor of S. 724, a bill to authorize the Administrator of the Office of Juvenile Justice and Delinquency Prevention Programs to make grants to States and units of local government to assist in providing secure facilities for violent and chronic juvenile offenders, and for other purposes.

S. 798

At the request of Mr. CONRAD, the names of the Senator from South Carolina [Mr. HOLLINGS] and the Senator from Illinois [Ms. MOSELEY-BRAUN] were added as cosponsors of S. 798, a bill to amend title XVI of the Social Security Act to improve the provision of supplemental security income benefits, and for other purposes.

S. 839

At the request of Mr. CHAFEE, the name of the Senator from Illinois [Ms. MOSELEY-BRAUN] was added as a cosponsor of S. 839, a bill to amend title XIX of the Social Security Act to permit greater flexibility for States to enroll Medicaid beneficiaries in managed care arrangements, to remove barriers preventing the provision of medical assistance under State Medicaid plans through managed care, and for other purposes.

S. 907

At the request of Mr. BAUCUS, his name was added as a cosponsor of S. 907, a bill to amend the National Forest Ski Area Permit Act of 1986 to clarify the authorities and duties of the Secretary of Agriculture in issuing ski area permits on National Forest System lands and to withdraw lands within ski area permit boundaries from the operation of the mining and mineral leasing laws.

SENATE CONCURRENT RESOLUTION 20—PROVIDING FOR THE CONDITIONAL RECESS OR ADJOURNMENT OF THE SENATE

Mr. DOLE (for himself and Mr. DASCHLE) submitted the following resolution which was considered and agreed to:

S. CON. RES. 20

Resolved by the Senate (the House of Representatives concurring), That when the Senate recesses or adjourns at the close of business on Thursday, June 29, 1995, or Friday, June 30, 1995, pursuant to a motion made by the Majority Leader or his designee, in accordance with this resolution, it stand recessed or adjourned until 12:00 noon on Monday, July 10, 1995, or until such time on that day as may be specified by the Majority Leader or his designee in the motion to recess or adjourn, or until 12:00 noon on the second day after Members are notified to reassemble pursuant to section 2 of this resolution, whichever occurs first; and that when the House of Representatives adjourns on the legislative day of Friday, June 30, 1995, it stand adjourned until 2:00 p.m. on Monday, July 10, 1995, or until 12:00 noon on the second day after Members are notified to reassemble pursuant to section 2 of this resolution, whichever occurs first.

Sec. 2. The Majority Leader of the Senate and the Speaker of the House, acting jointly after consultation with the Minority Leader of the Senate and the Minority Leader of the House, shall notify the Members of the Senate and the House, respectively, to reassemble whenever, in their opinion, the public interest shall warrant it.

SENATE RESOLUTION 143—COMMENDING C. ABBOTT SAFFOLD

Mr. DASCHLE (for himself, Mr. DOLE, Mr. FORD, Mr. LOTT, Mr. BYRD, Mr. THURMOND, Mr. ABRAHAM, Mr. AKAKA, Mr. ASHCROFT, Mr. BAUCUS, Mr. BENNETT, Mr. BIDEN, Mr. BINGAMAN, Mr. BOND, Mrs. BOXER, Mr. BRADLEY, Mr. BREAUX, Mr. BROWN, Mr. BRYAN, Mr. BUMPERS, Mr. BURNS, Mr. CAMPBELL, Mr. CHAFEE, Mr. COATS, Mr. COCHRAN, Mr. COHEN, Mr. CONRAD, Mr. COVERDELL, Mr. CRAIG, Mr. D'AMATO, Mr. DEWINE, Mr. DODD, Mr. DOMENICI, Mr. DORGAN, Mr. EXON, Mr. FAIRCLOTH, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. FRIST, Mr. GLENN, Mr. GORTON, Mr. GRAHAM, Mr. GRAMM, Mr. GRAMS, Mr. GRASSLEY, Mr. GREGG, Mr. HARKIN, Mr. HATCH, Mr. HATFIELD, Mr. HEFLIN, Mr. HELMS, Mr. HOLLINGS, Mrs. HUTCHISON, Mr. INHOFE, Mr. INOUYE, Mr. JEFFORDS, Mr. JOHNSTON, Mrs. KASSEBAUM, Mr. KEMPTHORNE, Mr. KENNEDY, Mr. KERREY, Mr. KERRY, Mr. KOHL, Mr. KYL, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEVIN, Mr. LIEBERMAN, Mr. LUGAR, Mr. MACK, Mr. MCCAIN, Mr. MCCONNELL, Ms. MIKULSKI, Ms. MOSELEY-BRAUN, Mr. MOYNIHAN, Mr. MURKOWSKI, Mrs. MURRAY, Mr. NICKLES, Mr. NUNN, Mr. PACKWOOD, Mr. PELL, Mr. PRESSLER, Mr. PRYOR, Mr. REID, Mr. ROBB, Mr. ROCKEFELLER, Mr. ROTH, Mr. SANTORUM, Mr. SARBANES, Mr. SHELBY, Mr. SIMON, Mr. SIMPSON, Mr. SMITH, Ms. SNOWE, Mr. SPECTER, Mr. STEVENS, Mr. THOMAS, Mr. THOMPSON, Mr. WARNER, and Mr. WELLSTONE) submitted the following resolution; which was considered and agreed to:

S. RES. 143

Whereas Abby Saffold has faithfully served the Congress in many capacities over the past 28 years, 25 of which were spent in service to the Senate;

Whereas Abby Saffold was the first woman in the history of the Senate to serve as Secretary for the majority and the first to serve as Secretary for the minority;

Whereas Abby Saffold has at all times discharged the important duties and responsibilities of her office with great efficiency and diligence;

Whereas her dedication, good humor, and exceptional service have earned her the respect and affection of Democratic and Republican Senators as well as their staffs: Now therefore, be it

Resolved, That the Senate expresses its appreciation to Abby Saffold and commends her for her lengthy, faithful and outstanding service to the Senate.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to C. Abbott Saffold.

SENATE RESOLUTION 144—RELATIVE TO HEALTH CARE LEGISLATION

Mr. WELLSTONE (for himself and Mr. FEINGOLD) submitted the following resolution; which was referred to the Committee on Labor and Human Resources:

S. RES. 144

Whereas the American people want and deserve the same high quality health care as that received by Members of Congress;

Whereas 41,000,000 Americans are uninsured, more than 11,000,000 of whom are children;

Whereas children have accounted for the largest proportion of the increase in the number of uninsured individuals in recent years;

Whereas the percentage of working people who receive health insurance from their employer has dipped to its lowest point since the early 1980's;

Whereas thousands of the Nation's smallest businesses continue to find the cost of health insurance out of reach;

Whereas many employers who do provide coverage for their employees have been forced to reduce benefits and increase employee cost-sharing requirements in order to continue to provide insurance;

Whereas medical inflation continues to grow at double the general inflation rate;

Whereas choice of health plan and provider is becoming increasingly limited for the vast majority of Americans;

Whereas many American families continue to be subject to discriminatory insurance practices and denied coverage due to preexisting health conditions;

Whereas the proposed $450,000,000,000 in medicare and medicaid cuts may lead to increasing numbers of uninsured, higher uncompensated health care costs, and severe cost shifting to the private sector; and

Whereas the status quo is unacceptable and the American public continues to believe that major reform of our country's health care system should be a top priority for Congress: Now, therefore, be it

Resolved, That it is the sense of the Senate that, by the end of the 104th Congress, the Senate should pass health care legislation to provide all Americans with coverage that is at least as good as the Senate provides for itself.

SENATE RESOLUTION 145—RELATIVE TO THE ELECTION OF THE SECRETARY FOR THE MINORITY

Mr. DASCHLE submitted the following resolution; which was considered and agreed to:

S. RES. 145

Resolved, That Martin P. Paone be, and he is hereby, elected Secretary for the minority of the Senate, effective July 11, 1995.

NOTICES OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MURKOWSKI. Mr. President, I would like to announce for the information of the Senate and public that a hearing has been scheduled before the full Committee on Energy and Natural Resources to review proposals with regard to disposition of Power Marketing Administrations.

The hearing will take place Wednesday, July 12, 1995 at 9:30 a.m., in room SD–366 of the Dirksen Senate Office Building in Washington, DC.

For further information, please call James P. Beirne, Senior Counsel to the Committee (202) 224–2564 or Betty Nevitt, Staff Assistant at (202) 224–0765.

SUBCOMMITTEE ON FORESTS AND PUBLIC LAND MANAGEMENT

Mr. CRAIG. Mr. President, I would like to announce for the information of the Senate and the public that a hearing before the Subcommittee on Forests and Public Land Management has been scheduled for Thursday, July 13, at 9:30 a.m. The purpose of the hearing is to receive testimony on S. 884, to designate certain public lands in the State of Utah as wilderness, and for other purposes.

The hearing will be held in room SD–366 of the Dirksen Senate Office Building in Washington, DC.

Those wishing to testify or who wish to submit written statements, should write to the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510. For further information, please contact Andrew Lundquist at (202) 244–6170.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MURKOWSKI. Mr. President, I would like to announce for the information of the Senate and the public that an oversight hearing before the Full Committee on Energy and Natural Resources previously scheduled for Tuesday, June 20, 1995, at 9:30 a.m. has been rescheduled for Tuesday, July 18, 1995, at 9:30 a.m. The purpose of the hearing is to review existing oil production at Prudhoe Bay, Alaska and opportunities for new production on the coastal plain of Arctic Alaska.

The hearing will be held in room SD–366 of the Dirksen Senate Office Building in Washington, DC.

Those wishing to testify or who wish to submit written statements, should write to the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510. For further information, please contact Andrew Lundquist at (202) 244–6170.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MURKOWSKI. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the full Committee on Energy and Natural Resources to receive testimony on S. 871, a bill to provide for the management and disposition of the Hanford Reservation, to provide for environmental management activities at the reservation, and for other purposes.

The hearing will take place Thursday, July 20, 1995, at 9:30 a.m., in room SD–366 of the Dirksen Senate Office Building in Washington, DC.

For further information, please call Maureen Koetz, Counsel to the Committee, Betty Nevitt, Staff Assistant at (202) 224–0765, David Garman at (202) 224–7933 or Judy Brown at (202) 224–7556.

SUBCOMMITTEE ON FORESTS AND PUBLIC LAND MANAGEMENT

Mr. CRAIG. Mr. President, I would like to announce for the information of the Senate and the public that a hearing before the Subcommittee on Forests and Public Land Management has been scheduled for Tuesday, July 25, at 9:30 a.m. The purpose of the hearing is to receive testimony on three bills before the committee: S. 45, S. 738, and S. 898.

These bills would end helium refining and marketing operations by the U.S. Bureau of Mines.

The hearing will be held in room SD–366 of the Dirksen Senate Office Building in Washington, DC.

Those wishing to testify or who wish to submit written statements, should write to the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510. For further information, please contact Michael Flannigan at (202) 224–6170.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. COHEN. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Thursday, June 29, 1995, at 9:00 a.m. to mark up the Department of Defense Authorization Act for fiscal year 1996.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. COHEN. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be allowed to meet during the Thursday, June 29, 1995 session of the Senate for the purpose of conducting a hearing on the following nominations: Robert Talcott Francis, II and John Goglia to be members of the National Transportation Safety Board and Robert Clarke Brown to be a member of the board of directors of the Metropolitan Washington Airports Authority.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. COHEN. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources and the Committee on Environment and Public Works be granted permission to meet during the session of the Senate on Thursday, June 29, 1995, for purposes of conducting a Full Committee joint hearing which is scheduled to begin at 10 a.m. The purpose of this oversight hearing is to receive testimony on the energy and environmental implications of the Komi oilspills in the former Soviet Union.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. COHEN. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works and the Senate Energy and Natural Resources Committee be granted permission to meet to conduct a joint oversight hearing to explore the environmental and energy-related consequences of Komi oilspills Thursday, June 29, at 10 a.m., Energy Committee Hearing Room (SD–366).

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. COHEN. Mr. President, I ask unanimous consent that the Finance Committee be permitted to meet on Thursday, June 29, 1995, beginning at 9:30 a.m. in room SD–215, to conduct a hearing on Medicaid.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. COHEN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, June 29, 1995, at 11 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. COHEN. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to hold a business meeting during the session of the Senate on Thursday, June 29, 1995, at 9:15 a.m. in SD–226.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON SMALL BUSINESS

Mr. COHEN. Mr. President, I ask unanimous consent that the Committee on Small Business be authorized to meet during the session of the Senate on Thursday, June 29, 1995, at 9:30 a.m., in room SD–538, to conduct a markup on legislation which is pending in the committee.

The PRESIDING OFFICER. Without objection, it is so ordered.

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. COHEN. Mr. President, I ask unanimous consent that the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs, be authorized to meet during the session of the Senate on Thursday, June 29, 1995, to hold hearings on the Investigation of the Friendly Fire Incident during the Persian Gulf War.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON AGING

Mr. COHEN. Mr. President, I ask unanimous consent that the Subcommittee on Aging of the Committee on Labor and Human Resources be authorized to meet for a hearing on the Older Americans Act, during the session of the Senate on Thursday, June 29, 1995, at 9:30 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON CLEAN AIR, WETLANDS, PRIVATE PROPERTY AND NUCLEAR SAFETY

Mr. COHEN. Mr. President, I ask unanimous consent that the Subcommittee on Clean Air, Wetlands, Private Property and Nuclear Safety be granted permission to meet Thursday, June 29, at 2 p.m., to conduct an oversight hearing on the Clean Air Act's inspection and maintenance program.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON PARKS, HISTORIC PRESERVATION AND RECREATION

Mr. COHEN. Mr. President, I ask unanimous consent that the Subcommittee on Parks, Historic Preservation and Recreation of the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Thursday, June 29, 1995, for purposes of conducting a Subcommittee hearing which is scheduled to begin at 2 p.m. The purpose of this hearing is to receive testimony on S. 594, a bill to provide for the administration of certain Presidio properties at minimal cost to the Federal taxpayer.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

TRIBUTE TO CHIEF JUSTICE WARREN BURGER

Mr. HATFIELD. Mr. President, it is with great sadness that I heard of the passing of Chief Justice Warren Burger earlier this week. Today, I am thankful for this opportunity to reflect upon the life of a tireless public servant; he was committed to the judicial system and faithfully devoted to the Constitution. These two thematic strands permeated his public life, both during his legal career and after he had left the court. Serving as Chief Justice of the United States for 17 years, he lead the Court through a gradual, centric shift, presiding with impartiality and fairness.

The Chief proved the terms liberal and conservative inadequate in characterizing his perspective on the Constitution. This pragmatism was put to the test in 1974 when he wrote the majority opinion in a unanimous decision which led to the resignation of the president who appointed him. The Court ruled that President Nixon must surrender tapes of recorded conversations, which had been subpoenaed during the Watergate investigation.

Much of his life's work focused on improving the operations and administration of the courts. Unsatisfied with status quo, the Chief began raising his voice against the problems in the judicial system. He advocated improving legal education with emphasis on practical skills and ethics. The Chief was a consummate victim's advocate, sympathizing with their rage, frustration, and bitterness.

He carried his dedication for efficiency into the halls of the Supreme Court. Faced with a litigation explosion, the Chief took pro-active measures to expedite the courts' handling of cases. He and he alone masterminded the consolidation of judicial services, now housed in the Thurgood Marshall Federal Judicial Building. His dedication to improving the structures of the courts was reflected in a 1986 resolution by the Conference of State Chief Justices and State Court Administrators to say that the Chief had done "more than any other person in history to improve the operation of all our nation's courts."

His veneration for the Constitution did not cease at the end of his judicial career. In 1978, in a speech at the National Archives, Chief Justice Burger proposed a 3-year-long observance of the bicentennial of the Constitution with the intent of reeducating citizens about the founding principles and ideals of this Nation focusing especially on young people. He wanted young minds to recognize the Constitution as a living document that continues to reflect the philosophies of its Framers and contemporary American virtues. Just 8 years later, the Chief stepped down from the position of Chief Justice to become chairman of the Bicentennial Commission. Under his direction this 5 year observance became a comprehensive program of activities, including projects in schools and colleges, major judicial gatherings, publication of books and pamphlets, massive distribution of copies of the Constitution, and the creation and preparation of television documentaries. He succeeded in giving the Nation a history and civics lesson.

The legacy of the Chief's promotion of civics education can be witnessed among the thousands of high school students who participate annually in the We the People * * * the Citizen and the Constitution Program. This program culminates in a competition where students test their knowledge of the founding documents before a panel of constitutional scholars. Lincoln High School has attended the national finals as State champions from Oregon, since the program's inception in 1987. This school's winning tradition has twice led them to the national title. As I watched Warren congratulating these students from Oregon, his devotion to the Constitution and his desire to transmit this enthusiasm to the students was evident. It was as if someone had given him a shot of adrenalin.

In the various tributes and salutes done in the publications around the country, the human side of Warren Burger is often overlooked. I was fortunate to share a personal relationship with the Chief. We had similar interests, from our love of history and antiquities to our mutual quest for the perfect garden. We were two green thumbs serving the public in our civic capacities. Warren was a man of many distinctions. Historians will remember him for his professional achievements, I will remember him as an admirable colleague and dear friend.

SMOKE-FREE CLASS OF 2000 FORUM

• Mr. BREAUX. Mr. President, I ask unanimous consent the following letters from students in my State be printed as a part of the Record. Kevin LeSaicherre and Leah Poche were youth ambassadors to the annual Smoke-free Class of 2000 Forum.

The letters follow:

PONCHATOULA, LA, *March 9, 1995.*

Hon. BOB LIVINGSTON,
Rayburn House Office Building, Washington, DC.

DEAR REPRESENTATIVE LIVINGSTON: This week in school I learned quite a bit in regard to how hazardous smoking is to my health. I am a seventh grader at St. Joseph School in Ponchatoula. I heard about the Smoke-Free Class of 2000 and wanted to become involved. I am writing this letter to suggest that all the buildings in Louisiana become smoke free. Can you assist me in this goal?

When I go to restaurants with my family, I can still smell cigarette smoke even if we sit in a non-smoking section. That most likely means that my family is receiving second-hand smoke. I believe that people do not deserve second-hand smoke if they are not the ones smoking.

According to a graph of high school seniors using 1993 information, 19½% of boys surveyed smoked and 18½% of the girls surveyed smoked. This shows that many people are young when they begin smoking. According to the law, most seniors are not even old enough to buy cigarettes. Stores are not supposed to sell cigarettes to people under the age of 18.

If people cannot smoke in the buildings of Louisiana, it would make it more difficult of them to smoke. Maybe that would make some of them stop smoking. In addition, the non-smoking public would not be exposed to second-hand smoke.

Another plan I have is to change the Surgeon General's warning on the cigarette ads, cartons, and billboards. It should be readable instead of being so small and all the dangers and risks of smoking should be listed. Thank you for your help in these matters.

Sincerely,

KEVIN LESAICHERRE.

PONCHATOULA, LA, *March 12, 1995.*

Mayor JULIAN DUFRECHE,
City Hall, Ponchatoula, LA.

DEAR MR. MAYOR: Hi, my name is Leah Poche'. I'm a seventh grader at St. Joseph School. I would like to call your attention to the obstacle facing Ponchatoula's youth. I am talking about the pressure set upon us in regard to cigarettes and spit-tobacco.

Cigarettes, we have detected are harmful to our body. In 1965 Congress passed a law requiring packages of cigarettes to have a health caution label. Since 1971 commercial ads on cigarettes and spit-tobacco were banned from television and radio. In 1972 manufactures agreed to include health caution labels in all cigarette advertisements. In 1984 a system of four different warning labels were created.

These are all great improvements. But unfortunately people just keep buying. My class has seen video after video about people who smoke and do spit-tobacco. That is great, but some people still think that it is a major joke. It isn't. I know from former experiences that smoking anything can destroy your life and the life of the people who love you. Many people do not realize this until it is too late.

My question is why. Why do people even grow tobacco? We know that it is harmful to the body. So what purpose does tobacco serve in life but to just destroy life.

Many people believe that the government should raise taxes on cigarettes. I have thought about this and I personally believe that if this takes place that the results will be harmful to everyone. We do not know how far people would go to get cigarettes. For example, if teenagers were not to have enough money to buy the cigarettes that they would go to extreme measures to obtain the money. They would start to rob people, houses, and businesses. Innocent people would just get hurt. Already the violence in Ponchatoula has increased. And if taxes go up the violence might get totally out of control.

Now I would like to make a suggestion to use the tax money that we already receive from the purchase of cigarettes and spit-tobacco to inform people more about the dangers of it's use.

I would like to thank you for your time to read this letter and ask that you do something about this major problem.

Sincerely yours,

LEAH POCHE'.•

EULOGY FOR DEBRA LYNN SIMMONS STULL

• Mr. MCCONNELL. Mr. President, there is nothing that confounds our logic and our sense of justice more than life cut short before its time. And when a person of special character and giftedness dies young, the loss casts a long shadow over everyone who knew the individual. The memory never completely recedes into the past, nor do we ever find a point of comfortable reconciliation with it.

Such is the case with the recent and untimely death of Debra Lynn Simmons Stull, sister of my director of communications, Kyle Simmons. A wife, a mother, a sister and a daughter, Debbie had already led a life that was rich with family bonds, with church service, and with community involvement. She was so energetic and vibrant that everyone who knew her naturally expected she would long outlast them all. But that was not to be. An accident at home suddenly interrupted this shining life, leaving the many who loved her the difficult task of sorting it all out.

Debbie's brother Kyle composed a beautiful eulogy for his sister, which I would like to read into the RECORD. It tells the story of a remarkable individual—who was not a person of title or lofty position, not someone whose name was regulary mentioned on the weekend talk shows, nor someone who even remotely desired such attention—yet Debbie Stull lived her life in a way that made the world she inhabited immeasurably better and that profoundly touched each person she knew.

In this time of mourning, I would like to extend my sympathy to the Stull and Simmons families. May you find the grace and strength to help you through this present hardship.

EULOGY FOR DEBBIE STULL, JUNE 24, 1995

It doesn't surprise me or my family one bit that the occasion of my sister Debbie's death has produced such an outpouring of public support and comfort.

Debbie wasn't neutral or ambivalent about anything—so, consequently, it was impossible to be neutral or ambivalent about her. And, in her case, everyone loved her.

She was one of life's active participants. If you were ever around her, you knew that she engaged you with her smile, her laugh, her warmth. As my Mom said recently, Debbie came at life with a balled-up fist—determined to ring from it all the vitality it could offer. And she did.

For some, emotion is like water collecting behind the wall of a dam, but for Debbie it was a never ending spring which flowed freely and would wash over anyone lucky enough to be nearby. As someone said to me last night at the visitation, she always made you feel special.

No doubt she touched your lives in many ways. Some of you will recall her wonderful singing voice. She always loved music and singing in church was always her favorite.

And let me say to the many children in her choir, Miss Debbie loved you. Nothing would make her happier than for all of you to go on singing.

Others may remember her as the always ready volunteer, ready to pitch in and help. Still others will recall the glow of her irrepressible smile—she smiled more than any other person I ever knew. And I'm sure others were on the receiving end of one of her hugs which said, "I understand."

Of course, she touched us, too.

My Dad moved the family in 1952, to St. Petersburg, Florida, where he began his career as a Baptist minister. Not yet 30, he and Mom raised Anne, Debbie, and Bob in a world of real togetherness.

It didn't take Debbie long to make her mark.

In his early childhood, Bob was slightly more interested in the world that turned inside his head that what was happening elsewhere. You could call him a dreamer.

Ordinarily, this quality would have marked him as an easy target for some of the other kids except that Debbie—in addition to being his sister—was also the neighborhood enforcer. It was widely known that if you messed with Bob, you messed with Debbie. And, of course, that fact was enough to make Bob's interior world safe from harm. Years later, Bob would remark that Debbie would march through the gates of Hell for you. And he was right.

Anne and Debbie sang together. When they were teenagers the task of washing and drying the dishes fell to them. They didn't seem to mind too much because it gave them chance to sing hymns. With Anne's rich alto and Debbie's clear soprano, their voices were beautiful together. As they grew older, they sang together less and less, but what we wouldn't give to hear their sisterly voices wrap around each other one more time in harmony.

Mom and Debbie were best friends. Debbie's social ease and grace came from Mom. And it was only Debbie who could match Mom's enthusiasm for shopping.

The last time they were together, they woke at 6 a.m. to drive three hours to Jacksonville for a day of shopping—nine full hours worth. Although I've not asked, I have no doubt the radio was never turned on during that long drive home—they simply had too much to talk about. With those two, the apple did not fall from the tree.

All the way to the end, my Dad's nickname for Debbie was "flea." It was his fatherly way, I think, of capturing at once her boundless energy and how sweet and small and precious she was to him. Debbie always loved his special name for her. And it was always with love that he used it.

Anne Kathryn, I don't need to tell you how much your Momma loved you. You were the light in her life. I cannot recall a single conversation with your Mom when she didn't tell me how and what you were doing—and she was always so proud of you.

David, what can be said? We love you. Debbie's life force was so strong it made us believe she would be here forever, but we were wrong.

And so we huddle together today to say goodbye to Debra Lynn Simmons Stull; sister and daughter, mother and wife, friend and neighbor, partner in song.

We commit her body to the earth, her soul to the heavens—but her spirit lives on in every last one of us who ever knew her.

We will miss her very, very much.•

THE DEATH OF EFREM KURTZ

• Mr. MOYNIHAN. Mr. President, I rise to report to the Senate the sad news of the death, in London, of the beloved American conductor Efrem Kurtz. He passed away at the great age of 95 after a career unequaled in the history of music in the 20th century, which he all but spawned. He was, of course, born in St. Petersburg in 1900, later moving to Berlin where he conducted the Berlin Philharmonic, thence to Stuttgart where he directed the philharmonic there from 1924 to 1933. As a Jew, he left what was by then Nazi Germany. He became a guest conductor of the New York Philharmonic, the NBC Symphony, the San Francisco and Chicago Symphonies, and for the longest while the Kansas City Symphony. He was a guest conductor of many orchestras in Europe, Japan, Australia, Canada, Israel, the Soviet Union, and much of the rest of the world. But the "International Who's Who," 1994–95, identifies him as American conductor, the term I used earlier. He was awarded a gold disc by Columbia Records after the sale of three million of his recordings with the New York Philharmonic alone. He was loved and admired the world over, but most especially here in the United States. We shall miss him even as we have the treasure of his memory. Our great sympathy goes to his beloved wife, Mary.

In order that the RECORD might show the range of his achievements, I ask that there be included at this point the entry of Efrem Kurtz from "Current Biography," 1946, at which time he had just begun conducting the Kansas City Philharmonic. Finally, I would ask that a flag be flown over the Capitol in his honor and presented to his widow.

The biography follows:

[From CURRENT BIOGRAPHY, 1946]

Kurtz, Efrem Nov. 7, 1900—Conductor.

Address: b. c/o Kansas City Philharmonic Orchestra, Kansas City, MO.

One of the younger men who have been gradually demonstrating their competence in the orchestral field is Efrem Kurtz, permanent conductor of the Kansas City, Philharmonic Orchestra. After an impressive debut in Berlin in 1920 as a last-minute substitute, he became known as a conductor of symphony, and as musical director of the Ballet Russe de Monte Carlo, in Europe, South America, Australia, and the United States.

One of four children, all musical, Efrem Kurtz was born in St. Petersburg Russia, on November 7, 1900. He is the son of Aron and Sima Kurtz. His father, a storekeeper, loved music but did not play an instrument. His mother, however, played the piano, and his grandfather had conducted a military band for Czar Nicholas I. Through his grandmother he is distantly related to Mendelssohn. Young Kurtz received most of this musical education at the conservatory in St. Petersburg, where he studied with Tcherepmine, Glazunov, and Vitol.

In 1918 he was graduated from the Peter the Great High School there, and from 1918 to 1920 he was a student at the University of Riga. When the Kurtz family was later forced to flee Russia because of the Revolution, the young musician resumed his studies at the Stern Conservatory in Berlin, with special classes in conducting under Carl Schröder, and was graduated in 1922. His first big opportunity has come in 1920 when at the last moment he was asked to substitute for Arthur Nikisch as conductor of a recital by Isadora Duncan. A highly successful debut brought the novice an immediate guest contract for three performances with the Berlin Philharmonic.

During the next several years Kurtz followed a heavy schedule which took him to forty-eight German cities and later to Italy and Poland. Then, in 1924 he was appointed chief conductor of the Stuttgart Philharmonic and musical director of the radio station servicing all southern Germany. In these posts Kurtz remained for nine years, until the rise of the Nazis to power. His activities, however, were not confined to Stuttgart. In 1927, for instance, Anna Pavlova, the dancer, heard his conducting and engaged him to conduct her ballet company at Covent Garden. The ten-day season was followed by a South American tour with the Pavlova Ballet, during which period Kurtz also conducted symphony concerts in Buenos Aries and Rio de Janeiro. The South American engagement led to an invitation to wield the baton in Australia, and the Australians were so enthusiastic that they extended to him three separate offers to remain. Kurtz, however, preferred to return to Europe. While permanent conductor at Stuttgart he also filled engagements in Holland, Belgium, and other European countries, and in 1931 and 1932 he conducted a series of Handel concerts at the Salzburg Festival.

In 1933 Kurtz, a Jew, left Germany for France. There, in Paris, Colonel Wassily de Basil asked him whether he would aid in an emergency by conducting the Ballet Russe de Monte Carlo without rehearsal, and on the strength of his performance appointed Kurtz musical director of the Ballet Russe. This position the young conductor was also to occupy for nine years, touring extensively throughout Europe, South America, and the United States, and at intervals appearing as guest conductor in Melbourne and Sydney, Australia, with the New York Philharmonic-Symphony Orchestra at Lewisohn Stadium for several seasons, and with the Los Angeles Philharmonic, the NBC Symphony, the Cleveland Orchestra, the Detroit Symphony, the Philadelphia Orchestra, and others. His ballet work encompassed both the classical repertoire and new choreographies some composed to the music of the great symphonies. Although, unlike some balletomanes, he believes that the latter should be included in the repertoire, or ballets utilizing symphonic scores the Ballet Russe's former musical director was on one occasion reported to have remarked, "Oh, I never see them. I keep my eyes closed. But it is not so cruel to use the music that way, because it is experimental. [Although] it is true that when I am conducting something like Brahms's Fourth I do not want to see a Mickey Mouse come out and cavort."

Kurtz has, however, written seriously of ballet. "The ballet as an art form," he said in 1941, "offers to the conductor problems which are inherent in the combination of two heterogeneous elements: bodily movement and tone. The ballet requires absolute synchronization of music and physical movement, and in this synthesis lie the problems peculiar to the ballet. . . .I am a conductor and a musician first, but ever since the days when I was associated with Anna Pavlova I have been impressed by the manifold possibilities involved in the relationship of music and the dance. If the conductor is sensitive to the problems involved, he might very well come to the point where he doubts his ability to preserve the highest standards of musicianship while, at the same time, maintaining interpretation, synchronizing the accompaniment to the movements of the dancers, and fully expanding the choreographer's ideas. . . .When one conducts classical ballet, he must follow the dancer in finest detail. He must be thoroughly conversant with the steps of the dancers; more, he must have developed an intuitive feeling for equilibrium. . . .All the problems involved in classical ballet are pertinent to the modern with an additional important element. As contrasted to the classical ballet which is merely the projection of a mood, the modern is conceived for the execution of a story. . . .Composer and choreographer have produced the modern ballet in closest collaboration. Tempo becomes a matter of a work's content, of a dance's very essence. The dancer becomes the instrument of the choreographer who, in turn, is a much the servant of the composer's ideas as the composer is willing to integrate his composition with the potentialities of pantomiming. . . . Music originally written as ballet music is without doubt better than music arranged for ballet. The possibilities for young composers in the field of ballet music are tremendous."

Kurtz has been called "the finest of ballet conductors," but although he enjoyed his work with the Ballet Russe, he readily admitted his preference for symphonic conducting. In the autumn of 1943, therefore, he accepted an invitation to become conductor of the Kansas City Philharmonic Orchestra, to succeed Karl Krueger who had left for Detroit. The next season Kurtz was re-engaged for another two years. His first thought on taking over in Kansas City, he has said, was how to bring his music to the masses, how to make them come to understand and like it; and despite opposition he began to offer "pops" concerts featuring good music at very low prices, annual free concerts, "name" soloists, and special concerts for school children in an endeavor to attract audiences. "The most important thing is to get them in," he said, "and then sell myself and the orchestra." The response proved that he was right, for by the end of his second season the orchestra was out of the red for the first time in many years and seemed well on its way to becoming self-sufficient.

He moves Kansas City audiences, it is said, because "he knows how to inject his dramatic flare into programming, at the same time maintaining the highest musical standards." Both in Kansas City and during his guest appearances it is his habit to include modern compositions and the works of the Russian masters on his programs, and he has won commendation for his conducting of these works as well as of the standard repertoire. (Igor Stravinsky [40] Kurtz has known for many years; he has seen "many of the composer's works come into being and has been their consistent advocate.") He is likewise eager to foster new instrumental and vocal talent, in this regard being a sponsor of Carol Brice, contralto, and William Kapell, pianist, both of whom have been especially well received by the critics; and for 1947 he planned engagements for eight young American solosists during the Kansas City winter "Pops" season. In 1944 Kurtz's Kansas City Philharmonic was selected as the first orchestra to be presented on NBC's new radio program Orchestras of the Nation, with reappearances scheduled for the following seasons.

In addition to his regular tasks Kurtz has led a specially assembled orchestra for several Warner Brothers' shorts of the Ballet Russe and has conducted the London Philharmonic Orchestra in the scores for two motion pictures starring Elisabeth Bergner. A "tall, gaunt Russian," Kurtz was married in 1933 to Katherine Jaffé, whom he describes ad an authority on cooking, ceramics, and painting. Kurtz himself makes a hobby of art, specializing in water colors and caricature. So well known has his interest in art work by children become that, it is pointed out, mothers now send him the paintings of their talented offspring for criticism. In addition, he collects letters from famous contemporaries, possessing many from Einstein [41], Hindemith [41], Prokofiev [41] and others; and he has built up an unusual collection of stamped letters which have some interesting historical significance. Of one of his constant companions, his French poodle Dandy, the conductor says, "You can talk to him and he understands, but he doesn't answer. That is so good sometimes."•

AN ARAB IDENTITY IN THE CAPITAL

• Mr. SIMON. Mr. President, one of the issues that will eventually have to be confronted is the status of Jerusalem.

No Israeli Government can survive that divides Jerusalem. We should understand that, and we should not create false impressions among our Arab friends that there is going to be any other status.

Unfortunately, we have seen a recent President and Secretary of State unnecessarily raise doubts about Jerusalem.

But there will have to be some practical, symbolic adjustments made. Recently, I saw an article in the Jerusalem Post by Abraham Rabinovich, a member of the Jerusalem Post editorial staff, which had some observations. I am not, at this point, ready to endorse those observations, but what they do involve is fresh and practical thinking on this issue.

My own guess is that the current peace negotiations will stumble ahead. It will not be a graceful march, but Israel will be ahead and the Arab people, of whatever nationality, will be ahead. A full-scale war will gradually diminish as a probability.

But wars can erupt again and frequently erupt over symbols as much as over substance. The Rabinovich article is one that, I believe, merits reading by people who are looking for practical answers.

I ask that it be printed in the RECORD.

The article follows:

[From the Jerusalem Post, May 27, 1995]

AN ARAB IDENTITY IN THE CAPITAL

(By Abraham Rabinovich)

The terrifying scent of sanctity mixing with politics in the mountain air probably accounts for the fatuousness from normally sober politicians on the subject of Jerusalem.

Prime Minister Yitzhak Rabin sought to justify this month's expropriations in east Jerusalem as an attempt to meet the needs of an expanding population. Foreign Minister Shimon Peres suggested that it was an even-handed taking from Jews and Arabs in order to build for Jews and Arabs. Mayor Ehud Olmert said that any housing shortage in the Arab sector is their fault—even as he raises funds for Jewish messianists who, like detonators, insert themselves ever deeper into Arab quarters. The expropriations, of course, have nothing to do with urban considerations or even-handedness. They are the opening shots in what Housing Minister Binyamin Ben-Eliezer has called the battle for Jerusalem.

What makes this relatively small expropriation different from previous massive ones is that the latter were made in a context of political confrontation, while the current one comes in the midst of a delicate and troubled peace process. The controversy may serve a useful purpose, however, if it jars us collectively into beginning to think about the unthinkable: finding a political solution for Jerusalem.

An undivided city under Israeli sovereignty is a slogan, not a solution. There will be no solution unless Arab and Moslem sensitivies concerning Jerusalem are taken into account. Rabin's pledge of religious freedom will not carry far. The Arabs, who have lived here for 1,400 years, want political rights too, not just religious rights.

Jerusalem's Arabs are already entitled to almost 30% of the seals on the City Council, although they have thus far chosen not to take up the option. It is entirely conceivable that, in the not-too-distant future, an Arab-haredi coalition will leave Israel's capital in the hands of a non-Zionist city governments (a possibility hastened by the current expropriation, which the government says is intended for haredim and Arabs).

The Arabs, however, want more than that. They want an expression of their national identity in Jerusalem as well. It is possible to give it to them without endangering Israel's dominant status.

Creative diplomacy could permit the Palestinians to have their capital in a place called Jerusalem without negating Israel's position that it will not share its capital with them.

Eizariya, for instance, is outside the city limits—outside Israel, in fact—but is closer to the Old City, the heart of Jerusalem, than is the Knesset.

What if the Palestinians were to call this Jerusalem too—even if Israel does not acknowledge it as such—and establish their seat of governance there?

Boroughs and areas of jurisdiction that partly overlap and partly don't are other elements that have been proposed for a Jerusalem solution. The Temple Mount remains the core of the problem. Moshe Dayan's proposal to permit an Arab flag to fly there is still one of the most constructive on the table. The current boundaries of Jerusalem are not biblical writ. They were drawn up in our own time by mortal men, guided by strategic and demographic, not religious, considerations. The new boundaries of 1967 tripled the size of Israeli Jerusalem by incorporating not only Jordanian Jerusalem, but numerous Arab villages around it. There is no reason those boundaries could not be fuzzed in working out a solution both sides can live with. Israeli construction in east Jerusalem has far surpassed what was envisioned in the immediate aftermath of the Six Day War. The main objective then was to link west Jerusalem—via Ramat Eshkol and French Hill—with the isolated Hebrew University campus on Mount Scopus. When this had been achieved and the diplomatic sky did not fall, bolder expropriations were carried out.

Eventually one-third of east Jerusalem was expropriated. In addition, a corridor left open east of Jerusalem in anticipation of a Jordanian solution was eventually sealed off by Ma'aleh Adumim. As geo-political strategy, this policy worked brilliantly. The main-stream Palestinian camp, watching the hills in Jerusalem and the territories being covered with Israeli housing finally sued for peace. Such heavily charged skirmishing, however, and even war itself or intifada, seems simple compared to the prospect of Jews and Arabs trying to share the city in political peace.

The absence of an assertive Arab political voice since 1967 has made it relatively easy for Israel to run Jerusalem. A Jewish-Arab council is easier to imagine as a cockpit of rancorous conflict than of co-existence. (It is rancorous enough, let it be said, as an all-Jewish council.) For the Arabs, there will be an ongoing grievance at least as massive as the Jewish housing estates covering the hills around Jerusalem. For the Jews, the most authentic Arab voice will long remain the one that drifted over the walls of the Old City from the Temple Mount loudspeakers on the first dawn of the Six Day War—itbach alyahud, slaughter the Jews.

It will not be easy. With wise leadership on both sides, ever mindful that we are lying down and rising up together in a mine field, it may be possible.

DISMANTLING THE COMMERCE DEPARTMENT

• Mr. ROTH. Mr. President, I have been a longtime advocate of streamlining government and making it more effective to address the challenges of the global economy and information age as we move into the 21st century. While I have focused on these issues for many years as chairman and former ranking Republican of the Governmental Affairs Committee, I have never witnessed as great an interest in this critical issue than I have this Congress. I welcome this interest because I believe it offers great opportunity to achieve major and overdue structural reform of the executive branch. We can and will achieve the goal of smaller, better, and less costly government.

Most recently, attention has centered on eliminating the Commerce Department. It is endorsed as part of the budget resolution. The proposal introduced recently by Senator ABRAHAM, the majority leader, and others provides a specific plan on how to dismantle the Department.

I have long endorsed the idea of dismantling the Commerce Department in the context of elevating, streamlining, and reconfiguring major trade functions in the executive branch. It is very difficult to defend the status quo as it exists today at the Commerce Department, and I believe the initiatives that have been introduced are an important step toward the establishment of a government that is structured to deal effectively with the challenges of tomorrow, not yesterday.

I have worked on organizational issues for many years and I realize how difficult it is to bring about needed and constructive change. Turf usually overwhelms the process, whether it is in the administration or Congress, and the private sector is often either unexcited about the issue, or they don't want to upset those with whom they have to work in the current structure. So it is not surprising that the recent legislation is controversial and that the trade provisions have engendered the greatest amount of concern. I, too, have concerns about certain provisions.

I would like to turn briefly to some of the trade concerns that have been raised in the initial debate on this issue so far. First, I firmly believe a vast majority of us agree on the vital importance of trade to this Nation and recognize that our Government plays a crucial role in this area. This role includes performing key functions as negotiating agreements to open markets, enforcing and implementing trade agreements, administering trade laws and facilitating exports.

For many years now, I have called for significant reform of executive branch trade functions and the case for reform has never been stronger than today. Uniting major trade responsibilities under the clear leadership of one person and establishing a more effective trade voice for our Nation is the direction in which we should head. It is time to recognize that much of the Commerce Department's trade activities are integrally involved with those of the USTR. There is no clear dividing line between them, except for the divided lines of authority. This has caused, and continues to cause, wasteful duplication of effort, confusion as to who is in charge, serious turf battles, and divide-and-conquer tactics by our trading partners. It is time that they become part of the same team with one coach in charge.

I have heard some disturbing accounts of how our trading partners take advantage of our divided trade leadership. For example, I've been told of instances where the lead trade negotiator from one of our fiercest trading partners would play the USTR and Commerce trade negotiators off one another by telling one that the other was willing to agree to something that the other would not agree to.

Ambassador Kantor's recent testimony before a House Appropriations subcommittee demonstrates the blurred nature of responsibilities between the International Trade Administration [ITA] and the USTR. He stated that the USTR's three top priorities are to ensure that the Uruguay round agreements are implemented fairly, to enforce trade agreements, and to expand trade to new markets that offer the greatest potential for increased exports of American products. That sounds a lot like what much of the ITA is doing.

I have an extremely high regard for the dedicated and talented staff at the USTR, but it is unrealistic to expect that they can continue to manage effectively a trade agenda that is ever more demanding and complex, under the current structure of divided trade leadership and responsibility. The fact that there are some 40 detailees at the USTR—about 25 percent of its current size—is indicative of the burdens the current structure is working under. Furthermore, it is my understanding that two major components of ITA—the international Economic Policy and Trade development offices spend about one-half of their time on trade negotiations and policy development.

While we need to maintain a coordinating function on trade that allows for input from different parts of our government that may be impacted by a particular trade matter, the USTR relies mostly heavily on ITA for negotiating support and backup. Even Commerce's main export promotion entity, the U.S. And Foreign Commercial Service, is actively supporting the USTR. For example, it plays an important role in the USTR's annual National Trade Estimates Report. There is logic behind bringing Commerce and USTR trade functions together under one cabinet-level voice.

I would like to comment briefly on some of the concerns that have been raised with respect to merging these functions. One major concern is related to moving import Administration functions to the USTR because of possible trade-offs that might be made between trade negotiations and administration of our trade laws. I would simply make two points in this regard. The first point is that the administration of antidumping and countervailing duty laws is a quasi-judicial process and must be implemented strictly according to law. The second point is that these functions are already part of a department that has trade advocacy as one of its primary function, something which one could argue would exert more pressure for trade-offs than would negotiations. It is my understanding that Commerce's Office of Import Administration is kept separate from other trade functions and that is how it should remain under any single trade structure. At the same time, we should recognize that, while the administration of these laws must be isolated from other primary trade functions, these issues are in fact part of trade negotiations—they were a major issue in the WTO and are an active part of past and current free trade talks.

Other strong concerns have been raised about the USTR's role as an honest broker and interagency coordinator. While I appreciate some of the concerns that have been raised, and I agree that there must be an honest broker in the White House at the highest levels on major trade decisions, it is not the USTR that seems to be performing that role. As far as I can tell, every President has created his own small White House office to broker controversial trade decisions. Ambassador Kantor has himself testified that of the three tiers of the interagency coordinating mechanism, and I quote, "(a)t the highest level is the National Economic Council (NEC)." At the lower levels, there is no reason why the USTR or a single cabinet trade structure should not perform the lower level interagency process that exists.

Things have dramatically changed since the USTR, then the STR, was created in 1962. We are no longer simply negotiating occasional GATT rounds of tariff talks. While we have made some organizational changes along the way, they have been relatively limited in scope, and the last time we made any significant change was in 1979. Since then, our trade negotiating agenda has taken center stage and has grown tremendously. The issues are much broader and more complex than ever before, and the implementation of trade agreements has also grown enormously in significance. Our Government's foreign commercial presence is often on the front lines in discovering trade problems that might need to be negotiated or are related to lack of implementation of certain agreements. Our current institutional structure that divides these and other major trade functions among separate entities is not, I would argue, in our national trade interest.

It is in our national trade interest to restructure trade functions in a way that builds on and improves the best features that exist. We want to preserve the lean and mean negotiating structure of the USTR and to also ensure that there is an effective interagency and private sector advisory process that allows for legitimate input from other agencies and voices as needed. But our negotiators should have the necessary support structure in place to achieve ambitious negotiating objectives. We also should be implementing and administering trade agreements and trade programs in one house. There is not a whole lot of sense, for example, to the USTR administering the GSP program, while Commerce implements major bilateral trade agreements such as the semiconductor agreement.

The specific business concerns that have been raised about the trade provisions of the Commerce Dismantling Act must be examined very closely, and the Committee on Governmental Affairs will be holding hearings on these and other aspects of the bill after the July recess. I share some of the concerns that have been raised, including those relating to the international economic policy and trade development functions of the Commerce Department. I also believe greater consolidation should be accomplished. A cabinet level trade structure should include, for example, the Commerce Department's existing export control functions.

Mr. President, citizens are demanding a government that works better, as well as costs less. An integrated trade structure within our Government will not only work better for our citizens, but it will also achieve efficiencies, synergies and cost savings.

In closing, I would just to like to say that there is a window of opportunity here to reflect in a comprehensive way about how we should be organized to address the many trade challenges ahead of us. I hope we can prevent jurisdictional concerns from becoming the driving force in this debate, and that we move it instead in a positive and constructive direction. I look forward to working with my colleagues to achieve the best trade structure for our country, one which will promote an effective national trade agenda for the 21st century.•

SINO-U.S. RELATIONS

Mr. THOMAS. Mr. President, as the Chairman of the Subcommittee on East Asian and Pacific Affairs, I rise today to voice my concern over a disturbing trend which I see making itself manifest in certain government and other circles in the People's Republic of China: the growing view that the sole driving force in the United States' policy towards China is a desire on our part to weaken China and prevent its emergence as a player on the world stage. I have seen this view—in some cases bordering on the paranoid—reflected in statements from the Foreign Ministry, articles in the official and semi-official Chinese media such as a June 12 story by Wang Guang in Renmin Ribao entitled "Where Is the United States Taking Sino-American Relations?", and in talks with some Chinese government representatives.

This viewpoint worries me primarily because it is wrong, but it also concerns me because of the underlying thinking which it reflects. If the Chinese are sincere in their beliefs, then this view reflects a complete misunderstanding of us and how we as a country operate. On the other hand, if the view is being disseminated by conservative party factions as part of a xenophobic campaign designed to bolster their credentials during the present struggle to replace Deng Xiaoping, then it demonstrates a willingness on their part to baselessly poison our relationship for domestic political gain. Finally, it is not outside the realm of possibility that certain factions in the government are manufacturing the entire thing in an effort to place the United States on the defensive and wring a unilateral concession or two out of us; they have done it before with other countries. Under any scenario, the result is disturbing.

I believe that Beijing's new view is well summed up in the Renmin Ribao article:

> Over the past few years, only after going through setbacks and difficulties has the United States improved and developed relations with China. After the disintegration of the Soviet Union, one view prevailed in the United States, which maintained that "China was a counterweight to the Soviet Union" during the Cold War and that it was "no longer important" to set store by relations with China in the wake of the Cold War. In September 1993, Washington came to understand that "China is a crucially important country and that China's importance has been neglected in the preceding few years." The United States then modified its China policy. After that, while pursuing its "total contact" policy, the United States continued to put pressure on China over a series of issues. In May 1994, Washington realized that the United States' pressure was hardly effective for "a country with a population of 1.2 billion people," that "China is a very large and very important country," that "its economy has the fastest growth rate in the world," that its international status and role are important, and that the United States needs to maintain and develop relations with China. The United States then separated the so-called human rights question from China's MFN trading status. Only since then have Sino-American relations developed vigorously.
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> During this time, however, another tendency in United States-China policy grew. Following China's economic development, Americans are vigorously advocating the "China threat theory." On 17 April, the Los Angeles Times carried an article saying United States officials "are beginning to pay close attention to China and view it as a possible long-term rival and threat to United States interests in the Asia-Pacific region." U.S. officials have repeatedly denied that the United States will isolate and contain China. However, what is notable is that, while briefing the House of Representatives International Relations Committee on 9 February, a U.S. State Department official in charge of East Asian and Pacific Affairs said: China "does not pose a direct threat to us. But what is obvious is that as we look over the next decades, China will become increasingly strong. Therefore, we are pursuing several policies so as to curb this potential threat through all possible means."

Mr. President, let me try to dispel this conspiracy theory. First of all, the basic flaw in the Chinese position is that it assumes a monolithic China policy on our part; but anyone who actually thinks there could be such a thing is sorely misinformed. With a liberal Democrat President drifting aimlessly through the sea of foreign policy and a conservative and assertive Republican Congress feeling the need to fill the void, the probability of there being a grand unitary U.S.-China plan is about zero. The thought of the amount of accommodations that would be necessary to achieve such a goal almost boggles the mind.

The second flaw in such a position is that the disparate events which the Chinese draw together to form their conspiracy theory are just that—disparate events each with its own, mostly unrelated, causes. For example, the PRC views stronger U.S. interests in Taiwan, Tibet, and Hong Kong as a concerted effort on our part to, as a Library of Congress senior analyst recently put it, "keep [them] preoccupied with tasks of protecting China's sovereignty and territorial integrity and less able to exert influence elsewhere." The PRC also sees confirmation of this view in a recent spurt in the growth of our interest in these areas. The Chinese, however, completely miss both the real sources of our interest and the reason for the perceived acceleration therein.

Principal among these three is the Taiwan issue; or, as Beijing is fond of calling it, the "Taiwan card." With the recent decision to admit President Lee Teng-hui to the United States for a private visit, the PRC is convinced that we have embarked on a new path to upgrade our relationship with Taiwan at their expense. The PRC, however, must remember to view the decision within the overall context of our relationship with Taiwan. We have been close friends with Taiwan for over 40 years, a considerably longer period of time than with the PRC. Taiwan is a fellow democracy in an area not known for its commitment to democratic ideals, and is one of our strongest trading partners. There are also strong cultural ties between us; for example, many of Taiwan's leaders, President Lee included, have attended university in this country.

Yet for years we have officially relegated Taiwan to less than second-class status among our friends, principally out of fear of offending mainland sensibilities. This treatment has included prohibiting its President from visiting our shores, even for a private visit, a position which has long been viewed by Congress and the American people as completely inequitable. As I have previously noted on several occasions, the only persons to whom we regularly deny entry to this country are terrorists and criminals. It was strongly felt in Congress, and the country as a whole, that to add President Lee to that list was a gratuitous insult to our friends. With the coming of a Republican-controlled Congress, the desire to remove that insult found a voice which, finally and rather sensibly, the administration heeded. The PRC should remember, then, to view the decision in these simple terms—not as a major policy shift, not as a rejection of the Three Communiques, not as a desire to create—in their parlance—"two Chinas" or "one China one Taiwan," and not as a part of some hidden agenda. It was, rather, a gesture of equity to a friend. Furthermore, the reason for the sudden acceleration in this process is not because of some deliberate plan, but for a more simple reason. Republicans have traditionally been stronger supporters of Taiwan than Democrats, and in November of last year took control of both Houses of Congress for the first time in decades. As a result, we finally found ourselves in a position to be able to effectuate our policies . . . thus the sudden spurt of activity.

Our interest in Tibet is also one unrelated to some sinister desire to preoccupy Beijing; rather, it is based on our desire to see that the Tibetan people are not physically or culturally extinguished. Since Tibet was forcibly incorporated into China by the PLA, the Beijing Government has committed acts in that country which shock the conscience. Thousands of irreplaceable Buddhist temples have been gutted and destroyed, many hundreds of Tibetans have been arrested and killed, Han Chinese have been encouraged to relocate to Tibet in a clear effort to make the Tibetan people a minority in their own land, Tibetan culture has been sinocized . . . the list goes on. There is enough there to spark our interest, without us having to manufacture an issue to keep the Chinese busy. And as with Taiwan, Republican control of Congress is likely behind the increased interest. Senator HELMS, the present chairman of the Senate Foreign Relations, has long been a strong and vocal champion of the Tibetan people, and is now in a position to be able to effectuate some of his desired policy changes.

Similarly, our preoccupation with Hong Kong is not the third leg of some organized scheme. Rather, while our interest in Taiwan stems from our long friendship and our interest in Tibet stems from concern about human rights, as I have also noted on previous occasions our Hong Kong concerns are predominantly economic. Since I have already spoken at length about this issue both on the floor and in my subcommittee, suffice it to say here that we have a substantial economic stake in the continued viability of Hong

Kong as an international financial center after its reversion to Chinese sovereignty after 1997. While issues involving that transfer are primarily bilateral ones between China and the United Kingdom, where decisions made by the two parties may affect our legitimate concerns we have a legitimate interest in speaking out about them. The explanation for why our interest there has grown recently is quite simple: 1997 is getting closer and closer, and the two parties are making more and more decisions about the colony's fate with each passing day.

These, then, are the reasons for our strong interest in Taiwan, Tibet, and Hong Kong, and for any recent increase in that interest. Each has its own set of distinct causes, and are not part of some unified plot to keep the Chinese sufficiently busy at home so as to prevent their emergence abroad.

The Chinese have also begun to see an evil intent in the attention we have been paying to their trade and other economic practices. Over the last year we have pressed China to observe its commitments to a series of multilateral and bilateral obligations in areas such as intellectual property rights, arbitration, the WTO, and so forth. The Chinese have begun to see these moves as part of an attempt to keep them economically less powerful and influential than they would otherwise grow to be. Such a conclusion stretches the bounds of reason, though, and completely overlooks the underlying basis for our actions. China has insisted that it be treated as a player on the world economic stage. Well, Mr. President, along with the benefits such a role brings come certain responsibilities. Unfortunately, the PRC has made it clear through its actions that it intends to live up to those responsibilities only when it feels like it. Therein lies the problem.

Intellectual property rights became an issue not as some manufactured attempt to weaken China's economic expansion but because the Chinese were allowing, even encouraging in some cases, widescale piracy in contravention of a series of international and bilateral agreements. Chinese companies were, in effect, stealing from us to the tune of several billion dollars a year. Is it any wonder, then, that we showed an interest in the topic? As for its entry into the WTO, China's position on accession can best be likened to wanting to have its cake and eat it too. It wants to have the benefits of that international agreement, but will not live up to others it has signed, such as the Convention on Arbitration. It wants to be treated as a developed country where such treatment suits its needs, but as a developing country in other areas. For example, although the Chinese Minister of Chemical Industry Gu Xiulian has proudly noted that China's soda ash production has "leapt to the front row in the world" and is one of the top three chemicals produced in China—a statement one would logically assume is concomitant with developed status—it has instead demanded developing status for this chemical industry. This would allow it to continue to leave in place artificially high tariffs imposed against United States imports of soda ash. China cannot have it both ways, and our calling them on this and similar attempts is simply a matter of equity and nothing more. It is of some interest to note at this juncture that if we were involved in some overall scheme to hinder China's economy, the President would hardly have recommended renewing that country's MFN status as he did this month. And, as I strongly suspect it will, Congress would have hardly gone along with that renewal.

There are other areas where the PRC appears to see the conspiracy at work: The restriction on sales to that country of United States technology with possible military applications calls for greater access to Chinese markets, statements of concern about the possibility of regional conflict in the Spratly Island group, et cetera; but I will not belabor my point lest our Chinese friends decide that I protest too much. Let me just state that while the paranoid can manufacture a conspiracy out of any given set of facts, regardless of how unrelated they may be, I hope that the Chinese will reflect on the issues as I have briefly outlined them and see that there is no unified plan to get them.

It is unfortunate that Sino-American relations have taken a downturn over the past few weeks, and that there might be some who view that downturn as evidence of the so-called conspiracy in United States/China policy. I can assure our Chinese friends that such a downturn was not desired, and should not be allowed to linger. Having said that, let me also state emphatically that it will not behoove some isolated circles in the PRC to exacerbate or overreact to the present situation for ulterior reasons; I have seen some disturbing signs that there may be a growing tendency on the Chinese side for some to do just that. It may be thought that by placing the United States on the defensive, United States officials "anxious to restore meaningful dialogue with China presumably would be expected to 'prove' their intentions with some gestures designed to show the Chinese that their conspiratorial view of U.S. policy is no longer correct." As proof of our goodwill, the Chinese side might suggest a series of unilateral gestures on the part of the United States.

This is not just hypothesizing on my part; I have already seen a few examples of it. For instance, a June 27 KYODO news agency broadcast reported that Zhou Shijian, deputy head of the Research Institute of International Trade at MOFTEC—the Ministry of Foreign Trade and Economic Cooperation—had said in an interview that the United States should take three steps to soothe the PRC's rancor over the President Lee visit: send a special envoy to Beijing to apologize, support PRC membership in the WTO, and lift restrictions on technology transfers to China.

Mr. President, let me note first that I—and I believe most other Members of Congress—would strongly oppose any move by the administration to make any unilateral concessions of this magnitude under this type of circumstance; it would set a very distasteful precedent. Moreover, Mr. Zhou could not have picked a less likely three areas in which to expect gratuitous action on our part. Let me explain.

First, while we regret the effect of President Lee's visit on the United States-China relationship, and regret that it has upset the Chinese side, sending an envoy to apologize presupposes that the decision to admit Lee was wrong. It was not; and given the votes calling for Lee's visit in both the House and the Senate, I think one would be hardpressed to find more than three of the 535 Members who would agree that it was.

Second, we have made clear that our support for the PRC's accession to the WTO is dependent on China's adherence to the provisions of other multilateral economic agreements to which it is a party, such as international IPR and arbitration conventions. While the PRC has made strides in the IPR field, its compliance in others has been less than satisfactory. For example, although a signatory to the international arbitration convention, the Chinese have steadfastly refused to honor a $6 million award against a Shanghai firm in favor of a United States company named Revpower. Until China lives up to commitments such as this one, I and many others do not believe that our support should be forthcoming, especially on a unilateral basis.

Finally, we come to restrictions on technology transfers. These restrictions were put into place after the Tienanmen massacre, and are designed to keep technology with military applications out of the hands of the PLA. Although there had been some discussion here of loosening the restrictions, that possibility has pretty much evaporated in light of credible information that the Chinese have been involved in transfers of technological and military hardware to rogue countries such as Iran. Given the very real possibility that were we to resume some transfers China might simply transship our materials to these countries, I do not think that the Chinese will see a change in that position anytime soon.

Mr. President, let me close by reiterating that there is no grand design to keep China from occupying its proper place in the world. And, as for the present souring in the relationship, I hope that, like the ripples in a pond after a stone is thrown into it, the ripples in the relationship will continue to grow smaller until things are once again smooth.●

IMPORTATION OF SPENT NUCLEAR FUEL FROM FOREIGN RESEARCH REACTORS

● Mrs. MURRAY. Mr. President, I wish to comment this morning on the Department of Energy's proposal to import spent nuclear fuel from foreign research reactors through commercial ports such as Tacoma, WA.

Before I begin, I would like to thank DOE, and in particular Mr. Charles Head, for the outstanding efforts put forward by DOE to ensure that the citizens of Tacoma have had adequate opportunities to review information and make comments on DOE's proposal. The additional public hearing held last week was well received and well attended and the extension of the public comment period until July 20th is appreciated. DOE's efforts have not gone unnoticed.

Mr. President, I fully appreciate the United States nuclear nonproliferation policies and objectives. I also understand the important role that removing spent nuclear fuel from the global marketplace plays in those policy objectives. Nonetheless, I would like to express my serious concerns regarding DOE's proposal. DOE's draft environmental impact statement on the handling of foreign spent nuclear fuel does not adequately assess the potential risks that alternative #1, the importation and interim storage of foreign spent nuclear fuel in the United States, could pose to the citizens of the United States, particularly those who reside in the port communities suggested as points of entry in the DEIS and those near proposed waste storage facilities.

Along with my colleagues from the State of Washington, I recently sent a letter to Secretary O'Leary outlining the reasons behind our concerns. I ask that a copy of that letter be printed in the RECORD. In summary, we raised concerns over the evaluation of the potential exposure of the general public to radiation, the inadequate training and equipment possessed by Tacoma emergency response units to deal with a radiation emergency, the failure to address the potential for terrorist activities during the importation process, and the proposal to use the Hanford nuclear facility as an interim storage facility. Given these concerns, we asked DOE to no longer consider using commercial ports such as Tacoma, but to limit further consideration of alternative #1 to military ports.

It has recently come to my attention that alternative #2 in the DEIS, facilitating the management of the spent nuclear fuel overseas, may be a better choice. Although the DEIS presents a number of difficulties in implementing alternative #2, it may be more feasible than previously thought. There is a processing facility in Scotland that is apparently both able and willing to take the spent nuclear fuel and reprocess it into more stable, less threatening material. I want to encourage DOE to fully investigate this possibility. It could ensure that we meet our nuclear nonproliferation goals without threatening the health and safety of United States citizens.

I look forward to working with DOE and the administration to ensure that we meet our nuclear nonproliferation objectives while simultaneously protecting the citizens of the United States.

The letter follows:

U.S. SENATE
Washington, DC, June 8, 1995.

HAZEL O'LEARY,
Secretary, U.S. Department of Energy,
Washington, DC.

DEAR SECRETARY O'LEARY. We are writing to express our concerns over the alternatives proposed in the Department of Energy's (DOE) Draft Environmental Impact Statement (DEIS) on the management of spent nuclear fuel (SNF) from foreign research reactors. We are concerned about the proposed option of importing the foreign SNF through commercial ports such as Tacoma, WA.

While the desire to encourage other nation's research reactors to switch to low-enriched uranium (LEU) from highly-enriched uranium (HEU) is an integral component of the United States overall nuclear nonproliferation policy, importing foreign SNF through commercial ports may not be necessary. The DOE DEIS lists two military ports among the ten possible ports of entry for the SNF. We feel that DOE should limit further consideration of importing SNF to these or other appropriate military ports because of the considerable concern amount citizens and city officials about importing SNF through commercial ports.

First, there is significant apprehension about the threats to public health importing this SNF through commercial ports would create. Although DOE has stated that the threats to public health are not significant given the state of the material and the overly cautious design of the storage casks, we are not convinced that no public health threat exists. There is public concern that longshoremen, sailors, and average citizens could potentially become exposed to significant radiation levels. Whether this risk is real or only perceived is irrelevant. Importing foreign SNF through commercial ports would at best threaten public confidence and citizens' sense of security and at worst pose a significant threat to public health.

Second, the DEIS states: "Primary responsibility for emergency response to a foreign research reactor SNF incident would reside with local authorities.". Although the port and city of Tacoma have emergency response plans for hazardous materials, neither the Police and Fire Departments nor the Port workers are properly equipped or trained to contend with a significant radiation emergency. Properly equipping and training these people would add a significant and unnecessary cost to the overall proposal. In addition, it is not clear that Police Officers, Fire Fighters, and port workers would be willing to undergo such training, knowing that it opens them up to potential future radiation exposure. In fact, port workers in Tacoma may declare their unwillingness to handle the material during even routine transport procedures, let alone emergencies.

Third, importing foreign SNF through commercial ports runs contrary to the overall policy objective of reducing the worldwide availability of HEU and other nuclear waste. If lengthy, unnecessary and relatively low-security transportation of SNF occurs through commercial ports, the increased opportunities for theft, hijacks, and sabotage could result in greater accessibility to the SNF than desired. As current events have unfortunately revealed, the United States is not immune to terrorism, either foreign or domestic. Even if this material could not be used in the making of nuclear weapons, and some of it could, the very fact that it is radioactive makes it dangerous. Transporting this material through commercial ports would create an unnecessary threat to national security.

These concerns present a compelling case for DOE to preclude further consideration of commercial ports like Tacoma, WA for the importation of foreign SNF. While removing HEU and other nuclear waste from the global marketplace is an essential aspect of nuclear nonproliferation, importing this material through military ports may prove more reasonable given the increased protection that could be provided to public health and safety and national security.

We are also concerned about the proposal to store the foreign SNF at the Hanford Nuclear Reservation. This idea is unacceptable given the current state of affairs at that facility. The current environmental problems associated with the storage of nuclear waste at the Hanford site have resulted in clean up costs near $50 billion. In addition, current budget pressures will make it difficult for DOE to meet its legally enforceable clean up schedule. Additional waste management responsibilities could further hamper the Department's efforts at the site.

In summary we would appreciate DOE limiting further consideration of this proposal to military ports and adequate storage facilities.

Thank you for your consideration. We look forward to your response.

Sincerely,

PATTY MURRAY.
JIM MCDERMOTT.
NORM DICKS.●

EBOLA

● Mr. SIMON. Mr. President, one of the Americans who has a great deal of firsthand knowledge of Zaire, the troubled country in Africa, is Dr. William Close, a physician who spent a number of years in Zaire.

He is a remarkable person whose 16 years were not only given to service of the people of Zaire but given to keen observation.

Dr. Close, whose instincts and insights I have come to trust, believes that the United States should be backing Prime Minister Kengo more firmly. It is the peaceful way out for a nation that is now destitute. It is a way out from Mobuto dictatorship.

He has written a novel about the disease that we have heard so much about, ebola. That is also the title of his book. I have not read the book, but I understand it provides real insights into Africa.

I have read the epilog to the book, which is not fiction. The book is fiction but based in large part on facts. The epilog contains insights, not only into Zaire but into international tragedies, as well as domestic tragedies.

For example, when Dr. Close writes: "Devastating diseases breed in the cesspools of poverty," he could be writing about other countries, but he could also be writing about our country.

He prods our consciences when he writes:

> When the people of one nation are crushed by destitution, disaster from revolutions or plagues are inevitable. Then, countries such as ours, which with small amounts of timely assistance could have prevented the worst from happening, are forced into more massive involvement. Recent history proves the point.

I ask that Dr. Close's epilog to his book, "Ebola," be printed in the Record.

The epilog follows:

Epilog

After the first explosion of Zaire's Ebola virus in 1976, the country continued on its inexorable decline into economic collapse and political chaos. A different strain of Ebola erupted in south Sudan three years later. As before, it came . . . it killed . . . it disappeared.

Ten years after the tragedies in Yambuku, I had settled into a remote rural medical practice in Wyoming. One morning I opened the newspaper and read that the United States Army intended to build an aerosol lab at Dugway Proving Ground near Salt Lake City to test hemorrhagic fever viruses, including Ebola, for "defensive purposes." With Salt Lake City only a three-and-a-half-hour drive from my Wyoming home, I felt a tightening in my gut: there would be no defense against a laboratory accident. An outcry from the people of Utah delayed the project—for the time being.

Four years ago, Zaire was again on the front pages. Like a coup de grace, a violent mutiny gripped the country by its throat. The troops, backed by a desperate, hungry population, rampaged through the major cities and destroyed what little remained of industry, commerce, and the rotting infrastructure.

In August of 1994, I returned to Zaire at the invitation of the Prime Minister of the transitional government, Mr. Kengo wa Dondo, an old friend. With Zairian and Belgian colleagues, we reviewed the medical crises that continue to overwhelm the country. Sleeping sickness, river blindness, goiters and cretinism, and malaria had been under effective control during the decades before independence and into the sixties and early seventies. But, with the disintegration of Zaire's economy, exacerbated by gross corruption and mismanagement, by the early 1990s these diseases were again ravaging large segments of the population and AIDS played out its slow-death scenario in every city. I visited the capital city's general hospital, called "Mama Yemo" after the president's mother. Her bronze bust still stands among fetid, skeletal buildings of what had been a proud and efficient referral center of two thousand beds. Old midwives walk four hours to come to work. Doctors thumb rides to be on call. The personnel is there, trained and ready to work, but there is no equipment, no medicines, no IV fluids worth mentioning. The medical staff come, still hoping that they can do something for people.

Prime Minister Kengo's government has started up the long and dangerous road to reforming the national economy. This means eliminating powerful and wealthy forces that have profited from the virtual collapse of government. This means countering political egos and stepping on sensitive toes. Communications, schools, medical services, and normal government functions like tax collecting and customs at the ports of entry must be rebuilt from scratch. For this to happen, roads, telephones, postal services, water supply, and sewer systems must function properly. The disintegration of these combined services signifies an infrastructure that has plummeted to catastrophic levels. In such conditions, it is not surprising that major epidemics are flourishing, and devastating diseases like hepatitis, AIDS, "red diarrhea," and now, once more, Ebola, are threatening the population and, possibly, the world.

In 1976, Zaire was still a client state of the West, and although President Mobutu's long, all-powerful dictatorship had stifled progress and milked profits for himself and his entourage to the detriment of his people, some services were still working, especially the mission hospitals and schools. Today this situation is far worse. Zaire, Rwanda, and Burundi are examples of countries whose strategic value to the West all but disappeared when the Berlin Wall came down. "Africa has fallen off the horizon." "We will help you, Mr. Kengo, when you have straightened out the country." Catch-22 nonsense dressed in meaningless, diplomatic jargon and papered with documents that begin, "We deplore . . ." It takes a corrupter to exploit the leader of a client state.

The present resurgence of Ebola in Zaire, the deaths in Kikwit of patients along with their Zairian doctors, nurses, hospital workers, and Italian nursing sisters, can either generate fear and more panic-provoking films, or it can give rise to an awakening in all of us. We live in a small community of nations. When one nation coughs, others cannot sleep. When the people of one nation are crushed by destitution, disaster from revolutions or plagues are inevitable. Then, countries such as ours, which with small amounts of timely assistance could have prevented the worst from happening, are forced into more massive involvement. Recent history proves the point.

Devastating diseases breed in the cesspools of poverty. Many Zairian doctors and nurses are well-trained, competent professionals, but they have little or nothing with which to work. Maintenance and even the most basic supplies are lacking in government hospitals because of the gross mismanagement characteristic of regimes that preceded Mr. Kengo's government. We must graduate from judgment and neglect to realistic actions, and we must encourage the handful of men and women now struggling against monumental odds in countries all but abandoned by the West.

I am sad that the occasion for the publishing of my book "Ebola" coincides with another outbreak of this African hemorrhagic fever in Zaire. My heart joins the many who mourn. I bow to the courage of those who take care of the sick and dying. Whether this resurgence is caused by our trifling with nature's balance or by some other tragic circumstance, let us hope that Ebola's hiding place will be found this time.

If this book opens hearts, stimulates minds, and broadens our human perspectives, it will have played a small part in surmounting an immense challenge.

W.T.C.,
Big Piney, Wyoming.

WELCOMING THE SPECIAL OLYMPIC ATHLETES TO THE SPECIAL OLYMPICS WORLD GAMES IN NEW HAVEN, CT

• Mr. DODD. Mr. President, it is with great pride and anticipation that I join all of Connecticut in extending our warmest welcome to the athletes, families, coaches and friends of the 1995 Special Olympics World Games. Right now, more than 6,700 athletes from every State in the Union, and from 125 nations around the world, are traveling to New Haven, CT, to compete in a world-class sporting event from July 1–9. These games constitute the largest sporting event in the world this year.

Twenty-five years ago, Eunice Kennedy Shriver established the Special Olympics—an international sports organization for people with mental retardation. She envisioned bringing joy and pride, developed through competition, to those about whom the world had forgotten, and believed could not compete. We are thrilled to have the privilege of hosting an event that has been an inspiration to the world. It is impossible to watch these games, witness the tremendous skill and courage of these truly special athletes, and not be changed in some way.

It is in that spirit that thousands of people have worked for more than a year to help make the dreams of these athletes a reality. I would like to commend the Shrivers, former Governor Weicker, the entire World Games Organizing Committee, the towns and families throughout Connecticut, and the thousands of volunteers who have so generously opened their hearts and homes to the athletes and their families.

In a world where professional athletics has often become synonymous with multimillion-dollar contracts and endorsements, the Special Olympics remind us of what sport is truly about—the thrill of accomplishment and the satisfaction that comes from giving your all.

The excitement and splendor of the Special Olympics extends beyond sports competition. The worlds of science, diplomacy, art, culture, and entertainment unite to honor the spirit of Special Olympics and achievements of people with mental retardation. There will be extraordinary events juxtaposing the drama of world-class sports with the power of courageous competitors achieving their personal best before the eyes of the world.

The talent and dedication of these athletes, their love for their sport, and their extraordinary sportsmanship are an inspiration to us all.●

ORDER OF PROCEDURE

Mr. DOLE. Mr. President, it is my understanding that the negotiations are still in the process of negotiation on H.R. 1944, the rescissions bill. We are not quite in a position yet to say whether or not there will be a vote when it comes to the Senate, if it passes the House or if it is taken up by the House. And we are advised we will not know that for another additional 2 hours. So it seems to me, after discussion with the Democratic leader, Senator DASCHLE, that our best hope is to come back in the morning. I regret I cannot absolutely guarantee Members there will be no votes tomorrow. But it is our hope that, if the House acts and if the rescissions bill comes to the Senate, we can do it quickly. It may require a vote on final passage. It may require additional votes. But I hope we can do it by noon or 1 o'clock tomorrow.

Is that satisfactory with the Democratic leader?

Mr. DASCHLE. If the distinguished leader would yield, it is satisfactory. I think Senators ought to be aware that there is a possibility of votes tomorrow. But like the majority leader, I would like to see if we can resolve whatever differences remain and work through this and hopefully even come up with a way by which a vote would be unnecessary. But as the distinguished leader said, the negotiations are still under way on the House side, and it is unclear when or if sufficient progress would be made to bring the issue to a closure on the House side. So, all we can do at this point is to wait and assume that sometime tomorrow we could bring it up. So, I think the distinguished leader's recommendation is a good one. And I hope we can finally come to closure on it sometime tomorrow.

Mr. DOLE. So, I would say to my colleagues, we hope there will not be any votes tomorrow. I cannot promise that. We believe—not certain—but believe on this side we have cleared action on H.R. 1944 without votes. But that could change depending on what the House does. I can say that for certain.

We will be working together tomorrow morning—myself and the Democratic leader—to let our colleagues go at the earliest possible time.

UNANIMOUS-CONSENT AGREEMENT—S. 343

Mr. DOLE. Mr. President, I ask unanimous consent that at 1 p.m. on Monday, July 10, the Senate resume consideration of S. 343, the regulatory reform bill; that at that point, Senator ABRAHAM be recognized to offer an amendment to the Dole substitute relative to small business and no second-degree amendments be in order; and that the vote occur on or in relation to the Abraham amendment at 5 p.m. on Monday, July 10, 1995.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, I further ask unanimous consent that at 3 p.m., the Abraham amendment be laid aside and Senator NUNN be recognized to offer the Nunn-Coverdell amendment relative to the Regulatory Flexibility Act and that no second-degree amendments be in order to the Nunn-Coverdell amendment; and that the vote occur on or in relation to the Nunn-Coverdell amendment immediately following the Abraham vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, I inform my colleagues, there will be votes on Monday, July 10. They will begin at 5 o'clock. They are substantive votes. It is my hope that after the votes, we can have additional amendments offered that evening.

ELECTING MARTIN P. PAONE, SECRETARY FOR THE MINORITY

Mr. DASCHLE. Mr. President, I send a resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the resolution.

The legislative clerk read as follows:

A resolution (S. Res. 145) to elect Martin P. Paone Secretary for the minority.

Resolved, That Martin P. Paone be, and he is hereby, elected Secretary for the Minority of the Senate, effective July 11, 1995.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. DOLE. Mr. President, not only do I have no objection, I applaud—though I am sorry to see Abby leave—I applaud the resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

So the resolution (S. Res. 145) was agreed to.

Mr. DASCHLE. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PROVIDING FOR CONDITIONAL RECESS OR ADJOURNMENT OF THE TWO HOUSES

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Con. Res. 20 submitted earlier by myself.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 20) providing for a conditional recess or adjournment of the Senate on Thursday, June 29, 1995, or Friday, June 30, 1995, until Monday, July 10, 1995, and a conditional adjournment of the House on the legislative day of Friday, June 30, 1995, until Monday, July 10, 1995.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. DOLE. Mr. President, I ask unanimous consent that the resolution be considered and agreed to; that the motion to reconsider be laid upon the table; and that any statements relating to the resolution appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

So, the concurrent resolution (S. Con. Res. 20) was agreed to, as follows:

Resolved by the Senate (the House of Representatives concurring), That when the Senate recesses or adjourns at the close of business on Thursday, June 29, 1995, or Friday, June 30, 1995, pursuant to a motion made by the Majority Leader or his designee, in accordance with this resolution, it stand recessed or adjourned until 12:00 noon on Monday, July 10, 1995, or until such time on that day as may be specified by the Majority Leader or his designee in the motion to recess or adjourn, or until 12:00 noon on the second day after Members are notified to reassemble pursuant to section 2 of this resolution, whichever occurs first; and that when the House of Representatives adjourns on the legislative day of Friday, June 30, 1995, it stand adjourned until 2:00 p.m. on Monday, July 10, 1995, or until 12:00 noon on the second day after Members are notified to reassemble pursuant to section 2 of this resolution, whichever occur first.

SEC. 2. The Majority Leader of the Senate and the Speaker of the House, acting jointly after consultation with the Minority Leader of the Senate and the Minority Leader of the House, shall notify the Members of the Senate and the House, respectively, to reassemble whenever, in their opinion, the public interest shall warrant it.

ORDERS FOR FRIDAY, JUNE 30, 1995

Mr. DOLE. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 9:30 a.m. on Friday, June 30, 1995; that following the prayer, the journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day; that there then be a period for the transaction of morning business until the hour of 10:30 a.m., with Senators permitted to speak for up to 5 minutes each, with the following exceptions: Senator CRAIG, 15 minutes; Senator SMITH, 15 minutes; Senator PRYOR, 10 minutes; Senator GRAMS, 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. DOLE. Mr. President, following morning business, it is hoped that the Senate will receive from the House the rescissions bill. As I said before, we should be aware there possibly could be rollcall votes. The two leaders will do their best to avoid any rollcall votes tomorrow. If we cannot reach an agreement, there could be rollcall votes.

ORDER FOR RECESS

Mr. DOLE. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that after the statement by the distinguished Democratic leader, Senator DASCHLE, the Senate stand in recess under the previous order.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The distinguished Democratic leader.

CONGRATULATIONS TO MARTY PAONE

Mr. DASCHLE. Mr. President, I will be very brief. Let me congratulate our new Secretary for the minority, Marty Paone, and thank him for taking on his new responsibilities.

As we all have seen in the last hour or so, he fills big shoes. As Abby Saffold leaves and as the obvious love and affection and respect that Abby has goes with her, we have the confidence in knowing that Marty will fill those shoes and do so just as ably in this capacity as he has in so many other roles in serving this Senate and our caucus in the past. We have the good fortune to rely upon Marty each and every day on the Senate floor.

As a result of a remarkable career, he has now gained the respect and the confidence of all of our colleagues in taking on this new responsibility.

So we wish him well as he begins. We look forward to working with him in this new capacity, and we know that our caucus and this Senate will be served well by all that he will do as he continues to come to work so faithfully and in such a dedicated way in the coming months and years.

With that, I yield the floor.

RECESS UNTIL 9:30 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate now stands in recess until 9:30 a.m. tomorrow.

Thereupon, the Senate, at 8:05 p.m., recessed until Friday, June 30, 1995, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate June 29, 1995:

DEPARTMENT OF THE INTERIOR

JOHN RAYMOND GARAMENDI, OF CALIFORNIA, TO BE DEPUTY SECRETARY OF THE INTERIOR, VICE FRANK A. BRACKEN, RESIGNED.

THE JUDICIARY

R. GUY COLE, JR., OF OHIO, TO BE U.S. CIRCUIT JUDGE FOR THE SIXTH CIRCUIT, VICE NATHANIEL R. JONES, RETIRED.

HOUSE OF REPRESENTATIVES—*Thursday, June 29, 1995*

The House met at 11:30 a.m., and was called to order by the Speaker pro tempore [Mr. KINGSTON].

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
June 29, 1995.

I hereby designate the Honorable JACK KINGSTON to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Bless us, O God, and all Your people so the works of justice and mercy will have the center of our focus and an attitude of reconciliation and peace will be our goal. Help us to be aware, gracious God, that You have called us in this day and time to be people of character and integrity and in spite of any difference or dispute, may we seek to express the unity of Your creation that is Your gift to us. With humility and thanksgiving, with gratitude and praise, we receive this new day by Your promise and by Your grace. In Your name, we pray. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. The gentleman from Ohio [Mr. HALL] will lead the membership in the Pledge of Allegiance.

Mr. HALL of Ohio led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate had passed without amendment a concurrent resolution of the House of the following title:

H. Con. Res. 38. Concurrent resolution authorizing the use of the Capitol Grounds for the Greater Washington Soap Box Derby.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 1058. An act to reform Federal securities litigation, and for other purposes.

CONFERENCE REPORT ON HOUSE CONCURRENT RESOLUTION 67, CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEARS 1996–2002

Mr. SOLOMON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 175 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 175

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report to accompany the concurrent resolution (H. Con. Res. 67) setting forth the congressional budget for the United States Government for the fiscal years 1996, 1997, 1998, 1999, 2000, 2001, and 2002. All points of order against the conference report and against its consideration are waived. The conference report shall be considered as read. The conference report shall be debatable for one hour equally divided and controlled by the chairman and ranking minority member of the Committee on the Budget. The provisions in section 2 of this resolution shall be effective upon the adoption by the Congress of House Concurrent Resolution 67.

SEC. 2. HOUSE CONFORMING CHANGES.

(a) REVENUE INSTRUCTION IN THE HOUSE.—For the purposes of the compliance with reconciliation directions in the House under subsections (a), (b), and (c) of section 310 of the Congressional Budget Act of 1974, subclause (II) of section 105(a)(2)(B)(xii) of the Concurrent Resolution on the Budget for Fiscal Year 1996 shall be deemed to read as follows:

"(II) The House Committee on Ways and Means shall report changes in laws within its jurisdiction such that the total level of revenues for that committee for fiscal year 2002 is not less than $1,295,840,000,000 and for fiscal years 1996 through 2002 is not less than $7,896,813,000,000.".

(b) HOUSE CERTIFICATION PROCEDURE.—Section 205 of the Concurrent Resolution on the Budget for Fiscal Year 1996 shall not apply with respect to the House.

The SPEAKER pro tempore. The gentleman from New York [Mr. SOLOMON] is recognized for 1 hour.

Mr. SOLOMON. Mr. Speaker, for the purpose of debate only, I yield 30 minutes to the gentleman from Ohio [Mr. HALL] pending which I yield myself such time as I may consume. During consideration of this resolution, all time is yielded for the purpose of debate only.

Mr. Speaker, House Resolution 175 provides for consideration of House Congressional Resolution 67, the conference report to accompany the concurrent resolution on the budget for fiscal years 1996 thru 2002. The rule waives all points of order against the conference report and against its consideration. The rule also provides 1 hour of debate on the conference report, divided equally between the chairman and ranking minority member of the Committee on the Budget.

Finally, the rule provides that the provisions in section 2 of the rule shall be effective upon the adoption of the budget resolution by the Congress. Section 2 of the rule clarifies the interpretation of two procedures as they apply to the House. First, the rule clarifies the House procedures for certifying a balanced budget are contained in section 210 of the conference report. Second, the rule provides the correct numbers for the level of revenue reconciled to the House Committee on Ways and Means. The numbers in the rule are consistent with the aggregate levels in the conference report.

Mr. Speaker, this rule is consistent with the precedent set by the rules utilized for conference reports for 7 of the last 8 years. It will allow for a fair and reasonable debate on the substance of this important legislation.

Mr. Speaker, today is truly a historic day.

Today we will consider the conference report on the concurrent resolution on the budget for fiscal years 1996 through 2002, in layman's terms our Nation's detailed fiscal path back to a sound financial footing.

Mr. Speaker, today the House will approve a balanced budget, something the naysayers and the protectors of the status quo said could not be done. Well, I stand here on the floor of the House today with all of my Republican colleagues to say we have done it, without raising taxes, without cutting Social Security, and without cutting veterans earned benefits.

Mr. Speaker, as all of us well know, formulating this historic package has not been easy. It has actually been very difficult, and quite frankly, in many parts of this country, has not even been totally popular but it has been the right thing to do.

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

But regardless of whether we agree with the results—and I personally do agree—of this effort, we all must commend those involved, for a sincere, upfront and realistic approach to dealing with this real fundamental problem of governing. In recognition of this I personally want to publicly commend, again, my colleagues on the Budget Committees of both Houses for their dedicated work. Specifically, I must also commend the leadership of JOHN KASICH on this vital issue. With the help of his committee, he has brought the immediacy of this issue into every home, business, and farm. He has fostered a complicated consensus of ideas—a consensus that will garner a majority vote in both Houses of the people's Congress.

As a result, this conference report represents the utilization of our cherished democratic process in resolving a serious national problem. This is how the process was intended to work.

In reference to the details of the conference report I must say that I personally am pleased with the outcome. The agreement of the House and Senate represents a reorganization of our Nation's limited fiscal priorities in a way most conducive to the principles of federalism.

We all have our personal refinements that we would like to make to the agreement. I personally would have liked this bill to contain more money for defense and more department eliminations. Most of you also know that I would prefer to balance the budget sooner than 2002. However, the beauty of democracy is that it is premised on the need for consensus.

This conference report represents a consensus.

Consequently, I am proud to be part of this Republican Congress which has stuck to its promises, and stood by its convictions by presenting this balanced budget to the American people.

Mr. Speaker, with that I urge my colleagues to support this rule and the final passage of this historic balanced budget resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. HALL of Ohio. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, my colleague on the other side of the aisle has properly described this rule. It is a simple one which waives all points of order against the conference report and against its consideration. It also provides for 1 hour of debate time equally divided and controlled by the chairman and ranking minority member of the Committee on the Budget, Finally, the rule provides clarifying procedural language and the correct revenue amounts for reconciliation in section 2 of this rule which shall be effective upon final action on the budget resolution by Congress.

This is not an unusual rule for a conference report and I do plan to support it. However, Mr. Speaker, I have grave misgivings about the content of this budget resolution.

Although this resolution simply sets spending ceilings, and the implementing legislation, in many areas will come later, this resolution assumes cuts that many of us believe are simply too severe. You can look at this budget and see numbers—numbers in the millions, billions, and trillions. Yet there are faces behind those numbers. There are seniors, and working class families, and the poor. These are the people who will be hurt under this budget.

This resolution calls for a balanced budget by the year 2002, a laudable goal. Yet in order to get to this goal, this budget calls for cuts of $270 billion in Medicare; $180 billion in Medicaid; $10 billion in student loans; and a 31-percent cut in nondiscretionary programs by the year 2002, including highway construction, air traffic control, meat inspection, and numerous education and training programs. I do not think the American people are aware of the impact these kind of cuts will have on their everyday lives in 1, 2, or even 3 years.

The Medicare and Medicaid cuts alone account for more than one-third of the cuts in this bill. Yet last year's debate on health care reform pointed out the complexities of changing seniors' health care coverage. Medicare recipients, by and large, have worked hard their entire lives and they want the right to choose their own doctors. This budget takes a meat ax to the Medicare budget and seniors will suffer under it, as well as poor families and the disabled.

One of the most troubling aspects of this piece of legislation is the $245 billion tax cut for the wealthy and large corporations. To ask seniors and middle-class families to take the kind of hits they are going to get under this bill, and to then turn around and pass out tax breaks to corporations and those making over $200,000 is simply ludicrous. If we are going to balance the budget we should at least try to do it in a responsible way. While the special interests have gotten a good deal under this package, the American public has not. The $500 children's tax credit my colleagues on the other side like to talk about does not even touch really poor families, those making less than $23,000. Middle-class families, making under $100,000, will barely benefit from it. And the $354 billion tax cut package already passed in the House, which I opposed, already offends this budget which calls for a $245 billion cut for the wealthy.

The student aid cuts under this budget bill are too extreme. The average income of a family receiving student loans is $35,000. Eliminating the interest subsidy, as called for in this budget, increases a student's indebtedness by 20 percent. This means an average student will pay $5,000 more per student loan.

Finally, Mr. Speaker, I cannot stand here today without expressing my disappointment over the dismantling of the child nutrition programs which occurred in the so-called welfare reform bill passed earlier in the year. This budget resolution assumes the enactment of the final package. Unless our colleagues in the other body correct the block granting of school lunch and other programs, millions of school children across the country will lose their school lunches.

For these reasons and others, I will be opposing this budget resolution when we have a chance to vote, and I urge my colleagues to take a very close look at its impact on middle-class Americans and the poor. However, as I indicated earlier, I have no objection to the rule which sets the terms of debate and I will be supporting it.

Mr. Speaker, I reserve the balance of my time.

Mr. SOLOMON. Mr. Speaker, I yield such time as he may consume to the gentleman from Sanibel, FL [Mr. GOSS], a member of the Committee on Rules, a very valuable Member of this body who has done more to bring about this balanced budget than many people that I know. He is a very valuable Member.

Mr. GOSS. Mr. Speaker, I thank the gentleman from Glens Falls, our distinguished Chairman, for yielding me this time, and I rise in strong support of this rule, a very good and very special rule. Mr. Speaker, with this rule we will bring to the floor the central feature of the new majority's promise to the American people: a balanced Federal budget. We cannot forget the importance of this budget blueprint—every year since 1969 the Federal Government has spent more money than it had available in its coffers. Our total debt is now in the neighborhood of $5 trillion, almost $20,000 for every man, woman, and child. So it is an incredible feat that for the first time in over a quarter of a century, we have made a hard commitment to a balanced budget. And we have done this in spite of the lack of a balanced budget amendment, and in spite of a budget process that, at best, makes it extremely difficult to bring the budget into balance and at worst actually hinders the process of cutting waste and overspending.

Mr. Speaker, having served on the Blue Ribbon Bipartisan Entitlement Commission, known as the Kerry Commission, I have seen firsthand the problems that are lurking just around the corner if we do not fulfill our promise of balancing the budget. Asking the American people to put up with continued budget deficits is like asking them to paddle over Niagara Falls in a canoe, a predictably unpleasant outcome. Without serious reforms in all areas of the budget—including discretionary programs, including entitlements—we are setting the stage for certain tragedy.

Many people talk about the impact that the national debt and annual deficit will have on future generations, but the threat is actually much more immediate. Take Medicare for example: the trustees responsible for reporting on the state of this vital health program have said, plainly and simply, that Medicare will be broke in 2002—we are not talking about our children or grandchildren—this will have a direct impact on everyone from current retirees on down. This budget resolution addresses this crisis head on, and provides a platform to prevent a disaster—in Medicare and all other truly vital programs.

Mr. Speaker, I commend the chairman of the Budget Committee, JOHN KASICH of Ohio, for his tireless work in bringing this budget agreement to the floor. As he told us in committee, "It is very important that we pass this conference report expeditiously, so that the various authorizing committees can fulfill their reconciliation goals and further us on the path to a balanced budget in 7 years." I urge my colleagues to support the rule and the budget.

Mr. HALL of Ohio. Mr. Speaker, I yield 1 minute to the gentleman from Maryland [Mr. CARDIN].

Mr. CARDIN. Mr. Speaker, there are many of us who oppose this budget resolution that is before us, but support moving toward a balanced budget within 7 years.

Let me remind the House of the coalition budget, which is one example that was on the floor that would have provided for a balanced budget within 7 years with less borrowing than this budget resolution provides and would do it without the draconian cuts in our Medicare system or cuts in student financial assistance.

We can do that if we would only give up the tax breaks that are in the budget resolution that provide $245 billion of relief to our wealthiest people. We can have a balanced budget without jeopardizing our Medicare system and without jeopardizing our students' ability for financial assistance. We can do better.

We should not put tax breaks for the wealthy ahead of a health care system for our seniors or the need for student assistance.

We can do better. We should do better. Let us defeat this budget resolution; let us bring out one that would not jeopardize senior health care and our students.

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the gentleman from Muncie, IN [Mr. MCINTOSH], an outstanding new freshman Member of this body who has already made his mark.

Mr. MCINTOSH. Mr. Speaker, I rise in support of this rule.

I think that a lot of us in the freshman class and a lot of us in the Republican conference supported the Contract With America and promised the American taxpayers that we would have tax cuts in this new Congress, and in the Contract we passed numerous tax cuts. We provided the family with a $500 tax credit. We provided the elderly with a tax cut, repealing President Clinton's tax increase on Social Security. We provided small businessmen and investors a greater return on their capital investments, which will also stimulate the economy and create jobs.

Those promises were central to our effort last fall to go to the American people and explain to them why we needed a new majority in Congress.

I am proud to say that in the negotiations on this conference report, we were able to keep the bulk of those tax cuts. We were not able to keep all of them. Now, my preference would have been to keep every single one of them.

But I am here to say that I think this is a good step forward. I think we should support the conference report, but we should consider it to be a floor. This is the lowest amount the tax cuts that we can expect, and the freshman class and the conservatives in the conference and the Republican Party will be continuing to work for even more tax cuts so that we can be assured that we do repeal the Social Security tax increase, we do give every family in America a full $500 credit for every child, and we do give the full amount of capital gains tax cut. That is the standard that we will hold as we move toward reconciliation, and that is where we will be pursuing our efforts to fight on behalf of the American taxpayer.

Mr. Speaker, this is a good compromise and a good conference report. I rise in favor of the rule and the conference report.

Mr. HALL of Ohio. Mr. Speaker, I yield 1 minute to the gentleman from West Virginia [Mr. WISE].

Mr. WISE. Mr. Speaker, we all support a balanced budget. So why do I oppose this balanced budget proposal? Because I do not support balancing the Federal budget while you unbalance the budget of millions of American families. In West Virginia, for instance, 300,000 senior citizens will see their Medicare cut, that is right, cut, because when you pay over $3,000 more out of pocket over a 7-year period, that is a cut.

We know that in West Virginia 35,000 students depend upon student loans, and there are student loan cuts in here as well that restrict growth and opportunity for the middle-income families.

Because there is a tax cut for the wealthy in here at a time you are trying to balance the budget, to give two-thirds of West Virginia families $90 or less, you are going to give 1 to 2 percent $2,400 back in tax cuts. In other words, so that 1 or 2 percent over $100,000 a year get $2,400, you are going to cut 100 percent of senior citizens and their Medicare.

What happens is middle-income families who lose the programs that are important to them.

I cannot support a balanced budget proposal that cuts Medicare, cuts economic growth and unbalances the family budget.

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the gentleman from Appleton, WI [Mr. ROTH], a truly outstanding Member with whom I came to this body 17 years ago.

Mr. ROTH. Mr. Speaker, I thank my good friend from New York for yielding me this time.

The budget resolution before us today will affect our trade and our budget policies, and this is very important to us.

Did you see this morning's paper? I know we have been in session all night long. I want you to read this morning's paper. It is the same old story: "The U.S. blows a lot of smoke, huffing and puffing and bluffing, and Japan walks away with all the dollars." I was somewhat surprised. I thought that President Clinton would stand strong. I really did. I was wrong.

The President came in weak, and he got weaker. The problem is last year we had a $150 billion trade deficit. My friends, I want you to remember this number: This year our trade deficit is projected to be $200 billion.

Do you know what that is going to do to our economy and to our workers? We just cannot keep going this way. We cannot keep doing that to our economy and to our workers.

It seems to me all too often people are only concerned about themselves and their group and no one is any longer thinking about our country. We cannot continue this way.

The President pulled a gun on Japan, and it turned out to be a water pistol, and the Japanese are laughing all the way back to Tokyo. We cannot keep going in this way. No one respects America anymore, and our other trading partners are laughing also.

This is a shell of an agreement. Read this. This is a shell of an agreement. It is not an agreement. It is an agreement for an agreement's sake. Our trade negotiator climbed way out on a limb, and the Japanese came along and sawed it off.

This agreement makes America weak, and, just as bad, it makes America look weak.

As the paper said this morning, the Clinton administration assault right here is a classic, notable for bellicose U.S. threats, not for significant results. Translated: American leadership is just hot air. Translated: What they are telling us is that American leadership is just a lot of hot air. That is not what American leadership should be and what we can expect from our administration.

On this resolution, instead of arguing back and forth like we have all night long, let us address this, not as Democrats and as Republicans, but as Americans. This is a big problem. Let us address it.

Mr. HALL of Ohio. Mr. Speaker, I yield 5 minutes to the gentleman from California [Mr. BEILENSON], a very trusted and distinguished colleague on the Committee on Rules.

Mr. BEILENSON. Mr. Speaker, I thank my friend for yielding me this time.

I rise in support of the rule and in opposition to the conference report that it makes in order.

Although the spending cuts and the tax cuts provided for by the conference report are not quite so extreme as in the House-passed version of the budget resolution, this plan still represents a massive transfer of resources from poor and middle-income Americans and from children and the elderly to the wealthiest Americans. This is a plan that hurts those who need the most help from Government and helps those who need it the least.

It is a blueprint for shifting budget priorities in a way we do not believe the majority of the people of our country support. We do not believe the people support cutting Medicare and Medicaid by $452 billion. We do not believe that people support cutting domestic spending on a host of programs that represent investment in our Nation and that improve the quality of our lives, spending in such areas as education, job training, transportation, environmental protection, science and health research. Those programs would be cut by nearly $200 billion, or by nearly one-third in real terms from current levels.

We do not believe people support cutting all of these programs by such massive amounts Just so the wealthiest Americans can benefit from a tax cut, particularly before we know whether we have actually achieved a balanced budget.

Many of us who will be voting against this conference report share the desire of the majority to balance the budget over the next 7 years, but we feel strongly there are far more fair and equitable ways to balance the budget than the one before us now.

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For example, as Members recall, when the House considered the budget resolution last month, the gentleman from Texas [Mr. STENHOLM] and the gentleman from Utah [Mr. ORTON] offered a plan that would also have balanced the budget by 2002. However, that plan would have avoided about $140 billion of the cuts in Medicare and Medicaid that this conference report contains. It also would have protected many other important domestic programs, including education programs, from the extreme cuts contained in this budget plan.

There are two key reasons why the Stenholm-Orton plan was able to produce a balanced budget by the year 2002 without making such severe cuts. Unlike the majority's budget plan, it would not have cut taxes, and it would not have increased defense spending.

The contingent $245 billion tax cut contained in this bill is one of the most troubling features of this plan. Although the details of the cuts are yet to be determined, most of the benefits of the tax cuts would likely go to the wealthiest families and corporations.

In addition, the tax cut is supposed to occur only if we cut spending enough to balance the budget. The fact is, however, the tax cut is not contingent upon reaching a balanced budget, as the Senate wanted, but upon a projection that a balanced budget will be achieved by 2002.

That projection would be based on highly questionable assumptions. One is that Congress will stay on the spending-cut path laid out by this resolution. Yet the cuts in this plan are so draconian that it is doubtful that they can be sustained over the next 7 years.

The contingency plan also assumes that there will be a $170 billion so-called economic dividend—positive trends in interest rates, unemployment rates, and other economic indicators that will produce higher revenues and less spending. Yet, as we all know, even minor changes in such trends can produce huge budgetary differences.

If the objective of the majority was to provide a tax cut as a reward for balancing the budget, then a more honest and realistic approach would be to wait until we actually achieve a balanced budget, rather than relying on a projection of a balanced budget.

Mr. Speaker, again, I want to emphasize that many of us who will be voting against the conference report strongly support efforts to balance the budget over the next several years. In fact, many of us—particularly those of us who have spent many years fighting to bring our Nation's deficit problem under control—are pleased that this year, the debate has moved from whether we should balance the budget, to when and how it should be done. The Republican leadership, and in particular, the chairman of the Budget Committee, the gentleman from Ohio [Mr. KASICH] deserves a great deal of credit for that change.

However, as I said earlier, we do object to the unfair and inequitable manner in which this budget resolution seeks to achieve that goal. For that reason, when the time comes to vote on the conference report itself, I urge Members to vote "no" on the conference report.

Mr. GOSS. Mr. Speaker, obviously my friend and distinguished colleague, member of the Committee on Rules, the gentleman from California [Mr. BEILENSON], for whom I have genuine affection and great respect, has pointed out there are many ways to balance the budget. I guess the debate is that we have found a way to do it and, under the leadership of the other party from the 40 years, we seldom have done it so we think we are making progress.

Mr. Speaker, I yield 3 minutes to the distinguished gentlewoman from Ohio [Ms. PRYCE]. I would have to say that Ohio's loss of a jurist has been the Committee on Rule's very tremendous gain.

Ms. PRYCE. Mr. Speaker, let me first express my strong support for this very straightforward rule and acknowledge the hard work and dedication of Chairman SOLOMON in pursuing relentlessly this concept.

Second, I would like to commend my good friend and colleague from Ohio, JOHN KASICH, the distinguished chairman of the Budget Committee, for his hard work and dedication in this effort. Like so many other pursuits, Chairman KASICH approaches the budget debate with passion and dogged determination.

He is guided by a clear sense of doing what is right for the American people, even if it means challenging the status quo with ideas or policies which some around here might consider politically unthinkable.

But doing the unthinkable, the politically difficult, is precisely what this budget debate is all about, Mr. Speaker.

After years of unbalanced budgets and reckless spending, we have the opportunity today, by adopting this conference agreement, to set a bold new course toward balancing the budget, limiting the size and scope of Government, and creating a meaningful future for all Americans.

Now, we have all heard the criticisms aimed at this very responsible budget plan. We have seen actual spending increases being called cuts, and the Budget Committee's good-faith efforts being portrayed as attacks on senior citizens and children.

Mr. Speaker, I would suggest that this budget agreement offers solutions no more complicated or profound than those offered by responsible American families who, everyday, play by the rules, pay the bills, and make ends meet.

So, this debate really comes down to a simple choice. Do we continue following the old ways of doing business and piling up more debt? Or do we recognize that things have to change, and that the status quo is simply unacceptable if America expects to have any future.

I believe the will of the American people is clear: They want us to be bold, and to have the courage to make the difficult choices so that future generations of Americans will enjoy the good fortune and prosperity they deserve.

Mr. Speaker, the time has come to reassure the American people that this Congress is serious about reducing the deficit and cutting spending. I urge my colleagues to adopt this responsible rule, and to pass this bold plan for securing America's future.

Mr. HALL of Ohio. Mr. Speaker, I yield 6 minutes to the gentleman from Michigan [Mr. BONIOR], the minority whip of the Democratic Caucus.

Mr. BONIOR. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, today we are going to see a lot of charts and numbers on this floor.

But this debate is not just about numbers. It's about people.

It is about the real effects these massive cuts to Medicare and Medicaid will have on real people.

People like Margaret Leslie.

Some of you will remember—last month I stood on this floor to talk about Margaret.

Today, Margaret is a proud senior citizen who lives in my district.

But 51 years ago—she was known to her friends as Margie the Riveter.

When she was young she answered the call of this country and helped build the B-29's that helped this country win the war.

Like most people of her generation, today Margaret lives on Social Security.

And after paying for her rent, her medicine, and her MediGap and Medicare premiums, she's left with about $130 each month—to pay for food, bills, heat, and everything else.

And she struggles to make ends meet.

But instead of trying to make her life easier, this budget before us today will make her life harder.

The budget before us today takes us one step closer, a $240 bite out of her Social Security check.

It takes us one step closer to the day when she has to pay an additional $3,500 out of her pocket for Medicare.

It takes us one step closer to the day when her family will be forced to pay the bills that she can't.

Mr. Speaker, is this what we are all about as a nation?

Are these the values we hold dear?

Is this the message we're trying to pass along to our children and grandchildren?

Don't we have a responsibility to those who sacrificed so much for us?

Those of us who stand up for senior citizens and their families have been called fearmongers, with no vision of the future.

That is an insult to the senior citizens of this country.

Their concerns are real and need to be addressed.

The Gingrich Republicans keep saying they are making these cuts to save Medicare, to save the system, and I wish I could believe that.

But then I recall that 30 years ago, BOB DOLE voted against the very creation of Medicare.

I recall that 20 years ago, the majority leader campaigned on the theme of abolishing Social Security.

I recall that last January, the Speaker himself proposed abolishing Medicare and replacing it with a private system. That in February, the lead editorial in the Speaker's think newsletter read: "For Freedom's Sake . . . Eliminate Social Security."

And then I read just the other day that the majority leader's new book proposes to abolish Medicare and replace it with a private system.

So I say to my colleagues following the Gingrich revolution: don't come to this floor today and tell us that you're cutting Medicare to save Medicare, because all you've talked about the past 20 years is how we should abolish Medicare.

We wouldn't be in the Medicare situation we're in today if you hadn't come to this floor just 3 months ago and passed a bill that took $87 billion out of the Medicare trust fund.

Where was your concern then? Where was your concern for saving the system then?

Let us be honest: You took money out of the trust fund then for the same exact reason you are cutting Medicare today: to pay for tax breaks for the wealthiest people and the wealthiest corporations in our society.

We say the American people deserve better. People like Margaret Leslie stood by this country in times of war and peace. And we have a responsibility to stand by them today.

That is the sacred promise we made on Medicare, and it's time we live up to that promise.

I urge my colleagues: say no to this rule. And say no to this terrible budget.

Mr. GOSS. Mr. Speaker, I yield 3 minutes to the gentleman from Georgia [Mr. LINDER] a hard-working and energetic member of the Committee on Rules.

Mr. LINDER. Mr. Speaker, I was delighted to hear the previous speaker, the minority whip of the House, who in the second-to-the-last second in his peroration mentioned the rule. We are here to talk about the rule. It is a fair rule and a good rule. It is a rule that we should have had last night, when we had a wide open rule, and we watched petulant people, being like my children did when they were adolescents. I am embarrassed for our House, and I am embarrassed for what our country saw on television.

I would like to talk about the bill, just like the previous speaker did. We are here to balance the budget. For the first time since 1969, we think it is important to balance the budget. We are not balancing this budget to create tax cuts for the rich. People on Social Security with a $40,000 income are not the wealthy but they are going to be benefited.

The 25-year-old couple with four children hoping to buy a home and save money for college, they are going to be benefited. The senior citizen who wants to sell an asset, wants to sell a home, wants to sell a business they built all of their lives, they are going to be benefited.

Then we are told that cuts are too deep. How deep? How long? When? When will you propose that we take this burden off the backs of our children and grandchildren?

The whole direction of what the previous speaker called the Gingrich revolution was to simply say that our children and our grandchildren are real people, too. I am delighted to meet Margie the Riveter. I think it is a wonderful story. But if you go to Margie the Riveter and say, we want your grandchildren to pay for your health care and the bills you have run up, she would not like that either.

The typical person on Medicare pays 24 percent of its costs over a lifetime. They do not want our grandchildren to pay for their care. For 30 years, for 30 years this Nation has voted itself wishes and dreams over needs and passed the bill onto our grandchildren. And that is, Mr. Speaker, immoral; $5 trillion later, that is immoral.

I have got one grandson and I have another grandchild on the way. When that grandchild comes in November, if we do not do this, if we continue on the path of the last 30 years, that new grandchild will enter the world and during the course of his or her lifetime will pay $187,000 just in interest on the debt. That is immoral. That is what we are about. When you see all the pictures up here and all the sob stories, remember this, America: Your children and grandchildren are real people, too.

Mr. HALL of Ohio. Mr. Speaker, I yield 2 minutes to the gentlewoman from Connecticut [Mrs. KENNELLY], vice chairman of the Democratic Caucus.

Mrs. KENNELLY. Mr. Speaker, I rise in opposition to the rule. Today we will vote on a budget that would reduce Medicare spending by $270 billion over 7 years. That is three times larger than any cut ever enacted in the history of Medicare. Let's not hide the facts. The magnitude of these cuts could decimate the only universal, portable health coverage we have in this country. When combining these cuts with steep reductions in Medicaid's coverage for nursing homes, the budget offers seniors a bitter pill to swallow.

Some have said that these cuts are needed to save Medicare. America knows better. The same budget that cuts Medicare by $270 billion would also enact a $245 billion tax break for the wealthy. This is not a fair trade for our Nation's seniors.

Let's not destroy Medicare in the name of saving it. I urge Members to think twice before they vote for a plan that breaks America's contract with Medicare beneficiaries.

This is not a fair trade for our seniors. We should not say we are going to take Medicare and change it as we know it today, a program that works, and we are going to save it in the process. The magnitude of these cuts goes much further.

Mr. GOSS. Mr. Speaker, I found it curious that the gentlewoman from Connecticut spoke so much about the tax on the seniors situation. The Republican platform, of course, does have a tax break for seniors. That has been much discussed and that means a lot to me, because I represent a lot of seniors.

Mr. Speaker, I yield 3 minutes to the distinguished gentlewoman from Salt Lake City, UT [Mrs. WALDHOLTZ].

Mrs. WALDHOLTZ. Mr. Speaker, this rule that we are discussing will enable us to pass a budget document that irrevocably sets us on the road to a balanced budget. As a new Member of the House, I am proud to be part of this historic occasion, to be the first Congress in almost 30 years to pass a balanced budget.

For too long Congress has failed to balance the budget and, in so doing, we have failed the American people. This budget agreement is an important step toward restoring the budget's confidence and trust in our ability to lead this country toward a better future for our children, free of debt, full of opportunity, and we do it without raising taxes. In fact, we are going to reduce taxes on working families and we do not touch Social Security.

This budget will end business as usual in Washington. We eliminate loaded bureaucracies. We cut the waste out of Federal programs. We abolish programs that no longer work, and in doing so, we empower families and States and communities instead of Washington.

Importantly, this budget works to preserve and protect Medicare for current and future seniors, to stave off a looming bankruptcy in 2002 that would leave our seniors with no way to pay for their hospitalization.

The rule accompanying this resolution provides for fair consideration of these critical issues by granting the traditional time given for debate on the budget conference agreement. None of us like every provision in the budget resolution, but it is time to move forward and allow this process to move forward.

Throughout the summer and throughout the budget process, we will continue to debate these issues and we will work out a solution that will keep us on course to a balanced budget and at the same time help us create a better future for every American family.

We owe the people who sent us here an honest debate, one where we do not call spending increases cuts, where we face the Medicare bankruptcy crisis head-on and solve it instead of sitting on the sidelines and criticizing and hoping no one notices that we do not offer solutions and where we stop trying to frighten the most vulnerable people in our population for political gain and truly work to help them improve their lives instead of frightening them for the future.

Mr. Speaker, it is time to balance the budget and stop running up the debt that our children will pay for what we are enjoying now. It is time for us to agree on the framework to balance the budget and reduce the deficit.

I urge my colleagues to support both the rule and the budget resolution.

Mr. HALL of Ohio. Mr. Speaker, I yield 3 minutes to the gentleman from Texas [Mr. STENHOLM.]

Mr. STENHOLM. Mr. Speaker, I rise in opposition to this rule, much less than a straightforward rule. I have been around here over 16 years now, and I have had a chance to see and to hear a lot of things, but this rule is truly an amazing document.

I am having a hard time understanding how a conference report signed by the conferees of both bodies can be two different bills in the bodies when it is being considered. It first came to my attention when I realized that the Senate Republicans and the House Republicans seemed to be talking about two different bills, at least when it came to the treatment of the tax cuts.

I understand how political spin works, how one person can talk about the trunk, the other about the tail, and both are talking about the elephant. But the differences here go beyond spin, and it all comes down to the rule we are considering.

Initially I was encouraged when I heard that the conference committee had agreed to postpone consideration of tax cuts until CBO reviewed the spending cuts and certified that the reconciliation bill will result in a credible path toward a balanced budget in 2002. That was what I heard my friend, Senator PETE DOMENICI, talking about. Despite my reservation about his health, agriculture, and education cuts, I suspect that if I were in the other body today, PETE might persuade me to vote for this rule and this bill.

But here in the House I read a different story, as I read this rule. This rule includes a self-executing provision that means it includes policy substance, not just procedure, which states, "section 205 of the concurrent resolution on the budget shall not apply with respect to the House."

Let me make sure everyone understands that. This rule starts our debate by saying, sure, we know we have a conference agreement, but even though the House agreed to it, we do not really have to abide by it. And just what is this section 205 that does not apply to the House? Well, it is the section that includes the requirement that CBO certify we put together a credible plan to balance the budget before we consider tax cuts. Instead, the House will be covered by a much weaker provision which allows tax cuts to be placed in the reconciliation bill before CBO has reviewed the package.

Even more disturbing, CBO is ordered how to do its business. CBO must give the House credit for the full economic bonus that results from a legitimate, steady, balanced budget plan. CBO itself has warned that the estimates of this economic bonus assume that the budget would be balanced smoothly over the next 7 years and would occur only if reductions are deemed credible. Does this plan meet those requirements necessary to earn the bonus? Well, it does not even begin a downward path until the third year.

All of these great and wonderful statements about this plan balancing the budget, oh, how I wish we were doing it credibly. But since CBO will be ordered to give the credit, the numbers will offer promises highly unlikely to be met.

Unfortunately, I have to encourage a no vote on this rule. Bring back a straightforward rule.

Mr. GOSS. Mr. Speaker, I would just simply refer the gentleman from Texas who is leaving the well to section 210 which is entitled "Tax Reduction Contingent on Balanced Budget in the House of Representatives," which I think will satisfy his needs.

Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Claremont, CA [Mr. DREIER], vice chairman of the Committee on Rules.

Mr. DREIER. Mr. Speaker, I thank my friend from Sanibel for yielding time to me.

I rise in strong support of this rule. Clearly, this day is a very important one, not just the fact that we have stayed up all night here but the fact that we are bringing about a conference report that has been agreed to by both the House and the Senate, that is going to put us on that glide path toward a balanced budget.

Earlier several of my colleagues have been trying to tragically, once again, engage in this class warfare argument which we have been listening to for such a long period of time. The "us versus them" case that they make really does not hold water, because I am convinced, Mr. Speaker, that an overwhelming number of the American people realize that we are in this together. We need both Democrats and Republicans alike, if we are going to move toward a balanced budget.

The President of the United States has, in response to our passage of a balanced budget, said that within 10 years he could balance the budget, angering many Members of his own party by pointing out some of the tough decisions that will have to be made. Unfortunately, our friends here in the House have continued to try and pit one group of Americans against another. I believe that this is very sad.

They have called us mean spirited, coldhearted. We have been accused of taking food from the mouths of babes. As we look at some of the programs that we have addressed in the first 6 months of the 104th Congress, it is very apparent, very apparent that only in Washington, DC, can a 4.5 percent increase, as we have put in the school nutrition program, be labeled a draconian cut. That is exactly what they have done with that issue. They have tried to do that with Medicare and a wide range of other things.

We desperately want to ensure that no American is hurt by this, but we also recognize that if we are going to have a balanced budget by the year 2002, tough decisions have to be made. That is exactly what happened in this conference report.

I am particularly gratified with the fact that this conference report is geared toward economic growth. I represent the State of California, which has an economy that is still going through a very very great difficulty, as it has for the past several years.

I believe that issues like the capital gains tax rate reduction will do more to create jobs, spur economic growth and not be a tax cut for the rich but help middle-income wage earners than virtually any Government program that we could put into place.

It seems to me that as this debate has proceeded, many Members have so often forgotten the fact that we want to do what we can to allow working Americans to keep some of their own hard-earned dollars. This is a very good conference report, and it is very fair rule. I support it strongly and thank the gentleman for yielding time to me.

Mr. HALL of Ohio. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. DOGGETT].

□ 1230

Mr. DOGGETT. Mr. Speaker, I thank the gentleman for yielding time to me.

As the gentleman from California has noted, this House has been in session around the clock until just about an hour and a half ago. I just want to say that when it comes to protecting Medicare, when it comes to standing up for America's middle class, if we have to be here around the clock another few days, the fight has only begun from the Democratic side, because we are not going to be bullied.

We are not going to permit committees to be stacked to implement this budget resolution by placing all the burden on Medicare recipients, by not doing anything about corporate welfare. We are going to stand up and tell the American people what is happening, and propose reasonable alternatives to that.

Mr. Speaker, what is happening with reference to Medicare? We have one new piece of the agenda since this rule was proposed by one of the Members of the Republican leadership. We have been concerned in the past debate of this budget that they were simply going to reduce benefits and increase out-of-pocket costs. That is the most likely thing to happen.

Now we are told there is a proposal that one of the ways this budget resolution, which is silent on the subject, will be implemented, one of the possibilities is to simply eliminate Medicare entirely for those Americans who are 65 or 66, and raise the eligibility age for Medicare, not lower it to cover more Americans, but to cut out a whole age bracket of people that are turning 65 and 66, as a solution to this proposal.

This particular budget is a day late and a dollar short. It is 2½ months late. It should have been approved April 15. They should not balance the budget on the backs of America's seniors.

Mr. GOSS. Mr. Speaker, it is an honor to yield 3 minutes to the well-known gentleman from the Commonwealth of Pennsylvania [Mr. WALKER], the distinguished vice chairman of the Committee on the Budget.

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I am pleased to have an opportunity to participate in this rules debate and the budget debate that is about to follow. Mr. Speaker, I think this is a very, very important day for the House of Representatives, because we are now going to finalize a budget document that has been agreed on by the House and Senate that balances the budget in 7 years.

Mr. Speaker, it is kind of interesting that we got here despite the words of the critics over the last several weeks and months. We might call them the "couldn't, wouldn't, shouldn't" critics along the way. First of all, what they said was that we couldn't produce the fortitude to come up with a balanced budget. It simply would not happen. It did. A few weeks ago we brought to the House floor a balanced budget document.

Then the critics all said, "Well, maybe they could do it, but they wouldn't do it for real, because after all, when it got to the Senate, it was simply not going to happen." But, lo and behold, the Senate and the House have met now and there is a budget document that balances the budget in 7 years, and does so by beginning the process of downsizing the Federal Government.

The American people said clearly last year, "Government is too big. It spends too much." We now have a budget that reflects the priority of Government being too big and spending too much, and we begin the process of reform, restructuring, and relooking at the whole mechanism.

Now what do we hear from the critics? Listen to them out here today. Now they say we should not do it. First they said we couldn't, then they said we wouldn't, now they say we shouldn't. Why shouldn't we do it? Because they have all of these horror stories by people they say will be hurt by the budget. Of course, they have contributed nothing, nothing toward the reform. They have contributed nothing to the process.

In fact, what they have done throughout the process is peddled kind of fear and smear about the whole idea. They have tried to peddle fear as a way of telling people they should not be able to watch this budget process. Then they have tried to smear the whole process by suggesting there was something wrong with it from the beginning.

Mr. Speaker, I would suggest that just as they were wrong when they said we couldn't do it, just as they were wrong when they said we wouldn't do it, they are also wrong when they say we shouldn't do it, because the fact is here is an opportunity, unlike any opportunity we have had for many, many years in this country, an opportunity to truly move toward a balanced budget and do so in a reasonable, responsible way, in a way that reforms the Government structures.

It is a shame. It is a shame that the forces of the status quo, it is a shame that the interest groups, are so intent upon keeping in place those things that they have built in the Federal Government structure that they now say we couldn't do it, we wouldn't do it, and now they are saying we shouldn't do it.

Mr. HALL of Ohio. Mr. Speaker, I yield 1½ minutes to the gentleman from Massachusetts [Mr. NEAL].

Mr. NEAL of Massachusetts. Mr. Speaker, in response to the gentleman from Pennsylvania, I would say you can't, you won't, and you didn't do it.

Mr. Speaker, I rise today in strong opposition to this budget resolution. As we approach the vote on the budget resolution, I feel there is a lemming-like atmosphere in this Chamber. Many are ready and willing to take the plunge without questioning the consequences.

I think we can all agree reducing the deficit is our No. 1 priority. However, we differ on the approach to reach this goal. The budget resolution before us today is a new version of survival of the fittest and many of my constituents will not survive without being bruised and battered.

To achieve deficit reduction, this resolution is slashing several valuable programs such as the earned income tax credit. By the time we finish with budget reconciliation, the earned income tax could be dramatically changed. The amount of the earned income tax may be kept at the same level and fully phased in and this could result in over 18,000 of my constituents paying a tax increase. This resolution will limit the earned income tax credit, but includes a large tax cut which will most likely include a capital gains tax cut indexed for inflation which will help the wealthy.

This resolution calls for large cuts in Medicare and Medicaid. These cuts are too deep. We cannot refuse to help the elderly and poor when they are sick.

This resolution contains a sizable decrease in spending on education. Education is integrally linked to our future. Many of my constituents worry about the rising costs of a college education.

It is time to reduce the deficit, but we have to proceed in an efficient and cautious manner. There are many points both sides of the aisle can agree upon. We should use these as our starting point and go back to the drawing board.

The resolution before us today paints a bleak future for many. We can and should do better.

Mr. HALL of Ohio. Mr. Speaker, I yield 1½ minutes to the very distinguished gentleman from Massachusetts [Mr. KENNEDY].

Mr. KENNEDY of Massachusetts. Mr. Speaker, I wonder what has happened to the idea of a caring and compassionate Nation. The people of this country have stood up through so many challenges throughout our history, and yet now, when we face a major financial crisis, instead of standing up to Star Wars and the B-2 bomber, instead of standing up to corporate welfare, we put our gunsights on the poor.

We say to senior citizens that we are going to cut the health care programs that they depend on. We say we are going to eliminate the fuel assistance program, we are going to cut the student aid programs, we are going to eliminate our capability of having a country that invests in our own people.

We tell little children that are going to be abused that we no longer have enough money to provide foster care, we do not have enough money to find them a hot lunch, but my goodness, when it comes to providing a big tax cut for the wealthiest people in this country, we can come up with $245 billion. Maybe it is time that we look at ourselves and where we are headed in this country, and whether or not we want to just glad-hand votes around here, going out to the American people and telling them we can have a tax cut, and eliminate the deficit at the same time; or maybe we ought to be talking about real leadership, how this country is going to enter the 21st century, providing good jobs for the American people that are going to require an education, that are going to require serious job training, to be able to get us to the high-skilled jobs that are going to go either to the Germans or Japanese or to the American people. Those are the challenges we need to accept as a people.

If those challenges were reflected in this budget, I would vote for it. They are not, and therefore, I urge a no vote on this resolution.

Mr. HALL of Ohio. Mr. Speaker, would the Chair advise me how much time I have remaining?

The SPEAKER pro tempore. The gentleman from Ohio [Mr. HALL] has 2½ minutes remaining, and the gentleman from Florida [Mr. GOSS] has 1 minute remaining.

Mr. HALL of Ohio. Mr. Speaker, I yield 2½ minutes, the remaining time, to the gentleman from Missouri [Mr. VOLKMER].

Mr. VOLKMER. Mr. Speaker, I, too, like many others, rise strongly in objection to this rule and to the conference report, which I know will follow, because the majority has the votes. They will pass the previous question and they will pass the rule and they will pass the conference report.

However, Mr. Speaker, we all know that this conference report, as the gentleman from Texas pointed out, is really not a complete agreement between the House and Senate; that there are differences between the House and Senate still remaining as far as taxes and revenues are concerned. There are differences between the two bodies. As far as other provisions, there are still differences.

It is common knowledge, the House is to do one thing and the Senate is to do another, and I guess somewhere down the road, later on this year or next year or the following year, they might meet and come together. It is not a complete conference agreement, as we have always known in this House, in the past history of this House, ever since we have had the statutory budgetary law. This is the first time that I know of, at least in the 19 years, 19 budgets that I have been here to vote on, it is the first time that I have ever seen one that is not really an agreement, but they have agreed basically to disagree.

Mr. Speaker, I urge all Members to vote against the previous question, to vote against the rule, and then to vote against the conference report. It is not only those things that are bad about this conference report, but it is what the implementing legislation needs to do in order to meet the targets that are in the conference report in the budget.

In the first place, it has been pointed out, again by the gentleman from Texas, that there are really not that many cuts in many of the programs in the initial couple of years, so when we look at it, it is just a questionable thing whether after 7 years they are really going to get a balanced budget. There are assumptions in this conference report that no one knows are going to happen. Mr. Speaker, this is not a conference report for a balanced budget.

Mr. HALL of Ohio. Mr. Speaker, I include for the RECORD the following document regarding floor procedure.

The document referred to is as follows:

FLOOR PROCEDURE IN THE 104TH CONGRESS; COMPILED BY THE RULES COMMITTEE DEMOCRATS

Bill No.	Title	Resolution No.	Process used for floor consideration	Amendments in order
H.R. 1*	Compliance	H. Res. 6	Closed	None
H. Res. 6	Opening Day Rules Package	H. Res. 5	Closed; contained a closed rule on H.R. 1 within the closed rule	None
H.R. 5*	Unfunded Mandates	H. Res. 38	Restrictive; Motion adopted over Democratic objection in the Committee of the Whole to limit debate on section 4; Pre-printing gets preference.	N/A
H.J. Res. 2*	Balanced Budget	H. Res. 44	Restrictive; only certain substitutes	2R; 4D
H. Res. 43	Committee Hearings Scheduling	H. Res. 43 (OJ)	Restrictive; considered in House no amendments	N/A
H.R. 2*	Line Item Veto	H. Res. 55	Open; Pre-printing gets preference	N/A
H.R. 665*	Victim Restitution Act of 1995	H. Res. 61	Open; Pre-printing gets preference	N/A
H.R. 666*	Exclusionary Rule Reform Act of 1995	H. Res. 60	Open; Pre-printing gets preference	N/A
H.R. 667*	Violent Criminal Incarceration Act of 1995	H. Res. 63	Restrictive; 10 hr. Time Cap on amendments	N/A
H.R. 668*	The Criminal Alien Deportation Improvement Act	H. Res. 69	Open; Pre-printing gets preference; Contains self-executing provision	N/A
H.R. 728*	Local Government Law Enforcement Block Grants	H. Res. 79	Restrictive; 10 hr. Time Cap on amendments; Pre-printing gets preference	N/A
H.R. 7*	National Security Revitalization Act	H. Res. 83	Restrictive; 10 hr. Time Cap on amendments; Pre-printing gets preference	N/A
H.R. 729*	Death Penalty/Habeas	N/A	Restrictive; brought up under UC with a 6 hr. time cap on amendments	N/A
S. 2	Senate Compliance	N/A	Closed; Put on Suspension Calendar over Democratic objection	None
H.R. 831	To Permanently Extend the Health Insurance Deduction for the Self-Employed.	H. Res. 88	Restrictive; makes in order only the Gibbons amendment; waives all points of order; Contains self-executing provision.	1D
H.R. 830*	The Paperwork Reduction Act	H. Res. 91	Open	N/A
H.R. 889	Emergency Supplemental/Rescinding Certain Budget Authority	H. Res. 92	Restrictive; makes in order only the Obey substitute	1D
H.R. 450*	Regulatory Moratorium	H. Res. 93	Restrictive; 10 hr. Time Cap on amendments; Pre-printing gets preference	N/A
H.R. 1022*	Risk Assessment	H. Res. 96	Restrictive; 10 hr. Time Cap on amendments	N/A
H.R. 926*	Regulatory Flexibility	H. Res. 100	Open	N/A

FLOOR PROCEDURE IN THE 104TH CONGRESS; COMPILED BY THE RULES COMMITTEE DEMOCRATS—Continued

Bill No.	Title	Resolution No.	Process used for floor consideration	Amendments in order
H.R. 925*	Private Property Protection Act	H. Res. 101	Restrictive; 12 hr. time cap on amendments; Requires Members to pre-print their amendments in the Record prior to the bill's consideration for amendment, waives germaneness and budget act points of order as well as points of order concerning appropriating on a legislative bill against the committee substitute used as base text.	1D
H.R. 1058*	Securities Litigation Reform Act	H. Res. 105	Restrictive; 8 hr. time cap on amendments; Pre-printing gets preference; Makes in order the Wyden amendment and waives germaneness against it.	1D
H.R. 988*	The Attorney Accountability Act of 1995	H. Res. 104	Restrictive; 7 hr. time cap on amendments; Pre-printing gets preference	N/A
H.R. 956*	Product Liability and Legal Reform Act	H. Res. 109	Restrictive; makes in order only 15 germane amendments and denies 64 germane amendments from being considered.	8D; 7R
H.R. 1158	Making Emergency Supplemental Appropriations and Rescissions	H. Res. 115	Restrictive; Combines emergency H.R. 1158 & nonemergency 1159 and strikes the abortion provision; makes in order only pre-printed amendments that include offsets within the same chapter (deeper cuts in programs already cut); waives points of order against three amendments; waives cl 2 of rule XXI against the bill, cl 2, XXI and cl 7 of rule XVI against the substitute; waives cl 2(e) od rule XXI against the amendments in the Record; 10 hr time cap on amendments. 30 minutes debate on each amendment.	N/A
H.J. Res. 73*	Term Limits	H. Res. 116	Restrictive; Makes in order only 4 amendments considered under a "Queen of the Hill" procedure and denies 21 germane amendments from being considered.	1D; 3R
H.R. 4*	Welfare Reform	H. Res. 119	Restrictive; Makes in order only 31 perfecting amendments and two substitutes; Denies 130 germane amendments from being considered; The substitutes are to be considered under a "Queen of the Hill" procedure; All points of order are waived against the amendments.	5D; 26R
H.R. 1271*	Family Privacy Act	H. Res. 125	Open	N/A
H.R. 660*	Housing for Older Persons Act	H. Res. 126	Open	N/A
H.R. 1215*	The Contract With America Tax Relief Act of 1995	H. Res. 129	Restrictive; Self Executes language that makes tax cuts contingent on the adoption of a balanced budget plan and strikes section 3006. Makes in order only one substitute. Waives all points of order against the bill, substitute made in order as original text and Gephardt substitute.	1D
H.R. 483	Medicare Select Extension	H. Res. 130	Restrictive; waives cl 2(1)(6) of rule XI against the bill; makes H.R. 1391 in order as original text; makes in order only the Dingell substitute; allows Commerce Committee to file a report on the bill at any time.	1D
H.R. 655	Hydrogen Future Act	H. Res. 136	Open	N/A
H.R. 1361	Coast Guard Authorization	H. Res. 139	Open; waives sections 302(f) and 308(a) of the Congressional Budget Act against the bill's consideration and the committee substitute; waives cl 5(a) of rule XXI against the committee substitute.	N/A
H.R. 961	Clean Water Act	H. Res. 140	Open; pre-printing gets preference; waives sections 302(f) and 602(b) of the Budget Act against the bill's consideration; waives cl 7 of rule XVI, cl 5(a) of rule XXI and section 302(f) of the Budget Act against the committee substitute. Makes in order Shuster substitute as first order of business.	N/A
H.R. 535	Corning National Fish Hatchery Conveyance Act	H. Res. 144	Open	N/A
H.R. 584	Conveyance of the Fairport National Fish Hatchery of the State of Iowa	H. Res. 145	Open	N/A
H.R. 614	Conveyance of the New London National Fish Hatchery Production Facility.	H. Res. 146	Open	N/A
H. Con. Res. 67	Budget Resolution	H. Res. 149	Restrictive; Makes in order 4 substitutes under regular order; Gephardt, Neumann/Solomon, Payne/Owens, President's Budget if printed in Record on 5/17/95; waives all points of order against substitutes and concurrent resolution; suspends application of Rule XLIX with respect to the resolution; self-executes Agriculture language.	3D;1R
H.R. 1561	American Overseas Interests Act of 1995	H. Res. 155	Restrictive; Requires amendments to be printed in the Record prior to their consideration; 10 hr. time cap; waives cl 2(1)(6) of rule XI against the bill's consideration; Also waives sections 302(f), 303(a), 308(a) and 402(a) against the bill's consideration and the committee amendment in order as original text; waives cl 5(a) of rule XXI against the amendment; amendment consideration is closed at 2:30 p.m. on May 25, 1995. Self-executes provision which removes section 2210 from the bill. This was done at the request of the Budget Committee.	N/A
H.R. 1530	National Defense Authorization Act FY 1996	H. Res. 164	Restrictive; Makes in order only the amendments printed in the report; waives all points of order against the bill, substitute and amendments printed in the report. Gives the Chairman en bloc authority. Self-executes a provision which strikes section 807 of the bill; provides for an additional 30 min. of debate on Nunn-Lugar section; Allows Mr. Clinger to offer a modification of his amendment with the concurrence of Ms. Collins.	36R; 18D; 2 Bipartisan
H.R. 1817	Military Construction Appropriations; FY 1996	H. Res. 167	Open; waives cl. 2 and cl. 6 of rule XXI against the bill; 1 hr. general debate; Uses House passed budget numbers as threshold for spending amounts pending passage of Budget.	
H.R. 1854	Legislative Branch Appropriations	H. Res. 169	Restrictive; Makes in order only 11 amendments; waivers sections 302(f) and 308(a) of the Budget Act against the bill and cl. 2 and cl. 6 of rule XXI against the bill. All points of order are waived against the amendments.	5R; 4D; 2 Bipartisan
H.R. 1868	Foreign Operations Appropriations	H. Res. 170	Open; waives cl. 2, cl. 5(b), and cl. 6 of rule XXI against the bill; makes in order the Gilman amendments as first order of business; waives all points of order against the amendments; if adopted they will be considered as original text; waives cl. 2 of rule XXI against the amendments printed in the report. Pre-printing gets priority (Hall) (Menendez) (Goss) (Smith, NJ).	N/A
H.R. 1905	Energy & Water Appropriations	H. Res. 171	Open; waives cl. 2 and cl. 6 of rule XXI against the bill; makes in order the Shuster amendment as the first order of business; waives all points of order against the amendment; if adopted it will be considered as original text. Pre-printing gets priority.	N/A
H.J. Res. 79	Constitutional Amendment to Permit Congress and States to Prohibit the Physical Desecration of the American Flag.	H. Res. XXX	Closed; provides one hour of general debate and one motion to recommit with or without instructions; if there are instructions, the MO is debatable for 1 hr.	N/A
H.R. 1944	Recissions Bill	H. Res. 175	Restrictive; Provides for consideration of the bill in the House; Permits the Chairman of the Appropriations Committee to offer one amendment which is unamendable; waives all points of order against the amendment.	N/A

*Contract Bills, 67% restrictive; 33% open. **All legislation, 63% restrictive; 37% open. Restrictive rules are those which limit the number of amendments which can be offered, and include so called modified open and modified closed rules as well as completely closed rules and rules providing for consideration in the House as opposed to the Committee of the Whole. This definition of restrictive rule is taken from the Republican chart of resolutions reported from the Rules Committee in the 103rd Congress. ****Not included in this chart are three bills which should have been placed on the Suspension Calendar. H.R. 101, H.R. 400, H.R. 440.

Mr. GOSS. Mr. Speaker, on the understanding that this is the closing minute, I would just like to make a couple of quick remarks. There was some comment from the gentleman from Missouri [Mr. VOLKMER] that maybe the House and Senate have not got it exactly fitted together. They certainly have it exactly fitted together a whole lot better than the Clinton administration does.

The budget that has been sent up here by the President was a nonstarter, and I remember the President, in a place in an approximate position next to the gentleman in the Chair, as he was addressing the joint session said, "It is the CBO who will make the judgment," and the CBO made the judgment and his budget was found wanting, seriously wanting and out of balance.

We have been just told that we can expect some dilatory tactics, more effort to obfuscate and interfere with the proper business of the people of this country being done in an efficient way by the majority party.

Mr. Speaker, I would invite our colleagues in the minority on the other side to put as much effort as they are putting into the rhetoric on this issue, I would ask them to give that much energy into working in cooperation with the majority, so that every American has a better quality of life. The way to start that is to vote for this rule.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. HALL of Ohio. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

Pursuant to the provisions of clause 5 of rule XV, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the question of adoption of the resolution.

The vote was taken by electronic device, and there were—yeas 233, nays 181, not voting 20, as follows:

[Roll No. 451]

YEAS—233

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Blute
Boehlert
Boehner
Bonilla
Bono
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Cooley
Crane
Crapo
Cremeans
Cunningham
Davis
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (OH)
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Ortiz
Oxley
Packard
Parker
Paxon
Petri
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stockman
Stump
Talent
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Traficant
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—181

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bevill
Bishop
Bonior
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Costello
Coyne
Cramer
Danner
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Gonzalez
Gordon
Green
Gutierrez
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson-Lee
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Mollohan
Montgomery
Moran
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pomeroy
Poshard
Rahall
Rangel
Reed
Richardson
Rivers
Roemer
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Sisisky
Skelton
Slaughter
Spratt
Stark
Stenholm
Studds
Stupak
Tanner
Tejeda
Thompson
Thornton
Thurman
Velazquez
Vento
Visclosky
Volkmer
Ward
Watt (NC)
Waxman
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NOT VOTING—20

Bliley
Canady
Condit
Cox
Cubin
Fattah
Houghton
Kaptur
McKinney
McNulty
Moakley
Reynolds
Seastrand
Skaggs
Stokes
Torres
Torricelli
Towns
Tucker
Waters

□ 1304

The Clerk announced the following pair:

On this vote:

Mr. Houghton for, with Mr. Moakley against.

Messrs. BAESLER, MATSUI, and MORAN changed their vote from "yea" to "nay."

So the previous question was ordered.

The result of the vote was announced as above recorded.

Mr. HALL of Ohio. Mr. Speaker, I move to reconsider the vote by which the previous question was ordered.

MOTION TO TABLE OFFERED BY MR. CASTLE

Mr. CASTLE. Mr. Speaker, I move to lay the motion to reconsider on the table.

The SPEAKER pro tempore (Mr. KINGSTON). The question is on the motion offered by the gentleman from Delaware [Mr. CASTLE] to lay on the table the motion to reconsider offered by the gentleman from Ohio [Mr. HALL].

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. HALL of Ohio. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 236, noes 183, not voting 15, as follows:

[Roll No. 452]

AYES—236

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Blute
Boehlert
Boehner
Bonilla
Bono
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Cooley
Cox
Coyne
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Petri
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw

Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stockman
Stump
Talent
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Traficant
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—183

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bevill
Bishop
Bonior
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Costello
Cramer
Danner
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson-Lee
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Mollohan
Montgomery
Moran
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pomeroy
Poshard
Rahall
Rangel
Reed
Richardson
Rivers
Roemer
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Sisisky
Skaggs
Skelton
Slaughter
Spratt
Stark
Stenholm
Studds
Stupak
Tanner
Tejeda
Thompson
Thornton
Thurman
Velazquez
Vento
Visclosky
Volkmer
Ward
Watt (NC)
Waxman
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NOT VOTING—15

Bliley
Canady
Condit
Fattah
Houghton
Kaptur
McKinney
Moakley
Reynolds
Stokes
Torres
Torricelli
Towns
Tucker
Waters

□ 1323

The Clerk announced the following pair:

On this vote:

Mr. Houghton for, with Mr. Moakley against.

Mr. MINGE changed his vote from "aye" to "no."

So the motion to table was agreed to.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. KINGSTON). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. HALL of Ohio. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

This is a 5-minute vote.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 234, nays 180, not voting 20, as follows:

[Roll No. 453]

YEAS—234

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Blute
Boehlert
Boehner
Bonilla
Bono
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (OH)
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kanjorski
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Moorhead
Morella
Murtha
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Petri
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stockman
Stump
Talent
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Traficant
Upton
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—180

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bevill
Bishop
Bonior
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Costello
Coyne
Cramer
Danner
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Gonzalez
Gordon
Green
Gutierrez
Hamilton
Harman
Hastings (FL)
Hayes
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson-Lee
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Mollohan
Montgomery
Moran
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pomeroy
Poshard
Rahall
Rangel
Reed
Richardson
Rivers
Roemer
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Serrano
Sisisky
Skaggs
Skelton
Slaughter
Spratt
Stark
Stenholm
Studds
Stupak
Tanner
Tejeda
Thompson
Thornton
Thurman
Velazquez
Vento
Visclosky
Volkmer
Ward
Watt (NC)
Waxman
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NOT VOTING—20

Ballenger
Barcia
Bliley
Canady
Condit
Fattah
Houghton
Johnston
Kaptur
McKinney
Moakley
Reynolds
Scott
Stokes
Torres
Torricelli
Towns
Tucker
Vucanovich
Waters

□ 1333

The Clerk announced the following pair:

On this vote:

Mr. Houghton for, with Mr. Moakley against.

So the resolution was agreed to.

The result of the vote was announced as above recorded.

Mr. HALL of Ohio. Mr. Speaker, I move to reconsider the vote by which this resolution, House Resolution 175, was adopted.

The SPEAKER pro tempore. The Chair notes that the gentleman from Ohio did vote in favor of the resolution and is qualified to make the motion.

MOTION TO TABLE OFFERED BY MR. WHITFIELD

Mr. WHITFIELD. Mr. Speaker, I move to lay the motion to reconsider on the table.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr. WHITFIELD] to lay on the table the motion to reconsider offered by the gentleman from Ohio [Mr. HALL].

The question was taken; and the Speaker pro tempore, announced that the ayes appeared to have it.

RECORDED VOTE

Mr. HALL of Ohio. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 236, noes 182, not voting 16, as follows:

[Roll No. 454]

AYES—236

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Hunter
Hutchinson
Hyde
Inglis
Istook
Jacobs
Johnson (CT)
Johnson, Sam
Jones
Kanjorski
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Petri
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stockman
Stump
Talent
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Traficant
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—182

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bevill
Bishop
Bonior
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Costello
Coyne
Cramer
Danner
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Harman
Hastings (FL)
Hayes
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson-Lee
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Mollohan
Montgomery
Moran
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pomeroy
Poshard
Rahall
Rangel
Reed
Richardson
Rivers
Roemer
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Serrano
Sisisky
Skaggs
Skelton
Slaughter
Spratt
Stark
Stenholm
Studds
Stupak
Tanner
Tejeda
Thompson
Thornton
Thurman
Towns
Velazquez
Vento
Visclosky
Volkmer
Ward
Watt (NC)
Waxman
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NOT VOTING—16

Ballenger
Condit
Emerson
Fattah
Houghton
Kaptur
McKinney
Moakley
Radanovich
Reynolds
Scott
Stokes
Torres
Torricelli
Tucker
Waters

□ 1352

The Clerk announced the following pair:

On this vote:

Mr. Houghton for, with Mr. Moakley against.

Mr. POMEROY changed his vote from "aye" to "no."

So the motion to table was agreed to.

The result of the vote was announced as above recorded.

Mr. KASICH. Mr. Speaker, pursuant to House Resolution 175, I call up the conference report on the concurrent resolution (H. Con. Res. 67), setting forth the congressional budget for the U.S. Government for the fiscal years 1996, 1997, 1998, 1999, 2000, 2001, and 2002.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore (Mr. HEFLEY). Pursuant to House Resolution 175, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of June 26, 1995, at page 17178.)

GENERAL LEAVE

Mr. KASICH. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and to include extraneous matter, on the conference report on House Concurrent Resolution 67.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The SPEAKER pro tempore. The gentleman from Ohio [Mr. KASICH] will be recognized for 30 minutes, and the gentleman from Minnesota [Mr. SABO] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Ohio [Mr. KASICH].

Mr. KASICH. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, today truly is an historic day as we come to this floor after a long and difficult, contentious night. This is an opportunity, however, to deliver on our promises, to keep our word, and we will be doing it today on a bipartisan basis. We will be out here with Members on the other side of the aisle, recognizing the fact that balancing the budget and giving people some of their money back as we downsize Government is what the American people have asked for.

Mr. Speaker, a lot of people were skeptical about the ability of Republicans and our Democrat friends to be able to put a plan together that in fact could balance the budget over 7 years and to provide that tax relief, but we come here today not with rhetoric. We come here today with specifics, and we come here today with a commitment to see this job done through the year 2002 and to keep our word.

Obviously this has been something that politicians have talked about for an awful long time, but it is wonderful that today politicians come here not just with rhetoric, but the deeds that back up the language they have been using. I think it is a great day for our country.

Mr. SABO. Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan [Mr. DINGELL].

Mr. DINGELL. Mr. Speaker, I rise in strong opposition to this conference report. Like the many seniors who have contacted me, I was shocked to learn that the Republican budget slashes Medicare by $270 billion. And as if that were not enough, the Republicans slash another $180 billion from Medicaid. In my State of Michigan, close to two-thirds of Medicaid is spent on the elderly poor.

This is an attack, plain and simple, on America's senior citizens and on the working parents who are being squeezed between love for their own parents and grandparents, on the one hand, and their children on the other. That is the cruel choice being imposed on the average American by the Republican budget.

Sadly, the Republicans are playing "hide the ball" with their plans for reforming Medicare and Medicaid. The current legislative schedule allows for only 9 days in September to introduce, review, and vote on the proposed changes. If the Republicans have such wonderful ideas for ensuring the solvency of Medicare, turning Medicaid over to the States, and still protecting the health of our seniors, why are they keeping them a secret? What are they afraid of?

It appears that they trying to sneak their radical and extreme cuts past the American public. I can understand why they would be inclined to do so, given the fact that they are also pushing a $245 billion tax cut that primarily benefits the rich.

Seniors have a right to know what is in store for Medicare and Medicaid, especially if they are being asked to bear skyrocketing premiums and limited access to quality care to help finance tax breaks for the wealthy. Working families have a right to know whether the Republicans expect them to bear even more of the costs of caring for their aging parents and grandparents so that the richest few in America can pay lower taxes.

At present, the Republican leadership appears content to continue operating in the dark, carefully avoiding the bright light of public scrutiny. I call upon them to deliver a full and open debate on how best to strengthen and improve Medicare, Medicaid, and the country's public health system. And in the meantime, I urge my colleagues to join me in performing emergency surgery on this Republican budget resolution by defeating the conference report.

Mr. SABO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, first let me congratulate my friend, the chairman of the Budget Committee, the gentleman from Ohio [Mr. KASICH] for what in his point of view has to be an outstanding job of negotiation. The gentleman has worked very hard, and I have fundamental problems with this budget resolution, as I will explain, but the gentleman did an exceptional job in representing the position of the majority in the House and negotiations with the Senate. I say to the gentleman, "You took them to the cleaners, my friend, and as an observer of the process, I admire the skill with which you represented your point of view and the point of view of the majority in the House. You were exceptionally skillful."

Mr. Speaker, a budget represents much more than simply numbers on paper. It is a statement about what we stand for as a government and what we value as Americans. it is real things to real people.

At its best, it sets out our priorities, addresses our problems and helps create opportunity where none existed before.

Today, as we consider the conference agreement fashioned by our Republican colleagues, we have to look at what it stands for: Its values, its priorities, and what it means for the future of our country.

When I do that, I see a budget that fails the test of fairness, and I see a document that slams the door of opportunity in the face of millions of working Americans.

Mr. Speaker and Members, when I look at this budget, the rich get richer. Millions of struggling working Americans and poor folks will simply find that the struggle gets more difficult.

It also affects communities. Those communities in our country that are in declining urban areas or in poorer rural areas with declining population and economic base will find it much more difficult to reverse that decline.

This budget will escalate what has become a central problem in our economy and our society: the expanding income gap between the richest and poorest Americans.

In the last 20 years, the rich have gotten richer, while most working families have seen their incomes stagnate or decline. This budget will intensify that trend and all the problems it brings to our society.

This conference agreement expresses the wrong priorities for our country. When it cuts health care by $450 billion and Medicare and Medicaid for the poorest, most vulnerable in our society to pay for billions in new tax breaks for the most affluent, the massive tax breaks for the affluent will also force draconian cuts in needed Federal spending.

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The $189 billion in cuts from nondefense discretionary programs, will seriously erode national support for transportation, housing, communication, education and training, basic science, community development, energy, and the environment. At a time when the world economy is becoming more competitive, this budget abandons the traditional Federal commitment to help American businesses, farmers, and citizens to compete around the globe.

Mr. Speaker, the last time we tried to balance the budget by starting with a big tax cut was in 1981, and we are still suffering from the disastrous deficits that package cost. This budget risks repeating that history all over again. It is not only unfair, it is fiscally imprudent.

I urge my colleagues to oppose the misplaced priorities and the fundamental unfairness in the Republican budget. Vote "no," my friends.

Mr. KASICH. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Ohio [Mr. HOBSON], a member of the Committee on the Budget.

Mr. HOBSON. Mr. Speaker, the budget conference report we are voting on today is truly an extraordinary document that speaks well of the commitment this U.S. Congress has had of the goal of balancing the Federal budget by the year 2002 and preserving the economic health of our Nation for our next generation.

Last month I stood in this Chamber holding my granddaughter, Katy, while I cast my vote for the House's balanced budget resolution. I have kept Katy in my mind and the children of her generation as we worked to forge the budget resolution, and then worked as a member of the Budget Committee conference committee. Katy and the children of her age are why we are here doing this today, preserving the future of young Americans is our underlying goal.

Like my fellow conference committee members, I went to the conference committee committed to balanced the Federal budget and seeing the provisions of the House budget were implemented. I am proud to say that our Senate colleagues shared our commitment to a balanced budget and agreed with many of the key points of our plan. Each side in the conference was miles apart when we started on many issues, most noticeably the tax cut plan. However, these differences of opinion were not the stumbling block many critics thought they would be. We found agreement on most important issues and reached a compromise on others.

Overall, however, I believe the principles laid out in the House plan were respected by the Senate, and our priorities received the attention they needed. This conference report is a testament to the spirit of cooperation and proof of what can happen when the good of the American people is kept as the leading priority. The report is fair and it is balanced. I encourage my colleagues to support it. We are keeping our promises to the American people.

Mr. KASICH. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. WALKER], the distinguished vice chairman of the Committee on the Budget, the chairman of the Committee on Science, and a 1995 academy award winner.

Mr. WALKER. Mr. Speaker, I thank the gentleman, I think.

Mr. Speaker, this is the first balanced budget that has been produced for real, in about 25 years, and we have actually done it. After all the years of hearing on the floor that it takes courage to balance budgets, we finally have seen a group come together that actually had the courage to produce a balanced budget, and we have proven all the naysayers wrong. We followed through on the promises that we made that this could actually be done.

In this particular budget it is balanced by the year 2002. While we do that, we provide a $245-billion tax cut, while the Federal Government continues to grow, albeit slower than it would have grown otherwise.

I am amused when I hear the ranking member of the committee come to the floor and talk about all these rich people that are going to get the tax breaks. Yes, these are the people that the Democrats regard as rich. They are the $50,000-a-year working family, the $30,000-a-year working family. They are the people they regard as so rich they do not deserve a tax cut, because those are the people who benefit most from the $500-per-child tax credit. In fact, the capital gains tax cut goes mostly to people who make working-family wages. Democrats regard them as rich; always have. That is the reason why they are always raising their taxes. We are lowering the taxes for those people.

In our budget we save Medicare. We terminate the Department of Commerce, and will continue to pursue separately from the Senate the terminations of other departments and agencies of the Government.

In the science area, where I am familiar as being speaker of the committee, I am happy to say that the conference has accepted the House position on the need for supporting basic research. The House numbers were acceded to on everything except NASA, and on NASA we did accept a number that was $2 billion higher, because we found out that NASA has been doing double counting on the figures that the administration sent up here for us on their management plan. We did not want to do something totally unrealistic, so those numbers are adjusted.

This shows that the careful work of the House Committee on the Budget was recognized as being completely appropriate, and was a thoughtful way of reprioritizing basic research in science.

Mr. Speaker, I thank the gentleman, and am delighted to support the budget. Vote "yes."

Mr. SABO. Mr. Speaker, over half the cuts in the Republican tax bill go to people with incomes over $100,000.

Mr. Speaker, I yield 2 minutes to my distinguished friend, the gentleman from Texas [Mr. STENHOLM], who has done more in support of the balanced budget than any other Member of the House.

Mr. STENHOLM. Mr. Speaker, I regretfully rise in opposition to House Concurrent Resolution 67, laying out the Federal budget for 1996.

I have had high hopes all year long about the possibility of actually voting for a balanced budget this year. I did offer and vote for one balanced budget that I believed in a month ago and, with a sense of incurable optimism, I expect to vote for a balanced budget reconciliation bill before this year is over. But this conference agreement before us is not a budget I can vote for.

First and foremost, I cannot vote for it because I am not convinced it will in fact reach balance. The deficit reduction does not even come until the third year out. The tax cuts, of course, come immediately and with the rule we passed just now, the budget doesn't even have to meet an honest CBO test as has been advertised.

Second, I cannot vote for this budget because I honestly don't understand it. The conference report tells us what outlays, revenues and the deficit will be, but it does not tell us what reductions must be made. I will use Agriculture as an example because that is the subject I know best but still I cannot understand the requirements on ag in this conference agreement.

The report instructs the Committee on Agriculture to "report changes in laws within its jurisdiction" such that outlays do not exceed $10.5 billion in fiscal year 1996, $44.7 billion from fiscal year 1996–2000, and $59.2 billion from fiscal year 1996–2002 for direct spending programs other than food stamps. Does this mean the Committee on Agriculture is to rewrite all direct spending legislation, whether it is being reduced or not? This is a tall—many would say impossible—order to accomplish before September 22.

Or, are we to infer some reduction from baseline spending—a reduction which cannot be calculated from this conference report? Or, is there a far greater reduction than the $1 billion reduction in fiscal year 1996 and $8.5 billion reduction over 5 years that we've been told this budget requires?

Mandatory spending other than food stamps for the Agriculture Committee totals $26.9 billion in fiscal year 1996 and $136.4 billion through fiscal year 2002, according to Congressional Budget Office computer runs. That means this budget will force a reduction of $16.4 billion in fiscal year 1996 and $91.7 billion over 5 years—numbers which are wildly off from the cuts stated by Republicans. I would love to have clarification from the chairman about the task my committee will have before us, as I am sure all other committees would like as well.

Third, I cannot vote for this budget because I cannot accept the level of reductions in Medicaid, Medicare, Education, and Agriculture which are required to meet the demands of the tax cut included.

And finally, I cannot vote for this budget because I believe this budget is a political statement, not realistic policy. Absolutely everyone knows that a reconciliation bill which follows the guidelines included in this budget cannot possibly be signed into law. That means we are just here playing a political game, making a political statement to be used at the polls. Reconciliation will be passed, the President will veto it, the veto will be sustained, and then everyone, having made their political statements, will finally get down to business. Why do we have to play that game? Why can't we just get down to making policy for the good of our country from the start? If it takes a budget summit, let's get one started. But for the sake of our country, let us get beyond statements and into doing the right thing.

Unfortunately, I must urge my colleagues to vote no on this budget so that we can get to work on the ultimate real budget that everyone knows must be agreed to.

Mr. KASICH. Mr. Speaker, I yield 2 minutes to the gentleman from Florida [Mr. YOUNG] the distinguished chairman of the Subcommittee on Defense of the Committee on Appropriations.

Mr. YOUNG of Florida. Mr. Speaker, I thank the chairman of the Committee on the Budget for yielding the time. I would like to speak to the area of national defense for just a few minutes.

Mr. Speaker, for the last 10 years, we have seen a substantial reduction in each of the 10 years in our national defense budget. The President's budget request for fiscal year 1996 would have been the 11th year that there would have been a decline in our defense budget, at the same time that our deployments are increasing. The President just today announced another $50 million worth of commitment to a rapid reaction force for Bosnia. I just want to tell my colleagues. That we cannot continue to do more with less.

We had hoped to make a strong turn in the direction of our national defense this year, and thanks to Speaker GINGRICH, and chairman KASICH we are going to be able to do that. We are going to make that change. During the discussion and debate with the other body and the budgeteers there, Speaker GINGRICH was very persuasive and argued strongly for keeping a strong national defense number.

But I think our colleagues need to know that the 602(b) allocation that my subcommittee had under the original budget resolution was about $2.5

billion under what you included in the authorizing bill a few weeks ago. And we anticipate that our new 602(b) number will be, based on this conference report, will be $2.5 billion less than that, or a total of $5 billion less than what we voted in the authorization bill here just a few weeks ago.

The point is that a lot of things that Members would like to do and see included in the defense appropriations bill are not going to be done, because the money is just not going to be there under this budget resolution.

I am going to vote for it, because it does make the change in the direction. So this will not be an 11th year decline.

But Members need to be aware, there is just not going to be as much defense money out there to spend as many of our colleagues believe that there will be.

Mr. Speaker, I thank the gentleman for yielding the time to me. I compliment the gentleman and the Speaker for the good job they have done in helping to hold the defense number in conference as well as they did.

Mr. SABO. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio [Mr. SAWYER].

Mr. SAWYER. Mr. Speaker, I rise in opposition to the conference report.

Mr. Speaker, today we will consider the short-sighted conference report on the 1996 federal budget resolution.

One of its many misjudgments is its failure to invest in the census and related statistics-gathering programs.

Yesterday, the Appropriations Committee cut the budget request for the Census Bureau by almost 25 percent—a cut that would severely damage the chance for an accurate census in the year 2000.

Mr. Speaker, in the realm of statistics, what you measure is what you get. By failing to provide adequate funding for the census, this budget resolution ensures that we will get an inaccurate portrait of our Nation in the year 2000. Those inaccuracies will affect the many national decisions that are based on census data—from deciding where to build roads, schools, and hospitals, to deciding how to shape the very districts we represent, an issue of particular currency in light of this morning's Supreme Court decision.

Mr. Speaker, 1996 will be a pivotal year for the Census Bureau, as it moves from the planning stage into the operational mode for the 2000 enumeration. In 1996, the Census Bureau must design the next census, and procure the new technologies to carry it out. Moreover, in 1996, the Census Bureau must evaluate the data gathered this year from three test Census sites around the country, where the Bureau has conducted surveys that will help refine the census process for the nationwide enumeration at the turn of the century. Mr. Speaker, this under-funding of the census is just one of the many areas where the Republican budget plan would enforce misguided priorities. And it is just one of the many reasons that I encourage my colleagues to join me in voting "No" on this conference report.

Mr. SABO. Mr. Speaker, I yield 2 minutes to the gentlewoman from New York [Ms. SLAUGHTER], one of the senior members of our committee, an outstanding member of the Committee on the Budget and a good friend.

Ms. SLAUGHTER. Mr. Speaker, we are really embarking on a crusade here today of sorts. Unfortunately, we do not know what the results are going to be.

Mr. Speaker, do senior citizens understand that that Republican budget resolution conference report means higher out-of-pocket health care costs for millions of seniors on fixed incomes? It's true; the average senior will pay between $2,500 and $3,500 more each year. And senior citizens' traditional rights under Medicare to choose their own doctor could also be threatened.

Do middle-class families understand what $10 billion in cuts to the Student Loan Program could mean to their efforts to educate their sons and daughters?

The Republicans are telling the American people that Medicare is being protected by these cutbacks. But people have to wonder how this can be, when Medicare will be left with barely enough funding to keep up with inflation. There will not be enough money to keep pace with higher medical inflation; or with the cost of new, life-saving technologies; or with the growth in Medicare population numbers. And that means either benefits will be cut back, or seniors will have to pay more.

Do Americans understand where these dramatic cuts to health, education, research, and development are going? The answer is simple: The extra $100 billion is going to subsidize Republican tax breaks for big business and the wealthy.

The American people are bound to ask themselves, "Where were the Republicans in 1993?"—when not a single one voted for the tough OBRA 1993 plan that both protected Medicare's solvency through the end of the decade, and produced nearly one-half trillion dollars in deficit reduction?

That is why it is all the more ironic that today, the Republicans are demanding that we slash the heart out of Medicare; cut $10 billion from the Student Loan Program; cut one-third of Federal funding for nondefense research and development; and keep the National Institutes of Health from expanding its research on women's health, breast cancer, heart disease, and prostate cancer. All this is supposed to be necessary in order to help protect our future.

Don't you believe it. Don't let the Republicans make Medicare, student loans, and other valuable investment programs into a cash cow, simply in order to fulfill their campaign promises. The American people will understand what we do here today, and they will thank us for voting "no" on this misguided budget resolution.

Mr. KASICH. Mr. Speaker, I yield 2 minutes to the gentleman from Arizona [Mr. KOLBE], a distinguished member of the Appropriations Committee and a member of the Committee on the Budget.

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Mr. KOLBE. Mr. Speaker, I thank the gentleman for yielding time to me.

I might just add, parenthetically at the outset of my remarks, the comments that were made by the chairman and ranking member about each other and about the work of this committee I think is perhaps a lesson that all of us, considering the last 24 hours in this body, might take to heart. We can have differences; we can have good philosophical discussions about those differences, but we can do it in the context of advancing the agenda for the American people.

Mr. Speaker, I rise in support of the fiscal year 1996 budget resolution conference report—a historic agreement that establishes a 7-year balanced budget framework.

This conference report provides much-needed tax relief to America's families by allowing them to keep more of their hard-earned money in their pockets. It encourages economic growth by reducing Government regulation and eliminating inefficient programs. It protects and preserves Medicare—a system that will go broke in 7 years. And it puts our States and the American people—not the Federal Government—back in the driver's seat where they belong. Simply put, this agreement is more than a fiscal strategy for 1996–2002. It is a document that conveys an underlying philosophy about limiting Government's role in America's future.

Mr. Speaker, Republicans took their lead from the November elections and set out early this year to offer the American people a vision for our children's future. We asked ourselves fundamental questions about what role the Federal Government ought to play in our lives because, clearly, it had overstepped its bounds. The result of months of review and discussions is the document before us today—which makes fundamental, systemic reforms that gets the Federal Government back to living within its means.

Make no mistake, this blueprint reflects decisions that were both sensible and painstaking. And as expected, reaction has been both supportive and critical. Critics are welcome to challenge this plan, in its scope or its detail; that is part of the needed debate. But in fairness, a principle set down by the President in 1993 ought to be followed: Those who would criticize this plan should be required to offer their own alternative—with the same level of comprehensiveness and specificity—to balance the Federal budget by 2002. That didn't occur—at least not until the process was so advanced that the President's proposal was meaningless.

If you believe in lifting the yoke of dependency fashioned by the welfare state and replacing it with an opportunity society; if you believe in restoring freedom by ending centralized bureaucratic micromanagement; if you believe in enhancing prosperity, economic growth, and take-home pay by reducing taxes, litigation, and regulation; then vote for this conference report.

The pursuit of a balanced budget is much more than a numbers game. It is a catalyst for reevaluating the Government down to its core and getting Government back to living within its means. This conference report achieves this goal. And while passage of this conference agreement is just one step in a long process, it moves us one step closer to accountability—fiscal accountability—which has evaded Congress for far too long.

I urge my colleagues to support this budget resolution conference agreement.

Mr. SABO. Mr. Speaker, I yield 2 minutes to the gentleman from Utah [Mr. ORTON], the new father in our caucus, the person who does not put Will to sleep by singing lullabies but by giving him a lecture on the budget process. And it works.

Mr. ORTON. Mr. Speaker, I rise in opposition to the conference report. I oppose this resolution for the simple reason that it makes no progress in reducing the deficit over the next 2 years. This budget is a clear triumph of rhetoric over achievement.

The official numbers released to the press show modest deficit reduction over the next few years. However, these numbers do not include the effect of the $245 billion in tax cuts contained in the budget. This understates the projected deficits by at least $75 billion. Worse, if the CBO economic bonus never materializes, this understates the deficit by $245 billion.

Mr. Speaker, I believe this violates the principle of "pay as you go." Worse, it hides the true reality of the deficits in the conference report. Because after adding in tax cuts, even with the economic bonus, the Republican budget projections show that we will only reduce the deficit from $175 billion today to $174.2 billion 2 years from now.

At this rate of deficit reduction, the deficit will not be eliminated for 437 years. Even more disturbing is the fact that if interest rates do not fall significantly or we have a recession, the deficit will actually go up.

Words are cheap. Performance is what counts. I refer you to this chart.

Since President Clinton took office in 1992, with democratic leadership in Congress, we have reduced the deficit from $290 billion in 1992 to $175 billion in the current fiscal year. That is a 40 percent reduction. Under the conference report, if everything goes right, if interest rates fall dramatically, if we avoid a recession, if we make deficit cuts in Medicare, Medicaid, and education, all called for in the budget, we will make absolutely no progress on deficit reduction in the next 2 years.

This Congress will be able to go home, having cut taxes but not cut the deficit. I urge a no vote.

Mr. Speaker, I rise in opposition to the conference report on the budget resolution for fiscal year 1996.

I oppose this resolution for the simple reason that it does not make progress in reducing the deficit over the next 2 to 3 years. The budget we will be voting on today is a clear triumph of rhetoric over achievement, and it has been presented in a way that is nothing more than blue smoke and mirrors.

Let me explain why. The official numbers released to the press show modest deficit reduction over the next few years. However, these numbers do not include the effect of the $245 billion in tax cuts that are contained in the budget.

Let me repeat that the numbers being presented on the floor of the House today deliberately omit the effect of the $245 billion in tax cuts called for in the resolution. This understates the projected deficits by at least $75 billion. Worse, if the CBO economic bonus never materializes, this understates the deficit by $245 billion.

Mr. Speaker, I believe this violates the principle of pay-as-you-go. Worse, it masks the true reality of the deficits in the conference report. Because, after adding in tax cuts, even with economic bonus, the Republican budget projections show that we will only reduce the deficit from $175 billion today to $174.2 billion 2 years from now, a reduction of a mere $800 million over the next 2 years.

At this rate of deficit reduction, the deficit will not be eliminated for 437 years. Even more disturbing is the fact that if interest rates do not fall significantly or if a recession occurs, the deficit will actually go up over the next few years.

Mr. Speaker, words are cheap, performance is what counts. I call your attention to the following chart. Since President Clinton took over in 1992, while the Democrats were in power, we have reduced the Federal deficit from $290.4 billion in fiscal year 1992 to a projected deficit of $175 billion in the current fiscal year. This is a reduction of 40 percent.

Now let's look at the conference report. If everything goes right—if interest rates fall dramatically, if we avoid a recession, if we make the significant cuts in Medicare, Medicaid, and education called for in the budget—we will make absolutely no progress on deficit reduction in the next 2 years. And, if there is the slightest blip in the economy, or the projections don't come true, deficits will actually increase.

Last month, I co-offered the coalition budget resolution. It is clear that the coalition budget offers a far superior approach for deficit reduction and for fair and shared sacrifice. Like the Conference report, the coalition budget projects a balance by 2002. However the coalition budget cuts deficits by $100 billion more than the conference report. It provides a true glidepath—not the cliff of deficit reduction in the conference report. And, it cuts $35 billion from the deficit over the next 2 years, real progress compared to the running in place approach of the conference report.

Mr. Speaker, the American people have had enough of tax cuts first, followed by the mere promise of deficit reduction. The people have had enough of multiyear budgets that promise the world in the out years, but make no interim progress. Let's reject this budget and pass one with meaningful progress on deficit reduction.

Mr. KASICH. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Florida [Mr. STEARNS].

Mr. STEARNS. Mr. Speaker, I rise in support of the conference budget report.

There is a new breeze coming across this land. The tax and spend policies of the Democrats is over and the "balance the budget and reduce the burden first" policy is in place. No nation has ever taxed itself into prosperity. Who knew that better than President Kennedy, the leader of your party.

Mr. Speaker, the House-passed budget delineates the boldest, most ambitious fiscal blueprint this body has seen in decades. I assure you our plan will turn our country around, propelling America into the next century, once again as the world's strongest and most prosperous nation.

My colleagues, I urge you and implore you to pass this budget. If you look at this chart, you will see there is indeed a path, not 432 years, as mentioned by the opposition, the loyal opposition, but, indeed, we do balance the budget.

My colleagues, many of our Nation's governors, including Governors Whitman, Weld, Engler, and Thompson have included tax breaks as integral components of their State economic growth plan as well as President Kennedy.

There is no good reason to accept the premise, they said in a letter to the Committee on the Budget, "that current taxes are set at exactly the right level. We think taxes are too high.

It is no coincidence, Mr. Speaker, that the citizens of Governor Whitman's state of New Jersey are among the wealthiest in the nation. We must follow through with our tax cut. Do not listen to the rhetoric that taxes are only for the rich. They benefit all Americans, all working Americans. We must decrease their burden.

In the end, we must keep our promise to America. When we do so, let us not expect the American people to thank us. For all we have done, it is really nothing more than simply returning to them what is rightfully theirs.

Mr. Speaker, the 1980's should have taught us all a very valuable lesson. The 1981 Reagan tax cut sparked the longest peacetime economic expansion in U.S. history. If there were any skeptics about the power of tax cuts to boost economic growth before the 1980's, they certainly were silenced by the Reagan revolution's sterling success. This is not mere ideological grandstanding, Mr. Chairman, this is fact. All Americans—even those in the lowest income brackets—experienced real and dramatic growth while Reagan was president.

It is unfortunate, but these lessons went unlearned by the Bush and Clinton administrations. Their capitulation to demands by Democratic-controlled Congresses that Federal spending and taxes increase produced significant economic difficulties, including a prolonged recession and income stagnation. Amazingly, under the Clinton administration, incomes decreased while the economy grew.

Tax-and-spend policies simply do not work. On the contrary, it is only by reducing taxes that we can spur economic growth and increase American wages. No nation has ever taxed itself into prosperity. Kennedy knew it, Reagan knew it, and this House knows it: tax cuts work.

Mr. Chairman, the House-passed budget delineates the boldest, most ambitious fiscal blueprint that this body has seen in decades. I assure you, our plan would turn our country around, propelling America into the next century once again as the world's strongest and most prosperous Nation. My colleagues, I urge you, I implore you: this plan and adopt the House-passed tax cuts without—I repeat, without—conditions.

The Senate plan throws the baby out with the bath water. It is premised on the notion that we have a deficit not because the Government spends too much, but because the American people are taxed too little. I couldn't disagree more. The tax burden on the American people is too high. In 1948, the average family in America paid 3 percent of its income to the Federal Government. Today that same family is forced to pay 25 percent. My colleagues, the Speaker has called tax cuts the crown jewel of the Contract With America, but they are more than the crown jewel, they are the whole tiara.

My colleagues, we must understand that tax cuts and deficit reduction are not an either/or proposition. We can do both, and we should do both. Despite the protests of those who embrace a static view of the economy, tax cuts will not only spur the economy forward, they will yield the Treasury additional revenue as well. Many of our Nation's governors, including Governors Whitman, Weld, Engler, and Thompson, have included tax breaks as integral components of their State economic-growth plans. As they wrote in a recent letter to Congress, "There is no good reason to accept the premise that current taxes are set at exactly the right level. We think * * * taxes are too high." It is no coincidence, Mr. Chairman, that the citizens of Governor Whitman's State of New Jersey are among the wealthiest in the Nation.

Mr. Chairman, many of my colleagues have argued eloquently today that now is not the time for tax cuts, that we cannot afford them. My colleagues, the fact is we cannot afford not to cut taxes. Now is no time for cold feet. We must follow through with our tax cuts. We must decrease the tax burden on families. We must keep our promise to the American people. And when we do so, let us not expect the people to thank us, for we will have done nothing great; we will have simply returned to them what is rightfully theirs.

Mr. SABO. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from my native State of North Dakota [Mr. POMEROY].

Mr. POMEROY. Mr. Speaker, I rise in strong opposition to the budget represented in the conference report.

There were several ways this Congress could have reached a balanced budget, including a proposal I supported in the House, one introduced by Senator CONRAD in the Senate and the one advanced by President Clinton. Unfortunately, Speaker GINGRICH has put before us the version that gives tax breaks to America's most privileged while socking it to the middle class with deep reductions in the Medicare Program, cuts in student loans and many, many other vital areas.

I doubt there are hard-working middle-class families anywhere in this country that will take it harder than those I represent, those working very hard on family farms across North Dakota.

Under this plan, funding for agriculture is dangerously, recklessly slashed. According to an analysis of their proposal by North Dakota State University, it projects land values falling 50 percent as farmers can no longer make an adequate income in light of the sharp reductions. Farmers that have farmed their land for generations will be forced off their lands, not just in North Dakota but across rural America.

It is not just farmers either that are taking these vicious hits. It is the very warp and fabric of rural America. The Medicare cuts will close rural hospitals. The Medicaid cuts will close nursing homes. Rural development assistance, so vital to diversifying our economies, also due to be slashed.

One Republican suburban Member of this body revealed the thinking of the majority as they hit rural America so completely. He says, and I quote:

> Not everyone needs to be connected to the U.S. Postal Service. If it is too expensive to deliver to some spot in North Dakota, then those residents can do without it.

This budget will take away farms. This budget will take away rural hospitals. This budget will wipe out critical services in rural America, some even advocate eliminating postal service.

Rural America has been sold out. It is a bad budget for our country.

Mr. KASICH. Mr. Speaker, I yield 1 minute to the gentleman from Kansas [Mr. TIAHRT], a freshman Member.

Mr. TIAHRT. Mr. Speaker, I thank the gentleman for yielding time to me.

I was hesitant at first to support this budget resolution. While I stand among revolutionaries, I did not think this was revolutionary enough. The people on November 8 wanted us to change the way Government was running. They wanted us to downsize Government and give Government back to the people.

I am heading up a task force of great Americans that is trying to abolish the Department of Energy because, according to Vice President GORE, it is 40 percent inefficient. Over the next 30 years it is going to cost us $70 billion unless we do something with it. I did not see it initially in this budget resolution. But after looking through the details, I found out that this is a very good plan, and it is in the details. The Senate is not as excited about it yet, but there is room to work with these details.

This starts the process of giving Government back to the people. I think that is what people want here in America. That is what they said on November 8. It balances the budget in 7 years.

It returns hope to World War II generations, my father. It returns hope to me, the babyboomer generation. And it returns hope to generation X, my children, so that we do not pass the burden on to them.

Mr. SABO. Mr. Speaker, I yield 2 minutes to the gentlewoman from California [Ms. WOOLSEY], one of the very able new Members of our committee who represents her state of California in distinguished fashion.

Ms. WOOLSEY. Mr. Speaker, once again with this conference report the House is being asked to vote yes or no on the following question: Should we take child nutrition away from our kids, college aid away from our students and their families, and health care away from seniors so that the wealthy special interests can get a tax giveaway? And once again, I expect that Members of the Republican majority will answer with a resounding yes.

Despite public opposition, they probably have the votes to pass this conference report and continue their assault on America's children, seniors, and middle income families. But let me promise the authors of this reckless budget, on behalf of the millions of Americans who will be hurt by it, we will be back.

This vote is just one step in the budget process, Mr. Speaker. We have a long summer ahead of us. The final details will not be settled until the fall. But every day families are learning that this budget takes food away from their children. Every day college students are organizing, and they will keep fighting until the Republican majority realizes the insanity involved in shutting the classroom door on college kids in order to open up tax loopholes for large profitable corporations. We all know that America's seniors will not sit quietly this summer while Republicans take away their health security.

We have a long way to go before this reckless budget becomes a reality, Mr. Speaker. I promise you that we will be back.

I urge my colleagues to oppose this conference report, a report that takes away from children, seniors, and middle income families to give tax breaks to the wealthiest.

Mr. KASICH. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. HERGER], a member of the Committee on the Ways and Means and the Committee on the Budget.

Mr. HERGER. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, last fall we promised the American people we would reduce the size of government, zero out the deficit and provide tax relief. And today we are keeping that promise. While this joint budget agreement does not go as far as some of us may have liked, I believe this agreement is a major victory. This budget puts us on a path to a zero budget by the year 2002 and begins to move people from welfare to work, saving $100 billion. We have cut discretionary spending by $190 billion, and we have already started to cut back foreign aid.

Mr. Speaker, this budget provides $245 billion in tax relief, including a $500-per-child tax credit, tax relief for our seniors and incentives for economic growth.

Mr. Speaker, for the sake of our children and our grandchildren, I urge my colleagues to vote yes on this balanced budget.

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Mr. SABO. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. BENTSEN].

Mr. BENTSEN. Mr. Speaker, I rise in opposition to the resolution. This bill is ill-advised and should be defeated.

I strongly support balancing the Federal budget. Earlier this year I voted for the Orton-Stenholm balanced budget, which reduced Federal spending in an equitable and responsible manner. There is a right way and wrong way to balance the budget and this budget before us is the wrong way.

This agreement assumes a tax cut of $245 billion over 7 years. It is wrong to cut benefits for seniors, low-income families, veterans, college students, NASA, and medical research to pay for a tax cut that will benefit the wealthiest in our society.

All Americans are willing to sacrifice to balance the budget, but this is not a fair budget. This budget agreement will hurt Texas, and I cannot support it.

The budget agreement will cut $270 billion in Medicare over 7 years. The agreement will cut Medicaid by $182 billion over 7 years. Senior citizens under Medicare will pay more for the same benefits. Seniors will pay higher deductibles, copayments, and premiums. Additionally, senior citizens who rely on Medicaid for long-term care in nursing homes will see their benefits cut and fewer families will receive this necessary care.

These cuts in Medicare will also affect teaching hospitals and providers. Reductions in Medicare will cut $2.4 billion in lower reimbursements for indirect medical education and direct medical education. The University of Texas system has estimated it will lose funding of $21 million. These teaching facilities, which I represent, cannot replace these dollars. Private insurers are not willing to pay for this medical education which we benefit from.

These cuts in Medicaid will reduce reimbursements funding for 13 of Houston's hospitals by $1.16 billion. Estimates of these cuts are a reduction of $196 million for Harris County Hospital District, $163 million cut from Texas Children's Hospital, $141 million cut from Hermann Hospital, $31 million cut from M.D. Anderson Hospital, $17 million cut from St. Luke's Episcopal Hospital, and $17 million cut from Methodist Hospital.

The budget agreement will reduce spending for NASA, a major employer for the Houston area which I represent. NASA recently experienced cuts of 3,200 personnel at the Johnson Space Center. Under this budget, NASA will receive $700 million less next year to build the space station and continue important scientific research. In future years, the cuts for NASA are even higher. Administrator Dan Goldin has told me that NASA cannot absorb these cuts without massive personnel cuts, and will have to eliminate centers and programs to meet these targets.

This budget agreement assumes that college students should start paying interest on their student loans before they attend a class, or buy a book. This is short sighted and wrong. An average student will pay $5000 more for their education. Many middle-class families cannot afford these increased costs. It makes no sense to argue that this budget resolution will increase investment through tax breaks for the wealthy while cutting student loans and education programs which invest in the future of our people, the most vital ingredient of our Nation's economy.

This budget agreement will reduce funding for medical research. The agreement cuts $100 million next year and even more in the following years from the National Institutes of Health. Medical research centers such as the Texas Medical Center cannot sustain these cuts. Valuable research projects will be stopped and new investments in cures for dreaded diseases such as cancer and AIDS will not be made.

Finally, I am concerned that this budget agreement will not reduce our Federal deficit quickly. The conference report cuts the deficit by $800 million over 2 years. In order to balance the budget, we need to reduce spending by $1 trillion over 7 years. $800 million is not a good down-payment on paying down our debt. The Orton-Stenholm balanced budget will result in $100 billion lower cumulative deficits than the conference report. Let me repeat that, $100 billion less in debt. The Orton-Stenholm budget also cuts $100 billion less in Medicare than the conference report, and $43 billion less in Medicaid.

The conference report delays making the tough choices, which Congress must act upon. The Republican budget does not cut programs until years 5, 6, and 7 of the budget cycle. I believe that Congress will not follow through with these difficult cuts. If we enact tax cuts, we will have fewer revenues to lower our Federal debt.

I believe that all Americans are willing to sacrifice and share in the burden to balance the budget. However, this agreement failed to fairly distribute these cuts. It trades severe cuts in Medicare, veterans, and students for tax cuts for the wealthy and continues to expand our debt. That is wrong, and I urge the defeat of this budget.

Mr. SABO. Mr. Speaker, I yield 2 minutes to the gentlewoman from California [Ms. ROYBAL-ALLARD], a very thoughtful, hard-working new member of our committee.

Ms. ROYBAL-ALLARD. Mr. Speaker, I rise to oppose the Republican conference report that pays for a $245 billion tax cut for the wealthiest Americans, by slashing services and incentives for the elderly, the young, and the working poor.

Our Nation's greatness is not measured by improving the living standards of just the wealthy but of all Americans. This budget cuts investments in health care, child nutrition, and work incentives.

First, Medicaid that mainly serves poor seniors, disabled, and children, is capped at 4 percent. This is simply insufficient to offset the rapid growth of the needy and rising health care costs.

Second, it cuts nutrition programs in a way that threatens the health of children and, eventually, the health of our economy. Hungry children cannot learn and grow into productive working adults.

Third, proposed cuts in the earned income tax credit [EITC] will weaken an important incentive for people to work. President Reagan called the EITC "the best job-creation measure to come out of Congress."

These misguided cuts to benefit the wealthy are indefensible. I urge my colleagues to reject the Republican budget conference agreement.

Mr. KASICH. Mr. Speaker, I yield 1½ minutes to the distinguished gentlewoman from the State of Washington, Ms. JENNIFER DUNN.

Ms. DUNN of Washington, Mr. Speaker, today we take a historic step in reducing the size of the Federal Government, providing families and employers with badly needed tax relief and erasing the Federal budget deficit. Today we are outlining a path to the future that restores both hope and opportunity for future generations.

We are dramatically changing the fiscal direction of our country. From a path of out-of-control growth of Government to a path of sustained expansion of the economy and job creation. Achieving a balanced budget will produce lower interest rates, higher productivity, improved purchasing power for all Americans, more exports and accelerated long-term growth. That will revive the American Dream.

In addition to reducing Government spending and eliminating the deficit, we are providing incentives for growth of our economy. Mr. Speaker, 2 years ago, the Clinton administration imposed the largest tax increase in the history of our Nation, placed squarely on the backs of the American people. Those tax increases took real money out of the pockets of real American families. Recent estimates suggest that with a balanced budget, our GDP would rise by an extra 2.5 percent over the next decade. This translates into an extra $1,000 a year for every American family household.

This budget resolution unlocks the door to a prosperous, deficit-free future. Real incomes will grow faster, long-term interest rates will fall significantly, and Americans can once again look forward to their children doing better than they. With my two sons in mind as well as the generation that will follow them, I am proud to support this balanced budget resolution.

Mr. SABO. Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. DOGGETT], an enthusiastic, hardworking new member of our committee.

Mr. DOGGETT. Mr. Speaker, just a word about the tax-and-spend Republican budget resolution. Yes, tax and spend. That is a term we hear so much thrown against this side, but this is a tax-and-spend budget resolution for many Americans. It has been interesting, in listening through the course of this debate, not to have heard one word from our Republican colleagues about the 14 million American families that the Treasury Department estimates will have their taxes not cut but increased through what is being proposed in this budget resolution, about the earned income tax credit, the earned income tax credit, something that no less a revolutionary than Ronald Reagan described as the best jobs program ever devised by man. That program they propose to give a good whack to.

I have been concerned about the impact of raising, not lowering taxes, for people like the Kierklewski family, that are struggling to get up the economic ladder, that are struggling to reach retirement. Of course, there are some who will benefit from their version of eliminating tax and spend. The large corporations that will not have to pay a nickel with their elimination of the minimum tax credit, they are getting a tax break, but not the Kierklewski family.

What about the spend part of their resolution? Yes, they are cutting some Government spending, but they are going to spend a little more of Mr. Kierklewski's money. If he wants to go to his own doctor, he is going to have to pay maybe $20 a month more just for the opportunity to do that, as a Medicare recipient. If he wants home health care, they are going to spend more of his money if he wants to get the same level of service.

What is so unfortunate about that for retirees, Mr. Speaker, is that they are already having to pay 21 percent of their health care costs. One out of every $5 already being spent by Medicare recipients is their money, so the tax-and-spend budget resolution needs to be rejected, even if we have to stay here all of another night to fight this stacking of the committees that will implement this resolution.

Mr. KASICH. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Colorado [Mr. ALLARD].

Mr. ALLARD. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in support of the conference report. First of all, Mr. Speaker, I would like to thank the committee and thank the chairman for their great work. We have been on track from the very start, right through the conference committee. That was that we have a balanced budget by 2002.

We have kept our word. We have dealt with real numbers. We have said, "Okay, we can create a good balance in this particular budget proposal by saying we need tax cuts. If we keep more of the revenue at home we can create more opportunity by cutting spending, so people lean more on their own shoulders instead of having to lean on the shoulders of government."

I really, honestly believe this is an opportunity budget. We are creating more opportunity and more freedoms for Americans. Mr. Speaker, we heard testimony in committee that said that the one thing we could do to really create confidence in America would be to balance our budget. It was Alan Greenspan who said that. We are doing that. We are putting us on track to restore confidence in this country, and to make people more responsible for their own lives.

Mr. SABO. Mr. Speaker, I yield 1 minute to my good friend, the gentleman from Indiana [Mr. VISCLOSKY].

Mr. VISCLOSKY. Mr. Speaker, I rise today to express my strong opposition to the conference report on the budget, because I want to balance the budget and I want to be fair. Although the language in the conference report is an improvement over the House budget resolution, it still contains a fatal flaw, $245 billion in tax cuts which will delay the benefit our constituents will get from deficit reduction.

As someone who voted for both rescission bills this year, I do not believe that tax cuts are warranted until we have implemented tough spending decisions. Taxes today, and we should remember this, take out of the economy less than they did 25 years ago. When Richard Nixon was President in 1970, Federal taxes consumed 19.6 percent of the gross domestic product. Today the percentage is smaller, 19.2 percent.

What is more, the Republican plan backloads deficit reduction until after the year 2000, but gives away an easy tax cut immediately. The tax cut increases the deficit in 1997, and hopes to pay for deficit reduction in the final 2 years.

Mr. KASICH. Mr. Speaker, I yield 2 minutes to the distinguished young gentleman from the Empire State, New York [Mr. LAZIO].

Mr. LAZIO of New York. Mr. Speaker, I know everyone is very tired after being in for over 30 hours, but it is important to straighten out certain misconceptions that have been laid out on the floor so far by some of my friends. For example, there has been some criticism, some implicit criticism that somehow the numbers do not add up for the Republican budget.

Let me tell the Members, those numbers do not come from Republican staffers, they come from the Congressional Budget Office, the same Congressional Budget Office that President Clinton in this room lectured Republican Members about the accuracy, how important that was and how accurate those numbers are. These are numbers that come from the Congressional Budget Office. They verify that we get to a balanced budget by 2002.

There are some people who have talked about cutting student aid and cutting student loans. There are no cuts in any student aid package in this budget. There has been some suggestion somehow that tax cuts go to the wealthy. Eighty-seven and a half percent of the child tax credits for young working families are going to go to families making under $75,000 a year.

Mr. Speaker, this is a positive budget for the average people of America. Economists agree that a balanced budget will lower interest rates, increase investment, allow for a higher standard of living for our children and grandchildren. According to Alan Greenspan, who testified before our committee, productivity would accelerate, the inflation rate would be subdued, financial markets would be more solid, and the underlying outlook would be generally improved for underlying economic growth if this budget is balanced. Is that something we could not all agree on as an objective? Real incomes would improve, taxes would fall, and Americans will be able to look forward to their children doing better than they. What better promise can we deliver for our children?

Mr. Speaker, I rise today to strongly support the conference agreement on House Concurrent Resolution 67, which steers us on a true course toward a balanced budget in 2002. This historic budget resolution accomplishes many goals, but one of the most important is that it demonstrates our strong commitment to keeping the promises we made to the American people.

We promised to balance the budget, and this is the crucial first step in that process. It is a tough, but fair and forward-thinking plan. Every part of the country—urban and rural—is impacted.

This budget achieves a zero deficit by 2002 without touching Social Security, while at the same time cutting taxes for America's hard-working families, and preserving, protecting, and strengthening the Medicare program.

Although President Clinton's second budget proposal fails to reach balance, at least he finally agrees with Congress and the American people that the budget needs to be balanced, middle-class families need tax relief, and that the Medicare and Medicaid programs need to be strengthened in order to preserve their existence.

A balanced budget is the surest strategy to increase productivity and living standards by increasing national savings in America.

Although this is an important landmark, we must remember that our work has only just begun. Only when the budget is totally balanced will we have completely fulfilled our mandate and protected the future of our children.

Mr. Speaker, a few years ago this body faced a difficult task when the American savings and loan industry had to be rescued. Leaders in Congress and elsewhere ignored warnings that something was wrong and continued business as usual, recognizing the crisis only after it had happened. The result was a disaster that cost the taxpayers billions of dollars.

Mr. Speaker, I am here to say it is happening again. We are facing a crisis that is even more inevitable than what we faced with the savings and loans: HUD's portfolio of insured section 8 project-based properties.

The tale of how we got where we are is a classic example of the law of unintended consequences. Few in 1974, when the authorizing legislation was passed, could have foreseen what would happen to the real estate market in the 1980's, nor could they reliably predict other elements in the market.

What the Congress created in 1974 was meant to provide affordable housing to needy Americans. It has become, however, a financial time bomb that is about to explode with tens of billions of dollars in consequences.

The problem with the combination of section 8 subsidies and FHA multifamily mortgage insurance is that it places the Government on both ends of the deal. It's a catch-22: we have to lower the inflated subsidies to market rates in order to achieve savings, but if we lower the subsidies thoughtlessly we risk defaults that could cost the American taxpayers billions of dollars.

When the House Budget Committee, of which I am a member, met this spring to discuss budget options, I raised the section 8 contract renewal issue. It is a problem without an easy solution and, try as we did, there is no way to show short-term savings.

I supported resolving the situation created by section 8 and FHA muiltifamily insurance by returning the properties to market discipline because it is the least objectionable of the choices we face. I am glad to say that my colleagues on the House Budget Committee realized the gravity of the situation and were willing to address the crisis honestly. We may not like it, but it may well be our only alternative.

But we cannot be swayed from addressing this situation honestly. We need to resolve this problem now because if we don't mark these properties to market, we are only holding off the inevitable for a few years at best. It could also mean we would risk consequences far more severe than purely financial—we risk the displacement of hundreds of thousands of families.

We should realize that nearly half of these units house elderly or disabled people. Throwing these people out on the street for short-term budgetary gain is not an acceptable option.

I am disappointed in the other body for their support of the status quo throughout the budget conference. Simply renewing the contracts may temporarily hold off the flood, but what we are really doing is nothing more than putting our finger in the dike and ignoring the fact that, finger or no finger, the seawall is crumbling around us.

We had hoped to address this issue in the reconciliation process because of the pay-go rules. As it is, we cannot avoid a mandatory expense because cutting subsidies will mean claims against the FHA fund. There is no way around that.

We have to be honest and realize that the solution, in the short term, may be more expensive than the status quo. But not resolving this quickly will mean we are only continuing along a path of short-sighted quick-fixes that fail us in the long run.

The current system is bad for tenants, bad for the markets, and is downright irresponsible to the taxpayers of this country.

When American voters spoke last November, they asked us to be honest and make tough choices. The time has come to make good on our promise to do just that. As chairman of the Housing Subcommittee, I intend to make sure that happens in a balanced, fair manner.

Ms. WOOLSEY. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. BECERRA].

Mr. BECERRA. Mr. Speaker, I, like everyone else in this Congress, have a family, and I think we all do our utmost to make sure that, as we balance our family budgets, as we must do at the end of every year, we have planned for our future, not just for our present.

I must tell the Members, when I take a look at what is before us today in terms of a budget for the family of America, I do not see this comporting to what the needs are for all the families of America. In my family, as my parents did, our parents did, I plan for the two children that I have right now to go on to college. I prepare for the illnesses that my spouse, my wife or my kids may face. We must plan for that day when it rains a little bit more than we expect, and we need that extra cash.

Mr. Speaker, I do not see this in this budget. What I do see is $245 billion in tax breaks, mostly going to people who are wealthy in this country. I do see cuts of $10 billion, yes, $10 billion in cuts for education, for college, and I see $270 billion in cuts for Medicare, for our elderly, and $180 billion in Medicaid for our elderly and our poor.

That is not planning the way my parents would do it, the way my family would do it, not any family in America would do it. I urge the Members to reject this budget proposal.

Mr. KASICH. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Cleveland, OH [Mr. HOKE], a member of the Committee on the Budget.

Mr. HOKE. Mr. Speaker, I thank the distinguished gentleman for yielding time to me.

Mr. Speaker, maybe it is that we have been up all night, but this debate has been kind of snoozy. The fact is that we are doing something that is so extraordinary and so unusual. There are some of us who are a little upset about it, because 7 years is a long time. If this was the private sector, if this was business, and we had to downsize over a 7-year period to get our books in order, we would be out of business. We would be kaput.

It is government, so we are going to drag our heels a little bit and take time, but we are doing it. We are doing it. It is the first time in 25 years. It is phenomenal. It is incredible. I admit, we have all been up all night long, 38 hours, 36 hours, whatever. The fact is we are going to have a balanced budget for the United States of America, for our children, for our grandchildren. We are actually recapitulating what we done over 200 years ago, no taxation without representation. Let us celebrate it.

For heaven's sakes, please, if Members honestly believe that this somehow drags money out of the mouths of babes and the elderly, they have always got to see the glass as being completely half empty.

Ms. WOOLSEY. Mr. Speaker, I yield 1 minute to the gentleman from Connecticut [Mr. GEJDENSON].

Mr. GEJDENSON. What we are facing here is class warfare, and the warfare is on the middle class, Mr. Speaker, make no mistake about it. On page 74 of the conference report, it talks about $10 billion in outlays over the next 7 years being reduced from the student loan program, a 20-percent cut in job training funds, $270 billion cut out of Medicare, so what are we doing here? We are going to cut taxes for the top 1 percent, your mother and father are going to lose Medicare benefits, your kids are not going to be able to get a student loan, and when you lose your job and try to get job training funds, they are going to be gone, too.

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So what are we doing here? It is very simple. This is a war on the middle class so that we can get a tax cut for the wealthiest 1 percent again. It is just what they did in the early 1980's. It ballooned the deficit. It did not balance it. And it hurts the country.

People who work for a living have a right to expect that their parents will get decent medical care, that their kids can go to college, and that they can get retrained.

Mr. KASICH. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Michigan [Mr. SMITH].

Mr. SMITH of Michigan. Mr. Speaker, it is about time. This budget resolution reduces the annual deficit over 7 years and reaches a balanced budget in 2002, without attempting a tax increase. Indeed, it contemplates a cumulative tax reduction of approximately $245 billion over the 7 years of the budget as a partial offset to the huge tax increase of 2 years ago. This is a very positive step and signifies a turning of the ship of state from what Hayek called the Road to Serfdom in his classic 1945 work of government overspending. But, in another sense, it showcases the growth of our Federal Government over the last 25 years. This budget calls for total outlays of $1.587 trillion in 1996, and is seen as a bare bones budget. To put this in perspective, total Federal outlays did not reach $100 billion until 1962. It then only took a little more than a quarter of a century to reach $1 trillion. Seventeen years later, we have a situation where net interest on the national debt exceeds the entire Federal budget of 1974.

The passage of this budget resolution is a signal that the new Congress has recognized the effects of our huge Federal debt, yet, by the time the debt stops growing in 2002, the debt will have grown to $6.7 trillion. While this budget accomplishes a great deal, there is a great deal more to be done. As we more forward we should keep in mind the words of Dr. DICK ARMEY, in his book he wrote in the 20th century "The Freedom Revolution": "The people themselves, not their government, should be trusted with spending their own money and making their own decisions."

Ms. WOOLSEY. Mr. Speaker, I yield 1 minute to the gentleman from Minnesota [Mr. PETERSON].

Mr. PETERSON of Minnesota. I thank the gentlewoman for yielding me the time.

Mr. Speaker, I along with a lot of my colleagues very much want to support a responsible, reasonable and balanced plan to balance the budget. While there are many positive aspects of this budget, and it represents a clear improvement over the budget that was initially passed by the House, I have concluded that the conference report still falls far short of its goal.

Under this conference report, 2 years from now the budget deficit will be the same as it is today. More importantly, this budget takes credit for $170 billion of economic bonus whether or not CBO concludes that it deserves the credit.

While I agree that we need to reform Medicare and Medicaid, I have not been convinced that we can achieve savings in these programs of the magnitude required in this budget without doing harm to our health care system. I also have serious concerns about the cuts in agricultural programs in this budget. Cuts of this magnitude will unilaterally disarm American agriculture in the battle of the global economy.

Finally, I do not understand why the conferees continued to insist on savings in education programs. If there is one place we agree, it is that we need to have an opportunity for our young people.

Mr. Speaker, I urge rejection of this conference report.

Mr. Speaker, it is with disappointment that I rise in opposition to this conference report. I strongly support the goal of balancing the budget by 2002 and am committed to finding a bipartisan solution to our deficit problem. I very much want to support a reasonable, balanced, and responsible plan to balance the budget. While there are many positive aspects of this budget and it represents a clear improvement over the budget initially passed by the House, I have concluded that this conference report still falls short of this goal.

This budget falls well short of the goal of putting the budget on a responsible path toward balance. The conference report backloads the deficit reduction in the last 2 years. In fact, under this conference report, 2 years from now the budget deficit will be the same as it is today. Although the conferees initially reported that tax cuts would be postponed until CBO has certified that we have produced sufficient spending cuts to balance the budget, the conference report before us now does not include this provision. The Ways and Means Committee will not need to wait until CBO certifies that we have put the budget on a credible glide path toward balance before enacting tax cuts. More importantly, this budget takes credit for the $170 billion economic bonus whether or not CBO concludes that we deserve credit.

I agree that it is imperative that the budget control the growth of Medicare and Medicaid by reforming these programs to reduce their rapid growth. However, I have not been convinced that we can achieve savings in the Medicare and Medicaid programs of the magnitude required in this budget without doing harm to our health care system and shifting costs to States and local governments and the private sector. I am particularly concerned about the impact that Medicare and Medicaid could have on critical rural hospitals.

I also have serious concerns about the cuts in agricultural programs in this budget. Once again, agriculture is being asked to bear more than its fair share of cuts. Cuts of this magnitude will unilaterally disarm American farmers in the battle in the global economy.

Finally, I do not understand why the conferees continued to insist on savings in education programs. If there is one priority in the budget that everyone should be able to agree on, it is that we should help younger generations receive the education they need to provide for a strong future for this Nation. The education cuts, particularly in student loans, will make it much more difficult for students to help themselves by receiving an education.

The budget alternative offered by the coalition earlier this year met the goal of balancing the budget by 2002 through responsible reforms of government programs while avoiding the ill-advised cuts in agriculture, Medicare, Medicaid, and education programs in this conference report. I continue to believe that the coalition budget represents the reasonable middle ground that can be the basis for a consensus on this issue. I intend to work with the President and the leadership of Congress in a constructive manner to put together a plan to balance the budget that can receive strong support within Congress and among the American public and which can be enacted into law.

Mr. KASICH. Mr. Speaker, I yield 1 minute to the gentleman from Texas, Mr. SAM JOHNSON, one of America's real war heroes.

Mr. SAM JOHNSON of Texas. Mr. Speaker, I cannot believe people are talking about not giving money back to the people of America. It is your money. We need to give it back to you. It is not Government's money.

Mr. Speaker, today Republicans will pass the first plan in 26 years that balances the Federal budget. This budget ensures a secure future for this country and protects the children of tomorrow by eliminating the debt of today.

This budget is proof that Republicans, unlike the President, are serious about eliminating the deficit, downsizing the Government, and giving much needed tax relief to all Americans. This budget is fair, it is balanced and it is the right thing to do.

I consider this one of the most important votes we will ever make in the Congress. We hold America's future in our hands. This is the greatest Nation on Earth and this budget will ensure that it will have the financial security to stay that way.

I encourage my colleagues to vote for prosperity, vote for our future, and to vote for our children. Vote "yes" on this budget, our country deserves it.

Mr. SABO. Mr. Speaker, I yield 2 minutes to my friend, the gentleman from New York [Mr. RANGEL], the distinguished senior member of the Committee on Ways and Means.

Mr. RANGEL. Mr. Speaker, I would like to thank the gentleman from Ohio, Mr. KASICH, Speaker GINGRICH, and also Senator GRAMM. I do not think in our lifetime or perhaps in history have they gone out of their way to show you the difference between the Democrat and the Republican. I think that is important.

As I understand the argument, if you are sick, if you are poor, if you are blind or disabled, that is not a Federal problem and it entitles you to absolutely nothing. The fact is, as the Speaker said before, it is time to give the tax money back to those people that earn it. The fact that rich people earn it means you give it back to rich people. Therefore, the poor should rely more on charitable organizations, not-for-profit organizations, even though I understand the Republicans want a flat tax that would even withdraw the incentives to make contributions.

Mr. Speaker, I really believe that what is going on now is revolutionary. The Supreme Court has said that you cannot elect people based on their color. We are going after affirmative action and now we are going after the rest of the poor. Congratulations, you have made history.

Mr. Speaker, the way I look at it, while it is so easy to identify the poor among us sometimes, when people really see that we are making these cuts in order to return this money to the rich, that ultimately the poor, the sick, and the aged are not going to go away.

True, when you give a block grant, you say that we do not have any responsibility; let the Governors do it. After all, they are closer to the problem. The Governors will say let the mayors do it, and the mayors will say let the churches and the synagogues and the temples do it.

Even when someone comes back and they say they want to change, the Democrats didn't do the right thing, they never meant that we would just take our responsibility and throw it back to the communities that cannot afford to raise the taxes to do what has to be done.

I do hope when the American people finally wake up and see exactly what we are doing to them, it is clearly supporting tax breaks for those whom God has blessed with the riches among us, and going after programs and saying it is not a Federal entitlement, leave it up to the charitable organizations.

Mr. KASICH. Mr. Speaker, I yield 30 seconds to the distinguished gentleman from New Hampshire [Mr. BASS].

Mr. BASS. I thank the gentleman, the chairman, for yielding me the time.

Mr. Speaker, I stand here today in proud support of the conference committee report. As one of the 72 new Republicans who were elected in November, no group stands more solidly behind change here in Congress. Indeed, as the distinguished gentleman from New York has pointed out, there is a difference between Republicans and Democrats.

We believe in thoughtful spending. We do not believe in funding it and forgetting it. We believe in fiscal sanity. We believe in a balanced budget, and we believe that the American people sent a clear message to Congress that they want change. That is what we represent here in Congress.

I urge adoption of the committee conference report.

Mr. KASICH. Mr. Speaker, I yield 30 seconds to the gentleman from South Carolina [Mr. INGLIS].

Mr. INGLIS of South Carolina. I thank the gentleman for yielding me the time.

Mr. Speaker, I would point out, as the gentleman from Ohio [Mr. HOKE] pointed out earlier, that the debate is a little bit stale. I think it is stale because the folks on the other side are missing two points.

No. 1, they are missing the point that the American people do not believe that they are out to save the middle class. They realize that they define redistribution in such a way that everybody is wealthy in their book.

The second reason is I think the American people realize it is time for us to do something. That is what we are doing on this side, and it is very exciting to be part of this historic effort to balance the budget over 7 years.

Mr. KASICH. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Cincinnati, OH [Mr. PORTMAN].

Mr. PORTMAN. Mr. Speaker, I thank the chairman, and I want to commend him and his bipartisan team that put together this budget. They have done a great job. Let us not forget, as someone has mentioned, we have not had a balanced budget around here since 1969, so this is historic.

Yesterday the chairman of the Committee on the Budget revealed to me that in his first budget he wrote, which was in about 1969 in the Ohio State Senate, he got one vote. It was his own. Today he is probably going to get about 250 times that amount. He gets the most improved award, I guess.

The reason he is going to get that kind of support is because this document is fair. Despite what my colleague on the Committee on Ways and Means from New York said, it is fair. It is fair in that everything is on the table. It is fair in that everybody makes a sacrifice for the future of the country and, yes, it is fair because it is fair to the next generation of Americans who otherwise would be burdened with skyrocketing taxes and a failing economy because of our irresponsible and reckless spending.

Our real challenge is going to be to keep our resolve 2 years from now, 4 years from now, 6 years from now. I think we will do it but we need the momentum today to be able to do it. It is not going to be easy but nothing is more important.

I urge everyone to support this document because it is fair, it is a great start, and again I want to commend the bipartisan team.

Mr. KASICH. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Connecticut [Mr. SHAYS], a member of the Committee on the Budget.

Mr. SHAYS. I thank the gentleman for yielding me the time.

Mr. Speaker, for 13 years I served in the statehouse and I watched Congress deficit-spend, and I wondered if I would ever have the chance to be part of a movement in Congress to get our financial house in order.

When I was first elected, I noticed this young man named JOHN KASICH, who was coming in with these budgets to balance, to get our financial house in order, and only about 30 people were supporting him. He kept working at it and we are at this day today, which is very historic.

I have waited 20 years and I have worked for 20 years to finally be able to vote for a budget that is balanced. The challenge we have is when I listen to my colleagues and they say we are not taking care of the sick or poor, they simply are distorting the issue when they say we are cutting Medicare or Medicaid.

The fact is with Medicaid we are going to go from $89 billion to $124 billion. Only in Washington when you spend more do people call it a cut. We are going to spend $329 billion more in the next 7 years on Medicaid.

Then we have the challenge of Medicare. Medicare is going bankrupt in 7 years. The White House, Congress, the minority party wanted to ignore it. We weighed in and said we need to slow the growth of Medicare. We are going to slow the growth, but it is still going to go from $178 billion to $274 billion. Only in Washington when you spend more money do people call it a cut.

We are going to spend $675 billion more for Medicare in the next 7 years than we did in the last 7 years. Social Security is going to go up 5.3 percent each year for the next 7 years; Medicare, an average of 6.3 percent each year for the next 7 years; Medicaid, an average of 4.9 percent each year for the next 7 years. Other entitlements are going to go up at 4.1 percent.

What we are cutting is Government. We are going to downsize Government. We are going to make it smaller. The School Lunch Program is going to go up. Our health care programs are going to go up, but we are going to make this Government smaller. In the process, we are going to change this caretaking society to a caring society.

Mr. SABO. Mr. Speaker, I yield 1 minute to my good friend, the gentlewoman from Connecticut [Ms. DELAURO], a very hard-working, enthusiastic Member.

Ms. DELAURO. Mr. Speaker, what my colleague who just finished talking failed to realize is that none of the increases that they are talking about have anything to do with increased enrollment, whether it is students or increased enrollment of seniors in Medicare or any increase in any inflation.

Mr. Speaker, I rise in strong opposition to this Republican plan to cut Medicare to pay for a tax cut for the wealthy.

Make no mistake about it, that is what this budget resolution is all about. It is not about reducing the budget deficit. It is not about fixing Medicare. It is about cutting Medicare by $270 billion in order to pay for tax breaks for big corporations and the wealthiest Americans.

No matter how you disguise it, this budget resolution is a frontal assault on America's 37 million senior citizens—people like Julius and Dottie Ruskin in my district in West Haven, CT.

Julius and Dottie live on Social Security and his company pension for a total income of about $14,000 a year. Julius' medical bills this year have already totaled more than $10,000, and Medicare pays for 80 percent of these costs. Julius and Dottie simply cannot afford to pay $3,400 more out-of-pocket for their health care over the next 7 years, but that is what the Republican cuts to Medicare will mean for the average senior. They will pay more, but they will get fewer benefits and restrictions on their choice of their own doctor.

The Republicans may be keeping their promises to the rich and powerful. But they are breaking our Nation's historic promise to the health and welfare of senior citizens like Julius and Dottie Ruskin.

Mr. KASICH. Mr. Speaker, I yield 30 seconds to the gentleman from Connecticut [Mr. SHAYS].

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Mr. SHAYS. Mr. Speaker, I would like to correct the statement of the gentlewoman from Connecticut [Ms. DELAURO] who said we are cutting Medicare and Medicaid and not looking into consideration of increases. Medicare goes up from $4,800 per beneficiary to $6,734 per beneficiary. We are providing more per beneficiary each and every year.

Mr. SABO. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from New York [Mr. OWENS], a Member who is very concerned about education.

Mr. OWENS. Mr. Speaker, the Republican budget calls for $100 billion in cuts in low-income assistance programs including aid to families with dependent children, food stamps, supplemental security income, child welfare programs, and the earned income tax credit.

These programs are left unscathed by the alternative budget which the CBC prepared earlier. Republicans have continually assaulted these welfare programs, as they call them, since the beginning of the Congress but have neglected to seriously attack other forms of welfare.

For example, the abuses in farm subsidy programs are widespread and well-known and they have not been attacked. Republicans also have not attacked corporate welfare. The problem of corporate welfare was at least recognized in the House-passed budget. The House did include at least $25 billion in corporate welfare cuts when the bill left here and the Senate also enacted their version, it had $9.4 billion in corporate welfare cuts.

But somehow in the conference all of this was dropped and there are zero cuts in corporate welfare at this point. To add insult to injury, after we vote on this budget agreement we will also have a rescissions package brought back. I urge a "no" vote on this conference report.

Mr. Speaker, I rise in strong opposition to House Concurrent Resolution 67, the conference agreement on the fiscal year budget resolution. This budget decimates virtually every major social program on which working families rely. The budget inflicts immense pain on those least able to withstand it while perpetuating corporate welfare, increasing defense spending, and cutting taxes for the wealthiest individuals.

First and foremost, the conference agreement calls for cuts for $10 billion in outlays for student aid and a 33-percent cut in discretionary spending for education and training programs over the next 7 years. Due to spending caps, we would lose $4 to $5 billion in education funding in fiscal year 1996 alone.

In stark contrast to the Republican scheme, the President, the Congressional Black Caucus [CBC], and the Progressive Caucus have made the education and job training portion of the budget their top priority—a view which is in line with the majority of the American people. Both the President's proposed budget plan and the CBC/Progressive Caucus alternative budget include tens of billions of dollars in spending increases for education and job training, while the Republican plan proposes to cut spending on these programs by similar amounts.

Second, the Republican budget slashes Medicare by $270 billion and Medicaid by $182 billion. The Medicare cuts translate into $150 a month out of the pocket of the average senior citizen, and the Medicaid cuts mean that 800,000 to 1 million seniors and individuals with disabilities will lose health care coverage completely. The CBC/Progressive Caucus alternative budget, on the other hand, leaves these vital programs intact with no decreases in funding.

Third, the Republican budget calls for $100 billion in cuts in low-income assistance programs, including aid to families with dependent children [AFDC], food stamps, supplemental security income [SSI], child welfare programs, and the earned income tax credit [EITC]. Again, these programs are left unscathed by the CBC/Progressive Caucus alternative budget.

Republicans have continually assaulted these welfare programs since the beginning of the Congress but have neglected to seriously attack other forms of welfare. For example, the abuses in farm subsidy programs are widespread and well-known. Today, the environmental working group once again is releasing a report which details such abuses. In this report, the "Fox in the Henhouse," it is revealed that local, federally paid, Department of Agriculture employees who run farm subsidy programs routinely practice fraud, extortion, and embezzlement. In just one incident in California, four employees fraudulently issued 17 Federal farm subsidy checks worth more than $270,000, using the cash to buy illegal drugs.

Republicans also should be ashamed to bring a budget plan to the floor which drastically reduces funding for every program for the working poor and does not strip a single cent from corporate welfare. That is right—not a single cent. The House-passed budget resolution included $25 billion in corporate welfare cuts, and the Senate-passed version included $9.4 billion, but somehow all of that was dropped in conference.

America's working families know that we can do better than that. The dirty little secret of corporate welfare is out of the bag. The CBC/Progressive Caucus alternative budget includes $500 billion in corporate welfare cuts, so the people know that it can be done. And it is not just Democrats who are pushing for an end to corporate welfare. Even the very conservative Heritage Foundation is on board with the idea.

To add insult to injury, after we vote on this budget agreement, we will vote on the new Republican version of the rescissions package that President Clinton vetoed earlier this month. Unfortunately, the new bill is only slightly better. It is like telling the American people that we are going to give them one cyanide pill instead of two. The rescissions bill remains completely unacceptable.

I urge my colleagues to reject the budget conference agreement and the rescissions package, both of which deliver a sharp blow to the stomachs of the most vulnerable Americans without equitably distributing the pain necessary to move toward a balanced budget.

CALL OF THE HOUSE

Mr. SABO. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members responded to their names:

[Roll No. 455]

ANSWERED "PRESENT"—411

Abercrombie
Ackerman
Allard
Andrews
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Beilenson
Bentsen
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Brownback
Bryant (TN)
Bryant (TX)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cardin
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clay
Clayton
Clement
Clinger
Clyburn
Coble
Coburn
Coleman
Collins (GA)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooley
Costello
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeFazio
DeLauro
DeLay
Dellums
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Dornan
Doyle
Dreier
Dunn
Durbin
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Fields (LA)
Filner
Flake
Flanagan
Foglietta
Foley
Ford

Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Geren
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Graham
Green
Greenwood
Gunderson
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hilliard
Hinchey
Hobson
Hoekstra
Hoke
Holden
Horn
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Jackson-Lee
Jacobs
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Johnston
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Lantos
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Longley
Lowey
Lucas
Luther
Maloney
Manton
Manzullo
Markey
Martinez
Martini
Mascara
Matsui
McCarthy
McCrery
McDade
McDermott
McHale
McHugh
McInnis
McIntosh
McKeon
McNulty
Meehan
Meek
Menendez
Metcalf
Meyers
Mfume
Mica
Miller (CA)
Miller (FL)
Mineta
Minge
Mink
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murtha
Myers
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Rangel
Reed
Regula
Richardson
Rivers
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Roybal-Allard
Royce
Rush
Sabo
Salmon
Sanders
Sanford
Sawyer
Saxton
Schaefer
Schiff
Schroeder
Schumer
Seastrand
Sensenbrenner
Serrano
Shadegg
Shaw
Shays
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stockman
Stokes
Studds
Stump
Stupak
Talent
Tanner
Tate
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thompson
Thornberry
Thornton
Thurman
Tiahrt
Torkildsen
Torres
Torricelli
Towns
Traficant
Upton
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Ward
Waters
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Williams
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (AK)
Young (FL)
Zeliff
Zimmer

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The SPEAKER pro tempore (Mr. HEFLEY). On this rollcall, 411 Members have recorded their presence by electronic device, a quorum.

Under the rule, further proceedings under the call were dispensed with.

CONFERENCE REPORT ON HOUSE CONCURRENT RESOLUTION 67, CONCURRENT RESOLUTION ON THE BUDGET, FISCAL YEARS 1996–2002

The SPEAKER pro tempore. The gentleman from Minnesota [Mr. SABO] has 3½ minutes remaining, and the gentleman from Ohio [Mr. KASICH] has 5 minutes remaining.

The Chair recognizes the gentleman from Minnesota [Mr. SABO].

Mr. SABO. Mr. Speaker, I yield such time as he may consume to the gentleman from Virginia [Mr. MORAN].

Mr. MORAN. Mr. Speaker, I rise in opposition to this conference report and would point out that this budget resolution will inflict a brutal blow on Federal employees.

Mr. Speaker, I rise in opposition to the conference report on the budget resolution because of the cuts it imposes on our Nation's Federal employees.

The budget resolution increases the contributions that Federal employees pay into their retirement system. The Republicans have pledged to make the Federal Government work more like the private sector. But in the private sector, 97 percent of all medium and large companies fully finance their employees' pension plan. Federal employee contributions to their retirement system are among the highest in the Nation. The resolution increases those contributions.

For their increased contributions to their pension plans, Federal employees will receive less. The Congressional Research Service has already estimated that Federal pensions are less generous than comparable private sector pension. We are going to make these pensions even worse by changing the accrual formula from high three to high five. This will reduce the Federal annuity by 4 percent. Republicans talk about the need to operate the Federal retirement system like a private pension plan. But this change would be illegal in the private sector.

Finally, the Republicans are proposing draconian cuts in the operation of the Federal Employee Health Benefits Program. The budget resolution proposes to cap the government investment at $1,535 for individuals and $3,430 for families. This cap grows with inflation over the next 7 years. While this sounds reasonable, this proposal will have serious consequences for the average Federal employee and his family. As we all know, health care inflation is much higher than changes in the Consumer Price Index. As time goes by, the employees out of pocket expenses will grow. By the year 2000, the average Federal employee will be losing $500 per year. The senior citizen on the plan will be facing even worse consequences because the Medicare cuts proposed in this resolution will force up the costs of the Federal Health Plan. Those individuals living on a fixed income will be forced to either pay a greater share of their income on health care or change to a program that does not meet their needs.

The Republicans talk about making contracts and keeping promises. But this is only talk. When it comes down to action, the Republicans are breaking their promises and violating the contracts we have with our Nation's Federal employees. I urge my colleagues to vote no on this budget resolution.

Mr. SABO. Mr. Speaker, I yield such time as he may consume to the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Mr. Speaker, I rise in opposition to the resolution and share the views of the gentleman from Virginia [Mr. MORAN].

Mr. SABO. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Florida [Ms. BROWN].

Ms. BROWN of Florida. Mr. Speaker, I rise in opposition to the Republican's budget conference report which will have a devastating effect on my constituents and all America.

Last Monday, I held a townhall meeting on the budget cuts in Jacksonville, FL. Mr. Speaker, I had so many people show up that I had to turn busloads away. The people are very concerned about how these severe budget cuts will affect themselves, their parents, and their children.

Our seniors, who rely so heavily on Medicare and Medicaid will be especially hard hit. Medicare and Medicaid will be reduced to second-rate health care systems so the Republicans can pay for the crown jewel of the Republican Contract on America, a multibillion-dollar tax cut for the wealthy.

In my State of Florida alone, Medicare will be cut by $29 billion by the year 2002, and Medicaid will be slashed by $9.2 billion. By the year 2002, seniors will pay $1,060 more in out-of-pocket expenses for second-rate Medicare.

In addition to cuts in Medicare and Medicaid, this mean-spirited budget cuts education $10 billion. It also cuts veterans' programs by $32 billion over the next 7 years. This is truly a case of the haves taking from the have-nots.

Mr. Speaker, we have not only let the fox guard the hen house—we have let the fox take charge.

Mr. SABO. Mr. Speaker, I yield such time as he may consume to the gentleman from Minnesota [Mr. OBERSTAR].

Mr. OBERSTAR. Mr. Speaker, I rise in opposition to the conference report on the budget resolution for fiscal year 1996 and to delineate for my colleagues the specific impacts this budget resolution is likely to have on the Federal Aviation Administration.

I say, is likely to have, because the conference report does not spell out the details of the cuts proposed for the FAA budget; but, given the general numbers and spending targets set down in the budget agreement we can calculate what the effects will be on specific FAA programs, such as the agency's new zero accident goal.

As ranking member of the House Aviation Subcommittee I want all my House colleagues to understand the critical mission of the FAA. This agency manages the world's largest air traffic control system, through which move half of all the one billion passengers who travel world-wide every year by air. They operate the Air Traffic Control system 24 hours a day, 365 days a year, handling, on average, two flights every second.

On an average day, FAA safety and security professionals will conduct nearly 1,000 inspections on pilots, planes and airports, ensuring that they remain air worthy and safe.

FAA maintains over 30,000 pieces of complex safety equipment and facilities across this Nation, operating at a reliability factor of 99.4 percent—a safety record envied by the rest of the world.

FAA issues more than 1,000 airport grants annually to improve airport safety and infrastructure.

FAA conducts 355,000 inspections annually to enforce safety standards and to issue certificates and licenses for aviation products and operators. FAA takes more than 12,000 enforcement actions each year.

The FAA has taken its share of cuts in the last 2 years as its contribution toward deficit reduction: FAA has cut 5,000 employees since 1993 for a current total of 48,000 total employees. Of that number 36,000 have direct hands-on involvement in the ATC system, which includes 14 of the 15 busiest airports in the world.

In this era of deregulation with extraordinary growth in both passengers and air traffic operations, we have seen a growth of 6 percent in air traffic during the last 2 years as the airlines have recovered from the serious economic decline and $12 billion in losses of 1990–92. But while air traffic has jumped 6 percent these last 2 years, the FAA budget has suffered a real decline of 6 percent, which translates into a $600 million cut.

This budget resolution conference agreement chops an additional $10 billion from transportation spending, which if spread, as expected, to the FAA will jeopardize the safety and efficiency of the Nation's aviation system.

Under this budget resolution FAA's ability to improve weather and safety equipment and prevent accidents would be compromised.

Introduction of global positioning satellite navigation technology would be delayed at least 5 years, costing airlines millions of dollars a year in lost efficiency.

The ability of the aviation security system to maintain its vigilance against domestic and international terrorism would be cut by one-third.

FAA's obligation to certify new aircraft engines and parts would be greatly compromised and might even have to be contracted out to private interests which, in my judgment, clearly is not in the best interest of safety.

The weather services to general aviation and to commercial aviation provided through the Nation's flight service stations would be greatly impaired as FSS and control towers would be closed, costing jobs and air traffic services to hundreds of communities in all 50 States, and delays to an estimated 105,000 flights annually, at an estimated costs to carriers and passengers of more than $2.3 billion.

I am just touching the tip of the iceberg on the impact of these cuts projected out over the next several years for the FAA as a result of this budget resolution.

The dedicated professionals of the FAA deserve better. They deserve our full support for full funding out of the aviation trust fund to maintain our air traffic control system at its highest level of safety and efficiency.

Mr. SABO. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. WAXMAN].

Mr. WAXMAN. Mr. Speaker, I rise against this bill that devastates Medicare and Medicaid.

Mr. SABO. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Illinois [Mrs. COLLINS].

Mrs. COLLINS of Illinois. Mr. Speaker, I rise in opposition to the bill.

Mrs. COLLINS of Illinois. Mr. Speaker, I rise in complete opposition to House Concurrent Resolution 67, the fiscal year 1996 budget resolution. This bill was terrible when it passed the House in May and it is just as awful today.

What you will hear about this budget resolution is that it balances the budget by the year 2002. Clearly, this is an important and extremely worthy goal. What you will not hear about is how it balances the budget—on the backs of senior citizens, college students, the working poor, and children with mothers and fathers on welfare. Rather than cutting the bloated defense budget, or ending corporate welfare, House Concurrent Resolution 67 attacks Medicare, guaranteed student loans, the earned income tax credit, public transportation, and lunches for school children to bear the brunt of the budget hatchet.

Today, you will also hear about how responsible this budget is. You'll hear many Members congratulating each other for addressing the budget deficit responsibly. Well, if this were true, we could all be proud of the budget before us today. Unfortunately, House Concurrent Resolution 67 is extremely irresponsible. It provides a $245 billion tax cut to Americans who least need it at a time when we can least afford it. In order to fund this tax cut and balance the budget, House Concurrent Resolution 67 cuts critical Federal investments in the future of this country.

Let's look at exactly what this budget resolution proposes and who will be hurt by it. House Concurrent Resolution 67 cuts Medicare spending by $270 billion over the next 7 years. Judging from the letters and calls that have been pouring into my office about Medicare funding, this is not a cut that the senior citizens in my congressional district can afford. Higher out-of-pocket costs for Medicare benefits will be devastating to many 7th Congressional District senior citizens on fixed incomes.

This budget also cuts funding for student aid by $10 billion over the next years. How the budget cutters decided that it is responsible and sensible to cut opportunities for young people to attend college is completely unclear to me. These cuts will prevent even more young people from attending college in the years ahead. Already, many families in my congressional district cannot afford to send their children to college. Other families take out large student loans that their children must pay back of a 10-year period.

Federal TRIO programs have helped approximately 9 million young people complete high school or graduate from college since they were established. It is likely that these programs may be completely eliminated, leaving first-generation college students without the support and assistance needed to help them obtain their college degree.

In addition, this budget proposes that we cut community development block grants [CDBG's] by nearly 30 percent. Last year, my State of Illinois received $42,500,000 that was distributed to community development organizations across the 7th Congressional District and throughout the State to help create jobs, rehabilitate single family housing units, improve infrastructure and reduce threats to public health and safety, et cetera. A 30-percent cut will dramatically reduce the important work that CDBG's can do.

House Concurrent Resolution 67 also proposes making other cuts that could impact the future of our economy and work force. It cuts job training program funding by 20 percent and would completely eliminate the Department of Commerce. During the past 2 years, the Department of Commerce has helped the private sector create jobs through export promotion and programs like the manufacturer's extension partnership. As the Illinois District Export Council in Illinois indicated in a letter to me, "Part of America's future is in exporting. Export promotion programs not only create jobs and strengthens communities today, but they lay the foundation for strong, competitive, U.S. companies and jobs into the next century." Does it make sense to disarm ourselves when we most need to compete in global workplace?

Mr. Speaker, House Concurrent Resolution 67 also reduces funding for grants for energy conservation programs, phases out Federal funding for mass transit, and proposes a number of other short-sighted, irresponsible cuts.

I urge my colleagues to reject this foolish budget proposal. It will give America's richest and wealthiest citizens all the breaks and leave America's most vulnerable citizens with nothing. This, Mr. Speaker, is certainly not responsible and it is definitely nothing to be proud of.

Mr. SABO. Mr. Speaker, I yield such time as he may consume to the gentleman from Kentucky [Mr. WARD].

Mr. WARD. Mr. Speaker, I rise to speak against this budget.

Mr. SABO. Mr. Speaker, I yield such time as he may consume to the gentleman from Massachusetts [Mr. OLVER].

Mr. OLVER. Mr. Speaker, I rise in opposition to the conference committee report.

Mr. SABO. Mr. Speaker, I yield 3½ minutes to the distinguished minority leader, the gentleman from Missouri [Mr. GEPHARDT].

Mr. GEPHARDT. Mr. Speaker, I urge defeat of this conference report for two very simple and understandable reasons. I believe this conference report and this budget is extreme. I do not believe that we have to, in order to balance the budget, take the kind of actions that are being taken in this budget.

Mr. Speaker, I also believe that it is a budget that is unfair and I say that for one simple reason above others. If you take the tax break that is in this budget, it comes to about $245 billion over the period of years. If you take the Medicare cut, it is a little more than that; about $270 billion.

As I will explain in a moment, the cuts in Medicare will be extremely harmful to ordinary American families. If we could reduce the tax break down to a more manageable level and focus it at middle-income families, we would not need to have Medicare cuts that are so severe and so deep in this budget.

Let me be more precise about what this means to ordinary families. Let me take what it means to the COLA increase on millions of seniors in our country. In the year 2002, they will get an annual COLA of about $327, but because of the out-of-pocket increases that must be caused with this large of a cut in Medicare, they will face a cut in their COLA of $157. In other words, half their COLA in the year 2002 will be taken away.

My colleagues may say $150 is not a lot of money, but remember we are talking about people who are living on social security. It is the only check they get. It is the only income they have.

And why are we doing this? Why does it need to be this deep of a cut? Again, because we have a $245 billion tax break, over half of which we believe goes to families who earn $100,000 a year or more. That is extreme. That is unfair and that change, that one simple change in this budget, would have this kind of impact.

I want to take my colleagues back to people. This has to be looked at in terms of real people. Cecil Whitener and his wife Ethel live in Afton, MO, in my district. He fought in five major battles in World War II. He worked hard in a grocery store. He paid his taxes and paid into Medicare and Social Security all of his life.

In the year 2002, their benefit in Medicare will be $850 a year less. Or put it another way, they will have to come up with $850 more than they would under present law. That is a real life impact to these people.

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But before we assume that this cut in Medicare is simply a problem for these folks who are today's senior citizens, let us understand that the impact of this is for all American families. This is Gina Stacer, who is trying to save for her twins' education. She and her husband live paycheck to paycheck. Her parents pay their medical bills with Medicare and social security.

Now, think about her and her husband and these kids and think about their middle-class status and what is going to happen if this budget conference report passes. It means people who are in middle-class squeeze are going to be squeezed even much more than they have been in the past because if she has to help pick up $850 for her parents because of the cut in Medicare and because she gets cut in school lunches or cut in student loans where these kids hopefully soon will be able to go to school, she gets hit from both ends. And so what is now middle-class squeeze becomes middle-class squash, and that is something that we should not allow to happen to the middle-income people of this country.

I say to you, my friends, we can do better than this. We can put together a budget that is fair for middle-income Americans, fair for people that have been stuck in place for the last 10 years making the same amount of money.

We do not have to have a budget that gives huge tax breaks to people who already have it made and take it out of the hide of the hard-working middle-income people of this country.

Vote down this conference report, and we can do better than this.

The SPEAKER pro tempore (Mr. HEFLEY). The gentleman from Ohio [Mr. KASICH] is recognized for 5 minutes.

Mr. KASICH. One simple little question: If they say that we could do it, we can balance the budget, why have not they done it for 25 years? I cannot figure it out.

Now, we have been in for less than 6 months, and we are going to do it.

Let me say a couple of things. First of all, we signed a contract last fall, last September. We made promises to the American people: Balance the budget, line item veto, commonsense legal reform, welfare reform, cut taxes, cut committees, cut bureaucracy. They said it could not be done. We did it in 100 days for one reason: because we believe in keeping our promises. We believe in real results. We did it, and the American people appreciate the fact that we are politicians where our deeds are meeting our rhetoric.

Is it not just great that you make a promise and you can come here to this House and you can deliver on it? And what we are about to do today is to deliver on something that all of the skeptics said could not be done. You think about that list of what we have already delivered on, the commonsense legal reform, cutting committees, cutting bureaucracy, giving tax relief to Americans, welfare reform, this is what Americans want.

You know, some people accuse us of getting this from a pollster. Yes, we got it from pollsters. We got it when we went to the supermarket. We got it when we went to the gym. We got it when we rode the bus. We got it on the plane, because we listened to Americans who get up and go to work every day and said, "That is our agenda." We made it our agenda. We delivered to the American people, and we are here today to balance the budget, provide tax relief, and keep the greatest of all of our promises, and we ought to feel very good about it.

I want to thank the Democrats who joined us on the contract and thank the Democrats who joined us when we passed this house budget resolution.

Now, why are we balancing the budget? Well, Greenspan, Alan Greenspan, the Chairman of the Federal Reserve, probably said it best, "Children will have a higher standard of living than their parents." That is America's greatest legacy, your kids will be better off than you. They will have more opportunity than you had. Your legacy will be that you left a healthier America for your children.

Second, improvement in the purchasing power of incomes, greater exports, significant drop in interest rates. That is homes for everybody. That is new businesses.

But let us get to the bottom line about this budget proposal. We heard about how draconian it is. First of all, Medicare: In our plan, we will go from $926 billion to $1.6 trillion. The only people who think that going from $926 billion to $1.6 trillion are living, I do not know, maybe in the 1950's, because, you see, we do not use this language anymore in America, in Arizona, in Michigan, in Florida, in Ohio, all across this country. When you go from $926 billion to $1.6 trillion, that is an increase; that is an increase.

Now, we hear the talk about those that want to go to $1.8 trillion, and the talk about those two senior citizens. If we do not fix Medicare by the year 2002, there will not be any left for them, and we are doing this to preserve the Medicare system and to show the greatest amount of compassion that is possible within the dollars that we have and to serve Americans with quality care and choice.

Now, folks, when you get down to the issue of total spending in the Federal Government, we are going to grow from $9,500,000,000,000 to $12 trillion. Can you believe that? From $9.5 trillion to $12 trillion, and there are some that say that is not enough. Do you know what Americans are saying when they see those numbers? "Why are you spending so much? Why are you spending so much?" The reason? Because we are on a glide path to balance this budget by downsizing government, eliminating duplication and red tape, providing tax relief, and achieving what Alan Greenspan said was imperative for saving the next generation.

We can do it, ladies and gentlemen, by just slowing the growth in government. That is what it takes.

This is not a dire budget. This is not a revolutionary budget. This is a commonsense budget to get us in balance.

Now, let me suggest to all of you that this balanced budget is designed to achieve two things: One, it is about the children and the next generation. And do you know what Americans tell me, and they are telling all of you as you go through airports? Do you know what they do? They grab you by the wrists and they say, "Don't stop. Do not give in. Don't cave in. Please keep it going. Balance the budget. Save my kids. Fix America. Ignore the special interests." That is what they are telling us as we go through the airports and the communities of our country.

And we also want to give them a little of their money back. As SAM JOHNSON put it, it is their money not our money.

You know what I want to close with as we look forward to bipartisan support, we run for office, we leave our families, we get on planes, we run all over, and we wonder sometimes why we do it. Today we are making history. Today this is a giant step for saving America, and every Member should leave this Chamber today with their heads held high, realizing this is why we came, to put America over politics, to put the future over the present, and, frankly, folks, the American people appreciate it.

God bless America. God bless this Congress in taking this giant step because we are about to guarantee a prosperous America and a better planet.

Vote for the resolution.

Mr. MCINTOSH. Mr. Speaker, last year we promised Americans certain tax cuts: to working parents we promised a $500 tax credit for their children, and we promised to end the tax penalty against married couples. To older Americans we promised to repeal President Clinton's massive tax increase on Social Security. And we promised to end the unfair rules that penalize retired Americans who work part time. Finally we promised that we would create economic growth and new jobs by reducing taxes on savings and capital investment.

More than 80 Members of this House sent a letter to the Speaker seeking from the budget conference a balanced budget by the year 2002 and the tax cuts promised by the Contract With America. We resolved that we can and that we must do both. The text of the letter will be inserted in the RECORD.

Unfortunately, this conference report misses the mark. While it does include $245 billion in tax relief for families and businessmen and women, it fails to roll back the President's massive 1993 tax increase on seniors.

Mr. Speaker, the most consistent theme I hear from the lunch counters of Muncie, IN, to the factory cafeteria in Anderson, IN, is that every American is overtaxed.

I will support this rule and the underlying conference report because it is a significant step in the right direction. We have all summer to continue to cut spending and to seek greater tax cuts in the budget reconciliation bill this fall. And so I will support this rule and this conference report because it establishes a 7-year balanced budget plan does offer some tax relief.

Let this also be a notice, however, that many freshmen and senior Members alike intend to keep our promises to the American people. We would not support any reconciliation bill that fails to keep our promise to offer all of the child tax cuts and capital gains tax cuts and fails to eliminate Clinton's Social Security tax increase. Moreover, in our minds this resolution establishes a floor—a level of tax relief under which we will not go—and we will fight to restore all of the Contract's tax cuts this fall.

MAY 25, 1995.

Hon. NEWT GINGRICH,
Speaker of the House,
Washington, DC.

DEAR MR. SPEAKER: We are writing to express our strong support for your courageous and successful efforts to pass a budget resolution which ensures a balanced budget by 2002 and retains the full value of tax relief passed earlier by the House of Representatives.

We are strongly convinced that America will thrive in the next century only if governed by a limited and responsible federal government. The federal government must live within its means and must not crush the prosperity of its citizens. Deficit spending and excessive taxation have together served to expand the power of the government while reducing the power of the people. A balanced budget and tax relief are not only compatible, but they are also essential for restoring the American dream.

Our Founding Fathers organized this republic to: establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity. This inheritance has been neglected. For too long Congress has sought to protect the state more fiercely than it has sought to serve the people. We must persevere to restore government of, by and for the people.

You can count on our votes against any budget resolution conference report that fails to balance the budget or significantly diminishes the tax relief passed by the House.

Mrs. LINCOLN. Mr. Speaker, I rise today to express my disappointment with this conference report. I have been a strong supporter of a balanced budget. However, we must ensure fairness and equity in achieving it. The American public is ready to tighten its belt as long as we all shoulder part of the load. The Coalition, a group of conservative Democrats which I helped form, proposed an alternative budget earlier this year which is based on fairness.

This conference report is simply not fair. Foreign aid, which is about 1 percent of the total budget is being cut by $1.8 billion this year while agriculture, which is also about 1 percent of the budget, sustains $13.3 billion in cuts over the next 7 years. This budget takes the strap to American farmers while sparing dozens of foreign subsidy programs. Medicare and Medicaid recipients stand to lose $450 billion over the next 7 years under this proposal, at least $75 billion more than is necessary to save the program. Students will lose $10 billion in loan assistance to attend schools, when this is one of the most rewarding investments our Government can make. I supported the Coalition alternative because it is tough and honest. It is less Government. Most importantly, it is fair.

This conference report reserves the greatest amount of spending cuts for the last 2 years. This means we run the risk that future Congresses might not be willing to make the tough cuts. I am a strong supporter of tax relief, but in order to achieve it, the committee bill has inequitably targeted agriculture, education, job training, and Medicare among other things. We first need to ensure the future of our children, and then give tax relief to ourselves.

I hope my colleagues join me in voting against this report because a more intelligent, equitable balanced budget proposal exists, namely the one put forward by the Coalition.

Mr. STOKES. Mr. Speaker, I rise in opposition to the conference report on House Concurrent Resolution 67, the budget resolution for fiscal year 1996. This measure will cut $1.2 trillion from quality of life programs for the primary purpose of funding a tax cut to the wealthy. The tax cut is proudly touted by our republican colleagues as the crown jewel in the GOP Contract With America. I strongly believe that hard-working American families do not want to pay for a tax break for the wealthiest individuals on the backs of the weakest in our society. That is just wrong, immoral, and unfair.

Yesterday, the Members of the House spoke with righteous indignation about the burning of the American flag. My colleagues, I ask that you have righteous indignation against making life-threatening cuts in vital quality-of-life programs on behalf of those in the dawn of life; our children—on behalf of those in the twilight of life; the elderly; and on behalf of those who are in the shadow of life—the sick, the needy, and the handicapped.

We must not let politics outweigh the needs of the American people. We must not ignore the pain and suffering that will result from the devastating cuts in vital human capital programs including health care, housing, food and nutrition, human services, education, and employment training.

The $270 billion cut in Medicare funding means that the elderly would have to pay nearly $3,000 more for health care services in the form of higher premiums, deductibles, and coinsurance. This increased cost of health care could eat up nearly 40 to 50 percent of their Social Security COLA.

The $182 billion cut in Medicaid means that nearly 7 million children and nearly 1 million elderly disabled would lose health care coverage. Tens of millions of Americans would lose important benefits such as preventive screening services for children, home care, and hospice.

For each $10 million cut in the Healthy Start Program, 33,000 prenatal visits would be eliminated, 3,000 pediatric appointments would be eliminated, 5,800 clients would not receive child care, and 3,200 clients would not receive skill and job training services. The 50 percent cut in funding for the National Health Service Corps would eliminate primary health care services to 500,000 people living in medically underserved urban and rural areas.

The 33-percent cut in education and related programs would deny millions of students vital education needs including safe and drug-free schools; concentrated educational instruction in reading and math; and education technology. In addition, access to and success in postsecondary education for the neediest students is imperiled by drastic funding cuts in the TRIO program. The $10 billion cut in student aid and threats to the continued viability of the Pell grant and campus-based student aid programs will saddle students with increasingly heavy loan debt and crushing interest payments. The increased debt burden places at risk and out of reach the dream of a college education.

The nearly $19 billion cut to school lunch, school breakfast, summer food, special milk, child and adult food services would force millions of needy Americans to have to choose between food and housing. Without the low-income home energy assistance, millions of elderly would be forced to choose between food and heat. My colleagues, these are not choices.

The 20-percent cut in employment training programs will deny millions of Americans the essential job training services they need to succeed in the labor market; it will deny dislocated workers the re-employment opportunities they so desperately need; and will deny summer jobs to over 600,000 youth who need and want to work.

Mr. Speaker, we must not force the weak to carry the weight of the strong. The Republican budget will weaken the foundation of our economy and place our children's future at risk. House Concurrent Resolution 67 is irresponsible and devastating to the lives of ordinary Americans. If these are the results of the Republicans' promise made-promise kept philosophy, surely some promises are definitely meant to be broken.

Mr. Speaker, I strongly urge my colleagues to show compassion and to stand up in defense of our Nation's children, elderly, veterans, and hard-working families. Vote against the conference report on House Concurrent Resolution 67.

Mrs. ROUKEMA. Mr. Speaker, I rise in support of the conference committee report on House Concurrent Resolution 67, a historic budget resolution.

For the first time in more than a generation, the House of Representatives stands ready to adopt a budget resolution that provides for a balanced Federal budget by the year 2002.

The goal of a balanced budget is not just an abstract exercise that some economists or green-eye-shade types thought up in their ivory tower.

It is an essential economic tool to get the savings and capital investment we desperately need for research and development, and new plant and equipment to rebuild the American economy; keep us competitive in the global economy; and create the good jobs at good wages we need for this generation and those to come.

Earlier this year, I voted once again in support of a balanced budget amendment to the Constitution. I did so because I believe that our country's long-term economic health demands that the Federal Government's fiscal house be put in order.

While the balanced budget amendment was narrowly defeated in the Senate, the need for Congress to do the right thing, and enact legislation that brings the budget into balance, remains as strong today as it was then.

Our interest payments on the public debt, currently exceed $200 billion a year, and are projected to increase to a mind-boggling $310 billion within the next 4 years! Much of these interest payments are going abroad to foreign investors who buy our Treasury notes. In other words, this capital is being drained out of our economy and exported.

If nothing is done, our country is headed for a fiscal disaster.

At the same time, in order to avoid this calamity, balancing the budget will require everyone in the United States to share some of the sacrifice associated with reducing the Federal Government's projected increases in spending by more than $900 billion over the next 7 years.

While I recognize that the opponents of House Concurrent Resolution 67 can point to this particular detail or that specific detail as unacceptable, the fact remains that the Budget Committee's plan does not give anyone a free ride as we struggle toward a balanced budget.

The domestic discretionary budget, which provides funds for most Federal education, housing, environmental, and health programs, will have to make do with $190 billion less over the next 7 years than originally anticipated.

The non-health care entitlement programs, such as Federal employees' pensions, crop subsidies, and welfare programs to name just a few, are facing $174 billion less in funding than originally assumed.

And, while I would support additional reductions in the defense budget, this budget plan does exert continued downward pressure on defense spending. No department can be exempt from budget cutbacks if we are to ever reach a balanced budget.

And Medicare and Medicaid, the Federal health care programs for the elderly and low-income respectively, will be asked to make due with $450 billion in less spending than current budget trends allow for.

Without question, this area of savings raises the most concern for me, and I must state my serious skepticism about how much of these truly dramatic changes can, or should, be accomplished in the near-term, if at all. By no means will I balance the budget on the backs of the sick elderly. We must proceed with great caution.

Some of the specific Medicare and Medicaid reform recommendations that have been discussed in recent weeks will be subject to intense analysis by this Member of Congress as the House Ways and Means and Commerce Committees wrestle with the reconciliation instructions they will receive from this document.

But, absent some significant reform what will happen to these essential programs?

Well, for the second year in a row, the trustees for the Medicare program have concluded that the program will go bankrupt in 7 years if nothing is changed.

Clearly, strong action and bold leadership is needed to ensure that our elderly will be able to receive necessary medical treatment through the Medicare program, and that Medicare will be there for many hard-working families who will become eligible for Medicare in the next 10 or 20 years.

Again we must proceed in good faith—keeping our promises to our elderly.

I, for one, support the establishment of a Bi-Partisan Blue Ribbon Medicare Commission—modeled after the very successful Greenspan Commission on Social Security in the mid-1980's—to make recommendations for preserving and protecting this vital program, which the Congress could enact confident that there is not any hidden political agenda to the recommendations.

All too often, members have implied that there can be short-term quick fixes to the program's current structure. There are no easy, quick fixes here.

When we talk about preserving and protecting Medicare's long-term solvency, let's do it right and put aside partisan wrangling. The American people are tired of partisan bickering and sniping. They want us to face the issues intelligently and fairly.

While the Budget Committee's plan does call for some dramatic changes to these programs, we must keep in mind that the alternative is completely unacceptable: a bankrupted Medicare program that does not help the elderly and is not there for anyone else either.

With respect to the ongoing efforts to provide middle-class families with some tax relief, I supported H.R. 1215 earlier this year because it contained many elements—such as expanded Individual Retirement Accounts, capital gains tax relief, expanded capital investment deductions for small businesses—of a save and invest in America agenda, which I have long advocated.

However, I was one of a small group of Republicans that petitioned our leadership to defer any tax reductions until the Congressional Budget Office had certified that the budget was, in fact, going to be balanced. Unfortunately, these preconditions have been significantly modified in the final version of House Concurrent Resolution 67.

Consequently, we must be mindful that the enactment of tax relief legislation will result in lower Federal revenues in the short term, which in turn requires that the Congress cut spending further in order to offset these losses.

The final conference committee report provides for no more than $245 billion in tax relief, meaning that the Congress will not have to find an additional $110 billion spending cuts over 7 years to compensate for the tax relief package as originally proposed by the House.

I would add that I have joined other Republicans who are already moving to limit the so-called family tax credit to families with incomes of less than $100,000. I fully support this effort and working to see it adopted.

In conclusion, Mr. Speaker, approving the Budget Committee's conference report represents the first step in our annual budget process. The 13 regular appropriations bills, combined with an omnibus budget reconciliation package, will be where the nitty-gritty details of this budget plan are hashed-out.

That process will not be without difficulty, but as we prepare to enact legislation that balances the Federal budget we should not kid ourselves into thinking that it will be easy to do. At the same time, we should acknowledge the terrible cost to our Nation if we do nothing.

Balancing the Federal budget is essential to protect our Nation's long-term financial health, and to ensure that the country our children and grandchildren inherit is as great as the one our parents gave us.

Mr. FILNER. Mr. Speaker, and colleagues, I rise today to speak against the cuts this budget resolution inflicts on the Federal Aviation Administration [FAA].

While we all support sound and responsible spending, the cuts to the FAA budget are neither. The result of these cuts will give us skies that are more crowded, equipment that is older, air traffic control personnel that are even more overworked, and air travel that is more dangerous.

While air traffic has grown more than 6 percent over the last 2 years, the FAA budget experienced a real decline of 6 percent—that's a $600 million decrease.

The budget resolution conference agreement cuts an additional $10 billion from transportation spending, cuts which will jeopardize the safety and efficiency of the aviation system proposed by the President.

Under this budget proposal—a safe and efficient aviation system for the nation will be dramatically jeopardized.

The FAA's ability to improve weather safety equipment and to prevent accidents would be compromised.

Introduction of satellite navigation technology would be delayed at least 5 years, costing air carriers millions of dollars per year in efficiencies.

The FAA would be less able to respond to domestic and international terrorism. Security specialists would be cut by one-third, ending the FAA's ability to assure compliance with security regulations to provide on-site monitoring and to assist air carriers experiencing major terrorist threats. We need look no further than the current pall of fear that hangs over Los Angeles International airport to imagine the likely effect of security cutbacks.

The FAA would no longer be able to certify new aircraft, engines, or parts. These responsibilities would be transferred to private interests.

All FAA international offices would be closed, eliminating FAA's international presence for safety, security, and certification functions and undermining our goal of ensuring U.S. passenger safety worldwide.

Research into better methods of protecting passengers from inflight and post-crash fires would end altogether.

From fiscal year 1995 to 2002, the work force of air traffic controllers and flight service technicians would be reduced 44 percent—despite a 34-percent increase in the number of passengers and a 17-percent increase in commercial operations.

Flight service stations and control towers would be closed to the detriment of general aviation and small communities. Hundreds of communities in all 50 States would lose jobs and air traffic services. And, almost 105,000 flights would be delayed annually, at a cost to carriers and passengers that exceeds $2.3 billion.

Equipment-related delays—caused by funding shortfalls for new technology and skilled maintenance technicians—would rise dramatically from 4,000 to 50,000 per year, and additional operating costs would grow for carriers and passengers.

We are all aware of the desperate need to guarantee 100 percent safety for the flying public. We are too familiar with the tragic consequences when that safety is compromised.

Mr. Speaker, we all benefit from the FAA's ability to provide safe and timely travel—let's not jeopardize that by approving this budget resolution. I urge my colleagues to keep the skies friendly—and safe—and reject this budget resolution.

Mr. LEVIN. Mr. Speaker, I rise in opposition to the budget resolution conference agreement.

I am committed to balancing the budget. That requires difficult choices, and over the years I have not shied away from the tough votes to cut spending. In fact, I have voted for every serious comprehensive deficit reduction proposal—under both Republican and Democratic Presidents—since coming to Congress.

But this budget proposal, although well-intentioned, is poorly conceived.

This resolution calls for making $270 billion in cuts from Medicare, yet, the Republicans have not produced a single specific proposal on how to achieve these savings. When taken together with the $180 billion in cuts to Medicaid, these cuts could jeopardize the well-being of the best health care system in the world, to say nothing of what it can do to the affordability of health care for seniors, the ability of seniors to use the doctor of their choice, and the viability of teaching hospitals and the medical education programs they support. Finally, the ability of the aged and the disabled to receive the nursing home care they so desperately need will be jeopardized.

And why would we place Medicare and Medicaid including long-term care in such peril? So that the Republicans can pay for an ill-conceived tax break mainly for the privileged few.

At a time when U.S. income inequality is the worst among industrialized nations and is at its greatest level since records have been kept, this budget handsomely rewards the privileged few at the expense of everybody else.

The Treasury warned that over half of the benefits of the original House plan would go to the top 12 percent of taxpayers, and there's no indication that this package will be any different. Yet this is the only group whose incomes went up and whose effective tax rates went down over the past decade and a half.

The rest of America, whose incomes stagnated or declined during the same period, not only get the crumbs in terms of tax breaks, but bear the brunt of paying for the whole tax package through greater cuts in Medicare, student loans, veterans benefits, and other middle-class programs.

Further, this budget will dull the edge of America's future competitiveness by gutting our Nation's investment in education across-the-board, at a time when more and more jobs call for greater skills and abilities.

And for what? I am willing to accept a modest increase in inequality if there's a reasonable prospect of significantly greater economic growth for all. But these tax cuts can't deliver. Treasury, CBO, CRS, and Joint Committee on Taxation, and a host of economists across the political spectrum have all concluded that the benefits, if any, are likely to be quite small.

Finally, I think the American people have the right to know the exact price for these tax cuts and for balancing the budget generally. Republicans claim that they've paid for the tax cuts and that they've committed themselves to achieving a balanced budget by 2002. The truth is that the major offset in the bill is a promise to cut spending in the future, and that the commitment to balance the budget rests still more promises to cut in the future.

None of these promises are backed by specific spending cuts. To make matters worse, Republicans have gerry-rigged the tax cuts so that most of the revenue loss comes in the years beyond the budget window, so under House rules they don't have to pay for the full cost of these tax cuts.

I am all for real, responsible deficit reduction. But this budget in many ways is not real, and in any event is not responsible.

That is why I am voting against the budget resolution conference agreement.

Mr. HALL of Texas. Mr. Speaker, I rise today in support of the conference report on House Concurrent Resolution 67, the 1996 budget resolution. It is imperative that we take steps to correct our current budget dilemma. I believe today is as good as any day to set in motion a plan which will bring our government back to an environment of fiscal responsibility.

Many folks are concerned this legislation will take away benefits which they now receive. In reality, if we do not make a concerted effort to balance our budget by encouraging efficiency of Government services, we will be unable to offer any assistance in the near future as a result of irresponsible budget decisions. It is my belief this budget resolution will allow those decisions to be made at the appropriate committee level.

The projected savings in Medicare and Medicaid are most troubling to me, as their numbers are so high. However, there is nothing in the budget resolution that requires the committee of jurisdiction on which I serve to adopt the assumptions used in reaching the $270 and $180 billion savings. We must look at all options while keeping in mind our commitment to the American people who contributed to the Medicare insurance program throughout their working lives, and those low-income individuals who need the helping hand of the Government. I believe all of us recognize the merits of these programs as well as the need to insure their solvency by slowing the rate of growth in these programs, by asking health care providers and beneficiaries to help us find fair ways to make the program solvent for future generations; and by increasing choice and individual responsibility without deceasing benefits and access to the best health care system in the world.

I urge my colleagues to act in a bipartisan manner and vote in favor of this resolution, which will allow the important process of balancing our budget to move forward as well as allow future generations to have the opportunity to enjoy the American Dream.

Mr. COYNE. Mr. Speaker, I rise in opposition to the conference report on the fiscal year 1996 budget. I strongly disagree with the priorities laid out in this document—especially the policy of gutting Federal health, education, and safety-net programs for average Americans in order to provide tax cuts for the most affluent members of our society.

Now is not the time for massive tax cuts. We desperately need to reduce the growing Federal deficit. The budget plan contained in this conference report would reduce Federal receipts by $245 billion over 7 years. Such tax cuts would force deep, irresponsible cuts in Medicare and Medicaid—as well as other important Federal programs like education, training, infrastructure, and nutrition programs.

We all know that we must reduce the Federal Government's massive structural deficit. To do that, we have to make difficult choices about worthwhile programs and scarce resources. However, I don't think that many of my colleagues really understand the magnitude of the cuts required under this budget resolution—or the impact that such changes would have on the vast majority of people in this country. The cuts proposed for Medicare, Medicaid, education and training programs, urban redevelopment, and Federal safety-net programs will devastate millions of families.

Moreover, if the experience of the last 15 years has taught us anything, it is that we never have as good a grip on deficit reduction as we think we do. We should have learned to err on the side of caution and conservatism when estimating deficits 5—or 7—years down the line. Consequently, I believe that it is irresponsible to adopt a massive tax cut at this time.

Finally, I believe that the tax cuts proposed in this budget are distributionally unfair. These tax cuts are targeted toward the rich; many working-class families won't see a penny from them. If we want to reduce the tax burden on the hard-pressed middle class, we should rethink our approach. Honest hard-working families that often hold down several jobs—and still have to struggle to make ends meet—need tax relief a lot more than America's most affluent families.

For these reasons, I urge the House to reject the conference report on the budget resolution and to begin again. It's not too late to draw up a budget that cuts the deficit responsibly without stabbing middle-class families and the elderly in the back.

Mr. POSHARD. Mr. Speaker, I rise in somewhat reluctant opposition to this budget resolution.

Without a doubt, the time to act on slowing the growth of Federal spending and Federal programs is upon us. We cannot continue to borrow and spend and push our country into bankruptcy.

Today we are faced with the blueprint for how the Republican leadership plans to reach a balanced budget in 7 years. I've spent enough time studying the issues and talking about them with people in my district that I could be a budget architect, and if I had a seat at the table, I would make a few changes in the design.

I would soften the blow on working families who struggle to save and invest enough to send their kids to college and pay their rent or mortgages. And I would tell them that the best tax cut we can give them and their children is real deficit reduction.

I have held countless town meetings to discuss with the people of the 19th District the very real budget decisions which we must make. People in my part of Illinois are not clamoring for tax cuts which cannot be afforded any more than they want to keep open obsolete agencies or continue to fund ineffective programs. They want to make sure the priority needs are met and put a brake on spending which we can't afford.

Balancing the budget won't be easy and it won't come without the loss of some programs and activities which people in the 19th District appreciate. I am more than willing to shoulder that responsibility because the deficit and accumulated debt is the No. 1 problem facing this country. But one of my great regrets is that the highly-charged partisan atmosphere in Congress won't allow us to craft a plan which would have broad, bipartisan support. I credit the Republican leadership for putting this package together, with the regret that we could not find more middle ground on some of our basic concerns.

The real disappointment is that all of what is being done today will be nothing but empty rhetoric when it comes time to put it into law. The Congress will pass legislation which follows the unfair and unrealistic instructions contained in this resolution, the President will, rightly so, veto those bills, those vetoes will stand and we will have to come back and do what we should be doing right now, which is working in a bipartisan way to balance the budget. I stand ready to assist in that effort. And so, it is with reluctance that I vote against the resolution, in hopes that we work together to address the budget crisis facing this country.

Mr. CLINGER. Mr. Speaker, I would like to take the opportunity to remind my colleagues of what carried a Republican majority to the House of Representatives: it was an electorate demanding fundamental changes in failed government agencies and policies, and a vast reduction of the growing Federal deficit.

The budget resolution before us certainly creates a clear path to fiscal soundness. However, we continue to face the difficult challenge of implementing this plan, including the restructuring of our Federal departments and agencies. As chairman of the Committee on Government Reform and Oversight, and on behalf of its Republican members, I would like to reaffirm our commitment toward creating a new 21st Century Government that is less intrusive, less costly, and more responsive to the American taxpayer.

The American people have lost patience with a government that grows in size but not in service. For instance, the U.S. General Accounting Office has documented the problem of massive duplication within our Federal departments in reporting that the Department of Commerce shares its mission with at least 71 Federal departments, agencies, and offices. As a result of this duplication and other inefficiencies within the Federal Government, the American taxpayer and future generations will bear the burden of a U.S. tax receipt system that is 13 times the size it was in 1960.

I support the budget resolution's goal of eliminating the Department of Commerce as an initial step in the overall restructuring process. The next crucial step is determining whether consolidation, privatization, localization, or elimination will produce the most effective and innovative results within each agency. Republican members of the Government Reform and Oversight Committee pledge to continue these reorganization efforts by evaluating all Federal agencies and departments to determine if their missions and functions are still viable resources to the American public.

In fact, next month, the committee will begin a series of nationwide field hearings that will serve as an open forum for experts in organizational management, as well as the public, to voice their ideas about what they want their government to do for them and what their government should look like. Let's allow the American public to have a voice in this historic process of change.

In closing, I would like to reiterate the significant amount of resources that can be saved, over the long term, through the restructuring of inefficient Federal Government agencies. I remain dedicated to creating an innovative government through the use and guidance of private and public sector experts in the restructuring field.

The time has come for citizens, experts, and lawmakers to join together in the common cause of creating a 21st Century Government. Through a collaborative effort the Government we create can be as effective and innovative as the Government we envision.

I thank the Chairman and yield back.

Mr. NEY. Mr. Speaker. The conference agreement on the fiscal year 1996 budget resolution includes proposed savings of about $4.4 billion over the next 7 years from the assumption that the Davis-Bacon Act will be repealed. However, the specific assumption for repeal of the act is not binding on the committees of jurisdiction over Davis-Bacon and does not prejudge the enactment of legislation to repeal the act. With this in mind, I plan to support the Conferees' Report.

However, I would like to be very clear in stating that I have serious doubts as to whether the repeal of the Davis-Bacon Act will actually result in any serious savings—let alone savings amounting to $4.4 billion—and I question the need for this language in the Conferees' Report. Several studies have indicated that repealing the act would be, at best, neutral with respect to Federal construction costs when compared to lost revenue due to reduced wages.

The Davis-Bacon Act has been a focus of congressional consideration since the 1950's. There appears to be little indisputable evidence with respect to its impact. In light of this, some have called the act a Special Interest 'dole-out' that is earmarked specifically for organized labor. But this is an unfair assessment. If there is any clear evidence with respect to the Davis-Bacon Act, it is that the act has effectively taken the wages of working men and women out of the Federal construction bidding process. I hope that my colleagues understand this. And I urge them to vote against any measures to repeal the Davis-Bacon Act.

Mr. STUMP. Mr. Speaker, I rise in strong support of this conference report and I ask unanimous consent to revise and extend my remarks.

Mr. Speaker, I want to extend my great appreciation to Mr. KASICH, the chairman of the House Budget Committee, on his efforts to maintain Congress' commitment to our Nation's veterans during this extremely difficult process of balancing the budget.

The other members of the Budget Committee, especially Mr. HOKE, Mrs. MOLINARI, and Mr. BASS of the National Security Budget Task Force, also deserve great credit for their efforts.

These Members worked long and hard to assure that veterans were not unfairly singled out for any new cuts, and that the budget was not balanced on the backs of veterans.

Unfortunately, demagoguery and misinformation about this resolution have been used by the administration to scare veterans into fearing the absolute worst about this budget.

These have been desperate administration tactics to confuse veterans and steer their attention away from the administration's own budget proposals which in some ways would be worse for veterans than the recommendations of this conference report.

In unprecedented partisan fashion administration officials have talked about a mean spirit on Capitol Hill toward veterans.

When the reality has been that the mandatory savings provisions proposed by the House Budget Committee have simply extended current law and items passed by previous Congresses.

Additionally, most of these proposals were signed into law by President Clinton in 1993, and included in both of his budget proposals submitted this year.

The reality is that this conference agreement recommends an increase in annual veterans' spending from $36.9 billion to $40.4 billion per year over the next 7 years.

This amounts to a total of $276 billion—an increase of $39.5 billion over the last 7 years.

This is during a period when the veteran population is rapidly declining.

The Department of Veterans Affairs estimates that between 1990 and the year 2010, the veteran population will decrease by 7 million, or 26 percent.

There were dire predictions earlier this year that the budget would contain entitlement reform proposals devastating veterans benefits.

The veterans organizations testified in great opposition to means testing disability compensation, taxing veterans benefits, or removing 10 and 20 percent service-connected disabled veterans from the compensation roles.

None of these proposals are included in this budget conference report.

And based on my dealings with the Budget chairman over the past few months, I can assure veterans that none of them were ever seriously considered by the House Budget Committee.

The conference report does mandate reconciliation savings of $6.4 billion over 7 years.

This is about the same amount of savings achieved by the Reconciliation Acts passed in 1990 and 1993.

Many Members, who are now complaining about this budget's impact upon veterans voted for these same proposals in 1990 and 1993.

They may want to check their prior votes.

All veterans will benefit from the financial improvements balancing the budget can bring to the American economy.

Younger veterans with families and children will certainly benefit from the $500 per child tax credit, regardless of their income.

Additionally, this budget protects the Social Security benefits of older veterans.

Others have highlighted the list of economic benefits a balanced budget will provide so I will not repeat them at this time.

The latest dire predictions veterans have been scared by is that this budget resolution results in closed VA medical centers.

Nothing could be further from the truth.

As a matter of fact, over the next 5 years, the President's budget proposes $339 million less for VA health care than this conference report.

It is contradictory for administration officials to claim the budget conference agreement results in hospital closures over 7 years and that the President's budget proposal would not.

One could certainly ask how many hospitals would have closed if funding were at the President's recommended level of the 10 years of his latest budget plan.

This resolution does not mandate or require any specific level of spending on VA health care.

As all Members and administration officials know, the appropriation bill sets the specific spending level for VA health care.

The appropriators will make decisions on spending levels for VA health care next month.

I will work with the Appropriations Committee in the same manner as I have with the Budget Committee to assure adequate spending levels for VA health care programs.

I encourage all Members to make their priorities known to the Appropriations Committee.

The rising national debt and interest on that debt have created a crisis which Congress must face now.

It is truly a matter of saving our country from financial ruin.

Our children and grandchildren will either inherit a declining standard of living or gain freedom from the financial excesses of our generation.

We can either pass a balanced budget and work to protect high priority veterans programs, or go with the President's budget, ignore our national financial crisis, and add over $1 trillion to the debt our children will have to repay.

I urge Members to support the conference report, to save our country's financial future and protect our veterans.

Mr. COSTELLO. Mr. Speaker, I rise today in opposition to the House-Senate Republican budget conference report.

This proposal, a compromise written by the House and Senate Budget Committees, would give the very wealthy an enormous tax break while at the same time devastating Medicare and other vital programs. I voted against this package as a conferee and will vote no on final passage in the House.

The goal of this budget proposal is one I share: balancing the Federal budget by the year 2002. In January, I voted for a constitutional amendment to balance our Federal budget. I believe we must end the continued policy of running billion-dollar deficits every year which add to the national debt that must be paid by our children and grandchildren.

But we should not balance the budget by cutting student loans, Medicare, Social Security, funding for veterans, and infrastructure while offering a $245 billion tax cut. This outrageous cut will give the wealthiest families a cut of over $15,000 while giving most middle-income families an average of only $500 in tax relief.

We must also balance our budget in a way which does not put such a tremendous burden on our Nation's elderly. Last fall, during town meetings with my constituents, I talked about the "Contract with America," and its potential impact on Social Security and Medicare. I suggested that if the Republican plan were enacted, our seniors would see huge Medicare cuts, higher Medicare premiums and out-of-pocket costs, and an effort to cut Social Security. If you examine the Republican budget closely, it does all three.

It cuts $270 billion from Medicare over 7 years, meaning that the service currently provided by Medicare will be significantly less in 2002. By cutting the Medicare Program by 25 percent in 2002, out-of-pocket costs for seniors will increase by over $1,000 in 2002. And, this budget begins the dangerous concept of reducing Social Security cost-of-living-adjustments, beginning in 1999, by altering the Consumer Price Index. This will reduce the average benefit by $240 per person.

The Republicans have also suggested this plan will actually balance the budget in 2002. Unfortunately, their proposal relies on unsound economics and budget gimmicks to reach a balanced budget. This budget assumes a $170 billion "economic bonus" between 1996 and 2002 for attempting to balance the budget. This is based on a rosy scenario that our financial markets would react to lower interest rates by an optimistic 2 percent in 2002. Without this bonus, the budget is not balanced, and the promises behind this budget remain unfulfilled.

Mr. Speaker, I support a balanced budget. I believe if we got rid of the $245 billion tax cut for the wealthy and used those funds to help keep Medicare solvent; if we asked the very wealthy instead to pay their fair share; restored some funding for some of our most needed initiatives, such as student loans; and did not tamper with Social Security, we would reach this goal. Unfortunately, a majority of my colleagues did not agree with our efforts to make these changes in the Budget Committee.

Therefore, I intend to vote against he Kasich budget plan on the floor of the House.

Mr. VENTO. Mr. Speaker, I rise in strong opposition to the conference agreement on the budget that we have before us today. Like the Republican budget proposal which passed the House last month, this is a measure which seeks to pay for the Republicans' tax breaks for wealthy individuals on the backs of children's nutrition and the elderly's Medicare and at the expense of sound education, health, and welfare benefits.

The conference agreement worked out by the Republicans is, to say the least, disappointing. In this time of fiscal stringency, it makes no sense for the Republicans to continue to insist on providing costly unfair tax breaks to wealthier Americans and corporations while cutting off programs which invest in our Nation's future, our children and our people. Yet, that is what this conference agreement does. The size of the tax breaks is slightly different from the House-passed resolution, now they cost $245 billion over just 5 years, but they remain unfair and slated for enactment before the budget paper promises are close to being fulfilled.

Surely, the Republicans do not expect the American people to believe that these huge unfair tax breaks, which are a throwback to the failed economic policies of the 1980's, will be an investment in our country's future? The Republicans make this claim even as they plot deep cuts in student loan funds by $10 billion over 7 years, as they cut funding for education across the board, which is one of the most important investments our country can make. At a time when jobs demand more preparation and the cost of a college education is rising twice as fast as income, cutting education funding is indeed a losing proposition. We need to support education as a budget priority, not as a political throwaway to pay for the wealthy's tax breaks. This conference agreement has it backward.

The GOP budget further digs the deficit hole deeper with $32 billion more for the Pentagon, wed to cold war mentality.

At the same time this is a budget which not only slams doors shut on Americans wanting to gain an education, but sadly decimates programs which provide a safety net for our Nation's elderly and poor. The budget cuts $270 billion from Medicare, $182 billion from Medicaid, $100 billion from welfare programs, and another $71 billion from other entitlement programs. The 7-year Republican plan to achieve a balance is a paper promise, ironically economists cannot often predict 7 months in advance much less 7 years into the future.

In the absence of any real explanation, the Republicans simply split the difference on the cuts to Medicare and Medicaid between the House and Senate plans. Thus, the amount of the cuts were arbitrarily set, without rhyme, reason, or thought as to the consequences on people today. Without contemplating the effects, the Republicans today promise draconian cuts that will mean fewer benefits, higher out-of-pocket costs for seniors, and less choice of doctors. This is the GOP blueprint. Nearly 83 percent of Medicare benefits go to seniors with incomes of $25,000 or less. Just think about what that does to seniors who rely upon the Federal Medicare promise. The proposed reductions would have a devastating effect on these people. Likewise, Medicaid is the only major Federal source of funding for long-term care and the proposed cuts will have drastic results for our Nation's seniors, with over one-half the benefits flowing to elderly Americans.

The irony of this is that in the last Congress, the Republicans refused to support meaningful comprehensive health care reform, saying there was no crisis in health care. Now they have conveniently discovered ironically a slightly improved Medicare Trustees Annual Report and bemoan it as a crisis. Actually, the 1995 report suggests a slight improvement over 1994. The GOP is going to solve this health care crisis by cutting benefits to seniors and reimbursements to health care providers while giving tax breaks to wealthy Americans. This is not the approach that will protect and preserve Medicare and the elderly and help finally to rationalize the health care system.

It's an unfair plan, it's unworkable but no doubt the GOP will score the political points and then try to dump the problem and duty on the President or the Democrats.

The priorities outlined in this budget agreement are outrageous. We ought to be offering hope by acknowledging the reality that the Federal Government needs to remain a partner in supporting the basic needs of our citizens, the people we represent. However, what I am seeing is an erosion of support for working families and an eradication of support for those who cannot make ends meet in order to give wealthier folks unreasonable tax breaks. Republican paper promises and up front tax breaks with back loaded deficit reduction don't signify political courage, as they would have us believe, but political pandering yet another postponement of fiscal reality. Republican priorities are focused on change at the bottom line, producing enough money for the Republican tax breaks today for well off Americans, not empowering families, and compounding the serious deficit problems for tomorrow.

This proposition will abandon the policy track of the 1993 Democratic budget blueprint—which is exceeding its promise. The balanced Democrat 1993 budget package of tax fairness and reductions in spending would be a $1 trillion deficit reduction in its 7-year cycle. The Republicans may have the votes to hatch this ploy but beyond the tax breaks no stomach to carry out the plot.

I urge my colleagues today to reject the GOP scheme and get back to the real world of fiscal discipline, not political hyperbole.

Ms. ESHOO. Mr. Speaker, I rise in strong opposition to this budget resolution.

I support a balanced budget amendment and am prepared to make the tough choices needed to stop the flow of red ink. But this budget is built on a faulty foundation and constructed with a tax break for the rich that we cannot afford.

In the midst of a fiscal crisis is it responsible to give away $245 billion in tax cuts? I do not think so. A tax break for the wealthy means less for everyone else. It means breaking our commitments to the American people. It says we no longer care about seniors who have built our country and we no longer care about educating our young people who will ensure our country's future.

Seniors must give up, get less, and pay more and college bound students must go it alone.

Mr. Speaker, we can reduce the deficit in a balanced and fair way—one that reduces spending while investing in our future.

My constituents care deeply about education, protection of our fragile environment, basic research, and fairness. They say cut and invest. This budget does neither and I urge my colleagues to oppose it.

Mr. FAZIO of California. Mr. Speaker, I rise in support of a balanced budget. But I rise in opposition to the conference report on House Concurrent Resolution 67, the concurrent resolution on the budget for fiscal years 1996–2002.

Make no mistake. This bill reflects Republican priorities. It is a Republican budget that rewards the well-off and sticks the less-fortunate with the bill.

Republican conferees had an impossible task. Dress up a bill that hurts the elderly, the young, and the disadvantaged. Dress up a bill that guts Medicare and Medicaid, forces seniors to pay more out-of-pocket costs for health care, and devastates rural and inner-city hospitals. Dress up a bill that makes it more difficult for our children to go to college and get the education they deserve. Dress up a bill that lines the pockets of wealthy Americans.

It should come as no surprise that they failed. This bill was just too ugly to dress-up. But the American people do not need me to tell them how bad this budget plan is. Listen to your friends, your neighbors, and your family.

In my district, I listened to the Hopkins family. They're the real experts. The Hopkins have been married for 40 years. Mr. Hopkins works part-time at McDonalds, as he has for 6 years.

Every dollar counts. Although Mr. Hopkins worked for many years for a small business, he does not have a pension to rely on. Instead the Hopkins depend on Social Security, and Mr. Hopkins small supplemental income.

With $490 a month going towards rent, the Hopkins have little left over to cover the cost of medical emergencies.

Under the Republican plan, the Hopkins will pay as much as $2,000 a year more to cover cuts in Medicare. Although they fortunately have no co-payments right now, an increase of this size would be devastating.

The Hopkins are not a special case. They have worked hard all their lives. They have made the right choices, and they have sacrificed when we have asked.

Mrs. Hopkins has a heart condition. She has asthma. And arthritis. She pays for her own medicine—about $200 a month. This cost represents a sizable percentage of their monthly income. After paying for rent, utilities, and food, they have almost nothing left over for clothes.

Mrs. Hopkins told me: "Leave our Medicare alone. We could not make it without Medicare. My last trip to the hospital just about broke us." A recent trip to the hospital dramatized the Hopkins' precarious position. Although the ambulance and hospital stay were paid for, Mrs. Hopkins was required to pay an additional $130 for twenty pills.

While the Hopkins work to make ends meet, with dignity and strength, the Republican's have decided that it's fair to make life more difficult for families like this one. The Hopkins are right on the margin.

The Hopkins do not have any room to give. How can we ask them to sacrifice, and, at the same time, reward the wealthiest members of our society with a generous tax cut. Will the Hopkins benefit from this tax cut? No. The Hopkins will pay more and get less.

I can not support a budget plan that doesn't put hard-working Americans first—that does not put the Hopkins first.

I will support a fiscally responsible and sensible budget. The budget offered by my colleague, Mr. STENHOLM, was just such a budget. By proposing sensible reforms in health care programs, and preserving crucial funding for education, rural health, research, and economic development programs, the Stenholm budget achieved a zero deficit without permanently crippling our society.

I urge my colleagues to reject this budget. Do not let the American people down.

Mr. Speaker, I ask unanimous consent to extend and revise my remarks. I urge my colleagues to defeat this resolution because it makes massive cuts in Federal education and training programs. In addition, the Republicans are going to make it harder for children from middle class families to attend college—so it's easier for them to hand out tax cuts to the rich.

The Republican budget resolution reminds me of what Hall of Fame catcher Yogi Berra once said when he walked into a popular New York restaurant. He looked around the packed dinning room and said: "No wonder no one comes here anymore, it's always crowded."

That about sums up the logic of the Republican about-face on its longtime support for Federal education programs, especially student financial aid. After discovering just how popular and successful the in-school interest subsidy has been the House Republicans proposed its complete elimination.

Their original proposal to cut student aid by $18.7 billion was a foolish departure from the bipartisan, national policy to expand access to higher education that has existed since President Truman.

The conference agreement is hardly any better. Republicans will almost certainly have to eliminate the in-school interest subsidy for graduate and professional students.

More than 500,000 graduate students, all from needy families, will be affected by the loss of the subsidy. For some, Ph.D. students especially, the proposal will increase their loan payments by as much as $375 per month and will increase total loan costs by $45,000.

Despite what Republicans think, not every graduate student goes out and makes big bucks as a lawyer or stock broker. Many become teachers, ministers, social workers and, I might add, history professors, all of which are ordinarily not high-paying professions—unless, of course, they run for Congress, become Speaker and win a big, fat book contract.

The net result is that many young people who would have gone into these worthy professions will be forced to pursue higher-paying careers to be able to pay their loans back. That will mean more lawyers and fewer teachers. I guess this is what Republicans call progress.

Republicans still need to come up with another $7 billion in student aid cuts to meet their budget target. They have not said how they will do it, but one thing is sure: Whatever they do will hurt students. The Republicans are going to make it harder for children from middle class families to attend college—so it's easier for them to hand out tax cuts to the rich.

The in-school interest subsidy helps tear down the financial barriers that would otherwise keep many deserving students from attending college and graduate programs. Moreover, taxpayers are paid back handsomely: college graduates earn higher incomes, and, consequently, pay higher taxes. Most graduate students who benefit from the subsidy will repay it in Federal income taxes within a few years.

For our society as a whole, the rate of return on this investment in education is overwhelming. Student aid has made our society more mobile, more prosperous, more stable, and, yes, more fair! Our economy is the strongest in the world, in large part, because our colleges have produced highly trained scientists, engineers, and managers.

In short, we are all better off, collectively and individually. Just ask Speaker GINGRICH and Majority Leader ARMEY, two former recipients of Federal student financial aid who went on to bigger and better things, due in no small part to the college education they received.

This debate, however, is about more than just economics. For generations a college degree has meant one thing: you have done everything possible to make sure your children have gotten off on the right foot in life. For parents and children alike, a college education has made dreams come true.

That is why the Democratic party has supported expanding access to higher education and why we believe that every person who wants to attend college and has the necessary intellectual capacity should attend college.

Finally, this budget should be defeated because of the massive cuts it makes in Federal education and training programs. President Clinton has correctly proposed massive increases in education and training spending—on the order of $40 billion over 7 years. The Republicans will cut $35 billion dollars.

Their cuts in the education and training account will reduce the real buying power of these programs by 33.2 percent in the year 2002. These cuts will have a devastating impact on a whole range of programs.

Republican budget cuts will harm efforts: to assist local schools and communities working to improve their schools, raise their standards and increase parental involvement, to make schools safer and drug free, to provide students access to computers and technology in the classroom, to help limited English speaking children meet challenging academic standards, and to help schools meet needs of disadvantaged native American children.

Education is perhaps the most important investment we can make in a global economy. If America is to compete, our workers must be the best educated in the world. This country wants and needs a strong Federal role in education. I urge the defeat of this budget resolution.

Mr. OBERSTAR. Mr. Speaker, I rise in opposition to the conference report on the budget resolution for fiscal year 1996 and to delineate for my colleagues the specific impacts this budget resolution is likely to have on the Federal Aviation Administration.

I say "is likely to have" because the conference report does not spell out the details of the cuts proposed for the FAA budget; but, given the general numbers and spending targets set down in the budget agreement we can calculate what the effects will be on specific FAA programs, such as the agency's new "zero accident" goal.

As ranking member of the House Aviation Subcommittee, I want all my House colleagues to understand the critical mission of the FAA. This Agency manages the world's largest air traffic control system, through which move half of all the 1 billion passengers who travel worldwide every year by air. They operate the Air Traffic Control system 24 hours a day, 365 days a year, handling, on average, two flights every second.

On an average day, FAA safety and security professionals will conduct nearly 1,000 inspections on pilots, planes and airports, ensuring that they remain airworthy and safe.

FAA maintains over 30,000 pieces of complex safety equipment and facilities across this Nation, operating at a reliability factor of 99.4 percent—a safety record envied by the rest of the world.

FAA issues more than 1,000 airport grants annually to improve airport safety and infrastructure.

FAA conducts 355,000 inspections annually to enforce safety standards and to issue certificates and licenses for aviation products and operators. FAA takes more than 12,000 enforcement actions each year.

The FAA has taken its share of cuts in the last 2 years as its contribution toward deficit reduction: FAA has cut 5,000 employees since 1993 for a current total of 48,000 employees. Of that number 36,000 have direct hands-on involvement in the ATC system, which includes 14 of the 15 busiest airports in the world.

In this era of deregulation, with extraordinary growth in both passengers and air traffic operations, we have seen a growth of 6 percent in air traffic during the last 2 years as the airlines have recovered from the serious economic decline and $12 billion in losses of 1990–92. But while air traffic has jumped 6 percent these last 2 years, the FAA budget has suffered a real decline of 6 percent, which translates into a $600 million cut.

This Budget Resolution Conference Agreement chops an additional $10 billion from transportation spending, which if spread, as expected, to the FAA will jeopardize the safety and efficiency of the Nation's aviation system.

Under this budget resolution, FAA's ability to improve weather and safety equipment and prevent accidents would be compromised.

Introduction of Global Positioning Satellite navigation technology would be delayed at least 5 years, costing airlines millions of dollars a year in lost efficiency.

The ability of the aviation security system to maintain its vigilance against domestic and international terrorism would be cut by one-third.

FAA's obligation to certify new aircraft engines and parts would be greatly compromised and might even have to be contracted out to private interests which, in my judgment, clearly is not in the best interest of safety.

The weather services to general aviation and to commercial aviation provided through the Nation's Flight Service Stations would be greatly impaired as FSS and control towers would be closed, costing jobs and air traffic services to hundreds of communities in all 50 States, and delays to an estimated 105,000 flights annually at an estimated cost to carriers and passengers of more than $2.3 billion.

I am just touching the tip of the iceberg on the impact of these cuts projected out over the next several years for the FAA as a result of this budget resolution.

The dedicated professionals of the FAA deserve better. They deserve our full support for full funding out of the Aviation Trust Fund to maintain our air traffic control system at its highest level of safety and efficiency.

Mr. WAXMAN. Mr. Speaker, this Republican budget risks the security and effectiveness of the Medicare and Medicaid programs for the millions of Americans who depend upon them.

Are my Republican colleagues honest enough to tell us their plan to make these massive cuts in these programs? Of course not—because they do not want the American people to understand what they are doing to Medicare and Medicaid.

They do not want people to understand the implications for inner city and rural hospitals, for teaching hospitals and children's hospitals, for our medical research institutions. They do not want them to understand what it means for the quality of care in nursing homes. And most of all, they do not want our seniors to understand what this does to their Social Security checks.

What we do know is that these cuts are not driven by a desire to improve the Medicare program. They are driven pure and simple by deficit reduction and tax cut politics.

Medicare spending is slashed by $280 billion. Taxes are cut by $245 billion. Would we be slashing Medicare this way if we were not giving so much of this tax cut to the wealthy? Of course not.

So at the same time this tax cut is putting money in the pockets of a lot of people who do not need it, the Republican Medicare budget is taking money out of the pockets of a lot of Medicare beneficiaries who are already struggling to make ends meet.

Let us remember who the typical Medicare beneficiary is. This mother, father, grandparent—elderly or disabled—lives on a limited income. In fact, more than three-quarters of Medicare beneficiaries have incomes of less than $25,000. Virtually a third have nothing but Social Security for almost all of their income.

And the 4½ million seniors who cannot even afford to pay their Medicare premium without help from Medicaid lose that protection in this Republican budget at the same time their premiums, deductibles, and coinsurance soar.

This Republican budget reaches into the pockets of our senior citizens, no matter how modest their income, and ask them to pay more for less.

It takes away the assurance of help with nursing home bills that American families depend on when their parents age.

It adds millions of poor children to the rolls of the uninsured.

That is wrong. That is irresponsible. That is an overwhelming reason to defeat this Republican budget.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. SABO. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule XV, the Chair announces that he may reduce to not less than 5 minutes the time within which a rollcall vote by electronic device may be taken, without intervening business, on adoption of the conference report.

The vote was taken by electronic device, and there were—ayes 242, noes 190, not voting 2, as follows:

[Roll No. 456]

AYES—242

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
McKinney
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Montgomery
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Petri
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Sabo
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stockman
Stump
Talent
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Traficant
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—190

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bevill
Bishop
Bonior
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Costello
Coyne
Cramer
Danner
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Harman
Hastings (FL)
Hayes
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson-Lee
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Mollohan
Moran
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pomeroy
Poshard
Rahall
Rangel
Reed
Richardson
Rivers
Roemer
Rose
Roybal-Allard
Rush
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Sisisky
Skaggs
Skelton
Slaughter
Spratt
Stark
Stenholm
Stokes
Studds
Stupak
Tanner
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Tucker
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NOT VOTING—2

Moakley
Reynolds

☐ 1558

So the previous question was ordered.

The result of the vote was announced as above recorded.

Mr. SABO. Mr. Speaker, I move to reconsider the vote by which the previous question was ordered.

The SPEAKER pro tempore (Mr. HEFLEY). For what purpose does the gentleman from Pennsylvania [Mr. WALKER] rise?

MOTION TO TABLE OFFERED BY MR. WALKER

Mr. WALKER. Mr. Speaker, I move to lay on the table the motion to reconsider.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania [Mr. WALKER] to lay on the table the motion to reconsider offered by the gentleman from Minnesota [Mr. SABO].

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. SABO. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 236, noes 191, not voting 7, as follows:

[Roll No. 457]

AYES—236

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Petri
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stockman
Stump
Talent
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Traficant
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—191

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bevill
Bishop
Bonior
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Costello
Coyne
Cramer
Danner
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Harman
Hastings (FL)
Hayes
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson-Lee
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Mollohan
Montgomery
Moran
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pomeroy
Poshard
Rahall
Rangel
Reed
Richardson
Rivers
Roemer
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Sisisky
Skaggs
Skelton
Slaughter
Spratt
Stark
Stenholm
Stokes
Studds
Stupak
Tanner
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Tucker
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NOT VOTING—7

Buyer
Dornan
Gibbons
Moakley
Orton
Reynolds
Waxman

□ 1616

Mr. COYNE changed his vote from "aye" to "no."

Mr. McINTOSH changed his vote from "no" to "aye."

So the motion to table was agreed to.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. HEFLEY). The question is on the conference report.

Pursuant to clause 7 of rule XV, the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 239, nays 194, not voting 2, as follows:

[Roll No. 458]

YEAS—239

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Gingrich
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Montgomery
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Petri
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stockman
Stump
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—194

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bevill
Bishop
Bonior
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)

Collins (MI)
Conyers
Costello
Coyne
Cramer
Danner
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Flanagan
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hayes
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson-Lee
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Mollohan
Moran
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pomeroy
Poshard
Rahall
Rangel
Reed
Richardson
Rivers
Roemer
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Sisisky
Skaggs
Skelton
Slaughter
Spratt
Stark
Stenholm
Stokes
Studds
Stupak
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Tucker
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NOT VOTING—2

Moakley
Reynolds

□ 1629

So the conference report was agreed to.

The result of the vote was announced as above recorded.

□ 1630

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 310 AND H.R. 313

Mr. ENGLISH of Pennsylvania. Mr. Speaker, I ask unanimous consent to have my name removed as a cosponsor of H.R. 310 and H.R. 313.

The SPEAKER pro tempore (Mr. HEFLEY). Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

REPORT ON RESOLUTION PROVIDING FOR FURTHER CONSIDERATION OF H.R. 1868, FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS ACT, 1996

Mr. DREIER, from the Committee on Rules, submitted a privileged report (Rept. No. 104–167) on the resolution (H. Res. 177) providing for the further consideration in the Committee of the Whole of the bill (H.R. 1868) making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1996, and for other purposes, which was referred to the House Calendar and ordered to be printed.

EMERGENCY SUPPLEMENTAL APPROPRIATIONS FOR ADDITIONAL DISASTER ASSISTANCE, FOR ANTI-TERRORISM INITIATIVES, FOR ASSISTANCE IN THE RECOVERY FROM THE TRAGEDY THAT OCCURRED AT OKLAHOMA CITY, AND RESCISSIONS ACT, 1995

Mr. DREIER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 176 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 176

Resolved, That upon the adoption of this resolution it shall be in order to consider in the House the bill (H.R. 1944) making emergency supplemental appropriations for additional disaster assistance, for anti-terrorism initiatives, for assistance in the recovery from the tragedy that occurred at Oklahoma City, and making rescissions for the fiscal year ending September 30, 1995, and for other purposes. It shall be in order, any rule of the House to the contrary notwithstanding, to consider an amendment offered by the chairman of the Committee on Appropriations. That amendment (if offered) shall be considered as read and shall not be subject to a demand for division of the question. The previous question shall be considered as ordered on that amendment (if offered) and on the bill to final passage without intervening motion except: (1) one hour of debate equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations; and (2) one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from California [Mr. DREIER] is recognized for 1 hour.

Mr. DREIER. Mr. Speaker, for the purposes of debate only, I yield the customary 30 minutes to the gentleman from Woodland Hills, CA [Mr. BEILENSON], and pending that I yield myself such time as I may consume. Mr. Speaker, all time yielded is for purposes of debate only.

Mr. Speaker, this rule provides for consideration of H.R. 1944, which largely consists of the rescission and supplemental appropriations contained in the conference report for H.R. 1158. The bill was vetoed by the President 4½ weeks ago. It was the first veto of his presidency. unfortunately, there remain enough defenders of the status quo in this House that an override of that veto would have been impossible.

Facing an impasse, the chairman of the Committee on Appropriations has been striving to find a compromise with the administration in order to provide needed disaster relief to 40 States, and to place a down payment on our balanced budget, which we have just been debating here over the past hour.

This modified closed rule, Mr. Speaker, provides for consideration of the bill that can break that impasse, with 1 hour of general debate in the House. The rule permits the chairman of the Committee on Appropriations to offer one amendment, which shall be considered as read and shall not be subject to amendment or division. The rule waives all points of order against the amendment. Finally, the rule provides for one motion to recommit, with or without instructions.

Mr. Speaker, I can assure the Members that in California, the message from the President's veto of H.R. 1158 was received loudly and clearly. The President talked a lot last year about standing behind the families, rebuilding their lives after facing the worst that nature could possibly throw at them. The Northridge earthquake was devastating for southern California, and I shall never forget the President's visit to that region, and how moved he was by those who were victimized.

Unfortunately, his veto pen spoke louder than those words, telling struggling communities that if providing assistance meant cutting his sacred Federal spending programs, that disaster relief really was not all that important.

H.R. 1944 is the product of the tireless effort of the chairman of the Committee on Appropriations to send a compromise bill to the President. The bill restores funding to a number of the education, training, and housing programs that the President said were the basis for his veto.

The language on striker replacement incorporated in H.R. 1158 was also dropped from this bill. As we know, the first time around the White House did not engage in negotiations on the rescission conference report until after the process was completed. No one in the administration was at all involved in the negotiating process. Instead, they waited until the process was completely over to issue a veto threat.

Mr. Speaker, the chairman of the Committee on Appropriations reports that the administration has simply refused to come to closure on numerous provisions under endless negotiation.

Mr. Speaker, it is time for the President to stop letting perfection be the enemy of the good. The rescissions most objectionable to the President have been addressed. They have been replaced with other spending reductions. H.R. 1944 will provide $6.7 billion for much needed disaster relief in 40 States. It is not just California, this impacts 40 States. The bill also continues to place a $9.2 billion downpayment on deficit reduction, which obviously is a goal to which we all seem to aspire, and that was evident from the debate on both sides of the aisle on the budget.

Mr. Speaker, the American people deserve to know that the very responsible spending reductions in this bill, which account for a 1-percent reduction in fiscal year 1995 Federal outlays, are the product of a thorough, a very thorough review process conducted for months by members of the Committee on Appropriations.

I have said it before and I will say it again, the criteria used by the committee are clear, concise, and utterly reasonable to the American taxpayer. Rescissions were proposed when programs were not authorized, were duplicative, received large funding increases in fiscal year 1995, had unspent funds piling up from year to year, exceeded spending levels in the Clinton budget, and were wasteful or did not work.

Mr. Speaker, the President killed the balanced budget amendment by encouraging Senators in his party to flip-flop and oppose that amendment. The President opposed the specific balanced budget plans offered by the Republican majorities in both Houses of Congress. The President vetoed H.R. 1158 that started the country down the path towards a balanced budget.

Mr. Speaker, some cynics might conclude that the President can talk the talk but not walk the walk when it comes to controlling Federal spending. Even though the original objections to the rescission bill have been addressed in H.R. 1944, some administration officials are indicating that the bill just may be vetoed once again.

I would especially note that some in the administration consider minimal disagreements regarding the proper way to dispose of dead and rotting trees on Federal lands to be an excuse to kill this bill. Those people either have their priorities seriously misplaced, or this administration could never find a serious spending reduction plan that the President could possibly sign.

Mr. Speaker, I urge my colleagues to support this very fair and balanced rule for a very important bill that has come from the Committee on Appropriations. Once again, it will be up to the President to make the case that, despite all of his original concerns being met, that a 1-percent cut in the $1.5 trillion in Federal outlays is too much for him to accept in order to fund much needed disaster relief.

Mr. Speaker, I include for the record the following document regarding the amendment process and special rules.

The document referred to is as follows:

THE AMENDMENT PROCESS UNDER SPECIAL RULES REPORTED BY THE RULES COMMITTEE,[1] 103D CONGRESS V. 104TH CONGRESS

[As of June 28, 1995]

Rule type	103d Congress		104th Congress	
	Number of rules	Percent of total	Number of rules	Percent of total
Open/Modified-open[2]	46	44	31	71
Modified Closed[3]	49	47	12	27
Closed[4]	9	9	1	2
Totals:	104	100	44	100

[1] This table applies only to rules which provide for the original consideration of bills, joint resolutions or budget resolutions and which provide for an amendment process. It does not apply to special rules which only waive points of order against appropriations bills which are already privileged and are considered under an open amendment process under House rules.

[2] An open rule is one under which any Member may offer a germane amendment under the five-minute rule. A modified open rule is one under which any Member may offer a germane amendment under the five-minute rule subject only to an overall time limit on the amendment process and/or a requirement that the amendment be preprinted in the Congressional Record.

[3] A modified closed rule is one under which the Rules Committee limits the amendments that may be offered only to those amendments designated in the special rule or the Rules Committee report to accompany it, or which preclude amendments to a particular portion of a bill, even though the rest of the bill may be completely open to amendment.

[4] A closed rule is one under which no amendments may be offered (other than amendments recommended by the committee in reporting the bill).

SPECIAL RULES REPORTED BY THE RULES COMMITTEE, 104TH CONGRESS

[As of June 28, 1995]

H. Res. No. (Date rept.)	Rule type	Bill No.	Subject	Disposition of rule
H. Res. 38 (1/18/95)	0	H.R. 5	Unfunded Mandate Reform	A: 350–71 (1/19/95).
H. Res. 44 (1/24/95)	MC	H. Con. Res. 17	Social Security	A: 255–172 (1/25/95).
		H.J. Res. 1	Balanced Budget Amdt	
H. Res. 51 (1/31/95)	0	H.R. 101	Land Transfer, Taos Pueblo Indians	A: voice vote (2/1/95).
H. Res. 52 (1/31/95)	0	H.R. 400	Land Exchange, Arctic Nat'l. Park and Preserve	A: voice vote (2/1/95).
H. Res. 53 (1/31/95)	0	H.R. 440	Land Conveyance, Butte County, Calif	A: voice vote (2/1/95).
H. Res. 55 (2/1/95)	0	H.R. 2	Line Item Veto	A: voice vote (2/2/95).
H. Res. 60 (2/6/95)	0	H.R. 665	Victim Restitution	A: voice vote (2/7/95).
H. Res. 61 (2/6/95)	0	H.R. 666	Exclusionary Rule Reform	A: voice vote (2/7/95).
H. Res. 63 (2/8/95)	MO	H.R. 667	Violent Criminal Incarceration	A: voice vote (2/9/95).
H. Res. 69 (2/9/95)	0	H.R. 668	Criminal Alien Deportation	A: voice vote (2/10/95).
H. Res. 79 (2/10/95)	MO	H.R. 728	Law Enforcement Block Grants	A: voice vote (2/13/95).
H. Res. 83 (2/13/95)	MO	H.R. 7	National Security Revitalization	PQ: 229–100; A: 227–127 (2/15/95).
H. Res. 88 (2/16/95)	MC	H.R. 831	Health Insurance Deductibility	PQ: 230–191; A: 229–188 (2/21/95).
H. Res. 91 (2/21/95)	0	H.R. 830	Paperwork Reduction Act	A: voice vote (2/22/95).
H. Res. 92 (2/21/95)	MC	H.R. 889	Defense Supplemental	A: 282–144 (2/22/95).
H. Res. 93 (2/22/95)	MO	H.R. 450	Regulatory Transition Act	A: 252–175 (2/23/95).
H. Res. 96 (2/24/95)	MO	H.R. 1022	Risk Assessment	A: 253–165 (2/27/95).
H. Res. 100 (2/27/95)	0	H.R. 926	Regulatory Reform and Relief Act	A: voice vote (2/28/95).
H. Res. 101 (2/28/95)	MO	H.R. 925	Private Property Protection Act	A: 271–151 (3/2/95)
H. Res. 104 (3/3/95)	MO	H.R. 988	Attorney Accountability Act	A: voice vote (3/6/95)
H. Res. 103 (3/3/95)	MO	H.R. 1058	Securities Litigation Reform	
H. Res. 105 (3/6/95)	MO			A: 257–155 (3/7/95)
H. Res. 108 (3/7/95)	Debate	H.R. 956	Product Liability Reform	A: voice vote (3/8/95)
H. Res. 109 (3/8/95)	MC			PQ: 234–191 A: 247–181 (3/9/95)
H. Res. 115 (3/14/95)	MO	H.P. 1159	Making Emergency Supp. Approps.	A: 242–190 (3/15/95)
H. Res. 116 (3/15/95)	MC	H.J. Res. 73	Term Limits Const. Amdt	A: voice vote (3/28/95)
H. Res. 117 (3/16/95)	Debate	H.R. 4	Personal Responsibility Act of 1995	A: voice vote (3/21/95)
H. Res. 119 (3/21/95)	MC			A: 217–211 (3/22/95)
H. Res. 125 (4/3/95)	0	H.R. 1271	Family Privacy Protection Act	A: 423–1 (4/4/95)
H. Res. 126 (4/3/95)	0	H.R. 660	Older Persons Housing Act	A: voice vote (4/6/95)
H. Res. 128 (4/4/95)	MC	H.R. 1215	Contract With America Tax Relief Act of 1995	A: 228–204 (4/5/95)
H. Res. 130 (4/5/95)	MC	H.R. 483	Medicare Select Expansion	A: 253–172 (4/6/95)
H. Res. 136 (5/1/95)	0	H.R. 655	Hydrogen Future Act of 1995	A: voice vote (5/2/95)
H. Res. 139 (5/3/95)	0	H.R. 1361	Coast Guard Auth. FY 1996	A: voice vote (5/9/95)
H. Res. 140 (5/9/95)	0	H.R. 961	Clean Water Amendments	A: 414–4 (5/10/95)
H. Res. 144 (5/11/95)	0	H.R. 535	Fish Hatchery—Arkansas	A: voice vote (5/15/95)
H. Res. 145 (5/11/95)	0	H.R. 584	Fish Hatchery—Iowa	A: voice vote (5/15/95)
H. Res. 146 (5/11/95)	0	H.R. 614	Fish Hatchery—Minnesota	A: voice vote (5/15/95)
H. Res. 149 (5/16/95)	MC	H. Con. Res. 67	Budget Resolution FY 1996	PQ: 252–170 A: 255–168 (5/17/95)
H. Res. 155 (5/22/95)	MO	H.R. 1561	American Overseas Interests Act	A: 233–176 (5/23/95)
H. Res. 164 (6/8/95)	MC	H.R. 1530	Nat. Defense Auth. FY 1996	PQ: 225–191; A: 233–183 (6/13/95)
H. Res. 167 (6/15/95)	0	H.R. 1817	MilCon Appropriations FY 1996	PQ: 223–180 A: 245–155 (6/16/95)
H. Res. 169 (6/19/95)	MC	H.R. 1854	Leg. Branch Approps. FY 1996	PQ: 232–196 A: 236–191 (6/20/95)

SPECIAL RULES REPORTED BY THE RULES COMMITTEE, 104TH CONGRESS—Continued

[As of June 28, 1995]

H. Res. No. (Date rept.)	Rule type	Bill No.	Subject	Disposition of rule
H. Res. 170 (6/20/95)	O	H.R. 1868	For. Ops. Approps. FY 1996	PQ: 221–178 A: 217–175 (6/22/95)
H. Res. 171 (6/22/95)	O	H.R. 1905	Energy & Water Approps. FY 1996	
H. Res. 173 (6/27/95)	C	H.J. Res. 79	Flag Constitutional Amendment	PQ: 258–170 A: 271–152 (6/28/95)
H.Res. 176 (6/28/95)	MC	H.R. 1944	Emer. Supp. Approps	

Codes: O-open rule; MO-modified open rule; MC-modified closed rule; C-closed rule; A-adoption vote; PQ-previous question vote. Source: Notices of Action Taken, Committee on Rules, 104th Congress.

Mr. DREIER. Mr. Speaker, I reserve the balance of my time.

Mr. BEILENSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we do not oppose the rule, but we are troubled by the manner in which this bill is being brought forth for consideration by the House.

We understand the majority's desire to expedite consideration of this new version of H.R. 1158, the emergency supplemental appropriations and rescissions bill. However, Members have had virtually no opportunity to see the revised bill that this rule makes in order.

The bill has not been considered by, or reported from, the Appropriations Committee. From what we understand, no minority Members of the House have been involved in developing the new legislation. In fact, it appears that only a very few Members have had a role in negotiating this new bill.

While we understand that this is not an unusual process for making revisions to an appropriations bill, I simply want to point out that we are, in fact, considering a new bill that has had very little consideration, by only a few Members, up to this point.

Furthermore, the rule permits an amendment to be offered by Mr. LIVINGSTON, which is apparently intended to allow him to offer compromise language on the so-called salvage timber provision that was in the original bill. That allows a change to one of the most contentious provisions in the bill to be considered by the House with virtually no opportunity to review this important matter in advance.

Beyond our concerns with this rule, many of us oppose the bill that it makes in order for the same reasons that we opposed the original version of the legislation, H.R. 1158. Although H.R. 1944 is a modest improvement over the first bill, it still contains large spending cuts in many valuable programs.

Furthermore, like H.R. 1158, this bill continues to combine in one bill both emergency disaster assistance and spending cuts, which does a grave injustice to the victims of the Northridge earthquake and other federally declared disasters. It has made the provision of the relief they need dependent upon cutting spending for housing assistance for the elderly, for education and job training, for veterans, for environmental protection, and for a great number of other valuable programs which serve many of our Nation's pressing needs.

Back in March, when the House considered the first rescissions bill, we predicted that pairing emergency disaster assistance with spending cuts—in essence, holding disaster assistance hostage to the politics of cutting spending—would likely delay the provision of emergency funds. That is exactly what has happened. It is now the end of June, and we still have not passed the emergency funding that is needed by the Federal Emergency Management Agency and other federal agencies to meet the needs of disaster victims.

The delay in approval of this bill stands in stark contrast to Congress' quick response to the provision of funds for disaster assistance when we did not insist upon including controversial spending cuts—as well as controversial unrelated legislation, such as the salvage timber provision—in an emergency disaster assistance bill. Members may recall that the original $10 billion disaster-relief package for the Northridge earthquake was signed into law in less than one month after the earthquake struck on January 17 of last year. Our rapid response to that disaster was possible only because we deliberately refrained from including controversial spending cuts in the same legislation.

Mr. Speaker, to repeat: we do not object to this rule, but we urge Members to vote "no" on the bill it makes in order.

Mr. Speaker, I reserve the balance of my time.

Mr. DREIER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to respond to my good friend, the gentleman from California, that he is absolutely right. It is much, much easier to deal with disasters by simply adding to the deficit. It is tougher.

However, the message that came through last November 8 was that business as usual has obviously got to come to an end. We had a big debate in the 103rd Congress on the issue of whether or not we would have offsets to deal with the Northridge earthquake. We lost that battle when it came up here.

Now, in the 104th Congress, with this new majority, we have made the determination that when we deal with these very tragic situations and we want to provide emergency assistance, we are only going to do it if we find offsets, and that is what we have done here, and we have successfully been able to more than offset the cost of the Northridge quake and the disasters that have taken place in 40 other States.

Mr. Speaker, I also should add that this bill is virtually identical to H.R. 1158, which has been considered by this House, exhaustive hearings on the issue, and we are simply making changes to try and address the concerns of the President, so we can get this measure signed.

Mr. Speaker, I yield such time as he may consume to my good friend, the gentleman from Savannah, GA [Mr. KINGSTON].

Mr. KINGSTON. Mr. Speaker, I thank the gentleman from California for yielding time to me.

Mr. Speaker, I rise in support of this bill. This bill is a modest cut in the fiscal year 1995 budget. It reduces the budget by about 1 percent, or $9.3 billion. It is not big money.

Mr. Speaker, there are a lot of important programs that have been reduced as a result of this. Yet, these are the tough decisions that we have to make, because the American people have asked us to get our House in order. The President, of course, vetoed the first bill. He vetoed it because he was not satisfied with the cuts. He felt the cuts were too deep in education and training programs for the elderly, and in environmental programs and the salvage timber provisions.

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What we have done in this bill is we went back and addressed his concerns. We did not cut these programs as much as we originally did in the first rescission bill. Yet even doing so, there still seems to be a void in the debate from the White House. We do not have a clear indication that they are going to support this bill, nor do we have a clear indication that they are going to veto the bill.

It is somewhat disappointing because my question would be to those who are in opposition to this bill, if not these cuts, which cuts? And if not now, when? That is not a profound statement, but it is something that we have to come around on. It is already late June. We have been debating this bill now for almost 6 months, and we still have yet to see a proposal, a concrete proposal from the White House about addressing these things.

I stand in support of it. Yet I do hope, now that things are kind of loosening up on Pennsylvania Avenue, the President has submitted a balanced budget, hopefully he will come in now and enter this rescission debate at least by supporting this.

The disaster money. The disaster money is necessary. We have flooding all over the country, particularly in Georgia, but Oklahoma City gets antiterrorism measures paid for. We have already talked about the earthquake. These are important items.

This bill would save more money if it were not for the disasters, but as we know, Mr. Speaker, these disasters happen. We do not have a special fund set aside for them. We probably should do that at some point, but right now we do not. We have to reduce the budget, the spending, in order to help pay for some of these disasters. Again, these are tough decisions, but they are decisions that have to be made.

Let me conclude with this: It has been said that this rescission is too severe on the students, it is too severe on the elderly, it is too severe on the environment. But I would say that if you want to protect the environment, if you want to help out the students, if you want to protect the senior citizens, then you have to be sure that this country stays afloat.

In order to do so, we cannot continuously have deficit spending and overspending and spending on unauthorized projects, and continue to face the children and the senior citizens and the middle class of America and say, "We overspent, but we're going to get somebody else to pay for it." It is time for us to come around and say, "You know, we're going to have to cut back a little bit in order to be there for you tomorrow."

I believe that this rescission bill, Mr. Speaker, is a responsible step in that direction. I urge my colleagues to support the rule and then vote for the bill.

Mr. BEILENSON. Mr. Speaker, I yield 3 minutes to the gentleman from Texas [Mr. DOGGETT].

Mr. DREIER. Mr. Speaker, I yield 1 minute to my friend, the gentleman from Texas [Mr. DOGGETT].

The SPEAKER pro tempore (Mr. INGLIS of South Carolina). The gentleman from Texas is recognized for 4 minutes.

Mr. DOGGETT. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, I suppose that our Republican colleagues offer this bill in the spirit of the season. It is, of course, the season of television reruns, and this bill is a bit of a rerun, at least as regards the tactic that is employed because it has something in common with the approach that our colleagues have used with reference to the task force to cut Social Security or, rather, to cut Medicare—Social Security is probably next in line—the same approach that was used to prepare to stack the committees that will impact and implement the budget resolution, and now this approach.

They all have one thing in common: They rerun stealth, they rerun secrecy. It was Justice Brandeis who suggested that sunlight is the best disinfectant, that electric light is the best policeman, but his wisdom seems to have been lost on our colleagues, for it is for some reason that they hide their light under a bushel.

At 11 last night this bill was presented to the Committee on Rules. All 119 pages of this piece of legislation, which according to the bill as filed were apparently just introduced yesterday, were presented at 11 last night, so that somewhere near midnight this bill was voted out of the Committee on Rules.

I don't know if many Members of this House even know what is in this 119 pages. Indeed, we have been told by the distinguished gentleman from California that it is virtually identical to legislation that we have considered in this House before. I don't know what parts are identical, given the short period here, but I know one part that is not identical.

The vast majority of the Members of this House, when this bill was in front of us last time, voted to put a lock box on this piece of legislation to ensure that every dollar of cuts went to deficit reduction. I am advised, though I could not find it in the 119 pages, that that virtually identical provision is no longer in here. What is in here are contingent cuts to some of our education programs that I think are very vital.

I really liked the idea on day one in this Congress that we were going to shake the piece up, that there was going to be a real revolution with regard to change and how business is conducted here. Yet this piece of legislation comes out, not in the bright light of day but, rather, at the midnight hour, coming back to us without ever having a hearing in front of the substantive committee but, rather, having been considered here in the midst of lengthy debate last night and presented on only a few hours' notice, and without one of the provisions that received really bipartisan support when this measure was in front of the House, that provision being the lock box provision.

Mr. DREIER. Mr. Chairman, will the gentleman yield?

Mr. DOGGETT. I yield to the gentleman from California.

Mr. DREIER. Mr. Speaker, I thank my friend for yielding.

I would like to ask him to turn to page 105 of the bill H.R. 1944 and look at section 2003. It is entitled "Downward Adjustments in Discretionary Spending Limits." The lock box is included in this measure, I would say to my friend.

Mr. DOGGETT. Let me just inquire there, because if I have misstated it and it includes the lock box, that would be great. So every penny that is saved in this bill will go to deficit reduction and only deficit reduction, and not to pay for a tax hike?

Mr. DREIER. The lock box is included in this bill. If the gentleman would read section 2003, it is included in this measure. I would simply like to say that as we look at this new day, the negotiations which my friend says have not taken place in the light of day, we are simply trying to address the concerns of President Clinton, a member of your party. We want to work together with him so that we can get a bill that we can sign.

Mr. DOGGETT. I thank the gentleman. I am glad to hear the lock box is in here.

PARLIAMENTARY INQUIRY

Mr. WALKER. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. WALKER. Mr. Speaker, is there not a rule in the House or at least a practice in the House that prohibits Members from wearing pins while they are addressing the House from the well?

The SPEAKER pro tempore. The gentleman is correct. Members should not wear badges or other indications of their positions on the floor.

Mr. WALKER. So the gentleman who just spoke prior to this was in fact in violation of the procedures of the House when he addressed the House; is that correct?

The SPEAKER pro tempore. The Chair would advise all of the Members that Members should not wear badges or other insignia while addressing the House.

Mr. WALKER. I thank the Chair.

Mr. DREIER. Mr. Speaker, I yield such time as he may consume to my friend, the gentleman from Metarie, LA [Mr. LIVINGSTON], the distinguished chairman of the Committee on Appropriations.

Mr. LIVINGSTON. I thank my friend from California for yielding me the time. After listening to the debate of the last several minutes, I think I am watching a replay of Fantasy Island.

The gentleman from Texas ought to know that this bill is virtually word-for-word the very same bill as the conference report adopted by the House of Representatives May 18. In fact, he says it is a replay. It is a replay.

The only difference is those issues which were raised by the President of the United States, a member of his party, who resides over at 1600 Pennsylvania Avenue, which has been blocked off from traffic, incidentally. Perhaps that is why the gentleman did not know it. Maybe he could not get over there.

Mr. DOGGETT. Mr. Speaker, will the gentleman yield?

Mr. LIVINGSTON. The gentleman has had his chance to speak and I am replying to the gentleman. I will yield to him after I am done. I will be happy to yield to him then.

The point is, if the gentleman would speak with the White House and the representatives of his party and the chief of staff of the White House, he would understand that this is virtually the same bill as the original bill, H.R. 1158, with the exception of those items that the White House was interested in changing.

The fact is this is a good effort. We debated it at length earlier in the year. The effort provides for funding for the Oklahoma bombing disaster in supplemental funding. It provides for supplemental funding for flood and fire and earthquake and pestilence that hit California and virtually 39 other States.

It provides for the funding that the President of the United States himself asked for debt relief for Jordan, in order to help resolve the Middle East conflict.

It provide for the placement of tens of thousands of people in the Northwest back in jobs that currently are lying fallow. They are just not in existence right now, but they would be. Those people would be working if this bill would pass and get the President's signature, because in fact all of those forests that were burned out in the last year and a half would be available for lumbering. Trees that were burned out could be salvaged and sent to the lumber mills and people could go to work.

The gentleman, if he had taken the time to examine H.R. 1158 would know fundamentally what is in H.R. 1944, is the same bill, except for the fact that there is additional money for job training, School-to-Work, Goals 2000, Safe and Drug Free Schools, National Community Service, safe drinking water, community development, and so forth, things that the President asked for.

There is one other major facet of H.R. 1158 that also is a replay in H.R. 1944. It is over $9.1 billion in net savings over and above the $7 billion in additional supplemental spending requested by this President, savings to the American taxpayer in fiscal year 1995.

Why is that significant? Because the majority in the House of Representatives and the majority in the Senate has said they can balance the budget within 7 years, even though the President in February gave us a budget that said he did not want to balance the budget between now and infinity, because he projected $200 billion in deficits every year from now on, has now decided that he wants to balance the budget within 10 years.

If he wants to balance the budget in 10 years, guess where the best place to start is? Fiscal year 1995. He could have done it by signing H.R. 1158, which he has already vetoed, or by signing H.R. 1944, which does essentially the same thing.

Here he is getting disaster funding for floods that he asked for, funding for earthquakes that he asked for, funding for fire that he asked for, funding for Jordan that he asked for, funding for Oklahoma that he asked for. He is getting the opportunity to send tens of thousands of people in the Northwest back to work in the timber mills that presumably he wants, I would hope that he want that, and he is saving the American taxpayer over $9.1 billion in unspent 1995 funds.

If this bill does not pass, as presumably the gentleman in the well might favor, them those savings will not occur. That funding for flood, fire, earthquake, Oklahoma bombing and Jordan would not be had. Those tens of thousands of people would not go back to the lumber mills, and would not be employed, and the gentleman could sit around and smile, and we would probably have to cut mercilessly in the fiscal year 1996 every one of the appropriation bills in order to meet our target to ultimately balance the budget by the year 2002. Just as mercilessly, frankly, in order to accomplish the President's goals to balance the budget by the year 2005.

I suggest to the gentleman, he can continue to cry about not knowing what is in this bill, but if he would like to know about 99 percent of what is in the bill, all he has to do is look at H.R. 1158 which presumably he would know about, since the President has taken the time to veto it.

I just am terribly concerned. This bill really should not be the subject of partisan politics. It should be a bipartisan effort, because it is not Republican people who are going to go back to the sawmills, or Democrat people. It is the American people. It is not Republicans or Democrats who are going to benefit from flood and fire and earthquake relief. It is the American people. It is not Republicans who were devastated in the Oklahoma bombing or Democrats that were devastated. It is Oklahoma, American people that were devastated.

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And they will all be assisted by this bill and, of course, it will be Republicans and Democrats, men, women and children throughout America that will benefit by the $9.2 billion in savings.

So I would hope, I would hope the gentleman from Texas [Mr. DOGGETT] would stop posturing politically, take the time to read the bill, and when the gentleman does, endorse it. Endorse it. Get Members of his party to vote for it. Let us get it out of the House. Let us send it to the Senate and then let us send it to the President for his signature, not his veto as he did the last bill of this sort.

Mr. DREIER. Mr. Speaker, I reclaim my time briefly to say that the very distinguished Chairman of the Committee on Appropriations has spoken a little longer than I had anticipated and I would hope that the gentleman from Texas [Mr. DOGGETT] might be able to get some time.

Mr. DOGGETT. Mr. Speaker, will the gentleman yield?

Mr. DREIER. I yield to the gentleman from Texas.

Mr. DOGGETT. Mr. Speaker, responding to the altar call of the gentleman from Louisiana [Mr. LIVINGSTON] and agreeing with his appeal for bipartisanship, since last night I only got to 103, and your colleague pointed me to 104.

Just tell me if on page 104, the provision to which the gentleman from California [Mr. DREIER] referred me, is that the same language that a bipartisan majority of this House, an overwhelming majority, approved? The language offered by the gentleman from Oklahoma [Mr. BREWSTER]; is that language here?

Mr. LIVINGSTON. Mr. Speaker, will the gentleman yield?

Mr. DREIER. I yield to the gentleman from Louisiana.

Mr. LIVINGSTON. Mr. Speaker, I would say to the gentleman from Texas [Mr. DOGGETT], it is the exact language that passed in H.R. 1158. It is the language that was sponsored by Senator BYRD. It is not the Brewster language.

Mr. DOGGETT. It is not the Brewster language. It is not the Brewster lockbox. That is the 1 percent that is different that some of us think is very important.

Mr. DREIER. Mr. Speaker, may I inquire of the Chair how much time is remaining on both sides?

The CHAIRMAN. The gentleman from California [Mr. BEILENSON] has 24 minutes remaining and the gentleman from California [Mr. DREIER] has 9½ minutes remaining.

Mr. BEILENSON. Mr. Speaker, I yield such time as he may consume to the gentleman from Wisconsin [Mr. OBEY].

Mr. OBEY. Mr. Speaker, I would like to try to restore an atmosphere in which perhaps Members will absorb a little more information and a little less heat at the same time.

First of all, let me say to the gentleman from Louisiana [Mr. LIVINGSTON] my good friend who is the chairman of the Committee on Appropriations, that after this is over, I would suggest that we both go have a sedative somewhere. I think we need it.

But let me say that I would respectively point out that the problem that the gentleman is having with the Clinton administration is not due to numbers, as he knows. The problem is because the gentleman's party leadership decided that they were going to use the appropriations process, which is supposed to be used for budget matters, they decided to use that process instead to bulldoze through the Congress major changes in environmental laws.

Mr. Speaker, I happen to partially favor one of those changes. But I do not favor disrupting the entire budget process of the United States in order to accomplish it. As the gentleman very well knows, that is the major bone of contention, or at least one of the major bones of contention, between the gentleman from Louisiana [Mr. LIVINGSTON] and the Clinton administration right now; not their lack of desire to cut the deficit.

Now, let me say, Mr. Speaker, that I think when we had the last election and the public decided to put our good Republican friends in control for the first time in a long time, I think they did that because out of desperation they thought that that just might force both parties to work together, whether they liked it or not.

I would suggest that last night in the midst of swirling partisanship on other matters, this committee, the Committee on Appropriations, managed to work its way through a very contentious appropriation bill that deals with our international responsibilities in a very nonpartisan, bipartisan way. I wish that that were happening on the budget, but it is not.

Mr. Speaker, I think it is not because I think the product that is being produced on the budget is at great variance from that which the public expected when they voted in November. I think they wanted us to have an attack on the deficit. They wanted us to have an attack on waste. They wanted us to have an understanding that programs needed to be as well managed as they were well meaning. Instead, I think what they are getting is something that has come down to a near war on kids, on students, and on seniors.

The fundamental problem with this bill is that it is almost the same bill that it was when it left the House. It has been changed by about $700 million from the conference report that the President vetoed; $700 million or so out of a $16 billion bill and it is largely a bill which takes away from seniors and takes away from education in order to finance a very large tax cut for some very rich people.

The Brewster amendment has been mentioned. The Brewster amendment was the effort by our party to see to it that every dollar in this bill was used for deficit reduction, not for tax breaks that rich people don't need.

The Brewster amendment passed with less than 10 dissenting votes in this House and then one day after it passed, we were told by the distinguished gentleman from Ohio [Mr. KASICH], chairman of the Committee on the Budget, that after all, that was just a game to get votes to pass this vehicle.

Indeed, the language which was adopted in conference provides about $5 billion in deficit reduction in terms of outlays from the first year's savings in this bill. But it provides between $130 and $140 billion in money to be used for that tax cut and 50 percent of that tax cut is going to the wealthiest people in this country, people who make more than $100,000 a year.

Mr. Speaker, I do not have anything against rich people. I would like everybody to be rich. That is the American dream. But I want to tell you why I do not think America's No. 1 need is to feed the desires of rich people to make more money, as this package will.

Workers are wondering in this country what happened to the American dream. They feel squeezed. They feel desperate. They do not know how they are going to take care of their parents and put their kids through an education at the same time. And I think the answer can be found in some Federal Reserve numbers. I do not happen to think much of Alan Greenspan's interest rate policy; I do think a lot of their ability to analyze where wealth has gone in this economy.

And what they have pointed out is that in the 1980's, or rather before the 1980's, or 3 decades following World War II, when workers productivity increased, they got that full productivity reflected in increased wages.

During the 1970's, workers got about half their productivity increases reflected in wages. During the 1980's and 1990's, worker productivity went up while wages went down. Productivity went up 18 percent; wages fell by 7 percent in real dollar terms.

Where did that money go? I will tell you where it went. If you exclude homes and cars from the net assets of households, nine-tenths of the increased wealth of this society in the 1980's went to the richest one-tenth of American families. But even more striking is the fact that the richest one half of 1 percent of households got 60 percent of the increase in individually held financial assets.

The half-million richest households increased their average net worth from $8.7 million to $12.7 million in those 6 years and as a group, their net worth increased by $2 trillion, which is more than twice the entire increase in the national debt during that same period.

So that is where the American dream has gone. It has gone into the pockets of some of the wealthiest people in this society. And with all due respect, I do not believe that this bill ought to add to their wealth at the expense of the middle-class and the workers in this country and that is what I suggest this bill is doing.

So, my colleagues can vote for it if they want, but do not pretend that the Brewster language is in here. It is not. They are taking the money which this House voted to use for deficit reduction and they are using it instead to finance tax cuts.

That is why we will use the previous question on the rule to try to break the stranglehold which the majority party has on this process. And if we are able to defeat the previous question on the rule, we will offer an amendment to reinstitute the Brewster amendment which will require that all of the dollars that are saved in this package go for deficit reduction. That is where you voted to put it in the first place, that is where we tried to put it in the first place, and that is where it ought to go tonight and that is where I hope you are willing to put it.

Mr. LINDER. Mr. Speaker, will the gentleman yield?

Mr. OBEY. I yield to the gentleman from Georgia.

Mr. LINDER. Mr. Speaker, when my colleague discussed the movement of wealth to the upper income earners in the 1980's, in order to get that adjustment we have to include 1979 and 1980 in that equation, because if we take 1979 and 1980 out and use only 1981 through 1989, we do not get that same equation.

Mr. OBEY. Mr. Speaker, I am using the numbers in the Federal Reserve gathered data. They selected the breakpoints. And, I mean, you can define it any way you want, but does the gentleman from Georgia [Mr. LINDER] really deny that worker income has gone down in this country while corporate profits have hit record highs?

Mr. LINDER. Mr. Speaker, I do not deny that worker income has gone down. Most of that has to do with the increased tax burdens, the take-home pay is eaten up by tax burdens.

Would the gentleman from Wisconsin [Mr. OBEY] agree that when we talk about the top 20 percent or the top half, we are talking about different people. We may talk about averages over a period of time, but the same people in the richest one-half or the one-tenth in 1990 were not the same people in 1980. For example, the richest person in the United States today was poor and broke in 1980.

Mr. OBEY. Mr. Speaker, with all due respect, the gentleman can cite any individual anomalies he desires, but all we have to do is ask the average worker on the street whether they think the rich have gotten richer while everybody else has stood still and we know that the answer will be. The answer will be, "You betcha."

Mr. DREIER. Mr. Speaker, may I inquire of the Chair how much time is remaining on both sides.

The SPEAKER pro tempore. The gentleman from California, [Mr. DREIER] has 9½ minutes remaining and the gentleman from California [Mr. BEILENSON] has 14 minutes remaining.

Mr. DREIER. Mr. Speaker, I reserve the balance of my time.

Mr. BEILENSON. Mr. Speaker, I yield 4 minutes to the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Speaker, I rise in opposition to the rescission rule and frankly this rule would not even be needed if the rules of the House were being properly followed. Obviously, the fact is that they are not and this process is being abused.

The Republicans have decided to use the rescission process to make political points. That is what is going on here. They decided to jam through a number of policy changes that require the rule and need protection under the rule, not to go through the normal authorization and enactment process between the House and Senate and, further, to hold the disaster assistance programs hostage to a selective number of cuts.

Mr. Speaker, I think it is very important and should be recognized by all concerned that most of these cuts come out of a very select group of programs. Most of them, in fact, were targeted at the very programs that the new administration put in place after a long-fought battle in 1993 and 1994; its programs like the National Service Program and Goals 2000 that are proposed to be cut, which has been just partially restored in this particular equation today.

But the fact is that the Republicans are negotiating with themselves. They are going down and saying, This is the list of proposals. This is what we are going to do. There is no agreement. They are saying, Let us try it this way, if we can get by with this set of changes.

There was no negotiation with the minority in the initial instance of this rescission bill and this disaster bill and there is no negotiation today and there is no agreement with the House minority. And, furthermore, some of the provisions that are being put in here are egregious.

They repeal decades of law that have stood and do work. The fact is with regards to the harvest program, the salvage program in the Pacific Northwest and across the country where this applies, it applies across the country, the fact is that a salvage forest health program and such policies have been put in place by the Clinton administration and Forest Chief Thomas, in December of 1994, before the GOP even assumed power.

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And the fact is that such forest health program will work within limits. But what does this particular bill do? Well, this waives all the environmental laws. That is essentially correct—all environmental laws. A specific particular provision waives the Small Business Act so that they do not have to observe that. A particular provision in the bill waives the deficit timber sale which my colleague from Wisconsin is concerned about.

That fact is that this particular provision in this bill will in the end cost money. Timber prices are high today, but if you look at this in the long term view, you recognize that forest health is not what is being pursued here. Forest health is the excuse not the goal in this measure. What is being pursued is a quick harvest of some timber, getting in the receipts, then we have to share 25 percent of the receipts with the local government, which, again, costs the Federal Government money, plus we do not even include road construction in the budget analysis of what goes on.

Many of these areas are areas today that are roadless areas. They are roadless areas. It does not provide the other dollars needed to deal with the entire forest health question in terms of watershed restoration or selective tree harvest or thinning or reforestation, prescribed burning which are most of the elements that have to be done as part of forest health. So the quick buck, and then we pick up a big deficit down the road in dollars and lost natural resources.

Plus, of course, I think it is important to know this will destroy, of course, a great legacy, a great American natural resource legacy in this country. This is one of the many steps being taken which represent an assault by this new majority on the environmental laws and on the natural resources of this Nation, and that is not what the people voted for in November, Mr. Speaker. They voted, I think, I think they thought they were voting for some people that had still a conservation ethic, but we have yet to see the conservation ethic in these so-called conservatives.

Mr. Speaker, it has been one assault after the other on a whole series of environmental laws. The whole regulatory scheme tends to be that. This is an outrageous proposal that is before us. It is not one that has received compromise in terms of the overall rescission bill, the overall disaster assistance bill.

We know those funds are desperately needed for the people in California. We also recognize they should not be coming out of the backs of those others that need these programs in education and social areas and senior citizens' heating programs across the Nation.

Mr. Speaker, the timber salvage provision in this rescission bill had a bad odor the first time around and does not smell any better today. This provision is an outright assault on our public forests and environmental laws. There is absolutely no legitimate or desirable reason to go forth with the timber salvage provision. One can only conclude that this Congress is prepared to sell off our national forests to the timber industry.

This provision should be labeled for what it is—a boon to the timber industry, a revenue loser for the American taxpayer, and the permanent destruction of more of our American landscapes, the ecosystems and forest legacy.

The timber salvage provision pretends to address forest health problems and reduce forest fire potential. However, both arguments are transparent cover for exploiting our forests when held up to the light of day. The fig leaves used to cover up and justify such action should get the authors arrested for indecent exposure.

This timber salvage language is simply a denial of the facts affecting forest ecosystems and the forest industry. Such an approach sacrifices long term common sense resource management for instant gratification—savaging not salvaging our national forests and costing precious taxpayer dollars and the legacy of future generations.

Perhaps the ultimate affront to the American people is the way in which this bill has been handled. By attaching these unacceptable amendments to the rescissions bill, some of our colleagues are using legislative extortion to lard a supposed budget cutting bill with budget busting programs.

These covert assaults on environmental protection have been a wake up call to citizens across the country who may have voted for change but did not vote for the exploitation and giveaway of their natural legacy. Passage of this bill would signal a serious problem about how our Government operates.

Mr. DREIER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would say to my friend, the great natural resource happens to be dead trees in those surrounding communities where the potential for fire is very great. They do not consider it a marvelous resource.

Mr. Speaker, I yield 4½ minutes to the gentleman from Sugar Land, TX [Mr. DELAY], the distinguished Republican whip and a member of the Committee on Appropriations.

Mr. DELAY. Mr. Speaker, I thank the gentleman for yielding to me. I appreciate the work that he is doing.

Frankly, I respect the distinguished ranking member of the Committee on Appropriations, the gentleman from Wisconsin [Mr. OBEY]. He really believes in the world as he sees it. I just see it from a different pair of eyes, and I think the American people do, too, as evidenced in the election last November.

The gentleman said the people, or he thought the people voted the way they did to make the two parties work together. I do not think that was it at all. I think the American people saw the party that was in power was driving them into such debt that they rejected everything that they stand for and did a historic thing and put the Republicans in power for the first time in 40 years.

This whole process that we find ourselves in now is a perfect example of that. It is a perfect example of that. The President of the United States, in trying to become relevant to this process, presented to this body a request to pay for some disaster relief in California, and then the Oklahoma City disaster happened during the process, so he added that and other things that we desperately needed to pay for.

This body, under a new majority, took advantage of the situation to take care of some rescissions and spending that needed to be corrected this year. A lot of the spending in these rescissions is spending that would never be done this year, so we took advantage of that and set that aside, huge amounts in the HUD account that have been building up over the years but not obligated; a lot of this money is funds that cannot be obligated by the end of September. So we took advantage of that.

We sent the President a bill that got some significant real savings, and along with paying for, and always paying for, not adding to the deficit, those kinds of relief problems.

So we got to this point, and the President vetoes the bill, not out of substance, out of politics, out of politics. The President wanted to become relevant. He knew he was irrelevant in this process because he has chosen to be irrelevant, because he has not been part of the negotiation process of this bill. They have not told us what they wanted except to pay for this disaster relief. So the President vetoes and says, "I want all of this good spending, like adult job training."

Mr. Speaker, we have got hundreds of adult job training programs that are going on and were not stopped under the rescission bill, but the President wanted to add another $40 million. He wanted Goals 2000. Most of the American people are against Goals 2000. So he puts in another $60 million. Safe and drug-free schools, that may be okay. He tried to put back midnight basketball, something the American people overwhelmingly oppose. He wanted $10 million for that. And I could go on through this, safe-drinking-water money, $225 million. That cannot possibly be spent between now and the end of September. But he wanted to be the safe-drinking-water President.

This is a headline President and the talking point President. When you look under what he is talking about, you see there is no substance there at all. It is all politics.

Then he started pounding his chest about too much pork in this bill, had a bunch of Federal courthouses in here, "and I want to eliminate it." We asked him where are the courthouses? He has never yet given us a list of the courthouses.

Do you know what the President wanted? $348 million cut out of the rescission bill and handed over to give the General Services Administration the opportunity to pick and choose where they think the courthouses ought to be cut. That is not the way the process works.

So now we find ourselves trying to pass a bill that gives us $9.2 billion worth of real savings to the American family, plus an extra $30 million in change and give back the President the opportunity to do some of his pork and his spending programs that have not proven to be effective, and he is still against the bill and still will not tell us what he is for.

That is not relevancy, ladies and gentlemen, it is not cutting spending to finance tax cuts. It is cutting spending to downsize the size of this Government so the American family can hang on to more of their hard-earned dollars.

The reason the family is having problems, Mr. Speaker, is that they are paying 52 percent of their income to the Government.

Support the rule and support the bill.

Mr. BEILENSON. Mr. Speaker, I yield 3 minutes to the gentleman from Montana [Mr. WILLIAMS].

Mr. WILLIAMS. Mr. Speaker, my colleagues, I oppose this legislation for a number of reasons. But I have one that is parochial to Montana, and maybe to any of you who have visited Montana or any of you that care about that place which Americans call the last best place. That isn't our name for Montana, by the way. We call it Big Sky country. But Americans have called it the last best place. When we Montanans say that, we say it, not only with pride, but also with some sorrow.

One of the reasons Montana is the last best place is because we still have enormous wilderness areas out there, untrammeled, unroaded, with the great remaining wild land animals migrating and habitating through them and in them.

When this bill first came through the House, I though there was simply an error in it, because it placed, naked to logging, a million acres of Montana that this House has voted to place in wilderness. We did so because the land had the highest characteristics of wilderness. Republicans and Democrats, as early as just a year ago in this House, voted overwhelmingly, 300 of us and more, to place 1,100,000 acres under protection from logging, and now this bill would open those areas to logging.

I do not think you could find 2 dozen Members of this House who would do that. And so we went to the Republican leadership. We tried to get them to change it. They would not do it. We went to the White House. I went to the White House. The White House agreed. The administration thought it was just an error and asked for compromise but they were refused.

Now, let me further explain. The 1,100,000 acres that this House has voted to protect from logging has not become law. But do we really want our prerogative removed to eventually declare these areas wilderness or otherwise protect them. The answer is "no." This House does not want to do that.

Yet this bill removes our prerogative by allowing logging in those areas. If you came with me, I say to both sides of the aisle, and flew over or walked through those areas, you would come back here and say, "This bill is a mistake. We should not have done it." And yet we are going to do it.

Mr. TAYLOR of North Carolina. Mr. Speaker, will the gentleman yield?

Mr. WILLIAMS. I yield to the gentleman from North Carolina.

Mr. TAYLOR of North Carolina. You mentioned this bill would allow us to log the salvage harvest in wilderness or areas designated as wilderness.

Mr. WILLIAMS. No, I did not say that. This is important to understand. I said areas this House has voted to put in wilderness but have not yet been signed into law.

Mr. TAYLOR of North Carolina. If the gentleman will yield, those areas would be designated areas.

Mr. DREIER. Mr. Speaker, I yield 2 minutes to my friend, the gentleman from Brevard, NC [Mr. TAYLOR], a member of the Committee on Appropriations.

Mr. TAYLOR of North Carolina. Mr. Speaker, the gentleman's statement, and I do not doubt his sincerity, is wrong. I authored this bill, and it does not affect areas of wilderness or areas designated as wilderness, and the Secretary, if he has any idea that this House has acted on any wilderness, we cannot do salvage timber in it. Salvage can only be performed in that small 20 to 25 percent of the national forest where harvest is now allowed, and that is not allowed in areas either set aside as wildernesses or designated as wilderness.

Let me go on, because I want to move on with two other particular points.

Mr. WILLIAMS. If the gentleman will yield, I will just tell the gentleman that is not the issue. The issue is the gentleman is missing the point.

Mr. TAYLOR of North Carolina. First of all, the cry for the environment is really hollow. If you go downstairs and look at Brandeis's quote on stone, it says, "The greatest threat to liberty, lives, and the efforts of men of zeal, well-meaning but without understanding," and I have never seen a situation as misunderstood as this salvage bill. We all know that we make products from wood. All these desks and chairs and so forth can be made from wood, plastic, or steel. If we do away with our forest harvest program in this country, that is the ultimate goal, then we must rely on finite products, and plastic must be oil we bring into the country, imported, we spill it two or three times along the way. How can that be a plus for the environment?

We are now harvesting 16 billion board feet, a third of our forest products from sensitive environmental areas all over the world. What about the great hue and cry about rainforest? That is where a lot of our 16 billion board feet are coming from. We have no control over that.

We do have substantial control in our own forest, and a great many environmental controls. The forest health is a third important goal that we are going after. North Carolina State University, a respected university, with the largest school of forestry, over 100 years of silvicultural study and the largest extension program, recently pointed out in a statement that this salvage amendment is absolutely for forest health.

Mr. BEILENSON. Mr. Speaker, I yield 3 minutes to the gentleman from New Jersey [Mr. ANDREWS].

Mr. ANDREWS of New Jersey. Mr. Speaker, I thank my friend from California for yielding.

Mr. Speaker, in 1992 and again in 1994, millions of Americans went to the polls and demanded fundamental change in what they called politics as usual. In 1992 they turned out an incumbent President, gave him only 38 percent of their vote. In 1994, as we well know, they turned out the majority in the House of Representatives and gave it to the new majority.

I wonder what those voters would say if they understood what was in this rule that is before us this afternoon. I wonder what they would say if they knew that their majority was about to spend $7 billion and cut $16 billion in a bill that was not even on this floor this morning when we went about our business, and many of us are reading it for the first time right now. I wonder what they would say if they knew that an important question which we just heard some debate about between the gentleman from North Carolina [Mr. TAYLOR] and the gentleman from Montana [Mr. WILLIAMS], about whether or not to log on federally owned lands, whether to permit timber practice on federally owned lands was not even going to be debated in this bill, that there will be one single up-down vote on the whole bill, and the debate that the gentleman from Montana [Mr. WILLIAMS] and the gentleman from North Carolina [Mr. TAYLOR] had will not get a vote, because the rule does not permit it.

I wonder what they would say if they knew that this bill took money out of the program that we used to help senior citizens pay their heating bill and their air-conditioning bill.

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At the same time it forgives a $275 million loan owed to the United States by the Government of Jordan. I wonder what they would say if they heard, Mr. Speaker, that we could not debate and take a separate vote on that. I think they would say that that is politics as usual. I think they would say that is exactly what they voted against in 1992 and 1994.

I do not know what the right answers are to those questions, Mr. Speaker, but I sure do know that those questions should be debated on this floor and voted on this floor, and my colleagues know, and I know, they will not be under the terms of this rule, and that, Mr. Speaker, is why I urge my colleagues to vote "no" on this suppressive and wrong-headed rule.

Mr. BEILENSON. Mr. Speaker, I yield 2 minutes to the gentlewoman from California [Ms. HARMAN].

Ms. HARMAN. Mr. Speaker, I say to my colleagues, Deficit hawks, if you were moved by the Budget Committee chairman's speech on the conference report on the budget resolution, as I was, you'll love this. We can do more to enact real and fair deficit reduction in this bill than we could in that one. How? By defeating the previous question so that the Brewster-Harman bipartisan lockbox amendment can be made in order.

Please join our effort. Otherwise another opportunity will be missed to allow our colleagues to vote on spending cuts that actually reduce the Federal deficit.

Let me cite an example for my colleagues. During Tuesday's consideration of the foreign operations appropriation bill, Mr. Speaker, our colleagues support cuts totaling $65.069 million. Regrettably not one penny went to deficit reduction. Instead, under the budget rules, the funds freed up by these cut amendments will be reallocated by the Committee on Appropriations on other spending programs. I say to my colleagues, When you add in the $20-plus million in cuts we made in the military construction appropriations bill and yesterday's cuts, those cuts total over a hundred million dollars that don't go to deficit reduction.

Mr. Speaker, we voted on the lockbox in March on a bill similar to the one we are considering now. The House vote was 418 to 5, including all members of the Committee on Rules.

Mr. Speaker, I urge our colleagues to defeat the previous question. If the previous question is defeated, I will offer an amendment to the rule that makes in order the Brewster-Harman bipartisan lockbox amendment in place of the weaker version contained in section 2003 and 2004 of this bill.

Vote "no" on the previous question. It is the only way to get a vote in the House on the real lockbox.

Mr. Speaker, I submit for the RECORD the text of the amendment we would offer at this point:

AMEMDMENT TO HOUSE RESOLUTION 176

On page 2, line 8 strike "tions. That amendment" and insert in lieu thereof the following: "tions and an amendment offered by Representative Brewster of Oklahoma and Representative Harman of California. Those amendments"

On page 2, line 11, strike "that amendment" and insert in lieu thereof "those amendments".

Mr. DREIER. Mr. Speaker, I yield 1 minute to the gentleman from Atlanta, GA [Mr. LINDER].

Mr. LINDER. Mr. Speaker, the problem with cutting back on spending is nobody wants to cut. We all talk about it, but nobody wants to cut, to cut. The gentleman from New Jersey said, "Just think. We're cutting heating oil help for the elderly to give away money to Jordan." The heating oil help for the elderly was a 1979 program for a temporary relief when the oil prices were way up. The oil prices are today below where they were then, but we cannot even cut that program out now. Now it is an entitlement.

The loan forgiveness to Jordan was negotiated by the Secretary of State. It is part of the peace process with Israel. It was signed by this President. Indeed the President did not think we forgave at all, and he was very upset, and called Israel, and complained about the Republicans in Congress not doing what he wanted to keep the process going, and I know that the gentleman from New Jersey is in support of the peace process with Israel and the Middle East because I heard him talk about it to two Jewish groups myself.

We simply have to get away from protecting individual programs and begin to cut spending for our children's future.

Mr. BEILENSON. Mr. Speaker, I yield 2 minutes to the gentlewoman from Colorado [Mrs. SCHROEDER].

Mrs. SCHROEDER. Mr. Speaker, I really think that this is an historical bill. First of all, we are still trying to find out what it really says because it just got here. There are 119 pages. But as I glance through this summary, and, if it is wrong, I wish somebody would point it out, I must say we really need to vote down this rule and get to correcting it.

No. 1, it appears from my summary that we are still taking $50 million out of veterans' medical care, $50 million, and this is the week where people came to the floor and talked about the flag. This is the year where everybody has been celebrating World War II celebrations and all of these things. But as I look at this list, what we are doing is taking away from medical installations around this country much-needed equipment that keeps them in the state-of-the-art health care for people who put their health and their lives on the line for this great country and this great flag.

So, as my colleagues know, this is the substance of what this flag stands for, that when we tell veterans we are going to take care of them, we are really taking care of them, we do not get rid of it.

Well, the first thing that jumps off the page at me is that, and I do not see anybody disputing that that is wrong, so I guess that is true.

I also see us going after education big-time in here. I see that we are continuing to zero out the math and science training, the technology——

Mr. LIVINGSTON. Mr. Speaker, will the gentlewoman yield?

Mrs. SCHROEDER. I yield to the gentleman from Louisiana.

Mr. LIVINGSTON. Mr. Speaker, I thank the gentlewoman, because at the request of the President actually this increases the money for adult job training, School to Work, Goals 2000, which is an education program, safe and drug-free schools, drug courts, the phases, TRIO, the child-care block grant program. With the Goals 2000 it is specifically education.

Mrs. SCHROEDER. Reclaiming my time, mine shows—it says that it was not cut as much as it was the last time. In other words, instead of cutting it $92 million, it was only cut $32 million.

Mr. OBEY. Mr. Speaker, will the gentlewoman yield?

Mrs. SCHROEDER. I yield to the gentleman from Wisconsin.

Mr. OBEY. This still cuts $574 million from education.

Mrs. SCHROEDER. That is exactly how I read it.

Mr. DREIER. Mr. Speaker, to close the debate on our side, I yield the balance of our time to the gentleman from Massachusetts [Mr. TORKILDSEN], a very able Member of this Congress.

Mr. TORKILDSEN. Mr. Speaker, I thank the gentleman from California for yielding this time to me and allowing me to close. I rise to support the rule, and do so with a perspective that might be different from most Republicans.

I say to my colleagues, "You might remember that first rescission package I voted against. I identified two key provisions of it, LIHEAP, low-income heating assistance, and summer jobs, that were important to my district, and after voting against that, I worked with the chairman of the Committee on Appropriations to restore those in the conference report. We restored those in the conference report, and so I voted for that compromise version."

But while I was willing to identify the cuts that I though we should make and the spending that I thought we should keep, President Clinton still has not signed his name to a package of spending cuts that he would support. He keeps saying things like, well, he likes the Senate version better, but he will not say what cuts he will support, what $9 billion, or $10 billion, or whatever number he likes. So the chairman of the Committee on Appropriations has been negotiating, but not able to make progress.

So, when I listen to my friend on the other side of the aisle saying, well, we wanted this point change and that point change, I say, "Why don't you go to the President and ask him to include those in whatever spending-cut bill he would like to recommend, because as of this point in time the President has not signed onto any spending cut at all."

I applaud the chairman of the Committee on Appropriations for going the extra mile, saying we will give the President some of the things he said he would like to increase spending on, but for our children's future we have to cut spending.

So I would ask all Members to vote yes on the rule, vote yes on the rescission package itself, a first step to protecting our children.

Mr. BEILENSON. Mr. Speaker, I yield myself the balance of my time.

The SPEAKER pro tempore (Mr. INGLIS of South Carolina). The gentleman from California is recognized for 30 seconds.

Mr. BEILENSON. Mr. Speaker, I just want to urge the Members to vote against the rule and against the previous question. It is an unfair rule, it is a closed rule, and, if the previous question is defeated, we shall offer, as Members have heard, an alternative rule that makes in order the Brewster-Harman bipartisan lockbox amendment.

Mr. DREIER. Mr. Speaker, I yield myself the balance of my time.

The SPEAKER pro tempore. The gentleman from California is recognized for 30 seconds.

Mr. DREIER. Mr. Speaker, I urge an "aye" vote for this very fair and balanced rule, and the conference report, and the previous question, and on any other procedural vote they might request on the other side of the aisle.

Mr. Speaker, I move the previous question on the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. BEILENSON. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 236, nays 194, not voting 4, as follows:

[Roll No. 459]

YEAS—236

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Beilenson
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Petri
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stockman
Stump
Talent
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Traficant
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—194

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Bentsen
Berman
Bevill
Bishop
Bonior
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Costello
Coyne
Cramer
Danner
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hayes
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson-Lee
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott

McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Mollohan
Montgomery
Moran
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pomeroy
Poshard
Rahall
Rangel
Reed
Richardson
Rivers
Roemer
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Sisisky
Skaggs
Skelton
Slaughter
Spratt
Stark
Stenholm
Stokes
Studds
Stupak
Tanner
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Tucker
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NOT VOTING—4

Durbin
Largent
Moakley
Reynolds

□ 1801

Mr. SOLOMON changed his vote from "nay" to "yea."

So the previous question was ordered.

The result of the vote was announced as above recorded.

Mr. BEILENSON. Mr. Speaker, I move to reconsider the vote whereby the previous question was ordered.

The SPEAKER pro tempore (Mr. INGLIS of South Carolina). Did the gentleman vote on the prevailing side?

Mr. BEILENSON. Mr. Speaker, yes.

The SPEAKER pro tempore. The Clerk will report the motion offered by the gentleman from California [Mr. BEILENSON].

The Clerk read as follows:

Mr. BEILENSON moves to reconsider the vote on which the previous question was ordered.

MOTION TO TABLE OFFERED BY MR. DREIER

Mr. DREIER. Mr. Speaker, I move that the motion to reconsider be laid on the table.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. DREIER] to lay on the table the motion offered by the gentleman from California [Mr. BEILENSON].

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. BEILENSON. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 235, noes 193, not voting 6, as follows:

[Roll No. 460]

AYES—235

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hamilton
Hancock
Hansen
Hastings (WA)
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Jacobs
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Petri
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stockman
Stump
Talent
Tate
Tauzin
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Traficant
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—193

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bevill
Bishop
Bonior
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Costello
Coyne
Cramer
Danner
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Harman
Hastings (FL)
Hayes
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson-Lee
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Mollohan
Montgomery
Moran
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pomeroy
Poshard
Rahall
Rangel
Reed
Richardson
Rivers
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Sisisky
Skaggs
Skelton
Slaughter
Spratt
Stark
Stenholm
Stokes
Studds
Stupak
Tanner
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Tucker
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NOT VOTING—6

Duncan
Durbin
Hastert
Largent
Moakley
Reynolds

□ 1819

So the motion to table was agreed to.

The result of the vote was announced as above recorded.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Edwin Thomas, one of his secretaries.

1995 RESCISSION AND DISASTER SUPPLEMENTAL BILL

The SPEAKER pro tempore (Mr. INGLIS of South Carolina). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. BEILENSON. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 234, noes, 192, not voting 8, as follows:

[Roll No. 461]

AYES—234

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)

Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Johnston
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Montgomery
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Petri
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stockman
Stump
Talent
Tate
Tauzin
Taylor (MS)
Thomas
Thornberry
Tiahrt
Torkildsen
Traficant
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—192

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bevill
Bishop
Bonior
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Costello
Coyne
Cramer
Danner
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hayes
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson-Lee
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Mollohan
Moran
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pomeroy
Poshard
Rahall
Rangel
Reed
Richardson
Rivers
Roemer
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Sisisky
Skaggs
Skelton
Slaughter
Spratt
Stark
Stenholm
Stokes
Studds
Stupak
Tanner
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Tucker
Velázquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NOT VOTING—8

Durbin
Fields (LA)
Franks (CT)
Hoke
Largent
Moakley
Reynolds
Taylor (NC)

☐ 1829

Mr. DE LA GARZA changed his vote from "aye" to "no."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. Without objection, a motion to reconsider is laid on the table.

☐ 1830

Mr. DOGGETT. Mr. Speaker, I object.

The SPEAKER pro tempore (Mr. INGLIS of South Carolina). Objection is heard.

Mr. DREIER. Mr. Speaker, I move to reconsider the vote by which the House agreed to House Resolution 176.

MOTION TO TABLE OFFERED BY MR. WALKER

Mr. WALKER. Mr. Speaker, I move to lay on the table the motion to reconsider.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania [Mr. WALKER] to lay on the table the motion to reconsider.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. DOGGETT. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 236, noes 189, not voting 9, as follows:

[Roll No. 462]

AYES—236

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Gallegly
Ganske
Gekas
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Jacobs
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Petri
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stockman
Stump
Talent
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Traficant
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—189

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bevill
Bishop
Bonior
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)

Bryant (TX)
Cardin
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Costello
Coyne
Cramer
Danner
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Doyle
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson-Lee
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Mollohan
Montgomery
Moran
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pomeroy
Poshard
Rahall
Rangel
Reed
Richardson
Rivers
Roemer
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Sisisky
Skaggs
Skelton
Slaughter
Spratt
Stark
Stenholm
Stokes
Studds
Stupak
Tanner
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Tucker
Velázquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NOT VOTING—9

Bateman
Dooley
Durbin
Frank (MA)
Funderburk
Largent
Moakley
Reynolds
Williams

☐ 1847

So the motion to table was agreed to.

The result of the vote was announced as above recorded.

REPORT ON RESOLUTION PROVIDING FOR IMMEDIATE CONSIDERATION OF CONCURRENT RESOLUTION PROVIDING FOR ADJOURNMENT

Mrs. WALDHOLTZ, from the Committee on Rules, submitted a privileged report (Rept. No. 104–168) on the resolution (H. Res. 179) providing for immediate consideration of a concurrent resolution providing for adjournment of the House and Senate for the Independence Day district work period, which was referred to the House Calendar and ordered to be printed.

LEGISLATIVE PROGRAM

(Mr. ARMEY asked and was given permission to address the House for 1 minute.)

Mr. ARMEY. Mr. Speaker, I have asked for this time to proceed to inform the Members, in consideration of the White House, who just in the last hour or so contacted the Speaker with respect to an effort to make further and final revisions, and I think conclusive revisions, in the rescission bill, we have undertaken negotiations with representatives of the White House. Although they are proceeding well, it is not possible for us at this time to bring that bill to the floor without biasing against our best efforts to work with the White House.

That being the case, I am going to be asking that we take a recess subject to the call of the Chair to give those negotiators an opportunity to complete this process in order that we might get the best possible rescission bill through the process.

Mr. VOLKMER. Mr. Speaker, will the gentleman yield?

Mr. ARMEY. I yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Speaker, I would just like to inquire of the gentleman from Texas [Mr. ARMEY], we had also had scheduled for the day the legislation commonly known as Medicare Select. Is it possible that we could take that up instead of going into recess?

Mr. ARMEY. Mr. Speaker, that would have been wonderful, but it is not possible to do so at this time. Certainly it is an important piece of legislation and one we intend to take up and complete this evening.

Mr. VOLKMER. Mr. Speaker, I ask the gentleman from Texas if we are going to complete that this evening or tomorrow?

Mr. ARMEY. It is our intention to complete that this evening; I expect to do so.

Mr. VOLKMER. On Medicare Select?

Mr. ARMEY. On Medicare Select.

Mr. VOLKMER. And the gentleman plans to also do the rescission bill yet this evening?

Mr. ARMEY. Yes, we will do the rescission bill this evening.

Mr. VOLKMER. Thank you very much. I have no further questions.

Mr. DINGELL, Mr. Speaker, will the gentleman yield?

Mr. ARMEY. I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Speaker, our committee has been called to the floor for purposes of handling the Medicare Select legislation. Could we have some appreciation of when we will be called back to do this, if we are not going to do it right now?

Mr. ARMEY. Mr. Speaker, it is our intention to complete our negotiations with the White House on the rescission bill in short order, in which case we would go to that immediately upon returning from the recess, and the Medicare Select would be taken up upon completion of the rescission bill.

Mr. VOLKMER. Mr. Speaker, will the gentleman yield?

Mr. ARMEY. I yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Speaker, I know that it is normal to recess subject to the call of the Chair, but I would like to inquire, does the gentleman from Texas [Mr. ARMEY] have any idea of the amount of time that we may be in recess before we would have to call back in, because some Members may desire to catch up a little bit from the sleep that they did not get last night.

Mr. ARMEY. Mr. Speaker, of course as my colleagues might guess, we want to get a rescission decision with precision as quickly as possible. And for that reason, Mr. Speaker, I would announce that we are going to take a recess subject to the call of the Chair with every expectation that given a 15-minute notification, we might anticipate being back here at work within a half-hour.

Mr. VOLKMER. And there will be a 15-minute notification with the bells rung so the Members know?

Mr. ARMEY. Absolutely.

Mr. STARK. Mr. Speaker, will the gentleman yield?

Mr. ARMEY. I yield to the gentleman from California.

Mr. STARK. Mr. Speaker, I just wanted to ask the gentleman from Texas [Mr. ARMEY] the distinguished majority leader, I hate to forecast votes, but my suspicion is that the conference report on Medicare Select would pass. I think that everything that has to be said on it, I believe it has an hour of debate. And our champion, the gentleman from Michigan [Mr. DINGELL] is ready to go. And I might respectfully suggest that we could accomplish some work if the gentleman wanted to begin with that at this point.

Mr. ARMEY. Mr. Speaker, I appreciate the gentleman's consideration. As soon as we are able to be confident that we are fully capable of moving forward with that bill, assuming no complications with respect to the rescission matter, we will do so.

But I must caution the gentleman, we have seen a great penchant in the last day or so for people to continue talking, even after it has been clear that all that needs to be said has been said. So we ought not be too optimistic about time.

Mr. ROEMER. Mr. Speaker, will the gentleman yield?

Mr. ARMEY. I yield to the gentleman from Indiana.

Mr. ROEMER. Mr. Speaker, could the majority leader enlighten us a little bit about what the negotiations are about and what the sticking points might be or where there has been agreement, whether that has been on housing or national service or the timber program? Could he give us a little bit more information?

Mr. ARMEY. Mr. Speaker, I appreciate the inquiry, but no, I could not enlighten the gentleman.

Mr. ROEMER. Mr. Speaker, would the majority leader attempt to enlighten us, then, would this delay affect our time to get out of town tomorrow at 3 o'clock at all?

Mr. ARMEY. If, in fact we have difficulty getting out of town at the appointed time tomorrow, this delay will be the least of the reason for that difficulty.

Mr. ROEMER. Finally, Mr. Speaker, for the majority leader, does he expect us, then, to continue these all-night sessions when we get back after the July work period or what can we expect with the schedule?

Mr. ARMEY. Mr. Speaker, I think the gentleman from Indiana might be able to help us understand that better. I do intend to complete the people's work. It would by my hope and my intention to do so as cordially and as conveniently and as quickly as possible.

RECESS

The SPEAKER pro tempore (Mr. INGLIS of South Carolina). Pursuant to clause 12 of rule I, the House will stand in recess subject to the call of the Chair.

Accordingly (at 6 o'clock and 55 minutes p.m.), the House stood in recess subject to the call of the Chair.

□ 2015

AFTER RECESS

The recess having expired, the House was called to order by the Speaker p.t. [Mr. WALKER] at 8 o'clock and 15 minutes p.m.

GENERAL LEAVE

Mr. LIVINGSTON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the emergency supplemental and rescissions bill, H.R. 1944, and that I may be able to insert tabular material and extraneous material.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

EMERGENCY SUPPLEMENTAL APPROPRIATIONS FOR ADDITIONAL DISASTER ASSISTANCE FOR ANTI-TERRORISM INITIATIVES FOR ASSISTANCE IN THE RECOVERY FROM THE TRAGEDY THAT OCCURRED AT OKLAHOMA CITY, AND RESCISSIONS ACT 1995

Mr. LIVINGSTON. Mr. Speaker, pursuant to the House Resolution 176 just adopted, I call up the bill (H.R. 1944) making emergency supplemental appropriations for additional disaster assistance, for anti-terrorism initiatives, for assistance in the recovery from the tragedy that occurred at Oklahoma City, and making rescissions for the fiscal year ending September 30, 1995, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the bill.

The text of H.R. 1944 is as follows:

H.R. 1944

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, to provide emergency supplemental appropriations for additional disaster assistance, for antiterrorism initiatives, for assistance in the recovery from the tragedy that occurred at Oklahoma City, and making rescissions for the fiscal year ending September 30, 1995, and for other purposes, namely:

TITLE I—SUPPLEMENTALS AND RESCISSIONS

CHAPTER I

DEPARTMENT OF AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES

DEPARTMENT OF AGRICULTURE

AGRICULTURAL RESEARCH SERVICE

(TRANSFER OF FUNDS)

Funds made available under this heading in Public Law 103-330 and subsequently transferred to "Nutrition Initiatives" are transferred to the Agricultural Research Service.

FOOD SAFETY AND INSPECTION SERVICE

For an additional amount for salaries and expenses of the Food Safety and Inspection Service, $9,082,000.

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

SALARIES AND EXPENSES

For an additional amount for salaries and expenses of the Agricultural Stabilization and Conservation Service, $5,000,000.

COMMODITY CREDIT CORPORATION FUND

FOOD FOR PROGRESS

Notwithstanding any other provision of law, no funds of the Commodity Credit Corporation in excess of $50,000,000 for fiscal year 1995 (exclusive of the cost of commodities in the fiscal year) may be used to carry out the Food for Progress Act of 1985 (7 U.S.C. 1736o) with respect to commodities made available under section 416(b) of the Agricultural Act of 1949: *Provided*, That of this amount not more than $20,000,000 may be used without regard to section 110(g) of the Food for Progress Act of 1985 (7 U.S.C. 1736(g)). The additional costs resulting from this provision shall be financed from funds credited to the Corporation pursuant to section 426 of Public Law 103-465.

RURAL ELECTRIFICATION ADMINISTRATION

RURAL ELECTRIFICATION AND TELEPHONE LOANS PROGRAM ACCOUNT

The second paragraph under this heading in Public Law 103-330 (108 Stat. 2441) is amended by inserting before the period at the end, the following: ": *Provided*, That notwithstanding section 305(d)(2) of the Rural Electrification Act of 1936, borrower interest rates may exceed 7 per centum per year".

FOOD AND NUTRITION SERVICE

COMMODITY SUPPLEMENTAL FOOD PROGRAM

The paragraph under this heading in Public Law 103-330 (108 Stat. 2441) is amended by inserting before the period at the end, the following: ": *Provided further*, That twenty per centum of any Commodity Supplemental Food Program funds carried over from fiscal year 1994 shall be available for administrative costs of the program".

GENERAL PROVISION

Section 715 of Public Law 103-330 is amended by deleting "$85,500,000" and by inserting "$110,000,000". The additional costs resulting from this provision shall be financed from funds credited to the Commodity Credit Corporation pursuant to section 426 of Public Law 103-465.

OFFICE OF THE SECRETARY

(RESCISSION)

Of the funds made available under this heading in Public Law 103-330, $31,000 are rescinded: *Provided*, That none of the funds made available to the Department of Agriculture may be used to carry out activities under 7 U.S.C. 2257 without prior notification to the Committees on Appropriations.

ALTERNATIVE AGRICULTURAL RESEARCH AND COMMERCIALIZATION

(RESCISSION)

Of the funds made available under this heading in Public Law 103-330, $1,500,000 are rescinded.

AGRICULTURAL RESEARCH SERVICE

BUILDINGS AND FACILITIES

(RESCISSION)

Of the funds made available under this heading in Public Law 103-330 and other Acts, $1,400,000 are rescinded: *Provided*, That after completion of the construction of the National Swine Research Center Laboratory, all rights and title of the United States in that Center Laboratory shall be conveyed to Iowa State University.

COOPERATIVE STATE RESEARCH SERVICE

(RESCISSION)

Of the funds made available under this heading in Public Law 103-330, $1,051,000 are rescinded, including $524,000 for contracts and grants for agricultural research under the Act of August 4, 1965, as amended (7 U.S.C. 450i(c)); and $527,000 for necessary expenses of Cooperative State Research Service activities: *Provided*, That the amount of "$9,917,000" available under this heading in Public Law 103-330 (108 Stat. 2441) for a program of capacity building grants to colleges eligible to receive funds under the Act of August 30, 1890, is amended to read "$9,207,000".

BUILDINGS AND FACILITIES

(RESCISSION)

Of the funds made available under this heading in Public Law 103-330 and other Acts, $2,184,000 are rescinded.

ANIMAL AND PLANT HEALTH INSPECTION SERVICE

BUILDINGS AND FACILITIES

(RESCISSION)

Of the funds made available under this heading in Public Law 103-330, $2,000,000 are rescinded.

RURAL DEVELOPMENT ADMINISTRATION AND FARMERS HOME ADMINISTRATION

RURAL HOUSING INSURANCE FUND PROGRAM ACCOUNT

(RESCISSION)

Of the funds made available under this heading in Public Law 103-330, $15,500,000 for the cost of section 515 rental housing loans are rescinded.

LOCAL TECHNICAL ASSISTANCE AND PLANNING GRANTS

(RESCISSION)

Of the funds made available under this heading in Public Law 103–330, $1,750,000 are rescinded.

ALCOHOL FUELS CREDIT GUARANTEE PROGRAM ACCOUNT

(RESCISSION)

Of the funds made available under this heading in Public Law 102–341, $9,000,000 are rescinded.

RURAL ELECTRIFICATION ADMINISTRATION

RURAL ELECTRIFICATION AND TELEPHONE LOANS PROGRAM ACCOUNT

(RESCISSION)

Of the funds made available under this heading in Public Law 103–330, $1,500,000 for the cost of 5 per centum rural telephone loans are rescinded.

FOOD AND NUTRITION SERVICE

SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS, AND CHILDREN (WIC)

(RESCISSION)

Of the funds made available under this heading in Public Law 103–111, $20,000,000 are rescinded.

FOREIGN AGRICULTURAL SERVICE

PUBLIC LAW 480 PROGRAM ACCOUNT

(RESCISSION)

Of the funds made available under this heading in Public Law 103–330, $40,000,000 for commodities supplied in connection with dispositions abroad, pursuant to title II of the Agricultural Trade Development and Assistance Act of 1954, as amended, are rescinded.

CHAPTER II

DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES

RELATED AGENCIES

NATIONAL BANKRUPTCY REVIEW COMMISSION

(TRANSFER OF FUNDS)

For the National Bankruptcy Review Commission as authorized by Public Law 103–394, $1,000,000 shall be made available until expended, to be derived by transfer from unobligated balances of the Working Capital Fund in the Department of Justice.

UNITED STATES INFORMATION AGENCY

INTERNATIONAL BROADCASTING OPERATIONS

For an additional amount for "International Broadcasting Operations", $7,290,000, for transfer to the Board for International Broadcasting to remain available until expended.

DEPARTMENT OF JUSTICE

OFFICE OF JUSTICE PROGRAMS

DRUG COURTS

(RESCISSION)

Of the funds made available under this heading in title VIII of Public Law 103–317, $17,100,000 are rescinded.

OUNCE OF PREVENTION COUNCIL

(RESCISSION)

Of the funds made available under this heading in title VIII of Public Law 103–317, $1,000,000 are rescinded.

GENERAL ADMINISTRATION

WORKING CAPITAL FUND

(RESCISSION)

Of the unobligated balances in the Working Capital Fund, $5,500,000 are rescinded.

LEGAL ACTIVITIES

ASSETS FORFEITURE FUND

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317, $5,000,000 are rescinded.

IMMIGRATION AND NATURALIZATION SERVICE

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317, $1,000,000 are rescinded.

FEDERAL PRISON SYSTEM

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317, $28,037,000 are rescinded.

DEPARTMENT OF COMMERCE

NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY

SCIENTIFIC AND TECHNICAL RESEARCH AND SERVICES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317, $17,000,000 are rescinded.

INDUSTRIAL TECHNOLOGY SERVICES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317, $16,300,000 are rescinded.

CONSTRUCTION OF RESEARCH FACILITIES

(RESCISSION)

Of the unobligated balances available under this heading, $30,000,000 are rescinded.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

OPERATIONS, RESEARCH AND FACILITIES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317, $31,200,000 are rescinded, of which $7,000,000 shall be derived from amounts made available for the Global Learning and Observations to Benefit the Environment (GLOBE) program.

CONSTRUCTION

(RESCISSION)

Of the unobligated balances available under this heading, $15,000,000 are rescinded.

GOES SATELLITE CONTINGENCY FUND

(RESCISSION)

Of the unobligated balances available under this heading, $2,500,000 are rescinded.

TECHNOLOGY ADMINISTRATION

UNDER SECRETARY FOR TECHNOLOGY/OFFICE OF TECHNOLOGY POLICY

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317, $1,750,000 are rescinded.

NATIONAL TECHNICAL INFORMATION SERVICE

NTIS REVOLVING FUND

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317, and from offsetting collections available in the revolving fund, $1,000,000 are rescinded.

NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION

INFORMATION INFRASTRUCTURE GRANTS

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317, $4,000,000 are rescinded.

ECONOMIC DEVELOPMENT ADMINISTRATION

ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

(RESCISSIONS)

Of the funds made available under this heading in Public Laws 103–75 and 102–368, $5,250,000 are rescinded.

In addition, of the funds made available under this heading in Public Law 103–317, $25,000,000 are rescinded.

THE JUDICIARY

UNITED STATES COURT OF INTERNATIONAL TRADE

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317, $1,000,000 are rescinded.

COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES

DEFENDER SERVICES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317, $9,500,000 are rescinded.

FEES OF JURORS AND COMMISSIONERS

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317, $5,000,000 are rescinded.

RELATED AGENCIES

SMALL BUSINESS ADMINISTRATION

BUSINESS LOANS PROGRAM ACCOUNT

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317, $6,000,000 are rescinded: *Provided*, That funds appropriated for grants to the National Center for Genome Resources in Public Law 103–121 and Public Law 103–317 shall be available to provide consulting assistance, information, and related services, and shall be available for other purposes, notwithstanding the limitations in said public laws.

LEGAL SERVICES CORPORATION

PAYMENT TO THE LEGAL SERVICES CORPORATION

Public Law 104–6 is amended by adding after the word "rescinded" in the paragraph under the heading "Legal Services Corporation, Payment to the Legal Services Corporation, (Rescission)" the following: ", of which $4,802,000 are from funds made available for basic field programs; $523,000 are from funds made available for Native American programs; $1,071,000 are from funds made available for migrant programs; $709,000 are from funds made available for law school clinics; $31,000 are from funds made available for supplemental field programs; $159,000 are from funds made available for regional training centers; $2,691,000 are from funds made available for national support; $2,212,000 are from funds made available for State support; $785,000 are from funds made available for client initiatives; $160,000 are from funds made available for the Clearinghouse; $73,000 are from funds made available for computer assisted legal research regional centers; and $1,784,000 are from funds made available for Corporation management and administration".

DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

DIPLOMATIC AND CONSULAR PROGRAMS

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317, $2,250,000 are rescinded.

ACQUISITION AND MAINTENANCE OF BUILDINGS ABROAD

(RESCISSION)

Of the unobligated balances available under this heading, $30,000,000 are rescinded.

INTERNATIONAL ORGANIZATIONS AND CONFERENCES

CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317, $14,617,000 are rescinded.

RELATED AGENCIES

ARMS CONTROL AND DISARMAMENT AGENCY

ARMS CONTROL AND DISARMAMENT ACTIVITIES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317, $4,000,000 are rescinded, of which $2,500,000 are from funds made available for activities related to the implementation of the Chemical Weapons Convention.

BOARD FOR INTERNATIONAL BROADCASTING

ISRAEL RELAY STATION

(RESCISSION)

Of the unobligated balances available under this heading, $2,000,000 are rescinded.

UNITED STATES INFORMATION AGENCY

EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317, $5,000,000 are rescinded.

RADIO CONSTRUCTION

(RESCISSION)

Of the unobligated balances available under this heading, $16,000,000 are rescinded.

RADIO FREE ASIA

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317, $5,000,000 are rescinded.

CHAPTER III

ENERGY AND WATER DEVELOPMENT

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

GENERAL INVESTIGATIONS

(RESCISSION)

Of the funds made available under this heading in Public Law 103–316 and prior years' Energy and Water Development Appropriations Acts, $10,000,000 are rescinded.

CONSTRUCTION, GENERAL

(RESCISSION)

Of the funds made available under this heading in Public Law 103–316 and prior years' Energy and Water Development Appropriations Acts, $60,000,000 are rescinded.

DEPARTMENT OF THE INTERIOR

BUREAU OF RECLAMATION

OPERATION AND MAINTENANCE

(RESCISSION)

Of the funds made available under this heading in Public Law 103–316, $10,000,000 are rescinded.

DEPARTMENT OF ENERGY

ENERGY SUPPLY, RESEARCH AND DEVELOPMENT ACTIVITIES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–316 and prior years' Energy and Water Development Appropriations Acts, $74,000,000 are rescinded.

ATOMIC ENERGY DEFENSE ACTIVITIES

MATERIALS SUPPORT AND OTHER DEFENSE PROGRAMS

(RESCISSION)

Of the amounts made available under this heading in Public Law 103–316 and prior years' Energy and Water Development Appropriations Acts, $15,000,000 are rescinded.

DEPARTMENTAL ADMINISTRATION

(RESCISSION)

Of the funds made available under this heading in Public Law 103–316, $20,000,000 are rescinded.

POWER MARKETING ADMINISTRATIONS

CONSTRUCTION, REHABILITATION, OPERATION AND MAINTENANCE, WESTERN AREA POWER ADMINISTRATION

(RESCISSION)

Of the amounts made available under this heading in Public Law 103–316 and prior years' Energy and Water Development Appropriations Acts, $30,000,000 are rescinded.

INDEPENDENT AGENCIES

APPALACHIAN REGIONAL COMMISSION

(RESCISSION)

Of the funds made available under this heading in Public Law 103–316, $10,000,000 are rescinded.

TENNESSEE VALLEY AUTHORITY

TENNESSEE VALLEY AUTHORITY FUND

(RESCISSION)

Of the funds made available under this heading in Public Law 103–316, $5,000,000 are rescinded.

CHAPTER IV

FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS

BILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

DEBT RESTRUCTURING

DEBT RELIEF FOR JORDAN

For the cost, as defined in section 502 of the Congressional Budget Act of 1974, as amended, of modifying direct loans to Jordan issued by the Export-Import Bank or by the Agency for International Development or by the Department of Defense, or for the cost of modifying: (1) concessional loans authorized under title I of the Agricultural Trade Development and Assistance Act of 1954, as amended, and (2) credits owed by Jordan to the Commodity Credit Corporation, as a result of the Corporation's status as a guarantor of credits in connection with export sales to Jordan; as authorized under subsection (a) under the heading, "Debt Relief for Jordan", in title VI of Public Law 103–306, $275,000,000.

MULTILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

INTERNATIONAL ORGANIZATIONS AND PROGRAMS

(RESCISSION)

Of the funds made available under this heading in Public Law 103–306, $15,000,000 are rescinded.

BILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

AGENCY FOR INTERNATIONAL DEVELOPMENT

DEVELOPMENT ASSISTANCE FUND

(RESCISSION)

Of the funds made available under this heading in Public Law 103–306 and prior years' Foreign Operations, Export Financing and Related Programs Appropriations Acts, $41,300,000 are rescinded.

POPULATION, DEVELOPMENT ASSISTANCE

(RESCISSION)

Of the funds made available under this heading in Public Law 103–306 and prior years' Foreign Operations, Export Financing and Related Programs Appropriations Acts, $19,000,000 are rescinded.

DEVELOPMENT FUND FOR AFRICA

(RESCISSION)

Of the funds made available under this heading in Public Law 103–306 and prior years' Foreign Operations, Export Financing and Related Programs Appropriations Acts, $21,000,000 are rescinded.

DEBT RESTRUCTURING UNDER THE ENTERPRISE FOR THE AMERICAS INITIATIVE

(RESCISSION)

Of the funds made available under this heading in Public Law 103–391, $2,400,000 are rescinded.

ECONOMIC SUPPORT FUND

(RESCISSION)

Of the funds made available under this heading in Public Law 103–87 and prior years' Foreign Operations, Export Financing and Related Programs Appropriations Acts (excluding funds earmarked or otherwise made available to the Camp David countries), $25,000,000 are rescinded.

OPERATING EXPENSES OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT

(RESCISSION)

Of the funds made available under this heading in Public Law 103–306 and prior years' Foreign Operations, Export Financing and Related Programs Appropriations Acts, $2,000,000 are rescinded.

ASSISTANCE FOR THE NEW INDEPENDENT STATES OF THE FORMER SOVIET UNION

(RESCISSION)

Of the funds made available under this heading in Public Law 103–306 and prior years' Foreign Operations, Export Financing and Related Programs Appropriations Acts for programs or projects to or through the Government of Russia, $25,000,000 are rescinded.

MILITARY ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

PEACEKEEPING OPERATIONS

(RESCISSION)

Of the funds made available under this heading in Public Law 103–306, $3,000,000 are rescinded.

EXPORT ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

TRADE AND DEVELOPMENT AGENCY

(RESCISSION)

Of the funds made available under this heading in Public Law 103–87 and Public Law 103–306 and prior years' Foreign Operations, Export Financing and Related Programs Appropriations Acts, $4,000,000 are rescinded.

CHAPTER V

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES

DEPARTMENT OF THE INTERIOR

BUREAU OF LAND MANAGEMENT

MANAGEMENT OF LANDS AND RESOURCES

(RESCISSION)

Of the funds available under this heading in Public Law 103–332, $70,000 are rescinded, to be derived from amounts available for developing and finalizing the Roswell Resource Management Plan/Environmental Impact Statement and the Carlsbad Resource Management Plan Amendment/Environmental Impact Statement: *Provided*, That none of the funds made available in such Act or any other appropriations Act may be used for finalizing or implementing either such plan.

CONSTRUCTION AND ACCESS

(RESCISSION)

Of the funds available under this heading in Public Law 103-332, Public Law 103-138, and Public Law 102-381, $900,000 are rescinded.

PAYMENTS IN LIEU OF TAXES

(RESCISSION)

Of the funds available under this heading in Public Law 103-332, $2,500,000 are rescinded.

LAND ACQUISITION

(RESCISSION)

Of the funds available under this heading in Public Law 102-381, Public Law 101-121, and Public Law 100-446, $1,497,000 are rescinded.

UNITED STATES FISH AND WILDLIFE SERVICE

CONSTRUCTION

(RESCISSION)

Of the funds available under this heading or the heading Construction and Anadromous Fish in Public Law 103-332, Public Law 103-211, Public Law 103-138, Public Law 103-75, Public Law 102-381, Public Law 102-154, Public Law 102-368, Public Law 101-512, Public Law 101-121, Public Law 100-446, and Public Law 100-202, $12,415,000 are rescinded.

LAND ACQUISITION

(RESCISSION)

Of the funds available under this heading in Public Law 103-332 and any unobligated balances from funds appropriated under this heading in prior years, $1,076,000 are rescinded.

NATIONAL BIOLOGICAL SURVEY

RESEARCH, INVENTORIES, AND SURVEYS

(RESCISSION)

Of the funds available under this heading in Public Law 103-332 and Public Law 103-138, $14,549,000 are rescinded.

NATIONAL PARK SERVICE

CONSTRUCTION

(RESCISSION)

Of the funds available under this heading in Public Law 103-332 and any unobligated balances from funds appropriated under this heading in prior years, $20,890,000 are rescinded.

URBAN PARK AND RECREATION FUND

(RESCISSION)

Of the funds available under this heading in Public Law 103-332, $7,480,000 are rescinded.

LAND ACQUISITION AND STATE ASSISTANCE

(RESCISSION)

Of the funds available under this heading in Public Law 103-332 and any unobligated balances from funds appropriated under this heading in prior years, $13,634,000 are rescinded.

MINERALS MANAGEMENT SERVICE

ROYALTY AND OFFSHORE MINERALS MANAGEMENT

(RESCISSION)

Of the funds available under this heading in Public Law 103-332, $514,000 are rescinded.

BUREAU OF INDIAN AFFAIRS

OPERATION OF INDIAN PROGRAMS

(RESCISSION)

Of the funds available under this heading in Public Law 103-332, $4,850,000 are rescinded: *Provided*, That the first proviso under this heading in Public Law 103-332 is amended by striking "$330,111,000" and inserting in lieu thereof "$329,361,000".

CONSTRUCTION

(RESCISSION)

Of the funds available under this heading in Public Law 103-332 and any unobligated balances from funds appropriated under this heading in prior years, $9,571,000 are rescinded.

INDIAN DIRECT LOAN PROGRAM ACCOUNT

(RESCISSION)

Of the funds available under this heading in Public Law 103-332, $1,700,000 are rescinded.

TERRITORIAL AND INTERNATIONAL AFFAIRS

ADMINISTRATION OF TERRITORIES

(RESCISSION)

Of the funds available under this heading in Public Law 103-332, $1,938,000 are rescinded.

TRUST TERRITORY OF THE PACIFIC ISLANDS

(RESCISSION)

Of the funds available under this heading in Public Law 99-591, $32,139,000 are rescinded.

COMPACT OF FREE ASSOCIATION

(RESCISSION)

Of the funds available under this heading in Public Law 103-332, $1,000,000 are rescinded.

DEPARTMENT OF AGRICULTURE

FOREST SERVICE

FOREST RESEARCH

(RESCISSION)

Of the funds available under this heading in Public Law 103-332, $6,000,000 are rescinded.

STATE AND PRIVATE FORESTRY

(RESCISSION)

Of the funds available under this heading in Public Law 103-332, and Public Law 103-138, $7,800,000 are rescinded.

INTERNATIONAL FORESTRY

(RESCISSION)

Of the funds available under this heading in Public Law 103-332, $2,000,000 are rescinded.

NATIONAL FOREST SYSTEM

(RESCISSION)

Of the funds available under this heading in Public Law 103-332, $1,650,000 are rescinded.

CONSTRUCTION

(RESCISSION)

Of the funds available under this heading in Public Law 103-332, Public Law 103-138, and Public Law 102-381, $6,072,000 are rescinded: *Provided*, That the first proviso under this heading in Public Law 103-332 is amended by striking "1994" and inserting in lieu thereof "1995".

LAND ACQUISITION

(RESCISSION)

Of the funds available under this heading in Public Law 103-332, Public Law 103-138, and Public Law 102-381, $1,429,000 are rescinded: *Provided*, That the Chief of the Forest Service shall not initiate any new purchases of private land in Washington County, Ohio and Lawrence County, Ohio during fiscal year 1995.

DEPARTMENT OF ENERGY

FOSSIL ENERGY RESEARCH AND DEVELOPMENT

(RESCISSION)

Of the funds available under this heading in Public Law 103-332, $18,100,000 are rescinded.

ENERGY CONSERVATION

(RESCISSIONS)

Of the funds available under this heading in Public Law 103-332, $35,928,000 are rescinded and of the funds available under this heading in Public Law 103-138, $13,700,000 are rescinded.

DEPARTMENT OF EDUCATION

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

INDIAN EDUCATION

(RESCISSION)

Of the funds available under this heading in Public Law 103-332, $2,000,000 are rescinded.

OTHER RELATED AGENCIES

SMITHSONIAN INSTITUTION

CONSTRUCTION AND IMPROVEMENTS, NATIONAL ZOOLOGICAL PARK

(RESCISSION)

Of the funds available under this heading in Public Law 102-381 and Public Law 103-138, $1,000,000 are rescinded.

CONSTRUCTION

(RESCISSION)

Of the funds available under this heading in Public Law 102-154, Public Law 102-381, Public Law 103-138, and Public Law 103-332, $11,512,000 are rescinded.

NATIONAL GALLERY OF ART

REPAIR, RESTORATION AND RENOVATION OF BUILDINGS

(RESCISSION)

Of the funds available under this heading in Public Law 103-332, $407,000 are rescinded.

JOHN F. KENNEDY CENTER FOR THE PERFORMING ARTS

CONSTRUCTION

(RESCISSION)

Of the available balances under this heading $3,000,000 are rescinded.

WOODROW WILSON INTERNATIONAL CENTER FOR SCHOLARS

SALARIES AND EXPENSES

(RESCISSION)

Of the funds available under this heading in Public Law 103-332, $1,000,000 are rescinded.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

NATIONAL ENDOWMENT FOR THE ARTS

GRANTS AND ADMINISTRATION

(RESCISSION)

Of the funds available under this heading in Public Law 103-332, $5,000,000 are rescinded.

NATIONAL ENDOWMENT FOR THE HUMANITIES

GRANTS AND ADMINISTRATION

(RESCISSION)

Of the funds available under this heading in Public Law 103-332, $5,000,000 are rescinded.

GENERAL PROVISIONS

SEC. 501. No funds made available in any appropriations Act may be used by the Department of the Interior, including but not limited to the United States Fish and Wildlife Service and the National Biological Service, to search for the Alabama sturgeon in the Alabama River, the Cahaba River, the Tombigbee River or the Tennessee-Tombigbee Waterway in Alabama or Mississippi.

SEC. 502. (a) No funds available to the Forest Service may be used to implement Habitat Conservation Areas in the Tongass National Forest for species which have not been declared threatened or endangered pursuant to the Endangered Species Act, except that with respect to goshawks the Forest Service may impose interim Goshawk Habitat Conservation Areas not to exceed 300 acres per active nest consistent with the guidelines utilized for national forests in the continental United States.

(b) The Secretary shall notify Congress within 30 days of any timber sales which may be delayed or canceled due to the Goshawk Habitat Conservation Areas described in subsection (a).

SEC. 503. (a) As provided in subsection (b), an environmental impact statement prepared pursuant to the National Environmental Policy Act or a subsistence evaluation prepared pursuant to the Alaska National Interest Lands Conservation Act for a timber sale or offering to one party shall be deemed sufficient if the Forest Service sells the timber to an alternate buyer.

(b) The provision of this section shall apply to the timber specified in the Final Supplement to 1981–86 and 1986–90 Operating Period EIS ("1989 SEIS"), November 1989; in the North and East Kuiu Final Environmental Impact Statement, January 1993; in the Southeast Chichagof Project Area Final Environmental Impact Statement, September 1992; and in the Kelp Bay Environmental Impact Statement, February 1992, and supplemental evaluations related thereto.

SEC. 504. (a) SCHEDULE FOR NEPA COMPLIANCE.—Each National Forest System unit shall establish and adhere to a schedule for the completion of National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) analysis and decisions on all allotments within the National Forest System unit for which NEPA analysis is needed. The schedule shall provide that not more than 20 percent of the allotments shall undergo NEPA analysis and decisions through fiscal year 1996.

(b) REISSUANCE PENDING NEPA COMPLIANCE.—Notwithstanding any other law, term grazing permits which expire or are waived before the NEPA analysis and decision pursuant to the schedule developed by individual Forest Service System units, shall be issued on the same terms and conditions and for the full term of the expired or waived permit. Upon completion of the scheduled NEPA analysis and decision for the allotment, the terms and conditions of existing grazing permits may be modified or re-issued, if necessary to conform to such NEPA analysis.

(c) EXPIRED PERMITS.—This section shall only apply if a new term grazing permit has not been issued to replace an expired or waived term grazing permit solely because the analysis required by NEPA and other applicable laws has not been completed and also shall include permits that expired or were waived in 1994 and 1995 before the date of enactment of this Act.

CHAPTER VI

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES

DEPARTMENT OF LABOR

EMPLOYMENT AND TRAINING ADMINISTRATION

TRAINING AND EMPLOYMENT SERVICES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $1,349,115,000 are rescinded, including $10,000,000 for necessary expenses of construction, rehabilitation, and acquisition of new Job Corps centers, $2,500,000 for the School-to-Work Opportunities Act, $4,293,000 for section 401 of the Job Training Partnership Act, $5,743,000 for section 402 of such Act, $3,861,000 for service delivery areas under section 101(a)(4)(A)(iii) of such Act, $58,000,000 for carrying out title II, part A of such Act, $272,010,000 for carrying out title II, part C of such Act, $2,223,000 for the National Commission for Employment Policy and $500,000 for the National Occupational Information Coordinating Committee: *Provided*, That service delivery areas may transfer up to 50 percent of the amounts allocated for program years 1994 and 1995 between the title II–B and title II–C programs authorized by the Job Training Partnership Act, if such transfers are approved by the Governor.

COMMUNITY SERVICE EMPLOYMENT FOR OLDER AMERICANS

(RESCISSIONS)

Of the funds made available in the first paragraph under this heading in Public Law 103–333, $11,263,000 are rescinded.

Of the funds made available in the second paragraph under this heading in Public Law 103–333, $3,177,000 are rescinded.

STATE UNEMPLOYMENT INSURANCE AND EMPLOYMENT SERVICE OPERATIONS

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $20,000,000 are rescinded, and amounts which may be expended from the Employment Security Administration account in the Unemployment Trust Fund are reduced from $3,269,097,000 to $3,201,397,000.

BUREAU OF LABOR STATISTICS

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $700,000 are rescinded.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

HEALTH RESOURCES AND SERVICES ADMINISTRATION

HEALTH RESOURCES AND SERVICES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $41,350,000 are rescinded.

CENTERS FOR DISEASE CONTROL AND PREVENTION

DISEASE CONTROL, RESEARCH, AND TRAINING

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $2,300,000 are rescinded.

NATIONAL INSTITUTES OF HEALTH

NATIONAL CENTER FOR RESEARCH RESOURCES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333 for extramural facilities construction grants, $10,000,000 are rescinded.

BUILDINGS AND FACILITIES

(RESCISSION)

Of the available balances under this heading, $60,000,000 are rescinded.

ASSISTANT SECRETARY FOR HEALTH

OFFICE OF THE ASSISTANT SECRETARY FOR HEALTH

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $1,400,000 are rescinded.

AGENCY FOR HEALTH CARE POLICY AND RESEARCH

HEALTH CARE POLICY AND RESEARCH

(RESCISSION)

Of the Federal funds made available under this heading in Public Law 103–333, $3,132,000 are rescinded.

HEALTH CARE FINANCING ADMINISTRATION

PROGRAM MANAGEMENT

(RESCISSION)

Funds made available under this heading in Public Law 103–333 are reduced from $2,207,135,000 to $2,187,435,000, and funds transferred to this account as authorized by section 201(g) of the Social Security Act are reduced to the same amount.

ADMINISTRATION FOR CHILDREN AND FAMILIES

JOB OPPORTUNITIES AND BASIC SKILLS

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, there is rescinded an amount equal to the total of the funds within each State's limitation for fiscal year 1995 that are not necessary to pay such State's allowable claims for such fiscal year.

Section 403(k)(3)(E) of the Social Security Act (as amended by Public Law 100–485) is amended by adding before the "and": "reduced by an amount equal to the total of those funds that are within each State's limitation for fiscal year 1995 that are not necessary to pay such State's allowable claims for such fiscal year (except that such amount for such year shall be deemed to be $1,300,000,000 for the purpose of determining the amount of the payment under subsection (l) to which each State is entitled),".

LOW INCOME HOME ENERGY ASSISTANCE

(RESCISSION)

Of the funds made available in the third paragraph under this heading in Public Law 103–333, $319,204,000 are rescinded: *Provided*, That of the funds made available in the fourth paragraph under this heading in Public Law 103–333, $300,000,000 shall remain available until September 30, 1996.

STATE LEGALIZATION IMPACT-ASSISTANCE GRANTS

(RESCISSION)

Of the funds made available in the second paragraph under this heading in Public Law 103–333, $2,000,000 are rescinded.

COMMUNITY SERVICES BLOCK GRANT

(RESCISSIONS)

Of the funds made available under this heading in Public Law 103–333, $13,387,000 are rescinded.

Of the funds made available under this heading in Public Law 103–333 and reserved by the Secretary pursuant to section 674(a)(1) of the Community Services Block Grant Act, $1,900,000 are rescinded.

CHILDREN AND FAMILIES SERVICES PROGRAMS

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333 to be derived from the Violent Crime Reduction Trust Fund, $15,900,000 are rescinded for carrying out the Community Schools Youth Services and Supervision Grant Program Act of 1994: *Provided*, That the funds available for obligation under this heading after this rescission may only be used for academic or tutorial programs.

ADMINISTRATION ON AGING

AGING SERVICES PROGRAMS

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $899,000 are rescinded.

OFFICE OF THE SECRETARY

POLICY RESEARCH

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $4,018,000 are rescinded.

DEPARTMENT OF EDUCATION

EDUCATION REFORM

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $34,030,000 are rescinded, including $10,000,000 from funds made available for State and local education systemic improvement, and $21,530,000 from funds made available for Federal activities under the Goals 2000: Educate America Act; and $2,500,000 from funds made available under the School-to-Work Opportunities Act for National programs.

EDUCATION FOR THE DISADVANTAGED

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $4,606,000 are rescinded from part E, section 1501 of the Elementary and Secondary Education Act.

SCHOOL IMPROVEMENT PROGRAMS

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $182,940,000 are rescinded as follows: From the Elementary and Secondary Education Act, title II–B, $69,000,000, title IV, $15,981,000, title V–C, $16,000,000, title IX–B, $3,000,000, title X–D, $1,500,000, title X–G, $1,185,000, section 10602, $1,399,000, title XII, $35,000,000, and title XIII–A, $14,900,000; from the Higher Education Act, section 596, $13,875,000; and from funds derived from the Violent Crime Reduction Trust Fund, $11,100,000.

BILINGUAL AND IMMIGRANT EDUCATION

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $38,500,000 are rescinded from funding for title VII–A of the Elementary and Secondary Education Act.

VOCATIONAL AND ADULT EDUCATION

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $90,607,000 are rescinded as follows: From the Carl D. Perkins Vocational and Applied Technology Education Act, title III–A, and III–B, $43,888,000, and from title IV–A, IV–B and IV–C, $23,434,000; from the Adult Education Act, part B–7, $7,787,000 and part C, section 371, $6,000,000; and from the Stewart B. McKinney Homeless Assistance Act, $9,498,000.

STUDENT FINANCIAL ASSISTANCE

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $85,000,000 are rescinded from funding for the Higher Education Act, title IV, including $65,000,000 from part A–1 and $20,000,000 from part H–1: *Provided*, That of the funds remaining under this heading from Public Law 103–333, $6,178,680,000 shall be for part A–1.

HIGHER EDUCATION

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $43,472,000 are rescinded as follows: From amounts available for Public Law 99–498, $500,000; the Higher Education Act, title IV–A, chapter 5, $496,000, title V–C, subparts 1 and 3, $16,175,000, title IX–B, $10,100,000, title IX–C, $942,000, title IX–E, $3,520,000, title IX–G, $1,698,000, title X–D, $2,920,000, and title XI–A, $3,000,000; Public Law 102–325, $1,000,000; and the Excellence in Mathematics, Science, and Engineering Education Act of 1990, $3,121,000: *Provided*, That in carrying out title IX–B, the remaining appropriations shall not be available for awards for doctoral study: *Provided further*, That the funds remaining for Public Law 99–498 shall be available only for native Alaskans.

HOWARD UNIVERSITY

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $1,800,000 are rescinded.

COLLEGE HOUSING AND ACADEMIC FACILITIES LOANS PROGRAM

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333 for the costs of direct loans, as authorized under part C of title VII of the Higher Education Act, as amended, $168,000 are rescinded, and the authority to subsidize gross loan obligations is repealed. In addition, $264,000 appropriated for administrative expenses are rescinded.

EDUCATION RESEARCH, STATISTICS, AND IMPROVEMENT

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $30,925,000 are rescinded as follows: From the Elementary and Secondary Education Act, title III–A, $17,500,000, title III–B, $5,000,000, title III–D, $1,125,000, title X–B, $4,600,000 and title XIII–B, $2,700,000: *Provided*, That of the amount made available under this heading in Public Law 103–333, for title III–B, $8,000,000 shall be reserved for additional projects that competed in the most recent competition for statewide fiber-optics projects.

RELATED AGENCIES

CORPORATION FOR PUBLIC BROADCASTING

(RESCISSION)

Of the funds made available under this heading in Public Law 103–112, $37,000,000 are rescinded. Of the funds made available under this heading in Public Law 103–333, $55,000,000 are rescinded.

RAILROAD RETIREMENT BOARD

DUAL BENEFITS PAYMENTS ACCOUNT

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $7,000,000 are rescinded.

GENERAL PROVISIONS

FEDERAL DIRECT STUDENT LOAN PROGRAM

SEC. 601. Section 458(a) of the Higher Education Act of 1965 (20 U.S.C. 1087h(a)) is amended—

(1) by striking "$345,000,000" and inserting "$284,000,000"; and

(2) by striking "$2,500,000,000" and inserting "$2,439,000,000".

SEC. 602. None of the funds made available in any appropriations Act for fiscal year 1995 may be used by the Occupational Safety and Health Administration to promulgate or issue any proposed or final standard or guideline regarding ergonomic protection. Nothing in this section shall be construed to limit the Occupational Safety and Health Administration from conducting any peer-reviewed risk assessment activity regarding ergonomics, including conducting peer reviews of the scientific basis for establishing any standard or guideline, direct or contracted research, or other activity necessary to fully establish the scientific basis for promulgating any standard or guideline on ergonomic protection.

CHAPTER VII

LEGISLATIVE BRANCH

HOUSE OF REPRESENTATIVES

PAYMENTS TO WIDOWS AND HEIRS OF DECEASED MEMBERS OF CONGRESS

For payment to the family trust of Dean A. Gallo, late a Representative from the State of New Jersey, $133,600.

JOINT ITEMS

JOINT ECONOMIC COMMITTEE

(RESCISSION)

Of the funds made available under this heading in Public Law 103–283, $460,000 are rescinded.

JOINT COMMITTEE ON PRINTING

(RESCISSION)

Of the funds made available under this heading in Public Law 103–283, $238,137 are rescinded.

OFFICE OF TECHNOLOGY ASSESSMENT

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–283, $650,000 are rescinded.

CONGRESSIONAL BUDGET OFFICE

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–283, $187,000 are rescinded.

ARCHITECT OF THE CAPITOL

CAPITOL BUILDINGS AND GROUNDS

SENATE OFFICE BUILDINGS

(RESCISSION)

Of the funds made available under this heading in Public Law 103–283, $850,000 are rescinded.

CAPITOL POWER PLANT

(RESCISSION)

Of the funds made available under this heading in Public Law 103–283, $1,650,000 are rescinded.

ADMINISTRATIVE PROVISION

SEC. 701. Section 319 of the Legislative Branch Appropriations Act, 1990 (40 U.S.C. 162–1) is amended—

(1) by striking out "Office" each place it appears and inserting in lieu thereof "office";

(2) in the second sentence of subsection (a)(2), by striking out "Commission" and inserting in lieu thereof "commission"; and

(3) in subparagraph (D) of paragraph (2) of subsection (a), by striking out "Administration" and all that follows through the end of the subparagraph, and inserting in lieu thereof "Oversight of the House of Representatives, the Committee on Rules and Administration of the Senate, the Committee on Appropriations of the House of Representatives, and the Committee on Appropriations of the Senate.".

GOVERNMENT PRINTING OFFICE

CONGRESSIONAL PRINTING AND BINDING

(RESCISSION)

Of the funds made available under this heading in Public Law 103–283, $5,000,000 are rescinded.

OFFICE OF SUPERINTENDENT OF DOCUMENTS

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–283, $600,000 are rescinded.

BOTANIC GARDEN

SALARIES AND EXPENSES

(RESCISSION AND TRANSFER OF FUNDS)

Of the funds made available until expended by transfer under this heading in Public Law 103–283, $4,000,000 are rescinded.

Of the funds made available until expended by transfer under this heading in Public Law 103–283, $3,000,000 shall be transferred to the appropriation "Architect of the Capitol, Capitol Buildings and Grounds, Capitol Complex Security Enhancements", and shall remain available until expended.

LIBRARY OF CONGRESS

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–283, $150,000 are rescinded.

BOOKS FOR THE BLIND AND PHYSICALLY HANDICAPPED

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–283, $100,000 are rescinded.

GENERAL ACCOUNTING OFFICE

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–283, $2,617,000 are rescinded.

ADMINISTRATIVE PROVISION

SEC. 702. The General Accounting Office may for such employees as it deems appropriate authorize a payment to employees who voluntarily separate before October 1, 1995, whether by retirement or resignation, which payment shall be paid in accordance with the provisions of section 5597(d) of title 5, United States Code.

CHAPTER VIII

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES

DEPARTMENT OF TRANSPORTATION

OFFICE OF THE SECRETARY

WORKING CAPITAL FUND

(RESCISSION)

The obligation authority under this heading in Public Law 103–331 is hereby reduced by $6,000,000.

PAYMENTS TO AIR CARRIERS

(AIRPORT AND AIRWAY TRUST FUND)

(RESCISSION OF CONTRACT AUTHORIZATION)

Of the funds made available under this account, $5,300,000 are rescinded: *Provided*, That the Secretary shall not enter into any contracts for "Small Community Air Service" beyond September 30, 1995, which require compensation fixed and determined under subchapter II of chapter 417 of title 49, United States Code (49 U.S.C. 41731–42) payable by the Department of Transportation.

COAST GUARD

OPERATING EXPENSES

(RESCISSION)

Of the amounts provided under this heading in Public Law 103–331, $4,300,000 are rescinded.

ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

(RESCISSION)

Of the available balances under this heading, $35,314,000 are rescinded.

ENVIRONMENTAL COMPLIANCE AND RESTORATION

(RESCISSION)

Of the available balances under this heading, $2,500,000 are rescinded.

FEDERAL AVIATION ADMINISTRATION

OPERATIONS

(RESCISSION)

Of the available balances under this heading, $1,000,000 are rescinded.

FACILITIES AND EQUIPMENT

(AIRPORT AND AIRWAY TRUST FUND)

(RESCISSION)

Of the available balances under this heading, $24,850,000 are rescinded.

RESEARCH, ENGINEERING, AND DEVELOPMENT

(AIRPORT AND AIRWAY TRUST FUND)

(RESCISSION)

Of the available balances under this heading, $7,500,000 are rescinded.

GRANTS-IN-AID FOR AIRPORTS

(AIRPORT AND AIRWAY TRUST FUND)

(RESCISSION OF CONTRACT AUTHORIZATION)

Of the available contract authority balances under this account, $2,094,000,000 are rescinded.

FEDERAL HIGHWAY ADMINISTRATION

LIMITATION ON GENERAL OPERATING EXPENSES

(RESCISSION OF CONTRACT AUTHORIZATION)

The obligation limitation under this heading in Public Law 103–331 is hereby reduced by $54,550,000.

FEDERAL-AID HIGHWAYS

(LIMITATION ON OBLIGATIONS)

(HIGHWAY TRUST FUND)

(RESCISSIONS OF CONTRACT AUTHORIZATION)

The obligation limitation under this heading in Public Law 103–331 is hereby reduced by $132,190,000, of which $27,640,000 shall be deducted from amounts made available for the Applied Research and Technology Program authorized under section 307(e) of title 23, United States Code, and $50,000,000 shall be deducted from the amounts available for the Congestion Pricing Pilot Program authorized under section 1002(b) of Public Law 102–240, and $54,550,000 shall be deducted from the limitation on General Operating Expenses: *Provided*, That the amounts deducted from the aforementioned programs are rescinded.

FEDERAL-AID HIGHWAYS

EMERGENCY RELIEF PROGRAM

(HIGHWAY TRUST FUND)

(RESCISSION)

Of the amounts provided under this heading in Public Law 103–211, $100,000,000 are rescinded.

FEDERAL RAILROAD ADMINISTRATION

OFFICE OF THE ADMINISTRATOR

(TRANSFER OF FUNDS)

Section 341 of Public Law 103–331 is amended by deleting "and received from the Delaware and Hudson Railroad," after "amended,".

NORTHEAST CORRIDOR IMPROVEMENT PROGRAM

(RESCISSION)

Of the available balances under this heading, $9,707,000 are rescinded.

NATIONAL MAGNETIC LEVITATION PROTOTYPE DEVELOPMENT PROGRAM

(HIGHWAY TRUST FUND)

(RESCISSION OF CONTRACT AUTHORIZATION)

Of the available balances of contract authority under this heading, $250,000,000 are rescinded.

FEDERAL TRANSIT ADMINISTRATION

TRANSIT PLANNING AND RESEARCH

(RESCISSION)

Of the available balances under this heading, $7,000,000 are rescinded.

DISCRETIONARY GRANTS

(LIMITATION ON OBLIGATIONS)

(HIGHWAY TRUST FUND)

(RESCISSIONS OF CONTRACT AUTHORIZATION)

Notwithstanding section 313 of Public Law 103–331, the obligation limitations under this heading in the following Department of Transportation and Related Agencies Appropriations Acts are reduced by the following amounts:

Public Law 102–143, $31,681,500, to be distributed as follows:

(a) $1,281,500 is rescinded from amounts made available for replacement, rehabilitation, and purchase of buses and related equipment and the construction of bus-related facilities: *Provided*, That the foregoing reduction shall be distributed according to the reductions identified in Senate Report 104–17, for which the obligation limitation in Public Law 102–143 was applied; and

(b) $30,400,000 is rescinded from amounts made available for new fixed guideway systems, to be distributed as follows:

$1,000,000, Cleveland Dual Hub Corridor Project;

$465,000, Kansas City-South LRT Project;

$950,000, San Diego Mid-Coast Extension Project;

$17,100,000, Hawthorne-Warwick Commuter Rail Project;

$375,000, New York Staten Island Midtown Ferry Project;

$4,000,000, San Jose-Gilroy Commuter Rail Project;

$1,620,000, Seattle-Tacoma Commuter Rail Project; and

$4,890,000, Detroit LRT Project.

Public Law 101–516, $2,230,000, to be distributed as follows:

(a) $2,230,000 is rescinded from amounts made available for new fixed guideway systems, for the Cleveland Dual Hub Corridor Project.

MASS TRANSIT CAPITAL FUND

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(HIGHWAY TRUST FUND)

For an additional amount for liquidation of obligations incurred in carrying out section 5338(b) of title 49, United States Code, $350,000,000, to be derived from the Highway Trust Fund and to remain available until expended.

GENERAL PROVISIONS

(INCLUDING RESCISSIONS)

SEC. 801. Of the funds provided in Public Law 103–331 for the Department of Transportation working capital fund (WCF), $6,000,000 are rescinded, which limits fiscal year 1995 WCF obligational authority for elements of the Department of Transportation funded in

Public Law 103-331 to no more than $87,000,000.

SEC. 802. Of the total budgetary resources available to the Department of Transportation (excluding the Maritime Administration) during fiscal year 1995 for civilian and military compensation and benefits and other administrative expenses, $15,000,000 are permanently canceled.

SEC. 803. Section 326 of Public Law 103-122 is hereby amended to delete the words "or previous Acts" each time they appear in that section.

CHAPTER IX

TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT

INDEPENDENT AGENCIES

GENERAL SERVICES ADMINISTRATION

FEDERAL BUILDINGS FUND

(TRANSFER OF FUNDS)

Of the funds made available for the Federal Buildings Fund in Public Law 103-329, $5,000,000 shall be made available by the General Services Administration to implement an agreement between the Food and Drug Administration and another entity for space, equipment and facilities related to seafood research.

OFFICE OF PERSONNEL MANAGEMENT

GOVERNMENT PAYMENT FOR ANNUITANTS, EMPLOYEE LIFE INSURANCE BENEFITS

For an additional amount for "Government payment for annuitants, employee life insurance", $9,000,000 to remain available until expended.

DEPARTMENT OF THE TREASURY

DEPARTMENTAL OFFICES

SALARIES AND EXPENSES

In the paragraph under this heading in Public Law 103-329, delete "of which not less than $6,443,000 and 85 full-time equivalent positions shall be available for enforcement activities;".

(RESCISSION)

Of the funds made available under this heading in Public Law 103-329, $100,000 are rescinded.

FEDERAL LAW ENFORCEMENT TRAINING CENTER

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $11,000,000, to remain available until September 30, 1996.

In the paragraph under this heading in Public Law 103-329, delete "first-aid and emergency" and insert "short-term" before "medical services".

ACQUISITION, CONSTRUCTION, IMPROVEMENTS, AND RELATED EXPENSES

(RESCISSION)

Of the funds made available for construction at the Davis-Monthan Training Center under Public Law 103-123, $5,000,000 are rescinded. Of the funds made available for construction at the Davis-Monthan Training Center under Public Law 103-329, $6,000,000 are rescinded: *Provided*, That $1,000,000 of the remaining funds made available under Public Law 103-123 shall be used to initiate design and construction of a Burn Building at the Training Center in Glynco, Georgia.

FINANCIAL MANAGEMENT SERVICE

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 103-329, $160,000 are rescinded.

BUREAU OF THE PUBLIC DEBT

ADMINISTERING THE PUBLIC DEBT

(RESCISSION)

Of the funds made available under this heading in Public Law 103-123, $1,500,000 are rescinded.

UNITED STATES MINT

SALARIES AND EXPENSES

In the paragraph under this heading in Public Law 103-329, insert "not to exceed" after "of which".

INTERNAL REVENUE SERVICE

INFORMATION SYSTEMS

(RESCISSION)

Of the funds made available under this heading in Public Law 103-329, $1,490,000 are rescinded.

ADMINISTRATIVE PROVISION—INTERNAL REVENUE SERVICE

In the paragraph under this heading in Public Law 103-329, in section 3, after "$119,000,000", insert "annually".

EXECUTIVE OFFICE OF THE PRESIDENT AND FUNDS APPROPRIATED TO THE PRESIDENT

THE WHITE HOUSE OFFICE

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 103-329, $171,000 are rescinded.

FEDERAL DRUG CONTROL PROGRAMS

SPECIAL FORFEITURE FUND

(INCLUDING RESCISSION AND TRANSFER OF FUNDS)

For activities authorized by Public Law 100-690, an additional amount of $13,200,000, to remain available until expended for transfer to the United States Customs Service, "Salaries and expenses" for carrying out border enforcement activities: *Provided*, That of the funds made available under this heading in Public Law 103-329, $13,200,000 are rescinded.

INDEPENDENT AGENCIES

GENERAL SERVICES ADMINISTRATION

FEDERAL BUILDINGS FUND

LIMITATIONS ON THE AVAILABILITY OF REVENUE

(RESCISSION)

Of the funds made available under this heading in Public Laws 101-136, 101-509, 102-27, 102-141, 102-393, 103-123, 103-329, $631,412,000 are rescinded from the following projects in the following amounts:

Arizona:

Bullhead City, a grant to the Federal Aviation Administration for a runway protection zone, $2,200,000.

Lukeville, commercial lot expansion, $1,219,000.

Nogales, U.S. Border Patrol Sector, headquarters, $2,000,000.

Phoenix, U.S. Courthouse, $12,137,000.

San Luis, primary lane expansion and administrative office space, $3,496,000.

Sierra Vista, U.S. Magistrates office, $1,000,000.

California:

Menlo Park, United States Geological Survey, Office laboratory building, $790,000.

San Francisco, Federal Office Building, $9,701,000.

District of Columbia:

Central and West heating plants, $5,000,000.

Corps of Engineers, headquarters, $37,618,000.

General Services Administration, Southeast Federal Center, headquarters, $25,000,000.

U.S. Secret Service, headquarters, $9,316,000.

Florida:

Tampa, U.S. Courthouse, $5,994,000.

Georgia:

Albany, U.S. Courthouse, $87,000.

Atlanta, Centers for Disease Control, site acquisition and improvement, $25,890,000.

Atlanta, Centers for Disease Control, $14,110,000.

Hawaii:

University of Hawaii-Hilo, Consolidation, $12,000,000.

Illinois:

Chicago, Social Security Administration District Office, $2,130,000.

Chicago, Federal Center, $29,753,000.

Chicago, John C. Kluczynski, Jr., Federal building, $13,414,000.

Maryland:

Avondale, De LaSalle building, $16,671,000.

Montgomery County, FDA consolidation, $228,000,000.

Woodlawn, SSA East High-Low building, $17,292,000.

Massachusetts:

Boston, Federal building-U.S. Courthouse, $4,076,000.

Nevada:

Reno, Federal building-U.S. Courthouse, $1,465,000.

New Hampshire:

Concord, Federal building-U.S. Courthouse, $3,519,000.

New Jersey:

Newark, parking facility, $8,500,000.

New Mexico:

Santa Teresa, Border Station, $4,004,000.

North Dakota:

Fargo, Federal building-U.S. Courthouse, $1,371,000.

Ohio:

Steubenville, U.S. Courthouse, $2,820,000.

Oregon:

Portland, U.S. Courthouse, $5,000,000.

Pennsylvania:

Philadelphia, Veterans Administration, $1,276,000.

Texas:

Ysleta, site acquisition and construction, $1,727,000.

United States Virgin Islands:

Charlotte Amalie, St. Thomas, U.S. Courthouse Annex, $2,184,000.

Washington:

Seattle, U.S. Courthouse, $10,949,000.

Walla Walla, Corps of Engineers building, $2,800,000.

West Virginia:

Wheeling, Federal building and U.S. Courthouse, $28,303,000.

Nationwide:

Chlorofluorocarbons program, $33,300,000.

Energy program, $45,300,000.

FEDERAL ELECTION COMMISSION

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 103-329, $1,396,000 are rescinded.

OFFICE OF PERSONNEL MANAGEMENT

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 103-329, $3,140,000 are rescinded.

GENERAL PROVISIONS

SEC. 901. Section 5545a of title 5, United States Code, is amended—

(1) in subsection (a)(2)—

(A) in the matter before subparagraph (A) by striking "is required to" and inserting in lieu thereof "who is required to"; and

(B) by inserting "and" immediately after subparagraph (E)(v); and

(2) by adding at the end thereof the following new subsection:

"(j) Notwithstanding any other provision of this section, any Office of Inspector General which employs fewer than 5 criminal investigators may elect not to cover such criminal investigators under this section.".

SEC. 902. (a) Section 5545a of title 5, United States Code, is amended by inserting at the appropriate place the following new subsection:

"(i) The provisions of subsections (a)-(h) providing for availability pay shall apply to a pilot employed by the United States Customs Service who is a law enforcement officer as defined under section 5541(3). For the purpose of this section, section 5542(d) of this title, and section 13 (a)(16) and (b)(30) of the Fair Labor Standards Act of 1938 (29 U.S.C. 213 (a)(16) and (b)(30)), such pilot shall be deemed to be a criminal investigator as defined in this section. The Office of Personnel Management may prescribe regulations to carry out this subsection.".

(b) The amendment made by subsection (a) of this section shall take effect on the first day of the first applicable pay period which begins on or after the 30th day following the date of enactment of this Act.

SEC. 903. Section 528 of Public Law 103-329 is amended by adding at the end a new proviso: "*Provided further*, That the amount set forth therefor in the budget estimates may be exceeded by no more than 5 percent in the event of emergency requirements.".

CHAPTER X

DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES

INDEPENDENT AGENCIES

FEDERAL EMERGENCY MANAGEMENT AGENCY

DISASTER RELIEF

For an additional amount for "Disaster Relief" for necessary expenses in carrying out the functions of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), $3,275,000,000, to remain available until expended: *Provided*, That such amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

DISASTER RELIEF EMERGENCY CONTINGENCY FUND

For necessary expenses in carrying out the functions of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), $3,275,000,000, to become available on October 1, 1995, and remain available until expended: *Provided*, That such amount shall be available only to the extent that an official budget request for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to Congress: *Provided further*, That such amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

NATIONAL FLOOD INSURANCE FUND

(TRANSFER OF FUNDS)

Of the funds available from the National Flood Insurance Fund for activities under the National Flood Insurance Reform Act of 1994, an additional amount not to exceed $331,000 shall be transferred as needed to the "Salaries and expenses" appropriation for flood mitigation and flood insurance operations, and an additional amount not to exceed $5,000,000 shall be transferred as needed to the "Emergency management planning and assistance" appropriation for flood mitigation expenses pursuant to the National Flood Insurance Reform Act of 1994.

DEPARTMENT OF VETERANS AFFAIRS

VETERANS HEALTH ADMINISTRATION

MEDICAL CARE

(RESCISSION)

Of the funds made available under this heading in Public Law 103-327, $50,000,000 are rescinded: *Provided*, That section 509 of the general provisions carried in title V of Public Law 103-327 regarding personnel compensation and benefits expenditures shall not apply to the funds provided under this heading in such Act.

DEPARTMENTAL ADMINISTRATION

CONSTRUCTION, MAJOR PROJECTS

(RESCISSION)

Of the funds made available under this heading in Public Law 103-327 and prior years, $31,000,000 are rescinded.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

HOUSING PROGRAMS

NATIONAL HOMEOWNERSHIP TRUST DEMONSTRATION PROGRAM

(RESCISSION)

Of the funds made available under this heading in Public Law 103-327, $50,000,000 are rescinded.

ANNUAL CONTRIBUTIONS FOR ASSISTED HOUSING

(RESCISSION)

Of the funds made available under this heading in Public Law 103-327 and any unobligated balances from funds appropriated under this heading in prior years, $5,131,400,000 are rescinded: *Provided*, That of the total rescinded under this heading, $700,600,000 shall be from amounts earmarked for development or acquisition costs of public housing (including $80,000,000 of funds for public housing for Indian families), except that such rescission shall not apply to funds for priority replacement housing for units demolished or disposed of (including units to be disposed of pursuant to a homeownership program under section 5(h) or title III of the United States Housing Act of 1937, as amended (hereinafter referred to as "the Act")) from the existing public housing inventory, as determined by the Secretary, or to funds related to litigation settlements or court orders, and the Secretary shall not be required to make any remaining funds available pursuant to section 213(d)(1)(A) of the Housing and Community Development Act of 1974 and notwithstanding any other provision of law, the Secretary may recapture unobligated funds for development or acquisition costs of public housing (including public housing for Indians) irrespective of the length of time funds have been reserved or of any time extension previously granted by the Secretary; $1,956,000,000 shall be from amounts earmarked for new incremental rental subsidy contracts under the section 8 existing housing certificate program (42 U.S.C. 1437f) and the housing voucher program under section 8(o) of the Act (42 U.S.C. 1437f(o)), excluding $300,000,000 previously made available for the Economic Development Initiative (EDI), and the remaining authority for such purposes shall be only for units necessary to provide housing assistance for residents to be relocated from existing federally subsidized or assisted housing, for replacement housing for units demolished or disposed of (including units to be disposed of pursuant to a homeownership program under section 5(h) or title III of the United States Housing Act of 1937) from the public housing inventory, for funds related to litigation settlements or court orders, for amendments to contracts to permit continued assistance to participating families, or to enable public housing authorities to implement "mixed population" plans for developments housing primarily elderly residents; $815,000,000 shall be from amounts earmarked for the modernization of existing public housing projects pursuant to section 14 of the United States Housing Act of 1937, and the Secretary shall take actions necessary to assure that such rescission is distributed among public housing authorities, as if such rescission occurred prior to the commencement of the fiscal year; $22,000,000 shall be from amounts earmarked for special purpose grants; $148,300,000 shall be from amounts earmarked for loan management set-asides; $15,000,000 shall be from amounts earmarked for the family unification program; $15,000,000 shall be from amounts earmarked for the housing opportunities for persons with AIDS program; $34,200,000 shall be from amounts earmarked for lease adjustments; $39,000,000 shall be from amounts previously made available under this head in Public Law 103-327, and previous Acts, which are recaptured (in addition to other sums which are, or may be recaptured); $70,000,000 shall be from amounts earmarked for section 8 counseling; $50,000,000 shall be from amounts earmarked for service coordinators; $66,000,000 shall be from amounts earmarked for family investment centers; $85,300,000 shall be from amounts earmarked for the lead-based paint hazard reduction program; and $1,115,000,000 shall be from funds available for all new incremental units (including funds previously reserved or obligated and recaptured for the development or acquisition costs of public housing (including public housing for Indian families), incremental rental subsidy contracts under the section 8 existing housing certificate program (42 U.S.C. 1437f), and the housing voucher program under section 8(o) of the Act (42 U.S.C. 1437f(o))) and non-incremental, unobligated balances: *Provided further*, That in allocating this $1,115,000,000 rescission, the Secretary may reduce the appropriations needs of the Department by (1) waiving any provision of section 202 of the Housing Act of 1959 and section 811 of the National Affordable Housing Act (including the provisions governing the terms and conditions of project rental assistance) that the Secretary determines is not necessary to achieve the objectives of these programs, or that otherwise impedes the ability to develop, operate or administer projects assisted under these programs, and may make provision for alternative conditions or terms where appropriate and (2) managing and disposing of HUD-owned and HUD-held multifamily properties without regard to any other provision of law: *Provided further*, That the Secretary shall submit to the appropriate committees of the Congress a detailed operating plan of proposed funding levels for activities under this account within 30 days of enactment of this Act, and such funding levels shall not be subject to pre-existing earmarks or set-asides, notwithstanding any other provision of law.

(DEFERRAL)

Of the funds made available under this heading in Public Law 103-327 and any unobligated balances from funds appropriated under this heading in prior years, $405,900,000 of amounts earmarked for the preservation of low-income housing programs (excluding $17,000,000 previously earmarked, plus an additional $5,000,000, for preservation technical assistance grant funds pursuant to section 253 of the Housing and Community Development Act of 1987, as amended) shall not become available for obligation until September 30, 1995: *Provided*, That, notwithstanding any other provision of law, pending the availability of such funds, the Department of Housing and Urban Development may suspend further processing of applications.

ASSISTANCE FOR THE RENEWAL OF EXPIRING SECTION 8 SUBSIDY CONTRACTS

(RESCISSION)

Of the funds made available under this heading in Public Law 103-327, and in prior years, $1,177,000,000 are rescinded: *Provided*, That renewals of expiring section 8 contracts with funds provided under this heading in Public Law 103-327, and in prior years, may be for a term of two years. In renewing an annual contributions contract with a public housing agency administering the tenant-based existing housing certificate program (42 U.S.C. 1437f) or the housing voucher program under section 8(o) (42 U.S.C. 1437f(o)) of the United States Housing Act of 1937, as amended, the Secretary shall take into account the amount in the project reserve under the contract being renewed in determining the amount of budget authority to obligate under the renewed contract (the total amount available in all such project reserves is estimated to be $427,000,000) and the Secretary may determine not to apply section 8(o)(6)(B) of the Act to renewals of housing vouchers during the remainder of fiscal year 1995.

CONGREGATE SERVICES

(RESCISSION)

Of the funds made available under this heading in Public Law 103-327 and any unobligated balances from funds appropriated under this heading in prior years, $37,000,000 are rescinded.

YOUTHBUILD PROGRAM

(RESCISSION)

Of the funds made available under this heading in Public Law 103-327, $10,000,000 are rescinded.

HOUSING COUNSELING ASSISTANCE

(RESCISSION)

Of the funds made available under this heading in Public Law 103-327, $38,000,000 are rescinded.

FLEXIBLE SUBSIDY FUND

(RESCISSION)

Of the funds made available under this heading in Public Law 103-327 and any unobligated balances from funds appropriated under this heading in prior years, and excess rental changes, collections and other amounts in the fund, $8,000,000 are rescinded.

NEHEMIAH HOUSING OPPORTUNITIES FUND

(RESCISSION)

Of the funds transferred to this revolving fund in prior years, $10,500,000 are rescinded.

HOMELESS ASSISTANCE

HOMELESS ASSISTANCE GRANTS

(DEFERRAL)

Of the funds made available under this heading in Public Law 103-327, $297,000,000 shall not become available for obligation until September 30, 1995.

ADMINISTRATIVE PROVISIONS

SEC. 1001. (a) Section 14 of the United States Housing Act of 1937 is amended by adding at the end the following new subsection:

"(q)(1) Notwithstanding any other provision of law, a public housing agency may use modernization assistance provided under section 14 for any eligible activity related to public housing which is currently authorized by this Act or applicable appropriations Acts for a public housing agency, including the demolition of existing units, for replacement housing, modernization activities related to the public housing portion of housing developments held in partnership, or cooperation with non-public housing entities, and for temporary relocation assistance, provided that the assistance provided to the public housing agency under section 14 is principally used for the physical improvement or replacement of public housing and for associated management improvements, except as otherwise approved by the Secretary, and provided the public housing agency consults with the appropriate local government officials (or Indian tribal officials) and with tenants of the public housing developments. The public housing agency shall establish procedures for consultation with local government officials and tenants, and shall follow applicable regulatory procedures as determined by the Secretary.

"(2) The authorization provided under this subsection shall not extend to the use of public housing modernization assistance for public housing operating assistance.".

(b) Subsection (a) shall be effective for assistance appropriated on or before the effective date of this Act.

SEC. 1002. (a) Section 18 of the United States Housing Act of 1937 is amended by—

(1) inserting "and" at the end of subsection (b)(1);

(2) striking all that follows after "Act" in subsection (b)(2) and inserting in lieu thereof the following: ", and the public housing agency provides for the payment of the relocation expenses of each tenant to be displaced, ensures that the rent paid by the tenant following relocation will not exceed the amount permitted under this Act and shall not commence demolition or disposition of any unit until the tenant of the unit is relocated.";

(3) striking subsection (b)(3);

(4) striking "(1)" in subsection (c);

(5) striking subsection (c)(2);

(6) inserting before the period at the end of subsection (d) the following: ": *Provided*, That nothing in this section shall prevent a public housing agency from consolidating occupancy within or among buildings of a public housing project, or among projects, or with other housing for the purpose of improving the living conditions of or providing more efficient services to its tenants";

(7) striking "under section (b)(3)(A)" in each place it occurs in subsection (e);

(8) redesignating existing subsection (f) as subsection (g); and

(9) inserting a new subsection (f) as follows:

"(f) Notwithstanding any other provision of law, replacement housing units for public housing units demolished may be built on the original public housing site or in the same neighborhood if the number of such replacement units is significantly fewer than the number of units demolished.".

(b) Section 304(g) of the United States Housing Act of 1937 is hereby repealed.

(c) Section 5(h) of the United States Housing Act of 1937 is amended by striking the last sentence.

(d) Subsections (a), (b), and (c) shall be effective for plans for the demolition, disposition or conversion to homeownership of public housing approved by the Secretary on or before September 30, 1995: *Provided*, That no application for replacement housing submitted by a public housing agency to implement a final order of a court issued, or a settlement approved by a court, before enactment of this Act, shall be affected by such amendments.

SEC. 1003. Section 8 of the United States Housing Act of 1937 is amended by adding the following new subsection:

"(z) TERMINATION OF SECTION 8 CONTRACTS AND REUSE OF RECAPTURED BUDGET AUTHORITY.—

"(1) GENERAL AUTHORITY.—The Secretary may reuse any budget authority, in whole or part, that is recaptured on account of termination of a housing assistance payments contract (other than a contract for tenant-based assistance) only for one or more of the following:

"(A) TENANT-BASED ASSISTANCE.—Pursuant to a contract with a public housing agency, to provide tenant-based assistance under this section to families occupying units formerly assisted under the terminated contract.

"(B) PROJECT-BASED ASSISTANCE.—Pursuant to a contract with an owner, to attach assistance to one or more structures under this section, for relocation of families occupying units formerly assisted under the terminated contract.

"(2) FAMILIES OCCUPYING UNITS FORMERLY ASSISTED UNDER TERMINATED CONTRACT.—Pursuant to paragraph (1), the Secretary shall first make available tenant- or project-based assistance to families occupying units formerly assisted under the terminated contract. The Secretary shall provide project-based assistance in instances only where the use of tenant-based assistance is determined to be infeasible by the Secretary.

"(3) EFFECTIVE DATE.—This subsection shall be effective for actions initiated by the Secretary on or before September 30, 1995.".

ELIGIBILITY OF STATE AND LOCAL PUBLIC HOUSING UNITS FOR COMPREHENSIVE GRANTS

SEC. 1003A. The first sentence of section 14(k)(2)(D)(i) of the United States Housing Act of 1937 is amended by striking "shall" and inserting the following: "shall, except as otherwise agreed by the Secretary and the agency,".

DEPARTMENT OF THE TREASURY

COMMUNITY DEVELOPMENT FINANCIAL INSTITUTIONS FUND

PROGRAM ACCOUNT

For grants, loans, and technical assistance to qualifying community development financial institutions, and administrative expenses of the Fund, $50,000,000, to remain available until September 30, 1996: *Provided*, That of the funds made available under this heading not to exceed $4,000,000 may be used for the cost of direct loans, and not to exceed $400,000 may be used for administrative expenses to carry out the direct loan program: *Provided further*, That the cost of direct loans, including the cost of modifying such loans, shall be defined as in section 502 of the Congressional Budget Act of 1974: *Provided further*, That such funds are available to subsidize gross obligations for the principal amount of direct loans not to exceed $31,600,000: *Provided further*, That none of these funds shall be used to supplement existing resources provided to the Department for activities such as external affairs, general counsel, administration, finance, or office of inspector general: *Provided further*, That none of these funds shall be available for expenses of an Administrator as defined in section 104 of the Community Development Banking and Financial Institutions Act of 1994 (CDBFI Act): *Provided further*, That the number of staff funded under this heading shall not exceed 10 full-time equivalents: *Provided further*, That notwithstanding any other provision of law, for purposes of administering the Community Development Financial Institutions Fund, the Secretary of the Treasury shall have all powers and rights of the Administrator of the CDBFI Act and the Fund shall be within the Department of the Treasury.

INDEPENDENT AGENCIES

Chemical Safety and Hazard Investigation Board

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–327, $500,000 are rescinded.

Community Development Financial Institutions

COMMUNITY DEVELOPMENT FINANCIAL INSTITUTIONS FUND

PROGRAM ACCOUNT

(RESCISSION)

Of the funds made available under this heading in Public Law 103–327, $124,000,000 are rescinded and any unobligated funds as of June 30, 1995 are also rescinded.

Corporation for National and Community Service

NATIONAL AND COMMUNITY SERVICE PROGRAMS OPERATING EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–327, $105,000,000 are rescinded.

Environmental Protection Agency

RESEARCH AND DEVELOPMENT

(RESCISSION)

Of the funds made available under this heading in Public Law 103–327, $14,635,000 are rescinded.

ABATEMENT, CONTROL, AND COMPLIANCE

(RESCISSION)

Of the funds made available under this heading in Public Law 103–327, $9,806,805 are rescinded: *Provided*, That notwithstanding any other provision of law, the Environmental Protection Agency shall not be required to site a computer to support the regional acid deposition monitoring program in the Bay City, Michigan, vicinity.

BUILDINGS AND FACILITIES

(RESCISSION)

Of the funds made available under this heading in Public Law 102–389 and Public Law 102–139 for the Center for Ecology Research and Training, $83,000,000 are rescinded.

HAZARDOUS SUBSTANCE SUPERFUND

(RESCISSION)

Of the funds made available under this heading in Public Law 103–327, $100,000,000 are rescinded.

WATER INFRASTRUCTURE/STATE REVOLVING FUNDS

(RESCISSION)

Of the funds made available under this heading in Public Law 103–327 and Public Law 103–124, $1,077,200,000 are rescinded: *Provided*, That $1,074,000,000 of this amount is to be derived from amounts appropriated for State revolving funds and $3,200,000 is to be derived from amounts appropriated for making grants for the construction of wastewater treatment facilities specified in House Report 103–715.

Administrative Provisions

SEC. 1004. None of the funds made available in any appropriations Act for fiscal year 1995 may be used by the Environmental Protection Agency to require any State to comply with the requirement of section 182 of the Clean Air Act by adopting or implementing a test-only or IM240 enhanced vehicle inspection and maintenance program, except that EPA may approve such a program if a State chooses to submit one to meet that requirement.

SEC. 1005. None of the funds made available in any appropriations Act for fiscal year 1995 may be used by the Environmental Protection Agency to impose or enforce any requirement that a State implement trip reduction measures to reduce vehicular emissions. Section 304 of the Clean Air Act (42 U.S.C. 7604) shall not apply with respect to any such requirement during the period beginning on the date of the enactment of this Act and ending September 30, 1995.

SEC. 1006. None of the funds made available in any appropriations Act for fiscal year 1995 may be used by the Environmental Protection Agency for listing or to list any additional facilities on the National Priorities List established by section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended (42 U.S.C. 9605), unless the Administrator receives a written request to propose for listing or to list a facility from the Governor of the State in which the facility is located, or unless legislation to reauthorize CERCLA is enacted.

SEC. 1007. None of the funds made available in any appropriations Act for fiscal year 1995 shall be spent by the Environmental Protection Agency to disapprove a State implementation plan (SIP) revision solely on the basis of the Agency's regulatory 50 percent discount for alternative test-and-repair inspection and maintenance programs. Notwithstanding any other provision of EPA's regulatory requirements, the EPA shall assign up to 100 percent credit when such State has provided data for the proposed inspection and maintenance system that demonstrates evidence that such credits are appropriate. The Environmental Protection Agency shall complete and present a technical assessment of the State's demonstration within 45 days after submittal by the State.

National Aeronautics and Space Administration

SCIENCE, AERONAUTICS AND TECHNOLOGY

(RESCISSION)

Of the funds made available under this heading in Public Law 103–327 and any unobligated balances from funds appropriated under "Research and Development" in prior years, $95,000,000 are rescinded.

CONSTRUCTION OF FACILITIES

(RESCISSION)

Of the funds made available under this heading in Public Law 102–389, for the Consortium for International Earth Science Information Network, $27,000,000 are rescinded; and of any unobligated balances from funds appropriated under this heading in prior years, $7,000,000 are rescinded.

MISSION SUPPORT

(RESCISSION)

Of the funds made available under this heading in Public Law 103–327, $32,000,000 are rescinded.

SPACE FLIGHT, CONTROL AND DATA COMMUNICATIONS

(RESCISSION)

Of the available balances under this heading in previous fiscal years, $43,000,000 are rescinded.

Administrative Provisions

(INCLUDING TRANSFER OF FUNDS)

SEC. 1008. The Administrator shall acquire, for no more than $35,000,000, a certain parcel of land, together with existing facilities, located on the site of the property referred to as the Clear Lake Development Facility, Clear Lake, Texas. The land and facilities in question comprise approximately 13 acres and include a Light Manufacturing Facility, an Avionics Development Facility, and an Assembly and Test Building which shall be modified for use as a Neutral Buoyancy Laboratory in support of human space flight activities.

SEC. 1009. Notwithstanding any other provision of law or regulation, the National Aeronautics and Space Administration (NASA) shall convey, without reimbursement, to the State of Mississippi, all rights, title and interest of the United States in the property known as the Yellow Creek Facility and consisting of approximately 1,200 acres near the city of Iuka, Mississippi, including all improvements thereon and also including any personal property owned by NASA that is currently located on-site and which the State of Mississippi requires to facilitate the transfer: *Provided*, That appropriated funds shall be used to effect this conveyance: *Provided further*, That $10,000,000 in appropriated funds otherwise available to NASA shall be transferred to the State of Mississippi to be used in the transition of the facility: *Provided further*, That each Federal agency with prior contact to the site shall remain responsible for any and all environmental remediation made necessary as a result of its activities on the site: *Provided further*, That in consideration of this conveyance, NASA may require such other terms and conditions as the Administrator deems appropriate to protect the interests of the United States: *Provided further*, That the conveyance of the site and the transfer of the funds to the State of Mississippi shall occur not later then thirty days from the date of enactment of this Act.

National Science Foundation

ACADEMIC RESEARCH INFRASTRUCTURE

(RESCISSION)

Of the funds made available under this heading in Public Law 103–327, $131,867,000 are rescinded.

CORPORATIONS

Federal Deposit Insurance Corporation

FDIC AFFORDABLE HOUSING PROGRAM

(RESCISSION)

Of the funds made available under this heading in Public Law 103–327, $11,281,034 are rescinded.

TITLE II—GENERAL PROVISIONS

EMERGENCY SALVAGE TIMBER SALE PROGRAM

SEC. 2001. (a) DEFINITIONS.—For purposes of this section:

(1) The term "appropriate committees of Congress" means the Committee on Resources, the Committee on Agriculture, and the Committee on Appropriations of the House of Representatives and the Committee on Energy and Natural Resources, the Committee on Agriculture, Nutrition, and Forestry, and the Committee on Appropriations of the Senate.

(2) The term "emergency period" means the period beginning on the date of the enactment of this section and ending on September 30, 1997.

(3) The term "salvage timber sale" means a timber sale for which an important reason for entry includes the removal of disease- or insect-infested trees, dead, damaged, or down trees, or trees affected by fire or imminently susceptible to fire or insect attack. Such term also includes the removal of associated trees or trees lacking the characteristics of a healthy and viable ecosystem for the purpose of ecosystem improvement or rehabilitation, except that any such sale must include an identifiable salvage component of trees described in the first sentence.

(4) The term "Secretary concerned" means—

(A) the Secretary of Agriculture, with respect to lands within the National Forest System; and

(B) the Secretary of the Interior, with respect to Federal lands under the jurisdiction of the Bureau of Land Management.

(b) COMPLETION OF SALVAGE TIMBER SALES.—

(1) SALVAGE TIMBER SALES.—Using the expedited procedures provided in subsection (c), the Secretary concerned shall prepare, advertise, offer, and award contracts during the emergency period for salvage timber sales from Federal lands described in subsection (a)(4). During the emergency period, the Secretary concerned is to achieve, to the maximum extent feasible, a salvage timber sale volume level above the programmed level to reduce the backlogged volume of salvage timber. The preparation, advertisement, offering, and awarding of such contracts shall be performed utilizing subsection (c) and notwithstanding any other provision of law, including a law under the authority of which any judicial order may be outstanding on or after the date of the enactment of this Act.

(2) USE OF SALVAGE SALE FUNDS.—To conduct salvage timber sales under this subsection, the Secretary concerned may use salvage sale funds otherwise available to the Secretary concerned.

(3) SALES IN PREPARATION.—Any salvage timber sale in preparation on the date of the enactment of this Act shall be subject to the provisions of this section.

(c) EXPEDITED PROCEDURES FOR EMERGENCY SALVAGE TIMBER SALES.—

(1) SALE DOCUMENTATION.—

(A) PREPARATION.—For each salvage timber sale conducted under subsection (b), the Secretary concerned shall prepare a document that combines an environmental assessment under section 102(2) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(E)) (including regulations implementing such section) and a biological evaluation under section 7(a)(2) of the Endangered Species Act of 1973 (16 U.S.C. 1536(a)(2)) and other applicable Federal law and implementing regulations. A document embodying decisions relating to salvage timber sales proposed under authority of this section shall, at the sole discretion of the Secretary concerned and to the extent the Secretary concerned considers appropriate and feasible, consider the environmental effects of the salvage timber sale and the effect, if any, on threatened or endangered species, and to the extent the Secretary concerned, at his sole discretion, considers appropriate and feasible, be consistent with any standards and guidelines from the management plans applicable to the National Forest or Bureau of Land Management District on which the salvage timber sale occurs.

(B) USE OF EXISTING MATERIALS.—In lieu of preparing a new document under this paragraph, the Secretary concerned may use a document prepared pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) before the date of the enactment of this Act, a biological evaluation written before such date, or information collected for such a document or evaluation if the document, evaluation, or information applies to the Federal lands covered by the proposed sale.

(C) SCOPE AND CONTENT.—The scope and content of the documentation and information prepared, considered, and relied on under this paragraph is at the sole discretion of the Secretary concerned.

(2) REPORTING REQUIREMENTS.—Not later than August 30, 1995, the Secretary concerned shall submit a report to the appropriate committees of Congress on the implementation of this section. The report shall be updated and resubmitted to the appropriate committees of Congress every six months thereafter until the completion of all salvage timber sales conducted under subsection (b). Each report shall contain the following:

(A) The volume of salvage timber sales sold and harvested, as of the date of the report, for each National Forest and each district of the Bureau of Land Management.

(B) The available salvage volume contained in each National Forest and each district of the Bureau of Land Management.

(C) A plan and schedule for an enhanced salvage timber sale program for fiscal years 1995, 1996, and 1997 using the authority provided by this section for salvage timber sales.

(D) A description of any needed resources and personnel, including personnel reassignments, required to conduct an enhanced salvage timber sale program through fiscal year 1997.

(E) A statement of the intentions of the Secretary concerned with respect to the salvage timber sale volume levels specified in the joint explanatory statement of managers accompanying the conference report on H.R. 1158, House Report 104-124.

(3) ADVANCEMENT OF SALES AUTHORIZED.—The Secretary concerned may begin salvage timber sales under subsection (b) intended for a subsequent fiscal year before the start of such fiscal year if the Secretary concerned determines that performance of such salvage timber sales will not interfere with salvage timber sales intended for a preceding fiscal year.

(4) DECISIONS.—The Secretary concerned shall design and select the specific salvage timber sales to be offered under subsection (b) on the basis of the analysis contained in the document or documents prepared pursuant to paragraph (1) to achieve, to the maximum extent feasible, a salvage timber sale volume level above the program level.

(5) SALE PREPARATION.—

(A) USE OF AVAILABLE AUTHORITIES.—The Secretary concerned shall make use of all available authority, including the employment of private contractors and the use of expedited fire contracting procedures, to prepare and advertise salvage timber sales under subsection (b).

(B) EXEMPTIONS.—The preparation, solicitation, and award of salvage timber sales under subsection (b) shall be exempt from—

(i) the requirements of the Competition in Contracting Act (41 U.S.C. 253 et seq.) and the implementing regulations in the Federal Acquisition Regulation issued pursuant to section 25(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(c)) and any departmental acquisition regulations; and

(ii) the notice and publication requirements in section 18 of such Act (41 U.S.C. 416) and 8(e) of the Small Business Act (15 U.S.C. 637(e)) and the implementing regulations in the Federal Acquisition Regulations and any departmental acquisition regulations.

(C) INCENTIVE PAYMENT RECIPIENTS; REPORT.—The provisions of section 3(d)(1) of the Federal Workforce Restructuring Act of 1994 (Public Law 103-226; 5 U.S.C. 5597 note) shall not apply to any former employee of the Secretary concerned who received a voluntary separation incentive payment authorized by such Act and accepts employment pursuant to this paragraph. The Director of the Office of Personnel Management and the Secretary concerned shall provide a summary report to the appropriate committees of Congress, the Committee on Government Reform and Oversight of the House of Representatives, and the Committee on Governmental Affairs of the Senate regarding the number of incentive payment recipients who were rehired, their terms of reemployment, their job classifications, and an explanation, in the judgment of the agencies involved of how such reemployment without repayment of the incentive payments received is consistent with the original waiver provisions of such Act. This report shall not be conducted in a manner that would delay the rehiring of any former employees under this paragraph, or affect the normal confidentiality of Federal employees.

(6) COST CONSIDERATIONS.—Salvage timber sales undertaken pursuant to this section shall not be precluded because the costs of such activities are likely to exceed the revenues derived from such activities.

(7) EFFECT OF SALVAGE SALES.—The Secretary concerned shall not substitute salvage timber sales conducted under subsection (b) for planned non-salvage timber sales.

(8) REFORESTATION OF SALVAGE TIMBER SALE PARCELS.—The Secretary concerned shall plan and implement reforestation of each parcel of land harvested under a salvage timber sale conducted under subsection (b) as expeditiously as possible after completion of the harvest on the parcel, but in no case later than any applicable restocking period required by law or regulation.

(9) EFFECT ON JUDICIAL DECISIONS.—The Secretary concerned may conduct salvage timber sales under subsection (b) notwithstanding any decision, restraining order, or injunction issued by a United States court before the date of the enactment of this section.

(d) DIRECTION TO COMPLETE TIMBER SALES ON LANDS COVERED BY OPTION 9.—Notwithstanding any other law (including a law under the authority of which any judicial order may be outstanding on or after the date of enactment of this Act), the Secretary concerned shall expeditiously prepare, offer, and award timber sale contracts on Federal lands described in the "Record of Decision for Amendments to Forest Service and Bureau of Land Management Planning Documents Within the Range of the Northern Spotted Owl", signed by the Secretary of the Interior and the Secretary of Agriculture on April 13, 1994. The Secretary concerned may conduct timber sales under this subsection notwithstanding any decision, restraining order, or injunction issued by a United States court before the date of the enactment of this section. The issuance of any regulation pursuant to section 4(d) of the Endangered Species Act of 1973 (16 U.S.C. 1533(d)) to ease or reduce restrictions on non-

Federal lands within the range of the northern spotted owl shall be deemed to satisfy the requirements of section 102(2C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2C)), given the analysis included in the Final Supplemental Impact Statement on the Management of the Habitat for Late Successional and Old Growth Forest Related Species Within the Range of the Northern Spotted Owl, prepared by the Secretary of Agriculture and the Secretary of the Interior in 1994, which is, or may be, incorporated by reference in the administrative record of any such regulation. The issuance of any such regulation pursuant to section 4(d) of the Endangered Species Act of 1973 (16 U.S.C. 1533(d)) shall not require the preparation of an environmental impact statement under section 102(2C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2C)).

(e) Administrative Review.—Salvage timber sales conducted under subsection (b), timber sales conducted under subsection (d), and any decision of the Secretary concerned in connection with such sales, shall not be subject to administrative review.

(f) Judicial Review.—

(1) Place and time of filing.—A salvage timber sale to be conducted under subsection (b), and a timber sale to be conducted under subsection (d), shall be subject to judicial review only in the United States district court for the district in which the affected Federal lands are located. Any challenge to such sale must be filed in such district court within 15 days after the date of initial advertisement of the challenged sale. The Secretary concerned may not agree to, and a court may not grant, a waiver of the requirements of this paragraph.

(2) Effect of filing on agency action.—For 45 days after the date of the filing of a challenge to a salvage timber sale to be conducted under subsection (b) or a timber sale to be conducted under subsection (d), the Secretary concerned shall take no action to award the challenged sale.

(3) Prohibition on restraining orders, preliminary injunctions, and relief pending review.—No restraining order, preliminary injunction, or injunction pending appeal shall be issued by any court of the United States with respect to any decision to prepare, advertise, offer, award, or operate a salvage timber sale pursuant to subsection (b) or any decision to prepare, advertise, offer, award, or operate a timber sale pursuant to subsection (d). Section 705 of title 5, United States Code, shall not apply to any challenge to such a sale.

(4) Standard of review.—The courts shall have authority to enjoin permanently, order modification of, or void an individual salvage timber sale if it is determined by a review of the record that the decision to prepare, advertise, offer, award, or operate such sale was arbitrary and capricious or otherwise not in accordance with applicable law (other than those laws specified in subsection (i)).

(5) Time for decision.—Civil actions filed under this subsection shall be assigned for hearing at the earliest possible date. The court shall render its final decision relative to any challenge within 45 days from the date such challenge is brought, unless the court determines that a longer period of time is required to satisfy the requirement of the United States Constitution. In order to reach a decision within 45 days, the district court may assign all or part of any such case or cases to one or more Special Masters, for prompt review and recommendations to the court.

(6) Procedures.—Notwithstanding any other provision of law, the court may set rules governing the procedures of any proceeding brought under this subsection which set page limits on briefs and time limits on filing briefs and motions and other actions which are shorter than the limits specified in the Federal rules of civil or appellate procedure.

(7) Appeal.—Any appeal from the final decision of a district court in an action brought pursuant to this subsection shall be filed not later than 30 days after the date of decision.

(g) Exclusion of Certain Federal Lands.—

(1) Exclusion.—The Secretary concerned may not select, authorize, or undertake any salvage timber sale under subsection (b) with respect to lands described in paragraph (2).

(2) Description of excluded lands.—The lands referred to in paragraph (1) are as follows:

(A) Any area on Federal lands included in the National Wilderness Preservation System.

(B) Any roadless area on Federal lands designated by Congress for wilderness study in Colorado or Montana.

(C) Any roadless area on Federal lands recommended by the Forest Service or Bureau of Land Management for wilderness designation in its most recent land management plan in effect as of the date of the enactment of this Act.

(D) Any area on Federal lands on which timber harvesting for any purpose is prohibited by statute.

(h) Rulemaking.—The Secretary concerned is not required to issue formal rules under section 553 of title 5, United States Code, to implement this section or carry out the authorities provided by this section.

(i) Effect on Other Laws.—The documents and procedures required by this section for the preparation, advertisement, offering, awarding, and operation of any salvage timber sale subject to subsection (b) and any timber sale under subsection (d) shall be deemed to satisfy the requirements of the following applicable Federal laws (and regulations implementing such laws):

(1) The Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1600 et seq.);

(2) The Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.);

(3) The National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

(4) The Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

(5) The National Forest Management Act of 1976 (16 U.S.C. 472a et seq.);

(6) The Multiple-Use Sustained-Yield Act of 1960 (16 U.S.C. 528 et seq.);

(7) Any compact, executive agreement, convention, treaty, and international agreement, and implementing legislation related thereto; and

(8) All other applicable Federal environmental and natural resource laws.

(j) Expiration Date.—The authority provided by subsections (b) and (d) shall expire on September 30, 1997. The terms and conditions of this section shall continue in effect with respect to salvage timber sale contracts offered under subsection (b) and timber sale contracts offered under subsection (d) until the completion of performance of the contracts.

(k) Award and Release of Previously Offered and Unawarded Timber Sale Contracts.—

(1) Award and release required.—Notwithstanding any other provision of law, within 45 days after the date of the enactment of this Act, the Secretary concerned shall act to award, release, and permit to be completed in fiscal years 1995 and 1996, with no change in originally advertised terms, volumes, and bid prices, all timber sale contracts offered or awarded before that date in any unit of the National Forest System or district of the Bureau of Land Management subject to section 318 of Public Law 101-121 (103 Stat. 745). The return of the bid bond of the high bidder shall not alter the responsibility of the Secretary concerned to comply with this paragraph.

(2) Threatened or endangered bird species.—No sale unit shall be released or completed under this subsection if any threatened or endangered bird species is known to be nesting within the acreage that is the subject of the sale unit.

(3) Alternative offer in case of delay.—If for any reason a sale cannot be released and completed under the terms of this subsection within 45 days after the date of the enactment of this Act, the Secretary concerned shall provide the purchaser an equal volume of timber, of like kind and value, which shall be subject to the terms of the original contract and shall not count against current allowable sale quantities.

(l) Effect on Plans, Policies, and Activities.—Compliance with this section shall not require or permit any administrative action, including revisions, amendment, consultation, supplementation, or other action, in or for any land management plan, standard, guideline, policy, regional guide, or multiforest plan because of implementation or impacts, site-specific or cumulative, of activities authorized or required by this section, except that any such administrative action with respect to salvage timber sales is permitted to the extent necessary, at the sole discretion of the Secretary concerned, to meet the salvage timber sale goal specified in subsection (b)(1) of this section or to reflect the effects of the salvage program. The Secretary concerned shall not rely on salvage timber sales as the basis for administrative action limiting other multiple use activities nor be required to offer a particular salvage timber sale. No project decision shall be required to be halted or delayed by such documents or guidance, implementation, or impacts.

Sec. 2002. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

DOWNWARD ADJUSTMENTS IN DISCRETIONARY SPENDING LIMITS

Sec. 2003. Upon the enactment of this Act, the Director of the Office of Management and Budget shall make downward adjustments in the discretionary spending limits (new budget authority and outlays) specified in section 601(a)(2) of the Congressional Budget Act of 1974 for each of the fiscal years 1995 through 1998 by the aggregate amount of estimated reductions in new budget authority and outlays for discretionary programs resulting from the provisions of this Act (other than emergency appropriations) for such fiscal year, as calculated by the Director.

PROHIBITION ON USE OF SAVINGS TO OFFSET DEFICIT INCREASES RESULTING FROM DIRECT SPENDING OR RECEIPTS LEGISLATION

Sec. 2004. Reductions in outlays, and reductions in the discretionary spending limits specified in section 601(a)(2) of the Congressional Budget Act of 1974, resulting from the enactment of this Act shall not be taken into account for purposes of section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985.

SEC. 2005. July 27 of each year until the year 2003 is designated as "National Korean War Veterans Armistice Day", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate ceremonies and activities, and to urge the departments and agencies of the United States and interested organizations, groups, and individuals to fly the American flag at half staff on July 27 of each year until the year 2003 in honor of the Americans who died as a result of their service in Korea.

DENIAL OF USE OF FUNDS FOR INDIVIDUALS NOT LAWFULLY WITHIN THE UNITED STATES

SEC. 2006. (a) IN GENERAL.—None of the funds made available in this Act may be used to provide any direct benefit or assistance to any individual in the United States when it is made known to the Federal entity or official to which the funds are made available that—

(1) the individual is not lawfully within the United States; and

(2) the benefit or assistance to be provided is other than search and rescue; emergency medical care; emergency mass care; emergency shelter; clearance of roads and construction of temporary bridges necessary to the performance of emergency tasks and essential community services; warning of further risk or hazards; dissemination of public information and assistance regarding health and safety measures; provision of food, water, medicine, and other essential needs, including movement of supplies or persons; or reduction of immediate threats to life, property, and public health and safety.

(b) ACTIONS TO DETERMINE LAWFUL STATUS.—Each Federal entity or official receiving funds under this Act shall take reasonable actions to determine whether any individual who is seeking any benefit or assistance subject to the limitation established in subsection (a) is lawfully within the United States.

(c) NONDISCRIMINATION.—In the case of any filing, inquiry, or adjudication of an application for any benefit or assistance subject to the limitation established in subsection (a), no Federal entity or official (or their agent) may discriminate against any individual on the basis of race, color, religion, sex, age, or disability.

FEDERAL ADMINISTRATIVE AND TRAVEL EXPENSES

(RESCISSIONS)

SEC. 2007. (a) Of the funds available to the agencies of the Federal Government, other than the Department of Defense—Military, $325,000,000 are hereby rescinded: *Provided*, That rescissions pursuant to this paragraph shall be taken only from administrative and travel accounts: *Provided further*, That rescissions shall be taken on a pro rata basis from funds available to every Federal agency, department, and office in the Executive Branch, including the Office of the President.

(b) Of the funds available to the Department of Defense—Military, $50,000,000 are hereby rescinded: *Provided*, That rescissions pursuant to this paragraph shall be taken only from administrative and travel accounts: *Provided further*, That rescissions shall be taken on a pro rata basis from funds available to every agency, department, and office.

(c) Within 30 days of enactment of this Act, the Director of the Office of Management and Budget shall submit to the Committees on Appropriations of the House and Senate a listing of the amounts by account of the reductions made pursuant to the provisions of subsections (a) and (b) of this section.

TITLE III

EMERGENCY SUPPLEMENTAL APPROPRIATIONS

ANTI-TERRORISM INITIATIVES

OKLAHOMA CITY RECOVERY

CHAPTER I

DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES

DEPARTMENT OF JUSTICE

GENERAL ADMINISTRATION

COUNTERTERRORISM FUND

There is hereby established the Counterterrorism Fund which shall remain available without fiscal year limitation. For necessary expenses, as determined by the Attorney General, $34,220,000, to remain available until expended, is appropriated to the Counterterrorism Fund to reimburse any Department of Justice organization for the costs incurred in reestablishing the operational capability of an office or facility which has been damaged or destroyed as the result of the bombing of the Alfred P. Murrah Federal Building in Oklahoma City or any domestic or international terrorism event: *Provided*, That funds from this appropriation also may be used to reimburse the appropriation account of any Department of Justice agency engaged in, or providing support to, countering, investigating or prosecuting domestic or international terrorism, including payment of rewards in connection with these activities, and to conduct a terrorism threat assessment of Federal agencies and their facilities: *Provided further*, That any amount obligated from appropriations under this heading may be used under the authorities available to the organization reimbursed from this appropriation: *Provided further*, That amounts in excess of the $10,555,000 made available for extraordinary expenses incurred in the Oklahoma City bombing for fiscal year 1995, shall be available only after the Attorney General notifies the Committees on Appropriations of the House of Representatives and the Senate in accordance with section 605 of Public Law 103-317: *Provided further*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That the amount not previously designated by the President as an emergency requirement shall be available only to the extent an official budget request, for a specific dollar amount that includes designation of the entire amount of the request as an emergency requirement, as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted to Congress.

LEGAL ACTIVITIES

SALARIES AND EXPENSES, UNITED STATES ATTORNEYS

For an additional amount for expenses resulting from the bombing of the Alfred P. Murrah Federal Building in Oklahoma City and other anti-terrorism efforts, $2,000,000, to remain available until expended: *Provided*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That the amount not previously designated by the President as an emergency requirement shall be available only to the extent an official budget request, for a specific dollar amount that includes designation of the entire amount of the request as an emergency requirement, as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted to Congress.

FEDERAL BUREAU OF INVESTIGATION

SALARIES AND EXPENSES

For an additional amount for expenses resulting from the bombing of the Alfred P. Murrah Federal Building in Oklahoma City and other anti-terrorism efforts, including the establishment of a Domestic Counterterrorism Center, $77,140,000, to remain available until expended: *Provided*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That the amount not previously designated by the President as an emergency requirement shall be available only to the extent an official budget request, for a specific dollar amount that includes designation of the entire amount of the request as an emergency requirement, as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted to Congress.

GENERAL PROVISIONS

SEC. 3001. Any funds made available to the Attorney General heretofore or hereafter in any Act shall not be subject to the spending limitations contained in sections 3059 and 3072 of title 18, United States Code: *Provided*, That any reward of $100,000 or more, up to a maximum of $2,000,000, may not be made without the personal approval of the President or the Attorney General, and such approval may not be delegated.

SEC. 3002. Funds made available under this Act for this title for the Department of Justice are subject to the standard notification procedures contained in section 605 of Public Law 103-317.

THE JUDICIARY

COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES

COURT SECURITY

For an additional amount for "Court Security" to enhance security of judges and support personnel, $16,640,000, to remain available until expended, to be expended directly or transferred to the United States Marshals Service: *Provided*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That the amount not previously designated by the President as an emergency requirement shall be available only to the extent an official budget request, for a specific dollar amount that includes designation of the entire amount of the request as an emergency requirement, as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted to Congress.

CHAPTER II

TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT

DEPARTMENT OF THE TREASURY

BUREAU OF ALCOHOL, TOBACCO AND FIREARMS

SALARIES AND EXPENSES

For an additional amount for emergency expenses of the bombing of the Alfred P.

Murrah Federal Building in Oklahoma City, and anti-terrorism efforts, including the President's anti-terrorism initiative, $34,823,000, to remain available until expended: *Provided*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

FEDERAL LAW ENFORCEMENT TRAINING CENTER

SALARIES AND EXPENSES

For an additional amount for the Federal response to the bombing of the Alfred P. Murrah Federal Building in Oklahoma City, $1,100,000, to remain available until expended: *Provided*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

UNITED STATES SECRET SERVICE

SALARIES AND EXPENSES

For an additional amount for emergency expenses of the bombing of the Alfred P. Murrah Federal Building in Oklahoma City, and other anti-terrorism efforts, including the President's anti-terrorism initiative, $6,675,000, to remain available until expended: *Provided*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

UNITED STATES CUSTOM SERVICE

SALARIES AND EXPENSES

For an additional amount for emergency expenses resulting from the bombing of the Alfred P. Murrah Federal Building in Oklahoma City, $1,000,000, to remain available until expended: *Provided*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

INDEPENDENT AGENCY

GENERAL SERVICES ADMINISTRATION

REAL PROPERTY ACTIVITIES

FEDERAL BUILDINGS FUND

LIMITATIONS ON AVAILABILITY OF REVENUE

The aggregate limitation on Federal Buildings Fund obligations established under this heading in Public Law 103–329 (as otherwise reduced pursuant to this Act) is hereby increased by $66,800,000, of which $40,400,000 shall remain available until expended for necessary expenses of real property management and related activities (including planning, design, construction, demolition, restoration, repairs, alterations, acquisition, installment acquisition payments, rental of space, building operations, maintenance, protection, moving of governmental agencies, and other activities) in response to the April 19, 1995, terrorist bombing attack at the Alfred P. Murrah Federal Building in Oklahoma City, Oklahoma.

In carrying out such activities, the Administrator of General Services may (among other actions) exchange, sell, lease, donate, or otherwise dispose of the site of the Alfred P. Murrah Federal Building (or a portion thereof) to the State of Oklahoma, to the city of Oklahoma City, or to any Oklahoma public trust that has the city of Oklahoma City as its beneficiary and is designated by the city to receive such property. Any such disposal shall not be subject to—

(1) the Public Buildings Act of 1959 (40 U.S.C. 601 et seq.);

(2) the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.); or

(3) any other Federal law establishing requirements or procedures for the disposal of Federal property:

Provided, That these funds shall not be available for expenses in connection with the construction, repair, alteration, or acquisition project for which a prospectus, if required by the Public Buildings Act of 1959, as amended, has not been approved, except that necessary funds may be expended for required expenses in connection with the development of a proposed prospectus: *Provided further*, That for additional amounts, to remain available until expended and to be deposited into the Federal Buildings Fund, for emergency expenses resulting from the bombing of the Alfred P. Murrah Federal Building in Oklahoma City: for "Construction", Oklahoma, Oklahoma City, Alfred P. Murrah Federal Building, demolition, $2,300,000; for "Minor Repairs and Alterations", $3,300,000; for "Rental of Space", $8,300,000, to be used to lease, furnish, and equip replacement space; and for "Buildings Operations", $12,500,000: *Provided further*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

CHAPTER III

DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

MANAGEMENT AND ADMINISTRATION

SALARIES AND EXPENSES

For an additional amount for emergency expenses resulting from the bombing of the Alfred P. Murrah Federal Building in Oklahoma City, $3,200,000, to remain available through September 30, 1996: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

COMMUNITY PLANNING AND DEVELOPMENT

COMMUNITY DEVELOPMENT GRANTS

For an additional amount for "Community Development Grants", as authorized by title I of the Housing and Community Development Act of 1974, $39,000,000, to remain available until expended to assist property and victims damaged and economic revitalization due to the bombing of the Alfred P. Murrah Federal Building in Oklahoma City on April 19, 1995, primarily in the area bounded on the south by Robert S. Kerr Avenue, on the north by North 13th Street, on the east by Oklahoma Avenue, and on the west by Shartel Avenue, and for reimbursement to the City of Oklahoma City, or any public trust thereof, for the expenditure of other Federal funds used to achieve these same purposes: *Provided*, That in administering these funds, and any Economic Development Grants and loan guarantees under section 108 of such Act used for economic revitalization activities in Oklahoma City, the Secretary may waive, or specify alternative requirements for, any provision of any statute or regulation that the Secretary administers in connection with the obligation by the Secretary or the use by the recipient of these funds or guarantees, except for requirements related to fair housing and nondiscrimination, the environment, and labor standards, upon a finding that such waiver is required to facilitate the use of such funds or guarantees, and would not be inconsistent with the overall purpose of the statute or regulation: *Provided further*, That such funds shall not adversely affect the amount of any formula assistance received by Oklahoma City or any other entity, or any categorical application for other Federal assistance: *Provided further*, That notwithstanding any other provision of law, such funds may be used for the repair and reconstruction of religious institution facilities damaged by the explosion in the same manner as private nonprofit facilities providing public services: *Provided further*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

INDEPENDENT AGENCIES

FEDERAL EMERGENCY MANAGEMENT AGENCY

SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses", $3,523,000, to increase Federal, State and local preparedness for mitigating and responding to the consequences of terrorism: *Provided*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

EMERGENCY MANAGEMENT PLANNING AND ASSISTANCE

For an additional amount for "Emergency Management Planning and Assistance", $3,477,000, to increase Federal, State and local preparedness for mitigating and responding to the consequences of terrorism: *Provided*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

This Act may be cited as the "Emergency Supplemental Appropriations for Additional Disaster Assistance, for Anti-terrorism Initiatives, for Assistance in the Recovery from the Tragedy that Occurred at Oklahoma City, and Rescissions Act, 1995".

The SPEAKER pro tempore. Pursuant to House Resolution 176, the gentleman from Louisiana [Mr. LIVINGSTON] will be recognized for 30 minutes and the gentleman from Wisconsin [Mr. OBEY] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Louisiana [Mr. LIVINGSTON].

Mr. LIVINGSTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to bring to the House the emergency supplemental and rescissions bill, H.R. 1944.

As all Members know, the President vetoed H.R. 1158. This bill is a replacement version of H.R. 1158, and makes some changes to H.R. 1158 that will cause this new bill to be signed once congressional action is complete. This bill gives the President the opportunity again to take a first small step toward balancing the budget.

Since the veto, negotiations have been occurring to determine what changes might be made to gain the President's approval and yet be acceptable to the Congress. Finding common ground in these negotiations has proven extraordinarily difficult. But I am pleased to tell you that with the changes I will propose in an amendment following my statement, the President will sign this bill.

After 3 weeks, we reached a stage in the negotiations where I felt we had to move if we were to have any chance of enacting an emergency supplemental and rescissions bill. We have gone a long way to meeting the President's concerns to the extent we have been able to identify them.

Mr. Speaker, this bill includes important supplemental appropriations for disaster assistance, $6.55 billion, mostly for the Los Angeles earthquake, but also for some more recent flood and fire disasters; $144.4 million for the Oklahoma City recovery; $145.1 million for antiterrorism initiatives and enhanced security; and $275 million as requested by the President for debt relief for Jordan.

These appropriations are more than fully offset so that the bill nets out to over $9.126 billion in savings because of rescissions of over $16.3 billion. That is, we cut $16.3 billion, we spend about $7.2 billion, and we have over $9.1 billion in savings.

Mr. Speaker, this bill includes decreased rescissions, or lowered cuts, from H.R. 1158 for Adult Job Training, School-to-Work, Goals 2000, Safe and Drug-Free Schools, Drug Courts, the FACES program or the Community School program of HHS, the TRIO program, the Child Care block Grant program, Housing for People with AIDS, National and Community Service, Safe Drinking Water, and Community Development Financial Institutions. It also provides a new appropriation for additional urban redevelopment in Oklahoma City needed as a result of the terrorist attack.

Mr. Speaker, all of these additions, or lowered rescissions, have been requested by the administration and are being placed in the bill as a result of the administration's requests.

Mr. Speaker, the bill includes increased rescissions from H.R. 1158 levels for GSA's energy program, for GSA's Chlorofluorocarbon program, for the Assisted Housing (section 202) program, for NASA Challenger funds, and for NASA research and development. It also includes new rescissions for the Congregate Services, for travel and administration expenses from all Federal agencies, and makes some minor changes to the salvage timber language. The cuts in Federal travel and administration expenses and the reduction in the FEMA disaster supplemental appropriation were proposed by the President, who supports the other changes as well.

Overall, the changes to this bill compared to H.R. 1158 are $772 million in increases and $794 million in decreases. That is, $772 million in increased spending, and $794 million in decreased spending. This nets out to a further reduction of $22 million in savings over and above the $9.1 billion that was saved in the earlier bill.

In implementing the provisions of this bill, we expect the administration to use the guidance included in the Joint Explanatory Statement of the Committee of Conference on the Conference Report on H.R. 1158, House Report 104–124.

Mr. Speaker, we need to pass the bill quickly. The enactment of this bill is crucial, and I repeat, crucial to the orderly development of the fiscal year 1996 appropriations bills. Without the savings included in this bill, next year's bills will have to be cut over $3 billion more in order to meet the allocations in the budget resolution that we have just adopted.

The $3 billion would have to come in large measure from the programs that the President was trying to protect when he vetoed H.R. 1158. When you are trying to balance the budget, as the President is now on board saying he wishes to do, you have to make difficult choices. You cannot have it both ways. If you protect programs this year, then you have to increase the level of cuts that you have to make in those same programs or in other programs the next year.

This bill compared to H.R. 1158 represents a balance of differing viewpoints. It restores funding for some programs this year that the President cares about, yet it provides enough savings so that we will not have to drastically cut similar programs next year. If we reduce the savings in this bill further by restoring more funding or if the bill is vetoed, then we have to increase the cuts that we have to make in these same programs next year. It is just that simple.

Mr. Speaker, if you are for deficit reduction, there is no reason not to support this bill. It is the last train leaving the station for fiscal year 1995. Important emergency supplemental appropriations are in this bill. Important rescissions are in this bill. It saves over $9.1 billion. It is not my idea of a perfect bill because it is a compromise bill, but it is a good bill, and we need its enactment as the first step in balancing the budget.

This is the very first real step that we can take in achieving a balanced budget. There will not be another change in fiscal year 1995. This is it, so let's adopt this bill and take the first step on the long road of getting our fiscal house in order.

At this point in the RECORD I would like to insert a table showing the details of this bill including the affect of the amendment I will be offering:

FY 1995 EMERGENCY SUPPLEMENTAL APPROPRIATIONS AND RESCISSIONS BILL (H.R. 1944)

	H.R. 1158	H.R. 1944	H.R. 1944 compared with H.R. 1158
TITLE I - SUPPLEMENTALS AND RESCISSIONS			
CHAPTER I			
DEPARTMENT OF AGRICULTURE			
Agricultural Research Service (by transfer)	(2,218,000)	(2,218,000)	
Food Safety and Inspection Service			
Salaries and expenses	9,082,000	9,082,000	
Agricultural Stabilization and Conservation Service			
Salaries and expenses	5,000,000	5,000,000	
Commodity Credit Corporation			
Commodity Credit Corporation Fund: Food for progress	(20,000,000)	(20,000,000)	
GENERAL PROVISIONS			
Section 715 (increase in limitation)	(24,500,000)	(24,500,000)	
Total, Department of Agriculture	14,082,000	14,082,000	
DEPARTMENT OF AGRICULTURE			
Office of the Secretary	-31,000	-31,000	
Alternative Agricultural Research and Commercialization	-1,500,000	-1,500,000	
Agricultural Research Service: Buildings and facilities	-1,400,000	-1,400,000	
Cooperative State Research Service	-1,051,000	-1,051,000	
Buildings and facilities	-2,184,000	-2,184,000	
Animal and Plant Health Inspection Service: Buildings and facilities	-2,000,000	-2,000,000	
Farmers Home Administration			
Rural Housing Insurance Fund Program Account:			
Rental housing (sec. 515) (loan subsidy)	-15,500,000	-15,500,000	
Local technical assistance and planning grants	-1,750,000	-1,750,000	
Alcohol Fuels Credit Guarantee Program Account (FY93)	-9,000,000	-9,000,000	
Total, Farmers Home Administration	-26,250,000	-26,250,000	
Rural Electrification Administration			
Rural Electrification and Telephone Loans Program Account:			
Loan subsidies: Telephone 5%	-1,500,000	-1,500,000	
Food and Nutrition Service:			
Special supplemental food program for women, infants, and children (WIC)	-20,000,000	-20,000,000	
Public Law 480 Program Account:			
Title III - Commodity grants:			
Program level	(-40,000,000)	(-40,000,000)	
Appropriation	-40,000,000	-40,000,000	
Total, Chapter I:			
New budget (obligational) authority	-81,834,000	-81,834,000	
Appropriations	(14,082,000)	(14,082,000)	
Rescissions	(-95,916,000)	(-95,916,000)	
(By transfer)	(2,218,000)	(2,218,000)	
CHAPTER II			
DEPARTMENT OF JUSTICE			
RELATED AGENCY			
National Bankruptcy Review Commission (by transfer)	(1,000,000)	(1,000,000)	
DEPARTMENT OF STATE			
RELATED AGENCY			
United States Information Agency			
International broadcasting operations	7,290,000	7,290,000	
DEPARTMENT OF JUSTICE			
Office of Justice Programs			
Drug courts (crime trust fund)	-22,100,000	-17,100,000	+5,000,000
General Administration			
Working capital fund	-5,500,000	-5,500,000	
Legal Activities			
Assets forfeiture fund	-5,000,000	-5,000,000	
Immigration and Naturalization Service			
Salaries and expenses: General fund appropriation	-1,000,000	-1,000,000	

FY 1995 EMERGENCY SUPPLEMENTAL APPROPRIATIONS AND RESCISSIONS BILL (H.R. 1944) — continued

	H.R. 1158	H.R. 1944	H.R. 1944 compared with H.R. 1158
Federal Prison System			
Salaries and expenses	-28,037,000	-28,037,000	....
Total, Department of Justice	-61,637,000	-56,637,000	+5,000,000
DEPARTMENT OF COMMERCE			
National Institute of Standards and Technology			
Scientific and technical research and services	-17,000,000	-17,000,000	....
Industrial technology services	-16,300,000	-16,300,000	....
Construction of research facilities	-30,000,000	-30,000,000	....
Total, National Institute of Standards and Technology	-63,300,000	-63,300,000	....
National Oceanic and Atmospheric Administration			
Operations, research, and facilities	-24,200,000	-24,200,000	....
Construction	-15,000,000	-15,000,000	....
GOES satellite contingency fund	-2,500,000	-2,500,000	....
Total, National Oceanic and Atmospheric Administration	-41,700,000	-41,700,000	....
Technology Administration			
Salaries and expenses	-1,750,000	-1,750,000	....
National Technical Information Service			
NTIS revolving fund	-1,000,000	-1,000,000	....
National Telecommunications and Information Administration			
Information infrastructure grants	-4,000,000	-4,000,000	....
Economic Development Administration			
Economic development assistance programs	-25,000,000	-25,000,000	....
Emergency appropriations	-5,250,000	-5,250,000	....
Total, Department of Commerce	-142,000,000	-142,000,000	....
THE JUDICIARY			
United States Court of International Trade			
Salaries and expenses	-1,000,000	-1,000,000	....
Courts of Appeals, District Courts, and Other Judicial Services			
Defender services	-9,500,000	-9,500,000	....
Fees of jurors and commissioners	-6,000,000	-6,000,000	....
Total, The Judiciary	-15,500,000	-15,500,000	....
RELATED AGENCIES			
Small Business Administration			
Business loans program account	-8,000,000	-8,000,000	....
DEPARTMENT OF STATE			
Administration of Foreign Affairs			
Diplomatic and consular programs	-2,250,000	-2,250,000	....
Acquisition and maintenance of buildings abroad	-30,000,000	-30,000,000	....
Total, Administration of Foreign Affairs	-32,250,000	-32,250,000	....
International Organizations and Conferences			
Contributions for international peacekeeping activities	-14,617,000	-14,617,000	....
Total, Department of State	-46,867,000	-46,867,000	....
RELATED AGENCIES			
Arms Control and Disarmament Agency			
Arms control and disarmament activities	-4,000,000	-4,000,000	....
Board for International Broadcasting			
Israel relay station	-2,000,000	-2,000,000	....

FY 1995 EMERGENCY SUPPLEMENTAL APPROPRIATIONS AND RESCISSIONS BILL (H.R. 1944) — continued

	H.R. 1158	H.R. 1944	H.R. 1944 compared with H.R. 1158
United States Information Agency			
Educational and cultural exchange programs	-5,000,000	-5,000,000	
Radio construction	-16,000,000	-16,000,000	
Radio Free Asia	-5,000,000	-5,000,000	
Total, United States Information Agency	-26,000,000	-26,000,000	
Total, Chapter II:			
New budget (obligational) authority	-296,714,000	-291,714,000	+5,000,000
Emergency rescissions	(-5,250,000)	(-5,250,000)	
Appropriations	(7,290,000)	(7,290,000)	
Rescissions	(-298,754,000)	(-293,754,000)	(+5,000,000)
(By transfer)	(1,000,000)	(1,000,000)	
CHAPTER III			
DEPARTMENT OF DEFENSE - CIVIL			
DEPARTMENT OF THE ARMY			
Corps of Engineers - Civil			
General investigations	-10,000,000	-10,000,000	
Construction, general	-60,000,000	-60,000,000	
Total, Department of Defense - Civil	-70,000,000	-70,000,000	
DEPARTMENT OF THE INTERIOR			
Bureau of Reclamation			
Operation and maintenance	-10,000,000	-10,000,000	
DEPARTMENT OF ENERGY			
Energy Supply, Research and Development Activities	-74,000,000	-74,000,000	
Atomic Energy Defense Activities: Materials Support and other Defense programs	-15,000,000	-15,000,000	
Departmental Administration	-20,000,000	-20,000,000	
Power Marketing Administrations			
Construction, rehabilitation, operation and maintenance, Western Area Power Administration	-30,000,000	-30,000,000	
Total, Department of Energy	-139,000,000	-139,000,000	
INDEPENDENT AGENCIES			
Appalachian Regional Commission	-10,000,000	-10,000,000	
Tennessee Valley Authority: Tennessee Valley Authority Fund	-5,000,000	-5,000,000	
Total, Chapter III:			
Rescissions	-234,000,000	-234,000,000	
CHAPTER IV			
FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS			
BILATERAL ECONOMIC ASSISTANCE			
Debt restructuring: Debt relief for Jordan	275,000,000	275,000,000	
MULTILATERAL ECONOMIC ASSISTANCE			
International organizations and programs	-15,000,000	-15,000,000	
BILATERAL ECONOMIC ASSISTANCE			
Agency for International Development			
Development assistance fund	-41,300,000	-41,300,000	
Population, development assistance	-19,000,000	-19,000,000	
Development fund for Africa	-21,000,000	-21,000,000	
Debt restructuring under the Enterprise for the Americas Initiative	-2,400,000	-2,400,000	
Economic Support Fund	-25,000,000	-25,000,000	
Operating expenses of the Agency for International Development	-2,000,000	-2,000,000	
Assistance for the New Independent States of the former Soviet Union	-25,000,000	-25,000,000	
Total, Bilateral Economic Assistance	-135,700,000	-135,700,000	
MILITARY ASSISTANCE			
Peacekeeping operations	-3,000,000	-3,000,000	

FY 1995 EMERGENCY SUPPLEMENTAL APPROPRIATIONS AND RESCISSIONS BILL (H.R. 1944) — continued

	H.R. 1158	H.R. 1944	H.R. 1944 compared with H.R. 1158
EXPORT ASSISTANCE			
Trade and Development Agency			
Trade and development	-4,000,000	-4,000,000	—
Total, Chapter IV:			
New budget (obligational) authority	117,300,000	117,300,000	—
Appropriations	(275,000,000)	(275,000,000)	—
Rescissions	(-157,700,000)	(-157,700,000)	—
CHAPTER V			
DEPARTMENT OF THE INTERIOR			
Bureau of Land Management			
Management of lands and resources	-70,000	-70,000	—
Construction and access	-900,000	-900,000	—
Payments in lieu of taxes	-2,500,000	-2,500,000	—
Land acquisition	-1,497,000	-1,497,000	—
Total, Bureau of Land Management	-4,967,000	-4,967,000	—
United States Fish and Wildlife Service			
Construction	-12,415,000	-12,415,000	—
Land acquisition	-1,076,000	-1,076,000	—
Total, United States Fish and Wildlife Service	-13,491,000	-13,491,000	—
National Biological Survey			
Research, inventories, and surveys	-14,549,000	-14,549,000	—
National Park Service			
Construction	-20,690,000	-20,690,000	—
Urban park and recreation fund	-7,480,000	-7,480,000	—
Land acquisition and State assistance	-13,834,000	-13,834,000	—
Total, National Park Service	-42,004,000	-42,004,000	—
Minerals Management Service			
Royalty and offshore minerals management	-514,000	-514,000	—
Bureau of Indian Affairs			
Operation of Indian programs	-4,850,000	-4,850,000	—
Construction	-9,571,000	-9,571,000	—
Indian direct loan program account	-1,700,000	-1,700,000	—
Total, Bureau of Indian Affairs	-16,121,000	-16,121,000	—
Territorial and International Affairs			
Administration of territories	-1,938,000	-1,938,000	—
Trust Territory of the Pacific Islands	-32,139,000	-32,139,000	—
Compact of Free Association	-1,000,000	-1,000,000	—
Total, Territorial and International Affairs	-35,077,000	-35,077,000	—
Total, Department of the Interior	-126,723,000	-126,723,000	—
RELATED AGENCIES			
DEPARTMENT OF AGRICULTURE			
Forest Service			
Forest research	-6,000,000	-6,000,000	—
State and private forestry	-7,800,000	-7,800,000	—
International forestry	-2,000,000	-2,000,000	—
National forest system	-1,650,000	-1,650,000	—
Construction	-6,072,000	-6,072,000	—
Land acquisition	-1,429,000	-1,429,000	—
Total, Forest Service	-24,951,000	-24,951,000	—
DEPARTMENT OF ENERGY			
Fossil energy research and development	-18,100,000	-18,100,000	—
Energy conservation	-49,626,000	-49,626,000	—
Total, Department of Energy	-67,726,000	-67,726,000	—
DEPARTMENT OF EDUCATION			
Indian education	-2,000,000	-2,000,000	—

FY 1995 EMERGENCY SUPPLEMENTAL APPROPRIATIONS AND RESCISSIONS BILL (H.R. 1944) — continued

	H.R. 1158	H.R. 1944	H.R. 1944 compared with H.R. 1158
OTHER RELATED AGENCIES			
Smithsonian Institution			
Construction and improvements, National Zoological Park	-1,000,000	-1,000,000	
Construction	-11,512,000	-11,512,000	
Total, Smithsonian Institution	-12,512,000	-12,512,000	
National Gallery of Art			
Repair, restoration and renovation of buildings	-407,000	-407,000	
John F. Kennedy Center for the Performing Arts			
Construction	-3,000,000	-3,000,000	
Woodrow Wilson International Center for Scholars			
Salaries and expenses	-1,000,000	-1,000,000	
National Foundation on the Arts and the Humanities			
National Endowment for the Arts			
Grants and administration	-5,000,000	-5,000,000	
National Endowment for the Humanities			
Grants and administration	-5,000,000	-5,000,000	
Total, Chapter V: Rescissions	-246,321,000	-246,321,000	
CHAPTER VI			
DEPARTMENT OF LABOR			
Employment and Training Administration			
Training and employment services	-1,399,115,000	-1,349,115,000	+50,000,000
Community service employment for older Americans	-14,440,000	-14,440,000	
State unemployment insurance and employment service operations	-20,000,000	-20,000,000	
Limitation on trust fund transfer	-67,700,000	-67,700,000	
Total, Employment and Training Administration	-1,501,255,000	-1,451,255,000	+50,000,000
Bureau of Labor Statistics			
Salaries and expenses	-700,000	-700,000	
Total, Department of Labor	-1,501,955,000	-1,451,955,000	+50,000,000
DEPARTMENT OF HEALTH AND HUMAN SERVICES			
Health Resources and Services Administration			
Program operations	-41,350,000	-41,350,000	
Centers for Disease Control and Prevention			
Disease control, research, and training	-2,300,000	-2,300,000	
National Institutes of Health			
National Center for Research Resources	-10,000,000	-10,000,000	
Buildings and facilities	-60,000,000	-60,000,000	
Total, National Institutes of Health	-70,000,000	-70,000,000	
Assistant Secretary for Health			
Office of the Assistant Secretary for Health	-1,400,000	-1,400,000	
Agency for Health Care Policy and Research			
Health care policy and research	-3,132,000	-3,132,000	
Health Care Financing Administration			
Program management	-19,700,000	-19,700,000	
Administration for Children and Families			
Job opportunities and basic skills	-330,000,000	-330,000,000	
Low income home energy assistance (advance appropriation, 1996)	-319,204,000	-319,204,000	
State legalization impact assistance grants	-2,000,000	-2,000,000	
Child care and development block grant	-8,400,000		+8,400,000
Community services block grant	-15,287,000	-15,287,000	
Children and families services programs (crime trust fund)	-25,900,000	-15,900,000	+10,000,000
Total, Administration for Children and Families	-700,791,000	-682,391,000	+18,400,000
Administration on aging	-899,000	-899,000	

FY 1995 EMERGENCY SUPPLEMENTAL APPROPRIATIONS AND RESCISSIONS BILL (H.R. 1944) — continued

	H.R. 1158	H.R. 1944	H.R. 1944 compared with H.R. 1158
Office of the Secretary			
Policy research	-4,018,000	-4,018,000	
Total, Department of Health and Human Services	-843,590,000	-825,190,000	+18,400,000
DEPARTMENT OF EDUCATION			
Education reform	-104,030,000	-34,030,000	+70,000,000
Education for the disadvantaged	-4,608,000	-4,608,000	
School improvement programs	-391,840,000	-171,840,000	+220,000,000
Crime trust fund	-11,100,000	-11,100,000	
Bilingual and immigrant education	-38,500,000	-38,500,000	
Vocational and adult education	-60,807,000	-60,807,000	
Student financial assistance	-85,000,000	-85,000,000	
Howard University	-1,800,000	-1,800,000	
Higher education	-54,672,000	-43,472,000	+11,200,000
College housing and academic facilities loans program	-432,000	-432,000	
Education research, statistics, and improvement	-30,925,000	-30,925,000	
Total, Department of Education	-813,512,000	-512,312,000	+301,200,000
RELATED AGENCIES			
Corporation for Public Broadcasting:			
Advance appropriation, 1996	-37,000,000	-37,000,000	
Advance appropriation, 1997	-55,000,000	-55,000,000	
Railroad Retirement Board: Dual benefits payments account	-7,000,000	-7,000,000	
GENERAL PROVISIONS			
DEPARTMENT OF EDUCATION			
Federal direct student loans	-61,000,000	-61,000,000	
Total, Chapter VI: Rescissions	-3,319,057,000	-2,949,457,000	+369,600,000
CHAPTER VII			
LEGISLATIVE BRANCH			
HOUSE OF REPRESENTATIVES			
Payments to Widows and Heirs of Deceased Members of Congress			
Gratuities, deceased Members	133,600	133,600	
JOINT ITEMS			
Joint Economic Committee	-460,000	-460,000	
Joint Committee on Printing	-236,137	-236,137	
Total, Joint Items	-696,137	-696,137	
OFFICE OF TECHNOLOGY ASSESSMENT			
Salaries and expenses	-650,000	-650,000	
CONGRESSIONAL BUDGET OFFICE			
Salaries and expenses	-187,000	-187,000	
ARCHITECT OF THE CAPITOL			
Capitol Buildings and Grounds			
Capitol buildings			
Senate office buildings	-850,000	-850,000	
Capitol Power Plant	-1,650,000	-1,650,000	
Capitol complex security enhancements (transfer from Botanic Garden)	(3,000,000)	(3,000,000)	
Total, Capitol Buildings and Grounds	-2,500,000	-2,500,000	
GOVERNMENT PRINTING OFFICE			
Congressional printing and binding	-5,000,000	-5,000,000	
Office of Superintendent of Documents			
Salaries and expenses	-600,000	-600,000	
Total, Government Printing Office	-5,600,000	-5,600,000	
BOTANIC GARDEN			
Salaries and expenses	-4,000,000	-4,000,000	

FY 1995 EMERGENCY SUPPLEMENTAL APPROPRIATIONS AND RESCISSIONS BILL (H.R. 1944) — continued

	H.R. 1158	H.R. 1944	H.R. 1944 compared with H.R. 1158
LIBRARY OF CONGRESS			
Salaries and expenses	-150,000	-150,000	....
Books for the blind and physically handicapped, salaries and expenses	-100,000	-100,000	....
Total, Library of Congress	-250,000	-250,000	....
GENERAL ACCOUNTING OFFICE			
Salaries and expenses	-2,617,000	-2,617,000	....
Total, Chapter VII:			
New budget (obligational) authority	-16,368,537	-16,368,537	....
Appropriations	(133,600)	(133,600)	....
Rescissions	(-16,502,137)	(-16,502,137)	....
(By transfer)	(3,000,000)	(3,000,000)	....
CHAPTER VIII			
DEPARTMENT OF TRANSPORTATION			
Federal Railroad Administration			
Office of the administrator (by transfer)	(811,950)	(811,950)	....
Federal Transit Administration			
Mass transit capital fund (Highway Trust Fund) (liquidation of contract authorization)	(380,000,000)	(380,000,000)	....
Office of the Secretary			
Working capital fund	-6,000,000	-6,000,000	....
Payments to air carriers (Airport and Airway Trust Fund)	-5,300,000	-5,300,000	....
Total, Office of the Secretary	-11,300,000	-11,300,000	....
Coast Guard			
Operating expenses	-4,300,000	-4,300,000	....
Acquisition, construction, and improvements:			
Hurricane Andrew/Iniki supplemental (emergency)	-4,400,000	-4,400,000	....
Vessels	-12,133,000	-12,133,000	....
Other equipment	-2,500,000	-2,500,000	....
Shore facilities and aids to navigation	-16,281,000	-16,281,000	....
Subtotal	-35,314,000	-35,314,000	....
Environmental compliance and restoration	-2,500,000	-2,500,000	....
Total, Coast Guard	-42,114,000	-42,114,000	....
Federal Aviation Administration			
Operations	-1,000,000	-1,000,000	....
Facilities and equipment (Airport and Airway Trust Fund)	-24,860,000	-24,860,000	....
Research, engineering, and development (Airport and Airway Trust Fund)	-7,500,000	-7,500,000	....
Grants-in-aid for airports (Airport and Airway Trust Fund)	-2,094,000,000	-2,094,000,000	....
Total, Federal Aviation Administration	-2,127,360,000	-2,127,360,000	....
Federal Highway Administration			
Limitation on general operating expenses	(-54,550,000)	(-54,550,000)	....
Federal-aid highways (Highway Trust Fund):			
(Limitation on obligations)	(-132,190,000)	(-132,190,000)	....
Rescission	-132,190,000	-132,190,000	....
Emergency relief program	-100,000,000	-100,000,000	....
Total, Federal Highway Administration	-232,190,000	-232,190,000	....
Federal Railroad Administration			
Northeast corridor improvement program	-9,707,000	-9,707,000	....
National MAGLEV prototype development (Highway Trust Fund)	-250,000,000	-250,000,000	....
Total, Federal Railroad Administration	-259,707,000	-259,707,000	....
Federal Transit Administration			
Transit planning and research	-7,000,000	-7,000,000	....
Discretionary grants:			
(Limitation on obligations) (Highway Trust Fund)	(-33,911,500)	(-33,911,500)	....
Rescission	-33,911,500	-33,911,500	....
Total, Federal Transit Administration	-40,911,500	-40,911,500	....

FY 1995 EMERGENCY SUPPLEMENTAL APPROPRIATIONS AND RESCISSIONS BILL (H.R. 1944) — continued

	H.R. 1158	H.R. 1944	H.R. 1944 compared with H.R. 1158
GENERAL PROVISIONS			
Salaries and expenses	-15,000,000	-15,000,000	
Total, Chapter VIII:			
New budget (obligational) authority	-2,726,572,500	-2,726,572,500	
Emergency rescissions	(-104,400,000)	(-104,400,000)	
Rescissions	(-2,624,172,500)	(-2,624,172,500)	
(Limitations on obligations)	(-166,101,500)	(-166,101,500)	
(By transfer)	(611,950)	(611,950)	
CHAPTER IX			
DEPARTMENT OF THE TREASURY			
United States Customs Service: Salaries and expenses (by transfer)	(13,200,000)	(13,200,000)	
INDEPENDENT AGENCY			
Office of Personnel Management:			
Government payment for annuitants, employee life insurance benefits	9,000,000	9,000,000	
DEPARTMENT OF THE TREASURY			
Departmental offices	-100,000	-100,000	
Federal Law Enforcement Training Center:			
Salaries and expenses	11,000,000	11,000,000	
Acquisition, construction, improvements, and related expenses	-11,000,000	-11,000,000	
Financial Management Service	-160,000	-160,000	
Bureau of the Public Debt	-1,500,000	-1,500,000	
Internal Revenue Service: Information systems	-1,490,000	-1,490,000	
Total, Department of the Treasury	-3,250,000	-3,250,000	
EXECUTIVE OFFICE OF THE PRESIDENT			
The White House Office	-171,000	-171,000	
Federal Drug Control Programs:			
Special Forfeiture Fund	13,200,000	13,200,000	
Rescission	-13,200,000	-13,200,000	
Total, Executive Office of the President	-171,000	-171,000	
INDEPENDENT AGENCIES			
General Services Administration:			
Federal Buildings Fund: Rescissions	-580,412,000	-631,412,000	-51,000,000
Federal Election Commission	-1,396,000	-1,396,000	
Office of Personnel Management: Salaries and expenses	-3,140,000	-3,140,000	
Total, Chapter IX:			
New budget (obligational) authority	-579,369,000	-630,369,000	-51,000,000
Appropriations	(33,200,000)	(33,200,000)	
Rescissions	(-612,569,000)	(-663,569,000)	(-51,000,000)
(By transfer)	(13,200,000)	(13,200,000)	
CHAPTER X			
INDEPENDENT AGENCIES			
FEDERAL EMERGENCY MANAGEMENT AGENCY			
Disaster relief (emergency)	3,350,000,000	3,275,000,000	-75,000,000
Advance appropriation, FY 1996 (emergency)	3,350,000,000	3,275,000,000	-75,000,000
National flood insurance fund (by transfer)	(5,331,000)	(5,331,000)	
Total, Federal Emergency Management Agency	6,700,000,000	6,550,000,000	-150,000,000
CORPORATIONS			
Federal Deposit Insurance Corporation: Bank Enterprise Act	36,000,000		-36,000,000
DEPARTMENT OF THE TREASURY			
Community Development Financial Institutions			
Community development financial institutions fund program account		50,000,000	+50,000,000
DEPARTMENT OF VETERANS AFFAIRS			
Veterans Health Administration			
Medical care	-50,000,000	-50,000,000	
Departmental Administration			
Construction, major projects	-31,000,000	-31,000,000	
Total, Department of Veterans Affairs	-81,000,000	-81,000,000	

FY 1995 EMERGENCY SUPPLEMENTAL APPROPRIATIONS AND RESCISSIONS BILL (H.R. 1944) — continued

	H.R. 1158	H.R. 1944	H.R. 1944 compared with H.R. 1158
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT			
Housing Programs			
National homeownership trust demonstration program	-50,000,000	-50,000,000	
Annual contributions for assisted housing	-5,031,400,000	-5,131,400,000	-100,000,000
(Deferral)	(405,900,000)	(405,900,000)	
Assistance for the renewal of expiring section 8 subsidy contracts	-1,177,000,000	-1,177,000,000	
Congregate services		-37,000,000	-37,000,000
Youthbuild program	-10,000,000	-10,000,000	
Housing counseling assistance	-38,000,000	-38,000,000	
Flexible subsidy fund	-8,000,000	-8,000,000	
Nehemiah housing opportunities fund	-10,500,000	-10,500,000	
Total, Housing Programs	-6,324,900,000	-6,461,900,000	-137,000,000
Homeless Assistance			
Homeless Assistance grants (deferral)	(297,000,000)	(297,000,000)	
Total, Department of Housing and Urban Development	-6,324,900,000	-6,461,900,000	-137,000,000
INDEPENDENT AGENCIES			
Chemical Safety and Hazard Investigation Board			
Salaries and expenses	-500,000	-500,000	
Community Development Financial Institutions			
Community development financial institutions fund program account	-124,000,000	-124,000,000	
Corporation for National and Community Service			
National and community service programs	-210,000,000	-105,000,000	+105,000,000
Environmental Protection Agency			
Research and development	-14,835,000	-14,835,000	
Abatement, control, and compliance	-9,806,805	-9,806,805	
Buildings and facilities	-83,000,000	-83,000,000	
Hazardous substance superfund	-100,000,000	-100,000,000	
Water infrastructure / State revolving fund	-1,302,200,000	-1,077,200,000	+225,000,000
Total, Environmental Protection Agency	-1,509,841,805	-1,284,841,805	+225,000,000
National Aeronautics and Space Administration			
Science, aeronautics and technology	-50,000,000	-95,000,000	-45,000,000
Construction of facilities	-34,000,000	-34,000,000	
Mission support	-32,000,000	-32,000,000	
Space flight, control and data communications	-20,000,000	-43,000,000	-23,000,000
Total, National Aeronautics and Space Administration	-136,000,000	-204,000,000	-68,000,000
National Science Foundation			
Academic research infrastructure	-131,867,000	-131,867,000	
CORPORATIONS			
Federal Deposit Insurance Corporation: FDIC affordable housing program	-11,281,034	-11,281,034	
Total, Chapter X:			
New budget (obligational) authority	-1,795,189,839	-1,804,189,839	-9,000,000
Emergency appropriations	(6,700,000,000)	(6,550,000,000)	(-150,000,000)
Appropriations	(36,000,000)	(50,000,000)	(+14,000,000)
Rescissions	(-8,531,189,839)	(-8,404,189,839)	(+127,000,000)
(By transfer)	(5,331,000)	(5,331,000)	
(Deferrals)	(702,900,000)	(702,900,000)	
Total, Title I:			
New budget (obligational) authority	-9,182,125,876	-8,867,525,876	+314,600,000
Emergency appropriations	(6,700,000,000)	(6,550,000,000)	(-150,000,000)
Emergency rescissions	(-109,650,000)	(-109,650,000)	
Appropriations	(365,705,600)	(379,705,600)	(+14,000,000)
Rescissions	(-16,138,181,476)	(-15,687,581,476)	(+450,600,000)
(Increases in limitations on obligations)	(24,500,000)	(24,500,000)	
(Reductions in limitations on obligations)	(-166,101,500)	(-166,101,500)	
(By transfer)	(25,360,950)	(25,360,950)	
(Deferrals)	(702,900,000)	(702,900,000)	

FY 1995 EMERGENCY SUPPLEMENTAL APPROPRIATIONS AND RESCISSIONS BILL (H.R. 1944) — continued

	H.R. 1158	H.R. 1944	H.R. 1944 compared with H.R. 1158
TITLE II - GENERAL PROVISIONS			
Emergency two-year salvage timber sale program (Forest Service and Bureau of Land Management):			
Salvage costs/payments	3,831,000	3,831,000	
Receipts	-35,000,000	-35,000,000	
Federal administration and travel expenses		-375,000,000	-375,000,000
Total, Title II:			
New budget (obligational) authority	-31,169,000	-406,169,000	-375,000,000
TITLE III			
EMERGENCY SUPPLEMENTAL APPROPRIATIONS ANTI-TERRORISM INITIATIVES OKLAHOMA CITY RECOVERY			
CHAPTER I			
DEPARTMENT OF JUSTICE			
General Administration			
Salaries and expenses	34,220,000	34,220,000	
Legal Activities			
Salaries and expenses, United States Attorneys	2,000,000	2,000,000	
Federal Bureau of Investigation			
Salaries and expenses	77,140,000	77,140,000	
Total, Department of Justice	113,360,000	113,360,000	
THE JUDICIARY			
Courts of Appeals, District Courts, and Other Judicial Services			
Court security	16,640,000	16,640,000	
Total, Chapter I:			
New budget (obligational) authority	130,000,000	130,000,000	
CHAPTER II			
DEPARTMENT OF THE TREASURY			
Federal Law Enforcement Training Center	1,100,000	1,100,000	
Bureau of Alcohol, Tobacco and Firearms	34,823,000	34,823,000	
United States Customs Service: Salaries and expenses	1,000,000	1,000,000	
United States Secret Service	6,675,000	6,675,000	
Total, Department of the Treasury	43,598,000	43,598,000	
INDEPENDENT AGENCY			
General Services Administration:			
Federal Buildings Fund:			
Limitations on availability of revenue:			
Construction and acquisition of facilities	(2,300,000)	(2,300,000)	
Alfred P. Murrah Federal Office Building	(40,400,000)	(40,400,000)	
Repairs and alterations	(3,300,000)	(3,300,000)	
Rental of space	(8,300,000)	(8,300,000)	
Real property operations	(12,500,000)	(12,500,000)	
Total, limitations	(66,800,000)	(66,800,000)	
Total, Chapter II:			
Budgetary resources available	110,398,000	110,398,000	
Emergency appropriations	(43,598,000)	(43,598,000)	
(Limitations on availability of revenue)	(66,800,000)	(66,800,000)	
CHAPTER III			
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT			
Management and Administration			
Community development grants		39,000,000	+39,000,000
Salaries and expenses	3,200,000	3,200,000	

FY 1995 EMERGENCY SUPPLEMENTAL APPROPRIATIONS AND RESCISSIONS BILL (H.R. 1944) — continued

	H.R. 1158	H.R. 1944	H.R. 1944 compared with H.R. 1158
INDEPENDENT AGENCIES			
FEDERAL EMERGENCY MANAGEMENT AGENCY			
Salaries and expenses	3,523,000	3,523,000	
Emergency management planning and assistance	3,477,000	3,477,000	
Total, Federal Emergency Management Agency	7,000,000	7,000,000	
Total, Chapter III:			
New budget (obligational) authority	10,200,000	49,200,000	+39,000,000
Total, Title III:			
Budgetary resources available	250,598,000	289,598,000	+39,000,000
Emergency appropriations	(183,798,000)	(222,798,000)	(+39,000,000)
(Limitations on availability of revenue)	(86,800,000)	(86,800,000)	
Grand Total:			
New budget (obligational) authority	-9,029,496,876	-9,050,896,876	-21,400,000
Emergency appropriations	(8,883,798,000)	(8,772,798,000)	(-111,000,000)
Emergency rescissions	(-109,850,000)	(-109,850,000)	
Appropriations	(334,536,600)	(348,536,600)	(+14,000,000)
Rescissions	(-16,138,181,476)	(-16,062,381,476)	(+75,800,000)
(FY 1995)	(-15,788,877,476)	(-15,851,377,476)	(+75,800,000)
(FY 1996)	(-389,304,000)	(-389,304,000)	
(FY 1997)	(-65,000,000)	(-65,000,000)	
(Increases in limitations on obligations)	(91,300,000)	(91,300,000)	
(Reductions in limitations on obligations)	(-166,101,800)	(-166,101,800)	
(Total, appropriations and increases in limitations on obligations)	(7,309,834,600)	(7,212,834,600)	(-97,000,000)
(Total, rescissions and reductions in limitations on obligations)	(-16,413,932,976)	(-16,346,132,976)	(+67,800,000)
(By transfer)	(25,360,950)	(25,360,950)	
(Deferrals)	(702,800,000)	(702,800,000)	

Mr. LIVINGSTON. Mr. Speaker, I reserve the balance of my time.

Mr. OBEY. Mr. Speaker, I yield myself 13 minutes.

Mr. Speaker, I understand full well why the President feels he has to sign this bill. As President, he feels a deep obligation to try to assure that funds are available for the California and other disasters. He is deeply concerned about obtaining Jordan debt relief. We all understand why. There are a number of other high-priority items which the President feels that he needs.

But we have a different role. As I look at this bill, I see it quite differently than does my good friend the gentleman from Louisiana [Mr. LIVINGSTON]. I see a bill which has total rescissions of over $16 billion, total additional spending of some $7.2 billion, a net change of $9.2 billion in budget authority. But that results in only about $5 billion in actual outlay savings. In the first year those outlay savings are used to reduce the deficit, but over the life of this bill, the 7-year life of this bill, the rest of these savings are used to pay for the tax cut which our friends on this side of the aisle are pushing.

As we have discussed many times, the lion's share of that tax cut is going to people who make more than $100,000 a year. To put it in perspective, the first year savings which result, which are used for deficit reduction, are about $5 billion, but over the life of the bill, the amount of money available to be used to help finance that tax package is between $130 and $140 billion.

That is why, when this bill was before the House the first time, the Democratic Members of this House tried to assure that those savings would be used to reduce the deficit, not to provide somebody who makes $200,000 a year a tax cut. We tried to pass the Brewster amendment, and we did pass the Brewster amendment. I believe only 9 Members of this House voted against it. I may have to correct that number, but I think that is the number.

But then, as I said earlier in debate, the distinguished chairman of the Committee on the Budget told the press that, well, passage of that Brewster amendment was all just a game in order to get the votes to pass this rescission bill. The problem is that what this winds up being is a great transfer of resources from middle-income families, from low-income seniors, to people who I think in the name of the national interest because of their high income could very well afford to forgo a tax cut if they are in the $200,000 bracket.

Mr. Speaker, I do not see any reason why to finance that kind of a tax cut we ought to cut housing for people who desperately need it by $5 billion, HUD-assisted housing; why we ought to cut HUD housing renewals by $1.2 billion; why we ought to cut 1996 summer jobs by $872 million; why we ought to cut other youth training programs by $272 million; why we ought to cut low-income heating assistance by $319 million.

That low-income heating assistance program may not be important to somebody in a warm weather state or in a moderate weather state, but in my district it gets to be 42 below zero in February, and I am not talking chill factor.

Eighty percent of the people who use that program make less than $10,000 a year. I started that program with Senator Muskie years ago because I just got awfully tired of seeing, in my own communities, seniors who had to make a choice between paying for prescription drugs and buying their own food and keeping their house warm.

□ 2030

As I said before on this floor, I will never forget meeting a woman who I met in a city called Stevens Point in my district, who lived in a house which was built for her as a wedding gift by her husband many years ago. She was in her 80's, very poor.

That house meant more to her than anything else in her life and the only thing kept her in that house was that low income heating assistance program. She had closed up every other room in the house except the living room, the kitchen and the bathroom and she slept on an old beat up couch in the living room and was desperately grateful that she was getting a little bit of help so she could stay in the home that she loved.

Now, I know that some people think that sentiment is passe and that emotions should not count, but I hope that Members of Congress are not just numbers machines. I hope we remember that behind each and every number we deal with are human beings: working families, very often, people who count on us to make the right decisions on behalf of their welfare.

Mr. Speaker, I take a back seat to no one in my desire for a balanced budget and I have indicated many times that I would support most of the cuts in this bill, certainly not all of them, but I would support most of these cuts even though some of them, no question, will hurt, if they were going to actually reduce the deficit.

But this is the leading wedge that is pushing the way open to provide for that rich man's tax cut which is going through this place and I just think it is wrong.

And while the President has to except the bill because he has other responsibilities, I am simply casting a protest vote against what I consider to be the misguided priorities and the insufficient attention to deficit reduction as opposed to tax cuts for high-income folks.

Mr. Speaker, the gentleman from Ohio [Mr. KASICH], our distinguished friend and the chairman of the Committee on the Budget said today that when they passed the budget resolution, they were delivering on their promise on the Republican side of the aisle. But I would simply note that you cannot deliver on a promise by making another promise and as we all know, all a budget resolution is, is a promise. It has no force of law until we do something else.

But this, my friends, is real. When we pass this legislation, this appropriations and rescission legislation, it is real.

And the problem is that when it became real on the Republican side of the aisle, they refused to accept our language for more than 1 day when we tried to attach, when we did attach that amendment that tried to assure that all of the cuts be used for deficit reduction rather than for the kind of tax package working its way through this House.

So Mr. Speaker, since the huge majority of the dollars in this bill will really go for that purpose, and not for deficit reduction, I feel required to lodge a protest vote, because I really do think we can do better. I really do think we can be more fair and I really do think we can be more disciplined on the tax side.

Mr. Speaker, I tell my colleagues frankly, I have talked to a number of constituents in my district who do very well under this tax cut who tell me, "Dave, forget it. Until we do better on balancing the budget, in my income level, I do not need a tax cut."

I really think we underestimate the sense of patriotism and the sense of reality and the willingness of the American people to sacrifice. I think we underestimate the willingness of the people in this society to sacrifice, if they truly believe it is shared sacrifice, balanced sacrifice, and really is for the purpose of significant, long-term deficit reduction.

This package is a smoke screen for tax reduction and, again, I say I understand why the President feels he must sign it, because he has other responsibilities. But I think we have responsibilities in our own roles to try to insist that these packages be as fair as possible, even while we go about the business on both sides of the aisle of trying to find responsible ways to reduce the deficit.

Mr. SANDERS. Mr. Chairman, will the gentleman yield?

Mr. OBEY. I yield to the gentleman from Vermont.

Mr. SANDERS. Mr. Speaker, I would like to ask the gentleman from Wisconsin [Mr. OBEY], my friend, a question. I agree with everything that he said. The cuts here are devastating. LIHEAP means a great deal to people in the State of Vermont. Education cuts, Public Broadcasting cuts, and so forth and so on.

Mr. Speaker, does the gentleman from Wisconsin note that given the fact that this government and Congress provide $100 billion a year in corporate welfare, that is tax breaks and subsidies for the largest corporations and the wealthiest people, does the gentleman happen to note any cuts in corporate welfare as part of this rescission package?

Mr. OBEY. Mr. Speaker, I certainly have not been able to find any. I would like to think that I have missed one or two.

Mr. SANDERS. Nor can I. Now that the Cold War has finally ended and many of us think that we do not need billions for star wars or B–2 bombers, has the gentleman from Wisconsin noted any cuts in military spending for B–2 bombers or star wars? Maybe the gentleman could educate us on that.

Mr. OBEY. Mr. Speaker, I would tell the gentleman from Vermont [Mr. SANDERS] no. I am dismayed that when I tried to offer an amendment in the Committee on Rules that would have enabled me to reduce the funding for the F–22, that I was denied the right to offer that amendment.

I would point out, we are very willing, I guess, to cut $574 million out of education programs. I am not willing to do that when I look at some of the things that are not being cut that should be. But I find it dismaying that that kind of cut is easily acceptable.

But yet we face a situation with the B–22, for instance, where the plane is supposed to replace the F–15. The F–15 is the finest fighter in the world. We have hundreds and hundreds and hundreds of them. The Pentagon tells us that the useful military shelf life of that plane will extend out at least to the year 2014, and yet we are asked to replace that with the F–22 at a cost of $70 billion, $160 million a plane. So I do find our priorities a bit warped.

AMENDMENT OFFERED BY MR. LIVINGSTON

Mr. LIVINGSTON. Mr. Speaker, pursuant to House Resolution 176 I offer an amendment.

The SPEAKER pro tempore (Mr. WALKER). The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. Livingston: On page 3, line 18, strike "1736(g)" and insert in lieu thereof: "1736o(g)", and

On page 8, line 7, strike "title II", and insert in lieu thereof: "title III", and

On page 9, strike all on line 9 down to and including "scinded." on page 9, line 12, and insert in lieu thereof:

"Under this heading in Public Law 103–317, after the word "grants", insert the following: "and administrative expenses". After the word "expended", insert the following: ": Provided. That the Council is authorized to accept, hold, administer, and use gifts, both real and personal, for the purpose of aiding or facilitating the work of the Council".", and

On page 11, line 6 strike "$31,200,000" and insert in lieu thereof: $24,200,000", and

On page 11, line 6, strike all beginning with ", of which" down through and including "program" on page 11, line 9, and on page 39, line 22 strike all after Provided," down to and including "grams" on page 39, line 25, and insert in lieu thereof: "That the funds remaining available for obligation after this rescission for carrying out this Act may only be used for entrepreneurship, academic, or tutorial programs or for work force preparation", and

On page 86, line 14, strike "shall" and insert in lieu thereof: "is authorized to", and

On page 86, strike all beginning on line 24 down through and including "Act" on page 87, line 22, and

On page 91, line 3, strike "4332(2)(E))" and insert in lieu thereof; "4332(2))", and

On page 98, line 4, strike "102(2C)" and insert in thereof: "102(2)(C)", and

On page 98, line 6, strike "4332(2C))" and insert in lieu thereof: "4332(2)(C)", and

On page 98, line 17, strike "102(2C)" and insert in lieu thereof: "102(2)(C)", and

On page 98, line 18, strike "4332(2C)" and insert in lieu thereof: "4332(2)(C))", and

On page 103, line 11 strike all beginning with "September" down to and including "1997" on page 103, line 12, and insert in lieu thereof: "December 31, 1996".

Mr. LIVINGSTON. Mr. Speaker, I yield myself such time as I may consume to explain the amendment.

Mr. Speaker, the amendment I have offered makes technical changes to the Food for Progress rescission, the Public Law 480 program account rescission, and the Children and Family Services program rescission because they were incorrectly drafted.

It eliminates two rescissions for the Ounce of Prevention and the GLOBE Programs. It changes the requirement that NASA acquire land in Texas to only authorizing this acquisition.

It also eliminates the language authorizing the transfer of the Yellow Creek NASA facility which was included in H.R. 1158. Finally, it makes several citation corrections to the salvage timber provision and changes the termination of the timber salvage sale provision from September 30, 1997, to December 1996.

These changes are necessary for the bill to reflect the original introduced intent, to eliminate an authorization problem, and to gain the President's signature. So I urge the adoption of my amendment.

Mr. Speaker, I reserve the balance of my time.

Mr. OBEY. Mr. Speaker, I yield 2 minutes to the gentleman from Vermont [Mr. SANDERS] to complete his statement.

Mr. SANDERS. Mr. Speaker, I thank the gentleman from Wisconsin for yielding me this time.

Let us talk economics for a moment and what is really going on in America. Let us recognize that in America today the wealthiest 1 percent of the population owns more wealth than the bottom 90 percent.

The gap between the rich and the poor is growing wider. The middle-class is shrinking. Workers are earning lower wages. That is the economic reality in America. But what does that have to do with the rescission package that we are looking at tonight?

Mr. Speaker, it seems to me that if we are going to be honest, we would say let us move forward in a way that is fair that does not hurt those people who are seeing a decline in their standard of living, those people who are experiencing increased poverty.

Interestingly enough, however, when we look at this rescission package, do we notice any cuts, any cuts in the $100 billion a year that the largest corporations in America and that the wealthiest people in America are receiving through corporate welfare? Amazingly, no, we do not.

We see cuts in affordable housing. We see cuts in environmental protection; cuts in the summer job program for low-income kids; cuts in LIHEAP. The gentleman from Wisconsin [Mr. OBEY] talked about LIHEAP. In the State of Vermont, it gets mighty cold in the wintertime. We have elderly people trying to survive on $8,000 or $9,000 a year Social Security, but they are cutting that program some $300 million.

Mr. Speaker, I do not know how low-income elderly people will survive with those types of cuts. But when it comes to corporate welfare, my goodness, we just cannot find a nickel.

What about military spending?

Mr. LIVINGSTON. Mr. Speaker, I yield 2 minutes to the gentleman from Oklahoma [Mr. ISTOOK], a distinguished member of the Committee on Appropriations.

Mr. ISTOOK. Mr. Speaker, I rise to thank the gentleman from Louisiana [Mr. LIVINGSTON], the other members of the committee, the Speaker, the gentleman from Oklahoma [Mr. LUCAS], the other members of the Oklahoma delegation, our mayor of Oklahoma City, Ron Norick, the Governor, Frank Keating, and all others who have worked together to try to fashion some relief for our city, which was so unfortunately damaged by the bombing on April 19.

Mr. Speaker, this bill is extremely important to Oklahoma City. It has $39 million of relief to assist people, businesses, property, in the damaged area and in the downtown area of Oklahoma City, including an unusual provision, unique for this special purpose, to assist downtown churches, one of which was immediately across the street from the blast, so that they too, to the same extent as any other nonprofit group, might receive the assistance to rebuild at least what we can rebuild since the lives that were shattered cannot be put back together.

The churches, for example, rendered emergency assistance and even provided the facilities for the morgue that was necessary when 168 people died in that catastrophic explosion.

Mr. Speaker, this bill is also important because it has funds to rebuild or repurchase a new Federal building; for the demolition of the building which has occurred; the ability to turn the site over to the city of Oklahoma City for a permanent memorial, which is to be constructed; to provide emergency funding for housing of Federal agencies; and of course money for antiterrorist activities, including $2 million as necessary for the prosecution of the despicable individuals that committed that atrocious act of terrorism.

□ 2045

Mr. Speaker, this is important, and I ask every Member to join me in expressing appreciation and in asking support of this bill.

Mr. OBEY. Mr. Speaker, I yield myself 2 minutes to say one thing.

Apparently, I misspoke a second ago when I said or when I talked about how I understand if the President felt a need to sign this bill. I had been informed erroneously, it turns out, that the Administration had agreed to sign this bill, and hearing that, I had also erroneously assumed that certainly our Republican friends would never be rash enough to bring this bill to the floor while negotiations were still going on with the President, because I thought that things would be handled more gracefully than that. But apparently they have not been, and I am informed that there is still a negotiating process going on.

So I would respectfully suggest to the gentleman, if that is the case, that if they are interested, if you are sincerely interested in getting an agreement with the White House, and I know the White House is interested in getting an agreement with you, I would suggest that the responsible thing would be to suspend the rest of this debate until, in fact, we do have something to present to the House which does represent the genuine agreement.

Mr. LIVINGSTON. Mr. Speaker, will the gentleman yield?

Mr. OBEY. I yield to the gentleman from Louisiana.

Mr. LIVINGSTON. I would only respond to the gentleman by saying it was my understanding at the outset of this debate that we had an agreement with the White House, and if the gentleman has better information than I do, then I would have to express my shock and dismay in the event that no agreement exists. I can tell the gentleman that there have been some ongoing negotiations with respect to language in collateral documents that deal with the timber sales.

Mr. Speaker, I yield myself 3 minutes.

I tell the gentleman, to the best of my knowledge, that those negotiations on collateral documents which have no reflection on this, no direct reflection on this bill, and really do not, in my mind, indicate that the President has not agreed to go forward.

As I say, if the gentleman has additional information or new information that says that the Administration is not prepared to go forward, then I think he should bring that to the attention of the House, and I would say that I would be very, very displeased.

Mr. OBEY. If the gentleman would be kind enough to yield, I would simply say that I was just informed by a key White House person in the meeting, or my staff was, that they are still trying to work out language, and it just seems to me particularly graceless for us to be proceeding if, in fact, both parties are working in good faith. I really do believe that it does no one any good, the Congress or the White House, for us to be proceeding if there is, in fact, uncertainty about this, and I think Members are entitled to know what the facts are before they cast a vote.

So I would respectfully urge, and I see the majority leader on the floor, I would respectfully urge that he suspend further consideration of this bill until we can honestly tell Members what, in fact, is going on.

Mr. LIVINGSTON. Reclaiming my time, I would say to the gentleman that whatever negotiations are going on, to the best of my knowledge, affect or are involving a letter of clarification of intent on the timber issue and have nothing whatsoever to do with the substance of this bill, and, frankly, I do not anticipate that the lack of finality with respect to that letter of clarification should have any impact on the results of these deliberations on the floor.

Now, I am also of the understanding that the rule that we are working under, provides for no extension, no termination, no recess, and that we are obligated to go forward and complete the debate, and for that reason I, in fact, will pose that as a parliamentary inquiry.

PARLIAMENTARY INQUIRY

Mr. LIVINGSTON. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. LIVINGSTON. Mr. Speaker, am I right, am I correct in my interpretation of the rule, are we compelled to go forward until the conclusion of this debate?

The SPEAKER pro tempore. The understanding of the Chair is that he could withdraw the bill by unanimous consent but that that would be the only way that the House could proceed differently than the manner in which we are proceeding at the present time, since the previous question is ordered by the rule.

Mr. LIVINGSTON. Mr. Speaker, unless someone gives me notification that the White House is not prepared to go forward, under the circumstances, I would not be inclined to offer such a request by unanimous consent. Therefore, I would suggest the gentleman to go ahead and debate on his own time.

Mr. OBEY. Mr. Speaker, I yield myself 15 seconds, simply to say that I think it is a distinct disservice to Members to ask them to participate in this debate before they know whether an agreement has been reached. I do not think it serves the country well either.

Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Montana [Mr. WILLIAMS].

Mr. WILLIAMS. Mr. Speaker, I think it is necessary for me to inform my colleagues, because of events that may happen in the near future, about the specifics of the timber situation, as it has become known, which is parochial to the States of Montana and Idaho.

Montana and Idaho are the only two States in the Nation that have not resolved the RARE-II dilemma, roadless area review and evaluation dilemma. Neither Montana nor Idaho have passed the necessary legislation to either designate the RARE-II wildlands in those two States nor, critically important, have we passed necessary legislation to release those lands.

What the House of Representatives has done in the past, in fact, less than a year ago, is to pass through this body a bill which was not accepted on the other side which would have protected against usual timber harvest 1,100,000 acres of Montana.

Under the bill before us, despite that vote a year ago, that land could be open to timbering. Now, here is my point: If that happens, in fact, if any of the two RARE-II lands are opened to timbering in Idaho or Montana, the people of those States will instantly go to court, and, by the way, if any of those 1,100,000 acres that this House has voted to put in wilderness or protect otherwise are threatened with timbering by the Forest Service, I will go to court to stop it.

So I want to put the House of Representatives on notice that if timbering in these lands which the Congress, the House of Representatives, is on record as protecting goes forward, there will be lawsuits against it.

Mr. LIVINGSTON. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Oklahoma [Mr. LUCAS].

Mr. LUCAS. Mr. Speaker, over 2 months have passed since the bombing of the Alfred P. Murrah Building in downtown Oklahoma City. As you can well imagine, representing this area during this time has been quite a challenge. There is truly no clear formula on how a Member of Congress should deal with such a disaster.

Since the bombing, I have expressed my belief that while private relief has poured in from throughout the nation, the Federal Government has a distinct responsibility to Oklahoma City above and beyond building a new federal building, or bolstering law enforcement in Oklahoma City and throughout the country. With the rubble removed and the rebuilding and healing of a damaged city in full swing, the magnitude of the loss is coming into perspective.

The President's veto of the earlier version of the emergency supplemental and rescissions bill gave us in Congress the ability to listen and react to Governor Keating and Mayor Norick's pleas for Federal assistance in response to the economic losses pertaining to the bombing. The Federal response to the bombing contained in H.R. 1944 is a major step toward meeting the city's economic needs this tragic event has created.

I would like to commend the Speaker, Chairman LIVINGSTON, Chairman LEWIS, and Mr. ISTOOK for their efforts as we have worked to develop the right course for this aid to take. I look forward to working with them and state and local leaders in Oklahoma as we continue to facilitate the healing and rebuilding process.

Mr. OBEY. Mr. Speaker, I yield myself 30 seconds to simply say it is a miracle. We are now told that within the last minute there actually has been an agreement reached on this letter.

I still find it phenomenal that this House is being asked to vote on this agreement without even having seen it. The timber issue is important to a lot of people in this House, including me, and just for the heck of it, I would like to know what the agreement is and see it in black and white before we debate it. It might be kind of quaint, but it might also be kind of useful.

Mr. Speaker, I yield 2 minutes to the gentlewoman from Colorado [Mrs. SCHROEDER].

Mrs. SCHROEDER. Mr. Speaker, I thank the gentleman from Wisconsin for yielding me this time.

I certainly am very sympathetic to the gentleman from Oklahoma who was in the well just before me. I think all of us realize that the President has, and we have, a serious responsibility dealing with some disasters.

But let us talk about this bill, which I think this rescission bill in a way is a disaster, because while it cuts over $16 billion, the disasters, whether you agree with them or not, are only $7-plus billion, and so that means there is $9 billion left.

What happens to that money? It does not go to the deficit. It goes for tax cuts for the rich.

Now, I even questioned some of the disasters that are out there in parts of the country where people do not buy insurance, where they are back here all the time with their little tin cup; meanwhile they are returning State dollars and State taxes to their own people, and meanwhile what are we cutting in here to make them whole? While they are getting tax rebates at the State and local level, my people in Colorado are being asked by this rescission bill to zero out summer jobs, to cut AmeriCorps in half, which is one of the great hopes for young people who are not lucky enough to be born into a family that can get them through college, it cuts significantly the Goals 2000 programs dealing with education, it zeros out the math and science training, it zeros out the public broadcasting, and for those of us who are parents and find Big Bird the only decent thing we want our kids to watch on TV, these are very serious cuts.

Part of this money, and I do not begrudge the part that is going to Oklahoma, but I begrudge the part that is going to tax cuts for the rich, and I begrudge the part that is going to other parts where they are rescinding their State taxes at the same time they come at us with their golden cup.

☐ 2100

Mr. LIVINGSTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to ask the gentleman from North Carolina [Mr. TAYLOR] to take the well, and I would ask him, the author of the portion of the amendment relating to timber, to clarify the intent of the changes negotiated with the administration. The timber provision, of course, was originally conceived, I think, by the gentleman, as well as the gentleman from Alaska [Mr. YOUNG], our distinguished chairman of the Committee on Natural Resources. But the gentleman from North Carolina is the only forester who is a Member of the House, and he was directly involved in the negotiations.

Mr. Speaker, I yield 2 minutes to the gentleman from North Carolina [Mr. TAYLOR] so that he might describe the content of his negotiations.

Mr. TAYLOR of North Carolina. Mr. Speaker, I say to the gentleman, "I appreciate your including me and the other members of the authorizing committees and their representatives in this discussion with the administration. It has been a long, arduous task, but I think we made progress."

We have been losing the forestry infrastructure in this country, along with it tens of thousands of jobs and our forest health in the long run. If we lose that forest infrastructure, then the decisions that are made in the future are moot because we will not be able to carry out those silviculture practices that our best universities, that a hundred years of forestry and a hundred years of experimentation with private, State, and Federal experiment sites have given us. We need harvest to carry out and save that infrastructure. We need it in an environmental way, and we have tried to craft a bill that will protect the environment, that will give us forest health at the same time it saves that infrastructure and provides jobs.

Mr. DEFAZIO. Will the gentleman yield on that point? Will the gentleman yield on that point?

Mr. TAYLOR of North Carolina. We have tried to work out because there has been little movement—although for nearly 3 years we have had promises, there has been little movement in getting that harvest. We have worked out with the administration a program that will define and move us forward both in forest health and in job creation. It will give a specific track that we can follow in a managed way using the best silviculture methods we have, taking into consideration the environment, and taking into consideration our economic needs. If we follow the outline that has been agreed to by the President, then we can make substantial progress.

Mr. Speaker, the Congress will be monitoring this action periodically to see that we are making progress. We can provide the tools to the Forest Service, we can provide any other tools that are necessary for the——

The SPEAKER pro tempore (Mr. WALKER). The time of the gentleman from North Carolina [Mr. TAYLOR] has expired.

Mr. LIVINGSTON. Mr. Speaker, I yield to the gentleman from North Carolina [Mr. TAYLOR] an additional minute.

Mr. TAYLOR of North Carolina. We can be successful in all our areas in providing jobs and protecting forest health and protecting the environment, and I think this agreement that we reach tonight will give us that end product, and that is why I am willing to support that, Mr. Speaker.

The SPEAKER pro tempore. The gentleman from North Carolina [Mr. TAYLOR] is recognized, he controls the time——

Mr. DEFAZIO. I am asking him to yield.

Mr. TAYLOR of North Carolina. I will not yield at this time.

Mr. LIVINGSTON. Regular order, Mr. Speaker.

The SPEAKER pro tempore. The gentleman has declined to yield, and the gentleman from North Carolina [Mr. TAYLOR] does control the time.

Mr. TAYLOR of North Carolina. We can be successful in all our areas, in providing jobs, and protecting forest health, and protecting the environment, and I think this agreement that we reach tonight will give us that end product, and that is why I am willing to support that.

Mr. DEFAZIO. Representing the most public timber-dependent district in the Nation and far exceeding the needs of the gentleman's district, could the gentleman provide something in writing to decide before we vote, or are we going to be required to vote on the good-faith assurances of the Republican Party, having dealt with a Democratic President, and telling us that there is nothing available in writing? What is available in writing to the Members of this House, 435 members, now?

Mr. TAYLOR of North Carolina. I say to the gentleman, "Mr. DICKS has been involved from your side of the aisle, been involved in these negotiations. What we have tried to do is what I just said. We all recognize the need. We have tried to come up with a realistic plan, not unlike what was passed in the original——

Mr. DEFAZIO. Is it in writing?

Mr. TAYLOR of North Carolina. By 277 members of this House.

Mr. Speaker, the modifications agreed to by the administration and the committees embody clarifications of several parts of the package.

First, subsection (l) concerning the effect of the provision on other laws was revised by creation of a limited exception to language that prohibited modifying land plans and other administrative actions a consequence of implementing this section. The new exception allows modifications under limited circumstances when needed to meet salvage levels agreed to by the conferees or to reflect the particular effect of the salvage sale program.

However, the salvage timer sales cannot form the basis for an administrative action that limits other multiple use activities. Project decisions, such as salvage sales, cannot be stopped or delayed by modifications either. The term "delayed" was substituted to ensure that salvage sales and other project decisions go forward. A clarification was added to make sure that a particular salvage timber sale cannot be required to be offered.

Second, subsection (b)(1) was clarified in its linkage to subsection (c), which is part of the salvage sale portion of the section. The authority and process for emergency salvage timber sales is contained in these and other subsections and the clarification embodies the concept that the two subsections are to work in concert, but that once a sale is prepared and advertised the sale is deemed sufficient to meet all applicable laws and then go forward. A 45-day stay can delay the sale while the U.S. District Court considers an appeal. Otherwise the sale will proceed. This expedited procedure will ensure that dead and dying timber on federal land can be harvested before it rots.

Third, the managers and Administration agreed to two important changes in subsection (i). We made it explicit that any salvage sale subject to subsection (b) and any timber sale subject to subsection (d) should be deemed to satisfy the requirements of any compact, executive agreement, convention, treaty, and international agreement, and implementing legislation related thereto. This change was made in response to allegations that passage and implementation of Section 2001 would result in violations of the North American Free Trade Agreement. No such violations would occur.

Fourth, subsection (i) and paragraph (i)(8) were modified slightly to clarify that salvage timber sales subject to subsection (b) and any timber sale subject to subsection (d) shall be deemed to satisfy the requirements of all applicable federal environmental and natural resource laws. This clarification is to ensure that purchasers of timber under this section must still comply with applicable contract law.

I stress that this provision was developed in concert with the authorizing Committee and included only after close consultation with the authorizing committees. The legislative committees have ensured us that long-term timber salvage legislation is forthcoming.

Mr. LIVINGSTON. Reclaiming my time, Mr. Speaker, I yield 2 minutes to the gentleman from Alaska [Mr. YOUNG], the distinguished chairman of the Committee on Resources, to discuss his understanding of these negotiations.

Mr. YOUNG of Alaska. Mr. Speaker, may I suggest, as the chairman of the authorizing committee, the Committee on Resources can agree with the gentleman from North Carolina [Mr. TAYLOR]. The man has done yeoman's work on this situation of salvageable timber.

One of the things that concerns me the most, Mr. Speaker? We worked long and hard to force and forge several modifications and address the concerns of the administration. We have worked with the administration. It is language that is coming from the administration and not legislative language in this bill. What we are trying to do, why anybody would oppose it, is salvage dead trees, not RARE II, 16 billion board feet of timber is rotting today, standing because it was burned last year. And yet I have people say, "Oh, we can't harvest it because it might destroy the ecosystem."

What we have destroyed are the jobs of the American people. The mills have been shut down, those that provide the paper for this gobbled gook that we work on here every night, for that which we use here ourselves personally, have been shut down, and the American people have been put out of work, and I have people on that side that say, "We can't harvest a dead tree."

We have negotiated long and hard with the chairman and the administration, trying to reach a solution by putting the people of America back to work, and we have done that, and we will continue to do it with this legislation. But beyond that is a matter of principle. Is, in fact, man part of this system?

This man is a forester and understands that the renewable growth of trees—trees are a renewable resource. And to have someone to say we cannot cut down 16 billion board feet of trees, which we have not asked to do so; we asked to cut down 3 billion board feet. That is all, and yet we are looked upon by the media and by those in this body, saying we must not harvest RARE II.

Nonsense. We are talking about a tree that has been burnt because the forests were not managed to begin with. We are talking about American lives and American working forests. It is time we got on. This is good legislation. I urge the passage of the legislation.

Mr. OBEY. Mr. Speaker, I yield 1 minute to the gentleman from Oregon [Mr. DEFAZIO].

Mr. DEFAZIO. We need a thoughtful forest health program. We have a forest health crisis in the Western United States caused by mismanagement, and that would include some salvage, but we are being asked to accept a pig in a poke. We are being told that the Democrat administration has entered into a secret agreement not available in writing with the Republican majority which we are going to be asked to vote on within 15 minutes here in the House of Representatives. I am being asked to accept on good faith that this is something that will both protect the environment and do what we need for forest health and salvage in the Western United States, but it is not available in writing.

This is an outrage, this is an extraordinary outrage. I do not know how many times I heard from the minority on that side last year, "You can't make us vote on something we haven't read." We have not read this. This is not available to us. It is not available to us either through the Democratic administration, nor the Republican majority. That is absurd. No one in America thinks we should vote on something we have not read.

Mr. LIVINGSTON. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, if the gentleman has not read the timber provisions in H.R.——

Mr. DEFAZIO. I have read that, if the gentleman will yield?

The SPEAKER pro tempore. The time is controlled by the gentleman from Louisiana.

Mr. DEFAZIO. Will the gentleman yield?

Mr. LIVINGSTON. As a matter of fact, I will not yield.

Mr. DEFAZIO. Well, of course not. They will not let us read it, and they will not yield.

The SPEAKER pro tempore. The gentleman owes the House the respect of the rules.

Mr. DEFAZIO. He owes the courtesy of reading it before I vote on it.

The SPEAKER pro tempore. The gentleman will suspend.

Mr. SOLOMON. Get the Sergeant at Arms to get him out of here.

The SPEAKER pro tempore. The gentleman does owe the House the respect for the rules, and the gentleman from Louisiana is recognized.

Mr. LIVINGSTON. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, we have heard a lot of ranting and raving from the gentleman without a sense of humor about the fact that he has not had a chance to read this. No the fact of the matter is H.R. 1158 was filed 3 months ago. The President of the United States vetoed that bill. It contained a lot of timber language. He has had 3 months to read that language——

Mr. DEFAZIO. And I have read it.

Mr. LIVINGSTON. I did not know that I yielded to the gentleman.

Mr. DEFAZIO. The gentleman will not yield. He is shutting me down.

The SPEAKER pro tempore. The gentleman from Oregon should obey the rules of the House. The rules of the House require him to be yielded to while he is proceeding on the time of the gentleman from Louisiana. If the gentleman wants time, he seeks time from a Member who will yield it to him. Otherwise, he has no right to interrupt people who are proceeding under the proper order. The gentleman has the obligation to himself to proceed under the proper order.

The Chair recognizes the gentleman from Louisiana.

Mr. LIVINGSTON. And I was simply going to say, Mr. Speaker, that the gentleman has had 3 months to read the timber language in H.R. 1158, he has had a couple of days to read the timber language in H.R. 1944, and he has got the opportunity to speak with the gentleman from Washington [Mr. DICKS] as well as the gentleman from Alaska [Mr. YOUNG]——

Ms. FURSE. Mr. Speaker, will the gentleman yield?

Mr. LIVINGSTON. And the gentleman from North Carolina [Mr. TAYLOR] and the other folks who were working with the administration. He has got the opportunity to speak with the President of the United States. He has got the opportunity to speak with Leon Panetta. He has got the opportunity to speak with all of these people in his own administration, and he is pleading surprise. He is pleading that he does not have an opportunity to know what the agreement is.

The agreement centers over about five words in addition to the words that are in this document, H.R. 1944——

Ms. FURSE. Will the gentleman yield?

Mr. LIVINGSTON. And I am absolutely astounded that he should beat his breast and express to the Chamber that he has not had an opportunity to see what is going on. If he has not had an opportunity to see what is going on, I would suggest to him that he is not doing his homework. He did not pick up the telephone and call the President of the United States to ask him what is going on.

Ms. FURSE. Will the gentleman yield to me?

Mr. LIVINGSTON. Mr. Speaker, I reserve the balance of my time.

Mr. OBEY. Mr. Speaker, I ask, "Why don't we all get 10 minutes' sleep, and then I will yield to somebody."

Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts [Mr. KENNEDY].

Mr. KENNEDY from Massachusetts. Mr. Speaker, I appreciate the fact that there is an enormous amount of controversy over the number of board feet, and when those board feet are going to be cut, and who they are going to be sold to, and when they are going to be turned into homes and other kinds of products. I am more concerned with the $17 billion that is going to be cut out of this Nation's economy by this bill and the complicity that our administration is showing with the Republicans to gut most specifically the housing programs of this country. We are talking about wood, but that wood ultimately gets turned into homes, and, as a result of the actions being taken in this bill, we are going to see thousands and thousands of Americans thrown into homelessness.

I say to my colleagues, make no mistake about it. When you cut a quarter of the Nation's housing budget in 1 year without even a weekend's thought as to how these programs are going to be affected, homelessness is going to be created. People don't like seeing homeless people on the street. It makes them feel awkward. It makes them feel badly. You look around and remember where this country was.

Mr. Speaker, in 1980 we spent $30 billion building affordable housing, built over—300,000 units of affordable housing got built in that year. This year we built about 10,000 units of affordable housing, and we wonder why we created homelessness. The fact of the matter is that, if we are truly concerned about where we are headed in this country, then we ought not to be going after programs that provide for fuel assistance in the wintertime, that go after housing assistance throughout the year, or safe drinking water, or women, infants, and children, or the national service program, or education grants. What we ought to be doing is going after where the money is in America. We ought not to be providing these huge tax cuts. We ought to be looking at whether or not we need to be spending $2 million more on star wars, whether or not we want to be underwriting the nuclear power industry of America through new breeder reactors, whether we ought to be going after the oil and gas industry. That is where the money is in this country.

If we want to make cuts, go where the money is. Do not go where the poor people are. That is what this budget does. The Clinton administration, the Clinton Republicans, ought to be ashamed.

□ 2115

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. WALKER). Those who are in the gallery are informed they are the guests of the House, and shall not participate by demonstrating their pleasure for one speaker or another.

Mr. LIVINGSTON. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Washington [Mr. DICKS].

Mr. DICKS. Mr. Speaker, I appreciate the gentleman yielding.

Mr. Speaker, I just want to basically explain to my colleagues that I think the changes that were made in the timber legislation were those sought by the administration. The gentleman from Louisiana Mr. Chairman will change the date until December 31, 1996, which is a date that the administration requested.

Bascially the program will be a 1995–1996 program on timber salvage, and the administration has signed a letter, Secretary Glickman, saying they will do the very best they can to try. The base program is 3 billion board feet. They will do the best they can over the 2-year period to do an additional 1.5 billion board feet, but that requires them to have the resources necessary, the personnel, in order to lay out those sales. And this is laid out in a letter to Mr. GINGRICH.

Mr. Speaker, I think this is a fair compromise. The gentleman from Louisiana [Mr. LIVINGSTON], the gentleman from North Carolina [Mr. TAYLOR], the gentleman from Alaska [Mr. YOUNG], and others were involved with the staff of the administration. We tried to do the best we could. There were some on the other side of the aisle that wanted a much higher number. The administration told them basically this is the best they could do under the circumstances.

Ms. FURSE. Mr. Chairman, will the gentleman yield?

Mr. DICKS. I yield to the gentlewoman from Oregon.

Ms. FURSE. Mr. Speaker, what the gentleman from Washington [Mr. DICKS] must understand is we have plans in place in Oregon and Washington to restore salmon habitat, and we have not seen the agreement. We have an obligation to the fishermen and fisherwomen in our communities who have worked hard and given up an enormous amount.

Mr. DICKS. Mr. Speaker, reclaiming my time, we have got the money in the interior appropriations bill to continue the jobs in the woods program, and the assistance for helping fish. I agree. We wanted to make sure this program is environmentally sensitive, the administration has said. This is not a Forest Service run by anyone other than Jack Ward Thomas from the gentlewoman's great State of Oregon. They are going to do the sales properly and in a way that will not hurt the fish.

Mr. WILLIAMS. Mr. Chairman, will the gentleman yield?

Mr. DICKS. I yield to the gentleman from Montana.

Mr. WILLIAMS. As the gentleman knows, the original rescissions bill allowed the harvest under this section of both dead, dying, diseased timber and green timber. Is the green timber still in this?

Mr. DICKS. As the gentleman well knows, any time you do a salvage sale, there is going to be some green sales at the periphery of the sale. But they will do that and try to minimize the taking.

Mr. WILLIAMS. If the gentleman would yield further, under the gentleman's understanding then there would only be green timber harvested in an ancillary way, with the main purpose to be to get salvage.

Mr. DICKS. That is correct. The gentleman is correct.

Mr. OBEY. Mr. Speaker, I yield 1 minute to the gentlewoman from Oregon [Ms. FURSE].

Ms. FURSE. Mr. Speaker, I thank the gentleman for yielding.

Throughout the Pacific Northwest, we are trying to restore the great salmon runs on which our people depend, the tribal people, and the fishermen who are fishing commercially and for the sports fishery. We are not here to say that whatever Mr. Clinton and the administration says is right in this sale is necessarily what we believe is right for our constituents. We need to see the paper. We need to know that in fact our watersheds are protected.

Yes, we are very willing to work together, but we need to see the paper, because we are representing fishermen and fisherwomen, both tribal and nontribal, who depend on clean watersheds, depend on clear running water. It is impossible for us to know whether this is going to be good for our watershed plans or bad for them, because we do not know the language.

We are the most trusting people in the world, but we have a duty and an obligation to our fishermen and the people who have sacrificed time and again to try and bring these great salmon runs back. The people of the Northwest have spent millions of dollars on this. We need to see the paper before we can vote on this most important agreement. That is our duty.

Mr. LIVINGSTON. Mr. Speaker, I yield 1 minute to the gentleman from North Carolina [Mr. TAYLOR].

Mr. TAYLOR of North Carolina. Mr. Speaker, we have worked hard to get a commitment and a track laid down that would bring about a realistic harvest, a harvest that would impact forest health, that would get timber available to save the infrastructure and create jobs. And there are some 88,000 jobs that can be created out of the original package. It will be slightly less than this, but it will be a substantial job creation.

The commitment we received from the Secretary was to bring us approximately $4.5 billion in the period between now and December 31, 1996. That commitment was made to the gentleman from Washington [Mr. DICKS] and myself, and we will monitor in the coming months to see that that commitment is followed. We have given the administration the tools. They have given us the assurance, and they have given the people across this country, the assurance that they want to see the harvest coming with the tools and with their word we will move ahead.

THE WHITE HOUSE,
Washington, June 29, 1995.

Hon. NEWT GINGRICH,
Speaker of the House of Representatives, Washington, DC.

DEAR MR. SPEAKER: I am pleased to be able to address myself to the question of the Emergency Salvage Timber Sale Program in H.R. 1944. I want to make it clear that my Administration will carry out this program with its full resources and a strong commitment to achieving the goals of the program.

I do appreciate the changes that the Congress has made to provide the Administration with the flexibility and authority to carry this program out in a manner that conforms to our existing environmental laws and standards. These changes are also important to preserve our ability to implement the current forest plans and their standards and to protect other natural resources.

The agencies responsible for this program will, under my direction, carry the program out to achieve the timber sales volume goals in the legislation to the fullest possible extent. The financial resources to do that are already available through the timber salvage sale fund.

I would hope that by working together we could achieve a full array of forest health, timber salvage and environmental objectives appropriate for such a program.

Sincerely,

BILL CLINTON.

Mr. OBEY. Mr. Speaker, I yield one additional minute to the distinguished gentleman from Oregon [Mr. DEFAZIO].

Mr. DEFAZIO. Mr. Speaker, I think it behooves us as legislators, knowing there are many subtleties and words, to have before us the actual language, the laws that are being waived, the laws that are being superseded, the new standards that will be imposed, and the objectives before we vote. The gentleman derided me, the gentleman from Louisiana, for I have read the bill, and I voted against the original rescissions bill. I have read the language that was available an hour ago. I have talked to the chief of the Forest Service as recently as an hour ago. But there is language now that has come since that time that is not available in print.

Mr. SKAGGS. Mr. Chairman, will the gentleman yield?

Mr. DEFAZIO. I yield to the gentleman from Colorado.

Mr. SKAGGS. Mr. Speaker, one of the other things that still confuses me on this is I understand this provision still explicitly authorizes below cost sales so that in this bill in which we are trying to save money we will lose money on these sales. Is that the gentleman's understanding as well?

Mr. DEFAZIO. Mr. Speaker, reclaiming my time, that is one of the many waivers in this bill. It authorizes below cost sales, waives about 10 major environmental and procedural laws and waives all court and administrative and judicial appeals.

Mr. LIVINGSTON. Mr. Speaker, pointing out that the amendment is on record and the gentleman can read the amendment as well as the bill, I would yield 1 minute to the gentleman from Alaska [Mr. YOUNG].

Mr. YOUNG of Alaska. Mr. Speaker, the time is late, but it always amazes me where we can have people talk about they have not had an opportunity. The only real change in this whole legislative process is a change of the date at the bequest of the administration. That is all it is. The rest of it has been voted overwhelmingly by this committee.

But the thing that bothers me most, I hear people say we have not had an opportunity. We have not been able to read it. That is nonsense. They have had all these months to read it. One date changed, from 1997 to 1996, and that is it, which I did not like. Because I think we have to harvest those trees that are rotting today on their stumps because they burned, again because the forests were not managed.

To have someone say they are going to affect the fisheries, have you ever seen where the area has been burned and the soil has been eroded because the structure has been diluted because of fire? That is going to affect the fisheries? Nonsense, and you know that.

This is an attempt to destroy by opposition to this bill the infrastructure of the logging industry, which is important to this community. This bill needs to be passed because we are salvaging something in fact that is a waste today.

Mr. OBEY. Mr. Speaker, I yield 1 minute to the distinguished gentlewoman from Oregon [Ms. FURSE].

Ms. FURSE. Mr. Speaker, I have been told by tribal leaders that where there has been logging and secondary logging, you find that salmon restoration is diminished by sometimes up to 80 percent. We need to know, are there buffer strips? We need to know, is there clear protection for salmon spawning ground?

Mr. YOUNG, there is no one in this room who knows more about salmon. There is no one who cares more than the gentleman does about salmon. I care, too. I have salmon fishermen who are concerned that the great plans they have put in place and the sacrifices they have made may be, may be, diminished by this legislation.

All they ask of me is that I know what is in the bill. And this bill has changed hourly. I represent fishermen who fish as the gentleman from Alaska [Mr. YOUNG] does on the great salmon of the Northwest. We must do everything we can to preserve their habitat.

Mr. LIVINGSTON. Mr. Speaker, I reserve the right to close.

The SPEAKER pro tempore. The gentleman from Louisiana [Mr. LIVINGSTON] has 2 minutes remaining, and the gentleman from Wisconsin [Mr. OBEY] has 2¼ minutes remaining.

Mr. OBEY. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, we have now been going 2 days without sleep. We have not been able to review the timber issue on paper or to talk to people who have actually done the negotiating, except for the gentleman from Washington [Mr. DICKS], evidently. We are relying on the word of people who are in the room. We are debating the work product even as the work product is being put together.

I think that is a ludicrous way to do business, absolutely ludicrous. We should be debating this issue after we know what the full agreement is, not before.

As I said earlier, I understand the pressures on the President to sign this legislation and get on to other things. His veto has made this bill almost $800 million less pernicious. For that, I am happy. But this bill has always been basically a hit on kids and a hit on old folks for two purposes: One, to pay for disaster relief for California, and, second, to provide tax breaks, the lion's share of which are going to the wealthiest people in this country.

This bill is paraded as a deficit reduction package. In fact, because of the denial of the Brewster language, this bill is in fact providing only $5 billion in deficit reduction in the first year numbers, and then the out year numbers are devoted and fully available for use to finance that tax package that I am talking about. I do not believe it is fair, I do not believe it is right.

So Members are certainly entitled to vote any way they wish. They all have their own views and their own consciences, but I would suggest that if this Congress cannot do better, it is a pretty sad day.

Mr. LIVINGSTON. Mr. Speaker, I yield myself the balance of my time.

The SPEAKER pro tempore. The gentleman is recognized for 2 minutes to close debate.

Mr. LIVINGSTON. Mr. Speaker, here we are at the end of June. I look back on this past six months, and I think it has been a monumental 6 months, a revolutionary 6 months. The American people said at the polls 9 months ago they wanted change, and they are getting it. The Congress, both in the House and Senate, is delivering on the promises that were made in the last elections, and we are cutting the budget for the first time. For the first time we are saying no longer will we continue to spend more money on new programs, new ideas, new agencies, new departments. We are going to start downsizing Government.

There are many people in this Chamber who say they are for a balanced budget, they are for trimming. Folks, here is your first opportunity. It does not matter what you did on H.R. 1158. You could have voted for or against it. The President vetoed it and that is history. But this is H.R. 1944, and it provides a net of nearly $9.2 billion in net savings for the American taxpayer in fiscal year 1955.

□ 2130

It is the very first significant step towards a balanced budget. In addition, it pays for the Oklahoma disaster. It pays for the California disaster. It pays for disasters in 39 other States, for flood and fire and earthquake. It pays for the Jordanian debt relief that the President of the United States asked for, and it puts people back to work in the northwest where their timber has burned.

This your opportunity to make the first step, the first meaningful step toward budget reduction. And if you vote against it, you have no excuse in going back to your constituents and saying, I am for budget reduction, but I voted against the one, the first bill that mattered.

My colleagues, this is your opportunity. Vote for this bill. Send it to the Senate. Send it to the President, and have him sign it.

Mr. STOKES. Mr. Speaker, I rise in opposition to H.R. 1944, the "new" fiscal year 1995 rescission bill. This is the third rescission measure we have taken up this year. What does it take for my Republican colleagues to realize that the rescission bill is just wrong and repeating the same wrong action again, and again, does not make it right. Politics should not be allowed to outweigh the needs of the American people.

We should be applauding the President's veto and his attempt to save this Republican Congress from itself, and to respond to the needs of the American people. Instead, my Republican colleagues have now introduced for consideration another rescission bill.

It is just not right—to launch an assault on children, the elderly, and working families. The cuts contained in the Republican' "new" rescission bill continue to devastate the lives of our most vulnerable citizens.

Funding for housing assistance is cut over $6 billion. This cut will deny the elderly, children, and low-income families the housing assistance they need.

Funding for low-income home energy assistance is cut $319 million. This cut will force our elderly to choose between heat and food.

Funding for safe and drug free schools is cut $16 million. This cut will deny children a safe, drug free, and crime free learning environment.

Funding for summer jobs is cut $872 million. This cut will deny teenagers who need to work, a summer job.

Funding for veterans medical care is cut $50 million. This cut denies the men and women who have served our country the medical care they need.

Funding for adult and youth employment training is cut $330 million. This cut denies working families the employment training opportunities they so desperately need to provide for their families.

Families must not be forced to choose between paying tuition and the mortgage, or child care and food, or health care and heat. We must not ignore the drain this rescission measure would create on hard working families. And, we must not allow our seniors and the poor to be used as pawns in a tax giveaway scheme for the rich. This assault on the nation's most vulnerable populations is unconscionable and inhumane.

As Members of Congress, we must take a strong stance in defense of our nation's seniors, children, elderly, and veterans. I urge my colleagues to join me in voting against this bad rescission bill.

Mrs. COLLINS of Illinois. Mr. Speaker, I realize we've all had a long week of business here in this Chamber and we're all a little tired, but if my eyes don't deceive me I see very little changed in H.R. 1944 from the bill the President rightly vetoed earlier this month. The legislation we have before us today still slashes $16.4 billion in vital assistance to children, working families, and senior citizens in order to fatten the pockets of corporations and wealthy individuals, still steals hope and opportunity away from middle America through draconian cuts to education and job training initiatives, still blocks rescissions savings from being used for deficit reduction, still guts programs which give a much needed injection of resources to local communities. In short, H.R. 1944 still makes no common sense.

In fact, 91 percent of the cuts in this "new" rescissions bill are the same as those in the "old" rescissions bill. Talk about deja vu.

The Speaker and his henchmen like to spout on and on about how they care so much about helping people to help themselves. Well, you sure wouldn't know it by looking at H.R. 1944. All this legislation does is help thousands of people on their way out on to the streets.

I have heard a vocal outcry from my constituents about reductions in the Low-Income Home Energy Assistance Program [LIHEAP], which helps two million struggling senior citizens meet the high costs of their winter heating bills without having to make a choice between those bills and their daily meals and medicine. Yet the GOP uncaringly hacks LIHEAP by 25 percent with this bill. As a result, tens of thousands of Chicago households that were served in fiscal year 1995 will be threatened, not to mention those who have been on waiting lists.

In my city of Chicago the temperature on an average winter day hovers around 10 degrees, with the wind chill in the negative double digits. In January, 60-year-old Earline Hooker froze to death because she wasn't able to get LIHEAP assistance. Tell her family that the LIHEAP program doesn't make a difference.

But this majority party doesn't just focus their attack on seniors with H.R. 1944. They also mount an assault on 600,000 of our most underprivileged children with the eradication of the summer jobs program in 1996—a proven program that provides basic skills, income, and work experience. Across the Chicago Metropolitan Area next summer, thousands of kids who had looked forward to being entrusted with responsibility and leadership will now be faced with hanging on the streetcorner with nothing to do but get into trouble. So much for promoting positive alternatives for our youth.

The GOP then turns its efforts toward the absolute destruction of the quality of life for public housing residents in this nation and the abandonment of the neighborhoods in which they live and work. Although the Department of Housing and Urban Development has already begun a serious effort to restructure and make Federal housing and development programs more efficient and responsive to local needs, the Republicans don't want to hear it. They just want to slash, cut, and burn without regard to the necessity or productivity of the program or who gets hurt.

HUD has estimated that the $5 billion in housing cuts in this bill will result in the elimination of thousands of low-income housing units in my City of Chicago. Assistance will be lost for public housing modernization and operating subsidies, seriously disrupting already weakened maintenance and security for residents. At a time when the Chicago Housing Authority [CHA] and its tenants are in dire need of increased attention and resources to help improve the problems that beset CHA, the Republicans just laugh in the face of my constituents.

Mr. Speaker, I urge my colleagues to vote no on H.R. 1944. This Congress still has responsibilities to the American people to invest in our children, our families, and our communities—despite what the Republican majority would have us believe.

Mr. MCDERMOTT. Mr. Speaker, although this version of the rescissions bill was just introduced last night, it shouldn't take anyone too long to figure out that, as written, it still would seriously harm America's national forests. For this reason alone, I cannot support this poorly written piece of legislation.

Rather than work toward a balanced and environmentally sustainable means to salvage timber, the Republicans have tacked on odious environmental language which will encroach on the health of the environment.

Why are the Republicans clouding the rescissions bill with a costly environmental disaster such as this timber salvage plan?

To some, the words "timber salvage" may be rhetorically pleasing—evoking images of saving rotting trees from their imminent demise—yet this timber salvage plan is a thinly disguised excuse for unregulated timber harvest in our treasured national forests.

H.R. 1944's timber salvage plan would mandate more than 6 billion board feet be cut from our national forests over the next 2 years. Worse still, a majority of this astounding sum will come from our northwest national forests most pristine roadless areas and old-growth remnants.

While proponents of this bill claim that loggers only will cut down trees that are diseased, the actual rescissions language states that loggers may go in and cut whatever they see fit as long as there are any trees in the forest that are damaged. Definition of timber salvage in subsection (a)(3).

I am appalled that in order to let the timber industry into the Nation's forests, the Republicans will literally suspend all environmental, health, and safety laws. As written, this bill will even overturn any judicial order, fought for by some of our own constituents, aimed at preventing such poorly planned taxpayer-subsidized logging as this bill will mandate.

Clearly, emergency appropriations legislation is not an effective way to manage forests, nor is it good public policy.

Mr. Speaker, allowing passage of this so called timber salvage plan will threaten the health of our national forests. Unfortunately, the Republicans have got the votes to do whatever they please and they want to pass this bill. I am dismayed that they repeatedly use their new-found power to continue an irresponsible assault on our Nation's environment.

Mr. RICHARDSON. Mr. Speaker. The President vetoed this rescissions bill the first time for many reasons: it cut funding for the National Service Plan and heating oil assistance for the elderly, zeroed out funding for the Housing for People With AIDS Program and sliced deep into education funds.

But Rescissions II still contains a devastating provision from the original bill vetoed by the President: it allows for the raiding of our Treasury and the pillaging of the environment just to hand a bonus check to the timber industry.

This timber salvage provision is a lobbyist's dream and a taxpayer nightmare. It would allow the chainsaw destruction of our national forests and permit logging without laws in vast stretches of the American West

Even with all of the rhetoric we have heard about cutting our deficit, no funds from this fire sale of the American West will be returned to the Treasury. The losses to the U.S. Treasury will require subsequent supplemental appropriations and new funding to cover the costs.

The bill ignores our current fiscal problems and encourages timber to be cut at any cost, even allowing salvage sales to continue if the costs of the sales exceed the revenues they generate.

This means that even if salvage sales don't make money, they will continue, because Congress will have said that protecting the timber industry is more important than protecting the environment or safeguarding the U.S. Treasury.

As I stated earlier, this provision Waives all Federal laws. Passage of this bill again literally suspends criminal law, conflict of interest limitations, Federal contacting requirements and anti-fraud provisions, not to mention the rule against obligating Federal funds without authority to do so.

This rescissions bill replaces the rule of law with lawlessness. It says to the American people that Congress cares more about creating a few temporary jobs now than it does about deficit reduction and environmental protection for the future.

During the debate on this bill, we have heard a lot of rhetoric that this salvage authority is desperately necessary to save our forests and ensure forest health.

What we have not heard is that the Forest Service is already conducting an aggressive salvage program.

In fact, since 1978, the chief's annual reports show that 15 percent of the cut was salvage—a figure representing more than 22 billion board feet!

The Forest Service currently has all the legal authority it needs to carry out an aggressive salvage program within existing law and clearly intends to do just that.

But perhaps my biggest concern with this ill-gotten gains legislation is that the level of logging required by this provision would require massive new road-building in roadless areas and massive clear-cutting.

Both of these practices seriously degrade the environment, including eroding the soil; harming the watersheds downstream; destroying salmon and trout spawning and rearing habitat; threatening watersheds and drinking water supplies and reducing the ability of forest soils to nourish health forests.

Mr. Chairman, in all the rhetoric on this issue, we've heard repeatedly about how the Clinton administration's land use policies have constituted some kind of war on the west.

I would submit that this timber salvage provision is the real war on the west.

If we pass this rescissions bill again, we will deliver a one-two punch to our country: we'll be pillaging the Treasury and destroying our environment and the precious natural resources we all cherish.

To those in this body who would say that this rescissions bill is necessary and appropriate, I would remind you of a simple truth from the Great Law of the Iroquois Confederacy: "in our every deliberation, we must consider the impact of our decisions on the next seven generations.

Mr. Chairman, I did not come to Washington to preside over the destruction of our natural heritage. My constituents sent me here to ensure that every American will have natural resources to enjoy that will still be here in seven generations.

Mr. ISTOOK. Mr. Speaker, Congress is aware that several downtown churches were severely damaged as a result of the April 19, 1995, terrorist bombing of the Alfred P. Murrah Federal Building in Oklahoma City. Among these are first United Methodist Church, First Baptist Church, St. Paul's Episcopal Cathedral and St. Joseph's Catholic Church. These churches assisted in the emergency relief effort immediately after the bombing and one was even used as a temporary morgue for victims of the blast.

These religious institutions have been informed by the Federal Emergency Management Agency that under current regulations they are not eligible for any Federal disaster assistance for the repair and reconstruction of their facilities. However, Congress recognizes that the Oklahoma City bombing is a unique case. The bombing was a single, man-made assault directed against our National Government. These churches, like the other businesses and residences in the damaged area, were innocent bystanders to a violent attack on the Federal Government. This special instance is therefore distinguished from other kinds of disasters in which religious buildings may be damaged. Congress thus agrees that religious institutions in Oklahoma City should be eligible for the Federal assistance provided in this bill in the same manner as nonprofit organizations providing public services.

The SPEAKER pro tempore (Mr. WALKER). Pursuant to House Resolution 176, the previous question is ordered on the amendment and on the bill.

The question is on the amendment offered by the gentleman from Louisiana [Mr. LIVINGSTON].

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. OBEY

Mr. OBEY. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. OBEY. I am, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. OBEY moves to recommit the bill (H.R. 1944) to the Committee on Appropriations with instructions that the Committee report the bill back forthwith with the following amendment:

On page 66, line 14, strike "$3,275,000,000" and insert "$3,250,000,000";

On page 66, line 23, strike "$3,275,000,000" and insert "$3,250,000,000"; and

On page 68, strike line 4 through "That" on line 7 and capitalize the "s" in "section" on line 7.

Mr. OBEY. Mr. Speaker, this recommittal motion is very straightforward. I would urge its support. It simply restores $50 million which has been cut from veterans' medical care.

The account it has been cut from has traditionally run small surpluses, but it has almost always been used to take care of the backlog of needs for medical equipment at the VA which total over $800 million.

We have, for instance, an MRI scanner at Salt Lake; x ray machine at Shreveport, which is needed; nuclear imaging system at Bay of Pines; a variety of other backlogged items which I will show anybody who has the slightest bit of interest.

We offset the funding for this by simply taking three quarters of 1 percent out of what are in effect unobligated balances from the disaster account in the bill. It will do no damage to anyone, but it will provide our veterans some very badly needed additional medical care. I would urge the adoption of the recommittal motion.

Mr. Speaker, I yield to the distinguished gentleman from Texas [Mr. EDWARDS].

Mr. EDWARDS. Mr. Speaker, this motion is very simple and straightforward. By voting yes, you and I tonight can restore $50 million in cuts to veterans' health care programs. It is that simple. And if you vote no, you are simply saying that you want to cut badly needed veterans hospital equipment by $50 million.

Now, if you believe that veterans presently receive better health care than they deserve, then go ahead, vote no on this motion. But if you believe that veterans' health care has already been cut enough over the last several years, as I do, and if you believe it is unfair for veterans to make further cuts in their health care services, then you should vote yes on this motion.

Yesterday, Mr. Speaker, this House passed a constitutional amendment to prevent the burning or desecration of the American flag. I voted for that amendment. Many of our Democratic and Republican colleagues said we should vote for this flag amendment because we owed it to our veterans who were willing to fight and die for their country. I agree.

But Members, it is not good enough to wrap yourself in the flag yesterday for veterans and then turn your back on veterans tonight. It is time right now, right now to match our votes with our rhetoric. It is time right now to say to our Nation's veterans, you have already sacrificed enough for America.

In honoring our Nation's veterans over 130 years ago, President Lincoln said at Gettysburg that the world would little note or long remember what he said there, but the world would never forget what they did there.

Perhaps those eloquent ideas are appropriate this evening in this Congress. Our Nation's veterans should little note what Members of Congress say about supporting veterans, but they should long remember what Members of Congress do about supporting veterans.

I would suggest that cutting veterans' health care in this bill to help pay for a tax break for Donald Trump is simply not fair. We can do better. Our veterans deserve better from this Congress.

Veterans do not need our lip service. What they deserve is quality health service.

Less than 5 minutes, that is what it would take to make this amendment to this bill on this floor tonight.

Last night we spent hours debating esoteric issues on foreign aid and Burma and other nations. Having stayed up all night last night on those issues on foreign aid, do not America's veterans deserve five minutes of your and my time tonight to make a renewed commitment to see they receive the quality VA health care they deserve?

I think yes. I want to urge Republicans and Democrats in this House to say "yes" to veterans, say "yes" to their health care and say "yes" to this motion to recommit.

Mr. OBEY. Mr. Speaker, I thank the gentleman for his very fine statement.

Mr. LIVINGSTON. Mr. Speaker, the hour is late, very late.

I just want to express my thanks to the Members on both sides for sticking with us not only over these last couple of days but for these last several months in what has been a difficult period. But we have a real opportunity to give the American taxpayer some savings and do some good, I just say to the gentleman who offered this motion to recommit that his motion reminds me of the old criminal defense tactic of throwing up a smoke screen, talking about something that really does not have anything to do with the issue at hand.

He wants you to forget the facts are that we are giving nearly $9.2 billion in savings to the American people in fiscal year 1955. And it does not matter that the funds which he apparently attempts to keep for the VA really are a loser. This money is not going to be used by the VA. It was money for equipment and salaries, costs that were not needed this year. You can talk about the veterans, but really, that is a nonissue.

We have already reduced FEMA, the Federal Emergency Management Agency by $150 million. The gentleman's motion to recommit would take money away from FEMA.

The fact is that the recommittal motion would cut disaster funds to provide for things that are not needed, and I would urge the rejection of the motion to recommit.

I would point out to all the Members on both sides of the aisle, folks, the administration supports this bill. Here is the statement of administration policy.

The Executive Office of the President says:

The statement of administration policy provides the administration's views on H.R. 1944. The administration supports H.R. 1944 as amended by the Livingston amendment, which is made in order under the rule.

H.R. 1944 provides an important balance between deficit reduction and providing funds to meet emergency needs. This legislation provides essential funding for FEMA disaster relief,

Which the gentleman wishes to cut in this motion to recommit,

For the federal response to the bombing in Oklahoma City, for the increased anti-terrorism efforts, and for providing debt relief to Jordan in order to contribute to further progress toward a Middle East peace settlement. H.R. 1944 reduces federal spending by $9 billion.

My colleagues, there you have it. That is not BOB LIVINGSTON talking. This is not the majority party talking. That is from the administration. They are saying, vote for the bill. We pay for the supplemental funding for the Oklahoma bombing. We pay for flood and fire and earthquake and disaster assistance. We enable the timber people to go back to work, and we pay for Jordanian debt relief, as requested by the administration, to secure a balanced peace in the Middle East. We do all of that, plus you get $9.2 billion in additional savings for the American taxpayer in 1995.

My colleagues, it is a good bill. The administration likes this bill. The Senate is going to pass this bill. All we need is your votes, 218 plus. Give me your votes, and we will go home, and we can all sleep well tonight.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. OBEY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 192, nays 232, not voting 10, as follows:

[Roll No. 463]

YEAS—192

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bevill
Bishop
Bonior
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Chapman
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Costello
Coyne
Cramer
Danner
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Harman
Hastings (FL)
Hayes
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson-Lee
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Mollohan
Montgomery
Moran
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pomeroy
Poshard
Rahall
Rangel
Reed
Richardson
Rivers
Roemer
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Sisisky
Skaggs
Skelton
Slaughter
Spratt
Stark
Stenholm
Stupak
Tanner
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Tucker
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Williams
Wilson
Wise
Woolsey
Wyden
Wynn

NAYS—232

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hancock
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Petri
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stockman
Stump
Talent
Tate
Tauzin
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—10

Clay
Durbin
Engel
English
Foglietta
Moakley
Reynolds
Stokes
Studds
Yates

□ 2200

Mr. HORN, Mr. EHLERS, and Mrs. CUBIN changed their vote from "aye" to "no."

Ms. JACKSON-LEE changed her vote from "no" to "aye."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. WALKER). The question is on passage of the bill.

Pursuant to clause 7 of rule XV, the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 276, nays 151, not voting 7, as follows:

[Roll No. 464]

YEAS—276

Allard
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Beilenson
Bereuter
Berman
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brewster
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clement
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeLay
Diaz-Balart
Dickey
Dicks
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fazio
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Gordon
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Jacobs
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Livingston
LoBiondo
Longley
Lucas
Luther
Manzullo
Martini
Mascara
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Meehan
Metcalf
Meyers
Mica
Miller (FL)
Minge
Molinari
Montgomery
Moorhead
Morella
Murtha
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Orton
Oxley
Packard
Parker
Paxon
Payne (VA)
Petri
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stockman
Stump
Talent

Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Torres
Upton
Visclosky
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wilson
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—151

Abercrombie
Ackerman
Andrews
Barcia
Barrett (WI)
Becerra
Bentsen
Bevill
Bishop
Bonior
Borski
Boucher
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Clayton
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Costello
Coyne
Cramer
DeFazio
DeLauro
Dellums
Deutsch
Dingell
Dixon
Doggett
Eshoo
Evans
Farr
Fattah
Fields (LA)
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gonzalez
Green
Gutierrez
Hall (OH)
Hastings (FL)
Hilliard
Hinchey
Holden
Hoyer
Jackson-Lee
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Maloney
Manton
Markey
Martinez
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meek
Menendez
Mfume
Miller (CA)
Mineta
Mink
Mollohan
Moran
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pomeroy
Poshard
Rahall
Rangel
Reed
Richardson
Rivers
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Skaggs
Slaughter
Stark
Stokes
Stupak
Tejeda
Thompson
Thornton
Thurman
Torricelli
Towns
Traficant
Tucker
Velazquez
Vento
Volkmer
Ward
Waters
Watt (NC)
Waxman
Williams
Wise
Woolsey
Wyden
Wynn

NOT VOTING—7

Clay
Durbin
Engel
Moakley
Reynolds
Studds
Yates

☐ 2218

Mr. POMEROY changed his vote from "yea" to "nay."

Messrs. HALL of Texas, MASCARA, and DOYLE changed their vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. MOAKLEY. Mr. Speaker, had I been present, I would have voted in opposition to House Concurrent Resolution 67, the budget resolution for fiscal year 1996, and in opposition to H.R. 1944, rescissions and disaster supplemental appropriations for fiscal year 1995.

PERSONAL EXPLANATION

Mr. ENGEL. Mr. Speaker, I inadvertently missed two rollcalls. On rollcall vote No. 463 I would have voted "aye," and on rollcall vote 464 I would have voted "no."

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of two Houses on the amendment of the Senate to the resolution (H. Con. Res. 67) "Concurrent resolution setting forth the congressional budget for the United States Government for the fiscal years 1996, 1997, 1998, 1999, 2000, 2001, and 2002".

The message also announced that the Senate had passed a concurrent resolution of the following title, in which the concurrence of the House is requested:

S. Con. Res. 20, concurrent resolution providing for a conditional recess or adjournment of the Senate on Thursday, June 29, 1995, or Friday, June 30, 1995, until Monday, July 10, 1995, and a conditional adjournment of the House on the legislative day of Friday, June 30, 1995, until Monday, July 10, 1995.

REPORT ON RESOLUTION WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 483, MEDICARE SELECT POLICIES

Ms. PRYCE, from the Committee on Rules, submitted a privileged report (Rept. No. 104–169) on the resolution (H. Res. 180) waiving points of order against the conference report accompanying the bill (H.R. 483) to amend title XVIII of the Social Security Act to permit Medicare select policies to be offered in all States, and for other purposes, which was referred to the House Calendar and ordered to be printed.

DISTRICT OF COLUMBIA PROPOSED FISCAL YEAR 1995 SECOND SUPPLEMENTAL BUDGET AND RESCISSIONS OF AUTHORITY REQUEST ACT AND PROPOSED FISCAL YEAR 1996 BUDGET REQUEST ACT—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 104–89)

The SPEAKER pro tempore (Mr. WALKER) laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Appropriations and ordered to be printed:

To the Congress of the United States:

In accordance with section 446 of the District of Columbia Self-Government and Governmental Reorganization Act, I am transmitting the District of Columbia's Proposed FY 1995 Second Supplemental Budget and Rescissions of Authority Request Act and the Proposed FY 1996 Budget Request Act.

The Proposed FY 1996 Budget has not been reviewed or approved by the District of Columbia Financial Responsibility and Management Assistance Authority, created by Public Law 104–8, the District of Columbia Financial Responsibility and Management Assistance Act of 1995 (the "Act"). It will be subject to such review and approval pursuant to section 208 of the Act.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *June 29, 1995.*

COMMUNICATION FROM THE HONORABLE RICHARD A. GEPHARDT, DEMOCRATIC LEADER

The SPEAKER pro tempore laid before the House the following communication from the Honorable RICHARD A. GEPHARDT, Democratic leader:

HOUSE OF REPRESENTATIVES,
OFFICE OF THE DEMOCRATIC LEADER,
Washington, DC, May 11, 1995.

Hon. NEWT GINGRICH,
Speaker of the House, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to Section 211(B)(f), Public Law 101–515 as amended by Section 260001, Public Law 103–322, I hereby appoint the following individual representing law enforcement officers to the National Commission to Support Law Enforcement: Mr. Darryl Jones of Upper Marlboro, Maryland.

Yours very truly,
RICHARD A. GEPHARDT.

EXTENDING AUTHORITIES UNDER THE MIDDLE EAST PEACE FACILITATION ACT OF 1994

Mr. GILMAN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill—S. 962—to extend authorities under the Middle East Peace Facilitation Act of 1994 until August 15, 1995, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

Mr. HAMILTON. Mr. Speaker, I reserve the right to object, and I do not intend to object, but I do want to state some concerns I have about the process surrounding the consideration of the bill.

This is the Middle East Peace Facilitation Act. It expires June 30, 1995, which is this Friday. The bill before us, S. 962, extends the law only for another 45 days, until August 15.

Mr. Speaker, this bill is critical to the Middle East peace process. If the act is allowed to expire, all funds for direct assistance to the Palestinian authority and the West Bank and Gaza will be cut off. The United States will not be able to contribute to international efforts to benefit the Palestinian authority, and representatives of the Palestinian authority or related entities will not be able to maintain an office in the United States. So, engaging in dipomatic activities here would be virtually impossible.

In short, allowing this law to expire could bring down the peace process at a time of intense Israeli-Palestinian peace talks.

Given the fragile, but nonetheless positive, nature of ongoing discussion between the Israelis and Palestinians, I have concern that we want to add to the instabilities of the region by extending this law only until August 15. By doing so, we are sending mixed signals to the parties, raising doubts about our resolve in the peace process. We create artificial tensions for a region that has plenty of real tensions. We do so for reasons that have nothing to do with Palestinians or Israelis.

We want the Palestinians to do more to control violence. We have concerns about some actions of the Palestinian authority. But we have an ongoing process to monitor Palestinian behavior without imposing unnecessary time pressures on both sides.

I think it is a mistake not to authorize a longer extension at this time.

I will not object to the bill, but I do hope that when we have to return to the floor later this summer to extend this law again, we do so for a longer period of time.

We should send a signal of strong support for the Middle East peace process, not the opposite. The Middle East peace process is hard enough. We in the Congress should not make it harder.

Mr. GILMAN. Mr. Speaker, will the gentleman yield?

Mr. HAMILTON. Further reserving the right to object, I yield to the gentleman from New York.

Mr. GILMAN. Mr. Speaker, S. 962 is a temporary extension of the Middle East Peace Facilitation Act, which is scheduled to expire at the end of this week unless congressional authority is extended.

Because we will conference with the Senate on a more substantive Middle East Peace Facilitation Act prior to the summer recess, this legislation extends the Act until August 15, 1995. In essence, this is a 45-day extension.

I therefore urge positive consideration of this legislation under my unanimous consent request.

Mr. HAMILTON. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 962

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SEC. 1. EXTENSION OF AUTHORITIES.

Section 583 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236) is amended by striking "July 1, 1995" and inserting in lieu thereof "August 15, 1995".

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

CALLING UPON THE PEOPLE'S REPUBLIC OF CHINA TO RELEASE U.S. CITIZEN, HARRY WU

Mr. GILMAN. Mr. Speaker, I ask unanimous consent that the Committee on International Relations be discharged from further consideration of the resolution—House Resolution 178—calling upon the People's Republic of China to release U.S. citizen Harry Wu unconditionally and to provide for an accounting of his arrest and detention, and ask for its immediate consideration in the House.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

Mr. HAMILTON. Mr. Speaker, reserving the right to object, I do not intend to object. I simply want to commend the authors of the resolution for their excellent work in bringing this measure before the House in a timely fashion.

House Resolution 178 condemns the arbitrary detention of Mr. Harry Wu by the Chinese.

Mr. Wu is a dedicated human rights activist. He is highly respected by Members, many Members of this House. I support the resolution, and I call upon the Chinese Government to release Mr. Wu.

Mr. GEJDENSON. Mr. Speaker, will the gentleman yield?

Mr. HAMILTON. Further reserving the right to object, I yield to the gentleman from Connecticut.

Mr. GEJDENSON. Mr. Speaker, I just want to join my colleagues and commend the gentleman from New Jersey [Mr. SMITH], the gentleman from Virginia [Mr. WOLF] and so many others, particularly the gentlewoman from California [Ms. PELOSI], for the work they have done on this issue.

I know Harry Wu. He has testified before my committee. The courage of this individual, who spent 19 years in slave labor camps in China, to go back to fight for other people's freedom and to continue to raise the issues of the Chinese Government's abuse of its own citizens is courage that it is hard for most of us to fathom.

There is a double outrage here. One is that Harry Wu, who suffered so much at the hands of the Chinese, is suffering there again today. But it goes beyond that. Harry Wu Went to China as an American citizen with a valid American passport and a valid visa from the Chinese Government. This is someone who has had the courage to continue to work for his fellow man and for his fellow men and women of China who live under oppression.

This kind of action by the Chinese Government will only continue to isolate that Government. It is an outrage that we will not sit idly by. It will mobilize Members of the House and Senate on both sides of the aisle.

Harry Wu is a genuine hero today, and he will not be forgotten by this Congress. He must be released by the Chinese, and again I would like to commend the ranking Member, the chairman of the committee, the gentleman from New Jersey [Mr. SMITH], the gentleman from Virginia [Mr. WOLF], particularly on our side, the Gentlewoman from California [Ms. PELOSI], for the wonderful work she has done on this issue through the years.

Mr. GILMAN. Mr. Speaker, will the gentleman yield?

Mr. HAMILTON. Further reserving the right to object, I yield to the gentleman from New York.

Mr. GILMAN. Mr. Speaker, earlier today, our committee on International Relations reported out House Resolution 177, a resolution that calls upon the People's Republic of China to immediately and unconditionally release Harry Wu. Harry Wu is well-known to many Members of Congress for his testimony before a number of our committees about human rights abuses in China. Because of this, he was arrested in China on June 19.

I want to commend the chairman of the Human Rights and International Organization Subcommittee, the gentleman from New Jersey [Mr. SMITH], for crafting the resolution before us and I want to thank the Asia and Pacific Subcommittee Chairman, Mr. BEREUTER, for coordinating his efforts with Mr. SMITH to bring it so rapidly before us.

It is an outrage that an American citizen is being held by the Government of the People's Republic of China and they have denied our Government representatives access to him and have not told our representatives where he is or what charges are being contemplated against him.

That kind of action indicates that the Government is Beijing will disregard conventions and agreements whenever it suits them. A government that will sell restricted weapons technology to Iran will certainly not have a problem with breaking more mundane but no less important consular agreements.

Accordingly, I fully support this resolution and urge my colleagues to join us in voting for it.

□ 2230

Mr. HAMILTON. Mr. Speaker, further reserving the right to object, I yield to the gentlewoman from California [Ms. PELOSI], one of the chief sponsors of House Resolution 177.

Ms. PELOSI. Mr. Speaker, I thank the gentleman for yielding. I wanted to commend Chairman GILMAN, Chairman SMITH, and perhaps Harry Wu's best friend in the Congress, FRANK WOLF. Harry Wu has friends on both sides of the aisle, on both sides of the Atlantic, and on both sides of the Pacific. He is a truly internationally recognized champion of freedom and democracy.

Who else is Harry Wu? Harry Wu, when 19 or 20 years old, criticized the Soviet invasion of Hungary. He was overheard doing that and sent as a political prisoner to a slave labor camp, where he served for 19 years. Eventually he came out and came to the United States, He is a U.S. citizen, but has not forgotten those who were left behind in these prison labor camps. He has written books describing the plight of those people, and worked tirelessly to try to expose the prison labor system in China.

Those of us who know Harry and appreciate the valuable contribution he has already made always discouraged him from going back to China, because this is what we did fear. Because of the international acclaim that he had received and the international attention that he had brought to both the slave labor issue in China and also the organ transplant issue which is associated with the slave labor camps, that the Chinese were not happy, and that he might be in danger should he go there. So we have discouraged him in recent years from returning there, and our worst fears have now been realized.

So, with that, I want to say, because I know time is of the essence and we want to get on with the evening, but to Harry Wu's wife Ching Li, we commend her for her courage. She is a source of strength and inspiration to us. She knows that Harry did what he did because he believed in freedom and democracy, and risked his life many times over the years. He did these outstanding things with the support of his friends in the U.S. Congress and the European Parliament and other places, and among those are the people who are here before us tonight, Mr. GILMAN. Mr. SMITH, and Mr. WOLF. It is one of the joys of my service in Congress to have worked with them on this issue and to support such an exceptional person as Harry Wu. I am grateful to all of our colleagues for allowing us this unanimous consent request this evening.

Mr. HAMILTON. Mr. Speaker, further reserving the right to object, I yield to the gentleman from New Jersey [Mr. SMITH], a chief sponsor of the resolution.

Mr. SMITH of New Jersey. Mr. Speaker, I thank my good friend for yielding.

Mr. Speaker, the abuse of human rights by the People's Republic of China includes the thousands of people who languish in the gulag system and logai system which Harry Wu has so faithfully, as well as so courageously, exposed throughout the years, but the human rights abuses, as we all know, are legion in the People's Republic of China. Now they include again a U.S. citizen.

On June 19 of this year, just a couple of days ago, Harry Wu was arrested as he entered China. Harry Wu is well known to many of us in Washington. He is a former political prisoner. He was a prisoner in the logai system for 19 years.

Harry has tirelessly worked to expose Chinese human rights abuses. The extensive prison labor system, the backbone of China's export industry, the trafficking of body parts of prisoners for transplant and research, and he has also uncovered the numerous products manufactured in the slave labor camps which are being sold in the United States.

Knowing that each time he returned to China to investigate human rights abuses that he put himself in danger, Harry Wu continued to go back, remembering those millions who like he, suffered, or like his brother, who died at the hands of the Chinese Government and military.

Mr. Chairman, on April 3 we had the privilege in the International Operations and Human Rights Committee to hear testimony from six survivors of the logai system. They gave extensive testimony, a Buddhist monk, a priest, and others who had been held by the Chinese, and, of course, I think the most riveting testimony was given by Harry Wu.

When talking about this, he said, "I really want to forget the nightmares of that past period, buy, you know, some things simply will not go away. So, like a bad dream, they refuse to disappear."

But he also said, "I am a survivor. I think I have a responsibility to those inmates who are still there. Finally, I have got a chance to tell the truth to the world."

Today again, sadly, Mr. Speaker, Harry Wu is not free. His whereabouts is not known. The U.S. Embassy for its part was informed of the arrest and tried, and tried very hard, to find out where he is, and has been stonewalled. Nine days have past since Harry Wu, a U.S. citizen, was arrested.

How much longer do we have to wait to find out where he is and exactly what kind of shape he is in? Harry Wu indeed has been a voice for those crying out for truth and for justice. I am very glad in a bipartisan way, Mr. Speaker, that we today will go on record calling on the People's Republic of China, working with the administration on this one, to try to get the freedom of this United States citizen, who has been unjustly and cruelly taken by the People's Republic of China.

Mr. HAMILTON. Mr. Speaker, under the reservation of objection, I yield to the gentleman from Virginia [Mr. WOLF], one of the chief sponsors of the resolution.

Mr. WOLF. Mr. Speaker, I thank the gentleman.

Mr. Speaker, so much has been said, let me just cover a few other points. Harry is a scholar at the Hoover Institute. He is an author. His latest book is Bitter Winds, where he talks about his 19 years in the gulag.

With regard to these circumstances, as the gentleman from Connecticut [Mr. GEJDENSON] said, Harry is an American citizen. Harry Wu is an American citizen with a valid passport who has been arrested and detained by the Chinese Government. They have not even allowed our government to interview him, to see him. He is a moral leader, not only in the United States, but in the world. He is almost like the Sharanski of China, if you will.

I want to thank the people who moved this out of the committee so fast, and thank the leadership of the Congress. I think the fact that Congress has acted so quickly, I have never seen the Congress act this quickly on anything, and the fact that in these busy days, staying in around the clock, that the Congress has brought this up is very, very important.

We are asking that he be released. Released. Unconditionally released, whereby he can return to his family. I do not know that Harry is listening at this moment, but I know his wife is, and we just remember Harry in our prayers and remember her.

I would just say to the Chinese Government, and I do not know if they are watching tonight, but if anything were to happen to Harry Wu, I just think that the Chinese Government would pay a price for the future that they do not even realize. We are not going to make any threats tonight, and I do not think it is appropriate to be combining this with MFN or all these other things. But if anything ever happened to Harry Wu, I pledge myself I would commit myself and dedicate myself to doing anything and everything I can to make sure that there had been a price paid.

So we call on the Chinese Government to release Harry Wu and let him return to his family.

Mr. Speaker, I thank the gentleman for moving this resolution so fast.

Mr. HAMILTON. Mr. Speaker, further reserving the right to object, I yield to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I am just asking the gentleman to yield in order for me to thank the ranking minority member for his cooperation and bringing the measure to the floor expeditiously. I want to commend the original sponsors, the gentlewoman from California [Ms. PELOSI], the gentleman from Virginia [Mr. WOLF], the gentleman from New Jersey [Mr. SMITH], and the gentleman from Nebraska [Mr. BEREUTER] for joining together in moving this measure quickly through the House so we can bring the greatest pressure possible to the People's Republic of China for the early release of Mr. Wu.

Mr. HAMILTON. Mr. Speaker, further reserving the right to object, I yield to the gentlewoman from California [Ms. PELOSI].

Ms. PELOSI. Mr. Speaker, I thank the ranking member for yielding and his cooperation this evening. Just in closing I wanted to make it clear what we are asking for is for the Chinese Government to make us aware of Harry Wu's whereabouts, to allow him to have a visit as is appropriate in our relationship with China and the consular agreements, a visit from representatives of the American Embassy and consulate there, and also to free Harry Wu.

We will pursue this issue until he is free, and this evening's unanimous consent action is an important step for us in the direction. Once again, I want to thank the gentleman from Indiana [Mr. HAMILTON] for his cooperation.

Mr. HAMILTON. Mr. Speaker, I withdraw my reservation of objection.

Mr. SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the resolution, as follows:

H. RES. 178

Whereas Peter H. Wu, known as Harry Wu, is a citizen of the United States;

Whereas Harry Wu entered the People's Republic of China with an American passport and a valid visa but has been detained incommunicado by Chinese authorities since June 19, 1995;

Whereas on June 23, 1995, the Government of the People's Republic of China notified the United States Government of its detention of Harry Wu;

Whereas on June 26, 1995, the United States Government requested that Chinese Government authorities provide prompt access to Harry Wu;

Whereas Article 35 of the United States-People's Republic of China Consular Convention of February 19, 1982, requires that access to a detained or arrested American citizen be granted no later than 48 hours after a request for such access is made;

Whereas, as of Wednesday, June 28, 1995, the People's Republic of China had failed to act in accordance with the 48 hour consular access provision of the Consular Convention; and

Whereas the Department of State has not been informed of where Harry Wu is being held, nor what charges, if any, are being contemplated, and has not received any assurances that the obligations of the Government of the People's Republic of China under the Consular Convention will be met: Now, therefore, be it

Resolved, That—

(1) The House of Representatives expresses its condemnation of the arrest and detention of Harry Wu and its deep concern for his well-being and freedom;

(2) It is the sense of the House of Representatives that—

(A) The People's Republic of China must immediately comply with its commitments under the United States-People's Republic of China Consular Convention of February 19, 1982, by allowing consular access to Harry Wu;

(B) The People's Republic of China should provide a full accounting to the United States for Harry Wu's arrest and detention, and should immediately and unconditionally release him; and

(C) The President of the United States should use every diplomatic means available to ensure Harry Wu's safety and well-being, and to secure his immediate and unconditional release.

(3) The Clerk of the House shall transmit copies of this resolution to the President of the United States, to the Embassy of the People's Republic of China in the United States, and to President Jiang Zemin of the People's Republic of China.

The resolution was agreed to.

A motion to reconsider was laid on the table.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, and under a previous order of the House, the following Members are recognized for 5 minutes each.

THE RESCISSIONS PACKAGE

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Texas [Ms. JACKSON-LEE] is recognized for 5 minutes.

Ms. JACKSON-LEE. Mr. Speaker, there has been a very long discussion, now I guess almost some six months, attempting to bring this House to focus on what has been partly the claim of the American people, discussion about a balanced budget, the idea that a deficit does exist, and we as the United States Congress, being representative of all Americans, should begin to strategize, to respond to building a better America as we move into the 21st Century.

We have each struggled with this, and many would say there are many Democrat obstacles we have had to fight. And I thought that as we came into the 104th Congress, we could attempt to do this in a manner that would evidence our commitment to the best and the most fulfilling of what America has to offer, and that is of course, an opportunity to achieve and to be able to achieve the American dream.

But I think it is important as we concluded the vote on the rescissions today to express my disappointment, that I do not believe we had reached that point. First of all, I think it is important to note for many Americans who listen to sound bites or read headlines, that in actuality, the deficit in this Nation probably falls around 52 percent of its assets, and in comparison to our world's neighbors we probably have the lowest deficit-asset ratio of any nation today.

So when we begin this issue of rescissions and as well the issue of deficit reduction and what we want this country to look like, I would have hoped we would have been more expansive in our viewpoint and focused possibly on the American dream. But in this rescissions package that passed today, we took $1.1 billion out of the safe drinking water proposal and plan. We took $16 million from the safe and drug free schools. We took $105 million from the National and Community Service Commission. We reduced the Goals 2000 emphasis on education by $31.5 million. When adults lose their jobs and they need to be retrained, we have taken now some $58 million from adult job training. The school work program has lost $5 million. Many judges came and testified before the Committee on the Judiciary and indicated the value of the drug courts, and that program was cut by $17.1 million, courts to try drug offenders and move them away from drug addiction to rehabilitation.

□ 2245

When the number of AIDS cases are increasing in this country, we saw fit to cut housing for people with AIDS, some 15 million. And then something that is certainly not part of the Constitution but is really part of the American dream and certainly should be part of the privilege of those who do not have, we cut some $1.3 billion out of section 8 housing. Finally, as we look toward the 21st century and we look toward technology, we proceeded to cut some $204 million out of NASA.

I conclude, Mr. Speaker, by simply saying that we should be better than that. We owe it to the American people. We owe it to them to inform them truthfully what is our vision and our dream for America.

Do we say to them that they have no longer access to the American dream and to be better than they were yesterday and better than what their parents were and certainly to wish for their children a better life? We have many months to go and many bills to look at and many issues to fund, and certainly few dollars, but if we do not come at it with a better spirit and a spirit that reflects all of America, I am concerned and experience great apprehension that we are not prepared to enter the 21st century with the American dream intact for all Americans.

PERMISSION FOR MEMBERS TO EXTEND REMARKS IN THE CONGRESSIONAL RECORD ON CERTAIN FUTURE DATES

Ms. JACKSON-LEE. Mr. Speaker, I ask unanimous consent that for the legislative days of Wednesday, June 28; Thursday, June 29; and Friday, June 30, 1995 all Members be permitted to extend their remarks and to include extraneous material in that section of the RECORD entitled "Extensions of Remarks".

The SPEAKER pro tempore (Mr. SMITH of Michigan). Is there objection to the request of the gentlewoman from Texas?

There was no objection.

PROGRESS OF THE 104TH CONGRESS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. FOX] is recognized for 5 minutes.

Mr. FOX of Pennsylvania. Mr. Speaker, tonight I believe we showed very clearly how we can have cooperative government moving together. The administration, the White House, President Clinton, working together with Congress, were able to have a revised rescissions bill which, in fact, restored funds for drug free schools in the amount of 26 million; drug courts, 17 million; adult job training, 58 million; AmeriCorps, 105 million, safe drinking water programs, federal TRIO program and the school to work programs. But with all of those programs that were partially restored, which were agreed to in a bipartisan way, almost 270 votes here in the House, we were able to have a net savings in spending of 9.2 billion. This is a much-needed down payment on a balanced budget that we are trying to reach by the year 2002. Without this, the task of balancing the budget in seven years becomes much more difficult to achieve.

You see, Mr. Speaker, my fellow colleagues, what we are trying to do is keep the services that we need for people to improve the quality of their life and the opportunities to get a job and to raise their families and to have the pride of work, but we are trying to eliminate the bureaucracies that we have in Washington, and we are doing that successfully every day.

This bill that we just passed tonight cuts a total of 16.5 billion from funding levels by eliminating unauthorized programs, duplicative programs and eliminates bureaucracies that are wasteful.

Other reforms I think this Congress can be proud of here at the 6-month point for the 104th Congress include legislation that calls for a gift ban from lobbyists, a reduction of the pensions, which has been adopted, for Members, a reduction by one-third of our committee staffs, eliminating 3 committees and 25 subcommittees, legislation calling for a sunset of Federal regulations and of Federal agencies that have become wasteful and are duplicating what has been done in the states.

All of this has created $165 million of savings just from the House of Representatives alone. Overall in our government, 190 billion in spending reductions and 90 billion in deficit reduction.

One more area of reform which I think is important to announce today, the Committee on Government Reform and Oversight, of which I am a Member, under the leadership of the gentleman from Pennsylvania, Chairman BILL CLINGER, and the Regulatory Subcommittee under the gentleman from Indiana, Chairman DAVE MCINTOSH, we began hearings today in another important area of new reform; that is, to investigate the issue of nonprofit organizations which receive federal funds from taxpayers and make use of those funds to support political activity or to support a political point of view. People in the United States should not have their taxes used for that purpose. That is for private purposes, not for the public. President Thomas Jefferson long ago criticized such activities as not in keeping with the will of the people.

The U.S. court cases reinforce this position. Just this week, Mr. Speaker, the Wall Street Journal outlined in an article that there may be as many as 40,000 nonprofit organizations that receive partial funding from the Federal Government that may be involved in activities which are inappropriate in the sense that they are doing political activity for one point of view, and this is inappropriate.

We received excellent testimony from the United Seniors Association, through its spokesperson Jim Martin. He explained that not $1 of his organization goes to help represent seniors or the people that are involved with the group.

We also received excellent testimony from ALAN SIMPSON, the U.S. Senator, the gentleman from Oklahoma [Mr. ISTOOK], and Mrs. Spare from the Association for Retarded Citizens in Pennsylvania.

I am looking forward, Mr. Speaker, to continuing those hearings and to be able to come back to this House with meaningful legislation that will make sure that the people's business is being taken care of, less waste, more services for the people, and more for what the American people want and that is an accountable government.

EFFECT OF BUDGET CUTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Vermont [Mr. SANDERS] is recognized for 5 minutes.

Mr. SANDERS. Mr. Speaker, I want to say a few words tonight about the budget passed today and also the rescission package and to suggest that it is terribly important that the American people have an understanding of what is going on, because to a very significant degree, the budget proposal passed by the Republican leadership today is going to balance the budget on the backs of the most vulnerable people in our country and give tax breaks and subsidies to precisely those people who need it the least.

Mr. Speaker, in my State of Vermont, we have thousands and thousands of senior citizens who tonight are finding it difficult to pay for their prescription drugs. Today they cannot afford the high cost of health care. It is grossly unfair to make those senior citizens and senior citizens all over this country pay more for Medicare because of the devastating cuts that are contained within the Republican budget passed today.

Second of all, in Vermont and all over this country, middle-class parents are wondering how they are going to afford to send their kids to college, given the escalating cost of higher education. Everybody knows that in the competitive world economy, our young people need the best education that they can get. Within that context, it is absolutely insane to be cutting back on student loans and student grants. We need more help for middle-class and working-class families to help them send their kids to college, not less help.

Mr. Speaker, as we have heard so often on the floor of this House, this is the 50th anniversary of World War II. And over and over again we hear people talking about the heroism, the bravery, the courage of the men and women in this country who defeated Hitler and saved human civilization in their terrible struggle against Nazism and Fascism 50 years ago. And we thank those veterans.

In my State of Vermont, many of them, many of them have been wounded in various wars in body and in spirit. This country owes a great deal to those men and women.

I wonder how many of them know that after all of the praise that is heaped upon them that in reality and real life, after all of the talk and all of the rhetoric, that the Republican budget makes tens of billions of dollars in cuts in veterans' programs. So thank you very much, those veterans who tonight are in the VA hospitals. Thank you for the work and the courage that you gave this country 50 years ago and our thank you is that we cut the benefits and the programs that were promised to you.

A couple of weeks ago I received a letter from a veteran from Rutland, VT, and he said, let us talk about the Contract With America. And he talked about how his arm was wounded fighting against the Japanese during World War II. And he said, I know what the Contract With America is about, because he and millions of other Americans made a real Contract With America when they spilt their blood defending this country. And today it is no way to say thank you to those men and women by cutting programs.

Mr. Speaker, I think almost everybody in this House, the Republicans, the Democrats and me, the only Independent in this Congress, understand that the deficit and the $4.7 trillion national debt is a very serious problem that must be dealt with. Almost everybody wants to move us toward ending our deficit, balancing the budget.

The question is, how do you do it? do you cut back on Head Start? Do you cut back on WIC? do you cut back on environmental programs on library programs? Or do you finally have the courage to say, let us move forward in a fair way.

Mr. Speaker, a recent economic study came out printed on the front page of the New York Times. The richest 1 percent of the population owns 40 percent of the wealth of America; richest 1 percent owns more than the bottom 90 percent. Yet this proposal, budget proposal of the Republicans does what? Half of the tax breaks, individual tax breaks go to people earning $100,000 a year. Rich get richer; poor get poorer. We give tax breaks to the rich.

Mr. Speaker, we must move forward toward a balanced budget. But let us not do it on the backs of the weakest and the most vulnerable people. Let us ask those people who have the money, among many other things, to pay their fair share of taxes. Let us deal with the scandal of corporate welfare.

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Hawaii [Mrs. MINK] is recognized for 5 minutes.

Mrs. MINK of Hawaii. Mr. Speaker, I rise to cosponsor a resolution introduced by Congressman ENI FALEOMAVAEGA of American Samoa, opposing the resumption of French nuclear tests in the South Pacific.

On June 13, 1995, French President Jacques Chirac announced that he would end his nation's moratorium on nuclear tests and conduct eight underground nuclear tests on Moruroa Atoll in French Polynesia between September 1995 and May 1996. According to President Chirac, the tests are to ensure the reliability and security of France's nuclear arsenal and perfect laboratory simulation so that further tests will be unnecessary. I respectfully suggest to President Chirac that the eight underground nuclear tests to be conducted between September and May are themselves unnecessary.

The threat of nuclear war that once cast a large shadow over national and international affairs has been considerably diminished since the end of the cold war. One hundred and seventy nations agreed recently to extend the Nuclear Non-Proliferation Treaty in the expectation that the nuclear powers, including France, would ratify a comprehensive nuclear test ban by 1996 and refrain from conducting any nuclear test. France's planned nuclear tests conflict with the designation of the South Pacific as a nuclear-free zone. In spite of these developments and designations, President Chirac has decided that France will become one of only two nations—the other being China—still conducting nuclear tests.

In announcing the resumption of French nuclear tests, President Chirac waved away the criticism of ecologists by stating that the eight planned underground tests on Moruroa Atoll would have "no ecological consequences." President Chirac also indicated his decision was "in the higher interest of [the French] nation" and also "irrevocable." While President Chirac's decision appears intended to reinforce France's stature as the world's third nuclear power, it also revives the dismissive attitude of past French Governments toward the concerns of scientists and South Pacific Islanders.

As our colleague Congressman FALEOMAVAEGA has noted, South Pacific Islanders are acutely aware of the lingering effects of nuclear testing. Certainly, the Marshall Islanders who were exposed to radiation when the United States Government conducted nuclear weapons tests over Bikini Atoll in the 1940's and 1950's could tell President Chirac a thing or two about the consequences, ecological and otherwise, of nuclear tests.

Nuclear tests release two types of radioactive isotopes. The first type, radioactive iodine, is relatively short-lived and decays rapidly within several months. The second type, including cesium-137, strontium-90, and plutonium-239, is very long-lived, and if present in the food chain, even in low-levels, could be responsible for producing increased risks of cancers of all types. The fact that an excessive number of thyroid nodules and birth defects have been observed among residents of the northern Marshall Islands suggests strongly that long-lived radioactive isotopes are present in the environment of the northern Marshall Islands.

Of course, President Chirac could—and probably would—dismiss these observations about the lingering effects of nuclear tests on Marshall Islanders on the grounds that the 66 nuclear tests conducted by America during the 1940's to 1950's took place in the atmosphere whereas the eight nuclear tests that France plans to conduct will take place deep under Moruroa Atoll.

President Chirac has made it abundantly clear that he is both determined to resume French nuclear tests and confident that the planned series of underground nuclear tests pose absolutely no risk to the ocean, the marine life, and surrounding environment.

I must respectfully point out to President Chirac that his decision to resume nuclear tests under Moruroa Atoll is appalling to environmentalists, scientists, nuclear disarmament supporters, and the people who live in or around the South Pacific. I strongly and earnestly appeal to President Chirac to rescind his decision to resume these French nuclear tests. They constitute a needless assault on our ocean habitat as well as an open violation of the test ban treaty.

The world should not have to tolerate any more tests. The Just-One-More-Test-Before-We-Sign-the-Treaty stance taken by President Chirac is sheer hypocrisy.

□ 2300

A REPORT FROM INDIANA

The SPEAKER pro tempore (Mr. SMITH of Michigan). Under a previous order of the House, the gentleman from Indiana [Mr. MCINTOSH] is recognized for 5 minutes.

Mr. MCINTOSH. Mr. Speaker, from time to time I would like to share with my colleagues in the House a report on what I learn when Ruthie and I go home to Indiana each weekend—a Report from Indiana if you will.

This weekend I had the privilege of attending the "promise keeper men's conference." We have talked a great deal about how this new Republican Congress is keeping our promises made to the American people to change Washington by reducing the size and scope of the Federal Government cutting taxes and balancing the budget.

This conference was about keeping promises at a much more fundamental level.

And the results are phenomenal 62,000 men came from throughout the midwest to the Hoosierdome in downtown Indianapolis to reaffirm their faith and their commitment to their families.

There is nothing quite like joining in with 62,000 men singing church campfire songs at the top of their lungs.

Tony Evans—who was chaplain to the Dallas Cowboys—spoke about how committed individuals are the building blocks of our society.

When we keep our promise to live the standards of our faith, we become leaders. As strong individuals we can lead our family—and pass on these values to our children. Strong families make up healthy communities—where we live out the commandment to love our neighbors and ourselves. And, Tony Evans pointed out healthy communities are the building blocks of good States and good States build strong Nation. A United States, committed to the moral principles that have always made our country strong, will lead the world and establish freedom for all mankind.

I was profoundly struck by Tony Evans' message—as I realized that each of us, by keeping faith with promises we make are an integral part to restoring, strengthening, and building the American dream.

And I was even more profoundly struck on Sunday morning when I attended a 25th wedding celebration of two friends who have and are living out this principle.

Anne and Max Smith invited their friends to join them at a service at Westfield Friends Meeting, a quaint little county church just outside Hagerstown, IN.

Max is a full time farmer; Anne works at the local welfare office helping children. They both have a strong faith that has been the touchstone of their busy lives. On that faith they built a strong family—raising two children, Brent and Shellio, of their own.

Their strong family let them reach out to help others in their community. At a testimonial lunch after the service, three different young people spoke about how Max and Anne had "adopted them" into their family and given them a chance in life.

Max serves the community as county commissioner, spending countless hours worrying about county services, from fixing back roads in rural Wayne County to administering relief to the poor.

Anne and Max have both been promise keepers. Their commitment has made their church, their community, their county, the State of Indiana, and America a better place to live. And I was honored to be a small part of their celebration of 25 years of marriage.

Mr. Speaker, that's the report from Indiana for this week.

THE SUPREME COURT RULING ON REDISTRICTING

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12th, 1995, the gentleman from Louisiana [Mr. FIELDS] is recognized for a period of time not to extend beyond midnight, as the designee of the minority leader.

Mr. FIELDS of Louisiana. Mr. Speaker, tonight I rise to talk about a decision that was handed down by the Supreme Court today. I find it very ironic that the Supreme Court would rule in a case that affects the District, the 11th District of Georgia, to be unconstitutional, and it is ironic that we stand at a time in our history that we are trying to bring about a color blind society. We are trying to bring about a democracy to represent all of the people, and the Supreme Court ruled today that the 11th District of Georgia is unconstitutional, and ruled that the Fourth Congressional District, the district which I represent, did not rule on that district at all, simply because the plaintiffs in that case did not have standing.

Tonight I wanted to take just a moment to talk about some of the districts that are majority districts across this country that look just as irregular as the majority minority districts in this country, and try to give some sense of understanding as to why would courts and why would people across America, even entertain the thought that districts, simply because of their shape and simply because of their appearance, are unconstitutional.

I wanted to start by talking about the Fourth Congressional District in Louisiana, the district which I represent. Mr. Speaker, I represent a district that is a very diverse district. The district that I represent is in fact the district of the future. It is a district that is comprised of about 55 percent African-Americans and about 45 percent are white citizens. Therefore, this district in my opinion is a very diverse district, and it really bothers me tonight that the Supreme Court would even consider striking down a district that is as diverse as the district that I represent.

If you look at the shape of the Fourth Congressional District in Louisiana, one may say on its face it is irregular. One may say that it looks somewhat different from the form, because it does move from the northern part of the State of Louisiana, to those who are not familiar with the Fourth Congressional District. This district moves from the northern part of Louisiana, which is the Shreveport-Bossier area, and then it goes down to the more southern part of the State, which goes a little bit past Baton Rouge and goes into St. James Parish.

This district in my opinion is a pretty nice looking district. Most people when they look at this district on a map, they say, that is an irregular-shaped district. It looks bad, it looks bizarre and it ought to be unconstitutional, and it ought to be unconstitutional because it is a majority black district, and why would anybody in their right mind draw a district like that? However, when you really look at the facts of the matter, Mr. Speaker, you see that many districts all across this country look the same and look just like the Fourth Congressional District of Louisiana.

For example, if you take the Fourth Congressional District of Tennessee, which was created in 1990, this district, Mr. Speaker, is 96 percent majority, 96 percent white. This district is not under attack tonight, it probably will not be under attack tomorrow, and probably will not be under attack in the future of this country.

I often wonder, why would one allege that the Fourth Congressional District and the 11th Congressional District of the State of Georgia are unconstitutional because they look irregular and the majority of the voters in those particular districts are black.

Ms. McKINNEY. Mr. Speaker, will the gentleman yield?

Mr. FIELDS of Louisiana. I am happy to yield to the gentlewoman from Georgia.

Ms. McKINNEY. If one had a pejorative perspective about this kind of district, one could say it looks like Batman spreading his wings.

Mr. FIELDS of Louisiana. Without question. If you look at the Fourth Congressional District from Tennessee and the Fourth Congressional District of Louisiana—as a matter of fact, I am going to try to see if I can put the two districts side by side. I mean these two districts, if you look at the two districts side by side, you see that these two districts do not look too much different from each other. I mean, this is the Fourth Congressional District. The only difference is this district is much more diverse than the 11th Congressional District in Tennessee. This district in Tennessee is 96 percent white; this district is 45 percent white, 55 percent black. The only difference is, if you want to look at it from an appearance perspective, this district is more diverse than the Fourth Congressional District in Tennessee, and it amazes me tonight that this district would be in question as an unconstitutional district simply because it is majority minority.

Ms. McKINNEY. If the gentleman would continue to yield, during the reapportionment process, as you know, you were part of the Louisiana Legislature, I was a part of the Georgia Legislature, and people would go and look at these maps on the wall and they would try and affix the names and shapes and all kinds of pejorative terms to these districts that were majority minority.

However, I am astounded to see, and this is my first time seeing this, the Fourth District in Tennessee that looks—I mean if I wanted to be pejorative, I would call it all kinds of names, too. However, that is not what we are about. Was this an effective district in electing someone to represent the people of Tennessee?

Mr. FIELDS of Louisiana. Without question, and I am glad the gentlewoman makes that distinction. I mean, I am certainly not being critical of the Fourth District of Tennessee. I feel it is a beautiful district, because first of all, it is not a beauty contest we are in today in terms of determining how districts look, because none of them look like perfect squares and perfect circles, they all look like animal cookies, if you really want to know the truth.

The fact of the matter is this district encompasses urban and rural Tennessee, I mean it moves to Kentucky, so when people talk about the Fourth Congressional District of Louisiana and other majority minority districts in this country, they ought to look at some of the majority districts in this country and see that those districts are no better than the majority minority.

Ms. McKINNEY. If the gentleman will continue to yield, Mr. Speaker, they call them monstrosities, they call them sprawling, they call them all kinds of names, and here we see that we have white districts that can also be termed as sprawling and huge and monstrosities of districts as well. Districts are districts. The bottom line is do they elect competent people to represent the people of the area of these districts, just as the Fourth District of Louisiana works.

Mr. FIELDS of Louisiana. That is right. This in my opinion is very much constitutional, it should stand in any court of law. No one should challenge this district, because this district was the district that was drawn by the State legislature in the State of Tennessee, and it ought to be upheld and not challenged.

Mr. Speaker, I yield to the gentlewoman from Texas, Ms. JACKSON-LEE.

Ms. JACKSON-LEE. Mr. Speaker, I wanted to applaud the gentlewoman from Georgia [Ms. McKINNEY] and the gentleman from Louisiana [Mr. FIELDS] for their hard work in this matter, and simply cite to both of you the dissenting opinion of Stevens that really said what you have just said.

Justice Ginsberg, according to Stevens, has explained why the district court's opinion on the merits was erroneous, and why this court's law-changing decision will breed unproductive litigation. He joined in the opinion without reservation.

This decision will result in unproductive litigation, because there are districts all over the Nation that have varying shapes. Why should anyone want to open up a Pandora's box of challenging all of those districts, of which people are pleased with their representation and comfortable with their representation. He added and said that he believes that the respondents of these cases, like the respondents in the United States versus Hayes, have not suffered any legally cognisable injury, that these people have not been hurt.

Ms. MCKINNEY. Mr. Speaker, if the gentleman will continue to yield.

Are you suggesting then that a Pandora's box has been opened, and so now we see that districts that are a majority black and majority minority across this country have been subjected to lawsuits, so we could also now find the majority white districts that look like this, drawn on the basis of race, also subjected to lawsuits?

Ms. JACKSON-LEE. Well if the gentleman would continue to yield as well, let me say that I can only read the plain black and white language here of the court. Justice Ginsberg, who answers that question yes, by saying that this law-changing decision that was offered today will breed unproductive litigation. If these are examples of districts across the Nation, which by the way, we have not heard a rising up of constituents in these different districts who happen to be, I believe, satisfied with their representative, which is what this Congress is about, a representative body. It appears to me that even the court believes that now we have opened to the world that if one person in the corner of that district or in the corner of a district in Montana or South Dakota or Michigan feels that they have a funny shape, but have not been denied representation, it appears that we have the Supreme Court, at least in the dissent by a very able Justice Ginsberg saying, yes, we have opened up this legal system to unproductive litigation with this decision today.

Mr. FIELDS of Louisiana. Mr. Speaker, I want to ask the gentlewoman a few questions. I am going to place on the top of district No. 4 district No. 11, which is the district that the court ruled as being an unconstitutional district, the 11th District of Georgia. From an appearance perspective, would the gentlewoman agree with me that both of these districts pretty much look irregular, if you want to use the term irregular?

Ms. JACKSON-LEE. Mr. Speaker, if the gentleman will continue to yield, someone would say in the eyes of beholder. I think that there would be the reception by many who looked at that and said yes, on both of those districts.

Ms. MCKINNEY. Mr. Speaker, in my eyes that is the most beautiful district in the State of Georgia.

Mr. FIELDS of Louisiana. Let me ask the gentlewoman another question.

Ms. JACKSON-LEE. I understand.

Mr. FIELDS of Louisiana. Let me present another scenario to the gentlewoman. If I would suggest to the gentlewoman that this district is 60 percent black and 40 percent white, and this district is 96 percent white and 4 percent black, which of the two districts would the gentlewoman suggest would be the most diverse district?

Ms. JACKSON-LEE. Obviously, the top district that you have, the 11th District of Georgia, and as well, I would imagine that you might be able to point out several communities of interest in that district.

Mr. FIELDS of Louisiana. I would ask the gentlewoman, which would be the most segregated districts of the two?

Ms. JACKSON-LEE. Mr. Speaker, it would certainly seem to be the last one, which is, I believe, the fourth district.

Mr. FIELDS of Louisiana. So if this district would be declared unconstitutional and segregate voters, then one would have to just make the fair assumption that this district would have to follow under the same rules and regulations; would you not agree to that?

Ms. JACKSON-LEE. I think what that does is absolutely affirms the comments made by Justice Ginsberg which say, you have now then opened a door to lawsuits all over this country, for districts all over this country.

□ 2315

And I frankly think this is not what the American people want. They want to be able to elect a Representative of their choosing. They want to be assured that that Representative will represent them and their interests. I do not think they want to find themselves in courthouses across this Nation challenging districts on the basis of shape.

Ms. MCKINNEY. Mr. Speaker, will the gentleman yield?

Mr. FIELDS of Louisiana. I yield to the gentlewoman from Georgia.

Ms. MCKINNEY. I would also suggest that the American people do not want a second occurrence of the situation that occurred after reconstruction. And that is that the American people do not want the elected Representatives of the people of choice, of color, expelled because of their color.

But it appears to me that if we are not careful that is where we could end up. Tens, hundreds, thousands, of city council people, school board members, county commissioners, legislators, Members of Congress expelled for no other reason than the color of their skin. Is that the future that we want for this country? And is that the kind of democracy that we are supposed to be marching toward?

I think this Supreme Court decision has done a tremendous disservice to the people of this country, because instead of moving forward together, now we have the real chance of moving backwards.

Mr. FIELDS of Louisiana. I think the gentlewoman makes a very good point. One of the problems that we have in this country is how we integrate the institutions of power, the institutions that make decisions. How do we integrate this institution that we call the U.S. Congress, the House of Representatives?

You know, in one State, when one uses the term House of Representatives it connotes representatives of the people. I just have the view that when one puts a mirror in front of the U.S. House of Representatives it ought to represent to some degree the citizens of the United States of America. And if the court continues to go on the trend it is going on today, it is going to eliminate many of the majority-minority districts in this Congress, which means that you would not be able to see the kind of representation in this Congress that you see outside of this Congress, and that is among the American people.

I think it is encouraging to see Hispanics in the U.S. Congress and African-Americans and women in the U.S. Congress. I think that is what representation is all about. but we are clearly going to have a problem in obtaining a good representation of this country right here in the Halls of Congress if we continue to eliminate districts like the district from Georgia and other districts that are majority-minority districts.

I want the gentlewoman to bear with me a moment. I have a few more maps I want to show here, because this is, in my opinion, very important.

I am now placing on the easel the Third Congressional District from the State of Tennessee, which was created in 1990. This district is 87 percent majority.

Now, if the 11th Congressional District of Georgia, which is 60 percent minority, is unconstitutional, I can't see much difference between the 11th Congressional in Tennessee, other than this district is much more diverse than the Third Congressional District in Tennessee.

So I just think the Court is about to open up the floodgates of litigation as the gentlewoman knows, if they continue to go on the this trend of judging districts based on their appearance and not judging districts based on any real constitutional standard. Because none of these districts can win a beauty contest, and I do not think that is the purpose of the Voting Rights Act, and I do not think there is anything in the Constitution of the United States of America that says that a district must look a certain way.

I just find it ironic that the United States Supreme Court will take the amendment that was used to protect minority voters, the 14th amendment of the Constitution and the equal protection clause, and instead of using that as a shield to continue to protect minority voters, they use it as a sword to injure them. I just find that to be hard to believe today, that the court would make that kind of ruling.

Ms. MCKINNEY. Mr. Speaker, will the gentleman yield?

Mr. FIELDS of Louisiana. I am happy to yield to the gentlewoman from Georgia.

Ms. MCKINNEY. You know, we are talking about beauty contests, but the beauty of these districts is that they provide effective representation for the people who reside in them. And I know that we perhaps would not have even had to have an 11th Congressional District of Georgia as a majority-minority district had the residents of the district been properly taken care of when they had other representation.

But you can immediately ride into the 11th District and know that you have crossed some kind of threshold, where you have people who live in homes without running water, you have people who are suffering from environmental contamination and dying, you have people who still have their voting rights violated in 1994 and 1995. We cross some kind of time threshold, we cross some kind of socioeconomic threshold, we cross a neglect threshold. And now, for the first time, particularly in Georgia, outside of the city of Atlanta, people have a strong voice fighting for them, providing some relief from their suffering.

And the Supreme Court now says that that is unconstitutional. The question, I guess, is not what about CYNTHIA MCKINNEY, but what about those people? Because CYNTHIA MCKINNEY may be gone, but the problems that those people have to endure day after day as they mete out a meager existence will endure. What is going to happen to those people? Who will serve those people? I do not have lobbyists coming into my office asking me to please provide running water for the people who do not have running water in their homes in your district, CYNTHIA.

The lobbyists come by and they have their hands out and they re asking for government largess, but it is not on behalf of the people who are in need. I was sent here by the people who are in need, and I do my darnedest to represent them, as I know you do, and that is the appropriate balance in this place; that is the appropriate balance for government, that we have all of the people who are in need and all of the various needs represented. And there in the marketplace of political ideas they clash and their values assume a certain kind of value, and some win and some lose, some come out on top, but everybody should not always have to come out on the bottom all the time.

That is what these districts were designed to prevent. That is why I believe all of these districts are beautiful districts.

Mr. FIELDS of Louisiana. I thank the gentlewoman for that analogy. I mean the gentlewoman has done such a great job here in this Congress for the people that she represents back in Georgia and it would be just, in my opinion, a big calamity for the many people in Georgia to lose a Representative like you.

That is why the point of shape should be such a nonfactor, to even opine a thought that a gentlewoman like you might not be able to serve in this body simply because the district looks a certain way. In my opinion, I agree with you, I think the district is absolutely beautiful. First of all, there is no constitutional standard for beauty. I have read through and through the Constitution and I have not seen any beauty contest requirement for the shape of a district. One of the reasons for that is because the districts, I mean the States are not perfect squares and perfect circles.

You take the State of Louisiana, for example, it is shaped like a boot. So you cannot get a perfect district out of the State of Louisiana when the State itself does not, is not a perfect square or a perfect circle, but I think the State of Louisiana is a beautiful State.

I take issue with anybody who would say the State of Louisiana is not a beautiful-looking State. I am proud of that boot shape of the State of Louisiana, because it is not how the shape of the State looks, it is what is within the State. We have great people within the State of Louisiana.

Let me, if the gentlewoman would bear with me just for a moment, I know the gentlewoman has been up all night representing her constituents.

Ms. MCKINNEY. Two nights.

Mr. FIELDS of Louisiana. Two nights in a row on the floor of this House not being able to go to sleep, not one ounce.

Ms. MCKINNEY. Not 10 minutes of sleep.

Mr. FIELDS of Louisiana. Not 10 minutes and still on the floor tonight fighting for the damned, the doomed, the disenchanted, the have-nots, and I just want to commend the gentlewoman from Georgia for just being here, because she has often said the issue is not whether or not CYNTHIA MCKINNEY will serve another day in Congress, but the issue is whether or not a person like CYNTHIA MCKINNEY will have the opportunity to serve in Congress. These are not guaranteed districts, these are opportunity districts.

I want the gentlewoman to look at the Sixth District of Chicago. This district is in existence today. This district is represented by a very able Member of this body. I would dare not say that this Member of Congress has not represented his constituents. This district is separated.

Ms. MCKINNEY. Discontinuity.

Mr. FIELDS of Louisiana. This is not even contiguous. This district is separated not by water, not by some island, this district is separated by another district. If you look, another district, a congressional district actually runs in between this district and this little island here, which is a part of this district.

Now, if this district, which is all contiguous, not one part of this district is noncontiguous, and this district, which is—let me give you the numbers of this district, 95.2 percent white.

Ms. MCKINNEY. Looks like that district could be subject to a lawsuit.

Mr. FIELDS of Louisiana. If this district here is unconstitutional according to the Supreme Court of the United States of America, then what do you think this district here is? You are talking about a district that is not even contiguous. There are three different islands on this district here, and this district here is certainly all intact and all contiguous.

Ms. MCKINNEY. What kind of mischief has the Supreme Court now made? Can you imagine the 50 States of the United States engaged in redistricting in the middle of the 10-year period? What kind of political chaos could result in something like that?

Mr. FIELDS of Louisiana. It would be absolute disruption. It would open up the floodgates of litigation. It would be unmanageable. If every one citizen in America who feels that their district does not look a certain way and will not pass any beauty contest runs to the courthouse and files a lawsuit, we are going to be dealing with this issue of reapportionment for a long period of time.

That is why I think the courts must be very careful when they come down on these districts simply because they are majority-minority, one; and, two, they do not look a certain way and do not pass the course of beauty contests and fail to look at all these districts that are majority-majority districts, that do not look a certain way and do not fit into a perfect square, in a perfect box scenario or syndrome. Those districts which are overwhelmingly one race and not diverse, like these districts that the courts are making, calling unconstitutional, have to be subject to the same kind of scrutiny that these districts are subject to.

I only have three more districts I would like to share with the gentlewoman because I know it is getting late in the hour.

Ms. MCKINNEY. But you know, Congressman, I would also like to say something about this notion about districts are supposed to look a certain way, people are supposed to look a certain way. I have had a particular problem since I have been elected because I do not quite look the way most Members of Congress are supposed to look. Security guards stop me, elevator operators stop me, you name it, I have problems. I was stopped even last week because I do not look the way some folks think a Member of Congress is supposed to look.

When we start judging by how we think folks are supposed to look or things are supposed to look, and then discriminating against them based on the fact that that does not quite look like what we think it ought to look like, the stereotype we have in our minds, then we really are engaging in something else that is very harmful, and that is what we want to avoid as well.

So there is some preconceived idea, I guess, that a good district is a circular district, or maybe it is a square district, but it certainly cannot look like that district and be a good district. It can look like that district if it produces somebody who looks like the way a Member of Congress is supposed to look, but if that district produces somebody who looks like me and says I do not look like the kind of person who ought to be walking the Halls of Congress as a Member of Congress, then something is wrong with the district. Highly suspect reasoning.

Mr. FIELDS of Louisiana. I would like to share with the gentlewoman just three more maps. I want to thank her for her patience. While we talk about appearance, I would like to share with the gentlewoman the 14th Congressional District of Texas.

This was a 1920's. You can see that that district was not contiguous. It had an island, and that was not because of water, it was because another district actually ran between that district, and this district was actually created to disenfranchise minority groups. It was gerrymandered for the purpose of excluding minority groups, Hispanics and blacks, so that they would not be empowered and so that they would not be the majority, so that they could not elect a candidate of their choice.

The courts saw absolutely nothing wrong with this district. Citizens did not file complaints, of course. But it just goes to show you how districts that look just like districts that are being declared unconstitutional are suspect, and the Supreme Court was very much constitutional in the past and in fact in the present.

Now this next district I am about to show the gentlewoman is probably the one that I have the most fun with, to be quite honest with you, because if the 11th District of Georgia is irregular, according to the courts, then I would like to know what you call this district. Now, this is the Sixth District of Texas, Dallas, TX. This is one district and no one has filed a lawsuit in this district. Why? Because this district is not a majority-minority district. It is not Hispanic, it is not black. So I guess it is constitutional. But this district runs all over the place. I mean, they criticize a district in Louisiana saying it is only so wide. They criticize a district, the 12th Congressional District in North Carolina, represented by a very able Member of Congress, Mr. WATT. They said his district is as wide as an interstate. How wide is this district at certain points?

Now, let us do a comparison test. Let us do a little beauty contest. This is the district that was declared by the Supreme Court in its infinite wisdom as being unconstitutional, the 11th District of Georgia, which is at the top, and there is the Sixth District of Texas at the bottom. Now, you tell me which district in your opinion, if you want to talk beauty. There is a portion of this district that is not even contiguous. As a matter of fact, there are three or four portions of this district that are not contiguous. Take this portion here which is not contiguous. This little island over here to the left is not contiguous.

It just goes to show you you cannot develop an appearance standard to determine the constitutionality of a district.

The last district, which is probably the district that started this whole term gerrymandering, is a district of Massachusetts. A very able member of this body, a person who works very hard, represents the Fourth Congressional District of Massachusetts. This district is the real district because it comes from the State that brought about the term gerrymander as a result of their great Governor at that time. This district is not under challenge. It is not a majority-minority district; it is a majority-majority district. A very able member of this body represents this district, represents his constituents well, and no one asks questions about the constitutionality of this district. It is just suspect to me that only districts that appear to be unconstitutional are districts that are majority-minority.

Ms. MCKINNEY. Based on shape.

Mr. FIELDS of Louisiana. Just the other day in New York, I forgot what congressional district, but it is represented by a very able female member of this Congress.

Ms. MCKINNEY. Absolutely.

Mr. FIELDS of Louisiana. A Hispanic district.

Ms. MCKINNEY. The Nation's first Puerto Rican American Congresswoman.

Mr. FIELDS of Louisiana. First Puerto Rican American Congresswoman walking into the halls of Congress, now being challenged because her district looks a certain way, and it is majority Hispanic.

I just thought we would take a few minutes tonight to talk about this. And I also wanted to tell you how much your leadership has meant to this body and will continue to mean to this body. Because I certainly have no plans of the gentlewoman leaving this body. But it really hurts me to my heart to know that the Supreme Court would rule that this beautiful district, this beautiful district, and to show you just how beautiful this district is, this absolute perfect beautiful district would be declared as an unconstitutional gerrymander, and this district here goes untouched. I want you to know that the people of Savannah and the people of all parts of Georgia who are under your great leadership, you know, have nothing to be ashamed of, and they ought to stick their chests out and be proud of the fact that they are members of this beautiful district.

I do not know what will happen in the future, but people like you are the kind of people that this country needs to make this country really project what it talks about on a day-to-day basis and even tries to get other countries to talk about, and that is democracy. Because now when we put a mirror in front of this Congress and we see a Congresswoman, a gentlewoman like you, then there are people all across America who can poke their chests out and say I am proud to be an American and I am proud to be in America because our Congress, our House of Representatives, is inclusive and not exclusive.

On a closing note, while people talk about the number of minority Members who are now Members of Congress and they talk about this uproar and this increase in numbers, there are only 40 black Members in the whole U.S. Congress, not the House of Representatives, mind you, but in the entire U.S. Congress. That is the House and the Senate.

Ms. MCKINNEY. There are 535 Members.

Mr. FIELDS of Louisiana. There are 535 House and Senate Members, and of the 535 House and Senate Members, there are only 40 blacks. For anyone to even opine the thought that these Members are here because they were guaranteed some safety or were guaranteed seats, is absolutely wrong. The only thing they were guaranteed was an opportunity, and that was an opportunity to be able to plead their case before voters in the most diverse districts in the whole United States of America.

□ 2340

And it really frightens me today that this court would find the most diverse district in the country as a district that may be unconstitutional, and it really falls square. I mean, it just falls square on the shoulders and slaps the Voting Rights Act in its face, and it also slaps those people who have worked so hard, those people who have worked so hard to fight for the passage of the Voting Rights Act, people like Martin Luther King, people like Thurgood Marshall and people like President Kennedy, I mean, people who just gave it all to make sure that this Congress would reflect this country.

And I want to thank the gentlewoman for her willingness to come here tonight after being up for 2 nights in row and standing on the floor of this House and talking about a significant issue like reapportionment.

Ms. MCKINNEY. I commend the gentleman for his leadership on this very important issue, and I would also just like to commend you for being able to prevail in such a dark period of uncertainty when I know all of the clouds of doubt and sometimes a little bit of disappointment were trying to rain on your parade, but you were able to keep your head up high, maintain your dignity and continue to function, lead in this body. I appreciate your leadership. I appreciate your leadership on this issue, and I certainly appreciate the enduring friendship that we will have as a result of our time here together.

Mr. FIELDS of Louisiana. I thank the gentlewoman.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. YATES (at the request of Mr. GEPHARDT), for today after 8 p.m., on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following members (at the request of Ms. JACKSON-LEE) to revise and extend their remarks and include extraneous material:)

Mr. TOWNS, for 5 minutes, today.
Ms. WOOLSEY, for 5 minutes, today.
Mr. DEFAZIO, for 5 minutes, today.
Ms. KAPTUR, for 5 minutes, today.
Mr. WISE, for 5 minutes, today.
Mr. FALEOMAVAEGA, for 5 minutes, today.
Mr. HINCHEY, for 5 minutes, today.
Mr. SANDERS, for 5 minutes, today.
Mrs. MINK, of Hawaii, for 5 minutes, today.

(The following Members (at the request of Mr. FOX of Pennsylvania) to revise and extend their remarks and include extraneous material:)

Mrs. SEASTRAND, for 5 minutes, today.
Mr. FOX of Pennsylvania, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. FOX of Pennsylvania) and to include extraneous matter:)

Mr. MOORHEAD, in two instances.
Mr. FORBES.
Mr. SMITH of New Jersey.
Mr. COX.
Mr. HYDE.
Mr. FRELINGHUYSEN.
Mr. GUNDERSON.
Mr. HUNTER.
Mr. SOLOMON.
Mr. CLINGER, in two instances.
Mr. ALLARD.
Mrs. MORELLA.
Mr. GILMAN.
Mr. FIELDS of Texas.
Mr. SHAW.
Mr. MCINTOSH.

ADJOURNMENT

Mr. FIELDS of Louisiana. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 11 o'clock and 42 minutes p.m.), the House adjourned until Friday, June 30, 1995, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1127. A letter from the Acting Administrator, Environmental Protection Agency, transmitting a draft of proposed legislation to amend and extend the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, for 2 years; to the Committee on Agriculture.

1128. A communication from the President of the United States, transmitting amendments to the fiscal year 1996 appropriations requests for the Department of Housing and Urban Development and the Small Business Administration, pursuant to 31 U.S.C. 1106(b) (H. Doc. No. 104–88); to the Committee on Appropriations and ordered to be printed.

1129. A letter from the Acting Administrator, Environmental Protection Agency, transmitting a draft of proposed legislation to extend the Solid Waste Disposal Act; to the Committee on Commerce.

1130. A letter from the Acting Administrator, Environmental Protection Agency, transmitting a draft of proposed legislation to extend certain provisions of the Safe Drinking Water Act, as amended, for 2 years; to the Committee on Commerce.

1131. A letter from the Acting Administrator, Environmental Protection Agency, transmitting a draft of proposed legislation to amend and extend the Toxic Substances Control Act, as amended, for 2 years; to the Committee on Commerce.

1132. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of a proposed license for the export of major defense equipment and services sold commercially to Saudi Arabia (Transmittal No. DTC–11–95), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

1133. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of a proposed license for the export of major defense equipment and services sold commercially to the People's Republic of China (Transmittal No. DTC–39–95), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

1134. A letter from the Acting Administrator, Environmental Protection Agency, transmitting a draft of proposed legislation entitled, the "Environmental Research, Development, and Demonstration Authorization Act of 1995," pursuant to 31 U.S.C. 1110; to the Committee on Science.

1135. A letter from the Administrator, National Aeronautics and Space Administration, transmitting NASA's 1994 annual report on actions taken and planned to implement fully the metric system of measurement, pursuant to 5 U.S.C. 205j–1(a); to the Committee on Science.

1136. A letter from the Comptroller General, General Accounting Office, transmitting a report entitled, "Financial Audit: Resolution Trust Corporation's 1994 and 1993 Financial Statements" (GAO/AIMD–95–157), June 1995, pursuant to 31 U.S.C. 9106(a); jointly, to the Committees on Banking and Financial Services and Government Reform and Oversight.

1137. A letter from the Acting Administrator, Environmental Protection Agency, transmitting a draft of proposed legislation to amend and extend the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, for 2 years; jointly, to the Committees on Commerce and Transportation and Infrastructure.

1138. A letter from the Acting Administrator, Environmental Protection Agency, transmitting a draft of proposed legislation to amend and extend the North American Free Trade Agreement Implementation Act for 2 years; jointly, to the Committees on International Relations and Ways and Means.

1139. A letter from the Acting Administrator, Environmental Protection Agency, transmitting a draft of proposed legislation to amend and extend the Federal Water Pollution Control Act, as amended, for 2 years; jointly, to the Committees on Transportation and Infrastructure and Resources.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. GOSS. Committee on Rules. House Resolution 177. Resolution providing for the further consideration in the Committee of the Whole of the bill (H.R. 1868) making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1996, and for other purposes (Rept. 104–167). Referred to the House Calendar.

Mrs. WALDHOLTZ: Committee on Rules. House Resolution 179. Resolution providing for immediate consideration of a concurrent resolution providing for adjournment of the House and Senate for the Independence Day district work period (Rept. 104–168). Referred to the House Calendar.

Ms. PRYCE: Committee on Rules. House Resolution 180. Resolution waiving points of order against the conference report to accompany the bill (H.R. 483) to amend title XVIII of the Social Security Act to permit Medicare select policies to be offered in all States, and for other purposes (Rept. 104–169). Referred to the House Calendar.

Mr. GOODLING: Committee on Economic and Educational Opportunities. H.R. 1557. A bill to authorize appropriations for fiscal year 1996, 1997, 1998 for the National Endowment for the Arts, the National Endowment for the Humanities, and the Institute for Museum Services; and to repeal the National Foundation on the Arts and the Humanities Act of 1965 effective October 1, 1998; with an amendment (Rept. 104–170). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. DEFAZIO (for himself, Mr. MILLER of California, Mr. SANDERS, Mr. WAXMAN, Mr. MCDERMOTT, Mr. DELLUMS, Mr. OWENS, Ms. NORTON, Ms. PELOSI, Mr. STARK, Mr. FRAZER, Mr. BORSKI, Mr. SERRANO, Mr. MATSUI, Mr. OBERSTAR, Mr. TORRICELLI, Mr. DURBIN, Mr. LIPINSKI, Mr. EVANS, Mr. ABERCROMBIE, Ms. SLAUGHTER, Ms. WOOLSEY, and Ms. FURSE):

H.R. 1955. A bill to amend title I of the Employee Retirement Income Security Act of 1974 to provide for certain minimum requirements for group health plans with respect to obstetrical benefits; to the Committee on Economic and Educational Opportunities.

By Mr. SHAW:

H.R. 1956. A bill to amend the Internal Revenue Code of 1986 to provide a moratorium for the excise tax on diesel fuel sold for use or used in noncommercial diesel-powered motorboats and to require the Secretary of the Treasury to study the effectiveness of procedures to collect excise taxes on sales of diesel fuel for noncommercial motorboat use; to the Committee on Ways and Means.

By Mr. BROWN of Ohio (for himself, Mr. DELLUMS, Mr. LIPINSKI, Mr. GILLMAN, Mr. KILDEE, Mr. GENE GREEN of Texas, Mr. TORRES, Mr. CLYBURN, Mr. FROST, Mr. STUPAK, Miss COLLINS of Michigan, Mr. THOMPSON, Mr. FATTAH, Mr. EVANS, Mr. KLINK, and Ms. KAPTUR):

H.R. 1957. A bill to amend the Internal Revenue Code of 1986 to allow the deduction of certain interest on automobile loans; to the Committee on Ways and Means.

By Mr. DORNAN:

H.R. 1958. A bill to modify the jurisdiction of the Federal courts with respect to abortion; to the Committee on the Judiciary.

By Mr. FAWELL:

H.R. 1959. A bill to repeal the Walsh-Healey Act; to the Committee on the Judiciary, and in addition to the Committee on Economic and Educational Opportunities, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. FORBES:

H.R. 1960. A bill to govern relations between the United States and the Palestine Liberation Organization [PLO], to enforce PLO compliance with standards of international conduct, and for other purposes; to the Committee on International Relations, and in addition to the Committee on Banking and Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. GORDON (for himself, Mr. QUILLEN, Mr. FORD, Mr. CLEMENT, Mr. TANNER, and Mr. WAMP):

H.R. 1961. A bill to designate the Tennessee Civil War Heritage Area, and for other purposes; to the Committee on Resources.

By Mr. SAM JOHNSON of Texas:

H.R. 1962. A bill to amend the Internal Revenue Code of 1986 to provide special rules for certain gratuitous transfers of employer securities for the benefit of employees; to the Committee on Ways and Means.

By Mr. MCHUGH (for himself, Mr. ACKERMAN, Mr. BARRETT of Wisconsin, Mr. BOEHLERT, Mr. EHRLICH, Mr. GILMAN, Mr. GENE GREEN of Texas, Mr. JACOBS, Mrs. KELLY, Mrs. KENNELLY, Mr. KLECZKA, Mr. LIVINGSTON, Mr. PARKER, Mr. ROMERO-BARCELO, Mr. SERRANO, Mr. SHAYS, Mr. STOCKMAN, Mr. UNDERWOOD, Mr. TOWNS, Mr. WALSH, and Mr. DAVIS):

H.R. 1963. A bill to amend title 39, United States Code, to provide that the payment of a bill, invoice, or statement of account due, if made by mail, shall be considered to have been made on the date as of which the envelope which is used to transmit such payment is postmarked; to the Committee on Government Reform and Oversight.

By Mr. SANDERS:

H.R. 1964. A bill to authorize the President to award the Medal of Honor to the unknown Vermonter who lost his life while serving in the Continental Army in the War of Independence and who has been selected by the people of Vermont to represent all Vermont unknown soldiers; to the Committee on National Security.

By Mr. SAXTON (for himself, Mr. GILCHREST, Mr. FARR, Mr. BILBRAY, Mr. STUDDS, Mr. HORN, Mr. TORKILDSEN, Mr. ENGLISH of Pennsylvania, Mr. CLYBURN, Mr. SMITH of New Jersey, Mr. MARKEY, Mr. LOBIONDO, Mr. DE LA GARZA, Mr. KLUG, Mrs. MORELLA, Mr. REED, Mr. SPENCE, Mr. FROST, Mr. DELLUMS, Mr. TORRES, Mr. KENNEDY of Rhode Island, Mr. HINCHEY, Mr. BEILENSON, Mr. FALEOMAVAEGA, Mr. WAXMAN, Mr. GENE GREEN of Texas, Mr. FILNER, Mrs. LOWEY, Mr. PALLONE, Mr. BERMAN, Mr. GOSS, Mr. JOHNSTON of Florida, Mr. CARDIN, Mr. MEEHAN, Mr. LANTOS, Mrs. JOHNSON of Connecticut, Mr. BALDACCI, Ms. FURSE, Mrs. MEEK of Florida, Mr. FOGLIETTA, Mr. SHAYS, Mr. STUPAK, Mr. MANTON, Ms. ROYBAL-ALLARD, Mr. HOYER, Mr. GILMAN, Mr. GEJDENSON, Mrs. MINK of Hawaii, Mr. SERRANO, Mr. FLAKE, Mr. KENNEDY of Massachusetts, Mr. ROMERO-BARCELO, Mr. ENGEL, Mr. EHLERS, Mr. FORBES, Mr. BOEHLERT, Mr. ACKERMAN, Mr. SPRATT, Mr. MILLER of California, Mr. ZIMMER, Mr. HOUGHTON, Mr. QUINN, Mr. WALSH, Mr. UNDERWOOD, Ms. PELOSI, Mr. TOWNS, Mr. LAZIO of New York, Mr. WELDON of Pennsylvania, Mrs. KELLY, Ms. WOOLSEY, Mr. NADLER, Mr. MINETA, Mr. FRISA, Mr. FOX, and Mr. DEFAZIO):

H.R. 1965. A bill to reauthorize the Coastal Zone Management Act of 1972, and for other purposes; to the Committee on Resources.

By Mr. SHAW (for himself, Mr. KLECZKA, and Mr. HASTINGS of Florida):

H.R. 1966. A bill to provide for the treatment of Indian tribal governments under section 403(b) of the Internal Revenue Code of 1986; to the Committee on Ways and Means.

By Mr. SHAW (for himself, Mr. RANGEL, Mr. ZIMMER, Mr. MCDERMOTT, Mr. PAYNE of Virginia, Mrs. KENNELLY, Mr. CARDIN, Mr. ENGLISH of Pennsylvania, Mr. SAM JOHNSON, Mr. HANCOCK, Mr. CHRISTENSEN, Mr. NEAL of Massachusetts, Mr. CRANE, Mr. THOMAS, Mr. COLLINS of Georgia, Mr. KLECZKA, Ms. DUNN of Washington, Mr. HOUGHTON, Mr. MATSUI, Mrs. JOHNSON of Connecticut, Mr. HERGER, Mr. NUSSLE, and Mr. PORTMAN):

H.R. 1967. A bill to facilitate asset securitization through the creation of Financial Asset Securitization Investment Trusts; to the Committee on Ways and Means.

By Mr. SOLOMON:

H.R. 1968. A bill to require that health plans provide coverage for a minimum hospital stay for a mother and child following the birth of the child, and for other purposes; to the Committee on Commerce.

By Mr. STUDDS:

H.R. 1969. A bill to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, and for other purposes; to the Committee on Commerce.

By Mr. TORRICELLI (for himself, Mr. NADLER, Mr. SANDERS, Mr. DEFAZIO, and Mr. PALLONE):

H.R. 1970. A bill to require that health plans provide coverage for minimum period of time for a mother and child following the birth of the child; to the Committee on Commerce.

By Mr. ZIMMER:

H.R. 1971. A bill to provide for aviation noise management and reduction in residential areas; to the Committee on Transportation and Infrastructure.

By Mr. SMITH of New Jersey (for himself, Mr. GILMAN, Mr. BEREUTER, Mr. LANTOS, Mr. BERMAN, Mr. GEJDENSON, Mr. WOLF, Ms. PELOSI, and Mr. ROHRABACHER):

H. Res. 178. Resolution calling upon the People's Republic of China to release United States citizen Harry Wu unconditionally and to provide for an accounting of his arrest and detention; to the Committee on International Relations.

By Mr. HAMILTON (for himself, Mr. BEREUTER, and Mr. BERMAN):

H. Res. 181. Resolution encouraging the peace process in Sri Lanka; to the Committee on International Relations.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 52: Ms. EDDIE BERNICE JOHNSON of Texas and Mr. MCCOLLUM.

H.R. 65: Mr. ABERCROMBIE, Mr. GALLEGLY, Mr. TOWNS, and Mr. HEFNER.

H.R. 109: Mr. OLVER.

H.R. 127: Mr. Boehlert.

H.R. 303: Mr. Towns and Mr. Hefner.

H.R. 326: Mr. Hutchinson.

H.R. 390: Mr. Souder.

H.R. 468: Mr. Hall of Texas.

H.R. 530: Mr. Schiff.

H.R. 580: Mr. Allard and Mr. Pombo.

H.R. 616: Mr. Filner and Mr. Bonior.

H.R. 739: Mr. Bryant of Tennessee, Mr. Scarborough, Mr. Tate, and Mr. Wicker.

H.R. 743: Mr. Bartlett of Maryland, Mr. Bass, Mr. Hefley, and Mrs. Myrick.

H.R. 833: Ms. DeLauro.

H.R. 863: Mr. McDermott, Mr. Frazer, and Mr. Oberstar.

H.R. 864: Ms. Dunn of Washington and Mr. Goodlatte.

H.R. 897: Mr. Smith of New Jersey.

H.R. 969: Ms. Woolsey.

H.R. 994: Mr. Laughlin, Mr. Hoekstra, Mr. Edwards, Mr. Chambliss, and Mr. Hastings of Washington.

H.R. 1006: Mr. Jefferson and Mr. Serrano.

H.R. 1023: Mr. Reed.

H.R. 1073: Mr. Lewis of Georgia, Ms. Pelosi, Ms. Woolsey, Mrs. Johnson of Connecticut, Mr. Watts of Oklahoma, and Mr. Minge.

H.R. 1074: Mr. Peterson of Minnesota, Ms. Pelosi, Mrs. Johnson of Connecticut, Mr. Clay, and Mr. Watts of Oklahoma.

H.R. 1099: Mr. Thomas, Mr. Coyne, and Mr. Kleczka.

H.R. 1127: Mr. Norwood, Mr. Leach, Mr. Bliley, Mr. Cox, Mr. Hastert, Mr. Ney, Mr. Pickett, Mr. LaHood, Mr. Flanagan, Mr. Lightfoot, Ms. Molinari, Mr. Frisa, Mr. Hyde, Mr. Hoekstra, Mr. McInnis, Mr. Wicker, Mr. Franks of Connecticut, Mr. Porter, Mr. Weldon of Florida, Mr. Thomas, Mr. Foley, Mrs. Kelly, Mr. Miller of Florida, Mr. Upton, Mr. Roberts, Mrs. Johnson of Connecticut, Mr. Horn, Mr. Thornberry, Mr. English of Pennsylvania, Mrs. Seastrand, Mr. Burr, Mr. Edwards, Mr. Sensenbrenner, Mr. Deal of Georgia, Mr. DeLay, Mr. Davis, Mr. Metcalf, Mr. Paxon, Mr. Graham, Mr. Watts of Oklahoma, Mr. Barr, Mr. Livingston, Mr. Tate, and Mrs. Morella.

H.R. 1143: Mr. Frank of Massachusetts.

H.R. 1144: Mr. Frank of Massachusetts.

H.R. 1161: Mrs. Fowler and Mr. Montgomery.

H.R. 1175: Mr. Smith of New Jersey, Mr. Abercrombie, Mr. Baldacci, Mr. Oberstar, Mr. Clyburn, Mr. Hoyer, Mr. Spence, Mr. Lazio of New York, Mr. Dellums, Mr. de la Garza, Mrs. Thurman, Ms. Rivers, Mr. Hamilton, Mr. Stupak, Mr. Shaw, Mr. Callahan, Mr. LaTourette, Mrs. Lowey, Mr. Dingell, Mr. Fields of Louisiana, Mr. Dixon, Mr. Evans, Mr. Wilson, Mr. Farr, Mr. Blute, Mr. Longley, Mr. Deutsch, Mr. Peterson of Florida, Mr. Young of Florida, Mr. Goss, Mr. Torricelli, Mrs. Meek of Florida, Mr. Tauzin, Mr. Conyers, Mr. Forbes, Mr. Towns, Mr. Ackerman, Mr. Riggs, Mr. Dicks, Mr. Engel, Mr. Camp, and Mr. Laughlin.

H.R. 1300: Mr. Zimmer, Mr. Pallone, Mr. Franks of Connecticut, Mr. Gutknecht, Mr. Linder, Mr. LaTourette, and Mr. Barton of Texas.

H.R. 1364: Mr. LoBiondo.

H.R. 1386: Mr. Stump, Mr. Cramer, Mr. Cunningham, and Mr. Allard.

H.R. 1416: Mr. Lipinski.

H.R. 1490: Mr. Reynolds.

H.R. 1513: Mr. Ackerman and Mr. Barcia of Michigan.

H.R. 1514: Mr. Scott, Mr. LaHood, Mr. Lazio of New York, Mr. Manzullo, Mr. Pastor, Mr. Leach, Mr. Burton of Indiana, Mr. Wicker, Mr. Hall of Ohio, Mr. Barcia of Michigan, Ms. Eddie Bernice Johnson of Texas, and Mr. Brewster.

H.R. 1532: Mr. Clement.

H.R. 1598: Mr. Payne of Virginia and Mr. Diaz-Balart.

H.R. 1627: Mr. Bonilla, Mr. Bunning of Kentucky, Mr. Leach, Ms. Dunn of Washington, Mr. Matsui, Mr. Spratt, and Mrs. Smith of Washington.

H.R. 1629: Mr. Dellums, Ms. McKinney, and Mr. Lewis of Georgia.

H.R. 1656: Mr. Rahall, Mr. Fox, Mr. Frost, Mr. Studds, Mr. Boucher, Mr. Underwood, Mr. Frank of Massachusetts, Mr. Traficant, Mr. Rangel, and Mrs. Thurman.

H.R. 1801: Mr. Klug, Mr. Solomon, and Mr. Dornan.

H.R. 1818: Mr. Dickey, Mr. Davis, and Mr. Chabot.

H.R. 1834: Mr. Brownback, Mrs. Chenoweth, Mr. Dickey, Mr. Everett, Mr. Gallegly, Mr. Ganske, Mr. Hobson, Mr. Inglis of South Carolina, Mr. Sanford, and Mr. Shadegg.

H.R. 1853: Mr. Stark.

H.R. 1855: Ms. Molinari.

H.R. 1876: Mr. Markey, Mr. Clay, and Ms. Waters.

H.R. 1884: Ms. Lofgren and Mr. Rangel.

H.R. 1898: Ms. Lofgren, Mr. Torricelli, Mr. Evans, Mr. Stark, Mr. Frank of Massachusetts, Ms. Roybal-Allard, Ms. Waters, Mr. Berman, Mr. Olver, Mr. Bonior, Mr. Romero-Barcelo, Mr. Filner, Mr. Markey, and Mr. Flake.

H.R. 1903: Mr. Schiff and Mrs. Schroeder.

H. Con. Res. 76: Mr. Obey, Mr. Berman, and Mr. Petri.

H. Con. Res. 79: Mr. Serrano, Mr. Underwood, Mr. Oberstar, Mr. Durbin, and Mr. Torricelli.

H. Res. 174: Mr. Dellums and Mr. Faleomavaega.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

[Omitted from the Record of June 28, 1995]

H.R. 896: Mr. Yates.

[Submitted June 29, 1995]

H.R. 310: Mr. English of Pennsylvania.

H.R. 313: Mr. English of Pennsylvania.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

28. By the SPEAKER: Petition of Patricia S. Ticer, mayor of the city of Alexandria, VA, relative to supporting the minority party's work first proposal in the U.S. Congress and urge immediate passage; to the Committee on Ways and Means.

29. Also, petition of the Council of the District of Columbia, relative to a copy of Council Resolution 11–64, the "Fannie Mae, Sallie Mae, and Freddie Mac Local Corporate Income Tax Exemption Amendment Support Resolution of 1995"; jointly, to the Committees on Banking and Financial Service and Economic and Educational Opportunities.

EXTENSIONS OF REMARKS

HONOR FOR PUBLIC SERVANTS

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 29, 1995

Mr. MILLER of California. Mr. Speaker, government employees don't have much of a cheering section these days. The men and women who work diligently and conscientiously to serve our citizens and make government operate seem to be bearing more than their portion of the blame for what's perceived to be wrong with the world. The critics are relentless.

So, it is particularly noteworthy that in a recent commencement address at the University of California at Berkeley, the Commissioner of the Bureau of Reclamation, Dan Beard, a self-confessed public servant with much pride in his years of service, extolled the virtues of public service. His message to the graduates was that the public employees who are being denigrated are not strangers but our friends and neighbors, whose responsibility is foremost to serve the public good.

I know the Commissioner to be an exemplary public servant from his service as the Staff Director of the Water and Power Subcommittee during my chairmanship, and later as the Director for the Full Committee during my tenure as chairman. And I am gratified that he has taken this opportunity to speak out on behalf of public servants, and to challenge those who demean their contributions and their service.

I would call to my colleagues' attention the following excerpt from the Commissioner's address at Berkeley printed earlier this month by the San Francisco Chronicle.

The article follows:

[From the San Francisco Chronicle, June 14, 1995]

THE MYTH ABOUT PUBLIC SERVANTS

(By Dan Beard)

I have a confession to make: I have worked in government for more than two decades. Even more scandalous, I am a political appointee who believes it is an honor to work with career public servants.

I guess those are dangerous things to admit these days, given the strong undercurrent of suspicion and mistrust surrounding public service. But they are beliefs I have expressed throughout my career—and they are especially important to emphasize now that I am leaving government.

We seem to be awash in a steady media diet of supposed examples of government employees who have gone too far. Of power-mad bureaucrats harassing private citizens or squeezing the life out of small businesses and property owners.

For a growing number of critics, everything that government does is viciously wrong, or at least hopelessly wrong-headed. According to them, we cannot rely on public servants to strike a fair balance between the public good and economic security.

Most of the critics of government rely on a volatile mixture of myth and innuendo to make their case. They ignore the amazing contributions that millions of government workers have made to American prosperity, peace, happiness and yes, freedom.

How completely different is today's atmosphere from the beginning of this century, an era dominated by the first true Republican reformer, Teddy Roosevelt. Roosevelt believed most deeply and passionately in the values of public service.

"The first duty of an American citizen," he once said, "is that he should work in politics; the second is that he shall do that work in a practical manner; and the third is that it shall be done in accord with the highest principles of honor and justice."

Roosevelt spent five years as a member of the U.S. Civil Service Commission, and as its leading reformer worked to dismantle the spoils system and institute what we have today: a merit-based civil service system.

Before we malign government workers, let's think about who they really are. They are the people who led the rescue in Oklahoma City—not who caused it. They are the ones who are charged with apprehending those suspected of being responsible. Every day, they make their contributions to society, ensuring our food is safe to eat, the water fit to drink, and the air clean enough to breathe, teaching our children to read and write, protecting our neighborhoods and our nation as a whole.

Public servants are not monsters, and they are not strangers. All of us know them—they are our neighbors, friends, parents, children.

They are not, as the National Rifle Association would have us believe, "jack-booted thugs" who thrive on intimidating law-abiding citizens.

They are there to serve. Yes, they should be held strictly accountable and be efficient. And yes, sometimes they will do things that annoy us. Who wants to be given a parking ticket—until someone blocks us in or out by parking illegally.

Who wants to be made to conform to strict environmental laws—until we want clean water and air. Who wants government at all—until we want well-maintained highways, first-class public universities, tremendous medical and scientific technology, incredible national security and so on.

Public servants should not be castigated for doing their jobs. Most do a job that we couldn't do without. They deserve our respect.

The highest reward for any work is not what you get for it, but what you become by it. It is the goal of most government workers that our country becomes better by their work.

We should and do have vigorous and honest debate about what our government should be involved in. But, we can have it without vilifying public servants.

To all our nation's public servants, I say "thank you." You do a great deal of good for this country and the world—much, much more than many now give you credit for.

IN HONOR OF GILBERT HERRERA, OUTSTANDING YOUNG TEXAS EX

HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 29, 1995

Mr. HALL of Texas. Mr. Speaker, it is my privilege to rise today to pay tribute to Gilbert A. Herrera, a recipient of the 1995 Outstanding Young Texas Ex Award. Gilbert was a page in the Texas Senate during the time that I was a Texas State Senator, and we have been great friends ever since. Gilbert's intelligence, enthusiasm, and commitment to excelled have served him well, culminating with this prestigious honor.

The Outstanding Young Texas Exes Award has been presented annually since 1980 by The Ex-Students' Association to four alumni under the age of 41 who have excelled in their chosen fields of endeavor and have shown loyalty to the University of Texas. The 1995 award was presented during University of Texas' spring commencement ceremonies on Saturday, May 20, 1995.

Gilbert graduated from University of Texas in 1978 with a BBA degree in finance. He is a principal of G. A. Herrera & Co., a private investment banking firm with offices in Houston and Austin, and he is also a consultant on corporate governance. Gilbert previously served in a variety of corporate finance and banking positions. In 1993 he was appointed by the Supreme Court of Texas to the Commission for Lawyer Discipline, where he serves as chair of its budget committee.

Gilbert also has been active in community service. He is a member of the board of advisors for the Texas Product Development Commission. In Houston he served on the Houston Parks Board and as trustee of the Harris County Mental Health and Mental Retardation Authority, where he chaired the Legislative and Employee Benefits Committees. Gilbert is a life member of the Ex-Students' Association, a lifetime member of the Century Club, a member of the Littlefield Society, the University of Texas Chancellor's Council, the MBA Investment Fund, L.L.C., and the Longhorn Associates for Women's Athletics.

Gilbert and his wife, Kari, have been personal friends of mine for many years. Today, I join their family and many friends in offering my sincere congratulations to this outstanding young Texas Ex on his selection for this recognition. His achievements are a source of pride for his family, his friends, and The University of Texas, and I know that he will continue to distinguish himself in his profession as well as in his service to his community, his State, and his country.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

MEDICAL SAVING ACCOUNTS: NOT A CURE

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 29, 1995

Mr. STARK. Mr. Speaker, Medical Savings Accounts—MSAs—are the latest fad sweeping Congress and are seen as an easy way to solve the health care insurance crisis.

Wrong.

They are a brilliant scheme by some profit-hungry insurers to skim healthy people out of the insurance pool and increase health care premiums for the sick, the disabled, and those planning to have a baby.

The Washington Post editorial of June 29 entitled "Not a Cure" explains the problem:

[From The Washington Post, June 29, 1995]

NOT A CURE

In the name of health insurance reform, a proposal is being advanced in Congress whose effect could well be to weaken rather than strengthen the health insurance system. To some extent that's even its goal. It's an idea that should be approached with the greatest caution.

The proposal is to change tax law to allow what are known as medical savings accounts. Instead of normal insurance, a person or his boss would buy a high-deductible policy that would kick in only after the first several thousand dollars a year of medical expenses. To help pay the uninsured expenses, the individual or employer would then also put some money in a special savings account. The savings account contributions, whether made by the employer or the beneficiary, wouldn't count as part of the beneficiary's taxable income.

The new wrinkle here would be that part of the "insurance" would be in cash that the employee could keep in the account for future use if he didn't spend it all. Advocates say the great virtue is that the employees would have an incentive they currently lack to limit their health care spending while increasing national savings. They add that the health care costs of employers would likely decline under the plan, while the cost to the government would increase only marginally (in part because more people would be at least partially insured).

The problem is that the savings accounts would likely split the insurance market. The healthy would be drawn to the new system. The others—those likely to face high costs—would not. Health insurance is supposed to be a system for spreading risk. You put as large a cross-section of premium payers as possible into a common pool, and the healthy at any given moment then support the sick, secure in the knowledge that when they become sick in turn, they too will be supported. To the extent that you take away the healthy, the sick are left to support themselves, and the system unravels.

The American Academy of Actuaries commissioned a study of the savings account idea. "Employees who have little or no health care expenditures stand to reap a real financial reward. The biggest losers will be employees with substantial health care expenditures," said the head of the study group. The head of Blue Cross and Blue Shield of Ohio calls the proposal "the ultimate 'cherry-picking' scheme invented by some insurers to guarantee themselves large profits by only insuring the healthiest among us."

The risk is the greater if people can ultimately use the medical savings for non-medical purposes. A bill by Chairman Bill Archer of the House Ways and Means Committee, on which a hearing was held the other day, seeks to prevent that. Some people doubt that for all the debate it has stirred the bill would have the momentous effect that either side expects, and therefore that it's safe to enact. That's not much of a claim for it. Congress should look twice at this one.

TRIBUTE TO ROBERT WELSH, JR.

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 29, 1995

Mr. VISCLOSKY. Mr. Speaker, it is my honor to commend to you and my other colleagues a distinguished citizen of Indiana's First Congressional District, Mr. Robert Welsh, Jr., President and Chief Executive Officer of Welsh Oil, Inc. Bob, whose executive office is located in Merrillville, IN, has used his "grow or go" philosophy to make his business the success that it is today.

While today Bob is the mainstay of Welsh Oil, Inc., his father founded the company on St. Patrick's Day in 1925 with a one-pump gas station located at 5th and Virginia in Gary, IN. Since then, the company has flourished, diversifying into convenience stores, four truck plazas, and an oil delivery service with a total of 57 locations in Indiana, Michigan, and Virginia. The Merrillville-based company grossed $151 million in sales last year. However, Bob gives credit for the success of his business to his dedicated, hardworking employees.

As if running a multi-million dollar company were not enough, Bob has donated his time and money to numerous causes and community service groups. Last year, Welsh Oil solicited $84,700 from the individual Welsh Oil stations while corporate donations brought the total donation to $100,000. In addition, Bob is on the boards of NIPSCO Industries Inc., NBD Bank's Merrillville Region, the Northwest Indiana Forum, the Northwest Indiana Entrepreneurship Academy, Zollner Industries, Lakeshore Health Systems, and Catholic Charities. He is also on the Board of Regents of St. Mary's College in Notre Dame and has served as chairman of St. Mary's School of Finance and Investment Committee.

As a result of Bob's charitable contributions to Northwest Indiana, Bob is one of three finalists for the Ernst & Young Illinois/Northwest Indiana "Entrepreneur of the Year" award that will be decided in December, 1995. To be considered for this distinguished award, one must be nominated by his colleagues or employees. This award recognizes entrepreneurs whose success is exemplified through their financial performance and personal commitment to their business or community.

However, this is not the first time that Bob's hard work and achievements have been recognized. Previously, he was awarded the Entrepreneurial Lifetime Achievement Award for the Northwest Indiana Small Business Development Center, the Asian-American Medical Society's Crystal Globe Award, and the President's Medal from St. Mary's College.

In between Bob's business and his community service, Bob has time to appreciate the finer things in life. Bob and I share a passion for the University of Notre Dame from which we both earned degrees. Bob is currently a trustee of the university and serves on three board of director committees. Notre Dame has recognized his contributions to the university by naming him Notre Dame's Man of the Year.

Bob is truly a remarkable man. Along with his professional and civic responsibilities, he and his wife, Kay, have also raised a wonderful family. Indeed, their proudest accomplishments are their five children. Mr. Speaker, I applaud Bob for successfully achieving the "American Dream." May the future continue to hold great things in store for this fine man.

B-1B RECORD FLIGHT AROUND THE EARTH

HON. CHARLES W. STENHOLM

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 29, 1995

Mr. STENHOLM. Mr. Speaker, in Texas several weeks ago, two B–1B bombers established new around-the-world records and made aviation history. I am proud to say this historic flight started and finished in Abilene, the city known as the star of Texas.

On Saturday, June 3, 1995, at Dyess Air Force Base in Abilene, TX, two B–1B's landed at 3:23 and 3:24 p.m. completing a historic, nonstop, around-the-world flight. This occurred in conjunction with Dyess Big Country Appreciation Day, symbolizing both the 10-year anniversary of the B–1B at Dyess and the base's appreciation of the local community. The landing, greeted by cheers and applause, reflects the closeness and cooperation of the Abilene and Dyess Air Force Base community. More importantly to the American people, this performance demonstrates the B–1B's unique ability to meet our Nation's present and future defense challenges.

When confirmed by the National Aeronautics Association, the planes will have officially made the fastest around-the-world flight using aerial refueling. This record-breaking event accomplished the practical purpose of demonstrating the long-range, power-projection capability of the B–1B.

I am pleased to describe this successful mission, termed "Coronet Bat." It challenged crews and maintainers to prepare for the launch of four B–1B's on June 2, at 3 a.m., with two scheduled to fly the unprecedented nonstop flight around the world. As planned, one B–1B recovered at Langley Air Force Base in Virginia, another at Lajos Field in the Azores, while the primary two B–1B's successfully circumnavigated the globe and returned to Dyess Air Force Base in 36.4 hours.

The flight routed B–1B crews over the North Atlantic, through the Strait of Gibraltar, across the Mediterranean Sea, south to the Indian Ocean, north over the Pacific Ocean to the Aleutian Islands, southeast of the western coast of the United States and back to the Lone Star State's Dyess Air Force Base. The successful completion of the Coronet Bat demonstrates the immense capability of the

B–1B and reinforces its position as a vital contributor to our conventional bomber force.

Let me further emphasize the meticulous planning, requiring support across Air Force commands, that went into this highly successful mission. Global power missions, such as Coronet Bat, provide valuable training in peacetime for air crews and maintainers preparing for quick response to any major regional conflict. More importantly, this mission mirrored a realistic training scenario for wartime taskings by dropping practice bombs over the Pachino Range of Italy; in the Torishima Range, near Kadena Air Base in Okinawa, Japan; and in the Utah Test and Training Range.

Further proving the B–1B's ability to respond rapidly and decisively around the globe, this B–1B team overcame major obstacles. They encountered monsoon related thunderstorms over the Indian Ocean and a tropical depression associated with tropical storm Deanna near the Phillippines. Crews received regular updates via satellite and radio throughout the flight to apprise them of upcoming weather. Together with onboard systems, the B–1B crews were able to avoid potential weather related problems.

A number of challenges were met by those people involved in this mission. It required a genuine team effort, designed to exercise the total force capabilities of our Nation's military. Lt. Col. Douglas Raaberg, who is the mission commander and 9th Bomb Squadron commander, credits maintainers, flyers and support personnel from all Air Force commands. He said, "it was a true Air Force team effort from the youngest airman on the flightline to the Thule Greenland radio operator who helped with radio telephone patches, to all those at the tanker units and staffs at different headquarters and wings." He further remarks, "It is global teamwork at its best."

The planes required only minor routine maintenance upon completion of this 36-hour flight. This is a real tribute to the durability of the B–1B. It reinforces the outstanding results of the recently completed congressionally mandated operational readiness assessment and highlights the Air Force plans for the B–1B conventional upgrade programs.

Mr. President, by meeting a number of different challenges over the years, the B–1B has earned justifiably the designation as the backbone of the heavy bomber force. This global power mission once again demonstrated the capability of the B–1B to deliver weapons to any spot in the world and return nonstop to the United States. In this period of budget constraints, I urge my colleagues to consider carefully how the B–1B is uniquely suited to meeting our Nation's present and future defense challenges before casting their votes on any defense measure affecting our heavy bomber force. The B–1B is an efficient and effective long-range bomber, and it should be funded as the centerpiece of American air power projection.

1995 MINI DEAF SPORTS FESTIVAL

HON. MIKE WARD

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 29, 1995

Mr. WARD. Mr. Speaker, I am proud to call to the attention of our colleagues a very special upcoming event in my hometown of Louisville, KY. The week of July 21–29 is the date of the 13th Annual Mini Deaf Sports Festival. The Festival is a week long sports competition involving deaf/hard of hearing young people from throughout the country. The event helps to educate the public on the special challenges faced by deaf/hard of hearing individuals. It also teaches festival participants how to face those challenges and overcome them.

Under the leadership of committed people like Timothy Owens, the Executive Director of the Deaf Community Center of Louisville, the Sports Festival strives to make the most of each participant's talents in the context of sports. The confidence and social skills that are a byproduct of healthy competition give these youth the one thing that is essential to that future success—belief in themselves.

Those who have worked so hard to give this gift to our deaf children have recruited many volunteers with the slogan, "Your Hands–Your Future." Their point is well taken. The futures of these young people directly depend on the hard work, dedication, and concern we show them how. It is a pleasure to lend my support to that cause, even in this small way, by recognizing and commending this effort to bring opportunity, hope, and a sense of belonging to these very special young people.

BRAWLEY BUSINESSMAN HONORED BY NAVY SECRETARY

HON. DUNCAN HUNTER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 29, 1995

Mr. HUNTER. Mr. Speaker, I rise today to recognize a remarkable accomplishment by a constituent in my district, Mr. Glen Huber, of Brawley, CA. Mr. Huber recently accepted the Navy Superior Public Service Award from Hon. Richard Danzig, Undersecretary of the Navy, for his exceptional service and outstanding dedication to U.S. Navy and its personnel. Undersecretary Danzig presented the award on behalf of the Secretary of the Navy, Hon. John Dalton.

Mr. Huber's many efforts to bring the Navy and civilian communities together were also honored earlier this month by the Navy League of the United States and their national convention held in St. Louis, MO. Mr. Huber's work on behalf of the annual Navy Desert Outing was particularly praised.

Founded in 1902, the 68,000-member Navy League is a civilian organization dedicated to highlighting the need for seapower to ensure national security and economic well-being. During the League's national convention, Mr. Huber was elected national vice president for Legislative Education. His responsibilities will involve keeping Navy League members advised of congressional activity, specifically as it pertains to maritime issues. In addition, Mr. Huber will be charged with the task of informing Congress and their staffs about the significance of seapower and other related matters.

Established in 1986, the Navy League Desert Outing provides Navy Leaguers the opportunity to observe the Navy's demonstration flight team, the Blue Angels, perform intricate and precisely-coordinated maneuvers during their practice sessions. Navy League participants also attend a formal dinner with the Blue Angels team. This dinner provides the Navy Leaguers the opportunity to meet the young pilots, while promoting constructive interaction between the military and the local community. The following morning, the participants attend a ranch-style breakfast in the desert which features the opportunity to view the Blue Angels during their practice session.

For the last several years, Mr. Huber has served as the co-chairman for the El Centro Naval Air Facility's [NAF] annual air show. This event not only features the precision-flying Blue Angels, but also offers an inside look at NAF El Centro with its various aircraft, displays and exhibits.

Mr. Speaker, in an age where the role and importance of our nation's armed forces is often shrouded by various trivial issues and concerns, it is heartening to see citizens, like Mr. Huber, exhibiting this type of patriotic behavior.

RECOGNIZING THE CITY OF FRANKLIN, PA

HON. WILLIAM F. CLINGER, JR.

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 29, 1995

Mr. CLINGER. Mr. Speaker, I rise today to recognize the city of Franklin, PA, on the bicentennial celebration of this community. It is an honor and a privilege to commemorate the residents of Franklin as they embark on their third century.

Deep in the oil region of Pennsylvania, Franklin is a community with spirit. Located in Venango County on the banks of the Allegheny River, there is a town full of beauty, natural resources, industry and historic significance. From the time of George Washington and the French and Indian War, this tract of land served to protect and enhance the lives of its' inhabitants.

There was little activity until Andrew Ellicott built a fort to honor Benjamin Franklin. Once established as a fortification, Fort Franklin quickly grew into a village and subsequently into the prosperous city it is today. Franklin also offers stability to the community, as the seat of county government for more than 150 years.

Called the Victorian City, Franklin takes pride in the rich heritage established by the first pioneer settlers, and the industrial revolutionaries who drilled the first oil well. It is my pleasure to honor these first residents of Franklin for their achievements and for setting the standard of excellence that the community values today.

EDINBURG, TX, NAMED ALL-AMERICAN CITY

HON. E de la GARZA

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 29, 1995

Mr. DE LA GARZA. Mr. Speaker, at its ceremony in Cleveland this past weekend, the National Civic League announced it had selected the city of Edinburg, TX, as an all-American city for 1995. A finalist for the award 27 years ago, Edinburg is one of only 10 communities nationwide named by the League—and is, in fact, the only Texas town to be selected.

Chosen from 145 original entries, communities were evaluated on how well they addressed such problems as youth violence, affordable housing and downtown revitalization through grass-roots activism and collaborative problem solving. "Responding to unacceptable high rates of youth crime and violence, citizens, city agencies and service groups initiated a comprehensive package of crime prevention, anti-drug, mental health, education, recreation and employment programs," the awards announcement for Edinburg said.

This recognition is certainly a testimony to Edinburg Mayor Joe Ochoa, to the city commissioners Roy Pena, Pete Rodriguez, Toribio Palacios, and Ofelia De Los Santos, and to the people of Edinburg who have jointed together to make their city such an outstanding community. It is truly a great honor.

At the awards ceremony Civic League Chairman John Gardner commented there is a paralysis and pessimism that infects too much of the country today, and that it is communities such as Edinburg which demonstrate the grassroots activism, can-do spirit and creative foresight needed to renew our country. I fully share those sentiments. Indeed, I think I speak for all of us in south Texas when I say how proud we are.

Congratulations.

INTRODUCTION OF LEGISLATION RELATING TO INDIAN TRIBAL GOVERNMENTS AND THEIR EMPLOYEES

HON. E. CLAY SHAW, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 29, 1995

Mr. SHAW. Mr. Speaker, I rise today to introduce legislation which will help to address some very serious ambiguities currently found in the tax code relating to the availability of pension plans for Indian tribal governments and their employees.

Under current law, there are no salary deferred pension plans for Indian tribal governments and their employees. As far as we can tell, Indian tribal governments are one of only a few employers which do not have such plans available to them. Further aggravating matters, several tribes have purchased plans provided for under section 403 (b) of the Code from insurance companies, only later to find that such plans were not intended for their use. Those retirement funds, affecting several tribes and thousands of tribal employees, are now in jeopardy.

One of the chief reasons individuals elect to work for an employer is based on a strong employee benefits package. Although many tribes are now competitive in the area of salary and health care the laws of the Federal Government have prohibited tribes from offering any form of salary reduction pension plan—one of the most sought after benefits offered to prospective employees. This is a basic matter of equity.

The proposal would provide that annuity contracts purchased by employees of Indian tribal governments qualify under section 403 (b) as tax-sheltered annuities. The Joint Committee on Taxation has estimated that this proposal would have a negligible revenue effect on Federal fiscal year budget receipts.

I am pleased to introduce this legislation today and I ask for the consideration of my colleagues.

INTERNATIONAL CONFERENCE ON CIVIC EDUCATION

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 29, 1995

Mr. HYDE. Mr. Speaker, In a declaration issued on June 7 in Prague, participants at the CIVITAS PRAGUE 1995 conference pledged to create an international network to help make civic education a higher priority on the agendas of participating nations as well as on the international agenda.

The conference was one of the largest international gatherings of educators and representatives of the public and private sectors supporting civic education ever held. Four hundred twenty-five representatives from 52 nations participated. The conference was sponsored by 36 civic education organizations from North America, Eastern and Western Europe, and the former Soviet Union.

The declaration by CIVITAS participants asserts that civic education is essential for developing the support required for the establishment and maintenance of stable democratic institutions, economic development, national security, and for overcoming destructive religious and ethnic conflicts. The declaration also argues that civic education should have a more prominent place in the programs of all government and international organizations.

The text of the CIVITAS declaration follows. I urge my fellow Members to join me in supporting the declaration and in giving greater recognition to the need to improve civic education for students in the United States and in other nations throughout the world.

On June 2-6, 1995, representatives from fifty-two countries met in Prague at one of the largest international meetings on civic education ever held. The following is a declaration adopted by the participants. A list of the individual signers is available on CIVNET.

The wave of change toward democracy and the open economy that swept the world at the beginning of this decade has slowed, and, in some respects, even turned around. Religious and ethnic intolerance; abuses of human rights; cynicism toward politics and government; corruption, crime and violence; ignorance, apathy and irresponsibility—all represent growing challenges to freedom, the marketplace, democratic government, and the rule of law.

All this makes clear how central knowledge, skills, and democratic values are to building and sustaining democratic societies that are respectful of human rights and cultural diversity. Once again, we see the importance of education which empowers citizens to participate competently and responsibly in their society.

Despite great differences in the more than fifty countries represented among us, we find many similarities in the challenges we face in our civic life. These challenges exist not only in the countries represented here; they also exist in other parts of the world, and in all aspects of social, economic, and political life. People involved in civic education have much to learn from one another.

It is time again to recognize the crucial role that civic education plays in many areas of concern to the International community: Shared democratic values, and institutions that reflect these values, are the necessary foundation for national and international security and stability; the breakup of Cold War blocs, while bringing much good, has also created openings for aggressive and undemocratic movements, even in the established democracies themselves; civic development is an essential element in—not just a side effect of—economic development. Investments and guarantees made by private enterprise, governments, and international financial institutions will fall where political and legal systems fall, and where corruption and violence flourish.

The challenge of civic education is too great for educators alone. They need far greater cooperation from their own peoples, governments, and the international community.

We seek increased support for civic education—formal and informal—from the widest range of institutions and governments. In particular, we urge greater involvement in civic education by international organizations such as the Council of Europe, the European Union, the North Atlantic Assembly, the Organization for Security and Cooperation in Europe, the United Nations, UNESCO, and the World Bank.

We seek an active personal and electronic on-line-exchange (through CIVNET) of curricular concepts, teaching methods, study units, and evaluation programs for all elements of continuing education in civics, economics, and history.

We pledge ourselves to create and maintain a worldwide network that will make civic education a higher priority on the international agenda.

TRIBUTE TO GEORGE McKIM BARLEY

HON. PETER DEUTSCH

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 29, 1995

Mr. DEUTSCH. Mr. Speaker, I rise today to honor Mr. George McKim Barley, Jr., a seventh generation Floridian who leaves behind a legacy of leadership in the fight to save Florida Bay and the Everglades. Mr. Barley tragically died in a plane crash in Orlando, FL, on June 23, 1995.

George Barley will be remembered among the great conservationists like Marjorie Stoneman Douglas—author of "A River of Grass"—who brought national attention to the plight of the embattled Everglades ecosystem that stretches from Lake Okeechobee to the coral reefs of the Florida Keys. A passionate environmentalist, George Barley became Florida Bay's most visible and ardent proponent in Washington. His advocacy and dedication were vital to much of the progress made to date in Everglades restoration efforts. Unfortunately, Mr. Barley was killed pursuing this passion—his untimely death occurred while en route to an Everglades meeting with the Army Corps of Engineers.

Mr. Barley was the Florida Marine Fisheries Commission's first director. He was chairman of the Florida Keys National Marine Sanctuary Advisory Council from 1992 until 1995. He chaired Save Our Everglades Alliance—a family of organizations dedicated to a broad campaign of Everglades education, political action and restoration.

Mr. Barley was named the Florida Audubon's Conservationist of the Year for 1994. The Nature Conservancy, the Everglades Coalition, The Broward County Environmental Coalition and the Florida Outdoor Writer's Association also have given him awards for his volunteer work on restoring Florida Bay and the Everglades.

Perhaps George Barley's greatest contribution to the cause of Florida Bay and Everglades restoration was his understanding of the need to express environmentalism as an economic argument, a question of jobs and a future for ordinary people. As a successful businessman, he was well positioned to argue for the need to protect our natural resources in order to maintain economic prosperity. He will be long remembered and sorely missed by those of us working to preserve the Everglades and Florida Bay for future generations.

CONKLIN ACHIEVES ELITE ISO 9001 CERTIFIED QUALITY STATUS

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 29, 1995

Mr. SOLOMON. Mr. Speaker, Conklin Instrument Corp., a leading supplier of telecommunications network access products in my district of upstate New York, joined an elite group of companies which have had their quality systems certified under the international standard for quality, ISO 9001.

ISO is widely known for the ISO number on photographic film that established the standard for film speed. That standard allows all photographic film and cameras in the world to work together without problems. The ISO 9001 quality system standard allows suppliers and customers world wide to work together with the highest quality possible.

ISO 9001 specifies the characteristics of quality management system that gives mutual benefit to both customers and suppliers alike. It also requires an independent third party registrar to certify conformance periodically. Only 2,100 companies in the United States and 250 companies in Canada have achieved ISO 9001 certification to date.

Conklin Instrument Corp. was founded in 1957 by Charles Conklin, who produced guages for jet engine manufacturers. In 1972, Conklin began to design and manufacture custom products for telephone companies with construction of the company's existing corporate headquarters and factory beginning in 1973. Proud of its contributions to the telecommunications industry, Conklin formed its Atlanta Design Center in 1984, and continues to provide for research and development of digital telephone products which account for most of the company's current sales.

Charles Conklin had the dream that many Americans have. He wanted to do something he loved and to be successful doing it. His entrepreneurial spirit should be emulated by all young businessmen and women, for he took that risk in 1957 and his company is reaping the benefits today. Therefore, Mr. Speaker, I urge you and all Members to congratulate Conklin Instrument Corp. on this prestigious award and I thank them for their service to my district.

TRIBUTE TO FRANK BRUCE SMITH

HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 29, 1995

Mr. HALL of Texas. Mr. Speaker, I rise today to pay tribute to a good friend and outstanding East Texan, Frank Bruce Smith of Tool, TX, who died recently at the age of 80. Bruce was a lifelong resident of Henderson County and a man of stature there. I always felt a kinship to Bruce and his wife, Willie Mae; actually, Willie Mae is related to my wife. Bruce spent a lifetime devoting his energies to help make Henderson County a better place in which to live, and his presence will be truly missed.

Born January 15, 1915, in Henderson County to Dan and Eula Smith, Bruce graduated from Mabank High School in 1934 and from Draughn's Business College in Dallas in 1937. He served 28 years with the Trinity River Authority, including serving as vice president, president, and chairman of the board. He was the only person to be appointed by five Governors.

Bruce also was involved in the oil and cattle industries. He was an active member of the Hard Hat Club, American and East Texas Petroleum Landman Association and Texas Independent Royalty Owner's Association. His cattle brand, "Big 4 Cattle Company," was recognized by Texas A&M University on its new agricultural building, the Calhoun Building, in College Station. Bruce gave his strong support to the Henderson County Fair Board, Henderson County Agricultural Board and Southwestern Cattle Raiser's Conventions.

In addition to his many business responsibilities, Bruce devoted countless hours to community service, particularly in the area of education. He was a past board member of Malakoff Independent School District and at the time of his death was a member of the board of trustees of Trinity Valley Community College. He was a contributor to the Henderson County Historical Association and Henderson County Library.

Bruce also was a member of the Lions Club and was a 32nd degree Mason. He supported the Boy Scouts of America, East Texas Medical Center, Henderson County Fairgrounds, and Optimist Club, which honored him with its Friends of Youth award. His service included the boards of many banks and savings and loan associations, and he was a board member of First National Bank of Athens at the time of his death. He was a long-time member of Providence Baptist Church in Tool.

Bruce is survived by his wife, Willie Mae Landrum Smith of Tool; two daughters and sons-in-law, Carolyn Sue and Kenneth Davis, and Janice Ann and Ronnie Brown; two granddaughters, Annsley Carol Brown and Keeley Lauren Brown; three sisters, Betty Rogers of Irving, Lometa Johnson of Tool, and Frances Monroe of Malakoff; and four brothers, Orvil Smith and Ray Smith, both of Tool, Jackie Smith of Tyler, and Pat Smith of Dallas.

Mr. Speaker, as we adjourn today, I would like to join his family and many friends in paying our last respects to Bruce Smith and in thanking him for his many contributions. His legacy will be felt for generations to come.

INTRODUCTION OF NATIONAL PARK SCENIC OVERFLIGHT CONCESSIONS ACT

HON. DAVID E. SKAGGS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 29, 1995

Mr. SKAGGS. Mr. Speaker, I am today introducing a bill to clarify the authority of the Secretary of the Interior to properly regulate airborne tourism in units of the National Park System.

The bill responds to a growing problem at a number of parks. In particular, I am concerned about current proposals for helicopter sightseeing at Rocky Mountain National Park, in Colorado, which could seriously detract from the enjoyment of other park visitors and also could have serious adverse impacts on the resources and values of the park itself.

While I believe that the National Park Service has both the mission and the authority to properly regulate such overflights, I think Congress should act to remove any doubts about that authority and to make sure that the American people—who own the National Parks—receive an appropriate share of the profits from such operations, through the payment of concession franchise fees. My bill is intended to achieve those goals.

The bill is entitled the "National Park Scenic Overflights Concessions Act of 1995." It is similar to legislation introduced in the 103d Congress by our colleague from Montana, Mr. WILLIAMS.

The bill would amend the 1965 law under which the National Park Service awards and manages concession contracts, to provide that commercial sightseeing flights over National Parks System units could be carried out only by companies who had been awarded a concession contract for such services.

In addition, the bill would require the Secretary of the Interior to develop guidelines for deciding whether or not to award proposed concession contracts for commercial sightseeing flights over National Park System units, taking into consideration the laws, policies, and plans that govern management of the parks and the recommendations of the Federal Aviation Administration [FAA] concerning aircraft safety.

The bill would require the FAA to place greater emphasis on reducing the problem of aircraft noise in parks and to work with the National Park Service to develop better ways of identifying and reporting low-overflight incidents in the parks.

Finally, the bill would require a report from the National Park Service and the FAA on progress made in the next 3 years in mitigating the adverse impact of overflights at National Park System units.

Mr. Speaker, I was very disappointed that comprehensive reform of National Park System concessions was not achieved last year, especially since the House passed a sound, balanced concessions reform bill by an overwhelming vote only to see the measure die in the Senate's end-of-session gridlock. I continue to support comprehensive concession reform, and have cosponsored a concession reform bill introduced by our colleague from Kansas, Mrs. MEYERS. I urge the Resources Committee to either include the provisions of the bill I am introducing today as part of any comprehensive concessions bill they report to the House, or to act promptly on my bill as a free-standing measure.

IN HONOR OF HELEN GARRETT ALDER

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 29, 1995

Mr. STARK. Mr. Speaker, I rise today to recognize the achievements of Ms. Helen Garrett Alder who is retiring after 31 years of dedicated service to the schoolchildren of California's 13th Congressional District.

Ms. Alder was born in Evansville, IN, and completed her undergraduate studies at Tuskegee Institute University in 1949. She earned her master's degree in education from Texas Southern University in Houston, TX. After coming to California, Ms. Alder began teaching in the Oakland Unified School District while continuing her education at Stanford University and the University of California at Berkeley.

She began teaching physical education at Bret Harte Junior High and later moved to Skyline High School where she taught American Government, economics, and social studies. She also coached the girls' basketball and softball teams, was director of the cheerleaders and pesters and served as the department chair of student activities. Ms. Alder also taught driver's education and training and was an instructor at Edward Shands Adult School in Oakland.

Mr. Speaker, I am proud to recognize Ms. Helen Garrett Alder for her commitment to the children of the Oakland Unified School District and am certain that she will be sorely missed. I hope that you and my colleagues will join me in wishing Ms. Alder much happiness and success in her future endeavors.

DISMANTLEMENT OF THE ENERGY DEPARTMENT

HON. WAYNE ALLARD

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 29, 1995

Mr. ALLARD. Mr. Speaker, included in the House budget resolution Report 104–120 is a statement by Budget Committee member Earl Pomeroy that the majority party intends to privatize the dismantlement of nuclear weapons, a function presently performed by the Department of Energy [DOE]. This is inaccurate.

The House Republican Energy Department task force recommendation calls for elimination of the DOE over several years. This will save taxpayers billions of dollars and begin the process of downsizing the Federal Government. The task force recommendation includes the creation of an independent civilian agency within the Department of Defense to manage the dismantlement of nuclear weapons and the cleanup of nuclear waste. This independent agency would be called the Defense Nuclear Programs Agency, and there would be consultation with the Environmental Protection Agency on cleanup activities.

POSTMARK PROMPT PAYMENT ACT OF 1995

HON. JOHN M. McHUGH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 29, 1995

Mr. McHUGH. Mr. Speaker, we have an opportunity to remedy one of the unfair burdens placed upon the conscientious citizens of this country who pay their bills on time but, who through no fault of their own, are slapped with interest charges because of the delays of others.

Over the years, many of us have been contacted by constituents who have incurred problems with payments they have mailed and were not delivered on time. It has even been suggested that some creditors go as far as to slow down the process as payment due dates approach so as to allow interest charges to accrue. This usually results in late fees and can even affect credit ratings.

Mr. Speaker, if this sounds familiar, it is because this problem is a frequently discussed topic on Talknet, a radio show hosted by Bruce Williams. The focus of Bruce Williams' show is on the life in the real world concerns of his listeners.

Today I am introducing the Postmark Prompt Payment Act of 1995 to correct this inequity by allowing the postmark on the envelope containing the payment to be proof of timely payment. The use of the postmark has precedence in contract law. For example, the Internal Revenue Service uses the postmark on envelopes as proof that taxpayers mailed income tax returns on or before the April 15 deadline, regardless of when the IRS received the payment. If the IRS uses the postmark as proof of timely payment, then why can't the banks or credit card companies?

This legislation would not apply to any other type of payment other than on a bill, invoice or statement of account due and would only apply to payments made through the mail and excludes metered mail. Furthermore, the envelope would have to be correctly addressed to the payee and have adequate postage affixed to it.

Mr. Speaker, this legislation has 20 original cosponsors. I believe everyone who values their good credit will benefit from this legislation. Let's show the American people our resolve to remedy the payment due problem.

FALCONS THREEPEAT

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 29, 1995

Mrs. MORELLA. Mr. Speaker, on June 4, the Montgomery Soccer Inc. Falcons U-12 girls team won its third consecutive Maryland State Cup championship, defeating the Soccer Club of Baltimore Flames, 2–1. The win qualifies the Falcons to represent Maryland in the Eastern Regional Championship Tournament in Niagara Falls this weekend. The win was especially meaningful for the Falcon players and their parents and for coach Harry Martens and assistant coach Chrissie Gardner, as the game was dedicated to the memory of E Soo Kim, father of goalie Chris Kim.

Forward Laura Hur recorded the first goal of the game, with an assist by Lane Fogarty, who had an outstanding day and was voted game MVP by tournament officials. The Falcons mid fielders and defenders, Beth Hendricks, Christie Bird, Audra Poulin, Carrie Smith, Amy Salomon, Lindsey Henderson, Caitlin Curtis, Kerry Fleisher, Alexis Byrd, Tara Quinn and Megan Corey held the Flames to just three shots and no goals during the first half. The Falcons' forwards, Fogarty, Hur, Jenny Potter and Kim Sperling, kept the pressure on the Flames. Forward Jeanie Bowers was injured, but hoped to be ready for the Eastern Regionals. The Falcons reached the finals of the State Cup by winning all four of their State Cup Round Robin Tournament matches, outscoring their opponents, 23–0.

Congratulations to the Falcons and best wishes for success in the Eastern Tournament.

SALUTING LT. CLAUDIA J. CAMP, USCG

HON. JACK FIELDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 29, 1995

Mr. FIELDS of Texas. Mr. Speaker, earlier this month, U.S. Coast Guard Lt. Claudia J. Camp left her position as the Coast Guard's assistant liaison officer to the House of Representatives, and I wanted to take a moment to publicly thank her for the assistance she lent to my office and staff, and for the assistance she provided to this institution and all its members.

I worked with Claudia closely from 1993 to 1995, when I served as the ranking Republican member of the House Merchant Marine and Fisheries Committee. During those years, she and her fellow Coast Guard liaison officers repeatedly went out of their way to be helpful to those of us on the Merchant Marine and Fisheries Committee. Their assistance and advice helped those of us responsible for overseeing the Coast Guard's operations to better understand the needs of the men and women in the Coast Guard as they worked to carry out their many diverse missions.

Claudia graduated from the University of California at Los Angeles in 1982, after which she entered—and graduated from—the Coast Guard's training center in Cape May, NJ. She graduated, I might add, first in her class of 120 men and women, and as the recipient of the Female Leadership Award and the Marlinspike Seamanship Award.

Following her graduation, Claudia served as a boatswain's mate aboard the Coast Guard's tall ship USCGC *Eagle*. She participated in a bicentennial voyage from the United States to Australia and back. Following her time aboard the USCG *Eagle*, Claudia served as a petty officer at the Coast Guard Station Fort Point, in San Francisco. In her position as a coxswain on a 44-foot motor life boat, Claudia regularly participated in search and rescue missions in the San Francisco Bay area, which is so infamous for its treacherous currents.

Next, Claudia attended Officer Candidate School in Yorktown, VA, graduating in the top quarter of her class in December 1990. Following her graduation, Claudia was assigned to the USCGC *Steadfast*, based in St. Petersburg, FL. Aboard the *Steadfast*, Claudia served as a deck watch officer responsible for conning and navigation. Later, she served as the 1st lieutenant and as a maritime law enforcement boarding officer. She continued her drug interdiction and maritime safety work as an executive officer on board the USCGC *Metompkin*, based in Charleston, SC. In that post, she conducted numerous fisheries boardings and drug inspections.

It was from the *Metompkin* that Claudia came to Capitol Hill. I know that Claudia loves the Coast Guard, and she's participated in many of the Coast Guard's diverse missions. While answering congressional inquiries; assisting in the preparation of congressional testimony; serving as a White House social aide; explaining the Coast Guard's mission and its needs to congressional staffers and Members of Congress; planning and participating in congressional delegation visits to various Coast Guard units; and escorting the Coast Guard commandant, the vice commandant and various admirals to appointments on Capitol Hill is not quite as exciting as rescuing a vessel in distress, or boarding a vessel suspected of hauling illegal drugs, Claudia handled her duties here on Capitol Hill in the same professional, courteous and knowledgeable manner that has characterized her service throughout her years in the Coast Guard.

Mr. Speaker, I have often expressed my admiration for the men and women of the U.S. Coast Guard—and the dedication to service and to excellence with which they approach their duties. Lt. Claudia J. Camp is one such Coast Guard officer, and I appreciate this opportunity to thank her for the assistance she has provided to us on Capitol Hill, and to wish her well in her new assignment as captain of the USCGC *Matagorda*, a 110-foot patrol boat in Miami. All of us owe her, and the Coast Guard, our admiration and thanks.

Thank you, Mr. Speaker.

IN RECOGNITION OF KATHLEEN HILL BECKNELL

HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 29, 1995

Mr. HALL of Texas. Mr. Speaker, I rise today to pay tribute to a living legend from Emory, TX—Kathleen Hill Becknell, who at the age of 88 remains the active editor and publisher of The Rains County Leader. Kathleen—"Kat" as she is know to her friends—has managed the weekly newspaper since 1963 and recently was honored during the Founders Day ceremony in Emory, which I had the privilege of attending. The Texas State Senate also recognized Kathleen's contributions to the county through a resolution introduced by State Senator David Cain, who also attended the ceremony.

The Rains County Leader is the oldest business in Rains County. It began publication as the Argus/Record in 1896, and in 1909 Kathleen's father, Tom Hill, became the editor and owner, a position he held until his death in 1937. His son, Earl Clyde Hill, took over operations until his death in 1960, at which time Earl Clyde Hill Jr. assumed the job. In 1963 Kathleen became the editor and publisher.

Kathleen was married to Bo Gunter, who died in 1956, and then was married to George Becknell in 1960, who died in 1980. When Kathleen became editor of the Leader, George began street sales of the newspaper in surrounding towns, resulting in over 1,000 papers now being sold on the streets of Point, East Tawakoni, Emory, Lone Oak and Alba.

Mr. Speaker, people like Kathleeen Becknell represent the heart and soul of small-town America. She has devoted a lifetime to her town and county. Born and raised there, she chose to reside there all her life, and her loyalty and devotion to the people of Rains County are evidenced each week in the pages of The Rains County Leader.

As we adjourn today, Mr. Speaker, let us pay tribute to Kathleen Hill Becknell of Emory, TX, for a job well done and a life well lived. May she enjoy many more years as a community leader, newspaper editor, and legendary citizen of Rains County.

CONSUMER AUTO-TAX RELIEF ACT OF 1995

HON. SHERROD BROWN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 29, 1995

Mr. BROWN of Ohio. Mr. Speaker, I rise today to introduce legislation that will offer support to one of America's most important industries. As American car-makers face unfair competition abroad, the Consumer Auto-tax Relief Act of 1995, will give a valuable shot in the arm to the domestic auto market.

Yesterday, in a dangerous game of brinkmanship, the administration and Japanese negotiators only narrowly averted an all out trade war. While I applaud the administration for taking a tough trade position with the Japanese and appreciate the promise of more accessible Japanese markets, this strategy only addresses part of the problem I want to solve. The C.A.R. Act of 1995 carefully crafts language that benefits an entire spectrum of interests. The C.A.R. Act offers us tax relief for middle-class families, support for our domestic auto industry, and a chance for a cleaner environment. By supporting this bill, we can stand up for American consumers, American business, and American workers.

The C.A.R. Act is simple. It restores the deductibility of interest on loans for any car under $35,000 with at least 60 percent domestic content, according to the standards established in the American Automobile Labeling Act of 1993.

Besides the obvious benefit to American car manufacturers, the C.A.R. Act benefits taxpayers by offering much needed tax relief. This Congress we have heard a lot about the benefits of tax relief, but rarely have we offered measures that benefit both business and middle-class interests. The C.A.R. Act offers us a chance to offer real relief, to real people and help the business community in a truly positive way.

In 1994, the average interest payments on a new car amounted to $1,574 annually. Restoring the deductibility of these payments would make automobiles more affordable to people who depend on automobiles for transportation. Americans have a unique driving culture in that we use our cars for everything from going to work to going on vacation. Parents take their children to after school activities, students drive to school, families take road trips and employees get to work—all in their cars. The fact is, most families need a car to do even routine chores like shopping for groceries. By offering this deduction, the C.A.R. Act makes this necessary mode of transportation more accessible to everyone. This is truly a progressive tax break.

In addition to making American cars more accessible to everyone, the C.A.R. Act gets older cars off our roads and gives us cleaner air. As consumers take advantage of the benefits of the C.A.R. Act, older cars will be replaced with newer, cleaner burning, and more fuel efficient models that will go a long way in preserving the quality of our air. Again, the C.A.R. Act is a common sense move, not only for American jobs, industry and taxpayers, but also for our environment.

The C.A.R. Act does still more. By defining an American car by content level, the C.A.R. Act also encourages foreign owned manufacturers to purchase American made parts. Currently, most foreign cars built in the United States and Canada have approximately a 48-percent American content. In response to this initiative, foreign companies that build in the United States and Canada may choose to purchase more American made parts to allow their cars to qualify for the deduction. This represents just another benefit to America's auto industry.

The U.S. Trade Representative tells us that fully one-third of all autos sold in the U.S. domestic market are foreign. Until we see corrective action to improve our trade imbalance with Japan, we must support the C.A.R. Act and other measures like it to show American auto industry workers, manufacturers, and consumers that we appreciate their efforts and care about the work they do. In my hometown of Lorain, OH, 3,800 people at the Lorain Ford auto plant(s) depend on me to do everything I can to protect American jobs, markets, and industry. The C.A.R. Act gives us all the chance to do just that.

Finally, I would like to acknowledge Ford, Chrysler, General Motors and the American Automobile Manufacturers Association for responding to my calls for assistance with creating an incentive not only to buy American cars, but also to support middle-class families. Their assistance was invaluable, and I appreciate their input. They understand, as I do, that the C.A.R. Act represents an opportunity for American industry, American workers and middle-class taxpayers. It means more jobs, greater production and a boost to our economy.

The auto industry is the cornerstone of the American industrial base, and it deserves our support. In 1994 alone, America's car companies contributed almost 11 percent to the growth in the U.S. gross domestic product and directly employed 2.3 million workers. Encourage consumers to buy American cars and show your support for our domestic industry by co-sponsoring C.A.R. Act of 1995. Give American consumers a break and show the world we mean business.

Thank you.

SECURITIZATION ENHANCEMENT ACT OF 1995

HON. E. CLAY SHAW, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 29, 1995

Mr. SHAW. Mr. Speaker, today I, along with Congressman RANGEL, am introducing the Securitization Enhancement Act of 1995. We are privileged to be joined by Representatives ZIMMER, MCDERMOTT, PAYNE, KENNELLY, CARDIN, ENGLISH, SAM JOHNSON, HANCOCK, CHRISTENSEN, NEAL, CRANE, THOMAS, COLLINS, KLECZKA, DUNN, HOUGHTON, MATSUI, NANCY JOHNSON, HERGER, NUSSLE and PORTMAN in introducing this important legislation that will assist small business in gaining access to capital and promote safety and soundness in the Nation's banking system. It will do so by simplifying the tax rules governing the securitization of asset-backed securities in a user-friendly fashion.

We also have an additional piece of good news. Whenever the Congress considers tax legislation, one of the first questions asked is how much will this cost. Fortunately, this legislation is revenue neutral and will not add to our budget deficit. Indeed, the bill actually raises $87 million over 5 years, $92 million over ten, without raising any taxes.

This bill builds upon the success of legislation enacted by Congress in 1986—the Real Estate Mortgage Investment Conduit [REMIC] provisions of the Tax Reform Act of 1986—which specified the tax rules for securitizing home mortgages.

The legislation creates a new tax vehicle similar to a REMIC known as a Financial Securitization Investment Trust [FASIT]. Unlike REMIC, which applies only to home mortgages, FASIT is available to all forms of debt, including small business, consumer, student and auto loans, among others. Our experience with REMIC suggests that facilitating securitization for such loans will greatly expand credit availability.

The Benefits of Securitization.—Securitization is the process whereby banks and other lenders package relatively illiquid loans and turn them into highly liquid marketable securities that relay for their creditworthiness solely on the underlying loans or on other guarantees provided by the private sector. Assistant Secretary of the Treasury Richard Carnell has described the securitization process as follows:

> By "securitization," I mean the process of transforming financial assets, such as loans,into securities that in turn convert into cash over time. One converts loans into securities by assembling a pool of loans and selling them to a special-purpose entity, often a trust. That entity then issues securities representing a debt or equity interest in the loan pool. The cash flow generated by the loans finances payments on the securities. (Statement of the Honorable Richard S. Carnell, Assistant Secretary for Financial Institutions, United States Department of the Treasury, on the Administration's Views on the Loan Securitization Provisions of the Community Development, Credit Enhancement, and Regulatory Improvement Act of 1994, Subcommittee of Telecommunications and Finance, Committee on Energy and Commerce, United States House of Representatives, June 14, 1994 at 1.)

The advantages of securitization are several:

> First, because securitization increases the amount of information investors have about the risks involved in holding a pool of loans, investors become more comfortable with those risks and more willing to invest in the pool.
>
> Second, securitization makes it possible to segment the different categories or types of economic risk associated with a pool of loans. As a result, it is often possible to make a better match between various risks and the investors that are most knowledgeable about undertaking those risks.
>
> Third, by converting a pool of loans into a marketable security—even if that security is retained by the original lender—the loans become more liquid and therefore more valuable. Liquidity also makes for safer and sounder financial markets.
>
> Fourth, by increasing information, risk segmentation, and liquidity, securitization makes it easier for lenders and investors to achieve appropriate diversification of their portfolios. Diversification can also help prevent a localized economic problem—such as a sudden change in the price of energy, real estate, or other commodities crucial to a local economy—from dragging down all of an area's local financial institutions and potentially causing serious regional or national financial problems.

Avoiding Future Credit Crunches.—We all remember the credit crunch of the late eighties and early nineties that so hurt small businesses throughout the country. While this problem has receded somewhat, it remains a serious one. However, while small business was finding credit hard to come by, home buyers experienced unprecedented credit availability during this same period. For example, in 1986 the total size of the home mortgage market was approximately $2.5 trillion, with about $500 billion in home mortgages being securitized or sold in the secondary market. Six years later, in 1992, the size of the home mortgage market had grown to $4 trillion, over half of which was securitized. Virtually 100 percent of all fixed rate home mortgages are now sold in the secondary market.

Since 1986, the total supply of home mortgage money has been steadily increasing, even though the portion supplied without reliance on securitization has been declining both as a percentage, and, most recently, as an absolute amount. Clearly, without securitization we would not have had the large increase in credit availability in the home mortgage market that occurred since 1986.

REMIC may well be the most successful and perhaps the least known success emanating from the Tax Reform Act of 1986. Simply put, REMIC prevented the credit crunch from infecting the home mortgage market, to the everlasting benefit of millions of homeowners throughout the country.

FASITs and Small Business.—FASITs can do for other forms of debt, particularly small business loans, what REMIC accomplished for home mortgages. Securitization of other forms of non-mortgage debt is virtually in its infancy. In 1992 only about $120 billion in non-mortgage debt was securitized. Most of the debt involved revolving credit and auto loans. We know from experience with REMIC that there is almost a one-to-one ratio for increased securitization and increased credit availability.

There is every reason to believe that the economic and business benefits of securitization will be seized upon by lenders and borrowers alike in these other areas. As the administration has pointed out, "[s]ecuritization benefits borrowers by making credit cheaper and more readily available. . . . Securitization could help make small businesses less susceptible to problems in the banking system insofar as it gives those businesses access to national and international credit markets, through banks or other financial institutions." (Carnell statement, supra at 2–3.)

Last year Congress enacted the Community Development, Credit Enhancement, and Regulatory Improvement Act of 1994. That legislation made a number of changes in the securities laws intended to facilitate securitization of small business loans. When that legislation was introduced a provision was included authorizing Treasury to issue regulations regarding the tax rules for such securitizations. This provision was dropped, but the need for clear tax rules to guide small business and other nonmortgage securitizations remains.

FASIT completes the unfinished business of the Community Development Bank Act. As the Administration noted in its 1994 testimony:

> We believe that securitization has the potential to increase lending to small businesses. Offering loan originators the opportunity to sell pools of small business loans to investors should help free up resources that can be used to make more such loans. By making small business loans more liquid, securitization should make them more attractive to originate and to hold. Securitization should also bring new sources of funds to small- and medium-sized business lending by enabling investors who do not lend directly to small businesses—such as pension funds, insurance companies, trust departments, and other institutional investors—to invest in small business loans made by other financial institutions, including banks that are effective originators of such loans but that may not want to hold all loans originated on their balance sheets. (Carnell statement, supra at 6–7.)

The administration further stated that:

> [S]ecuritization should reduce the cost of borrowing for small businesses. Small business borrowers pay higher interest rates for credit in part because their loans are illiquid. If an active secondary market for small business loans existed, interest rates in that marked would influence rates in the loan origination market. If rates and yields were high in the securitized loan market, banks and other loan originators would be eager to have more loans to sell. They would signal this interest to borrowers by slightly lowering their interest rates to them, inviting borrowers to seek more credit or permitting previously marginal borrowers to afford credit. (Carnell statement, supra at 7.)

FASIT's and Safety and Soundness Concerns.—Although facilitating asset securitizations will, as the SEC noted, help small business gain access to needed capital, this legislation will also be of direct benefit to the taxpayer. We need only look back to the recent thrift crisis to see the tremendous costs to the taxpayer that can come about as a result of Federal deposit insurance.

Had REMIC or FASIT been in place in the late seventies, it is unlikely that the taxpayer would ever have had to bail out thrift depositors. In the last seventies, thrifts found themselves holding low interest rate mortgages at a time when their cost of funds was skyrocketing. To counteract these financial pressures, thrifts sought additional powers to engage in potentially more profitable, but also more risky activities. When these efforts proved to be unsuccessful, many thrifts failed, and the taxpayer had to finance a bailout costing billions.

Simply put, if banks can sell off their loans to the secondary market, the risk that the loans may possibly default is assumed by the capital markets rather than the taxpayer through the deposit insurance system. Had thrifts been able to sell off their low interest rate mortgages in the seventies, the mismatch between their earnings and cost of funds would have been avoided, and the taxpayer spared much later expense. FASIT, by facilitating securitization of non-mortgage debt, will allow for a much safer and sounder banking industry, and, at the same time, reduce the potential exposure now borne by the taxpayer in the event that such loans go bad.

The Tax Treatment of Asset Securitization.—In many ways the FASIT legislation is the tax code counterpart to the SEC's actions to promote asset securitization. Like the SEC's actions, FASIT would eliminate much of the disparity in tax treatment between certain selected classes or types of assets, which are currently allowed to obtain direct access to the capital markets through statutorily sanctioned vehicles, and other types or classes of assets which do not yet enjoy that treatment under the tax law. FASIT accomplishes this through a generic rule, like the SEC's approach, which allows all types of loans to be securitized as long as appropriate structural limitations and safeguards are in place.

By moving to a generic approach, FASIT represents a first step towards rationalizing the various pass-through vehicles that now exist in the Internal Revenue Code, including REMICs, REITs, RICs, and the like. Once the market becomes familiar with FASIT, it may well be possible, eventually, to do all forms of securitizations under the FASIT umbrella. However, given the already large markets that exist in these other areas such as REMIC, we believe it would be far preferable and much less disruptive to move gradually rather than precipitously to a one size fits all model.

Current Law Tax Treatment of Asset Securitization.—To understand exactly what FASIT does, and why it is beneficial, it is necessary to understand a little about the way asset securitizations are structured under current tax law.

Securitization of loans depends on the ability to pass through to investors all or a significant portion of the interest income that is earned on a pool of loans without the imposition of an intervening corporate tax. As a tax matter, this is essentially what occurs when a bank makes loans with funds that it has obtained from deposits or other borrowings. Corporate taxes are paid by the bank only on the portion of the interest income received that is not paid out as interest to its depositors or other creditors.

Traditional securitizations typically involve the use of a special purpose financing vehicle as the holder of the loans, and issue debt securities instead of raising funds from bank deposits, but the tax principle is the same. That is, assuming that the financing vehicle is a corporation, corporate taxes are paid only on the portion of the interest income received that is not paid out to the holders of debt instruments issued by the entity. As a result, the key tax issue is determining how best to structure the transaction so that the securities qualify as debt, rather than as an ownership interest in the special purpose entity.

With REMICs, or similar entities structured under the tax law as fixed investment trusts of partnerships, the task of securitizing loans becomes much easier because 100 percent of the income paid out to investors is passed through without the imposition of an intervening corporate tax. This complete pass-through treatment is available regardless of whether the securities are classified as debt or as equity. Thus, the problem of determining how best to structure a security so that it satisfies the business objectives of the parties and still qualifies as debt for tax purposes is eliminated.

FASITs and Asset Securitization.—Like the REMIC provisions before it, the FASIT legislation will help make loan securitization easier by creating a new pass-through structure specifically designed for loan securitization. Unlike REMICs, FASITs will be available for all types of loans or other instruments treated as debt for Federal income tax purposes.

Although the FASIT itself will not be subject to any tax, its net income will be included in the United States income tax return of its owner or owners, and thus will, in virtually all cases, be subject to corporate income tax. The only exception is a provision intended to facilitate small business loan securitizations, which allows businesses operated as partnerships or S corporations to retain ownership of FASITs used to securitize loans to their customers, such as trade receivables.

Loans will be transferred or sold to the FASIT so that it can issue securities backed by loans it has acquired. As with REMICs, FASITs will be permitted to issue securities that qualify as debt of the FASIT for Federal income tax purposes even though they are issued in non-debt form for State law purposes. This latter point reflects the fact that the assets of the FASIT are the sole source of payments on the securities, and that any risk of loss on the assets that is borne by the owners of the FASIT has been limited to a reasonably estimable amount. At the same time, treating such certificates as debt of the FASIT for tax purposes means that the portion of FASIT income passed through to the holders of the certificates is not included in the FASIT income that is passed through to the corporate owners of the FASIT.

The FASIT legislation makes the rules for qualifying securities as debt, based upon their economic substance, clearer and more straightforward. In so ding, FASIT makes the tax rules governing the most advanced type of securitization structures more accessible to a wider variety of issuers and their tax counsel, thus creating a more liquid and more efficient marketplace.

In addition to making the applicable legal rules and standards more accessible, FASIT will also ease some of the common law rules that are generally perceived as governing these types of transactions.

Under current case law, securities purporting to qualify as debt for tax purposes generally must have a high investment grade rating of "A" or better. Under the FASIT legislation, debt securities can be issued as long as they do not have a yield that is more than 5 percentage points higher than the yield on Treasury obligations with a comparable maturity, which will permit more subordinated debt securities to be issued. Even debt securities at the top end of that yield limitation are still fundamentally debtlike, as the 5 percentage point standard is borrowed from current tax law rules governing when certain high yield discount bonds will be subject to special rules deferring accrued interest deductions. (See, section 163(e)(5), Internal Revenue Code of

1986.) These rules effectively assume that obligations yielding 5 points more than Treasury bonds could and do qualify as debt. Thus, FASIT legislation will not be authorizing the issuance of debt securities that are fundamentally different from debt securities that are currently outstanding in the markets.

The yield limitation, which limits how much income can be passed through to the holders of FASIT debt instruments, is important because all remaining income—the income associated with the true equity like risk of investing in a pool of loans—will be taxable to the U.S. banks or other U.S. corporations that retain or acquire the ownership interests of the FASIT.

Securitization has been driven by economic, not tax considerations. Consequently, we have exercised great care to ensure that this legislation contains no loopholes or gimmicks. Strong antiabuse provisions are also included to prevent any gamesmanship.

Not only is this legislation devoid of any loopholes, it actually raises $92 million over 10 years. When a loan or an asset is transferred by the bank to the FASIT, there is an immediate recognition of gain. For example, assume that a loan will generate $10 of income each year over a 10-year period. When the loan is transferred to the FASIT, the present value of the entire $100 of income generated by the loan is recognized. In effect, this phenomenon is identical to an acceleration of estimated taxes, and the result is that the revenues lost by relieving the burden of the corporate level tax on the entity level is more than offset.

Mr. Speaker, this FASIT legislation promises to be a great benefit to the Nation's small businesses, which often have difficulty gaining access to needed capital. We have seen the tremendous success of REMIC in developing a secondary market for home mortgages. If FASIT is even half as successful as REMIC, we will have enacted the most important legislation in history for small business.

In addition to helping small business and others gain access to capital, this legislation protects the taxpayer from being forced to finance possible future bailouts for the banking industry. This legislation will promote safety and soundness of the banking system and spread the risks of loans throughout the capital markets rather than allowing them to be concentrated in one area, with the Federal Government the ultimate guarantor.

This legislation also simplifies the tax rules governing securitization of asset-backed securities and creates a single vehicle available for all forms of non-mortgage debt and, eventually, FASITs may even supplant REMICs as the vehicle of choice for all securitizations.

Finally, unlike many worthy tax measures which seem beyond our grasp because of budgetary constraints, this legislation actually raises money without raising taxes.

I am proud to have introduced this fine piece of legislation, and I urge my colleagues to join with me to see that FASIT is enacted in 1995.

SENATE—*Friday, June 30, 1995*

(Legislative day of Monday, June 19, 1995)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

The PRESIDENT pro tempore. The Chaplain will now deliver the opening prayer.

PRAYER

Father of liberty, as we begin this Fourth of July weekend and recess time, we praise You for our Founding Fathers who received from You the strength and courage to claim their inalienable right to be free and drafted the Declaration of Independence. You gave them victory in a just revolution and placed in their hearts the American dream. We join our voices with these gallant heroes of liberty in confessing total dependence on You. We know that You are the Author of the glorious vision that gave birth to our beloved Nation.

Through the years we have learned that freedom is not free. It must be cherished, defended, and fought for at high cost. We thank You for the brave men and women who have given their lives in the cause of freedom and justice. Today, help us to be willing to pay the cost of freedom as we lead our Nation. We give You our minds, hearts, and energy as we grapple with the issues of moving this Nation forward in keeping with Your vision. As the fireworks explode in the sky in our Fourth of July celebrations, implode in our hearts a new burst of patriotism and commitment. God, empower the women and men of this Senate and bless America. In Your holy name. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The acting majority leader is recognized.

SCHEDULE

Mr. COVERDELL. Mr. President, this morning the leader time has been reserved, and there will be a period for morning business until the hour of 10:30 a.m.

The rescissions bill is expected to arrive from the House of Representatives today, and Senator DOLE, our majority leader, has indicated he would like to complete action on that bill today. Rollcall votes are therefore possible during today's session of the Senate.

Mr. President, I yield the floor.

Mr. GRAMS addressed the Chair.

The PRESIDING OFFICER (Mr. COVERDELL). The distinguished Senator from Minnesota is recognized.

FREEDOM OR SECURITY?

Mr. GRAMS. Mr. President, this coming Tuesday, the American people will celebrate the Fourth of July. It is a day for parties and parades, fireworks, and family picnics.

It is a day for remembering the bedrock of freedom on which this country was built, and how freedom still binds us together.

So it is ironic that 1 day later, July 5, we will take action right here on Capitol Hill to clamp down on the very freedoms we embrace on Independence Day.

It began on April 19, in Oklahoma City.

The reverberations of the bombing at the Alfred P. Murrah Federal Building were felt across America, but echoed loudly in Washington, DC, home to more Federal buildings—and Federal employees—than any other city in the Nation.

And almost immediately, a siege mentality took hold.

Here at the Capitol, police took extraordinary steps to protect against the possibility of a terrorist attack.

They beefed up patrols around the building, stopped cars and checked trunks, eliminated parking in some areas, increased the sensitivity on the entryway metal detectors, and kept the public away from ground floor windows with yards of yellow tape labeled "Police Line—Do Not Cross."

Soon after, the U.S. Treasury Department ordered Pennsylvania Avenue closed to cars and trucks in front of the White House.

For the first time in the 195-year history of the Executive Mansion, the people were no longer allowed to drive past the people's house.

And now, 1 month after Pennsylvania Avenue was shut down to traffic, police say more drastic measures are needed. A plan will go into effect here on Wednesday, July 5, that will even further limit the people's access to Capitol Hill and those of us who work here on the people's behalf.

The Senate Sergeant-at-Arms and the U.S. Capitol Police say that traffic will be restricted or eliminated altogether around the three Senate office buildings.

Some parking will be eliminated, too.

Streets will be closed with the concrete barriers that have become all-too-common in this city. It will be more tire shredders, not "welcome" signs, that will greet visitors.

The Capitol Police say they are trying to strike a balance between free access, and the security of the Congress and its visitors.

They say the changes I have outlined mean only "minor traffic disruptions" and will have "little impact on the community."

Mr. President, I have great admiration and respect for the officers and police administrators who work every day—sometimes putting their own lives on the line—to make this a safe and secure place to work and visit.

They have and deserve our thanks. But with all due respect to them, there is much more at stake in this decision than simply its physical impact on the community.

Whenever we make such bold moves to further separate ourselves from the very people who sent us here and pay our weekly salaries, it has a tremendous impact on the national psyche as well.

What it comes down to, Mr. President, is the question of freedom versus security. Is ours a government that can operate openly, in the name of freedom, and still shut itself off from the people, in the name of security?

Are we willing to swap one for the other?

If we are, then perhaps we should not stop with a few tire shredders and a couple of closed streets.

Why do not we just build a fence around the Capitol? That is what the Capitol Hill Police proposed in 1985 in an internal report, at a cost then of $2.8 million.

Or better yet, if we really want to make a loud, public statement that "you cannot mess with the Federal Government," we will dig a massive trench around the Capitol.

We will fill the moat with water and maybe a pack of alligators, and build a single, drawbridge entrance, where we will station guards armed with spears.

And then we will dare the public to visit.

We will be secure in our bunker, Mr. President, but for that security, we will be trading away freedom, and we cannot make horse trades with the very principles upon which this Nation was founded.

Mr. President, we should also consider the impact of our actions on the taxpayers.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

The recent security precautions taken at the White House will cost the taxpayers $200,000 for new traffic signals, signs, and pavement markings.

The new security arrangements here at the Capitol will come with a price tag to the taxpayers as well, although the costs will not be measured solely by dollars.

Where do we stop?

There are 8,100 Federal buildings in the United States—do we turn each and every one of them into a fortress?

The sad truth is that we can not protect Federal workers by sealing them off from the world.

If we tell terrorists that we are not going to let them park car bombs made of fertilizer and fuel oil next to our Federal buildings anymore, they will find another way.

And we may just be goading on a desperate kook who wants to prove they can not be stopped by another layer of security.

The public does not understand what we are doing.

They have vital business in Federal buildings, or they come here as tourists, expecting to be welcomed.

But when they see the police, and all they yellow tape, and the signs that say "Do Not Enter," they wonder what kind of message we are trying to get across.

I have heard their comments when they look down an empty stretch of Pennsylvania Avenue that used to be open to cars. I know what they whisper when they visit and walk through the metal detectors.

"It is a shame," they are saying.

And they do not like it. We have gone too far.

Washington should be a place where visitors feel secure, but by turning it into a fortress, we are sacrificing freedom for security, and making a city of such beauty and such history something dirty.

We can put in more concrete barriers and try to camouflage them with flowers, but in the words of one newspaper columnist, it is like putting lipstick on a goat. It is ugly, and fear is ugly.

Democracy should be about building bridges, not building walls. In Washington, we have become too adept at building walls. And every time a wall goes up, we knock freedom down another notch.

Let us seriously consider what we're doing, and what security we're willing to give up in order to live in a democracy.

If in the end it comes down to a question of security or freedom, this Senator will always choose freedom, Mr. President. And I believe the American people will, too.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. GORTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 10:30 a.m. with Senators permitted to speak therein for not to exceed 5 minutes each. Under the previous order, the Senator from Idaho [Mr. CRAIG] is recognized to speak for up to 15 minutes; under the previous order, the Senator from New Hampshire [Mr. SMITH] is recognized to speak for up to 15 minutes; under the previous order, the Senator from Arkansas [Mr. PRYOR] is recognized to speak for up to 10 minutes. The Senator from Washington may proceed.

Mr. GORTON. Mr. President, I am informed that Senator CRAIG is not going to utilize his time. My name was not mentioned.

I ask unanimous consent to speak for not more than 5 minutes in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE SECOND RESCISSIONS BILL

Mr. GORTON. Mr. President, at 10 o'clock, I understand, the Senate will take up a second rescissions bill, that bill having passed the House of Representatives last night. This is good news for the people of the United States, following on the even better news of the passage of the budget resolution yesterday, a budget resolution which will lead to a balanced budget in the year 2002. That path will be made markedly easier by the passage and hoped-for signing of a rescissions bill designed to save somewhere between $12 and $15 billion of spending already authorized and appropriated. In fact, next year's appropriations would be extremely difficult without the passage of this rescissions bill.

Regrettably, it will allow somewhat more spending, at the insistence of the President, than was the case with the earlier proposal. But even so, it will represent a major step forward, a significant commitment on the part of this Congress to a leaner, tougher, more efficient and more effective Federal Government with a reduction in spending which, in some cases, would simply be wasteful—in other cases, which might have been significant, but not of a high enough priority to borrow in order to do it and then to send the bill to our children and to our grandchildren.

One of the last matters, perhaps the last matter settled in connection with this rescissions bill, was a proposal of mine and the distinguished Senator from Oregon [Mr. HATFIELD] with respect to salvage timber and to certain other rules related to timber harvesting in the Pacific Northwest—the salvage provisions applying all across the United States.

Negotiations with the administration on this subject were intensive and were lengthy. The net result, from the perspective of this Senator, is that the changes in the earlier bill are only slightly more than superficial. Both the provisions in the earlier bill and those in this bill, I wish to emphasize, were aimed solely at permitting the President and the administration to do what they claim they want to do anyway, to keep their own commitments. Neither in the field of salvage timber nor in connection with so-called option 9 in the Pacific Northwest, do I believe this administration proposes a balance between its environmental concerns and the very real, human needs of the people who live in timber communities and supply a vitally important commodity for the people of the United States.

I wish to emphasize this. I do not believe the administration's plans are appropriately balanced or that they give due weight to human concerns. But they are something. They are more than people in timber country across the United States have today. This amendment is simply designed to remove the frivolous and endless litigation which seeks to obstruct even the modest relief which the administration proposes.

So the President is not required to do anything that he does not want to do. He is enabled to do what he does wish to do, or says that he wishes to do. He is enabled to keep his own commitments, and the people of the United States, and especially those in timber country, can then determine whether or not those commitments are indeed adequate; are, indeed, balanced.

I trust that later on this year we will be dealing with legislation that will create that balance. But in the meantime, this significant though modest relief will be available. For that I am most grateful.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SMITH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

A TRIBUTE TO NILS M. SANDER

Mr. SMITH. Mr. President, I rise today to pay tribute to a long time friend, Nils M. Sander, of Kingston, NH.

Nils was a deeply religious man, a devoted husband and father and a true American patriot. Although he would not immediately be recognized by millions of Americans, he embodied the essence of the American people and their spirit.

Nils Sander died on March 17, 1995, but it is his life that I want to share with my colleagues today.

Nils was born in 1917 in Stockholm, Sweden, the second son of John and Maria Sander. It was soon after Nils' birth that the Sander family began immigrating to America. Initially it was several aunts and uncles and then as word spread among the family that in America the jobs were plentiful and opportunity was boundless, Nils' parents, John and Maria, brought their whole family.

Nils, his brother, Arnie, a pregnant mother and a hopeful father disembarked from the boat at Ellis Island. Nils' sister, Nana, was later born in America and it was her birth as a U.S. citizen that enabled her to sponsor the rest of the family into citizenship. Nils' father, John, the industrious and hardworking Swede, found work as a machinist and was soon able to buy his family a home.

Nils grew up in a generation that knew the value of a strong work ethic. He saw the Depression. He saw it devastate the lives of his neighbors, family and friends. Nils' brother left home so there would be one less mouth to feed. His mother pawned her wedding ring to feed her family. Nils learned the value of saving and he learned the machinist trade from his father. He learned to love America.

In 1942, Nils married his high school sweetheart, Ruth Seaburg. While his wife was expecting their first child, World War II was raging. Nils joined the Navy because he knew that freedom was not free. Nils put his life on the line to preserve that freedom not only for his generation but for his children and grandchildren for generations to come.

He served as a machinist mate on board the U.S.S. *Doyle C. Barnes* in the Philippines and New Guinea. It was in 1944 that Nils returned from the war. He came home to a son who was ready a year old. Nils found work at the Watertown Arsenal and then later at MIT as a tool and die maker.

In 1947, Nils moved his family to Kingston, NH, and a second son was born. He rode his bike 2 miles to the train station in the next town in order to make his way to and from Haverhill, MA, where he taught at a trade school. The family was soon able to buy a car and life became easier.

The agreement at Yalta removed forever any lingering Socialist ideas that had been brought from Sweden with his parents. No man or nation had the right to determine the sovereignty of another nation. Individual freedom with responsibility began to root itself deep into Nils' beliefs. Those beliefs formed the basis for his conservative philosophy.

Nils' family remembers very clearly the lengthy conversations around the dinner table had about communism, his compassion for people imprisoned within the Communist state, and his determination that freedom must prevail against those tyrannies.

For Nils, there was never a problem with defining right or wrong. His faith in God and knowledge of biblical lessons were all he needed to direct his life and to teach his family, his students, and all who came to know him.

Nils was a founder of the Kingston Community House, a volunteer organization formed to help those in need in the community. They provided food and clothes to those who were without. They provided Christmas gifts for needy children, and they ran a weekly meal program. The success of the Kingston Community House brought Nancy Reagan to Kingston because of her interest in voluntarism.

Nils became active in the New Hampshire Republican Party and campaigned tirelessly for those conservative candidates who shared his ideals. Those he worked for included Barry Goldwater, Richard Nixon, Ronald Reagan, Gordon Humphrey, Mel Thomson, and BOB SMITH. Nils was not only our supporter—he was our friend.

Nils was there for me in the beginning when it was tough going. He did not have to help me but he did, and he never asked for anything in return. Not one thing did he ever ask in return.

Nils helped to craft the conservative platform which now guides the party. He was one of the quiet people who never asked for anything but good government—and the less the better. He believed with all his heart that government should do only what people cannot do for themselves.

Nils never ran for public office. So you would not know him. Instead he preferred to serve from the sidelines. He was always there when a void needed to be filled which could further his conservative beliefs in the preciousness of freedom, the sanctity of human life, and the importance of family.

Nils and his wife, Ruth and his daughter, Asta, and the rest of the family, were quiet but active Americans who deserve a great deal of credit for the revolution which took place in last November's election. They never sat back and let the liberal agenda destroy the fragile freedom we enjoy. They went to work every day. They taught their families right from wrong and they taught them to love God and to love America and to take their responsibilities seriously, to save for the future, and not to be a burden to society.

As I indicated, Nils passed away a short time ago. He suffered from Alzheimers, a cruel disease that has also stricken one of his beloved political leaders, Ronald Reagan. Because he was in the final stages of Alzheimers, Nils was unable to witness the November elections and enjoy the fruits of his labors.

Nils—I know that you are watching now and smiling as you see your old friend in the majority in the U.S. Senate.

I am a U.S. Senator today because of Nils Sander. Nils believed in me at a time when it was tough. And I believed in him. I will miss my friend, and I intend to honor his memory by continuing to fight for the conservative principles he espoused.

Yes, Nils Sander, one man can make a difference * * * and you did.

Thank you, Mr. President.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PRYOR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. PRYOR and Mr. HATCH pertaining to the introduction of S. 1006 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

REGULATORY PROCEDURES REFORM ACT

Mr. GLENN. Mr. President, yesterday, I, along with a bipartisan group of Senators, introduced S. 1001, the Regulatory Procedures Reform Act of 1995.

Upon its introduction, it was my intention to have the bill printed in the RECORD so that all Members with an interest in this important issue—the issue of regulatory reform—would have the opportunity to review the provisions of the measure. Unfortunately, the measure was not printed.

Therefore, I now ask unanimous consent that the text of S. 1001 and a comparative be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1001

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Regulatory Procedures Reform Act of 1995".

SEC. 2. DEFINITIONS.

Section 551 of title 5, United States Code, is amended—

(1) in paragraph (13), by striking out "; and" and inserting in lieu thereof a semicolon;

(2) in paragraph (14), by striking out the period and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(15) 'Director' means the Director of the Office of Management and Budget.".

SEC. 3. ANALYSIS OF AGENCY RULES.

(a) IN GENERAL.—Chapter 6 of title 5, United States Code, is amended by adding at the end the following:

"SUBCHAPTER II—ANALYSIS OF AGENCY RULES

"§ 621. Definitions

"For purposes of this subchapter the definitions under section 551 shall apply and—

"(1) the term 'benefit' means the reasonably identifiable significant favorable effects, including social, environmental, and economic benefits, that are expected to result directly or indirectly from implementation of a rule or an alternative to a rule;

"(2) the term 'cost' means the reasonably identifiable significant adverse effects, including social, environmental, and economic costs that are expected to result directly or indirectly from implementation of, or compliance with, a rule or an alternative to a rule;

"(3) the term 'cost-benefit analysis' means an evaluation of the costs and benefits of a rule, quantified to the extent feasible and appropriate and otherwise qualitatively described, that is prepared in accordance with the requirements of this subchapter at the level of detail appropriate and practicable for reasoned decisionmaking on the matter involved, taking into consideration the significance and complexity of the decision and any need for expedition;

"(4)(A) the term 'major rule' means a rule or a group of closely related rules that the agency proposing the rule, the Director, or a designee of the President reasonably determines is likely to have a gross annual effect on the economy of $100,000,000 or more in reasonably quantifiable direct and indirect costs; and

"(B) the term 'major rule' shall not include—

"(i) a rule that involves the internal revenue laws of the United States;

"(ii) a rule or agency action that authorizes the introduction into, or removal from, commerce, or recognizes the marketable status, of a product; or

"(iii) a rule exempt from notice and public comment procedure under section 553 of this title;

"(5) the term 'market-based mechanism' means a regulatory program that—

"(A) imposes legal accountability for the achievement of an explicit regulatory objective, including the reduction of environmental pollutants or of risks to human health, safety, or the environment, on each regulated person;

"(B) affords maximum flexibility to each regulated person in complying with mandatory regulatory objectives, and such flexibility shall, where feasible and appropriate, include the opportunity to transfer to, or receive from, other persons, including for cash or other legal consideration, increments of compliance responsibility established by the program; and

"(C) permits regulated persons to respond at their own discretion in an automatic manner, consistent with subparagraph (B), to changes in general economic conditions and in economic circumstances directly pertinent to the regulatory program without affecting the achievement of the program's explicit regulatory mandates under subparagraph (A);

"(6) the term 'performance standard' means a requirement that imposes legal accountability for the achievement of an explicit regulatory objective, such as the reduction of environmental pollutants or of risks to human health, safety, or the environment, on each regulated person;

"(7) the term 'risk assessment' has the same meaning as such term is defined under section 631(5); and

"(8) the term 'rule' has the same meaning as in section 551(4) of this title, and shall not include—

"(A) a rule of particular applicability that approves or prescribes for the future rates, wages, prices, services, corporate or financial structures, reorganizations, mergers, acquisitions, accounting practices, or disclosures bearing on any of the foregoing;

"(B) a rule relating to monetary policy proposed or promulgated by the Board of Governors of the Federal Reserve System or by the Federal Open Market Committee;

"(C) a rule relating to the safety or soundness of federally insured depository institutions or any affiliate of such an institution (as defined in section 2(k) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(k)); credit unions; the Federal Home Loan Banks; government-sponsored housing enterprises; a Farm Credit System Institution; foreign banks, and their branches, agencies, commercial lending companies or representative offices that operate in the United States and any affiliate of such foreign banks (as those terms are defined in the International Banking Act of 1978 (12 U.S.C. 3101)); or a rule relating to the payments system or the protection of deposit insurance funds or Farm Credit Insurance Fund; or

"(D) a rule issued by the Federal Election Commission or a rule issued by the Federal Communications Commission pursuant to sections 312(a)(7) and 315 of the Communications Act of 1934 (47 U.S.C. 312(a)(7) and 315).

"§ 622. Rulemaking cost-benefit analysis

"(a) Before publishing notice of a proposed rulemaking for any rule (or, in the case of a notice of a proposed rulemaking that has been published on or before the effective date of this subchapter, no later than 30 days after such date), each agency shall determine whether the rule is or is not a major rule. For the purpose of any such determination, a group of closely related rules shall be considered as one rule.

"(b)(1) If an agency has determined that a rule is not a major rule, the Director or a designee of the President may, as appropriate, determine that the rule is a major rule no later than 30 days after the publication of the notice of proposed rulemaking for the rule (or, in the case of a notice of proposed rulemaking that has been published on or before the effective date of this subchapter, no later than 60 days after such date).

"(2) Such determination shall be published in the Federal Register, together with a succinct statement of the basis for the determination.

"(c)(1)(A) When the agency publishes a notice of proposed rulemaking for a major rule, the agency shall issue and place in the rulemaking file an initial cost-benefit analysis, and shall include a summary of such analysis in the notice of proposed rulemaking.

"(B)(i) When the Director or a designee of the President has published a determination that a rule is a major rule after the publication of the notice of proposed rulemaking for the rule, the agency shall promptly issue and place in the rulemaking file an initial cost-benefit analysis for the rule and shall publish in the Federal Register a summary of such analysis.

"(ii) Following the issuance of an initial cost-benefit analysis under clause (i), the agency shall give interested persons an opportunity to comment pursuant to section 553 in the same manner as if the draft cost-benefit analysis had been issued with the notice of proposed rulemaking.

"(2) Each initial cost-benefit analysis shall contain—

"(A) an analysis of the benefits of the proposed rule, including any benefits that cannot be quantified, and an explanation of how the agency anticipates that such benefits will be achieved by the proposed rule, including a description of the persons or classes of persons likely to receive such benefits;

"(B) an analysis of the costs of the proposed rule, including any costs that cannot be quantified, and an explanation of how the agency anticipates that such costs will result from the proposed rule, including a description of the persons or classes of persons likely to bear such costs;

"(C) an identification (including an analysis of costs and benefits) of an appropriate number of reasonable alternatives allowed under the statute granting the rulemaking authority for achieving the identified benefits of the proposed rule, including alternatives that—

"(i) require no government action;

"(ii) will accommodate differences among geographic regions and among persons with differing levels of resources with which to comply; and

"(iii) employ voluntary programs, performance standards, or market-based mechanisms that permit greater flexibility in achieving the identified benefits of the proposed rule and that comply with the requirements of subparagraph (D);

"(D) an assessment of the feasibility of establishing a regulatory program that operates through the application of market-based mechanisms;

"(E) an explanation of the extent to which the proposed rule—

"(i) will accommodate differences among geographic regions and among persons with differing levels of resources with which to comply; and

"(ii) employs voluntary programs, performance standards, or market-based mechanisms that permit greater flexibility in achieving the identified benefits of the proposed rule;

"(F) a description of the quality, reliability, and relevance of scientific or economic evaluations or information in accordance with the cost-benefit analysis and risk assessment requirements of this chapter;

"(G) if not expressly or implicitly inconsistent with the statute under which the agency is proposing the rule, an explanation of the extent to which the identified benefits of the proposed rule justify the identified costs of the proposed rule, and an explanation of how the proposed rule is likely to substantially achieve the rulemaking objectives in a more cost-effective manner than the alternatives to the proposed rule, including alternatives identified in accordance with subparagraph (C); and

"(H) if a major rule subject to subchapter III addresses risks to human health, safety, or the environment—

"(i) a risk assessment in accordance with this chapter; and

"(ii) for each such proposed or final rule, an assessment of incremental risk reduction or other benefits associated with each significant regulatory alternative considered by the agency in connection with the rule or proposed rule.

"(d)(1) When the agency publishes a final major rule, the agency shall also issue and place in the rulemaking file a final cost-benefit analysis, and shall include a summary of the analysis in the statement of basis and purpose.

"(2) Each final cost-benefit analysis shall contain—

"(A) a description and comparison of the benefits and costs of the rule and of the reasonable alternatives to the rule described in the rulemaking, including the market-based mechanisms identified under subsection (c)(2)(C)(iii); and

"(B) if not expressly or implicitly inconsistent with the statute under which the agency is acting, a reasonable determination, based upon the rulemaking file considered as a whole, whether—

"(i) the benefits of the rule justify the costs of the rule; and

"(ii) the rule will achieve the rulemaking objectives in a more cost-effective manner than the alternatives described in the rulemaking, including the market-based mechanisms identified under subsection (c)(2)(C)(iii).

"(e)(1) The analysis of the benefits and costs of a proposed and a final rule required under this section shall include, to the extent feasible, a quantification or numerical estimate of the quantifiable benefits and costs. Such quantification or numerical estimate shall be made in the most appropriate units of measurement, using comparable assumptions, including time periods, shall specify the ranges of predictions, and shall explain the margins of error involved in the quantification methods and in the estimates used. An agency shall describe the nature and extent of the nonquantifiable benefits and costs of a final rule pursuant to this section in as precise and succinct a manner as possible. An agency shall not be required to make such evaluation primarily on a mathematical or numerical basis.

"(2)(A) In evaluating and comparing costs and benefits and in evaluating the risk assessment information developed under subchapter III, the agency shall not rely on cost, benefit, or risk assessment information that is not accompanied by data, analysis, or other supporting materials that would enable the agency and other persons interested in the rulemaking to assess the accuracy, reliability, and uncertainty factors applicable to such information.

"(B) The agency evaluations of the relationships of the benefits of a proposed and final rule to its costs shall be clearly articulated in accordance with this section.

"(f) As part of the promulgation of each major rule that addresses risks to human health, safety, or the environment, the head of the agency or the President shall make a determination that—

"(1) the risk assessment and the analysis under subsection (c)(2)(H) are based on a scientific evaluation of the risk addressed by the major rule and that the conclusions of such evaluation are supported by the available information; and

"(2) the regulatory alternative chosen will reduce risk in a cost-effective and, to the extent feasible, flexible manner, taking into consideration any of the alternatives identified under subsection (c)(2) (C) and (D).

"(g) The preparation of the initial or final cost-benefit analysis required by this section shall only be performed under the direction of an officer or employee of the agency. The preceding sentence shall not preclude a person outside the agency from gathering data or information to be used by the agency in preparing any such cost-benefit analysis or from providing an explanation sufficient to permit the agency to analyze such data or information. If any such data or information is gathered or explained by a person outside the agency, the agency shall specifically identify in the initial or final cost-benefit analysis the data or information gathered or explained and the person who gathered or explained it, and shall describe the arrangement by which the information was procured by the agency, including the total amount of funds expended for such procurement.

"(h) The requirements of this subchapter shall not alter the criteria for rulemaking otherwise applicable under other statutes.

"§ 623. Judicial review

"(a) Compliance or noncompliance by an agency with the provisions of this subchapter and subchapter III shall not be subject to judicial review except in connection with review of a final agency rule and according to the provisions of this section.

"(b) Any determination by a designee of the President or the Director that a rule is, or is not, a major rule shall not be subject to judicial review in any manner.

"(c) The determination by an agency that a rule is, or is not, a major rule shall be set aside by a reviewing court only upon a clear and convincing showing that the determination is erroneous in light of the information available to the agency at the time the agency made the determination.

"(d) If the cost-benefit analysis or risk assessment required under this chapter has been wholly omitted for any major rule, a court shall vacate the rule and remand the case for further consideration. If an analysis or assessment has been performed, the court shall not review to determine whether the analysis or assessment conformed to the particular requirements of this chapter.

"(e) Any cost-benefit analysis or risk assessment prepared under this chapter shall not be subject to judicial consideration separate or apart from review of the agency action to which it relates. When an action for judicial review of an agency action is instituted, any regulatory analysis for such agency action shall constitute part of the whole administrative record of agency action for the purpose of judicial review of the agency action, and shall, to the extent relevant, be considered by a court in determining the legality of the agency action.

"§ 624. Deadlines for rulemaking

"(a) All deadlines in statutes that require agencies to propose or promulgate any rule subject to section 622 or subchapter III during the 2-year period beginning on the effective date of this section shall be suspended until the earlier of—

"(1) the date on which the requirements of section 622 or subchapter III are satisfied; or

"(2) the date occurring 6 months after the date of the applicable deadline.

"(b) All deadlines imposed by any court of the United States that would require an agency to propose or promulgate a rule subject to section 622 or subchapter III during the 2-year period beginning on the effective date of this section shall be suspended until the earlier of—

"(1) the date on which the requirements of section 622 or subchapter III are satisfied; or

"(2) the date occurring 6 months after the date of the applicable deadline.

"(c) In any case in which the failure to promulgate a rule by a deadline occurring during the 2-year period beginning on the effective date of this section would create an obligation to regulate through individual adjudications, the deadline shall be suspended until the earlier of—

"(1) the date on which the requirements of section 622 or subchapter III are satisfied; or

"(2) the date occurring 6 months after the date of the applicable deadline.

"§ 625. Agency review of rules

"(a)(1)(A) No later than 9 months after the effective date of this section, each agency shall prepare and publish in the Federal Register a proposed schedule for the review, in accordance with this section, of—

"(i) each rule of the agency that is in effect on such effective date and which, if adopted on such effective date, would be a major rule; and

"(ii) each rule of the agency in effect on the effective date of this section (in addition to the rules described in clause (i)) that the agency has selected for review.

"(B) Each proposed schedule required under subparagraph (A) shall be developed in consultation with—

"(i) the Administrator of the Office of Information and Regulatory Affairs; and

"(ii) the classes of persons affected by the rules, including members from the regulated industries, small businesses, State and local governments, and organizations representing the interested public.

"(C) Each proposed schedule required under subparagraph (A) shall establish priorities for the review of rules that, in the joint determination of the Administrator of the Office of Information and Regulatory Affairs and the agency, most likely can be amended or eliminated to—

"(i) provide the same or greater benefits at substantially lower costs;

"(ii) achieve substantially greater benefits at the same or lower costs; or

"(iii) replace command-and-control regulatory requirements with market mechanisms or performance standards that achieve substantially equivalent benefits at lower costs or with greater flexibility.

"(D) Each proposed schedule required by subparagraph (A) shall include—

"(i) a brief explanation of the reasons the agency considers each rule on the schedule to be a major rule, or the reasons why the agency selected the rule for review;

"(ii) a date set by the agency, in accordance with subsection (b), for the completion of the review of each such rule; and

"(iii) a statement that the agency requests comments from the public on the proposed schedule.

"(E) The agency shall set a date to initiate review of each rule on the schedule in a manner that will ensure the simultaneous review of related items and that will achieve a reasonable distribution of reviews over the period of time covered by the schedule.

"(2) No later than 90 days before publishing in the Federal Register the proposed schedule required under paragraph (1), each agency shall make the proposed schedule available to the Director or a designee of the President. The President or that officer may select for review in accordance with this section any additional rule.

"(3) No later than 1 year after the effective date of this section, each agency shall publish in the Federal Register a final schedule for the review of the rules referred to in paragraphs (1) and (2). Each agency shall publish with the final schedule the response of the agency to comments received concerning the proposed schedule.

"(b)(1) Except as explicitly provided otherwise by statute, the agency shall, pursuant to subsections (c) through (e), review—

"(A) each rule on the schedule promulgated pursuant to subsection (a);

"(B) each major rule promulgated, amended, or otherwise continued by an agency after the effective date of this section; and

"(C) each rule promulgated after the effective date of this section that the President or the officer designated by the President selects for review pursuant to subsection (a)(2).

"(2) Except as provided pursuant to subsection (f), the review of a rule required by this section shall be completed no later than the later of—

"(A) 10 years after the effective date of this section; or

"(B) 10 years after the date on which the rule is—

"(i) promulgated; or

"(ii) amended or continued under this section.

"(c) An agency shall publish in the Federal Register a notice of its proposed action under this section with respect to a rule being reviewed. The notice shall include—

"(1) an identification of the specific statutory authority under which the rule was promulgated and an explanation of whether the agency's interpretation of the statute is expressly required by the current text of that statute or, if not, whether it is within the range of permissible interpretations of the statute;

"(2) an analysis of the benefits and costs of the rule during the period in which it has been in effect;

"(3) an explanation of the proposed agency action with respect to the rule, including action to repeal or amend the rule to resolve inconsistencies or conflicts with any other obligation or requirement established by any Federal statute, rule, or other agency statement, interpretation, or action that has the force of law; and

"(4) a statement that the agency seeks proposals from the public for modifications or alternatives to the rule which may accomplish the objectives of the rule in a more effective or less burdensome manner.

"(d) If an agency proposes to repeal or amend a rule under review pursuant to this section, the agency shall, after issuing the notice required by subsection (c), comply with the provisions of this chapter, chapter 5, and any other applicable law. The requirements of such provisions and related requirements shall apply to the same extent and in the same manner as in the case of a proposed agency action to repeal or amend a rule that is not taken pursuant to the review required by this section.

"(e) If an agency proposes to continue without amendment a rule under review pursuant to this section, the agency shall—

"(1) give interested persons no less than 60 days after the publication of the notice required by subsection (c) to comment on the proposed continuation; and

"(2) publish in the Federal Register notice of the continuation of such rule.

"(f) Any agency, which for good cause finds that compliance with this section with respect to a particular rule during the period provided in subsection (b) of this section is contrary to an important public interest may request the President, or the officer designated by the President pursuant to subsection (a)(2), to establish a period longer than 10 years for the completion of the review of such rule. The President or that officer may extend the period for review of a rule to a total period of no more than 15 years. Such extension shall be published in the Federal Register with an explanation of the reasons therefor.

"(g) If the agency fails to comply with the requirements of subsection (b)(2), the agency shall immediately commence a rulemaking action pursuant to section 553 of this title to repeal the rule.

"(h) Nothing in this section shall relieve any agency from its obligation to respond to a petition to issue, amend, or repeal a rule, for an interpretation regarding the meaning of a rule, or for a variance or exemption from the terms of a rule, submitted pursuant to any other provision of law.

"§ 626. Public participation and accountability

"In order to maximize accountability for, and public participation in, the development and review of regulatory actions each agency shall, consistent with chapter 5 and other applicable law, provide the public with opportunities for meaningful participation in the development of regulatory actions, including—

"(1) seeking the involvement, where practicable and appropriate, of those who are intended to benefit from and those who are expected to be burdened by any regulatory action;

"(2) providing in any proposed or final rulemaking notice published in the Federal Register—

"(A) a certification of compliance with the requirements of this chapter, or an explanation why such certification cannot be made;

"(B) a summary of any regulatory analysis required under this chapter, or under any other legal requirement, and notice of the availability of the regulatory analysis;

"(C) a certification that the rule will produce benefits that will justify the cost to the Government and to the public of implementation of, and compliance with, the rule, or an explanation why such certification cannot be made; and

"(D) a summary of the results of any regulatory review and the agency's response to such review, including an explanation of any significant changes made to such regulatory action as a consequence of regulatory review;

"(3) identifying, upon request, a regulatory action and the date upon which such action was submitted to the designated officer to whom authority was delegated under section 644 for review;

"(4) disclosure to the public, consistent with section 633(3), of any information created or collected in performing a regulatory analysis required under this chapter, or under any other legal requirement; and

"(5) placing in the appropriate rulemaking record all written communications received from the Director, other designated officer, or other individual or entity relating to regulatory review.

"SUBCHAPTER III—RISK ASSESSMENTS

"§ 631. Definitions

"For purposes of this subchapter, the definitions under sections 551 and 621 shall apply, and—

"(1) the term 'covered agency' means each agency required to comply with this subchapter, as provided in section 632;

"(2) the term 'emergency' means an imminent or substantial endangerment to public health, safety, or the environment if no action is taken;

"(3) the term 'exposure assessment' means the scientific determination of the intensity, frequency, and duration of exposures to the hazard in question;

"(4) the term 'hazard assessment' means the scientific determination of whether a hazard can cause an increased incidence of one or more significant adverse effects, and a scientific evaluation of the relationship between the degree of exposure to a perceived cause of an adverse effect and the incidence and severity of the effect;

"(5) the term 'risk assessment' means the systematic process of organizing and analyzing scientific knowledge and information on potential hazards, including as appropriate for the specific risk involved, hazard assessment, exposure assessment, and risk characterization;

"(6) the term 'risk characterization' means the integration and organization of hazard and exposure assessment to estimate the potential for specific harm to an exposed individual population or natural resource including, to the extent feasible, a characterization of the distribution of risk as well as an analysis of uncertainties, variabilities, conflicting information, and inferences and assumptions in the assessment;

"(7) the term 'screening analysis' means an analysis using simple conservative postulates to arrive at an estimate of upper and lower bounds as appropriate, that permits the manager to eliminate risks from further consideration and analysis, or to help establish priorities for agency action; and

"(8) the term 'substitution risk' means an increased risk to human health, safety, or the environment reasonably likely to result from a regulatory option.

"§ 632. Applicability

"(a) Except as provided in subsection (c), this subchapter shall apply to all risk assessments and risk characterizations prepared in connection with a major rule addressing health, safety, and environmental risks by—

"(1) the Secretary of Defense, for major rules relating to the programs and responsibilities of the United States Army Corps of Engineers;

"(2) the Secretary of the Interior, for major rules relating to the programs and responsibilities of the Office of Surface Mining Reclamation and Enforcement;

"(3) the Secretary of Agriculture, for major rules relating to the programs and responsibilities of—

"(A) the Animal and Plant Health Inspection Service;

"(B) the Grain Inspection, Packers, and Stockyards Administration;

"(C) the Food Safety and Inspection Service;

"(D) the Forest Service; and

"(E) the Natural Resources Conservation Service;

"(4) the Secretary of Commerce, for major rules relating to the programs and responsibilities of the National Marine Fisheries Service;

"(5) the Secretary of Labor, for major rules relating to the programs and responsibilities of—

"(A) the Occupational Safety and Health Administration; and

"(B) the Mine Safety and Health Administration;

"(6) the Secretary of Health and Human Services, for major rules relating to the programs and responsibilities assigned to the Food and Drug Administration;

"(7) the Secretary of Transportation, for major rules relating to the programs and responsibilities assigned to—

"(A) the Federal Aviation Administration; and

"(B) the National Highway Traffic Safety Administration;

"(8) the Secretary of Energy, for major rules relating to nuclear safety, occupational safety and health, and environmental restoration and waste management;

"(9) the Chairman of the Consumer Product Safety Commission;

"(10) the Administrator of the Environmental Protection Agency; and

"(11) the Chairman of the Nuclear Regulatory Commission.

"(b)(1) No later than 18 months after the effective date of this section, the President, acting through the Director of the Office of Management and Budget, shall determine whether other Federal agencies should be considered covered agencies for the purposes of this subchapter. Such determination, with respect to a particular Federal agency, shall be based on the impact of risk assessment documents and risk characterization documents on—

"(A) regulatory programs administered by that agency; and

"(B) the communication of risk information by that agency to the public.

"(2) If the President makes a determination under paragraph (1), this subchapter shall apply to any agency determined to be a covered agency beginning on a date set by the President. Such date may be no later than 6 months after the date of such determination.

"(c)(1) This subchapter shall not apply to risk assessments or risk characterizations performed with respect to—

"(A) an emergency determined by the head of an agency;

"(B) a health, safety, or environmental inspection, compliance or enforcement action, or individual facility permitting action; or

"(C) a screening analysis.

"(2) This subchapter shall not apply to any food, drug, or other product label, or to any risk characterization appearing on any such label.

"§ 633. Savings provisions

"Nothing in this subchapter shall be construed to—

"(1) modify any statutory standard or requirement designed to protect human health, safety, or the environment; or

"(2) require the disclosure of any trade secret or other confidential information.

"§ 634. Principles for risk assessments

"(a)(1) The head of each agency shall design and conduct risk assessments in a manner that promotes rational and informed risk management decisions and informed public input into the process of making agency decisions.

"(2) The head of each agency shall establish and maintain a distinction between risk assessment and risk management.

"(3) An agency may take into account priorities for managing risks, including the types of information that would be important in evaluating a full range of alternatives, in developing priorities for risk assessment activities.

"(4) An agency shall not be required to repeat discussions or explanations in each risk assessment required under this subchapter if there is an unambiguous reference to a relevant discussion or explanation in another reasonably available agency document that meets the requirements of this section.

"(5)(A) In conducting a risk assessment, the head of each agency shall employ the level of detail and rigor appropriate and practicable for reasoned decisionmaking in the matter involved, proportionate to the significance and complexity of the potential agency action and the need for expedition.

"(B)(i) Each agency shall develop and use an iterative process for risk assessment, starting with relatively inexpensive screening analyses and progressing to more rigorous analyses, as circumstances or results warrant.

"(ii) In determining whether or not to proceed to a more detailed analysis, the head of the agency shall take into consideration whether or not use of additional data or the analysis thereof would significantly change the estimate of risk.

"(b)(1) The head of each agency shall base each risk assessment on the best reasonably available scientific information, including scientific information that finds or fails to find a correlation between a potential hazard and an adverse effect, and data regarding exposure and other relevant physical conditions that are reasonably expected to be encountered.

"(2) The head of an agency shall select data for use in the assessment based on an appropriate consideration of the quality and relevance of the data, and shall describe the basis for selecting the data.

"(3) In making its selection of data, the head of an agency shall consider whether the data were developed in accordance with good scientific practice or other appropriate protocols to ensure data quality.

"(4) Subject to paragraph (3), relevant scientific data submitted by interested parties shall be reviewed and considered in the analysis by the head of an agency under paragraph (2).

"(5) When conflicts among scientific data appear to exist, the risk assessment shall include a discussion of all relevant information, including the likelihood of alternative interpretations of data.

"(c)(1) To the maximum extent practicable, the head of each agency shall use postulates, including default assumptions, inferences, models, or safety factors, when relevant scientific data and understanding, including site-specific data, are lacking.

"(2) When a risk assessment involves choice of a postulate, the head of the agency shall—

"(A) identify the postulate and its scientific or policy basis, including the extent to which the postulate has been validated by, or conflicts with, empirical data;

"(B) explain the basis for any choices among postulates; and

"(C) describe reasonable alternative postulates that were not selected by the agency for use in the risk assessment, and the sensitivity for the conclusions of the risk assessment to the alternatives, and the rationale for not using such alternatives.

"(3) An agency shall not inappropriately combine or compound multiple postulates.

"(4) The head of each agency shall develop a procedure and publish guidelines for choosing default postulates and for deciding when and how in a specific risk assessments to adopt alternative postulates or to use available scientific information in place of a default postulate.

"(d) The head of each agency shall provide appropriate opportunities for public participation and comment on risk assessments.

"(e) In each risk assessment, the head of each agency shall include in the risk characterization, as appropriate, each of the following:

"(1) A description of the hazard of concern.

"(2) A description of the populations or natural resources that are the subject of the risk assessment.

"(3) An explanation of the exposure scenarios used in the risk assessment, including an estimate of the corresponding population at risk and the likelihood of such exposure scenarios.

"(4) A description of the nature and severity of the harm that could plausibly occur.

"(5) A description of the major uncertainties in each component of the risk assessment and their influence on the results of the assessment.

"(f) To the extent feasible and scientifically appropriate, the head of an agency shall—

"(1) express the overall estimate of risk as a range or probability distribution that reflects variabilities and uncertainties in the analysis;

"(2) provide the range and distribution of risks and the corresponding exposure scenarios, identifying the reasonably expected risk to the general population and, where appropriate, to more highly exposed or sensitive subpopulations; and

"(3) where quantitative estimates of the range and distribution of risk estimates are not available, describe the qualitative factors influencing the range of possible risks.

"(g) The head of an agency shall place the nature and magnitude of risks to human health, safety, and the environment being analyzed in context, including appropriate comparisons with other risks that are familiar to, and routinely encountered by, the general public.

"(h) In any notice of proposed or final regulatory action subject to this subchapter, the head of an agency shall describe significant substitution risks to human health or safety identified by the agency or contained in information provided to the agency by a commentator.

"§ 635. Peer review

"(a) The head of each covered agency shall develop a systematic program for independent and external peer review required under subsection (b). Such program shall be applicable throughout each covered agency and—

"(1) shall provide for the creation of peer review panels that—

"(A) consist of members with expertise relevant to the sciences involved in regulatory decisions and who are independent of the covered agency; and

"(B) are broadly representative and balanced and, to the extent relevant and appropriate, may include persons affiliated with Federal, State, local, or tribal governments, small businesses, other representatives of industry, universities, agriculture, labor consumers, conservation organizations, or other public interest groups and organizations;

"(2) shall not exclude any person with substantial and relevant expertise as a panel member on the basis that such person represents an entity that may have a potential interest in the outcome, if such interest is fully disclosed to the agency, and in the case of a regulatory decision affecting a single entity, no peer reviewer representing such entity may be included on the panel;

"(3) shall provide for a timely completed peer review, meeting agency deadlines, that contains a balanced presentation of all considerations, including minority reports and an agency response to all significant peer review comments; and

"(4) shall provide adequate protections for confidential business information and trade secrets, including requiring panel members to enter into confidentiality agreements.

"(b)(1)(A) Except as provided under subparagraph (B), each covered agency shall provide for peer review in accordance with this section of any risk assessment or cost-benefit analysis that forms the basis of any major rule that addresses risks to the environment, health, or safety.

"(B) Subparagraph (A) shall not apply to a rule or other action taken by an agency to authorize or approve any individual substance or product.

"(2) The Director of the Office of Management and Budget may order that peer review be provided for any risk assessment or cost-benefit analysis that is likely to have a significant impact on public policy decisions or would establish an important precedent.

"(c) Each peer review under this section shall include a report to the Federal agency concerned with respect to the scientific and technical merit of data and methods used for the risk assessments or cost-benefit analyses.

"(d) The head of the covered agency shall provide a written response to all significant peer review comments.

"(e) All peer review comments or conclusions and the agency's responses shall be made available to the public and shall be made part of the administrative record for purposes of judicial review of any final agency action.

"(f) No peer review shall be required under this section for any data, method, document, or assessment, or any component thereof, which has been previously subjected to peer review.

"§ 636. Guidelines, plan for assessing new information, and report

"(a)(1)(A) As soon as practicable and scientifically feasible, each covered agency shall adopt, after notification and opportunity for public comment, guidelines to implement the risk assessment principles under section 634, as well as the cost-benefit analysis requirements under section 622, and shall provide a format for summarizing risk assessment results.

"(B) No later than 12 months after the effective date of this section, the head of each covered agency shall issue a report on the status of such guidelines to the Congress.

"(2) The guidelines under paragraph (1) shall—

"(A) include guidance on use of specific technical methodologies and standards for acceptable quality of specific kinds of data;

"(B) address important decisional factors for the risk assessment, risk characterization, and cost-benefit analysis at issue; and

"(C) provide procedures for the refinement and replacement of policy-based default assumptions.

"(b) The guidelines, plan and report under this section shall be developed after notice and opportunity for public comment, and after consultation with representatives of appropriate State agencies and local governments, and such other departments and agencies, organizations, or persons as may be advisable.

"(c) The President shall review the guidelines published under this section at least every 4 years.

"(d) The development, issuance, and publication of risk assessment and risk characterization guidelines under this section shall not be subject to judicial review.

"§ 637. Research and training in risk assessment

"(a) The head of each covered agency shall regularly and systematically evaluate risk assessment research and training needs of the agency, including, where relevant and appropriate, the following:

"(1) Research to reduce generic data gaps, to address modelling needs (including improved model sensitivity), and to validate default options, particularly those common to multiple risk assessments.

"(2) Research leading to improvement of methods to quantify and communicate uncertainty and variability among individuals, species, populations, and, in the case of ecological risk assessment, ecological communities.

"(3) Emerging and future areas of research, including research on comparative risk analysis, exposure to multiple chemicals and other stressors, noncancer endpoints, biological markers of exposure and effect, mechanisms of action in both mammalian and nonmammalian species, dynamics and probabilities of physiological and ecosystem exposures, and prediction of ecosystem-level responses.

"(4) Long-term needs to adequately train individuals in risk assessment and risk assessment application. Evaluations under this paragraph shall include an estimate of the resources needed to provide necessary training.

"(b) The head of each covered agency shall develop a strategy and schedule for carrying out research and training to meet the needs identified in subsection (a).

"§ 638. Interagency coordination

"(a) To promote the conduct, application, and practice of risk assessment in a consistent manner and to identify risk assessment data and research needs common to more than 1 Federal agency, the Director of the Office of Management and Budget, in consultation with the Office of Science and Technology Policy, shall—

"(1) periodically survey the manner in which each Federal agency involved in risk assessment is conducting such risk assessment to determine the scope and adequacy of risk assessment practices in use by the Federal Government;

"(2) provide advice and recommendations to the President and Congress based on the surveys conducted and determinations made under paragraph (1);

"(3) establish appropriate interagency mechanisms to promote—

"(A) coordination among Federal agencies conducting risk assessment with respect to the conduct, application, and practice of risk assessment; and

"(B) the use of state-of-the-art risk assessment practices throughout the Federal Government;

"(4) establish appropriate mechanisms between Federal and State agencies to communicate state-of-the-art risk assessment practices; and

"(5) periodically convene meetings with State government representatives and Federal and other leaders to assess the effectiveness of Federal and State cooperation in the development and application of risk assessment.

"(b) The President shall appoint National Peer Review Panels to review every 3 years the risk assessment practices of each covered agency for programs designed to protect human health, safety, or the environment. The Panels shall submit a report to the President and the Congress at least every 3 years containing the results of such review.

"§ 639. Plan for review of risk assessments

"(a) No later than 18 months after the effective date of this section, the head of each covered agency shall publish a plan to review and revise any risk assessment published before the expiration of such 18-month period if the covered agency determines that significant new information or methodologies are available that could significantly alter the results of the prior risk assessment.

"(b) A plan under subsection (a) shall—

"(1) provide procedures for receiving and considering new information and risk assessments from the public; and

"(2) set priorities and criteria for review and revision of risk assessments based on such factors as the agency head considers appropriate.

"§ 640. Judicial review

"The provisions of section 623 relating to judicial review shall apply to this subchapter.

"§ 640a. Deadlines for rulemaking

"The provisions of section 624 relating to deadlines for rulemaking shall apply to this subchapter.

"SUBCHAPTER IV—EXECUTIVE OVERSIGHT

"§ 641. Definition

"For purposes of this subchapter, the definitions under sections 551 and 621 shall apply.

"§ 642. Procedures

"The Director or other designated officer to whom authority is delegated under section 644 shall—

"(1) establish procedures for agency compliance with this chapter; and

"(2) monitor, review, and ensure agency implementation of such procedures.

"§ 643. Promulgation and adoption

"(a) Procedures established pursuant to section 642 shall only be implemented after opportunity for public comment. Any such procedures shall be consistent with the prompt completion of rulemaking proceedings.

"(b)(1) If procedures established pursuant to section 642 include review of any initial or final analyses of a rule required under this chapter, the time for any such review of any initial analysis shall not exceed 60 days following the receipt of the analysis by the Director, a designee of the President, or by an officer to whom the authority granted under section 642 has been delegated pursuant to section 644.

"(2) The time for review of any final analysis required under this chapter shall not exceed 60 days following the receipt of the analysis by the Director, a designee of the President, or such officer.

"(3)(A) The times for each such review may be extended for good cause by the President or such officer for an additional 30 days.

"(B) Notice of any such extension, together with a succinct statement of the reasons therefor, shall be inserted in the rulemaking file.

"§ 644. Delegation of authority

"(a) The President shall delegate the authority granted by this subchapter to the Director or to another officer within the Executive Office of the President whose appointment has been subject to the advice and consent of the Senate.

"(b) Notice of any delegation, or any revocation or modification thereof shall be published in the Federal Register.

"§ 645. Public disclosure of information

"The Director or other designated officer to whom authority is delegated under section 644, in carrying out the provisions of section 642, shall establish procedures (covering all employees of the Director or other designated officer) to provide public and agency access to information concerning regulatory review actions, including—

"(1) disclosure to the public on an ongoing basis of information regarding the status of regulatory actions undergoing review;

"(2) disclosure to the public, no later than publication of, or other substantive notice to the public concerning a regulatory action, of—

"(A) all written communications, regardless of form or format, including drafts of all proposals and associated analyses, between the Director or other designated officer and the regulatory agency;

"(B) all written communications, regardless of form or format, between the Director or other designated officer and any person not employed by the executive branch of the Federal Government relating to the substance of a regulatory action;

"(C) a record of all oral communications relating to the substance of a regulatory action between the Director or other designated officer and any person not employed by the executive branch of the Federal Government; and

"(D) a written explanation of any review action and the date of such action; and

"(3) disclosure to the regulatory agency, on a timely basis, of—

"(A) all written communications between the Director or other designated officer and any person who is not employed by the executive branch of the Federal Government;

"(B) a record of all oral communications, and an invitation to participate in meetings, relating to the substance of a regulatory action between the Director or other designated officer and any person not employed by the executive branch of the Federal Government; and

"(C) a written explanation of any review action taken concerning an agency regulatory action.

"§ 646. Judicial review

"The exercise of the authority granted under this subchapter by the Director, the President, or by an officer to whom such authority has been delegated under section 644 shall not be subject to judicial review in any manner.".

(b) REGULATORY FLEXIBILITY ANALYSIS.—

(1) IN GENERAL.—Section 611 of title 5, United States Code, is amended to read as follows:

"§ 611. Judicial review

"(a)(1) Except as provided in paragraph (2), no later than 1 year after the effective date of a final rule with respect to which an agency—

"(A) certified, pursuant to section 605(b), that such rule would not have a significant economic impact on a substantial number of small entities; or

"(B) prepared a final regulatory flexibility analysis pursuant to section 604,

an affected small entity may petition for the judicial review of such certification or analysis in accordance with this subsection. A court having jurisdiction to review such rule for compliance with section 553 of this title or under any other provision of law shall have jurisdiction to review such certification or analysis.

"(2)(A) Except as provided in subparagraph (B), in the case of a provision of law that requires that an action challenging a final agency regulation be commenced before the expiration of the 1-year period provided in paragraph (1), such lesser period shall apply to a petition for the judicial review under this subsection.

"(B) In a case in which an agency delays the issuance of a final regulatory flexibility analysis pursuant to section 608(b), a petition for judicial review under this subsection shall be filed no later than—

"(i) 1 year; or

"(ii) in a case in which a provision of law requires that an action challenging a final agency regulation be commenced before the expiration of the 1-year period provided in paragraph (1), the number of days specified in such provision of law,

after the date the analysis is made available to the public.

"(3) For purposes of this subsection, the term 'affected small entity' means a small entity that is or will be adversely affected by the final rule.

"(4) Nothing in this subsection shall be construed to affect the authority of any court to stay the effective date of any rule or provision thereof under any other provision of law.

"(5)(A) In a case in which an agency certifies that such rule would not have a significant economic impact on a substantial number of small entities, the court may order the agency to prepare a final regulatory flexibility analysis pursuant to section 604 if the court determines, on the basis of the rulemaking record, that the certification was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.

"(B) In a case in which the agency prepared a final regulatory flexibility analysis, the court may order the agency to take corrective action consistent with section 604 if the court determines, on the basis of the rulemaking record, that the final regulatory flexibility analysis was prepared by the agency without complying with section 604.

"(6) If, by the end of the 90-day period beginning on the date of the order of the court pursuant to paragraph (5) (or such longer period as the court may provide), the agency fails, as appropriate—

"(A) to prepare the analysis required by section 604; or

"(B) to take corrective action consistent with section 604 of this title,

the court may stay the rule or grant such other relief as it deems appropriate.

"(7) In making any determination or granting any relief authorized by this subsection, the court shall take due account of the rule of prejudicial error.

"(b) In an action for the judicial review of a rule, any regulatory flexibility analysis for such rule (including an analysis prepared or corrected pursuant to subsection (a)(5)) shall constitute part of the whole record of agency action in connection with such review.

"(c) Nothing in this section bars judicial review of any other impact statement or similar analysis required by any other law if judicial review of such statement or analysis is otherwise provided by law.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on the effective date of this Act, except that the judicial review authorized by section 611(a) of title 5, United States Code (as added by subsection (a)), shall apply only to final agency rules issued after such effective date.

(c) PRESIDENTIAL AUTHORITY.—Nothing in this Act shall limit the exercise by the President of the authority and responsibility that the President otherwise possesses under the Constitution and other laws of the United States with respect to regulatory policies, procedures, and programs of departments, agencies, and offices.

(d) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Part I of title 5, United States Code, is amended by striking out the chapter heading and table of sections for chapter 6 and inserting in lieu thereof the following:

"CHAPTER 6—THE ANALYSIS OF REGULATORY FUNCTIONS

"SUBCHAPTER I—REGULATORY ANALYSIS

"Sec.
"601. Definitions.
"602. Regulatory agenda.
"603. Initial regulatory flexibility analysis.
"604. Final regulatory flexibility analysis.
"605. Avoidance of duplicative or unnecessary analyses.
"606. Effect on other law.
"607. Preparation of analysis.
"608. Procedure for waiver or delay of completion.
"609. Procedures for gathering comments.
"610. Periodic review of rules.
"611. Judicial review.
"612. Reports and intervention rights.

"SUBCHAPTER II—ANALYSIS OF AGENCY RULES

"621. Definitions.
"622. Rulemaking cost-benefit analysis.
"623. Judicial review.
"624. Deadlines for rulemaking.
"625. Agency review of rules.
"626. Public participation and accountability.

"SUBCHAPTER III—RISK ASSESSMENTS

"631. Definitions.
"632. Applicability.
"633. Savings provisions.
"634. Principles for risk assessment.
"635. Peer review.
"636. Guidelines, plan for assessing new information, and report.
"637. Research and training in risk assessment.
"638. Interagency coordination.
"639. Plan for review of risk assessments.
"640. Judicial review.
"640a. Deadlines for rulemaking.

"SUBCHAPTER IV—EXECUTIVE OVERSIGHT

"641. Definition.
"642. Procedures.
"643. Promulgation and adoption.
"644. Delegation of authority.
"645. Public disclosure of information.
"646. Judicial review.".

(2) Chapter 6 of title 5, United States Code, is amended by inserting immediately before section 601, the following subchapter heading:

"SUBCHAPTER I—REGULATORY ANALYSIS".

SEC. 4. CONGRESSIONAL REVIEW.

(a) IN GENERAL.—Part I of title 5, United States Code, is amended by inserting after chapter 7 the following new chapter:

"CHAPTER 8—CONGRESSIONAL REVIEW OF AGENCY RULEMAKING

"§ 801. Congressional review of agency rulemaking

"(a) For purposes of this chapter, the term—

"(1) 'major rule' means a major rule as defined under section 621(4) of this title and as determined under section 622 of this title; and

"(2) 'rule' (except in reference to a rule of the Senate or House of Representatives) is a reference to a major rule.

"(b)(1) Upon the promulgation of a final major rule, the agency promulgating such rule shall submit to the Congress a copy of the rule, the statement of basis and purpose for the rule, and the proposed effective date of the rule.

"(2) A rule submitted under paragraph (1) shall not take effect as a final rule before the latest of the following:

"(A) The later of the date occurring 45 days after the date on which—

"(i) the Congress receives the rule submitted under paragraph (1); or

"(ii) the rule is published in the Federal Register.

"(B) If the Congress passes a joint resolution of disapproval described under subsection (i) relating to the rule, and the President signs a veto of such resolution, the earlier date—

"(i) on which either House of Congress votes and fails to override the veto of the President; or

"(ii) occurring 30 session days after the date on which the Congress received the veto and objections of the President.

"(C) The date the rule would have otherwise taken effect, if not for this section (unless a joint resolution of disapproval under subsection (i) is approved).

"(c) A major rule shall not take effect as a final rule if the Congress passes a joint resolution of disapproval described under subsection (i), which is signed by the President or is vetoed and overridden by the Congress.

"(d)(1) Notwithstanding any other provision of this section (except subject to paragraph (2)), a major rule that would not take effect by reason of this section may take effect if the President makes a determination and submits written notice of such determination to the Congress that the major rule should take effect because such major rule is—

"(A) necessary because of an imminent threat to health or safety, or other emergency;

"(B) necessary for the enforcement of criminal laws; or

"(C) necessary for national security.

"(2) An exercise by the President of the authority under this subsection shall have no effect on the procedures under subsection (i) or the effect of a joint resolution of disapproval under this section.

"(e)(1) Subsection (i) shall apply to any major rule that is promulgated as a final rule during the period beginning on the date occurring 60 days before the date the Congress adjourns sine die through the date on which the succeeding Congress first convenes.

"(2) For purposes of subsection (i), a major rule described under paragraph (1) shall be treated as though such rule were published in the Federal Register (as a rule that shall take effect as a final rule) on the date the succeeding Congress first convenes.

"(3) During the period between the date the Congress adjourns sine die through the date on which the succeeding Congress first convenes, a rule described under paragraph (1) shall take effect as a final rule as otherwise provided by law.

"(f) Any rule that takes effect and later is made of no force or effect by the enactment of a joint resolution under subsection (i) shall be treated as though such rule had never taken effect.

"(g) If the Congress does not enact a joint resolution of disapproval under subsection (i), no court or agency may infer any intent of the Congress from any action or inaction of the Congress with regard to such major rule, related statute, or joint resolution of disapproval.

"(h) If the agency fails to comply with the requirements of subsection (b) for any rule, the rule shall cease to be enforceable against any person.

"(i)(1) For purposes of this subsection, the term 'joint resolution' means only a joint resolution introduced after the date on which the rule referred to in subsection (b) is received by Congress the matter after the resolving clause of which is as follows: 'That Congress disapproves the rule submitted by the ________ relating to ________, and such rule shall have no force or effect.' (The blank spaces being appropriately filled in.)

"(2)(A) In the Senate, a resolution described in paragraph (1) shall be referred to the committees with jurisdiction. Such a resolution shall not be reported before the eighth day after its submission or publication date.

"(B) For purposes of this subsection, the term 'submission or publication date' means the later of the date on which—

"(i) the Congress receives the rule submitted under subsection (b)(1); or

"(ii) the rule is published in the Federal Register.

"(3) In the Senate, if the committee to which a resolution described in paragraph (1) is referred has not reported such resolution (or an identical resolution) at the end of 20 calendar days after its submission or publication date, such committee may be discharged on a petition approved by 30 Senators from further consideration of such resolution and such resolution shall be placed on the Senate calendar.

"(4)(A) In the Senate, when the committee to which a resolution is referred has reported, or when a committee is discharged (under paragraph (3)) from further consideration of, a resolution described in paragraph (1), it shall at any time thereafter be in order (even though a previous motion to the same effect has been disagreed to) for any Senator to move to proceed to the consideration of the resolution, and all points of order against the resolution (and against consideration of the resolution) shall be waived. The motion shall be privileged in the Senate and shall not be debatable. The motion shall not be subject to amendment, or to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the resolution is agreed to, the resolution shall remain the unfinished business of the Senate until disposed of.

"(B) In the Senate, debate on the resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate shall be in order and shall not be debatable. An amendment to, or a motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the resolution shall not be in order. A motion to reconsider the vote by which the resolution is agreed to or disagreed to shall not be in order.

"(C) In the Senate, immediately following the conclusion of the debate on a resolution described in paragraph (1), and a single quorum call at the conclusion of the debate if requested in accordance with the Senate rules, the vote on final passage of the resolution shall occur.

"(D) Appeals from the decisions of the Chair relating to the application of the rules of the Senate to the procedure relating to a resolution described in paragraph (1) shall be decided without debate.

"(5) If, before the passage in the Senate of a resolution described in paragraph (1), the Senate receives from the House of Representatives a resolution described in paragraph (1), then the following procedures shall apply:

"(A) The resolution of the House of Representatives shall not be referred to a committee.

"(B) With respect to a resolution described in paragraph (1) of the Senate—

"(i) the procedure in the Senate shall be the same as if no resolution had been received from the other House; but

"(ii) the vote on final passage shall be on the resolution of the other House.

"(6) This subsection is enacted by Congress—

"(A) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed to be a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a resolution described in paragraph (1), and it supersedes other rules only to the extent that it is inconsistent with such rules; and

"(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

"(j) No requirements under this chapter shall be subject to judicial review in any manner.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of chapters for part I of title 5, United States Code, is amended by inserting after the item relating to chapter 7 the following:

"8. Congressional Review of Agency Rulemaking .... 801".

SEC. 5. STUDIES AND REPORTS.

(a) RISK ASSESSMENTS.—The Administrative Conference of the United States shall—

(1) develop and carry out an ongoing study of the operation of the risk assessment requirements of subchapter III of chapter 6 of title 5, United States Code (as added by section 3 of this Act); and

(2) submit an annual report to the Congress on the findings of the study.

(b) ADMINISTRATIVE PROCEDURE ACT.—No later than December 31, 1996, the Administrative Conference of the United States shall—

(1) carry out a study of the operation of chapters 5 and 6 of title 5, United States Code (commonly referred to as the Administrative Procedure Act), as amended by section 3 of this Act; and

(2) submit a report to the Congress on the findings of the study, including proposals for revision, if any.

SEC. 6. RISK-BASED PRIORITIES.

(a) PURPOSES.—The purposes of this section are to—

(1) encourage Federal agencies engaged in regulating risks to human health, safety, and the environment to achieve the greatest risk reduction at the least cost practical;

(2) promote the coordination of policies and programs to reduce risks to human health, safety, and the environment; and

(3) promote open communication among Federal agencies, the public, the President, and Congress regarding environmental, health, and safety risks, and the prevention and management of those risks.

(b) DEFINITIONS.—For the purposes of this section:

(1) COMPARATIVE RISK ANALYSIS.—The term "comparative risk analysis" means a process to systematically estimate, compare, and rank the size and severity of risks to provide a common basis for evaluating strategies for reducing or preventing those risks.

(2) COVERED AGENCY.—The term "covered agency" means each of the following:

(A) The Environmental Protection Agency.

(B) The Department of Labor.

(C) The Department of Transportation.

(D) The Food and Drug Administration.

(E) The Department of Energy.

(F) The Department of the Interior.

(G) The Department of Agriculture.

(H) The Consumer Product Safety Commission.

(I) The National Oceanic and Atmospheric Administration.

(J) The United States Army Corps of Engineers.

(K) The Nuclear Regulatory Commission.

(3) EFFECT.—The term "effect" means a deleterious change in the condition of—

(A) a human or other living thing (including death, cancer, or other chronic illness, decreased reproductive capacity, or disfigurement); or

(B) an inanimate thing important to human welfare (including destruction, degeneration, the loss of intended function, and increased costs for maintenance).

(4) IRREVERSIBILITY.—The term "irreversibility" means the extent to which a return to conditions before the occurrence of an effect are either very slow or will never occur.

(5) LIKELIHOOD.—The term "likelihood" means the estimated probability that an effect will occur.

(6) MAGNITUDE.—The term "magnitude" means the number of individuals or the quantity of ecological resources or other resources that contribute to human welfare that are affected by exposure to a stressor.

(7) SERIOUSNESS.—The term "seriousness" means the intensity of effect, the likelihood, the irreversibility, and the magnitude.

(c) DEPARTMENT AND AGENCY PROGRAM GOALS.—

(1) SETTING PRIORITIES.—In exercising authority under applicable laws protecting human health, safety, or the environment, the head of each covered agency should set priorities and use the resources available under those laws to address those risks to human health, safety, and the environment that—

(A) the covered agency determines to be the most serious; and

(B) can be addressed in a cost-effective manner, with the goal of achieving the greatest overall net reduction in risks with the public and private sector resources expended.

(2) DETERMINING THE MOST SERIOUS RISKS.—In identifying the greatest risks under paragraph (1) of this subsection, each covered agency shall consider, at a minimum—

(A) the likelihood, irreversibility, and severity of the effect; and

(B) the number and classes of individuals potentially affected, and shall explicitly take into account the results of the comparative risk analysis conducted under subsection (d) of this section.

(3) OMB REVIEW.—The covered agency's determinations of the most serious risks for purposes of setting priorities shall be reviewed and approved by the Director of the Office of Management and Budget before submission of the covered agency's annual budget requests to Congress.

(4) INCORPORATING RISK-BASED PRIORITIES INTO BUDGET AND PLANNING.—The head of each covered agency shall incorporate the priorities identified under paragraph (1) into the agency budget, strategic planning, regulatory agenda, enforcement, and research activities. When submitting its budget request to Congress and when announcing its regulatory agenda in the Federal Register, each covered agency shall identify the risks that the covered agency head has determined are the most serious and can be addressed in a cost-effective manner under paragraph (1), the basis for that determination, and explicitly identify how the covered agency's requested budget and regulatory agenda reflect those priorities.

(5) EFFECTIVE DATE.—This subsection shall take effect 12 months after the date of enactment of this Act.

(d) COMPARATIVE RISK ANALYSIS.—

(1) REQUIREMENT.—(A)(i) No later than 6 months after the effective date of this Act, the Director of the Office of Management and Budget shall enter into appropriate arrangements with an accredited scientific body—

(I) to conduct a study of the methodologies for using comparative risk to rank dissimilar human health, safety, and environmental risks; and

(II) to conduct a comparative risk analysis.

(ii) The comparative risk analysis shall compare and rank, to the extent feasible, human health, safety, and environmental risks potentially regulated across the spectrum of programs administered by all covered agencies.

(B) The Director shall consult with the Office of Science and Technology Policy regarding the scope of the study and the conduct of the comparative risk analysis.

(2) CRITERIA.—In arranging for the comparative risk analysis referred to in paragraph (1) of this subsection, the Director shall ensure that—

(A) the scope and specificity of the analysis are sufficient to provide the President and agency heads guidance in allocating resources across agencies and among programs in agencies to achieve the greatest degree of risk prevention and reduction for the public and private resources expended;

(B) the analysis is conducted through an open process, by individuals with relevant expertise, including toxicologists, biologists, engineers and experts in medicine, industrial hygiene and environmental effects;

(C) the analysis is conducted, to the extent feasible, consistent with the risk assessment and risk characterization principles in sections 635 and 636 of this title;

(D) the methodologies and principal scientific determinations made in the analysis are subjected to independent and external peer review consistent with section 635, and the conclusions of the peer review are made publicly available as part of the final report required under subsection (e);

(E) there is an opportunity for public comment on the results before making them final; and

(F) the results are presented in a manner that distinguishes between the scientific conclusions and any policy or value judgments embodied in the comparisons.

(3) COMPLETION AND REVIEW.—No later than 3 years after the effective date of this Act, the comparative risk analysis required under paragraph (1) shall be completed. The comparative risk analysis shall be reviewed and revised at least every 5 years thereafter for a minimum of 15 years following the release of the first analysis. The Director shall arrange for such review and revision with an accredited scientific body in the same manner as provided under paragraphs (1) and (2).

(4) STUDY.—The study of methodologies provided under paragraph (1) shall be conducted as part of the first comparative risk analysis and shall be completed no later than 180 days after the completion of that analysis. The goal of the study shall be to develop and rigorously test methods of comparative risk analysis. The study shall have sufficient scope and breadth to test approaches for improving comparative risk analysis and its use in setting priorities for human health, safety, and environmental risk prevention and reduction.

(5) TECHNICAL GUIDANCE.—No later than 180 days after the effective date of this Act, the Director, in collaboration with other heads of covered agencies shall enter into a contract with the National Research Council to provide technical guidance to agencies on approaches to using comparative risk analysis in setting human health, safety, and environmental priorities to assist agencies in complying with subsection (c) of this section.

(e) REPORTS AND RECOMMENDATIONS TO CONGRESS AND THE PRESIDENT.—No later than 24 months after the effective date of this Act, each covered agency shall submit a report to Congress and the President—

(1) detailing how the agency has complied with subsection (c) and describing the reasons for any departure from the requirement to establish priorities to achieve the greatest overall net reduction in risk;

(2) recommending—

(A) modification, repeal, or enactment of laws to reform, eliminate, or enhance programs or mandates relating to human health, safety, or the environment; and

(B) modification or elimination of statutorily or judicially mandated deadlines,

that would assist the covered agency to set priorities in activities to address the risks to human health, safety, or the environment in a manner consistent with the requirements of subsection (c)(1);

(3) evaluating the categories of policy and value judgments used in risk assessment, risk characterization, or cost-benefit analysis; and

(4) discussing risk assessment research and training needs, and the agency's strategy and schedule for meeting those needs.

(f) SAVINGS PROVISION AND JUDICIAL REVIEW.—

(1) IN GENERAL.—Nothing in this section shall be construed to modify any statutory standard or requirement designed to protect human health, safety, or the environment.

(2) JUDICIAL REVIEW.—Compliance or noncompliance by an agency with the provisions of this section shall not be subject to judicial review.

(3) AGENCY ANALYSIS.—Any analysis prepared under this section shall not be subject to judicial consideration separate or apart from the requirement, rule, program, or law to which it relates. When an action for judicial review of a covered agency action is instituted, any analysis for, or relating to, the action shall constitute part of the whole record of agency action for the purpose of judicial review of the action and shall, to the extent relevant, be considered by a court in determining the legality of the covered agency action.

SEC. 7. REGULATORY ACCOUNTING.

(a) DEFINITIONS.—For purposes of this section, the following definitions apply:

(1) AGENCY.—The term "agency" means any executive department, military department, Government corporation, Government controlled corporation, or other establishment in the executive branch of the Government (including the Executive Office of the President), or any independent regulatory agency, but shall not include—

(A) the General Accounting Office;

(B) the Federal Election Commission;

(C) the governments of the District of Columbia and of the territories and possessions of the United States, and their various subdivisions; or

(D) government-owned contractor-operated facilities, including laboratories engaged in national defense research and production activities.

(2) REGULATION.—The term "regulation" means an agency statement of general applicability and future effect designed to implement, interpret, or prescribe law or policy or describing the procedures or practice requirements of an agency. The term shall not include—

(A) administrative actions governed by sections 556 and 557 of title 5, United States Code;

(B) regulations issued with respect to a military or foreign affairs function of the United States; or

(C) regulations related to agency organization, management, or personnel.

(b) ACCOUNTING STATEMENT.—

(1) IN GENERAL.—(A) The President shall be responsible for implementing and administering the requirements of this section.

(B) Every 2 years, no later than June of the second year, the President shall prepare and submit to Congress an accounting statement that estimates the annual costs of Federal regulatory programs and corresponding benefits in accordance with this subsection.

(2) YEARS COVERED BY ACCOUNTING STATEMENT.—Each accounting statement shall cover, at a minimum, the 5 fiscal years beginning on October 1 of the year in which the report is submitted and may cover any fiscal year preceding such fiscal years for purpose of revising previous estimates.

(3) TIMING AND PROCEDURES.—(A) The President shall provide notice and opportunity for comment for each accounting statement. The President may delegate to an agency the requirement to provide notice and opportunity to comment for the portion of the accounting statement relating to that agency.

(B) The President shall propose the first accounting statement under this subsection no later than 2 years after the effective date of this Act and shall issue the first accounting statement in final form no later than 3 years after such effective date. Such statement shall cover, at a minimum, each of the fiscal years beginning after the effective date of this Act.

(4) CONTENT OF ACCOUNTING STATEMENT.—(A) Each accounting statement shall contain estimates of costs and benefits with respect to each fiscal year covered by the statement in accordance with this paragraph. For each such fiscal year for which estimates were made in a previous accounting statement, the statement shall revise those estimates and state the reasons for the revisions.

(B)(i) An accounting statement shall estimate the costs of Federal regulatory programs by setting forth, for each year covered by the statement—

(I) the annual expenditure of national economic resources for each regulatory program; and

(II) such other quantitative and qualitative measures of costs as the President considers appropriate.

(ii) For purposes of the estimate of costs in the accounting statement, national economic resources shall include, and shall be listed under, at least the following categories:

(I) Private sector costs.

(II) Federal sector costs.

(III) State and local government costs.

(C) An accounting statement shall estimate the benefits of Federal regulatory programs by setting forth, for each year covered by the statement, such quantitative and qualitative measures of benefits as the President considers appropriate. Any estimates of benefits concerning reduction in human health, safety, or environmental risks shall present the most plausible level of risk practical, along with a statement of the reasonable degree of scientific certainty.

(c) ASSOCIATED REPORT TO CONGRESS.—

(1) IN GENERAL.—At the same time as the President submits an accounting statement under subsection (b), the President, acting through the Director of the Office of Management and Budget, shall submit to Congress a report associated with the accounting statement (hereinafter referred to as an "associated report"). The associated report shall contain, in accordance with this subsection—

(A) analyses of impacts; and

(B) recommendations for reform.

(2) ANALYSES OF IMPACTS.—The President shall include in the associated report the following:

(A) The cumulative impact on the economy of Federal regulatory programs covered in the accounting statement. Factors to be considered in such report shall include impacts on the following:

(i) The ability of State and local governments to provide essential services, including police, fire protection, and education.

(ii) Small business.

(iii) Productivity.

(iv) Wages.

(v) Economic growth.

(vi) Technological innovation.

(vii) Consumer prices for goods and services.

(viii) Such other factors considered appropriate by the President.

(B) A summary of any independent analyses of impacts prepared by persons commenting during the comment period on the accounting statement.

(3) RECOMMENDATIONS FOR REFORM.—The President shall include in the associated report the following:

(A) A summary of recommendations of the President for reform or elimination of any Federal regulatory program or program element that does not represent sound use of national economic resources or otherwise is inefficient.

(B) A summary of any recommendations for such reform or elimination of Federal regulatory programs or program elements prepared by persons commenting during the comment period on the accounting statement.

(d) GUIDANCE FROM OFFICE OF MANAGEMENT AND BUDGET.—The Director of the Office of Management and Budget shall, in consultation with the Council of Economic Advisers and the agencies, develop guidance for the agencies—

(1) to standardize measures of costs and benefits in accounting statements prepared pursuant to this section and section 3 of this Act, including—

(A) detailed guidance on estimating the costs and benefits of major rules; and

(B) general guidance on estimating the costs and benefits of all other rules that do not meet the thresholds for major rules; and

(2) to standardize the format of the accounting statements.

(e) RECOMMENDATIONS FROM CONGRESSIONAL BUDGET OFFICE.—After each accounting statement and associated report submitted to Congress, the Director of the Congressional Budget Office shall make recommendations to the President—

(1) for improving accounting statements prepared pursuant to this section, including recommendations on level of detail and accuracy; and

(2) for improving associated reports prepared pursuant to this section, including recommendations on the quality of analysis.

(f) JUDICIAL REVIEW.—No requirements under this section shall be subject to judicial review in any manner.

SEC. 8. EFFECTIVE DATE.

Except as otherwise provided in this Act, this Act shall take effect 180 days after the date of the enactment of this Act.

REGULATORY REFORM ALTERNATIVE AND COMPARISONS WITH DOLE/JOHNSTON

Our principles for regulatory reform are the following:

(1) Cost-benefit and risk assessment requirements should apply to only major rules, which has been set at $100 million for executive branch review since President Reagan's time.

Our bill applies to rules that have an impact on the economy of $100 million or more.

The Dole/Johnston draft applies to rules that have an impact on the economy of $50 million or more.

(2) Regulatory reform should not become a lawyer's dream, opening up a multitude of new avenues for judicial review.

Our bill limits judicial review to determinations of: (1) whether a rule is major; and (2) whether a final rule is arbitrary or capricious, taking into consideration the whole rulemaking file. Specific procedural requirements for cost-benefit analysis and risk assessment are not subject to judicial review except as part of the whole rulemaking file.

The Dole/Johnston draft will lead to a litigation explosion that will swamp the courts and bog down agencies. It would allow review of steps in risk assessment and cost-benefit analysis, in addition to the determination of a major rule and of agency decisions to grant or deny petitions. It alters APA standards in ways that undermine legal precedent and invite lawsuits. And it seeks to limit agency discretion in ways that will lead inevitably to challenges in court.

(3) Regulatory reform should not be a "fix" for special interests.

Our bill focuses on the fundamentals of regulatory reform and contains no special interest provisions.

The Dole/Johnston draft provides relief to specific business interests, e.g., by restricting the Toxics Release Inventory, limiting the Delaney Clause, and delaying and increasing costs of Superfund cleanups.

(4) Regulatory reform should make Federal agencies more efficient and effective, not tie up agency resources with additional bureaucratic processes.

Our bill requires cost-benefit analysis and risk assessment for major rules, and requires agencies to review all their major rules by a time certain.

The Dole/Johnston draft covers a much broader scope of rules and has several convoluted petition processes for "interested parties" (e.g., to amend or rescind a major rule, and to review policies or guidance). These petitions are judicially reviewable and must be granted or denied by an agency within a specified time frame. The petitions will eat up agency resources and allow the petitioners, not the agencies, to set agency priorities.

(5) Regulatory reform legislation should improve analysis, but not override health, safety or environmental protections.

Our bill requires agencies to explain whether benefits justify costs and whether the rule will be more cost-effective than alternatives. It does not allow cost-benefit determinations to control agency decisions or to override existing protections of health, safety or environmental laws.

The Dole/Johnston draft has three separate decisional criteria that control agency decisions, regardless of the underlying statutes.

These overriding provisions are created for major rule cost-benefit determinations, for environmental cleanups, and for regulatory flexibility analyses. The reg flex override actually conflicts with the cost-benefit decisional criteria. And the cost-benefit test limits agencies to the cheapest rule, not the most cost-effective one.

(6) There should be "sunshine" in the regulatory review process.

Our bill ensures that agencies and OMB publicly disclose the status of regulatory review, related decisions and documents, and communications from persons outside of the government.

The Dole/Johnston draft has no "sunshine" provisions to protect against regulatory review delay, unsubstantiated review decisions or undisclosed special interest lobbying and political deals.

The text of this bill is almost identical to S. 291, the "Regulatory Reform Act of 1995," which was reported unanimously from the Senate Committee on Governmental Affairs. Like S. 291, this bill:

(1) Covers all "major" rules with a cost impact of $100 million.

(2) Requires cost-benefit analysis for all major rules.

(3) Requires risk assessment for all major rules related to environment, health, or safety.

(4) Requires peer review of cost-benefit analyses and risk assessments.

(5) Limits judicial review to the determination of "major" rules and to the final rulemaking file.

(6) Requires agencies to review existing rules every ten years, with a presidential extension of up to five years.

(7) Provides judicial review of Regulatory Flexibility Act decisions, allowing one year for small entities to petition for review of agency compliance with the Reg Flex Act.

(8) Requires public disclosure of regulatory analysis and review documents to ensure "sunshine" in the regulatory review process.

(9) Provides legislative "veto" of major rules to provide an expedited procedure for Congress to review rules.

(10) Requires risk-based priority setting for the most serious risks to health, safety, and the environment.

(11) Requires regulatory accounting every two years on the cumulative costs and benefits of agency regulations.

This bill only differs from S. 291 on three points:

(1) It does not have an arbitrary sunset for existing rules that agency fail to be reviewed. Rather, it has an action-forcing mechanism that uses the rulemaking process.

(2) It does not include any narrative definitions for "major" rule (e.g., "adverse effects on wages").

(3) It incorporates technical changes to risk assessment to track more closely recommendations of the National Academy of Sciences and to cover specific programs and agencies, not just agencies.

LIFTING THE YACHTS, SWAMPING THE ROWBOATS

Mr. DASCHLE. Mr. President, if you look past the headlines and the hype connected to the conference agreement on the budget resolution, I think the American people can get a pretty good sense of who's looking out for whom in the Republican budget.

Republican budget writers talked about putting tax money back into the hands of wage earners. Republican budget writers talked about their big tax cuts to fuel the Nation's economic engine.

But the only engine this budget primes is the full-throttle expansion of incomes for the wealthiest Americans. The Republican budget does nothing to address the fact that middle-income families have been stuck in neutral for the past 20 years, while many low-income Americans are sliding into reverse.

Republican budget priorities will only serve to drive deeper and wider the wedge between Americans at either end of the earnings scale.

This country always had, and always will have, the rich, the poor, and the middle class. Like never before, however, these economic groups are pulling away from each other, and it's tearing at the social fabric of our Nation.

Every year, families in the top 5 percent in terms of income now make, on average, the rough equivalent of what 16 low-wage families combined struggle to earn in a year. In the past two decades, America's top earners enjoyed an average 25-percent increase in cash income. Down at the bottom, the lowest wage workers actually felt a 7-percent drop in pay over the same period.

According to a survey published last Sunday in the Washington Post, no other industrialized nation on Earth has a greater income gap between top and bottom than the United States. And in between, the middle class grows larger in number, but their paychecks are stuck in a rut. Hourly wages of workers with average skills are sliding. The absolute incomes of low- and middle-income Americans are actually below those of people in other industrialized countries that are poorer than the United States.

That, Mr. President, is unacceptable. This country was built on the promise of hope that people can, indeed, come up from nothing. That you can work hard from the bottom and eventually reach the top. That you can build a better future for your family through your own honest efforts.

That promise is becoming a lie to an ever-increasing number of Americans. The road to prosperity now crosses a bridge that spans further than many Americans can see.

Mr. President, Democrats believe in prosperity. We believe in economic progress. We want to help American workers earn more. We want more Americans to be wealthy. We would like more low-wage workers to join the ranks of the middle-class. We would like more middle class workers to join the ranks of the rich.

But it seems to me that the Republican budget aspires to no such progress.

It seems to me that the Republican budget will punish those Americans now mired in this stagnant status quo, and provide a kind of winner's bonus to those traveling on the fast track.

While we don't know yet exactly who will get their hands on this $245 billion tax cut, we do know that the House bill gave over half the tax cuts to the 2.8 percent of families making more than $100,000. It is safe bet to assume that the wealthiest 1 percent will get at least a $20,000 tax cut. That little bonus alone is more than twice the annual income earned by families at the bottom of the scale.

And what do we offer to those families who are struggling to move up? Education cuts that hit 65 million children. Student loans that cost $3,000 more per student; $100 billion in so-called welfare reforms, and cuts in the earned income tax credit. And I will not even begin to talk about the harm that will be felt by their plan for Medicare and Medicaid.

It is painfully clear where the priorities lie in the Republican budget. And its not just Democrats who have figured it out. According to Stanford economist Paul Krugman: "Quite obviously these programs would make unequal incomes even more unequal, particularly at the extremes—the very rich and the very poor." Frank Levy, an economist at MIT says:

> We're going through a period in which trade and technology are like an economic natural disaster for the half of the working population that does not have a college degree . . . the last thing you would want to do right now is to have Government make a bad situation worse by extending tax breaks to the rich.

Democrats and Republicans agree on producing a budget that comes into balance within a decade. But Democrats refuse to forget the working Americans who must struggle to live their lives, pay their mortgages, educate their children, and provide for their families over that same decade. These are the families Democrats will neither abandon nor betray in the face of this $245 billion gold rush within the just-passed Republican budget.

Finally, Mr. President, I commend to my colleagues' attention an op-ed printed in last Sunday's Washington Post, "America's Tide: Lifting the Yachts, Swapping the Rowboats," by Gary Burtless and Timothy Smeeding. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, June 25, 1995]

AMERICA'S TIDE: LIFTING THE YACHTS, SWAMPING THE ROWBOATS

(By Gary Burtless and Timothy Smeeding)

During the early postwar era, most American families could expect to see their incomes grow from one year to the next. During both the 1950s and 1960s, median family income adjusted for inflation rose about a third. With incomes growing this fast, few people (and even fewer politicians) bothered to inquire very closely into the distribution of income. A rising tide lifted all boats, the rowboats as well as the yachts.

But since the early 1970s, the nation's experience has been much more discouraging. In the past 20 years, incomes have not grown at all, and for families near the bottom of the distribution, incomes have done even worse—they have shrunk.

Instead of routinely hearing news about growing incomes, Americans now read dismal reports of swelling poverty rolls, rising inequality and shrinking wages. It would be wrong to conclude from these reports that the United States has not enjoyed prosperity since 1973. On the contrary, the nation added more than 40 million jobs and enjoyed three of its longest postwar expansions.

But American prosperity is extremely uneven. Families and workers at the top of the economic ladder have enjoyed rising incomes. Families in the middle have seen their incomes stagnate or slip. Young families and workers at the bottom have suffered the equivalent of a Great Depression. Though the nation is in the midst of a robust expansion, recent census statistics offer no hint that the trend toward wider inequality has slowed. Poverty rates continue to rise, especially among children and young adults. Hourly wages of workers with average or below-average skills continue to slide. At the same time, the percentage of U.S. income received by the top 5 percent of households continues to climb, reaching new postwar highs almost every year.

Although the United States continues to have a large middle class, the disparity between those at the top of the income scale and those at the bottom has widened significantly. Measured in constant 1990 dollars, a family in the bottom one-fifth of the U.S. income distribution received about $10,400 in gross cash income in 1973. In the same year, a family in the top one-fifth received about $77,500, or roughly 7½ times the average gross income of those at the bottom.

By 1992, average gross income in the bottom fifth of the distribution had shrunk almost 7 percent, falling to just $9,700. Average gross income in the top fifth of the distribution had climbed to $98,800, a gain of more than 25 percent. The average income of a family in the top fifth of the distribution now amounts to more than 10 times that of those at the bottom of the distribution.

Gains among the very wealthy have been even more impressive. Those in the top 5 percent of the distribution saw their incomes climb nearly a third in the past two decades so that the average family in the top bracket takes in the equivalent of what 16 families in the bottom bracket earn. The rising tide is now lifting the yachts, but swamping the rowboats.

Not only have U.S. income disparities soared since the early 1970s, the gap between rich and poor has grown much faster than it has elsewhere in the industrialized world. When the recent inequality trend began, the United States already experienced wider income disparities than other countries with similar standards of living.

Income disparities can be measured in a variety of ways. The accompanying table contains information about the distribution of income in 13 rich industrialized countries. The statistics were compiled by the Luxembourg Income Study and are based on household surveys conducted in the mid-1980s. They reflect personal incomes adjusted for differences in family size. Each country on the list is ranked according to its median after-tax income, measured in U.S. dollars using purchasing-power-parity, a calculation used by economists to compare one nation's real income to another's in a way that adjusts for differences in the capacity to consume goods and services in each country.

Not surprisingly, the United States ranks near the top of industrialized countries in median income. With the exception of a few tax havens, we are still the richest nation on earth. But this method of analyzing income does not attempt to define or talk about the size of the middle class; rather it is a means of evaluating the disparity between rich and poor. And by that measure, we are the most unequal rich nation on earth.

Many people become uneasy when the gap between rich and poor grows too wide. No social scientist or philosopher can tell us when this threshold has been passed. But most of us sense that when the gulf separating rich, middle class and poor grows too large, the social fabric is at risk. Low-income citizens, and those whose incomes used to be closer to the middle but have fallen, may begin to feel a weaker bond with the rest of society and see less reason to respect its rules and institutions.

In recent years, opinion leaders have been increasingly willing to lift their voices in defense of inequality and even to suggest that widening income gaps play a useful social function. The New York Times, in a recent front-page story, described the United States as "the most economically stratified of industrial nations." Shortly after the story appeared, it was attacked in three separate Washington Post columns—by George Will, James K. Glassman and Robert J. Samuelson. Each critic mentioned different shortcomings of the story, but all agreed that the United States is doing a lot better than its lowly rank in the inequality sweepstakes might suggest.

Glassman argued, for example, that U.S. incomes are extremely mobile. Americans who are comfortably well off for one or two years often find themselves in tough circumstances a few years later. The starting pitcher who earned $2 million three years ago can find himself throwing in the minor leagues. Similarly, Americans currently stuck on the bottom can climb their way up the income scale through luck and hard work. The office messenger can hope for promotion to CEO.

Though valid, the argument of higher social mobility does not go far toward explaining the widening gap between rich and poor or why the U.S. disparity is so much higher than in other wealthy countries. Growing inequality might not represent a social problem if the increase in inequality in a single year were matched by a similar increase in income mobility from one year to the next. The problem is, there has been no increase in income mobility to offset the sharp rise of inequality.

The chance of receiving a large one-year increase in income has never been very high. More to the point, the chance of enjoying a big increase has not grown noticeably in the past few decades. Americans with annual incomes that place them in the bottom quarter of the income distribution have an 80 percent chance of remaining there for at least two years in a row. Although studies over a longer period of time are less conclusive, some research indicates that the probability of moving out of the poorest class has hardly budged since the 1970s.

It might also be the case that Americans enjoy greater class and income mobility than Europeans. U.S. incomes may be more unequal at a given point in time, but, according to this theory, Americans enjoy better opportunities for advancement than residents of other countries. This is an inspiring story, and one that is cherished by many Americans, especially by conservatives. The problem with the theory is that there is no evidence to suggest it is true.

Studies of income mobility suggest that the United States ranks about in the middle of industrialized countries. To analyze mobility, a team of economic researchers tracked the same set of individuals over long periods of time in both the United States and Germany. Their findings showed that the level of inequality within each country actually declined, but that the gap between the two countries grew, with the United States showing wider disparities.

A more fundamental criticism of the Times story, suggested by both Will and Samuelson, goes as follows: Although income disparities are larger in the United States than elsewhere, other societies pay too heavy a price to achieve equality. Will concludes that ". . . increasingly unequal social rewards can conduce to a more truly egalitarian society, one that offers upward mobility to all who accept its rewarding disciplines." Samuelson argues, "What determines the well-being of most people is the increase of national income and wealth, not their distribution." Other countries' attempts to equalize incomes have led to higher joblessness and less entrepreneurial activity than we see in the United States, and hence to slower growth abroad. The United States accepts greater inequality, but is rewarded by higher income and faster growth.

Affluent readers may draw comfort from this reasoning. Americans further down the economic scale might find the logic less appealing. The size and growth of national income undoubtedly helps to determine whether individual citizens can enjoy a comfortable standard of living. Each citizen's living standard also depends, however, on the percentage of national income that he or she is permitted to share. If a pie is to be divided among 10 people, the person receiving the smallest slice may prefer to share a small pie that is divided in roughly equal slices rather than a larger pie that is divided very evenly. A little arithmetic will show that it is better to receive 10 percent of a small pie than 2 percent of a pie that is twice as large.

Stacked against other industrial countries, the after-tax incomes of those people at the lowest 10th percentile of Americans tumbles toward the bottom (see chart). Low-income Finns, for example, receive after-tax incomes that exceed those of low-income Americans by 27 percent. Poor Americans are poor not only by the standards of middle-class Americans, but also in relation to low-income people in most other industrialized countries.

Samuelson and Will may be right that wide income disparities in the United States offer a powerful inducement for Americans to work, save and invest (though it is difficult to find evidence for this in U.S. saving or investment rates, which tend to languish near the bottom of the industrialized world). They may also be correct in believing large and rising disparities contribute to U.S. economic growth, though evidence for this is also weak. Recent studies on the relationship between inequality and growth in fact suggest that advanced countries with more equal distributions grow faster than countries that are less equal. Whatever the advantages of faster growth, they are purely theoretical for many low-income Americans. These Americans have not shared the general prosperity. Their after-tax incomes have slipped even though national output has increased.

Even more depressing is the fact that the absolute incomes of low- and even middle-income Americans are below those of residents in industrialized countries that are poorer than the United States. A comparison of Canada and the United States, based on 1991 income statistics, is particularly striking. In 1991, gross domestic product per person was 13 percent lower in Canada than in the United States. Because the Canadian income distribution is more equal than our own, however, Canadians in the bottom 55 percent of the distribution enjoyed higher after-tax incomes than they would have received in the United States at a comparable position in our income distribution. Of course, Americans in the top 45 percent of the U.S. income distribution received higher incomes than their Canadian counterparts. But for a majority of poorer and middle-class Canadians, the higher average income of the United States has little practical significance. These Canadians enjoy more comfortable incomes in Canada than they would be likely to receive in the United States.

The United States enjoys a high rank in one international contest, however. Americans near the top of our income distribution tend to receive much larger incomes than people with a similar position in other industrialized countries.

It is probably safe to assume that Will, Glassman and Samuelson are closer to the upper tier than the bottom tier of the income distribution. From their perch, U.S. economic performance undoubtedly looks quite satisfying. People further down the economic scale can be forgiven, however, if they doubt their economic good fortune as Americans. If wide income disparities have big advantages for the U.S. economy, low-income Americans are right to think the advantages should eventually show up in a tangible way—in larger paychecks and higher incomes. Whatever the virtues of our economic system, one conclusion is certain: Our fatter paychecks have not gone to the poor.

A TRIBUTE TO SHERMAN J. LINDHARDT ON THE OCCASION OF HIS RETIREMENT

Mr. BENNETT. Mr. President, I rise today to pay tribute to a fellow Utahn, Mr. Sherman J. Lindhardt, who retires today, culminating a distinguished career in public education. For the past 34 years, Sherm Lindhardt has served our youth as a high school history teacher and administrator. For all but 2 of those years, he taught and administered in the Utah public school system.

While this day marks the end of his chosen profession, it should be noted that his influence will continue to be felt far beyond the close of a successful teaching career. Many students, now numbered among the upstanding adult members of our communities, looked to Sherm Lindhardt as a role model of successful living. The father of seven children, Mr. Lindhardt participated as a member of the Smithfield city planning and zoning commission, and continues to serve his local congregation as an ecclesiastical leader of the Church of Jesus Christ of Latter-day Saints. In addition to his education career, Sherm Lindhardt served in our Nation's Armed Forces, attaining the rank of captain in the U.S. Army.

Again, Mr. President, I would like to pay tribute to Sherman J. Lindhardt for his dedication in teaching our youth. The success of his efforts are clearly evident as we enjoy the benefits of a new generation of community leaders and upstanding citizens. While this day marks the setting of the Sun on a fine career, I am sure that it also marks the beginning of many continued years of service and honorable pursuits by Sherm Lindhardt. In those pursuits I wish him the very best.

WHERE'S WELFARE?

Mr. DASCHLE. Mr. President, as we all know, welfare reform has been one of the most hotly debated issues of this Congress. Two and a half years ago President Clinton promised to end welfare as we know it, and the public has reinforced that message by telling us unequivocally that they want to see this done.

The ball lies in Congress' court, and we have a clear task in front of us. The House has set the stage by passing the Personal Responsibility Act almost 3 months ago. In fact, the House felt this issue was so pressing that they included welfare reform as one of their 10 highest priorities in the Contract With America.

While many of us may disagree with the substantive course the House chose to take, they were clearly responding to a mandate from the public to address this issue in some way.

It is now the Senate's turn. The Finance Committee has completed action on a bill that has been reported to the full Senate, and I think I speak for all Senators on my side of the aisle when I say that we are ready for floor consideration of this legislation.

Mr. President, we had been led to believe that welfare reform might be on the floor as early as the 12th of June. And then we were told by the majority leader that welfare reform would be considered immediately upon completion of action on the telecommunications bill.

That bill was wrapped up last Thursday. It is now the 22d of June, and we are hearing rumors that welfare reform may not be considered in June at all, and may not be considered this summer at all. It may be considered in July—but, then again, we're told by some in the Republican leadership that we may not get to welfare until September.

Mr. President, the notion that the Senate may put off consideration of welfare reform until September is unacceptable.

We are ready. We are ready now.

President Clinton challenged us to have a bill on his desk by July 4, not because of politics, but because it is important for the Nation that we fix a welfare system that is not working—not working for those on it, and not working for those who are footing the bill.

The public has told us that they view the welfare crisis as one of the most pressing problems facing our Nation today. The public is clearly ready for us to address this issue. And Democrats are ready to address it.

The question is, Are Republicans ready?

More to the point: Are Republicans serious about addressing this issue? Are they serious about reform, or just serious about rhetoric?

The Finance Committee reported a welfare bill on June 9. It is now June 22, and I understand my colleagues on the other side of the aisle are divided on how to proceed. They are divided on a number of provisions, either included in, or excluded from, that bill.

Mr. President, I understand division. And I, too, have concerns about the Finance Committee bill. But the proper forum to address these concerns is on the Senate floor.

Bring the bill to the floor and let those who want to offer amendments to modify current provisions do so. Let those who want to add provisions through the amendment process do so.

That is the legislative process.

What concerns me and many on my side of the aisle is that the welfare bill will be delayed until July as Republican Senators meet behind closed doors to try and work out problems.

Then, in July, those doors will still be closed as secret discussions continue. Before we know it, it will be September.

Yes, there are problems with the Finance Committee bill. But let us air those problems on the floor and address them through the open legislative process.

As for the Finance Committee bill, I too, am troubled by many aspects of that legislation.

First, the Finance Committee bill does not solve the problems with our welfare system. It merely boxes up that system and ships it to the States. That is not reform.

Second, the Republicans have said that they want to put welfare recipients to work. But, although the Finance Committee bill requires increased numbers of people to be participating in programs intended to move them toward work, it provides no resources to meet these participation requirements.

The Congressional Budget Office has said that 44 States will be unable to meet the participation requirements in the Finance Committee bill. The U.S. Conference of Mayors has said that this is the mother of all unfunded mandates.

What is clear is that Finance Committee bill is not reform. And it is not about work. In fact, if it is about anything, it is about shipping the welfare problem to the States and—ironically enough—passing the largest unfunded mandate in history.

In essence, the Finance Committee bill represents the kind of typical two-step about which the public is most cynical: It says one thing and means another. It sounds, but is actually disastrous. The Finance Committee bill is about rhetoric, not reform.

It will reap exactly the kind of results the unfunded mandates bill was meant to prevent, and having it come so quickly upon the heels of he unfunded mandates legislation represents hypocrisy at its worst.

It is ironic that most Members put their serious face on when they say that they do not want to hurt children. Mr. President, I want to believe them. But again, it is the difference between rhetoric and reality.

The reality of the Finance Committee bill is that some 4 million children will be cut off from assistance. Some 4 million children could be put out on the street.

Children should not pay for the mistakes or misfortune of their parents.

That is not fair. That is draconian. That is mean.

And that is plain old un-American.

It is one thing to require that able-bodied people go to work. That was the original intent of welfare: To provide out-of-luck families with a helping hand to get back on their feet. I believe most Americans support that kind of a safety net today.

But the Finance Committee plan cuts kids off welfare while doing nothing to help their parents find work. That is wrong; it is unfair; it is shortsighted.

This leads to yet another problem I see with the Finance Committee bill. Anyone who has kids knows that one of the real linchpins between welfare and work is child care. It is impossible to work unless you have some means of caring for your children—it as simple as that.

Nevertheless, the Finance Committee bill fails to address the child care issue in any serious way. It mandates child care for welfare recipients who are working only until the child is 6 years old.

What happens to a 7-year-old? Or an 8-year-old? Or any child that should not be left alone?

Beyond that, the bill does not increase funds for child care, so that as the participation requirements increase—requiring a greater population of welfare mothers to participate in the JOBS Program—there is no corresponding increase in funds for child care.

If we are to increase the mandate for adults to work, but not provide for a corresponding increase in child care funds to enable parents to work, then we are not really expecting parents to work.

Or we are expecting the States to pick up the tab—a sort of unwritten unfunded mandate.

Or we are suggesting that young children can be left alone.

None of these alternatives are acceptable.

So the Finance Committee needs a lot of work. But Democrats are ready to do the work, and the Finance Committee bill does provide us with a mechanism for bringing welfare to the floor of the Senate for debate.

If Republicans have problems with their own bill, they should offer amendments to improve it. That is what Democrats intend to do.

In fact, we will offer an alternative plan that is truly about work.

And so today I urge the majority leader to bring the welfare bill to the floor.

It is time the Senate fulfills its obligation to give the American people what they want and deserve: True welfare reform that will move people off welfare and into work, not by punishing children, but by providing people access to the real means to become self-sufficient.

WAS CONGRESS IRRESPONSIBLE? THE VOTERS HAVE SAID YES

Mr. HELMS. Mr. President, as of the close of business yesterday, Thursday, June 29, the Federal debt stood at $4,898,835,701,662.79. On a per capita basis, every man, woman, and child in America owes $18,596.06 as his or her share of that debt.

REGULATORY REFORM ACT

Mr. PRESSLER. Mr. President, during consideration of S. 343, the Regulatory Reform Act, I intended to offer an amendment to waive administrative and civil penalties for local governments when Federal water pollution control compliance plans are in effect.

I believe this amendment is a simple issue of fairness to local governments and I urge my colleagues to join me in supporting this amendment. I ask unanimous consent that the text of my amendment and the text of my "Dear Colleague" letter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AMENDMENT No. —

At the appropriate place, insert the following:

SEC. . WAIVER OF PENALTIES WHEN FEDERAL WATER POLLUTION CONTROL ACT COMPLIANCE PLANS ARE IN EFFECT.

Section 309 of the Federal Water Pollution Control Act (33 U.S.C. 1319) is amended by adding at the end the following:

"(h) WAIVER OF PENALTIES WHEN COMPLIANCE PLANS ARE IN EFFECT.—

"(1) IN GENERAL.—Except as provided in paragraph (2), notwithstanding any other provision of this Act, no civil or administrative penalty may be imposed under this Act against a unit of local government for a violation of a provision of this Act (including a violation of a condition of a permit issued under this Act)—

"(A) if the unit of local government has entered into an agreement with the Administrator (or the Secretary of the Army, in the case of a violation of section 404) to carry out a compliance plan with respect to a prior violation of the provision by the unit of local government; and

"(B) during the period—

"(i) beginning on the date on which the unit of local government and the Administrator (or the Secretary of the Army, in the case of a violation of section 404) enter into the agreement; and

"(ii) ending on the date on which the unit of local government is required to be in compliance with the provision under the plan.

"(2) REQUIREMENT OF GOOD FAITH.—Paragraph (1) shall not apply during any period in which the Administrator (or the Secretary of the Army, in the case of a violation of section 404) determines that the unit of local government is not carrying out the compliance plan in good faith.

"(3) OTHER ENFORCEMENT.—A waiver of penalties provided under paragraph (1) shall not apply with respect to a violation of any provision of this Act other than the provision that is the subject of the agreement described in paragraph (1)(A).".

U.S. SENATE,
Washington, DC, June 27, 1995.

DEAR COLLEAGUE: When the Senate begins consideration of S. 343, the Regulatory Reform Bill, I intend to offer an amendment to lift the unfair burden of excessive civil penalties from the backs of local governments that are working in good faith with the Clean Water Act.

Under current law, civil penalties begin to accumulate the moment a local government violates the Clean Water Act. Once this happens, the law requires that the local government present a Municipal Compliance plan for approval by the Administrator of the Environmental Protection Agency (EPA), or the Secretary of the Army in cases of Section 404 violations. However, even after a compliance plan has been approved, penalties continue to accumulate. In effect, existing law actually punishes local governments while they are trying to comply with the law.

Under my amendment, local governments would stop accumulating civil and administrative penalties once a Municipal Compliance Plan has been negotiated and the locality is acting in good faith to carry out the plan. Further, my amendment would act as an incentive to encourage governments to move quickly to achieve compliance with the Clean Water Act.

This amendment is a simple issue of fairness. Local governments must operate with a limited pool of resources. Localities should not have to devote their tax revenue to penalties, while having to comply with the law. Rather, by discontinuing burdensome penalties, local governments can better concentrate their resources to met the intent of the law in protecting our water resources from pollution.

I hope you will join me in supporting this commonsense amendment for our towns and cities. If you have any questions or wish to cosponsor this amendment, please feel free to have a member of your staff contact Quinn Mast of my staff at 4-5842.

Sincerely,

LARRY PRESSLER,
U.S. Senator.

Mr. PRYOR. Mr. President, I see no other Senator seeking recognition. I yield the floor, and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE RESCISSIONS BILL

Mr. DOLE. Mr. President, I understand we have morning business until 10:30, at which time I will ask consent that we turn to H.R. 1944, the rescissions bill, and that no amendments be in order; there be 10 minutes for debate to be equally divided in the usual form; and that following the conclusion or yielding back of time, the bill be advanced to third reading and passed and the motion to reconsider be laid upon the table.

I will make that request at 10:30. I hope we can have the cooperation of our colleagues. This is something the White House wants. We have a statement from the administration. This contains the money for the Oklahoma City disaster. It contains money for the earthquakes in California. And if my colleagues on the other side do not want to pass it, that is up to them.

We have had a lot of negotiation on the rescissions package. The President vetoed it, and we went back and tried to accommodate some of the President's concerns. Now I am advised at this last moment there may be some other political efforts made to delay the bill or frustrate the will of the majority.

I hope that at 10:30 sharp we can take up the bill under the previous considerations.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Minnesota.

Mr. WELLSTONE. Mr. President, I know we are waiting until the hour of 10:30, but just for the public record, I now have a copy of this bill. This is the first time I have seen this bill.

I voted for the $16 billion in cuts when it was on the Senate side, but I want to make it crystal clear that there have now been additional cuts, for example, in low-income energy assistance. I am from a cold weather State. I want to talk about that program. I represent people in my State. Just because people are low income does not mean they do not have representation.

Just now I received a copy of this bill. There was a program that we had that was an important program—the majority leader actually helped me on this before—which provided counseling to elderly people so they do not get ripped off on some of the supplemental health care coverage to Medicare. That came out in the conference committee.

So, Mr. President, there is also a range of important programs here for dislocated people, workers with summer youth employment. I just received this bill—just received it. I have not even had a chance to look at it. I certainly would oppose any kind of a unanimous-consent agreement that said we would have a vote at a time certain.

I want to have an opportunity to offer amendments. I want to have an opportunity to talk about this. We are talking about people's lives, and there are some serious cuts in here that affect some of the most vulnerable citizens.

I would start, coming from a cold weather State, talking about the Low-Income Home Energy Assistance Program, many of whom are elderly, many of whom are disabled—we are a cold weather State—many of whom depend upon this grant. This was eliminated on the House side. We restored the funding on the Senate side, and now there have been additional cuts of over $300 million in this program—$330 million in cuts in energy assistance for some of the most vulnerable citizens.

So I think we need to have an opportunity to offer amendments, an opportunity to debate and certainly an opportunity to even go through this bill. I was not elected from Minnesota to come here and just have things rammed through. This is the first time I have had a copy of this bill—the first time. Significant changes have been made. I am a legislator. We should have an opportunity to evaluate this, and we should have a debate on what is in this.

Mr. DOLE. Mr. President, I understand the Low-Income Home Energy Assistance Program is the same as in the vetoed bill. There has not been any change in that. I do not know where the $400 million figure came from.

I want to include in the RECORD at this point a statement of administration policy, this is the Clinton administration policy, that supports H.R. 1944 as it passed the House:

> H.R. 1944 provides an important balance between deficit reduction and providing funds to meet emergency needs. This legislation provides essential funding for FEMA Disaster Relief, for the Federal response to the bombing in Oklahoma City, for increased anti-terrorism efforts, and for providing debt relief to Jordan in order to contribute to further progress toward a Middle East peace settlement. H.R. 1944 reduces Federal spending by $9 billion.

I think the administration statement is in accord with the thinking of most individuals.

This matter did pass the House last night. As I understand it, there has been change in the Low Income Home Energy Assistance Program since the bill passed the Senate.

Mr. WELLSTONE. Actually it is true. The bill the President vetoed is the same. Many of us voted against that. What we passed out of the Senate restored the $1.3 billion for low-income energy assistance. Now we have gone back to over $300 million of cuts. That is a very serious issue for people in my State. I just received a copy of this. Let us take some time and evaluate what is in this rescissions bill.

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. GRAMS). Without objection, it is so ordered.

Mr. DOLE. Mr. President, I have been discussing H.R. 1944 with the Democratic leader, Senator DASCHLE. I understand now I have consent to turn to the consideration of H.R. 1944.

Mr. DASCHLE. That is correct.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

EMERGENCY SUPPLEMENTAL APPROPRIATIONS FOR ADDITIONAL DISASTER ASSISTANCE, FOR ANTITERRORISM INITIATIVES, FOR ASSISTANCE IN THE RECOVERY FROM THE TRAGEDY THAT OCCURRED AT OKLAHOMA CITY, AND RESCISSIONS ACT, 1995

Mr. DOLE. Mr. President, I ask unanimous consent that we turn to consideration of H.R. 1944.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senate will proceed to the consideration of H.R. 1944, which the clerk will report.

The legislative clerk read as follows:

> A bill (H.R. 1944) making emergency supplemental appropriations for additional disaster assistance, for antiterrorism initiatives, for assistance in the recovery of the tragedy that occurred in Oklahoma City, and making rescissions for the fiscal year ending September 30, 1995, and for other purposes.

The Senate proceeded to consider the bill.

Mr. DOLE. Mr. President, I also understand we will not be able to get unanimous consent that there be no amendments to the bill, so I will not make that request.

I am advised that the managers are here. We would like to proceed as quickly as possible. If there are amendments we hope the amendments will be offered with very little debate. Certainly people have a right to offer amendments. We discourage amendments.

I hope that those who want this bill passed—which will save $9.2 billion and is supported by President Clinton—will join together in defeating any amendments or tabling any amendments that may be offered.

I know there are a number of absent Senators on each side of the aisle. I must say they were never told there would be no votes today, so they left at their own risk.

In any event, I think we are prepared to proceed on the bill.

Mr. DASCHLE. Mr. President, we are prepared to proceed. While I know there are absent Senators on both sides, I think it is important we try to finish the business on this particular legislation.

The ranking member has done an outstanding job of bringing the Senate to this point, and they deserve our support for the work they have done. We hope in the not-too-distant future today we can accomplish our task and pass this legislation. I yield the floor.

Mr. HATFIELD. Mr. President, I would like the attention of the Senator from Minnesota.

Mr. President, before I engage in an opening statement, I would like to make one observation and describe a very unique situation we are in.

In this rescissions package, we have, in effect, made cuts at current 1995 appropriations counts that represents about $3 billion in outlays in the outyears.

I want to make very clear to the Senator from Minnesota and others who may be interested in this—knowing of his concern for nonmilitary discretionary programs that involve people, children, poor people, needy low-income energy assistance, other such programs—if we cannot put this bill through before we adjourn at this time, let me indicate the time program and consequences.

Anything that stalls this at this time to move on this and act upon this, puts the Senate into July 10 returning. On that date, and the day following, the Appropriations Committee will be, then, in a process of making allocations under the 602(b) of the Budget Act for 1996 accounts.

If we cannot make that $3 billion outlay action now, that means we are going to have to add that to the 1996 allocations in order to stay within the budget resolution.

What any Senator would be doing would be taking the responsibility of cutting further, deeper, into those programs he or she may be interested in, by holding up this action today, because we are not going to be able to delay the 1996 action any longer.

The House has already passed four of six out of their committee. If we cannot absorb in the 1995 period that $3 billion outlay, we will be absorbing it in the 1996. Any Senator would be compounding the very thing they are trying to defend. The Senator is creating a higher cut in 1996. We cannot escape that.

Let me say, we also lost the battle of cutting out the *Seawolf* or the B-2 bomber or something and taking that money and putting it into programs of nonmilitary. We lost that battle. We are precluded in the appropriations in our 602(b) allocations of transferring money from defense discretionary to nondefense discretionary.

Do not be misled with the idea that somehow we will face the battle on the *Seawolf* or the B-2, and we will reduce those commitments in the defense appropriation discretionary programs and be able to use them for low-income energy assistance or other welfare or people's need programs. That battle we have lost, much to my chagrin.

I want to just add a word of caution. The very things that the Senator may feel he would defend in the 1995 rescission, the Senator will compound it in 1996 by the very action of this Senate in the budget resolution and other decisions we have made. I yield the floor.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, I fully support the statement made by the chairman of the committee. If I had my way about it, I would change this conference report in a few particulars, at least. I am only one. We have been down this road, now, twice. We spent many hours, several days, on the first conference report.

Mr. President, on May 25 of this year, the Senate adopted the conference report to H.R. 1158, the FEMA supplemental appropriation and rescission bill by a vote of 61 to 38. At that time, I spoke in support of the conference agreement even though it did not contain all of the provisions that were included in the Senate bill. In particular, a number of Members on this side of the aisle felt that the conference agreement did not include a sufficient number of the programs that were funded under the Daschle-Dole joint leadership amendment.

Nevertheless, I urged the President to sign the conference report on H.R. 1158 because it was a result of long and difficult negotiations with the other body and because it contained many important items, including an appropriation of $6.7 billion for Federal Emergency Management Agency [FEMA] disaster relief effort. These funds were to be used to finance the relief costs associated with the Northridge earthquake, as well as to address declared disasters resulting from floods and storms throughout some 40 States, including the most recent, extraordinary rains and hail which occurred in Louisiana and some other States.

With regard to the administration's request for emergency supplemental appropriations in the wake of the tragedy in Oklahoma City, H.R. 1158 provided approximately $250 million for antiterrorism initiatives and Oklahoma City recovery efforts. This included substantial increases above the President's request for the FBI, the Department of Justice, the Secret Service, the Bureau of Alcohol, Tobacco and Firearms, and the Judiciary. Included in this amount is $67 million to meet the special needs of the General Services Administration created by the April 19, 1995, terrorist bombing attack at the Murrah Federal Building.

The conference report on H.R. 1158 also provided $275 million for debt relief for Jordan—to which I object; I did not support that debt relief—as proposed by the administration. These funds would allow the President to fulfill a promise to help Jordan in its historic peace agreement with Israel.

The President chose to veto H.R. 1158 against my wishes. I do not think he should have vetoed it. But he did so for a number of reasons, which he set forth in correspondence to the Congress accompanying his veto message. Since that veto, negotiations have been ongoing between the House and Senate leadership and the Appropriations Committees. And, as a result of those negotiations, last night the House passed H.R. 1944, the bill which is presently before the Senate. In addition to all of the provisions contained in the conference reports to H.R. 1158 that I previously mentioned, H.R. 1944 also contains reductions in a number of rescissions as requested by the administration, as well as an increased appropriation for replacement of the Federal building in Oklahoma City. The total of these addbacks above the amounts contained in H.R. 1158 is $772 million. In order to offset this additional spending, new or increased rescissions are contained in H.R. 1944 totaling $794 million, resulting in additional deficit reduction of $22 million more than was contained in the conference agreement accompanying H.R. 1158.

I support the passage of H.R. 1944 because it contains $6.55 billion in emergency disaster assistance for funds for victims of various disasters, including the California earthquake and flooding throughout the Nation, and, under the Byrd amendment, the bill, if enacted, would reduce the deficit by approximately $9 billion. I do not think we ought to lose sight of that. And, moreover, the 1995 rescissions which are contained in the bill, if enacted, will result in a decrease in outlays for fiscal year 1996 of approximately $3.1 billion, just as the distinguished Senator from Oregon [Mr. HATFIELD] stated a few minutes ago.

This is so because the outlays which would have occurred in 1996 from the appropriations for which funds were rescinded will no longer be required. And this will free up approximately $6 billion in budget authority and $3.1 billion in outlays for use in fiscal year 1996—this is very important, for nondefense discretionary purposes—for nondefense discretionary programs.

As Senator HATFIELD has said, the walls are going back up. When the walls of Jericho came down, they were not rebuilt so soon, and the appropriations walls are now up again. I am very opposed to these walls, walling off defense moneys from nondefense discretionary funding, because nondefense discretionary funding will continue to take the brunt of the cuts, as it has for, now, these several recent years.

I hope we will be able to pass this bill, and pass it quickly. The distinguished chairman has pointed out, when we get back we are going to be on the appropriations bills. The House is already passing them. These rescissions will then enable the Appropriations Committee to have more moneys to allocate in budget authority and in outlays for 1996. So I hope we will not cut off our nose to spite our face.

I certainly can sympathize, however, with Senators who may be displeased with the product that we have before the Senate. But we can make it worse in the long run. I think we have to accept a reality.

Mr. President, I congratulate the chairman of the committee, Senator HATFIELD, for the tireless efforts that he has put forth that resulted in the successful resolution of the differences between the President, the House, and the Senate on these difficult matters.

As I say, I know that all Senators are not satisfied with the bill. I am not satisfied with it. But it is better than we could expect otherwise if it were to be delayed or, indeed, rejected, which I do not believe it will be.

On balance, I believe it is an important appropriation and rescissions bill that deserves the support of the Senate for the reasons that I have set forth.

Mr. President, I yield the floor.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, I say to my colleagues, I know the Senator from Oregon also wishes to speak. I will be speaking from the floor with some difficulty because of an asthma condition, or allergy condition, and I apologize for the coughing.

Mr. President, I find myself in a position of being out on the floor with several Senators whom I deeply admire but with whom, at least for this moment, I am in profound disagreement.

I am extremely sympathetic to my colleagues, who are as good Senators as you could ever find, as accomplished legislators as you could ever find. But in all due respect, I did not vote for this budget resolution. I understand the pressures all too well. That is why I did not vote for the budget resolution. And I certainly am not someone who is in favor of putting walls back up between the domestic and the Pentagon spending.

There are two issues I want to raise at the beginning of this discussion. First of all, I did not object to the motion to proceed. I just simply said that, as a Senator, I now know, as I look at the report that has come back, that there have been some changes. I voted initially for this rescissions package. I am all for—and I understand the position of the President vis-a-vis assistance to California and Oklahoma—I am all for it.

But I am a legislator and this report came less than 1 hour ago. I cannot quite read—is it almost 11 now? This report came here at 9:55. This is the first time I had a chance to look at this rescissions package, at 9:55. I do not know about other Senators, but I do not even know what is in here. I know some of what is in here. I have not had a chance to examine this. This package, H.R. 1944, is some 120 pages long and we are just going to rush this through? Initially there was a proposal—some Senators were talking about voice voting it.

I said, from the time I came here, that on all appropriations matters, all expenditures of money, we should never have voice votes. We should be accountable.

I feel the same way also about these cuts, about this rescissions package. This has a very real impact on the lives of people we represent. I want to talk about that impact. But above and beyond that, I say to my colleagues, 9:55 is when this came here. I have not even had a chance to examine this piece of legislation, this rescissions package.

I know enough to know what has been changed for the worse and I want to talk about that. But I just refuse to have this thing just sail through here, essentially jammed through the Senate. I do not think that is a responsible way to legislate. I feel strongly about that.

What is the hurry? We ought to examine what is in H.R. 1944. For example, I have here—this is one of the reasons that I have such fondness for the Senator from Oregon. I would say the same thing about the Senator from West Virginia. This was a letter dated May 8.

> DEAR PAUL: Thank you for your most recent letter regarding the House of Representatives rescission of $1.319 billion for the Low Income Home Energy Assistance Program.

Which I voted for. Which you know I voted for.

> As you know, the Senate bill did not include this rescission. Please be assured that the Commmittee intends to maintain this position during the on-going House-Senate conference.

I thank my colleague from Oregon for his assistance——

Mr. HATFIELD. If the Senator will yield, just to make certain the RECORD is correct, this bill does not change this program, so it is not for the worse.

Mr. WELLSTONE. What has happened——

Mr. HATFIELD. It is not for the worse. It is the same level as the vetoed bill. I can give you a list of the better parts of this bill, of the vetoed bill, if the Senator would be interested in that, too?

Mr. WELLSTONE. I thank the Senator.

Mr. HATFIELD. So I just want to correct the RECORD. It is not for the worse.

Mr. WELLSTONE. Mr. President, the vetoed bill is the bill I voted against. I voted for a bill that we reported out of the Senate because we had restored the $1.3 billion funding. But now we have cuts of about $330 million in funding for the Low-Income Housing Energy Assistance Program. That is now what is in this bill which just came to us at 9:55. We have $20 million of cuts. That is different from what I voted for out of the Senate. I did not vote for the bill that the President vetoed.

Mr. President, just to be clear about what is at issue here, I think it is a matter of priorities. I look at their rescissions package and I see a disproportionate number of cuts, in all due respect, that affect low- and moderate-income citizens in this Nation. I do not think it was my colleagues' choosing. But I just want to talk about some of these priorities. I am talking about restoring $330 million of assistance for low-income people.

I say to the Chair, we come from the third coldest State. One B-2 bomber costs over $1 billion. This is not even a third of a B-2 bomber. Mr. President, we have one of the finest fighting fleets of F-15's. Everybody will tell you that. We now have a proposal to replace the F-15 with the F-27 to the tune of $162 million, and an overall costs of $70 billion additional dollars. In the post-cold-war period, the Soviet Union Empire no longer existing, and the Pentagon saying we do not need some of these weapons. There are no rescissions there at all.

Later on today, Mr. President, I am going to talk about all the subsidies that go to the oil companies since we are talking about low-income energy assistance.

Mr. President, I met at the home of Olita Larson in Richfield. She is a disabled senior citizen and a LIHEAP recipient. In addition to her, I met with several veterans, and several mothers with children. And what I learned from them is that, at least in my State of Minnesota, the Low-Income Housing Energy Assistance Program is not an income supplement. It is a survival supplement: 111,000 households receive LIHEAP assistance; 313,000 individuals; 28,000 seniors; 53 percent of those that receive this assistance which is about $300 a month or so. This is just to enable people to get by so that it is not "heat or eat." Fifty-three percent were working at low-wage jobs; 32 percent were senior citizens; 41 percent were households with small children; about 50 percent earn less than $6,500 a year.

Excuse me, Mr. President, for not understanding some kind of definition of reality here in the Nation's Capital. But for the life of me, I do not understand how in the world we can be cutting low-income energy assistance to people, people who really need the assistance, people who are the most vulnerable citizens in our country, but we go forward spending $1 billion on B-2 bombers that the Pentagon tells us we do not need. We have billions of dollars of subsidies to oil companies. We do not choose to close those loopholes.

Mr. President, these are distorted priorities. Just because Olita Larson does not make big contributions, just because she is not well-connected, just because she is not a player does not mean she should not be represented.

Mr. President, I met at the home. I am not going to cave in right now. You meet with people. You talk with people. You make a commitment that you are going to do everything you can to support people. And that is where I thought we were. That is why I originally voted for this rescissions package. Now what we get H.R. 1944 from the House, which comes at 9:55, I find out that we have over $300 million of cuts.

Mr. HATFIELD. Will the Senator yield for a question?

Mr. WELLSTONE. Certainly.

Mr. HATFIELD. I thank the Senator.

Is the Senator aware that the B-2 bomber was killed last night by the Armed Services Committee? According to this morning's paper, the committee voted not to fund any additional B-2 bombers, which I hail as a great achievement. But I would also like to add there is no way we can take the savings of that B-2 bomber and transfer it into nonmilitary discretionary programs. We, on the Appropriations Committee, have our hands tied on that. I could not agree with the Senator more. I will not take a back seat to the Senator nor to any other Senator in fighting for the Low-Income Housing Energy Assistance Program, and all these other programs that represent people's needs.

But what I am saying to the Senator is that this speech is a little late. It should be repeated and repeated. But I am saying it is a little late as it relates to the current issue we have before us. The die is cast. What are we going to salvage out of this circumstance? I say to the Senator in all respect, that, if this is not acted upon today, the Senator will have led the appropriators and forced the appropriators into cutting $1.3 billion out of the subcommittee on Labor-HHS for 1996, over and above what we would otherwise have to do. If the Senator wants to take on that responsibility, keep that in mind. You are hurting the very people you are trying to help. That is not your making. It is not my making. It is the decision of the total body of this Senate, and we lost. We lost. But do not compound that terrible, terrible thing onto those very people by saying to the appropriators you have to cut another $1.3 billion. I say to the Senator with all due respect, that is reality. That is the reality we face.

I find it a very, very unpleasant experience to have to cut any out of the Labor-HHS subcommittee of appropriations. The House cut $10 billion from, $70 billion and $60 billion. We are going to be forced into allocations to cut further, if we do not get this passed today. That is the reality. Like it or not, that is the reality. That is the position the Senator from Minnesota is pushing the Appropriations Committee into. I do not want any part of it. I am wanting to ease the pain that we have already created. I do not want to increase them, and the Senator from Minnesota will be escalating that burden on the very poor of this Nation by $1.3 billion more out of the Labor-HHS that we do not get out of 1995.

Mr. WELLSTONE. Mr. President, I still have the floor. Let me just say that, first of all, one more time, I did not vote for the budget resolution. I did not vote—later on today when we get into the discussion—I did not vote for the tax cut. The Byrd rule I think protected us over the first year. I am not at all sure ultimately, as I stretch this out and project where this heads. This is the first time we have actually seen the rubber meet the road and some real decisions made that ultimately this money in the outyears is not eventually being used to finance tax cuts for fat cats in this country, frankly. But let me say to the Senator from Oregon, and I would like to proceed here, that in terms of the choices, about 60 percent of the administrative travel funds are in the Pentagon. We can make some further cuts there. We can also do the same thing with FEMA. We can make some cuts there. So I do not think it is quite true that there are no choices.

In addition, Mr. President, I just simply want to go back to what I have been saying. I thought, though it was a close call for me, that my colleagues did an admirable job, a very admirable job given the constraints they were working under, so we passed this rescissions package. I had some questions about it, but I voted for it.

Then the House goes to work and the President vetoes the conference report, and I support the President's veto. Then we get H.R. 1944 that comes here at 9:55. I have not even had a chance to examine this. I just refuse to be put in the position that somehow what I am doing right now is going to hurt low-income people.

If I could just finish this, I will be pleased to yield. I have over and over again been talking about this. Now, I do not know where other Democrats are. I know that 150 Members of the House voted against this package yesterday, last night. I could just simply tell you that I think these are distorted priorities. I think there are other areas that could be cut that are not being cut. I think we are asking some of the most vulnerable citizens in this country to pay a price by tightening their belt when they cannot tighten their belt.

Ms. MOSELEY-BRAUN. Will the Senator from Minnesota yield?

Mr. WELLSTONE. I will be pleased to yield.

Ms. MOSELEY-BRAUN. I thank the Senator. I say to the Senator from Minnesota and the distinguished Senators from Oregon and West Virginia, I cannot think of three people for whom I have more respect in this body, but I have to say I concur in and associate myself with the remarks of the Senator from Minnesota.

I want to say that in listening to the debate and the argument about the harm that we are doing, or might be doing, by taking the floor in opposition to this conference report, this resolution, I could not help but think about the old poem—and I think the Senator from West Virginia may remember this one—a poem from many years ago about: Lizzie Borden took an ax and gave her mother 40 whacks, and when she saw what she done, she gave her father 41.

It seems to me that if you boil down the argument that the distinguished Senator from Oregon has made about what we are doing right now in this procedural setting, it is suggesting that the 40 whacks the children and poor people have taken in this bill, in this compromise, might be increased to 41 if we do not sit back, accede to the decision of the conference committee, be quiet, say nothing and let this roll out of here on a moment's notice without examination or discussion.

I just do not think that is an appropriate response for conscientious legislators who have real concerns about this bill.

The Senator from Minnesota has talked about the low-income heating issue. I particularly am concerned about education and what has happened with the education funding for needy people, needy children, in this bill.

I am not going to debate it, and I do appreciate the efforts that were made to restore education funding in this compromise, but I have to submit to you that the rescissions were not called for in education in the first place. Why would we, at this critical time in our Nation's history, do anything but begin to weigh in 100 percent to help support education, to give our youngsters the ability to compete in this world economy, to guarantee for this next generation that they will be able to compete in this world market?

I want to point out specifically that in this compromise, the title II-C JPTA funding for poor children who are in disadvantaged circumstances was cut $272 million, cut down to now—out of $398 million, which it was in the previous budget, to $126 million. That is a cut of $272 million for job training for disadvantaged young people.

Well, you go out on the streets, at least in the State that I come from and young people are wondering what we are doing to help them. They want to be productive. They want to get the job skills and the literacy skills and the educational skills to be able to participate in our society, and this bill would just cut them off altogether. And to shut down activities that are working to stop school dropouts in order to give young people a hand up, to cut them by $272 million is just, in my opinion, unconscionable.

I do not know how we can justify that on the grounds that, well, if we do not do it now, we will not have a chance again until after July. And if we do it in July, the money will not be freed up for appropriations and spending and then they will have to give them 41 whacks in September.

Mr. HATFIELD. Will the Senator from Minnesota permit the Senator from Illinois to yield for just a moment?

Mr. WELLSTONE. Mr. President, with the understanding I have the floor, I will be pleased to have the Senator yield for a question.

Ms. MOSELEY-BRAUN. Always, so long as it is yielding for a question.

Mr. HATFIELD. I say to the Senator, I was giving those speeches 25 years ago on this floor, and it was valid then, and it has been proven to be more valid today, as the Senator gives the same remarks about our priorities—our lack of priorities—our failure to put the focus where the needs are by our overwhelming lust and willingness to vote for greater capacity to destroy life than to sustain and improve life, namely the military versus the nonmilitary spending.

But in all due kindness and respect, I ask the Senator, what is the option? I ask the Senator to put herself in my shoes and tell me what she would do as of this moment in this timeframe with 1996 upon us and having to make that decision, and every day we lose the money, the baseline in the rescissions—right or wrong rescissions—every day we lose that money. We come back here July 11, and it is all over. We will have not had this action.

Now, in that timeframe, what is the Senator's option or alternative that she would take?

Ms. MOSELEY-BRAUN. I say to the Senator from Oregon, again for whom I have a tremendous amount of respect, and I know he has been on the right side of history for these 25 years trying to make this case, but it is a case that we have to make, it seems to me. And in response specifically to the Senator's question, I do not have an answer. We just got the bill 1½ hours ago. We have not had a chance really to even go through to see where the shifts and the changes might be. We are not on the committee.

And please understand, I say to the Senator from Oregon and the Senator from West Virginia, no one is unmindful of the hard work that the Senators have done and the dedication and the long hours trying to hammer out a compromise. But compromise by definition means that some priorities get lost in the shuffle.

I just submit—and the Senator from Minnesota submits—that the days in which we can continue to allow the children of this Nation and poor people who need heating assistance to get lost in the shuffle are over. We cannot afford to continue down this path.

Our Nation's greatness depends on our capacity to allow individuals to contribute to this society and to function within it. No economy on this planet in this time is going to be healthier or be able to succeed more than the social fabric of what that nation will allow. To the extent that we allow Senator WELLSTONE's constituent to have to choose between turning on a gas burner in her house and eating dinner, we weaken our entire national fabric. To the extent we allow these teenagers to drop out of school and to stand on street corners, not only do we increase the crime rate, not only do we diminish the quality of life in our communities, but we have done serious injury to our national fabric as well.

And so the only response I would have for the Senator, since we have only had 2 hours, maybe 1½ hours, to look at this, is to say to the Senator from Oregon we do not have all the answers.

I was going to talk about another set of cuts—the majority leader just entered, and I know he knows of my interest in this particular issue—education infrastructure. We have schools crumbling around this country. There have been articles in every magazine, every newspaper, about the state and quality of our schools that our youngsters——

Mr. HATFIELD. Did I hear the answer to my question is the Senator does not have an answer?

Ms. MOSELEY-BRAUN. I say, in answer to the Senator's question, I have not had time to give the Senator an answer because we just got the bill 1½ hours ago. I will be delighted, and I take the challenge——

Mr. HATFIELD. I say to the Senator, that is not the question. I got the bill, too, the same time the Senator did. That is not the question I asked. I asked, what in this timeframe would the Senator instruct me to do? I am happy to hear any new idea that gives me an option, and I am just asking the Senator, other than protesting this particular time and this particular action, which I agree with the Senator, but tell me, as chairman of the Appropriations Committee, what the Senator would do today.

Mr. WELLSTONE. Mr. President, if I could just——

Mr. HATFIELD. Let her have a chance to answer.

Ms. MOSELEY-BRAUN. What I would do today is I would put together legislation that does not take those 40 whacks out of children and poor people.

Mr. HATFIELD. Well, I say to the Senator, that is a fine statement, if I could——

Ms. MOSELEY-BRAUN. Let me give specific dollar numbers. We want to restore $272 million.

Mr. HATFIELD. That is not an option today. This body already passed the budget resolution. You may not have voted, I say to the Senator, for the budget resolution, but the body did. I have to function under the body, not under how I voted, but under the body's decision. So what is the option——

Mr. WELLSTONE. If I can——

Ms. MOSELEY-BRAUN. Again——

Mr. HATFIELD. This must be a protest statement, which is perfectly legitimate, and I join in addressing the protests both Senators are making toward the priorities in this budget, but that is not our option today.

Ms. MOSELEY-BRAUN. May I respond?

Mr. WELLSTONE. Then I would like to get the floor back.

Ms. MOSELEY-BRAUN. I thank the Senator from Minnesota. I had not intended for this to become a colloquy with the Senator from Oregon. I can tell he is upset because time is upon us. He put in a lot of work. I certainly appreciate that and understand that and understand his frustration with having the Senator from Minnesota and myself standing here and saying, "Well, this is not quite good enough."

But let me tell you, in response to the Senator from Oregon, we start off with a situation in which we are now being told, because of the procedure, that this is a fait accompli; that there is nothing we can do about this; that it has been served up to us a couple of hours ago based on a decision that happened 2 weeks ago, based on some decisions that were made a month ago; and that this train has gone too far down the line for us to do anything about it.

I say to the Senator from Oregon that at a minimum, if I am going to be Polly Pure Heart run over by a train, I do not have to do it quietly. I can at least stand on this floor and make the point that it is wrong to cut job training for disadvantaged young people by $272 million, and it is inappropriate at this point in time, given the status of our Nation's schools, to cut $35 million out of education infrastructure. And it is wrong, in any event, to cut heating assistance for poor people in cold climates in communities all over this Nation.

If I am going to be run over by this train, I say to the Senator from Oregon and the Senator from West Virginia and to anybody else who is listening, at least I can yell out about what is about to happen to me. I go back to my 40 whacks. It may be that I am asking, I am begging to get 41 whacks next month by making this point. But it seems to me that the worst thing we can do in this situation is to stand by and say nothing. And if we stand by and say nothing as these cuts occur, if we stand by and say nothing to cuts in low-income heating and cuts in disadvantaged youth job training—disadvantaged youth job training programs, how can anybody, red pencil notwithstanding, sit back and say, "No, we want fewer job training opportunities for already disadvantaged teenagers"? This is just not logical to me.

The Senator may be absolutely right. If we have a vote on the motion by the Senator from Minnesota or myself, whatever, we may lose, but it seems to me——

Mr. HATFIELD. Will the Senator yield?

Ms. MOSELEY-BRAUN. I cannot yield. I yield back the time to the Senator from Minnesota.

Mr. WELLSTONE. I will be pleased to yield, if I can have 1 minute, and then I will yield for a question.

Mr. HATFIELD. I will be happy——

Mr. WELLSTONE. I ask my colleague from Oregon to yield for a question?

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. I thank the Chair. Mr. President, just to kind of sort this out for a moment, I am in complete agreement with not only what my colleague from Illinois had to say but with the eloquence with which she said it. Absolutely, we did not know what was going to be in this bill, I say to my colleagues, until late last night—10 o'clock. We just received this at 9:55 this morning.

Second of all, I do not view this as a protest. My distinguished colleague from Oregon talks about it as a protest. I am prepared to debate. I will have amendments, and I am prepared to debate those amendments, and I am prepared to have a vote on those amendments.

This is not something like all of a sudden I have become interested in. My colleagues all know of my strong commitment to LIHEAP. They all know that I think it is unconscionable that we are making these cuts. I feel very strongly about the Summer Jobs Training Program.

Mr. President, when we first finished up on the Senate rescissions bill late at night, with some assistance from the majority leader, we restored funding for a counseling program for senior citizens to make sure that they do not get ripped off in some of the supplemental coverage that they get to their Medicare. Now we are going to have all these cuts in Medicare and Medicaid—and this is great, I suppose, for some of the insurance companies for there not to be this consumer protection—but we are now going to go back to cutting, I think it was, $5 million—only $5 million.

What is the purpose of cutting a counseling program for senior citizens to provide them with basic consumer protection? That is in, as it turns out, H.R. 1944, passed late at night, just sent over here today.

So, Mr. President, I want to be crystal clear, this is not like something we just started saying.

I read the other day in the paper about a general having a plane sent across the country to pick him and his cat up, at a cost of over $100,000 a year. Is that the kind of travel we are funding? I say to you, we have it within this budget, we have it within our power, within this bill to actually take more out of that administrative and travel budget from the Pentagon. We can do that. I have talked about FEMA. There are plenty of alternatives.

But, Mr. President, first, let us just get back to the process. It is pretty hard for us to sort of lay out all the alternatives until we, first of all, know what is in this bill; and second, do not tell me that upon some time for deliberation and some time for discussion and some time for debate on amendments, we cannot come up with alternatives. Of course, we can come up with alternatives. This is not in concrete. Who said this is the day, that this is it, there cannot be any changes, we cannot make any changes at all, especially if we feel very strongly that there are some real distorted priorities?

I can only speak for myself, but I really do not understand the priorities which say we go headlong with increases in the Pentagon budget, we have massive tax cuts, $245 billion, most of them going to wealthy people, and we are going to cut low-income energy assistance in the State of Minnesota.

I say to my colleague, I may lose on this amendment, but I will not be silent about this, and if I lose, I will go down fighting, not on the basis of just some principle or some protest, but because I am a legislator and I know there are alternatives and I know as we have a discussion of this, we will get to those alternatives.

But I just, again, have to say—I so appreciate what my colleague from Illinois said—here we are talking about children. We all love children. We all want to have photo opportunities with children, and we cut job training programs for young people, and we cut low-income—LIHEAP is not coming anywhere close to meeting the needs of those people that are eligible. And now we are going to have additional cuts in the Low-Income Home Energy Assistance Program?

I come from a cold weather State. Sometimes it is 20 below zero, sometimes it is 40 below zero, sometimes, as the Presiding Officer knows, it can be 70 below zero wind chill. But for many of the most vulnerable citizens in Minnesota, this can be terrifying—this can be terrifying.

Mr. President, I think that I went over these figures today, and I can give some figures for other States as well, but in Minnesota, 37 percent of the households are working poor; 15 percent have a disabled household member; 26 percent of the households have an elderly household member; 33 percent of the households have a child of 5 or younger, and I can go on and on.

When I met with Olita Larson in Richfield, and others, I made a commitment to them to fight hard for this program. I have been doing that all along. I do not come to this just now.

So what we have here is a rescissions package that just came over. Some of the initial good work that we did in the Senate has been undone with cuts where there were not supposed to be cuts.

Mr. President, I have to raise questions about the whole priority of this. I would be pleased, eventually, to get to amendments and to have discussion. I have the average fiscal net allotment and average heating and cooling benefits for households assisted by State and region for fiscal 1993. I am prepared to go through these figures and talk about what this means in human terms.

Mr. BYRD. If the Senator will yield, nobody in the Senate believes more than I believe in the freedom of speech in the Senate, and in the right to debate, and the right to stand on one's feet and speak as long as one has breath. I have fought that battle many times. I respect the fact that the distinguished Senator from Minnesota is protesting at this point and is speaking with great feeling. He speaks from the heart. He is doing his very best to represent his constituents. He is displeased with what he sees happening in connection with appropriations. I respect the right of the distinguished Senator from Illinois to do the same. And I am perfectly willing to sit here and listen to the Senators.

But if the Senator will allow me, let me point out that I, too, voted against the conference agreement yesterday in the budget bill. I have spoken out against the tax cuts. I oppose the tax cut that our own President is advocating. I oppose the tax cut that the Republicans are advocating. I am against any tax cut at this particular time. We are just digging the hole deeper when we have a tax cut and we say we want to get out of that hole that represents the budget deficit. So I am against the tax cut. I voted against the conference report yesterday. Several Democrats voted against it because of the tax cuts that are likely to result from that agreement.

But, Mr. President, I say to the two Senators that this agreement before us is better than the one that the President vetoed. I do not agree with everything that is in this package—not by any means. But the President himself says he will sign this bill. He vetoed the first one. He says the changes that have been made will bring about his signature. So if he is not satisfied with it, he is at least going to sign it.

Now, Mr. President, I merely urge the distinguished Senators, if they feel compelled to offer an amendment, that they offer it, and let the Senate vote on it today. I hope they will not offer an amendment, but I recognize their right to do so, and I will protect their rights to do so as far as I can. I just suggest that they offer the amendments and have their go at it. But it takes a majority to carry an amendment. I do not believe they are going to get that majority. Nevertheless, they have the right to offer amendments. I have been in the position several times in my long service here of offering amendments and seeing them defeated—amendments about which I felt as strongly as any Senator could feel. But when I felt I had done my best, I got up off the carpet, dusted myself off, and went on to the next battle.

I recognize the Senator's right to speak and his right to offer an amendment. I urge the Senators not to force us into a delay that puts us over the holiday, because I can assure the Senator that if that happens, we are going to be much the worse off. We will have less money and budget authority. We will have less outlays, and we are going to regret that if we do it.

So I hope we will offer any amendment that we feel compelled to offer, speak on it, and let us vote on it. Let us not delay this matter so that it is still before the Senate when we return, because we will have lost and lost badly. Let me say this with the greatest of respect. The Senator has not seen anything yet. This is just a drop in the bucket to the cuts that are coming. I am on the Armed Services Committee, and——

Ms. MOSELEY-BRAUN. Will the Senator yield?

Mr. BYRD. I do not have the floor.

I am on the Armed Services Committee, and I got rolled a couple of times in the committee yesterday. The Republican side in that committee is voting in lockstep. They are unanimous, and there is no way that 10 members on our side of the Armed Services Committee can outvote 11 members on the other side. So we might as well get used to it. We will not get used to it without protesting, and I will be protesting some, too. But I merely make my plea on the basis of at least getting on with this matter today, disposing of it, and getting up off the carpet and dusting ourselves off and getting ready for the next battle, which we will probably lose again. There may be some we will win. I appreciate the Senator's allowing me to make these remarks and for his yielding. I respect his right to speak, and I respect his right to offer an amendment, and I respect the way he feels. I hope he will finish his speech, but if he has an amendment, offer it and let us vote.

Mr. HATFIELD. Will the Senator yield for a minute?

Mr. WELLSTONE. Yes, I yield.

Excuse me, I yield for a question or comment, but I will retain the right to the floor.

The PRESIDING OFFICER. The Senator is correct.

Mr. HATFIELD. Mr. President, I wonder if the Senator was aware of the specifics that have been extrapolated, that increased in this particular new rescissions package: Adult job training, by $40 million; school to work, another $20 million; Goals 2000, by another $60 million; safe and drug free schools, $220 million; drug courts, $5 million; community schools, $10 million; TRIO, $11 million; child care block grant, $8 million; housing for people with AIDS, $15 million; national and community service, $105 million; safe drinking water, $225 million; community development financial institutions, $14 million; community development grants $39 million, for a total of an add-back of $772 million over the first rescissions package.

That is after weeks of working with the White House, after working with our colleagues in the House of Representatives. Sure, the glass is half full or half empty, depending on what you look at.

Again, there has not been a word said about the Senator from Minnesota or the Senator from Illinois that I would not endorse 100 percent. My views precisely. But let me also say to the Senator that he has talked about low-income energy assistance. No one has gone cold for a lack of money in that account. We do not predict the weather ahead. What we do in the appropriations is we set forth $1.3 billion in 1995 appropriations for low-income energy assistance for this coming winter. We cannot predict that winter. Anytime in the past on the record where we have had less money than required to keep people warm, we have appropriated a supplemental.

So the fear that the Senator is expressing on the basis of the figure here is not a justified fear. We appropriate supplementals.

Now, let me say also to the Senator that in dealing with the White House, they had a higher figure for low-income energy assistance rescission than we had that they were willing to have rescinded. Was it because they were interested in people of low income? Not at all. They understood the funding mechanism. They knew that we would always put that appropriation out there in a supplemental form to keep those people warm.

Therefore, that money was not yet obtained because we had no knowledge of the requirement of the amount of that money.

I can say to the Senator, I participated in that time after time, leading the battle, in some instances, of putting that money in the supplemental to keep people warm. We cannot predict what that winter weather is.

The Senator said a while ago he might lose on this. No, the Senator will not lose. The people of Minnesota will lose, the people of Illinois will lose, and anybody else who blocks this action at this time.

Again, the fundamental bottom line that the Senator cannot escape—I cannot, the Senator cannot—is requiring the Appropriations Committee to gut $1.3 billion more in the 602(b)'s for 1996 if we do not pass this and get this acted upon today.

Ms. MOSELEY-BRAUN. Will the Senator from Minnesota yield?

Mr. WELLSTONE. I am happy to yield to the Senator.

Ms. MOSELEY-BRAUN. Actually, there are a couple of comments, and when we get into a colloquy like this, it is sometimes difficult to know what to respond to first.

I have to point out to the Senator from Oregon, and even the Senator from West Virginia, it is very difficult to debate someone who has been on the right side of these issues for so long and who cares about them, as I know that the Senator from Oregon and the Senator from West Virginia do.

However, I will point out that back home, we have an expression, "If you are being chopped to death with an ax, you don't let them do it to you in the closet, you go out on the street corner."

Quite frankly, with regard to these cuts, I think it is not only appropriate, but I think it is essential that Senator WELLSTONE, the Senator from Minnesota, myself, and any other Senator who cares about these issues, come out and talk about what we are doing here.

The Senator read off the numbers in terms of what we put back. I think it is important, also, to remember—and I wish I could remember the numbers but I do not have my glasses with me right now—to talk about what was cut to begin with.

The fact is, these are meat ax cuts. They start off as meat ax cuts, and they are a little less—no question—they are a little less bad than they were previously.

But that still does not mean that we should not take to this floor and talk about why it is important to restore the $272 million that was cut out of the JTPA Program, or the dollars that were cut out of heating, or the dollars that were cut out of the education infrastructure program to help start trying to fix some of the falling down, broken down schools across this country. We have to be able to talk about these issues. It is not symbolic.

Frankly, I say to the Senator from Oregon, I find it more distressing—no one is trying to be uncooperative—I find it more than a little distressing that the Senator from Minnesota and I will be told, "If you go out here and talk about issues you care about, then you are in danger we will do it even worse."

I started off talking about Lizzie Borden. The more this debate goes on, that is exactly where we are, Senator WELLSTONE. The threat is, if we do not go quietly down this primrose path, we will get 41 whacks after July.

I just do not think that is what the people of Illinois sent me here to do—the people of Illinois or the people from Minnesota, or anywhere, if they knew what we were doing to people concerns, human concerns.

Is there a way to predict and to make the offsets, the question was asked of me earlier? I could not respond, because we just got this bill a couple of hours ago.

The fact is that we have given FEMA, our emergency management organization—and they do a great job, by the way—we have given them more money than they say they need. We could fix schools and we could provide for job training for disadvantaged youth, education infrastructure, and heating assistance out of the FEMA money alone.

What are we looking at here—they say they need $1.3 billion and they got $3.2 billion. There you go. If you want to start, talk to FEMA and see how much more they can give up. There is a place to offset.

Certainly, to take any cuts from disadvantaged young people when we are dealing with teen criminal activity, teen sexual activity, the explosion of illegitimacy, right down the list, things we talk about on the floor, and then turn around and cut job training for teenagers, I do not understand.

Education infrastructure—kids going to schools with broken sewer pipes. How are they supposed to learn? Is that not critical to the future of this country? Why are we taking anything from there—not to mention heating.

The Senator from Minnesota has been more than gracious and indulgent. I say to my colleagues and the Senator from Oregon—and I understand the Senator has a job to do, and this is saying we just have to go on down this track because everybody wants to go on vacation. That really is what this debate kind of is about. Senator BYRD, I worked every single day of last week, and I look forward to it.

Mr. BYRD. The Senator does not have a thing on this Senator when it comes to work.

Ms. MOSELEY-BRAUN. I know that is true. I understand everybody here wants to go home, and it is hard to be the one person standing up saying, "Well, let's not quite go home yet; we should talk about what we are doing."

Mr. BYRD. I am in no hurry to go home, but I want to make this point, if the Senator will yield.

Mr. President, I ask that the Senator be permitted to yield to me without losing the right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I say to the Senator, this is the bottom line: If we pass this bill and it becomes law, the Appropriations Committee will have $6 billion more in budget authority and $3 billion more in outlay for the 1996 appropriations bill, which will help the very programs, I am sure, that the Senators and I feel so strongly about.

If we do not pass this, the Appropriations Committee is going to have $6 billion less in budget authority when we start marking up those bills after we come back—$6 billion less in budget authority and $3 billion less in outlay. I hope the Senators will please keep that in mind. That is the bottom line.

We may not be happy with this. The President has said that he will sign it. He feels that he has gained over what was the bill that was vetoed some time ago. And he has. The Senator from Oregon just read the list of decreased rescissions.

I plead with Senators that it means heavier losses in your programs and my programs, when we mark up the 1996 appropriations bill, if this bill dies.

Ms. MOSELEY-BRAUN. This bill would terminate the education infrastructure program. Zero dollars in this rescission bill—zero dollars.

Mr. BYRD. Mr. President, wait until the Senator sees the bills that are going to come to this floor if this bill dies. Wait until the Senator sees the cuts that are going to be made if this bill dies.

The cuts that are going to be made in the 1996—the Senators will come back and read what I said in the RECORD, if the Senators insist on killing this. The Senators will read it. The Senators will see that this is just a drop in the bucket.

Mr. WELLSTONE. Mr. President, just——

The PRESIDING OFFICER. A reminder that the Senator can yield for questions only during the course of this debate.

Mr. WELLSTONE. Mr. President, just one more time, to summarize. We received this bill at 9:55. That is not even 2 hours ago. I did not know everything in here.

I am perfectly willing, as I said before, I did not object to the motion to proceed. There have been a lot of questions that have been put to me. I am more than willing to go forward with amendments and debate. I need a little time to look through this bill.

But, Mr. President, when my colleagues talk to me about this being just the beginning, I am well aware of that. I did not vote for these budget cuts. I did not vote for these ceilings. I did not vote to increase money for military contracts.

Again, the other day in the paper, the story in the paper about a general having a plane sent across the country to pick up him and his cat at a cost of $100,000—that is out of the travel and administrative account.

I did not vote for that, Mr. President. These are distorted priorities. And my colleague from Illinois kept saying—and I understand the Senator from Oregon and the Senator from West Virginia have done their best within these boundaries that have been set by the votes that are here right now. I know that.

But, in all due respect, we do not, in that budget resolution, decide we are going to take on any of the loopholes, deductions, subsidies—for example for oil companies. But we are going to cut the Low-Income Home Energy Assistance Program for seniors, people with disabilities, and children. And, in addition, summer jobs training programs. And, in addition, infrastructure—some small investment in infrastructure in schools. What kind of message do we send to children about whether we have any hope for them or what kind of value do we attach to them when the ceilings—the buildings are decrepit and the plumbing does not work and all the rest. We cannot even begin to make any kind—we are going to cut expenditures in that area?

Ms. MOSELEY-BRAUN. Will the Senator yield?

Mr. WELLSTONE. I will be pleased to yield in just a moment.

Mr. President, I worked hard. I had support from colleagues for a counseling program for elderly people, to make sure they do not get ripped off on supplemental coverage from Medicare. That, now, gets cut again. My colleague from Oregon talked about the good things that have been done. Fine, I agree and I am glad.

But he did not talk about some of the areas that have now been cut as opposed to the original rescissions bill. I only found out about what has been cut because I have had a little bit of time, just a little bit of time to go through this. What is the hurry? What is the hurry? I am pleased to go through this and I am pleased, today, to introduce amendments. I am pleased to have debate on those amendments and up or down votes. But I will tell you, I will have an amendment to restore that funding for the Low-Income Home Energy Assistance Program.

Mr. DOLE. Will the Senator yield on that point?

Mr. WELLSTONE. I will.

Mr. DOLE. When are you going to have the amendment? That is what I would like to find out.

Mr. WELLSTONE. I say to my colleague, I will be ready to go with that amendment—A, I have been responding to questions and comments from other Senators. I would like a little bit of time to look through this to get all my amendments together. But I will have amendments and we will have debate.

Mr. President, I say to the majority leader in all due respect, this bill came here at 9:50. It was passed last night at 10 o'clock, in the House.

I am not going to let this be jammed down my throat and I am not going to let it be jammed down the throats of a lot of very vulnerable people in my State. I will examine this. I am more than willing to have amendments—I said this to the majority leader—and we will have debate on those amendments and I am pleased to vote up or down. Absolutely.

Mr. DOLE. Mr. President, will the Senator yield further for a parliamentary inquiry?

Mr. WELLSTONE. I will be pleased to.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. Mr. President, will the call for the regular order return the regulatory reform bill?

The PRESIDING OFFICER. The Senator is correct.

Mr. DOLE. I just say to the Senator from Minnesota, I am not going to be here all day while he is doing whatever he is doing. He has every right to do that, but I have listened very carefully to the two managers of the appropriations bill and I think they are trying to be helpful here, saying they are going to have less money if this is delayed.

The President wants this bill, so I ought to be happy if he does not get it, I assume. That would be the conventional wisdom around this town. He says he wants it. He has written a letter. He sent up a statement. He has added $700 and some million he said he wanted to add for the very programs that have been addressed by the two Senators.

But it is a little late in the day for game playing. If the Senator is going to offer amendments, offer amendments. If not, as soon as I get the floor, this bill is finished. It is finished. And it will not be brought up again until there is consent to bring it up without amendment and you explain to the people in Oklahoma City and you explain to the people in California and you explain to the people in Minnesota how you lost money on low-income home energy assistance because you would not let this bill pass.

You have every right to object. You are doing a good job of it. That is your right.

But I do not intend to tie up the entire Senate here the rest of the afternoon while somebody out here is making whatever argument they want to make.

We will bring the bill back as soon as the administration convinces the Senators from Illinois and Minnesota that this is a good bill.

If the Democratic President cannot convince the Democrats, certainly we cannot convince the Democrats.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, I say to the majority leader in response to his characterization of the Senator from Minnesota doing whatever he is doing, what I am doing is being a responsible legislator. This bill came to this Chamber less than 2 hours ago. I would like to have the opportunity to examine this bill. I have already spoken about areas where I am prepared to introduce amendments and to have debate.

There are no games here. I do not think it is a game to speak in behalf of low-income people in my State who are really worried that there will not be low-income energy assistance available for them. I do not think it is a game to raise questions about what happened to the counseling program for senior citizens to make sure they are not ripped off on supplemental coverage to Medicare.

I just realized, going through this, that now has been cut again.

I do not think it is a game—Mr. President, I do not think it is a game to talk about what is going to happen to displaced workers. What is the significance of those cuts?

Ms. MOSELEY-BRAUN. Will the Senator yield?

Mr. WELLSTONE. I will be pleased to yield in a moment.

Mr. President, we have now zeroed out a program for homeless vets. It was not much of an appropriation, but it was important. I do not think it is a game to go through this piece of legislation and to highlight that and raise questions about it.

I do not think any of this is a game. But what I find so interesting about this rescissions package is that so many of the cuts seem to be based upon the path of least political resistance. We did not go after any of the wasteful military contracts. In our budget resolution we did not go after any of the subsidies for oil companies. And, in addition, we have $245 billion of tax cuts mainly going to the wealthy people. And I have no assurance, by the way, over the years, as I project this, that most of this money will not be used to finance tax cuts for fat cats in our country, taken away from the people who are the most vulnerable. This is no game.

I would say to the majority leader and to my colleagues—and I will be pleased to yield for a question—that I think it is a matter of priorities and it is a matter of what we stand for. It is a matter of what we stand for.

Before we just get a little bit too generous with the suffering of other people, do we not have an opportunity to look at what is in this? Do we not have a opportunity to talk about some alternatives?

Just speaking for myself, just let me make it crystal clear—crystal clear—I can take a short period of time and I can look through this and I will have amendments and I am ready for debate on amendments.

I say to the majority leader, if I had wanted to stop this I would have objected to the motion to proceed. We have had a discussion about what is in here, about where the cuts have been, about other priorities. I am just speaking as a Democratic Senator from Minnesota. I know what low-income home energy assistance means to people in my State and I know these cuts are cruel. I did not vote for this budget resolution. I am going to be an advocate for those people. And I do not care if they do not have any money to contribute to campaigns. I do not care if they do not have any lobbyists here. I do not care if they are not the heavy hitters, or are not the players, or are not well connected. I do not care if they are without a voice. They deserve representation. This Senator thinks the cut we had in the Senate bill before is cruel. I will have an amendment to restore that cut, and we will have a debate on it. There were many Senators who supported it the last time. And I hope to have support from Senators again.

I am pleased to yield for a question.

Ms. MOSELEY-BRAUN. The Senator from Minnesota was talking about the suggestion was made that somehow this was—

Mr. WELLSTONE. I yield the floor to the Senator.

Ms. MOSELEY-BRAUN. Thank you very much. I thank the Senator from Minnesota.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Ms. MOSELEY-BRAUN. Thank you very much, Mr. President.

I say to the majority leader that no one is trying to be obstreperous.

Mr. BYRD. Mr. President, I call to the Senator's attention that under the rules a Senator cannot yield the floor to another Senator.

Ms. MOSELEY-BRAUN. I seek recognition.

The PRESIDING OFFICER. The Senator is correct. In the opinion of the Chair the Senator from Minnesota yielded the floor, and the Chair recognized the Senator from Illinois.

Ms. MOSELEY-BRAUN. Thank you very much, Mr. President.

Mr. President, to the Senator from West Virginia, the suggestion was made that somehow or another we were just kind of fooling around here, and it seems to me that it really flies in the face of what is involved, and why this is so deadly serious. And to the Senator from Kansas, I consider the cuts in the JTPA title II program for disadvantaged youth very serious business. We are talking about $272 million less for a program that serves economically disadvantaged 16- to 21-year-olds. These are the kids that we have a chance to save. We have a chance to get them educated, to give them a way out, to give them jobs.

Specifically, you are talking about kids who are—well, I will just read it. Who is involved with this program? They are youngsters who are basic skills deficient, school dropouts, pregnant or parenting kids, disabled kids, homeless and runaway youth. I mean if we are going to take $272 million out of their hide and not look for other ways, assuming that we have to deal with the issue of deficit reduction, the Senator from Kansas knows I support it. I supported a balanced budget amendment against the wishes at the time at least of my President in large part because I know we have to get on a glidepath to fiscal stability.

So deficit reduction is very important to me. But one of the reasons we are out here this morning is that, if we get off on the wrong foot in deficit reduction, we will be crippled thereafter in trying to achieve it in a way that does not destroy the fabric of this Nation. That is why these issues are so vitally important. If we start off assuming that it is OK to let the Federal Government pay for generals and their cats to fly around, but we do not support funding for job training opportunities for 16- to 21-year-old disadvantaged young people, what kind of way is that to balance the budget?

Here we are cutting, zeroing out efforts to provide money to help build up some of our nation's deteriorating schools. You cannot do much worse than zero. You cannot do much worse than termination. We start talking about a balanced budget. I sit on the Finance Committee. How in the world can you talk about tax cuts when you have bills to pay off? The American people know this is just fiscal foolishness. Yet, we can provide for tax cuts and then turn around and say, "Yes. But we still have to take a little whack out of the hide of poor people who get low-income energy assistance." This is not logical.

I have not been around to talk about 25 years worth of battles for social justice like the Senator from Oregon can. I know I do not have the parliamentary legislative skills of the Senator from West Virginia. But I do know this. That as a legislator elected from the State of Illinois the people in my State would not want to see me just lay down on this railroad track and get run over without saying anything.

While we recognize that all of our colleagues want to go home, everybody wants this vacation, and we do not want to be obstreperous, we are not trying to be mean to anybody. At the same time what do you tell these teenagers when you go home, these runaways? We cannot provide them with job training.

When we go home, what do we tell our senior citizens? "It is summertime now. Don't worry about it. It is going to be OK. Guess what? If you freeze to death, we will appropriate some more money." I do not think so. I do not think that is an appropriate response.

I think we have an obligation to stand on this floor and do exactly what we are doing to try to make sure that at least the American people know what is happening to them. So at least this does not just kind of hide and slip through and end up being an ax job in the closet. So at least we make the point out here that this is no way to start off balancing a budget.

Yes. We have to balance the budget. Absolutely we have to do deficit reduction. I served on the President's Commission on Entitlements and Tax Reform. We did not come away with any recommendations. But it was a terrific experience. It told us what kind of trouble we would be in if we did not achieve a balance and a deficit reduction. So I am as committed on that issue as anybody here.

But I say to my colleagues that we should not start off by taking away money that was appropriated last year. And, by the way, I do not know if that has come out in the debate, I say to Senator WELLSTONE. We are talking about rescinding money that was already appropriated last year. This is not even go-forward money. This is not even what we are going to do now, that we have kind of a consensus around here on the balanced budget. This is what happened last year. The bill before us says, "You have appropriated this money but we are going to take it back." In some of these areas, the numbers were below what they had been previously anyway.

So we are going to take it out of the hide of the young people who need job training, pregnant teenagers, disabled teenagers, homeless teenagers, and runaway youth. We are going to take it from them.

We are not enforcing a sensible set of priorities with this. And I do not think it is inappropriate for us to stay a little while to talk about what we can do. Maybe this document can be made better. Maybe it can be made better. Maybe there is some room. I do not know. I mean we are not on that committee. I am on the Finance Committee. I know Senator WELLSTONE is not on committees that wrote this legislation. I understand that. You cannot consult with everybody. But certainly Senator WELLSTONE, the Senator from Minnesota, used the expression, the "path of political expediency."

Mr. WELLSTONE. Will the Senator yield? Actually, I said, the "path of least political resistance."

Ms. MOSELEY-BRAUN. That is correct. "Path of least political resistance." That is better than the "path of political expediency." That is correct.

I appreciate that correction from the Senator from Minnesota. That was the expression that he used, and I think it is very well taken—least political resistance. I just think that even in situations like this, in which the people who sat around in the wee hours and hammered this out—and again, we appreciate the effort and we know there is an attempt here at compromise, but at the same time I think it would be inappropriate for us not to discuss these issues.

Do we have amendments? Well, one nice thing about the Senate is that it is a traditional legislative body. I listen very closely to ROBERT BYRD when he starts talking about this institution. I love it, too, because it allows you to be a legislator; it allows you to be a lawmaker; so much so that you can write an amendment down on a piece of paper. I would like to get it typed up. I know we do not have a whole lot of time. I know we are in a hurry. I have an amendment here. It is handwritten. I just would like to have it typed. It would restore the money for job training of disadvantaged young people, restore the money for school construction; $35 million is a drop in the bucket. It was cut from $100 million.

The original appropriation was $100 million, reduced to $35 million, in this bill reduced to nothing, taking back money that was appropriated.

This is not logical, it seems to me, nor is it fair, nor is it sensible, nor is it forward-looking, nor is it appropriate, nor does it comport with our obligations to the American people. Job training started out at $398 million, reduced by $272 million. In this bill, it is $126 million. So that is a pretty good whack on job training for disadvantaged young people.

I do not have the numbers. The Senator from Minnesota may have the numbers on what the whack was on last year's appropriation for heating assistance, but the point is this is not something that I think we should just roll over and not say anything about and say, well, you know, it is the time, it is just open season on disadvantaged youth and schools and school kids and poor people who need heating assistance and just roll over and let this happen. I just think it is inappropriate.

I say to my colleagues again, this legislative body permits for this kind of dialog, and it would be inappropriate for us as legislators not to raise the issue, not to raise the question whether or not we can fix this a little bit.

Maybe the amendments will go down. I do not know how many —I just do not know. Maybe my colleagues will go lockstep on that side of the aisle. I say to the Senator from Kansas, the majority leader, maybe his guys will go in lockstep because of a political agenda. Maybe the letter from the President means the folks on this side of the aisle will go in lockstep, and we will lose. But I want everybody to know that I am prepared to talk about job training for disadvantaged youth today, tomorrow, the next day, the day after that, the day after that, to talk about why we need to try to make certain that these kinds of efforts do not get the ax.

Mr. BYRD. Will the Senator yield?

Mr. HATFIELD. Will the Senator yield for a question?

Ms. MOSELEY-BRAUN. Only for a question, and I retain the right to the floor.

Mr. BYRD. The Senator retains her right to the floor. She can just yield for a question.

Ms. MOSELEY-BRAUN. Yes. I thank the Senator. For a question. I will yield for a question, yes.

The PRESIDING OFFICER. Who is the Senator from Illinois yielding to?

Ms. MOSELEY-BRAUN. The first question I think was asked by the Senator from Oregon and then the Senator from West Virginia. I will yield for a question from both of them.

Mr. HATFIELD. I thank the Senator. I was wanting to ask the question, did the Senator support the Daschle-Dole compromise in the rescissions package that originally passed the Senate?

Ms. MOSELEY-BRAUN. The Senator from Oregon has some very good staff members. Yes, I did, I supported it, but the education infrastructure was not restored in that compromise.

Mr. HATFIELD. The cut for youth job training centers was $272 million.

Ms. MOSELEY-BRAUN. That is correct.

Mr. HATFIELD. The Senator supported it, and in this package it is $272 million, the precise same figure that the Senator supported in the Daschle-Dole compromise.

Ms. MOSELEY-BRAUN. That is true. That is correct. And I make the point that procedurally that was an interim step to where we are today. It was my hope always that we would be able to work toward closure and resolution in a way that made sense.

That vote was not the ultimate vote. This vote is the ultimate vote with regard to fiscal year 1995 rescissions. And so I make the point to my colleague——

Mr. HATFIELD. I thank the Senator.

Ms. MOSELEY-BRAUN. The Senator is correct. The Senator from West Virginia had a question, also.

Mr. BYRD. My question was based on the statement that I understood the Senator to say earlier that her amendment was not typed up; it was just in handwriting. My question was, is she aware that an amendment does not have to be typed, that it can be sent to the desk in one's own handwriting?

Ms. MOSELEY-BRAUN. Yes. I say to the Senator from West Virginia, yes, I am.

Mr. BYRD. And she may——

Ms. MOSELEY-BRAUN. Again, I think that is a wonderful thing about this institution.

Mr. BYRD. Is she also aware that she may orally state the amendment?

Ms. MOSELEY-BRAUN. I was not aware of that. I say to the historian of the Senate, I was not aware that an oral amendment was appropriate.

Mr. BYRD. And if she sends it to the desk or orally states it, she loses the floor?

Ms. MOSELEY-BRAUN. I thank the Senator. I was not aware of that either. I appreciate the counsel from the Senator from West Virginia.

Mr. DOLE. Will the Senator yield?

Ms. MOSELEY-BRAUN. The majority leader.

Mr. DOLE. Will the Senator yield for a question?

Ms. MOSELEY-BRAUN. For a question by the majority leader.

Mr. DOLE. I make an inquiry. Does the Senator intend to offer it or not? I wish to find out—if we are just going to have a filibuster here with two Senators, that is fine—so we can make other plans. If we are going to offer amendments, we hope Senators offer the amendments so we can have a vote.

Ms. MOSELEY-BRAUN. I thank the Senator. I say to the Senator from Kansas, the majority leader, I have an amendment to offer. I have not yet offered it. I am looking at offering it. I would like to get it typed up. I would like to have a chance to talk about the offsets and the numbers and where the money is going to come from. I understand the Senator from Minnesota has an amendment.

Mr. WELLSTONE. If the Senator will yield, I have several amendments in exactly the areas that I was speaking about that I intend to offer and have debate upon, absolutely, and hope to win on them. I said that from the very beginning.

Mr. DOLE. If the Senator will yield, why not offer the amendment? We have been here almost 2 hours on this measure and nothing has happened except for a lot of discussion. And if the Senators are going to offer amendments, let us offer amendments. If Senators do not mind disaccommodating colleagues on that side, I am not going anywhere this weekend, so I will be here all weekend. It is up to Senators. If the President does not have any influence with either one of his colleagues on that side, that is his problem. But we would like to complete the bill because the President would like to have it done. And I wish to make the best effort I can on behalf of the President, but if I am thwarted by members of his own party, I am not going to spend a lot of time trying to help the President. Maybe he ought to pick up the phone and make a couple of phone calls.

But in any event, if we offer the amendments, as the Senator from West Virginia said, we can have a vote. It will be an amendment vote. And then we will see where we are. I do not know how many Members are left. Many Members had to leave early to make plane reservations. We are still enough here to do business. We are prepared to do business. Let us do business.

Mr. WELLSTONE. Mr. President, if I could respond——

The PRESIDING OFFICER. The Senator from Illinois has the floor.

Mr. WELLSTONE. Will the Senator yield for just a moment?

Ms. MOSELEY-BRAUN. For a question, yes.

Mr. WELLSTONE. The question is in response to the majority leader.

Ms. MOSELEY-BRAUN. For a question.

Mr. DOLE. For a question.

Mr. WELLSTONE. First of all, let me be clear one more time. I am drafting amendments and am pleased to have the debate. But I would say to the majority leader, it is not a question——

The PRESIDING OFFICER. The Senator from Illinois may yield for a question.

Does the Senator from Illinois yield, for a question, to the Senator from Minnesota?

Mr. WELLSTONE. Will the Senator from Illinois yield for a question?

Ms. MOSELEY-BRAUN. To the Senator from Minnesota. I just did.

Mr. WELLSTONE. Let me restate it. Will the Senator from Illinois agree with me that when you get a bill at 9:50 in the morning and you have not had any opportunity to even examine what is in that bill, that the way to represent the people back in your State and the way to be a conscientious legislator is to, first of all, have a chance to look at it and then to be drafting amendments? I have several amendments, I would say to the Senator, already that I am working on. But I want also to look at this bill to see what is in it, and I may have some others.

Would the Senator agree with me that that is a conscientious approach; it is a mistake having something come over here and go through without having a chance to look at it and have discussion and have amendments?

Would not the Senator also agree with me that during a large part of the discussion this morning we have been responding to questions from other colleagues? It is not as if we have just been speaking by ourselves, only to ourselves. And we have been trying to highlight the priorities in this legislation. Would the Senator agree with me? Or some of the distorted priorities and talking about why not some alternatives? Would the Senator agree that that has been what is going on here?

Ms. MOSELEY-BRAUN. I would not only agree, but I would underscore the remarks of the Senator from Minnesota. And I do not have in front of me, since we just came to the floor—again we just got this bill. I did not have a chance to put together the normal amounts of information. But the fact is I do not understand—we are now in the position of being accused of trying to stall something. There is this hurry, hurry, we have just got to pass this and it has to be today. We have to have this rush of what we are going to rescind from last year's legislation. This process has taken a long time. It has gone step by step by step. We had the vote that the Senator from Oregon referred to, which I consider to be an interim step in the process, and we just got this bill this morning, quite frankly.

Were it not for just some pretty fast action to even find out that the JTPA youth training program was being cut by $272 million and education infrastructure was being terminated and low-income heating assistance was being slashed—there may even be more provisions in there of which we are not aware. We have not had a chance—I have been on my feet since 10:30, almost 2 hours. I have been standing right here. And I understand that it is part of the process that you have to stand right here, you cannot move, you cannot go to the telephone, you cannot stop and read things, and you cannot go through and do the kind of research that is required.

But just to ask us to rush to judgment on something as significant as a rollback of money that was appropriated last year, and particularly when that rollback rolls over disadvantaged youth and it rolls over people who want to see our schools repaired and it rolls over poor people who may freeze to death next winter, we are going to roll back and roll over simultaneously, and we have to sit here and say, "Oh, well, we have to go along with the program. It is not appropriate for us to get up and yell and argue; well, on the one hand, we have been told we may make it worse for those people next year. You have seen these cuts. Well, it is just going to get worse."

Lizzie Borden took an ax and gave her father 40 whacks. Next year it will be 41, maybe even 42. Well, I am sorry. My attitude about this is—I am not trying to be obstreperous. I think the Senator from Kansas and everybody in this body knows I come out of a legislative tradition. I understand compromise. I understand working with people. I try to work with everybody. But I will tell you, there is a point at which you have to say you stand for something, and among the things we stand for is seeing to the disadvantaged youth, teenagers, 16- to 21-year-olds who are disabled, homeless, school dropouts, runaways, that they do not take a $272 million whack.

I mean, come on. Education infrastructure. I may have to bring out the pictures, I do not know. I was not looking to have to be on my feet this long time, but I have the pictures sitting in the back. You have seen them. Most of the Members of this body, I hope, have seen them if they were listening at all. We have schools falling apart. Kids are having to study next to broken sewer pipes, not to mention broken windows, floorboards cracking through. I can go through—and bring out the pictures —the safety and health hazards, not decoration, not cosmetic, but basic kinds of stuff, and it gets terminated, all $35 million.

It started off at $100 million and went down to $35 million. The Senator from Oregon asked why I voted for the previous compromise. Well, being a legislator, I am compromising. "We're going to go, yes, it's OK, we'll cut from $100 million to $35 million because, boy, we have to have shared sacrifice in this time of deficit reduction. So, yeah, I'll give up some of the millions of dollars, given the fact we haven't invested in our schools, given the fact they are falling apart. But I am prepared to make some investment in the process, to go along with the program."

So we went from $100 million to $35 million, and then I look up and it is zero in this bill. I do not think that is sensible. I do not think the spirit of compromise goes to the point where you just strangle yourself, or the spirit of compromise says you necessarily have to just go quietly into the closet and let somebody cut you to death with a meat ax. I just do not think that is what the spirit of compromise means.

I think there are offsets. We were talking about where is the money going to come from? Well, we looked at it just very briefly. Here is money—we give FEMA more money than they think they need. OK, it is important to have some money for emergencies sitting there, but could you not do that by supplemental appropriations? We could not find a few dollars to put back some of the money for disadvantaged youth, for education infrastructure?

So I ask the Senator from Minnesota—I want to applaud his leadership, because last night we had a conversation here on the floor because we did not know what was going to be in this bill, and the Senator from Minnesota said, "Well, I am waiting to see what is going to be in it, because I hear some pretty bad things about it, and if it turns out it is as bad as I hear, I am just going to have to take to the floor and object." I applaud him for that.

Mr. WELLSTONE. Will the Senator yield for just a moment?

Ms. MOSELEY-BRAUN. I yield, yes; for a question.

Mr. DOLE. Mr. President, the Senator may yield for a question but not for debate.

The PRESIDING OFFICER. The Senator may yield for a question.

Ms. MOSELEY-BRAUN. I yield for a question.

Mr. WELLSTONE. Last night, is it not the case I said to the Senator that I did not know what was going to be in the bill, but what I wanted to have was at least an opportunity to look at it? Is it not true I said I did not want this to be steamrolled, and I also wanted to have an opportunity to have discussion and offer amendments to restore some of the cuts which I think are cruel to some of the most vulnerable citizens? Is that not the gist of our discussion, which is what I intend to do?

Ms. MOSELEY-BRAUN. That is the gist of the Senator's statement to me. I applaud him for his leadership and foresight.

I guess I am a little optimistic. I had hoped that the compromise would mean we would not take any whacks out of kids and poor people and the vulnerable population. I had hoped we had moved in the direction of saying, "Well, we pushed it this far, we are going to leave education funding like it is, we are going to leave job training like it is, we are not going to fool around and take any more out of the people who need heating assistance, money to help heat their homes in communities like the Senator's and like mine."

The Senator from Minnesota was talking with the Chair earlier about how the wind chill gets to be 70 below in Minnesota. I do not know the last time the Senator from Minnesota visited Chicago and Lake Michigan in the dead of winter, January. It gets so cold people say it's the hawk coming off the lake, and what looks on the thermometer to be 10 below feels more like 50 below. There are a lot of senior citizens, a lot of senior citizens who live on fixed incomes who do not have the ability to heat their homes in the winter, to withstand that. Will the Senator from Minnesota advise the Senator from Illinois, what is the cut on home heating assistance?

The PRESIDING OFFICER. The Chair reminds the Senator from Illinois that she can only yield for a question.

Mr. WELLSTONE. Will the Senator yield for a question?

Ms. MOSELEY-BRAUN. I will yield for a question.

Mr. WELLSTONE. It is the Senator's understanding based upon the answer that I am about to give to the Senator that it is about $320 million, or so, of cuts. And does the Senator understand that what happened was that on the Senate side, when we voted for this rescissions package, I voted for it? We had restored the full funding, though the House had eliminated the whole program. I have strong support, letters that I have here when we get to the debate on the amendment from the distinguished chair of the Appropriations Committee that we would hold firm in our position. But now we have over $300 million of additional cuts that just came to us late last night.

Would the Senator agree with me that in terms of priorities, what is the hurry? Would the Senator agree with me in terms of the focus we keep getting this pressure about hurry, hurry, hurry? Why are we in such a hurry to cut low-income energy assistance for elderly people, people with disabilities, people with children? What is the hurry to do that? Would the Senator be able to answer that question for me?

Ms. MOSELEY-BRAUN. Well, there is an answer, I say to the Senator from Minnesota. There is an answer, and the answer is: Vacation, I think.

I think the answer is that folks want to go home. The answer is, the deal is cut, the deck is stacked, this game has moved on down, talk about games. This train is on the track and, unfortunately, people who are concerned about $272 million cuts in job training for disadvantaged young people and who are concerned about $319 million cuts in heating assistance for poor people, and are concerned about termination of the program altogether to fix the schools—well, our bodies are just here on the track. Guess what? Our bodies being on the track is considered to be an annoyance. That is the phenomenal thing about it.

We are talking about substantive issues, and the response is that we are getting in the way, we are an annoyance. It is annoying to talk about homeless teenagers who will not get job assistance. It is annoying to talk about senior citizens found frozen to death. You know and I know, as well, that you get these stories every winter. It is annoying to talk about young people sitting up in classrooms, expected to learn. Goals 2000 calls on all Americans to reach certain educational levels by the year 2000. How can you expect a child to learn when he is sitting there trying to study English next to a broken sewer pipe? How can you expect him to get on the information superhighway when there is only one plug in the classroom and it does not work? But that is an annoyance to talk about that, and it is an annoyance to get in the way of the program. Heaven forbid that we stand on the train track while this train is coming down and raise these issues.

I tell you, in response to the Senator from Minnesota, I do not know what the hurry is. I do not know why we could not have time to—I understand the procedures. If you want to talk about these issues and the train is on the track, you have to actually stand on your feet in the Senate Chamber and talk about it and, no, you do not get a chance to sit down and read the bill. It is called a done deal. Do not pay attention to the details. But, you know, I would like very much to pay attention to the details. I would love to read that bill.

You know the old expression, "The devil is in the details." Quite frankly, I am glad I found them on two of them. I caught them trying to take $272 million out of job training for young people. I caught them trying to take money out of LIHEAP. There are probably more, I do not know. I look forward to a chance to do it.

But, as the Senator from West Virginia advises, our amendments—I say "ours" because I know the Senator from Minnesota, who actually has precedence in that regard since he was here before I was, has some amendments. And I have two—at least two. That is based on what I have seen so far.

I have not had a chance to read the whole thing. I am sorry, I say to the majority leader; we are not trying to be obstreperous. We are not. I do not mean to annoy. I do not. I really care passionately about these issues and what happens to these kids, and what happens to these old people. I do not know what else to do, unless the negotiators are willing to take the amendments or fix the compromise. There is money in there to do it with.

Like I said, this bill would give FEMA almost $1.9 billion more than they say they need. I hope they will not need it. If anything, the money that FEMA needs is for disasters. We had a terrible thing happen in Illinois. We had flash floods down in southern Illinois, following the floods of 1992. FEMA is doing a great job and nobody wants to impair them. But to give them more money than they say they need does not make a lot of sense to me, either. We can pay for these programs out of that.

Again, not being on the committee, I do not mean to be a Monday morning quarterback. I know the committee members worked hard and they meant well. But you cannot start off this balanced budget march by stepping on the feet of disadvantaged kids and senior citizens who need heating, and school systems that need windows repaired. You cannot start off down this road.

If we start taking back money from last year in this regard and then we go to reconciliation and the appropriations process this year and make it worse, by the time we achieve a balanced budget, we will have blown our country's fabric out of the water. I do not know about you—again, I guess because I am still on my feet and I have to stay on my feet—I do not know about you, but sometimes I watch—I have a teenage son. My son, Matthew, is 17 now. His generation watches a lot of these futuristic movies. So I get a chance to see some of this stuff.

I am appalled by the vision of the future that they have. Societies with people living in rusted-out cars and alleys, and the very rich with the corporations running the countries, with the very rich up here and the very poor, everybody else, digging in garbage cans. That is the vision they have. And then here we are today saying that teenagers and runaways and dropouts and homeless youth 16 to 21, take that $272 million—the only thing that gives them any job training hope.

Are we buying into that vision? I hope not. We talk about making it an opportunity society. How are you going to make it an opportunity society if you do not say our kids are our priority, jobs are our priority? We want to give people the ability to be productive. How do you do that? I guess there are some here. I think one of the secrets in all this budget stuff—some of my colleagues use the term "defense spending." It is not really defense spending; it is military spending. Lord knows that everybody wants to be patriotic, and we all want to stand by a strong military, because it is still a dangerous world out there. We want to give them what they need to work with.

So one side of the budget goes to those activities—whether there is a firewall, real or not, there. One side of the budget goes to those activities, and the other side has to feed on itself. So we are pitting senior citizens against kids. That is no approach. That is no approach.

Our social fabric depends on our ability to provide jobs. We should be able to provide job training for our young people. The Senator from Oregon said, "You voted for the first compromise." Well, yes, everybody will probably have to give up a little something this time, because we have these huge deficits and we have to get past them. We have to get on a sound fiscal footing. Yes, we are all going to have to tighten our belts a little.

But that means shared sacrifice. It does not mean tax cuts—tax cuts—tax cuts on the one hand and cuts in investment in people on the other. This is not logical. This is not logical.

You say we have to do this to comport with the budget resolution. Well, OK, but the budget resolution is what has the tax cuts in it; and, parenthetically, tax hikes on people who make less than $28,000.

How can we maintain the fabric of this Nation if we are going to exacerbate income disparities like that, if we are going to eat away at people's hope like that, if we are going to buy into the future of the movies that Matt's friends look at? How can we do that?

Again, that is why I am on the floor, and I will yield to the Senator from Minnesota for a question at this time. But that is why we are on the floor here. No, it is not fun to be seen as a "sticky wicket" person in the way, standing on the train track, about to get run over. It is not fun. But I do not have a problem doing it.

I yield to the Senator from Minnesota for a question.

Mr. WELLSTONE. Two questions: First of all——

Mr. DOLE. The Senator from Illinois has lost the floor.

The PRESIDING OFFICER. Does the Senator from Illinois yield for a question?

Ms. MOSELEY-BRAUN. I have done that. I yielded for a question.

The PRESIDING OFFICER. The Senator must stay on her feet.

Ms. MOSELEY-BRAUN. During the question, while he is responding to my question?

The PRESIDING OFFICER. Yes. If the Senator does sit again, the Chair will assume that she has relinquished the floor.

Ms. MOSELEY-BRAUN. I thank the Chair for that courtesy.

Mr. WELLSTONE. I have two questions.

First of all, I assume the Senator realizes how pleased I am that the Senator is out here speaking with me. These are very important issues, as the Senator realizes, and it is very important to be out here speaking on these concerns.

Ms. MOSELEY-BRAUN. To the Senator from Minnesota, I not only realize how important it is, but I have just been told I cannot even sit down, so it is going to get tougher by the minute. I understand that.

I think that the sacrifice of standing on my feet, however many hours this is going to take, pales in comparison to the sacrifice of that constituent the Senator read about and talked about this morning who may not be able to pay for heating in the winter in Minnesota, which is almost a fate too horrible to contemplate. Being on my feet pales in comparison to those teenage runaways, disabled teenagers, school dropouts, homeless teenagers, 16- to 21-year-olds.

Standing on my feet helps to save and give them some hope, and to preserve some portion of rationality in this debate about whether they are a priority or not. I am prepared to do that.

Mr. WELLSTONE. Will the Senator yield for another question?

Ms. MOSELEY-BRAUN. I yield for another question.

Mr. WELLSTONE. The Senator was talking about tax cuts. Is the Senator aware that this rescissions package, beyond the first round of about $5 billion in cuts, the real issue is what happens in the years to follow in the outlays?

Does the Senator understand that if we extend this to the future, that actually some of this money that is cut could very well be used—in other words, some of the money that is cut—for nutrition, for fuel assistance programs, for elderly people, or for that meat for children, for the job training program, for education, for counseling assistance to older people to make sure they do not get ripped off by supplemental insurance policies to Medicare? Does the Senator realize that actually some of that money, as we look down the pike, some of these cuts, this money could be used to actually finance the tax cuts which go disproportionally to people on the top?

In other words, what could be going on here if this is the first round, where the rubber meets the road, we have priority programs extremely important to the most vulnerable citizens. Does the Senator realize this money could be used to finance tax cuts for fat cats in the country, the most affluent people?

Ms. MOSELEY-BRAUN. Mr. President, not only am I aware of it, I say to the Senator from Minnesota, I serve on the Senate Finance Committee, and I am very much concerned about, again, the direction. I think that is probably the most significant thing about where we are with this bill.

This bill relates to last year's money, really—the appropriations happened last year. I am just afraid if we go forward and say that it is OK to cut JTPA, education infrastructure, and LIHEAP, assistance for seniors, if we start off that way, it is just going to get worse.

Mr. DOLE. Does the Senator intend to offer an amendment or talk the rest of the afternoon?

Ms. MOSELEY-BRAUN. We have amendments.

Mr. DOLE. When does the Senator intend to offer the amendments?

Ms. MOSELEY-BRAUN. Talking about a timeframe?

Mr. DOLE. We have been on this 2½ hours. The Senator could have read the dictionary in 2½ hours.

Ms. MOSELEY-BRAUN. I have not been able to sit down.

Mr. DOLE. Please do.

Mr. WELLSTONE. Will the Senator yield for a question?

Ms. MOSELEY-BRAUN. I yield for a question.

Mr. WELLSTONE. Perhaps the Senator from Illinois could respond to my concerns. I have amendments. I have said that all along.

The question is whether there could be an agreement. Maybe we could work this out where we could have some assurance that I do not introduce the amendment, and right away the majority leader tables it. I would want there to be time for debate.

Will the Senator from Illinois agree that we are interested in that assurance? Otherwise, what could happen, we could introduce amendments and immediately they could be tabled. I wonder whether the Senator from Illinois would agree to move on to amendments; that it is critically important that there is agreement we have time to debate the amendments. Otherwise, we will introduce the amendments and the majority leader will rise to the floor and move to table, and we will not have any discussion at all.

Does the Senator agree that is critical?

Ms. MOSELEY-BRAUN. I think so. That would be very important. The whole idea is to get a vote on these amendments and to get some discussion on these amendments. I am prepared to put the amendments down if we can get that kind of an understanding with the majority leader.

Mr. DOLE. Will the Senator yield?

Ms. MOSELEY-BRAUN. I cannot yield to the majority leader, but I could yield for a question.

Mr. DOLE. You could yield the floor.

Ms. MOSELEY-BRAUN. No, I cannot.

I say to the majority leader, I would love to yield the floor. I would love to introduce my amendments. I would love to move this process forward. I am not looking forward to just standing here and talking—I would.

But I think the problem is, because I am kind of stuck in this spot, I have not been able to have a discussion about any time arrangement or whether or not we will be able to have discussion and a vote on the amendments, including Senator WELLSTONE's.

So I am searching for a way, within the context of the Senate rules, that I can reach some kind of understanding regarding the procedure without losing my rights to the floor.

Senator WELLSTONE, and I think appropriately—is right. I think at this point, the majority leader, as always, has an interest in moving forward on this. I cannot imagine he would keep us from having a real vote and debate on this amendment. So I will yield to the Senator from Kansas.

The PRESIDING OFFICER. The Chair would say, the Senator from Illinois cannot yield to the Senator from Kansas. She can yield for a question or she can yield the floor.

Ms. MOSELEY-BRAUN. I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Senate majority leader is recognized.

Mr. DOLE. Mr. President, I thought we had been debating the amendments the last 2 hours. I have listened to debate on the Low-Income Home Energy

Assistance Program and counseling program and the job training program now for 2 hours. I do not know how much debate we need. I think everybody understands precisely what the issues are.

I am prepared to offer the amendment myself. I will offer the amendment. I will offer it all in one amendment, move to table the amendment, and there will be a vote on the amendment, if that satisfies the Senator from Minnesota and the Senator from Illinois. We want to bring this to a conclusion.

Again, let me repeat, I have a couple of options. I understand the President may be trying to reach you on the telephone. That is an option I had not thought of—because I can reach you right on the floor.

This has become the President's bill. He is concerned about the people who suffered in Oklahoma City. He is concerned about the people who suffered in earthquakes in California—as he should be. I think there are 39 States affected by disasters that are going to be affected by this bill, and we are still going to save $9.2 billion. It is a $16 billion bill; we spend about $6.8—but we still save about $9.2 billion.

I have one option, just to call for the regular order, which brings back the Comprehensive Regulatory Reform Act of 1995. The other option is just go out of here, adjourn, recess. I will not bring this bill up again until there is an agreement it will be brought up without any amendments and we will have a vote on it.

But if the two Senators want to frustrate their own President, I do not know why I should complain. Maybe I ought to be happy about it.

But I am concerned. This whole thing should have been settled about 30 days ago. We have been waiting 30 days, the White House has been negotiating with the House and the Senate—it has not been in secret. Everybody has known it. It has been brought up in our caucus. I am certain the Democrats discussed it in their caucus.

It is no surprise when something comes to the floor and it is something Senators had not read. If people voted on only things they read around here it might be a lot better because we would not have so many votes. But I suggest we have reached a point where we are either going to pass this bill or we are going to pull it down. That is going to be up to the Senators from Illinois and Minnesota. They have every right to do what they are doing. I do not quarrel—I do quarrel with the course they are following, because I think it is going to mean we are probably not going to pass this bill. It is not going to go to the President.

I do not want there to be any illusion we are going to jump on this bill as soon as we come back and give them all the time they want for debate. It is not going to happen. We are going to be on regulatory reform and we are going to stay on regulatory reform, and after that we will be on something else. And the longer we wait, the less money we save in this bill. Maybe that is the strategy of the two Senators. If you can wait until the end of the fiscal year, we do not save any money. But neither do you help the victims in Oklahoma City or the victims in California or the victims in some 37 or 38 other States who have been hit by disasters. Nor do you, as pointed out by the Senator from West Virginia and the Senator from Oregon, the two experts here on appropriations—in effect, you are going to be hurting the people in your own States, in Illinois, Minnesota, Kansas, Montana, Washington, New Hampshire, wherever, by frustrating and by delaying this bill.

I do not know how many Senators are left in town. I think that is probably another strategy the two Senators have used. I hope there are 51. But if the two Senators will permit me to, I can offer an amendment, one amendment that would cover everything they have raised; have one vote. We would have low-income home energy assistance, the counseling program, and job training—have one vote on that. I would offer the amendment, then I would move to table my own amendment. But you would have a vote. You would have made your case. You would have fought for principle. And you may succeed. I am not certain.

But my view is—I think the Democratic leader shares this view—we need to move very quickly. We have had 2½ hours. We have had a lot of debate. There has been a lot of debate. I think all these amendments have been debated. I do not know why we need additional debate.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. COCHRAN). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WARNER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. BURNS. Objection.

The PRESIDING OFFICER. Objection is heard.

Mr. WARNER. Mr. President, I have got to take a trip to examine——

Mr. BURNS. Objection.

The PRESIDING OFFICER. Objection is heard.

Mr. WARNER. Flood damage in Virginia.

The PRESIDING OFFICER. A quorum call is in progress.

The clerk will continue the call of the roll.

The assistant legislative clerk continued with the call of the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, a number of us, including the two leaders, have been trying to figure out some way to accommodate those who have concerns about this bill. But I do not think it is going to happen.

So I am going to propound a unanimous-consent request, the two Senators can object to that, and then I will ask for the regular order and put us back on another bill.

Let me just say, I am not going to bring up the rescissions bill again until there is an agreement we will pass it without any votes. We are trying to accommodate the President of the United States. We are trying to accommodate the House, which passed this bill late last night. More important, we are trying to accommodate people in Oklahoma City who suffered a tremendous tragedy, and a lot of this money would go to help in that area. We are trying to accommodate the people in California who suffered earthquakes. We are trying to accommodate people in 39 other States who have had disaster problems.

Here we are on the floor talking about adding $5.5 billion, or *x* dollars, which can be done in later appropriations bills or supplementals. This debate does not make any sense to me, and I have been around here a long time.

Obviously, two Senators on a Friday before a recess can frustrate anything, and they have discovered that, and I commend them for it, because now they know every time there is a recess, on a Friday, they can say "Oh, I can't let this pass, I feel strongly about this."

We all feel strongly about this, but ask somebody in Oklahoma City and ask somebody in California or ask the President of the United States if we should pass this bill, and he would say yes.

We have dawdled around here for 3 hours. All these things have been debated. It is obvious that the Senator from Illinois and the Senator from Minnesota do not want anything to happen. They can object. But do not come around and say you want to bring the bill up after the recess. It is not going to happen.

Mr. President, I ask unanimous consent that it be in order for me to offer an amendment to the pending bill for Senators WELLSTONE and MOSELEY-BRAUN, the text of which restores the LIHEAP funding, adds back $5.5 billion for insurance counseling, $35 billion for education, and restores $272 million for Job Training Partnership, and that there be 10 minutes for debate divided between Senators WELLSTONE and MOSELEY-BRAUN, at the conclusion of which time the Senate will proceed to vote; that the bill then be advanced to third reading, and passed, the motion to reconsider be laid upon the table, all without intervening action.

The PRESIDING OFFICER. Is there objection?

Mr. WELLSTONE. Reserving the right to object. First of all, let me, one more time, make it crystal clear, Mr. President, that I have an objection to the characterization of discovering on Friday that you can stall. I have been working on the Low-income Housing Energy Assistance Program for a long, long time, as each of my colleagues knows. This is a critically important issue to some of the most vulnerable citizens in my State of Minnesota, a cold weather State.

Second of all, Mr. President, reserving the right to object, I want to make it very clear that when it comes to assistance for California and Oklahoma City, in no way, shape, or form do I intend to be held hostage to that, Mr. President. We are all for that.

Mr. DOLE. I call for the regular order, Mr. President.

Mr. WELLSTONE. Mr. President——

Mr. DOLE. Regular order.

The PRESIDING OFFICER. Is there objection?

Mr. WELLSTONE. I object, Mr. President.

The PRESIDING OFFICER. Objection is heard.

Mr. DOLE. I call for the regular order.

COMPREHENSIVE REGULATORY REFORM ACT

The PRESIDING OFFICER. The clerk will report the underlying pending business.

A bill (S. 343) to reform the regulatory process, and for other purposes.

The Senate resumed consideration of the bill.

Mr. DOLE. I advise Members that there will be no more votes today. We are back on regulatory reform.

I have been given the authority by a majority of members of the Judiciary Committee and the Governmental Affairs Committee to withdraw the committee reported amendments.

The PRESIDING OFFICER. The amendments are withdrawn.

AMENDMENT NO. 1487

(Purpose: To provide a substitute)

Mr. DOLE. Mr. President, I send a substitute amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kansas [Mr. Dole], for himself, Mr. Johnston, Mr. Hatch, Mr. Heflin, Mr. Nickles, Mr. Roth, Mr. Murkowski, Mr. Bond, Mr. Grassley, Mr. Coverdell, Mr. Thompson, Mr. Craig, Mr. Brown, Mr. Thomas, Mr. Kyl, Mr. Breaux, Mrs. Hutchison, Mr. Abraham, Mr. Grams, and Mr. Lott, proposes an amendment numbered 1487.

Mr. DOLE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's Record under "Amendments Submitted.")

Mr. DOLE. Mr. President, this will be the text which will be amended on Monday, July 10. There will be two amendments. There will be votes, starting at 5 o'clock on Monday.

THE RESCISSIONS BILL

Mr. DOLE. Let me again state this, so there will not be any misunderstanding by the Senators from Illinois and Minnesota.

The next time we bring up the rescissions bill it will be by a unanimous-consent agreement, without any amendments, and with very little debate. They can continue to frustrate this Senate on a Friday afternoon all year long. That is fine with me, because I have to be here anyway.

I think they are doing a disservice to hundreds of thousands of people across America to make a political point. They have that right. Everybody makes political points on the Senate floor. And to say they are not making a political point, I think, would be a stretch.

Where was all the debate when the conference report was passed? Where has been all the concern in the last few days? These Senators know, as well, that this has been undergoing intense scrutiny with the White House, the Democratic and Republican leadership, and they finally got together. The President says pass it. I read his statements a couple of times, the statement of the administration.

Two Senators can frustrate anything. It is too late to file cloture; it is Friday afternoon, which they knew. But that is their right. I do not want to take any rights away from anybody. The day may come when they are trying to pass something on a Friday and somebody will jump up and say they cannot do this. That is the way it goes from time to time.

So I am disappointed. I apologize that we could not pass this bill. I apologize to the many people who will be suffering in the interim because of the efforts by our colleagues. But I cannot change that. They have every right to do what they have done. They objected to the immediate consideration.

Apparently, they did not really want to vote on the amendments in the first place. They had a chance to have a vote on all the amendments. We could have had a vote, but after 3 hours of wasted time, they did not want to vote and they objected. They have that right.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Ms. MOSELEY-BRAUN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. DOLE. I object.

Ms. MOSELEY-BRAUN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. DOLE. I object.

The PRESIDING OFFICER. Objection is heard.

The clerk will call the roll.

The assistant legislative clerk continued with the call of the roll.

Ms. MOSELEY-BRAUN. Mr. President, I have a question that I would like to propound, unless the——

The PRESIDING OFFICER. The Senator cannot conduct debate.

Mr. DOLE. You cannot do that.

Ms. MOSELEY-BRAUN. I cannot ask a question because you will not allow the quorum call to be called off.

The PRESIDING OFFICER. The only question in order is to ask that the order for the quorum call be rescinded.

Ms. MOSELEY-BRAUN. I understand that. The majority leader objected to that, so I cannot get to my question of the majority leader.

The PRESIDING OFFICER. The Senator cannot proceed.

Ms. MOSELEY-BRAUN. I was just checking. Thank you very much.

The PRESIDING OFFICER. The clerk will continue to call the roll.

The assistant legislative clerk continued with the call of the roll.

Ms. MOSELEY-BRAUN. Mr. President, is there any way to inquire——

Mr. DOLE. Regular order.

The PRESIDING OFFICER. The only thing in order is for the Senator to ask unanimous consent that the order for the quorum call be rescinded.

Ms. MOSELEY-BRAUN. Is there any way to find out when the majority leader will not object to the quorum call order being rescinded?

Mr. DOLE. Regular order.

The PRESIDING OFFICER. The Senator is violating the rules of debate. She cannot speak unless the quorum call is rescinded.

Ms. MOSELEY-BRAUN. I understand, but I was trying to propound a question to the Chair. I ask that the quorum call——

The PRESIDING OFFICER. The Senator cannot proceed.

The PRESIDING OFFICER. The clerk will continue to call the roll.

The assistant legislative clerk continued with the call of the roll.

Ms. MOSELEY-BRAUN. Mr. President, now?

Mr. DOLE. Mr. President, regular order.

The PRESIDING OFFICER. The Senator cannot proceed. The only item in order is to ask that the quorum be rescinded.

Ms. MOSELEY-BRAUN. Mr. President, I would do that. I was asking the question, whether now is the time that the motion to rescind the quorum call might possibly not be objected to.

The PRESIDING OFFICER. Is the Senator seeking consent to rescind the call for the quorum?

Ms. MOSELEY-BRAUN. Mr. President, yes.

Mr. ASHCROFT. Mr. President, I object.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk continued with the call of the roll.

Mr. ASHCROFT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT

Mr. ASHCROFT. Mr. President, I ask unanimous consent that the following Senators be recognized to speak in the following order for the allotted times: Senator WELLSTONE, 10 minutes; Senator MOSELEY-BRAUN for 10 minutes; Senator ASHCROFT for 10 minutes; Senator BYRD for 10 minutes.

I further ask that following the conclusion of Senator BYRD's statement, the majority leader be recognized to speak and then proceed to various wrap-up items that have been cleared by the two leaders.

Following those items, the Senate would stand in adjournment under the provisions of Senate Concurrent Resolution 20.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ASHCROFT. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WELLSTONE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE RESCISSIONS BILL

Mr. WELLSTONE. Mr. President, I shall be very brief and will be followed by the Senator from Illinois.

Mr. President, let me try to give the morning and part of this afternoon some context. We had a bill, which was about 120 pages long, come over from the House at about 9 o'clock today. This was the rescissions package voted on about 10 o'clock last night in the House of Representatives. It is my really strong view as a Senator that it is important to be able to review legislation, especially when we are talking about the cuts that directly affect people's lives. Sometimes, Mr. President, we get into the statistics and numbers and we forget the faces.

I had voted for the rescissions package passed out of the Senate earlier. I voted against the conference report because of changes that had been made. It is no secret to any Senator in here that I feel especially strongly, as do many other Senators feel very strongly, about several programs—but it is not programs. It is really about people.

I spoke about the Low-Income Home Energy Assistance Program, and I had an amendment and wanted to introduce an amendment that would have restored about a 20-percent cut in the LIHEAP. In my State of Minnesota there are 110,000 households and 300,000 people who are depending on this. I come from a cold weather State. It is a small grant, but for many people it is the difference between heating and eating.

I say to the Presiding Officer, the Senator from Idaho, because I know what kind of Senator he is and I think we respect each other whether we agree or disagree, I met with people in their living rooms. I saw the fear in their eyes. I know how strongly these people depend on this assistance, especially in such a cold weather State. And I said I would fight for these people, and that is what I have done. Because what happened last night in this final package is that we did not have the original Senate version, but we cut it 20 percent, some $315 million.

In addition, I fought for a counseling program for elderly people, to make sure they could not be ripped off. It was consumer protection. This was coverage that people asked for in addition to Medicare, to fill in the gap.

Then I discovered there were some additional cuts in dislocated worker programs. The Senator from Illinois spoke eloquently, of course, about a program she had worked on, just a small amount of money for school infrastructure, for kids.

So what I said today was I wanted the opportunity to go through this bill. I wanted an opportunity to talk about it. I wanted an opportunity to introduce amendments. The first amendment would have been offset, and I gave examples of some of the waste in the travel administrative budget in defense. That money would have been transferred so we would not have the same cut in the Low-Income Home Energy Assistance Program.

I must say, Mr. President, looking at this in a slightly larger context, I find it unconscionable. Really, what we might be talking about, as we extend this rescissions bill into the future—this is a grim precedent of where we are going, since this is where the rubber meets the road. We could be seeing the cuts in the outyears for low-income energy assistance, for children, for education, for counseling for seniors to make sure they do not get ripped off with health insurance—all used to finance tax cuts that go in the main to wealthy, high-income people. Cuts in programs for dislocated workers, job training, you name it. All in the name of tax cuts? We do not go after any of the subsidies for the oil companies but we cut low-income energy assistance? We do not go after any of the military contractors, any of the waste there, but we make cuts in low-income energy assistance, job training programs for kids, counseling programs for elderly people, for consumer protection.

To me it was unacceptable.

I just want to respond to one or two points that the majority leader made, and then I will conclude my remarks.

This was not something just done on Friday. I just got this bill. I am not going to be bulldozed over as a Senator. I want to look and see what is in this piece of legislation. That is the responsible thing to do. And it certainly is true that those people, be they elderly people with disabilities, be they children, working poor people who are affected by low-income energy assistance may not have all the clout and make all the money and make all the contributions, deserve representation here in the U.S. Senate.

The cuts, I believe, are unconscionable. So this was not something I just come to on Friday. This has been a priority issue for me as a Senator from a cold weather State where many people are affected by these cuts for a long, long time. And will continue to be so.

Second, I care fiercely about the assistance for people in Oklahoma and California. We will be back to this bill. We all know it. Of course, we will be back to this bill. And, of course, there will be relief, and I have voted for that relief and will continue to do so. We all know we are going to be back on this piece of legislation—and we must. I hope there will be some discussion in the meantime and we can work out some reasonable compromise.

Finally, I have the utmost respect for the manager of the bill, the Senator from Oregon, and certainly for the Senator from West Virginia. But as to what happens in the future, we cannot be bound by the priorities and the parameters of what the House of Representatives is doing in these kinds of budget resolutions. We can make changes next year. I just simply tried to say today, and I will say it over and over again—I will shout it from the mountain top, from the floor of the Senate, if that is what is necessary—that these are distorted priorities. To ask some of the most vulnerable citizens in this country to tighten their belts when they cannot, to cut low-income energy assistance for people in my State, a cold weather State, and not even look for offsets? Not to restore that kind of funding? That is unacceptable to me.

So, I have no doubt that we will be back on this.

My final point would have been that by amendment, I would have on the first amendment talked about other

States, the number of people affected in Missouri, in Kansas, or in Minnesota by low-income housing energy assistance, or Illinois. I would have laid out some important data. I would have talked about real people who are behind these statistics, and I would have talked about offsets.

But in all due respect to the majority leader to come out at the end and say: I will roll them all into one amendment and have 10 minutes and then move to table—I do not legislate that way. I do not know too many Senators who really find that acceptable when it is the issue you have been working on for the people you are trying to represent.

So I hope that we will be back on this bill right away, and we will go forward with the discussion. I hope that we can work out a satisfactory agreement. In any case, I intend to keep on speaking and keep on fighting, not with malice, not with bitterness, but with dignity, and face the policy that I honestly believe in.

I yield the floor.

Ms. MOSELEY-BRAUN addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Ms. MOSELEY-BRAUN. Thank you very much.

Mr. President, this morning has been difficult for all of us. But I have to say that particularly when some of the pages came over and spoke to me a while ago, I could not help but be reminded of how it is, particularly in this U.S. Senate, in this legislative body, that one person really can make a difference.

And if a person, a Senator, cares deeply about something, then that Senator has the right and the opportunity to make the case, to make a point, and to raise the issue. Sometimes in raising the issue, it results in change. Sometimes it does not. But certainly, raising the issue is of primary and critical importance.

I have not been here long enough. But, at the same time, I am a Senator, and I was elected by my State. I am called on to be the voice for the people who sent me here, and to stand up for interests and concerns of the voters and citizens of my State.

I believe that it is of real importance to raise the fact that the decisions in this bill represent misplaced priorities, that it ought to have been changed, and that the priorities represented ought to have been changed. I mean no disrespect to my colleagues on the committee who came up with this compromise—I know they worked hard and I know they felt strongly and feel strongly about the particulars in this bill. But if anything, that is what legislation represents—ideas. That is what it is. It is an idea. If the idea has a flaw in it, then I think it is our obligation to get up and say there is something wrong with it.

That is why I came to the floor this morning with Senator WELLSTONE. I have and will continue to say that it is wrong to take money away from job training opportunities for our disadvantaged teenagers. I think it is wrong to take money away from senior citizens who may need heating assistance. I think it is wrong to say we are not going to start fixing up some of the schools that make it almost impossible for students to learn.

I also thought that while there are some things about this bill that were good, that we could find the money to take care of these priorities.

I came to the Senate floor with Senator WELLSTONE to try to offer some amendments. But, as you know, the procedures are sometimes convoluted; the procedures are sometimes complex.

The bottom line result was that we were not given an opportunity to actually have a vote on our amendments in the context of the amendment process, and the bill was pulled.

I thought we could go to the bill. I think Senator WELLSTONE is right, that the bill will come back, that we will have another shot at it at some point in time if, indeed, this is the will of the leadership. I certainly did not want—and I know Senator WELLSTONE did not want—to annoy anybody or to put anybody out or to impair anybody's plans for vacation. But we have a responsibility, it seems to me, to do everything that is within our power to speak to the ideas that get floated around here as legislation.

I think this is one of those critical moments, as we start the debate of what kind of march are we going to take down that road to deficit reduction, we must also engage in the debate of how are we going to march down that road? Are we going to march down that road together, as Americans with a shared sacrifice and everybody pitching in, or are we going to march down that road stepping on the backs of the feet of the teenagers, the senior citizens, the poor, the vulnerable, and the people who cannot necessarily speak for themselves?

I tell you, Mr. President, that I believe what happened here this morning, I hope that what happened here this morning, will help to shape the debate about how we go about achieving deficit reduction and how we get on that glidepath to a balanced budget; and that, in having come out here and exercised our rights as legislators, that Senator WELLSTONE and I reached our colleagues on the television sets in their offices, or wherever they are right now, that we reached some people to suggest that as we go down that path, we have to go down that path in a way that recognizes that our future as Americans is inextricably wound together and that we cannot, we must not, take more sacrifice from one group than another; that the contributions ought to be based on the ability to contribute; that we do not call on people who are already hanging on by their fingernails, call on the least able in our society to give the most; and that we can achieve this glidepath recognizing that investment in our people is the single most important investment we can make as Americans.

That I think is what this debate this morning was really about, or what we hoped it would be about. I had hoped to offer two amendments. Senator WELLSTONE also had amendments. We did not get that chance. But I know we will have a chance to do so. I hope we will have a chance to do so on this legislation or some other legislation as we go down this process, as we move toward adjournment.

Mr. President, I say to my colleagues, as we approach these issues, let us recognize that really we do have an obligation to talk to one another and to try to work these issues out in a way that is fair to all Americans—not just some Americans, but every American—including those who do not have the wherewithal to weigh in with lobbyists and the like.

I thank the Chair very much, and I yield the floor.

Mr. ASHCROFT addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri is recognized for 10 minutes under the previous unanimous consent order.

Mr. ASHCROFT. I thank the Chair.

THE RESCISSIONS BILL

Mr. ASHCROFT. Mr. President, I am pleased to have this opportunity to make comments about the rescissions bill which has been before us but which has been withdrawn from consideration as a result of the unwillingness on the part of the Senator from Illinois and the Senator from Minnesota to allow amendments to be voted on.

Just moments ago, the Senator from Illinois said that there were amendments which she had prepared which she hoped she would have the opportunity to submit. I recall this morning having listened to the leader ask specifically that amendments be submitted. He asked not only that the Senator from Illinois submit amendments for consideration but asked that the Senator from Minnesota submit amendments for consideration. Over and over again, they would deny that they wanted to submit amendments; they would refuse to submit amendments.

Then I saw the leader, the majority leader, come to this podium and say I have heard the debate and I will craft an amendment which will reflect the concerns of the Senator from Illinois and the Senator from Minnesota, and I will submit that amendment so that we can have a vote so that the Senate can express itself in regard to the amendment, if I can have unanimous consent to do that.

The objections which were heard in this Chamber at that time were the objections from the very Senators who now say they were deprived of an opportunity to forward such concerns and have a vote on their concerns.

I find that to be confusing, and it is troublesome because every effort was made and every deference was given to those individuals in this Chamber to submit their own amendments.

Then absent their own capacity to submit their amendments, the majority leader generously offered to formulate and submit an amendment in their behalf so that there could be a vote reflecting those concerns, and they simply refused to allow those concerns to be reflected in an amendment.

I want the RECORD to be clear on this. Mr. President, the majority leader made the opportunity clear and made it expansive for amendments to be provided here. No amendments were offered.

Second, when the majority leader himself offered in their behalf an amendment and needed unanimous consent in order to so do, they objected to that amendment.

It is clear to me that the opportunity for amending the rescissions package was thorough and substantial, and that the majority leader bent over backwards in order to make those concerns not available as opportunities but to put them in a position and posture whereupon they could be voted. But the objection to that procedure was, in fact, made by those individuals who had later protested that they had not had the opportunity.

Let me just say that we have worked on this issue since early this morning, and that the rescissions bill is a bill, the content of which is well known. In general, it restores $772 million of proposed rescissions and cuts an additional $794 million in the fiscal year 1995 appropriations, for a total rescissions of $16.4 billion. It passed the House by a vote of 276 to 151.

The suggestion by individuals in this Chamber that you could not know what was in this bill, that there had been inadequate information or time for consideration, I do not believe, is an accurate suggestion.

The restored funding included $225 million for safe drinking water, $105 million to the so-called AmeriCorps volunteer program. That is what it costs us just in this bill in increased funding over our previous effort at rescissions to support the President's so-called volunteer program in which he pays each volunteer $15,000 a year. Of course, then it requires a $15,000 commitment to the bureaucracy to support that volunteer program.

There was $220 million in safe/drug free schools restored funding in this rescissions package; $120 million in education and job training that was restored in this rescissions package over the previous rescissions package.

It was interesting to hear objection raised that we are somehow depriving opportunities for job training, and the Senator from Minnesota said this was an unconscionable bill. I wonder if that is the way he views his President's recommendation that this bill be passed and assurance that he would sign the bill if the bill were to be presented to him.

When the Senator from Illinois talked about job training, I wonder if she was referring to the fact that $120 million was restored in this bill in the area of job training and that there was $102 million in community development block grants, and that this measure as a matter of fact had $39 million as an increase in the 1995 appropriations in miscellaneous housing, community and education programs.

Well, I could go on and on. Much was said this morning about a general who had spent $100,000 moving an airplane and asking that he be transported, and I do not think we ought to have generals abusing air travel privileges. That is why I think we ought to support this rescissions bill. This rescissions bill cuts $375 million in Government administration travel. We need to cut that. We need to delete that. And yet under the guise of complaining about travel abuses we have stopped the consideration of a bill which would cut $375 million in Government administrative travel.

I believe that the efforts have been counterproductive in this Chamber today. I believe that they have failed to achieve the purposes which they have stated—as a matter of fact, they have turned in on themselves. And the very things they said they sought to assist—job training, cutting abuses, travel abuses in the administration—as a matter of fact, would have been addressed in this rescissions bill, but we were simply denied the opportunity to consider them today.

They talked about LIHEAP, the energy program. What we really need to talk about today is the fact that we must make progress toward bringing Government spending into balance with Government resources, and in order to do that we are going to have to make some cuts. We are going to have to make some adjustments.

We are looking at the Fourth of July. That is Independence Day. We should be thinking about legislation in the context of independence. We should be thinking about legislation in the context of freeing ourselves from debt. This was an opportunity to free ourselves from expenditures totaling $9.3 billion, with a consensus reached by House leaders, by Senate leaders, by the White House, some way that we could begin to get a handle on the deficit, and we were refused.

One of the reasons is there is no willingness to cut the so-called LIHEAP program. Let us look at what LIHEAP represents.

Back in the 1970's, when energy prices more than doubled, there was a special program to take the sting out of the massive increase in energy costs. This was a special program to help people buy fuel oil for their homes. The price for energy now has gone below where it was before the crisis. And yet while the energy price has gone down, the LIHEAP program has gone up and up and up.

Eventually, if we are going to do what the people of this great Nation sent us here to do—and that is to get Government under control—we are at least going to have to look carefully at programs, the need for which is no longer existent but which grow as a result of the fact that bureaucrats who want to buy the favor of citizens continue to build and build and build the programs.

Mr. President, we have had today an opportunity which is sorely missed—missed because there are those who would have, they said, improved the future for our children. I do not think maintaining debt improves the future for America. Virtually every child born today faces interest payments on the Federal debt of nearly $200,000 over their lifetime. We must not saddle the yet unborn children whose wages are yet unearned with the burden, the incredible burden of that kind of weight, a weight in interest costs on the Federal debt.

We must get it under control. It is time for us to curtail the $4.9 trillion debt of this country, and the first step, the step agreed to by the House in an overwhelming vote, agreed to by the President of the United States, agreed to by the leadership of the Senate, was to make the $9.3 billion downpayment of rescissions.

It has been said loudly and sometimes very sincerely that we maybe did not need a balanced budget amendment. We simply needed to have the capacity to balance the budget. I wonder about our capacity. If we do not have the ability and discipline when we come to a negotiated conclusion about what can be done, what ought to be done to restrict spending, even by a small amount like $9.3 billion as it relates to the trillion dollar budget of this country, I wonder if we have much opportunity for success.

So I heard the debate this morning, the debate of apologies between individuals about, oh, it was terrible that we had to rescind these funds. I am here to say that I do not apologize for rescinding funds, funds that we can no longer spend at the expense of the next generation. It is time for us to be serious about curtailing the debt of the United States of America to save the next generation and their opportunities.

Independence Day is but a few days away. Unfortunately, independence from debt is not that close, but it is time for us to make a beginning.

Mr. President, happy Fourth of July.

The PRESIDING OFFICER. Thank you very much. The Senator's time has expired.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia is recognized for 10 minutes.

COMMENDING SCOTT BATES ON 25 YEARS OF SERVICE TO THE SENATE

Mr. BYRD. Mr. President, I thank the Chair. I rise to commend Scott Bates, our legislative clerk, on his outstanding 25 years of service to the U.S. Senate.

Scott Bates began his career in Washington as a summer intern in the bill clerk's office under Senator John L. McClellan's patronage in 1970. It was the beginning of a most auspicious match for both Scott and the Senate.

From the beginning, politics was in Scott's blood. His father, Paul Bates, served as a member of the Arkansas Legislature. Scott loved politics in school, and he served as a page in both the house and the senate of the Arkansas Legislature.

In 1975, Scott first began working at the Senate desk where he has continued working ever since. His contributions to this body and to its workings have been many and notable.

As the bill clerk of the Senate, Scott was instrumental in developing the first automated recordkeeping system in the Senate, later known as LEGIS. Scott Bates established the current method used here in the Senate for numbering amendments, and he has left his innovative mark on much of the printed material used on the Senate floor to aid us in our work, from rollcall tally sheets to the Senate Calendar.

Although public service in general and careers in Washington have fallen out of favor, I believe that Scott Bates' life and work experience present a compelling case against the current cynicism about the many fine people who serve here in the Congress in various capacities. Their names are never in the papers. They experience few public kudos, and yet they work as long hours, probably longer, than we do. They are dedicated, capable, patriotic individuals who represent the best that America produces from all over this Nation.

Scott Bates is a fine example of what I am talking about. He was born and grew up in Pine Bluff, AR, where his parents, Paul and Mae Bates, still reside. As a lad, he participated in the Boy Scouts, achieving the high honor of Eagle Scout. He went farther than I went in the Scouts.

Scott personifies what we politicians like to refer to as "family values." He has always been active in his church and has been married to his wife, Ricki, for 20 years this July. Scott and Ricki have three wonderful children—Lisa, Lori and Paul.

As all of us know, one of Scott's official duties as legislative clerk is to call the roll of the Senate during votes and during quorum calls. To his young son, Paul, this is obviously the most fascinating part of his dad's work. When once asked what his father did for a living, young Paul responded: "My dad calls other people names."

And he gets by with it. Nobody quarrels about it. Nobody criticizes this man for calling other people names.

Of course, the calling of the roll is only one small part of Scott's many duties and responsibilities, and he handles them all with aplomb and dignity.

To one of the very best of the many fine individuals who serve their country with distinction as dedicated employees of this body, I extend my heartiest congratulations on 25 years of outstanding service.

Along with the Members of the Senate and the legislative floor staff of the Office of the Secretary of the Senate, among whom Scott Bates is perceived as a leader and as a teacher, I express my hope that he will continue his fine work with the Senate for many more years to come.

Mr. President,

It isn't enough to say in our hearts
That we like a man for his ways;
Nor is it enough that we fill our minds
With psalms of silent praise;
Nor is it enough that we honor a man
As our confidence upward mounts;
As going right up to the man himself
And telling him so that counts.

Then when a man does a deed that you really admire,
Don't leave a kind word unsaid.
For fear to do so might make him vain
And cause him to lose his head.
But reach out your hand and tell him, "Well done."
And see how his confidence swells.
It isn't the flowers that we strew on the grave,
It's the word to the living that tells.

Mr. President, I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, I have a series of short statements that I would like to make. I know the hour is late.

TRIBUTE TO ROBERT W. McCORMICK

Mr. DOLE. Mr. President, I rise today with great pleasure to honor a dedicated public servant on the occasion of his retirement. Mr. Robert W. McCormick, Director of the U.S. Senate Telecommunications Department, has more than 38 years' experience in the field of telecommunications. He served 26 years active duty in the U.S. Army, including 13 years with the White House Communications Agency under four Presidents. During his more than 12 years as Director of the Senate Telecommunications Department, serving under seven Sergeants at Arms, Bob McCormick has been responsible for the planning, research, testing, and delivery of telecommunications equipment and services for all Washington, DC, Senate offices, and the approximately 400 State offices.

While Bob McCormick's accomplishments are too numerous to specifically mention all of them, I would like to highlight a few of his major achievements. He directed the installation of a state-of-the-art digital telephone switch and sets for Washington, DC, offices in 1986–87. Soon thereafter, he oversaw installation of the FaxXchange system; the Senate Voice Mail System; and the Cloakroom and Sergeant at Arms Group Alert systems that are integrated into the telephone system. In 1993, he was given responsibility for the U.S. Capitol Police Radio System and for the Senate's data communications network. Under his leadership, the Capitol Police radio system has been upgraded. Senate data communications are being transmitted by the faster, reliable, and less expensive frame relay service.

During his directorship, he has negotiated approximately a 50-percent reduction in Senate long-distance per-minute rates—for both Washington, DC, and State offices. He has also achieved substantial savings in the cost of data communications by converting to the frame relay network.

There is a saying that when goodness and skill work together, expect a masterpiece. Bob McCormick is a masterpiece. Not only has he been a model public servant, but also he is a devoted husband, father, and grandfather. He is an active member of church and community organizations in Queen Anne's County, MD, where he and his wife, Mary Ann, live on a farm.

I ask my colleagues to join me in thanking Bob McCormick for his years of public service and wishing him well on his retirement.

TRADE NEGOTIATIONS WITH JAPAN

Mr. DOLE. Mr. President, victory was declared on Wednesday in the trade negotiations with Japan. But I think a lot of Americans are wondering "in favor of which side?"

A lot of Americans are wondering exactly what did the United States get after years of tough talk and threats?

A closer look reveals that after 2½ years of negotiations, the final agreement is vague, unenforceable, non-binding—in short, it is virtually empty.

Mr. President, Japanese car manufacturers apparently promised to increase production at their transplant operations in the United States. But for the most part, the promised increases may be no more than what was already planned. It is hard to see why the threat of a major trade war was necessary to persuade the Japanese to do what they already had announced.

Mr. President, the U.S. negotiators claimed to have reached landmark agreements in the areas of auto parts and dealerships. But the Japanese immediately issued disclaimers, emphasizing that any commitments were not government commitments, carry no government backing, and are not enforceable.

The U.S. negotiators announced an estimate of expected increases in sales of auto parts under the agreement. Incredibly, the Japanese negotiator then specifically disavowed the United States estimate. He said the United States estimate was shared "neither by the minister himself nor by the government of Japan."

Mr. President, it makes one wonder, who were we negotiating with? One report this morning states that some Japanese officials "expressed amazement that the U.S. accepted the final deal."

Is this the "specific, measurable, concrete" deal the President promised?

If the estimated increases in parts purchases fail to occur, there are no consequences. If the number of dealerships does not increase, Japan faces no penalties. If the United States estimates in any of these categories do not materialize—well, the Japanese never acknowledged those United States estimates in the first place. And a joint United States-Japan statement adds the ultimate qualifier: Both sides agreed to recognize that "changes in market conditions may affect the fulfillment of these plans."

Mr. President, the bottom line is that this agreement does very little, if anything, to address the continuing problem of market access in Japan. After this agreement is in place, Japan will remain the most closed major industrial economy in the world. Japan will remain a sanctuary economy with the lowest level among all industrial nations of import penetration across numerous industry sectors.

This agreement does nothing to address the continuing problem of Japanese cartel-like behavior in their home market. It does nothing to address the restrictive business practices that effectively block United States companies from penetrating the Japanese market. And it does nothing to encourage, not to mention require, the Japanese Government to take any action against those practices.

Mr. President, we went to the brink of a trade war with one of our most important trading partners and would up with vague promises that cannot be enforced. I hope this is not a model for future efforts to get tough against closed foreign markets.

HEARINGS REVEAL CLINTON DRUG STRATEGY FAILING

Mr. DOLE. Mr. President, Congressman BILL ZELIFF has just held 2 days of outstanding hearings on the President's national drug control strategy. I think those hearings were very important, and the American people ought to know what Congressman ZELIFF and his National Security Subcommittee discovered.

You may remember that it was BILL ZELIFF who invited Nancy Reagan and a number of other drug experts from around the country to testify in March of this year, and who held an all-day hearing in April with Dr. Lee Brown, the White House drug czar.

Mrs. Reagan testified that we have to get back on track, and she was right. The fact is that drug use fell each year of the Reagan administration, and up until 1992, it continued to fall. For example, monthly cocaine use dropped from 2.9 million users in 1988 to 1.3 million in 1992. Overall drug use dropped from 22.3 million users in 1985 to 11.4 million users in 1992.

Drug use has gone up with 17 and 18 year olds, 15 and 16 year olds, 13 and 14 year olds. Now we are spending less on drug interdiction programs in this administration.

But, as Congressman ZELIFF's hearings highlighted, drug use since 1993 has been steadily rising. A 1994 survey of 51,000 kids showed use of LSD, non-LSD hallucinogens, stimulants, and marijuana all up. Cocaine street prices continue to fall, while cocaine emergency room admissions are at historically high levels. In 1994, twice the number of 8th graders were experimenting with marijuana than in 1991, and daily use by seniors was up 50 percent between December 1993 and December 1994.

During his hearings, Congressman ZELIFF also turned up these disturbing facts:

First, the head of DEA, Administrator Constantine, admitted that exploding drug use in this country and international drug cartels should be seen as our No. 1 national security threat. Administrator Constantine also admitted that rising casual drug use among U.S. kids is a timebomb waiting to explode.

Second, the President's interdiction coordinator, Admiral Kramek, admitted that his office, which is supposed to coordinate the whole Nation's drug interdiction effort, has just six full-time employees—and that the administration's interdiction effort has been cut for 3 straight years.

Third, officials at the DEA, the President's interdiction coordinator, and the head of U.S. Customs all suggest that President Clinton's drug strategy is not fulfilling stated expectations.

Fourth, the General Accounting Office has released a report confirming that the administration's anti-drug strategy in the source countries is badly managed, poorly coordinated among agencies, and holds low priority in key embassies, including the U.S. Embassy in Mexico—despite the fact that 70 percent of the cocaine coming into the United States comes over the border with Mexico.

Mr. President, I want to commend Chairman ZELIFF for convening these important hearings. The hearings are a wake-up call to all of us in Congress that we must regain the offensive and renew our commitment to the war on drugs.

AMERICA'S 219TH BIRTHDAY

Mr. DOLE. Mr. President, next Tuesday, in homes, neighborhoods, and communities across the country, Americans will celebrate Independence Day.

And since the Senate will not be in session on America's birthday, I wanted to take a minute today to share some very meaningful words with my colleagues.

The words are not mine. Rather, they were first written in 1955, as a public relations advertisement for what is now the Norfolk Southern Corp. The words have been updated slightly since that time, and they eloquently encompass what America is all about.

> I was born on July 4, 1776, and the Declaration of Independence is my birth certificate. The bloodlines of the world run in my veins, because I offered freedom to the oppressed. I am many things, and many people. I am the Nation . . .
>
> I am Nathan Hale and Paul Revere. I stood at Lexington and fired the shot heard around the world. I am Washington, Jefferson, and Patrick Henry. I am John Paul Jones, the Green Mountain Boys and Davy Crockett. I am Lee and Grant and Abe Lincoln.
>
> I remember the Alamo, the Maine and Pearl Harbor. When freedom called I answered and stayed until it was over, over there. I left my heroic dead in Flanders Fields, on the rock of Corregidor, on the bleak slopes of Korea, and in the steaming jungles of Vietnam.
>
> I am the Brooklyn Bridge, the wheat fields of Kansas, and the granite hills of Vermont. I am the coalfields of the Virginias and Pennsylvania, the fertile lands of the west, the Golden Gate and the Grand Canyon. I am Independence Hall, the Monitor and the Merrimac.
>
> I am big. I sprawl from the Atlantic to the Pacific . . . my arms reach out to embrace Alaska and Hawaii. Three million square miles throbbing with industry. I am millions of farms. I am forest, field, mountain and desert. I am quiet villages—and cities that never sleep.
>
> You can look at me and see Ben Franklin walking down the streets of Philadelphia with his breadloaf under his arm. You can

see Betsy Ross with her needle. You can see the lights of Christmas, and hear the strains of "Auld Lang Syne" as the calendar turns.

I am Babe Ruth and the World Series. I am 110,000 schools and colleges, and 330,000 churches where my people worship God as they think best. I am a ballot dropped in a box, the roar of a crowd in a stadium, and the voice of a choir in a cathedral. I am an editorial in a newspaper and a letter to a congressman.

I am Eli Whitney and Stephen Foster. I am Tom Edison, Albert Einstein, and Billy Graham. I am Horace Greeley, Will Rogers, and the Wright brothers. I am George Washington Carver, Jonas Salk, and Martin Luther King.

I am Longfellow, Harriet Beecher Stowe, Walt Whitman and Thomas Paine.

Yes, I am the Nation, and these are the things that I am. I was conceived in freedom and, God willing, in freedom I will spend the rest of my days.

May I possess always the integrity, the courage, and the strength to keep myself unshackled, to remain a citadel of freedom, and a beacon of hope to the world.

Mr. President, I know all Senators join with me in wishing America a happy 219th birthday.

REVIEW OF 104TH CONGRESS

Mr. DOLE. Finally, Mr. President, we have now completed 6 months work in the U.S. Senate and the Congress.

Mr. President, as we prepare to return to our States for the July 4 recess, I wanted to take just a minute to review the last 6 months, and to look ahead to the 6 that remain in this year.

When Republicans asked Americans to put Congress under new management for the first time in 40 years, Mr. President, we promised that we were a different way of doing business. We promised we would not stand for the status quo. We promised we would bring change to Capitol Hill.

We have kept those promises. We have kept our word. We have brought change to Capitol Hill.

One change we brought was in our work load. In past sessions, Congress would convene in January, and then take it easy for a month or two. This Congress put an end to that. We hit the ground running.

From January 5 through June 28, the Senate has been in session for 106 days, meeting for a total of 933 hours and 52 minutes—that is 21 more days and nearly 350 more hours than the Senate spent in session from January 5 through June 30, 1993—the first 6 months of the first session of the 103d Congress.

What has the Senate accomplished in that time? Well, one thing we have not done is pass more legislation than the previous Senate. And that is a good thing. Because the people did not send us here to pass more laws that mean more regulations and more Government. They sent us here to rein in the Federal bureaucracy, and to return power to States, to communities, and to the people.

And that is exactly what we have done.

we began by leading by example, passing the Congressional Accountability Act, which will subject Congress to the same laws we impose on everybody else.

We put an end to the practice of sending Federal mandates to our States and local Governments, but not sending along the money to pay for them.

We passed the Paperwork Reduction Act, which will help to reduce redtape.

We passed the line-item veto legislation, which will result in the reduction of unnecessary Federal spending.

We took the first step to reforming a civil litigation system that is out of balance, out of control, and out of common sense.

In the wake of the terrible tragedy in Oklahoma city, we moved quickly to pass antiterrorism legislation. Legislation that we can be just as proud of 10 years from now, as we are today, and legislation that included historic habeas corpus reform.

We passed a telecommunications bill that reduces Government interference in that fast growing industry.

And, of course, we passed a historic budget resolution that sets America on a 7 year path to a balanced budget.

This is just a partial list of legislation we have passed this session. All in all, not a bad start.

And let me assure the American people it is just that. A start. Republicans know we have much to do before the end of this first session.

This includes regulatory reform. Welfare reform. A tough anticrime bill. A congressional gift ban and lobby reform. And the appropriations bills, which will offer final proof that we are serious about balancing the budget. And speaking of that, we have not given up on passing the balanced budget amendment.

Teddy Roosevelt once said that "the best prize life has to offer is the chance to work hard at work worth doing." I guarantee to my colleagues that over the next 6 months we'll have an opportunity to win that best prize, because we will continue to work hard at work worth doing. The American people deserve no less.

Mr. President, I ask unanimous consent that a listing of some of the important legislation adopted by the Senate this session be printed in the RECORD following my remarks.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

BILLS CONSIDERED AND PASSED IN THE SENATE
(104TH CONGRESS)

H.R. 1(S. 2), Congressional Accountability.
H.R. 421, Alaska Native Claims Settlement.
H.R. 483, Medicare Select.
H.R. 517, Chacoan Outliers Protection Act.
H.R. 831, Self-Employed Health Insurance.
H.R. 889, Emergency Supplemental and Recissions.
H.R. 956, Common Sense Legal Reform.
H.R. 1158, Emergency Supplemental/Disaster Relief.
H.R. 1240, Sex Crimes Against Children Prevention Act.
H.R. 1345, D.C. Financial Responsibility and Management Act.
H.R. 1380, Truth in Lending.
H.R. 1421, Statute References and Jurisdictional Changes.
S. Con. Res. 13, Budget Resolution (Domenici).
S. 1, Unfunded Mandates.
S. 4, Line Item Veto.
S. 103, Lost Creek Land Exchange Act.
S. 178, Reauthorization Act of 1995.
S. 184, Rare Disease Research Act.
S. 219, Regulatory Transition.
S. 244, Paperwork Reduction Act.
S. 257, Veterans of Foreign Wars (South Korea).
S. 268, Triploid Grass Carp Certification Inspections.
S. 273, Amend Section 61h–6, of Title 2, U.S. Code.
S. 349, Navajo-Hopi Relocation Housing Program.
S. 377, Elementary/Secondary Education (Indian Education).
S. 395, Alaska Power Administration.
S. 440, National Highway System Designation Act.
S. 441, Indian Child Protection and Family Violence Protection.
S. 464, Reporting Deadlines.
S. 510, Native Americans Programs Act (Reauthorization).
S. 523, Colorado River Basin Salinity Control Act.
S. 532, Clarifying Rules Governing Venue.
S. 534, Interstate Transportation Solid Waste.
S. 652, Telecommunications.
S. 735, Terrorism.
S. 962, Extension, Middle East Peace Facilitation.
S. Con. Res. 67, FY96 Budget Resolution Conference Report.

Mr. DOLE. Mr. President, I might add, that list does not include many of the nominations we have acted on, too.

MORNING BUSINESS

Mr. DOLE. Mr. President, I ask unanimous consent there be a period for the transaction of morning business not to exceed 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGE REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT OF PROPOSED LEGISLATION ENTITLED "THE SAVING LAW ENFORCEMENT OFFICERS' LIVES ACT OF 1995"—MESSAGE FROM THE PRESIDENT—PM 60

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on the Judiciary.

To the Congress of the United States:

Today I am transmitting for your immediate consideration and passage the "Saving Law Enforcement Officers' Lives Act of 1995." This Act would limit the manufacture, importation, and distribution of handgun ammunition that serves little sporting purpose, but which kills law enforcement officers. The details of this proposal are described in the enclosed section-by-section analysis.

Existing law already provides for limits on ammunition based on the specific materials from which it is made. It does not, however, address the problem of excessively powerful ammunition based on its performance.

Criminals should not have access to handgun ammunition that will pierce the bullet-proof vests worn by law enforcement officers. That is the standard by which so-called "cop-killer" bullets are judged. My proposal would limit the availability of this ammunition.

The process of designating such ammunition should be a careful one and should be undertaken in close consultation with all those who are affected, including representatives of law enforcement, sporting groups, the industries that manufacture bullet-proof vests and ammunition, and the academic research community. For that reason, the legislation requires the Secretary of the Treasury to consult with the appropriate groups before regulations are promulgated. The legislation also provides for congressional review of the proposed regulations before they take effect.

This legislation will save the lives of law enforcement officers without affecting the needs of legitimate sporting enthusiasts. I urge its prompt and favorable consideration by the Congress.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *June 30, 1995.*

REPORT ON PROGRESS CONCERNING EMIGRATION LAWS AND POLICIES OF THE RUSSIAN FEDERATION—MESSAGE FROM THE PRESIDENT—PM 61

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Finance.

To the Congress of the United States:

On September 21, 1994, I determined and reported to the Congress that the Russian Federation is in full compliance with the freedom of emigration criteria of sections 402 and 409 of the Trade Act of 1974. This action allowed for the continuation of most-favored-nation (MFN) status for Russia and certain other activities without the requirement of a waiver.

As required by law, I am submitting an updated Report to Congress concerning the emigration laws and policies of the Russian Federation. You will find that the report indicates continued Russian compliance with U.S. and international standards in the area of emigration.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *June 30, 1995.*

MESSAGES FROM THE HOUSE

At 9:54 a.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, which it requests the concurrence of the Senate:

H.R. 1944. An act making emergency supplemental appropriations for additional disaster assistance, for antiterrorism initiatives, for assistance in the recovery from the tragedy that occurred at Oklahoma City, and making rescissions for the fiscal year ending September 30, 1995, and for other purposes.

The message also announced that the House has passed the following bill; without amendment:

S. 962. An act to extend authorities under the Middle East Peace Facilitation Act of 1994 until August 15, 1995.

ENROLLED BILL SIGNED

At 1:52 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

S. 962. An act to extend authorities under the Middle East Peace Facilitation Act of 1994 until August 15, 1995.

The enrolled bill was signed on June 30, 1995, by the President pro tempore (Mr. THURMOND).

At 3:01 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has agreed to the following concurrent resolutions, without amendment:

S. Con. Res. 19. Concurrent resolution to correct the enrollment of the bill H.R. 483.

S. Con. Res. 20. Concurrent resolution providing for a conditional recess or adjournment of the Senate on Thursday, June 29, 1995, or Friday, June 30, 1995, until Monday, July 10, 1995, and a conditional adjournment of the House on the legislative day of Friday, June 30, 1995, until Monday, July 10, 1995.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 483) to amend title XVIII of the Social Security Act to permit Medicare Select policies to be offered in all States, and for other purposes.

The message further announced that pursuant to section 211(B)(f), Public Law 101—515 as amended by section 260001, Public Law 103-322, the minority leader appoints Mr. Darryl Jones of Upper Marlboro, MD, from private life, representing law enforcement officers to the National Commission to Support Law Enforcement on the part of the House.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on June 30, 1995 he had presented to the President of the United States, the following enrolled bill:

S. 962. An act to extend authorities under the Middle East Peace Facilitation Act of 1994 until August 15, 1995.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-1138. A communication from the Secretary of Energy, transmitting, pursuant to law, the report entitled "Energy Efficient Environmental Program for Pollution Prevention in Industry"; to the Committee on Energy and Natural Resources.

EC-1139. A communication from the Secretary of the Interior, transmitting, pursuant to law, the report entitled "Outer Continental Shelf Lease Sales: Evaluation of Bidding Results and Competition"; to the Committee on Energy and Natural Resources.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 638. A bill to authorize appropriations for United States insular areas, and for other purposes (Rept. No. 104-101).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. THURMOND, from the Committee on Armed Services.

Vicent Reed Ryan, Jr., of Texas, to be a Member of the Board of Directors of the Panama Canal Commission.

(The above nomination was reported with the recommendation that he be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. PRYOR (for himself, Mr. HATCH, Mr. BREAUX, and Mr. LEAHY):

S. 1006. A bill to amend the Internal Revenue Code of 1986 to simplify the pension laws, and for other purposes; to the Committee on Finance.

By Mr. KERRY:

S. 1007. A bill to restrict the closure of Coast Guard small boat stations, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. INOUYE:

S. 1008. A bill to amend title 10, United States Code, to provide for appointments to the military service academies by the Resident Representative to the United States for the Commonwealth of the Northern Mariana Islands; to the Committee on Armed Services.

By Mr. D'AMATO:

S. 1009. A bill to prohibit the fraudulent production, sale, transportation, or possession of fictitious items purporting to be valid financial instruments of the United States, foreign governments, States, political subdivisions, or private organizations, to increase the penalties for counterfeiting violations, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. STEVENS (for himself and Mr. MURKOWSKI):

S. 1010. A bill to amend the "unit of general local government" definition for Federal payments in lieu of taxes to include unorganized boroughs in Alaska and for other purposes; to the Committee on Labor and Human Resources.

By Mr. CRAIG (for himself, Mr. HEFLIN, Mr. LUGAR, and Mr. LEAHY):

S. 1011. A bill to help reduce the cost of credit to farmers by providing relief from antiquated and unnecessary regulatory burdens for the Farm Credit System, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. D'AMATO (for himself and Mr. MOYNIHAN):

S. 1012. A bill to extend the time for construction of certain FERC licensed hydro projects; to the Committee on Energy and Natural Resources.

By Mr. CONRAD (for himself and Mr. DORGAN):

S. 1013. A bill to amend the Act of August 5, 1965, to authorize the Secretary of the Interior to acquire land for the purpose of exchange for privately held land for use as wildlife and wetland protection areas, in connection with the Garrison diversion unit project, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. NICKLES:

S. 1014. A bill to improve the management of royalties from Federal and Outer Continental Shelf oil and gas leases, and for other purposes; to the Committee on Energy and Natural Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. JOHNSTON:

S. Res. 146. A resolution designating the week beginning November 19, 1995, and the week beginning on November 24, 1996, as "National Family Week", and for other purposes; to the Committee on the Judiciary.

By Mr. THURMOND:

S. Res. 147. A resolution designating the weeks beginning September 24, 1995, and September 22, 1996, as "National Historically Black Colleges and Universities Week", and for other purposes; to the Committee on the Judiciary.

By Mr. HELMS:

S. Res. 148. A resolution expressing the sense of the Senate regarding the arrest of Harry Wu by the Government of the People's Republic of China; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. PRYOR (for himself, Mr. HATCH, Mr. BREAUX and Mr. LEAHY): S. 1006. A bill to amend the Internal Revenue Code of 1986 to simplify the pension laws, and for other purposes; to the Committee on Finance.

THE PENSION SIMPLIFICATION ACT OF 1995

Mr. PRYOR. Mr. President, today I rise to introduce the Pension Simplification Act of 1995. This very important legislation is designed to simplify the tax laws governing our Nation's private retirement system.

This legislation is the result of the efforts of many, and these efforts date back to March of 1990 when I first held hearings in the Finance subcommittee on private retirement plans.

Later, in the summer of 1990, I introduced the Employee Benefits Simplification Act, S. 2901. As a matter of history, many experts, including pension planners for small and large businesses, logged countless hours to help me develop this legislation, and many organizations pushed to get this legislation enacted into law.

In the 102d Congress, I reintroduced this legislation as the Employee Benefits Simplification and Expansion Act of 1991. In early 1992, this legislation was included in the Tax Fairness and Economic Growth Act of 1992, which was H.R. 4210, and which was passed by the Congress, but it was vetoed by President Bush for reasons not associated with this particular piece of the overall tax bill.

During the summer of 1992, portions of the simplification effort were passed as part of the 1992 Unemployment Compensation Act. This legislation was then designed to liberalize the rollover rules which allow the worker the ability to take his pension benefits with him or her when they change jobs.

Later that year, the remainder of the simplification bill was included as part of the Revenue Act of 1992, which was H.R. 11, also passed by Congress, also vetoed by President Bush for reasons not related to the substance of this legislation.

Since that time, there has been no tax bill which could include the as-yet-unpassed provisions of the simplification effort.

Today, Mr. President, I am very happy to be joined by Senator ORRIN HATCH of Utah, Senator BREAUX of Louisiana, and Senator LEAHY of Vermont in introducing this legislation as the Pension Simplification Act of 1995. This bill includes many of the provisions passed two times by Congress in 1992, but it also includes some very new and important provisions, which evidences our continuing effort to simplify the very complex and arcane pension rules. To some, this in itself is an extremely arcane issue, but to small businesses across our great country it is a critical part of doing business. And it is that part of business which provides for savings and retirement funds ultimately for millions of employees.

This act is the next significant step toward reducing the costs associated with providing pension benefits. The legislation achieves this result by eliminating many of the complexities and the inconsistencies in the private pension system which will in turn promote the establishment of new pension plans by both large and small companies.

While this legislation affects both small and large businesses, who provide retirement plans for their workers, new provisions in this bill specifically target complex and costly rules affecting small business, and there is very good reason for this action in this legislation.

In 1993, 83 percent of the companies with 100 or more employees offered some type of retirement plan. In contrast, in businesses with fewer than 25 employees, only 19 percent of those firms had an employer-provided pension plan available to them, and only 15 percent of these employees even participated in those plans.

The major factor contributing to this dismal statistic is the sky-high per-participant cost of establishing and maintaining a pension plan for small business. The Pension Simplification Act alleviates the high-cost barriers for small business by creating a tax credit which can be applied toward the start-up costs of providing a new plan for employers with 50 or fewer employees. Of course, this is geared toward and focused on small business.

Next, the legislation slashes extensive annual nondiscrimination testing requirements for firms where no employee is highly compensated. These provisions, Mr. President, combined with the broad simplification provisions for all plans, will significantly reduce the costs of starting up and maintaining a retirement plan. Thus, this bill we are introducing today encourages private retirement savings for our Nation's small business worker.

Mr. President, rather than continuing a discussion of the many detailed provisions of the Pension Simplification Act of 1995, I ask unanimous consent that a 5-page summary of the legislation and a copy of the Pension Simplification Act of 1995 be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1006

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Pension Simplification Act of 1995".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; amendment of 1986 Code; table of contents.

TITLE I—SIMPLIFICATION OF NONDISCRIMINATION PROVISIONS

Sec. 101. Definition of highly compensated employees; repeal of family aggregation.
Sec. 102. Definition of compensation for section 415 purposes.
Sec. 103. Modification of additional participation requirements.
Sec. 104. Nondiscrimination rules for qualified cash or deferred arrangements and matching contributions.

TITLE II—SIMPLIFIED DISTRIBUTION RULES

Sec. 201. Repeal of 5-year income averaging for lump-sum distributions.
Sec. 202. Repeal of $5,000 exclusion of employees' death benefits.
Sec. 203. Simplified method for taxing annuity distributions under certain employer plans.
Sec. 204. Required distributions.

TITLE III—TARGETED ACCESS TO PENSION PLANS FOR SMALL EMPLOYERS

Sec. 301. Credit for pension plan start-up costs of small employers.
Sec. 302. Modifications of simplified employee pensions.
Sec. 303. Exemption from top-heavy plan requirements.
Sec. 304. Tax-exempt organizations eligible under section 401(k).
Sec. 305. Regulatory treatment of small employers.

TITLE IV—PAPERWORK REDUCTION

Sec. 401. Repeal of combined section 415 limit.
Sec. 402. Duties of sponsors of certain prototype plans.

TITLE V—MISCELLANEOUS SIMPLIFICATION

Sec. 501. Treatment of leased employees.
Sec. 502. Plans covering self-employed individuals.
Sec. 503. Elimination of special vesting rule for multiemployer plans.
Sec. 504. Full-funding limitation of multiemployer plans.
Sec. 505. Alternative full-funding limitation.
Sec. 506. Affiliated employers.
Sec. 507. Treatment of governmental plans under section 415.
Sec. 508. Treatment of deferred compensation plans of State and local governments and tax-exempt organizations.
Sec. 509. Contributions on behalf of disabled employees.
Sec. 510. Distributions under rural cooperative plans.
Sec. 511. Special rules for plans covering pilots.
Sec. 512. Tenured faculty.
Sec. 513. Uniform retirement age.
Sec. 514. Uniform penalty provisions to apply to certain pension reporting requirements.
Sec. 515. National Commission on Private Pension Plans.
Sec. 516. Date for adoption of plan amendments.

TITLE I—SIMPLIFICATION OF NONDISCRIMINATION PROVISIONS

SEC. 101. DEFINITION OF HIGHLY COMPENSATED EMPLOYEES; REPEAL OF FAMILY AGGREGATION.

(a) IN GENERAL.—Paragraph (1) of section 414(q) (defining highly compensated employee) is amended to read as follows:

"(1) IN GENERAL.—The term 'highly compensated employee' means any employee who—

"(A) was a 5-percent owner at any time during the year or the preceding year,

"(B) had compensation for the preceding year from the employer in excess of $80,000, or

"(C) was the most highly compensated officer of the employer for the preceding year.

The Secretary shall adjust the $80,000 amount under subparagraph (B) at the same time and in the same manner as under section 415(d), except that the base period shall be the calendar quarter beginning October 1, 1995."

(b) SPECIAL RULE WHERE NO EMPLOYEE HAS COMPENSATION OVER SPECIFIED AMOUNT.—Paragraph (2) of section 414(q) is amended to read as follows:

"(2) SPECIAL RULE IF NO EMPLOYEE HAS COMPENSATION OVER SPECIFIED AMOUNT.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), if a defined benefit plan or a defined contribution plan meets the requirements of sections 401(a)(4) and 410(b) with respect to the availability of contributions, benefits, and other plan features, then for all other purposes, subparagraphs (A) and (C) of paragraph (1) shall not apply to such plan.

"(B) EXCEPTION.—Subparagraph (A) shall not apply to a plan to the extent provided in regulations that are prescribed by the Secretary to prevent the evasion of the purposes of this paragraph."

(c) REPEAL OF FAMILY AGGREGATION RULES.—

(1) IN GENERAL.—Paragraph (6) of section 414(q) is hereby repealed.

(2) COMPENSATION LIMIT.—Paragraph (17)(A) of section 401(a) is amended by striking the last sentence.

(3) DEDUCTION.—Subsection (l) of section 404 is amended by striking the last sentence.

(d) CONFORMING AMENDMENTS.—

(1) Paragraphs (4), (5), (8), and (12) of section 414(q) are hereby repealed.

(2)(A) Section 414(r) is amended by adding at the end the following new paragraph:

"(9) EXCLUDED EMPLOYEES.—For purposes of this subsection, the following employees shall be excluded:

"(A) Employees who have not completed 6 months of service.

"(B) Employees who normally work less than 17½ hours per week.

"(C) Employees who normally work not more than 6 months during any year.

"(D) Employees who have not attained the age of 21.

"(E) Except to the extent provided in regulations, employees who are included in a unit of employees covered by an agreement which the Secretary of Labor finds to be a collective bargaining agreement between employee representatives and the employer.

Except as provided by the Secretary, the employer may elect to apply subparagraph (A), (B), (C), or (D) by substituting a shorter period of service, smaller number of hours or months, or lower age for the period of service, number of hours or months, or age (as the case may be) specified in such subparagraph."

(B) Subparagraph (A) of section 414(r)(2) is amended by striking "subsection (q)(8)" and inserting "paragraph (9)".

(3) Section 1114(c)(4) of the Tax Reform Act of 1986 is amended by adding at the end the following new sentence: "Any reference in this paragraph to section 414(q) shall be treated as a reference to such section as in effect before the Pension Simplification Act of 1995."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 1995, except that in determining whether an employee is a highly compensated employee for years beginning in 1996, such amendments shall be treated as having been in effect for years beginning in 1995.

SEC. 102. DEFINITION OF COMPENSATION FOR SECTION 415 PURPOSES.

(a) GENERAL RULE.—Section 415(c)(3) (defining participant's compensation) is amended by adding at the end the following new subparagraph:

"(D) CERTAIN DEFERRALS INCLUDED.—For purposes of this section, the terms 'compensation' and 'earned income' shall include—

"(i) any elective deferral (as defined in section 402(g)(3)), and

"(ii) any amount which is contributed by the employer of the election of the employee and which is not includible in the gross income of the employee under section 125 or 457."

(b) CONFORMING AMENDMENTS.—

(1) Section 414(q)(7) is amended to read as follows:

"(7) COMPENSATION.—For purposes of this subsection, the term 'compensation' has the meaning given such term by section 415(c)(3)."

(2) Section 414(s)(2) is amended by inserting "not" after "elect" in the text and heading thereof.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 1995.

SEC. 103. MODIFICATION OF ADDITIONAL PARTICIPATION REQUIREMENTS.

(a) GENERAL RULE.—Section 401(a)(26)(A) (relating to additional participation requirements) is amended to read as follows:

"(A) IN GENERAL.—In the case of a trust which is a part of a defined benefit plan, such trust shall not constitute a qualified trust under this subsection unless on each day of the plan year such trust benefits at least the lesser of—

"(i) 50 employees of the employer, or

"(ii) the greater of—

"(I) 40 percent of all employees of the employer, or

"(II) 2 employees (or if there is only 1 employee, such employee)."

(b) SEPARATE LINE OF BUSINESS TEST.—Section 401(a)(26)(G) (relating to separate line of business) is amended by striking "paragraph (7)" and inserting "paragraph (2)(A) or (7)".

(c) EFFECTIVE DATE.—The amendment made by this section shall apply to years beginning after December 31, 1995.

SEC. 104. NONDISCRIMINATION RULES FOR QUALIFIED CASH OR DEFERRED ARRANGEMENTS AND MATCHING CONTRIBUTIONS.

(a) Alternative Methods of Satisfying Section 401(k) Nondiscrimination Tests.—Section 401(k) (relating to cash or deferred arrangements) is amended by adding at the end the following new paragraph:

"(11) Alternative methods of meeting nondiscrimination requirements.—

"(A) In general.—A cash or deferred arrangement shall be treated as meeting the requirements of paragraph (3)(A)(ii) if such arrangement—

"(i) meets the contribution requirements of subparagraph (B) or (C), and

"(ii) meets the notice requirements of subparagraph (D).

"(B) Matching contributions.—

"(i) In general.—The requirements of this subparagraph are met if, under the arrangement, the employer makes matching contributions on behalf of each employee who is not a highly compensated employee in an amount equal to—

"(I) 100 percent of the elective contributions of the employee to the extent such elective contributions do not exceed 3 percent of the employee's compensation, and

"(II) 50 percent of the elective contributions of the employee to the extent that such elective contributions exceed 3 percent but do not exceed 5 percent of the employee's compensation.

"(ii) Rate for highly compensated employees.—The requirements of this subparagraph are not met if, under the arrangement, the matching contribution with respect to any elective contribution of a highly compensated employee at any level of compensation is greater than that with respect to an employee who is not a highly compensated employee.

"(iii) Alternative plan designs.—If the matching contribution with respect to any elective contribution at any specific level of compensation is not equal to the percentage required under clause (i), an arrangement shall not be treated as failing to meet the requirements of clause (i) if—

"(I) the level of an employer's matching contribution does not increase as an employee's elective contributions increase, and

"(II) the aggregate amount of matching contributions with respect to elective contributions not in excess of such level of compensation is at least equal to the amount of matching contributions which would be made if matching contributions were made on the basis of the percentages described in clause (i).

"(C) Nonelective contributions.—The requirements of this subparagraph are met if, under the arrangement, the employer is required, without regard to whether the employee makes an elective contribution or employee contribution, to make a contribution to a defined contribution plan on behalf of each employee who is not a highly compensated employee and who is eligible to participate in the arrangement in an amount equal to at least 3 percent of the employee's compensation.

"(D) Notice requirement.—An arrangement meets the requirements of this paragraph if, under the arrangement, each employee eligible to participate is, within a reasonable period before any year, given written notice of the employee's rights and obligations under the arrangement which—

"(i) is sufficiently accurate and comprehensive to appraise the employee of such rights and obligations, and

"(ii) is written in a manner calculated to be understood by the average employee eligible to participate.

"(E) Other requirements.—

"(i) Withdrawal and vesting restrictions.—An arrangement shall not be treated as meeting the requirements of subparagraph (B) or (C) unless the requirements of subparagraphs (B) and (C) of paragraph (2) are met with respect to all employer contributions (including matching contributions).

"(ii) Social security and similar contributions not taken into account.—An arrangement shall not be treated as meeting the requirements of subparagraph (B) or (C) unless such requirements are met without regard to subsection (l), and, for purposes of subsection (l), employer contributions under subparagraph (B) or (C) shall not be taken into account.

"(F) Other plans.—An arrangement shall be treated as meeting the requirements under subparagraph (A)(i) if any other plan maintained by the employer meets such requirements with respect to employees eligible under the arrangement."

(b) Alternative Methods of Satisfying Section 401(m) Nondiscrimination Tests.—Section 401(m) (relating to nondiscrimination test for matching contributions and employee contributions) is amended by redesignating paragraph (10) as paragraph (11) and by adding after paragraph (9) the following new paragraph:

"(10) Alternative method of satisfying tests.—

"(A) In general.—A defined contribution plan shall be treated as meeting the requirements of paragraph (2) with respect to matching contributions if the plan—

"(i) meets the contribution requirements of subparagraph (B) or (C) of subsection (k)(11),

"(ii) meets the notice requirements of subsection (k)(11)(D), and

"(iii) meets the requirements of subparagraph (B).

"(B) Limitation on matching contributions.—The requirements of this subparagraph are met if—

"(i) matching contributions on behalf of any employee may not be made with respect to an employee's contributions or elective deferrals in excess of 6 percent of the employee's compensation,

"(ii) the level of an employer's matching contribution does not increase as an employee's contributions or elective deferrals increase, and

"(iii) the matching contribution with respect to any highly compensated employee at a specific level of compensation is not greater than that with respect to an employee who is not a highly compensated employee."

(c) Year for Computing Nonhighly Compensated Employee Percentage.—

(1) Cash or deferred arrangements.—Clause (ii) of section 401(k)(3)(A) is amended—

(A) by striking "such year" and inserting "the plan year", and

(B) by striking "for such plan year" and inserting "the preceding plan year".

(2) Matching and employee contributions.—Section 401(m)(2)(A) is amended—

(A) by inserting "for such plan year" after "highly compensated employee", and

(B) by inserting "for the preceding plan year" after "eligible employees" each place it appears in clause (i) and clause (ii).

(d) Special Rule for Determining Average Deferral Percentage for First Plan Year, Etc.—

(1) Paragraph (3) of section 401(k) is amended by adding at the end the following new subparagraph:

"(E) For purposes of this paragraph, in the case of the first plan year of any plan, the amount taken into account as the actual deferral percentage of nonhighly compensated employees for the preceding plan year shall be—

"(i) 3 percent, or

"(ii) if the employer makes an election under this subclause, the actual deferral percentage of nonhighly compensated employees determined for such first plan year."

(2) Paragraph (3) of section 401(m) is amended by adding at the end thereof the following: "Rules similar to the rules of subsection (k)(3)(E) shall apply for purposes of this subsection."

(e) Effective Date.—The amendments made by this section shall apply to years beginning after December 31, 1995.

TITLE II—SIMPLIFIED DISTRIBUTION RULES

SEC. 201. REPEAL OF 5-YEAR INCOME AVERAGING FOR LUMP-SUM DISTRIBUTIONS.

(a) In General.—Subsection (d) of section 402 (relating to taxability of beneficiary of employees' trust) is amended to read as follows:

"(d) Taxability of Beneficiary of Certain Foreign Situs Trusts.—For purposes of subsections (a), (b), and (c), a stock bonus, pension, or profit-sharing trust which would qualify for exemption from tax under section 501(a) except for the fact that it is a trust created or organized outside the United States shall be treated as if it were a trust exempt from tax under section 501(a)."

(b) Conforming Amendments.—

(1) Subparagraph (D) of section 402(e)(4) (relating to other rules applicable to exempt trusts) is amended to read as follows:

"(D) Lump-sum distribution.—For purposes of this paragraph—

"(i) In general.—The term 'lump sum distribution' means the distribution or payment within one taxable year of the recipient of the balance to the credit of an employee which becomes payable to the recipient—

"(I) on account of the employee's death,

"(II) after the employee attains age 59½,

"(III) on account of the employee's separation from service, or

"(IV) after the employee has become disabled (within the meaning of section 72(m)(7)),

from a trust which forms a part of a plan described in section 401(a) and which is exempt from tax under section 501 or from a plan described in section 403(a). Subclause (III) of this clause shall be applied only with respect to an individual who is an employee without regard to section 401(c)(1), and subclause (IV) shall be applied only with respect to an employee within the meaning of section 401(c)(1). For purposes of this clause, a distribution to two or more trusts shall be treated as a distribution to one recipient. For purposes of this paragraph, the balance to the credit of the employee does not include the accumulated deductible employee contributions under the plan (within the meaning of section 72(o)(5)).

"(ii) Aggregation of certain trusts and plans.—For purposes of determining the balance to the credit of an employee under clause (i)—

"(I) all trusts which are part of a plan shall be treated as a single trust, all pension plans maintained by the employer shall be treated as a single plan, all profit-sharing plans maintained by the employer shall be treated as a single plan, and all stock bonus plans maintained by the employer shall be treated as a single plan, and

"(II) trusts which are not qualified trusts under section 401(a) and annuity contracts which do not satisfy the requirements of section 404(a)(2) shall not be taken into account.

"(iii) COMMUNITY PROPERTY LAWS.—The provisions of this paragraph shall be applied without regard to community property laws.

"(iv) AMOUNTS SUBJECT TO PENALTY.—This paragraph shall not apply to amounts described in subparagraph (A) of section 72(m)(5) to the extent that section 72(m)(5) applies to such amounts.

"(v) BALANCE TO CREDIT OF EMPLOYEE NOT TO INCLUDE AMOUNTS PAYABLE UNDER QUALIFIED DOMESTIC RELATIONS ORDER.—For purposes of this paragraph, the balance to the credit of an employee shall not include any amount payable to an alternate payee under a qualified domestic relations order (within the meaning of section 414(p)).

"(vi) TRANSFERS TO COST-OF-LIVING ARRANGEMENT NOT TREATED AS DISTRIBUTION.—For purposes of this paragraph, the balance to the credit of an employee under a defined contribution plan shall not include any amount transferred from such defined contribution plan to a qualified cost-of-living arrangement (within the meaning of section 415(k)(2)) under a defined benefit plan.

"(vii) LUMP-SUM DISTRIBUTIONS OF ALTERNATE PAYEES.—If any distribution or payment of the balance to the credit of an employee would be treated as a lump-sum distribution, then, for purposes of this paragraph, the payment under a qualified domestic relations order (within the meaning of section 414(p)) of the balance to the credit of an alternate payee who is the spouse or former spouse of the employee shall be treated as a lump-sum distribution. For purposes of this clause, the balance to the credit of the alternate payee shall not include any amount payable to the employee."

(2) Section 402(c) (relating to rules applicable to rollovers from exempt trusts) is amended by striking paragraph (10).

(3) Paragraph (1) of section 55(c) (defining regular tax) is amended by striking "shall not include any tax imposed by section 402(d) and".

(4) Paragraph (8) of section 62(a) (relating to certain portion of lump-sum distributions from pension plans taxed under section 402(d)) is hereby repealed.

(5) Section 401(a)(28)(B) (relating to coordination with distribution rules) is amended by striking clause (v).

(6) Subparagraph (B)(ii) of section 401(k)(10) (relating to distributions that must be lump-sum distributions) is amended to read as follows:

"(ii) LUMP-SUM DISTRIBUTION.—For purposes of this subparagraph, the term 'lump-sum distribution' means any distribution of the balance to the credit of an employee immediately before the distribution."

(7) Section 406(c) (relating to termination of status as deemed employee not to be treated as separation from service for purposes of limitation of tax) is hereby repealed.

(8) Section 407(c) (relating to termination of status as deemed employee not to be treated as separation from service for purposes of limitation of tax) is hereby repealed.

(9) Section 691(c) (relating to deduction for estate tax) is amended by striking paragraph (5).

(10) Paragraph (1) of section 871(b) (relating to imposition of tax) is amended by striking "section 1, 55, or 402(d)(1)" and inserting "section 1 or 55".

(11) Subsection (b) of section 877 (relating to alternative tax) is amended by striking "section 1, 55, or 402(d)(1)" and inserting "section 1 or 55".

(12) Section 4980A(c)(4) is amended—

(A) by striking "to which an election under section 402(d)(4)(B) applies" and inserting "(as defined in section 402(e)(4)(D)) with respect to which the individual elects to have this paragraph apply",

(B) by adding at the end the following new flush sentence:

"An individual may elect to have this paragraph apply to only one lump-sum distribution.", and

(C) by striking the heading and inserting: "(4) SPECIAL ONE-TIME ELECTION.—".

(13) Section 402(e) is amended by striking paragraph (5).

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

(2) RETENTION OF CERTAIN TRANSITION RULES.—Notwithstanding any other provision of this section, the amendments made by this section shall not apply to any distribution for which the taxpayer elects the benefits of section 1122 (h)(3) or (h)(5) of the Tax Reform Act of 1986. For purposes of the preceding sentence, the rules of sections 402(c)(10) and 402(d) of the Internal Revenue Code of 1986 (as in effect before the amendments made by this Act) shall apply.

SEC. 202. REPEAL OF $5,000 EXCLUSION OF EMPLOYEES' DEATH BENEFITS.

(a) IN GENERAL.—Subsection (b) of section 101 is hereby repealed.

(b) CONFORMING AMENDMENT.—Subsection (c) of section 101 is amended by striking "subsection (a) or (b)" and inserting "subsection (a)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

SEC. 203. SIMPLIFIED METHOD FOR TAXING ANNUITY DISTRIBUTIONS UNDER CERTAIN EMPLOYER PLANS.

(a) GENERAL RULE.—Subsection (d) of section 72 (relating to annuities; certain proceeds of endowment and life insurance contracts) is amended to read as follows:

"(d) SPECIAL RULES FOR QUALIFIED EMPLOYER RETIREMENT PLANS.—

"(1) SIMPLIFIED METHOD OF TAXING ANNUITY PAYMENTS.—

"(A) IN GENERAL.—In the case of any amount received as an annuity under a qualified employer retirement plan—

"(i) subsection (b) shall not apply, and

"(ii) the investment in the contract shall be recovered as provided in this paragraph.

"(B) METHOD OF RECOVERING INVESTMENT IN CONTRACT.—

"(i) IN GENERAL.—Gross income shall not include so much of any monthly annuity payment under a qualified employer retirement plan as does not exceed the amount obtained by dividing—

"(I) the investment in the contract (as of the annuity starting date), by

"(II) the number of anticipated payments determined under the table contained in clause (iii) (or, in the case of a contract to which subsection (c)(3)(B) applies, the number of monthly annuity payments under such contract).

"(ii) CERTAIN RULES MADE APPLICABLE.—Rules similar to the rules of paragraphs (2) and (3) of subsection (b) shall apply for purposes of this paragraph.

"(iii) NUMBER OF ANTICIPATED PAYMENTS.—

"If the age of the primary annuitant on the annuity starting date is:	The number of anticipated payments is:
Not more than 55	300
More than 55 but not more than 60	260
More than 60 but not more than 65	240
More than 65 but not more than 70	170
More than 70	120

"(C) ADJUSTMENT FOR REFUND FEATURE NOT APPLICABLE.—For purposes of this paragraph, investment in the contract shall be determined under subsection (c)(1) without regard to subsection (c)(2).

"(D) SPECIAL RULE WHERE LUMP SUM PAID IN CONNECTION WITH COMMENCEMENT OF ANNUITY PAYMENTS.—If, in connection with the commencement of annuity payments under any qualified employer retirement plan, the taxpayer receives a lump sum payment—

"(i) such payment shall be taxable under subsection (e) as if received before the annuity starting date, and

"(ii) the investment in the contract for purposes of this paragraph shall be determined as if such payment had been so received.

"(E) EXCEPTION.—This paragraph shall not apply in any case where the primary annuitant has attained age 75 on the annuity starting date unless there are fewer than 5 years of guaranteed payments under the annuity.

"(F) ADJUSTMENT WHERE ANNUITY PAYMENTS NOT ON MONTHLY BASIS.—In any case where the annuity payments are not made on a monthly basis, appropriate adjustments in the application of this paragraph shall be made to take into account the period on the basis of which such payments are made.

"(G) QUALIFIED EMPLOYER RETIREMENT PLAN.—For purposes of this paragraph, the term 'qualified employer retirement plan' means any plan or contract described in paragraph (1), (2), or (3) of section 4974(c).

"(2) TREATMENT OF EMPLOYEE CONTRIBUTIONS UNDER DEFINED CONTRIBUTION PLANS.—For purposes of this section, employee contributions (and any income allocable thereto) under a defined contribution plan may be treated as a separate contract."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply in cases where the annuity starting date is after December 31, 1995.

SEC. 204. REQUIRED DISTRIBUTIONS.

(a) IN GENERAL.—Section 401(a)(9)(C) (defining required beginning date) is amended to read as follows:

"(C) REQUIRED BEGINNING DATE.—For purposes of this paragraph—

"(i) IN GENERAL.—The term 'required beginning date' means April 1 of the calendar year following the later of—

"(I) the calendar year in which the employee attains age 70½, or

"(II) the calendar year in which the employee retires.

"(ii) EXCEPTION.—Subclause (II) of clause (i) shall not apply—

"(I) except as provided in section 409(d), in the case of an employee who is a 5-percent owner (as defined in section 416) with respect to the plan year ending in the calendar year in which the employee attains age 70½, or

"(II) for purposes of section 408 (a)(6) or (b)(3).

"(iii) ACTUARIAL ADJUSTMENT.—In the case of an employee to whom clause (i)(II) applies who retires in a calendar year after the calendar year in which the employee attains age 70½, the employee's accrued benefit shall be actuarially increased to take into account the period after age 70½ in which the employee was not receiving any benefits under the plan.

"(iv) EXCEPTION FOR GOVERNMENTAL AND CHURCH PLANS.—Clauses (ii) and (iii) shall not apply in the case of a governmental plan or church plan. For purposes of this clause, the term 'church plan' means a plan maintained by a church for church employees, and the term 'church' means any church (as defined in section 3121(w)(3)(A)) or qualified church-controlled organization (as defined in section 3121(w)(3)(B))."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to years beginning after December 31, 1995.

TITLE III—TARGETED ACCESS TO PENSION PLANS FOR SMALL EMPLOYERS

SEC. 301. CREDIT FOR PENSION PLAN START-UP COSTS OF SMALL EMPLOYERS.

(a) ALLOWANCE OF CREDIT.—Section 38(b) (defining current year business credit) is amended by striking "plus" at the end of paragraph (10), by striking the period at the end of paragraph (11) and inserting ", plus", and by adding at the end the following new paragraph:

"(12) the small employer pension plan start-up cost credit."

(b) SMALL EMPLOYER PENSION PLAN START-UP COST CREDIT.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits) is amended by adding at the end the following new section:

"SEC. 45C. SMALL EMPLOYER PENSION PLAN START-UP COST CREDIT.

"(a) AMOUNT OF CREDIT.—For purposes of section 38—

"(1) IN GENERAL.—The small employer pension plan start-up cost credit for any taxable year is an amount equal to the qualified start-up costs of an eligible employer in establishing a qualified pension plan.

"(2) AGGREGATE LIMITATION.—The amount of the credit under paragraph (1) for any taxable year shall not exceed $1,000, reduced by the aggregate amount determined under this section for all preceding taxable years of the taxpayer.

"(b) QUALIFIED START-UP COSTS; QUALIFIED PENSION PLAN.—For purposes of this section—

"(1) QUALIFIED START-UP COSTS.—The term 'qualified start-up costs' means any ordinary and necessary expenses of an eligible employer which—

"(A) are paid or incurred in connection with the establishment of a qualified pension plan, and

"(B) are of a nonrecurring nature.

"(2) QUALIFIED PENSION PLAN.—The term 'qualified pension plan' means—

"(A) a plan described in section 401(a) which includes a trust exempt from tax under section 501(a), or

"(B) a simplified employee pension (as defined in section 408(k)).

"(c) ELIGIBLE EMPLOYER.—For purposes of this section—

"(1) IN GENERAL.—The term 'eligible employer' means an employer which—

"(A) had an average daily number of employees during the preceding taxable year not in excess of 50, and

"(B) did not make any contributions on behalf of any employee to a qualified pension plan during the 2 taxable years immediately preceding the taxable year.

"(2) PROFESSIONAL SERVICE EMPLOYERS EXCLUDED.—Such term shall not include an employer substantially all of the activities of which involve the performance of services in the fields of health, law, engineering, architecture, accounting, actuarial science, performing arts, or consulting.

"(d) SPECIAL RULES.—For purposes of this section—

"(1) AGGREGATION RULES.—All persons treated as a single employer under subsection (a) or (b) of section 52 or subsection (n) or (o) of section 414 shall be treated as one person.

"(2) DISALLOWANCE OF DEDUCTION.—No deduction shall be allowable under this chapter for any qualified start-up costs for which a credit is allowable under subsection (a)."

(c) CONFORMING AMENDMENTS.—

(1) Section 39(d) is amended by adding at the end the following new paragraph:

"(7) NO CARRYBACK OF PENSION CREDIT.—No portion of the unused business credit for any taxable year which is attributable to the small employer pension plan start-up cost credit determined under section 45C may be carried back to a taxable year ending before the date of the enactment of section 45C."

(2) The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

"Sec. 45C. Small employer pension plan start-up cost credit."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to costs incurred after the date of the enactment of this Act in taxable years ending after such date.

SEC. 302. MODIFICATIONS OF SIMPLIFIED EMPLOYEE PENSIONS.

(a) INCREASE IN NUMBER OF ALLOWABLE PARTICIPANTS FOR SALARY REDUCTION ARRANGEMENTS.—Section 408(k)(6)(B) is amended by striking "25" each place it appears in the text and heading thereof and inserting "100".

(b) REPEAL OF PARTICIPATION REQUIREMENT.—

(1) IN GENERAL.—Section 408(k)(6)(A) is amended by striking clause (ii) and by redesignating clauses (iii) and (iv) as clauses (ii) and (iii), respectively.

(2) CONFORMING AMENDMENTS.—Clause (ii) of section 408(k)(6)(C) and clause (ii) of section 408(k)(6)(F) are each amended by striking "subparagraph (A)(iii)" and inserting "subparagraph (A)(ii)".

(c) ALTERNATIVE TEST.—Clause (ii) of section 408(k)(6)(A), as redesignated by subsection (b)(1), is amended by adding at the end the following new flush sentence:

"The requirements of the preceding sentence are met if the employer makes contributions to the simplified employee pension meeting the requirements of sections 401(k)(11) (B) or (C), 401(k)(11)(D), and 401(m)(10)(B)."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 1995.

SEC. 303. EXEMPTION FROM TOP-HEAVY PLAN REQUIREMENTS.

(a) EXEMPTION FROM TOP-HEAVY PLAN REQUIREMENTS.—Section 416(g) (defining top-heavy plans) is amended by adding at the end the following new paragraph:

"(3) EXEMPTION FOR CERTAIN PLANS.—A plan shall not be treated as a top-heavy plan if, for such plan year, the employer has no highly compensated employees (as defined in section 414(q)) by reason of section 414(q)(2)."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to years beginning after December 31, 1995.

SEC. 304. TAX-EXEMPT ORGANIZATIONS ELIGIBLE UNDER SECTION 401(k).

(a) GENERAL RULE.—Clause (ii) of section 401(k)(4)(B) is amended to read as follows:

"(ii) any organization described in section 501(c)(3) which is exempt from tax under section 501(a)."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to plan years beginning after December 31, 1995, but shall not apply to any cash or deferred arrangement to which clause (i) of section 1116(f)(2)(B) of the Tax Reform Act of 1986 applies.

SEC. 305. REGULATORY TREATMENT OF SMALL EMPLOYERS.

(a) IN GENERAL.—Section 7805(f) (relating to review of impact of regulations on small business) is amended by adding at the end the following new subparagraph:

"(4) SPECIAL RULE FOR PENSION REGULATIONS.—

"(A) IN GENERAL.—Any regulation proposed to be issued by the Secretary which relates to qualified pension plans shall not take effect unless the Secretary includes provisions to address any special needs of the small employers.

"(B) QUALIFIED PENSION PLAN.—For purposes of this paragraph, the term 'qualified pension plan' means—

"(i) any plan which includes a trust described in section 401(a) which is exempt from tax under section 501(a), or

"(ii) any simplified employee pension (as defined in section 408(k))."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to regulations issued after the date of the enactment of this Act.

TITLE IV—PAPERWORK REDUCTION

SEC. 401. REPEAL OF COMBINED SECTION 415 LIMIT.

(a) IN GENERAL.—Section 415(e) (relating to limitation in case of defined benefit plan and defined contribution plan for same employee) is hereby repealed.

(b) CONFORMING AMENDMENTS.—

(1) Subparagraph (B) of section 415(b)(5) is amended by striking "and subsection (e)".

(2) Section 415(f)(1) is amended by striking ", (c), and (e)" and inserting "and (c)".

(3) Section 415(g) is amended by striking "subsections (e) and (f)" and inserting "subsection (f)".

(4) Section 415(k)(2)(A) is amended—

(A) by striking clause (i) and inserting:

"(i) any contribution made directly by an employee under such arrangement shall not be treated as an annual addition for purposes of subsection (c), and", and

(B) by striking "subsections (c) and (e)" in clause (ii) and inserting "subsection (c)".

(5) Section 416(h) is hereby repealed.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 1995.

SEC. 402. DUTIES OF SPONSORS OF CERTAIN PROTOTYPE PLANS.

(a) IN GENERAL.—The Secretary of the Treasury may, as a condition of sponsorship, prescribe rules defining the duties and responsibilities of sponsors of master and prototype plans, regional prototype plans, and other Internal Revenue Service preapproved plans.

(b) DUTIES RELATING TO PLAN AMENDMENT, NOTIFICATION OF ADOPTERS, AND PLAN ADMINISTRATION.—The duties and responsibilities referred to in subsection (a) may include—

(1) the maintenance of lists of persons adopting the sponsor's plans, including the updating of such lists not less frequently than annually,

(2) the furnishing of notices at least annually to such persons and to the Secretary or the Secretary's delegate, in such form and at such time as the Secretary shall prescribe,

(3) duties relating to administrative services to such persons in the operation of their plans, and

(4) other duties that the Secretary considers necessary to ensure that—

(A) the master and prototype, regional prototype, and other preapproved plans of adopting employers are timely amended to meet the requirements of the Internal Revenue Code of 1986 or of any rule or regulation of the Secretary, and

(B) adopting employers receive timely notification of amendments and other actions taken by sponsors with respect to their plans.

TITLE V—MISCELLANEOUS SIMPLIFICATION

SEC. 501. TREATMENT OF LEASED EMPLOYEES.

(a) GENERAL RULE.—Subparagraph (C) of section 414(n)(2) (defining leased employee) is amended to read as follows:

"(C) such services are performed under significant direction or control by the recipient."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to years beginning after December 31, 1995, but shall not apply to any relationship determined under an Internal Revenue Service ruling issued before the date of the enactment of this Act pursuant to section 414(n)(2)(C) of the Internal Revenue Code of 1986 (as in effect on the day before such date) not to involve a leased employee.

SEC. 502. PLANS COVERING SELF-EMPLOYED INDIVIDUALS.

(a) AGGREGATION RULES.—Section 401(d) (relating to additional requirements for qualification of trusts and plans benefiting owner-employees) is amended to read as follows:

"(d) CONTRIBUTION LIMIT ON OWNER-EMPLOYEES.—A trust forming part of a pension or profit-sharing plan which provides contributions or benefits for employees some or all of whom are owner-employees shall constitute a qualified trust under this section only if, in addition to meeting the requirements of subsection (a), the plan provides that contributions on behalf of any owner-employee may be made only with respect to the earned income of such owner-employee which is derived from the trade or business with respect to which such plan is established."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 1995.

SEC. 503. ELIMINATION OF SPECIAL VESTING RULE FOR MULTIEMPLOYER PLANS.

(a) IN GENERAL.—Paragraph (2) of section 411(a) (relating to minimum vesting standards) is amended—

(1) by striking "subparagraph (A), (B), or (C)" and inserting "subparagraph (A) or (B)"; and

(2) by striking subparagraph (C).

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning on or after the earlier of—

(1) the later of—

(A) January 1, 1996, or

(B) the date on which the last of the collective bargaining agreements pursuant to which the plan is maintained terminates (determined without regard to any extension thereof after the date of the enactment of this Act), or

(2) January 1, 1998.

Such amendments shall not apply to any individual who does not have more than 1 hour of service under the plan on or after the 1st day of the 1st plan year to which such amendments apply.

SEC. 504. FULL-FUNDING LIMITATION OF MULTIEMPLOYER PLANS.

(a) FULL-FUNDING LIMITATION.—Section 412(c)(7)(C) (relating to full-funding limitation) is amended—

(1) by inserting "or in the case of a multiemployer plan," after "paragraph (6)(B),", and

(2) by inserting "AND MULTIEMPLOYER PLANS" after "PARAGRAPH (6)(B)" in the heading thereof.

(b) VALUATION.—Section 412(c)(9) is amended—

(1) by inserting "(3 years in the case of a multiemployer plan)" after "year", and

(2) by striking "ANNUAL VALUATION" in the heading and inserting "VALUATION".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 1995.

SEC. 505. ALTERNATIVE FULL-FUNDING LIMITATION.

(a) IN GENERAL.—Subsection (c) of section 412 (relating to minimum funding standards) is amended by redesignating paragraphs (8) through (12) as paragraphs (9) through (13), respectively, and by adding after paragraph (7) the following new paragraph:

"(8) ALTERNATIVE FULL-FUNDING LIMITATION.—

"(A) GENERAL RULE.—An employer may elect the full-funding limitation under this paragraph with respect to any defined benefit plan of the employer in lieu of the full-funding limitation determined under paragraph (7) if the requirements of subparagraphs (C) and (D) are met.

"(B) ALTERNATIVE FULL-FUNDING LIMITATION.—The full-funding limitation under this paragraph is the full-funding limitation determined under paragraph (7) without regard to subparagraph (A)(i)(I) thereof.

"(C) REQUIREMENTS RELATING TO PLAN ELIGIBILITY.—

"(i) IN GENERAL.—The requirements of this subparagraph are met with respect to a defined benefit plan if—

"(I) as of the 1st day of the election period, the average accrued liability of participants accruing benefits under the plan for the 5 immediately preceding plan years is at least 80 percent of the plan's total accrued liability,

"(II) the plan is not a top-heavy plan (as defined in section 416(g)) for the 1st plan year of the election period or either of the 2 preceding plan years, and

"(III) each defined benefit plan of the employer (and each defined benefit plan of each employer who is a member of any controlled group which includes such employer) meets the requirements of subclauses (I) and (II).

"(ii) FAILURE TO CONTINUE TO MEET REQUIREMENTS.—

"(I) If any plan fails to meet the requirement of clause (i)(I) for any plan year during an election period, the benefits of the election under this paragraph shall be phased out under regulations prescribed by the Secretary.

"(II) If any plan fails to meet the requirement of clause (i)(II) for any plan year during an election period, such plan shall be treated as not meeting the requirements of clause (i) for the remainder of the election period.

If there is a failure described in subclause (I) or (II) with respect to any plan, such plan (and each plan described in clause (i)(III) with respect to such plan) shall be treated as not meeting the requirements of clause (i) for any of the 10 plan years beginning after the election period.

"(D) REQUIREMENTS RELATING TO ELECTION.—The requirements of this subparagraph are met with respect to an election if—

"(i) FILING DATE.—Notice of such election is filed with the Secretary (in such form and manner and containing such information as the Secretary may provide) by January 1 of any calendar year, and is effective as of the 1st day of the election period beginning on or after January 1 of the following calendar year.

"(ii) CONSISTENT ELECTION.—Such an election is made for all defined benefit plans maintained by the employer or by any member of a controlled group which includes the employer.

"(E) TERM OF ELECTION.—Any election made under this paragraph shall apply for the election period.

"(F) OTHER CONSEQUENCES OF ELECTION.—

"(i) NO FUNDING WAIVERS.—In the case of a plan with respect to which an election is made under this paragraph, no waiver may be granted under subsection (d) for any plan year beginning after the date the election was made and ending at the close of the election period with respect thereto.

"(ii) FAILURE TO MAKE SUCCESSIVE ELECTIONS.—If an election is made under this paragraph with respect to any plan and such an election does not apply for each successive plan year of such plan, such plan shall be treated as not meeting the requirements of subparagraph (C) for the period of 10 plan years beginning after the close of the last election period for such plan.

"(G) DEFINITIONS.—For purposes of this paragraph—

"(i) ELECTION PERIOD.—The term 'election period' means the period of 5 consecutive plan years beginning with the 1st plan year for which the election is made.

"(ii) CONTROLLED GROUP.—The term 'controlled group' means all persons who are treated as a single employer under subsection (b), (c), (m), or (o) of section 414."

(b) ALTERATION OF DISCRETIONARY REGULATORY AUTHORITY.—Subparagraph (D) of section 412(c)(7) is amended by striking "provide—" and all that follows through "(iii) for" and inserting "provide for".

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall take effect on January 1, 1997.

(2) TRANSITION PERIOD.—In the case of a plan with respect to which a transition period election is made under section 412(c)(8)(D)(ii) of the Internal Revenue Code of 1986 (as added by this section), the amendments made by this section shall take effect on July 1, 1996.

SEC. 506. AFFILIATED EMPLOYERS.

(a) IN GENERAL.—For purposes of Treasury Regulations section 1.501(c)(9)–2(a)(1), a group of employers shall be deemed to be affiliated if they are substantially all section 501(c)(12) organizations which perform services (or with respect to which their members perform services) which are the same or are directly related to each other.

(b) SECTION 501(c)(12) ORGANIZATION.—For purposes of this section, the term "section 501(c)(12) organization" means—

(1) any organization described in section 501(c)(12) of the Internal Revenue Code of 1986,

(2) any organization providing a service which is the same as a service which is (or could be) provided by an organization described in paragraph (1),

(3) any organization described in paragraph (4) or (6) of section 501(c) of such Code, but only if at least 80 percent of the members of the organization are organizations described in paragraph (1) or (2), and

(4) any organization which is a national association of organizations described in paragraph (1), (2), or (3).

An organization described in paragraph (2) (but not in paragraph (1)) shall not be treated as a section 501(c)(12) organization with respect to a voluntary employees' beneficiary association unless a substantial number of employers maintaining such association are described in paragraph (1).

(c) Effective Date.—The provisions of this section shall apply to years beginning after December 31, 1995.

SEC. 507. TREATMENT OF GOVERNMENTAL PLANS UNDER SECTION 415.

(a) Compensation Limit.—Subsection (b) of section 415 is amended by adding immediately after paragraph (10) the following new paragraph:

"(11) Special limitation rule for governmental plans.—In the case of a governmental plan (as defined in section 414(d)), subparagraph (B) of paragraph (1) shall not apply."

(b) Treatment of Certain Excess Benefit Plans.—

(1) In general.—Section 415 is amended by adding at the end the following new subsection:

"(m) Treatment of Qualified Governmental Excess Benefit Arrangements.—

"(1) Governmental plan not affected.—In determining whether a governmental plan (as defined in section 414(d)) meets the requirements of this section, benefits provided under a qualified governmental excess benefit arrangement shall not be taken into account. Income accruing to a governmental plan (or to a trust that is maintained solely for the purpose of providing benefits under a qualified governmental excess benefit arrangement) in respect of a qualified governmental excess benefit arrangement shall constitute income derived from the exercise of an essential governmental function upon which such governmental plan (or trust) shall be exempt from tax under section 115.

"(2) Taxation of participant.—For purposes of this chapter—

"(A) the taxable year or years for which amounts in respect of a qualified governmental excess benefit arrangement are includible in gross income by a participant, and

"(B) the treatment of such amounts when so includible by the participant,

shall be determined as if such qualified governmental excess benefit arrangement were treated as a plan for the deferral of compensation which is maintained by a corporation not exempt from tax under this chapter and which does not meet the requirements for qualification under section 401.

"(3) Qualified governmental excess benefit arrangement.—For purposes of this subsection, the term 'qualified governmental excess benefit arrangement' means a portion of a governmental plan if—

"(A) such portion is maintained solely for the purpose of providing to participants in the plan that part of the participant's annual benefit otherwise payable under the terms of the plan that exceeds the limitations on benefits imposed by this section,

"(B) under such portion no election is provided at any time to the participant (directly or indirectly) to defer compensation, and

"(C) benefits described in subparagraph (A) are not paid from a trust forming a part of such governmental plan unless such trust is maintained solely for the purpose of providing such benefits."

(2) Coordination with section 457.—Subsection (e) of section 457 is amended by adding at the end the following new paragraph:

"(14) Treatment of qualified governmental excess benefit arrangements.—Subsections (b)(2) and (c)(1) shall not apply to any qualified governmental excess benefit arrangement (as defined in section 415(m)(3)), and benefits provided under such an arrangement shall not be taken into account in determining whether any other plan is an eligible deferred compensation plan."

(3) Conforming amendment.—Paragraph (2) of section 457(f) is amended by striking the word "and" at the end of subparagraph (C), by striking the period after subparagraph (D) and inserting ", and", and by adding at the end the following new subparagraph:

"(E) a qualified governmental excess benefit arrangement described in section 415(m)."

(c) Exemption for Survivor and Disability Benefits.—Paragraph (2) of section 415(b) is amended by adding at the end the following new subparagraph:

"(I) Exemption for survivor and disability benefits provided under governmental plans.—Subparagraph (B) of paragraph (1), subparagraph (C) of this paragraph, and paragraph (5) shall not apply to—

"(i) income received from a governmental plan (as defined in section 414(d)) as a pension, annuity, or similar allowance as the result of the recipient becoming disabled by reason of personal injuries or sickness, or

"(ii) amounts received from a governmental plan by the beneficiaries, survivors, or the estate of an employee as the result of the death of the employee."

(d) Revocation of Grandfather Election.—

(1) In general.—Subparagraph (C) of section 415(b)(10) is amended by adding at the end the following new clause:

"(ii) Revocation of election.—An election under clause (i) may be revoked not later than the last day of the third plan year beginning after the date of the enactment of this clause. The revocation shall apply to all plan years to which the election applied and to all subsequent plan years. Any amount paid by a plan in a taxable year ending after the revocation shall be includible in income in such taxable year under the rules of this chapter in effect for such taxable year, except that, for purposes of applying the limitations imposed by this section, any portion of such amount which is attributable to any taxable year during which the election was in effect shall be treated as received in such taxable year."

(2) Conforming amendment.—Subparagraph (C) of section 415(b)(10) is amended by striking "This" and inserting:

"(i) In general.—This".

(e) Effective Date.—

(1) In general.—The amendments made by subsections (a), (b), (c), and (d) shall apply to taxable years beginning on or after the date of the enactment of this Act. The amendments made by subsection (e) shall apply with respect to revocations adopted after the date of the enactment of this Act.

(2) Treatment for years beginning before date of enactment.—A governmental plan (as defined in section 414(d) of the Internal Revenue Code of 1986) shall be treated as satisfying the requirements of section 415 of such Code for all taxable years beginning before the date of the enactment of this Act.

SEC. 508. TREATMENT OF DEFERRED COMPENSATION PLANS OF STATE AND LOCAL GOVERNMENTS AND TAX-EXEMPT ORGANIZATIONS.

(a) Special Rules for Plan Distributions.—Paragraph (9) of section 457(e) (relating to other definitions and special rules) is amended to read as follows:

"(9) Benefits not treated as made available by reason of certain elections, etc.—

"(A) Total amount payable is $3,500 or less.—The total amount payable to a participant under the plan shall not be treated as made available merely because the participant may elect to receive such amount (or the plan may distribute such amount without the participant's consent) if—

"(i) such amount does not exceed $3,500, and

"(ii) such amount may be distributed only if—

"(I) no amount has been deferred under the plan with respect to such participant during the 2-year period ending on the date of the distribution, and

"(II) there has been no prior distribution under the plan to such participant to which this subparagraph applied.

A plan shall not be treated as failing to meet the distribution requirements of subsection (d) by reason of a distribution to which this subparagraph applies.

"(B) Election to defer commencement of distributions.—The total amount payable to a participant under the plan shall not be treated as made available merely because the participant may elect to defer commencement of distributions under the plan if—

"(i) such election is made after amounts may be available under the plan in accordance with subsection (d)(1)(A) and before commencement of such distributions, and

"(ii) the participant may make only 1 such election."

(b) Cost-of-Living Adjustment of Maximum Deferral Amount.—Subsection (e) of section 457, as amended by section 507(c)(2), is amended by adding at the end the following new paragraph:

"(15) Cost-of-living adjustment of maximum deferral amount.—The Secretary shall adjust the $7,500 amount specified in subsections (b)(2) and (c)(1) at the same time and in the same manner as under section 415(d), except that the base period shall be the calendar quarter beginning October 1, 1994."

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 509. CONTRIBUTIONS ON BEHALF OF DISABLED EMPLOYEES.

(a) All Disabled Participants Receiving Contributions.—Section 415(c)(3)(C) is amended by adding at the end the following: "If a defined contribution plan provides for the continuation of contributions on behalf of all participants described in clause (i) for a fixed or determinable period, this subparagraph shall be applied without regard to clauses (ii) and (iii)."

(b) Effective Date.—The amendments made by this section shall apply to years beginning after December 31, 1995.

SEC. 510. DISTRIBUTIONS UNDER RURAL COOPERATIVE PLANS.

(a) Distributions for Hardship or After a Certain Age.—Section 401(k)(7) is amended by adding at the end the following new subparagraph:

"(C) SPECIAL RULE FOR CERTAIN DISTRIBUTIONS.—A rural cooperative plan which includes a qualified cash or deferred arrangement shall not be treated as violating the requirements of section 401(a) or of paragraph (2) merely by reason of a hardship distribution or a distribution to a participant after attainment of age 59½. For purposes of this section, the term 'hardship distribution' means a distribution described in paragraph (2)(B)(i)(IV) (without regard to the limit of its application to profit-sharing or stock bonus plans)."

(b) DEFINITION OF RURAL COOPERATIVE PLANS.—

(1) PUBLIC UTILITY DISTRICTS.—Clause (i) of section 401(k)(7)(B) (defining rural cooperative) is amended to read as follows:

"(i) any organization which—

"(I) is engaged primarily in providing electric service on a mutual or cooperative basis, or

"(II) is engaged primarily in providing electric service to the public in its area of service and which is exempt from tax under this subtitle or which is a State or local government (or an agency or instrumentality thereof), other than a municipality (or an agency or instrumentality thereof)."

(2) RELATED ORGANIZATIONS.—Subparagraph (B) of section 401(k)(7), as amended by paragraph (1), is amended by striking clause (iv) and inserting the following new clauses:

"(iv) an organization which is a national association of organizations described in any other clause of this subparagraph, or

"(v) any other organization which provides services which are related to the activities or operations of an organization described in clause (i), (ii), (iii), or (iv), but only in the case of a plan with respect to which substantially all of the organizations maintaining it are described in clause (i), (ii), (iii), or (iv)."

(c) EFFECTIVE DATES.—

(1) DISTRIBUTIONS.—The amendments made by subsection (a) shall apply to distributions after the date of the enactment of this Act.

(2) RURAL COOPERATIVE.—The amendments made by subsection (b) shall apply to plan years beginning after December 31, 1984.

SEC. 511. SPECIAL RULES FOR PLANS COVERING PILOTS.

(a) GENERAL RULE.—

(1) Subparagraph (B) of section 410(b)(3) is amended to read as follows:

"(B) in the case of a plan established or maintained by one or more employers to provide contributions or benefits for air pilots employed by one or more common carriers engaged in interstate or foreign commerce or air pilots employed by carriers transporting mail for or under contract with the United States Government, all employees who are not air pilots."

(2) Paragraph (3) of section 410(b) is amended by striking the last sentence and inserting the following new sentence: "Subparagraph (B) shall not apply in the case of a plan which provides contributions or benefits for employees who are not air pilots or for air pilots whose principal duties are not customarily performed aboard aircraft in flight."

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to years beginning after December 31, 1995.

SEC. 512. TENURED FACULTY.

(a) IN GENERAL.—Section 457(e)(11) is amended by inserting "eligible faculty voluntary retirement incentive pay," after "disability pay,".

(b) DEFINITION.—Section 457(e), as amended by sections 507(c)(2) and 508(b), is amended by adding at the end the following new paragraph:

"(16) DEFINITION OF ELIGIBLE FACULTY VOLUNTARY RETIREMENT INCENTIVE PAY.—For purposes of this section, the term 'eligible faculty voluntary retirement incentive pay' means payments under a plan established for employees serving under contracts of unlimited tenure (or similar arrangements providing for unlimited tenure) at an institution of higher education (as defined in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a))) which—

"(A) provides—

"(i) payment to employees electing to retire during a specified period of time of limited duration, or

"(ii) payment to employees who elect to retire prior to normal retirement age,

"(B) provides that the total amount of payments to an employee does not exceed the equivalent of twice the employee's annual compensation (within the meaning of section 415(c)(3)) during the year immediately preceding the employee's termination of service, and

"(C) provides that all payments to an employee must be completed within 5 years after the employee's termination of service."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 1995.

SEC. 513. UNIFORM RETIREMENT AGE.

(a) DISCRIMINATION TESTING.—Paragraph (5) of section 401(a) (relating to special rules relating to nondiscrimination requirements) is amended by adding at the end the following new subparagraph:

"(F) SOCIAL SECURITY RETIREMENT AGE.—For purposes of testing for discrimination under paragraph (4)—

"(i) the social security retirement age (as defined in section 415(b)(8)) shall be treated as a uniform retirement age, and

"(ii) subsidized early retirement benefits and joint and survivor annuities shall not be treated as being unavailable to employees on the same terms merely because such benefits or annuities are based in whole or in part on an employee's social security retirement age (as so defined)."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 1995.

SEC. 514. UNIFORM PENALTY PROVISIONS TO APPLY TO CERTAIN PENSION REPORTING REQUIREMENTS.

(a) IN GENERAL.—

(1) Paragraph (1) of section 6724(d) is amended by striking "and" at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting ", and", and by inserting after subparagraph (B) the following new subparagraph:

"(C) any statement of the amount of payments to another person required to be made to the Secretary under—

"(i) section 408(i) (relating to reports with respect to individual retirement accounts or annuities), or

"(ii) section 6047(d) (relating to reports by employers, plan administrators, etc.)."

(2) Paragraph (2) of section 6724(d) is amended by striking "or" at the end of subparagraph (S), by striking the period at the end of subparagraph (T) and inserting a comma, and by inserting after subparagraph (T) the following new subparagraphs:

"(U) section 408(i) (relating to reports with respect to individual retirement plans) to any person other than the Secretary with respect to the amount of payments made to such person, or

"(V) section 6047(d) (relating to reports by plan administrators) to any person other than the Secretary with respect to the amount of payments made to such person."

(b) MODIFICATION OF REPORTABLE DESIGNATED DISTRIBUTIONS.—

(1) SECTION 408.—Subsection (i) of section 408 (relating to individual retirement account reports) is amended by inserting "aggregating $10 or more in any calendar year" after "distributions".

(2) SECTION 6047.—Paragraph (1) of section 6047(d) (relating to reports by employers, plan administrators, etc.) is amended by adding at the end thereof the following new sentence: "No return or report may be required under the preceding sentence with respect to distributions to any person during any year unless such distributions aggregate $10 or more."

(c) QUALIFYING ROLLOVER DISTRIBUTIONS.—Section 6652(i) is amended—

(1) by striking "the $10" and inserting "$100", and

(2) by striking "$5,000" and inserting "$50,000".

(d) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 6047(f) is amended to read as follows:

"(1) For provisions relating to penalties for failures to file returns and reports required under this section, see sections 6652(e), 6721, and 6722."

(2) Subsection (e) of section 6652 is amended by adding at the end the following new sentence: "This subsection shall not apply to any return or statement which is an information return described in section 6724(d)(1)(C)(ii) or a payee statement described in section 6724(d)(2)(V)."

(3) Subsection (a) of section 6693 is amended by adding at the end the following new sentence: "This subsection shall not apply to any report which is an information return described in section 6724(d)(1)(C)(i) or a payee statement described in section 6724(d)(2)(U)."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to returns, reports, and other statements the due date for which (determined without regard to extensions) is after December 31, 1995.

SEC. 515. NATIONAL COMMISSION ON PRIVATE PENSION PLANS.

(a) IN GENERAL.—Chapter 77 is amended by adding at the end the following new section:

"SEC. 7524. NATIONAL COMMISSION ON PRIVATE PENSION PLANS.

"(a) ESTABLISHMENT.—There is hereby established a commission to be known as the National Commission on Private Pension Plans (in this section referred to as the 'Commission').

"(b) MEMBERSHIP.—

"(1) The Commission shall consist of—

"(A) 6 members to be appointed by the President;

"(B) 6 members to be appointed by the Speaker of the House of Representatives; and

"(C) 6 members to be appointed by the Majority Leader of the Senate.

"(2) The appointments made pursuant to subparagraphs (B) and (C) of paragraph (1) shall be made in consultation with the chairmen of the committees of the House of Representatives and the Senate, respectively, having jurisdiction over relevant Federal pension programs.

"(c) DUTIES AND FUNCTIONS OF COMMISSION; PUBLIC HEARINGS IN DIFFERENT GEOGRAPHICAL AREAS; BROAD SPECTRUM OF WITNESSES AND TESTIMONY.—

"(1) It shall be the duty and function of the Commission to conduct the studies and issue the report required by subsection (d).

"(2) The Commission (and any committees that it may form) may conduct public hearings in order to receive the views of a broad spectrum of the public on the status of the Nation's private retirement system.

"(d) REPORT TO THE PRESIDENT AND CONGRESS; RECOMMENDATIONS.—The Commission shall submit to the President, to the Majority Leader and the Minority Leader of the Senate, and to the Majority Leader and the Minority Leader of the House of Representatives a report no later than September 1, 1996, reviewing existing Federal incentives and programs that encourage and protect private retirement savings. The final report shall also set forth recommendations where appropriate for increasing the level and security of private retirement savings.

"(e) TIME OF APPOINTMENT OF MEMBERS; VACANCIES; ELECTION OF CHAIRMAN; QUORUM; CALLING OF MEETINGS; NUMBER OF MEETINGS; VOTING; COMPENSATION AND EXPENSES.—

"(1)(A) Members of the Commission shall be appointed for terms ending on September 1, 1996.

"(B) A vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the vacant position was first filled.

"(2) The Commission shall elect 1 of its members to serve as Chairman of the Commission.

"(3) A majority of the members of the Commission shall constitute a quorum for the transaction of business.

"(4) The Commission shall meet at the call of the Chairman.

"(5) Decisions of the Commission shall be according to the vote of a simple majority of those present and voting at a properly called meeting.

"(6) Members of the Commission shall serve without compensation, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of their duties as members of the Commission.

"(f) EXECUTIVE DIRECTOR AND ADDITIONAL PERSONNEL; APPOINTMENT AND COMPENSATION; CONSULTANTS.—

"(1) The Commission shall appoint an Executive Director of the Commission. In addition to the Executive Director, the Commission may appoint and fix the compensation of such personnel as it deems advisable. Such appointments and compensation may be made without regard to the provisions of title 5, United States Code, that govern appointments in the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title that relate to classifications and the General Schedule pay rates.

"(2) The Commission may procure such temporary and intermittent services of consultants under section 3109(b) of title 5, United States Code, as the Commission determines to be necessary to carry out the duties of the Commission.

"(g) TIME AND PLACE OF HEARINGS AND NATURE OF TESTIMONY AUTHORIZED.—In carrying out its duties, the Commission, or any duly organized committee thereof, is authorized to hold such hearings, sit and act at such times and places, and take such testimony, with respect to matters for which it has a responsibility under this section, as the Commission or committee may deem advisable.

"(h) DATA AND INFORMATION FROM OTHER AGENCIES AND DEPARTMENTS.—

"(1) The Commission may secure directly from any department or agency of the United States such data and information as may be necessary to carry out its responsibilities.

"(2) Upon request of the Commission, any such department or agency shall furnish any such data or information.

"(i) SUPPORT SERVICES BY GENERAL SERVICES ADMINISTRATION.—The General Services Administration shall provide to the Commission, on a reimbursable basis, such administrative support services as the Commission may request.

"(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each of fiscal years 1995 and 1996, such sums as may be necessary to carry out this section.

"(k) DONATIONS ACCEPTED AND DEPOSITED IN TREASURY IN SEPARATE FUND; EXPENDITURES.—

"(1) The Commission is authorized to accept donations of money, property, or personal services. Funds received from donations shall be deposited in the Treasury in a separate fund created for this purpose. Funds appropriated for the Commission and donated funds may be expended for such purposes as official reception and representation expenses, public surveys, public service announcements, preparation of special papers, analyses, and documentaries, and for such other purposes as determined by the Commission to be in furtherance of its mission to review national issues affecting private pension plans.

"(2) Expenditures of appropriated and donated funds shall be subject to such rules and regulations as may be adopted by the Commission and shall not be subject to Federal procurement requirements.

"(l) PUBLIC SURVEYS.—The Commission is authorized to conduct such public surveys as it deems necessary in support of its review of national issues affecting private pension plans and, in conducting such surveys, the Commission shall not be deemed to be an "agency" for the purpose of section 3502 of title 44, United States Code."

(b) CONFORMING AMENDMENT.—The table of sections for chapter 77 is amended by adding at the end the following new item:

"Sec. 7524. National Commission on Private Pension Plans."

SEC. 516. DATE FOR ADOPTION OF PLAN AMENDMENTS.

If any amendment made by this Act requires an amendment to any plan, such plan amendment shall not be required to be made before the first day of the first plan year beginning on or after January 1, 1997, if—

(1) during the period after such amendment takes effect and before such first plan year, the plan is operated in accordance with the requirements of such amendment, and

(2) such plan amendment applies retroactively to such period.

In the case of a governmental plan (as defined in section 414(d) of the Internal Revenue Code of 1986), this section shall be applied by substituting "1999" for "1997".

PENSION SIMPLIFICATION ACT OF 1995

The Pension Simplification Act will provide greater access to our private pension system by reducing the costs of providing pension benefits. The Act achieves this result by eliminating many of the unnecessary complexities in the Tax Code. While the Act affects both large and small employers, special provisions target small business where sponsorship of a plan by an employer, and employee participation, is historically very low.

1. Simplification of the Definition of "Highly Compensated Employee". Current law requires an employer to identify HCEs using a 7-part test in order to ensure that HCEs do not disproportionately benefit under the plan. The bill proposes a simpler 3-part test to achieve this goal. Under the proposal, an employee is an HCE if the employee (1) was a 5-percent owner at any time during the year or preceding year, (2) has compensation for the preceding year in excess of $80,000 (indexed), or (3) was the highest-paid officer during the year (see #10 below which provides an exception to this rule for certain small businesses).

2. Repeal of the Family Aggregation Rules. The family aggregation rules greatly complicate the application of the nondiscrimination tests, particularly for family-owned or operated businesses, and may unfairly reduce retirement benefits for the family members who are not HCEs. The bill eliminates the rule that requires certain HCEs and their family members to be treated as a single employee.

3. Simplify the Definition of "Compensation" under Section 415. The general limit on a participant's annual contributions is based on that individuals's taxable compensation. The result is that pre-tax employee contributions (e.g., to cafeteria plans) reduce the participant's taxable compensation, and in turn, their section 415 contribution limit. This rule makes it difficult to communicate in advance the section 415 limit and it leads to many inadvertent violations. Under the bill, pre-tax employee contributions would be counted as compensation under section 415.

4. Exempt Defined Contribution Plans from the Minimum Participation Rule. Every qualified plan currently must cover at least 50 employees or, in smaller companies, 40% of all employees of the employer. This rule is intended to prevent the use of individual defined benefit plans to give high paid employees better benefits than those provided to others under a separate plan. Because the abuses addressed by the rule are unlikely to arise in the context of defined contribution plans, the rule adds unnecessary administrative burden and complexity for defined contribution plans; therefore, the bill repeals the rule for these plans.

5. Section 401(k) Safe Harbor. Current law requires complicated, annual comparisons between the level of contributions to 401(k) plans made by HCEs and non-highly compensated employees. First, the Act will eliminate end-of-year adjustments caused by employee population changes during the year by providing a rule that the maximum contribution for HCEs is determined by reference to NHCEs for the preceding, rather than the current year. Second, the bill provides two 401(k) plan designs which if offered by the employer, will qualify the employer for a special safe harbor, thus eliminating the need to do several annual, complex discrimination tests that apply to traditional plans.

6. Simplify Taxation of Annuity Distributions. A simplified method for determining the nontaxable portion of an annuity payment, similar to the current simplified alternative, would become the required method. Taxpayers would no longer be compelled to do calculations under multiple methods in order to determine the most advantageous approach. Under the simplified method, the portion of an annuity payment that would be nontaxable is generally equal to the employees's total after-tax contributions, divided by the number of anticipated payments listed in a table (based on the employee's age as of the annuity starting date).

7. Repeal Rule Requiring Employer Plans to Commence Minimum Distributions before Retirement. The Act repeals the current law rule requiring distribution of benefits after a participant reaches age 70½, even if he or she does not retire. However, the current law rule will continue to apply to 5% owners.

8. Eliminate the Section 415(e) Combined Plan Limit. Section 415(e) applies an overall

limit on benefits and contributions with respect to an individual who participates in both a defined contribution plan and defined benefit plan maintained by the same employer. These rules are extremely complicated, and very burdensome to administer because they require maintaining compensation and contribution records for *all* employees for *all* years of service. Further, the test is duplicative in that there are other provisions in the Code which safeguard against an individual accruing excessive retirement benefits on a tax-favored basis.

9. Repeal 5-year Income Averaging for Lump-Sum Distributions. The bill repeals the special rule that allows a plan participant to calculate the current year tax on a lump-sum pension distribution as if the amount were received over a 5-year period. This special rule, designed to prevent unfair "bunching" of income, is no longer needed because of liberalized rollover rules enacted in 1992 (originally part of the Pension Simplification Act) which allow for partial distributions from a plan.

10. Targeting Small Business. Retirement plan coverage among employees of small employers is dismally low. The cost of establishing a retirement plan is, in a significant way, disproportionately high for small employers. The following provisions will help to alleviate these barriers:

Tax Credit for Start-Up Costs. Employers with less than 50 employees that have not maintained a qualified retirement plan at any time during the immediately preceding two years, would be eligible for an income tax credit (up to $1000) equal to the cost of establishing a qualified plan.

Elimination of the One-High-Paid Officer Rule. The highest paid officer of an employer is considered an HCE under current law. This rule is unfair for small employers with low-wage workforces. For example, the highest paid officer of a small employer may earn an amount less than $66,000 yet that employee must be treated as highly compensated. The result is that the nondiscrimination rules severely limit his or her benefits. Thus many small employers decide not to offer plans. The bill provides that no owners or employees would be treated as highly compensated unless they received compensation in excess of $80,000.

Salary Reduction Simplified Employee Pensions (SEPs). The Act adds the two design-based safe harbors, discussed in #5 above, as methods of satisfying the nondiscrimination requirements for SEPs. Further, the Act provides that SEPs may be established by employers with 100 or fewer employees, instead of current law (25 or fewer employees), and the Act repeals the requirement that at least half of eligible employees actually participate in a salary reduction SEP.

Exemption from Top Heavy Plan Requirements. Under the Act, if no employee makes over $80,000 (indexed) in the preceding year, the top heavy plan requirements do not apply for that year.

11. Permit Tax Exempt Organizations to Maintain 401(k) Plans. Except for certain plans established before July 2, 1986, an organization exempt from income tax is not allowed to maintain a 401(k) plan. This rule prevents many tax-exempt organizations from offering their employees retirement benefits on a salary reduction basis. The bill provides that tax exempt organizations (except section 501(c)(3)s which may currently provide 403(b) plans) may provide 401(k) plans to their employees.

12. Leased Employees. Generally, the bill defines an employee as a "leased employee" of a service recipient only if the services are performed by the individual under the control of the recipient. This simplified "control test" replaces the complicated, 4-part "historically performed test."

13. Vesting for Multi-Employer Plans. The bill conforms vesting requirements for multi-employer plans to vesting requirements for all other qualified plans. Thus, the current law 10-year vesting rule for collectively bargained plans would be repealed and such plans would be required to comply with general vesting rules.

14. Full-Funding Limitations for Multi-Employer Plans. The bill simplifies the calculation of the full funding limitation for multi-employer plans, and requires actuarial valuations be performed at least every 3 years, instead of every year.

15. Alternative Full-Funding Limitation. Current law provides a formula which limits pension contributions an employer may make to a plan, in order to prevent overfunding. The bill provides the Secretary of Treasury authority to allow employers some flexibility in determining the full-funding limitation.

16. Volunteer Employees' Beneficiary Association (VEBA). Current regulations require that employees eligible to participate in a VEBA share an employment-related common bond. The bill clarifies this requirement by specifying that an employment-related common bond includes employer affiliation where employers are in the same line of business; they act jointly to perform tasks that are integral to the activities of each of them; and that such joint activities are sufficiently extensive that the maintenance of a common VEBA is not a major part of such joint activities.

17. Government Plans. The limitations on contributions and benefits present special problems for plans maintained by State and local governments due to the special nature of the involvement and operation of such governments. The Act addresses these problems by providing (1) section 457 does not apply to excess benefit plans maintained by State or local governments, (2) the compensation limit on benefits under a defined benefit plan does not apply to plans maintained by a State or local government, and (3) the defined benefit pension plan limits do not apply to certain disability and survivor benefits provided under State and local government plans.

Further, because of the unique characteristics of the State and local government employee plans, many long-tenured and relatively low-paid employees may be eligible to receive benefits in excess of their average compensation. Therefore, the Act provides that the current law 100% of compensation limit does not apply to plans maintained by State and local governments.

18. State and Local Government Deferred Compensation (Section 457) Plans. The Act makes 3 changes to Section 457 plan rules: (1) it indexes the dollar limit on deferrals; (2) it permits in-service distributions from accounts of less than $3,500 if there has been no amount deferred with respect to the account for 2 years and if there has been no prior distribution under this cash-out rule; and (3) it permits an additional election as to the time distributions must begin under the plan. These changes are designed to make Section 457 plan participants treated more like private plan participants.

19. Rural Cooperatives. Unlike all other section 401(k) plans, rural cooperative 401(k) plans are not permitted to make in-service distributions for hardship or after age 59½. The Act treats rural cooperative plans the same as all other 401(k) plans. The Act also clarifies the definition of a "rural cooperative" for purposes of determining eligibility to offer a 404(k) plan.

20. Rules for Plans Covering Pilots. The Act applies the same discrimination testing rules to pensions maintained for airland pilots, whether or not the plans are collectively-bargained. Thus, under the rules, employees who are not air pilots may be excluded from consideration in testing whether the plan satisfies the minimum coverage requirements.

21. Eligible Faculty Voluntary Retirement Incentive Plans. The Act modifies the "risk of forfeiture" rule governing the timing of tax liability to allow qualifying future payments under an eligible faculty voluntary retirement incentive plan to be taxes when received, as opposed to at the time the participant becomes entitled to them.

22. Uniform Retirement Act/Social Security Retirement Age. The bill recognizes that plans use age 65 as a "normal retirement age" in part because it is Social Security's "normal retirement age." Because the "normal retirement age" is scheduled to increase under the Social Security law, the bill provides that for purposes of the general nondiscrimination rule, the Social Security retirement age is a uniform retirement age.

23. Blue-Ribbon Commission. The bill establishes a blue-ribbon commission which will identify the long-term goals for private retirement savings. The 18-member commission would consist of 6 members appointed by the President; 6 by the Speaker of the House; and 6 by the Senate Majority Leader.

Mr. PRYOR. Mr. President, this month I was extremely gratified when President Clinton unveiled his approach to simplify the pension rules. Many of the provisions in this legislation are also in this particular Pension Simplification Act of 1995 that I am introducing today and am joined with by my colleagues, Senators HATCH, BREAUX, and LEAHY.

I wish to thank our colleagues for helping us in this matter. I commend the President for focusing on this very important cause affecting small businesses throughout our country. I believe that by working together with our Republican colleagues on the other side of the aisle and with our President, all of us together this year can enact this legislation into law. Should we do this, small businesses across America would be extremely grateful. It is important that this legislation have support from both sides, Mr. President, and I am happy to have Senator HATCH, my fellow member of the Finance Committee, as a lead cosponsor on this bill. I wish to thank him for joining us, and I look forward to working with him on this very important legislation.

Mr. President, these new pension simplification provisions affecting small business have already been strongly endorsed by three important small business organizations: The National Federation of Independent Business, the U.S. Chamber of Commerce, and the Small Business Council of America.

I ask unanimous consent that a copy of these letters of endorsement from these very distinguished organizations be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

SMALL BUSINESS COUNCIL
OF AMERICA
Overland Park, KS.

Re Pension simplification bill.

Hon. DAVID PRYOR,
Russell Senate Office Building,
Washington, DC.

DEAR SENATOR PRYOR: The Small Business Council of America strongly endorses the new pension simplification legislation which will streamline the country's voluntary retirement plan system and encourage savings. We particularly appreciate the provisions that target the Nation's small businesses. There is no question that these provisions will give small businesses greater access to the retirement plan system than they have had over the last decade.

We have watched with approval your unceasing drive to revive the retirement plan system. Of particular importance to our members is the repeal of family aggregation, the institution of voluntary safe harbors for 401(k) plans and the tax credit for start up costs, the recognition that for many small businesses there is no such thing as a highly compensated employee, the return of 401(a)(26) to its original purpose and the repeal of the complicated 415(e) fraction. All of these changes, as well as others set forth in the bill, will dramatically improve the existing retirement plan system. By making the system user friendly, more small businesses will sponsor retirement plans. Easing administrative burdens will reduce the costs of maintaining retirement plans particularly for small businesses.

Retirement plans sponsored by small businesses operate under a stringent and excessively complicated statutory and regulatory system. These limitations and rules are now so complicated that the costs of sponsoring a retirement plan often outweigh the benefits that a small business can reasonably expect to obtain. By making the changes called for in this legislation, with a few additional changes, the costs incurred by small businesses sponsoring retirement plans will be brought back into line. The Small Business Council of America, with its technical expertise in the small business retirement plan area, believes that the changes contemplated by this legislation will significantly improve the country's voluntary retirement plan system.

Sincerely yours,
PAULA A. CALIMAFDE.

NATIONAL FEDERATION OF
INDEPENDENT BUSINESS,
Washington, DC, June 27, 1995.

Hon. DAVID PRYOR,
U.S. Senate, Washington, DC.

DEAR SENATOR PRYOR: On behalf of the more than 600,000 members of the National Federation of Independent Business (NFIB), I wish to indicate our strong support for your legislation, The Pension Simplification Act of 1995.

NFIB believes that simplification of the regulations and reduction in the costs associated with retirement plans are of vital importance to American small business. Almost two-thirds of NFIB members strongly support pension simplification and the 1995 White House Conference on Small Business ranked pension simplification number seven out of sixty. Your legislation will increase the chances that small employers will set-up retirement plans, enabling their employees and themselves to provide for a secure retirement.

Three out of every four small businesses currently do not have retirement plans. Until small employers offer pension plans, many American workers will not be covered for their retirement outside of individual savings and Social Security.

An NFIB Education Foundation study revealed that one-third of small businesses which recently terminated their retirement plans, did so because of changing and complex regulations. Enabling small employers to implement a retirement plan without complex participation and non-discrimination rules as well as clarifying the definition of highly compensated employees will provide small employers with incentives to offer plans.

I also want to commend you for including a tax credit for small businesses equal to the cost of establishing a qualified retirement plan. And finally, NFIB supports your proposal to prohibit the IRS from issuing retirement plan regulations unless the regulation includes a section addressing the needs of small employers.

Small business owners purchase pensions coverage the same way they purchase other employee benefits. The lower the costs—in time, trouble and dollars—the more likely employers will participate. We look forward to working with you to achieve its passage.

Sincerely,
JACK FARIS,
President.

CHAMBER OF COMMERCE
OF THE UNITED STATES OF AMERICA,
Washington, DC, June 29, 1995.

Hon. DAVID H. PRYOR,
U.S. Senate, Washington, DC.

DEAR SENATOR PRYOR: On behalf of the U.S. Chamber of Commerce Federation of 215,000 businesses, 3,000 state and local chambers of commerce, 1,200 trade and professional associations, and 72 American Chambers of Commerce abroad, I commend you for introducing the "Pension Simplification Act of 1995."

The American business community is encouraged by your efforts to simplify the highly complex and overly burdensome private pension laws. We are especially pleased that many of the proposed changes in the legislation target small employers, providing incentives for small businesses to sponsor retirement plans.

As you know, the time has come to reverse the decade-old assault on private pensions, and to enact sensible reform legislation that encourages employers to sponsor retirement plans for their employees. This legislation provides a solid framework for such reforms by making meaningful changes to many of the Internal Revenue Code provisions that currently hinder the private pension system. While the introduction of this legislation is a good start, there is much more that can and should be done to ensure that pension reform provides truly meaningful opportunities for increased savings through employer-sponsored pension plans.

The Chamber appreciates your leadership on this issue. We look forward to working with you and other members of Congress to ensure that the goals of simplifying our nation's pension laws and providing incentives for plan sponsorship are not lost as this legislation moves through Congress.

Sincerely,
R. BRUCE JOSTEN.

Mr. PRYOR. Mr. President, finally, in the coming days, I will be asking our colleagues to look closely at the Pension Simplification Act and join me in cosponsoring this effort. It is a bipartisan effort.

The bottom line is that it will increase retirement savings for workers in our country, especially those who work in small firms which, of course, is so critical to America's future.

Mr. HATCH. Mr. President, I am pleased to join with my distinguished colleague, Senator PRYOR, to introduce the Pension Simplification Act of 1995. I commend Senator PRYOR for the work he has done on this issue over the past few years.

I would also like to compliment President Clinton for his efforts in this area. We welcome the administration's suggestions on this issue.

Mr. President, simplification of this complex area of the tax law is long overdue. In 1974, the Employee Retirement Income Security Act [ERISA] was passed into law. The original intent of Congress for this act was, as the name implies, to provide security for private sector retirees. However, almost all of the laws and regulations governing private sector pensions that have been added since that time have had the completely opposite effect.

Since 1980, Congress has passed an average of one law per year affecting private sector pensions. As the rules and regulations governing pension plans have multiplied, defined benefit pension plans have become less and less attractive to employers, As a result, pension plan terminations have consistently outpaced the growth of new plans.

My colleague, Senator PRYOR, has tried to get Congress to act on pension simplification for the past 5 years. Meanwhile, an alarming number of pension plans have been terminated. Over the past 5 years, over 40,000 employee defined benefit plans have been terminated, affecting the retirement savings of more than 3 million Americans.

Pension regulation has directly affected the retirement security of millions of working Americans. The migration of employers away from defined benefit pension plans and toward defined contribution plans is a direct result of increased regulation. Employers prefer defined contribution plans because such plans are easier to administer and do not have the complex, burdensome rules that govern defined benefit plans. This movement away from defined benefit plans has effectively shifted the risks of the retirement plan investments from employers to employees.

At a time when the long-term adequacy of our Social Security Program is in question, we should be encouraging private sector retirement saving, not crippling pension plans with more and more regulation. The pension system provides a vital source of funding for the retirement needs of our nation's workforce. Over 41 million working Americans currently enrolled in private sector pension plans would directly benefit from pension simplification.

As unfortunate as the number of terminations of pension plans have been, Mr. President, the real tragedy of pension law complexity is at the small business level. Much of the burden of current pension law has fallen squarely on the shoulders of America's small businesses. Many small businesses simply cannot afford to establish pension plans for their employees.

Even if a small firm is able to establish a pension plan, current law throws up barriers to keeping the plan qualified for tax deferral treatment. Small businesses simply do not have the resources necessary to comply with all of the tests and antidiscrimination rules demanded by current law.

As a result of the heavy regulation of pension plans, lack of retirement plan sponsorship has left employees of small businesses out in the cold. Retirement plans are simply not an option for small employers because of the high cost to establish and administer them. In 1993, only 19 percent of employers with fewer than 25 employees sponsored a pension plan.

Thus, small businesses are placed at a competitive disadvantage to larger firms by our current pension law. Not only do the compliance costs take away from a small firm's profitability, but the firm's ability to attract high-quality employees is also impaired. Employees seeking retirement security prefer to work for a large company that can much more easily provide a pension plan over a small firm that cannot provide such security.

Mr. President, the Pension Simplification Act will provide relief to employers that are laboring under our outmoded and inflexible regulations to provide retirement plans for their employees. This act will restore flexibility to our pension laws and thus encourage employers, including small businesses, to offer and maintain retirement plans that are vital to the retirement security of our Nation's work force.

The Pension Simplification Act contains several provisions which will provide the relief that will result in retirement security for working Americans.

This bill introduces safe harbor rules for 401(k) plans that will help employers know whether or not their plans are qualified for tax-deferred treatment. The complex compliance tests required by current law will be eliminated.

A strong disincentive to offer defined benefit pension plans will be removed by simplifying the method for determining the nontaxable portion of annuity payments. Thus, employers would no longer have to make complex calculations to determine whether offering a defined benefit or a defined contribution plan is more advantageous.

The Pension Simplification Act also benefits State and local government pension plans by clarifying the application of the benefit limitation rules and by allowing these employers to establish 401(k)-type plans.

This bill also removes many of the burdens that small businesses face when trying to provide retirement programs for their employees. The Pension Simplification Act will make it easier for small businesses to provide retirement security for millions of Americans by providing a tax credit for starting a new pension plan. The bill also removes the complex discrimination rules for small employers and exempts small businesses from the minimum participation rules.

Mr. President, this bill targets a complex and confusing area of law. However, our goal is quite simple—increased retirement security for American workers.

The Pension Simplification Act is great bill, I urge my colleagues to join Senator PRYOR and me in supporting this important piece of legislation.

Mr. President, I ask unanimous consent that additional material be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SECTION-BY-SECTION ANALYSIS OF THE PENSION SIMPLIFICATION ACT OF 1995

TITLE I—SIMPLIFICATION OF THE NONDISCRIMINATION PROVISIONS

Sec. 101. Definition of Highly Compensated Employee (HCE)

In general, under present law, an employee is treated as highly compensated with respect to a year if during the year or the preceding year the employee (1) was a 5-percent owner of the employer, (2) received more than $75,000 (indexed at $100,000 for 1995) in annual compensation from the employer, (3) received more than $50,000 (indexed at $66,000 for 1995) in annual compensation from the employer and was a member of the top 20 percent of employees by compensation, or (4) was an officer of the employer who received compensation greater than $45,000 (indexed at $60,000 for 1995). If, for any year, no officer has compensation in excess of $60,000, then the highest paid officer of the employer for such year is treated as an HCE.

Under present law, all family members of (1) a 5-percent owner, or (2) a HCE in the group consisting of the 10 highest paid HCEs are treated as a single HCE and all the compensation of the family members is treated as compensation of the HCE.

The bill provides that an employee is highly compensated with respect to a year if the employee (1) was a 5-percent owner of the employer at any time during the year or the preceding year, or (2) has compensation for the preceding year in excess of $80,000 (adjusted for cost-of-living increases using a base period beginning October 1, 1995 (sec. 415(d)), or (3) was the most highly compensated officer of the employer for the preceding year.

The bill provides that the dollar limit applicable for any year is the amount in effect for the calendar year with respect to which compensation is determined under the bill. For example, assume HCEs are being determined for the 1997 plan year in the case of a calendar year plan. Under the bill, 1996 compensation is used to make this determination, and the $80,000 figure for 1996, is the applicable dollar limit for the 1997 plan year (rather than the $80,000 figure as adjusted for 1997).

Under the bill, no employee would be treated as highly compensated in a year unless he or she received compensation from the employer during the preceding year in excess of $80,000. This proposal would apply to officers and to 5-percent owners. It targets small businesses where pension coverage is very low. For detailed discussion, see Title III, Targeted Access for Employees of Small Employers, section 302, page 17.

The bill repeals the family aggregation rules.

This provision is effective for years beginning after December 31, 1995, except that for purposes of determining whether an employee is an HCE in years beginning after December 31, 1995, the provision is effective for years beginning after December 31, 1994. Thus, for example, in determining whether an employee is highly compensated for 1996 with respect to calendar year plan, the determination is to be based on whether the employee had compensation during 1995 in excess of $80,000 (not $66,000 which may have been the applicable amount for the employee in 1995 prior to this bill).

Sec. 102. Definition of compensation under Section 415

Generally under present law, the section 415 limits with respect to an individual are based in part on the individual's taxable compensation. The general limit on a participant's annual additions under a defined contribution plan is the lesser of $30,000 or 25% of the participant's taxable compensation.

For example, assume a plan participant has a $20,000 salary. The 25% of compensation limit would generally permit the participant to have an annual addition of $5,000 (25% $20,000). However, because pre-tax employee contributions to a cafeteria plan would reduce the employee's taxable compensation from $20,000, any such contributions would also reduce the participant's section 415 limit. Moreover, contributions to a 401(k) plan, and other types of pre-tax employee contributions, would further reduce the participant's taxable compensation and section 415 limit.

The effect of pre-tax employee contributions makes it difficult to communicate in advance the section 415 limit applicable to each employee; this issue also leads to numerous inadvertent violations of section 415. Moreover, the reduction of the section 415 limit caused by pre-tax employee contributions primarily affects nonhighly compensated employees; this is so in part because section 125 contributions generally do not vary with compensation and thus have a proportionately smaller effect on higher paid employees.

Under the proposal, pre-tax employee contributions described in sections 402(g), 125, or 457 would be counted as compensation for purposes of section 415. In previous Pension Simplification bills this provision was limited to state and local governmental plans, however, the bill expands the provision to all plans.

Sec. 103. Modification of Additional Participation Requirements

Under present law, a plan is not a qualified plan unless it benefits no fewer than the lesser of (1) 50 employees or (2) 40 percent of all employees of an employer (sec. 401(a)(26)). This minimum participation rule cannot be satisfied by aggregating comparable plans, but can be applied separately to different lines of business of the employer. A line of business of the employer does not qualify as a separate line of business unless it has at least 50 employees. Also, certain employees may be disregarded in applying the rules.

The bill provides that the minimum participation rule applies only to defined benefit pension plans. In addition, the bill provides that a defined benefit plan does not satisfy the rule unless it benefits no fewer than the lesser of (1) 50 employees or (2) the greater of (a) 40 percent of all employees of the employer or (b) 2 employees (or 1 employee if there is only 1 employee). The separate line of business and excludable employee rules apply as under present law.

In the case of an employer with only 2 employees, a plan satisfies the present-law minimum participation rule if the plan covers 1 employee. However, under the bill, a plan satisfies the minimum participation rule only if it covers both employees.

The provision is effective for years beginning after December 31, 1995.

Sec. 104. Nondiscrimination Rules for Qualified Cash or Deferred Arrangements

a. In general: The bill modifies the present-law nondiscrimination test applicable to elective deferrals and employer matching and after-tax employee contributions to provide that the maximum permitted ADP or ACP for HCEs for the year is determined by reference to the ADP or ACP for nonhighly compensated employees for the preceding, rather than the current year. In the case of the first plan year of the plan, the ADP or ACP of nonhighly compensated employees for the previous year is deemed to be 3 percent or, at the election of the employer, the actual ADP or ACP for such plan year.

b. Section 401(k) Safe Harbor: Under present law, the special nondiscrimination test applicable to elective deferrals under qualified cash or deferred arrangements (401(k)s) is satisfied if the actual deferral percentage (ADP) under a cash or deferral arrangement for eligible HCEs for a plan year is equal to or less than either (1) 125 percent of the ADP of all non-highly compensated employees eligible to defer under the arrangement, or (2) the lesser of 200 percent of the ADP of all eligible nonhighly compensated employees or such ADP plus 2 percentage points (section 401(k)). The ADP for a group of employees is the average of the ratios (calculated separately for each employee in the group) of the contributions paid to the plan on behalf of the employee to the employee's compensation.

A cash or deferred arrangement that satisfies the special nondiscrimination test is deemed to satisfy the nondiscrimination requirement applicable to qualified plans with respect to the amount of contribution or benefits (section 401(a)(4)).

In addition, under present law, a special nondiscrimination test is applied to employer matching contributions and after-tax employee contributions (section 401(m)). This special nondiscrimination test is similar to the special nondiscrimination test in section 401(k).

An employer matching contribution means (1) any employer contribution made on behalf of an employee on account of an employee contribution made by such employee, and (2) any employer contribution made on behalf of an employee on account of an employee's elective deferral.

The bill adds alternative methods of satisfying the special nondiscrimination requirements applicable to elective deferrals and employer matching contributions. Under these safe harbor rules, a cash or deferred arrangement is treated as satisfying the ADP test if the plan of which the arrangement is a part (or any other plan of the employer maintained with respect to the employees eligible to participate in the cash or deferred arrangement) meets (1) one of two contribution requirements and (2) a notice requirement. These safe harbors permit a plan to satisfy the special nondiscrimination tests through plan design, rather than through the testing of actual contributions.

A plan satisfies the contribution requirements under the safe harbor rule for qualified cash or deferred arrangements if the plan either (1) satisfies a matching contribution requirement or (2) the employer makes a contribution to the plan of at least 3 percent of an employee's compensation on behalf of each nonhighly compensated employee who is eligible to participate in the arrangement without regard to whether the employee makes an elective contribution under the arrangement. Under both tests, contributions may also be made to highly compensated employees.

A plan satisfies the matching contribution requirement if, under the arrangement: (1) the employer makes a matching contribution on behalf of each nonhighly compensated employee that is not less than (a) 100 percent of the employee's elective contributions up to 3 percent of compensation and (b) 50 percent of the employee's elective contributions from 3 to 5 percent of compensation; and (2) the level of match for highly compensated employees is not greater than the match rate for nonhighly compensated employees.

Alternatively, if the matching contribution requirement is not satisfied at some level of employee compensation, the requirement is deemed to be satisfied if (1) the level of employer matching contributions does not increase as employee elective contributions increase and (2) the aggregate amount of matching contributions with respect to elective contributions up to that level of compensation at least equals the amount of matching contributions required under the general safe harbor rule.

Under the safe harbor, an employee's rights to employer matching contributions or nonelective contributions used to meet the contribution requirements are required to be 100 percent vested.

An arrangement does not satisfy the contribution requirements with respect to nonelective contributions unless the requirements are met without regard to the permitted disparity rules (sec. 401(1)), and nonelective contributions used to satisfy the contribution requirements are not taken into account for purposes of determining whether a plan of the employer satisfies the permitted disparity rules. It is intended that the rule applies to matching contributions as well.

Employer matching and nonelective contributions used to satisfy the contribution requirements of the safe harbor rules are subject to the restrictions on withdrawals that apply to an employee's elective deferrals under a qualified cash or deferred arrangement (sec. 401(k)(2)(B)).

The notice requirement is satisfied if each employee eligible to participate in the arrangement is given written notice within a reasonable period before any year of the employee's rights and obligations under the arrangement. This notice must be sufficiently accurate and comprehensive to apprise the employee of his or her rights and obligations and must be written in a manner calculated to be understood by the average employee eligible to participate.

c. Alternative method of satisfying special nondiscrimination test for matching contributions: The bill provides a safe harbor method of satisfying the special nondiscrimination test applicable to employer matching contributions. Under this safe harbor, a plan is treated as meeting the special nondiscrimination test with respect to matching contributions if (1) the plan meets the contribution and notice requirements applicable under the safe harbor method of satisfying the special nondiscrimination requirement for qualified cash or deferred arrangements, and (2) the plan satisfies a special limitation on matching contributions. After-tax employee contributions continue to be tested separately under the present ACP test, taking into account both employee contributions and employer matches in calculating contribution percentages.

The limitation on matching contributions is satisfied if (1) matching contributions on behalf of any employee may not be made with respect to employee contributions or elective deferrals in excess of 6 percent of compensation and (2) the level of an employer's matching contribution does not increase as an employee's contributions or elective deferrals increase.

TITLE II.—SIMPLIFIED DISTRIBUTION RULES

Under present law, distributions from tax-favored retirement arrangements are generally includable in gross income when received, however special rules apply in certain circumstances.

For example, certain distributions from tax-favored retirement arrangements attributable to contributions prior to January 1, 174, could qualify for treatment as long-term capital gains.

Under present law, a taxpayer may elect to have 5-year forward averaging apply to a lump-sum distribution from a qualified plan. Such an election may be made with respect to a distribution received on or after the employee attains age 59½ and only one election may be made with respect to an employee.

Prior to the Tax Reform Act of 1986, 10-year forward averaging was available with respect to lump-sum distributions. The Tax Reform Act replaced 10-year averaging with 5-year averaging and phased out capital gains treatment. The Tax Reform Act provided transition rules which generally preserved prior-law treatment in the case of certain distributions with respect to individuals who attained age 50 before January 1, 1986.

Under present law, a taxpayer is not required to include in gross income amounts received in the form of a lump-sum distribution to the extent that the amounts are attributable to net unrealized appreciation in employer securities. Such unrealized appreciation is includable in income when the securities are sold.

The bill eliminates 5-year averaging for lump sum distributions from qualified plans, repeals the $5000 employer-provided death benefit exclusion, and simplifies the basis recovery rules applicable to distributions from qualified plans. In addition, the bill modifies the rule that generally requires all participants to commence distributions by age 70½.

Sec. 201. Repeal of 5-Year Income Averaging for Lump-Sum Distributions

The bill repeals the special 5-year forward averaging rule. The original intent of the income averaging rules for pension distributions was to prevent a bunching of taxable income because a taxpayer received all of the benefits in a qualified plan in a single taxable year. Liberalization of the rollover rules enacted in 1992, as originally part of this bill, increases the flexibility of taxpayers in determining the time of the income inclusion of pension distributions, and eliminates the need for special rules to prevent bunching of income.

The bill preserves the transition rules for 10 year averaging adopted in the Tax Reform Act; in addition, the repeal of 5-year averaging is not applicable to individuals eligible for those transition rules. The bill also retains the present-law treatment of net unrealized appreciation on employer securities and generally retains the definition of lump-sum distribution solely for such purpose.

The provisions are effective with respect to distributions after December 31, 1995.

Sec. 202. Simplified Method for Taxing Annuity Distribution Under Certain Employer Plans

Under the bill, the portion of an annuity distribution from a qualified retirement plan, qualified annuity, or tax-sheltered annuity that represents nontaxable return of basis generally is determined under a method similar to the present-law simplified alternative method provided by the IRS. Under the simplified method provided in the bill, the portion of each annuity payment that represents nontaxable return of basis generally is equal to the employee's total investment in the contract as of the annuity starting date, divided by the number of anticipated payments determined by reference to the age of the participant listed in the table set forth in the bill. The number of anticipated payments listed in the table is based on the employee's age on the annuity starting date. If the number of payments is fixed under the terms of the annuity, that number is to be used instead of the number of anticipated payments listed in the table.

The simplified method does not apply if the primary annuitant has attained age 75 on the annuity starting date unless there are fewer than 5 years of guaranteed payments under the annuity. If in connection with commencement of annuity payments, the recipient receives a lump-sum payment that is not part of the annuity stream, such payment is taxable under the rules relating to annuities (section 72) as if received before the annuity starting data, and the investment in the contract used to calculate the simplified exclusion ratio for the annuity payments is reduced accordingly.

As under present law, in no event will the total amount excluded from income as nontaxable return of basis be greater than the recipient's total investment in the contract.

Sec. 203. Required Distributions

Under present law, distributions under all qualified plans, IRAs, tax-sheltered custodial accounts and annuities, and eligible deferred compensation plans of State and local governments are required to begin no later than April 1 of the calendar year following the calendar year in which the participant or owner attains age 70½, without regard to the actual date of separation from service. In the case of church plans and governmental plans, distributions are required to begin no later than the later of the April 1 date described above or April 1 of the calendar year following the calendar year in which the participant retires.

The bill repeals the rule that requires all participants in qualified plans to commence distributions by age 70½ without regard to whether the participant is still employed by the employer, and therefore, generally replaces it with the rule in effect prior to the Tax Reform Act. Thus, under the bill, distributions are required to begin by April 1 of the calendar year following the later of (1) the calendar year in which the employee attains age 70½, or (2) the calendar year in which the employee retires. In the case of a 5-percent owner of the employer, distributions are required to begin no later than April 1 of the calendar year following the year in which the 5-percent owner attains age 70½. Distributions from an IRA are required to begin no later than April 1 of the calendar year following the year in which the IRA owner attains age 70½.

In addition, in the case of an employee (other than a 5-percent owner) who retires in a calendar year after attaining age 70½, the bill requires the employee's accrued benefit to be actuarially increased to take into account the period after age 70½ in which the employee was not receiving benefits under the plan. Thus, under the bill, the employee's accrued benefit is required to reflect the value of benefits that the employee would have received if the employee had retired at age 70½ and began receiving benefits at that time.

The actuarial adjustment rules does not apply, under the bill, in the case of a governmental plan or church plan.

This provision applies to years beginning after December 31, 1995.

TITLE III.—TARGETED ACCESS FOR EMPLOYEES OF SMALL EMPLOYERS.

Sec. 301. Tax Credit for the Cost of Establishing a Plan for Small Employers

Retirement plan coverage among employees of small employers is dismally low. The cost of establishing a retirement plan is, in a significant way, disproportionately high for small employers. Many costs of plan establishment—plan design, plan drafting, application for IRS approval—are relatively fixed. Accordingly, the per-employee costs can be much higher for a small employer than for a large employer.

Under the proposal, employers with 50 or fewer employees, that have not maintained a qualified retirement plan at any time during the immediately preceding two years, would be eligible for an income tax credit (up to a maximum of $1,000) equal to the cost of establishing a qualified retirement plan.

Sec. 302. Elimination of the One-High-Paid-Officer Rule

Under present law, the term highly compensated employee includes the employer's highest paid officer even if no employee in the plan receives over $45,000 (indexed to $60,000 in 1995).

The application of the highest paid officer rule is unfair for small employers with low-wage workforces. For example, the highest paid officer of a small employer may earn less than $66,000, yet that employee is highly compensated under this rule. If the same individual less than $66,000 working for a large employer with numerous highly paid employees, that individual would not be defined as highly compensated.

Because the individual described above is considered highly compensated, the nondiscrimination rules can severely limit his or her benefits (such as 401(k) contributions). In fact, due to the way the nondiscrimination rules work, these limitations are actually more restrictive for the $30,000-a-year HCE of a small employer than they are for the $150,000-a-year executive of a large employer. These limitations can, in turn, result in the small employer deciding not to establish a plan or deciding to terminate an existing plan.

Under the bill, no employee would be treated as highly compensated in a year unless he or she received compensation from the employer during the preceding year in excess of $80,000. This proposal would apply not only to officers but also to 5-percent owners.

This proposal would, however, be subject to two conditions. First, the proposal would not apply to any plan maintained by the employer unless the plan makes all contributions, benefits, and other plan features available on a nondiscriminatory basis. For this purpose, 5-percent owners would be treated as highly compensated; if there are no 5-percent owners, the highest paid officer for the preceding year would be an HCE.

The purpose of the conditions set forth above is to prevent abuse. The conditions would, for example, prevent an employer from establishing a plan solely (or primarily) for the owner.

The second condition is that this proposal would not apply to the extent provided in regulations. The purpose of this second condition is to prevent business owners from avoiding HCE status by treating an amount as compensation that is less than reasonable compensation.

This provision is effective for years beginning after December 31, 1995, except that for purposes of determining whether an employee is an HCE in years beginning after December 31, 1995, the provision is effective for years beginning after December 31, 1994. Thus, for example, in determining whether an employee is highly compensated for 1996 with respect to a calendar year plan, the determination is to be based on whether the employee had compensation during 1995 in excess of $80,000 (not $66,000 which may have been the applicable amount for the employee in 1995 prior to this bill).

Sec. 303. Salary Reduction Simplified Employee Pensions

Under present law, a simplified employee pension (SEP) is an individual retirement plan established with respect to an employee that meets certain requirements. Employers with 25 or fewer employees may provide that contributions to a SEP maybe made on a salary reduction basis.

The bill conforms the eligibility requirements for SEP participation to the rules applicable to pension plans generally by providing that contributions to a SEP must be made with respect to each employee who has at least one year of service with the employer.

The bill adds alternative methods of satisfying the special nondiscrimination requirements for SEPs applicable to elective deferrals and employer matching contributions. These are the same alternative methods or "safe harbors" discussed in Title I.-section 104 above, relating to 401(k) plans.

Further, the bill modifies the rules relating to salary reducion SEPs by providing that such SEPs may be established by employers with 100 or fewer employees.

The bill also repeals the requirement that at least half of eligible employees actually participate in a salary reduction SEP.

The provision applies to years beginning after December 31, 1995.

Sec. 304. Exemption From Top Heavy Plan Requirements

In general, under present law, a top-heavy plan is required to satisfy special requirements regarding vesting, minimum benefits or contributions, and section 415. The requirements regarding minimum benefits or contributions are particularly burdensome. For example, a small employer may maintain a plan that permits employees to make section 401(k) contributions and that provides matching contributions on behalf of employees who make the section 401(k) contributions. Generally, if such a plan is top-heavy, all non-key employees must receive nonelective contributions equal to at least 3% of compensation, even though the plan does not otherwise provide for nonelective contributions.

The top-heavy plan rules were intended to address situations where an excessive percentage of a plan's retirement benefits is attributable to the highly paid executives and owners of the business. However, the rules actually apply more broadly and are applicable to small businesses where none of the owners and officers of the business is highly paid. In these cases, the top-heavy plan rules place a burden on middle-income individuals solely because they are owners or officers of a small business.

Under the bill, if no employee makes over $80,000 (as provided in the bill's new definition of "highly compensated employee") in the preceding year, the top-heavy plan requirements do not apply for that year.

Sec. 305. Tax Exempt Organizations Eligible Under Section 401(k)

Under present law, tax-exempt organizations are generally prohibited from establishing qualified cash or deferred arrangements (401(k)s). Because of this limitation, many such employers are precluded from maintaining broad-based, funded, elective deferral arrangements for their employees.

The bill allows tax-exempt organizations (other than 501(c)(3)s, State and Local governments, and their agencies and instrumentalities who have available salary deferral arrangements) to maintain 401(k)s.

The provision applies to years beginning after December 31, 1995.

Sec. 306. Regulatory Treatment of Small Employers

Unlike large employers, small employers often do not have the resources to monitor and affect the development of regulations relating to qualified retirement plans. Accordingly, such regulations often do not take into account the unique circumstances of small employers.

Under the bill, no IRS regulation relating to a qualified retirement plan could become effective unless the regulation includes a section addressing the special needs of small employers.

The provision is effective for regulations issued after date of enactment.

TITLE V.—PAPERWORK REDUCTION.

Sec. 401. Repeal Section 415(e)

Section 415(e) applies an overall limit on benefits and contributions with respect to an individual who participates in both a defined contribution plan and a defined benefit plan maintained by the same employer. These rules are extremely complicated. They are also very burdensome to administer because they require maintaining compensation and contribution records for all employees for all years of service.

The section 415(e) limit is not the only limit in the Code that safeguards against an individual accruing excessive retirement benefits on a tax-favored basis. For example, section 401(a)(17) provides for limitations on compensation that can be taken into account for benefits and contributions to qualified plans; section 401 provides extensive nondiscrimination rules; and section 415 provides limits on contributions paid to and benefits paid from qualified plans. Taken in combination, these provisions sufficiently constrain excessive tax-favored benefits accruing to highly compensated employees. In addition, a 15% "excess distribution" penalty achieves many of the same goals as Section 415(e).

Because Section 415(e) is both cumbersome and duplicative, the bill repeals this provision.

The provision is effective for years beginning after December 31, 1995.

Sec. 402. Duties of Sponsors of Certain Prototype Plans

The IRS master and prototype program is an administrative program under which trade and professional associations, banks, insurance companies, brokerage houses, and other financial institutions can obtain IRS approval of model retirement plan language and then make these preapproved plans available for adoption by the customers, investors, or association members.

Master and prototype plans reduce the costs and burdens of administering plans, especially for small to medium sized employers, and improve IRS administration of plan rules.

Today, a majority of employer-provided qualified plans are approved master and prototype plans. Further expansion of the program is desirable, but statutory authority should be given to the IRS to define the duties of master and prototype sponsors before the program becomes more widely utilized.

The bill authorizes the IRS to define the duties of organizations that sponsor master and prototype, regional prototype, and other preapproved plans, including mass submitters. The provision's purpose is to protect employers against the loss of qualification merely because they are unaware of the need to arrange for certain administrative services, or the unavailability of professional assistance from parties familiar with the sponsor's plan. The bill should not be construed as creating fiduciary relationships or responsibilities under Title I of ERISA that would not exist in the absence of the provision.

TITLE V.—MISCELLANEOUS PROVISIONS

Sec. 501. Treatment of Leased Employees

Under present law, an individual performing services is treated as a leased employee of a service recipient for certain employee benefit purposes if (1) the individual is not a common law employee of the service recipient, (2) the services are provided pursuant to an agreement between the recipient and any other person, (3) the individual performs services for the recipient on a substantially full-time basis for a period of at least one year, and (4) the services are of a type historically performed in the business field of the recipient by employees.

The bill replaces the historically performed test with a control test. Thus, under the bill, an individual is a leased employee of a service recipient only if the services are performed by the individual under the control of the recipient.

The provision is effective for taxable years beginning after December 31, 1995.

Sec. 501. Plans Covering Self-Employed Individuals

Prior to the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA) different rules applied to retirement plans maintained by incorporated employers and unincorporated employers (such as partnerships and sole proprietors). In general, plans maintained by unincorporated employers were subject to special rules in addition to the other qualification requirements of the Code. TEFRA eliminated most, but not all, of this disparity.

Under present law, certain special aggregation rules apply to plans maintained by owner-employers that do not apply to other qualified plans (sec. 401(d) (1) and (2)). The bill eliminates these special rules.

The provision applies to years beginning after December 31, 1995.

Sec. 503. Elimination of Special Vesting Rule for Multiemployer Plans

Under present law, except in the case of multiemployer plans, a plan is not a qualified plan unless a participant's employer-provided benefit vests at least as rapidly as under 1 of 2 alternative minimum vesting schedules. A plan satisfies the first schedule if a participant acquires a nonforfeitable right to 100 percent of the participant's accrued benefit derived from employer contributions upon the participant's completion of 5 years of service.

A plan satisfies the second schedule if a participant has a nonforfeitable right to at least 20 percent of the participant's accrued benefit derived from employer contributions after 3 years of service, 40 percent at the end of 4 years of service, 60 percent at the end of 5 years of service, 80 percent a the end of 6 years of service, and 100 percent at the end of 7 years of service.

In the case of a multiemployer plan, a participant's accrued benefit derived from employer contributions is required to be 100 percent vested no later than upon the participant's completion of 10 years of service. This special rule applies only to employees covered by the plan pursuant to a collective bargaining agreement.

The bill conforms the vesting rules for multiemployer plans to the rules applicable to other qualified plans.

The provision is effective for plan years beginning on or after the earlier of (1) the later of January 1, 1996, or the date on which the last of the collective bargaining agreements pursuant to which the plan is maintained terminates, or (2) January 1, 1998, with respect to participants with an hour of service after the effective date.

Sec. 504. Full Funding Limitation of Multi-Employer Plans

Under present law, a deduction is allowed (within limits) for employer contributions to a qualified pension plan. No deduction is allowed for contributions in excess of the full funding limit. The full funding limit is the excess, if any, of (1) the lesser of (a) the accrued liability under the plan (including normal cost) or (b) 150 percent of a plan's current liability, over (2) the lesser of (a) the fair market value of the plan's assets or (b) the actuarial value of the plan's assets.

Plans subject to the minimum funding rules are required to make an actuarial valuation of the plan not less frequently than annually.

The bill provides that the 150 percent of current liability limitation does not apply to multi-employer plans. Consistent with this change, the bill also repeals the present law annual valuation requirement for multi-employer plans and applies the prior law requirement that valuations be performed at least every 3 years.

The provision applies to years beginning after December 31, 1995.

Sec. 505. Alternative full-funding limitation

The Secretary may, under regulations, adjust the 150-percent figure contained in the full funding limitation to take into account the average age (and length of service, if appropriate) of the participants in the plan (weighed by the value of their benefits under the plan). In addition, the Secretary is authorized to prescribe regulations that apply, in lieu of the 150 percent of current liability limitation, a different full funding limitation based on factors other than current liability. The Secretary may exercise this authority only in a manner so that in the aggregate, the effect on Federal budget receipts is substantially identical to the effect of the 150-percent full funding limitation.

The bill provides that an employer may elect to disregard the 150-percent limitation if each plan in the employer's control group is not top-heavy and the average accrued liability of active participants under the plan for the immediately preceding 5 plan years is at least 80-percent of the plan's total accrued liability (the "alternative full funding limitation"). The Secretary is required to adjust the 150-percent full funding limitation (in the manner specified under the bill) for employers that do not use the alternative full funding limit to ensure that the election by employers to disregard the 150-percent limit does not result in a substantial reduction in Federal revenues for any fiscal year.

Under the bill, employers electing to apply the alternative limitation generally must notify the Secretary by January 1 of the calendar year preceding the calendar year in which the election period begins. The provision is effective on January 1, 1997.

Sec. 506. Affiliation Requirements for Employers Jointly Maintaining a VEBA

Treasury regulations require that employees eligible to participate in a voluntary employees' beneficiary association ("VEBA") share an employment-related common bond. Under the regulations, employees employed by a "common employer (or affiliated employers)" are considered to have such a bond.

Under the bill, employers are considered affiliated for purposes of the VEBA rules if (1) such employers are in the same line of business, (2) the employers act jointly to perform tasks that are integral to the activities of each of the employers, and (3) such joint activities are sufficiently extensive that the maintenance of a common VEBA is not a major part of such joint activities.

Under the bill, employers are considered affiliated, for example, in the following circumstances: the employers participating in the VEBA are in the same line of business and belong to an association that provides to its members a significant amount of each of the following services: (1) research and development relating to the members' primary activity; (2) education and training of members' employees; and (3) public relations. In addition, the employers are sufficiently similar (e.g., subject to similar regulatory requirements) that the association's services provide material assistance to all of the employers. The employers also demonstrate the importance of their joint activities by having meetings at least annually attended by substantially all of the employers. Finally, the employers maintain a common retirement plan.

On the other hand, it is not intended that the mere existence of a trade association is a sufficient basis for the member-employees to be considered affiliated, even if they are in the same line of business. It is also not sufficient if the trade association publishes a newsletter and provides significant public relations services, but only provides nominal amounts, if any, of other services integral to the employers' primary activity.

A group of employers are also not considered affiliated under the bill by virtue of the membership of their employees in a professional association.

This bill is intended as a clarification of present law, but is not intended to create any inference as to whether any part of the Treasury regulations affecting VEBAs, other than the affiliated employer rule, is or is not present law.

Sec. 507. Treatment of Certain Governmental Plans under Section 415

Under present law, the limitations on benefits and contributions (section 415) generally apply to plans maintained by State and local governments.

Under present law, unfunded deferred compensation plans maintained by State and local government employers are subject to certain limitations (sec. 457). For example, such plans generally may not permit deferred compensation in excess of $7,500 in a single year.

The limitations on contributions and benefits present special problems for plans maintained by State and local governments due to the special nature of the involvement and operation of such governments.

The bill addresses these problems by providing that (1) section 457 does not apply to excess benefit plans maintained by a State or local government, (2) the compensation limitation on benefits under a defined benefit pension plan does not apply to plans maintained by a State or local government, and (3) the defined benefit pension plan limits do not apply to certain disability and survivor benefits provided under such plans. Excess plans maintained by a State or local government are subject to the same tax rules applicable to such plans maintained by private employers.

Under present law, benefits under a defined benefit plan generally may not exceed 100 percent of the participant's average compensation. However, because of the unique characteristics of State and local government employee plans, many long-tenured and relatively low-paid employees may be eligible to receive benefits in excess of their average compensation as a result of cost-of-living increases. The bill provides that the 100 percent of compensation limitation does not apply to plans maintained by State and local governments.

The provision is effective for taxable years beginning on or after the date of enactment. Governmental plans are treated as if in compliance with the requirements of section 415 for years beginning on or before the date of enactment.

Sec. 508. Treatment of Deferred Compensation Plans of State and Local Governments and Tax-Exempt Organizations

Under a section 457 plan, an employee who elects to defer the receipt of current compensation will be taxed on the amounts deferred when such amounts are paid or made available. The maximum annual deferral under such a plan is the lesser of (1) $7500 or (2) 33½ percent of compensation (net of the deferral).

In general, amounts deferred under a section 457 plan may not be made available to an employee before the earlier of (1) the calendar year in which the participant attains age 70½, (2) when the participant is separated from service with the employer, or (3) when the participant is faced with an unforeseeable emergency. Amounts that are made available to an employee upon separation from service are includable in gross income in the taxable year in which they are made available.

Under present law, benefits under a section 457 plan are not treated as made available if the participant may elect to receive a lump sum payable after separation from service and within 60 days of the election. This exception to the general rules is available only if the total amount payable to the participant under the plan does not exceed $3500 and no additional amounts may be deferred under the plan with respect to the participant.

The bill makes three changes. First, the bill permits in-service distributions of accounts that do not exceed $3500 if no amount has been deferred under the plan with respect to the account for 2 years and there has been no prior distribution under this cash-out rule.

Second, the bill increases the number of elections that can be made with respect to the time distributions must begin under the plan. The bill provides that the amount payable to a participant under a 457 plan is not to be treated as made available merely because the participant may elect to defer commencement of distributions under the plan if (1) the election is made after amounts may be distributed under the plan but before the actual commencement of benefits, and (2) the participant makes only 1 such additional election. This additional election is permitted without the need for financial hardship, and the election can only be to a date that is after the date originally selected by the participant.

Finally, the bill provides for indexing of the dollar limit on deferrals.

The provisions are effective for taxable years beginning after the date of enactment.

Sec. 509. Contributions on Behalf of Disabled Employees

Under present law, special limitations on contributions to a defined contribution plan apply in the case of certain disabled participants. In particular, the compensation of a disabled participant in a defined contribution plan is treated, for purposes on the limitations or contributions and benefits, as the compensation the participant received before becoming disabled if (1) the participant is permanently and totally disabled (within the meaning of sec. 22(c)(3)), (2) the participant is not a highly compensated employee, and (3) the employer elects to have this special rule apply.

The bill makes requirements (2) and (3) inapplicable if the defined contribution plan provides for the continuation of contributions on behalf of all participants who are permanently and totally disabled.

It is not intended, however, that an employer be able to provide contributions on behalf of all disabled participants only during certain years so as to favor highly compensated participants over nonhighly compensated participants. Accordingly, if an employer provides for contributions on behalf of all disabled participants and subsequently amends its plan to delete such contributions, the plan shall cease to be qualified if the timing of the amendment results in discrimination in favor of highly compensated participants.

The provision applies to years beginning after December 31, 1995.

Sec. 510. Technical Clarifications of Section 401(k) for Rural Cooperative Plans

Under present law, a qualified section 401(k) arrangement must be a part of one of the following: a profit-sharing or stock bonus plan, a pre-ERISA money purchase plan, or a rural cooperative plan.

A "rural cooperative plan" is defined generally to mean a defined contribution pension plan that is maintained by a rural cooperative. with respect to rural electric cooperatives, a rural cooperative is generally defined to mean any organization that (1) is tax-exempt or is a State or local government, and (2) "is engaged primarily in providing electric service on a mutual or cooperative basis."

Present law was clearly intended to permit the rural electric cooperatives to continue to maintain their section 401(k) plan. However, there are two technical issues that should be clarified in order to better achieve this objective.

First, in the vast majority of states, rural electric systems are organized as cooperatives. However, in some states, some utilities are organized as public power districts. Public power districts are subdivisions of a state that provide electric service. Thus, they would clearly fall within the definition of a rural cooperative but for the requirement that a rural cooperative provide electric service "on a mutual or cooperative basis."

This requirement is not further defined in the statute or regulations. Accordingly, some concern is warranted with respect to whether a public power district satisfies this requirement since they are political subdivisions of a state and do not have the member ownership traditionally required for mutual or cooperative status.

Secondly, many rural electric cooperatives participate in a multiple employer money purchase pension plan that contains a section 401(k) arrangement. This multiple employer plan must fit within the definition of a rural cooperative plan in order for the section 401(k) arrangement to be qualified. An issue therefore arises due to the fact that the definition of a "rural cooperative" does not include taxable cooperatives. Although the vast majority of rural electric cooperatives are tax-exempt, some within these multiple employer plans are taxable. It is unclear whether this would cause the section 401(k) arrangement in the multiple employer plan to fail to be qualified with respect to the participating taxable cooperatives.

The bill clarifies both of these potential problems by providing that the definition of a "rural cooperative" would be modified to include, in addition, any other organization that is providing electric service. However, this expansion of the definition would only apply with respect to section 401(k) plans in which substantially all of the employers fit within the present-law definition of a rural cooperative. This limitation prevents unintended expansion of the term "rural cooperative plan."

In addition, under present law, unlike all other section 401(k) plans (other than certain pre-ERISA plans), rural cooperative plans are not permitted to make in-service distributions for hardship or after age 59-½. Under the proposal, rural cooperative plans would be permitted to make such distributions after the date of enactment.

Sec. 511. Rules for Plans Covering Pilots

Under present law, employees covered by a collective bargaining agreement are excluded from consideration in testing whether a qualified retirement plan satisfies the minimum coverage and non discrimination requirements (section 410(b)(3)). Similarly, in the case of a plan established pursuant to a collective bargaining agreement between airline pilots and one or more employers, all employees not covered by the collective bargaining agreement are disregarded for purposes of testing whether the plan satisfies the minimum coverage and nondiscrimination requirements (section 410(b)(3)(B)). This provision applies only in the case of a plan that provides contributions or benefits for employees whose principal duties are customarily performed abroad aircraft in flight. Thus, a collectively bargained plan covering only airline pilots in tested separately from employees who are not air pilots.

The bill provides that, in the case of a plan established to provide contributions or benefits for air pilots employed by one or more common carriers engaged in interstate or foreign commerce on air pilots employed by carriers transporting mail for or under contract with the United States Government, all employees who are not air pilots are excluded from consideration in testing whether the plan satisfies the minimum coverage requirements (whether or not they are covered by a collective bargaining agreement).

The provision is effective for years beginning after December 31, 1995.

Sec. 512. Tenured Faculty

Present law section 457 governs and provides limits for nonqualified deferred compensation arrangements of a governmental or tax-exempt employers. Under section 457(f), an individual is taxed on the value of the benefits under an ineligible arrangement when there is no risk of forfeiture of the benefit, rather than when any benefit is received. Risk of forfeiture is generally tied to the performance of future services. For example, if an employer adopted an early retirement incentive to pay a yearly supplement of $10,000 over 5 years, the retiree will be taxed on the present value of the full $50,000 in the year of retirement notwithstanding the fact that he only received a payment of $10,000.

Under the bill, "eligible faculty voluntary retirement incentive plans" are not subject to the taxation provisions of section 457(f). Payments under such plans will be taxed when they are made available to participants, rather than when a risk of forfeiture lapses. An "eligible faculty voluntary retirement incentive plan" means a plan established for employees serving under contracts of unlimited tenure at an institution of higher learning. Total benefits under the contract cannot exceed two times annual compensation, and all payments must be completed over a five-year period.

The provision is effective for years beginning after December 31, 1995.

Sec. 513. Uniform Retirement Age

A qualified plan generally must provide that payment of benefits under the plan must begin no later than 60 days after the end of the plan year in which the participant reaches age 65. Also, for purposes of the vesting and benefit accrual rules, normal retirement age generally can be no later than age 65. For purposes of applying the limits on contributions and benefits (section 415), social security retirement age is generally used as retirement age. The social security retirement age as used for such purposes is presently age 65, but is scheduled to gradually increase.

The bill provides that for purposes of the general nondiscrimination rule, the social security retirement age is a uniform retirement age and that subsidized early retirement benefits and joint and survivor annuities are not treated as not being available to employees on the same terms merely because they are based on an employee's social security retirement age.

The provision is effective for years beginning after December 31, 1995.

Sec. 514. Reports of Pension and Annuity Payments

The penalty reform provisions of the Omnibus Budget Reconciliation Act of 1989 revised the penalties imposed for failures to file correct and timely information returns to IRS, and to provide statements to payees. This revised penalty structure applies to 18 different types of reportable payments. Section 6724(d)(1).

However, this developed structure does not apply to reports of pension and annuity payments required under section 6047(d). It also does not apply to certain reports required by sections 408(i) and 408(*l*) relating to IRAs and SEPs.

The bill provides that the definition of "information return" under section 6724(d) includes reports of pension and annuity payments required by section 6047(d), and any report required under subsection (i) or (*l*) of section 408.

Similarly, the definition of "payee statement" under section 6724(d)(2) is amended to include reports of pension and annuity payments required by section 6047(d) and any report required under subsection (i) or (*l*) of section 408. The bill provides that section 6652(e) is amended to delete reports of designated distributions from the scope of its $25 per day penalty.

Under present law, interest and dividend payments do not have to be reported if less than $10 is paid to a person in any year. Miscellaneous income need not be reported unless it exceeds $600. However, the law currently contains no dollar threshold for reports of "designated distributions"—primarily pension and annuity payments. The bill provides a $10 reporting threshold for designated distributions.

Sec. 515. National Commission on Private Pension Plans

In 1974, Congress first recognized the importance of the Federal Government taking an active role in creating a system where American workers could earn private pension benefits to supplement Social Security and ensuring that promised pension benefits are paid. It did this by passing the Employment Retirement Income Security Act (ERISA).

Today, our private pension system works by delivering trillions of dollars to retiring American workers. However, since its enactment in 1974, ERISA has become more and more complex, and the administrative costs of maintaining a pension plan has risen substantially.

The bill will authorize the Commission (six members appointed by the President, six by the Speaker of the House, and six by the Senate Majority Leader) to review existing Federal incentives and programs that encourage and protect private retirement savings and set forth recommendations where appropriate for increasing the level and security of private retirement savings.

Sec. 516. Date for Adoption of Plan Amendments

The bill provides that any plan amendment required by the bill are not required to be made before the first plan year beginning on or after January 1, 1997, if the plan is operated in accordance with the applicable provision and the amendment is retroactive to the effective date of the applicable provision. In the case of state and local governmental plans, plan requirements are required to be made on the first plan year beginning on or after January 1, 1999.

By Mr. INOUYE:

S. 1008. A bill to amend title 10, United States Code, to provide for appointments to the military service academies by the Resident Representative

to the United States for the Commonwealth of the Northern Mariana Islands; to the Committee on Armed Services.

TITLE 10 AMENDMENT LEGISLATION

• Mr. INOUYE. Mr. President, today I am introducing a bill to amend title 10, United States Code, to provide for appointments to the military service academies by the Resident Representative for the Commonwealth of the Northern Mariana Islands. I think it is important that students from the Commonwealth of the Northern Mariana Islands have an opportunity to be trained at our military academies and serve in our Armed Forces. This bill would enable that to occur. I ask unanimous consent that the text of the bill appear in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1008

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Section 1. Appointments to military service academies by the resident representative to the United States for the commonwealth of the northern mariana islands.

(a) UNITED STATES MILITARY ACADEMY.—

(1) APPOINTMENT AUTHORITY.—Subsection (a) of section 4342 of title 10, United States Code, is amended by striking out the sentence following the clauses of such subsection and inserting in lieu thereof the following:

"(10) One cadet from the Commonwealth of the Northern Mariana Islands, nominated by the Resident Representative to the United States for the Commonwealth of the Northern Mariana Islands.

Each person specified in clauses (3) through (10) who is entitled to nominate a candidate for admission to the Academy may nominate a principal candidate and nine alternates for each vacancy that is available to the person under this subsection.".

(2) DOMICILE OF CADETS.—Subsection (f) of such section is amended to read as follows:

"(f) Each candidate for admission nominated under clauses (3) through (10) of subsection (a) must be domiciled—

"(1) in the State, or in the congressional district, from which the candidate is nominated; or

"(2) in the District of Columbia, Puerto Rico, American Samoa, Guam, the Virgin Islands, or the Commonwealth of the Northern Mariana Islands, if the candidate is nominated from one of those places.".

(3) CONFORMING AMENDMENTS.—(A) Subsection (d) of such section is amended by striking out "(9)" and inserting in lieu thereof "(10)".

(B) Section 4343 of such title is amended by striking out "(8) of section 4342(a)" in the second sentence and inserting in lieu thereof "(10) of section 4342(a)".

(b) UNITED STATES NAVAL ACADEMY.—

(1) APPOINTMENT AUTHORITY.—Subsection (a) of section 6954 of title 10, United States Code, is amended by striking out the sentence following the clauses of such subsection and inserting in lieu thereof the following:

"(10) One from the Commonwealth of the Northern Mariana Islands, nominated by the Resident Representative to the United States for the Commonwealth of the Northern Mariana Islands.

Each person specified in clauses (3) through (10) who is entitled to nominate a candidate for admission to the Academy may nominate a principal candidate and nine alternates for each vacancy that is available to the person under this subsection.".

(2) DOMICILE OF MIDSHIPMEN.—Subsection (b) of section 6958 of such title is amended to read as follows:

"(b) Each candidate for admission nominated under clauses (3) through (10) of section 6954(a) of this title must be domiciled—

"(1) in the State, or in the congressional district, from which the candidate is nominated; or

"(2) in the District of Columbia, Puerto Rico, American Samoa, Guam, the Virgin Islands, or the Commonwealth of the Northern Mariana Islands, if the candidate is nominated from one of those places.".

(3) CONFORMING AMENDMENT.—(A) Section 6954(d) of such title is amended by striking out "(9)" and inserting in lieu thereof "(10)".

(B) Section 6956(b) of such title is amended by striking out "(8) of section 6954(a)" in the second sentence and inserting in lieu thereof "(10) of section 6954(a)".

(c) UNITED STATES AIR FORCE ACADEMY.—

(1) APPOINTMENT AUTHORITY.—Subsection (a) of section 9342 of title 10, United States Code, is amended by striking out the sentence following the clauses of such subsection and inserting in lieu thereof the following:

"(10) One cadet from the Commonwealth of the Northern Mariana Islands, nominated by the Resident Representative to the United States for the Commonwealth of the Northern Mariana Islands.

Each person specified in clauses (3) through (10) who is entitled to nominate a candidate for admission to the Academy may nominate a principal candidate and nine alternates for each vacancy that is available to the person under this subsection.".

(2) DOMICILE OF CADETS.—Subsection (f) of such section is amended to read as follows:

"(f) Each candidate for admission nominated under clauses (3) through (10) of subsection (a) must be domiciled—

"(1) in the State, or in the congressional district, from which the candidate is nominated; or

"(2) in the District of Columbia, Puerto Rico, American Samoa, Guam, the Virgin Islands, or the Commonwealth of the Northern Mariana Islands, if the candidate is nominated from one of those places.".

(3) CONFORMING AMENDMENTS.—(A) Subsection (d) of such section is amended by striking out "(9)" and inserting in lieu thereof "(10)".

(B) Section 9343 of such title is amended by striking out "(8) of section 9342(a)" in the second sentence and inserting in lieu thereof "(10) of section 9342(a)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to the nomination of candidates for appointment to the United States Military Academy, the United States Naval Academy, and the United States Air Force Academy for classes entering the academies after the date of the enactment of this Act.•

By Mr. D'AMATO:

S. 1009. A bill to prohibit the fraudulent production, sale, transportation, or possession of fictitious items purporting to be valid financial instruments of the United States, foreign governments, States, political subdivisions, or private organizations, to increase the penalties for counterfeiting violations, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

THE FINANCIAL INSTRUMENTS ANTI-FRAUD ACT OF 1995

• Mr. D'AMATO. Mr. President, I am today introducing the Financial Instruments Anti-Fraud Act of 1995.

This legislation combats the use of factitious financial instruments to defraud individual investors, banks, pension funds, and charities. These fictitious instruments have been called many names, including prime bank notes, prime bank derivatives, prime bank guarantees, Japanese yen bonds, Indonesian promissory notes, U.S. Treasury warrants, and U.S. dollar notes. Fictitious financial instruments have caused hundreds of millions of dollars in losses.

Mr. President, these frauds have been perpetrated by antigovernment groups such as the Posse Comitatus and "We the People," which use fictitious financial instruments to fund their violent activities. In the wake of the terrible tragedy in Oklahoma City, I hope my colleagues will support legislation that will cut the purse strings of these organizations.

Because these fictitious instruments are not counterfeits of any existing negotiable instrument, Federal prosecutors have determined that the manufacture, possession, or utterance of these instruments does not violate the counterfeit or bank fraud provisions contained in chapters 25 and 65 of title 18 of the United States Code. The perpetrators of these frauds can be prosecuted under existing Federal law only if they used the mails or wires, or violated the bank fraud statute.

Mr. President, we have worked closely with the Treasury Department and various U.S. Attorneys' Offices to prepare the Financial Instruments Anti-Fraud Act of 1995. This bill makes it a violation of Federal law to possess, pass, utter, publish, or sell, with intent to defraud, any items purporting to be negotiable instruments of the U.S. Government, a foreign government, a State entity, or a private entity. It closes a loophole in Federal counterfeiting law.

Fictitious financial instruments are typically produced in very large denominations and purport to offer very high rates of return. Promoters of these schemes claim that they have exclusive access to secret wholesale markets paying 25 percent or more to investors. The June 13, 1994, issue of Business Week reported that innocent investors, including the National Council of Churches and Salvation Army, lost hundreds of millions of dollars in a scam involving bogus guarantees issued by the Czech Republic's Banka Bohemia.

Mr. President, organized terrorist and militia groups are distributing do-it-yourself kits that provide the materials and instructions for members of such organizations to produce phony money order and securities. These antisocial groups seek to undermine the soundness of the U.S. financial system, and to raise funds to advance their violent, radical agenda. They claim, for example, that the IRS is a tool of Zionist international bankers and advocate violent confrontation with Federal law enforcement agents.

Drug traffickers also rely on fictitious financial investment instruments. Some West African organized criminal syndicates, for instance, use these instruments to fund their thriving heroin trade.

In addition to combating the use of fictitious financial investment instruments, this legislation correct a technical error that occurred when the Congress enacted the Counterfeit Deterrence Act of 1992. Congress intended this bill to increase penalties for counterfeit violations. As a result of a drafting error, however, the 1992 legislation actually lowered criminal penalties for counterfeiting.

This bill imposes criminal penalties for the production and sale of fictitious instruments. These penalties are identical to those imposed for counterfeiting. Criminals found guilty under these sections will fact up to 25 years in prison.

Mr. President, I strongly urge passage of the Financial Instruments Anti-Fraud Act of 1995.•

By Mr. STEVENS (for himself and Mr. MURKOWSKI):

S. 1010. A bill to amend the "unit of general local government" definition for Federal payments in lieu of taxes to include unorganized boroughs in Alaska and for other purposes; to the Committee on Labor and Human Resources.

PILT LEGISLATION

• Mr. STEVENS. Mr. President, Alaska shoulders more than its fair share of the Federal lands. Federal lands are costly to State and local governments, which cannot impose a property tax on the Federal Government. Also, we are not able to develop the Federal lands to produce jobs and strengthen our economy.

The Payments In Lieu of Taxes [PILT] program provides Federal funds to local governments which have tax-exempt Federal lands within their boundaries. PILT funding is designed to relieve the fiscal burden on local governments which Federal lands impose by severely reducing the property tax base. Under the act directing PILT payments, the Secretary of the Interior makes annual payments to each unit of general local government within which Federal lands are located.

Despite Alaska's stature as the largest State in the Union and despite the millions of Federal acres in Alaska, Alaska is currently only the 10th highest PILT recipient. This is because the definition of "unit of general local government" includes only organized boroughs and certain independent cities in Alaska. Yet over 60 percent of Alaska and 60 percent of the Federal lands are located outside of any organized borough.

I cannot over-emphasize this point. Only 40 percent of the Federal lands in Alaska are located in organized boroughs. Over half of the Federal lands in Alaska, 60 percent, are not currently considered in determining PILT payments to Alaska. Therefore, hundreds of poor rural Alaskan communities which are surrounded by Federal lands, but which are outside of organized boroughs, receive no PILT payments. Most of these villages lack adequate sewer and water systems and do not have health facilities within 200 or 300 miles.

Last year, I introduced a bill to include Federal lands which are not within organized boroughs or independent cities. That legislation, which the Senate passed, would have accomplished this by correcting an inequity in the present definition of "unit of general local government" for the purpose of determining PILT payments to include unorganized boroughs. Today, I am introducing a similar bill.

This bill will resolve a great injustice. The villages in Alaska that are surrounded by tax-exempt Federal lands should be compensated for loss of property tax revenues and for the inability to use the lands for any development. The increase in Alaskan PILT payments will directly benefit villages which are in desperate need of resources to sustain basic necessities for their remote existence.

Currently, the local governments in Alaska receive about $4.5 million a year from PILT. Under this legislation, the funds the State and villages receive would increase by about $2.5 million under the corrected PILT program. $2.5 million a year will only begin to improve the living conditions in the villages—but it will help. And it is much-needed.

This bill will not increase the current entitlement ceiling of PILT. It will only change the way the PILT fund is divided. It will provide a small additional share of the PILT fund distribution to those Alaskan communities that are outside organized boroughs.

This legislation also will not reduce other States' PILT funding by very much because PILT calculations include population statistics. Therefore, Alaska will never receive as much as some of the Western States with high populations and relatively high Federal acreage.

It is a matter of fairness—60 percent of the Federal lands in Alaska are not included under current PILT calculations. Alaska is the only State not fully compensated for all of its Federal lands. Even the territories and the District of Columbia are fully compensated.

I would appreciate the support of the other Senators to see that Alaska finally receives PILT funds for all of the Federal lands in the State—not just 40 percent of them.•

By Mr. CRAIG (for himself, Mr. HEFLIN, Mr. LUGAR, and Mr. LEAHY):

S. 1011. A bill to help reduce the cost of credit to farmers by providing relief from antiquated and unnecessary regulatory burdens for the Farm Credit System, and for other purposes.

THE FARM CREDIT SYSTEM REGULATORY RELIEF ACT

Mr. CRAIG. Mr. President, I am here today to introduce the Farm Credit System Regulatory Relief Act of 1995. I am pleased that my colleague, Senator HEFLIN along with the chairman and ranking member of the Agriculture Committee, Senators LUGAR and LEAHY, join me as original cosponsors of this important legislation.

The Farm Credit System Regulatory Relief Act of 1995 will provide for the elimination, consistent with safety and soundness requirements, of all regulations that are unnecessary, unduly burdensome or costly, or not based on statute.

The Farm Credit System supplies about 25 percent of the credit provided to American producers and more than 80 percent of the credit provided to agricultural cooperatives. The cost of this credit is increased by unnecessary regulations. The increasingly competitive global market combined with the decreasing role of the Federal Government in agricultural support programs necessitates that farmers and ranchers have continued access to competitive sources of financial capital.

There are 8 Farm Credit System banks and approximately 230 locally owned farm credit associations located across all 50 of the United States. If the Farm Credit System is to remain the viable financial partner for American agriculture that it is, then the time is now to make these significant revisions. Mr. President, I would also emphasize for the record that this piece of legislation is simply and solely regulatory relief, it does not provide the Farm Credit System with any additional or expanded lending authorities.

The changes, as I have outlined in the attached section-by-section summary, are an important step toward ensuring that our American farmers will be able to obtain competitive loan rates and better service from the Farm Credit System.

Mr. President, I ask unanimous consent that the section-by-section analysis of this bill along with a letter from the Farm Credit Administration be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

The Farm Credit System Regulatory Relief Act of 1995—Section-by-Section Analysis

Section 1: Short title; table of contents: The short title is the "Farm Credit System Regulatory Relief Act of 1995."

Section 2: References to the Farm Credit Act of 1971: As used in this bill, all references, unless otherwise noted, are references to the "Farm Credit Act of 1971."

Section 3: Regulatory Review: This section describes the findings of Congress regarding recent efforts by the Farm Credit Administration (FCA) to reduce regulatory burden on Farm Credit System institutions. This section also directs FCA to continue its efforts to eliminate, consistent with safety and soundness, all regulations that are unnecessary, unduly burdensome or costly, or not based on statute.

Section 4: Examination of Farm Credit System Institutions: Under current law, the Farm Credit Administration has the authority to examine System direct lender institutions whenever and as often as the agency chooses, but not less than once every year. This section would grant the FCA flexibility to extend the length of time between mandatory examinations to 18 months. This section would not apply to Federal Land Bank Associations, which under current law are only mandated for examination every three years.

Nothing in this section would affect FCA's ability to examine any System institution at any time the regulator deems necessary. Likewise, this section would not affect the specific technical requirements of FCA's examinations or the Agency's enforcement authorities.

This section is designed to reduce examination costs for well-capitalized System institutions while fully preserving FCA's existing safety and soundness oversight authorities.

Section 5; Farm Credit Insurance Fund Operations. This section would authorize the Farm Credit System Insurance Corporation (FCSIC) to allocate to System banks excess interest earnings generated by the Farm Credit Insurance Fund once the Fund reaches the secure base amount. At the same time, until the excess interest earnings are rebated to system banks, which would not begin until five years after the secure base amount is reached, any uses of the Fund would come first from the allocated earnings held in the Fund. Only after such allocated amounts were exhausted would funds from the secure base amount be used.

Current law requires the FCSIC to assess premiums until such time as the aggregate amount in the Farm Credit Insurance Fund (The Fund) equals the secure base amount. The secure base amount is defined as an amount equal to 2 percent of the insured liabilities of the Farm Credit System, or such other amount determined by FCSIC to be actuarially sound. Once the secure base is reached (expected in early 1997), premiums can be suspended. However, FCSIC does not have the authority to address the excess interest earnings that will continue to build above the secure base amount.

This section would allow the eventual rebate of this excess interest to those institutions that have paid insurance premiums based on a three-year running average of their accruing loan volume. This section would also authorize, but not require, FCSIC to reduce insurance premiums as the Insurance Fund approaches the 2 percent secure base amount.

Section 6: Powers with Respect to Troubled Insured System Banks: This section would require FCSIC to implement the least costly of all alternatives available to it, including an assisted merger, as it considers options for providing assistance to a troubled System institution. It would also make clear that the directorship and management of an assisted institution serves at the discretion of and is subject to the approval of FCSIC. Current law permits FCSIC to provide "open-bank" assistance to a troubled System institution if such assistance is merely less costly than liquidation, and also permits FCSIC to ignore this least-cost restriction altogether in certain limited circumstances. Current law also permits FCSIC to provide financial support to a troubled institution without any requirement that the operations or management of that institution be materially changed. Failure to amend current authorities could lead to open-ended cost to the Farm Credit Insurance fund, and potentially result in additional costs to other, healthy FCS institutions.

Section 7: Farm Credit System Insurance Corporation Board of Directors: This section would retain the current structure of the FCSIC Board by removing provisions of current law requiring a new FCSIC Board structure. Currently, the FCSIC board is comprised of the three board members of the Farm Credit Administration. The Chairman of FCSIC is elected by the board and must be someone other than the FCA chairman. Effective January 1, 1996, current law requires the establishment of a new, full-time presidentially-appointed, three-person board completely separate and independent from the FCA board. This section would remove the provision in current law and would result in the retention of the FCA board as the FCSIC board.

Section 8: Conservatorships and Receiverships: This section makes a conforming change to clarify that FCSIC can act in the capacity of a receiver or conservator of a System institution.

Section 9: Examinations by the Farm Credit System Insurance Corporation: This section provides that once the Farm Credit Administration cancels the charter of a System institution that is in receivership, FCSIC shall have exclusive authority to examine the institution.

Section 10: Oversight and Regulatory Actions by the Farm Credit System Insurance Corporation: This section provides that the Farm Credit Administration shall consult with FCSIC before approving any debt issuances by a System bank that fails to meet the minimum capital levels set by FCA. This section also provides for consultation with FCSIC before the Farm Credit Administration approves a proposed merger or restructuring of a System bank or large association that does not meet FCA's minimum capital levels. Finally, the section grants FCSIC similar authority to that of the FDIC to prohibit any golden parachute payment of indemnification payment by a System institution that is in a troubled condition.

Section 11: Formation of Administrative Service Entities: This section would allow Farm Credit System associations to establish administrative service entities. These entities would not be permitted to perform activities or carry out functions not currently authorized by statute. Under current law, Farm Credit System banks can form such entities under Section 4.25 of the Farm Credit Act. This section would extend that authority to FCS associations, although an entity organized under this section would have no authority either to extend credit or provide insurance services to Farm Credit System borrowers, nor would it have any greater authority with respect to functions and services than the organizing association or associations possess under the Farm Credit Act.

Section 12: Requirements for Loans Sold into the Secondary Market: This section would make inapplicable the borrower rights requirements of current law, and allow System banks and associations to change their bylaws to make inapplicable the borrower stock requirements of current law, for any loan specifically originated for sale into the secondary market. Under current law, Farm Credit borrowers are required to buy and maintain stock or participation certificates in the System institution which originated their loan, even when the loan was originated with the express intent of selling it into the secondary market.

In addition, System loans to farmers are covered by the borrower rights provisions of the Agricultural Credit Act of 1987. This section would allow System institutions to waive these requirements for loans that are originated for sale into the secondary market. If loans designated for sale into the secondary market are not sold within one year, the relevant borrower stock and borrower rights requirements would again apply.

The borrower stock provisions of this section would apply whether or not the bank or association retains a subordinated participation interest in a loan or pool of loans or contributes to a cash reserve pursuant to title VIII of the Farm Credit Act.

Section 13: Removal of Antiquated and Unnecessary Paperwork Requirements:

Compensation of Association Personnel: This section would remove the requirement in current law that Farm Credit System banks approve the appointment and compensation of association CEOs.

Use of Private Mortgage Insurance: This section would allow a rural home loan borrower to obtain financing in excess of 85 percent of the value of the real estate collateral pledged, provided the borrower obtains private mortgage insurance for the amount in excess of 85 percent. Under current statute, Farm Credit System institutions can only lend up to 85 percent of the value of the real estate security unless federal, state, or government agency guarantees are obtained.

Removal of Certain Borrower Reporting Requirements: This section would repeal the provision of current law which requires all long-term mortgage borrowers to provide updated financial statements every three years, regardless of the status of the borrower's loan.

Disclosure Relating to Adjustable Rate Loans: For loans not subject to the Truth-In-Lending Act, current regulation requires Farm Credit System institutions to notify a borrower of any increase in the interest rate applicable to the borrower's loan at least 10 days in advance of the effective date of the change. For adjustable rate loans that are based on an underlying index (such as prime), this requirement is impossible to fulfill.

This section would permit notice of a change in the borrower's interest rate to be given within a reasonable time after the effective date of an increase or decrease.

Joint Management Agreements: This section would remove the requirement in current law that both stockholders and the Farm Credit Administration approve joint management agreements, thereby leaving such decisions to the discretion of the boards of directors of the institutions involved.

Dissemination of Quarterly Reports: This section would require that regulations issued by the Farm Credit Administration governing the dissemination of quarterly reports to shareholders be no more burdensome or costly than regulations issued by other financial regulators governing similar disclosures by national banks.

Section 14: Removal of Federal Government Certification Requirement for Certain Private Sector Financings: This section would remove government certification procedures for certain Banks for Cooperatives' lending activities without changing eligibility requirements in current statute. Under current law, eligibility for FCS bank for cooperative rural utility lending is based on the eligibility requirements in the Rural Electrification Act. Current statute requires the administrator of the Rural Electrification Administration (REA) to certify that rural utility companies are eligible for REA financing in order for those systems to obtain private sector financing from the Banks for Cooperatives. This section would remove the certification requirement without changing the underlying eligibility criteria in the statute.

Section 15: Reform of Regulatory Limitations on Dividend, Member Business, and Voting Practices of Eligible Farmer-Owned Cooperatives: This section would allow greater flexibility for evolving cooperative structure issues such as dividend, member business, and voting practices. Under current law, farmer-owned cooperatives are required to maintain rigid operating procedures in order to maintain their eligibility for FCS Bank for Cooperatives financing. This section would allow existing borrowers to adapt their operations, while retaining their farmer-owned nature, and thereby maintain their continued eligibility to borrow from the Banks for Cooperatives. This section would not expand Banks for Cooperatives eligibility to cooperatives that do not meet the eligibility criteria in current law.

FARM CREDIT ADMINISTRATION,
McLean, VA, June 29, 1995.

Hon. LARRY E. CRAIG,
Chairman, Forestry, Conservation, and Rural Revitalization Subcommittee.
Committee on Agriculture, Nutrition and Forestry,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: In response to your request, the Farm Credit Administration provides its views on the proposed Farm Credit System Regulatory Relief Act of 1995 (Relief Act). Relieving regulatory burden has been a strategic goal of the FCA's since 1994, and we have accomplished a great deal in this area. We are, nevertheless, supportive of legislative efforts to relieve burdens we lack the power to remove, provided safety and soundness are not compromised.

We do not believe it is necessary for the Congress to direct FCA to continue its efforts to eliminate regulations that are unnecessary, unduly burdensome or costly or not based on statute. The FCA has been actively involved in an effort to streamline its regulations with a view to relieving regulatory burden and is committed to continuing that process. The FCA Board recently reaffirmed the existing policy to regulate only as necessary to implement or interpret the statute or as required by safety and soundness and to conduct a periodic review of regulations with a view to eliminating unnecessary burden.

While we understand the position the System has taken with respect to the statutory provision for financial statements, we do believe that timely financial information on large loans with annual or infrequent payment schedules is required for safe and sound business decisions and planning. Should the statutory provision be eliminated, we would continue to address this issue by regulation as necessary for safety and soundness. It should also be noted that the current FCA regulation (12 CFR 614.4200(c)) exempts loans with regular and frequently scheduled payments such as rural housing or other similarly amortized consumer-type loans.

With respect to the provisions dealing with information provided to stockholders, FCA regulations require that borrowers receive a 10-day advance notice of the increase in rates on an adjustable rate loan, whether the rate is an administered rate or is tied to an index that is available to the general public and not under the lender's control. The Relief Act proposes to delete this requirement and provide for a post increase notice within a reasonable time. The FCA Board has expressed interest in relaxing the regulatory requirement and would support notification to the borrower within 10 days after the increase or decrease.

The Relief Act provisions would relieve an association of any obligation to provide stockholders with a quarterly financial report. The quarterly report, together with the annual report, serves a dual purpose. The reports provide shareholders with current information on the performance of their investment and the management of the association they own. In addition, they serve as the basis for disclosure to prospective shareholders. FCA regulations currently require that quarterly reports be sent to stockholders or published in a widely available publication. The FCA currently is considering a request from a number of System institutions to permit these reports be made available only when stockholders request them. The Relief Act would relieve System institutions of the obligation to provide a quarterly report even if requested. We think shareholders need to have access to recent financial information about the institution they own.

With respect to the provision related to the Farm Credit System Insurance Corporation Board structure, we believe that it would result in significant savings and that addressing this issue as proposed in the Relief Act would be consistent with the current emphasis on streamlining government.

We thank you for the opportunity to comment. If we can be of further assistance, please let us know.

Sincerely,

MARSHA MARTIN,
Chairman.
DOYLE L. COOK,
Board Member.

Mr. HEFLIN. Mr. President, I rise in strong support of, and am proud to lend my cosponsorship to, the Farm Credit System Regulatory Relief Act of 1995.

The Farm Credit System has played a central role in providing capital to farming families for decades. However, as we face an evolving business world, modifications are necessary for Farm Credit to remain a viable financial partner for American agriculture.

The availability of credit is of vital importance to rural economies. The Farm Credit System Regulatory Relief Act addresses the need for adequate and reliable credit by providing for the removal of unnecessary and burdensome regulation which will facilitate the flow of required capital.

The Farm Credit Regulatory Relief Act grants the Farm Credit Administration the flexibility to extend the length of time between mandatory examinations to 18 months. The Farm Credit Administration has the authority to examine system-direct lending institutions whenever and as often as the agency chooses. This improvement only changes the mandatory period between examinations. This change will reduce the institutions' examination costs and the savings will be passed back to rural borrowers through lower loan rates, thereby making capital more easily attainable where it is most needed.

In addition to reducing costs, the Regulatory Relief Act will also allow the Farm Credit System to better serve local communities by creating administrative service entities. Current law allows Farm Credit banks to establish such service entities. This act would extend existing authority to Farm Credit System associations which serve the rural communities. I fully support this change and believe that it is long overdue.

Through the removal of outdated and burdensome regulations, the Farm Credit System will be able to better serve farming families and rural communities while promoting cost savings to agriculture by providing farmers with competitive loan rates. For these reasons, I strongly support the Farm Credit Regulatory Relief Act of 1995.

By Mr. D'AMATO (for himself and Mr. MOYNIHAN):

S. 1012. A bill to extend the time for construction of certain FERC licensed hydro projects; to the Committee on Energy and Natural Resources.

HYDROELECTRIC POWER LICENSE EXTENSION

• Mr. D'AMATO. Mr. President, I rise today to introduce legislation with my friend and colleague, Senator MOYNIHAN, that will keep two hydroelectric projects in upstate New York on track. Our legislation will extend the time limitations on two Federal Energy Regulatory Commission [FERC] licensed hydroelectric projects located on two existing dam sites on the Hudson River—the Northumberland project and the Waterford project.

The Northumberland Hydroelectric project, when completed, will generate 48 million kilowatt hours of electricity while the Waterford Hydroelectric project will produce 42 million kilowatt hours. The development of these two dams will provide a clean alternative energy source. In addition, the construction and operation of these projects will provide jobs for this upstate region of New York.

As many of my colleagues who are familiar with similar projects know, the Federal Power Act sets a time limit for the beginning of construction on a hydropower project once FERC has issued a license. Once a license is issued, construction must occur 2 years from the licensing date unless FERC extends the initial 2-year deadline. The Federal Power Act allows only one extension for up to 2 years. Failure to commence construction within the time allotted opens the license to termination. In the case of these two projects, FERC has already extended the deadline—the Northumberland deadline is January 16, 1996, while the Waterford deadline is June 7, 1997.

The bill that we are introducing today is identical to legislation introduced in the House by Representatives SOLOMON and MCNULTY. Both bills give FERC the authority to extend the construction deadline for each project for up to a total of 6 years. The current licensees for these projects are moving steadily toward development, however, they recognize that they may not be able to achieve their goals within the prescribed deadlines. By enacting this legislation, the extra time necessary to realize the potential of these projects will be granted.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1012

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION.

Notwithstanding the limitations of section 13 of the Federal Power Act, the Federal Energy Regulatory Commission, upon the request of the licensee or licensees for FERC projects numbered 4244 and 10648 (and after reasonable notice), is authorized in accordance with the good faith, due diligence, and public interest requirements of such section 13 and the Commission's procedures under such section, to extend the time required for commencement of construction for each of such projects for up to a maximum of 3 consecutive 2-year periods. This section shall take effect for the projects upon the expiration of the extension (issued by the Commission under such section 13) of the period required for commencement of construction of each such project.●

By Mr. NICKLES:

S. 1014. A bill to improve the management of royalties from Federal and Outer Continental Shelf oil and gas leases, and for other purposes; to the Committee on Energy and Natural Resources.

THE ROYALTY FAIRNESS ACT OF 1995

Mr. NICKLES. Mr. President, over time, serious problems have developed with the ways courts and consequently the Minerals Management Service [MMS] have interpreted the Federal statute of limitations governing royalty collection. Basically the issue is: At what time does the statute of limitations begin to run on the underpayment of royalties?

Some courts claim that the statute of limitations does not begin to run until the MMS "should have known about the deficiency" in the amount the producer has paid [*Mesa* v. *U.S.* (10th Cir. 1994)]. Other courts have held that the current 6-year statute "is tolled until such time as the Government could reasonably have known about a fact material to its right of action." [*Phillips* v. *Lujan* (10th Cir. 1993)].

Either of the above interpretations subject producers to unlimited liability—a period that well exceeds the statute of limitations on other agency actions regarding procedures. This situation has created a climate of deep uncertainty in the payment of royalties that was not intended by Congress and that is not in the best interests of consumers, producers, or ultimately the U.S. Government.

Oil and gas producers pay billions of dollars every year for the opportunity to drill on Federal land. The payment of royalties is a routine part of doing business with the Federal Government. There is no attempt here to alter that obligation to pay.

However, like all other businesses, oil and gas producers need certainty in their business relationships and in their business transactions with the Federal Government. That certainty is not now present in the MMS's regulations or in numerous court decisions interpreting the applicable statute of limitations. Certainty can be achieved only through legislation. For that reason, I am introducing today the Royalty Fairness Act of 1995.

The main objective of this legislation is to identify the time when the statute of limitations begins to run on royalty payments. In most cases, it will be when the obligation to pay the royalty begins. That will occur, in most instances, at the time of an underpayment of the royalty payment to the MMS.

Let me summarize the effects and provisions of this bill:

The bill establishes a 6-year statute of limitations for auditing royalty activities and correcting errors, defined to commence the month following the month of production.

The bill also addresses the refund period for overpayments on OCS drilling. Currently, there is a 2-year period to file for an overpayment on offshore leases. Experience has shown that this period is too short and that, as a result, producers can lose legitimate refunds. To correct this problem, the bill extends the refund period from 2 to 3 years. This section also provides for routine crediting or offsetting of overpayments against payments currently due—something that is not permitted now for royalty payments but would increase the efficiencies of collection.

An amendment to the Federal Oil and Gas Royalty Management Act of 1982 [FOGRMA] is included to similarly shorten the time frame for producers to keep records. There is simply no need to keep records beyond the proposed 6-year statute of limitations.

Interest reciprocity is established, but requires offsetting by both the lessee and the Secretary. This offsetting procedure applies to all overpayments and underpayments at the lessee level for all Federal leases of the same category prior to determining the "net" overpayment or underpayment which is subject to interest.

The act allows the Secretary to waive interest. Currently, the law is interpreted to require the collection of interest in all cases. That interpretation has made it difficult to resolve payment issues or settle disputed claims. Thus, this section is intended to facilitate the settlement of payments and disputes.

Furthermore, the act provides an inducement for MMS to resolve administrative proceedings in a diligent timeframe (3 years). There is currently no such inducement; in fact, the MMS in many instances tolls its decisions indefinitely.

This bill provides for the imposition of civil or criminal penalties upon a showing of willful misconduct or gross negligence. Currently penalties or assessments are imposed without notice or an opportunity to be heard. This section provides for due process.

No section of this bill allows for reduced royalties either before or after production is commenced.

It does, however, eliminate the need to give formal notice before seeking enforcement of the Outer Continental Shelf Leasing Act [OCSLA].

These are the major provisions of the act. It covers leases administered by the Secretary of the Interior on Federal lands and the Outer Continental Shelf but specifically excludes Indian lands.

The MMS has made a number of attempts to correct these problems, and currently it has several information policies that parallel many of the provisions in this bill. However, there will be no permanent solution until Congress enacts legislation. The bill has strong support among oil and gas producers. I am confident that creating a climate of certainty in the oil and gas industry and getting rid of some inconsistencies in current regulation is very much in the national economic interest.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1014

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Federal Oil and Gas Royalty Simplification and Fairness Act of 1995".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Definitions.
Sec. 3. Limitation periods.
Sec. 4. Overpayments: offsets and refunds.
Sec. 5. Required recordkeeping.
Sec. 6. Royalty interest, penalties, and payments.
Sec. 7. Limitation on assessments.
Sec. 8. Cost-effective audit and collection requirements.
Sec. 9. Elimination of notice requirement.
Sec. 10. Royalty in kind.
Sec. 11. Time and manner of royalty payment.
Sec. 12. Repeals.
Sec. 13. Indian lands.
Sec. 14. Effective date.

SEC. 2. DEFINITIONS.

Section 3 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701 et seq.) is amended as follows:

(1) In paragraph (5), by inserting "(including any unit agreement and communitization agreement)" after "agreement".

(2) By amending paragraph (7) to read as follows:

"(7) 'lessee' means any person to whom the United States issues a lease.".

(3) By striking "and" at the end of paragraph (15), by striking the period at the end of paragraph (16) and inserting a semicolon, and by adding at the end the following:

"(17) 'administrative proceeding' means any agency process for rulemaking, adjudication or licensing, as defined in and governed by chapter 5 of title 5, United States Code (relating to administrative procedures);

"(18) 'assessment' means any fee or charge levied or imposed by the Secretary or the United States other than—

"(A) the principal amount of any royalty, minimum royalty, rental, bonus, net profit share or proceed of sale;

"(B) any interest; and

"(C) any civil or criminal penalty;

"(19) 'commence' means—

"(A) with respect to a judicial proceeding, the service of a complaint, petition, counterclaim, cross-claim, or other pleading seeking affirmative relief or seeking offset or recoupment;

"(B) with respect to an administrative proceeding—

"(i) the receipt by a lessee of an order to pay issued by the Secretary; or

"(ii) the receipt by the Secretary of a written request or demand by a lessee, or any person acting on behalf of a lessee which asserts an obligation due the lessee;

"(20) 'credit' means the method by which an overpayment is utilized to discharge, cancel, reduce or offset an obligation in whole or in part;

"(21) 'obligation' means a duty of the Secretary, the United States, or a lessee—

"(A) to deliver or take oil or gas in kind; or

"(B) to pay, refund, credit or offset monies, including (but not limited to) a duty to calculate, determine, report, pay, refund, credit or offset—

"(i) the principal amount of any royalty, minimum royalty, rental, bonus, net profit share or proceed of sale;

"(ii) any interest;

"(iii) any penalty; or

"(iv) any assessment,

which arises from or relates to any lease administered by the Secretary for, or any mineral leasing law related to, the exploration, production and development of oil or gas on Federal lands or the Outer Continental Shelf;

"(22) 'offset' means the act of applying an overpayment (in whole or in part) against an obligation which has become due to discharge, cancel or reduce the obligation;

"(23) 'order to pay' means a written order issued by the Secretary or the United States which—

"(A) asserts a definite and quantified obligation due the Secretary or the United States; and

"(B) specifically identifies the obligation by lease, production month and amount of such obligation ordered to be paid, as well as the reason or reasons such obligation is claimed to be due,

but such term does not include any other communication by or on behalf of the Secretary or the United States;

"(24) 'overpayment' means any payment (including any estimated royalty payment) by a lessee or by any person acting on behalf of a lessee in excess of an amount legally required to be paid on an obligation;

"(25) 'payment' means satisfaction, in whole or in part, of an obligation due the Secretary or the United States;

"(26) 'penalty' means a statutorily authorized civil fine levied or imposed by the Secretary or the United States for a violation of this Act, a mineral leasing law, or a term or provision of a lease administered by the Secretary;

"(27) 'refund' means the return of an overpayment by the Secretary or the United States by the drawing of funds from the United States Treasury;

"(28) 'underpayment' means any payment by a lessee or person acting on behalf of a lessee that is less than the amount legally required to be paid on an obligation; and

"(29) 'United States' means—

"(A) the United States Government and any department, agency, or instrumentality thereof; and

"(B) when such term is used in a geographic sense, includes the several States, the District of Columbia, Puerto Rico, and the territories and possessions of the United States.".

SEC. 3. LIMITATION PERIODS.

(a) IN GENERAL.—The Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701 et seq.) is amended by adding after section 114 the following new section:

"SEC. 115. LIMITATION PERIODS.

"(a) IN GENERAL.—

"(1) SIX-YEAR PERIOD.—A judicial or administrative proceeding which arises from, or relates to, an obligation may not be commenced unless such proceeding is commenced within 6 years from the date on which such obligation becomes due.

"(2) LIMIT ON TOLLING OF LIMITATION PERIOD.—The running of the limitation period under paragraph (1) shall not be suspended or tolled by any action of the United States or an officer or agency thereof other than the commencement of a judicial or administrative proceeding under paragraph (1) or an agreement under paragraph (3).

"(3) FRAUD OR CONCEALMENT.—For the purpose of computing the limitation period under paragraph (1), there shall be excluded therefrom any period during which there has been fraud or concealment by a lessee in an attempt to defeat or evade payment of any such obligation.

"(4) REASONABLE PERIOD FOR PROVIDING INFORMATION.—In seeking information on which to base an order to pay, the Secretary shall afford the lessee or person acting on behalf of the lessee a reasonable period in which to provide such information before the end of the period under paragraph (1).

"(b) FINAL AGENCY ACTION.—The Director of the Minerals Management Service shall issue a final Director's decision in any administrative proceeding before the Director within one year from the date such proceeding was commenced. The Secretary shall issue a final agency decision in any administrative proceeding within 3 years from the date such proceeding was commenced. If no such decision has been issued by the Director or Secretary within the prescribed time periods referred to above:

"(1) the Director's or Secretary's decision, as the case may be, shall be deemed issued and granted in favor of the lessee or lessees as to any nonmonetary obligation and any obligation the principal amount of which is less than $2,500; and

"(2) in the case of a monetary obligation the principal amount of which is $2,500 or more, the Director's or Secretary's decision, as the case may be, shall be deemed issued and final, and the lessee shall have a right of de novo judicial review and appeal of such final agency action.

"(c) TOLLING BY AGREEMENT.—Prior to the expiration of any period of limitation under subsections (a) or (c), the Secretary and a lessee may consent in writing to extend such period as it relates to any obligation under the mineral leasing laws. The period so agreed upon may be extended by subsequent agreement or agreements in writing made before the expiration of the period previously agreed upon.-

"(d) LIMITATION ON CERTAIN ACTIONS BY THE UNITED STATES.—When an action on or enforcement of an obligation under the mineral leasing laws is barred under subsection (a) or (b), the United States or an officer or agency thereof may not take any other or further action regarding that obligation including (but not limited to) the issuance of any order, request, demand or other communication seeking any document, accounting, determination, calculation, recalculation, principal, interest, assessment, penalty or the initiation, pursuit or completion of an audit.

"(e) OBLIGATION BECOMES DUE.—

"(1) IN GENERAL.—For purposes of subsection (a), an obligation becomes due when the right to enforce the obligation is fixed.

"(2) SPECIAL RULE REGARDING ROYALTY OBLIGATION.—The right to enforce any royalty obligation is fixed for the purposes of this Act on the last day of the calendar month following the month in which oil or gas is produced, except that with respect to any such royalty obligation which is altered by a retroactive redetermination of working interest ownership pursuant to a unit or communitization agreement, the right to enforce such royalty obligation in such amended unit or communitization agreement is fixed for the purposes of this Act on the last day of the calendar month in which such redetermination is made. The Secretary shall issue any such redetermination within 180 days of receipt of a request for redetermination.

"(f) JUDICIAL REVIEW OF ADMINISTRATIVE PROCEEDINGS.—In the event an administrative proceeding subject to subsection (a) is timely commenced and thereafter the limitation period in subsection (a) lapses during the pendency of the administrative proceeding, no party to such administrative proceeding shall be barred by this section from commencing a judicial proceeding challenging the final agency action in such administrative proceeding so long as such judicial proceeding is commenced within 90 days from receipt of notice of the final agency action.

"(g) IMPLEMENTATION OF FINAL DECISION.—In the event a judicial or administrative proceeding subject to subsection (a) is timely commenced and thereafter the limitation period in subsection (a) lapses during the pendency of such proceeding, any party to such proceeding shall not be barred from taking such action as is required or necessary to implement the final unappealable judicial or administrative decision, including any action required or necessary to implement such decision by the recovery or recoupment of an underpayment or overpayment by means of refund, credit or offset.

"(h) STAY OF PAYMENT OBLIGATION PENDING REVIEW.—Any party ordered by the Secretary or the United States to pay any obligation (including any interest, assessment or penalty) shall be entitled to a stay of such payment without bond or other surety pending administrative or judicial review unless the Secretary demonstrates that such party is or may become financially insolvent or otherwise unable to pay the obligation, in which case the Secretary may require a bond or other surety satisfactory to cover the obligation.

"(i) INAPPLICABILITY OF THE OTHER STATUTES OF LIMITATION.—The limitations set forth in sections 2401, 2415, 2416, and 2462 of title 28, United States Code, section 42 of the Mineral Leasing Act (30 U.S.C. 226-2), and section 3716 of title 31, United States Code, shall not apply to any obligation to which this Act applies.".

(b) CLERICAL AMENDMENT.—The table of contents in section 1 of such Act (30 U.S.C. 1701) is amended by adding after the item relating to section 114 the following new item:

"Sec. 115. Limitation period.".

SEC. 4. OVERPAYMENTS: OFFSETS AND REFUNDS.

(a) IN GENERAL.—The Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701 et seq.) is amended by adding after section 111 the following new section:

"SEC. 111A. OVERPAYMENTS: OFFSETS AND REFUNDS.

"(a) OFFSETS.—

"(1) MANNER.—For each reporting month, a lessee or person acting on behalf of a lessee shall offset all under payments and overpayments made for that reporting month for all leases within the same royalty distribution category established under permanent indefinite appropriations.

"(2) OFFSET AGAINST OBLIGATIONS.—The net overpayment resulting within each category from the offsetting described in paragraph (1) may be offset and credited against any obligation for current or subsequent reporting months which have become due on leases within the same royalty distribution category.

"(3) PRIOR APPROVAL NOT REQUIRED.—The offsetting or crediting of any overpayment, in whole or part, shall not require the prior request to or approval by the Secretary.

"(4) EXCLUSION OF CERTAIN UNDER AND OVERPAYMENTS.—Any underpayment or overpayment upon which an order has been issued which is subject to appeal shall be excluded from the offsetting provisions of this section.

"(b) REFUNDS.—

"(1) IN GENERAL.—A refund request may be made to the Secretary not before one-year after the subject reporting month. After such one-year period and when a lessee or a person acting on behalf of a lessee has made a net overpayment to the Secretary or the United States and has offset or credited in accordance with subsection (a), the Secretary shall, upon request, refund to such lessee or person the net overpayment, with accumulated interest thereon determined in accordance with section 111. If for any reason, a lessee or person acting on behalf of a lessee is no longer accruing obligations on any lease within a category, then such lessee or person may immediately file a request for a refund of any net overpayment and accumulated interest.

"(2) REQUEST.—The request for refund is sufficient if it—

"(A) is made in writing to the Secretary;

"(B) identifies the person entitled to such refund; and

"(C) provides the Secretary information that reasonably enables the Secretary to identify the overpayment for which such refund is sought.

"(3) TREATMENT AS WRITTEN REQUEST OR DEMAND.—Service of a request for refund shall be a 'written request or demand' sufficient to commence an administrative proceeding.

"(4) PAYMENT BY SECRETARY OF THE TREASURY.—The Secretary shall certify the amount of the refund to be paid under paragraph (1) to the Secretary of the Treasury who is authorized and directed to make such refund.

"(5) PAYMENT PERIOD.—A refund under this subsection shall be paid within 90 days of the date on which the request for refund was received by the Secretary.

"(c) LIMITATION ON OFFSETS AND REFUNDS.—

"(1) LIMITATION PERIOD FOR OFFSETS AND REFUNDS.—Except as provided by paragraph (2), a lessee or person acting on behalf of a lessee may not offset or receive a refund of any overpayment which arises from or relates to an obligation unless such offset or refund request is initiated within six years from the date on which the obligation which is the subject of the overpayment became due.

"(2) EXCEPTION.—(A) For any overpayment the recoupment of which (in whole or in part) by offset or refund, or both, may occur beyond the six-year limitation period provided in paragraph (1), where the issue of whether an overpayment occurred has not been finally determined, or where recoupment of the overpayment has not been accomplished within said six-year period, the lessee or person acting on behalf of a lessee may preserve its right to recover or recoup the overpayment beyond the limitation period by filing a written notice of the overpayment with the Secretary within the six-year period.

"(B) Notice under subparagraph (A) shall be sufficient if it—

"(i) identifies the person who made such overpayment;

"(ii) asserts the obligation due the lessee or person; and

"(iii) identifies the obligation by lease, production month and amount, as well as the reason or reasons such overpayment is due.

"(d) PROHIBITION AGAINST REDUCTION OF REFUNDS OR OFFSETS.—In no event shall the Secretary directly or indirectly claim any amount or amounts against, or reduce any offset or refund (or interest accrued thereon) by, the amount of any obligation the enforcement of which is barred by section 115.".

(b) CLERICAL AMENDMENT.—The table of contents in section 1 of such Act (30 U.S.C. 1701)is amended by adding after the item relating to section 111 the following new item:

"Sec. 111A. Overpayments: offsets and refunds.".

SEC. 5. REQUIRED RECORDKEEPING.

Section 103 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1713(b)) is amended by adding at the end the following:

"(c) Records required by the Secretary for the purpose of determining compliance with an applicable mineral leasing law, lease provision, regulation or order with respect to oil and gas leases from Federal lands or the Outer Continental Shelf shall be maintained for six years after an obligation becomes due unless the Secretary commences a judicial or administrative proceeding with respect to an obligation within the time period prescribed by section 115 in which such records may be relevant. In that event, the Secretary may direct the record holder to maintain such records until the final nonappealable decision in such judicial or administrative proceeding is rendered. Under no circumstance shall a record holder be required to maintain or produce any record covering a time period for which a substantive claim with respect to an obligation to which the record relates would be barred by the applicable statute of limitation in section 115.".

SEC. 6. ROYALTY INTEREST, PENALTIES, AND PAYMENTS.

(a) INTEREST CHARGED ON LATE PAYMENTS AND UNDERPAYMENTS.—Section 111(a) of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1721(a)) is amended to read as follows:

"(a) In the case of oil and gas leases where royalty payments are not received by the Secretary on the date that such payments are due, or are less than the amount due, the Secretary shall charge interest on a net late payment or underpayment at the rate published by the Department of the Treasury as the Treasury Current Value Of Funds Rate. The Secretary may waive or forego such interest in whole or in part. In the case of a net underpayment for a given reporting month, interest shall be computed and charged only on the amount of the net underpayment and not on the total amount due from the date of the net underpayment. The net underpayment is determined by offsetting in the same manner as required under paragraphs (1) and (2) of section 111A(a). Interest may only be billed by the Secretary for any net underpayment not less than one year following the subject reporting month.".

(b) CHARGE ON LATE PAYMENT MADE BY THE SECRETARY.—Section 111(b) of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1721(b)) is amended to read as follows:

"(b) Any payment made by the Secretary to a State under section 35 of the Mineral Leasing Act, and any other payment made by the Secretary which is not paid on the date required under such section 35, shall include an interest charge computed at the rate published by the Department of the Treasury as the Treasury Current Value of Funds Rate. The Secretary shall not be required to pay interest under this paragraph until collected or when such interest has been waived or is otherwise not collected. With respect to any obligation, the Secretary may waive or forego interest otherwise required under section 3717 of title 31, United States Code.".

(c) PERIOD.—Section 111(f) of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1721(f)) is amended to read as follows:

"(f) Unless waived or not collected pursuant to subsections (a)(2) and (b)(2), interest shall be charged under this section only for the number of days a payment is late.".

(d) LESSEE INTEREST.—Section 111 of the Federal Oil and Gas Royalty Management

Act of 1982 (30 U.S.C. 1721) is amended by adding the following after subsection (g):

"(h) If a net overpayment, as determined by offsetting as required under section 111A(1) and (2) for a reporting month, interest shall be allowed and paid or credited on such net overpayment, with such interest to accrue from the date such net overpayment was made, at the rate published by the Department of the Treasury as the Treasury Current Value of Funds Rate.".

(e) PAYMENT EXCEPTION FOR MINIMAL PRODUCTION.—Section 111 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1721) is amended by adding the following after subsection (h):

"(i) For any well on a lease which produces on average less than 250 thousand cubic feet of gas per day or 25 barrels of oil per day, the royalty on the actual or allocated lease production may be paid—

"(1) for a 12-month period, only based on actual production removed or sold from the lease; and

"(2) 6 months following such period, for additional production allocated to the lease during the period.

No interest shall be allowed or accrued on any underpayment resulting from this payment methodology until the month following the applicable 12-month period.".

SEC. 7. LIMITATION ON ASSESSMENTS.

Section 111 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1721) is amended by adding the following after subsection (i):

"(j) The Secretary may levy or impose an assessment upon any person not to exceed $250 for any reporting month for the inaccurate reporting of information required under subsection (k). No assessment may be levied or imposed upon any person for any underpayment, late payment, or estimated payment or for any erroneous or incomplete royalty or production related report for information not required by subsection (k) absent a showing of gross negligence or willful misconduct.".

SEC. 8. COST-EFFECTIVE AUDIT AND COLLECTION REQUIREMENTS.

Section 101 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701 et seq.) is amended by adding the following after subsection (c):

"(d)(1) If the Secretary determines that the cost of accounting for and collecting of any obligation due for any oil or gas production exceeds or is likely to exceed the amount of the obligation to be collected, the Secretary shall waive such obligation.

"(2) The Secretary shall develop a lease level reporting and audit strategy which eliminates multiple or redundant reporting of information.

"(3) In carrying out this section, for onshore production from any well which is less than 250 thousand cubic feet of gas per day or 25 barrels of oil per day, or for offshore production for any well less than 1,500,000 cubic feet of gas per day or 150 barrels of oil per day, the Secretary shall only require the lessee to submit the information described in section 111(k). For such onshore and offshore production, the Secretary shall not conduct royalty reporting compliance and enforcement activities, levy or impose assessments described in such section 111(k) and shall not bill for comparisons between royalty reporting and production information. The Secretary may only conduct audits on such leases if the Secretary has reason to believe that the lessee has not complied with payment obligations for at least three months during a twelve month period. The Secretary shall not perform such audit if the Secretary determines that the cost of conducting the audit exceeds or is likely to exceed the additional royalties expected to be received as a result of such audit.".–

SEC. 9. ELIMINATION OF NOTICE REQUIREMENT.

Section 23(a)(2) of the Outer Continental Shelf Lands Act (43 U.S.C. 1349(a)(2)) is amended to read as follows:

"(2) Except as provided in paragraph (3) of this subsection, no action may be commenced under subsection (a)(1) of this section if the Attorney General has commenced and is diligently prosecuting a civil action in a court of the United States or a State with respect to such matter, but in any such action in a court of the United States any person having a legal interest which is or may be adversely affected may intervene as a matter of right.".

SEC. 10. ROYALTY IN KIND.

(a) IN GENERAL.—Section 27(a)(1) of the Outer Continental Shelf Lands Act (43 U.S.C. 1353(a)(1)) and the first undesignated paragraph of section 36 of the Mineral Leasing Act (30 U.S.C. 192) are each amended by adding at the end the following: "Any royalty or net profit share of oil or gas accruing to the United States under any lease issued or maintained by the Secretary for the exploration, production and development of oil and gas on Federal lands or the Outer Continental Shelf, at the Secretary's option, may be taken in kind at or near the lease upon 90 days prior written notice to the lessee. Once the United States has commenced taking royalty in kind, it shall continue to do so until 90 days after the Secretary has provided written notice to the lessee that it will resume taking royalty in value. Delivery of royalty in kind by the lessee shall satisfy in full the lessee's royalty obligation. Once the oil or gas is delivered in kind, the lessee shall not be subject to the reporting and recordkeeping requirements, including requirements under section 103, except for those reports and records necessary to verify the volume of oil or gas produced and delivered prior to or at the point of delivery.".

(b) SALE.—Section 27(c)(1) of the Outer Continental Shelf Lands Act (43 U.S.C. 1353(c)(1)) is amended by striking "competitive bidding for not more than its regulated price, or if no regulated price applies, not less than its fair market value" and inserting "competitive bidding or private sale".

SEC. 11. TIME, MANNER, AND INFORMATION REQUIREMENTS FOR ROYALTY PAYMENT AND REPORTING.

Section 111 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1721) is amended by adding the following after subsection (j):

"(k)(1) Any royalty payment on an obligation due the United States for oil or gas produced pursuant to an oil and gas lease administered by the Secretary shall be payable at the end of the month following the month in which oil or gas is removed or sold from such lease.

"(2) Royalty reporting with respect to any obligation shall be by lease and shall include only the following information:

"(A) identification of the lease;

"(B) product type;

"(C) volume (quantity) of such oil or gas produced;

"(D) quality of such oil or gas produced;

"(E) method of valuation and value, including deductions; and

"(F) royalty due the United States.

"(3) Other than the reporting required under paragraph (2), the Secretary shall not require additional reports or information for production or royalty accounting, including (but not limited to) information or reports on allowances, payor information, selling arrangements, and revenue source.

"(4) No assessment may be imposed on a retroactive adjustments with respect to royalty information made on a net basis for reports described in paragraph (2).

"(5) The Secretary shall establish reporting thresholds for de minimis production, which is defined as less than 100 thousand cubic feet of gas per day or 10 barrels of oil per day per lease. For such de minimis production, the lessee shall report retroactive adjustments with the current month royalty payment, and the Secretary shall not bill for, or collect, comparisons to production, assessments, or interest.

"(6) If the deadline for tendering a royalty payment imposed by paragraph (1) cannot be met for one or more leases, an estimated royalty payment in the approximate amount of royalties that would otherwise be due may be made by a lessee or person acting on behalf of a lessee for such leases to avoid late payment interest charges. When such estimated royalty payment is established, actual royalties become due at the end of the second month following the month the production was removed or sold for as long as the estimated balance exists. Such estimated royalty payment may be carried forward and not reduced by actual royalties paid. Any estimated balance may be adjusted, recouped, or reinstated, at any time. The requirements of paragraph (2) shall not apply to any estimated royalty payment.".

SEC. 12. REPEALS.

(a) FOGRMA.—Section 307 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1755), is repealed. Section 1 of such Act (relating to the table of contents) is amended by striking out the item relating to section 307.

(b) OCSLA.—Effective on the date of the enactment of this Act, section 10 of the Outer Continental Shelf Lands Act (43 U.S.C. 1339) is repealed.

SEC. 13. INDIAN LANDS.

The amendments made by this Act shall not apply with respect to Indian lands, and the provisions of the Federal Oil and Gas Royalty Management Act of 1982 as in effect on the day before the date of enactment of this Act shall apply after such date only with respect to Indian lands.

SEC. 14. EFFECTIVE DATE.

This Act, and the amendments made by this Act, shall take effect on the date of the enactment of this Act with respect to any obligation which becomes due on or after such date of enactment.

ADDITIONAL COSPONSORS

S. 648

At the request of Mr. COHEN, the name of the Senator from Maine [Ms. SNOWE] was added as a cosponsor of S. 648, a bill to clarify treatment of certain claims and defenses against an insured depository institution under receivership by the Federal Deposit Insurance Corporation, and for other purposes.

S. 678

At the request of Mr. AKAKA, the names of the Senator from North Dakota [Mr. CONRAD], and the Senator from Rhode Island [Mr. PELL] were added as cosponsors of S. 678, a bill to provide for the coordination and implementation of a national aquaculture policy for the private sector by the Secretary of Agriculture, to establish an aquaculture development and research program, and for other purposes.

S. 690

At the request of Mr. AKAKA, the name of the Senator from Florida [Mr. GRAHAM] was added as a cosponsor of S. 690, a bill to amend the Federal Noxious Weed Act of 1974 and the Terminal Inspection Act to improve the exclusion, eradication, and control of noxious weeds and plants, plant products, plant pests, animals, and other organisms within and into the United States, and for other purposes.

S. 890

At the request of Mr. KOHL, the name of the Senator from Illinois [Ms. MOSELEY-BRAUN] was added as a cosponsor of S. 890, a bill to amend title 18, United States Code, with respect to gun free schools, and for other purposes.

S. 1001

At the request of Mr. BAUCUS, his name was added as a cosponsor of S. 1001, a bill to reform regulatory procedures, and for other purposes.

SENATE RESOLUTION 103

At the request of Mr. DOMENICI, the names of the Senator from California [Mrs. BOXER], and the Senator from Colorado [Mr. BROWN] were added as cosponsors of Senate Resolution 103, a resolution to proclaim the week of October 15 through October 21, 1995, as National Character Counts Week, and for other purposes.

SENATE RESOLUTION 146—TO DESIGNATE NATIONAL FAMILY WEEK

Mr. JOHNSTON submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 146

Whereas the family is the basic strength of any free and orderly society;

Whereas it is appropriate to honor the family as a unit essential to the continued well-being of the United States; and

Whereas it is fitting that official recognition be given to the importance of family loyalties and ties: Now, therefore, be it

Resolved, That the Senate designates the week beginning on November 19, 1995, and the week beginning on November 24, 1996, as "National Family Week". The Senate requests the President to issue a proclamation calling on the people of the United States to observe each week with appropriate ceremonies and activities.

• Mr. JOHNSTON. Mr. President, I submitted legislation in the 103d Congress designating the week beginning on November 21, 1993, and the week beginning on November 20, 1994, as "National Family Week." This was signed by the President and became Public Law 103-153. Today I am pleased to submit legislation which would designate a "National Family Week" for the following 2 years, the week beginning on November 19, 1995, and the week beginning on November 24, 1996.

The family is the basic strength of any free and orderly society and it is rather appropriate to honor the family as a unit essential to the continued well-being of the United States. It is only fitting that official recognition be given to the importance of family loyalties and ties and that the people of the United States observe such weeks with appropriate ceremonies and activities.

Since Thanksgiving falls during both these weeks, families may already be gathered for festivities. Therefore, it is particularly suitable to pause as a Nation and recognize the support that families give to their members, and therefore to the community of the United States. I hope my colleagues will join me in this effort.•

SENATE RESOLUTION 147—TO DESIGNATE NATIONAL HISTORICALLY BLACK COLLEGES WEEK

Mr. THURMOND submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 147

Whereas there are 103 historically black colleges and universities in the United States;

Whereas black colleges and universities provide the quality education so essential to full participation in a complex, highly technological society;

Whereas black colleges and universities have a rich heritage and have played a prominent role in American history;

Whereas black colleges and universities have allowed many underprivileged students to attain their full potential through higher education; and

Whereas the achievements and goals of historically black colleges and universities are deserving of national recognition: Now, therefore, be it

Resolved, That the Senate designates the weeks beginning September 24, 1995, and September 22, 1996, as "National Historically Black Colleges and Universities Week". The Senate requests the President of the United States to issue a proclamation calling on the people of the United States and interested groups to observe the weeks with appropriate ceremonies, activities, and programs to demonstrate support for historically black colleges and universities in the United States.

Mr. THURMOND. Mr. President, I am pleased to rise today to submit a Senate Resolution which authorizes and requests the President to designate the weeks beginning September 24, 1995, and September 22, 1996, as "National Historically Black Colleges Week".

It is my privilege to sponsor this legislation for the 11th time honoring the Historically Black Colleges of our Country.

Eight of the 103 Historically Black Colleges, namely Allen University, Benedict College, Claflin College, South Carolina State University, Morris College, Voorhees College, Denmark Technical College, and Clinton Junior College, are located in my home State. These colleges are vital to the higher education system of South Carolina. They have provided thousands of economically disadvantaged young people with the opportunity to obtain a college education.

Mr. President, thousands of young Americans have received quality educations at these 103 schools. These institutions have a long and distinguished history of providing the training necessary for participation in a rapidly changing society. Historically Black Colleges offer our citizens a variety of curricula and programs through which young people develop skills and talents, thereby expanding opportunities for continued social progress.

Recent statistics show that Historically Black Colleges and Universities have graduated 60 percent of the black pharmacists in the Nation, 40 percent of the black attorneys, 50 percent of the black engineers, 75 percent of the black military officers, and 80 percent of the black members of the Judiciary.

Mr. President, through adoption of this Senate Resolution, Congress can reaffirm its support for Historically Black Colleges, and appropriately recognize their important contributions to our Nation. I look forward to the speedy adoption of this Resolution.

SENATE RESOLUTION 148—RELATIVE TO THE ARREST OF HARRY WU

Mr. HELMS submitted the following resolution; which was considered and agreed to:

S. RES. 148

Whereas Peter H. Wu, known as Harry Wu, attempted to enter the People's Republic of China on June 19, 1995, near the China-Kazakhstan border;

Whereas Harry Wu, a 58-year-old American citizen, was traveling on a valid United States passport and a valid visa issued by the Chinese authorities;

Whereas the Chinese authorities confined Harry Wu to house arrest for 3 days, after which time he has not been seen or heard from;

Whereas the Chinese Foreign Ministry notified the United States Embassy in Beijing of Mr. Wu's detention on Friday, June 23;

Whereas the United States Embassy in Beijing approached the Chinese Foreign Ministry on Monday, June 26, to issue an official demarche for the detention of an American citizen;

Whereas the terms of the United States-People's Republic of China Consular Convention on February 19, 1982, require that United States Government officials shall be accorded access to an American citizen as soon as possible but not more than 48 hours after the United States has been notified of such detention;

Whereas on Wednesday, June 28, the highest ranking representative of the People's Republic of China in the United States refused to offer the United States Government any information on Harry Wu's whereabouts or the charges brought against him;

Whereas the Government of the People's Republic of China is in violation of the terms of its Consular Convention;

Whereas Harry Wu, who was born in China, has already spent 19 years in Chinese prisons;

Whereas Harry Wu has dedicated his life to the betterment of the human rights situation in the People's Republic of China;

Whereas Harry Wu first detailed to the United States Congress the practice of using prison labor to produce products for export from China to other countries;

Whereas Harry Wu testified before the Committee on Foreign Relations of the Senate on May 4, 1995, informing the Committee, the Senate, and the American people about the Chinese government practice of murdering Chinese prisoners, including political prisoners, for the purpose of harvesting their organs for sale on the international market;

Whereas on June 2, 1995, the President of the United States announced his determination that further extension of the waiver authority granted by section 402(c) of the Trade Act of 1974 (Public Law 93-618; 88 Stat. 1978), also known as "Jackson-Vanik", will substantially promote freedom of emigration from the People's Republic of China;

Whereas This waiver authority will allow the People's Republic of China to receive the lowest tariff rates possible, also known as Most-Favored-Nation trading status, for a period of 12 months beginning on July 3, 1995; and

Whereas The Chinese government and people benefit substantially from the continuation of such trading benefits: Now, therefore, be it

Resolved, That (a) the United States Senate expresses its condemnation of the arrest of Peter H. Wu and its deep concern for his well-being.

(b) It is the sense of the Senate that—

(1) the People's Republic of China must immediately comply with its commitments under the United States-People's Republic of China Consular Convention of February 19, 1982, by allowing consular access to Peter H. Wu;

(2) the People's Republic of China should provide immediately a full accounting of Peter Wu's whereabouts and the charges being brought against him; and

(3) the President of the United States should use every diplomatic means available to ensure Peter Wu's safe and expeditious return to the United States.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to the President of the United States with the request that the President further transmit such copy to the Embassy of the People's Republic of China in the United States.

AMENDMENTS SUBMITTED

THE COMPREHENSIVE REGULATORY REFORM ACT OF 1995

DOLE (AND OTHERS) AMENDMENT NO. 1487

Mr. DOLE (for himself, Mr. JOHNSTON, Mr. HATCH, Mr. HEFLIN, Mr. NICKLES, Mr. ROTH, Mr. MURKOWSKI, Mr. BOND, Mr. GRASSLEY, Mr. COVERDELL, Mr. THOMPSON, Mr. CRAIG, Mr. BROWN, Mr. THOMAS, Mr. KYL, Mr. BREAUX, Mrs. HUTCHISON, Mr. ABRAHAM, Mr. GRAMS, and Mr. LOTT) proposed an amendment to the bill (S. 343) to reform the regulatory process, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Comprehensive Regulatory Reform Act of 1995".

SEC. 2. DEFINITIONS.

Section 551 of title 5, United States Code, is amended—

(1) in the matter preceding paragraph (1), by striking "this subchapter" and inserting "this chapter and chapters 7 and 8";

(2) in paragraph (13), by striking "and";

(3) in paragraph (14), by striking the period at the end and inserting "; and"; and

(4) by adding at the end the following new paragraph:

"(15) 'Director' means the Director of the Office of Management and Budget.".

SEC. 3. RULEMAKING.

Section 553 of title 5, United States Code, is amended to read as follows:

"§ 553. Rulemaking

"(a) APPLICABILITY.—This section applies to every rulemaking, according to the provisions thereof, except to the extent that there is involved—

"(1) a matter pertaining to a military or foreign affairs function of the United States;

"(2) a matter relating to the management or personnel practices of an agency;

"(3) an interpretive rule, general statement of policy, guidance, or rule of agency organization, procedure, or practice, unless such rule, statement, or guidance has general applicability and substantially alters or creates rights or obligations of persons outside the agency; or

"(4) a rule relating to the acquisition, management, or disposal by an agency of real or personal property, or of services, that is promulgated in compliance with otherwise applicable criteria and procedures.

"(b) NOTICE OF PROPOSED RULEMAKING.—General notice of proposed rulemaking shall be published in the Federal Register, unless all persons subject thereto are named and either personally served or otherwise have actual notice of the proposed rulemaking in accordance with law. Each notice of proposed rulemaking shall include—

"(1) a statement of the time, place, and nature of public rulemaking proceedings;

"(2) a succinct explanation of the need for and specific objectives of the proposed rule, including an explanation of the agency's determination of whether or not the rule is a major rule within the meaning of section 621(5);

"(3) a succinct explanation of the specific statutory basis for the proposed rule, including an explanation of—

"(A) whether the interpretation is clearly required by the text of the statute; or

"(B) if the interpretation is not clearly required by the text of the statute, an explanation that the interpretation is within the range of permissible interpretations of the statute as identified by the agency, and an explanation why the interpretation selected by the agency is the agency's preferred interpretation;

"(4) the terms or substance of the proposed rule;

"(5) a summary of any initial analysis of the proposed rule required to be prepared or issued pursuant to chapter 6;

"(6) a statement that the agency seeks proposals from the public and from State and local governments for alternative methods to accomplish the objectives of the rulemaking that are more effective or less burdensome than the approach used in the proposed rule; and

"(7) a statement specifying where the file of the rulemaking proceeding maintained pursuant to subsection (j) may be inspected and how copies of the items in the file may be obtained.

"(c) PERIOD FOR COMMENT.—The agency shall give interested persons not less than 60 days after providing the notice required by subsection (b) to participate in the rulemaking through the submission of written data, views, or arguments.

"(d) GOOD CAUSE EXCEPTION.—Unless notice or hearing is required by statute, a final rule may be adopted and may become effective without prior compliance with subsections (b) and (c) and (e) through (g) if the agency for good cause finds that providing notice and public procedure thereon before the rule becomes effective is impracticable, unnecessary, or contrary to the public interest. If a rule is adopted under this subsection, the agency shall publish the rule in the Federal Register with the finding and a succinct explanation of the reasons therefor.

"(e) PROCEDURAL FLEXIBILITY.—To collect relevant information, and to identify and elicit full and representative public comment on the significant issues of a particular rulemaking, the agency may use such other procedures as the agency determines are appropriate, including—

"(1) the publication of an advance notice of proposed rulemaking;

"(2) the provision of notice, in forms which are more direct than notice published in the Federal Register, to persons who would be substantially affected by the proposed rule but who are unlikely to receive notice of the proposed rulemaking through the Federal Register;

"(3) the provision of opportunities for oral presentation of data, views, information, or rebuttal arguments at informal public hearings, meetings, and round table discussions, which may be held in the District of Columbia and other locations;

"(4) the establishment of reasonable procedures to regulate the course of informal public hearings, meetings and round table discussions, including the designation of representatives to make oral presentations or engage in direct or cross-examination on behalf of several parties with a common interest in a rulemaking, and the provision of transcripts, summaries, or other records of all such public hearings and summaries of meetings and round table discussions;

"(5) the provision of summaries, explanatory materials, or other technical information in response to public inquiries concerning the issues involved in the rulemaking; and

"(6) the adoption or modification of agency procedural rules to reduce the cost or complexity of the procedural rules.

"(f) PLANNED FINAL RULE.—If the provisions of a final rule that an agency plans to adopt are so different from the provisions of the original notice of proposed rulemaking that the original notice did not fairly apprise the public of the issues ultimately to be resolved in the rulemaking or of the substance of the rule, the agency shall publish in the Federal Register a notice of the final rule the agency plans to adopt, together with the information relevant to such rule that is required by the applicable provisions of this section and that has not previously been published in the Federal Register. The agency shall allow a reasonable period for comment on such planned final rule prior to its adoption.

"(g) STATEMENT OF BASIS AND PURPOSE.—An agency shall publish each final rule it adopts in the Federal Register, together with a concise statement of the basis and purpose of the rule and a statement of when the rule may become effective. The statement of basis and purpose shall include—

"(1) an explanation of the need for, objectives of, and specific statutory authority for, the rule;

"(2) a discussion of, and response to, any significant factual or legal issues presented by the rule, or raised by the comments on the proposed rule, including a description of the reasonable alternatives to the rule proposed by the agency and by interested persons, and the reasons why such alternatives were rejected;

"(3) a succinct explanation of whether the specific statutory basis for the rule is expressly required by the text of the statute, or if the specific statutory interpretation upon which the rule is based is not expressly required by the text of the statute, an explanation that the interpretation is within the range of permissible interpretations of the statute as identified by the agency, and why the agency has rejected other interpretations proposed in comments to the agency;

"(4) an explanation of how the factual conclusions upon which the rule is based are substantially supported in the rulemaking file; and

"(5) a summary of any final analysis of the rule required to be prepared or issued pursuant to chapter 6.

"(h) NONAPPLICABILITY.—In the case of a rule that is required by statute to be made on the record after opportunity for an agency hearing, sections 556 and 557 shall apply in lieu of subsections (c), (e), (f), and (g).

"(i) EFFECTIVE DATE.—An agency shall publish the final rule in the Federal Register not later than 60 days before the effective date of such rule. An agency may make a rule effective in less than 60 days after publication in the Federal Register if the rule grants or recognizes an exemption, relieves a restriction, or if the agency for good cause finds that such a delay in the effective date would be contrary to the public interest and publishes such finding and an explanation of the reasons therefor, with the final rule.

"(j) RULEMAKING FILE.—(1) The agency shall maintain a file for each rulemaking proceeding conducted pursuant to this section and shall maintain a current index to such file.

"(2) Except as provided in subsection (k), the file shall be made available to the public not later than the date on which the agency makes an initial publication concerning the rule.

"(3) The rulemaking file shall include—

"(A) the notice of proposed rulemaking, any supplement to, or modification or revision of, such notice, and any advance notice of proposed rulemaking;

"(B) copies of all written comments received on the proposed rule;

"(C) a transcript, summary, or other record of any public hearing conducted on the rulemaking;

"(D) copies, or an identification of the place at which copies may be obtained, of factual and methodological material that pertains directly to the rulemaking and that was considered by the agency in connection with the rulemaking, or that was submitted to or prepared by or for the agency in connection with the rulemaking; and

"(E) any statement, description, analysis, or other material that the agency is required to prepare or issue in connection with the rulemaking, including any analysis prepared or issued pursuant to chapter 6.

The agency shall place each of the foregoing materials in the file as soon as practicable after each such material becomes available to the agency.

"(k) CONFIDENTIAL TREATMENT.—The file required by subsection (j) need not include any material described in section 552(b) if the agency includes in the file a statement that notes the existence of such material and the basis upon which the material is exempt from public disclosure under such section. The agency may not substantially rely on any such material in formulating a rule unless it makes the substance of such material available for adequate comment by interested persons. The agency may use summaries, aggregations of data, or other appropriate mechanisms to protect the confidentiality of such material to the maximum extent possible.

"(*l*) RULEMAKING PETITION.—(1) Each agency shall give an interested person the right to petition—

"(A) for the issuance, amendment, or repeal of a rule;

"(B) for the amendment or repeal of an interpretive rule or general statement of policy or guidance; and

"(C) for an interpretation regarding the meaning of a rule, interpretive rule, general statement of policy, or guidance.

"(2) The agency shall grant or deny a petition made pursuant to paragraph (1), and give written notice of its determination to the petitioner, with reasonable promptness, but in no event later than 18 months after the petition was received by the agency.

"(3) The written notice of the agency's determination shall include an explanation of the determination and a response to each significant factual and legal claim that forms the basis of the petition.

"(m) JUDICIAL REVIEW.—(1) The decision of an agency to use or not to use procedures in a rulemaking under subsection (e) shall not be subject to judicial review.

"(2) The rulemaking file required under subsection (j) shall constitute the rulemaking record for purposes of judicial review.

"(3) No court shall hold unlawful or set aside an agency rule based on a violation of subsection (j), unless the court finds that such violation has precluded fair public consideration of a material issue of the rulemaking taken as a whole.

"(4)(A) Judicial review of compliance or noncompliance with subsection (j) shall be limited to review of action or inaction on the part of an agency.

"(B) A decision by an agency to deny a petition under subsection (*l*) shall be subject to judicial review immediately upon denial, as final agency action under the statute granting the agency authority to carry out its action.

"(n) CONSTRUCTION.—(1) Notwithstanding any other provision of law, this section shall apply to and supplement the procedures governing informal rulemaking under statutes that are not generally subject to this section.

"(2) Nothing in this section authorizes the use of appropriated funds available to any agency to pay the attorney's fees or other expenses of persons intervening in agency proceedings.".

SEC. 4. ANALYSIS OF AGENCY RULES.

(a) IN GENERAL.—Chapter 6 of title 5, United States Code, is amended by adding at the end the following:

"SUBCHAPTER II—ANALYSIS OF AGENCY RULES

"§ 621. Definitions

"For purposes of this subchapter—

"(1) except as otherwise provided, the definitions under section 551 shall apply to this subchapter;

"(2) the term 'benefit' means the reasonably identifiable significant favorable effects, quantifiable and nonquantifiable, including social, environmental, health, and economic effects, that are expected to result directly or indirectly from implementation of a rule or other agency action;

"(3) the term 'cost' means the reasonably identifiable significant adverse effects, quantifiable and nonquantifiable, including social, environmental, health, and economic effects that are expected to result directly or indirectly from implementation of a rule or other agency action;

"(4) the term 'cost-benefit analysis' means an evaluation of the costs and benefits of a rule, quantified to the extent feasible and appropriate and otherwise qualitatively described, that is prepared in accordance with the requirements of this subchapter at the level of detail appropriate and practicable for reasoned decisionmaking on the matter involved, taking into consideration the significance and complexity of the decision and any need for expedition;

"(5) the term 'major rule' means—

"(A) a rule or set of closely related rules that the agency proposing the rule, the Director, or a designee of the President determines is likely to have a gross annual effect on the economy of $50,000,000 or more in reasonably quantifiable increased costs; or

"(B) a rule that is otherwise designated a major rule by the agency proposing the rule, the Director, or a designee of the President (and a designation or failure to designate under this clause shall not be subject to judicial review);

"(6) the term 'market-based mechanism' means a regulatory program that—

"(A) imposes legal accountability for the achievement of an explicit regulatory objective on each regulated person;

"(B) affords maximum flexibility to each regulated person in complying with mandatory regulatory objectives, which flexibility shall, where feasible and appropriate, include, but not be limited to, the opportunity to transfer to, or receive from, other persons, including for cash or other legal consideration, increments of compliance responsibility established by the program; and

"(C) permits regulated persons to respond to changes in general economic conditions and in economic circumstances directly pertinent to the regulatory program without affecting the achievement of the program's explicit regulatory mandates;

"(7) the term 'performance-based standards' means requirements, expressed in terms of outcomes or goals rather than mandatory means of achieving outcomes or goals, that permit the regulated entity discretion to determine how best to meet specific requirements in particular circumstances;

"(8) the term 'reasonable alternatives' means the range of reasonable regulatory options that the agency has authority to consider under the statute granting rulemaking authority, including flexible regulatory options of the type described in section

622(c)(2)(C)(iii), unless precluded by the statute granting the rulemaking authority; and

"(9) the term 'rule' has the same meaning as in section 551(4), and—

"(A) includes any statement of general applicability that substantially alters or creates rights or obligations of persons outside the agency; and

"(B) does not include—

"(i) a rule that involves the internal revenue laws of the United States, or the assessment and collection of taxes, duties, or other revenues or receipts;

"(ii) a rule or agency action that implements an international trade agreement to which the United States is a party;

"(iii) a rule or agency action that authorizes the introduction into commerce, or recognizes the marketable status, of a product;

"(iv) a rule exempt from notice and public procedure under section 553(a);

"(v) a rule or agency action relating to the public debt;

"(vi) a rule required to be promulgated at least annually pursuant to statute, or that provides relief, in whole or in part, from a statutory prohibition, other than a rule promulgated pursuant to subtitle C of title II of the Solid Waste Disposal Act (42 U.S.C. 6921 et seq.);

"(vii) a rule of particular applicability that approves or prescribes the future rates, wages, prices, services, corporate or financial structures, reorganizations, mergers, acquisitions, accounting practices, or disclosures bearing on any of the foregoing;

"(viii) a rule relating to monetary policy or to the safety or soundness of federally insured depository institutions or any affiliate of such an institution (as defined in section 2(k) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(k))), credit unions, Federal Home Loan Banks, government sponsored housing enterprises, farm credit institutions, foreign banks that operate in the United States and their affiliates, branches, agencies, commercial lending companies, or representative offices, (as those terms are defined in section 1 of the International Banking Act of 1978 (12 U.S.C. 3101));

"(ix) a rule relating to the payment system or the protection of deposit insurance funds or the farm credit insurance fund;

"(x) any order issued in a rate or certificate proceeding by the Federal Energy Regulatory Commission, or a rule of general applicability that the Federal Energy Regulatory Commission certifies would increase reliance on competitive market forces or reduce regulatory burdens;

"(xi) a rule or order relating to the financial responsibility of brokers and dealers or futures commission merchants, the safeguarding of investor securities and funds or commodity future or options customer securities and funds, the clearance and settlement of securities, futures, or options transactions, or the suspension of trading under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) or emergency action taken under the Commodity Exchange Act (7 U.S.C. 1 et seq.), or a rule relating to the protection of the Securities Investor Protection Corporation, that is promulgated under the Securities Investor Protection Act of 1970 (15 U.S.C. 78aaa et seq.); or

"(xii) a rule that involves the international trade laws of the United States.

"§ 622. Rulemaking cost-benefit analysis

"(a) DETERMINATIONS FOR MAJOR RULE.—Prior to publishing a notice of proposed rulemaking for any rule (or, in the case of a notice of proposed rulemaking that has been published but not issued as a final rule on or before the date of enactment of this subchapter, not later than 30 days after such date of enactment), each agency shall determine—

"(1) whether the rule is or is not a major rule within the meaning of section 621(5)(A)(i) and, if it is not, whether it should be designated as a major rule under section 621(5)(B); and

"(2) if the agency determines that the rule is a major rule, or otherwise designates it as a major rule, whether the rule requires or does not require the preparation of a risk assessment under section 632(a).

"(b) DESIGNATION.—(1) If an agency has determined that a rule is not a major rule within the meaning of section 621(5)(A) and has not designated the rule as a major rule within the meaning of section 621(5)(B), the Director or a designee of the President may, as appropriate, determine that the rule is a major rule or designate the rule as a major rule not later than 30 days after the publication of the notice of proposed rulemaking for the rule (or, in the case of a notice of proposed rulemaking that has been published on or before the date of enactment of this subchapter, not later than 1 year after such date of enactment).

"(2) Such determination or designation shall be published in the Federal Register, together with a succinct statement of the basis for the determination or designation.

"(c) INITIAL COST-BENEFIT ANALYSIS.—(1)(A) When the agency publishes a notice of proposed rulemaking for a major rule, the agency shall issue and place in the rulemaking file an initial cost-benefit analysis, and shall include a summary of such analysis in the notice of proposed rulemaking.

"(B)(i) When an agency, the Director, or a designee of the President has published a determination or designation that a rule is a major rule after the publication of the notice of proposed rulemaking for the rule, the agency shall promptly issue and place in the rulemaking file an initial cost-benefit analysis for the rule and shall publish in the Federal Register a summary of such analysis.

"(ii) Following the issuance of an initial cost-benefit analysis under clause (i), the agency shall give interested persons an opportunity to comment in the same manner as if the initial cost-benefit analysis had been issued with the notice of proposed rulemaking.

"(2) Each initial cost-benefit analysis shall contain—

"(A) a succinct analysis of the benefits of the proposed rule, including any beneficial effects that cannot be quantified, and an explanation of how the agency anticipates such benefits will be achieved by the proposed rule, including a description of the persons or classes of persons likely to receive such benefits;

"(B) a succinct analysis of the costs of the proposed rule, including any costs that cannot be quantified, and an explanation of how the agency anticipates such costs will result from the proposed rule, including a description of the persons or classes of persons likely to bear such costs;

"(C) a succinct description (including an analysis of the costs and benefits) of reasonable alternatives for achieving the objectives of the statute, including, where such alternatives exist, alternatives that—

"(i) require no government action, where the agency has discretion under the statute granting the rulemaking authority not to promulgate a rule;

"(ii) will accommodate differences among geographic regions and among persons with differing levels of resources with which to comply;

"(iii) employ performance-based standards, market-based mechanisms, or other flexible regulatory options that permit the greatest flexibility in achieving the regulatory result that the statutory provision authorizing the rule is designed to produce; or

"(iv) employ voluntary standards;

"(D) in any case in which the proposed rule is based on one or more scientific evaluations, scientific information, or a risk assessment, or is subject to the risk assessment requirements of subchapter III, a description of the actions undertaken by the agency to verify the quality, reliability, and relevance of such scientific evaluation, scientific information, or risk assessment; and

"(E) an explanation of how the proposed rule is likely to meet the decisional criteria of section 624.

"(d) FINAL COST-BENEFIT ANALYSIS.—(1) When the agency publishes a final major rule, the agency shall also issue and place in the rulemaking file a final cost-benefit analysis, and shall include a summary of the analysis in the statement of basis and purpose.

"(2) Each final cost-benefit analysis shall contain—

"(A) a description and comparison of the benefits and costs of the rule and of the reasonable alternatives to the rule described in the rulemaking record, including flexible regulatory options of the type described in subsection (c)(2)(C)(iii), and a description of the persons likely to receive such benefits and bear such costs; and

"(B) an analysis, based upon the rulemaking record considered as a whole, of how the rule meets the decisional criteria in section 624.

"(3) In considering the benefits and costs, the agency, when appropriate, shall consider the benefits and costs incurred by all of the affected persons or classes of persons (including specially affected subgroups).

"(e) REQUIREMENTS FOR COST-BENEFIT ANALYSES.—(1)(A) The description of the benefits and costs of a proposed and a final rule required under this section shall include, to the extent feasible, a quantification or numerical estimate of the quantifiable benefits and costs.

"(B) The quantification or numerical estimate shall—

"(i) be made in the most appropriate unit of measurement, using comparable assumptions, including time periods;

"(ii) specify the ranges of predictions; and

"(iii) explain the margins of error involved in the quantification methods and the uncertainties and variabilities in the estimates used.

"(C) An agency shall describe the nature and extent of the nonquantifiable benefits and costs of a final rule pursuant to this section in as precise and succinct a manner as possible.

"(D) The agency evaluation of the relationship of benefits to costs shall be clearly articulated.

"(E) An agency shall not be required to make such evaluation primarily on a mathematical or numerical basis.

"(F) Nothing in this subsection shall be construed to expand agency authority beyond the delegated authority arising from the statute granting the rulemaking authority.

"(2) Where practicable and when understanding industry-by-industry effects is of central importance to a rulemaking, the description of the benefits and costs of a proposed and final rule required under this section shall describe such benefits and costs on an industry by industry basis.

"(f) HEALTH, SAFETY, OR EMERGENCY EXEMPTION FROM COST-BENEFIT ANALYSIS.—(1) A major rule may be adopted and may become effective without prior compliance with this subchapter if—

"(A) the agency for good cause finds that conducting cost-benefit analysis is impracticable due to an emergency or health or safety threat that is likely to result in significant harm to the public or natural resources; and

"(B) the agency publishes in the Federal Register, together with such finding, a succinct statement of the basis for the finding.

"(2) Not later than 180 days after the promulgation of a final major rule to which this section applies, the agency shall comply with the provisions of this subchapter and, as thereafter necessary, revise the rule.

"§ 623. Agency regulatory review

"(a) PRELIMINARY SCHEDULE FOR RULES.—(1) Not later than 1 year after the date of the enactment of this section, and every 5 years thereafter, the head of each agency shall publish in the Federal Register a notice of proposed rulemaking under section 553 that contains a preliminary schedule of rules selected for review under this section by the head of the agency and in the sole discretion of the head of the agency, and request public comment thereon, including suggestions for additional rules warranting review. The agency shall allow at least 180 days for public comment.

"(2) In selecting rules for the preliminary schedule, the head of the agency shall consider the extent to which, in the judgment of the head of the agency—

"(A) a rule is unnecessary, and the agency has discretion under the statute authorizing the rule to repeal the rule;

"(B) a rule would not meet the decisional criteria of section 624, and the agency has discretion under the statute authorizing the rule to repeal the rule; or

"(C) a rule could be revised in a manner allowed by the statute authorizing the rule so as to—

"(i) substantially decrease costs;

"(ii) substantially increase benefits; or

"(iii) provide greater flexibility for regulated entities, through mechanisms including, but not limited to, those listed in section 622(c)(2)(C)(iii).

"(3) The preliminary schedule under this subsection shall propose deadlines for review of each rule listed thereon, and such deadlines shall occur not later than 11 years from the date of publication of the preliminary schedule.

"(4) Any interpretive rule, general statement of policy, or guidance that has the force and effect of a rule under section 621(9) shall be treated as a rule for purposes of this section.

"(b) SCHEDULE.—(1) Not later than 1 year after publication of a preliminary schedule under subsection (a), and subject to subsection (c), the head of each agency shall publish a final rule that establishes a schedule of rules to be reviewed by the agency under this section.

"(2) The schedule shall establish a deadline for completion of the review of each rule listed on the schedule, taking into account the criteria in subsection (d) and comments received in the rulemaking under subsection (a). Each such deadline shall occur not later than 11 years from the date of publication of the preliminary schedule.

"(3) The schedule shall contain, at a minimum, all rules listed on the preliminary schedule.

"(4) The head of the agency shall modify the agency's schedule under this section to reflect any change ordered by the court under subsection (e) or subsection (g)(3) or contained in an appropriations Act under subsection (f).

"(c) PETITIONS AND COMMENTS PROPOSING ADDITION OF RULES TO THE SCHEDULE.—(1) Notwithstanding section 553(*l*), a petition to amend or repeal a major rule or an interpretative rule, general statement of policy, or guidance on grounds arising under this subchapter may only be filed during the 180-day comment period under subsection (a) and not at any other time. Such petition shall be reviewed only in accordance with this subsection.

"(2) The head of the agency shall, in response to petitions received during the rulemaking to establish the schedule, place on the final schedule for the completion of review within the first 3 years of the schedule any rule for which a petition, on its face, together with any relevant comments received in the rulemaking under subsection (a), establishes that there is a substantial likelihood that, considering the future impact of the rule—

"(A) the rule is a major rule under section 621(5)(A); and

(B) the head of the agency would not be able to make the findings required by section 624 with respect to the rule.

"(3) For the purposes of paragraph (2), the head of the agency may consolidate multiple petitions on the same rule into 1 determination with respect to review of the rule.

"(4) The head of the agency may, at the sole discretion of the head of the agency, add to the schedule any other rule suggested by a commentator during the rulemaking under subsection (a).

"(d) CRITERIA FOR ESTABLISHING DEADLINES FOR REVIEW.—The schedules in subsections (a) and (b) shall establish deadlines for review of each rule on the schedule that take into account—

"(1) the extent to which, for a particular rule, the preliminary views of the agency are that—

"(A) the rule is unnecessary, and the agency has discretion under the statute authorizing the rule to repeal the rule;

"(B) the rule would not meet the decisional criteria of section 624, and the agency has discretion under the statute authorizing the rule to repeal the rule; or

"(C) the rule could be revised in a manner allowed by the statute authorizing the rule so as to meet the decisional criteria under section 624 and to—

"(i) substantially decrease costs;

"(ii) substantially increase benefits; or

"(iii) provide greater flexibility for regulated entities, through mechanisms including, but not limited to, those listed in section 622(c)(2)(C)(iii);

"(2) the importance of each rule relative to other rules being reviewed under this section; and

"(3) the resources expected to be available to the agency under subsection (f) to carry out the reviews under this section.

"(e) JUDICIAL REVIEW.—(1) Notwithstanding section 625 and except as provided otherwise in this subsection, agency compliance or noncompliance with the requirements of this section shall be subject to judicial review in accordance with section 706 of this title.

"(2) The United States Court of Appeals for the District of Columbia Circuit shall have exclusive jurisdiction to review agency action pursuant to subsections (a), (b), and (c).

"(3) A petition for review of final agency action under subsection (b) or subsection (c) shall be filed not later than 60 days after the agency publishes the final rule under subsection (b).

"(4) The court upon review, for good cause shown, may extend the 3-year deadline under subsection (c)(2) for a period not to exceed 1 additional year.

"(5) The court shall remand to the agency any schedule under subsection (b) only if final agency action under subsection (b) is arbitrary or capricious. Agency action under subsection (d) shall not be subject to judicial review.

"(f) ANNUAL BUDGET.—(1) The President's annual budget proposal submitted under section 1105(a) of title 31 for each agency subject to this section shall—

"(A) identify as a separate sum the amount requested to be appropriated for implementation of this section during the upcoming fiscal year; and

"(B) include a list of rules which may terminate during the year for which the budget proposal is made.

"(2) Amendments to the schedule under subsection (b) that change a deadline for review of a rule may be included in annual appropriations Acts for the relevant agencies. An authorizing committee with jurisdiction may submit, to the House of Representatives or Senate appropriations committee (as the case may be), amendments to the schedule published by an agency under subsection (b) that change a deadline for review of a rule. The appropriations committee to which such amendments have been submitted shall include or propose the amendments in the annual appropriations Act for the relevant agency. Each agency shall modify its schedule under subsection (b) to reflect such amendments that are enacted into law.

"(g) REVIEW OF RULE.—(1) For each rule on the schedule under subsection (b), the agency shall—

"(A) not later than 2 years before the deadline in such schedule, publish in the Federal Register a notice that solicits public comment regarding whether the rule should be continued, amended, or repealed;

"(B) not later than 1 year before the deadline in such schedule, publish in the Federal Register a notice that—

"(i) addresses public comments generated by the notice in subparagraph (A);

"(ii) contains a preliminary analysis provided by the agency of whether the rule is a major rule, and if so, whether it satisfies the decisional criteria of section 624;

"(iii) contains a preliminary determination as to whether the rule should be continued, amended, or repealed; and

"(iv) solicits public comment on the preliminary determination for the rule; and

"(C) not later than 60 days before the deadline in such schedule, publish in the Federal Register a final notice on the rule that—

"(i) addresses public comments generated by the notice in subparagraph (B); and

"(ii) contains a final determination of whether to continue, amend, or repeal the rule; and

"(iii) if the agency determines to continue the rule and the rule is a major rule, contains findings necessary to satisfy the decisional criteria of section 624; and

"(iv) if the agency determines to amend the rule, contains a notice of proposed rulemaking under section 553.

"(2) If the final determination of the agency is to continue or repeal the rule, that determination shall take effect 60 days after the publication in the Federal Register of the notice in paragraph (1)(C).

"(3) An interested party may petition the U.S. Court of Appeals for the District of Columbia Circuit to extend the period for review of a rule on the schedule for up to two years and to grant such equitable relief as is appropriate, if such petition establishes that—

"(A) the rule is likely to terminate under subsection (i);

"(B) the agency needs additional time to complete the review under this subsection;

"(C) terminating the rule would not be in the public interest; and

"(D) the agency has not expeditiously completed its review.

"(h) Deadline for Final Agency Action on Modified Rule.—If an agency makes a determination to amend a major rule under subsection (g)(1)(C)(ii), the agency shall complete final agency action with regard to such rule not later than 2 years of the date of publication of the notice in subsection (g)(1)(C) containing such determination. Nothing in this subsection shall limit the discretion of an agency to decide, after having proposed to modify a major rule, not to promulgate such modification. Such decision shall constitute final agency action for the purposes of judicial review.

"(i) Termination of Rules.—If the head of an agency has not completed the review of a rule by the deadline established in the schedule published or modified pursuant to subsection (b) and subsection (c), the head of the agency shall not enforce the rule, and the rule shall terminate by operation of law as of such date.

"(j) Final Agency Action.—(1) The final determination of an agency to continue or repeal a major rule under subsection (g)(1)(C) shall be considered final agency action.

"(2) Failure to promulgate an amended major rule or to make other decisions required by subsection (h) by the date established under such subsection shall be considered final agency action.

"§ 624. Decisional criteria

"(a) Construction With Other Laws.—The requirements of this section shall supplement, and not supersede, any other decisional criteria otherwise provided by law.

"(b) Requirements.—Except as provided in subsection (c), no final major rule subject to this subchapter shall be promulgated unless the agency head publishes in the Federal Register a finding that—

"(1) the benefits from the rule justify the costs of the rule;

"(2) the rule employs to the extent practicable flexible reasonable alternatives of the type described in section 622(c)(2)(C)(iii); and

"(3)(A) the rule adopts the least cost alternative of the reasonable alternatives that achieve the objectives of the statute; or

"(B) if scientific, technical, or economic uncertainties or nonquantifiable benefits to health, safety, or the environment identified by the agency in the rulemaking record make a more costly alternative that achieves the objectives of the statute appropriate and in the public interest and the agency head provides an explanation of those considerations, the rule adopts the least cost alternative of the reasonable alternatives necessary to take into account such uncertainties or benefits; and

"(4) if a risk assessment is required by section 632—

"(A) the rule is likely to significantly reduce the human health, safety, and environmental risks to be addressed; or

"(B) if scientific, technical, or economic uncertainties or nonquantifiable benefits to health, safety, or the environment, preclude making the finding under subparagraph (A), promulgating the final rule is nevertheless justified for reasons stated in writing accompanying the rule and consistent with subchapter III.

"(c) Alternative Requirements.—If, applying the statutory requirements upon which the rule is based, a rule cannot satisfy the criteria of subsection (b), the agency head may promulgate the rule if the agency head finds that—

"(1) the rule employs to the extent practicable flexible reasonable alternatives of the type described in section 622(c)(2)(C)(iii);

"(2)(A) the rule adopts the least cost alternative of the reasonable alternatives that achieve the objectives of the statute; or

"(B) if scientific, technical, or economic uncertainties or nonquantifiable benefits to health, safety, or the environment identified by the agency in the rulemaking record make a more costly alternative that achieves the objectives of the statute appropriate and in the public interest, and the agency head provides an explanation of those consideration, the rule adopts the least cost alternative of the reasonable alternatives necessary to take into account such uncertainties or benefits; and

"(3) if a risk assessment is required by section 632—

"(A) the rule is likely to significantly reduce the human health, safety, and environmental risks to be addressed; or

"(B) if scientific, technical, or economic uncertainties or nonquantifiable benefits to health, safety, or the environment, preclude making the finding under subparagraph (A), promulgating the final rule is nevertheless justified for reasons stated in writing accompanying the rule and consistent with subchapter III.

"(d) Publication of Reasons for Noncompliance.—If an agency promulgates a rule to which subsection (c) applies, the agency head shall prepare a written explanation of why the agency was required to promulgate a rule that does not satisfy the criteria of subsection (b) and shall transmit the explanation with the final cost-benefit analysis to Congress when the final rule is promulgated.

"§ 625. Jurisdiction and judicial review

"(a) Review.—Compliance or noncompliance by an agency with the provisions of this subchapter and subchapter III shall be subject to judicial review only in accordance with this section.

"(b) Jurisdiction.—(1) Except as provided in subsection (e), subject to paragraph (2), each court with jurisdiction under a statute to review final agency action to which this title applies, has jurisdiction to review any claims of noncompliance with this subchapter and subchapter III.

"(2) Except as provided in subsection (e), no claims of noncompliance with this subchapter or subchapter III shall be reviewed separate or apart from judicial review of the final agency action to which they relate.

"(c) Record.—Any analysis or review required under this subchapter or subchapter III shall constitute part of the rulemaking record of the final agency action to which it pertains for the purposes of judicial review.

"(d) Standards for Review.—In any proceeding involving judicial review under section 706 or under the statute granting the rulemaking authority, failure to comply with this subchapter or subchapter III may be considered by the court solely for the purpose of determining whether the final agency action is arbitrary and capricious or an abuse of discretion (or unsupported by substantial evidence where that standard is otherwise provided by law).

"(e) Interlocutory Review.—(1) The United States Court of Appeals for the District of Columbia Circuit shall have jurisdiction to review—

"(A) an agency determination that a rule is not a major rule pursuant to section 622(a); and

"(B) an agency determination that a risk assessment is not required pursuant to section 632(a).

"(2) A petition for review of agency action under paragraph (1) shall be filed within 60 days after the agency makes the determination or certification for which review is sought.

"(3) Except as provided in this subsection, no court shall have jurisdiction to review any agency determination or certification specified in paragraph (1).

"§ 626. Deadlines for rulemaking

"(a) Statutory.—All deadlines in statutes that require agencies to propose or promulgate any rule subject to section 622 or subchapter III during the 5-year period beginning on the effective date of this section shall be suspended until the earlier of—

"(1) the date on which the requirements of section 622 or subchapter III are satisfied; or

"(2) the date occurring 2 years after the date of the applicable deadline.

"(b) Court-Ordered.—All deadlines imposed by any court of the United States that would require an agency to propose or promulgate a rule subject to section 622 or subchapter III during the 5-year period beginning on the effective date of this section shall be suspended until the earlier of—

"(1) the date on which the requirements of section 622 or subchapter III are satisfied; or

"(2) the date occurring 2 years after the date of the applicable deadline.

"(c) Obligation To Regulate.—In any case in which the failure to promulgate a rule by a deadline occurring during the 5-year period beginning on the effective date of this section would create an obligation to regulate through individual adjudications, the deadline shall be suspended until the earlier of—

"(1) the date on which the requirements of section 622 or subchapter III are satisfied; or

"(2) the date occurring 2 years after the date of the applicable deadline.

"§ 627. Special rule

"Notwithstanding any other provision of the Comprehensive Regulatory Reform Act of 1995, or the amendments made by such Act, for purposes of this subchapter and subchapter IV, the head of each appropriate Federal banking agency (as defined in section 3(q) of the Federal Deposit Insurance Act), the National Credit Union Administration, the Federal Housing Finance Board, the Office of Federal Housing Enterprise Oversight, and the Farm Credit Administration, shall have authority with respect to such agency that otherwise would be provided under such subchapters to the Director, a designee of the President, Vice President, or any officer designated or delegated with authority under such subchapters.

"§ 628. Requirements for major environmental management activities

"(a) Definition.—For purposes of this section, the term 'major environmental management activity' means—

"(1) a corrective action requirement under the Solid Waste Disposal Act;

"(2) a response action or damage assessment under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.);

"(3) the treatment, storage, or disposal of radioactive or mixed waste in connection with site restoration activity; and

"(4) Federal guidelines for the conduct of such activity, including site-specific guidelines,

the expected costs, expenses, and damages of which are likely to exceed, in the aggregate, $10,000,000.

"(b) APPLICABILITY.—A major environmental management activity is subject to this section unless construction has commenced on a significant portion of the activity, and—

"(1) it is more cost-effective to complete construction of the work than to apply the provisions of this subchapter; or

"(2) the application of the provisions of this subchapter, including any delays caused thereby, will result in an actual and immediate risk to human health or welfare.

"(c) REQUIREMENT TO PREPARE RISK ASSESSMENT.—(1) For each major environmental management activity or significant unit thereof that is proposed by the agency after the date of enactment of this subchapter, is pending on the date of enactment of this subchapter, or is subject to a granted petition for review pursuant to section 623, the head of an agency shall prepare—

"(A) a risk assessment in accordance with subchapter III; and

"(B) a cost-benefit analysis equivalent to that which would be required under this subchapter, if such subchapter were applicable.

"(2) In conducting a risk assessment or cost-benefit analysis under this section, the head of the agency shall incorporate the reasonably anticipated probable future use of the land and its surroundings (and any associated media and resources of either) affected by the environmental management activity.

"(3) For actions pending on the date of enactment of this section or proposed during the year following the date of enactment of this section, in lieu of preparing a risk assessment in accordance with subchapter III or cost-benefit analysis under this subchapter, an agency may use other appropriately developed analyses that allow it to make the judgments required under subsection (d).

"(d) REQUIREMENT.—The requirements of this subsection shall supplement, and not supersede, any other requirement provided by any law. A major environmental management activity under this section shall meet the decisional criteria under section 624 as if it is a major rule under such section.

"§ 629. Petition for alternative method of compliance

"(a) Except as provided in subsection (e), or unless prohibited by the statute authorizing the rule, any person subject to a major rule may petition the relevant agency to modify or waive the specific requirements of the major rule (or any portion thereof) and to authorize such person to demonstrate compliance through alternative means not otherwise permitted by the major rule. The petition shall identify with reasonable specificity the requirements for which the waiver is sought and the alternative means of compliance being proposed.

"(b) The agency shall grant the petition if the petition shows that there is a reasonable likelihood that the proposed alternative means of compliance—

"(1) would achieve the identified benefits of the major rule with at least an equivalent level of protection of health, safety, and the environment as would be provided by the major rule; and

"(2) would not impose an undue burden on the agency that would be responsible for enforcing such alternative means of compliance.

"(c) A decision to grant or to deny a petition under this subsection shall be made not later than 180 days after the petition is submitted, but in no event shall agency action taken pursuant to this section be subject to judicial review.

"(d) Following a decision to grant or deny a petition under this section, no further petition for such rule, submitted by the same person, shall be granted unless such petition pertains to a different facility or installation owned or operated by such person or unless such petition is based on a significant change in a fact, circumstance, or provision of law underlying or otherwise related to the rule occurring since the initial petition was granted or denied, that warrants the granting of such petition.

"(e) If the statute authorizing the rule which is the subject of the petition provides procedures or standards for an alternative method of compliance the petition shall be reviewed solely under the terms of the statute.

"SUBCHAPTER III—RISK ASSESSMENTS

"§ 631. Definitions

"For purposes of this subchapter—

"(1) except as otherwise provided, the definitions under section 551 shall apply to this subchapter;

"(2) the term 'exposure assessment' means the scientific determination of the intensity, frequency and duration of actual or potential exposures to the hazard in question;

"(3) the term 'hazard assessment' means the scientific determination of whether a hazard can cause an increased incidence of one or more significant adverse effects, and a scientific evaluation of the relationship between the degree of exposure to a perceived cause of an adverse effect and the incidence and severity of the effect;

"(4) the term 'major rule' has the meaning given such term in section 621(5);

"(5) the term 'risk assessment' means the systematic process of organizing and analyzing scientific knowledge and information on potential hazards, including as appropriate for the specific risk involved, hazard assessment, exposure assessment, and risk characterization;

"(6) the term 'risk characterization' means the integration and organization of hazard and exposure assessment to estimate the potential for specific harm to an exposed population or natural resource including, to the extent feasible, a characterization of the distribution of risk as well as an analysis of uncertainties, variabilities, conflicting information, and inferences and assumptions in the assessment;

"(7) the term 'screening analysis' means an analysis using simple conservative postulates to arrive at an estimate of upper bounds as appropriate, that permits the manager to eliminate risks from further consideration and analysis, or to help establish priorities for agency action; and

"(8) the term 'substitution risk' means an increased risk to human health, safety, or the environment reasonably likely to result from a regulatory option.

"§ 632. Applicability

"(a) IN GENERAL.—Except as provided in subsection (c), for each proposed and final major rule, a primary purpose of which is to protect human health, safety, or the environment, or a consequence of which is a substantial substitution risk, that is proposed by an agency after the date of enactment of this subchapter, or is pending on the date of enactment of this subchapter, the head of each agency shall prepare a risk assessment in accordance with this subchapter.

"(b) APPLICATION OF PRINCIPLES.—(1) Except as provided in subsection (c), the head of each agency shall apply the principles in this subchapter to any risk assessment conducted to support a determination by the agency of risk to human health, safety, or the environment, if such determination would be likely to have an effect on the United States economy equivalent to that of a major rule.

"(2) In applying the principles of this subchapter to risk assessments other than those in subsections (a), (b)(1), and (c), the head of each agency shall publish, after notice and public comment, guidelines for the conduct of such other risk assessments that adapt the principles of this subchapter in a manner consistent with section 633(a)(4) and the risk assessment and risk management needs of the agency.

"(3) An agency shall not, as a condition for the issuance or modification of a permit, conduct, or require any person to conduct, a risk assessment, except if the agency finds that the risk assessment meets the requirements of section 633 (a) through (f).

"(c) EXCEPTIONS.—(1) This subchapter shall not apply to risk assessments performed with respect to—

"(A) a situation for which the agency finds good cause that conducting a risk assessment is impracticable due to an emergency or health and safety threat that is likely to result in significant harm to the public or natural resources;

"(B) a rule or agency action that authorizes the introduction into commerce, or initiation of manufacture, of a substance, mixture, or product, or recognizes the marketable status of a product;

"(C) a human health, safety, or environmental inspection, an action enforcing a statutory provision, rule, or permit, or an individual facility or site permitting action, except to the extent provided by subsection (b)(3);

"(D) a screening analysis clearly identified as such; or

"(E) product registrations, reregistrations, tolerance settings, and reviews of premanufacture notices under the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.) and the Toxic Substances Control Act (15 U.S.C. 2601 et seq.).

"(2) An analysis shall not be treated as a screening analysis for the purposes of paragraph (1)(D) if the result of the analysis is used—

"(A) as the basis for imposing a restriction on a previously authorized substance, product, or activity after its initial introduction into manufacture or commerce; or

"(B) as the basis for a formal determination by the agency of significant risk from a substance or activity.

"(3) This subchapter shall not apply to any food, drug, or other product label or labeling, or to any risk characterization appearing on any such label.

"§ 633. Principles for risk assessments

"(a) IN GENERAL.—(1) The head of each agency shall design and conduct risk assessments in a manner that promotes rational and informed risk management decisions and informed public input into the process of making agency decisions.

"(2) The head of each agency shall establish and maintain a distinction between risk assessment and risk management.

"(3) An agency may take into account priorities for managing risks, including the types of information that would be important in evaluating a full range of alternatives, in developing priorities for risk assessment activities.

"(4) In conducting a risk assessment, the head of each agency shall employ the level of detail and rigor considered by the agency as appropriate and practicable for reasoned decisionmaking in the matter involved, proportionate to the significance and complexity of the potential agency action and the need for expedition.

"(5) An agency shall not be required to repeat discussions or explanations in each risk assessment required under this subchapter if there is an unambiguous reference to a relevant discussion or explanation in another reasonably available agency document that was prepared consistent with this section.

"(b) ITERATIVE PROCESS.—(1) Each agency shall develop and use an iterative process for risk assessment, starting with relatively inexpensive screening analyses and progressing to more rigorous analyses, as circumstances or results warrant.

"(2) In determining whether or not to proceed to a more detailed analysis, the head of the agency shall take into consideration whether or not use of additional data or the analysis thereof would significantly change the estimate of risk and the resulting agency action.

"(c) DATA QUALITY.—(1) The head of each agency shall base each risk assessment only on the best reasonably available scientific data and scientific understanding, including scientific information that finds or fails to find a correlation between a potential hazard and an adverse effect, and data regarding exposure and other relevant physical conditions that are reasonably expected to be encountered.

"(2) The agency shall select data for use in a risk assessment based on a reasoned analysis of the quality and relevance of the data, and shall describe such analysis.

"(3) In making its selection of data, the agency shall consider whether the data were published in the peer-reviewed scientific literature, or developed in accordance with good laboratory practice or published or other appropriate protocols to ensure data quality, such as the standards for the development of test data promulgated pursuant to section 4 of the Toxic Substances Control Act (15 U.S.C. 2603), and the standards for data requirements promulgated pursuant to section 3 of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136a), or other form of independent evaluation.

"(4) Subject to paragraph (3), relevant scientific data submitted by interested parties shall be reviewed and considered by the agency in the analysis under paragraph (2).

"(5) When conflicts among scientific data appear to exist, the risk assessment shall include a discussion of all relevant information including the likelihood of alternative interpretations of the data and emphasizing—

"(A) postulates that represent the most reasonable inferences from the supporting scientific data; and

"(B) when a risk assessment involves an extrapolation from toxicological studies, data with the greatest scientific basis of support for the resulting harm to affected individuals, populations, or resources.

"(6) The head of an agency shall not automatically incorporate or adopt any recommendation or classification made by any foreign government, the United Nations, any international governmental body or standards-making organization, concerning the health effects value of a substance, except as provided in paragraph (2) of this subsection. Nothing in this paragraph shall be construed to affect the implementation or application of any treaty or international trade agreement to which the United States is a party.

"(d) USE OF POLICY JUDGMENTS.—(1) An agency shall not use policy judgments, including default assumptions, inferences, models or safety factors, when relevant and adequate scientific data and scientific understanding, including site-specific data, are available. The agency shall modify or decrease the use of policy judgments to the extent that higher quality scientific data and understanding become available.

"(2) When a risk assessment involves choice of a policy judgment, the head of the agency shall—

"(A) identify the policy judgment and its scientific or policy basis, including the extent to which the policy judgment has been validated by, or conflicts with, empirical data;

"(B) explain the basis for any choices among policy judgments; and

"(C) describe reasonable alternative policy judgments that were not selected by the agency for use in the risk assessment, and the sensitivity of the conclusions of the risk assessment to the alternatives, and the rationale for not using such alternatives.

"(3) An agency shall not inappropriately combine or compound multiple policy judgments.

"(4) The agency shall, subject to notice and opportunity for public comment, develop and publish guidelines describing the agency's default policy judgments and how they were chosen, and guidelines for deciding when and how, in a specific risk assessment, to adopt alternative policy judgments or to use available scientific information in place of a policy judgment.

"(e) RISK CHARACTERIZATION.—In each risk assessment, the agency shall include in the risk characterization, as appropriate, each of the following:

"(1) A description of the hazard of concern.

"(2) A description of the populations or natural resources that are the subject of the risk assessment.

"(3) An explanation of the exposure scenarios used in the risk assessment, including an estimate of the corresponding population at risk and the likelihood of such exposure scenarios.

"(4) A description of the nature and severity of the harm that could plausibly occur.

"(5) A description of the major uncertainties in each component of the risk assessment and their influence on the results of the assessment.

"(f) PRESENTATION OF RISK ASSESSMENT CONCLUSIONS.—(1) To the extent feasible and scientifically appropriate, the head of an agency shall—

"(A) express the overall estimate of risk as a range or probability distribution that reflects variabilities, uncertainties and data gaps in the analysis;

"(B) provide the range and distribution of risks and the corresponding exposure scenarios, identifying the reasonably expected risk to the general population and, where appropriate, to more highly exposed or sensitive subpopulations; and

"(C) where quantitative estimates of the range and distribution of risk estimates are not available, describe the qualitative factors influencing the range of possible risks.

"(2) When scientific data and understanding that permits relevant comparisons of risk are reasonably available, the agency shall use such information to place the nature and magnitude of risks to human health, safety, and the environment being analyzed in context.

"(3) When scientifically appropriate information on significant substitution risks to human health, safety, or the environment is reasonably available to the agency, or is contained in information provided to the agency by a commentator, the agency shall describe such risks in the risk assessments.

"(g) PEER REVIEW.—(1) Each agency shall provide for peer review in accordance with this section of any risk assessment subject to the requirements of this subchapter that forms that basis of any major rule or a major environmental management activity.

"(2) Each agency shall develop a systematic program for balanced, independent, and external peer review that—

"(A) shall provide for the creation or utilization of peer review panels, expert bodies, or other formal or informal devices that are balanced and comprised of participants selected on the basis of their expertise relevant to the sciences involved in regulatory decisions and who are independent of the agency program that developed the risk assessment being reviewed;

"(B) shall not exclude any person with substantial and relevant expertise as a participant on the basis that such person has a potential interest in the outcome, if such interest is fully disclosed to the agency, and the agency includes such disclosure as part of the record, unless the result of the review would have a direct and predictable effect on a substantial financial interest of such person;

"(C) shall provide for a timely completed peer review, meeting agency deadlines, that contains a balanced presentation of all considerations, including minority reports and agency response to all significant peer review comments; and

"(D) shall provide adequate protections for confidential business information and trade secrets, including requiring panel members to enter into confidentiality agreements.

"(3) Each peer review shall include a report to the Federal agency concerned detailing the scientific and technical merit of data and the methods used for the risk assessment, and shall identify significant peer review comments. Each agency shall provide a written response to all significant peer review comments. All peer review comments, conclusions, composition of the panels, and the agency's responses shall be made available to the public and shall be made part of the administrative record for purposes of judicial review of any final agency action.

"(4)(A) The Director of the Office of Science and Technology Policy shall develop a systematic program to oversee the use and quality of peer review of risk assessments.

"(B) The Director or the designee of the President may order an agency to conduct peer review for any risk assessment or cost-benefit analysis that is likely to have a significant impact on public policy decisions, or that would establish an important precedent.

"(5) The proceedings of peer review panels under this section shall not be subject to the Federal Advisory Committee Act.

"(h) PUBLIC PARTICIPATION.—The head of each agency shall provide appropriate opportunities for public participation and comment on risk assessments.

"§634. Petition for review of a major freestanding risk assessment

"(a) Any interested person may petition an agency to conduct a scientific review of a risk assessment conducted or adopted by the agency, except for a risk assessment used as the basis for a major rule or a site-specific risk assessment.

"(b) The agency shall utilize external peer review, as appropriate, to evaluate the claims and analyses in the petition, and shall consider such review in making its determination of whether to grant the petition.

"(c) The agency shall grant the petition if the petition establishes that there is a reasonable likelihood that—

"(1)(A) the risk assessment that is the subject of the petition was carried out in a manner substantially inconsistent with the principles in section 633; or

"(B) the risk assessment that is the subject of the petition does not take into account material significant new scientific data and scientific understanding;

"(2) the risk assessment that is the subject of the petition contains significantly different results than if it had been properly conducted pursuant to subchapter III; and

"(3) a revised risk assessment will provide the basis for reevaluating an agency determination of risk, and such determination currently has an effect on the United States economy equivalent to that of major rule.

"(d) A decision to grant, or final action to deny, a petition under this subsection shall be made not later than 180 days after the petition is submitted.

"(e) If the agency grants the petition, it shall complete its review of the risk assessment not later than 1 year after its decision to grant the petition. If the agency revises the risk assessment, in response to its review, it shall do so in accordance with section 633.

"§ 635. Comprehensive risk reduction

"(a) SETTING PRIORITIES.—The head of each agency with programs to protect human health, safety, or the environment shall set priorities for the use of resources available to address those risks to human health, safety, and the environment, with the goal of achieving the greatest overall net reduction in risks with the public and private sector resources expended.

"(b) INCORPORATING RISK-BASED PRIORITIES INTO BUDGET AND PLANNING.—The head of each agency in subsection (a) shall incorporate the priorities identified under subsection (a) into the agency budget, strategic planning, regulatory agenda, enforcement, and research activities. When submitting its budget request to Congress and when announcing its regulatory agenda in the Federal Register, each covered agency shall identify the risks that the covered agency head has determined are the most serious and can be addressed in a cost-effective manner using the priorities set under subsection (a), the basis for that determination, and explicitly identify how the agency's requested budget and regulatory agenda reflect those priorities.

"(c) REPORTS BY THE NATIONAL ACADEMY OF SCIENCES.—(1) Not later than 6 months after the date of enactment of this section, the Director of the Office of Science and Technology Policy shall enter into an arrangement with the National Academy of Sciences to investigate and report on comparative risk analysis. The arrangement shall provide, to the extent feasible, for—

"(A) 1 or more reports evaluating methods of comparative risk analysis that would be appropriate for agency programs related to human health, safety, and the environment to use in setting priorities for activities; and

"(B) a report providing a comprehensive and comparative analysis of the risks to human health, safety, and the environment that are addressed by agency programs to protect human health, safety, and the environment, along with companion activities to disseminate the conclusions of the report to the public.

"(2) The report or reports prepared under paragraph (1)(A) shall be completed not later than 3 years after the date of enactment of this section. The report under paragraph (1)(B) shall be completed not later than 4 years after the date of enactment of this section, and shall draw, as appropriate, upon the insights and conclusions of the report or reports made under paragraph (1)(A). The companion activities under paragraph (1)(B) shall be completed not later than 5 years after the date of enactment of this section.

"(3)(A) The head of an agency with programs to protect human health, safety, and the environment shall incorporate the recommendations of reports under paragraph (1) in revising any priorities under subsection (a).

"(B) The head of the agency shall submit a report to the appropriate Congressional committees of jurisdiction responding to the recommendations from the National Academy of Sciences and describing plans for utilizing the results of comparative risk analysis in agency budget, strategic planning, regulatory agenda, enforcement, and research and development activities.

"(4) Following the submission of the report in paragraph (2), for the next 5 years, the head of the agency shall submit, with the budget request submitted to Congress under section 1105(a) of title 31, a description of how the requested budget of the agency and the strategic planning activities of the agency reflect priorities determined using the recommendations of reports issued under subsection (a). The head of the agency shall include in such description—

"(A) recommendations on the modification, repeal, or enactment of laws to reform, eliminate, or enhance programs or mandates relating to human health, safety, or the environment; and

"(B) recommendation on the modification or elimination of statutory or judicially mandated deadlines,

that would assist the head of the agency to set priorities in activities to address the risks to human health, safety, or the environment that incorporate the priorities developed using the recommendations of the reports under subsection (a), resulting in more cost-effective programs to address risk.

"(5) For each budget request submitted in accordance with paragraph (4), the Director shall submit an analysis of ways in which resources could be reallocated among Federal agencies to achieve the greatest overall net reduction in risk.

"§ 636. Rule of construction

"Nothing in this subchapter shall be construed to—

"(1) preclude the consideration of any data or the calculation of any estimate to more fully describe or analyze risk, scientific uncertainty, or variability; or

"(2) require the disclosure of any trade secret or other confidential information.

"SUBCHAPTER IV—EXECUTIVE
OVERSIGHT

"§ 641. Procedures

"(a) IN GENERAL.—The Director or a designee of the President shall—

"(1) establish and, as appropriate, revise procedures for agency compliance with this chapter; and

"(2) monitor, review, and ensure agency implementation of such procedures.

"(b) PUBLIC COMMENT.—Procedures established pursuant to subsection (a) shall only be implemented after opportunity for public comment. Any such procedures shall be consistent with the prompt completion of rulemaking proceedings.

"(c) TIME FOR REVIEW.—(1) If procedures established pursuant to subsection (a) include review of any initial or final analyses of a rule required under chapter 6, the time for any such review of any initial analysis shall not exceed 90 days following the receipt of the analysis by the Director, or a designee of the President.

"(2) The time for review of any final analysis required under chapter 6 shall not exceed 90 days following the receipt of the analysis by the Director, a designee of the President.

"(3)(A) The times for each such review may be extended for good cause by the President or by an officer to whom the President has delegated his authority pursuant to section 642 for an additional 45 days. At the request of the head of an agency, the President or such an officer may grant an additional extension of 45 days.

"(B) Notice of any such extension, together with a succinct statement of the reasons therefor, shall be inserted in the rulemaking file.

"§ 642. Delegation of authority

"(a) IN GENERAL.—The President may delegate the authority granted by this subchapter to an officer within the Executive Office of the President whose appointment has been subject to the advice and consent of the Senate.

"(b) NOTICE.—Notice of any delegation, or any revocation or modification thereof shall be published in the Federal Register.

"§ 643. Judicial review

"The exercise of the authority granted under this subchapter by the Director, the President, or by an officer to whom such authority has been delegated under section 642 and agency compliance or noncompliance with the procedure under section 641 shall not be subject to judicial review.

"§ 644. Regulatory agenda

"The head of each agency shall provide, as part of the semiannual regulatory agenda published under section 602—

"(1) a list of risk assessments subject to subsection 632 (a) or (b)(1) under preparation or planned by the agency;

"(2) a brief summary of relevant issues addressed or to be addressed by each listed risk assessment;

"(3) an approximate schedule for completing each listed risk assessment;

"(4) an identification of potential rules, guidance, or other agency actions supported or affected by each listed risk assessment; and

"(5) the name, address, and telephone number of an agency official knowledgeable about each listed risk assessment.".

(b) REGULATORY FLEXIBILITY ANALYSIS.—

(1) FINAL REGULATORY FLEXIBILITY ANALYSIS.—Section 604 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(c)(1) Except as provided in paragraph (2), no final rule for which a final regulatory flexibility analysis is required under this section shall be promulgated unless the agency finds that the final rule minimizes significant economic impact on small entities to the maximum extent possible, consistent with the purposes of this subchapter, the objectives of the rule, and the requirements of applicable statutes.

"(2) If an agency determines that a statute requires a rule to be promulgated that does not satisfy the criterion of paragraph (1), the agency shall—

"(A) include a written explanation of such determination in the final regulatory flexibility analysis; and

"(B) transmit the final regulatory flexibility analysis to Congress when the final rule is promulgated.".

(2) JUDICIAL REVIEW.—Section 611 of title 5, United States Code, is amended to read as follows:

"§ 611. Judicial review

"(a)(1) For any rule described in section 603(a), and with respect to which the agency—

"(A) certified, pursuant to section 605(b), that such rule would not have a significant economic impact on a substantial number of small entities;

"(B) prepared a final regulatory flexibility analysis pursuant to section 604; or

"(C) did not prepare an initial regulatory flexibility analysis pursuant to section 603 or a final regulatory flexibility analysis pursuant to section 604 except as permitted by sections 605 and 608,

an affected small entity may petition for the judicial review of such certification, analysis, or failure to prepare such analysis, in accordance with this subsection. A court having jurisdiction to review such rule for compliance with section 553 or under any other provision of law shall have jurisdiction over such petition.

"(2)(A) Notwithstanding any other provision of law, an affected small entity shall have 1 year after the effective date of the final rule to challenge the certification, analysis or failure to prepare an analysis required by this subchapter with respect to any such rule.

"(B) If an agency delays the issuance of a final regulatory flexibility analysis pursuant to section 608(b), a petition for judicial review under this subsection may be filed not later than 1 year after the date the analysis is made available to the public.

"(3) For purposes of this subsection, the term 'affected small entity' means a small entity that is or will be subject to the provisions of, or otherwise required to comply with, the final rule.

"(4) Nothing in this subsection shall be construed to limit the authority of any court to stay the effective date of any rule or provision thereof under any other provision of law.

"(5)(A) Notwithstanding section 605, if the court determines, on the basis of the court's review of the rulemaking record, that there is substantial evidence that the rule would have a significant economic impact on a substantial number of small entities, the court shall order the agency to prepare a final regulatory flexibility analysis that satisfies the requirements of section 604.

"(B) If the agency prepared a final regulatory flexibility analysis, the court shall order the agency to take corrective action consistent with section 604 if the court determines, on the basis of the court's review of the rulemaking record, that the final regulatory flexibility analysis does not satisfy the requirements of section 604.

"(6) The court shall stay the rule and grant such other relief as the court determines to be appropriate if, by the end of the 90-day period beginning on the date of the order of the court pursuant to paragraph (5), the agency fails, as appropriate—

"(A) to prepare the analysis required by section 604; or

"(B) to take corrective action consistent with section 604.

"(b) In an action for the judicial review of a rule, any regulatory flexibility analysis for such rule (including an analysis prepared or corrected pursuant to subsection (a)(5)) shall constitute part of the whole record of agency action in connection with such review.

"(c) Except as otherwise required by the provisions of this subchapter, the court shall apply the same standards of judicial review that govern the review of agency findings under the statute granting the agency authority to conduct the rulemaking.".

(c) REVISION OF CERTAIN PROVISIONS OF THE FEDERAL FOOD, DRUG, AND COSMETIC ACT RELATING TO TESTING.—In applying section 409(c)(3)(A), 512(d)(1), or 721(b)(5)(B) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 348(c)(3)(A), 360b(d)(1), 379e(b)(5)(B)), the Secretary of Health and Human Services and the Administrator of the Environmental Protection Agency shall not prohibit or refuse to approve a substance or product on the basis of safety, where the substance or product presents a negligible or insignificant foreseeable risk to human health resulting from its intended use.

(d) TOXIC RELEASE INVENTORY REVIEW.—Section 313(d) of the Emergency Planning and Community Right-to-Know Act of 1986 (42 U.S.C. 11023(d)) is amended—

(1) in paragraph (2) by inserting after "epidemiological or other population studies," the following: "and on the rule of reason, including a consideration of the applicability of such evidence to levels of the chemical in the environment that may result from reasonably anticipated releases"; and

(2) in subsection (e)(1), by inserting before "Within 180 days" the following: "The Administrator shall grant any petition that establishes substantial evidence that the criteria in subparagraph (A) either are or are not met.".

(e) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) CHAPTER ANALYSIS.—Part I of title 5, United States Code, is amended by striking the chapter heading and table of sections for chapter 6 and inserting the following:

"CHAPTER 6—THE ANALYSIS OF REGULATORY FUNCTIONS

"SUBCHAPTER I—REGULATORY ANALYSIS

"Sec.
"601. Definitions.
"602. Regulatory agenda.
"603. Initial regulatory flexibility analysis.
"604. Final regulatory flexibility analysis.
"605. Avoidance of duplicative or unnecessary analyses.
"606. Effect on other law.
"607. Preparation of analysis.
"608. Procedure for waiver or delay of completion.
"609. Procedures for gathering comments.
"610. Periodic review of rules.
"611. Judicial review.
"612. Reports and intervention rights.

"SUBCHAPTER II—ANALYSIS OF AGENCY RULES

"621. Definitions.
"622. Rulemaking cost-benefit analysis.
"623. Agency regulatory review.
"624. Decisional criteria.
"625. Jurisdiction and judicial review.
"626. Deadlines for rulemaking.
"627. Special rule.
"628. Requirements for major environmental management activities.

"SUBCHAPTER III—RISK ASSESSMENTS

"631. Definitions.
"632. Applicability.
"633. Principles for risk assessments.
"634. Petition for review of a major free-standing risk assessment.
"635. Comprehensive risk reduction.
"636. Rule of construction.

"SUBCHAPTER IV—EXECUTIVE OVERSIGHT

"641. Procedures.
"642. Delegation of authority.
"643. Judicial review.
"644. Regulatory agenda.".

(2) SUBCHAPTER HEADING.—Chapter 6 of title 5, United States Code, is amended by inserting immediately before section 601, the following subchapter heading:

"SUBCHAPTER I—REGULATORY ANALYSIS".

SEC. 5. JUDICIAL REVIEW.

(a) IN GENERAL.—Chapter 7 of title 5, United States Code, is amended—

(1) by striking section 706; and

(2) by adding at the end the following new sections:

"§ 706. Scope of review

"(a) To the extent necessary to reach a decision and when presented, the reviewing court shall decide all relevant questions of law, interpret constitutional and statutory provisions, and determine the meaning or applicability of the terms of an agency action. The reviewing court shall—

"(1) compel agency action unlawfully withheld or unreasonably delayed; and

"(2) hold unlawful and set aside agency action, findings and conclusions found to be—

"(A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;

"(B) contrary to constitutional right, power, privilege, or immunity;

"(C) in excess of statutory jurisdiction, authority, or limitations, or short of statutory right;

"(D) without observance of procedure required by law;

"(E) unsupported by substantial evidence in a proceeding subject to sections 556 and 557 or otherwise reviewed on the record of an agency hearing provided by statute;

"(F) without substantial support in the rulemaking file, viewed as a whole, for the asserted or necessary factual basis, in the case of a rule adopted in a proceeding subject to section 553; or

"(G) unwarranted by the facts to the extent that the facts are subject to trial de novo by the reviewing court.

"(b) In making the determinations set forth in subsection (a), the court shall review the whole record or those parts of it cited by a party, and due account shall be taken of the rule of prejudicial error.

"§ 707. Consent decrees

"In interpreting any consent decree in effect on or after the date of enactment of this section that imposes on an agency an obligation to initiate, continue, or complete rulemaking proceedings, the court shall not enforce the decree in a way that divests the agency of discretion clearly granted to the agency by statute to respond to changing circumstances, make policy or managerial choices, or protect the rights of third parties.

"§ 708. Affirmative defense

"Notwithstanding any other provision of law, it shall be an affirmative defense in any enforcement action brought by an agency that the regulated person or entity reasonably relied on and is complying with a rule, regulation, adjudication, directive, or order of such agency or any other agency that is incompatible, contradictory, or otherwise cannot be reconciled with the agency rule, regulation, adjudication, directive, or order being enforced.''.

(b) TECHNICAL AMENDMENT.—The analysis for chapter 7 of title 5, United States Code, is amended by striking the item relating to section 706 and inserting the following new items:

''706. Scope of review.
''707. Consent decrees.
''708. Affirmative defense.''.

SEC. 6. CONGRESSIONAL REVIEW.

(a) FINDING.—The Congress finds that effective steps for improving the efficiency and proper management of Government operations will be promoted if a moratorium on the implementation of certain significant final rules is imposed in order to provide Congress an opportunity for review.

(b) IN GENERAL.—Title 5, United States Code, is amended by inserting immediately after chapter 7 the following new chapter:

"CHAPTER 8—CONGRESSIONAL REVIEW OF AGENCY RULEMAKING

''801. Congressional review.
''802. Congressional disapproval procedure.
''803. Special rule on statutory, regulatory, and judicial deadlines.
''804. Definitions.
''805. Judicial review.
''806. Applicability; severability.
''807. Exemption for monetary policy.

"§ 801. Congressional review

''(a)(1)(A) Before a rule can take effect as a final rule, the Federal agency promulgating such rule shall submit to each House of the Congress and to the Comptroller General a report containing—

''(i) a copy of the rule;

''(ii) a concise general statement relating to the rule; and

''(iii) the proposed effective date of the rule.

''(B) The Federal agency promulgating the rule shall make available to each House of Congress and the Comptroller General, upon request—

''(i) a complete copy of the cost-benefit analysis of the rule, if any;

''(ii) the agency's actions relevant to sections 603, 604, 605, 607, and 609;

''(iii) the agency's actions relevant to sections 202, 203, 204, and 205 of the Unfunded Mandates Reform Act of 1995; and

''(iv) any other relevant information or requirements under any other Act and any relevant Executive orders, such as Executive Order No. 12866.

''(C) Upon receipt, each House shall provide copies to the Chairman and Ranking Member of each committee with jurisdiction.

''(2)(A) The Comptroller General shall provide a report on each major rule to the committees of jurisdiction to each House of the Congress by the end of 12 calendar days after the submission or publication date as provided in section 802(b)(2). The report of the Comptroller General shall include an assessment of the agency's compliance with procedural steps required by paragraph (1)(B).

''(B) Federal agencies shall cooperate with the Comptroller General by providing information relevant to the Comptroller General's report under subparagraph (A).

''(3) A major rule relating to a report submitted under paragraph (1) shall take effect as a final rule, the latest of—

''(A) the later of the date occurring 60 days after the date on which—

''(i) the Congress receives the report submitted under paragraph (1); or

''(ii) the rule is published in the Federal Register;

''(B) if the Congress passes a joint resolution of disapproval described under section 802 relating to the rule, and the President signs a veto of such resolution, the earlier date—

''(i) on which either House of Congress votes and fails to override the veto of the President; or

''(ii) occurring 30 session days after the date on which the Congress received the veto and objections of the President; or

''(C) the date the rule would have otherwise taken effect, if not for this section (unless a joint resolution of disapproval under section 802 is enacted).

''(4) Except for a major rule, a rule shall take effect as otherwise provided by law after submission to Congress under paragraph (1).

''(5) Notwithstanding paragraph (3), the effective date of a rule shall not be delayed by operation of this chapter beyond the date on which either House of Congress votes to reject a joint resolution of disapproval under section 802.

''(b) A rule shall not take effect (or continue) as a final rule, if the Congress passes a joint resolution of disapproval described under section 802.

''(c)(1) Notwithstanding any other provision of this section (except subject to paragraph (3)), a rule that would not take effect by reason of this chapter may take effect, if the President makes a determination under paragraph (2) and submits written notice of such determination to the Congress.

''(2) Paragraph (1) applies to a determination made by the President by Executive order that the rule should take effect because such rule is—

''(A) necessary because of an imminent threat to health or safety or other emergency;

''(B) necessary for the enforcement of criminal laws;

''(C) necessary for national security; or

''(D) issued pursuant to a statute implementing an international trade agreement.

''(3) An exercise by the President of the authority under this subsection shall have no effect on the procedures under section 802 or the effect of a joint resolution of disapproval under this section.

''(d)(1) In addition to the opportunity for review otherwise provided under this chapter, in the case of any rule that is published in the Federal Register (as a rule that shall take effect as a final rule) during the period beginning on the date occurring 60 days before the date the Congress adjourns sine die through the date on which the succeeding Congress first convenes, section 802 shall apply to such rule in the succeeding Congress.

''(2)(A) In applying section 802 for purposes of such additional review, a rule described under paragraph (1) shall be treated as though—

''(i) such rule were published in the Federal Register (as a rule that shall take effect as a final rule) on the 15th session day after the succeeding Congress first convenes; and

''(ii) a report on such rule were submitted to Congress under subsection (a)(1) on such date.

''(B) Nothing in this paragraph shall be construed to affect the requirement under subsection (a)(1) that a report shall be submitted to Congress before a final rule can take effect.

''(3) A rule described under paragraph (1) shall take effect as a final rule as otherwise provided by law (including other subsections of this section).

''(e)(1) Section 802 shall apply in accordance with this subsection to any major rule that is published in the Federal Register (as a rule that shall take effect as a final rule) during the period beginning on November 20, 1994, through the date on which the Comprehensive Regulatory Reform Act of 1995 takes effect.

''(2) In applying section 802 for purposes of Congressional review, a rule described under paragraph (1) shall be treated as though—

''(A) such rule were published in the Federal Register (as a rule that shall take effect as a final rule) on the date of enactment of the Comprehensive Regulatory Reform Act of 1995; and

''(B) a report on such rule were submitted to Congress under subsection (a)(1) on such date.

''(3) The effectiveness of a rule described under paragraph (1) shall be as otherwise provided by law, unless the rule is made of no force or effect under section 802.

''(f) Any rule that takes effect and later is made of no force or effect by enactment of a joint resolution under section 802 shall be treated as though such rule had never taken effect.

''(g) If the Congress does not enact a joint resolution of disapproval under section 802, no court or agency may infer any intent of the Congress from any action or inaction of the Congress with regard to such rule, related statute, or joint resolution of disapproval.

"§ 802. Congressional disapproval procedure

''(a) For purposes of this section, the term 'joint resolution' means only a joint resolution introduced during the period beginning on the date on which the report referred to in section 801(a) is received by Congress and ending 60 days thereafter, the matter after the resolving clause of which is as follows: 'That Congress disapproves the rule submitted by the ___ relating to ___, and such rule shall have no force or effect.'. (The blank spaces being appropriately filled in.)

''(b)(1) A resolution described in paragraph (1) shall be referred to the committees in each House of Congress with jurisdiction. Such a resolution may not be reported before the eighth day after its submission or publication date.

''(2) For purposes of this subsection the term 'submission or publication date' means the later of the date on which—

''(A) the Congress receives the report submitted under section 801(a)(1); or

''(B) the rule is published in the Federal Register.

''(c) If the committee to which is referred a resolution described in subsection (a) has not reported such resolution (or an identical resolution) at the end of 20 calendar days after the submission or publication date defined under subsection (b)(2), such committee may be discharged from further consideration of such resolution in the Senate upon a petition supported in writing by 30 Members of the Senate and in the House upon a petition supported in writing by one-fourth of the Members duly sworn and chosen or by motion of the Speaker supported by the Minority Leader, and such resolution shall be placed on the appropriate calendar of the House involved.

''(d)(1) When the committee to which a resolution is referred has reported, or when a committee is discharged (under subsection (c)) from further consideration of, a resolution described in subsection (a), it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) for a motion to proceed to the consideration of the resolution, and all points of order against the resolution (and against consideration of resolution) are waived. The motion is not subject to amendment, or to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the resolution is agreed to, the resolution shall remain the unfinished business of the respective House until disposed of.

"(2) Debate on the resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate is in order and not debatable. An amendment to, or a motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the resolution is not in order.

"(3) Immediately following the conclusion of the debate on a resolution described in subsection (a), and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the appropriate House, the vote on final passage of the resolution shall occur.

"(4) Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution described in subsection (a) shall be decided without debate.

"(e) If, before the passage by one House of a resolution of that House described in subsection (a), that House receives from the other House a resolution described in subsection (a), then the following procedures shall apply:

"(1) The resolution of the other House shall not be referred to a committee.

"(2) With respect to a resolution described in subsection (a) of the House receiving the resolution—

"(A) the procedure in that House shall be the same as if no resolution had been received from the other House; but

"(B) the vote on final passage shall be on the resolution of the other House.

"(f) This section is enacted by Congress—

"(1) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a resolution described in subsection (a), and it supersedes other rules only to the extent that it is inconsistent with such rules; and

"(2) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

"§ 803. Special rule on statutory, regulatory, and judicial deadlines

"(a) In the case of any deadline for, relating to, or involving any rule which does not take effect (or the effectiveness of which is terminated) because of enactment of a joint resolution under section 802, that deadline is extended until the date 1 year after the date of the joint resolution. Nothing in this subsection shall be construed to affect a deadline merely by reason of the postponement of a rule's effective date under section 801(a).

"(b) The term 'deadline' means any date certain for fulfilling any obligation or exercising any authority established by or under any Federal statute or regulation, or by or under any court order implementing any Federal statute or regulation.

"§ 804. Definitions

"(a) For purposes of this chapter—

"(1) the term 'Federal agency' means any agency as that term is defined in section 551(1) (relating to administrative procedure);

"(2) the term 'major rule' has the same meaning given such term in section 621(5); and

"(3) the term 'final rule' means any final rule or interim final rule.

"(b) As used in subsection (a)(3), the term 'rule' has the meaning given such term in section 551, except that such term does not include any rule of particular applicability including a rule that approves or prescribes for the future rates, wages, prices, services, or allowances therefor, corporate or financial structures, reorganizations, mergers, or acquisitions thereof, or accounting practices or disclosures bearing on any of the foregoing or any rule of agency organization, personnel, procedure, practice or any routine matter.

"§ 805. Judicial review

"No determination, finding, action, or omission under this chapter shall be subject to judicial review.

"§ 806. Applicability; severability

"(a) This chapter shall apply notwithstanding any other provision of law.

"(b) If any provision of this chapter or the application of any provision of this chapter to any person or circumstance, is held invalid, the application of such provision to other persons or circumstances, and the remainder of this chapter, shall not be affected thereby.

"§ 807. Exemption for monetary policy

"Nothing in this chapter shall apply to rules that concern monetary policy proposed or implemented by the Board of Governors of the Federal Reserve System or the Federal Open Market Committee.".

(c) EFFECTIVE DATE.—The amendment made by subsection (b) shall take effect on the date of enactment of this Act and shall apply to any rule that takes effect as a final rule on or after such effective date.

(d) TECHNICAL AMENDMENT.—The table of chapters for part I of title 5, United States Code, is amended by inserting immediately after the item relating to chapter 7 the following:

"8. Congressional Review of Agency Rulemaking .... 801".

SEC. 7. REGULATORY ACCOUNTING.

(a) DEFINITIONS.—For purposes of this section, the following definitions apply:

(1) MAJOR RULE.—The term "major rule" has the same meaning as defined in section 621(5)(A)(i) of title 5, United States Code. The term shall not include—

(A) administrative actions governed by sections 556 and 557 of title 5, United States Code;

(B) regulations issued with respect to a military or foreign affairs function of the United States or a statute implementing an international trade agreement; or

(C) regulations related to agency organization, management, or personnel.

(2) AGENCY.—The term "agency" means any executive department, military department, Government corporation, Government controlled corporation, or other establishment in the executive branch of the Government (including the Executive Office of the President), or any independent regulatory agency, but shall not include—

(A) the General Accounting Office;

(B) the Federal Election Commission;

(C) the governments of the District of Columbia and of the territories and possessions of the United States, and their various subdivisions; or

(D) Government-owned contractor-operated facilities, including laboratories engaged in national defense research and production activities.

(b) ACCOUNTING STATEMENT.—

(1) IN GENERAL.—(A) The President shall be responsible for implementing and administering the requirements of this section.

(B) Not later than June 1, 1997, and each June 1 thereafter, the President shall prepare and submit to Congress an accounting statement that estimates the annual costs of major rules and corresponding benefits in accordance with this subsection.

(2) YEARS COVERED BY ACCOUNTING STATEMENT.—Each accounting statement shall cover, at a minimum, the 5 fiscal years beginning on October 1 of the year in which the report is submitted and may cover any fiscal year preceding such fiscal years for purpose of revising previous estimates.

(3) TIMING AND PROCEDURES.—(A) The President shall provide notice and opportunity for comment for each accounting statement. The President may delegate to an agency the requirement to provide notice and opportunity to comment for the portion of the accounting statement relating to that agency.

(B) The President shall propose the first accounting statement under this subsection not later than 2 years after the date of enactment of this Act and shall issue the first accounting statement in final form not later than 3 years after such effective date. Such statement shall cover, at a minimum, each of the fiscal years beginning after the date of enactment of this Act.

(4) CONTENT OF ACCOUNTING STATEMENT.—(A) Each accounting statement shall contain estimates of costs and benefits with respect to each fiscal year covered by the statement in accordance with this paragraph. For each such fiscal year for which estimates were made in a previous accounting statement, the statement shall revise those estimates and state the reasons for the revisions.

(B)(i) An accounting statement shall estimate the costs of major rules by setting forth, for each year covered by the statement—

(I) the annual expenditure of national economic resources for major rules, grouped by regulatory program; and

(II) such other quantitative and qualitative measures of costs as the President considers appropriate.

(ii) For purposes of the estimate of costs in the accounting statement, national economic resources shall include, and shall be listed under, at least the following categories:

(I) Private sector costs.

(II) Federal sector costs.

(III) State and local government administrative costs.

(C) An accounting statement shall estimate the benefits of major rules by setting forth, for each year covered by the statement, such quantitative and qualitative measures of benefits as the President considers appropriate. Any estimates of benefits concerning reduction in health, safety, or environmental risks shall present the most plausible level of risk practical, along with a statement of the reasonable degree of scientific certainty.

(c) ASSOCIATED REPORT TO CONGRESS.—

(1) IN GENERAL.—At the same time as the President submits an accounting statement

under subsection (b), the President, acting through the Director of the Office of Management and Budget, shall submit to Congress a report associated with the accounting statement (hereinafter referred to as an "associated report"). The associated report shall contain, in accordance with this subsection—

(A) analyses of impacts; and

(B) recommendations for reform.

(2) ANALYSES OF IMPACTS.—The President shall include in the associated report the following:

(A) Analyses prepared by the President of the cumulative impact of major rules in Federal regulatory programs covered in the accounting statement on the following:

(i) The ability of State and local governments to provide essential services, including police, fire protection, and education.

(ii) Small business.

(iii) Productivity.

(iv) Wages.

(v) Economic growth.

(vi) Technological innovation.

(vii) Consumer prices for goods and services.

(viii) Such other factors considered appropriate by the President.

(B) A summary of any independent analyses of impacts prepared by persons commenting during the comment period on the accounting statement.

(3) RECOMMENDATIONS FOR REFORM.—The President shall include in the associated report the following:

(A) A summary of recommendations of the President for reform or elimination of any Federal regulatory program or program element that does not represent sound use of national economic resources or otherwise is inefficient.

(B) A summary of any recommendations for such reform or elimination of Federal regulatory programs or program elements prepared by persons commenting during the comment period on the accounting statement.

(d) GUIDANCE FROM OFFICE OF MANAGEMENT AND BUDGET.—The Director of the Office of Management and Budget shall, in consultation with the Council of Economic Advisers, provide guidance to agencies—

(1) to standardize measures of costs and benefits in accounting statements prepared pursuant to sections 3 and 7 of this Act, including—

(A) detailed guidance on estimating the costs and benefits of major rules; and

(B) general guidance on estimating the costs and benefits of all other rules that do not meet the thresholds for major rules; and

(2) to standardize the format of the accounting statements.

(e) RECOMMENDATIONS FROM CONGRESSIONAL BUDGET OFFICE.—After each accounting statement and associated report submitted to Congress, the Director of the Congressional Budget Office shall make recommendations to the President—

(1) for improving accounting statements prepared pursuant to this section, including recommendations on level of detail and accuracy; and

(2) for improving associated reports prepared pursuant to this section, including recommendations on the quality of analysis.

(f) JUDICIAL REVIEW.—No requirements under this section shall be subject to judicial review in any manner.

SEC. 8. STUDIES AND REPORTS.

(a) RISK ASSESSMENTS.—The Administrative Conference of the United States shall—

(1) develop and carry out an ongoing study of the operation of the risk assessment requirements of subchapter III of chapter 6 of title 5, United States Code (as added by section 4 of this Act); and

(2) submit an annual report to the Congress on the findings of the study.

(b) ADMINISTRATIVE PROCEDURE ACT.—Not later than December 31, 1996, the Administrative Conference of the United States shall—

(1) carry out a study of the operation of the Administrative Procedure Act (as amended by section 3 of this Act); and

(2) submit a report to the Congress on the findings of the study, including proposals for revision, if any.

SEC. 9. MISCELLANEOUS PROVISIONS.

(a) EFFECTIVE DATE.—Except as otherwise provided, this Act and the amendments made by this Act shall take effect on the date of enactment.

(b) SEVERABILITY.—If any provision of this Act, an amendment made by this Act, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this Act, the amendments made by this Act, and the application of the provisions of such to any person or circumstance shall not be affected thereby.

THE FISHERIES ACT OF 1995 HIGH SEAS FISHERIES LICENSING ACT OF 1995

STEVENS (AND OTHERS) AMENDMENT NO. 1488

Mr. DOLE (for Mr. STEVENS for himself, Mr. KERRY, Ms. SNOWE, and Mr. BREAUX) proposed an amendment to the bill (S. 267) to establish a system of licensing, reporting, and regulation for vessels of the United States fishing on the high seas, and for other purposes; as follows:

Strike out all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Fisheries Act of 1995".

SEC. 2. TABLE OF CONTENTS.

The Table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.

TITLE I—HIGH SEAS FISHING COMPLIANCE

Sec. 101. Short title.
Sec. 102. Purpose.
Sec. 103. Definitions.
Sec. 104. Permitting.
Sec. 105. Responsibilities of the Secretary.
Sec. 106. Unlawful activities.
Sec. 107. Enforcement provisions.
Sec. 108. Civil penalties and permit sanctions.
Sec. 109. Criminal offenses.
Sec. 110. Forfeitures.
Sec. 111. Effective date.

TITLE II—IMPLEMENTATION OF CONVENTION ON FUTURE MULTILATERAL COOPERATION IN THE NORTHWEST ATLANTIC FISHERIES

Sec. 201. Short title.
Sec. 202. Representation of United States under convention.
Sec. 203. Requests for scientific advice.
Sec. 204. Authorities of Secretary of State with respect to convention.
Sec. 205. Interagency cooperation.
Sec. 206. Rulemaking.
Sec. 207. Prohibited acts and penalties.
Sec. 208. Consultative committee.
Sec. 209. Administrative matters.
Sec. 210. Definitions.
Sec. 211. Authorization of appropriations.

TITLE III—ATLANTIC TUNAS CONVENTION ACT

Sec. 301. Short title.
Sec. 302. Research and monitoring activities.
Sec. 303. Definitions.
Sec. 304. Advisory committee procedures.
Sec. 305. Regulations and enforcement of Convention.
Sec. 306. Fines and permit sanctions.
Sec. 307. Authorization of appropriations.
Sec. 308. Report and savings clause.
Sec. 309. Management and Atlantic yellowfin tuna.
Sec. 310. Study of bluefin tuna regulations.
Sec. 311. Sense of the Congress with respect to ICCAT negotiations.

TITLE IV—FISHERMAN'S PROTECTIVE ACT

Sec. 401. Findings.
Sec. 402. Amendment to the Fisherman's Protective Act of 1967.
Sec. 403. Reauthorization.
Sec. 404. Technical corrections.

TITLE V—FISHERIES ENFORCEMENT IN CENTRAL SEA OF OKHOTSK

Sec. 501. Short title.
Sec. 502. Fishing prohibition.

TITLE VI—DRIFTNET MORATORIUM

Sec. 601. Short title.
Sec. 602. Findings.
Sec. 603. Prohibition.
Sec. 604. Negotiations.
Sec. 605. Certification.
Sec. 606. Enforcement.

TITLE VII—YUKON RIVER SALMON

Sec. 701. Short title.
Sec. 702. Purposes.
Sec. 703. Definitions.
Sec. 704. Panel.
Sec. 705. Advisory committee.
Sec. 706. Exemption.
Sec. 707. Authority and responsibility.
Sec. 708. Continuation of agreement.
Sec. 709. Administrative matters.
Sec. 710. Authorization of appropriations.

TITLE VIII—MISCELLANEOUS

Sec. 801. South Pacific tuna amendment.
Sec. 802. Foreign fishing for Atlantic herring and Atlantic mackerel.

TITLE I—HIGH SEAS FISHING COMPLIANCE

SEC. 101. SHORT TITLE.

This title may be cited as the "High Seas Fishing Compliance Act of 1995".

SEC. 102. PURPOSE.

It is the purpose of this Act—

(1) to implement the Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas, adopted by the Conference of the Food and Agriculture Organization of the United Nations on November 24, 1993; and

(2) to establish a system of permitting, reporting, and regulation for vessels of the United States fishing on the high seas.

SEC. 103. DEFINITIONS.

As used in this Act—

(1) The term "Agreement" means the Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas, adopted by the Conference of the Food

and Agriculture Organization of the United Nations on November 24, 1993.

(2) The term "FAO" means the Food and Agriculture Organization of the United Nations.

(3) The term "high seas" means the waters beyond the territorial sea or exclusive economic zone (or the equivalent) of any nation, to the extent that such territorial sea or exclusive economic zone (or the equivalent) is recognized by the United States.

(4) The term "high seas fishing vessel" means any vessel of the United States used or intended for use—

(A) on the high seas;

(B) for the purpose of the commercial exploitation of living marine resources; and

(C) as a harvesting vessel, as a mother ship, or as any other support vessel directly engaged in a fishing operation.

(5) The term "international conservation and management measures" means measures to conserve or manage one or more species of living marine resources that are adopted and applied in accordance with the relevant rules of international law, as reflected in the 1982 United Nations Convention on the Law of the Sea, and that are recognized by the United States. Such measures may be adopted by global, regional, or sub-regional fisheries organizations, subject to the rights and obligations of their members, or by treaties or other international agreements.

(6) The term "length" means—

(A) for any high seas fishing vessel built after July 18, 1982, 96 percent of the total length on a waterline at 85 percent of the least molded depth measured from the top of the keel, or the length from the foreside of the stem to the axis of the rudder stock on that waterline, if that is greater, except that in ships designed with a rake of keel the waterline on which this length is measured shall be parallel to the designed waterline; and

(B) for any high seas fishing vessel built before July 18, 1982, registered length as entered on the vessel's documentation.

(7) The term "person" means any individual (whether or not a citizen or national of the United States), any corporation, partnership, association, or other entity (whether or not organized or existing under the laws of any State), and any Federal, State, local, or foreign government or any entity of any such government.

(8) The term "Secretary" means the Secretary of Commerce.

(9) The term "vessel of the United States" means—

(A) a vessel documented under chapter 121 of title 46, United States Code, or numbered in accordance with chapter 123 of title 46, United States Code;

(B) a vessel owned in whole or part by—

(i) the United States or a territory, commonwealth, or possession of the United States;

(ii) a State or political subdivision thereof;

(iii) a citizen or national of the United States; or

(iv) a corporation created under the laws of the United States or any State, the District of Columbia, or any territory, commonwealth, or possession of the United States; unless the vessel has been granted the nationality of a foreign nation in accordance with article 92 of the 1982 United Nations Convention on the Law of the Sea and a claim of nationality or registry for the vessel is made by the master or individual in charge at the time of the enforcement action by an officer or employee of the United States authorized to enforce applicable provisions of the United States law; and

(C) a vessel that was once documented under the laws of the United States and, in violation of the laws of the United States, was either sold to a person not a citizen of the United States or placed under foreign registry or a foreign flag, whether or not the vessel has been granted the nationality of a foreign nation.

(10) The terms "vessel subject to the jurisdiction of the United States" and "vessel without nationality" have the same meaning as in section 3(c) of Maritime Drug Law Enforcement Act (46 U.S.C. 1903(c)).

SEC. 104. PERMITTING.

(a) In General.—No high seas fishing vessel shall engage in harvesting operations on the high seas unless the vessel has on board a valid permit issued under this section.

(b) Eligibility.—

(1) Any vessel of the United States is eligible to receive a permit under this section, unless the vessel was previously authorized to be used for fishing on the high seas by a foreign nation, and

(A) the foreign nation suspended such authorization because the vessel undermined the effectiveness of international conservation and management measures, and the suspension has not expired; or

(B) the foreign nation, within the last three years preceding application for a permit under this section, withdrew such authorization because the vessel undermined the effectiveness of international conservation and management measures.

(2) The restriction in paragraph (1) does not apply if ownership of the vessel has changed since the vessel undermined the effectiveness of international conservation and management measures, and the new owner has provided sufficient evidence to the Secretary demonstrating that the previous owner or operator has no further legal, beneficial or financial interest in, or control of, the vessel.

(3) The restriction in paragraph (1) does not apply if the Secretary makes a determination that issuing a permit would not subvert the purposes of the Agreement.

(4) The Secretary may not issue a permit to a vessel unless the Secretary is satisfied that the United States will be able to exercise effectively its responsibilities under the Agreement with respect to that vessel.

(c) Application.—

(1) The owner or operator of a high seas fishing vessel may apply for a permit under this section by completing an application form prescribed by the Secretary.

(2) The application form shall contain—

(A) the vessel's name, previous names (if known), official numbers, and port of record;

(B) the vessel's previous flags (if any);

(C) the vessel's International Radio Call Sign (if any);

(D) the names and addresses of the vessel's owners and operators;

(E) where and when the vessel was built;

(F) the type of vessel;

(G) the vessel's length; and

(H) any other information the Secretary requires for the purposes of implementing the Agreement.

(d) Conditions.—The Secretary shall establish such conditions and restrictions on each permit issued under this section as are necessary and appropriate to carry out the obligations of the United States under the Agreement, including but not limited to the following:

(1) The vessel shall be marked in accordance with the FAO Standard Specifications for the Marking and Identification of Fishing Vessels, or with regulations issued under section 305 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1855); and

(2) The permit holder shall report such information as the Secretary by regulation requires, including area of fishing operations and catch statistics. The Secretary shall promulgate regulations concerning conditions under which information submitted under this paragraph may be released.

(e) Fees.—

(1) The Secretary shall by regulation establish the level of fees to be charged for permits issued under this section. The amount of any fee charged for a permit issued under this section shall not exceed the administrative costs incurred in issuing such permits. The permitting fee may be in addition to any fee required under any regional permitting regime applicable to high seas fishing vessels.

(2) The fees authorized by paragraph (1) shall be collected and credited to the Operations, Research and Facilities account of the National Oceanic and Atmospheric Administration. Fees collected under this subsection shall be available for the necessary expenses of the National Oceanic and Atmospheric Administration in implementing this Act, and shall remain available until expended.

(f) Duration.—A permit issued under this section is valid for 5 years. A permit issued under this section is void in the event the vessel is no longer eligible for United States documentation, such documentation is revoked or denied, or the vessel is deleted from such documentation.

SEC. 105. RESPONSIBILITIES OF THE SECRETARY.

(a) Record.—The Secretary shall maintain an automated file or record of high seas fishing vessels issued permits under section 104, including all information submitted under section 104(c)(2).

(b) Information To FAO.—The Secretary, in cooperation with the Secretary of State and the Secretary of the department in which the Coast Guard is operating, shall—

(1) make available to FAO information contained in the record maintained under subsection (a);

(2) promptly notify FAO of changes in such information;

(3) promptly notify FAO of additions to or deletions from the record, and the reason for any deletion;

(4) convey to FAO information relating to any permit granted under section 104(b)(3), including the vessel's identity, owner or operator, and factors relevant to the Secretary's determination to issue the permit;

(5) report promptly to FAO all relevant information regarding any activities of high seas fishing vessels that undermine the effectiveness of international conservation and management measures, including the identity of the vessels and any sanctions imposed; and

(6) provide the FAO a summary of evidence regarding any activities of foreign vessels that undermine the effectiveness of international conservation and management measures.

(c) Information to Flag Nations.—If the Secretary, in cooperation with the Secretary of State and the Secretary of the department in which the Coast Guard is operating, has reasonable grounds to believe that a foreign vessel has engaged in activities undermining the effectiveness of international conservation and management measures, the Secretary shall—

(1) provide to the flag nation information, including appropriate evidentiary material, relating to those activities; and

(2) when such foreign vessel is voluntarily in a United States port, promptly notify the flag nation and, if requested by the flag nation, make arrangements to undertake such lawful investigatory measures as may be considered necessary to establish whether the vessel has been used contrary to the provisions of the Agreement.

(d) REGULATIONS.—The Secretary, after consultation with the Secretary of State and the Secretary of the department in which the Coast Guard is operating, may promulgate such regulations, in accordance with section 553 of title 5, United States Code, as may be necessary to carry out the purposes of the Agreement and this title. The Secretary shall coordinate such regulations with any other entities regulating high seas fishing vessels, in order to minimize duplication of permit application and reporting requirements. To the extent practicable, such regulations shall also be consistent with regulations implementing fishery management plans under the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).

(e) NOTICE OF INTERNATIONAL CONSERVATION AND MANAGEMENT MEASURES.—The Secretary, in consultation with the Secretary of State, shall publish in the Federal Register, from time to time, a notice listing international conservation and management measures recognized by the United States.

SEC. 106. UNLAWFUL ACTIVITIES.

It is unlawful for any person subject to the jurisdiction of the United States—

(1) to use a high seas fishing vessel on the high seas in contravention of international conservation and management measures described in section 105(e).

(2) to use a high seas fishing vessel on the high seas, unless the vessel has on board a valid permit issued under section 104;

(3) to use a high seas fishing vessel in violation of the conditions or restrictions of a permit issued under section 104;

(4) to falsify any information required to be reported, communicated, or recorded pursuant to this title or any regulation issued under this title, or to fail to submit in a timely fashion any required information, or to fail to report to the Secretary immediately any change in circumstances that has the effect of rendering any such information false, incomplete, or misleading;

(5) to refuse to permit an authorized officer to board a high seas fishing vessel subject to such person's control for purposes of conducting any search or inspection in connection with the enforcement of this title or any regulation issued under this title;

(6) to forcibly assault, resist, oppose, impede, intimidate, or interfere with an authorized officer in the conduct of any search or inspection described in paragraph (5);

(7) to resist a lawful arrest or detention for any action prohibited by this section;

(8) to interfere with, delay, or prevent, by any means, the apprehension, arrest, or detection of another person, knowing that such person has committed any act prohibited by this section;

(9) to ship, transport, offer for sale, sell, purchase, import, export, or have custody, control, or possession of, any living marine resource taken or retained in violation of this title or any regulation or permit issued under this title; or

(10) to violate any provision of this title or any regulation or permit issued under this title.

SEC. 107. ENFORCEMENT PROVISIONS.

(a) DUTIES OF SECRETARIES.—This title shall be enforced by the Secretary of Commerce and the Secretary of the department in which the Coast Guard is operating. Such Secretaries may by agreement utilize, on a reimbursable basis or otherwise, the personnel, services, equipment (including aircraft and vessels), and facilities of any other Federal agency, or of any State agency, in the performance of such duties. Such Secretaries shall, and the head of any Federal or State agency that has entered into an agreement with either such Secretary under this section may (if the agreement so provides), authorize officers to enforce the provisions of this title or any regulation or permit issued under this title.

(b) DISTRICT COURT JURISDICTION.—The district courts of the United States shall have exclusive jurisdiction over any case or controversy arising under the provisions of this title. In the case of Guam, and any Commonwealth, territory, or possession of the United States in the Pacific Ocean, the appropriate court is the United States District Court for the District of Guam, except that in the case of American Samoa, the appropriate court is the United States District Court for the District of Hawaii.

(c) POWERS OF ENFORCEMENT OFFICERS.—

(1) Any officer who is authorized under subsection (a) to enforce the provisions of this title may—

(A) with or without a warrant or other process—

(i) arrest any person, if the officer has reasonable cause to believe that such person has committed an act prohibited by paragraph (6), (7), (8), or (9) of section 106;

(ii) board, and search or inspect, any high seas fishing vessel;

(iii) seize any high seas fishing vessel (together with its fishing gear, furniture, appurtenances, stores, and cargo) used or employed in, or with respect to which it reasonably appears that such vessel was used or employed in, the violation of any provision of this title or any regulation or permit issued under this title;

(iv) seize any living marine resource (wherever found) taken or retained, in any manner, in connection with or as a result of the commission of any act prohibited by section 106;

(v) seize any other evidence related to any violation of any provision of this title or any regulation or permit issued under this title;

(B) execute any warrant or other process issued by any court of competent jurisdiction; and

(C) exercise any other lawful authority.

(2) Subject to the direction of the Secretary, a person charged with law enforcement responsibilities by the Secretary who is performing a duty related to enforcement of a law regarding fisheries or other marine resources may make an arrest without a warrant for an offense against the United States committed in his presence, or for a felony cognizable under the laws of the United States, if he has reasonable grounds to believe that the person to be arrested has committed or is committing a felony.

(d) ISSUANCE OF CITATIONS.—If any authorized officer finds that a high seas fishing vessel is operating or has been operated in violation of any provision of this title, such officer may issue a citation to the owner or operator of such vessel in lieu of proceeding under subsection (c). If a permit has been issued pursuant to this title for such vessel, such officer shall note the issuance of any citation under this subsection, including the date thereof and the reason therefor, on the permit. The Secretary shall maintain a record of all citations issued pursuant to this subsection.

(e) LIABILITY FOR COSTS.—Any person assessed a civil penalty for, or convicted of, any violation of this Act shall be liable for the cost incurred in storage, care, and maintenance of any living marine resource or other property seized in connection with the violation.

SEC. 108. CIVIL PENALTIES AND PERMIT SANCTIONS.

(a) CIVIL PENALTIES.—

(1) Any person who is found by the Secretary, after notice and opportunity for a hearing in accordance with section 554 of title 5, United States Code, to have committed an act prohibited by section 106 shall be liable to the United States for a civil penalty. The amount of the civil penalty shall not exceed $100,000 for each violation. Each day of a continuing violation shall constitute a separate offense. The amount of such civil penalty shall be assessed by the Secretary by written notice. In determining the amount of such penalty, the Secretary shall take into account the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the violation, the degree of culpability, any history of prior offenses, and such other matters as justice may require.

(2) The Secretary may compromise, modify, or remit, with or without conditions, any civil penalty that is subject to imposition or that has been imposed under this section.

(b) PERMIT SANCTIONS.—

(1) In any case in which—

(A) a vessel of the United States has been used in the commission of an act prohibited under section 106;

(B) the owner or operator of a vessel or any other person who has been issued or has applied for a permit under section 104 has acted in violation of section 106; or

(C) any amount in settlement of a civil forfeiture imposed on a high seas fishing vessel or other property, or any civil penalty or criminal fine imposed on a high seas fishing vessel or on an owner or operator of such a vessel or on any other person who has been issued or has applied for a permit under any fishery resource statute enforced by the Secretary, has not been paid and is overdue, the Secretary may—

(i) revoke any permit issued to or applied for by such vessel or person under this title, with or without prejudice to the issuance of subsequent permits;

(ii) suspend such permit for a period of time considered by the Secretary to be appropriate;

(iii) deny such permit; or

(iv) impose additional conditions and restrictions on such permit.

(2) In imposing a sanction under this subsection, the Secretary shall take into account—

(A) the nature, circumstances, extent, and gravity of the prohibited acts for which the sanction is imposed; and

(B) with respect to the violator, the degree of culpability, any history of prior offenses, and such other matters as justice may require.

(3) Transfer of ownership of a high seas fishing vessel, by sale or otherwise, shall not extinguish any permit sanction that is in effect or is pending at the , and Mr. @ TIME OF TRANSFER OF OWNERSHIP. BEFORE EXECUTING THE TRANSFER OF OWNERSHIP OF A VESSEL, BY SALE OR OTHERWISE, THE OWNER SHALL DISCLOSE IN WRITING TO THE PROSPECTIVE TRANSFEREE THE EXISTENCE OF ANY PERMIT SANCTION THAT WILL BE IN EFFECT OR PENDING WITH RESPECT TO THE VESSEL AT THE TIME OF THE

TRANSFER. THE SECRETARY MAY WAIVE OR COMPROMISE A SANCTION IN THE CASE OF A TRANSFER PURSUANT TO COURT ORDER.

(4) In the case of any permit that is suspended under this subsection for nonpayment of a civil penalty or criminal fine, the Secretary shall reinstate the permit upon payment of the penalty or fine and interest thereon at the prevailing rate.

(5) No sanctions shall be imposed under this subsection unless there has been prior opportunity for a hearing on the facts underlying the violation for which the sanction is imposed, either in conjunction with a civil penalty proceeding under this section or otherwise.

(c) HEARING.—For the purposes of conducting any hearing under this section, the Secretary may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and may administer oaths. Witnesses summoned shall be paid the same fees and mileage that are paid to witnesses in the courts of the United States. In case of contempt or refusal to obey a subpoena served upon any person pursuant to this subsection, the district court of the United States for any district in which such person is found, resides, or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the Secretary or to appear and produce documents before the Secretary, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(d) JUDICIAL REVIEW.—Any person against whom a civil penalty is assessed under subsection (a) or against whose vessel a permit sanction is imposed under subsection (b) (other than a permit suspension for nonpayment of penalty or fine) may obtain review thereof in the United States district court for the appropriate district by filing a complaint against the Secretary in such court within 30 days from the date of such penalty or sanction. The Secretary shall promptly file in such court a certified copy of the record upon which such penalty or sanction was imposed, as provided in section 2112 of title 28, United States Code. The findings and order of the Secretary shall be set aside by such court if they are not found to be supported by substantial evidence, as provided in section 706(2) of title 5, United States Code.

(e) COLLECTION.—

(1) If any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order, or after the appropriate court has entered final judgment in favor of the Secretary, the matter shall be referred to the Attorney General, who shall recover the amount assessed in any appropriate district court of the United States. In such action the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

(2) A high seas fishing vessel (including its fishing gear, furniture, appurtenances, stores, and cargo) used in the commission of an act prohibited by section 106 shall be liable in rem for any civil penalty assessed for such violation under subsection (a) and may be proceeded against in any district court of the United States having jurisdiction thereof. Such penalty shall constitute a maritime lien on such vessel that may be recovered in an action in rem in the district court of the United States having jurisdiction over the vessel.

SEC. 109. CRIMINAL OFFENSES.

(a) OFFENSES.—A person is guilty of an offense if the person commits any act prohibited by paragraph (6), (7), (8), or (9) of section 106.

(b) PUNISHMENT.—Any offense described in subsection (a) is a class A misdemeanor punishable by a fine under title 18, United States Code, or imprisonment for not more than one year, or both; except that if in the commission of any offense the person uses a dangerous weapon, engages in conduct that causes bodily injury to any authorized officer, or places any such officer in fear of imminent bodily injury, the offense is a felony punishable by a fine under title 18, United States Code, or imprisonment for not more than 10 years, or both.

SEC. 110. FORFEITURES.

(a) IN GENERAL.—Any high seas fishing vessel (including its fishing gear, furniture, appurtenances, stores, and cargo) used, and any living marine resources (or the fair market value thereof) taken or retained, in any manner, in connection with or as a result of the commission of any act prohibited by section 106 (other than an act for which the issuance of a citation under section 107 is a sufficient sanction) shall be subject to forfeiture to the United States. All or part of such vessel may, and all such living marine resources (or the fair market value thereof) shall, be forfeited to the United States pursuant to a civil proceeding under this section.

(b) JURISDICTION OF DISTRICT COURTS.—Any district court of the United States shall have jurisdiction, upon application of the Attorney General on behalf of the United States, to order any forfeiture authorized under subsection (a) and any action provided for under subsection (d).

(c) JUDGMENT.—If a judgment is entered for the United States in a civil forfeiture proceeding under this section, the Attorney General may seize any property or other interest declared forfeited to the United States, which has not previously been seized pursuant to this title or for which security has not previously been obtained. The provisions of the customs laws relating to—

(1) the seizure, forfeiture, and condemnation of property for violation of the customs law;

(2) the disposition of such property or the proceeds from the sale thereof; and

(3) the remission or mitigation of any such forfeiture;

shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under the provisions of this title, unless such provisions are inconsistent with the purposes, policy, and provisions of this title.

(d) PROCEDURE.—

(1) Any officer authorized to serve any process in rem that is issued by a court under section 107(b) shall—

(A) stay the execution of such process; or

(B) discharge any living marine resources seized pursuant to such process;

upon receipt of a satisfactory bond or other security from any person claiming such property. Such bond or other security shall be conditioned upon such person delivering such property to the appropriate court upon order thereof, without any impairment of its value, or paying the monetary value of such property pursuant to an order of such court. Judgment shall be recoverable on such bond or other security against both the principal and any sureties in the event that any condition thereof is breached, as determined by such court.

(2) Any living marine resources seized pursuant to this title may be sold, subject to the approval of the appropriate court, for not less than the fair market value thereof. The proceeds of any such sale shall be deposited with such court pending the disposition of the matter involved.

(e) REBUTTABLE PRESUMPTION.—For purposes of this section, all living marine resources found on board a high seas fishing vessel and which are seized in connection with an act prohibited by section 106 are presumed to have been taken or retained in violation of this title, but the presumption can be rebutted by an appropriate showing of evidence to the contrary.

SEC. 111. EFFECTIVE DATE.

This title shall take effect 120 days after the date of enactment of this Act.

TITLE II—IMPLEMENTATION OF CONVENTION ON FUTURE MULTILATERAL COOPERATION IN THE NORTHWEST ATLANTIC FISHERIES

SEC. 201. SHORT TITLE.

This title may be cited as the "Northwest Atlantic Fisheries Convention Act of 1995".

SEC. 202. REPRESENTATION OF UNITED STATES UNDER CONVENTION.

(a) COMMISSIONERS.—

(1) APPOINTMENTS, GENERALLY.—The Secretary shall appoint not more than 3 individuals to serve as the representatives of the United States on the General Council and the Fisheries Commission, who shall each—

(A) be known as a "United States Commissioner to the Northwest Atlantic Fisheries Organization"; and

(B) serve at the pleasure of the Secretary.

(2) REQUIREMENTS FOR APPOINTMENTS.—

(A) The Secretary shall ensure that of the individuals serving as Commissioners—

(i) at least 1 is appointed from among representatives of the commercial fishing industry;

(ii) 1 (but no more than 1) is an official of the Government; and

(iii) 1, other than the individual appointed under clause (ii), is a voting member of the New England Fishery Management Council.

(B) The Secretary may not appoint as a Commissioner an individual unless the individual is knowledgeable and experienced concerning the fishery resources to which the Convention applies.

(3) TERMS.—

(A) The term of an individual appointed as a Commissioner—

(i) shall be specified by the Secretary at the time of appointment; and

(ii) may not exceed 4 years.

(B) An individual who is not a Government official may not serve more than 2 consecutive terms as a Commissioner.

(b) ALTERNATE COMMISSIONERS.—

(1) APPOINTMENT.—The Secretary may, for any anticipated absence of a duly appointed Commissioner at a meeting of the General Council or the Fisheries Commission, designate an individual to serve as an Alternate Commissioner.

(2) FUNCTIONS.—An Alternate Commissioner may exercise all powers and perform all duties of the Commissioner for whom the Alternate Commissioner is designated, at any meeting of the General Council or the Fisheries Commission for which the Alternate Commissioner is designated.

(c) REPRESENTATIVES.—

(1) APPOINTMENT.—The Secretary shall appoint not more than 3 individuals to serve as the representatives of the United States on the Scientific Council, who shall each be known as a "United States Representative to the Northwest Atlantic Fisheries Organization Scientific Council".

(2) ELIGIBILITY FOR APPOINTMENT.—

(A) The Secretary may not appoint an individual as a Representative unless the individual is knowledgeable and experienced concerning the scientific issues dealt with by the Scientific Council.

(B) The Secretary shall appoint as a Representative at least 1 individual who is an official of the Government.

(3) TERM.—An individual appointed as a Representative—

(A) shall serve for a term of not to exceed 4 years, as specified by the Secretary at the time of appointment;

(B) may be reappointed; and

(C) shall serve at the pleasure of the Secretary.

(d) ALTERNATE REPRESENTATIVES.—

(1) APPOINTMENT.—The Secretary may, for any anticipated absence of a duly appointed Representative at a meeting of the Scientific Council, designate an individual to serve as an Alternate Representative.

(2) FUNCTIONS.—An Alternate Representative may exercise all powers and perform all duties of the Representative for whom the Alternate Representative is designated, at any meeting of the Scientific Council for which the Alternate Representative is designated.

(e) EXPERTS AND ADVISERS.—The Commissioners, Alternate Commissioners, Representatives, and Alternate Representatives may be accompanied at meetings of the Organization by experts and advisers.

(f) COORDINATION AND CONSULTATION.—

(1) IN GENERAL.—In carrying out their functions under the Convention, Commissioners, Alternate Commissioners, Representatives, and Alternate Representatives shall—

(A) coordinate with the appropriate Regional Fishery Management Councils established by section 302 of the Magnuson Act (16 U.S.C. 1852); and

(B) consult with the committee established under section 208.

(2) RELATIONSHIP TO OTHER LAW.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to coordination and consultations under this subsection.

SEC. 203. REQUESTS FOR SCIENTIFIC ADVICE.

(a) RESTRICTION.—The Representatives may not make a request or specification described in subsection (b) (1) or (2), respectively, unless the Representatives have first—

(1) consulted with the appropriate Regional Fishery Management Councils; and

(2) received the consent of the Commissioners for that action.

(b) REQUESTS AND TERMS OF REFERENCE DESCRIBED.—The requests and specifications referred to in subsection (a) are, respectively—

(1) any request, under Article VII(1) of the Convention, that the Scientific Council consider and report on a question pertaining to the scientific basis for the management and conservation of fishery resources in waters under the jurisdiction of the United States within the Convention Area; and

(2) any specification, under Article VIII(2) of the Convention, of the terms of reference for the consideration of a question referred to the Scientific Council pursuant to Article VII(1) of the Convention.

SEC. 204. AUTHORITIES OF SECRETARY OF STATE WITH RESPECT TO CONVENTION.

The Secretary of State may, on behalf of the Government of the United States—

(1) receive and transmit reports, requests, recommendations, proposals, and other communications of and to the Organization and its subsidiary organs;

(2) object, or withdraw an objection, to the proposal of the Fisheries Commission;

(3) give or withdraw notice of intent not to be bound by a measure of the Fisheries Commission;

(4) object or withdraw an objection to an amendment to the Convention; and

(5) act upon, or refer to any other appropriate authority, any other communication referred to in paragraph (1).

SEC. 205. INTERAGENCY COOPERATION.

(a) AUTHORITIES OF SECRETARY.—In carrying out the provisions of the Convention and this title, the Secretary may arrange for cooperation with other agencies of the United States, the States, the New England and the Mid-Atlantic Fishery Management Councils, and private institutions and organizations.

(b) OTHER AGENCIES.—The head of any Federal agency may—

(1) cooperate in the conduct of scientific and other programs, and furnish facilities and personnel, for the purposes of assisting the Organization in carrying out its duties under the Convention; and

(2) accept reimbursement from the Organization for providing such services, facilities, and personnel.

SEC. 206. RULEMAKING.

The Secretary shall promulgate regulations as may be necessary to carry out the purposes and objectives of the Convention and this title. Any such regulation may be made applicable, as necessary, to all persons and all vessels subject to the jurisdiction of the United States, wherever located.

SEC. 207. PROHIBITED ACTS AND PENALTIES.

(a) PROHIBITION.—It is unlawful for any person or vessel that is subject to the jurisdiction of the United States—

(1) to violate any regulation issued under this title or any measure that is legally binding on the United States under the Convention;

(2) to refuse to permit any authorized enforcement officer to board a fishing vessel that is subject to the person's control for purposes of conducting any search or inspection in connection with the enforcement of this title, any regulation issued under this title, or any measure that is legally binding on the United States under the Convention;

(3) forcibly to assault, resist, oppose, impede, intimidate, or interfere with any authorized enforcement officer in the conduct of any search or inspection described in paragraph (2);

(4) to resist a lawful arrest for any act prohibited by this section;

(5) to ship, transport, offer for sale, sell, purchase, import, export, or have custody, control, or possession of, any fish taken or retained in violation of this section; or

(6) to interfere with, delay, or prevent, by any means, the apprehension or arrest of another person, knowing that the other person has committed an act prohibited by this section.

(b) CIVIL PENALTY.—Any person who commits any act that is unlawful under subsection (a) shall be liable to the United States for a civil penalty, or may be subject to a permit sanction, under section 308 of the Magnuson Act (16 U.S.C. 1858).

(c) CRIMINAL PENALTY.—Any person who commits an act that is unlawful under paragraph (2), (3), (4), or (6) of subsection (a) shall be guilty of an offense punishable under section 309(b) of the Magnuson Act (16 U.S.C. 1859(b)).

(d) CIVIL FORFEITURES.—

(1) IN GENERAL.—Any vessel (including its gear, furniture, appurtenances, stores, and cargo) used in the commission of an act that is unlawful under subsection (a), and any fish (or the fair market value thereof) taken or retained, in any manner, in connection with or as a result of the commission of any act that is unlawful under subsection (a), shall be subject to seizure and forfeiture as provided in section 310 of the Magnuson Act (16 U.S.C. 1860).

(2) DISPOSAL OF FISH.—Any fish seized pursuant to this title may be disposed of pursuant to the order of a court of competent jurisdiction, or, if perishable, in a manner prescribed by regulations issued by the Secretary.

(e) ENFORCEMENT.—The Secretary and the Secretary of the department in which the Coast Guard is operating shall enforce the provisions of this title and shall have the authority specified in sections 311 (a), (b)(1), and (c) of the Magnuson Act (16 U.S.C. 1861 (a), (b)(1), and (c)) for that purpose.

(f) JURISDICTION OF COURTS.—The district courts of the United States shall have exclusive jurisdiction over any case or controversy arising under this section and may, at any time—

(1) enter restraining orders or prohibitions;

(2) issue warrants, process in rem, or other process;

(3) prescribe and accept satisfactory bonds or other security; and

(4) take such other actions as are in the interests of justice.

SEC. 208. CONSULTATIVE COMMITTEE.

(a) ESTABLISHMENT.—The Secretary of State and the Secretary, shall jointly establish a consultative committee to advise the Secretaries on issues related to the Convention.

(b) MEMBERSHIP.—

(1) The membership of the Committee shall include representatives from the New England and Mid-Atlantic Fishery Management Councils, the States represented on those Councils, the Atlantic States Marine Fisheries Commission, the fishing industry, the seafood processing industry, and others knowledgeable and experienced in the conservation and management of fisheries in the Northwest Atlantic Ocean.

(2) TERMS AND REAPPOINTMENT.—Each member of the consultative committee shall serve for a term of two years and shall be eligible for reappointment.

(c) DUTIES OF THE COMMITTEE.—Members of the consultative committee may attend—

(1) all public meetings of the General Council or the Fisheries Commission;

(2) any other meetings to which they are invited by the General Council or the Fisheries Commission; and

(3) all nonexecutive meetings of the United States Commissioners.

(d) RELATIONSHIP TO OTHER LAW.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the consultative committee established under this section.

SEC. 209. ADMINISTRATIVE MATTERS.

(a) PROHIBITION ON COMPENSATION.—A person shall not receive any compensation from the Government by reason of any service of the person as—

(1) a Commissioner, Alternate Commissioner, Representative, or Alternative Representative;

(2) an expert or adviser authorized under section 202(e); or

(3) a member of the consultative committee established by section 208.

(b) TRAVEL AND EXPENSES.—The Secretary of State shall, subject to the availability of appropriations, pay all necessary travel and other expenses of persons described in subsection (a)(1) and of not more than six experts and advisers authorized under section 202(e) with respect to their actual performance of their official duties pursuant to this title, in accordance with the Federal Travel Regulations and sections 5701, 5702, 5704 through 5708, and 5731 of title 5, United States Code.

(c) STATUS AS FEDERAL EMPLOYEES.—A person shall not be considered to be a Federal employee by reason of any service of the person in a capacity described in subsection (a), except for purposes of injury compensation and tort claims liability under chapter 81 of title 5, United States Code, and chapter 17 of title 28, United States Code, respectively.

SEC. 210. DEFINITIONS.

In this title the following definitions apply:

(1) AUTHORIZED ENFORCEMENT OFFICER.—The term "authorized enforcement officer" means a person authorized to enforce this title, any regulation issued under this title, or any measure that is legally binding on the United States under the Convention.

(2) COMMISSIONER.—The term "Commissioner" means a United States Commissioner to the Northwest Atlantic Fisheries Organization appointed under section 202(a).

(3) CONVENTION.—The term "Convention" means the Convention on Future Multilateral Cooperation in the Northwest Atlantic Fisheries, done at Ottawa on October 24, 1978.

(4) FISHERIES COMMISSION.—The term "Fisheries Commission" means the Fisheries Commission provided for by Articles II, XI, XII, XIII, and XIV of the Convention.

(5) GENERAL COUNCIL.—The term "General Council" means the General Council provided for by Articles II, III, IV, and V of the Convention.

(6) MAGNUSON ACT.—The term "Magnuson Act" means the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).

(7) ORGANIZATION.—The term "Organization" means the Northwest Atlantic Fisheries Organization provided for by Article II of the Convention.

(8) PERSON.—The term "person" means any individual (whether or not a citizen or national of the United States), and any corporation, partnership, association, or other entity (whether or not organized or existing under the laws of any State).

(9) REPRESENTATIVE.—The term "Representative" means a United States Representative to the Northwest Atlantic Fisheries Scientific Council appointed under section 202(c).

(10) SCIENTIFIC COUNCIL.—The term "Scientific Council" means the Scientific Council provided for by Articles II, VI, VII, VIII, IX, and X of the Convention.

(11) SECRETARY.—The term "Secretary" means the Secretary of Commerce.

SEC. 211. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this title, including use for payment as the United States contribution to the Organization as provided in Article XVI of the Convention, $500,000 for each of the fiscal years 1995, 1996, 1997, and 1998.

TITLE III—ATLANTIC TUNAS CONVENTION ACT

SEC. 301. SHORT TITLE.

This title may be cited as the "Atlantic Tunas Convention Authorization Act of 1995".

SEC. 302. RESEARCH AND MONITORING ACTIVITIES.

(a) REPORT TO CONGRESS.—The Secretary of Commerce shall, within 90 days after the date of enactment of this Act, submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Resources of the House of Representatives—

(1) identifying current governmental and nongovernmental research and monitoring activities on Atlantic bluefin tuna and other highly migratory species;

(2) describing the personnel and budgetary resources allocated to such activities; and

(3) explaining how each activity contributes to the conservation and management of Atlantic bluefin tuna and other highly migratory species.

(b) RESEARCH AND MONITORING PROGRAM.—Section 3 of the Act of September 4, 1980 (16 U.S.C. 971i) is amended—

(1) by amending the section heading to read as follows:

"SEC. 3. RESEARCH ON ATLANTIC HIGHLY MIGRATORY SPECIES.";

(2) by striking the last sentence;

(3) by inserting "(a) BIENNIAL REPORT ON BLUEFIN TUNA.—" before "The Secretary of Commerce shall"; and

(4) by adding at the end the following:

"(b) HIGHLY MIGRATORY SPECIES RESEARCH AND MONITORING.—

"(1) Within 6 months after the date of enactment of the Atlantic Tunas Convention Authorization Act of 1995, the Secretary of Commerce, in cooperation with the advisory committee established under section 4 of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971b) and in consultation with the United States Commissioners on the International Commission for the Conservation of Atlantic Tunas (referred to elsewhere in this section as the 'Commission') and the Secretary of State, shall develop and implement a comprehensive research and monitoring program to support the conservation and management of Atlantic bluefin tuna and other highly migratory species that shall—

"(A) identify and define the range of stocks of highly migratory species in the Atlantic Ocean, including Atlantic bluefin tuna; and

"(B) provide for appropriate participation by nations which are members of the Commission.

"(2) The program shall provide for, but not be limited to—

"(A) statistically designed cooperative tagging studies;

"(B) genetic and biochemical stock analyses;

"(C) population censuses carried out through aerial surveys of fishing grounds and known migration areas;

"(D) adequate observer coverage and port sampling of commercial and recreational fishing activity;

"(E) collection of comparable real-time data on commercial and recreational catches and landings through the use of permits, logbooks, landing reports for charter operations and fishing tournaments, and programs to provide reliable reporting of the catch by private anglers;

"(F) studies of the life history parameters of Atlantic bluefin tuna and other highly migratory species;

"(G) integration of data from all sources and the preparation of data bases to support management decisions; and

"(H) other research as necessary.

"(3) In developing a program under this section, the Secretary shall—

"(A) ensure that personnel and resources of each regional research center shall have substantial participation in the stock assessments and monitoring of highly migratory species that occur in the region;

"(B) provide for comparable monitoring of all United States fishermen to which the Atlantic Tunas Convention Act applies with respect to effort and species composition of catch and discards;

"(C) consult with relevant Federal and State agencies, scientific and technical experts, commercial and recreational fishermen, and other interested persons, public and private, and shall publish a proposed plan in the Federal Register for the purpose of receiving public comment on the plan; and

"(D) through the Secretary of State, encourage other member nations to adopt a similar program.".

SEC. 303. DEFINITIONS.

Section 2 of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971) is amended—

(1) by designating paragraphs (3) through (10) as (4) through (11), respectively, and inserting after paragraph (2) the following;

"(3) The term 'conservation recommendation' means any recommendation of the Commission made pursuant to article VIII of the Convention and acted upon favorably by the Secretary of State under section 5(a) of this Act.";

(2) by striking paragraph (5), as redesignated, and inserting the following:

"(4) The term 'exclusive economic zone' means an exclusive economic zone as defined in section 3 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1802)."; and

(3) by striking "fisheries zone" wherever it appears in the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971 et seq.) and inserting "exclusive economic zone".

SEC. 304. ADVISORY COMMITTEE PROCEDURES.

Section 4 of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971b) is amended—

(1) by inserting "(a)" before "There"; and

(2) by adding at the end the following:

"(b)(1) A majority of the members of the advisory committee shall constitute a quorum, but one or more such members designated by the advisory committee may hold meetings to provide for public participation and to discuss measures relating to the United States implementation of Commission recommendations.

"(2) The advisory committee shall elect a Chairman for a 2-year term from among its members.

"(3) The advisory committee shall meet at appropriate times and places at least twice a year, at the call of the Chairman or upon the request of the majority of its voting members, the United States Commissioners, the Secretary, or the Secretary of State. Meetings of the advisory committee, except when in executive session, shall be open to the public, and prior notice of meetings shall be made public in a timely fashion.

"(4)(A) The Secretary shall provide to the advisory committee in a timely manner such administrative and technical support services as are necessary for the effective functioning of the committee.

"(B) The Secretary and the Secretary of State shall furnish the advisory committee with relevant information concerning fisheries and international fishery agreements.

"(5) The advisory committee shall determine its organization, and prescribe its practices and procedures for carrying out its functions under this Act, the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.), and the Convention. The advisory committee shall publish and make available to the public a statement of its organization, practices, and procedures.

"(6) The advisory committee shall, to the maximum extent practicable, consist of an equitable balance among the various groups concerned with the fisheries covered by the Convention and shall not be subject to the Federal Advisory Committee Act (5 U.S.C. App.).".

SEC. 305. REGULATIONS AND ENFORCEMENT OF CONVENTION.

Section 6(c) of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971d(c)) is amended—

(1) by inserting "AND OTHER MEASURES" after "REGULATIONS" in the section caption;

(2) by inserting "or fishing mortality level" after "quota of fish" in the last sentence of paragraph (3); and

(3) by inserting the following after paragraph (5):

"(6) IDENTIFICATION AND NOTIFICATION.—

"(A) Not later than July 1, 1996, and annually thereafter, the Secretary, in consultation with the Secretary of State, the Commissioners, and the advisory committee, shall—

"(i) identify those nations whose fishing vessels are fishing, or have fished during the preceding calendar year, within the convention area in a manner or under circumstances that diminish the effectiveness of a conservation recommendation;

"(ii) notify the President and the nation so identified, including an explanation of the reasons therefor; and

"(iii) publish a list of those Nations identified under subparagraph (A).

In identifying those Nations, the Secretary shall consider, based on the best available information, whether those Nations have measures in place for reporting, monitoring, and enforcement, and whether those measures diminish the effectiveness of any conservation recommendation.

"(7) CONSULTATION.—Not later than 30 days after a Nation is notified under paragraph (6), the President may enter into consultations with the government of that Nation for the purpose of obtaining an agreement that will—

"(A) effect the immediate termination and prevent the resumption of any fishing operation by vessels of that Nation within the Convention area which is conducted in a manner or under circumstances that diminish the effectiveness of the conservation recommendation;

"(B) when practicable, require actions by that Nation, or vessels of that Nation, to mitigate the negative impacts of fishing operations on the effectiveness of the conservation recommendation involved, including but not limited to, the imposition of subsequent-year deductions for quota overages; and

"(C) result in the establishment, if necessary, by such nation of reporting, monitoring, and enforcement measures that are adequate to ensure the effectiveness of conservation recommendations.".

SEC. 306. FINES AND PERMIT SANCTIONS.

Section 7(e) of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971(e)) is amended to read as follows:

"(e) The civil penalty and permit sanctions of section 308 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1858) are hereby made applicable to violations of this section as if they were violations of section 307 of that Act.".

SEC. 307. AUTHORIZATION OF APPROPRIATIONS.

Section 10 of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971h) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 10. There are authorized to be appropriated to carry out this Act, including use for payment of the United States share of the joint expenses of the Commission as provided in article X of the Convention, the following sums:

"(1) For fiscal year 1995, $4,103,000, of which $50,000 are authorized in the aggregate for the advisory committee established under section 4 and the species working groups established under section 4A, and $2,890,000 are authorized for research activities under this Act and the Act of September 4, 1980 (16 U.S.C. 971i).

"(2) For fiscal year 1996, $5,453,000, of which $50,000 are authorized in the aggregate for such advisory committee and such working groups, and $4,240,000 are authorized for such research activities.

"(3) For fiscal year 1997, $5,465,000 of which $62,000 are authorized in the aggregate for such advisory committee and such working groups, and $4,240,000 are authorized for such research activities.".

"(4) For fiscal year 1998, $5,465,000 of which $75,000 are authorized in the aggregate for such advisory committee and such working groups, and $4,240,000 are authorized for such research activities.".

SEC. 308. REPORT AND SAVINGS CLAUSE.

The Atlantic Tuna Convention Act of 1975 (16 U.S.C. 971 et seq.) is amended by adding at the end thereof the following:

"§ 11. Annual report

"Not later than April 1, 1996, and annually thereafter, the Secretary shall prepare and transmit to the Committee on Resources of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report, that—

"(1) details for the previous 10-year period the catches and exports to the United States of highly migratory species (including tunas, swordfish, marlin and sharks) from nations fishing on Atlantic stocks of such species that are subject to management by the Commission;

"(2) identifies those fishing nations whose harvests are inconsistent with conservation and management recommendations of the Commission;

"(3) describes reporting requirements established by the Secretary to ensure that imported fish products are in compliance with all international management measures, including minimum size requirements, established by the Commission and other international fishery organizations to which the United States is a party; and

"(4) describes actions taken by the Secretary under section 6.

"§ 12. Savings clause

"Nothing in this Act shall have the effect of diminishing the rights and obligations of any Nation under Article VIII(3) of the Convention.".

SEC. 309. MANAGEMENT OF ATLANTIC YELLOWFIN TUNA.

(a) Not later than 90 days after the date of the enactment of this Act, the Secretary of Commerce in accordance with this section shall publish a preliminary determination of the level of the United States recreational and commercial catch of Atlantic yellowfin tuna on an annual basis since 1980. The Secretary shall publish a preliminary determination in the Federal Register for comment for a period not to exceed 60 days. The Secretary shall publish a final determination not later than 140 days from the date of the enactment of this section.

(b) Not later than July 1, 1996, the Secretary of Commerce shall implement the recommendations of International Commission for the Conservation of Atlantic Tunas regarding yellowfin tuna made pursuant to article VIII of the International Convention for the Conservation of Atlantic Tunas and acted upon favorably by the Secretary of State under section 5(a) of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971c(a)).

SEC. 310. STUDY OF BLUEFIN TUNA REGULATIONS.

Not later than 270 days after the date of enactment of this Act, the Secretary of Commerce shall submit to the Committee on Commerce, Science and Transportation of the Senate and to the Committee on Resources of the House of Representatives a report on the historic rationale, effectiveness, and biological and economic efficiency of existing bluefin tuna regulations for United States Atlantic fisheries. Specifically, the biological rationale for each regional and category allocation, including directed and incidental categories, should be described in light of the average size, age, and maturity of bluefin tuna caught in each fishery and the effect of this harvest on stock rebuilding and sustainable yield. The report should examine the history and evaluate the level of wasteful discarding, and evaluate the effectiveness of non-quota regulations at constraining harvests within regions. Further, comments should be provided on levels of participation in specific fisheries in terms of vessels and trips, enforcement implications, and the importance of monitoring information provided by these allocations on the precision of the stock assessment estimates.

SEC. 311. SENSE OF THE CONGRESS WITH RESPECT TO ICCAT NEGOTIATIONS.

(a) SHARING OF CONSERVATION BURDEN.—It is the sense of the Congress that in future negotiations of the International Commission for the Conservation of Atlantic Tunas (hereafter in this section referred to as "ICATT"), the Secretary of Commerce shall ensure that the conservation actions recommended by international commissions and implemented by the Secretary for United States commercial and recreational fishermen provide fair and equitable sharing of the conservation burden among all contracting harvesters in negotiations with those commissions.

(b) ENFORCEMENT PROVISIONS.—It is further the sense of the Congress that, during 1995 ICCAT negotiations on swordfish and other Highly Migratory Species managed by ICCAT, the Congress encourages the United States Commissioners to add enforcement provisions similar to those applicable to bluefin tuna.

(c) ENHANCED MONITORING.—It is further the sense of the Congress that the National Oceanic and Atmospheric Administration and the United States Customs Service should enhance monitoring activities to ascertain what specific stocks are being imported into the United States and the country of origin.

(d) MULTILATERAL ENFORCEMENT PROCESS.—It is further the sense of the Congress that the United States Commissioners should pursue as a priority the establishment and implementation prior to December 31, 1996, an effective multilateral process that will enable ICCAT nations to enforce the conservation recommendations of the Commission.

TITLE IV—FISHERMEN'S PROTECTIVE ACT

SEC. 401. FINDINGS.

The Congress finds that—

(1) customary international law and the United Nations Convention on the Law of the Sea guarantee the right of passage, including innocent passage, to vessels through the waters commonly referred to as the "Inside Passage" off the Pacific Coast of Canada;

(2) in 1994 Canada required all commercial fishing vessels of the United States to pay 1,500 Canadian dollars to obtain a "license which authorizes transit" through the Inside Passage;

(3) this action was inconsistent with international law, including the United Nations Convention on the Law of the Sea, and, in

particular, Article 26 of that Convention, which specifically prohibits such fees, and threatened the safety of United States commercial fishermen who sought to avoid the fee by traveling in less protected waters;

(4) the Fishermen's Protective Act of 1967 provides for the reimbursement of vessel owners who are forced to pay a license fee to secure the release of a vessel which has been seized, but does not permit reimbursement of a fee paid by the owner in advance in order to prevent a seizure;

(5) Canada required that the license fee be paid in person in 2 ports on the Pacific Coast of Canada, or in advance by mail;

(6) significant expense and delay was incurred by commercial fishing vessels of the United States that had to travel from the point of seizure back to one of those ports in order to pay the license fee required by Canada, and the costs of that travel and delay cannot be reimbursed under the Fishermen's Protective Act;

(7) the Fishermen's Protective Act of 1967 should be amended to permit vessel owners to be reimbursed for fees required by a foreign government to be paid in advance in order to navigate in the waters of that foreign country if the United States considers that fee to be inconsistent with international law;

(8) the Secretary of State should seek to recover from Canada any amounts paid by the United States to reimburse vessel owners who paid the transit license fee;

(9) the United States should review its current policy with respect to anchorage by commercial fishing vessels of Canada in waters of the United States off Alaska, including waters in and near the Dixon Entrance, and should accord such vessels the same treatment that commercial fishing vessels of the United States are accorded for anchorage in the waters of Canada off British Columbia;

(10) the President should ensure that, consistent with international law, the United States Coast Guard has available adequate resources in the Pacific Northwest and Alaska to provide for the safety of United States citizens, the enforcement of United States law, and to protect the rights of the United States and keep the peace among vessels operating in disputed waters;

(11) the President should continue to review all agreements between the United States and Canada to identify other actions that may be taken to convince Canada that any reinstatement of the transit license fee would be against Canada's long-term interests, and should immediately implement any actions which the President deems appropriate if Canada reinstates the fee;

(12) the President should continue to convey to Canada in the strongest terms that the United States will not now, nor at any time in the future, tolerate any action by Canada which would impede or otherwise restrict the right of passage of vessels of the United States in a manner inconsistent with international law; and

(13) the United States should continue its efforts to seek expeditious agreement with Canada on appropriate fishery conservation and management measures that can be implemented through the Pacific Salmon Treaty to address issues of mutual concern.

SEC. 402. AMENDMENT TO THE FISHERMEN'S PROTECTIVE ACT OF 1967.

(a) The Fishermen's Protective Act of 1967 (22 U.S.C. 1971 et seq.) is amended by adding at the end the following new section:

"Sec. 11. (a) In any case on or after June 15, 1994, in which a vessel of the United States exercising its right of passage is charged a fee by the government of a foreign country to engage in transit passage between points in the United States (including a point in the exclusive economic zone or in an area over which jurisdiction is in dispute), and such fee is regarded by the United States as being inconsistent with international law, the Secretary of State shall, subject to the availability of appropriated funds, reimburse the vessel owner for the amount of any such fee paid under protest.

"(b) In seeking such reimbursement, the vessel owner shall provide, together with such other information as the Secretary of State may require—

"(1) a copy of the receipt for payment;

"(2) an affidavit attesting that the owner or the owner's agent paid the fee under protest; and

"(3) a copy of the vessel's certificate of documentation.

"(c) Requests for reimbursement shall be made to the Secretary of State within 120 days after the date of payment of the fee, or within 90 days after the date of enactment of this section, whichever is later.

"(d) Such funds as may be necessary to meet the requirements of this section may be made available from the unobligated balance of previously appropriated funds remaining in the Fishermen's Protective Fund established under section 9. To the extent that requests for reimbursement under this section exceed such funds, there are authorized to be appropriated such sums as may be needed for reimbursements authorized under subsection (a), which shall be deposited in the Fishermen's Protective Fund established under section 9.

"(e) The Secretary of State shall take such action as the Secretary deems appropriate to make and collect claims against the foreign country imposing such fee for any amounts reimbursed under this section.

"(f) For purposes of this section, the term 'owner' includes any charterer of a vessel of the United States.".

(b) The Fishermen's Protective Act of 1967 (22 U.S.C. 1971 et seq.) is further amended by adding at the end the following:

"Sec. 12. (a) If the Secretary of State finds that the government of any nation imposes conditions on the operation or transit of United States fishing vessels which the United States regards as being inconsistent with international law or an international agreement, the Secretary of State shall certify that fact to the President.

"(b) Upon receipt of a certification under subsection (a), the President shall direct the heads of Federal agencies to impose similar conditions on the operation or transit of fishing vessels registered under the laws of the nation which has imposed conditions on United States fishing vessels.

"(c) For the purposes of this section, the term 'fishing vessel' has the meaning given that term in section 2101(11a) of title 46, United States Code.

"(d) It is the sense of the Congress that any action taken by any Federal agency under subsection (b) should be commensurate with any conditions certified by the Secretary of State under subsection (a).".

(c) Notwithstanding any other provision of law, the Secretary of State shall reimburse the owner of any vessel of the United States for costs incurred due to the seizure of such vessel in 1994 by Canada on the basis of a claim to jurisdiction over sedentary species which was not recognized by the United States at the time of such seizure. Any such reimbursable under section 3 of the Fishermen's Protective Act of 1967 (22 U.S.C. 1973), legal fees and travel costs incurred by the owner of any such vessel that were necessary to secure the prompt release of the vessel and crew. Total reimbursements under this subsection may not exceed $25,000 and may be made available from the unobligated balances of previously appropriated funds remaining in the Fishermen's Protective Fund established under section 9 of the Fishermen's Protective Act (22 U.S.C. 1979).

SEC. 403. Reauthorization.

(a) Section 7(c) of the Fishermen's Protective Act of 1967 (22 U.S.C. 1977(c)) is amended by striking the third sentence.

(b) Section 7(e) of the Fishermen's Protective Act of 1967 (22 U.S.C. 1977(e)) is amended by striking "October 1, 1993" and inserting "October 1, 2000".

SEC. 404. TECHNICAL CORRECTIONS.

(a)(1) Section 15(a) of Public Law 103–238 is amended by striking "April 1, 1994," and inserting "May 1, 1994.".

(2) The amendment made by paragraph (1) shall be effective on and after April 30, 1994.

(b) Section 803(13)(C) of Public Law 102–567 (16 U.S.C. 5002(13)(C)) is amended to read as follows:

"(C) any vessel supporting a vessel described in subparagraph (A) or (B).".

TITLE V—FISHERIES ENFORCEMENT IN CENTRAL SEA OF OKHOTSK

SEC. 501. SHORT TITLE.

This title may be cited as the "Sea of Okhotsk Fisheries Enforcement Act of 1995".

SEC. 502. FISHING PROHIBITION.

(a) Addition of Central Sea of Okhotsk.—Section 302 of the Central Bering Sea Fisheries Enforcement Act of 1992 (16 U.S.C. 1823 note) is amended by inserting "and the Central Sea of Okhotsk" after "Central Bering Sea".

(b) Definition.—Section 306 of such Act is amended—

(1) by redesignating paragraphs (2), (3), (4), (5), and (6) as paragraphs (3), (4), (5), (6), and (7), respectively; and

(2) by inserting after paragraph (1) the following:

"(2) Central Sea of Okhotsk.—The term 'Central Sea of Okhotsk' means the central Sea of Okhotsk area which is more than two hundred nautical miles seaward of the baseline from which the breadth of the territorial sea of the Russian Federation is measured.".

TITLE VI—DRIFTNET MORATORIUM

SEC. 601. SHORT TITLE.

This title may be cited as the "High Seas Driftnet Fishing Moratorium Protection Act".

SEC. 602. FINDINGS.

The Congress finds that—

(1) Congress has enacted and the President has signed into law numerous Acts to control or prohibit large-scale driftnet fishing both within the jurisdiction of the United States and beyond the exclusion economic zone of any nation, including the Driftnet Impacting Monitoring, Assessment, and Control Act of 1987 (Title IV, P.L. 100–220), the Driftnet Act Amendments of 1990 (P.L. 101–627), and the High Seas Driftnet Fisheries Enforcement Act (Title I, P.L. 102–582);

(2) the United States is a party to the Convention for the Prohibition of Fishing with Long Driftnets in the South Pacific, also known as the Wellington Convention;

(3) the General Assembly of the United Nations has adopted three resolutions and three decisions which established and reaffirm a global moratorium on large-scale driftnet fishing on the high seas, beginning with Resolution 44/225 in 1989 and most recently in Decision 48/445 in 1993;

(4) the General Assembly of the United Nations adopted these resolutions and decisions at the request of the United States and other concerned nations;

(5) the best scientific information demonstrates the wastefulness and potentially destructive impacts of large-scale driftnet fishing on living marine resources and seabirds; and

(6) Resolution 46/215 of the United Nations General Assembly calls on all nations, both individually and collectively, to prevent large-scale driftnet fishing on the high seas.

SEC. 603. PROHIBITION.

The United States, or any agency or official acting on behalf of the United States, may not enter into any international agreement with respect to the conservation and management of living marine resources or the use of the high seas by fishing vessels that would prevent full implementation of the global moratorium on large-scale driftnet fishing on the high seas, as such moratorium is expressed in Resolution 46/215 of the United Nations General Assembly.

SEC. 604. NEGOTIATIONS.

The Secretary of State, on behalf of the United States, shall seek to enhance the implementation and effectiveness of the United Nations General Assembly resolutions and decisions regarding the moratorium on large-scale driftnet fishing on the high seas through appropriate international agreements and organizations.

SEC. 605. CERTIFICATION.

The Secretary of State shall determine in writing prior to the signing or provisional application by the United States of any international agreement with respect to the conservation and management of living marine resources or the use of the high seas by fishing vessels that the prohibition contained in section 603 will not be violated if such agreement is signed or provisionally applied.

SEC. 606. ENFORCEMENT.

The President shall utilize appropriate assets of the Department of Defense, the United States Coast Guard, and other Federal agencies to detect, monitor, and prevent violations of the United Nations moratorium on large-scale driftnet fishing on the high seas for all fisheries under the jurisdiction of the United States and, in the case of fisheries not under the jurisdiction of the United States, to the fullest extent permitted under international law.

TITLE VII—YUKON RIVER SALMON ACT

SEC. 701. SHORT TITLE.

This title may be cited as the "Yukon River Salmon Act of 1995".

SEC. 702. PURPOSES.

It is the purpose of this title—

(1) to implement the interim agreement for the conservation of salmon stocks originating from the Yukon River in Canada agreed to through an exchange of notes between the Government of the United States and the Government of Canada on February 3, 1995:

(2) to provide for representation by the United States on the Yukon River Panel established under such agreement; and

(3) to authorize to be appropriated sums necessary to carry out the responsibilities of the United States under such agreement.

SEC. 703. DEFINITIONS.

As used in this title—

(1) The term "Agreement" means the interim agreement for the conservation of salmon stocks originating from the Yukon River in Canada agreed to through an exchange of notes between the Government of the United States and the Government of Canada on February 3, 1995.

(2) The term "Panel" means the Yukon River Panel established by the Agreement.

(3) The term "Yukon River Joint Technical Committee" means the technical committee established by paragraph C.2 of the Memorandum of Understanding concerning the Pacific Salmon Treaty between the Government of the United States and the Government of Canada recorded January 28, 1985.

SEC. 704. PANEL.

(a) Representation.—The United States shall be represented on the Panel by six individuals, of whom—

(1) one shall be an official of the United States Government with expertise in salmon conservation and management;

(2) one shall be an official of the State of Alaska with expertise in salmon conservation and management; and

(3) four shall be knowledgeable and experienced with regard to the salmon fisheries on the Yukon River.

(b) Appointments.—Panel members shall be appointed as follows:

(1) The Panel member described in subsection (a)(1) shall be appointed by the Secretary of State.

(2) The Panel member described in subsection (a)(2) shall be appointed by the Governor of Alaska.

(3) The Panel members described in subsection (a)(3) shall be appointed by the Secretary of State from a list of at least 3 individuals nominated for each position by the Governor of Alaska. The Governor of Alaska may consider suggestions for nominations provided by organizations with expertise in Yukon River salmon fisheries. The Governor of Alaska may make appropriate nominations to allow for, and the Secretary of State shall appoint, at least one member use subsection (a)(3) who is qualified to represent the interests of Lower Yukon River fishing districts, and at least one member who is qualified to represent the interests of Upper Yukon River fishing districts. At least one of the Panel members under subsection (a)(3) shall be an Alaska Native.

(c) Alternates.—The Secretary of State may designate an alternate Panel member for each Panel member the Secretary appoints under subsections (b)(1) and (3), who meets the same qualifications, to serve in the absence of the Panel member. The Governor of the State of Alaska may designate an alternative Panel member for the Panel member appointed under subsection (b)(2), who meets the same qualifications, to serve in the absence of that Panel member.

(d) Term Length.—Panel members and alternate Panel members shall serve four-year terms. Any individual appointed to fill a vacancy occurring before the expiration of any term shall be appointed for the remainder of that term.

(e) Reappointment.—Panel members and alternate Panel members shall be eligible for reappointment.

(f) Decisions.—Decisions by the United States section of the Panel shall be made by the consensus of the Panel members appointed under paragraphs (2) and (3) of subsection (a).

(g) Consultation.—In carrying out their functions under the Agreement, Panel members may consult with such other interested parties as they consider appropriate.

SEC. 705. ADVISORY COMMITTEE.

(a) Appointments.—The Governor of Alaska may appoint an Advisory Committee of not less than eight, but not more than twelve, individuals who are knowledgeable and experienced with regard to the salmon fisheries on the Yukon River. At least 2 of the Advisory Committee members shall be Alaska Natives. Members of the Advisory Committee may attend all meetings of the United States section of the Panel, and shall be given the opportunity to examine and be heard on any matter under consideration by the United States section of the Panel.

(b) Compensation.—The members of such advisory committee shall receive no compensation for their services.

(c) Term Length.—Advisory Committee members shall serve two-year terms. Any individual appointed to fill a vacancy occurring before the expiration of any term shall be appointed for the remainder of that term.

(d) Reappointment.—Advisory Committee members shall be eligible for reappointment.

SEC. 706. EXEMPTION.

The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Panel, the Yukon River Joint Technical Committee, or the Advisory Committee created under section 705 of this title.

SEC. 707. AUTHORITY AND RESPONSIBILITY.

(A) Responsible Management Entity.—The State of Alaska Department of Fish and Game shall be the responsible management entity for the United States for the purposes of the Agreement.

(b) Effect of Designation.—The designation under subsection (a) shall not be considered to expand, diminish, or change the management authority of the State of Alaska or the Federal government with respect to fishery resources.

(c) Recommendations of Panel.—In addition to recommendations made by the Panel to the responsible management entities in accordance with the Agreement, the Panel may make recommendations concerning the conservation and management of salmon originating in the Yukon River to the Department of Interior, Department of Commerce, Department of State, North Pacific Fishery Management Council, and other Federal or State entities as appropriate. Recommendations by the Panel shall be advisory in nature.

SEC. 708. CONTINUATION OF AGREEMENT.

In the event that the Treaty between Canada and the United States of America concerning Pacific Salmon, signed at Ottawa, January 28, 1985, terminates prior to the termination of the Agreement, and the functions of the Panel are assumed by the "Yukon River Salmon Commission" referenced in the Agreement, the provisions of this title which apply to the Panel shall thereafter apply to the Yukon River Salmon Commission, and the other provisions of this title shall remain in effect.

SEC. 709. ADMINISTRATIVE MATTERS.

(a) Panel members and alternate Panel members who are not State or Federal employees shall receive compensation at the daily rate of GS-15 of the General Schedule when engaged in the actual performance of duties.

(b) Travel and other necessary expenses shall be paid for all Panel members, alternate Panel members, United States members of the Joint Technical Committee, and members of the Advisory Committee when engaged in the actual performance of duties.

(c) Except for officials of the United States Government, individuals described in subsection (b) shall not be considered to be Federal employees while engaged in the actual performance of duties, except for the purposes of injury compensation or tort claims liability as provided in chapter 81 of title 5, United States Code, and chapter 71 of title 28, United States Code.

SEC. 710. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $4,000,000 for each fiscal year for carrying out the purposes and provisions of the Agreement and this title including—

(1) necessary travel expenses of Panel members, alternate Panel members, United States members of the Joint Technical Committee, and members of the Advisory Committee in accordance with Federal Travel Regulations and sections 5701, 5702, 5704 through 5708, and 5731 of title 5, United States Code;

(2) the United States share of the joint expenses of the Panel and the Joint Technical Committee, provided that Panel members and alternate Panel members shall not, with respect to commitments concerning the United States share of the joint expenses, be subject to section 262(b) of title 22, United States Code, insofar as it limits the authority of United States representatives to international organizations with respect to such commitments;

(3) not more than $3,000,000 for each fiscal year to the Department of the Interior and to the Department of Commerce for survey, restoration, and enhancement activities related to Yukon River salmon; and

(4) $400,000 in each of fiscal years 1996, 1997, 1998, and 1999 to be contributed to the Yukon River Restoration and Enhancement Fund and used in accordance with the Agreement.

TITLE VIII—MISCELLANEOUS

SEC. 801. SOUTH PACIFIC TUNA AMENDMENT.

Section 9 of the South Pacific Tuna Act of 1988 (16 U.S.C. 973g) is amended by adding at the end thereof the following:

"(h) Notwithstanding the requirements of—

"(1) section 1 of the Act of August 26, 1983 (97 Stat. 587; 46 U.S.C. 12108);

"(2) the general permit issued on December 1, 1980, to the American Tunaboat Association under section 104(h)(1) of the Marine Mammal Protection Act (16 U.S.C. 1374(h)(1)); and

"(3) sections 104(h)(2) and 306(a) of the Marine Mammal Protection Act (16 U.S.C. 1374(h)(2) and 1416(a))—

any vessel documented under the laws of the United States as of the date of enactment of the Fisheries Act of 1995 for which a license has been issued under subsection (a) may fish for tuna in the Treaty Area, including those waters subject to the jurisdiction of the United States in accordance with international law, subject to the provisions of the treaty and this Act, provided that no such vessel fishing in the Treaty Area intentionally deploys a purse seine net to encircle any dolphin or other marine mammal in the course of fishing under the provisions of the Treaty or this Act.".

SEC. 802. FOREIGN FISHING FOR ATLANTIC HERRING AND ATLANTIC MACKEREL.

Notwithstanding any other provision of law—

(1) no allocation may be made to any foreign nation or vessel under section 201 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.) in any fishery for which there is not a fishery management plan implemented in accordance with that Act; and

(2) the Secretary of Commerce may not approve the portion of any permit application submitted under section 204(b) of the Act which proposes fishing by a foreign vessel for Atlantic mackerel or Atlantic herring unless—

(A) the appropriate regional fishery management council recommends under section 204(b)(5) of that Act that the Secretary approve such fishing, and

(B) the Secretary of Commerce includes in the permit any conditions or restrictions recommended by the appropriate regional fishery management council with respect to such fishing.

THE ANAKTUVUK PASS LAND EXCHANGE AND WILDERNESS REDESIGNATION ACT OF 1995

MURKOSWKI (AND BREAUX) AMENDMENT NO. 1489

Mr. DOLE (for Mr. MURKOWSKI, for himself, and Mr. BREAUX) proposed an amendment to the bill (H.R. 400) to provide for the exchange of lands within Gates of the Arctic National Park and Preserve, and for other purposes; as follows:

On page 12 of the reported measure, beginning on line 13, delete all of Title II and insert in lieu thereof the following:

TITLE II—ALASKA PENINSULA SUBSURFACE CONSOLIDATION

SEC. 201. DEFINITIONS.

As used in this Act:

(1) AGENCY.—The term agency—

(A) means—

(i) any instrumentality of the United States; and

(ii) any Government corporation (as defined in section 9101(1) of title 31 United States Code); and

(B) includes any element of an agency.

(2) ALASKA NATIVE CORPORATION.—The term "Alaska Native Corporation" has the same meaning as is provided for "Native Corporation" in section 3(m) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(m)).

(3) FEDERAL LANDS OR INTEREST THEREIN—The term "Federal lands or interests therein" means any lands or properties owned by the United States (i) which are administered by the Secretary, or (ii) which are subject to a lease to third parties, or (iii) which have been made available to the Secretary for exchange under this section through the concurrence of the director of the agency administering such lands or properties; provided, however, excluded from such lands shall be those lands which are within an existing conservation system unit as defined in section 102(4) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3102(4)), and those lands the mineral interest for which are currently under mineral lease.

(4) KONIAG.—The term "Koniag" means Koniag, Incorporated, which is a Regional Corporation.

(5) REGIONAL CORPORATION.—The term "Regional Corporation" has the same meaning as is provided in section 3(g) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(g)).

(6) SECRETARY.—Except as otherwise provided, the term "Secretary" means the Secretary of the Interior.

(7) SELECTION RIGHTS.—The term "selection rights" means those rights granted to Koniag, pursuant to subsections (a) and (b) of section 12, and section 14(h)(8), of the Alaska Native Claims Settlement Act (43 U.S.C. 1611 and 1613(h)(8)), to receive title to the oil and gas rights and other interests in the subsurface estate of the approximately 275,000 acres of public lands in the State of Alaska identified as "Koniag Selections" on the map entitled "Koniag Interest Lands, Alaska Peninsula," dated May 1989.

SEC. 202. VALUATION OF KONIAG SELECTION RIGHTS.

(a) Pursuant to the provisions of subsection (b) hereof, the Secretary shall value the selection rights which Koniag possesses within the boundaries of Aniakchak National Monument and Preserve, Alaska Peninsula National Wildlife Refuge, and Becharof National Wildlife Refuge.

(b) VALUE.—

(1) IN GENERAL.—The value of the selection rights shall be equal to the fair market value of—

(A) the oil and gas interests in the lands or interests in lands that are the subject of the selection rights; and

(B) in the case of the lands or interests in lands for which Koniag is to receive the entire subsurface estate, the subsurface estate of the lands or interests in lands that are the subject of the selection rights.

(2) APPRAISAL.—

(A) SELECTION OF APPRAISER.—

(i) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Secretary and Koniag shall meet to select a qualified appraiser to conduct an appraisal of the selection rights. Subject to clause (ii), the appraiser shall be selected by the mutual agreement of the Secretary and Koniag.

(ii) FAILURE TO AGREE.—If the Secretary and Koniag fail to agree on an appraiser by the date that is 60 days after the date of the initial meeting referred to in clause (i), the Secretary and Koniag shall, by the date that is not later than 90 days after the date of the initial meeting, each designate an appraiser who is qualified to perform the appraisal. The 2 appraisers so identified shall select a third qualified appraiser who shall perform the appraisal.

(B) STANDARDS AND METHODOLOGY.—The appraisal shall be conducted in conformity with the standards of the Appraisal Foundation (as defined in section 1121(9) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3350(9)).

(C) SUBMISSION OF APPRAISAL REPORT.—Not later than 180 days after the selection of an appraiser pursuant to subparagraph (A), the appraiser shall submit to the Secretary and to Koniag a written appraisal report specifying the value of the selection rights and the methodology used to arrive at the value.

(3) DETERMINATION OF VALUE.—

(A) DETERMINATION BY THE SECRETARY.—Not later than 60 days after the date of the receipt of the appraisal report under paragraph (2)(C), the Secretary shall determine the value of the selection rights and shall notify Koniag of the determination.

(B) ALTERNATIVE DETERMINATION OF VALUE.—

(i) IN GENERAL.—Subject to clause (ii), if Koniag does not agree with the value determined by the Secretary under subparagraph (A), the procedures specified in section 206(d) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(d)) shall be used to establish the value.

(ii) AVERAGE VALUE LIMITATION.—The average value per acre of the selection rights shall not be less than the value utilizing the risk adjusted discount cash flow methodology, but in no event may exceed $300.

SEC. 203. KONIAG EXCHANGE.

(a) IN GENERAL.—

(1) The Secretary shall enter into negotiations for an agreement or agreements to exchange Federal lands or interests therein

which are in the State of Alaska for the selection rights.

(2) if the value of the federal property to be exchanged is less than the value of the selection rights established in Section 202, and if such federal property to be exchanged is not generating receipts to the federal government in excess of one million dollars per year, than the Secretary may exchange the federal property for that portion of the selection rights having a value equal to that of the federal property. The remaining selection rights shall remain available for additional exchanges.

(3) For the purposes of any exchange to be consummated under this Title II, if less than all of the selection rights are being exchanged, then the value of the selection rights being exchanged shall be equal to the number of acres of selection rights being exchanged multiplied by a fraction, the numerator of which is the value of all the selection rights as determined pursuant to Section 202 hereof and the denominator of which is the total number of acres of selection rights.

(b) ADDITIONAL EXCHANGES.—If, after ten years from the date of enactment of this Act, the Secretary has been unable to conclude such exchanges as may be required to acquire all of the selection rights, he shall conclude exchanges for the remaining selection rights for such federal property as may be identified by Koniag, which property is available for transfer to the administrative jurisdiction of the Secretary under any provision of law and which property, at the time of the proposed transfer to Koniag is not generating receipts to the federal government in excess of one million dollars per year. The Secretary shall keep Koniag advised in a timely manner as to which properties may be available for such transfer. Upon receipt of such identification by Koniag, the Secretary shall request in a timely manner the transfer of such identified property to the administrative jurisdiction of the Department of the Interior. Such property shall not be subject to the geographic limitations of section 206(b) of the Federal Land Policy and Management Act and may be retained by the Secretary solely for the purposes of transferring it to Koniag to complete the exchange. Should the value of the property so identified by Koniag be in excess of the value of the remaining selection rights, then Koniag shall have the option of (i) declining to proceed with the exchange and identifying other property or (ii) paying the difference in value between the property rights.

(c) REVENUES.—Any property received by Koniag in an exchange entered into pursuant to subsection (a) or (b) of this section shall be deemed to be an interest in the subsurface for purposes of section 7(i) of the Alaska Native Claims Settlement Act (43 U.S.C. 1601, *et seq.*); provided, however, should Koniag make a payment to equalize the value in any such exchange, then Koniag will be deemed to hold an undivided interest in the property equal in value to such payment which interest shall not be subject to the provisions of section 9(j).

SEC. 204. CERTAIN CONVEYANCES.

(a) INTERESTS IN LAND.—For the purposes of section 21(c) of the Alaska Native Claims Settlement Act (43 U.S.C. 1620(e)), the receipt of consideration, including, but not limited to, lands, cash or other property, by a Native Corporation for the relinquishment to the United States of land selection rights granted to any Native Corporation under such Act shall be deemed to be an interest in land.

(b) AUTHORITY TO APPOINT AND REMOVE TRUSTEE.—In establishing a Settlement Trust under section 39 of such Act (43 U.S.C. 1629c), Koniag may delegate, in whole or part, the authority granted to Koniag under subsection (b)(2) of such section to any entity that Koniag may select without affecting the status of the trust as a Settlement Trust under such section.

TITLE III—STERLING FOREST

SECTION 301. SHORT TITLE.

This title may be cited as the "Sterling Forest Protection Act of 1995".

SEC. 302. FINDINGS.

The Congress finds that—

(1) the Palisades Interstate Park Commission was established pursuant to a joint resolution of the 75th Congress approved in 1937 (Public Resolution No. 65; ch. 706; 50 Stat. 719), and chapter 170 of the Laws of 1937 of the State of New York and chapter 148 of the Laws of 1937 of the State of New Jersey;

(2) the Palisades Interstate Park Commission is responsible for the management of 23 parks and historic sites in New York and New Jersey, comprising over 82,000 acres;

(3) over 8,000,000 visitors annually seek outdoor recreational opportunities within the Palisades Park System;

(4) Sterling Forest is a biologically diverse open space on the New Jersey border comprising approximately 17,500 acres, and is a highly significant watershed area for the State of New Jersey, providing the source for clean drinking water for 25 percent of the State;

(5) Sterling Forest is an important outdoor recreational asset in the northeastern United States, within the most densely populated metropolitan region in the Nation;

(6) Sterling Forest supports a mixture of hardwood forests, wetlands, lakes, glaciated valleys, is strategically located on a wildlife migratory route, and provides important habitat for 27 rare or endangered species;

(7) the protection of Sterling Forest would greatly enhance the Appalachian National Scenic Trail, a portion of which passes through Sterling Forest, and would provide for enhanced recreational opportunities through the protection of lands which are an integral element of the trail and which would protect important trail viewsheds;

(8) stewardship and management costs for units of the Palisades Park System are paid for by the States of New York and New Jersey; thus, the protection of Sterling Forest through the Palisades Interstate Park Commission will involve a minimum of Federal funds;

(9) given the nationally significant watershed, outdoor recreational, and wildlife qualities of Sterling Forest, the demand for open space in the northeastern United States, and the lack of open space in the densely populated tri-state region, there is a clear Federal interest in acquiring the Sterling forest for permanent protection of the watershed, outdoor recreational resources, flora and fauna, and open space; and

(10) such an acquisition would represent a cost effective investment, as compared with the costs that would be incurred to protect drinking water for the region should the Sterling Forest be developed.

SEC. 303. PURPOSES.

The purposes of this Title are—

(1) to establish the Sterling Forest Reserve in the State of New York to protect the significant watershed, wildlife, and recreational resources within the New York-New Jersey highlands region;

(2) to authorize Federal funding, through the Department of the Interior, for a portion of the acquisition costs for the Sterling Forest Reserve;

(3) to direct the Palisades Interstate Park Commission to convey to the Secretary of the Interior certain interests in lands acquired within the Reserve; and

(4) to provide for the management of the Sterling Forest Reserve by the Palisades Interstate Park Commission.

SEC. 304 DEFINITIONS.

In this Title.

(1) COMMISSION.—The term "Commission" means the Palisades Interstate Park Commission established pursuant to Public Resolution No. 65 approved August 19, 1937 (ch. 707; 50 Stat. 719).

(2) RESERVE.—The term "Reserve" means the Sterling Forest Reserve.

(3) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

SEC. 305. ESTABLISHMENT OF THE STERLING FOREST RESERVE.

(A) ESTABLISHMENT.—Upon the certification by the Commission to the Secretary that the Commission has acquired sufficient lands or interests therein to constitute a manageable unit, there is established the Sterling Forest Reserve in the State of New York.

(b) MAP.—

(1) COMPOSITION.—The Reserve shall consist of lands and interests therein acquired by the Commission with the approximately 17,500 acres of lands as generally depicted on the map entitled "Boundary Map, Sterling Forest Reserve", numbered SFR-60,001 and dated July 1, 1994.

(2) AVAILABILITY FOR PUBLIC INSPECTION.—The map described in paragraph (1) shall be on file and available for public inspection in the offices of the Commission and the appropriate offices of the National Park Service.

(c) TRANSFER OF FUNDS.—Subject to subjection (d), the Secretary shall transfer to the Commission such funds as are appropriated for the acquisition of lands and interests therein within the Reserve.

(d) CONDITIONS OF FUNDING.—

(1) AGREEMENT BY THE COMMISSION.—Prior to the receipt of any Federal funds authorized by this Act, the Commission shall agree to the following:

(A) CONVEYANCE OF LANDS IN EVENT OF FAILURE TO MANAGE.—If the Commission fails to manage the lands acquired within the Reserve in a manner that is consistent with this title, the Commission shall convey fee title to such lands to the United States, and the agreement stated in this subparagraph shall be recorded at the time of purchase of all lands acquired within the Reserve.

(B) CONSENT OF OWNERS.—No lands or interest in land may be acquired with any Federal funds authorized or transferred pursuant to this title except with the consent of the owner of the land or interest in land.

(C) INABILITY TO ACQUIRE LANDS.—If the Commission is unable to acquire all of the lands within the Reserve, to the extent Federal funds are utilized pursuant to this title, the Commission shall acquire all or a portion of the lands identified as "National Park Service Wilderness Easement Lands" and "National Park Service Conservation Easement Lands" on the map described in section 305(b) before proceeding with the acquisition of any other lands within the Reserve.

(D) CONVEYANCE OF EASEMENT.—Within 30 days after acquiring any of the lands identified as "National Park Service Wilderness Easement Lands" 29 and "National Park Service Conservation Easement Lands" on the map described in section 305(b), the Commission shall convey to the United States—

(i) conservation easements on the lands described as "National Park Service Wilderness Easement Lands" on the map described in section 305(b), which easements shall provide that the lands shall be managed to protect their wilderness character; and

(ii) conservation easements on the lands described as "National Park Service Conservation Easement Lands" on the map described in section 305(b), which easements shall restrict and limit development and use of the property to that development and use that is—

(I) compatible with the protection of the Appalachian National Scenic Trail; and

(II) consistent with the general management plan prepared pursuant to section 306(b).

(2) MATCHING FUNDS.—Funds may be transferred to the Commission only to the extent that they are matched from funds contributed by non-Federal sources.

SEC. 306. MANAGEMENT OF THE RESERVE.

(a) IN GENERAL.—The Commission shall manage the lands acquired within the Reserve in a manner that is consistent with the Commission's authorities and with the purposes of this title.

(b) GENERAL MANAGEMENT PLAN.—Within 3 years after the date of enactment of this title, the Commission shall prepare a general management plan for the Reserve and submit the plan to the Secretary for approval.

SEC. 307. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated such sums as are necessary to carry out this title, to remain available until expended.

(b) LAND ACQUISITION.—Of amounts appropriated pursuant to subsection (a), the Secretary may transfer to the Commission not more than $17,500,000 for the acquisition of lands and interests in land within the Reserve.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FOREIGN RELATIONS

Mr. DOLE. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Friday, June 30, 1995, at 10:30 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

CONGRATULATIONS TO DANNY McDONNALL

• Mr. BROWN. Mr. President, I rise to congratulate Danny McDonnall of Lamar, CO, for winning a $10,000 Discover Card Tribute Award scholarship. The scholarship, sponsored by Discover Card Services, Inc., in cooperation with the American Association of School Administrators, are awarded to outstanding high school juniors in the United States.

Danny attends Lamar High School and is 1 of the 9 national winners selected from over 10,000 nominations nationwide. His academic achievement recently earned him his school's Most Outstanding Sophomore Boy Award. However, the scholarship program recognizes that not every student's accomplishments can be measured in grade points alone. Achievements in community service, leadership, special talents, unique endeavors, and obstacles overcome are also considered.

Danny is an active member in several student organizations and is an accomplished vocalist. He has performed in three school musicals, with an honor choir and with the National 4–H Choir. He created a Wildlife Club for young people and coordinated a shooting sports safety day attended by more than 60 local sportsmen.

But most impressive is Danny's fight against Ewing's sarcoma. His recovery inspired him to present an hour long wildlife program to 450 cancer patients in Denver's Children's Hospital and to develop a newsletter and games which he regularly sends to hospitalized children. In addition, he conducted a 3-year science project centered on treatments for chemotherapy-induced mouth sores. Danny intends to study biology in college, and hopes to become a dentist.

Thank you Discover Card Services, Inc., for making a strong commitment to helping our young people reach their dreams and be better prepared for the challenges of tomorrow. Congratulations, once again, to Danny McDonnall. We can all learn from his superb leadership and fortitude.•

AN IMPORTANT STEP FOR DEMOCRACY IN HAITI

• Mr. LEAHY. Mr. President, last Sunday, the Republic of Haiti held parliamentary and local elections. These were the first elections in Haiti since the United States forced Raoul Cedras and his henchmen to abandon power and allow the return of democratically elected President Jean-Bertrand Aristide last fall.

These elections were the first test of President Aristide's commitment to establish real democracy in Haiti, and they were watched closely by the international community.

Mr. President, the elections were far from perfect. The selection of candidates leading up to the election was not as open, well-organized, and impartial as many of us would have liked. Some voting stations opened late. Some station workers were not paid their promised salaries and did not execute their responsibilities conscientiously. Some voters were not given full privacy in voting and there were some reports of voter intimidation. Some ballots were lost or miscounted.

These irregularities were unfortunate, although given Haiti's tragic history, not unexpected. But the fact that these elections were imperfect in no way confirms, as some would suggest, that President Aristide and his government are insincere in their expressions of commitment to true democracy, or that the administration's policy there has failed. Far from it.

Let us be realistic. Haiti is the poorest country in this hemisphere. So many people are illiterate that the ballots had to carry symbols to identify the different parties. Many villages cannot be reached by road at all. The only highway across the country is literally impassible except by 4-wheel-drive. Most of the people have had no experience at all with democracy and have only the vaguest notion of what it means and how it should work.

In a country like Haiti today, the conduct of elections cannot possibly be perfect. Some mistakes and malpractice are inevitable.

But one must start somewhere, and the fact that these elections were held at all is an important achievement. Even more important, indeed historic, is that fact that there was practically no violence. We should remember past elections in that country, where the Government and its armed thugs intimidated, beat, and murdered in cold blood people waiting in line to vote.

The real question, Mr. President, is whether the Haitian people are satisfied. My perception is that the vast majority of the Haitian people feel that they took an important step forward with this election, and one more step away from the atrocities of the past. We owe it to those people now to help them get to work on the next step.

I want to commend President Clinton, General Shalikashvili, who has been to Haiti many times over the past couple of years, Secretary Christopher and others, who had the patience and sense of history to devote the attention and effort that they have to the cause of democracy in Haiti.

In a hemisphere where the trend is decidedly in favor of elected civilian government, I do not believe the United States could ignore the brutality in Haiti. Our resolve there in support of the Haitian people's yearning for a better life, has sent a strong signal in support of democratic government throughout the hemisphere.•

NOMINATION OF DR. HENRY FOSTER TO BE SURGEON GENERAL

• Mr. ABRAHAM. Mr. President, last week the Senate conducted two cloture votes on the nomination of Dr. Henry Foster to be Surgeon General of the United States. As a member of the Senate Committee on Labor and Human Resources, I was already on record in opposition to the nomination. However, for the benefit of my colleagues and my constituents, I wanted to once again outline my reasons for opposing Dr. Foster and why I voted against cloture.

At the outset of this nomination, I chose to reserve final judgment on Dr.

Foster's qualifications to serve as Surgeon General until he had an opportunity to appear before the Labor Committee and address my concerns and the concerns of other Senators and until I had an opportunity to review the entire record.

After careful thought and consideration during the Labor Committee's deliberations, I decided that I could not support Dr. Foster's nomination. I came to this conclusion for three reasons: First, I have serious doubts about whether Dr. Foster can unify the American people behind important national health policies. Second, I am troubled about where Dr. Foster comes down on the continuum which places parents' rights and responsibilities on one end and the State on the other. And third, I believe serious credibility questions regarding this nomination continued to exist. And for reasons I shall elaborate upon later, I ultimately came to believe that in this instance, extended debate of this nomination was necessary and appropriate.

Now let me just add that Dr. Foster obviously is dedicated to serving others. He tended the health care needs of thousands of poor, rural women in the still segregated Deep South of the late 1960's and early 1970's. He taught at and helped run a historically black medical school which provides 40 percent of the black doctors in America. And he helped the youth of Nashville bridge the sometimes cavernous gap between a life of poverty and a life of education, economic advancement and social accomplishment. In all these endeavors, Dr. Foster has exhibited the finest qualities of civic duty and selfless public service. On that basis alone, one has to admire him. Nevertheless, in each of the areas I cited earlier, Dr. Foster was unable to allay my concerns.

Mr. President, the first concern I have relates to what I perceive as this nominee's inability to serve as a unifier, bringing Americans together behind key public health principles. I have repeatedly expressed my worry regarding Dr. Foster's suitability to replace Dr. Joycelyn Elders. Given the extremely turbulent and divisive nature of Dr. Elders' service as Surgeon General, it came somewhat as a shock to me—and I think to many others as well—that the administration would select someone to replace her whose background would create anxiety among many Americans. I have never felt that Dr. Foster's background as an ob-gyn or his pro-choice views disqualify him for serving as Surgeon General. However, I believe that the fact that Dr. Foster personally has performed abortions creates a different sort of burden on his nomination.

Dr. Foster has said that he wants to be seen as the Nation's doctor, but his past actions will cause many Americans to shrink from thinking of him in that role. This would not matter if the position involved were managerial or technical; but it is not.

The Surgeon General's role is almost exclusively that of a public educator. He has a bully pulpit that must be used to bring Americans together behind improved medical and health practices. As I have said, following our experience with Dr. Elders, I think most Americans believe we should find someone for this position who can serve as a unifying force on the critical health care issues confronting or Nation. I was concerned that, because of his past practices, many would not at first blush choose Dr. Foster to be their physician. Therefore, at the confirmation hearings I asked Dr. Foster how he would try to restore this confidence in his ability to serve as the Nation's doctor and how he would do it. Regrettably, Dr. Foster could not seem to relate to this request; his response bordered on the dismissive.

Mr. President, I did not expect Dr. Foster to change his views. But I did expect, or at least hope, that he would have a plan to unify people and reach out to those who—at the outset—were worried about his selection, but he did not. Indeed, he did not offer a single idea concerning how he might address his challenge—not speeches, not meetings, nothing. I feel in a position as sensitive as this we need someone who would work hard to bring people together. Dr. Foster offered no commitment or dedication to pursue such an objective. I believe that was a mistake.

Mr. President, this brings me to another area of concern that I have specifically expressed from the outset: I have been worried about where Dr. Foster comes down on the continuum which places parents' rights and responsibilities on one end and the State on the other. Traveling throughout Michigan during my campaign I repeatedly heard parents strongly express two messages: They were concerned about the breakdown of the family unit and the consequences they viewed as emanating from that trend: teenage pregnancy, drug and alcohol abuse, and crime. And they were concerned about the degree to which Government's attempts to solve these problems, often exacerbating them in the process, pushed more traditional support systems such as families, relatives, and community out of the equation.

Now I realize that some will say this is a little old-fashioned in the generation X world of post-modern morality, but I want the Federal Government's chief health spokesman out in front on this issue, leading the fight to involve parents more directly in their children's lives and resisting further Government usurpation of parents' responsibilities. Regrettably, Dr. Foster's actions and positions have led me to conclude that he could not fulfill this role.

For example, Dr. Foster stated during the hearing that he opposed laws requiring parental notification when contraceptives are provided to minors. And Dr. Foster has a history of opposition to parental consent laws in the case of minors seeking an abortion, even those with judicial bypass provisions.

Mr. President, I share Dr. Foster's view on the importance of preventing teen pregnancy, and on other crucial health and social issues as well. Where I believe we differ is on the level of responsibility we think parents should have in these areas and the steps each of us is prepared to take to achieve parental involvement. The question is: Would Dr. Foster, as Surgeon General, throw the moral authority of his office behind such initiatives?

By most accounts, Dr. Joycelyn Elders dismissed parents altogether from playing any role in the sexual education and development of their children. Dr. Foster, it appears, believes that parental involvement is something to be desired and encouraged, but because of the positions he has taken and will presumably continue to advocate, he will send a different, contradictory signal.

We need a Surgeon General who recognizes that parents must become very involved and will take positions that are consistent with that philosophy.

Mr. President, the final concern I have, and the one which not only leads me to oppose this nomination but to vote against cutting off debate, is the issue of Dr. Foster's credibility. In order to succeed, a surgeon general requires one asset above all others: utmost credibility. But Dr. Foster's credibility has been seriously compromised in several ways. A major credibility problem arose from Dr. Foster's stewardship of the "I Have a Future" Program. When announcing the selection of Dr. Foster as his nominee, President Clinton spoke of the doctor's work in this program and its emphasis on reducing teen pregnancy. The President cited these as primary reasons for selecting Dr. Foster. The H.H.S. press release sent out that same day stated, "The program stresses abstinence * * *."

Dr. Foster himself, during a February 8 "Nightline" broadcast, proclaimed, "I favor abstinence. Abstinence, that's what I favor. That's the bedrock of our program." But there has been no concrete evidence presented to support that assertion.

It came as a great surprise to everyone on the committee, I think, when neither the administration, the nominee, nor the "I Have A Future" Program could produce the much-heralded abstinence brochures supposedly distributed during Dr. Foster's service as director. Nor was any other evidence forthcoming that abstinence was the bedrock principle of the program.

After repeated requests to the administration and to Dr. Foster for those materials, the only abstinence brochures which were ever produced were those which Senator DODD distributed at the hearing. And, as everybody knows, those brochures turned out to have been published earlier this year—long after Dr. Foster had ended his direct supervision of the "I Have A Future" Program. There are other reasons to doubt assertions that the "I Have A Future" Program had abstinence as its "bedrock" principle.

In an article written by Dr. Foster and two of his colleagues for the summer 1990 issue of the "Journal of Health Care for the Poor and Underserved," entitled "A Model for Increasing Access: Teenage Pregnancy Prevention," the authors clearly stated that the "I Have A Future" Program places considerable emphasis on widespread distribution of contraceptives to teenagers. This article and other "I Have A Future" materials make clear that reducing pregnancy among sexually active teens was the primary focus of the program, not promoting abstinence.

Mr. President, I find it difficult to believe that Dr. Foster and the administration would fail to provide documentation for their crucial claim, that abstinence was the dominant feature of the program, if such documentation existed. Considering the emphasis placed by Dr. Foster and the administration on the role abstinence and the "I Have A Future" Program played in this nomination, this was a devastating revelation and comment on the credibility of the nomination. The critical question here to me was not whether abstinence was the "bedrock" principle behind the program. What I found most disturbing was the apparent attempt to deceive people regarding the degree to which the program was based upon abstinence. Another credibility problem, Mr. President, exists with respect to Dr. Foster's position on the issue of parental consent in the area of abortion.

During the hearings, Senator MIKULSKI and I each queried Dr. Foster about whether he supported requiring parental consent in cases where minors seek abortions. In the end, Dr. Foster maintained that he supported parental consent laws as long as a judicial bypass provision was included. However, in a speech before a 1984 Planned Parenthood conference, Dr. Foster expressed strong opposition to consent statutes, including a Tennessee statute which included judicial bypass language. In that speech, Dr. Foster stated, "However, the [Supreme] Court upheld consent laws for minors; hence our opponents can still create abortion deterrents by seeking legislation which will necessitate such an approval." And, moments later, Dr. Foster repeated this sentiment. "The Supreme Court * * * upheld by a single vote margin the constitutionality of minority consent requirements, but in doing so, it did not examine how such laws work in actual practice. Hence, an opening has been left for those who would like to see such laws invalidated."

Those are pretty definitive statements. And they are in direct conflict with the support Dr. Foster professed for consent legislation at the hearing in response to my questions. This lack of consistency was troubling, Mr. President, and further buttressed my concerns about Dr. Foster's credibility. Furthermore, this nomination has from the very beginning been dogged by another credibility issue: the question of how many abortions Dr. Foster actually performed over the years. The White House originally told the chairman of the Labor Committee that Dr. Foster had only performed one abortion. Then Dr. Foster issued a written statement claiming he had performed less than a dozen abortions. Days later, on "Nightline," Dr. Foster changed his position and stated that he had performed 39 abortions since 1973. During the Labor Committee hearings he admitted that he had performed a 40th—albeit a "pregnancy termination"—performed before 1973. During the same "Nightline" broadcast, Dr. Foster also was asked whether he was including in this count the 59 abortions obtained by women participating in a clinical trial he supervised for the drug prostaglandin.

Dr. Foster said that he did not include those abortions because they were part of a research study performed by a university trying to maintain accredition. Thus, Dr. Foster, at various times throughout this process, has said that he performed 1 abortion, then 12, then 39, then 40, then another 49. In short, the number has changed with too much frequency and is still somewhat dependent on semantics.

The issue here is no longer the actual number, but, again, one of credibility. Knowing that the issue of abortion was going to be of great concern, I believe it was Dr. Foster's responsibility from the start to provide a complete and accurate accounting so that the Labor Committee and the American people would have reliable information with which to judge his qualifications.

Finally, Mr. President, Dr. Foster's credibility has been undermined by his characterization of the transcript from the 1978 HEW Ethics Board meeting, a meeting at which he was an active participant, and at which he is specifically reported to have said that he performed "perhaps" 700 abortions. The White House's initial response to news of the transcript's existence was to suggest that Dr. Foster had not even been at the meeting. The White House then shifted its approach and began issuing statements calling the transcript a fraud. That charge later proved to be false as well.

Now, even if the White House issued these false statements without Dr. Foster's knowledge, I believe he had a responsibility—to the White House, to Congress, and to the American people—to correct the errors once they appeared. To my knowledge, no such attempt was made.

Only after others verified that Dr. Foster was at this meeting and that the transcript was, in fact, genuine did the White House and Dr. Foster adopt their current position: They now contend that the remark attributed to Dr. Foster about performing 700 amniocentesis and therapeutic abortions was an error in the transcription.

However, after reviewing the transcript, it was clear to me that there was no transcription error. The only transcription problems occurred during different portions of the meeting and were corrected on the spot. Additionally, in response to my written questions, Dr. Foster did not deny other remarks about amniocentesis and therapeutic abortions attributed to him in the transcript. In fact, he admitted to having performed "therapeutic abortions" after diagnosing genetic disorders in unborn babies. This revelation conflicted with Dr. Foster's previous assertions about what was said at the meeting and raised even further questions in my mind about Dr. Foster's credibility.

Mr. President, on the matters I have just outlined, I believe Dr. Foster's credibility has been seriously damaged. Because I believe credibility is such an essential quality for any effective Surgeon General, I do not see how, given this liability, I could in good conscience support Dr. Foster's nomination.

Now, Mr. President, let me offer my reasons for voting against cloture in this instance. Generally speaking, it is my intention to vote to confirm qualified individuals that the President nominates. But in those circumstances where the integrity and credibility of a nominee—or the actions of an administration in presenting a nominee—are clearly or seriously in question, I will reserve my right to vote against the President's choice, or against efforts to close off debate on the Senate floor.

In my judgment, this nomination does present clear and serious questions about the nominee's credibility. For that reason, Mr. President, I felt a sincere obligation to vote against invoking cloture on the nomination of Dr. Henry Foster to be Surgeon General.•

THE INTRODUCTION OF THE HISTORIC HOMEOWNERSHIP ASSISTANCE ACT

• Mr. GRAHAM. Mr. President, today I join my colleague Senator CHAFEE in support of the Historic Homeownership Assistance Act, which he introduced yesterday. This will would spur growth and preservation of historic neighborhoods across the country by providing a limited tax credit for qualified rehabilitation expenditures to historic homes.

An understanding of the history of the United States serves as one of the cornerstones supporting this great Nation. We find American history reflected not only in books, films, and stories, but also in physical structures, including schools, churches, county courthouses, mills, factories, and personal residences.

The bill that Senators CHAFEE, SIMON, PRYOR, JOHNSTON, and I are cosponsoring focuses on the preservation of historic residences. The bill will assist Americans who want to safeguard, maintain, and reside in these living museums.

The Historic Homeownership Assistance Act will stimulate rehabilitation of historic homes. The Federal tax credit provided in the legislation is modeled after the existing Federal commercial historic rehabilitation tax credit. Since 1981, this commercial tax credit has facilitated the preservation of many historic structures across this great land. For example in the last two decades, in my home State of Florida, $238 million in private capital was invested in over 325 historic rehabilitation projects. These investments helped preserve Ybor City in Tampa and the Springfield historic district in Jacksonville.

The tax credit, however, has never applied to personal residences. It is time to provide an incentive to individuals to restore and preserve homes in America's historic communities.

The Historic Homeownership Assistance Act targets Americans of all economic incomes. The bill provides lower income Americans with the option to elect a Mortgage Credit Certificate in lieu of the tax credit. This certificate allows Americans who cannot take advantage of the tax credit to reduce the interest rate on their mortgage that secures the purchase and rehabilitation of a historic home.

For example, if a lower-income family were to purchase a $35,000 home which included $25,000 worth of qualified rehabilitation expenditures, it would be entitled to a $5,000 Historic Rehabilitation Mortgage Credit Certificate which could be used to reduce interest payments on the mortgage. This provision would enable families to obtain a home and preserve historic neighborhoods when they would be unable to do so otherwise.

This bill will vest power to those best suited to preserve historic housing: the States. Realizing that the States can best administer laws affecting unique communities, the act gives power to the Secretary of the Interior to enter into agreements with States to implement a number of the provisions.

The Historic Homeownership Assistance Act does not, however, reflect an untried proposal. In addition to the existing commercial historic rehabilitation credit, the proposed bill incorporates features from several State tax incentives for the preservation of historic homes. Colorado, Maryland, New Mexico, Rhode Island, Wisconsin, and Utah have pioneered their own successful versions of a historic preservation tax incentive for homeownership.

At the Federal level, this legislation would promote historic home preservation nationwide, allowing future generations of Americans to visit and reside in homes that tell the unique history of our communities. The Historic Homeownership Assistance Act will offer enormous potential for saving historic homes and bringing entire neighborhoods back to life.

I urge my colleagues to support this bill for the preservation of history.•

PAKISTAN: AMERICA'S LONG-TIME ALLY

• Mr. BROWN. Mr. President, the United States and Pakistan have a longstanding friendship. When South Asia gained its independence from Britain in 1947, the countries of the region faced an important choice—alignment with the United States or nonalignment and cooperation with the Soviet Union. Pakistan unabashedly chose the United States. In 1950, Pakistan's first Prime Minister visited the United States, laying the seeds for more than 40 years of close cooperation between our two countries.

In 1950, Pakistan extended unqualified support to the United States-led United Nations effort on the Korean peninsula. Pakistan joined in the fight against communism by joining the Central Treaty Organization [CENTO] in 1954 and the Southeast Asia Treaty Organization [SEATO] in 1955. In 1959, Pakistan and the United States signed a mutual defense treaty, under which the United States setup a military airbase near Peshawar from which reconnaissance flights over the Soviet Union were conducted. This concession came at great risk to Pakistan. After the 1960 shoot-down of Gary Powers over the Soviet Union, the Soviets issued threatening statements directed at Pakistan for its support of the United States.

Ten years later, Pakistan worked with the United States to arrange the first United States opening to China when then-Secretary of State Henry Kissinger secretly visited China from Pakistan in 1970. Partly as a result of Soviet pique over Pakistan's assistance to the United States, the Soviets entered into a treaty of friendship with India, which was shortly followed by India's invasion of East Pakistan in 1971.

From 1979 to 1989, Pakistan opened its borders and joined to United States forces assisting the Afghan rebels fighting against the Soviet occupation of Afghanistan. The reliable assistance of our friends in Pakistan played a significant role in the Soviet defeat in Afghanistan, thereby hastening the collapse of the Soviet empire and monolithic world communism.

Pakistan joined the United States during the gulf war against Iraq, contributing significantly to the international forces arrayed against Saddam Hussein. Since 1992, Pakistan has been in the forefront of U.N. peacekeeping operations. In addition, Pakistan has cooperated extensively with the United States in our efforts to combat international terrorism, providing critical assistance in the apprehension and swift extradition of Ramzi Ahmed Yousef, the alleged mastermind of the terrorist attack on the World Trade Center in New York City. Pakistan has truly been a good friend of the United States.

Pakistan currently faces a nuclear threat from India who faces a nuclear threat from China. This circular threat coupled with conflict after conflict in the region has created a spiraling arms race in South Asia. In 1985 the Congress adopted an amendment to the Foreign Assistance Act of 1961 cutting off all assistance to Pakistan if the President could not certify that Pakistan did not possess a nuclear explosive device. In 1990, the President was unable to issue such a certification.

After 5 years, it is clear that the nonproliferation approach outlined in this amendment—known as the Pressler amendment—has not worked. The approach taken by the amendment attempts to penalize only one party to this regional nuclear arms race, while leaving the other parties free to produce nuclear weaponry and nuclear capable delivery systems

China has undertaken the single largest military build-up in the world. India's weapons program has continued unabated since 1974 and is now developing nuclear capable missile delivery technology that is perceived as a direct threat to Pakistan. Faced with these threats to its national security, the restrictions on United States assistance have not deterred Pakistan from developing a nuclear weapons capability. It is clear that no progress in nonproliferation has been made in South Asia since these restrictions took effect.

The President recognized this fact during the April 11, 1995, meeting with Prime Minister Bhutto of Pakistan after which he stated that "in the end we're going to have to work for a nuclear-free subcontinent, a nuclear-free region, a region free of all proliferation of weapons of mass destruction." Mr. President, I ask that the full text of the President's press conference with Mrs. Bhutto be printed in the RECORD.

The text is as follows:

Press Conference by the President and Prime Minister Benazir Bhutto of Pakistan, April 11, 1995

The President. Please be seated. Good afternoon. It's a great pleasure for me to welcome Prime Minister Bhutto to the White House. I'm especially pleased to host her today because of the tremendous hospitality that the Prime Minister and the Pakistani people showed to the First Lady and to Chelsea on their recent trip.

I've heard a great deal about the visit, about the people they met, their warm welcome at the Prime Minister's home, about the dinner the Prime Minister gave in their honor. The food was marvelous, they said, but it was the thousands of tiny oil lamps that lit the paths outside the Red Fort in Lahore that really gave the evening its magical air. I regret that here at the White House I can only match that with the magic of the bright television lights. (*Laughter*)

Today's meeting reaffirms the longstanding friendship between Pakistan and the United States. It goes back to Pakistan's independence. At the time, Pakistan was an experiment in blending the ideals of a young democracy with the traditions of Islam. In the words of Pakistan's first President, Mohammed Ali Jinnah, Islam and its idealism have taught us democracy. It has taught us the equality of man, justice, and fair play to everybody. We are the inheritors of the glorious traditions and are fully alive to our responsibilities and obligations. Today Pakistan is pursuing these goals of combining the practice of Islam with the realities of democratic ideals, moderation, and tolerance.

At our meetings today, the Prime Minister and I focused on security issues that affect Pakistan, its neighbor, India, and the entire South Asian region. The United States recognizes and respects Pakistan's security concerns. Our close relationships with Pakistan are matched with growing ties with India. Both countries are friends of the United States, and contrary to some views, I believe it is possible for the United States to maintain close relations with both countries.

I told the Prime Minister that if asked, we will do what we can to help these two important nations work together to resolve the dispute in Kashmir and other issues that separate them. We will also continue to urge both Pakistan and India to cap and reduce and finally eliminate their nuclear and missile capabilities. As Secretary Perry stressed during his visit to Pakistan earlier this year, we believe that such weapons are a source of instability rather than a means to greater security. I plan to work with Congress to find ways to prevent the spread of nuclear weapons and to preserve the aims of the Pressler Amendment, while building a stronger relationship with a secure, more prosperous Pakistan. Our two nations' defense consultative group will meet later this spring.

In our talks the Prime Minister and I also discussed issues of global concern, including peacekeeping and the fight against terrorism and narcotics trafficking. I want to thank Prime Minister Bhutto and the Pakistani officers and soldiers who have worked so closely with us in many peacekeeping operations around the globe, most recently in Haiti, where more than 800 Pakistanis are taking part in the United Nations operation.

On the issue of terrorism, I thank the Prime Minister for working with us to capture Ramszi Yousef, one of the key suspects in the bombing in the World Trade Center. We also reviewed our joint efforts to bring to justice the cowardly terrorist who murdered two fine Americans in Karachi last month. I thanked the Prime Minister for Pakistan's effort in recent months to eradicate opium poppy cultivation, to destroy heroin laboratories, and just last week, to extradite two major traffickers to the United States. We would like this trend to continue.

Finally, the Prime Minister and I discussed the ambitious economic reform and privatization programs she has said will determine the well-being of the citizens of Pakistan and other Moslem nations. Last year, at my request, our Energy Secretary, Hazel O'Leary, led a mission to Pakistan which opened doors for many U.S. firms who want to do business there. Encouraged by economic growth that is generating real dividends for the Pakistani people. The United States and other foreign firms are beginning to commit significant investments, especially in the energy sector. I'm convinced that in the coming years, the economic ties between our peoples will grow closer, creating opportunities, jobs and profits for Pakistanis and Americans alike.

Before our meetings today, I was reminded that the Prime Minister first visited the White House in 1989 during her first term. She left office in 1990, but then was returned as Prime Minister in free and fair elections in 1993. Her presence here today testifies to her strong abilities and to Pakistan's resilient democracy. It's no wonder she was elected to lead a nation that aims to combine the best of the traditions of Islam with modern democratic ideals. America is proud to claim Pakistan among her closest friends. (*Applause*)

Prime Minister Bhutto: Mr. President, ladies and gentlemen: I'd like to begin by thanking the President for his kind words of support and encouragement.

Since 1989, my last visit to Washington, both the world and Pak-U.S. relations have undergone far-reaching changes. The post-Cold War era has brought into sharp focus the positive role that Pakistan, as a moderate, democratic, Islamic country of 130 million people, can play, and the fact that it is strategically located at the tri-junction of South Asia, Central Asia and the Gulf—a region of both political volatility and economic opportunity.

Globally, Pakistan is active in U.N. peacekeeping operations. We are on the forefront of the fight against international terrorism, narcotics, illegal immigration and counterfeit currency. We remain committed to the control and elimination of weapons of mass destruction, as well as the delivery systems on a regional, equitable and non-discriminatory basis.

Since 1993, concerted efforts by Pakistan and the United States to broaden the base of bilateral relations have resulted in steady progress. In September 1994, in a symbolic gesture, the United States granted Pakistan about $10 million in support for population planning. This was announced by the Vice President at the Cairo Summit on population planning. This was followed by the presidential mission, led by Energy Secretary Hazel O'Leary, which resulted in agreement, worth $4.6 billion being signed. And, now, during my visit here, we are grateful to the administration and the Cabinet secretaries for having helped us sign $6 billion more of agreements between Pakistan and the United States.

During the Defense Secretary's visit to Pakistan in January 1995, our countries decided to revive the Pakistan-United States Defense Consultative Group. And more recently, we had the First Lady and the First Daughter visit Pakistan, and we had an opportunity to discuss women's issues and children's issues with the First Lady. And we found the First Daughter very knowledgeable. We found Chelsea very knowledgeable on Islamic issues. I'm delighted to learn from the President that Chelsea is studying Islamic history and has also actually read our Holy Book, the Koran Shariah.

I'm delighted to have accepted President Clinton's invitation to Washington. This is the first visit by a Pakistani's Chief Executive in six years. President Clinton and I covered a wide range of subjects, including Kashmir, Afghanistan, Central Asia, Gulf, Pakistan-India relations, nuclear proliferation, U.N. peacekeeping, terrorism and narcotics.

I briefed him about corporate America's interest in Pakistan, which has resulted in the signing of $12 billion worth of MOUs in the last 17 months since our government took office. I urged an early resolution of the core issue of Kashmir, which poses a great threat to peace and security in our region. It has retarded progress on all issues, including nuclear and missile proliferation. A just and durable solution is the need of the hour, based on the wishes of the Kashmiri people, as envisaged in the Security Council resolutions. Pakistan remains committed to engage in a substantive dialogue with India to resolve this dispute, but not in a charade that can be used by our neighbor to mislead the international community. I am happy to note that the United States recognizes Kashmir as disputed territory and maintains that a durable solution can only be based on the will of the Kashmiri people.

Pakistan asked for a reassessment of the Pressler Amendment, which places discriminatory sanctions on Pakistan. In our view, this amendment has been a disincentive for a regional solution to the proliferation issue. Pakistan has requested the President and the administration to resolve the problem of our equipment worth $1.4 billion, which is held up. I am encouraged by my discussions with the President this morning and the understanding that he has shown for Pakistan's position. I welcome the Clinton administration's decision to work with Congress to revise the Pressler Amendment.

Thank you, Mr. President.

The President. Thank you.

Terry.

Question. Mr. President, you both mentioned the Pressler Amendment, but I'm not sure what you intend to do. Will you press Congress to allow Pakistan to receive the planes that it paid for or to get its money back?

The President. Let me tell you what I intend to do. First of all, I intend to ask Congress to show some flexibility in the Pressler Amendment so that we can have some economic and military cooperation. Secondly, I intend to consult with them about what we ought to do about the airplane sale.

As you know, under the law as it now exists, we cannot release the equipment. It wasn't just airplanes, it was more than that. We cannot release the equipment. However, Pakistan made payment. The sellers of the equipment gave up title and received the money, and now it's in storage. I don't think what happened was fair to Pakistan in terms of the money. Now, under the law, we can't give up the equipment. The law is clear. So I intend to consult with the Congress on that and see what we can do.

I think you know that our administration cares very deeply about nonproliferation. We have worked very hard on it. We have lobbied the entire world community for an indefinite extension of the NPT. We have worked very hard to reduce the nuclear arsenals of ourselves and Russia and the other countries of the former Soviet Union. We are working for a comprehensive test ban treaty. We are working to limit fissile material production. We are working across the whole range of issues on nonproliferation. But I believe that the way this thing was left in 1990 and the way I found it when I took office requires some modification, and I'm going to work with the Congress to see what progress we can make.

QUESTION. Mr. President, what was your response to Pakistan's suggestion that the United States would play an active role in the solution of the Kashmir issue?

PRESIDENT CLINTON: The United States is willing to do that, but can, as a practical matter, only do that if both sides are willing to have us play a leading role. A mediator can only mediate if those who are being mediated want it. We are more than willing to do what we can to try to be helpful here.

And, of course, the Indians now are talking about elections. It will be interesting to see who is eligible to vote, what the conditions of the elections are, whether it really is a free referendum of the people's will there. And we have encouraged a resolution of this. When Prime Minister Rao was here, I talked about this extensively with him. We are willing to do our part, but we can only do that if both sides are willing to have us play a part.

QUESTION. Madam Prime Minister, why do you need nuclear weapons? And, Mr. President, don't you weaken your case to denuclearize the world when you keep making exceptions?

PRIME MINISTER BHUTTO: We don't have nuclear weapons; I'd like to clarify that—that we have no nuclear weapons. And this is our decision to demonstrate our commitment to——

QUESTION. But you are developing them?

PRIME MINISTER BHUTTO: No. We have enough knowledge and capability to make and assemble a nuclear weapon, but we have voluntarily chosen not to either assemble a nuclear weapon, to detonate a nuclear weapon or to export technology. When a country doesn't have the knowledge and says it believes in nonproliferation, I take that with a pinch of salt. But when a country has that knowledge—and the United States and other countries of the world agree that Pakistan has that knowledge—and that country does not use that knowledge to actually put together or assemble a device, I think that that country should be recognized as a responsible international player which has demonstrated restraint and not taken any action to accelerate our common goals of nonproliferation.

THE PRESIDENT: On your question about making an exception, I don't favor making an exception in our policy for anyone. But I think it's important to point out that the impact of the Pressler Amendment is directed only against Pakistan. And instead, we believe that in the end we're going to have to work for a nuclear-free subcontinent, a nuclear-free region, a region free of all proliferation of weapons of mass destruction. And the import of the amendment basically was rooted in the fact that Pakistan would have to bring into its country, would have to import the means to engage in an arms race, whereas India could develop such matters within this own borders.

The real question is, what is the best way to pursue nonproliferation? This administration has an aggressive, consistent, unbroken record of leading the world in the area of nonproliferation. We will not shirk from that. But we ought to do it in a way that is most likely to achieve the desired results. And at any rate, that is somewhat different from the question of the Catch-22 that Pakistan has found itself in now for five years, where it paid for certain military equipment; we could not, under the law, give it after the previous administration made a determination that the Pressler Amendment covered the transaction, but the money was received, given to the sellers, and has long since been spent.

QUESTION. But will you get a commitment from them to sign the Non-Proliferation Treaty?

THE PRESIDENT: I will say again, I am convinced we're going to have to have a regional solution there, and we are working for that. But we are not making exceptions.

Let me also make another point or two. We are not dealing with a country that has manifested aggression toward the United States or—in this area. We're dealing with a country that just extradited a terrorist or a suspected terrorist in the World Trade Center bombing; a country that has taken dramatic moves in improving its efforts against terrorism, against narcotics; that has just deported two traffickers—or extradited two traffickers to the United States; a country that has cooperated with us in peacekeeping in Somalia, in Haiti, and other places.

We are trying to find ways to fulfill our obligations, our legal obligations under the Pressler Amendment, and our obligation to ourselves and to the world to promote nonproliferation and improve our relationships across the whole broad range of areas where I think it is appropriate.

PRIME MINISTER BHUTTO: May I just add that as far as we in Pakistan are concerned, we have welcomed all proposals made by the United States in connection with the regional solution to nonproliferation, and we have given our own proposals for a South Asia free of nuclear weapons and for a zero missile regime. So we have been willing to play ball on a regional level. Unfortunately, it's India that has not played ball. And what we are asking for is a leveling of the playing field so that we can attain our common goals of nonproliferation of weapons of mass destruction.

QUESTION. Mr. President, why has the United States toned down its criticism of India's human rights violations in Kashmir—why has the United States toned down its criticism of India's human rights violations in Kashmir?

PRESIDENT CLINTON: I'm sorry, sir. I'm hard of hearing. Could you——

QUESTION. Why has the United States toned down criticism of India's human rights violations in Kashmir?

PRESIDENT CLINTON: There's been no change in our policy there. We are still trying to play a constructive role to resolve this whole matter. That is what we want. We stand for human rights. We'd like to see this matter resolved. We are willing to play a mediating role. We can only do it if both parties will agree. And we would like very much to see this resolved.

Obviously, if the issue of Kashmir were resolved, a lot of these other issues we've been discussing here today would resolve themselves. At least, I believe that to be the case. And so, we want to do whatever the United States can do to help resolve these matters because so much else depends on it, as we have already seen.

QUESTION. Mr. President, a domestic question on the bill you signed today for health insurance for the self-employed. Other provisions in that bill send a so-called wrong message on issues like affirmative action, a wrong message on wealthy taxpayers. Why then did you sign it as opposed to sending it back? Were you given any kind of a signal that this was the best you'd get out of conference?

PRESIDENT CLINTON. Well, no. I signed the bill because—first of all, I do not agree with the exception that was made in the bill. I accept the fact that the funding mechanism that's in there is the one that's in there and I think it's an acceptable funding mechanism. I don't agree with the exception that was made in the bill. And it's a good argument for line-item veto that applies to special tax preferences as well as to special spending bills. If we had the line-item veto, it would have been a different story.

But I wanted this provision passed last year, and the Congress didn't do it. I think it's a down payment on how we ought to treat the self-employed in our country. Why should corporations get a 100-percent deductibility and self-employed people get nothing or even 35 percent or 30 percent? I did it because tax day is April 17th, and these people are getting their records ready, and there are millions of them, and they are entitled to this deduction. It was wrong for it ever to expire in the first place.

Now, I also think it was a terrible mistake for Congress to take the provision out of the bill which allows—which would have required billionaires to pay taxes on income earned as American citizens and not to give up their citizenship just to avoid our income tax. But that can be put on any bill in the future. It's hardly a justification to veto a bill that something unrelated to the main subject was not in the bill. It is paid for.

This definitely ought to be done. It was a bad mistake by Congress. But that is not a justification to deprive over three million American business people and farmers and all of their families the benefit of this more affordable health care through this tax break.

QUESTION. Mr. President, don't you think that the United States is giving wrong signals to its allies by dumping Pakistan who has been an ally for half a century in the cold after the Iran war?

PRESIDENT CLINTON. First of all, sir, I have no intention of dumping Pakistan. Since I've been President, we have done everything we could to broaden our ties with Pakistan, to deepen our commercial relationships, our political relationships and our cooperation. The present problem we have with the fact that the Pressler amendment was invoked for the first—passed in 1985, invoked for the first time in 1990, and put Pakistan in a noman's land where you didn't have the equipment and you'd given up the money. That is what I found when I became President. And I would very much like to find a resolution of it.

Under the amendment, I cannot—I will say again—under the law, I cannot simply release the equipment. I cannot do that lawfully. Therefore, we are exploring what else we can do to try to resolve this in a way that is fair to Pakistan. I have already made it clear to you—and I don't think any American President has ever said this before—I don't think it's right for us to keep the money and the equipment. That is not right. And I am going to try to find a resolution to it. I don't like this.

Your country has been a good partner, and more importantly, has stood for democracy and opportunity and moderation. And the future of the entire part of the world where

Pakistan is depends in some large measure on Pakistan's success. So we want to make progress on this. But the United States, a, has a law, and b, has large international responsibilities in the area of nonproliferation which we must fulfill.

So I'm going to do the very best I can to work this out, but I will not abandon Pakistan. I'm trying to bring the United States closer to Pakistan, and that's why I am elated that the Prime Minister is here today.

PRIME MINISTER BHUTTO. And I'd like to say that we are deeply encouraged by the understanding that President Clinton has shown of the Pakistan situation, vis-a-vis the equipment and vis-a-vis the security needs arising out of the Kashmir dispute. And also, that Pakistan is willing to play ball in terms of any regional situation.

We welcome American mediation to help resolve the Kashmir dispute. We are very pleased to note that the United States is willing to do so, if India responds positively. And when my President goes to New Delhi next month, this is an issue which he can take up with the Prime Minister of India. But let's get down to the business of settling the core dispute of Kashmir so that our two countries can work together with the rest of the world for the common purpose of peace and stability.

THE PRESIDENT. Thank you.

THE PRESS. Thank you.

Mr BROWN. Mr. President, the Senate Foreign Relations Committee was catalysed by the Prime Minister's recent visit, and agreed during our recent markup that a new approach is needed. We passed, by a vote of 16 to 2, an amendment to modify these existing restrictions. I ask that a copy of the amendment and the report language also be printed in the RECORD.

The amendment and report language are as follows:

AMENDMENT NO.—

At the appropriate place in the bill, add the following new section:

"SEC. 510. CLARIFICATION OF RESTRICTIONS UNDER SECTION 620E OF THE FOREIGN ASSISTANCE ACT OF 1961.

Subsection (e) of section 620E of the Foreign Assistance Act of 1961 (P.L. 87–195) is amended—

(1) by striking the words "No assistance" and inserting the words "No military assistance";

(2) by striking the words "in which assistance is to be furnished or military equipment or technology" and inserting the words "in which military assistance is to be furnished or military equipment or technology"; and

(3) by striking the words "the proposed United States assistance" and inserting the words "the proposed United States military assistance";

(4) by adding the following new paragraph:

"(2) The prohibitions in this section do not apply to any assistance or transfer provided for the purposes of:

"(A) International narcotics control (including Chapter 8 of Part I of this Act) or any provision of law available for providing assistance for counternarcotics purposes;

"(B) Facilitating military-to-military contact, training (including Chapter 5 of Part II of this Act) and humanitarian and civic assistance projects;

"(C) Peacekeeping and other multilateral operations (including Chapter 6 of Part II of this Act relating to peacekeeping) or any provision of law available for providing assistance for peacekeeping purposes, except that lethal military equipment shall be provided on a lease or loan basis only and shall be returned upon completion of the operation for which it was provided;

"(D) Antiterrorism assistance (including Chapter 8 of Part II of this Act relating to antiterrorism assistance) or any provision of law available for antiterrorism assistance purposes";

(5) by adding the following new subsections at the end—

"(f) STORAGE COSTS.—The President may release the Government of Pakistan of its contractual obligation to pay the United States Government for the storage costs of items purchased prior to October 1, 1990, but not delivered by the United States Government pursuant to subsection (e) and may reimburse the Government of Pakistan for any such amounts paid, on such terms and conditions as the President may prescribe, provided that such payments have no budgetary impact.

"(g) RETURN OF MILITARY EQUIPMENT.—The President may return to the Government of Pakistan military equipment paid for and delivered to Pakistan and subsequently transferred for repair or upgrade to the United States but not returned to Pakistan pursuant to subsection (e). Such equipment or its equivalent may be returned to the Government of Pakistan provided that the President determines and so certifies to the appropriate congressional committees that such equipment or equivalent neither constitutes nor has received any significant qualitative upgrade since being transferred to the United States."

"(h) SENSE OF CONGRESS AND REPORT.—

"(1) It is the sense of the Congress that:

"(A) fundamental U.S. policy interests in South Asia include:

"(1) resolving underlying disputes that create the conditions for nuclear proliferation, missile proliferation and the threat of regional catastrophe created by weapons of mass destruction;

"(2) achieving cooperation with the United States on counterterrorism, counternarcotics, international peacekeeping and other U.S. international efforts;

"(3) achieving mutually verifiable caps on fissile material production, expansion and enhancement of the mutual "no first strike pledge" and a commitment to work with the United States to cap, roll-back and eliminate all nuclear weapons programs in South Asia;

"(B) to create the conditions for lasting peace in South Asia, U.S. policy toward the region must be balanced and should not reward any country for actions inimical to the United States interest;

"(C) the President should initiate a regional peace process in South Asia with both bilateral and multilateral tracks that includes both India and Pakistan;

"(D) the South Asian peace process should have on its agenda the resolution of the following—

"(1) South Asian nuclear proliferation, including mutually verifiable caps on fissile material production, expansion and enhancement of the mutual "no first strike" pledge and a commitment to work with the United States to cap, roll-back and eliminate all nuclear weapons programs in South Asia;

"(2) South Asian missile proliferation;

"(3) Indian and Pakistani cooperation with Iran;

"(4) The resolution of existing territorial disputes, including Kashmir;

"(5) Regional economic cooperation; and

"(6) Regional threats, including threats posed by Russia and China.

"(2) REPORT.—Consistent with the existing reporting requirements under subsection 620F(c) of the Foreign Assistance Act of 1961 as amended, the President shall submit a report to the appropriate congressional committees on the progress of these talks, on whether South Asian countries are working to further U.S. interests, and proposed U.S. actions to further the resolution of the conflict in South Asia as listed in (1) above and to further U.S. international interests, including—

"(A) The degree and extent of cooperation by South Asian countries with all U.S. international efforts, including voting support within the United Nations; and

"(B) Whether withholding of military assistance, dual-use technology, economic assistance and trade sanctions would further U.S. interests."

EXCERPT FROM REPORT

Section 510.—Clarification of restrictions under section 620E of the Foreign Assistance Act of 1961

Section 510 amends section 620E(e) of the Foreign Assistance Act of 1961, as amended. Section 510(1) strikes the restrictions on all assistance tc Pakistan and insert a restriction on military assistance in its stead. Section 510(e)(E) adds several sections to section 620E(e) of the Foreign Assistance Act, including: (1) a paragraph which specifies that prohibitions of military assistance to Pakistan do not apply to any assistance provided fro the purposes of international narcotics control, military to military contacts, training or humanitarian assistance, peacekeeping, multilateral operations or antiterrorism activities; (2) a waiver of storage costs for military equipment not delivered to Pakistan and authorized repayment of those costs; (3) authorization for the return of Pakistani owned, unrepaired military equipment sent to the United States; (4) a sense of Congress statement relating to United States policy toward South Asia; and (5) an enhanced reporting requirement under section 620F(c) of the Foreign Assistance Act of 1961.

The United States friendship with Pakistan dates from 1947, soon after Pakistani independence. Since then Pakistan's cooperation with the United States has been remarkable; Pakistan stood with the United States throughout the cold war against Soviet totalitarian expansionism; Pakistan has been in the forefront of U.S.-initiated United Nations peacekeeping operations; and Pakistan has cooperated extensively with the United States in counterterrorism, providing critical assistance in the apprehension and switch extradition of Ramzi Ahmed Yousef, the alleged mastermind of the terrorist attack on the World Trade Center in New York City.

For much of the last two decades, Pakistan has faced a nuclear threat from India. India's nuclear program, initiated in response to the threat perceived by China's development of a nuclear weapon, and three wars fought between the two countries, created the incentive for Pakistani pursuit of a nuclear program. The United States provided conventional military assistance to Pakistan, in part to discourage the development of a nuclear program. In October 1990, the President was unable to certify under section 620E(e) of the Foreign Assistance Act of 1961 as amended (known as the "Pressler Amendment") that Pakistan did not possess a nuclear explosive device, and United States assistance to Pakistan was ended.

The Pressler restrictions required a cut-off of all United States assistance to Pakistan, including assistance to United States companies doing business there. However, this legislation has not proven to be an effective tool of United States non-proliferation efforts in South Asia. In recognition of this, President Clinton called for a review of the Pressler amendment on April 11, 1995.

After careful and extensive consideration, the committee, on a vote of 16 to 2, agreed to modify the existing prohibitions on United States assistance to Pakistan under section 620E(e). The provision included by the committee specifically exempts from restrictions all assistance provided for bilateral international narcotics control activities, military-to-military contact, humanitarian assistance, peacekeeping and counterterrorism assistance.

The committee also clarified that the prohibition shall only apply to military assistance. Currently, the State Department has interpreted the Pressler amendment to include all United States assistance and sales. The committee is aware that certain aid, such as antiterrorism assistance, and certain sales of United States goods are warranted and should be encouraged. For example, equipment that assists in confidence building measures between Pakistan and India should not be prohibited. Such items would include border surveillance equipment, radar, radar warning receivers, etc. Items such as these not only promote border security and help prevent surprise attacks, but also prevent accidental incursions and incidents that could escalate into significant confrontations. As with sales of military and non-military items to India, sales of nonmilitary equipment to Pakistan would be made on a case-by-case basis.

Notwithstanding President Clinton's commitment to resolve the outstanding issue of $1.4 billion worth of equipment that Pakistan bought, but that has not been delivered, the administration continues to investigate possible solutions and has yet to recommend a course of action. The committee generally agreed that some resolution 1 of this issue is important, but took no action pending an administration recommendation.

Section 511.—Statement of policy and requirement for report on oil pipeline through Azerbaijan, Armenia, Georgia, and Turkey

Section 511 states that it is the sense of the Senate to support construction of an oil pipeline through Azerbaijan, Armenia, Georgia, and Turkey. The section also requires a report analyzing potential routes for construction of the pipeline. The report shall include a discussion of the advantages and disadvantages for different routes, including: (1) the amount of oil to be transported along each route of the pipeline; (2) the cost of constructing the pipeline; (3) options for commercial and public financing of construction of each route of the pipeline; and (4) the impact on regional stability of the pipeline along each route.

The oil-rich Transcaucasus region that stretches between the Southern border of the Russian Federation and Iran is of great geostrategic interest to the United States. Development of an oil pipeline through Azerbaijan, Armenia and Turkey or Georgia would provide the countries in the Transcaucasus with economic access outside Russian or Iranian control. The committee believes that such a pipeline would help ensure that Armenia, Azerbaijan and Georgia remain strong and independent nations while simultaneously providing the United States with a major source of petroleum outside of the Persian Gulf.

Section 512.—Reports on eradication of production and trafficking in narcotic drugs and marijuana

Section 512 requires the President to submit a semiannual report to Congress on the progress made by the United States in eradicating production of and trafficking in illicit drugs. The report shall be submitted in unclassified form with a classified annex, if required.

Section 513.—Reports on commercial disputes with Pakistan

Section 513 requires the Secretary of State, in consultation with the Secretary of Commerce, to report 30 days after the bill's enactment, and every 90 days thereafter, on the status of disputes between the Government of Pakistan and United States persons with respect to cellular telecommunications and on the progress of efforts to resolve such disputes. The requirement to submit the report shall terminate upon certification by the Secretary of State to Congress that all significant disputes between the Government of Pakistan and United States persons with respect to cellular communications have been satisfactorily resolved.

In other sections of this bill, the committee broadened the Pressler amendment to allow, among other things, for United States trade and investment programs in Pakistan. However, the committee believes that United States companies should enjoy a friendly business atmosphere in Pakistan, without which further development of economic relations will be difficult.

Section 514.—Nonproliferation and disarmament fund

Section 514 authorizes $25 million for each of the fiscal years 1996 and 1997 for the Nonproliferation and Disarmament Fund [NDF]. The NDF supplements United States diplomatic efforts to halt the spread of both weapons of mass destruction and advanced conventional weapons, their delivery systems, and related weapons and their means of delivery.

Under authority provided in section 504 of the Freedom for Russia and Emerging Eurasian Democracies and Open Markets Support Act of 1992 (Freedom Support Act), significant accomplishments in furthering these nonproliferation and disarmament goals have been made. The NDF has, for example, assisted in the purchase of unsafeguarded highly enriched uranium from Kazakhstan, the destruction of Hungarian SCUD missiles, and work on deploying seismic arrays in Egypt and Pakistan necessary to test a global network to verify a Comprehensive Test Ban Treaty.

The NDF seeks bilateral and multilateral project proposals that dismantle and destroy existing weapons of mass destruction, their components and delivery systems, that strengthen international safeguards and delivery systems, that strengthen international safeguards, and that improve export controls and nuclear smuggling efforts.

Beginning in fiscal year 1996, the NDF will assume responsibility for export control assistance to the Newly Independent States [NIS]. This assistance has been provided by the Department of Defense in earlier legislation authorized under the Nunn-Lugar Comprehensive Threat Reduction Program.

The committee believes the NDF is an important element in achieving the high priority national security and foreign policy goal of slowing and reversing the proliferation of weapons of mass destruction and advanced conventional weapons.

Section 515.—Russian nuclear technology agreement with Iran

Section 515 expresses the sense of Congress regarding Russia's nuclear agreement with Iran. The Committee is profoundly concerned about an agreement between Russia and Iran to sell nuclear power reactors to Iran. It is the sense of this Committee that the Russian Federation should be strongly condemned if it continues a commercial agreement to provide Iran with nuclear technology which would assist that country in its development of nuclear weapons. Moreover, if such a transfer occurs, Russia would be ineligible for assistance under the terms of the Freedom Support Act.

During the May 1995 summit in Moscow, Russian President Yeltsin was asked by President Clinton to cancel the reactor sale to Iran. President Yeltsin did not halt the sale, but instead cancelled the Russian sale of a gas centrifuge to Iran and halted the training of 10 to 20 Iranian scientists a year in Moscow.

Iran is aggressively pursuing a nuclear-weapons acquisition program. The Central Intelligence Agency stated in September 1994 that Iran probably could, with some foreign help, acquire a nuclear weapons capability within 8 to 10 years. Iran is receiving that foreign help from Russia and China. Specifically, China is helping Iran build a nuclear research reactor, and in April it concluded a deal to sell Iran two light-water reactors. Pakistan, a country with . . .

Mr. BROWN. Mr. President, the nearly unanimous action by the Foreign Relations Committee is only a first step. Most importantly, there remains $1.4 billion worth of military equipment which Pakistan bought and paid for but which has never been delivered because of existing restrictions. President Clinton himself has said this situation is "not fair to Pakistan." On behalf of a country that has been one of our closest allies throughout the cold war, the United States must rectify this circumstance.

I am certain the administration is developing alternatives, and I stand ready to work with them to ensure that our relationship with our close ally is able to move forward. Pakistan deserves fair treatment.•

PAUL BRUHN—1995 HARRIS AWARD WINNER

• Mr. LEAHY. Mr. President, early last month, Paul Bruhn of South Burlington, Vermont, received the 1995 Harris Award. Paul is the Executive Director of the Preservation Trust of Vermont, and I know that he was given the Award because of his life-long devotion to improving the Burlington area and helping Vermont in all things. He was recognized as the Downtown Business Person of the Year, and the honor is justly deserved.

During the past 20 years, I cannot remember a thing done to help Burlington that did not involve Paul Bruhn. Those of us who think of Burlington as home know how much we owe to Paul. I ask that two articles from the Burlington Free Press regarding Paul, be printed in the RECORD.

The articles follow:

[From the Burlington Free Press, May 5, 1995]

ARCHITECT, CONSULTANT HONORED

(By Stacey Chase)

Breaking with tradition, the Downtown Burlington Development Association has announced the winners of the Nathan Harris and Hertzel Pasackow awards that will be presented at the association's annual dinner May 11.

The 1995 Harris Award will be given to Paul Bruhn, executive director of the Non-profit Preservation Trust of Vermont and a private public affairs consultant. This year's Pasackow Award goes to Bob Miller for the development of his namesake building, Miller's Landmark, on the Church Street Marketplace.

"I was surprised, flattered, a little embarrassed but very appreciative," said Bruhn, 48, of South Burlington.

The Harris Award has been given since 1978 to the person "who best emulates the enthusiasm, dedication and foresight of Nate Harris in maintaining and improving the economic vitality of the Burlington central business district."

"Paul Bruhn has been involved and concerned with the vitality of downtown Burlington all of his life," said Ed Moore, executive director of the development association. "And the interesting part of Paul's accomplishment and contribution is that he's never in the limelight; he's always been behind the scenes working very, very hard."

The Pasackow Award has been given since 1984 for significant contribution to the physical or architectural quality of downtown Burlington. Miller's Landmark contains 15 stores and office space.

"When J.C. Penny chose to leave the city, the thought of a vacant shell of a building caused concern for many in downtown," Moore said. "Then Bobby Miller purchased the building, created a vision and began implementation of a plan that is represented by that building as we know it today."

Miller, 59, of Shelburne is president of REM Development Co. The Williston company is a commercial and industrial development firm.

"I think the building certainly has increased the identity of that upper block," Miller said. "And it's been kind of a fun project."

Both Harris and Pasackow were founding members of the development association. The late Nathan Harris started Nate's men's clothing store; the late Hertzel Pasackow started Mayfair women's clothing store.

Moore said the decision to announce the winner before the annual dinner was made this year to give the recipients greater recognition for their work.

"We thought we could get a better turnout if people knew," Moore said.

[From the Burlington Free Press, May 12, 1995]

PASACKOW, HARRIS AWARDS GIVEN

(By Candy Page)

In a bittersweet moment Thursday evening, the Pasackow family, whose Church Street clothing store is closing, presented the H. Hertzel Pasackow Award to Robert Miller of Miller's Landmark, one of downtown's newest businesses.

The award, for architectural excellence, was one of two presented by the Downtown Burlington Development Association to downtown leaders.

The audience of 200 gave a standing ovation to Paul Bruhn, who received the Nate Harris Award as the downtown business person of the year.

Bruhn, executive director of the Preservation Trust of Vermont, was recognized for 20 years of behind-the-scenes work in helping to create the Church Street Marketplace and to keep it strong.

"I'm proud to have been part of this Marketplace," Jay Pasackow said as he presented the Pasackow award to Miller.

Pasackow said Miller's $3.5 million renovation of the former J.C. Penny building meant that "what was potential urban decay became a jewel for downtown."

Miller said he was sad the Pasackow family is closing their business but that he is excited about the Marketplace's future.

Bruhn's work has been less visible than Miller's.

As an aide to Sen. Patrick J. Leahy in the 1970s, Bruhn helped obtain the seven Federal grants that helped finance creation of the Church Street pedestrian mall.

Mayor Peter Clavelle praised Bruhn for more recent work, organizing opposition to suburban mega-developments like Wal-Mart and Pyramid mall.

"Paul has been the most persistent and effective organizer of opposition to Pyramid and Wal-Mart . . . and downtown Burlington would not be what it is today if Pyramid or Wal-Mart had been built," the mayor said.•

NATO EXPANSION

• **Mr. WARNER.** Mr. President, one of the critical national security issues that the Senate, and indeed the Nation, is currently facing is the future of the North Atlantic Alliance. NATO, which has been the bedrock of European peace and stability for almost 50 years, is in a period of transition—adjusting to the realities of the post-cold war world. Key among the issues confronting NATO is its possible expansion to include the nations of Central and Eastern Europe, and, possibly, the states of the former Soviet Union.

Last Thursday, June 22, Senator NUNN addressed this issue in a speech to the Supreme Allied Command Atlantic [SACLANT] conference in my State at Norfolk, VA. I have enormous respect for the views of Senator NUNN, my friend and colleague for 17 years in the Senate. We have traveled together extensively and jointly worked on projects such as the Nunn-Warner Nuclear Risk Reduction Centers, currently located in Washington, DC and Moscow.

He is recognized around the world as an expert on national security issues, and in particular on issues related to NATO. While I might not agree with all of the points made in Senator NUNN's speech on NATO expansion, it is a very thoughtful contribution to this important international dialog. I commend it to the attention of my colleagues, and I ask that the text of Senator NUNN's speech be printed in the RECORD.

The text of the speech follows:

THE FUTURE OF NATO IN AN UNCERTAIN WORLD

(By Senator Sam Nunn)

I. INTRODUCTION: THE IMPORTANCE OF NATO ENLARGEMENT

Thank you, General Sheehan, for your kind introduction. Secretary General Claes, NATO Military Committee Chairman Field Marshal Vincent, distinguished NATO ambassadors, distinguished military commanders, distinguished guests, I am honored to be with you this morning to discuss the role of NATO in the post Cold War period.

The pivotal issue of NATO expansion deserves thorough and careful consideration, because it has important ramifications: for the future of NATO; for the countries of central and eastern Europe; for the future of Russia and the other countries of the former Soviet Union; and for the future security and order throughout Europe, east and west.

II. NEW SECURITY SITUATION

NATO was established primarily to protect the Western democracies from an expansionist Soviet Union that seemed determined to spread its influence through subversion, political intimidation and the threat of military force.

When NATO was formed in the late 1940's, Europe was faced with postwar devastation and the emergence of Soviet aggression and confrontation. Western consensus developed around two critical concepts that were decisive in winning the Cold War and in winning the peace; First, Germany and Japan should not be isolated but should be integrated into the community of democratic nations. Second, the western democracies should pursue together a policy of containment, and unite in NATO to carry out this policy.

Integration and containment succeeded; The Berlin Wall is down and Germany is united. Eastern Europe and the Baltics are free at last. The Soviet Empire has disintegrated and Russia is struggling to try to establish a market economy and some semblance of democracy.

For almost half a century, NATO's military strength was our defensive shield against aggression by the Soviet Union, but our offensive sword was our free societies, our innovative and energetic peoples, our free market systems and our free flow of ideas.

With the end of the Cold War, we have witnessed a heart-pounding, terrain-altering set of earthquakes centered in the former Soviet Union and in Easter Europe. These seismic events have ended an international era.

The European security environment has changed. We have moved from a world of high risk, but also high stability because of the danger of escalation and balance of terror, to a world of much lower risk but must less stability. In a strange and even tragic sense, the world has been made safer for racial, ethnic, class and religious vengeance, savagery and civil war. Such tragedy has come to the people of Bosnia, Somalia, Haiti, Rwanda, Burundi, Liberia, Sudan, Tajikistan, Georgia, Azerbaijan, and many others.

The dust has not settled. Bosnia continues to erode NATO's credibility and confidence. Yet it is clear that the overall security and freedom of Europe has dramatically improved.

The Eastern European countries, the Baltic countries, and many of the countries of the former Soviet Union have become fully independent, are turning westward, and are anxious to become part of the European community and to join NATO as full members.

We are no longer preoccupied with the crucial Cold War issue of how much warning time NATO would have in advance of a massive conventional attack westward by the Warsaw Pact.

During the Cold War, we worried about a Soviet invasion deep into Western Europe. As Michael Mandelbaum points out, the current debacle in Chechnya indicates that Russia today has serious trouble invading itself.

Today, our military planners estimate that preparation for a Russian conventional military attack, even against Eastern Europe, would take several years at a minimum—assuming the resources could be found to rebuild the undermanned, underfunded, poorly trained and poorly disciplined Russian military establishment.

Russia itself has gone from being the center of a menacing, totalitarian global empire to an economically-weak, psychologically-troubled country struggling to move toward democracy and a market-based economy.

A multilateral security system is forming across Europe that reduces nuclear and conventional armaments and makes a surprise attack by Russian conventional military forces toward the West increasingly unlikely.

I have in mind the cumulative effect of such agreements as the INF Treaty, the CFE Treaty, the unilateral U.S. and Soviet decisions to reduce tactical nuclear weapons in Europe, the START I and pending START II Treaties, and the pending Chemical Weapons Convention and Open Skies Treaty.

These mechanisms are far from perfect, several await ratification, and they require vigorous verification and full implementation. Yet even at this stage, they significantly enhance warning time that today is measured in years rather than in days or in months.

We are all aware of the dramatic change in the threat environment in Europe resulting from these changes.

The immediate danger is posed by violent terrorist groups; by isolated rogue states, by ethnic, religious, and other types of sub-national passion that can flare into vicious armed conflict. The lethality of any and all of these threats can be greatly magnified by the proliferation of nuclear, chemical and biological weapons, as well as by the spread of destabilizing conventional weapons.

This audience is well aware that Russia currently possesses over 20,000 nuclear weapons, at least 40 thousand tons of chemical weapons, advanced biological warfare capabilities, hundreds of tons of fissile material, huge stores of conventional weapons, plus thousands of scientists and technicians skilled in manufacturing weapons of mass destruction.

This is the first time in history that an empire has disintegrated while possessing such enormous destructive capabilities. Even if these capabilities are greatly reduced, the know-how, the production capability, and the dangers of proliferation will endure for many years. This is the number one security threat for America, for NATO, and for the world.

As we contemplate NATO enlargement, we must carefully measure its effect on this proliferation threat.

In the longer term, we cannot dismiss the possibility of a resurgent and threatening Russia.

Russia not only has inherited the still dangerous remnants of the Soviet war machine. In addition, even in its currently weakened condition, Russia possesses great potential in human and material resources. By virtue of its size and strategic location, Russia exerts considerable weight in Europe, Asia and the Middle East. Meanwhile, Russia has inherited the USSR's veto power in the UN Security Council and therefore has a major voice in multilateral decision making.

Russia will be a major factor, for better or worse, across the entire spectrum of actual and potential threats.

Russia can fuel regional conflicts with high technology conventional weapons, along with political and other material support.

Or Russia can cooperate with us in defusing such conflicts, particularly by preventing the spread of Russian weaponry to irresponsible hands.

Russia can itself emerge as a militarily aggressive power.

Or Russia can assist us in averting new rivalry among major powers that poisons the international security environment.

Russia can pursue a confrontational course that undermines security and cooperation in Europe.

Or it can work with us to broaden and strengthen the emerging system of multilateral security in Europe.

Out of all this background come five fundamental points:

First, preventing or curbing the proliferation of weapons of mass destruction is the most important and most difficult security challenge we face.

Second, Russia is a vast reservoir of weaponry, weapons material and weapons know-how. Thousands of people in Russia and throughout the former Soviet Union have the knowledge, the access, and strong economic incentives to engage in weapons traffic.

Third, increased Russian isolation, paranoia or instability would make this security challenge more difficult and more dangerous.

Fourth, although the West cannot control events in Russia, and probably can assist political and economic reform there only on the margins, as the medical doctors say, our first principle should be DO NO HARM.

Fifth, we must avoid being so preoccupied with NATO enlargement that we ignore the consequences it may have for even more important security priorities.

III. PROBLEMS WITH THE CURRENT APPROACH TO NATO ENLARGEMENT

It is against this background that I offer a few observations on the current approach to NATO enlargement.

NATO's announced position is that the question of enlargement is not whether, but when and how. Somehow I have missed any logical explanation of WHY. I cannot speak of public opinion in other countries, but in America when the enlargement debate focuses on issues of NATO nuclear policy, NATO troop deployments, and formal NATO military commitments—played against the background of repercussions in Russia—somebody had better be able to explain to the American people WHY, or at least WHY NOW.

NATO was founded on a fundamental truth: the vital interests of the countries of NATO were put at risk by the military power and political intimidation of the Soviet Union. As President Harry Truman said in his memoirs: "The [NATO] pact was a shield against aggression and against the fear of aggression. . . ." Because NATO was built on this fundamental truth, and because we discussed it openly and faced it truthfully with our people, the alliance endured and prevailed.

Today, we seem to be saying different things to different people on the subject of NATO enlargement.

To the Partnership for Peace countries, we are saying that you are all theoretically eligible and if you meet NATO's entrance criteria (as yet not fully spelled out), you will move to the top of the list.

To the Russians, we are also saying that NATO enlargement is not threat-based and not aimed at you. In fact, you too can eventually become a member of NATO. This raises serious questions.

Are we really going to be able to convince the East Europeans that we are protecting them from their historical threats, while we convince the Russians that NATO's enlargement has nothing to do with Russia as a potential military threat?

Are we really going to be able to convince Ukraine and the Baltic countries that they are somehow more secure when NATO expands eastward but draws protective lines short of their borders and places them in what the Russians are bound to perceive as the "buffer zone?"

In short, are we trying to bridge the unbridgeable, to explain the unexplainable? Are we deluding others or are we deluding ourselves?

The advantages of NATO's current course toward enlargement cannot be ignored. If NATO expands in the near term to take in the Visegrad countries, these countries would gain in self-confidence and stability. It is possible that border disputes and major ethnic conflicts presumably would be settled before entry—for instance, the dispute involving the Hungarian minority in Romania.

However, the serious disadvantages must be thought through carefully.

For example, my conversations with Russian government officials, members of the Russian parliament across the political spectrum, and non-official Russian foreign policy specialists convince me that rapid NATO enlargement will be widely misunderstood in Russia and will have a serious negative impact on political and economic reform in that country. There are several reasons for this:

At the moment, Russian nationalism is on the rise and reformers are on the defensive. The Russian military establishment and the still huge military-industrial complex that undergirds it are dispirited and resentful.

The average Russian voter has trouble making ends meet, is unsure what the future may hold, but is well aware that Russia has gone from being the seat of a global empire and the headquarters of a military superpower to a vastly weakened international status.

Russian nationalists feed this sense of loss and uncertainty by proclaiming that rapid NATO enlargement is intended to take advantage of a weakened Russia and will pose a grave security threat to the Russian people. Russian demagogues argue that Russia must establish a new global empire to counter an expansionist west. They smile with glee every time NATO expansion is mentioned.

Russian democrats do not see an immediate military threat from an enlarged NATO but fear the reaction of the Russian people. The democrats worry that alarmist messages, however distorted, will set back democracy by increasing popular tolerance for authoritarianism and renewed military spending within Russia, and by isolating Russia from western democracies.

In short, if NATO enlargement stays on its current course, reaction in Russia is likely to be a sense of isolation by those committed to democracy and economic reform, with varying degrees of paranoia, nationalism and demagoguery emerging from across the current political spectrum.

In the next few years, Russia will have neither the resources nor the wherewithal to respond with a conventional military build-up. If, however, the more nationalist and extreme political forces gain the upper hand, by election or otherwise, we are likely to see other responses that are more achievable and more dangerous to European stability. For example:

While Russia would take years to mount a sustained military threat to eastern Europe, it can within weeks or months exert severe external and internal pressure on its immediate neighbors to the west—including the Baltic countries and Ukraine. This could set in motion a dangerous action-reaction cycle.

Moreover, because a conventional military response from Russia in answer to NATO enlargement is infeasible, a nuclear response, in the form of a higher alert status for Russia's remaining strategic nuclear weapons and conceivably renewed deployment of tactical nuclear weapons, is more likely. The security of NATO, Russia's neighbors, and the countries of eastern Europe will not be enhanced if the Russian military finger moves closer to the nuclear trigger.

By forcing the pace of NATO enlargement at a volative and unpredictable moment in Russia's history, we could place ourselves in the worst of all security environments: rapidly declining defense budgets, broader responsibilities, and heightened instability. We will also find ourselves with increasingly difficult relations with the most important country in the world in terms of potential for proliferation of weapons of mass destruction.

This is the stuff that self-fulfilling prophecies, and historic tragedies, are made of.

IV. SPECIFIC RECOMMENDATIONS FOR ALLIANCE POLICY

Where do we go from here? I recognize that it is much easier to criticize than to construct, but I do have a few suggestions.

I suggest a two-track approach to NATO enlargement.

The first track would be evolutionary and would depend on political and economic developments within the European countries who aspire to full NATO membership. When a country becomes eligible for European Union membership, it will also be eligible to join the Western European Union and then be prepared for NATO membership, subject to course to NATO approval.

This is a natural process connecting economic and security interests.

We can honestly say to Russia that this process is not aimed at you.

The second track would be threat-based. An accelerated, and if necessary immediate, expansion of NATO would depend on Russian behavior. We should be candid with the Russian leadership, and above all honest with the Russian people, by telling them frankly: If you respect the sovereignty of your neighbors, carry out your solemn arms control commitments and other international obligations, and if you continue on the path toward democracy and economic reform, your neighbors will not view you as a threat, and neither will NATO.

We will watch, however, and react:

(1) to aggressive moves against other sovereign states;

(2) to militarily significant violations of your arms control and other legally binding obligations pertinent to the security of Europe;

(3) to the emergence of a non-democratic Russian government that impedes fair elections, suppresses domestic freedoms, or institutes a foreign policy incompatible with the existing European security system.

These developments would be threatening to the security of Europe and would require a significant NATO response, including expansion eastward. We would be enlarging NATO based on a real threat. We would not, however, be helping to create the very threat we are trying to guard against.

Finally, Partnership for Peace is a sound framework for this two-track approach. Its role would be to prepare candidate countries and NATO itself for enlargement on either track. Programs of joint training and exercises, development of a common operational doctrine, and establishment of inter-operable weaponry, technology and communications would continue, based on more realistic contingencies. Tough issues such as nuclear policy and forward stationing of NATO troops would be discussed in a threat-based framework, one which we hope would remain theoretical.

As the Russian leaders and people make their important choices, they should know that Russian behavior will be a key and relevant factor for NATO's future. This straightforward approach is also important for our citizens, who will have to pay the bills and make the sacrifices required by expanded NATO security commitments.

The profound historical contrast between post-World War I Germany and post-World War II Germany should tell us that neo-containment of Russia is not the answer at this critical historical juncture. If future developments require the containment of Russia, it should be real containment, based on real threats.●

CELEBRATING THE CENTENNIAL OF THE CHURCH PUBLIC SCHOOL

● Mr. LEVIN. Mr. President, I am pleased to call the attention of my colleagues to an institution in Michigan that is celebrating their 100th anniversary. On July 9, 100 years ago land for the church school, formally known as Lincoln No. 2, was deeded to the school district by Julius and Sophia Labute for the price of $49.50. The Huron Tribune posted a notice on June 21, 1895, that requested sealed tenders for the erection of a veneered schoolhouse in District No. 2, Township of Lincoln.

While the complete records of who taught at the school that first year were not preserved, we do know that the school was completed and was most likely in session because of June Nelson who authored the story, A Long Trek. The story is one of many in Ms. Nelson's book entitled "Tales From the Tip of the Thumb." The story tells of a wagon train leaving from Filion, MI, in October 1895 and the travelers were looking for a map of the United States. One of them remembered that the new Lincoln No. 2 schoolhouse on the corner had such a map in its geography chart and they had no trouble obtaining it in the middle of the night.

For 100 years that schoolhouse on the corner has taught thousands of students the basic building blocks that lead to a life of learning. I congratulate them on a century of success and wish them well as they enter the new millennium with the timeless values that have served them and their students well since the 19th century.●

NATIONAL INFORMATION INFRASTRUCTURE PROTECTION ACT OF 1995

● Mr. KYL. Mr. President, I ask that S. 982, the National Information Infrastructure Protection Act of 1995, be printed in the RECORD.

The text of the bill follows:

S. 982

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Information Infrastructure Protection Act of 1995".

SEC. 2. COMPUTER CRIME.

Section 1030 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) by striking "knowingly accesses" and inserting "having knowingly accessed";

(ii) by striking "exceeds" and inserting "exceeding";

(iii) by striking "obtains information" and inserting "having obtained information";

(iv) by striking "the intent or";

(v) by striking "is to be used" and inserting "could be used"; and

(vi) by inserting before the semicolon at the end the following: "willfully communicates, delivers, transmits, or causes to be communicated, delivered, or transmitted, or attempts to communicate, deliver, transmit or cause to be communicated, delivered, or transmitted the same to any person not entitled to receive it, or willfully retains the same and fails to deliver it to the officer or employee of the United States entitled to receive it";

(B) in paragraph (2)—

(i) by striking "obtains information" and inserting "obtains—

"(A) information"; and

(ii) by adding at the end the following:

"(B) information from any department or agency of the United States; or

"(C) information from any protected computer if the conduct involved an interstate or foreign communication;";

(C) in paragraph (3)—

(i) by striking "the use of the Government's operation of such computer" and inserting "that use by or for the Government of the United States"; and

(ii) by striking "adversely";

(D) in paragraph (4)—

(i) by striking "Federal interest" and inserting "protected"; and

(ii) by inserting before the semicolon the following: "and the value of such use is not more than $5,000 in any 1-year period";

(E) by amending paragraph (5) to read as follows:

"(5)(A) knowingly causes the transmission of a program, information, code, or command, and as a result of such conduct, intentionally causes damage without authorization, to a protected computer;

"(B) intentionally accesses a protected computer without authorization, and as a result of such conduct, recklessly causes damage; or

"(C) intentionally accesses a protected computer without authorization, and as a result of such conduct, causes damage;"; and

(F) by inserting after paragraph (6) the following new paragraph:

"(7) with intent to extort from any person, firm, association, educational institution, financial institution, government entity, or other legal entity, any money or other thing of value, transmits in interstate or foreign commerce any communication containing any threat to cause damage to a protected computer;";

(2) in subsection (c)—

(A) in paragraph (1), by striking "such subsection" each place it appears and inserting "this section";

(B) in paragraph (2)—

(i) in subparagraph (A)—

(I) by inserting ", (a)(5)(C)," after "(a)(3)"; and

(II) by striking "such subsection" and inserting "this section";

(ii) by redesignating subparagraph (B) as subparagraph (C);

(iii) by inserting immediately after subparagraph (A) the following:

"(B) a fine under this title or imprisonment for not more than 5 years, or both, in the case of an offense under subsection (a)(2), if—

"(i) the offense was committed for purposes of commercial advantage or private financial gain;

"(ii) the offense was committed in furtherance of any criminal or tortuous act in violation of the Constitution or laws of the United States or of any State; or

"(iii) the value of the information obtained exceeds $5,000;"; and

(iv) in subparagraph (C) (as redesignated), by striking "such subsection" and inserting "this section";

(C) in paragraph (3)—

(i) in subparagraph (A)—

(I) by striking "(a)(4) or (a)(5)(A)" and inserting "(a)(4), (a)(5)(A), (a)(5)(B), or (a)(7)"; and

(II) by striking "such subsection" and inserting "this section"; and

(ii) in subparagraph (B)—

(I) by striking "(a)(4) or (a)(5)" and inserting "(a)(4), (a)(5)(A), (a)(5)(B), (a)(5)(C), or (a)(7)"; and

(II) by striking "such subsection" and inserting "this section"; and

(D) by striking paragraph (4);

(3) in subsection (d), by inserting "subsections (a)(2)(A), (a)(2)(B), (a)(3), (a)(4), (a)(5), and (a)(6) of" before "this section.";

(4) in subsection (e)—

(A) in paragraph (2)—

(i) by striking "Federal interest" and inserting "protected";

(ii) in subparagraph (A), by striking "the use of the financial institution's operation or the Government's operation of such computer" and inserting "that use by or for the financial institution or the Government"; and

(iii) by amending subparagraph (B) to read as follows:

"(B) which is used in interstate or foreign commerce or communication;";

(B) in paragraph (6), by striking "and" the last place it appears;

(C) by striking the period at the end of paragraph (7) and inserting "; and"; and

(D) by adding at the end the following new paragraphs:

"(8) the term 'damage' means any impairment to the integrity or availability of data, a program, a system, or information, that—

"(A) causes loss aggregating at least $5,000 in value during any 1-year period to one or more individuals;

"(B) modifies or impairs, or potentially modifies or impairs, the medical examination, diagnosis, treatment, or care of one or more individuals;

"(C) causes physical injury to any person; or

"(D) threatens public health or safety; and

"(9) the term 'government entity' includes the Government of the United States, any State or political subdivision of the United States, any foreign country, and any state, province, municipality, or other political subdivision of a foreign country."; and

(5) in subsection (g)—

(A) by striking ", other than a violation of subsection (a)(5)(B),"; and

(B) by striking "of any subsection other than subsection (a)(5)(A)(ii)(II)(bb) or (a)(5)(B)(ii)(II)(bb)" and inserting "involving damage as defined in subsection (e)(8)(A)".●

HOT AIR BAKING ALASKA

● Mr. STEVENS. Mr. President, I ask that the following article be printed in the RECORD.

The article follows:

[From the Washington Times, June 9, 1995]

HOT AIR BAKING ALASKA

(By Alston Chase)

Our helicopter swooped down on a black bear that was lazily grazing lush grass beside a crystal clear mountain river. Around him, I could see an intense green mosaic of meadows and, beyond them, thick forests that stretched to the skyline, where dark peaks loomed through the mist.

I was flying over the Thorne River on Prince of Wales Island in Southeast Alaska's Tongass National Forest—a stream that in April the conservation group American Rivers, claiming that "extensive logging" would harm "potentially threatened" creatures, designated one of the country's "most endangered" rivers.

But environmentalists, I discovered, had things backward. Prince of Wales, which has been extensively logged, is thriving. By contrast, more than 96 percent of the Tongass remains untouched, yet is dying.

For more than a decade, various groups have insisted that the Tongass, "America's rain forest," is in deep trouble due to unprincipled logging. I found that while this region is indeed at risk, the culprit is conservationism. The Thorne, in particular, is flourishing.

Contrary to activist claims, the Forest Service manages it as a "Scenic and Recreational River" and plans no logging there, except in a tiny portion of one tributary. Where harvests are under consideration, they would be prohibited within a half-mile of any stream. And although 21 percent of the drainage has already been logged—much of it long ago—pink salmon runs have risen from lows of 300 in the 1960s to highs of 350,000 in the 1990s.

This reveals what foresters know: that in this land which annually receives 160 inches of rain and where trees grow like weeds, logging can be nature's best friend. Properly harvested, these forests could grow at the rate of 1.35 billion board feet a year. But left alone, they are dying. Meanwhile, the lack of cutting ensures few recreational opportunities are available for ordinary people. Dotted with muskeg swamps, littered with deadfall and covered with a solid curtain of densely packed trees, the land is nearly impenetrable. Only the super-rich can afford the helicopters needed to reach camping and fishing spots in its interior.

That is what makes Prince of Wales different. Thanks to logging, it is experiencing phenomenal tree growth and has a wonderful road and trail network that puts the lakes and streams within reach of hikers.

Unfortunately, such accessibility displeases the scions of Grosse Point and the Barons of the Beltway, whose largess and appetite for power sustains the environmental movement. These elite prefer to keep the Tongass so remote its choice spots can only be reached by qualified governmental authorities or refined persons such as themselves, who have access to, or can afford, guides and helicopters. So to make their playground safe from democracy, they successfully lobbied and litigated to reduce harvest plans until, today, cutting approaches zero.

Of the Tongass' 17 million acres, 10 million are forested, and of that 5.7 million are accessible for "commercial" forestry. In 1980, federal legislation set aside around 1.6 million of this as wilderness. After the 1990 Tongass Timber Reform Act and other conservation measures, only 1.71 million was left for logging. And 400,000 of that was second-growth that could not be ready to cut for 40 years. Now, the Clinton administration has invoked the Endangered Species Act to create Habitat Conservation Areas totaling 600,000 acres of the remainder for "potentially endangered species."

Thus, of the Tongass' 17 million acres, 600,000 is actually available for logging. In a forest that grows more than a billion board feet annually, loggers last year cut a mere 276 million. And as harvests plummet, mills close and unemployment rises. In 1989, the pulp mill in Sitka ran out of logs and closed its doors, and last winter, the saw mill in Wrangell went belly up for the same reason. And while Alaska's congressmen promise to open the forest, the citizens of this region are not optimistic. They have heard that kind of talk before.

Citizens of the Tongass are victims of phoney science that supposes mythical "ecosystem health" is more important than people; of preservation laws that provide lush grazing for activist attorneys; of shark pack activists who ride piggyback on each others' media campaigns, repeating half-truths until the public believes them; of federal subsides to groups who sue "to protect the environment;" of public ignorance and activist propaganda; of media arrogance and government's inexorable urge to grow.

They wonder when America will learn the truth: that without logging, trees die and people suffer. Without logging, the Tongass will remain an exclusive preserve of the affluent or anointed, who don't deserve it.

They know this is a national outrage. But they wonder: Does anyone in Washington care?●

THE DISASTER VICTIMS CRIME PREVENTION ACT OF 1995

● Mr. AKAKA. Mr. President, shortly after the Senate returns from the Fourth of July recess, I plan to introduce the Federal Disaster Preparedness and Response Act of 1995. This bill will be very similar to the measure I offered in the 103d Congress with Senator GLENN and GRAHAM of Florida.

It is very appropriate to announce my intention to reintroduce this legislation as we debate the conference report on the supplemental disaster bill. We are all aware of the tremendous costs incurred during a natural disaster. What many of us are unaware of is the need to combat fraud against victims of Federal disasters. The legislation I plan to introduce would make it a Federal crime to defraud persons through the sale of materials or services for cleanup, repair, and recovery following a federally declared disaster.

Because of instant media coverage of the destruction caused by these catastrophic events, we are able to see first-hand the concern of others, such as Red Cross volunteers passing out blankets and food and citizens travelling hundreds of miles to help rebuild strangers' homes.

Despite the outpouring of public support that follows these catastrophes, there are unscrupulous individuals who prey on trusting and unsuspecting victims. This measure would criminalize some of the activities undertaken by these unprincipled people whose sole intent is to defraud hard-working men and women.

Every disaster has examples of individuals who are victimized twice—first by the disaster and later by unconscionable price hikes and fraudulent contractors. In the wake of the 1993 Midwest flooding, Iowa officials found that some vendors raised the price of portable toilets from $60 a month to $60 a day! In other flood-hit areas, carpet cleaners hiked their prices to $350 per hour, while telemarketers set up telephone banks to solicit funds for phony flood-rated charities.

Nor will television viewers forget the scenes of beleaguered South Floridians buying generators, plastic sheeting, and bottled water at outrageous prices in the aftermath of Hurricane Andrew.

After Hurricane Iniki devastated the Island of Kauai, a contractor promising quick home repair took disaster benefits from numerous homeowners and fled the area without completing promised construction.

While the Stafford Natural Disaster Act currently provides for civil and criminal penalties for the misuse of disaster funds, it fails to address contractor fraud. To fill this gap, my legislation would make it a Federal crime to fraudulently take money from a disaster victim and fail to provide the agreed upon material or service for the cleanup, repair, and recovery.

The Stafford Act also fails to address price gouging. Although it is the responsibility of the States to impose restrictions on price increases prior to a Federal disaster declaration, Federal penalties for price gouging should be imposed once a disaster has been declared. I am pleased to incorporate in this measure an initiative Senator GLENN began following Hurricane Andrew to combat price gouging and excessive pricing of goods and services.

There already is tremendous cooperation among the various State and local offices that deal with fraud and consumer protection issues and it is quite common for these fine men and women to lend their expertise to their colleagues from out-of-State during a natural disaster. This exchange of experiences and practical solutions has created a strong support network.

However, a Federal remedy is needed to assist States when a disaster occurs. There should be a broader enforcement system to help overburdened State and local governments during a time of disaster. The Federal Government is in a position to ensure that residents within a federally declared disaster area do not fall victim to fraud. Federal agencies should assist localities to provide such a support system.

In addition to making disaster-related fraud a Federal crime, this bill would also require the Director of the Federal Emergency Management Agency to develop public information materials to advise disaster victims about ways to detect and avoid fraud. I have seen a number of anti-fraud material prepared by State consumer protection offices and believe this section would assist States to disseminate anti-fraud related material following the declaration of a disaster by the President.

I look forward to working with my colleagues in enacting this legislation.•

THE UNITED NATIONS AT 50

• Mr. SARBANES. Mr. President, 50 years ago this week in San Francisco, the U.N. Charter was opened for signature. After some 9 weeks of negotiations, as World War II was drawing to a close, representatives from 50 countries unanimously adopted the charter. On the 24th of October 1945, the charter came into force, and the United Nations was effectively born.

During this, the 50th anniversary year of the United Nations, I am deeply concerned that, rather than celebrating its endurance, we are witnessing a disturbing series of attacks upon it. Ironically, these attacks come at a challenging time for the United Nations. For now, with the end of the cold war, the United Nations has a genuine opportunity to function as it was intended to at the end of World War II.

For many years, a constant Soviet veto in the Security Council effectively neutralized the United Nations. Between 1946 and 1970, for example, the Soviet Union vetoed Security Council actions more than 100 times before the United States even cast its first veto.

But the United States chose to persevere within the existing U.N. framework. Even when casting their votes in 1945 to support ratification of the U.N. Charter, Senators recognized the challenging agenda faced by the United Nations in the years ahead. Senator Mead, a Democrat from New York, offered the following admonition:

> The Charter is not a key to utopia. Words written upon paper have no power in and of themselves to alter the course of events. It is only the spirit of men and nations behind those words which can do that.

Today we continue to face the question: What kind of spirit do we wish to guide our discussion of the United Nations in 1995?

There are two sharply contrasting directions in which our discussion of the United Nations can proceed. One is tantamount to withdrawing U.S. support from the United Nations by constantly searching out ways of undermining and weakening the institution. Unfortunately there are legislative proposals before this Congress which would move in this direction. Alternatively, we could apply our energies toward ensuring that the United States plays a key role in reforming and strengthening the United Nations as we prepare to enter a new century. I strongly believe that the hope of building a peaceful and prosperous world lies in choosing the latter course.

There have been times in our history when Americans believed that we could go it alone and simply ignore conflicts and problems originating in other parts of the world. Indeed, isolationist sentiment succeeded in preventing the United States from joining the League of Nations at the end of World War I, despite the fact that President Woodrow Wilson was its leading architect.

Those who labored in San Francisco and elsewhere to create the United Nations half a century ago learned from the mistakes of their predecessors with respect to the League of Nations. Parties to the initial negotiations at Dumbarton Oaks on establishing a United Nations, and to later preparations in San Francisco, insisted, for example, that the U.N. organization recognize the reality of great powers by granting significant authority to a Security Council. In that Council, the United States and other major powers were given the veto power—thereby ensuring that the United Nations could not undertake operations which United States opposed. In recognition of the leadership role taken by the United States in building the United Nations, New York was later chosen to serve as U.N. headquarters.

Ensuring responsible U.S. engagement within the United Nations in 1995 remains nearly as demanding as in 1945. Much of the advice offered by Senator Gurney, a Republican from South Dakota, to his Senate colleagues in 1945 rings true today:

> . . . let me caution that after our almost unanimous vote for the Charter today we cannot merely sit back and feel and say, "Everything is fixed now, everyone is safe." No; our people are entitled by their sacrifices in this war and others to more than that. We and all other nations must give the Charter organization the all-out support of all our people—sincere, honest support, continuing for years to come—in order that this world organization may be a growing, living instrumentality, capable of handling world problems in a fair and effective way.

Even as we mark the United Nation's first 50 years, we must look to the challenges of a new century. In past decades, others designed the United Nations, drafted the charter, passed the enabling legislation, and persevered throughout the cold war. The task facing us in this decade is to assist the United Nations to adapt to the end of the cold war and to a new century. The need for a United Nations remains clear, for, as Madeleine Albright, the U.S. representative to the United Nations, has commented:

> The battle-hardened generation of Roosevelt, Churchill and De Gaulle viewed the U.N. as a practical response to an inherently contentious world; a necessity not because relations among states could ever be brought into perfect harmony, but because they cannot.

This sense of realism seems absent from many of the current discussions of the United Nations. While many rail about the deficiencies of the United Nations, they have not proposed a viable alternative to the United Nations. If we look back at the debate 50 years ago, we see that Senators recognized the necessity of U.N. membership partly because they acknowledged the absence of an alternative.

While the United Nations work for peace and prosperity has never been easy, current challenges to peace have grown more complex partly because the nature of the conflicts the United Nations is asked to address has changed. Complex interethnic conflicts are resurfacing after having been suppressed. Guerrilla warfare is increasingly conducted by warring factions who do not respond to political or economic pressure. Conflict is frequently within borders and involves militias and armed civilians who lack discipline and clear chains of command. Disputes often take place without clear front lines. The fact that combatants often target civilians leads to increasing numbers both of displaced persons and refugees.

In an effort to address such conflicts, the United Nations has expanded its operational responsibilities. As a result, U.N. peacekeeping missions have been deployed in places like Somalia or Rwanda where personnel must grapple with the fact that no effective state structure exists. In many trouble sports, the police and judiciary have collapsed, and general banditry and chaos prevail. Government assets have been destroyed and stolen; experienced officials have been killed or forced to flee the country. These realities are forcing the U.N. personnel to reconsider their terms of reference and to grapple with inadequate mandates. The truth is that the United Nations has been asked to handle some of the most uncertain, intractable, and dangerous cases of conflict.

Clearly, the United Nations must be practical about the limits of its peacekeeping and must not undertake efforts that will drain U.N. resources without achieving the mission's goals. It is frustrating not to be able to resolve all the many conflicts on the international agenda, but do we abandon the United Nations if it cannot completely and successfully solve every problem in our world? Few institutions dealing with such complex matters (or for that matter much simpler ones) have 100-percent success records.

In 1945, President Truman made an observation that is relevant to the current examination of U.N. peacekeeping efforts. He said,

> Building a peace requires as much moral stamina as waging a war. Perhaps it requires even more, because it is so laborious and painstaking and undramatic. It requires undying patience and continuous application. But it can give us, if we stay with it, the greatest reward that there is in the whole field of human effort.

I believe Americans recognize the wisdom of President Truman's words and want to do their part; the United Nations is one means by which they can do so.

While U.N. peacekeeping has recently been the focus of attention, much of the United Nations work takes place in other areas. Less in the spotlight are the steadfast efforts of U.N. agencies working to alleviate poverty, to slow the spread of HIV/A.I.D.S., and to feed and educate the world's children. Where conflict leads to destabilization of families and societies, the United Nations is there to shelter and feed refugees and displaced persons. Progress made on upholding international norms on human rights also stems from the work of U.N. agencies. Finally, the United Nations is responsible for many of the gains made in reducing the use of ozone-depleting substances, evaluating environmental impacts, and conserving biological diversity. These are but a few of the challenges facing the world today. Many of these problems have effects that do not respect national or geographic borders, and the United Nations offers a coherent and coordinated approach for meeting such challenges.

Mr. President, whether Americans feel the responsibility of exercising global leadership, are responding to humanitarian concerns, or seeking to expand opportunities for international trade and commerce, the United Nations offers us a critical world forum. to cripple the United Nations by an erosion or withdrawal of American participation would be a terrible mistake. The United Nations provides the institutional means for leveraging American diplomatic, economic, and military resources in ways that enhance our vital National interests. Opinion surveys consistently indicate that a solid majority of the American people recognize the positive role that the United Nations can play. I hope such recognition of the United Nations value and importance will be demonstrated when the Senate considers U.S. participation in and support for the United Nations. Let us heed the words of warning offered by President Truman in 1945: "The immediate, the greatest threat to us is the threat of disillusionment, the danger of insidious skepticism—a loss of faith in the effectiveness of international cooperation."•

ONE HUNDRED YEARS IN HARDWARE

• Mr. LEVIN. Mr. President, my hearty congratulations to the Michigan Retail Hardware Association on its 100th anniversary. This fine organization has been serving the hardware, home center, and lumber industry since July 9, 1895, when it was founded in Detroit. In reaching this milepost, they have weathered the years, surviving wars and depression, growing to be a robust and vigorous organization.

The backbone of this association is in the ranks of the hundreds of small business men and women who stand behind those hardware store counters each day, ready to serve their customers with a smile and a helping hand. Those weekend chores we all face, to fix up or cleanup our homesteads, becomes a pleasant endeavor after that cheerful visit to the neighborhood hardware store.

Over the years business leaders in this enterprise have come together and prospered, exercising that grand democratic tradition of flexing their common interests and gathering strength in numbers. By coming together, the members of the Michigan Retail Hardware Association make our communities and our economy solid, the skills of managers and workers are fortified, and camaraderie and good fellowship grows.

The trip to the hardware store has become a valued ritual for American families as they labor to make improvements on hearth and home. As we build and fix and sand and paint, we look to our hardware centers to give us the tools and gadgets we need to make our lives more comfortable and bright. For me, the nostalgia of the hardware store is that no small town in America really seems complete without a hardware store plunked down in the middle of Main Street.

My best wishes for this business group on the centennial anniversary of their founding. My best hopes for many more additional years of productivity ahead.•

HOUSE CUTS CRIME-FIGHTING DOLLARS

• Mr. BIDEN. Mr. President, I rise to offer my strong opposition to actions taken by the House Commerce/State/Justice Appropriations Subcommittee earlier this week. In passing the 1996 appropriation's bill the subcommittee Republicans have set off on a course which would cripple Federal, State, and local efforts to combat crime. If the subcommittee Republicans' plan is adopted: New FBI agents will not be hired; 20,000 State and local police will not be hired; thousands of wife-beaters will not be arrested, tried or convicted; new DEA agents will not be hired; 80,000 offenders released on probation will not be tested for drugs or subject to certain punishment; and digital telephone technology vital to law enforcement will not be developed.

First, let me address the cuts to Federal law enforcement. The President requested an increase of $122 million for FBI agents and other FBI activities—but the subcommittee Republicans cut $45 million from that request.

I would also point out that the subcommittee Republicans provide no dollars of the $300 million authorized for FBI in the Dole/Hatch counter-terrorism bill. This legislation has not passed into law, so some might say that is the reason that none of these dollars are made available. But, the subcommittee Republicans did find a way to add their block grant which passed the House, but not the Senate.

So, I do not think there is any explanation for cutting the FBI other than a fundamental lack of commitment to Federal law enforcement by the subcommittee Republicans. I have heard time and again over the past several months from my Republican colleagues in the Senate that the President was not committed to Federal law enforcement. I have heard time and again from my Republican colleagues that they would increase funding for Federal law enforcement.

Well, something just does not add up—House subcommittee Republicans will not give the President the increase he requested for the FBI, despite all the rhetoric I have heard over the past several months.

The cuts to Federal law enforcement do not even stop there. The House subcommittee Republicans cut $17 million from the $54 million boost requested for DEA agents by the administration. That is more than a 30-percent cut. The House subcommittee Republicans provide no dollars of the $60 million authorized for DEA in the Dole/Hatch counterterrorism bill.

Let me review another area where the actions of these subcommittee Republicans are completely opposite the rhetoric I have heard from the other side here in the Senate.

The Violence Against Women Act—having first introduced the Violence Against Women Act 5 years ago, I had welcomed the bipartisan support finally accorded the act last year. I would note the strong support provided by Senators HATCH and DOLE.

But, when we have gotten past the rhetoric and it came time to actually write the check in the Appropriations Subcommittee, the women of America were mugged. The President requested $175 million for the Justice Department's violence against women programs, and the House subcommittee Republicans have provided less than half—$75 million.

While the specific programs have not been yet identified, that $100 million will mean the key initiatives will not get the funding that everyone on both sides of the aisle agreed they should: $130 million was requested for grants to State and local police, prosecutors and victims groups; $28 million was requested to make sure that every man who beats his wife or girlfriend is arrested; $7 million was requested for enforcement efforts against family violence and child abuse in rural areas; and $6 million was requested to provide special advocates for abused children who come before a court.

I keep hearing about how the Violence Against Women Act is a bipartisan effort. In all the new so-called crime bills I have seen proposed by Members of the other side, not once have I seen any effort to repeal or cut back on any element of the Violence Against Women Act. But, the actions of the House subcommittee Republicans tell a completely different story.

To discuss yet another troubling aspect of the House subcommittee Republican bill—this bill eliminates the $1.9 billion sought for the second year of the 100,000 police program. That $1.9 billion would put at least 20,000 more State and local police officers on the streets—and probably many more, for the $1.1 billion spent so far this year has put well over 16,000 more police on the streets.

What happens to the $1.9 billion? In the House Republican bill, these dollars are shifted to a LEAA-style block grant for "a variety of programs including more police officers, crime prevention programs, drug courts and equipment and technology," quoting the summary provided by the House Republicans on the subcommittee.

In other words, not $1 must be spent to add State and local police officers. I keep hearing about support for State and local police from the other side of the aisle. But, just when it really matters, just when we are writing checks and not just making speeches, America's State and local police officers are being ripped-off. Instead of a guarantee that police officers and police departments get each and every one of these $1.9 billion, the House subcommittee Republicans propose empty deal—money in the same type of grants that failed in the 1970's and under standards so lax that America's police could wait through all next year without a single dollar.

Mr. President, I hope that the actions of the House Republicans on the subcommittee are reversed in the full Appropriations Committee. And if not there, then I hope these actions will be reversed on the floor of the House.

But, if the House Republicans stand with the subcommittee and against Federal law enforcement, against FBI agents, against DEA agents, against the women of America, and against State and local police officers, I urge all my colleagues in the Senate to stand by the positions they have taken all year and stand up to the House Republicans.•

SENATOR PELL AND THE U.N. CHARTER

• Mr. MOYNIHAN. Mr. President, last weekend I was honored to have participated in the ceremonies in San Francisco commemorating the 50th anniversary of the signing of the U.N. Charter. The event was an important reaffirmation of the commitment of member nations to abide by the rule of law.

The ceremonies were enriched by the participation of those who had participated in the conference 50 years ago. We in the Senate are honored to have the beloved former chairman of the Senate Foreign Relations Committee, CLAIBORNE PELL, counted among those who were "Present at the Creation" of the Charter.

Senator PELL served throughout World War II in the Coast Guard. He continued to serve his country, as he has all his life, when he was called to be a member of the International Secretariat of the San Francisco Conference, as it worked to draft the Charter. Senator PELL served as the Assistant Secretary of Committee III, the Enforcement Arrangements Committee, and worked specifically on what became articles 43, 44, and 45 of the Charter.

In an article in the New York Times by Barbara Crossette, Senator PELL recalls the trip to San Francisco:

> It started out just right, he recalled in a recent conversation in his Senate office. Instead of flying us to San Francisco, they chartered a train across the United States.
>
> You could see the eyes of all those people who had been in wartorn Europe boggle as we passed the wheat fields, the factories, he said. You could feel the richness, the clean air of the United States. It was a wonderful image. We shared a spirit, a belief, that we would never make the same mistakes; everything would now be done differently.

Senator PELL's commitment to the Charter was properly noted by the President, when during his address in San Francisco on Monday, he stated "Some of those who worked at the historic conference are still here today, including our own Senator CLAIBORNE PELL, who to this very day, every day, carries a copy of the U.N. Charter in his pocket."

On Sunday, the Washington Post carried an article by William Branigin on the drafting of the Charter. I ask that it be printed in the RECORD.

The article follows:

[From the Washington Post, June 25, 1995]

U.N.: 50 YEARS FENDING OFF WWIII—CHARTER FORGED IN HEAT OF BATTLE PROVES DURABLE, AS DO ITS CRITICS

(By William Branigin)

UNITED NATIONS.—It was the eve of her first speech before the 1945 organizing conference of the United Nations, and Minerva Bernardino was eager to seize the opportunity to push for women's rights. Then, while serving drinks to fellow delegates in her San Francisco hotel suite, she fell and broke her ankle.

For the determined diplomat from the Dominican Republic, however, nothing was more important than delivering her speech. So after being rushed to the hospital in an ambulance, she refused a cast, had doctors tape up her ankle instead and enlisted colleagues the next day to help her hobble to the podium.

Bernardino, 88, is one of four surviving signatories of the U.N. Charter, which was hammered out during the two-month conference by representatives from 50 nations and signed in San Francisco on June 26, 1945. With a handful of other women delegates, she claims credit for the charter's reference to "equal rights of men and women."

Just as she witnessed the birth of the United Nations that day in the presence of President Harry S. Truman, Bernardino plans to be in the audience Monday when President Clinton caps the 50th birthday ceremonies with a speech at San Francisco's War Memorial Opera House, scene of the historic conference. Truman, whose first decision after taking office in April 1945 was to go ahead with the conference, had flown to San Francisco to carry the charter back to Washington for ratification by the Senate.

Gathering for the anniversary are envoys from more than 100 countries, senior U.N. officials led by Secretary General Boutros Boutros-Ghali, Britain's Princess Margaret and several Nobel peace prize laureates, including Polish President Lech Walesa and South Africa's Archbishop Desmond Tutu.

In creating the United nations 50 years ago, the more than 1,700 delegates and their assistants were driven by the horror of a war that had cost an estimated 45 million lives. Among the founders were prominent diplomats: Vyacheslav Molotov and Andrei Gromyko of the Soviet Union, Edward R. Stettinius of the United States and Anthony Eden of Britain. The sole surviving U.S. signatory is Harold Stassen, the former Republican governor of Minnesota and presidential aspirant, now 88.

The leading conference organizer was its secretary general, Alger Hiss, then a rising star in the State Department. He later spent four years in prison for perjury in a controversial spy case that launched the political ascent of Richard M. Nixon. Now 90, in poor health and nearly blind, Hiss has been invited to the commemoration but is unable to attend.

"We had a sense of creation and exhilaration," said Sen. Claiborne Pell (D-R.I.), who was then a young Coast Guard officer attached to the conference's secretariat. World War II was drawing to a close, and the assembled delegates were determined to put into practice their lofty ideals of a peaceful new world order.

As the United Nations celebrates its golden anniversary, however, the world body seems to be under criticism as never before. The credibility it gained after the end of the Cold War and its role in the Persian Gulf conflict seem to have been largely squandered by debacles in Somalia, Angola and Bosnia, by its tardy response to carnage in Rwanda and by its inability so far to undertake serious internal reforms.

From relatively lean beginnings with 1,500 staffers, the United Nations has burgeoned into a far-flung bureaucracy with more than 50,000 employees, plus thousands of consultants. In many areas, critics say, it has become a talk shop and paper mill plagued by waste, mismanagement, patronage and inertia.

Although most Americans strongly support the United Nations, a "hard core of opposition" to the body appears to be growing, according to a new poll by the Times Mirror Center for the People and the Press. It showed that 67 percent of Americans hold a favorable attitude toward the United Nations, compared to 53 percent for Congress and 43 percent accorded the court system.

However, the poll showed, 28 percent expressed a "mostly" or "very" unfavorable opinion of the United Nations, the highest of four such polls since 1990.

In fact, after the demise of the "red menace" with the end of the Cold War, the organization seems to have become something of a lightning rod for extreme right-wing groups, which see it as part of a plot to form a global government.

For the United Nations, the 50th birthday bash is an opportunity to trumpet a list of achievements. To celebrate the occasion, the organization is spending $15 million, which it says comes entirely from voluntary contributions.

Over the years, U.N. officials point out, the world body and its agencies have performed dangerous peacekeeping missions, promoted decolonization, assisted refugees and disaster victims, helped eradicate smallpox, brought aid and services to impoverished countries and won five Nobel peace prizes.

At the same time, the anniversary is focusing attention on the organization's shortcomings and on efforts to chart a new course for its future. Among the proposals in a recent study funded by the Ford Foundation, for example, are expanding the Security Council, curtailing veto powers, establishing a permanent U.N. armed force and creating an international taxation system to help finance the organization.

As the United Nations has expanded, some of its agencies have lost their focus and become bogged down in tasks that duplicate efforts elsewhere in the system or serve little purpose but to employ bureaucrats, critics charge. Meanwhile, financing problems have grown acute, especially with the explosion in recent years of expenses for peacekeeping, a function that was not specifically spelled out in the original charter.

The U.N. peacekeeping budget this year bulged to $3.5 billion, far exceeding the regular U.N. budget of $2.6 billion. Moreover, several countries, including the United States, owe U.N. dues totaling hundreds of millions of dollars. Unpaid peacekeeping dues for Bosnia alone come to $900 million.

The Bosnian quagmire has underscored the limits of U.N. peacekeeping. Critics, notably in the U.S. Congress, have tended to blame U.N. bureaucrats for the mess, while U.N. officials say the operation exemplifies a penchant by member states for setting heavy new mandates without providing the resources to carry them out.

"Member countries should take advantage of the 50th anniversary to really look hard at the U.N. and to revise and strengthen it," said Catherine Gwin of the Washington-based Overseas Development Council. "Increased demands are being made on an organization that has been neglected, misused and excessively politicized by its member governments for years, and it is showing the strain."

As the United Nations has expanded, forming entities that deal with topics from outer space to seabeds, the original purpose often has been overlooked. That is, as the U.N. Charter's preamble states, "to save succeeding generations from the scourge of war, which twice in our lifetime has brought untold sorrow to mankind."

While scores of conflicts costing millions of lives have broken out since that signing 50 years ago, some of the organization's promoters say it deserves a share of credit for averting its founders' worst nightmare: World War III. Clearly, the atomic bombing of Hiroshima and Nagasaki and the subsequent nuclear standoff between the United States and the Soviet Union may have been the main deterrents, but the world body also played a role, U.N. supporters say.

"If we didn't have the United Nations, we would have had another world war," said Bernardino in an interview in her New York apartment, where she keeps an office filled with U.N. mementos. On her desk is a large silverframed, personally dedicated photograph of her role model, Eleanor Roosevelt, and in her drawer is an original signed copy of the U.N. Charter.

At the time of the signing, U.S. public opinion held that there would be a third world war by the early 1970s, Stassen said.

"We believed we were going to stop future Hitlers from future acts of aggression," said Brian Urquhart, a Briton who joined the United Nations shortly after the conference and rose to become an undersecretary general. "There was an enormous sense of confidence and optimism in the charter . . . led by the Untied States. This was predominantly a U.S. achievement."

Indeed, the United Nations was principally the brainchild of President Franklin D. Roosevelt, who gave the organization its name and reached agreement on its formation with British Prime Minister Winston Churchill and Soviet leader Joseph Stalin.

At the San Francisco conference, however, major problems developed over decolonization and the Soviets' insistence on a broad veto power over virtually all Security Council business, even the setting of agenda items and the discussion of disputes. Initially, the Soviets had also wanted 16 votes in the General Assembly, adding one for each of their 15 republics. They eventually settled for three after it was pointed out that by that logic, the United States ought to have 49 votes.

According to Stassen, who served as Minnesota's youngest governor before joining the Navy during the war and who went on to seek the Republican nomination for president four times, his wife Esther played a key role in resolving the veto impasse. Some of the Soviet delegates' wives had told her that Stalin had set the veto position and none of their husbands dared ask the dictator to modify it, Stassen said. But if the Americans could present their arguments directly to Stalin, he might change his mind, the wives advised.

Stassen said he reported this to President Truman, who had taken office upon Roosevelt's death. Truman dispatched Harry Hopkins, Roosevelt's closest adviser, to Moscow, and Stalin was persuaded to limit the veto to the Security Council's final resolutions.

The lone American woman delegate, Virginia Gildersleeve, the dean of Barnard College, played a key role in drafting the U.N. Charter's preamble.

Stassen recalls her exasperation after the drafting committee's first meeting, where language along the lines of "the high contracting parties have assembled and entered this treaty" was proposed. "That's no way to start a charter for the future of the world," fumed Gildersleeve. "It's got to say, 'We the peoples of the United Nations . . .'" Her proposal was ridiculed by diplomats, who insisted that the charter could not be formed by "peoples," but only by the representatives of governments. Eventually, however, she prevailed and eloquence overcame diplomatese.

For Stassen, the defining moment came five days before the signing when Secretary of State Stettinius, the conference chairman, announced that there was nothing else on his agenda. He then asked all heads of delegations who were ready to sign the charter to stand.

"Chairs began to scrape . . . and suddenly the delegations realized that every one of the 50 chairmen was standing, and they broke out into applause for the first time in those sessions," Stassen recalled.

Still, the seeds of the Cold War evidently had been planted. Pell, now 76 and the ranking Democrat on the Senate Foreign Relations Committee, recalls walking to a restaurant with a Soviet admiral when a big black car suddenly pulled over and picked up the Russian.

"He wasn't supposed to go to lunch with capitalists," Pell said.

The senator also vividly remembers traveling to San Francisco by train from the East Coast with other young officers from Europe. As the train rolled past the seemingly endless grain fields and the unscathed cities and towns of America's heartland, the Europeans were stunned by the contrast with their own war-ravaged countries. "Their eyes got wider and wider," Pell said, and they arrived in San Francisco with a sense of awe for the power and resources of the United States.

Bernardino's most vivid memory was of the day the war in Europe ended while the conference was underway in may 1945. A Honduran delegate, who had just heard the news of the street, burst into her committee meeting and shouted, "The war is over!" and the room erupted in celebration, she said.

For Betty Teslenko, then a 22-year-old stenographer at the conference, the imposing cast of characters was most impressive. One who deserved special credit as a mediator of many disputes was the Australian foreign minister, Herbert Evatt, whose broad accent prompted some good-natured ribbing, she recalled. One joke that made the rounds: What's the difference between a buffalo and a bison? Answer: a bison is what Evatt uses to wash his hands in the morning.

According to Teslenko, Hiss was so efficient in organizing the conference that he became the choice of many delegates to be the United Nations' first secretary general. However, an unwritten rule that the organization's head should not come from one of the five permanent, veto-wielding members of the Security Council—the United States, Soviet Union, Britain, France and China—made that impossible.

For Piedad Suro, then a young reporter from Ecuador, the conference was memorable chiefly for the difficulties of finding out what was going on in the closed sessions—and for a whirlwind courtship by the man who became her husband, Guillermo Suro, the State Department's chief of language services. Their son, Roberto Suro, is now a Washington Post editor.

"That was where we dated and he proposed," Suro said of the San Francisco conference. "We became engaged the last week and were married in New York two months later." She denies, however, that her fiance ever gave her a scoop.

As Truman arrived in San Francisco to witness the signing 50 years ago, an estimated 250,000 cheering people turned out to greet his mile-long motorcade, giving him what The Washington Post at the time described as "the most tumultuous demonstration since he entered the White House."

"You have created a great instrument for peace," Truman said at the signing ceremony to a standing ovation, "Oh, what a great day this can be in history."

Today a common view among both U.N. supporters and critics seems to be that if the world body were to disappear, it would have to be quickly reinvented.

"While it hasn't been altogether a 100 percent success," said Sen. Pell, "we're certainly far better off for having the United Nations exist than we would be without it."•

CHANGING TIME FOR VOTE

Mr. DOLE. Mr. President, I ask unanimous consent that the previously scheduled vote on Monday, July 10, be changed to begin at 5:15 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORITY FOR COMMITTEES TO REPORT

Mr. DOLE. Mr. President, I ask unanimous consent, notwithstanding adjournment of the Senate, that on Wednesday, July 5, committees have from 10 a.m. to 2 p.m. to file any legislative or executive reported business

The PRESIDING OFFICER. Without objection, it is so ordered.

REMOVAL OF INJUNCTION OF SECRECY—EXCHANGE OF NOTES RELATING TO THE TAX CONVENTION WITH UKRAINE (TREATY DOCUMENT NO. 104–11)

Mr. DOLE. As in executive session, I ask unanimous consent that the injunction of secrecy be removed from the Exchange of Notes Relating to the Tax Convention of the Ukraine (Treaty Document No. 104–11), transmitted to the Senate by the President on June 28, 1995; and that the treaty be considered as having been read the first time; referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed; and ordered that the President's message be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The message of the President is as follows:

To the Senate of the United States:

I transmit herewith an exchange of notes dated at Washington May 26 and June 6, 1995, for Senate advice and consent to ratification in connection with the Senate's consideration of the Convention Between the Government of the United States of America and the Government of Ukraine for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income and Capital, together with a related Protocol, signed at Washington on March 4, 1994 ("the Taxation Convention"). Also transmitted for the information of the Senate is the report of the Department of State with respect to the exchange of notes.

This exchange of notes addresses the interaction between the Taxation Convention and other treaties that have tax provisions, including in particular the General Agreement on Trade in Services (GATS), annexed to the Agreement Establishing the World Trade Organization, done at Marrakesh April 15, 1994.

I recommend that the Senate give favorable consideration to this exchange of notes and give its advice and consent to ratification in connection with the Taxation Convention.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *June 28, 1995.*

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate immediately proceed to executive session to consider the following nominations, executive calendar nomination numbers 178 through 183, and 206, 207, 208, and 210 through 231.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, I further ask unanimous consent that the nominations be confirmed en bloc, the motions to reconsider be laid upon the table en bloc, and any statements relating to the nominations appear at the appropriate place in the RECORD, the President be immediately notified of the Senate's action, and that the Senate then return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

FEDERAL INSURANCE TRUST FUNDS

Stephen G. Kellison, of Texas, to be a Member of the Board of Trustees of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund for a term of four years.

Marilyn Moon, on Maryland, to be a Member of the Board of Trustees of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund for a term of four years.

FEDERAL HOSPITAL INSURANCE TRUST FUND

Stephen G. Kellison, of Texas, to be a Member of the Board of Trustees of the Federal Hospital Insurance Trust Fund for a term of four years.

FEDERAL SUPPLEMENTARY MEDICAL INSURANCE TRUST FUND

Stephen G. Kellison, of Texas, to be a Member of the Board of Trustees of the Federal Supplementary Medical Insurance Trust Fund for a term of four years.

FEDERAL HOSPITAL INSURANCE TRUST FUND

Marilyn Moon, of Maryland, to be a Member of the Board of Trustees of the Federal Hospital Insurance Trust Fund for a term of four years.

FEDERAL SUPPLEMENTARY MEDICAL INSURANCE TRUST FUND

Marilyn Moon, of Maryland, to be a Member of the Board of Trustees of the Federal Supplementary Medical Insurance Trust Fund for a term of four years.

DEPARTMENT OF LABOR

Edmundo A. Gonzales, of Colorado, to be Chief Financial Officer, Department of Labor. (New Position)

NATIONAL COUNCIL ON DISABILITY

John D. Kemp, of the District of Columbia, to be a Member of the National Council on Disability for a term expiring September 17, 1997.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Clifford Gregory Stewart, of New Jersey, to be General Counsel of the Equal Employment Opportunity Commission for a term of four years.

THE JUDICIARY

Carlos F. Lucero, of Colorado, to be United States Circuit Judge for the Tenth Circuit.

Peter C. Economus, of Ohio, to be United States District Judge for the Northern District of Ohio.

Wiley Y. Daniel, of Colorado, to be United State District Judge for the District of Colorado.

Nancy Friedman Atlas, of Texas, to be United States District Judge for the Southern District of Texas.

Donald C. Nugent, of Ohio, to be United States District Judge for the Northern District of Ohio.

DEPARTMENT OF JUSTICE

Andrew Fois, of New York, to be an Assistant Attorney General.

STATE JUSTICE INSTITUTE

Janie L. Shores, of Alabama, to be a Member of the Board of Directors of the State Justice Institute for a term expiring September 17, 1997.

Terrence B. Adamson, of the District of Columbia, to be a Member of the Board of Directors of the State Justice Institute for a term expiring September 17, 1997. (Reappointment)

EXECUTIVE OFFICE OF THE PRESIDENT

Martin Neil Baily, of Maryland, to be a Member of the Council of Economic Advisers.

NATIONAL INSTITUTE OF BUILDING SCIENCES

Steve M. Hays, of Tennessee, to be a Member of the Board of Directors of the National Institute of Building Sciences for a term expiring September 7, 1997.

SECURITIES INVESTOR PROTECTION CORPORATION

Charles L. Marinaccio, of the District of Columbia, to be a Director of the Securities Investor Protection Corporation for a term expiring December 31, 1996.

Deborah Dudley Branson, of Texas, to be a Director of the Securities Investor Protection Corporation for a term expiring December 31, 1996.

Marianne C. Spraggins, of New York, to be a Director of the Securities Investor Protection Corporation for a term expiring December 31, 1997.

Albert James Dwoskin, of Virginia, to be a Director of the Securities Investor Protection Corporation for a term expiring December 31, 1998. (Reappointment)

NATIONAL CONSUMER COOPERATIVE BANK

Tony Scallon, of Minnesota, to be a Member of the Board of Directors of the National Consumer Cooperative Bank for a term of three years.

Sheila Anne Smith, of Illinois, to be a Member of the Board of Directors of the National Consumer Cooperative Bank for a term of three years.

EXECUTIVE OFFICE OF THE PRESIDENT

Ira S. Shapiro, of Maryland, for the rank of Ambassador during his tenure of service as Senior Counsel and Negotiator in the Office of the United States Trade Representative.

AIR FORCE

The following-named officer for appointment to the grade of general while assigned to a position of importance and responsibility under Title 10, United States Code, Section 601:

To be general

Lt. Gen. Richard E. Hawley, 069-34-7170, United States Air Force.

THE JUDICIARY

Diane P. Wood, of Illinois, to be United States Circuit Judge for the Seventh Circuit.

George H. King, of California, to be United States District Judge for the Central District of California vice a new position created by Public Law 101-650, approved December 1, 1990.

Robert H. Whaley, of Washington, to be United States District Judge for the Eastern District of Washington.

Tena Campbell, of Utah, to be United States District Judge for the District of Utah.

STATEMENT ON NOMINATION OF TENA CAMPBELL

Mr. HATCH. Mr. President, I rise today to urge my colleagues to support the nomination of Tena Campbell for the position of U.S. district judge for the district of Utah.

As chairman of the Judiciary Committee, I am keenly aware of the importance of the Federal judiciary and its impact on our citizens; not only litigants whose cases are decided by Federal courts, but all Americans who, in so many ways, are affected in their daily lives by rulings handed down by Federal judges. It is for this reason that I have always believed that nominees for Federal judicial positions must be individuals of the highest caliber, both professionally and personally. I am pleased to say that Tena Campbell is such a nominee.

Tena Campbell is an individual whose accomplishments and qualifications for the position of Federal district court judge speak for themselves. After working in private practice and in the Salt Lake County attorney's office, Mrs. Campbell became an assistant U.S. attorney in Utah, where she has served with distinction since 1982. During that time, she has tried more than 60 felony cases—more cases than most lawyers try in their entire career.

She has risen to become the Financial Institution Fraud Coordinator for the U.S. attorney's office, in charge of all cases involving federally insured institutions, in addition to prosecuting other complex white-collar crime cases. It is a measure of her dedication that despite the complexity and time-consuming nature of white-collar crime cases, she has also chosen to continue to prosecute violent crime cases.

Throughout her service as an assistant U.S. attorney, Tena Campbell has earned the respect of the Federal bench and a reputation as a hardworking, tough, yet compassionate, prosecutor. She has received the highest rating, Well Qualified, from the American Bar Association. I am convinced that as a Federal judge, where she would be the first woman in Utah history to serve in that position, Tena Campbell will be fair, honest, and knowledgeable, and I am proud to support her nomination.

For these reasons, I urge my colleagues to support her nomination.

STATEMENT OF THE NOMINATION OF CLIFFORD GREGORY STEWART

Mr. LAUTENBERG. Mr. President, I rise in strong support of the nomination of Greg Stewart to be general counsel of the Equal Employment Opportunity Commission [EEOC].

Greg Stewart is a native New Jerseyan and has most recently served as the director of the division of civil rights for the State of New Jersey. I believe that Greg Stewart has the qualifications and the experience to make an excellent general counsel at EEOC.

Mr. President, Greg Stewart has been involved in civil rights issues for over 13 years. He has served as the director of the division of civil rights in New Jersey under both a Democratic and Republican governor. He has also worked for the department of the public advocate in New Jersey, again under Democratic and Republican Governors. During whatever free time he has had since he graduated from Rutgers Law School in 1981, he has taught constitutional and civil rights law at Rutgers School of Law and John Jay College.

Greg Stewart has an outstanding scholar. He has three degrees from Rutgers; a B.A. in political science, an M.A. in political science, and a J.D. from the Rutgers Law School in Newark. He has received several academic honors including an Eagleton Institute of Politics fellowship. In addition to his academic accomplishments, Greg has also been involved in community service. In fact, he received the Community Service Award for the New Jersey Conference of the NAACP branches and the Equal Justice Medal for the Legal Services of New Jersey.

Mr. President, our country is on the brink of a national debate on affirmation action and civil rights laws. I think Greg Stewart can make an excellent contribution to this debate as general counsel to the EEOC. He has a vast amount of experience in civil rights law and he has served under Republicans and Democrats with a sincere respect for the law, objectivity, and a unique sense of balance. I am proud to support his nomination and urge the Senate to confirm his nomination to EEOC general counsel.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

THE FEDERAL COURT CASE REMOVAL ACT

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 32 S. 533.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

A bill (S. 533) to clarify te rules governing removal of cases to Federal court, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. DOLE. I ask unanimous consent that the bill be considered, deemed read a third time and passed, the motion to reconsider be laid upon the table, and that any statements appear in the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (S. 533) was deemed read for the third time, and passed as follows:

S. 533

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REMOVAL.

The first sentence of section 1447(c) of title 28, United States Code, is amended by striking "any defect in removal procedure" and inserting "any defect other than lack of subject matter jurisdiction".

REDUNDANT VENUE REPEAL ACT

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate proceed to immediate consideration of calendar No. 112, S. 677.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

A bill (S. 677) to repeal a redundant venue provision, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider of the bill.

Mr. DOLE. Mr. President, I ask unanimous consent that the bill be considered and deemed read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (S. 677) was deemed read for the third time, and passed as follows:

S. 677

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REPEAL.

(a) REPEAL.—Subsection (a) of section 1392 of title 28, United States Code, is repealed.

(b) TECHNICAL AMENDMENT.—Subsection (b) of section 1392 of title 28, United States Code, is amended by striking "(b) Any" and inserting "Any".

REGARDING THE ARREST OF HARRY WU BY THE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF CHINA

Mr. DOLE. Mr. President, I ask unanimous consent that Senate proceed to immediate consideration of Senate Resolution 148, submitted earlier today by Senator HELMS.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 148) expressing the sense of the Senate regarding the arrest of Harry Wu by the Government of the People's Republic of China.

The PRESIDING OFFICER. Is there objection to proceeding to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

RED CHINESE UP TO NO GOOD—AGAIN

Mr. HELMS. The resolution condemns the arrest of Mr. Peter H. W., a personal friend of mine who has been arrested by the Red Chinese. I understand the House of Representatives Committee on International Relations reported a similar resolution yesterday that is expected to be considered by the House this morning.

Peter Hongda Wu, known to all of us as Harry Wu, entered China last week on a valid United States passport and a valid visa issued by the Chinese themselves.

Harry submitted his papers at the border and was immediately placed under house arrest by Chinese authorizes and held for 3 days, after which a caravan of Communist-style cars arrived in the small border town near Kazakhstan and whisked Harry away.

Harry Wu has not been seen or heard from since. Mr. President, the cruelty the Chinese Communists can inflict, especially on humans they claim have committed crimes against the state. Unfortunately, because Harry has devoted his life to exposing human rights abuses in China, the Chinese have taken purely punitive action against him.

Harry Wu has worked and cooperated with the Senate for many years. It was Harry who first informed me that the Chinese were forcing their own prisoners, many of them political prisoners, to produce products for sale to other countries. Harry was extraordinarily familiar with these practices since he spent 19 years in a Chinese prison.

More recently, Mr. President, at my invitation, Harry testified before the Foreign Relations Committee regarding the Chinese Government's practice of selling organs removed from the bodies of just-executed prisoners, including political prisoners. The Chinese make these organs available on the international market—for cold cash—for example, $10,000 for a liver and varying amounts for corneas and other human organs.

Harry's video footage filmed in China, proved that the Chinese even have gone so far as to harvest both kidneys from living prisoners. Understandably, the hearing received a great deal of international attention, and the Chinese are obviously punishing Harry Wu for informing the U.S. Congress about this and other matters.

Mr. President, the Chinese have already usurped 19 years of Harry Wu's life. They must not persecute him further. He is a faithful and honest American citizen devoted to ensuring the wellbeing of Chinese citizens. I urge Senators and the President to do everything within their power to press for Harry Wu's immediate release and safe return. As his friend, I appeal to all Senators for their support.

Mr. President, my resolution expresses condemnation of the arrest and detention of Harry Wu. It further calls upon China to comply immediately with its commitments under the United States-People's Republic of China Consular Convention by providing the United States Government with a full accounting for Harry's arrest and detention. I urge the Senate to adopt the resolution.

Mr. DOLE. Mr. President, I ask unanimous consent that the resolution be considered and agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table, and that any statements relating to the resolution appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the resolution (S. Res. 148) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows: 6se

S. RES. 148

Whereas Peter H. Wu, known as Harry Wu, attempted to enter the People's Republic of China on June 19, 1995, near the China-Kazakhstan border;

Whereas Harry Wu, a 58-year-old American citizen, was traveling on a valid United States passport and a valid visa issued by the Chinese authorities;

Whereas the Chinese authorities confined Harry Wu to house arrest for 3 days, after which time he has not been seen or heard from;

Whereas the Chinese Foreign Ministry notified the United States Embassy in Beijing of Mr. Wu's detention on Friday, June 23;

Whereas the United States Embassy in Beijing approached the Chinese Foreign Ministry on Monday, June 26, to issue an official demarche for the detention of an American citizen;

Whereas the terms of the United States-People's Republic of China Consular convention on February 19, 1982, require that United States Government officials shall be accorded access to an American citizen as soon as possible but not more than 48 hours after the United States has been notified of such detention;

Whereas on Wednesday, June 28, the highest ranking representative of the People's Republic of China in the United States refused to offer the United States Government any information on Harry Wu's whereabouts or the charges brought against him;

Whereas the Government of the People's Republic of China is in violation of the terms of its Consular Convention;

Whereas Harry Wu, who was born in China, has already spent 19 years in Chinese prisons;

Whereas Harry Wu has dedicated his life to the betterment of the human rights situation in the People's Republic of China;

Whereas Harry Wu first detailed to the United States Congress the practice of using prison labor to produce products for export from China to other countries;

Whereas Harry Wu testified before the Committee on Foreign Relations of the Senate on May 4, 1995, informing the Committee, the Senate, and the American people about the Chinese government practice of murdering Chinese prisoners, including political prisoners, for the purpose of harvesting their organs for sale on the international market;

Whereas on June 2, 1995, the President of the United States announced his determination that further extension of the waiver authority granted by section 402(c) of the Trade Act of 1974 (Public Law 93-618; 88 Stat. 1978), also known as "Jackson-Vanik", will substantially promote freedom of emigration from the People's Republic of China;

Whereas this waiver authority will allow the People's Republic of China to receive the lowest tariff rates possible, also known as Most-Favored-Nation trading status, for a period of 12 months beginning on July 3, 1995; and

Whereas the Chinese government and people benefit substantially from the continuation of such trading benefits: Now, therefore, be it

Resolved, That (a) the United States Senate expresses its condemnation of the arrest of Peter H. Wu and its deep concern for his well-being.

(b) It is the sense of the Senate that—

(1) the People's Republic of China must immediately comply with its commitments under the United States-People's Republic of China Consular Convention of February 19, 1982, by allowing consular access to Peter H. Wu;

(2) the People's Republic of China should provide immediately a full accounting of Peter Wu's whereabouts and the charges being brought against him; and

(3) the President of the United States should use every diplomatic means available to ensure Peter Wu's safe and expeditious return to the United States.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to the President of the United States with the request that the President further transmit such copy to the Embassy of the People's Republic of China in the United States.

FISHERIES ACT

Mr. DOLE. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of calendar 119, S. 267.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 267) to establish a system of licensing, reporting, and regulation for vessels of the United States fishing on the high seas, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Commerce, Science, and Transportation with amendments; as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italic.)

S. 267

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Fisheries Act of 1995".

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.

TITLE I—HIGH SEAS FISHERIES LICENSING

Sec. 101. Short title.
Sec. 102. Purpose.
Sec. 103. Definitions.
Sec. 104. Licensing.
Sec. 105. Responsibilities of the Secretary.
Sec. 106. Unlawful activities.
Sec. 107. Enforcement provisions.
Sec. 108. Civil penalties and license sanctions.
Sec. 109. Criminal offenses.
Sec. 110. Forfeitures.
Sec. 111. Effective date.

TITLE II—IMPLEMENTATION OF CONVENTION ON FUTURE MULTILATERAL COOPERATION IN THE NORTHWEST ATLANTIC FISHERIES

Sec. 201. Short title.
Sec. 202. Representation of United States under convention.
Sec. 203. Requests for scientific advice.
Sec. 204. Authorities of Secretary of State with respect to convention.
Sec. 205. Interagency cooperation.
Sec. 206. Rulemaking.
Sec. 207. Prohibited acts and penalties.
Sec. 208. Consultative committee.
Sec. 209. Administrative matters.
Sec. 210. Definitions.
Sec. 211. Authorization of appropriations.

TITLE III—ATLANTIC TUNAS CONVENTION ACT

Sec. 301. Short title.
Sec. 302. Research and monitoring activities.
Sec. 303. Advisory committee procedures.
Sec. 304. Regulations.
Sec. 305. Fines and permit sanctions.
Sec. 306. Authorization of appropriations.
Sec. 307. Report and certification.
Sec. 308. Management of Yellowfin Tuna.

TITLE IV—FISHERMEN'S PROTECTIVE ACT

Sec. 401. Findings.
Sec. 402. Amendment to the Fishermen's Protective Act of 1967.
Sec. 403. Reauthorization.
Sec. 404. Technical corrections.

TITLE V—FISHERIES ENFORCEMENT IN CENTRAL SEA OF OKHOTSK

Sec. 501. Short title.
Sec. 502. Fishing prohibition.

TITLE VI—DRIFTNET MORATORIUM

Sec. 601. Short title.
Sec. 602. Findings.
Sec. 603. Prohibition.
Sec. 604. Negotiations.
Sec. 605. Certification.
Sec. 606. Enforcement.

TITLE VII—GOVERNING INTERNATIONAL FISHERY AGREEMENT

Sec. 701. Agreement with Estonia.

TITLE I—HIGH SEAS FISHERIES LICENSING

SEC. 101. SHORT TITLE.

This title may be cited as the "High Seas Fisheries Licensing Act of 1995".

SEC. 102. PURPOSE.

It is the purpose of this Act—

(1) to implement the Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas, adopted by the Conference of the Food and Agriculture Organization of the United Nations on November 24, 1993; and

(2) to establish a system of licensing, reporting, and regulation for vessels of the United States fishing on the high seas.

SEC. 103. DEFINITIONS.

As used in this Act—

(1) The term "Agreement" means the Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas, adopted by the Conference of the Food and Agriculture Organization of the United Nations on November 24, 1993.

(2) The term "FAO" means the Food and Agriculture Organization of the United Nations.

(3) The term "high seas" means the waters beyond the territorial sea or exclusive economic zone (or the equivalent) of any nation, to the extent that such territorial sea or exclusive economic zone (or the equivalent) is recognized by the United States.

(4) The term "high seas fishing vessel" means any vessel of the United States used or intended for use—

(A) on the high seas;

(B) for the purpose of the commercial exploitation of living marine resources; and

(C) as a harvesting vessel, as a mother ship, or as any other support vessel directly engaged in a fishing operation.

(5) The term "international conservation and management measures" means measures to conserve or manage one or more species of living marine resources that are adopted and applied in accordance with the relevant rules of international law, as reflected in the 1982 United Nations Convention on the Law of the Sea, and that are recognized by the United States. Such measures may be adopted by global, regional, or sub-regional fisheries organizations, subject to the rights and obligations of their members, or by treaties or other international agreements.

(6) The term "length" means —

(A) for any high seas fishing vessel built after July 18, 1982, 96 percent of the total length on a waterline at 85 percent of the least molded depth measured from the top of the keel, or the length from the foreside of the stem to the axis of the rudder stock on that waterline, if that is [greater. In] *greater, except that in* ships designed with a rake of keel the waterline on which this length is measured shall be parallel to the designed waterline; and

(B) for any high seas fishing vessel built before July 18, 1982, registered length as entered on the vessel's documentation.

(7) The term "person" means any individual (whether or not a citizen or national of the United States), any corporation, partnership, association, or other entity (whether or not organized or existing under the laws of any State), and any Federal, State, local, or foreign government or any entity of any such government.

(8) The term "Secretary" means the Secretary of Commerce.

(9) The term "vessel of the United States" means—

(A) a vessel documented under chapter 121 of title 46, United States Code, or numbered in accordance with chapter 123 of title 46, United States Code;

(B) a vessel owned in whole or part by—

(i) the United States or a territory, commonwealth, or possession of the United States;

(ii) a State or political subdivision thereof;

(iii) a citizen or national of the United States; or

(iv) a corporation created under the laws of the United States or any State, the District of Columbia, or any territory, commonwealth, or possession of the United States; unless the vessel has been granted the nationality of a foreign nation in accordance with article 92 of the 1982 United Nations Convention on the Law of the Sea and a claim of nationality or registry for the vessel is made by the master or individual in charge at the time of the enforcement action by an officer or employee of the United States authorized to enforce applicable provisions of the United States law; and

(C) a vessel that was once documented under the laws of the United States and, in violation of the laws of the United States, was either sold to a person not a citizen of the United States or placed under foreign registry or a foreign flag, whether or not the vessel has been granted the nationality of a foreign nation.

(10) The terms "vessel subject to the jurisdiction of the United States" and "vessel without nationality" have the same meaning as in section [1903(c) of title 46, United States Code Appendix.] *3(c) of the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1903(c)).*

SEC. 104. LICENSING.

(a) IN GENERAL.—No high seas fishing vessel shall engage in harvesting operations on the high seas unless the vessel has on board a valid license issued under this section.

(b) ELIGIBILITY.—

(1) Any vessel of the United States is eligible to receive a license under this section, unless the vessel was previously authorized to be used for fishing on the high seas by a foreign nation, and

(A) the foreign nation suspended such authorization because the vessel undermined the effectiveness of international conservation and management measures, and the suspension has not expired; or

(B) the foreign nation, within the last three years preceding application for a license under this section, withdrew such authorization because the vessel undermined the effectiveness of international conservation and management measures.

(2) The restriction in paragraph (1) does not apply if ownership of the vessel has changed since the vessel undermined the effectiveness of international conservation and management measures, and the new owner has provided sufficient evidence to the Secretary demonstrating that the previous owner or operator has no further legal, beneficial or financial interest in, or control of, the vessel.

(3) The restriction in paragraph (1) does not apply if the Secretary makes a determination that issuing a license would not subvert the purposes of the Agreement.

(4) The Secretary may not issue a license to a vessel unless the Secretary is satisfied that the United States will be able to exercise effectively its responsibilities under the Agreement with respect to that vessel.

(c) APPLICATION.—

(1) The owner or operator of a high seas fishing vessel may apply for a license under this section by completing an application form prescribed by the Secretary.

(2) The application form shall contain—

(A) the vessel's name, previous names (if known), official numbers, and port of record;

(B) the vessel's previous flags (if any);

(C) the vessel's International Radio Call Sign (if any);

(D) the names and addresses of the vessel's owners and operators;

(E) where and when the vessel was built;

(F) the type of vessel;

(G) the vessel's length; and

(H) any other information the Secretary requires for the purposes of implementing the Agreement.

(d) CONDITIONS.—The Secretary shall establish such conditions and restrictions on each license issued under this section as are necessary and appropriate to carry out the obligations of the United States under the Agreement, including but not limited to the following:

(1) The vessel shall be marked in accordance with the FAO Standard Specifications for the Marking and Identification of Fishing Vessels, or with regulations issued under section 305 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1855); and

(2) The license holder shall report such information as the Secretary by regulation requires, including area of fishing operations and catch statistics. The Secretary shall promulgate regulations concerning conditions under which information submitted under this paragraph may be released.

(e) FEES.—

(1) The Secretary shall by regulation establish the level of fees to be charged for licenses issued under this section. The amount of any fee charged for a license issued under this section shall not exceed the administrative costs incurred in issuing such licenses. The licensing fee may be in addition to any fee required under any regional licensing regime applicable to high seas fishing vessels.

(2) The fees authorized by paragraph (1) shall be collected and credited to the Operations, Research and Facilities account of the National Oceanic and Atmospheric Administration. Fees collected under this subsection shall be available for the necessary expenses of the National Oceanic and Atmospheric Administration in implementing this Act, and shall remain available until expended.

(f) DURATION.—A license issued under this section is valid for 5 years. A license issued under this section is void in the event the vessel is no longer eligible for United States documentation, such documentation is revoked or denied, or the vessel is deleted from such documentation.

SEC. 105. RESPONSIBILITIES OF THE SECRETARY.

(a) RECORD.—The Secretary shall maintain an automated file or record of high seas fishing vessels issued licenses under section 104, including all information submitted under section 104(c)(2).

(b) INFORMATION TO FAO.—The Secretary, in cooperation with the Secretary of State and the Secretary of the department in which the Coast Guard is operating, shall—

(1) make available to FAO information contained in the record maintained under subsection (a);

(2) promptly notify FAO of changes in such information;

(3) promptly notify FAO of additions to or deletions from the record, and the reason for any deletion;

(4) convey to FAO information relating to any license granted under section 104(b)(3), including the vessel's identity, owner or operator, and factors relevant to the Secretary's determination to issue the license;

(5) report promptly to FAO all relevant information regarding any activities of high seas fishing vessels that undermine the effectiveness of international conservation and management measures, including the identity of the vessels and any sanctions imposed; and

(6) provide the FAO a summary of evidence regarding any activities of foreign vessels that undermine the effectiveness of international conservation and management measures.

(c) INFORMATION TO FLAG NATIONS.—If the Secretary, in cooperation with the Secretary of State and the Secretary of the department in which the Coast Guard is operating, has reasonable grounds to believe that a foreign vessel has engaged in activities undermining the effectiveness of international conservation and management measures, the Secretary shall—

(1) provide to the flag nation information, including appropriate evidentiary material, relating to those activities; and

(2) when such foreign vessel is voluntarily in a United States port, promptly notify the flag nation and, if requested by the flag nation, make arrangements to undertake such lawful investigatory measures as may be considered necessary to establish whether the vessel has been used contrary to the provisions of the Agreement.

(d) REGULATIONS.—The Secretary, after consultation with the Secretary of State and the Secretary of the department in which the Coast Guard is operating, may promulgate such regulations, in accordance with section 553 of title 5, United States Code, as may be necessary to carry out the purposes of the Agreement and this title. The Secretary shall coordinate such regulations with any other entities regulating high seas fishing vessels, in order to minimize duplication of license application and reporting requirements. To the extent practicable, such regulations shall also be consistent with regulations implementing fishery management plans under the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).

(e) NOTICE OF INTERNATIONAL CONSERVATION AND MANAGEMENT MEASURES.—The Secretary, in consultation with the Secretary of State, shall publish in the Federal Register, from time to time, a notice listing international conservation and management measures recognized by the United States.

SEC. 106. UNLAWFUL ACTIVITIES.

It is unlawful for any person subject to the jurisdiction of the United States—

(1) to use a high seas fishing vessel on the high seas in contravention of international conservation and management measures described in section 105(e);

(2) to use a high seas fishing vessel on the high seas, unless the vessel has on board a valid license issued under section 104;

(3) to use a high seas fishing vessel in violation of the conditions or restrictions of a license issued under section 104;

(4) to falsify any information required to be reported, communicated, or recorded pursuant to this title or any regulation issued under this title, or to fail to submit in a timely fashion any required information, or to fail to report to the Secretary immediately any change in circumstances that has the effect of rendering any such information false, incomplete, or misleading;

(5) to refuse to permit an authorized officer to board a high seas fishing vessel subject to such person's control for purposes of conducting any search or inspection in connection with the enforcement of this title or any regulation issued under this title;

(6) to forcibly assault, resist, oppose, impede, intimidate, or interfere with an authorized officer in the conduct of any search or inspection described in paragraph (5);

(7) to resist a lawful arrest or detention for any act prohibited by this section;

(8) to interfere with, delay, or prevent, by any means, the apprehension, arrest, or detection of another person, knowing that such person has committed any act prohibited by this section;

(9) to ship, transport, offer for sale, sell, purchase, import, export, or have custody, control, or possession of, any living marine resource taken or retained in violation of this title or any regulation or license issued under this title; or

(10) to violate any provision of this title or any regulation or license issued under this title.

SEC. 107. ENFORCEMENT PROVISIONS.

(a) DUTIES OF SECRETARIES.—This title shall be enforced by the Secretary of Commerce and the Secretary of the department in which the Coast Guard is operating. Such Secretaries may by agreement utilize, on a reimbursable basis or otherwise, the personnel, services, equipment (including aircraft and vessels), and facilities of any other Federal agency, or of any State agency, in the performance of such duties. Such Secretaries shall, and the head of any Federal or State agency that has entered into an agreement with either such Secretary under this section may (if the agreement so provides), authorize officers to enforce the provisions of this title or any regulation or license issued under this title.

(b) DISTRICT COURT JURISDICTION.—The district courts of the United States shall have exclusive jurisdiction over any case or controversy arising under the provisions of this title. In the case of Guam, and any Commonwealth, territory, or possession of the United States in the Pacific Ocean, the appropriate court is the United States District Court for the District of Guam, except that in the case of American Samoa, the appropriate court is the United States District Court for the District of Hawaii.

(c) POWERS OF ENFORCEMENT OFFICERS.—

(1) Any officer who is authorized under subsection (a) to enforce the provisions of this title may—

(A) with or without a warrant or other process—

(i) arrest any person, if the officer has reasonable cause to believe that such person has committed an act prohibited by paragraph (6), (7), (8), or (9) of section 106;

(ii) board, and search or inspect, any high seas fishing vessel;

(iii) seize any high seas fishing vessel (together with its fishing gear, furniture, appurtenances, stores, and cargo) used or employed in, or with respect to which it reasonably appears that such vessel was used or employed in, the violation of any provision of this title or any regulation or license issued under this title;

(iv) seize any living marine resource (wherever found) taken or retained, in any manner, in connection with or as a result of the commission of any act prohibited by section 106;

(v) seize any other evidence related to any violation of any provision of this title or any regulation or license issued under this title;

(B) execute any warrant or other process issued by any court of competent jurisdiction; and

(C) exercise any other lawful authority.

(2) Subject to the direction of the Secretary, a person charged with law enforcement responsibilities by the Secretary who is performing a duty related to enforcement of a law regarding fisheries or other marine resources may make an arrest without a warrant for an offense against the United States committed in his presence, or for a felony cognizable under the laws of the United States, if he has reasonable grounds to believe that the person to be arrested has committed or is committing a felony.

(d) ISSUANCE OF CITATIONS.—If any authorized officer finds that a high seas fishing vessel is operating or has been operated in violation of any provision of this title, such officer may issue a citation to the owner or operator of such vessel in lieu of proceeding under subsection (c). If a permit has been issued pursuant to this title for such vessel, such officer shall note the issuance of any citation under this subsection, including the date thereof and the reason therefor, on the permit. The Secretary shall maintain a record of all citations issued pursuant to this subsection.

(e) LIABILITY FOR COSTS.—Any person assessed a civil penalty for, or convicted of, any violation of this Act shall be liable for the cost incurred in storage, care, and maintenance of any living marine resource or other property seized in connection with the violation.

SEC. 108. CIVIL PENALTIES AND LICENSE SANCTIONS.

(a) CIVIL PENALTIES.—

(1) Any person who is found by the Secretary, after notice and opportunity for a hearing in accordance with section 554 of title 5, United States Code, to have committed an act prohibited by section 106 shall be liable to the United States for a civil penalty. The amount of the civil penalty shall not exceed $100,000 for each violation. Each day of a continuing violation shall constitute a separate offense. The amount of such civil penalty shall be assessed by the Secretary by written notice. In determining the amount of such penalty, the Secretary shall take into account the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the violation, the degree of culpability, any history of prior offenses, and such other matters as justice may require.

(2) The Secretary may compromise, modify, or remit, with or without conditions, any civil penalty that is subject to imposition or that has been imposed under this section.

(b) LICENSE SANCTIONS.—

(1) In any case in which—

(A) a vessel of the United States has been used in the commission of an act prohibited under section 106;

(B) the owner or operator of a vessel or any other person who has been issued or has applied for a license under section 104 has acted in violation of section 106; or

(C) any amount in settlement of a civil forfeiture imposed on a high seas fishing vessel or other property, or any civil penalty or criminal fine imposed on a high seas fishing vessel or on an owner or operator of such a vessel or on any other person who has been issued or has applied for a license under any fishery resource statute enforced by the Secretary, has not been paid and is overdue, the Secretary may—

(i) revoke any license issued to or applied for by such vessel or person under this title, with or without prejudice to the issuance of subsequent licenses;

(ii) suspend such license for a period of time considered by the Secretary to be appropriate;

(iii) deny such license; or

(iv) impose additional conditions and restrictions on such license.

(2) In imposing a sanction under this subsection, the Secretary shall take into account—

(A) the nature, circumstances, extent, and gravity of the prohibited acts for which the sanction is imposed; and

(B) with respect to the violator, the degree of culpability, any history of prior offenses, and such other matters as justice may require.

(3) Transfer of ownership of a high seas fishing vessel, by sale or otherwise, shall not extinguish any license sanction that is in effect or is pending at the time of transfer of ownership. Before executing the transfer of ownership of a vessel, by sale or otherwise, the owner shall disclose in writing to the prospective transferee the existence of any license sanction that will be in effect or pending with respect to the vessel at the time of the transfer. The Secretary may waive or compromise a sanction in the case of a transfer pursuant to court order.

(4) In the case of any license that is suspended under this subsection for nonpayment of a civil penalty or criminal fine, the Secretary shall reinstate the license upon payment of the penalty or fine and interest thereon at the prevailing rate.

(5) No sanctions shall be imposed under this subsection unless there has been prior opportunity for a hearing on the facts underlying the violation for which the sanction is imposed, either in conjunction with a civil penalty proceeding under this section or otherwise.

(c) HEARING.—For the purposes of conducting any hearing under this section, the Secretary may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and may administer oaths. Witnesses summoned shall be paid the same fees and mileage that are paid to witnesses in the courts of the United States. In case of contempt or refusal to obey a subpoena served upon any person pursuant to this subsection, the district court of the United States for any district in which such person is found, resides, or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the Secretary or to appear and produce documents before the Secretary, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(d) JUDICIAL REVIEW.—Any person against whom a civil penalty is assessed under subsection (a) or against whose vessel a license sanction is imposed under subsection (b) (other than a license suspension for nonpayment of penalty or fine) may obtain review thereof in the United States district court for the appropriate district by filing a complaint against the Secretary in such court within 30 days from the date of such penalty or sanction. The Secretary shall promptly file in such court a certified copy of the record upon which such penalty or sanction was imposed, as provided in section 2112 of title 28, United States Code. The findings and order of the Secretary shall be set aside by such court if they are not found to be supported by substantial evidence, as provided in section 706(2) of title 5, United States Code.

(e) COLLECTION.—

(1) If any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order, or after the appropriate court has entered final judgment in favor of the Secretary, the matter shall be referred to the Attorney General, who shall recover the amount assessed in any appropriate district court of the United States. In such action the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

(2) A high seas fishing vessel (including its fishing gear, furniture, appurtenances, stores, and cargo) used in the commission of an act prohibited by section 106 shall be liable in rem for any civil penalty assessed for such violation under subsection (a) and may be proceeded against in any district court of the United States having jurisdiction thereof. Such penalty shall constitute a maritime lien on such vessel that may be recovered in an action in rem in the district court of the United States having jurisdiction over the vessel.

SEC. 109. CRIMINAL OFFENSES.

(a) OFFENSES.—A person is guilty of an offense if the person commits any act prohibited by paragraph (6), (7), (8), or (9) of section 106.

(b) PUNISHMENT.—Any offense described in subsection (a) is a class A misdemeanor punishable by a fine under title 18, United States Code, or imprisonment for not more than one year, or both; except that if in the commission of any offense the person uses a dangerous weapon, engages in conduct that causes bodily injury to any authorized officer, or places any such officer in fear of imminent bodily injury, the offense is a felony punishable by a fine under title 18, United States Code, or imprisonment for not more than 10 years, or both.

SEC. 110. FORFEITURES.

(a) IN GENERAL.—Any high seas fishing vessel (including its fishing gear, furniture, appurtenances, stores, and cargo) used, and any living marine resources (or the fair market value thereof) taken or retained, in any manner, in connection with or as a result of the commission of any act prohibited by section 106 (other than an act for which the issuance of a citation under section 107 is a sufficient sanction) shall be subject to forfeiture to the United States. All or part of such vessel may, and all such living marine resources (or the fair market value thereof) shall, be forfeited to the United States pursuant to a civil proceeding under this section.

(b) JURISDICTION OF DISTRICT COURTS.—Any district court of the United States shall have jurisdiction, upon application of the Attorney General on behalf of the United States, to order any forfeiture authorized under subsection (a) and any action provided for under subsection (d).

(c) JUDGMENT.—If a judgment is entered for the United States in a civil forfeiture proceeding under this section, the Attorney General may seize any property or other interest declared forfeited to the United States, which has not previously been seized pursuant to this title or for which security has not previously been obtained. The provisions of the customs laws relating to—

(1) the seizure, forfeiture, and condemnation of property for violation of the customs law;

(2) the disposition of such property or the proceeds from the sale thereof; and

(3) the remission or mitigation of any such forfeiture;

shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under the provisions of this title, unless such provisions are inconsistent with the purposes, policy, and provisions of this title.

(d) PROCEDURE.—

(1) Any officer authorized to serve any process in rem that is issued by a court under section 107(b) shall—

(A) stay the execution of such process; or

(B) discharge any living marine resources seized pursuant to such process;

upon receipt of a satisfactory bond or other security from any person claiming such property. Such bond or other security shall be conditioned upon such person delivering such property to the appropriate court upon order thereof, without any impairment of its value, or paying the monetary value of such property pursuant to an order of such court. Judgment shall be recoverable on such bond or other security against both the principal and any sureties in the event that any condition thereof is breached, as determined by such court.

(2) Any living marine resources seized pursuant to this title may be sold, subject to the approval of the appropriate court, for not less than the fair market value thereof. The proceeds of any such sale shall be deposited with such court pending the disposition of the matter involved.

(e) REBUTTABLE PRESUMPTION.—For purposes of this section, all living marine resources found on board a high seas fishing vessel and which are seized in connection with an act prohibited by section 106 are presumed to have been taken or retained in violation of this title, but the presumption can be rebutted by an appropriate showing of evidence to the contrary.

SEC. 111. EFFECTIVE DATE.

This title shall take effect 120 days after the date of enactment of this Act.

TITLE II—IMPLEMENTATION OF CONVENTION ON FUTURE MULTILATERAL COOPERATION IN THE NORTHWEST ATLANTIC FISHERIES

SEC. 201. SHORT TITLE.

This title may be cited as the "Northwest Atlantic Fisheries Convention Act of 1995".

SEC. 202. REPRESENTATION OF UNITED STATES UNDER CONVENTION.

(a) COMMISSIONERS.—

(1) APPOINTMENTS, GENERALLY.—The Secretary shall appoint not more than 3 individuals to serve as the representatives of the United States on the General Council and the Fisheries Commission, who shall each—

(A) be known as a "United States Commissioner to the Northwest Atlantic Fisheries Organization"; and

(B) serve at the pleasure of the Secretary.

(2) REQUIREMENTS FOR APPOINTMENTS.—

(A) The Secretary shall ensure that of the individuals serving as Commissioners—

(i) at least 1 is appointed from among representatives of the commercial fishing industry;

(ii) 1 (but no more than 1) is an official of the Government; and

(iii) 1, other than the individual appointed under clause (ii), is a voting member of the New England Fishery Management Council.

(B) The Secretary may not appoint as a Commissioner an individual unless the individual is knowledgeable and experienced concerning the fishery resources to which the Convention applies.

(3) TERMS.—

(A) The term of an individual appointed as a Commissioner—

(i) shall be specified by the Secretary at the time of appointment; and

(ii) may not exceed 4 years.

(B) An individual who is not a Government official may not serve more than 2 consecutive terms as a Commissioner.

(b) ALTERNATE COMMISSIONERS.—

(1) APPOINTMENT.—The Secretary may, for any anticipated absence of a duly appointed Commissioner at a meeting of the General Council or the Fisheries Commission, designate an individual to serve as an Alternate Commissioner.

(2) FUNCTIONS.—An Alternate Commissioner may exercise all powers and perform all duties of the Commissioner for whom the Alternate Commissioner is designated, at any meeting of the General Council or the Fisheries Commission for which the Alternate Commissioner is designated.

(c) REPRESENTATIVES.—

(1) APPOINTMENT.—The Secretary shall appoint not more than 3 individuals to serve as the representatives of the United States on the Scientific Council, who shall each be known as a "United States Representative to the Northwest Atlantic Fisheries Organization Scientific Council".

(2) ELIGIBILITY FOR APPOINTMENT.—

(A) The Secretary may not appoint an individual as a Representative unless the individual is knowledgeable and experienced concerning the scientific issues dealt with by the Scientific Council.

(B) The Secretary shall appoint as a Representative at least 1 individual who is an official of the Government.

(3) TERM.—An individual appointed as a Representative—

(A) shall serve for a term of not to exceed 4 years, as specified by the Secretary at the time of appointment;

(B) may be reappointed; and

(C) shall serve at the pleasure of the Secretary.

(d) ALTERNATE REPRESENTATIVES.—

(1) APPOINTMENT.—The Secretary may, for any anticipated absence of a duly appointed Representative at a meeting of the Scientific Council, designate an individual to serve as an Alternate Representative.

(2) FUNCTIONS.—An Alternate Representative may exercise all powers and perform all duties of the Representative for whom the Alternate Representative is designated, at any meeting of the Scientific Council for which the Alternate Representative is designated.

(e) EXPERTS AND ADVISERS.—The Commissioners, Alternate Commissioners, Representatives, and Alternate Representatives may be accompanied at meetings of the Organization by experts and advisers.

(f) Coordination and Consultation.—

(1) In general.—In carrying out their functions under the Convention, Commissioners, Alternate Commissioners, Representatives, and Alternate Representatives shall—

(A) coordinate with the appropriate Regional Fishery Management Councils established by section 302 of the Magnuson Act (16 U.S.C. 1852); and

(B) consult with the committee established under section 208.

(2) Relationship to other law.—The Federal Advisory Committee Act (5 U.S.C. [App. §1 et seq.)] *App.*) shall not apply to coordination and consultations under this subsection.

SEC. 203. REQUESTS FOR SCIENTIFIC ADVICE.

(a) Restriction.—The Representatives may not make a request or specification described in subsection (b)(1) or (2), respectively, unless the Representatives have first—

(1) consulted with the appropriate Regional Fishery Management Councils; and

(2) received the consent of the Commissioners for that action.

(b) Requests and Terms of Reference Described.—The requests and specifications referred to in subsection (a) are, respectively—

(1) any request, under Article VII(1) of the Convention, that the Scientific Council consider and report on a question pertaining to the scientific basis for the management and conservation of fishery resources in waters under the jurisdiction of the United States within the Convention Area; and

(2) any specification, under Article VIII(2) of the Convention, of the terms of reference for the consideration of a question referred to the Scientific Council pursuant to Article VII(1) of the Convention.

SEC. 204. AUTHORITIES OF SECRETARY OF STATE WITH RESPECT TO CONVENTION.

The Secretary of State may, on behalf of the Government of the United States—

(1) receive and transmit reports, requests, recommendations, proposals, and other communications of and to the Organization and its subsidiary organs;

(2) object, or withdraw an objection, to the proposal of the Fisheries Commission;

(3) give or withdraw notice of intent not to be bound by a measure of the Fisheries Commission;

(4) object or withdraw an objection to an amendment to the Convention; and

(5) act upon, or refer to any other appropriate authority, any other communication referred to in paragraph (1).

SEC. 205. INTERAGENCY COOPERATION.

(a) Authorities of Secretary.—In carrying out the provisions of the Convention and this title, the Secretary may arrange for cooperation with other agencies of the United States, the States, the New England and the Mid-Atlantic Fishery Management Councils, and private institutions and organizations.

(b) Other Agencies.—The head of any Federal agency may—

(1) cooperate in the conduct of scientific and other programs, and furnish facilities and personnel, for the purposes of assisting the Organization in carrying out its duties under the Convention; and

(2) accept reimbursement from the Organization for providing such services, facilities, and personnel.

SEC. 206. RULEMAKING.

The Secretary shall promulgate regulations as may be necessary to carry out the purposes and objectives of the Convention and this title. Any such regulation may be made applicable, as necessary, to all persons and all vessels subject to the jurisdiction of the United States, wherever located.

SEC. 207. PROHIBITED ACTS AND PENALTIES.

(a) Prohibition.—It is unlawful for any person or vessel that is subject to the jurisdiction of the United States—

(1) to violate any regulation issued under this title or any measure that is legally binding on the United States under the Convention;

(2) to refuse to permit any authorized enforcement officer to board a fishing vessel that is subject to the person's control for purposes of conducting any search or inspection in connection with the enforcement of this title, any regulation issued under this title, or any measure that is legally binding on the United States under the Convention;

(3) forcibly to assault, resist, oppose, impede, intimidate, or interfere with any authorized enforcement officer in the conduct of any search or inspection described in paragraph (2);

(4) to resist a lawful arrest for any act prohibited by this section;

(5) to ship, transport, offer for sale, sell, purchase, import, export, or have custody, control, or possession of, any fish taken or retained in violation of this section; or

(6) to interfere with, delay, or prevent, by any means, the apprehension or arrest of another person, knowing that the other person has committed an act prohibited by this section.

(b) Civil Penalty.—Any person who commits any act that is unlawful under subsection (a) shall be liable to the United States for a civil penalty, or may be subject to a permit sanction, under section 308 of the Magnuson Act (16 U.S.C. 1858).

(c) Criminal Penalty.—Any person who commits an act that is unlawful under paragraph (2), (3), (4), or (6) of subsection (a) shall be guilty of an offense punishable under section 309(b) of the Magnuson Act (16 U.S.C. 1859(b)).

(d) Civil Forfeiture.—

(1) In general.—Any vessel (including its gear, furniture, appurtenances, stores, and cargo) used in the commission of an act that is unlawful under subsection (a), and any fish (or the fair market value thereof) taken or retained, in any manner, in connection with or as a result of the commission of any act that is unlawful under subsection (a), shall be subject to seizure and forfeiture as provided in section 310 of the Magnuson Act (16 U.S.C. 1860).

(2) Disposal of fish.—Any fish seized pursuant to this title may be disposed of pursuant to the order of a court of competent jurisdiction or, if perishable, in a manner prescribed by regulations issued by the Secretary.

(e) Enforcement.—The Secretary and the Secretary of the department in which the Coast Guard is operating shall enforce the provisions of this title and shall have the authority specified in sections 311(a), (b)(1), and (c) of the Magnuson Act (16 U.S.C. 1861(a), (b)(1), and (c)) for that purpose.

(f) Jurisdiction of Courts.—The district courts of the United States shall have exclusive jurisdiction over any case or controversy arising under this section and may, at any time—

(1) enter restraining orders or prohibitions;

(2) issue warrants, process in rem, or other process;

(3) prescribe and accept satisfactory bonds or other security; and

(4) take such other actions as are in the interests of justice.

SEC. 208. CONSULTATIVE COMMITTEE.

(a) Establishment.—The Secretary of State and the Secretary, shall jointly establish a consultative committee to advise the Secretaries on issues related to the Convention.

(b) Membership.—

(1) The membership of the Committee shall include representatives from the New England and Mid-Atlantic Fishery Management Councils, the States represented on those Councils, the Atlantic States Marine Fisheries Commission, the fishing industry, the seafood processing industry, and others knowledgeable and experienced in the conservation and management of fisheries in the Northwest Atlantic Ocean.

(2) Terms and reappointment.—Each member of the consultative committee shall serve for a term of two years and shall be eligible for reappointment.

(c) Duties of the Committee.—Members of the consultative committee may attend—

(1) all public meetings of the General Council or the Fisheries Commission;

(2) any other meetings to which they are invited by the General Council or the Fisheries Commission; and

(3) all nonexecutive meetings of the United States Commissioners.

(d) Relationship to Other Law.—The Federal Advisory Committee Act (5 U.S.C. [App. §1 et seq.)] *App.*) shall not apply to the consultative committee established under this section.

SEC. 209. ADMINISTRATIVE MATTERS.

(a) Prohibition on Compensation.—A person shall not receive any compensation from the Government by reason of any service of the person as—

(1) a Commissioner, Alternate Commissioner, Representative, or Alternate Representative;

(2) an expert or adviser authorized under section 202(e); or

(3) a member of the consultative committee established by section 208.

(b) Travel and Expenses.—The Secretary of State shall, subject to the availability of appropriations, pay all necessary travel and other expenses of persons described in subsection (a)(1) and of not more than six experts and advisers authorized under section 202(e) with respect to their actual performance of their official duties pursuant to this title, in accordance with the Federal Travel Regulations and sections 5701, 5702, 5704 through 5708, and 5731 of title 5, United States Code.

(c) Status as Federal Employees.—A person shall not be considered to be a Federal employee by reason of any service of the person in a capacity described in subsection (a), except for purposes of injury compensation and tort claims liability under chapter 81 of title 5, United States Code, and chapter 17 of title 28, United States Code, respectively.

SEC. 210. DEFINITIONS.

In this title the following definitions apply:

(1) Authorized enforcement officer.—The term "authorized enforcement officer" means a person authorized to enforce this title, any regulation issued under this title, or any measure that is legally binding on the United States under the Convention.

(2) Commissioner.—The term "Commissioner" means a United States Commissioner to the Northwest Atlantic Fisheries Organization appointed under section 202(a).

(3) Convention.—The term "Convention" means the Convention on Future Multilateral Cooperation in the Northwest Atlantic Fisheries, done at Ottawa on October 24, 1978.

(4) FISHERIES COMMISSION.—The term "Fisheries Commission" means the Fisheries Commission provided for by Articles II, XI, XII, XIII, and XIV of the Convention.

(5) GENERAL COUNCIL.—The term "General Council" means the General Council provided for by Articles II, III, IV, and V of the Convention.

(6) MAGNUSON ACT.—The term "Magnuson Act" means the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).

(7) ORGANIZATION.—The term "Organization" means the Northwest Atlantic Fisheries Organization provided for by Article II of the Convention.

(8) PERSON.—The term "person" means any individual (whether or not a citizen or national of the United States), and any corporation, partnership, association, or other entity (whether or not organized or existing under the laws of any State).

(9) REPRESENTATIVE.—The term "Representative" means a United States Representative to the Northwest Atlantic Fisheries Scientific Council appointed under section 202(c).

(10) SCIENTIFIC COUNCIL.—The term "Scientific Council" means the Scientific Council provided for by Articles II, VI, VII, VIII, IX, and X of the Convention.

(11) SECRETARY.—The term "Secretary" means the Secretary of Commerce.

SEC. 211. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this title, including use for payment as the United States contribution to the Organization as provided in Article XVI of the Convention, $500,000 for each of the fiscal years 1995, 1996, **[**1997**]** *1997*, and 1998.

TITLE III—ATLANTIC TUNAS CONVENTION ACT

SEC. 301. SHORT TITLE.

This title may be cited as the "Atlantic Tunas Convention Authorization Act of 1995".

SEC. 302. RESEARCH AND MONITORING ACTIVITIES.

(a) REPORT TO CONGRESS.—The Secretary of Commerce shall, within 90 days after the date of enactment of this Act, submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Resources of the House of Representatives—

(1) identifying current governmental and nongovernmental research and monitoring activities on Atlantic bluefin tuna and other highly migratory species;

(2) describing the personnel and budgetary resources allocated to such activities; and

(3) explaining how each activity contributes to the conservation and management of Atlantic bluefin tuna and other highly migratory species.

(b) RESEARCH AND MONITORING PROGRAM.—Section 3 of the Act of September 4, 1980 (16 U.S.C. 971i) is amended—

(1) by amending the section heading to read as follows:

"SEC. 3. RESEARCH ON ATLANTIC HIGHLY MIGRATORY SPECIES.";

(2) by striking the last sentence;

(3) by inserting "(a) BIENNIAL REPORT ON BLUEFIN TUNA.—" before "The Secretary of Commerce shall"; and

(4) by adding at the end the following:

"(b) HIGHLY MIGRATORY SPECIES RESEARCH AND MONITORING.—

"(1) Within 6 months after the date of enactment of the Atlantic Tunas Convention Authorization Act of 1995, the Secretary of Commerce, in cooperation with the advisory committee established under section 4 of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971b) and in consultation with the United States Commissioners on the International Commission for the Conservation of Atlantic Tunas (referred to elsewhere in this section as the 'Commission') and the Secretary of State, shall develop and implement a comprehensive research and monitoring program to support the conservation and management of Atlantic bluefin tuna and other highly migratory species that shall—

"(A) identify and define the range of stocks of highly migratory species in the Atlantic Ocean, including Atlantic bluefin tuna; and

"(B) provide for appropriate participation by nations which are members of the Commission.

"(2) The program shall provide for, but not be limited to—

"(A) statistically designed cooperative tagging studies;

"(B) genetic and biochemical stock analyses;

"(C) population censuses carried out through aerial surveys of fishing grounds and known migration areas;

"(D) adequate observer coverage and port sampling of commercial and recreational fishing activity;

"(E) collection of comparable real-time data on commercial and recreational catches and landings through the use of permits, logbooks, landing reports for charter operations and fishing tournaments, and programs to provide reliable reporting of the catch by private anglers;

"(F) studies of the life history parameters of Atlantic bluefin tuna and other highly migratory species;

"(G) integration of data from all sources and the preparation of data bases to support management decisions; and

"(H) other research as necessary.

"(3) In developing a program under this section, the Secretary shall provide for comparable monitoring of all United States fishermen to which the Atlantic Tunas Convention Act applies with respect to effort and species composition of catch and discards. The Secretary through the Secretary of State shall encourage other member nations to adopt a similar program.".

SEC. 303. ADVISORY COMMITTEE PROCEDURES.

Section 4 of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971b) is amended—

(1) by inserting "(a)" before "There"; and

(2) by adding at the end the following:

"(b)(1) A majority of the members of the advisory committee shall constitute a quorum, but one or more such members designated by the advisory committee may hold meetings to provide for public participation and to discuss measures relating to the United States implementation of Commission recommendations.

"(2) The advisory committee shall elect a Chairman for a 2-year term from among its members.

"(3) The advisory committee shall meet at appropriate times and places at least twice a year, at the call of the Chairman or upon the request of the majority of its voting members, the United States Commissioners, the Secretary, or the Secretary of State. Meetings of the advisory committee shall be open to the public, and prior notice of meetings shall be made public in a timely fashion.

"(4)(A) The Secretary shall provide to the advisory committee in a timely manner such administrative and technical support services as are necessary for the effective functioning of the committee.

"(B) The Secretary and the Secretary of State shall furnish the advisory committee with relevant information concerning fisheries and international fishery agreements.

"(5) The advisory committee shall determine its organization, and prescribe its practices and procedures for carrying out its functions under this Act, the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.), and the Convention. The advisory committee shall publish and make available to the public a statement of its organization, practices, and procedures.

"(6) The advisory committee shall, to the maximum extent practicable, consist of an equitable balance among the various groups concerned with the fisheries covered by the Convention and shall not be subject to the Federal Advisory Committee Act (5 U.S.C. **[**App. §1 et seq.).".**]** *App.*).".

SEC. 304. REGULATIONS.

Section 6(c)(3) of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971d(c)(3)) is amended by adding "or fishery mortality level" after "quota of fish" in the last sentence.

SEC. 305. FINES AND PERMIT SANCTIONS.

Section 7(e) of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971(e)) is amended to read as follows:

"(e) The civil penalty and permit sanctions of section 308 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1858) are hereby made applicable to violations of this section as if they were violations of section 307 of that Act.".

SEC. 306. AUTHORIZATION OF APPROPRIATIONS.

Section 10 of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971h) is amended to read as follows:

"§ 10. Authorization of appropriations

"There are authorized to be appropriated to carry out this Act, including use for payment of the United States share of the joint expenses of the Commission as provided in article X of the Convention, the following sums:

"(1) For fiscal year 1995, $2,750,000, of which $50,000 are authorized in the aggregate for the advisory committee established under section 4 and the species working groups established under section 4A, and $1,500,000 are authorized for research activities under this Act.

"(2) For fiscal year 1996, $4,000,000, of which $62,000 are authorized in the aggregate for such advisory committee and such working groups, and $2,500,000 are authorized for such research activities.

"(3) For fiscal year 1997, $4,000,000 of which $75,000 are authorized in the aggregate for such advisory committee and such working groups, and $2,500,000 are authorized for such research activities.".

"(4) For fiscal year 1998, $4,000,000 of which $75,000 are authorized in the aggregate for such advisory committee and such working groups, and $2,500,000 are authorized for such research activities.".

SEC. 307. REPORT AND CERTIFICATION.

The Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971 et seq.) is amended by adding at the end thereof the following:

"§ 11. Annual report

"Not later than April 1, 1996, and annually thereafter, the Secretary shall prepare and transmit to the Committee on Resources of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report, that—

"(1) details for the previous 10-year period the catches and exports to the United States of highly migratory species (including tunas, swordfish, marlin and sharks) from nations fishing on Atlantic stocks of such species that are subject to management by the Commission;

"(2) identifies those fishing nations whose harvests are inconsistent with conservation and management recommendations of the Commission;

"(3) describes reporting requirements established by the Secretary to ensure that imported fish products are in compliance with all international management measures, including minimum size requirements, established by the Commission and other international fishery organizations to which the United States is a party; and

"(4) describes actions taken by the Secretary under section 12.

"§ 12. Certification

"(a) If the Secretary determines that vessels of any nation are harvesting fish which are subject to regulation pursuant to a recommendation of the Commission and which were taken from the convention area in a manner or under circumstances which would tend to diminish the effectiveness of the conservation recommendations of the Commission, the Secretary shall certify such fact to the President.

"(b) Such certification shall be deemed to be a certification for the purposes of section 8 of the Fishermen's Protective Act (22 U.S.C. 1978).

"(c) Upon certification under subsection (a), the Secretary shall promulgate regulations under section 6(c)(4) with respect to a nation so certified.".

SEC. 308. MANAGEMENT OF YELLOWFIN TUNA.

(a) Not later than 90 days after the date of the enactment of this Act, the Secretary of Commerce in accordance with this section shall publish a preliminary determination of the level of the United States recreational and commercial catch of yellowfin tuna on an annual basis since 1980. The Secretary shall publish a preliminary determination in the Federal Register for comment for a period not to exceed 60 days. The Secretary shall publish a final determination not later than 140 days from the date of the enactment of this section.

(b) Not later than June 1, 1996, the Secretary of Commerce shall implement the recommendations of International Commission for the Conservation of Atlantic Tunas regarding yellowfin tuna.

TITLE IV—FISHERMEN'S PROTECTIVE ACT

SEC. 401. FINDINGS.

The Congress finds that—

(1) customary international law and the United Nations Convention on the Law of the Sea guarantee the right of passage, including innocent passage, to vessels through the waters commonly referred to as the "Inside Passage" off the Pacific Coast of Canada;

(2) Canada recently required all commercial fishing vessels of the United States to pay 1,500 Canadian dollars to obtain a "license which authorizes transit" through the Inside Passage;

(3) this action was inconsistent with international law, including the United Nations Convention on the Law of the Sea, and, in particular, Article 26 of that Convention, which specifically prohibits such fees, and threatened the safety of United States commercial fishermen who sought to avoid the fee by traveling in less protected waters;

(4) the Fishermen's Protective Act of 1967 provides for the reimbursement of vessel owners who are forced to pay a license fee to secure the release of a vessel which has been seized, but does not permit reimbursement of a fee paid by the owner in advance in order to prevent a seizure;

(5) Canada required that the license fee be paid in person in 2 ports on the Pacific Coast of Canada, or in advance by mail;

(6) significant expense and delay was incurred by commercial fishing vessels of the United States that had to travel from the point of seizure back to one of those ports in order to pay the license fee required by Canada, and the costs of that travel and delay cannot be reimbursed under the Fishermen's Protective Act;

(7) the Fishermen's Protective Act of 1967 should be amended to permit vessel owners to be reimbursed for fees required by a foreign government to be paid in advance in order to navigate in the waters of that foreign country if the United States considers that fee to be inconsistent with international law;

(8) the Secretary of State should seek to recover from Canada any amounts paid by the United States to reimburse vessel owners who paid the transit license fee;

(9) the United States should review its current policy with respect to anchorage by commercial fishing vessels of Canada in waters of the United States off Alaska, including waters in and near the Dixon Entrance, and should accord such vessels the same treatment that commercial fishing vessels of the United States are accorded for anchorage in the waters of Canada off British Columbia;

(10) the President should ensure that, consistent with international law, the United States Coast Guard has available adequate resources in the Pacific Northwest and Alaska to provide for the safety of United States citizens, the enforcement of United States law, and to protect the rights of the United States and keep the peace among vessels operating in disputed waters;

(11) the President should continue to review all agreements between the United States and Canada to identify other actions that may be taken to convince Canada that any reinstatement of the transit license fee would be against Canada's long-term interests, and should immediately implement any actions which the President deems appropriate if Canada reinstates the fee;

(12) the President should continue to immediately convey to Canada in the strongest terms that the United States will not now, nor at any time in the future, tolerate any action by Canada which would impede or otherwise restrict the right of passage of vessels of the United States in a manner inconsistent with international law; and

(13) the United States should redouble its efforts to seek expeditious agreement with Canada on appropriate fishery conservation and management measures that can be implemented through the Pacific Salmon Treaty to address issues of mutual concern.

SEC. 402. AMENDMENT TO THE FISHERMEN'S PROTECTIVE ACT OF 1967.

(a) The Fishermen's Protective Act of 1967 (22 U.S.C. 1971 et seq.) is amended by adding at the end the following new section:

"SEC. 11. (a) In any case on or after June 15, 1994, in which a vessel of the United States exercising its right of passage is charged a fee by the government of a foreign country to engage in transit passage between points in the United States (including a point in the exclusive economic zone or in an area over which jurisdiction is in dispute), and such fee is regarded by the United States as being inconsistent with international law, the Secretary of State shall reimburse the vessel owner for the amount of any such fee paid under protest.

"(b) In seeking such reimbursement, the vessel owner shall provide, together with such other information as the Secretary of State may require—

"(1) a copy of the receipt for payment;

"(2) an affidavit attesting that the owner or the owner's agent paid the fee under protest; and

"(3) a copy of the vessel's certificate of documentation.

"(c) Requests for reimbursement shall be made to the Secretary of State within 120 days after the date of payment of the fee, or within 90 days after the date of enactment of this section, whichever is later.

"(d) [such] *Such* funds as may be necessary to meet the requirements of this section may be made available from the unobligated balances of previously appropriated funds remaining in the Fishermen's Guaranty Fund established under section 7 and the Fishermen's Protective Fund established under section 9. To the extent that requests for reimbursement under this section exceed such funds, there are authorized to be appropriated such sums as may be needed for reimbursements authorized under subsection (a).

"(e) The Secretary of State shall take such action as the Secretary deems appropriate to make and collect claims against the foreign country imposing such fee for any amounts reimbursed under this section.

"(f) For purposes of this section, the term 'owner' includes any charterer of a vessel of the United States.

"(g) This section shall remain in effect until October 1, 1996.".

(b) The Fishermen's Protective Act of 1967 (22 U.S.C. 1971 et seq.) is further amended by adding at the end the following:

"SEC. 12. (a) If the Secretary of State finds that the government of any nation imposes conditions on the operation or transit of United States fishing vessels which the United States regards as being inconsistent with international law or an international agreement, the Secretary of State shall certify that fact to the President.

"(b) Upon receipt of a certification under subsection (a), the President shall direct the heads of Federal agencies to impose similar conditions on the operation or transit of fishing vessels registered under the laws of the nation which has imposed conditions on United States fishing vessels.

"(c) For the purposes of this section, the term 'fishing vessel' has the meaning given that term in section 2101(11a) of title 46, United States Code.

"(d) It is the sense of the Congress that any action taken by any Federal agency under subsection (b) should be commensurate with any conditions certified by the Secretary of State under subsection (a).".

SEC. 403. REAUTHORIZATION.

(a) Section 7(c) of the Fishermen's Protective Act of 1967 (22 U.S.C. 1977(c)) is amended by striking the third sentence.

(b) Section 7(e) of the Fishermen's Protective Act of 1967 (22 U.S.C. 1977(e)) is amended by striking "October 1, 1993" and inserting "October 1, 2000".

SEC. 404. TECHNICAL CORRECTIONS.

(a)(1) Section 15(a) of Public Law 103-238 is amended by striking "April 1, 1994," and inserting "May 1, [1994,".] *1994.*".

(2) The amendment made by paragraph (1) shall be effective on and after April 30, 1994.

(b) Section 803(13)(C) of Public Law 102-567 (16 U.S.C. 5002(13)(C)) is amended to read as follows:

"(C) any vessel supporting a vessel described in subparagraph (A) or (B).".

TITLE V—FISHERIES ENFORCEMENT IN CENTRAL SEA OF OKHOTSK

SEC. 501. SHORT TITLE.

This title may be cited as the "Sea of Okhotsk Fisheries Enforcement Act of 1995".

SEC. 502. FISHING PROHIBITION.

(a) ADDITION OF CENTRAL SEA OF OKHOTSK.—Section 302 of the Central Bering Sea Fisheries Enforcement Act of 1992 (16 U.S.C. 1823 note) is amended by inserting "and the Central Sea of Okhotsk" after "Central Bering Sea".

(b) DEFINITION.—Section 306 of such Act is amended—

(1) by redesignating paragraphs (2), (3), (4), (5), and (6) as paragraphs (3), (4), (5), (6), and (7), respectively; and

(2) by inserting after paragraph (1) the following:

"(2) CENTRAL SEA OF OKHOTSK.—The term 'Central Sea of Okhotsk' means the central Sea of Okhotsk area which is more than two hundred nautical miles seaward of the baseline from which the breadth of the territorial sea of the Russian Federation is measured.".

TITLE VI—DRIFTNET MORATORIUM

SEC. 601. SHORT TITLE.

This title may be cited as the "High Seas Driftnet Fishing Moratorium Protection Act".

SEC. 602. FINDINGS.

The Congress finds that—

(1) Congress has enacted and the President has signed into law numerous Acts to control or prohibit large-scale driftnet fishing both within the jurisdiction of the United States and beyond the exclusive economic zone of any nation, including the Driftnet Impact Monitoring, Assessment, and Control Act of 1987 (title IV, Public Law 100–220), the Driftnet Act Amendments of 1990 (Public Law 101–627), and the High Seas Driftnet Fisheries Enforcement Act (title I, Public Law 102–582);

(2) the United States is a party to the Convention for the Prohibition of Fishing with Long Driftnets in the South Pacific, also known as the Wellington Convention;

(3) the General Assembly of the United Nations has adopted three resolutions and three decisions which established and reaffirm a global moratorium on large-scale driftnet fishing on the high seas, beginning with Resolution 44/225 in 1989 and most recently in Decision 48/445 in 1993;

(4) the General Assembly of the United Nations adopted these resolutions and decisions at the request of the United States and other concerned nations;

(5) the best scientific information demonstrates the wastefulness and potentially destructive impacts of large-scale driftnet fishing on living marine resources and seabirds; and

(6) Resolution 46/215 of the United Nations General Assembly calls on all nations, both individually and collectively, to prevent large-scale driftnet fishing on the high seas.

SEC. 603. PROHIBITION.

The United States, or any agency or official acting on behalf of the United States, may not enter into any international agreement with respect to the conservation and management of living marine resources or the use of the high seas by fishing vessels that would prevent full implementation of the global moratorium on large-scale driftnet fishing on the high seas, as such moratorium is expressed in Resolution 46/215 of the United Nations General Assembly.

SEC. 604. NEGOTIATIONS.

The Secretary of State, on behalf of the United States, shall seek to enhance the implementation and effectiveness of the United Nations General Assembly resolutions and decisions regarding the moratorium on large-scale driftnet fishing on the high seas through appropriate international agreements and organizations.

SEC. 605. CERTIFICATION.

The Secretary of State shall determine in writing prior to the signing or provisional application by the United States of any international agreement with respect to the conservation and management of living marine resources or the use of the high seas by fishing vessels that the prohibition contained in section 603 will not be violated if such agreement is signed or provisionally applied.

SEC. 606. ENFORCEMENT.

The President shall utilize appropriate assets of the Department of Defense, the United States Coast Guard, and other Federal agencies to detect, monitor, and prevent violations of the United Nations moratorium on large-scale driftnet fishing on the high seas for all fisheries under the jurisdiction of the United States and, in the case of fisheries not under the jurisdiction of the United States, to the fullest extent permitted under international law.

TITLE VII—GOVERNING INTERNATIONAL FISHERY AGREEMENT

SEC. 701. AGREEMENT WITH ESTONIA.

Notwithstanding section 203 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1823), the governing international fishery agreement between the Government of the United States of America and the government of the Republic of Estonia as contained in the message to Congress from the President of the United States dated January 19, 1995, is approved as a governing international fishery agreement for the purposes of such Act and shall enter into force and effect with respect to the United States on the date of enactment of this Act.

AMENDMENT NO. 1488

(Purpose: To correct certain minor and technical errors in the bill)

Mr. DOLE. I ask unanimous consent the reported committee amendment be withdrawn and I send a substitute to the desk on behalf of Senators STEVENS, KERRY, SNOWE, and BREAUX.

The PRESIDING OFFICER. Without objection, the amendment is withdrawn.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE], for Mr. STEVENS, for himself, Mr. KERRY, Ms. SNOWE, and Mr. BREAUX, proposes an amendment numbered 1488.

Mr. DOLE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. STEVENS. Mr. President, today I urge the Senate to support the passage of S. 267, the Fisheries Act of 1995—what the Subcommittee on Oceans and Fisheries calls "the international fish package."

I introduced S. 267 on January 24, 1995. It was approved by the Commerce Committee in executive session on March 23, 1995 and reported to the full Senate on May 26, 1995.

Senators KERRY, GORTON, BREAUX, PACKWOOD, MURKOWSKI, and MURRAY join me as cosponsors to the bill.

What I am presenting today with Senator KERRY is a bipartisan substitute to the reported bill, which includes additions and minor changes I will briefly address.

We've added an important new section—title VII—to the bill that will implement the agreement reached between the United States and Canada on February 3, 1995 to conserve and manage Yukon River salmon stocks.

This agreement and the necessary implementing legislation will help assure commercial and subsistence fishermen living along the Yukon River in both Alaska and Canada that our shared salmon resources are carefully managed and restored in the years ahead.

I introduced the Yukon legislation (S. 662) on April 3, 1995. The committee received testimony on it at our Magnuson Act reauthorization field hearing in Seattle, WA, on March 18, 1995.

The agreement requires the United States to pay $400,000 annually into a Yukon River restoration and enhancement fund for mutually beneficial salmon restoration and enhancement activities along the Yukon River.

The agreement also creates a joint United States/Canada Yukon River panel to make conservation and management recommendations and to help determine how to spend the restoration and enhancement funds.

My provision establishes the U.S. section of the Yukon River panel and authorizes spending for: The U.S. payment, the necessary costs of the panel and an advisory committee, and other costs associated with the conservation and management of Yukon River salmon.

Title III of the bill—which includes amendments to, and the reauthorization of, the Atlantic Tunas Convention Act—has been revised to require a listing procedures by the United States of nations whose vessels are operating in a way that diminishes the effectiveness of conservation efforts in the Atlantic tunas convention area.

We've also added a new provision to require a review of bluefin tuna regulations.

Minor changes have been made in title IV relating to the source of funds to be used to reimburse United States fishermen who paid Canada's transit fee in 1994.

A new provision has been added to title IV to reimburse the legal and travel costs—not to exceed a total of $25,000—of owners of scallop vessels seized by Canada in 1994, who were fishing for sedentary species outside of Canada's exclusive economic zone.

We've deleted a Governing International Fisheries Agreement [GIFA] with Estonia, which already went into effect since the time we introduced S. 267.

We've added a new section—section 801—which amends the South Pacific Tuna Act of 1988 to authorize vessels documented under the laws of the United States to fish for tuna in all waters of the treaty area, including the U.S. exclusive economic zone of that area.

This new section also lifts certain restrictions for fishing for tuna in the treaty area so long as purse seines are not used to encircle any dolphin or other marine mammal.

Finally, we've added a new section—section 802—at Senator SNOWE's request and with Senator KERRY's assistance, to prohibit a foreign allocation in any fishery within the U.S. exclusive economic zone unless a fishery management plan is in place for the fishery.

The new section 802 prohibits the Secretary of Commerce from approving fishing under a permit application by a foreign vessel for Atlantic herring or mackerel unless the appropriate regional fishery management council has approved the fishing—and unless the Secretary of Commerce has included in the permit any restrictions recommended by the council.

I want to thank Senator KERRY and his staff, Penny Dalton, Lila Helms and Steve Metruck for their work on this package. I also want to thank the staff who assisted me with this: Trevor McCabe, Tom Melius and Rebecca Metzner.

We urge the Senate to pass S. 267. We've worked in recent weeks with House members and staff on the House Resources Committee, and believe the package we are presenting today will be acceptable in the House, so that quick action may be possible in getting this passed into law.

Below is a brief summary of the bill:

SUMMARY

Title I (The High Seas Fishing Compliance Act of 1995) provides for the domestic implementation of the Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas, which was adopted by the U.N. Food and Agriculture Organization in 1993. It would establish a system of permitting, reporting, and regulation for U.S. vessels fishing on the high seas.

Title II (The Northwest Atlantic Fisheries Convention Act) would implement the Convention on Future Multilateral Cooperation in the Northwest Atlantic Fisheries. The Treaty calls for establishment of the Northwest Atlantic Fisheries Organization (NAFO) to assess and conserve high seas fishery resources off the coasts of Canada and New England. Among other provisions, this title would provide for: 1) U.S. representation in NAFO; 2) coordination between NAFO and appropriate Regional Fishery Management Councils; and 3) authorization for the Secretaries of Commerce and State to carry out U.S. responsibilities under the Convention.

Title III (Atlantic Tunas Convention Act) extends the authorization of appropriations for the Atlantic Tunas Convention Act through fiscal year 1998; provides for the development of a research and monitoring program for bluefin tuna and other wide-ranging Atlantic fish stocks; establishes operating procedures for the International Commission for the Conservation of Atlantic Tunas (ICCAT) Advisory Committee; calls for an annual report to be made and addresses actions to be taken with nations that fail to comply with ICCAT recommendations.

Title IV (Fishermen's Protective Act) reauthorizes and amends the Fishermen's Protective Act of 1967 to allow the Secretary of State to reimburse U.S. fishermen forced to pay transit passage fees by a foreign country regarded by the U.S. to be inconsistent with international law. The amendment responds to the $1,500 (Canadian $) transit fee charged to U.S. fishermen last year for passage off British Columbia.

Title V (Sea of Okhotsk) would prohibit U.S. fishermen from fishing in the Central Sea of Okhotsk (known as the "Peanut Hole") except where such fishing is conducted in accordance with a fishery agreement to which both the U.S. and Russia are parties.

Title VI (Relating to U.N. Driftnet Ban) would prohibit the U.S. from entering into any international agreement with respect to fisheries, marine resources, the use of the high seas, or trade in fish or fish products that would prevent full implementation of the United Nations global moratorium on large-scale driftnet fishing on the high seas.

Title VII (Yukon River Salmon Act) would provide domestic implementing legislation for the agreement reached between the United States and Canada on February 3, 1995 to conserve and manage Yukon River salmon stocks. It provides for U.S. representation on the Yukon River Panel; establishes voting procedures for the U.S. section of the panel; and authorizes appropriations for the $400,000 annual contribution required by the United States under the agreement for Yukon River salmon restoration and enhancement, as well as other costs associated with salmon conservation on the Yukon River.

Title VIII (Miscellaneous) includes two sections. Section 801 amends the South Pacific Tuna Act of 1988 to authorize vessels documented under the laws of the United States to fish for tuna in all waters of the Treaty Area, including the U.S. Exclusive Economic Zone of that area. It also lifts certain restrictions for fishing for tuna in the Treaty area so long as purse seines are not used to encircle any dolphin or other marine mammal.

Section 802 prohibits a foreign allocation in any fishery within the U.S. exclusive economic zone unless a fishery management plan is in place for the fishery. Section 802 also prohibits the Secretary of Commerce from approving fishing under permit application by a foreign vessel for Atlantic herring or mackerel unless the appropriate regional fishery management council has approved the fishing; and unless the Secretary of Commerce has included in the permit any restrictions recommended by the Council.

ADOPTION OF S. 267

Mr. PRESSLER. Mr. President, S. 267 the Fisheries Act of 1995, is a bill I am pleased to bring to the floor for consideration today. It is comprised of a number of measures that would strengthen international fishery conservation and management.

I would like to recognize the efforts of Senator STEVENS, our Oceans and Fisheries Subcommittee chairman, who along with Senators KERRY, GORTON, MURRAY, and MURKOWSKI introduced the bill. The bill also was cosponsored by Senator BREAUX and Senator PACKWOOD.

Many of the titles in S. 267, were bills introduced in the 103d Congress but not enacted. The Committee on Commerce, Science, and Transportation held a hearing on these matters on July 21, 1994, indicating a strong bipartisan support for these fishery conservation measures.

The Committee on Commerce, Science, and Transportation reported the bill by unanimous vote on March 23, 1995. While only technical amendments were adopted, it was noted that Senator SNOWE was considering an amendment to restrict directed foreign fishing within the EEZ for Atlantic herring and Atlantic mackerel. We have worked with Senator SNOWE to incorporate her concerns into the committee substitute before us and we appreciate her efforts in reaching this compromise.

We also have incorporated provisions addressing conservation of salmon stocks of the Yukon River and regulations and enforcement actions for migratory species managed under the Atlantic Tunas Convention and the South Pacific Tuna Act.

I also want to note that the committee has worked with Senator PACKWOOD, chairman of the Finance Committee and an active member of the Commerce Committee, to address a provision of the bill that deals with amendments to the Atlantic Tunas Convention Act. We appreciate the cooperation that he and his staff have given us on this provision.

I strongly believe that through the proper conservation and management of our Nation's living marine resources, we will enhance economic opportunities for future generations. The bill before us contains a number of provisions important to the conservation of fishery resources in our oceans. It is a noncontroversial bill with bipartisan support.

Mr. President, I strongly support S. 267 and ask my colleagues to join me in it's adoption.

Ms. SNOWE. Mr. President, I am a cosponsor of the substitute to S. 267 offered by Senator STEVENS, and I rise to express support for the amendment.

Before proceeding to discuss the substitute, I want to offer my sincere thanks to the chairman of the Commerce Committee, Senator PRESSLER, and the chairman of the Oceans and Fisheries Subcommittee, Senator STEVENS, for their assistance to me throughout the process of considering S. 267. Early on, I expressed an interest in offering an amendment to the bill, and the two chairmen and their staffs always showed a willingness to help me as a freshman member of the committee. S. 267 is the first fisheries bill considered by the Commerce Committee in the 104th Congress, and the leadership and skillfulness that the Senators demonstrated in this effort deserves to be commended.

Mr. President, the substitute includes an amendment that I sponsored which is designed to protect two of the few remaining healthy fish stocks in U.S. waters—Atlantic herring and Atlantic mackerel—from foreign fishing pressures. I consider this amendment and the issues that it addresses to be very important for the health of our domestic fishing industry as well as our domestic fish stocks.

As media stories over the last year have reported, the New England groundfish fishery is now experiencing the most serious crisis in its long history. Groundfish stocks in the region have dwindled to record lows, threatening the future viability of this essential resource. Stringent conservation regulations have been implemented in response to the stock decline in an attempt to prevent a collapse of the fishery. In combination, these two factors have drastically reduced fishing opportunities, threatening a centuries-old industry and the livelihoods of thousands of people in coastal communities across the region who depend on it.

And the regulations approved to date are not the end of it. The New England Fishery Management Council is now developing a public hearing document for new fishing effort reduction measures that are even more draconian than the existing regulations.

To survive in the face of such adversity, many fishermen who want to remain on the water will have to catch species besides groundfish. But unfortunately, given present rates of fishing effort, few species offer much opportunity for new harvesting capacity. Two that do are Atlantic herring and Atlantic mackerel. The National Marine Fisheries Service has determined that these stocks are healthy, and that they can withstand higher rates of harvest without endangering the resource.

Utilization of these species by Northeast fishermen has been limited to date because they generate less value in the market than groundfish. Maine has a viable sardine industry that uses a modest portion of the herring resource, and herring are harvested for bait to supply other fisheries like lobster and bluefin tuna. With regard to mackerel, several processors in the Northeast have established markets serving Canada and the Caribbean.

But significant potential for expansion of these domestic industries exists. The mackerel industry hopes to increase market share in the Caribbean and gain a foothold in West Africa, the Middle East, and Eastern Europe. The Maine sardine industry has been trying to expand its markets in Mexico and the Caribbean. As groundfish landings decline, new players are actively pursuing new opportunities in the sustainable development of herring and mackerel. Resource Trading Company of Portland, Maine, has negotiated a deal to sell 25,000 tons of Atlantic herring to China—a market of enormous potential for New England fishermen.

New England fishing interests are not the only ones pursuing our herring and mackerel, however. Foreign countries like Russia and the Netherlands have shown a keen interest in obtaining fishing rights for these species in U.S. waters. In 1993, the Russians and their domestic partner came close in persuading the Administrator of the National Marine Fisheries Service to approve an application to harvest 10,000 tons of Atlantic mackerel—despite the fact that the Mid-Atlantic Fishery Management Council had specified that no foreign fishing rights for mackerel be granted. Since that time, the Dutch, acting through the European Union, have aggressively pursued foreign fishing rights for mackerel, and the Russians have continued to push for a portion of the stock.

Mr. President, it would be unconscionable for the U.S. Government to allow foreign countries to begin harvesting two of the only healthy stocks left in U.S waters while New England fishermen lose their jobs as a result of the groundfish crisis. Since the process of developing strict fishing regulations for groundfish began four years ago, Federal fisheries managers and policymakers have encouraged groundfishermen to pursue alternatives or "underutilized" species like herring and mackerel. They have cited this option as an important way to help some fishermen stay in business during the recovery period for goundfish. To give away our fish to foreign fishermen at this critical time, after all of the rhetoric about developing underutilized species, would be a slap in the face to our fishermen. We should instead help fishermen and processors develop these resources in a sustainable manner, and the best way that we can do that is to provide assurances that sufficient quantities of fish will be available to meet the needs of our industry. We need to give entrepreneurs and fishermen the time to develop new products and markets so that they can compete all over the world with the same countries who seek the last of our healthy fish stocks.

Out of my great concern for the future of the fishing industry in Maine and New England, and out of my strong desire to see American fishermen sustainable utilize Atlantic herring and mackerel, I offered an amendment during committee consideration of S. 267 which would have imposed a 4-year moratorium on the granting of foreign harvesting rights for these two species. This moratorium would have given our industry adequate time to create new products, markets, and associated infrastructure in herring and mackerel. It would have preserved valuable jobs in the New England fishing industry, and it would have done so without strengthening the position of our foreign competitors. The Resource Trading Company deal that I mentioned earlier, which involves only U.S. fishermen, shows clearly the great potential that exists.

In committee, however, Senator GORTON expressed reservations about my amendment. A company based in Washington State that has operated in Russian waters and that is pursuing new markets in Russia was concerned that such a strong statement from the United States on fisheries could negatively affect some of its ongoing business. I agreed to work with Senator GORTON, as well as Senators KERRY, STEVENS, and PRESSLER, to work out a compromise acceptable to all parties.

Fortunately, we were able to reach an agreement on a new amendment that I sponsored and that Senator Kerry agreed to cosponsor. The amendment is contained in the Stevens Substitute under consideration today. It has two provisions.

First, the amendment prohibits the awarding of any foreign harvesting rights for any fishery that is not subject to a fishery management plan under the Magnuson Act. At a bare minimum, no foreign harvesting should be allowed unless a strict regime for managing the harvest is in place. Atlantic herring does not have a council-approved fishery management plan at the present time, so this provision will protect the herring resource from foreign fishing pressure until the New England Fishery Management Council approves a plan.

Second, the amendment adds a new layer of scrutiny to any applications submitted by foreign countries for the harvest of Atlantic herring and mackerel in U.S. waters. Under the current procedures in the Magnuson Act, the regional fishery management council of jurisdiction is required to specify whether foreign harvesting of a particular species should be allowed. The Secretary of Commerce is encouraged to follow the Council's guidance on foreign fishing, but he is not bound by it. In effect, the Secretary can disagree with the Council, and approve a foreign fishing application despite the Council's reservations.

My amendment prohibits the Secretary from approving a foreign fishing application for herring and mackerel unless the council of jurisdiction recommends approval of it. In the absence of explicit Council agreement, the Secretary will no longer be able to grant foreign fishing rights. A foreign applicant will therefore have to convince not only the Commerce and State departments, but the regional council that was established to conserve the marine fisheries resources of the region, and whose membership is drawn in part from the regional fishing industry. While I would have preferred a moratorium, this new provision will make it more difficult for foreign countries to gain access to our important herring and mackerel resources.

Mr. President, I also wanted to mention a couple of additional amendments contained in the substitute that I cosponsored. Both amendments relate to the management and conservation of Atlantic bluefin tuna and other highly migratory species in the Atlantic.

Last year, pursuant to a request from the Maine and Massachusetts congressional delegations, a scientific peer review panel convened under the auspices of the National Research Council issued an important report that criticized NOAA's scientific work on Atlantic bluefin tuna. The report contained a number of significant findings, but perhaps most significant was the panel's finding that NOAA scientists had erroneously estimated Western Atlantic bluefin population trends since 1988. Rather than a continuing decline during that period, the NRC panel concluded that the stock had remained stable.

Because the International Commission for the Conservation of Atlantic Tunas, to which the United States belongs, relies heavily on NOAA's bluefin science, the NRC peer review report had a profound impact on Atlantic bluefin management. Whereas ICCAT and NOAA had been advocating a 40 percent cut in the Western Atlantic bluefin quota before the report was issued, ICCAT actually approved a slight increase in the existing quota after the report's findings were published. Tuna fishermen in New England, where most of the commercial fishery for the species in the United States exists, had long criticized the quality of NOAA's bluefin science. The NRC report reinforced those criticisms.

This episode points out the need for improved fisheries science in general, and improved research on highly migratory species like Atlantic bluefin tuna, in particular. One way that we can improve research on bluefin and other highly migratory species is to ensure that the scientists who conduct stock assessments and monitoring programs are wholly familiar with the conditions of the primary fisheries for the species. In the case of Atlantic bluefin tuna, most of the scientific activity is conducted at NOAA's Southeast Fisheries Science Center in Miami, even though the overwhelming majority of the commercial fishing activity for the species takes place in the Northeast, and much of the data used by scientists is collected from this fishery.

Senator KERRY sponsored an amendment, which I cosponsored, that requires NOAA to ensure that the personnel and resources of each regional fisheries research center participate substantially in the stock assessments and monitoring of highly migratory species that occur in the region. Hopefully, this provision will bring scientists closer to the fishery, stimulate fresh thinking about fisheries science, and lead to improvements in NOAA's scientific program. Senator KERRY and I have also asked for administrative action on this matter, and we will continue our efforts in that regard after S. 267 is enacted.

I had also cosponsored another amendment offered by Senator BREAUX pertaining to the enforcement of ICCAT conservation measures. Western Atlantic fishermen, particularly American fishermen, have abided by ICCAT's rules since the first stringent quotas were implemented in the early 1980's. Unfortunately, some fishermen from other countries don't appreciate the need for conservation or international agreements the way that our fishermen do, and they harvest highly migratory species in the Atlantic in a reckless and unsustainable manner.

To give ICCAT conservation recommendations greater force, Senator BREAUX drafted an amendment which would have required the Secretary of Commerce to certify that ICCAT has adopted an effective multilateral process providing for restrictive trade measures against countries that fail to address reckless and damaging fishing practices by their citizens. If ICCAT failed to adopt such a process, the Breaux/Snowe amendment would have required the administration to initiate bilateral consultations with problem nations. And in the event that consultations proved unsuccessful and the country in question failed to address unsustainable fishing practices by its nationals, the amendment would have required the Secretary of the Treasury to impose a ban on the imports of certain fish and fish products from that country.

Unfortunately, due to jurisdictional problems in the House that threatened to derail this entire bill, it was decided that the sanctions language in the original Breaux-Snowe amendment would not be included in the substitute. We did, however, include language similar to the other provisions of the amendment which require the Secretary to identify problem nations, and which authorize the President to initiate consultations on conservation-related issues with the governments of these problem nations. I would have preferred the original language, but this was the best that we could do without risking the entire bill.

Let me state, Mr. President, that I do not think the issue of foreign compliance with ICCAT recommendations ends here. I intend to continue monitoring this issue, and if no more progress is made, I think that the Commerce Committee should be prepared to revisit it. We owe it to American fishermen who play by the rules, and to our highly migratory fisheries resources, to ensure that foreign countries are doing their part to conserve these important natural resources.

Mr. President, the amendments that I have described will significantly improve S. 267, and improve U.S. efforts to manage its marine fisheries. I urge my colleagues to support the substitute, and to support S. 267 as amended.

Mr. KERRY. Mr. President, I am pleased to express my pleasure as the Senate prepares to pass the Fisheries Act of 1995. This legislation addresses an issue of great importance to the people of Massachusetts, the Nation, and, indeed, the world—the promotion of sustainable fisheries on a worldwide basis.

One of the world's primary sources of dietary protein, marine fish stocks were once thought to be an inexhaustible resource. However, after peaking in 1989 at a record 100 million metric tons, world fish landings now have begun to decline. The current state of the world's fisheries has both environmental and political implications. Last year, the United Nations Food and Agriculture Organization [FAO] estimated that 13 of 17 major ocean fisheries may be in trouble. Competition among nations for dwindling resources has become all too familiar in many locations around the world.

The bill we are passing today will strengthen international fisheries management. Among the provisions reinforcing U.S. commitments to conserve and manage global fisheries, are the following: First, implementation of the FAO Agreement to Promote Compliance with International Convention and Management Measures by Fishing Vessels on the High Seas that would establish a system regulating U.S. vessels fishing on the high seas; second, implementation of the Convention on Future Multilateral Cooperation in the Northwest Atlantic Fisheries that would provide for U.S. representation in the Northwest Atlantic Fisheries Organization [NAFO] and coordination between NAFO and appropriate Regional Fishery Management Councils; third, improved research and international cooperation with respect to Atlantic bluefin tuna and other valuable highly migratory species; fourth, reimbursement of U.S. fishermen for illegal transit fees charged by the Canadian Government and for legal fees and costs incurred by the owners of vessels that were seized by the Canadian Government in a jurisdictional dispute that were necessary and related to securing the prompt release of the vessel; fifth, a ban on U.S. fishing activities in the central Sea of Okhotsk except where such fishing is conducted in accordance with a fishery agreement to which both the United States and Russia are parties; sixth, a prohibition on U.S. participation in international agreements on fisheries, marine resources, the use of the high seas, or trade in fish or fish products which undermine the United Nations moratorium on large-scale driftnet fishing on the high seas; seventh, implementation of an interim agreement between the United States and Canada for the conservation of salmon stocks originating from the Yukon River in Canada; eighth, permission for U.S. documented vessels to fish for tuna in waters of the South Pacific Tuna Act of 1988 Area; and ninth, prohibition of a foreign allocation in any fishery within the United States exclusive economic zone unless a fishery management plan is in place for the fishery and the appropriate regional fishing council recommends the allocation.

This bill will make a substantial contribution to U.S. leadership in the conservation and management of international fisheries. I want to acknowledge the leadership on this issue of the chairman of the Oceans and Fisheries Subcommittee, my friend the senior Senator from Alaska. It has been a pleasure working with him. I also want to thank the committee's distinguished ranking member, Senator HOLLINGS, for his support on this bill. I also would like to recognize the staffs of the Commerce Committee for their diligence and their truly bipartisan efforts to bring this bill to the floor, specifically Penny Dalton and Lila Helms from the Democratic Staff and Tom Melius and Trevor Maccabe on the Republican side.

Mr. DOLE. I ask unanimous consent the substitute amendment be agreed to, the bill be deemed read a third time; further that the Commerce Committee be immediately discharged from further consideration of H.R. 716 and the Senate proceed to its immediate consideration, that all after the enacting clause be stricken and the text of S. 267, as amended, be inserted in lieu thereof, further that H.R. 716 be considered read a third time, passed as amended, the motion to reconsider be laid upon the table, and any statements related to the bill appear at appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 716), as amended, was considered read the third time and passed.

Mr. DOLE. Mr. President, I now ask unanimous consent S. 267 be placed back on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

ANAKTUVUK PASS LAND EXCHANGE AND WILDERNESS REDESIGNATION ACT

Mr. DOLE. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of calendar 67, H.R. 400.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 400) to provide for the exchange of lands within Gates of the Arctic National Park and Preserve.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Energy and Natural Resources with an amendment to strike out all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Anaktuvuk Pass Land Exchange and Wilderness Redesignation Act of 1995".

TITLE I—ANAKTUVUK PASS LAND EXCHANGE AND WILDERNESS REDESIGNATION

SEC. 101. FINDINGS.

The Congress makes the following findings:

(1) The Alaska National Interest Lands Conservation Act (94 Stat. 2371), enacted on December 2, 1980, established Gates of the Arctic National Park and Preserve and Gates of the Arctic Wilderness. The village of Anaktuvuk Pass, located in the highlands of the central Brooks Range, is virtually surrounded by these national park and wilderness lands and is the only Native village located within the boundary of a National Park System unit in Alaska.

(2) Unlike most other Alaskan Native communities, the village of Anaktuvuk Pass is not located on a major river, lake, or coastline that can be used as a means of access. The residents of Anaktuvuk Pass have relied increasingly on snow machines in winter and all-terrain vehicles in summer as their primary means of access to pursue caribou and other subsistence resources.

(3) In a 1983 land exchange agreement, linear easements were reserved by the Inupiat Eskimo people for use of all-terrain vehicles across certain national park lands, mostly along stream and river banks. These linear easements proved unsatisfactory, because they provided inadequate access to subsistence resources while causing excessive environmental impact from concentrated use.

(4) The National Park Service and the Nunamiut Corporation initiated discussions in 1985 to address concerns over the use of all-terrain vehicles on park and wilderness land. These discussions resulted in an agreement, originally executed in 1992 and thereafter amended in 1993 and 1994, among the National Park Service, Nunamiut Corporation, the City of Anaktuvuk Pass, and Arctic Slope Regional Corporation. Full effectuation of this agreement, as amended, by its terms requires ratification by the Congress.

SEC. 102. RATIFICATION OF AGREEMENT.

(a) RATIFICATION.—

(1) IN GENERAL.—The terms, conditions, procedures, covenants, reservations and other provisions set forth in the document entitled "Donation, Exchange of Lands and Interests in Lands and Wilderness Redesignation Agreement Among Arctic Slope Regional Corporation, Nunamiut Corporation, City of Anaktuvuk Pass and the United States of America" (hereinafter referred to in this Act as "the Agreement"), executed by the parties on December 17, 1992, as amended, are hereby incorporated in this Act, are ratified and confirmed, and set forth the obligations and commitments of the United States, Arctic Slope Regional Corporation, Nunamiut Corporation and the City of Anaktuvuk Pass, as a matter of Federal law.

(2) LAND ACQUISITION.—Lands acquired by the United States pursuant to the Agreement shall be administered by the Secretary of the Interior (hereinafter referred to as the "Secretary") as part of Gates of the Arctic National Park and Preserve, subject to the laws and regulations applicable thereto.

(b) MAPS.—The maps set forth as Exhibits C1, C2, and D through I to the Agreement depict the lands subject to the conveyances, retention of surface access rights, access easements and all-terrain vehicle easements. These lands are depicted in greater detail on a map entitled "Land Exchange Actions, Proposed Anaktuvuk Pass Land Exchange and Wilderness Redesignation, Gates of the Arctic National Park and Preserve", Map No. 185/80,039, dated April 1994, and on file at the Alaska Regional Office of the National Park Service and the offices of Gates of the Arctic National Park and Preserve in Fairbanks, Alaska. Written legal descriptions of these lands shall be prepared and made available in the above offices. In case of any discrepancies, Map No. 185/80,039 shall be controlling.

SEC. 103. NATIONAL PARK SYSTEM WILDERNESS.

(a) GATES OF THE ARCTIC WILDERNESS.—

(1) REDESIGNATION.—Section 701(2) of the Alaska National Interest Lands Conservation Act (94 Stat. 2371, 2417) establishing the Gates of the Arctic Wilderness is hereby amended with the addition of approximately 56,825 acres as wilderness and the rescission of approximately 73,993 acres as wilderness, thus revising the Gates of the Arctic Wilderness to approximately 7,034,832 acres.

(2) MAP.—The lands redesignated by paragraph (1) are depicted on a map entitled "Wilderness Actions, Proposed Anaktuvuk Pass Land Exchange and Wilderness Redesignation, Gates of the Arctic National Park and Preserve", Map No. 185/80,040, dated April 1994, and on file at the Alaska Regional Office of the National Park Service and the office of Gates of the Arctic National Park and Preserve in Fairbanks, Alaska.

(b) NOATAK NATIONAL PRESERVE.—Section 201(8)(a) of the Alaska National Interest Land Conservation Act (94 Stat. 2380) is amended by—

(1) striking "approximately six million four hundred and sixty thousand acres" and inserting in lieu thereof "approximately 6,477,168 acres"; and

(2) inserting "and the map entitled 'Noatak National Preserve and Noatak Wilderness Addition' dated September 1994" after "July 1980".

(c) NOATAK WILDERNESS.—Section 701(7) of the Alaska National Interest Lands Conservation Act (94 Stat. 2417) is amended by striking "approximately five million eight hundred thousand acres" and inserting in lieu thereof "approximately 5,817,168 acres".

SEC. 104. CONFORMANCE WITH OTHER LAW.

(a) ALASKA NATIVE CLAIMS SETTLEMENT ACT.—All of the lands, or interests therein, conveyed to and received by Arctic Slope Regional Corporation or Nunamiut Corporation pursuant to the Agreement shall be deemed conveyed and received pursuant to exchanges under section 22(f) of the Alaska Native Claims Settlement Act, as amended (43 U.S.C. 1601, 1621(f)). All of the lands or interests in lands conveyed pursuant to the Agreement shall be conveyed subject to valid existing rights.

(b) ALASKA NATIONAL INTEREST LANDS CONSERVATION ACT.—Except to the extent specifically set forth in this Act or the Agreement, nothing in this Act or in the Agreement shall be construed to enlarge or diminish the rights, privileges, or obligations of any person, including specifically the preference for subsistence

uses and access to subsistence resources provided under the Alaska National Interest Lands Conservation Act (16 U.S.C. 3101 et seq.).

TITLE II—ALASKA PENINSULA SUBSURFACE CONSOLIDATION

SEC. 201. DEFINITIONS.

As used in this Act:

(1) AGENCY.—The term agency—

(A) means—

(i) any instrumentality of the United States; and

(ii) any Government corporation (as defined in section 9101(1) of title 31, United States Code); and

(B) includes any element of an agency.

(2) ALASKA NATIVE CORPORATION.—The term "Alaska Native Corporation" has the same meaning as is provided for "Native Corporation" in section 3(m) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(m)).

(3) KONIAG.—The term "Koniag" means Koniag, Incorporated, which is a Regional Corporation.

(4) KONIAG ACCOUNT.—The term "Koniag Account" means the account established under section 4.

(5) PROPERTY.—The term "property" has the same meaning as is provided in section 12(b)(7)(vii) of Public Law 94–204 (43 U.S.C. 1611 note).

(6) REGIONAL CORPORATION.—The term "Regional Corporation" has the same meaning as is provided in section 3(g) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(g)).

(7) SECRETARY.—Except as otherwise provided, the term "Secretary" means the Secretary of the Interior.

(8) SELECTION RIGHTS.—The term "selection rights" means those rights granted to Koniag, pursuant to subsections (a) and (b) of section 12, and section 14(h)(8), of the Alaska Native Claims Settlement Act (43 U.S.C. 1611 and 1613(h)(8)), to receive title to the oil and gas rights and other interests in the subsurface estate of the approximately 275,000 acres of public lands in the State of Alaska identified as "Koniag Selections" on the map entitled "Koniag Interest Lands, Alaska Peninsula", dated May 1989.

SEC. 202. ACQUISITION OF KONIAG SELECTION RIGHTS.

(a) The Secretary shall determine, pursuant to subsection (b) hereof, the value of Selection Rights which Koniag possesses within the boundaries of Aniakchak National Monument and Preserve, Alaska Peninsula National Wildlife Refuge, and Becharof National Wildlife Refuge.

(b) VALUE.—

(1) IN GENERAL.—The value of the selection rights shall be equal to the fair market value of—

(A) the oil and gas interests in the lands or interests in lands that are the subject of the selection rights; and

(B) in the case of the lands or interests in lands for which Koniag is to receive the entire subsurface estate, the subsurface estate of the lands or interests in lands that are the subject of the selection rights.

(2) APPRAISAL.—

(A) SELECTION OF APPRAISER.—

(i) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Secretary and Koniag shall meet to select a qualified appraiser to conduct an appraisal of the selection rights. Subject to clause (ii), the appraiser shall be selected by the mutual agreement of the Secretary and Koniag.

(ii) FAILURE TO AGREE.—If the Secretary and Koniag fail to agree on an appraiser by the date that is 60 days after the date of the initial meeting referred to in clause (i), the Secretary and Koniag shall, by the date that is not later than 90 days after the date of the initial meeting, each designate an appraiser who is qualified to perform the appraisal. The 2 appraisers so identified shall select a third qualified appraiser who shall perform the appraisal.

(B) STANDARDS AND METHODOLOGY.—The appraisal shall—

(i) be conducted in conformity with the standards of the Appraisal Foundation (as defined in section 1121(9) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3350(9)); and

(ii) utilize risk adjusted discounted cash flow methodology.

(C) SUBMISSION OF APPRAISAL REPORT.—Not later than 180 days after the selection of an appraiser pursuant to subparagraph (A), the appraiser shall submit to the Secretary and to Koniag a written appraisal report specifying the value of the selection rights and the methodology used to arrive at the value.

(3) DETERMINATION OF VALUE.—

(A) DETERMINATION BY THE SECRETARY.—Not later than 60 days after the date of the receipt of the appraisal report under paragraph (2)(C), the Secretary shall determine the value of the selection rights and shall notify Koniag of the determination.

(B) ALTERNATIVE DETERMINATION OF VALUE.—

(i) IN GENERAL.—Subject to clause (ii), if Koniag does not agree with the value determined by the Secretary under subparagraph (A), the procedures specified in section 206(d) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(d)) shall be used to establish the value.

(ii) AVERAGE VALUE LIMITATION.—The average value per acre of the selection rights shall not be more than $300.

SEC. 203. KONIAG ACCOUNT.

(a) IN GENERAL.—

(1) The Secretary shall enter into negotiations for an agreement or agreements to exchange Federal lands or interests therein which are in the State of Alaska for the Koniag Selection Rights referred to in section 202.

(2) If the value of the Federal lands to be exchanged is less than the value of the Koniag Selection Rights established in section 202, then the Secretary may exchange the Federal lands for an equivalent portion of the Koniag Selection Rights. The remaining selection rights shall remain available for additional exchanges.

(3) For purposes of this section, the term "Federal lands" means lands or interests therein located in Alaska, administered by the Secretary and the title to which is in the United States but excluding all lands and interests therein which are located within a conservation system unit as defined in the Alaska National Interest Lands Conservation Act section 102(4).

(b) ACCOUNT.—

(1) IN GENERAL.—With respect to any Koniag Selection Rights for which an exchange has not been completed by October 1, 2004 (hereafter in this section referred to as "remaining selection rights"), the Secretary of the Treasury, in consultation with the Secretary, shall, notwithstanding any other provision of law, establish in the Treasury of the United States, an account to be known as the Koniag Account. Upon the relinquishment of the remaining selection rights to the United States, the Secretary shall credit the Koniag Account in the amount of the appraised value of the remaining selection rights.

(2) INITIAL BALANCE.—The initial balance of the Koniag Account shall be equal to the value of the selection rights as determined pursuant to section 3(b).

(3) USE OF ACCOUNT.—

(A) IN GENERAL.—Amounts in the Koniag Account shall—

(i) be made available by the Secretary of the Treasury to Koniag for bidding on and purchasing property sold at public sale, subject to the conditions described in this paragraph; and

(ii) remain available until expended.

(B) ASSIGNMENT.—

(i) IN GENERAL.—Subject to clause (ii) and notwithstanding any other provision of law, the right to request the Secretary of the Treasury to withdraw funds from the Koniag Account shall be assignable in whole or in part by Koniag.

(ii) NOTICE OF ASSIGNMENT.—No assignment shall be recognized by the Secretary of the Treasury until Koniag files written notice of the assignment with the Secretary of the Treasury and the Secretary.

(C) BIDDING AND PURCHASING.—

(i) IN GENERAL.—Koniag may use the Koniag Account to—

(I) bid, in the same manner as any other bidder, for any property at any public sale by an agency; and

(II) purchase the property in accordance with applicable laws, including the regulations of the agency offering the property for sale.

(ii) REQUIREMENTS FOR AGENCIES.—In conducting a transaction described in clause (i), an agency shall accept, in the same manner as cash, an amount tendered from the Koniag Account.

(iii) ADJUSTMENT OF BALANCE.—The Secretary of the Treasury shall adjust the balance of the Koniag Account to reflect each transaction under clause (i).

(4) SPECIAL PROCEDURES.—The Secretary of the Treasury, in consultation with the Secretary, shall establish procedures to permit the Koniag Account to—

(A) receive deposits;

(B) make deposits into escrow when an escrow is required for the sale of any property; and

(C) reinstate to the Koniag Account any unused escrow deposits if a sale is not consummated.

(c) TREATMENT OF AMOUNTS FROM ACCOUNT.—The Secretary of the Treasury shall—

(1) deem as a cash payment any amount tendered from the Koniag Account and received by an agency as a proceed from a public sale of property; and

(2) make any transfer necessary to permit the agency to use the proceed in the event an agency is authorized by law to use the proceed for a specific purpose.

(d) REQUIREMENT FOR THE ADMINISTRATION OF SALES.—

(1) IN GENERAL.—Subject to paragraph (2), the Secretary of the Treasury and the heads of agencies shall administer sales described in subsection (a)(3)(C) in the same manner as is provided for any other Alaska Native Corporation that—

(A) is authorized by law as of the date of enactment of this Act; and

(B) has an account similar to the Koniag Account for bidding on and purchasing property sold for public sale.

(2) PROHIBITION.—Amounts in an account established for the benefit of a specific Alaska Native Corporation may not be used to satisfy the property purchase obligations of any other Alaskan Native Corporation.

(e) REVENUES.—The Koniag Account shall be deemed to be an interest in the subsurface for purposes of section 7(i) of the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.).

SEC. 204. CERTAIN CONVEYANCES.

(a) INTERESTS IN LAND.—For the purpose of section 21(c) of the Alaska Native Claims Settlement Act (43 U.S.C. 1620(c)), the following shall be deemed to be an interest in land:

(1) The establishment of the Koniag Account and the right of Koniag to request the Secretary of the Treasury to withdraw funds from the Koniag Account.

(2) The receipt by a Settlement Trust (as defined in section 3(t) of such Act (43 U.S.C.

1602(t)) of a conveyance by Koniag of any right in the Koniag Account.

(b) AUTHORITY TO APPOINT TRUSTEES.—In establishing a Settlement Trust under section 39 of such Act (43 U.S.C. 1629e), Koniag may delegate the authority granted to Koniag under subsection (b)(2) of such section to any entity that Koniag may select without affecting the status of the Settlement Trust under this section.

AMENDMENT NO. 1489

(Purpose: To amend title II of the committee amendment)

Mr. DOLE. Mr. President, I send an amendment to the desk on behalf of Senator MURKOWSKI and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE], for Mr. MURKOWSKI, proposes an amendment numbered 1489.

Mr. DOLE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 12 of the reported measure, beginning on line 13, delete all of Title II and insert in lieu thereof the following:

TITLE II—ALASKA PENINSULA SUBSURFACE CONSOLIDATION

SEC. 201. DEFINITIONS.

As used in this Act:

(1) AGENCY.—The term agency—

(A) means—

(i) any instrumentality of the United States; and

(ii) any Government corporation (as defined in section 9101(1) of title 31 United States Code); and

(B) includes any element of an agency.

(2) ALASKA NATIVE CORPORATION.—The term "Alaska Native Corporation" has the same meaning as is provided for "Native Corporation" in section 3(m) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(m)).

(3) FEDERAL LANDS OR INTEREST THEREIN— The term "Federal lands or interests therein" means any lands or properties owned by the United States (i) which are administered by the Secretary, or (ii) which are subject to a lease to third parties, or (iii) which have been made available to the Secretary for exchange under this section through the concurrence of the director of the agency administering such lands or properties; provided, however, excluded from such lands shall be those lands which are within an existing conservation system unit as defined in section 102(4) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3102(4)), and those lands the mineral interest for which are currently under mineral lease.

(4) KONIAG.—The term "Koniag" means Koniag, Incorporated, which is a Regional Corporation.

(5) REGIONAL CORPORATION.—The term "Regional Corporation" has the same meaning as is provided in section 3(g) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(g)).

(6) SECRETARY.—Except as otherwise provided, the term "Secretary" means the Secretary of the Interior.

(7) SELECTION RIGHTS.—The term "selection rights" means those rights granted to Koniag, pursuant to subsections (a) and (b) of section 12, and section 14(h)(8), of the Alaska Native Claims Settlement Act (43 U.S.C. 1611 and 1613(h)(8)), to receive title to the oil and gas rights and other interests in the subsurface estate of the approximately 275,000 acres of public lands in the State of Alaska identified as "Koniag Selections" on the map entitled "Koniag Interest Lands, Alaska Peninsula," dated May 1989.

SEC. 202. VALUATION OF KONIAG SELECTION RIGHTS.

(a) Pursuant to the provisions of subsection (b) hereof, the Secretary shall value the selection rights which Koniag possesses within the boundaries of Aniakchak National Monument and Preserve, Alaska Peninsula National Wildlife Refuge, and Becharof National Wildlife Refuge.

(b) VALUE.—

(1) IN GENERAL.—The value of the selection rights shall be equal to the fair market value of—

(A) the oil and gas interests in the lands or interests in lands that are the subject of the selection rights; and

(B) in the case of the lands or interests in lands for which Koniag is to receive the entire subsurface estate, the subsurface estate of the lands or interests in lands that are the subject of the selection rights.

(2) APPRAISAL.—

(A) SELECTION OF APPRAISER.—

(i) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Secretary and Koniag shall meet to select a qualified appraiser to conduct an appraisal of the selection rights. Subject to clause (ii), the appraiser shall be selected by the mutual agreement of the Secretary and Koniag.

(ii) FAILURE TO AGREE.—If the Secretary and Koniag fail to agree on an appraiser by the date that is 60 days after the date of the initial meeting referred to in clause (i), the Secretary and Koniag shall, by the date that is not later than 90 days after the date of the initial meeting, each designate an appraiser who is qualified to perform the appraisal. The 2 appraisers so identified shall select a third qualified appraiser who shall perform the appraisal.

(B) STANDARDS AND METHODOLOGY.—The appraisal shall be conducted in conformity with the standards of the Appraisal Foundation (as defined in section 1121(9) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3350(9)).

(C) SUBMISSION OF APPRAISAL REPORT.—Not later than 180 days after the selection of an appraiser pursuant to subparagraph (A), the appraiser shall submit to the Secretary and to Koniag a written appraisal report specifying the value of the selection rights and the methodology used to arrive at the value.

(3) DETERMINATION OF VALUE.—

(A) DETERMINATION BY THE SECRETARY.— Not later than 60 days after the date of the receipt of the appraisal report under paragraph (2)(C), the Secretary shall determine the value of the selection rights and shall notify Koniag of the determination.

(B) ALTERNATIVE DETERMINATION OF VALUE.—

(i) IN GENERAL.—Subject to clause (ii), if Koniag does not agree with the value determined by the Secretary under subparagraph (A), the procedures specified in section 206(d) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(d)) shall be used to establish the value.

(ii) AVERAGE VALUE LIMITATION.—The average value per acre of the selection rights shall not be less than the value utilizing the risk adjusted discount cash flow methodology, but in no event may exceed $300.

SEC. 203. KONIAG EXCHANGE.

(a) IN GENERAL.—

(1) The Secretary shall enter into negotiations for an agreement or agreements to exchange Federal lands or interests therein which are in the State of Alaska for the selection rights.

(2) if the value of the federal property to be exchanged is less than the value of the selection rights established in Section 202, and if such federal property to be exchanged is not generating receipts to the federal government in excess of one million dollars per year, than the Secretary may exchange the federal property for that portion of the selection rights having a value equal to that of the federal property. The remaining selection rights shall remain available for additional exchanges.

(3) For the purposes of any exchange to be consummated under this Title II, if less than all of the selection rights are being exchanged, then the value of the selection rights being exchanged shall be equal to the number of acres of selection rights being exchanged multiplied by a fraction, the numerator of which is the value of all the selection rights as determined pursuant to Section 202 hereof and the denominator of which is the total number of acres of selection rights.

(2) ADDITIONAL EXCHANGES.—If, after ten years from the date of enactment of this Act, the Secretary has been unable to conclude such exchanges as may be required to acquire all of the selection rights, he shall conclude exchanges for the remaining selection rights for such federal property as may be identified by Koniag, which property is available for transfer to the administrative jurisdiction of the Secretary under any provision of law and which property, at the time of the proposed transfer to Koniag is not generating receipts to the federal government in excess of one million dollars per year. The Secretary shall keep Koniag advised in a timely manner as to which properties may be available for such transfer. Upon receipt of such identification by Koniag, the Secretary shall request in a timely manner the transfer of such identified property to the administrative jurisdiction of the Department of the Interior. Such property shall not be subject to the geographic limitations of section 206(b) of the Federal Land Policy and Management Act and may be retained by the Secretary solely for the purposes of transferring it to Koniag to complete the exchange. Should the value of the property so identified by Koniag be in excess of the value of the remaining selection rights, then Koniag shall have the option of (i) declining to proceed with the exchange and identifying other property or (ii) paying the difference in value between the property rights.

(c) REVENUES.—Any property received by Koniag in an exchange entered into pursuant to subsection (a) or (b) of this section shall be deemed to be an interest in the subsurface for purposes of section 7(i) of the Alaska Native Claims Settlement Act (43 U.S.C. 1601, *et seq.*); provided, however, should Koniag make a payment to equalize the value in any such exchange, then Koniag will be deemed to hold an undivided interest in the property equal in value to such payment which interest shall not be subject to the provisions of section 9(j).

SEC. 206. CERTAIN CONVEYANCES.

(a) INTERESTS IN LAND.—For the purposes of section 21(c) of the Alaska Native Claims Settlement Act (43 U.S.C. 1620(e)), the receipt of consideration, including, but not limited to, lands, cash or other property, by a Native Corporation for the relinquishment to the United States of land selection rights granted to any Native Corporation under such Act shall be deemed to be an interest in land.

(b) AUTHORITY TO APPOINT AND REMOVE TRUSTEE.—In establishing a Settlement Trust under section 39 of such Act (43 U.S.C. 1629c), Koniag may delegate, in whole or part, the authority granted to Koniag under subsection (b)(2) of such section to any entity that Koniag may select without affecting the status of the trust as a Settlement Trust under such section.

TITLE III—STERLING FOREST

SECTION 301. SHORT TITLE.

This title may be cited as the "Sterling Forest Protection Act of 1995".

SEC. 302. FINDINGS.

The Congress finds that—

(1) the Palisades Interstate Park Commission was established pursuant to a joint resolution of the 75th Congress approved in 1937 (Public Resolution No. 65; ch. 706; 50 Stat. 719), and chapter 170 of the Laws of 1937 of the State of New York and chapter 148 of the Laws of 1937 of the State of New Jersey;

(2) the Palisades Interstate Park Commission is responsible for the management of 23 parks and historic sites in New York and New Jersey, comprising over 82,000 acres;

(3) over 8,000,000 visitors annually seek outdoor recreational opportunities within the Palisades Park System;

(4) Sterling forest is a biologically diverse open space on the New Jersey border comprising approximately 17,500 acres, and is a highly significant watershed area for the State of New Jersey, providing the source for clean drinking water for 25 percent of the State;

(5) Sterling Forest is an important outdoor recreational asset in the northeastern United States, within the most densely populated metropolitan region in the Nation;

(6) Sterling forest supports a mixture of hardwood forests, wetlands, lakes, glaciated valleys, is strategically located on a wildlife migratory route, and provides important habitat for 27 rare or endangered species;

(7) the protection of Sterling Forest would greatly enhance the Appalachian National Scenic Trail, a portion of which passes through Sterling Forest, and would provide for enhanced recreational opportunities through the protection of lands which are an integral element of the trail and which would protect important trail viewsheds;

(8) stewardship and management costs for units of the Palisades Park System are paid for by the States of New York and New Jersey; thus, the protection of Sterling Forest through the Palisades Interstate Park Commission will involve a minimum of Federal funds;

(9) given the nationally significant watershed, outdoor recreational, and wildlife qualities of Sterling Forest, the demand for open space in the northeastern United States, and the lack of open space in the densely populated tri-state region, there is a clear Federal interest in acquiring the Sterling forest for permanent protection of the watershed, outdoor recreational resources, flora and fauna, and open space; and

(10) such an acquisition would represent a cost effective investment, as compared with the costs that would be incurred to protect drinking water for the region should the Sterling Forest be developed.

SEC. 303. PURPOSES.

The purposes of this Title are—

(1) to establish the Sterling Forest Reserve in the State of New York to protect the significant watershed, wildlife, and recreational resources within the New York-New Jersey highlands region;

(2) to authorize Federal funding, through the Department of the Interior, for a portion of the acquisition costs for the Sterling Forest Reserve;

(3) to direct the Palisades Interstate Park Commission to convey to the Secretary of the Interior certain interests in lands acquired within the Reserve; and

(4) to provide for the management of the Sterling Forest Reserve by the Palisades Interstate Park Commission.

SEC. 304 DEFINITIONS.

In this Title.

(1) COMMISSION.—The term "Commission" means the Palisades Interstate Park Commission established pursuant to Public Resolution No. 65 approved August 19, 1937 (ch. 707; 50 Stat. 719).

(2) RESERVE.The term "Reserve" means the Sterling Forest Reserve.

(3) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

SEC. 305. ESTABLISHMENT OF THE STERLING FOREST RESERVE.

(A) ESTABLISHMENT.—Upon the certification by the Commission to the Secretary that the Commission has acquired sufficient lands or interests therein to constitute a manageable unit, there is established the Sterling Forest Reserve in the State of New York.

(b) MAP.—

(1) COMPOSITION.—The Reserve shall consist of lands and interests therein acquired by the Commission with the approximately 17,500 acres of lands as generally depicted on the map entitled "Boundary Map, Sterling Forest Reserve", numbered SFR-60,001 and dated July 1, 1994.

(2) AVAILABILITY FOR PUBLIC INSPECTION.—The map described in paragraph (1) shall be on file and available for public inspection in the offices of the Commission and the appropriate offices of the National Park Service.

(c) TRANSFER OF FUNDS.—Subject to subjection (d), the Secretary shall transfer to the Commission such funds as are appropriated for the acquisition of lands and interests therein within the Reserve.

(d) CONDITIONS OF FUNDING.—

(1) AGREEMENT BY THE COMMISSION.—Prior to the receipt of any Federal funds authorized by this Act, the Commission shall agree to the following:

(A) CONVEYANCE OF LANDS IN EVENT OF FAILURE TO MANAGE.—If the Commission fails to manage the lands acquired within the Reserve in a manner that is consistent with this title the Commission shall convey fee title to such lands to the United States, and the agreement stated in this subparagraph shall be recorded at the time of purchase of all lands acquired within the Reserve.

(B) CONSENT OF OWNERS.—No lands or interest in land may be acquired with any Federal funds authorized or transferred pursuant to this title except with the consent of the owner of the land or interest in land.

(C) INABILITY TO ACQUIRE LANDS.—If the Commission is unable to acquire all of the lands within the Reserve, to the extent Federal funds are utilized pursuant to this title the Commission shall acquire all or a portion of the lands identified as "National Park Service Wilderness Easement Lands" and "National Park Service Conservation Easement Lands" on the map described in section 305(b) before proceeding with the acquisition of any other lands within the Reserve.

(D) CONVEYANCE OF EASEMENT.—Within 30 days after acquiring any of the lands identified as "National Park Service Wilderness Easement Lands" 29 and "National Park Service Conservation Easement Lands" on the map described in section 305(b), the Commission shall convey to the United States—

(i) conservation easements on the lands described as "National Park Service Wilderness Easement Lands" on the map described in section 305(b), which easements shall provide that the lands shall be managed to protect their wilderness character; and

(ii) conservation easements on the lands described as "National Park Service Conservation Easement Lands" on the max described in section 305(b), which easements shall restrict and limit development and use of the property to that development and use that is—

(I) compatible with the protection of the Appalachian National Scenic Trail; and

(II) consistent with the general management plan prepared pursuant to section 305(b).

(2) MATCHING FUNDS.—Funds may be transferred to the Commission only to the extent that they are matched from funds contributed by non-Federal sources.

SEC. 306. MANAGEMENT OF THE RESERVE.

(a) IN GENERAL.—The Commission shall manage the lands acquired within the Reserve in a manner that is consistent with the Commission's authorities and with the purposes of this title.

(b) GENERAL MANAGEMENT PLAN.—Within 3 years after the date of enactment of this title, the Commission shall prepare a general management plan for the Reserve and submit the plan to the Secretary for approval.

SEC. 307. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated such sums as are necessary to carry out this title, to remain available until expended.

(b) LAND ACQUISITION.—Of amounts appropriated pursuant to subsection (a), the Secretary may transfer to the Commission not more than $17,500,000 for the acquisition of lands and interests in land within the Reserve.

Mr. DOLE. Mr. President, I ask unanimous consent the amendment be considered agreed to, the substitute as amended be agreed to, the bill as amended be considered read a third time and passed, the motion to reconsider be laid upon the table, and any statements relating to the bill appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 400), as amended, was considered read the third time and passed.

ORDERS FOR MONDAY, JULY 10, 1995

Mr. DOLE. Mr. President, I ask unanimous consent when the Senate reconvenes on Monday, July 10, that following the prayer, the Journal of proceedings be deemed approved to date, no resolutions come over under the rule, the call of the calendar be dispensed with, the morning hour be deemed to have expired, time for the two leaders be reserved for their use later in the day; there then be a period for the transaction of morning business not to extend beyond the hour of 1 p.m, with

Senators permitted to speak for up to 5 minutes each; further, at the hour of 1 p.m, the Senate resume consideration of S. 343, the regulatory reform bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. DOLE. Mr. President, for the information of all Senators, at 1 p.m., Senator ABRAHAM will be recognized to offer an amendment to be followed by an amendment to be offered by Senators NUNN and COVERDELL. Votes on these two amendments will occur at 5:15 under a previous order.

Senators should also be on notice that further votes can be expected under the pending regulatory reform bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE RESCISSIONS PACKAGE

Mr. DOLE. Mr. President, with respect to the rescissions package, I regret we were unable to pass that, were unable to complete action on the rescissions package because it was something that had broad support on both sides of the aisle, support by the President.

The President very much wanted to have it done before this Fourth of July recess. As I indicated earlier, the Senator from Minnesota, Senator WELLSTONE, and the Senator from Illinois, Senator CAROL MOSELEY-BRAUN, were within their rights to block action on the bill.

But I must say, as I listened to their statements in which they wished they could have offered their amendments, they had about 3 hours to offer amendments and used all that time and just had a discussion of the amendments and what was wrong with the bill.

And I am not certain when the rescissions package will be back for a vote. Unless there is an agreement on that side of the aisle I will not bring it back up on the Senate floor. As soon as the President can persuade my Democratic colleagues that this bill is necessary, it is important, and it ought to be passed, and I do not see any reason to take any further time of other Senators because we have a lot of important legislation.

But keep in mind, again this bill which was blocked contains money for the Oklahoma City disaster, it contains money for California earthquakes, it contains money for 39, I think 39, States which suffered disasters, including the States of Illinois, and maybe Minnesota. I am not certain.

So, while the Senators have every right to make their point about certain programs they do not agree with, this rescissions package had been the subject of long discussions, long debate, and even after it passed the Senate and the House, was vetoed by the President; more debate, more discussion by the White House and Democrats and Republicans on each side of the aisle.

So I hope when we come back we will have an agreement that we can take it up immediately, and have an up-or-down vote on the bill itself without amendments.

I would say again there was certainly every opportunity by either the Senator from Illinois or the Senator from Minnesota to offer all the amendments they wanted to offer today. They refused to offer amendments. So I proposed I would offer their amendments. I asked consent to offer their amendments. And they objected.

So I do not want the record to reflect that somehow they were somehow disadvantaged and did not have an opportunity to offer their amendment. That was not the case. They had plenty of time and could have offered the amendments. We could have been finished with that bill by now, and a lot of people around the country would have felt a lot better about it.

So I do not know how they explain it. But that will be their problem.

WELFARE DEBATE

Mr. DOLE. Mr. President, there has been a great deal of speculation in recent days over the prospects for passage of a welfare reform bill. Before departing for the recess, I wanted the opportunity to set the record straight.

Notwithstanding the efforts of some to drive us apart, Republicans are committed to truly ending welfare as we know it. We are not unmindful of the struggles faced by many in this country who need a hand up some time in their lives, or of children who through no fault of their own need the helping hand of the Government. But, Mr. President, we are also not convinced that the Federal Government holds all the answers to the very real problems these people face. In fact, the real story is that notwithstanding the billions of dollars that have been spent over the last decade, the welfare rolls have continued to grow and the number of children at risk has increased. We have all decried these problems and have responded by adding to the list of the things that the States must do. Well, the time has come to listen to the States for a change and give them a chance to devise some solutions that fit their needs.

The issues that divide us are not insurmountable nor are they easily resolved. But the extraordinary thing is that the debate is not over whether we want block grants—it is how best to design them. Our differences are over how to distribute the funds and how much flexibility to give the States in the design of these programs.

The funding issue is a real one and of critical importance to all States. There are States that will experience real population growth that are concerned they will be disadvantaged in this new block grant environment. There are also States that in the past have committed considerable State resources to the program that feel their past contributions should be acknowledged.

No formula fight is ever easy, as every Senator knows. The House and Senate bills create loan funds—but this may not be the perfect answer. We will seek other options to balance the needs of all.

The second group of issues is equally thorny. None of us is unconcerned about the dramatic increase in the numbers of teen pregnancies and the number of children born out-of-wedlock. These are serious issues—not easily addressed. Many of us believe the Governors of our States can and will deal with these problems, as many of them have tried to do. They want us out of the way—that is what they are asking us—not dictating solutions. Others believe that the issue can best be addressed here.

I remain hopeful we can strike some middle ground and am working to that end.

For at the end of the day, we cannot fail. We must not break faith with the American people who sent us a clear message last fall—end welfare as we know it once and for all, require real work, and make it a temporary helping hand, not a lifestyle.

ADJOURNMENT UNTIL MONDAY, JULY 10, 1995

Mr. DOLE. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate now stand in adjournment under the provisions of Senate Concurrent Resolution 20.

There being no objection, the Senate, at 3:58 p.m., adjourned until Monday, July 10, 1995, at 12 noon.

NOMINATIONS

Executive nominations received by the Senate June 30, 1995:

NATIONAL MEDIATION BOARD

ERNEST W. DU BESTER, OF NEW JERSEY, TO BE A MEMBER OF THE NATIONAL MEDIATION BOARD FOR A TERM EXPIRING JULY 1, 1998. (REAPPOINTMENT)

IN THE DEPARTMENT OF DEFENSE

THE FOLLOWING-NAMED OFFICER UNDER THE PROVISIONS OF TITLE 10. UNITED STATES CODE, SECTION 152, FOR REAPPOINTMENT AS CHAIRMAN OF THE JOINT CHIEFS OF STAFF AND REAPPOINTMENT TO THE GRADE OF GENERAL WHILE SERVING IN THAT POSITION UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE.

CHAIRMAN OF THE JOINT CHIEFS OF STAFF

To be general

GEN. JOHN M. SHALIKASHVILI [redacted] U.S. ARMY.

DEPARTMENT OF STATE

WILLIAM HARRISON COURTNEY, OF WEST VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF GEORGIA.

RICHARD HENRY JONES, OF NEBRASKA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF

COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF LEBANON.

THE JUDICIARY

BARRY TED MOSKOWITZ, OF CALIFORNIA, TO BE U.S. DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF CALIFORNIA VICE A NEW POSITION CREATED BY PUBLIC LAW 101–650, APPROVED DECEMBER 1, 1990.

STEPHEN M. ORLOFSKY, OF NEW JERSEY, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF NEW JERSEY VICE DICKINSON R. DEBEVOISE, RETIRED.

WILLIAM K. SESSIONS III, OF VERMONT, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF VERMONT VICE FRED I. PARKER, ELEVATED.

ORTRIE D. SMITH, OF MISSOURI, TO BE U.S. DISTRICT JUDGE FOR THE WESTERN DISTRICT OF MISSOURI VICE HOWARD F. SACHS, RETIRED.

DONALD C. POGUE, OF CONNECTICUT, TO BE JUDGE OF THE U.S. COURT OF INTERNATIONAL TRADE VICE JAMES L. WATSON, RETIRED.

DEPARTMENT OF THE TREASURY

HOWARD MONROE SCHLOSS, OF LOUISIANA, TO BE AN ASSISTANT SECRETARY OF THE TREASURY VICE JOAN LOGUE-KINDER.

CONFIRMATIONS

Executive nominations confirmed by the Senate June 30, 1995:

FEDERAL INSURANCE TRUST FUNDS

STEPHEN G. KELLISON, OF TEXAS, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE FEDERAL OLD-AGE AND SURVIVORS INSURANCE TRUST FUND AND THE FEDERAL DISABILITY INSURANCE TRUST FUND FOR A TERM OF 4 YEARS.

MARILYN MOON, OF MARYLAND, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE FEDERAL OLD-AGE AND SURVIVORS INSURANCE TRUST FUND AND THE FEDERAL DISABILITY INSURANCE TRUST FUND FOR A TERM OF 4 YEARS.

FEDERAL HOSPITAL INSURANCE TRUST FUND

STEPHEN G. KELLISON, OF TEXAS, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE FEDERAL HOSPITAL INSURANCE TRUST FUND FOR A TERM OF 4 YEARS.

FEDERAL SUPPLEMENTARY MEDICAL INSURANCE TRUST FUND

STEPHEN G. KELLISON, OF TEXAS, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE FEDERAL SUPPLEMENTARY MEDICAL INSURANCE TRUST FUND FOR A TERM OF 4 YEARS.

FEDERAL HOSPITAL INSURANCE TRUST FUND

MARILYN MOON, OF MARYLAND, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE FEDERAL HOSPITAL INSURANCE TRUST FUND FOR A TERM OF 4 YEARS.

FEDERAL SUPPLEMENTARY MEDICAL INSURANCE TRUST FUND

MARILYN MOON, OF MARYLAND, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE FEDERAL SUPPLEMENTARY MEDICAL INSURANCE TRUST FUND FOR A TERM OF 4 YEARS.

DEPARTMENT OF LABOR

EDMUNDO A. GONZALES, OF COLORADO, TO BE CHIEF FINANCIAL OFFICER, DEPARTMENT OF LABOR.

NATIONAL COUNCIL ON DISABILITY

JOHN D. KEMP, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON DISABILITY FOR A TERM EXPIRING SEPTEMBER 17, 1997.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

CLIFFORD GREGORY STEWART, OF NEW JERSEY, TO BE GENERAL COUNSEL OF THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION FOR A TERM OF 4 YEARS.

EXECUTIVE OFFICE OF THE PRESIDENT

MARTIN NEIL BAILY, OF MARYLAND, TO BE A MEMBER OF THE COUNCIL OF ECONOMIC ADVISERS.

NATIONAL INSTITUTE OF BUILDING SCIENCES

STEVE M. HAYS, OF TENNESSEE, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE NATIONAL INSTITUTE OF BUILDING SCIENCES FOR A TERM EXPIRING SEPTEMBER 7, 1997.

SECURITIES INVESTOR PROTECTION CORPORATION

CHARLES L. MARINACCIO, OF THE DISTRICT OF COLUMBIA, TO BE A DIRECTOR OF THE SECURITIES INVESTOR PROTECTION CORPORATION FOR A TERM EXPIRING DECEMBER 31, 1996.

DEBORAH DUDLEY BRANSON, OF TEXAS, TO BE A DIRECTOR OF THE SECURITIES INVESTOR PROTECTION CORPORATION FOR A TERM EXPIRING DECEMBER 31, 1996.

MARIANNE C. SPRAGGINS, OF NEW YORK, TO BE A DIRECTOR OF THE SECURITIES INVESTOR PROTECTION CORPORATION FOR A TERM EXPIRING DECEMBER 31, 1997.

ALBERT JAMES DWOSKIN, OF VIRGINIA, TO BE A DIRECTOR OF THE SECURITIES INVESTOR PROTECTION CORPORATION FOR A TERM EXPIRING DECEMBER 31, 1998.

NATIONAL CONSUMER COOPERATIVE BANK

TONY SCALLON, OF MINNESOTA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE NATIONAL CONSUMER COOPERATIVE BANK FOR A TERM OF 3 YEARS.

SHEILA ANNE SMITH, OF ILLINOIS, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE NATIONAL CONSUMER COOPERATIVE BANK FOR A TERM OF 3 YEARS.

EXECUTIVE OFFICE OF THE PRESIDENT

IRA S. SHAPIRO, OF MARYLAND, FOR THE RANK OF AMBASSADOR DURING HIS TENURE OF SERVICE AS SENIOR COUNSEL AND NEGOTIATOR IN THE OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSIDERED COMMITTEE OF THE SENATE.

THE JUDICIARY

CARLOS F. LUCERO, OF COLORADO, TO BE U.S. CIRCUIT JUDGE FOR THE 10TH CIRCUIT.

PETER C. ECONOMUS, OF OHIO, TO BE U.S. DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF OHIO.

WILEY Y. DANIEL, OF COLORADO, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF COLORADO.

NANCY FRIEDMAN ATLAS, OF TEXAS, TO BE U.S. DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF TEXAS.

DONALD C. NUGENT, OF OHIO, TO BE U.S. DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF OHIO.

DEPARTMENT OF JUSTICE

ANDREW FOIS, OF NEW YORK, TO BE AN ASSISTANT ATTORNEY GENERAL.

STATE JUSTICE INSTITUTE

JANIE L. SHORES, OF ALABAMA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE STATE JUSTICE INSTITUTE FOR A TERM EXPIRING SEPTEMBER 17, 1997.

TERRENCE B. ADAMSON, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE STATE JUSTICE INSTITUTE FOR A TERM EXPIRING SEPTEMBER 17, 1997. (REAPPOINTMENT)

IN THE AIR FORCE

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be general

LT. GEN. RICHARD E. HAWLEY [redacted]

THE JUDICIARY

DIANE P. WOOD, OF ILLINOIS, TO BE U.S. CIRCUIT JUDGE FOR THE SEVENTH CIRCUIT.

GEORGE H. KING, OF CALIFORNIA, TO BE U.S. DISTRICT JUDGE FOR THE CENTRAL DISTRICT OF CALIFORNIA.

ROBERT H. WHALEY, OF WASHINGTON, TO BE U.S. DISTRICT JUDGE FOR THE EASTERN DISTRICT OF WASHINGTON.

TENA CAMPBELL, OF UTAH, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF UTAH.

HOUSE OF REPRESENTATIVES—*Friday, June 30, 1995*

The House met at 10 a.m. and was called to order by the Speaker pro tempore [Mr. HASTERT].

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore, laid before the House the following communication from the Speaker:

WASHINGTON, DC,
June 30, 1995.

I hereby designate the Honorable J. DENNIS HASTERT to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Remind us, O God, that along with the changes of the times, there is also the unchanging; that along with all the transient values, there are also eternal values; that along with limited relationships, there are also abiding friendships; that along with all the new words of each day, there is also Your enduring Word. For all Your good gifts and for Your continuing presence with us in every moment of life, we offer these words of thanksgiving and praise. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. MURTHA. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER pro tempore. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. MURTHA. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 305, nays 69, answered "present" 3, not voting 57, as follows:

[Roll No. 465]

YEAS—305

Ackerman
Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (LA)
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Barton
Bass
Bateman
Beilenson
Bentsen
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Borski
Boucher
Brewster
Browder
Brown (FL)
Brown (OH)
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Buyer
Callahan
Calvert
Camp
Canady
Cardin
Castle
Chabot
Chambliss
Christensen
Chrysler
Clement
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Conyers
Cooley
Cox
Coyne
Cramer
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dixon
Doggett
Dooley
Doyle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Everett
Ewing
Farr
Fields (LA)
Flake
Flanagan
Foley
Forbes
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Furse
Ganske
Gejdenson
Gephardt
Gibbons
Gilchrest
Gilman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hastings (WA)
Hayworth
Hefner
Heineman
Hilleary
Hobson
Holden
Horn
Houghton
Hoyer
Hunter
Hyde
Inglis
Istook
Jackson-Lee
Johnson (CT)
Johnson, Sam
Johnston
Jones
Kanjorski
Kelly
Kennedy (MA)
Kennelly
Kildee
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Lantos
Largent
Latham
LaTourette
Laughlin
Lazio
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Lipinski
Livingston
LoBiondo
Longley
Lucas
Luther
Maloney
Manzullo
Martinez
Martini
Mascara
Matsui
McCarthy
McCollum
McDade
McDermott
McHale
McHugh
McInnis
McIntosh
McKeon
Meehan
Metcalf
Meyers
Mica
Miller (CA)
Miller (FL)
Minge
Mink
Molinari
Montgomery
Moran
Morella
Murtha
Myers
Nethercutt
Neumann
Norwood
Nussle
Olver
Ortiz
Orton
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Petri
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Ramstad
Reed
Regula
Rivers
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Roybal-Allard
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Schumer
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Sisisky
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stokes
Studds
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (NC)
Tejeda
Thomas
Thornberry
Thurman
Tiahrt
Torkildsen
Torres
Torricelli
Towns
Traficant
Upton
Vento
Vucanovich
Walker
Wamp
Ward
Watt (NC)
Waxman
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Woolsey
Wyden
Wynn
Young (FL)
Zeliff

NAYS—69

Baldacci
Brown (CA)
Burton
Chapman
Clay
Clayton
Clyburn
Coleman
Costello
Crane
DeFazio
Dingell
Durbin
Evans
Fattah
Fawell
Fazio
Filner
Foglietta
Ford
Geren
Gillmor
Green
Hall (OH)
Hastings (FL)
Hefley
Hilliard
Hoekstra
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Kaptur
Kleczka
LaFalce
Levin
Lewis (GA)
Lincoln
Lowey
McKinney
McNulty
Meek
Menendez
Mineta
Mollohan
Neal
Ney
Obey
Payne (NJ)
Pickett
Rahall
Rangel
Richardson
Rush
Sabo
Sawyer
Schroeder
Scott
Skaggs
Slaughter
Stockman
Thompson
Thornton
Velazquez
Visclosky
Volkmer
Wise
Yates
Zimmer

ANSWERED "PRESENT"—3

Edwards
Harman
Nadler

NOT VOTING—57

Abercrombie
Baker (CA)
Bartlett
Becerra
Bono
Bryant (TX)
Chenoweth
Collins (IL)
Collins (MI)
Dellums
Doolittle
Dornan
Fields (TX)
Fowler
Gallegly
Gekas
Gutierrez
Hayes
Herger
Hinchey
Hoke
Hostettler
Hutchinson
Kasich
Kennedy (RI)
Klink
Leach
Lofgren
Manton
Markey
McCrery
Mfume
Moakley
Moorhead
Myrick
Oberstar
Owens
Pombo
Quinn
Radanovich
Reynolds
Riggs
Rose
Sanders
Serrano
Skelton
Stark
Taylor (MS)
Tucker
Waldholtz
Walsh
Waters
Watts (OK)
Weldon (FL)
Williams
Wilson
Young (AK)

☐ 1021

Mrs. MEEK of Florida changed her vote from "yea" to "nay."

Mr. DIXON, Ms. DANNER, and Ms. RIVERS changed their vote from "nay" to "yea."

So the Journal was approved.

The result of the vote was announced as above recorded.

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

PERSONAL EXPLANATION

Mr. GEKAS. Mr. Speaker, on Friday, June 30, 1995, I was unavoidably detained and missed a record vote on approval of the House Journal. Had I been present, I would have voted "aye" on Rollcall No. 465.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore (Mr. HASTERT). Will the gentleman from New York [Mr. SOLOMON] come forward and lead the House in the Pledge of Allegiance.

Mr. SOLOMON. Mr. Speaker, if the House would come to order, this week the House passed a constitutional amendment with strong bipartisan support to pledge allegiance to that flag. Would the gentleman from Ohio [Mr. TRAFICANT] come over here in a bipartisan effort and join me in leading the Pledge of Allegiance.

The SPEAKER pro tempore. The gentleman from New York was recognized to lead the House in the Pledge.

Mr. SOLOMON led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MOTION TO ADJOURN

Mr. WISE. Mr. Speaker, I move that the House do now adjourn.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from West Virginia [Mr. WISE].

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. WISE. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 130, nays 263, not voting 41, as follows:

[Roll No. 466]

YEAS—130

Ackerman
Andrews
Baesler
Baldacci
Barcia
Bentsen
Berman
Bevill
Bishop
Bonior
Boucher
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Clay
Clayton
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Coyne
Danner
de la Garza
DeFazio
DeLauro
Deutsch
Dicks
Dingell
Dixon
Dooley
Durbin
Engel
Ensign
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gutierrez
Hall (OH)
Harman
Hastings (FL)
Hilliard
Holden
Hoyer
Jackson-Lee
Johnson (SD)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (MA)
Kennelly
LaFalce
Lantos
Lewis (GA)
Lofgren
Lowey
Maloney
Markey
Mascara
Matsui
McCarthy
McDermott
McKinney
McNulty
Meehan
Meek
Miller (CA)
Mineta
Mink
Mollohan
Moran
Nadler
Neal
Oberstar
Obey
Olver
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Peterson (FL)
Pomeroy
Rangel
Reed
Richardson
Rivers
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Sisisky
Skaggs
Slaughter
Spratt
Stark
Stockman
Stokes
Studds
Thompson
Torres
Torricelli
Towns
Tucker
Velazquez
Vento
Volkmer
Ward
Watt (NC)
Wise
Woolsey
Wynn
Yates

NAYS—263

Allard
Archer
Armey
Bachus
Baker (LA)
Ballenger
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Beilenson
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Borski
Brewster
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cardin
Castle
Chabot
Chambliss
Chapman
Christensen
Chrysler
Clement
Clinger
Coble
Collins (GA)
Combest
Cooley
Costello
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Diaz-Balart
Dickey
Doggett
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
English
Everett
Ewing
Fawell
Foley
Forbes
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Graham
Green
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Johnston
Jones
Kasich
Kelly
Kildee
Kim
King
Kingston
Kleczka
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Levin
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Longley
Lucas
Luther
Manzullo
Martini
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McIntosh
McKeon
Menendez
Metcalf
Meyers
Mica
Miller (FL)
Minge
Molinari
Montgomery
Morella
Murtha
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Ortiz
Orton
Oxley
Packard
Parker
Paxon
Pelosi
Peterson (MN)
Petri
Pickett
Pombo
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Rahall
Ramstad
Regula
Riggs
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stenholm
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thornberry
Thornton
Thurman
Tiahrt
Torkildsen
Traficant
Upton
Visclosky
Vucanovich
Walker
Wamp
Waxman
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Wyden
Young (FL)
Zeliff
Zimmer

NOT VOTING—41

Abercrombie
Baker (CA)
Becerra
Bono
Bryant (TX)
Chenoweth
Coburn
Condit
Cramer
Dellums
Dornan
Fields (TX)
Flanagan
Fowler
Gallegly
Gibbons
Hinchey
Hoke
Jacobs
Jefferson
Kennedy (RI)
Klink
Leach
Manton
Martinez
Mfume
Moakley
Moorhead
Radanovich
Reynolds
Serrano
Skelton
Smith (NJ)
Waldholtz
Walsh
Waters
Watts (OK)
Weldon (FL)
Williams
Wilson
Young (AK)

☐ 1041

Mr. TEJEDA and Mr. ORTIZ changed their vote from "yea" to "nay."

Ms. ROYBAL-ALLARD changed her vote from "nay" to "yea."

So the motion to adjourn was rejected.

The result of the vote was announced as above recorded.

LEGISLATIVE PROGRAM

(Mr. GEPHARDT asked and was given permission to address the House for 1 minute.)

Mr. GEPHARDT. Mr. Speaker, I wish to inquire about the schedule.

I yield to the gentleman from Texas [Mr. ARMEY], the distinguished majority leader, to announce the schedule for the rest of the day.

Mr. ARMEY. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, it is our intention today, as we are prepared to proceed on the rule for Medicare select, and then immediately after that, to move on to Medicare select. As the Speaker knows, this is very important legislation, and the timing is critical because of a deadline that must be met.

Following our completion of work on Medicare select, it is our intention to move on to the adjournment resolution, which needs a rule; so we will be doing the rule and then the adjournment resolution. Any other business scheduled for today is business that we can put over until after the Fourth of July work recess so that upon completion of the adjournment resolution, pending action in the Senate, we ought to be able to have completed our day's work. That ought to enable us to get our Members well on their way to their districts for the district work period by the scheduled 3 o'clock departure time.

Mr. GEPHARDT. Mr. Speaker, I would simply inquire of the gentleman, this obviously means that changes in committee assignments will be held until after the Fourth of July recess?

Mr. ARMEY. Mr. Speaker, if the gentleman will continue to yield, let me say, we would anticipate that action to take place sometime after 6 on Monday, the 10th.

As the Members might want to be reminded, we have tried to conclude the district work period by a return on Monday, the 10th, that would involve no votes before 5 on Monday, the 10th, to give that day to the Members for travel with a sense of security that they would not face a vote prior to 5 and have the opportunity to make their trip.

That being the case, we would not, since there seems to be a high interest in this matter of the committee appointment, we would not begin consideration of the committee appointment until after 6, probably, on Monday, the 10th. But we should, as I think we have indicated, expect that votes might begin as early as 5 on Monday, the 10th.

So we would do the four scheduled suspensions and then move on to the Medicare select—I am sorry, the committee assignment, International Relations, Appropriations, Resources, and so on as the week goes by. Monday night we will do the committee assignment after 6.

Mr. GEPHARDT. Mr. Speaker, I thank the gentleman.

PARLIAMENTARY INQUIRY

Mr. SOLOMON. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore (Mr. HASTERT). The gentleman will state it.

Mr. SOLOMON. Is it true that there will not be an intervening vote before we take up the rules, and Members do not have to stay in the well of the House?

The SPEAKER pro tempore. The Chair cannot anticipate what votes will come forward.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Edwin Thomas, one of his secretaries.

CONFERENCE REPORT ON H.R. 483, MEDICARE SELECT POLICIES

Ms. PRYCE. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 180 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 180

Resolved, That, upon adoption of this resolution it shall be in order to consider the conference report to accompany the bill (H.R. 483) to amend title XVIII of the Social Security Act to permit medicare select policies to be offered in all States, and for other purposes. All points of order against the conference report and against its consideration are waived. The conference report shall be debatable for one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Commerce. The previous question shall be considered as ordered on the conference report to final adoption without intervening motion. Upon the adoption of the conference report, Senate Concurrent Resolution 19 shall be considered as agreed to.

The SPEAKER pro tempore. The gentlewoman from Ohio [Ms. PRYCE] is recognized for 1 hour.

Ms. PRYCE. Mr. Speaker, for the purposes of debate only, I yield the customary 30 minutes to the distinguished gentleman from California [Mr. BEILENSON], pending which I yield myself such time as I may consume.

During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, time is of the essence. Once again, that is the basic principle underlying our consideration of legislation to extend the Medicare Select Demonstration Program.

In April, the Rules Committee reported a timely rule for H.R. 483. Today, we bring to the floor a rule making in order the conference report accompanying H.R. 483, with only hours to go before this valuable program is set to expire.

In 1990, Congress created the 15-State demonstration Medicare Select Program to allow Medicare recipients the opportunity of purchasing a Medigap managed care option. The project in those States is set to expire today, June 30, and unless Congress takes prompt action to renew it, the insurance benefits of nearly half a million senior citizens covered by the Medicare Select Program would be in serious jeopardy.

The conference agreement extends the Medicare Select Program for a period of 3 years. It also expands this option to seniors in all 50 States, and puts it on track to finally becoming permanent if the Secretary of Health and Human Services certifies that the program has met certain conditions.

In addition, the conference agreement clarifies that the definition of a State, for the purposes of this bill, includes the District of Columbia and the territories of the United States: Guam, Puerto Rico, the Virgin Islands, and American Samoa.

In order to expedite consideration of this conference agreement in the House, and to ensure that seniors will have uninterrupted coverage, the Committee on Rules has reported a straightforward and fair rule for this very necessary legislation.

Specifically, the rule provides for 1 hour of general debate on the conference report, equally divided and controlled by the chairman and ranking minority member of the Committee on Commerce.

The rule also stipulates that the previous question shall be considered as ordered on the conference report to final adoption without any intervening motion.

Under the rule, all points of order against the conference report and its consideration are waived. While the Rules Committee generally prefers to avoid handing out such blanket waivers, this waiver and the rule itself are necessary because of a potential violation of clause 3 of rule XXVIII (28), which prohibits the inclusion of matters in a conference report beyond the scope of matters committed to conference by either Chamber.

A question has arisen as to the apparent lack of definition of the term State in either the House or Senate-passed bills. As I mentioned earlier in my statement, the conference report contains a definition of States which includes the District of Columbia and U.S. territories.

The waiver granted in the rule is a precautionary step to ensure that passage of this critical legislation is not unnecessarily stalled by this particular provision or by any other unforeseen, yet potential violation contained in the conference report.

Members might be interested to know, also that this rule fully complies with the 3-day availability requirement for conference reports, as the report was filed on June 22.

Mr. Speaker, the conference agreement provides a reasonable balance to permit a very valuable, and successful program for our senior citizens to continue, while allowing us time to evaluate the program more closely before making it permanent.

Our colleagues should keep in mind that the Medicare Select Program provides seniors with another viable option to receive affordable medical care. Premiums under the select option have resulted in savings as high as 37 percent over traditional Medigap policies. By giving older Americans more choices within Medigap, we give them the flexibility to choose plans which meet their own special or individual needs.

In closing, I would remind our colleagues that the sponsors of this legislation have made it very clear that the House needs to act on this bill before leaving for the Fourth of July district work period. The Medicare Select Program is only hours away from expiring.

More than 450,000 Medicare beneficiaries will be impacted if the Medicare Select Program is not renewed. The Senate adopted the conference report on June 26. This rule will enable the House do to its part for our senior citizens.

Mr. Speaker, House Resolution 180 is a fair, balanced, and responsible rule. It was approved unanimously by the Rules Committee last night, and I urge my colleagues on both sides of the aisle to give it their full support.

Mr. Speaker, I reserve the balance of my time.

Mr. BEILENSON. Mr. Speaker, I thank the gentlewoman from Ohio for yielding time to me. I yield myself such time as I may consume.

Mr. Speaker, we support the rule which, as my colleague and friend on the Committee on Rules has pointed out, waives all points of order against the conference report and is necessary because the conferees added new material not included in the House or the Senate bill.

The addition is minor. That is why we agreed unanimously last night to this rule for the conference report.

The legislation we are about to consider under this rule would expand the availability of an experimental Medigap Program, known as Medicare Select, from 15 States to the rest of the country. The Medicare Select Program makes available to senior citizens a managed care insurance policy to fill in the gaps of Medicare coverage. It differs from other Medigap policies that require senior citizens to participate in the insurer's selected network of health care providers in order to receive payment for Medicare's cost sharing amounts.

There have been a number of substantial concerns raised about the operation of Medicare Select Programs. In its initial estimate of the bill, CBO noted that a preliminary study of this program by the Health Care Financing Administration found very little management of care by the insurers and no measurable cost savings to Medicare.

In addition, preliminary data for a subsequent study indicate that Medicare costs have actually gone up in eight of the States where these programs now operate. Many of us had hoped that we would be able to postpone final consideration of the bill until results of the subsequent study are available to the Congress sometime this fall. We would be in a better position to evaluate the usefulness and cost of this alternative program to the elderly who choose to participate in it. Nonetheless, we understand that the proponents of this legislation feel it is important to complete consideration as soon as possible to ensure that the beneficiaries currently enrolled in the program do not lose their coverage.

□ 1100

In addition, Mr. Speaker, the conference report extends the authorization for the program for only 3 rather than the 5 years included in the original House and Senate bills. It also allows the Secretary of HHS to discontinue the program at the end of 5 years, if it is determined that the program results in higher premium costs to beneficiaries or increased costs to the Medicare Program itself.

This issue of cost is, Mr. Speaker, of course one of the real major and regular concerns about Medicare Select. Our colleagues will fully discuss all of this during the debate on the conference report.

We have absolutely no objection to the rule reported by the Committee on Rules last evening for consideration of this conference report. We urge our colleagues to approve the rule so we may proceed with consideration of H.R. 483 today.

Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Michigan [Mr. DINGELL].

Mr. DINGELL. Mr. Speaker, this is a bad rule, it is a bad bill, it is bad legislation, it has been handled poorly, it is going to hurt the American people, it is going to raise the cost of Medicare, and it is going to be generally bad for the economy, the country, and the budget. Having said, that, Mr. Speaker, it is probably OK to proceed.

I would urge my colleagues to vote this rule down. I would urge them with equal vigor and diligence to vote down the legislation. The bill is being pushed more rapidly than information is available, and more rapidly than the committee or the House is being permitted to gather the facts about what the legislation does.

Initial information shows that Medicare has had its costs increased 17 percent on the average in States in which this Medicare Select Program has been made available. What that means is that senior citizens are getting less for more, and the Medicare system is getting billed more for less. This is a wonderful giveaway to the health insurance companies. It is being crafted in a fashion which defies good explanation.

The rule is needed today because the Republican leadership pushed this bill through the House without adequate thought, and then rushed it to a conference which did not deserve that honorable title between the House and Senate. We had a conferees meeting, which was scheduled for 5 p.m. one day last week. It was over at 5:01 p.m. Only yesterday did the Republican leadership become aware of the fact that they had a number of significant scope violations in a two-page bill.

Clearly slovenly legislation, slovenly legislative process is before this body. The issues presented in the statement of managers and in the offers passed back and forth between the House and Senate were presented as merely technical, but they were in fact highly substantive, and they will, for example, try to make gifts through these devices to the health insurance industry.

The result of this action is also to assure that the study which should take place to find out what is really going to happen under this Medicare Select Program will be so crafted as to make it very difficult to in fact obtain the necessary facts that the Congress ought to have, to know whether we ought to continue to extend this outrage, or whether in fact we ought to terminate it, as we indeed should.

The scope of the bill was expanded so that insurance companies can sell highly questionable policies not only in 50 States but in the territories and in the District of Columbia as well. I am certain that there are a number of guileless, unsuspecting elderly consumers in these locations that can be plucked for further advantage and further economic benefit to the health insurance industry.

Of course, the health insurance industry will profit mightily from this further largesse by this Congress under the Republican leadership at the expense of the taxpayers, at the expense of the budget, and at the expense of Medicare recipients.

The subjects of the GAO study in the bill was changed, so it will be more difficult for us to get GAO to present us with options for modifying the MediGap market, and therefore, to be sure that the seniors who switch out of these Medicare select policies can do so in a way where they can get back into a decent package of insurance.

Understand, this is insurance which does not go on a level basis, it starts at about $870 a year, if one is 65, but by the time one has reached 85, it is going to cost $2,300 or $2,400. Nobody is telling the senior citizens about that at all. Of course, the process here has been crafted so as to proceed with such blinding speed that no one will see that the senior citizens, the Medicare trust fund, the American people, are going to get skinned by this outrage.

Mr. Speaker, I urge my colleagues to vote against the rule. I urge them to vote against the bill. I predict that if this bill passes and is signed into law, we are going to find that Medicare is going to cost the taxpayers and the trust fund about an additional 17 percent. I tell the Members, they should put that in their book. They are going to have a chance to remember that when we review this legislation.

Ms. PRYCE. Mr. Speaker, I yield 1 minute to the distinguished gentleman from California [Mr. THOMAS], chairman of the Subcommittee on Health of the Committee on Ways and Means.

Mr. THOMAS. Mr. Speaker, I had not planned to speak, but I do want to put the statements of the gentleman from Michigan in context. He was one of the 14 who voted against the bill originally. There were 408 Members who supported it.

Mr. Speaker, on April 4 he sent out a Dear Colleague letter that said, "Why the rush to bring H.R. 483 to the floor this week?" He just in the well stated, "Why the rush on moving forward with this legislation?" June 30, today, is the expiration date for this program. I would think that is why the rush argument has been laid to rest.

As far as scope is concerned, we said it was going to be available to 50 States. The majority on the other side of the aisle, in their wisdom, decided to contest that; since the 50 States was extending it to the District of Columbia and Puerto Rico, as according to the Social Security Act, they were going to argue that was out of scope, so we simply went to the Committee on Rules to make sure that we could include the District of Columbia and Puerto Rico in the scope.

As to the GAO study, I think the gentleman from Michigan [Mr. DINGELL] knows that we do not need legislation to get a GAO study. A Member just has to ask.

Mr. BEILENSON. Mr. Speaker, I yield 2 minutes to the gentleman from Maine [Mr. BALDACCI].

Mr. BALDACCI. Mr. Speaker, it is the height of hypocrisy for the majority party to pat themselves on the back for restoring the Medicare Select Program, when just hours ago they cut $270 billion from Medicare to help pay for tax breaks for the wealthy.

The Medicare Select Program is a good program. It is a program that pays the cost for sharing of Medicare beneficiaries if they go into a selected list of providers, but the Medicare Select Program is a supplemental program, and after today, it has nothing to supplement.

Medicare select is a worthwhile program, but this worthy program cannot begin to make up for the damage of the massive Medicare cuts made earlier. Medicare select is supposed to be the frosting on the Medicare cake, not the entire cake. A diet of frosting only is bound to make the stomachs of America's seniors upset. I know that is how I feel today.

GENERAL LEAVE

Ms. PRYCE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on this legislation.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Ohio?

There was no objection.

Ms. PRYCE. Mr. Speaker, I reserve the balance of my time.

Mr. BEILENSON. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. STARK], the ranking member of the subcommittee.

Mr. STARK. Mr. Speaker, I thank the distinguished gentleman for yielding time to me.

Mr. Speaker, I rise in hopeless opposition to a rule that was crafted in the dead of night, and I rise to warn the American public. The gentleman from Michigan [Mr. DINGELL], who spoke a few minutes ago, was absolutely correct. This is terribly flawed legislation. This bill destroys a fairly good idea.

This bill has been introduced and written by former operatives of the health insurance industry. It deregulates supplemental insurance, and provides an opportunity for the worst shylocks in the health insurance industry to steal from the Medicare system and from our seniors.

Sitting right over there is a man who, within the past year, has received hundreds of thousands of dollars from the health insurance industry. He is a Republican Committee on Ways and Means staff person who drafted this bill for the health insurance industry.

Mr. Speaker, they are entitled to get payback for the huge contributions they made to the Speaker's campaign funds. That is OK. We know that goes on. However, I am telling the Members, Mr. Speaker, that what has happened here presages doom. If this kind of sloppily drafted legislation is how the Republicans think they are going to find a way to cut $270 billion out of Medicare, they would save everybody a lot of time by just moving to eliminate Medicare, because they will do it through stupidity, lack of experience, urgency to provide help to the people who have feathered their campaign nests, and with complete disregard for the seniors.

Mr. Speaker, the seniors who sign up for this in States where it is not regulated, and it is regulated in those States, it is regulated by no one except the good conscience of the insurance companies. Companies like Prudential, who have stolen billions of dollars from seniors, companies that are under indictment or have pled guilty and paid $300 million, $400 million in fines are the same companies who are going to take care of our parents, and indeed ourselves, under this plan. Do not buy into that.

Mr. Speaker, this is just a precursor of the Republican plan to destroy Medicare. We will hear about it after the recess. We will hear about taking $270 billion out of the most popular program, the most efficient insurance program in the country. It is being done at the behest of the health insurance companies by the Republicans. Members should vote against this rule in protest, and Members should vote against the bill.

Mr. BEILENSON. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. GENE GREEN].

Mr. GENE GREEN of Texas. Mr. Speaker, I thank my colleague, the gentleman from California, for yielding me this time.

Mr. Speaker, I voted for the Medicare Select bill as it first came up, and now I intend to support the conference committee report. But I have some concern about it, in light of the big picture. That is what we need to look at today on this House floor. I hope the American people are looking at it, particularly those people who are senior citizens.

Mr. Speaker, the budget resolution was passed yesterday, planning $270 billion in cuts in Medicare, and at the same time providing tax cuts of $245 billion. I do not think it makes sense that today, the very next day, we have a conference committee report on Medicare Select, which supplements the same Medicare Program that was cut yesterday.

Those of us who support the HMO concept and managed care, still support the individual making that decision. However, with what happened yesterday and what will happen over the next few years, we will see that freedom of choice for our seniors and future seniors limited. It has not happened yet, but we are setting the stage for it, as we stand here.

I represent the city of Houston in Harris County. We have 286,000 seniors who receive over $1.5 billion in Medicare payments. A $270 billion cut nationally over the next few years will impact those seniors. Mr. Speaker, the Republicans seem to not understand that health care costs are going up, and they are going up because we are an aging population. To cut those seniors, the growth, as they say, will force them to go into more managed care and into Medicare Select like we are seeing today.

We are voting on the conference committee report that offers seniors hopefully the goal of more coverage under the HMO and more expansion, but the secret of the HMO concept for seniors is freedom of choice, their freedom of choice to go into it, not somebody in Washington, a bureaucrat or even their elected Members of Congress saying, "You have to go to a Medicare Select plan."

Mr. Speaker, let me repeat what we are talking about today. We will see over the next few years senior citizens being forced into the Medicare Select or other HMO programs, removing that freedom of choice as part of the way to save that $270 billion. That is what people need to understand. That is the fear I hear from my constituents at home.

Mr. Speaker, last Monday I was with a hundred senior citizens in the city of Houston. Some of them were in the Medicare Select or the HMO that is offered by a number of private contractors. Some of them were happy with it. However, they wanted to make sure it was their choice, not the choice of the U.S. Congress or that of some bureaucrat. We promised Medicare in 1965. Frankly, if we waited for the Republican majority to provide for Medicare back then, it would not be here today.

□ 1115

I guess what I am concerned about is the forced cuts, Mr. Speaker, particularly in the budget bill passed yesterday with the change in the Consumer Price Index, and again in light of what is happening today with this bill.

We will see the Consumer Price Index readjusted to where the cost of living increases in Social Security will be reduced. That reduction, with the increase in Medicare expenditures, will cost senior citizens who are now receiving it, and again those who are growing into it, those 60-year-olds, those 55-year-olds who are looking forward to be able to have some type of security and having medical care when they are over 65.

I like the idea of Medicare select, Mr. Speaker, but I do not like the idea when we encompass everything together with the cuts we will see and the forced choices those people are going to have to make. I think that is what we need to be concerned about. I would hope over the Fourth of July recess and over the next couple of months and even over the next few years, because this will not happen today or tomorrow or next week, but it will surely happen with the budget vote yesterday to cut $270 billion out of the growth of Medicare.

Mr. Speaker, I hope that all of our Members remember that, when we vote for this bill.

Ms. PRYCE. Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from Connecticut [Mrs. JOHNSON].

Mrs. JOHNSON of Connecticut. Mr. Speaker, I just want to thank the preceding speaker for his support of Medicare select. There were 408 Members of this House that voted for it. I hope every one of those 408 Members will vote for it again, because this is an entirely voluntary alternative for our seniors. In the States where it has been available, it has offered them more care at a lower cost and been well-regulated by both the State and the industry and some Federal rules.

I also want to point out that as we reform Medicare, as we assure that Medicare will be there for our seniors and provide the quality of care that we have depended on Medicare for, we will over the next 7 years increase spending per senior in America from $4,800 on average to $6,700 on average. That is a one-third increase, a very solid increase in the face of declining costs in the health care sector. Our seniors are going to be well cared for.

While change is hard, if it is made with concern and in a responsible way, we can increase the money that we make available for senior care per capita throughout this Nation in an honorable way and one that supports the needs of retirees in this great Nation of ours.

Mr. BEILENSON. Mr. Speaker, I yield 3 minutes to the gentleman from North Dakota [Mr. POMEROY].

Mr. POMEROY. Mr. Speaker, it has been a contentious, partisan week in the House of Representatives, and much of the division has involved the Medicare Program. The budget passed by this House yesterday on a largely partisan vote imposes cuts of $284 billion that will be devastating to the program.

That will definitely mean higher out-of-pocket costs for seniors and less choice. I feel bad about that issue this morning and bad about the way the House resolved it and anxious about how those cuts will actually be put in place as we deal with the legislation that is before us.

It is sometimes difficult, then, to get on to other issues where there is in essence no partisan division, where it is a pretty clear and simple little bill that ought not have some of the rancor from earlier debates spilling over into it, but that is not precisely the case with the Medicare select extension before us today.

It passed the first time in the House of Representatives 408 to 14, most Democrats, most Republicans joining together in a rather unusual show of bipartisan support for a program. Why did that vote occur? Because I think the Members recognized that a program such as this, a voluntary way for seniors to opt for an insurance program that is going to give them a premium discount, that has had a successful run in the 15 States that have been allowed to run the Medicare Select Program, ought to be extended to the 50 States, ought to be given a 3-year extension so that the marketing of this program can begin in earnest.

I know something about this program. I was the insurance commissioner in North Dakota at the time it passed. I lobbied HHS to get North Dakota into the program because I believed in it. Ten thousand North Dakotans participate in this program. They get a monthly savings in premium amounting to 17 percent below those buying the Blue Cross/Blue Shield Medicare supplement that is not Med select.

Medicare select saves money. It negotiates discounts from the hospital and passes it on to the senior citizen. It also passes on any managed-care savings experienced in claims payment to the senior citizen purchasing the insurance policy.

What is wrong with this? Is this some sort of diabolical plot by the evil insurance industry? Certainly not. Certainly not. It is a simple little program, it works well, and we ought not take some of the bad feeling we have about some of the other discussions going on around here and bring it to this little issue. Medicare select should be passed. This House passed it once before, 408 to 14, and I trust we will again this morning.

Mr. BEILENSON. Mr. Speaker, I yield 7 minutes to the gentleman from Rhode Island [Mr. KENNEDY].

Mr. KENNEDY of Rhode Island. Mr. Speaker, I was among those who voted against it when it came to the floor last time, and I want to correct something that my colleague was talking about in terms of leaving it up to the States.

Maybe it was good for North Dakota, and I am sure my colleague, when he was an insurance commissioner, looked out for the consumers, but I can tell you the problem with having 50 different select plans, 50 different select plans regulated by 50 different States. It means that seniors in one State, like in my State of Rhode Island, if they have their Medicare Select MediGap plan and they go over to Massachusetts, it is a different plan. That, to me, does not sound like the proper approach to take to this when we are talking about needing comprehensive savings.

In addition, I just want to talk a little bit about this so-called increased choice. Under the guise of giving seniors increased choice, Congress is about to pass legislation that will in fact box them in. Yes, one more plan will now be available, but it is a narrow one and it is difficult, leaving many seniors in a potentially very risky situation. More choice do not simply mean better choices. For seniors who are considering the Medicare select policy, keep one thing in mind: This plan could be hazardous to your health.

When Medicare select came before us the last time, I supported an alternative that addressed the serious flaws in Medicare select. This amendment would have ended the problems with price rising with age, lowered the barriers that make it difficult and risky and dangerous for seniors to switch, and would have limited the extension until we know that this is a really good idea, because the jury is still out.

Let me just add, what this does it, it puts it into the insurance companies' hands and allows them to come up with the rating system. I have seen these Medicare select plans, because in my State I represent the fourth most elderly district in this country, and the senior citizens in my State are worried about this because they know better than we do what is coming down the road.

It means that they are going to be able to age-rate you. What does that mean? That means when you get older, they are going to be able to jack up the premiums, and because you are locked into this plan now, you are locked in for life.

You try to switch, and guess what: You are going to be paying all those preexisting condition prices, because another insurance company is not going to want to pick up because you may have had asthma, you may have had some kind of visiting nurse care you might have needed, and new plans are not going to want to touch you. Why? Because they are not going to make money off of you. Because if you are sick, insurance companies do not want to cover you. That is why we have Government, because Government is going to regulate the private sector when it comes to insurance, to make sure that the private sector does not run roughshod over the senior citizens and take advantage of them.

Believe me, if you do not think they are going to do it, you have got another think coming, because these HMO plans are all about making money, and they do not make money off people who are sick. They do not make money off senior citizens.

Be careful, Members. Be careful when you vote for the select plan, because the Republicans did not allow enough time for us to do a proper study of this and now they want to open it up to all the States under the guise of new choice.

What is that new choice? It is a bait-and-switch routine. It says new choice. We do not want to face the tough choices, so we will let this private marketplace reduce your benefits. That is what we are saying.

We are squeezing the Medicare budget. We are seeing it on the floor of this House. We are squeezing Medicaid. We are cutting the senior citizens Medicare Program. The gentleman from Ohio [Mr. KASICH], the chairman of the Committee on the Budget, says we are not, that we are only reducing the rate of growth, but make no mistake about it, there is going to be less money in Medicare.

What is going to happen? There is not going to be enough money to go around, so the MediGap select policies, that is, the supplemental insurance that allows senior citizens to cover what Medicare will not cover, if Medicare does not have as much money as they had before, you better believe they are going to have to have more in the way of supplemental insurance to bridge the gap. Congress is passing this Medicare select because the Republicans are just about to pass all these cuts to Medicare.

Mr. Speaker, this idea that this is going to save you money, this is really tricky. If you join the HMO plan, you are not paying as much, so who would not want to buy into that?

But let me warn you, in policies that have already been issued under this Medicare select policy, once you are in the plan, it does not bar them from jacking the rates up on you. Now you are stuck because you are in the plan. You have signed your rights away as a consumer.

And guess what? Let's say your doctor leaves the plan and you want to go back to your doctor. Forget it. Under Medicare select you cannot do that, because if your doctor is not on the list of approved doctors, you are not going to get that doctor. Let's say you want to switch and follow your doctor. You cannot do that.

Then as far as the prices, initially you have got a lower price, but like I said earlier, they will jack the price up on you once you get older. Once you get older, they are going to be able to age-rate you.

Mr. Speaker, insurance commissioners in the various States may be able to look after the senior citizens, but I just think it is a really terrible approach. It is the kind of approach we have been taking to everything, give it back to the States, but on health care I think we are making a big mistake when we are trying to have a patchwork quilt.

It is going to be a spot, State-by-State approach to this problem, and I do not think it is the right way to go. We need comprehensive health care reform that regulates the insurance companies on the national level, because in a small State like mine in Rhode Island, these insurance companies are going to be able to run roughshod over us and we are not going to have a leg to stand on.

My State is a million people. Do you think we are going to be able to stand up to those insurance companies and say, "Hey, what you're doing is wrong"? Forget it. We cannot do it. We have got insurance companies in our State who are already threatening to say, "We're not going to write your automobile insurance anymore." I do not want that to happen to health care and it should not happen to health care.

Mr. BEILENSON. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan [Mr. DINGELL].

Mr. DINGELL. Mr. Speaker, I rise to direct a question to the manager of the rule. I note that in the last words in the rule, it says, "Upon the adoption of the conference report, Senate Concurrent Resolution 19 shall be considered as agreed to."

To what are we agreeing in this rule? Can anybody help me to know what is in Senate Concurrent Resolution 19? I think this is an important matter, because the Senate would not have passed a concurrent resolution on it unless it were important, but we are being asked to agree to this.

To what are we being called upon to agree? Is this something that was considered in the 1-minute conference which we had between 5:00 and 5:01, or was it some matter which was not considered, which now must be considered and added to the proceedings of this body?

□ 1130

Mr. DINGELL. Mr. Speaker, can the gentleman from Virginia [Mr. BLILEY], my good friend, tell me what momentous Senate concurrent resolution we are adopting in the rule and why we could not consider it out in the open and have everyone know what we are doing here?

Mr. BLILEY. Mr. Speaker, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from Virginia.

Mr. BLILEY. Mr. Speaker, I would say to the gentleman from Michigan [Mr. DINGELL] that it is right out in the open. That the Senate resolution merely conformed the title to what we are doing.

Mr. DINGELL. Mr. Speaker, I would ask the gentleman, is that because we were sloppy in the House or because the Senate was sloppy or because the conference was sloppy in the processing of legislation? I understand that the title is to be changed so that it no longer refers to an amendment to the Social Security Act, but it refers now to an amendment to OBRA; is that correct?

Mr. BLILEY. Mr. Speaker, if the gentleman will continue to yield, it is not the proper duty for us to question what the motives of the Senate were for doing what they do. But I did point out that the resolution does conform the title to the bill. That is done all the time.

Mr. DINGELL. With great respect for my colleague, what this shows is this is stupid legislation, further done with great speed and limited wisdom.

Ms. PRYCE. Mr. Speaker, I continue to reserve my time.

Mr. BEILENSON. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. FAZIO].

Mr. FAZIO of California. Mr. Speaker, I had not intended to speak on this, but I felt at this point that I would want to comment. The gentleman from Rhode Island [Mr. KENNEDY] raises what I think are generally concerns about the entire way the health insurance industry is regulated in this country and the problem with adverse selection and other factors that really can work against the interest of working people and seniors generally. There is not doubt that this body needs to address unfair insurance practices and the overall problems of our patchwork health care systems. Furthermore, I do not believe that debate over this measure should be mistaken for the broader debate that needs to take place over protecting and improving on our Medicare system. What is important to keep in mind is that this program has been a positive if small step, toward providing more MediGap options for seniors who can get additional benefits at no more cost.

Therefore, Mr. Speaker, I rise in support not only of this rule, but of expanding this effort to experiment with health maintenance organizations and other forms of managed care in all 50 states.

While all of the data on this program is not conclusive, in my state of California, this demonstration project appears to be working. Seniors have the choice of opting for managed care MediGap programs or they can stick with a more traditional fee-for-service type MediGap Program. It is their choice.

There is a high rate of consumer satisfaction with these plans. Last year Consumer Reports Magazine rated the top 15 MediGap insureres nationwide.

Eight of them were from the Medicare Select Program. And while we need more analysis, there are strong indications that the program could eventually keep costs down.

I must emphasize that this is not a carte blanche extension. Medicare select cannot become permanent if the Secretary of Health and Human Services determines that it costs the Government money, that it did not save beneficiaries money, and did not provide quality health care. And I think it is the responsibility of both sides of the aisle to make sure that all three of those criteria are met and that we back the Health and Human Services Secretary if she or any of her successors determine that we have failed to meet this criteria.

Mr. Speaker, I would hope that this Congress, while supporting this today, will pay attention to the data that results from these further experimentations. Medicare select is an important test case for the Medicare system.

Mr. BLILEY. Mr. Speaker, I rise in support of the rule waiving points of order on the Medicare select conference report.

The Medicare select program provides Medicare beneficiaries with a cost effective alternative to typical MediGap policies. It gives seniors the option of purchasing a MediGap policy for hundreds of dollars less than the typical policy. Hundreds of thousands of Medicare beneficiaries benefit from these policies.

Medicare select policies, however, are sold through a demonstration authority which expires tonight at midnight. This conference report will extend the program and allow all States to participate in this excellent program which provides less costly MediGap policies to our Nation's elderly.

At this late date, however, our colleagues on the other side of the aisle were attempting to delay the continuation of this program by raising the most obscure and nitpicking objections based on scope violations. There are no real scope problems in this conference report. However, the Democrats in their effort to stop this program were resorting to technical nitpicking.

And who will be the individuals hurt if this program is stopped? The hundreds of thousands of elderly who have purchased these policies. I ask you to support this rule so that we can proceed to the consideration of the conference report. A vote for this rule is a vote for our Nation's Medicare beneficiaries, who can then gain the benefits of these innovative MediGap policies which provide high quality care at an affordable price.

Mr. BILIRAKIS. Mr. Speaker, I rise in support of the rule on the conference report on Medicare Select. I come to the floor with a strong feeling of deja vu. When I appeared on the floor to speak in favor of passage of H.R. 483 earlier this spring, I indicated how important the Medicare Select Program was and how the fate of half a million beneficiaries rested on the action taken by the House.

The road to this point, in my view has been unnecessarily long. If it were not for the action on the other side of the aisle, we would not be here at the 11th hour seeking passage of a rule to bring this 2 page conference report to the House floor. We have delayed long enough.

Medicare Select is a very simple program. It is a particular type of MediGap policy which allows seniors to choose a medicare benefits package modeled on a preferred provider delivery system of health care. The Medicare Select policy allows seniors to buy a less expensive MediGap insurance policy which wraps around the traditional medicare benefit. It represents the new wave of innovative managed care delivery options that the private sector is currently using to hold down the rise in health care costs. Let us remember that for those elderly who choose a MediGap policy, it is 1 of 11 options currently available.

I urge my colleagues to pass this rule so that we can enact this legislation swiftly. Our senior citizens deserve no less.

Mr. BEILENSON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Ms. PRYCE. Mr. Speaker, I have no further requests for time, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. BLILEY. Mr. Speaker, I call up the conference report on the bill (H.R. 483) to amend title XVIII of the Social Security Act to permit Medicare Select policies to be offered in all States, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. HASTERT). Pursuant to the rule, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of Thursday, June 22, 1995, at page H6256.)

The SPEAKER pro tempore. The gentleman from Virginia [Mr. BLILEY] will be recognized for 30 minutes and the gentleman from Michigan [Mr. DINGELL] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Virginia [Mr. BLILEY].

GENERAL LEAVE

Mr. BLILEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report to accompany H.R. 483.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

Mr. BLILEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I urge my colleagues to join me in supporting the conference report to extend the Medicare Select Program. The conference report provides for a 3-year extension of the program. The report also requires the Secretary of the Department of Health and Human Services to conduct a study comparing the health care costs, quality of care, and access to services under Medicare Select policies with other MediGap policies. The Secretary is required to establish Medicare select on a permanent basis unless the study finds that (1) Medicare select has not resulted in savings to Medicare Select enrollees, (2) it has led to significant expenditures in the Medicare program, or (3) it has significantly diminished access to and quality of care. I think the bill provides for a reasonable balance that will permit a valuable and innovative program for our senior citizens to be continued while permitting a more informed evaluation of the program. We must remember that Medicare Select is a MediGap insurance policy which provides seniors with another option to receive medical care. By giving the elderly more choices within MediGap we give them the option to pick plans which meet their individual needs.

In my view, we must not allow this program to expire. It is unfair to both participants and insurers alike to have to worry about what the Congress will do next. Medicare Select is a small but important program, and I might add, a highly regulated program. It is regulated under the Federal MediGap standards. There are additional Federal statutory standards for select policies, plus our States' insurance departments regulate them under State law. Medicare Select saves senior citizens money, provides more choice for senior citizens than the current Medicare risk contract HMO, and has given them the opportunity to secure a more comprehensive benefits package. If we do not act to extend this program, no new enrollees will be permitted to enroll in select plans and we will see the ultimate demise of these plans. The end result is bound to be significant increases in premiums for current enrollees. Medicare beneficiaries will be denied a product that saves them money and which has served them well. There is no reason not to extend this program in a responsible fashion.

Mr. Speaker, I urge my colleagues to join me in supporting this conference report.

Mr. Speaker, I reserve the balance of my time.

Mr. DINGELL. Mr. Speaker, I ask unanimous consent that my time be equally divided between myself and the gentleman from California [Mr. STARK], a member of the Committee on Ways and Means, and that he be permitted to control that time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. DINGELL. Mr. Speaker, I yield myself 4½ minutes.

Mr. Speaker, the agreement we are voting on today extends the Medicare select demonstration program to all 50 States for a 7½-year period beginning in 1992.

It does so with no appreciation of the consequences of this. Although many support this program, I believe that because Medicare cuts required by the Republican budget in the amount of some $270 billion are so drastic, and will require such fundamental reductions in the Medicare program, it is impossible to pass any Medicare legislation, including Medicare select without taking those reductions into account.

In addition, Mr. Speaker, as many of my colleagues know, we argued in the committee that we should await the results of the State evaluations before expanding this program to all 50 States. It has come to my attention that the preliminary results of this evaluation are now in, but they have not been made available by the handlers of the legislation.

Those results indicate that Medicare select is significantly associated with Medicare cost increases in 8 of 12 select States. Let me repeat that. Medicare select is associated with cost increases in 8 of 12 States.

Furthermore, the cost increase is 17.5 percent. The cost increase is 17.5 percent. That is not fiscal responsibility.

Now, while I know these results will not be final until next month, we should clearly examine the results before passing an expansion to all 50 States. How can we possibly extend a program that has the potential of increasing Medicare costs in all of the 50 States, as it has in the States in which it is now used by the amount of 17.5 percent?

This leads one to the unfortunate conclusion that my Republican colleagues are willing to cut back on benefits to Social Security recipients and to Medicare recipients, but that they are not willing to lock up a program which is going to increase costs to the Medicare system and to increase profits to the insurance companies.

Mr. Speaker, I therefore urge that we vote "no" on the conference agreement on H.R. 483, and that we reconsider these changes in the light of evaluation results and in the context of budget reconciliation. Then we can more fully examine the entire Medicare program, which is going to be examined in extenso in connection with reconciliation, because we are going to have Republican cuts in Medicare recipients, and we should include the Medicare cost increases which will result in the additional beneficiary out-of-pocket costs that will occur under this program, along with increased utilization and limitations on the beneficiaries' choice of providers as indicated in the preliminary report.

Let me remind my colleagues that Medicare select has had some peculiar consequences. It has not been the unmixed blessing which the proponents would have us believe. First of all, it has raised costs, but it has done some other things which have significant impact on recipients.

It first of all starts out low and goes up. The average premium cost at the beginning is around $870 a year. But by the time the recipient has reached the age of 85, it has risen, lo and behold, to something like $2,300 a year.

Now, during that time he is locked in because any preexisting conditions which he had during the time or before he got on Medicare select, he cannot carry over and have treated in any new package. So if a person joins this Medicare Select Program, he is locked in. He cannot get out because he cannot get treatment for new conditions.

Those new conditions are carefully walled out by preexisting condition clauses in any new insurance policy. So he pays more and more and more and he cannot get out. If his doctor moves or his hospital closes or some condition requires him to want to go to a particular person, doctor, or facility for treatment and they are not included in this HMO, that individual cannot go.

This is Medicare select all right. It is selected for the benefit of the insurance companies who are going to make lots of money. And they are going to make it, in part, off the Medicare trust fund and they are going to make it in part off of the poor little guy who is dependent on Medicare for providing his benefits.

□ 1145

They are going to skin the public, and everybody is going to act with great surprise when we find the new returns and the new information shows us that we have in fact cost ourselves a lot more money; we have in fact denied Social Security and Medicare recipients benefits; and we have benefited the health insurance industry; and we have left ourselves in a situation where we all of a sudden find that Medicare has cost a lot more.

I urge my colleagues, vote this down. Let us consider it in a more temperate fashion, and let us consider it when we can have a look at all of the things, including the cuts in Medicare benefits which are coming to the Medicare recipients courtesy of my good friends and colleagues on the Republican side of the aisle.

Mr. BLILEY. Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. ARCHER], the chairman of the Committee on Ways and Means.

Mr. ARCHER. Mr. Speaker, I thank the gentleman for yielding and compliment him on his good work on this bill.

It is a good conference agreement that deserves the support of every Member of this House. The Medicare Select Program expires today if we do nothing.

Early in the session, we heard from Members who opposed this program, that there is no need to rush, that we are moving too quickly, and yet here we are only hours away from the program expiring and over 450 thousand seniors are still uncertain as to their fate under this important program.

The Senate has already passed the conference report by unanimous consent. The 408 Members of the House who voted in favor of extending the Medicare Select Program earlier in this session should support this conference report and send it to the President for his signature tonight. It is a simple, noncontroversial bill which extends to seniors across the country the opportunity to choose at their option a Medigap program that has proven highly successful, high quality, and cost effective, and contrary to comments that were made earlier a few minutes ago, the CBO scores this as revenue neutral to the Medicare Fund, and the opponents of this know that.

My thanks to all the members of the Committee on Ways and Means and Committee on Commerce who have made this legislation possible. I particularly cite the outstanding work of two members of my own Committee on Ways and Means, the gentleman from California [Mr. THOMAS] and the gentlewoman from Connecticut [Mrs. JOHNSON]. It was their energy and commitment that brought us to this point today.

Mr. Speaker, this is a worthy proposal. I urge an "aye" vote on the conference report.

Mr. STARK. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this conference report legislation seeks to extend and expand the capricious demonstration program which will endanger the Medicare program and its beneficiaries.

Basically it is a license for the insurance companies to steal.

Medicare is the finest health care program in the county. There is no insurance plan in the country that offers more beneficiary choice. It is valued because we in Congress have worked long and hard to make it so.

Today by forcing a premature expansion of this demonstration program, the Republicans in Congress are turning their backs on this great tradition. Republicans are putting the interests of private insurance companies ahead of the Medicare program, not only in this bill, but in their budget bill which seeks to cut $270 billion out of the Medicare program, and they are ignoring the beneficiaries who rely upon it for their health care security.

This bill, as I have said before, is written by a Republican Ways and Means staff member who, within the past year, was receiving hundreds of thousands of dollars from the health insurance industry. Talk about big time sellout to private interests, this bill takes the cake.

Medicare select will be presented as a program without problems, just another choice for the seniors to elect. The facts are quite different.

At the time of the committee action on this bill, only a very preliminary evaluation of the Medicare Select Program had been concluded. That preliminary analysis found as follows:

> There is little coordination or management of care by organizations offering Medicare Select. The network formed by insurance companies were initially organized to increase Medicare market share at network hospitals rather than to minimize utilization.

Since the time of the committee action, a more complete evaluation of Medicare select has been conducted, and before my Republican friends dismiss the report as some partisan document, I would like to remind them that this report was commissioned by a Republican administration, and the researchers who conducted the study were selected by that Republican administration. The study has been ongoing for well over 2 years. I will enter the study in the RECORD, and it is important to note here that in the study it talks about costs and utilization findings to date. The study says:

> We were surprised to find Medicare Select is significantly associated with Medicare cost increases in 8 of the 12 select States: Alabama, Arizona, Florida, Indiana, Kentucky, Minnesota, Texas, and Wisconsin. For the eight States indicating positive impacts on Medicare program costs, the average impact is 17.5 percent. The estimates vary from 7½ percent in Minnesota to a 57-percent cost increase in Indiana. However, only the Indiana estimate is much more than 20 percent. The results indicate that the cost increases substantially reflect increases in inpatient hospital utilization. These estimates are unusually robust.

That is the understatement of the day, 17.5 percent increase on the Medicare trust fund, in addition to cutting $270 billion out. As I have said before, you would save the taxpayers a lot of money if you just introduced a resolution to eliminate Medicare tomorrow, let the Republicans vote for it. That is basically what they intend to do. Let the public see their true colors.

Given the findings and the fact that the Congressional Budget Office found that this study raises serious questions about the operation of the Medicare Select Program, why are the Republicans rushing forward to extend and expand this demonstration project, particularly when they are trying to reduce Medicare expenditures? Are they that cavalier about the report's conclusion? For months congressional Democrats and the administration have called for a limited extension of the program in order that the assessment of the demonstration could be completed and necessary adjustments made based upon its findings. Republicans have only marched forward faster.

Why? Whose interests are the Republicans responding to in this intemperate bill? Why are we trying to reduce costs under Medicare, and this program at the same time is moving in exactly the wrong direction?

Halting the expansion of this demonstration program is the only prudent action for us to take.

Proponents of this bill have made the claim if we do not extend it beneficiaries will be harmed. That is wrong. It is absolutely not the truth. Everyone should understand there is no current participant in the Medicare select plan who will lose coverage if we do not extend the program today. Certainly, additional beneficiaries will be prohibited from enrolling after today, but current enrollees would be allowed to continue in the plans.

By voting "no" today, the program evaluation will be allowed to be completed without corrupting Medicare.

And, third, voting "no" today will confirm our responsibility for the fiscal integrity of Medicare by blocking a premature expansion of this program.

How can any of us explain to our constituents a vote to expand a program from 15 to 50 States that has just been found to raise costs to the Federal Government by tens of millions of dollars? That is fiscal irresponsibility at its highest.

For those who ignore the evidence and vote to expand this program today, before adjustments can be made to it, you are in effect voting to increase Medicare's costs by $800 for each beneficiary who ends up in one of these plans. That is not fair to the seniors.

Finally, what does the Medicare beneficiary get who is in the Medicare select plan? Access to a very limited network of doctors and hospitals. You prevent them from getting the ability to switch out of the Medicare select plan and back into a reasonable MediGap program. You deny them their choice of medical independence.

In my home State of California, the Medigap plan will cost them an extra $3,360 in premiums.

For the fiscal integrity of the Medicare trust fund and the protection of beneficiaries, you must vote "no" on the conference report to H.R. 483.

Mr. Speaker, I reserve the balance of my time.

Mr. BLILEY. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida [Mr. BILIRAKIS], the chairman of the Health and Environment Subcommittee.

Mr. BILIRAKIS. Mr. Speaker, I rise in strong support of the conference report on H.R. 483, legislation to extend and expand the Medicare Select Program.

The Omnibus Reconciliation Act of 1990 was established by a Democratic Congress, under which insurers could market an additional Medigap product, an additional Medigap choice, known as Medicare select. Medicare select policies are the same as other Medigap policies except that supplemental benefits are paid only if services are provided through designated providers. The demonstration was limited to 15 States and expired December 31, 1994. The demonstration was extended through June 30, 1995, in the Social Security Act Amendments of 1994.

The conference report on Medicare select provides that:

First, Medicare select is extended to all 50 States for a 3-year period. The Secretary is required to conduct a study comparing Medicare select policies with other Medigap policies in terms of cost, quality, and access. Further, it provides that Medicare select will remain in effect unless the Secretary determines, based on the results of the study, that Medicare select has: First, not resulted in savings of premium costs to beneficiaries compared to non-select Medigap policies; second, resulted in significant additional expenditures for the Medicare Program; or third, resulted in diminished access and quality of care.

Second, GAO is required to conduct a study by June 30, 1996 to determine the extent to which individuals who are continuously covered under Medigap policies are subject to medical underwriting if they switch plans and to identify options, if necessary, for modifying the Medigap market to address this issue.

Select policies do not affect the obligation of Medicare to pay its portion of the bill. Beneficiaries who obtain covered services through one of the network's preferred providers will generally have their benefits paid in full. Under OBRA 1990, the select plan is also required to pay full benefits for emergency and urgent-out-of-area care provided by non-network providers.

Select policies do not remove a beneficiary's freedom to choose any fee-for-service provider. If a beneficiary is unhappy with a Medicare select provider for any reason, that person may opt out at any time to get off the plan and pick up any other Medigap policy, or he can remain in the plan and go to any provider, and Medicare will pay if it is a covered service. However, in that case, the beneficiary may be liable for a deductible and coinsurance.

An insurer marketing a select policy is required under OBRA 1990 to demonstrate that its network of providers offers sufficient access to subscribers and that it has an ongoing quality assurance program. It must also provide full and documented disclosure, at the time of enrollment, of: network restrictions; provisions for out-of-area and emergency coverage and availability; and cost of Medigap policies without the network restrictions.

In addition, Medicare select policies are governed by the same types of regulations imposed on Medigap policies concerning: limitations on preexisting conditions; loss ratios; portability; guaranteed renewal, and open enrollment.

OBRA 1990 also included significant penalties for Select plans that: Restrict the use of medically necessary services; charge excessive premiums; expel an enrollee except for nonpayment of premiums; or withhold required explanations or fail to obtain required acknowledgements at the time of enrollment.

The following are Medicare select demonstration States: Alabama, Arizona, California, Florida, Illinois, Indiana, Kentucky, Massachusetts, Minnesota, Missouri, North Dakota, Ohio, Texas, Washington, and Wisconsin.

As of October 1994, approximately 450,000 beneficiaries were enrolled in Medicare select; while the majority are covered through Blue Cross/Blue Shield plans, approximately 50 companies offer Medicare select products.

Current authority for the program expires in June 1995. Failure to extend the authority for the program would result in the inability of insurers to enroll new beneficiaries in Medicare Select Programs as of July 1995, although they could continue to serve current enrollees. This would lead to higher premiums for enrollees and the potential withdrawal of insurers from the market.

Is that what we want? It seems to me that none of our people want that. The gentleman from California has stated that Medicare select plans are not adequately regulated and has told us how terrible the plans are. Well, that is his opinion. Here are the facts:

The National Association of Insurance Commissioners [NAIC] has testified in favor of the program and stated that out of the 10 Medicare select States that report into the NAIC's Complaint Data System, there were only 9 Medicare select complaints last year.

The program has been a very good one for senior citizens. In August 1994, Consumer Reports rated the top Medigap insurers nationwide. Eight out of ten of the top-rated 15 Medigap plans were Medicare Select Plans.

It is a very popular program in my home State of Florida where some 13,000 Medicare beneficiaries are enrolled.

I urge my colleagues to support this legislation so we may continue to provide older Americans with an often needed and in my opinion, necessary option.

□ 1200

Mr. BLILEY. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. BILBRAY], a member of the committee.

Mr. BILBRAY. Mr. Speaker, I have to stand in support of the proposal, and I just want to point out to my colleague from California there is a 100,000 Californian seniors that want that choice. I have a stack, I have stacks of comments coming from my seniors in my district saying how it is nice to be able to have options that Washington is not mandating on seniors, that seniors are allowed to be treated as dignified individuals. This program was something that has worked, is continuing to work, in our State, and to restrict it not only from the rest of the country, but to allow it to die, is not a vote in support of seniors and their dignity, but actually a support to replace the dignity of seniors' choices with big centralized Federal control systems, and I think the problem is some of our colleagues are so wedded to command and control, big, centralized government that they are willing to sacrifice our seniors' ability to have the dignity of having their choice to choose something that serves them, and I think that we need to start treating our seniors with the dignity they earned over the years.

Mr. DINGELL. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from California [Mr. WAXMAN].

Mr. WAXMAN. Mr. Speaker, I rise in opposition to the adoption of the conference report on H.R. 483, a bill to permit Medicare select policies to be offered in all States.

Let me state that I oppose adoption of this conference report reluctantly. We have underway in a limited number of States, including my own State of California, a demonstration project to study the value and effects of Medicare select policies. I favor letting that demonstration continue. I favor continuing to offer Medicare select policies where they are currently being tested under the demonstration.

But I have grave concerns about expanding Medicare select to all States. At the time this bill passed the House I raised these concerns and suggested the prudent course would be to wait and receive the evaluation of the demonstration that was underway. We did not.

Now, before the conference was concluded, HCFA provided us with some preliminary information that the evaluation was finding. And that information should give pause to any prudent legislator. They found that Medicare select was significantly associated with cost increases in spending in the Medicare program itself in 8 of the 12 States where select policies were offered.

Surely, on a day when the Republicans in this House passed over the nearly unanimous objection of the Democrats a budget which slashes Medicare spending by $270 billion over the next 7 years, it is folly to pass legislation which threatens to increase the cost to the public of Medicare so that more private insurance companies can reap profits on their Medicare select policies.

It is only prudent to stop this expansion of Medicare select until we can be sure that they are not adding to expenditures in the Medicare Program.

We might also pause and consider the irony of the actions we have taken today. Let's think about why we need MediGap and Medicare select policies in the first place.

We need these policies for one simple reason: Medicare requires people to pay a lot of money out-of-pocket when they get sick. Most Medicare beneficiaries are so frightened by the amounts they have to pay if they get sick that they spend hundreds of dollars to buy MediGap protection.

And yet, as a result of the Republican budget this House adopted today, people on Medicare are going to have to pay a lot more.

Their MediGap premiums will soar—whether they try to economize by using Medicare Select or not. And if they just can't afford a Medigap policy any more—they will live in fear of having to pay a lot of out-of-pocket costs.

Some 4 million seniors under this Republican budget may find that they can't even afford to pay the higher premium to keep Medicare Part B protection at all. Once Medicaid is an underfinanced block grant program—which is what the Republican budget makes it—seniors can forget about any assurance of help from Medicaid to pay their Medicare premiums.

Remember, who the typical person is who relies on Medicare. Most Medicare beneficiaries have modest incomes of $25,000 or less. Nearly a third of them depend on Social Security for almost all of their income. And now they are going to find that this Republican budget means that half of their Social Security COLA is being eaten up by increased premiums and cost-sharing in Medicare.

We ought to be talking today about how to make Medicare better—about how to help people who can't afford the prescription drugs they need, who fear ending up in a nursing home that they can't afford.

Instead this House adopted a Republican budget that slashes the Federal commitment to Medicare and Medicaid. And we now are about to adopt a conference report which extends a program which might be costing Medicare money instead of saving it.

This is not responsible legislating. This is not putting the interests of Medicare and Medicaid beneficiaries first.

I urge rejection of the conference report.

Mr. BLILEY. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Connecticut [Mrs. JOHNSON], the principal author of this legislation.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I thank the gentleman from Virginia [Mr. BLILEY] for his leadership and hard work on getting this program before us for final action.

Mr. Speaker, I am very pleased to rise today in support of this final agreement to extend and expand Medicare select. This is the right kind of health plan choice for us to make available to all seniors in America at this time. Medicare select is a Medigap policy. That is it is just insurance covering costs and services that Medicare does not. The difference is the Medicare select enrollees get their care from a preferred provider organization, but they are still Medicare beneficiaries. Medicare will cover health care costs for them even if they go outside the network. By staying within the network beneficiaries make the best use of their coverage because the health plan picks up most or all of their out-of-pocket costs.

Medicare select is not, and I repeat, not, an HMO risk contracting plan. Such plans require beneficiaries to get their care entirely within the network or Medicare will not pay. With select, seniors in America have that choice to be part of an integrated system of care, but still go outside that system if they want to and if they choose to. Medicare covers their charges outside that network.

It is very important that, as we carry forward this debate and as we give seniors choices in America, they understand clearly what their choices are, and so I want to make clear that my esteemed colleague from Michigan is not quite correct when he says that seniors would be locked into these programs. With due respect, in fact he is wrong. Any senior in this program, any Medicare Select System, can go outside that system and, as a Medicare beneficiary, can receive care under Medicare terms, but in addition any senior in a Medicare Select Program can change plans. They can drop this MediGap policy and pick up another MediGap policy, and in every single State in America there are MediGap policies on the market that have no exclusion for preexisting conditions that do not block any seniors out. In sum, in fact, the idea that any senior is locked into a Medicare select choice is simply not accurate, and that is important for seniors to know.

Medicare select also saves beneficiaries money. We know that seniors on fixed incomes have a tough time in this environment, and Medicare select saves them up to 38 percent premium costs.

Medicare select is not a Government program. It is an insurance program, and, as such, it is regulated at both the Federal and State levels. It operates around the Medicare Program, and in those States where it has been expanded, it is saving dollars.

In California with select the cost of medical services per admission is 20 percent lower than for nonnetwork providers. The average length of stay in a hospital is 73 percent lower than for nonnetwork providers, attesting to the management of care, the integration of care, and only one-third as many enrollees are ever admitted to a hospital from these integrated care systems, a great advantage for the elderly. A Washington State Medicare Select Plan operator has reported that Medicare select policies cost 13 percent less than the traditional insurance policy. Even after adjusting for demographic factors the plans realized a 5-percent savings to the Medicare Program.

Now those figures are about real experience. How does that real experience line up with some of the comments that my colleagues have made about the preliminary conclusions of the report that we, as Members of Congress, asked HCFA to do so that we can understand the strengths of this program and the weaknesses more fully?

This is basically how it boils out. That report is reporting very preliminary data. The researchers themselves say the results are inconclusive, but listen to what they say about those areas in which they have seen costs increase. The researchers suggest that under these managed care entities, that is the Medicare select plans, and I quote from the report, new patient screening has detected a large backlog of formerly undiagnosed and untreated problems. This has meant that new patients have unexpectedly large, albeit short-term requirements for medicare treatment. In other words, Medicare select plans are offering seniors far more careful, comprehensive analysis of their health care problems, and, yes, short term it costs more, and many of these plans that this report, this study, is reporting have only been in place 3 months, so we have only been through the high cost analysis and the early treatments.

In one of the States where the program has been in place since 1992, and they have 4 years of cost data, they are seeing significant savings. I ask, "Isn't that just what we want? Don't we want early intervention? Don't we want prevention? Don't we want that backlog, the formerly undiagnosed and untreated problems, dealt with for seniors in America? And most importantly, don't we want seniors to have the choice, the voluntary choice, of that quality health plan?" I, for one, do, and my constituents want this choice as well.

As a State that does not have a demonstration project, I get letters daily saying when are we going to have that choice. I urge my colleagues to adopt this conference report and to help us take the first step toward giving seniors in America better choices for their health care.

Mr. STARK. Mr. Speaker, I yield 3 minutes to the gentleman from Maryland [Mr. CARDIN].

Mr. CARDIN. Mr. Speaker, I thank my colleague for yielding me this time.

Mr. Speaker, I support Medicare select and will vote for the conference report to extend this program to all 50 States. If it is properly structured, it can provide more competition, choice and cost savings. However I must tell my colleagues I am concerned that the study that was commissioned by HCFA shows that there might be increased costs associated with Medicare Select Programs in at least eight States which currently have the program. But what primarily concerns me: It seems like this Congress is acting or making decisions on what appears to be facts. When we look at the information we may be acting on what we believe to be correct rather than what the facts show.

□ 1215

Congress is taking as fact that Medicare select extends managed care into the MediGap marketplace and it will save money. Yet when we look at the study, that may not be in fact the case unless the Medicare select program is properly structured. Is this a preview of what will happen when we get to the budget debate?

In the near future we are going to be called upon to act on legislation to cut the Medicare program by $270 billion. Are we going to make these decisions on fact or beliefs? There are very limited ways in which we can reduce the Medicare program by $270 billion. We are going to be calling upon our beneficiaries to pay more, higher copays and deductibles, putting more pressure on the Medicare select program.

We are going to be asking our seniors who already as a class pay the highest amount of out-of-pocket costs, on average 21 percent of their income is used for out-of-pocket costs. If we are going to be talking about $27 billion in Medicare cuts, we are going to be asking our seniors to pay more in copays and deductibles. Will we be acting on our beliefs or on facts?

I am very concerned about that, Mr. Speaker, and concerned that we will not be looking at what impact those types of cuts will have on our seniors. I am worried that we are going to have to cut benefits. The Medicare program already does not cover prescription drugs and very little benefits for long-term care, really no catastrophic care. Yet we are going to be asked to make cuts in the program that could very well take away benefits from our seniors on the belief that that may be acceptable. I want to act upon fact.

We already have inadequate reimbursement levels and cost shifting within the Medicare system, causing in many areas our seniors to be jeopardized from receiving quality care. Are we going to be asked to make additional cuts that could very well cause more cost shifting and less adequate care to our seniors on the belief that that can be absorbed? I want to act upon facts.

The consequences of our actions will dramatically affect our Nation's seniors and their health care. It is imperative that we make these changes based upon the best data available, not just data that we choose to believe.

I hope in the future when we act upon Medicare that we do it upon the facts.

Mr. BLILEY. Mr. Speaker, may I inquire how much time remains?

The SPEAKER pro tempore. The gentleman from Virginia [Mr. BLILEY] has 13 minutes remaining, the gentleman from Michigan [Mr. DINGELL] has 4½ minutes remaining, and the gentleman from California [Mr. STARK] has 5 minutes remaining.

Mr. BLILEY. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. THOMAS].

Mr. THOMAS. Mr. Speaker, I thank the gentleman for yielding time to me. As chairman of the House subcommittee of the Committee on Ways and Means, we have looked at this over a period of time.

As a member of the conference committee, we produced a conference report. I am a little confused by the gentleman from Maryland's statement that we would want to base a decision as to whether or not we would go forward with the program on a permanent basis on facts rather than just assumptions or desires or wishes or hopes.

I can only assume that the gentleman from Maryland did not read the conference report, because I would join him, if, in fact, we were talking about creating a permanent program without a basis of analysis of a pilot program.

Despite what may have been from any of the speakers who are in opposition to this, all this does is continue a program until the Secretary determines that, in fact, there are savings, that this is a better program. If the Secretary of Health and Human Services, after a 3-year study, says that this is not saving money, it is not a better program, the program ends. If she finds it does, it goes forward.

So, first of all, the conference report says, we are going to take this pilot program that is in 15 States, make it available to 50 States, but not on a permanent basis. We are going to examine the results after 3 years. And then we will make a determination as to whether or not it is to be permanent.

We heard talk about a study over here. As a matter of fact, on the earlier pilot program, there was supposed to be a study reported to Congress in January. Six months later, it still has not issued a report. What they are talking about is a preliminary finding which was leaked by this administration.

We had the head of the Health Care Financing Administration in front of the subcommittee in which we said, you know, this seems to be a politically charged issue. We have folks who are taking extreme positions and making statements not based upon fact for whatever reason they choose to do so, and I am concerned about the political atmosphere.

So, Mr. Valdeck, please make sure that your operation does not prematurely leak information which may not have been fully evaluated about this program.

Mr. Valdeck in front of the Health Subcommittee said, you bet; we will make sure this information does not come out until it has been analyzed and properly understood and presented. Lo and behold, several weeks ago, initially on the Senate side and now we have heard statements read here that are supposedly flat-out statements of fact that this study shows that there are higher costs. In fact, that is not the case.

Mr. Valdeck apparently was so embarrassed by this that he wrote me a personal note saying that he was embarrassed that the study had gotten out prematurely, that it has not been vetted. They have not done the proper correlations in the study. Somebody is very interested in killing this modest little proposal.

Let us go back and remember what this is. Currently there are 10 programs available to seniors to augment their Medicare program. They are called MediGap. They are insurance programs that fill in where Medicare does not offer as complete a package as people would want. What we are doing is talking about adding one more, an 11th to the 10 that are already there, fully monitored by Health and Human Services. In fact, you have got to explain exactly what you are doing. You have to pass a standardized examination to make sure that you are doing what everybody else is doing. There are categories that have to be met. The seniors are fully protected and they have a choice.

It is not mandated. You choose. We are simply saying instead of 10 choices, we are going to offer 11 choices.

You would think that we are reinventing the wheel by offering seniors 11 choices rather than 10. All we are doing is saying that the 11th choice is of a kind of health care delivery service that more and more Americans find saving them money. That is what this is all about. These fellows over here who used to be the chairmen of the Health Subcommittee and Ways and Means, and the gentleman from California [Mr. WAXMAN] who spoke earlier was the chairman of the Health Subcommittee of Commerce, and the gentleman from Michigan was the chairman of Commerce, they are used to bottling up reform and change, especially the kind that had the private sector driving down costs in health care.

They are kind of frustrated because with this new majority, different people are in charge. We want to try these new ideas, fully protected with studies by the Secretary making a determination as to whether it goes forward or not.

So I understand their frustration. But in trying to deal with this frustration of being a new minority, you really ought to rely on facts rather than the kind of fear mongering and conjuring up of seniors deserted by their Government when you talk about the Medicare select program.

The gentleman from North Dakota was absolutely right. This is a modest little program. We think it will save money. Four hundred eight Members of Congress, both Democrat and Republican, voted for this the first time around; 14 voted against it. We have high hopes that the same 408 and perhaps some of the 14 who voted against this might join in in sending it to the President today so that on this last day of the pilot program the President will sign this bill so that the seniors will not be fearful that this option will not be available to them.

We are going to pass it today. I have high hopes the President will sign it tonight and then we will move on to more fundamental real reform where seniors will see that more choices will be available to them and that their Medicare dollar expenses will be covered by an ever-increasing amount from the Federal Government.

Those are the facts.

Mr. STARK. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Montana [Mr. WILLIAMS].

Mr. WILLIAMS. Mr. Speaker, I thank the gentleman for yielding time to me.

The Medicare Select Program as a model deserves support, and it should be renewed. In fact, we should expand the model, but we should keep it as a model until we know how well in fact it is going to work and what the difficulties in it are. And we already have reports that tell us there are difficulties in it.

So, yes, we would like to see the program continued, but that is not what is going on here. This is a full-scale expansion of the program. We are not certain it works that well. And they want to put it, the Republicans do, in every State in this country. Now, why? and why today?

Because yesterday the Republicans voted to cut Medicare. I know they say they did not cut Medicare but, my senior citizen friends, inflation is going to continue in health care; right? Of course. And new people are going to come into the system, of course. Are they going to receive the same services that today's senior citizens receive on Medicare? No, because the Republicans are going to cut close to $300 billion out of what is needed to meet current services. So do not let them tell you they are not cutting the program.

This proposal being brought to the floor today is a duck and cover for yesterday's action of cutting close to $300 billion.

There is a second reason that they are expanding this program and that is because the lobbyists, including the health care insurance lobbyists, are in full throat and are writing legislation for the Republican leadership.

I chaired one of the subcommittees along with the gentlemen from California Mr. STARK and Mr. WAXMAN, that tried to reform national health care last time. And I learned something, I learned a lot, as chairman of that committee, as we passed out health care reform bills last Congress.

But I learned one thing that I will never forget and that is, you can trust some of the health care insurance industry some of the time, but you cannot trust all of them all of the time. This country has to keep one eye on the insurance company, and this bill takes both Federal eyes off of the health care insurance industry. And senior citizens will rue the day we did it.

Mr. BLILEY. Mr. Speaker, do I have the right to close?

The SPEAKER pro tempore. The gentleman from Virginia [Mr. BLILEY] has the right to close.

Mr. BLILEY. Mr. Speaker, I reserve the balance of my time.

Mr. DINGELL. Mr. Speaker, how much time do we now have remaining?

The SPEAKER pro tempore. The gentleman from Michigan [Mr. Dingell] has 4½ minutes remaining, the gentleman from Virginia [Mr. BLILEY] has 7 minutes remaining, and the gentleman from California [Mr. STARK] has 3 minutes remaining.

Mr. DINGELL. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Michigan [Mr. KILDEE].

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Mr. KILDEE. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I am deeply concerned about Medicare this year. First of all, we know that the Republican budget will cut Medicare by $270 billion over the next 7 years. That certainly has to be taken into consideration in the context of this bill. This bill, while it may have some merit, the plan may have some merit, I do not think we should be expanding it as this bill would propose. The bill does allow insurance companies to sell insurance policies to seniors that limit their choice, and they may be locked into those choices.

Basically, Mr. Speaker, I fear that this year, this 104th Congress, we may see a series of things that will be weakening Medicare. First of all, this program itself is a pilot program. We should look at it more. One study indicates that it increases the cost about 17½ percent per beneficiary in 8 of the 12 States, and in only 1 State was there some possible cost savings.

However, put that in context again with what I mentioned in the beginning, that we are cutting $270 billion from Medicare. We have to cast this bill in that context. We are using that cut from Medicare to pay for a tax cut for our very rich.

Mr. Speaker, in my district, I do not see people asking for that tax cut, and especially, I think they do not want to take money from Medicare to pay for that tax cut. My mother died last year at age 84. In her life, both her mental health, her peace of mind, and her physical health was better served because of a good Medicare Program. We should approach this very, very carefully. Do not rob the account and do not expand this program without experience.

Mr. STARK. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Washington [Mr. MCDERMOTT].

Mr. MCDERMOTT. Mr. Speaker, this is a perfect example of the triumph of ideology over American pragmatism. The Republicans say they are going to save the fund. First they take $86 billion out by a tax break. Then they take another $280 billion out by the cuts they are going to make. Then their solution is to pick a solution that does not work.

There was a study done by the Research Triangle Institute which says it spends 17½ percent more for select than it does in the system we have today, which means they are going to spend it down quicker. The real result of their efforts is to get rid of Medicare. They want to break the system 17 percent faster by putting people into select. That is not a solution. It simply makes the problem worse. Everyone should understand it and vote "no."

Mr. DINGELL. Mr. Speaker, I yield myself the balance of my time.

The SPEAKER pro tempore. The gentleman from Michigan [Mr. DINGELL] is recognized for 2½ minutes.

Mr. DINGELL. Mr. Speaker, hurry, hurry, hurry. Let us get this bill through. Let us get it through before the facts are in. Let us get it in before it shows that this package for Medicare Select is in fact going to cost Medicare or the taxpayers more.

Hurry, hurry, hurry. Let us get it through before it shows that the senior citizen recipients of Medicare are not going to get the option to move from policy to policy on their health insurance packages which would supplement their Medicare policies; and hurry, hurry, hurry, before it comes out that a policy which costs about $870 is going to go up to something like about $2,300 by the time you get to 85, if you buy it for $870 at age 67. Mr. Speaker, let us get this thing through before the people find out what we are about. That is what my Republican colleagues are saying. That is what is at issue today.

What is good legislative practice and good legislation? It requires that we should wait and find out what the facts are. The information is already out. Medicare select is costing on the average 17½ percent more. That means that Medicare select is going to cost the Medicare trust fund 17½ percent more. It is going to trap senior citizens in policies on supplemental benefits that will not be able to be carried to new insurers because of preexisting conditions. Costs are going to go up.

Senior citizens are not going to know this at the time that their good-hearted insurance salesman comes around to peddle them this wonderful new Medicare Select. The taxpayers are not going to know that this is in fact going to cause the Medicare trust fund to go broke faster.

Hurry, hurry, hurry. Pass this thing before anybody finds out what is going on. Do it in a conference which takes less than 1 minute by the clock, and then have to be rescued by the Committee on Rules because such a poor job of legislation was done. Mr. Speaker, this is the way we are legislating today.

I would urge Members to vote this outrage down and let us proceed more cautiously. Let us protect the public. Let us see to it that senior citizens, the Medicare trust fund, and the American people get decent treatment here from this Congress today.

Mr. STARK. Mr. Speaker, I yield myself the balance of my time.

The SPEAKER pro tempore. The gentleman from California [Mr. STARK] is recognized for 2 minutes.

Mr. STARK. Mr. Speaker, the reason to vote no on this bill is to give the Congress time to perfect the necessary structures and regulations for Medicare Select to work. Indeed, it does work in California. The trouble is, there is only one insurance company, Blue Cross, who has been importuning Members to support it, because the insurance commissioner will not allow it.

The corporation commissioner does, giving Blue Cross a monopoly. That is not fair in California, either. If it is good in California, let us let other insurance companies sell it. Somebody brought up the good name of the Consumers Union. They did in fact mention some of these policies. However, let me summarize Consumers Union's recommendations to the Subcommittee on Health of the Committee on Ways and Means in February of this year.

Consumers Union stated that:

> Congress should study the impact of further negotiated discounts . . . before rushing to extend the Medicare Select program. . . . Research done to date indicates that the Medicare Select . . . has not achieved its goals. It has resulted in a marketplace in which premium pricing games distort the true cost of the policy. It has not achieved cost savings, but merely shifts costs to other consumers. Few insurers and few consumers have participated. In many States, regulation of this product has fallen between the cracks of different regulatory agencies—is it insurance or managed care?—leaving consumers without the protections they need. Congress should not expand the program and make it permanent, but should take steps now to fix what is broken, and what is broken is the pricing structure, the need for open enrollment, and await further study results before locking the program into place.

With respect to Medicare Select, Consumers Union would urge you to proceed with caution.

I would join with the distinguished gentleman from Michigan [Mr. DINGELL] and others, and urge Members to vote "no" to protect the consumers, to protect the Medicare trust fund which the Republicans are going to dismantle and destroy, $1 billion here, $1 billion there, $84 billion to rich seniors, $270 billion to pay the tax cuts to the very richest in this country. Do not let them destroy Medicare any further. Vote "no."

SUMMARY OF CONSUMERS UNION TESTIMONY ON MEDICARE SELECT, FEBRUARY 10, 1995

Medicare Select is a cross between traditional Medicare supplement policies ("medigap") and HMO's. We urge caution when it comes to expanding Medicare Select or making it permanent because of the following major problems:

Pricing games: Medicare Select policies often offer cheaper premiums to begin with. But because of a system of so-called "attained age" pricing that many policies use, premiums will rise steeply as the policyholder gets older. Congress should not lock-in or expand a program which perpetuates this deceptive pricing practice.

Illusory Cost Savings: Medicare Select premiums are often low, but at a cost to other Americans. Insurance companies that write Medicare Select policies typically don't pay the deductible to the hospital that other medigap policies are designed to pay. But the hospital still has to cover its costs. The result: it shifts the cost to other patients—and their insurers.

The Medigap Maze: The whole idea behind the OBRA medigap reforms was to allow consumers to make kitchen table comparisons among plans. But the Medicare Select program doesn't forward that goal. Medicare Select adds a layer of confusion by forcing consumers to balance initially lower premiums against restricted freedom of choice of doctor or hospital.

We believe that it is premature to expand or make permanent the Medicare Select program. Preliminary analysis of the program indicates that so far it has not been successful in reducing costs or even attracting substantial interest from insurers or consumers. We recommend that Congress:

Require ALL states to do what several states have already done: community rate their medigap market to eliminate the hazardous pricing structure used by many Medicare Select plans (and level the playing field among all insurers). Alternatively, condition a state's ability to participate in Medicare Select to a statewide requirement of community rating for the medigap market.

Require a six month open enrollment period for all consumers who were previously enrolled in Medicare Select. (Currently, in many cases, they are not eligible if their Medicare Select insurer does not offer a traditional policy.)

Limit the extension of Medicare Select to a two-year time period that would allow for analysis of cost savings and quality control. Such a study is currently underway at HCFA. Postpone expansion of the program to additional states until the studies are complete and regulatory adjustments can be put in place.

Consumers Union[1] appreciates the opportunity to present our views on the issue of Medicare Select. We have spent several years monitoring the medigap market and working to improve protections for seniors who buy medigap policies. We worked in support of this Subcommittee's efforts to fix the problems in this marketplace, efforts that culminated in the historic enactment of OBRA-90 medigap reforms. These reforms made it much easier for consumers to comparison-shop among so-called medigap policies, which are designed to fill in the gaps in coverage left by Medicare. We continue to believe that these reforms serve as a valuable model for future legislation in areas such as long-term care insurance and regulation of a supplemental market in future health reform.

This testimony addresses one aspect of the Medicare supplement insurance market—Medicare Select. Medicare Select is a cross between traditional Medicare supplement (or medigap) policies and HMO's. In return for initially cheaper premiums, consumers agree to obtain care within a designated network of doctors—in order to be reimbursed for the costs covered by the policy. (Medicare still provides coverage, regardless of whether the provider is in the Select network.)

We believe that there are several problems with Medicare Select. In the big picture, Medicare Select represents a diversion from the tough issue of reining in Medicare costs—through managed care or other steps. Pressing questions that this Subcommittee must address include: to what extent do HMO's—which limit seniors freedom of choice of doctor—truly save costs (or merely select the healthy risks)? Is there adequate quality assurance in Medicare risk contracts? Is there sufficient ability for consumers who do not feel well-served by Medicare HMO's to pick up traditional Medicare/medigap coverage? Is it possible—and fair to seniors—to ratchet down the Medicare budget without achieving cost control in the private insurance sector (in the context of overall health care reform)?

There are several major problems with the Medicare Select market and we urge caution when it comes to making Medicare Select a permanent program:

Pricing games: Medicare Select policies often offer cheaper premiums to begin with. But because of a system of so-called "attained age" pricing that many policies use, premiums will rise steeply as the policyholder gets older. Congress should not lock-in or expand a program which perpetuates this deceptive pricing practice.

Illusory Cost Savings: Medicare Select premiums are often low, but at a cost to other Americans. Insurance companies that write Medicare Select policies typically don't pay the deductible to the hospital that other medigap policies are designed to pay. But the hospital still has to cover its costs. The result: it shifts the cost to other patients—and their insurers.

The Medigap Maze: The whole idea behind the OBRA-90 medigap reforms was to allow consumers to make kitchen table comparisons among plans. But the Medicare Select program doesn't forward that goal. Medicare Select adds a layer of confusion by forcing consumers to balance initially lower premiums against restricted freedom of choice of doctor or hospital.

SUMMARY OF RECOMMENDATIONS

We believe that it is premature to expand or make permanent the Medicare Select program because of these problems and others described below. Preliminary analysis of the program indicates that so far it has not been successful in reducing costs or even attracting substantial interest from insurers or consumers. We recommend that Congress:

Require ALL states to do what several states have already done: community rate their medigap market to eliminate the hazardous pricing structure used by many Medicare Select plans (and level the playing field among all insurers). Alternatively, condition a state's ability to participate in Medicare Select to a state-wide requirement of community rating for the medigap market.

Require a six-month open enrollment period for all consumers who were previously enrolled in Medicare Select.

Limit the extension of Medicare Select to a two-year time period that would allow for study and analysis (that is currently under way by HCFA) of cost savings (vs. cost shifting) and quality control. Postpone expansion of the program to additional states until the studies are complete and regulatory adjustments can be put in place.

We elaborate on our concerns and recommendations below.

ANALYSIS OF THE MEDICARE SELECT MARKET

PRICING GAMES

Medicare Select policies often use an "attained age" pricing structure, which Consumer Reports says is "hazardous to policyholders." Various letters and comments regarding Medicare Select have noted that Consumer Reports found that eight of the top 15 Medigap products were Medicare Select. But this tells only part of the story. Five of the eight policies mentioned use an attained-age pricing structure. Consumer Reports stated that:

Attained-age policies are hazardous to policyholders. By age 75, 80, or 85, a policyholder may find that coverage has become unaffordable—just when the onset of poor health could make it impossible to buy a new, less expensive policy. Take, for example, an attained-age Plan F offered by New York Life and an issue-age Plan F offered by United American. For someone age 65, the New York Life policy is about $114 a year cheaper. But by age 80, the buyer of the New York Life policy would have spent a total of $5,000 more than the buyer of the United American policy.[2]

The attained-age pricing structure allows companies to bait consumers with low premiums in early years, and then trap them with high increases in later years. Standardization of the medigap market resulted in price conscious consumers, with the effect of facilitating a trend away from community-rated policies and toward attained-age rated policies. The percent of Blue Cross-Blue Shield affiliates, for example, that sell attained-age policies grew from 31 percent in 1990 to 55 percent in 1993.

Ten states have recognized this market dynamic and have taken steps to protect consumer either by requiring community rating for this market or by banning attained-age rating. These are Arkansas, Connecticut, Florida, Georgia, Idaho, Maine, Massachusetts, Minnesota, New York, and Washington. Four of these states—Florida, Massachusetts, Minnesota and Washington—are part of the Medicare Select demonstration program.[3]

Recommendation: Require ALL states to do what several states have already done: community rate their medigap market to eliminate the hazardous pricing structure used by many Medicare Select plans (and level the playing field among all insurers). Alternatively, condition a state's ability to participate in Medicare Select to a statewide requirement of community rating for the medigap market.

Footnotes at end of article.

ILLUSORY COST SAVINGS

The purpose of Medicare Select was to cut health care costs through coordinated care networks that increase the use of utilization review and management controls, often through PPO's. It was expected that enrollees would be restricted to a subset of providers. But the experience shows that often there is no restriction of providers. There is little coordination or management of care in Select plans.[4]

Medicare Select premiums may be low for the wrong reasons—because these policies shift costs to others by not covering all the costs that traditional medigap policies must cover. Medicare Select companies often negotiate with providers to eliminate the payment of Part A deductibles. Insurers have indicated that the discounts of the Part A deductible by participating hospitals is the most significant source of premium savings available in Medicare supplements.[5] This means that hospitals get less reimbursement from Medicare Select carriers. It does not mean that the hospital's costs are lower, so cost shifting to other patients (and their insurers) is inevitable.

Before extending Medicare Select to additional states (or for a substantial time period), we urge you to study further why Medicare Select premiums are often low. Are they cutting premiums for their policyholders merely by shifting costs to other payers? Another issue of concern to us is whether the Medicare Select markets in each state are truly competitive. We understand that in California, for example, there is only one key Medicare Select carrier (Blue Cross).[6] A study prepared for HCFA found that three-fourths of Medicare Select enrollees have policies from affiliates of three Blue Cross and Blue Shield plans (in Alabama, California and Minnesota), hardly an indication of a truly competitive marketplace.[7] We urge you to study the level of competition in this marketplace, recognizing of course that traditional medigap policies do compete with medicare Select policies.

Recommendation: Limit the extension of Medicare Select to a two-year time period that would allow for study and analysis (that is currently underway by HCFA) of cost savings (vs. cost shifting) and quality control. Postpone expansion of the program to additional states until the studies are complete and regulatory adjustments can be put in place.

MEDIGAP MAZE

A key goal of the medigap reform legislation that was included in OBRA-'90 was to provide true consumer choice of medigap policy by standardizing policies, thereby simplifying the choice. In light of the minimal role the Medicare Select products have made in this marketplace, we question whether the expanded complexity offers consumers significant benefits. Consumers (in Medicare Select states) must decide between Medicare only, Medicare risk plans, Medicare cost plans, health care prepayment plans, medicare Select plans, and traditional Medicare supplement policies. They can't even consider which of 10 standard packages to consider until they have made this choice.

Furthermore, insurers have indicated that the 10 standard medigap plans are appropriate for fee-for-service (traditional) medigap policies, but not for network Medicare Select products.[8] If Medicare Select necessitates an additional one or more standard policies, then simplicity is further undercut.

NEED TO AWAIT STUDY RESULTS

Medicare Select was included in OBRA-90 medigap reform legislation as a demonstration program. Medicare Select was established with the hope of achieving goals such as reducing health care costs (both for the Medicare program and consumers) and reducing the paperwork burden on consumers (since Medicare Select plans relieve consumers of the paperwork burden inherent in filing claims). It should not be made permanent until studies of its effectiveness have been completed. The preliminary report (February 1994) paints a picture of Medicare Select that is hardly complimentary. A tiny percent of people eligible have enrolled; a small fraction of insurers participate; cost savings appear to be superficial only and may be cost-shifting in disguise; the market is highly concentrated; Medicare Select regulation often falls between the cracks in state regulatory departments.

Some specific findings that should set off alarms to put on the brakes—not rush ahead with a permanent expansion—include:

Some states (e.g., Arizona) have found that market response has been poor and that beneficiaries tend to migrate back to traditional plans.[9]

Several states that were selected for the program could not get it off the ground and dropped out.[10] Others have had no applications for select plans.[11]

When studied by RTI, only 2.5 percent of eligible Medicare enrollees selected Medicare Select policies, and most of these "rolled over" from prestandardization products. It appears that consumers are not, in general, attracted to Medicare Select policies.[12]

Nor are insurers attracted to the Medicare Select product: only ten percent of HMOs and medigap insurers in Select sates offer Medicare Select policies, with even interest in some states.[13]

Recommendation: Congress should delay expanding and making permanent the Medicare Select program until further study results are available. It should not be made permanent without fixing the elements that are broken.

REGULATORY GAPS

Medicare Select is fraught with questions about regulatory authority. It is not unusual for a state's insurance department to regulate fee-for-service medigap coverage, but another state department (e.g, Department of Public Health or Department of Corporations) to regulate Select products. It is very possible that Medicare Select policies get lost in the regulatory cracks where authority for traditional insurance and HMO's is split. This confusion has even led to approval of plans (as Select) that deviate from the OBRA '90 standard plan designs.[14]

Medicare Select consumers need regulatory protection. For example, consumers switching out of Medicare Select need protection. Consumers who choose a Medicare Select option must use providers in the designated network in order to get medigap coverage. The NAIC model regulation provided protection to consumers who elect Medicare Select but then wish to change to traditional medigap policy. Companies were required to offer such consumers a policy with similar benefits, without underwriting. But this provision has a loophole—consumers have no assurance of such an offer if the Medicare Select company does not offer a traditional ("fee-for-service") medigap policy.

In the event that Congress decides to end the Medicare Select program, either now or in the future, then consumers who have Select policies when the program is ended will need protection. Without new entrants in their pool, their premiums (in closed blocks of business) would spiral upwards. They will need the protection from such an open enrollment period.

Recommendation: Congress should require that all policyholders who wish to switch out of Medicare Select be eligible for an open enrollment period (regardless of which company they select) in order to protect them against being locked into a Medicare Select plan that they do not like.[15] This protection would actually help to promote the Medicare Select option because consumers would have a safety valve if they are dissatisfied. If Congress chooses to end the Medicare Select program, insurers should be required to extend an open enrollment period to Medicare Select policyholders. We urge the Congress to study carefully the regulatory experience and analyze where regulatory authority for Medicare Select is best housed.

DOES MEDICARE SELECT COMPROMISE QUALITY?

Medicare Select policies keep premiums low by negotiating lower reimbursement schedules with providers (mostly hospital), providing discounts to policyholders. On average Medicare pays doctors and hospitals about 59 percent of what private insurers pay for the same services. If (in the future) Medicare Select coverage is negotiated downward (e.g., providing Select policies with Part B discounts also), providers will get even less. At some point, the cumulative impact of lower reimbursement has got to have an impact on quality of care that patients receive. This could occur when providers withdraw from providing services to consumers, or when they cut corners (such as patient time) due to the lower reimbursement levels.

Recommendation: Congress should study the impact of further negotiated discounts for providers before rushing to extend the Medicare Select program.

In conclusion, research done to date indicates that the Medicare Select demonstration program has not achieved its goals. It has resulted in a marketplace in which premium pricing games distort the true cost of the policy. It has not achieved cost savings, but merely shifts costs to other consumers. Few insurers and few consumers have participated. In many states, regulation of this product has fallen between the cracks of different regulatory agencies (is it insurance or managed care?), leaving consumers without the protections they need. Congress should not expand the program and make it permanent, but should take steps now to fix what is broken (the pricing structure, the need for open enrollment) and await further study results before locking the program into place. With respect to Medicare Select, we urge you to proceed with caution.

Thank you for considering our views.

FOOTNOTES

[1] Consumers Union is a nonprofit membership organization chartered in 1936 under the laws of the State of New York to provide consumers with information, education and counsel about goods, services, health, and personal finance; and to initiate and cooperate with individual and group efforts to maintain and enhance the quality of life for consumers. Consumers Union's income is solely derived from the sale of Consumer Reports, its other publications and from noncommercial contributions, grants and fees. In addition to reports on Consumers' Union's own product testing, Consumer Reports with approximately 5 million paid circulation, regularly, carries articles on health, product safety, marketplace economics and legislative, judicial and regulatory actions which affect consumer welfare. Consumers Union's publications carry no advertising and receive no commercial support.

[2] "Filling the Gaps in Medicare," Consumer Reports, August 1994, p. 526.

[3] It is premature to evaluate the impact of the combination of Medicare select and community rating, since two states (Massachusetts and Washington) are new to Medicare select and since community rating requirements are fairly recent.

[4] "Evaluation of the Medicare SELECT Amendments—Case Study Report, RTI Project No. 32U-5531, prepared for Office of Demonstrations and Evaluations, Health Care Financing Administration, U.S. Department of Health and Human Services, February 10, 1994, RTI, p. XX-3.

[5] RTI, p. xi.

[6] Three other plans: Foundation Health Plans; National Med; and Omni Health Plan have been approved but had minimal enrollment, that totals less than 500. [RTI, p. IV-17]

[7] p. ix.

[8] RTI, p. xiii.

[9] RTI, p. III-6.

[10] E.g., Oregon and Michigan. RTI, p. XV-1.

[11] E.g., Illinois. RTI, p. XV-3.

[12] RTI, p. ix.

[13] RTI, p. ix.

[14] See, for example, RTI, p. IV-9, IV-10.

[15] In Florida, Select insurers are required to offer at least a basic Plan A in a non-Select form, providing partial protection for people who wish to switch out of Select plans. One side-effect: this provision makes it infeasible for HMO's to offer SELECT plans.

Mr. BLILEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this has been an interesting debate. It has been about a lot of things, it has been about almost everything except the underlying legislation. We have talked about the budget, we have talked about Medicare in general we have been told "why the rush?" The gentleman who poses the question knows full well why we are acting today. This is a demonstration project that expires today, if we do not act. That is why we are here. That is why I urge it to be passed. I am sure that it will be.

We have also heard about the fact that it might cost more. That is interesting, Mr. Speaker, because when this bill was first passed several years ago, a study was supposed to be done. It was supposed to be available in January, but of course the administration advised us that it would not be ready and it would not be ready for months, so they could not provide it to the authorizing committees as the legislation was being crafted.

However, just a few weeks ago, Mr. Speaker, mysteriously, part of the information, not the full report, was leaked, not to the committees of jurisdiction, but to a Member of the other body who is opposed to the legislation. I find that rather curious. Needless to say, this is not the usual method the administration uses to provide committees of jurisdiction with important information.

Mr. Speaker, time is wasting. We need to get on with this program. Let me finally end this by saying, No. 1, the study that is required before this program expires in 3 years requires the Secretary to discontinue the program if it is found that Medicare select: has not resulted in savings of premium costs to beneficiaries compared to non-select MediGap policies;

Second, they cannot extend it if it shows that it has resulted in significant additional expenditures for the program; or

Third, it cannot be extended if it results in the diminished access in quality of care. There are plenty of safeguards to ensure that beneficiaries are well protected. I urge my colleagues to join me in supporting the conference report.

Mrs. COLLINS of Illinois. Mr. Speaker, I rise in opposition to the conference report on H.R. 483, the Expanded Use of Medicare Select Policies Act. While I recognize the role that the Medicare select demonstration program that currently exists in my State of Illinois and 14 other States plays, I am concerned that this legislation is being used as a cover for the draconian $270 billion in Medicare cuts included in the budget resolution conference report that passed this body yesterday.

Under the Medicare Select Program, senior citizens on Medicare are allowed to buy private MediGap insurance policies through managed-care providers to supplement what Medicare does not cover. An important objective, but following what happened here yesterday with the GOP budget plan, Medicare select could easily become the only health care option for seniors, as Medicare is gutted, services are curtailed, and older folks have to pick up the pieces through private plans. The end result will be less access to services and higher out-of-pocket costs.

It is crystal clear to anyone watching the actions of the majority party in the 104th Congress that devastating changes to Medicare are ahead. There is rampant GOP discussions ongoing about turning Medicare into block grants for the States and based on what happened in the House welfare reform legislation to the Federal School Lunch and Breakfast Programs, I know that "block grant" is a code word for cutting, slashing, and eliminating.

Let's not fool anyone Mr. Speaker, H.R. 483 is one of the first threads with which to unravel the entire Medicare system. I have far too many senior citizens in my district who depend on Medicare and would be crippled by Republican cuts to the program to allow it to be treated as it has by the Speaker and his cronies.

I urge my colleagues to vote "no" on this conference report and reject the Republicans' attempts to balance the budget on the backs of seniors and then hand them the check when the bill comes due.

Mr. Speaker, I yield back the balance of my time and I move the previous question.

The SPEAKER pro tempore. Pursuant to House Resolution 180, the previous question is ordered.

The question is on the conference report.

Mr. DINGELL. Mr. Speaker, on that I demand the yeas and nays.

The SPEAKER pro tempore. Under the rule, the yeas and nays are ordered.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 350, nays 68, not voting 16, as follows:

[Roll No. 467]

YEAS—350

Ackerman
Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Beilenson
Bentsen
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Bonilla
Bono
Brewster
Browder
Brown (CA)
Brown (OH)
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cardin
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clayton
Clinger
Coble
Collins (GA)
Combest
Condit
Cooley
Costello
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Cramer
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Cremeans
Cubin
Cunningham
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Davis
de la Garza
Deal
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dixon
Doggett
Dooley
Doolittle
Dornan
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Dreier
Duncan
Dunn
Durbin
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Everett
Ewing
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Fawell
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Flake
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Furse
Ganske
Gejdenson
Gekas
Gephardt
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Gordon
Goss
Graham
Green
Greenwood
Gunderson
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson-Lee
Jacobs
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Johnston
Jones
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennelly
Kim
King
Kingston
Kleczka
Klug
Knollenberg
Kolbe
LaHood
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Largent
Latham
LaTourette
Laughlin
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Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Longley
Lowey
Lucas
Luther
Maloney
Manzullo
Martini
Mascara
Matsui
McCarthy
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McIntosh
McKeon
McNulty
Meehan
Menendez
Metcalf
Meyers
Mfume
Mica
Miller (FL)
Mineta
Minge
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Myers
Myrick
Neal
Nethercutt
Neumann
Ney
Nussle
Oberstar
Obey
Ortiz
Orton
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (VA)
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Reed
Regula
Richardson
Riggs
Rivers
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Roybal-Allard
Royce
Sabo
Salmon
Sanford
Sawyer
Saxton
Scarborough
Schaefer
Schiff
Schumer
Scott
Seastrand
Sensenbrenner
Serrano
Shadegg
Shaw
Shays
Shuster
Sisisky
Skeen
Skelton

Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stearns
Stockman
Stump
Talent
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Taylor (MS)
Taylor (NC)
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Thornberry
Thornton
Thurman
Tiahrt
Torkildsen
Traficant
Upton
Vento
Volkmer
Vucanovich
Waldholtz
Walker
Wamp
Ward
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wilson
Wise
Wolf
Woolsey
Wynn
Young (FL)
Zeliff
Zimmer

NAYS—68

Abercrombie
Bonior
Borski
Brown (FL)
Clay
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Coyne
DeFazio
Dingell
Evans
Fattah
Fields (LA)
Filner
Foglietta
Ford
Frank (MA)
Gibbons
Gonzalez
Hastings (FL)
Hilliard
Hinchey
Jefferson
Kanjorski
Kennedy (RI)
Kildee
Klink
LaFalce
Lewis (GA)
Manton
Markey
Martinez
McDermott
Meek
Miller (CA)
Mink
Murtha
Nadler
Olver
Owens
Payne (NJ)
Pelosi
Rangel
Rush
Sanders
Schroeder
Skaggs
Slaughter
Stark
Stokes
Studds
Stupak
Thompson
Torres
Torricelli
Towns
Tucker
Velazquez
Visclosky
Waters
Watt (NC)
Waxman
Williams
Wyden
Yates

NOT VOTING—16

Boehner
Boucher
Bryant (TX)
Clement
Coburn
Dellums
Fields (TX)
Gallegly
McKinney
Moakley
Norwood
Reynolds
Stenholm
Walsh
Watts (OK)
Young (AK)

□ 1303

The Clerk announced the following pair:

On this vote:

Mr. Watts of Oklahoma for, with Mr. Dellums against.

Mr. MARTINEZ changed his vote from "yea" to "nay."

Mr. KING, Mr. BERMAN, Ms. RIVERS, and Mrs. MALONEY changed their vote from "nay" to "yea."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1289

Ms. ESHOO. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 1289.

The SPEAKER pro tempore (Mr. EWING). Is there objection to the request of the gentlewoman from California?

There was no objection.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Edwin Thomas, one of his secretaries.

PROVIDING FOR IMMEDIATE CONSIDERATION OF CONCURRENT RESOLUTION PROVIDING FOR ADJOURNMENT

Mrs. WALDHOLTZ. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 179 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 179

Resolved, That immediately upon the adoption of this resolution it shall be in order, any rule of the House to the contrary notwithstanding, to consider in the House a concurrent resolution providing for adjournment of the House and Senate for the Independence Day district work period.

The SPEAKER pro tempore (Mr. HOBSON). The gentlewoman from Utah [Mrs. WALDHOLTZ] is recognized for 1 hour.

Mrs. WALDHOLTZ. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Texas [Mr. FROST] pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, while adjournment resolutions are ordinarily privileged, a point of order could be raised against the July 4th district work period resolution on grounds it violates section 309 of the Budget Act that requires that the House can not adjourn for more than 3 days in July if it has not completed action on all appropriations; and on grounds it violates section 310 of the Budget Act that requires the same with respect for completing action on a reconciliation bill if one is required by the budget resolution adopted by the Congress.

Despite these strictures in the rules, Mr. Speaker, we are well on our way toward completing our appropriations work in timely manner. Accordingly, in deference to the people whom we serve here, and to our families, to whom we have made commitments over the next week, I believe it is appropriate for the House to now adjourn for the Independence Day district work period.

The special rule before us will simply allow us to consider the July 4th resolution by waiving points of order against it.

The adjournment resolution itself, Senate Concurrent Resolution 20, passed the Senate last night and is now pending at the Speaker's table. This rule provides for the immediate consideration of the adjournment resolution. Under the precedent, it is not subject to debate and will immediately be voted on. I urge adoption of the rule.

Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this resolution is one big the dog-ate-my-homework excuse for not getting much done over the last 6 months.

It doesn't list all the laws and rules Republicans have violated, we would be here all night. Instead it rolls all of the excuses into one sentence that gets House Republicans off the hook in terms of the many and varied promises they have broken this year.

The Congressional Budget Act says the House cannot go on recess for more than 3 days in July until the House has initially considered the appropriations bills. Well, we've only finished 2 out of 13 appropriations bills. Well, we've only finished 2 out of 13 appropriations bills, and those were 2 of the easier ones. The law tells Congress not to take a vacation until its work is done and, with this resolution, Republicans are saying they are above the law.

The reason Congress is not supposed to go on vacation until the appropriations bills have gone through the House is because unless the House is finished by July 4, we will be unable to avoid a continuing resolution on October 1. Because Republicans tied up the House with their contract—cutting taxes for the rich at the expense of school lunches and Medicare, and refusing to attend to the business at hand—the Government may very well shut down at the beginning of the fiscal year.

And that's not all. The Congressional Budget Act also requires Congress to complete action on any necessary reconciliation legislation before going home for the July recess. This year, committees won't report until the end of September.

But not to worry. The Republican majority will just pass this resolution and ignore that law too. I can think of a lot of people who would love to change a law they wanted to break, but for most Americans it doesn't work like that.

And let me remind my colleagues on the other side of the aisle of another rule they are breaking today. I quote:

> Whenever the Committee on Rules reports a resolution providing for the consideration of any measure, it shall, to the maximum extent possible, specify the object of any waiver of a point of order against its consideration.

But this resolution doesn't specify the object of any waiver at all. Instead they put in words like "to the maximum extent possible" which creates a loophole big enough to drive a truck through.

or all the reform hoopla on opening day—just 6 months ago—Republicans have trampled their own rules time and time again. And today is no different. Every single day of the week that we are in the Committee of the Whole they waive the new requirement that committees will not sit during the 5-minute rule. They've waived that rule more than a flag on a 4th of July parade.

The same Republicans who demanded fairness in committee ratios last Congress are now skewing them so badly that even we look good.

Mr. Speaker, with this resolution, House Republicans are handing themselves a big get-out-of-jail-free card. They are saying "we didn't do the things we were supposed to do but we want to go on vacation anyway."

I urge my colleagues to defeat this rule and I reserve the balance of my time.

Mrs. WALDHOLTZ. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would simply say in response to my colleague from Texas, that while some people may consider it a vacation to go home for 10 days, a number of us consider it a good opportunity to go home and talk to the people whom we are here to serve and many of us have town meetings scheduled.

We have opportunities to go home and talk to the people at home about the work that we are doing here. And much as I consider it a vacation to get out of Washington and return home to Utah, this is not simply for convenience of the Members; it is an opportunity to go home and continue the work that we have to do representing the people of our district.

I will also say, Mr. Speaker, that I think a lot of people recognize at home that having completed a balanced budget resolution for the first time in nearly 30 years is completing a great deal of work. We are well on our way toward accomplishing the work that is required of us in the appropriation process to complete that balanced budget in the time prescribed by law.

Mr. Speaker, we would have had two more bills finished this week, but for some unfortunate decisions by some people to try to slow down the process. Hopefully, we are past that, Mr. Speaker, and that when we come back from work in our districts over the next 10 days, we will have an opportunity to let the process move forward expeditiously as it is intended to.

Mr. Speaker, I reserve the balance of my time.

PARLIAMENTARY INQUIRY

Mr. LAHOOD. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. LAHOOD. Mr. Speaker, is it against the House rules for Members to wear buttons while speaking on the floor?

The SPEAKER pro tempore. Members should not wear badges trying to communicate a message while they are addressing the House.

Mr. LAHOOD. Mr. Chairman, I have a further parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. LAHOOD. Mr. Speaker, would the Speaker not assume that a member of the Committee on Rules would know the rules of the House when he speaks on the House floor?

The SPEAKER pro tempore. The gentleman is not stating a parliamentary inquiry.

Mr. LAHOOD. Would the Speaker please advise Members that they are not allowed to wear pins or buttons when they are speaking on the House floor.

The SPEAKER pro tempore. The Chair has just so informed the House.

Mr. FROST. Mr. Speaker, I appreciate the information, because I recall my Republican colleagues wearing buttons on the floor of the House day in and day out when they were in the minority.

I gather what was OK when they were in the minority is not OK now that we are in the minority. I appreciate the information and I will be happy to remove my button. I do recall speaker after speaker wearing buttons on the Republican side during the last 2 and 4 years.

Mr. Speaker, I yield 7 minutes to the gentleman from Missouri [Mr. VOLKMER].

Mr. VOLKMER. Mr. Speaker, Members of the House, here we go again. You know, it has been a very interesting 6 months. And I can still remember the very first day when we sat here adopting changes in the rules of the House.

□ 1315

And we went through each one individually, 20 minutes of debate and then a vote, 20 minutes of debate and a vote, and how we heard from the majority how this House was going to be reformed, how it was going to more adequately represent the people of this great country.

But lo and behold, let us see what has happened since January 4. Let us go through this 6 months and see what has happened.

How about the provision under the rules, the very new rule, that a Member could only serve on four subcommittees? How about that? Well, lo and behold, what do we find out? We have got 30 Members, most of them freshmen, the ones that held the charge for reform on five or six subcommittees. The heck with the rules of the House. I am better than the rules of the House. I do not have to abide by the rules of the House. I am a freshman in the majority. I can serve on five or six and the to heck with rules of the House. That is one of the things that has happened.

What else has happened? Well, what is very interesting to me is this rule we have here today. Not only is it the rules of the House, but the Budget Act, a statutorily enacted law on the books that says that you have to do your appropriation bills and your reconciliation bills before you take over 3 days' recess over the fourth of July. But we are not going to do that. This rule right here before us waives that and other rules so that the majority members, instead of finishing up the appropriation bills as we are supposed to do, and we have only got two done out of here, and I would like to remind that great majority, that outstanding majority, the Gingrich Republicans, and I know I cannot blame the gentlewoman from Utah for not knowing, because she was not here, but last year at this time, before July 4, under the then chairman of the Committee on Appropriations, all 13 appropriation bills were passed by the House, all 13 of them, not 2—13. But not the majority, not the Gingrich majority. They do not have to do it. They can take their good old time.

In fact, I understand it will probably be near the end of July before we get through the last appropriation bill. Now, that does not strike me as getting the job of the Congress done.

The majority has made a great big thing about all of the bills that they passed in the hundred days. Three of them have become law. One of them did not amount to a hill of beans. Two of them amount to a little bit, and that is about all we have done.

Now, they talk about this great big budget that we just passed. Wait a minute folks, read the Budget Act. When are we supposed to have done that budget? Hey, anybody in the majority know when they were supposed to pass the budget? About 2½ months ago. That is all, a little late folks, way late. About time you got things on track. It is about time. I do not think they are ever going to get things on track. I think the train is going to eventually come to a grinding halt here around the 1st of October, and I think that is a deliberate activity of the Republican majority in order to do that.

I am tired of these reformers talking about all of these great rules changes and things they do, when all they end up doing is violating the rules of the House.

I would also like to point out it is going to be interesting to me because I think we ought to have a rollcall vote on this resolution. The reason is because for years from that side, from the more senior Members on that side, anytime you had a waiver of the Budget Act, man, they exploded. They had to vote against it. They talked against it. You could not vote for a rule that waived the Budget Act, could not do it. I am going to be interested to see how many of them vote for the waiver of the Budget Act under this rule.

In closing, I would like to make a quote that I have before me from Will Rogers. He said it way back in 1927. I think it applies probably a little bit to me right now and what I am going to be doing back in my district, since the

Republicans are going to vote to send me on a vacation. This is Will Rogers:

> From now on I am going to lay off the Republicans. I have never had anything against them as a race. I realize that out of office, they are just as honest as any other class and they have a place in the community that would have to be taken up by somebody. So I want to apologize for all that I have said about them and henceforth will have only a good word to say of them. Mind you, I am not going to say anything about them for a while, but that is not going to keep me from watching them.

Mrs. WALDHOLTZ. Mr. Speaker, I yield 30 seconds to the gentleman from California [Mr. CUNNINGHAM].

Mr. CUNNINGHAM. Mr. Speaker, my colleague just said that the budget was late, and we happen to agree with the gentleman that the budget was late. A balanced budget is about 40 years late.

We were here for 93 days and passed the Contract With America, which was the most bipartisan Congress in the history of this body. And they have had 40 years to balance a budget, and they have not done it.

We kept our word. We are here. We are going to balance the budget by 2002, and it will happen.

So we do agree it was late, 40 years late.

Mrs. WALDHOLTZ. Mr. Speaker, I yield myself such time as I may consume, simply to respond to the previous speaker, Mr. Speaker.

There are a couple of points I think need to be clarified. The gentleman noted that he believed that all the appropriations bills had been passed before the July 4 district work period last year. In fact, the D.C. appropriation bill had not been passed. It is a small point, but one I think requires correcting as we are going to talk about appropriations bills on the floor.

Second, Mr. Speaker, I think it is also important to note that that same Congress that was seated last year, in 1993, did not complete their reconciliation bill until October, well past the time it was supposed to be completed by law.

The budget that was passed in those 2 years of the preceding Congress, Mr. Speaker, inflated our deficit to record levels. I think the people of our Nation would rather we take our time and get it right and get it balanced than hurry through and continue a legacy of deficit spending that has continued unabated since 1969.

Finally, Mr. Speaker, I would simply say that the irony of the previous speaker complaining about us not getting our work done will not be lost on those who worked on this floor or people across the country who have observed what has been going on for the past several days as we have wasted precious moments coming in to vote on procedural matters. I would simply point out, while he now complains about us going home so we can talk with the people in our districts over the coming week, the previous speaker voted in favor of a motion to adjourn just earlier this morning.

Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield 7 minutes to the gentleman from North Carolina [Mr. WATT].

Mr. WATT of North Carolina. Mr. Speaker, I thank the gentleman for yielding me this time.

My distinguished colleague, the gentleman from Missouri [Mr. VOLKMER] ended his presentation with a quotation from the distinguished American, Will Rogers. I want to start mine with another quotation from another distinguished American, Yogi Berra. Yogi Berra said, "This is deja vu all over again," and that is really what I want to talk about, because this is deja vu all over again.

You have not seen me on the floor recently very much. Earlier in this term, during the first 100 days, I rose time after time after time to protest procedural shortcomings that my Republican colleagues had engaged in. They want to take credit for all of this reform, yet they do not want to comply with their own rules that they are taking credit for among the American people.

Let me give you some examples. On the opening day of this Congress, my colleagues passed a new rule which bars proxy voting in committees. They argued that proxy voting makes a mockery of the committee process and concentrates power in committee leaders. Well, I happen to agree with them.

So what do they do on a regular basis in committee? We cannot vote by proxies, but anytime a vote comes out in a way that they do not like, then they simply go back and ask for reconsideration so that when their Members are not there, they always have a fallback position to come back in and get the results that they are looking for anyway.

They talked about the value of proxy voting. Well, I believe in no proxy voting, too. I think it makes for better deliberation to have the Members in the committee doing work. But they also passed a rule on the opening day of this Congress which talked about waiving the 5-minute rule in the House. Well, what is the 5-minute rule in the House? We debate things on the House floor under a 5-minute rule, and they passed a rule which says you cannot have a committee meeting while we are under the 5-minute rule in the House.

Well, just about every day we have been in this session of Congress, my colleagues, after they passed that rule, have come back to this House of Representatives every single day and asked for a waiver of that rule so that committees can continue to meet while we are doing debate, important debate, right here on the floor.

There was a day last week when I had two markups going, one in the Committee on the Judiciary, one in the Committee on Banking and Financial Services, and a bill that I was involved in on the floor right here, and they said, "Well, you can be in three places at one time because we waived the rule that allowed the committees to meet even though we are doing something that is important to you on the floor of the House of Representatives."

Well, let us hasten along to talk about why this is deja vu all over again, because my colleagues on the Republican side also on opening day passed this rule, and it says, "No Member of the House can serve on more than four subcommittees of this House." Well, look at the record, if you will. There is not a single Democratic Member of the House of Representatives who serves on more than four subcommittees, because the rule says that.

But look at my friends on the other side of the aisle, 30, 30 Republican Members are violating this House rule. Two-thirds of the Members who violate this rule are the same freshmen Republicans who came into this House saying they support reform and honesty with the people of the American electorate, but they themselves will not abide by their own House rules that they have adopted.

Well, is it deja vu all over again?

Let me make the other points, as I have got only 2 minutes.

They passed a rule on opening day of this House which said that the CONGRESSIONAL RECORD will be a verbatim transcript of what actually happens in the House.

□ 1330

Well, my colleagues have not complied with that rule either. They have come right back and, on numerous occasions, have changed, changed the transcript of what has happened in the House to reflect what they would like to have happened rather than what actually happened.

Well, one final thing. They said on opening day, and they went out into the public and took credit for it as an important issue of reform, that a three-fifths vote, a three-fifths vote is required, to pass any new taxing provision. But on several occasions my colleagues have come into this House and violated their own rules.

So why is this deja vu all over again? Because it is a systematic practice on this side of the aisle to come in and violate the rules of the House and have us try to sanction their own violations.

I say to my colleagues, if you are going to take credit for reform, then at least live up to the standard that you set for yourselves. You ask us to comply with the law. We comply with the law. You asked us to comply with the rules. We complied with the rules. All we are simply asking you to do is to comply with the very same rules that we must comply with that you are telling the American people that you are complying with, and, if you do that, then maybe you can have a better audience in the future.

Mrs. WALDHOLTZ. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it seems that our previous speaker is complaining about reforms that have resulted in open rules.

Mr. Speaker, there is no question that the previous rule structure, voting by proxy, was more convenient for Members of the House, but it was not good government. When the new majority took over this year, we inherited a bloated committee structure that had so many committees and subcommittees that proxy voting was basically the only way that things could happen around here if the Members did not want to have to move quickly at times. To start on our reforms we cut out 3 whole committees, 25 subcommittees, in an attempt to make it easier for Members to completely fulfill their obligations, which I believe, Mr. Speaker, includes physically going to our committee meetings and voting rather than handing a proxy to someone else who votes on their behalf without them having to consider what is coming before their committee.

We are continuing, Mr. Speaker, to try to work out the problems that had been created. It is true that having people have to actually be in their committees and vote is resulting in us having to hurry at times. It is true that it is less convenient for Members than the old proxy voting was. But I believe, Mr. Speaker, that we have a better Government and a better deliberative process for the difference.

Mr. Speaker, we are going to continue in our working to continue to find better ways to work out the scheduling problems to see if there are other ways to streamline the committee structure, but I believe, Mr. Speaker, that the people at home have every right to expect us to exercise our voting privileges personally and not by proxy.

Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we are being asked to waive all kinds of rules so we can go on our vacation for the Fourth of July.

Mr. Speaker, I just wonder what kind of rules we will be asked to waive in August so that Members can go on book tours.

Mr. Speaker, I yield 6½ minutes to the gentleman from Texas [Mr. DOGGETT].

Mr. WATT of North Carolina. Mr. Speaker, will the gentleman yield?

Mr. DOGGETT. I yield to the gentleman from North Carolina.

Mr. WATT of North Carolina. Mr. Speaker, I am just wondering what good does it do to do reform of the rules if they then turn around and violate the rules that they have reformed. I do not know what good that does.

Mrs. WALDHOLTZ. Mr. Speaker, will the gentleman yield and allow me to respond?

Mr. WATT of North Carolina. Mr. Speaker, I yield back to the gentleman from Texas.

Mrs. WALDHOLTZ. Is the gentleman not allowing me an opportunity to respond?

Mr. DOGGETT. Mr. Speaker, the gentlewoman will have plenty of time to him, and I have got a few things for her to respond to, too, but let me pose them first.

Mr. Speaker, I think there are many Americans who are out there saying when they watch the proceedings in this House that there ought to be a law against what is happening up there. There ought to be a law against some of the things that are not happening up there.

I say to my colleagues, Well you know what? There is a law. It is called the Congressional Budget Act, and the Congressional Budget Act is what these folks propose in this resolution to just suspend, to say that they, unlike other Americans, don't have to comply with some of the laws in the statute books, that they can kind of pick and choose the laws of this great country that they wish to comply with. You see the Congressional Budget Act says that we are to have a budget resolution passed and approved in this Congress so we have the guidelines for the budget that will govern the American people with trillions of dollars of expenditure, and it sets a date for doing that, and that date is not yesterday. That date is April 15. Can you imagine what would happen if the American citizens didn't pay their taxes on April 15 when they are due? Would someone permit them to say, "Well, we'll just suspend that this year; it just doesn't feel good to pay taxes on April 15. We'll just suspend that."

Mr. Speaker, that is what these good folks have done, and then they tell us in this law that applies to every American and to this Congress that it is our obligation to complete something called the Reconciliation Act, which when this Congress was in the hands of Democrats in 1993, they followed that law. It says:

> You complete the Reconciliation Act on the budget, and you do it before you go home on July the Fourth. You cannot recess for more than 3 days during the month of July until you have completed the Reconciliation Act.

Mr. Speaker, where I come from, down in Texas, people understand that. They either do their work or they do not get their break. They either do their work or they do not go on vacation. But apparently our colleagues in the majority, the Republicans, do not understand that because, instead of complying with the law and completing reconciliation, what do they come before this House today to do? They asked us to suspend the law for them. They want to go home instead of doing the work that the law charges them with doing.

I do not declare that, if this Republican majority has to suspend any more of the law on the budget, every one of them ought to have to come out here in suspenders because they have been suspending this and suspending that, and they are not doing the people's work to complete this budget on time.

What difference should all that make other than just this example of flouting one law after another to the American people? Well, as a matter of fact, I think it is going to make a big difference when they pay their taxes, when they reach in their pocketbook, to wonder what has happened on Medicare, when they reach in their pocketbook to wonder what has happened in the way taxes are paid in this country, because, I ask, "What happens when you delay, and you delay, and you delay, and you got those suspenders on, and you're suspending one law after another instead of complying with it?" It is that it finally all comes home to roost, and it is all going to come home to roost around here after these big vacations are over with and we are faced with the problems of the fall because, my colleagues, we are only about 3 months from the time that the train wreck is going to occur.

Mr. Speaker, we are going to be down to the end of this fiscal year. We are going to be facing a debt limit, and it is all going to back up, and it is going to pile up, and we will have all these last-minute proposals that say from the Republicans: "Well, Mr. and Mrs. Senior American, we're going to need a little more help out of you. If you want to see your own doctor next month instead of the one that some organization picks out for you, pull out a twenty out of your pocket because it is going to cost you about $20 more a month to do that."

They are going to say, "Well, Mr. and Mrs. Senior American, are the young people that are trying to care for their parents and honor their father and mother," they are going to say to them, "Well, if you want to stay at home with home care instead of going into a nursing home, it is going to cost you more money."

They are going to say, as one of the Members of the Republican leadership does, "If you're about to turn 65 and retire, don't look to Medicare to cover you health care because you're going to have to wait until 67. Oh, your employer won't cover it anymore? Well, that's tough. You'll have to come up with thousands of dollars to provide yourself medical insurance if you get it at age 65 or 66."

And there is one other thing that needs to be said:

As a State judge, I saw one defendant after another who, lacking a meritorious defense, would come forward and would use delay as their shield. It is not surprising when a defendant does that; it is surprising when the judge gets in a partnership with the defendant to use delay as a defense, and on one very critical matter in this House we have heard action would be taken after the Contract. We have heard action would be taken after Memorial Day. We have heard action would be taken at the end of June, before the July Fourth recess, and yesterday a story in the New York Times put a lie to all of that when it reported how little work the Committee on Standards of Official Conduct had done. It is an outrage for this House to adjourn without the Committee on Standards of Official Conduct acting on the complaint against Speaker GINGRICH.

Mrs. WALDHOLTZ. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, first I would like to respond to the question that I was asked but that I was not allowed an opportunity to respond to. The gentleman asked why it is all right to waive our own rules. Well, as the gentleman well knows, in order to expedite the business of this House, to keep it rolling, we have to make some decisions about what is the most important requirement that the people at home expect of us. It is true, Mr. Speaker, that by doing away with proxy voting and expecting people to actually go and vote in the committee that they are assigned to, that we have had to allow those committees to carry out their work while there has also been business moving forward on the floor of the House. Mr. Speaker, we have not waived that most important rule of requiring people to go and exercise their own vote in the committee to which they are assigned. It is critical, Mr. Speaker, that we continue to hold fast to those rules that represent real reform in this body, and we have done so. Rules that are created, however, for the convenience of Members sometimes will have to be suspended in order to allow us to do what needs to be done.

□ 1345

So, Mr. Speaker, I would submit that the people of this country will judge us on whether we are keeping the commitments that we have made to do our work, to vote ourselves rather than allowing someone else to vote for us. And I believe, Mr. Speaker, that the people of this country will support us in continuing to keep the business of this House moving forward at the same time we expect people to do their work themselves instead of handing off their decisionmaking ability to someone else.

Let me also say, Mr. Speaker, that, while people keep talking about us somehow being derelict in our duty by going to our districts this week, I would submit that the decision as to how we are going to spend this Nation's money, which is what the budget process is all about, that decision should not be made solely in Washington, DC. The people at home in our districts have every right to have the opportunity to tell us how they want us to spend their money.

And this district work period, while, yes, I plan to go see my family on the 4th of July, this district work period is an opportunity for us to go home and talk with the people who sent us here, to ask them what it is they want us to do, how they want us to spend their money, because we can never forget, Mr. Speaker, it is not our money, it is theirs.

It is appropriate for us to go home in the midst of this budget process and ask them what they would like us to do with their money. This is a district work period, Mr. Speaker. It is an opportunity for us to go home and see what it is that people want us to do. I think that there is no better use of our time for a period during this budget process.

Mr. WATT of North Carolina. Mr. Speaker, will the gentlewoman yield?

Mrs. WALDHOLTZ. I yield to the gentleman from North Carolina.

Mr. WATT of North Carolina. I was just going to inquire what the gentlewoman did during the April recess when we were out for 3 weeks and you all seem to have spent all your time parading around bragging about what you did in the first 100 days; why did you not do it during that period?

Mrs. WALDHOLTZ. Reclaiming my time, Mr. Speaker, I am happy to show the gentleman exactly what I did during the April recess, meeting with my constituents, talking with people at home. There is never enough time, Mr. Speaker, to talk with the people who sent us here. I am perfectly happy to go home and have another opportunity to meet with them even if the gentleman does not think he needs it.

Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, we urge a "no" vote on this.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mrs. WALDHOLTZ. Mr. Speaker, I think we have said all that needs to be said on this matter. I urge my colleagues to support this rule.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

There was no objection.

The SPEAKER pro tempore (Mr. HOBSON). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. FROST. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 242, nays 157, not voting 35, as follows:

[Roll No. 468]

YEAS—242

Allard
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bereuter
Bilbray
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brewster
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Calvert
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Cooley
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Diaz-Balart
Dickey
Dixon
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
Engel
English
Everett
Ewing
Fawell
Flanagan
Foley
Forbes
Fowler
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Ganske
Gekas
Gilchrest
Gillmor
Gilman
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Jacobs
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McDermott
McHugh
McInnis
McIntosh
McKeon
Meehan
Metcalf
Meyers
Mica
Miller (FL)
Minge
Mink
Molinari
Moorhead
Morella
Myers
Myrick
Nadler
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Petri
Pombo
Porter
Portman
Quinn
Radanovich
Ramstad
Regula
Riggs
Rivers
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Serrano
Shadegg
Shaw
Shays
Shuster
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stockman
Stump
Talent
Tate
Tauzin
Taylor (NC)
Thomas
Thornberry

Thornton
Tiahrt
Torkildsen
Traficant
Upton
Vucanovich
Waldholtz
Walker
Wamp
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wilson
Wolf
Young (FL)
Zeliff
Zimmer

NAYS—157

Abercrombie
Andrews
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bevill
Bishop
Bonior
Borski
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Cardin
Chapman
Clay
Clayton
Clyburn
Coleman
Collins (IL)
Condit
Conyers
Costello
Coyne
Danner
de la Garza
DeFazio
DeLauro
Deutsch
Dingell
Doggett
Dooley
Doyle
Durbin
Edwards
Ensign
Eshoo
Evans
Farr
Fattah
Fazio
Filner
Flake
Foglietta
Ford
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Gonzalez
Gordon
Green
Gutierrez
Harman
Hastings (FL)
Hilliard
Hinchey
Hoyer
Jackson-Lee
Jefferson
Johnson (SD)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Levin
Lewis (GA)
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McHale
McKinney
McNulty
Meek
Menendez
Mfume
Mineta
Mollohan
Moran
Murtha
Neal
Oberstar
Obey
Olver
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pomeroy
Poshard
Rahall
Rangel
Reed
Richardson
Roemer
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schumer
Scott
Skaggs
Slaughter
Spratt
Stark
Stokes
Studds
Stupak
Tanner
Taylor (MS)
Tejeda
Thompson
Thurman
Torres
Torricelli
Towns
Tucker
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Williams
Wise
Woolsey
Wyden
Wynn
Yates

NOT VOTING—35

Ackerman
Ballenger
Bateman
Bilirakis
Boucher
Bryant (TX)
Callahan
Camp
Clement
Collins (MI)
Dellums
Dicks
Fields (LA)
Fields (TX)
Gallegly
Goodlatte
Hayes
Hefner
Johnston
Lantos
Miller (CA)
Moakley
Montgomery
Ortiz
Pickett
Pryce
Quillen
Reynolds
Roukema
Schroeder
Sisisky
Stenholm
Walsh
Watts (OK)
Young (AK)

□ 1409

Ms. DANNER and Mrs. KENNELLY changed their vote from "yea" to "nay."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

CONDITIONAL RECESS OR ADJOURNMENT OF THE SENATE ON THURSDAY, JUNE 29, 1995, OR FRIDAY, JUNE 30, 1995, UNTIL MONDAY, JULY 10, 1995, AND A CONDITIONAL ADJOURNMENT OF THE HOUSE ON THE LEGISLATIVE DAY OF FRIDAY, JUNE 30, 1995, UNTIL MONDAY, JULY 10, 1995

The SPEAKER pro tempore. Pursuant to House Resolution 179, the Chair lays before the House the following concurrent resolution from the Senate:

S. CON. RES. 20

Resolved by the Senate (the House of Representatives concurring), That when the Senate recesses or adjourns at the close of business on Thursday, June 29, 1995, or Friday, June 30, 1995, pursuant to a motion made by the Majority Leader or his designee, in accordance with this resolution, it stand recessed or adjourned until 12:00 noon on Monday, July 10, 1995, or until such time on that day as may be specified by the Majority Leader or his designee in the motion to recess or adjourn, or until 12:00 noon on the second day after Members are notified to reassemble pursuant to section 2 of this resolution, whichever occurs first; and that when the House of Representatives adjourns on the legislative day of Friday, June 30, 1995, it stand adjourned until 2:00 p.m. on Monday, July 10, 1995, or until 12:00 noon on the second day after Members are notified to reassemble pursuant to section 2 of this resolution, whichever occurs first.

SEC. 2. The Majority Leader of the Senate and the Speaker of the House, acting jointly after consultation with the Minority Leader of the Senate and Minority Leader of the House, shall notify the Members of the Senate and the House, respectively, to reassemble whenever, in their opinion, the public interest shall warrant it.

The SPEAKER pro tempore. Without objection, the Senate concurrent resolution is concurred in.

There was no objection.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. WATTS of Oklahoma. Mr. Speaker, I had an unavoidable speaking conflict in Oklahoma. It was an event that had been scheduled 6 months before I came to Congress. On H.R. 483, I would have voted yes and on the House Resolution 179, I would have voted yes.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1883

Mr. WHITE. Mr. Speaker, I ask unanimous consent that my name be withdrawn as a cosponsor to H.R. 1883. It was inadvertently placed on that list.

The SPEAKER pro tempore (Mr. HOBSON). Is there objection to the request of the gentleman from Ohio?

There was no objection.

LEGISLATIVE PROGRAM

(Mr. GEPHARDT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GEPHARDT. Mr. Speaker, I rise to inquire of the gentleman from Texas [Mr. ARMEY] regarding the schedule for next week, July 10.

Mr. ARMEY. Mr. Chairman, will the gentleman yield?

Mr. GEPHARDT. I yield to the gentleman from Texas.

Mr. ARMEY. Mr. Speaker, on Monday, July 10, the House will meet at 12:30 p.m. for morning hour and 2 p.m. for legislative business. We plan to take up four bills under suspension of the rules: H.R. 1642, extending most-favored-nation status to Cambodia, H.R. 1643, extending MFN to Bulgaria, H.R. 1141, the Sikes Act Improvement Amendments of 1995, and S. 523, the Colorado Basin salinity control amendments.

Members should be advised that there will be no recorded votes taken before 5 p.m. on Monday, July 10. After any recorded votes on suspensions, we will consider a committee naming resolution before taking up the second rule and continued debate on H.R. 1868, the fiscal year 1996 Foreign Operations appropriations bill.

On Tuesday, Wednesday, and Thursday, the House will meet at 10 a.m. for legislative business. We will continue consideration of fiscal year 1996 appropriations bills, including the Energy and Water, Interior, and Agriculture appropriations bills.

It is our hope to have the Members on their way home to their families and their districts by no later than 6 o'clock on Thursday evening. There will be no recorded votes on Friday of that week.

Mr. GEPHARDT. Mr. Speaker, the majority leader indicated his intent to bring up a committee naming resolution before considering the Foreign Operations appropriations bill on Monday, July 10.

Am I correct, Mr. Speaker, In assuming the gentleman is referring to the majority party's intent to seat the gentleman from Texas [Mr. LAUGHLIN] on the Committee on Ways and Means?

Mr. ARMEY. The gentleman is correct. At this time, that is the only committee designation that would be made. I suppose it is possible something else might pop up in the meantime, but that right now is the only designation that I know of.

Mr. GEPHARDT. Mr. Speaker, as I have said to the gentleman, and all Members should understand, there may be a large number of votes that evening after the starting time, and Members should be advised of that possibility.

Mr. ARMEY. I thank the gentleman. I think it is very helpful to all our Members, in the interests of doing their district work period and then returning, that we are able to assure them there will be no votes until after 5 o'clock, but I think the gentleman is absolutely correct. After 5 o'clock, we can most assuredly expect that there will be some votes, and they will be important votes that they will want to participate in.

□ 1415

Mr. GEPHARDT. I wish the distinguished majority leader and all Members a productive, successful, and restful Fourth of July district work period.

Mr. ARMEY. I thank the gentleman from Missouri. I, too, would like to encourage all our Members to have a good break, get some good work done, rest, relax, and we will all come back happy and congenially ready to go back to work on some of the material we did not finish today.

AUTHORIZING THE SPEAKER AND THE MINORITY LEADER TO ACCEPT RESIGNATIONS AND TO MAKE APPOINTMENTS AUTHORIZED BY LAW OR BY THE HOUSE, NOTWITHSTANDING ADJOURNMENT

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that notwithstanding any adjournment of the House until Monday, July 10, 1995, the Speaker and the minority leader be authorized to accept resignations and to make appointments authorized by law or by the House.

The SPEAKER pro tempore. (Mr. HOBSON). Is there objection to the request of the gentleman from Texas?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY, JULY 12, 1995

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday, July 12, 1995.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

PERMISSION FOR COMMITTEE ON APPROPRIATIONS TO FILE A PRIVILEGED REPORT ON DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS BILL, 1996

Mr. LEWIS of California. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations may have until midnight tonight to file a privileged report on a bill making appropriations for the Interior and related agencies for the fiscal year ending September 30, 1996, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER pro tempore. All points of order are reserved on the bill.

PERMISSION FOR COMMITTEE ON APPROPRIATIONS TO FILE A PRIVILEGED REPORT ON AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS BILL, 1996

Mr. LEWIS of California. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations may have until midnight tonight to file a privileged report on a bill making appropriations for Agriculture, Rural Development, Food and Drug Administration, and related agencies programs for the fiscal year ending September 30, 1996, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER pro tempore. All points of order are reserved on the bill.

SAVING LAW ENFORCEMENT OFFICERS' LIVES ACT OF 1995—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 104–90)

The SPEAKER pro tempore laid before the House the following message from the President of the United States, which was read and, together with the accompanying papers, without objection, referred to the Committee on the Judiciary and ordered to be printed.

To the Congress of the United States:

Today I am transmitting for your immediate consideration and passage the "Saving Law Enforcement Officers' Lives Act of 1995." This Act would limit the manufacture, importation, and distribution of handgun ammunition that serves little sporting purpose, but which kills law enforcement officers. The details of this proposal are described in the enclosed section-by-section analysis.

Existing law already provides for limits on ammunition based on the specific materials from which it is made. It does not, however, address the problem of excessively powerful ammunition based on its performance.

Criminals should not have access to handgun ammunition that will pierce the bullet-proof vests worn by law enforcement officers. That is the standard by which so-called "cop-killer" bullets are judged. My proposal would limit the availability of this ammunition.

The process of designating such ammunition should be a careful one and should be undertaken in close consultation with all those who are affected, including representatives of law enforcement, sporting groups, the industries that manufacture bullet-proof vests and ammunition, and the academic research community. For that reason, the legislation requires the Secretary of the Treasury to consult with the appropriate groups before regulations are promulgated. The legislation also provides for congressional review of the proposed regulations before they take effect.

This legislation will save the lives of law enforcement officers without affecting the needs of legitimate sporting enthusiasts. I urge its prompt and favorable consideration by the Congress.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *June 30, 1995.*

REPORT ON PROGRESS CONCERNING EMIGRATION LAWS AND POLICIES OF THE RUSSIAN FEDERATION—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 104–91)

The SPEAKER pro tempore laid before the House the following message from the President of the United States, which was read and, together with the accompanying papers, without objection, referred to the Committee on Ways and Means and ordered to be printed.

To the Congress of the United States:

On September 21, 1994, I determined and reported to the Congress that the Russian Federation is in full compliance with the freedom of emigration criteria of sections 402 and 409 of the Trade Act of 1974. This action allowed for the continuation of most-favored-nation (MFN) status for Russia and certain other activities without the requirement of a waiver.

As required by law, I am submitting an updated Report to Congress concerning the emigration laws and policies of the Russian Federation. You will find that the report indicates continued Russian compliance with U.S. and international standards in the area of emigration.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *June 30, 1995.*

DESIGNATION OF MEMBER AS SPEAKER PRO TEMPORE TO SIGN ENROLLED BILLS AND JOINT RESOLUTIONS THROUGH MONDAY, JULY 10, 1995

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC, *June 30, 1995.*

I hereby designate the Honorable FRANK WOLF to act as Speaker pro tempore to sign enrolled bills and joint resolutions through July 10, 1995.

NEWT GINGRICH,
Speaker of the House of Representatives.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

A FAIR DAY'S PAY FOR A FAIR DAY'S WORK

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. FILNER] is recognized for 5 minutes.

Mr. FILNER. Mr. Speaker, I rise today in strong support of H.R. 363, a bill that would increase the Federal minimum wage from $4.25 to $5.50 an hour, and equally important, automatically adjust the wage up or down annually as indexed for inflation.

Historically, our Nation's lowest wage earning positions were reserved for new immigrants and the young. Both of these groups, especially with increased education, could expect to advance in our society. But as Bob Dylan used to sing, "the times, they are a changin." Indeed, the times are changing. No longer are the lowest paying jobs occupied solely by the young and uneducated; they are held by parents, seniors, students supporting themselves, and millions of other Americans.

The minimum wage labor force has drastically changed over the past decade. What was once a mere passageway to the "American Dream," minimum wage jobs have become a permanent way of life for an increasing number of citizens. Today, nearly 50 percent of working Americans earn the minimum wage. Not only do many of these working people have college diplomas and master's degrees—but most have to support families on their minimum wage.

Now, more than ever, we need to pass legislation that will allow working Americans to earn a real and meaningful income. We have all heard the arguments that unemployment and inflation will increase with a higher minimum wage. These arguments are completely unfounded, as shown by study after study done in a wide variety of areas that have increased their minimum wage. A higher minimum wage stimulates our economy because it allows more consumer needs to be met.

Each day that the minimum wage remains at its current low level, the real buying power of that wage decreases. In order for workers to remain above the poverty level, they would have to be earning over $6 an hour. Do we want to condemn so many working people to poverty?

Mr. Speaker, hard working Americans deserve the security and stability that come with being able to provide for oneself and one's family. Let's raise the minimum wage, let's index it automatically for inflation, and let's give every working American the promise for a better tomorrow.

WHY CORRIDOR H IS A NATIONAL HIGHWAY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from West Virginia [Mr. WISE] is recognized for 5 minutes.

Mr. WISE. Madam Speaker, as the Congress adjourns and shortly Sandy and I will get in the car with our two children and begin heading home to the western side of West Virginia, about a 7-hour drive away, we are going to ask ourselves once again: Why is it that we have to drive north to drive so far south? Or why is it that we can take the alternate route and drive so far south and then west and then we get to go north again? Why is there not a direct route, a direct route called Corridor H, a route that has been torn by controversy for many, many years but a highway that should be built.

This is going to begin a series of statements on why Corridor H should be built. Today I am going to entitle this, "Why Corridor H is a National Highway."

It is not, as some say, a narrow West Virginia road or a State interest. It is not just of local concern, nor is it a pork-barrel project. Corridor H is a vital project that has been on the books for 25 years.

Let's take a look at the map, Madam Speaker. Here we are roughly in Washington, DC. I–66 goes out toward the Virginia line and intersects with Interstate 81. The logical thing, if you were going to continue going to the west, would be to go straight, would it not? That is what Corridor H does. But instead our traffic, economic, and tourist and all other traffic, is required to go to the north to 68 or down to the south to 64 and keep going down.

Were Corridor H to be completed, and indeed 40 miles of Corridor H, 4-lane Corridor H is already completed from I–79, 40 miles to Weston, to Buckhannon, to Elkins, West Virginia. But were Corridor H, the 100 and some miles left, to be completed, what you would have is an extension of Interstate 66, a major east-west corridor that goes to I–79 and then permits you to continue going to the west, either down Interstate 79 or up and over on Route 50, another 4-lane road.

What you would have is a straight east-west corridor running all the way from the Washington metropolitan area to Ohio, Kentucky and points west.

This is truly a national highway. Indeed, it would also connect, Madam Speaker, with the inland port at Front Royal, an increasingly commercial development that is showing more success in getting goods to the port at Norfolk. But the problem is that if you are trying to bring anything from the west to the east, you are confronted by extremely mountainous and difficult terrain. Corridor H would end that. It is a major economic development corridor as well as a national highway, a highway truly of national significance.

I think it should also be pointed out that some argue that it is too expensive or environmentally damaging. What they fail to acknowledge is that the four routes that were considered, two running to the south, one running to the north and now the route that has been adopted this way, that those routes were considered and rejected. Indeed, the least expensive route and the one that causes the least environmental disruption is the one that has been adopted.

The two southern routes threaten great environmental problems and were the most expensive to construct. So out of consideration and to meet the concerns of many who raised these objections, the fourth route, the one that is presently proposed, is the one that was adopted.

Madam Speaker, I would urge this Congress to get on about the business of constructing Corridor H and to look at I–66 as it ends at Interstate 81 and to recognize the important national significance of this road. It does not get any cheaper to build a road. The least expensive route has been selected and indeed to provide a major east-west corridor, Corridor H is the answer.

Yes, Sandy and I are going to spend 6 to 7 hours driving and we could spend far less were Corridor H constructed. It should not be constructed for our driving ease. What it ought to be constructed for is the economic growth of this entire region, not only West Virginia but parts of Virginia, Ohio, and Kentucky as well.

Madam Speaker, I will be revisiting the issue of Corridor H a good deal more in the future.

MORE FREEDOM, INDEPENDENCE, AND BANG FOR THE BUCK

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota [Mr. GUTKNECHT] is recognized for 5 minutes.

Mr. GUTKNECHT. Madam Speaker, I probably will not take the full 5 minutes. As we adjourn today and Members begin to return to their districts to celebrate the Fourth of July, I think we should remember what we are really celebrating is Independence Day.

There were two events, two news items this week coming out of Washington that I think deserve some attention and may seem in some respects disparate but I think they are related. Like the fireworks displays that we are going to see in communities all across America next Tuesday, we should be talking about independence, we should be talking about freedom, but more importantly I think as it relates to government programs, we ought to be looking for ways that we can get the most bang for our buck.

□ 1430

And so I would like to talk about a couple of news items. First of all, we have an expression back in the Midwest, "When pigs fly," which is another way of saying that that is never going to happen. And I think if you would have asked people several years ago, Do you think the Congress will really get serious about balancing the budget? I think a lot of people would have said, "When pigs fly."

This week the House and Senate conferees came together and we now have a budget blueprint which will, in fact, balance the Federal budget.

Second, I want to talk about something and congratulate Marion Barry, who many times we found reasons to disagree with, and the DC school superintendent, Franklin Smith. There is an article in today's Wall Street Journal where they have agreed to support a local voucher plan for the local schools and privatize up to 11 of the most troubled schools.

I think that is terrific news. I think that is terrific news for the students in Washington, DC. I think it is about independence, I think it is about freedom, and I think it is about getting more bang for the buck.

And so when we talk about the budget, some people are saying we should take 10 years instead of 7 years to balance the budget. When I talk to my constituents, they think we ought to balance it in 3 or 4 years, rather than 7 years. There is criticism no matter what you do.

Frankly, as it relates to the Washington, DC, public schools, I would like to see them open the system up even more so that parents could choose from private, religiously affiliated schools as well, but they are taking the most important first steps, as we are with the budget.

And so, Madam Speaker, when we see pigs beginning to fly, I do not think we should criticize them for not staying up too long or taking too long to get the job done. These are important news items. It is all about more freedom, more independence, and getting more bang for our buck.

AMERICANS WANT FASTER FDA DRUG APPROVALS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. FOX] is recognized for 5 minutes.

Mr. FOX of Pennsylvania. Madam Speaker, life-saving new drugs do take too long to reach the people who need them. From my district in Montgomery County, PA, I have heard many a compelling story from constituents with cancer, A.L.S., Lou Gehrig's disease, epilepsy, or AIDS, who speak of the difficulties in obtaining these life-saving, life-extending drugs. They need them because the approval process in our country is so prolonged and, in effect, they have to turn to other countries where the products are available.

Is it not ironic that most of the life-saving drugs that are produced in the world are produced here in the United States, but our patients and our constituents are the last to receive them because of over-regulation and delays in the system which can be cleared up.

Do not get me wrong. The Food and Drug Administration serves a valuable purpose in maintaining high safety and efficacy standards. However, it is important to note that the FDA's actions directly affect the lives of patients and the ability of physicians to provide state-of-the-art care for their patients. What we need to have is a speeded up process to approve or disapprove drugs so that the investments made by biotech and pharmaceutical companies can result in having saved lives and the quality of those lives extended for many years to come.

In addition, the FDA regulates businesses that produce 25 percent of America's gross national product, so the agency's actions also impact on our country's economic well-being. The United States is far and away the world leader in pharmaceutical and biotech discovery, but many firms are moving clinical trials overseas because of needless trends that do not bode well for the economic future of the United States.

This can all be changed by legislation; by making sure that we speed up the process of FDA approval so that our constituents will have the benefit of these life-extending and live-saving drugs.

In my 13th Congressional District of Pennsylvania alone, we have 10 facilities of 4 major pharmaceutical companies that employ 11,000 people. Here they are at work very hard every day to make sure that we save lives and improve those lives. I would not want to see any of those companies or constituents lost their jobs because FDA regulation is so overburdened and so over-regulated that we delay, in fact, the service and the medical care for our constituents.

Americans want safe medicines. They want a strong FDA that will keep unsafe products off the market. But they also want to see more emphasis on quicker access to medicines, faster clinical trials, and the delivery of those services and devices to them. That is why I am introducing, working with colleagues on both sides of the aisle, to have the Life Extending and Life Saving Drug Act passed here in this 104th Congress. We need to take the action as soon as possible for the great benefit of our Nation's patients and our constituents. I look forward to working with my colleagues and the chairmen of the important committees, like Commerce's THOMAS BLILEY, to make sure we act critically, quickly, and in an efficient manner so that our constituents will be served and, in fact, an industry that is so vital to the country moves forward with economic stability.

WAKE UP, CONGRESS; WAKE UP, AMERICA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. FOLEY] is recognized for 5 minutes.

Mr. FOLEY. Madam Speaker, first I would like to thank the employees of this House of Representatives who endured hours and hours of debate while this House went into 24-hour session the other evening: The cloakroom staff, the individual staff of the Members of Congress, the Clerk's office, the stenographers that had to take down every word, the pages that have come from around our Nation that have helped the Members, the whip teams and everyone else.

It was quite a spectacle. It was sad for me as a freshman Member of Congress to watch the delay after delay, the motions to rise, the various tactics in order to stall the progress of this House.

I came here to make a difference, to make change. And I know at times there are disagreements and I am certain at times the Republicans did it last time to a Democratic-controlled Congress, but I urge my colleagues on both sides of the aisle to stop this nonsense.

The American public is watching and they are sick and tired of watching Congress go into the night, go into the early morning hours, go 24 hours a day, spending taxpayers' dollars while these fine employees of the House of Representatives have to be away from their homes, while the young pages 16 and 17 years old are up all night long. That is wrong.

So the Democrats and Republicans have to become more responsible in this process and they have got to stop the nonsense and start doing the people's business. Start working on legislation that will change America's problems. I mean we must have had seven motions to rise the other day, which takes over 17 minutes per vote to do that work.

So we spent hours of wasted time coming back and forth to the Chamber. People think it is funny in the Chamber. They laugh. How long can this go on? Let us take to the mattresses. The American public who are watching on C-SPAN or reading in the newspapers of Congress' action are embarrassed. I am embarrassed as a Member of Congress for the actions we took the other day.

Let me talk about another problem that is confronting America and we have got to deal with it, and that is child abuse. The other day we may have read in the national newspapers about a young child named Wolfie whose parents abandoned him at a mall. A husband and wife abandoned their 3-year-old child and left him wandering in a mall thousands of miles away from their home.

In South Carolina a woman allows two young children to be driven into a lake and drowned. In Florida two parents killed their 7-year-old daughter and left her in a closet for 4 days.

To those out there that have that type of mental illness, put your child up for adoption. Do not take that child's life. You know, children are being taken advantage of. Sexual abuse of our children, this has got to stop.

Members of Congress cannot legislate the protection of children, but neighbors have to be careful and watch out for those around them, the vulnerable children of our society that are falling prey to the sick individuals that would take their lives.

Reading the story of young Wolfie, I can only imagine the terror in his mind when his parents leave him in a mall and drive off in a car and they are found in a park in Maryland 3,000 miles away. Left in California, a 3-year-old child in a mall.

Many of you may have remembered the story of Adam Walsh, who was kidnaped from a mall in Florida, who was beheaded. They still do not have the killer. I understand they are pursuing somebody who may have been involved.

I think it is important that America wake up. The children are our future. When we talk about balanced budgets, we keep talking about children, saving the children's future, taking away the debt that is being piled on our children's future.

Madam Speaker and Members of this Congress, it is time to stop talking about the children in abstract and start talking about protecting their very precious lives, start talking about protecting children from the sick individuals that would destroy their futures and destroy their opportunities.

I ask God to bless the parents of children and, again I say to them, if you are not happy with your child, if you are not happy being parents, put your child up for adoption and let somebody love your child the way that they need to be loved to become responsible citizens.

Again, my hats are off to the dedicated employees of the House of Representatives who have endured many, many hours of debate and their willingness to put in that time to make America the great and strong Nation that it is.

WHY AMERICANS ARE ANGRY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Vermont [Mr. SANDERS] is recognized for 5 minutes.

Mr. SANDERS. Madam Speaker, I want to just briefly this afternoon touch on two issues: One, maybe offer some explanation as to why the American people are so angry. We keep reading in the media about the angry white male, but I think it is not only the angry white male. A whole lot of people of all colors and ages are angry, and also on the floor of this House we hear a lot about class struggle. Class struggle. Let me say a word about that also if I might.

Madam Speaker, I think that the average American is in fact angry, and I believe that that average American has every reason in the world to be angry. What concerns me is very often our anger is taken out against the wrong opponent. But let us focus on why we should be angry.

Madam Speaker, in 1973, the United States reached a high point of its economic life with regard to the wages and benefits that middle-income and working people reached. Since that time, approximately 80 pecent of the American working people have seen either a decline in their standard of living or economic stagnation. That means after 20 years of hard work, those people have gone nowhere economically.

Furthermore, what we are seeing is that the American worker, in order to compensate for the decline in his or her standard of living, is working longer hours. We are making lower wages. We are working longer hours. When you want to know why Americans are stressed out, why they are angry, why they are furious, we should understand that the average American today is working an extra 160 hours a year more in order to compensate for our falling standard of living.

Now, if middle-income people and middle-aged people should be worried, they are working longer hours, they are making less money, what about the younger people? And that is where the economy in the United States today looks extremely frightening.

The real wages of high school dropouts, that means people who did not graduate high school, plummeted 22 percent between 1973 and 1993.

For high school graduates who are entering into the job market, there has also been a precipitous decline in those wages. So what is going on is that as the standard of living of American workers declined in general, for the young workers it is becoming even worse.

But, Madam Speaker, we talk about increase in poverty in America, decline of the standard of living of American workers, the shrinking of the middle-class, the fact that 80 percent of our people are going nowhere economically except perhaps down. Is the economic crisis impacting all people? And the answer of course is no, it is not.

One of the very scary and unfair and unjust aspects of the American economy right now is that in many ways we are becoming two nations. The New York Times a few months ago reported that the wealthiest 1 percent of our population now owns 40 percent of the wealth of America. The richest 1 percent owns more wealth than the bottom 90 percent.

The gap between the rich and the poor is growing wider, and in fact it is today wider and we have a more unfair distribution of wealth than any other industrialized nation on Earth. For the richest people, these times are great times and we can understand why the columnists, who themselves make millions of dollars, or the owners of the TV stations are talking about a booming economy.

□ 1445

It is booming, if you are making a whole lot of money. It is not booming if you are a middle-income or working-class person.

What I am also concerned about is that the nature of the new jobs that are being created are not only low-wage jobs, they are often part-time jobs. What we are seeing now is a proliferation of part-time jobs because companies would rather pay two workers at 20 hours a week without benefits than one worker 40 hours a week with benefits.

I wonder how many Americans know who the largest private employer is right now. People say, "Well, maybe it is General Electric, maybe it is General Motors, IBM." Wrong. The largest private employer today is Manpower, Incorporated, which is a temporary agency.

Very briefly, let me make some recommendations as to what we might want to do to address this very serious economic problem. No. 1, we have got to raise the minimum wage. Workers in America cannot continue to work for $4.25 an hour. That is why so many of our working people are living in poverty.

No. 2, we need, in fact, a massive jobs training, jobs program, to rebuild this country. In my State of Vermont, all over America, there is an enormous amount of work to be done. Let us put people back to work at decent wages and rebuild this country.

A POSITIVE VIEW OF ROMANIA AND THE ROMANIANS

The SPEAKER pro tempore (Mrs. MORELLA). Under a previous order of the House, the gentleman from North Carolina [Mr. FUNDERBURK] is recognized for 5 minutes.

Mr. FUNDERBURK. Madam Speaker, while the Romanian Government has sometimes gotten bad press in the United States for its slow transition to democratic government and privatization, and its part-free elections and media—the Romanian people deserve recognition for their long suffering struggles and their contributions. This afternoon I want to give a tribute to the Romanian people.

There are over one million people from Romania living abroad in Western Europe, North and South America, and Australia/New Zealand. They have made a name for themselves in all fields with some winning Nobel prizes. One of my colleagues in this House, Congressman MARTIN HOKE, has a Romanian mother. Nearly half a million people originally from Romania settled in America, living in every State. One Romanian—Dr. Nicholas Dima—assisted me in preparing this historical sketch.[1] There are Romanian settlements in North Carolina and Romanian professionals living in Durham, Buies Creek, Roanoke Rapids and other towns in the 2d district. Duke University has a Duke in Romania program, and professors and students from Romania can be found at many of our universities. Many Tar Heels have happily adopted lovely Romanian babies.

All of us in the Western World owe a debt of gratitude to the people of Romania because they provided a buffer zone which helped protect civilized Europe from the barbarians. When marauding hordes from the east threatened Europe, it was Romanians who almost alone in southeast Europe defended the west during the Middle Ages. They thus helped insulate western European civilization from destruction.

There are some 25 million Romanians living mainly in present-day Romanian and in the neighboring Republic of Moldova, formerly Bessarabia. Descending from the Dacians, one of the most ancient peoples in Europe, the Romanians have their linguistic roots in Rome (hence the name Romania), have deep cultural affinities with the west, and an unshakable admiration for America.

The country fell under the influence of the Romans almost 2,000 years ago, and the Romans gave the local population a new language, culture, and identity. When Roman soldiers withdrew from Dacia in the 3d century, the inhabitants of the country remained and survived as farmers and shepherds especially in and around the Carpathian mountain arch.

While the culture and language tied the Romanians to the west, the location of their land and the adoption of the eastern orthodox church connected them to the east.

The results of Romania's unique location and history are rich traditions and a beautiful culture. The Romanians developed an exquisite folk art, a fascinating folk music, and became one of the friendliest and most hospitable peoples in Europe. Unfortunately, the geo-political location of Romania has caused a lot of suffering for the people.

The Hungarians came to central Europe during the ninth century. They settled in current-day Hungary and began to move eastward into Transylvania, considered the cradle of the Romanian nation, between the 11th and 13th centuries.

While most Transylvanian Romanians stayed in their ancestral land, others crossed the Carpathian mountains where they met their brethren and founded Wallachia to the south around the beginning of the 14th century, and Moldova to the east in the mid-14th century. During the middle ages, these two principalities became the most important Romanian cultural and political centers. And while Moldova fortified the Dniester River to defend the country against the Tartars, Wallachia fought many wars to defend itself against the Ottoman Turks. In the end, however, both principalities had to sign special treaties with the Turks and to pay them tribute to keep their integrity.

During the late 18th and 19th centuries Tsarist Russia began to expand toward the Balkans. Claiming to liberate the christians from the Turks, the Tsars were in fact aiming at Constantinople and the Mediterranean sea. After a war against Turkey, in 1812 Russia annexed the eastern half of Moldova, which later changed hands several times between Romania and Russia.

In 1859, Wallachia and Moldova united under the name of Romania, and the country became the magnet for all Romanians. During World War I, Romania sided with her traditional friends, and fought against the central powers. In 1918, Transylvania, which at the time was annexed by Hungary, North Moldova (Bukovina) which was under Austria, and eastern Moldova (Bessarabia) which under Russia, joined with Romania. At long last, Romania became a modern nation ready to claim its place in the new Europe.

During the interwar years, Romania tried to build democracy and to modernize its economy. Nevertheless, the ascent of communism and fascism put an end to stability and hopes for a better future all over Eastern Europe. In 1940, following the Nazi-Soviet Pact, the U.S.S.R. invaded Romania and annexed again Bessarabia and for the first time northern Bukovina. One year later, Romania joined Germany and attacked Russia to reclaim its land.

At the end of the war, Romania was occupied by the Soviet Union which brought about the darkest era in the entire history of the nation. Romania with fewer native Communists than other countries suffered more than almost any other country under the Communist yoke. The full story of the misery, gulags, death and damage done by communism has not yet been reported and exposed. And most of those responsible have not yet been held accountable. Mercifully, the worst of the Communist era ended in December 1989. Many changes have followed, some of them positive and hopeful. Nevertheless, the economic, moral and spiritual damage caused by communism was staggering and will probably haunt Romanians for generations. [Now that Ceausescu's communism is gone from Romania, the only Romance-language speaking Latin country in the world remaining with a Communist dictatorship is Cuba under Castro].

Things have not been very good in Romania since the 1989 demise of the evil Ceausescu regime. The old Communists are still in power under a different name, but the country has made efforts to befriend the United States and to rejoin the West.

As one who spent 6 years of his life in Romania, as a student, research professor, USIA guide and United States Ambassador, I am a friend of the freedom-loving people who is concerned about their fate and their country's relationship with the United States. It is time to support the people of Romania. We should assist the true democrats in their efforts to democratize and privatize the country and bring the country closer to the United States and West. Democracy, stability, and prosperity in Romania would also be in America's best interests. I wish the Romanian people well and thank them for their contributions to America. May God bless the Romanian people and may God bless America, as we enter Independence Day week.

HANOI VISIT CANCELED

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from California [Mr. DORNAN] is recognized for 60 minutes as the designee of the majority leader.

Mr. DORNAN. Madam Speaker, I come to the floor today under unprecedented circumstances. I had signed up for this special order earlier in the week, had moved to cancel it this morning, because at this moment I was supposed to be taking off from Andrews Air Force Base on a congressional delegation to Hanoi. It was a delegation led by minority Members in the other body, the U.S. Senate.

Any minute, a page, Madam Speaker, is going to bring out my passport stamped this morning with a visa by the Vietnamese section, we do not have diplomatic relations with Vietnam, with a visa to go to Hanoi on this trip. Across my visa, I have just been informed by one of my staffers who speaks Vietnamese is the word "canceled" and my visa was canceled by a telephone contact of a U.S. Senator, a minority Senator, who was elected to this House in 1974.

Now, I have the press waiting for me out on the grassy triangle following the press conference by the gentleman from New Jersey [Mr. SMITH] on abuses in Communist China. I hope it goes long enough that I can finish this special order and there will still be some press waiting.

Within a few feet of where the press conference will take place is my automobile with all of my bags in it. I packed five suits and enough clothing for 5 or 6 days in Vietnam, Hanoi. I had packed only one piece of reading, McNamara's disgraceful, evil book on Vietnam and how he knew before he even sent the first Marines in there that he had no plan or strategy for victory and would be squandering lives for whatever length of time it took, and it took 5 years under him and another 5 years before we had decided we were going to desert the democracy in South Vietnam.

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[1] One Romanian hero, Father Calciu, who spent 21 years in Communist prisons for his religious faith is here today.

Here is the press release which I will read, Madam Speaker, and that I am giving to the press in a few moments out in front: "For immediate release, June 30, 1995," precisely 20 years and 2 months since the Communist forces out of Hanoi conquered South Vietnam. We were unable to do for South Vietnam what we did for South Korea or France twice.

"Dornan denied visa for Vietnam. Washington, D.C. U.S. Rep. Robert K. Dornan, Republican, California, was denied a visa today by the Vietnamese Government after Senator," I am going to leave his name out at this moment, "instructed the Vietnamese to deny Dornan's visa, according to Vietnamese officials at the Vietnamese interest section in Washington, D.C."

I have just spoken to three eyewitnesses. One of them is an Air Force sergeant, an E-6, who was at the Embassy at 9 o'clock this morning until 11:30, when the Senator's call intervened, a minority Senator, and this majority chairman of the Subcommittee on Military Personnel had my visa canceled. "Dornan, chairman of the Committee on National Security Subcommittee on Military Personnel, conducted oversight hearings last Wednesday," 11 hours and 35 minutes of hearings, about a 30-year record, I understand, four different panels, brilliant testimony, "on the conditions that the Clinton Administration had set for normalizing political relations based upon resolving the remaining 2,202 cases of Americans still missing in Southeast Asia. Dornan had requested to participate in the minority Senator's led delegation, traveling to Vietnam over the July 4 recess, in order to gauge the level of Vietnamese cooperation and efforts to resolve the MIA issue, to investigate human rights abuses and the severe crackdowns on the advocates of democracy in now combined North and South Vietnam," all of it under communism, "and the crackdowns on religious leaders. During his Wednesday hearings, Congressman Dornan received testimony from U.S. Government officials, missing-in-action family members, former government investigators," and here is the passport, Madam Speaker. Thank you, Nathan, "and a former prisoner of war which cast doubts over administrative claims, Clinton administrative claims, of superb Vietnamese communist cooperation or unprecedented Vietnamese cooperation. U.S. Government officials from the Defense Department, from the U.S. State Department admitted to Congressman Dornan's committee that the Vietnamese were continuing to hold back key documents, key records and the remains of prisoners who are known to have died in captivity. The Senator who is leading a congressional delegation to Vietnam during the July 4, recess," now I am quoting from the Senator's own press release carried on the Associated Press wires at this moment, "to celebrate the 25th anniversary of this then-Hill staffer's efforts to expose the so-called tiger cages where Vietnam War," an old French prison out on an island in the mouth of the Saigon River, used extensively after Saigon fell, for the torture, death and abuse of people whom we had befriended and who had worked for us and trusted the world's leading democratic superpower that they would never be deserted.

They were put in these very small tiger cages years later. They are called tiger cages because they are below the ground, similar to French prisons all over their now-disappeared French colonial empire.

But, "On Friday, Vietnamese officials in Washington informed Dornan's office that the Senator," the minority Senator, "leading a single-party delegation now, because two staffers were also canceled off this trip." A senior staffer of the gentleman from New York [Mr. GILMAN] was denied his visa. Again, Vietnamese were forthcoming at the interference of the Senator's office, and a senior staffer of Colonel ROHRABACHER, a Marine major in the Reserve, who had been just recently put on Chairman GILMAN's staff, full chairman of International Relations, he was denied a visa. They had been going for a week. They are here on the Hill with their bags also.

I go to the back of the visa, I mean my passport, my official passport. Here is the visa, today's date, and stamped across it in three black blocks, the Vietnamese words for "canceled," Da Hue, "canceled," thanks to the U.S. Senator. That is what is unprecedented. Their cooperation is not unprecedented. This is an unprecedented act of treachery on this Hill. I have never heard of such a thing.

I would never deny the most liberal Member in this Chamber, even if I knew something about his personal conduct, I would not deny him coming on a balanced codel anywhere in the world at taxpayer expense.

Having given up my Fourth of July with my nine grandchildren, a tenth on the way, everybody that follows politics knows that I am running for the Presidency back in the pack.

☐ 1500

This was my first real trip to New Hampshire, and when relatives of POW's and missing in action begged me to go on this trip to Hanoi to give it balance, I talked to my wife, and she said, "Your job, my husband, is to be in Hanoi, to try and seek some honorable resolution to this, the most hurtful scandal in this Nation since the abuse of Union prisoners at Andersonville in the Civil War."

"This is an outrage," said DORNAN. Yes, it is an outrage all right. Who had been asked by veterans organizations, including the executive director of the American Legion telling me to go, Carol Hrdlicka, who I have known for 30 years. Her husband was my best friend in the Air Force. I checked him out in the F-100 Super Sabre. He was the first F-105 pilot shot down in Southeast Asia in Laos. He was only TDY from McConnell Air Force Base, KS. He was shot down on May 18, 30 years ago, last month. Carol begged me to go on this trip.

Victor Pockus' sister, Delores, begged me to go in testimony in front of my committee. "Why can't you, as a chairman, go on this Senate CODEL, Congressional delegation, to Hanoi? Please go." She stayed after the hearings imploring me to go.

I was rushing through visa status this morning, a visa for Garnett, William Bell, a retired full career airborne ranger, fluent in Vietnamese, that Lao language, the Thai language, who had been assigned to greet our POW's from captivity on the ramp at the airport in Hanoi when they were released. Every one of the four flights of—freedom-flights we call them—came home. Bill Bell was there in February and in March 1973.

Then years later, because of his intelligence knowledge and his language skills, he was the first chief of office in Hanoi throughout almost all of 1991, from its establishment date, through all of 1992, the missing in action and POW office in Hanoi, and the best, the most knowledgeable, chief that office has ever had.

He testified before. I asked him, "Please call your wife who happens to be Vietnamese down in Arkansas." This is a loyal son of Arkansas who wore his Nation's uniform as an expert for over 20 years.

He said, "My wife will understand. I'll have my baggage flown up here," and his visa was denied at the Vietnamese communist section in northwest Washington at the intervention of this same Senator's office.

I finish my press release saying:

I was asked by MIA families, Vietnamese-American constituents. I represent as many Vietnamese as anyone in this country. I used to represent more than anybody else, but, after the census I split them with the gentleman from California, DANA ROHRABACHER, who holds the seat to the west of mine. It was one of DANA ROHRABACHER's senior staffers, I repeat, a reserve marine major that was also denied a visa this morning, a few hours ago.

At this critical time, before this Congress, where we are debating normalizing relations, for this Senator to deny the chairman of the subcommittee of National Security and the chairman of an Intelligence subcommittee—I am one of only two double chairmen in the whole House, either party of course, and when I am responsible for the well-being of our service people, to deny me to opportunity to investigate the level of Vietnamese cooperation is certainly a slap in the face of all of the families of our missing in action.

DORNAN announced today that he is going to try to lead a delegation to Vietnam. Now he is going to put later in the week. It seems to be impossible. It is always up to the Vietnamese to do what they want with or without diplomatic recognition, so I will try and put something together in the August recess.

Now I want to tell my colleagues a story so that I can strictly follow House rules and not upset our three parliamentarians, honorable men, all of them; one of them an Air Force Academy graduate. I will refrain again from using the name of the said Senator, but here is the article from "Life" magazine where he violated House rules and used Government film, and I checked it again with an honorable Member, the minority, who is a two-star general in the reserve and who repeated his words to me of 20 years ago.

Should I have gotten in a fist fight with this hill staffer who was elected to Congress 2 years later to take back the Government film that he had shot with a Government camera and that he sold to "Life" magazine for about $25,000, funding his victorious Watergate baby face in 1974?

Here is the "Life" article, July 17, 1970. How they unearth the tiger cages. There is his rather handsome face, a ex-naval officer and, like me, a fighter pilot who straddled a J–57 Pratt-Whitney engine. Like me, because we are the exact same age, peacetime pilots. Eisenhower was our commander in chief when this Senator and I were on active duty, so we never were in combat, although I flew 14 missions as a journalist. He never flew one. But he told tall stories to Dave Broder. It is in Dave Broder's book that he flew combat patrols in Vietnam, and, when nailed for lying during his Presidential race at one point in history, he said all fighter pilots exaggerate and lie.

No, we do not.

So, here are the pictures, the infamous tiger cages in 1970. Looks like military barracks to me. All right; there is one of the below-ground prisons. You know what we held in there? Terrorists who had tried to kill the Secretary of State of the United States who had blown up a restaurant. Remember that cover of "Life" magazine? Everybody coming across the little gangway bridge to the Saigon River restaurant, blood dripping off them, looking for all the world like Oklahoma City. That was a bomb attempt to kill the Secretary of Defense of the United States. They caught the man who set that bomb. They executed him. Compatriots went to prison, and Jane Fonda named her son after the captured assassin who was executed, Troy, T-r-o-i. That is Jane Fonda's oldest son.

U.S. adviser, you have no right to interfere.

This was a big congressional delegation. Some of the Members whose predecessors were on this trip told me about them. Never a word by this member about the killing fields in Cambodia, 2 million people killed. Never a word about the 68,000 people who were executed by death lists. He probably does not believe it. Never a word about——

He is in the air right now, climbing out over Virginia, heading for Hickam Air Force Base, HI, and then Guam, and then into Hanoi, a total one-sided delegation with two key House staffers stripped of their visas and a chairman of a military personnel subcommittee. Unbelievable.

I will not put this in the RECORD because it may give the House a problem, but I sure want people to go to their local libraries and read this article of July 17, 1970.

Now, Madam Speaker and our excellent parliamentarians, let me use a Jonathan Swiftian style here. The canon of St. Patrick's Cathedral in Dublin, Ireland under an oppressive British Government, Protestant Irishman who wrote "Gulliver's Travels" and always used metaphors in a stylized way of getting his political points across, one of the modern fathers of political satire, and a Swiftian style that was used very well by CYNTHIA MCKINNEY of Georgia, one of our more eloquent lady Members, or Members of either gender, she quoted "Animal Farm" once to get at our Speaker's lucrative prior book contract before he very honorably, because he is an honorable man, canceled it all for a dollar.

But I told CYNTHIA, "Very clever to use 'Animal Farm' to describe this place so the parliamentarians couldn't gavel her down as Mrs. MEEK'S, CARRIE MEEK'S, had been gaveled down a few days before."

So in the style of Jonathan Swift of the 1700's and in the style of Mrs. MCKINNEY of Georgia, let me use a series of supposes:

Suppose you had a House Member who came using money from "Life" magazine to this Chamber by selling Government-owned film because a senior Member and a hero of the crusade in Europe under General Eisenhower was not willing to get in a fist fight with him to get the film back; suppose that Member came here and was a key man to cut off not only military aid to the struggling—flawed, yes, but not as flawed as the Communist government. When I left Saigon in August 1972, there were 44 newspapers. To this day there is only one Communist paper. That is what happens when Communists win.

Oh, to be sure, there was corruption, as we have had corruption in our Government here from the Teapot Dome scandal, to Watergate, to Whitewater. We have had scandals in our governments here in this country. It is hard for us to point fingers at emerging democracies given our background of slavery.

So, this new Member—suppose a new Member came here and worked to cut off the economic aid with a Senator from California who is long gone, who left in a cloud of controversy and scandal, corrupting money and politics. Suppose this Member cut off all aid and cheered when, quote, Saigon fell, unquote.

Suppose when I got here 2 years later I came to this very lectern and talked about an honorable retired Marine who worked for the CIA who was caught in Saigon April 30, 1975, was taken to the Saigon jail and tortured for a year.

I went to his funeral in Arlington when his remains were returned. His name was Tucker Gugerman.

Suppose I came to this well, did a tribute to Tucker Gugerman and talked about how there was a live American in Saigon prison when they were—when they were shutting down—when they were shutting down the POW–MIA committee with a half a million dollar budget—shut down in December 1976. This man was being tortured to death, his screams could be heard all throughout Saigon jail, and I told his story here.

I went to Hawaii in middle 1977, my freshman year, with Congressman "SONNY" MONTGOMERY. We picked up the first small boxes of our heroes' remains, watched these boxes opened up at the central investigative laboratory on the western edge of Hickam Air Force Base. I watched Tucker Gugerman's box opened up, CIA, ex-U.S. Marine. It has not been touched. He had not even unpacked. Yes, he went back to get his fiancee out. He was already home free in Bangkok, and here was $265 and some change. I remember that figure. Here was his trench coat fresh from the cleaners, all of his civilian clothes all pressed neatly, all kept in a box with his bones. When his bones were analyzed, the signs of torture were so bad that some of the bones were damaged. It is hard to tell when the flesh has been tortured and you have been tortured to death if the bones are not broken.

And I came to the well and told that story, and suppose a U.S. Congressman who had been a naval officer rushed to that lectern and said in so many words he got what he deserved because he went back chasing a girlfriend. That is why he went back into Saigon after the Communists take over.

And suppose I had a confrontation at that desk right there and said, "Your naval officers' white uniform is covered with the blood of these MIA's."

Suppose that man had been on that 10-member select committee that turned back over $200,000 and shut down in December 1976, 3 weeks before I raised my hand at that desk and took the oath of office planning on doing something to the best of my ability to find out why we left live Americans behind in Laos?

Suppose during the Sandinista debate the Communist Sandinistas, who were running 16 concentration camps—suppose a Member came to that lectern and said the Communist Sandinistas—he would not have called them Communists—were the moral equivalent of the Boy Scouts of America and then would begin to rattle off the Boy Scout attributes: kind, obedient, gentle, trustworthy, and then his memory broke down and he could not remember the other attributes of a Boy Scout.

Suppose I, together with DAN BURTON, caught a Congressman down in Nicaragua who had an Air Force airplane at your tax expense, all by himself with an Air Force crew of three, a C–121 Learjet, all by himself, and was going in to meet with the Ortega brothers, and suppose I were to tell you that DAN BURTON of Indiana said, taking the Lord's name in vain understandably, you are not going into that blankeddy-blank place without Congressman DORNAN and Me, or I am going back to the States, and having a press conference, telling the world that you are licking the boots of these communist killers down here.

And suppose this congressman said, "All right," by then a Senator—"all right, you can come with us." and then told the Vietnamese—excuse me, Freudian, told the Nicaraguan Communists, "Don't let Congressman DORNAN and Congressman BURTON come into our briefing. You deny them, and I will pretend I want them in."

And then suppose I told you that a Communist official with no accent, bilingual, raised in San Francisco, named Robert Vargas, came out and told me, "We wanted you to come in. It was the Senator who didn't want to let you guys in there. We don't care if you come in. It's always your Members who come in and tell us to block the State Department people."

And suppose I told you that our intelligence people were able to listen to conversations inside the Communist headquarters in Nicaragua, and suppose I were to tell you, Madam Speaker and Mr. Parliamentarians, that I have read the transcripts of what some sitting Members here and this former Member now—supposedly a Senator talked over with Daniel Ortega and Humberto Ortega, who were running 16 reeducation camps, euphemism for concentration camps.

□ 1515

Suppose I told you I read those transcripts and suppose I told you that if we had had a declared war in Central America, which we did not, which we did not in Korea and did not in Vietnam, that it would have constituted high treason.

Suppose I told you that a former Member on this side who became a Secretary of Defense and a former Member on this side who is now chairman of one of our most important, key committees here filed charges to investigate violation of security oaths by some of the highest ranking people in this place down to some other people who had been here and were serving in other bodies.

Suppose I told you there has been a pattern of such treachery by some Members here that three Members of the minority party this morning in this aisle, in those seats on this side of this aisle told me that this Member was flat out a pro-Communist Marxist and the best thing that ever happened to this Chamber was that he is gone from here.

Suppose I told you that that was the truth and I was willing to polygraph on it.

Suppose I told you that you taxpayers and you, too, Madam Speaker and the parliamentarians who all pay taxes, suppose I told you that on the Fourth of July that I was willing to give up there is going to be drinking and embracing and celebrating of the Communist victory over poor pathetic South Vietnam, 68,000 people executed, some of them for only typing on American GSA-supplied typewriters and believing in us.

Suppose I told you that there is going to be a celebration in Saigon, and it will be Saigon some day again, just like Leningrad is St. Petersburg and Stalingrad is Volgagrad, some day it will be Saigon again, it will not be Ho Chi Minh City forever, as soon as the bamboo wall falls like the Berlin wall in North Korea, the palm-covered prison of Cuba goes free, some day China will go free, thanks to the efforts of people here like NANCY PELOSI, we will see these remaining four Communist countries in our lifetime, shortly now, within 10 or 15 years, they will all be free. You cannot stop democracy now and liberty, it is on the rise.

Suppose I told you everything that I have just said is true and that there is such a Member, that his own colleagues call him Marxist. And suppose I told you at taxpayers' expense, with honorable Air Force officers and enlisted men carrying luggage, is going to celebrate meeting with General Giap and with the so-called liberated prisoners from the tiger cages with much drinking and celebrating and hugging. That is like Tom Hayden and Jane Fonda arriving at the airport during the war. Again, if there was a declaration of war, do you think she would not have been tried for treason? What does constitute aid to the enemy? Comfort to the enemy? What is an enemy without a declared war? What is aid and comfort to the enemy? Is it leading a demonstration in a foreign country? Is it traveling to a so-called peace banquet in Moscow at the height of the war during one of the bloodiest periods of the war? Is it what McNamara did, resigning on leap year day, February 29, 1968, the single bloodiest month of the entire conflict? Does that constitute treason to say you are killing thousands of Americans and it just was not worth it and then to have other people say they were vindicated by this poisonous book that has ripped open the hearts and the memories of mothers and fathers now in their 70's and 80's and widows who have never remarried and children who are now in their 30's that were little 8-year-old children when the war ended, like Colleen Shine who testified so heartbreakingly in front of my committee on Wednesday?

My colleagues, obviously everything I am telling you is not McKinneyish; it is not Jonathan Swiftian. It is fact. I feel like Mount Saint Helens on May 17, 1980, the day before the big explosion.

I am going to get justice here. I am going to get justice for all the Vietnamese who were tortured to death in those so-called reeducation concentration camps. I am not going to forget our noble cause, as Ronald Reagan called it, to keep South Vietnam as free as South Korea, flawed but much better than a Communist tyranny.

I got an urgent release that the press conference has started without me out on the grassy triangle. I want to close by thanking the staff again. I have done this as much as anybody I guess, but you folks are the greatest to stay all night and take us through 38 votes in 3 days, amazing. It will be back to this well. I am going to seek justice.

I will tell you this: This ex-member here, now a Senator, is from a Bible Belt State. The first State through a caucus probably that will probably pick the next President of the United States. I am back in the pack. I know who will win in Iowa on Lincoln's birthday in 1996, this coming February.

I will tell you, if you are from Iowa, you know most of this material. I cannot believe what you have sent to represent your country. I hope you enjoy your Fourth of July in Iowa and New Hampshire, because you are going to have U.S. Senators and, God forbid, the three House Members from the minority, one of them a distinguished Army captain from the D-Day period. I hope they are not toasting the terrorists and the Communist victors who brought such human rights abuse and grief to all of Southeast Asia, including Cambodia and Laos. Including Laos, where I swear to you on my honor we left live Americans behind. Three by name: Gene DeBruin, CIA; my best friend, David Hrdlicka, U.S. Air Force; Charlie

Shelton, shot down on his 33d birthday, April 29, 1965, a prisoner of war, so declared until a few months ago, last prisoner of war, prisoner of war moved to presumptive finding of death without a shred of evidence. I guess I will go to my grave and, if I live as long as my father at 84, that is going to be 22 more years of trying to find justice for what we tried to do in Vietnam.

I tell you now that Adm. Tom Moore is correct when he called Robert Strange McNamara a war criminal. I do not have to treat him with kid gloves, because he has never been elected to anything in his life and is not a member of this or the other body or ever has been.

I tell you that the greatest military writer extant today, Col. Harry Summers is correct when he called Robert Strange McNamara "raw evil." The only person, with all the mistakes, he even criticized the great West Pointer General Westmoreland, but he said they all made mistakes of judgment. He said McNamara was raw evil.

When a commander in chief, who avoided the draft three times, I am not using the word "dodged" although that is in my heart, who avoided the draft three times and had his draft induction day, July 28, 1969, politically suppressed, when a person like that who loses 19 rangers in Somalia without their gunships or one lousy tank, when he had four tanks at Waco, two Abrams, two Bradleys, when a person like that says he is vindicated by a war criminal, what does that make that person?

I am going to go over with the parliamentarians how I can recoup my honor from January 25 of this year, when I used the expression "aid and comfort to the enemy." I know it is in the Constitution. I know there is a technicality when war is not declared. But I am going to discuss every dictionary definition, British and American, of aid, of comfort and of what constitutes an enemy.

I will be back to relive that moment. And if the parliamentarians, who we were nice enough to hold over from the Democratic 40 years, rule against me, I will appeal the ruling of the Chair. And if I do not win a vote from my side of the Chamber, the majority, as a double chairman, I will resign from this Congress on the spot, if I do not win a vote from my own colleagues on appealing the ruling of the Chair.

When I tell you that Clinton gave aid and comfort to the enemy in Hanoi by his Moscow trip and his demonstrations in London, where they were called the fall offensive, so named by the same Communists in Hanoi that will be toasting Americans today——

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mrs. MORELLA). The Chair would caution the Member to be very cautious of any statements about the President of the United States.

Mr. DORNAN. Thank you, Madam Speaker. I know I am pushing the envelope, but then I used to fly supersonically. I will revisit this floor.

The SPEAKER pro tempore. The Chair would like to also point out for the RECORD something that the Representative does know, just to remind him, that personal references to Members of the other body, even though not mentioned by name, when it is very clear to whom the references are made, should be avoided, and this is something that had been mentioned on February 23, 1994, by the Chair.

ASSAULT ON THE VOTING RIGHTS ACT

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from New York [Mr. OWENS] is recognized for 60 minutes as the designee of the minority leader.

Mr. OWENS. Madam Speaker, yesterday the Supreme Court began the process of dismantling the Voting Rights Act. I think it is very important to note, however, that in that process it was a 5-to-4 decision. All hope is not lost. Since it was a 5-to-4 decision, I urge all Americans to take a close look at the issue from the point of view of Justice Ruth Bader Ginsburg, who offered a brilliant dissent from the majority opinion.

It is very important that we understand what Ginsburg is saying. The hope for the future lies in the following of the line of reasoning laid down by Justice Ginsburg. This decision will not stand like many other misguided Supreme Court decisions. One day we expect it to be overturned. But it is here now. It is most unfortunate. It is a very serious matter at this point.

Even with the decision of yesterday still alone, it would be a serious matter because, after all, it goes to the heart of the civil rights progress over the last 20 years. It deals with voting. It deals with representation. The Voting Rights Act has been a huge success. The Voting Rights Act by any measure has been a huge success all over the Nation at every level, whether you are talking about municipal offices or State offices, school boards, certainly at the level of Congress, representation under the Voting Rights Act has greatly increased for people of African descent, for people of Latino descent and for some other minorities also.

It has been a great success in the Congress. We now have 40 persons of African descent. If we had a numerical formula of the 435 people in Congress, if you had a numerical formula that every group should be represented in proportion to its size in the population, and we do not have such a formula, I am not asking for such a formula, but if you had such a formula, the African American population is approximately 13 percent of the 260 million Americans; 33 million people. So the 13 percent would not be, if you had 13 percent, you would have a little more than 40. Ten percent would give you 43, of course; maybe 44, but 40 is pretty close. The act has accomplished its purpose. It goes a long way in the direction of accomplishing its purpose toward giving representation which reflects the population.

So it is a serious matter to begin to roll this act backwards. Yesterday, of course, it should be remembered, the Supreme Court did not throw out the Voting Rights Act. The Voting Rights Act is not nullified. The Voting Rights Act has not been declared unconstitutional. The Voting Rights Act has been merely handicapped, strangled a little bit; the process of strangling has begun. But it is not dead. It is not destroyed.

I will talk more about that in a few minutes. If the decision with respect to the Voting Rights Act had come along, it would be serious enough, but the Supreme Court also moved on matters related to race and civil rights in this particular session to strike down the setaside contracts that the Federal Government has sponsored in the Adarand decision. The Supreme Court also backed away from school integration in a case that was also passed on.

□ 1530

The direction is to declare that the 14th amendment, the 14th amendment is for the purpose of establishing a color blind society. The 14th amendment may have that as one of its purposes, but the 14th amendment first of all, most important of all, is an amendment which was designed to bring the newly freed slaves into the mainstream of American society legally.

The 14th amendment was developed at the end of the Civil War, after the Emancipation Proclamation. There is no question, it is very crystal clear what the first intent of the 14th amendment was. The first and the most important intent of the 14th amendment was to deal with the fact that legal status as citizens must be assigned and given to the newly freed slaves. That was the one clear intent from the very beginning.

If we expand that to cover other minorities, if we expand that to cover other groups that are discriminated against, there is nothing wrong with that, of course. Interpretation can be so much broader. However, the first and most important purpose of the 14th amendment was to make it clear once and for all, in the Constitution of America, that all of the ex-slaves were to be considered as full citizens of the United States of America.

What was the history of the Constitution before the 14th amendment? Before the 14th amendment, the Constitution was not silent on slavery. The

Constitution was not silent on slavery. Unfortunately, the Constitution stated earlier that in counting for representation in the House of Representatives, slaves in the States would be considered three-fifths of a man, male slaves, of course, would be considered three-fifths of a man. After all, women did not have the right to vote, whether they were free or slave. Each male slave would be considered three-fifths of a man. That is in the Constitution.

The Constitution spoke again in the 14th amendment and made it clear that nobody should be considered anything other than a full-fledged citizen. It was done by the same people who had fought slavery. The spirit of the abolitionist was on the floor of the House of Representatives, so it is crystal clear what the first and most important intent of the 14th amendment was. The misinterpretation of the 14th amendment is at the heart of what went wrong with the Supreme Court. Justice Ginsberg clearly understands that. The other Justices choose not to understand it.

Mr. Speaker, I have been on the floor before and I have talked about the need for a truth commission. The whole dark period of slavery in the history of America has been pretty much ignored. In the textbooks, nobody wants to talk about such unpleasant things. However, slavery existed in the United States of America for 232 years. People chose to call slavery the peculiar institution. It was not an institution. Slavery was a criminal industry. Slavery was a criminal industry. Slavery was designed to exact as much labor from human beings as possible.

Some people have compared 232 years of slavery with the holocaust perpetrated by Hitler. I do not think that is an appropriate comparison. We do not need to borrow words like that. We are to give a clear designation to what happened in slavery. Slavery was an attempt to obliterate, obliterate the soul and the humanity of the African-Americans who were transported here against their will. They wanted to obliterate their souls, they wanted to obliterate their humanity, in order to make them more efficient beasts of burden, in order to make them work better, harder, and derive more profits from their work. That is what slavery was all about.

I think we need a truth commission to make the story of slavery known to all Americans. We have glossed over it. We cannot have a Nation exist in a healthy state that chooses to ignore a segment of its history that went on for 232 years. Unless we come to grips with recognizing what slavery was all about, we are always going to be making the kinds of mistakes that the Supreme Court makes in its interpretation of the 14th amendment. We need a truth commission. South Africa has a truth commission that is set up. In Haiti they are talking about setting up a truth commission.

Horrible things happened in South Africa. South Africa was a situation where the minority population, minority white population, almost enslaved but later on forced into second class citizenship the majority black population, so South Africa, in order to move ahead, in order to progress, refused to try to punish the people who were responsible for the crimes during the era of apartheid. Instead of trying to punish them, they are trying to seek reconciliation. The process of reconciliation is being driven by a truth commission.

They said, "We cannot punish everybody. If we tried to punish everybody, we would probably end up devoting resources that would be badly needed to build the country." If we tried to punish everybody, we would probably inflame situations among groups and individuals which would only lead to more violence. It would only make it more difficult for the country to come together, so we do not want to try to punish. We do not want justice. We cannot afford justice.

What the South Africans have said is that reconciliation is more important than justice. They have gone forward. However, they said we do want the truth known. We are not going to go forward as a nation unless we have a commission that goes back and examines the crimes that were committed, and tells the story. They will name names, but nobody named, nobody found in the telling of the story to be guilty of a crime, will be punished, no matter how heinous the crime is. If it took place during the period before the new constitution came into effect, they will not punish anybody. They have decided that vengeance belongs to God. Probably only God is powerful enough to really take vengeance. It would destroy their nation if they sought justice. Reconciliation becomes more important than justice in South Africa.

The same pattern has been reproduced in Haiti. The Haitians have decided they do not have enough jails, they do not have enough courts. They cannot pursue the people responsible for 5,000 murders over the last 3 years. They cannot pursue, except to a limited extent, the people who perpetrated the crimes that were so heinous during the period of time that Jean-Bertrand Aristide was kicked out of Haiti and had to remain in exile here in the United States. They do not want to destroy their nation by using their resources to seek justice. They do not have the capacity to seek justice. They chose reconciliation, instead, because it is the only positive way to go.

However, they wanted a truth commission. They want the story told. They want it known who did these terrible deeds, who was responsible for those awful murders and mutilations. They want this truth to be known. They will not punish anybody, but they want the truth to be known.

The United States of America needs a truth commission about slavery, about slavery and the implications of slavery for the African-American population of this Nation. The truth should be told; a full commission to look at the whole 232 years, and also to examine the 100 years after the 232 years, where slavery was followed by an oppressive effort to keep the descendants of the slaves from enjoying full citizenship; the lynchings, the murders, the systematic denial of due process.

There were laws on the books which denied the right to vote. There were laws on the books which made it clear that they did not want African-Americans to have the right to have a trade, to be able to earn a living as a carpenter, as a contractor, as a person who had a trade that they could use. They could not get licenses. They had to work for somebody else. On and on it goes. It all needs to be examined. When we are talking about affirmative action and voting rights and the necessity for special situations, we need to know the background. We need a truth commission that establishes that.

The consequences of the Supreme Court's misguided decision are great, as I said before. The Supreme Court, on the surface it sounds like common sense, of course, would dictate that, of course, America is a color blind society, and the 14th amendment for equal protection would tell you that nobody, nobody should be given any special consideration.

Common sense dictated the Dred Scott decision. Common sense dictated the Plessy versus Ferguson decision, which said separate but equal schools is all you need to guarantee that there is equal protection. The Plessy versus Ferguson decision endured for many years before common sense was subordinated to an interpretation of the law which clearly established the fact that you cannot have separate but equal. The very fact that they are separate means one of the two parties will not be equal. Therefore, the common sense that appears to be so obvious to certain commentators on the radio, on television, it is obvious that they could reach no other conclusion. Common sense.

Read Justice Ginsburg's decision and learn about common sense as interpreted by another scholar, by another person who is on the Supreme Court. You will find common sense is not so obvious. There are consequences that are immediate for the African-American community. The consequences are great, indeed.

The consequences of this decision by the Supreme Court mean there will be litigation. Already a district has been challenged in New York State, in New York City. The gentlewoman from New

York City, New York, NYDIA VELÁZQUEZ, her district is being challenged, and of course there will be litigation connected with that.

If any district in any part of the country is ordered to redraw its lines, of course it affects all the other districts that are nearby, so in Georgia, you will have all the districts in Georgia affected by the decision yesterday with respect to the 11th Congressional District in Georgia. In New York, if any one of the districts in downstate New York are affected, all of the districts will be impacted. They have to be redrawn.

The consequences will be great. The consequences will be great in terms of political terms, partisan political terms, because it allows a situation for a great deal of mischief. The Supreme Court has said that politics is war without blood. If politics is war without blood, then no general will pass up an opportunity to take advantage of whatever situation opens up, so the generals in the Republican Party will take advantage.

All kinds of things are about to happen in the African-American community. We have always enjoyed certain kinds of privileges in terms of certain groups have never been very popular. The public has never supported certain parties. Therefore, you can expect that people who think one way will not declare themselves to belong to a certain party, or they will not declare themselves to be conservative or to be in favor of certain kinds of policies which are detrimental to the masses of people that they represent in a given congressional district.

We can expect more subterfuge. We can expect Edridge Ames types in the political arena, pretending that they are in favor of certain kinds of policies, but using the unsettled situation to take advantage of it, and running candidates in the primary as well as in the general election; all kinds of scenarios will be unleashed as a result of this tampering with the Voting Rights Act.

There is a great challenge to the black leadership that is being set forth here. The Voting Rights Act brings it home, makes it crystal clear, that there is a state of emergency in the black community. In the African-American community there is a state of emergency. I have said this several times before on the floor of this House. The state of emergency now should be clear to everybody everywhere in the African-American community.

The state of emergency relates to the attack on affirmative action, the attack on the Voting Rights Act, the attack on school integration. Those are minor compared to the attack on the poor population of the African-American communities. African-Americans still are predominantly poor. Sixty percent of African-Americans in the United States of America could be classified as poor.

There is another marginal group that if they miss one paycheck at their job, they will fall into the poverty category, also, so poverty and the consequences of poverty are experienced regularly by an African-American community that came out of slavery after 232 years of slavery, and found no help, no Marshall Plan. The Freedmen's Bureau that was set up was a tiny little operation for a few years, but no effort was made to help millions of people in a transition from slavery to full citizenship, so the consequences of that have come down from one generation to another. It is not surprising that they are poor.

The economic consequences have generated other problems. When people have decent incomes, they can take care of most of their own problems. When people have decent incomes they do not need welfare, public housing. When people have decent incomes, they can take care of their family problems to a greater degree.

Every family has problems: middle class, the rich, working class, poor. Everybody has problems. However, what gives the middle class and the rich great advantages is they have money that can help to deal with their problems, and they do not have to have their problems become public, a public consideration.

The black community does not have that. Large amounts, the great, predominant percentage of the African-American community are poor. There is a book that was written in the 1930's called Black Bourgeoisie, by E. Franklin Frazer. For many years this was a textbook for black college students and black leaders. Everybody had to read it, the Black Bourgeoisie. It was a scathing criticism of the mores and values of the emerging black middle class. It talked about how they were preoccupied totally with themselves, preoccupied totally with their own concerns, and they engaged in activities which were unproductive. They spent large amounts of money on consumer products in an attempt to demonstrate that they were affluent.

A number of criticisms were made, and sometimes, perhaps, maybe they were too harsh. The black bourgeoisie emerging out of the 1930's needs to be congratulated. Things were so difficult, there were so many obstacles and so many rules. You could not become, as I said before, an electrician, a plasterer. You could not be a contractor. Those people who were able to make some headway against all the oppression and all the roadblocks, they deserve credit for being able to economically improve themselves, no matter what problems they had.

□ 1545

If they were not generous and they were not magnanimous in reaching out to their communities and providing leadership, then they can be forgiven to some degree.

There was a new effort that started with Martin Luther King, however. In the 1960's, the middle class provided the leadership which reached out to the masses of African-Americans and said, "We are all in this boat together, we all have these problems, and we are going to join to wage an assault to obtain our civil rights."

The spirit of the 1960's and the spirit of Martin Luther King that went forward was a spirit that was cradled, nurtured by the black middle class, the African-American middle class, the so-called black bourgeoisie, you might say, if you want to stay with the terminology of E. Franklin Frazier. That black bourgeoisie provided magnanimous, generous, courageous leadership in the fight to get the Voting Rights Act, to get the school integration, to end employment discrimination, to get affirmative action. They are to be applauded.

They came in large numbers to the Congress. It was clear that the congresspeople who came here and were parts of the Black Caucus were graduates from a movement that cared about the majority of African-Americans.

The danger with this present situation, one of the dangers that we will have to deal with is the fact that there will be Benedict Armolds in great numbers. There will be large numbers of people who will masquerade as being concerned about the masses, but they will take advantage of the situation.

We may have an elected black bourgeoisie that cares only about itself, only about the deals that they can make, only about their own status, and deceives the great masses. We have a possibility of large numbers of Judas men and Judas women, betraying, deceiving. That is one of the consequences of the process that has been set in motion, the domino, rolling, in respect to the Voting Rights Act, an unsettling number of situations, making it possible for opportunists to come in.

Let me go back to the very beginning, the Supreme Court decision that set in motion all of this. I said the Supreme Court decision began the process of dismantling the Voting Rights Act. It was a continuum of an assault on civil rights legislation, civil rights laws. By itself it is dangerous enough, but in that context it is even more dangerous.

We should think very seriously about what is taking place. I think God must spend many days weeping when He observes the United States of America. God must spend many days weeping when He observes that He has given so much to this land of plenty, beautiful and spacious skies, law and order for long periods of time, no great war to devastate our cities and destroy our countryside, prosperty.

We are the richest Nation that ever existed on the face of the Earth, and the riches have not ceased. Profits are being made on Wall Street, profits are being made by corporations at a greater rate than ever before. People with jobs and wage earners are not benefiting from that. There is no correlation anymore, no association between the profits made by corporations and the welfare benefits received by the working people of America.

They are downsizing and taking away jobs at the same time they are making big profits. Automation, computerization, a number of things allow them to make big profits, increase their investments, increase their activities, produce more products, while at the same time they reduce the number of jobs.

There is a problem there, but in general this is still the richest Nation in the history of the world. The Fortune 500 corporations, most of them have budgets greater than most of the nations of the world. Unparalleled wealth. Never before did such wealth exist.

God must spend a lot of time weeping when He looks at all of this that He has bestowed on the United States Of America and then look at the pettiness that is driving many of our political activities, the pettiness which makes affirmative action a critical problem. Affirmative action is not a critical problem.

Affirmative actions has not resulted in any great movement of African-Americans anywhere. They are not in large numbers in the boardrooms of corporations. They are not in large numbers, I assure you, in the top executive suites. They are not in large numbers, or any credible number, in the management structures after all these years of affirmative action, less than 30 years of affirmative action.

When you look at the statistics, it is appalling how little has been accomplished for the people who were supposed to be the first beneficiaries. Going back again to the first intent of the 14th amendment, the first affirmative action programs were designed and fashioned to deal with the descendants of slaves, to deal with the situation of righting past wrongs. But what has been accomplished? There has been no great move forward.

Consider the shoeshine boys when you go through the airports and places where people are prosperous and they pay a lot for a shoeshine. There was a time when a shoeshine boy was a stereotype and people though most of the shoeshine boys in the country were black, black men, black boys. The shoeshine boy was a subject of humor or subject of ridicule.

But when you travel from now on, look at the shoeshine attendants in the airports. When you go to a fancy club where they are paying $3 for a regular shine and $5 for an executive shine, which means if you can do 4 shines per hour, for $3 a shine, you can make $12 an hour; for $5 a shine, you can make $20 an hour. That is not a bad pay.

When it was 35 cents per shine and 5 cents per shine and even $1 a shine, most of the shine boys and the shine men were African-American, people of African descent. But if you look now, do your own survey and you will see that not only have we not made it to the boardrooms of corporations, not only have African-Americans not made it to the executive suites, not only have African-Americans not made it to middle management, but they are declining even in the area of the shoeshine industry, because as the benefits of the industry go up, the wages go up, other people have displaced the African-Americans.

Take a look for yourself and you will see a most interesting phenomenon. If you look at waiters in hotels, it used to be predominantly expected, especially in the South, the waiters were predominantly African-American waiters, but as the standard of living has risen and the wages of the waiters have risen, you find fewer and fewer African-American waiters in the hotels.

Not only are we not in the boardrooms and the executive suites, we have not held on to the waiting jobs, waiting tables in hotels and restaurants. Take a look for yourself. Do your own survey.

Unfortunately, ladies and gentlemen, even in the professions where the black middle class has striven so consciously to try to move, there was a time when 5 percent of the teachers in America were black, were African-Americans. The percentage of teachers who are African-American has gone down. The percentage of law enforcement personnel, policemen, who are African-American has gone down. The percentage of doctors who are African-American has gone down in the last 20 years.

Not only is affirmative action not succeeding in the industrial sector, in the corporate sector, in the areas that were targeted, overall black employment, blacks climbing up the ladder in terms of wealth, in terms of responsibility in industry or in academia, it has decreased and declined.

God must be very upset and spend a lot of days weeping when He looks at so little having been done for those who need help most, and sees the outrage, and the amount of energy and effort being poured into criticism of affirmative action and criticism of those tiny, very tiny gains that have been made. As I said before, many of the gains have turned into losses.

God must spend a lot of days weeping when He sees that so much has been given to the United States of America and they behave in such petty ways. We have a history of being a country that I am sure God must appreciate a great deal and the world must appreciate a great deal.

We have been celebrating 50 years after World War II. As I watch the documentaries and get educated in greater detail than ever before about what went on in World War II, I am sure the whole world applauds the courage and the generosity, the lack of selfishness of Americans the men who died in Normandy on D-Day or the men who stormed Iwo Jima; Okinawa. All of that kind of courage and that kind of going forward to save the world from totalitarianism and Naziism and tyranny, I am sure God must applaud a great deal.

But here we are at a point where peace reigns basically, and instead of moving on to build a new society, a society where the wealth of this great Nation can be shared, where the wealth can be used to take care of the needs of everybody, instead of moving in that direction, we have chosen to move in the opposite direction and to hunker down and begin to hoard the benefits and hoard the wealth, and begin to throw overboard a certain segment of society and say, "We don't care what happens to them. We don't really care."

As I said before, God must spend a lot of days looking at all this and be very upset that we are so petty and moving in such a negative direction so rapidly.

But all hope is not lost, because there are great things happening all over the world. The accumulation of all these great things may begin to have an impact on what is happening here in this country.

Even in this country, the Southern Baptist Church last week apologized for their position on slavery, the Southern Baptist Church, which was created as a result of a schism at the time of the Civil War. The big issue in the Southern Baptist Church was that they wanted to label African-Americans, Negroes, as being less than human and not worthy of God's blessings, that they were not to be considered in the Christian church as equals.

They apologized. The Southern Baptists apologized. They voted, large number of delegates, to apologize and to take note of the fact that the evils that were generated by slavery still exist and they must work to eradicate them. The Southern Baptists did that.

Some people say, well, their membership is declining. There is some ulterior motive. I do not care. They did it. For one glorious moment, they rose to the occasion and they admitted that they wanted to tell the truth, they wanted to be a part of the truth, they wanted to get away from the doctrine of obliteration. The doctrine of obliteration said that the African-American, the African transported here, was not a human being, and therefore they could be made beasts of burden, more efficient beasts of burden, by treating them like beasts. The Southern Baptists represent just one of those many areas where there is hope.

There is hope in the Supreme Court, too, when Ruth Bader Ginsburg writes the decision of the kind that she wrote. Justice Ginsburg took just the opposite approach of Justice Kennedy, who wrote the decision for the majority. Justice Kennedy based his ruling on the Shaw versus Reno case. I think the majority opinion for that was written by Justice O'Connor, with Justice Clarence Thomas, of course, supporting it in great measure.

Justice Ginsburg says that it is not common sense. It is not obvious to her, as the law is made and the intent of the constitutional amendment is examined, it is not at all clear to her that the 14th amendment is primarily concerned with being colorblind and not concerned with remedying past wrongs, which the full legal integration of the African-Americans, the former salves and their descendants into American life.

Let me must read a few excerpts from Justice Ginsburg's dissenting opinion. As you know, it was a 5-4 decision, and Justice Ginsburg was joined in her dissent by Justices Stevens, Bryant and Souter.

> Legislative districting is highly political business. This Court has generally respected the competence of state legislatures to attend to the task. When race is the issue, however, we have recognized the need for judicial intervention to prevent dilution of minority voting strength.

□ 1600

> Generations of white discrimination against African-Americans as citizens and voters account for that surveillance.

In other words, what she is saying is that we have generally kept our hands off, the judiciary has kept its hands off the reapportionment process.

There was a series of cases that established clearly that it was better to leave it to the State legislature and the only regular, systematic intervention of the courts came with the Voting Rights Act for the purpose of dealing with the problem of giving African-Americans their full voting rights and avoiding the dilution of the voting strength of minorities.

I go back to Justice Ginsburg's dissent, and I quote:

> Two years ago in Shaw versus Reno this Court took up a claim analytically distinct from a vote-dilution claim. Shaw authorized judicial intervention in extremely irregular apportionments.

In other words she is saying that we started something 2 years ago when we considered the North Carolina case, Shaw versus Reno. For the first time we moved away from the voter-dilution concern of the Court and we moved into a new era. We moved into an area where extremely irregular apportionments, the way the district looked, or the circumstances under which the district was created, became a concern of the Court. And she does not agree, of course, that that movement was justified.

To continue quoting Justice Ginsburg:

> Today the Court expands the judicial role announcing that Federal courts are to undertake searching review of any district with contours predominantly motivated by race. Strict scrutiny will be triggered not only when traditional districting practices are abandoned, but also when those practices are subordinated to, given less weight, than race.
>
> Applying this new "race-as-predominant-factor" standard, the Court invalidates Georgia's districting plan, even though Georgia's Eleventh District, the focus of today's dispute, bears the imprint of familiar districting practices. Because I do not endorse the Court's new standard and would not upset Georgia's plan, I dissent.

Continuing to quote Justice Ginsburg:

> At the outset it may be useful to note points on which the court does not divide. First, we agree that federalism and the slim judicial competence to draw district lines weigh heavily against judicial intervention in apportionment decisions; as a rule, the task should remain within the domain of state legislatures.
>
> Second, for most of our Nation's history, the franchise has not been enjoyed equally by black citizens and white voters.

I want to just repeat; I am quoting from Justice Ginsburg and I want to read that again:

> For most of our Nation's history the franchise has not been enjoyed equally by black citizens and white voters.
>
> To redress past wrongs and to avert any recurrence of exclusion of blacks from political processes, Federal courts now respond to Equal Protection Clause and Voting Rights Act complaints of state action that dilutes minority voting strength.
>
> Third, to meet statutory requirements, state legislatures must sometimes consider race as a factor highly relevant to the drawing of district lines.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The gallery is admonished that there should be silence in the Chamber so that the Representative may continue with this special order.

Mr. OWENS. Returning to quote Justice Ginsburg:

> Finally State legislatures may recognize communities that have a particular racial or ethnic makeup, even in the absence of any compulsion do so, in order to account for interests common to or shared by persons grouped together. When members of a racial group live together in one community, a reapportionment plan that concentrates members of the group in one district and excludes them from others may reflect wholly legitimate purposes.
>
> Therefore, the fact that the Georgia General Assembly took account of race in drawing district lines—a fact not in dispute—does not render the State's plan invalid. To offend the Equal Protection Clause, all agree the legislature had to do more than consider race. How much more, is the issue that divides the Court today.

Continuing to quote Justice Ginsburg, her dissent:

> We say once again what has been said on many occasions: Reapportionment is primarily the duty and responsibility of the State through its legislature or other body, rather than of a Federal court.
>
> Districting inevitably has sharp political impact, and political decisions must be made by those charged with the task. District lines are drawn to accommodate a myriad of factors, geographic economic, historical and political, and State legislatures, as arenas of compromise, electoral accountability, are best positioned to mediate competing claims; courts, with a mandate merely to adjudicate, are ill-equipped for this task.
>
> Federal courts have ventured now into the political thicket of reapportionment when necessary to secure to members of racial minorities equal voting rights, rights denied in many States, including Georgia, until not long ago.
>
> The 15th amendment, which was ratified in 1870, declared that the right to vote shall not be denied by any State on account of race. That declaration, for many generations, was often honored in the breach; it was greeted by a near century of unremitting and ingenious defiance in several States, including Georgia.

I am quoting from the dissenting opinion of Justice Ruth Bader Ginsburg, and I want to repeat this sentence.

> The 15th amendment, ratified in 1870, declared that the right to vote shall not be denied by any State on account of race. That declaration, for many generations, was often honored in the breach; it was greeted by a near century of unremitting and ingenious defiance by several States, including Georgia.
>
> After a brief interlude of black suffrage enforced by Federal troops but accompanied by rampant victims against blacks, Georgia held a constitutional convention in 1877. Its purpose, according to the convention's leader, was, to fix it so that the people shall rule and the Negro shall never be heard from.
>
> In pursuit of this objective, Georgia enacted a cumulative poll tax, requiring voters to show they had paid past as well as current poll taxes; one historian described this tax as the most effective bar to Negro suffrage ever devised.
>
> In 1890, the Georgia General Assembly authorized white primaries; keeping blacks out of the Democratic primary effectively excluded them from Georgia's political life, for victory in the Democratic primary in those days was tantamount to election.
>
> Early in this century Georgia Governor Hoke Smith persuaded the legislature to pass the Disenfranchisement Act of 1908. True to its title, this measure added various property, good character, and literacy requirements that, as administrated, served to keep blacks from voting. The result, as one commentator observed 25 years later, was an almost absolute exclusion of the Negro voice in State and Federal elections.
>
> Disenfranchised blacks had no electoral influence, hence no muscle to lobby the legislature for change, and that is when the Court intervened. It invalidated white primaries and other burdens on minority voting.
>
> It was against this backdrop that the Court, construing the Equal Protection Clause, undertook to ensure that apportionment plans do not dilute minority voting

strength. By enacting the Voting Rights Act of 1965, Congress heightened Federal judicial involvement in apportionment, and also fashioned a role for the Attorney General. Section 2 creates a Federal right of action to challenge vote dilution. Section 5 requires States with a history of discrimination to preclear any changes in voting practices with either a Federal court or the Attorney General.

And on and on it goes to show that the Voting Rights Act was in response to a definite, long-range oppression of the rights of African-Americans at the ballot box. Justice Ginsburg makes it quite clear that the Equal Protection Clause does not rule out extraordinary measures being taken by the Federal Government to deal with past wrongs and to compensate for what happened in 232 years of slavery and the period of disenfranchisement that followed. She argues with the basic principle that is established by Justice O'Connor in Shaw versus Reno. She does not accept that premise.

But then Justice Ginsburg moves on to another area. She says that even if you accept the reasoning of Shaw versus Reno, even if you accept Justice O'Connor's contention that race cannot be the predominant consideration in drawing districts, political districts, even if you accept that and apply it, the 11th District in Georgia meets the standards. The 11th District in Georgia is no more a district drawn with predominant race considerations than any other district in Georgia. It considers other factors also. It does not cross but a few county lines, and some districts cross a number of county lines. The 11th District of Congresswoman CYNTHIA MCKINNEY of Georgia is more regular than 28 districts in the country that are cited as being the 28 most oddly-drawn districts in the country.

So Justice Ginsburg applied the standard of Shaw versus Reno and still concludes that even if you applied that standard, the 11th Congressional District should not have been invalidated.

I urge all Americans who really want to take a close look at what the Supreme Court did to not just read the majority opinion; read the dissenting opinion. It was a 5-to-4 decision and that 5-to-4 decision means that some day the reasoning of Justice Ginsburg may be the basis for overturning that decision.

I also said before this was a serious matter. I want to address myself particularly to the African-American community. This is a serious matter. We have a situation where on that same Court, rendering several of the decisions that have affected school integration, affirmative action and now voting rights, is a justice who happens to be African-American.

Justice Clarence Thomas is on that Supreme Court. Justice Clarence Thomas is an African-American, and there are some who believe that the Court is emboldened even more in its pursuit of the dismantling of voting rights and affirmative action, and set-asides as a result of Justice Thomas being there as an African-American.

There are some who say that Justice Clarence Thomas is the most powerful African-American in the country, and there are some who say, being the most powerful African-American in the country, he is the most dangerous African-American in the country. There are some who say that his presence and his continued support for the opinions which are destroying affirmative action, set-asides, and voting rights constitute a special kind of problem.

There are some who say that at least Justice Thomas is honest and he is clearly on the side of the conservatives, and, therefore, we have to respect his opinions. The greater danger they say may not be Clarence Thomas, but those who do not openly say they are conservative, who are masquerading as leaders in the African-American community, and they share the same opinions as Justice Clarence Thomas.

Justice Clarence Thomas's case was well-known to most of us. The vote on Justice Thomas in the Senate got a great deal of publicity, and there were a number of us in Congress, including all of the members of the Congressional Black Caucus, who opposed the appointment of Justice Clarence Thomas at the very beginning, long before there was any discussions of his private life, which we think was wholly out of order. Long before that had happened, a position had been taken by the members of the Congressional Black Caucus against the appointment of Justice Clarence Thomas to the Supreme Court.

As a member of the Education and Labor Committee, Justice Thomas in his previous employment as the head of EEOC had been before our committee numerous times, and Justice Thomas had clearly sabotaged the law he was hired to implement.

☐ 1615

Justice Thomas defied the intent of Congress. He ignored the intent of Congress. He ignored the directions of the committee. So we had a clear position, and I adamantly opposed the appointment of Justice Clarence Thomas long before any question was raised about his personal life. I make that distinction because so much confusion resulted from the fact that an unprecedented situation developed where the personal life of an official seeking public office was aired in public.

I totally agreed with Justice Thomas on one point. It was a high-technology lynching. It should never have been considered in public. It should have been an inquiry held behind closed doors. It should have proceeded as all personnel matters proceed. It was a circus which was most unfortunate.

Of course, there were many people who opposed him because of his record, opposed him because of his ideology, who were swayed by the problem that he faced, and later changed their opinion. But steadfastly we insisted that a record like the record of Justice Thomas in Government made it clear that he would be an enemy of the forces of civil rights, the forces of civil liberties, and of the African-American people.

I mention this because in these critical days when there is an attempt to dismantle all of the gains that have been made by the African-Americans over the last 50 years; in these critical days when the second reconstruction is being trampled, the one reconstruction was trampled, and all of the Members of Congress who were black were removed from Congress, we are not facing a situation quite that bad, but in many ways the economic impact of the decisions that are being made will be even harsher on the African-American population in general.

So here we are in a critical situation. There is a state of emergency. Our leadership and people we select as leaders is critical, and what I am moving on to and what I am leading up to is the fact that there were many in the leadership who knew very clearly what the positions of Justice Thomas were, yet they supported him because he was an African-American.

The danger in the African-American community now, the danger with respect to the leadership at this critical time is that we are going to again be taken in by the fact that the old standard of the black bourgeoise is allowed to predominate. Anybody who is educated, any, African-American who achieves becomes a person we look up to, becomes a person we will not criticize. The standards within the African-American community for leadership, the standards get diluted.

You do not have to clearly stand for policies, public policies, which are in the interests of the masses of African-American people. People who back away from those standards can still serve as leaders. They can enjoy the status of leaders. They can pronounce themselves as leaders and get away with it.

It is important that at this critical moment we understand that many people who made the error of supporting Justice Thomas because he was an African-American are the kind of people we must avoid in the future, the kind of people who have to come to grips with what are the basic policy provisions that should be set forth in the African-American community at a critical time like now.

Can we have people voting for B-2 bombers which may cost $31 billion over a 7-year period and at the same time they are cutting Medicaid, at the same time they are cutting school lunches and at the same time draconian measures in the area of housing?

The rescissions bill that was passed today cuts low-income housing by $7 billion. Can we have leaders who fail to understand that those are the public policies that impact on the greatest number of African-American people? And they have a duty to fight to see to it that those policies which are detrimental to our people do not go forward.

Can we understand that there must be an evaluation of leadership so that we do not have an elected bourgeoisie carrying out their own private personal agenda while they ignore the public agenda of the African-American community?

This decision by the Supreme Court and all the other things that have happened in the last few months are a warning. If we do not understand that there is a state of emergency now, we will never understand that. The Clarence Thomases have clearly proclaimed where they stand. There are some Members of the Congress, some black Members, who clearly proclaim they do not want to be part of the Black Caucus. They do not want to represent black interests.

I admire people who clearly say where they stand. On the other hand, the Benedict Arnolds we must worry about.

I want to close with a statement that I sent out to all of the African-American leadership. It is kind of a convoluted, indirect statement because during the time when Justice Clarence Thomas was under consideration for the appointment, even after the congressional Black Caucus was taking a position opposed to his appointment even after the NAACP had taken a position, even after the leading civil rights organizations had taken a position, there were leaders who came forward and said because he is black, we should not oppose him.

One of those leaders wrote an article in the New York Times, and it particularly struck me at that time as being devastating to our position. One of those leaders in the cultural field wrote a very piercing op-ed piece for the New York Times where she said, "I know that he is guilty of not running the EEOC in accordance with the law. I know he has trampled on our interests on many occasions. I know this, I know that. All of this is true, but, still, he should be given a chance." And I have that ringing in my ears every time a Supreme Court decision comes down, "Still, he should be given a chance. He will change."

That was Maya Angelous, a poet I respect a great deal, a poet that has become more famous since her famous poem was recited at the presidential inauguration. I think Maya Angelous and the other leaders who supported Clarence Thomas now need to go talk to Clarence Thomas. They need to also let the rest of the African-American community understand the implications of what is happening.

So I have written a little statement here, Maya Angelous, I am addressing it to:

GO TALK TO CLARENCE THOMAS

Maya talk to Clarence please
He's knocking us down to our knees
Clarence is talking real loud
Running with the wrong crowd
Dangerous opinions he always writes
Hurling our people toward long poison nights
Maya talk to Clarence please
In the name of Black ancestors who drowned in the seas
Talk to Clarence
End his heathen roam
Haul him to his heritage home
Maya you recognized his record of public sin
You promised that Clarence would be born again
The miracle of Hugo Black and Earl Warren would be repeated
Maya you promised ideological addiction would be defeated
Maya time to make your move a sacred point you still have to prove
Maya talk to Clarence please!

I would say that to all the other leaders who supported Justice Clarence Thomas. I would say that to all the other leaders who support compromise and are ready to forget about the interests of the thousands of African-Americans out there who are suffering because public policies are being perpetuated, public policies are being perpetuated which will hurt them directly.

The rescission bill, with all of its cuts of low-income housing, would hurt African Americans directly. The B-2 bomber, being taken as a priority over Medicaid, over free lunches, will hurt African-Americans directly.

It is time we all understood that there is a state of emergency in the African-American community. The African-American leaders will have to rise to the occasion and lead in the interests of all African-Americans.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. YOUNG of Alaska (at the request of Mr. ARMEY), for today, on account of personal reasons.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. ENGEL) to revise and extend their remarks and include extraneous material:)

Mr. DEFAZIO, for 5 minutes, today.

Mr. FALEOMAVAEGA, for 5 minutes, today.

Mr. FILNER, for 5 minutes, today.

Mr. WISE, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

(The following Members (at the request of Mr. GUTKNECHT) to revise and extend their remarks and include extraneous material:)

Mr. GUTKNECHT, for 5 minutes, today.

Mr. FOX of Pennsylvania, for 5 minutes, today.

Mr. FOLEY, for 5 minutes, today.

Mr. SCARBOROUGH, for 5 minutes, today.

ENROLLED BILLS SIGNED

Mr. THOMAS, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 483. An act to amend the Omnibus Budget Reconciliation Act of 1990 to permit medicare select policies to be offered in all States.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 962. An act to extend authorities under the Middle East Peace Facilitation Act of 1994 until August 15, 1995.

ADJOURNMENT

Mr. OWENS. Madam Speaker, I move that the House do now adjourn.

The motion was agreed to.

The SPEAKER pro tempore (Mrs. MORELLA). Pursuant to the provisions of Senate Concurrent Resolution 20, 104th Congress, the House stands adjourned until 2 p.m. on Monday, July 10, 1995, for morning hour debates.

Whereupon (at 4 o'clock and 20 minutes p.m.), pursuant to Senate Concurrent Resolution 20, the House adjourned until Monday, July 10, 1995, at 2 p.m.

EXPENDITURE REPORTS CONCERNING OFFICIAL FOREIGN TRAVEL

Reports concerning the foreign currencies and U.S. dollars utilized by a committee of the U.S. House of Representatives during the first quarter of 1995 in connection with official foreign travel, pursuant to Public Law 95-384, as well as the 1994 supplemental expenses of a miscellaneous group, U.S. House of Representatives, concerning foreign currencies expended by them in

connection with official foreign travel, are as follows:

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON THE JUDICIARY, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 1995.

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Hon. John Conyers, Jr	3/10	3/11	Haiti		150.00		(3)				150.00
Hon. Jack Reed	3/10	3/11	Haiti		150.00		(3)				150.00
Committee total					300.00						300.000

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

[3] Air transportation was provided by the Department of Defense.

HENRY J. HYDE,
Chairman, May 16, 1995.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL NORTH ATLANTIC ASSEMBLY, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND DEC. 31, 1994.

Name of member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Delegation expenses:											
Visit of Subcommittee on Defense Security to Wash, DC, California, and New York:											
Luncheon	1/23	1/28							875.00		875.00
Interpreters	1/23	1/28							350.00		350.00
Ground transportation	1/23	1/28							2,546.00		2,546.00
Peter Abbruzzese	1/23	1/28			376.43		643.00				1,019.43
NAA delegation to Ottawa, Canada—Rose/Roth Seminar:											
Hon. Sherwood Boehlert	1/16	1/18			41.70		195.60				237.30
NAA delegation to Belgium:											
Breakfast	2/18	2/18							427,33		427.33
NAA delegation to Oslo, Norway:											
Ground transportation	5/26	5/30							362.54		362.54
Representational functions	5/26	5/30							4,040.74		4,040.74
Visit of political committee to Washington, DC, California											
Interpreters	6/19	6/24							2,100.73		2,100.79
Luncheon	6/19	6/24							1,028.50		1,028.50
Ground transportation	6/19	6/24							402.40		402.50
Representational functions	6/19	6/24							394.10		394.10
Peter Abbruzzese	6/19	6/24			927.77		935.00				1,862.77
NAA delegation to Rose/Roth Seminar in Romania:											
Stuart Goldman	7/12	7/19			968.00		1,738.25				2,706.25
Visit of Subcommittee on Future of Armed Forces:											
Luncheon	8/8	8/8							800.90		800.90
NAA 40th Annual Session in Washington, DC:											
Representational function	11/14	11/18							317.22		317.22
Ground transportation	11/14	11/18							1,437.50		1,437.50
Miscellaneous expenses	11/14	11/18							125.55		125.55
Miscellaneous expenses									18.90		18.90
Committee total					2,313.90		3,511.85		15,228.17		21,053.92

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S dollar equivalent; if U.S. currency is used, enter amount expended.

Charlie Rose,
June 14, 1995.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1140. A letter from the Secretary of the Treasury, transmitting the Department's first semiannual report to Congress, as required by section 403 of the Mexican Debt Disclosure Act of 1995, and the second monthly report to Congress, as required by section 404 of the same act, pursuant to Public Law 104-6, section 403(a) (109 Stat. 89); to the Committee on Banking and Financial Services.

1141. A letter from the First Vice President and Vice Chairman, Export-Import Bank of the United States, transmitting a report involving United States exports to Columbia, pursuant to 12 U.S.C. 635(b)(3)(i); to the Committee on Banking and Financial Services.

1142. A letter from the Secretary of Education, transmitting a draft of proposed legislation entitled, the "Individuals with Disabilities Education Act Amendments of 1995"; to the Committee on Economic and Educational Opportunities.

1143. A letter from the Corporation for Public Broadcasting, President and CEO, transmitting the triennial assessment of the needs of minority and diverse audiences, and the Corporation's annual report on the provision of services to minority and diverse audiences by public broadcasting entities and public telecommunication entities, pursuant to Public Law 100-626, section 9(a) (102 Stat. 3211); to the Committee on Commerce.

1144. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on International Relations.

1145. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a copy of Presidential Determination No. 95-28: Drawdown of commodities and services from the inventory and resources of the Departments of Defense, Justice, the Treasury and State to support accelerated training and equipping of Haitian police forces, pursuant to 22 U.S.C. 2348a(c)(2); to the Committee on International Relations.

1146. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11-81, "Closing of a Public Alley in Square 2567, S.O. 93-47, Act of 1995," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on Government Reform and Oversight.

1147. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11-82, "Prevention of Transmission of the Human Immunodeficiency Virus Temporary Amendment Act of 1995," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on Government Reform and Oversight.

1148. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11-83, "Closing of a Public

Alley in Square 368, S.O. 94–52, Act of 1995," pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

1149. A letter from the Chairman, Federal Election Commission, transmitting proposed regulations that define express advocacy and describe those nonprofit corporations that are exempt from the independent expenditure prohibition (11 C.F.R. 100.17, 100.22, 106.1, 109.1, 114.2, and 114.10), pursuant to 2 U.S.C. 438(d)(1); to the Committee on House Oversight.

1150. A letter from the Railroad Retirement Board, transmitting the 1995 annual report on the financial status of the railroad unemployment insurance system, pursuant to 45 U.S.C. 369; jointly, to the Committees on Transportation and Infrastructure and Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. YOUNG of Alaska: Committee on Resources. H.R. 39. A bill to amend the Magnuson Fishery Conservation and Management Act to improve fisheries management; with an amendment (Rept. 104–171). Referred to the Committee of the Whole House on the State of the Union.

Mr. SKEEN. Committee on Appropriations. H.R. 1976. A bill making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 1996, and for other purposes (Rept. 104–172). Referred to the Committee of the Whole House on the State of the Union.

Mr. REGULA: Committee on Appropriations. H.R. 1977. A bill making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1996, and for other purposes (Rept. 104–173). Referred to the Committee of the Whole House on the State of the Union.

SUBSEQUENT ACTION ON A REPORTED BILL SEQUENTIALLY REFERRED

Under clause 5 of rule X the following action was taken by the Speaker:

Referral to the Committee on Science of H.R. 1175 extended for a period ending not later than July 11, 1995.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. CHRISTENSEN (for himself, Mr. Armey, Mr. DeLay, Mr. Bliley, Mr. Hyde, Mr. Kasich, Mr. Livingston, Mrs. Meyers of Kansas, Mr. Roberts, Mr. Walker, Mr. Crane, Mr. Thomas, Mr. Bunning of Kentucky, Mr. McCrery, Mr. Hancock, Mr. Camp, Mr. Ramstad, Mr. Zimmer, Mr. Sam Johnson, Ms. Dunn of Washington, Mr. Portman, Mr. English of Pennsylvania, Mr. Ensign, Mr. Bartlett of Maryland, Mr. Bilirakis, Mr. Blute, Mr. Brewster, Mr. Brownback, Mr. Bryant of Tennessee, Mr. Bunn of Oregon, Mr. Burr, Mr. Canady of Florida, Mr. Chrysler, Mr. Coble, Mr. Cox of California, Mr. Cramer, Mrs. Cubin, Mr. Cunningham, Mr. Davis, Mr. Deal of Georgia, Mr. Dickey, Mr. Doolittle, Mr. Dornan, Mr. Dreier, Mr. Emerson, Mr. Ewing, Mr. Fox of Pennsylvania, Mr. Gallegly, Mr. Ganske, Mr. Gilchrest, Mr. Gutknecht, Mr. Hastert, Mr. Hayworth, Mr. Heineman, Mr. Hilleary, Mr. Hoekstra, Mr. Hostettler, Mr. Hunter, Mr. Hutchinson, Mr. Inglis of South Carolina, Mr. Jones, Mr. Kim, Mr. Kingston, Mr. Largent, Mr. Latham, Mr. LaTourette, Mr. Linder, Mr. Longley, Mr. Lucas, Mr. McIntosh, Mr. Martinez, Mr. Metcalf, Mr. Mica, Mr. Moorhead, Mrs. Myrick, Mr. Neumann, Mr. Norwood, Mr. Porter, Mr. Riggs, Mr. Rohrabacher, Mr. Roth, Mr. Scarborough, Mr. Shadegg, Mr. Smith of Michigan, Mr. Smith of New Jersey, Mr. Smith of Texas, Mrs. Smith of Washington, Mr. Souder, Mr. Stockman, Mr. Stump, Mr. Talent, Mr. Tiahrt, Mr. Towns, Mr. Upton, Mr. Walsh, Mr. Wamp, Mr. Watts of Oklahoma, Mr. Weldon of Florida, Mr. Wicker, Mr. Wolf, and Mr. Zeliff):

H.R. 1972. A bill to amend the Internal Revenue Code of 1986 to clarify the standards used for determining whether individuals are not employees; to the Committee on Ways and Means.

By Mr. DeFAZIO (for himself, Mr. Neumann, Mr. Becerra, Mr. Brownback, Mr. Frank of Massachusetts, Ms. Furse, Mr. Gunderson, Ms. Kaptur, Mr. Meehan, Mrs. Maloney, and Mrs. Schroeder):

H.R. 1973. A bill to reduce the number of operational support aircraft of the Department of Defense; to the Committee on National Security.

By Mr. BASS (for himself, Mr. Bartlett of Maryland, Mr. Barton of Texas, Ms. Danner, Mr. Davis, Mr. Klug, Mr. Smith of Michigan, Mr. Souder, Mr. Stockman, Mr. Kasich, Mr. Solomon, and Mr. Hostettler):

H.R. 1974. A bill to amend title XVI of the Social Security Act to require periodic reapplications with respect to the continued receipt of supplemental security income benefits, to require that the administrative criteria regarding mental impairments be modified, and for other purposes; to the Committee on Ways and Means.

By Mr. CALVERT (for himself, Mr. Brewster, Mr. Dooley, Mr. Tauzin, and Mr. Lucas):

H.R. 1975. A bill to improve the management of royalties from Federal and Outer Continental Shelf oil and gas leases, and for other purposes; to the Committee on Resources.

By Mr. SKEEN:

H.R. 1976. A bill making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 1996, and for other purposes.

By Mr. REGULA:

H.R. 1977. A bill making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1996, and for other purposes.

By Mr. COX (for himself and Mr. Wyden):

H.R. 1978. A bill to encourage and protect private sector initiatives that improve user control over computer information services; to the Committee on Commerce.

By Mr. DUNCAN (for himself and Mr. Talent):

H.R. 1979. A bill to protect the rights of small entities subject to investigative or enforcement action by agencies, and for other purposes; to the Committee on the Judiciary, and in addition to the Committee on Small Business, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. FARR (for himself, Mr. Mineta, Mr. Berman, Mr. Serrano, Ms. Lofgren, Mr. Dellums, Mr. Gene Green of Texas, Ms. Pelosi, and Ms. Roybal-Allard):

H.R. 1980. A bill to provide for demonstration projects throughout the United States in order to celebrate the process of becoming and being an American citizen; to the Committee on the Judiciary.

By Mr. FRANKS of New Jersey (for himself, Mr. Barrett of Nebraska, Mr. Canady of Florida, Mr. English of Pennsylvania, Mr. Foley, Mr. Gillmor, Mr. Klug, Mr. LoBiondo, Mr. Luther, Mr. Paxon, Mr. Poshard, Mr. Riggs, Mr. Royce, Mr. Smith of Texas, and Mr. Zimmer):

H.R. 1981. A bill to amend the Federal Property and Administrative Services Act of 1949 to require executive agencies to procure property and services related to motor vehicle pools or systems only under contracts awarded under competitive procedures in accordance with rules issued by the Director of the Office of Management and Budget and to report to the Director regarding costs associated with agency operation of motor vehicle fleets; to the Committee on Government Reform and Oversight.

By Ms. FURSE:

H.R. 1982. A bill to provide grants to the States to encourage the reporting of blood alcohol levels that exceed the maximum level permitted under State law after vehicular accidents; to the Committee on the Judiciary, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. GEKAS:

H.R. 1983. A bill to provide that certain hearings functions of the Merit Systems Protection Board be performed only by administrative law judges, and for other purposes; to the Committee on Government Reform and Oversight.

By Mr. INGLIS of South Carolina (for himself, Mr. Stenholm, Mr. Solomon, Mr. Fields of Texas, Mrs. Myrick, Mr. Smith of Texas, Mr. Mica, Mr. Hastings of Washington, and Mr. McCollum):

H.R. 1984. A bill to phase out funding for the death penalty resource centers; to the Committee on the Judiciary.

By Mr. KENNEDY of Massachusetts (for himself, Mr. Burton of Indiana, Mr. Smith of New Jersey, Mr. Matsui, Mrs. Maloney, Mr. Underwood, Mr. Ehlers, Mr. Bunning of Kentucky, Mr. Thornberry, Mr. Barton of Texas, Mr. Bryant of Tennessee, Mr. Oberstar, Mr. Frost, Mr. Dellums, Mr. Dornan, Mr. Ackerman, Mr. Jacobs, Mr. Stupak, Mr. Solomon, Mr. Evans, Mr. Pete Geren of

Texas, Mr. HASTINGS of Florida, Mr. SERRANO, Mr. PAYNE of Virginia, Mr. FATTAH, and Mr. BARRETT of Wisconsin):

H.R. 1985. A bill to amend the Internal Revenue Code of 1986 to exclude from gross income employee and military adoption assistance benefits and withdrawals from IRA's for certain adoption expenses; to the Committee on Ways and Means.

By Mr. KILDEE (for himself, Mr. CLAY, Mr. OWENS, Mr. MILLER of California, Mr. SAWYER, Ms. WOOLSEY, Mr. WILLIAMS, and Mr. MARTINEZ):

H.R. 1986. A bill to reauthorize and improve the Individuals with Disabilities Education Act; to the Committee on Economic and Educational Opportunities.

By Mr. KIM:

H.R. 1987. A bill to limit congressional travel to North Korea; to the Committee on House Oversight.

By Ms. MOLINARI:

H.R. 1988. A bill to amend the United States Housing Act of 1937 to provide for more expeditious evictions from public housing, and for other purposes; to the Committee on Banking and Financial Services.

By Mr. MOORHEAD (for himself and Mrs. SCHROEDER) (both by request):

H.R. 1989. A bill to make improvements in the operation and administration of the Federal courts, and for other purposes; to the Committee on the Judiciary.

By Mr. OBERSTAR:

H.R. 1990. A bill to provide for the exchange of certain lands in the Superior National Forest for certain lands owned by Cook County, Lake County, and St. Louis County, MN, in the Boundary Water Canoe Area Wilderness; to the Committee on Resources, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. STUPAK:

H.R. 1991. A bill to change the authorized depth for the project for navigation at Manistique Harbor, MI, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mrs. THURMAN:

H.R. 1992. A bill to modify the Suwannee River navigation project, FL, to authorize dredging of the McGriff Pass instead of the East and Alligator Passes; to the Committee on Transportation and Infrastructure.

By Mr. TIAHRT (for himself, Mr. BROWNBACK, Mr. BASS, Mr. BARTLETT of Maryland, Mr. COBURN, Mr. CREMEANS, Mr. FOLEY, Mr. SHADEGG, Mr. ARMEY, Mr. DELAY, Mr. BOEHNER, Mr. KASICH, Mr. SOLOMON, Mr. SCARBOROUGH, Mr. NEUMANN, Mr. HOSTETTLER, Mr. EWING, Mrs. WALDHOLTZ, Mrs. MYRICK, Mr. SMITH of Michigan, Mr. PACKARD, Mr. PARKER, Mr. CHRISTENSEN, Mr. CRANE, Mr. DORNAN, Mr. LOBIONDO, Mr. STOCKMAN, Mr. HANCOCK, Mr. HOEKSTRA, Mr. WICKER, Mrs. SEASTRAND, Mr. ROYCE, Mr. GUTKNECHT, Mr. CHRYSLER, Mrs. LOWEY, Mr. MILLER of Florida, Mr. HUTCHINSON, Mr. KLUG, Mr. FUNDERBURK, Mr. LINDER, Mr. HOKE, Ms. DUNN of Washington, Mr. TATE, Mr. WHITE, Mr. NETHERCUTT, Mr. METCALF, Mrs. CUBIN, Mrs. CHENOWETH, Mr. SAM JOHNSON, and Mrs. SMITH of Washington):

H.R. 1993. A bill to abolish the Department of Energy; to the Committee on Commerce, and in addition to the Committees on National Security, Science, Resources, Rules, and Government Reform and Oversight, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. VUCANOVICH (for herself and Mr. STUMP):

H.R. 1994. A bill to amend title 10, United States Code, to provide for future cost-of-living adjustments for military retirees on the same basis as applies to Federal civil service retirees; to the Committee on National Security, and in addition to the Committee on Government Reform and Oversight, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. FOX (for himself, Mr. CLINGER, Mr. MCINTOSH, Mr. OXLEY, Mr. MILLER of Florida, Mr. BILBRAY, Mr. BLUTE, Mr. LATOURETTE, Mr. PETERSON of Minnesota, Mr. WELDON of Florida, Mr. FRISA, Mr. COX, and Mr. COOLEY):

H.R. 1995. A bill to amend the Federal Food, Drug, and Cosmetic Act to make improvements in the regulation of drugs; to the Committee on Commerce.

By Mr. FIELDS of Texas:

H.R. 1996. A bill to amend the Internal Revenue Code of 1986 to provide a mechanism for taxpayers to designate $1 of any overpayment of income tax, and to contribute other amounts, for use by the U.S. Olympic Committee; to the Committee on Ways and Means.

By Mr. GONZALEZ:

H.J. Res. 99. Joint resolution proposing an amendment to the Constitution of the United States to prohibit the death penalty; to the Committee on the Judiciary.

By Mr. FALEOMAVAEGA (for himself, Mr. HAMILTON, Mr. LEACH, Mr. BEREUTER, Mr. BERMAN, Mr. SMITH of New Jersey, Mr. LANTOS, Mr. ROHRABACHER, Mr. ACKERMAN, Mr. KIM, Mr. UNDERWOOD, Mrs. MINK of Hawaii, Mr. ABERCROMBIE, Mr. MARKEY, Mr. DEFAZIO, and Mr. MINETA):

H. Con. Res. 80. Concurrent resolution expressing the sense of Congress that the United States should recognize the concerns of the peoples of Oceania and call upon the Government of France to cease all nuclear testing at the Moruroa and Fangataufa atolls; to the Committee on International Relations.

By Mr. SAM JOHNSON of Texas (for himself, Mr. HUNTER, Mr. DORNAN, Mr. CUNNINGHAM, Mr. ROHRABACHER, and Mr. SOLOMON):

H. Con. Res. 81. Concurrent resolution expressing the policy of the United States with respect to the normalization of relations with the Socialist Republic of Vietnam; to the Committee on International Relations.

By Mr. ROYCE (for himself and Mr. MINGE):

H. Res. 182. Resolution amending the Rules of the House of Representatives to require the reduction of section 602(b)(1) suballocations to reflect floor amendments to general appropriation bills, and for other purposes; to the Committee on Rules.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

124. By the SPEAKER: Memorial of the Legislature of the State of Nebraska, relative to Taiwan; to the Committee on International Relations.

125. Also, memorial of the House of Representatives of the Commonwealth of Pennsylvania, relative to memorializing the U.S. Postal Service to issue a coal miners' postal stamp; to the Committee on Government Reform and Oversight.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 46: Mr. EMERSON and Mr. BATEMAN.

H.R. 65: Mr. OLVER, Mr. GREENWOOD, Mr. HOLDEN, and Mr. MENENDEZ.

H.R. 218: Mr. STOCKMAN.

H.R. 262: Mr. POSHARD.

H.R. 303: Mr. GREENWOOD, Mr. MCKEON, Mr. HOLDEN, and Mr. MENENDEZ.

H.R. 359: Mr. YOUNG of Florida and Mr. TAYLOR of North Carolina.

H.R. 390: Mrs. WALDHOLTZ.

H.R. 394: Mr. BROWDER, Mr. CAMP, Ms. WOOLSEY, Mr. HUTCHINSON, and Mr. BONILLA.

H.R. 427: Mr. HAYWORTH, Mrs. VUCANOVICH, Mr. HEFLEY, and Mr. SOUDER.

H.R. 436: Mr. BAKER of Louisiana, Mr. BATEMAN, Mr. KIM, Mr. EHLERS, Mr. LAHOOD, Mr. CALVERT, Mr. FAWELL, Mr. DORNAN, and Mr. PETERSON of Minnesota.

H.R. 497: Mr. BRYANT of Texas.

H.R. 540: Mr. WYDEN, Mr. WAXMAN, Mr. TORKILDSEN, and Mr. TOWNS.

H.R. 662: Mr. MCCOLLUM, Mr. ENGLISH of Pennsylvania, Mr. ZELIFF, and Mr. WELLER.

H.R. 670: Mr. FROST and Mrs. MEEK of Florida.

H.R. 743: Mr. CANADY and Mr. MCCOLLUM.

H.R. 747: Mr. HANCOCK and Mr. ZIMMER.

H.R. 752: Mr. COSTELLO, Mr. GUTKNECHT, Mr. PAYNE of New Jersey, Mr. SMITH of New Jersey, Mr. LUTHER, Mrs. CUBIN, Mr. TAYLOR of North Carolina, Mr. WELDON of Pennsylvania, Mr. LONGLEY, Mr. SAXTON, Mr. PALLONE, Mr. WILSON, and Mr. HASTINGS of Florida.

H.R. 789: Mr. MCINNIS.

H.R. 797: Mr. RUSH.

H.R. 803: Mr. BURR and Mr. BONILLA.

H.R. 820: Mr. FROST, Mr. HEINEMAN, Mrs. SCHROEDER, Mr. COMBEST, Mr. SPENCE, Mr. BILBRAY, Mr. ROYCE, Ms. FURSE, and Mr. TANNER.

H.R. 868: Mr. CLEMENT and Mr. MCHUGH.

H.R. 899: Mr. CHAMBLISS and Mrs. MINK of Hawaii.

H.R. 957: Mrs. KENNELLY, Mr. FOX, Mr. MCCOLLUM, and Mr. BOROSKI.

H.R. 963: Mr. LINDER, Mr. BARCIA of Michigan, Mr. OBERSTAR, Mr. PALLONE, Mr. LEWIS of Kentucky, Mr. WELDON of Pennsylvania, Mr. DEFAZIO, Mr. GILLMOR, and Mr. MINGE.

H.R. 974: Mr. MARTINEZ, Mr. FROST, and Mr. CLEMENT.

H.R. 1003: Mr. STENHOLM.

H.R. 1061: Mr. DREIER.

H.R. 1100: Mr. REED.

H.R. 1114: Mr. KINGSTON.

H.R. 1162: Mr. HERGER.

H.R. 1222: Ms. ESHOO.

H.R. 1226: Mr. WICKER, and Mr. KLUG.

H.R. 1242: Mr. WICKER.

H.R. 1254: Mr. DELLUMS.

H.R. 1264: Mr. CONYERS.

H.R. 1289: Mr. DOOLITTLE.

H.R. 1339: Mr. WILLIAMS and Mr. KLUG.

H.R. 1406: Mr. WILSON.

H.R. 1448: Mr. HANCOCK.

H.R. 1458: Mr. HALL of Texas.

H.R. 1460: Mr. REYNOLDS, Mr. LIPINSKI, and Mr. JOHNSON of South Dakota.

H.R. 1506: Mr. FATTAH.

H.R. 1513: Mr. UNDERWOOD and Mr. HOLDEN.

H.R. 1532: Mr. GREENWOOD.

H.R. 1533: Mr. ENGLISH of Pennsylvania, Mr. NEY, Mr. FOX, Mr. GRAHAM, Mr. LAHOOD, Mr. CHRYSLER, Mr. EHRLICH, Mr. COOLEY, Mr. WELLER, Mr. GUTKNECHT, Mr. FUNDERBURK, and Mr. DAVIS.

H.R. 1539: Mr. NEAL of Massachusetts, Mr. LEWIS of Georgia, Mr. RANGEL, Mr. PALLONE, Mr. WYNN, Mr. OBERSTAR, and Mr. MATSUI.

H.R. 1552: Mr. MARTINI, Mrs. MYRICK, Mr. MINGE, Mr. TATE, Mr. PETRI, Mr. COX, Mr. PAYNE of Virginia, Mr. MCINTOSH, Mr. LUTHER, Mr. CHAPMAN, Mrs. VUCANOVICH, and Mr. TEJEDA.

H.R. 1580: Mr. MCINNIS.

H.R. 1591: Mr. REYNOLDS.

H.R. 1594: Mr. FIELDS of Texas.

H.R. 1640: Mr. BOEHNER, Mr. GRAHAM, Mr. WICKER, Mr. HOKE, Mr. LARGENT, Mrs. CHENOWETH, Mr. ENSIGN, Mr. CUNNINGHAM, Mr. BALLENGER, Mr. MCKEON, Mrs. MYRICK, Mr. SALMON, Mr. TIAHRT, Mr. GUTKNECHT, Mr. BARTON of Texas, Mr. NEUMANN, Mr. HUNTER, and Mr. PAXON.

H.R. 1649: Mr. OBERSTAR and Mr. YOUNG of Alaska.

H.R. 1666: Mr. DINGELL and Mr. KNOLLENBERG.

H.R. 1709: Mr. CONYERS, Mr. FRANK of Massachusetts, Ms. FURSE, Mr. JACOBS, Mr. PETERSON of Minnesota, Mr. STARK, Ms. VELÁZQUEZ, and Mr. ZIMMER.

H.R. 1711: Mr. BUNNING of Kentucky, Mr. JACOBS, and Mr. BARCIA of Michigan.

H.R. 1732: Mr. PETERSON of Minnesota.

H.R. 1733: Mr. PETERSON of Minnesota.

H.R. 1739: Mr. MCCOLLUM.

H.R. 1742: Mr. DOOLEY, Mr. CLEMENT, and Mr. FRANK of Massachuetts.

H.R. 1744: Mr. COBURN and Mr. HOSTETTLER.

H.R. 1745: Mrs. CHENOWETH, Mr. DOOLITTLE, Mr. SAXTON, Mr. GALLEGLY, Mr. COOLEY, Mr. SKEEN, Mr. RADANOVICH, Mr. DUNCAN, Mr. STUMP, Mrs. CUBIN, Mr. ALLARD, Mr. JONES, Mr. YOUNG of Alaska, Mr. CALVERT, Mr. HERGER, Mr. SHADEGG, Mr. CRAPO, Mr. SOLOMON, Mr. HAYWORTH, Mr. HASTINGS of Washington, Mr. GILCHREST, Mr. HEFLEY, Mr. METCALF, Mr. LEWIS of California, Mr. POMBO, Mrs. SMITH of Washington, Mr. ENSIGN, Mr. TORKILDSEN, Mr. CREMEANS, Mr. THORNBERRY, Mr. LONGLEY, and Mr. SCHAEFER.

H.R. 1749: Mr. DORNAN, Mr. LIPINSKI, Mr. SCARBOROUGH, Mrs. ROUKEMA, and Mr. LEWIS of Georgia.

H.R. 1753: Mr. REGULA, Mr. MCDERMOTT, Mr. JACOBS, Mr. EMERSON, Mr. LAFALCE, Mr. DIXON, Mr. FROST, Mr. BRYANT of Texas, Mr. BARCIA of Michigan, Mr. MENENDEZ, Mr. JOHNSON of South Dakota, Mr. REED, Mr. ACKERMAN, Mr. BORSKI, Mr. TRAFICANT, Mr. CRAMER, Mr. SKAGGS, Mr. MCDADE, Mr. OBERSTAR, and Mr. PETE GEREN of Texas.

H.R. 1758: Ms. RIVERS and Mr. FATTAH.

H.R. 1776: Mr. FLAKE.

H.R. 1787: Mr. QUILLEN.

H.R. 1818: Mr. GOODLING, Mr. LOBIONDO, Mr. DREIER, and Mr. BONILLA.

H.R. 1833: Mr. ORTIZ, Mr. TAYLOR of North Carolina, Mr. TAYLOR of Mississippi, Mr. ENSIGN, Mrs. CUBIN, Ms. ROS-LEHTINEN, Mr. BOEHNER, and Mr. THORNBERRY.

H.R. 1856: Mr. FROST, Mr. KLECZKA, Ms. BROWN of Florida, Mr. JEFFERSON, Mr. LANTOS, Mrs. THURMAN, Mr. WAXMAN, Mr. FRANK of Massachusetts, Mr. FOGLIETTA, Mr. PETE GEREN of Texas, Mr. PETERSON of Minnesota, Mr. STARK, Mr. MARTINEZ, Mr. YATES, Mr. NADLER, Mr. ENGEL, Mr. FLAKE, Ms. WOOLSEY, Mr. CLEMENT, Mr. MASCARA, Ms. KAPTUR, Mr. PAYNE of New Jersey, Mr. LEWIS of Georgia, Mr. LATHAM, Mr. EHLERS, and Mr. CLINGER.

H.R. 1889: Mr. WALSH, Mr. OBERSTAR, Ms. RIVERS, Mr. HAYES, Mr. ACKERMAN, Mr. MOAKLEY, Mr. WAXMAN, Mr. SCHUMER, and Mr. FROST.

H.R. 1915: Mr. MCKEON, Mr. BARTON of Texas, Mr. HUTCHINSON, Mr. THORNBERRY, Mr. LAUGHLIN, Mr. TRAFICANT, Mr. SENSENBRENNER, and Mr. KASICH.

H.R. 1952: Ms. WATERS, Mr. GREENWOOD, and Mr. FAZIO of California.

H.R. 1955: Mr. PALLONE, Mr. YATES, Mrs. LOWEY, and Mr. MURTHA.

H.J. Res. 69: Mr. CRAMER, Mrs. ROUKEMA, Mr. FROST, Mr. BILIRAKIS, Mr. UPTON, and Mr. DOYLE.

H.J. Res. 96: Mr. HALL of Ohio, Ms. MCKINNEY, Mrs. SCHROEDER, Mr. FUNDERBURK, Mrs. SEASTRAND, Mr. PALLONE, Mr. ABERCROMBIE, Mr. YATES, Mr. DELLUMS, Ms. ESHOO, Mr. STEARNS, Mr. LIPINSKI, Mr. LEWIS of Georgia, Mr. ROSE, Mr. BURTON of Indiana, and Mr. STOCKMAN.

H. Con. Res. 78: Mr. FILNER, Mr. BORSKI, Mr. LEWIS of Georgia, Mr. DELLUMS, Mr. RUSH, Mr. FROST, Ms. RIVERS, and Mr. SANDERS.

H. Res. 39: Mr. YATES, Mr. GENE GREEN of Texas, Mr. FILNER, Mr. UNDERWOOD, Mr. RUSH, and Mr. FRAZER.

H. Res. 132: Mr. DOGGETT, Mr. GENE GREEN of Texas, Mr. HAMILTON, Mrs. LOWEY, Ms. MCKINNEY, Mr. MEEHAN, Ms. RIVERS, Mr. ROMERO-BARCELO, Ms. SLAUGHTER, Mr. THOMPSON, Mr. TORRES, Mr. UNDERWOOD, Ms. VELAZQUEZ, and Mr. YATES.

H. Res. 150: Mr. HILLIARD and Mr. STUPAK.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 1289: Ms. ESHOO.

H.R. 1883: Mr. WHITE.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 1868

OFFERED BY: MR. FRANK OF MASSACHUSETTS

AMENDMENT NO. 86: Page 78, after line 6, insert the following new section:

LIMITATION ON FUNDS FOR INDONESIA

SEC. 564. None of the funds made available in this Act may be used for assistance for Indonesia.

EXTENSIONS OF REMARKS

GEN. COLIN POWELL—REMARKS ON THE U.S.-FLAG MERCHANT MARINE

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, June 30, 1995

Mr. SOLOMON. Mr. Speaker, a strong Merchant Marine Fleet is vital to our national defense and economy. Without a strong fleet, the United States would become dependent on foreign ships, thus endangering its ability to respond to crisis situations overseas.

On June 15, 1992, Gen. Colin Powell, Chairman of the Joint Chiefs of Staff, delivered the commencement address to the U.S. Merchant Marine Academy. In his remarks, General Powell talked about the strategic importance of the U.S.-flag merchant marine and American merchant mariners. His statements clearly rebut the comments made in the Wall Street Journal and by other critics demeaning both the role played by the merchant marine during the Persian Gulf war and the need to maintain a strong maritime industry to meet future national defense needs. General Powell said the following:

Since I became Chairman of the Joint Chiefs of Staff, I have come to appreciate first hand why our merchant marine has long been called the nation's fourth arm of defense.

The American seafarer provides an essential service to the well-being of the nation, as was demonstrated so clearly during Operations Desert Shield and Desert Storm. Merchant Marines . . . worked side-by-side with soldiers, sailors, airmen, Marines and Coast Guardsmen to get the job done that needed to be done. . .

Fifty years ago today, U.S. merchant vessels operated by your forbears were battling the frigid seas of the North Atlantic to provide the lifeline to our allies in Europe. The sacrifice of those mariners was essential to keeping us in the war until we could go on the offensive. . . In World War II, enemy attacks sank more than 700 U.S. flag vessels and claimed the lives of more than 6,000 civilian seafarers. . .

For too many years, the pivotal contribution of the merchant marine to our victory in World War II has been overlooked. But now the situation has begun to be rectified. America is eternally grateful to all those who served in our merchant marine over the years for their efforts, their commitment and their sacrifice in defense of our beloved America. They are second to none. . .

Sealift was the workhorse of our deployment and sustainment operations. Ninety-Five percent of all equipment and supplies reached the Persian Gulf by ship . . . We also activated the Ready Reserve Force for the first time. By late February, there were some 500 merchant marines employed by the Military Sealift Command serving in the Gulf on the high seas . . .

The war in the Persian Gulf is over, but the merchant marine's contribution to our nation continues. In war, merchant seamen have long served with valor and distinction by carrying critical supplies and equipment to our troops in far away lands. In peacetime, the merchant marine has another vital role—contributing to our economic security by linking us to our trading partners around the world and providing the foundation for our ocean commerce.

The United States today remains the world's leader, with global interests and responsibilities. We are a maritime nation. Our strategy demands that we have access to foreign markets, to energy, to mineral resources, and to the oceans. We must be able to project power across the seas.

This means that not only do we need a strong Navy, but a strong maritime industry as well. For, as the brilliant naval strategist Alfred Thayer Mahan once wrote, "Sea power in the broad sense . . . includes not only the military strength afloat, that rules the seas or any part of it by force of arms, but also the peaceful commerce and shipping from which a military fleet naturally and healthfully springs, and on which it securely rests." . . .

Our strategy requires us to be able to project power quickly and effectively across the oceans to deal with the crisis we couldn't avoid or protect. Sealift will be critical to fulfilling this strategic requirement. We learned a lot of valuable lessons from our lift operations in support of Desert Shield/Desert Storm. Many of these were incorporated into our new Mobility Requirements Plan—a blueprint for what we believe is needed to fulfill our armed forces' lift requirements in support of our new strategy . . . The plan also acknowledges that the merchant marine and our maritime industry will be vital to our national security for many years to come . . .

The key to investment, the one that really matters, is our investment in quality people . . . Few occupations require the high standards U.S. seamen must meet and the demonstrated skills they must acquire to pursue their career. It is your skills and those of your buddies in the Armed Forces that will help America maintain its position of leadership in the world.

I am here to tell you that we still need you. Do not let anyone suggest to you otherwise.

Mr. Speaker, General Powell was right when he said that America needs a strong merchant marine fleet to maintain our position as a world leader on the oceans. I urge every Member of this House to work toward strengthening our merchant marine fleet.

TRIBUTE TO GERALDINE GEORGE-FOUSHEE

HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, June 30, 1995

Mr. PAYNE of New Jersey. Mr. Speaker, I rise today to join my constituents in paying tribute to a longtime friend and a dedicated public servant, Mrs. Geraldine George-Foushee. Gigi, as we all know her, has dedicated her professional life to law enforcement and service to her community. A Newark resident who graduated from Newark's public schools, she went on to earn a masters degree in social work. Gigi served her community as a police officer with the Newark Police Department and later as a detective in the Essex County Sheriff's Office.

Gigi Foushee was the first African-American woman to serve as deputy mayor for the city of Newark and the first to serve as executive director of Newark's Alcohol Beverage Control Board. In 1991, Gigi achieved another first, she became the first African-American woman in New Jersey's history to be appointed warden of the Essex County Jail, the largest jail in New Jersey.

She was recently appointed by Chief Justice Robert N. Wilentz, of the New Jersey Supreme Court, to serve as a member of the New Jersey Supreme Court Task Force on Minority Concerns. Gigi continues to participate in numerous committees and task forces which are committed to addressing the concerns of the people of this community. As a result of her activities and accomplishments, she has received numerous community and law enforcement awards.

Gigi Foushee is a mother, a wife, and an excellent role model for our young people. Her service to this community will always be appreciated and remembered. She is an inspiration to us all. Mr. Speaker, I ask that all of my colleagues join with me in recognition of a truly extraordinary woman, Mrs. Geraldine "Gigi" Foushee.

AMTRAK NEEDS LABOR REFORM

HON. BUD SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 30, 1995

Mr. SHUSTER. Mr. Speaker, I commend to my colleagues the following editorial, which appeared in the Altoona Mirror, a newspaper in my 9th Congressional District of Pennsylvania. Concise and to the point, the piece describes why, without significant and immediate labor reforms, Amtrak may well find itself without any Federal funding this year. This editorial is a solid enunciation of the issue and I commend it to my colleagues and anyone else interested in the future of Amtrak.

AMTRAK NEEDS LABOR REFORMS

The freedom to make good business decisions, not government subsidies, offers Amtrak the best chance at long-term survival.

Despite Sen. Arlen Specter's words of support for Amtrak in Altoona, the nation's passenger railroad could derail without the reforms being supported by U.S. Rep. Bud Shuster. Those reforms would reduce Amtrak's overgenerous severance package and

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

allow the railroad to contract out for nonfood services, such as equipment repair.

Amtrak has an absurd severance package under which workers are eligible for each year they work, up to a total of six years, if they are laid off or moved more than 30 miles from their current job assignment.

This means Amtrak wants to abandon an unprofitable line, it may wind up paying employees for six years even though they are not working.

A bill backed by Shuster would reduce the maximum severance package to six months.

The other major reform would allow Amtrak to contract out work, other than food service. Currently the passenger railroad is prohibited by hiring outside contractors if it would affect a member of the bargaining unit.

Amtrak's repair facilities need to be upgraded at a cost of hundreds of millions of dollars. The General Accounting Office estimates $260 million is needed for Amtrak's primary maintenance shops in Beach Grove, IN.

This is money that Amtrak doesn't have and the Federal government does not need to spend. The nation's freight railroads, such as Conrail, have the capacity to do some of Amtrak's repairs on a contract basis.

Why should American taxpayers be forced to fork over $260 million to complete a major upgrade at just one of Amtrak's repair facilities when private companies should do their work?

Unfortunately, not everyone sees the need for immediate changes.

Shuster last week stopped discussion on the reform legislation after 38 members of the committee moved to give Amtrak and its unions 270 days to negotiate new contract provisions.

This would just continue to drag Amtrak's problems out. If Amtrak and its unions can not reach an agreement in 270 days, then President Clinton would appoint a Presidential Emergency Board, which would have 60 days to review the matter. Then the dispute would go to Clinton. He can take whatever time is needed, possibly years, before making a decision.

Amtrak may not have that long. The passenger railroad's federal funding is $993 million for the current fiscal year. The House Appropriations Subcommittee on Transportation has cut the amount to $728 million for the next year and made the money contingent on passage of legislation offering significant labor reforms.

Without changes, Amtrak could find itself without any federal money, which would virtually kill the passenger rail service and undermine the unemployment and retirement systems for all railroad employees. This could be disastrous.

We agree that the United States needs a passenger railroad, but the only way to guarantee that is to free Amtrak of the shackles that keep it from making the best business decisions. That's what the legislation supported by Shuster does and why is should be enacted.

INTRODUCTION OF THE EFFICIENT FLEET MANAGEMENT ACT OF 1995

HON. BOB FRANKS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, June 30, 1995

Mr. FRANKS of New Jersey. Mr. Speaker, spread throughout Washington, DC, and roaming in all corners of our country are more than 250,000 cars and trucks that make up the civilian Federal motor fleet. Last year, the GAO reported that only the IRS was in compliance with existing law which requires agencies to take advantage of the most cost-effective fleet management practices available.

Today, I am introducing a bill to require the Office of Management and Budget to supervise the awarding of competitive contracts in acquiring and operating the Federal fleets. This bill will save taxpayers at least $1 billion over 5 years.

Mr. Speaker, this Congress must demand that Federal agencies account for all the costs of their fleets and be held accountable to minimize those costs. I urge all of my colleagues to join me in supporting this legislation.

PERSONAL EXPLANATION OF VOTE ON HOYER AMENDMENT ON H.R. 1561

HON. WILLIAM F. CLINGER, JR.

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 30, 1995

Mr. CLINGER. Mr. Speaker, on June 8, I voted "No" on rollcall No. 362, an amendment offered by Mr. HOYER to the American Overseas Interests Act of 1995. Mr. HOYER's amendment declares that the United States supports the efforts of the Government of the Republic of Bosnia and Herzegovina to defend itself against aggression, and directs the President to lift the arms embargo against the Bosnian government. As you recall, the amendment passed 318–99.

Like my colleagues in the House, I am troubled by the horrific violence and blatant human rights abuses in the Balkans and frustrated by the continued failure to find a peaceful resolution to the conflict. Furthermore, I share my colleagues' good intentions of seeing the devastating war in Bosnia come to an end or at least allowing the Bosnian government to defend itself against Serbian aggression.

However, I feel it would not be wise to act on this matter over the objections of our NATO allies in Europe who remain opposed to lifting the arms embargo against Bosnia. Given that it is their troops who are on the line and that a rapid escalation in fighting would put our friends in Europe in harm's way, I cannot support lifting the arms embargo at this time. In all, I am convinced that the United States should work with NATO before making any dramatic shift in our policy toward Bosnia. To do otherwise will only weaken our valuable alliance with NATO.

HONORING JOSEPH PICKLE, CLYDE McMAHON, SR., JOHN TAYLOR, AND OWEN IVIE

HON. CHARLES W. STENHOLM

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, June 30, 1995

Mr. STENHOLM. Mr. Speaker, the Texas State Senate recently passed resolutions honoring four of its native sons who reside in Big Spring, TX. Big Spring is in the 17th District of Texas which I am privileged to represent here in the House.

Joseph "Joe" Pickle, a retired editor of the Big Spring Herald who, for more than 46 years, has chronicled the history of the Colorado River Municipal Water District. Joe has worked very hard on behalf of the water district, and has served as the only secretary-treasurer they have ever had. In addition, he has been a tireless advocate for the Big Spring community and plays an active role in civic affairs.

Clyde McMahon, Sr., a long-time Big Spring resident who served as the operator of McMahon Concrete for more than 25 years. During Clyde's service with the Colorado Municipal Water District, no city under its jurisdiction ever had to curtail or ration the use of water. In addition to his invaluable service to the water district, he has donated his time and leadership skills to numerous civic and community activities.

After 31 years of loyal service to the public, John L. Taylor is retiring as a member of the board of the Colorado River Municipal Water District. With John's guidance, the district underwent a $40 million expansion, and he provided outstanding leadership when he served as president during the completion of the Lake Ivie Reservoir and pipeline project. John has given generously of his time to other worthy community activities.

Owen H. Ivie is a well-known engineer and public servant, and has garnered numerous awards relating to his profession. His leadership in obtaining a permit for a reservoir was so appreciated by the Colorado River Municipal Water District board of directors that they named the reservoir the "O.H. Ivie Reservoir" in his honor. His knowledge and expertise, as demonstrated by a long and successful career, have certainly made him worthy of legislative recognition.

Mr. Speaker, I respectfully request that the Texas Senate resolutions honoring these four outstanding individuals be included in today's CONGRESSIONAL RECORD. I would also like to thank and commend them for their dedicated service to Big Spring and to the great State of Texas.

SENATE RESOLUTION

Whereas, The Senate of the State of Texas is proud to pay tribute to Owen H. Ivie on the auspicious occasion of his retirement from the position of general manager of the Colorado River Municipal Water District; and

Whereas, The Colorado River Municipal Water District was created in 1949; since that time, with no local, state, or federal taxes involved in the funding of any district project, the Colorado River Municipal Water District has developed three reservoirs along the Colorado River in West Texas to help ensure a long-term water supply for the region; and

Whereas, As a promising young man Owen Ivie joined the water district on January 1, 1953, after having served as project superintendent for Freese and Nichols on the Lake Thomas project; his talents and abilities were quickly recognized, and he rose rapidly through the ranks; and

Whereas, He became assistant general manager in 1958; on April 22, 1965, this exemplary public servant was named general manager; and

Whereas, Characteristics of his tenure are ability, responsiveness, and commitment to do what is best for the citizens of Texas; and

Whereas, Noted for his honesty and integrity, Mr. Ivie has earned the respect and friendship of his colleagues; and

Whereas, Well known in his profession, he has been honored several times: he was named Engineer of the Year by the Permian Basin Chapter of the Texas Society of Professional Engineers in 1964; Conservationist of the Year for 1986 by the Texas Water Conservation Association and Man of the Year in 1986 by the Big Spring Area Chamber of Commerce; and

Whereas, This distinguished gentleman was presented the Service to the People Award by the Texas Section of the American Society of Civil Engineers in October, 1986, was named president of the Texas Water Conservation Association in 1988, and in 1990, was named Outstanding West Texan by the Texas Chamber of Commerce; and

Whereas, Upon completion of the district's Stacy project in 1990, the Colorado River Municipal Water District's Board of Directors named the reservoir in honor of Mr. Ivie, who had overseen the arduous process relating to the permitting of what is now know as the O. H. Ivie Reservoir; and

Whereas, Throughout his long and successful career, he has been supported and sustained by his lovely wife, Yvonne, and their three daughters; and

Whereas, The State of Texas has benefited enormously from the wisdom and expertise of this illustrious public servant, and he is certainly deserving of legislative recognition; now, therefore, be it

Resolved, That the Senate of the State of Texas, 74th Legislature, hereby commend the life of service of Owen H. Ivie and congratulate him on his well-deserved retirement; and, be it further

Resolved, That a copy of this Resolution be prepared for him as an expression of the highest esteem of the Texas Senate.

SENATE RESOLUTION

Whereas, The Senate of the State of Texas is pleased to recognize Joseph "Joe" Pickle on the momentous occasion of his retirement as secretary-treasurer of the Colorado River Municipal Water District; and

Whereas, The Colorado River Municipal Water District was created by the 51st Legislature on May 31, 1949; since that time, with no local, state, or federal taxes levied for the funding of any district project, the Colorado River Municipal Water District has developed three reservoirs along the Colorado River in West Texas to help ensure a long-term water supply for the region; and

Whereas, For more than 46 years, this outstanding gentleman has chronicled the history of the water district; he has served as the only secretary-treasurer of the Colorado River Municipal Water District and has attended 316 out of a total of 324 meetings; and

Whereas, He attended the first organizational meeting of the district in 1946 as an employee of the Big Spring Herald; Joe Pickle has been on the job ever since; he retired from the newspaper as its editor in 1975 and continued to serve the district by taking on the additional duties of media liaison as well as serving as secretary-treasurer; and

Whereas, Concerned about the well-being of the residents of West Texas, he has been active in the on-going promotion of Big Spring, West Texas, and the Colorado River Municipal Water District; and

Whereas, A former president of the Big Spring Area Chamber of Commerce, he has also been recognized by that organization as Man of the year; and

Whereas, A man who believes in giving back to his community, he has been instrumental in many community projects; and

Whereas, A longtime supporter of Boy Scouts, he has been presented the Silver Beaver Award, scouting's highest honor; he is also a past Scoutmaster of Troop One, the first troop west of the Mississippi; and

Whereas, A man of deep religious convictions, he has been an active member of the First Baptist Church of Big Spring and has served as president of the church board of trustees; and

Whereas, The State of Texas has benefited enormously from the service, wisdom, and expertise of this eminent public servant, and he is truly worthy of legislative recognition; now, therefore, be it

Resolved, That the Senate of the State of Texas, 74th Legislature, hereby applaud the career of service of Joseph "Joe" Pickle and congratulate him on his well-deserved retirement; and, be it further

Resolved, That a copy of this Resolution be prepared for him as an expression of the highest regard of the Texas Senate.

SENATE RESOLUTION

Whereas, It is indeed fitting and appropriate for the Senate of the State of Texas to pay tribute to Clyde McMahon, Sr., of Big Spring on the momentous occasion of his retirement from 22 years of distinguished service with the Colorado River Municipal Water District; and

Whereas, Throughout his long and dedicated career, Mr. McMahon has served effectively and conscientiously to the benefit of the citizens of West Texas; since 1952, no city served by the Colorado Municipal Water District has ever curtailed or rationed the use of water; and

Whereas, Created on May 31, 1949, the Colorado River Municipal Water District has developed three reservoirs along the Colorado River in West Texas to help ensure a long-term water supply for the region; directors of the district are appointed by the member cities and revenue bonds finance all projects with no local, state, or federal taxes involved in the funding of any district project; and

Whereas, In the beginning, the three-member cities of Big Spring, Odessa, and Snyder had a combined population of 56,000; today, the water district serves a 32-county area that totals 450,000 persons; and

Whereas, Mr. McMahon moved to Big Spring in 1953 after working on a highway project at Sterling City and, for nearly 25 years, operated McMahon Concrete before turning over the management of the company to his son in 1977; and

Whereas, Through the years, Clyde McMahon has become deeply involved in civic and community affairs freely offering his time and expertise; he served as president of the school board and was a two-term president of the Young Men's Christian Association; he was head of the United Way, the American Business Club, and the Texas Ready-Mix Association and worked on the Industrial Foundation; and

Whereas, A former president and director of the Big Spring Area Chamber of Commerce, the esteemed gentleman was named "Man of the Year" of the organization in 1974 in honor of his notable contributions to his community; now, therefore, be it

Resolved, That the Senate of the State of Texas, 74th Legislature, hereby express its deepest admiration to Clyde McMahon, Sr., for his invaluable accomplishments during his years of service with the Colorado River Municipal Water District and extend best wishes to him for a most rewarding retirement; and, be it further

Resolved, That a copy of this Resolution be prepared for him as an expression of the highest regard of the Texas Senate.

SENATE RESOLUTION

Whereas, The Senate of the State of Texas takes pride in recognizing John L. Taylor of Big Spring who is retiring after 31 years of loyal service on the Board of the Colorado River Municipal Water District; and

Whereas, Following its creation in 1949, the Colorado River Municipal Water District developed three reservoirs along the Colorado River in West Texas to help ensure a long-term water supply for the region; the district now serves a number of cities in a 32-county area that totals 450,000 persons; and

Whereas, John Taylor joined the board of the Colorado River Municipal Water District in 1964 and in 1983 became the district's fourth president; and

Whereas, A talented and resourceful individual, he has shared in the direction of over $40 million worth of district expansion, and it was during his tenure as president that the district's Lake Ivie Reservoir and pipeline projects was completed; the district capacity now totals 1.247 million acre-feet of permitted storage on the Colorado River; and

Whereas, While serving on the board, Mr. Taylor handled his responsibilities with exceptional skill and dedication, and his work included chairing the Colorado River Municipal Water District's personnel committee and serving on the water rate committee; and

Whereas, An exemplary gentleman and a leader in his community, John Taylor served as president of the Big Spring Area Chamber of Commerce and was recognized as its Man of the Year; he also served as a city council member and as mayor pro tem of the City of Big Spring; and

Whereas, As a member of the Board of the Colorado River Municipal Water District, John Taylor has contributed greatly to the welfare of the communities in the district's area, and his presence on the board will be missed by his colleagues and by the citizens of West Texas; now, therefore, be it

Resolved, That the Senate of the State of Texas, 74th Legislature, hereby commend John Taylor on his many years of distinguished service with the Colorado River Municipal Water District and extend to him best wishes for the retirement years ahead; and, be it further

Resolved, That a copy of this Resolution be prepared for him as an expression of esteem from the Texas Senate.

DRUG ENFORCEMENT ADMINISTRATION OPPOSES THE USE OF MARIJUANA AS MEDICINE

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, June 30, 1995

Mr. SOLOMON. Mr. Speaker, in a June 21 information release the Drug Enforcement Administration [DEA] denounced a recent article in the Journal of the American Medical Association [JAMA] which advocated the use of marijuana for medicinal purposes. Thomas Constantine, administrator of the DEA, stated:

I am very concerned about the JAMA commentary that advocates the medical use of marijuana. Marijuana is listed as Schedule I under the Controlled Substance Act because it has a high potential for abuse and no currently accepted medical use.

There is very little evidence of positive medicinal uses of marijuana. According to Constantine, organizations such as the American Glaucoma Society have expressed "concern over the harmful effects of marijuana and the lack of solid research demonstrating that its use would do more good than harm." And this is not due to lack of research. Since 1971, the DEA has registered 1,605 applicants as qualified to do research with marijuana.

With the drug problem growing at tremendous rates, we must not legitimize marijuana by using it in our hospitals. As Constantine states:

> At a time when drug use represents a major threat to our society, in particular our youth, it is extremely important to rely upon sound medical studies rather than anecdotal information to determine the proper place of marijuana under the Controlled Substances Act.

THE INDEPENDENT CONTRACTOR TAX SIMPLIFICATION ACT: FAIRNESS FOR SMALL BUSINESSES AND WORKERS

HON. JON CHRISTENSEN

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 30, 1995

Mr. CHRISTENSEN. Mr. Speaker, today I am introducing the Independent Contractor Tax Simplification Act. My bill, which has 100 original cosponsors, is designed to remedy the concern which received the most votes of any issue at the White House Conference on Small Business earlier this month. In a nut shell, the bill clarifies the difference between contractors and employees in Federal tax law.

Today, the IRS uses a 20-factor test to distinguish an independent contractor from a full-time employee. This archaic policy has caused small businesses endless problems. First of all, the test is confusing enough to foil good-faith efforts to put individuals in one category or the other. Second, the confusion gives the IRS the power to force whole classes of workers from one category to the other. It has happened to truckers, to paper-delivery people, to travel agents, to hard-working people from every walk of life.

Mentioning the tortured distinction between employees and contractors is a sure-fire way to infuriate Main Street business people. They are the ones who can't afford the fancy lawyers and CPA's it takes to out-guess the IRS. And when you're in a gray area, you're in trouble no matter how much you spend—because the IRS can decide differently on two seemingly identical cases. This has wreaked havoc on businesses across the country.

For these and other reasons, clarifying tangled Federal tax provisions with respect to the distinction between full-time employee and independent contractor status has emerged as the top priority of the Nation's small business community. As I mentioned, this month the White House Conference on Small Business gave the most votes of any issue to the independent contractor issue. Think about that: of the hundreds of items that the small business community needs, this single issue emerged as the first order of business for policy makers. It sent me a strong message when the Nebraska delegation of the Conference told me this topped their list, as well.

My bill will substitute a new, far simpler set of criteria for determining who is not an employee—a new approach to an old problem. Today's law paints a dizzying portrait of every possible factor which would make someone an employee. This bill would instead sketch clearly and starkly who would qualify as an independent contractor for tax purposes. By defining the restricted class—contractors—instead of the general class—employees—my bill avoids laying out a labyrinth of rules. Once the distinction is clarified, the problem should all but disappear.

I plan to press this legislation in Ways and Means and hope Chairman ARCHER will bring it up as soon as possible. And let me just say this too: I believe that with the groundswell of support this bill is already getting, including the backing of seven committee chairmen and 14 Ways and Means members, we will pass it in this Congress.

H.R. 1972

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Independent Contractor Tax Simplification Act of 1995".

SEC. 2. FINDINGS.

The Congress finds that:

(1) Simplifying the tax rules with respect to independent contractors was the top vote-getter at the 1995 White House Conference on Small Business. Conference delegates recommended that Congress "should recognize the legitimacy of an independent contractor". The Conference found that the current common law is "too subjective" and called upon the Congress to establish "realistic and consistent guidelines".

(2) It is in the best interests of taxpayers and the Federal Government to have fair and objective rules for determining who is an employee and who is an independent contractor.

SEC. 3. STANDARDS FOR DETERMINING WHETHER INDIVIDUALS ARE NOT EMPLOYEES.

(a) IN GENERAL.—Chapter 25 of the Internal Revenue Code of 1986 (general provisions relating to employment taxes) is amended by adding after section 3510 the following new section:

"SEC. 3511. STANDARDS FOR DETERMINING WHETHER INDIVIDUALS ARE NOT EMPLOYEES.

"(a) GENERAL RULE.—For purposes of this subtitle, and notwithstanding any provision of this subtitle to the contrary, if the requirements of subsections (b), (c), and (d) are met with respect to any service performed by any individual, then with respect to such service—

"(1) the service provider shall not be treated as an employee,

"(2) the service recipient shall not be treated as an employer, and

"(3) the payor shall not be treated as an employer.

"(b) SERVICE PROVIDER REQUIREMENTS WITH REGARD TO SERVICE RECIPIENT.—For the purposes of subsection (a), the requirements of this subsection are met if the service provider, in connection with performing the service—

"(1) has a significant investment in assets and/or training,

"(2) incurs significant unreimbursed expenses,

"(3) agrees to perform the service for a particular amount of time or to complete a specific result and is liable for damages for early termination without cause,

"(4) is paid primarily on a commissioned basis, or

"(5) purchases products for resale.

"(c) ADDITIONAL SERVICE PROVIDER REQUIREMENTS WITH REGARD TO OTHERS.—For the purposes of subsection (a), the requirements of this subsection are met if—

"(1) the service provider—

"(A) has a principal place of business,

"(B) does not primarily provide the service in the service recipient's place of business, or

"(C) pays a fair market rent for use of the service recipient's place of business; or

"(2) the service provider—

"(A) is not required to perform service exclusively for the service recipient, and

"(B) in the year involved, or in the preceding or subsequent year—

"(i) has performed a significant amount of service for other persons,

"(ii) has offered to perform service for other persons through—

"(I) advertising,

"(II) individual written or oral solicitations,

"(III) listing with registries, agencies, brokers, and other persons in the business of providing referrals to other service recipients, or

"(IV) other similar activities, or

"(iii) provides service under a business name which is registered with (or for which a license has been obtained from) a State, a political subdivision of a State, or any agency or instrumentality of 1 or more States or political subdivisions.

"(d) WRITTEN DOCUMENT REQUIREMENTS.—For purposes of subsection (a), the requirements of this subsection are met if the services performed by the individual are performed pursuant to a written contract between such individual and the person for whom the services are performed, or the payor, and such contract provides that the individual will not be treated as an employee with respect to such services for purposes of this subtitle.

"(e) SPECIAL RULES.—For purposes of this section—

"(1) If for any taxable year any service recipient or payor fails to meet the applicable reporting requirements of sections 6041(a), 6041A(a), or 6051 with respect to a service provider, then, unless such failure is due to reasonable cause and not willful neglect, this section shall not apply in determining whether such service provider shall not be treated as an employee of such service recipient or payor for such year.

"(2) If the service provider is performing services through an entity owned in whole or in part by such service provider, then the references to 'service provider' in subsections (b) through (d) may include such entity, provided that the written contract referred to in paragraph (1) of subsection (d) may be with either the service provider or such entity and need not be with both.

"(f) DEFINITIONS.—For the purposes of this section—

"(1) SERVICE PROVIDER.—The term 'service provider' means any individual who performs service for another person.

"(2) SERVICE RECIPIENT.—Except as provided in paragraph (5), the term 'service recipient' means the person for whom the service provider performs such service.

"(3) PAYOR.—Except as provided in paragraph (5), the term 'payor' means the person who pays the service provider for the performance of such service in the event that the service recipients do not pay the service provider.

"(4) IN CONNECTION WITH PERFORMING THE SERVICE.—The term 'in connection with performing the service' means in connection or related to—

"(A) the actual service performed by the service provider for the service recipients or for other persons for whom the service provider has performed similar service, or

"(B) the operation of the service provider's trade or business.

"(5) EXCEPTIONS.—The terms 'service recipient' and 'payor' do not include any entity which is owned in whole or in part by the service provider."

(b) CLERICAL AMENDMENT.—The table of sections for chapter 25 of such Code is amended by adding at the end the following new item:

"Sec. 3511. Standards for determining whether individuals are not employees."

(c) EFFECTIVE DATE.—The amendments made by this Act shall apply to services performed after December 31, 1995.

NATIONAL LITERACY DAY 1995

HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, June 30, 1995

Mr. PAYNE of New Jersey. Mr. Speaker, I am pleased to ask my colleagues to join me in observance of National Literacy Day on July 2, 1995. As we move into a technologically advanced, 21st century economy, it is imperative that the American people are equipped with the tools they will need to navigate in such a milieu. Basic literacy is a fundamental prerequisite to survival in our rapidly-developing world. While literacy does not guarantee success and prosperity in a third wave culture, illiteracy does forbode a life of poverty and despair.

When 30 million Americans cannot read, and over 42 million are functionally illiterate, we are relegating these individuals to a life on the cusp of viability and hopelessness. Furthermore, through the economic underemployment that an illiterate populace engenders, we are continuing to underutilize the resources which we possess. As a result, by the year 2000, we will need to retrain 50 million workers to enable them to compete in the new economy. Additionally, the Nation will spend over 225 billion dollars per annum because of the insufficiencies of illiterate workers.

Over the past 10 years, we recognized our commitment to literacy through a nationally observed Literacy Day. Today, I ask that we recognize July 2, 1995 as a day in which we both praise the efforts of those who have worked to increase our national reading capacity, and promote awareness of the shortcomings continually inherent in our educational system.

For example, in my home State of New Jersey, project Focus on Literacy, spearheaded by executive director Caryl Mackin-Wagner has worked tirelessly to increase statewide literacy. However, on the other hand, in New Jersey alone, there are over 800,000 people who are illiterate, and countless others who suffer from functional illiteracy.

This kind of awareness of both our successes and failures is crucial if we, as a Nation, hope to triumph over illiteracy. Therefore, Mr. Speaker, I ask that we again observe National Literacy Day on July 2, and continue our arduous journey toward a literate America.

RECOGNITION OF FRY METALS OF ALTOONA, PA

HON. BUD SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 30, 1995

Mr. SHUSTER. Mr. Speaker, I rise today to recognize one of the major employers in my district, Fry Metals of Altoona, PA. An employer of over 210 men and women, they specialize in the production and sale of solder and Aquaclean non-lead metal used for pewter statues and figurines. In fact, Fry Metals is the largest tin-lead fabrication center under one roof in the world. Annual sales exceed $40 million. Founded in 1979, it has come to represent the highest quality workmanship in its field with the ability to service the entire U.S. solder market.

While it is a leader in the field of metal production, Fry Metals is also leader in the community as well. Understanding the need to service more than its customers, Fry Metals has gone out of its way to service the community. Fry Metals is a company of the highest integrity whose commitment to public service is a tribute to itself and to my district.

Recently Fry Metals showed us that it is also a leader in our Nation. Inola Casting Works designed a pin commemorating the tragic bombing of the Alfred P. Murrah Federal Building in Oklahoma City. The intent of this project was to sell the pins and donate the funds to the 75 children who lost parents in this tragedy. As Inola Casting Works is one of Fry Metals largest clients, the company stood to make a sizable profit from this venture. Instead, Fry Metals selflessly donated all the metal involved in making these pins to Inola Casting. To date, the sale of these pins has raised over $100,000 for the victims of this tragedy.

I applaud the actions of Fry Metals. It is a company that continually works to improve its standing in the marketplace, in the community and in the Nation. I thank Fry Metals for its efforts in response to the Oklahoma City tragedy, and wish the company best of luck and continued success in the future.

A BRIEF HISTORY OF UNION COUNTY, NJ, RESIDENTS WHO SERVED IN CONGRESS, 1833–1911

HON. BOB FRANKS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, June 30, 1995

Mr. FRANKS of New Jersey. Mr. Speaker, with Representative Erza Darby's passing in 1808, no natives of Union County were sent to either body of Congress until the 23d Congress in 1833. While greater Elizabeth may have qualified for its own seat by modern standards of apportioning congressional districts by population, under New Jersey's method of electing its House Members at-large, it was entirely a hit-or-miss proposition. This method of electing House Members statewide was abandoned by New Jersey in 1843 pursuant to the Congressional District Act, which passed Congress on November 11, 1842.

Union County's dearth of citizens in Congress ended with the election of Thomas Lee of Port Elizabeth—now a part of Elizabeth—in 1832. Representative Lee was the third top vote-getter in the State with over 24,000 votes, entitling him to 1 of New Jersey's 5 congressional seats. Born in Philadelphia in 1780, Representative Lee moved to Port Elizabeth in 1805 and became a merchant, shipbuilder, and landowner. His public life began in 1813, when he became judge of the court of common pleas. In 1814, he was elected to the New Jersey General Assembly and served one term. Elected as a Jacksonian Democrat to Congress when that party swept every seat in the New Jersey delegation, he rose after his reelection in 1834, this time coming in fourth place, to chairman of the Committee on Accounts. He returned to Port Elizabeth after his service in Congress and founded the Port Elizabeth Library and Academy. He died in Port Elizabeth in 1856.

Serving briefly with Congressman Lee in the 24th Congress was William Chetwood, a member of the Whig Party from Elizabeth. Representative Chetwood won a special election to fill the vacancy created by Philemon Dickerson of Paterson, who was elected Governor of New Jersey in 1836. Representative Chetwood was sworn in to the House on December 5, 1836. His tenure in Congress was extremely brief, lasting less than 3 months. During his service in Congress, he served on the House Committee on Public Expenditures. Because of his short tenure in the House, and also because it was customary at this time for freshmen not to make speeches on the House floor, Representative Chetwood did not participate in floor debate or introduce legislation.

Before coming to Congress, Representative Chetwood was a lawyer, and served in the Whiskey Rebellion of 1794 as an aide-de-camp to Maj. Gen. Henry Lee. After Representative Chetwood's short service in Congress, he returned to Elizabeth to resume his law practice. He died in 1857.

With the departure of Representatives Chetwood and Lee from Congress, Union County was again without a favorite son in either body of Congress until 1873. During this period of 36 years, House Members who represented the Union County area tended to be either from New Brunswick to the south, or Newark or Jersey City to the north.

One notable House Member who was not a resident but represented Union County during this time was William Pennington of Newark. Elected in 1858, Representative Pennington took the seat previously held by his cousin Alexander Cumming McWhorter Pennington. Representative Pennington has the distinction of being both the last Speaker to represent Union County in the House, and also the last Speaker to fail to be reelected before Speaker Tom Foley's defeat last year—Pennington would lose after one term of Nehemiah Perry in 1860 by 398 votes. Apparently, Representative Pennington's main qualification for Speaker was his unknown position on the top issue of the day, slavery. On the eve of the Civil War, Representative Pennington was elected Speaker as the least objectionable compromise candidate. A deadlocked House spent 8 weeks debating and balloting before electing Representative Pennington on the 44th ballot by voice vote. As a freshman Member, he proved to be a less-than-adequate Speaker, and utterly ignorant of parliamentary procedure to the point of reportedly asking the advice of a page. He returned to Newark after his defeat, and died in 1862 from an overdose of morphine evidently administered by mistake.

Union County sent its first resident in over three decades to Congress in 1872 with the election of Amos Clark of Elizabeth. Born in Brooklyn in 1828, Clark moved to Elizabeth and established himself in the real estate business, where he became one of the largest landowners in the city. He was also the founder of the First National Bank of Elizabeth. His first foray into politics was as a member of the Elizabeth City Council from 1865 to 1866. From there, he served in the State Senate for one term, 1866–69, before being elected 3 years later as a Republican to the 43d Congress.

Although he would only serve one term, he was defeated for reelection by Miles Ross, the Democratic mayor of New Brunswick, Congressman Clark's legislative record was not unremarkable. He introduced seven bills as a freshman legislator, but only spoke on the House floor once, regarding amending the National Currency Act. One of the bills he sponsored was to improve the channel between Staten Island and Elizabeth, an issue I expect to address as a member of the House Water Resources and Environment Subcommittee. Representative Clark did manage to get one bill he introduced passed in the House, a bill incorporating the Washington Market Co. Unfortunately for him, this legislation died in the Senate.

After leaving Congress, Congressman Clark moved to Norfolk County, MA, but retained business interests in Elizabeth. He died in Boston in 1912, and is buried in Elizabeth.

Union County's next native in Congress was John Kean. The Kean family name is familiar to all New Jerseyans, as the Keans have a long and distinguished history of service of their country. John Kean won election to the House in 1882 by defeating incumbent Miles Ross with 48.2 percent of the vote. Representative Kean was born in 1852 at Ursino, the Kean ancestral estate in Union Township. Ursino is now called Liberty Hall, and it was originally the home of New Jersey's first Governor, William Livingston.

Representative Kean was educated at Yale University and Columbia Law School. Although a lawyer, he was primarily interested in banking and manufacturing.

During Representative Kean's first term in the House, he was appointed to serve on the House Public Building and Grounds Committee, and the House Banking and Currency Committee. He spoke on the floor twice during his freshman term, on Chinese immigration and a rivers and harbor appropriations bill. The bills Representative Kean sponsored included eight private relief bills, as well as a bill to protect Atlantic fisheries, a bill regarding bankrupt municipalities, and a bill concerning pensions for prisoners-of-war.

Representative Kean's early congressional career was twice interrupted by his lack of success at the polls. In 1884, he was unsuccessful in his bid for reelection against Robert S. Green, garnering 46 percent of the vote.

Like Representative Kean, Robert S. Green was also a Union County resident. Born in Princeton in 1831, he attended Princeton University, studied law, and established his legal practice in Elizabeth, where he was active in Democratic politics.

While in Congress, Representative Green served on the Committee on Elections and the Committee on Private Land Claims. He introduced 25 bills, 20 of which were private relief bills, mainly concerning pensions. The public bills he introduced included legislation to erect a public building in Perth Amboy and Elizabeth, respectively.

Representative Green served only one term in the House. Instead of seeking reelection to the House, Representative Green ran and won the governorship of New Jersey with 47.4 percent of the vote. He resigned his seat in Congress to assume New Jersey's highest office on January 17, 1887.

After serving one term as Governor, Representative Green served as vice-chancellor of New Jersey, and as a judge. He died in Elizabeth in 1895.

Representative Kean came back and was reelected to the House in 1886, again with approximately 46 percent of the vote. In his second term, Representative Kean reintroduced his bill to protect Atlantic fisheries, reintroduced Representative Green's bill to erect a public building in Perth Amboy, and also introduced a bill to aid the Stevens Institute of Technology.

Representative Kean lost his House seat for the final time in 1888 to Jacob A. Geissenhainer, a Democrat from Freehold. In 1892, he ran and lost a race for Governor to George T. Werts, garnering 47 percent of the vote. His political fortunes changed in 1899, however, when Representative Kean returned to Congress yet again, this time as a U.S. Senator.

During Kean's tenure in the Senate, he would serve on the Committee on Claims and the Committee on Foreign Relations. Later in his first term, he chaired the Committee on the Geological Survey from 1901–1903—this committee was abolished in 1921—and later served as the chairman of the Committee to Audit and Control the Contingent Expense of the Senate. He was reelected in 1905, and served until his retirement in 1911. He died in 1914.

In between John Kean's House and Senate stints, reapportionment created an open congressional seat in Union County for the 1892 election. This seat was filled by Elizabeth resident John T. Dunn, who narrowly defeated his Representative opponent with 50.4 percent of the vote. With the exception of the 65th Congress (1917–1919), after Dunn's ascension to the House, Union County would never again be bereft of having at least one of its citizens in Congress.

Representative Dunn was born in Tipperary, Ireland in 1838. He and his father emigrated to America during the Irish potato famine when Dunn was 7 years old. His father placed him with a farmer for rearing and private tutoring, but the young Dunn was unable to handle the hardship of farm living, and he ran away at age 11 to become a cabin boy on a trading vessel in the West Indies. After this adventure, Representative Dunn returned to Elizabeth, was schooled at home, became a local businessman, and entered public service as an Elizabeth alderman in 1878. The next year, he was elected to the New Jersey general assembly, where he attained the speakership of that body in 1882.

After Dunn left the Assembly in 1882, he decided to become a lawyer, and at the age of 44 was admitted to the bar and began practicing in Elizabeth. A decade later, Dunn was elected to the 53d Congress. While in Congress, Representative Dunn served on the Committee on Claims. He reintroduced Representative Green's bill to build a Federal building in Elizabeth, and also sponsored two private relief bills.

As a member of the House Transportation and Infrastructure Committee, I found it interesting to discover that Representative Dunn was very active in advocating public works projects for New Jersey. For example, Representative Dunn participated in the debate on whether to build a bridge across the Hudson River, connecting New Jersey and New York City. Dunn also sponsored legislation to build a drawbridge across Newark Bay, connecting Elizabeth and Bayonne. Similar legislation to Dunn's bill would pass the House under his leadership. Unfortunately, this bill, which would have built what could be considered a forerunner of what many of my constituents call the Turnpike Bridge, died in the Senate.

Representative Dunn was denied a second term by the voters, losing in a landslide with 38.6 percent of the vote. After his single term in Congress, Dunn returned to Elizabeth and resumed his law practice. He died in Elizabeth in 1907.

Representative Dunn's career on Capitol Hill was abruptly ended by Charles N. Fowler, his Republican opponent and fellow Elizabeth resident. Representative Fowler was born in Lena, IL in 1852 and attended public schools. Fowler was well-educated, garnering degrees from Yale and the law school at the University of Chicago. He left the law for banking, however, and helped to organize the Equitable Banking Co. in 1886, and became its president in 1887. To pursue his business interests, Fowler moved east in 1883, settling in the quaint little township of Cranford, which had only incorporated 13 years before. After living in then-rural Cranford for 8 years, he moved to Elizabeth in 1891.

After his election in 1894, Fowler would be reelected to the seven succeeding Congresses, averaging 54 percent of the vote. Early in his congressional career, Fowler primarily introduced legislation that had local rather than national implications. For example, he reintroduced legislation previously introduced by Representative Green to build a public building in Elizabeth. He also introduced legislation building on the work of Representative Dunn concerning a bridge over Newark Bay. Also in his first term, he sponsored a bill to improve the Rahway River, a small yet scenic river that twists through Cranford.

Fowler rose to become chair of the Committee on Banking and Currency from 1901 to 1909. He attracted national attention for his pronounced opinions on financial matters and as a relentless and uncompromising advocate of currency reform. He had acrimonious disagreements over the latter issue with such figures as New York Senator Nelson H. Aldrich and Senator Kean. His most continuous combat, with Speaker Joe Cannon, eventually led to his deposition from the chairmanship of the Banking and Currency Committee. As my colleagues may know, Speaker Cannon (R-IL) was perhaps the most powerful Speaker of the House ever, and would usually take tough action against any dissident Republican Member.

In 1910, Fowler sought the Republican nomination for the U.S. Senate, but was denied. After leaving the House in 1911, Fowler resumed his banking activities in Elizabeth. He also successfully developed marble quarries in Vermont, where a town is named for him. In 1918, he published a comprehensive book on currency.

Fowler moved to Orange in 1930, and died there in 1932. He is interred at Fairview Cemetery in Westfield.

GRAVESITE OF UNKNOWN REVOLUTIONARY WAR VETERAN TO HONOR ALL UNKNOWN VERMONT SOLDIERS

HON. BERNARD SANDERS

OF VERMONT

IN THE HOUSE OF REPRESENTATIVES

Friday, June 30, 1995

Mr. SANDERS. Mr. Speaker in 1935 in Plymouth, VT, the grave of an unknown soldier in the American Revolutionary War was discovered. It was found on land owned by a nature conservancy. That year the Daughters of the American Revolution placed a marker and a flag at the grave.

Today, it is my honor to introduce legislation to authorize the President to award the Medal of Honor to the Unknown Vermonter who gave his life while serving in the Continental Army in the American War of Independence. This tribute is especially fitting now that the Vermont legislature has approved legislation designating this unknown soldier's gravesite as an official site to honor Vermont soldiers of all wars who never returned home and whose ultimate fate is unknown.

I also ask that two recent articles from Vermont newspapers be reprinted in the CONGRESSIONAL RECORD to underscore the merit and significance of continuing to recognize the profound sacrifice made by all American veterans to secure and preserve our freedom.

[From the Burlington Free Press, Apr. 8, 1995]

REVOLUTIONARY WAR SOLDIER HONORED

MONTPELIER.—An unnamed soldier buried in Plymouth after the Revolutionary War has been selected Vermont's official unknown soldier following approval of a resolution this week by the Vermont Senate.

The soldier, buried on land owned by a nature conservancy, is believed to have died as he was returning from the Revolutionary War.

According to oral history, the soldier died at a stream a few hundred yards from the wooded knoll where he is buried. The grave was exhumed in 1935, and a body was found. That year the Daughters of the American Revolution placed a marker and a flag at the grave.

The designation honors Vermont soldiers of all wars who did not return home, said Rep. John Murphy, D-Ludlow, who introduced the resolution in the House, where it was approved in February. A July 4 ceremony is planned at the gravesite near the historic Crown Point Military Road in Plymouth.

[From the Burlington Free Press, Mar. 1, 1995]

VERMONT UNKNOWN SOLDIER MAY SERVE AGAIN—LEGISLATURE CONSIDERS DESIGNATION FOR GRAVE

(By Molly Walsh)

PLYMOUTH.—A nameless Revolutionary War soldier who was buried in a remote, wooded grave roughly 220 years ago may finally find an identity.

The soldier, believed to have died a few hundred yards from Vermont's historic Crown Point Military Road as he returned home from battle, will be designated Vermont's official unknown soldier if a resolution introduced Tuesday in the Legislature is approved.

The designation would honor Vermont soldiers of all wars who never returned home and whose ultimate fate is unknown, said Rep. John Murphy, D-Ludlow, who expects the resolution to be discussed in the House today. It would also give the forgotten soldier, who is buried atop a secluded knoll overlooking the stream where he may have taken his last drink, a place in history, even if he lacks a name.

"History reflects those people that have given their utmost support and their lives in some cases, and I think the young people of the country should understand history on the national level and the state level," Murphy said.

The grave is located off Vermont 103, about one-half mile northeast of Lake Ninevah and just north of the Mount Holly-Plymouth line. The land where it sits is owned by The Wilderness Corporation, a Vermont conservation group that owns 3,000 acres in the area, which it opens to hiking, skiing and other recreational uses.

The grave itself is one-third of a mile from a branch of the historic Crown Point Military Road, today a patchwork of paths, town roads and overgrown woods that is frequently hiked by history buffs.

But during the French and Indian Wars, as well as the Revolutionary War, the 77-mile road was traveled by soldiers heading to strategic positions at Fort Ticonderoga and Crown Point, N.Y.

The road, built from 1759 to 1760, stretches from the Connecticut River on the east side of the state to Lake Champlain on the west. There are several graves of Revolutionary War soldiers along and around the road and its many branches.

The grave that was chosen for the designation was selected for its peaceful setting and because the oral history surrounding the soldier's death is compelling.

That history, passed down for generations, holds that the soldier was returning home from battle and stopped to drink at a stream with a comrade. He reportedly died on the spot and was buried on the knoll overlooking the stream.

A local landowner told the story to the Rev. William Ballou of Chester. Ballou, who was also a Boy Scout master, investigated the site and confirmed the grave's location on Oct. 19, 1935. A month later the Chester Boy Scouts cleared brush from the site and placed a wooden marker on the old road that goes by the grave. That year the Daughters of the American Revolution also placed a marker and a flag at the head of the grave. Whether the oral history is true, no one can be sure. But that does not matter to the Rev. Charles Purinton Jr., chaplain and family services coordinator for the Vermont National Guard, who launched the designation effort.

"Nobody really does know what happened," Purinton said. But he believes one thing is certain about the soldier: "He was doing his duty like Vermonters ever since."

If the House and Senate approve the resolution, a July 4th ceremony is planned at the knoll where the soldier is buried and a simple plaque will be erected. It would be the first recognition of this kind in Vermont.

Maj. Gen. Donald Edwards, the state adjutant general, said that if the designation is made, no great influx of visitors to the site is anticipated. Other than the plaque, he does not expect any changes.

"We think it's classic Vermont, why change it?" he said. "We are not going to build any great big monuments or anything." However, the site's remote beauty could be its downfall. The path from the dirt road to the grave is uphill, rocky and overgrown. It would be difficult for handicapped people to navigate.

That's a major drawback, said John Bergeron, vice president of the Vietnam Veterans of America Chapter One in Rutland. "A lot of veterans are getting up there in age," he said. "Certainly access to the place will be a problem."

But the solitude hanging in the air over the grave covered by field stones and snow inspires contemplation of what put him there. And that makes the site special, said Scott McGee, president of the Wilderness Corporation.

"It is touching to go there and to contemplate what may have occurred and to think about who may lie there and what he may have done," McGee said. "There is a sense of history that starts to surround you when you go to the site."

HAWAII PUBLIC RADIO

HON. NEIL ABERCROMBIE

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Friday, June 30, 1995

Mr. ABERCROMBIE. Mr. Speaker, during this Congress we are going to have the opportunity to debate the vital role of public broadcasting in the educational and cultural development of our Nation.

As we discuss this issue I want to share with my colleagues an article that was given to me earlier this year regarding the merits of national public radio. Specifically, the author extols the virtues of Hawaii Public Radio. Public radio is unique and adapts to the cultural, geographical and regional differences in the United States. For instance, while Hawaii Public Radio broadcasts "Morning Edition" and "All Things Considered" from national public radio they also read the news in Hawaiian and provide the daily news from the Pacific. This is an addition to the classical, jazz, blues, and sundry other programs that anyone can tune into and enjoy. No other radio station provides such a variety of programs to its listeners.

Mr. Speaker, diversity strengthens and brightens the fabric of our society. There is a place for Hawaii Public Radio in our society and we must continue to support it. I commend this article to my colleagues and ask that it be printed in the RECORD at this point.

[From the Maui News, Dec. 15, 1994]

MAKING THE MAUI SCENE

(By Rick Chatenever)

Amazing—the Newt Age isn't even upon us yet, but the media is already back as the target of choice. From both sides. First White House Chief of Staff Leon Panetta likened incoming Speaker of the House Newt Gingrich to "an out-of-control radio talk-show host." Trying to become the Gingrich that stole Christmas, Newt wasted no time suggesting that the government should pull the plug on public broadcasting.

How easy it is to forget public broadcasting's role in creating a climate that made someone like Newt possible. True, it probably has something to do with his talents (you'd be an over-achiever, too, if your name was Newt). And it probably has something to do with tapping into the mood of a just plain irked nation. Hey, why can't anyone figure out what's wrong—? Hey, why can't anyone fix it—?

But PBS was right there with the other panel shows, ushering in the "don't talk while I'm interrupting!" shout fests that have now replaced TV analysis from Washington, D.C. insiders.

Is it politics, journalism or show business—? You be the judge. The players move back and forth freely—Pat Buchanan leaves "Crossfire" to run for president, David Gergen leaves "The MacNeil-Leher Report" to try to straighten out the Clinton White House, Mary Matalin and James Carville run opposing presidential campaigns, then go on to live out their own Kathryn Hepburn-Spencer Tracy movie.

When Al Gore debated Ross Perot on the merits of NAFTA, they did it with all the maturity of a couple of second graders, fingers in ears, taunting. "I'm rubber, you're glue . . ."

In this climate, he with the longest wind wins, and the spoils go to the most bellicose. Rush rules the roost . . . but you can bet Newt can't wait to get into the act.

Before he does, I'd like to offer a few words in praise of Hawaii Public Radio.

NPR, or PRI, or whatever it calls itself to try to stay out of Jesse Helms' direct line of sight, is where the dial of my car radio is most of the time. I quote it regularly. I bore friends with stories of whatever obscure character has shown up as an interview subject that day.

KKUA is a magic link, from the two lane roads criss-crossing this island to . . . Everywhere Else. Just mentioning names of NPR voices—Bob Edwards, Cokie Roberts, Baxter Black, Click and Clack, Andre Codrescu, Bailey White, Daniel Shore, Noah Adams, Garrison Keillor, Sylvia Pajoli, Neil Conan, Cory Flintoff, Nina Totenberg, even Frank Deford, when he's not getting to carried away with the sound of his own voice—is enough to draw smiles from those of us who share the habit. When I get together with friends from the Mainland, we discover NPR is something we all have in common. It's the tom-tom beat for the global village. Not to mention, the place to listen to classical music.

It's a daily link to what one of my Native-Hawaiian friends still insists on referring to as *America*. But listening to it from this side of the Pacific is mo' better. Many—many—have been the times when the voice on the radio was coming from Sarajevo, or inner-city Chicago, or Moscow, or London or New Orleans . . . while the view through the windshield was of a cloud-draped Haleakala . . . or whales sporting off Sugar Beach . . . or rainbows disappearing in a West Maui mountain valley. . . .

Where else can you hear the latest in the O.J. Simpson case, or get the inside scoop on Clinton White House strategy, as you drive the kids to school through a cane field . . . ?

Where else is the six o'clock news read in Hawaiian? Where else is the latest political upheaval in Papua, New Guinea—they happen regularly, and sound like Marx Brothers movie scripts—cause for a daily update?

On a radio dial dominated by demographics and marketing niches, and crowded with stations all trying to sound like each other, only better, Hawaii Public Radio is definitely something else.

Mirroring this unique world we live in is one thing. Making it a better place is something else. Just being a source of pleasure in its own right is something else again.

Hawaii Public Radio succeeds amazingly well on all counts.

WHAT THE AMERICAN PEOPLE WANT

HON. LAMAR S. SMITH

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, June 30, 1995

Mr. SMITH of Texas. Mr. Speaker, the American people sent us to Washington to balance the budget. We now have a balanced budget that restores this American dream.

The American people sent us to Washington to deflate the uncaring Federal bureaucracy that meddles in and micromanages their lives. Our conference budget eliminates dozens of needless commissions, streamlines agencies, and consolidates departments.

The American people sent us to Washington because they are tired of Alice in budgetland gimmicks and games and want honest kitchen-table accounting. By ending the deceptive practice of baseline budgeting, we've ended Congress' shell game, which raided the family budget for the ever-increasing Federal budget.

The American people sent us to Washington to cut Federal spending and we have. We eliminated 283 programs: some wasteful, some outdated, some duplicative, and some run better by families, communities, and neighborhoods.

The American people sent us to Washington to save and protect important entitlement programs by controlling the spiraling growth that threaten them. We do this by our plan to fix, save, and improve Medicare.

Mr. Speaker, it's not the Government's money to take. It's the family's money to keep. Vote for the balanced budget that we've agreed upon. Reduce the Federal budget to increase the family's budget.

TRIBUTE TO CHIEF HAROLD V. MOORE, HAZEL CREST POLICE DEPARTMENT, HAZEL CREST, ILLINOIS042

HON. MEL REYNOLDS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, June 30, 1995

Mr. REYNOLDS. Mr. Speaker, I stand today to acknowledge a truly outstanding community leader. I would like to first thank Chief Harold V. Moore for his tireless efforts in protecting the citizens of Hazel Crest, Cook County, State of Illinois. Chief Moore has served the community honorably and with dedication for the last 31 years.

The community of Hazel Crest has certainly benefited from Chief Moore's service, and for that I would like to offer him a sincere "thanks" on behalf of the residents of Hazel Crest.

I would like to also wish him a fulfilling and restful retirement. I hope he enjoys reflecting on his many accomplishments and know that we will always remember his commitment to the community.

ST. JAMES EPISCOPAL CHURCH IN FORT EDWARD, NY, CELEBRATES 150TH ANNIVERSARY

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, June 30, 1995

Mr. SOLOMON. Mr. Speaker, those of us who live in the 22d Congressional District can boast of living in one of the most historical regions of the country.

In so many cases, the old churches in the district, along with their spiritual functions, often serve as virtual museums of area lore, with their registries and records of baptisms and marriages of historical figures, and growth patterns which reflect and parallel the growth of the area.

One such church, in fact one of the foremost examples, is the St. James Episcopal Church of Fort Edward, NY which is celebrating its 150th anniversary.

Fort Edward, NY first appears in the history books as part of the historic battleground between Albany and Montreal. During the early years of Fort Edward's existence, changes were taking place in the social and economic life of the community that facilitated the growth of the church. With the construction of the Champlain canal and the economic development of the Hudson river trade route, the Fort Edward community was growing and right along with it the Episcopal Church of St. James.

On May 21, 1845, the cornerstone of the Church of St. James was laid. Since that day, the Church of St. James has overcome many fiscal problems that endangered the future of the organization. This congregation, however, did not give up without a fight and through the grace of God and the faith of the community, the Church of St. James is alive and well today.

Even though the congregation is not a very large one, the members are happy to be together and worshipping in their own sanctuary in Fort Edward. Mr. Speaker, this small group of people exemplify faith and camaraderie. The church is successful because the people within it work to make one another stronger. This congregation demonstrates how church communities all across America enhance strong families and sound communities.

Throughout its long history, this church, like so many others in the area, has been the focus of community life and a bastion of the best virtues society has to offer. Mr. Speaker, please join me in expressing congratulations and best wishes to St. James Episcopal Church on the commendable occasion of their 150th anniversary.

SUNRAYCE '95 AND THE SOUTH DAKOTA SCHOOL OF MINES & TECHNOLOGY

HON. TIM JOHNSON

OF SOUTH DAKOTA
IN THE HOUSE OF REPRESENTATIVES
Friday, June 30, 1995

Mr. JOHNSON of South Dakota. Mr. Speaker, I would like to take this opportunity to congratulate the South Dakota School of Mines & Technology's solar car team for their outstanding efforts as first time participants in Sunrayce '95.

Sunrayce is a 1,150-mile cross country race for solar cars, starting in Indianapolis, IN and ending in Golden, CO. The race is jointly sponsored by the Department of Energy and General Motors, and its efforts are twofold. First, to promote student interest in technology and the environment. The 36 university-sponsored solar cars represent the best and the brightest engineering students, who designed their solar powered cars from the bottom up using advanced environmentally sound technology. Second, Sunrayce, which draws a large crowd, helps increase public awareness for a clean environment. It enables the public to get excited about new technology and ideas. Additionally, Sunrayce allows students to show off their talent, and capture the attention of big names in the industry who are looking to recruit, by impressing them with their ideas and abilities.

As a first time participant, the South Dakota School of Mines & Technology solar car team did exceptionally well. I am extremely proud of the School of Mines & Technology's efforts to participate in this worthy promotion of new technology, and the key role it will have on the environment in the turn of the century. It is truly a fantastic way to educate students and encourage public awareness.

I ask my colleagues to join me in recognizing and congratulating the South Dakota School of Mines & Technology for their outstanding participation in Sunrayce '95.

KOREAN APPRECIATION

HON. BILL RICHARDSON

OF NEW MEXICO
IN THE HOUSE OF REPRESENTATIVES
Friday, June 30, 1995

Mr. RICHARDSON. Mr. Speaker, I recently had the opportunity to meet face-to-face with leaders of North Korea and discussed a variety of important issues facing our two nations including a pending nuclear accord.

My talks also focused on the need for our two countries to work jointly to resolve the cases of some 8,200 Americans who are still listed as missing in action from the Korean war. Certainly, the families of these missing Americans believe progress must be made on this important front before closer relations develop between our two countries.

Those American servicemen who returned from the Korean war know that we can work with Koreans. In fact, many of these veterans fought side by side with Koreans from the south as we battled the north. And many of these relationships between American and Korean servicemen that were first made more than four decades ago continue today.

In fact, a constituent of mine from Las Vegas, NM, Fredric Stoessel who served in Korea, recently told me about a reunion he had with his roommate aboard the U.S.S. *DH Fox* DD779. Mr. Stoessel's roommate, Un-Soh Ku, was a serviceman in the Korean military and recently retired as a captain in the ROC Navy. Mr. Stoessel was so moved by Mr. Ku's comments of appreciation to America and our people that he has asked me to share his speech with my colleagues in the Congress so that all of our constituents can have access to his gratitude.

At a time when we are trying to resolve outstanding issues with the North Koreans and bridge the gap between all Koreans and Americans, I believe Mr. Ku's speech will be a welcome addition to the increased dialog.

Chairman of the D.H. FOX Reunion, Ladies and Gentlemen: It is a great honor for me and my wife to attend at this reunion meeting, and I would like to extend my sincere appreciations to my old D.H. FOX shipmates who make me possible to be here after 40 years we had to part. 40 years! It's a quite long years anyway, I'm glad I'm still alive and you people are still here.

I don't know if it is proper place and time to mention about late ADM, DAER, but it is a most regretable for me ADM. is not here with us. Probably old shipmates of D.H. FOX would remember, ADM. DAER was not only the CAPT. of the FOX but a great teacher for me. I was a just kid when I was assigned to USS FOX and it was a my first assignment as a naval officer who has just graduated from KOREAN NAVAL ACADEMY.

I think it is my duty to report about my country after the Korean War, because my country was saved by the United States when we had a sudden attack from North-Korea in 1950, USS D.H. FOX is the one of saver of my country, and most brave and brilliant crew of D.H. FOX is here tonight. I am proud of these old shipmates we fought against North Korea and communists shoulder to shoulder.

After the Korean war in 1953, almost everything was destroyed in every field, and we had to rebuild my country from nothing. From the begining, thanks again, your great country gave us economic, military and other necessary assistances to stand alone, and our people were working hard not only to stand alone, but to make a step forward to develop the country.

Now, I am happy to report about my country, that my country has grown economically very fast, and one of four Asian Dragon, so called, that means New industrialization country with per capita of more than $6,000. We are working hard to catch up developed countries now.

Politically, we are now a member of UN organization, and we are doing our best to cooperate with other UN members for the world peace, economic development and other world issues. As you all know, your country helped my country under UN flag during the Korean war, and we owe so much to the UN. Now, our turn to return as much as possible contributions for the world, and we are glad to have the capabilities to do so.

We are still one of your closest allies, and I am sure the relations will remain forever. Militarily, your armed forces are stationed in my country with our government and the people's request to protect North Korea's threat. As you all know, North Korea is the only Stalinist communist country remain in the word. But we are making our every effort to unify Korea, and we are sure, very near future, we are able to accomplish unified Korea. The international trend is our side and we hope North Koreans will soon open their eyes for the freedom.

The other fields including social, cultural, and etc., have developed satisfactory, and what I would like to say is that these developments in Korea is the fact, but if Korea is not there will be nothing. Korea's existence was very in danger when we had North Korea's attack in 1950, and your country including you, the crew of the USS D.H. FOX protected against North Korea's invasion, and we are now here. Perhaps, my deep appreciation to you, are not enough, but I would like you to understand I am saying "Thank you" from the bottom of my heart.

After D.H. FOX assignment, I returned to my country and served as a naval intelligent officer ROK Navy until my retirement in 1970 with rank of captain.

Through my life, the most unforgettable life is with D.H. FOX. Because it was my first assignment and all of shipmates were so kind and quide to me a navy life. I feel shame on myself that I lost contact with such nice my old shipmates for 40 years. Anyway, I'm here for reunion and will never lose the contact even over 60 years old man.

Well, before closing my speech, I hope you understand my awful English. If any of you happened to have any opportunity to visit Korea, please contact with me. I and my wife will be very happy to have an opportunity to serve you as your friend.

Thank you, thank you very much.

A MAN OF TWO WORLDS

HON. SHERWOOD L. BOEHLERT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, June 30, 1995

Mr. BOEHLERT. Mr. Speaker, an aide to General Washington remarked that the different tribes of Indians "say there never was such a man and never will be another."

They were talking about Sir William Johnson (1715–1774), a man of two worlds, who served as the King of England's agent among the Six Nations and a celebrated Mohawk Iroquois chief.

He was a central character in the struggle for survival among pioneers and Indians in the northern frontier of colonial America. He as born in Ireland and came with few resources to America where he managed his uncle's estates on the New York frontier. Due to his toil, vision, and leadership, the region developed by attracting more immigrants and exploiting its rich soil and strategic location, despite arduous winters, exotic plagues, trading disputes, and the guerrilla warfare that threatened every living being on that frontier.

A prominent military achievement in his career was his building of an alliance among poor farmers and Iroquois that, against all odds, defeated the professional French armies at the Battle of Lake George and helped the English win control of North America in the French and Indian War (1754–1763).

Author Robert Moss is also a man of two worlds. He is a writer with a talent for bringing an important—and almost forgotten—part of our history back to life. He completed an historical novel entitled, "The Firekeeper," which will be published by Tom Doherty for Forge Books on July 5. Through his narratives, which are backed by extensive historical research, the images and emotions of our ancestors are requickened in a high-intensity drama. He "makes the bones live" by remaining faithful to documented academic sources yet granting himself "license to drive a horse and carriage through the gaps."

In cooperation with British Ambassador Sir Robin Renwick, Maurice Sonnenberg, and United South and Eastern Tribes President Keller George Senators DANIEL PATRICK MOYNIHAN and ALFONSE D'AMATO, Representative MICHAEL MCNULTY, and me, Forge publisher Tom Doherty will host a reception on July 11, the anniversary of Sir William's death, in the Capitol honoring Robert Moss and his upcoming publication that ought to be destined for the best seller list.

There is a vignette from Robert Moss's book that helps us understand Johnson and his special role among the pioneers and the Indians. Johnson is fighting to win the favor of the Mohawk leaders, particularly the ruling clanmothers. But the Mohawks are suffering from an outbreak of smallpox that has been introduced to them through infected blankets given to them by unscrupulous land speculators, and the women are understandably increasingly wary of white influence on their lands and way of life. Johnson is trying to inoculate the diverse ethnic peoples of the valley against the disease, and he offers to "take the seed of the white death" into his own body and show the Indians that it will help them live.

After Johnson rose in influence in the Iroquois Confederacy, earning the title "The Firekeeper," he also gained recognition as the sole superintendent of Indian Affairs in North America for the British crown, and was awarded a patent of baronetcy. Truly a man of two worlds, by the conclusion of the French and Indian wars, Johnson secured on his own terms, a moment of peace in the valley. "I will be Sir William * * * but I will bear my own arms, and my supporters will bear my own crest, not a hand-me-down from the users of Ireland."

The need to weave a fabric from the world of our past into present is imperative. As this book goes to press, many of the historic resources, including battlefields, forts, homes, and buildings that are mentioned in this drama, are threatened by local, State, and Federal budgetary stringency. It is necessary to inspire citizens to action and form partnerships to help protect valuable sites that serve to instruct our citizens about the Nation's past. In our own Mohawk Valley, a nonprofit organization is being developed, the Northern Frontier Project, by visionaries who have found in the sacrifices of our ancestral past a pathway for a better future. This project will educate others about our history and promote economic development and tourism opportunities that will help us retain and enhance our many sites and resources.

I consider myself one of the luckiest Members of Congress, to have a Robert Moss, a man of two worlds, who's able to travel among the spirit world and the real world, the past and the present, to tell the stories of our heroes and villains, of virtue and vice. He's not just chronicling history, he's bringing it to life through remarkable stories about an underreported part of America, and helping people to understand events, victories, and tragedies that are essential to understanding who we are and what cooperation among cultures it took to get us here.

Lastly, with cooperation again in the valley, we can dream about all the possibilities that we can achieve. Thank you Robert Moss. The people of the valleys salute you and your work and wish you that greatest success.

I am including for the RECORD "The World of the Firekeeper," which was prepared by Robert Moss for this event.

THE WORLD OF THE FIREKEEPER

The North-East frontier was the decisive frontier in American history. In the 1600s and 1700s, New York, New England, and Pennsylvania were the scene of three gigantic and often tragic struggles: between the newcomers and the native inhabitants, between the British and French empires, and between Loyalists and Patriots. The battles that were fought here—especially at Saratoga and Oriskany, in upstate New York, in 1777—decided the fate of the American Revolution and opened the way to the West.

In many ways, it was on this first frontier, already 150 years old by the end of the French and Indian Wars, that a distinctively American identity was born—diverse, self-reliant, impatient with the Old World conceptions of inherited rank and station. The first wave of mass immigration from Europe came from Europe to New York in 1710, with the arrival of 3,000 Palatine Germans. Colonial New York and Pennsylvania became the first "melting pots," with the rising tide of immigrants from many nations.

On the Northern Frontier, the pioneer settlers encountered two families of Indian nations: the Iroquoians and the Algonkians. Before first contact with Europeans, five Iroquois nations, guided by a prophet called the Peacemaker, had come together to form a great Confederacy whose constitution impressed Ben Franklin so powerfully that he recommended it as a model to the divided colonists. Renowned for their oratory and statecraft, feared by their enemies as ruthless and courageous fighters, the Iroquois commanded two vital river-roads through the forests that were all-important in early trade and warfare: the Hudson-Champlain route between New York and Canada, and the Mohawk River-Oswego route that led from the English colonies towards the Great Lakes and the North American heartland.

The warrior Iroquois were also a matriarchal society. A Mohawk myth recalls how a woman led the people's long migration across the north of the continent to an area near modern Quebec City and finally down into the Mohawk Valley. The clanmothers picked the chiefs, and the women occasionally "de-horned" a chief who failed in his duties. The women insisted on the ancient teaching that a chief must consider the consequences of his actions down to the seventh generation after himself.

But the arrival of the Europeans threw traditional Iroquois society into turmoil. The newcomers brought firearms and metal tools; it became vital to have these. The newcomers created a new appetite for alcohol, which was previously unknown to the Woodland Indians, and which they had little ability to metabolize. The traders wanted furs—and increasingly, land—in return for guns and goods and liquor. The Iroquois were soon caught up in savage warfare with neighboring tribes over the control of the fast-diminishing supplies of beaver and other furs. Their losses in battle were less devastating than the terrible inroads of alien diseases—smallpox, influenza, and measles—to which the Indians had never been exposed and for which traditional healers had no remedies.

By the early 1700s, caught up in a struggle for survival, the Iroquois were deeply divided. Should they side with the British or the French, or stand neutral, in the conflict between world empires that was now being played out on American soil? Should they reject their ancient spiritual traditions—which taught the necessary balance between humans, the earth and the spirit worlds and the supreme importance of dreaming—or follow the God of the foreigners who came with cannons and horses?

Into this scene walked William Johnson (1715–1774), one of the most extraordinary men in American history. His Irish roots and his rise to power and fortune on the first frontier are described in vivid detail in "The Firekeeper." Johnson came to the New World, like so many other immigrants, in hopes of getting ahead. Starting out as a trader and farm manager in the Mohawk Valley, he eventually succeeded in making himself one of the richest men in the colonies. Through fair dealings and by immersing himself in their lives and customs, Johnson developed a personal influence among the Iroquois that enabled him to persuade them to fight on the British side in the French and Indian wars. This was a decisive contribution to the eventual British victory, since the British never won a significant battle in the American woodlands without the help of Iroquois scouts and auxiliaries. As an amateur general, Johnson led a restive force of New England militiamen and Iroquois rangers to victory over a professional French commander at the Battle of Lake George.

But the significance of Johnson's achievement, in the history of the American frontier, goes much deeper. Though he became the King's Superintendent of Indians, he was as much the Iroquois agent to the colonists as the King's agent among the Indians. Indeed, he became an adopted Mohawk warchief before he held a commission from the Crown. He championed the Iroquois against land-robbers and racist officials, like the British general who advocated killing off the Indians en masse during Pontiac's revolt by spreading smallpox among them with the aid of infected hospital blankets. Johnson promoted Indian school and inoculation against the smallpox virus, once the method (first observed in Africa) became known in the colonies. He encouraged Iroquois women to go into business as traders. He introduced new crops and methods of agriculture. In his later life, with a Mohawk consort—known to history as Molly Brant—at his side, Johnson presided over a remarkably successful experiement in interracial cooperation.

Johnson's homes in the Mohawk Valley—Fort Johnson and Johnson Hall, both memorably described in "The Firekeeper" and "Fire Along the Sky"—are well-preserved and open to visitors, as are many of the other sites of frontier New York, such as Fort William Henry (scene of the Battle of Lake George), Fort Ticonderoga, the Saratoga battlefield, the Old Stone Fort at Schoharie, Fort Plain, Fort Stanwix, and Old Fort Niagara. Sadly, funding problems have led to the—hopefully only temporary—closing of the Oriskany battlefield site, scene of the first American civil war as well as a critical turning point in the American Revolution. Budget constraints threaten other sites. As Robert Moss comments, "I hope my historical novels will help revive public interest in the places where—in so many ways—America was born. The Iroquois say that a tree without roots cannot stand. I believe they are right."

Asked to explain how The Firekeeper differs from previous accounts of the North-East Frontier, Moss explains:

"First, I tried to give the women their revenge. Amongst white Europeans, the 18th century was pretty much a man's century. But the dominant character in "The Firekeeper," in many ways, is Catherine Weissenberg. She is a historical figure—a Palatine refugee who came to the colonies as an indentured servant and became Johnson's life partner (though never his wife) and the mother of his white children. Another poserful character in the book is Island Woman, a member of a lineage of women healers who became Mother of the Wolf Clan of the Mohawk Nation. Through her eyes, we see the women's mysteries and the reverence for women within a native culture whose primary pronoun is she not he.

"Second, in the Firekeeper I have married executive archival research to oral tradition, both from Native Americans and from descendants of Valley settlers. To borrow a phrase from the anthropologists, I have "upstreamed' what I have learned about native culture and spirituality today to help illuminate how things may have been then.

"Third, I have tried to go inside the mindset—the interior worlds—of different people and peoples. In "The Firekeeper," you can read a blow-by-blow account of a battle, a traders' sharping, or a machiavellian plot laid in a back room. Or you can find yourself deep inside the realms of the shaman, for whom the dream world is the real world and spirits walk and talk at the drop of a feather. I tried to make the book as multidemensional as its players."

ESSAY CONTEST WINNERS

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, June 30, 1995

Mr. HYDE. Mr. Speaker, I love to get involved with projects that involve our younger generation. One of the projects I sponsor every year along with the high schools and junior high schools in my district, is an essay contest. I asked the high school students to write about how we amend the Constitution and how is it different than passing a law, and the junior high students were to write about life in colonial times. I would like to thank Mrs. Vivian Turner, the former principal of Blackhawk Junior High School, who judged the hundreds of entries received. I want to congratulate Chanda Evans from Addison Trail High School and Kathleen Steinfels of Mary, Seat of Wisdom School in Park Ridge the first place winners for their very creative papers. I was very impressed with the essays and want to share them with my colleagues.

How Do We Amend the Constitution? Why Is It Different Then Passing a Law?

(By Chanda Evans)

Most people realize that changing the structure of the Constitution is a difficult process, and much more involved than passing a law. What most people do not know is the methods of proposing and ratifying an amendment set forth in the Constitution, or any of the specific differences between amending the Constitution and passing a law. The United States Constitution provides two methods of proposing and ratifying am amendment, both of which allow the interests of the national and the state government to be taken into consideration equally.

The first step in amending the Constitution is to have the amendment proposed by one of two possible ways. An amendment can be proposed by a two-thirds vote in both houses of Congress, or by a National Constitutional Convention called by Congress, on a petition from the legislatures of two-thirds of the states. All amendments proposed thus far have originated from Congress.

The second step is getting the proposed amendment ratified. The Constitution also provides for two alternative methods of ratification, both methods however, leave the ratification decision to the states. Article V of the Constitution sets out two distinct modes of state ratification, leaving the choice of mode to the Congress. For each amendment proposed, whether by Congress of by a national convention, Congress must choose whether to submit the amendment to state legislatures or to conventions in each state for ratification. If the proposed amendment is given to the state legislatures for ratification, a total of three-fourths of the states must agree for the amendment to be passed. Of the thirty-three amendments that have been proposed, thirty-two have been sent to the state legislatures for ratification. The second method involves sending the proposed amendment to the state conventions for ratification. During this process each state must choose delegates, who will then vote for or against the amendment. For this method of ratification there must also be a total of three-fourths (thirty-eight) of the states in agreement.

Having the Constitution amended is a difficult process simply because of the many people that must agree on an amendment for it to become passed. Our founding fathers included these alternative means of both proposing and ratifying amendments in an effort to balance the power between federal and state factions, while allowing input from the common people.

A Constitutional amendment and a law are both rules that the people of the United States must obey. However, the processes that take place are quite different. Although Congress's role in amending the Constitution and in passing a law are similar, there are some differences; the percentage of votes required, the President's role, and the approval process.

Both a proposed amendment and a law are put before Congress for a vote. For each of these the two houses of Congress must also approve identical forms of the amendment of law. A law however, may only be introduced by a Senator or Representative while Congress is in session. The major difference between the voting processes in Congress is the percentage of votes required. In the amendment process a two-thirds vote is required, sixty-six percent. When passing a law a simple majority vote is required, as low as fifty-one percent. This difference obviously makes it easier for a law to get a passing vote in Congress.

The second difference between the amending and the law making process is the President's role. When an amendment is being proposed and ratified it goes through Congress or a Constitutional Convention, then the states. The President has no part in this procedure. When a law is being passed it goes directly to the President after being voted on in Congress. In this situation, the President has three choices. He can sign it, allowing it to become law, he can veto it, or he can ignore it and allow it to become law in ten days (excluding Sundays) without his signature. The President has a much greater role in the law making process, and has a direct influence on the content of the bill.

The third difference between amending the Constitution and passing a law is the approval process, more specifically, who is involved in it. When an amendment is put up for ratification it must go to the state legislatures or the state conventions for approval before becoming an official amendment. A law, on the other hand, requires no approval or input from the states. When passing a bill into law it requires only the majority vote of Congress and the signature of the President. However, if the President decides to veto the bill Congress can override his decision by two-thirds vote in both houses. This process makes passing a law a decision involving only the legislative and executive branches, or possibly just the legislative branch. This is clearly a decision of the federal legislation, requiring little or no assistance from the state government. This process effectively cuts out the state government, unlike the amendment process that requires an agreement between the state and national government to be passed.

At the Constitutional Convention of 1787 George Mason of Virginia said, "Amendments will be necessary, and it will be better to provide for them, in an easy, regular and constitutional way than to trust to chance and violence." Our forefathers obviously realized that laws would change and evolve over the years, and that new laws they couldn't even visualize at that point would be needed as times also changed. Fortunately, they also realized that the process to change the very framework and structure of the government, the United States Constitution, must be a much more controlled process. By providing two different methods of proposing and ratifying amendments to the Constitution they made sure that such major changes would be made in agreement by the state and national government. Protecting the interests of both factions, and also reflecting the interests of the people.

TIMES TO REMEMBER

(By Kathleen Steinfels)

Snowshoes . . . candlelight . . . fireplace . . . animal fur . . . buckets of water . . .

All of these are images of life in colonial America. Life was very harsh, especially when compared to life in twentieth century Park Ridge.

Colonial life was centered around the family—much more so than modern American life. Because colonial families were relatively isolated and because each member of the family was counted on to help the entire family survive, family members were close and worked as a team. Chores were distributed: milking cows, feeding chickens, tending crops, chopping firewood, keeping the house in repair and as weathertight as possible, making candles, keeping the fire, collecting water for washing, for watering gardens and animals, making clothes, hunting meat, making food, and caring for younger children. All of these demanded energy and concentration. Often things like schooling became a luxury because education itself was not mandatory for survival. Each family had to be able to provide all basic necessities on its own. Sometimes trading would allow for special treats such as ready-made cloth from overseas, special foods, and shoes.

These things are often taken for granted in modern America where families rarely work together, or, for that matter, rarely even see each other. They have become disjointed as each person pursues independent interests and activities. How often does the nuclear family even sit down at the table to eat a meal together? Does this help explain the disintegrating family of modern America?

Colonial families were large. Many hands were needed to share the workload. Life expectancy was shorter and there was a higher infant mortality rate. Nowadays, families are much smaller and do not have such a strong common focus.

In colonial times the hearth or fireplace was the center of the home, the place from which came both food and warmth. The location of the fireplace affected the way buildings were built. There were few openings to the outside, to minimize heat escaping and for security. Nowadays, the kitchen is still the center of many homes, the source of food, but because of central heating, houses have gotten more complex and full of windows.

Children in colonial times usually worked with their parents whether it be as farmer, cooper, weaver, or blacksmith. Children learned a trade. Each child was important. Nowadays, parents typically go off to work someplace else and the children have little or no connection to the parents' place of work or to the work they do.

In colonial times schooling was not mandatory and schoolhouses were often one-room with a single teacher for many grades. Today schools are much larger and have many teachers, often even more than one per grade.

Colonial Americans came to this New World, abandoning friends, families, and the life they knew to face a challenging new life. Often immigrants came seeking the opportunity to worship God as they wished: Puritans in New England, the Quakers in Pennsylvania, and the Catholics in Maryland. Religion was probably especially important because of the hardships their life imposed. Even if they could not regularly have formal services, God was an important part of life. Today religious freedom is guaranteed, and perhaps even taken for granted.

Gone are the snowshoes, the candles, and the hearth and so too it seems the family-centered life which characterized colonial times.

THE REPUBLIC OF CAPE VERDE'S INDEPENDENCE DAY: REACHING BACK, LOOKING FORWARD

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, June 30, 1995

Mr. FRANK of Massachusetts. Mr. Speaker, today, as the 20th anniversary of the Republic of Cape Verde's independence approaches, I want to take a moment to commemorate this anniversary and mention the people that have made it possible. As a nation committed to protecting individual freedom and establishing economic stability through democracy, the country's independence celebration is a testament to the will of the Cape Verdean people who, brought together by their struggle for freedom and the archipelago's environment, remind us of their American counterparts. Indeed, Cape Verdeans are very familiar with American history; they are, in fact, an integral part of it. Since the 18th century, Cape Verdeans have represented an assiduous and determined part of the American spirit, particularly in New England. Cape Verdeans were builders of the whaling and fishing industry, cultivators of the cranberry bogs and workers in the textile mills. Their arts and crafts have enhanced the beauty of our lives, and their songs and dances have touched our hearts and our souls. So this year we celebrate the Republic's independence and our own acknowledgment of the Cape Verdean role in American culture at the 29th annual Festival of American Folklife, which opened last week at the Smithsonian in Washington, DC. In the future, we look forward to participating in the growth of a nation abroad and the celebration of its traditions at home.

REDUCTION IN VIP AIRCRAFT

HON. PETER A. DeFAZIO

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Friday, June 30, 1995

Mr. DEFAZIO. Mr. Speaker, we have spent a great deal of time this week debating the Federal budget. I believe all Members can agree on the need to eliminate unjustifiable spending. At least one item in the Department of Defense budget falls into this category: the Pentagon's huge fleet of VIP aircraft. I have joined with 10 of my colleagues in introducing legislation to sell off some of these "generals' jets," which would result in a budget savings of at least $130 to $200 million a year.

The Department of Defense has a fleet of about 600 aircraft that are used to transport senior military personnel and civilian officials. About 500 fixed-wing planes and 100 helicopters perform administrative support missions. These aircraft do not include the Presidential aircraft, the 89th Military Airlift Wing, such as Air Force One, nor are they used for operational transport of troops. Rather, they are used for airlift transportation in support of command, installation, or management functions.

The General Accounting Office found that size of the administrative aircraft fleet—often called Operational Support Aircraft—far exceeds the wartime requirements, even according to the Pentagon's own estimates. Only 48 OSA were used "in theater" during the gulf war. This suggests that OSA aircraft's main role is not wartime, but peacetime. Even in the United States, the gulf war saw the services using much less than one-half of their inventory. The Commission on Roles and Missions also recommended reducing the size of the OSA fleet. In 1993, the Joint Chiefs report concluded that OSA inventories exceed wartime requirements. The Air Force concurred with the Joint Chiefs in 1994.

However, nothing has yet been done to eliminate the excess aircraft.

The public first heard about the aircraft issue last fall when a high-ranking Air Force general made a very expensive flight from Italy to Colorado. Although the flight was made for administrative purposes, and much less expensive commercial flights were available, a single general and his aide spent more than $100,000 for the trip. The Air Force is even using their OSA planes to fly Air Force cadets to Hawaii to watch football games.

Perks at the Pentagon are no more justifiable than perks in any other agency of the Federal Government. If Congress is to have any hope of balancing the budget during the coming decade, we must focus our attention on reducing budget outlays. This means ending some programs that have little justification. Our bill would offer the American people significant reduction in spending that could either reduce the Federal debt or fund other, more critical spending priorities.

Mr. Speaker, I ask my colleagues to join me in bringing high-flying generals down to Earth. Let's save taxpayer dollars by paring this Pentagon perk.

INTRODUCTION OF THE ADOPTION INCENTIVES ACT OF 1995

HON. JOSEPH P. KENNEDY II

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, June 30, 1995

Mr. KENNEDY of Massachusetts. Mr. Speaker, today I am introducing the Adoption Incentives Act of 1995 in an effort to encourage more adoptions in our country.

This bill will provide a range of tax incentives to adoptive parents to help them build families through adoption. Specifically, the bill will make adoption assistance benefits to military and private sector employees for nonrecurring adoption expenses tax-free, and allow penalty-free and tax-free withdrawals from individual retirement accounts [IRA's] for adoption expenses.

There is a desperate need for adoption in our country. Today, almost half a million children are in foster care. Some of these kids languish in the foster care system for more than 5 years, bouncing from one home to another. Between 85,000 and 100,000 of these children are legally free and waiting to be adopted. An additional 3 million children were reported abused or neglected in 1993. Many may need a safe haven—a welcoming home that adoption could provide.

One major obstacle to finding permanent, loving homes for these children is the cost of adoption. The average cost of a private or nonagency adoption is conservatively estimated at $10,000 and can run as high as $45,000. Many adoptive families have to mortgage their homes or borrow money from relatives to build a family.

In response, 180 of the Fortune 1,000 companies have established corporate programs that provide financial assistance to employees to help cover adoption expenses. Behind borrowing money and mortgaging homes, reimbursement benefits provided by employers are the third major way in which parents finance adoptions.These benefits average $2,000 per adoption. In 1993, corporate adoption assistance programs facilitated 2,000 of the 50,000 adoptions that occurred.

The private sector has been especially creative in providing incentives for adoption. We must do more to encourage their efforts—as this bill does.

A similar adoption assistance program was established for military personnel in the defense authorization bill of 1991. Military families are entitled to up to $2,000 to cover adoption-related expenses. Launching this program sent a positive signal to adoption agencies that were often reluctant to start the adoption process due to frequent relocations of many military families. As a result, almost 2,500 children have been adopted with this assistance.

The Adoption Incentives Act would also permit penalty-free and tax-free withdrawals from IRA's for adoption costs. Many of the tax proposals now pending before Congress would allow penalty-free IRA withdrawals for college tuition, buying a first home, or caring for an elderly parent, as well as catastrophic medical expenses. Shouldn't adoption be encouraged in this same way? The answer is clear—adoption is also an investment in the future.

Mr. Speaker, it is time that we send the message that adoption is a valued way of building a family and a future for our children. It is a goal we should all support.

EDITORIAL ON AFFIRMATIVE ACTION

HON. BOB FILNER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 30, 1995

Mr. FILNER. Mr. Speaker and colleagues, I want to share with you the insights of John E. Warren, editor and publisher of the San Diego Voice & Viewpoint, an African-American newspaper published in my hometown.

In a recent editorial, Warren wrote:

> As America appears to be gearing up to make affirmative action the new symbol for the age old attack on the idea of equality and fairness for Blacks in this country, first, then all other groups but White males, it is extremely important that the Black response be one of reason, power, and direct results.
>
> While it is fine to pen letters and speeches of response to the Pete Wilsons who would ride the horse of bigotry and racism into the U.S. Presidency if permitted, those letters and speeches must not become substitutes for direct action. The well known question is then asked: "What can African-Americans do to reach the moral conscious of an increasingly White America that appears to think it has done too much for too many who said things were not fair and now think that fairness is becoming an inconvenience as times get harder in a changing economy?"
>
> Perhaps the key can be found in the paraphrase of a very old proverb "he who controls himself is better than he who controls nations."
>
> Blacks continue to spend billions of dollars in every facet of the American economy with no economic demand for returns on our investments. We spend $300 billion dollars a year collectively and we are begging a nation and its leaders to treat us "morally right" when we have not assumed the "moral responsibility" for ourselves.
>
> African-Americans must remember that this country is now following a contract on America instead of the U.S. Constitution which Wade Henderson of the NAACP rightly called "our contract with America."
>
> Consider that African-Americans have a vote, but most won't bother to use it. We have disposable income for clothes, too many of which are designed for our youth as gang attire, but we don't make these clothes. We buy new cars all over San Diego—many of which are the same as the ones sold by our one Black owned car dealership, but purchased from people who neither care for us or our communities.
>
> We buy liquor, cigarettes, potato chips, butter and toilet tissue in larger numbers than any other ethnic group and make no demands in return. Some of those very people who benefit from our care-free spending habits use those same dollars to buy political votes across this nation that are now focused against our common good—the right to a job based on fairness and merit, the right to social insurance in time of need, the right to food, shelter and education, not based on the color of our skin but the status of our birth as American citizens.
>
> Perhaps if we went on a selective spending spree where we truly examine how much we spend and what we spend it for, America might rediscover that the issue is not affirmative action after all but one of spending our dollars in such a way that our adversaries will be glad to support us.
>
> We have almost 300 Black owned newspapers in America, yet too many of us would rather get our news from CSPAN or USA Today.
>
> The San Diego Voice & Viewpoint believes that when we harness our votes, the Pete Wilsons of the nation will be closed out of Presidential politics, no matter how much money and bigotry they have. When we harness our dollars, companies that don't hire us or advertise in our newspapers will be forced to make decisions about whether they need our market share.
>
> When we harness our spending, and make our styles the internal commitment to ourselves and our people rather than external fashions, we will affect the American economy. When we harness ourselves the NAACP will have enough money in one, five, ten, twenty and fifty dollar donations to move in 30 days to the position of a financially debt free and sufficient organization to fight for "colored people."
>
> When we harness our ability to focus beyond knee jerk reactions to things we hear, we will turn off the vulgar television and radio and CD sounds daily bombarding our very souls and return to the God of our silent tears and of our parents' weary years to find new hope not in what they call us or say about us, but in what we do for ourselves and each other.
>
> Yes, there is a backlash against affirmative action that now reaches to the Supreme Court, but by the power of God almighty, we have not even begun to use our powers of reason, our available economic response and the identification of desired results. Our future is in our hands. The real question is: "African-Americans, what will you personally do as a response to this latest attack?"

IMPROVING EDUCATION FOR CHILDREN WITH DISABILITIES

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, June 30, 1995

Mr. KILDEE. Mr. Speaker, today, I am honored to introduce the administration's proposal for improving education for children with disabilities under the Individuals With Disabilities Act [IDEA].

Since enactment of Public Law 94–142, the Education for all Handicapped Children Act of 1975, results for children with disabilities have improved greatly. Before the enactment of that groundbreaking law, 1 million children with disabilities were excluded from school altogether, and several were in dehumanizing institutions. Today, one of the basic goals of the IDEA has been met—children with disabilities have access to education.

The Department of Education has undertaken a very thorough process in preparing this legislative proposal. They consulted with parents, educators, and hundreds of others concerned with improving the education of children with disabilities, including congressional staff from both sides of the aisle. They asked for public comment in the Federal Register and received over 3,000 responses. During more than 1 year of consultation, they heard about the strengths of the law, including its focus on individualized approaches, its protection of the rights of children and their families, and its support for innovative approaches for teaching.

The administration's proposal makes improvements to the IDEA to ensure that the fundamental objectives of the law are more likely to be achieved, while preserving existing rights and protections for children and their families. This proposal is based on six key principles that are designed to improve results for students with disabilities:

1. Align the IDEA with State and local education reform efforts so students with disabilities can benefit from them.

2. Improve results for students with disabilities through higher expectations and meaningful access to the general curriculum, to the maximum extent possible.

3. Address individual needs in the least restrictive environment for the student.

4. Provide families and teachers—those closest to students—with the knowledge and training to effectively support students' learning.

5. Focus on teaching and learning.

6. Strengthen early intervention to ensure that every child starts school ready to learn.

As Congress undertakes its review of this legislation, I am certain we will reaffirm our commitment to the basic purposes of the IDEA and the recognition of the Federal role in ensuring that all children with disabilities are provided with the equal educational opportunity that the Constitution guarantees. We now have the opportunity to take what we have learned over the past 20 years and use the administration's proposal to update and improve this law. I commend the administration for their bold initiative and look forward to working with the committee in seeing it through to its final passage.

EIGHTH ANNUAL STAR AWARDS RECOGNIZE ACHIEVEMENTS BY NEW JERSEY YOUTH

HON. ROBERT E. ANDREWS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, June 30, 1995

Mr. ANDREWS. Mr. Speaker, I rise today to recognize the accomplishments of a group of high school students who have succeeded in their studies, academic and vocational, despite the barriers which they faced. On June 1, 1995 in Atlantic City, a group of 34 outstanding youths from the State of New Jersey were honored and awarded for their perseverance at the Student Training Achievement Recognition [STAR] Awards.

The STAR Awards, created by the Garden State Employment and Training Association, and sponsored by members of the business community, aim to increase awareness of education and its relationship to employment. The awards are given to youth who are determined to be at risk and who, despite the most difficult of circumstances, either completed their high school education, or who dropped out of high school but completed a training program and obtained a job.

Some of the obstacles which these youths overcame include physical or sexual abuse and neglect; family trauma such as divorce, unemployment, or death; school-age single parenthood; physical and emotional handicaps; and contact with the judicial system which led to conviction or designation as a delinquent. Many of the youngsters honored with these awards overcame more than one of these barriers.

Each Private Industry Council in New Jersey participated in the nomination process, designating a young member of the local community who fought against seemingly insurmountable odds and emerged a winner. The following individuals are the recipients of the 1995 STAR Awards:

Chad B. Jenkins; Wanda Lopez; S. Jonathan Deauna; Ramon Mejia; Jessica M. Carter; Mark Anthony Logan; Gerald F. Wynkoop, Jr.; William Alcazar; Michael McDonald; Olga Sierra; Paris Armwood; Tywanda Whitefield; Brenda Carpenter; Carla Owens; Robyn Murgas; Nicole Richardson; Lakiesha Stokes; Barbara Gomez; Tonia Singletary; Tyese Nichols; Marilyn Sanchez; Ivelys Bruno; Kisha Ann Franklin; Sujeil Rosa; Morris E. Lawson; Madelyn Ramos; Gregory Wertz; Linda Kulick; Lisa Beckett; Sean Devaney; Yanette Gonzalez; Jessica Corchado; Monique Gallman; and Jason Kinney.

The recipients of the STAR Awards are an inspiration to millions of students in similar circumstances throughout the country. They are a shining example of youth who became responsible members of the community despite circumstances which might have prevented them from doing so. I salute these extraordinary young men and women.

THE SMALL BUSINESS REGULATORY BILL OF RIGHTS

HON. JOHN J. DUNCAN, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Friday, June 30, 1995

Mr. DUNCAN. Mr. Speaker, today I have introduced the small businesses regulatory bill of rights.

This country's small businesses are drowning in a sea of paperwork. Recently, the Occupational Safety and Health Administration [OSHA] released a list of its most frequently cited violations. The top three on the list were directly related to paperwork, and they alone accounted for over 10,000 citations in 1994.

Additionally, the Small Business Roundtable reports that in 1993 the actual costs of businesses to comply with Federal regulations were $581 billion. Small businesses cannot afford the accounting departments, chemists, and lawyers that it takes to comply with the ever-increasing and confusing regulations issued by the Federal Government.

Last year, the Federal Government added over 68,000 pages of rules and regulations to the millions already on the books. In fact, the regulatory process has become so complex that the Federal Register now teaches classes just so individuals can better understand the rulemaking journal.

The economy of this Nation is based on small businesses. Ninety-five percent of all the businesses in this country are classified as small businesses. They represent the American Dream. Individuals risk life savings in order to pursue the American Dream only to see it destroyed by Federal bureaucrats.

I believe that the small business regulatory bill of rights will help our small businesses thrive once again. This bill requires Federal agencies to develop a no-fault program to assist small businesses with compliance. It also requires agencies to give owners 60 days to correct violations before assessing fines.

Small business men and women will no longer be treated like criminals by Federal regulators. This legislation will make agencies notify owners of their rights during inspections. This bill will also prevent agencies from harassing small business owners by exempting them from inspections for 6 months once they have been found in compliance with regulations.

We all want a safe working environment for Americans. The question is how do we best provide this environment without generating regulations that destroy thousands of jobs and impede the ability of a business to earn even small profits. I think everyone would agree that a safe working environment is of no use if the regulations that establish it are so severe that they prohibit a business from being successful and staying open.

I think this country could boom once again if we could get our Federal government under control and let the free enterprise system work as it was designed to do.

I look forward to this Congress passing the small business regulatory bill of rights in an effort to help this Nation's small businesses grow.

FEDERAL OIL AND GAS ROYALTY SIMPLIFICATION AND FAIRNESS ACT OF 1995

HON. KEN CALVERT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 30, 1995

Mr. CALVERT. Mr. Speaker, today I am introducing the Federal Oil and Gas Royalty Simplification and Fairness Act of 1995. This bill amends the Federal Oil and Gas Royalty Management Act with respect to leases of Federal lands and the Outer Continental Shelf [OCS], but does not affect leases on Indian lands. the goal of my legislation is to establish certainty in procedural matters for royalty payors in their dealings with the Department of the Interior, eliminate certain burdensome reporting requirements and simplify others so as to streamline the royalty management program and provide for the equitable collection of royalties.

Approximately 80 percent of the nearly $1 billion annual Federal onshore mineral revenues are generated from oil and gas royalties, as is nearly all of the $3 billion collected annually from CCS lessees. Obviously, the Nation benefits from this revenue stream and it's in our best interest to maintain a royalty system that encourages private industry to participate in onshore and offshore oil and gas development, where appropriate.

But, Mr. Speaker, a serious shortcoming for the industry today is that effectively there is no statute of limitations concerning the Federal

Government's auditing of royalty payments. This means that an oil and gas producer's books are never closed out and the Department of the Interior may inquire into royalties owed on production from many decades ago. While the DOI agency charged with such auditing, the Minerals Management Service [MMS], has worked toward a policy of closing out audits within a 6-year period, the Government is not now statutorily required to meet that goal. The Fairness Act would do so prospectively, that is, for production from the date of enactment forward the Secretary of the Interior would be barred from bringing actions against lessees 6 years after the obligation to pay royalty accrues. Of course, the time limitation does not run where fraud is alleged, nor when tolling agreements are reached by the parties.

Another inequitable provision of current law which the Simplification and Fairness Act addresses is the requirement that interest be paid by lessees who have underpaid their royalties, yet the Government does not pay interest on overpayments. My bill establishes reciprocity with respect to interest payments, but first requires a royalty payor—and the Secretary—to "cross-net" royalty overpayments against underpayments among all one's public domain or acquired lands leases within any State or collectively for OCS leases. This will effectively reduce interest obligations the Federal Government would owe on overpayments and provide the industry with a mechanism to simplify their procedures within each State in which they do business on Federal leases.

Other provisions of the Simplification and Fairness Act grant relief for small producers who pay royalty out-of-pocket, provide enforcement and compliance relief for producers of de minimis amounts of oil and gas, streamline onerous and costly reporting requirements and thereby reduce the Federal Government's cost of royalty accounting without loss of revenue to the U.S. Treasury nor to the States which share in the onshore mineral leasing revenues.

Mr. Speaker, I urge my colleagues to cosponsor the Federal Oil and Gas Royalty Simplification and Fairness Act of 1995. Let's provide certainty for our domestic industry in its dealing with the Department of the Interior and establish an equitable royalty system for lessor and lessee alike.

REMEMBERING REBBE MENACHEM MENDEL SCHNEERSON, ZT"L

HON. JERROLD NADLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, June 30, 1995

Mr. NADLER. Mr. Speaker, this evening, Shabbos Korach begins, and Jews around the world will observe the mitzvah of lighting Shabbos candles. But this shabbos also marks the first yahrzeit of the Lubavicher Rebbe.

The Rebbe was the spiritual leader of the Lubavicher Chasidim, but he was also revered and respected as a great tazaddik by Jews and non-Jews around the world. Indeed, his work still lights the learning and daily mitzvot of Jews everywhere. Through the Chabad movement, schools, high technology communications, Mitzvah Mobiles, publications, lectures, and most of all a profound commitment to the importance of Jewish thought, belief and ethics, the Rebbe made an incalculable contribution to the spiritual lives of all people.

The Rebbe lived through pogroms, two world wars, the rise and fall of communism, the Holocaust and tremendous personal challenges. But his idealism, his learning, and his faith shone through it all and inspired millions.

This week the Rebbe was honored by the presentation of a Congressional Gold Medal, authorized by legislation I was privileged to cosponsor. Members of Congress and religious leaders, including the Chief Rabbi of Israel, Rabbi Yisrael Meir Lau, Shlita, paid tribute to the Rebbe.

Mr. Speaker, the Rebbe's yahrzeit offers us an opportunity to reflect on and remember the life, work and contributions of the Rebbe. The Rebbe remains a figure of historic importance. I commend the example of his life to all my colleagues.

TRIBUTE TO GUY R. DOTSON, SR.

HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Friday, June 30, 1995

Mr. GORDON. Mr. Speaker, I rise to thank a devoted resident of my hometown of Murfreesboro and a great friend, Mr. Guy R. Dotson, Sr., for his 26 years of distinguished service as district attorney general for Rutherford and Cannon Counties and to congratulate him on his retirement.

A lifelong middle Tennessean, General Dotson was born in Elora, TN. A graduate of Franklin County High School, he received his B.A. from the University of the South and his law degree from the University of Tennessee. General Dotson was appointed district attorney by Gov. Buford Ellington in 1969. He was elected district attorney general in 1970 and re-elected in 1974, 1982 and 1990.

He will be missed not only by his associates in the district attorney's office, but also by the police departments of Murfreesboro, Smyrna, LaVergne, Eagleville, and Woodbury along with the sheriff's departments in Rutherford and Cannon Counties. He has served with distinction all the citizens of the 16th Judicial District

Rutherford County is indeed losing a valuable leader who has shown all of us what it means to serve and undoubtedly will continue to do so. Rutherford County's loss, however, is a big gain for General Dotson's five grandchildren, who will be the new beneficiaries of his energy and attention. The golf course beckons him as well.

Please join me and all other middle Tennesseans in wishing him well in his retirement.

THE SPECIAL OLYMPICS WORLD GAMES

HON. BARBARA B. KENNELLY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Friday, June 30, 1995

Mrs. KENNELLY. Mr. Speaker, tomorrow, the eyes of the world will turn to Connecticut as the Special Olympics World Games open in New Haven. More than 7,000 athletes from 140 countries will compete in such sporting events as basketball, gymnastics, cycling, sailing, powerlifting, and golf.

Since the first World Games in 1968, the Special Olympics have highlighted the skill and determination of these very special athletes. Their dedication is inspirational and their skills impressive.

The people of my home State of Connecticut have opened their hearts and homes to athletes, coaches, and families from around the world. Every town in the State is hosting a delegation. These games are expected to draw thousands of international visitors, ambassadors, and heads of state. For the first time, the President of the United States will open these games. We owe our special thanks to Tim Shriver and former Governor Lowell Weicker, who have heightened the visibility of these 1995 World Games.

I look forward to the next 2 weeks—let the Games begin.

CALLING FOR A CONSTITUTIONAL AMENDMENT TO ABOLISH THE DEATH PENALTY

HON. HENRY B. GONZALEZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, June 30, 1995

Mr. GONZALEZ. Mr. Speaker, I rise today to introduce a joint resolution proposing a constitutional amendment to prohibit capital punishment within the United States. I believe that the death penalty is an act of vengeance veiled as an instrument of justice. Not only do I believe that there are independently sufficient moral objections to the principle of capital punishment to warrant its abolition, but I also know that the death penalty is meted out to the poor, to a disproportionate number of minorities, and does not either deter crime or advance justice.

At a time when South Africa's highest court, in the first ruling of the new multiracial Constitutional Court, has just abolished the death penalty—on grounds that it is a cruel and inhumane punishment that does not deter crime but which does cheapen human life—as part of the post-apartheid quest for democratic government and a just society in that country, we should live up to no lower of a standard in our continuing effort to uphold democracy and justice in our own land.

Violent crimes have unfortunately become a constant in our society. Every day people are robbed, raped, and murdered. We are surrounded by crime and yet feel helpless in our attempt to deter, to control, and to punish. The sight of any brutal homicide excites a passion within us that demands retributive justice. We have difficulty comprehending that which cannot be understood. Mr. Speaker, we will never comprehend the rationale of violent crime, but the atrocity of the crime must not cloud our judgment and we must not let our anger undermine the wisdom of our rationality. We cannot allow ourselves to punish an irrational action with an equally irrational retaliation—murder is wrong, whether it is committed by an individual or by the State.

Violence begets violence. I cannot help but wonder if the vigilante executions that are becoming more frequent in our country, whereby citizens arm themselves and mete out capital punishment for crimes such as "tagging" as happened in California and recently in my own district in San Antonio, and knocking on one's front door and acting disorderly as happened in Louisiana, and numerous other incidents where property crimes are met with a lethal response, are a direct result of the atmosphere of violence embraced by our Federal and State governments as a proper response to problems. Indeed, I wonder whether the overall escalation of violence in our society perpetrated by criminals can be traced to the devaluation of human life as exhibited by our governments.

The United Nations Universal Declaration of Human Rights states, "No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment." The death penalty is torture, and numerous examples exist emphasizing the cruelty of the execution. Witness Jimmy Lee Gray, who was executed in 1983 in the Mississippi gas chamber. During his execution he struck his head repeatedly on a pole behind him and had convulsions for 8 minutes. The modernization to lethal injection serves only as an attempt to conceal the reality of cruel punishment. Witness the execution by lethal injection of James Autry in 1984. He took 10 minutes to die, and during much of that period he was conscious and complaining of pain.

Despite the obvious mental and physical trauma resulting from the imposition and execution of the death penalty, proponents insist that it fulfills some social need. This simply is not true. Studies fail to establish that the death penalty either has a unique value as a deterrent or is a more effective deterrent than life imprisonment. We assume that perpetrators will give greater consideration to the consequences of their actions if the penalty is death, but the problem is that we are not always dealing with rational actions. Those who commit violent crimes often do so in moments of passion, rage, and fear—times where irrationality reigns.

Rather than act as a deterrent, some studies suggest that the death penalty may even have a brutalizing effect on society. For example, Florida and Georgia, two of the States with the most executions since 1979, had an increase in homicides following the resumption of capital punishment. In 1984 in Georgia, the year after executions resumed, the homicide rate increased by 20 percent in a year when the national rate decreased by 5 percent. There can be no disputing the other evidence—murders have skyrocketed in recent years, as have State executions. The government cannot effectively preach against violence when we practice violence.

The empty echo of the death penalty asks for simple retribution. Proponents advocate that some crimes simply deserve death. This argument is ludicrous. If a murderer deserves death, I ask you why then do we not burn the arsonist or rape the rapist? Our justice system does not provide for such punishments because society comprehends that it must be founded on principles different from those it condemns. How can we condemn killing while condoning execution?

In practice, capital punishment has become a kind of grotesque lottery. It is more likely to be carried out in some States than others—in recent years more than half of the Nation's executions have occurred in two States—Texas and Florida. My home State of Texas led the Nation in 1993 with 17 executions, more than three times the number of executions in the State with the second highest rate. The death penalty is far more likely to be imposed against blacks than whites—the U.S. Supreme Court has assumed the validity of evidence that in Georgia those who murder whites were 11 times more likely to receive the death sentence than those who kill blacks, and that blacks who kill whites were almost 3 times as likely to be executed as whites who kill whites. It is most likely to be imposed upon the poor and uneducated—60 percent of death row inmates never finished high school. And even among those who have been sentenced to die, executions appear randomly imposed—in the decade since executions resumed in this country, well under 5 percent of the more than 2,700 death row inmates have in fact been put to death.

It cannot be disputed that most death row inmates come from poverty and that there is a definite racial and ethnic bias to the imposition of the death penalty. The statistics are clear, as 92 percent of those executed in this country since 1976 killed white victims, although almost half of all homicide victims during that period were black; further, black defendants are many times more likely to receive the death sentence than are white defendants. A 1990 report of the General Accounting Office found that there exists "a pattern of evidence indicating racial disparities in the charging, sentencing, and imposition of the death penalty. * * * In 82 percent of the studies, race of victim was found to influence the likelihood of being charged with capital murder or receiving the death penalty." Similar statistics can be found in my area of the country with regard to individuals of Mexican-American descent; in fact, similar practices once prevailed with regard to women. The practice was to tell the murderer to leave town if he killed a Mexican-American or a woman, as the feeling was that the murder must have been justified. We may have moved beyond that point, but not by much. It is as much a bias in favor of the "haves" and at the expense of the "have-nots" as anything else.

Racial and ethnic bias is a part of our Nation's history, but so is bias against the poor. Clearly, the ability to secure legal assistance and to avail oneself of the best that the legal system has to offer is based on one's financial status. The National Law Journal stated in 1990, "Indigent defendants on trial for their lives are being frequently represented by ill-trained, unprepared court-appointed lawyers so grossly underpaid they literally cannot afford to do the job they know needs to be done." The American Bar Association has admitted as much.

The legal process has historically been replete with bias, as well. We have a history of exclusion of jurors based on their race; now, the Supreme Court has sanctioned the exclusion of multi-lingual jurors if witnesses' testimony will be translated—this is particularly significant in my area of the country, in San Antonio. Further, we have executed juveniles—children, actually, as well as those with limited intelligence. Only four countries besides the United States are known to have executed juvenile offenders in the past decade: Bangladesh, Pakistan, Iraq, and Iran. That's some company to be in.

There are moves on in Congress to speed up the execution process by limiting and streamlining the appeals process. But when the statistics show how arbitrarily the death penalty is applied, how can we make any changes without first assuring fairness? If the death penalty is a fair means of exacting retribution and punishment, then isn't fairness a necessary element of the imposition of capital punishment? There are no do-overs in this business when mistakes are made.

The imposition of the death sentence in such an uneven way is a powerful argument against it. The punishment is so random, so disproportionately applied in a few States, that it represents occasional retribution, not swift or sure justice. My colleagues, I implore you to correct this national disgrace. Nearly all other Western democracies have abolished the death penalty without any ill effects; let us not be left behind. Let us release ourselves from the limitations of a barbaric tradition that serves only to undermine the very human rights which we seek to uphold.

The evolution in thinking in this area has progressed in nearly all areas of the world except in this country, where the evolution halted and even began reversing itself in recent years as the Federal Government has moved to execute Federal prisoners and States such as Texas have accelerated State executions. But among our country's most highly-educated and high-trained legal specialists, the evolution has been restarted. Former Supreme Court Justices Lewis Powell and Harry Blackmun came to the conclusion in recent years that capital punishment constitutes cruel and unusual punishment. Congress should pursue the line of thinking espoused now by these legal scholars in recognizing that capital punishment is unconstitutional and that this should be declared in a constitutional amendment. I urge my colleagues to join me in this effort.

RESTRICTIONS ON TRAVEL TO NORTH KOREA NEEDED

HON. JAY KIM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 30, 1995

Mr. KIM. Mr. Speaker, I rise today to introduce legislation that would limit congressional travel to North Korea until the President certifies to Congress that North Korea does not have a policy of discrimination against Members and employees of the Congress in permitting travel to North Korea on the basis of national origin or political philosophy.

As I am the only Korean-American ever to serve in Congress and am also a member of the House International Relations Subcommittee on Asian and Pacific Affairs, Speaker of the House NEWT GINGRICH and International Relations Committee Chairman BENJAMIN GILMAN encouraged me to lead a special, bipartisan assessment mission to North Korea. This would be the first Republican-appointed congressional mission to North Korea in 40 years.

The United States Congress will be required to approve of any further assistance or technology transfers to North Korea. Congress will also play an important role in determining the pace and scope of future diplomatic and trade relations between Washington and Pyongyang. Therefore, it is important for Congress to have an accurate and complete assessment of the situation in North Korea conducted by a select group of its own Members. A dialogue with North Korea's leaders and a first-hand examination of the implementation of the recently achieved Agreed Framework regarding North Korea's nuclear developments would clearly benefit the congressional decisionmaking process and ensure that as accurate and complete information as possible would be available to Congress. Without question, the nuclear crisis on the Korean Peninsula is one of the most important national security concerns of the United States today.

Regrettably, the North Korean Government has rejected the dates I have proposed for this bipartisan mission. Initially, Pyongyang indicated that the dates I had proposed were inconvenient for the North Korean Government. Yet, North Korea invited a minority Democratic Member of Congress to Pyongyang for one of the same periods of time I had proposed. This incident coupled with North Korea's latest rejection confirms to me that North Korea is afraid of allowing me and this special delegation into North Korea.

I believe Pyongyang is afraid because I am of Korean origin and am fluent in Korean. I know the culture and the people. I would be able to talk directly to the people and accurately read the expressions on their faces. I would be able to see and understand things—some very subtle—that other Americans would miss. In other words, the North Korean regime knows it cannot mislead or fool me.

While I believe my national origin is, in large part, the reason for North Korea's rejection, Pyongyang has also cited my fair and legitimate questioning of some of North Korea's actions, including its human rights record. It is telling that North Korea has rejected this mission knowing that it has the endorsement of the new Republican leadership of the House of Representatives. Thus, I also believe that my political philosophy—a philosophy different from that of the Member who was invited to North Korea—was a factor in North Korea's decision. I have carefully chosen the words political philosophy because I am not convinced that party affiliation alone is a determining factor for North Korea. I am aware that the recent request of a ranking Democratic member of the Senate Foreign Relations Committee to meet with North Korean officials was also rejected. Many of his views about the situation in Korea are similar to mine.

Unfortunately, I do not believe that North Korea realizes that its policy of picking and choosing the Members of Congress with whom it will cooperate is perceived by my colleagues here in Congress as an insult to the United States and to the United States Congress. We cannot cede to North Korea the right to determine which Members of Congress should represent Congress in a bilateral dialog. All U.S. Representatives and Senators are equal in their respective Chambers. No one of us has more constitutional rights than the other. We cannot allow North Korea to create different classes of Members of Congress.

Furthermore, the way that the North Koreans have chosen to snub Congress should make us even more suspicious about Pyongyang's true level of sincerity towards their other interactions with the United States, including the commitments they claim to have made in the recent nuclear agreement. I can no longer see how some in the Clinton administration can be so confident that North Korea will comply in both letter and spirit with the recent nuclear deal when Pyongyang sends the opposite signal through its disgraceful treatment of Congress.

It is ironic that in his reply to me, the Minister-Counselor of the North Korean Mission to the United Nations in New York—the channel which is used to communicate with Pyongyang—claims that his country wants harmony and reconciliation between North Korea and the United States. As the only Korean-American in Congress, I am in the unique position to communicate best with North Koreans and assess the sincerity of this claim.

Yet, in the same letter North Korea rejects the very mission that the new Republican leadership in Congress has approved to explore this subject. Actions speak louder than words and North Korea's actions appear to be very illogical and self-destructive. It appears that North Korea has thrown away an exceptional opportunity to further the reconciliation process it claims to want.

Those of us closest to the Korean issue in Congress have patiently put up with North Korea's insulting behavior. But, enough is enough. North Korea is politically and economically bankrupt. Without question, Pyongyang needs better relations with the U.S. Congress far, far more than the Congress needs a dialog with Pyongyang. Thus, until the President can certify that North Korea has reversed its discriminatory policy towards Congress, the legislation I am introducing today would preclude any official congressional travel to North Korea. It would ensure that the U.S. Congress maintains the dignity and respect it deserves.

Mr. Speaker, I invite my colleagues to cosponsor this responsible legislation and join me in sending a strong, clear message to North Korea.

TRIBUTE TO PRESIDENT SOGLO OF BENIN

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 30, 1995

Mr. BURTON of Indiana. Mr. Speaker, I would like to express my support for the initiatives of the Government of Benin. Benin, a country the size of Pennsylvania with a population of 5 million, is located in West Africa on the Gulf of Guinea. It captured international attention when in 1991 it was the first African nation to democratically elect a head of state, President Nicephore Soglo, a former World Bank director and friend of the United States of America.

Over the last 5 years President Soglo and his administration have instituted a series of economic reforms intended to reduce debt, increase exports, control inflation, and foster growth in general. By 1992 Benin's economy began to respond and by the first quarter of this year, economic growth was evident. As a result of this economic turnaround, investment possibilities abound in many of Benin's industries, especially oil production and agriculture. Benin is clearly one African country setting out to disprove the notion that the continent is becoming marginalized.

One of the most important of Benin's economic reforms was the devaluation of its currency, the CFA franc, in 1994. As a member of the West African Monetary Union, Benin uses the CFA—French for African Financial Community—franc which is tied to and supported by the French franc and is fully convertible. The overvalued CFA franc had skewed the economy towards trade rather than investment which is necessary for growth. "Finance & Development" magazine stated in a June, 1995 article that, since the devaluation, member countries of the franc zone have made great strides toward economic recovery. The goal of the devaluation was to help member nations regain competitiveness by shifting resources from low growth sectors, often artificially protected, to sectors where the country enjoyed a comparative advantage. These objectives were largely met in Benin, as evidenced by the growth in GDP, limited inflation, and improved balance of payments.

Benin has numerous resource-based enterprises which offer many investment opportunities for American businesses. One of the most promising is oil and gas. An offshore petroleum field is located near Cotonou, the principal city in Benin, and 4 billion cubic meters of gas reserves were recently discovered in the Seme oil field. These discoveries have generated serious attention in the World Bank plans for a major natural gas trunk line from Nigeria to run west through Benin, Togo, and Ghana.

Recently, many American investment houses have started to see Africa as an economic area on the cusp of exploding growth, the last true emerging market.

Mr. Speaker, the U.S. Government must support all efforts of African nations like Benin to democratize and continue on the path of economic reform and growth. The Government of Benin's efforts will mark a new era not only in West Africa but in all of Africa.

THE FLAG IS THE SYMBOL OF OUR COUNTRY

HON. ENID G. WALDHOLTZ

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Friday, June 30, 1995

Mrs. WALDHOLTZ. Mr. Speaker, the U.S. flag is the symbol of our country. It is proudly carried into battle, and it is the basis for our national anthem. It's more than a simple piece of cloth; it is the symbol of what we stand for as a nation.

Over the years, Congress has repeatedly attempted to pass legislation that would prevent desecration of our national flag. Each time, the public has expressed their overwhelming and enthusiastic support.

Unfortunately, and in my view incorrectly, the U.S. Supreme Court has ruled that burning the American flag is merely a form of free expression, and the Court overturned Congress' attempt to reflect the public's desire to protect this Nation's most treasured symbol. With that ruling, the Supreme Court left us with no alternative but to pass a constitutional amendment.

The Court's action left us with an ironic result: It is illegal to deface a mailbox or to mangle our currency—either act carries a criminal penalty—but it is not illegal to desecrate the flag. Personally, I am not comfortable with what that says about our values as a Government.

In the wake of the Supreme Court action, 49 States have passed resolutions calling on Congress to pass a constitutional amendment to protect our flag from desecration and send it back to the States for ratification. I would have preferred to resolve this issue with statutory language rather than through a constitutional amendment, but we have already attempted that. Congress is not able to pass a statute which we can guarantee will not be overturned by the Supreme Court.

Our action reflects the will of the American people to protect and preserve the most cherished symbol of this great Nation.

POLITICAL ADVOCACY WITH TAXPAYER DOLLARS

HON. ERNEST J. ISTOOK, JR.

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 30, 1995

Mr. ISTOOK. Mr. Speaker, please include the following remarks in the RECORD regarding "Political Advocacy with Taxpayer Dollars."

POLITICAL ADVOCACY WITH TAXPAYER DOLLARS VIOLATES THE RIGHTS OF ALL TAXPAYERS

(Testimony of Representative Ernest J. Istook, Jr., June 29, 1995, before the House National Economic Growth, Natural Resources and Regulatory Affairs Subcommittee)

It is time to end taxpayer funded political advocacy! Over 40,000 organizations receive over $39 billion in Federal grant funds directly. Preliminary examination of the problem makes it apparent that grant abuse is rampant and needs to be addressed with systemic reform. Systemic reform must not be targeted at any particular group nor any particular political philosophy but must allow the U.S. Congress to perform its fiduciary responsibility to the American taxpayer. That responsibility requires the Congress to track Federal Budget dollars to their usage point.

I feel strongly that these Federal dollars represent the hard work of many Americans who deserve the assurance that when they are compelled to pay taxes, that these tax dollars are being used appropriately. Using tax dollars for political advocacy not only violates the principles of free speech and free association. Just as the U.S. Supreme Court has ruled (Abood v. Detroit Board of Education, 1977) that compulsory union dues cannot be used to fund political activity, so, too, compulsory taxes should not be used for this purpose. The legislation several of us are working on is but one step, though a major step, in stopping some of the fraud, waste and abuse that plagues the Federal Budget.

The various attempts at addressing taxpayer-funded political advocacy problem have proven to be inadequate. Were this not the case the problem would not continue to be a significant problem. The IRS Code restrictions on many of the non-profit organizations and the Byrd amendment in 1990 have all proven to be inadequate. Though it is technically illegal to use taxpayer funds for lobbying, schemes have been created to circumvent the law. These include automatically sending a certain percentage of grant money to cover overhead for the lobbying arm, and subgranting funds to other organizations, in which case the audit trail ends. Sometimes the laws that exist are so vague and unenforceable that they are not satisfactory. An example of this is the lobby registration and reporting requirement for Congress. Lobbying is not defined in the law, so lobbyists only report time and expenses for time on Capitol Hill, not time spent in the office studying the issues, making phone calls to prepare for visits, etc. The Byrd amendment never defined appropriated funds, so funds are no longer considered appropriated after they've been deposited into the organization's checking account.

The goal is not and never should be to restrict free speech. Instead, the goal is to avoid the use of tax dollars to subsidize the private speech of those who have political connections or who rely on taxpayers' money to advocate their political views.

Upon examination of this problem, I feel the following principles must be put into law regarding the usage of Federal funds by Federal grantees:

a. The term "lobbying" is too narrow to be useful for this purpose. The broader term "political advocacy" should be used and defined under the law. This definition would extend to Federal grantees engaging in political campaigns, lobbying the legislative or executive branch agencies from the Federal to the state and local level, and engaging in efforts to influence general and specific public policy through confirmations, referendums or judicial action.

b. No federal funds should be used for political advocacy.

c. No grant funds should be used to provide support to other organizations who, in turn, conduct political advocacy.

d. No organization that receives a federal grant should, in turn, grant those funds to others, except as provided in the authorizing law that created the organization (i.e. the Institute of Peace, the Corporation for Public Broadcasting, etc.) Such grantees should be under the same obligation as if they received the Grant directly from the Federal government. Current law does not require this. This will not include state and local governments, but would include any private entity which receives federal grant funds, passed through to them by state or local governments.

e. Any Federal grantee should be subject to an audit, at the government's request, and must prove "by clear convincing evidence" that any funds used for political advocacy did not come from Federal funds. Grantees are expected to use "generally accepted accounting principles" (GAAP) in keeping records. This provision will not require any unusual accounting methods, and will deter, in fact, "creative" or otherwise lax accounting.

f. The federal dollar should be followed to its point of use. This will insure Congress is able to insure each taxpayer dollar is appropriately used for its intended purpose.

g. Information about all of these grants should be available to the general public.

CASE STUDY: THE NATURE CONSERVANCY

We have already heard testimony today about the Nature Conservancy's use of Federal taxpayer dollars to crush local opposition to a nature sanctuary. This action, even if it were authorized by Congress, violates the rights of the citizens of that county in Florida. The Nature Conservancy, from what we know in this case, used at least $44,000 from the Department of Commerce to National Oceanic and Atmospheric Administration (NOAA), plus $75,000 (most likely Federal funds) from other organizations' subgrants.

In the Nature Conservancy's "NOAA Performance Report for the Quarter Ending September 30, 1993," they discuss 21 items, 19 of which are clearly political advocacy under the definition I expect to outline in my proposed legislation. Items included preparing testimony for people to testify before Congress and ad campaigns. Please notice their item 17, which states that they spent money for this effort:

Developed and directed plan to counter opposition's push for a county-wide referendum against the establishment of the Sanctuary. Recruited local residents to speak out against referendum at two Board of County Commissioners hearings. Organized planning conference call with members of the Center for Marine Conservation, the Wilderness Society, and the Nature Conservancy to discuss plan. Plan was successful in blocking referendum (a 3-2 vote), and generated many positive articles and editorials using many of the messages discussed in plan.

They blocked a public vote on their plan. This is raw political activity. It does not deserve a subsidy from the voters who they sought to silence.

The issue is not which organization was bigger, more organized, etc. I would be just as disturbed with any other group Federal grant dollars and using those dollars to crush local opposition to their members' goals.

We have the right to freely associate with those who espouse principles that we endorse. The key word here is "freely." When tax dollars are used for political advocacy, this is not, by any definition, a free speech or free association.

FIRST AMENDMENT PROTECTION

Some opponents have a general misconception that it is unconstitutional to prevent organizations, especially non-profit organizations, from engaging in political advocacy with taxpayer dollars. Nothing could be further from the truth. It is, in fact, unconstitutional to permit recipients of federal funds from engaging in political advocacy with those dollars. In the case of Rob Jones University v. United States, the Supreme Court noted that, "When the Government grants exemptions or allows deductions, all taxpayers are affected; the very fact of the exemption or the deduction for the donor means that other taxpayers can be said to be indirect and vicarious 'donors'." In 1977, the Supreme Court ruled in Abood v. Detroit Board of Education that it was unconstitutional to require teachers to contribute to a union where the dues were used to support ideological causes the teacher opposed. The court said that taxpayers should not be required, either directly or indirectly, "to contribute to the support of an ideological cause [they] may oppose." Where recipient organizations receive both a tax exemption and government funding and then use government funds to engage in political advocacy, it is clear the government, and hence the taxpayers, are both supporting the political views advocated by the recipient organization. The Supreme Court noted several years ago in First National Bank of Boston v. Bellotti that where governmental action "suggests an attempt to give one side of a debatable public question an advantage in expressing the views to the people, the First Amendment is painfully offended."

Thus the right of free speech also includes the right not to speak. It includes the right not to support causes or ideologies with tax dollars. No taxpayers should be compelled to support ideological causes or political points of view with which the taxpayer disagrees. This is very important because taxes compulsory, not voluntary. Thus the federal government has a special duty to protect free speech and prevent, whenever possible, the infringement of the free speech of all taxpayers.

This position is clearly supported by the Supreme Court. On May 23, 1983, the United States Supreme Court unanimously upheld the right of the Federal government not to subsidize the lobbying activities of private, nonprofit, tax-exempt organizations. In the case of Regan v. Taxation with Representation of Washington, 51 U.S.L.W. 1588 (1983), Taxation with Representation of Washington (TWR), a nonprofit corporation organized to promote what it conceived to be the "public interest" in the area of federal taxation, applied for tax-exempt status under Section 501(c)3 of the Internal Revenue Code. The IRS denied the application because a substantial part of the organization's activities consisted of lobbying activity. TWR sued based on First amendment and equal protection under the fifth amendment. The court rejected TWR's contention that the government may not deny their application for tax-exempt status. The Supreme Court stated:

Both tax exemptions and tax-deductibility are a form of subsidy that is administered through the tax system. A tax exemption has much the same effect as a cash grant to the organization of the amount of tax it would have to pay on its income. . . . Congress has not infringed any First Amendment rights or regulated any First Amendment activity but has simply not chosen to subsidize TWR's lobbying out of public funds. . . . A legislature's decision not to subsidize the exercise of a fundamental right does not infringe on that right and thus is not subject to strict scrutiny. It was not irrational for Congress to decide that tax-exempt organizations such as TWR should not further benefit at the expense of taxpayers at large by obtaining a further subsidy for lobbying. . . . We have held in several contexts that a legislature's decision not to subsidize the exercise of a fundamental right does not infringe the right. . . . It is also not irrational for Congress to decide that, even though it will not subsidize substantial lobbying by charities generally, it will subsidize lobbying by veterans' organizations. . . . Congress is not required by the First Amendment to subsidize lobbying. . . . Congress—not TWR or this Court—has the authority to determine whether the advantage the public would receive from additional lobbying by charities is worth the money the public would pay to subsidize that lobbying, and other disadvantages that might accompany that lobbying." (Regan v. TWR) 461 U.S. 540 (1983)

There is no attempt in our proposed legislation to suppress or limit the First Amendment rights of recipient organizations. There is no ideological classification to apply this to some groups while exempting others. That would not be right. The same standards must apply to all organizations, regardless of their place on the political spectrum. Potential federal grantees would remain free to engage or not to engage in political advocacy as they see fit. I repeat, potential federal grantees would remain free to engage or not to engage in political advocacy as they see fit. They are simply prevented from receiving a tax-paid subsidy for their political advocacy.

Our legislation also should not be compared to the anti-lobbying bill in the 103rd Congress. There is no attempt in this bill to curb or restrict grass-roots lobbying organizations. Nor is there a focus on lobbying as a whole. The touchstone, the trigger for this act, and its provisions, would specifically apply to federal grantees engaging in political advocacy, directly or indirectly, with those funds, thus violating the free association rights of U.S. taxpayers.

LIMITED PUBLIC ADVOCACY

To be sure, many individuals, organizations and businesses in this country spend some of their funds on political advocacy. This is a normal activity and should not be suppressed. After all, we live in a civil society that depends upon democratic participation in the political process. Thus, the fact that an entity engages in political advocacy should not automatically bar the receipt of federal grant money. However, government oversteps the bounds of neutrality when it begins to award grants to selected entities that have as one primary purpose the conduct of political advocacy.

The First amendment guarantees the right to petition the government for a redress of grievances. But it does not require the government to pay you for it. After careful review, I have found that a reasonable threshold is when organizations spend 5% or more of their annual expenditures to conduct political advocacy. This provision is similar to the IRS 501(h) safe-harbor provisions of the IRS Code for non-profit organizations. This code provision prohibits a wide variety of political activity over $1,000,000 in expenditures. While the 5% threshold is seemingly small, such a percentage is, in fact, quite significant: First, in this modern information age, with cheap and high-speed means of communication, a little money can go a long way; and second, because of the fungibility of cash, each federal dollar received by a grantee frees up more private dollars for political advocacy, thereby leading to a growing amount of indirect government support for political advocacy.

CONCLUSION

Provisions of the legislation we are proposing is designed to protect the First amendment rights of all Americans and, at the same time, fulfill the trust that voters in this Nation have given members of Congress. As the Supreme Court has stated, "Congress is not required by the First Amendment to subsidize lobbying. . . . Congress—not TWR or this Court—has the authority to determine whether the advantage the public would receive from additional lobbying by charities is worth the money the public would pay to subsidize that lobbying, and other disadvantages that might accompany that lobbying." (Regan v. TWR) Congress is charged with insuring taxpayer funds are spent properly, for the public good. The legislation we are crafting has been carefully designed to keep the compliance burden as low as possible, while insuring that the rights of all Americans are protected.

I invite public comment on the ideas presented in my testimony and regarding our proposed legislation.

WORLD FOOD DAY

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, June 30, 1995

Mr. GILMAN. Mr. Speaker, for 11 years the U.S. National Committee for World Food Day has offered a teleconference on critical food policy issues to colleges and universities in the United States and through the facilities of the U.S. Information Agency WorldNet service to embassies and institutions throughout the Western Hemisphere. In 1993 and again in 1994, WorldNet also made it possible for the telecast to be received in Africa and Asia.

The World Food Day program dealt with the increasing use of water and the decreasing quality of the supply in nearly all world regions. Abundance is giving way to public policy decisions on resource allotment and cost sharing. There is an urgent need for the international community, national governments and citizen organizations to make decisions relating to the competing uses of the environment, agriculture and human consumption needs.

I want to thank the U.S. National Committee for World Food Day and the Committee's national coordinator, Ms. Patricia Young, for their efforts in bringing this important subject to public attention and in helping prepare for the international conference. I want to thank the U.S. Agency for International Development for their support and technical assistance in the organization of the World Food Day Teleconference. I also want to praise USIA WorldNet for a job well done in carrying the program throughout Latin America and the Caribbean and to additional sites in the rest of the world.

Mr. Speaker, I urge my colleagues to read the exclusive summary of the World Food Day Teleconference, and I wish to insert it in the RECORD at this point.

1994 TELECONFERENCE EXECUTIVE SUMMARY

The eleventh annual World Food Day Teleconference was broadcast from the studios of George Washington University Television in Washington, DC on October 14, 1994. It linked a distinguished international panel of experts on food, water and agriculture to more than 1,000 receive sites in the United States and the Western Hemisphere. There were also a number of passive sites in Asia and Africa. The theme for the teleconference was "Sharing Water: Farms, Cities and Ecosystems."

After years of growth since the World Food Day teleconference series began in 1984, the program is believed to be the largest, single development education broadcast ever organized in the U.S. The Spanish-language broadcast, involving simultaneous interpretation from English, began in 1990 with a pilot project in Mexico through the cooperation of the Instituto Tecnológico de Monterrey, which relayed the broadcast in Spanish to its 26 national campuses. Outreach to the rest of Latin America and the Caribbean was initiated in 1992 with the support of the UN Food and Agriculture Organization and the U.S. Information Agency WorldNet system.

World Food Day, held for the first time in 1981 and marking the anniversary of the founding of FAO in 1945, has captured the imagination of people throughout the world. In the U.S. the day is observed in virtually every community in the country, with especially strong support in schools, worship centers and food banks. The U.S. National Committee for World Food Day has grown in membership to more than 450 private voluntary organizations and works directly at the grassroots through more than 20,000 community organizers.

Serving on the teleconference expert panel in 1993 were José Felix Alfaro, international consultant on water resource planning, Sandra Postel, director of the Global Water Policy Project in Cambridge, Massachusetts, Rita Schmidt Sudman, executive director of the Water Education Foundation in Sacramento, California and Hans W. Wolter, chief of the Water Resources Development and Management Service of the UN Food and Agriculture Organization. The moderator was Alex Chadwick of National Public Radio.

THE TELECONFERENCE CONCEPT

In the U.S. the World Food Day teleconference has become a model for development education on global issues, in part because of the enormous growth in interactive site participation and the additional millions of viewers accessed through collaborating networks and in part because of the year-around use of the program's study materials and the teleconference videotape itself in college-level courses in a great variety of disciplines. The "internationalization" of the program since 1990 has further increased its impact and was broadly welcomed by participating colleges and universities in the U.S. The main components of the teleconference package are: (1) a Study/Action Packet of print materials prepared by the non-governmental U.S. National Committee for World Food Day and distributed to all participating schools and other study centers (and distributed in Spanish to the participating sites in Latin America); (2) the three-hour satellite telecast on World Food Day composed of three hour-long segments for expert panel presentations, site consideration of the issues and a site-panel question and answer interchange; (3) publication of the teleconference report including written responses by panelists to questions that were not taken up on the air for reasons of time; and (4) analysis by selected site organizers after each year's program to make recommendations for the year to follow. All of the main teleconference components are designed as college-level curricular aids.

THE STUDY/ACTION PACKET

The Study/Action Packet is designed as an integral part of the teleconference package, but also serves as a separate study resource for groups planning World Food Day observances but not participating in the telecast. More than 1,500 copies of the packet were distributed on request in the months prior to the broadcasts to colleges, other institutions, community study groups, schools and individuals. All or part of the packet materials were reproduced by many of the participating sites.

Again in 1994 the Study/Action Packet was translated into Spanish and reprinted by the FAO Regional Office for Latin America and the Caribbean and distributed throughout the region by the network of FAO country representatives. Copies of the English version were also distributed to U.S. embassies on request.

The 1994 packet was developed by the U.S. National Committee for World Food Day with the cooperation of several institutions and organizations which contributed material from their own research and analysis. The teleconference theme, exploring the growing scarcity of water and conflicts over the division of available supply among agriculture, industry, urban needs and the environment, was discussed by panelists in a global context, but with special emphasis on problems and needs of North and South America. Water issues facing the western part of the United States were featured, and for the fourth year one of the invited international panelists came from Latin America.

This Study/Action Packet is not intended to be a comprehensive analysis of global water issues but as an overview and introduction to the theme, special viewpoint papers included in the packet and donated by their authors came from Sandra Postel, author of the book "The Last Oasis," B. Delworth Gardner and Ray G. Huffaker from Brigham Young University in Utah and the University of Tennessee, Matias Preto-Celi of the FAO Regional Office for Latin America an Professor Nnamdi Anosike of Rust College in Mississippi. Also included was a special interview on western water issues with Secretary of the Interior Bruce Babbitt.

The packet also included a special 24-page Manual for Community Action on Water Policies and Programs. This was the eleventh study/action packet prepared in conjunction with the teleconference series and the fifth to be undertaken directly by the U.S. National Committee for World Food Day. Previous packets were prepared by the Center for Advanced International Studies at Michigan State University and by the Office of International Agriculture at the University of Illinois. Funding for the 1993 packet was partially provided by the Agency for International Development. General funding for the teleconference program was provided by the U.S. National Committee for World Food Day, FAO and Covenant Presbyterian Church of Scranton PA.

TELECONFERENCE OUTREACH

The WFD teleconference has grown each year since it was begun in 1984. Teleconference impact continued to grow in 1994 in at least three other ways. For the ninth year the program was used by professional organizations for continuing education credits. These credits (or professional development units) were offered again in 1994 by the American Dietetic Association, the American Home Economics Association and through the Catholic University of America to clergy and social service professionals. Beginning in 1989 there has been a steady rise in teleconference participation by high school students, initiated by both individual schools and school systems. The audience of home television sets accessed by cooperating networks is believed to be in the millions, reached through the Catholic Telecommunications Network of America, AgSat, Vision Interfaith Satellite Network, PBS Adult Learning Satellite Service and individual PBS and cable stations.

THE TELECONFERENCE BROADCAST SUMMARY

The telecast opened with questions from the moderator to each member of the panel in the area of their special interest or expertise. Dr. Alfaro was asked to judge the gravity of water problems in Latin America. He replied that water concerns are very widespread in the region in large part owing to the rapid human migration from rural areas into cities and the consequent overwhelming of water services and infrastructure. Professor Postel was asked her views on problems of irrigation. She pointed out that while only 16% of world cropland is irrigated this land produces more than a third of all the world's food. Since population continues to rise very quickly, she said, it is a cause of major concern that the amount of irrigated land per capita has been slowly declining for the past decade. She also noted that much of current irrigation is unsustainable over the long term because it is coming from pumping groundwater (water from wells rather than river diversion) faster than it is being replenished by nature.

The moderator then noted that the state of California has a special relevance in a discussion of water use because of its enormous agricultural production in a semi-arid climate through very large water diversion projects. Rita Sudman noted that state's past achievements but said that a new situation is evolving in which agriculture is under pressure to relinquish part of its water supply in order to meet needs of urban areas and the natural environment. California, she added, could in a sense be a laboratory for much of the world in its search for solutions to water sharing. Dr. Wolter was asked, as an official of the UN Food and Agriculture Organization, if water problems could slow the growth in food production globally. He replied that there exists very serious water problems regionally, and noted that about 230 million people live in countries with acute water shortage. However, he added, water problems in most regions can be solved by new supplies and/or improved management.

The panel as a whole then took up the question of whether water should be considered as a "good" in the economic sense, with a unit market value. Dr. Wolter began the discussion by noting that a) water is an economic commodity in the sense that it serves production purposes, but that it also has social and even cultural characteristics that make it difficult to treat only as an economic good; and b) that there are further characteristics of water that make it different from other resources—that it is extremely bulky, difficult to store and transport and, in the private sector, difficult to establish property rights to it.

Prof. Postal said there is not doubt that water is undervalued as a resource because it has always seemed plentiful and that market allocation in some ways can bring efficiencies in water use. However, she noted, the market cannot meet all the social needs for water and, in particular, intervention in the market by governments will be required to protect the natural environment.

Furthering this point, using California as an example, Ms. Sudman noted a) that while people like to say that water is free it really isn't because in one way or another the public pays the cost of infrastructure, distribution and purity maintenance; and b) that the simple ability of cities to pay for water does not answer the problems of rural communities. The need now, she said, is to work out systems of sharing and balance, but that this is not always easy or the solutions clear.

Dr. Alfaro noted that water marketing can be useful up to a point, but that there would be very real political and equity problems in a pure market system. In Latin America, he noted, there are millions of small, subsistence farmers who do not have the means to pay for the water they need for their crops. Ms. Postel added that if water prices are disconnected from crop prices this adds another destabilizing factor to agriculture. However, she added, the high cost of pumping water in areas of the U.S.—where water rights are not a central issue—has brought about great improvements in efficiency.

Dr. Wolter noted that before markets can play a normal role there has to be an allocation of water rights, and that this does not exist in most countries where there is no clear ownership and very few statistics on resource availability and use. FAO, he added, is helping these countries to reform their policies and institutions. Ms. Sudman noted that there is a further complication because farmers can sell rights to surface water and then meet their own needs by increased pumping of groundwater which is not a solution over the long term. Rights to groundwater, she added are much less well established by law. Dr. Alfaro noted that the point of irrigation is to increase production, but that more is required than water and that poor farmers are not able to take part in the productivity gains. There is, therefore, the danger, he said, that water will be one more production factor going to rich farmers but not to poor. Dr. Wolter noted that this does not have to be the case, that in Bangladesh, for example, the introduction of small and cheap pumps to tap groundwater, which is plentiful there, has led to competitive water marketing that is serving the very small holders.

The moderator then asked the panel to consider future problems of water quantity and quality to meet human needs.

Ms. Postel said her statistics and projections point to a worsening situation in much of the world. She noted that 27 countries already live with severe water shortages, but that this number could jump to 40 countries in the coming years and this will mean more competition for water and then for food. Dr. Wolter noted that most of the countries in water scarcity exist around the Mediterranean Sea and that generalizations may not be valid elsewhere. Africa, for example, has a vast amount of unutilized water capacity and there could be a period of intensive investment in water diversion and dam construction ahead. Efficiency will be very important, he said, but all options of supply and management need to be considered.

On the issue of water quality in food production, Dr. Alfaro said that quantity and quality are part of the same problem. Nearly 30% of all irrigated cropland is now affected by waterlogging or salinization, he said. In part the solutions to this are technical, such as better drainage, but in part they can be cultural, for example where people go on raising rice in very light soil more suitable to other crops. Cultural, political and even religious regimes can complicate introduction of technical solutions, he said.

The panel then took up the situation of water for urban systems and drinking water. Prof. Postel noted that only about 8% of all water used is for cities, but that this 8% is difficult to supply, store, treat for contaminants and distribute. It is also difficult and expensive to collect and treat waste water before it is returned to the environment. With populations growing and big cities growing even faster, she said, all these problems are multiplying. And, she noted, according to UN estimates there still are more than a billion people who don't have access to safe drinking water.

Dr. Wolter noted that the International Decade on Safe Drinking Water and Sanitation has yielded some interesting results. Conditions in rural areas have improved very rapidly, but not the situation in the cities where infrastructures have not kept pace. Planners and governments need to take a more integrated approach and be more aware of the ramifications of water intervention both upstream and downstream. However, he added, these are policies of governments and the UN agencies can only offer advice when asked.

The moderator then asked the panel to consider which sectors of the population might be most affected by new water policies. Ms. Sudman noted that in California there is no doubt that agriculture will be the sector most affected since the farmers have control of about 80% of all water taken for human use. The great water projects were built in the 1930s and 1940s primarily to improve agriculture, and the farmers signed contracts for 40 years of water supply. Now that these contracts are running out, society's values have changed and people are saying we need to give less to farmers and more to protect fish and birds. About 12% of formerly agricultural water is now being diverted back into rivers and streams to protect the environment. That has hurt farmers, she said. But most people think it is the right thing to do.

Prof. Postel described the need for a "water ethic." In the past, she said, we simply projected demand and tried to ensure that the supply could be there for human purposes. A "water ethic" implies a recognition of water ecosystems which are vital in themselves as well as to human needs and would be protected as a first priority. Ms. Sudman added that while this is what California is now trying to accomplish there is a gap in knowledge of exactly how much water is needed to achieve each purpose. If the goal is to double the fish population, can that be done by just adding more water to stream flow and how much more? We don't yet know, she said.

Dr. Alfaro, speaking as a devil's advocate, noted that the U.S. is a very rich country, but that such care of the environment may not be a logical priority of a poor society. There, he said, where there are no food stamps, the top priority for the poor is food to eat. Prof. Postel said that countries could not wait for environmental protection until poverty problems are solved and a certain level of development achieved because unchecked destruction of the environmental systems lead to the loss of resources on which jobs for people depend. Dr. Walter suggested that there are, in fact, conflicts between development and environmental protection and answers will be complicated. Different countries face different problems and difficult choices, he said, and we can't impose our values on them from the outside.

At the close of the first hour, the moderator asked Prof. Postel whether the world would have ample water resources if they are managed sustainably. She replied that a part of the problem today is that an important share of our food production and water use is not sustainable over the long term. For example, groundwater is being pumped out far faster than it is replenished by nature. First, as water becomes scarce it grows more expensive to pump so food becomes more expensive too, and second, the reduced supply in the ground will become salty. At this point in time, she said, we need to be much more concerned with managing our water demand rather than increasing our supply—learning to do more with less.

THIRD HOUR QUESTIONS AND ANSWERS

As in previous years, the third hour of the teleconference program was devoted to questions directed to the panelists by the participating sites. All questions received were answered either on the air during the third hour segment or by the panel members in writing afterward. These written answers are part of the teleconference report. Questions were received from Canada, the U.S., Latin America and the Caribbean. Subjects in which there tends to be the greatest interest among the participating sites included: how water marketing might affect poor farmers and poor countries; what kind of system could be devised that would adequately maintain the natural environment and still leave water for human needs; how is sustainable water used possible if population continues to increase; what kind of incentives are there to encourage efficiency in water use; what are the trade-offs in poor countries between environmental protection and industrialization and is it possible to avoid the conflict; and, who should manage water markets, governments or private institutions. Panel responses to all these questions varied, sometimes fundamentally, but there was general agreement on three points: (1) that governments and the international support community now recognize the seriousness of water problems; (2) that answers are necessarily complex both because of the nature of the resource and the conflicting user demands; and (3) that there is still time for most countries and regions to adjust and modernize their water policies before a crisis occurs, but that action is necessary.

BRING TELEMEDICINE TECHNOLOGY TO THE AMERICAN PEOPLE

HON. RON WYDEN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Friday, June 30, 1995

Mr. WYDEN. Mr. Speaker, the House will consider H.R. 1555, the Communications Act of 1995 after the Fourth of July district work period.

If done properly, telecommunications legislation will open the doors to radical advances in technology for our constituents. In reshaping America's telecommunications laws, the Congress must consider as many potential applications of telecommunications technology as possible. After all, it's been 60 years since the last rewrite to telecommunications law.

During Commerce Committee consideration of H.R. 1555, the Communications Act of 1995, I raised the issue of telemedicine in an effort to expand the use and development of this exciting health care technology. Telemedicine is a diverse collection of technologies and clinical applications. The defining aspect of telemedicine is the use of electronic signals to transfer information from one site to another. Telemedicine's potential is immense; including for rural care, emergency care, home care, medical data management, and medical education.

I offered and withdrew an amendment to allow licensed physicians in one State to conduct consultations with licensed health care practitioners in another State. I withdrew the amendment at the request of Members who sought additional time to explore the issue with the objective of crafting a bipartisan floor amendment.

Bipartisan discussions continue today. It remains my objective, working with colleagues from both sides of the aisle, to produce bipartisan legislation to bring telemedicine's many benefits across State lines to the American public.

I call the attention of my colleagues to the report printed below titled, "Telemedicine and State Licensure." The report outlines current problems facing telemedicine and the need for a bipartisan solution.

H.R. 1555, the Communications Act of 1995 is our opportunity to free telemedicine from the regulatory morass which threatens to keep this technology from the American people.

The American Telemedicine Association—Telemedicine and State Licensure

INTRODUCTION

The primary purpose of telemedicine is to give all citizens immediate access to the appropriate level of medical care as disease or trauma requires. Currently, each state must license each physician or dentist who desires to practice medicine within its borders. This mode of licensure, while appropriate for practices limited by state boundaries, unduly constricts the practice of telemedicine. As a result, medical services today stops at state boundaries. American consumers are blocked from accessing medical care available in other states absent their ability to travel away from their own homes and communities.

The challenge facing all concerned with advancing medicine, and the sincere intent of our effort, is to preserve the credentializing and monitoring efforts of each state while providing instant and immediate access to appropriate levels of care where not otherwise available.

THE CURRENT STATE OF PHYSICIAN LICENSURE IN THE UNITED STATES

In some states, there are limited exceptions to the rule that a physician or dentist must possess a license in each state to which he practices medicine. Statutory "consultation exceptions" allow an out-of-state physician or dentist to enter a state to see a patient at the behest (and in the presence) of a locally licensed physician or dentist. However, consultations are often required to be limited in duration, and a number of states which possess them are acting to close them for telemedicine practitioners. In 1995, Colorado, South Dakota, and Texas have considered amendments to their consultation statutes prohibiting out-of-state telemedicine practitioners from "entering" without being licensed in their state. Utah repealed its consultation exception effective in 1993, and the Kansas Board of Healing Arts passed a regulation (which conflicts with its statutory consultation exception) which requires out-of-state telemedicine practitioners to be licensed in Kansas.

Additionally, a number of states prohibit out-of-state consultants from establishing regularly used hospital connections. If consultants cannot use telemedical facilities at out-of-state hospitals, this limits the availability of specialized healthcare to underserved areas. The "consultation exceptions" are simply not useful or dependable for the future of telemedicine. They are easily amended to exclude telemedicine practitioners, they require the presence of a locally licensed physician (which may not always be possible), and only one-half of the states possess exceptions broad enough to be used by telemedicine consultants.

While some have argued that the distant patient is "transported" to the physician or dentist via telecommunications, this is a weak legal argument unlikely to stand up in trial. It is instead probable that a majority of state courts would find that a telemedicine practitioner is practicing medicine in the patient's state. If the telemedicine practitioner is not licensed in the patient's state, this would have an extremely negative impact upon the physician's malpractice liability, malpractice insurance coverage, exposure to criminal prosecution, and potential loss of licensure in his home state as well as remedial legal recourse for an injured patient.

Licensure by reciprocity and licensure by endorsement have long served physicians or dentists who wished to be licensed in two or three states. However, reciprocity and endorsement fall short of the needs of physicians or dentists practicing via a telecommunications network. Today, reciprocity is rarely used, and licensure by endorsement still requires that applications, personal interviews, fees, pictures, school and hospital records, and even letters from locally licensed physicians or dentists be submitted to each state where a license is desired. Each state's requirements are minutely different, and the expense and time involved in receiving licensure by endorsement in more than one or two states makes it prohibitive, if not impossible, to achieve.

IS INDIVIDUAL STATE LICENSURE REQUIRED?

The Tenth Amendment of the U.S.Constitution reserves to the states the power to protect the health and safety of state citizens, hence the ability of the states to regulate and license healthcare providers. Almost every state statutorily defines the practice of medicine, and a typical statute reads:

"The practice of medicine means . . . to diagnose, treat, correct, advise or prescribe for any human disease, ailment, injury, infirmity, deformity, pain or other condition, physical or mental, real or imaginary, by any means or instrumentality."

It appears that despite the presence of a primary/referring physician, the physician consulting via telemedicine who attempts to diagnose the patient is practicing medicine where the patient is located. The phrase "by any means or instrumentality," while not common to all states, frequently appears in state definitions. Courts would determine that telemedicine was the "instrumentality" used to reach a diagnosis, and find that the state definitions bring telemedicine consultants under their jurisdiction. States guard their power to regulate for health and safety purposes, and the U.S. Supreme Court has upheld their ability to do so.[2] Therefore, it is unlikely that state courts would surrender jurisdiction over an out-of-state physician or dentist who practiced medicine via telecommunications on a patient located in their state. Courts will find that the medicine was being practiced where the patient was located, and therefore the physician or dentist should have been licensed in the patient's state. Such a finding would have a chilling effect on telemedicine, since licensure cannot be obtained in every state by every specialist who participates in even one consultation.

The means for attaining these goals are to have the patient under the care of a physician licensed in the same state of residence but allowing consultative evaluations of the patient by specialists licensed in another state. Other health care professionals, such as physician assistants, must be under the supervision of a licensed physician.

IS INTERSTATE TRANSMISSION OF TELEMEDICINE REQUIRED?

Just as the technology for the transmission of sound and images has witnessed revolutionary change, so too has medicine. These advances in telecommunications and medicine have made advanced medical care available where not thought possible before. Today, there are compelling needs to use interstate transmission of telemedicine from medical, social welfare, and economic perspectives:

The unpredictable immediacy of eruptions of disease or trauma may command the services of unpredictable types of specialists requiring licensure reciprocity in all 50 states. Epidemic outbreak of disease is not limited to state boundaries. The interstate mobility of specialty expertise is needed throughout the United States to meet the demands for combating injury or illness wherever and whenever it may occur.

Medicine has witnessed the emergence of super-specialized medical care centers in numerous critical areas. These centers are located in regional tertiary care facilities serving multi-state areas. Receiving medical attention through these centers currently requires the transport of most referred patients out of state. In addition, the lack of proper recuperative care in their home community after a patient returns home has prohibited the patient from returning home sooner. The development of telemedical links to local primary care facilities will enable many patients to remain in-state under the primary responsibility of physicians or dentists licensed in their home state. The development of telemedical links to specialty care centers can reduce the cost of transport and can lead to substantial reductions in the costs of patient care.

Developing metropolitan-wide systems of care for many cities also requires crossing one or two state boundaries. There are 25 major metropolitan areas in the United States that include more than one state. In each of these areas, state licensing requirements effectively limit the ability of physicians or dentists and other health care practitioners to serve the health care needs, via metropolitan wide telemedical systems, of the population base residing in their own communities. This limitation can lead to great disparities in access to health care due to the consumer's place of residence.

The widespread shortage of health professionals in many parts of rural America has long been recognized as a critical public policy issue. In many cases, access to health care could be greatly improved with the development of telemedical links with health facilities located in nearby states.

CONCLUSION

Statutes are being considered among the states which would require out-of-state physicians or dentists treating patients across state lines via telecommunications to possess licenses in the state "entered." Already in the vast majority of states the telemedicine practitioner would be considered to be practicing medicine upon a patient located there, thus providing the patient's state with jurisdiction over any malpractice action. Additionally, malpractice insurance coverage is generally predicated upon the physician being licensed where he practices. In other words, a physician sued for malpracticing via telemedicine in a state where he is not licensed might find himself without coverage, as well as responsible for his own defense costs. Failure to possess a state license would be used to establish negligence upon the part of the consulting physician. Criminal prosecution for practicing without a license could result, and the physician's home state could institute disciplinary action against him for his actions in the distant state. Telemedicine possesses incredible potential to increase healthcare accessibility, but is severely hampered by legal impediments of which licensure is one of the most obvious. Fortunately, licensure problems have the greatest potential to be alleviated by the passage of statutes aimed at addressing these issues.

Emerging from these careful considerations is the need to preserve the credentializing and monitoring efforts of each state while providing instant and immediate access to appropriate levels of care where not otherwise available. Such actions should allow for immediate response to instances of disease and trauma while securing for each state and its citizens the continuance of the credentializing and monitoring of quality within its boundaries with additional specialized back-up as needed.

FOOTNOTES

[1] ALA. CODE §34-24-50 (1975).

[2] *Geiger* v. *Jenkins*, 316 F.Supp. 370 (N.D. Ga. 1970), aff'd, 401 U.S. 985, 91 S.Ct. 1236, 28 L.Ed. 2D 525 (1971).

TRIBUTE TO THE EAST ROWAN MUSTANGS

HON. HOWARD COBLE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 30, 1995

Mr. COBLE. Mr. Speaker, I am pleased to announce that a team from the Sixth District, the East Rowan High School Mustangs, recently won the North Carolina 3A baseball championship. On Saturday, June 10, 1995, the East Rowan Mustangs defeated the Asheboro Comets, another Sixth District high school, in a best-of-three series to take the crown.

East Rowan capped a magnificent year with a 16-game winning streak to finish the season at 29–1. The Mustangs have been the mark of stability over the last three seasons, with 73 victories and only 8 defeats. Last season the Mustangs made it to the State semifinals before being bounced from the tournament. This year was to be different, as the team produced the first State baseball championship for East Rowan High School in 18 years.

In game one, Shawn Kelii hit a two-run single to highlight a four-run first inning, and pitchers Mike Morris and Greg Beaver combined for a five-hit shutout, as the Mustangs cruised to a 7–0 victory.

In game two, series MVP and catcher Brad Rye knocked in two runs with a single and a triple as East Rowan won by a margin of 4–0. Pitcher Russell Holshouser was instrumental as he held the Comets to just two hits for the game.

Known throughout the State as an offensive juggernaut, the East Rowan Mustangs scored more than 10 runs in 15 games this season, but clearly defense and superb pitching were instrumental in helping the team to win the championship.

On behalf of the citizens of the Sixth District of North Carolina, we offer congratulations to head coach Jeff Safrit, as well as assistant coaches Chris Cauble, Craig Hicks and Jeff Owen. Congratulations to the members of the squad: Chris McGinnis, Chad Stoner, Brian Cross, Skip Livengood, Damon Brinkley, Andy Cornelison, Jaret Doty, Russell Holshouser, David Trexler, Jason Foster, Garrett Barger, Brian Goodman, Chad Yates, Travis Goins, Greg Beaver, Brad Rye, Mike Morris, Shawn Kelii, Jeff Gobble, Kevin Barger, Andy Cauble, C.J. Moody, as well as the team managers, Amy Holshouser, and Samantha Burnette.

You are all truly deserving of your championship, and we are all proud of you. The Sixth District is proud to have the East Rowan Mustangs as North Carolina's State 3A baseball champions.

THE LAST AMERICAN FLAG OF THE SS "JOHN LYKES"

HON. CURT WELDON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 30, 1995

Mr. WELDON of Pennsylvania. Mr. Speaker, when an American flag flies on the stern of a Merchant Marine ship for several years, that flag becomes a symbol of the values and ideals for which the Merchant Marine has fought to preserve and protect in both war and peace. But just as important, that same flag becomes a symbol for the pride, dedication, and sentiments of the seaman who served on that ship's crew for so many years. To scrap the ship, and thus to never let that flag fly again, would be a tragic dishonor to the American colors and to the patriotism of those servicemen who worked under them.

Unfortunately, Mr. Speaker, this is exactly what is happening to the SS *John Lykes*. William Steadman, a constituent from my district, recently sent me a copy of a letter to President Clinton from the captain, officers, and crew of this Merchant Marine ship which was scrapped along with 14 others in 1994. Mr. Speaker, that ship represents the culmination of 35 years of service from 87 seamen a year in the Merchant Marines. And it is only one of many in the Merchant Marine fleet that is suffering this fate. This letter from the captain and crew of the SS *John Lykes* makes a passionate plea to save the Merchant Marines. Our servicemen are pleading to us for help, and they cannot be ignored. As a member of the former Merchant Marine Committee and of the current Merchant Marine panel, I fully understand the implications of this terrible process by which the Merchant Marine, which has so faithfully served our country in war and peace, is becoming extinct. Our Federal Government is making a big mistake, and it must be stopped.

The following letter from the captain and crew of the SS *John Lykes* explains their sentiments very clearly and boldly. I urge President Clinton to listen to their message. Though it may be too late to save the SS *John Lykes*, it is our duty to our service members to keep its sister ships in the Merchant Marine faithfully serving our country, and along with them, the American flag flying proudly.

Mr. PRESIDENT: Enclosed is the last American flag flown from the stern of the SS *John Lykes*. One of the 15 Lykes ships scrapped since 1994. This American flag last flew on March 12, 1995, Port of New Orleans. It will never fly at a U.S. port again. This flag represents 35 years of U.S. citizen income taxes paid to the U.S. Government. For every tax dollar spent on cargo preference and subsidies the U.S. Government received back their investment plus 15 percent profit. For 35 years, 87 seamen a year were employed on this ship. Countless mortgages and children's tuition were paid by these seamen during those years, which would not have been possible without the flag you are now holding Mr. President. This flag has made possible the American dream for thousands of merchant seamen and their families. Now the U.S. Government and its agencies are in the process of destroying the U.S. flag fleet. Since 1776 the U.S. Government has treated American seamen with indifference in peacetime, and as a vital resource during war and conflict. Since 1776 countless abuses have been heaped on American seamen. But the American seaman has been there for his country for every conflict since then. Now the U.S. Government is on the verge of eliminating the American flag because of corporate greed, putting thousands of seamen out of work. Mr. President, we men of the U.S. merchant marine love our country and love our flag. We also know that patriotism and love of country are not emotions you are born with. They are instilled in you through the years with love from family and faith in God and Country. Mr. President, a flag that is not worth working under, is not worth fighting for, and a flag that is not worth fighting for, is not worth dying for. Mr. President, you have the bridge. You are not responsible for the incompetent policies of the past but you must fight for the American flag just as we do. The American flag will either sink or continue flying proudly on your watch. Signed, Master, Officers and Crew, SS *John Lykes*.

A GOLDEN ANNIVERSARY FOR A GOLDEN COUPLE

HON. JAMES A. BARCIA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, June 30, 1995

Mr. BARCIA. Mr. Speaker, next Friday, July 7, the friends and family of Herb and Helen Schmidt will gather to help this wonderful couple celebrate their 50th anniversary of their marriage. And it runs in the family. Both Herb and Helen witnessed their parents celebrate their 50th anniversaries, and Herb saw his grandparents celebrate their 50th anniversary. This family tradition is so wonderful that it deserves to be trumpeted to all who can hear.

Any marriage that lasts so long must be the result of good communications, and that should be no surprise in this family since Herb Schmidt was a major voice for Michigan farm radio shows for many years. He got his start in radio from Bob Driscoll in a 1964 interview, and then later became the Farm Show Director at WBCM radio in Bay City. He also during his radio career held the microphone at WXOX. For about three decades Michigan farmers had the good fortune to have clear, concise, accurate farm news reports from award-winning broadcaster Herb Schmidt.

Herb also has been and continues to be involved with the Michigan Farm Bureau, where he has served as the Bay County Farm Bureau president. He still is heavily involved in a program that helps businessmen become familiar with farm operations so that there can be greater understanding and cooperation throughout the area. Helen was also chairperson of Bay County Farm Bureau Women, and cohosted various farm tours, including for international visitors, with Herb.

And even with all of these activities, Herb has maintained his interest in raising exotic birds, including peacocks and guinea hens. Visitors to his farm have told me of how wonderful this project has been for so long.

Through this all, Herb has had the essential support of his wife Helen. It can be tough living with a popular figure like Herb, and it is even more challenging when there are also seven children in the house to add to the daily delights. Their children are their pride and joy, and only the 16 grandchildren that have been added could make the situation any better. Helen has also been involved in many community activities, most importantly her church, as a leader and Sunday school teacher.

Mr. Speaker, I am fortunate to know Herb and Helen Schmidt, as are their many other friends. I ask you and all of our colleagues to join me in wishing them the happiest 50th anniversary.

SENATE—*Monday, July 10, 1995*

The Senate met at 12 noon and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Almighty God, infinite, eternal, and unchangeable, full of love and compassion, abundant in grace and truth, we praise You for being the faithful initiator and inspiration of prayer. We need not search for You, because You have found us; we need not ask for Your presence, because You already are impinging on our minds and hearts; we need not convince You of our concerns, because You know what we need even before we ask. What we do need are humble and receptive minds. Awe and wonder grip us as we realize that You want our attention and want to use us to accomplish Your plans for our Nation. We openly confess the inadequacy of our limited understanding. Infuse us with Your wisdom.

The week ahead is filled with crucial and controversial issues to be debated and decided. Reveal Your will for what is best for our Nation. We yield our minds to think, and then communicate, Your thoughts. Invade our attitudes with Your patience so that we will be able to work effectively with those who differ with us. Help us to listen to others as attentively as we want them to listen to us. In the midst of controversy keep us unified in the bond of our greater commitment to be servant-leaders of our Nation.

And as we press on with our work that You have given us to do, we commit to You the care of our loved ones and friends who need Your physical healing and Your spiritual strength. In Your holy name, Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The able majority leader is recognized.

SCHEDULE

Mr. DOLE. Thank you, Mr. President. We have morning business until 1 o'clock, with Senators permitted to speak for up to 10 minutes each. At 1 o'clock, we resume consideration of S. 343, the regulatory reform bill. Under a previous order, Senator ABRAHAM will be recognized to offer an amendment on small business. At 3 o'clock, the Abraham amendment will be set aside so that Senator NUNN may offer an amendment with Senator COVERDELL regarding regulatory flexibility.

At 5:15, we begin two back-to-back votes—a vote on or in relation to the Abraham amendment, to be immediately followed by a vote on or in relation to the Nunn-Coverdell amendment. So there will be at least two rollcall votes today, and there could be further rollcall votes into the evening.

Let me indicate to my colleagues, this is Monday morning. This is a very important piece of legislation. It is controversial in some quarters. We hope to end up with a strong bipartisan bill. But I will alert my colleagues, we will have long days all this week, including Friday. So I do not want people expecting that on Friday there will be no votes or maybe be one vote at 11 o'clock in the morning. That can change if we complete action on this bill, but I doubt that will happen.

In addition, we were not able to complete action on the rescissions package before we left a week ago Friday. That bill will come up when there is an agreement without amendment to go to final passage.

I understand there may be some discussion of that later on today. It is a bill that saves about $9.2 billion. It was blocked by two of my colleagues before the recess. I hope that their concerns may be satisfied by the administration. I hope the administration can deal with our Democratic colleagues with reference to that bill.

It has many important items in the bill, including disaster relief for Oklahoma City, earthquake relief for California, and a number of other—in fact, there are some 30 States for which this bill includes some disaster money. So it is an important bill. It is one we should pass.

It also saves $9.2 billion overall. It is very important that we pass that bill at the earliest possible time. I commend the White House for at least notifying the agencies not to spend any money that is not authorized in that rescissions bill. So that is a step in the right direction.

Now, if they can convince a couple of our colleagues to let us pass the bill, we could do that at any time today or tomorrow if an agreement is reached.

But I again indicate it is going to be a full week. We are already eating into the August recess. We have some "must" legislation we hope to complete between now and sometime in August. We will have a final schedule to all of our colleagues by the end of the week.

Mr. President, was leaders' time reserved?

The PRESIDING OFFICER (Mr. KYL). Yes, leaders' time was reserved.

DISTORTIONS OF REGULATORY REFORM BILL

Mr. DOLE. Mr. President, now that we have begun consideration of regulatory reform, the defenders of the status quo have settled on the weapon of last resort: fear. Thus, we have reporters and pundits pronouncing in strident tones "the rollback of 25 years of environmental protection," the likelihood of increased outbreaks of E. coli food poisoning, and the horror of placing a pricetag on human life.

The sky is falling is undoubtedly next.

The only problem with all these arguments is that they are absolutely false, not just false in some small way, but false in every way. Apparently, the Chicken Littles who have engaged in these scare tactics did not even bother to read the legislation.

Had they done so, they would realize that most of the bill merely codifies Executive orders issued by every President since the Ford administration. Had they done so, they would realize this is a bipartisan piece of legislation that balances commonsense reform with the need to protect health, safety, and the environment. So here are a few facts—although I am not certain from some of the reports I read, the Ralph Naders, and the Bob Herberts of the New York Times, and others, even care about facts—but just in case somebody might care about facts, let me state some facts, and I quote directly from the legislation conveniently ignored by these liberal distortions:

Our regulatory reform legislation protects existing environmental health and safety laws.

Our legislation makes explicit that regulatory reform measures supplement and [do] not supersede—supplement and do not supersede. We are not going to supersede any law, we are going to supplement existing environmental health and safety requirements. Congress chooses the goals, and all we ask is that among several options achieving those goals that the one imposing the least possible burden be selected.

We do not see a problem, if you are going to have all these options, and one will accomplish the job with the least burden on the American taxpayer, the American consumer, the American businessman, generally small business men and women, why should we not choose that option?

However, a cost-benefit analysis of proposed regulations is not required before issuing rules that address an "emergency or health or safety threat that is likely to result in significant harm to the public or natural resources." If nonquantifiable benefits to "health, safety, or the environment" call for a more costly regulatory alternative, the agency is free to make that choice as well. And rules subject to a proposed congressional 60-day review period may be implemented without delay if "necessary because of an imminent threat to health or safety or other emergency." So it seems to me we have made it rather clear.

Some rollback.

Our regulatory reform legislation protects food safety.

Perhaps the most cowardly argument has been the one that suggests that our legislation would, in the words of one overly distraught commentator, mount "an all-out assault on food safety regulations" and block implementation of the Agriculture Department's proposed meat inspection regulations.

Does any reasonable person really believe that any politician, Democrat or Republican, is trying to gut food safety laws? Of course not. But for those who have made a career on scare tactics, this argument will apparently do. If they make it, surely somebody in the media will repeat it and repeat it and repeat it. That has been done for the past several days.

All of the protections in the bill noted above apply here, too, especially the one exempting a regulation from any delay if there is "an emergency or health or safety threat." But there are several additional ironies. First, the Agriculture Department already conducted a cost-benefit analysis of the meat inspection rule, and it passed. Second, in the entire bill the only time health inspections are mentioned, it is to exempt them from risk assessment requirements under this bill.

Our regulatory reform legislation does not place a price tag on human life.

The argument that regulatory reform would place a price tag on human life usually carries with it the notion that some lives will be worth more than others. This is a cynical argument and is completely at odds with what the bill would actually accomplish.

First, not only does the bill avoid putting a price tag on life, it explicitly recognizes that some values are not capable of quantification. Thus, both costs and benefits are defined in the legislation to include nonquantifiable costs and benefits.

The legislation also provides that in performing a cost-benefit analysis, there is no requirement to do so "primarily on a mathematical or numerical basis." And, second, agencies may choose higher cost regulations where warranted by "nonquantifiable benefits to health, safety or the environment."

Nothing could be more clear to this Senator, and we hope we have made it clear in the bill, which is sponsored by Republicans and Democrats.

Mr. President, I have quoted from the bill wherever possible. It is interesting that opponents of the bill never do. They probably have never seen the bill and do not know the numbers, and they do not intend to read it. They have bought into this nonsense that some Members of Congress are for dirty meat, that we want dirty meat—that is what I have read—that we want people to die of food poisoning.

I know they do not like to read these things because it is inconvenient, and they do not want the facts in many cases. But I challenge the opponents to stop distorting the truth and start seeking it. They can read the bill. To help them, I have prepared a summary of provisions that address the protections for health, safety, and the environment that I will include with this statement in the RECORD.

Then opponents can start telling us why they are really upset by regulatory reform. I suspect it has less to do with threats to the environment and more to do with the threat to Federal power in Washington, DC.

We have a lot of bureaucrats that might lose their jobs if we can ease some of the burdens on consumers, farmers, ranchers, small businessmen and women, the people who have to pay for all the regulations, and, in some cases, the costs exceed the benefits. In some cases, there are no benefits at all. The most costly regulations are usually the ones that impose a Government-knows-best requirement, and there is an entire culture devoted to telling the American people that the Government knows best; Washington, DC, knows best.

Our legislation is a direct threat to a smug assertion. By golly, we ordinary Americans hope you agencies do not take it personally, but we would really like you to show us why a rule imposing hundreds of millions of dollars makes sense and was the only way to do it.

So we think we are on to something here. It should not be a partisan issue, and it is not a partisan issue. A lot of my good colleagues on the other side of the issue are supporting this, and we hope to have more before the week is out.

The opponents are right in one respect: This is one of the most important pieces of legislation this Congress will address. Americans pay more in regulatory costs than they do to Uncle Sam through income taxes. Overregulation costs the American family an estimated $6,000 a year. I believe we can ensure regulations that both promote important goals like food safety and also minimize costs wherever possible, and I believe it is our obligation to do so. In that respect, I am an optimist. I have never succumbed to the chirpings of the Chicken Littles and do not intend to start now.

Mr. President, I ask unanimous consent that a section-by-section analysis of this legislation, particularly as it relates to protection of human health, safety, and environment, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 343: Responsible Regulatory Reform That Protects Health, Safety and the Environment

S. 343 DOES NOT OVERRIDE EXISTING HEALTH, SAFETY AND ENVIRONMENTAL LAWS

Sec. 624(a)—Cost-benefit requirements "supplement and [do] not supersede" health, safety and environmental requirements in existing laws.

Sec. 628(d)—Requirements regarding "environmental management activities" also "supplement and [do] not supersede" requirements of existing laws.

S. 343 PROTECTS HUMAN HEALTH, SAFETY AND THE ENVIRONMENT

Sec. 622(f) and Sec. 632(c)(1)(A)—Cost-benefit analyses and risk assessments are not required if "impracticable due to an emergency or health or safety threat that is likely to result in significant harm to the public or natural resources."

Sec. 624(b)(3)(B)—An agency may select a higher cost regulation when "nonquantifiable benefits to health, safety or the environment" make that choice "appropriate and in the public interest."

Sec. 624(b)(4)—Where a risk assessment has been done, the agency must choose regulations that "significantly reduce the human health, safety and environmental risks."

Sec. 628(b)(2)—Requirements for environmental management activities do not apply where they would "result in an actual or immediate risk to human health or welfare."

Sec. 629(b)(1)—Where a petition for alternative compliance is sought, the petition may only be granted where an alternative achieves "at least an equivalent level of protection of health, safety, and the environment."

Sec. 632(c)—Risk assessment requirements do not apply to a "human health, safety, or environmental inspection."

S. 343 DOES NOT DELAY HEALTH, SAFETY AND ENVIRONMENTAL RULES

Sec. 622(f) and Sec. 632(c)—Cost-benefit and risk assessment requirements are not to delay implementation of a rule if "impracticable due to an emergency or health or safety threat that is likely to result in significant harm to the public or natural resources."

Sec. 533(d)—Procedural requirements under the Administrative Procedures Act may be waived if "contrary to the public interest."

Sec. 628(b)(2)—Requirements for major environmental management activities are not to delay environmental cleanups where they "result in an actual and immediate risk to human health or welfare."

Sec. 801(c)—Congressional 60-day review period before rule becomes final may be waived where "necessary because of an imminent threat to health or safety or other emergency."

S. 343 DOES NOT PLACE A "PRICE TAG ON HUMAN LIFE"

Sec. 621(2)—"Costs" and "benefits" are defined explicitly to include "nonquantifiable," not just quantifiable, costs and benefits.

Sec. 622(e)(1)(E)—Cost-benefit analyses are not required to be performed "primarily on a mathematical or numerical basis."

Sec. 624(b)(3)(B)—An agency may choose a higher cost regulation when "nonquantifiable benefits to health, safety or the environment" dictate that result.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of morning business, not to extend beyond the hour of 1 p.m., with Senators permitted to speak therein for up to 5 minutes each.

Mr. THOMAS addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

SUPPORTING REGULATORY REFORM

Mr. THOMAS. Mr. President, I rise in strong support of S. 343, the Comprehensive Regulatory Reform Act, which will be before us today and, I suspect, for the remainder of the week.

I think that this is one of the most exciting opportunities that we have had this year. This is one of the opportunities for this Congress and this Senate, this Government, to take a look at some of the things that have been going on for 30 years, 40 years, without much examination, which have simply grown and have continued to become more expensive and larger, without a real examination of whether or not what is being done is the most effective way to do it, or whether or not it could be done in a less costly way. I think it is an exciting opportunity.

I have just returned, as have most of our associates, from a week in my home State of Wyoming. We did a series of town meetings and met with the rangeland users and met with the sugar beet growers and the chamber of commerce and the Rotary. As has been the case for some time, the issue most often mentioned is overregulation and the cost of overregulation. So I am excited about the opportunity to do something about that.

I suspect that we will run into the same kinds of discussions that we have when we talk about doing something about welfare reform—that somehow those of us who want some change in what we have been doing are less compassionate than those who want the status quo; that somehow those of us who want to take a look at and change the way regulation is imposed are less caring about the environment and about clean water and clean air than those who support the status quo. That is simply not true.

I suspect that we will hear from the opposition on this bill that somehow this bill will remove all of the regulatory requirements that exist. Not so. We will hear that somehow the regulations that are in place to protect us for various kinds of water and air problems will be eliminated or superseded. That is simply not so.

Many people can imagine what the last election was about. But I think we have talked about it a great deal. There were at least three things that I think were most important to the people of Wyoming. One was that the Federal Government is too big, that it costs too much, and that we are overregulating. I think those are genuine responses that people feel very strongly about.

So, Mr. President, here is our opportunity to do something about that. Clearly, the regulatory system is broken. What is being proposed does not do away with regulations. It simply says there is a better way to do it.

As our leader just indicated, overregulation is a hidden tax that is passed on to consumers. It is not absorbed by businesses. It is not a business issue, even though much of it affects business. The costs are passed on to you and to me. Furthermore, the regulations are not confined to business. It goes much beyond that, into small towns, cities, the universities, and other areas.

Unfortunately, regulations have been applied generally. In our Wyoming Legislature, I am proud that we have a situation where the statute is passed by the legislature, the agency that is affected drafts and creates the regulation, and it comes back to the legislature for some overview to see, No. 1, if it is within the spirit of the statute; No. 2, to see if it is indeed cost beneficial, that what it is set to accomplish is worth the cost of accomplishment.

We do not even have here an analysis of what the cost will be. The cost of regulation, as the leader indicated, is more than personal tax revenues. Some estimate it between $650 billion and $800 billion. Now, this bill will not eliminate all of that cost, of course, because there is a need for regulation, and there is a cost with regulation. The point is that we are looking for a way to apply that regulation in as efficient and effective a manner as can be and do something that has not been done for a long time, and that in the application of the regulation, to use some common sense in terms of what it costs with respect to what the benefits are, and to take a look at risk-benefits ratios to see if what will be accomplished is worth the cost and the effort of the application.

Furthermore, it gives us an opportunity to go back to some regulations that have existed and look at them. Let me give an example. In Buffalo, WY, there are 3,500 people. The EPA said we need to enforce the Safe Drinking Water Act. Fine. They are willing to do that. They are willing to put in a filtering system that costs $3 million for a town of 3,500 and made a good-faith effort to comply.

One year later, EPA responded and said they would send a compliance schedule. Buffalo never received the schedule.

Then when Buffalo proceeded as they had set forth in their schedule, EPA claimed that Buffalo never let them know what was going on.

After that was worked out, EPA accepted, in writing, the town of Buffalo's plan. The following year, EPA again claimed the city did not let them know what was going on and referred the case to the Department of Justice for prosecution.

When asked what happened, EPA said, "We changed our mind." The bottom line, the city of Buffalo wanted to comply with the Federal mandate, but the Federal overregulation and bureaucracy prevented that.

The University of Wyoming. We had several contacts from the University of Wyoming asking for a list of issues they were most concerned about. Do you know what was at the top of the list? Overregulation. Not grants, not money—overregulation. This is the university. This is not a business. This is the university, where a good amount of their resources were there to educate young people.

We have the same problem in health regulations, in the disposal of health care waste, which goes far beyond the clean air. It will cause some of the small hospitals in Wyoming to be closed.

Overregulation is particularly difficult for the rural areas of the West, where in our case more than half of the State belongs to the Federal Government. The things we do in our way of life, in our economy, our job creation, is always regulated more than most anywhere else in the country. We are very, very, concerned.

Let me give one example. There are leases, of course, for livestock grazing on Bureau of Land Management lands and on lands of the Forest Service. The leases are renewed regularly. This year, it was decided there had to be a NEPA study—that is supposed to be confined to areas of national concern—for every renewal of a grazing lease. The irrigators have to spend $100,000 this year to do a NEPA review on their conservation land. The cost of this is paid by you and by me.

Regulatory reform needs to have principles. This bill has them. It has cost-benefit analysis. I think that is a proper and reasonable thing. You and I do that. We make decisions for ourself and our family. We have a cost-benefit analysis, even though it may be informal. A risk assessment—it could be that the last few percentage points are too expensive to be reasonable and common sense. We need a look-back provision so we can go back and take a look at the regulations that now exist. There needs to be a sunset provision so that burdensome laws and burdensome regulations can be dropped or renewed. There needs to be a judicial review. S. 343 incorporates these principles.

I think we have a great opportunity to make better use of the resources that we have, Mr. President, to provide greater protection for human health and safety in the environment at a lower cost and to hold regulators accountable for their decisions. What is wrong with that? I think that is a good idea, to hold the Congress accountable for the kinds of regulations, to limit the size of Government, so that we can create jobs that help consumers improve competitiveness overseas.

We should take advantage of this opportunity. This week will be the time to do it, to be realistic, to apply common sense, to reduce the cost and the burden of regulation. I am delighted that we will have a chance this year, this week, Mr. President, to do that.

I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DORGAN. I ask unanimous consent to proceed for 15 minutes as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

FEDERAL RESERVE BOARD

Mr. DORGAN. Mr. President, last week the Congress was not in session, but the Federal Reserve Board met downtown in their marble building and took a baby step in rectifying the mistake it made on seven occasions last year when they increased interest rates in order to slow down the American economy.

Last year, the Federal Reserve Board said it was combating inflation in our economy, so it desired to slow down the economy some and prevent a new wave of inflation. Now it appears the Federal Reserve Board has apparently won a fight without a foe. There was no wave of inflation across the horizon.

Last week's announcement to decrease interest rates by one-quarter of 1 percent made the stock market ecstatic. In fact, the Federal Reserve Board acted to ratchet down inflation marginally and the stock market reached record highs.

In fact, if we look at the combination of economic news in the last week or two, it is quite interesting. The Federal Reserve Board says it has won a fight with a foe that did not exist. The stock market reached record highs. And corporate profits are at record levels.

The question would be, if all of those pieces of economic news are so good for the American economy, if this is such wonderful economic news, then why are the Americans so displeased? Why are the American people not dancing in the streets about this economic news? Record profits should mean that businesses are doing well creating jobs, expanding, hiring. Record stock market levels should mean that the experts think the American economy is robust and growing.

The simple answer is the people in this country are not satisfied because this economic news masks an important fact. The American people are not satisfied with this economic news for the same reason that the Federal Reserve Board's actions last year were a mistake. The fact is, and the reason is, we are now living in a global economy.

That means that stellar economic numbers may not translate into economic opportunities here in our country. Surrounding all of the bright economic news that was trumpeted last week, there was one small but critically important fact: American wages are going down.

Yes; corporate profits are at record levels. Yes; the stock market is ringing the bell. Stock market indexes have never been higher in their history. But the fact is, American wage earners, American workers, are doing worse. Investors do better; American workers lose ground. Corporations do better, American wage earners do worse. Wealth holders succeed; working families fail.

There is no economic news that this administration, this Congress, the Federal Reserve Board, the captains of industry, or the investment moguls on Wall Street can give the American people that will make them feel better about this economy as long as their real wages are declining. Unless and until we stop a 20-year decline in American wages, the American people will not be satisfied.

I always find it interesting that the press trumpets every month the report of how much we consumed. We measure economic health by consumption. But, of course, that is not economic health. It is what you produce that relates to whether you are healthy or not, not what you consume. But we trumpet, every month, all kinds of indices about economic performance and we see nothing—except maybe 2 column inches in the paper once every 6 months—about American wages. Yet, every month, the indices show American wages are declining.

Frankly, we have a circumstance today where corporate giants, led by U.S. corporations and followed by their international competitors, are constructing an economic model for the world that worries American workers. They have decided they want to produce where it is cheap and sell back into established marketplaces. That means corporations increasingly produce in Malaysia, Indonesia, Bangladesh, Singapore, Honduras, China—around the world—where they can hire cheap labor, often kids. They can pay dirt-cheap wages, they can dump their pollution in the air and in the water, make their product, and send it back to Pittsburgh for sale.

That strategy of playing the American worker off against 1 or 2 billion others in the world who are willing to work for pennies an hour is a strategy that might well lead to record corporate profits, but it also leads to declining U.S. wages. And that is the economic problem this country has to fix.

The bottom line of economic progress in this country must be, "Are we increasing the standard of living for the American worker?" And the answer today, amidst all of the glory of the wonderful economic news trumpeted every day in recent weeks, is no. The standard living for the average American worker is not advancing. It has been declining.

Our economic strategy for the 50 years following the Second World War was, for the first 25 years, a foreign policy disguised as economic strategy to try to help everybody else. We did that and it was fine. We could afford to do it because we were the biggest and the best and the strongest and the most. And even as we did that we progressed and so did the American worker. But for the last 20 to 25 years it has been different.

Our trade policy is still largely a foreign policy. It does not work to support the interests of our country. And what we see as a result of it is that other countries are growing and advancing and our country, measured by standard of living—the standard of living experienced by American workers—is not advancing.

The American people are tired of that. They want a change in economic circumstances. And we, one day soon, must have a real, interesting, and thoughtful discussion about these economic policies. Now, more than ever, this country needs a full-scale policy debate about economic strategy and what kind of strategy, including trade strategy and other strategies, results in advancing America's economic interests—not just America's corporate interests, not just America's investors' interests, but the interests of all Americans.

That is a debate we have not had. We did not have it during NAFTA. We did not have it during GATT. You could not have it, in fact. The major newspapers of this country—the Washington Post, the New York Times, the Los Angeles Times, the Wall Street Journal—would not even give you open access to an opportunity to discuss these things. It is interesting, with NAFTA, we counted the column inches on the editorial and op-ed pages "pro" and "anti." It was 6 to 1 pro-NAFTA, pro-GATT—6 to 1.

These are areas where you ought to expect there to be freedom of speech and open debate. But it is not so. And the economic interests that propel that sort of imbalance in our major newspapers in our country, when we have these kinds of discussions, is the same economic interest that prevents the discussions even from getting any momentum in a Chamber like this. One day soon, I hope, that is going to change. And the sooner the better, if we are interested in providing some satisfaction for American workers whose only interest, it seems to me, is to work hard, have opportunity, and progress with an increased standard of living.

REGULATIONS

Mr. DORGAN. Mr. President, let me turn to the question of regulations. We, on the floor of the Senate, are going to be discussing regulatory reform. It has been of great interest to me to see what has happened on the issue of regulations. It has become a cottage industry, and certainly a political industry, to decide that government is evil, and government regulations are inherently evil, and what we need to do is wage war against government safeguards and standards.

Let me be the first to say that there are some people who propose and write regulations that make no sense at all and that make life difficult for people. That happens sometimes. I realize that. What we ought to do is combat bad regulation and get rid of it. Bad government regulations that do not make any sense and are impossible to comply with—we ought to get rid of them. I understand and accept that.

But I am not one who believes we ought to bring to the floor of the Senate initiatives that say, "Let's step back from the substantial regulations that made life better in this country for dozens of years."

We have had fights in many different venues to try to decide: When should we put an end to polluting America's air? How long should we allow America's kids to breathe dirty air because the captains of industry want to make more profit? When should we decide you cannot dump chemicals into our rivers and streams? When should we decide we want environmental safeguards so the Earth we live on is a better place to live?

We made many of those decisions already. We made fundamental decisions about worker safety. We made decisions about the environment. We made decisions about auto safety. Many of those decisions were the right decisions and good decisions. If we bring to the floor of the Senate, under the guise of regulatory reform, proposals that we decide we ought to retreat on the question of whether we want clean air in this country, then we are not thinking very much.

I do not know whether many Members of the U.S. Senate or many of the American people fully understand how far we have come. Do you know, in the past 20 years, we now use twice as much energy in this country as we did 20 years ago and we have less air pollution? We have cleaner air in America today than we did 20 years ago, yet we use twice as much energy.

Why do we have cleaner air? Is it because someone sitting in a corporate board room said, "You know, what I really need to do, as a matter of social conscience, is to stop polluting; what I need to do is build some scrubbers in the stacks so there are fewer pollutants coming out of the stacks and that way I will help children and help people and clean up the air"? Do you think that is why we cleaned up America's air? The job is not done, but do you think that is why America's air is cleaner now than 20 years ago, because the captains of industry in their paneled boardrooms decided to give up profits in exchange for cleaner air?

Not on your life. Not a chance. The reason the air in this country is cleaner than it was 20 years ago is bodies like this made decisions. We said, "Part of the cost of producing anything in this country is also the cost of not polluting. You are going to have to stop polluting. Is it going to cost you money to stop polluting? Yes it is. And we are sorry about that. But you spend the money and pass it along in the cost of the product, because the fact is we insist that America's air be cleaner. We are tired of degrading America's air, and having men, women, and children breathe dirty air that causes health problems and fouls the Earth we are living on."

What about water? Do you know now there are fewer lakes and streams with acid rain; that we have fewer acid rain problems, we have cleaner streams, cleaner lakes in America now than 20 years ago?

Why is that happening? Is it because somebody decided that they would no longer dump their pollutants into the stream? No; it is because the people in this country through their government said we want to stop fouling the streams. We had the Cuyahoga River catch on fire. The Cuyahoga River in Cleveland actually started burning one day. Why did that happen? Because the manufacturers and others in this country were dumping everything into these streams and thought it was fine. It was not fine. We decided as a matter of regulation that it was not fine.

There are some people who say, "Well, that is inconvenient for corporations. It costs too much to comply with all of these. Let us back away on some of these restrictions."

I want you to know that we are going back a ways. I have told this story before. I am going to tell it again because it is central to this debate. All government regulations are not bad. Some of them are essential to this country's health.

Upton Sinclair wrote the book in the early 1900's in which he investigated the conditions of the meatpacking houses in Chicago. What he discovered in the meatpacking plants of Chicago was a rat problem. And how did they solve the rat problem in a meatpacking plant in Chicago? They put out slices of bread laced with arsenic so the rats could eat the arsenic and die. Then the bread and the arsenic and the rats would all be thrown down the same hole as the meat, and you get your mystery meat at the grocery store. The American people started to understand what was going on in those meatpacking plants, and said, "Wait a second. That is not what we want for ourselves and our kids. It is not healthy."

The result, of course, was the Federal Government decided to pass legislation saying, We are going to regulate. What would you rather see stamped on the side of a carcass of beef—"U.S. inspected?" Does that give you more confidence? It does for me. It means that carcass of beef had to pass some inspection by somebody who looked at it not with an economic interest, but who looked at it, and said, "Yes; this passes inspection, and it is safe to eat."

Or do you want the meatpacking plants—the captains of industry in the meatpacking business who in the year 1900 would have been running a plant in which they were trying to poison rats in the same plant and mixing it with their meat? Well, I know who I would choose. I would choose to have a food system in this country that is inspected so the American consumer understands that we are eating safe food.

Let me talk about one other regulation that I am sure is inconvenient. In fact, I was involved with some of these when I was in the House of Representatives. People may recall that it was not too long ago when you went to a grocery store and picked up a can of peas or a package of spaghetti or an ice cream bar from the shelves or the cooler and looked at the side. What did you see? You saw that this is an ice cream bar, this is a can of peas, and this is a box of spaghetti. That is the only information you got about that food—nothing more; nothing about sodium; nothing about fat; nothing more. Because they did not feel like telling you.

So we decided that it would be in the consumers' best interest if they had some notion what was in this product. You go shopping at the grocery store and watch. People clog the aisles these days picking up one of these cans. They turn to the back. They want to find out what is in it. How much fat is in this one? How much saturated fat is in that product?

You give people information and they will use it. It is good information. It improves their health. It makes them better consumers. Is that a bad regulation that we require people to tell the

American people what is in food? No. I think it is a good regulation. But I will guarantee you this. Those who are required to do it fought every step of the way. The last thing they wanted to do was to have to comply with another regulation. I think these regulations make sense.

We are talking about regulations for safety, health, and the environment. Not all of them, not every one of them, but the bulk of the directions of what we were doing with regulation makes a lot of sense.

I do not want the debate this week here in the Senate to be a debate that is thoughtless. I would like it to be a debate that is thoughtful. Let us find out which regulations are troublesome, not which regulations are inconvenient or costly. I do not want to say to this industry or to that industry, "Yes. It is costly for you to comply with the clean air requirements. So that is fine. We will understand. We will give you a little break." I am sorry. I do not intend to give them a break. I do not intend that they have dirty air so they can have more profits.

I would like us to do this in a reasonable way. As I said when I started, there are some regulations that make no sense. I have seem some of them. I have participated in trying to get agencies to change some of them. I would be the first to admit that there are plenty of people working in the Federal Government who know all about theories and know all about the details but do not have the foggiest notion about what the compliance burdens are. These things need to make some rational sense. They need to be dealing with a goal that makes sense. They need to be constructed in a way so that compliance is enhanced. But I hope that the debate we have this week will really center on the questions about government regulation. What are we doing this for? In most cases, we are doing this for the public good.

So, Mr. President, I think this is going to be a fascinating and interesting debate. We have some people in this Chamber who would like the wholesale repeal of a whole lot of important environmental and safety regulations. I do not happen to support that. Some would. Others who say every regulation is terrific. I do not support that either. I think what we ought to do is try to figure out what works and what does not, to get rid of what does not, and keep what works and keep what is good for this country.

I hope that is the kind of discussion we will have as the week goes on on the issue of regulatory reform.

Mr. President, at this point I would like to yield the remainder of my 15 minutes.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. DORGAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

BILLIONAIRES' TAX LOOPHOLE

Mr. KENNEDY. Mr. President, one of the worst examples of Republican misplaced priorities is the current blatant attempt to keep the tax loophole open for billionaires who renounce their American citizenship in order to avoid paying taxes on the massive wealth they have accumulated in America.

Under current law, these unpatriotic billionaires get a juicy tax break for turning their back on Uncle Sam. Does anyone in America seriously think they deserve it?

When Democrats initially tried to close the loophole last April, our proposal was rejected—supposedly because a few so-called technical questions needed to be addressed.

It turns out that the only serious technical issue was how to keep the loophole open, or at least save as much of it as possible.

The Joint Committee on Taxation completed its long-awaited study on the loophole on June 1 and it turned out to be a blatant attempt to save the loophole, rather than close it.

The Ways and Means Committee found the ways and means to keep the loophole open. They have even given the bill an appropriate number—H.R. 1812.

What a perfect number for a tax loophole bill—1812. That is about the year their thinking on tax reform stopped. Democrats will try to bring their 1812 bill into the 20th century when it gets to the Senate—and close that loophole tight on those unpatriotic billionaires.

I just wish our Republican friends would put as much time and effort into closing tax loopholes and reducing corporate welfare as they put into keeping loopholes open.

We would save tens of billions of dollars, and balance the budget far more fairly, instead of balancing it on the backs of Medicare and education and low-income working families.

Tomorrow, the Senate Finance Committee will be holding a hearing on the billionaires' tax loophole. It is vitally important that the Senate stand firm in its desire to close this flagrant loophole once and for all.

On April 6, 96 of us went on record in favor of closing it. If we really want to close this loophole, we cannot accept the Ways and Means Committee bill. That bill is more loophole than law.

It does not prevent massive income tax avoidance by patient expatriates, and it does nothing to prevent avoidance of estate taxes and gift taxes.

First, the House bill allows expatriates to pay no U.S. tax on their gains if they wait 10 years before they sell their assets.

This part of the loophole already exists in current law, as has been repeatedly pointed out.

There is no reason to leave it open. Expatriates should be taxed when they expatriate—at the time they thumb their nose at Uncle Sam.

Second, under the House bill, gains from foreign assets built up during U.S. citizenship would not be subject to U.S. tax after expatriation takes place. All U.S. citizens pay taxes on worldwide income, so why should not expatriates?

Any serious proposal to address this issue must tax the gains on the expatriate's worldwide assets, and this tax must be imposed at the time of expatriation.

In addition, under the House bill, expatriates will continue to use tax planning gimmicks to avoid taxes on gains from domestic assets by shifting income from this country to foreign countries. As long as the Tax Code exempts foreign assets from the tax, wealthy expatriates will find new ways to shift assets and avoid taxes.

Third, the House bill cannot be effectively enforced. Expatriates can leave the U.S. tax jurisdiction without paying the tax or posting any security. They merely fill out a form at the time of expatriation, and the IRS will be left in the cold.

Fourth, the House bill does nothing to prevent expatriates from avoiding gift and estate taxes. With good legal advice, an expatriate can transfer all assets to a foreign corporation and then give it all away without any gift tax liability.

Finally, in a particularly obnoxious maneuver, the Ways and Means Committee bill unsuccessfully attempted to gerrymander the effective date of its watered-down reform in a transparent attempt to permit a few more undeserving billionaires to slither through the full loophole before the mild committee changes take effect.

Under this proposal, wealthy tax evaders would have qualified for the loophole by simply having begun, not completed, the process of renouncing their citizenship by the February 6 effective date.

The Ways and Means Committee knows how to set a strict effective date when it wants to. On the very bill where the controversy over the billionaires' loophole first erupted, the committee set a strict effective date to prevent Viacom, Inc., from obtaining a $640 million break on the sale of its cable TV properties.

The committee required a binding contract to be reached by the effective date. Viacom could not meet that requirement, even though it had taken many steps over many months before the effective date to negotiate the contract.

Viacom lost the tax break because it had not taken the final step—and the same strict requirement of final action should be applied to billionaires who are in the process of renouncing their citizenship.

If they had not completed the final step by February 6, they should not be able to use the loophole.

Fortunately, the Democrats prevailed on the effective date, because of the spotlight placed on the issue. But that still did not stop them from finding an additional loophole for some of those seeking exemption.

To help these expatriates, the Republicans on the committee carved a new loophole for expatriates who become a citizen of a country in which the individual's spouse or parents were born.

In sum, at a time when Republicans in Congress are cutting Medicare, education, and other essential programs in order to pay for lavish tax cuts for the rich, they are also maneuvering to salvage this unjustified loophole for the least deserving of the superwealthy—billionaires who renounce America, after all America has done for them.

I say, this loophole should be closed now, and it should be closed tight—no ifs, ands, or buts. I intend to do all I can to see that it is.

Let us close the loophole, not just pretend it is being closed as the Ways and Means Committee bill does.

WAS CONGRESS IRRESPONSIBLE? LOOK AT THE ARITHMETIC

Mr. HELMS. Mr. President, the skyrocketing Federal debt, which long ago soared into the stratosphere, is in a category like the weather—everybody talks about it but scarcely anybody had undertaken the responsibility of trying to do anything about it. That is, not until immediately following the elections last November.

When the new 104th Congress convened in January, the U.S. House of Representatives quickly approved a balanced budget amendment to the U.S. Constitution. In the Senate all but one of the 54 Republicans supported the balanced budget amendment; only 13 Democrats supported it. Since a two-thirds vote is necessary to approve a constitutional amendment, the proposed Senate amendment failed by one vote. There will be another vote later this year or next year.

Mr. President, as of the close of business Friday, July 7, the Federal debt—down to the penny—stood at exactly $4,929,459,412,839.22 or $18,712.31 for every man, woman, and child on a per capita basis.

SOUTH CAROLINA WATERMELONS: A RED, JUICY SMILE

Mr. HOLLINGS. Mr. President, I rise today to draw attention to a little green and red sticker on my lapel. It says, "I love watermelon." And Mr. President, I sure do.

Thanks to the hard work of South Carolina watermelon farmers like Jim Williams of Lodge in Colleton County, Senators and their aides tomorrow will be able to taste the sweet, juicy, red meat of the melon that we call smile fruit. All day Tuesday, my staff will deliver more than 500 watermelons to offices throughout the Senate.

This year, farmers in South Carolina planted more than 11,000 acres of watermelons. We produce all kinds of watermelons—Jubilees, Sangrias, All-sweets, Star Brites, Crimson Sweets, red seedless, yellow seedless, and a variety of other hybrids marketed in the Eastern United States.

Through the end of this month, farmers in Allendale, Bamberg, Barnwell, Colleton, Hampton, and other southern South Carolina counties will harvest hundreds of thousands of watermelons. In the Pee Dee areas around Chesterfield, Darlington, and Florence Counties, the harvest will continue until about August 20.

Mr. President, the bottom line is that all of these farmers will be laboring in the heat and humidity to bring Americans what we call Mother Nature's perfect candy. Our remarkable watermelons are sweet, succulent, and, most importantly, nutritious and fatfree. However, while many of us savor the taste of juicy pink watermelons at the beach, at barbecues, and at family reunions, we often forget the work and labor that goes into producing such a delicious fruit. In fact, if you ask many children these days where watermelons come from, they will answer "the grocery store." The truth is, Mr. President, that our farmers are among the most often forgotten workers in our country. Without their dedication and commitment, our Nation would not enjoy such a wonderful selection of fresh fruit, vegetables, and other foods.

South Carolina farmers lead the way in the production of watermelons. For example, my State was a leader in the development of black plastic and irrigation to expand the watermelon growing season. By covering the earth in the spring with black plastic, farmers are able to speed up the melons' growth by raising soil temperatures. In addition, the plastic allows farmers to shut out much of the visible light, which inhibits weed growth. In addition, I am pleased to note that the scientists at the USDA vegetable laboratory in my hometown of Charleston continue to strive to find more efficient and effective ways to produce one of our State's most popular fruits.

Therefore, as my fellow Members and their staffs feast on watermelons tomorrow, I hope they all will remember the folks in South Carolina who made this endeavor possible: Jim Williams of Williams Farms in Lodge; Les Tindal, our State agriculture commissioner; Wilton Cook of the Clemson University Extension Service in Charleston; Minta Wade of the South Carolina Department of Agriculture; and members of the South Carolina Watermelon Association and South Carolina Watermelon Board in Columbia. They all have worked extremely hard to ensure that Senators can get a taste of South Carolina.

I trust that all Senators and their staffers will savor tomorrow one of the finest examples of the excellent produce we grow in our State. I also hope to see many folks wearing their "I love watermelon" stickers in celebration of the fruit that makes everyone smile—South Carolina watermelons.

MILO WINTER

Mr. PRESSLER. Mr. President, today I am pleased to pay tribute to an outstanding educator, Mr. Milo Winter, of Rapid City, SD. Throughout his career, he made tremendous contributions to our State in music education.

For the past 26 years, Milo served as band director at Stevens High School. The community of Rapid City knows him for his commitment to education and his drive for excellence. However, his reputation extends far beyond the borders of our State. He is known across the United States for his work at band festivals and clinics.

To see Milo's positive effect on his students and the community, one needs only look at the achievements of the Rapid City Stevens Band. In 1975, the band was selected by the United States Bicentennial Commission to represent the United States at a music festival held in the former Czechoslovakia. This was the first performance by an American high school band behind the Iron Curtain. In 1981 and 1984, the band received first place honors at the Cherry Blossom Band Festival here in Washington, DC. The band's appearance in the 1987 Tournament of Roses Parade in Pasadena, CA, marked the first time a band from South Dakota performed in this world-famous parade. Perhaps the greatest honor the band has earned is the Sudler Flag of Honor. This award, presented in 1987, is one of the most prestigious awards a band can receive. To receive this award, bands must be nominated for their outstanding performance of march music and be approved by a national committee.

Milo's leadership made these achievements possible. He consistently set high expectations for students, then saw them through with his own blend of encouragement and discipline. He demanded much of his students, but gave generously of his talent and effort in return.

This drive for excellence has been with Milo throughout his life. After receiving his degree from Augustana and his masters from the University of South Dakota, Milo continued his pursuit of music by serving in the U.S. Army Band for 2 years.

Upon leaving the Army, Milo taught music at Beresford High School. After 2 years as the band director at Rapid City Central High, he accepted the position as band director at the newly created Rapid City Stevens High where he continued teaching for the rest of his career.

Milo instilled a love of music in many students, but countless students came away from his classroom with much more. The lessons they learned about setting goals, teamwork, attention to detail, and perseverance will stay with students throughout their lives. Many of these students will count Mr. Winter among those leaders who forever shaped their careers and characters. Mr. President, students in South Dakota have been blessed with a tremendous teacher and role model. On behalf of the people of South Dakota, I thank Milo and wish him the best in his retirement.

Mr. BYRD. Mr. President, I will probably require longer time than the remaining minutes before 1 o'clock. I ask unanimous consent that I may use such time as I may consume.

The PRESIDING OFFICER (Mr. FRIST). Without objection, it is so ordered.

C. ABBOTT SAFFOLD

Mr. BYRD. Mr. President, Walt Whitman said that man is a great thing upon the Earth and through eternity but that every jot of the greatness of man is enfolded out of woman. Shakespeare, in King Lear, tells us that "Women will all turn monsters."

In the book of Genesis, however, we are told that God, seeing the incompleteness of man standing alone, wanted to find a helper for him. And so God created this helper—Eve—whose name means "Life," and God created Eve from the rib of Adam himself. The symbolism of the rib is that it was taken from the place nearest to Adam's heart, thus indicating the close relationship of man and woman. The real essence of the story is that man and woman were made for each other, that woman is bone of his bone and flesh of his flesh. In the Genesis account, Eve is elevated to Ethereal beauty and lofty dignity. Milton, in his "Paradise Lost," has called her Queen of the Universe and fairest of the fair.

Throughout all the ages of mankind's existence on this Earth, some of the most vivid personalities have been those of women—such as Sarah, Rebekah, Rachel, Hannah, and Mary, the Mother of Jesus—even with such women as Jezebel and Potiphar's wife. Many of the women depicted in the scriptures exerted great influence over their husbands, over kings, and over nations. Many of the women remain nameless and some appear in groups under such headings as daughters, wives, mothers, widows. We are told of Lot's wife, the woman who looked back, and 15 words in the Old Testament tell her story—one brief, dramatic record that placed her among the well known women of the world. The 15 words are, "But his wife looked back from behind him, and she became a pillar of salt."

Then there is Jochebed, the mother of Moses—Hebrew lawgiver, statesman, and leader—and her name rises up today, some 35 centuries later, as one of the immortal mothers of Israel.

Miriam is the first woman in the Bible whose interest was national and whose mission was patriotic. She was the brilliant, courageous sister of Moses, and when she led the women of Israel in that oldest of all national anthems, "Sing unto the Lord," four centuries of bondage in Egypt had been lifted. It was a turning point in Israel's religious development, and a woman led in its recognition. Miriam is the first woman singer on record. The wonder of it is that she sang unto the Lord, using her great gift for the elevation of her people, who, with her, exalted over their escape from their enemies.

The first women to declare their rights on the death of their father were the five daughters of Zelophehad: Mahlah, Noah, Hoglah, Milcah, and Tirzah. Their father, a Manassite, had died in the wilderness, and the daughters explained that he was not in the company of Korah, who had rebelled against Moses. Because their father had not died, therefore, for any cause that doomed their family or their inheritance, they declared that they were clearly entitled to what he had left. This happened at a critical time with Israel. A new census had been made, preparatory to an entrance into the Promised Land. The new land would be distributed according to the census taken before Israel departed from Egypt for the Promised Land. The daughters of Zelophehad had been numbered among all those in the tribes who either were 20 years of age or would be 20 by the time the land actually was distributed, but they knew that under existing customs, they would have no property rights, even in the new land. What did they do? They marched before Moses and stated their case publicly. In order to be fair in the settling of the daughters' case, Moses went before God, a God of justice and right, and the great lawgiver came back and declared: "The daughters of Zelophehad speak right; thou shalt surely give them a possession of an inheritance among their father's brethren; and thou shalt cause the inheritance of their father to pass unto them." Moses wrote a new law which stated: "If a man die, and have no son, then ye shall cause his inheritance to pass unto his daughter."

The daughters of Zelophehad had filed one of the earliest reported lawsuits on record. In the American Bar Association Journal of February, 1924, there was an article in which this decision of the daughters of Zelophehad is quoted. It is described as an "early declaratory judgement in which the property rights of women marrying outside of their tribe are clearly set forth." The decision handed down in this time of Moses was a great victory for these five daughters. At last a woman had rights, because these five women had declared theirs and had had the courage to fight their case through with the authorities.

The only woman in the Bible who was placed at the height of political power by the common consent of the people was Deborah. Though she lived in the time of the "Judges," some thirteen centuries before Christ, there are few women in history who have ever attained the public dignity and supreme authority of Deborah. She was like Joan of Arc, who 27 centuries later, rode in front of the French and led them to victory over the English.

One of the most lovable women in the Bible is Ruth, and her abiding love embraces the person one might least expect it to—her mother-in-law, Naomi. Ruth was not only an ideal daughter-in-law, but she was also an ideal wife and mother. Her story, which finally culminates in her marriage to Boaz, a man of influence, is one of the most beautiful romances in the Bible.

Then there was the woman of Endor, to whom King Saul went in desperation, and she foretold his death. The King James version of the Bible, which is the only version of the Bible that I will read, calls her "A woman that hath a familiar spirit." Some modern writers have dubbed her the "Witch of Endor." Lord Byron has called her the "Phantom Seer." Kipling gives one of the most vivid portrayals of all in these lines:

> Oh, the road to Endor is the oldest road
> And the craziest road of all.
> Straight it runs to the witch's abode
> As it did in the day of Saul,
> And nothing has changed of the sorrow in store
> For such as go down the road to Endor.

The first reigning Queen on record who pitted her wits and wealth against those of a king was the Queen of Sheba. She came to Jerusalem from her kingdom in Southwestern Arabia to investigate all that she had heard about Solomon, Israel's wisest and wealthiest king. She worked out a trade zone demarcation and alliance with Solomon, and Solomon's commercial expansion followed after her visit. She was one of many rulers from far and wide who sought to learn about Solomon's wisdom. Others sent Ambassadors, but she was the only one to go herself, traveling a 1,200-mile journey by camel caravan. She was a courageous, resourceful woman. The Queen of Sheba lives on now, nearly 30 centuries since her visit, as a woman whose spirit of adventure and whose resourcefulness, courage, and curiosity have not been surpassed by any queen in history. She certainly had a sense of good public and international relations which is unparalleled among many of the national leaders of today.

Esther is the central figure in what is one of the most controversial books in the Old Testament, because not once does the name of God appear in that book. But its significance and importance to Jewish history stems from the fact that it has become a patriotic symbol to a persecuted people of the ultimate triumph of truth and justice. And the courage of Esther becomes the dominating factor in the salvation of her people. Though the author of the book of Esther is not known, historians confirm the fact that he showed an amazingly accurate knowledge of Persian policies and customs, and critics place his work among the masterpieces of literature. Like many great characters in history, Esther makes her first appearance as one of the humblest of figures, an orphan Jewess. But 4 years later, she rises to the position of a queen of amazing power—a power which she manages to use wisely. The ancient writer's estimate of Esther's importance to the story becomes apparent, for in this short Bible book, Esther's name appears 55 times. The name of no other woman in the Bible is recorded so often.

The setting is placed in the sumptuous palace of the Persian Empire during the time of Artaxerxes II, who reigned 404–358 B.C. I shall not relate this fascinating story here today, but Esther had a strong belief in prayer, and she went before the king to intercede on behalf of her people. As she made ready to appear before the king, one of the most courageous assertions made by a woman in the Bible is credited to Esther. She said: "So I will go in unto the king, which is not according to the law; and if I perish, I perish." Here is a woman who had not only high courage but also sincere faith and devotion to the cause of her people. She had received a message from her cousin Mordecai, placing upon her this great responsibility. He said: "Who knoweth whether thou art come to the kingdom for such a time as this?"

Mr. President, challenging words these were for a young, inexperienced queen, and they have come down to us through the centuries, and may be considered applicable to us in the face of the challenges of our own time.

It was Mary Magdalene who was the first to see Christ's empty tomb, and she was the first to report to the disciples the miracle of the resurrection, the greatest event the Christian world has ever known. Certain of Christ's disciples followed Mary Magdalene to the sepulcher. John went in first and gazed in silent wonder at the open grave, and then Peter came and saw that the grave was empty and that the linen cerements were lying neatly folded in the empty sepulcher. Mary Magdalene, possessing a woman's sensitivity and able to believe even what eyes cannot behold, returned to the tomb and looked inside, where she saw two angels in white sitting there, the one at the head and the other at the feet, where the body of Jesus had lain. Strange it was that the first word spoken inside the empty tomb should be "Woman." And then there followed the angel's question: "Why weepest thou?" Mary Magdalene answered, "Because they have taken away my Lord, and I know not where they have laid him". Then she turned, and Jesus stood before her. Not until he spoke her name, "Mary," did she recognize that he was Jesus. Her lonely watch by the grave in the early morning had been an evidence of her faith. Because of her faith, she became the first witness to the resurrection of our Lord and Savior, Jesus Christ.

Lydia was a business woman, a "seller of purple," and probably one of the most successful and influential women of Philippi, but more than that, she was a seeker after truth, and thus she became Europe's first convert to Christianity. Her house became the first meeting place of Christians in Europe. Lydia will ever stand among the immortal women of the Bible, for she picked up that first torch from Paul at Philippi and carried it steadfastly. She was one of many to spread the Gospel of Jesus Christ through Europe and then farther and farther Westward, and it became brighter as the centuries unfolded.

One of the most influential women in the New Testament Church was Priscilla, a Jewess who had come out of Italy with her husband Aquila, who lived first at Corinth and later at Ephesus. They had left Rome at the time when Claudius, in his cruel and unjust edict, had expelled all Jews. It is recorded that she and her husband were tent makers. The Apostle Paul stayed with them at Corinth. She became a great leader in the church at Corinth and at Ephesus and later at Rome. In the latter two places, she had a church in her home. Christians honor her today because she served God "acceptably with reverence and godly fear", and because she was not "forgetful to entertain strangers; for thereby some have entertained angels unawares." Priscilla, let us not forget, had entertained a stranger, Paul, and from him had learned to strive to be "perfect in every good work . . . working in you that which is wellpleasing in his sight, through Christ Jesus."

Mr. President, I shall close my brief comments on the women of the Bible, by referring to the time when Christ sat at the house of Simon the leper, and there came a woman having an alabaster box of ointment of spikenard. She broke the box and poured the precious ointment on the head of our Lord. Some of those persons who observed this were very indignant and asked the question, "Why was this waste of the ointment made? For it might have been sold for more than three hundred pence, and have been given to the poor." And so they murmured against the woman, but Jesus said, "Let her alone. Why trouble ye her? Ye shall have the poor with you always, and whensoever ye will, ye may do them good; but me, ye have not always." Jesus said, "She hath done what she could; she is come aforehand to anoint my body to the burying". Jesus went on to say that weresoever his gospel would be preached throughout the whole world, this act of kindness which the woman had done, "shall be spoken of for a memorial of her." And so it is, that I am here today, twenty centuries later, speaking on the Senate floor about this nameless woman who gave of her treasured possession to honor Him who was about to die. And, as Jesus foretold, this display of reverence and adoration by this nameless woman, shall be told and retold through all of the centuries to come.

Mr. President, one could speak volumes about the women of the Bible or the great Roman matrons or the women of ancient history or the women of the middle ages, and women of our own times. There is much to be said, for example, through words of praise concerning the women who have been associated with our own institution, the United States Senate—Members, as well as workers who have labored faithfully, day after day, year after year, in the service of the Senate. And it is such women, many of whom will always remain nameless, who, through the years, and throughout all the parts of the globe, have been the real pillars of civilization.

I rise today to pay tribute to just such a worthy person—a true professional, a staffer of such talent, energy, and engaging personality that she is known throughout the Senate community simply by her first name—Abby. Abby Saffold has been a school teacher, a case worker, a legislative correspondent, a legislative secretary, chief clerk of a Senate subcommittee, a legislative assistant, a Floor Staff Manager, Secretary for the Majority (a post to which I appointed her in 1987), and now Secretary for the Minority. She is the first female to ever hold the post of Secretary for the Majority.

In short, Abby has done it all, and done it all very, very well. Few staffers, indeed, few Members, possess her grasp and understanding of the workings and the purpose of the institution of the United States Senate. Her knowledge of legislative strategy, her managerial ability, and her negotiating prowess are all well known and greatly appreciated by everyone who has ever had the pleasure of working with Abby.

She is really unexcelled when it comes to an intuitive sense of this Senate and its machinations. Abby is the literal personification of the wonderful ability to maintain great grace under extraordinary pressure—the true mark of the professional.

Few individuals understand the great personal sacrifice routinely made by the legislative floor staff here in the Senate, on both sides of the aisle. Unpredictable schedules, long hours, intense pressures, time away from loved ones at important moments, broken engagements with friends and family—all are experienced to some degree by senior Senate staffers, but no one group experiences these demanding and trying disruptions with more frequency than the Senate floor staff.

These positions, in particular, demand extreme dedication, steady nerves, alert and facile minds, hearty constitutions, patience, and a deep and abiding love for, and dedication to, this institution and the important work it must perform. Never was there a better example of that dedication than C. Abbott Saffold. She is in every way a marvel, with the ability to perform difficult and demanding duties, always with a pleasant demeanor and unequaled coolness under fire.

I would be less than honest if I did not admit that Abby's decision to leave us causes me considerable sadness, because she is so much a part of the Senate family. In many ways, I cannot imagine the Senate without her. I know that for many months after her departure, I shall search in vain for her familiar cropped head and her friendly grin in the Chamber, only to have to remind myself once again that she has gone.

I offer her my heartfelt congratulations on an outstanding Senate career, and on her service to her country. Certainly I wish her blue skies and happy days as she begins her well-earned retirement time. But, I cannot deny that I regret her leaving. I shall miss her friendship and her always sage advice. As Paul said of two women Euodias and Syntyche—both eminent in the church at Philippi—"They labored with me in the gospel," so I say to Abby: "You labored with me in service to the Nation." For me, there will never be another Abby.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

COMPREHENSIVE REGULATORY REFORM ACT

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of S. 343, which the clerk will report.

The bill clerk read as follows:

A bill (S. 343) to reform the regulatory process, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Dole amendment No. 1487, in the nature of a substitute.

The PRESIDING OFFICER. Under the previous order, the Senator from Michigan is recognized to offer an amendment relative to small business.

Mr. ABRAHAM. Mr. President, I will shortly offer the Abraham amendment.

In essence, our amendment would ensure that Federal agencies periodically assess the utility of regulations that disproportionately impact small business.

I think it is critically important any regulatory reform bill take into account concerns of America's small businessmen and women.

At this time, I yield to the distinguished chairman of the Judiciary Committee as much time as he desires for comment.

Mr. HATCH. Mr. President, I thank my colleague, and would like to thank the distinguished ranking member of the Appropriations Committee, Senator BYRD, for his excellent remarks covering the women of the Bible as well as I have heard him cover on the Senate floor, and his tribute to Abby Saffold, who, of course, all Members have a great deal of respect for.

Mr. President, I intend to start each day in this debate—I may not fully comply—with the top 10 list of silly regulatory requirements.

I would pick a few at random today. Let me start with No. 10: Delaying a Head Start facility by 4 years because of the dimensions of the rooms; No. 9, forcing a man to choose between his religion and his job because rules do not allow workers to wear a mask over a beard—stupid rules, I might add, silly regulatory requirements; No. 8, throwing a family out of their own home because of painted over lead paint, even though the family is healthy; No. 7, fining a gas station owner $10,000 for not displaying a sign stating that he accepts motor oil for recycling; No. 6, reprimanding a government employee who bought a new lawnmower with his own money but failed to go through the proper procedures; No. 5, citing a farmer for converting a wetland when he fills his own manmade earthen stock tank and made a new one, elsewhere on his property—on his own property, I might add. No. 4, failing to approve a potentially lifesaving drug, thus forcing a terminal cancer patient to go across the border to Mexico to have it administered; No. 3, prohibiting an elderly woman from planting a bed of roses on her own land; No. 2, fining a man $4,000 for not letting a grizzly bear kill him.

These are my top 10 list of silly regulatory requirements. No. 1: Requiring Braille instructions on drive-through ATM machines. We can see a lot of reason for that in our society today.

These are just a few of the reasons why we are here today. I intend to bring some more to the attention of Members as we continue to go on here. We all know the regulatory process is out of control. Regulators have an incentive to regulate.

Some regulations are not only counterproductive, they are just plain stupid, as some I have just mentioned. The status quo is not acceptable to the American people, especially if they get to know what is really going on in our society. And they all suspect the costs of regulation are mounting. Paperwork costs the private sector and State and local governments a small fortune. Compliance costs cost even a bigger fortune.

Regulation restricts freedom. What you can use your own land for, what medical treatment you can have or provide for your family, what your company is required to do, et cetera, et cetera.

It is especially onerous on small businesses. Regulatory reform is absolutely necessary to get the Federal Government off our backs. For economic flexibility and growth as well as to reform personal freedoms, we need to change the way in which the Federal Government regulates.

Regulatory reform is an essential part of making Government smaller. Regulatory reform will mean less Federal spending, lower Federal taxes, fewer Federal regulations, smarter regulations, and accountability on the part of those in the bureaucracy.

This bill is about common sense. I think most Americans would agree that our Federal Government is out of control and that the overregulatory system is eating us alive, especially in terms of the burdens it places on all Americans.

This bill simply requires that Government agencies issue rules and regulations that help, rather than hurt, people. It will require that the Federal bureaucracy live by the same rules that Americans have to live by in their own lives—you and I and everybody else. These rules are that the benefits of what you are telling people to do have to justify the cost.

The notion of common sense and accountability and rulemaking may be a radical idea inside the Washington beltway, but I believe that our fellow Americans are smothered in bureaucratic redtape in all aspects of their lives and they are pretty darned tired of the status quo.

This bill will not mean an end to safety and health regulations, as some of its critics would have you believe. All it will mean is that the people in Washington who devise such rules will have to ensure that the interpretations of those rules, or the rules themselves make sense. They will have to quit being the protectors of the status quo.

MYTHS AND FEARS: UNFOUNDED ATTACKS ON S. 343

In his first inaugural address, Franklin Delano Roosevelt inspired a nation beleaguered by the Great Depression with these calming words: "We have nothing to fear but fear itself." Now certain Democrats, representing the left of that great party and claiming to be the political heirs of Roosevelt, have turned 180 degrees. Instead of pacifying hysteria they are engaging in the worst form of fear mongering.

They content that regulatory reform will either overturn 25 years of environmental law or roll-back environmental, health, or safety protection. They also claim that passage of this bill will clog the courts, allow judges to second-guess scientific findings, delay needed rulemaking, and require the creation of a new bureaucracy of thousands.

Nothing could be further from the truth. Indeed, the root of the hysteria of the left is not a concern over the protection of health, safety, or the environment, but a concern over the loss of power. The liberal agenda has usurped power to the Federal agencies, which have become the left's biggest constituency. Real regulatory reform, such as S. 343, you see, will whittle away at the excesses of the modern centralized administrative state. It will force the bureaucracy to rationalize and make more cost-effective its rules and regulations. It will shift power back from Washington to the grass roots of the people. It will transform bureaucracy into democracy.

This bill is a commonsense measure. It simply requires Federal bureaucrats to ask how much a rule will cost and what the American people will get in return. Passage of this bill, in fact, will foster the protection of health, safety, and the environment by assuring that the American taxpayer will get more bang for the buck. It does so by mandating that the costs of regulation must justify the benefits obtained and that the rule must adopt the least costly alternative available to the agency. This will assure more efficient regulations, ultimately saving taxpayers hundreds of millions of dollars. Actually, billions of dollars.

Let me address certain myths arising from the fear campaign of the opponents of S. 343:

Myth No. 1: The bill will overturn or rollback environmental protection or health and safety laws. That is pure poppycock. Section 625 of the bill, the decisional criteria section, makes clear that the cost-benefit and risk assessment requirements supplement existing statutory standards. Thus, there is no supermandate that overturns statutory standards, such as the recently passed House regulatory reform bill. Instead, S. 343 works much the way the National Environmental Policy Act does. Where NEPA requires agencies to consider environmental impacts, S. 343 requires agencies to consider cost of the regulation. Neither statutory scheme overturns existing health, safety, or environmental standards.

So, forget about myth No. 1. It is phony. It is a lie.

Myth No. 2. They say cost-benefit analysis is unworkable because we cannot quantify benefits. In fact, one of these far-left liberal outrageous groups compared a cost-benefit analysis with what happened under Hitler's regime.

It is hard to believe that we would have that in this day and age, from groups that claim to be representing the public.

Let us just forget that myth, because opponents of S. 343, although they claim that the cost-benefit analysis requirement in the bill requires that costs and benefits be quantified, their argument is that benefits, such as clean air or good health, are too subjective to be quantified. As a result, benefits will be understated and rules consequently will not adequately protect health, safety, or the environment. That is their argument.

There is only one problem with this argument: S. 343 explicitly states that agencies must consider qualitative—as well as quantitative—factors in weighing costs and benefits, Section 624 even goes so far as to allow agencies to select a rulemaking option that is not the least costly if a nonqualitative consideration is important enough to justify the agency option.

Myth No. 3: The requirements for cost-benefit analysis and risk assessments will harm health, safety, and the environment by delaying implementation of needed regulations. This is simply not true. S. 343 contains emergency exemptions from cost-benefit analysis and risk assessments in situations where regulations need to be enacted to prevent immediate harm to health, safety, and the environment. Furthermore, agency actions that enforce health, safety, and environmental standards, such as those concerning drinking water and sewerage plants, simply are not covered by the Act.

In any event, the cost-benefit analysis and risk assessment requirements are hardly novel. Under orders on regulations that go back to the administration of President Ford, most agencies must already perform cost-benefit analyses for numerous rulemakings and many agencies, such as EPA, already conduct risk assessments as a routine matter. What this bill will do is to assure that cost-benefit analyses are done for all rulemakings and that risk assessments are based on good science.

Myth No. 4: The agency review and petition process will open up all existing rules for review and this will grind all agency activities to a halt. The agency review and petition process will have no effect on reasonable regulations. Only those regulations imposing unreasonable costs without significant benefits and rules based on bad science are likely to be modified or repealed. I might ask what is wrong with that?

Moreover, not all rules must be reviewed. Only major rules, which have an expected effect of $50 million on the economy need be reviewed. And the agencies have 11 years to review these rules. This is more than ample time to review rulemakings. As to the petition process, to be successful in having a petition to review a rule not on a review schedule granted, the petitioner must demonstrate a reasonable likelihood that the existing rule does not meet the decisional criteria section. In other words, that the rule would not be cost-effective if the rule was promulgated under the standards set forth in the bill. This is an expensive proposition, for the petitioner must do a cost-benefit analysis to demonstrate this point.

Ultimately, with regard to the petition process, it simply boils down to whether one thinks that the status quo is acceptable or not. Understandably, defenders of the status quo are horrified at the prospect that perhaps something ought to be done about rules already in existence whose costs to the American people are greater than the benefits that result. I disagree, of course, with that attitude.

Myth No. 5: The judicial review provision will create scores of new cause of actions clogging the courts and would allow judges to second guess agency scientific conclusions. Section 625 of the bill makes clear that judicial review of a rule is to based on the rulemaking file as a whole. Noncompliance with any single procedures is not grounds to overturn the rule unless the failure to follow a procedure amounts to prejudicial error—which means the failure would effect the outcomes of the rule. Thus, section 625 would not allow for courts to nit-pick rules. Moreover, section 625 requires courts to employ the traditional arbitrary and capricious standard, a standard which requires courts to show deference to agency factual and technical determinations. This prevents courts from second, guessing agency scientific findings and conclusions.

I would also note that it is ironic that those who oppose the judicial review provision of S. 343 on the grounds that it will clog the courts are the same people who oppose meaningful legal reform.

Why? Because they want these lawsuits to continue everywhere else.

They just do not want the American people and individual citizens and small businesses to be able to sue to protect their rights against an all-intrusive Federal Government which is over-regulating them to death.

Myth No. 6: Implementation of the bill would require a new bureaucracy of thousands. First of all, many agencies, such as EPA, already perform cost-benefit analyses and risk assessments. This is because of the existing executive order that requires such analyses for rules effecting the economy at $100 million. According to an EPA source, "[o]ne big misconception about these bills is that risk assessments and cost-benefit analysis requires a lot more work than has routinely been done at EPA." Second, the requirement for peer review panels to assure good science and plausible estimates for risk assessments, will not significantly hinder the promulgation of rules. Peer review only applies to risk assessments that form the basis for major rules—having the effect on the economy of $50 million annually—or major environmental management activities—costing $10 million.

I just wanted to get rid of some of these myths about this bill. I am sick and tired of articles written, like the one in the New York Times, that have no basis in fact. As a matter of fact, I think this is one of the most hysterical displays by the far left that I have seen. And it is even worse than the "People For The American Way" full-page ad against Judge Robert Bork that had some, as I recall, close to 100 absolute fallacious assertions in it that they never once answered after I pointed them out.

Mr. JOHNSTON. Will the Senator yield?

Mr. HATCH. I will be happy to yield.

Mr. JOHNSTON. One of the myths put out about the so-called Dole-Johnston amendment is that it contains a supermandate. That is, that the present requirements of law—for example, on the Clean Air Act, when it sets standards, for example, of maximum achievable control technology or the other specific requirements of law—that somehow those are overruled by this bill.

Would the Senator agree with me that the language is very clear in saying that does not happen under this bill? To quote the language, it "supplements and does not supersede the requirements of the present law." And, in fact, other language in the bill specifically points out that there will be instances where, because of the requirements of present law, you cannot meet the tests of the risk justifying the cost? The benefits justifying the cost? And, in other words, the requirements of present law, under the instant Dole-Johnston amendment, would still be in effect and would not be overruled by this bill? Would the Senator agree with me?

Mr. HATCH. I agree 100 percent with the distinguished Senator from Louisiana, who has coauthored the bill along with Senator DOLE and others here. Section 625 of this bill, the decisional criteria section, makes clear that the cost-benefit assessment requirements supplement existing statutory standards.

Mr. GLENN. Will the Senator yield——

Mr. HATCH. Thus, there is absolutely no supermandate.

Mr. GLENN. For a parliamentary inquiry? I wanted to straighten out the time. It was my understanding the time, starting at 2 o'clock, was to be divided equally among proponents and opponents of the bill. The Senator from Michigan—it was my understanding the time so far, the time of the Senator from Utah, had come out of the time of the Senator from Michigan? Is that correct?

Mr. HATCH. That is correct. I have used too much of this time, so I yield back my time.

Mr. GLENN. I know they were preparing a unanimous-consent request to that effect. We do not have that yet. But it was my understanding that those were the rules we were operating under. I just wanted to make sure everyone agreed to that.

Mr. HATCH. Mr. President, I ask unanimous consent a factsheet I have with me be printed in the RECORD at this point, as well.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 343: RESPONSIBLE REGULATORY REFORM THAT PROTECTS HEALTH, SAFETY AND THE ENVIRONMENT

S. 343 DOES NOT OVERRIDE EXISTING HEALTH, SAFETY AND ENVIRONMENTAL LAWS

Sec. 624(a)—Cost-benefit requirements "supplement and [do] not supersede" health, safety and environmental requirements in existing laws.

Sec. 628(d)—Requirements regarding "environmental management activities" also "supplement and [do] not supersede" requirements of existing laws.

S. 343 PROTECTS HUMAN HEALTH, SAFETY AND THE ENVIRONMENT

Sec. 622(f) and Sec. 632(c)(1)(A)—Cost-benefit analyses and risk assessments are not required if "impracticable due to an emergency or health or safety threat that is likely to result in significant harm to the public or natural resources."

Sec. 624(b)(3)(B)—An agency may select a higher cost regulation when "nonquantifiable benefits to health, safety or the environment" make that choice "appropriate and in the public interest."

Sec. 624(b)(4)—Where a risk assessment has been done, the agency must choose regulations that "significantly reduce the human health, safety and environmental risks."

Sec. 628(b)(2)—Requirements for environmental management activities do not apply where they would "result in an actual or immediate risk to human health or welfare."

Sec. 629(b)(1)—Where a petition for alternative compliance is sought, the petition may only be granted where an alternative achieves "at least an equivalent level of protection of health, safety, and the environment."

Sec. 632(c)—Risk assessment requirements do not apply to a "human health, safety, or environmental inspection."

S. 343 DOES NOT DELAY HEALTH, SAFETY AND ENVIRONMENTAL RULES

Sec. 622(f) and Sec. 632(c)—Cost-benefit and risk assessment requirements are not to delay implementation of a rule if "impracticable due to an emergency or health or safety threat that is likely to result in significant harm to the public or natural resources."

Sec. 533(d)—Procedural requirements under the Administrative Procedures Act may be waived if "contrary to the public interest."

Sec. 628(b)(2)—Requirements for major environmental management activities are not to delay environmental cleanups where they "result in an actual and immediate risk to human health or welfare."

Sec. 801(c)—Congressional 60-day review period before rule becomes final may be waived where "necessary because of an imminent threat to health or safety or other emergency."

S. 343 DOES NOT PLACE A "PRICE TAG ON HUMAN LIFE"

Sec. 621(2)—"Costs" and "benefits" are defined explicitly to include "nonquantifiable," not just quantifiable, costs and benefits.

Sec. 622(e)(1)(E)—Cost-benefit analyses are not required to be performed "primarily on a mathematical or numerical basis."

Sec. 624(b)(3)(B)—An agency may choose a higher cost regulation when "nonquantifiable benefits to health, safety or the environment" dictate that result.

Mr. ABRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. ABRAHAM. Mr. President, it was my understanding that when the Senator from West Virginia concluded and we began discussion on the regulatory reform bill, that there would be 2 hours of time equally divided between myself and Senator GLENN; and that the time for Senator HATCH's statement—I did yield to him—was to come out of my time.

I agree with that. I would like to know how much of my hour remains at this point.

The PRESIDING OFFICER. The time is 30 minutes remaining.

Mr. ABRAHAM. Mr. President, I do not think that is correct. I believe Senator HATCH spoke for 30 minutes.

Mr. HATCH. Mr. President, I ask unanimous consent that the time yielded to both sides on this matter will have begun at 1:15.

Mr. GLENN. Mr. President, reserving the right to object, would this then mean that the time certain that was established for a vote later this afternoon at 5:15 would have to be set back in accordance with that?

The PRESIDING OFFICER. Not necessarily.

Mr. GLENN. Then, Mr. President, something has to give here because we were supposed to have a certain time set aside for Senator NUNN, which I believe was 2 hours—2 hours for Senator

ABRAHAM and 2 hours for Senator NUNN; is that correct?

The PRESIDING OFFICER. Originally, that would have been 2 hours on the first amendment and 2 hours and 15 minutes on the second.

Mr. GLENN. What would be the timing on the vote this afternoon if we agreed to the proposal made by the Senator from Utah?

Mr. ABRAHAM. Mr. President, I object to the proposal of the Senator from Utah in that the Senator from West Virginia did not conclude his remarks until 1:25 p.m. We were to start at 1:25. I would have no objection in calculating based on that.

The PRESIDING OFFICER. The Chair will announce that the bill was laid down at 1:20 and that the next amendment would be laid down at 3 o'clock pursuant to the previous order.

Mr. HATCH. Parliamentary inquiry: As I understand, there was supposed to be 2 hours of debate. That should not begin until 1:20. That means that there should be 2 hours from 1:20.

The PRESIDING OFFICER. The previous agreement was that the amendment by the Senator from Michigan could be laid down at 1 o'clock with no other time agreement, and that the other aspect of the agreement was that the amendment could be laid down by the Senator from Georgia at 3 o'clock with votes beginning at 5:15.

Mr. HATCH. Then I suggest, and I ask unanimous consent, that the 2-hour time limit on this first amendment begin at 1:20 and that the 2-hour-and-15-minute time limit begin on the second amendment at 3:20.

I withdraw my unanimous-consent request.

Mr. GLENN. Mr. President, I suggest we proceed. We are wasting a lot of time on this. Let us just proceed. If we need extra time at the end, which I doubt that we will, then we can take appropriate action at that time. Otherwise, let us proceed and hope we can hit the 3 o'clock deadline anyway, if that is all right with the Senator from Michigan.

Mr. ABRAHAM. Very well.

The PRESIDING OFFICER. Under the previous order, the Senator from Michigan is recognized to offer an amendment.

AMENDMENT NO. 1490 TO AMENDMENT NO. 1487

(Purpose: To ensure that rules impacting small businesses are periodically reviewed by the agencies that promulgated them)

Mr. ABRAHAM. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Michigan [Mr. ABRAHAM], for himself, Mr. DOLE, Mr. KYL, and Mr. GRAMS, proposes an amendment numbered 1490.

Mr. ABRAHAM. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(a) on page 27 line 13, strike "subsection" and insert "subsections"; and

(b) on page 27 line 13, after "(c)", insert "and (e)"; and

(c) on page 30, before line 10, insert the following:

"(e) REVIEW OF RULES AFFECTING SMALL BUSINESSES.—(1) Notwithstanding subsection (a)(1), any rule designated for review by the Chief Counsel for Advocacy of the Small Business Administration with the concurrence of the Administrator of the Office of Information and Regulatory Affairs, or designated for review solely by the Administrator of the Office of Information and Regulatory Affairs, shall be included on the next-published subsection (b)(1) schedule for the agency that promulgated it.

"(2) In selecting rules to designate for review, the Chief Counsel for Advocacy of the Small Business Administration and the Administrator of the Office of Information and Regulatory Affairs shall, in consultation with small businesses and representatives thereof, consider the extent to which a rule subject to sections 603 and 604 of the Regulatory Flexibility Act, or any other rule meets the criteria set forth in paragraph (a)(2).

"(3) If the Administrator of the Office of Information and Regulatory Affairs chooses not to concur with the decision of the Chief Counsel for Advocacy of the Small Business Administration to designate a rule for review, the Administrator shall publish in the Federal Register the reasons therefor."

Redesignate subsequent subsections accordingly.

Mr. ABRAHAM. Mr. President, the amendment I have proposed with the majority leader and other Senators would ensure that the concerns of America's small businesses are not overlooked or ignored during the regulatory review process that S. 343 would establish.

We need some type of meaningful regulatory review process because, quite simply, the utility of a regulation may change as circumstances change. The fact that a regulation withstood cost-benefit analysis at the time of its promulgation provides no assurance that it remains cost-effective 5 or 10 years later. A review process with teeth, however, would ensure that regulations remain on the books only so long as they remain cost-effective.

Section 623 of the regulatory reform bill appears at first glance to address the need to review periodically the cost-effectiveness of existing regulations. Agencies would be required to publish a schedule of regulations to be reviewed. Regulations on the schedule would be measured against the cost-benefit criteria in section 624 of the bill. And, although the agency might have more than 14 years to conduct its review of a regulation, the regulation would terminate if the agency failed to complete its review of it within the time allowed.

As currently drafted, however, section 623 contains a significant loophole. Whether a regulation is subject to review under section 623 depends, at least in the first instance, on whether the agency chooses to place the rule on its review schedule. This amounts to the fox guarding the henhouse.

Under the bill's current language, the only way to add a regulation to the list of rules chosen by the agency is to present the agency with a petition that meets the extremely demanding standard set forth in the bill. It likely would cost hundreds of thousands of dollars to hire the lawyers and technical experts needed to prepare such a petition. Small businesses by their very nature do not have such large resources at their disposal. Thus, under the current language of section 623, agencies potentially could overlook or even ignore the needs of small businesses.

Mr. President, small businesses are too important to our economy to let that happen. Small businesses are the engines of job creation in our Nation. From 1988 to 1990, small businesses with fewer than 20 employees created 4.1 million net new jobs, while large businesses with more than 500 employees lost over 500,000 net jobs during the same period. It comes as no surprise, then, that 57 percent of American workers are employed by a small business. Thus, when we overlook the needs of small businesses, we put American jobs in jeopardy.

And when it comes to reducing the burden of regulations, the needs of small businesses are particularly acute. The hidden tax of regulatory burdens is highly regressive in nature: According to the U.S. Small Business Administration, small businesses' share of regulatory burdens is three times that of larger firms.

There are a number of commonsense reasons for this fact. First, unlike big businesses, small businesses cannot spread the costs of regulation over a large quantity of product sold to the public. Since the regulatory costs borne by small businesses are thus concentrated on a relatively small quantity of product, those costs have a disproportionate impact on the cost of goods and services sold by small businesses. Put simply, the advantages of economies of scale apply to regulatory costs just as they do to other costs of doing business.

A second reason why regulations hit small businesses especially hard is that small businesses simply cannot afford to hire the lawyers, consultants, and accountants needed to comply with the paperwork requirements that inevitably attend regulatory mandates.

When it comes to small businesses, the agencies' avalanche of paperwork falls not on an accounting or human resources department but, rather, on a hard-working entrepreneur who often lacks the time or expertise necessary to cross all the T's in the manner the agency has commanded.

The magnitude of this burden truly cannot be overstated. The Small Business Administration estimates that small business owners spend almost 1 billion hours per year filling out Government forms. An example illustrates the point. Recently, a small construction company inquired about bidding on a modest remodeling project at a post office in South Dakota. In response to that inquiry, the owner of the company received no less than 100 pages of bidding instructions. Needless to say, Mr. President, a 100-page book of bidding instructions might as well state on its cover that "small businesses need not apply."

In short, Mr. President, given the importance of small businesses to our economy and their disproportionate share of the cost of regulations, we need to ensure that S. 343 contains a regulatory review process that is responsive to the concerns of small businesses.

Our amendment would meet that need by empowering the chief counsel for advocacy of the Small Business Administration, also known as the "small business advocate," to protect the interests of small businesses during the regulatory process.

Under our amendment, the advocate would be permitted to add regulations that hurt small businesses to the list of regulations that the agencies themselves have chosen to review, in accordance with the office at the White House known as OIRA.

The advocate would do so pursuant to a simple process. First, the advocate would consult with small businesses concerning the burdens that regulations impose on them. Next, the advocate would consider criteria such as the extent to which a regulation imposes onerous burdens on small businesses or directly or indirectly causes them not to hire additional employees.

On the basis of such input and criteria, the advocate would designate regulations for review. If the administrator of OIRA then concurred in the advocate's designation of a rule for such inclusion, at that point the rule would be added to the list of regulations the agencies have chosen to review. Additionally, if OIRA itself chose to designate a rule for review, that rule could be added to the agency's list.

Our amendment thus would be a small business counterpart to the petition process available to larger firms. Just as through the petition process high-priced lawyers and consultants would ensure that regulations impacting big businesses are not overlooked as regulations are reviewed, so, too, would this process ensure that regulations, the heavy costs of which are borne by small businesses, are not ignored in the regulatory review process.

This task falls squarely within the advocate's mission. Created by a 1976 act of Congress, the advocate's mission is to "counsel, assist and protect small business," thereby "enhancing small business competitiveness in the American economy."

Pursuant to this mission, the advocate "measure[s] the direct costs and other effects of Government regulation on small businesses and make[s] legislative and nonlegislative proposals for eliminating excessive or unnecessary regulations of small businesses." The advocate also administers the Regulatory Flexibility Act, which has afforded it additional experience in assessing the impact of regulations on small businesses.

In fact, by allowing the advocate to designate rules for review, our amendment merely builds on the foundation laid by the Regulatory Flexibility Act. Under that act, the advocate reviews agency analyses of the likely impact of proposed and final rules on small businesses. Thus, under our amendment, the advocate's role in reviewing regulations will be very similar to its role in promulgating regulations.

In summary, Mr. President, small businesses need an advocate in the regulatory review process. For too long, small businesses have been left at the mercy of Federal agencies. Our amendment will ensure that small businesses' concerns are considered in a manner that reflects their contribution to our economy.

That is why the National Federation of Independent Businesses has scored our amendment as a key vote in its rating system.

In the end, Mr. President, our amendment will lead to more efficient regulations for small businesses and more jobs for American workers.

Mr. President, I reserve the remainder of my time.

Mr. DOMENICI. Mr. President, I wonder if the Senator from Michigan will yield a few minutes to me on his amendment.

Mr. ABRAHAM. Mr. President, I yield to the Senator from New Mexico such time as he shall need.

Mr. DOMENICI. Do we have enough time for me to ask him——

The PRESIDING OFFICER. The Chair should note that time is not controlled at this point.

Mr. GLENN. Mr. President, you say time is not controlled?

The PRESIDING OFFICER. Time is not controlled at this point.

Mr. DOMENICI. On this amendment.

Mr. GLENN. Mr. President, parliamentary inquiry. The discussion we had a little while ago resulted in no agreement. Is that correct?

The PRESIDING OFFICER. That is correct.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, will you advise me when I have used 10 minutes, please.

Mr. President, the Federal regulatory process, from everything we can determine from our constituents and in various and sundry meetings across this land and in our States, is simply out of control. Federal regulations affect in a very real way every man, woman, and child in America.

The cost of Federal regulations, however, has been estimated to be as high as a half trillion dollars a year, $500 billion. Even the most conservative estimates of the cost of Federal regulations show that the cost of regulations has a profound impact on American citizens.

A recent Washington Post article reported that regulations ultimately cost the average American household about $2,000 a year. I believe one of the main reasons these regulations cost Americans so much is that often they are not generated in an efficient and commonsense manner. That does not mean we do not need regulations, but we need efficient and commonsense regulations.

The sheer volume of regulations proposed and finalized by Federal agencies every year is staggering. For example, the registry, that is, the Federal Register, in 1994 alone runs a total of 68,107 pages. They take up an entire storeroom of space in my office as we attempt to follow them.

Mr. President, how can anyone, no matter how earnest or diligent, comply with all of these? In my State, small business makes up about 85 to 90 percent of the employers. From my standpoint, I have suspected that they felt unrepresented and put upon, and about 2 years ago I established a small business advocacy group. We held field hearings on an informal and voluntary basis, and almost all the small business owners that I talked to and spoke with, the people who create almost all the jobs in our State, told me just how smothering this explosion has become.

I would like to read a letter from one of my constituents in this regard, a small businessman in northwestern New Mexico, Mr. Greg Anesi. He is the president of a small business in our State called Independent Mobility Systems which makes equipment for the handicapped. His business employs quite a few handicapped people. And Mr. Anesi wrote to me to tell me exactly how crushing simply preparing the paperwork required by regulations has become to his small business. The letter states:

> When we consider hiring additional employees, we are limited by the fact that the more people we employ, the greater the regulatory costs and the burdens.

Further, this crushing regulatory inefficiency can and does have a very damaging impact on the environment and on human safety because it diverts limited financial resources from the most pressing of environmental problems. The book called "Mandate for Change" reports that in 1987, "a major

EPA study found that Federal Government spending on environmental problems was almost inversely correlated to the ranking of the relative risks by scientists within the agency."

One way to solve the problem is to use best available science when making regulatory decisions about the environment and human safety. I have been a champion of that, and last year in fact I attached the amendment to the Safe Drinking Water Act. That amendment would ensure that the best available peer-review science was used when promulgating safe drinking water standards.

Nor is the use of good science in environmental decisionmaking a partisan issue. In this same book, which I hold up, "Mandate for Change", which President Clinton endorsed as a book which tries to move us toward a better future, on page 216 there is a specific call to "expand scientific research on, and use of, risk assessment as part of a national effort to set environmental priorities." I am happy to see that S. 343 has incorporated environmentally conscious, good science concepts in its assessment provisions.

Another way to solve problems of inefficient Federal regulations is to make sure that agencies consider the costs and the benefits of the regulations they promote. I understand that will be a matter of very significant debate on the floor, what standard with reference to costs and how will costs and benefits relate one to the other.

Again, I do not believe cost analysis is a partisan issue. Every President since Richard Nixon, including President Clinton, has required cost-benefit analyses before rules are promulgated. Unfortunately, Federal agencies are not performing these analyses as well as they should. The fact that both S. 343 and Senator GLENN's regulatory reform bill contain cost-benefit sections show that both Democrats and Republicans agree on this point. Perhaps there is some disagreement as to how one would apply the costs and the concept of benefits in determining whether or not the costs were justified is still in order, and we will debate that.

Mr. President, the Abraham amendment to S. 343 allows for agencies to put an existing regulation on a list of meaningful cost-benefit reviews. The problem with the bill's current language is that there are only two ways for a regulation to be put on this list. First, it is up to the agency to choose to put an existing regulation on the list for review, while allowing the agency to do this sort of thing rather than forcing them to is exactly the problem we are trying to address with these bills. Second, an interested party can petition to get an existing rule on the list but only if that party can show that the rule is a major rule.

Showing that a rule costs the national economy $50 to $100 million can cost the interested party thousands of dollars. That is one of the problems. Small business does not have thousands of dollars to prove that the national economy will be influenced $50 to $100 million. When the interested party is a small business, that cost is simply out of reach no matter how ridiculous the existing regulation might be.

Mr. President, that is why I support the Abraham amendment. This amendment will empower the chief counsel for advocacy at the U.S. Small Business Administration, in concurrence with the administrator of the Office of Information and Regulatory Affairs, to add regulations to the agency's list which have significant impact on small business. This amendment, therefore, would allow the small businessman, the little guy, the small business owner, a real opportunity to make sure that Federal agencies actually perform the cost-benefit analysis that everyone says should be done but that everyone agrees are too often ignored in practice.

So, Mr. President, I compliment the Senator who has had to modify his amendment, as I understand it, to include OIRA, the administrator of the Office of Information and Regulatory Affairs, and some might think under certain circumstances that might not be the best. But I think over time, when you combine the small business advocacy office and the administrator of the Office of Information and Regulatory Affairs in the executive branch, over a period of time I think this amendment has a chance for small business to get some of their concerns on the list—that is, on the list to be reviewed—rather than it being as difficult as the base bill, S. 343, would provide.

I hope the amendment is adopted, and I thank the Senator for offering the amendment.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. GLENN. Mr. President, I want to make some remarks on the bill itself and then some remarks specifically on the amendment by the distinguished Senator from Michigan.

I firmly believe that this is one of the most important bills that we will take up this year. That probably comes as a surprise to a lot of people who think regulatory reform is pretty dry, arcane, and is about like watching mud dry, as far as interest goes. It is what we termed in the past a MEGO item, "my eyes glaze over" when you bring it up. That is about the interest that it will generate with a lot of people, because it is not debating B-2 bombers or the M1A2 tanks, or something like that. It deals with the nitty-gritty of rules and regulations, how they get published, why they are necessary, and so on.

Lest anyone think we have a lot of bureaucrats just sitting over on the other side of town dreaming up rules and regulations to put out on their own volition, that is not the way these things happen.

We pass laws in the Senate and in the House of Representatives and we send them over to the President. The President signs them. Then they go to the agencies to have the rules and regulations written that implement them, that let them be put into effect, that make them practical so they can go out and affect everyone, literally, in this country—businesses, organizations, individuals, families, children, elderly. Everyone is affected by many of these rules and regulations.

If we did a better job in the Congress, I think perhaps we would find less necessity for rules and regulations over in the agencies and the Departments. If we want to see the major problem area, we ought to look in the mirror, because what we do is too often see how fast we can get legislation out of here. We do slapdash work on it here, send it over and then we are somehow surprised that the agencies and the people doing the regulation writing do not do a better job, and then we are all concerned about why they did not do a better job when we did not do a good enough job in directing them in what they are supposed to do.

Having said that, some 80 percent of the regulations written are required to be written by specifics of legislation passed in the Congress. So we bear heart and soul a lot of the blame on this thing. But the importance of rules and regulations cannot be denied. It is what makes them applicable across the country.

Let me say this. I do not think there is a single Senator that I know of who thinks we should just go along with the status quo. The administration started a review of this whole area 1½ years ago, and they already cut out a lot of rules and regulations. They are in the process of doing more of that right now. So the Senate is interested, the House of Representatives is interested, the administration is interested, and it is that important. We are united on the need to make some changes. So this is not a partisan thing across the aisle on the need. The question is how we go about this.

Let me go back a few years to 1977. The Governmental Affairs Committee, of which I am a member—I was not chairman at that time. Later on I was chairman of the committee for 8 years. Senator ROTH chairs the committee now. But back in 1977, we had what was really a landmark study. It was a landmark study on regulatory reform. It resulted in OMB and OIRA changes, the establishment of processes there. It was an open process. So we had an interest through the years on these matters.

In this year, we had four hearings on the bill in committee. It was bipartisan in support in that committee. We deliberated, we considered everything everyone wanted to consider, and we had a 15-0 vote when that came out of committee. There was agreement on it, and it was a bill of balance.

I think we focused on many of the very central issues, and I will get to those in just a moment. But the bill that we have as S. 291 that has not been introduced here—of course, we are dealing with S. 343, the bill proposed by the majority leader—but that bill we passed out of committee, the Roth bill—and the bill which we would have as an alternative, S. 343, now is basically S. 291 that came out of committee, with just three changes. Those three changes are: A major rule would be defined as one having a $100 million impact per year. No. 2, if an agency fails to review the rules within 10 years, there would be no sunset. In other words, an administrator in an agency could not deliberately let it run beyond the time period and automatically have laws and rules sunset without congressional action. And No. 3, the difference between this and S. 291, as originally voted out of committee, is there is a simplified risk assessment process to comport with the National Academy of Sciences guidelines on risk assessment.

Those are the only three differences. This is a bill that was voted out of committee 15-0. We find ourselves in a position where we have several differences between what was provided in the bill out of committee and what the majority leader has proposed with S. 343. No. 1, the decision criteria, the test whether an agency can promulgate a regulation.

S. 343 proposes a least-cost basis. The bill voted out of committee proposed a cost-effective basis. There is a big difference between least cost and cost effective.

Another area of difference is that of judicial review. Under judicial review there are some major differences as to what would be judicially reviewable; in other words, what you can file suit in court on.

Another difference is the $100 million threshold. S. 343 has a $50 million threshold, which drastically increases the number of bills that would have to be considered.

Another difference is the petition process.

Another is the sunsetting, as I mentioned a moment ago.

Another is how we do risk assessment.

The effectiveness of regulatory flexibility is another.

If the agencies have done their job or have not done their job.

The lack of sunshine, openness, a requirement for openness in our legislation.

Of course, there is the area of specific interest fixes, and whether we, as proposed in S. 343, knock out Delaney or toxic release emissions requirements, inventory requirements that every community should have knowledge of.

These are some of the differences in the legislation between what we voted out of committee and the legislation the majority leader brought to the floor.

Let me talk about the cost-benefit analysis as a tool and not a statutory override. Now, there is substantial difference of opinion on this. Regulatory reform, we feel, should build on our health and safety accomplishments, while applying better science and economic analysis. Regulatory reform on its own and without any other consideration should not override existing environmental safety and health laws.

There seems to be a difference here. But in discussions about S. 343, there has been a refusal to include language that in the event of a conflict between a law—the Clean Air Act, for example—and the new standards in this bill that the law would govern. That is a major difference. I know we say we are in agreement on that. But the language that would spell that out very specifically has been difficult to come by up to now.

There are other statutory overrides in this bill, like the sunset of current regulations if an agency did not act to rewrite or renew them. There would be 10 years to review a petition process, and if it was not reviewed, the bill, according to S. 343, would sunset, would go out of existence.

There is also what could be considered a rewrite of Superfund and the Reg Flex Act. What they have in S. 343 is if the cleanup is worth more than $10 million, or will cost more than $10 million, there needs to be a new analysis of even work in process. I know there is a lot of work going on. But it is my understanding that that is still the intent of the bill.

Under the cost-effective regulations, regulatory reform should result in regulations which are cost effective. S. 343 requires agencies to choose the cheapest alternative, not necessarily the one which provides the most bang for the buck. Here is an example: If a $2 increase in the cost of a bill would result in the saving of 200 lives, to make a ridiculous example, the least cost would not permit that extra $2 expenditure.

Another area of interest: No special interest fixes. Congress should enact reforms of the regulatory process, not fixes for special interest. S. 343, as brought to the floor, rewrites the toxic release inventory which gives people the right to know what toxic substances have been released in their communities. It repeals the Delaney clause against additives in cosmetics with a substitute. It delays and increases costs of ongoing Superfund cleanups and prohibits EPA from conducting risk assessments to issue permits to even such things as cement kilns and others allowing them to burn hazardous waste.

So those are some of the areas. We have others. Better decisionmaking, not a regulatory gridlock is what we are after also. Regulatory reform should streamline rulemaking. It should not just be a lawyer's dream opening up a multitude of new avenues for special interests to tie up the process.

The bill, as brought to the floor, allows courts to review risk-assessment and cost-benefit procedures and to reopen peer review conclusions. It creates numerous petition processes for interested parties. These petitions are judicially reviewable and must be granted or denied by an agency within a time certain and these petitions will eat up agency resources and allow the petitioners, not the agencies, to set agency priorities.

Now, a very major difference also is the reasonable threshold. The new requirements should be applied wisely where the cost of conducting the analysis are justified by the benefits. But S. 343 sweeps into the new process an unwarranted number of regulations because it would, I believe, flunk its own cost-benefit test, because it provides for a threshold of $50 million, where the bill we brought out of the Governmental Affairs Committee, that Senator ROTH brought out, has a $100 million threshold, which means even then somewhere 400 to 600 reviews are going to have to be conducted per year. And cutting that $100 million standard in half, with no evidence that the extra taxpayer dollars needed to comply would be spent effectively.

In other words, how many can we really do effectively? That is the question. I think if we went to the $50 million threshold, we would probably find the agencies being swamped. We are going to spend a lot of dollars making no progress, as far as the accomplishment of regulatory reform.

Last, but certainly not least, is sunshine. Regulatory reform should be open and understandable to the public and regulated industries. It should be sunshine in the regulatory review process.

S. 343 as brought to the floor has no sunshine provisions to protect public participation and prevent secrecy in regulatory review. I can say this, going back a few years, when we had the Council on Competitiveness and a few things like that, we certainly need the sunshine provision. I think most people here would probably agree with that.

Mr. President, the rules and regulations that we are talking about involve every child in this country, every family, the milk you drink, the meat you eat, transportation, safety, water, air, all of these are things that will be affected by this legislation. That is the reason that I say it will be one of the most important bills that we bring up this year.

I do not want confrontation on these things. I think the press has continued to play it mainly as confrontation. I do not like that, particularly because we are talking about working out cooperative methods and working out compromise on this so we can get a good bill for the whole country. We all stand here united on the need for regulatory reform. So I think it is important that we try and work as many of these things out as possible.

Now, with specific regard to the proposal made by the Senator from Michigan, I know his original proposal was one that I was prepared to oppose. But he has modified that proposal. I think after we have checked with some of the people involved on our side or wanted to be involved on our side, we may be able to accept the amendment over here. The amendment, as originally proposed, while well-intentioned, I think, would have added to special interest lobbying, would have delayed Government decision and frustrated effective regulatory reform. The amendment would have allowed a single official, and not even the Administrator of SBA but the chief counsel for advocacy, to determine any rule, any reg, to be put on the list for agencies. Agencies would have been forced to put these rules on just with one person's say-so. And that could have been any existing rule he or she might have chosen. I did not favor that approach to it because I think we had adequate protection in the bill in S. 343 and S. 291 both to cover that. We had adequate procedures that would have covered that without giving one person, in effect, what would be a czar's authority over all rules and regulations which already have to be reviewed for small business under the Regulatory Flexibility Act, which is required for agencies to evaluate the impact of proposed rules on small businesses and to consider less burdensome, more flexible alternatives for those businesses.

Both the Glenn-Chafee bill and S. 343, the one before the Senate, also strengthen the Regulatory Flexibility Act by providing judicial review of agency regflex decisions.

I think that is the right thing to do. I think both bills cover that. Trying to tighten up regflex is one thing, but creating a whole new set of powers for the Small Business Administration would be quite another thing.

I know the Senator has modified his proposal to say that now, instead of the chief counsel for advocacy at SBA being able to determine on his or her own that these things must be considered by the particular agency or department involved, he has said now that first they have to recommend these up to the Office of Information and Regulatory Affairs in the Office of Management and Budget, which is the office OIRA, that normally passes on these things.

It is our understanding that would be an adequate stopgap, an adequate monitor, a governor, if you will, or a sieve, to sort out what might be frivolous or might not be frivolous.

It is my understanding that the OMB, then, in the amendment as now proposed, would be able to stop that procedure if they wanted.

I ask my distinguished colleague from Michigan if that is his intent now, that once the SBA counsel has submitted this to OIRA, we could turn it down and that would be the end of it.

Mr. ABRAHAM. The Senator from Ohio is correct, I think. Our understanding is, with some changes which we made prior to introducing the amendment here today, it was to provide sort of a fail-safe to ensure that the concerns that the Senator from Ohio has expressed about the possibility of having the advocate of the Small Business Administration move into areas that were of negligible importance, that might be extraordinarily burdensome to the agencies, to provide a type of a fail-safe by requiring concurrence—in other words, approval—also, by the Administrator of OIRA.

Mr. GLENN. I was curious as to why the Administrator of the Small Business Administration was not the authority that would pass on these things to OIRA, or make the decision, rather than taking a subordinate officer and, in effect, elevating that officer for a greater authority than the Administrator has in being able to send things off for review at a different place.

Mr. ABRAHAM. I will say we felt, of the various responsibilities at the Small Business Administration, the advocate's office is, in effect, a somewhat independent figure whose principal responsibility under current law would seem to be very consistent with the responsibility of trying to protect small businesses with regard to promulgation of new regulations.

We thought that was the logical place to impose this responsibility. Also, the mechanism seemed to exist to do some of the study that is entailed in putting forth these recommendations.

We thought that this semi-independent status of the advocate, combined with the authorities already given it, were ones that justified and supported the notion of allowing that.

Mr. GLENN. I thank my colleague.

As I said earlier, at the appropriate time, after I have had a chance to check with a number of people on our side interested in the legislation, we may be able to accept. I, personally, think it is OK now as far as putting OIRA on as sort of a governor or place in which these can be judged before they would be sent to a department or agency. I would personally be prepared to accept it.

We would like to check with a few more people. I yield the floor.

Mr. JOHNSTON. Mr. President, I rise in support of the Abraham amendment. I congratulate the Senator for, first, his concern about small business, which is a concern of all Members on regulations; second, for having an appropriate screening mechanism to prevent the agency overload.

Agency overload, Mr. President, is one of the principal problems with this bill. We are all in favor, at least everyone that I have heard, says they are in favor of cost-benefit analysis, says they are in favor of risk assessment. The question is, do we give the agencies more work than they can do and overload their capacity to do it?

In its original form, the Abraham amendment might well have been subject to that criticism in that any rule on a look-back which the advocate designated would go into the workload of the agency.

However, in the form that the Senator from Michigan has proposed, there is an appropriate screen because the head of OIRA would have to concur with that judgment, which would ensure, I believe, that those rules which have a major effect on small business would be included in the workload, as they should be, but that we could prevent the agency overload.

Mr. President, I think this is an excellent amendment which will presently protect small business on the look-back.

If I may speak for a few moments on the pending bill and on the Glenn substitute, which the Senator has spoken about, there are a number of differences, Mr. President, and I believe that the pending bill, the so-called Dole-Johnston amendment, is a much better bill in terms of accomplishing the control over a runaway agency.

Mr. President, the Senator from Ohio [Mr. GLENN] states that under the Dole-Johnston bill, there would be a judicial review of the procedures in the risk assessment management; and under the Glenn substitute, there would not be that review of procedures.

Mr. President, exactly the opposite is true under the language proposed. Under the language of the Glenn substitute, it states specifically that any regulatory analysis for such actions shall constitute part of the record and shall, to the extent relevant, be considered by a court in determining the legality of the agency action.

The risk assessment protocol is included as part of the record and shall be considered by the court—shall be considered by the court—in determining the legality of the agency action.

Now, what does legality mean, Mr. President? Legality can only mean, in my judgment, the legality as measured by section 706 of the Administrative Procedure Act. If it does not refer to section 706, there is not, within the

Glenn amendment, a separate rule for testing and determining legality.

Now, what does section 706 say? Section 706(D) refers to the procedures, and that any rule which the reviewing court shall hold unlawful and set-aside agency actions which are "without observance of procedure required by law." "* * * without observance of procedure required by law."

There is nothing, Mr. President, in the Glenn substitute, to say that section 706(D) does not apply. That is the only thing that legality can mean.

Now, when we get into a further discussion of what the Dole substitute shows, we will have a blowup of the language and make this clear.

Mr. President, exactly the opposite is true. That is, Senator GLENN says that his amendment would prevent the review. We say it not only permits it, but requires it. And that, under the Dole-Johnston pending amendment, it prevents any such review by saying that, "failure to comply with the subchapter may be considered by the court solely for the purpose of determining whether the final agency action is arbitrary and capricious or an abuse of discretion."

Mr. President, another serious deficiency of the substitute is that there is no enforceable petition process on the Glenn substitute, no enforceable petition process—no enforceable look-back process.

Oh, there are words in there about you can adopt it—you have the petition process as provided for under the present law. But what does that amount to? I mean, if all you get is the petition process under the present law, you get nothing. That is what this bill is all about. What happens when you have an oppressive regulation, of which there are many, which did not follow a risk assessment protocol, which did not involve scientists or ignored the scientists, which is exorbitantly expensive, and which you want to take a look at?

Effectively, there is almost nothing you can do about it, because there are no standards by which you can seek that petition and get it reviewed. And, under the Glenn substitute, they simply take the present law and say: Whatever you do under the present law, we are not going to disturb. There is no look-back process that is enforceable. None at all. What it says is that you shall look back at these, all these regulations, within 10 years, or you may request to extend that up to 15 years. But what happens if you do not do it? It says you shall institute a rulemaking under section 553. What does that mean? It means you submit a notice of proposed rulemaking, which can go on forever, and which in turn is not enforceable. That is the problem today. What happens when you cannot get an agency to act? You have no recourse at all.

Some of these agency actions are absolutely ridiculous. Two years ago I first proposed a risk assessment. And the reason I did was we found in some of the rules which come before the Energy Committee, which I chaired at that time, that these costs were out of control. We could not figure out why it was, for example, that the cost of analyzing the Yucca Mountain waste site—the costs of characterizing that site—had gone up a hundredfold—a hundredfold—from $60 million to $6.3 billion. And we said, Why could this be? How can the cost of just determining, in this case a site for storage of nuclear waste, whether that site is suitable—not the building of the site, just determining whether that site is suitable—how could those costs have gone up from $60 million to $6.3 billion?

One of the things we found that they had done was adopted a rule where they had ignored their own scientists, absolutely ignored what the scientists had told them. They did not know what it was going to cost. The rule had no basis in health or safety. It was going to cost $2.1 billion to comply with and there was nothing anyone could do about it.

The Glenn substitute takes that same attitude, which is to say: Do not worry about it. You are fully protected under the present rules. We are not going to give you a right to go to court. We are not going to give you a right to enforce a petition process. We are not going to give you a right to have an enforceable look-back process. We are going to leave it as under present law, and under present law all you have to do is file your notice of proposed rulemaking and that is all you have to do. You cannot enforce and require the agency to proceed with that rulemaking.

So we will have a lot to discuss about this question of the two bills. There are improvements which need to be made, to be sure, in the Dole-Johnston substitute. One of those, which I hope to propose and have agreed to, and I have some confidence that we will be able to do so, is to take the CERCLA provisions—that is the Superfund, or environmental management procedures—out of this bill. I think they ought to be considered separately. Almost everybody agrees that you need to use risk assessment principles in determining cleanup when you have Superfund sites, but that it would better be done in a separate bill, reported out of the Environment and Public Works Committee in the Senate. And I believe there is a desire on the part of that committee to proceed with that. I think we ought to take those provisions out.

I also hope at the appropriate time we can increase the threshold amount from $50 to $100 million. Again, that relates to this question of overload. Because, just as Senator ABRAHAM has so wisely provided a screen to have a check on the amount of overload coming from consideration of small business matters, we need a screen to lift that bar a little higher, from $50 to $100 million. There is going to be a lot of work to be done under risk assessment and under cost-benefit analysis. There is a lot of work to be done. We do not want to overload the agencies.

So, Mr. President, I quite agree with Senator GLENN when he says that this is a very, very important bill. I am delighted there is, I believe on the part of all parties—myself and Senator DOLE, Senator GLENN, Senator HATCH, Senator ROTH, those who have been the leaders in this area—a desire to try to find a way to provide for an appropriate risk assessment and appropriate cost-benefit analysis.

I believe, with that desire of all parties, that we can work our will and get a good bill. But make no mistake about it, risk assessment, putting science as opposed to politics or emotion or prejudice or superstition—putting science back into the decision process and having a process that works, and that is required to be followed, a logical process—that tells the American taxpayer we are going to fully protect your health and safety but we are not going to foolishly spend money on things that do not relate to health and safety.

One final point about the Dole-Johnston amendment. My friend from Ohio, Senator GLENN, says that under our amendment you must take the least-cost alternative. Mr. President, that is simply not true. The bill very specifically states that where uncertainties of science or uncertainties in the data require a higher cost alternative, that you may do so. Or, where there are—actually, to give the language here, the language says, "if scientific, technical or economic uncertainties or nonquantifiable benefits to health, safety, or the environment identified by the agency in the rulemaking record make a more costly alternative that achieves the objectives of the statute appropriate and in the public interest and the agency head provides an explanation"—that may be adopted.

So, Mr. President, what we say is you get the least cost alternative that achieves the objectives of the statute unless the science is uncertain, or the data are uncertain, in which event you can get a more costly alternative. Or you may make a more costly alternative if nonquantifiable benefits to health, safety, or the environment make that in the public interest. What does that mean? That means, if it would save more lives to do something else. How can you quantify the value of life? You cannot. But you can go to a higher cost alternative if those nonquantifiable benefits to health, safety, or the environment make another alternative more advisable.

But we say that, if you are going to go to this higher cost alternative because of these nonquantifiable benefits, or if there are uncertainties of science, then you must identify what those uncertainties are, or you must identify what those nonquantifiable benefits are, and then provide the least cost alternative that takes into consideration the nonquantifiable benefits.

So what we are saying is you may go higher, but you have to say why you went higher, and you cannot do it just because you want to or because it is politically attractive to do so or because some constituent group wants you to do it. You have to identify what it is that is uncertain or what it is that is nonquantifiable.

So, Mr. President, in closing, I will just say that the Abraham amendment, I think, is a good one now that both protects small business on the lookback procedures but provides the appropriate screen. Therefore, I support that amendment.

Mr. GLENN. Mr. President, will the Senator yield for a question?

Mr. JOHNSTON. Yes.

Mr. GLENN. I ask my friend from Louisiana: On this least cost versus cost effective, he talked about uncertainties. What if there are no uncertainties, if the science is good, everybody is agreed on that, and if all matters are quantifiable, lives may not be monetizable in dollar value but they are quantifiable on lives to be saved? I believe the way S. 343 is written now, even if only a $2 or a $20 expenditure would save 100 lives, you still have to go with the least cost unless there is some uncertainty about the scientific data.

Is that correct?

Mr. JOHNSTON. Mr. President, that is not correct. I think it is an excellent question. I think the problem with the interpretation of the Senator from Ohio is that he is putting a very tortured and incorrect definition of the term "nonquantifiable benefits to health, safety and the environment." The value of the human life is by its nature nonquantifiable. I mean, you may say there are 10 lives. You can quantify it in that narrow sense. But that is not the sense in which this is meant. We are talking about values and benefits which are nonquantifiable. The value of breathing clean air is by its very nature nonquantifiable. How can you say when you go out on a beautiful, clear day where the temperature is just right, you feel good, how can you say that is worth $764 a week? You cannot. It is by its nature nonquantifiable. The health, safety, or the environment are by their nature nonquantifiable and, therefore, we have provided that.

But all we are saying is, if you as administrator are saying that you can save 10 additional lives, that you have to identify that as your reason for going to the more costly alternative, and if that was the reason, then you must take the least cost alternative that takes care of your 10 lives, that saves your 10 lives.

I hope I have made that clear to my friend from Ohio because it is a very key point.

Mr. GLENN. It is a key point. I think it is indicative of the kind of debate we are going to get into here on some of these specifics, the meaning of words and so on. It has to be something that will hold up in court, that is understood by the courts. And that is a real major problem on this whole bill. We spent days and many hours going through some of these word differences. This is one example of it that is going to be debated further as we get into this bill. I know basically we are on the Abraham amendment now.

Parliamentary inquiry. Does that run out at 3 o'clock?

The PRESIDING OFFICER. At 3 o'clock the Senator from Georgia will offer an amendment.

Mr. NUNN. Mr. President, will the Senator from Louisiana yield for 10 seconds?

Mr. JOHNSTON. Yes.

PRIVILEGE OF THE FLOOR

Mr. NUNN. Mr. President, I ask unanimous consent that Bill Montalto, of the House Committee on Small Business, be permitted floor privileges for the purpose of working on my amendment when it comes up.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. ROTH. First, Mr. President, I want to say how strongly I agree with my distinguished colleague, the senior Senator from Ohio, when he speaks about the need for a bipartisan approach to obtain regulatory reform. I want to say that I hope we can continue to work together as we did in the Governmental Affairs Committee to move forward legislation that accomplishes the goals that I think we all seek on both sides of the political aisle.

Mr. President, I want to congratulate Senator ABRAHAM for his contribution in offering this amendment. I strongly agree with him that there is no area of activity more adversely affected by some of the regulatory reform actions of the past than small business. I think we all agree that small business in many ways is the most important part of our economy as it is the primary area that results in growth in our economy and, most importantly, is the area where the majority of jobs are being created.

So, again, I want to congratulate the junior Senator from Michigan for his contribution in proposing this most important amendment.

This amendment would strengthen the lookback provisions of section 623. It would provide a mechanism for adding rules adversely impacting small businesses to the agency schedules for reviewing rules.

As the amendment was originally drafted, it would have allowed the Chief Counsel for Advocacy at the Small Business Administration to have sole discretion to add small business rules to the agency review schedules. To respond to concerns about political accountability and the need for standards in selecting rules for review, Senator ABRAHAM has revised his amendment. I believe this revision is a balanced solution to a very important problem.

One of my concerns was that, in providing this discretion solely to the Chief Counsel for Advocacy at the Small Business Administration, the original amendment was a delegation of an extraordinarily broad power. Since the Chief Counsel for Advocacy at the Small Business Administration is, as the Senator from Michigan pointed out, semi-independent in the same sense that inspectors generals are independent, it gave tremendous authority for this individual to take whatever action he or she thought was appropriate in requiring rules to be reviewed.

As revised, the Abraham amendment would ensure more political accountability regarding which small business rules are added to agency review schedules. Small business rules could be selected jointly by the Chief Counsel of Advocacy for the Small Business Administration and the Administrator of the Office of Information and Regulatory Affairs. Alternatively, the Administrator of OIRA alone could choose small business rules for review. This would ensure that the Administrator of OIRA, a politically accountable official who also understands the burdens on the agencies, will be involved in the process.

In addition, the revised amendment makes clear that the standards applicable to other rules selected for review apply to the small business rules. For example, the Administrator of OIRA and the chief counsel must consider, in selecting a small business rule for review, whether review of the rule will substantially decrease costs, increase benefits, or provide flexibility.

Mr. President, I believe that Government must be more sensitive to the cumulative regulatory burden on small business. As I said earlier, small business is, indeed, the backbone of America, a crucial provider of jobs, a wellspring of entrepreneurial innovation and a central part of the American dream.

And again I congratulate Senator ABRAHAM for his hard work to help America's millions of small businessowners, their employees, and their families. I urge my colleagues to support this amendment.

Mr. President, I yield back the floor.

Mr. ABRAHAM. Mr. President, I will be very brief. I would like to first thank the Senator from Delaware for his help, and providing this amendment has made it, I think, a stronger amendment, and I appreciate his judgment and guidance on these matters.

Mr. President, I would also say that the Abraham-Dole amendment has been strongly supported by all the Nation's major small business organizations, including the NFIB, the National Association for the Self-Employed, the Small Business Legislative Exchange Council, and the chamber of commerce, among others. I ask unanimous consent that those letters of support be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

SUPPORT THE ABRAHAM-DOLE SMALL BUSINESS PROTECTION AMENDMENT TO S. 343

Government regulations constitute an enormous burden for small businesses. Therefore, periodic review and sunsetting of regulations which can become out-of-date, obsolete or excessively time-consuming and costly is a major priority for small business in the regulatory reform debate. Seventy-seven percent of NFIB members support reviewing and sunsetting regulations.

The intent of Section 623 of the Regulatory Reform bill is to make certain that regulations are sunsetted as they become obsolete. Regulations listed on review schedules published by the agencies would be measured against the cost-benefit criteria in section 624 of the bill.

Unfortunately, regulations would not be subject to review and eventually sunsetted unless the agency responsible for the regulation chooses to place it on the review schedule? That's almost like putting the wolf in charge of guarding the sheep.

If an agency doesn't put a regulation, which is particularly burdensome to small business, on the list for review the only recourse is to petition to have the regulation added to the review schedule. Petitioning will cost small business owners money—lawyers, consultants, researchers and others will have to be hired to prepare the petition in order to meet the high demands set forth in section 623.

The solution is the Abraham-Dole amendment. This amendment would empower the Chief Counsel for Advocacy at the U.S. Small Business Administration to add regulations to the agencies' review schedules which have significant impact on small businesses. The Advocate would seek input from small business men and women on regulations that need to be reviewed, would evaluate the suggestions from entrepreneurs and direct agencies to take proper action for reviewing those regulations. This amendment gives the only person in the Administration who is exclusively responsible with representing the special needs of small business the ability to ensure that regulations affecting them are not overlooked or ignored by agencies during the regulatory review process.

A vote is expected on the Abraham-Dole amendment after 5 p.m., Monday, July 10. This amendment has the strongest possible support from the National Federation of Independent Business. For more information contact NFIB at (202) 484-6342.

NATIONAL ASSOCIATION FOR
THE SELF-EMPLOYED,
Washington, DC, July 7, 1995.

Hon. SPENCER ABRAHAM,
U.S. Senate, Dirksen Senate Building, Washington, DC.

DEAR SENATOR ABRAHAM: On behalf of the 320,000 members of the National Association for the Self-Employed, I am writing to support your amendment to S. 343, the Comprehensive Regulatory Reform Act of 1995.

Currently, S. 343 calls for sunsetting regulatins as they become obsolete. The various regulatory agencies would judge the regulations against the cost-benefit criteria outlined in S. 343, seciton 624. The agencies would then place the outdated regulations on a review schedule.

The Abraham/Dole amendment would grant authority to the Chief Counsel for Advocacy of the Small Business Administration to add regulations to the review list, thus ensuring that all regulations affecting small business can be reviewed in a timely manner.

We commend your efforts to give the Chief Counsel for Advocacy this important authority. The Abraham/Dole amendment would greatly benefit the small-business community.

Sincerely,

BENNIE L. THAYER,
President.

SMALL BUSINESS LEGISLATIVE COUNCIL,
Washington, DC, July 6, 1995.

Hon. SPENCER ABRAHAM,
U.S. Senate,
Washington, DC.

DEAR SENATOR ABRAHAM: On behalf of the Small Business Legislative Council (SBLC), I would like to offer our support for your amendment to the pending regulatory reform bill to ensure regulations that have an impact on small business are given a thorough review for "cost-effectiveness" after they have been "on the books" for awhile. We commend you for the initiative as it addresses just the kind of disadvantage at which small business always finds itself in the regulatory process.

As we understand it, the pending bill requires agencies to review regulations for cost-effectiveness if the agency puts them on a review schedule, or a private party petitions to have them on the schedule. As you have correctly recognized, the odds are that small businesses will not have the wherewithal to either identify such regulations or petition for their reconsideration. Giving the Chief Counsel for Advocacy for Small Business the right to select the rules for review seems to us to be a sensible, cost-effective alternative to assure small business access to the process.

The Small Business Legislative Council (SBLC) is a permanent, independent coalition of nearly one hundred trade and professional associations that share a common commitment to the future of small business. Our members represent the interests of small businesses in such diverse economic sectors as manufacturing, retailing, distribution, professional and technical services, construction, transportation, and agriculture. Our policies are developed through a consensus among our membership. Individual associations may express their own views. For your information, a list of our members is enclosed.

Sincerely,

JOHN S. SATAGAJ,
President.

MEMBERS OF THE SMALL BUSINESS LEGISLATIVE COUNCIL

Air Conditioning Contractors of America;
Alliance for Affordable Health Care;
Alliance of Independent Store Owners and Professionals;
American Animal Hospital Association;
American Association of Equine Practitioners;
American Association of Nurserymen;
American Bus Association;
American Consulting Engineers Council;
American Council of Independent Laboratories;
American Gear Manufacturers Association;
American Machine Tool Distributors Association;
American Road & Transportation Builders Association;
American Society of Interior Designers;
American Society of Travel Agents, Inc.;
American Subcontractors Association;
American Textile Machinery Association;
American Trucking Associations, Inc.;
American Warehouse Association;
AMT—The Association for Manufacturing Technology;
Architectural Precast Association;
Associated Builders & Contractors;
Associated Equipment Distributors;
Associated Landscape Contractors of America;
Association of Small Business Development Centers;
Automotive Service Association;
Automotive Recyclers Association;
Automotive Warehouse Distributors Association;
Bowling Proprietors Association of America;
Building Service Contractors Association International;
Christian Booksellers Association;
Cincinnati Sign Supplies/Lamb and Co.;
Council of Fleet Specialists;
Council of Growing Companies;
Direct Selling Association;
Electronics Representatives Association;
Florists' Transworld Delivery Association;
Health Industry Representatives Association;
Helicopter Association International;
Independent Bankers Association of America;
Independent Medical Distributors Association;
International Association of Refrigerated Warehouses;
International Communications Industries Association;
International Formalwear Association;
International Television Association;
Machinery Dealers National Association;
Manufacturers Agents National Association;
Manufacturers Representatives of America, Inc.;
Mechanical Contractors Association of America, Inc.;
National Association for the Self-Employed;
National Association of Catalog Showroom Merchandisers;
National Association of Home Builders;
National Association of Investment Companies;
National Association of Plumbing-Heating-Cooling Contractors;
National Association of Private Enterprise;
National Association of Realtors;
National Association Retail Druggists;
National Association of RV Parks and Campgrounds;
National Association of Small Business Investment Companies;
National Association of the Remodeling Industry;

National Chimney Sweep Guild;
National Electrical Contractors Association;
National Electrical Manufacturers Representatives Association;
National Food Brokers Association;
National Independent Flag Dealers Association;
National Knitwear & Sportswear Association;
National Lumber & Building Material Dealers Association;
National Moving and Storage Association;
National Ornamental & Miscellaneous Metals Association;
National Paperbox Association;
National Shoe Retailers Association;
National Society of Public Accountants;
National Tire Dealers & Retreaders Association;
National Tooling and Machining Association;
National Tour Association;
National Wood Flooring Association;
NATSO, Inc.;
Opticians Association of America;
Organization for the Protection and Advancement of Small Telephone Companies;
Petroleum Marketers Association of America;
Power Transmission Representatives Association;
Printing Industries of America, Inc.;
Professional Lawn Care Association of America;
Promotional Products Association International;
Retail Bakers of America;
Small Business Council of America, Inc.;
Small Business Exporters Association;
SMC/Pennsylvania Small business;
Society of American Florists;
Turfgrass Producers International.

CHAMBER OF COMMERCE OF THE
UNITED STATES OF AMERICA,
Washington, DC, July 10, 1995.
Hon. SPENCER ABRAHAM,
U.S. Senate,
Washington, DC.

DEAR SENATOR ABRAHAM: On behalf of the 215,000 business members of the U.S. Chamber of Commerce, 96 percent of whom have fewer than 100 employees, I urge your strong and active support for two amendments to be offered to S. 343, the "Comprehensive Regulatory Reform Act of 1995." The Nunn/Coverdell amendment ensures that small businesses benefit from the broader protections of S. 343, and the Abraham/Dole amendment guarantees a voice for small businesses in the regulatory look-back process. To achieve meaningful reform for that segment of our society hit hardest by regulatory burdens—small businesses—these amendments are critical.

The Nunn/Coverdell amendment recognizes that there may be many instances where a regulatory burden on small businesses could be severe even though the $50 million threshold for a complete regulatory review has not been triggered. By deeming any rule that trips an analysis under the Regulatory Flexibility Act of 1980 a "major rule," small entities will receive the protection they need and deserve from the extreme rigors they often experience from even the best-intentioned regulations.

To address the problems associated with the mountain of existing regulations and their impact on small entities, the Abraham/Dole amendment will boost the power of small businesses to benefit more effectively from the sunset provisions of Section 623 of S. 343. Small companies often need all of their people-power and resources simply to keep afloat. They do not always have the ability to petition federal agencies for review of particularly onerous existing regulations. By vesting within the Small Business Administration responsibility for ensuring that regulations that are particularly problematic for small businesses are not excluded from the regulatory sunset review process, small businesses can be assured that their proportional needs are always considered.

The Chamber hears regularly from its small business members that federal regulations are doing them in. Support for these two amendments will validate that their cries have been heard and acted upon. I strongly urge your support for both the Nunn/Coverdell amendment and the Abraham/Dole amendment.

Sincerely,

R. BRUCE JOSTEN.

NATIONAL ROOFING
CONTRACTORS ASSOCIATION,
Washington, DC, July 7, 1995.
Hon. SPENCER ABRAHAM,
U.S. Senate,
Washington, DC.

DEAR SENATOR ABRAHAM: The National Roofing Contractors Association (NRCA) strongly supports the "periodic review and sunsetting of regulations" amendment that you and Majority Leader Dole will offer to Section 623 of the Comprehensive Regulatory Reform Act of 1995, S. 343.

As we understand it, the intent of Section 623 is to ensure that regulations are sunsetted as they become obsolete. However, a regulation would not be subject to review and sunsetting unless the agency that administers the regulation schedules it for review. This would allow agencies a disproportionate amount of discretionary power to pick and choose regulations for sunsetting.

The Abraham-Dole amendment would curb the potential for agency bias by enabling the SBA's Chief Counsel for Advocacy to add regulations which have a significant impact on small business to an agency's review schedule. This would be done with input from the small business community.

Earlier this year, NRCA testified in support of the Regulatory Sunset and Review Act of 1995, H.R. 994. A copy of our written statement, which discusses specific regulations, is enclosed. Please note that attached to the statement is the Wall Street Journal article, "So You Want To Get Your Roof Fixed . . ."

NRCA is an association of roofing, roof deck and waterproofing contractors. Founded in 1886, it is one of the oldest associations in the construction industry and has over 3,500 members represented in all 50 states. NRCA contractors are small, privately held companies, and our average member employs 35 people with annual sales of $3 million.

Sincerely,

CRAIG S. BRIGHTUP,
Director of Government Relations.

Mr. KYL addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. I rise in strong support of the Dole-Abraham amendment and compliment my colleague from Michigan for his work in preparing this amendment. Obviously, it is going to be very popular. It is going to make a necessary improvement in the bill, which in its current form is a very good bill. But because small business is such an important part of our Nation's economy and because regulations can have a particularly pernicious effect on small businesses, because small businesses are not as well equipped as large companies are to hire the lawyers and the consultants and the other people necessary to deal with the red tape of Federal regulations, I think it is especially important that small businesses not be unduly negatively impacted by regulation, and therefore this amendment will certainly assist in this regard.

Small businesses are really the engine that drives our economy. In fact, from 1988 to 1990, small businesses with fewer than 20 employees created over 4 million new jobs in this country, and that was at the same time, Mr. President, that companies with more than 500 employees lost over 500,000 net jobs during that same period.

As I said, small businesses bear a disproportionate share of the burden of regulation. According to the Small Business Administration, small businesses' share of the burden of regulations is three times that of larger businesses.

Under the current language of section 623, a regulation would not be subject to review unless the agency chooses to place it on the review schedule or an interested party successfully petitions to have it added to the review schedule.

Since small businesses, as I noted, frequently do not have the same kind of resources to hire the lawyers and the consultants necessary to prepare a petition that would meet the demanding standards set forth in section 623, the bill's current language would allow agencies to refuse to review regulations that have a significant impact on small business. And that is where this amendment comes in. It is very important that agencies include in their review schedules any regulation designated for review by the chief counsel for advocacy of the Small Business Administration and OIRA. And that is the important point of this amendment.

In selecting regulations to designate for review, the advocate could seek input from small businesses and would consider criteria such as the extent to which the regulation imposes onerous burdens on small businesses or directly or indirectly causes them not to hire additional employees.

The amendment thus would create a small business counterpart to the petition process which is available to larger firms, with the advocate representing the interests of small businesses, just as the high-priced lawyers and consultants will represent, presumably, the interests of those larger businesses in that petition process.

And, of course, it has been noted why the advocate of the Small Business Administration is ideally suited to this task, because, according to the statute, and I am quoting now, its mission is to "enhance small business competitiveness in the American economy." And the advocate "measure[s] the direct costs and other effects of Government regulation on small businesses and make[s] legislative and nonlegislative proposals for eliminating excessive or unnecessary regulations of small business."

As a matter of fact, the advocate also administers the Regulatory Flexibility Act which has afforded it additional experience in assessing the impact of regulations on small business.

So this amendment, Mr. President, would actually merely build on a foundation laid by the Regulatory Flexibility Act. Under that act, the advocate reviews agency analyses of the likely impact of the proposed and final rules on small businesses. So under the Abraham-Dole amendment the advocate's role in reviewing regulations would be very similar to its role in promulgating regulations.

Let me conclude with a couple points about concerns with this general approach, although, as I said, I think particularly with the amendment to the amendment that Senator ROTH spoke about a moment ago this should be a very popular amendment.

There was some question that it might be appropriate for there to be a limit on the number of regulations that the advocate could designate for review, but we think that under this process clearly agencies that choose to review regulations that hurt small business likely will not have many regulations added to their review schedule by the advocate. Those, of course, that ignore the concerns of small business could expect to have their review schedule expanded by the advocate, but that is part of the incentive which we are building into this amendment.

And second, there was a concern that really we ought to only be considering major rules; otherwise, we could clog the courts and clog the agency with an unnecessary workload.

It is true, of course, that the cost-benefit and risk-assessment requirements generally apply only to the promulgation of major rules, but many of the rules that hurt small business the most would not meet the cost threshold for major rules, and this is particularly true if the major rule threshold were to be raised from its current $50 million limit.

For example, the NFIB estimates that OSHA's widely criticized fall-safety rule would impose costs of $40 million annually, $10 million short of the $50 million major rule threshold. This rule would require employees, by the way, to wear an expensive harness with a lifeline attached to the roof any time that a worker works 6 feet or higher above the ground.

The negative impact of this rule on small businesses was the subject of an op-ed in the June 13, 1995, issue of USA Today. It is a good illustration of how even with a rule like this, which achieved a great deal of attention and would impose a significant cost on small contractors, it nonetheless would fail to meet that threshold requirement, and that is one of reasons why the kind of review called for in the Abraham-Dole amendment is not only appropriate but is really quite necessary.

So, Mr. President, I am sure that most of our colleagues will be in strong support of the Abraham-Dole amendment, and I certainly urge its adoption and would also indicate my strong support for the underlying bill.

I yield the floor.

Mr. GRAMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. GRAMS. Mr. President, I also would like to rise today as a cosponsor of the small business protection amendment to the Regulatory Reform Act.

The PRESIDING OFFICER. The Senator should be advised that under a previous order, we are to turn to the amendment of the Senator from Georgia at 3 o'clock.

Mr. GRAMS. I ask unanimous consent to address the Senate for about 7 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAMS. Mr. President, again, I want to say I rise as a strong cosponsor of the small business protection amendment to the Regulatory Reform Act, and as a strong proponent of holding Government accountable to the taxpayers, I believe this amendment would make a good bill even better.

I also compliment the Senator from Michigan for all the work he has done in this area.

The negotiations that many of us have undertaken on the Regulatory Reform Act have been long and often painful, especially as we witnessed the watering down of rational provisions. The sunset provision has been one of those casualties.

But the small business protection amendment would strengthen the provision in the bill which cancels or sunsets regulations as they become obsolete.

Excessive Federal regulations and redtape impose an enormous burden on this Nation. Regulations act as hidden taxes which push up prices on goods and services for American households, dampen business investment and, ultimately, kill jobs.

What concerns me most, however, is that a large portion of Federal regulations do not have strong scientific merit to back up their enforcement. I am also concerned that we are currently prohibited from even conducting cost-benefit analyses on some of the extensive regulatory measures in this country. How can this Congress make well-informed decisions if we cannot even consider these types of options?

More than 2 years ago, as a new Member of Congress, the first sunset amendment I offered was to H.R. 820, and that was the National Competitiveness Act. I mention this because my goal was not to hinder our ability to compete in the international marketplace. On the contrary, with overregulation strangling our competitiveness abroad, my goal was simply to provide a framework for ensuring oversight and accountability and to get agencies to start setting standards to justify the funding that they now receive.

After this first sunset amendment, I offered several more to various House appropriations bills, and almost a dozen were passed into law with wide bipartisan support.

Let me remind you, Mr. President, that the concept of sunsetting regulations is not new. In fact, President Clinton's Chief of Staff, Leon Panetta, offered sunset legislation when he served in the U.S. House of Representatives.

So now we have the opportunity with a single piece of legislation to sunset regulations that have outlived their usefulness.

As the 1995 Regulatory Reform Act is currently written, regulations would be listed on review schedules published by the agencies. However, a regulation would not be subject to review unless the agency chooses to place it on the review schedule. If the agency does not place a particular regulation on the review schedule, an individual or a small business may petition that agency to do so. But this is not as easy as it sounds. The individual or small business must meet unreasonably high standards—standards so stringent that the average person would have to hire expensive lawyers and consultants just to figure out how to meet that criteria.

What the small business protection amendment would do is to require agencies to include on their review schedules any regulation designated for review by the chief counsel for advocacy of the Small Business Administration in concurrence with the OMB's Office of Information and Regulatory Affairs. This represents an important step toward alleviating the burden of outdated regulations and also ensuring the future health of our economy.

Big businesses already have a loud voice in the regulatory process because they have access to resources often out of the reach of small businesses. But small businesses create millions of new jobs every year, and this amendment would allow their voices to be heard as well.

Mr. President, I am sure that there is not a single Member of this body who has not been contacted by a constituent from their home State because of some absurd and outmoded regulation. And yet some of my colleagues will argue that strengthening the sunset measure in the Regulatory Reform Act would place an undue burden on the regulatory agencies, who would have to spend a lot more time reviewing and a lot less time regulating. I argue that is what regulators ought to do—that is, review and then retire regulations that are no longer needed and then to fix those that are not working.

The fact is that strengthening the sunset provision of the Regulatory Reform Act will have absolutely no impact on regulations which serve a useful and realistic purpose. It will not make our air dirty or our water unclean. It will not pollute our environment or jeopardize our health or our safety.

What this amendment will do is to enhance the accountability and oversight that regulators have to the taxpayers of this country—the people who must foot the bill for every rule and requirement imposed by the myriad of regulatory agencies.

Establishing a fair procedure by which regulations can be reviewed periodically to ensure and to maintain their effectiveness is just plain common sense. That is why I am proud to be a cosponsor of the Abraham-Dole small business protection amendment, and that is also why I urge my colleagues to give it their support today as well.

Thank you, Mr. President. I yield the floor.

The PRESIDING OFFICER (Mr. DEWINE). The Senator from Michigan.

Mr. ABRAHAM. Mr. President, I ask unanimous consent to speak briefly with respect to the Abraham-Dole amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ABRAHAM. Mr. President, I would like to conclude my remarks. There does not appear to be anyone else at this point who wants to speak to the amendment.

I want to thank my colleague, the Senator from Minnesota, for his support on these matters pertaining to sunsetting regulations, as he already indicated, before this Congress took office, and I am sure he will continue his support in the process of putting together this amendment. His broad support for sunsetting regulations has been an important ingredient in our efforts to bring this particular amendment to the floor. I want to thank him for his remarks today.

As I said earlier, Mr. President, when I offered the amendment, I think that the bill we have before us has a system in place which will provide big businesses with a vehicle, a mechanism by which they can bring regulations up for review, because they will be in a position financially to afford the kind of technical cost-benefit studies and other types of inquiry necessary to present a petition that can be successful as it is considered.

Unfortunately, small businesses do not always enjoy that opportunity. It is also the case that regulations which cost $30 or $40 million that do not quite make it to the level which we consider major rules in this legislation, at the $30 or $40 million pricetag are very costly rules, very major rules from the standpoint of a small mom-and-pop business that is out there in America trying to survive.

So I think this amendment, as I said at the outset, strikes the proper balance between the need to place some constraints on how many regulations come up for review, on the one hand, and the legitimate needs of small businesses on the other to have their day in court.

My parents owned a small business for quite a long time. I know what they encountered as small business people, truly a mom-and-pop operation, in attempting to just sort out the demands that we in Washington placed on their business. Others come to my office all the time with similar expressions of concern. I believe this amendment gives the small business community a mechanism by which regulations that are costly to small businesses can be brought up for review, even if they are not initially placed on the list of rules to be reviewed by agencies, and be brought up for review without necessitating on the part of small businesses who often will not be able to afford the expensive process that the petition system provides.

I think it will be an effective addition to this bill and I hope an effective way by which small businesses across this country continue to have their voice heard as they deal with Federal regulation in the future.

Mr. President, I yield the floor.

Mr. GLENN addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. GLENN. Mr. President, I know we have run over our time for this particular amendment, but I believe there is a small meeting still going on. I ask my distinguished colleague from Michigan if he had considered having the reporting authority for small business concerns be the Administrator of the Small Business Administration?

It is a little unusual to go down somewhere in the organizational chart of any agency or department and give a particular person the authority, no matter what their title or what their normal responsibilities are, to bypass all other rules, regulations, and administrative procedures for that particular department, to bypass the administrator of their department, even though the administrator might not agree with what he is going to propose, and bypass within the depths of an agency the administrator and go directly to OIRA.

Would it not make more sense if we really did this through the administrator as the first step on this process? Otherwise, you could come up with a situation where you have an administrator who really does not agree, and maybe for some very good reasons, as to the actions that will be taken by the counsel for advocacy. I ask, was that considered? If that was turned down, what were the reasons for not going that route of having the administrator represent his agency?

Mr. ABRAHAM. The concern the Senator from Ohio expressed was one that we took into account in the process of putting together the amendment originally. What we tried to balance was the responsibilities of the different officials in the Small Business Administration.

The reason that we felt this particular office was the appropriate place to vest this authority was because of two things. No. 1, the responsibilities of this office are expressly those of advocating the concerns of small businesses. With all due respect to the head of any agency, as far as their set of responsibilities goes, whether it is the head of the SBA or any of the other agencies of our Government, they have other considerations they must take into account, whether it is political considerations or considerations that have to do with budget needs or managerial duties. But this office was set up, as we interpreted it, in an exclusive sense to try to really be the advocate of the small business community of America. It is the one place in Government where that power has been authorized by Congress.

We felt, as a consequence, that there would be fewer countervailing types of considerations brought before the advocate than at the other offices of SBA. We thought, as a consequence, the advocate could perform their jobs freed of, and somewhat liberated of, some of the other countervailing responsibilities that an administrator or other agents of the SBA might have. That is how we reached this judgment.

I think it certainly would be my expectation that the advocate would consult with and discuss with the agency and with the SBA Administrator decisions regarding regulations put on the rule. We thought this office was the place where the least argument could be made, where political pressures, special interest group pressures, and so on, were not justifying actions, and that in fact this had a certain amount of independence and a specific amount of authority, as well as what I said earlier, some of the tools it will take to make these decisions, because it is part of the current responsibility of the office to examine regulations for reasons of promulgation. So it makes sense that this might be the place.

Mr. GLENN. I say to my colleague that I would certainly hope that in every case—as he said, the normal procedure would be that there would be consultation with the administrator.

Would it be acceptable to the Senator from Michigan to make it consultation and approval of the administrator before this matter was brought to OIRA?

Mr. ABRAHAM. At this point, I would not be in a position to make that change, I say to the Senator from Ohio. Because my mind is not fully closed on this, there are a number of people who participated in putting together this amendment initially, and I need to consult as to their feelings on this departure. I know a number of them earlier expressed the view that once we added the OIRA Administrator to the process in determining which regulations would be placed on the various agencies' lists, that we had satisfied any residual concerns which might exist as to having a person with a direct appointment and responsibility in the loop. I would need to go back and determine, I think, from some of the other people who are part of this, their receptive feeling to any change of that type.

Mr. GLENN. I would think we would get much more broad support if it had that arrangement in it. If this is such an unusual procedure, to say we go down within an agency and say we give that person responsibility for taking the basic function of that agency and making a review necessary by OIRA, or whatever else it might be—in this case OIRA—without the approval of the agency head—now, there are only two other places in Government that I am aware of where we do that. One is with the inspectors general, and we provide them considerable leeway. In fact, we require the inspectors general not only to report to their agency heads, we require them to give us those same individual reports because we feel if the IG's are so important in the work they do, that we give them specific authority to report outside the chain of command to the appropriate committees of Congress, in addition to reporting to their agency head—not to bypass completely, but in addition to reporting to the agency head.

The other place we do that is in the Chief Financial Officers Act, where the chief financial officers are required, by law, to report not only to their agency head but also to the appropriate committees of Congress.

Now, those are the only cases I know of where we authorize people, or require people, that if they want to take action, they are authorized to go outside the purview and outside the views of, and maybe the wishes of, their agency head, and do something that the agency head might not agree with.

So I think there is that problem. I would feel more comfortable, I guess, if we had the agency head required to be consulted. And if the report was still to go on to OIRA and the agency head objected, that reasons why the decision was made to go to OIRA over the objection of the agency head were made part of that report to OIRA, I do not know whether that was considered or not. But it seems that that would be a more normal procedure for what we want to do.

Mr. ABRAHAM. I do not want to express the suggestion that we have spent a huge amount of time considering the specific role of the head of SBA. But let me go back to the point as to why the chief counsel for advocacy was initially identified. That is, because in the reg flex language that is currently on the statutes, it states specifically in 602(b) that "each regulatory flexibility agenda shall be transmitted to the chief counsel for advocacy of the Small Business Administration for comment, if any."

In other words, because that was the way the statutes currently kind of vested authority for reg flex, we thought it was a sensible way to deal with it and was built more or less on that language. I think that was more the guiding notion that we used than any other particular consideration.

Mr. GLENN. Well, I say to my friend from Michigan that this is an enormously important position in that—I believe I state this correctly—all the rules and regulations being promulgated throughout Government are required to be submitted to SBA and be reviewed by SBA under reg flex, the Regulatory Flexibility Act. So everything that is going to occur in Government in the regulatory field is submitted to SBA specifically now, whether it is intended to cover big corporations, small or private businesses, individuals, or whatever. They, in effect, get a crack at them to make their comment.

This office of advocacy is the organization within SBA that looks at those. And so the recommendations that would be made to OIRA are potentially enormous in scope. All the rules and regulations promulgated by Government would have to go through that chain and could be kicked up to OIRA for whatever consideration they wanted to make. To take that out from under them—at least the oversight or the coordinated action of the administrator of SBA—is a mighty big step to make, and a mighty big important responsibility to give to that one person, whoever he or she might be in that office of advocacy.

So I think it would be better if it went in the other direction. We are still checking with some of the people interested in this on our side. We are way over on our time.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. ABRAHAM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ABRAHAM. I ask unanimous consent that Senator NICKLES be added as an original cosponsor of the Abraham amendment No. 1490.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ABRAHAM. Mr. President, I ask unanimous consent that Senator HATCH, the Senator from Utah, be added as an original cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ABRAHAM. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Mr. President, I strongly support the Abraham-Dole amendment, which would require agencies to include in their schedule to review existing rules, pursuant to section 623 of S. 343, any existing regulation that substantially affects small business as selected by the chief counsel for advocacy of the Small Business Administration.

Under section 623 as currently drafted, a regulation would not be subject to review unless an agency chooses to place an existing rule on the review schedule or an interested party is successful in having a petition to place a rule on the schedule for review.

Unfortunately, the petition process is costly and thus particularly burdensome to small businesses. Most small businesses do not have the resources to hire the attorneys, consultants, economists, or environmental experts, that may be necessary to prepare a petition that meets the exacting standards in section 624 necessary for granting a petition to review rules that are burdensome to small business.

This amendment will allow the chief counsel for advocacy of the SBA with the concurrence of head of OIRA to select rules to be put on the agency review schedule as a substitute for the petition process available to larger businesses with greater capital assets. It assures that the one official in the Administration exclusively responsible with representing the needs of small business will have authority to ensure that regulations burdensome to small business will be reviewed. In essence, the advocate will act as an ombudsman for small business.

The advocate, however, does not have unrestrained discretion to place existing rules on section 623's mandated review schedule. The advocate must seek the input from small business as to what burdensome rules to review and the amendment establishes criteria, such as whether the existing rule causes small business not to hire additional employees, to guide the advocate in selecting rules for review. I do not believe that the review schedule system will be overwhelmed by the addition of rules that burden small business. Under the Abraham-Dole amendment the advocate will cooperate with the responsible agency and OMB to assure the efficacy of the agency review process.

I urge my colleagues to support this amendment.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. NUNN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1491 TO AMENDMENT NO. 1487

(Purpose: To provide small businesses improved regulatory relief by requiring that a proposed regulation determined to be subject to chapter 6 of title 5, United States Code (commonly referred to as the Regulatory Flexibility Act) will be deemed to be a major rule for the purposes of being subject to agency cost-benefit analysis and periodic review; requiring factual support of an agency determination that a proposed regulation is not subject to such chapter; providing for prompt judicial review of an agency certification regarding the nonapplicability of such chapter; and clarifying other provisions of the bill relating to such chapter)

Mr. NUNN. Mr. President, I apologize to my colleagues for my voice. Obviously, I am losing it, but I will do the best I can this afternoon.

Mr. President, I send an amendment to the desk for immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN], for himself and Mr. COVERDELL, proposes an amendment numbered 1491 to amendment No. 1487.

Mr. NUNN Mr. President, I ask unanimous consent further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 14, line 10, strike out "or".

On page 14, line 16, add "or" after the semicolon.

On page 14, insert between lines 16 and 17 the following new subparagraph:

"(C) any rule or set of closely related rules, not determined to be a major rule pursuant to subparagraph (A) or (B), that the agency proposing the rule determines will have a significant economic impact on a substantial number of small businesses, pursuant to subchapter I;

On page 39, line 22, strike out "and".

On page 39, line 24, strike out the period and insert in lieu thereof a semicolon and "and".

On page 39, add after line 24 the following new subparagraph:

"(C) an agency certification that a rule will not have a significant economic impact on a substantial number of small entities pursuant to section 605(b).

On page 40, line 5, insert "and section 611" after "subsection".

On page 68, strike out all beginning with line 9 through line 11 and insert in lieu thereof the following:

"(A) include in the final regulatory flexibility analysis a determination, with the accompanying factual findings supporting such determination, of why the criteria in paragraph (2) were not satisfied; and

On page 72, insert between lines 14 and 15 the following new subsection:

(e) AMENDMENTS TO THE REGULATORY FLEXIBILITY ACT.—

(1) IMPROVING AGENCY CERTIFICATIONS REGARDING NONAPPLICABILITY OF THE REGULATORY FLEXIBILITY ACT.—Section 605(b), of title 5, United States Code, is amended to read as follows:

"(b) Sections 603 and 604 of this title shall not apply to any rule if the head of the agency certifies that the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. If the head of the agency makes a certification under the preceding sentence, the agency shall publish such certification, along with a succinct statement providing the factual reasons for such certification, in the Federal Register along with the general notice of proposed rulemaking for the rule. The agency shall provide such certification and statement to the Chief Counsel for Advocacy of the Small Business Administration.".

(2) TECHNICAL AND CLARIFYING AMENDMENTS.—Section 612 of title 5, United States Code, is amended—

(A) in subsection (a) by striking "the Committees on the Judiciary of the Senate and the House of Representatives, the Select Committee on Small Business of the Senate, and the Committee on Small Business of the House of Representatives" and inserting "the Committees on the Judiciary and Small Business of the Senate and House of Representatives"; and

(B) in subsection (b) by striking "his views with respect to the effect of the rule on small entities" and inserting "views on the rule and its effects on small entities".

On page 72, line 15, strike out "(e)" and insert in lieu thereof "(f)".

Mr. NUNN. Mr. President, this amendment assures that the Nation's small business community will derive full benefit from the fundamental changes to the regulatory process proposed in S. 343.

The amendment accomplishes this goal by establishing a direct statutory link between the existing requirement to the Regulatory Flexibility Act of 1980 [RFA] and the requirements of S. 343.

Under the Regulatory Flexibility Act, whenever a Federal agency proposes a rule that is expected to have a significant impact on a substantial number of small entities, the agency is required to conduct a regulatory flexibility analysis, with opportunities for public participation, to minimize the expected burden.

The Nunn-Coverdell amendment would, No. 1, require that a proposed rule, determined to be subject to the RFA, be considered to be a major rule for the purpose of cost-benefit analysis and periodic review. But we exclude the comprehensive risk assessment required under S. 343.

No. 2, the amendment would require agencies to provide factual support for any determination that a proposed regulation would not have a significant impact on a substantial number of small businesses and is exempt from the Regulatory Flexibility Act.

No. 3, the amendment provides for prompt judicial review of an agency certification that the Regulatory Flexibility Act does not apply to a proposed rule.

This is a bipartisan amendment.

This amendment enjoys strong support within the small business community.

I ask unanimous consent that copies of letters from some of those who are supporting this amendment in the small business community be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

NATIONAL FEDERATION OF
INDEPENDENT BUSINESS,
Washington, DC.

SUPPORT THE BIPARTISAN NUNN-COVERDELL AMENDMENT TO S. 343

S. 343, the Dole/Johnston substitute, currently defines "major rules" as regulations that have more than a $50 million dollar impact. Those major rules are then subject to cost benefit analysis, risk assessment and periodic review.

Unfortunately, some regulations that have a significant impact on small businesses and other small entities may not meet the $50 million threshold. A regulatory cost that may be almost insignificant to a Fortune 500 company could have a devastating effect on a particular segment of the small business community. Or, the agency's estimate that the impact is less than $50 million may be significantly undervalued.

A good example of an expensive regulation that falls under the threshold is OSHA's so-called "fall protection" rule requiring roofers to wear harnesses with lifelines that are tied to the roof any time they are at least six feet above the ground. Not only will the total cost to small roofing companies be much more than $50 million, many believe the rule may create a greater danger for workers who will have to worry about tripping over each other's safety riggings.

The Nunn-Coverdell amendment, which is scheduled to be voted on after 5 p.m. on Monday, July 10, solves this problem by requiring all regulations that are currently subject to the Regulatory Flexibility Act (Reg-Flex) of 1980 to be subject to cost-benefit analysis and periodic review—but not risk assessment.

Which regulations currently fall under Reg-Flex? Reg-Flex requires the regulatory burden be minimized on those regulations which have a "significant impact on a substantial number of small entities." Last year, 127 regulations contained a Reg-Flex analysis. Small entities, which often bear a disproportionate share of the regulatory burden, include small businesses, small local governments (like towns and townships) and small non-profit organizations.

The Nunn-Coverdell amendment also allows prompt judicial review of an agency's non-compliance with the Reg-Flex Act. If an agency incorrectly states that a regulation does not have a significant impact on small business—and it does—a judge will have the authority to put the regulation on hold until the Federal agency re-evaluates the regulation and reduces the burden on small business as much as possible.

Agencies would also be required to provide factual support to back up their decisions to ignore Reg-Flex.

The bipartisan Nunn-Coverdell amendment is a major priority for small business and has NFIB's strong support. Regulatory flexibility was recently voted the third most important issue at the White House Conference on Small Business. Please call NFIB at (202) 484-6342 for additional information.

UNITED STATES OF AMERICA
CHAMBER OF COMMERCE,
Washington, DC, July 10, 1995.

DEAR SENATOR: On behalf of the 215,000 business members of the U.S. Chamber of Commerce, 96 percent of whom have fewer than 100 employees, I urge your strong and active support for two amendments to be offered to S. 343, the "Comprehensive Regulatory Reform Act of 1995." The Nunn/Coverdell amendment ensures that small businesses benefit from the broader protections of S. 343, and the Abraham/Dole amendment guarantees a voice for small businesses in the regulatory look-back process. To achieve meaningful reform for that segment of our society hit hardest by regulatory burdens—small businesses—these amendments are critical.

The Nunn/Coverdell amendment recognizes that there may be many instances where a regulatory burden on small businesses could be severe even though the $50 million threshold for a complete regulatory review has not been triggered. By deeming any rule that trips an analysis under the Regulatory Flexibility Act of 1980 a "major rule," small entities will receive the protection they need and deserve from the extreme rigors they often experience from even the best-intentioned regulations.

To address the problems associated with the mountain of existing regulations and their impact on small entities, the Abraham/Dole amendment will boost the power of small businesses to benefit more effectively from the sunset provisions of Section 623 of S. 343. Small companies often need all of their people-power and resources simply to keep afloat. They do not always have the ability to petition federal agencies for review of particularly onerous existing regulations. By vesting within the Small Business Administration responsibility for ensuring that regulations that are particularly problematic for small businesses are not excluded from the regulatory sunset review process, small businesses can be assured that their proportional needs are always considered.

The Chamber hears regularly from its small business members that federal regulations are doing them in. Support for these two amendments will validate that their cries have been heard and acted upon. I strongly urge your support for both the Nunn/Coverdell amendment and the Abraham/Dole amendment.

Sincerely,

R. BRUCE JOSTEN.

SMALL BUSINESS LEGISLATIVE COUNCIL,
Washington, DC, July 10, 1995.

Hon. SAM NUNN,
Hon. PAUL COVERDELL,
U.S. Senate,
Washington, DC.

DEAR SENATORS: On behalf of the Small Business Legislative Council (SBLC), I wish to offer our support for your amendment to ensure that proposed regulations, with the potential to have a significant impact on small businesses, are subject to a comprehensive cost benefit analysis. It makes sense to us to have as much data available as possible to assess the full impact proposed regulations will have on small business.

As you know, the delegates to the recent White House Conference on Small Business included several references to the regulatory process among their top recommendations. Clearly, the cumulative burdens of the current regulatory regime weighed heavily on their minds. We need to make certain that we do not add to that regulatory burden unnecessarily.

Along with the language in the Dole/Johnston version of S. 343 which allows for judicial review of agencies' compliance with the Regulatory Flexibility Act, your amendment will ensure we have a meaningful way to truly assess the impact of regulations upon small business and to ensure we do something to mitigate the impact.

The Small Business Legislative Council (SBLC) is a permanent, independent coalition of nearly one hundred trade and professional associations that share a common commitment to the future of small business. Our members represent the interests of small businesses in such diverse economic sectors as manufacturing, retailing, distribution, professional and technical services, construction, transportation, and agriculture. Our policies are developed through a consensus among our membership. Individual associations may express their own views. For your information, a list of our members is enclosed.

Sincerely,

JOHN S. SATAGAJ.

MEMBERS OF THE SMALL BUSINESS LEGISLATIVE COUNCIL

Air Conditioning Contractors of America.

Alliance for Affordable Health Care.

Alliance of Independent Store Owners and Professionals.

American Animal Hospital Association.

American Association of Equine Practitioners.

American Association of Nurserymen.

American Bus Association.

American Consulting Engineers Council.

American Council of Independent Laboratories.

American Gear Manufacturers Association.

American Machine Tool Distributors Association.

American Road & Transportation Builders Association.

American Society of Interior Designers.

American Society of Travel Agents, Inc.

American Subcontractors Association.

American Textile Machinery Association.

American Trucking Associations, Inc.

American Warehouse Association.

AMT-The Association of Manufacturing Technology.

Architectural Precast Association.

Associated Builders & Contractors.

Associated Equipment Distributors.

Associated Landscape Contractors of America.

Association of Small Business Development Centers.

Automotive Service Association.

Automotive Recyclers Association.

Automotive Warehouse Distributors Association.

Bowling Proprietors Association of America.

Building Service Contractors Association International.

Christian Booksellers Association.

Cincinnati Sign Supplies/Lamb and Co.

Council of Fleet Specialists.

Council of Growing Companies.

Direct Selling Association.

Electronics Representatives Association.

Florists' Transworld Delivery Association.

Health Industry Representatives Association.

Helicopter Association International.

Independent Bankers Association of America.

Independent Medical Distributors Association.

International Association of Refrigerated Warehouses.

International Communications Industries Association.

International Formalwear Association.

International Television Association.

Machinery Dealers National Association.

Manufacturers Agents National Association.

Manufacturers Representatives of America, Inc.

Mechanical Contractors Association of America, Inc.

National Association for the Self-Employed.

National Association of Catalog Showroom Merchandisers.

National Association of Home Builders.

National Association of Investment Companies.

National Association of Plumbing-Heating-Cooling Contractors.

National Association of Private Enterprise.

National Association of Realtors.

National Association of Retail Druggists.

National Association of RV Parks and Campgrounds.

National Association of Small Business Investment Companies.

National Association of the Remodeling Industry.

National Chimney Sweep Guide.

National Electrical Contractors Association.

National Electrical Manufacturers Representatives Association.

National Food Brokers Association.

National Independent Flag Dealers Association.

National Knitwear & Sportswear Association.

National Lumber & Building Material Dealers Association.

National Moving and Storage Association.

National Ornamental & Miscellaneous Metals Association.

National Paperbox Association.

National Shoe Retailers Association.

National Society of Public Accountants.

National Tire Dealers & Retreaders Association.

National Tooling and Machining Association.

National Tour Association.

National Wood Flooring Association.

NATSO, Inc.

Opticians Association of America.

Organization for the Protection and Advancement of Small Telephone Companies.

Petroleum Marketers Association of America.

Power Transmission Representatives Association.

Printing Industries of America, Inc.

Professional Lawn Care Association of America.

Promotional Products Association International.

Retail Bakers of America.

Small Business Council of America, Inc.

Small Business Exporters Association.

SMC/Pennsylvania Small Business.

Society of American Florists.

Turfgrass Producers International.

NATIONAL ROOFING
CONTRACTORS ASSOCIATION,
Washington, DC, July 7, 1995.

Hon. SAM NUNN,
U.S. Senate, Washington, DC.

DEAR SENATOR NUNN: The National Roofing Contractors Association (NRCA) supports the amendment that you will offer with Senator Coverdell to remove the $50 million "major rules" floor for small business in the Comprehensive Regulatory Reform Act of 1995 (S. 343), in order to apply cost-benefit and periodic review to all regulations impacting small business.

Federal agencies are poor at accurately estimating the cost of their regulations. OSHA estimated $40 million annually for its new Fall Protection Standard (Subpart M) and said that it would not have a significant impact on small business. NRCA estimates its impact to be at least $250 million annually, and it has already wreaked havoc on the industry.

Another example is OSHA's 1994 standard for asbestos containing roofing material (ACRM). OSHA estimated the annual costs to the roofing industry to be approximately $1 million annually, while NRCA estimated approximately $1.3 billion! OSHA's cost figures only took into consideration Built-up Roofing (BUR) removal, and it had failed to cover the vast majority of roof removal and repair jobs. NRCA estimated that removals of asbestos-containing BUR constituted less than 12 percent of all roof removal jobs.

Your amendment would end the tendency for agencies to underestimate costs by making all regulations now subject to the Regulatory Flexibility Act of 1980 (Reg Flex), subject to S. 343's cost-benefit analysis and periodic review requirements. And we appreciate your language giving judges the authority to immediately stay regulations if necessary.

NRCA is an association of roofing, roof deck, and waterproofing contractors. Founded in 1886, it is one of the oldest associations in the construction industry and has over 3,500 members represented in all 50 states. NRCA contractors are small, privately held companies, and our average member employs 35 people with annual sales of $3 million.

Sincerely,

CRAIG S. BRIGHTUP,
Director of Government Relations.

NATIONAL ASSOCIATION OF
TOWNS AND TOWNSHIPS,
Washington, DC, July 7, 1995.

Hon. SAM NUNN,
U.S. Senate, Washington, DC.

DEAR SENATOR NUNN: The National Association of Towns and Townships (NATaT) strongly supports the Nunn-Coverdell amendment to S. 343 that would require all regulations currently subject to the Regulatory Flexibility Act of 1980 (RFA) to be subject to cost-benefit analysis and periodic review.

NATaT represents approximately 13,000 of the nation's 39,000 general purpose units of local governments. Most of our member local governments are small and rural and have fewer than 10,000 residents. Many of these small communities have very limited resources available to provide those services required of them such as fire and police protection, road maintenance, relief for the poor and economic development. Consequently, many regulations that have less than a $50 million threshold have a very significant impact on small towns and townships.

A good example is the commercial drivers license (CDL) requirement for public sector employees required by the Motor Vehicle Safety Act of 1986. While that law may not have seemed to have a significant impact, it had a significant impact on small townships that had to pay for the training and testing of drivers to obtain a CDL, especially those townships which use part-time drivers for snow removal or for emergency response to floods or tornados. Recently, drug and alcohol testing requirements were mandated for those who hold CDL's, adding to the cumulative impact.

Your amendment will also allow prompt judicial review of an agency's non-compliance with the RFA if an agency states incorrectly that a regulation will not have a significant impact on small entities. This has been a continual problem Agencies have often claimed no significant economic impact on small entities in their regulatory flexibility analysis while giving no justification for their reasoning, though we have believed quite the opposite.

Mr. NUNN. Mr. President, such a display of strong support for the Regulatory Flexibility Act has a very long history within the small business community, going back to the late 1970's. The Regulatory Flexibility Act of 1980 has been looked upon as the small business community's first line of defense with regard to the burdens of Federal regulations. Recognizing that the effective functioning of government certainly requires regulations, the Regulatory Flexibility Act was designed to compel agencies to analyze their proposed regulations, with opportunities for public participation, so that the final regulation imposes the least burden on small businesses.

Mr. President, given my focus today on the needs of the small business community, my remarks may suggest to my colleagues that the Regulatory Flexibility Act offers protections only to small business. In fact, the act's protections are available to a fairly broad range of small entities in addition to small businesses, including small units of local government, educational institutions, and other not-for-profit organizations. My friend from Ohio, Mr. GLENN, was especially vigilant regarding the application of the Regulatory Flexibility Act to small units of local government during his tenure as chairman of the Committee on Governmental Affairs.

Enactment of the legislation that became the Regulatory Flexibility Act was a key recommendation of the 1980 White House Conference on Small Business. Last month, small business persons from across the Nation came together for the 1995 White House Conference on Small Business.

It comes as no surprise that issues relating to regulatory relief were key topics of discussion among the delegates at the 1995 conference. They made clear their strong concerns regarding the current Federal regulatory process, from the way agencies design new regulations to how the agencies implement the regulations under their charge.

Many of the key features of S.343, and other legislative proposals to provide greater discipline to the regulatory process, were endorsed in the recommendations voted upon by the White House Conference delegates. In particular, the White House Conference's recommendations on regulatory reform called for assessing more proposed regulations against rigorous cost-benefit standards. Similarly, the broader use of risk assessment, based on sound scientific principles and compared to real world risks, were included within a number of recommendations voted the top 60 recommendations from the 1995 conference. Other conference recommendations called for the periodic review of existing regulations to establish their continuing need and to determine if they could be modified, based upon experience, to make them less burdensome.

Finally, Mr. President, the delegates to the 1995 White House Conference on Small Business adopted recommendations to strengthen the Regulatory Flexibility Act in many of the ways being done by the provisions of S. 343, and by the Nunn-Coverdell amendment. Action today to strengthen the Regulatory Flexibility Act may well be the most prompt congressional response to a recommendation from any White House Conference on Small Business.

Mr. President, in addition to establishing a statutory link between the Regulatory Flexibility Act and the requirements for cost-benefit analysis under S. 343, my amendment takes other steps to enhance the effectiveness of the regulatory flexibility process. First, an agency certification that a proposed regulation would not have a significant impact on a substantial number of small businesses would have to be backed up by facts. This is not the case today. Small business advocates complain about their being deprived of the act's protections by such unwarranted certifications of non-applicability.

Along the same lines, the Nunn-Coverdell amendment makes possible a judicial challenge of such unwarranted certifications early in the regulatory process. Abuse is prevented by requiring that the judicial challenge be brought within 60 days of the certification and in the Court of Appeals for the District of Columbia Circuit. Supporters of our amendment within the small business community believe that this provision and the enhanced judicial enforcement of the act already contained in the bill will make the agencies take more seriously their responsibilities under the Regulatory Flexibility Act.

I know that during the debate on this provision concern will be expressed that the amendment will substantially overburden the regulatory staff within the various departments and agencies. They may cite figures drawn from the semiannual regulatory agenda which suggest that 500 or even 1,000 additional rules may be subject to cost-benefit analysis under the Nunn-Coverdell amendment. I believe these figures are inflated and inaccurate for the reasons that will, no doubt, be subsequently discussed.

In contrast, I am confident that the actual number is substantially smaller, certainly less than 200. By the time you count those proposed regulations within a $50 million or $100 million threshold, a number will be double counted: The number of proposed regulations covered is probably somewhere around 150. Even that number may be inflated by proposed rules that are exempt under S. 343's definition of rule.

My estimate, Mr. President—and I recognize that it is an estimate that is based upon 14 years of experience under the Regulatory Flexibility Act by the career staff of the Office of the Chief Counsel for Advocacy at the Small Business Administration, the office charged with monitoring agency compliance with the Regulatory Flexibility Act. It takes into consideration regulations for which regulatory flexibility analyses were done. It also takes into consideration those situations in which the Office of Advocacy believed the Act applied and the agency certified to the contrary.

While I agree that we cannot give the agencies an impossible set of tasks in reviewing proposed and existing regulations, we must not loose sight of the regulated public. I believe that they have a right to demand that proposed regulations be thoroughly analyzed, and that they meet rigorous standards of cost-benefit analysis, risk assessment when appropriate, and regulatory flexibility for small entities, Similarly, the regulated public has a right to expect that existing regulations be reviewed for their continuing utility, and when possible, modified to reduce their burden.

Mr. President, I urge my colleagues to support the amendment.

Mr. JOHNSTON. Will the Senator yield for a question?

Mr. NUNN. Yes.

Mr. JOHNSTON. Mr. President, I will not subject the Senator to a long series of questions because I sympathize with the condition of his voice.

Mr. President, we have had conversations, both Senators from Georgia and myself and my staff, Senator ROTH, and others, concerning the problem of agency overload. It seems to me that all sides in this endeavor want to arrive at the same place, and that is the maximum protection for small business but a workable system for the agencies so that the agencies will not be overloaded.

We had proposed to the Senator from Georgia an alternative, which is, in effect, to have the same kind of fix that Senator ABRAHAM had in his amendment, which is to give OIRA, in effect, a veto over these procedures.

Mr. President, I ask unanimous consent that the amendment that the Senators from Georgia and I have discussed be printed in the RECORD at this point.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

On page 14, line 10, strike out "or".

On page 14, line 16, add "or" after the semicolon.

On page 14, insert between lines 16 and 17 the following new subparagraph:

"(C) any rule or set of closely related rules, not determined or designated to be a major rule pursuant to subparagraph (A) or (B), that is designated as a major rule pursuant to section 622(b)(2) (and a designation or failure to designate under this subparagraph shall not be subject to judicial review)."

On page 20, insert between lines 12 and 13 the following new paragraph:

"(2) If the agency has determined that the rule is not a major rule within the meaning of section 621(5)(A) and has not designated the rule as a major rule within the meaning of section 621(5)(B), the Chief Counsel for Advocacy at the Small Business Administration may publish in the Federal Register a determination, and accompanying factual findings supporting such determination, drawn from the initial regulatory flexibility analysis, that the proposed rule should be designated as a major rule because of its substantial economic impact on a significant number of small entities. Such determination shall be published not later than 15 days after the publication of the notice of proposed rulemaking. The Director or designee of the President shall designate such rule as a major rule under paragraph (1) unless the Director or designee of the President publishes in the Federal Register, prior to the deadline in paragraph (1), a finding regarding the recommendation of the Chief Counsel for Advocacy that contains a succinct statement of the basis for not making such a designation."

On page 20, line 13, strike out "(2)" and insert in lieu thereof "(3)".

On page 39, line 22, strike out "and".

On page 39, line 24, strike out the period and insert in lieu thereof a semicolon and "and".

On page 39, add after line 24 the following new subparagraph:

"(C) an agency certification that a rule will not have a significant economic impact on a substantial number of small entities pursuant to section 605(b)".

On page 69, line 5, insert after "entity", ", upon publication of the final rule,".

On page 69, line 7, strike "A court" and insert in lieu thereof "Notwithstanding section 625(e)(3), a court".

Mr. JOHNSTON. Mr. President, I will not propose that amendment today, but I simply ask the Senator, in fact both Senators from Georgia, if they will continue to work with us with a view to dealing with this problem of agency overload, hoping to find some alternative—if not the one that I have sent to the desk for printing, then some other alternative, so that we may deal with that question of overload.

Mr. NUNN. Mr. President, I say to my friend from Louisiana that the answer is yes. I will certainly continue to discuss any modification of this amendment that makes sense from the small business perspective, and also from the point of view of regulatory overload. This is a difficult area. None of us knows precisely what the numbers of regulations that are going to be affected here. So we are dealing with an unknown. But I do think that when we are in doubt, we ought to tilt toward not having a regulatory burden overwhelming the small business community. That would be my perspective. But I will be glad to continue to try to work with him in this regard because I know he has the same goal. We will continue to discuss it even as we debate it here on the floor.

Mr. JOHNSTON. Mr. President, I thank the Senator from Georgia for his answer.

Mr. NUNN. Mr. President, I yield the floor.

Mr. GLENN addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. GLENN. Mr. President, I withhold.

Mr. COVERDELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. COVERDELL. Mr. President, first I want to thank my colleague from Georgia, Senator NUNN, for his dedication to this effort on behalf of small business. And we are all particularly sympathetic to the malady with which he returned from the recess. We wish him well soon.

I also want to answer the question of the Senator from Louisiana. As we continue through the process with Senator DOLE and his bill, we would obviously keep on the table discussions to try to facilitate his concern. We did not have enough time to talk a little earlier. But while we remain concerned about agency overload, I think the Senator from Louisiana would join with myself and the Senator from Georgia and others in sympathy for the overload that small business America has been suffering for too long, way too long.

Just to cite some of the figures, sometimes I think we forget what we are talking about when we talk about small business. There are over 5 million employers in the United States. Sixty percent of them are small businesses that have four—four—employees or less.

If you run a family business, or any endeavor, you understand what a limited resource that is standing against the aura of the Federal Government. I remember years ago walking into our family business. My mother had come down to help us. We had four—myself, my father, my mother and one other at that time. I looked across the table. She was just staring across the room. This is many regulations ago. I asked her what the problem was. She had some government form in front of her, and she was literally scared to death. She was afraid that she was going to make a mistake that would somehow do harm to our family and our company. Even at that time it was threatening. And since that time—probably some 15 years ago—it has been regulation after regulation after regulation by the hundreds, by the thousands. People that had four employees or less had an enormous problem trying to respond to what all these regulations ask of small business.

Here is an even more startling figure. Of the 5 million companies, 94 percent have 50 employees or less. That means only 6 percent of the companies in the United States fall into this category where they have the kinds of resources—even as expensive as they are—to defend themselves.

Half the small businesses are started with less than $20,000. More than half the 800,000 to 900,000 businesses that are formed each year will go out of business within 5 years. One of the reasons is they cannot keep up with what their Federal Government is demanding of them.

From 1988 to 1990 small businesses with fewer than 20 employees accounted for 4.1 million net jobs. Large firms—that is the 6 percent—lost half a million jobs.

The point I am making here is that these small businesses need a lot of nurturing and help and assistance from a friendly partner and not a lot of burden and bludgeoning from a bully partner. As we have restructured corporate America, it is the small business that has given us the most to be optimistic about. They are creative, they take risk, and they are hiring people. They are virtually the only sector right now that is hiring people.

The point I am making is that we need to underscore how much attention we as a Congress need to give to facilitating small business. We have a lot of financial problems in our country that we have to resolve in the very near term. That is what all the balanced budget fights are about. But one of the four key components to fixing our financial discipline today is to expand the economy. We have such a large economy that a modest expansion gives us enormous relief, and the one place that we have the best chance of expanding our economy is small business. It literally makes no sense for us to not only be not attentive to relieving them from regulatory burden and threat and cost, but we should be very focused on the reverse; that is, creating every incentive that we can think possible to aid and abet small business.

Mr. President, the Congress has recognized this for a long time. And in 1980, as Senator NUNN has acknowledged, the Regulatory Flexibility Act was enacted. The idea was we were already worried about what was happening to small business. We were already treating small business like it was General Motors. So the Congress passed legislation that made the Government begin to become more flexible to analyze the proportionate impact of regulations on small business. The problem was that it did not require a cost analysis and there was no judicial review. So it had been ignored far too much.

So while the Congress came forward and said we are going to do this, we are going to really try to improve the situation for small business, it was a hollow promise. It has not achieved what it set out to do.

So the Nunn-Coverdell amendment takes the Regulatory Flexibility Act—which we have already passed; we have already acknowledged the purpose—and it said it will have to have meaning. It already requires extensive review and analysis. So we are simply saying that it will have to add a cost analysis and that there is a regulatory review so that it is enforceable, so that what the Congress meant to do in 1980 will in fact happen in 1995, 15 years later. That says something else about our Government.

The Senator from Louisiana has raised a legitimate problem. We are concerned about the administrative functions of Government. But if I have to choose between where the balance of the burden should rest, should it rest on the U.S. Government, the EPA, OSHA, the Labor Department, and their millions and their thousands of employees, or should it rest on the little company in Georgia that has three employees? And if I have to pick between those two, I am going with the little company in Georgia. Given the scope of the resources both have, the problem is a lot more fixable from a burden standpoint on the part of the Government than it is on that little firm and thousands of, millions of, others like it across the country.

This is a good amendment. This will help small business. If we help small business, Mr. President, they are going to help America because they are going to hire people looking for a job by the millions. And they are going to expand our economy.

Mr. President, I yield the floor.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. I wonder if I might have a few minutes on another topic. Is the time divided?

The PRESIDING OFFICER. Time is not divided.

Mr. DOLE. If I may be permitted to speak out of order on two other matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

FAILED APPROACH IN BOSNIA

Mr. DOLE. Mr. President, as the Serbian advance on Srebrenica continues, the administration, the U.N. bureaucracy, and some of our allies are busy defending their failed approach in Bosnia. They argue that the Bosnians are better off if the U.N. forces stay in Bosnia, that lifting sanctions on Serbia is the key to peace, that the Serb air defenses do not pose a threat to NATO air crews—the news from Bosnia notwithstanding.

In his response to a letter from Speaker GINGRICH and me, the President stated that he believed that the United States must support the U.N. protection forces' continued presence in Bosnia. He said that UNPROFOR had played and was playing a "critical role" in diminishing the conflict and was assisting the U.N. high commission on refugees in providing aid to the Bosnian population.

In order to believe that the United States and European approach in Bosnia is working, one simply has to play a game I call "let's pretend." The rules are simple. It goes like this:

Pretend that the U.N. forces are delivering humanitarian aid to those in need;

Pretend that the U.N. forces control Sarajevo airport;

Pretend that the U.N. forces are protecting safe havens such as Sarajevo and Srebrenica and that no Bosnians are dying from artillery assaults and shelling;

Pretend that there is a credible threat of serious NATO air strikes;

Pretend that the no-fly zone is being enforced;

Pretend that Serbian President Milosevic is not supporting Bosnian Serb forces;

Pretend that Bosnian Serb air defenses are not deployed against NATO aircraft and are not integrated into Serbia's air defense system.

Pretend that the rapid reaction force will react forcefully and rapidly under the same U.N. rules of engagement which have made UNPROFOR impotent;

Pretend that U.N. forces can stay in Bosnia forever and that we will never have to contemplate U.N. withdrawal.

Mr. President, if you can pretend all of the above, you can easily accept the administration's defense. On the other hand, if you react to reality and do not engage in multilateral make-believe, then you will not be persuaded by the administration's case. Without taking the time to review the last year or two or three in Bosnia, let us just look at the reports from the last week or so:

In Srebrenica, a so-called U.N. designated safe area, Serb forces overran U.N. observation posts and Serb tanks are within a mile of the town center—in fact, we have just had a report that they are even closer than that;

In Sarajevo, the hospital was shelled and more children were slaughtered;

Information surfaced that Bosnian Serb air defenses are tied into Belgrade's air defense system;

The no-fly zone was violated and NATO did not respond;

U.N. envoy Akashi assured the Bosnian Serbs that the United Nations would continue business as usual in the wake of the downing of U.S. pilot O'Grady and the taking of U.N. hostages.

Mr. President, these are only a few examples of the reality in Bosnia. It is this reality that should drive U.S. policy. It is this reality that has moved the Bosnian Government to reassess the U.N. presence in Bosnia. It is this reality that should prompt us to do the same.

The fact is that despite the presence of over 25,000 U.N. peacekeepers and despite the impending arrival of the rapid reaction force, the Bosnians are still being slaughtered, safe areas are under siege, and the United Nations continues to accommodate Serb demands and veto even limited military action designed to protect United States air crews. The fact is that the United Nations has become one of the means of securing Serb gains made through brutal aggression and genocide.

As Jim Hoagland aptly pointed out yesterday in the Washington Post, and I quote,

> The war has now reached a point where the U.N.'s value free equation of Serbs who are willing to kill with Bosnians who are willing to die cannot be sustained and cannot be allowed to spread deeper into the Clinton administration which too docilely accepted Akashi's veto on retaliation. Americans will no long support humanitarianism based on self-serving bureaucratic cynicism and fear.

Not my quote but a quote in the Washington Post from Jim Hoagland, who, I must say, has had a shift in his thinking recently.

The time for make-believe is over. The United Nations mission in Bosnia is a failure. The Bosnians deserve and are entitled to defend themselves. The United Nations must begin to withdraw and the arms embargo must be lifted. Therefore, I intend to take up a modified version of the Dole-Lieberman arms embargo bill following disposition of the regulatory reform bill.

Mr. President, I think every day it is worse and worse, if it can become worse, in Bosnia, particularly for the Bosnians. It seems to me it is high time to act.

I ask unanimous consent that the entire column in the Washington Post by Jim Hoagland be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, July 9, 1995]

BOSNIA: THE U.N.'S MORAL ROT

(By Jim Hoagland)

The Serb missilemen who shot down Capt. Scott O'Grady's F–16 over Bosnia committed attempted murder and got away with it. After a month, there has been no American retaliation for an act of treachery that once would have brought the heavens down on its perpetrators.

Understand why the American government swallowed this humiliation (without even a serious denunciation of the Serb politicians in Belgrade who oversaw the shoot-down), and you understand why the international effort in Bosnia has failed so miserably—and why it should now be terminated.

A line has been crossed in Bosnia, a line that separates humanitarian impulse from moral rot; a line that divides ineffectiveness from dishonor. The United Nations is now on the wrong side of that line, protecting the Serbs (and the status quo) from retaliation for having downed O'Grady and for killing, wounding, imprisoning and harassing British, French, Spanish, Danish and other soldiers operating in Bosnia under the U.N. peacekeeping flag.

This can only undermine U.S. and European support for keeping those troops there and continuing an arms embargo against Bosnia. It is now embarrassingly evident that in Bosnia and elsewhere U.N. "humanitarian" operations are guided by bureaucratic dedication to career and organization. There is no room for justice, or for outrage over the Serbs' long record of atrocity and betrayal, in the mandate of Yasushi Akashi.

These are the two straws that break the United Nations' back in Bosnia:

(1) Akashi, the Japanese diplomat who is Secretary General Boutros Boutros-Ghali's representative in Bosnia, actively blocked French and British efforts to form outside the U.N. command a rapid reaction force to strike back at the Serbs after hundreds of peacekeepers were taken hostage by the Serbs and then released in June.

The rapid reaction force will be under Akashi's control and will observe the same peacekeeping rules imposed on the 22,500-man international army already there, Akashi promised the Serbs in a secret letter disclosed to reporters by the Bosnian government.

The new troops, like the old troops, will not be permitted to make distinctions between Serb aggressors, who have "ethnically cleansed" Muslim territories and the forces of the U.N.-recognized Bosnian government trying to regain its lost lands. If Akashi has his way, the United Nations will go on equating Serbs who blockade food shipments with Bosnians who starve because those shipments do not get through.

(2) Following O'Grady's escape, Akashi, with the backing of France and Russia, vetoed any new bombing raids on the Serbs. The U.S. Air Force was denied the chastising effect of retaliation and the preemptive protection of taking out Serb anti-aircraft missile batteries that are linked to computer networks controlled from Belgrade.

The chilling hostage-taking changes nothing, except to make the United Nations command even more timid. The murder attempt on O'Grady changes nothing except to end effective enforcement of the no-fly zone over Bosnia. Score in this exchange: Serbs everything, U.N. nothing.

That is galling, but it is now probably too late to fix. "You have to respond immediately," Sen. John McCain (R-Ariz.), a fighter pilot in Vietnam and prisoner of war for 5½ years, told me. "I don't think you can retaliate a month or two later and expect to have any effect."

But McCain also made this telling point: "We made a mistake in not publicizing the fact that this shoot-down could not have happened without the Belgrade computers the missile batteries are hooked up to. Instead the administration is constantly sending an envoy" to negotiate with Serb President Slobodan Miloseyic—suspected by some in U.S. intelligence of having given the order both for the downing of the F–16 and the grabbing of the U.N. soldiers.

This is how moral rot spreads. The United Nations once served as useful political cover for the major powers, who wanted to limit their own involvement in the wars of ex-Yugoslavia. The administration was right to try to minimize the dangers of rupture within NATO over a unilateral U.S. lifting of the arms embargo against Bosnia.

But the war has now reached a point where the U.N.'s value-free equation of Serbs who are willing to kill with Bosnians who are willing to die cannot be sustained and cannot be allowed to spread deeper into the Clinton administration, which too docilely accepted Akashi's veto on retaliation.

Americans will not long support humanitarianism based on self-serving bureaucratic cynicism and fear. For better or worse, American participation in the arms embargo will soon come to an end and NATO member troops will come out. The war is going to get bloodier. And the bureaucrats of the United Nations, who now pursue policies that profoundly offend a common sense of justice and decency, will not be blameless for this happening.

RELATIONS WITH VIETNAM

Mr. DOLE. Mr. President, news reports indicate that President Clinton is on the verge of making a decision about normalizing relations with Vietnam. I understand an announcement may come as soon as tomorrow. Secretary of State Warren Christopher has recommended normalization. Many Vietnam veterans support normalization—including a bipartisan group of veterans in the Senate, led by the senior Senator from Arizona, JOHN MCCAIN. Many oppose normalization as well. Just as the Vietnam war divided Americans in the 1960's and 1970's, the issue of how to finalize peace with Vietnam divides Americans today.

At the outset, let me observe that there are men and women of good will on both sides of this issue. No one should question the motives of advocates or opponents of normalization. We share similar goals: Obtaining the fullest possible accounting for American prisoners of war and missing in action; continuing the healing process in the aftermath of our most divisive war; fostering respect for human rights and political liberty in Vietnam.

I can recall in, I think, 1969 attending the first family gathering of POW's and MIA's. Only about 100 people showed up. I think I may have been the only

Senator there. And I promised that group that within 3 months we would have a meeting at Constitution Hall, which seats 2,000 people, and we would fill it up. And we did. And I remember wearing the JOHN MCCAIN bracelet for a couple of years back in those days when JOHN MCCAIN was still a POW.

So I have had a long and I think consistent interest in the fate of POW's and MIA's starting way back when nobody knew the difference, when bracelets were not ordinary, nobody knew what a POW/MIA was for certain. And so it is something that I have had an interest in for a long, long time.

The debate over normalization is about our differences with the Government of Vietnam, not with the Vietnamese people. The people of Vietnam have suffered decades of war and brutal dictatorship. We hope for a better future for the people of Vietnam—a future of democracy and freedom, not repression and despair.

The debate over normalization is not a debate over the ends of American policy; it is a debate over the means. The most fundamental question is whether normalizing relations with Vietnam will further the goals we share. In my view, now is not the time to normalize relations with Vietnam. The historical record shows that Vietnam cooperates on POW/MIA issues only when pressured by the United States; in the absence of sustained pressure, there is little progress on POW/MIA concerns, or on any other issue.

The facts are clear. Vietnam is still a one party Marxist dictatorship. Preserving their rule is the No. 1 priority of Vietnam's Communist Government. Many credible sources suggest Vietnam is not providing all the information it can on POW/MIA issues. In some cases, increased access has only confirmed how much more Vietnam could be doing. This is not simply my view, it is a view shared by two Asia experts—Steve Solarz, former chairman of the House Subcommittee on Asia and Pacific Affairs, and Richard Childress, National Security Council Vietnam expert from 1981 to 1989. Earlier this year, they wrote:

> Vietnam could easily account for hundreds of Americans by a combination of unilateral repatriation of remains, opening its archives, and full cooperation on U.S. servicemen missing in Laos.

Again, not my quote but a quote by the two gentlemen mentioned. They conclude that,

> Whatever the reasons or combination of reasons, Vietnam, in the current environment, has made a conscious decision to keep the POW/MIA issue alive by not resolving it.

This is a view shared by the National League of POW/MIA families which has worked tirelessly to resolve the issue for many years. It is also a view shared by major veterans groups, including the American Legion, the largest veterans group. The media have reported that the Veterans of Foreign Wars, the second largest group is supportive of normalization. Let me quote from VFW's official position adopted at its 1994 convention:

> At some point in time but only after significant results have been achieved through Vietnam/U.S. cooperative efforts, we should . . . move towards normalizing diplomatic relations.

A more recent VFW statement makes clear that normalization is not opposed by the VFW if it leads to a fuller accounting of POW/MIA cases.

If President Clinton intends to normalize diplomatic relations with Vietnam, he should do so only after he can clearly state that Vietnam has done everything it reasonably can to provide the fullest possible accounting. That is the central issue. The United States has diplomatic relations with many countries which violate human rights, and repress their own people. But the United States should not establish relations with a country which withholds information about the fate of American servicemen. As President-elect Clinton said on Veterans Day, 1992, "I have sent a clear message that there will be no normalization of relations with any nation that is at all suspected of withholding any information" on POW/MIA cases. Let me repeat: "suspected of withholding any information." Let me repeat, "suspected of withholding any information" on POW/MIA cases. I hope the standard proposed by President-elect Clinton is the same standard used by President Clinton.

No doubt about it, the Vietnamese Government wants normalization very badly. Normalization is the strongest bargaining chip America has. As such, it should only be granted when we are convinced Vietnam has done all it can do. Vietnam has taken many steps—sites are being excavated, and some remains have been returned. But there are also signs that Vietnam may be willfully withholding information. Unless the President is absolutely convinced Vietnam has done all it can to resolve the POW/MIA issue—and is willing to say so publicly and unequivocally—it would be a strategic, diplomatic and moral mistake to grant Vietnam the stamp of approval from the United States.

I ask unanimous consent that the article from which I quoted earlier be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the San Diego Union-Tribune, Mar. 19, 1995]

PRISONER ISSUE CONTINUES TO TAINT RELATIONS

(By Richard T. Childress and Stephen J. Solarz)

Although the U.S. trade embargo with Vietnam has been lifted and consular-level liaison offices have been opened, relations between the United States and Vietnam are far from normal. The major remaining bilateral obstacle, the POW/MIA issue, is still cited by the Clinton administration as the primary impediment to normalization.

Multiple intelligence studies from the war through today conclude that Vietnam could easily account for hundreds of Americans by a combination of unilateral repatriation of remains, opening of its archives and full cooperation on U.S. servicemen missing in Laos, 80 percent in Lao areas controlled by the Vietnamese during the war.

While joint Vietnamese-American efforts to excavate aircraft crash sites and otherwise "clean up the battlefield" will continue to provide some accountability, it will not be enough. What is needed is a decision by Vietnam's ruling politburo to resolve the core POW/MIA cases, including those Americans last known alive in the custody or immediate vicinity of Vietnamese forces. That decision has not been made.

Reasons offered for this have included a divided politburo, a desire to exploit the POW/MIA issue for future financial or political advantage, a continuing residue of hostility or hatred toward Americans in Hanoi's ministries of interior and defense, and a fear of embarrassment. Some also speculate that Vietnam's leadership fears the United States will "walk away" once the issue is resolved.

Whatever the reason or combination of reasons, Vietnam, in the current environment, has made a conscious decision to keep the POW/MIA issue alive by not resolving it.

This fundamental aspect of Vietnamese emphasis on the POW/MIA issue has been central from the Paris negotiations in 1968–73 and through every administration since that time. Knowing it to be the most sensitive issue to Americans of all the other bilateral humanitarian concerns, Hanoi has consistently used it as the lodestar for leverage over American policy. Similarly, the compelling nature of the issue to Americans has caused it to be central in our dealings with Vietnam over the years.

This centrality to American policy-makers has, however, engendered different approaches. These have varied from concerted efforts to define the issue away and defuse it, to confronting the issue directly in order to resolve it. Even policy-makers who viewed the POW/MIA issue as a hindrance to healing or normalization demonstrated its centrality by expending much political capital in a failed attempt to prove the contrary.

Confronting the issue directly in negotiations has been the only demonstrable path to progress. It is, ironically, the path desired by the Vietnamese for reasons already outlined. When Reagan administration officials reopened the POW/MIA dialogue with Vietnam in 1981, the politburo was delighted. Referring to the 1978–81 freeze in U.S.-Vietnam talks, Hanoi's negotiators remarked that they "didn't know we still cared." That was also a challenge.

While the Clinton administration has rejected linking human rights directly to questions to normalization, that, too, is a potential obstacle. Strong feelings for linkage exist in some human-rights organizations, the American-Vietnamese community, the labor movement and in Congress. Linkage may not be desired as a matter of executive branch policy, but initiatives are possible in the new Congress along with other domestic pressures.

In the mid-1980s, legislation was proposed to use Vietnam's blocked assets to pay private claims, and significant lobby pressure was put on the Reagan administration and Congress to liquidate the assets. This initiative was opposed by the administration and rejected by the Congress. The objection then was that it would interrupt humanitarian cooperation, that official claims of the United States government would become secondary, and that such transactions should be negotiated in the context of normalization discussions. Sufficient funds existed to cover the private claims, and the United States, as the custodian of the funds, was positioned to settle them from a position of strength and leverage.

Vietnam's near-term and long-term economic goals are central to its leadership. High on the leadership's bilateral list is most-favored-nation (MFN) status and eligibility for the so-called generalized system of preferences (GSP), an additional trade concession.

But Vietnam's primitive economy and rudimentary trade mechanisms hamper its accession to the General Agreement on Tariffs and Trade and, accordingly, limit American flexibility on commercial issues. In addition, various legal and regulatory obstacles stand in the way. Some of the relevant provisions can be waived through executive action; under certain conditions legislation may be required.

In any event, since it is Vietnam, the Clinton administration should be reluctant to take any significant steps without close consultation with Congress.

Despite a significant loss of American leverage after the trade embargo was lifted, one could argue that the United States is again positioned for progress. This plateau allows the Clinton administration some breathing room to hold firm; to insist on meaningful, unilateral action by Vietnam to meet the four POW/MIA criteria set forth by President Clinton and to advance a Washington-Hanoi dialogue on human rights in Vietnam.

In the interim, it is in both countries' interests that Vietnam proceed with internal economic reforms. This would assist Vietnam in further integrating into Asia generally and the Association of Southeast Asian Nations (ASEAN) specifically. This long-term objective was shared in some respects throughout each American administration since the end of the Vietnam conflict.

Such integration would also provide greater exposure of the Vietnamese leadership to international economic and political norms, perhaps reduce some Vietnamese paranoia and help convince the Vietnamese that the POW/MIA issue is a "wasting asset" for them that needs to be resolved. Integration would also mesh with Vietnam's desire for greater international acceptance. Finally, it would serve to lessen Vietnam's perceived isolation as a potentially threatened neighbor of an increasingly assertive China.

However, American policy-makers also need to view this from an internal Vietnamese perspective that would expect such integration and acceptance to relieve pressure for political reforms and improved human rights. Vietnam has boldly endorsed universal declarations on human rights and attempted to join the cultural argument between Asia and the West, as if its political system were even comparable to those advancing the argument in Asia.

For the foreseeable future, Vietnam will have three major objectives: continued political control under the Communist Party, economic development that does not threaten such control, and a sense of security in its relationship with China.

While political change is inevitable over time, it will be due to internal factors, and American leverage will be at the margins. Economic reforms have spawned divisions in Vietnam's communist party and government, as well as regional tensions between the North and the South. Recriminations are already evident between reformers and hardliners, and a significant American role in the Vietnamese economic future will be limited.

After listening to wishful speculation about a "new tiger" in Asia, spawned by young consultants, service industries and lobby organizations with a vested interest in lifting the embargo, American businesses are again looking at political and economic realities they tended to ignore for the past four years.

Press accounts of Vietnam's economic potential before and after the lifting of the trade embargo are strikingly different.

Overblown stories of "the last frontier," "the emerging tiger in Asia," and the loss of business to foreigners were common themes before. Now, the media is beginning to report about corruption, unenforceability of legal codes, currency problems, bureaucratic hurdles, arbitrary decision-making by government officials, the paucity of infrastructure and the reality that Vietnam, with few exceptions, is almost a decade away from real profitability on an American business scale.

Profits for American companies operating in Vietnam are not likely for several more years. A lot of money is being spent and very little is being made.

Most experienced observers of Asia's geopolitics recognize, as well, that Vietnam is not of real strategic relevance to the United States in the 1990s. Nonetheless, armchair strategists, military planners, and some in Congress continue to argue otherwise, and worry aloud accordingly.

Still, Vietnam is certainly looking for strategic solace. Its historic fear of China is underscored today by Chinese claims on island groups in the South China Sea, plus China's burgeoning economic and political clout. Although elements of Vietnam's current agenda are variously shared by ASEAN, American military power and political commitments are not designed to ameliorate arguments between China and Vietnam. The United States facilitated the end of the proxy war between China and Vietnam in Cambodia not by taking sides but by opposing both unworthy claimants in an international and regional context.

The reality of the economic and strategic conditions now and in the foreseeable future does not make Vietnam central to American policy. The Vietnamese desire for real normalization with the United States is recognized, but the gap is wide and will remain so despite the wishful, almost romantic thinking of some.

Vietnam and the United States do have a unique relationship forged through shared recent history. Both sides can regret missed opportunities. And while the history of bilateral negotiations is tortured, the significance of historic antagonisms can only be muted by a credible effort to resolve the POW/MIA issue, the only path to real healing and normalization.

In sum, fully normalized relations between the United States and Vietnam are not on the immediate horizon. Vietnam will remain, in an economic and strategic sense, of little importance to the United States. Relations could conceivably move forward in the absence of a real economic or strategic rationale with significant progress on POW/MIA accounting through unilateral Vietnamese action. The longer Vietnam delays in this regard, the more likely normalization could be linked to human rights concerns, as well. If this occurs, it would be supported by those who, heretofore, believed Vietnam would be able to forge a politburo consensus and finally end the uncertainty of America's POW/MIA families.

Normalized relations are quite logical in an ideal world. Full normalization with Vietnam is desirable, but as a practical matter is not possible or prudent as long as it can be credibly maintained that Vietnam can do more to account for missing Americans.

If the Clinton administration proceeds with the elements of normalization as an objective, rather than an instrument to resolve bilateral issues, domestic and congressional opposition is likely to increase. That, in turn, would further reduce executive branch flexibility, and create a renewed round of recriminations as well as a new gauntlet for future negotiators.

Mr. KENNEDY. Mr. President, I came over to address another issue. I listened to the majority leader's statement with regard to actions that may be taken by the President in the foreseeable future.

I want to commend what I thought was an excellent presentation by my friend and colleague, Senator KERRY, as well as Senator MCCAIN, on this issue on Sunday, as well as Senator SMITH from New Hampshire who was talking about this issue, I thought, in a very constructive, positive, bipartisan way.

I think for those who are looking to try to deal with an issue of this complexity, of this importance, Members would be wise to take a few minutes and review their presentations. I thought there were particularly convincing arguments to be made in favor of moving the process forward at this time, and I thought the statements that were made by, as I mentioned, my colleagues Senator KERRY and Senator MCCAIN that support that change were very compelling. I thought the observations of Senator SMITH, which took a different view but, nonetheless, were related to the subject matter, were constructive as well.

The country will be addressing this issue in the next several days or weeks. I think our Members would be wise to review their comments because they are individuals who have spent a great deal of time on this issue and, obviously, have given it a great deal of thought. The fact that they come from different vantage points in terms of many other different issues, both in domestic and foreign policy, and still are as persuasive on this matter, I think really reflects some very, very constructive and positive thinking.

COMPREHENSIVE REGULATORY REFORM ACT

The Senate continued with the consideration of the bill.

AMENDMENT NO. 1491

Mr. GLENN. Mr. President, the pending legislation before us is an amendment by the Senator from Georgia, is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. GLENN. I particularly dislike having to oppose my good friend from Georgia, Senator NUNN. We worked together in the Governmental Affairs Committee on our bipartisan regulatory reform bill. We both supported the bill. I certainly have the very highest regard for him. He has always been a tireless champion of the interests of small business men and women in our country, and I certainly applaud him for that effort.

But I believe that while this amendment is very well-intentioned, I think there are two serious problems. I do not believe the amendment should be accepted. First, it revises the Regulatory Flexibility Act in a number of ways that I think do not fit with workable regulatory reform.

First, the amendment would require cost-benefit analysis of all reg flex rules. That is, rules that have a significant economic impact on a substantial number of small entities. This would be small businesses, local governments, and the like. Including these rules in the cost-benefit analysis process would increase the number of rules that have to go through that analysis by over 500 rules. That is not a figure grabbed out of thin air; that is the administration's estimate. It is based on actual Federal Register entries over the last year.

Now, OMB has estimated that if this passed this way, there could possibly be as many as 600 to 800 rules and regulations that would fall under this provision. That would raise the number of investigations and rulemaking procedures to something like three times our present number.

Now, agencies are going to be hard pressed with the budget cuts they are facing now just to do the analysis required if we just pass the Glenn-Chafee bill with its $100 million threshold. S. 343, which is before us now, would lower the threshold to an unreasonable $50 million. This amendment that we are considering now by the Senators from Georgia would have the potential of adding somewhere between 500 to the current rate, or up to as many as 800 more rules to that list. That just overloads the circuits.

To make the point even further, one estimate before our committee by one of the people testifying earlier this year was that each full-blown rule investigation costs somewhere around $700,000. If you take the 500 to 800 potential on this, that means we would be spending on investigations somewhere between $350 million for the 500 investigations, up to a potential of $560 million for the 800 investigations.

Let us say that is a pessimistic view of how much it costs, that $700,000. Even if you cut it in half, it means it is somewhere around $175 million up to, say, $270 or $280 million to do this increased number of investigations. So I say that agencies are going to be very hard pressed with these budget cuts to make it.

The second major problem with the amendment is the way it expands reg flex judicial review. The Glenn-Chafee bill is basically the bill brought out of committee earlier and is designated as S. 1001. As opposed to S. 1001, this amendment would allow judicial review of final rule reg flex analysis. As opposed to that, this amendment permits judicial review of proposed rule reg flex decisions.

Now, this expands enormously the number of judicial challenges that can be made, and it further overturns a principle that has been long held that court review should wait until an agency makes its final rulemaking decision and then challenge the whole process, whatever it is, and not permit judicial review challenges all along the way, which means that the persistent challenger can keep something bogged down in court for years and years. It can literally bog down the whole process, this number of new rulemaking procedures that would have to be reviewed.

So allowing judicial review of preliminary decisions about whether a rule is even subject to reg flex, which this would do, will bog down agencies and use more tax dollars unnecessarily and be a full employment bill for lawyers, basically. I do not think that should be the objective of this legislation.

Mr. President, further, I must admit that I do not understand exactly how this whole thing would work. It would increase the complexity, as I see it, and it would create more judicial review, to be added to our expense in a substantial way.

Let me say that the Regulatory Flexibility Act was passed by Congress as a way to ensure that agencies would evaluate the impact of proposed regulations on small businesses and other small entities such as local governments. The act was also intended to ensure that agencies consider less burdensome and more flexible alternatives for these small entities.

I have supported the reg flex act from its inception when passed here a number of years ago. But the legislation before us and the amendment we are considering now would fundamentally change the Regulatory Flexibility Act by making its considerations the controlling factor, the controlling decisional criteria, for the very promulgation of a rule. I do not think that is the way we ought to be going. We should ensure that the Federal Government is more sensitive to the needs of small business. I certainly agree with that. That is why the Glenn-Chafee bill, S. 1001, provides for judicial review of final reg flex decisions, and the whole process can be challenged at that one time. It does not permit judicial challenge at each step along the way, which means multiple judicial review, and additional ways of stalling what may be very good legislation.

Now, both bills also do provide—whether it is S. 343 or S. 1001, they both provide for congressional veto. In other words, a rule or regulation being put out by an agency can be challenged and brought back to the Congress and lay here under one bill for 60 days or 45 days for challenge here on the floor. That applies to small business provisions or any other provision.

So it seems to me that we have provided adequate protection, quite apart from the amendment as proposed by the Senators from Georgia.

I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. ROTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROTH. Mr. President, I want to take a moment to talk about the small business amendment to S. 343 offered by Senator NUNN and Senator COVERDELL.

This amendment would, of course, modify the definition of "major rule" to include rules that have a significant impact on small business and small governments as provided in the Regulatory Flexibility Act.

This would have the effect of requiring all reg-flex rules to be subject to cost benefit analysis and the decisional criteria, as well as to be subject to the petition process for reviewing rules.

Mr. President, as I have said before, I am deeply concerned about the impact of the regulatory burden on small business. Indeed, that is exactly why I support the amendment offered by Senator ABRAHAM earlier today.

The Nunn amendment in its present form does raise some serious problems. I had hoped we could use an approach for this amendment similar to the Abraham amendment. So far, we have not been able to reach that agreement.

While I believe strongly in the need for regulatory reform, it must be reform that is workable. I fear that, as drafted, this amendment could place too heavy a burden on the agencies, which are already pressed by the many other provisions of S. 343.

This amendment does not distinguish clearly between costly rules which deserve detailed analysis, and smaller rules which should not be subject to time-consuming and expensive analysis.

I hope that we can work together to address the concerns about the workability of this amendment, concerns shared by many of my colleagues. I would welcome the opportunity to use some of the good ideas in the Abraham amendment, such as giving OIRA greater responsibility in selecting rules for analysis, or to pursue other suggestions offered by my colleagues.

I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. COVERDELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COVERDELL. Mr. President, there has been an assertion that this would unleash a flood of regulatory burden on the agencies. I want to make the point again that quite the reverse would be the case. There has been a regulatory flood on the small businesses of America.

As I said in my opening statement, if I want to pick where I want that burden to be, it ought to be on the Government side, and not on the backs of all these small companies with 4 or less employees, or 50 or less employees, which is almost all the companies in America except for 6 percent.

Last year, 116 rules were swept up by the net of the Regulatory Flexibility Act, the act that is already in place.

Now, this idea that we would have 800, I think, is an unfounded assertion. If this had been in effect last year, it would have swept up 116, just as it did last year. Because there is a judicial review, there could be changes that would add some. I think it is most difficult to assert that we will have 500 or 1,000 new rules that would require action under this amendment.

Assuming, again, that there is more burden, it ought to be on the back of the Government and not on the back of the small business. We should be trying to protect the small businesses, not the regulators. That is where our concern is properly fixed—helping small businesses to generate new companies, new jobs, and expand.

Now, I would just like to take a moment, Mr. President, and review what is already required under the act which Congress has already passed, the Regulatory Flexibility Act of 1980. We have had any number of statements here asserting that we all support that.

Whenever an agency is required to publish a notice of proposed rulemaking for any proposed rule, the agency shall prepare and make available for public comment an initial regulatory flexibility analysis.

What does that include? Each initial regulatory flexibility analysis required under this act shall contain a description of the reasons why action by the agencies is being considered; a succinct statement of the objectives of and legal basis for the proposed rules; a description of, and where feasible, an estimate, of the number of small entities to which the proposed rule will apply; a description of the projected recording, recordkeeping, and other compliance requirements of the proposed rule, including an estimate of the classes of small entities which will be subject to the requirement and the type of professional skills necessary for preparation of the report or record; an identification to the extent practicable of all relevant Federal rules which may duplicate, overlap, or conflict with the proposed rule.

Each initial regulatory flexibility analysis shall also contain a description of any significant alternatives to the proposed rule which accomplish the stated objectives of political statutes and which minimize any significant economic impact of the proposed rule on small entities.

It goes on. Mr. President, that is what the Regulatory Flexibility Act required in 1980. I do not know how to do this without having a cost estimate. All we are saying in the amendment is that it should include a financial impact on small business—a financial impact on small business. And that there is an enforcement proceeding to ensure that is done—the judicial review.

I would be hard pressed, Mr. President, having fulfilled the act that already has been in effect for 14 years, I do not know how to do this as a former businessman and not understand economic consequences.

In other words, the argument I am making, Mr. President, is that the work is virtually done under the existing law. We are simply saying, Mr. President, that the Government is going to have to do and certify what we all intended all of small business to think we were doing when we passed this act.

Several points, Mr. President. First, I think the assertion of the increased burden is without sufficient evidence. The evidence we have would suggest a modest increase.

Second, Mr. President, the act that is already required of the agencies requires virtually all that is necessary already. If we spent the money to do all this work, why not have the fundamental question before the country and the American people: What is the cost going to be?

The average small businessman today is spending $5,500 per employee; the average American family is spending $6,000 a year because of the surge of regulation. We ought to know what the impact of these regulations would be.

Last, Mr. President, the point I would like to make is that we ought to be in the business of being more concerned about the small business person who has such limited resources and their ability to deal with one regulation after another after another than with worrying about what the regulatory overload will be on the people who are making all these regulatory reviews.

Mr. President, maybe a side effect would be that the agency will be more careful in determining whether or not it needs to propose a new regulation. That is another way we could affect what the ultimate cost is of the review of the regulation. They might start thinking, for a change, do we need it? And my guess is that this amendment, in fact the overall underpinnings of the bill itself, will suggest that the Government needs to be a little more thoughtful about imposing yet another requirement, another burden, and another form on that little company of two or three people, all over America, who have so little ability to respond or know, even, what the new regs require.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, we all want and hope and believe in a significant and a meaningful regulatory reform. No one wants rules that do not make sense or are not cost effective. No one wants, or should want, regulatory requirements that exceed real needs. We want Government to be smart, efficient, reasonable and practical.

There are plenty of regulatory horror stories, some of which are accurate, some of which are not. There is more than enough evidence, though, for us to be convinced of the fact that the regulatory process needs fixing. It has needed fixing for some period of time.

We have been in the process of reforming it for years. Back in the late 1970's, when the Governmental Affairs Committee conducted a lengthy set of hearings and issued a multivolume report on the regulatory process, the findings in those hearings led directly to the Senate passage, in 1981, of Senate bill 1080, the number was at that time, by a unanimous vote, 94 to nothing.

S. 1080 looked similar in many ways to the legislation which we are considering this week. It had many of the same elements, including cost-benefit analysis of major rules, a procedure for reviewing existing rules, legislative review, and Presidential oversight.

S. 1080 did not make it into law because the coalition supporting it did not hold together once the bill got to the House. It was tough reform, and if it had been in place for the last 15 years we would not be here today with the legislation before us. We would undoubtedly have had a lot fewer horror stories and a lot more thoughtful regulation over the past decade and a half.

So we are here to try again, and I am all for it. We spent several months in the Governmental Affairs Committee earlier this year considering a bill introduced by Senators ROTH and GLENN which, with a few amendments, we reported to the full Senate for its consideration. Many of us think it is a solid bill. It was passed by a unanimous, bipartisan vote of 15 to nothing. It has cost-benefit analysis, risk assessment, legislative review, and a procedure for the review of existing rules. It is tough but balanced. It is a bill that makes sense.

The bill is tough, the Governmental Affairs bill, which is basically now the Glenn-Chafee bill. It is tough because it would require by law that every major rule be subject to a cost-benefit analysis. It would require that each agency assess whether the benefits of the rule that it is proposing or promulgating justify the costs of implementing it. It requires that agencies select the most cost effective rules among the various alternatives.

These two elements are key controls to rational rulemaking. The Governmental Affairs approach, now embodied in Glenn-Chafee, is tough because, by statute, it resolves once and for all the role of the President in overseeing the regulatory process. The bill gives the President the authority to oversee the cost-benefit analysis and the risk assessment requirements, and recognizes the unique contribution that a President, above all of the agencies, can make to rational rulemaking. It also gives Congress the right and the practical capability to stop a rule before it takes effect.

The Glenn-Chafee approach is tough because it allows for judicial review of an agency's determination as to whether or not a rule meets the $100 million economic impact test and because a rule can be remanded to an agency for the failure of the agency to do the cost-benefit analysis or risk assessment. It is tough because it requires existing major rules to be subject to repeal should the agency fail to review them in 10 years, according to the schedule and the requirements of the legislation.

The bill was reported out of Governmental Affairs, as I mentioned, by a unanimous bipartisan vote. It is a balanced bill, and this is the balanced half of it. It is balanced because it recognizes that many benefits are not quantifiable and that decisions about benefits and costs are, by necessity, not an exact science but require, often, the exercise of judgment. It is a balanced alternative because it would require that, to the extent the President exercises his oversight authority over the rulemaking process, that authority must be conducted in the public eye and with public accountability.

It is a very important part of the Glenn-Chafee bill that we have some sunshine on the rulemaking process right up to and including the office of the President and the OMB. It took us years to get to that point. President Bush promulgated an Executive order—President Clinton has promulgated a similar Executive order—that called for sunshine when rules are kicked upstairs to the White House for their consideration before final promulgation. This bill, this alternative which is called Glenn-Chafee, in a very significant step incorporates, or would incorporate into law, the basic elements of the Executive orders of Presidents Bush and Clinton.

The Glenn-Chafee bill is balanced because it does not subject all rules to congressional review, just the major rules. It is balanced because it uses information as a tool for assessing agency performance and makes that information available to everyone to judge and to challenge. It is practical because it does not overwhelm the rulemaking process by requiring cost-benefit analysis and risk assessment for less than major rules. It is balanced because, while requiring an analysis and certification by the agency as to whether the benefits of the rule justify the costs, it does not override the underlying statutory scheme upon which a rule is based.

I believe the amendment before us, to address the specific amendment on the floor, goes too far. It would provide for the interlocutory judicial review at an early stage in a proceeding in a way which could swamp both the regulatory process and the courts. What we are trying to do is reform this system and not swamp it and not make it worse. We all, again—hopefully all of us—want to reform this system, the cost-benefit analysis, with the kind of risk assessment which is essentially in both bills.

But what we must avoid doing is swamping either the regulatory system so that it becomes totally unworkable, or delaying it through interlocutory court proceedings, which will, in effect, make the regulatory system unworkable.

I do not think any of us want that. We want a system which is commonsensical and does not impose costs and burdens on this society where the benefits are inadequate. But surely there is a role for rules. There is a role for the rollback of rules, for the review of existing rules, and we have to make sure, both in terms of new rules and review of existing rules, that we have a process which can function in a practical way.

The amendment before us would add this interlocutory appeal from an agency determination that a rule will not have a significant impact on a small entity and, therefore, it does not require regulatory flexibility analysis.

One of the problems with having that interlocutory appeal is that it then opens up the court process to two appeals on the same rule. You have a rule up front to a court for an interlocutory appeal if an agency does not do a regulatory flexibility analysis. That then can go to the court of appeals. That then can be appealed to the court of appeals. That then can be appealed to the Supreme Court just on the question of whether or not the agency erred in failing to do a regulatory flexibility analysis. But that does not end it because there is still an appeal at the end on the subject of regulatory flexibility analysis. This time, however, on the question of whether or not, assuming the regulatory flexibility analysis was done, it was done correctly.

So the amendment before us has really two problems. One is that it will significantly increase the load on courts and the delays in the regulatory process. It does it unnecessarily because in the bill itself there is judicial review of a decision by an agency not to conduct a regulatory flexibility analysis. But it is done at the correct time, which is at the end of the process, and it is done at a time when both aspects of regulatory flexibility can be decided by a court at the same time: One, if there was a failure on the part of the agency to conduct the regulatory flexibility analysis, was that failure error; and, second, if there was a regulatory flexibility analysis, whether or not the analysis was correctly done. That is the more practical way to do it. That is the way to avoid both swamping courts in judicial review prematurely, and that is the way if we can avoid having two judicial reviews in effect of regulatory flexibility analysis relative to the same rule.

The amendment also is going to create a problem in that it is going to probably double the number of rules. We can debate how many more rules there are going to be subject to this elaborate cost-benefit analysis requirement if we adopt this amendment. But the best estimate that we can make is that it would at least double the number of rules that will be subject to that cost-benefit analysis. It is costly. It is something which delays the process. It is obviously necessary when it comes to major recalls. I think all of us agree on that. Both bills contain that. The question is whether or not, given the downsizing of Government, we can effectively then load onto agencies these kinds of burdens to increase so dramatically the requirement relative to cost-benefit analysis.

So for both those reasons, I hope that we would either defeat or modify the amendment before us because to put it in the middle of the rulemaking, to put this interlocutory review in the middle of the rulemaking process, will use the court systems unnecessarily. It will use them prematurely. And it will end up overloading both systems. That would be harmful for people who are participants in the regulatory process, whether they are favoring a regulation or opposing it.

Again, I emphasize, this can work both ways. There are many businesses that want to review existing rules. We want the reviews to go in a practical and a smooth way, too. There are many businesses which need new rules. For instance, the bottled water business has been waiting for a rule for years to try to put some restrictions on the representations of the type of water that is being sold as bottled water, as spring water, for instance. It is the business which is waiting for the rule. It is the business which is trying to stop the false representations relative to bottled water.

So this is not always the kind of outside groups versus business. This is frequently business that needs rules to be changed or added or amended. We have to make sure that this rulemaking process works in a practical and a functional way.

So, for that reason, I hope that the pending amendment will be defeated or modified.

I yield the floor.

Mr. JOHNSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, the Senator from Michigan referred to the interlocutory appeal, and, in fact, the Nunn-Coverdell amendment has been criticized because it allows two appeals, both an interlocutory appeal to be taken within 60 days of the notice of the proposed rulemaking and a later appeal.

Mr. President, I have just been discussing with the Senator from Georgia a modification of that amendment to make sure that the final appeal relates only to those classes of appeals which would not otherwise be subject to appeal under section 706 of the Administrative Procedure Act or under section 625 of this act, which are, in effect, final agency actions, so that both the appeal and the remedy, the final appeal under this bill, would be a very limited and narrow one. But I will describe that amendment when it comes up.

Mr. LEVIN. I wonder if the Senator will yield just on that point for a question.

Mr. JOHNSTON. Yes.

Mr. LEVIN. Is the amendment going to be modified so as to prevent an appeal on how a regulatory flexibility analysis has been conducted if there were an interlocutory appeal on the question of whether a regulatory flexibility analysis should be done? Will the modified amendment be precluding an appeal on how that regulatory flexibility analysis has been conducted at the end of the rulemaking process? Because that would be taking away from small business something that it now has, for instance, with small units of government. I do not know if that is the intent. I think it should be clear. But the double appeal point that I was making, I think, is slightly different from the double appeal point which has been made previously, which is that the interlocutory appeal that is provided here goes to the question of whether or not there should be a regulatory flexibility analysis, and that presumably there still would be an appeal at end of the process on the question of how that analysis had been conducted, assuming one is ordered. So that is still a double appeal.

Mr. JOHNSTON. The question is an appropriate one. The first appeal in the interlocutory appeal process would be on the question of major rules, whether it meets the $50 million threshold, whether it is a matter that involves the environment, health, and safety, or whether it has a significant impact on a substantial number of small businesses and, therefore, requires the regulatory flexibility. That appeal would be taken within 60 days and putting the notice in the Federal Register. The idea here is that you foreclose further appeals after that 60 days. Now there is in addition to that in the present Nunn-Coverdell amendment a more limited petition for review which allows you to get into the quality of the regulatory flexibility analysis.

What we are saying is if it is subject to an appeal under section 706 of the Administrative Procedure Act, or under section 625 of this act, then the quality of that regulatory flexibility analysis insofar as it relates to the question of whether the final agency action was arbitrary, capricious or an abuse of discretion, they would have in that appeal the right to test the regulatory flexibility analysis at that point.

For those which were not subject to that, they would have the ability to appeal in any court in the Nation that has jurisdiction and to ask for what would be an order to go back and do the reg-flex analysis.

Mr. LEVIN. Is that at the end of the process? Is there an appeal open at the end of the process to order a reg-flex analysis if there were no interlocutory appeal that had been asked?

Mr. JOHNSTON. Yes.

Mr. LEVIN. So you have a choice as to whether to take an interlocutory appeal on that issue or to make that part of the final appeal; is that correct?

Mr. JOHNSTON. You have a choice. If you wait until the final appeal, it would be a more limited choice because the only remedy provided there is for the court, in effect, to order the reg-flex analysis, and if that then would call for a modification in the rule, then the rule would then be modified, but there would be, for example, no stay of the rule because of the inadequacies of the reg-flex.

Mr. LEVIN. It was my question—I am unclear—is it the intent of the modified amendment that there could be either an interlocutory appeal on the question of whether or not a reg-flex analysis has to be made or that issue could be raised for the first time at the end of the rulemaking process, either one would be allowed?

Mr. JOHNSTON. No; the question of whether this is a rule which has a substantial, significant effect on a substantial number of small businesses, which is the trigger for the reg-flex, it is the intent here—and this language has not been drawn—it is the intent here that that test be only once.

Mr. LEVIN. And that it must be made on interlocutory appeal?

Mr. JOHNSTON. That is correct. That is the intent. It is a little difficult to give precise answers since the actual language has not been drawn. That is the intent. But as to the quality of that, you can test that only later after the reg-flex attempt.

Mr. LEVIN. I thank my friend from Louisiana for his answers, and I then would withhold any further comment until after we see the language on it. I wonder if the Senator will yield for one additional question.

Mr. JOHNSTON. Surely.

Mr. LEVIN. Is the intent that the rulemaking process be stayed during the interlocutory appeal on reg-flex?

Mr. JOHNSTON. No, not at all. That is the whole idea.

Mr. LEVIN. Is that clear in the language of the amendment?

Mr. JOHNSTON. We believe so, but if it needs to be further clarified, it can be. The idea here is that you want to have this determination made early enough in the process so that you can remedy the defects in the rule while the rule is still going on and not have to wait until it is all over with, because some of these rules take 2 or 3 years. And if you do not find out until, say, your final appeal is 6 or 9 months after the final rule, then you have to stay the rule and go back and do it all over again.

Mr. LEVIN. Of course, that is what judicial review is all about. There is presumably an incentive to do the process right. That is why there is judicial review at the end. And you do not wipe out judicial review at the end in any event. You still allow judicial review in many ways, so it is not as though you are doing a whole bunch of things up front and thereby precluding the review at the end.

Mr. JOHNSTON. No, but you would preclude a review, for example, on whether this is a major rule, whether it has $50 million, if that is the trigger, or $100 million, which I hope we can get an amendment in to make it $100 million. That question would be reviewed, would be finally reviewed on the interlocutory basis.

Does the Senator understand what I am saying?

Mr. LEVIN. Is it the intent of the sponsors of this bill, and the Senator indicates the sponsors of this amendment, to preclude judicial review at the end of anything which can be raised by interlocutory appeal at the beginning?

Mr. JOHNSTON. Will the Senator reask the question.

Mr. LEVIN. Is it the intention of the sponsor of the bill pending here, of the Dole-Johnston bill, and is it the Senator's understanding that it is the intention of the makers of this amendment, that the interlocutory appeal which is provided is the exclusive remedy to raise the issues that can be raised by interlocutory appeal and that if anyone fails to raise an issue, which could be raised by interlocutory appeal, by interlocutory appeal, it cannot then be raised at the end of the rulemaking process?

Mr. JOHNSTON. That is correct. And I hope our language will properly reflect that.

Mr. President, let me be a little more clear if not only for the purpose of this small business amendment, the reg-flex amendment, but also for the purpose of the whole bill. The reason for having the interlocutory appeal is that the question can be put at rest early in the process.

If, for example, an agency determines that the rule is likely to have an impact of less than $50 million a year, then it would not be a major rule, would not require the cost-benefit analysis, or the risk assessment. They would make that determination early on, file that in the record, and any party, any interested party, would then have 60 days from the time of that determination to make this interlocutory appeal on the question of whether it was a major rule because of the amount of dollars, whether it was a rule that affects health, safety, the environment, which in turn requires the risk assessment, or in this case whether it has a significant effect upon a substantial number of small businesses.

The idea is that if that appeal is not made within 60 days, that you are foreclosed from raising that later on in the process.

Keep in mind that if an appeal is made within the 60 days on the basis that they failed to make it into a major rule, that the agency itself could make a determination, could in effect moot the appeal by going back and doing the cost-benefit analysis and the risk assessment.

What we find under the present law in areas like NEPA, National Environmental Policy Act, agencies tend to err on the side of conservative in doing an environmental impact statement, which is much more involved than the environmental impact assessment. They will do the statement rather than the assessment many times because they do not want all their work to be thrown out X years later at the end of the process.

The result is that it frequently requires tremendous amounts of additional expense in doing that which the law would not otherwise require. And the reason for the interlocutory appeal is to be able to get that question determined up front and early so that the results of the whole system will not be thrown out.

The concern with the Nunn amendment, even as amended, when amended, is that it is likely to cause an agency overload or much more than the agencies are able to do.

The amount of personnel that the agencies have, the amount of moneys that the agencies have in order to perform these risk assessments is, of course, limited. Now, how many additional rules would this require the agencies to do? We do not know. OMB tells us that it could be hundreds of additional rules that would be caught under this definition. It could have the effect of doubling, tripling, or even a fivefold increase in the amount of work that they have to do.

I hope, Mr. President, that if this amendment is adopted and becomes part of this law that that is not the result. However, I think that it is going to require continued analysis as this matter moves along. It is not my purpose, frankly, to vote for this amendment, although we are not making, or at least I am not making, a major challenge to this amendment, given the assurances of the Senators from Georgia that we will be able to continue to work on it to avoid the question of agency overload.

However, until we have dealt with a more assuring way with this question of agency overload, I will not be able to vote for this amendment.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I believe this amendment to S. 343 is of paramount importance. S. 343, as written now, will unquestionably benefit small businesses by requiring Federal bureaucrats to only promulgate regulations that are cost-effective and based on good science. But adoption of the Nunn-Coverdell amendment will guarantee that small businesses, which represent the vast majority of employers and employees in this Nation, thus encompassing most Americans, will further benefit from regulatory reform by assuring that all regulations that are currently subject to the Regulatory Flexibility Act of 1980, termed the "reg flex act," will also be subject to S. 343's cost-benefit analysis provision and periodic congressional review.

Small businesses create most of the jobs in America. This is demonstrated by the fact that from 1980 to 1990, small businesses with fewer than 20 employees created 4.1 million net new jobs. Compare that with big business. Large businesses with more than 500 employees lost over 500,000 net jobs over the same time period.

According to the Small Business Administration, small business bears a disproportionate share of regulatory burdens. In fact, SBA, the Small Business Administration, estimates that the burden of regulations on small business is three times greater than that for large businesses. It is clear that to assure small businesses will continue to act as America's locomotive for job creation, Congress has to lift the regulatory burden from small family businesses.

The Nunn-Coverdell amendment will accomplish this through several mechanisms. First, the definition of "major rule." S. 343 is amended to include rules that have a significant economic impact on a substantial number of small businesses, virtually the same definition that triggers the reg flex act. The determination of a rule as a major rule subjects the rule to S. 343's cost-benefit analysis. This will assure that rules affecting small businesses will be cost-effective and less burdensome.

This designation of rules having a substantial impact on small businesses as a major rule subject to cost-benefit analysis is necessary to close a loophole in this bill. The $50 million threshold amount for a major rule may be too high for many small businesses. For instance, a regulatory impact of less than that amount may have a devastating effect on a small business or a sector of the economy that may not yet represent a significant burden on a Fortune 500 company. The Nunn-Coverdell amendment would resolve this problem by requiring that all rules that have a significant impact on small businesses be classified as a major rule under S. 343.

A legitimate question is just how many regulations does this amendment encompass? How many new major rules will be subject to cost-benefit analysis under S. 343? In other words, what is the impact of this amendment to Federal agencies' resources and personnel? And the answer is, not that much. The reg flex act requires that regulatory burdens be reduced for those regulations that have a "significant impact on a substantial number of small entities."

Small entities include small businesses as well as both small governments and charities, entities that shoulder a disproportionate share of the cost of regulation. Last year under the reg flex act just 127 regulations qualified for that act's special treatment. The Nunn-Coverdell amendment, as I understand it, would encompass only that part of the 127 regulations that affect small business and even 127 is not a great or burdensome amount.

The other mechanisms of this amendment that assure protection of small businesses involve modifications of the reg flex act. The most important establishes a requirement for agencies to conduct a cost-benefit analysis before rules are promulgated under the reg flex act. Furthermore, the determination by an agency that a rule will not have a significant impact on small businesses is made judicially reviewable. I believe that these changes will buttress our economy by reducing the burdens imposed on our small businesses by regulations.

So I urge my colleagues to support the Nunn-Coverdell amendment. I think it is a good amendment. I think it helps the bill. I think it closes a loophole. I think it protects small businesses. I think that it makes the regulatory forces in this country be more responsible and, above all, it amounts to common sense. To me, that is what this bill is all about—common sense. I think it would be well for us to support this amendment.

I yield the floor.

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER (Mr. Grams). The Senator from Michigan.

Mr. LEVIN. Mr. President, the Senator from Louisiana and I previously had a colloquy, and I very much welcome the language that he is going to be preparing to clarify a critical point, but it seems to me that the more that point is clarified, the less of a favor we are doing for small business in this amendment. Let me explain why.

In talking with the Senator from Louisiana, and just talking with the senior Senator from Georgia, it is quite clear that the intent of this amendment is that an issue which can be raised on an interlocutory appeal must be raised at that time or else it is precluded from being raised at the end of the rulemaking process.

The problem with that is that an awful lot is learned about the impacts of rules during the comment period. That is one of the reasons for the comment period. To preclude a small business from taking advantage of what is learned during the comment period so it can argue on an appeal at the end of the rulemaking process that this rule has a significant impact on small business or on small units of local government, it seems to me, is doing a disfavor, a disservice to these smaller units.

So while that clarification I think is important in terms of congressional intent and it is important in order to avoid two appeals on the same subject, the better road to go here is to have the appeal at the end of the process, as it is in the way the bill is written now, where you can use the comment period to gain evidence as to why a regulatory flexibility analysis is essential. To preclude a small unit, be it business or small unit of government, from taking advantage of that comment period to make a case as to why a regulatory flexibility analysis is necessary, it seems to me, is not the way we should be going in terms of trying to help both small businesses and small units of government.

So while I think the clarification is important, again, so we all understand what the intent is and while it is important in order to avoid two appeals on the same subject, the conclusion that is reached has the appeal at the wrong point. The appeal should be there. It is new. It is important to small business that there be an appeal on this issue and the small units of government. But the right place for that appeal to come is at the end of this process where they can then use the record which has been gained during the comment period to make the argument that there should have been a regulatory flexibility analysis and that failure to do so was an error which requires the rule to be remanded and to be done right.

I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. NUNN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1491, AS MODIFIED

Mr. NUNN. Mr. President, I send a modification to the desk.

The PRESIDING OFFICER. The Senator has that right.

The amendment is so modified.

The amendment, as modified, is as follows:

On page 14, line 10, strike out "or".

On page 14, line 16, add "or" after the semicolon.

On page 14, insert between lines 16 and 17 the following new subparagraph:

"(C) any rule or set of closely related rules, not determined to be a major rule pursuant to subparagraph (A) or (B), that the agency proposing the rule determines will have a significant economic impact on a substantial number of small businesses, pursuant to subchapter I shall be deemed to be a major rule for the purposes of subchapter II;

On page 39, line 22, strike out "and".

On page 39, line 24, strike out the period and insert in lieu thereof a semicolon and "and".

On page 39, add after line 24 the following new subparagraph:

"(C) an agency certification that a rule will not have a significant economic impact on a substantial number of small entities pursuant to section 605(b).

On page 40, line 5, insert "and section 611" after "subsection".

On page 68, strike out all beginning with line 9 through line 11 and insert in lieu thereof the following:

"(A) include in the final regulatory flexibility analysis a determination, with the accompanying factual findings supporting such determination, of why the criteria in paragraph (2) were not satisfied; and

On page 72, insert between lines 14 and 15 the following new subsection:

(e) Amendments to the Regulatory Flexibility Act.—

(1) Technical and clarifying amendments.—Section 612 of title 5, United States Code, is amended—

(A) in subsection (a) by striking "the Committees on the Judiciary of the Senate and the House of Representatives, the Select Committee on Small Business of the Senate, and the Committee on Small Business of the House of Representatives" and inserting "the Committees on the Judiciary and Small Business of the Senate and House of Representatives"; and

(B) in subsection (b) by striking "his views with respect to the effect of the rule on small entities" and inserting "views on the rule and its effects on small entities".

On page 72, line 15, strike out "(e)" and insert in lieu thereof "(f)".

Mr. LEVIN. Mr. President, I wonder if I could ask the sponsors of the amendment the following question, since we have not had a chance to look at the modification.

Mr. GLENN. Mr. President, I know this has been the subject of debate on the floor—not publicly but among different Members. I wonder if we can have a brief explanation. We only have a few minutes before the vote.

Mr. LEVIN. Mr. President, it is my intention to ask the senior Senator from Georgia this question. Is it the intent of the modification to make it clear that there is only one appeal that is permitted on the issues which can be raised by interlocutory appeal and that one appeal is the interlocutory appeal? Is that, as previously stated by the Senator from Louisiana, the purpose and effect of the modification sent to the desk?

Mr. NUNN. If I could say to my friend, there are two parts of this modification. One is to make it clear that risk assessment is not required under this amendment, only cost-benefit analysis. We talked about that earlier this afternoon. There was an omission from the draft.

The modification relates to judicial review. You made the point that small businesses might need two bites at the apple. The way the amendment reads, there would be two bites at the apple. We intend to change that at a later point during the debate on this bill.

Mr. LEVIN. Is it the intent to modify it so there is only one bite at the apple?

Mr. NUNN. This whole issue of judicial review will require more work. As the Senator knows, it is complicated, and for me, is not fixed at this point. We are going to have to work on it more.

Mr. LEVIN. Is it the intent later on to require or to provide only one bite at the apple later on?

Mr. NUNN. That is my present intent. I am always persuaded by my friend's arguments, so we may have to think more on that.

Mr. LEVIN. Is it the intent that that one bite be the interlocutory appeal? Is that the present intent?

Mr. NUNN. I would like to work with the Senators on that.

Mr. GLENN. Would the Senator consider, rather than having a vote now, waiting until it is modified and wait until later?

Mr. NUNN. I believe we ought to go ahead and vote. This judicial review issue has to be addressed on the overall bill. So we are going to have to work on this issue more, within the overall bill. I would like to vote on this amendment.

Mr. LEVIN. I am wondering if the first part of the amendment could be voted on.

Mr. NUNN. There is no way to divide it at this point.

Mr. LEVIN. It is a rather unusual thing we are doing. We are adopting an amendment which we are saying later on we know needs to be modified, and it is the intent of the makers to modify it. I would think it would be better to modify it before we vote.

Mr. GLENN. Or you are going to get people locked in on this vote.

Mr. NUNN. I do not think this is going to be the issue on which people are voting. I hope I am not the first Senator to say on the floor that an amendment is not perfect. It will require further work. This will require further work on that limited point.

This is not the central point of the amendment. The central point is to have the small business community not be full beneficiaries of these very important changes to regulatory review process.

Mr. HATCH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXPLANATION OF ABSENCE

Mr. DOLE. Mr. President, the senior Senator from New Hampshire [Mr. SMITH] is necessarily absent from the Senate and is holding an important meeting on Superfund reform in his home State. He has asked me to announce that had he been present for the votes we are just about to take, he would have voted in favor of both the Abraham and the Nunn-Coverdell amendments.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

VOTE ON AMENDMENT NO. 1490

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Michigan. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. LOTT. I announce that the Senator from Missouri [Mr. BOND], the Senator from Oklahoma [Mr. INHOFE], the Senator from Vermont [Mr. JEFFORDS], and the Senator from New Hampshire [Mr. SMITH] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 96, nays 0, as follows:

[Rollcall Vote No. 297 Leg.]

YEAS—96

Abraham
Akaka
Ashcroft
Baucus
Bennett
Biden
Bingaman
Boxer
Bradley
Breaux
Brown
Bryan
Bumpers
Burns
Byrd
Campbell
Chafee
Coats
Cochran
Cohen
Conrad
Coverdell
Craig
D'Amato
Daschle
DeWine
Dodd
Dole
Domenici
Dorgan
Exon
Faircloth
Feingold
Feinstein
Ford
Frist
Glenn
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Harkin
Hatch
Hatfield
Heflin
Helms
Hollings
Hutchison
Inouye
Johnston
Kassebaum
Kempthorne
Kennedy
Kerrey
Kerry
Kohl
Kyl
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Mikulski
Moseley-Braun
Moynihan
Murkowski
Murray
Nickles
Nunn
Packwood
Pell
Pressler
Pryor
Reid
Robb
Rockefeller
Roth
Santorum
Sarbanes
Shelby
Simon
Simpson
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner
Wellstone

NOT VOTING—4

Bond
Inhofe
Jeffords
Smith

So the amendment (No. 1490) was agreed to.

Mr. GRAMM. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. COVERDELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

VOTE ON AMENDMENT NO. 1491, AS MODIFIED

The PRESIDING OFFICER. The question is now on amendment No. 1491, as modified, offered by the Senator from Georgia [Mr. NUNN].

Mr. COVERDELL. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Georgia, as modified. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from Missouri [Mr. BOND], the Senator from Oklahoma [Mr. INHOFE], the Senator from Vermont [Mr. JEFFORDS], and the Senator from New Hampshire [Mr. SMITH] are necessarily absent.

The PRESIDING OFFICER (Mr. BURNS). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 60, nays 36, as follows:

[Rollcall Vote No. 298 Leg.]

YEAS—60

Abraham
Ashcroft
Baucus
Bennett
Bingaman
Brown
Burns
Campbell
Coats
Cochran
Conrad
Coverdell
Craig
D'Amato
DeWine
Dole
Domenici
Dorgan
Exon
Faircloth
Feingold
Feinstein
Frist
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Hatch
Hatfield
Heflin
Helms
Hollings
Hutchison
Kassebaum
Kempthorne
Kerrey
Kyl
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Nunn
Packwood
Pressler
Robb
Rockefeller
Santorum
Shelby
Simpson
Snowe
Specter
Thomas
Thompson
Thurmond
Warner

NAYS—36

Akaka
Biden
Boxer
Bradley
Breaux
Bryan
Bumpers
Byrd
Chafee
Cohen
Daschle
Dodd
Ford
Glenn
Harkin
Inouye
Johnston
Kennedy
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moseley-Braun
Moynihan
Murray
Pell
Pryor
Reid
Roth
Sarbanes
Simon
Stevens
Wellstone

NOT VOTING—4

Bond
Inhofe
Jeffords
Smith

So, the amendment (No. 1491), as modified, was agreed to.

Mr. HATCH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. COVERDELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

(At the request of Mr. DOLE, the following statement was ordered to be printed in the RECORD.)

EXPLANATION OF ABSENCE

• Mr. BOND. I regret that I was unavoidably absent for the votes today. I was away from Washington to participate in a court-ordered appearance. If I had been present, I would have supported both the Abraham and the Nunn-Coverdell amendments.•

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. GRASSLEY. Mr. President, after more than a decade, it is about time that we are starting to work on regulatory reform. We have a very good bill going through the House of Representatives. Hopefully, we will be able to get just as good a bill through the U.S.

Senate. I am glad that we are able to do this under the leadership of our majority leader, Senator DOLE, because this is a historic comprehensive regulatory reform. This bill, S. 343, is a response to the informal rulemaking that has exploded in the last 50 years that was not contemplated in the original Administrative Procedure Act which passed in 1946.

S. 343 involves a number of major regulatory reforms. These include cost-benefit analysis, risk assessment, petition reopener, judicial review, congressional review, peer review, and improvements to the Regulatory Flexibility Act.

S. 343 is the latest product of a long-term evolutionary process. The foundation for S. 343 comes from the 97th Congress in the form, which we passed at that time 94 to 0, of S. 1080. S. 1080 was the culmination of over 20 years of work in the Senate to reform the regulatory process. Unfortunately, that year, in the 97th Congress, the House leadership, then under the control of the Democratic Party, did not believe that regulatory reform was needed, because they believed in the regulatory state. So the House leadership neglected to follow through on that bill, and the bill was never considered by the other body.

Regulatory relief was a major issue in the congressional elections this year. It was part of our Contract With America. S. 343 is part of the fulfillment of the mandate that voters gave to the new leadership in Congress to bring about more effective and less costly rules and regulations.

As chairman of the Judiciary Subcommittee on Administrative Oversight and the Courts, I began the Judiciary Committee's efforts in what has become an extensive legislative process. Beginning last February, my subcommittee held hearings over 2 days and then held a markup where I offered a substitute, which was adopted and reported to the full committee.

Chairman HATCH then held another hearing before the full committee to consider the issue in even more detail. After a number of delays to accommodate the Democratic side of the aisle, the committee held 3 days of markup over a period of 3 weeks, and so the committee finally reported the bill last April 26.

Since that time, Members and staff have worked extensively with those who had questions or problems with the bill, even including the White House. We received, in fact, a number of very positive suggestions. And because they were positive, meant to be helpful, and it showed cooperation by the other side, including the administration, many of these were included in the bill.

S. 343 deals with two overall topics directly relevant to regulatory reform. The first major topic is regulatory analysis, including cost-benefit determinations for new and existing major rules or regulations of the Federal Government and, where relevant, Mr. President, risk assessment criteria and procedures.

The second major topic involves changes to the Administrative Procedure Act and other Federal statutes which contain equivalent provisions. These changes are in the procedures that the agencies are required to follow in rulemaking and also in the standards of judicial review and appeals of agency action.

Through these provisions, Congress will give Federal agencies new substantive and procedural guidelines on how the agencies are to use the legislative powers which Congress has given them through other statutes to regulate. The ultimate objective in our legislation is for better Federal rules and regulations, and by better rules, we mean, very broadly speaking, rules that are to do social and economic good, where the benefit outweighs the harm.

A second objective is to make the rulemaking process more rational and more open and to give persons who are the intended beneficiaries of the rule and those who are more likely to bear its costs greater opportunity to participate in the agency's proceedings. No one should reject the proposition that people who are to be affected by the regulations ought to have a part in the process of the agency's consideration of those, and also, once that process is over, through judicial review, to have a means of assuring that agencies, in effect, obey the law. S. 343 does that.

These changes were designed then to supplement and to strengthen the regulatory analysis requirements of S. 1080, which is the core of the regulatory analysis that is in this new bill before us.

I view the overall primary focus of this bill to be accountability. The essence of Government is accountability. The essence of lawmaking is accountability. The public holds us accountable through the regular election process. The regulatory scheme of things in the administrative branch of Government is somewhat removed from citizen participation, and the extent to which it is, I believe people who are regulators and people who make the regulations and rules tend to be less accountable.

This bill, not as perfectly as is done through the election process affecting those of us in Congress, intends to bring accountability to the process of the regulation and rulemaking of the faceless bureaucrat. This means agency accountability to the people as well as to Congress who has delegated its authority to the agencies. It also means congressional accountability to the people because we are ultimately responsible for the laws that we pass. We should not punt to the agencies and to the courts to make very important determinations that ought to be made right here. Unfortunately, there will be those who will try to misrepresent our intentions by arguing that this bill will be used to gut our Nation's health, safety, and environmental laws.

This argument, of course, is a sham, because there is not one among us who does not want to do everything that we reasonably can to protect the lives of our people and who recognize the need for sound and effective regulations. We all breathe the air, eat the food, and drink the water.

We all want our children and grandchildren to be as safe as possible. To suggest otherwise, as some in this body are doing, and particularly as the media likes to popularize, is just downright shameful. We are concerned about the lives of people. This does not compromise that principle whatsoever. What it means to do is that regulation and rulemaking be accountable; that people take into consideration alternatives; that there is not one way to do something, and that there ought to be a relationship between cost and benefit, and there ought to be a scientific basis for regulation. The fact is that many rules and regulations have become too rigid and costly. These rules themselves could actually threaten our Nation's limited resources, as well as public support for the necessary rules.

At a later time in this debate I am going to go into more specific detail about how ridiculous and onerous many regulations have become.

Mr. President, Majority Leader DOLE is to be commended for taking the initiative on this legislation and following through on what the American people want and expect. He is the leader of our party. Our party had a mandate in the election to do that, and he is carrying that out in the responsibility that he has. The efforts that are being made in the debating of this bill, in the consideration of this bill, is to make sure that our performance in office is commensurate with the rhetoric of the campaign. I think this bill is about as close as you can get to having that be a possibility.

As others have said, we have to find ways to do things smarter and cheaper. As the committee report points out, we have become hostage to the unregulated regulatory process. S. 343 will help us out of this quagmire by requiring sound, effective, fair, reasonable regulation that will do the job the people intend that they do.

We have all heard today very real stories of agencies gone mad. Well, I want to relate one story here today where bureaucrats got out of control. This story, and many others we will be hearing about, will underscore the need for commonsense reform. This story happens in my State. S. 343 is about reasonableness and responsibility. The American people are inspired by reasonable decisions. When the Government acts in the best interest of the majority of its citizens, the American people are encouraged by the Government's responsible actions.

S. 343 is a responsible action which is in the best interest of the majority of Americans. One of the main problems this bill addresses is unreasonable regulations and overzealous regulators.

This problem is clearly evident when it comes to agencies like the Environmental Protection Agency. The EPA was instituted and developed to promote policy advancing a clean environment at reasonable costs with fair and rational oversight. Fair and rational oversight, though, has not been exhibited recently by the EPA. Presently, the EPA exhibits arrogance and overzealous behavior while enforcing the agency's adversarial relationship with small business and farmers.

Innocent citizens are easy prey for presumptuous EPA bureaucrats. I know this to be true because, as I have said, I have a constituent who has personal scars from unjustified hardships resulting from brash EPA officials.

This example happened outside a little town in the northwest corner of my State of Iowa. The name of that community is Akron, IA. It was business as usual that day at the Higman Gravel Co. Harold Higman, the owner, was outside topping off his pickup truck at the gas pump on his property. Mavis Hansen, a trusted employee of 20 years, was inside the office tending to the books, as she regularly did. Every other employee was working at their normal business responsibilities that early morning at 9 o'clock. You might say the morning routine had just begun.

Suddenly, in a violent breech of the morning's routine, nearly a dozen unmarked cars roared onto the yard of the premise of that gravel business. They screeched to a halt in cadence. Forty agents poured from the cars and surrounded Mr. Higman, cocking their guns in unison.

One agent, who was clad in a bulletproof vest, leveled his shotgun at Higman. The agent pumped the gun once to load it. As Mr. Higman, the owner, gulped and his knees quivered, the agent fumbled for his badge, and as Mr. Higman groped for words and he voiced a demand for an explanation, the agent responded with a "shut up" right in Mr. Higman's face.

Meanwhile, another agent stormed the office. There he found the trusted employee of 20 years, the accountant, Mavis Hansen, at her desk tending to the books, as you would expect her to be doing at 9 o'clock in the morning. The agent stormed in with his gun and yelled "freeze" with his gun cocked and left it aimed right at Mavis Hansen's head.

Poor Mavis Hansen sat frozen with shock, fear, and bewilderment. Now, Mr. President, to this very day, she still has nightmares and bouts of nervousness due to what happened that horrible day.

Obviously, there must have been a reason for 40 agents to appear, shoving their shotguns down the throats of the owner and the bookkeeper of this gravel business in the small town of Akron in northwest Iowa. You might wonder, was it some kind of a drug operation? Was there a cache of weapons? None of those, Mr. President. What the agents were looking for were two so-called toxic chemicals that were allegedly stored at the Higman Gravel Co. grounds, supposedly buried in barrels.

Now, this is what they had been told. They had been told this, Mr. President, by a paid informant. But it turns out that this paid informant was also a disgruntled former employee of the Higman Gravel Co. He had given the EPA a bum lead, and after 15 months of misery and ordeal, a jury in a criminal case finally decided that Higman was innocent. Mr. Higman and others were acquitted of charges stating that he had knowingly stored illegal toxic chemicals on his property.

That decision and the 15 months of litigation cost Mr. Higman $200,000 in legal fees, lost business, and what is even more important in my State, Mr. President, it gave this very responsible business person a damaged reputation.

It also cost the bookkeeper, Ms. Hansen—the woman that had the shotgun leveled at her as she was at her desk doing her books—two months leave of absence due to a nervous disorder, which still persists to this day.

Mr. President, the moral of this story must be prefaced with a poignant question: How in the world does the EPA justify such outrageous behavior?

It is the regulatory state gone out of control. They acted, as I have said, on rumor and innuendo. When the rumors did not pan out, they pressed ahead anyway, costing innocent citizens financial and psychological fortunes.

I will not go through all of the details in this case, Mr. President. But I think it behooves us as a society to take a broad view of this case and see what lessons can be learned.

To begin with, the EPA used a force of 40 men comprised of Federal and local agents. They used a force equipped to attack a mountain when it was only a molehill.

Second, the EPA's advanced scouting of the situation was disgraceful. They charged ahead with full force, though uninformed about the facts. They did not look before they leaped.

All too often, Mr. President, I hear of such overzealous and heavy-handed enforcement of our Nation's environmental laws. Yet, there is rarely accountability. This situation cannot continue. A presumption of guilt is formed. It is a foreign concept in our land. It should be a foreign practice as well.

The purpose of the EPA is certainly commendable. The purpose is to protect the Nation from environmental pollutants and toxins. The EPA is suppose to work to make our water clean and our air pure, and there is no one who would argue with those worthwhile goals. But the heavy-handed tactics are inconsistent with EPA's worthy objectives. In fact, such policy erodes whatever moral authority the EPA may hope to have to detect and deter pollution and polluters. Their image in the public's eye will only suffer and the public's confidence in the EPA's fairness will be shaken.

We certainly hope, Mr. President, that this reform will cause the EPA to reconsider its we-versus-they mentality, with respect to American small business. This bill will not overturn existing environmental law. The Comprehensive Regulatory Reform Act will require the EPA to reexamine existing rules and force them into revisions, but only, let me emphasize, where regulations are based on bad science or where a less costly alternative exists that achieves the statutory requirements. Small businesses certainly share the goal of a clean environment at reasonable costs, with a fair and rational oversight by the U.S. Government. Most, if not all, businesses want to comply with environmental laws and regulations.

Mr. President, it is my hope that this reform will change the EPA policy to promote a worthy social objective that fosters reconciliation and cooperation. This reform will help eliminate the heavy-handed tactics and threats against innocent citizens like Mr. Higman and Ms. Hansen. Through this reform the EPA could once again return to its original purpose of promoting policy which advances a clean environment through fair and rational oversight.

Mr. DASCHLE. Mr. President, I want to use this time to remark briefly on the pending measure, which will be the subject of a vigorous debate over the next several days, and the focus of our work today and in the days to follow.

The primary subject of this debate is the bill that was reported by the Judiciary Committee in a very controversial markup which was later modified through negotiations with Senator JOHNSTON and other colleagues.

I am grateful for the attention that Members have given the bill since it was reported by the Judiciary Committee, for I believe, over time, real improvements have already been made.

Nevertheless, throughout these negotiations, these clear differences have emerged among those who advocated changes in the way Federal agencies issue regulations. It has become apparent that a new, more reasonable and judicious approach is needed if we are to enact responsible, regulatory reform, without causing gridlock in the Federal agencies.

There remain a number of problems with S. 343 which argue against adoption in its current form. First, its passage will likely result in a more convoluted, bureaucratic, and confusing system that practically invites manipulation and litigation by the best lawyers money can buy. It would allow, and even encourage, appeals and litigation throughout the regulatory development process.

The multifaceted petition process will create massive burdens on Federal agencies at a time when we are attempting to cut budgets and limit the size of Government.

The bill's $50 million threshold will drag hundreds of additional rules into this process, further burdening agencies. It also forces Federal agencies to choose the cheapest option, even if other alternatives are more cost effective and therefore more economical.

In sum, it would impose costs on Federal agencies that cannot be met under current budget constraints. The Office of Management and Budget estimates that S. 343 would cost Federal agencies an additional $1.3 billion and 4,500 full time employees each year simply to implement all its provisions. The Federal Government simply does not have the resources to absorb those requirements. Nor should it.

In addition to overburdening Federal agencies, S. 343, as currently written, would roll back some of the most important laws that protect our environment, our health, and our safety.

For the first time in my lifetime, we are contemplating a comprehensive retreat from the progress achieved in reducing air pollution, in cleaning up our rivers and lakes, in taking steps to ensure that the food we eat and the water we drink is safe and clean. In the past, this effort has been embraced by leaders Republican and Democratic. Whether it was President Nixon, Ford, Carter, Reagan, Bush, or President Clinton, this Nation has realized great benefits from an extraordinary bipartisan commitment on these matters.

Mr. President, last year 2-year-old Cullen Mack of my home State of South Dakota fell ill from eating beef contaminated with the E. coli bacteria. As a result of experiences like Cullen's, I held a number of hearings in the Agriculture Committee and the Department of Agriculture developed regulations which would help prevent recurrences of this problem. The rules would modernize the meat inspection process, using sensitive scientific techniques to detect contamination and prevent spoiled meat from making its way into our food supply.

This much-awaited rule will be held up by this bill. It will be delayed and perhaps even stopped. That is unacceptable and represents one of the problems with this bill in its current form.

In its attempt to reform the regulatory process, the bill overreaches—I believe, to the long-term detriment to the American people, including businesses. In South Dakota as in many other States, not only will the public benefit from tough new meat inspection rules, but so will the farmers and ranchers who raise the livestock and who benefit from the assurance that their products will reach the market in the best condition possible. The Senate should not support a process that would compromise that objective.

I want to make clear that I'm not suggesting that somehow the proponents of S. 343 are advocating the degradation of our environment, or have set out to contaminate our drinking water, or that they are unconcerned with a child's potential exposure to toxins. But passage of this bill will make those results more likely. And that is not a result that I can endorse.

I know that some of my colleagues will be taking the floor to make that case in detail, and to offer amendments which will attempt to ameliorate the most harmful provisions of the bill. And I know that some of my democratic colleagues have signed onto S. 343.

I also want to make it clear that there is a better alternative and that a number of amendments will be offered which will improve the bill and which I hope all Members will give their serious consideration.

The comprehensive alternative will produce commonsense reform without wholesale harm. I am hopeful that after some healthy debate on this matter, and in light of the amendment process that will begin today, my colleagues can be persuaded to support our amendments and the alternative developed by Senators GLENN and CHAFEE, should it be offered. That is the best, most defensible path to regulatory reform, because it does not sacrifice the environmental, health, and safety standards that American families have a right to expect and demand from their Government.

Mr. President, I can state with some confidence that no Member of this body will argue for a regulatory status quo. No Member of this body believes that every Federal rule is sacred. No Member will defend every law we've passed as perfect in its real-world application. There are too many regulations in general, and, in particular, too many that make no sense.

It is my strong hope that during this debate, we can come to agreement on a bipartisan regulatory reform bill that achieves serious, meaningful change, but does so recognizing the budgetary realities facing the Federal Government, recognizing the desire to prevent unnecessary and expensive litigation, and recognizing the fundamental importance of ensuring that Federal agencies should be able to issue those commonsense regulations which protect public health and safety, the environment, and other matters that most of us agree should be the subject of responsible Federal oversight.

Mr. President, I yield the floor.

MORNING BUSINESS

Mr. HATCH. Mr. President, I ask unanimous consent that there be a period for the transaction of morning business with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. The Senator from Utah is recognized.

REMOVAL OF INJUNCTION OF SECRECY—TREATY DOCUMENT NOS. 104–12 AND 104–13

Mr. HATCH. As in executive session, I ask unanimous consent that the injunction of secrecy be removed from the Investment Treaty with Latvia (Treaty Document No. 104–12) and the Investment Treaty with Georgia (Treaty Document No. 104–13) transmitted to the Senate by the President on July 10, 1995; and the treaties considered as having been read the first time; referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed; and ordered that the President's messages be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The messages of the President are as follows:

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the Treaty Between the Government of the United States of America and the Government of the Republic of Latvia Concerning the Encouragement and Reciprocal Protection of Investment, with Annex and Protocol, signed at Washington on January 13, 1995. I transmit also, for the information of the Senate, the report of the Department of State with respect to this Treaty.

The bilateral investment Treaty (BIT) with Latvia will protect U.S. investors and assist Latvia in its efforts to develop its economy by creating conditions more favorable for U.S. private investment and thus strengthening the development of the private sector.

The Treaty is fully consistent with U.S. policy toward international and domestic investment. A specific tenet of U.S. policy, reflected in this Treaty, is that U.S. investment abroad and foreign investment in the United States should receive national treatment. Under this Treaty, the Parties also agree to international law standards for expropriation and compensation for expropriation; free transfer of funds associated with investments; freedom of investments from performance requirements; fair, equitable, and most-favored-nation treatment; and the investor's or investment's freedom to choose to resolve disputes with the host government through international arbitration.

I recommend that the Senate consider this Treaty as soon as possible, and give its advice and consent to ratification of the Treaty, with Annex and Protocol, at an early date.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *July 10, 1995*.

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the Treaty Between the Government of the United States of America and the Government of the Republic of Georgia Concerning the Encouragement and Reciprocal Protection of Investment, with Annex, signed at Washington on March 7, 1994. I transmit also, for the information of the Senate, the report of the Department of State with respect to this Treaty.

The bilateral investment Treaty (BIT) with Georgia was the eighth such treaty between the United States and a newly independent state of the former Soviet Union. The Treaty is designed to protect U.S. investment and assist the Republic of Georgia in its efforts to develop its economy by creating conditions more favorable for U.S. private investment and thus strengthen the development of its private sector.

The Treaty is fully consistent with U.S. policy toward international and domestic investment. A specific tenet of U.S. policy, reflected in this Treaty, is that U.S. investment abroad and foreign investment in the United States should receive national treatment. Under this Treaty, the Parties also agree to international law standards for expropriation and compensation for expropration; free transfer of funds related to investments; freedom of investments from performance requirements; fair, equitable, and most-favored-nation treatment; and the investor of investment's freedom to choose to resolve disputes with the host government through international arbitration.

I recommend that the Senate consider this Treaty as soon as possible, and give its advice and consent to ratification of the Treaty, with Annex, at an early date.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *July 10, 1995*.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

ANNUAL REPORT OF THE CORPORATION FOR PUBLIC BROADCASTING—MESSAGE FROM THE PRESIDENT—PM 62

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States together with an accompanying report; which was referred to the Committee on Commerce, Science, and Transportation:

To the Congress of the United States:

In accordance with the Communications Act of 1934, as amended (47 U.S.C. 396(i)), I transmit herewith the Annual Report of the Corporation for Public Broadcasting (CPB) for Fiscal Year 1994 and the Inventory of the Federal Funds Distributed to Public Telecommunications Entities by Federal Departments and Agencies: Fiscal Year 1994.

Since 1967, when the Congress created the Corporation, CPB has overseen the growth and development of quality services for millions of Americans.

This year's report, entitled "American Stories," is a departure from previous reports. It profiles people whose lives have been dramatically improved by public broadcasting in their local communities. The results are timely, lively, and intellectually provocative. In short, they're much like public broadcasting.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *July 10, 1995*.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. HELMS:

S. 1015. A bill to provide for the liquidation or reliquidation of certain entries of pharmaceutical grade phospholipids; to the Committee on Finance.

By Mr. KERRY (for himself and Mr. KENNEDY):

S. 1016. A bill to authorize the Secretary of Transportation to issue a certificate of documentation with the appropriate endorsement for employment in the coastwise trade for the vessel *Magic Carpet*; to the Committee on Commerce, Science, and Transportation.

S. 1017. A bill to authorize the Secretary of Transportation to issue a certificate of documentation with the appropriate endorsement for employment in the coastwise trade for the vessel *Chrissy*; to the Committee on Commerce, Science, and Transportation.

By Mr. HELMS:

S. 1018. A bill for the relief of Clarence P. Stewart; to the Committee on Governmental Affairs.

By Mr. BAUCUS:

S. 1019. A bill to direct the United States Fish and Wildlife Service to examine the impacts of whirling disease, and other parasites and pathogens, on trout in the Madison River, Montana, and similar natural habitats, and for other purposes; to the Committee on Environment and Public Works.

By Mr. COVERDELL:

S. 1020. A bill to establish the Augusta Canal National Heritage Area in the State of Georgia, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. FEINGOLD:

S.J. Res. 37. A joint resolution disapproving the extension of nondiscriminatory treatment (most-favored-nation treatment) to the products of the People's Republic of China; to the Committee on Finance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HELMS:

S. 1015. A bill to provide for the liquidation or reliquidation of certain entries of pharmaceutical grade phospholipids; to the Committee on Finance.

LEGISLATION CORRECTING THE RECLASSIFICATION OF PHOSPHOLIPIDS

Mr. HELMS. Mr. President, today I once again offer legislation to correct an obviously unintended and mistaken reclassification of pharmaceutical-grade, FDA-approved egg yolk phospholipid by HTS, the Harmonized Tariff Classification System. Another provision of this legislation has been accomplished in the Uruguay round GATT agreement.

Kabi Pharmacia is a U.S. company in Clayton, NC. Kabi has become a leading employer in rural Johnston County; it has 175 employees engaged in high-technology manufacturing and research work. The main product manufactured by Kabi Pharmacia in Clayton is intralipid, a unique intravenous feeding solution. Kabi must import a key, unique intralipid ingredient—pharmaceutical-grade, FDA-approved egg yolk phospholipid, because it is made only by Kabi's parent company in Sweden.

The duty on Kabi's phospholipid was set at 1.5 percent in the 1970's when Kabi began operations in Clayton. Beginning in March 1991, the unintentional HTS reclassification of the phospholipid more than tripled this duty, a situation that could not be corrected in the GATT agreement because it is a matter of U.S. law—which, of course, only Congress can change.

Mr. President, my legislation would return the rate on the phospholipid to 1.5 percent for the period from March 29, 1991, until January 1, 1995, when the duty for Kabi's phospholipid and other pharmaceutical components and products became zero under the GATT agreement, and refund the unintended duty increase. The amount of the unintended duty increase is $396,779.16.

Mr. President, there has been no disagreement that the duty increase on Kabi's phospholipid was unintended and unwarranted. Simple fairness emphasizes the need for the legislation I offer today. The correction of the erroneous HTS reclassification must be retroactive in order that there can be an equitable redress. It is a matter of simple fairness and equity.

I ask unanimous consent that the text of this legislation (S. 1015) be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1015

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PHARMACEUTICAL GRADE PHOSPHOLIPIDS.

Notwithstanding section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) or any other provision of law, upon proper request filed with the Customs Service not later than 90 days after the date of the enactment of this Act, any entry, or withdrawal from warehouse for consumption, of pharmaceutical grade phospholipids that—

(1) was made under subheading 2923.20.00 of the Harmonized Tariff Schedule of the United States;

(2) with respect to which a lower rate of duty would have applied if such entry or withdrawal had been made under subheading 2923.20.10 or 2923.20.20 of such Schedule; and

(3) was made after March 29, 1991, and before January 1, 1995;

shall be liquidated or reliquidated as if such lower rate of duty applied to such entry or withdrawal.

By Mr. KERRY (for himself and Mr. KENNEDY):

S. 1016. A bill to authorize the Secretary of Transportation to issue a certificate of documentation with the appropriate endorsement for employment in the coastwise trade for the vessel *Magic Carpet;* to the Committee on Commerce, Science, and Transportation.

JONES ACT WAIVER LEGISLATION

Mr. KERRY. Mr. President, I am pleased to join my colleague, the distinguished senior Senator from Massachusetts, in introducing a bill to allow the vessel *Magic Carpet* to be employed in coastwise trade of the United States. This boat has a relatively small passenger capacity, carrying up to 6 passengers on a charter business based out of Martha's Vineyard, MA. The purpose of this bill is to waive those sections of the Jones Act which prohibit foreign-made vessels from operating in coastwise trade. The waiver is necessary because, under the law, a vessel is considered foreign-made unless all major components of its hull and superstructure are fabricated in the United States and the vessel is assembled entirely in the United States. This vessel was originally built in a foreign shipyard in 1959, but since then has been owned and operated by American citizens. The owners of *Magic Carpet* have invested substantially more than the cost of building the boat in making repairs to it and maintaining it—in American shipyards with American products. This particular vessel is also of some historical value—*Magic Carpet* is a classic wooden yawl—few of these vessels still exist today and very few operate along the east coast. The owners wish to start a small business, a charter boat operation, seasonally taking people out of Martha's Vineyard.

After reviewing the facts in the case of the *Magic Carpet*, I find that this waiver does not compromise our national readiness in times of national emergency, which is the fundamental purpose of the Jones Act requirement. While I generally support the provisions of the Jones Act, I believe the specific facts in this case warrant a waiver to permit the *Magic Carpet* to engage in coastwise trade. I hope and trust the Senate will agree and will speedily approve the bill being introduced today.

By Mr. KERRY (for himself and Mr. KENNEDY):

S. 1017. A bill to authorize the Secretary of Transportation to issue a certificate of documentation with the appropriate endorsement for employment in the coastwise trade for the vessel *Chrissy;* to the Committee on Commerce, Science, and Transportation.

JONES ACT WAIVER LEGISLATION

Mr. KERRY. Mr. President, I am pleased to join my colleague, the distinguished senior Senator from Massachusetts, in introducing a bill to allow the vessel *Chrissy* to be employed in coastwise trade of the United States. This boat has a relatively small passenger capacity, carrying up to 6 passengers on a charter business based out of Gloucester, Massachusetts. *Chrissy* is a historical vessel, built in 1912 in Friendship, Maine and is one of the last remaining Friendship sloops. The purpose of this bill is to waive those sections of the Jones Act which prohibit vessels from operating in coastwise trade without proper documentation of its chain of ownership. The vessel was built 83 years ago in Maine, but along the way the documentation has been lost. It is my hope that a document will be issued which will allow the owner to start a small business, a charter boat operation, seasonally taking people out of Gloucester.

I hope and trust the Senate will agree and will speedily approve the bill being introduced today.

By Mr. HELMS:

S. 1018. A bill for the relief of Clarence P. Stewart; to the Committee on Governmental Affairs.

THE CLARENCE P. STEWART RELIEF ACT

Mr. HELMS. Mr. President, today I offer a private bill to direct the Secretary of Agriculture to right a wrong committed against a dedicated public servant.

Clarence P. Stewart of Lillington, NC, served 23 years with the Agricultural Stabilization and Conservation Service [ASCS] at the Department of Agriculture. In April 1981, Mr. Stewart was North Carolina State Executive Director when, during the transition to a new administration, the ASCS decided to remove all State Executive Directors as part of what the Department described as a reduction-in-force [RIF].

Mr. Stewart considered appealing the ASCS decision but was told by his superior at the ASCS not to bother, that he had no right to appeal the dismissal action. Unfortunately, Mr. Stewart accepted this information at face value and did not appeal the ASCS decision.

Mr. President, years later, Mr. Stewart learned that, as a veteran, he did in fact have a right to appeal his dismissal from the ASCS. He also learned that 24 other State Executive Directors who had been dismissed at the same time as Stewart had appealed their dismissals to the Merit Systems Protections Board and they had won. In this appeal, known as the Blalock case, the Merit Systems Protection Board found that the State Directors had in fact been removed for cause rather than separated pursuant to RIF and as a result could be removed only if they were given advance notice and an opportunity to reply. The Merit Systems Protection Board ordered the Department of Agriculture to reinstate, retroactively, the appellants to their positions.

Although none of the appellants actually returned to work, the Department of Agriculture, as part of a settlement agreement, gave each appellant 1 year and 10 months salary and recomputed retirement benefits based on this increased salary.

Once Mr. Stewart learned of the Blalock decision he filed an appeal with the Merit Systems Protection Board. Because his appeal was filed late, the MSPB dismissed Mr. Stewart's appeal. He then filed a petition for review with the MSPB, but that too was denied. Mr. Stewart, therefore, has exhausted all possible avenues of administrative review.

Mr. Stewart is a North Carolina citizen who gave years of faithful service to his State and country. He was wrongfully removed from his job as North Carolina State Director of the Agricultural Stabilization and Conservation Service. At the time, he was told he had no right to appeal the dismissal when, as a decorated veteran who served his country valiantly in World War II, he had a very real right to appeal. Mr. President, I doubt that any of our colleagues believe that this good man should be punished for having taken the word of his superior.

But for his superior's mistake, Mr. Stewart would have filed a timely appeal and would have prevailed just as the other 24 appellants did in the Blalock case. Mr. President, I do hope that in the interest of equity Mr. Stewart will receive the same benefits that were afforded the other State Directors.

By Mr. BAUCUS:

S. 1019. A bill to direct the U.S. Fish and Wildlife Service to examine the impacts of whirling disease, and other parasites and pathogens, on trout in the Madison River, MT, and similar natural habitats, and for other purposes.

WHIRLING DISEASE RESPONSE ACT OF 1995

Mr. BAUCUS. Mr. President, in "A River Runs Through It," Norman Maclean wrote, "in our family, there was no clear line between religion and flyfishing."

These words sum up the way we Montanans feel about our blue ribbon trout streams. Great flyfishermen—men like Bud Lily and Dan Bailey—are legends in Montana. And Montana rivers—the Madison, Yellowstone, Missouri, Bighorn, and Bighole—are the heart and soul of our State. We mark our calendars and plan our weekends around caddis and stone fly hatches or peak grasshopper season. These outstanding trout streams are in large part what makes Montana "the last best place."

But these rivers hold more that recreational value for Montanans. Fishing is big business. It is the engine that drives the economies of many communities throughout Montana. In fact, the net economic value of fishing in Montana is estimated to be nearly $300 million a year.

The discovery of whirling disease on the Madison River in late 1994 puts Montana's wild trout fishery at great risk. Whirling disease is a parasite that attacks the cartilage of young trout, particularly rainbow trout. Its impact has been devastating to rainbow trout populations on the Madison River, where whirling disease has caused a 90-percent decline in the last 3 years.

Whirling disease has also been detected in four other Montana river drainages as well as in Nevada, Oregon, Idaho, California, Colorado, Wyoming, and Utah.

Montana has taken the challenge of fighting whirling disease head on. Flyfishermen, scientists, State and Federal officials have joined together to learn more about this disease and find solutions. Today, I am introducing legislation that will better equip concerned Montanans to effectively deal with whirling disease and minimize its impacts to our world class wild trout fisheries.

The Whirling Disease Response Act of 1995 focuses on three objectives: coordination, containment, and research.

First, the Whirling Disease Response Act coordinates all existing data and research conducted to date on whirling disease. The act requires the U.S. Fish and Wildlife Service to compile, within 180 days, a report that summarizes all efforts to date with respect to whirling disease, to identify gaps in the available scientific information, and to make recommendations as to how the Federal Government can be a more effective partner to States confronted with whirling disease.

Second, the act requires the U.S. Fish and Wildlife to modify the Ennis Fish Hatchery so that it is a complete containment facility. This hatchery is critically important to wild trout research as well as to maintaining healthy trout fisheries throughout the United States. The U.S. Fish and Wildlife Service must make sure that this hatchery is not infected with whirling disease or any other water borne parasite.

Third, and most important, this act requires the U.S. Fish and Wildlife Service to significantly increase its role in whirling disease research. As debilitating as this disease is, relatively little is known about how to stop its spread. The U.S. Fish and Wildlife Service must make the fight against whirling disease a top priority. They must work with affected States, universities, and sportsmen toward a solution on whirling disease. This act makes whirling disease research a priority for the U.S. Fish and Wildlife Service.

While Montana has a significant stake in fighting whirling disease, it is not alone—19 other States are impacted by whirling disease. It is in America's best interest that we work aggressively to minimize the impact whirling disease has on our trout fisheries. I look forward to working with my colleagues from other affected States to see that we make headway in minimizing the impact whirling disease has on America's blue ribbon trout streams.

By Mr. FEINGOLD:

S.J. Res. 37. A joint resolution disapproving the extension of nondiscriminatory treatment—most-favored-nation treatment—to the products of the People's Republic of China; to the Committee on Finance.

DISAPPROVAL OF MOST-FAVORED-NATION STATUS FOR CHINA

Mr. FEINGOLD. Mr. President, in 1974 Congress passed the Jackson-Vanik amendment to the 1974 Omnibus Trade Act establishing a linkage between human rights and most-favored-nation [MFN] trade status for nonmarket economies. The legislation was largely responsible, in my view, for the fantastic success of United States efforts to secure the freedom of movement for over 1 million Jews and other persecuted minorities from the Soviet Union.

Since 1989, when the Chinese military brutally gunned down hundreds of protestors in Tianmen Square and cracked down on the blossoming dissident movement in China, there have been efforts to link Chinese MFN to human rights improvements.

In 1991, legislation to set conditions for the extension of MFN to China was passed by overwhelming majorities in both the House and the Senate, only to be vetoed by President Bush. The House overrode the veto, but the Senate sustained it by a mere one vote. In 1992 Congress again passed bills to revoke MFN status for products manufactured by Chinese state-owned companies. President Bush vetoed that as well, and once again the Senate sustained the veto.

When President Clinton came to office in 1993, he issued an Executive order specifying seven areas in which the Chinese would need to make "significant progress" if MFN were to be extended in 1994. I was one of those who strongly condemned the action of the administration when it abandoned this position in 1994, because I believe it undermined the President's own credibility on human rights, and relegated U.S. human rights advocacy from a policy with teeth to one of rhetoric and symbolism. For the same reasons, I am disappointed that despite a year in which freedoms further diminished in China, President Clinton announced on June 2 that he would seek to extend MFN status to China again this year.

I am most outraged, though, Mr. President, that the United States would even consider extending MFN to China at precisely the moment that the Chinese have arrested a prominent human rights activist and American citizen, Mr. Henry Wu, and threatened to try him for espionage and subject him to the death penalty. This is yet another disgraceful mark on China's human rights record, and will hopefully compel us to respond finally with the toughest human rights policy possible.

Mr. President, that is why I am introducing today a joint resolution of disapproval, consistent with the Jackson-Vanik amendment of 1974, of the extension of nondiscriminatory treatment to products of the People's Republic of China.

There is no evidence, Mr. President, that the granting of unconditional MFN status to China—an element of a so-called policy of "constructive engagement"—has improved China's human rights behavior at all. Both Assistant Secretary of State for Asia and Pacific Affairs Winston Lord and Assistant Secretary of State for Human Rights and Humanitarian Affairs John Shattuck have said publicly that the human rights situation has not improved in China. The State Department's own 1994 report acknowledges that "In 1994, there continued to be widespread and well-documented human rights abuses in China.'' From the events of the last 6 months, in fact, one can only conclude that the situation has worsened—even with MFN and robust trade.

The Chinese Government continues to exercise significant control on opposition and dissent; to abuse systematically is prisoners, including the use of slave labor and the alleged organ transplant of executed prisoners; and to impose harsh regulations in Tibet, while refusing to engage in any dialog with Nobel Peace prize laureate the Dalai Lama.

In the last 2 months alone, several prominent intellectuals have been detained while their homes have been searched simply for signing petitions in support of more political openness. More have been taken into custody and interrogated about their activities. Some have been questioned, released, and then sent away from Beijing, while others have just disappeared, including China's most prominent dissident, Wei Jeisheing, whose whereabouts since February are unknown, except to the extent that he is confirmed to be in police custody. Two weeks ago, Chen Ziming, another well-known prodemocracy activist, was suddenly reimprisoned after being released on a medical parole last year.

Stricter security laws have been adopted by the Politburo, and Beijing seems intent on limiting access of Chinese citizens to the tens of thousands of international nongovernmental organizations that will be in China this September for the U.N. Fourth World Conference on Women.

As the leader of the free world, the United States has the responsibility to work to protect human rights worldwide. The most recent action of the Chinese Government against an American citizen makes it a personal issue for many of us.

On June 19, Mr. Harry Wu entered northwest China, with a legal Chinese visa and with a valid United States passport, and was immediately detained by Chinese officials. For several days, China refused to confirm that it was in fact holding an American citizen, and in effect denied United States officials the access to our citizens that is supposedly protected under a United States-China Consular Convention. A U.S. diplomat was even sent on a wild goose chase throughout the northwest provinces earlier this month in search of Mr. Wu.

The announcement this weekend that Mr. Wu is going to be tried as a spy and potentially subject to the death penalty is the one of the most egregious violations I can think of. After spending 19 years in Chinese prison camps, and then seeking refuge in the United States, Mr. Wu has been actively researching the abuse of Chinese prisoners, including the trade of human body parts from executed prisoners to party officials. He has produced a film which was aired on the British Broadcasting Corp., published articles on the subject, and testified before congressional committees. He has publicized what can happen when the State has the will and instruments to take these actions, and has fought to halt this gruesome practice in China.

Mr. President, no one can possibly be deceived into thinking that Mr. Wu was arrested by Chinese officials for any other reason except to silence him. He is being threatened with death for uncovering horrid human rights abuses in China. The U.S. and international reactions must be anything but muted or conciliatory.

Earlier this year, the administration was willing to play hardball with trade when it came to Chinese piracy of software, and threatened to impose $1 billion worth of sanctions against products of specific state-owned industries. The threat worked, and the United States achieved its goals. I would entreat the administration to address the plight of a human being just as seriously.

My joint resolution is intended to send the message that we cannot have business as usual with China when human rights advocates, such as Harry Wu, are under the threat of death. In my view, MFN should not have been extended to China this year at all given its human rights record, but now, especially, we cannot offer conciliations of this kind.

China's human rights record is deteriorating, despite MFN, and there is little, if no, evidence that economic engagement is improving the human rights situation in China, as was earlier promised. Though China's economy is expanding brilliantly, political change is not coming: in fact, the Chinese Government appears to be doing everything within its power to ensure that economic development does not bring political liberalization. If anything, the Chinese need MFN to continue the trade and investment on which its economic development depends. For this reason, we must use MFN as a lever to protect human rights in China, and an American human rights crusader who is facing death.

I ask unanimous consent that the text of resolution be printed in the RECORD.

There being no objection, the joint resolution ordered to be printed in the RECORD, as follows:

S.J. RES. 37

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress does not approve the extension of the authority contained in section 402(c) of the Trade Act of 1974 recommended by the President to the Congress on June 2, 1995, with respect to the People's Republic of China.

ADDITIONAL COSPONSORS

S. 44

At the request of Mr. REID, the name of the Senator from Arizona [Mr. KYL] was added as a cosponsor of S. 44, a bill to amend title 4 of the United States Code to limit State taxation of certain pension income.

S. 254

At the request of Mr. LOTT, the name of the Senator from Vermont [Mr. LEAHY] was added as a cosponsor of S. 254, a bill to extend eligibility for veterans' burial benefits, funeral benefits, and related benefits for veterans of certain service in the United States merchant marine during World War II.

S. 256

At the request of Mr. DOLE, the names of the Senator from New York [Mr. D'AMATO] and the Senator from New Hampshire [Mr. GREGG] were added as cosponsors of S. 256, a bill to amend title 10, United States Code, to establish procedures for determining the status of certain missing members of the Armed Forces and certain civilians, and for other purposes.

S. 327

At the request of Mr. HATCH, the name of the Senator from Indiana [Mr. LUGAR] was added as a cosponsor of S. 327, a bill to amend the Internal Revenue Code of 1986 to provide clarification for the deductibility of expenses incurred by a taxpayer in connection with the business use of the home.

S. 426

At the request of Mr. SARBANES, the name of the Senator from New Jersey [Mr. BRADLEY] was added as a cosponsor of S. 426, a bill to authorize the Alpha Phi Alpha Fraternity to establish a memorial to Martin Luther King, Jr., in the District of Columbia, and for other purposes.

S. 588

At the request of Mr. DASCHLE, the name of the Senator from Illinois [Mr. SIMON] was added as a cosponsor of S. 588, a bill to amend the Employee Retirement Income Security Act of 1974 with respect to rules governing litigation contesting termination or reduction of retiree health benefits.

S. 607

At the request of Mr. WARNER, the name of the Senator from Nebraska [Mr. EXON] was added as a cosponsor of S. 607, a bill to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to clarify the liability of certain recycling transactions, and for other purposes.

S. 789

At the request of Mr. CHAFEE, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of S. 789, a bill to amend the Internal Revenue Code of 1986 to make permanent the section 170(e)(5) rules pertaining to gifts of publicly-traded stock to certain private foundations, and for other purposes.

S. 917

At the request of Mr. DOMENICI, the name of the Senator from Georgia [Mr. NUNN] was added as a cosponsor of S. 917, a bill to facilitate small business involvement in the regulatory development processes of the Environmental Protection Agency and the Occupational Safety and Health Administration, and for other purposes.

S. 939

At the request of Mr. SMITH, the name of the Senator from Missouri [Mr. ASHCROFT] was added as a cosponsor of S. 939, a bill to amend title 18, United States Code, to ban partial-birth abortions.

S. 949

At the request of Mr. GRAHAM, the name of the Senator from Colorado [Mr. BROWN] was added as a cosponsor of S. 949, a bill to require the Secretary of the Treasury to mint coins in commemoration of the 200th anniversary of the death of George Washington.

S. 959

At the request of Mr. HATCH, the names of the Senator from Louisiana [Mr. BREAUX] and the Senator from Utah [Mr. BENNETT] were added as a cosponsors of S. 959, a bill to amend the Internal Revenue Code of 1986 to encourage capital formation through reductions in taxes on capital gains, and for other purposes.

S. 969

at the request of Mr. BRADLEY, the name of the Senator from California [Mrs. BOXER] was added as a cosponsor of S. 969, a bill to require that health plans provide coverage for a minimum hospital stay for a mother and child following the birth of the child, and for other purposes.

S. 1009

At the request of Mr. D'AMATO, the name of the Senator from Connecticut [Mr. LIEBERMAN] was added as a cosponsor of S. 1009, a bill to prohibit the fraudulent production, sale, transportation, or possession of fictitious items purporting to be valid financial instruments of the United States, foreign governments, States, political subdivisions, or private organizations, to increase the penalties for counterfeiting violations, and for other purposes.

AMENDMENTS SUBMITTED

COMPREHENSIVE REGULATORY REFORM ACT OF 1995

ABRAHAM (AND OTHERS) AMENDMENT NO. 1490

Mr. ABRAHAM (for himself, Mr. DOLE, Mr. KYL, Mr. GRAMS, Mr. NICKLES, Mr. HATCH, and Mr. INHOFE) proposed an amendment to amendment No. 1487 proposed by Mr. DOLE to the bill (S. 343) to reform the regulatory process, and for other purposes; as follows:

(a) On page 27, line 13, strike "subsection" and insert "subsections"; and (b) on page 27, line 13, after "(c)", insert "and (e)"; and (c) on page 30, before line 10, insert the following:

"(e) REVIEW OF RULES AFFECTING SMALL BUSINESSES.—(1) Notwithstanding subsection (a)(1), any rule designated for review by the Chief Counsel for Advocacy of the Small Business Administration with the concurrence of the Administrator for the Office of Information and Regulatory Affairs, or designated for review solely by the Administrator of the Office of Information and Regulatory Affairs, shall be included on the next-published subsection (b)(1) schedule for the agency that promulgated it.

"(2) In selecting rules to designate for review, the Chief Counsel for Advocacy of the Small Business Administration and the Administrator of the Office of Information and Regulatory Affairs shall, in consultation with small businesses and representatives thereof, consider the extent to which a rule subject to sections 603 and 604 of the Regulatory Flexibility Act, or any other rule meets the criteria set forth in paragraph (a)(2).

"(3) If the Administrator of the Office of Information and Regulatory Affairs chooses not to concur with the decision of the Chief Counsel for Advocacy of the Small Business Administration to designate a rule for review, the Administrator shall publish in the Federal Register the reasons therefor.

Redesignate subsequent subsections accordingly.

NUNN (AND OTHERS) AMENDMENT NO. 1491

Mr. NUNN (for himself, Mr. COVERDELL, and Mr. INHOFE) proposed an amendment to the amendment No. 1487 proposed by Mr. DOLE to the bill S. 343, supra; as follows:

On page 14, line 10, strike out "or".

On page 14, line 16, add "or" after the semicolon.

On page 14, insert between lines 16 and 17 the following new subparagraph:

"(C) any rule or set of closely related rules, not determined to be a major rule pursuant to subparagraph (A) or (B) that the agency proposing the rule determines will have a significant economic impact on a substantial number of small businesses, pursuant to subchapter I;

On page 39, line 22, strike out "and".

On page 39, line 24, strike out the period and insert in lieu thereof a semicolon and "and".

On page 39, add after line 24 the following new subparagraph:

"(C) an agency certification that a rule will not have a significant economic impact on a substantial number of small entities pursuant to section 605(b).

On page 40, line 5, insert "and section 611" after "subsection".

On page 68, strike out all beginning with line 9 through line 11 and insert in lieu thereof the following:

"(A) include in the final regulatory flexibility analysis a determination, with the accompanying factual findings supporting such determination, of why the criteria in paragraph (2) were not satisfied; and

On page 72, insert between lines 14 and 15 the following new subsection:

(e) AMENDMENTS TO THE REGULATORY FLEXIBILITY ACT.—

(1) IMPROVING AGENCY CERTIFICATIONS REGARDING NONAPPLICABILITY OF THE REGULATORY FLEXIBILITY ACT.—Section 605(b), of title 5, United States Code, is amended to read as follows:

"(b) Sections 603 and 604 of this title shall not apply to any rule if the head of the agency certifies that the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. If the head of the agency makes a certification under the preceding sentence, the agency shall publish such certification, along with a succinct statement providing the factual reasons for such certification, in the Federal Register along with the general notice of proposed rulemaking for the rule. The agency shall provide such certification and statement to the Chief Counsel for Advocacy of the Small Business Administration.".

(2) TECHNICAL AND CLARIFYING AMENDMENTS.—Section 612 of title 5, United States Code, is amended—

(A) in subsection (a) by striking "the Committees on the Judiciary of the Senate and the House of Representatives, the Select Committee on Small Business of the Senate, and the Committee on Small Business of the House of Representatives" and inserting "the Committees on the Judiciary and Small Business of the Senate and House of Representatives"; and

(B) in subsection (b) by striking "his views with respect to the effect of the rule on small entities" and inserting "views on the rule and its effects on small entities".

On page 72, line 15, strike out "(e)" and insert in lieu thereof "(f)".

NOTICES OF HEARING

COMMITTEE ON INDIAN AFFAIRS

Mr. MCCAIN. Mr. President, I would like to announce that the Senate Committee on Indian Affairs will be holding a hearing on Thursday, July 13, 1995, beginning at 9:30 a.m., in room 485 of the Russell Senate Office Building on S. 479, a bill to provide for administrative procedures to extend Federal recognition to certain groups.

Those wishing additional information should contact the Committee on Indian Affairs at 224–2251.

SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS

Mr. THOMAS. Mr. President, I would like to announce for the information of the Senate and the public that a hearing before the Subcommittee on Oversight and Investigations of the Senate Energy and Natural Resources Committee has been scheduled for Tuesday, July 18, 1995, at 2:30 p.m. The purpose of the hearing is to examine first amendment activities, including sales of message-bearing merchandise, on public lands managed by the National Park Service and the U.S. Forest Service.

The hearing will be held in room SD–366 of the Dirksen Senate Office Building in Washington, DC.

Those wishing to testify or who wish to submit written statements should write to the Committee on Energy and

Natural Resources, U.S. Senate, Washington, DC 20510. For further information, please contact Kelly Johnson or Jo Meuse at (202) 224-6730.

ADDITIONAL STATEMENTS

SALUTE TO THE SPECIAL OLYMPICS

• Mr. DODD. Mr. President, now that the Special Olympics World Games have come to a close, I rise to again thank those who made this remarkable event possible. As my colleagues know, these games were held July 1-9 in New Haven, CT. This tremendous competition brought the world to Connecticut, and I want to take this opportunity to acknowledge some of the individuals who made it possible.

Were it not for the dreams and vision of Eunice Kennedy Shriver, the Special Olympics would not exist. This outstanding organization has flourished since she launched it, and it has left an extraordinary mark on the athletes, their families, their coaches and friends. I applaud Eunice, her husband, Sarge Shriver, and all the members of their family who have given so much to the Special Olympics throughout the years.

In New Haven, we were fortunate to have a member of the Shriver family at the helm of the 1995 World Games. I congratulate Tim Shriver on a job well done. The success of these games is due in large part to his hard work, dedication and leadership. I know Tim would agree, however, that this great success would not have been possible without the help and support of Chairman Lowell Weicker, the Special Olympics staff, the hundreds of volunteers and the cooperation and support of the New Haven community. I thank Mayor John Destefano and all the residents of New Haven for contributing in so many ways to this important event.

Cities and towns across Connecticut were fortunate to serve as host communities for delegations from each of the participating countries. This host program enabled families throughout the state to open their homes and their hearts to our visitors from abroad. This program proved invaluable for the hosts and the guests as cultures were commingled, traditions were shared and lifelong friendships were forged. I thank each of the communities and families that offered their hospitality to the world.

As with any event of this scale, the Special Olympics required significant financial support. I am proud to commend the many companies in Connecticut and throughout the country that donated hours of work and millions of dollars as corporate sponsors of these World Games.

Most importantly though, I want to recognize the athletes who competed in the Special Olympics. That is what these games are all about. From bowling to bocce, soccer to tennis, aquatics to equestrian sports, athletes from across the world came together to demonstrate their strength, dedication, and skill. The athletic abilities of these individuals are tremendous, and their ability to overcome obstacles to make it to New Haven is even more awesome.

Indeed, it is inspiring to see what each of these individuals has accomplished. It is the athletes, friends, families, and the coaches who dedicated themselves to this competition who deserve our highest commendation. Their enthusiasm and spirit was infectious, and we sincerely thank them for sharing their talent with us during these Olympic Games.

All the athletes came together during the opening ceremonies, one of the most memorable parts of these games. I will always remember the proud contingents of athletes from throughout the world entering the Yale Bowl to open the Olympics. They were greeted by the President of the United States and leaders of countries from El Salvador to Botswana and beyond. This spectacular event signaled the start of the World Games and kicked off a week of serious athletic competition and fun.

The opening ceremonies also launched a week-long demonstration of the ability of the human spirit to soar. There are members of every community who live each day with mental retardation and disabilities. We stopped this week to hear them say: "Watch us. We can do great things. We can bring you together and show you our strengths."

It is a lesson that we are fortunate to have learned. It is a message we should hear loud and clear and one that we should continue to heed in all that we do. In closing, I urge each of you to remember the Special Olympics athletes' oath as you confront the challenges in your life: Let me win, but if I cannot win, let me be brave in the attempt.•

TAX CUTS WORK

• Mr. ABRAHAM. Mr. President, one of the most frequent questions asked during the debate over the budget resolution was why, in the face of large deficits, were Republicans insisting on tax cuts. The answer is simple: Tax cuts work. By allowing Americans to keep more of what they earn, tax cuts encourage economic growth, job creation, and an increase—not decrease—in revenues to the U.S. Treasury.

Following the Reagan tax cuts in 1981, we witnessed one of the longest economic expansions in the history of the United States. Over 20 million new jobs were created while revenues to the Treasury increased dramatically. Just as importantly, the benefits of the Reagan tax cuts were felt by Americans from all income classes—rich and poor.

Tax cuts enacted this year could achieve similar results. I am including a short article by Malcolm S. Forbes, Jr. which makes an eloquent case for reducing the burden on the American taxpayer. As Mr. Forbes makes clear, Republicans can, and should, cut taxes and balance the budget at the same time.

FACT AND COMMENT

MEMO TO THE GOP: THE 1980'S WORKED

(By Malcolm S. Forbes, Jr.)

Republicans have accepted the notion that the 1980s were a big fiscal mistake, that Ronald Reagan was wrong to insist on tax cuts even in the face of congressional resistance to reducing spending.

Republicans are now in effect saying that no budget cuts mean no tax cuts. The GOP has it backwards. Properly structured tax reductions would trigger a robust economic expansion, as they did in the 1980s. They should be the center on which budget cuts are structured. Voters would thus see the GOP as the party of opportunity and growth, not as the party of austerity. Growth would also expand government revenues.

Reagan's much-criticized tax cuts were the principal catalyst of our longest peacetime expansion. Federal income tax receipts grew mightily. Even more impressive was the extraordinary surge in revenues of state and local governments. The federal deficits of the 1980s resulted from our unprecedented peacetime military buildup—which finally won the 40-year Cold War for us—and, more important, from Congress' inability to say no to domestic spending constituencies. If Republicans combine Reagan's pro-growth tax approach with their antispending proclivities, they will get credit for reviving the economy and curbing government.

Why should Republicans buy their opponents' bum raps about what actually happened when Reagan ruled?•

CASSANDRA JONES SELECTED AS EAST-WEST SOCCER AMBASSADOR

• Mr. FRIST. Mr. President, today, I would like to commend a very special young Tennessean for her selection as an East-West Soccer Ambassador, an all-star team of American youth soccer players ages 12 to 19. At 12 years of age, Cassandra Jones of Soddy Daisy is 1 of 15 nationally recruited players selected for this all-star team, and one of the youngest national stars to ever compete in this international program.

Cassie Jones was selected for the team based on her current soccer talent, her potential, and her ability to compete at the international youth soccer level. The program, originally founded in 1982, is a nonprofit, national soccer club that has earned a national reputation as America's leader in athletic diplomacy and well-rounded play development.

A straight-A student at Soddy Daisy Middle School, Cassie's excellence on the soccer field is matched by her drive and determination in the classroom, as well as her interest in other extracurricular activities. In addition to soccer, she is involved in band activities, and enjoys reading and playing softball.

This month, Cassie and her Ambassador teammates will travel to northern Europe to represent the United States in a 2-week soccer tour of Scandinavia. Following a high-intensity training session in Denmark, the East-West Ambassadors will compete in the prestigious Gothia Cup tournament in Gothenburg, Sweden. The Gothia Cup pits more than 900 teams from 50 countries in its competition. From there, Cassie will return to Denmark for another major tournament, the Dana Cup in Hjorring.

Mr. President, I would like to take this opportunity to wish Cassie Jones the best of luck as she enters her first international competition and embarks on what could be a very promising soccer career. I am confident she will represent the State of Tennessee and the United States well, and I look forward to hearing more about her achievements, both on and off the soccer field, in the future.●

ORDERS FOR TUESDAY, JULY 11, 1995

Mr. HATCH. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 9 a.m. on Tuesday, July 11, 1995; that following the prayer, the Journal of proceedings be deemed approved to date, the time for the two leaders be reserved for their use later in the day, and there then be a period for the transaction of morning business until the hour of 9:45 a.m., with Senators permitted to speak for up to 10 minutes each; further, that at the hour of 9:45 a.m. the Senate resume consideration of S. 343, the regulatory reform bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Mr. President, I further ask unanimous consent that the Senate stand in recess between the hours of 12:30 and 2:15 p.m. for the weekly policy luncheons to meet.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. HATCH. Mr. President, for the information of all Senators, the Senate will resume consideration of the regulatory reform bill tomorrow at 9:45 a.m. Further amendments are expected to the bill tomorrow; therefore, Senators should expect rollcall votes throughout Tuesday's session of the Senate.

ORDER FOR RECESS

Mr. HATCH. If there is no further business to come before the Senate, I now ask that, following the remarks of Senator REID, the Senate stand in recess under the previous order.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, I ask the unanimous-consent request be modified so I be allowed to speak for such time as I may consume. I will try to do it as quickly as possible, but I do not want to be bound by the 10 minutes when there is no one else here on the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Nevada.

REGULATORY REFORM

Mr. REID. Mr. President, in 1969 the Cuyahoga River in Ohio caught fire. I repeat, the Cuyahoga River caught fire. This river was so polluted that it actually started burning.

As a result of this, Members of Congress and the President decided it was time we did something about the rivers and streams in this country. Following that fire, that is a river catching fire, the Clean Water Act was passed. It has been 25-plus years since that river burned. Since that time, there has been a reversal of how the rivers and streams were. Then, 80 percent of the rivers and streams were polluted. Now, about 20 percent of the rivers and streams are polluted. We have made a lot of progress with the Clean Water Act, and that is the subject of this discussion tonight.

We have heard a lot of talk lately about regulatory reform, and I think it is important, because there is no area in the Federal Government—and as far as that goes, State government—that causes people as much concern as regulations. They have not only had the laws to deal with, but in recent years the laws propound regulations and the regulations propound all kinds of business decisions that people have to make.

It used to be that when we passed a law, or a State government passed a law, the laws could, in effect, be administered differently. If a bureaucrat wanted to administer the law in one part of the country in one way and in another part of the country in another way because of the climatic conditions, or whatever other variances there may be, he was able to do that. But the courts have said that is not permissible, that there must be, when a law is passed, rules promulgated so that law is enforced the same for everyone.

That has caused a lot of problems. We have heard, in recent days during the debate on this issue, a great deal about the pros and cons, for example, about threshold limits; that is, what dollar value should be in effect before a regulation is treated one way as compared to if it is under that threshold amount, should it be treated a different way. We have been barraged by declarations about rolling back existing rules, and this has caused areas of disagreement.

Within the framework of this debate, I have tried to find a commonsense approach to how we should approach this most important area of the law; namely, regulation reform. All too often, in issues such as this, it seems that common sense becomes clouded with political agendas, Presidential campaigns, congressional campaigns; obscured, perhaps, by various ideologies and smothered in the shouting from the right and the left. Common sense requires a balance, I think, in reform; a look at what is reasonable and then legislation that does not harm the whole to benefit just a few.

I do not know any Members of this body who would refuse small businesses the opportunity to grow and prosper. I know I feel that way because most of the jobs in this country are created by small businesses, not the General Motors, not the Lockheeds, not the Aerojets, but, rather, small businesses—mom and pop stores. In fact, small businesses produce about 85 percent of the jobs in the United States. So we must be responsive to how small business performs in our country. The better they perform, the more jobs are available, the better our country performs.

I have consistently been an advocate and have encouraged the stimulation of small businesses. They assume the risks of the marketplace and, as I have already indicated, are the backbone of our economy. But the profit of the business community should not come at the expense of clean air, clean water, and clean food. We cannot approach all problems with a dollar figure as the principal determination in the cost-benefit analysis.

Mr. President, as with all of us, we have recently returned from our States. Recently being in Nevada, and having had a number of town hall meetings, I heard from many people expressing concern about a rolling back of regulations that put certain areas that they were concerned about at risk, especially the environment. They were concerned also about the cleanliness of food and, of course, the safety of workers. In fact, a recent poll in Nevada is very illuminating, as to how people in Nevada feel. Nevadans do not believe they are overregulated in the areas of health and the environment. In fact, when you ask the people of the State of Nevada, "Do you think that laws and regulations relating to clean water are not strict enough? About right? Or too strict?" here is how the people of Nevada feel. Mr. President, 49 percent of the people in Nevada say that the clean water laws and regulations are not strict enough; 34 percent feel they are about right. Mr. President, that is about 85 percent of the people in Nevada who feel that the clean water regulations are either just right or not strong enough. Only 11 percent of the people feel that they are too strict.

Clean air—again, 44 percent feel that the clean air regulations are not strict enough. Remember, the State of Nevada has Las Vegas, it has Reno, and then the vast majority of the State, areawise, is rural in nature. This takes into consideration the views of rural Nevadans. Nevadans said that clean air rules and regulations and laws are not strict enough, to the tune of 44 percent. Twenty-five percent said they are about right.

Mr. President, with the environment, when you ask the question broadly, "Do you feel the laws relating to the environment are not strict enough, too strict, or about right?"—39 percent said they are not strict enough; 29 percent said they are just right.

Food safety: 43 percent of the people of Nevada said they are not strict enough, 43 percent said they are about right, and only 8 percent said that food safety regulations are too strict.

Workplace safety: Again, the same situation, not strict enough, and about right. Those figures come to about 65 percent.

The people of Nevada are very concerned about food, water, air, and the environment generally.

It is interesting, people in Nevada were asked the question—that is, people over age 60—"Would you be less likely to vote for someone that tampered with Medicare or less likely to vote for someone that messed with the environmental laws?" Seniors, people over 60 years of age, said, "We would be less likely to vote for someone that tried to weaken environmental laws."

So I do not think Nevada is unusual. I do not know statistically how other States feel other than what I read in the Washington Post newspaper yesterday, where a writer said that a recent Times-Mirror survey shows that although a large majority of respondents want most types of regulations rolled back, they make an exception for conservation rules. Seventy-eight percent said that Government should do whatever it takes to protect the environment. So it sounds to me, Mr. President, that nationwide the people feel the same as they do in Nevada.

I am not advocating the existence of any program, rule, or regulation that does not serve the public good. That would not serve anyone's purpose. In fact, it hinders more than it helps.

But I would like to look at what Senator JOHN GLENN said when S. 343 was introduced. Senator GLENN, who is the ranking member of the Government Operations Committee, who has worked on this bill in this area of the law a significant amount, said:

> Any bill on the subject of regulatory reform to be deserving of support must pass the test that is twofold: Number one, does the bill support the reasonable, logical, appropriate changes to regulatory procedures that eliminate unnecessary burdens on businesses and individuals? Number two, does the bill maintain the Government's ability to protect the health, the safety, and the environment of the American people? If the answer to both those questions is yes, then the bill should be supported.

That says it all. I congratulate and applaud Senator GLENN for this statement because that is what it is all about.

Mr. President, I believe that after the Government has acted on a problem, and there is a need for the Government to act on that problem, after time has passed I think it is important that we in Government look at the action that was taken by our prior Government. We have to reexamine I believe for efficiency, and because of that we need a periodic review. We do not have that. We should have that.

I have introduced legislation previously that said if Congress authorizes a program, we should reauthorize that program every 10 years, or it should fall. The reason I believe that is important is we have had some really unusual things happen in this Chamber that I am aware of.

It was just a year ago that I offered an amendment to do away with the Tea-Tasting Board—I repeat, the Tea-Tasting Board, costing almost $0.5 million a year, which had been going on for 60, 80, 100 years. We did not need it anymore. But it was just going on and on and on, like the battery you see on television. Had we had something in place that would have mandated a reauthorization of that program, the taxpayers' money would not have been wasted.

We had another program. During the Second World War it was important for soldiers to have wool. When wool gets wet, you can still stay warm with it. We did not have the synthetic products we now have. It was found during the Second World War we were not raising enough wool and mohair. As a result of that, we made special provisions that there would be a subsidy for people that would grow wool and mohair. This went on for 50 years. There was no need for it anymore. It was only recently that we terminated that program.

It should have been reviewed on a periodic basis. That is what we need to do with laws, and we need to do the same with regulations. Once a regulation is promulgated, there is no reason it should be there forever. There should be some way to reexamine that regulation that has been promulgated. That is what I am going to look for in the legislation that is now before this body.

Mr. President, I chaired a subcommittee when the Democrats were in the majority, a subcommittee in the Environment and Public Works Committee. It was the Subcommittee on Toxic Substances Research and Development. I chaired this subcommittee for a couple of Congresses. We had some really interesting hearings there. We had hearings that dealt with lead in the environment. And clearly as a result of those hearings, we focused attention on the need to do something about lead in the environment. We had physicians testify that it was the most dangerous condition for young children in America. Lead in the environment affected all people, no matter what race and no matter what economic strata they came from. We focused attention on this. As a result of that, legislation was passed that was directed toward taking lead out of the environment.

Mr. President, we held hearings on composite materials. These are the plastics that are used on airplanes like the Stealth fighter plane. We learned that in the workplace, this substance was killing people and making thousands of people sick. As a result of the hearings which we held, regulations were promulgated, workplaces were changed, and work conditions were changed. We needed to use composite materials. But we needed to do it safely.

We held hearings on fungicides and pesticides on foods learning that some of them were dangerous. As an example, hearings were held on a substance called alar, a substance to make apples, cherries, and grapes stay on trees longer than they normally would. This substance is now not used in the United States.

We held a significant number of hearings, Mr. President, on TOSCA. This is a program that we have now in effect that is old and needs to be updated. It has not been yet.

My only reason for pointing these things out is to suggest that in the areas I have mentioned, and in other areas such as lawn chemicals where we found people were getting sick, and we heard testimony before the committee that people died as a result of improper application of these substances and a lot of people got sick, that we have to be very careful that we do not throw the baby out with the bath water.

We have problems with too many regulations. But we must have a framework in place that allows protection of people in the workplace, in the marketplace, so that we can enjoy life with clean air and clean water. The regulations must be such that we can protect people but yet not make the rules so burdensome that people cannot conduct business.

This Congress has already had consideration of regulations. The House put a moratorium on all regulations. This body felt that had gone too far. Senator NICKLES, the senior Senator from Oklahoma, and I introduced an amendment. Basically, what the amendment said is that if a regulation has an impact of more than $100 million, this body and the House would have the opportunity for a legislative veto. That regulation would not go into effect for 45 days. During that 45-day period, we would have the opportunity to review that. If we did not like it, we could wipe that regulation off. It would not become effective. If it had an impact of less than $100 million, it would become effective immediately, but we would have 45 days to review that regulation. If we did not like it, we could rescind it.

This is a reasonable, sensible approach to regulatory reform. I am happy to see that the version submitted by the majority through Senator DOLE has this approach in it.

That submitted by my friend, the senior Senator from Ohio, also has a provision similar to this in it. I think that is important. It recognizes that this body by a vote of 100 to nothing adopted the Reid-Nickles amendment.

In sum, Mr. President, we need a sensible approach to regulatory reform. I think that we should all keep in mind what Senator GLENN has said. I think we would acknowledge what he said is right.

> Any bill on the subject of regulatory reform to be deserving of support must pass a test that is twofold. No. 1, does the bill provide for reasonable, logical, appropriate changes to regulatory procedures that eliminate unnecessary burdens on businesses and on individuals? And, No 2, does the bill maintain the Government's ability to protect the health, the safety, and the environment of the American people?

That should be the goal that the majority and the minority work toward on this legislation. Let us not form gridlock. Let us work to improve the way that the American public must deal with these regulations and in the process protect what people want protected the most, and that is food, water, and working conditions.

Mr. President, I yield the floor. I understand that ends this session tonight.

RECESS UNTIL 9 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 9 a.m. Tuesday, July 11.

Thereupon, at 6:51 p.m., the Senate recessed until Tuesday, July 11, 1995, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate July 10, 1995:

UNITED STATES INFORMATION AGENCY

CHERYL F. HALPERN, OF NEW JERSEY, TO BE A MEMBER OF THE BROADCASTING BOARD OF GOVERNORS FOR A TERM OF 1 YEAR. (NEW POSITION)

MARC B. NATHANSON, OF CALIFORNIA, TO BE A MEMBER OF THE BROADCASTING BOARD OF GOVERNORS FOR A TERM OF 3 YEARS. (NEW POSITION)

CARL SPIELVOGEL, OF NEW YORK, TO BE A MEMBER OF THE BROADCASTING BOARD OF GOVERNORS FOR A TERM OF 1 YEAR. (NEW POSITION)

DEPARTMENT OF STATE

STANLEY A. RIVELES, OF VIRGINIA, FOR THE RANK OF AMBASSADOR DURING HIS TENURE OF SERVICE AS U.S. COMMISSIONER TO THE STANDING CONSULTATIVE COMMISSION.

THE JUDICIARY

JOHN R. TUNHEIM, OF MINNESOTA, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF MINNESOTA, VICE DONALD D. ALSOP, RETIRED.

HOUSE OF REPRESENTATIVES—*Monday, July 10, 1995*

The House met at 2 p.m. and was called to order by the Speaker pro tempore [Mr. EVERETT].

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
July 10, 1995.

I hereby designate the Honorable TERRY EVERETT to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

MORNING BUSINESS

The SPEAKER pro tempore. Pursuant to the order of the House of May 12, 1995, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates. The Chair will alternate recognition between the parties, with each party limited to not to exceed 30 minutes, and each Member, except the majority and minority leaders, limited to not to exceed 5 minutes.

COMPACT-IMPACT AID

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Guam [Mr. UNDERWOOD] is recognized for 5 minutes.

Mr. UNDERWOOD. Mr. Speaker, I rise today to again call attention to an issue which combines all of the worst elements of a failed Federal policy in immigration which has resulted in huge unfunded mandates and stands as an example of how to make and break a promise. Mr. Speaker, I am speaking of the Federal Government's failure to compensate the people of Guam for expenses incurred as a result of a treaty we on Guam had no part in shaping.

Mr. Speaker, do Members of this body or the citizens of this country know that there are countries in this world, independent nations which have free and unrestricted access to the United States?

Mr. Speaker, do Members of this body or the citizens of this country know that there are nationals of other countries who can walk through immigration checkpoints with only an identification card; with no visa requirement, with no passport, with no restriction on their movement or time of stay?

Mr. Speaker, do Members of this body or the citizens of this country know that there are citizens of other countries who can come into the United States and work, receive public assistance and other benefits available to citizens and permanent residents apparently without restrictions?

It is true that citizens of the newly independent countries of the former Trust Territory of the Pacific Islands, under a treaty relationship between their countries and the United States, can come and have come to the United States, primarily to the State of Hawaii and the Territory of Guam and the Commonwealth of the Northern Marianas. And many have come to work and be productive participants in the economy.

But there is the matter of the Federal Government making a commitment to unrestricted access by foreign nationals via a treaty which falls disproportionately on local governments like that of Guam. This is not new to many areas of the country where a similar situation has resulted in "unfunded mandates." Bear in mind that this is legal immigration with no restrictions—no paperwork and no documentation, and all that is required for entry is an identification card from their own country—not even Canada, which has open borders with the United States, has such favorable immigration treatment.

This is a serious enough situation, but in the case of Guam—it is far more egregious in its negative impact because of our small size and limited population. And in terms of the issue of the unfunded mandates, the commitment was not made verbally or through exchanges of letters by the Federal Government—it was authorized in statute passed by this body in Public Law 99-239.

Public Law 99-239, section 104(e)(6) states:

> There are hereby authorized to be appropriated for fiscal years beginning after September 30, 1985, such sums as may be necessary to cover the costs, if any, incurred by the State of Hawaii, the territories of Guam and American Samoa, and the Commonwealth of the Northern Mariana Islands resulting from any increased demands placed on educational and social services by immigrants from the Marshall Islands and the Federated States of Micronesia.

We call this reimbursement compact-impact-aid—the assistance due local governments for the financial impact of the Compact of Free Association. Guam, due to its proximity, has received the greatest share of this immigration. Since the treaties went into effect, we now estimate that 6 percent of the total population of Guam is from these freely associated states. If the same percentage of immigrants were applied to the United States, there would be 15 million immigrants. And what is more startling is that this unrestricted immigration is entirely legal.

The total cost to the Government of Guam since the inception of this immigration is in excess of $70 million. The Guam Memorial Hospital estimates an impact of $750,000 in costs in fiscal year 1994, and $2.55 million since 1986 to the Medically Indigent Program due to compact immigrants. Public housing assistance cost Guam $2 million in fiscal year 1994 and $7.5 million since 1986. I have also heard reports from one elementary school principal who must devote three classrooms, with teachers and aides, just to teach English and reading skills to immigrants.

The total reimbursement given to Guam based on the law has been $2.5 million.

This is all that has been given to Guam in reimbursement for this dramatic impact on our society and economy. Mr. Speaker, given this legacy of the Federal Government's inability to make good on its promises, we should ask the question, What is Guam asking for in the Interior appropriations and what is Guam getting in the Interior appropriations?

These are easy questions. Guam is asking only that the Federal Government start living up to its commitment by putting in $4.58 million that the administration requested for fiscal year 1996. Guam is not asking for Government assistance; Guam is not asking for special projects; Guam is only asking for a down payment of a long overdue bill.

And what is Guam getting? Well, the answer is simple. Currently, the Interior budget is giving Guam zero, zilch, zip, nothing, nada, tayá—no money, however you want to say it. It is time to begin paying the bill.

Mr. Speaker, this week I intend to offer an amendment to H.R. 1977, the Interior appropriations bill, to restore the funding requested by the administration for the cost of this immigration. The Federal Government cannot have a free ride at Guam's expense, on a policy Guam had no part in shaping. The Federal Government cannot open Guam to unrestricted immigration and then stick us with the bill. The Federal Government cannot pass on this unfunded mandate to Guam while leaving

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

us alone to deal with the impact of this immigration. I urge my colleagues to support Guam's compact-impact reimbursement.

COST OF GOVERNMENT DAY 1995

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Texas [Mr. DELAY] is recognized during morning business for 5 minutes.

Mr. DELAY. Mr. Speaker, today is the first day that the American citizens start working for themselves. What do I mean by that:

Yesterday was the Cost of Government Day. The American people worked from January 1 of this year to July 9 of this year for the government. I say to my colleagues, "If you add up all the taxes paid on the local, State, and Federal level, and the cost of regulation, 52 cents out of every hard-earned dollar that the American people earn goes to the government. Out of the 365 days in the calendar year, the American people worked 189.9 days for the government and the regulatory bureaucracy. They worked 15.3 days for defense, 13½ days for interest on the national debt, 28.7 days for Social Security and Medicare, 51.1 days for State and local taxes and regulations, 41.7 days for Federal regulations, and 35.6 days for other Federal programs."

I ask my colleagues, "Did you know that more than half of the money that you earn goes to the government? Actually 52 cents of every dollar, every dollar earned by the average worker, is spent on government, tax and regulations? This means that you spend more time working for the government than you do for yourself and your family. It means that only 48 cents out of every dollar earned by the American family is available to pay for housing, food, education, transportation, and other essentials."

Mr. Speaker, this is unconscionable and immoral. By recognizing government-imposed costs and regulations, we can begin to increase public awareness of the 52-cent swindle.

As chairman of Cost of Government Day I say to my colleagues, "I urge you to join me in highlighting the cost of government to the average American family by giving a 1-minute or participating in the press conferences to come, and I urge all my colleagues to do so."

True, this year, the total cost of government is estimated to be $3.3 trillion. Nearly $1 trillion of this is the result of regulation. The Federal Government alone is responsible for $720 billion in hidden taxes through regulation this year. That amount equals $2,800 for every man, woman, and child in America.

Although the burden is immense, it can be lessened quickly. If the House Republican budget proposal were to be implemented, the Cost of Government Day would be 17 days earlier by the year 2002. That would allow Americans to work 2½ weeks longer for themselves and their families. Regulatory and legal reforms could move the Cost of Government Day to even earlier.

Mr. Speaker, we need these budget, legal, and regulatory reforms in order to reduce the Government's negative impact on the American family.

Mr. Speaker, July 9 marks the third annual Cost of Government Day. Cost of Government Day is an excellent opportunity to drive home the need for less government spending and more regulatory reform. The 104th Congress has made an excellent start. Passage and implementation of the House Republican budget will make Cost of Government Day come much quicker and the American family be able to spend more of its hard-earned dollars for things they think are important rather than for what some bureaucrat thinks is important.

Mr. Speaker, over in the other body they are starting the debate on regulatory reform, and the first thing out of the box for the last week has been an absolute unheralded attack on Members of Congress that are trying to bring some good science and common sense to regulations in this country. We have been attacked with the notion that we are destroying the environment, that we are removing safety. Indeed people are attacking us for even costing lives. What we are talking about is bringing reasonableness to regulations.

Let me just go over a couple of these issues that show how crazy and extreme the regulatory environment in this country has gotten. In Sacramento, CA, residents are reeling over a U.S. Fish and Wildlife Service ruling last fall which added three varieties of fairy shrimp to the endangered species list. The agency relied on a one-paragraph petition submitted by a Davis, CA, botanist in 1990 even though millions of hardy shrimp can be found in California, Europe, Asia, Australia, and Africa. The decision has shut down a pony ranch that housed a Sacramento program for the needy and disabled children and could cost the Sacramento area housing industry $500 million.

That is the kind of regulation that we are trying to stop. That is the kind of regulation that we are trying to bring reasonableness to. That is the kind of regulation that we are trying to bring forward, regulatory reform to bring forward, to stop the cost. That is a direct cost to the American people, thereby a direct cost to the American family.

Mr. Speaker, I think it is really sad that yesterday was the Cost of Government Day, that the American family has to work more than half the year for the government. I think, Mr. Speaker, that we need to put policies forward in this country that lessen the number of days that the American family has to work for their Government and increase the number of days that the American family can work for themselves.

GLOSSING OVER THE ROUGH SPOTS

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Florida [Mr. GOSS] is recognized during morning business for 5 minutes.

Mr. GOSS. Mr. Speaker, when credible and respected observer organizations, notably the International Republican Institute, returned from the June 25 elections in Haiti to report their documented observations—both the good and the bad—they were not received with open arms. It was more like a shoot-the-messenger situation here and elsewhere in Washington because at that time international organizations, the Clinton administration officials, and some of the national media even were too busy painting rosy pictures of what was going on in Haiti—glossing over widespread irregularities in the elections that actually happened hailing the relatively nonviolent atmosphere on election day as the measure of a successful electoral process in Haiti, never mind the widespread and serious mismanagement, chaos, confusion, and disorganization that disenfranchised so many candidates and so many voters.

Now the flurry of election reports of 2 weeks ago in Haiti has dwindled to a few inches of space in the major papers. Last Friday, for example, the news that the run-off elections, the important run-off elections scheduled for the end of this month were being pushed back to August. This was buried in the deepest recesses of the major papers. Even the New York Times barely gave it mention, and none among the major media dared question the wisdom of the provisional electoral council's intention to announce results on this past Saturday despite the protests of most of the parties that participated in the election on June 25.

This week, the news that 23 of the 27 parties who actually participated in the elections of June 25 in Haiti have signed official communiques calling for the elections to be annulled, and that still has not made the cut in the smattering of the Haiti-related articles in the major press outlets in this country either.

The New York Times did take the time to editorialize and declare the delay of the run-offs as a step that will give officials time to learn from their mistakes. Of course, some might question whether or not it is appropriate to hold a run-off for an election that is being challenged by almost all the participants, because it was characterized by the widespread disenfranchisement of voters and candidates alike, as we now all know.

But the Clinton administration marches onward down the yellow brick road. At the State Department briefing this weekend, Spokesman Burns declared that Haiti "now has a functioning democracy * * *" and that the administration believes "* * * the Haitians did rather well, if you look at this election as it should be properly viewed in the context of the environment in Haiti and the history of Haiti."

Well, indeed, it is good news that democracy has come to Haiti. Now perhaps we can bring back thousands of troops that are down there at taxpayers expense providing security and stability in that country and perhaps we can cut back on the hundreds of millions of dollars being sent to Haiti every day to help get democracy started.

Mr. Speaker, the truth is the Haitian people who toiled long and hard on election day trying to make the best of a bad process deserve more than the cursory analysis and condescending statements of support we have been hearing from the administration and the media in this country.

Rather than pressure to simply move on, Haitians need the support of the White House, the State Department and the American media to find the truth of what actually went wrong in the elections on the 25th—and to get it fixed. And before this December's Presidential elections because they are going to be very important, and more importantly for the American people, we need to be kept abreast of where are the taxdollars the Clinton administration has been doling out for the elections and for U.S. operations in Haiti? And what good, if any, they are doing? It is a lot of money. The White House owes us an accounting and it is overdue.

At the most basic level, these elections were about Haitians being free to elect the entire local governmental structure in Haiti and a new national parliament, a congress, being free to construct in those offices the checks and balances envisioned and provided for in the new Haitian constitution. The success of the process will determine how soon we can bring our troops home and whether or not anything lasting, in fact, does come out of all the money, time, and effort the American people have poured into that small friendly Caribbean nation.

Glossing over the rough spots in this process does not help any of the parties involved.

I say to my colleagues, "If you want to shoot the messenger, go ahead, but the fact of it is that there are some problems, and they need to be fixed."

Even the distinguished New York Times today has had the temerity to suggest what they would not suggest 2 weeks ago after the elections, and I quote from the editorial page from the Times today: "Haiti is wise to postpone its next round of elections. The first round, on June 25, was marred by massive disorganization," et cetera. They would not admit that, and now they admit it. We are making progress. We are getting at the truth.

COST OF GOVERNMENT DAY CELEBRATION

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Maryland [Mr. BARTLETT] is recognized during morning business for 5 minutes.

Mr. BARTLETT of Maryland. Mr. Speaker, yesterday, July 9, was the kind of day when you did not know whether you should laugh or cry. It was a kind of day when you did not know whether you should mourn or celebrate. You see yesterday, July 9, was Government Free Day. Up until yesterday every American worked full-time just to pay for the costs of government. Until about mid-May we all worked to pay the costs of Federal, State, and local taxes, and then incredibly, incredibly from mid-May until July 9, every American worked full-time just to pay the cost of unfunded Federal mandates. It was the day on which one would cry and mourn that he had spent so much of his time working for government. But it was also a day in which we could look forward to today; you might celebrate that, the first day on which you could earn any money for yourself.

The average American this year worked a bit more than 189 days to pay for the cost of government. He has left just a bit more than 175 days to do all the things that one needs to do. Father and mother work to pay the mortgage, save money for an education, to prepare for their retirement, to take care of their sicknesses, and all of this has to be done in 175 days after working a bit more than 189 days for the government.

Let us kind of put this in perspective. According to Prof. Charles Adams, author of "For Good and Evil," which is a history of taxation published in 1933, peasant serfs in the Mongol Empire in the period of Genghis Khan had to give their feudal lords just one-tenth of what they produced. When you consider how oppressed we think those people were in giving one-tenth of their income, what do you have to say about us who had to work about 52 percent of this year to pay for the cost of government?

In the last two elections it was a revolution that began at the polling places, and all across America Americans said enough is enough, and they voted to begin to return this country to that vision of our forefathers. The kind of government that they envisioned was stated by Thomas Jefferson when he indicated that the government which governs best is the government which governs least. We have got to be about a million miles from that dream of Thomas Jefferson, and that Abraham Lincoln in a period of crisis in our country said it just as well. He said it differently. He said that government should only do for its citizens what they cannot do for themselves.

Someone has said that considering how ineffective government is, how much it has interfered with our families, how much it has depreciated the business environment, that we ought to be thankful that we do not get all the government that we pay for. If government was efficient and effective in doing what it does, it would have done even more damage to our families and to our economy.

Another thing that really causes one to stop and think is the realization that after 7 years of balancing the budget, as my colleague from Texas indicated just a little earlier, we will have moved back the Cost of Government Day just 17 days. I do not think that that is what Americans had in mind when they went to the polling places these last two elections and began this revolution.

Moving back the Cost of Government Day just 17 days after 7 years; that is not enough. That is not what Americans had in mind. We have just begun this battle to take back our country and to return it to the kind of country envisioned by our forefathers. Think about it, America.

Think about July 9. Think about spending 52 percent of your time working for government. Think about that when you go to the polls and the next election to continue this revolution.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12, rule I, the Chair declares the House in recess until 3:30 p.m.

Accordingly (at 2 o'clock and 25 minutes p.m.) the House stood in recess until 3:30 p.m.

□ 1530

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore [Mr. SHAYS] at 3:30 p.m.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Remind us, O gracious God, and teach us until we understand that each day is Your gift to us, a day which we receive without merit but we receive with gratefulness. As the psalmist has recorded, we ought make a joyful noise unto You and serve with gladness of heart, for Your steadfast love endures forever and Your faithfulness to all generations. May we keep these words before us as we get immersed in the duties of the time, that though our responsibilities are ever before us, we never lose sight of Your promises and Your grace. In Your name, we pray. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. STUDDS. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER pro tempore. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. STUDDS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 1, rule I, further proceedings on this question are postponed.

The point of no quorum is considered withdrawn.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Ohio [Mr. TRAFICANT] come forward and lead the House in the Pledge of Allegiance.

Mr. TRAFICANT led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF MEMBERS TO PARLIAMENTARY ASSEMBLY OF CONFERENCE ON SECURITY AND COOPERATION IN EUROPE

The SPEAKER pro tempore. Without objection, and pursuant to the provisions of section 169(b) of Public Law 102–138, the Chair announces the Speaker's appointment to the U.S. delegation to the parliamentary assembly of the Conference on Security and Cooperation in Europe the following Members of the House: Mr. SMITH of New Jersey, vice chairman; Mr. HOYER of Maryland; Mr. TORRICELLI of New Jersey; Mr. SAWYER of Ohio; Mr. COLEMAN of Texas; Mr. FORBES of New York; Mr. CARDIN of Maryland; and Ms. SLAUGHTER of New York.

There was no objection.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Edwin Thomas, one of his secretaries.

TOP 10 REASONS DEMOCRATS WANT TO TIE UP HOUSE WITH PROCEDURAL VOTES

(Mr. HAYWORTH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HAYWORTH. Mr. Speaker, from the home office in Scottsdale, AZ, the top 10 reasons Democrats want to tie up the House with procedural votes today:

(10) Build up voting percentage.

(9) Journal vote important to the American people.

(8) Like to work hard at nothing all day.

(7) Manufactured rage makes me smile.

(6) They say they are not for sale. What they won't say is nobody's buying their line anyway.

(5) We don't want to work. We just want to bang on this gavel all day.

(4) Monday Night TV is just reruns anyway.

(3) Holding breath until blue in the face doesn't work.

(2) BONIOR told them to.

And the number one reason Democrats want to tie up the House with procedural votes today:

(1) They have fallen and they can't get up.

AMERICA'S TRADE POLICY—A WISH AND A PROMISE

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. How soon we forget, Mr. Speaker. Another Japanese trade crisis, another Japanese promise, another Japanese victory.

Check this out: At the last minute, Japan promised to buy more cars, to buy more auto parts from America, and open up their markets for the 20th time. It seems like Japan said this time, "Scout's honor, America. This time we really mean it. Cross my heart and hope to die."

Beam me up, Mr. Speaker. America's trade policy is nothing more than a wish and a promise—an American wish for American workers, and the Japanese promise after promise after promise. It was time to hit Japan in the pocketbook. We failed to do that. Two more years now, and we will see how the program goes.

STAND STRONG FOR AMERICA REGARDING VIETNAM

(Mr. SAM JOHNSON of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SAM JOHNSON of Texas. Mr. Speaker, I thank the gentleman from Ohio [Mr. TRAFICANT]. He is exactly correct. Promises, promises. Tomorrow President Clinton is expected to break yet another one of his campaign promises.

He promised American veterans and the families of those servicemen still missing in action that he would not normalize relations with Vietnam until we had a full and complete accounting of those still missing in action.

But now, with 55 cases still unsolved, he is going ahead with normalization, praising the Vietnamese for their so-called cooperation. But, in reality, between 1992 and 1994 they provided us more than 21,000 documents, photos, and artifacts. Only 1 percent have pertained to missing Americans.

The Vietnamese have not changed; if they had they would have already opened up all the records and we wouldn't be involved in bartering information for normalization.

You know, I don't expect us to be able to count on the Vietnamese. But, we should at least be able to count on our own President. He should take a strong stand for America, instead of caving in to narrow special interests and giving away America's integrity.

FRANCE NEEDS TO JOIN CONTINUING MORATORIUM ON NUCLEAR TESTING

(Mr. UNDERWOOD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. UNDERWOOD. Mr. Speaker, yesterday, French navy commandos seized the Greenpeace ship *Rainbow Warrior II*, thwarting its attempt to land protesters on a South Pacific atoll where France plans to conduct nuclear tests.

With its latest commando raid, France has demonstrated once again that they will go to whatever lengths necessary to restart their nuclear testing program. Firing tear gas at 11 people, including journalists, and acting like thugs, is not the behavior that behooves a nation which fancies itself the epitome of civilization.

The problem is that France is digging itself into a bigger hole than the one they created in Muroroa in the face of universal opposition. Since President Chirac announced on June 13 that France will resume its nuclear test program with eight tests French officials have ignored world opinion.

But this do as we say, not what we do attitude ignores France's responsibility as a nuclear power. France needs to join with other major powers in continuing a moratorium on nuclear testing before, not after, it conducts tests in the South Pacific. Instead of boarding the ships of protesters, it is time for France to get back on board the nuclear test ban.

COMPROMISING INTEGRITY

(Mr. JONES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JONES. Mr. Speaker, when we convened for the 104th Congress in January, we came with our word and honor to uphold. And we have done it. We promised the American people action toward a more responsive, efficient Government, and we came here with our honor and integrity on our minds, not the next campaign.

The President, however, doesn't seem to take his job as seriously. Instead, he compromises his integrity by using his office for personal political purposes. His agenda focuses not on service to the American people but on benefiting from special interest donations.

We can here with determination to do the work of the American people, not to sell our offices for political advantage. In his State of the Union Address, President Clinton implored politicians to just stop taking contributions from special interest donors. Now, several months afterward, he is blatantly practicing the very things he preached against. Unfortunately for him, actions speak louder than words.

COMMENDING PHILIP MORRIS CORP. FOR ACTION AGAINST ACCESS PROGRAM

(Mr. WARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WARD. Mr. Speaker, I rise today to pay recognition to a program initiated by the Philip Morris Corp. to help prevent access to cigarettes by young people. I applaud their efforts.

The program, action against access, will involve placing minimum age signs and other materials in over 200,000 retail outlets throughout the United States. The program will also conduct compliance seminars for retailers and law enforcement officers.

In an effort to end smoking by young adults, the action against access program will discontinue free cigarette sampling and will place additional notices on cigarette cartons prohibiting sales to minors.

Mr. Speaker, I would like to commend Philip Morris on their efforts to address a serious problem in our Nation—I hope that other cigarette manufacturers will follow suit.

SELF-RIGHTEOUS HAVE FALLEN

(Mr. SCARBOROUGH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCARBOROUGH. Mr. Speaker, my, my, how the self-righteous have fallen. It was just a week ago that Democrats were beating their chests on this floor about Republicans daring to have a fund-raiser in New York City. Why, that is something Democrats have never done before, have a fund-raiser in New York City.

Well, I guess what they meant to talk about is saying they are going to move their yard sale from New York City down to the front lawn of the White House, because now the President and the Democratic Party want to conduct all of its fund-raising activities on the lawn of the White House.

Could this be the same President who a few years ago beat his chest and said, "We will not put a 'for sale' sign on the front lawn of the White House." Could that be the same President of the United States who is now saying, "Hey, if you want to talk to me, pay me $100,000. The Democratic Party will even give you a special advisor."

Well, my goodness, if this is putting an end to business as usual, I think we need to go another step further.

ANNUAL REPORT OF CORPORATION FOR PUBLIC BROADCASTING—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The Speaker pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Commerce.

To the Congress of the United States:

In accordance with the Communications Act of 1934, as amended (47 U.S.C. 396(i)), I transmit herewith the Annual Report of the Corporation for Public Broadcasting (CPB) for Fiscal Year 1994 and the Inventory of the Federal Funds Distributed to Public Telecommunications Entities by Federal Departments and Agencies: Fiscal Year 1994.

Since 1967, when the Congress created the Corporation, CPB has overseen the growth and development of quality services for millions of Americans.

This year's report, entitled "American Stories," is a departure from previous reports. It profiles people whose lives have been dramatically improved by public broadcasting in their local communities. The results are timely, lively, and intellectually provocative. In short, they're much like public broadcasting.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *July 10, 1995.*

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered or on which the vote is objected to under clause 4 of rule XV. Such rollcall votes, if postponed, will be taken after debate has concluded on all motions to suspend the rules, but not before 5 p.m. today.

EXTENDING MOST-FAVORED-NATION TREATMENT TO CAMBODIA

Mr. CRANE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1642) to extend nondiscriminatory treatment—most-favored-nation treatment—to the products of Cambodia, and for other purposes.

The Clerk read as follows:

H.R. 1642

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONGRESSIONAL FINDINGS.

The Congress finds that—

(1) Cambodia is now under democratic rule after 20 years of undemocratic regimes and civil war, and is striving to rebuild its market economy;

(2) extension of unconditional most-favored-nation treatment would assist Cambodia in developing its economy based on free market principles and becoming competitive in the global marketplace;

(3) establishing normal commercial relations on a reciprocal basis with Cambodia will promote United States exports to the rapidly growing Southeast Asian region and expand opportunities for United States business with investment in the Cambodian economy; and

(4) expanding bilateral trade relations that includes a commercial agreement will promote further progress by Cambodia on human rights and toward adoption of regional and world trading rules and principles.

SEC. 2. EXTENSION OF NONDISCRIMINATORY TREATMENT TO THE PRODUCTS OF CAMBODIA.

(a) HARMONIZED TARIFF SCHEDULE AMENDMENT.—General note 3(b) of the Harmonized Tariff Schedule of the United States is amended by striking "Kampuchea".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) applies with respect to goods entered, or withdrawn from warehouse for consumption, on or after the effective date of a notice published in the Federal Register by the United States Trade Representative that a trade agreement obligating reciprocal most-favored-nation treatment between Cambodia and the United States had entered into force.

SEC. 3. REPORT TO CONGRESS.

The President shall submit to the Congress, not later than 18 months after the date of the enactment of this Act, a report on the trade between the United States and Cambodia pursuant to the trade agreement described in section 2(b).

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Illinois [Mr. CRANE] will be recognized for 20 minutes, and the gentleman from Florida [Mr. GIBBONS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Illinois [Mr. CRANE].

Mr. CRANE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 1642, legislation to extend permanent most-favored-nation [MFN] tariff treatment to the products of Cambodia. This legislation, which was introduced by myself and the ranking member of the Ways and Means Subcommittee on Trade, Mr. RANGEL, is noncontroversial and was reported out of the Ways and Means Committee by a voice vote on June 20.

After two decades of civil war, Cambodia held democratic elections in May, 1993. Upon the formation of the freely elected Royal Cambodian Government on September 24, 1993, the United States and Cambodia immediately established full diplomatic relations. To normalize trade relations between our countries, the United States concluded an agreement with Cambodia in the spring of 1994 on bilateral trade relations and intellectual property protection that calls for a reciprocal extension of MFN status.

Since taking office, the Cambodian Government has taken steps, and planned additional action, to convert the Cambodian economy from one based on central planning to one based on market-oriented principles. Establishing normal commercial relations with Cambodia will assist in this transformation by making Cambodian exports to the United States more competitive in the global marketplace.

In addition, establishing normal commercial relations with Cambodia on a reciprocal basis will promote United States exports to the rapidly growing southeast Asian region and expand opportunities for United States businesses and investment in the Cambodian economy. Furthermore, expanding our bilateral trade relations with Cambodia will promote further progress by Cambodia on human rights and toward the adoption of regional and world trading rules and principles.

The Congressional Budget Office has determined that enactment of H.R. 1642 has no significant budgetary effect.

I urge my colleagues to support enactment of this legislation.

□ 1545

Mr. Speaker, I reserve the balance of my time.

Mr. GIBBONS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentleman from Illinois [Mr. CRANE] has adequately explained this piece of legislation. I want to just comment a little on the term "most favored nation."

First of all, I heartily endorse what the gentleman from Illinois [Mr. CRANE] has said. We need to grant most-favored-nation treatment to Cambodia. Now, I hate to explain this to my colleagues, but most favored nation does not mean that much. It just means normal trading status for an emerging country.

I mention this because every now and then somebody gets on the floor and says, oh, for that horrible country, and then they will name the country, you are giving them most-favored trading status, which sounds like you are really giving them something.

Well, we are not really giving them anything. We are giving ourselves access to their markets and them to our markets on the same basis that we give all the other nations on earth, with very few minor exceptions.

So I hope nobody will take umbrage by the fact that we are granting most-favored-nation treatment to little Cambodia. Cambodia has had a tortured career in the last few years. They have had terrible revolutions in their country and awful bloodshed, but they have signaled that they want to go right and want to do the right thing.

It is time that we welcome them into the family of trading nations. Perhaps as more of our people go there and more of their people come here and as we exchange goods with each other, we may exchange some ideas that will do us both some good.

Mr. Speaker, I heartily endorse most-favored-nation treatment for Cambodia.

Mr. Speaker, I reserve the balance of my time.

Mr. CRANE. Mr. Speaker, I want to commend our ranking minority member on the Committee on Ways and Means who has been a devotee of the advancement of free trade principles in all the years I have had the privilege of working with him. I think it illustrates the bipartisan support that we have on this proposal before us today.

Mr. Speaker, I have no further requests for time, and I yield back the balance of by time.

Mr. HORN. Mr. Speaker, I strongly support the extension of MFN for Cambodia. The people of Cambodia have undergone more than 20 years of unimaginable horror to reach a point where they could decide their own fate. After years of bloodshed, a government that they elected now represents the people of Cambodia. With the improvement of its political institutions, the people of Cambodia are also attempting to bring reform to its markets. Rising from the starvation and brutality of the recent past, Cambodians are struggling to build a strong country, with solid political institutions and an economic foundation that will allow stability to replace insecurity.

Trade is an important vehicle for creating opportunity and strengthening relations. Trade represents a symbolic recognition between countries of shared goals. An important goal of the United States is to see progress in Southeast Asia. This is happening. On July 11, President Clinton may announce the normalization of relations with Vietnam. Thailand has undergone another peaceful election in which the opposition party won a plurality of votes. On July 10, Burma announced the release of Nobel-laureate Aung San Suu Kyi. Important changes are taking place throughout the region, and it is right that the United States continue to encourage reforms in Cambodia.

Cambodia. for all its reforms, still must go further. On July 10, the Cambodian parliament approved a new law that sends disturbing signals on its commitment to free speech. These are the kinds of actions that the United States must constructively work to discourage, while also supporting the many positive reforms that have taken place. Cambodia is seeking ways to rejoin and participate in regional and global arrangements. Extending Most-Favored-Nation tariff treatment to Cambodia sends a positive signal to that country's reformers, while also reserving the right to reevaluate this status should it be necessary to do so in the future.

Mr GIBBONS. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. SHAYS). The question is on the motion offered by the gentleman from Illinois [Mr. CRANE] that the House suspend the rules and pass the bill, H.R. 1642.

The question was taken.

Mr. GIBBONS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

GENERAL LEAVE

Mr. CRANE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous matter on H.R. 1642.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

EXTENDING MOST-FAVORED-NATION TREATMENT TO BULGARIA

Mr. CRANE. Mr. Speaker, I move to suspend the rules and pass the bill—H.R. 1643—to authorize the extension of nondiscriminatory treatment—most-favored-nation treatment—to the products of Bulgaria.

The Clerk read as follows:

H.R. 1643

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONGRESSIONAL FINDINGS AND SUPPLEMENTAL ACTION.

(a) CONGRESSIONAL FINDINGS.—The Congress finds that Bulgaria—

(1) has received most-favored-nation treatment since 1991 and has been found to be in full compliance with the freedom of emigration requirements under title IV of the Trade Act of 1974 since 1993;

(2) has reversed many years of Communist dictatorship and instituted a constitutional republic ruled by a democratically elected government as well as basic market-oriented reforms, including privatization;

(3) is in the process of acceding to the General Agreement on Tariffs and Trade (GATT) and the World Trade Organization (WTO), and extension of unconditional most-favored-nation treatment would enable the United States to avail itself of all rights under the GATT and the WTO with respect to Bulgaria; and

(4) has demonstrated a strong desire to build friendly relationships and to cooperate fully with the United States on trade matters.

(b) SUPPLEMENTAL ACTION.—The Congress notes that the United States Trade Representative intends to negotiate with Bulgaria in order to preserve the commitments of that country under the bilateral commercial agreement in effect between that country and the United States that are consistent with the GATT and the WTO.

SEC. 2. TERMINATION OF APPLICATION OF TITLE IV OF THE TRADE ACT OF 1974 TO BULGARIA.

(a) PRESIDENTIAL DETERMINATIONS AND EXTENSION OF NONDISCRIMINATORY TREATMENT.—Notwithstanding any provision of title IV of the Trade Act of 1974 (19 U.S.C. 2431 et seq.), the President may—

(1) determine that such title should no longer apply to Bulgaria; and

(2) after making a determination under paragraph (1) with respect to Bulgaria, proclaim the extension of nondiscriminatory treatment (most-favored-nation treatment) to the products of that country.

(b) TERMINATION OF APPLICATION OF TITLE IV.—On and after the effective date of the extension under subsection (a)(2) of non discriminatory treatment to the products of Bulgaria, title IV of the Trade Act of 1974 shall cease to apply to that country.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Illinois [Mr. CRANE] will be recognized for 20 minutes, and the gentleman from Florida [Mr. GIBBONS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Illinois [Mr. CRANE].

Mr. CRANE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 1643, which would extend permanent most-favored-nation [MFN] tariff treatment to the products of Bulgaria. This legislation, which was introduced by myself and the ranking member of the Ways and Means Subcommittee on Trade, Mr. RANGEL, is noncontroversial and was reported out of the Ways and Means Committee by a voice vote on June 20.

At present, Bulgaria's MFN status is regulated by title IV of the Trade Act of 1974, the provision of U.S. law which governs the extension of MFN tariff treatment to nonmarket economies. Bulgaria was first granted MFN treatment by the United States in 1991 under a Presidential waiver from the freedom of emigration requirements contained in the Trade Act of 1974. Since 1993, Bulgaria's MFN status has been renewed after the President has found the country to be in full compliance with the requirements stipulated in U.S. law.

The political and economic circumstances in Bulgaria have changed considerably since the enactment of the Trade Act of 1974. The Communist dictatorship in Bulgaria has collapsed and a democratically elected government has taken office which has instituted basic market-oriented principles, including privatization, in the Bulgarian economy.

Normalizing United States trade relations with Bulgaria, as has been done of other Eastern European countries, by authorizing the removal of the application of title IV of the Trade Act of 1974, from Bulgaria will enhance our bilateral relations with that country and foster the economic development of the region by providing the business community with greater certainty with respect to Bulgaria's status under United States law.

At the present time, Bulgaria is in the process of acceding to the World Trade Organization [WTO]. For this reason, the extension of permanent MFN tariff treatment to Bulgaria is also necessary in order for the United States to avail itself of all WTO rights vis-a-vis Bulgaria at the time of the country's accession to the agreement.

The Congressional Budget Office has indicated that its baseline revenue projections assume that Bulgaria's MFN status will be renewed annually by the President. Therefore, enactment of H.R. 1643 will not affect projected Federal Government receipts.

I urge my colleagues to support the passage of this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. GIBBONS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, again, the gentleman from Illinois, [Mr. CRANE] has adequately explained this legislation. I will be brief.

The trade subcommittee of the Committee on Ways and Means first visited Bulgaria as an official delegation in 1985. We were impressed then that Bulgaria was moving faster than most of the countries in the Eastern Bloc away from a centrally planned economy and toward a free and open economy. The evidence was clear then that that was their ultimate goal.

Bulgaria, like most Eastern European countries, has had a tortured history, occupied by many different foreign powers over a long period of time, most recently occupied by the Germans during World War II and, prior to World War I, by the Turkish Government, the Ottoman Empire, for 500 or 600 years.

They were abused greatly during their occupation, suffered a great deal, and have come out of it a wiser, but sadder nation.

Mr. Speaker, we should grant to this country most-favored-nation treatment; in other words, ordinary trade treatment for a civilized country. It will help us. It will help them.

Mr. Speaker, I reserve the balance of my time.

Mr. CRANE. Mr. Speaker, I reserve the balance of my time.

Mr. GIBBONS. Mr. Speaker, I yield such time as he may consume to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Speaker, I thank the very able ranking minority member for yielding time to me.

I apologize for speaking a little bit out of order. If it is 4 o'clock, it must be Bulgaria, which means I missed Cambodia. I admire the dispatch. I do not mean to get in the way of it. I think we sometimes take too long on things, but I did want to address a couple of words to the situation in Cambodia and, with the indulgence that the ranking minority member has given me, I will do that now.

I was supportive of a letter that was sent by Lane Kirkland, president of the AFL–CIO, to the Government of Cambodia in which he makes some very cogent objections to the proposed labor law. The gentleman from Florida has quite correctly pointed out that most-favored-nation treatment is a misnomer, since it does not mean that you are given preferential treatment.

On the other hand, it is something which it is within our power to confer and you are better off with it than without it. And I do believe as a matter of course, we should now be doing everything we can to urge better labor laws among other things, better respect for working people in our trading partners as one way of preventing an erosion of the rights that have been gained by people here, in eastern Europe, and elsewhere.

I do not oppose the Cambodia resolution, which is a good thing, since it is already over, but I do want to take the opportunity to have in the appropriate RECORD my concern. I have been told that the Cambodian Government has given assurances to Mr. Kirkland and others that they intend to correct the labor law that they are going to promulgate so that we will genuinely reflect the rights of workers to make their own choices and to advocate for their own rights.

I would just note that many of us are supportive of the most-favored-nation treatment for Cambodia on that assumption. I hope that by the next time it comes up, when it is time to be renewed, if it has to be, we will have that assurance.

I thank the ranking minority member for yielding time to me.

Mr. HOYER. Mr. Speaker, I rise today in support of H.R. 1643, extending most-favored-nation status to Bulgaria. Bulgaria has made great strides in the areas of human rights, foreign policy, economic reforms, and Jackson-Vanik requirements. MFN has been granted to Bulgaria since 1991 and this bill will continue Bulgaria's commitment to minority rights and a free market with permanent and unconditional most-favored-nation trade status.

Mr. Speaker, since the fall of communism, Bulgaria has pledged progress toward democratic and economic reforms. They have met some significant barriers which have slowed the pace of some of these reforms, including a budget crisis and high inflation. It should be noted that much of the $8 billion debt is due to its commitment to participate in the UN embargo against Yugoslavia.

Nonetheless, Mr. Speaker, human rights are respected in this diverse country of ethnic Bulgarians, Turks, Gypsies, and Bulgarian muslims. Ethnic Turks, in particular, have seen their situation improve considerably since the fall of communism and the Bulgarian Government has also displayed leadership in improving its traditionally rocky relations with Turkey. In virtually every area * * * freedom of movement, treatment of national minorities, and freedom of expression, Bulgaria has improved dramatically.

In the former Yugoslavia, Bulgaria continues to work for a peaceful resolution and was the first country to recognize all of the former Yugoslav republics, including Macedonia. With a resolution of this nightmare if and when it ends, Bulgaria will see much improved economic conditions.

Mr. Speaker, the future for Bulgaria is very bright. Their continued movement to a free market means a better standard of living for the Bulgarian people and improved relations with the United States. H.R. 1643 is a major step in the right direction toward reaching this end and I urge its passage. Thank you.

Mr. NEAL. Mr. Speaker, today we are voting on granting MFN to Cambodia. Cambodia did not have MFN in the past because they were under Communist rule. Over the past few years the country has had democratic elections, and the new government has made steps toward a market economy.

I am concerned about granting MFN to Cambodia. This legislation provides Cambodia with permanent and unconditional MFN status. In my opinion, Cambodia needs to make progress in two extremely important areas: Human rights and labor rights.

Democracy and human rights are continually under attack in Cambodia. The Royal Cambodian Government is persecuting journalistic critics, expelling government opposition members of Parliament, and creating an atmosphere of fear to stifle those who would speak up for democracy.

The granting of MFN does not mean Congress is not concerned about human rights violations. Congress will continue to monitor Cambodia's progress in this area.

Cambodia has still not passed a labor law that meets international labor standards. At this time, freedom of association for workers is not guaranteed. The right to strike does not exist. In addition, there are no minimum labor standards.

Recently, an opposition member of the Cambodia National Assembly, Sam Rainsy, was expelled from the assembly without a vote by the governing parties lead by the co-Prime Ministers. Also, there is a rumor other human rights supporters might be expelled.

In recent months, the situation in Cambodia has not improved. I have raised these issues with USTR and the State Department and I will continue to follow them closely. We have to continue to monitor Cambodia and strongly encourage improvements.

Mr. GIBBONS. Mr. Speaker, I yield back the balance of my time.

Mr. CRANE. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. CRANE] that the House suspend the rules and pass the bill, H.R. 1643.

The question was taken.

Mr. GIBBONS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

GENERAL LEAVE

Mr. CRANE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on H.R. 1643.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

SIKES ACT IMPROVEMENT AMENDMENTS OF 1995

Mr. YOUNG of Alaska. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1141) to amend the act popularly known as the Sikes Act to enhance fish and wildlife conservation and natural resources management programs, as amended.

The Clerk read as follows:

H.R. 1141

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Sikes Act Improvement Amendments of 1995".

SEC. 2. AMENDMENT OF SIKES ACT.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Act entitled "An Act to promote effectual planning, development, maintenance, and coordination of wildlife, fish, and game conservation and rehabilitation in military reservations", approved September 15, 1960 (16 U.S.C. 670a et seq.), commonly referred to, and in this Act referred to, as the "Sikes Act".

SEC. 3. INTEGRATED NATURAL RESOURCE MANAGEMENT PLANS GENERALLY.

(a) IN GENERAL.—Section 101(a) (16 U.S.C. 670a(a)) is amended—

(1) by striking "is authorized to" and inserting "shall";

(2) by striking "in each military reservation in accordance with a cooperative plan" and inserting the following: "on military installations. Under the program, the Secretary shall prepare and implement for each military installation in the United States an integrated natural resource management plan";

(3) by inserting after "reservation is located" the following: ", except that the Secretary is not required to prepare such a plan for a military installation if the Secretary determines that preparation of such a plan for the installation is not appropriate"; and

(4) by inserting "(1)" after "(a)", and adding at the end the following new paragraph:

"(2) Consistent with essential military requirements to enhance the national security of the United States, the Secretary of Defense shall manage each military installation to provide—

"(A) for the conservation of fish and wildlife on the military installation and sustained multipurpose uses of those resources, including hunting, fishing, and trapping; and

"(B) public access that is necessary or appropriate for those uses.".

(b) CONFORMING AMENDMENTS.—Title I, as amended by subsection (a) of this section, is further amended—

(1) in section 101(b) (16 U.S.C. 670a(b)) in the matter preceding paragraph (1) by striking "cooperative plan" and inserting "integrated natural resource management plan";

(2) in section 101(b)(4) (16 U.S.C. 670a(b)(4)) by striking "cooperative plan" each place it appears and inserting "integrated natural resource management plan";

(3) in section 101(c) (16 U.S.C. 670a(c)) in the matter preceding paragraph (1) by striking "a cooperative plan" and inserting "an integrated natural resource management plan";

(4) in section 101(d) (16 U.S.C. 670a(d)) in the matter preceding paragraph (1) by striking "cooperative plans" and inserting "integrated natural resource management plans";

(5) in section 101(e) (16 U.S.C. 670a(e)) by striking "Cooperative plans" and inserting "Integrated natural resource management plans";

(6) in section 102 (16 U.S.C. 670b) by striking "a cooperative plan" and inserting "an integrated natural resource management plan";

(7) in section 103 (16 U.S.C. 670c) by striking "a cooperative plan" and inserting "an integrated natural resource management plan";

(8) in section 106(a) (16 U.S.C. 670f(a)) by striking "cooperative plans" and inserting "integrated natural resource management plans"; and

(9) in section 106(c) (16 U.S.C. 670f(c)) by striking "cooperative plans" and inserting "integrated natural resource management plans".

(c) CONTENTS OF PLANS.—Section 101(b) (16 U.S.C. 670a(b)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (C) by striking "and" after the semicolon;

(B) in subparagraph (D) by striking the semicolon at the end and inserting a comma; and

(C) by adding at the end the following:

"(E) wetland protection and restoration, and wetland creation where necessary, for support of fish or wildlife,

"(F) consideration of conservation needs for all biological communities, and

"(G) the establishment of specific natural resource management goals, objectives, and timeframes for proposed actions;";

(2) by striking paragraph (3);

(3) by redesignating paragraph (2) as paragraph (3);

(4) by inserting after paragraph (1) the following:

''(2) shall for the military installation for which it is prepared—

''(A) address the needs for fish and wildlife management, land management, forest management, and wildlife-oriented recreation;

''(B) ensure the integration of, and consistency among, the various activities conducted under the plan;

''(C) ensure that there is no net loss in the capability of installation lands to support the military mission of the installation;

''(D) provide for sustained use by the public of natural resources, to the extent that such use is not inconsistent with the military mission of the installation or the needs of fish and wildlife management;

''(E) provide the public access to the installation that is necessary or appropriate for that use, to the extent that access is not inconsistent with the military mission of the installation; and

''(F) provide for professional enforcement of natural resource laws and regulations;''; and

(5) in paragraph (4)(A) by striking ''collect the fees therfor,'' and inserting ''collect, spend, administer, and account for fees therefor,''.

(d) PUBLIC COMMENT.—Section 101 (16 U.S.C. 670a) is amended by adding at the end the following:

''(f) PUBLIC COMMENT.—The Secretary of Defense shall provide an opportunity for public comment on each integrated natural resource management plan prepared under subsection (a).''.

SEC. 4. REVIEW FOR PREPARATION OF INTEGRATED NATURAL RESOURCE MANAGEMENT PLANS.

(a) REVIEW OF MILITARY INSTALLATIONS.—

(1) REVIEW.—The Secretary of each military department shall, by not later than 9 months after the date of the enactment of this Act—

(A) review each military installation in the United States that is under the jurisdiction of that Secretary to determine the military installations for which the preparation of an integrated natural resource management plan under section 101 of the Sikes Act, as amended by this Act, is appropriate; and

(B) submit to the Secretary of Defense a report on those determinations.

(2) REPORT TO CONGRESS.—The Secretary of Defense shall, by not later than 12 months after the date of the enactment of this Act, submit to the Congress a report on the reviews conducted under paragraph (1). The report shall include—

(A) a list of those military installations reviewed under paragraph (1) for which the Secretary of Defense determines the preparation of an integrated natural resource management plan is not appropriate; and

(B) for each of the military installations listed under subparagraph (A), an explanation of the reasons such a plan is not appropriate.

(b) DEADLINE FOR INTEGRATED NATURAL RESOURCE MANAGEMENT PLANS.—Not later than 2 years after the date of the submission of the report required under subsection (a)(2), the Secretary of Defense shall, for each military installation for which the Secretary has not determined under subsection (a)(2)(A) that preparation of an integrated natural resource management plan is not appropriate—

(1) prepare and begin implementing such a plan mutually agreed to by the Secretary of the Interior and the head of the appropriate State agencies under section 101(a) of the Sikes Act, as amended by this Act; or

(2) in the case of a military installation for which there is in effect a cooperative plan under section 101(a) of the Sikes Act on the day before the date of the enactment of this Act, complete negotiations with the Secretary of the Interior and the heads of the appropriate State agencies regarding changes to that plan that are necessary for the plan to constitute an integrated natural resource plan that complies with that section, as amended by this Act.

(c) PUBLIC COMMENT.—The Secretary of Defense shall provide an opportunity for the submission of public comments on—

(1) integrated natural resource management plans proposed pursuant to subsection (b)(1); and

(2) changes to cooperative plans proposed pursuant to subsection (b)(2).

SEC. 5. ANNUAL REVIEWS AND REPORTS.

Section 101 (16 U.S.C. 670a) is further amended by adding after subsection (f) (as added by section 3(d) of this Act) the following:

''(g) REVIEWS AND REPORTS.—

''(1) SECRETARY OF DEFENSE.—The Secretary of Defense shall, by not later than March 1 of each year, review the extent to which integrated natural resource management plans were prepared or in effect and implemented in accordance with this Act in the preceding year, and submit a report on the findings of that review to the committees. Each report shall include—

''(A) the number of integrated natural resource management plans in effect in the year covered by the report, including the date on which each plan was issued in final form or most recently revised;

''(B) the amount of moneys expended on conservation activities conducted pursuant to those plans in the year covered by the report, including amounts expended under the Legacy Resource Management Program established under section 8120 of the Act of November 5, 1990 (Public Law 101–511; 104 Stat. 1905); and

''(C) an assessment of the extent to which the plans comply with the requirements of subsection (b) (1) and (2), including specifically the extent to which the plans ensure in accordance with subsection (b)(2)(C) that there is no net loss of lands to support the military missions of military installations.

''(2) SECRETARY OF THE INTERIOR.—The Secretary of the Interior, by not later than March 1 of each year and in consultation with State agencies responsible for conservation or management of fish or wildlife, shall submit a report to the committees on the amount of moneys expended by the Department of the Interior and those State agencies in the year covered by the report on conservation activities conducted pursuant to integrated natural resource management plans.

''(3) COMMITTEES DEFINED.—For purposes of this subsection, the term 'committees' means the Committees on Resources and National Security of the House of Representatives and the Committees on Armed Services and Environment and Public Works of the Senate.''.

SEC. 6. FEDERAL ENFORCEMENT OF INTEGRATED NATURAL RESOURCE MANAGEMENT PLANS; ENFORCEMENT OF OTHER LAWS.

Title I (16 U.S.C. 670a et seq.) is amended—

(1) by redesignating section 106 as section 110; and

(2) by inserting after section 105 the following:

"SEC. 106. FEDERAL ENFORCEMENT OF OTHER LAWS.

''All Federal laws relating to the conservation of natural resources on Federal lands may be enforced by the Secretary of Defense with respect to violations of those laws which occur on military installations within the United States.''.

SEC. 7. NATURAL RESOURCE MANAGEMENT SERVICES.

Title I (16 U.S.C. 670a et seq.) is amended by inserting after section 106 (as added by section 6 of this Act) the following:

"SEC. 107. NATURAL RESOURCE MANAGEMENT SERVICES.

''The Secretary of each military department shall ensure that sufficient numbers of professionally trained natural resource management personnel and natural resource law enforcement personnel are available and assigned responsibility to perform tasks necessary to comply with this Act, including the preparation and implementation of integrated natural resource management plans.''.

SEC. 8. DEFINITIONS.

Title I (16 U.S.C. 670a et seq.) is further amended by inserting after section 107 (as added by section 7 of this Act) the following:

"SEC. 108. DEFINITIONS.

''In this title:

''(1) MILITARY DEPARTMENT.—The term 'military department' means the Department of the Army, the Department of the Navy, and the Department of the Air Force.

''(2) MILITARY INSTALLATION.—The term 'military installation'—

''(A) means any land or interest in land owned by the United States and administered by the Secretary of Defense or the head of a military department; and

''(B) includes all public lands withdrawn from all forms of appropriation under public land laws and reserved for use by the Secretary of Defense or the head of a military department.

''(3) STATE FISH AND WILDLIFE AGENCY.—The term 'State fish and wildlife agency' means an agency of State government that is responsible under State law for managing fish or wildlife resources.

''(4) UNITED STATES.—The term 'United States' means the States, the District of Columbia, and the territories and possessions of the United States.''.

SEC. 9. SHORT TITLE.

Title I (16 U.S.C. 670a et seq.) is further amended by inserting after section 108 (as added by section 7 of this Act) the following:

"SEC. 109. SHORT TITLE.

''This title may be cited as the 'Sikes Act'.''.

SEC. 10. COOPERATIVE AGREEMENTS.

(a) COST SHARING.—Section 103a(b) (16 U.S.C. 670c–1(b)) is amended by striking ''matching basis'' each place it appears and inserting ''cost-sharing basis''.

(b) ACCOUNTING.—Section 103a(c) (16 U.S.C. 670c–1(c)) is amended by inserting before the period at the end the following: '', and shall not be subject to section 1535 of that title''.

SEC. 11. REPEAL.

Section 2 of the Act of October 27, 1986 (Public Law 99–651; 16 U.S.C. 670a–1) is repealed.

SEC. 12. CLERICAL AMENDMENTS.

Title I, as amended by this Act, is further amended—

(1) in the heading for the title by striking ''MILITARY RESERVATIONS'' and inserting ''MILITARY INSTALLATIONS'';

(2) in section 101(a) (16 U.S.C. 670a(a)) by striking ''the reservation'' and inserting ''the installation'';

(3) in section 101(b)(4) (16 U.S.C. 670a(b)(4))—

(A) in subparagraph (A) by striking ''the reservation'' and inserting ''the installation''; and

(B) in subparagraph (B) by striking ''the military reservation'' and inserting ''the military installation'';

(4) in section 101(c) (16 U.S.C. 670a(c))—

(A) in paragraph (1) by striking ''a military reservation'' and inserting ''a military installation''; and

(B) in paragraph (2) by striking ''the reservation'' and inserting ''the installation'';

(5) in section 102 (16 U.S.C. 670b) by striking ''military reservations'' and inserting ''military installations''; and

(6) in section 103 (16 U.S.C. 670c) by striking ''military reservations'' and inserting ''military installations''.

SEC. 13. AUTHORIZATIONS OF APPROPRIATIONS.

(a) Programs on Military Installations.—Subsections (b) and (c) of section 110 (as redesignated by section 6 of this Act) are each amended by striking "1983" and all that follows through "1993," and inserting "1995, 1996, 1997, and 1998,".

(b) Programs on Public Lands.—Section 209 (16 U.S.C. 670o) is amended—

(1) in subsection (a), by striking "the sum of $10,000,000" and all that follows through "to enable the Secretary of the Interior" and inserting "$4,000,000 for each of fiscal years 1995, 1996, 1997, and 1998, to enable the Secretary of the Interior"; and

(2) in subsection (b), by striking "the sum of $12,000,000" and all that follows through "to enable the Secretary of Agriculture" and inserting "$5,000,000 for each of fiscal years 1995, 1996, 1997, and 1998, to enable the Secretary of Agriculture".

SECTION 1. SHORT TITLE.

This Act may be cited as the "Sikes Act Improvement Amendments of 1995".

SEC. 2. AMENDMENT OF SIKES ACT.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Act entitled "An Act to promote effectual planning, development, maintenance, and coordination of wildlife, fish, and game conservation and rehabilitation in military reservations", approved September 15, 1960 (16 U.S.C. 670a et seq.), commonly referred to, and in this Act referred to, as the "Sikes Act".

SEC. 3. INTEGRATED NATURAL RESOURCE MANAGEMENT PLANS GENERALLY.

(a) In General.—Section 101(a) (16 U.S.C. 670a(a)) is amended—

(1) by striking "is authorized to" and inserting "shall";

(2) by striking "in each military reservation in accordance with a cooperative plan" and inserting the following: "on military installations. Under the program, the Secretary shall prepare and implement for each military installation in the United States an integrated natural resource management plan";

(3) by inserting after "reservation is located" the following: ", except that the Secretary is not required to prepare such a plan for a military installation if the Secretary determines that preparation of such a plan for the installation is not appropriate"; and

(4) by inserting "(1)" after "(a)", and adding at the end the following new paragraph:

"(2) Consistent with essential military requirements to enhance the national security of the United States, the Secretary of Defense shall manage each military installation to provide—

"(A) for the conservation of fish and wildlife on the military installation and sustained multipurpose uses of those resources, including hunting, fishing, and trapping; and

"(B) public access that is necessary or appropriate for those uses.".

(b) Conforming Amendments.—Title I, as amended by subsection (a) of this section, is further amended—

(1) in section 101(b) (16 U.S.C. 670a(b)) in the matter preceding paragraph (1) by striking "cooperative plan" and inserting "integrated natural resource management plan";

(2) in section 101(b)(4) (16 U.S.C. 670a(b)(4)) by striking "cooperative plan" each place it appears and inserting "integrated natural resource management plan";

(3) in section 101(c) (16 U.S.C. 670a(c)) in the matter preceding paragraph (1) by striking "a cooperative plan" and inserting "an integrated natural resource management plan";

(4) in section 101(d) (16 U.S.C. 670a(d)) in the matter preceding paragraph (1) by striking "cooperative plans" and inserting "integrated natural resource management plans";

(5) in section 101(e) (16 U.S.C. 670a(e)) by striking "Cooperative plans" and inserting "Integrated natural resource management plans";

(6) in section 102 (16 U.S.C. 670b) by striking "a cooperative plan" and inserting "an integrated natural resource management plan";

(7) in section 103 (16 U.S.C. 670c) by striking "a cooperative plan" and inserting "an integrated natural resource management plan";

(8) in section 106(a) (16 U.S.C. 670f(a)) by striking "cooperative plans" and inserting "integrated natural resource management plans"; and

(9) in section 106(c) (16 U.S.C. 670f(c)) by striking "cooperative plans" and inserting "integrated natural resource management plans".

(c) Contents of Plans.—Section 101(b) (16 U.S.C. 670a(b)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (C) by striking "and" after the semicolon;

(B) in subparagraph (D) by striking the semicolon at the end and inserting a comma; and

(C) by adding at the end the following:

"(E) wetland protection and restoration, and wetland creation where necessary, for support of fish or wildlife,

"(F) consideration of conservation needs for all biological communities, and

"(G) the establishment of specific natural resource management goals, objectives, and timeframes for proposed actions;";

(2) by striking paragraph (3);

(3) by redesignating paragraph (2) as paragraph (3);

(4) by inserting after paragraph (1) the following:

"(2) shall for the military installation for which it is prepared—

"(A) address the needs for fish and wildlife management, land management, forest management, and wildlife-oriented recreation;

"(B) ensure the integration of, and consistency among, the various activities conducted under the plan;

"(C) ensure that there is no net loss in the capability of installation lands to support the military mission of the installation;

"(D) provide for sustained use by the public of natural resources, to the extent that such use is not inconsistent with the military mission of the installation or the needs of fish and wildlife management;

"(E) provide the public access to the installation that is necessary or appropriate for that use, to the extent that access is not inconsistent with the military mission of the installation; and

"(F) provide for professional enforcement of natural resource laws and regulations;"; and

(5) in paragraph (4)(A) by striking "collect the fees therefor," and inserting "collect, spend, administer, and account for fees therefor,".

(d) Public Comment.—Section 101 (16 U.S.C. 670a) is amended by adding at the end the following:

"(f) Public Comment.—The Secretary of Defense shall provide an opportunity for public comment on each integrated natural resource management plan prepared under subsection (a).".

SEC. 4. REVIEW FOR PREPARATION OF INTEGRATED NATURAL RESOURCE MANAGEMENT PLANS.

(a) Review of Military Installations.—

(1) Review.—The Secretary of each military department shall, by not later than 9 months after the date of the enactment of this Act—

(A) review each military installation in the United States that is under the jurisdiction of that Secretary to determine the military installations for which the preparation of an integrated natural resource management plan under section 101 of the Sikes Act, as amended by this Act, is appropriate; and

(B) submit to the Secretary of Defense a report on those determinations.

(2) Report to Congress.—The Secretary of Defense shall, by not later than 12 months after the date of the enactment of this Act, submit to the Congress a report on the reviews conducted under paragraph (1). The report shall include—

(A) a list of those military installations reviewed under paragraph (1) for which the Secretary of Defense determines the preparation of an integrated natural resource management plan is not appropriate; and

(B) for each of the military installations listed under subparagraph (A), an explanation of the reasons such a plan is not appropriate.

(b) Deadline for Integrated Natural Resource Management Plans.—Not later than 2 years after the date of the submission of the report required under subsection (a)(2), the Secretary of Defense shall, for each military installation for which the Secretary has not determined under subsection (a)(2)(A) that preparation of an integrated natural resource management plan is not appropriate—

(1) prepare and begin implementing such a plan mutually agreed to by the Secretary of the Interior and the head of the appropriate State agencies under section 101(a) of the Sikes Act, as amended by this Act; or

(2) in the case of a military installation for which there is in effect a cooperative plan under section 101(a) of the Sikes Act on the day before the date of the enactment of this Act, complete negotiations with the Secretary of the Interior and the heads of the appropriate State agencies regarding changes to that plan that are necessary for the plan to constitute an integrated natural resource plan that complies with that section, as amended by this Act.

(c) Public Comment.—The Secretary of Defense shall provide an opportunity for the submission of public comments on—

(1) integrated natural resource management plans proposed pursuant to subsection (b)(1); and

(2) changes to cooperative plans proposed pursuant to subsection (b)(2).

SEC. 5. ANNUAL REVIEWS AND REPORTS.

Section 101 (16 U.S.C. 670a) is further amended by adding after subsection (f) (as added by section 3(d) of this Act) the following:

"(g) Reviews and Reports.—

"(1) Secretary of Defense.—The Secretary of Defense shall, by not later than March 1 of each year, review the extent to which integrated natural resource management plans were prepared or in effect and implemented in accordance with this Act in the preceding year, and submit a report on the findings of that review to the committees. Each report shall include—

"(A) the number of integrated natural resource management plans in effect in the year covered by the report, including the date on which each plan was issued in final form or most recently revised;

"(B) the amount of moneys expended on conservation activities conducted pursuant to those plans in the year covered by the report, including amounts expended under the Legacy Resource Management Program established under section 8120 of the Act of November 5, 1990 (Public Law 101–511; 104 Stat. 1905); and

"(C) an assessment of the extent to which the plans comply with the requirements of subsection (b)(1) and (2), including specifically the extent to which the plans ensure in accordance with subsection (b)(2)(C) that there is no net loss of lands to support the military missions of military installations.

"(2) Secretary of the Interior.—The Secretary of the Interior, by not later than March

1 of each year and in consultation with State agencies responsible for conservation or management of fish or wildlife, shall submit a report to the committees on the amount of moneys expended by the Department of the Interior and those State agencies in the year covered by the report on conservation activities conducted pursuant to integrated natural resource management plans.

"(3) Committees Defined.—For purposes of this subsection, the term 'committees' means the Committees on Resources and National Security of the House of Representatives and the Committees on Armed Services and Environment and Public Works of the Senate.".

SEC. 6. FEDERAL ENFORCEMENT OF INTEGRATED NATURAL RESOURCE MANAGEMENT PLANS; ENFORCEMENT OF OTHER LAWS.

Title I (16 U.S.C. 670a et seq.) is amended—

(1) by redesignating section 106 as section 110; and

(2) by inserting after section 105 the following:

"SEC. 106. FEDERAL ENFORCEMENT OF OTHER LAWS.

"All Federal laws relating to the conservation of natural resources on Federal lands may be enforced by the Secretary of Defense with respect to violations of those laws which occur on military installations within the United States.".

SEC. 7. NATURAL RESOURCE MANAGEMENT SERVICES.

Title I (16 U.S.C. 670a et seq.) is amended by inserting after section 106 (as added by section 6 of this Act) the following:

"SEC. 107. NATURAL RESOURCE MANAGEMENT SERVICES.

"The Secretary of each military department shall ensure that sufficient numbers of professionally trained natural resource management personnel and natural resource law enforcement personnel are available and assigned responsibility to perform tasks necessary to comply with this Act, including the preparation and implementation of integrated natural resource management plans.".

SEC. 8. DEFINITIONS.

Title I (16 U.S.C. 670a et seq.) is further amended by inserting after section 107 (as added by section 7 of this Act) the following:

"SEC. 108. DEFINITIONS.

"In this title:

"(1) Military Department.—The term 'military department' means the Department of the Army, the Department of the Navy, and the Department of the Air Force.

"(2) Military Installation.—The term 'military installation'—

"(A) means any land or interest in land owned by the United States and administered by the Secretary of Defense or the head of a military department; and

"(B) includes all public lands withdrawn from all forms of appropriation under public land laws and reserved for use by the Secretary of Defense or the head of a military department.

"(3) State Fish and Wildlife Agency.—The term 'State fish and wildlife agency' means an agency of State government that is responsible under State law for managing fish or wildlife resources.

"(4) United States.—The term 'United States' means the States, the District of Columbia, and the territories and possessions of the United States.".

SEC. 9. SHORT TITLE.

Title I (16 U.S.C. 670a et seq.) is further amended by inserting after section 108 (as added by section 7 of this Act) the following:

"SEC. 109. SHORT TITLE.

"This title may be cited as the 'Sikes Act'.".

SEC. 10. COOPERATIVE AGREEMENTS.

(a) Cost Sharing.—Section 103a(b) (16 U.S.C. 670c–1(b)) is amended by striking "matching basis" each place it appears and inserting "cost-sharing basis".

(b) Accounting.—Section 103a(c) (16 U.S.C. 670c–1(c)) is amended by inserting before the period at the end the following: ", and shall not be subject to section 1535 of that title".

SEC. 11. REPEAL.

Section 2 of the Act of October 27, 1986 (Public Law 99–651; 16 U.S.C. 670a–1) is repealed.

SEC. 12. CLERICAL AMENDMENTS.

Title I, as amended by this Act, is further amended—

(1) in the heading for the title by striking "MILITARY RESERVATIONS" and inserting "MILITARY INSTALLATIONS";

(2) in section 101(a) (16 U.S.C. 670a(a)) by striking "the reservation" and inserting "the installation";

(3) in section 101(b)(4) (16 U.S.C. 670a(b)(4))—

(A) in subparagraph (A) by striking "the reservation" and inserting "the installation"; and

(B) in subparagraph (B) by striking "the military reservation" and inserting "the military installation";

(4) in section 101(c) (16 U.S.C. 670a(c))—

(A) in paragraph (1) by striking "a military reservation" and inserting "a military installation"; and

(B) in paragraph (2) by striking "the reservation" and inserting "the installation";

(5) in section 102 (16 U.S.C. 670b) by striking "military reservations" and inserting "military installations"; and

(6) in section 103 (16 U.S.C. 670c) by striking "military reservations" and inserting "military installations".

SEC. 13. AUTHORIZATIONS OF APPROPRIATIONS.

(a) Programs on Military Installations.—Subsections (b) and (c) of section 110 (as redesignated by section 6 of this Act) are each amended by striking "1983" and all that follows through "1993," and inserting "1995, 1996, 1997, and 1998,".

(b) Programs on Public Lands.—Section 209 (16 U.S.C. 670o) is amended—

(1) in subsection (a), by striking "the sum of $10,000,000" and all that follows through "to enable the Secretary of the Interior" and inserting "$4,000,000 for each of fiscal years 1995, 1996, 1997, and 1998, to enable the Secretary of the Interior"; and

(2) in subsection (b), by striking "the sum of $12,000,000" and all that follows through "to enable the Secretary of Agriculture" and inserting "$5,000,000 for each of fiscal years 1995, 1996, 1997, and 1998, to enable the Secretary of Agriculture".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Alaska [Mr. YOUNG] will be recognized for 20 minutes, and the gentleman from Massachusetts [Mr. STUDDS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Alaska [Mr. YOUNG].

Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as the author of H.R. 1141, I am pleased that we are considering this legislation to reauthorize and improve the effectiveness of the Sikes Act.

Since coming to Congress in 1973, I have led the fight to enhance and conserve the vital fish and wildlife resources that exist on our military lands. The Department of Defense [DOD] manages nearly 25 million acres at approximately 900 military bases nationwide. These lands contain a wealth of plant and animal life, they provide vital habitat for thousands of migratory waterfowl, and they are home for nearly 100 federally listed species.

The Department does a superb job of training our young men and women for combat. Regrettably, they often fail to do even an adequate job of comprehensive natural resource management planning. At far too many installations, management plans have never been written, are outdated, or are largely ignored. Furthermore, when these plans do exist, all too often they are not coordinated or integrated with other military activities.

While H.R. 1141 will make a number of improvements in the Sikes Act, the bill does not undermine in any way the fundamental training mission of a military base.

What the bill does is expand the scope of existing conservation plans to encompass all natural resource management activities, require management plans for all appropriate installations, mandate an annual report summarizing the status of these plans, require that trained personnel be available, and ensure that DOD shall manage each installation to provide for the conservation of fish and wildlife, and to allow the multipurpose uses of those resources. In addition, the bill extends the act's authorization for the next 3 years at half of the current funding level.

Mr. Speaker, this is a noncontroversial bill that has been thoroughly considered in both the Resources and National Security Committees. I want to thank FLOYD SPENCE, JIM SAXTON, JOEL HEFLEY, and GERRY STUDDS for their leadership and for joining with me in this important conservation effort. I am confident that our bill will greatly assist DOD in the management of those natural resources under their jurisdiction.

I urge my colleagues to vote "aye" on H.R. 1141.

☐ 1600

Mr. Speaker, I reserve the balance of my time.

Mr. STUDDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I note with some trepidation the violent beginning of the gentleman's week. His assault on the desk and podium I hope does not bode ill for the remainder of the evening and of the week.

Mr. Speaker, interestingly, some of the most controversial issues facing us in this Congress are embodied in this noncontroversial bill: the most appropriate uses for federally owned lands, how best to protect wildlife habitat, and public/private partnerships to manage lands and protect endangered species.

Under the provisions of the Sikes Act, the military is required to manage its 25 million acres for fish and wildlife conservation, including the protection of critical habitat for almost 100 endangered and threatened species. That is a big job, and the military has often worked closely with nongovernment partners to provide efficient, cost-effective management. I am pleased to point out that this bill encourages the continued use of those partnerships.

In short, this legislation provides a good working model for compromise on many of the difficult issues we will be facing over the next several months, and I want to thank the gentleman from Alaska for his efforts in bringing a truly bipartisan bill to the floor.

Mr. Speaker, I reserve the balance of my time.

Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as the gentleman from Massachusetts [Mr. STUDDS] mentioned, this is a bipartisan bill. This is not the first time that he and I have addressed this issue. We want to stress that 25 million acres of land now is under military jurisdiction for training of our personnel for military purposes. What we are trying to do in this bill and with the original bill was to make sure the military recognized the extraordinary value. Most military bases are in the proximity of urban areas. They are truly the wildlife refuge areas of the urban people. They are also very valuable for those resource activities, which I think are also very valuable for the maintaining and the management of those species; that is, in fact, the wildlife itself, for fishing and hunting and recreational purposes.

Mr. Speaker, under this act, with the help of the gentleman from Massachusetts, I do believe we strengthen the DOD and in fact direct them to better manage those resources available to them. The 25 million acres of land, refuge land that is under military jurisdiction today, is actually more land than we have in any other part of our natural Federal use lands in the lower 48. Therefore, I do urge the passage of this legislation. It is good legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. STUDDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I fully concur with the gentleman, especially with regard to the good things that have been said about us.

Mr. SAXTON. Mr. Speaker, I rise today to express my support for H.R. 1141, the Sikes Act Improvement Amendments of 1995, introduced by DON YOUNG and me in March of this year. The Sikes Act was enacted in 1960 to provide a mechanism for cooperative wildlife management on U.S. military installations. H.R. 1141 will make the Sikes Act more effective in several important respects.

First, existing conservation plans which deal exclusively with fish and wildlife habitat improvements will be replaced with integrated natural resource management plans which encompass all natural resource management activities. Second, natural resource management plans will have to be prepared for all military installations, except those without any significant fish, wildlife or natural resource management plans. Third, the Secretary of Defense will be required to submit an annual report to Congress summarizing the status of implementation of the integrated natural resources management plans. Finally, the bill extends authorization of appropriations, which expired on September 30, 1993, for the next 3 fiscal years.

This legislation is noncontroversial and important to the training units of our Armed Forces. I urge my colleagues support of H.R. 1141.

Mr. HEFLEY. Mr. Speaker, I rise in strong support of H.R. 1141, the Sikes Act Improvement Amendments of 1995. H.R. 1141 would enhance and improve natural resource management practices on military installations and lands under the control of the Secretary of Defense. This legislation has received overwhelming bipartisan support by the Committee on Resources and the Committee on National Security.

At Fort Carson, CO, the Army's premier tank training ground, the concept of wildlife management and training going hand-in-hand is put to the test. On the Pinon Canyon maneuver site at Carson, red fox holes are roped off, the division-size maneuvers are conducted around them. This is just one example of how the Army is striking the balance between environment and military training. This legislation will improve the ability of Fort Carson and all other military installations to preserve this balance.

H.R. 1141 strikes an appropriate balance between natural resource management and the defense mission conducted at all military installations. The bill is fully supported by the Department of Defense. As a member of both committees of jurisdiction, I have had an opportunity to pass judgment on H.R. 1141 on a number of occasions this year. I can assure the House that the bill is worthy of each Member's support. I am pleased to recommend this legislation and urge it adoption.

Mr. STUDDS. Mr. Speaker, I yield back the balance of my time.

Mr. YOUNG of Alaska. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. SHAYS). The question is on the motion offered by the gentleman from Alaska [Mr. YOUNG] that the House suspend the rules and pass the bill, H.R. 1141, as amended.

The question was taken.

Mr. STUDDS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of order of no quorum is considered withdrawn.

GENERAL LEAVE

Mr. YOUNG of Alaska. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 1141, the bill just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Alaska?

There was no objection.

COLORADO BASIN SALINITY CONTROL ACT AMENDMENTS

Mr. DOOLITTLE. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 523) to amend the Colorado River Basin Salinity Control Act to authorize additional measures to carry out the control of salinity upstream of Imperial Dam in a cost-effective manner, and for other purposes.

The Clerk read as follows:

S. 523

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AMENDMENTS TO THE COLORADO RIVER BASIN SALINITY CONTROL ACT.

The Colorado River Basin Salinity Control Act (43 U.S.C. 1571 et seq.) is amended—

(1) in section 202(a)—

(A) in the first sentence—

(i) by striking "the following salinity control units" and inserting "the following salinity control units and salinity control program"; and

(ii) by striking the period and inserting a colon; and

(B) by adding at the end the following new paragraph:

"(6) A basinwide salinity control program that the Secretary, acting through the Bureau of Reclamation, shall implement. The Secretary may carry out the purposes of this paragraph directly, or may make grants, commitments for grants, or advances of funds to non-Federal entities under such terms and conditions as the Secretary may require. Such program shall consist of cost-effective measures and associated works to reduce salinity from saline springs, leaking wells, irrigation sources, industrial sources, erosion of public and private land, or other sources that the Secretary considers appropriate. Such program shall provide for the mitigation of incidental fish and wildlife values that are lost as a result of the measures and associated works. The Secretary shall submit a planning report concerning the program established under this paragraph to the appropriate committees of Congress. The Secretary may not expend funds for any implementation measure under the program established under this paragraph before the expiration of a 30-day period beginning on the date on which the Secretary submits such report.";

(2) in section 205(a)—

(A) in paragraph (1) by striking "authorized by section 202(a) (4) and (5)" and inserting "authorized by paragraphs (4) through (6) of section 202(a)"; and

(B) in paragraph (4)(i), by striking "section 202(a) (4) and (5)" each place it appears and inserting "paragraphs (4) through (6) of section 202";

(3) in section 208, by adding at the end the following new subsection:

"(c) In addition to the amounts authorized to be appropriated under subsection (b), there are authorized to be appropriated $75,000,000 for subsection 202(a), including constructing the works described in paragraph 202(a)(6) and carrying out the measures described in such paragraph. Notwithstanding subsection (b), the Secretary may implement the program under paragraph 202(a)(6) only to the extent and in such amounts as are provided in advance in appropriations Acts."; and

(4) in subsection 202(b)(4) delete "units authorized to be constructed pursuant to paragraphs (1), 92), (3), (4), and (5)" and insert in lieu thereof "units authorized to be constructed or the program pursuant to paragraphs (1), (2), (3), (4), (5), and (6).".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California [Mr. DOOLITTLE] will be recognized for 20 minutes, and the gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. DOOLITTLE].

Mr. DOOLITTLE. Mr. Speaker, the Colorado River Compact negotiated in 1992 by all seven Basin States, divided the river into two basins, the Upper Basin and the Lower Basin, with each basin receiving the right to develop and use in perpetuity 7.5 million acre-feet annually from the Colorado River system, although not all States are currently using their full apportionment.

In addition, the 1994 Mexican Water Treaty committed 1.5 million acre-feet of water annually to users in Mexico. The quality of that water is also prescribed by the treaty. The quantity and quality of water to be delivered to Mexico are our obligation, and the cost is not to be borne by the seven Basin States.

In addition to United States-Mexican Treaty obligations, water users in the Lower Basin are concerned about the higher salinity of the Colorado River water they receive, because it reduces their ability to reclaim the water for reuse. The more saline the water is originally, the more it costs to treat it for reuse.

To address the salinity problem, the Colorado River Basin Salinity Control Act was enacted in 1974. Title 1 of the bill addressed the Mexican Treaty obligations by authorizing the Yuma Desalting Plant and certain other actions to be taken in the Lower Colorado River Basin. Title 2 of the act, which this bill, S. 532, seeks to amend, authorized the investigation and construction of salinity control projects in the Upper Basin in order to protect the quality of water delivered to the Lower Basin.

S. 523 would amend section 202(a) of the Colorado River Basin Salinity Control Act to authorize a program of salinity control in addition to the specific projects in the existing statute. The new program would enable Reclamation to accept proposals from non-Federal entities for salinity control measures, and then provide funding to the most cost-effective proposals.

Mr. Speaker, I would urge my colleagues to support this legislation, and I reserve the balance of my time.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the bill and in place of my friend and colleague, the gentleman from Oregon [Mr. DEFAZIO], who takes the lead for our Members on this issue.

Mr. Speaker, the Colorado River is the only source of water for millions of people. Both agriculture and growing urban areas in the West depend on the river as their only water source. The measure before us has been described well by the chairman, the gentleman from California [Mr. DOOLITTLE]. The issues arise, of course, because water is being introduced in dry areas where it activates, it is carried and picks up the salinity or salt from those dry areas, adding to the load in the river. Consequently, of course, that river water, the Colorado River Basin River and its tributaries, become a waterway with a much greater concentration of salt than otherwise would be the case. It needs to obviously be reduced.

Mr. Speaker, the intent of this legislation is to look at less intrusive ways, less high-cost ways of reducing the salinity, looking at creative solutions. There are several important issues that were discussed during the hearing held on this measure on May 11. I believe the bill and the assurances we have received from the administration adequately address those concerns. First of all, the bill specifies that new salinity control solutions must meet a test of cost effectiveness. The Bureau of Reclamation will develop the new guidelines for evaluating proposed salinity control measures. It is my understanding that these guidelines will be developed in consultation with interested parties, and that every effort will be made to ensure that innovative and cost-effective solutions to salinity control are encouraged.

Second, the bill specifically provides the Secretary may approve salinity control projects to reduce salinity from a variety of sources, including irrigation sources. It is my expectation that the Bureau of Reclamation's guidelines for implementing this law will not unreasonably preclude proposed solutions to the Basin's salinity problems. We should not continue to rely on pouring more concrete if it can be shown that other water or land management alternatives will do the job just as well.

Mr. Speaker, I believe the measure, S. 523, has the potential to directly improve the existing programs for reducing salinity in the Colorado River, and I urge support of the bill.

Mr. Speaker, I reserve the balance of my time.

Mr. DOOLITTLE. Mr. Speaker, I yield 5 minutes to the gentleman from Utah [Mr. HANSEN].

Mr. HANSEN. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I would like to take the time to thank subcommittee Chairman JOHN DOOLITTLE and Chairman DON YOUNG for their assistance in moving this important piece of legislation in such a timely fashion.

The Colorado River Basin Salinity Control Program has been authorized by Congress and implemented by federal and state entities for the last 20 years. There is now a need to update and revise the authorizations provided for in the Colorado River Basin Salinity Control Act so that the Bureau of Reclamation can move forward in a more responsive and cost-effective manner.

The bills that Senator BOB BENNETT introduced in the Senate and I introduced in the House this year are very similar to the bills that we introduced last Congress. Although the bill passed the Senate last Congress, due to last minute politics, the full House never addressed the bill. It is important that we take this opportunity to pass this legislation and fully authorize this crucial program.

The bill before the House today would authorize additional measures to carry out the control of the Colorado River's salinity in a cost-effective manner. Such measures would lead to reductions of salinity from all sources basinwide. The bill would also provide flexibility to the program by simplifying the process for the Bureau of Reclamation to obtain congressional approval for new salinity control measures.

An appropriations ceiling level increase has been needed for some time. The level would be increased by $75 million in order to carry out salinity control measures. The Bureau of Reclamation expenditures are nearing the ceiling established by Congress over 20 years ago.

Again, Mr. Speaker, I would like to thank my good friends, Chairmen YOUNG and DOOLITTLE for their diligence. Passage of this legislation is very important to all the upper and lower basin Colorado River States and I urge my colleagues to support S. 523.

Mr. VENTO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. DOOLITTLE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. DOOLITTLE] that the House suspend the rules and pass the Senate bill, S. 523.

The question was taken.

Mr. VENTO. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of order of no quorum is considered withdrawn.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12 of rule I, the Chair declares the House in recess until 5 p.m.

Accordingly at 4 o'clock and 12 minutes p.m. the House stood in recess until 5 p.m.

□ 1701

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore [Mr. WALKER] at 5:01 p.m.

MOTION TO ADJOURN

Mr. FRANK of Massachusetts. Mr. Speaker, I move that the House do now adjourn.

The SPEAKER pro tempore. Is the motion at the desk?

Mr. FRANK of Massachusetts. It is in writing at the desk.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

> Mr. FRANK of Massachusetts moves that the House do now adjourn.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts [Mr. FRANK].

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. GOSS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. The gentleman's motion would not be in order as under the rules a quorum is not necessary.

Does the gentleman ask for the yeas and nays?

Mr. GOSS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 139, nays 234, not voting 61, as follows:

[Roll No. 469]

YEAS—139

Ackerman
Andrews
Baesler
Baldacci
Barcia
Bentsen
Bevill
Bishop
Bonior
Boucher
Browder
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Condit
Conyers
Coyne
Cramer
Danner
de la Garza
DeFazio
DeLauro
Deutsch
Dicks
Dingell
Durbin
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Ford
Frank (MA)
Gejdenson
Gephardt
Geren
Gibbons
Gonzalez
Gordon
Gutierrez
Hall (OH)
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Hoyer
Jackson-Lee
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (RI)
Kennelly
Kildee
Klink
LaFalce
Levin
Lewis (GA)
Lofgren
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McKinney
McNulty
Meehan
Meek
Mineta
Minge
Mink
Mollohan
Montgomery
Moran
Murtha
Nadler
Neal
Obey
Olver
Orton
Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Peterson (MN)
Pickett
Pomeroy
Reed
Richardson
Rivers
Roemer
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Sisisky
Skaggs
Skelton
Slaughter
Spratt
Stark
Stokes
Studds
Stupak
Thompson
Thurman
Traficant
Vento
Visclosky
Volkmer
Ward
Watt (NC)
Waxman
Williams
Wilson
Woolsey
Wyden
Wynn
Yates

NAYS—234

Allard
Armey
Bachus
Baker (LA)
Ballenger
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Bass
Beilenson
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Borski
Brewster
Brownback
Bryant (TN)
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Coble
Coburn
Combest
Cooley
Costello
Cox
Crane
Crapo
Cubin
Cunningham
Davis
Deal
DeLay
Diaz-Balart
Dickey
Doggett
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
English
Everett
Ewing
Fawell
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Green
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kennedy (MA)
Kim
King
Kingston
Kleczka
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Livingston
LoBiondo
Longley
Lucas
Luther
Manzullo
Martini
McCollum
McCrery
McHale
McHugh
McInnis
McIntosh
McKeon
Menendez
Metcalf
Meyers
Miller (FL)
Molinari
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Ortiz
Oxley
Packard
Parker
Paxon
Petri
Pombo
Porter
Portman
Poshard
Quillen
Rahall
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Stearns
Stockman
Stump
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thornton
Tiahrt
Torkildsen
Upton
Vucanovich
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—61

Abercrombie
Archer
Baker (CA)
Barton
Bateman
Becerra
Berman
Brown (CA)
Bunn
Clay
Clinger
Collins (GA)
Collins (MI)
Cremeans
Dellums
Dixon
Dooley
Engel
Ensign
Fields (TX)
Foglietta
Frost
Furse
Graham
Hastings (WA)
Hayes
Hunter
Jacobs
Jefferson
Lantos
Lipinski
Lowey
McDade
Mfume
Mica
Miller (CA)
Moakley
Oberstar
Payne (VA)
Peterson (FL)
Pryce
Quinn
Radanovich
Rangel
Reynolds
Rose
Roukema
Seastrand
Spence
Stenholm
Thomas
Thornberry
Torres
Torricelli
Towns
Tucker
Velazquez
Waldholtz
Waters
Weldon (PA)
Wise

□ 1721

Messrs. HAMILTON, BURR, EWING, TAUZIN, and HYDE changed their vote from "yea" to "nay."

Mr. GONZALEZ and Mr. VENTO changed their vote from "nay" to "yea."

So the motion was rejected.

The result of the vote was announced as above recorded.

COMMUNICATION FROM THE HONORABLE VIC FAZIO, CHAIRMAN OF THE DEMOCRATIC CAUCUS

The SPEAKER pro tempore (Mr. WALKER) laid before the House the following communication from the Honorable VIC FAZIO, chairman of the Democratic Caucus:

DEMOCRATIC CAUCUS,
HOUSE OF REPRESENTATIVES,
Washington, DC, June 27, 1995.

Hon. NEWT GINGRICH,
Speaker,
U.S. House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: This is to inform you that Representative Greg Laughlin is no longer a member of the Democratic Caucus.

Sincerely,

VIC FAZIO,
Chairman.

COMMUNICATION FROM THE SPEAKER

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
June 30, 1995.

Hon. LARRY COMBEST,
Chairman, Permanent Select Committee on Intelligence, The Capitol, Washington, DC.

DEAR MR. CHAIRMAN: This is to advise you that Representative Greg Laughlin's appointment to the Permanent Select Committee on Intelligence has been automatically vacated pursuant to clause 6(b) of rule X, effective today.

Sincerely,

NEWT GINGRICH,
Speaker of the House of Representatives.

COMMUNICATION FROM THE SPEAKER

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
June 30, 1995.

Hon. BUD SHUSTER,
Chairman, Committee on Transportation and Infrastructure, Washington, DC.

DEAR MR. CHAIRMAN: This is to advise you that Representative Greg Laughlin's election to the Committee on Transportation and Infrastructure has been automatically vacated pursuant to clause 6(b) of rule X, effective today.

Sincerely,

NEWT GINGRICH,
Speaker of the House of Representatives.

ELECTION OF MEMBER TO THE COMMITTEE ON WAYS AND MEANS

Mr. BOEHNER. Mr. Speaker, by direction of the Republican Conference, I offer a privileged resolution (H. Res. 183) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 183

Resolved, that the following named Member be, and he is hereby, elected to the following standing committee of the House of Representatives:

Committee on Ways and Means: Mr. Laughlin of Texas, to rank following Mr. Portman of Ohio.

Mr. DOGGETT. Mr. Speaker, pursuant to clause 3 of rule XVI, I raise the question of consideration.

The SPEAKER pro tempore. The question is: Will the House now consider House Resolution 183.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. BOEHNER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 220, nays 176, not voting 38, as follows:

[Roll No. 470]

YEAS—220

Allard
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Coble
Coburn
Collins (GA)
Combest
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Everett
Ewing
Fawell
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hancock
Hansen
Hastert
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Miller (FL)
Molinari
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Petri
Pombo
Porter
Portman
Quillen
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Stearns
Stockman
Stump
Talent
Tate
Tauzin
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watt (NC)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—176

Ackerman
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Beilenson
Bentsen
Berman
Bevill
Bishop
Bonior
Borski
Boucher
Brewster
Browder
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Costello
Coyne
Cramer
Danner
de la Garza
DeFazio
DeLauro
Deutsch
Dicks
Dingell
Doggett
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Ford
Frank (MA)
Furse
Gejdenson
Gephardt
Geren
Gibbons
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hayes
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson-Lee
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Levin
Lewis (GA)
Lincoln
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Miller (CA)
Mineta
Minge
Mink
Mollohan
Montgomery
Moran
Murtha
Nadler
Neal
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Peterson (MN)
Pickett
Pomeroy
Poshard
Rahall
Rangel
Reed
Richardson
Rivers
Roemer
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Sisisky
Skaggs
Skelton
Slaughter
Spratt
Stark
Stokes
Studds
Stupak
Tanner
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torres
Traficant
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Waxman
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NOT VOTING—38

Abercrombie
Archer
Becerra
Brown (CA)
Clinger
Dellums
Dixon
Dooley
Ensign
Fields (TX)
Foglietta
Frost
Graham
Hastings (WA)
Hunter
Jacobs
Jefferson
Lantos
Lipinski
McDade
Mfume
Mica
Moakley
Oberstar
Payne (VA)
Peterson (FL)
Pryce
Quinn
Radanovich
Reynolds
Rose
Roukema
Seastrand
Spence
Stenholm
Torricelli
Towns
Tucker

☐ 1742

So the House agreed to consider House Resolution 183.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. WALKER). Without objection, the motion to reconsider is laid on the table.

Mr. WATT of North Carolina. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

Mr. DELAY. Mr. Speaker, I move to reconsider the vote whereby the question of consideration was decided.

MOTION TO TABLE OFFERED BY MR. BOEHNER

Mr. BOEHNER. Mr. Speaker, I move to lay on the table the motion to reconsider the vote whereby the question of consideration was decided.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio [Mr. BOEHNER] to lay on the table the motion offered by the gentleman from Texas [Mr. DELAY] to reconsider the vote.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. WATT of North Carolina. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 222, noes 179, not voting 33, as follows:

[Roll No. 471]

AYES—222

Allard
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Coble
Coburn
Collins (GA)
Combest
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Everett
Ewing
Fawell
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hancock
Hansen
Hastert
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Miller (FL)
Molinari
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Petri
Pombo
Porter
Portman
Quillen
Radanovich
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Stearns
Stockman
Stump
Talent
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—179

Ackerman
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Beilenson
Bentsen
Berman
Bevill
Bishop
Bonior
Borski
Boucher
Brewster
Browder
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Costello
Coyne
Cramer
Danner
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Doyle
Durbin
Edwards
Engel
Ensign
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Ford
Frank (MA)
Furse
Gejdenson
Gephardt
Geren
Gibbons
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson-Lee
Jacobs
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Levin
Lewis (GA)
Lincoln
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Mica
Miller (CA)
Mineta
Minge
Mink
Mollohan
Montgomery
Moran
Murtha
Nadler
Neal
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Peterson (MN)
Pickett
Pomeroy
Poshard
Rahall
Rangel
Reed
Richardson
Rivers
Roemer
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Sisisky
Skaggs
Skelton
Slaughter
Spratt
Stark
Stokes
Studds
Stupak
Tanner
Tejeda
Thompson
Thornton
Thurman
Torres
Traficant
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NOT VOTING—33

Abercrombie
Archer
Becerra
Brown (CA)
Clinger
Dooley
Fields (TX)
Foglietta
Frost
Graham
Hastings (WA)
Hunter
Jefferson
Lantos
Lipinski
McDade
Menendez
Mfume
Moakley
Oberstar
Payne (VA)
Peterson (FL)
Pryce
Quinn
Reynolds
Roukema
Seastrand
Spence
Stenholm
Torricelli
Towns
Tucker
Williams

□ 1759

So the motion to lay the motion to reconsider the vote on the table was agreed to.

The result of the vote was announced as above recorded.

MOTION TO LAY THE RESOLUTION ON THE TABLE OFFERED BY MR. WATT OF NORTH CAROLINA

Mr. WATT of North Carolina. Mr. Speaker, I offer a privileged motion.

The Clerk read as follows:

Mr. WATT of North Carolina moves to lay the resolution on the table.

The SPEAKER pro tempore (Mr. WALKER). The question is on the motion offered by the gentleman from North Carolina [Mr. WATT] to lay the resolution on the table.

The question was taken; and the Speaker pro tempore announced that the noes appears to have it.

RECORDED VOTE

Mr. WATT of North Carolina. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 178, noes 229, not voting 27 as follows:

[Roll No. 472]

AYES—178

Ackerman
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Beilenson
Bentsen
Berman
Bevill
Bishop
Bonior
Borski
Boucher
Browder
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Costello
Coyne
Cramer
Danner
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Doyle
Durbin
Edwards
Engel
Ensign
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Ford
Furse
Gejdenson
Gephardt
Geren
Gibbons
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson-Lee
Jacobs
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Levin
Lewis (GA)
Lincoln
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Miller (CA)
Mineta
Minge
Mink
Mollohan
Montgomery
Moran
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (VA)
Pelosi
Peterson (MN)
Pickett
Pomeroy
Poshard
Rahall
Rangel
Reed
Richardson
Rivers
Roemer
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Sisisky
Skaggs
Skelton
Slaughter
Spratt
Stark
Stokes
Studds
Stupak
Tanner
Tejeda
Thompson
Thornton
Thurman
Torres
Traficant
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NOES—229

Allard
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brewster
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Everett
Ewing
Fawell
Flanagan
Foley
Forbes
Fowler
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Greenwood
Gunderson

Gutknecht
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Petri
Pombo
Porter
Portman
Quillen
Radanovich
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Stearns
Stockman
Stump
Talent
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—27

Abercrombie
Archer
Becerra
Brown (CA)
Dooley
Fields (TX)
Foglietta
Frost
Graham
Hunter
Jefferson
Lantos
Lipinski
Menendez
Mfume
Moakley
Payne (NJ)
Peterson (FL)
Pryce
Quinn
Reynolds
Roukema
Spence
Stenholm
Torricelli
Towns
Tucker

☐ 1819

Mr. VOLKMER changed his vote from "present" to "aye."

So the motion to table was not agreed to.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. Without objection, a motion to reconsider is laid on the table.

Mr. FRANK of Massachusetts. Mr. Speaker, I object.

The SPEAKER pro tempore (Mr. WALKER). Objection is heard.

Mr DELAY. Mr. Speaker, I move to reconsider the vote.

MOTION TO TABLE OFFERED BY MR. BOEHNER

Mr. BOEHNER. Mr. Speaker. I move to table the motion to reconsider.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio [Mr. BOEHNER] to lay on the table the motion to reconsider offered by the gentleman from Texas [Mr. DELAY].

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. BOEHNER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 230, nays 180, not voting 24, as follows:

[Roll No. 473]

YEAS—230

Allard
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brewster
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Everett
Ewing
Fawell
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Petri
Pombo
Porter
Portman
Quillen
Radanovich
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stockman
Stump
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—180

Ackerman
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Beilenson
Bentsen
Berman
Bevill
Bishop
Bonior
Borski
Boucher
Browder
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Costello
Coyne
Cramer
Danner
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Doyle
Durbin
Edwards
Engel
Ensign
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Ford
Frank (MA)
Furse
Gejdenson
Gephardt
Geren
Gibbons
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson-Lee
Jacobs
Johnson (SD)
Johnson, E.B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Levin
Lewis (GA)
Lincoln
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Miller (CA)
Mineta
Minge
Mink
Mollohan
Montgomery
Moran
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (VA)
Pelosi
Peterson (MN)
Pickett
Pomeroy
Poshard
Rahall
Rangel
Reed
Richardson
Rivers
Roemer
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Sisisky
Skaggs
Skelton
Slaughter
Spratt
Stark
Stenholm
Stokes
Studds
Stupak
Tejeda
Thompson
Thornton
Thurman
Torres
Traficant
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NOT VOTING—24

Abercrombie
Archer
Becerra
Brown (CA)
Dooley
Fields (TX)
Foglietta
Frost
Graham
Hunter
Jefferson
Lantos
Lipinski
Mfume
Moakley
Payne (NJ)
Peterson (FL)
Pryce
Quinn
Reynolds
Roukema
Torricelli
Towns
Tucker

☐ 1837

Mr. NEUMANN and Mr. SMITH of Texas changed their vote from "nay" to "yea."

Mr. ENSIGN changed his vote from "present" to "nay."

So the motion to table was agreed to.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The gentleman from Ohio [Mr. BOEHNER] is recognized for 1 hour.

Mr. BOEHNER. Mr. Speaker, for the purpose of debate only, I yield 15 minutes to the gentleman from Missouri [Mr. GEPHARDT], the minority leader.

Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as chairman of the Republican Conference, I am pleased to welcome the gentleman from Texas, Mr. GREG LAUGHLIN, to our party. Mr. LAUGHLIN saw fit several weeks ago to change parties here in the House of Representatives, and we are glad to have him on our side of the aisle.

As a result, about a week and a half ago, the Republican conference did in fact vote by unanimous vote to place the gentleman from Texas [Mr. LAUGHLIN] on the Committee on Ways and Means. To my colleagues on the other side of the aisle who appear to have some chagrin over the fact we are placing Mr. LAUGHLIN on the Committee on Ways and Means, I would point out that today Republicans hold about 58 percent of the seats on the Committee on Ways and Means. It has been since 1923 that the majority party has had less than 60 percent of the votes on the Committee on Ways and Means. Historically, that percentage has been a 60 to 40 split between the majority and minority on the Committee on Ways and Means.

Even after we add Mr. LAUGHLIN to the committee, we will still be slightly less than the 60 percent that has been the historical average over the last 70 years. As a matter of fact, in 1955 when the Democrat Party took control of this House, and they happened to have 232 Members, the same amount that Republicans have today, they had a 60–40 majority on the Committee on Ways and Means.

I would further point out that in December of this year, when the Republicans took control of the House, it was the decision of the Republican leadership that there should in fact be a 60 to 40 split on the Committee on Ways and Means again. After that decision was made, the minority leader, in consultation with the Speaker and the majority leader, and, frankly, after much whining about it, we decided that to ease their pain in terms of the number of Democrat members who were going to lose their position on the Committee on Ways and Means, that we would change from the 60 to 40 split that we had decided on, in order to add just a Democrat member to their side of the aisle on the Committee on Ways and Means, dropping that percentage down to well less than 60 percent. So I would remind all Members that it has been a longstanding tradition and precedent of the House that each party respects the rights of the other in appointing its own Members to standing committees of the House.

What has gone on tonight in the politicization of this process by the minority party I think makes a sad day for this institution. While the minority party may think they are scoring political points or are somehow engaged in some highly principled moralistic action, I think the facts speak otherwise.

Perhaps the saddest part of the charade tonight is that the minority party seems to have no concern that their dilatory tactics hurt not us in the majority, but instead grind to a halt the consideration of the people's business here in the people's House.

To my colleagues on the other side of the aisle, let me be perfectly clear. We will not see this institution or this Nation's business grind to a halt because of the childish temper tantrum by some Members on the other side of the aisle. We will do what is necessary to assure an orderly consideration of the people's business here in the people's House.

Mr. Speaker, I reserve the balance of my time.

□ 1845

Mr. GEPHARDT. I yield myself such time as I may consume.

Mr. Speaker, I would like to respond to the case that the distinguished gentleman from Ohio has made on behalf of the Republican side. I would like to respond to both what is happening here procedurally and what is happening substantively.

First, the procedure: The gentleman is correct in saying that in past Congresses there has been a desire on the part of the majority party on certain key committees to have a larger ratio than the ratio represented by the members of the House. Many times in the past, we have had 60 percent, as Democrats on the Committee on Ways and Means and on the Committee on Rules. But I would point out that in all of those times, the ratio that the Democrats represented in the House was higher than the 53 percent that the Republicans now represent as part of the House.

Second, when this year started, I did go to the Speaker and I said, as a result of the change, we have got five members of the Committee on Ways and Means who are Democrats who will come off. We understood that. That was part of changing the guard. But I asked if the committee could be enlarged so that more of the then-sitting members of Ways and Means could be kept on Ways and Means. And, yes, one was allowed to stay, and four were knocked off.

But when we had that discussion, it was represented to me that the chairman of the Committee on Ways and Means, the gentleman from Texas, very much wanted the committee to stay at the number 21 and 15 represents or 36 and that he in no way would allow the committee to get any larger than that. But yet here we come, a few weeks later, when there is the possibility of someone switching and this action is taken.

My colleagues, I think it is wrong. I think it is wrong from a procedural standpoint. It is wrong in terms of the precedents of this House. And I think it is wrong for people to be moving with this out there.

I am not impugning anyone's motives. Anyone can switch parties at any time. That is a legitimate thing to have happen. But it should be for the right reasons, not for the wrong reasons. And as long as I am leader on the Democratic side, I am going to fight for the rights of the minority on procedure and on ratios on committees, and we will continue that fight.

Let me talk about the substance. What I think is really going on here is an attempt, as was pointed out in the Washington Times on Friday, June 30, 1995, to add a Republican member of senior status to shield freshman Republicans from having to vote for deep, deep cuts in Medicare.

I quote, "Mr. Laughlin likely will provide support for potentially unpopular reductions in Medicare benefits, should GOP leaders give three committee freshmen, all of whom won with less than 51 percent of the vote, permission to vote 'no.' "

My colleagues, what is about to happen in Medicare are the largest changes to Medicare in the history of the program. If the hints we are reading in the weekend press are right, we are talking about huge increases in the premiums for Medicare recipients. If that is what is going on here, a stacking of the committee in order to make sure those cuts go through, then this is substantively wrong. If Members on your side of the aisle believe in these kinds of changes in Medicare, everybody should vote for it. Why should we be shielding Members from voting for these kinds of cuts?

Finally, let me tell you what I really think is going on here. In reading the comments of leaders on the Republican side for some time now, not just lately, I think there is an effort here to make Medicare a voluntary program. I think there is an effort to get rid of Medicare. I think that is what is really at stake.

What I am really concerned about is that these deep, important changes in Medicare are going to try to be slipped through in 3 or 4 days in September. If we are going to have changes in this program of this kind, bring the changes out now in July. Give the American people the right to know what is happening to this program. Make them part of this debate. Let them be part of the vote of what happens to Medicare.

We should not change this program and make it voluntary without involving the American people. And I can tell you, this party will fight those changes every step of the way.

Mr. Speaker, I reserve the balance of my time.

PARLIAMENTARY INQUIRY

Mr. BOEHNER. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore (Mr. WALKER). The gentleman will state it.

Mr. BOEHNER. Mr. Speaker, is it my understanding that the debate on this issue should be confined to the resolution that is on the floor of the House?

The SPEAKER pro tempore. The rules and precedents of the House would indicate that debate on the matter should relate to the matter before the House.

Mr. BOEHNER. Mr. Speaker, I yield 3 minutes to the gentleman from Iowa [Mr. NUSSLE].

Mr. NUSSLE. Mr. Speaker, I thank the gentleman for yielding time to me.

I, as a member of the Committee on Ways and Means, am delighted today to welcome our newest Republican, the gentleman from Texas, Mr. GREG LAUGHLIN, to the committee and welcome him to the Republican majority in the House. I fully expect that this resolution will pass and, as a member of the committee, we are all looking forward to working with him on the important issues that we know we need to face this year.

He has been superb and hard working and we know he is going to be a very articulate member of the committee. As we participate in this debate today, I think it is important to address some of these trumped-up and now glossed-over charges, trying to deflect the debate from the resolution today to scare tactics to senior citizens instead of what we ought to be talking about, and that is the ratio on the Committee on Ways and Means, not some trumped-up political charge that the minority leader or anybody else decides that they are going to do today.

Mr. Speaker, our chairman, the gentleman from Texas [Mr. ARCHER], has been and will continue to be very fair to the Democrats, more fair than they were to us when we were in the minority. Despite the hysteria coming from some on the minority side, we do not intend to let those distortions and exaggerations stop us from managing the committee in a fair-minded and a fair-handed way that earns the respect of the American people.

First let us talk about the record, about the history of this committee, which was so glossed over in the last statement. Let me state for the record that the addition of Congressman LAUGHLIN to the committee will hold Republicans to 59 percent of the seats on the Committee on Ways and Means. Not since 1923—the Republicans were in the majority, by the way, 1923—has the majority party enjoyed less than 60 percent of the seats on the Committee on Ways and Means, regardless of the majority ratio in the House of Representatives.

Even when the Democrat majority held just 51 percent in the House, they received 60 percent of the committee seats. With Congressman LAUGHLIN on the committee, we will only be at 59. Again, we are being fairer to them than they ever were to us.

But they say we have 53 percent on the floor and 59 percent in the committee. That is unfair they say. Well, let me point out that in 1981, following the Reagan landslide, they had 56 percent on the floor and 66 in the committee, a spread of 10 points. We again are fairer to them than they were to us.

Eighteen times, eighteen times in this century the spread between the floor and the committee has exceeded or been equal to six points; the most recent being 1986. Today's spread is exactly six points. Again, we are fairer to them than they were to us.

I think it also should be noted that in 1955, the last time the Democrats had 232 seats, which is what we have, the Democrats held 60 percent of the committee. Once more, we are fairer to them than they were to us.

Mr. Speaker, I think that this is going to be very simple. They have been stung by defects, and they need to move on to the business of this country.

Mr. GEPHARDT. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Michigan [Mr. BONIOR], the Democratic whip.

Mr. BONIOR. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, let us not kid ourselves this evening. This debate is about one simple thing. And while we may talk about representation on the committee, which, in fact, I believe has been skewed, this debate is about Medicare. It is about whether or not we should cut Medicare to provide tax cuts for the wealthiest people in our society. It is about whether or not we should double Medicare premiums to give a tax break to the wealthiest corporations in America.

The Republicans have proposed massive tax breaks for the wealthy, and they came out of the Committee on Ways and Means. To pay for them, they have proposed the biggest cuts in Medicare, the biggest cuts in Medicare in the history of this Republic.

POINT OF ORDER

Mr. BOEHNER. Mr. Speaker, I rise to make a point of order.

The SPEAKER pro tempore. The gentleman will state his point of order.

Mr. BOEHNER. Mr. Speaker, I make a point of order that the gentleman is not speaking to the relevant issue at head. I make a point of order that the gentleman in the well, the minority whip, is not talking to the relevant issue at hand that is in the debate today. The issue is the seating of the gentleman from Texas [Mr. LAUGHLIN] on the Committee on Ways and Means. The gentleman proceeded, as others before him have, to talk about the issue of Medicare, which is not the subject of debate. As I understand the rules of the House, the gentleman should be required to speak to the issue that is on the floor.

The SPEAKER pro tempore. The gentleman makes a point of order that engaging in debate should be on the topic before the House. The gentleman in the well is reminded that the debate topic before the House is the resolution with regard to membership on the committee and debate should be confined to that subject matter.

Mr. BONIOR. Mr. Speaker, I would say to the Members that the members who serve on that committee will determine that fate of literally 40 million Americans on Medicare. There is no way you can divide or divorce the issue of who sits on that committee and the issue of what tax breaks are given, what tax breaks are taken away, what Medicare benefits are given, what Medicare benefits are taken away, what Medicaid benefits are given, what Medicaid benefits are taken away. They are bound together.

As last Saturday's Washington Times pointed out, they want to raise the Medicaid premiums, those who serve on that committee, by 110 million a month, my Republican colleagues, that is. And to pass their plan, they are trying, Mr. Speaker, to stack the committee that will vote on it.

The SPEAKER pro tempore. The gentleman is requested by the Chair to proceed in order.

Mr. BONIOR. As this Washington Times article points out, "Mr. Laughlin will provide support for potentially unpopular reductions in Medicare benefits, should the GOP leaders give three committee freshman, all of whom won with less than 51 percent of vote, permission to vote no." Which raises the question, which raises the question, what will Mr. LAUGHLIN do on this committee? Will he cover for these three freshmen? It is an interesting question. Mr. LAUGHLIN ought to tell the American people. He ought to tell the people of the district what are his intentions with respect to Medicare, if he is going to serve as a member of this committee.

POINT OF ORDER

Mr. BOEHNER. Mr. Speaker, I rise to a point of order.

The SPEAKER pro tempore. The gentleman will state his point of order.

Mr. BOEHNER. Mr. Speaker, I make a point of order that the gentleman in the well is questioning the motives of the gentleman that is in question on the resolution appointing him to the committee.

The SPEAKER pro tempore. The gentleman at this point has not named any member of the Committee on Ways and Means. The gentleman is reminded, however, that he has an obligation to the rules of the House to proceed in order.

Mr. BONIOR. The gentleman from Michigan is indeed proceeding in order. He is proceeding in order of the needs and the will of 40 million Americans who are concerned about Medicare. He is proceeding in order to take care of the needs of the people in this country who depend upon Medicaid.

The SPEAKER pro tempore. The gentleman is reminded that proceeding in order is proceeding under the rules of the House, and the Chair would request the gentleman to abide by the rules of debate in the House of Representatives.

Mr. BONIOR. Mr. Speaker, I would like to pose a question to the Speaker then. The question is this, how does the Speaker intend to separate those who serve on the committee from the jurisdiction which they have on that committee? What is the dividing line? Would the Chair give a ruling to this Member on where the dividing line is?

□ 1900

The SPEAKER pro tempore (Mr. WALKER). The resolution before the House is on the election of the gentleman from Texas [Mr. LAUGHLIN] to the committee. The subject matter before the House is not what he plans to do once he joins the committee. The gentleman will confine himself to the issue before the House.

Mr. HOYER. Mr. Speaker, will the Speaker yield to pursue that question?

The SPEAKER pro tempore. The gentleman from Michigan [Mr. BONIOR] controls the time.

PARLIAMENTARY INQUIRY

Mr. HOYER. Parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore. Does the gentleman from Michigan [Mr. BONIOR] yield for a parliamentary inquiry?

Mr. HOYER. He does not have to, I do not believe, Mr. Speaker.

The SPEAKER pro tempore. The gentleman from Michigan controls the time. Does the gentleman from Michigan yield for a parliamentary inquiry?

Mr. BONIOR. I yield to the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Mr. Speaker, I do not want to ask the gentleman to use his time for a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman from Michigan controls the time. According to the rules of the House, the gentleman from Michigan will have to yield.

Mr. HOYER. Parliamentary inquiry, Mr. Speaker. Is it the Speaker's ruling that I cannot raise a parliamentary inquiry unless the gentleman yields to me? Is it the Speaker's ruling that somebody cannot make a parliamentary inquiry?

The SPEAKER pro tempore. The gentleman from Maryland is correct. As long as the gentleman from Michigan controls the floor, he would have to yield to the gentleman from Maryland for a parliamentary inquiry. The gentleman from Ohio [Mr. BOEHNER] raised a point of order, after his parliamentary inquiry. The gentleman from Michigan [Mr. BONIOR] would have to yield for the purpose of a parliamentary inquiry.

Mr. BONIOR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I think people are getting the message here. The message that the majority is raising is that we have been shut out from active participation on this committee as a result of the ratios in which the minority, which was represented, by the way, by the comments of the Speaker just a few seconds ago, which have shackled the Members of the minority from expressing their views on these key questions. We are here to say that the questions on that committee, the jurisdictional questions of Medicare and Medicaid, are too important, Mr. Speaker, for us to be shackled.

Mr. Speaker, the gentleman from Iowa [Mr. NUSSLE] came to the well a few minutes ago and gave some statistics. What he did not tell us is that in the last 10 years, the difference between the majority representation and the number of people on the Committee on Ways and Means is much, much, much different than what he alluded to. In the 100th Congress, Democrats had 59 percent of this body, and in that same Congress, we had 62 percent on the Committee on Ways and Means, a difference of about 3 percent.

In the 101st Congress the difference was 5 percent. In the 100 and 102d it was 2.35 percent, and in the 103d Congress it was 3.9 percent. In this Congress, with the addition of the gentleman from Texas [Mr. LAUGHLIN] to the committee, it will be 6.4 percent. That is not fair. That is not right.

I would say to the Speaker that he, as well as others in this party, have said on numerous occasions, numerous occasions to this body, that there should be an equal proportionate representation between the number of Members who are in this full body and those who serve on committees. Yet, here we go, with an egregious padding or stacking of the committee.

Mr. Speaker, I want to say on behalf of my colleagues that we will not stand, we will not stand, to have $40 million Americans disenfranchised on key votes with respect to their health care. We will not stand for the same type of activities with respect to tax cut for the very wealthy in this country, and on Medicaid.

Mr. Speaker, let me just conclude my suggesting that we say no to this resolution, and that the leader and the Speaker and the majority leader get together and figure out a way to give fair representation, in the spirit in which the gentleman from Pennsylvania [Mr. WALKER] advocated that representation lo the many years that he was in the minority.

Mr. GEPHARDT. Mr. Speaker, I reserve the balance of my time.

Mr. BOEHNER. Mr. Speaker, I yield 1 minute to the gentleman from Arizona [Mr. HAYWORTH].

Mr. HAYWORTH. Mr. Speaker, I thank the gentleman from Ohio for yielding time to me.

Mr. Speaker, it is absolutely fascinating to listen to the guardians of the old order, the new minority, espouse a form of institutional amnesia. I may not have been here in previous Congresses, but thanks to C–SPAN and thanks to the history books, we can take a look and we can see what happened time and again in this Chamber. Debate was shut up. People were stifled. We had a decision that existed that was egregious.

POINT OF ORDER

Mr. BONIOR. Point of order, Mr. Speaker. The gentleman is not talking about the resolution and he is off the issue.

The SPEAKER pro tempore. The gentleman from Arizona [Mr. HAYWORTH] must confine himself to the subject matter of the resolution before the House.

Mr. HAYWORTH. Mr. Speaker, I listened with great interest, and I thank the ruling of the Chair, and I thank my friend who is the whip on the other side.

I would also point out that what is past is prologue. That is written across the forum in the National Achieves, and it is true. The fact is, and this is absolutely germane, not since 1923 has the majority party enjoyed less than 60 percent of the seats on the Committee on Ways and Means. Mr. Speaker, with the addition of the gentleman from Texas [Mr. LAUGHLIN] we are at 59 percent.

To my friends on the other side of the aisle, Mr. Speaker, it is absolutely germane to realize this fact. There is a new majority exercising the will of the American people. Get over it. Help us govern.

Mr. GEPHARDT. Mr. Speaker, I yield 1 minute to the gentleman from Montana [Mr. WILLIAMS].

Mr. WILLIAMS. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, this may not be about Medicare, and I do not think it is about party affiliation or moving between parties. After all, Mr. Speaker, most Americans vote for a variety of candidates. Most Americans claim they are, in fact, independent. The election and the polls show, of course, that most people, when they make those choices, associates most closely with Democrats in their votes, and when you poll most independents, they say they believe they lean mostly to the Democratic Party. But this is not about affiliation. People move between parties all the time. I will bet all of Members' constituents, almost without exception, refuse to vote a straight party line.

This is not about candidates in one part or the other, one region or the other of the country, moving from one party to the other, although I must say that both the overtones and the undercurrent of the use of race in the South by the right is troublesome, and it should be beneath the party of Eisenhower and Lincoln.

Mr. BOEHNER. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania [Mr. ENGLISH].

Mr. ENGLISH of Pennsylvania. Mr. Speaker, I rise as a Member of the Committee on Ways and Means, and as a freshman, to welcome the gentleman from Texas [Mr. LAUGHLIN] to our committee and to our party, an event so seismic that it has made the minority leader an advocate of minority rights on the House floor, and made the minority leader a reader of the Washington Times, which is extraordinary.

Mr. Speaker, I realize that some of the speakers on the other side have tried to stay on message and frighten senior citizens, but what they have omitted and what I would like to say is that the gentleman from Texas [Mr. LAUGHLIN] is qualified, he is a principled advocate of taxpayers, and that is why so many here are opposed to him. He is an effective leader who has a skill that he demonstrated, prior to switching, of working across party lines, and that is something that ought to be learned on the other side.

Additionally, they have left out the fact that this ratio is fair, even if it is annoying to the advocates of higher taxes and the opponents of welfare reform. The American people will not be fooled.

Mr. GEPHARDT. Mr. Speaker, I yield 1 minute to the gentleman from Michigan [Mr. BONIOR].

Mr. BONIOR. Mr. Speaker, I rise for the purpose of letting my friend, the gentleman from Pennsylvania and the Speaker at the present time in the House of Representatives, know of the words of his friend, the Speaker of the House, the gentleman from Georgia [Mr. GINGRICH].

The gentleman from Georgia said on September 27, 1990, in the CONGRESSIONAL RECORD, and I quote:

> I would think that the Chair would want to accept the fact that in a free country, people often talk very widely about a wide range of issues. We think that freedom of debate and freedom of speech are not only important when burning the flag, but they are even important on the House floor. I hope that for the rest of the day the Chair, in the spirit of good humor, will tolerate a certain level of freedom of speech to reflect the nature of the House at its best.

I would hope that the Speaker would take his good friend's words at heart.

Mr. BOEHNER. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. PAXON].

Mr. PAXON. Mr. Speaker, when the Democrats give a big tax liberal a seat on the Committee on Ways and Means, they call it good government. However, when Republicans give a smaller tax, smaller government conservative a seat on the Committee on Ways and Means, the Democrats say something is wrong with that. The truth is today's debate has nothing to do at all with selling out or with Medicare or anything else. It has to do with sour grapes.

For years the Democrats' liberal leadership has used conservatives. They have promised them seats on important committees, like the Committee on Ways and Means, but when it came time to deliver, it was not done.

POINT OF ORDER

Mr. FRANK of Massachusetts. Point of order, Mr. Speaker. My point of order is that unless the Speaker has taken the words of the gentleman from Michigan to heart, that violates the subject of the Speaker's previous instructions, Mr. Speaker. It is off the point of the issue of appointing the gentleman from Texas [Mr. LAUGHLIN].

The SPEAKER pro tempore. The gentleman from New York [Mr. PAXON] is reminded he must proceed in order.

Mr. PAXON. Mr. Speaker, the truth about this whole committee's assignment brouhaha brought up by our friends across the aisle is that the liberal leadership wants conservative bodies in their caucus but does not want to deliver for them on this House floor. Now they are angry that the gentleman from Texas, GREG LAUGHLIN, the gentleman from Georgia, NATHAN DEAL, RICHARD SHELBY, Senator CAMPBELL, and about 100 State and local Democrats have switched parties. That is what this debate is about here.

POINT OF ORDER

Mr. FRANK of Massachusetts. Point of order, Mr. Speaker. This clearly violates the spirit of the Speaker's previous instructions. I would like to be clear that unless we are going to have one test of rules for this party and another set of rules for the other, that clearly violates what the gentleman stated to the gentleman from Michigan [Mr. BONIOR].

The SPEAKER pro tempore. The Chair had reminded Members on both sides of the aisle when the question has been raised that they are to proceed in order. The Chair would continue to say to both sides of the aisle in fairness that they must proceed in order on the resolution. The subject matter under discussion is the election of the gentleman from Texas [Mr. LAUGHLIN] on the Committee on Ways and Means. That should be the subject of the discussion on the floor.

Mr. PAXON. Mr. Speaker, the election of the gentleman from Texas, GREG LAUGHLIN, to a seat on this committee is about putting people on this committee who will stand up for the right things in this community, in this country, and on this floor. I support strongly the resolution before us today.

Mr. GEPHARDT. Mr. Speaker, I yield 1 minute to the gentleman from Kentucky [Mr. WARD].

Mr. WARD. Mr. Speaker, I thank the gentleman from Missouri for yielding time to me.

Mr. Speaker, I think what we need to do is remember and remind the folks at home who are watching, at least in Louisville, KY, it is just after dinnertime and they may have surfed and ended on C-SPAN, or they may be watching it on purpose. No matter which, what we need to remind them is the Committee on Ways and Means, who knows what these words mean, but we know it means the Medicare committee, because that is what is going to be dealt with in the next 30 days in that committee. That, according to the Washington Times, is one reason that is suggested that the Republican majority has changed the rules in midstream.

As I understand it, never before had the majority changed the world in midstream, changed the number, added somebody, just added somebody to the committee in the middle of the Congress. No, the ratios were set at the beginning and they were kept, so we have to ask ourselves, was it done, as the Washington Times suggested, in order to save a freshman a tough vote?

Mr. BOEHNER. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. THOMAS].

Mr. THOMAS. Mr. Speaker, my understanding is the resolution in front of us is whether or not the gentleman from Texas [Mr. LAUGHLIN] shall be assigned to the Committee on Ways and Means.

At the beginning the 104th Congress the gentleman from Texas [Mr. LAUGHLIN] was a Democrat. He currently is a Republican. The ratio on the Committee on Ways and Means is 21 to 15. I know for a fact that the chairman of the Committee on Ways and Means, the gentleman from Texas [Mr. ARCHER], argued long and hard for a ratio of 21 to 14. He was denied his wishes of that committee ratio by the wisdom of leadership, because the minority leader begged him to put another Democrat on. So when we started, it was 21 to 15. They got their Democrat at the beginning. It was not what we wanted.

If we add the gentleman from Texas [Mr. LAUGHLIN] as a Republican, the ratio will be 22 to 15. That is still not 60 percent; 21 to 15 is not 60 percent; 22 to 15 is not 60 percent. I have been on the Committee on Ways and Means since 1983. It has been between 63 and 66 percent loaded in favor of the majority in that entire time, so it is not about ratio.

One of the difficulties we have in examining this business of party switchers is because in the brief 17 years that I have been in Congress I have never seen anybody from this side of the aisle decide not be a Republican and go over there. In the time that I have been here, I have seen a number of Democrats come over here.

One of the reasons we are pleased to welcome the gentleman from Texas [Mr. LAUGHLIN] is that we like his position on the issues. I do not see anything wrong at all in taking someone that you like on the issues and giving them a position of prominence in areas in which we are going to have significant votes.

The Committee on Ways and Means in this jurisdiction is, with all due respect as a member of the committee, an important committee. It deals with all the taxes. It deals with Social Security. It deals with welfare. Yes; it deals with Medicare.

What we want to do is take the issues position of the gentleman from Texas [Mr. LAUGHLIN], who was recently a Democrat, and now a Republican, and meld him with all of the other Republicans on the committee, who I might remind the Members represent a percentage of the total committee less than the Democrat-Republican ratio when they were a majority for the entire time I have been on the committee.

□ 1915

What is your problem? That you want more Republicans to reflect the ratio that used to be there? We are not doing that. That you want Democrats to quit leaving your party and become Republicans? Then change your positions. If you do not, if you keep the same leadership, advocating the same position, there are going to be more Republicans over here before the election by virtue of people continuing to switch.

Is that your problem, that you do not like switchers, or is it that you have no substantive point to make and so you are arguing items that are irrelevant?

Let's make the gentleman from Texas [Mr. LAUGHLIN] a member of the Committee on Ways and Means.

Mr. GEPHARDT. Mr. Speaker, I yield our remaining 1 minute to the gentleman from New York [Mr. NADLER].

Mr. NADLER. Mr. Speaker, I want to talk for the moment about the scope of debate on the floor of the House and to defend it against the attitude of the Acting Speaker. The resolution before the House is the election of the gentleman from Texas [Mr. LAUGHLIN] to the Committee on Ways and Means.

When someone is up for election, he is a candidate. The candidate's views are relevant, the candidate's intentions are relevant. The fact that the intentions of those who are putting him there may be to make it easier to enact great cuts in Medicare, they are relevant. The fact that the intentions of those who are putting him there may be to put someone there who is opposed to taxes, that is relevant. The fact that they may be doing that because they enticed him and because they are selling committee seats for switches in party, if someone wants to say that, that would be relevant. I am not saying those things, though I think they are true.

The fact that this leadership is doing these things is all relevant.

Mr. BOEHNER. Mr. Speaker, I yield myself our remaining 1 minute.

Mr. Speaker, the facts are this: The facts are that since January of this year, four Democrats, two in the House and two in the Senate, have switched parties, more than in any 2-year cycle in the history of our country. As long as they continue to switch parties, guess what? We as Republican Members, as the majority, have to find a committee to put them on. Tonight we are proud to bring to this floor a resolution putting the latest Democrat to switch parties on the Committee on Ways and Means.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The SPEAKER pro tempore (Mr. WALKER). The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. BOEHNER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Chair may reduce to 5 minutes the vote on passage of the resolution, if ordered.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 233, nays 179, not voting 22, as follows:

[Roll No. 474]

YEAS—233

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brewster
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Flanagan
Foley
Fowler
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Petri
Pombo
Porter
Portman
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stockman
Stump
Talent
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—179

Ackerman
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Beilenson
Bentsen
Berman
Bevill
Bishop
Bonior
Borski
Boucher
Browder
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Costello
Coyne
Cramer
Danner
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Ford
Furse
Gejdenson
Gephardt
Geren
Gibbons
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson-Lee
Jacobs
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Levin
Lewis (GA)
Lincoln
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Miller (CA)
Mineta
Minge
Mink
Mollohan
Montgomery
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (MN)
Pickett
Pomeroy
Poshard
Rahall
Rangel
Reed
Richardson
Rivers
Roemer
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Sisisky
Skaggs
Skelton
Slaughter
Spratt
Stenholm
Stokes
Studds
Stupak
Tanner
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Traficant
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NOT VOTING—22

Abercrombie
Becerra
Brown (CA)
Dooley
Fields (TX)
Foglietta
Forbes
Frost
Hunter

Jefferson
Lantos
Lipinski
Mfume
Moakley
Moran
Peterson (FL)
Pryce
Reynolds
Smith (MI)
Stark
Towns
Tucker

□ 1937

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. WALKER). The question is on the resolution.

Mr. FRANK of Massachusetts. Mr. Speaker, I move to reconsider the vote by which the previous question was ordered.

MOTION TO TABLE OFFERED BY MR. BOEHNER

Mr. BOEHNER. Mr. Speaker, I move to lay the motion to reconsider on the table.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio [Mr. BOEHNER] to lay on the table the motion to reconsider offered by the gentleman from Massachusetts [Mr. FRANK].

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. FRANK of Massachusetts. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This is a 15-minute vote followed by a possible 5-minute vote.

The vote was taken by electronic device, and there were—ayes 233, noes 181, not voting 20, as follows:

[Roll No. 475]

AYES—233

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brewster
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kennedy (MA)
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Petri
Pombo
Porter
Portman
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stockman
Stump
Talent
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—181

Ackerman
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Beilenson
Bentsen
Berman
Bevill
Bishop
Bonior
Borski
Boucher
Browder
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Costello
Coyne
Cramer
Danner
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Ford
Frank (MA)
Furse
Gejdenson
Gephardt
Geren
Gibbons
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson-Lee
Jacobs
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Miller (CA)
Mineta
Minge
Mink
Mollohan
Montgomery
Moran
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pomeroy
Poshard
Rahall
Rangel
Reed
Richardson
Rivers
Roemer
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Sisisky
Skelton
Slaughter
Spratt
Stenholm
Stokes
Studds
Stupak
Tanner
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Traficant
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NOT VOTING—20

Abercrombie
Becerra
Brown (CA)
Dooley
Fields (TX)
Foglietta
Frost
Hunter
Jefferson
Lantos
Livingston
Mfume
Moakley
Pryce
Reynolds
Skaggs
Smith (MI)
Stark
Towns
Tucker

□ 1955

Mr. GEJDENSON changed his vote from "aye" to "no."

Mr. TALENT changed his vote from "no" to "aye."

So the motion to table the motion to reconsider was agreed to.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. WALKER). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. FRANK of Massachusetts. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 248, nays 162, not voting 24, as follows:

[Roll No. 476]

YEAS—248

Allard
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brewster
Browder
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gilman
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hancock
Hansen
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)

Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Montgomery
Moorhead
Morella
Murtha
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Packard
Parker
Paxon
Payne (VA)
Peterson (MN)
Petri
Pickett
Pombo
Porter
Portman
Quillen
Quinn
Radanovich
Rahall
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Sisisky
Skeen
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stockman
Stump
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Traficant
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wilson
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—162

Ackerman
Andrews
Baldacci
Barcia
Barrett (WI)
Beilenson
Bentsen
Berman
Bevill
Bishop
Bonior
Borski
Boucher
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Costello
Coyne
Danner
de la Garza
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Ford
Frank (MA)
Furse
Gejdenson
Gephardt
Gibbons
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson-Lee
Jacobs
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Levin
Lincoln
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Miller (CA)
Mineta
Minge
Mink
Mollohan
Moran
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Peterson (FL)
Pomeroy
Poshard
Rangel
Reed
Richardson
Rivers
Roemer
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Skaggs
Skelton
Slaughter
Spratt
Stenholm
Stokes
Studds
Stupak
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Williams
Wise
Woolsey
Wyden
Wynn

NOT VOTING—24

Abercrombie
Becerra
Brown (CA)
DeFazio
Dooley
Foglietta
Frost
Gillmor
Hastert
Hunter
Jefferson
Lantos
Lewis (GA)
Mfume
Moakley
Nadler
Oxley
Pryce
Reynolds
Smith (MI)
Stark
Towns
Tucker
Yates

□ 2005

Mr. PAYNE of Virginia and Mr. ROSE changed their vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. BROWN of California. Mr. Speaker, I was absent from the House on Monday, July 10, 1995, in order to attend the dedication of the new salinity laboratory at the University of California, Riverside, which is very important to my region of California. I regret that I missed the votes that day related to the appointment of Representative GREG LAUGHLIN to the Committee on Ways and Means.

PERMISSION FOR ALL COMMITTEES AND THEIR SUBCOMMITTEES TO SIT FOR REMAINDER OF WEEK DURING 5-MINUTE RULE

Mr. ARMEY. Mr. Speaker, I offer a privileged motion.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

> Pursuant to Clause 2(I) of rule XI, Mr. ARMEY moves that all committees and subcommittees of the House be permitted to sit for the remainder of the week while the House is meeting in the Committee of the Whole House under the 5-minute rule.

The SPEAKER pro tempore. The gentleman from Texas [Mr. ARMEY] is recognized for 1 hour.

Mr. ARMEY. Mr. Speaker, I will not take the 1 hour.

Mr. Speaker, let me say at the outset, this is a rather routine request. The request is made necessary by our desire to keep floor consideration of spending bills as open as possible and accessible to all the Members of the body, while at the same time, of course, committee work must go on. We feel like this is a necessary accommodation, and appreciate the fact that the committees are so willing to accommodate our need to maintain a floor schedule and move our spending bills.

I should like to tell the Members of the body that after a very brief debate on this motion, we will have a vote, and it will be the last vote of the evening.

Mr. Speaker, with those comments, I yield for 5 minutes for purposes of debate only to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Speaker, I do take note of the fact that the majority has decided we will do no further legislative business today of any sort, and that will allow us to leave. But I was particularly struck when the majority leader said this is a routine request. Indeed, it has become so.

It has become routine for the Republican Party to ignore the rules it so proudly proclaimed at the first day of the session, because one of the great reforms that they brought to us, one of the new ways of doing business, was the one that was to say that the House will not sit simultaneously with the committees.

You would not, if you were on the Committee on the Judiciary, have an important markup on the terrorism bill at the same time a constitutional amendment is on the floor. You would not, if you were on the Committee on Appropriations, have a full committee markup while a bill is on the floor. That was one of the great reforms the Republicans were bringing us, and as the gentleman from Texas has honestly said, it has now become——

The SPEAKER pro tempore. The gentleman will suspend until we get some order.

Mr. FRANK of Massachusetts. I thank the Speaker for his efforts, but it has been my experience that when people do not want to hear something, you cannot make them listen.

The Republicans do not want to hear the reminders of how short-lived their promises were about running the House. This is an example. They made a big deal about how they were changing its rules so we would not have that conflict between committee business in the House, and it is now routine to change it. When that is changed, of course, they make a mockery of the rule on proxies.

We were told you cannot have proxy voting; be there in committee. But what do you do when a bill that you are seriously interested in is being debated on the floor and the committee on which you are a member is simultaneously meeting? Maybe it is a bill on which that committee has jurisdiction. How do you avoid missing one or the other?

So what we have had is, at least in the committees I have seen, a very creative contest by the chairs of the committee on how to get around the proxy rule. Let's roll the votes. Let's hold the votes. Let's reconsider. Let's have some mock votes.

In area after area, we have seen the rules disregarded. We were told we would have a strict limit on the number of subcommittees a member can be on. We are. Members are strictly limited on the Republican side to the number of subcommittees on which they wish to serve and no more. And that need bear no relationship to the basic rule.

We have been told, in the substantive areas as well, that the Republican Party will honor the right of the States. They do. They honor the right of the States to make any decision with which the Republican Party is in agreement. But where the States may misdecide, they will overrule those decisions.

We are here talking about a very fundamental issue.

Mr. ARMEY. Mr. Speaker, I am listening intently to the gentleman and having difficulty hearing.

The SPEAKER pro tempore. The gentleman is correct. The House is not in order. The House will be in order.

Mr. FRANK of Massachusetts. I appreciate the solicitude and care with which the gentleman from Texas has helped me get attention.

I would appreciate even more, however, some solicitude for the ability of the House to legislate in a sensible way. The Committee on Appropriations members will be put to the problematic task of sitting in full committee while they are in fact having bills on the floor. The Committee on the Judiciary has now called a markup on the very sensitive subject of abortion, and members of the Committee on the Judiciary will be asked to be at that full committee while there is legislation on the floor.

It is a very clear example. Politicians who have been caught being inconsistent like to misquote Ralph Waldo Emerson, they leave out a couple of adjectives, about how consistency is for the small-minded. I want to congratulate my colleagues on the other side. They must feel large-minded indeed these days, because there is scarcely a principle which they brought forward on the opening day of the session which they have not violated, as the gentleman from Texas has said, routinely.

Routinely we get the proxy cut aside. Routinely the notion of family friendly is ignored. Routinely the committees meet while the House is in session. Routinely, if you do not like what the States do, States rights become something you put back under the rug.

Mr. Speaker, this is one more example of a failure to live up to those professions of concern.

Mr. GEJDENSON. Mr. Speaker, will the gentleman yield?

Mr. FRANK of Massachusetts. I yield to the gentleman from Connecticut.

Mr. GEJDENSON. Mr. Speaker, I appreciate the gentleman yielding.

Mr. Speaker, this is more than just a process issue. The way the House has been run has denied Members their ability to adequately represent their constituency. Being a Member of Congress puts you in an area where you have many responsibilities. One is on the floor. As legislation moves through the floor that you are particularly involved in, you have a responsibility to be here on the floor. But you are also a member of several committees, and under this new process, where there is no proxy voting, where sometimes the votes are held until the end of the committee, sometimes they are not, this is not simply a change in process. It is actually again stacking the deck against Members.

Mr. ARMEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I do want to say I appreciate the kind remarks of the distinguished gentleman from Massachusetts [Mr. FRANK] and also want to express my appreciation for the kindness of the gentleman from Connecticut as well. But I do feel compelled, which is a rare opportunity for anybody in this body, to correct the gentleman from Massachusetts.

☐ 2015

The quote that the gentleman struggled for is, in fact, "a foolish consistency is the hobgoblin of little minds, charlatans and divines," if I can get that corrected.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the motion.

The previous question was ordered.

The SPEAKER pro tempore (Mr. WALKER). The question is on the motion.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. LINDER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 234, noes 176, not voting 24, as follows:

[Roll No. 477]

AYES—234

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Gilchrest
Gilman
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hancock
Hansen
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hutchinson
Hyde
Inglis
Istook
Jacobs
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Montgomery
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Packard
Parker
Paxon
Petri
Pombo
Porter
Portman
Quillen
Quinn
Radanovich
Rahall
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Sisisky
Skeen
Skelton
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stockman
Stump
Talent
Tate
Tauzin
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—176

Ackerman
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Beilenson
Bentsen
Berman
Bevill
Bishop
Bonior
Borski
Boucher
Brewster
Browder
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Costello
Coyne
Cramer
Danner
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Ford
Frank (MA)
Furse
Gejdenson
Gephardt
Geren
Gibbons
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson-Lee
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Miller (CA)
Mineta
Minge
Mink
Mollohan
Moran
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pomeroy
Poshard
Rangel
Reed
Richardson
Rivers
Roemer
Rose
Roybal-Allard

Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Skaggs
Slaughter
Spratt
Stenholm
Stokes
Stupak
Tanner
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Traficant
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Wilson
Wise
Woolsey
Wyden
Wynn

NOT VOTING—24

Abercrombie
Becerra
Brown (CA)
Dooley
Foglietta
Frost
Gillmor
Hastert
Hunter
Jefferson
Lantos
Mfume
Moakley
Oxley
Pryce
Reynolds
Smith (MI)
Stark
Studds
Towns
Tucker
Waxman
Williams
Yates

□ 2033

So the motion was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. STARK. Mr. Speaker, the evening of July 10, I missed four votes because of the need to be with my wife in child-birth classes. I hope everyone who has been through this process will be understanding of my absence.

If I had been present, I would have voted: No, on rollcall 474, moving the previous question; No, on rollcall 475, the motion to table the motion to reconsider; No on rollcall 476, the committee assignment resolution; and No on rollcall 477, permission for committee to sit for remainder of week while the House is meeting.

THE JOURNAL

The SPEAKER pro tempore (Mr. WALKER). Pursuant to clause 5 of rule I, the pending business is the question of agreeing to the Speaker's approval of the Journal of the last day's proceedings.

The question is the Chair's approval of the Journal.

Pursuant to clause 1, rule I, the Journal stands approved.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair announces that further proceedings on the postponed suspension motions are further postponed until tomorrow.

COMMUNICATION FROM THE HONORABLE CHRISTOPHER H. SMITH, MEMBER OF CONGRESS

The Speaker pro tempore laid before the House the following communication from the Honorable CHRISTOPHER H. SMITH, Member of Congress:

HOUSE OF REPRESENTATIVES,
Washington, DC, June 30, 1995.

Hon. NEWT GINGRICH,
Speaker, U.S. House of Representatives, Washington, DC.

DEAR MR. SPEAKER: This is to formally notify you pursuant to Rule L (5) of the Rules of the House that my office has received a subpoena for testimony and documents concerning constituent casework. The subpoena was issued by the Superior Court of New Jersey in Morris County.

After consultation with the General Counsel, I have determined that compliance with the subpoena is consistent with the privileges and precedents of the House.

Sincerely,

CHRISTOPHER H. SMITH,
Member of Congress.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12 and under a previous order of the House, the following Members are recognized for 5 minutes each.

REPUBLICAN BELIEFS AND GOVERNMENT RUN AMOK

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia [Mr. KINGSTON] is recognized for 5 minutes.

Mr. KINGSTON. Mr. Speaker, a friend of mine, State Representative Garland Penhalser recently asked me why I was a Republican, and what we were doing up here, and what this think was all about. Garland is a State representative who has been doing a tremendous job in Atlanta in the State capitol down there making changes. He just wanted to hear it from me what he already knew, I guess.

What I replied is that generally what the Republican Party believes up here is believing in people versus believing in Georgia. We support private sector solutions to problems, not Government solutions to problems. We stand for less regulation. We stand for less taxes, less bureaucracy, less micromanagement out of Washington, and certainly, more personal freedom.

With that in mind, Mr. Speaker, there are so many great examples of micromanagement out of Washington and Government run amok, if you will. A book has been written recently entitled "The Death of Common Sense," and many people have read the book. Recently, the mayor of Kingsland, GA, Keith Dixon, gave a copy of it to me. Just thumbing through there, there were a lot of great examples of crazy things that our Government does.

One of the examples took place in Yorktown, NC, with the Amoco Oil Co. The EPA came in there, and because there was a pollutant in the air called benzene, and benzene is an extremely dangerous pollutant, EPA ordered Amoco to install a new type of filtering system to their smokestacks. It cost Amoco $31 million. As we know, Americans all over the country paid for that in higher gas prices at the pump. Let us not fool ourselves that Amoco paid more dividends to their stockholders because of that. They did what any business would do and they passed the cost on to consumers.

The irony of it was that the smokestacks were not emitting benzene. The benzene was coming from the loading dock area. That problem could have been easily remedied by changing the loading procedure. The only problem, Mr. Speaker, was that the EPA did not have jurisdiction over the loading dock, so the benzene is still in the air, and yet Amoco oil had to pay $31 million for it.

Mr. Speaker, there are other examples of that. I see the gentleman from Pennsylvania [Mr. FOX] is here and wants to join us. I yield to my friend, the gentleman from Pennsylvania [Mr. FOX].

Mr. FOX of Pennsylvania. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, I think the point is well made by him, and I appreciate him being a champion here for small business and for the importance of the individual. I had a situation in my district in Montgomery County, PA, where we had a gentleman who was trying to work with the Federal Government, a $25,000 contract. The problem he had was 187 pages of Federal documents to be filled out. The problem with 187 pages was not just the number of pages, but also it would require him to hire an accountant, an attorney, and an engineer. What little profit there is in a $25,000 contract, there was not really much for him.

The fact is, he told me, and he was right, the Government, the Federal Government, is not user-friendly. It does not make sense for him to try to give the best product at the best price to the Federal Government when he can sell it elsewhere without all the needless regulation and the burdensome paperwork that made it actually a disincentive to deal with our Federal Government.

Mr. KINGSTON. It is ridiculous, because I think the bureaucracy in many, many cases, and even probably in most cases, wants to do the right thing. The problem is these very laws, and we are going from manuals now that have a 4,000, 5,000, 10,000 pages to do anything, and these laws that are well-intended and regulations have become stumbling blocks, and because of that, we do not have common sense anymore in our process.

Mr. FOX of Pennsylvania. If the gentleman will continue to yield, Mr. Speaker, I believe the 104th Congress, especially with many of the freshman Republicans, and you have joined us as an honorary Member of the freshman Republicans, although you are a more senior Member, we have tried to have what we could call the new approach to Government, in which we call for Government to downsize, privatize, consolidate, and where possible, eliminate.

We do not believe, as you do not, that we need to have the Federal Government do things that are best left to the private sector. We believe that the private sector has the best chance to create jobs. If we can have an environment with less regulation and less taxation, we can have businesses provide for our local people the kinds of jobs that are lasting, meaningful, and important jobs that mean a lot to folks back home.

I think we are on the right track to reduce needless regulations that do not really improve the quality of life, and to make sure we do what we can to sunset Federal agencies that are not doing their job, like we did in Pennsylvania, and eliminate the wasteful bureaucratic system that exists here in Washington as a culture.

GOVERNMENT RUN AMOK

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. FOX] is recognized for 5 minutes.

Mr. FOX of Pennsylvania. Mr. Speaker, I yield to the gentleman from Georgia [Mr. KINGSTON] to further this colloquy we were discussing about regulations.

Mr. KINGSTON. Mr. Speaker, let me give another example of government just not using quite common sense. I have in my hand a letter from Lee Heyer. Lee Heyer is a student at Georgia Southern University. He is actually the student body president. He sent to me a letter he got from the U.S. Post Office declaring June 12 to June 17 National Dog Bite Prevention Week. It tells people how to prevent their dog from biting a letter carrier. Again, it is well-intended, but, he said, he called the office.

First of all, this mail that was delivered at taxpayer expense went to his apartment complex where they do not allow dogs, so everybody in the apartment complex got notified how to tie their dog up, which they are not allowed to have.

The second part, he called the actual office in his area and found out there were zero dog bites in that particular area in the previous year. Again, Mr. Speaker, the private sector would not do that. They would think it through twice.

I see the gentleman from Florida [Mr. WELDON] has joined us. I do not control the time.

Mr. FOX. Mr. Speaker, I yield to the gentleman from Florida.

Mr. WELDON of Florida. Mr. Speaker, I appreciate the gentleman's efforts here today to do something, to speak out about doing something for the terrible problem of excessive regulation, and the impact that has a job creation. This is a very important issue in my district, Mr. Speaker, where the defense cutbacks have put a lot of people out of work, but there are a lot of people trying to set up new businesses and trying to be independent, and the Government regulations that are required in setting up a new business, and just hiring a new person, is actually stifling business creation all across our country, including in my district.

□ 2045

We as Republicans, I believe, need to continue the effort to try to not only downsize Government but make the Government as the gentleman said, more user-friendly and more open to job creation.

One thing I do want to add to this discussion, which I think is very important, is the need to deal with our terrible problem of excessive litigation.

I know a business in my district approached me, and this particular business, they had been in the printing press business for a time way back in the early part of the century, but they are now out of that business. There was a printing press that had been in use, safely in use, for 70 years, that an employee at a company had recently been injured on, and that company was, now that they have been out of the printing press business for something like 25, 30 years, they are now being sued for a product that has been in safe use for something like 70 years.

I just think that is wrong, it is unreasonable. We need our tort reform legislation to get through the Senate and we probably need more provisions to be passed in the future.

Mr. FOX of Pennsylvania. Mr. Speaker, I think the support that the gentleman from Pennsylvania [Mr. WELDON] has given as well as the gentleman from Georgia [Mr. KINGSTON] for our products liability reform legislation will go a long way in helping businesses. As the gentleman from Georgia [Mr. KINGSTON] just talked about, we certainly need to have less regulation.

Another area I would like to have us consider, not only the regulatory reform and legal reform but what about making sure we provide those investment tax credits, the research and development tax credits, which will encourage businesses to expand, produce and hire and not have those jobs go overseas but keep those jobs here in America for companies and employees who really want to make sure that we grow. That I think along with reform dealing with the ability to obtain credit, I think we can keep our businesses viable here in the country and move along.

Mr. KINGSTON. I was meeting this last weekend with the Georgia Hospitality and Travel Association. One of the battles they just fought with regulatory reform is that on the back of your hotel door, they have escape plans. I was in the insurance business and I am one of these nerds, I guess, who always reads those things. But 99 percent of the people who stay in hotels, particularly at Days Inn on a ground level, don't read how to escape from the room. They can kind of figure it out on their own. But new regulation, you have to print that bilingual.

In south Georgia, where you don't get that many people speaking Spanish, they wanted to put it in Spanish language, as well as English language. You cannot even tell if the door is wooden or painted already because you have all these different instructions on what to do in a hotel room.

The Hospitality Association was able to kind of break that, postpone the regulation, I would say, just break the thinking pattern there. In Los Angeles County, they have to put the voting ballot in 7 different languages.

The gentleman from Wisconsin [Mr. ROTH] has a bill entitled "English First" which addresses this. I believe he is on the floor.

MAKING ENGLISH OFFICIAL AMERICAN LANGUAGE

The SPEAKER pro tempore (Mr. SHAW). Under a previous order of the House, the gentleman from Wisconsin [Mr. ROTH] is recognized for 5 minutes.

Mr. ROTH. Mr. Speaker, I was interested in the dialog that just took place here.

We Americans are very fortunate because we represent the most diverse country in the world. We are a people from every corner of the globe, every religious, every ethnic, every linguistic background right here in America. Yet we are one Nation and one people. Why? Because for over 200 years, the history of our country, when people came here, they adopted English as the official language. While we were from every corner of the globe, and every background, we are all Americans because we have this common glue, this commonality.

Today in America we are splitting our country up. We are no longer the melting pot, but we are becoming, as the anti-English establishment would have us, as a salad bowl. I don't believe America is a salad bowl. I don't believe in hyphenated Americans. I believe we are all Americans. That is why this issue of the English language is so important.

Teddy White, who has written "The Making of a President" any number of times from 1960 on, before he passed away, he wrote this book, "America in Search of Itself." He talks about as we come to the new century, to the new millennium, that his greatest concern is for America breaking up into groups.

Arthur Schlesinger has also written a beautiful little book I would like to recommend, "The Disuniting of America," where he talks about the cultural changes and, for example, what bilingual education is doing to American citizens and what is happening in America today. It is very well done, and I recommend that to our citizens.

Recently, I think, closer to home, right here in the House of Representatives, our Speaker has written a book, and for the people who read the Speaker's latest work, the Speaker understands this problem very well because in chapter 15 of the book, he talks about America breaking up into groups, and English as the American language.

The Speaker points out that there are nearly 200 different languages spoken here in America. He makes the observation that nearly all business, politics, education, and commerce is conducted in English.

We want Americans to have an understanding of other languages, but that is a different issue. I have 3 children. All of them have taken foreign languages or are taking a foreign language today. The point is, is that we have to keep our commonality and our common glue, so that if people want to speak one language at home or promote their culture, keep their culture, I think that is great and laudable and we want to continue that. But we have a melting pot here in America, so we do not break up into groups.

Look what is happening in Canada, where you have the heart being taken out of that country. Here in America, we have our country breaking up into groups and we cannot allow that to continue.

Mr. WELDON of Florida. If the gentleman will yield, I would just like to share with the gentleman that my mother grew up in an Italian home and she learned to speak Italian along with her 3 sisters and her brother and they were all proud to go out on the streets and learn English. My mother went on not only to get a good command of English but to get through the public school systems of the city of New York and get a college degree and go on to become a teacher. She was a strong advocate for English as a common language in the United States, because she saw firsthand the importance of knowing the language and the need to know the language to be able to get ahead. She taught me the importance of what you are talking about. That is why I am a sponsor of the bill of the gentleman from Wisconsin [Mr. ROTH], and I am proud to be a sponsor of that legislation.

Mr. ROTH. I thank the gentleman and I appreciate the testimonial, because what the gentleman is saying, I think, is what many, many Americans can say, that when our immigrants came, they adopted English as their language so we became a melting pot.

What is happening today, thanks to the misconceived policies back in the 1960's, we have whole sectors of our society now being brought up in school in bilingual education. Most of the time the kids do not have an education in either language.

Mr. KINGSTON. If the gentleman will yield, I am on the Committee on Appropriations. We have spent a tremendous amount of time reducing spending. Along the way I saw a statistic that we spend $242 million, I think, on one program for bilingual education.

Does the gentleman know how much we spend totally?

Mr. ROTH. On State, national and local, according to USA Today in a recent article they did, it is something like $12 billion we spend on bilingual education. There is nothing that harms youngsters or holds them back, makes them second-class citizens as much as bilingual education.

We have got to have people melt into our society. That is why this bill is so important.

SALUTING NASA ON RECENT SHUTTLE MISSION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. WELDON] is recognized for 5 minutes.

Mr. WELDON of Florida. Mr. Speaker, I rise tonight to speak out and to salute the people at Kennedy Space Center as well as the officials in NASA and those at the other centers as well as our astronauts in particular and additionally our cosmonauts on the tremendously successful recent *Mir* rendezvous mission.

I went down, Mr. Speaker, to see the shuttle take off for that particular flight. Unfortunately we got canceled because of rain the few days I was down there and I had to return back here because the House went back in session.

But then we had a flawless liftoff and the mission, I can only say, was a tremendous success. Not only did the commander of the mission, Hoot Gibson, do a fabulous job, but so did the entire crew. It was a historic mission. It was the 100th space flight for the United States, and it was the first rendezvous mission involving our space shuttle, clearly demonstrating the technology that is needed for our space shuttle not only to continue to go up and link up with the *Mir* space station but in a few years to be able to go up and link up with our future space station.

I think it is a tremendous testimonial to the efforts of all the workers there at Kennedy Space Center as well as at Johnson Space Center and the other NASA centers that this mission went off flawlessly.

I was delighted to be able to be there to see the shuttle land and to meet with some of the Russian officials. I could not help but think how our nations, the United States and the former Soviet Union, what is now Russia, enemies for so many years, for so many years engaged in an escalation of hostilities, how we can now in this arena join together and to show that through cooperation and trust that we can achieve great things.

I, by no means, Mr. Speaker, mean to imply that I feel that we should let down our defenses. I am personally an advocate for a very strong national defense. I think what is going on now with the Soviet Union today, or the Russian people today, is something new, we need to take 1 year at a time and see how it goes. But I think this was a tremendous testimonial to the success of a cooperative effort.

I also think it was inspiring to all our young people. Today our young people are looking for role models. So many of their role models in society let them down. When they look at the success of this mission and the astronauts in this mission, it is something they can look up to.

As the Speaker knows, we have to compete in the international marketplace and we need to have the best in science and technology if we are going to be able to be competitive. I think through our space program, that is a key way in which we can continue to maintain our strong posture, leading the world in research and in science.

This space station holds out the prospect for some tremendous breakthroughs in areas of medicine that I happen to be very familiar with as a former physician. I spent many years treating many women with osteoporosis and additionally treating many senior citizens who had problems with fainting or syncopal episodes.

With the medical research that we are going to be doing on the space station made possible with our shuttle, we should be able to unlock some of the secrets that led to this disease and how to achieve some meaningful cures to some of these problems.

To be there at the landing of this shuttle was just very inspiring. I had seen many shuttles take off before from my parking lot at work in Melbourne, FL, but I had never actually been there at Kennedy Space Center to see one of them land.

It comes in over the coast of Tampa at about 200,000 feet. By the time it arrives over at the east coast at Kennedy Space Center, it is at 50,000 feet. Within 4 minutes, it is landing on the ground. It drops and drops and drops and drops, and then when it is just a few hundred feet off the ground, the pilot noses the shuttle up, the landing gear comes down, and it comes in for a landing just like an airliner.

As it landed, Mr. Golden was there, the administrator of NASA, turned to me and he said, "No other country in the world can do that."

He was right. No other country in the world can send a spacecraft up with a crew and bring that spacecraft back and have it land on an airstrip safely.

Mr. Speaker, I salute the astronauts and cosmonauts on this mission, and I salute all the workers at the space centers that were involved in this project.

□ 2100

A TRULY TRAGIC DAY IN AMERICAN HISTORY

The SPEAKER pro tempore (Mr. SHAW). Under the Speaker's announced policy of May 12, 1995, the gentleman from California [Mr. DORNAN] is recognized for 60 minutes as the designee of the majority leader.

Mr. DORNAN. Mr. Speaker, tomorrow may be a truly tragic day in American history, because a person who avoided serving his country three times during the bloodiest subaction of the whole cold war, the conflict that raged on for a decade in Indochina, a person who avoided the draft when he graduated from Georgetown, speaking about Mr. Clinton, who avoided service in his first year as a graduate student at Oxford, when all graduate deferments were taken away and then who, after he actually had a call-up notice, a report date to join the U.S. Army as a buck private soldier and an induction date of 29, excuse me, 28 July 1969, used political pressure, the liberal Republican Governor's office in Arkansas, Winthrop Rockefeller, with the draft board, the head of the draft board, and two or three members of the draft board, personal meetings, 2 hours each, to beg them to allow him to join after the fact the ROTC at the University of Arkansas; then he had a U.S. Senator, Senator Fulbright of Arkansas, phone in to the head of the ROTC.

And then I learned at a dinner with the distinguished American, Distinguished Service Cross holder of the second medal down from the Medal of Honor, who had commanded ROTC units, whole sections of the country, commanded ROTC for many colleges, Col. Eugene Holmes, a Bataan death march survivor, he told me when I had dinner with him and his wife, Irene, down in Fayetteville, AR, last February, that Clinton was the only student in more than a decade, as a commander and professor of military science, the only student who ever showed up at his house. He said he did not let him in, but for 2 hours in the front yard, backyard, back and fourth 23-year-old Bill Clinton begged Colonel Holmes to let him into the ROTC as a 2-year postgraduate student if he entered law school to go back on a special 2-year crash course with the undergraduates at the University of Arkansas and get in the ROTC so he could avoid the draft, and Colonel Holmes told me, against his better judgment, with more political pressure than he had ever thought possible, Senators, Governors, draft board members, Buick dealerships, all putting the pressure on him, he signed up a man who graduated from college over 1 year and 2 months before into the special program and, of course, Clinton never spent a day in the ROTC at Arkansas.

But now here he is, the Commander in Chief, and if all the stories are true, tomorrow at noon he is going to normalize relations, give diplomatic recognition honors and recognition to the war criminals, the Communist leaders, in Hanoi who killed better men than he, probably three high school students from the Hot Springs area of Arkansas went into the service to meet those three draft calls in June 1968, the spring of 1969, and then that summer of 1969 when someone had to fill the Clinton slot, late July 1969, and then Clinton went off to Moscow a few weeks later.

Colonel Holmes had not even known this. He went through Oslo, Stockholm, Helsinki, Leningrad, took the train overnight to Moscow and was put up, when he claimed he had no money, at the best hotel in town on January 1, 1970, because there was so-called peace banquet for Hanoi in the National Hotel on the night of January 2, 1970.

A former Member of the other body who had a rather distinguished career for 12 years, he was in his last year, had chosen not to run again, who did, I think, a very dishonorable thing. Senator Eugene McCarthy was a guest of honor at the peace banquet. He was one of the 23-year-old student organizers from England who had conducted teach-ins at the London School of Economics, where he called Ho Chi Minh the George Washington of his country and the United States the interventionist imperialist power, the evil force in Vietnam, suppressing a revolution, and had, of course, led demonstrations at Grosvenor Square on November 15 and a warm-up on October 15, 1969.

By the way, Mr. Speaker, that November 15 demonstrates that Clinton was the leader of, in London, was termed the fall offensive by the Communists in Hanoi. There were sympathetic demonstrations in Paris, in Stockholm, London, New York, of course, here in Washington, DC, people trashing the streets, Miami, I believe, I know for sure San Francisco, Chicago, and Los Angeles, all coordinated by people working to give comfort to the communists in Hanoi who prevailed after 10 long years of struggle against a superpower, the United States, and the superpower on the other side, the Soviet Union, had more staying power, and the oppressive forces of communism won.

Two years after we had pulled out of our military effort, we left so precipitously in such a disgraceful way that our embassy had open file drawers with the files of all the people who had worked with us up and down that beautiful little country of South Vietnam, and the Vietnamese years later wrote, General Giap, wrote in his book, that they just came in picked up papers off the floor, from the file cabinets, put them on clipboards, went out and executed 68,000 people. General Giap, who was hugging Senator HARKIN on July 4, General Giap is a war criminal. General Giap was on the politburo.

General Giap signed off on the execution of 68,000 people. In some cases, their only crime was to be a secretary, a man or a woman typing on an American typewriter at one of our multiple military bases up and down from the DMZ to the Mekong Delta. Unbelievable. Sixty-eight thousand people killed, but even that horrendous figure, 10,000 more than our men and 8 women whose names are on the Vietnam Memorial, that figure is dwarfed by the 700,000 to 800,000 people who drowned on the South China Sea trying to escape from communism.

My oldest daughter worked in the camps at Snap Nikam, Nam Aret, Aryana Pretit, and the people that survived the high seas, the South China Sea, the sharks, dehydration, drownings, they would carve little plaques. I have two of them in my den at home.

It says, "liberty or death on the high seas." Sounds like Patrick Henry, somebody they never heard of. Another one said, "Some of us are here in the camps. The rest are with God."

Then what about the 1 million, 2 million, or as one of my interns, Vuth, told me the other night, tears running down his face, "Maybe 3 million of my people died, Congressman. And is Mr. Clinton going to normalize relations with the war criminals who did this?" He was speaking of the killing fields of Cambodia.

What a horror that took place. Very few speeches, if any, in this well or on the Senate floor by those who are taking the lead now with normalization with the war criminals in Hanoi; I did NBC's "Meet the Press" yesterday, and a friend of mine who is on the other side of this issue, and to try and put this balance, I read the stories of his horrendous torture in this book, "POW," the definitive book that came out in 1976, the month that I won my first election to Congress, November of 1976. This book came out, and the torture stories in here, the war crimes in here just stagger your imagination. It is medieval. It is Nazi Germany at Auschwitz. It is poor Bosnia a few years ago with the ethnic cleansing. It is just horrible.

And I read the story of how this now U.S. Senator was tortured, how he would not accept parole, how when his father was moved from being the commander of the Navy in NATO in Europe to being commander in chief of all of our Pacific forces, and the head, the combat commander, of the bombing operation, how they kept offering this young Navy attack pilot early release to go home to get his terrible wounds taken care of, and it gave me renewed respect for him.

But I am still boggled at his appearance on "Meet the Press" where, if I had had the time, I could have refuted every single solitary thing he said.

The Vietnamese have not given a full accounting of our missing-in-action. Last year the byword with those who are sympathetic to the Communist war criminals in Hanoi, the byword was that they were giving us unprecedented cooperation. That simply was not so.

Last year and early this year the word was superb cooperation. My friend from the other body said it was substantial. It is not. He said that on "Meet the Press" yesterday.

And the Washington Post a week ago today ran an editorial so that a congressional delegation of all liberals without a single Republican Member or staffer on this minority trip, at taxpayer expense with one of the luxurious airplanes out of the 89th Squadron at Andrews; it has become a disgrace, Air Force officers carrying the bags of people who avoided service and the cost when there are commercial flights available to go to even Hanoi, and we will have legislation on that this year, I can promise the taxpayers that, this delegation in Hanoi, one of the Senators holds up last Monday's Washington Post with a kind of a coordinated editorial, and it said, how is this for reaching for words, "prodigious diligence, prodigious diligence, in moving toward an accounting of our missing-in-action."

What an absolute distortion of the truth.

Now, I have before me a letter that our Speaker, Mr. GINGRICH, is presenting to the Commander in Chief as we speak, Mr. Speaker. They are having dinner tonight, NEWT GINGRICH and William Jefferson Blythe Clinton, and NEWT is going to tell him it is going to be a rough road in this Congress, in this House, and in the U.S. Senate, to try and find the money under our foreign affairs bills to fund any normalization or set up an embassy in Hanoi.

I think this House is going to overwhelmingly vote to kill any money under the appropriations bills process. We all know the language, Mr. Speaker, "No money under this bill shall be expended to do such and such." A negative amendment is always ruled in order, and I think the President is in for a big surprise. Mr. Clinton is in for a surprise, because the statistics that I gave on "Meet the Press" that my friend from the Senate said he did not buy are absolutely correct.

I said, first of all, the families who have suffered long over these years, they have suffered under an anti-Geneva Convention war crime where the communist victors in Hanoi have psychologically tortured the family members, the children who have grown from little toddlers and babies up into their late 20's, 30's, and some in their 40's, the teenagers, the parents who are now aging into their 70's and some into their 80's, many of them passing on to go to Heaven, the widows, some who have married and have never forgotten that first young hero of their early life, others who have never ever found a replacement for their heroic young knight of the sky or that handsome young special operations sergeant special forces, young enlisted man, young grunt, young marine up and down Vietnam fighting for freedom, fighting to contain communism, they have never found a match for that young hero of their early life. All of these people have been manipulated, because the communists in Hanoi have slowly, like an ugly time capsule, released boxes of our heroes' remains.

Now, I can remember in 1979 having before our International Relations Committee a mortician from Vietnam who passed multiple polygraph lie detector tests; I recommended he even take truth serum. He was willing to do that. I do not know if he did. He was of Chinese heritage because Vietnam, after the war, in a vicious human rights crusade of violence, threw out all of the Vietnamese of Chinese heritage, and that is why he, as a top doctor, a mortician, was thrown out of the country, but he had prepared for storage in a big warehouse near Hanoi over 400 sets of American remains.

This has been admitted to me by the highest people in the Reagan administration and by President Reagan himself, who believed this, that they had 400 boxes of our heroes' remains. President Bush believed this. I discussed it at length with him. I have discussed it with three directors of the CIA. They all believed it. Defense Intelligence, back to the late Eugene Tye, my good friend from Loyola University, he also believed it. I have never met anybody in the entire intelligence community, and I am on my seventh year in the Intelligence Select Committee, I have never met anybody who did not believe this mortician's story.

□ 2155

And at the central investigative laboratory at Hickam Air Force Base in Hawaii, which I have visited about eight times over the years, they said, Yes, we have gotten back selectively over the last 10 years, about 160 remains that we can tell were warehoused, even if they were dug up out of the ground a year or two after a crash, they were still processed.

Some of these were people who obviously died in captivity. The light color of the bones and their condition and the chemical substances on the bones, we know they were prepared for storage. And 160 from over 400 brings us roughly a number of over 260.

I said at a press conference on the grassy triangle in front of this Capitol that it is an act of treachery to normalize relations without demanding the 260 remaining boxes of remains. I predicted that they will be thrown into the Red River and flushed out into the Tonkin Gulf, or worse, thrown in a pit all of these heroes' bones, knights of the sky, these young aviators, these special forces officers and sergeants. Their bones will be thrown in a mass grave, covered with lime, lye, and they will be forgotten, except to God, in that mass atrocity grave.

If are there any Americans still alive, particularly in Laos, which I have visited four times. I have been to Vietnam 10 times and Cambodia three times. I have worked this issue for 30 years and 1 month since my best friend, David Herdlicher, was shot down, May 18, 1965.

And I still wear his bracelet and this No. 1 Hmoung bracelet, H-m-o-u-n-g, the French word was Montagnard, mountain people. Since I put that on in Kontum in the central highlands in September 1968, it has never been off my wrist since. I alternate POW bracelets. No, this is not David Herdlicher's; this is a young sergeant from Hope, AR. I wear that symbolically sometimes, James Holt, missing in South Vietnam, September, excuse me, February 7, 1968, the beginning of the Tet offensive.

The first week of the Tet offensive, that week, we lost 1,111 Americans killed in action. That was the month that Robert Strange McNamara quit on leap year day, so he would only have to remember it every 4 years; resigned 29, February 1968.

It rained all over this big ceremony on the lawn in front of the river entrance to the Pentagon. They canceled the fly-by. How fitting that God saved four Air Force pilots the ignominy of flying by, probably all of them Vietnam vets, in tribute to a man who had betrayed the fighting men on the field.

Well, here is McNamara's book, Mr. Speaker. That is how I spent part of my district work period; working my way through this tragic book of evil revelations on how McNamara never even believed in the cause in 1962 or 1963, when there were less than 50 Americans killed in action. Not 58,000; less than 50. He did not believe in what we were doing there.

And McNamara tells in this book what he did after that fly-by was canceled and it rained all over this retirement ceremony. Where LBJ rewarded him with 13 years as head of the World Bank, where he made $250,000 a year without ever paying a nickel of taxes on it. That is what a lot of U.N. jobs, and the job at World Bank, pays.

McNamara in his book says the next day, on March 1, he left for a month of skiing at Aspen. We had hundreds of people in prison in Hanoi. Twelve of them had been beaten to death inside their prison cells. One man, Maj. Earl Cobeal, beaten senseless and incoherent. Never got his sanity back and died alone in some cell without any other American there to hold him and nurture him as he died. We have gotten back his remains. While he was being tortured by three Cubans imported by the good graces of Castro to teach the Vietnamese how to torture with more severity the way Castro was cutting up people and letting them rot, stark naked, in black cells without a shred of light for up to 25 years.

He was showing the South Vietnamese that they had forgotten in the Orient what the "death of a thousand knives" was like, I guess. And McNamara was skiing.

Imagine how many young men and women we had in hospitals from one end of Vietnam to another, after the horror of that Tet offensive named after a religious holiday that they decided to attack on, imagine how many triple amputees, quadruple amputees. I visited one quadruple amputee at a hospital in September of that year and I talked to some of the nurses that said these are the cases that would just tear your heart out. How many people had given their arms and legs during that Tet offensive?

I remember going in the big refrigerated morgue at Bien Hoa in that year, 1968. And I said to this young corporal, first asking him how he could work in a place like this, and he said, "Mr. Reporter, I spent six months in the bush shooting at Charlie and getting shot at. And when they offered me a chance at the midpoint to work in this morgue, I took it because I know I am going home. And I cry a lot in here looking at all these men, many younger than I, who are on the way back to the United States in green body bags."

And I said, "What is in that huge bag over there?" He said, "That, sir, that bag is all the arms and legs cut off our men in the hospitals around here and we treat it with respect. We are going to take it out in a helicopter and bury their arms and legs at sea soon."

I will never forget that story. Tears were running down my face in this cool, refrigerated little corner of Bien Hoa Air Base in an extremely hot summer day in 1986. Thinking about this particular corner of the world's struggle against communism. Again, to quote Kennedy, a "twilight struggle" It was not so much twilight in Korea and Vietnam.

And I would like to read a line, Mr. Speaker, from McNamara's book. It used an expression that I used on this House floor on the day after the State of the Union speech. And I said I would revisit this again and again and that if I ever got a ruling from the Chair again that aid and comfort to the enemy was not a legitimate historical expression for debate on this floor, that I would appeal the ruling of the Chair. And if my party voted against me and did not sustain me, I would resign from Congress on the spot.

It is not tonight. That day is coming earlier in the day. And I will find the right moment. I will know it. I will smell it when it comes. And I will do it in the well with plenty of Democrats and I will give Mr. FAZIO and Mr. VOLKMER, and a lot of my other colleagues, a big chance to take down my words again.

But those words, "aid and comfort to the enemy," have popped up twice just in the last couple of weeks. Mr. Clinton used the words against people who want to vote out the assault weapon ban. He said that is giving aid and comfort to the criminals in the street, the enemy in the streets, to vote against the assault ban. So Mr. Clinton has aid and comfort to the enemy in his head. He knows what that expression means.

Here is what McNamara writes on page 105 of his book. Fitting number of the page, since we lost more F–105s than any other airplane in the Vietnam conflict.

By the way, to set the scene, let me take out my little U.S. Constitution and read where this line comes from. Article III, section 3 of the U.S. Constitution, and why treason is not applicable without a declaration of war to using this term.

Treason against the United States shall consist only in levying war against them. Remember, until the Civil War, we always referred to ourselves as individual States. The Civil War brought us together into one unit as a country.

In levying war against the individual States, or in adhering to their enemies, and our Founders and Framers of the Constitution capitalized Enemies. Giving them Aid, capital A, and Comfort, capital C. Giving them Aid and Comfort.

No person shall be convicted of treason, unless on the testimony of two witnesses to the same overt act or on confession in open court.

Now, that is where that term, aid and comfort to the enemy, comes from. That is where Clinton, although he did not realize it, got it when he referred to people who strictly interpret the second amendment as giving aid and comfort to the enemies in the streets, the criminals.

Here is Mr. McNamara in this profoundly evil, self-aggrandizing, nonatoning book; over 58,700 dead Americans, 8 of them women. McNamara says, "Upon my return to Washington, DC, on December 21st," and he is talking now about 1963, just a month after, one day less than a month after Kennedy's horrible assassination. He talks about secret missions up to the North.

And this is courageous South Vietnamese who were captured, tortured to death, because it was poorly organized and planned. It was endorsed by what we call the 303 Committee under Ambassador Lodge, an interagency group charged with reviewing such top secret plans, following recommendations from Secretary of State; from McCone, head of the CIA; from George McBundy, National Security Advisor; and me, Robert McNamara, the President approved a 4-month trial program beginning on February 3, 1964, so it hadn't started yet. Its goal was to convince the North Vietnamese that it was in their self-interest to desist from aggression in South Vietnam.

Looking back, it was an absurdly ambitious objective. For such a trifling effort, it accomplished virtually nothing.

McNamara probably went skiing or mountain climbing that winter and here were young Vietnamese that we trained, sent north, bailed out of our secret, unmarked airplanes into North Vietnam, most of them compromised and captured and viciously tortured to death, and we wrote them off like they were just expendable pawns at the beginning of this conflict.

But here he is, before these men have bailed out to their certain death, none of them ever came back as prisoners, these Vietnamese. "Upon my return to Washington, DC on December 21st, 1963, I was less than candid when I reported to the press. Perhaps a senior government official," McNamara goes on, "could hardly have been more straightforward in the midst of a war."

Here he is calling it, in 1963, a month after Kennedy is dead, a war. A full-blown war. And his heart is not in it, but it took him 5 more hears to resign. Incredible. Four and a half.

I could not fail to recognize the effect discouraging remarks might have on those we strove to support the South Vietnamese. He does not give them the time of the day all through this book, our allies. Some corrupt; most very brave dying for their country. As well as those we sought to overcome. The Viet Cong and the North Vietnamese.

Now, get this Mr. Speaker. Bob McNamara: "It is a profound, enduring and universal ethical and moral dilemma: How, in times of war and crisis, can senior government officials be completely frank to their own people without giving aid and comfort to the enemy?"

So, Robert McNamara, in December of 1963, one month and 21 days after the tragic assassination of President Ziem and his brother, after they were sprayed with machine guns in the back of an American-supplied armored personal carrier, an M–13. A tragic, a beheading of a Nation under Communist assault from the north, he considers it a full war and talks about giving aid and comfort to the enemy.

Well, if he did not want to give aid and comfort to the enemy, what about the demonstrators that he put up on the floor of his house, friends of his son, Craig, who never wore the uniform of his country. And he tries to weasel around that in here. This is McNamara who said, "We must not draft our college kids, because they are tomorrow."

Well, what about the college graduates from West Point, Annapolis, Air Force Academy, Texas A&M, North Georgia, Citadel, VMI? Or all of the ROTC units like mine at Loyola U. all around the country? What about those college graduates? What about the young farm kids who were going back to the family farm, but first were subject to a draft?

What about the 100,000 young black men who had been denied a good education in all of the poor schools and ghetto areas around this country, where we lowered the school standard and the tests you had to pass to bring them in? What were they? Cannon fodder?

□ 2130

What about all the Hispanic-American families, particularly in California, which had such a family tradition for generations of joining the Marine Corps? You know, all of our services used to reflect our religious background in our country. But the Marine Corps is about 33 percent Catholic, compared with a 24-percent population, because West Coast Hispanic families, generally Catholic, like the Marine Corps. What about all of them? Were they just cannon fodder? What about the honor graduates from West Point, the Naval Academy, and the Air Force Academy, who got a Rhodes Scholarship and went to what the skipper of the *Kitty Hawk* told me was the worst hate-America environment he had ever been in his life for 2 years, and he overlapped Clinton by a year at Oxford, except he went to class and graduated, while Clinton was ditching class, never went the second year at all, and did not graduate, 1 of only 6 in his class of 32 who did not graduate. What about all those people?

Like the recent commander, that just made three stars, of the 1st Cavalry Division down at Fort Hood who graduated before Clinton got there, he was back in June of 1968 at Leavenworth, and then went to Vietnam and won two silver stars. Were they the best and the brightest, all of the aforementioned?

What about all the Americans that went they got drafted said well, Uncle Sam wants me, it is an undeclared war, but my dad, my uncle, my older brother fought in Korea, and that was not a war, but a police action, according to President Truman, that was undeclared. But here is McNamara calling it a war. Aid and comfort to the enemy in time of war.

Well, I have before me a letter, Mr. Speaker, from some of the greatest Americans that this country has ever had serve in uniform, our POW's in Hanoi. This is a group of leaders, the ones that were tortured the most, the ones that were tortured far more than others who have gone a different direction from them.

This comes from the American Defense Institute, which is founded by Eugene Red McDaniel, acknowledged by all the POW's, I reread some of his periods of torture in here, and it is absolutely incredible that he survived, the tearing apart of his body, the infections, hardly a square inch of his body was not ripped. Red McDaniel founded this American Defense Institute, and here is a press release they put out with the names of 60 U.S. POW heroes on it.

"Former U.S. POWs oppose normalization with Vietnam, Alexandria, Virginia. In a letter sent to President Clinton today, the 10th of July, 60 former U.S. POWs, including Congressman SAM JOHNSON, Republican, Texas," SAM had hoped to be with me today, but he had a former engagement tonight. "Lieutenant General John Peter Flynn, U.S. Air Force, retired." He was the highest ranking POW at the time he was shot down, senior U.S. colonel in the Air Force, and he rose to the highest ranks of any of the return POW's. Brig. Gen. Robinson Risner, one of my squadron commanders at George Air Force Base, shot down eight MiG's in Korea. When they got their hands on Robbie Risner, believe me, the torture he suffered was the torture of the damned. In his book, "The Darkness of The Night," I do not think that is the exact title, but it is close, his story of torture is, again, just medieval, and Capt. Red McDaniel. Red was the communications officer for the escape of Larry Atterbury and John Dromisi. Dromisi was beaten for 38 days. He could not move for 3 months, had to be fed by hand. And Larry Atterbury, 6 foot 3, his size gave them away in their overnight escape, when the sun came up and they were trapped on the bank of the Red River. He was stripped naked, four Vietnamese soldiers stood on the arms and legs, all of this with the approval of the politburo that we are going to recognize tomorrow at a White House Rose Garden cemetery, and they beat him until there was no flesh on his body, from his hair to the soles of his feet. He died after 8 days of constant scourging with long fan belt whips. They actually were fan belts.

These officers, and 57 others from the Vietnam War, expressed their opposition to establishing diplomatic relations with Vietnam. "Until you as commander-in-chief, Mr. Clinton, tell us Honoi is being fully forthcoming in accounting for our missing comrades." The letter was sent by Captain McDaniel, President of the American Defense Institute on behalf of the former U.S. POW's from Vietnam, concerned with recent reports that a White House announcement of the move is imminent. They invited my colleague, SONNY MONTGOMERY, two star reserve general, combatant from World War II and the 12th Armored Division. He just told me that he would not go to such a ceremony, an honorable man, SONNY MONTGOMERY.

"While we appreciate Vietnam's support for U.S. crash site recovery," no big deal, in letting us spend millions of dollars going out to crash sites that are 30 years old, "And archival research efforts," pathetic, pathetic, entry level archival searches, the former POW stated, "We know firsthand Vietnam's ability to withhold critical information while giving the appearance of cooperation."

Elsewhere in the letter the former POW's contend that Hanoi could do so much more to resolve many of the unresolved POW–MIA cases. I refer anybody watching on C–SPAN, Mr. Speaker, to the aforementioned 260-plus boxes of heroes' bones warehoused somewhere in the suburbs of Hanoi.

"Some of our fellow servicemen went missing during the same incidents which we survived." Two-seat F–4 Phantoms side-by-side, A–6 Intruders. "Some were captured and never heard from again. Some were known to have been held in captivity for several years and their ultimate fate has still not been satisfactorily resolved. Still others were known to have died in captivity," 97 of them, Mr. Speaker, and we still have yet to get an accounting on, what did Senator KERREY say on "Meet the Press" yesterday? He corrected me from 97 down to 89 I believe. A fine point. "Yet their remains have not been repatriated to the United States."

The former POW's expressed their concerns that many of the "reports from U.S. and Russian intelligence sources maintain several hundred unidentified American POWs were held separately from us during the war in both Laos and Vietnam and were not released by Hanoi during Operation Homecoming in 1973." Several hundred. I have never held out hope for more than 40, Mr. Speaker. But what do I know compared to these POW's? And called on Clinton to "Send a clear message to Hanoi that America expects full cooperation and disclosure on American POWs and MIAs before agreeing to establish diplomatic and special trading privileges with Vietnam."

Since February 2, 1994, Mr. Speaker, when we relaxed all the trade sanctions, we have gotten back exactly eight remains of Americans, and it cost us thousands of dollars to identify them, because the remains were mixed in with animal bones and several hundred Asian sets of remains. Just no care at all, sending us boxes of this, as though they were cooperating, when they have got this warehouse. Unbelievable. Eight.

We averaged 21 a month under Reagan's 8 years, 24 remains a month under George Bush's 4 years, and now we are down to 8 since February 2 a year ago under Clinton? And that is called prodigious diligence by the Post? Substantial by Senators KERREY and MCCAIN? And what did I say was the word last year, unprecedented, superb this year? Horrible.

That was the press release. Here is the letter.

It says, in closing, the press release brought out the biggest parts of the letter, and I will insert the whole letter into the RECORD, an open letter to President Clinton.

The last paragraphs say, "America deserves straightforward answers if Vietnam really wants normalized diplomatic and economic relations. If Vietnam truly has nothing to hide on the POW-MIA issue, then why have they not released their wartime politburo and prison records on American POWs and MIAs? Why have they not fully disclosed other military records on the POWs and MIAs?"

We have had senators go over there, I am sorry to say, Mr. Speaker, and not ask these direct questions. The politburo records are a key, as are the prison records. Now, they kept accurate records like the gestapo in World War II. And yet we have Members, elected to the U.S. Congress, that make excuses for them. "Oh, with the humidity over there, the records have all, you know, mildewed and they have been lost and they have been shuffled around."

We did not believe that when we brought German war criminals to trial and to execution. They were obsessive about keeping records. I have just seen declassified top secret records from 1968, the same year that McNamara is in the Caribbean vacationing and skiing at Aspen while these men are being tortured to death in Hanoi and beaten. That very year I saw a reference that we picked up through NSA listening, where they referred to our prisoners as "golden rubies." I remember having a priest who was captured, a Vietnamese Catholic priest, tell me after he had escaped from the Ho Chi Minh Trail, being taken north, one of a handful that were lucky enough to escape, he said they kept referring to prisoners as "pearls," as a string of pearls. That they watched our men when they would come down in a parachute, try to shoot it out and kill two or three villagers, and then take the man captive and not even beat him, just shoo the villagers off. There would be two or three dead people there.

Ted Guy told me the other day how he killed two farmers coming at him with machetes and he was captured. He went through several beatings later and 4 years of solitary. But the soldiers were under orders, these pilots are worth their weight in gold. The survivors from the dozens that died in the slimy camps in the south, "march them north" they said in 1967 and 1968, because the POW's have taken on an absolutely supreme monetary value.

That is why they still talk about Nixon's disgraceful offer of $3.25 billion to get them to sign on the dotted line after the Paris peace accords and the 18 days of December B-52 raids, only to write off every prisoner in Laos. Remember, Mr. Speaker, 499 Americans missing in Laos, and not a single one ever came home.

The last two paragraphs of the POW letter is, "We would only be compounding a national tragedy if we normalized relations with Hanoi before you as commander-in-chief can tell us Hanoi is being fully forthcoming in accounting for our missing comrades."

Compounding a national tragedy. If there are a million Americans, or more than that, watching tonight, Mr. Speaker, I want them to hear those words ringing in their heads tomorrow around noon eastern time, if we reward the war criminals and the war criminal JOP in Hanoi with the final insult, betraying 1.5 million Vietnamese casualties, half a million or more, 700,000 United States wounded, and those 58,747, roughly, names on the Vietnam Wall.

"Perhaps more than any other group of Americans, we desire to put the war behind us, but it must be done in an honorable way." And that sentence is underlined. It must be done in an honorable way.

"We, therefore, ask you to send a clear message to Hanoi that America expects full cooperation and disclosure on American prisoners and missing in action before agreeing to establish diplomatic and special trading relations with Vietnam."

Sincerely, John Peter Flynn, Lieutenant General, Air Force, retired. Robbie Risner, I repeat, my squadron commander at my last base of assignment, Brigadier General. Our own courageous Gary Cooper here from Dallas, SAM JOHNSON, Member of Congress. Eugene Red McDaniel, John A. Alpers, Baugh, Speed, Baldock, Beeler, Boyer, Black, Brown, Carey, Burns, DiBernado, Lieutenant Colonel, Marine Corps, horribly tortured. Franke, Goodermote, Jensen. James Hickerson, Navy, married my good friend Carol Hansen, who lost her handsome young Marine Steve Hansen.

□ 2145

I took their little son, now Jim Hickerson's stepson, Todd, up in the Goodyear blimp to use it as an excuse to talk about the POW's on my television show in 1970. That is 25 years ago. Todd is now 30, flying F-18's in the U.S. Navy. Graduate from Annapolis. James Young. Charlie Plumb, who gives inspirational speeches all over this country, Captain Plumb, U.S. Navy. Larry Friese, Julius Jayroe, Bruce Seeber, Konrad Trautman, most of them in this book. Larry Barbay. I will give the reporters all these names, Mr. Speaker. Ron Bliss, Arthur Burer, James O. Hivner, Gordon Larson, Swede Larson, who told the press at a press conference at an air base in South Vietnam, why do you fly, colonel, they said? He said, I fly to stop the supply of arms and materiel, bayonets coming down the Ho Chi Minh Trail so that these young drafted 18- and 19-year-olds will not face this brutal Communist attempt at conquest of Vietnam. I fly to stop those materiel supplies from killing our young men down in South Vietnam. He was shot down that afternoon. Swede Larson, name carved in a wall, snuck out of the camps, turned up a prisoner years later. His family never gave up hope praying for Swede. Robert Lewis, master sergeant, U.S. Army, another heroic POW; Jim Lamar, colonel. At one time the four colonels were isolated from everybody else. He was one of the first of the four Air Force colonels, Armand Myers, Terry Uyeyama, colonel, U.S. Air Force. I think he is from Hawaii. Richard Vogol. Ted Guy who testified before my committee last week, horrible beatings, 4 years in solitary confinement, just like Congressman JOHNSON. Paul Galanti hit the cover of Life Magazine, sign behind him, clean and neat, all that orchestrated stuff. Laird Guttersen, another Air Force colonel, one of the heroes, I worked closely with his wife, as I did with SAM JOHNSON's wife. Larry Stark, civilian, captured during the Tet offensive, captured while McNamara was skiing in Aspen. So was Michael Benge, walked up the Ho Chi Minh Trail all the way up to Hanoi. Marion Marshall, Richard Mullen, another great Irishman suffered severe torture. Phil Smith, William Stark, Captain Stark, another great Navy guy. David Allwine, Bob Barrett, Jack Bomar, another one of the Air Force colonels, Larry Chesley. SAM JOHNSON just pointed out to me tonight, Larry Chesley was his backseater in his F-4. Chelsey was the first one to get a book out after they came back, 7 years in Hanoi. Being a very junior officer, he was not tortured like SAM, badly, slapped around but nothing severe. And the Mormon church, I remember, helped him publish his book quickly. Came out in the summer of 1973, 2 years before Saigon fell. That was the first of 19 books like this that I have read cover to cover.

I am just now rereading SAM JOHNSON's fabulous motivational and inspiring book. Robert Stirm, C.D. Rice, Bernard Talley, Paul Montague. Leo Thorsness, my friend, Medal of Honor winner. I walked precincts for him up in South Dakota when he had George McGovern on the ropes and then came the Watergate collapse, Nixon's resignation, less than 90 days before the election. And Leo got 47 percent; 4 years later he runs for the House, goes to bed a winner and wakes up, loses by less than 100 votes. I remember coming to our big conference over there. What a great Congressman he would be. Went on to become a State senator in Washington. Tremendous daughter that I worked with, tremendous wife, Gay Lee.

Robert Lerseth, Ray Vodhen. Ray Vodhen, one of our first men captured, F–8 crusader pilot, 8 years in captivity almost. Richard Tangeman. John Pitchford, another colonel, I worked with his wife, another Shirley, I believe, just like Shirley Johnson, SAM's wife. Steven Long, Brian Woods, Dale Osborne.

Steven Long, what a story. I met Steven Long the day he came back and first hit the United States. Then I saw him a couple years ago, to refresh my memory. He was shot down on the Ho Chi Minh Trail. Captured by Pathet Lao and then immediately turned over to the North Vietnamese.

They took him inside a cave in Laos that he said was so massively cavernous that they had three floors in the cave made with bamboo, solid bamboo flooring. And every now and then a person would come by with one of these little Dutchboy hats on that the Pathet Lao wore. And he would say, North Vietnamese? And they would say no, no, Pathet Lao, Pathet Lao. But there was very few of them. He said the cave was filled with North Vietnamese.

Troops moving south. He was moved within 24 hours on his way to the Hanoi prison system. The tragedy about—let us see what rank he retired as. The tragedy with—colonel, U.S. Air Force, so he had a full career.

The tragedy is that Nixon, through Kissinger and Ambassador Larry Eagleburger and current Assistant Secretary for East Asian and Pacific Affairs, Winston Lord, whom I met with one of my sons in Beijing in 1988, as I was getting ready, at my expense, Mr. Speaker, to ride the Trans-Siberian Railroad, these three in Paris, in ascending importance, Winston Lord, Larry Eagleburger, and Kissinger made a tragic mistake. They demanded that Laos, which had a seat in the United Nations then, as did Cambodia, Vietnam did not, they demanded that Laos return all their prisoners.

And they told me to my face, in one of my four visits to Laos, that we have tens of tens of American prisoners, Scot Petroski said that in front of Carol Hanson, now Carol Hickerson, and three of the other wives who have never remarried. They could not find the second hero. He told the five of us, I have tens and tens and tens of prisoners, over 100 prisoners, and we will return them when you negotiate directly with the Pathet Lao Communists here in Luang Prubong or down in Vien Chong in the Mekong. And, of course, Kissinger said, you will return all prisoners through Hanoi. That is what we negotiated with the people who have the hegemony over the whole area, the ones that Clinton wants to normalize with tomorrow.

The tragedy is that Kissinger kept bombing Laos after January 27, 1973. We bombed for 4 days. then all February. That was not a leap year, 28 days. then all March, all April, all 31 days of May, all June, all 31 days of July and almost up to the end of August. For 8 months we kept bombing Laos and telling them, but return your American prisoners through Hanoi. And Laos told us to go to hell. And do you know what, there is a certain logic to Laos saying, you stop bombing us and we will give your prisoners back. Kissinger won the Nobel Prize, Le Duc Tho refused it because he said, I am not through fighting yet, and he did not. Two years later, without ever receiving the $100,000 or so from the Nobel Prize, up to $300,000 now, he just kept fighting.

To Kissinger's credit, the money he took, because he did take that prize, he gave that money to the families who had missing in action heroes so that their children could use Kissinger's award money for college scholarships. An honorable thing that not many people know about. I want Kissinger to come before my chairmanship and my military personnel committee. I will not have to subpoena him. I want him and Larry Eagleburger and Winston Lord to explain to me how they wrote off Steven Long, colonel of the U.S. Air Force, retired, as a Laotian-held prisoner.

I remember standing in Brentwood, CA, not 100 yards from where Nicole Simpson and Ron Goldman were murdered, at a news rack in front of the Westward Ho market. I am standing there looking at a headline that says, all prisoners were returned from Laos. Nixon wins, it said, all Laotian-held prisoners returned. Not Dave Hrdlicka, not Eugene DeBruin, not Charlie Skelton who was shot down on his 33d birthday, father of five, his oldest son now a Franciscan priest, already ordained 20 years or so.

I said not the four, the people from the plane shot down along the trail of late 1972. This is not what they are talking about. They are talking about people held inside the Hanoi prison system who were captured, like Long, on the Ho Chi Minh Trail, pulled into those caves and sent off to the Hanoi system, to Dogpatch, to the Plantation, to New Guy Village or to the dreaded hellhole of Wallow. They were held there, all 10 of them.

There was one exception, Ernie Brace, a CIA Air American crewman, captured, the rest of his crew was killed. He was taken to Dien Bien Phu, which is right on the border between Laos, just inside North Vietnam. He was held there for 3 weeks. Then taken to Hanoi. And the first person who tapped him up on the wall was young JOHN MCCAIN, now a U.S. Senator.

So except for 3 weeks with Ernie Brace, all of the 10 were held in the Hanoi prison system. Bottom line: Not a single American hero returned from Laos. And before somebody nitpicks, yes, there was Dieter Dengler, who had been an Eastern Airlines pilot up to its collapse and probably retired, maybe still flying. Dieter Dengler escaped with the young Air Force lieutenant, Dean something, watched Dean totally, cleanly beheaded right in front of him by a farmer with a machete and got up and ran until his body was slashed from all the vines and staggered into a small encampment in south Laos, an absolute wreck. That was an escape case.

And then the pilot of one of these 89th Squadron perk flights out of Andrews that took a Lester Wolff CODEL into Moscow. I am sitting with him in the Ukrainia Hotel. He tells me how he was shot down in an old V–10 in Laos. His backseater, I can still remember the call sign Shoebox. They were being beaten in a small hootch by Pathet Lao Communists who could not speak English. They were screaming back at him, taking the Lord's name in vain, why are you yelling at us, what are you beating us for? We can—cannot speak English. And they take the master sergeant Shoebox outside. And all of a sudden they hear helicopters fly over. And he says, he hears Shoebox, a bloodcurdling scream. And they untie him from this bamboo pole inside the hootch. He still had a pole through his arms. And they drag him outside, and he sees Shoebox stabbed in the lower abdomen and cut all the way up to his throat, his intestines coming out. He said his legs went to jelly under him. He collapsed on the ground.

They picked him up and dragged him along, his legs dragging in the ground. Then all of a sudden the helicopter makes another low pass and they run off into the jungle and leave him there. He gets his footing back, stands up and runs into the jungle. The bamboo pole through his arms is hitting the trees and he thinks he is going to break his neck with a whiplash until finally the bamboo pole collapses and he puts it in front of him like wings and runs through the woods and comes into a clearing in the woods.

As he is telling me this in this filthy hotel in Moscow, built in the late 1940's, Gothic looking, ugly looking, one of the seven sisters, tears are running down his face, telling me how the helicopter comes down low over him and then climbs up over the tree line and he breaks down crying like a baby.

He says, all of a sudden four people pounce on him and he begins to fight. And he says it reminds me now in retrospect like one of these cartoons in the comics in the newspaper where you just see a ball of activity with arms and legs and fur coming out of it. And he said, all of a sudden he is punching these guys in the face. All of a sudden he is aware of a downdraft and they lift him up in the air and throw him on a helicopter and climb in after him, and they were friendly Laotian forces, an insert team that helped rescue this Air Force colonel, name forgotten to me, flying our 707 into Moscow.

He said the copilot, like in the movie, turns around and says, do you want a beer? And he said they took him back.

Never have seen this story reported anywhere, checked it out, found out it was true. That is one of the air escape cases from Laos. But he was never recorded a prisoner. There was one man shot down after January 1973 that Senator Cranston intervened on his behalf. We got him back sometime in 1974 or early 1975.

I know all the exception cases, so do not anybody write me who is watching on C–SPAN that I do not know what I am talking about. I am a bloody expert on this issue for 30 years. That is why I have every right to say, it is a treachery to normalize relations with the war criminals in Hanoi, to tell dictatorships all over the world that you do not ever have to have an election. There is no election planned in Vietnam and they have told us there never will be. Castro, for over three decades, has never had an election and never will have until God takes him out. He will have his cells filled with political prisoners.

□ 2200

China, what are they doing to American Harry Wu? They will not even let us meet with him, violating every diplomatic code. North Korea, in concert with Iran, trying to send them New Dawn missiles, the capability to strike not just Israel but to strike into Europe, into NATO countries, cover all of Turkey with missiles. It is unbelievable that we should rationalize we are playing China off against Vietnam. We tried to play Iraq against Iran.

Mr. Speaker, I will close with this. Ask the 148 families of Americans who lost our men in the Gulf war, or the 99 British and French and allied people who lost men. Ask them if they think it was good to play the Iraq card against Iran. It is going to be a disgraceful day in our history tomorrow.

Mr. Speaker, I include for the RECORD a press release from the American Defense Institute and a copy of a letter to President Clinton:

THE AMERICAN DEFENSE INSTITUTE,
Alexandria, VA, July 10, 1995.

FORMER UNITED STATES POW'S OPPOSE NORMALIZATION WITH VIETNAM

ALEXANDRIA, VA.—In a letter sent to President Clinton today, 60 former U.S. POWs—including Congressman Sam Johnson, (R–TX); LtGen John Peter Flynn, USAF (Ret); BG Robinson Risner, USAF (Ret); and Captain Red McDaniel, USN(Ret)—from the Vietnam War expressed their opposition to establishing diplomatic relations with Vietnam "until you, as Commander in Chief, tell us Hanoi is being fully forthcoming in accounting for our missing comrades." The letter was sent by Captain McDaniel, President of the American Defense Institute, on behalf of former U.S. POWs from Vietnam concerned with recent reports that a White House announcement of the move is imminent.

"While we appreciate Vietnam's support for U.S. crash site recovery and archival research efforts," the former POWs stated, "we know first-hand Vietnam's ability to withhold critical information while giving the appearance of cooperation."

Elsewhere in the letter, the former POWs contend that Hanoi "could do much more" to resolve many of the unresolved POW/MIA cases.

"Some of our fellow servicemen became missing during the same incidents which we survived. . . Some were captured and never heard from again. . . Still others were known to have died in captivity, yet their remains have not been repatriated to the United States."

The former POWs expressed their concern that many of the "reports from U.S. and Russian intelligence sources that maintain several hundred unidentified American POWs were held separately from us during the war, in both Laos and Vietnam, and were not released by Hanoi during Operation Homecoming in 1973. . . have yet to be fully investigated" and called on the President to "send a clear message to Hanoi that America expects full cooperation and disclosure on American POWs and MIAs before agreeing to establish diplomatic and special trading privileges with Vietnam."

Attached is a copy of the letter and the list of the former POWs.

JULY 10, 1995.

AN OPEN LETTER TO PRESIDENT CLINTON FROM FORMER U.S. POW'S

HON. WILLIAM J. CLINTON, PRESIDENT OF THE UNITED STATES, THE WHITE HOUSE, WASHINGTON, DC.

DEAR MR. PRESIDENT: As former U.S. Prisoners of war during the Vietnam Conflict, we are writing to request not to establish normal diplomatic relations with Vietnam until you can certify that there has been full disclosure and cooperation by Hanoi on the POW/MIA issue. While we appreciate Vietnam's support for U.S. crash site recovery and archival research efforts, we know first-hand Vietnam's ability to withhold critical information while giving the appearance of cooperation. We were all subjected to such propaganda activity during the war, and we would be the least surprised if Hanoi was continuing to use similar tactics in its dealings with the United States.

Of particular concern to us are the several hundred POW/MIA cases involving our fellow servicemen who were captured or lost in enemy-controlled areas during the war, yet they still have not been accounted for by Vietnam. We understand that much of the fragmentary information provided by Vietnamese officials to date indicates they could do more to resolve these cases.

Some of our fellow servicemen became missing during the same incidents which we survived. They have not been accounted for. Some were captured and never heard from again. They have not been accounted for. Some were known to have been held in captivity for several years and their ultimate fate has still not been satisfactorily resolved. They have not been accounted for. Still others were known to have died in captivity, yet their remains have not been repatriated to the United States. They have not been accounted for.

Finally, we remain deeply concerned with reports from U.S. and Russian intelligence sources that maintain several hundred unidentified American POWs were held separately from us during war, in both Laos and Vietnam, and were not released by Hanoi during Operation Homecoming in 1973. Many of these reports have yet to be fully investigated.

America deserves straightforward answers if Vietnam really wants normalized diplomatic and economic relations. If Vietnam truly has nothing to hide on the POW/MIA issue, then why have they not released their wartime politburo and prison records on American POWs and MIAs? Why have they not fully disclosed other military records on POWs and MIAs?

We would only be compounding a national tragedy if we normalized relations with Hanoi before you, as Commander in Chief, can tell us Hanoi is being fully forthcoming in accounting for our missing comrades.

Perhaps more than any other group of Americans, we want to put the war behind us. But it must be done in an honorable way. We, therefore, ask you send a clear message to Hanoi that America expects full cooperation and disclosure on American POWs and MIAs before agreeing to establish diplomatic and special trading privileges with Vietnam.

Sincerely,

John Peter Flynn, Lt Gen, USAF(ret); Robinson Risner, Brig Gen, USAF(ret); Sam Johnson, Member of Congress; Eugene "Red" McDaniel, CAPT, USN(ret); John A. Alpers, Lt Col, USAF(ret); William J. Baugh, Col, USAF(ret); Adkins, C. Speed, MAJ, USA(ret); F.C. Baldock, CDR, USN(ret); Carroll Beeler, CAPT, USN(ret); Terry L. Boyer, Lt Col, USAF(ret); Cole Black, CAPT, USN(ret); Paul G. Brown, LtCol, USMC(ret); David J. Carey, CAPT, USN(ret); John D. Burns, CAPT, USN(ret); James V. DiBernado, LtCol, USMC(ret); F.A.W. Franke, CAPT, USN(ret); Wayne Goodermote, CAPT, USN(ret); Jay R. Jensen, Lt Col, USAF(ret); James M. Hickerson, CAPT, USN(ret); James F. Young, Col, USAF(ret); J. Charles Plumb, CAPT USN(ret); Larry Friese, CDR, USN(ret); Julius Jayroe, Col, USAF(ret); Bruce Seeber, Col, USAF(ret); Konrad Trautman, Col, USAF(ret); Lawrence Barbay, Lt Col, USAF(ret); Ron Bliss, Capt, USAF(ret); Arthur Burer, Col, USAF(ret); James O. Hivner, Col, USAF(ret); Gordon A. Larson, Col, USAF(ret); Robert Lewis, MSgt, USA(ret); James L. Lamar, Col, USAF(ret); Armand J. Myers, Col, USAF(ret); Terry Uyeyama, Col, USAF(ret); Richard D. Vogel, Col, USAF(ret); Ted Guy, Col, USAF(ret); Paul E. Galanti, CDR, USN(ret); Laird Guttersen, Col, USAF(ret); Lawrence J. Stark, Civ; Michael D. Benge, Civ; Marion A. Marshall, Lt Col, USAF(ret); Richard D. Mullen, CAPT, USN(ret); Philip E. Smith, Lt Col, USAF(ret); William Stark, CAPT, USN(ret); David F. Allwine, MSgt, USA(ret); Bob Barrett, Col, USAF(ret); Jack W. Bomar, Col, USAF(ret); Larry J. Chesley, Lt Col, USAF(ret); C.D. Rice, CDR, USN(ret); Robert L. Stirm, Col, USAF(ret); Bernard Talley, Col, USAF(ret); Paul Montague, Civ; Leo

Thorsness, Col, USAF(ret); Robert Lerseth, CAPT, USN(ret); Ray A. Vodhen, CAPT, USN(ret); Richard G. Tangeman, CAPT, USN(ret); John Pitchford, Col, USAF(ret); Steven Long, Col, USAF(ret); Brian Woods, CAPT, USN(ret); Dale Osborne, CAPT, USN(ret).

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. GRAHAM (at the request of Mr. ARMEY), for today until 7:30 p.m., on account of illness.

Mr. MFUME (at the request of Mr. GEPHARDT), for today, on account of official business.

Mr. TUCKER (at the request of Mr. GEPHARDT), for today, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. KINGSTON) to revise and extend their remarks and include extraneous material:)

Mr. WELDON of Florida, for 5 minutes, today.

Mr. KINGSTON, for 5 minutes, today.

Mr. FOX of Pennsylvania, for 5 minutes, today.

Mr. ROTH, for 5 minutes, today.

(The following Members (at the request of Mr. LUTHER) to revise and extend their remarks and include extraneous material:)

Ms. KAPTUR, for 5 minutes, today.

Mr. OWENS, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. KINGSTON) and to include extraneous matter:)

Mr. SHAYS.

Mr. BILBRAY.

Mr. MARTINI in two instances.

Mr. GILMAN in three instances.

Mr. LATHAM.

(The following Members (at the request of Mr. LUTHER) and to include extraneous matter:)

Mr. STUPAK.

Mr. FRANK of Massachusetts.

Mr. FARR.

Mr. TOWNS in three instances.

Mr. TORRES.

Mr. MILLER of California.

Mr. JACOBS.

Mr. HINCHEY in two instances.

Mr. NEAL.

Mr. MENENDEZ.

Mr. YATES.

Mr. UNDERWOOD.

(The following Members (at the request of Mr. DORNAN) and to include extraneous matter:)

Mr. WAXMAN.

Mr. DORNAN.

ADJOURNMENT

Mr. DORNAN. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock p.m.), under its previous order, the House adjourned until tomorrow, Tuesday, July 11, 1995, at 9 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1151. A letter from the Assistant Secretary (Legislative Affairs and Public Liaison), Department of the Treasury, transmitting a copy of a Presidential memorandum: Certification regarding use of the exchange stabilization fund and Federal Reserve in relation to the economic crisis in Mexico, pursuant to Public Law 104-6, section 406(a) (109 Stat. 91); to the Committee on Banking and Financial Services.

1152. A letter from the Chairman, Nuclear Regulatory Commission, transmitting a report on abnormal occurrences at licensed nuclear facilities for the fourth quarter of calendar year 1994, pursuant to 42 U.S.C. 5848; to the Committee on Commerce.

1153. A letter from the Director, Defense Security Assistance Agency, transmitting the Department of the Army's proposed lease of defense articles to Bahrain (Transmittal No. 27-95), pursuant to 22 U.S.C. 2796a(a); to the Committee on International Relations.

1154. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of a proposed manufacturing license agreement for production of major military equipment with Thailand (Transmittal No. DTC-40-95), pursuant to 22 U.S.C. 2776(d); to the Committee on International Relations.

1155. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of a proposed license for the export of major defense equipment and services sold commercially to New Zealand (Transmittal No. DTC-36-95), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

1156. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a copy of Presidential Determination No. 95-29: Determination to authorize the furnishing of emergency military assistance to the United Nations in support of the Rapid Reaction Force in Bosnia under section 506(a)(1) of the Foreign Assistance Act, pursuant to 22 U.S.C. 2318(a)(1); to the Committee on International Relations.

1157. A letter from the Comptroller General, General Accounting Office, transmitting the list of all reports issued or released in May 1995, pursuant to 31 U.S.C. 719(h); to the Committee on Government Reform and Oversight.

1158. A letter from the Deputy and Acting CEO, Resolution Trust Corporation, transmitting the Corporation's annual management report for the year ended December 31, 1994, pursuant to Public Law 101-576, section 306(a) (104 Stat. 2854); to the Committee on Government Reform and Oversight.

1159. A letter from the Librarian of Congress, transmitting the report of the activities of the Library of Congress, including the Copyright Office, for the fiscal year ending September 30, 1994, pursuant to 2 U.S.C. 139; to the Committee on House Oversight.

1160. A letter from the Chief Justice, Supreme Court of the United States, transmitting a copy of the report of the proceedings of the Judicial Conference of the United States, held in Washington DC, on March 14, 1995, pursuant to 28 U.S.C. 331; to the Committee on the Judiciary.

1161. A letter from the Secretary of Commerce, transmitting the third report on the impact of increased aeronautical and nautical chart prices, pursuant to 44 U.S.C. 1307(a)(2)(A); to the Committee on Transportation and Infrastructure.

1162. A communication from the President of the United States, transmitting an updated report concerning the emigration laws and policies of Bulgaria, pursuant to 19 U.S.C. 2432(b) (H. Doc. No. 104-92); to the Committee on Ways and Means and ordered to be printed.

1163. A letter from the General Counsel, Department of Defense, transmitting a draft of proposed legislation to designate defense acquisition pilot programs in accordance with National Defense Authorization Act for fiscal year 1991, and for other purposes; jointly, to the Committees on National Security, Government Reform and Oversight, and Small Business.

1164. A letter from the Secretary, Department of Health and Human Services, transmitting a draft of proposed legislation entitled, "Medicare and Medicaid Payment Integrity Act of 1995"; jointly, to the Committees on Ways and Means, Commerce, and the Budget.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. CLINGER: Committee on Government Reform and Oversight. H.R. 1826. A bill to repeal the authorization of transitional appropriations for the U.S. Postal Service, and for other purposes (Rept. 104-174). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. EMERSON:

H.R. 1997. A bill to provide flexibility to States in the administration of the Food Stamp Program, consolidation of the commodity distribution programs, and for other purposes; to the Committee on Agriculture.

By Mr. BARR:

H.R. 1998. A bill to provide for State credit union representation on the National Credit Union Administration Board, and for other purposes; to the Committee on Banking and Financial Services.

By Mr. NORWOOD:

H.R. 1999. A bill to establish the Augusta Canal National Heritage Area in the State of Georgia, and for other purposes; to the Committee on Resources.

By Mr. SANDERS (for himself, Mr. MCHALE, Mr. HINCHEY, Mr. DELLUMS, and Mr. FALEOMAVAEGA):

H.R. 2000. A bill to amend the Agricultural Act of 1949 to provide for the establishment of a multiple-tier price support program for milk to assist milk producers to receive an adequate income from their dairy operations and to support long-term conservation practices by milk producers, while assuring sufficient low-cost dairy products for nutrition assistance programs; to the Committee on Agriculture.

By Mr. BOEHNER:

H. Res. 183. Resolution electing Representative Greg Laughlin of Texas to the Committee on Ways and Means; considered and agreed to.

By Mrs. MALONEY (for herself, Mr. Miller of California, Ms. Pelosi, Mr. Dellums, Ms. McKinney, Ms. Velazquez, Mr. Fattah, Ms. Lofgren, Mr. Faleomavaega, and Mr. Reynolds):

H. Res. 184. Resolution amending the Rules of the House of Representatives to require that committee reports accompanying reported bills and joint resolutions contain a detailed analysis of the impact of the bill or joint resolution on children; to the Committee on Rules.

MEMORIALS

Under clause 4 of rule XXII,

126. The SPEAKER: Presented a memorial of the General Assembly of the State of Nevada, relative to custody requirements for prisoners that exceed constitutional requirements; to the Committee on the Judiciary.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. SCOTT introduced a bill (H.R. 2001) for the relief of Norton R. Girault; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 38: Mrs. Lowey, Mr. Smith of New Jersey, Mr. Manzullo, Mrs. Meek of Florida, Mr. Porter, Mr. Gilchrest, Mr. Mascara, Mr. Hayworth, and Mr. de la Garza.

H.R. 218: Mr. Andrews.

H.R. 248: Mr. Watts of Oklahoma, Mr. Beilenson, Mr. Frazer, Mr. English of Pennsylvania, and Mr. Boucher.

H.R. 263: Mr. Serrano and Mr. Manton.

H.R. 371: Mr. Coleman.

H.R. 491: Mr. Duncan.

H.R. 661: Mr. Minge.

H.R. 677: Mr. Torkildsen, Mr. Matsui, and Mr. Studds.

H.R. 709: Mr. Engel and Ms. DeLauro.

H.R. 733: Mr. Gutierrez, Ms. Pelosi, Mr. Shadegg, and Mr. Johnston of Florida.

H.R. 734: Mr. Gutierrez and Mr. Shadegg.

H.R. 736: Mr. Stockman, Mr. Doolittle, and Mr. Wicker.

H.R. 739: Mrs. Seastrand, Mr. Chambliss, and Mr. Bono.

H.R. 789: Mrs. Vucanovich and Mr. Zimmer.

H.R. 833: Mr. Williams.

H.R. 835: Mr. Reynolds.

H.R. 863: Ms. Rivers, Mr. Brown of California, Mr. Dellums, Ms. Furse, and Mr. Poshard.

H.R. 868: Mr. Burton of Indiana, Mr. Shays, and Mrs. Meyers of Kansas.

H.R. 882: Mr. Luther, Ms. Lofgren, Mr. DeFazio, Mr. Engel, Mr. Rangel, and Mrs. Kelly.

H.R. 940: Mr. Mineta.

H.R. 941: Mr. Dellums, Mr. Traficant, Mr. Abercrombie, Mr. Evans, Mr. Frazer, Mr. Meehan, Mr. Nadler, Ms. Norton, Mrs. Maloney, Mr. Payne of New Jersey, and Mr. Engel.

H.R. 1006: Mr. Engel.

H.R. 1021: Mr. McHale.

H.R. 1066: Mr. Engel.

H.R. 1083: Mr. Kingston and Mr. Baker of Louisiana.

H.R. 1143: Mr. Berman, Mr. Cunningham, Mr. English of Pennsylvania, Mr. Towns, Mr. Livingston, Mr. Frost, Mr. Stupak, Mr. LaHood, Mr. Paxon, Mr. McHugh, Mr. Heineman, Mr. Inglis of South Carolina, Mr. King, Ms. Lofgren, Ms. Rivers, Mr. Sanford, Mr. Engel, and Mr. Cramer.

H.R. 1144: Ms. Rivers, Ms. Lofgren, Mr. King, Mr. Inglis of South Carolina, Mr. Heineman, Mr. McHugh, Mr. Paxon, Mr. LaHood, Mr. Stupak, Mr. Frost, Mr. Livingston, Mr. Towns, Mr. English of Pennsylvania, Mr. Cunningham, Mr. Berman, Mr. Sanford, Mr. Engel, and Mr. Cramer.

H.R. 1145: Mr. Sanford, Mr. Engel, Mr. Cramer, Mr. Doyle and Mr. LaTourette.

H.R. 1154: Mr. Smith of New Jersey, Mr. Manzullo, and Mr. Martini.

H.R. 1169: Mr. Serrano and Mr. Engel.

H.R. 1204: Mr. McDermott.

H.R. 1314: Mr. Gordon.

H.R. 1356: Mr. Owens, Mr. Poshard, and Mr. Brown of California.

H.R. 1376: Mr. Solomon, Ms. Lofgren, Mr. Torres, Mr. Thompson, Mr. Barcia of Michigan, Mr. Clinger, Mr. Ackerman, Mr. Mineta, and Mr. Heineman.

H.R. 1377: Mr. Zimmer.

H.R. 1381: Ms. McKinney and Mr. Hilliard.

H.R. 1444: Mr. Faleomavaega, Mr. Farr, Ms. Norton, Mrs. Maloney, and Ms. Lofgren.

H.R. 1533: Mr. Dornan and Mr. LoBiondo.

H.R. 1559: Mr. LaFalce, Ms. Slaughter, Mr. Reynolds, Mr. Camp and Mr. Doyle.

H.R. 1560: Mr. Rush.

H.R. 1568: Mr. Engel.

H.R. 1594: Ms. Pryce and Mr. Allard.

H.R. 1610: Mr. Horn and Mr. Greenwood.

H.R. 1675: Mr. Dickey.

H.R. 1716: Mr. Emerson.

H.R. 1735: Mr. Rangel, Mr. Frost, Mr. Evans, Mr. Frazer, Ms. McKinney, Mr. Engel, and Mr. Borski.

H.R. 1744: Mr. Roth.

H.R. 1758: Mr. Serrano and Mr. Coleman.

H.R. 1765: Mr. Stump, Mrs. Roukema, Mr. Skeen, Mr. Packard, Mrs. Chenoweth, and Mrs. Seastrand.

H.R. 1863: Mr. Hilliard, Mr. Vento, Mr. Gene Green of Texas, Mr. Skaggs, and Mr. Fattah.

H.R. 1872: Mr. Baldacci and Mrs. Schroeder.

H.R. 1885: Mr. Ewing and Mr. Bass.

H.R. 1891: Mr. Beilenson.

H.R. 1915: Mrs. Seastrand, Mr. Pete Geren of Texas, Mr. Wilson, and Mr. Stockman.

H.R. 1930: Mr. Deutsch, Ms. Ros-Lehtinen, Mrs. Lowey, and Ms. Molinari.

H.R. 1947: Mr. English of Pennsylvania and Mr. Baker of Louisiana.

H.R. 1984: Mr. Hancock.

H. Con. Res. 50: Mr. Davis, Ms. Harman, Mr. Torricelli, and Mr. Wolf.

H. Con. Res. 54: Ms. Harman.

H. Con. Res. 76: Mr. Torres, Ms. Eshoo, Ms. Lofgren, and Ms. Norton.

H. Res. 122: Mr. Engel.

H. Res. 142: Mr. Reynolds, Mr. Sawyer, Mr. Clay, Mrs. Mink of Hawaii, Mr. Hastings of Florida, Mr. Thompson, Mr. Romero-Barcelo, Mr. Rangel, Mrs. Schroeder, Mr. Conyers, Mr. Watt of North Carolina, Mr. Engel, and Mr. Boucher.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 1905

OFFERED BY: MR. MARKEY

AMENDMENT NO. 34: Page 29, after line 25, insert the following new section:

SEC. 505. The amounts otherwise provided by this Act are revised by reducing the amount made available for "Energy Supply, Research and Development Activities", and increasing the amount made available for "Nuclear Waste Disposal Fund" and "Nuclear Regulatory Commission—Salaries and Expenses" (consisting of an increase of $200,000,000 and $11,000,000, respectively), by $211,000,000.

H.R. 1905

OFFERED BY: MR. SANDERS

AMENDMENT NO. 35: Page 16, line 1, after the dollar amount, insert the following: "(less $20,000,000)".

H.R. 1905

OFFERED BY: MR. SANDERS

AMENDMENT NO. 36: Page 16, line 1, after the dollar amount, insert the following: "(less $53,923,000)".

H.R. 1905

OFFERED BY: MR. SANDERS

AMENDMENT NO. 37: Page 16, line 1, after the dollar amount, insert the following: "(less $255,698,000)".

H.R. 1905

OFFERED BY: MR. SANDERS

AMENDMENT NO. 38: Page 18, strike lines 8 through 20.

H.R. 1976

OFFERED BY: MR. BREWSTER

AMENDMENT NO. 1: At the end of the bill, add the following new title:

TITLE VIII—DEFICIT REDUCTION LOCKBOX

DEFICIT REDUCTION TRUST FUND; DOWNWARD ADJUSTMENTS IN DISCRETIONARY SPENDING LIMITS

SEC. 801. (a) ESTABLISHMENT.—There is established in the Treasury of the United States a trust fund to be known as the "Deficit Reduction Trust Fund" (in this title referred to as the "Fund").

(b) CONTENTS.—The Fund shall consist only of amounts transferred to the Fund under subsection (c).

(c) TRANSFERS OF MONEYS TO FUND.—The Secretary of the Treasury shall transfer to the Fund an amount equal to the allocations under section 602(b)(1) of the Congressional Budget Act of 1974 to the subcommittee of the Committee on Appropriations with jurisdiction over this Act minus the aggregate level of new budget authority and outlays resulting from the enactment of this Act, as calculated by the Director of the Office of Management and Budget.

(d) USE OF MONEYS IN FUND.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amounts in the Fund shall not be available, in any fiscal year, for appropriation, obligation, expenditure, or transfer.

(2) Use of amounts for reduction of public debt.—The Secretary of the Treasury shall use the amounts in the Fund to redeem, or buy before maturity, obligations of the Federal Government that are included in the public debt. Any obligation of the Federal Government that is paid, redeemed, or bought with money from the Fund shall be canceled and retired and may not be reissued.

(e) Downward Adjustments in Discretionary Spending Limits.—Upon the enactment of this Act, the Director of the Office of Management and Budget shall make downward adjustments in the adjusted discretionary spending limits (new budget authority and outlays) as set forth in section 601(a)(2) of the Congressional Budget Act of 1974 by the aggregate amount of estimated reductions in new budget authority and outlays transferred to the Fund under subsection (c) for such fiscal year, as calculated by the Director.

H.R. 1976

Offered By: Mr. Sanders

Amendment No. 2: Page 69, strike lines 17 and 18 and insert a period.

H.R. 1976

Offered By: Mr. Sanders

Amendment No. 3: Page 71, after line 2, insert the following new section:

Sec. 726. None of the funds made available in this Act may be used to pay the salaries of personnel who carry out a market promotion program pursuant to section 203 of the Agricultural Trade Act of 1978 (7 U.S.C. 5623).

H.R. 1976

Offered By: Mr. Sanders

Amendment No. 4: Page 71, after line 2, insert the following new section:

Sec. 726. None of the funds made available in this Act may be used to pay the salaries of personnel who carry out the annual programs established under the Agricultural Act of 1949 for wheat, feed grains, upland cotton, extra long staple cotton, rice, and other commodities when the total amount of payments under one or more of such programs exceed $50,000 per producer.

H.R. 1977

Offered By: Mr. Brewster

Amendment No. 3: At the end of the bill, add the following new title:

TITLE IV—DEFICIT REDUCTION LOCKBOX

DEFICIT REDUCTION TRUST FUND, DOWNWARD ADJUSTMENTS IN DISCRETIONARY SPENDING LIMITS

Sec. 401. (a) Establishment.—There is established in the Treasury of the United States a trust fund to be known as the "Deficit Reduction Trust Fund" (in this title referred to as the "Fund").

(b) Contents.—The Fund shall consist only of amounts transferred to the Fund under subsection (c).

(c) Transfers of Moneys to Fund.—The Secretary of the Treasury shall transfer to the Fund an amount equal to the allocations under section 602(b)(1) of the Congressional Budget Act of 1974 to the subcommittee of the Committee on Appropriations with jurisdiction over this Act minus the aggregate level of new budget authority and outlays resulting from the enactment of this Act, as calculated by the Director of the Office of Management and Budget.

(d) Use of Moneys in Fund.—

(1) In general.—Except as provided in paragraph (2), the amounts in the Fund shall not be available, in any fiscal year, for appropriation, obligation, expenditure, or transfer.

(2) Use of amounts for reduction of public debt.—The Secretary of the Treasury shall use the amounts in the Fund to redeem, or buy before maturity, obligations of the Federal Government that are included in the public debt. Any obligation of the Federal Government that is paid, redeemed, or bought with money from the Fund shall be canceled and retired and may not be reissued.

(e) Downward Adjustments in Discretionary Spending Limits.—Upon the enactment of this Act, the Director of the Office of Management and Budget shall make downward adjustments in the adjusted discretionary spending limits (new budget authority and outlays) as set forth in section 601(a)(2) of the Congressional Budget Act of 1974 by the aggregate amount of estimated reductions in new budget authority and outlays transferred to the Fund under subsection (c) for such fiscal year, as calculated by the Director.

H.R. 1977

Offered by: Mr. Cremeans

Amendment No. 4: Page 94, after line 24, add the following:

Sec. 318. None of the funds appropriated or otherwise made available by this Act may be used for the purposes of acquiring land in the counties of Lawrence, Monroe, or Washington, Ohio, for the Wayne National Forest.

H.R. 1977

Offered by: Mr. Fox

Amendment No. 5: Page 56, line 3, strike "$552,871,000" and insert "$602,871,000".

Page 56, line 10, strike "$133,946,000" and insert "$183,946,000".

Page 56, line 17, strike "$107,466,000" and insert "$157,446,000".

Page 58, line 12, strike "$79,766,000" and insert "$29,766,000".

H.R. 1977

Offered by: Mr. Sanders

Amendment No. 6: Page 94, after line 24, insert the following:

Sec. 318. None of the funds appropriated or otherwise made available by this Act may be used to issue a domestic livestock grazing permit for the grazing season which commences on March 1, 1996, with respect to National Forest lands in the 16 contiguous Western States (except National Grasslands) administered by the Forest Service or to public domain lands administered by the Bureau of Land Management when it is made known to the Federal official having authority to obligate or expend such funds that annual domestic livestock grazing fee required pursuant to such permit is for less than fair market value.

H.R. 1977

Offered By: Mr. Sanders

Amendment No. 7: Page 94, after line 24, insert the following:

Sec. 318. None of the funds appropriated or otherwise made available by this Act may be used to enter into or renew a contract to provide public accommodations, facilities, or services within the National Park System when it is made known to the Federal official having authority to obligate or expend such funds that such contract was entered into or renewed on a basis other than competitive bidding without preferences and that such contract does not include measures needed to ensure the protection and preservation of park resources.

H.R. 1977

Offered By: Mr. Sanders

Amendment No. 8: Page 94, after line 24, insert the following new section:

Sec. 318. None of the funds made available in this Act may be used to sell any part of the United States share of petroleum produced from the naval petroleum reserves when it is made known to the Federal disbursing official concerned that any such sale is at a price below the prevailing local market price of comparable petroleum.

H.R. 1977

Offered By: Mr. Underwood

Amendment No. 9: Page 34, line 24, strike "$65,705,000" and insert "$61,125,000".

Page 35, line 11, insert after "272);" the following: "(2) $4,580,000 shall be available for impact aid for Guam under Public Law 99-239 (relating to the Compact of Free Association);".

Page 35, line 11, strike "(2)" and insert "(3)".

H.R. 1977

Offered By: Mr. Underwood

Amendment No. 10: Page 34, line 24, insert after "$65,705,000" the following: "(less $4,580,000 for technical assistance)".

Page 35, line 11, insert after "272);" the following: "(2) $4,580,000 shall be available for impact aid for Guam under Public Law 99-239 (relating to the Compact of Free Association);".

Page 35, line 11, strike "(2)" and insert "(3)".

EXTENSIONS OF REMARKS

CALIFORNIA WATER POLICY REFORMS

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 10, 1995

Mr. MILLER of California. Mr. Speaker, rolling back the clock on crucial California water policy reforms will have three enormously unfortunate results: First, over 30 million residents of the largest and most diverse State will resume a divisive and costly war that has stifled economic development for over a quarter of a century; second, major improvements in resource management and protection—such as the landmark Bay-Delta accord—will be placed in extreme jeopardy; and third, the Nation's other 230 million taxpayers will continue to provide hundreds of millions of dollars in annual subsidies to many of the largest and richest agribusiness interests in the world.

Congress resolved these issues in 1992 when we passed, and President Bush signed, the Central Valley Project Improvement Act [CVPIA], Public Law 102–575. That law won broad support throughout California; urban residents get a fraction of the project's water under current contracts; 85 percent goes to irrigators; business interests; environmentalists; the recreational and sport fishing organizations; the commercial fishing industry; and newspapers throughout the State.

The subsidized irrigators, who have enjoyed nearly exclusive claim to the Central Valley Project's subsidized benefits for decades, quite naturally opposed the CVPIA with a vengeance, as would any special interest told it must share taxpayer-developed resources more equitably. They tried to have the law overturned in the courts, but lost. Now, they are trying to start the war all over again in hopes of improving their ability to retain their special largesse.

A handful of Members representing these subsidized irrigators has introduced H.R. 1906, which was written almost entirely by lobbyists and attorneys for California growers to set back the cause of water policy reform a quarter century. Repeal would assure these irrigators of indefinite domination of the water resources of California, with billions of dollars in water subsidies, for decades to come at the expense of all other interests in the State and U.S. taxpayers.

Fifteen members of the California delegation have written to the President outlining our vigorous objections to this harmful legislation. Herewith is a recent editorial about H.R. 1906 that appeared in the San Francisco Chronicle. I would be pleased to discuss these issues with you at any time.

[From the San Francisco Chronicle, June 23, 1995]

BREAKING THE PEACE IN THE WATER WARS

The long and destructive California water war, which was quieted by a sensible legislative cease-fire three years ago, is on the verge of full-scale resumption, thanks to the unquenchable greed and incurable myopia of Central Valley agricultural interests and their water carriers in Congress. Unless Senators Dianne Feinstein and Barbara Boxer take a firm stand against these troublemakers when their legislative assault reaches the upper house, California could be swept back into a political whirlpool that will threaten not only the environment but the state's fragile economic recovery.

The new declaration of war comes in the form of legislation introduced this week by Representative John Doolittle and other Central Valley representatives that seeks to overturn the 1992 Central Valley Project Implementation Act, signed into law by President Bush. That law brought badly needed reform to an archaic and expensive system of subsidized farm irrigation that had wreaked disaster on the aquatic environment and nearly destroyed the commercial fishing industry.

Doolittle's rear-guard attack would "reform" those reforms by, among other things: stripping them of virtually all of the additional water that had been promised for fish and wildlife restoration; eliminating a study of fisheries in the San Joaquin River; restoring overly generous, subsidized, 40-year water delivery contracts to growers; reducing fees for an environmental fund; scrapping a requirement for doubling the salmon populations; and turning fish restoration programs over to the state.

Save San Francisco Bay Association director Barry Nelson called the Doolittle bill "the legislative equivalent of a drive-by shooting," a statement that reflects the depth of divisiveness this legislation could re-engender. Indeed, until the Republicans captured Congress last November, a productive if fragile process of cooperation was growing among the state's competing water interests—farmers, environmentalists and urban users.

The main fruit of that consensus was last fall's voluntary Bay-Delta Accord, which dealt with improving water quality standards for fish and wildlife in the delta and bay in order to meet Clean Water Act and Endangered Species Act requirements. But the Bay-Delta Accord was built on the framework of the Central Valley Project reforms of 1992. If those are gutted, the 1994 water quality accords and the state water board's brand new water allocation plans would become virtually meaningless.

Senators Feinstein and Boxer represent the best hope for disarming these unreconstructed water warriors so that, one day, sensible policies and predictable supplies may prevail in California.

HONORING CLAYTON "PEG LEG" BATES

HON. MAURICE D. HINCHEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, July 10, 1995

Mr. HINCHEY. Mr. Speaker, I rise today to bring to your attention the many achievements of Clayton "Peg Leg" Bates, a friend and constituent of mine who lives in Napanoch, New York.

Clayton "Peg Leg" Bates was born in Fountain Inn, SC, in 1911. After a childhood injury with a threshing machine, his father made him a peg leg, and he began to dance at the age of 14 in 1925.

By 1928 he was in vaudeville and appeared in a group of dancers, 4 Bad Boys of Harlem, with the legendary Bill "Bojangles" Robinson. In the late 1940's he appeared on the Ed Sullivan Show 20 Times—more than any other performer.

Retired and moved to Kerhonkson in 1951, Peg Leg Bates opened up his own country club and stayed active in its operation until the late 1980's. He is now active in the Senior Citizen Club of Napanoch, as well as involved in talking to public school kids about drugs and the importance of staying in school. He also visits with disabled and senior citizens and is a model of citizen involvement that stands as an encouragement to everyone in our community.

CONGRATULATIONS ON THE FIRST PACIFIC ISLANDER FESTIVAL IN SAN DIEGO

HON. BRIAN P. BILBRAY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 10, 1995

Mr. BILBRAY. To the people of the Pacific Islands: Greetings and congratulations on the celebration of the coming together of the diverse cultures of you who make San Diego your home.

You have my deepest regards, and total support for the first Pacific Islander Festival to be held in San Diego, July 21 to 23, 1995, and the mainland maiden arrival of your historic voyaging canoe *Hokuléa*. I commend your efforts to continue, and expand, the unique customs and cultures of the Pacific Islands, sharing them with all others.

It is with great pride that I acknowledge you and your goals, and call upon everyone to join in your most festive time. The place you hold in our community is recognized, and your heritages are treasured.

Accept my fondest wishes for a successful meeting of all the people. It is a deep honor to be a part of your festivities and to represent the U.S. Congress to you.

PERSONAL EXPLANATION

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 10, 1995

Mr. TORRES. Mr. Speaker, I was unavoidably absent on official business for certain

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● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

votes on Wednesday, June 21, and Wednesday, June 28, 1995. I was also absent on Thursday, June 22 and Friday, June 23, on personal business for which I had requested and been granted leave. Had I been present on the House floor I would have cast my votes as follows:

Roll No. 402: "No" on the Castle amendment as a substitute for the Neumann amendment to H.R. 1854.

Roll No. 403: "Aye" on the Houghton amendment as a substitute for the Fazio amendment to H.R. 1854.

Roll No. 404: "Aye" on the Volkmer motion to rise.

Roll No. 405: "Aye" on the Fazio amendment to H.R. 1854.

Roll No. 406: "No" on the Packard motion to rise.

Roll No. 407: "No" on the Armey motion to adjourn.

Roll No. 408: "No" on approval of the journal.

Roll No. 409: "Nay" on the Armey privileged motion.

Roll No. 410: "Aye" on the Fazio amendment to H.R. 1854.

Roll No. 411: "No" on the Clinger amendment to H.R. 1854.

Roll No. 412: "No" on the Orton amendment to H.R. 1854.

Roll No. 413: "No" on the Klug amendment to H.R. 1854.

Roll No. 414: "No" on the Christensen amendment to H.R. 1854.

Roll No. 415: "Aye" on the Zimmer amendment to H.R. 1854.

Roll No. 416: "Aye" on the Miller of California motion to recommit.

Roll No. 417: "Yea" on final passage of H.R. 1854.

Roll No. 418: "Nay" on ordering the previous question on House Resolution 170.

Roll No. 419: "No" on passage of House Resolution 170.

Roll No. 428: "Yea" on ordering the previous question on House Resolution 173.

Roll No. 451: "Nay" on ordering the previous question on House Resolution 175.

Roll No. 452: "No" on the motion to lay the motion to reconsider on the table.

Roll No. 453: "Nay" on passage of House Resolution 175.

Roll No. 454: "No" on the motion to lay the motion to reconsider on the table.

MARYLOU IKENS HONORED

HON. BART STUPAK

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, July 10, 1995

Mr. STUPAK. Mr. Speaker, it is an honor for me to bring to the attention of the U.S. House Representatives the efforts and achievements of a constituent of mine, Marylou Ikens, and the Huron Shores Writing Institute of which she is executive director. Located in Michigan's First Congressional District, the institute is an exchange program with the goals of promoting inter-cultural understanding between a variety of cultures. The international attention and acclaim that has been earned by the institute is much the result of Mrs. Ikens's efforts.

A former piano teacher and visionary, Mrs. Ikens has inspired many who might not have dared to reach beyond the boundaries of their community to explore not only the world beyond their local borders, but also neighboring countries, cultures, and ideas. Her boundless energies have invigorated many and she can well remember the students who have been inspired to seek and continue their education as a result of their stay at the institute. Mrs. Ikens left an indelible impression on all of these people.

Mrs. Ikens's boundless energy has produced what is now a series of seven books on the exchange of cultures throughout the world that are now used in secondary schools and universities worldwide.

Marylou Ikens is to be commended for making her long-range dream a reality—one which stands as an on-going think tank, educational institute, and virtual evolving learning center.

Michigan's First Congressional District is proud of its own Marylou Ikens and of the many contributions she and the institute have made to our own culture as well as to cultures around the world.

AN EXEMPLARY LIFE

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 10, 1995

Mr. FRANK of Massachusetts. Mr. Speaker, I am pleased to be able to acknowledge a woman from my district whose life is an example of dedication and service to those in need. Agnes E. Raposa spearheaded the founding of the I.H. Schwartz Children's Rehabilitation Center in New Bedford, MA in 1950. For four decades, Ms. Raposa served as executive director of the center, a nonprofit agency that annually serves about 500 children affected by cerebral palsy and other medical conditions. Under her leadership, the center has helped thousands of children meet the challenges of their disabilities and strive to their greatest potential. As her community gathers to celebrate her 80th birthday, I take this opportunity to wish Ms. Raposa a very happy birthday and to thank her for showing us how much one life, filled with a spirit of purpose, can benefit and change so many others.

RECOGNITION OF THE WESTPORT NEWS

HON. CHRISTOPHER SHAYS

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Monday, July 10, 1995

Mr. SHAYS. Mr. Speaker, I want to take a moment to recognize the outstanding work of a paper in Connecticut's Fourth Congressional District, the Westport News, in a series of special reports on domestic violence, "Behind Closed Doors."

The five part series, run by this weekly newspaper over a 2-month period, included in depth reports providing an overview of how violence occurs in families; the cycle of abuse and how it affects victims; fallout on the family and how society silences victims; whether there is any justice in our courts system; and the support offered by our social service agencies. Following this statement I am submitting the final piece in the series, a summarizing editorial entitled "Curb Domestic Violence by Speaking Out."

Mr. Speaker, awareness and discussion of the terrible scourge of domestic violence is the first step toward reducing it in our society. To that end, I commend the Westport News and their parent company, Brooks Newspapers, for this important contribution to improving life in our local communities.

A copy of the article follows for inclusion in the RECORD:

CURB DOMESTIC VIOLENCE BY SPEAKING OUT

Next Monday marks one year since Nicole Brown Simpson and Ronald Goldman were brutally slain by a knife-wielding assailant. The state of California is trying to prove that the murderer is O.J. Simpson, one of America's most famous football players and Hollywood icons.

Because O.J. Simpson had a record of abusing his wife prior to the murders, this case, perhaps more than any other domestic tragedy in recent years, has focused the spotlight on family violence.

To shed some light on the extent to which domestic violence permeates the communities of Westport and Weston, this newspaper has published a five-part series, "Behind closed doors," with the final installment by reporter Christina Hennessy starting on Page 3 today.

"Behind closed doors" has evoked a groundswell of response among our readers. Many have telephoned us. Some have written about their experiences. Some said it was high time this issue was made public here.

When this series was launched on May 12, the Westport News hoped the articles would serve as a catharsis for Westport and Weston to enable some families to find a way out of the cycle of violence.

Some already have—simply by recognizing the patterns in their own homes and by reaching out for help.

One such reader, Annie X, (a pseudonym), experienced anger, violence and abuse from her husband for many years and told of her experience in an Op Ed piece on June 2.

Although her husband escaped punishment, Annie X wrote, "I have been forced to deal with verbal, emotional, psychological and financial abuse. I am learning how to survive and preparing myself for single parenthood."

One reader called to our attention the murder of a former Westport woman by her husband in New Hampshire, stemming from a domestic dispute.

The Westport News is encouraged by the reactions of two state legislators, state Sen. Judith Freedman (R-26) and state Rep. Josephine Fuchs (R-136). Both have been active in supporting legislation that will help curb domestic violence.

The current legislation has its roots in existing law, including the Family Violence Prevention and Response Act, passed in 1986. It was a substantial step forward in the effort to provide services for domestic violence victims.

In 1992 and 1993, legislation that passed the General Assembly broadened the programs for children affected by domestic violence, created a Protective Order Registry for Prevention of Domestic Violence and established a "marriage license surcharge" with the money going to provide shelter for abuse victims.

Still, a great deal more needs to be done. During interviews conducted by this newspaper's reporters for the series, many suggestions emerged. Among them:

Counselors and victims of abuse want the courts to hand down harsher punishments to fit the crime. By handing out light sentences, the courts send a message that domestic violence is still a private matter not answerable to public law.

Victims suggest that the courts are reluctant to jail those found guilty of domestic violence. They say that a work-to-jail program could be created that would require violators to return to prison instead of going home after work.

Then, a portion of the money earned could go toward child support and alimony, they say.

Some women say that the courts should more seriously consider domestic violence in divorce proceedings, particularly in light of custody of any children.

Further, with the courts still granting visitation rights to ex-husbands who may be abusers, there continues to be the potential of violence during the visits and there are no legal restraints on them. This needs to be changed.

Victims also want a change in the way the state handles the criminal records of abusers. Currently, if an abuser is charged with a family violence crime but attends and successfully completes a court-order education program, the charges are dismissed.

The law needs to be changed, victims say, so that records of abusers' violations of the law are retained for a longer period of time and they cannot get off the hook so easily.

Several women also suggested that the availability of legal aid needs to be increased during divorce proceedings. They said that in leaving their husbands they experienced a dramatic drop in income level and had a hard time finding attorneys who would take them on as clients.

While our elected officials have made strides in domestic violence law, we are urging them to consider the suggestions, above, and work with fellow legislators to make improvements.

What can each of us, as individuals, do to address the problem?

The loud and clear message our team of reporters heard from victims, therapists, psychologists, marriage counselors, police and other law enforcement officials, social workers, health and court officials alike, is this: "Listen to the victims. Listen to the abusers. Listen to the children."

Then, reach out and offer to help.

We hear a lot about "family values" these days. There is a recognition in the heartland of America that families are being torn apart by the harsh realities of increasing violence.

What could be more cogent that confronting and eliminating domestic violence, arguably the biggest barrier to harmony in the home?

PRAISING VOICE OF THE PEOPLE IN UPTOWN, INC. AND THE UPTOWN NATIONAL BANK OF CHICAGO

HON. SIDNEY R. YATES

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 10, 1995

Mr. YATES. Mr. Speaker, at a time when the Federal Government is giving tax breaks to those who need it the least and shrinking away from its obligations to help those who need it the most, I am proud to rise and take this opportunity to acknowledge the valuable contributions of two outstanding organizations in my district: Voice of the People in Uptown, Inc. and the Uptown National Bank of Chicago.

In general, the housing market in the uptown area of my district is characterized by a low level of homeownership, combined with a growing level of suffering among the poor and middle classes. The need for affordable housing is reaching heights not seen since the Great Depression.

Earlier this summer, these two marvelous groups from the uptown region in Chicago's 48th ward were nationally recognized by the Social Compact in its 1995 Outstanding Community Investment Awards program for their partnership in helping lower-income minority and immigrant families in Chicago realize the American dream of homeownership.

Since its founding in 1968, Voice of the People has dedicated its energies to preserving uptown's ethnic and economic diversity by providing quality, affordable housing for lower-income people through new construction, rehabilitation of existing properties, and management of affordable rental housing.

Although Voice of the People has always had the highest and most honorable of goals, in reality without a strong financial partner very little could be accomplished. The Uptown National Bank took on the role of the stalwart guarantor by providing $2.1 million in construction financing, ensuring the viability of the project. Throughout the whole development process, the bank absorbed many expenses to keep the final sale price at its lowest possible level. Ultimately, 28 families in Chicago's uptown area have realized their American dream of homeownership.

I applaud the collaborative efforts of Voice of the People and Uptown National Bank and wish them continued success in future endeavors. Since the completion of the project, the overall market value for the immediate neighborhood has increased and greater stability, safety, and commitment in the uptown community has resulted.

I am hopeful the success these two organizations have achieved can become a template for the Federal Government when we finally get back to helping those who truly need our help.

RECOGNIZING THE PARTICIPANTS OF THE 12TH ANNUAL NATIONAL NIGHT OUT

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, July 10, 1995

Mr. MENENDEZ. Mr. Speaker, I rise today to recognize and commend the cities in the 13th Congressional District of New Jersey for their participation in National Night Out, 1995. On August 1, residents in my district will join fellow Americans across the country to create a night of celebration free from the fear of crime and drugs.

I wish also to pay tribute to the National Association of Town Watch in New Jersey for sponsoring the event. They have succeeded in developing community awareness within many American cities and towns by bringing concerned citizens to the forefront. Community leaders and law enforcement officers are joining them to send the message that crime will not be permitted to threaten our communities and dictate our lives.

Among the participating cities are Bayonne, East Newark, Elizabeth, Guttenberg, Harrison, Hoboken, Jersey City, Kearny, Newark, North Bergen, Perth Amboy, Union City, Weehawken, West New York, and Woodbridge.

I am proud to say I have dedicated citizens in my district creating safe neighborhoods through education and action. On this night residents and law enforcement officers in participating cities will celebrate with town-wide block parties, contests, dances for community youth, safety demonstrations, and educational forums. These events are a continuation of past efforts whose full benefits will be felt for years to come in my district.

This admirable project is a nationwide endeavor supported by over 8,000 communities throughout our 50 States. Their continuing aim is to focus America's attention on the alarming crime rates and the unacceptable level of drug abuse which has affected every community in our Nation. Police-citizen partnerships created by the efforts of these organizations have promoted cooperative crime prevention programs allowing Americans to come from behind their locked doors and join their neighbors in the fight for our Nation's safety.

The 12th Annual National Night Out comes at a time when the leaders of our Nation are debating the appropriate methods of crime prevention here, in the Nation's Capitol. But in our Nation's communities the people are taking a stand, defending their streets, their homes, and their families.

Each city participating in the 1995 National Night Out is to be commended for their concern and their efforts. Their fight for safer communities gives me hope that America can build a crime and drug-free Nation for our children. I salute them today, thank them for their past efforts, and wish them luck in their future crime-fighting endeavors.

BOBBY JOHNSON, JR.—80 YEARS OLD AND "BEYOND CATEGORY"

HON. MAURICE D. HINCHEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, July 10, 1995

Mr. HINCHEY. Mr. Speaker, I want to invite you and my colleagues to join me in celebrating the 80th birthday of Bobby Johnson, Jr., a constituent and friend of mine who truly is "beyond category".

Bobby is a trumpet player, vocalist, and band leader in the style of the great Louis Armstrong. He is a man who literally is a walking, talking history of that great indigenous American art, jazz. Bobby has been a member of the orchestras of Duke Ellington, Cab Calloway, Benny Carter, Claude Hopkins, and

Erskine Hawkins. He has shared the limelight with Ella Fitzgerald, Billie Holliday, Red Norvo, and Ray Coniff. Bobby Johnson has indeed walked with giants and in the process became one himself, a man of immense passion and humanity.

Mr. Speaker, please join me in wishing Bobby Johnson, Jr., a very happy 80th birthday.

BABY BOOMERS AND RETIREMENT

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 10, 1995

Mr. JACOBS. Mr. Speaker, the following article published in the Washington Post on June 27 is not only interesting reading but probably indispensable reading for those who bother to see where they are going in this life.

BABY BOOMERS' RETIREMENT COULD BE A BUST—LIVING STANDARDS MAY DROP AS SOCIAL SECURITY ROLLS BULGE

(By Spencer Rich)

Beverly Duncan, 45, born early in the baby boom years, has a condo, a Ford Explorer and Lincoln Continental, and a business that she operates with her husband, Richard, for a combined family income of "$50,000 to $75,000 a year, depending on how good business is."

But like many others in the huge generation born between 1946 and 1964, the Fort Lauderdale, Fla., woman does not have a juicy retirement plan for the golden years.

"We have no pensions, only small IRAs—a few thousand each—and we're just starting a profit sharing plan, but we haven't put anything in yet," said Duncan, whose business, Franklin Funcan, Inc., sells electronic and other educational learning tools and games to school systems.

After years of using all the couple's spare money to build up the business, pay for their health insurance and help support and educate her husband's children by a previous marriage, "I most likely will be high and dry in retirement, with almost nothing but Social Security," she said.

Duncan's case illustrates one scenario in a raging public debate on whether baby boomers, who will reach age 65 from 2011 to 2030, are saving enough and earning enough pension credits to live well in retirement. It is a 21st century problem with very immediate political consequences. Both the Republican Congress and the Democratic Clinton administration have proposed broad cuts in the growth of Medicare, the health insurance program for the elderly, to keep it from going bust. A further budget crisis looms over the Social Security system, which faces potential bankruptcy when the baby boom generation joins the rolls.

If the boomers are not saving for their old age and the federal government reduces benefits to the elderly, then many experts believe the nation will confront an extremely painful choice in the next century: "dramatically reduced living standards for baby boomer retirees" as they leave jobs and drop to much lower incomes when they retire, as the Committee for Economic Development (CED) puts it, "or intolerable tax burdens on working Americans" to help support the disproportionately large retired population represented by the boomers.

"America's retirement system is underfunded, overregulated, and soon to be challenged by unprecedented growth in retirement-age population," declares a gloomy report by the CED, a nonprofit business research group. "Private saving for retirement is woefully inadequate, and national saving has declined. Underfunded pension promises in both the private and public retirement programs are a growing and often understated problem."

Unless both the general economic and pension pictures improve greatly, said CED vice president William J. Beeman, the income of boomers is likely to drop sharply when they cease working and retire; their retirement income might be as large as that of their retired parents but no better, though every generation expects to do better than its parents in retirement.

Experts say retirees need an income between 60 percent and 80 percent of their preretirement earnings to maintain their living standards.

Merrill Lynch & Co., the financial services company, is also pessimistic. Its Baby Boom Retirement Index, prepared by B. Douglas Bernheim of Stanford University, calculated that baby boomers now getting $75,000 a year, and expected to receive a typical company-provided pension, would have to triple their current savings rates to accumulate enough money to achieve the same living standard in retirement as they had in their working years.

"They are right that future retirees will be in deep trouble," said Karen Ferguson, coauthor with Kate Blackwell of a new book called "Pensions in Crisis." But she disagrees on one fundamental point: "They see the disaster as some years away. For millions of people who are a bit older than the boomers, it's already here."

Labor Secretary Robert B. Reich said, "We need to educate Americans about the importance of taking personal responsibility for their retirement security. Giving workers the financial capability to generate savings for retirement isn't enough unless they understand the fundamental importance of saving for the future. People need to be educated on the need to save as much as they can as early as they can."

The reason affluent boomers must have higher savings than they appear to have now to maintain living standards in retirement is that Social Security is not designed to compensate for all income lost when a person retires.

The very highest benefit a person of 65 who retires in 1995 can get now is $14,388 a year. for someone who has been earning $50,000 in the years before retirement, that's barely more than one-quarter of previous income. For one who's been getting $75,000, it's less than one-fifth. So a private pension and substantial income-producing assets are needed to get even close to previous income.

Cindy Hounsell, a lawyer at the nonprofit Pension Rights Center, which Ferguson heads, noted that "even if every baby boomer ends up living as well as their parents in retirement, they're still in big trouble. * * * Current retirees are not doing all that well.

"Today the median household income among the elderly, the boomers' parents, is $17,751, only about half that of younger households," she said.

But a number of experts are less gloomy about the boomers' prospects, arguing, in part, that all projections made by analysts of income and savings far into the future are necessarily uncertain. The pessimistic conclusions offered by Merrill Lynch's Bernheim, in particular, are controversial, because he does not count the value of housing equity as an asset that can be converted into income, as some other students of the issue do. When those assets are included, the picture looks brighter.

"Most baby boomers are likely to enjoy higher real incomes in retirement than their parents currently do," the Congressional Budget Office concluded in a September 1993 study that took housing assets into account.

The situation of Marilyn Park, 40, and her husband, David Fritz, 44, of Takoma Park, illustrates the optimistic scenario: that baby boomers are saving for retirement, maybe not quite as much as some people think desirable, but saving. They have a "small house with a big mortgage," two cars and three children who someday will be heading for college, facing the family with "our own national deficit."

Fritz, a computer software engineer who has moved several times from job to job, makes "over $50,000." He has not worked in any one place long enough to earn more than a minimal traditional pension, but has been putting up to $10,000 a year into on-the-job retirement savings or 401(k) plans, to which his employer also contributes and which he can transfer into his own tax-deferred retirement savings account each time he leaves a job. Park, a lawyer, stays home to take care of the children, but works part time and makes maybe $10,000 to $15,000 in a good year. Eventually she will go back to work full time and they will save more, so probably, she said hopefully, "we'll do all right in retirement."

Hopeful assessments such as the one presented by CBO assume that people like Park and Fritz will get all the Social Security benefits projected in existing law.

"We think it extremely unlikely" benefit levels can be maintained, said CED's Beeman. Social Security faces insolvency starting in 2030. At that point the big generation of boomers will be a heavy burden on Social Security and the health care system. But there is only a relatively small generation following the boomers that will be in the work force and will have to pay the taxes to fund Social Security.

Beeman and many others believe it is highly unlikely the government will simply raise taxes to make up the entire shortfall. The retirement of boomers also will create greater burdens on Medicare and Medicaid, the federal-state health program that pays for much nursing home care. The combined total would be too much for those working to finance simply through taxes. So prospects are that there will be at least some further dampening of benefits.

There is considerable uncertainty as to how many boomer households will get pensions on top of possibly reduced Social Security benefits, and the size of those pensions.

In addition, there has been a shift by employers from pensions in which the employer puts in all the money and pays benefits at retirement based on a fixed, advance formula (defined benefits) to pensions in which the employee (on a soft of do-it-yourself basis) puts in most of the money. In this latter kind of pension, such as a 401(k) plan, employees often can get access to their money before retirement age, although that usually involves paying a penalty.

According to some projections, three-quarters of the boomer households conceivably could end up with these plans, which is far higher than the number of people receiving pensions today. However, many workers are cashing out their 401(k) money long before they reach retirement.

Finally, another reason for concern about boomer prospects in retirement is that in the long run, the prosperity of the nation in general depends in large part on high national savings rates that provide investment funds for new plant and equipment. Personal household savings have declined as the overall savings rate has declined. All kinds of savings now average less than 2 percent of gross domestic product, down from 4 percent in the 1980s and 8 percent in previous decades, the CED report said.

"Low savings rates could undermine adequate growth of the economy and hurt not only the boomers when they retire but everyone else," said Sylvester Schieber, vice president of Watson Wyatt Worldwide, a benefits consulting firm.

In addition, Schieber said, the current generation of retirees benefited from three developments not likely to be repeated for the boomers: very high economic growth in the first two decades after World War II; very big increases in Social Security benefit rates from 1968 to 1972; and a huge boom in the value of housing.

"The present generation of baby boomers is not likely to get that kind of a pop," he said.

TRIBUTE TO WESLEY D. RATCLIFF

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, July 10, 1995

Mr. TOWNS. Mr. Speaker, I rise today to recognize the contributions and achievements made by Wesley D. Ratcliff. Born in Crockett, TX, he holds a B.S. in math and physics from Prairie View University and a M.S. in math from the University of Houston, TX. He is a former associate professor of math and computer science at Texas Southern University.

After completing 2 years as a lieutenant in the Armed Forces, Mr. Ratcliff joined NASA as an aerospace engineer, where he performed significant work on the U.S. Moon missions.

In 1976, he joined IBM as a customer engineer in Houston, TX. He then went on to serve as program support representative and field manager. In 1981, he was promoted to equal opportunity manager and in 1983, he took a staff position in the area of plans and controls in Dallas, TX. Subsequently, Mr. Ratcliff held the position of branch manager in San Antonio, TX before joining the Corporate Marketing and Service Group in Purchase, NY in 1986 as a marketing consultant. As he continued to climb the corporate ladder, he became the administrative assistant to the vice president of business development in Franklin Lakes, NJ. In 1990, he was promoted to plant site manager in Brooklyn, NY.

On September 30, 1993, Mr. Ratcliff reached the height of his career goal when he signed an agreement with IBM which transferred ownership of its Brooklyn plant to Advanced Technological Solutions, Inc. [ATS] to form a new minority controlled employee-owned enterprise to become the company's first president and CEO.

Mr. Ratcliff is very active in many community activities. He also serves on the boards of several not-for-profit organizations.

Mr. Ratcliff and his wife are the proud parents of three children.

I am proud to recognize Wesley D. Ratcliff for his hard work, dedication, and outstanding achievements over the years.

NEW JERSEY DEVILS WIN THE STANLEY CUP

HON. WILLIAM J. MARTINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, July 10, 1995

Mr. MARTINI. Mr. Speaker, it is with great honor and pleasure that I welcome the New Jersey Devils to Capitol Hill today to celebrate their winning of the Stanley Cup.

With tenacious defense and precision scoring the New Jersey Devils skated their way to victory.

It was not long ago that Wayne Gretzky referred to the Devils as a "Mickey Mouse Franchise."

Well, Mr. Gretzky, maybe you should go to Disneyland, because the New Jersey Devils trounced the Detroit Red Wings in the Stanley Cup finals.

New Jersey is proud of their Devils. This team exemplifies determination, grace under pressure, and true grit.

Perhaps the Devils should change their mascot to the broom, this, of course, would represent their sweep of the cup finals over the Red Wings.

Mr. Speaker, before this series began, I entered into a gentleman's wager with my colleague and good friend from Michigan, Congressman FRED UPTON.

Had the Devils fallen short in their quest for the Cup, I would have provided the gentleman with a bowl of fresh calamari from Anthony's Restaurant in Totowa, NJ.

In my State we refer to calamari as, New Jersey octopus. I know how much you Red Wings fans like octopus, but I would advise my colleague from Michigan he will not be getting any from me this year.

The Devils have won the Cup, its time for the gentleman from Michigan to pay up. I look forward to receiving from Congressman UPTON some of the agricultural products that have made his State famous.

Mr. Speaker, I am pleased that the members of the 1995 Stanley Cup championship team could come to Washington today.

TRIBUTE TO SALEEM S. RIZVI

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, July 10, 1995

Mr. TOWNS. Mr. Speaker, I stand before you today to recognize Saleem S. Rizvi for his accomplishments in the Pakistani-American community. An attorney by profession, Mr. Rizvi earned his bachelor of law, master of arts, and political science degree from the University of Punjab, Pakistan.

He came to the United States to advance his education in law, entering one of our most prestigious legal institutions, Columbia Law School. There, he expanded his academic horizons and excelled in the area of international law.

After graduating from Columbia with a master of law degree, Mr. Rizvi enrolled again as a special student to conduct further studies and research in the areas of corporate law, international trade, and investment law.

In 1990, he developed a diversified practice covering corporate, commercial, real estate, bankruptcy, and immigration law. He successfully and continuously applies his knowledge, skills, and vision to help those less fortunate and who seek his assistance in fighting for justice and securing their legal and political rights.

He is very active in many community affairs. He organizes, participates, and lectures at many seminars and conferences on legal and general matters. Saleem writes a weekly column on law for three ethnic newspapers and hosts the television program "Legal Forum." Through this program, he is able to update his viewers on the latest developments in the legal field.

Married and the father of a daughter, Saleem Rizvi is a member of the New York County Lawyers Association, American Immigration Lawyers Association, and the American Bar Association.

Mr. Speaker, I acknowledge Mr. Rizvi's accomplishments and his dedication to the service of our community.

TRIBUTE TO DENIS JARDINE

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, July 10, 1995

Mr. TOWNS. Mr. Speaker, I rise to recognize Dr. Denis Jardine for his impressive career in the field of health care which began in 1948 as a venereal disease follow-up officer for the World Health Organization in Liverpool, England.

In 1969, he started his uphill career with the Lyndon B. Johnson Health Complex, Inc. in Brooklyn, NY, as a community organizer. Then, in 1971, he was promoted to coordinator of community affairs. From 1974 to 1976 he served as assistant vice president. Since 1976 Dr. Jardine has served as chief executive officer, a position which required the handling of many financial problems. Through hard work and determination, he was able to successfully pull the Lyndon B. Johnson Health Complex out of bankruptcy. He has entered a unification agreement with Interfaith Medical Center to enhance the needs of the community.

During the span of his career, Dr. Jardine has received many commendations and awards for his years of service to the community. He is a member of the National Association of Health Services Executives Presidents' Association, American Management Association, and the American College of Hospitals Administrators. He is a widower and the father of a daughter.

Mr. Speaker, I salute Dr. Jardine for his many years of invaluable service to the community.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all

meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, July 11, 1995, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JULY 12

9:30 a.m.

Commerce, Science, and Transportation

To hold hearings to examine violence in television programs.

SR–253

Energy and Natural Resources

To hold hearings to review proposed regulatory disposition of Power Marketing Administrations.

SD–366

Environment and Public Works

To hold oversight hearings on the effects of proposals to statutorily redefine the constitutional right to compensation for property owners, with particular emphasis on Federal environmental laws.

SD–406

Finance

To resume hearings to examine ways to control the cost of the Medicaid program, focusing on the flexibility States have under the current program, including the extent of federal waiver requests and the program experience of States granted such waivers.

SD–215

Governmental Affairs

Permanent Subcommittee on Investigations

To hold hearings to examine fraud and abuse in Federal student grant programs.

SD–342

10:00 a.m.

Foreign Relations

Western Hemisphere and Peace Corps Affairs Subcommittee

To hold hearings on legislative and municipal elections in Haiti.

SD–419

2:00 p.m.

Select on Intelligence

To hold closed hearings on intelligence matters.

SH–219

JULY 13

9:00 a.m.

Environment and Public Works

Drinking Water, Fisheries, and Wildlife Subcommittee

To hold hearings on proposed legislation authorizing funds for programs of the Endangered Species Act.

SD–406

9:30 a.m.

Energy and Natural Resources

Forests and Public Land Management Subcommittee

To hold hearings on S. 884, to designate certain public lands in the State of Utah as wilderness.

SD–366

Finance

To continue hearings to examine ways to control the cost of the Medicaid program, focusing on Medicaid beneficiaries and provider groups.

SD–215

Labor and Human Resources

Aging Subcommittee

To hold hearings on S. 593, to amend the Federal Food, Drug, and Cosmetic Act to authorize the export of new drugs.

SD–430

Small Business

Business meeting, to mark up S. 895, to revise the Small Business Act to reduce the level of participation by the Small Business Administration in certain loans guaranteed by the Administration; to be followed by hearings on the future of the Small Business Investment Companies program.

SR–428A

Indian Affairs

To hold hearings on S. 479, to provide for administrative procedures to extend Federal recognition to certain Indian groups.

SR–485

10:00 a.m.

Banking, Housing, and Urban Affairs

To hold hearings to examine the proposed use of a one dollar coin.

SD–538

Foreign Relations

To hold hearings to examine U.S. national goals and objectives in international relations in the year 2000 and beyond.

SD–419

2:00 p.m.

Environment and Public Works

Transportation and Infrastructure Subcommittee

To hold hearings on S. 1005, to improve the process of constructing, altering, purchasing, and acquiring public buildings, and on pending Government Services Administration building prospectuses and public buildings cost-savings issues.

SD–406

JULY 14

10:00 a.m.

Banking, Housing, and Urban Affairs

To hold hearings on the Mexico and the Exchange Stabilization Fund.

SD–106

JULY 17

2:00 p.m.

Foreign Relations

To hold hearings on the nominations of Sandra J. Kristoff, of Virginia, for the rank of Ambassador as U.S. Coordinator for Asia Pacific Economic Cooperation, John Raymond Malott, of Virginia, to be Ambassador to Malaysia, Kenneth Michael Quinn, of Iowa, to be Ambassador to Cambodia, William H. Itoh, of New Mexico, to be Ambassador to the Kingdom of Thailand, J. Stapleton Roy, of Pennsylvania, to be Ambassador to the Republic of Indonesia.

SD–419

JULY 18

9:30 a.m.

Energy and Natural Resources

To hold hearings to review existing oil production at Prudhoe Bay, Alaska and opportunities for new production on the coastal plain of arctic Alaska.

SD–366

Labor and Human Resources

To hold hearings to examine issues relating to health insurance reform.

SD–430

2:30 p.m.

Energy and Natural Resources

Oversight and Investigations Subcommittee

To hold hearings to examine First Amendment activities, including sales of message-bearing merchandise, on public lands managed by the National Park Service and the U.S. Forest Service.

SD–366

JULY 19

8:30 a.m.

Energy and Natural Resources

Business meeting, to mark up S. 852, to provide for uniform management of livestock grazing on Federal land.

SD–366

9:30 a.m.

Finance

To hold hearings to examine Medicare payment policies.

SD–215

Labor and Human Resources

Business meeting, to consider pending calendar business.

SD–430

JULY 20

9:30 a.m.

Energy and Natural Resources

To hold hearings on S. 871, to provide for the management and disposition of the Hanford Reservation, and to provide for environmental management activities at the Reservation.

SD–366

Labor and Human Resources

To hold hearings on proposed legislation on organ transplantation.

SD–430

JULY 25

9:30 a.m.

Energy and Natural Resources

Forests and Public Land Management Subcommittee

To hold hearings on S. 45, to require the Secretary of the Interior to sell Federal real and personal property held in connection with activities carried out under the Helium Act, S. 738, to prohibit the Bureau of Mines from refining helium and selling refined helium, and to dispose of the United States helium reserve, and S. 898, to cease operation of the government helium refinery, authorize facility and crude helium disposal, and cancel the helium debt.

SD–366

POSTPONEMENTS

JULY 13

9:30 a.m.

Commerce, Science, and Transportation

Business meeting, to consider pending calendar business.

SR–253

SENATE—*Tuesday, July 11, 1995*

(Legislative day of Monday, July 10, 1995)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Sovereign God, we all have two things in common as we begin this day. We all have great concerns, but we also have You, a great Lord, who will help us with those concerns. Often, we worry about loved ones and friends. In our work, unfinished projects and unresolved perplexities weigh us down. Problems in our Nation and world distress us. Uncertainty about the future, and our inability to solve everything, remind us of our human limitations. We need release from the tension of trying to manage our burdens on our own strength.

Help us to hear and accept the psalmist's prescription for peace. "Cast your burden on the Lord and He shall sustain you".—Psalm 55:22.

In this quiet moment of liberating prayer, we deliberately commit each one of our burdens, large or small, into Your gracious care. Help us not to snatch them back. Give us an extra measure of Your wisdom, insight, and discernment as we tackle the challenges of this day. Make this a productive day in which we live with confidence that You will guide our thinking, unravel our difficulties, and empower our decisions. We are ready for the day. We intend to live it with freedom and joy, in Your powerful name. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able Senator from Colorado, the acting majority leader, is recognized.

SCHEDULE

Mr. CAMPBELL. Mr. President, this morning, the leader time has been reserved, and there will be a period for morning business until the hour of 9:45 a.m., with Senators permitted to speak up to 10 minutes each. At 9:45 a.m., the Senate will resume consideration of S. 343, the regulatory reform bill. Rollcall votes can be expected throughout today's session of the Senate. Also, the Senate will be in recess between the hours of 12:30 p.m. and 2:15 p.m. for the weekly policy luncheons to meet.

MORNING BUSINESS

The PRESIDING OFFICER (Mr. FRIST). Under the previous order, there now will be a period for the transaction of morning business, not to extend beyond the hour of 9:45 a.m., with Senators permitted to speak therein for not to exceed 10 minutes each.

ANIMAS LA PLATA

Mr. CAMPBELL. Mr. President, I rise today to comment on an article which appeared in the June 29, 1995, issue of the Washington Post, regarding the Animas La Plata water storage project in my home State of Colorado. There were a great many omissions in that article which, unfortunately, created a false impression that the Animas La Plata project was unneeded, which I consider to be very unfair and certainly untrue.

It is especially appropriate that I respond to that article and the false impression it created, since the House of Representatives is taking up the Interior appropriations bill this week. I trust that my colleagues in the House will be advised of my comments today.

In fairness to the Washington Post, I will presume that its editors were simply unaware of several key considerations which mandate the Federal Government's full support of this crucial project. Otherwise, it would appear that the Post is knowingly joining in a deliberate misinformation campaign on the part of high-dollar environmental groups seeking to describe the Animas La Plata as one of the last great dam projects to be built in the American West.

There is no dam on the Animas River. There is no dam on the La Plata River and there is none planned.

There is, however, a small, off-river dam proposed on a small arroyo which is necessary to create a water storage reservoir. The entire project entails a pumping plant, nothing more, on the bank of the Animas River at Durango, CO.

Under the project plan, water could be pumped out of the river and into the Ridges Basin Reservoir. Pumping would cease if the water level reaches a certain minimum flow necessary to protect fish. Most water would be pumped during flood stages.

The fact is that the Ute Indian Tribes own the senior water rights to the Animas, La Plata, and Florida River systems—as well as four other rivers—by virtue of various treaties with the U.S. Government. These treaty rights have been upheld by the Supreme Court of the United States when disputes have arisen in other States. Those disputes took the form of expensive and protracted litigation in the Federal courts.

The tribes and the water districts chose negotiation over litigation. Rather than engage in expensive and divisive legal battles, the tribes and the citizens of Colorado and New Mexico chose to pursue a negotiated settlement. The Ute Nations agreed to share their water with all people.

The people came together in partnership and cooperation with the Federal Government to reach a mutually beneficial solution: the Animas La Plata project. Their settlement agreement was executed on December 10, 1986. The Settlement Act was ratified by Congress and signed into law on November 3, 1988.

The Settlement Act is Federal law: the law of the land. It also provided a cost-sharing agreement.

The water districts and the States of Colorado and New Mexico have "put their money where their mouth is" and have already lived up to the terms of these agreements:

First, the State of Colorado has:

Committed $30 million to the settlement of the tribes' water rights claims;

Has expended $6 million to construct a domestic pipeline from the Cortez municipal water treatment plant to the Ute Mountain Ute Indian Reservation at Towaoc; and

Has contributed $5 million to the tribal development funds.

Second, the U.S. Congress has appropriated and turned over to the Ute Mountain Ute and Southern Ute Indian Tribes $49.5 million as part of their tribal development funds, and

Third, water user organizations have signed repayment contracts with the Bureau of Reclamation.

The construction of the Animas La Plata project is the only missing piece to the successful implementation of the settlement agreement and the Settlement Act. It is time that the U.S. Government kept its commitment to the people.

Historically, this country has chosen to ignore its obligations to our Indian people. Members of the Ute Tribe had been living in a state of poverty that can only be described as obscene. Their only source of drinking water was from ditches dug in the ground. I find it most distressing that the same groups and special interests who are now

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

scrambling to block this project also, in other contexts, hold themselves out as the only real defenders of minority rights in this country. Hogwash.

This project would provide adequate water reserves to not only the Ute Nation, but to people in southwestern Colorado, northern New Mexico, and other downstream users who rely on this water system for a variety of crucial needs which range from endangered species protection to safe drinking water in towns and cities—perhaps even filling swimming pools for some of our critics.

Opponents of the Animas La Plata project have alleged that the Bureau of Reclamation [BUREC], has not adequately analyzed alternative projects. That is not true.

BUREC has performed a thorough analysis of all reasonable alternatives. No new circumstances exist which require reevaluation of the prior alternatives studies.

Exhaustive studies, involving extensive public participation have demonstrated that there is no realistic alternative to the Animas La Plata project.

This public alternatives process involved an advisory team consisting of representatives of all of the entities potentially interested in receiving water from the project and environmental groups such as the Sierra Club and the San Juan Ecological Society.

The advisory team met 11 times in a 2½-year period. In addition, 10 other public meetings were held with specific groups during that same period.

The advisory team evaluated alternatives by comparing critical items for each alternative; alternatives were eliminated until the best overall plan was identified.

Critical items included: impact on wildlife habitat, fisheries, any potential visual degradation, conservation impacts, construction costs, operation costs, water conservation, river flows for rafting and fishery protection, power usage, recreation, impact on national historic monuments, and others.

Over 60 reservoir sites were identified by the team, approximately 20 in the La Plata River drainage and the remainder in the Animas River drainage. The best potential site in the La Plata River drainage is the Southern Ute Reservoir site included in the 1979 Definite Plan Report [DPR]. The Ridges Basin Reservoir site was determined to be the best site in the Animas River drainage from an engineering and environmental perspective.

In both La Plata County, CO, and San Juan County, NM, public elections were held on Reclamation's decision to move forward with the A/LP project.

All of the so-called current objections were raised and discussed in public forums during the course of the election campaigns in those communities, including the following issues: no analysis of alternatives, adverse impact on rafting, no water for the Indians, reduced flows in the Animas River, ability of farmers to pay for water, effect on wetlands, and the impact on trout and elk habitat.

At the end of the process, the general public voted overwhelmingly, on December 8, 1987, in La Plata County, CO, and on April 17, 1990, in San Juan County, NM, to endorse Reclamation's construction of the A/LP project.

In a last ditch effort, two environmental organizations, the Sierra Club and the Environmental Defense Fund, again raised "environmental concerns." Additional meetings were held to address those unstated concerns and the groups simply decided not to show up. When asked why, they just responded that they would "get back to us."

They never did.

Since then, they have chosen to simply funnel money into opposition campaigns. These groups have no real suggestions to make. They simply believe themselves to be somehow more pure, environmentally, than anyone else.

The only alternative these groups suggest is to "buy off" the Indians. Of course, the proposed "buy off" would be funded by hundreds of millions of taxpayer dollars but the groups do not care about that.

The Animas La Plata project is a good deal for the taxpayers.

The Southern Ute Indians and the Ute Mountain Ute Indian Tribes have rejected the buyout proposals. Just like everyone else in our country, they simply want decent and reliable water supplies—using their own water—for their people.

In exchange, all the people of the area will benefit. Opponents are apparently willing to spend even more tax dollars to "buy off" the Indians than it would cost to complete the project.

So, as the Washington Post suggested, there are, indeed, "politics" behind the Animas La Plata controversy.

I would suggest, however, the political "games" are not being played by project supporters, but rather by a few elite and select high dollar special interest groups—"beltway environmentalists"—and their ensconced cronies in the Department of the Interior and the EPA.

It is time to end the trail of broken treaties and fulfill our commitments. Great nations, like great people, keep their words of honor.

I implore my colleagues in the House to help us keep our word to the people of Colorado and New Mexico.

I thank the Chair, and I yield the floor.

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

NORMALIZATION OF RELATIONS WITH VIETNAM

Mr. MURKOWSKI. Mr. President, it is my intention to speak on two subjects this morning. One is a very timely subject relative to an announcement that we anticipate will be made today by the President with regard to relations between the United States and Vietnam.

I want to commend our President. By moving to establish full diplomatic relations with the Government of Vietnam, the two-decade-long campaign to obtain the fullest possible accounting of our MIA's in Southeast Asia really now enters a new and more positive phase.

I support the President's decision because I continue to believe, and the evidence supports, that increased access to Vietnam leads to increased progress on the accounting issue. Resolving the fate of our MIA's has been and will remain the highest priority of our Government. This Nation owes that to the men and the families of the men who made the ultimate sacrifice for their country and for freedom.

In pursuit of that goal, I have personally traveled to Vietnam on three occasions. I held over 40 hours of hearings on that subject as chairman of the Veterans' Committee back in 1986. I think the comparison between the situation in 1986 and today is truly a dramatic one. In 1986, I was appalled to learn that we had no first-hand information about the fate of POW/MIA's because we had no access to the Vietnamese Government, to its military archives or to its prisons. We could not travel to crash sites. We had no opportunity to interview Vietnamese individuals or officials.

All of this has now changed. American Joint Task Force-Full Accounting (JTF-FA) personnel located in Hanoi now have access to Vietnam's Government, to its military archives, and to its prisons. They now travel freely to crash sites and interview Vietnamese citizens and individuals. The extent of United States access is illustrated by an excavation last month that involved overturning a Vietnamese gravesite.

As a result of these developments, the overall number of MIA's in Vietnam has been reduced to 1,621 through a painstaking identification process. Most of the missing involve men lost over water or in other circumstances where survival was doubtful and where recovery of remains is difficult or unlikely. Significantly, the number of discrepancy cases—the cases of those servicemen where the available information indicated that either the individual survived or could have survived—has been reduced from 196 to 55. The remaining 55 cases have been investigated at least once, and some several times.

Much, if not most, of this progress has come since 1991 when President

Bush established an office in Hanoi devoted to resolving the fate of our MIA's. Opening this office ended almost two decades of isolation, a policy which failed to achieve America's goals.

It is an understatement to say that our efforts to resolve the fates of our MIA's from the Vietnam war have constituted the most extensive such accounting in the history of human warfare.

There are over 8,000 remaining MIA's from the Korean war. A large number of those are believed to have perished in North Korea, and we have had little cooperation from the Government of North Korea on that issue. There are over 78,000 remaining MIA's from World War II. These are wars where we were victorious and controlled the battlefield. So I find it ironic that we have already moved to set up liaison offices in North Korea when that Government has not agreed to the joint operation teams that have been used successfully in Vietnam. Nor has North Korea granted access to archives, gravesites, or former POW camps. Vietnam, on the other hand, has worked steadily over the last 4 years to meet the vigorous goal posts laid down by successive United States administrations.

In 1993, opponents of ending our isolationist policy argued that lifting the trade embargo would mean an end to Vietnamese cooperation. This is distinctly not the case. As the Pentagon assessment from the Presidential delegation's recent trip to Vietnam notes, the records offered are "the most detailed and informative reports" provided so far by the Government of Vietnam on missing Americans.

During the post-embargo period, the Vietnamese Government cooperated on other issues as well, including resolving millions of dollars of diplomatic property and private claims of Americans who lost property at the end of the war.

While we have made progress, Americans should not be satisfied by any means. But there are limits to the results we can obtain by continuing a policy which, even though modified, remains rooted in the past and is still dominated by the principle of isolation. I think we have reached that limit, Mr. President. It is time to try a policy of full engagement.

Recognizing Vietnam does not mean forgetting our MIA's, by any means. Recognizing Vietnam does not mean that we agree with the policies of the Government of Vietnam. But recognizing Vietnam does help us promote basic American values, such as freedom, democracy, human rights, and the marketplace. When Americans go abroad or export their products, we export an idea, a philosophy, and a government. We export the very ideals that Americans went to fight for in Vietnam.

We justify most-favored-nation status for China for many reasons, one of which is that it allows us a means to interact and to communicate with the Chinese in an attempt to bring about change in China. The same application is appropriate for Vietnam.

Moreover, diplomatic relations give us greater latitude to use the carrot and stick approach. Diplomatic, economic, and cultural relations should flourish, but we retain leverage because Vietnam still seeks most-favored-nation status and other trading privileges which the United States controls.

Establishing diplomatic relations should also advance other important U.S. goals. A prosperous, stable, and friendly Vietnam integrated into the international community will serve as an important impediment to Chinese expansionism. Normalization should offer new opportunities for the United States to promote respect for human rights in Vietnam. Finally, competitive United States businesses which have entered the Vietnamese market after the lifting of the trade embargo will have greater success with the full faith and confidence of the United States Government behind them.

Mr. President, let me conclude by saying that I hope this step will continue this country's healing process. I think the time has come to treat Vietnam as a country and not as a war.

PRINCIPLES FOR RISK ASSESSMENT

Mr. MURKOWSKI. Mr. President, I want to talk briefly about the matter that is currently before this body, regulatory reform.

Very briefly, we have been reviewing some of the principles associated with regulatory reform. I would like to talk a little bit about risk assessment this morning and some guidelines for which the applicability of risk assessment should be used, and why it can be very, very helpful as we address the responsibility of determining which policies make sense and which policies are redundant and costly and inefficient.

If we establish principles for risk assessment, some of the bases for evaluation should include the following:

First, the use of sound science and analysis as the basis for conclusions about risk.

Second, to use the appropriate level of detail for any analysis.

Third, to use postulates, or assumptions, only when actual data is not available.

Fourth, to not express risk as a single, high-end estimate that uses the worst-case scenario.

I think we have all heard horror stories about various cases where applications are promoted and promulgated, and over an extended period of time, when much expenditure has taken place in evaluating the prospects for a particular approval, we find that the agency has evaluated under a worst-case basis. If we, in our daily lives, were to make our decisions based on a worst-case scenario, we probably would not get out of bed in the morning. As a consequence, to reach that kind of an evaluation is clearly misleading, in many cases, to the applicant that never would have proceeded with a request for approval from the various agencies if the applicant had assumed that the agency would come down to the worst-case basis.

Oftentimes the agency will follow a particular line to reach a worst-case basis, and after expending a great deal of money and time, they look at another alternative, but only at the conclusion of reaching a worst-case scenario. So there are other opportunities that should be pursued with regard to that.

Further, some of the other principles for risk assessment would require comparing the risk to others that people encounter every day to place it in a perspective. I could speak at some length on that, but I think that is obvious to all of us.

Further, to describe the new or substitute risks that will be created if the risk in question is regulated.

Use independent and external peer review to evaluate risk results.

Finally, to provide appropriate opportunities for public participation.

So what we are talking about here is improved risk assessment, which helps the homeowners, farmer, small business, taxpayers, consumers—all Americans. To conclude, risk reduction equals benefit.

I thank the Chair and yield the floor.

COMPREHENSIVE REGULATORY REFORM ACT

Mr. THURMOND. Mr. President, I rise today in support of S. 343, the Comprehensive Regulatory Reform Act of 1995. Regulatory reform is a critical issue which the Congress should act on promptly in order to significantly benefit our Nation.

When unnecessary regulations are avoided or eliminated, American production will be more competitive and provide more jobs for American workers. With true regulatory reform, American consumers will have more choices at lower prices.

We all are concerned that the health and safety of Americans not be compromised. By using more common sense, however, our Nation can achieve the same level of health and safety at far lower costs. Avoiding unnecessary regulations frees up our economic resources to be used for more important purposes. Every billion dollars saved by avoiding wasteful regulations is a billion dollars that the private sector can invest in new enterprises and new jobs.

This will generate additional revenues to bolster our national defense, education, crime reduction, and other priorities.

The principle of applying cost-benefit analysis and risk assessment to Government regulations is hard to seriously dispute. It is based on the simple concept that the Government should not impose rules and regulations unless the benefits justify all the costs. The legislation which we are now considering has been through numerous drafts and compromises in order to achieve this purpose.

The bill articulates standards by which the costs and benefits of regulations are to be compared, and provides for judicial review of actions by the Government. The bill applies not only to new regulations as they are formulated, but also to existing rules. The legislation applies to relatively large regulations, which impose substantial costs. Importantly, risk assessments are standardized and must rely on the best available science.

Mr. President, it is my belief that the principles in S. 343 are vital for this Nation. Great effort has been put forth to bring the bill to this point, and everyone involved in moving this bill forward deserves our thanks.

For all of these reasons, I urge my colleagues to support this regulatory reform legislation.

In closing, Mr. President, I wish to commend the able Senator from Texas [Mrs. HUTCHISON] for the great job she has done on this important matter, which will be of such benefit to our Nation.

I yield the floor.

FEDERAL OVERREGULATION

Mrs. HUTCHISON. Thank you, Mr. President. I want to commend the senior Senator from South Carolina and also the dean of the Senate for the statement that he made.

Senator THURMOND has been in this Senate a long time. He has seen the evolution of the regulations that have come as a result of the laws that are passed by Congress.

I think the Senator from South Carolina is saying that the regulators have gone far beyond congressional intent. He believes, as I do, that we must bring back the regulators, tell them what our congressional intent is, and try to bring some balance into the system.

I thank the senior Senator from South Carolina for his leadership in this area and appreciate very much that, with his long experience, he would weigh in on behalf of this bill. In fact, it is a very important bill.

One issue about which all Members have heard from our constituents over and over again is the need for fundamental reform of the tortured and increasingly tangled web of Federal overregulation.

Congress passes laws. We delegate their implementation to regulators. If the regulators do not do what is envisioned by Congress, it is our responsibility to step in.

In recent months, I have spoken on the floor of the Senate offering examples of Federal Government overregulation and unintended consequences of regulatory excess that puts Americans out of work. It usurps our constitutional rights. It saps our productivity. It saps our economic competitiveness.

Americans have a right to expect their Government to work for them, not against them. Instead, Americans have to fight their Government in order to drive their cars, graze cattle on their ranches, or operate their small businesses in a reasonable, commonsense manner.

I hear this every time I go home, or when I go to other States. The people of this country are tired of the harassment of their Government, and I think that was the message they sent in November 1994.

The legislation before the Senate today provides lawmakers with a tool for ensuring that Federal agencies are carrying out Congress' regulatory intent properly and within the confines of Congress and no farther. Agencies have gotten into the habit of issuing regulations which go far beyond the intended purpose of the authorizing legislation. This bill is simply an extension of the system of checks and balances which has served our country so well for more than two centuries.

Senator THURMOND has not been here for all two centuries, but we all know that it has gotten out of whack since Senator THURMOND has been in this Senate, and most certainly in the last 10 years, or 5 years, we have seen the balance go in the wrong direction. It is time to put the balance back in our Government and the ability of our Government to regulate our people.

In November, the voters sent a message: We are tired of the arrogance of Washington, DC. Nothing demonstrates that arrogance more than the volumes of one-size-fits-all regulations which pour out of this city and impact on the daily life of the American people.

The regulators in Washington, it seems, believe that everyone can fit into one cookie-cutter mold. They do not take into account the different situations in each business, in each State, in each city, and the things that might be affecting safety or whatever the regulation is covering in that city.

I believe the voters went to the polls because they felt harassed by their Government, the Government that issues regulations without any thought of the impact on the small businesses of this country.

You just do not feel the pinch of being a small business person unless you have been there, unless you have lived with the regulations and the mandates and the taxes that our small business people live with every day.

Our small business people, Mr. President, are the economic engine of this country. Government is not the economic engine of America. Small business is. They create 80 percent of the new jobs in this country. Sometimes they feel like their Government is trying to keep them from growing and prospering and creating new jobs.

If they do not grow and prosper and create new jobs, how are we going to absorb the new people coming into our economic system, the young people graduating from college, the immigrants who are coming into our country? How are we going to absorb them if we continue to force our small businesses to put money into regulatory compliance and redtape and filling out forms, instead of into the business to buy new machines that create new jobs. That is the issue we are talking about today.

When I meet with small business people, men and women across our country, complaints about excessive Federal regulations are always at the top of their list. In fact, a few weeks ago the White House hosted a conference on small business and, according to those with whom I spoke who went to the conference, no one issue and no one agency energized the participants more than the need for comprehensive regulatory reform.

They talk about taxes, yes. But, mostly, those small business people say, "If you will get the regulations off our backs so we can compete, that's when we will be able to throw the shackles off and grow and prosper and create the new jobs for our country."

So, Mr. President, I am proud to be a cosponsor of the Comprehensive Regulatory Reform Act of 1995. This bill is necessary to get the regulatory process under control. The Republican majority of this Congress recognizes that the problems that business owners face are hurting our country and we are committed to doing something about it. We are committed to regulatory reform legislation that will establish a flexible decisionmaking framework for Federal agents, so they know what the parameters are. We need to make our congressional intent very clear.

Some of the regulators might have gotten out of control unwittingly. Maybe we were not clear enough. Congress has passed broad, general sorts of guidelines in the past. Maybe it is time we pass laws that are specific, so the regulators have no doubts. I think that is our responsibility, and this bill will take a step in that direction.

We need to increase public participation in the regulatory decisionmaking process. That is what this bill will do. It will bring in peer groups to talk about the effects of the regulations so the regulators will know if there is a scientific basis for this regulation, if we really need it, how does it affect the workplace, the marketplace, worker safety, worker harassment—that is what this bill will speak to.

It will require political and judicial accountability. If you do not have judicial accountability, there will not be any teeth in this law. So we will have the ability to have judicial review, to see if the regulation meets the test of the law that is passed.

This bill will require the regulators to ask and answer the questions, "Is the regulation worth the cost?" And, "Does this approach maximize the benefits to society as a whole?" That is what the basic concept of this bill is.

We have heard a lot about food safety. That is something the press has really talked about in the last couple of days. They have shown meatpacking plants and talked about the E. coli virus and the things that might happen if we have regulatory reform that will require the things we are talking about.

The fact is, food safety is exempt from this bill. It is not spoken to. It is exempt because no one wants to worry about the safety of our food. So it is very important, as we look at the press that is going to be coming out of this bill, that we realize there are some very important exceptions because we want to make sure we do not do something that is going to hurt the health or welfare of the people of this country.

No, the Regulatory Reform Act of 1995 is trying to put balance and common sense back into the system. We have survived in this country for 2 centuries with a balanced approach. It is only in the last 5 or 10 years that we have gone so far in the direction of excesses that we must now say to our business people, "We are going to try to put some common sense into this equation. We are going to put people ahead of blind salamanders." That is the purpose of this act.

The key principle embodied in this bill is cost-benefit analysis. Is it worth it? The premise is simple. Before an agency promulgates a regulation, it systematically measures the benefits of the regulation and compares those benefits to the costs. This analysis allows a full and complete understanding of the regulatory burden imposed on consumers by the Federal Government. Is the price increase, necessitated by the regulation, to people who are in the grocery store, worth the benefit to be gained? And, further, will the benefit actually be gained? That is a question that is not asked. Will the regulation actually achieve the purpose that it is supposed to achieve? That is a very important, basic concept, and that is what a cost-benefit analysis does.

I want to talk more about cost-benefit analysis because there have been some studies done that show that we can spend $900 million to possibly save one life when we could take the same $900 million and assure that we would save hundreds of lives in other ways. So it becomes a matter of how we spend our resources. How will it benefit the most people? And that is what bringing common sense into the system will do.

Risk assessment is an important complement to cost-benefit analysis. The problem with the current regulatory process is that it often focuses on minor risks while ignoring far greater threats to public health and safety. There are many risks to public health and, without effective risk assessment, funds available to address these risks will be needlessly squandered on questionable programs that do little to really promote public health and safety and environmental protection.

In my home State of Texas we had the incredible experience of having a new mandate put on the citizens of Dallas and Houston and El Paso and Beaumont—cities that were in nonattainment areas for air quality, cities that are trying desperately to do something about it. El Paso has tried in every way to clean its air. But, because there is smoke coming across the border from Juarez, they are not able to do anything. And it is not their fault.

Nevertheless, they were put under a mandate to have a vehicles emissions test by a certain specific machine that would possibly, we are told, have cleaned the air maybe 0.5 percent—maybe, rather than with other types of machines that are much cheaper, that would not have required the hassle to every consumer in those cities, and which would have done much the same but at much less cost. And it was not even proven that was the only machine that would be able to detect these emissions. Yet we had the requirement that we had to go to certain centers with just that machine, and the cost was in the hundreds of millions of dollars to the consumers of Texas. We were faced with doing that because of dealing with the EPA and not being able to have the flexibility to do what we could in a cost-beneficial manner.

We are all trying to clean up the air. Of course, we are. But how much is going to be the cost to possibly get a 0.5-percent benefit to the air quality? And we are not even sure that it was necessary just to have that one machine. We find that there are also infrared rays that will pick up at an entry ramp the emissions that do not meet the test. We have an experiment that is in the works right now that would give us the ability to buy some time and in a much more cost-efficient way with much less hassle for the consumers of the cities all across America that are in the noncontainment areas. We could have something just as effective for them at a much less cost. That is what risk assessment and cost-benefit analysis will do for our country and for the regulators.

Judicial review. Without judicial review, there is no way to ensure that the Federal agencies will use the risk assessment and the cost-benefit analysis to write the regulations. I mean, that is what we have to have. We have to have the leverage that is out there so that we will be able to go to the judges and say, "Did we meet the standard that is required under the law?" And Congress is being specific about congressional intent.

Good science, open science. It is important that we have the scientific basis for these regulations because we do not know for sure in many instances that there really is good, sound science in the sunshine in the regulations that are put forth.

This we assured in the bill with peer review. In most cases today, the scientific and technical assessment on which regulations are based are not subjected to independent external peer review. As a result, the scientific and technical underpinnings of agency actions that may have enormous consequences often are not adequately tested. Regulation reform is necessary to assure that there will be an independent external peer review. We can get many of the scientists that understand these issues to be on a peer review panel to make sure that we have the ability to say absolutely for certain this regulation will accomplish what it is intended to accomplish. So regulation reform will reduce the burden of unnecessary Federal regulation.

Requiring cost-benefit analysis, risk assessment, judicial review, and the threat of congressional action will go a long way toward ensuring common sense in the promulgation of Federal regulations.

There will be the ability in this bill for Congress to have 60 days to review any regulation and turn it back. That is a very important point. It is very important that Congress will be able to come in and say to regulators that they have gone beyond what we intended. That is the ultimate responsibility of Congress, and it is one that we must take.

So, Mr. President, we are beginning now to set the framework in this debate. There has been a lot of hot air in the last week about what might happen if we do not have this ability to come in and put checks on the system. A lot has been said about what will happen if we put some checks and balances in the system.

Mr. President, I think this is a great step for the small business people of this country, and I am proud that the sponsors of the bill have done such a terrific job on a bipartisan basis to help the small business people of our country compete.

Mr. President, I will stop here because I know that at 9:45 they are going to propose another amendment. But I just want to thank the managers of the bill, the sponsors of the bill, and the leadership for taking this very important step to free our businesses to compete in the international marketplace and for our small businesses to be able to grow and prosper and create the jobs that are going to keep this economy vital for the new people and to keep the young people graduating from high school and college employed. That is the goal, Mr. President.

I thank the Chair. I yield the floor.

HONORING THE HUMANITARIAN EFFORTS OF PAUL H. HENSON

Mr. ASHCROFT. Mr. President, today I am proud to honor a man who has distinguished himself in business, as a civic leader, a caring neighbor, and a friend to those in need. Mr. Paul H. Henson will soon be awarded the International Humanitarian Award by the CARE Foundation at its 50th Anniversary International Humanitarian Award dinner. Mr. Henson was nominated for the award for his sustained support of humanitarian causes, for his community foresight, and for his business ingenuity. It is with much pleasure that I add my voice to the scores of others praising Mr. Henson for his efforts to aid the world's poor and help them achieve social and economic well-being.

Mr. Henson began his successful career in the telecommunications industry as a groundman for the Lincoln Telephone Co., in his native State of Nebraska. After attaining the position of chief engineer, Mr. Henson moved to United Telecom—now Sprint—in Kansas City. In 1964, at the age of 38, he became president of United and began to implement an aggressive leadership and expansion strategy to transform the predominantly rural telephone company into an international communications force. Henson presided over the construction of the first—and still the only—nationwide 100 percent digital, fiber-optic network and made it the centerpiece of the company's long-distance strategy. After his leadership of Sprint for 25 years, the company now claims over 6 million local telephone customers, 97 percent of which are digitally switched.

Mr. Henson currently serves as chairman of the board and chairman of the executive committee of Kansas City Southern Industries, Inc. He has also formed Kansas City Equity Partners, L.C., a venture capital fund dedicated to providing seed capital and management assistance for entrepreneurial activities.

Paul H. Henson's distinguished business career and his reinvestment in the community through support of the humanitarian initiatives championed by the CARE Foundation have rightly earned him the distinction of being awarded the Foundation's International Humanitarian Award.

IN MEMORY OF WHITE EAGLE

Mr. PRESSLER. Mr. President, last Friday, the operatic tenor White Eagle passed away at age 43. My wife, Harriet and I join with countless others from around the world in expressing our condolences to his friends and family. Our Nation has lost an exemplary individual who had an extraordinary voice.

White Eagle was a Lakota. His Lakota name was Wanbli ska. He first sang in public in his father's church. He was only 5 years old. It was the voice of the great Mario Lanza that inspired the young White Eagle to become an opera singer. In 1985, he graduated from the Merola Opera Program at the San Francisco Opera. He went on to perform with the Pennsylvania Opera Theater, the Florentine Opera, the Western Opera Theater, the Cleveland Opera, and the Skylight Comic Opera.

Many of my friends and colleagues here in Washington should remember well White Eagle's rich tenor voice. In 1989, White Eagle performed the finale at the Inaugural Gala for President George Bush. Two years later, the President and I had the opportunity to hear and appreciate his extraordinary talent at the Golden Anniversary of the Mount Rushmore National Memorial. And in 1993, he debuted in Carnegie Hall, and was inducted into the South Dakota Hall of Fame as Artist of the Year.

I am pleased that a scholarship fund has been established in his name. It is a fitting remembrance of his spirit, his leadership, and his legacy as a role model for native American youth.

It is said that a man's talents are a mere extension of his soul. That is certainly true of White Eagle. The strength, the beauty, and the richness of his voice were a reflection of his character, and the values of the Lakota Sioux—the values of bravery, integrity, wisdom, determination, and generosity. His voice moved us all.

Mr. President, White Eagle exemplified those values yet again when, in 1990, he was diagnosed with AIDS. After he made his illness public, he became a tireless advocate for AIDS awareness. His role as advocate was equal to his role as artist, because through his voice, through his message, he brought people together. His last years are a reminder to each of us of the capacity in ourselves to reach out to family and friends in times of human struggle and suffering.

White Eagle left us in the manner he lived among us—with dignity and bravery. He has left us richer for his courage and perseverance. For all the extraordinary gifts he possessed and shared with us, we are grateful. We will miss him.

ONE HUNDRED AND TWENTY-FIVE YEARS OF COPYRIGHT IN THE LIBRARY OF CONGRESS

Mr. HATCH. Mr. President, I rise today to recognize the 125th anniversary of the act of 1870 which established our first central national copyright registration and deposit system by bringing it into the Library of Congress. Last Saturday marked the anniversary of the act being signed into law and today Librarian of Congress James Billington and Register of Copyrights Marybeth Peters are hosting a program to honor the employees of the Copyright Office for the work they do both for our national copyright system and the Library.

Article 1 of the Constitution grants Congress the power to "promote Science * * *", or knowledge, by granting authors, for a limited time, exclusive rights in their writings. The intent of the Framers was to increase the knowledge of the people by encouraging authors to create works. The first copyright law, enacted in 1790, reflected that purpose in its title: "An act for the Encouragement of Learning * * * ". The 1790 act also established a system of copyright registration where a person wishing to register a work did so in the nearest Federal court and sent a copy of the work to the Secretary of State in the Nation's Capital.

The registration statute changed somewhat after 1790, but it was not until 1870 that Congress passed legislation which established the Library of Congress as the first central agency which would both perform the copyright registration function and serve as the custodian of copyright deposits in the United States.

The 1870 act allowed for a national system of copyright registration with improved efficiency for the Federal Government, for authors and artists, and for publishers. Works submitted for copyright registration were sent to one location and could be carefully recorded and cataloged. For the first time, a copy could be used as both a record of registration and as a resource available to future generations of Americans.

In addition to strengthening our copyright registration system, the 1870 act also ensured that the Library of Congress would be the recipient of the tremendous amount of material submitted for copyright registration. The 1870 act put the Library on a path to becoming the greatest repository of knowledge in the world. To this day, the Library relies on the works it receives through copyright.

The Copyright Office, a part of the Library, provides Congress with nonpartisan analysis of copyright law and implements all aspects of this law. It also serves as a valuable resource to the domestic and international copyright communities. The Office registers almost 600,000 works a year.

Copyright has been a critical element of American creative and economic life since the beginning of our Nation. Today, our core copyright industries have become an increasingly important part of our national economy and a major area of our international trade relationships. We in the Congress must continually ensure that the basic principles of copyright remain applicable to a scientific and creative world in which technology changes very rapidly.

I would like to join the Librarian and the Register in saluting the work of the Copyright Office and its staff on this day and in paying tribute to the important services they provide in keeping our copyright system strong and adaptive to change.

REGULATORY REFORM

Mr. PRESSLER. Mr. President, during consideration of S. 343, the Regulatory Reform Act, I intend to offer an amendment to waive administrative and civil penalties for local governments when Federal water pollution control compliance plans are in effect.

I believe this amendment is a simple issue of fairness to local governments and I urge my colleagues to join me in supporting this amendment. I ask unanimous consent that my amendment be printed in the RECORD, along with my "Dear Colleague" letter.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. —

At the appropriate place, insert the following:

SEC. . WAIVER OF PENALTIES WHEN FEDERAL WATER POLLUTION CONTROL ACT COMPLIANCE PLANS ARE IN EFFECT.

Section 309 of the Federal Water Pollution Control Act (33 U.S.C. 1319) is amended by adding at the end the following:

"(h) WAIVER OF PENALTIES WHEN COMPLIANCE PLANS ARE IN EFFECT.—

"(1) IN GENERAL.—Except as provided in paragraph (2), notwithstanding any other provision of this Act, no civil or administrative penalty may be imposed under this Act against a unit of local government for a violation of a provision of this Act (including a violation of a condition of a permit issued under this Act)—

"(A) if the unit of local government has entered into an agreement with the Administrator, the Secretary of the Army (in the case of a violation of section 404), or the State to carry out a compliance plan with respect to a prior violation of the provision by the unit of local government; and

"(B) during the period—

"(i) beginning on the date on which the unit of local government and the Administrator, the Secretary of the Army (in the case of a violation of section 404), or the State enter into the agreement; and

"(ii) ending on the date on which the unit of local government is required to be in compliance with the provision under the plan.

"(2) REQUIREMENT OF GOOD FAITH.—Paragraph (1) shall not apply during any period in which the Administrator, the Secretary of the Army (in the case of a violation of section 404), or the State determines that the unit of local government is not carrying out the compliance plan in good faith.

"(3) OTHER ENFORCEMENT.—A waiver of penalties provided under paragraph (1) shall not apply with respect to a violation of any provision of this Act other than the provision that is the subject of the agreement described in paragraph (1)(A).".

WASHINGTON, DC,
June 27, 1995.

DEAR COLLEAGUE: When the Senate begins consideration of S. 343, the Regulatory Reform Bill, I intend to offer an amendment to lift the unfair burden of excessive civil penalties from the backs of local governments that are working in good faith with the Clean Water Act.

Under current law, civil penalties begin to accumulate the moment a local government violates the Clean Water Act. Once this happens, the law requires that the local government present a Municipal Compliance Plan for approval by the Administrator of the Environmental Protection Agency (EPA), or the Secretary of the Army in cases of Section 404 violations. However, even after a compliance plan has been approved, penalties continue to accumulate. In effect, existing law actually punishes local governments while they are trying to comply with the law.

Under my amendment, local governments would stop accumulating civil and administrative penalties once a Municipal Compliance Plan has been negotiated and the locality is acting in good faith to carry out the plan. Further, my amendment would act as an incentive to encourage governments to move quickly to achieve compliance with the Clean Water Act.

This amendment is a simple issue of fairness. Local governments must operate with a limited pool of resources. Localities should not have to devote their tax revenue to penalties, while having to comply with the law. Rather, by discontinuing burdensome penalties, local governments can better concentrate their resources to meet the intent of the law in protecting our water resources from pollution.

I hope you will join me in supporting this commonsense amendment for our towns and cities. If you have any questions or wish to cosponsor this amendment, please feel free to have a member of your staff contact Quinn Mast of my staff at 4-5842.

Sincerely,

LARRY PRESSLER,
United States Senator.

WAS CONGRESS IRRESPONSIBLE? LOOK AT THE ARITHMETIC

Mr. HELMS. Mr. President, before contemplating today's bad news about the Federal debt, let us have "another go," as the British put it, with our little pop quiz. Remember—one question, one answer.

The question: How many million dollars in a trillion dollars? (While you are arriving at an answer, bear in mind that it was the U.S. Congress that ran up the Federal debt that now exceeds $4.9 trillion.)

To be exact, as of the close of business yesterday, Monday, July 10, the exact Federal debt—down to the penny—stood at $4,924,014,991,181.29. This means that, on a per capita basis, every man, woman, and child in America now owes $18,691.65.

Mr. President, back to the pop quiz: How many million in a trillion? There are a million million in a trillion.

THE 50TH SITTING BULL STAMPEDE

Mr. PRESSLER. Mr. President, last week marked the 50th Annual Sitting Bull Stampede in Mobridge, SD. People from across the State and Nation joined together in celebrating a long-standing tradition which first began in 1946. The stampede has a long and colorful history, and it serves to remind people of South Dakota's proud heritage.

It is appropriate that the Sitting Bull Stampede is named after the famed Sioux leader. The multicultural diversity of the event recognizes the contributions of both native Americans and non-native Americans to South Dakota in the last century. As my colleagues know, Sitting Bull was a famous leader and medicine man of the Lakota people. This native American hero was born in the Mobridge area and lived there for much of his life. His remains are buried on a nearby bluff overlooking the Missouri River.

The Sitting Bull Stampede began as a small rodeo organized by a group of cowboys. As the rodeo became more successful, the stampede began to take on a cultural focus. Last week's celebration was one of the biggest thus far, complete with parades, rodeos, a carnival, and many other festivities. More than 400 contestants competed in this year's rodeo. Miss Rodeo America, Jennifer Douglas, was on hand to assist in the crowning of this year's stampede queen, Anne Lopez of Keldron.

Mr. President, I am very proud of the accomplishments of the people of the Mobridge area in planning such a tremendous event. The Sitting Bull Stampede brings two cultures of our State together. It reminds us not to forget our past as we progress into the future. I extend my best wishes to the citizens of Mobridge and all who participated in this year's events.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

COMPREHENSIVE REGULATORY REFORM ACT

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of S. 343, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 343) to reform the regulatory process and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Dole amendment No. 1487, in the nature of a substitute.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HEFLIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Mr. President, will the Senator yield?

Mr. HEFLIN. Yes.

Mr. HATCH. I ask unanimous consent that no amendment be filed until Senator DOLE has an opportunity to get here from the wings.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HEFLIN. Mr. President, I am pleased to support and cosponsor S. 343, the Comprehensive Regulatory Reform Act of 1995. The time has come for meaningful regulatory reform and for the Congress to exercise its legitimate legislative function to set statutory standards to guide Federal agencies with regard to their rulemaking authority.

Since my term as chief justice of the Alabama Supreme Court when I and others set out to reform Alabama's antiquated judicial system, I learned that true reform never comes easy. Entrenched bureaucracy and vested interest groups will fight you every inch of the way, as I know they are now doing.

President Clinton acknowledged the need for regulatory reform in a speech on March 16 of this year when he called for common sense in approaching regulatory reform. He said, and I agree, that "government can be as innovative as the best of our private sector businesses. It can discard volume after volume of rules and, instead, set clear goals and challenge people to come up wit their own ways to meet them."

The substitute bill that has emerged is the product of several hearings before the Judiciary Committee, the Energy Committee, and the Governmental Affairs Committee. Extensive discussions have occurred over the last several weeks in an attempt to fashion a consensus bill which can pass the Senate and will be signed by the President. I believe our efforts will prove successful because the bill under consideration is not extreme reform.

It does not contain a supermandate, as the House bill does, which would overturn Federal laws to protect our environment, protect worker safety, or guarantee product safety.

The last time the Senate attempted to legislate in this area was 15 years ago when working in a bipartisan manner we passed 94–0 a bill known as S. 1080. Regretfully, certain interest groups prevailed upon the House of Representatives to kill our reform efforts.

I was a cosponsor of S. 1080 which was drafted to address deficiencies in the Federal regulatory system and to improve the rulemaking process of public notice and comment. The Judiciary Committee report at that time found that the "dramatic costs of regulation suggest that we may be expending our limited resources on uncertain regulatory remedies for various costs at a significant human cost by depriving other vital interests of these resources."

The 1982 report found that annual compliance costs of Federal regulation, that is, costs which are borne by those who must comply with regulations, were running "at more than $100 billion a year." The 1995 report from the Judiciary Committee concludes that these costs are now approximately $542 billion. Congress must act to address this problem.

RULEMAKING

I note that the first part of the substitute incorporates many procedural improvements to section 553 of the Administrative Procedure Act which defines the rulemaking process. This section substantially incorporates and updates the provisions of S. 1080.

This section requires public notice of proposed rulemaking in the Federal Register and expands the amount of information which must be given by an agency to the public so that it can adequately comment on the proposal. An exemption is established from this requirement where such a proposed rule would be "contrary to an important public interest or has an insignificant impact."

There are other provisions which are too numerous to mention, but this section is strongly supported by many legal scholars and the American Bar Association.

ANALYSIS OF AGENCY RULES

The second section of the substitute deals with the analysis of agency rules defining expansively the terms "costs" and "benefits" to include, not just quantitative considerations, but also qualitative considerations of what a cost-benefit analysis should contain. This section also contains a definition of a "major rule" which is set at $50 million, a figure that is arguably too low especially since every President since Gerald Ford has defined, by Executive order, a major rule to be $100 million, as does S. 291, the regulatory bill that reported out of the Governmental Affairs Committee.

An earlier draft of this legislation provided that a major rule could also be less that $50 million if it were likely to result in disproportionate costs to a class of persons or businesses within the regulated sector. This provision would have given relief to many small businesses who are all too often threatened with being put out of business due to the costs of implementing a rule. I support an amendment offered by Senator NUNN which will assure that our Nation's small businesses will derive the benefits intended by our reform efforts in this bill. The Nunn amendment would require that a proposed rule which has been determined to be subject to the Regulatory Flexibility Act be considered a major rule for the purposes of cost benefit analysis and periodic review. Agencies frequently propose rules whose annual economic impact would not rise to the $50 million threshold set by this bill, but those rules can and do place significant burdens on small businesses. The Nunn amendment will assure that cost benefit analysis benefit small businesses.

I might add that the substitute exempts from the definition of "rule" those rules which related to future rates, wages, prices, monetary policy, protection of deposit insurance funds, farm credit insurance funds, or rate proceedings of the Federal Energy Regulatory Commission.

Once an agency has determined that a rule is a major rule, the agency must conduct a cost-benefit analysis to demonstrate that, based on the rulemaking record as a whole, the benefits justify the costs and that the rule imposes the least cost of any of the reasonable alternatives that the agency has the discretion to adopt. Quite simply put, this means that if a Chevrolet will get you to your goal, pick it and not the Cadillac model.

AGENCY REVIEW AND PETITION

The next section of this substitute requires each agency to publish a list of existing rules, general statements of policy, or guidances that have the force and effect of rules, that the agency deems to be appropriate for review, and each agency must publish a schedule for systematic agency review of those rules. The agency schedule shall propose deadlines for review of each rule and the deadlines will occur not later than 11 years from the initial schedule established by the agency. This timeframe, to me, is a reasonable one and should allay concerns that agencies will be swamped with too much work as a result of this legislation.

This bill also provides a petition process to allow any interested person subject to a major rule to petition an agency to conduct a cost-benefit analysis on an existing rule if it is a major rule and that its benefits do not justify its costs, nor does the rule impose the least costs of the reasonable alternatives. A petitioner has a high standard to meet and will have to spend a great deal of money to conduct its own cost-benefit analysis to show there is a likelihood that the rule's benefits do not justify its costs.

I also supported an amendment offered by Senator ABRAHAM which will be included in this section to ensure that agencies periodically review the need for rules which have a substantial impact on small businesses. As section 623 is now written rules will not be subject to review unless an agency chooses to place them on the review schedule or unless an interested party successfully petitions to have the rule placed on the schedule. Thus rules which have a substantial impact on small businesses might be left off of the review schedule. The Abraham amendment would require agencies to include on their review schedules any rule designated for review by the Chief Counsel for Advocacy of the Small Business Administration. This amendment creates, in effect, a small business counterpart to the petition process available to larger industries and makes section 623 stronger and fairer for all the regulated community.

I, therefore, support the provisions of section 623 relating to agency review and the petitioning process. I believe that a reasonable effort and compromise has been achieved which will not overly burden our regulatory agencies and at the same time will ensure that current rules are revised, if necessary, and terminated if they become outdated or useless.

DECISIONAL CRITERIA

Let me turn briefly to the decisional criteria section of this legislation. In my judgment, it does not go as far as the House bill on the issue of supermandate. The House bill's provisions require that a rule's benefits must justify costs and that the rule achieves greater net benefits or the rule must be rescinded outright. The House bill thus supersedes, supermandates, and trumps all other previous statutory criteria. The provisions of this substitute "supplement any other decisional criteria otherwise provided by law." Despite what the critics may say, the Senate bill is not a supermandate, nor is it a wholesale massacre of our Nation's environmental, health, or safety laws and regulations.

Under this legislation, Federal agencies are directed to conduct cost-benefit analyses on all major rules they propose to issue. As a general rule, no final major rule shall be promulgated unless the agency head finds: First, that the benefits justify the costs; second, that the rule employs flexible alternatives, and third, that the rule adopts the "least cost alternative of the reasonable alternatives that achieve the objectives of the statute."

If the underlying statute does not allow the agency to consider whether a rule's benefits justify its cost, the agency can still issue the rule—unlike the House bill where the rule is precluded from going forward—as long as the rule employs flexible alternatives, and adopts the "least cost alternative that achieves the objectives of the statute."

What is unreasonable about Congress requiring agencies to follow these standards when a rule's benefits do not justify its costs? This is what regulatory reform is all about—trying to give the unelected Federal bureaucrats some guidance in their rulemaking authority.

JUDICIAL REVIEW

Next, the judicial review provisions of the substitute adequately address concerns that I have raised, and judicial review is granted to review final agency actions. Any cost-benefit analysis or risk assessment shall constitute part of the whole rulemaking record and not be subject to separate, independent consideration. The provisions in the substitute provide for effective judicial review of cost-benefit analyses and risk assessments "to determine whether the analysis or assessment conformed to the requirements" of the bill.

The judicial review provision does not allow judicial nitpicking to overturn a final rule if an agency fails to follow a procedure required by this law. However, if the substance of a cost-benefit analysis or risk assessment is flawed, a court can and should review such a flawed conclusion as a part of the final agency rulemaking.

MISCELLANEOUS

There are other provisions which I will not attempt to address at length at this time. There is an extensive provision relating to risk assessment, a section known as regulatory flexibility analysis which passed the Senate last year, which I supported, to give relief to small businesses and a provision supported by Senator GRASSLEY known as congressional review which will give Congress the right to veto agency rules before they take effect. Perhaps this should be limited to veto major rules or we may risk being inundated with paperwork. With congressional staffs shrinking, it may be wise to limit this provision, or this provision may prove meaningless.

The substitute bill before the Senate is a major step in the right direction toward meaningful regulatory reform. Congressional action to give agencies some greater guidance is warranted and long overdue. I applaud the administration for its recent actions to improve the situation, but it is not enough for my constituents who must live with the reality of regulatory overkill on some occasions. I am quite certain that the entrenched Federal bureaucracy will never approve of true reform. They want unlimited authority to make rules as they see fit.

However, I believe the Congress has a responsibility to set some reasonable standards for the bureaucrats to follow. This historic regulatory reform bill is the most comprehensive effort since the Administrative Procedure Act was adopted in 1946.

I began my public career reforming one system, and as I approach the end of my career, I am pleased to join the reform that is now needed for the Federal executive branch of the Government.

Mr. HATCH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. COVERDELL). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, what is the pending business?

The PRESIDING OFFICER. The Chair advises the pending business is S. 343.

AMENDMENT NO. 1492 TO AMENDMENT NO. 1487

(Purpose: To address food safety concerns)

Mr. DOLE. Mr. President, I send an amendment to the desk to the substitute and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE] proposes an amendment numbered 1492 to amendment No. 1487.

On page 25, delete lines 7–15, and insert the following in lieu thereof:

"(f) HEALTH, SAFETY, OR FOOD SAFETY OR EMERGENCY EXEMPTION FROM COST-BENEFIT ANALYSIS.—(1) A major rule may be adopted and may become effective without prior compliance with this subchapter if—

"(A) the agency for good cause finds that conducting cost-benefit analysis is impracticable due to an emergency, or health or safety threat or a food safety threat (including an imminent threat from E. coli bacteria) that is likely to result in significant harm to the public or natural resources; and".

Mr. DOLE. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 1493 TO AMENDMENT NO. 1492

(Purpose: To address food safety concerns)

Mr. DOLE. Mr. President, I send a second-degree amendment to the pending amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE] proposes an amendment numbered 1493 to amendment No. 1492.

Mr. DOLE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the language proposed to be inserted, insert the following:

"(f) HEALTH, SAFETY, OR FOOD SAFETY OR EMERGENCY EXEMPTION FROM COST-BENEFIT ANALYSIS.—(1) Effective on the day after the date of enactment, a major rule may be adopted and may become effective without prior compliance with this subchapter if—

"(A) the agency for good cause finds that conducting cost-benefit analysis is impracticable due to an emergency, or health or safety threat, or a food safety threat (including an imminent threat from E. coli bacteria) that is likely to result in significant harm to the public or natural resources; and".

Mr. DOLE. Mr. President, the only change is that it becomes effective 1 day after the date of enactment in the second-degree amendment.

As I stated yesterday, opponents of regulatory reform have avoided the merits and, instead, have engaged in scare tactics.

One of the most recent, perhaps most offensive, of the scare tactics has been the suggestion that regulatory reform means tainted meat, specifically, further outbreaks of E. coli food poisoning. This is an insult to the American people.

It is also false. Opponents know that this claim is false, and the media knows it. Yesterday, I included in my statement and accompanying fact sheet in the RECORD two specific provisions already in the bill to make it obvious that this bill would not hold up meat inspection rules.

One provision allows the implementation of a regulation without first complying with other requirements of the bill where there is "an emergency or health or safety threat."

That seems pretty clear to me. That is in the bill. It does not get any clearer than that. It is a sign of either sloppy journalism or extreme cynicism, and this amendment ought to be named the Ralph Nader-Margaret Carlson-Bob Herbert amendment. I have listened to these commentators—who probably never read the bill—and they talk about the terrible things that can happen and that we are all going to eat tainted meat. Margaret Carlson said 5,000 people are going to die, and then she corrected it to 500 before the program ended. It seems that the media do not worry about the facts if they have a good story. I hope to send a message to the media—at least those three—and those on the left who need to read the bill, to read what really happens. The media have chosen to buy into these distortions in the face of language that makes clear that we have responsibly taken health and safety concerns into account.

I do not believe for a moment that opponents are unaware of this health and safety exemption. But in an effort to ensure that we begin focusing on issues legitimately in this debate, I am offering an amendment to make crystal clear that S. 343, the regulatory reform bill before us, has no effect on efforts to address food safety. Period. End. That is it.

No one here, Democrat or Republican, wants to interfere with food safety. I hope we can lay that to rest by having a big vote on this amendment. The words "health and safety," already part of the bill, obviously include concerns about food safety. But this amendment adds the words "food safety, included an imminent threat from E. coli bacteria."

Mr. President, it concerns me that such distortions are being made. E. coli bacteria and the illnesses that occur as a result of that bacteria are serious problems for the people of this country. Every Member of Congress, regardless of party, is concerned. It is not a partisan issue and should not be a partisan issue. But opponents—I do not mean the opponents in the legislative body. I think the opponents have come from outside the bureaucracy and in the media. All these people who want to protect their little preserves are the ones who are peddling the false information and trying to scare people. Obviously, you can scare people if you distort the facts.

Now that I have offered the amendment, opponents will no doubt come up with more imaginary scenarios. But I am putting them on notice that we chose the broadest possible phrase. In the event that somebody missed it, it is, "emergency and health safety threats." We chose it in the first place for a very good reason. We want to make certain that every possible response to health and safety threats is exempted from delay where that is appropriate. Adding a laundry list, as opponents would have us do, undermines the very public policy goal opponents pretend they seek. This is so because it raises the possibility that someone could read this provision to exclude anything not specifically included. I do not think that is what ought to happen.

That is not our intent. We want the broadest possible language so that we can take care of all of the situations where health or safety threats exist.

Mr. President, I certainly urge the adoption of this amendment. It seems to me, as I have said earlier, based on the misinformation, flatout distortions, and flatout false statements that I have read in the media, heard in commentary, heard on television, I offer this amendment. It should not be necessary to offer this amendment, but, as I have suggested, it is being offered to make certain that nobody misunderstands—nobody on this floor, on either side of the aisle. There is nobody that I know of who does not support food safety.

Mr. President, I want to make an inquiry of the managers momentarily. In an effort to get a vote on this amendment and make certain this is the first amendment we will have a vote on, procedurally, I also would need to amend the bill itself. I am amending the substitute. But if I can have some assurance that we can have a vote without any further amendments to the bill on this issue, then I will not proceed to sort of fill up the tree. I make that inquiry of the Senator from Ohio.

Mr. GLENN. Mr. President, I am glad the majority leader has addressed the E. coli situation. I would like to check with some of the people who were interested in this on our side before we proceed with this. It might even be possible to accept it, I do not know. I would like to check on it further before I agree to anything at this point.

Mr. DOLE. It may be just a matter of—well, I will go ahead and fill up the tree and amend the bill in two degrees.

AMENDMENT NO. 1494

Mr. DOLE. Mr. President, I send an amendment to the desk ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE] proposes an amendment numbered 1494.

Mr. DOLE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike the word "analysis" in the bill and insert the following:

"analysis.

"( ) HEALTH, SAFETY, OR FOOD SAFETY OR EMERGENCY EXEMPTION FROM COST-BENEFIT ANALYSIS.—(1) A major rule may be adopted and may become effective without prior compliance with this subchapter if—

"(A) the agency for good cause finds that conducting cost-benefit analysis is impracticable due to an emergency, or health or safety threat, or a food safety threat (including an imminent threat from E. coli bacteria) that is likely to result in significant harm to the public or natural resources."

Mr. DOLE. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 1495 TO AMENDMENT NO. 1494

Mr. DOLE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE] proposes an amendment numbered 1495 to amendment No. 1494.

Mr. DOLE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the language proposed to be inserted, insert the following:

"analysis.

"( ) HEALTH, SAFETY, OR FOOD SAFETY OR EMERGENCY EXEMPTION FROM COST-BENEFIT

ANALYSIS.—(1) Effective on the day after the date of enactment, a major rule may be adopted and may become effective without prior compliance with this subchapter if—

"(A) the agency for good cause finds that conducting cost-benefit analysis is impracticable due to an emergency, or health or safety threat, or a food safety threat (including an imminent threat from E. coli bacteria) that is likely to result in significant harm to the public or natural resources."

Mr. DOLE. Mr. President, I think this is a clear-cut issue. My view is that the amendment is not necessary. But this is an effort to have the opponents who are really concerned about this bill focus on the issues rather than trying to frighten the American people, saying that somehow anybody who is for this bill is out here trying to peddle dirty meat. That was a charge made over the weekend and in the past few days.

I think probably it is in the interest of everybody who supports regulatory reform that the amendments be offered. I am the one being criticized by the media. "Senator DOLE's bill is promoting dirty meat." And some say maybe I am doing it for the meatpackers. Well, I do not know any meatpackers. I do not have any connection there. In any event, this is just to calm down the hysteria of some in the media. But they will get hysterical about something else. They are good on their feet. As soon as this matter is resolved, they will have some other hysterical notion or a figment of somebody's imagination, and some statement will be made, or there will be a ludicrous charge that they will pick up on. There are, unfortunately, some people in the bureaucracy who believe that the Government should do everything in America. They do not want any regulatory reform.

They are not one of the American families who are paying an average of $6,000 a year for regulatory reform. They are not a farmer or rancher or small businessman or small businesswoman who is trying to make a living for their family and all they get are more and more and more regulations from the Federal Government.

I happen to believe that regardless of anybody's party affiliation, if you are a businessman, a businesswoman, a farmer, rancher, whatever, you have to believe there are too many regulations and you have to believe there is some way to protect health and safety as we should, also, to make certain that there is some way we can review and make certain that some of these regulations never are implemented, because they have no benefit, a great deal of cost, and all they do is put a burden on somebody in America.

Democrat, Republican, somebody out there will pay. That is why we find this coalition of the left and the media and those in the bureaucracy and others who are fearful they might lose a job, I guess, or they might make life easier for the average Americans, who are vitally opposed to any regulatory reform.

I mentioned to the President this morning, we had a meeting at the White House, and I apologize to the managers for being late, this was a bill that I thought had potential to have broad bipartisan support. I met privately with the President after a regular meeting. I told him the number of changes we have already made, and we are prepared to look at other changes that are legitimate, and we are still having ongoing—as I understand—the Senator from Utah has an ongoing discussion with Members on the other side.

I will not repeat what the President said. I do not want to repeat discussions of the President, but I want him to understand, talking about bipartisanship, and lowering the rhetoric, this is an opportunity, right here, this bill.

There is no reason this bill does not pass this body by a vote of 75 to 20 or 80 to 20—good, strong, regulatory reform bill. I would hope that we can continue in the spirit we have started.

I want to commend the Senator from Louisiana, the Senator from Utah, Senator HATCH, and the Senator from Delaware, Senator ROTH, and others, including the Presiding Officer, who have been working on this on a daily basis.

My view is if we were to work in a bipartisan way we can complete action on the bill this week. I am happy to yield the floor to the Senator from Louisiana.

Mr. JOHNSTON. Mr. President, I want to thank the majority leader for his comments.

Mr. President, this amendment, in my view, is totally unnecessary, but if it helps to clarify and reassure, then I will support it. The provision that it amends was one of those provisions put in at our behest, and agreed to by the majority leader, in order to take care of this very situation.

Whether it is cryptosporidium, E. coli bacteria, or Ebola virus—whatever—the bill already covers that kind of health emergency. The bill says that you do not have to comply with either cost benefit or with risk assessment if they find that there is an emergency or health or safety threat that is likely to result in significant harm to the public or to natural resources.

Mr. President, it is clear the bill already covers that, and this was one of those 100-odd amendments that were accepted by the majority leader at our behest.

I believe it has been a very good bipartisan effort. It is not a complete and perfect bill yet. We still have some amendments which we hope will be accepted. There is an ongoing dialog about that.

Mr. President, I am still very hopeful this bill can be passed overwhelmingly on both sides of the aisle. I hope we can proceed not with drawing lines in the dirt and lines in the sand and tossing bombs at one another, but, rather, try to make this bill a more perfect bill, a better bill.

Believe me, Mr. President, risk assessment and cost-benefit analysis is needed by the taxpayers who are overburdened in this country today, and just to try to defeat this bill by phony issues is not the way to go. We should try to improve it with real amendments.

I believe that the distinguished Senator from Utah, the floor manager of this bill, and I believe the majority leader, will show cooperation, because they have so far.

I will vote for this amendment. It is totally unnecessary. The bill already covers this kind of emergency.

Mr. HATCH. Mr. President, I know the distinguished Senator from Ohio wants to comment. I will just take a few minutes.

I want to thank the distinguished Senator from Louisiana for his cogent remarks. He is right. This matter was taken care of in our negotiations. We have language in this bill that completely resolves this problem without this amendment.

In the interest of trying to pacify and resolve some of the hysteria and fear that seems to pervade this body from time to time, and certainly the outside groups—I have to say, evidently, the media, or some aspects of the media. I actually have watched the media over the last number of years, and I think they have been for the most part responsible, but on this issue they have not been responsible since this bill has been laid down, or at least those who have been primary purveyors of what they think this bill stands for.

We have over 100 amendments we have agreed to with the White House and others on this bill, trying to accommodate and resolve these problems.

I might add, we have worked very closely with the distinguished Senator from Louisiana and others in doing so. I want to compliment the majority leader for his willingness to try and make this bill as perfect as we possibly can.

One of the amendments we agreed to was described by our distinguished Senator from Louisiana, that he fought for in our negotiations, that really solved this problem. I think it is unfortunate we have to resolve it again and again and again because of hysteria and the use of fear tactics on the part of the left, really, in this country.

I have to say, certain Members of the media, in my opinion, have acted irresponsibly. I hope that the media will read this bill, those who are responsible will read it, and start talking about this bill in the manner that it deserves.

It is amazing to me the lengths supporters of big government status quo will go to in opposing the Dole-Johnston regulatory reform bill. The newest media myth spread at the end of last week is that the bill's cost-benefits requirement will somehow block the U.S. Department of Agriculture's meat safety rules for 2 or 3 years. That is pure bunk. It is apparent opponents of the bill are preying on the fear of the public and on individuals who have suffered from E. coli bacteria.

What these advocates of fear do not reveal, enforcement of food safety rules is predominantly done not through rules but through adjudicatory enforcement and inspection orders against meat processors and handlers, which are explicitly exempt from S. 343's requirements.

What they did not reveal is that S. 343, in any event, contains a provision that exempts health, safety, or emergency rules from cost-benefit analysis when there is a threat to the public.

They also do not reveal S. 343 mandates the promulgation of rules that are both cost efficient and that are likely to significantly reduce health, safety, and environmental risks.

They did not reveal that the USDA had already conducted a cost-benefit analysis and concluded that the benefits of the rule far outweighed its cost.

Finally, I want to mention the most outrageous statement attacking the bill in this media campaign of fear was made last Thursday on C-SPAN. To generate fear of S. 343's cost-benefit requirement, a spokesperson for the lobbying group Public Citizen, contended that cost-benefit analysis was something the Nazis conducted to compute the worth of prisoners in concentration camps.

That is highly offensive. Such claims are pure bunk. They are nonsense. It demonstrates how really desperate the desperate can be.

These people want overregulatory activity because that is where the power has been. They control the whole U.S. population from this little beltway called Washington, DC. When we come to this floor and bring reasonable rules that will change the status quo and cause people to be able to live within certain norms and restraints and save the taxpayers' moneys and cause our society to work better, then these defenders of the status quo, these leftists, start making these outrageous comments.

The Dole amendment makes crystal clear that S. 343 does not impede the all-important protection of public health and food safety.

In that regard, let me just take a couple more minutes, because I think this is a perfectly appropriate place for me to give my daily Top 10 List of Silly Regulations. Let me start with No. 10, a regulation holding up the residential building project for a wetland, .0006 acres in size—about the size of a Ping Pong table.

No. 9. Creating an Endangered Species Act recovery plan for a breed of snail that will only flourish in an ice age or during the ice ages.

No. 8. A regulation making the playing of a musical instrument near a campfire in a national forest a Federal class B misdemeanor. I mean, my goodness.

No. 7. Fining a company for not having a comprehensive hazardous communications program for its employees. Its employees were two part-time workers. That is our Federal Government in action.

No. 6. Requiring $6 hospital masks instead of $1.50 masks, without any evidence that the more expensive mask is needed.

No. 5. Requiring such stringent water testing, that local governments actually had to consider handing out bottled water in order to save money.

That is our Federal Government in action, at work.

No. 4. Denying a permit to build a pond to raise crawfish because the habitat provides food and shelter to "a wide variety of * * * fish * * * including the red swamp crawfish."

No. 3. Barring a couple from building their dream house because the goldencheeked warbler had been found in the canyons adjacent to their land. Just think about that. This is happening in America.

No. 2. Requiring so much paperwork for a company over 50 employees—8 pounds, by the way, 8 pounds of paperwork—that they purposely do not hire any more people.

The silliest of all as far as I am concerned, for today's list:

No. 1. A company was fined $34,000 by the EPA for failing to fill out form "R" in spite of the fact that they do not release any toxic material.

These are the type of things we are trying to correct. These are the type of things this bill will correct. These are the type of things that have Americans all over this country upset, and rightly so.

This is why we have worked so hard, the distinguished Senator from Louisiana and our majority leader and others, to come up with a bill that really makes sense, that will make a difference, that will help us all to get rid of some of these silly, ridiculous, costly and really harmful regulations and interpretations of regulations as well, and to give the people some power to make the bureaucrats have to think before they issue regulations and interpretations of those regulations as well.

At that point, I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from Ohio.

Mr. GLENN. Mr. President, I am sorry the majority leader, who proposed the amendment, has left the floor. I hope he may be listening, because there is more reason to be concerned about this than he indicates.

We hear repeatedly, "This is not needed, it is not needed, it is not needed." Everybody says that. Yet we are still leaving it up to the agencies to make the decisions. Maybe that is OK. But let me tell you why we were planning to address E. coli this morning anyway before the majority leader came back and put in the amendment. There is a track record here, going back into committee, of Republicans not voting to take E. coli out of consideration here. We had a regulatory moratorium bill proposed a few months back that came before the Governmental Affairs Committee. It would have stopped everything in its tracks. It was a regulatory moratorium for everything from the last election on—any rule, any regulation that was in consideration. Even some of those that had been finalized already and were in effect were cut off.

We had a list of rules in committee that we thought should be exempted, that should not be subject to that regulatory moratorium. There was no exemption for health and safety in committee on that. And what happened? I put in an amendment in committee that would exempt rules to protect against E. coli. We had parents who lost children come before the committee and testify as to the horrible death that their children suffered with E. coli. Their children died. And I put in an amendment in committee to exempt E. coli from that moratorium. We had a record rollcall vote and I lost, because the Republicans opposed it. I lost on that, 7 to 7, one Republican being absent. I lost that vote to exempt E. coli, with seven Republicans on the other side of the aisle voting to keep E. coli in, in that regulatory moratorium.

Mr. JOHNSTON. Will the Senator yield?

Mr. GLENN. No, I will not yield at this point.

The PRESIDING OFFICER. The Senator has not yielded.

Mr. GLENN. I will not yield.

We hear it is not needed. We hear that such rules are exempted in this bill—but it still leaves it up to the agency. What if we have somebody in the agency who does not want to do this? I am not going to make too much out of that because, we have to trust the people in the agencies. But to say that we should have no concern, that nobody on this floor, nobody in the whole U.S. Senate is against health and safety rules when we had a vote in committee that prevented rules addressing E. coli and cryptosporidium, which was another vote, from being exempted from that moratorium is just not right. There is very, very good reason why we are concerned about this.

We did not have a single Democratic vote that was against exempting these important rules, but we did have votes on the Republican side that prevented that exemption being made in committee. That is the reason we are concerned about this. This is not something we are making up. It is not something fictitious. It showed the intent on the other side, at least in that case, under the regulatory moratorium, of not being willing to give one inch on this issue. Not even when we have about 250 deaths a year, and over 20,000 people made ill by E. coli bacteria every year.

Further, under this bill, there are still problems even if the agency declares an emergency. An emergency exemption is provided, and I agree and I know the Senator from Louisiana is going to say that the agency has the discretion to exempt these rules, and they can. But the bill now says that within 180 days of putting the rule out, the agency has to go back and do the cost-benefit analysis and risk assessment. Even with that kind of an exemption by the agency, I do not know whether they can do a cost-benefit analysis or whole risk assessment in 180 days. That is very difficult. Sometimes these things take years—2, 3, or 4 years or more. If they cannot complete the work required what happens then? And even then, these rules would still be subject to the petition process. The agencies might have to review the rule again, which is subject in turn to judicial review, or judicial challenge, anywhere along the line. So there are still weaknesses and there are areas where we are still concerned about this.

But I come back to why we are concerned about this. We are not digging up things. We are not desperate. We are not wild-eyed leftists over here. We are trying to protect the people of this country from E. coli in this particular case. I think the majority leader has addressed some of the problem with this. Maybe it is sufficient. I do not know. We will have to talk it over a little bit to see what we want to do on this.

But there is very, very good reason why I personally had concern about this. It is heartwrenching to sit in the committee and hear mothers and fathers come before the committee talking about how they lost their children to E. coli.

We see statistics. We know that there are estimates that about 4 percent of the meat is tainted. So you had better cook it well. I will tell you that. Four percent—that means that 1 out of every 25 times you buy a hamburger, it could be tainted. We want to protect the people of this country against that kind of meat contamination, if we can. Of course, we do. We brought this up in committee. We could not get that exemption through in the committee. It was not exempted from the moratorium. That is the reason we are concerned about this.

So this is not something fictitious. This is something that we have already voted on in committee. The Republicans voted solidly on the other side to not exempt E. coli from that regulatory moratorium that was proposed at that time. The regulatory moratorium still has not been completed, because we have not gone to conference with the House yet.

I still have some concern about the processes under this bill, S. 343, that would require that within 180 days a cost-benefit and risk assessment would have to be done for rules that have been issued under this exemption. I do not know whether that can be done. But if it is not done, what would happen then? It would still be subject to petitions to review the rule all over again, even though everybody can say E. coli is a danger to the health and safety of the people of this country. Yet, in committee Republicans voted against exempting that; voted to not give the protection that the people of this country deserve.

So I am glad that the majority leader has done what he has done this morning. We will have to discuss whether we think this goes far enough. But there is very good reason why we are concerned about this. Our concerns are not fictitious, not something we are making up, and it is not something where politics is involved. It is the health and safety of the people of this country. It is not because of politics, as the majority leader indicated a little while ago, that we are talking about E. coli. And an exemption is needed. The vote in committee showed that we needed legislation in this regard. So we will see whether we think it is adequate or not.

I yield the floor.

Mr. JOHNSTON addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Louisiana.

Mr. JOHNSTON. Mr. President, the problem with this bill is that the opponents are not willing to take yes for an answer. I do not know what happened in committee. I do not know whether the Republicans were opposed or were not opposed to some particular provision on E. coli bacteria. But I am telling you.

Mr. ROTH. Will the distinguished Senator yield a moment on that point?

Mr. JOHNSTON. Yes, for a question.

Mr. ROTH. I wanted to make a statement on what happened in the committee.

Mr. JOHNSTON. If the Senator will let me make a few comments, I will yield the floor.

Mr. ROTH. All right.

Mr. JOHNSTON. The point is not what has happened in past history. We are dealing with what this bill says now here. I and my staff worked with the majority leader on this very provision to take care of not only E. coli, not only cryptosporidium, not only Ebola virus, but all public safety threats so that we exempted from any cost-benefit analysis or any risk assessment if it is impractical due to an emergency or health or safety threat that is likely to result in significant harm to the public or natural resources.

Mr. President, what could be more clear than that? If it is a threat to public health or safety or likely to result in any significant harm to the public or natural resources, you do not have to do a cost-benefit analysis. You do not have to do a risk assessment. That was not in the original Dole bill. They accepted this amendment. Now they do not want to take yes for an answer.

Mr. President, we need to get this bill to be really considered for what it says. I just received a statement of administration policy on this Comprehensive Regulatory Reform Act which I must tell you, Mr. President, I find offensive. I think it is disingenuous. I sat in the room with Sally Katzen who is head of the OIRA. She came up with some very good suggestions among which was a method—I call it the Katzen fix—whereby we could combine all of the scheduling of rules to be considered, of look backs of the petition process to have it all considered at the same time with that schedule controlled by the Administrator. We accepted this suggestion completely—Senator DOLE and his staff, and Senator HATCH and others. And now I find that this is unacceptable and agencies are overwhelmed with petitions and the lapsing of effective regulations. It is just disingenuous because they accepted the very proposals which were made.

Let us get serious about this bill, Mr. President. Look. This bill is not about E. coli bacteria or about cryptosporidium. Those are scare tactics. That has been taken care of in this bill. There may be a lot of things to oppose on real grounds. But I think we ought to get real about it. We ought to be ingenuous about our opposition, those who propose various provisions. And if there is a real problem with cryptosporidium or E. coli, why do not you offer the amendment? Let us see if we can work it out rather than come in on the floor with white-hot debate and mothers with children who die from various things. We are just as concerned about that, those of us who want regulatory reform, as anybody in this Chamber. And we have taken care of it. To suggest that it is not taken care of is just not ingenuous, Mr. President.

We need regulatory reform. We need bipartisan regulatory reform. If there are serious amendments, let us consider them on their merits and not on the basis of something that is not in this bill.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Delaware.

Mr. ROTH. Mr. President, what the distinguished Senator from Louisiana has just said is exactly on point. What we are seeking to do is to make this a cleaner environment for all people. What has happened too often by scare tactics is that we find actions being taken that are unnecessary and unwarranted. The Senator is absolutely right. There is language already in the proposed legislation that will take care of these emergencies where there is a threat to health and safety. And there is no way. It is totally impossible to eliminate where all of those threats are going to arise in the future. That is the reason for the general language that, where there is an emergency or a problem of health and safety, an exemption, an exception, is made to the requirements of the legislation. But the basic purpose of the legislation is to ensure that we do a better job of regulating, of eliminating the risks and problems faced by this Nation. It is already costing every American family something like $6,000 a year. We need to ensure that those dollars are well spent, that we get the biggest bang for the buck.

Just let me point out that what exists in this legislation also existed in the moratorium. The moratorium provided that the President had the right to exempt health and safety regulations from the moratorium. That would include various diseases, E. coli or whatever else might be of emergency nature. The important point was that when the Republicans voted the way they did they were relying on the general language. I do not care how many amendments we add. I support the amendment of the distinguished majority leader. But legally, it is not necessary.

Would not the Senator from Louisiana agree with that?

Mr. JOHNSTON. Mr. President, I will say in response that really the majority leader's amendment adds nothing to what is already in the bill except it says including E. coli. Health including E. coli. A health threat already included E. coli. It already includes cryptosporidium. It also includes the Ebola virus. It already includes everything that is encompassed in the world health.

So it is totally unnecessary. But if it reassures somebody that now we are taking care of E. coli, so much the better.

Mr. ROTH. I could not agree more. I personally intend to support the amendment of the distinguished majority leader. But the important point is that in this legislation we want to deal with not only the threats we face today but we face in the future. That is the reason for the general legislation. Who knows what horrible disease may develop sometime in the future. That is the purpose of the language in this legislation.

So I just want to say I agree with what the distinguished Senator from Louisiana said. It was exactly the same situation when we were dealing with regarding the moratorium. We had general language to cover health and safety. We gave the President the authority to exempt it. There was no need for it. That is the reason many of the Senators voted as they did.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Connecticut.

Mr. LIEBERMAN. I thank the Chair.

Mr. President, I appreciate the fact that the majority leader has offered this amendment this morning, not just because it clarifies that the language of the bill was not intended to hold up this rule on bacteria in meat, which the Centers for Disease Control tells us is a serious health problem, but because the amendment reminds us why we have regulation. The amendment reminds us that regulation does not simply emanate out of a vacuum in which some bureaucrat falls to impose irrational rules. Regulation comes from laws that we adopt in Congress, that are signed by the President, that recognize some public problem that we as the elected representatives of the people have concluded the people themselves cannot protect themselves from; they cannot handle that problem on their own.

There are a lot of problems like that in our increasingly complicated, sophisticated, globalized world. It is not like the old days where you basically grew what you ate. We are eating a lot of stuff that comes from halfway around the world. We are breathing air that contains pollutants that come from thousands of miles away. We are affected, when we go out on a sunny day in the summer, by rays that are coming through the hole in the ozone layer that has been created by chemicals that are being sent up there from all around the globe, and so on and so forth.

So we have created a series of protections as part of what I would consider the police power of the State, which is why people form governments in the first place, which is to protect them, to create security for them from harms from which they cannot protect themselves. The inspection of meat, to protect people—and people have died from bacteria in meat—is part of that apparatus.

So it is after Congress recognizes a problem, creates a law, and the President signs it, that then, because the law cannot cover every contingency, the administrators come along and they adopt regulations to carry out the rule, to apply it to specific cases. And this, frankly, is where we have gotten into some of the problems that have generated the bill before us and the substitute that many of us on the Governmental Affairs Committee supported, S. 291, now adopted almost completely in the Glenn-Chafee bill.

You would have a hard time, Mr. President—at least I have not found in this Chamber of 100 Senators representing every State in this Union—one Member who will say that he or she is not for regulatory reform. We all have been home and talked to our constituents, small business people, large business people, individuals who can cite for us an example where there is just too much regulation, but even more regulation without common sense.

My friend and colleague from Utah, Senator HATCH, has been providing what I might call the daytime version of David Letterman's nighttime list of the 10 best. We have Senator HATCH in the morning, and we have heard these stories and they are real, and it is why we are all for regulatory reform. But the reason why some of us are concerned about the content of the bill before us and why we seriously want to go through this process and see hopefully if we cannot work together in the end to get to a position where all of us, or at least most of us, can support the bill is our fear that inadvertently in responding to some of the excesses and foolishness of regulation and bureaucracy, we may impede the accomplishment, the purpose of the underlying public health and safety laws that I believe the public wants.

Mr. JOHNSTON. Will the Senator yield at that point.

Mr. LIEBERMAN. I would be happy to yield to my friend from Louisiana.

Mr. JOHNSTON. The Senator, my friend from Connecticut, is one of the best lawyers in this body, and I consider him to be one of the best lawyers in the country. It is for that reason that I ask him, on page 25 of the bill, it contains language that says:

> A major rule may be adopted and may become effective without prior compliance with this subchapter if the agency, for good cause, finds that conducting a cost-benefit analysis is impractical due to an emergency or health or safety threat that is likely to result in significant harm to the public or natural resources.

We have the same language over on page 49 that has to do with the risk assessment. So it covers both cost-benefit analysis and risk assessment, and the operative language is you do not have to comply with the chapter if there is a health or safety threat.

Now, would the Senator not agree with me that the phrase "health or safety threat" would encompass any of these problems such as E. coli, cryptosporidium, Ebola, flu, the common cold? It covers everything relating to a health or safety threat. Would not the Senator, my friend, agree with that?

Mr. LIEBERMAN. Mr. President, to respond through the Chair to the Senator from Louisiana, first, I thank him for his kind words and, second, it seems to me on the face of it the intention is certainly to cover those health and safety threats. The question is whether it is effectively done or comprehensively done, and I would like to work with the Senator.

Let me just say that the other day we received the paper flying all over about the Food and Drug Administration comments of the overall bill, and they say as part of their comments:

> The exemption for likely health or safety threats will not permit the agency to take expeditious action to avert harm. First, the finding of good cause would be imposed in addition to the statutory violation finding that the agency currently is required to make before taking any action, unless the intent is to override the statutory finding. This requirement is burdensome and inappropriate. Second—

And this is something that I have been concerned about—

> neither "significant harm" nor "likely" is defined. As a result, it is unclear how many situations would fall under this standard. Is the threat of one spontaneous abortion—

The example they use—

> or one death a significant harm? Under what circumstances would the threat be deemed likely? Would the adulterated product need to be in domestic commerce before the threat was likely?
>
> The requirement that the harm render the completion of a detailed risk-benefit analysis impractical adds a further level of complexity to what should be a straightforward, expedited determination.

I am not embracing all of these questions as my own, but I think they are reasonable, and I would like to work with the Senator to make sure that we do put to rest any of the concerns that are raised in here about public health and safety, although I must say that I have an underlying concern about some of the other sections as they affect the regulatory process even in cases where they are not health and safety.

But let me finally, bottom line, respond. I understand that the intention here is to cover all of the concerns, the specific cases, of the bacteria and the rest, and I would like to review the language in the majority leader's amendment and work with the Senator from Louisiana to make sure that we do just that.

It seems to me, as I said a few moments ago, I think we all share two common goals. The Senator from Ohio has outlined these as his test for whether he will support a regulatory reform bill. And to paraphrase and state them simply, we are all for regulatory reform. We agree there are excesses. There is foolishness. But in achieving regulatory reform let us make sure that inadvertently we do not block the accomplishment of the purpose of the legislation that is underneath the regulations.

Mr. JOHNSTON. Mr. President, if the Senator will further yield, I appreciate his candor. Let me say that this amendment was put in at my behest to deal with the problem. It was our best judgment as to how to deal with what really was, we thought, a problem with the original language. This was printed up, as you know, and then we went into negotiations on our side of the aisle. I personally spent something like 24 hours in direct face-to-face negotiations with our caucus and our Members and our staff. I did not, up until today, hear any criticism of this language.

If there is a way better to make it absolutely clear that you can deal with these imminent threats without any delay, without having to do anything like cost-benefit or risk assessment, if that is not absolutely clear—and I believe it is as clear as the noonday Sun on a cloudless day, I think it just shines through—but if it is not, then I, for one, will certainly help clear it up. I will solicit the help of my good friend and good legal advisor from Connecticut in helping to sharpen that language.

Mr. LIEBERMAN. I thank my colleague from Louisiana. Obviously, I have respect for him, his judgment, his word, and his good faith. I accept the challenge to work with him to clarify the intention of the bill overall with regard to emergency health and safety problems.

I know that the Senator from Ohio has a statement he wishes to make. I am going to spend a few minutes more and then I will yield the floor.

I do want to say in overall terms, to put in a different context these two goals that we have, that there is no question that part of what motivates the bill before us is the broadly held feeling in America that Government has become too big and too intrusive. But reflecting only what I hear from my constituents in Connecticut, which is that, I also hear from them that there are certain things that they very much want Government to continue to do for them because they know they cannot do it alone and it cannot be privatized.

I remember somebody once said—it is not my thought—the law exists in society in relationship to the natural goodness and perfection of the species; in other words, in Heaven, if you will, there is no law because everyone does the right thing; in Hell, it is all law because no one does the right thing; and we on Earth are somewhere in between. The law expresses our aspirations, our values, our desire for a just society.

Do we overdo it sometimes? Sure, we do. I have to tell you, when I am home in Connecticut, I do not find anybody saying to me there is too much environmental protection. I do not find anybody saying to me there is too much consumer protection, there is too much food safety protection, too much protection of toys. Yes, I find some business people saying to me that some of the ways in which these goals you put into legislation are being enforced by some of the inspectors, the bureaucrats are ridiculous. The average business person I talk to says, "Look, I'm not just a business person, I'm a citizen, I'm a father, I'm a husband, I'm a grandfather. I have as much interest in clean air and clean water and safe drinking water and safe food and safe toys as anybody else."

I am saying as we go forward, let us remember both sides.

I have two more general points. No. 1 is, I am a member of the Environment and Public Works Committee. I have spent a lot of time on that committee. Let me say briefly that I find there is an extraordinary broad base of support in my State, and I believe throughout this country, for environmental protection. In fact, environmental protection is, as the writer Gregg Easterbrook pointed out in articles and a book recently, probably the single greatest success story of American Government in the postwar period. It is an interesting thing to talk about. Again, it is not to say everything has been done to protect the environment rationally and sensibly. Twenty-five years ago, the Connecticut River was described by somebody as the prettiest sewer in America. Today, the river is fishable and swimmable. That has happened all around America with rivers, lakes, and streams.

The same is true of the air, that was heading rapidly in the direction of not just smog that is hard to see through, but really affecting people's health. I am hesitant, after the discussion we had today about numbers here, but there are fairly credible scientists and doctors who say still in our country tens of thousands of people die prematurely—which is to say what it says, they would have lived somewhat longer were it not for forms of air pollution. This is particularly true of vulnerable populations.

There is an epidemic of asthma in our country. It has gone up 40 percent in the last 10 years, particularly among children. I have a child who has asthma. More and more of these kids are vulnerable to pollutants in the air. We have done a pretty good job of cutting the number of those pollutants, but still we have a greater amount of work to be done. I am saying, as we try to make the regulatory process more rational, more reasonable, let us not pull away from the underlying goals.

Finally, one of the things that has happened in the environmental area is a general acceptance of the environmental ethic, as I said a moment ago, and, I think, a growing partnership between the business community and individuals and the environmental community. I am fearful that if cooler heads do not prevail in this particular debate, and debates are going on about other laws, that that partnership is going to be broken. It will have a bad effect overall. It is going to lead, first, to the kind of conflict that does not produce results, does not clean up the environment, but, second, I am afraid from the point of view of business, one of whose understandable goals is to seek consistency of regulation, of law, there is going to be inconsistency, we are going to swing from extreme to extreme, and that is not good.

Finally, if we do not get together and be reasonable with one another and adopt a good regulatory reform bill, it is going to face a Presidential veto. Then nothing is going to be accomplished. We would have spent a lot of time, filled the air with a lot of rhetoric, but ultimately, we are going to be left with a regulatory system that all of us find inadequate.

So I hope as we go forward that we will keep those thoughts in mind. I believe that the bill before us still, because of the petition process in it, which is an invitation to delay, because of some of the standards that are set, inadvertently puts at risk some of the accomplishments of the last two or three decades.

I personally prefer S. 291. I prefer it in part because I worked on it in the Governmental Affairs Committee under the leadership of the Senator from Delaware and the Senator from Ohio. It came out of our committee 15 to 0, a bipartisan vote. It is tough regulatory reform. It requires a determination of whether the benefits justify the costs. It requires regular review by the agencies of the regulations. It goes on to create sunshine in the process and to put some common sense into the regulatory process without jeopardizing the underlying laws.

So I prefer it to the alternative we have before us, but I hope we can bridge the ground and, most of all, get something done to change the status quo without jeopardizing the purposes that have engendered the status quo.

I thank the Chair. I thank my colleagues for their patience, and I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER (Mr. KYL). The Senator from Ohio.

PRIVILEGE OF THE FLOOR

Mr. GLENN. Mr. President, I ask unanimous consent that Jeneva Craig, of my staff, be granted the privilege of the floor during consideration of this legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GLENN. Mr. President, we got off to a rather fast start yesterday and we did not get to give our opening statements on the general view of the legislation before us. I would like to do that at this time.

This is a most important matter that comes before us with this legislation. It may well prove to be, as far as impact on the American public, the most important legislation we pass this year. I am under no illusions it will get the most attention, but it may be the most important.

Before I launch into my statement, I ask unanimous consent to have three editorials from the Washington Post, the New York Times, and the Cleveland Plain Dealer, which discuss the issue of regulatory reform, printed in the RECORD following my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. GLENN. Mr. President, regulatory reform is one of the most important issues before us. Make no mistake, I want regulatory reform. I think we need regulatory reform. Large businesses want regulatory relief, so do small businesses, so do individuals. And their general discontent with regulatory burdens is, in many ways, justified. I believe that. That is why I want regulatory reform to be the right balance.

Why do we have to have a lot of regulations? Are bureaucrats just deciding to write as many regulations as they can think of over in the agencies? No, that is not the answer. The process is that Congress passes laws and agencies carry out the intent of these laws through regulations, through the details that are necessary to make the laws applicable.

Unfortunately, Congress passes a lot of ill-thought-out laws in insufficient detail in the first instance, and then we complain bitterly when the regulation writers in the agencies overstep into unintended areas. In other words, if we want to look at some of the culprits in overregulation, let us look at ourselves, let us look in the mirror.

I repeat that sentence. Congress passes a lot of ill-thought-out laws in insufficient detail in the first instance, and then we complain bitterly when the regulation writers in the agencies overstep into unintended areas.

I believe Congress needs to write laws more clearly and give agencies more guidance. That way, agencies will not have to guess what our intent was when they write the regulations that implement the laws.

In other words, Congress should do the work and weigh our actions more carefully, including the costs and benefits of a law. We should be doing all of that right here before passing legislation that will be implemented through regulation.

As we debate how to reform the regulatory process, we need to ask ourselves two essential questions. First, does the bill before us provide for reasonable, logical, and appropriate changes to regulatory procedures that eliminate unnecessary burdens on businesses and on individuals?

Second, at the same time, does the bill maintain our ability to protect the environment, health, and safety of all of our people? In other words, does the legislation strike an appropriate balance? That is the question.

Those are the two tests this legislation must meet. I believe that if it can meet those two tests, there will be broad support for this effort. Any bill that relieves regulatory burdens but threatens the protections for the American people in health, safety and the environment should be opposed.

Regulatory reform is very complicated. The idea sounds great, but the devil is in the details. Cost-benefit analysis, risk assessment, judicial review, the specific elements of regulatory reform, are complex—very complex. The parts do not make easy sound bites. But without making sense of the words, there can be no real reform, let alone a workable Government.

I am very concerned that in order to keep up with the schedule established by the other body, the Senate is being rushed to consider a complex and lengthy proposal whose consequences are not yet fully understood. Regulatory reform should be arrived at through a process of deliberation and bipartisan consultation. That is the process we used in the Governmental Affairs Committee. From our landmark regulatory reform study clear back in 1977, through legislation and more than a decade of oversight of OMB and OIRA paperwork and regulatory review, and now to the consideration of legislative proposals in this Congress, the Governmental Affairs Committee has approached this issue in an open and bipartisan manner. That was our mode of operation during my years as chairman. And this year, under the leadership of the new chairman, Senator ROTH, our committee held four hearings and developed a unanimous bipartisan regulatory reform bill, and S. 291 was the number as it came out of committee. Our committee report also reflects this bipartisan spirit and deliberative process.

Now, I make these points because the proposal, S. 343, that has been brought to the floor has been developed in a similar open and deliberative manner. The bill is based on the Judiciary Committee's reported bill that reflected a divisive committee, a proceeding that was cut short.

Until recently, negotiations on this bill went on behind closed doors. During the past several weeks, there have been many attempts to work together to improve this bill. A number of Members have worked diligently to explain our differences and what we think needs to be changed. Before these discussions were completed, S. 343—this bill—was brought to the floor. It is a bill that we believe continues to have a great number of problems. The result, from what I can see, is a bill tailored to special interests. It is a lawyer's dream. It does not meet the dual goals of protecting health and safety and, at the same time, having a more effective and more efficient Government.

Yes, we want agencies to have more thoughtful and less burdensome rules.

But we also want agencies to be effective. The American public does not want the Federal Government to be more inefficient or to have more public protections delayed or bogged down in redtape and delay and courtroom argument. That is why Senator CHAFEE, myself, and several others offered an alternative bill just before the recess. It is S. 1001, and it is based on that same Governmental Affairs Committee bill, S. 291, that was reported out with full bipartisan support. The vote was 15 to 0. There were eight Republicans and seven Democratic votes out of committee.

S. 1001 provides for tough, but fair, reform. It will require agencies to do cost-benefit analysis and risk assessments, but it will not tie up all their resources unnecessarily. It does not provide for special interest fixes. It does not create a lawyer's dream. It provides for reasonable, fair, and tough reform. It reflects the work of the Governmental Affairs Committee on S. 291 and only changes this bill in three ways.

First, the definition of a major rule is one that has an economic impact of $100 million. There are no narrative definitions, such as "significant impact on wages."

Second, the automatic sunset of rules that are not reviewed has been changed. If agencies do not review rules within the allotted timeframe, they must commence a notice of proposed rulemaking to repeal the rule. In other words, the rule could not just sit there and automatically become unenforceable. With this approach, there is opportunity for public comment, and rules will not sunset without adequate opportunity for review.

Third, we limited the risk assessment requirements to particular programs and agencies. We also made some technical changes in line with the National Academy of Sciences' approach to risk assessment. Those are the three changes to S. 291 that we incorporated when it became S. 1001.

Let us remember what is at stake here. Regulation is important because rules are needed to implement most laws. There is no way around it. Public health and safety, environmental protection, equal opportunity in education and in employment, stability in agriculture and other sectors of our economy, each area has shown that it needs the help of legislation and regulation that follows to make it workable.

I would like to talk for a few minutes about a different, but related, regulatory matter. I mentioned it earlier this morning. That was regulatory moratorium. We debated that at the end of March. I want to talk about here, because I believed many of the provisions of S. 343 could have a similar effect in undermining health and safety protections for the American people, their families and their children.

If there was ever a proposal to make one stop and think about what is at stake, the moratorium would do it. It would have stopped all regulations dead in their tracks, starting back at last year's election through the end of this year, no matter what State the regulations were in, no matter whether they were good or bad regulations. Now, proponents of the moratorium, like proponents of S. 343, are ready to subject the people of this country to the slashing of regulations without due examination of what could happen, without considering what health and safety protections may be at stake.

We had hearings in committee, and I met with Nancy Donley of Illinois and Rainer Meuller of California, who both lost children to E. coli-tainted hamburgers. Both came to Washington intent on looking in the eyes of politicians who were more willing to tolerate endangering children than facing up to a responsibility and making a regulatory process that works. According to USDA's Food Safety and Inspection Service, 3,000 to 7,000 Americans die of tainted food each year, and 3 to 7 million Americans are sickened by food-borne illness. This is costing lives and health and millions of dollars.

Can anyone honestly say that we do not need protections and an effective regulatory process? Further, I heard from airline pilots who were angry that Congress might sacrifice air safety standards in order to appear strong not by being proponents of enhancing safety regulations, but by going too far the other way and delaying and even slashing safety rules, all in the name of regulatory reform. In other words, we would reform ourselves into greater danger for every airline passenger.

I heard from public health experts who are alarmed at the threats to the safety of drinking water from dangers like cryptosporidium, which killed 100 people in Milwaukee in 1993, and made 400,000 sick. So the moratorium would have halted drinking water safety rules until the end of the year.

But the point of bringing up the moratorium here is not to confuse the issue, it is to point out that the bill we take up today could well delay some of these items well beyond the end of the year. It could delay them significantly beyond that.

Of course, rules, regulations, and regulators are not always right. There can be different approaches to protecting the public from disease or injury. That is why reform is important. Regulations do not come free. Their costs are weighing down the American people. Businesses, private citizens, universities, and State and local governments all complain that too many regulations go too far, that they just are not worth it.

So our job is to find a balance that recognizes both the essential role of regulations in our society and the social and economic price paid by an overreliance on regulation. Finding this balance means evaluating the benefits as well as the burdens of rules and using the best scientific and economic analyses to do so.

What is the economic impact of regulation? How do we measure that impact? How do we weigh economic costs and benefits? What are the societal costs and benefits? Agencies need to do better in each of these areas, and I believe true regulatory reform can improve agency analysis and make the Federal rulemaking process work better. But accomplishing these reforms is easier said than done.

There is wide disagreement in both the economic and scientific communities about the methodologies and underlying assumptions used in performing these analyses. In our committee, we heard from witnesses on every side of these issues. In developing S. 1001, we tried to craft a workable framework for regulatory decisionmaking. The product of our committee work was a unanimously supported, tough regulatory reform bill. With only a few changes—the ones mentioned—Senator CHAFEE, myself, and others have proposed this bill, S. 1001, as an alternative approach to regulatory reform. It would improve agency decisions, lessen burdens on the American public, improve the implementation of our laws, and make Government more efficient and more effective. I intend to offer S. 1001 as a substitute to S. 343 at the appropriate time. The debate on the regulatory reform before us will, I believe, reveal many of the failings of S. 343, and the more practical advantages of the Glenn-Chafee bill.

Regulatory reform should focus on the following central issues, which are reflected in S. 1001. I will expand on these principles in more detail later in my statement:

First, agencies should be required to perform risk assessments and cost-benefit analysis for all major rules.

Second, cost-benefit analysis should inform agency decision making, but it should not override other statutory rulemaking criteria.

Third, risk assessment requirements should apply only to major risks assessments, and these requirements must not be overly prescriptive.

Fourth, agencies should review existing rules, but their review should not be dictated by special interests.

Fifth, Government accountability requires sunshine in the regulatory review process.

Sixth, judicial review should be available to ensure that final agency rules are based on adequate analysis. It should not be a lawyer's dream, with unending ways for special interests to bog down agencies in litigation.

Seventh, regulatory reform should not be the fix for every special interest.

These principles would establish for the first time a Government-wide comprehensive regulatory reform process.

This process will produce better, less burdensome, and probably fewer regulations. It will also provide the protections for the public interest that the American people demand of their Government.

I do not believe S. 343 follows these principles; instead it does special favors for a special few—and in so doing creates a process that will delay important decisions, waste taxpayer dollars, enrich lawyers and lobbyists, undermine protections for health, safety, and the environment, and further erode public confidence in Government.

I mentioned the seven principles. Let me talk about each of the seven principles I raised in a little more detail.

Principle 1. Agencies should perform risk assessments and cost-benefit analysis for all major rules. Most of us would agree that before an agency puts out a major rule, it should do a cost-benefit analysis, and if it makes sense, a risk assessment.

Let us start with one of the most fundamental questions in this debate: What should be considered a major rule? In the Glenn-Chafee bill and the bill we reported out of the Governmental Affairs Committee on a bi-partisan, 15-to-0 vote, we decided that a major rule should be one that has an impact of $100 million. A $100 million threshold has been the standard under Presidential Executive orders for regulatory review since President Reagan in the early 1980's. If anything, given inflation, that threshold should go up, not down, if you think about it.

S. 343 has a threshold of $50 million; the House bill casts an even wider net of $25 million. These are just simply too low. Remember—this bill will cover all Federal agencies—not just the Environmental Protection Agency or the Food and Drug Administration. All Federal agencies—Treasury, Commerce, Agriculture, and so on—would have to do extensive analysis for every single rule that had a $50 million impact. Or, if the House wins on this, a $25 million impact.

What are we trying to accomplish here? If it is to make the agencies use these important tools for important, economically significant rules, I believe we should keep the threshold high. If we demand that rigorous cost-benefit analysis and risk assessment be required for just about every rule, we will guarantee that we will use up valuable agency resources with very little to gain.

One group that testified before the Governmental Affairs Committee estimated that the House bill would add 2 years to the rulemaking process and cost agencies a minimum of $700,000 per rule. I had some figures yesterday that computed how expensive that could be and it gets up into the hundreds of millions of dollars. Let us remember that we are cutting the Federal work force and consolidating agency functions. This bill should not create needless work that has little benefit. What is the cost-benefit analysis for using $50 million or $25 million? I believe it is going to cost the agencies a bundle of money and resources and the benefits are few. Talk about poor cost-benefit ratios. Let us stick to truly major rules and set that threshold at $100 million.

I say let us first see how this works at the $100 million level. If we see that it works well, I would be in favor of reducing the threshold at a later date to capture more rules, whether down to $50 million or $25 million. But I want to make sure that what we pass now works, is fair, and brings relief for the biggest problems. I do not want to flood the system with so many rules that nothing works, and we find ourselves back here in 3 or 4 years reforming the regulatory process once again.

I feel this even more strongly after yesterday's acceptance of an amendment to include significant rules under the Regulatory Flexibility Act in the definition of major rule. This will add well over 500 rules to those having to go through cost-benefit analysis under S. 343. This is just too much.

Principle 2. Cost-benefit analysis should not override existing statutes. Another question that we must decide is how cost-benefit analysis should be used. I believe, and many of my colleagues believe, that in no way should cost-benefit analysis override existing statutes. This is the so-called supermandate issue. We all agree that it is a good idea to make agencies figure out what the costs and benefits of a rule are before issuing it, and to see whether the benefits justify the costs.

But let us keep in mind that this tool is far from a hard and fast analytical science. There are lots of assumptions that go into figuring out the costs of a rule and the benefits of a rule, and many benefits and costs are unquantifiable. That is certainly no argument for not doing it. I believe it can be a very useful tool in the decisionmaking process, but it does show that caution is in order.

Agencies often have to get cost data from the industry it is intending to regulate. And some industries have been known to overstate how much it will cost to comply with a regulation. The benefit side also has lots of difficulties. How much value do we place on a human life? Does it matter if that human is an old man or a young girl? What is the value of preserving a plant species? What is the value of avoiding an injury to a worker? Clearly, agencies should not be forced to quantify everything. On this point, Senator DOLE, Senator JOHNSTON, Senator CHAFEE, and I—and in fact, probably all of us—agree. We should encourage agencies to estimate costs and benefits—both quantifiable and nonquantifiable—and make totally clear what assumptions they use to do the analysis. This can help inform their decisionmaking.

But this is where we differ: Should the result of a cost-benefit analysis trump all other criteria for deciding whether or not an agency should go forward with a rule? The way S. 343 is written right now, that is what would happen, and I do not think that makes sense.

First, in passing legislation, we, in Congress, have said to agencies, "Go issue a regulation, based on what we've said in the statute"—whether it be "an adequate margin of safety" or whatever. The agency should not have the power to say, "Well, we can't justify the costs given the benefits of this rule, and therefore, we are not going to issue this rule." This would basically be handing our congressional responsibility over to the agencies, based on a less-than-perfect tool of cost-benefit analysis.

I heartily believe that agencies should tell us if they really do not think a rule's benefits justify its costs. But then the rule should come back to us in Congress to figure out what to do. This will also help to inform us in Congress about a law that should be changed. For these reasons, I strongly support—and my colleague Senator LEVIN has been a strong leader on this issue—a congressional review or the right to veto rules through an expedited review process. This makes a lot more sense than having a supermandate," which would make cost-benefit analysis override an existing statute. Remember that the congressional review of rules passed the Senate 100 to 0. It makes sense to do business this way.

Let me give an example of how hard it is to figure out costs. Everyone acknowledges that it can be very difficult to quantify benefits, but most assume that cost numbers are easier to estimate accurately. But let us consider the example from the Occupational Safety and Health Administration [OSHA] of the cotton dust standard. Several hundred thousand textile industry workers developed brown lung—a crippling and sometimes deadly respiratory disease—from exposure to cotton dust before OSHA issued protective regulations in 1978. That year, there were an estimated 40,000 cases, amounting to 20 percent of the industry work force. By 1985, the rate had dropped to 1 percent.

The initial estimates in 1974 for industry to comply with a stricter standard was nearly $2 billion. By 1978, OSHA estimated the same costs to industry to be just under $1 billion. So the estimate fell by 50 percent by the time the standard was issued. When the actual costs of compliance were reported in 1982, they were four times lower than the $1 billion estimate. It is likely that if OSHA had to use a cost-benefit analysis to figure out whether to put out this standard in 1978, not having the knowledge that they did in 1982, they would not have done it, even though it is clear to me that the great success of this rule certainly justifies its costs.

Let us be clear on this point: Cost-benefit analysis should not override existing statutory rulemaking criteria. Proponents of S. 343 say that this bill does not have a supermandate. It has been repeated over and over that this bill does not have the supermandate. Many of us disagree. Language to clarify this was offered during negotiations on this bill, but it was rejected. We still do not have clarifying language on this point. If there was no supermandate lurking here, why was the clarifying language rejected? So the more I hear that this is not a problem, but that the language cannot be clarified, the more I have to wonder.

Another problem that many of my colleagues have discussed at length with the supporters of this bill is the issue of least cost. Right now, this bill requires two major determinations before a rule can be issued: One, that the benefits justify the costs; and, two, that the rule adopts the least-cost alternative. Let us think hard about these words "least cost." Do we always want the agencies to do the cheapest alternative? What if an alternative that costs just $2 extra saves 200 more lives? Do we say pick the cheapest, and do not look at benefits of the alternatives before you?

That is what this bill does. We should give the agencies some leeway to use common sense. They should be able to choose the most cost-effective approach, looking not just at costs but also at the benefits. Here, we would be requiring them to pick the cheapest alternative, which may not always be the most cost effective.

In talking about this economic analysis, let me say a quick word about trying to reduce the costs of regulation on industry. In our efforts to reform the regulatory process, we should encourage agencies to take a hard look at market-based incentives to achieve regulatory goals. Many have shown that we can achieve our environmental goals, for example, at a lower cost than we do now by using market-based mechanisms. These alternatives allow industries more flexibility in how they meet a standard. For example, rather than telling every factory, new or old, that they must purchase the same equipment to fix a problem, we would give them flexibility, reducing their compliance costs while reducing the same amount of pollution overall.

I agree with the part of S. 343, Senator DOLE's bill, in which we are requiring agencies to consider market-based mechanisms. We have a similar provision in the Glenn-Chafee bill, S. 1001.

Principle 3. Risk assessment requirements must not be overly proscriptive and should apply only to major risk assessments. Risk assessment requirements are an important part of regulatory reform because many of the rules we want to address in this legislation relate to health, safety, or the environment.

Risk assessment can help us better understand what the risks are to the public or the environment, which in turn lets us figure out how best to lower those risks.

Scientists, agencies, and others have testified that it is essential that we do not make these requirements too prescriptive. Risk assessment is an evolving science. The last thing Congress should be doing under regulatory reform is freezing this science by laying out in excruciating detail how an agency must do a risk assessment.

I believe that both S. 1001, as well as this bill, do try to strike a good balance. I must commend Senator JOHNSTON for his leadership in the area of risk assessment. He has done a lot of work on that. S. 1001 outlines smart risk assessment principles that are in line with recommendations of the National Academy of Sciences.

There are still a few problems in S. 343, however, when it comes to the specific risk assessment requirements. For example, what is exempted from these requirements and what is not? This bill states that an agency does not have to do a risk assessment for a rule "that authorizes the introduction into commerce * * * of a product."

I ask my colleagues, what if an agency determines that a product is unsafe and should be removed from commerce? Under this bill, the agency would have to do a full-blown risk assessment, complete with extensive peer review, before it could take a product off the market. If you want to put something on the market, no sweat. If you want to take something off the market, it is not so easy. And it will take time, a lot of time.

I do not think this makes sense. Public health and safety can be harmed by dangerous products on the market. All we have to do is remember back to the thalidomide situation, for example, of a few years ago, when talking about taking products off the market. We do not want to make it more difficult.

Another problem is that the peer review requirements are exempted from the Federal Advisory Committee Act. Let me state first that peer review of major risk assessments I think is absolutely essential. Scientific experts should evaluate the information put together by the agencies, and a good peer review process will ensure high-quality assessments. But how is the peer review going to be run? The way S. 343 is written now, no peer review would have to comply with FACA. FACA was set up to ensure sunshine, accountability, public input, public access—in fact, fairness to all parties involved in such Advisory Committee processes.

FACA was put in to guarantee a balance of views on peer reviews, and yet FACA would not apply to the requirements for peer review under this act.

The Federal Government currently uses many peer review groups, most in the fields of health, science, and technology. These are all subject to FACA.

The proponents of S. 343, who now want to exempt these panels from FACA, were strong advocates of having FACA apply to the health care review panels just last August, less than a year ago. For example, the majority leader stated, quite properly in my view, that "There is no reason why these boards should be granted the power to meet in secrecy. Indeed, there is every reason why they must meet in public."

Senator GRASSLEY, on the same subject, stated, "I ask my colleagues to adopt the amendment to make FACA apply, because we ought to be doing everything in the sunshine. If we do, the mold will not grow there."

I agree completely with both of those statements. I do not see why the peer review panels under S. 343 should be any different.

Another issue about peer reviews: Do we really need to require peer review panels for every risk assessment for every environmental cleanup project? S. 343 applies risk assessment and cost-benefit requirements to all Superfund and Department of Energy cleanups that cost more than $10 million.

Aside from the fact that I do not believe we should deal with Superfund in a regulatory reform bill, I am very concerned about the resources that agencies would have to use to comply with this bill. There are hundreds of DOE sites and close to 1,000 Superfund sites that would be affected by these requirements. I do not think it makes sense to require such extensive peer review requirements for each one of these risk assessments. How will the agencies ever be able to find so many panels, for instance, that are truly balanced? How much will this cost the Government? What would we gain from it? Where is the cost-benefit analysis of this approach? I think we should delete the peer review requirement for environmental cleanups.

Finally, the position of those supporting the Glenn-Chafee bill is that the procedural requirements of these assessments should be, of course, open to peer review, but they should not be reviewed by the court. The courts are not the appropriate place to determine whether particular assumptions or toxicological data in a risk assessment are appropriate. The way the judicial review section is written, this is indeed a major concern. I will address that issue just a bit later.

Principle 4. Agencies should review existing rules, but that review should not be dictated by special interests. Regulatory reform is not just about improving new rules and developing new techniques for addressing new problems. Regulatory reform must also address the great body of existing rules that currently govern so many activities in business, in State and local governments, and which affect so many of us as individuals.

For regulatory reform to be effective, it must look back and review existing regulations to eliminate outdated, duplicative, or unnecessary rules, and to reform and streamline others. This review is required most simply because over time, many decisions become outdated. Review is also needed because of the rising cumulative burden of existing rules on businesses and individuals. For this reason, agencies should take a hard look at major rules that they believe deserve review. Of course, this process should be open for public comment so that those who are interested in particular rules can make their concerns known to the agencies. But this review should not be dictated by special interests.

While I think a retrospective look at rules is essential, I do not believe in a process that would allow anyone subject to a rule to petition an agency to review a rule, which then requires stringent action by the agency to respond to that petition. That could just gridlock agencies and put special interests and the courts, not the agencies, the executive branch, or the Congress, in charge of the review.

The latest draft of S. 343 uses a petition process to put rules on a schedule for review. If the agency grants the petition, it has to review the rule in 3 years. That is a very short timeframe for such matters. If it fails to review the rule in that time, the rule automatically sunsets, it becomes unenforceable. This process, it seems to me, puts the petitioner in the driver's seat, not the agencies or the Congress who passed the law in the first place.

Mr. JOHNSTON. Mr. President, will the Senator yield on that point?

Mr. GLENN. No, I want to complete my statement. Then I will yield the floor at that point.

It also creates a process that is more prone to killing regulations than creating a thoughtful review of regulations. In addition to the peer review petitions, S. 343 has many other petitions for any interested party to challenge an agency on any rule, not just the major rule. These are yet more examples of the lawyer's-dream approach taken under this bill. Under S. 343, someone could petition for issuance, amendment, or repeal of any rule; or, amendment or repeal of an interpretive rule or general statement of policy or guidance; and, interpretation of the meaning of a rule, interpretative rule, general statement of policy, or guidance.

And just to add to the confusion, S. 343 also has a separate section, section 629, for a petition for alternative compliance. Any person subject to a major rule could petition an agency to modify or waive the specific requirements of a major rule and to allow the person to demonstrate compliance through alternative means not permitted by the rule.

In addition, S. 343 adds another petition process in section 634 so that interested persons may petition an agency to conduct a scientific review of a risk assessment.

Each agency decision on every one of these petitions, except the petition for alternative compliance, is judicially reviewable. It could be challenged in the courts. What a dream for the lawyers. All of these petitions and reviews add up to one of the worst parts of this bill. I think it is a formula for true gridlock. Agencies will have to spend enormous resources responding to each and every petition, and then they can be dragged to court if they turn down a petition. This does not come close to being real regulatory reform. This is regulatory and judicial gridlock. This is a way to keep the agencies from doing their jobs and to keep lawyers happy and extremely prosperous. This bill would make all the rhetoric about tort reform a big joke except that in this case judicial gridlock means that the health and safety of the American people could be jeopardized.

Principle 5. Government accountability requires sunshine in the regulatory review process. Agencies must work to involve all interested parties in the regulatory process, from soliciting comments to disseminating drafts to ensuring broad participation in peer review. Accountability also requires public disclosure of regulatory review documents, including related communications from persons outside the Government. There can be no public confidence in Government when some can use back doors to decisionmakers. S. 1001 requires reasonable disclosure consistent with recommendations of the Administrative Conference of the United States.

Over the past 25 years, the most notable regulatory reform accomplishment has been development of centralized Executive oversight of agency rulemaking. This effort, while not truly reforming the regulatory process, has had a substantial impact on the Federal regulatory process. It led to the development of agency regulatory analysis capabilities and better coordination among agencies, though the record is quite uneven across agencies.

The development of centralized regulatory review has also led to more consistent policy direction and priority setting from the Office of the President, though the record here is uneven as well, due largely to partisan controversy about Presidential use of that power to affect agency decisions. Many times over the past 15 years many of us have been in the Chamber debating the use of OMB regulatory review.

Much of the controversy that has dogged centralized regulatory review since it was formalized in 1981 by President Reagan in Executive Order No. 12291 revolves around public confidence in the integrity of the regulatory process. The issue has come to be known as the regulatory sunshine issue. And while the Governmental Affairs Committee has in the past been divided about how much sunshine is needed and at what stages in the process, the committee has always agreed on the need for sunshine and public confidence in the regulatory process.

S. 343 has no sunshine provisions. It is not like the Glenn-Chafee bill, S. 1001. S. 343 has no sunshine provisions for regulatory review, and I believe that is a fundamental flaw that needs to be addressed.

Principle 6. Judicial review should be allowed for the final rulemaking, not for each step along the way. Regulatory reform should not become a lawyer's dream, with unending ways for special interests to bog down agencies in litigation. We firmly believe in a court's role in determining whether a rule is arbitrary and capricious. S. 1001 authorizes judicial review of the determinations of whether a rule is major and therefore subject to the requirements of the legislation. Also, it allows judicial review of the whole rulemaking record, which would include any cost-benefit and any risk assessment documents. We should not, however, provide unnecessary new avenues for technical or procedural challenges that can be used solely as impediments by affected parties to stop a rule. Courts should not, for example, be asked to review the sufficiency of an agency's preliminary cost-benefit analysis or the use of particular units of measurement for costs and benefits. While courts have a vital role, they should not become the arbiters of the adequacy of highly technical cost-benefit analyses or risk assessments independent of the rule itself.

I believe, the way the bill is currently drafted, that lawyers and the courts will get into the details of a risk assessment or cost-benefit analysis. I think that is a mistake. From what I understand, there has been a great deal of discussion about this issue, and I believe many of us want the same result. The question is how to get there from here. Leaving the language as ambiguous as it is now is not acceptable.

Principle 7. Regulatory reform should not be the fix for special interests in every program. Many parts of S. 343 are very different from the bill we reported out from the Governmental Affairs Committee on a bipartisan basis and the alternative bill we introduced before the recess. In the bill before us, S. 343, several provisions are aimed at benefiting special interests or stalling particular programs. Frankly, they have no place in a regulatory reform bill that should attempt to set a fair process, fair and equal to all.

First, let me say that I sympathize with those who would like to fix particular problems. I know of examples where regulations go too far and where agencies go too far. As testimony before our committee showed, 80 percent of the rules are required by Congress. It is not just the regulatory process that needs fixing. We in Congress are also responsible for a lot of these problems. Let us focus on making the regulatory process better as a whole and not a fix for special interests.

Let me give some examples.

This bill tries to delay Superfund cleanups. It rewrites the Delaney clause, shuts down the EPA toxic release inventory, provides enforcement relief for companies, and so on.

Now, I agree that some of these are legitimate problems that deserve our attention, but this is not the place. The regulatory reform bill should address regulatory issues, not be a Christmas tree for lobbyists to hang solutions to whatever problems they may have. Let us look at some of these provisions a little more carefully.

First, delays and higher costs for environmental cleanups. Every Superfund and Department of Energy cleanup that costs more than $10 million would have to go through a risk assessment and cost-benefit analysis. This is not just for activities that will be starting up, not just for new projects. It covers cleanups that are already under way. EPA and DOE will have to stop any progress they are making to go back and do additional costly analyses. This is guaranteed to slow the pace of cleanup even further, something we have all been concerned about for a long time. EPA estimates that 600 to 1,000 Superfund cleanups spread across every State in the Union would be caught in this requirement. The Department of Energy estimates that about 300 cleanups would be affected. Does this make any sense? I would prefer to spend the taxpayers' money on cleanup rather than repetitious, redundant studies and more lawsuits.

To make matters even worse, these cleanups have to go through the hoops of the decisional criteria, yet another supermandate in this bill. For each $10 million cleanup, agencies would have to prove that the benefits of the activity justify the costs, the activity employs flexible alternatives, and the activity adopts the least cost alternative.

Now, I and many others here recognize the need for Superfund reform, and we worked hard on that last Congress. That is where this provision belongs, under Superfund reform, not regulatory reform. If we are going to fix the problem, let us fix it right. Adding new burdens and hurdles is certainly not the right approach.

Second, gutting of the toxics release inventory, the TRI. The TRI is intended to provide the public with information about chemicals being released into their local environment. This bill would fundamentally change the way the TRI works and would swamp the agency. In reforming the regulatory process, we are trying to encourage agencies to use flexible approaches to regulation and make the agencies more efficient. The TRI currently provides information to the public and encourages the voluntary reduction of toxic emissions through whatever means a company chooses to use. This program has not only provided maximum flexibility to companies, but it has also resulted in significant reductions in emissions. Since 1988, companies have reported a decrease in emissions of listed chemicals of more than 2 billion pounds a year. In this bill, we would change the standard for removing chemicals from the list. We would force EPA to perform thousands of site-specific risk assessments in a very short time. This sounds less like regulatory reform and more like make-work for the agency. If Congress wants to change the standard in TRI, we should do it in the context of Emergency Planning and Community Right-to-Know Act legislation. This provision has no place being in this bill.

Third, repeal of the Delaney clause. You will get no argument from me that it is time to change the Delaney clause. It should have been done a long time ago. But this regulatory reform bill does not fix it. I believe this is just one more case of a very important and substantive area that should be dealt with outside the context of regulatory reform.

In conclusion, I want regulatory reform, but S. 343 does not provide balanced regulatory reform. Its overall impact will be to swamp the agencies to the point of ineffectiveness, provide lots of jobs for lots of lawyers, and to make some companies very happy.

I would like to work hard with everyone here, all my colleagues, to make a good, fair and truly balanced regulatory reform bill.

So I hope we can address many of the issues I have raised today. I urge everyone to take a hard look at the regulatory reform approaches in the Dole-Johnston and the Glenn-Chafee bills and then ask yourselves: Are we relieving regulatory burden on industries and individuals? Are we protecting the environment and health and safety of the American people?

We must work together in a true bipartisan spirit to meet these two essential goals of regulatory reform. Together we can truly improve how our Government works.

Mr. President, I asked consent earlier for insertions into the RECORD. I will ask for one more. We have a letter that was addressed to both leaders, the majority and minority side, from the Department of Agriculture. I think it is worth including in the RECORD also. I ask unanimous consent that that letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, DC, July 11, 1995.

Hon. ROBERT DOLE,
Majority Leader, U.S. Senate, Washington, DC.

DEAR BOB: I am writing in regard to the effect that S. 343 would have on the efforts of the Department of Agriculture (USDA) to improve the meat and poultry inspection system and the safety of the nation's supply of food. The Food Safety and Inspection Service (FSIS) published a proposed rule to significantly reform the federal inspection system by requiring the adoption of science-based Hazard Analysis and Critical Control Point (HACCP) procedures. S. 343 would needlessly delay USDA's efforts to reform the meat and poultry inspection system.

Foodborne pathogens in meat and poultry products, such as E. coli, Salmonella and Listeria are believed to cost the nation billions of dollars from lost productivity, medical costs, and death. The virulent E. coli bacteria alone is estimated to cause 20,000 illnesses and 500 deaths annually. Young children and the elderly are particularly vulnerable to foodborne pathogens and therefore at greatest risk.

On February 3, 1995, USDA proposed reform of the federal meat and poultry inspection system to incorporate science into its inspection system. USDA's proposal would require the use of scientific testing and systematic measures to directly target and reduce harmful bacteria. The goal is simple: to improve food safety and to reduce the risk of foodborne illness from consumption of meat and poultry products.

Under the proposal, the Nation's 9,000 federally inspected slaughter and processing plants would be required to adopt science-based HACCP procedures. Targets would be set for reducing the incidence of contamination of raw meat and poultry with harmful bacteria. Meat and poultry plants would be required to test raw products for pathogens, and to take corrective action, if necessary, to meet food safety targets.

S. 343 would significantly delay this essential reform by requiring USDA to establish a peer review panel which satisfies the criteria in S. 343, submit a cost-benefit analysis and risk assessment (analyses) to the panel, and convene the panel to review the analyses. The panel would then be required to prepare and submit a report to FSIS detailing the scientific and technical merit of data and methods used for the risk assessment, including any minority views. FSIS would have to respond in writing to all significant comments made in the report. The report and the FSIS response would become part of the rulemaking record and would be subject to judicial review provisions of S. 343. These procedures would significantly delay the essential reform effort by a minimum of six months.

While peer review can be a useful tool to improve the rulemaking analyses, the potential benefits from a peer review of the HACCP reform proposal does not justify delaying reform of this system—a reform that is supported by all interests. Similar review has been already been occurring. The scientific foundation of the HACCP proposal, in short, will have been the subject of extensive review and comment as part of the rulemaking process.

First, FSIS published the preliminary regulatory impact analysis (PRIA) in the Federal Register for comment with the proposed HACCP rule. The PRIA contained a preliminary cost-benefit analysis and risk assessment which explained the assumptions regarding the risks and costs of foodborne illness to the public, the costs of the proposed rule to the regulated community, and the range of benefits in terms of reduced foodborne illness that the proposed HACCP rule would achieve. Before publishing any final regulation, FSIS will revise and finalize this cost-benefit analysis based on the comments received. Second, peer review of the HACCP proposal is unnecessary since FSIS has held at least 11 public meetings to discuss and obtain comments on all aspects of the reform proposal. Three of those meetings were two-day conferences which addressed various scientific and technical issues raised by the rulemaking. Third, the National Advisory Committee for Microbiological Criteria in Foods, which provides impartial, scientific review of agency actions relative to food safety, also reviewed the HACCP proposal and submitted comments. All comments received in connection with these public meetings have been placed in the rulemaking record.

S. 343 simply adds another level of review which in this case would result in an unnecessary delay of essential food safety reform. For this and other reasons, I would recommend that the President veto S. 343 if enacted in its present form.

The Office of Management and Budget advises that there is no objection to the presentation of this report to the Congress.

Sincerely,

DAN GLICKMAN,
Secretary.

Mr. GLENN. Mr. President, I quote some from that RECORD, in closing, to show how some of these things can work. They address E. coli, salmonella, and some other things we addressed earlier on the floor today.

In this letter from the Secretary of Agriculture, he points out some of the difficulties. He says:

I am writing in regard to the effect that S. 343 would have on the efforts of the Department of Agriculture to improve the meat and poultry inspection system and the safety of the Nation's supply of food. The Food Safety and Inspection Service published a proposed rule to significantly reform the Federal inspection system by requiring the adoption of science-based Hazard Analysis and Critical Control Point procedures. S. 343 would needlessly delay USDA's efforts to reform the meat and poultry inspection system.

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Under the proposal, the Nation's 9,000 federally inspected slaughter and processing plants would be required to adopt science-based HACCP procedures. Targets would be set for reducing the incidence of contamination of raw meat and poultry with harmful bacteria. Meat and poultry plants would be required to test raw products for pathogens, and to take corrective action, if necessary, to meet food safety targets.

S. 343 would significantly delay this essential reform by requiring USDA to establish a peer review panel which satisfies the criteria in S. 343, submit a cost-benefit analysis and risk assessment analyses to the panel, and convene the panel to review the analyses. The panel would then be required to prepare and submit a report to FSIS detailing the scientific and technical merit of data and methods used for the risk assessment, including any minority views. FSIS would have to respond in writing to all significant comments made in this report. The report and the FSIS response would become part of the rulemaking record and would be subject to judicial review provisions of S. 343. These procedures would significantly delay the essential reform effort by a minimum of 6 months.

While peer review can be a useful tool to improve the rulemaking analyses, the potential benefits from a peer review of the HACCP reform proposal does not justify delaying reform of this system—a reform that is supported by all interests. Similar review has already been occurring. The scientific foundation of the HACCP proposal, in short, would have been the subject of extensive review and comment as part of the rulemaking process.

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S. 343 simply adds another level of review which in this case would result in an unnecessary delay of essential food safety reform. For this and other reasons, I would recommend that the President veto S. 343 if enacted in its present form.

The Office of Management and Budget advises that there is no objection to the presentation of this report to the Congress.

Mr. President, I know that is a lengthy statement this morning. But I wanted to get my views in. We did not have opening statements yesterday. I think I have laid out today the major differences between S. 343, the bill before us now, and S. 1001. S. 1001 is based on the bill that came out of the Governmental Affairs Committee on a 15–0 unanimous vote, except for the three changes I mentioned, which are improvements to the bill.

Mr. JOHNSTON. Will the Senator yield for a question?

Mr. GLENN. I hope people will look very carefully at these differences and, at the appropriate time, we may want to recommend or may submit as a substitute S. 1001. I yield the floor.

EXHIBIT 1

[From the Washington Post, July 6, 1995]

REGULATING REGULATION

The Senate is about to embark on a major debate over regulatory reform. The fundamental issue is how much weight to give to costs in measuring the costs and benefits of regulation. The principal bill is sponsored by Majority Leader Bob Dole. Its backers say, we think with cause, that in the last 25 to 30 years particularly, too many federal regulations of too many kinds have been issued without sufficient regard to cost. That's partly because these costs don't show up in any budget. The politicians can impose them, and for all practical political purposes, they disappear.

The legislation seeks to impose greater discipline by requiring more use of both risk assessment and cost-benefit analysis, the first to lay out more clearly the risks that each rule is meant to abate, the second to compare the expected benefits and costs of compliance. It would then require a finding that the benefits are somehow commensurate with the costs.

All that's to the good; the only problem is that regulatory matters are rarely that tidy. Among much else, they often involve a great deal of scientific guesswork, and the benefits—of a cleaner lake, for example—often can't be quantified. The questions are further complicated when the winners and losers aren't the same people. Whether or not to issue a particular rule will always be in part a value judgment. The cost of compliance should be a larger factor in reaching such judgments than it has often been in the past; it should not be the only factor. That's the policy zone that this bill seeks to define.

It isn't easy. The bill now forbids an agency to issue a major rule without a finding that the benefits "justify" the costs. Some deregulatory advocates think that's too weak a word and want the bill to read "outweigh" instead. The bill says that, in requiring the weighing of benefits against costs, the intent is not to "supersede" but to "supplement" the "decisional critera" in other statutes. Environmentalists and the administration say that's a word game and that the bill would still override the other statutes—clean air, clean water and all the rest—because the supplementary standard would still have to be met. The bill suggests in one place that courts could toss out agency actions only if arbitrary or capricous—the current standard—but elsewhere says the agency actions would also have to be supported by "substantial evidence," a higher standard.

Our own sense is that regulating regulation may turn out to be as hard as regulating anything else, which suggests that there's a limit to what can likely be constructively accomplished by this bill. To require as clear a statement as possible of the risks to which a rule is addressed (how serious are they? how sure can we be?) as well as the likely costs and benefits of compliance (and of rival approaches) is absolutely the right thing to do. To insist that an agency demonstrate that a rule is sensible policy—plainly, that's right as well.

The question is, demonstrate where and to whom? The bill is set up to be enforced through litigation. The courts would become the arbiters of whether benefits had been shown to "justify" costs—but the courts are the wrong place to make such judgments. There's a better idea in a rival bill; when a major rule is issued, sent it first to Congress, which would have, say, 45 days in which to veto it or let it take effect. It's Congress, after all, that passed the laws that gave rise to the regulations. Since these are essentially political judgments anyway, let Congress also be the one, on the strength of all the studies this bill would require, to bless or block the results. That's the right way to do it.

[From the New York Times, July 7, 1995]

OVERKILL IN REVISING REGULATION

Senator Bob Dole's bill to reform regulatory procedures would erect needless obstacles to adopting Federal health, safety and environmental rules. Its excessive provisions invite filibuster by angry Democrats and a Presidential veto. The majority leader could exercise better leadership by joining forces with John Glenn, Democrat of Ohio, whose alternative bill would bring common sense to Federal rules, not extinguish them.

Both Mr. Dole and Mr. Glenn start off right by requiring Federal agencies to weigh benefits against costs to weed out regulations that do more harm than good. The calculations are necessarily inexact, especially where non-quantifiable benefits, like the value of clean air over the Grand Canyon, are involved. But forcing agencies to explain the pros and cons of rules and justify their wisdom gives the public vital information.

The problem with the Dole bill, co-sponsored by Senator J. Bennett Johnston, Democrat of Louisiana, is that its complex language would not fulfill promises made by the sponsors. Mr. Dole says his bill would not override existing health and safety laws that explicitly forbid balancing benefits against costs nor invite judicial challenge of the minute procedures by which agencies conduct their analyses. But the actual words and likely impact of the bill provide no decisive protections.

The bill builds in elaborate petition rights by which regulated industries can force review of existing regulations. That will allow the affected industries to tie up regulations in court and bury agencies in costly administrative reviews. The bill also establishes seemingly contradictory standards. In some sections it tells agencies to pick rules that generate large benefits relative to their costs, but in other places it favors rules that simply minimize cost.

Mr. Glenn's bill fixes many of these missteps. It would allow industry to challenge only arbitrary or capricious rules, and not procedural miscues. It would cut administrative burdens by limiting cost-benefit analysis to major rules. Mr. Glenn would protect against overzealous rule-making by subjecting new rules to review by outside experts and giving Congress 45 days to review major rules before they go into effect. That puts Congress, rather than the courts, in charge.

There is no problem with the existing regulatory system that warrants Mr. Dole's radical approach. Why not start with the Glenn bill, and do more later if necessary?

[From the Plain Dealer, July 9, 1995]

REASON AND REGULATION

Sen. John Glenn, a longtime aficionado of dry but important issues, is not about to change his image with his latest mission; a bid to temper legislation that would weaken the federal government's power to impose regulations.

But however unglamorous his latest crusade may be, there is no question that Glenn is making a critical contribution on an issue that is far more consequential than it sounds. At stake is the federal government's ability to protect Americans from all sorts of health, safety and environmental dangers.

Glenn, the ranking Democrat on the Governmental Affairs Committee, is leading the challenge to a sweeping regulatory-reform bill pending on the Senate floor.

The bill, offered by Majority Leader Bob Dole, would slow down the regulatory process by subjecting a broad range of regulations to cumbersome risk-assessment and cost-benefit studies. It also would make it easier for industries to fight regulations with lawsuits and petitions. The Dole bill, which already has been moderated a bit to draw some Democratic support, is generally similar to legislation already passed by the House.

Glenn, however, hopes to moderate the Senate bill further. Though he embraces Dole's overarching goal of reducing unnecessary government regulation, as well as some of Dole's prescriptions, he is wisely warning that the Dole bill poses a new bureaucratic risk: that the government will become entangled in even more paperwork from a flurry of new litigation, cost-benefit analyses, and risk-assessment studies.

Glenn is proposing a more reasonable alternative—a bipartisan regulatory-reform bill almost identical to one approved earlier this year by the Government Affairs Committee. Glenn's bill contains numerous provisions designed to streamline the federal regulatory process, but it takes a less drastic approach than Dole's. Glenn's bill, for example, would require risk-assessment and cost-benefit studies of regulations expected to have an economic impact exceeding $100 million; Dole's bill would apply to rules with an impact of $50 million.

When the Senate returns this week from its holiday recess, negotiations are likely to resume over a possible compromise between the Glenn and Dole versions. Glenn should hang tough as long as possible, knowing that any compromise he endorses is likely to win Senate approval and then be watered down further in negotiations with the House.

The rules of regulating may not be most politicians' idea of an exciting cause. But it is well worth Glenn's time and effort.

Mr. GRASSLEY addressed the Chair.

Mr. JOHNSTON. Mr. President, will the Senator yield for a question?

The PRESIDING OFFICER (Mr. ASHCROFT). The Senator from Iowa.

Mr. JOHNSTON. Will the Senator from Ohio yield for a question?

Mr. GLENN. I yield the floor.

Mr. JOHNSTON. He will not yield for a question?

Mr. GLENN. I yield the floor.

Mr. JOHNSTON. He yields the floor or yields for a question?

Mr. GLENN. Yield for a question.

Mr. JOHNSTON. I thank the Senator from Ohio. Mr. President, the Senator from Ohio just read a copy of a letter from Secretary of Agriculture Dan Glickman to Democratic leader TOM DASCHLE dated July 11 which he read in full which recommended veto because the Dole-Johnston bill added another level of procedure, which would be the peer review of these matters in food safety.

I am looking at the Glenn substitute, particularly pages 27, 35, 36, and 37, and I see a peer review situation of exactly the sort that Secretary Glickman describes. I ask the Senator from Ohio, am I not correct, does he not include the same kind of peer review and, indeed, that includes on page 27 review of the Food Safety and Inspection Service for peer review?

Mr. GLENN. I think what the Secretary is complaining about is the effective date on this. Ours would not have the same time of effectiveness as S. 343.

In addition, as the Senator from Louisiana will note, one of the major differences he had with S. 343 is making the record subject to judicial review provisions which could delay things in a major way, as he says at the top of the second page of his letter. I might add, the letter was not just to the minority leader, it was to both the majority and minority leaders.

Mr. JOHNSTON. Do I misread this when he says in the last paragraph on the first page that "S. 343 would significantly delay this essential reform by requiring USDA to establish a peer review panel which satisfies the criteria in S. 343, submit a cost-benefit analysis and risk assessment [analyses] to the panel, and convene the panel to review the analyses"? He is not talking about appeal or effective date, he is talking about peer review, is he not?

Mr. GLENN. He is talking about peer review and subjecting it to judicial review.

Mr. JOHNSTON. I invite my friend from Ohio to go back and read the letter. He may be also complaining about judicial review provisions. Did the Senator have any judicial review in his proposal?

Mr. GLENN. Of the final rule. Of the final rule only. In S. 1001, we do not permit judicial review at each step along the way, as is provided in S. 343. That is what I mentioned several times this morning. That is just a lawyer's dream, as I see it, because they can challenge at any point along the way virtually where we provide for a final rule. You can take the whole rulemaking process, and once it is ready to become finalized, to become a rule, then it can be challenged in court. Then you can have judicial review.

Mr. JOHNSTON. Is the Senator aware that S. 343 does not allow judicial review at every step along the way? It simply allows an interlocutory review for three limited questions. First, whether it is a major rule; that is, whether its impact will be $50 million—and I hope we can change that to $100 million—but the size of the rule. Second, whether it is a matter affecting health, safety or the environment, which would require a risk assessment. Third, whether it would require the reg-flex for small business. And that limited appeal would have to be made in 60 days. That is not to give a lawyer's dream; that is to give certainty, so that you do not, at the end of the process, have to go back and do the peer review and the risk assessment if you were incorrect about the size of the impact of the rule. Now, that is not what he is complaining about here, that interlocutory appeal. That is a separate thing. Would the Senator not agree with me that I have correctly stated what S. 343 states, and if I have not stated it correctly, would he correct me on how I have misstated it?

Mr. GLENN. Well——

Mr. SIMON. Parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator from Iowa has the floor.

Mr. SIMON. That was my question: Who has the floor?

The PRESIDING OFFICER. The Senator from Ohio yielded the floor. The chair recognized the Senator from Iowa, who yielded for this colloquy.

Mr. GLENN. Repeat your question.

Mr. JOHNSTON. The Senator says that the Secretary of Agriculture objects because there is an interlocutory appeal provided in S. 343. Having recognized that both bills, the Glenn substitute and S. 343, provide for an appeal from the final agency action. So what the Senator from Ohio says is that the Secretary of Agriculture is objecting because of an interlocutory appeal. My question to him is, would he not agree with me that that interlocutory appeal—that is, an appeal taken within the first 60 days after the publication in the Federal Register of the question of whether or not it is a major rule, whether or not it pertains to health, safety, or the environment, or whether or not it affects small business requiring the reg-flex—that must be published in the Federal Register and appeal taken on that limited question within the first 60 days. Does the Senator agree with me that that is not what——

Mr. GLENN. Well, what I will have to do, I answer my colleague, I would have to get a clarification from the Secretary as to exactly what he meant in some of this. There can be two interpretations of it, as there can be different interpretations as to whether judicial review is required each step along the way. That is not certain at this point. I think there are different interpretations of that. I believe that is one of the areas in which we had trouble getting language clarified, was it not?

Mr. JOHNSTON. I think the Glenn bill is ambiguous on that question. I do not believe S. 343 is in its present form. We will debate that at a separate time. I am simply saying that the Glenn bill is subject to the same thing on peer review that he says the Secretary of Agriculture says S. 343 has. Only ours is more flexible with respect to peer review than his because we allow for informal peer review, and the Glenn bill does not.

Mr. GLENN. S. 343 would take effect sooner and would affect these rules more, where our effective date is later.

Mr. JOHNSTON. Now, if I may ask the Senator this. The Senator said that under S. 343 rules automatically sunset. Now, two questions:

First, is he not aware that in S. 343 we now provide—this has been added since it originally started—that any interested party may petition the court of appeals for D.C. to get an extension of up to 2 years upon a showing that the rule is likely to terminate, that the agency needs additional time, that terminating the rule would be in the public interest, and that the agency has not expeditiously completed its review. You cannot only get an extension of 2 years, but you can get such court orders as are appropriate, such as to complete the rulemaking, or commence the rulemaking, or advance the schedule, whatever court orders are necessary; and is he aware of that, and in light of that, would he not say that a sunset is not automatic under S. 343 but is subject to that extension?

Mr. GLENN. What happens at the end of 2 years? Two years is not much in this rulemaking thing, as he is aware. Sometimes it takes 3 or 4 years to get a rule put into effect. Two years is not a long period of time.

Mr. JOHNSTON. After the 3 years, 5 years.

Mr. GLENN. At the end of that time it would sunset, is that correct?

Mr. JOHNSTON. At the end of the 5-year period, it would sunset. Keep in mind that it did not get on the schedule and that the person at the agency was in charge of the schedule, and so he or she could advance the rule as quickly as he could. Would the Senator say that 5 years is not a sufficient time?

Mr. GLENN. It took 5 years to get put into place.

Mr. SIMON. Point of order, Mr. President.

The PRESIDING OFFICER. The Senator from Iowa has the floor. Does he yield for an inquiry?

Mr. JOHNSTON. Will the Senator from Iowa yield for another question?

Mr. GRASSLEY. I will yield. But is it going to come to a close soon?

Mr. JOHNSTON. Yes.

Mr. GRASSLEY. I ask unanimous consent to extend the time to recess until 12:45.

Mr. GLENN. Reserving the right to object.

Mr. GRASSLEY. Why do I not take the floor then. I thought this was a good exchange.

Mr. JOHNSTON. If I could ask one more question.

Mr. GLENN. I could not agree to doing that. That is done by the leadership.

Mr. JOHNSTON. One more question. Did the bill which the Senator has touted that came out of committee by, I think, a unanimous vote, not provide for a sunset of all bills with no extension at the end of 10 years on the sunset provisions. Did that bill not so provide?

Mr. GLENN. We have changed that in the Glenn-Chafee bill.

Mr. JOHNSTON. With a 5-year extension.

Mr. GLENN. We changed the sunset and review provision.

Mr. JOHNSTON. The bill you voted for in committee.

Mr. GLENN. We no longer have a sunset in this. The bill came out in committee and we changed that later on.

Mr. JOHNSTON. The bill out of committee did have the sunset and did not have any ability to get court orders to order the agency to take action.

Mr. GLENN. No, it came out with a 10-year limit, with a Presidential right to extension. If the agency did not review it, it would sunset. We now realize that was wrong because somebody could delay it over in an agency and sunset a bill by not doing anything. So we took that out. S. 1001 does not have that in there.

Mr. JOHNSTON. I thank the Senator from Iowa for yielding.

Mr. GRASSLEY. The Senator from Louisiana has been so involved in this legislation, so I thought it was very important that I give him time to have that communication with the Senator from Ohio, because I think there is a lot of misperception about this legislation. I think what the Senator from Louisiana just had to say in the way of asking questions helped clear up some of the misperceptions about this legislation.

Also, the Dole amendment is before us. I want to speak on the Dole amendment, because there are a lot of misperceptions about the legislation.

I support the Dole amendment on E. coli and other food borne pathogens. I would like to be able to argue that the amendment is necessary to protect the public health from threats to food safety.

But I think we have to be honest with each other. The regulatory reform act of 1995—that is the title of the bill before us—will not in any way jeopardize the safety of this country's food supply. So then why the Dole amendment?

The Dole amendment is necessary due to fear mongering and scare tactics used by opponents of regulatory reform in this town. They are doing this in an attempt to kill this legislation, S. 343, which has been caught up in the politics and misinformation over the proposed meat inspection regulations.

We have all seen television commercials, and we have seen the political cartoons characterizing Republicans, in particular, as supporting "dirty meat." It makes it sound like we are rolling back meat inspection requirements. This is demagoguery, Mr. President, at its worst. There is not a Member of this Chamber that would put the health of this Nation's children at risk, or anybody of any age at risk.

Yet, the administration and the opponents of this bill would have you believe that the proposed meat inspection regulation would somehow be delayed or even eliminated altogether by this bill. That is simply not the case.

This bill already allows agencies to avoid conducting cost-benefit analyses and risk assessment when a regulation is necessary to avoid an "emergency or health safety threat." And the words "emergency or health safety threat" are from the legislation. Furthermore, even if this exemption were not in the bill, the proposed regulation on meat inspection has already passed cost-benefit scrutiny by both USDA and OMB.

So a regulation that they fear is in jeopardy has already gone through this process to satisfy this legislation. The administration and opponents of regulatory reform somehow seem to want it both ways. On the one hand, they argue that if this bill is passed, there will be a serious and imminent threat to the Nation's food supply.

If this argument is correct, the exemption in this bill allows for the implementation of the meat inspection regulation without conducting cost-benefit analysis and risk assessment. But, on the other hand, they argue that if the exemption does not apply, the meat inspection regulation will be held up because it would not pass muster under this bill.

That is not true. Because, apparently, the regulation has already passed the cost-benefit analysis that is required. So even though I do not believe this amendment is necessary, I think it does help clarify the meaning of the bill. Most important, it is going to stop opponents from demagoging on this issue and for this reason I fully support it.

But I think what is at issue here is this. The regulators and organizations in this town who support massive big Government regulation—and of course Members of this body who are supportive of that concept as well—see their power to stretch the meaning of legislation to an extreme, to do what is in their mind everything the law will allow, just stretch the intent of Congress as much as you can—they see this legislation as impeding their power. They do not like that. It is this power in this town versus, then, the power of the people at the grassroots who want to make sure that public health and safety is protected. We all want that to happen. But we want to make sure that it is done in a reasonable way—not from emotion but from reason.

The regulators' mindset is to look at scientific data differently than the way scientists look at scientific data. This legislation is going to make sure that risk assessment and regulation generally has a scientific basis. It is a way of taking emotion out of so much of the debate that comes with regulation.

There have been many instances in which regulatory agencies have issued regulations and then they would put together panels of scientists, most from academia, to come in and look at the science behind the regulations that are issued. There are instances in which the scientific panels would say that the science is not good; where the panels would not back the science of the regulatory agency that was behind the regulation writing. Panels of scientists would say to the agency, "Go back to the drawing board. Start over again." The politics of the agency or the politics of this town gets in the way of good regulation writing because of the regulators' mindset to not view scientific data the same way that scientists would.

The attitude in this town is to have just enough science as a rationale for your regulation. The attitude in this town is that we do not want science to disprove anything. Regulatory agencies do not want science to disprove anything. What they basically want is just enough data to support a regulatory decision already made, a political decision already made.

So what this legislation does is put in process a procedure by which scientific evidence is going to carry a greater weight. Most important, though, there is going to be judicial review and congressional review of the decisionmaking process so regulators, who are told to use sound science, will have to use sound science. Or, if they do not, there are going to be other people looking over their shoulders.

This legislation is going to make the regulatory process more intellectually honest. It is going to eliminate those instances in which the politics of this town or the politics of a regulatory agency say which regulations they are going to write, and then scientists come in and say sound science does not back up the regulation, so go back to the drawing board. There should not be any more need to go back to the drawing board unless a court would say that they should, or the Congress would say that they should, through the process of review.

It is very important that we have a sound scientific basis for regulation. But it is more important that the regulation writers are held accountable, by having somebody look over their shoulder. This legislation is very rational, a very rational approach to regulation writing. This legislation is badly needed to make sure that regulation is within the least costly approach to give us the most benefit.

This legislation is simply common sense, and that is what we do not have enough of in this town—maybe even in the laws we write, but most important in the regulations. That is why Senator DOLE's amendment is very important, to take some of the emotion out of this debate. It is very important that we get some of this legislation passed, this regulatory reform bill passed, so we take some of the emotion out of the whole process of regulation writing in this town.

Mr. President, I have a request from the leader to read a unanimous-consent request.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the order for the recess at 12:30 be delayed for up to 15 minutes in order to allow for a statement by Senator SIMON.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GLENN. Reserving the right to object.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Illinois is recognized.

Mr. SIMON. Mr. President, I thank my colleague from Iowa for making the unanimous-consent request.

What we need in this field is some balance. There is no question we have overregulation. Anyone, in any field—I do not care whether it is education, medicine, what the field is—recognizes we have overregulation. But the bill that came out of the committee headed by Senator ROTH and Senator GLENN, being the ranking member, that came out 15 to nothing—that strikes me as having that balance. Let us just take a look at a few examples.

Iron poison—between 1990 and 1993, 28 children under the age of 6 died from iron poisoning after taking adult iron-containing products. Overdoses of iron tablets by children can result in intestinal bleeding, shock, coma, seizures, or possibly death. Iron is now a leading cause of poisoning deaths for children under the age of 6.

The FDA has proposed warning labels. This bill might well delay what could come, and would permit judicial review that clearly could cause delay.

Let me give another example.

When it was proposed that we have safety belts in our cars, the automobile industry was not enthusiastic about that, as many of us here will recall. Here is Henry Ford II, in response to this proposal, in 1966.

> Many of the temporary standards are unreasonable, arbitrary and technically unreasonable. If we cannot meet them when they are published, we'll have to close down.

This was seatbelts. They were going to have to close down American automobile manufacturing because of seatbelts.

We voted for seatbelts and, lo and behold, it has not hurt American manufacturing. As a matter of fact, the Japanese were there ahead of us and we are saving thousands of lives every year.

Here is Lee Iacocca, and I am ordinarily a Lee Iacocca fan. He was then vice president of Ford Motor Co., in a meeting with President Richard Nixon, April 27, 1971:

> . . . the shoulder harness, the head rests are complete wastes of money. You can see that safety has really killed all of our business. We're not only frustrated, but we've reached the despair point.

Now, all of a sudden it sells cars. Now they are bragging about the very things that they opposed: Airbags. I can remember, in 1990, the fall of 1990, right after the election I wanted to buy an American car. The only American car that had airbags on the passenger side was a Lincoln—meaning no disrespect, I am not the Lincoln type. I am a Ford, Chevrolet, or Plymouth. I could not buy an American car that had airbags on the passenger side. I finally bought a Chevrolet that had them on the driver's side, not on the passenger side. Now they are bragging about the very things they opposed.

If this law were not in effect, would we have moved ahead on seatbelts and airbags? I think the answer is clearly we would not have.

Let us take a look at a few other things. Lead solder out of food cans. These are examples from the FDA. Final rules published June 27, 1995; effective date to stop manufacturing cans with lead solder is December 27, 1995. What is going to happen if this law comes into effect? I do not know. Requiring quality standards for mammography tests, publication of proposed regulations are planned for October 1995. You have people who are not providing quality tests for women.

What happens if this goes into effect? Cables and lead wires in hospitals have caused the deaths of a number of people. FDA has proposed a regulation to require that cables which connect patients to a variety of monitoring and diagnostic devices be designed so that the cables could not be plugged directly into a power source or electric outlet. Proposed rules were published June 12, 1995. What happens?

Take another example, Mr. President. I had a press conference with two little boys with asthma. Asthma is the leading illness of all U.S. children. A young boy named Kyle Damitz spoke at this press conference. He and his brother both spoke. Here is what Kyle Damitz had to say.

> Hi, my name is Kyle Damitz.
> I am 6 years old.
> I go to Farnsworth school.
> I have asthma.
> I love to play sports.
> In the summer when the air is dirty, I can't go outside. I can't breathe in the dirty air.
> And my mom makes me come inside.
> This is not fair to me and my brothers and everyone with asthma.
> We need to tell the president, to make new laws. So that all the kids with asthma can play outside all the time.

How do you do a cost-benefit analysis on kids playing outside who have asthma? I think you have to recognize the cost-benefit test simply is not a workable test.

Mr. JOHNSTON. Mr. President, will the Senator yield on that point?

Mr. SIMON. Let me finish, and then I will be happy to yield to my colleague from Louisiana.

The State of Illinois tried a cost-benefit criteria in terms of its water and air pollution and found it just was not workable.

Jacob Dumelle, the chairman of the Pollution Control Board from 1973 to 1988 commented about why the Illinois Pollution Control Board had banned the mandatory economic impact analysis. This is a quote from him:

> Cost-benefit analyses are expensive, hard to do. In the end, you try to put a dollar value on human lives.

You just cannot do that effectively. The cost-benefit test just does not make sense.

Let me quote, and I ask unanimous consent, Mr. President, that an article of July 17 from Business Week be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From Business Week, July 17, 1995]

ARE REGS BLEEDING THE ECONOMY?

MAYBE NOT—IN FACT, THEY SOMETIMES BOOST COMPETITIVENESS

(By John Carey, with Mary Beth Regan)

To the Republican Congress, regulations are like a red cape waved in front of a raging bull. "Our regulatory process is out of control," says House Science Committee Chairman Robert S. Walker (R-Pa.). He and other GOP leaders charge that nonsensical federal rules cripple the economy, kill jobs, and sap innovation. That's often true: Companies must spend enormous sums making toxic-waste sites' soil clean enough to eat or extracting tiny pockets of asbestos from behind thick walls.

That's why GOP lawmakers on Capitol Hill want to impose a seemingly simple test. In a House bill passed earlier this year and a Senate measure scheduled for a floor vote in July, legislators demand that no major regulation be issued unless bureaucrats can show that the benefits justify the costs. "The regulatory state imposes $500 billion of burdensome costs on the economy each year, and it is simply common sense to call for some consideration of costs when regulations are issued," says Senate Majority Leader Bob Dole (R-Kan.).

That sounds eminently reasonable. But there's a serious flaw, according to most experts in cost-benefit calculations. "The lesson from doing this kind of analysis is that it's hard to get it right," explains economist Dale Hattis of Clark University. It's so hard, in fact, that estimates of costs and benefits may vary by factors of a hundred or even a thousand. That's enough to make the same regulation appear to be a tremendous bargain in one study and a grievous burden in the next. "If lawmakers think cost-benefit analysis will give the right answers, they are deluding themselves," says Dr. Philip J. Landrigan, chairman of the community medicine department at Mount Sinai Medical Center in New York.

There's a greater problem: The results from these analyses typically make regulations look far more menacing than they are in practice. Costs figured when a regulation is issued "almost without exception are a profound overestimate of the final costs," says Nicholas A. Ashford, a technology policy expert at Massachusetts Institute of Technology. For one thing, there's a tendency by the affected industry to exaggerate the regulatory hardship, thereby overstating the costs.

More important, Ashford and others say, flexibly written regulations can stimulate companies to find efficient solutions. Even critics of federal regulation, such as Murray L. Weidenbaum of Washington University, point to this effect. "If it really comes out of your profits, you will rack your brains to reduce the cost," he explains. That's why many experts say the $500 billion cost of regulation, bandied about by Dole and others, is way too high.

Take foundries that use resins as binders in mold-making. When the Occupational Safety & Health Administration issued a new standard for worker exposure to the toxic chemical formaldehyde in 1987, costs to the industry were pegged at $10 million per year. The assumption was that factories would have to install ventilation systems to waft away the offending fumes, says MIT economist Robert Stone, who studied the regulation's impact for a forthcoming report of the congressional Office of Technology Assessment (OTA).

BOTTOM LINES

Instead, foundry suppliers modified the resins, slashing the amount of formaldehyde. In the end, "the costs were negligible for most firms," says Stone. What's more, the changes boosted the global competitiveness boosted the global competitiveness of the U.S. foundry supply and equipment industry, making the regulations a large net plus, he argues.

While federal rules that improve bottom lines are rare, regulatory costs turn out to be far lower than estimated in case after case (table). In 1990, the price tag for reducing emissions of sulfur dioxide—the cause of acid rain—was pegged at $1,000 per ton by utilities, the Environmental Protection Agency, and Congress. Yet today the cost is $140 per ton, judging from the open-market price for the alternative, the right to emit a ton of the gas. Robert J. McWhorter, senior vice-president for generation and transmission at Ohio Edison Co., says the expense could rise to $250 when the next round of controls kicks in, "but no one expects to get to $1,000." The reason: Low-sulfur coal got cheaper, enabling utilities to avoid costly scrubbers for dirty coal.

Likewise, meeting 1975 worker-exposure standards for vinyl chloride, a major ingredient of plastics, "was nothing like the catastrophe the industry predicted," says Clark University's Hattis. He found in a study he did while at MIT that companies developed technology that boosted productivity while lowering worker exposure.

Of course, it's possible to find examples of underestimated regulatory costs. And even critics of the GOP regulatory reform bills aren't suggesting that cost-benefit analysis is worthless. "We should use it as a tool" to get a general sense of a rule's range of possible effects, says Joan Claybrook, president of the Ralph Nader-founded group Public Citizen. But she and other critics strongly oppose the Republican scheme to kill all regs that can't be justified by a cost-benefit exercise. As a litmus test for regulation, "the uncertainties are too broad to make it terribly useful," says Harvard University environmental-health professor Joel Schwartz.

What is useful is moving away from a command-and-control approach to regulation. There's widespread agreement among companies and academic experts that bureaucrats should not specify what technology companies must install. It's far better simply to set a goal, then give industry enough time to come up with clever solutions. "We need the freedom to choose the most economic way to meet the standard," explains Alex Krauer, chairman of Ciba-Geigy Ltd. Krauer, for example, points to new, cleaner, processes for producing chemicals that end up being far cheaper than installing expensive control technology at the end of the effluent pipe.

DUMB THINGS

But when goals are being set for industry, the proposed cost-benefit analysis approach could have a perverse effect. That's because agencies are rarely able to foresee the low-pollution processes industries may concoct. Smokestack scrubbers are a good example. The bean-counters will use the known price of expensive scrubbers in their analyses. Their cost-benefit calculations will then argue for less stringent standards. And those won't help spark cheaper technology. The result can be the worst of both worlds: costlier regulation without significant pollution reductions. "It's a vicious circle," explains Stone. "If you predict that the costs are high, then you stimulate less of the innovation that can bring costs down."

There's no doubt reform is needed. "Frankly, we have a lot of dumb environmental regulations," says Harvard's Schwartz. But he puts much of the blame on Congress for ordering agencies to do dumb things. Now, Congress is tackling an enormously complex issue without fully understanding the ramifications. Schwartz and other critics worry. Overreliance on cost-benefit analysis could make things worse for business, workers, and the environment.

REGULATION ISN'T ALWAYS A COSTLY BURDEN

Many regulations cost much less than expected because industry finds cheap ways to comply with them.

COTTON DUST

1978 regulations aimed at reducing brown lung disease helped speed up modernization and automation and boost productivity in the textile industry, making the cost of meeting the standard far less than predicted.

VINYL CHLORIDE

Reducing worker exposure to this carcinogen was predicted to put a big chunk of the U.S. plastics industry out of business. But automated technology cut exposures and boosted productivity at a much lower cost.

ACID RAIN

Efficiencies in coal mining and shipping cut prices of low-sulfur coal, reducing the need to clean up dirty coal with costly scrubbers. So utilities spend just $140 per ton to remove sulfur dioxide, vs. the predicted $1,000.

Mr. SIMON. Mr. President, that article is about this legislation. Listen to the last sentence of this article. This is not from some wild-eyed radical liberal publication. This is from Business Week.

> Overreliance on cost-benefit analysis could make things worse for business, workers, and the environment.

I think we ought to be going back to the bill by our colleague from Delaware, Senator ROTH. I think that has balance. I think this bill does not have balance. This bill is going to end up in endless litigation. I know my colleague from Louisiana is sincere, as is the majority leader. But I think it is moving in the wrong direction.

I am pleased to yield to my colleague from Louisiana for a question.

Mr. JOHNSTON. I ask my friend, would he not agree that benefits to health, safety, or the environment are by their nature nonquantifiable; human life, health, clean air?

Mr. SIMON. They are not. That is why I think we have to be very, very careful in this area.

If I may regain my time just for a minute, when you talk, for example, in an area that the Senator from Louisiana knows much about, and the Presiding Officer does, and I do, and that is flood control, then when you talk about cost-benefit, it is very easy. When you talk about something like asthma, then you are talking about something where it becomes very, very difficult.

Mr. JOHNSTON. Is the Senator aware that at my behest, we put in language in the bill contained on page 36 that says if scientific, technical, or economic uncertainties or nonquantifiable benefits to health, safety, or the environment identified by the agency in the rulemaking record make a more costly alternative that achieves the objectives of the statute, appropriately and in the public interest, that that more costly alternative may be accepted because of the nonquantifiable benefits to health, safety, and the environment, or because of the uncertainty of science and data?

Is the Senator aware that that amendment was added to this bill since that Business Week article was written?

Mr. SIMON. Let me just add, there is no question that the Senator from Louisiana has improved the bill before us.

Mr. JOHNSTON. Does that not cover the exact things the Senator from Illinois was talking about, the boy with the asthma, the kid with the lead?

Mr. SIMON. I think the answer is what is quantifiable and what is nonquantifiable is going to become a matter of jurisdiction of the courts under this legislation. I think we are going to have endless litigation.

Mr. JOHNSTON. Under the definition of benefits, we have already included the quantifiable benefits. That is put into your cost-benefit ratio. This says that this is a little extra that you are able to add. If you are not able to quantify the value of life, which by its nature is nonquantifiable, or the value of clean air, then you can add that on and have a more costly alternative.

That is exactly and precisely to deal with the problem that my friend from Illinois so eloquently described, which is the kid with asthma, the people with safety belts, and all that. It is nonquantifiable. It is human life. You do not put a dollar value on human life or on the value of clean air.

I urge my colleagues to go back and read on page 36 those words. I think it covers this like a hand in a glove.

Mr. LEVIN. Will the Senator from Illinois yield on that exact same point?

Mr. SIMON. I am pleased to yield to my colleague from Michigan.

Mr. LEVIN. I hope also all of us will read that language which was referred to by the Senator from Louisiana. But what it does not cover are areas where we cannot quantify the benefits, such as how many fewer asthma attacks will result? That is quantifiable, let us assume for a moment. The value of avoiding it may not be quantifiable. But the fact that we could avoid a certain number of asthma attacks, or deaths in many cases, is very quantifiable.

We sought from the Senator from Louisiana and others language which would say that where you can quantify a reduction in deaths or asthma attacks, we should then not be forced to use the least costly approach. We may want to reduce more asthma attacks and save more lives with a slightly more expensive approach. We were unable to get that language.

So, yes. It is very important that all of us understand the point that is made by the Senator from Louisiana. But it does not solve the problem which has been raised by the Senator from Illinois.

Mr. SIMON. Mr. President, I think the dialog we have just had suggests that my point is valid, that we are going to end up with the courts deciding what is quantifiable and what is not quantifiable. I think we should move slowly in this area. I have been in Government a few years now, Mr. President. I was first elected to the State legislature when I was 25. I am now 66. I have found generally that when we take solid, careful steps, we are much better off than when we do these sweeping things.

I think what we have before us now is well intentioned, but too sweeping, in answer. The pendulum will go from one cycle to the other.

Mr. President, I yield the floor.

RECESS

The PRESIDING OFFICER. Under the previous order, the hour of 12:55

having arrived, the Senate stands in recess until the hour of 2:15 p.m.

Thereupon, the Senate, at 12:46 p.m., recessed until the hour of 2:15 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. GRAMS).

COMPREHENSIVE REGULATORY REFORM ACT

The Senate continued with the consideration of the bill.

Mr. KYL addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, I would like to speak for a moment in support of the Dole amendment, and therefore in support of this legislation as we will amend it.

The question before us is whether or not benefits justify costs. That is really all we want to know. Given that the Judiciary Committee's report places the regulatory burden on our economy at over $881 billion, I think that is a reasonable question to ask. That averages just under $6,000 for every household in this country—$6,000 that families in this country cannot spend on other things because the money has to be given to the Government or has to be used in other ways to comply with the costs of regulation.

That is why these costs are cloaked in what amounts to a hidden tax. They are passed on through lower wages, through higher State and local taxes, through higher prices, through slower growth and fewer jobs. I said fewer jobs. According to William Laffer in a 1993 Heritage Foundation report, and I am quoting:

> There are at least three million fewer jobs in the American economy today than would have existed if the growth of regulation over the last 20 years had been slower and regulations more efficiently managed.

To put it in perspective further, the Americans for Tax Reform Foundation found that each year Americans work until May 5 to pay for all Government spending. If you add the cost of regulations, each American has to work until July 10—I believe that was yesterday—in order to pay for all of the taxes and regulations imposed upon us. That is over a half year of work to pay the total cost of Government, and 2 months of that hard work must pay for the costs of regulation. As I said, that is money families could spend making their own decisions on how to spend for their own health care, safety, and education.

According to a 1993 IPI policy report, regulations add as much as 95 percent to the price of a new vaccine. And Justice Breyer, who has recently been elevated to the Supreme Court, wrote a book called "Breaking the Vicious Circle," in which he poses the following question: "Does it matter if we spend too much overinsuring our safety?" And he answers his own question. "The money is not, nor will it be, there to spend, at least not if we want to address more serious environmental or social problems—the need for better prenatal care, vaccinations and cancer diagnosis, let alone daycare, housing, and education."

In other words, Mr. President, it is foregone opportunity in the sense that by spending this money on something where its benefits are marginal, we are precluded from spending it on things that could really be more important and helpful to us.

Cost-benefit analysis, some people say, is a new and a foreign concept. Well, businesses fail if they do not utilize cost-benefit analysis. At every turn, individuals are confronted with decisions that require weighing the pluses and minuses and the benefits and costs. These are decisions that we make every day. We call it common sense. When we decide to get in our automobile and drive somewhere, we know that the national highway fatality and accidents statistics weigh fairly heavily toward the possibility that sometime in our life we are going to be involved in an accident in which we are going to be harmed and yet we consciously make the decision that because the benefits to us of arriving at our destination using our automobile are worth more than the risks, we decide to take those risks.

In another more simple example, we cross the street every day, and most of us understand that there is some degree of risk in crossing the street; people are harmed every day by doing that, but the benefits of us getting to our destination exceed the costs, or the potential risk to us in making that particular trip.

So as human beings, as families, as individuals, we make decisions, many decisions every day that involve some theoretical and sometimes not so theoretical risks to ourselves. Yet we do that knowingly, and we do that understanding that sometimes benefits can outweigh those risks. It is the application of common sense. And what we are asking for with respect to the regulations that are imposed upon us, is that there be a little bit more common sense, a little bit more care to go into the development of these regulations.

Now, one of my colleagues this morning spoke, and I thought made an excellent point, that Government generally is supposed to do for us what we cannot do for ourselves. Most of us believe that. We appreciate the fact that in many cases we cannot as individuals understand the risks involved and we cannot police everything that could pose a particular risk to us. And so we ask the Government to do that for us. We empower Government agencies to do tests, to do analysis, and to actually establish standards. Then they frequently report those standards to us on a product or on a label or by some regulation precluding the manufacture or use of something that would be dangerous to us.

We do that certainly in our food industry in a way that is understood by all, in the approval of drugs and in many, many other ways. We ask the Government to do for us what we cannot do for ourselves, to understand the risks. That is called a risk assessment, to do a cost-benefit analysis. Indeed, most Presidents since President Ford have, in fact all Presidents I think have, in effect, imposed a cost-benefit analysis requirement on most Government agencies as a matter of Executive order. The problem is it is enforced more in the breach than in the compliance. And so many agencies do not follow that cost-benefit analysis in the establishment of regulations. And that, I will get back to, is basically what we are asking these Government agencies to do. When we give to them the obligation of protecting us in some way, we want them to do it in a way that represents common sense and at the least cost consistent with the protection which we want.

Now, there is an argument that has been made that the regulatory agencies ought to be expected to exercise the same sort of common sense that individuals do. I want to make a couple points about that.

First of all, Mr. President, whenever we hand power to the Government, it should be viewed with a special or through a special lens because the Government exercises power far beyond that which can be exercised by any of us as individuals or even as a business organization. Some call it the heavy hand of Government. But we all appreciate the fact that when we pass a law in the Congress, and when the executive branch agencies of Government administer that law pursuant to our direction, they are doing so under the color of, under the authority of, under the color of law—the power of the Government to enforce that law. And we as citizens are supposed to know what that law is.

We all learned in school that ignorance of the law is no excuse. And yet there are over 20 million words of regulation today, about 36,000 pages of regulations in the Federal Register. We cannot all be expected to know what those are. We do not need to know what they all are. But I daresay that there are a lot of regulations that could end up suggesting that we are in violation of some law that, in fact, we do not even know about. That is certainly the case with a lot of businesses.

The fact is there are a lot of regulations. They have behind them the power of the law to enforce them. So when we ask the Government to do something for us, we should be very careful about ceding too much authority, because the Government can, in the enforcement of those regulations, impose fines and impose other kinds of penalties upon us. And, of course, the stories in the newspapers and so on are full of stories about examples of situations in which an innocent citizen has gotten himself or herself into hot water because he has run afoul of some Federal regulation, frequently of which he was not even aware.

So, when we say, well, a Federal bureaucrat can certainly be trusted to exercise the same degree of common sense that an ordinary citizen would, we appreciate the hard work that our so-called bureaucrats do for us, but we also have to appreciate the power that stands behind that bureaucrat in terms of being able to enforce those regulations.

That is why we need to be very, very careful about the kind of regulations that have been imposed; and, second, because we have certainly seen instances in which there has been an overregulation; and, third, because the cost of those regulations on our society cannot necessarily be fully appreciated by the individual who is promulgating the regulation.

That is why we want to make it very clear to the people to whom we entrust with that authority that we, the Congress, want them to examine both the risks and the costs against the benefits to be achieved by the regulations that they would impose.

Let me give you an example, Mr. President, that occurred in my home State not too long ago. It is an example I cite because it really had a happy ending, but no thanks to the law that we wrote and the regulations that were promulgated pursuant to that law.

In Graham County, AZ, a rural area primarily of cotton farming and other agriculture, there is a river called the Gila River, which does not overflow very often but when it does, unfortunately, it is a wild river. It flooded in 1993 in January. The flood was significant enough to wipe out a bridge about 5 miles east of Safford, the county seat of Graham County. Unfortunately, when that happened, the river changed its course and went several hundred yards to the south wiping out a lot of farmland and causing a great deal of havoc. The primary thing that happened was that there was no more opportunity to cross the river there for the people who lived on the other side without a 28-mile detour across a bridge that was very narrow, 20 feet wide, a bridge one could not build today under Federal regulations, and probably a good thing because it is not a very safe bridge. School kids got up an hour earlier in the morning and stayed an hour later in order to ride that extra distance to and from home. And the traffic was all routed on a small State road. Since it is a farming community, the farm implements were obviously traveling on the same road as the highway traffic. Of course, these can be very wide. They are 20 feet wide sometimes and travel at maybe 10 or 15 miles an hour. I saw many instances in which, because motorists were frustrated, they passed the double line. They should not do it. It is against the law. But clearly, health and safety were implicated in the fact that people could not cross the bridge that existed before.

The Federal Highway Program had funds available through disaster assistance to reconstruct the bridge, and the Army Corps of Engineers was willing to reconstruct the bridge. The problem was that it had to consult with the Fish and Wildlife Service because it is believed that there is an endangered species in the Gila River called the razorback sucker. Now, nobody can find that little sucker, but supposedly it is there. Let us assume that it exists. And if it does, we certainly want to preserve it and save it.

But what the local officials were asking the Army Corps of Engineers to do was to build up a little dirt berm, now that the river has gone back down again and does not flow very heavily, to redirect the river back to its original channel. Now, if the sucker exists, and if it lived all of these years in its original channel in the Gila River, then presumably it can do just fine living where it always lived, and it is no danger to that species that the river is being redirected back where it always was. And by doing that, the bridge can be constructed, the people can travel safely, and life returns normally to the people in Graham County. But, alas, the Army Corps of Engineers could not get the approval from the Department of the Interior to go forward with these plans.

Finally, the situation was dangerous enough, the people were fed up enough, the situation was frustrating enough, costing enough, that the people of Graham County said, "We've got to do something about this ourselves. We have to take matters into our own hands, apply a little common sense."

They notified the Army Corps of Engineers of their plans to build a little dirt berm, to redirect the channel back where it had been and build a little low-river crossing there. And, fortunately, the Army Corps of Engineers exercised what they call "enforcement discretion" and did not cite the county officials when that is precisely what occurred.

Now the river has been channeled back in its original place. A low-river crossing has been built. And plans are going forward to reconstruct the bridge. An application of common sense by common people, having their lives to live, who just could not afford to wait any longer to live in this bureaucratic morass that we have created.

Well, who is really at fault? It is probably ultimately the Congress' fault for writing a statute that permits this kind of regulatory authority. But it is also the fault of the agency in not exercising the common sense to authorize the project to go forward.

When one considers the quality between protecting this species, which is somewhat questionable, as I said—and I think the folks would agree with that—in any event, protecting it by letting it go back into the same channel it had always been in, when you weigh that against the risk of lives to people for having to cross this very narrow bridge 5 miles downstream and traveling behind slow-moving farm implements and all the rest of it, it seems to me that it is a good example of how sometimes we do not apply common sense in these regulations, and it was necessary for people to take matters into their own hands.

When it has gotten to this point, we have a problem, and that is the problem we are trying to correct here with the process changes that are embodied in the Dole-Johnston substitute. We are not changing the underlying substantive law. Endangered species, clean air, clean water, all of those laws that we have created for the protection and safety of our environment and our people still exist. They still will prevail. But in the establishment of regulations now, we are asking the people who implement those laws to take certain things into consideration, such as an assessment of risks and a cost-benefit analysis, when that is appropriate, and, in the case of certain regulations where it is appropriate, to do peer review. Those are all very reasonable concepts.

I am certain in a bipartisan way we can work out any differences that exist relative to the application of those principles to the administering of the laws that we write.

Let me just conclude with a couple of other thoughts, Mr. President.

John Graham, professor and founding director of the Center for Risk Analysis at the Harvard School of Public Health, wrote in the Wall Street Journal recently:

> Since zero risk is not a feasible goal, we need to rank risks in order of priority.

For example, he agrees that childhood lead poisoning is a serious public health problem and asserts, nevertheless, that fewer resources should be used to excavate soil at Superfund sites where the probability of childhood exposure to lead is low, whereas more resources should be directed toward cleaning up older homes in poor communities, where each day kids are ingesting house dust contaminated with deteriorating lead paint. In other words, an example of where we probably have our priorities wrong because of the rigidity with which we developed these laws, and they are being administered pursuant to that rigidity. We are trying to loosen that process up in the Congress by giving discretion to our agencies to apply more common sense in the development of a regulation.

The Hillary Clinton task force, as a matter of fact, used the same type of prioritization and analysis. Her task force included a proposal for mammograms for 50 year olds at $100 million per life saved, while mammograms for 40 year olds at $158 million per life saved were rejected as too costly.

The conclusion is, in both cases, obviously there are lives at stake, but in one case it was simply deemed too costly for the Government to provide the source of revenue for the mammograms, considering the risks involved. One can argue with that particular analysis. One can say, "No, that's still too great a risk."

My point in citing the example is simply to note the fact that the President's wife in her task force and all of the work that she did on this, a professor from Harvard, Government agencies today, all of us in our individual lives all use common sense and prioritize the risks against the costs. So that is not a concept that we should be arguing against. We should be implementing it in the law.

I cited the Harvard School of Public Health study. It indicated:

> . . . reallocating resources to more cost-effective programs could save an additional 60,000 lives per year without increasing costs to the public or to the private sector.

In other words, Mr. President, cost-benefit analyses would not only prevent the squandering of our scarce resources, it would actually enable us to maximize their impact and end up saving more lives and preventing more harm to our citizenry than is the case today.

Mr. President, there are many, many examples. I will conclude by saying that it is my view that the substitute represents a good-faith effort to meet the concerns of those who thought that this legislation might either intentionally or accidentally go too far in undermining existing substantive law by assuring that it is strictly a process change which supplements the authority of the people we ask to administer these laws today to engage in the kind of risk assessment and cost benefit which all of us do every day of our lives; that that makes common sense; that it will end up saving more lives; that it will end up saving a lot of money and, in the end, will provide a safer climate for the people of our country than exists today.

So I certainly urge all of my colleagues at the appropriate time to support the Dole-Johnston substitute.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, I say to my friend from Idaho, I will be brief.

I think the Senator from Arizona is correct. We should not be arguing about whether we should have cost-benefit analyses. The Glenn bill does not argue about that. The argument is about whether or not the Dole bill takes too much of a risk with the public safety or not a sufficient risk.

My friend from Arizona cited some things that I think could confuse folks. He indicated that the cost of regulation—and cited a study—was *X* billions of dollars per year, that that cost jobs, it cost every household $6,000 or $16,000, I do not know what his number was, per year; the implication being, if you vote for the Dole bill, those costs will evaporate, those costs will go away.

The truth is, the Dole bill could be implemented tomorrow and the cost to households will actually go up, not go down. But let me just make a point. We all hear, and I can cite and will cite as this debate goes on, horror stories of regulations that have occurred in my State of Delaware, absolutely foolish, stupid things that bureaucrats do. We are all about here trying to rationalize this and have an element of common sense.

Let us talk about common sense. What is common sense for a corporate executive is not necessarily common sense for the average citizen.

If you are a corporate executive and you are running a steel plant in the Midwest, common sense dictates that you build a great big, high smokestack, like we used to see in the forties and fifties and sixties, 350 feet high. Common sense dictates that because it is the cheapest thing for you to do. And then you emit out of that gigantic smokestack into the upper airstream damaging particles to people's health, and you blow them across the country into Delaware, and you blow them into the State of New York and you have acid rain and you kill our fish and you kill our wildlife and you kill some of us. Now, that is common sense.

You are the chief executive officer. Someone comes along and says, "Now, I'll tell you what I can do for you here. We can, by you having to spend an additional half a billion dollars, clean your plant up. We can see to it that with the Clean Air Act, we are going—it is going to cost you now, it is going to cost your stockholders, it may even cost jobs, what it is going to do is cost you $400, $500 million to clean the plant up."

If you are the corporate executive sitting at your desk, that is not common sense to you to go and spend all that money. So what do we have to do to make sure that the streams in Delaware are not polluted, that the Adirondacks do not have dead lakes where nothing lives because of acid rain? We have the Government come along and say, "We're going to make you do that, we're going to make you do it."

It is common sense to the person living in Delaware that it is not a good idea to have all those particles coming from the industrial Midwest into my State and choking us. That is common sense. It is a good idea to clean the air. But that is not common sense for the corporate executive. I am not suggesting they are bad or good guys, but listening to my friend from Arizona, it is like if we all just sat down and talked about this, common sense would prevail.

Why did the Federal Government get in the business of air pollution and water pollution? Because the State of Arizona did not do it, the State of Delaware did not do it, the State of Kansas did not do it.

I was raised in a place called Claymont, DE. It sits on the border of Pennsylvania and Delaware.

There are more oil refineries per square mile along the Delaware River in Marcus Hook and Chester, PA—which is less than a half mile from where I was raised—than any place in America. When I was a kid, I would come out of where we lived, Brookview Apartments, my uncle would drive me to school. If it was a misty fall morning, you would put on the windshield wipers and literally there would be an oil slick on your windshield—not figuratively, literally.

The State of Pennsylvania understood the prevailing wind went into Delaware. This was the southeast corner of Delaware, and it was a multibillion-dollar industry for the State of Pennsylvania. The idea that the folks in Pennsylvania were going to pass a law saying that all those oil refineries in southeast Pennsylvania, which blew into New Jersey and Delaware, had to clean up their refineries was nonexistent—zero. There would be a lot of political pain for those legislators in voting against those captains of industry in their States, maybe costing jobs at that refinery, maybe costing income to that county.

So the reason we got in the business in the first place is because industry did not do it. They did not do it. The States did not do it. How about clean water? I wonder how many people in this Chamber visiting Washington would like us to get out of the business of assuring that their water is clean. I do not know where they live, but I now live along a place called the Brandywine River. A factory was there, and when I was a kid, there used to be a pipe that came right out of the factory, a pipe that went right into the Brandywine, because common sense dictated that if you owned that factory, it made sense to spill that effluent into the river and wash it out into the Delaware River and into the Atlantic Ocean because it costs millions of dollars to put on devices to catch that dirty water.

Well, today, I literally—not figuratively—can raft down the Brandywine River, which is a tradition in our State, on inner tubes on a Sunday with my kids. It is clean. Does anyone in this Chamber believe that had we not imposed costs on industry that that river would be clean today? Name me a place in America where that happened without regulation, because common sense dictated that it is better to give the stockholders more money in their dividends than less.

I am not making a moral judgment. I am not making a statement about greed or anything. It is just common sense. It made sense. It was all right if the Government let you put it in the river and that took it away. Instead of spending $12 million to treat it on-site, put it in the river.

My friend said we all take risks, that we get in our automobiles and we walk across streets. Guess why people get in their automobiles? They get in automobiles today because they know that the tires they buy meet certain standards that the Government imposes on manufacturers. So you do not have what you had in the 1940's and 1950's, tires shredding and people getting killed. We now have things called inspections. In every one of our States, in the beginning, you could drive a car when the motor car came along and you did not have to go to an inspection station, you did not have to show up there. You just took your risks. As more cars got on the road, even States figured, hey, wait a minute, a lot of folks are getting killed because they are putting in brakes that do not work, steering mechanisms that do not function. So we have all these regulations. Now, they are costly. They are costly.

The only broad point that I wish to make now is that I hope no one here—I do not think my friend from Arizona is doing so—is arguing that we should not have those kinds of regulations. We are talking about the margins here. What we are debating here on this floor is what kind of oversight, if you will, by the judiciary, and what kind of oversight by industry, if you will, should there be to prevent the aberrations that occur—and they do occur—and the unnecessary costs that occur—and they do occur—from occurring? But if the good Lord could come down and divine for us every bureaucratic glitch that occurs in implementing regulations —I will give you one by the way. Unintended consequences.

In my own State a friend of mine, a kid I grew up with, a very successful highway contractor in Delaware, shows up at a function with me. He walks up and says, "JOE, I am helping you again this year, but I could kill you."

I said, "Why?"

He said, "You voted for that Americans With Disabilities Act."

I said, "Yes, but you were for that."

He said, "Yes, but I did not know you were going to do what you did."

I said, "What did I do?"

He said, "I will tell you what that act did." He owns a highway contracting company, and he hires flag persons. You know, we have them in all our States while they are repairing the roads. One guy with a flag puts up a stop sign, and with a walkie-talkie he calls the person at the other end and says, "You let your folks go, I will put the stop sign up on this end."

He said, "I hired a guy that turned out to be hard of hearing, and so when he was given the walkie-talkie, he picked up the walkie-talkie and the guy down there would say, 'OK, stop them.' But he did not hear them. So what would happen is cars would be coming through and they banged into one another."

He said, "I moved him to another job. I put him behind a grader, and he sued me under the Americans With Disabilities Act."

He called over one of the most prominent lawyers in Delaware and said, "Francis, tell him what you told me I have to do."

Francis Biondi walks over and says, "JOE, I told him he had to settle this for"—I will not mention the amount—"a sizable amount of money." It was several times what the average American makes in a whole year.

I said, "How could that be?"

He said, "Well, they ruled that I had to take every possible action to accommodate this person's disability. So do you know what they told me I should do? I should have had an extension that ran up 30, 40 feet that had a red light and a green light on it at either end, and that guy would be able to look down, since his eyes were good, and he could see green so that he knows to press red, and he can see red and he will know to press green. His hearing would be taken out of it."

I will quote my friend—I guess I will not because there was profanity in it. But he basically said, "Why in the heck do I need him then, if I am going to do that?" That is a bizarre outcome, in my view, for a well-intended piece of legislation.

But assume we took out all of those nonsensical aberrations of regulations that we pass. I doubt whether anybody on this floor—and again, I beg the indulgence of my friend from Arizona. He gave a figure of several billion dollars and about $6,000 per household, I think. If we got rid of every one of those stupid things, we are still at about $5,000 a household. So I do not want anybody on the floor—we kind of mix things up on the floor here. Listening to my friend from Arizona, I think the average person would think that, well, if the Dole bill passes, a lot more people are going to be employed, and instead of my paying $5,000, $6,000 a year, I am not going to have to pay that anymore—not unless he is talking about doing away with the Clean Water Act and the Clean Air Act and all of these major environmental pieces of legislation.

The third point I want to make—and then I will yield the floor—is that he mentioned lead paint. When I first got here in 1973, I was on the Environment and Public Works Committee, which then was called the Public Works Committee. I was given by the then chairman, Senator Randolph of West Virginia, a subcommittee assignment that had no legislative authority. I had authority to hold hearings. It is called the Subcommittee on Technology. And I could not understand why he was being so gracious to me until I found out the first assignment I was given. I was given the assignment—being one of the Senators from Delaware, a State with a lot of small companies like DuPont and others residing in that State—I was given the assignment of writing a report, after holding hearings, on whether or not we should phase out lead in gasoline or have lead traps in gasoline.

The DuPont Co. had a patent for a lead trap. If I had written a report saying, "Do not phase out lead in gasoline, do not eliminate lead in gasoline, just have lead traps like we had for pollution control devices," I was under the impression that would be a multimillion dollar, probably billion dollar, decision for the company. I do not recall any corporation during those hearings coming and saying we should take lead out of gasoline. There was overwhelming scientific evidence along the lines of those my friend from Arizona cited. He stated that it makes more sense to clean up the lead paint, dust, and particles in existing older housing than it does to take the last traces of lead out of contaminated sites in the ground where folks do not live, that are now Superfund sites. I happen to agree with him.

But the broader point I wish to make is, were it not for a regulation by the Government in the first instance, there was no commonsense reason why corporate America thought it made sense to take lead out of gasoline. They all repeatedly made what we would call commonsense arguments. First, the reason lead is put in gasoline is that you can go further on a gallon of gasoline with lead in it than without lead in it. Second, it is not as costly to make the gasoline. Third, you will employ more people. Fourth, we have an oil embargo. It went on and on. There were commonsense, legitimate reasons—but against the public interest overall. Because, from the public's standpoint, common sense said, if you lived in a metropolitan area and you had a child, you would have to live with lead in gasoline coming out of tailpipes of automobiles or defective lead traps—which would be the case. And there would have been an incredible, enormous cost of maintaining those lead traps, additional costs. States would have to inspect the lead traps when you got your car inspected, and so forth. Common sense for the citizen said: My kid ingests that air just like the dust particles the Senator from Arizona referred to.

So the common sense for the public—for us, as representatives of the public—was to say, "No lead in gasoline." The commonsense position for those who made gasoline, and lead, was, "Lead in gasoline."

Again, I am not making a moral judgment. What I am saying is that, "What is good for the goose ain't necessarily good for the gander." What seems to be common sense—there is an old expression. I believe it is an English expression. "What is one man's meat is another man's poison." And that is literally true, literally true in environmental law.

So, I hope, as we get into the detailed meat—no pun intended—of this debate, we do not confuse three things. One, regardless of which bill prevails, the total cost—I will argue later and hopefully will be able to prove to my colleagues—the total cost to the American public in terms of dollars, the difference will be de minimis.

No. 2, there will be, still, a significant cost to the American public for these regulations because the American public decided that their ultimate priority is the air they breathe, the water they drink, the food they ingest. And the American public has had over 200 years of experience, culminating at the turn of the century with Lincoln Steffens and others, about what happens when you do not regulate people who deal with our air, affect our water, and produce our food.

The third and final point I will make is that when we look at the cost, I ask my friends to count the increased cost in the number of bureaucrats that would have to be hired to meet the timetables imposed by the Dole legislation, and the cost in additional number of judges we would have to hire and the additional number of lawyers that will be paid, litigating every jot and tittle of the change in the Dole legislation. We should count those costs, compare them to the costs that come from the overstepping bureaucrat and the unreasonable regulation.

Senator GLENN and Senator CHAFEE have a bill that at one time was a totally bipartisan bill. It passed out of the Committee on Governmental Affairs unanimously—without a dissenting vote; every Democrat and every Republican. Then, Senator HATCH, my esteemed chairman at the Judiciary Committee, presented the Hatch-Dole bill. I do not know what was so wrong with the bill that passed out unanimously from the Government Affairs Committee, a major piece of legislation, significantly rewriting regulatory law, significantly lifting the burden on American business without, in my view, doing unjust harm to American consumers. But something happened on the way to the floor.

Now we have the Dole bill. Senator DOLE came here today and proposed an E. coli amendment. Now, we argued in committee that the Dole bill, unless it was changed, would increase the prospect that people would die from E. coli in meat in their hamburgers—feces in their food. We were assured that cannot possibly happen under this law. If it was not going to be able to happen, why did Senator DOLE have to come to the floor and propose an amendment on that?

Mr. KYL. Will my friend yield on that?

Mr. BIDEN. I will be delighted to yield.

Mr. KYL. Senator DOLE came to the floor to offer the amendment to take away the political argument, because a red herring, as it were, was being raised, an argument that somehow his bill was going to permit people to get sick when, in fact, the bill would not do that at all. But to get the issue off the table so people would not continue to talk about it, he said, "Fine, we will create a belt and suspenders. The bill already prohibits it, but we will make it crystal clear so that argument cannot be made anymore, so people cannot scare people."

May I make one other point?

Mr. BIDEN. Let me respond. I will yield in a moment. Let me respond to that. I am glad to hear that, and that is useful. Maybe the Senator from Arizona and Senator DOLE would consider, then, taking away a couple of more of what they think are red herrings.

For example, why are we trying to undo all the Superfund site plans that are soon to go into effect? Why do we not take Superfund out of this legislation? It has no part in this legislation. We are told, when we raise that, it is a red herring. I would like him to supply suspenders on that one, too, for me. We have a belt; let us have suspenders.

The next one I would like to consider, and then I will yield the floor completely, a second one is we are told the Dole-Johnston legislation does not in any way overrule existing environmental law. Why do we not just say that? Why not use that exact language, just say it, give us the suspenders along with the belt, because some of us, although maybe we "doth protest too loudly" maybe we are a little too cynical, maybe we read things in this legislation that are truly not intended to be there.

Mr. KYL. Will the Senator yield?

Mr. LEVIN. Will the Senator yield?

Mr. BIDEN. I yield to the Senator from Michigan.

Mr. LEVIN. There will be an amendment which will do precisely that, because of the concerns the Senator from Delaware and others raised. These are legitimate concerns which a whole host of people who are deeply involved in this issue have raised as to whether or not there is any—where there is a conflict, if there is one, between the provisions of this bill and an underlying law, what governs. We have been assured over and over again there is no supermandate, there is no intent to have any superimposition or any undoing of existing law.

But the language is not clear enough. So there will be an amendment to add the suspenders to the belt in that area, or the belt to the suspenders in that area, just as the Senator from Delaware has suggested. And I hope—I do not predict—but I hope there will be unanimous support for that amendment when it reaches the floor.

Mr. BIDEN. I thank my friend. Again, I hope that occurs because, look, most of us on this floor want serious regulatory reform. This is not a debate about whether or not we want regulatory reform. No one can argue, that the original bill out of the Governmental Affairs Committee was not significant regulatory reform. I am for it. I was for it then. I am for it now.

So this is not a debate about whether or not we have significant regulatory reform, whether or not we are going to satisfy purists, whether or not we want to be bird lovers of America, to be happy with what we do. That is not my objective. My objective is to make sure that we do not unintentionally or intentionally undo the one success story of America, the one thing I can turn to and tell my kids beyond the fact that black children can now go to school with white children in my State which was segregated by law. I can literally take them through the county where I live and say, "I could not swim there when I was your age. You can now." I can tell them and take them in the neighborhood I was raised in and say, "I can walk out in the morning anywhere in this development where you live and work and breathe the air." They do not now have to breathe in oil. They can turn on their windshield wipers and the windshield is clear.

I can point out to them that the Brandywine River, Christiana River, the Delaware River, and people sail on it now. When we were kids, there were big signs saying we could not do it. I can take them to the beaches, the pristine beaches of my State and say, "You can swim anywhere any time and you don't have to worry about medical waste rolling up here." I can point to them and tell them that you no longer take what they took up until 12 years ago—garbage less than 1 mile out from the shores of my area—and dump it so it washes in.

The environmental story in America has been a success story even with this aberration. I want to tell you, if my friends are as concerned, as I hope they are, about the environment as well as the aberration, I hope they will make clear these ambiguities. Maybe the Senator from Michigan and I are wrong about what the legislation says. But they can clear it up. They can clear it up very quickly for us and put to rest any of those steps.

I yield the floor.

Mr. JOHNSTON addressed the Chair.

The PRESIDING OFFICER (Mr. THOMPSON). The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, just very briefly, one of the biggest fights we have had about this bill—and make no mistake, it has been a fight—is about the question of supermandates; that is, whether this bill supersedes the underlying bill such as the Clean Air Act.

Mr. President, I laid down a marker in negotiation with Senator DOLE and his staff, and Senator HATCH and others, that we would simply not accept a supermandate. The way the bill was drawn as it came from the House was that it said this section shall supersede existing law—supersede. As it was reported out of the Senate Judiciary Committee, it said this bill shall supplement existing law. As we finally agreed, we came up with language that says this bill shall supplement and not supersede existing law.

Mr. BIDEN. If the Senator will yield just one second on that point, the point the Senator just made I hope illustrates why the Senator from Michigan and I are not suspect of the Senator from Louisiana but why we are cynical about this because we know that the Senator from Utah and the Senator from Kansas wanted to supersede it. They kept telling us they did not. But we know they wanted to supersede. That is the problem.

I think Senator JOHNSTON has gone a long way to correcting that. But I just want the record to reflect, do not let anybody kid anybody. These folks, my colleagues, wanted, intended, to supersede. That is the point. That is why folks like me said "bad idea."

Mr. LEVIN. Mr. President, will the Senator from Louisiana yield?

Mr. JOHNSTON. Mr. President, if I may reclaim the time for just a minute, it is irrelevant what the House wanted or what they wanted on the initial bill. I wanted no supermandate. The point is, what does the language say?

Mr. President, I have been telling my colleagues, including my dear friend from Delaware, that we ought sometime to take yes for an answer. When language is clear, unambiguous, we need not put forth ambiguity into it.

The Senator came to one of our negotiating sessions. We talked about judicial review. I believe I am correctly judging the Senator's reaction that when he read what we had about judicial review, there was a light bulb. I think I see what he is doing now. I think you will see here that not only do we have that language which says it supplements and does not supersede, but we also have language that explicitly recognizes that there will be times when you cannot meet the test; that is, that the benefits justify the cost. There will be times when you cannot do that because the statute requires otherwise.

If you look on page 36, we say if applying the statutory requirements—this is line 22—if, applying the statutory requirements upon which the rule is based, a rule cannot satisfy the criteria of subsection B, it goes on to tell you what to do. But the point is that explicitly recognizes that there are circumstances in which because of the underlying statute, you cannot satisfy the fact that the benefits justify the costs because they told you in the Clean Air Act to use the maximum achievable control technology, for example. That is an explicit test in the Clean Air Act which may make meeting the test of subsection B here impossible.

Mr. BIDEN. Will the Senator yield for a question on that?

Mr. JOHNSTON. Yes.

Mr. BIDEN. The Senator from Arizona cited—I apologize. I do not have a copy of the statement. But I hope I state it correctly. He cited a section. He referred to it as the Hillary Clinton report on mammography, or something to that effect, where he said that report included that women under the age of 40 for mammographies—the average cost was, and I forget the number—it was $150,000, or $15 million, whatever it was. For women over the age of 50, it would cost less. And it was suggested that we should follow a cost-benefit analysis, and decide that mammographies maybe should be only for women over 50 years of age because of the cost.

The way this legislation is written, if in the wisdom or the lack of wisdom of the U.S. Congress and with the President signing the legislation, if we were to pass a piece of legislation which on its face made absolutely no economic sense, and we decided that even if it cost $10 million per life in order not to even have one life lost, you had to get to zero tolerance on some chemical, clearly it would not pass a cost-benefit analysis.

Let us assume the cost-benefit analysis was done and it is clear that they come back and say, "Look, this is going to cost $10 billion or $1 million or $500 million for every life you save." If the legislative bodies and the President wanted to do that, would they still be able to do that?

Mr. JOHNSTON. I thank the Senator for his question because it is a critical question. The answer is yes. It is explicit. It says we shall supplement and not supersede.

Mr. BIDEN. May I add a followup question? This is sort of a parlance that I can understand and everybody I think can understand.

Let us assume we pass such a bizarre law to protect the welfare of individuals and it only gathered up 10, 12 people in all America who are affected by it. If a company, if an individual, affected by that cost and the onerous burden they would have to go through to meet the law, if they thought it was a bad idea, tell the Senator from Delaware what they would be able to do under this law to get to the point where the section the Senator referred to takes control. What I mean by that is, could an individual or a company come along and say, "OK, I demand that the EPA do a cost-benefit analysis anywhere."

Mr. JOHNSTON. I will tell the Senator exactly what is required. He is talking about a rule already in operation.

Mr. BIDEN. Yes. We, the Congress, pass a law explicitly stating that this end must be met and we assign it to an agency in effect, and an agency writes a rule.

Mr. JOHNSTON. And DuPont wants to contest the rule, say.

Mr. BIDEN. All right.

Mr. JOHNSTON. Here is what would happen. Within 1 year after the passage of this act, the head of each of the agencies shall look at all the rules under their supervision, determine which ones need to be looked at, and therefore come up with a preliminary schedule. That schedule will be published a year afterward. If this rule is on that schedule, then DuPont, since they are from Delaware—that is the only reason I use them—would not have to take further action because it is going to be reexamined. If it is not on the schedule and they want it reexamined, then they would petition. Their burden is to show that there is a substantial likelihood that the rule would not be able to reach, to satisfy the requirements of section 624.

Mr. BIDEN. That is the key. Let me stop the Senator there, if I may, Mr. President. Section 624 is a different section than the section cited, making it clear that you do not—that cost-benefit analysis need not prevail if there are other factors. You cannot supersede the underlying law. The underlying law says on its face this is going to cost, say, an exorbitant amount.

Mr. JOHNSTON. If the underlying law says that, if applying the statutory requirements upon which the rule is based, the underlying law that requires the mammography, let us say, a rule cannot satisfy that criteria of subsection (b)—subsection (b) criteria are that the rule justify the cost, that you have the least-cost alternative unless there are scientific or data uncertainties or nonquantifiable benefits——

Mr. BIDEN. Let me make it easy for the Senator because I think it is important the public understand this arcane notion.

Let us say the Congress passes a law, and the President signs it, that says no matter what it costs—in the legislation——

Mr. JOHNSTON. I am giving the Senator an answer to that.

Mr. BIDEN. No matter what it costs.

Mr. JOHNSTON. Then it satisfies the requirements of section 624.

Mr. BIDEN. And it is ended right there?

Mr. JOHNSTON. And your petition would be rejected.

Mr. LEVIN. Will the Senator yield on that point? We have offered language to say it that clearly in this bill, and it has been rejected. And let me just get right to the heart of the matter. We have about 10 Cabinet officers that have issued a statement of administration policy.

Mr. JOHNSTON. Mr. President, I have the floor, and I would be glad to entertain the question.

Mr. LEVIN. The question is this. Let me just read who it is that signed this before I ask the question. Secretaries of Labor, Agriculture, Health and Human Services, Housing and Urban Development, Transportation, Treasury, Interior, EPA, OMB have said that this bill "could be construed to constitute a supermandate that would override existing statutory requirements."

Now, when you have that many folks, I would think, of average or better intelligence——

Mr. BIDEN. I hope so.

Mr. LEVIN. Who say it can be interpreted that way, and when you have a whole bunch of Senators here who say it can be interpreted that way, and when it is the intent now of the Senator from Louisiana and the Senator from Kansas and the Senator from Utah not to have it interpreted that way, because that is what you have said over and over again, why then not accept the language which we have offered during our discussion which says that in case of a conflict, in case of a conflict between the underlying law and this bill, the underlying law governs?

That is a very simple question. Why not just simply make it explicit that in the event that there is a conflict between the requirements of this bill and underlying law, the requirements of underlying law govern? That will just eliminate all of these doubts. That is the suspenders and the belt.

Mr. JOHNSTON. Mr. President, I will answer the question like this. I do not care how many Cabinet people say this thing is ambiguous. It is not. It is as clear as the English language can be. Now, whether they are ingenuous or disingenuous in their criticism, I do not know. I know that this letter of administrative policy, much of it is, to be charitable, disingenuous, because I sat in the room and negotiated part of it and accepted some of the things that came from the administration and then was met with the argument coming back out that that which we accepted was a fault in the bill.

Mr. LEVIN. But on this particular issue, on this particular issue——

Mr. JOHNSTON. On this particular issue, let me—the point is the fact that they have said it does not make it so. I believe it is clear.

Now, what I believe also is that this language would really put an ambiguity into it because in the event of a conflict the statute under which the rule is promulgated shall govern. Now, the statute under which the rule is promulgated did not require risk assessment, did not require cost-benefit analysis, did not require that you go through any of those procedural hoops. I could make the strong argument that this would say that that rule under which it was promulgated, if at the time it was promulgated satisfied those rules, then that governs and that this statute, the petition process, the lookback process, is taken out of the picture; it is no longer valid.

Does the Senator see what I am talking about?

Mr. LEVIN. No. I think the question I asked though is a simple one. Where there is a conflict, where there is a conflict between the underlying statute's criteria and the criteria in this statute, the question is what governs?

Now, we have been assured—I mean, we have heard many speeches on this floor that there is no intent to have a supermandate, that the underlying statute is going to govern. And yet when it comes right down to the very specific question, if there is a conflict between the criteria in this statute——

Mr. JOHNSTON. If the Senator will let me answer, the question is, what is a conflict? If one statute requires something, a cost-benefit analysis, which this does, or a risk assessment and the other statute does not, is that a conflict or is that supplementing?

Mr. LEVIN. The other question is, what does the word "supplement" mean? It has to have some meaning. For instance, if you could not issue a regulation to enforce the double hulled tanker law—for instance, we passed a double hulled tanker law. A lot of people thought it was actually a bad mistake in terms of cost-benefit, but we passed it.

Now, the agency comes along and the agency is supposed to implement that in terms of the time of implementation, and so forth. It goes through this bill. It cannot implement it. It cannot because it does not pass the cost-benefit test.

Now, there is an argument—there is an argument which has been raised that the Senator from Louisiana, I would hope, would want to address.

He recognized very forthrightly to the Senator from Delaware what happens when you go through all the cost-benefit analysis, the risk assessment. It does not make any sense to have a double hulled tanker rule, but that is the law. The Senator from Louisiana says the law governs. The double hulled tanker law governs, period. Then it seems to me that the concerns which have been raised by so many Members here and so many of the administration that we ought to say it clearly should be addressed. We ought to say it clearly.

Mr. JOHNSTON. If the Senator will yield, the problem is your suggested language does not say it clearly. I believe it says it clearly when you say it shall supplement and not overrule. And then, when you have this alternative requirements language which explicitly recognizes that there will be times when you cannot meet the criteria of the benefits justifying the cost because the statute requires it, if in applying the statutory requirement, you cannot meet the criteria, then it tells you what to do. You can go ahead and promulgate the rule. That is precisely what it means.

Now, if you come up with some other language that does not itself make an ambiguity where there is not now, I mean, I would be glad to clarify. If you supplement and not override—I believe when you say "supplement," that means you are supposed to read the two in harmony, but you are not overriding the substantive requirements of the underlying law. It is very tricky to start talking about what is the underlying law and what is procedure, what is substance; what is supplement, what is override. I believe we have hit the appropriate balance, particularly in light of the alternative requirements language of page 36.

Mr. LEVIN. If the Senator from Louisiana again would yield, the language which the Senator points to as being the clarifying language for the issue that we are discussing does not address a critical issue. In fact, I think it makes it more ambiguous. We have talked about this at some length off the floor, and perhaps to some extent we covered it this morning. But what the Senator says is, if, applying statutory requirements upon which the rule is based, a rule cannot satisfy criterion in subsection (b), then you go to (c).

Mr. JOHNSTON. Yes.

Mr. LEVIN. When you go to (c), which is what the Senator says we should do, what (c) says is that in certain circumstances underlying laws are going to govern. And here is what he says. Here is what the bill says. "If scientific, technical or economic uncertainties are nonquantifiable benefits to health, safety and the environment," then certain things follow from that. And so the question which many of us have asked is, what happens if the benefits are quantifiable?

Mr. JOHNSTON. First of all——

Mr. LEVIN. I am not talking about lives. I understand that the Senator from Louisiana believes that the value of a life is not quantifiable. That perhaps is common parlance here. I know it is used differently from the agencies. That is not the question I asked.

What happens, for instance, if a law says that you have to reduce the parts per trillion of a certain toxic substance to at least 10? That is what the law says. Beyond that, an agency will do a cost-benefit analysis. If the agency, after doing that cost-benefit analysis, reaches the conclusion that it makes good sense to go to, let us say, 6 parts per trillion, now, that is quantifiable. That is very quantifiable. They have gone from cost per parts per trillion in dollars. We are not now talking about lives or asthma or other kinds of problems. We are talking about parts per trillion. Under this language, since it is quantifiable, there is no escape from (b).

Mr. JOHNSTON. There is, if the Senator will follow this through with me. See, the agency has a lot of discretion. Now, the agency discretion in the first instance is to interpret the statute. What does the statute mean? There will be a level of discretion between a minimal list interpretation and a maximum interpretation where the agency can pick that interpretation and is not overruled unless their judgment is arbitrary and capricious or an abuse of discretion. So, in the first instance, they can pick that interpretation; that is to say, they can pick that level of cost. Now they must meet the test of the benefits justifying the cost. But when you meet the test of the benefits justifying the cost, you use the definition of benefits as found on page—I think it is 621, subsection (5)—which says that benefits include both quantifiable and nonquantifiable benefits to health, safety and the environment. So that, if it is quantifiable, then you pick it up in the first instance of benefits justifying the cost. But we wanted to be sure that sometimes there will be some lagniappe, some nonquantifiable benefits to health, safety and the environment. I believe that clean air is not quantifiable as a benefit. I believe that the benefits of health are nonquantifiable. Notwithstanding, my friend from Michigan thinks a life, you can put a dollar value on it.

Mr. LEVIN. No. I am saying that the agencies do—because a risk assessment—you have to make those kinds of assessments.

Mr. JOHNSTON. If they can pick it up as a quantifiable matter under the definition on 621(5)—no—621(2) and (3).

Mr. LEVIN. If the Senator from Louisiana will yield for 1 more minute. The question is, if you cannot meet the requirements of (b), if you cannot meet them, then you go to (c). Under (c) the Senator does not provide for quantifiable and nonquantifiable benefits, but only for nonquantifiable. You have not done in (c) what you did in your definition of benefits. And there is no reason not to do it, by the way. There is no reason.

Mr. JOHNSTON. Let me tell you why. When you go to (c), then you cannot satisfy your benefits justifying the cost. But the statute required you to do something. And so you are required to go ahead and do what the statute says, notwithstanding that the benefits did not justify the cost. Keep in mind that those benefits included all of your quantifiable as well as nonquantifiable benefits.

Mr. KERRY. Would my colleague yield for a question?

Mr. JOHNSTON. Not yet.

And you can go ahead and do what the statute tells you. Moreover, you can do more than the least cost of what the statute tells you. You can go beyond that if there are uncertainties of science, uncertainties of data or nonquantifiable benefits to health, safety or the environment. So this is over and above to that which the statute required. And the statute required you to do something that was not cost-benefit justified.

Mr. LEVIN. On that issue, to pursue it, can you move to a more costly program if the benefits are quantifiable?

Mr. JOHNSTON. Is it beyond what the statute required?

Mr. LEVIN. No. Using my example, the statute says you have got to get to at least 10 parts per trillion reduction. That is the toxic substance. We want as a minimum to get to 10 parts per trillion.

Mr. JOHNSTON. Yes.

Mr. LEVIN. Now, the agency does a cost-benefit analysis and it finds that for a few dollars extra it can get to 6. After 6 parts per trillion, it becomes so costly it probably is not worth it.

My question is, this is highly quantifiable. We know exactly how many dollars for each part per trillion. But under the language of this bill, you could not get to 6 parts per trillion because 10 parts is slightly cheaper than 6 and it meets the test of the statute that the agency get at least to 10.

Mr. JOHNSTON. Let me answer the Senator's question. I think the simple answer is, yes, you can, but there is a caveat. If it is within the discretion of the agency head and the interpretation of the statute to have some leeway as to the interpretation, then yes, you can.

Mr. LEVIN. How would that be least costly?

Mr. JOHNSTON. Wait a minute. The statute is clear under the Chevron case, the Supreme Court case. What it said is that if the Congress has spoken on an issue and congressional intent is clear, then that congressional intent must be enforced. So that if, for example, you required that you meet 40 miles per gallon as a cafe standard, then I do not believe that the administrator could come in and say, well, look, it would be nice to go to 50 or 55 because we like that more. If Congress has spoken and the intent is clear, then you must follow congressional intent. If——

Mr. LEVIN. If the Senator would use my hypothetical where you must get to at least 10 parts per trillion reduction.

Mr. JOHNSTON. If the phraseology of the statute is "at least," then that in turn would give discretion to the agency head.

Mr. LEVIN. Under the provision of this bill, you must use the least costly alternative to get to the goals set by Congress. The least costly alternative is to get to 10. Under my hypothetical, for a very slight additional cost, you can get to 6. After 6 the cost goes off the chart.

Mr. JOHNSTON. As I say, the simple answer is yes, unless congressional intent prohibits that by having spoken on it, and the Senator's hypothetical example would indicate by the use of the words "at least" that it is within a permissible interpretation.

Mr. LEVIN. Under this bill, it is not the least cost.

Mr. JOHNSTON. The answer is that they could, because those parts per million would relate to a benefit to health or the environment and, therefore, would be a nonquantifiable benefit to health or the environment.

Mr. LEVIN. If I could, again, ask the Senator to yield for a question. It is very quantifiable. There is no way under which my hypothetical can reasonably be described as setting forth a nonquantifiable.

Mr. JOHNSTON. What is quantifiable with the Senator is parts per million.

Mr. LEVIN. That is exactly what is in the statute. It does not talk about lives and it does not talk about breathing. What the statute says in my hypothetical is you must get to at least 10 parts per trillion of a toxic substance. Beyond that, the agency is allowed to use some discretion using cost-benefit analysis and risk analysis.

Under my hypothetical, you get to six in a very cost-effective way, but under the Senator's bill, because it says you must use the least-cost method to get to an alternative, which is in the statute, since 10 is an alternative permitted by statute, your least cost drives you to 10, whereas cost-benefit drives you to six.

There is a conflict between the cost-benefit and the least cost and I think—by the way, Senator ROTH is someone who is on the floor who knows a great deal about this subject and I think has some similar concerns with this.

Mr. JOHNSTON. The Senator has asked a question, and the answer to his question is, if it is parts per million of a toxic substance, therefore it relates to benefits to health or to the environment and, therefore, is specifically covered under the phrase that says where nonquantifiable benefits to health, safety or the environment makes a more expensive alternative appropriate or in the public interest, then you may pick the more costly alternative.

Mr. LEVIN. Since there is an ambiguity here at a minimum, I think a fair reading would be since the word is "nonquantifiable" and my hypothetical is very quantifiable, at least reasonably interpreted, although the Senator from Louisiana does not agree with the interpretation, surely I gave a very quantifiable hypothetical.

My question is, why not eliminate that ambiguity by stating that if there is either a quantifiable or a nonquantifiable benefit which is cost-effective and permitted by statute that the administrator will be allowed to go to the most cost-effective rather than the least-cost conclusion? That is the question. Why not eliminate the ambiguity?

Mr. JOHNSTON. The answer is we took care of whatever ambiguity there was at the behest of the Senator from Michigan. You will recall our negotiation on this, and we added quantifiable and nonquantifiable to the definition of benefit in section 621.

Mr. LEVIN. That was not at my behest. That was before I raised this issue which I raised with you.

Mr. JOHNSTON. No, this was done between the time we filed the first Dole-Johnston amendment——

Mr. LEVIN. Not at the behest of the Senator from Michigan.

Mr. JOHNSTON. Well, the issue was at least talked about by the Senator from Michigan. I do not know that the Senator from Michigan suggested this exact fix. He was at least in the room. I thought it was he who raised this question of quantifiable and nonquantifiable.

Whoever raised it, we changed that definition so that benefit means identifiable significant favorable effects, quantifiable and nonquantifiable, so that you are able to use it, whether it is quantifiable or nonquantifiable, in meeting that test of cost-benefit. This is when you go beyond the quantifiable. You already quantified your benefits, but there will be other benefits nonquantifiable—the value of a life, the value of clean air, the smell of flowers in the springtime—all unquantifiable. That is what you can take into consideration, and we explicitly recognize that. You have already taken into consideration quantifiable, as well as nonquantifiable wants, but we are going beyond the statute at this point.

Does the Senator have a question?

Mr. KERRY. I appreciate the Senator being willing to take some time. I would like to follow up on the questioning of the Senator from Michigan, because I believe that he has targeted one of the most serious conflicts, ambiguities—whatever you want to label it at this point in time—and clearly in the legislative process, we ought to strive, where we identify that kind of ambiguity, to avoid it. I am sure the Senator would agree.

As I read the relevant sections, I confront the same quandary the Senator from Michigan does, and I find that in the answers of the Senator from Louisiana there is, in effect—not consciously necessarily, but because of the difference of interpretation or definition, there is an unavoidable sliding away from the meat or the center of the hypothetical posed.

The hypothetical that was posed by the Senator from Michigan is really more than a hypothetical. It is an everyday occurrence in the reality of agency rulemaking. I think the Senator from Louisiana knows that almost all the agencies quantify almost every benefit.

So let me ask a first threshold question. Does the Senator from Louisiana accept that some benefits are quantifiable?

Mr. JOHNSTON. Of course.

Mr. KERRY. If some benefits are quantifiable, does the Senator accept that a certain health benefit could be quantifiable?

Mr. JOHNSTON. It depends on what kind of health and certain aspects——

Mr. KERRY. Let me ask the Senator this. Does the Senator believe that it is possible to quantify the number of hospitalization cases for emphysema or lung complications that might follow from reducing air quality to a certain level of parts per million?

Mr. JOHNSTON. You can certainly quantify statistically those things. You cannot quantify the value and the value of the benefit.

Mr. KERRY. Well, I question that. That is an interesting distinction because——

Mr. JOHNSTON. If so, you can take into consideration for the purpose of your benefits justifying your costs.

Mr. KERRY. As the Senator knows, in the newspapers in the last months, we have seen repeated stories of the rise of asthma and allergy reactions in children in the United States. We have a quantifiable number of asthma prescriptions that are issued as a consequence of this rise of asthmatic condition. That is quantifiable in cost. We have a rising number of visits to doctors for diagnosis, and that is quantifiable in cost by the reporting levels that have allowed the newspapers to report a percentage of increase in America.

To follow up on the so-called hypothetical of the Senator from Michigan, those costs are quantifiable. We know, in many cases, how much it costs America in money spent on health care, in money spent on hospitalization, in lost time at work in a series of quantifiable effects. We know that, and that can be measured against the cost of reducing whatever is the instigator of those particular effects.

Mr. JOHNSTON. Right.

Mr. KERRY. The Senator agrees.

Mr. JOHNSTON. Yes, but you see, all of those costs, whether quantifiable or nonquantifiable in the first instance, to determine whether the benefits justify the cost, were taken into consideration. So I ask under your hypothetical, are you telling me that the quantifiable and nonquantifiable benefits would not justify the cost, whatever the statute said?

Mr. KERRY. I think to answer your question and to sort of continue the colloquy, if we can, the answer is that there is an uncertainty as to that, because what is contained in the definitional portion of the statute is never a sufficient clarification for what is contained in a particular section where the substance is interpreted by the court. The court may find that the definition intended one thing, but in the substance of the section, the court will find there is a conflict with the definition, and they are going to go with the substance.

So what the Senator from Michigan is saying and what I think a number of us are saying is, let us not allow for that ambiguity. In our legislative role, we have identified this ambiguity, we are troubled by the potential impact of this ambiguity, and we are suggesting a remedy that is precisely in keeping with the stated intent of the Senator from Louisiana.

So the question comes back that I know the Senator from Michigan has asked previously: Why would we not therefore legislate to a greater capacity of perfection the intent that the Senator says is contained in the language? It does no other change to the bill.

Mr. JOHNSTON. I do not know whether the Senator understands what I am saying. Did the benefits justify the cost of your—what was it—did they or did they not?

Mr. KERRY. No.

Mr. JOHNSTON. You see, his hypothetical was that if you add a little bit of extra cost, you get a big benefit.

Mr. KERRY. It is not a hypothetical.

Mr. JOHNSTON. If that is so, the benefit justified the cost.

Mr. KERRY. If we have a statute—the underlying statute suggests that, for reasons of the health of our citizens, we want to achieve a minimum reduction in emission standards to 10 parts per million—a minimum standard. But the legislation empowers the agency to go further. It is a minimum standard.

Now, under your language, a measurement would be made as to the benefit of the minimum standard, but it would also——

Mr. JOHNSTON. A measure would be made as to the rule, the rule as interpreted by the agency. That is what is subjected to the benefit-cost ratio.

Mr. KERRY. I agree. And the judgment made by the agency would be, does this rule or some—at the moment, we make the standard according to health-based and technology-based criteria. And we make an evaluation as to what are the benefits of reducing the air quality. We make an analysis of what is the benefit of breaking it down to the 10 parts per million. Let us say that for 10 parts per million reduction, the cost-benefit analysis shows an expenditure of $100 and it saves 100 lives. But the same analysis has shown that for an expenditure of $105, you could save 150 lives.

Mr. JOHNSTON. Yes, well, did——

Mr. KERRY. Let me just finish. Under your language of least-cost alternative, and the distinction between quantifiable and nonquantifiable, the agency would be restricted to the $100 expenditure and 100 lives, even though $105 could save you 150 lives.

Mr. JOHNSTON. Not true, Mr. President, I tell my colleague, because there is nothing here—first of all, I do not know of any statute that says a minimum of so many parts per million with discretion to go higher.

Mr. KERRY. There is a statute. The Clean Air Act has minimal standards.

Mr. JOHNSTON. It is maximum achievable controlled technology, which is not stated in parts per million. There are other standards. For example, there are radiation standards that do specify so many rems or millirems per year, et cetera. The Clean Air Act is maximum achievable controlled technology. That gives to the administrator a broad discretion as to what is maximum and what is achievable; that is to say, what is on the shelf.

Mr. KERRY. But the underlying statute—if I can say to the Senator, I have the examples. I did not come to the floor with them at this moment because I came from another meeting. But this particular colloquy was taking place. I can assure the Senator that I will provide him with specific statutory examples where this so-called hypothetical clash exists. All I am suggesting——

Mr. JOHNSTON. I would like to see that because we have talked about these hypothetical clashes. You see, in your hypothetical, the benefits justified the cost, because in the first instance you saved lives——

Mr. KERRY. I agree that the benefits do, but——

Mr. JOHNSTON. And if it is within the realm of discretion of the administrator——

Mr. KERRY. But there is no discretion.

Mr. JOHNSTON. Under the law of the Supreme Court, in the Chevron case, the last and most definitive case I know of on the issue, they say specifically if the Congress has specifically spoken to an issue and the intent is clear, then the agency must follow the intent of Congress—"Must" follow.

Mr. KERRY. But the——

Mr. JOHNSTON. I do not think you disagree with that.

Mr. KERRY. The problem I think we are underscoring here—and I cannot for the life of me understand the restraint on a simple clarification which actually codifies the stated intent of the Senator in this colloquy. I mean, this is very simple language. It seeks to say if there is a conflict between the cost-benefit analysis in the underlying statute and the least-cost standards, the underlying statute prevails. That is supposedly the stated intent of the Senator.

Mr. JOHNSTON. That is absolutely the intent.

Mr. KERRY. Why can the simple language not say, in the event of a conflict, the underlying statute prevails?

Mr. JOHNSTON. I would have no problem with proper language to do that. The problem is that, first of all, I think we have very clear language right now. I think it is very clear. The offered language creates its own ambiguity.

Mr. KERRY. I agree. I think the offered language—I do not disagree, if he is referring to the language proffered earlier by the Senator from Ohio.

Mr. JOHNSTON. It says, "In the event of a conflict, the statute under which the rule is promulgated shall govern."

Mr. KERRY. I could walk the Senator through now literally section by section, and I think that when you do that, the ambiguity sort of leaps out at you. And when you have to go from one section to the other and then ultimately find in the remote definition section one word—"social"—that somehow embraces this concept that you will have this relevant benefit analysis, I think we are asking lawyers to start to tie up the regulatory process. The whole purpose of a lot of our efforts here in the Congress now is to reduce the need for anyone to have to litigate what we are trying to legislate.

Mr. JOHNSTON. I tell my friend that it is indeed a complicated statute. But I think it is clear, and the problem is that—you talk about will "social" embrace all these things. We say "benefit" means the reasonably identifiable—this is page 13, section 621(2), line 8: The term benefit means "reasonably identifiable, significant favorable effects."

Mr. KERRY. Are we reading from the——

Mr. JOHNSTON. We are reading actually from the substitute. In any event, it says, "reasonably identifiable, significant favorable effects, quantifiable and nonquantifiable, including social and environmental health and economic effects."

We did not want to go into a laundry list because my friend knows the old rule about specifying one thing excludes those matters not specified. You will remember the old rule from law school. That is the problem here. But it is, I think, really clear.

To get back to your question of the underlying statute governing, I insist that it is absolutely clear. Nevertheless, I would recommend to my colleagues a clarification, if the clarification does not inject its own ambiguity.

Mr. LEVIN. If the Senator will yield, I am delighted to hear that because in the eyes of many, and I think many who work with the Senator, who the Senator knows and are reasonable in their reading of laws, there is ambiguity in this language. There has been an important and intensive effort to remove the ambiguity to make it clear that there is no supermandate that underlying law governs. That is the issue here. That is stated to be the intent of the Senator from Louisiana, and the language which can make sure that intent is carried forward in this statute is, I believe, quite easily drawn. We will be offering that language later on this afternoon, and I hope the Senator from Louisiana can join in that clarification.

Mr. JOHNSTON. I certainly will. Does the Senator understand my problem with the phrase, "in the event of conflict, the statute under which the rule is promulgated shall govern"?

Mr. KERRY. The Senator is saying that he believes that it is opening up a whole rule interpretation, is that correct?

Mr. JOHNSTON. What I am saying is we do not define what—conflict. What we really mean is the substantive requirements of a health-based standard or a technology-based standard; that those health-based or technology-based standards shall govern. And we do not mean that the procedures under which the rule was adopted shall govern.

If you can get an appropriate way to phrase that concept, I certainly would recommend it. Even though I think it is clear, we want to reassure where we can.

Mr. KERRY. In furtherance of that reassurance, could I just ask the Senator, is it the clear intent of the Senator to invoke into the rulemaking process a practicable, efficient, cost analysis?

Mr. JOHNSTON. Of course. Of course.

Mr. KERRY. I would say to the Senator that I accept that. The Senator from Michigan accepts that. And that is what we want to achieve.

In the doing of that, I assume the Senator would want to also guarantee that cost analysis does not become a supermandate?

Mr. JOHNSTON. Oh, of course.

Mr. KERRY. Therefore we should, I think, be able to arrive at language—driven at by the Senator from Michigan—that achieves an avoidance of the ambiguity, but without creating a new potential for disruption of that cost analysis.

Mr. JOHNSTON. May I suggest here a way, perhaps, to get at this question of conflict? Part of my problem is to say that "in the event of conflict"—in my judgment there is no possibility of conflict. We have written conflict out. So, therefore, you do not want to admit the possibility of that which you have written out, which injects its own ambiguity. So you ought to take that phrase out and simply say that nothing herein shall derogate or diminish or repeal or modify the health-based standards or the technology-based standards of environmental statutes—or words to that effect.

Mr. LEVIN. We are drafting language to address an ambiguity that we perceive to be in the bill. And we will try to write it in such a way—we will write it in such a way that it does not create any other ambiguity.

Mr. JOHNSTON. If you would just leave out that "in the event of conflict," because there is no conflict. That is why we say it shall supplement and not supersede, because we have written it in such a way that it does not conflict and we do not want courts to find conflict where none is there.

Mr. KERRY. Suppose we say in the event of unforeseen consequences, incapable of being described by the sagacity of the drafter of the bill, we nevertheless——

Mr. LEVIN. In the event somebody finds it.

Mr. JOHNSTON. We do not admit of that possibility.

Mr. President, I think this has been a very useful exchange. And I hope, maybe following up on this, we can make clear that those health-based standards and technology-based standards of the environmental statutes are not affected, repealed, or modified in other ways.

Mr. LEVIN. And other statutes also, which are important to health and safety; the underlying statutes.

Mr. JOHNSTON. What we are talking about is health-based or technology-based standards. Is there any other standard we are talking about?

Mr. LEVIN. Could be just a standard that the Congress sets.

Mr. JOHNSTON. Yes, I——

Mr. LEVIN. Could be the double-hulled tanker. I am not sure what that is based on. We made a decision on that and you do not intend that anything in this bill is intended to supersede it. The problem is, because of the ambiguity we pointed out, it could be interpreted that there is an ambiguity in that kind of situation.

Mr. JOHNSTON. The point is let us make it relate to standards and not to procedures.

Mr. LEVIN. Right.

Mr. JOHNSTON. Because the procedures surely do supplement and they do not conflict.

Mr. LEVIN. It is our intent that our language address the ambiguity that we and many others perceive in the bill without creating any other ambiguity. We will show it to the Senator before we offer it.

Mr. JOHNSTON. I thank the Senator. I think we made progress.

Mr. KERRY. I think the Senator is correct.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I wonder if those Senators have completed their discussion? I would like to proceed for a few minutes.

Mr. JOHNSTON. Did the Senator wish to ask a question?

Mr. CHAFEE. No. I wanted to proceed. I did not want to intervene with something if they were just about concluding.

Mr. JOHNSTON. No, Mr. President. I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, the regulatory reform bill now pending before the Senate would, if enacted, bring sweeping changes to the regulations that protect the health and safety of the American people and of our natural environment.

What am I talking about? Let us take a look at this cost-benefit analysis business. Perhaps the most important feature of this bill is the new role for cost-benefit analysis in evaluating health, safety and environmental rules. Under S. 343, which is the bill before us, the Dole-Johnston bill, every major rule issued by a Federal agency must be accompanied by a study setting forth the costs that will be imposed by the rule and the benefits that will be experienced when the rule is fully implemented.

In other words, you figure the costs on one side and figure the benefits on the other.

This is not exactly a new development. That has been required by Executive order since the beginning of President Reagan's administration.

There are, however, two new twists to this, in this legislation. First, there is a prohibition on the issuance of any rule, unless the Federal agency can certify that the benefits of the rule justify the costs. And, second, the opportunity exists for extensive court review of the scientific and economic studies that form the basis for the agency's certification.

In other words, there are two new features in this bill. We have had cost-benefit analysis in the past. But this requires it. In other words, there can be no issuance of any rule unless the agency, the Federal agency, can certify that the benefits justify the costs. Second, we have in this legislation this extensive judicial review.

The cost-benefit analysis becomes a gate through which all of our health and environmental policies must pass. And the gate will be guarded by a host of litigants in Federal courts all across our land. They will spend millions of dollars on legal challenges to prevent new rules from becoming effective.

This is a big departure from the existing situation that we now have in our country. Although cost-benefit analysis is now a useful tool in writing regulations, it is important to remember that most health and environmental policies are not based on a strict cost-benefit calculus. Other values are also important in setting national goals. In some laws, the instruction to the agency is to protect public health and to set a standard that ensures that no adverse health effect will result from pollution. Some of our laws are based on the principle of conservation. Agencies are directed to take whatever action is necessary to save a species, an endangered species, for example, or to save a wild area from development or exploitation.

In many cases our laws require the use of best available pollution control technology. This is sometimes referred to as BAT, best available technology. Our science and engineering is too limited to know how to achieve an absolutely safe level, so we say to those engaged in activities that may cause pollution, "Do the best you can to limit the impact on others, or on nature."

But that is not the theory of this bill. The purpose of this bill brings an end to that philosophy of "do the best you can." The report of the Judiciary Committee says it very well. The Judiciary Committee says, "The proper philosophy for environmental law is summed up in this question: Is it worth it in dollars and cents?" That is on page 71 of the Judiciary Committee report. "Is this action worth it in dollars and cents."

That is a new philosophy. No longer is the question asked, "What is safe? What is the best we can do to preserve our natural heritage?" Those may have been the principles that formed our environmental policies over the last quarter of a century, ever since 1972, but now we are being told that policy is too expensive. We should pay only as much as we are going to get back. Is it worth it in dollars and cents?

That is the new philosophy that is in this bill. This, it seems to me, this cost-benefit approach—everything in dollars and cents—ought to appeal to the man described by Oscar Wilde in the last century. Oscar Wilde described somebody as being the following: He knows the price of everything and the value of nothing.

Is it worth it? It may seem like a commonsense test that should apply to all regulations. But it falls well short of the envision that has been the foundation of our environmental laws for the past quarter of a century. Much of our current environmental law is based on the common law concept of nuisance. Simply stated it is this: People have a right to be free from injury caused by the activities of another. Under common law, going back to the 16th century, each property owner has the private right of action to abate or to receive compensation for a nuisance imposed by a neighbor. This is a property right. One type of nuisance frequently addressed in common law courts was the matter of foul odors created by some activity such as keeping livestock or operating a slaughterhouse. In fact, the first nuisance case involved odors caused by pigs kept in the alleys of London. The common law courts took action to prevent these nuisances such as noxious odors because one person has no right to act in ways that infringe on the property rights of another. Under the common law, public officials could also bring action to prevent a nuisance that affected the whole community.

As our society became more industrialized, more complex, the potential injuries caused by pollution became more far reaching and subtle. The ability of common law to abate and redress injuries effectively was undermined.

So it was not the old question of your neighbor suddenly bringing a whole lot of pigs on his property, and you are downwind causing your property to become of less value because of the noxious odors. That is the simple case. But it became much more complex as society became more complex.

General pollution control regulations, imposed first by the States and then by the Federal Government, have been established as the more efficient alternative, and have largely superseded the role of common law remedies in protecting our rights to be free from pollution. For example, the concern for air pollution that started under common law as a complaint against these noxious odors I just described have been transformed into a concern for the serious health affects that may be caused by air pollution. Today, we have the Clean Air Act that sets Federal standards for smog and carbon monoxide and lead. The foundation of these laws is, in part, the belief that we have a right to live free from threats to human health caused by the actions of others. The underlying principle has been retained. One person engaging in private activities does not have the right to impose injuries on another or the community at large. That principle is the source of many standards that instruct agencies to reduce pollution to levels that are safe or at which no adverse public health effects will occur.

The right to be free from pollution is compromised by this bill, S. 343. This bill imposes a cost-benefit test on regulations to control pollution. The theory behind the cost-benefit analysis is your neighbor has a right to pollute as long as the damage to you is less costly than the cost of pollution control devices are to the neighbor. In other words, if you are damaged less than the cost you can impose on him to stop this pollution, he does not have to install the pollution control. Yes. You suffer. But that is tough luck.

Let us suppose a large manufacturing firm locates a new plant in the community. The company's owner admits that the plant will release pollution into the air and water of the community. They also admit that, depending on the level of pollution control required, the pollution may cause illness or even death among the neighboring residents. How much pollution control should the plant be required to install? One way to answer that question is to set limits on the pollution so that there will be no adverse effects on the health or on the community as a whole. Another answer is that the plant should be required to use the best available technology to control the pollution. We may not know precisely what is safe or at what levels or by what routes people will be exposed to the solution. So we ask the owners of the plant. We do not ask them. We tell them. That is the way it works now—to make the investment in the best pollution control equipment they can afford, to do the best we can. That is how the law works now. But that is not how this new law works as proposed.

Under the cost-benefit approach there would be a limit on how much we could ask that plant to do to clean up its pollution. The limit would be determined by putting a price tag on the adverse effects of the pollution. How many people get sick? What is the cost for their medical care? How many days are they off from work or home from school because of illness? What is it worth to be able to fish in a stream that flows near the plant and to enjoy outdoor exercise in that town on a clear summer day free from smog and pollution? Under the cost-benefit approach, pollution control is only required if it costs less than the medical care for those stricken.

If the medical care is higher and you are doing more damage and causing more sickness than the cost of the equipment, then you have to put the equipment on. But if the equipment cost is higher than the cost of the sickness, you do not have to put it on.

A stream is not cleaned up unless the recreational business or commercial fisheries that use the stream are worth more than the investment in the pollution control equipment. Some people may get sick. Some people miss work or school. A fisherman may lose his job. A boat house may close down. But that is all OK under this bill because the alternative—asking the factory to do its best to reduce the pollution—would cost too much, would cost more than the losses suffered by the neighbors.

To me this is an outrage. I mean have you ever heard anything like this? It is all right to cause pollution. You do not have to stop it as long as the cost of the equipment to stop it would be greater than the cost of the sickness you are causing to your neighbors and those downwind and the others in the area. This is a very different ethic than that which guides our current policies. It abandons the principles of safety and conservation and doing the best we can. It abandons the notion of the right to be free from pollution that is the basis of our current laws.

All of this is coming from a Senate that is saying we protect private property. We want people to be paid when there are takings. Indeed, this is a bill that comes over from the House that says if the cost of endangered species and having that and protecting the endangered species is more than 30 percent of your land, you have to be compensated because that is a taking. But it is all right to take somebody's health. You do not bother with that. Somehow everything has gone crazy around this place.

This bill would allow your neighbor to take your property rights unless the Government can prove that the adverse effects you suffer are worth more than the cost that would be imposed for the pollution equipment.

I want to make it clear that it is not the information provided by the cost-benefit analysis that concerns me. I think that all regulatory options should be rigorously analyzed and the options selected should put a premium on efficiency and flexibility and good science. We want all of these things.

The cost benefit studies that have been done under the Executive orders as exist now under President Reagan and others have provided a useful tool, a tool to improve the quality of the regulations. I have sponsored, along with Senator GLENN, a bill that would require cost-benefit analyses and risk assessment for all major rules. The information generated by these studies is quite helpful to the agencies.

It is quite another matter to say that any polluter can go to court and challenge a rule because it imposes more costs on his activities than the benefits that are realized by the neighbors. Under this bill, S. 343, you say you cannot make me put that pollution control equipment on because, yes, I am causing bad health downstream to my neighbors, but that is all right because the cost of their missing school or missing work or the old people suffering from asthma, we put a price on that, and the price of that is less than the cost of my equipment that I have to put on so I do not have to put it on.

That is the new philosophy that is in this legislation.

Mr. President, here is the second general point. I am concerned about the explosion in litigation that will result if this bill is enacted. All of us are saying we do not like the proliferation of legal challenges that are coming up in different legislation. We want to stop that. This bill is a lawyer's employment act. This bill ought to be applauded by every member of the bar association, every student in law school because this represents potential work.

There is a case to be made for regulatory reform. I am for that. Senator GLENN is for that. All of us in this Chamber are for that. We have limited resources to spend on environmental protection. It is essential that we spend those resources wisely. More science, better risk assessment, peer review, all of these, if done right, will do a better job protecting health and natural resources. The regulatory reform bill now pending will not result in smarter or more cost-effective environmental laws and regulations. Rather, it will cause regulatory gridlock. It will entangle agencies in a web of procedures and paperwork and endless rounds of review and make the implementation of our environmental laws nearly impossible.

This bill would substantially increase the number and complexity of court challenges to environmental regulations. There are nearly a dozen new ways to get a regulation before court under this bill even before the final action has been taken. This bill would result in lawsuits. Is there a Senator who believes that more lawsuits will lead to better regulation? The Federal courts are not the place to decide questions of science and economics that will be assigned under this bill.

Congress, because we are upset about the cost of health and environmental regulations, is impatient, is too impatient to wait for a statute-by-statute review of its own enactments. It is us and the laws that we have passed which have resulted in all these rules. What we ought to do is look at these laws and examine the rules under them. But we should not turn everything into a judicial review that goes up to our courts.

Mr. President, no doubt we will hear many horror stories about environmental regulations while this bill is being debated. And many have been paraded already. But we ought not to lose sight of the big picture. These laws have worked. They have improved the quality of life for all Americans. Let me give you some examples.

In a period that has seen significant growth in population, significant growth in industrial activity and in automobile travel, we have more than held our own against the most difficult air pollution problems. Between 1975 and 1990—that is a 15-year period—the total vehicle miles traveled in the United States increased by 70 percent. It went from 1.3 trillion miles to 2.2 trillion miles driven in a year—a 70-percent increase in mileage driven in the United States in 15 years. In that same period, the vehicle emissions of hydrocarbons, which is one of the pollutants that cause smog, were cut nearly in half. Up went mileage by 70 percent, pollutants, emissions of hydrocarbons dropped by nearly 50 percent, from 10 million tons to 5.5 million tons a year.

Now, that just did not happen. That did not come about because industry wanted to do it. It came about because of Government regulation. We required the automobile industry to produce a car that would reduce emissions by 90 percent, and they did it. Just since 1990, in only 5 years, between now and 1990, the number of areas in violation of the carbon monoxide standard in this country have dropped from 40 areas to less than 10. Since the mid-1970's, lead in the air is down by 98 percent. The amount of lead in the air has decreased by 98 percent—98 percent. Why do we care about this? Because lead in the air affects the developmental capacity of children growing up in congested urban areas. These are the most vulnerable Americans. And who are they? They are low-income areas, they are poor children who live there, and we have cut the lead in those areas by 98 percent. If this bill had been in place during that time, EPA Administrator Carol Browner has said that we could not have achieved those reductions in lead in gasoline. That marvelous accomplishment that we are so proud of could not have been achieved with a strict cost-benefit analysis.

The Clean Water Act is probably our most successful environmental law. In the late 1960's, the Nation was stunned when the Cuyahoga River in Cleveland caught fire. A river caught fire. That shows you the condition of our rivers and lakes and streams in the latter part of the 1960's. Our waters were being used as open sewers—the Potomac, absolutely foul.

In responding to this problem, Congress passed the Clean Water Act in 1972 and set some very ambitious goals including the elimination of all discharges to surface waters by 1985.

Well, we did not meet that goal of 1985, but we have made a lot of progress since the Cuyahoga River caught fire in the 1960's. When we began this effort under the Clean Water Act, more than two-thirds of our lakes, rivers and streams in the United States of America failed to meet the clean water standards.

With these 20 years of effort behind us, some of our most polluted waters—Lake Erie, the Potomac River, Narragansett Bay in my own State—have made remarkable recoveries. Today, those streams and lakes and bays are fishable and swimmable.

On the international scene, the United States has led the way as the world has faced up to the threat of ozone depletion. Each new development in our scientific understanding of chlorofluorocarbons and their impact on the ozone layer has confirmed the wisdom of the Montreal Protocol, the global agreement to ban production of CFC's that was signed by a Republican President in 1987, President Reagan.

Since the Endangered Species Act was passed in 1973, populations of whooping cranes, brown pelicans, and peregrine falcons have come back from near extinction. The bald eagle is ready to be moved from the endangered to the threatened list. Both the California gray whale and the American alligator have recovered to the point they have been removed from the endangered list altogether.

Now, what does all this mean to us? The American people can be proud of the accomplishments that have been made under the Clean Air Act, the Clean Water Act, the Endangered Species Act, and our other environmental laws over the past quarter of a century, and the American people are proud of this. And when asked, most often they say that we have not been tough enough on water pollution and air pollution. They want us to do more. They want Government to work better. But they want it to continue working for the health and environmental goals that have been achieved and are being achieved in our country today. The American people cherish their right to their property and the right to pass it on to their children free from pollution.

So I think, Mr. President, we have a lot to be proud of that we have achieved under the existing laws. I certainly hope we do not get involved with this cost-benefit business and this plethora of lawsuits that would result from this legislation.

I wish to thank the Chair.

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER (Ms. SNOWE). The Senator from Iowa.

Mr. GRASSLEY. The legislation that is before us is not about whether or not the Government should write regulations or whether or not we should have regulators. That is an accepted fact. It has been a part of the process of Government a long time before we had the Administrative Procedure Act in 1946. All that did was basically conform all regulation writing to the same process.

This legislation is about bringing common sense to the whole process of writing regulations. And all of the horror stories that can be told about bad regulations and the bad enforcement of maybe even good regulations is related to the fact that people affected feel that there is not a commonsense approach to the regulation writing. The bottom line is, that we need legislation to bring common sense to regulation and the enforcement of regulation.

This legislation before us does that. And yet there are people that are coming to present possible horrors that will result if this legislation is passed. This is just not so as far as I am concerned. This legislation is not going to change any existing laws on the books that deal with public health, and safety, environmental laws. Not one.

There are many false accusations about this legislation that it would override existing law. There are a half-dozen places in the legislation that makes it clear that this legislation is not a supermandate imposing the language of this legislation in place of any specific public health and safety laws on the books. But this legislation is about process to make sure that regulation writers cannot go hog wild in trying to accomplish their goals.

This legislation has in it judicial review of regulation writing, and judicial review of regulatory activity, and judicial review of the actions of regulators. We ought to have judicial review to make sure that the process conforms to the statute and to the intent of Congress. Regulation writing and the process of analyzing information that goes into regulation writing and particularly scientific analysis should not be above the law. And the only way I know to assure that regulators do not go beyond congressional intent is to make sure that there is judicial review. Well, there are an awful lot of accusations from opponents of this bill that somehow if this bill becomes law it is going to compromise public health and safety. On the other hand, those of us who are proponents of this legislation can give example after example of where the existing process, without the proper safeguards in the existing legislation, have become a real horror for certain individuals who are affected.

Yesterday I had the opportunity to present an instance in which an informant who was a former disgruntled employee, brought to the attention of EPA the possibility of the burying of some toxic waste on the business of the Higman Gravel Co. of Akron, IA. And, of course, there was not any such toxic waste buried there. But they acted on information of an informant and one morning at 9 o'clock came to the place of business. It was a usual morning at the business. Mr. Higman was gassing up his truck to start the process of work for that day. His accountant was behind the desk in the office doing what you would expect accountants to do. And all of a sudden that quiet morning, 40 local and Federal law enforcement agents come with cocked guns to this place of business telling Mr. Higman to shut up while the gun was pointed at him. They had, by the way, bulletproof vests on. They went into the office and stuck the gun in the face of the accountant. All of that in a little place of business, acting because a disgruntled employee had given some misinformation.

It cost Mr. Higman $200,000 in legal fees and lost business and probably still injured his reputation to some extent. But he had to fight it in the courts to get out of criminal charges that were unjustified. Now, just a little bit of common sense in the process of regulation writing in the process of enforcement could have saved a lot of trouble, damaged reputation for a good businessperson, damaged reputation for the legitimate work of the EPA.

I have another example that I would like to refer to because some people are making the argument that environmental legislation should not be subject to cost-benefit analysis or to risk assessment because a price tag cannot be placed on an individual's health.

There is not a price tag placed upon individual health. But when it comes to cost-benefit analysis, if there is a $5 cost to saving a life, or a $50 cost to saving a life, what is wrong with taking the $5 cost to saving a life as opposed to the $50 cost of saving a life? Common sense would dictate that you ought to use the less costly approach. But people are arguing that requiring the EPA to assess and scrutinize the cost of regulations will somehow lead to a rollback of environmental protection.

Now, I agree that a price tag cannot be placed on the health of citizens. And we do not intend to roll back the gains made in environmental protection in this country over the last 25 years. Senator CHAFEE, who we have just heard, the distinguished chairman of our Environment Committee, is correct. Many gains have been made in environment in the last 25 years. And we should not turn our backs on these significant achievements.

But once again, if the question is a $50 cost to saving a life versus a $5 cost to saving a life, we would chose the $5 approach. The life is going to be saved either way. And we want that life saved.

So I want to take the opportunity to discuss at least one example where conducting a cost-benefit analysis would have avoided the enactment of an absurd regulation that has cost small businesses in my State and many other States hundreds of thousands of dollars and has resulted in absolutely no benefit to the environment, absolutely no benefit to the environment. The 1990 Clean Air Act amendments regulate what are called major sources of emissions and it defines "major sources" as those that have the potential to admit 100 tons per year of a criteria pollutant, such as dust. The EPA in further defining "potential" to emit assumes that facilities operate 24 hours a day, 365 days a year.

Now that is quite an assumption—sitting in a marble palace someplace in Washington, DC, to assume when you are writing a regulation that every business is going to operate 365 days a year, 24 hours a day.

When you apply that faulty logic to a seasonal business, such as grain elevators in my State—and if some of you are confused about the term "grain elevator," just let me simply say, that is a big cement silo where you store grain, where the farmers deliver grain, where grain can be processed from or grain can, in turn, be loaded onto hopper cars to be shipped to another location, even overseas when it gets to the terminal. But when you apply this faulty logic, assuming that a business is going to operate 365 days a year, 24 hours a day, for grain elevators, it becomes evident how absurd this regulation is in practice and how a simple cost-benefit analysis would have illustrated this fact.

In my State of Iowa, we have approximately 700 grain elevators. I think I know what I am talking about when I talk about a grain elevator. My son and I have a family farming operation. My son operates it almost totally by himself. I try to help when I am home and we are not in session.

In the fall of the year, my son runs what we call a combine, a grain-harvesting machine. This combine harvests our corn and our soybeans. One of the things I can do to help my son in the fall is to haul the grain, the corn, or the soybeans from the combine from the field 3 or 4 miles into town to weigh and to unload at our local New Hartford Cooperative elevator close to our farm.

We deliver grain to these local country elevators. We have 700 of these in the State of Iowa, and there are about 96,000 farming units in my State that use these 700 elevators to sell their corn to and to process their grains.

Although less than 1 percent of these elevators actually emit more than 100 tons, which is what EPA has defined as the level to be classified as a "major source," if you use EPA calculations, all 700 grain elevators in Iowa are considered major sources of emission. Only 1 percent actually emit more than 100 tons, but all 700 grain elevators are affected by this regulation.

How this could be the case ought to defy all logic and does. During a subcommittee hearing that I conducted on the bill before us, we heard testimony from an operator of a grain elevator in Mallard, IA, in northwest Iowa. This particular elevator takes in grain for only 30 to 40 days per year and has a capacity of 3 million bushels. But according to the EPA, this little country elevator in Mallard, IA, has the capacity to process over 11 billion bushels of grain per year. Let us put this 11 billion bushels of grain per year EPA figures this grain elevator can handle in the context of our crop for 1 year in the entire United States.

Last year, the U.S. corn harvest set a record at 10.3 billion bushels. This year, because of the early rain in some parts of the Midwest, the USDA is projecting a 7 to 8 billion bushel harvest. Yet, the Environmental Protection Agency assumes that 11 billion bushels of corn, more corn than has ever been produced in this country in a year, will go through that one country elevator in Mallard, IA.

This calculation, of course, would be laughable but for the fact this elevator will expend a lot of money and a lot of time as a result of this EPA regulation.

Last fall, at the height of harvest, the Mallard elevator received a 280-page permit application based upon the regulation I am talking about. The application is so complex that the elevator's managers were required to obtain an outside consultant to help complete the application. The cost of this assistance is estimated to be in the neighborhood of $25,000 to $40,000. Remember that my State has about 700 of these elevators, all required to pay up to $40,000 to comply with an absurd regulation.

So there is a very identifiable cost associated with this regulation from EPA in terms of money, in terms of time and in terms of jobs. The benefit to the environment and to the public health is less clear, however. In other words, I am about to say that there is no need for this regulation because there is not any impact on the public health, what the EPA assumes is a health problem.

First of all, all emissions from grain elevators are in the form of dust, and that is not considered toxic. Second, these dust particles—if you want to know where the dust comes from, I told you how you take the grain from the field off the combine, on the wagon behind the tractor or in your truck to the local grain elevator. You weigh it before you unload it. Then you pull into a pit with a grate over it. You drive your tractor over the grate, you open up the door and the grain unloads. While this grain is falling about 2 or 3 feet into the pit, there is some dust associated with that grain. Farmers live with that every day on the farm. EPA does not try to interfere on the farm, but they do try to interfere when you haul your grain to town and unload it.

Those dust particles are fairly large in size. They are just specks, in a sense, but fairly larger in size than most of the types EPA is trying to regulate. They fall to the ground, after the winds have caught them, and they may blow away from where you are unloading. They fall to the ground. They never enter the atmosphere.

Thus, if there is even a remote chance the particles can be harmful, the group most at risk are the employees of the facility. Are we concerned about the employees of the facility? Yes, we are concerned about the employees' health. But this concern has already been addressed by OSHA regulations; not EPA regulations, but OSHA regulations. In fact, the elevator that I talked about, the Mallard elevator, spent $12,000 in 1994 for training and equipment to ensure the safety of its employees who work around grain dust.

The primary reason that the regulation results in little public health benefit, however, is that these elevators have actual emissions of well under 100 tons, and, in most cases, well under 20 tons.

Under the Clean Air Act, they are not required to reduce emissions, but they are still covered by the regulations. So after spending hours completing a 280-page application and paying maybe up to $40,000 to a consultant to help fill out this 280-page application, the result is that emissions are not reduced at all. They are not reduced at all.

This type of regulation—one that seems to impose large costs on small businesses and individuals without any public benefit—is exactly the reason we need a cost-benefit analysis, and exactly the type of regulation that is now saddling the public, and we will avoid saddling businesses in the future if we pass S. 343. But, you see, we have regulators that do not know when to quit regulating. They do not stop to think, Well, should we really be regulating this or that? They get some sort of a pseudo-science to justify some regulation, and some of these agencies even ask scientists from academia to come in and review their scientific analysis which is the basis for their regulation writing. We can show you examples of when those scientific panels have come in and said, "You have to go back and start over again. There is no scientific basis for the regulation you are writing."

But they are not looking for a scientific basis for regulation. They are only looking for a small part of a scientific justification for what they want to do anyway. They want to do what they want to do, regardless of the cost. And this legislation will impose some common sense on the regulation writers, which common sense, if it were used, would not have resulted in a regulation that affects 700 grain elevators in my State when, in fact, only 1 percent are over the EPA limit. And if the rule were only applicable to the time that the business was creating dust in the first place—how stupid to assume that a business is going to be emitting dust into the air 365 days out of the year, 24 hours a day, when it only probably operates about 10 hours a day, and the activity they want to control only takes place maybe 30 to 40 days out of a year.

We are entitled to some commonsense regulation, and we are never going to get it until we have legislation that dictates that we use a commonsense approach. This legislation does it.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. JOHNSTON. Will the Senator yield for a question?

Mr. DOLE. I will be happy to yield.

Mr. JOHNSTON. Madam President, we have been debating the Dole amendment here all today. I have heard really no criticism at all on the Dole amendments. If our side is willing to accept those on a voice vote, and I do not know that they are, is the majority leader willing to let those go on a voice vote? Or does he want——

Mr. DOLE. I think we want a rollcall. I read so much about this from Joan Claybrook and Ralph Nader, I want them to be assured by a unanimous vote that we heeded the great contribution, not only that they made, but the New York Times and other extremely——

Mr. JOHNSTON. Does the Senator wish a rollcall on all the amendments or just the first one?

Mr. DOLE. I think if we had a rollcall on the first one, then I assume the others could be disposed of by voice vote. We would be glad to ask consent that vote occur at 5:30.

Mr. JOHNSTON. At 5:30.

Mr. DOLE. Could I get consent? I make the request there occur a vote at 5:30 on amendment No. 1493 and, if the amendment is agreed to, amendment No. 1942, as amended, be agreed to, and amendments numbered 1494 and 1495 be automatically withdrawn, and that the time between now and 5:30 be equally divided in the usual form.

The PRESIDING OFFICER. Is there objection?

Mr. GLENN. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. GLENN. I do not object.

The PRESIDING OFFICER. The Senator withdraws his objection.

Hearing no objection, it is so ordered.

ONE LAST POINT ON E. COLI AMENDMENT

Mr. HATCH. Madam President, this morning, my friend Senator GLENN, criticized S. 343 for not containing an explicit and separate provision exempting regulations dealing with food safety and E. coli bacteria.

To be fair, Senator GLENN recognized that S. 343 contains emergency provisions that would allow agencies to quickly deal with bad meat and E. coli emergencies.

He recognized that this was a good thing, but he also stated that this may not be enough because such emergency provisions leave too much to agency discretion. Perhaps a separate provision just dealing with E. coli bacteria is needed, he concluded.

Now I want to point out that Senator GLENN'S own substitute does not contain a separate provision dealing with E. coli bacteria and bad meat.

Instead, the Glenn bill also contains an emergency provision that exempts rules from risk assessment requirements when there exists a threat to public safety.

This is exactly the approach the Dole bill takes. You simply cannot specifically exempt all emergencies that may arise that requires a speedy promulgation of a rule.

If you did that you would have to enumerate every disease and natural catastrophe that ever existed. The bill would become too long and would wind up looking like one of those 100 page insurance policies.

I support the Dole amendment not because it is necessary—rules that need be quickly promulgated because of an emergency and agency safety inspection and enforcement actions are already exempt from S. 343's requirements—but because adding the words "food safety" in the emergency provision may somehow quell the unnecessary hype over food safety and the myth that S. 343 does not protect the public.

Mr. CRAIG addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Madam President, I yield 10 minutes to the distinguished Senator from Idaho.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Madam President, it appears we are about to vote on the Dole amendment to S. 343. I must say, I am extremely pleased the Republican leader came to the floor this morning and propounded this amendment to stop what I have watched over the last week—at best, journalistic silliness and a tremendous effort to distort what are, in fact, facts and realities as it relates to certain processes that have gone on and are still going on at the Department of Agriculture.

When I read headlines in the New York Times that suggest—and they did—"Let Them Eat Poison, Republicans Block a Plan That Would Save Lives," I say that is in fact a knowledgeable and outright distortion of the facts as we know them and certainly as this Senator knows them.

So, for the next few moments I would like to relate to you some unique experiences I have had serving on the Senate Agriculture Committee that have dealt directly with the issue of the E. coli bacteria and what this Congress and this administration has attempted to do and, in some instances, has failed to do.

First, I want to talk about how they are playing fast and loose with the facts with, in my opinion, a direct effort to generate public attitude, and, in this instance, the attitude would be one of fear. Second, I want to talk about this administration, what it can do, if it is sincere in helping improve food safety, with or without S. 343. And I want to show it is flatout wrong to claim that this bill, S. 343, and all of the proceedings to it, along with this amendment, are going to do one single thing to damage food safety in this country.

Madam President, we take for granted, in the United States, that we have the safest food supply in the world—and we should take it for granted because we do. We are indisputably a nation that places before its consuming public the safest of all food supplies.

Let me suggest that, when I make that statement, I do not suggest that all food is, on all occasions, absolutely, every day, totally safe. New regulations do not save lives; safe food processes save lives. And it is phenomenally important for us to remember that the responsibility of safe food lies with everyone involved, in production—that is the one side we are talking about, because that is where the rules and regulations are—and on the consumption side, and that is where you and I and all other consumers, Madam President, have a responsibility.

Here is an interesting statistic that has been ignored by the press even though they know it. From 1973 to 1987 the Centers for Disease Control, which I think has credibility, reported that 97 percent of foodborne illnesses were attributable to errors that occurred after meat and poultry leave the plant; in other words, leave the processing plant, the slaughterhouse, the preparation plant, the packing area, if you will, however you wish to describe it; 97 percent of all foodborne illnesses are attributed after that. Yet, the debate today, and the foolish rhetoric in the press, has been on the other side of that issue.

Why have they missed the point? How could they come to be or appear to be so ignorant to the fact? Is it because they want it to be? Is it possibly because they want to distort the basis of the debate and the arguments behind why this Congress is moving S. 343?

Most foodborne illnesses can be prevented with proper food handling or preparation practices in restaurants and in home kitchens. Observers this afternoon might say this Senator has a bias. He comes from a life in the cattle industry. Madam President, my bias does not exist there because when the debate on E. coli began 2½ years ago—I come from a beef-producing State. But we had young people in our State growing ill, and in one instance a near death, because of a contaminated hamburger eaten at a fast food restaurant in my home State of Idaho. So I was clearly caught in the middle of this debate.

I, working along with the then Secretary Espy, began to move rapidly to try to solve this problem because it was an issue whose time had come and it was important that the Congress of the United States face and deal with food inspection in this country when they had in fact failed for years and years to do so.

So let me suggest to you that one of the arguments that has to be placed before the American consumer is simply this: True methods that transcend generations of Americans, whether we inspect the way we inspect or whether we regulate the way we regulate, or whether we change the rules of the cause and effect, the bottom line is you cook your meat and your poultry thoroughly. And if there is an example—and there is argumentatively statistics today—that suggest there is an increase in E. coli poisoning and bacterial poisoning, I believe it is because the consuming public no longer has the knowledge or has not gained the knowledge that you have to prepare your food properly. They just expect the Government to put on the plate every day and at all times safe food.

Let me suggest to the person who is the preparer of food—and that is all of us—that you just do not pop it in the microwave. You had better learn that food that is improperly prepared can in fact be life-threatening on occasion, if you mishandle it. And in 97 percent of the cases between 1973 and 1989 that was in fact the fact. I do not think that any of us today should be confused by the playing or the gamesmanship that has gone on with this issue.

To the critics that claim that Government should bear all the responsibility of food safety, I think you can tell by my expression this afternoon that I just flatly disagree. However, I do want to make one point. The administration has had the authority to address any food safety issues and in my opinion has not delivered. They have worked at it for 2½ years. What happened? When an industry pleads with them to bring on new regulation because the appearance of food that is not safe damages the reputation of the industry, it obviously causes great concern to the consumer. Yet, this administration has stumbled repeatedly inside USDA to bring about a new set of standards and regulations that the industry placed before them and said, Please do it. Please bring about processing that results in a regulatory effort that will cause in all appearances and hopefully in reality safe food.

Why has it not happened? Why are we still generally operating under a standard that was put in place in 1906? Is it because of the political interests? Is it because of the tug and pull of a labor interest that simply said, "We will not give up our featherbedding and our employees for a safer, more scientific process?" Oh, yes. Madam President, that is part of the debate that somehow we wanted to quietly skirt around when in fact it is fact, and that is why the food safety and inspection service in our country has been locked in a static environment since 1906, unwilling to move with the times and unwilling to move with the science of today.

But today's challenges are microbiological in nature. It is not a matter of sight. It is not a matter of inspecting because of an animal disease whether meat appears to be safe or it is not safe. It is really now a question of science. It is a question of bringing on line a technique that we all know exists out there. It is called HACCP. It is called hazardous analysis and critical control point.

These are the issues at hand, Madam President. That is why we are here debating today. Is there blame to cast around? Oh, yes, there is. But blame should not rest with this legislation. Blame should rest with past Congresses and past administrations that were unwilling to bring on line the kind of scientific food inspections that our country and our consumers deserve today.

I hope the Dole amendment will take away from this debate the kind of gamesmanship that was clearly going on in the press of this country because I think it ought to be stopped. My guess is the vote today will do so.

Opponents of regulatory reform claim it endangers health and safety—especially in the area of food safety. I am here to set the record straight.

First, I want to talk about how they are playing fast and loose with the facts, to generate public fear.

Second, I want to talk about what the Clinton administration can do if it is sincere about helping to improve food safety.

Third, I will show that it is flatout wrong to claim this bill will do anything to endanger food safety.

SAFE FOOD SUPPLY

We take for granted that in the United States of America we have the safest food supply in the world.

New regulations do not save lives. Safe food processes save lives. The responsibility for safe food lies on everyone involved in the production and consumption.

For the time period from 1973–87, the Centers for Disease Control reported that 97 percent of foodborne illnesses were attributable to errors that occur after meat and poultry leaves the plant. Most foodborne illness can be prevented with proper practices in restaurants and home kitchens.

The best way to ensure that food is safe is a tried and true method that transcends the generations: Cook your meat and poultry thoroughly. The basic rule of thumb is that meats should be cooked until the fluids run clear and the internal temperature has reached 160 degrees Fahrenheit.

Unfortunately, that lesson has not always been heeded. In my grandmother's scrapbook there is an article detailing the death of a family of six near Cambridge, ID, due to improper food preparation. This unfortunate occurrence took place in 1929. As you can see, the issue of food safety is not a new one.

The food preparer and consumer always have and still must accept ultimate responsibility for food safety. Unfortunately, that responsibility, along with all others in this life, occasionally bears a consequence.

To the critics that claim the Government should bear all responsibility for food safety—I must disagree. However, I want to point out that this administration has had the authority to address any food safety issue and has not delivered.

A number of petitions from industry to utilize existing technology and improve food safety have been stalled at the U.S. Department of Agriculture. One example is a steam vacuum that can be used to remove contamination from carcasses. Only after multiple requests did the Food Safety and Inspection Service even allow a testing period to begin. It is not right for fingers to recently be pointed at the Republican Party, when this administration has consistently delayed food safety improvement and reform.

The administration's response to this issue and others in meat inspection was released in February 1995, and has since been nicknamed the "mega reg."

Mega reg, as introduced by the Food Safety and Inspection Service [FSIS]: The current meat inspection system is outdated and outmoded. Established in 1906, the system has remained largely unchanged and relies on visual inspections of every carcass to ensure safety. That made sense at the turn of the century when animal diseases were a major concern.

But today's challenges are microbiological in nature. Because it is so difficult to detect microbiological problems, and because it is impossible to see bacteria, the best approach is one of prevention. Such an approach is called hazard analysis and critical control points or HACCP.

Unfortunately, the administration chose to combine both of these choices rather than make clear and sweeping reform.

Most troubling is the fact that the administration's proposal would not replace the old outdated system, as has been recommended by scientific groups including the National Academy of Sciences and the General Accounting Office. Instead, mega reg would layer a host of new, costly requirements on top of the weak foundation that is the current inspection system.

Almost everyone involved, including consumers and the meat and poultry industry, agrees that change is imperative. But the current proposal does not embody these critical improvements. In fact, the current proposal cannot deliver on its promises and will largely be a hollow promise to consumers who are seeking safer meat and poultry.

When, not if, but when the system is overhauled, change must be envisioned and implemented correctly. Not on the second or third try, but the first time. Neither consumers, nor industry, can afford to pay for the undue burden of unnecessary regulations.

THE MEGA REG BUILDS ON A WEAK FOUNDATION—THE CURRENT INSPECTION SYSTEM

Unfortunately, the HACCP provisions in the mega reg would be layered on top of the old system. These two systems do not blend. In fact, they actually work against one another. The current system tries to detect problems, not prevent them. The HACCP portions of the mega reg try to prevent problems. This contradiction is not in the best interests of food safety and the American consumer.

Additionally, the regulatory requirements of the two systems, when taken together, are literally overwhelming to companies, especially small businesses, who fear that the new requirements would force them to close their doors. To make real progress, the current system must be discontinued so that a newer and stronger foundation can be laid.

FINISHED PRODUCT MICROBIOLOGICAL TESTING SOUNDS GOOD, COSTS A LOT AND ACHIEVES LITTLE

The mega reg contains requirements for finished product microbiological testing, meaning that products would be tested at the end of the production process. To the lay person, this sounds like a good idea. But in practical terms it doesn't work and it has been rejected by groups like the National Academy of Sciences and the General Accounting Office.

Take the example of a test on a hamburger patty. Conceivably, one side might be negative for a particular bacteria while the other side potentially could be positive. So how does a plant know where it should test? And how can it feel confident that test results ensure safety? The best assurance is a process control system like HACCP. The only way to guarantee that a product is bacteria-free is to cook it properly.

So where does microbiological testing fit into meat processing? The best approach is to use microbiological testing during the production process to ensure that processes are working as they should be, not at the end of the process to try and find a needle in a haystack.

THE MEGA REG WOULD INCREASE REGULATORY REQUIREMENTS, BUT DOES NOT PROVIDE THE NECESSARY EMPLOYEE TRAINING

The meat and poultry industry is the second most regulated industry in the country, just behind the nuclear industry. On-site inspectors keep track of reams of detailed requirements. The mega reg would add to those requirements dramatically, but the nature of the new requirements would be entirely different than earlier regulations.

If implemented, such a change calls for comprehensive training of those who would enforce the regulations. But the proposal does not address this issue. This omission has the potential to create chaos in practice.

MEGA REG INCREASES RISK

For example, the FSIS proposal would require that plants be kept far colder than they ever had before. These cold temperatures can help keep bacteria from developing, but can be harmful to workers. Cold temperatures increase the risk of repetitive motion disorders.

MEGA REG MOTIVES

The nature of change and seriousness of food safety underscores the need to involve all parties equally. Although, the current administration has spent over 2 years discussing meat inspection reform, their proposal does not satisfy anyone involved. For instance, the industry is concerned that USDA has paid more attention to the concerns of labor than it has to other groups, including packers and processors.

The union that represents meat and poultry inspectors is concerned about new approaches to meat and poultry inspection because they fear their jobs may be at stake.

USDA's Acting Under Secretary for Food Safety Michael Taylor is an April 7 memo told all FSIS employees that "as we implement HACCP, we will be expanding, not shrinking the range of regulatory roles and inspectional tasks required of our employees".

But changes to the inspection system must be made based on what is scientifically sound, not based on the needs of any one special interest group.

If food safety was really a priority to this administration they would balance the needs of all affected interests. The administration would enter into a process that could expedite meat inspection reform. The administration has the authority, although it has not been used, to enter into negotiated rulemaking and devise an acceptable and effective solution.

As written, the mega reg is not a solution to the needs of meat inspection and food safety. Utilizing the advances of modern science and technology would be a solution.

MEGA REG IS UNRELATED TO THE DOLE-JOHNSTON SUBSTITUTE

Regardless of your position relating to the mega reg, it cannot be cited as a reason to oppose regulatory reform. The language in section 622 of the substitute provides a "health, safety or emergency" exemption from the cost-benefit analysis and risk assessment requirements if they are not practical due to an emergency or health or safety threat.

In addition, section 624 of the substitute allows for an agency to select a higher cost regulation when "nonquantifiable benefits to health, safety or the environment" make that choice "appropriate and in the public interest".

This regulatory reform bill focuses on the process of rulemaking and results of regulation. It no way hinders the legislative process. Congress will still have full and complete authority to pass laws addressing health safety situations. Past laws that are already on the books will not be superseded by bill.

Critics have targeted food safety. If the critics want food safety change, they should address those in the administration with the power and authority to make meaningful and immediate change.

Whether it is food safety or any other area of our lives as U.S. citizens, we must answer a fundamental question: What level of risk are we willing to accept in our daily lives?

For example, one mode of transportation may be safer than another, we oftentimes accept a small level of risk and choose the mode that takes us from point A to point B in the least amount of time.

Even though technology is constantly improving, it is unrealistic to think we will ever live in a risk-free world. Instead of setting policy based on a minuscule chance, we must set policy that is fair and responsible.

The American public wants change in our process of setting public policy. Supporting the Dole-Johnston substitute will reduce the overall regulatory burden, without harming public health or food safety.

Mr. BURNS addressed the Chair.

The PRESIDING OFFICER (Mr. ABRAHAM). Who yields time?

Mr. HATCH. How much time do we have on this side?

The PRESIDING OFFICER. Six minutes.

Mr. HATCH. I yield 5 of those 6 minutes to the distinguished Senator from Montana.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BURNS. Mr. President, I thank the manager of the bill. We are getting short on time.

Mr. President, I rise today in support of the Comprehensive Regulatory Reform Act. It has been a long time coming.

I am very impressed with the compromise that has been worked out and I think Senator DOLE and Senator JOHNSTON need to be congratulated.

To begin with, this bill brings some common sense back to Government and starts to give some much-needed relief to businesses all across our Nation. But in Montana, where 98 percent of our businesses are small businesses, the onslaught of regulations in the past years have been a stranglehold. Regulations have a number of effects, two of which are to inhibit growth of a business and to discourage folks from even opening a new business.

There is no doubt that some regulations are necessary. This bill will not do away with all rules and regulations. What it will do is require the regulating authority to justify the regulation. By requiring the agencies to do certain things, such as a cost-benefit analysis, we will eliminate those ridiculous rules that seem to only add to the paperwork or cost of doing business.

Let me give you some examples. Earlier this year I held a field hearing in Kalispell, MT, to look at new regulations for logging operations. They range from silly to impractical to downright dangerous.

SAFE WORKPLACE

One of the regulations requires a health care provider to inspect and approve first aid kits on logging sites once a year. It makes me wonder just how that health care provider would be reimbursed for that visit—is it a house call? Making certain that first aid kits contain the needed supplies is certainly something the employer can do on his or her own. Requiring a health care provider to inspect each kit is ludicrous.

Another regulation required loggers to wear foot protection that is not even available. Specifically, they must have on waterproof, chain-saw resistant, sturdy, ankle-supporting boots. If Kevlar boots were available and affordable, they would not be flexible enough to wear in the logging field. On top of this, the regulations charge the employer with the responsibility of assuring that every employee has the proper boots, wears them and the employer must inspect them at the beginning of each shift to make sure they are in good condition.

Add to this the new requirement that the employer is now responsible for inspecting any vehicle used off public roads at logging work sites to guarantee that the vehicle is in serviceable condition—and the employer may as well spend all his time as a watch dog. Since when is an employer held responsible for the employee's property? Why should they limit this to just loggers? Perhaps OSHA would like to require the U.S. Senate to ensure all our employees are commuting to and from the Hill in cars that are serviceable.

But the regulations are not just burdensome, one regulation may even prove hazardous to the logger. They require the lower portion of the operator's cab to be enclosed with solid material to prevent objects from entering the cab. Unfortunately, when logging, you need to see below your cab. One gentleman who testified at my hearing said, "Any rule that would require loggers to enclose areas of machines that operators need to see out of, in order to safely operate the machine, is poor logging practice."

It became very clear during our proceedings that the OSHA paper pushers who wrote these regulations had never felled a tree. They probably had never even been at a logging site. And yet, the regulations written were to be enforced last February. It is only because of an outcry by the industry that these are now being reviewed.

But, Mr. President, this is just one example in just one industry. Regulations have been published that deal with fall protection on construction sites. They almost make me laugh. Requiring employers to have their employees harnessed if they are higher than six feet, would cover anyone on top of a standard ladder. But they do give the employer options. In the case of roofers, the employer can hire a roof monitor who tells roofers when they get too close to the edge. Now that is ridiculous.

By now, we have probably all heard the statistics before—the cost of regulations to our economy is staggering. Federal regulation costs have been estimated between $450 billion and $850 billion every year. That works out to about $6,000 per household every year. That might be acceptable if we knew we were getting our money's worth. And that is what this is all about.

S. 343 will allow us to decide whether the benefits of the regulation justify the costs. That may not always be easy, but it's necessary. It is responsible. It will give us a tool to decide whether the regulation is truly needed and whether it is practical.

But one of the sections of this bill that I am most pleased with is the congressional review. I have been calling for this since I arrived in the Senate. We pass laws here—that is our job. And then we leave it up to the agencies to write the rules and regulations. But we never get to review the final product. So, the law we pass and the rules enforced may be completely different. They may not be what we intended at all.

S. 343 requires the regulating authority to submit a report to the Congress, spelling out the rule, making available the cost—benefit analysis, and allowing the committees with jurisdiction to review the new rules. And we have 60 days to decide whether the rule follows the intent of the law.

Now I know some folks are worried that we will be stifling rules that are meant to protect the safety and health of children. That will not happen. Show me one person who would willingly put his family's or his constituent's health at risk. Rules will still be promulgated, regulations will still go into effect, to protect the safety and health of all of us. What we will cut down on is the unnecessary red tape.

In 1991, the Federal Government issued 70,000 pages worth of regulations and in 1992 the Federal Government employed over 122,000 regulators. These are the people responsible for such regulations as the prohibition of making obscene gestures in a National Forest. These people are responsible for the regulation requiring outdoorsmen to carry with them a bear box, to store perishables in while camping—a box the size of which would require a horse to carry. And these regulations are responsible for the destruction of private property when land owners are prohibited from preventing erosion on their land in order to not disturb local beetles.

We need to restore common sense to Government. That may be a foreign notion, but its time we try. This bill does that.

We passed unfunded mandates. We passed paperwork reduction. Now let us pass the Comprehensive Regulatory Reform Act and give our businesses the relief they so desperately need.

Mr. President, let me reiterate that I rise today in support of the Dole-Johnston substitute. I will tell you why, because I think for the first time maybe we bring back some common sense in this business of rulemaking.

I am very supportive of that part of this legislation that requires Congress to look at the final rule before it is published in the Register and goes into effect. I have said ever since I came to this body that this is what we have to do. For so many times after legislation is passed by this Congress, and it is signed into law by the President, it is turned over to some faceless people to write the administrative rules. Sometimes those rules look nothing like the intent of the legislation.

But I want to talk about something today that probably in the rulemaking I think becomes very important.

Let me repeat that 98 percent of the businesses in my State of Montana are classified as small business. So we have a small business part in this piece of legislation to look into those things. There is no doubt in my mind that some regulations are necessary. Nobody in business today, and especially those who have a very close relationship with working men and women and their families, wants to have an unsafe workplace. It just does not make good sense. For sure it is not good business to have an unsafe workplace.

This bill will not do away with all of those rules and regulations. But the regulating authorities have to justify the regulation by requiring the agencies to do certain things, such as cost-benefit analysis. It will eliminate some of those ridiculous rules that seem to only add to paperwork and the cost of doing business. And they do very little to improve a safe workplace.

Earlier this year, I held a field hearing in Kalispell, MT, with regard to new regulations written for logging operations in our part of the country. They range from the silly to the impractical and sometimes downright outrageous.

Let me give you an example. One of the regulations required a health care provider to inspect and approve first aid kits on logging sites once a year. That is a health care provider. That is not somebody within the company going by every now and again and looking at the first aid kit to make sure all of the items are in there. That is just common sense. We do not need rules for that. I tell you what the rule was created for. If your health care provider did not go and look at it, then that is the place for a fine. Back in 1990, I think we set up the reauthorization of OSHA a little bit differently; in the tax bill we handled it a little differently. That is probably not meeting with great open arms in the public now.

Another regulation required loggers to wear a certain footwear protection that was not even available and is not available today. They are Kevlar boots. Now, if they were here, the majority of the people could not afford to wear them. On top of this, the regulations charge the employer with the responsibility in assuring that all of the employees have proper boots, primarily these boots, and inspect them every day at the beginning of the shift to make sure they are in good condition.

Now, add this to the new requirement that the employer is now responsible for inspecting any privately owned vehicle that you and I drive back and forth to work for safe condition and serviceable condition. So what it meant was that the employer was the watchdog. He had to even look at all the pickups and cars that you drove to work every day. Of course, being in a mountain area, that is probably not a bad idea, but, my goodness, can you imagine the cost for the employer just to comply?

The PRESIDING OFFICER. The Senator's time has expired.

Mr. BURNS. I rise in support of this amendment. And I appreciate what is trying to be done here. We realize that some rules and regulations are necessary.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. GLENN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Chair advises the Senator from Utah he has 37 seconds remaining.

Mr. HATCH. Could I ask my colleague for a few more minutes?

Mr. GLENN. I yield 5 minutes.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I appreciate my colleague doing that because I strongly support, as I think most every Senator will, the Dole amendment. I agree with Senator DOLE; it is time to put these myths to bed and these conjured-up illustrations that some of the far left have been trying to pass on to the media and to an unsuspecting media, I have to say, because I personally do not believe these media writers are literally going to just distort this the way they have without being fed the wrong material. So hopefully this will end some of these outrageous articles that literally are not based on fact and in fact are downright untruthful.

I cannot wait until tomorrow to bring up my next top 10 silly regulations. Let me start with 10.

No. 10. Trespassing on private land and seizing a man's truck on the claim that he poisoned eagles even though the Federal Government had no evidence that he did so.

I just love these illustrations. We go to No. 9 in our list of top 10 right now.

No. 9. Fining a person $5,000 for filling an acre-large glacial pothole and expanding another acre-large glacial pothole to 2 acres. In addition to fining him, they made him dig out the original pothole.

No. 8. Prohibiting a couple from preventing erosion on their property, which, of course, threatened their house, because the Government told them that it might destroy tiger beetles. So the tiger beetles were more important than the individual property owners' house.

No. 7. Requiring elderly residents of a neighborhood to have to walk to a cluster mailbox to save time for the letter carrier while admitting in a Postal Service self-audit that the average letter carrier wastes 1.5 hours per day.

No. 6. Here is one example which I know my friend, Senator MURKOWSKI, is familiar with. The use of a bear repellent was prohibited because it had not been proven effective in spite of the fact that Alaskan residents have successfully fended off bear attacks with it many times.

No. 5. Admonishing the Turner Broadcasting System for showing 15 seconds too many commercials during a January 14, 1992 broadcast of Tom and Jerry's Funhouse. I will hurry since I see that the minority leader is here.

No. 4. Prohibiting the construction of levees for rice production in spite of the fact that it would have increased the amount of wetlands.

No. 3. Prosecuting a company for "conspiring to knowingly transport hazardous waste" because the waste water the company discharged contained .0003 percent of methylene chloride. I might add that decaffeinated coffee has a higher percentage.

No. 2. Attempting to fine a company over $46,000 because they underpaid their multimillion dollars tax bill by 10 cents.

Let us just take a second and think about this No. 1, the silliest of all.

No. 1. Fining a poor electrician $600 because someone else left an extension cord on the job.

Well, this is my third list of top 10 silly regulations. I suspect it is a never-ending list, but I will endeavor to try to bring a few to our attention every day just to show why this bill is so important in what we are fighting for.

I yield the floor.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The Democratic leader.

Mr. DASCHLE. Mr. President, the debate that has been taking place all day today on the impact of this bill on food safety and specifically its impact on the Department of Agriculture's proposed rule to require science-based hazard analysis and critical control point or HACCP systems in meat and poultry plants is really very important.

Secretary Glickman sent a letter this morning to the majority leader and to me expressing his strong opposition to S. 343 because it would unnecessarily delay USDA's food safety reform, among other things. I believe Senator GLENN has submitted the letter for the record.

The letter explains that the peer review requirement in S. 343 will delay USDA's food safety reform by at least 6 months. As I read this bill and Secretary Glickman's letter, the bill requires that risk assessments underlying both proposed and final regulations be peer reviewed prior to becoming final. And there has been a good discussion about the applications of peer review this afternoon. In other words, before USDA can issue a final regulation reforming our meat and poultry inspection systems—a regulation that has been in the works for more than 2 years and is based on more than 10 years' of reform efforts—S. 343 would require that the final rule be peer reviewed. According to Secretary Glickman, this peer review requirement would result in a 6-month delay in this essential food safety reform. The Dole amendment does not address this unnecessary delay. As an initial matter, the amendment applies only to the cost-benefit subchapter of S. 343. As I explained earlier, the delay that S. 343 would impose is the result of the peer review requirements. So the amendment really does nothing in this regard.

Even if the amendment were changed to apply to the risk assessment and peer review requirements, the amendment still would not address the unnecessary delay that S. 343 would impose. Consumers and agricultural producers should not be asked to delay these essential reforms—reforms the entire agriculture and consumer communities have been calling for now for several years.

First, the Dole amendment simply adds food safety to the list of reasons an agency could declare an emergency and bypass the cost-benefit requirements of the bill. But the bill already contains an emergency exemption to protect health. I believe a food safety emergency is by definition a health emergency. People get sick from unsafe food. So an agency acting to prevent or address a food safety threat would be acting to protect health.

Even if the amendment does expand the scope of emergency by including food safety, I do not believe that it will alleviate the unnecessary delay that the bill would impose on USDA food safety reform.

USDA published the proposed rule in February of this year with a 120-day comment period. The USDA also extended the comment period at the request of a large number of commenters. Given this excessive comment period, if the USDA suddenly declared an exemption to avoid the peer review delay, it would be opening itself to litigation and, unfortunately, greater delay.

I would also note that USDA attempted to publish food safety regulations a couple of years ago. To provide consumers with information on how to avoid foodborne illness from pathogens like E. coli and salmonella, the USDA issued emergency recommendations providing safe handling labels on meat and poultry products. These safe handling regulations were issued without notice and comment. The USDA was sued and lost and had to go through the rulemaking process before labels could be required. The result, then, of that emergency provision was delay.

In addition to the opportunities that this bill would create for litigation—and which are not addressed by the Dole amendment—the bill also affords opportunities for those opposed to these rules to challenge them through the petition process. So even if we managed to get the rule released from USDA without delay—something that again would not be guaranteed by the Dole amendment—the rule could be challenged on the basis that it does not meet the decisional criteria in the bill and should therefore be weakened or could be subject to petitions calling for a repeal of the rule under the so-called lookback authority.

In short, there are numerous hurdles that are created by this bill which effectively can be used to delay or prevent the issuance of these important rules or lead to their repeal. That is unacceptable.

Food safety reform is essential not only to provide American consumers with safer food, but also to ensure that American agricultural producers have a strong market for their products. I understand the concerns that many in the agriculture community have with USDA's proposed reform.

However, I was the chairman of the subcommittee that first conducted the hearings on the tragic outbreak in 1993 and have held numerous followup hearings in which the industry, producers, and consumers have all repeatedly called for reforming and modernizing the meat and poultry inspection system. We can ill afford to delay these long-needed reforms. Yet that is precisely the outcome that will result under this bill even if this body adopts the current language in the Dole amendment.

So, as my colleagues consider this amendment, I want there to be no mistake about its effect. It is a harmless provision, one I support, but it will not fix the problem. It will do nothing to avoid the delay that the bill will require in the USDA's food safety proposal.

Later in this debate, I will offer an amendment to fix the problem. My amendment—in no uncertain terms—will ensure that this bill cannot be used by those who would oppose efforts to improve food safety to prevent, delay the issuance of, or repeal the Department of Agriculture meat inspection regulations regarding the E. coli. That seems to me to be the right objective and one which I hope every Member of this body will support.

Mr. JOHNSTON. Will the Senator yield?

Mr. DASCHLE. Yes.

Mr. JOHNSTON. I had three comments with respect to the Secretary's letter. First of all, his comments about peer review.

Mr. DASCHLE: I would be happy the yield for a question.

Mr. JOHNSTON. Yes. First of all, are you aware that the Glenn substitute has peer review in it of an even stronger variety than is contained in S. 343?

Mr. DASCHLE. Well, I think that is subject to some dispute. I understand that we have attempted to clarify the language and have found a way to address the concerns raised by the Secretary.

Mr. JOHNSTON. I would submit to my dear friend——

Mr. DASCHLE. I think the Secretary would find the language in the Glenn substitute much more to his liking than the Dole amendment.

Mr. JOHNSTON. With all due respect, I would ask my friend to look at the provisions. The only difference in the peer review in the Glenn substitute and in our peer review is that we do permit informal peer review panels whereas the Glenn substitute does not. In other words, it is more stringent.

Mr. DASCHLE. If I could just respond to the Senator. If the Secretary would find that the Glenn amendment is not as acceptable as he would like it to be, I am sure we could accommodate the Secretary's concerns here, just as we are doing with the pending bill.

Mr. JOHNSTON. All right.

Mr. DASCHLE. The pending bill obviously is the bill before us. We have to clarify that prior to the time we even have an opportunity to get to other amendments and the substitute. So, clearly that is what I think most of us would like to do. And to address the Secretary's concerns, let us address them. We may not have to address the language in the Glenn amendment or anything else. I think that is the issue. Can we clarify the Dole amendment adequately enough to ensure that his concerns are addressed and that we do not further encumber those efforts by the Department of Agriculture to promulgate these regulations in a timely manner?

Mr. JOHNSTON. Is my friend aware of, on page 49 of the Dole-Johnston amendment, where it explicitly says, "This subchapter shall not apply to risk assessment performed with respect to—" you go down to "(C), a human health, safety or environmental inspection, an action enforcing a statutory provision, rule, or permit or an individual facility or site permitting action, except to the extent provided"?

In other words, it exempts the human health, safety or environment inspection from the risk assessment.

Moreover, was my friend aware that under subsection (f) on page 25:

> A major rule may be adopted and may become effective without prior compliance with the subchapter if—(A) the agency for good cause finds that conducting cost-benefit analysis is impractical due to an emergency or health safety threat that is likely to result in significant harm to the public or natural resources . . .?

So, in other words, my question is, is my friend—indeed, is the Secretary—aware that, first of all, inspections are exempt and, second, that you can go ahead and do a rule without either cost-benefit analysis or a risk assessment if there is a threat to health or safety?

Mr. DASCHLE. Let me respond to the distinguished Senator, my friend from Louisiana, in this manner. The Secretary has examined the language to which you refer. And it is the Secretary's view that it falls far short of his standards and the expectations that he would apply to his own ability to address food safety. It is his view that this provision and many of the other provisions that the Senator has addressed in the language of the legislation is deficient. What the Secretary is simply saying is that unless we correct these deficiencies, his efforts to assure adequate standards and adequate confidence in our food safety system will be severely undermined. They are not my words. Those are the words of the Secretary himself. But the Secretary is saying that if we——

Mr. JOHNSTON. They are the Secretary's words.

Mr. DASCHLE. If I could again reconfirm that unless we address a number of these issues, the Secretary himself has indicated that it presents some serious problems for him, and he would advise we either amend the legislation or support an alternative.

So I am hopeful that whether it is through an amendment, as I will be proposing later on, or through an alternative draft, as the Senator from Ohio is proposing, we will be able to address it in a meaningful way.

Again, I would like to address it through amendments that we will be offering, but whether it is through amendments or in some manner, I think the deficiencies outlined by the Secretary ought to be of concern to everybody. It is in our interest and I think in the country's interest to try to do a better job of addressing the concerns than we have right now.

Mr. JOHNSTON. One final short question. I ask my friend to read the Secretary's letter. It pertains only to risk assessment, which, as I say, is contained in the Glenn-Daschle bill. That is all he talks about. He does not talk about the exception. I invite you and the principal author of the alternative to read your own bill, and I invite the Secretary to read the exceptions, because they except from the operation of risk assessment these inspections.

At an appropriate time, I will be offering an amendment to exempt all regulations where notice of proposed regulation was commenced prior to July 1, 1995, because I think there is a problem going back and looking at that, and maybe that will give us a basis on which to satisfy the Secretary and everybody else.

Mr. DASCHLE. I think the Senator would be wise to do so. I think, again, it confirms that there is a lack of clarification, there is uncertainty, enough so that the Secretary has seen fit to send a letter to express his concerns. I hope that we can clarify this issue and alter the provisions of the bill in whatever ways may be necessary. I do not think we ought to minimize those concerns or the problems of the Secretary with regard to the issue before us right now. Food safety is one of our greatest concerns, and we have to ensure that we do not undermine the confidence of the American people in our food supply as we address the need for regulatory reform. That is all we are trying to do—ensure that we accomplish regulatory reform in a meaningful way, a comprehensive way, but do it in a way that does not encumber the Secretary's efforts to provide a better system of ensuring food safety than we have right now.

I yield the floor.

Mr. HATCH. Mr. President, I think the Secretary should read the bill and the comments of Senator JOHNSTON, because they are completely different from what he said in his letter.

I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

VOTE ON AMENDMENT NO. 1493

The PRESIDING OFFICER. All time for debate has expired, and the Senate will proceed to vote on agreeing to amendment No. 1493 offered by the majority leader. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from Missouri [Mr. BOND] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 99, nays 0, as follows:

[Rollcall Vote No. 299 Leg.]

YEAS—99

Abraham
Akaka
Ashcroft
Baucus
Bennett
Biden
Bingaman
Boxer
Bradley
Breaux
Brown
Bryan
Bumpers
Burns
Byrd
Campbell
Chafee
Coats
Cochran
Cohen
Conrad
Coverdell
Craig
D'Amato
Daschle
DeWine
Dodd
Dole
Domenici
Dorgan
Exon
Faircloth
Feingold
Feinstein
Ford
Frist
Glenn
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Harkin
Hatch
Hatfield
Heflin
Helms
Hollings
Hutchison
Inhofe
Inouye
Jeffords
Johnston
Kassebaum
Kempthorne
Kennedy
Kerrey
Kerry
Kohl
Kyl
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Mikulski
Moseley-Braun
Moynihan
Murkowski
Murray
Nickles
Nunn
Packwood
Pell
Pressler
Pryor
Reid
Robb
Rockefeller
Roth
Santorum
Sarbanes
Shelby
Simon
Simpson
Smith
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner
Wellstone

NOT VOTING—1

Bond

So the amendment (No. 1493) was agreed to.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. Is leader time reserved?

The PRESIDING OFFICER. The leader time was reserved.

Mr. DOLE. I ask that I might use my leader time.

The PRESIDING OFFICER. The majority leader is recognized.

THOUSANDS OF BOSNIANS FLEE

Mr. DOLE. Mr. President, just a short while ago, CNN reported that the so-called U.N. safe area of Srebrenica had fallen—Bosnian Serb tanks have reached the town center and thousands of the 40,000 Bosnians in the enclave have begun to flee.

The main argument made by the administration in opposition to withdrawing the U.N. forces and lifting the arms embargo on Bosnia was that such action would result in the enclaves falling and would lead to a humanitarian disaster. Well, that disaster has occurred today—on the U.N.'s watch, with NATO planes overhead.

If it was not before, it should now be perfectly clear that the U.N. operation in Bosnia is a failure. Once again, because of U.N. hesitation and weakness we see too little NATO action, too late. Two Serb tanks were hit by NATO planes today—hardly enough to stop an all-out assault that began days ago. As a result, in addition to thousands of refugees, the lives of brave Dutch peacekeepers are in serious danger.

Mr. President, there can be no doubt, the U.N.-designated safe areas are safe only for Serb aggression. What will it take for the administration and others to declare this U.N. mission a failure? Will all six safe areas have to be overrun first?

It is time to end this farce. It is time to let the Bosnians do what the United Nations is unwilling to do for them. The Bosnians are willing to defend themselves—it is up to us to make them able by lifting the arms embargo.

Mr. President, I have just been on the telephone with the Prime Minister of Bosnia, along with Senator LIEBERMAN, Prime Minister Silajdzic in Sarajevo. He was giving us the latest conditions in Srebrenica, one of the safe havens, where 40,000 men, women, and children are now fleeing Serb aggression. He also indicates that other safe havens are under attack, or threatened attack.

It seems to me that if there was ever a moment when we ought to have a unanimous vote in this Chamber, it ought to be when we take up the resolution to lift the arms embargo. I do not know how many times it has been on the floor, how many votes we have had. We have had strong bipartisan support. And, in my view, I think it is growing.

I am not asking about committing American troops. We are talking about giving these poor people who are being killed by the dozens every day a chance to defend themselves by lifting the arms embargo, which they have a right to do as a member of the United Nations, an independent nation under article 51 of the U.N. Charter.

The right of self-defense is an inherent right, in my view. We deny them that right by not lifting the arms embargo.

I said before, the U.N. mission is a failure. I commend the courage of the U.N. protection forces there. But it seems to me that the policy is not going to change. They have had little pin pricks and they called them air strikes. They knocked out two tanks. That was the effort by NATO. According to the Prime Minister, the U.N. representative, Mr. Akashi, waited until it was too late for the air strikes to have any impact.

So we hope to work in a very bipartisan way—or a nonpartisan way, better yet—on this issue in the next week.

I ask unanimous consent that a fax just received in the last hour from the Republic of Bosnia and Herzegovina, from the Government's prime minister, Mr. Silajdzic, be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE REPUBLIC OF BOSNIA AND HERZEGOVINA,
July 11, 1995.

Hon. ROBERT DOLE,
Majority Leader, U.S. Senate, Washington, DC.

DEAR SENATOR DOLE: Today, the United Nations allowed the Serb terrorists to overrun the demilitarized "safe area" of Srebrenica. Helpless civilians in this area are exposed to massacre and genocide. Once and for all, these events demonstrate conclusively that the United Nations and the international community are participating in genocide against the people of Bosnia and Herzegovina.

The strongest argument of the opponents of the lifting of the arms embargo toppled today in Srebrenica. They claimed that the lifting the arms embargo would endanger the safety of the safe areas. The people in Srebrenica are exposed to massacre precisely because they did not have weapons to defend themselves, and because the United Nations did not want to protect them. Attacks are also under way against the other safe areas in Bosnia and Herzegovina.

That is why we think it is extremely important that the American Senate votes to lift the arms embargo on the legitimate Government of Bosnia and Herzegovina.

If the Government of the United States of America claims that it has no vital interests in Bosnia, why then does it support the arms embargo and risk being associated with genocide in Bosnia and Herzegovina?

It is essential that the elected representatives of the American people immediately pass the bill to life the arms embargo. This will provide a clear message that the American people do not want to deprive the people of Bosnia and Herzegovina of the right to defend themselves against aggression and genocide.

Sincerely,

DR. HARRIS SILAJDZIC,
Prime Minister.

Mr. DOLE. I will conclude by saying we have always had the argument that if we lifted the arms embargo, it would result in the fall of these enclaves, these safe havens, and that would lead to humanitarian disaster. That argument is gone today because it has been overrun by the Serbs. Forty-thousand people are fleeing, and other safe havens are being attacked. So that argument is gone.

It ought to be perfectly clear that the U.N. operation is a failure. Once again, because of U.N. hesitation and weakness, we see too little NATO action too late. Two Serb tanks were hit by NATO planes, hardly enough to stop the all-out assault that began days ago. As a result, the lives of thousands of refugees and of the brave Dutch peacekeepers are in serious danger. The safe areas are safe only for Serb aggression. They are not safe for anybody else—not for the poor Moslems who are there, not for the peacekeepers, or the U.N. Protection Forces. They are being taken hostage again.

So what will it take for our Government and other governments to declare this U.N. mission a failure? Will all six areas have to be overrun? Maybe it will take that much.

So it is the view of many of us—and this is not partisan —that it is time to end this farce and let the Bosnians do what the United Nations is unwilling to do for them. The Bosnians are willing to defend themselves. In fact, this letter says that it is up to us to make them able by lifting the arms embargo.

This letter says it is essential that the elected representatives of the American people immediately pass a bill to lift the arms embargo. This will provide a clear message that the American people do not want to deprive the people of Bosnia and Herzegovina of the right to defend themselves against aggression and genocide and possible massacre of thousands of civilians.

NORMALIZATION WITH VIETNAM

Mr. DOLE. Mr. President, as anticipated today, President Clinton, in a ceremony at the White House, announced that he was taking steps to normalize U.S. diplomatic relations with the Socialist Republic of Vietnam.

In his statement, President Clinton cited progress in POW/MIA cooperation. But, unfortunately the President did not address the central issue, and that is, does Vietnam continue to withhold information and remains which could easily be provided?

The President ignored this question in announcing his decision, for the very good reason that all signs point to Vietnam willfully withholding information which could resolve the fate of many Americans lost in the war.

On Veterans Day in 1992, President-elect Clinton stated, "There will be no normalization of relations with any nation that is at all suspected of withholding any information." That was President-elect Clinton's standard. The standard was not simply cooperation.

The standard was not simply allowing field operations. The 1992 standard was at all suspected of withholding any information. No normalization if there is any suspicion of any withholding of any information. By 1994, the standard has clearly changed from suspected of withholding information to selective cooperation. As I said yesterday on the Senate floor at about this same time, if President Clinton was unable to state unequivocally that Vietnam had done all it could do, it would be a strategic, diplomatic, and moral mistake to begin business as usual with Vietnam.

President Clinton has made his decision today. Congress has no say in this decision. In the coming weeks and months, Congress will monitor the progress of relations with Vietnam. Our role will not be passive. Congress must approve any additional funds for United States diplomatic operations in Vietnam. The Senate must confirm any U.S. Ambassador to Vietnam. Any further improvement in relations will require action by Congress—granting of most-favored-nation status or beginning any operations by the Export-Import Bank, the Overseas Private Investment Corporation, or the Trade and Development Agency.

President Clinton said today that we should look to the future. I agree that we should look to the future, and examine future Vietnamese cooperation on POW/MIA issues, as well their record on human rights in the aftermath of today's announcement. But as we look to the future we should not and will not forget the past—especially the importance of doing all we can to resolve the fate of those Americans who made the ultimate sacrifice in Vietnam.

Mr. President, I yield the remainder of my leader time to the distinguished Senator from North Carolina.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. I thank the Chair.

The PRESIDING OFFICER. The Senator from North Carolina is recognized for 3 minutes.

Mr. HELMS. Three minutes. Well, I will make haste, then.

I thank the distinguished majority leader.

DIPLOMATIC RELATIONS WITH COMMUNIST VIETNAM

Mr. HELMS. Mr. President, President Clinton's announcement today that the United States will establish full diplomatic relations with Communist Vietnam, is a mistake, in my judgment, of the highest order. It is not timely yet. Vietnam has not earned recognition.

While the U.S. Constitution stipulates that the President is solely responsible for sending and receiving Ambassadors, Congress has the power of the purse. I fully support the able majority leader, Mr. DOLE, and the distinguished Senator from New Hampshire, Mr. SMITH, in their efforts to exercise that power by withholding funding for this normalization until all American POW's are fully accounted for.

Mr. President, Congress has the inescapable responsibility to weigh in on this decision if we believe President Clinton is wrong. And I believe him to be terribly wrong.

The President has not yet fulfilled his commitments to resolve the POW/MIA issue. The Vietnamese know much more than they are telling us about the fate of our missing American POW/MIA's. Yet, despite the $100 million we paid the Vietnamese Government each year to assist our Government in investigating those POW and MIA cases, the Vietnamese still renege on giving us a full accounting. Until the Vietnamese give us the full accounting of all missing American servicemen, it makes no sense whatsoever to confer upon them the honor of U.S. recognition.

The President insists that normalization of relations will result in the United States gaining more access to the Vietnamese Government—the more dialog, he argues, the faster they will move toward democracy. The trouble with this spurious argument is that it has been used in Washington to justify United States accommodation of Red China—and just take a look at where that policy has gotten us.

The Chinese have certainly moved toward a greater opening of their economy—foreigners can not invest fast enough, and China is taking in dollars hand over fist. But what has China sacrificed for all that Western hard currency? Has our policy of engagement persuaded the Chinese Communists to adopt any democratic reforms whatsoever?

No, to the contrary, the Chinese leadership is today more hard line and authoritarian than it has been since Mao's Cultural Revolution. Today, China is once again rounding up dissidents; they are using prison slave labor to create products for export abroad; they are executing prisoners on demand to sell their organs to wealthy foreigners; and they are enforcing a brutal forced abortion policy that has resulted in the mass execution of millions of Chinese children. Clearly United States recognition and engagement of Red China hasn't bought us any influence with the Communist thugs in Beijing. If anyone doubts this, just ask Harry Wu how much the Communist regime there values our opinion.

I think it is a disgrace that, at the same time this administration refuses to support the efforts of Taiwan—a friendly, free market democracy—to even gain admission to the United Nations, and practically had to be forced by Congress to issue a visa to Taiwan's democratically elected President for a private United States visit, they are enthusiastically conferring full diplomatic recognition on Vietnam's recalcitrant Communist dictatorship. What kind of message does that send about our Nation's priorities?

If the President insists on going through with the normalization of relations, I can only say this: as chairman of the committee that confirms ambassadorial nominations, it's going to be a tough road to confirmation for any ambassadorial nominee to Vietnam before the Vietnamese have accounted for the unresolved POW–MIA cases.

As long as Vietnam remains an unrepentant Communist dictatorship, as long as they refuse to provide all information they have about missing American servicemen, the United States should not reward their leaders by welcoming them into the community of friendly nations.

The President's announcement today is just the first step of many. The administration will have to approach Congress to discuss the conferral of benefits such as MFN, GSP, or OPIC insurance. Those will be a matter of great debate here in Congress and there is no reason for us to move on those until the Vietnamese have earned it. We should take the Vietnamese Government for what it is: a Communist one. It should continue to be treated as such until it makes true political reform by establishing a legal code and respect for the general human rights of all Vietnamese citizens as individuals, rather than merely supporters of the State.

Vietnam has a long way to go if it wants to reestablish its position in the international community. We should not put the cart before the horse and extend them U.S. recognition before they have earned it.

I yield the floor.

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GLENN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. GORTON). Without objection, it is so ordered.

COMPREHENSIVE REGULATORY REFORM ACT

The Senate continued with the consideration of the bill.

PRIVILEGE OF THE FLOOR

Mr. GLENN. Mr. President, I ask unanimous consent that Carolyn Clark, a fellow on Senator PAUL WELLSTONE's staff, be granted the privilege of the floor during the debate and vote on S. 334, regulatory reform bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GLENN. Mr. President, I suggest the absence of a quorum.

Mr. DOLE. Mr. President, will the Senator withhold? I think there is still some unfinished business with reference to the last amendment there, under the consent agreement.

AMENDMENT NO. 1492

The PRESIDING OFFICER. Under the previous order, amendment No. 1492 is agreed to.

The amendment (No. 1492) was agreed to.

AMENDMENTS NOS. 1494 AND 1495 WITHDRAWN

The PRESIDING OFFICER. Under the previous order, amendments 1494 and 1495 are withdrawn.

The amendments (Nos. 1494 and 1495) were withdrawn.

AMENDMENT NO. 1496 TO AMENDMENT NO. 1487

(Purpose: To clarify that the bill does not contain a supermandate)

Mr. DOLE. Mr. President, on behalf of myself, Senator LEVIN, Senator HATCH, Senator ROTH, and Senator JOHNSTON, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE] for himself, Mr. LEVIN, Mr. JOHNSTON, Mr. ROTH, and Mr. HATCH, proposes an amendment numbered 1496 to amendment No. 1487.

On page 35, line 10, delete lines 10–13 and insert in lieu thereof: "(A) CONSTRUCTION WITH OTHER LAWS.—The requirements of this section shall supplement, and not supersede, any other decisional criteria otherwise provided by law. Nothing in this section shall be construed to override any statutory requirement, including health, safety, and environmental requirements."

Mr. DOLE. Mr. President, let me indicate to my colleagues, because I know a lot of people are wondering about the balance of the evening, we are trying to find an additional amendment or two we can bring up tonight and have votes on.

Again, let me indicate it is not very long to when the August recess is supposed to start. We would like to get some of this work done. So I think it is incumbent on all of us, if we can maybe have the Johnston amendment on thresholds offered and voted on tonight? The $50 to $100 million?

Mr. JOHNSTON. Yes. We have that ready. We can put that in.

Mr. DOLE. You will do that this evening?

Mr. JOHNSTON. We can do that.

Mr. DOLE. Mr. President, I think this amendment will be accepted. Let me just say for the record here, there is an effort to try to work these things out on a bipartisan basis. We have had some success in this area. I thank the Senator from Michigan for his cooperation. I think it does answer some of the questions that some have raised, legitimate questions. We have tried to address legitimate questions as we did in the last amendment, though I do not think the amendment was necessary—nor, for that matter, that this one is necessary. But if it helps to move the bill along, obviously we are prepared to do that.

Mr. President, opponents of S. 343, the regulatory reform bill, have repeatedly expressed concern that it would override existing laws providing for protection of health, safety, and the environment. They have made this argument despite the fact that the bill clearly states that its requirements "supplement and do not supersede" requirements in existing law.

They have made this argument despite the fact that every sponsor of S. 343 has insisted that its provisions do not override requirements of existing law.

It is ironic that this language is similar to language in other statutes, and no one seems to have had difficulty understanding the plain meaning of the phrase before. As I stated yesterday, I do not for 1 minute really believe that Ralph Nader or President Clinton's staff are unaware of the language in our bill. But it apparently is inconvenient to focus on the facts—that tends to get in the way of demonizing the bill and its supporters.

Mr. President, I, and the Senator from Louisiana, Senator JOHNSTON, and every other supporter who has spoken has made crystal clear that what we seek to achieve with this legislation is that cost-benefit criteria are put on an equal footing with requirements of existing law, where that is permitted by existing law. We do not seek to trump health, safety, and environmental criteria.

Many opponents, in the guise of criticizing what they call a supermandate, really want a supermandate in the opposite direction. That is, they want any perceived conflict between an existing statute and considerations of cost resolved in a way that would effectively deprive a cost-benefit analysis of any real meaning. There are times, as I have said—and the bill says—that such a result is appropriate. But it cannot be appropriate in all instances. Otherwise, what the opponents are really saying is that the tremendous costs to the American family—about $6,000 a year—are an irrelevant consideration.

Well, I do not think it is an irrelevant consideration to the American family. I do not think it is irrelevant to the American small or medium-sized business struggling to survive.

And it should not be irrelevant to us.

So, I reject such an extreme approach. Other opponents however, insist that they want the same thing as we do—that is, a level playing field where considerations of cost are just one part of the agency decisionmaking process, no less and no more important than the requirements of existing law. Where Congress has already spoken and stated a policy judgment that considerations of cost are not appropriate, that policy judgment would stand. Our regulatory reform legislation does not seek to change that result.

For those who have suggested that we seek the same objective, it appears that the problem is one of interpreting the current language—they have suggested that it would be more clear to state clearly that S. 343 does not override existing laws.

In my view, there is no reason not to reemphasize as clearly as possible what the bill does not do. Therefore, Mr. President, I offer an amendment making clear that the requirements of S. 343 are not intended to "override any express statutory requirements, including health, safety or environmental requirements."

This is an effort to remove any perceived confusion or murkiness in the former language, and I urge adoption of this amendment.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. GLENN. Mr. President, the majority leader was correct. We have checked on our side of the aisle. We will be glad to accept this amendment. I do not know whether there will be other amendments to perfect this same idea here a little bit further on or not, but I think this is acceptable. I would be glad to accept it on behalf of our side.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I think this is just another illustration of how we have been trying to work together to try to resolve any conflicts on this bill. There have been over a hundred changes in the bill that we have done through our negotiations with colleagues on both sides of the aisle. We just appreciate the cooperation of Senators on both sides in doing this.

We are prepared to accept the amendment as well.

The PRESIDING OFFICER. Is there further debate on the Dole amendment? The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, I would simply like to thank Senator LEVIN, Senator BIDEN, Senator GLENN, and others who have taken part in debate on this. They have identified the problem in very specific terms. This amendment deals fully and completely, in my view, with the question of the supermandate which is now laid to rest.

There is no—N-O, none—supermandate in this bill. It is made absolutely crystal clear and repeated again in this amendment.

I congratulate all concerned for getting it worked out and making it clear.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, many observers and many of us have viewed this bill as having a serious problem, which is raising the possibility that there is an inconsistency between what this bill requires and what other laws require.

This amendment addresses one part of that issue and it does it, I believe, in a useful way. That is the reason why the amendment does make a contribution to further progress on the bill.

This amendment makes it clear that if, with respect to any action to be taken by a Federal agency, including actions to protect human health, safety, and the environment, it is not possible for the agency to comply with the decisional criteria of this section and the decisional criteria provisions of other law—as interpreted by court decisions—the provisions of this section shall not apply to the action.

I have expressed my concern about this issue to the sponsors for several weeks now. I am concerned that there may be situations where the statute which is the basis for the issuance of a regulation may conflict or be inconsistent with the requirements of the decisional criteria in section 624. The sponsors say they believe that is not possible because of the way section 624 is drafted. I have not shared their confidence in that belief, but this amendment makes that now clear. Where there is an inconsistency or a conflict between the lawful requirements of the statute that is the basis for the regulatory action and the requirements of this section, the requirements of the statute that is the basis for the regulatory action govern or control.

This amendment ensures that the requirements of the Clean Air Act, the Clean Water Act, the Safe Drinking Water Act, and other important environmental and health and safety laws are not altered by the decisional criteria contained in section 624. When push comes to shove, the underlying regulatory statutes are primary.

I welcome this amendment and think it does improve the bill, but I want to be clear that this is but one problem I have with the decisional criteria provisions of section 624. Other amendments are necessary in order to make this particular section acceptable, and we will be proposing those as the debate on this bill progresses.

Mr. President, let me also add on that note that I hope that the sponsors of the Dole-Johnston amendment would address the document which has now been submitted to them as of about 10 days ago, which specifies approximately 9 major issues and 23 smaller issues that a number of us have with particular language in the Dole-Johnston alternative. The Senator from Utah had requested that document when we were involved in discussions on the bill. It has been submitted as of about 10 days ago. I hope there could be a response, because, even though this amendment does address part of one of those issues, there are many other issues which I think a bipartisan effort could address and make some progress on.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, if I could respond, we are, as far as I am concerned, going to continue ongoing negotiations and keep the door open to do what we can to resolve these problems.

On many of the points that were raised, I thought the Senator from Michigan was well aware that there are objections to a number of the provisions, on both sides. So we will just keep working together and see what we can do to continue to make headway like we have on this amendment.

If we can continue to do that, we will. And we will certainly mention—where we disagree, where we disagree. But we will keep working with the distinguished Senator from Michigan, the Senator from Massachusetts, and others who were very concerned about this matter.

THE PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 1496) was agreed to.

Mr. HATCH. Mr. President, I move to reconsider the vote.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. Mr. President, I think if we could now have a time agreement on the Johnston amendment, then that would let our Members know how much time they might have between now and the time of the vote.

Mr. DASCHLE. Mr. President, I have been consulting with the distinguished Senator from Louisiana. He is prepared—I will let him speak for himself—but on our side we would be satisfied with a very short timeframe, perhaps a half-hour, 45 minutes.

Mr. DOLE. An hour equally divided?

Mr. JOHNSTON. Mr. President, I would say 30 minutes, really, ought to do it. It is very straightforward. It is just a question of setting the threshold at $100 million.

I hope it is not controversial; 30 minutes would suit us fine, equally divided.

Mr. DOLE. Could we make that 40 minutes equally divided?

Mr. DASCHLE. Mr. President, 40 minutes.

Mr. DOLE. If there is no objection, when the Senator lays down his amendment, I ask unanimous consent there be 40 minutes equally divided on the amendment.

The PRESIDING OFFICER. Is there objection to the time agreement? Without objection, it is so ordered.

The Senator from Louisiana.

AMENDMENT NO. 1497 TO AMENDMENT NO. 1487

(Purpose: To revise the threshold for a definition of a "major rule" to $100 million, to be adjusted periodically for inflation)

Mr. JOHNSTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Louisiana [Mr. JOHNSTON] proposes an amendment numbered 1497 to amendment No. 1487.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 14, line 4, strike out subsection (5)(A) and insert in lieu thereof the following new subsection:

"(A) a rule or set of closely related rules that the agency proposing the rule, the Director, or a designee of the President determines is likely to have a gross annual effect on the economy of $100,000,000 or more in reasonably quantifiable increased costs (and this limit may be adjusted periodically by the Director, at his sole discretion, to account for inflation); or".

Mr. JOHNSTON. Mr. President, this amendment is very simple.

The PRESIDING OFFICER. Will Senators withhold? The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, this amendment is very simple. It sets the definition of a major rule at $100 million and gives to the director, at his sole discretion, the ability to adjust that $100 million for inflation.

Mr. President, $100 million has been the threshold for triggering the review of proposed major rules since the Ford administration. The effect over the years has been that $100 million now is much less.

Mr. GLENN. Could we have order?

The PRESIDING OFFICER. The Senator from Ohio is correct. Could conversations on the floor be removed elsewhere?

Would the Senate be in order, in order that debate can be heard?

The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, the trigger for a major rule reevaluation was begun in the Ford administration at $100 million. If we use that same amount today in value, $100 million in the Ford administration would now be worth $252 million, and in the Carter administration it would be $231 million, or in the Reagan administration it would be $154 million. In other words, this is only a fraction of the definition we have used since the Ford administration for triggering major rules.

The problem here, Mr. President, is simply one of agency overload. We are requiring these agencies any time they put out a new rule—and we think there will be probably over 135 major new rules that are in process right now at the $100 million threshold—they will have to do cost-benefit analysis, they will have to do risk assessment with peer review, and judicial review, all of those things for rules which the administration now has in process.

In addition to that, they are going to have to go back and review all rules which they select for review, all rules that cannot meet the present cost-benefit ratio, the cost-benefit test, and the risk assessment test. And the question again is what is a major rule? Is it $50 million or is it $100 million? In addition to that, you have a petition process so that any person who feels themselves aggrieved by a present rule will be able to petition to have that put on the schedule for review. It is an enormous amount of work.

So what we want to do is set this limit at $100 million for a major rule rather than at $50 million hopefully to make the amount of work to be done manageable. We do not want to kill these agencies with so much kindness or so much work that they are not able to do anything. What industry wants is to be able to get some of these rules that are burdensome and adopted without science and adopted without proper procedures. They want to get them reviewed. If you allow for a review of any rule at $50 million as opposed to $100 million, it may so overburden the agencies that they cannot do anything, that you will have gridlock, that you will not be able to do whatever one wants to do and which is to have good risk assessment, good cost-benefit analysis, good science brought into rulemaking. It is a very straightforward amendment. It simply ups it to $100 million.

I hope my colleagues are willing to accept this amendment.

I yield the floor.

Mr. ROTH. Mr. President I support the current amendment to raise the dollar threshold for major rules from $50 to $100 million. I support this amendment because it would help ensure that this bill will work for us, not against us.

The purpose of S. 343 is to ensure better, more rational regulations and to reduce the regulatory burden while still ensuring that important benefits are provided. S. 343 aims to restrain regulators from issuing ill-conceived regulations. It requires better analysis of costs, benefits, and risks, so that regulators will issue smarter, more cost-effective regulations. This is common sense reform, not rollback. We want agencies to work for the public's best interests, not against them.

But we cannot so overburden the agencies with analytical requirements that they cannot properly carry out their mission to serve the public. That is why we need a dollar threshold before requiring regulators to subject rules to detailed analysis—cost-benefit analysis and risk assessment. Costly rules, of course, merit detailed analysis. But less costly rules do not. The reason is simple. Cost-benefit analysis and risk assessment are themselves costly and time-consuming.

This is why, since cost-benefit analysis was first required by President Ford over 20 years ago, it only applied to major rules costing over $100 million. Every President since then, including Presidents Carter, Reagan, Bush, and Clinton, have used the $100 million threshold for required cost-benefit analysis. This same threshold had strong precedent in the Senate. S. 1080, supported by a vote of 94 to 0 in 1982, had a $100 million threshold. In addition, S. 291, the Regulatory Reform Act of 1995, which I introduced in January and which received the unanimous support of the Governmental Affairs Committee, had a $100 million threshold. We also should keep in mind that the current value of this $100 million threshold, set in 1974, is actually far less than $50 million in 1974 dollars.

A $100 million threshold makes sense because those costly rules account for about 85 percent of all regulatory costs. Yet, there are a limited number of such rules—about 130 rules per year for nonindependent agencies.

This means that the vast bulk of the regulatory burden can be put under control with a roughly predictable, and more importantly, manageable analytical burden. There is no good reason to have a lower dollar threshold for major rules. A $50 million threshold would sweep in many more rules but make it all the more difficult for the agencies to handle the analytical burden. We just do not really know how many new rules a $50 million threshold would capture.

Even more troubling to me have been recent attempts to further burden the agencies—which would already be pressed hard by the requirements of S. 343—with more analytical requirements beyond those of the $50 million threshold. The recent Nunn-Coverdell amendment, for example, will dramatically increase the burdens imposed by S. 343. It would sweep into the definition of major rule all rules that have a significant impact on a substantial number of small businesses, as defined by the Regulatory Flexibility Act. This could add many hundreds of additional rules, including some very small rules, to the cost-benefit and petition process of S. 343. I am deeply concerned about the burdens imposed on small business. But the Nunn-Coverdell amendment threatens to sink an already heavily loaded ship.

Raising the major rule threshold to $100 million is not enough to cure the overload problem confronting S. 343, but it will help to lighten the load. It will help make this bill a more workable and more effective bill for the American public. It is good government. I urge my colleagues on both sides of the aisle to support this important amendment.

The PRESIDING OFFICER. Who seeks recognition?

Mr. HATCH. Mr. President, I yield 2 minutes to the distinguished Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Thank you, Mr. President.

Mr. President, I would like to yield 2 minutes to the Senator from Georgia.

The PRESIDING OFFICER. The Senator from Utah controls the time.

Mr. HATCH. I am obviously happy to yield 3 minutes to the distinguished Senator from Georgia.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. COVERDELL. Mr. President, I rise in opposition to the amendment. I spent the better part of yesterday arguing the unique problems that small businesses have in our country. The vast majority of businesses in America are small. Ninety-four percent of the 5 million-plus businesses in America have 50 employees or less.

By elevating the threshold, I recognize that we still have the amendment that we adopted yesterday that would take rules that get swept under regflex, but nevertheless the broader application of the bill's threshold is being elevated by moving from $50 to $100 million and reducing the size of the sweep, and I think it is moving in the wrong direction.

Mr. JOHNSTON. Mr. President, will the Senator yield?

Mr. COVERDELL. I yield.

Mr. JOHNSTON. Actually, rules that affect small businesses—how many did we say there were, how many million in this country?

Mr. COVERDELL. About 5 million.

Mr. JOHNSTON. About 5 million. When they affect small business, they are likely to be a major rule. But we have that provided for in the Coverdell amendment of yesterday with the reg-flex, and I believe that solves that problem. What we do not want to do is get agency overload here so that those rules which are burdensome to small businesses would not then be able to get—you would not have time to get your petition done because the agency would be so overloaded with other rules. I suggest to my friend that going to $100 million is not going to be difficult for small business because you have already protected them under the Coverdell amendment, and they are likely to be $100 million rules if they have broad application to small business, in any event.

Mr. COVERDELL. In the time I have remaining, I would like to respond. I understand the point my good colleague from Louisiana is trying to make, and I do appreciate the work that the Senator has expended for many years, including this particular debate. It has been a major contribution to the country, and I commend the Senator for it.

I only assert that it is a move in the wrong direction. I agree that the amendment we adopted yesterday is a step in the right direction because it will sweep those rules that are affected by reg-flex into our system. But there can be no argument that by moving from a $50 million threshold to a $100 million threshold, we are removing protection from a class of businesses, and they will generally be smaller businesses that are affected by the full ramifications of the bill and not just reg-flex. And let me say, as I said yesterday, Mr. President, that if I am confronted with the issue of who suffers the overload or the burden, and the argument is between small businesses or medium-sized businesses or huge, mega agencies, Mr. President, I side on the equation of helping businesses that have been suffering and the ramifications that come from that suffering and not on the side of these huge agencies with millions and billions of dollars and attorneys, so many that you cannot even name them. We should be moving in the direction of protecting the people on Main Street America and not on being overly concerned about the burdens these big agencies face.

Mr. President, I yield back whatever time is left.

Mrs. HUTCHISON addressed the Chair.

The PRESIDING OFFICER. Does the Senator from Utah yield to the Senator from Texas?

Mr. HATCH. I yield to the distinguished Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I would like to just address a question to the Senator from Georgia on my time, and that is I wonder if we have even talked about the impact on other governments of Federal regulations, such as our small towns across America. Our small towns are reeling from regulations that require them to go into their water supply and test for items that do not even relate to their part of the country. I just wanted to ask the Senator from Georgia if he does not think that the lower threshold is also going to be a boon to the smaller towns that might not have the ability to have legal staffs that can come up and talk to Federal agencies?

Mr. COVERDELL. The Senator from Texas is exactly right. In fact, she admonishes me in a way, because yesterday in talking about the reg-flex, or the small businesses, I did not talk enough about small cities and towns, small government jurisdictions and nonprofits. And as I said in my earlier remarks, this is just moving in the wrong direction. This is removing these smaller jurisdictions, smaller businesses from the sweep of the intent of this bill. I do not think it devastates the bill, but it is moving in the wrong direction.

Mrs. HUTCHISON. Mr. President, I, like my colleague from Georgia, appreciate what the Senator from Louisiana has done in this bill. He has worked to try to make it a good bill. But I am concerned if we raise the threshold that there might be people in that $50 to $100 million category—cities, towns, maybe counties, maybe school districts or water districts, some of our smaller entities—that really might not have the protection of the good science, of the peer review, the ability to have cost-benefit analysis and risk analysis.

I think what this bill does is so important to provide the basis upon which people will know out in the open what the effects of these regulations are, and it will have the effect, of course, of making the regulators think very carefully before they do these regulations.

Passing this bill in itself is going to have an effect on regulators in making sure that they know exactly what they are doing as they affect the small businesses of our country or, indeed, the local taxpayers of our country.

So I join with my colleagues in saying that I think it is very important that we not leave that $50 to $100 million range. In fact, I have to say if it were my choice, I would not have a range at all that was a floor. I would have from zero because I think no matter what the regulation is, if it affects your business or your small town or your water district, this is going to make a difference in the way you are able to provide jobs or serve your taxpayers.

So I do not think we should have any range that is excluded, but certainly I think the higher range is going to provide hardship for people who probably do not have the legal staffs to really have their viewpoints known as well as the people in the larger categories.

So I respectfully argue against this amendment as well, and hope that our colleagues will not have that group in the $50 to $100 million category that might not be covered by sound science, science in the sunshine, cost-benefit analysis, or risk analysis. And if it is a burden on the large agencies, then perhaps we will have the effect of fewer, more important, good regulations rather than so many regulations that do cause a hardship on our smaller entities.

Mr. JOHNSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, I very much appreciate the contribution that the Senator from Texas has made to this effort, and I share with her completely her concern about small businesses and small towns and counties. I have been in towns in Louisiana which have been subjected to some of these incredible regulations that would fine them for doing things which just went contrary to common sense. I would sit there with the mayors of these various towns and wring my hands with them because it was so outrageous sometimes what these regulations provided. However, going from $50 to $100 million does not hurt the small towns or small businesses. It is not that by going down you exempt the smaller people. Rather, you make it possible or feasible for small counties, small towns, small businesses to have their regulations considered at all. In other words, the problem here is agency overload.

I have met at some length with Sally Katzen, the head of OIRA. She said

> You know, one of our problems here is peers. We have peer review, but how can we find enough peers to review hundreds and hundreds of regulations and have cost-benefit ratios and risk assessments, scientific determinations for these hundreds of rules which are going to be simultaneously reviewed?

And to do so by the way, in light of a budget which is now being cut in the appropriations process as we speak. It is going to be a formidable process.

So, I think that the best way to get this done is to go in the direction of where we started in the Ford administration that major rules defined in the Ford administration is $100 million. And, you know, that amounts to $300 million something—$252 million. So we have been coming down in that through the years.

I hope my colleagues will recognize this problem of overload. Look, if we are not overloaded on this process in a year or two the Senator can propose and I think the Senate would enact a lower threshold. I suspect what we are going to find is that we may be considering an upping of the threshold rather than a lowering of it simply because of the question of legislative overload. Really, if we can get this $100 million, I think it makes a better and more workable bill, one that will protect our small towns and counties and our small businesses. And I hope my colleagues will allow it to be done.

Mrs. HUTCHISON addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. HATCH. I will yield to the Senator.

Mrs. HUTCHISON. Mr. President, I would just like to respond briefly and say that I think it is a matter of where you err. And while the amendment of the Senator from Louisiana would err perhaps by saying that we could always lower the threshold if we found that we needed to because so many people were exempt, I would err the other way. I would say, let us set it at $50 million and make sure that every regulation that we can possibly make well thought out and well documented is, in fact, well thought out and well documented. And if we have to raise the threshold later I would rather have to do that than to have to come in and try to lower it because so many people are harassed with regulations that did not have the scientific basis and the risk analysis and the cost-benefit analysis.

So I think it is a matter of do we err on the side of doing too much or do we err on the side of doing too little? I would rather protect the people, the small business people of this country, the small towns of this country, the small water districts of this country, and then if it becomes an onerous burden on the Federal agencies I am sure we will hear about that and we can always up the threshold. But I want to make sure that every regulation that we can possibly make be well thought out, well documented in science, have a cost-benefit analysis, and in fact does have those criteria.

So, I do appreciate the position of the Senator from Louisiana. But I just think it is more important for us to err on the side of caution and protection of our small business people and our small towns than the opposite, so that people are in a threshold of $50 million than the $100 million and they do not have those well-thought-out regulations.

Mr. JOHNSTON. Mr. President, just very briefly. The reg-flex amendment which we adopted yesterday which was designed to take care of small business includes in its definition of small entity, small governmental jurisdiction, which goes on to mean government, cities, towns, townships, villages, school districts, special districts, with a population of less than 50,000, unless an agency establishes another amount. So we took care really in the reg-flex amendment of yesterday, I believe, of the concerns about small towns and cities. And frankly I had not realized that that definition was in reg-flex. But I believe that covers the Senator's concern for small towns and jurisdictions.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. How much time remains?

The PRESIDING OFFICER. The Senator from Utah has 9 minutes and 20 seconds remaining.

Mr. HATCH. How much on the other side?

The PRESIDING OFFICER. Six minutes and 32 seconds on the other side.

Mr. HATCH. Mr. President, I am not sure from the discussion of the distinguished Senator from Louisiana that is so, because as I recall the Coverdell amendment just mentioned entities of small businesses. But we will check on it. Be that as it may, the House has listed a threshold of $25 million. The threshold in this bill is $50 million. I ask the Senator, am I not wrong on that?

Mr. JOHNSTON. This bill is $50 million.

Mr. HATCH. This particular bill's threshold is $50 million. And I have to say that all of small business throughout this country is watching this particular vote. It is going to be the vote on small business, as was the Nunn-Coverdell amendment. I understand the arguments on both sides. But frankly, with the House at $25 million, us at $50 million, there seems little or no real justification for the $100 million. So I support the $50 million threshold in Dole-Johnston-Hatch.

This is a small business measure. The whole purpose of fighting this out on the floor is to try and do it for small business people. The issue here is whether or not small businesses are going to be treated the same as larger businesses. The reg-flex act may not cover all rules that affect small businesses. As you know, the standards in that act were adopted by the Coverdell amendment. And that amendment may not cover all situations affecting small business, or at least I have been led to believe that is the case. And I still have some concerns whether small towns are covered by that amendment, individuals, small nonbusiness associations, charities. Those are all not covered by the Coverdell amendment. And should they not be protected by S. 343? And by this regulatory reform bill? I think that is what we come down to.

I would prefer to keep the threshold at $50 million. I am not going to go and weep in the corner if this amendment goes down in defeat. But I have to say—I mean, if the amendment is adopted which the distinguished Senator from Louisiana is advocating, and I understand his reasons for doing so. But I believe that small business and individuals, small towns and cities, nonprofit corporations, I might add, nonbusiness associations, do deserve the protection and the care that a $50 million threshold would give. With that, I am really prepared to yield back any time we have, or I yield the floor. And I reserve the balance of my time.

Mr. JOHNSTON. Mr. President, I would be prepared to yield back the balance of my time. Can we have a vote at this time?

Mr. HATCH. I suggest the absence of a quorum.

Mr. JOHNSTON. Will the Senator withhold? As long as we have got to wait for this, let me say that, Mr. President, this amendment is viewed very, very seriously by an awful lot of people on our side and by the administration based on this question of agency overload. I really believe, as someone who has been involved in this risk assessment now from the very start, that this is a very legitimate concern of the administration. The American Bar Association gives this question of the definition of "major rule"—it is the very first and most important criticism they have of S. 343. It is the most important criticism, or one of the most important, of the administration, one of the most important concerns over here.

Now, Mr. President, we very much need to pass this legislation. I hope my colleagues on the other side of the aisle will give us enough votes to let us pass it. This is one of those important amendments that does not in any way derogate from the importance and the central value of risk assessment, cost-benefit analysis. But it may have a lot to do with making it workable. I mean, the American Bar Association is not out to do in small businesses or small communities in our country. They are simply aware, as they say, it will sweep too broadly and, therefore, dilute the ultimate impact of the bill.

Quoting from the American Bar Association:

> This change is crucial for Association support.

That is, American Bar Association support.

We can pass a bill without the American Bar Association support, I understand that. But they are enthusiastic supporters of the concept, as I am the person who first proposed risk assessment here on the floor, but we have to make it workable. To go up to $100 million simply makes this more workable, Mr. President. Nothing could be worse than to have this vast plethora of regulations all of a sudden dumped on agencies unable to contend with them, unable to find the peer review, unable to have budgets that will cover the cost of cost-benefit, unable to hire the scientists to do the studies to do the risk assessment, and otherwise unable to meet deadlines. That is a formula for chaos. That is why the American Bar Association thinks we ought to go to $100 million. That is why the administration thinks so, and that is why I think so.

So, Mr. President, this amendment will help pass—not only help pass and get signed into law—this legislation; it will make it workable. Everybody wants this legislation to work when and if we pass it, and I believe we are going to be able to pass it, because I think the spirit of the floor, and of the proponents, certainly the majority leader, Senator HATCH and others, has been to accommodate reasonable criticisms in the present draft of S. 343. I really believe that is true. I think the acceptance of that last amendment showed that kind of spirit, and I hope we can get that kind of spirit on this $100 million amendment. This is really a crucial amendment, as the American Bar Association has said, as the administration has said.

I have not gone along with all of the administration's criticisms of this bill. As a matter of fact, I have not gone along with most of the administration's criticisms of this bill. I think some of it may be previous versions that they are criticizing. I think some of it may be a fictitious bill that has never been offered and is not now on the floor that they are criticizing. But, Mr. President, this $100 million criticism—that is, the criticism of the $50 million being too low and the desire to go to $100 million—is right on target. It is what it takes to make this bill workable.

I beseech and implore my colleagues to let us get this limit to $100 million where the bill can be allowed to work.

Mr. President, if none of my colleagues has further debate, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. HUTCHISON addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. HATCH. I yield such time as the distinguished Senator may need.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I thank the Senator from Utah.

I wanted to answer one point of the Senator from Louisiana on his amendment, and that is the point that the small entities would be covered under the reg-flex amendment that we adopted yesterday. In fact, the reg-flex amendment covers cost-benefit analysis, but there are many small entities that would not get the risk analysis that is covered by this bill, and these are the entities that would be lost between the $50 million and $100 million threshold.

So it is very important to the small towns and the water districts and the small businesses that they have the availability of risk analysis for sound, good regulatory bases, just as the larger entities would, and perhaps they need it even more because they do not have the legal staffs that are available in the upper echelons.

I did want to make that one point so that it was clear that we need risk analysis and the sound basis that risk analysis would provide for the $50 to $100 million category that would be left out if we adopt this amendment.

Thank you, Mr. President. I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. ROTH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second.

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from Missouri [Mr. BOND] and the Senator from Arizona [Mr. MCCAIN] are necessarily absent.

The PRESIDING OFFICER (Mr. DEWINE). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 53, nays 45, as follows:

[Rollcall Vote No. 300 Leg.]

YEAS—53

Akaka
Baucus
Biden
Bingaman
Boxer
Bradley
Breaux
Bryan
Bumpers
Byrd
Chafee
Cohen
Conrad
Daschle
Dodd
Dorgan
Exon
Feingold
Feinstein
Ford
Glenn
Graham
Harkin
Hatfield
Heflin
Hollings
Inouye
Jeffords
Johnston
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moseley-Braun
Moynihan
Murray
Nunn
Pell
Pryor
Reid
Robb
Rockefeller
Roth
Sarbanes
Simon
Snowe
Specter
Wellstone

NAYS—45

Abraham
Ashcroft
Bennett
Brown
Burns
Campbell
Coats
Cochran
Coverdell
Craig
D'Amato
DeWine
Dole
Domenici
Faircloth
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hatch
Helms
Hutchison
Inhofe
Kassebaum
Kempthorne
Kyl
Lott
Lugar
Mack
McConnell
Murkowski
Nickles
Packwood
Pressler
Santorum
Shelby
Simpson
Smith
Stevens
Thomas
Thompson
Thurmond
Warner

NOT VOTING—2

Bond
McCain

So the amendment (No. 1497) was agreed to.

Mr. GLENN. Mr. President, I move to reconsider the vote.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. Mr. President, I want to make an inquiry now if there are any amendments on either side that can be offered so we can have another vote or two this evening?

As I understand, the Senator from Ohio indicates there are no amendments on that side.

Mr. GLENN. No amendments.

Mr. DOLE. We are looking at one from the distinguished minority leader. We have not had a chance to review that yet.

Mr. GLENN. That is correct. We thought there would be one, but you are looking at it. We will have another one ready in the morning.

Mr. DOLE. Does that mean you are about to run out?

Mr. GLENN. I would not say that exactly at this point.

Mr. DOLE. Are there any at this point?

Mr. JOHNSTON. Mr. President, if the majority leader will yield, I wonder if the majority leader would entertain an amendment at this point to make the bill not applicable to any notice of proposed rulemaking which would commence on July 1, 1995, or earlier? In other words, those on-going regulations which would still be subject to the petition process, so you would not have to go back and redo and replow all that same ground.

Do you want time to think about that?

Mr. HATCH. I think we need some time to think about that because we need to know what all the rules are that will be affected by it. But we will certainly look at that.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. If there are no——

Mr. GLENN. Will the majority leader yield? One point I would like to make, on June 28 we gave a list of 9 major concerns we had and 23 minor ones. We were told at that time that your side would get back to us as fast as possible.

We have been working through one or two—or a few of these things here today, but we have not had any answer to this. We were told that would be addressed. This is our blueprint for what we thought would make the thing acceptable. Until we can get back an answer to some of these things, I think it is going to be difficult to move ahead too fast.

Mr. HATCH. Mr. President, may I respond to the distinguished Senator? We have looked at that and we understand there are people on his side that do not like some of those suggestions. There are certainly a lot of people on our side. So what we have been trying to do is work out individual items as we can. But the vast bulk of those, we have had objections on one side or the other or both.

So, we will just keep working together with those who have submitted those to us, and see what we can do. We have made some headway almost each and every day that we have been debating this matter.

So, all I can do is pledge to keep working at it and see what can be done. But there are an awful lot of those suggestions that are not going to be acceptable.

Mr. DOLE. As I understand it, one of the nine dealt with an amendment we just disposed of.

Mr. GLENN. That is what I just said.

Mr. DOLE. There is some progress being made there, but I think it is fair to say there will be no more votes tonight.

Mr. GLENN. I would like to address this again. What we thought we were going to have is an answer to this whole package. That was the way it was originally presented. I know we dealt with a couple of these items here, but we would much prefer to see how many of these things we could get through as a package. If we could get an answer on some of these things, that will certainly help.

Mr. DOLE. Let me yield to the Senator from Utah to respond.

Mr. HATCH. I would have to say again, I thought the other side was aware of the matters that we felt we could work on and the matters we felt we could not, that there could be no agreement on. But we will endeavor to try to outline each and every item on that. But we are working with the other side. We are trying to accommodate. Today I think is good evidence of that.

We will work on it and try to get back on each and every item.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. Mr. President, as I understand it, there will be no further amendments offered but there will be debate on the bill. I think there are a number of colleagues on either side who wish to make statements on the bill. Hopefully, we can find some amendment that can be offered, laid down early in the morning, so we can get an early start.

Maybe in the meantime we can address some of the questions raised by the Senator from Ohio and get some response so we can move on. We would like to finish this bill tomorrow night if we could. Which we cannot.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. BENNETT. Mr. President, I rise to comment on the regulatory reform bill, S. 343, that has occupied the attention of the Senate throughout the day. I watched a good portion of the debate from my office, on television, and occasionally here on the floor. I have been interested in my senior colleague from Utah and his list of the top 10 horror stories of regulatory excess. I have been unable to gather as many as 10. My resources are perhaps not as good as my colleague's, but I want to add another to the horror stories of regulatory excess from the State of Utah, and perhaps spend a little more time on this one than the list that my senior colleague went through earlier.

I am talking about a business called Rocky Mountain Fabrication, which is located in Salt Lake City, UT. It has been operating at a site in industrial north Salt Lake since the early 1980's. It needs to expand its operations to meet the demands of an improving economy. Rocky Mountain employs about 150 people.

Its business is steel fabrication which requires the use of an outdoor yard. They have to lay out large pieces of steel that are then moved by heavy equipment. Negotiations between Rocky Mountain and EPA have been going on since 1990, nearly 5 years. They have cost the company $100,000 in legal fees and other fees connected with this fight. At the moment, a conclusion is no closer than it was when it started. There is no resolution in sight.

Here are the facts. Rocky Mountain Fabrication acquired its 5-acre site in 1981 and developed approximately 3 acres of the site. At the time, all the land was dry. If you have been to Utah, you know that is the normal pattern of land in Utah. It is part of the great American desert. In 1983, we had unusual flooding in Utah. There was a combination of a bigger than normal snow pack, a late spring. It stayed in the mountains in snow, and then suddenly a very rapid drop; a rise in temperature, and immediate thawing of all the snow, and we had runoff.

You may recall, Mr. President, and some others may recall, that we had literally a river running down the principal street of downtown Salt Lake with sandbags on either side to keep damage out of the business stores. That happened in 1983.

If you are following the EPA, you know what is going to happen next. All of a sudden, this dry land on which Rocky Mountain Fabrication had been carrying on their business became a wetland because of the unusual nature of this spring runoff. It kept happening. In 1985–86, EPA began investigating the site. In 1990, they got serious with their investigation.

Approximately 1.3 acres of Rocky Mountain's property was filled. Oh, you cannot do that. You cannot take steps to change the nature of your own property under Federal regulations. Rocky Mountain provided numerous proposals, technical studies, and other information to EPA to resolve this matter so that it can expand its business. These proposals included removing over half of the 1.3 acres filled together with mitigation in the form of a monetary donation to significant off-site projects around the Great Salt Lake, or enhancement of 30 to 50 acres of wetlands along the Great Salt Lake.

All of these proposals have been rejected by the EPA. Instead, the agency has demanded that Rocky Mountain remove 2.9 acres from its 5-acre site, which would far exceed the amount filled in 1985–86, effectively rendering the property unusable and putting the company out of business at its present location.

In response to Rocky Mountain's proposal to provide compensatory mitigation through a financial contribution to the $3.5 million offset wetland enhancement project contemplated by the Audubon Society around the Great Salt Lake, EPA officials verbally responded that any such proposal would require Rocky Mountain to contribute the entire $3.5 million cost of the project. Only that would be acceptable.

Well, $3.5 million for 1.3 acres in industrial north Salt Lake? Boy, I would love to be the landlord that got that kind of a price for selling that sort of land. It is unbelievable. But this is the best EPA can do after costs of over $100,000 to the citizen who did nothing beyond working on his own land for 5 years.

Mr. President, this is an example—we have had many of them here on this floor—of this kind of regulatory overkill.

I believe in this bill. I intend to vote for this bill, and I urge all of my colleagues to vote for this bill.

This bill will not get at the core of the problem. I hope it is a good first step toward the core of the problem, but it will not get at the core of the problem. The core of the problem, Mr. President, is this, as more and more regulators themselves are discovering: It has to do with the cultural attitude of a regulatory agency.

I ran a business. I know how important culture is to a business. The most important culture you can establish in a business is this one: The customer comes first. We exist to serve the customer. Whatever the customer asks for, whatever the customer needs, we will do everything we can to provide it. If you can get that culture in the minds of your employees and maintain it by the way you run your business, you are almost certain to have a successful business. In a regulatory agency, the culture is: The customer is lying; or, The customer is cheating; or, The customer must have done something wrong or I would not be here in this agency.

I have never dealt with a regulatory agency who came in with the notion: "I am going to conduct an investigation, and I accept as one of the possibilities the possibility that you have not done anything wrong." No, that is not in the regulatory culture.

If we could get that notion in the culture of regulatory agencies, that alone would take care of most of these horror stories, if the person doing the regulating were to say, "OK, somebody is complaining. Someone has suggested there is something wrong here. But I am here to find out the facts. That is the culture of my regulatory agency, and I come in with the understanding that you may not have done anything wrong. I am here to find out the facts."

I do not know how we pass legislation to change culture in an agency. I do not know how we accomplish this goal. But I do know that we do not get the goal accomplished if we do not start talking about it.

So that is why I have decided to add to this horror story that particular conversation. I intend, Mr. President, whenever a regulatory agency comes before any subcommittee on the Appropriations Committee on which I sit to raise this issue with them. What is the culture in your agency? Is it a culture of let us go find the facts, or is it a culture of if I am here, there must be something wrong?

Indeed, some agencies are afraid to come back from an investigation and say, "There was nothing wrong," for fear the culture in the management of the agency will say, "Well, if you could not find anything wrong with that circumstance, there must be something wrong with you as an investigator. Now go back and find something that you can fine them for. Find something you can attack them for."

In that kind of a culture, of course, you get the sense of us versus them that seems to dominate the regulatory field in this country.

So, Mr. President, as I say, I intend to vote for this bill. I urge all of my colleagues to vote for this bill. I raise horror stories like the one that I have recited, but I think the long-term solution with which all of us must be concerned must be geared at changing the corporate culture, if you will, in regulatory agencies and getting people who are working for the Government to begin to understand that taxpayers must be treated like customers. There must be a presumption that the taxpayer, that the individual citizen, that the person being investigated may just be completely innocent of any wrongdoing. That possibility must be clearly in the minds of regulators when they go out. They must not be punished if they find that that is, indeed, the case. If they come back and say, "We have conducted this investigation, and this company, this individual, we discovered has done nothing wrong," there must be no cultural opprobrium attached to that result on the part of the management of the regulatory agency. That is the most ephemeral kind of change, the most subtle kind of change, the one most difficult to accomplish but ultimately the one that must take place.

Mr. President, S. 343 will not accomplish that. We need a lot more conversation and a lot more change of attitudes throughout the entire Federal establishment to accomplish that. But S. 343 will at least send a message throughout the Federal establishment that we here in the Congress are aware of the need for those kinds of changes and we are willing to pass legislation that will move in that direction. It is for that reason I support the legislation and urge its passage.

Mr. INHOFE addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

ANNOUNCEMENT OF POSITION ON VOTES

Mr. INHOFE. I have two announcements. First, I announce that, if I had been present and voting yesterday on rollcall vote No. 297 to this bill, I would have voted "yea." Second, if present and voting on vote No. 298, I would have voted "yea."

The PRESIDING OFFICER. The RECORD will so reflect.

Mr. INHOFE. Mr. President, what we have been talking about today is a very significant thing. It is something that we are concerned about to the extent that those of us who ran for reelection last time can tell you that this is on the minds of the American people, not just large and small businesses but individuals as well. This issue is probably the most critical issue to come before the Congress in the minds of the American public. It will redesign the regulatory process of the Federal Government.

One of the distinctions, for those of us who have served in both bodies, that is most noticeable is that over here on this side you only run every 6 years. The drawback to that is you sometimes lose contact with what people are thinking. For those of us who went through an election, Mr. President, this last time, I can assure you there are two mandates that went with that election which have to be ranked No. 1 and No. 2, and I am not sure in which order they would be.

One, of course, is doing something about the deficit, and the other is doing something about the abusive bureaucracy and the overregulation that we find in our lives. I have had this fortified since the election in that I have had 77 townhall meetings since January, and it always comes up.

The Senator from Utah was talking about the horror stories. Let me assure you there are a lot of horror stories. We have heard a lot today, and we will have heard a lot more. But I have categorized about six things that have come out of these townhall meetings which were prominent in the minds of Americans during the last elections.

They are: First, the American public wants a smaller Federal Government. Second, the public demands fewer Government regulations. Third, people want regulations that are cost effective. Fourth, they want Federal bureaucracies to quit invading their lives. Fifth, small businesses need regulatory relief to survive and create jobs. Sixth, people want the Government to use common sense in developing new regulations.

When debating and discussing this issue, most people focus on the direct cost of regulations on businesses and on the general public, which is enormous. Over $6,000 is the cost each year for each American family because of the cost of regulation. For each senseless and burdensome regulation, we have Government bureaucracies and agencies proposing, writing, enacting, and enforcing these needless regulations, and this actually drives up the national debt.

This is something that has not been discussed, and I wish to give credit to a professor from Clemson University, Prof. Bruce Yandle, who made quite a discovery. He discovered that there is a direct relationship between the deficit each year and the number of regulations.

Our Federal Register is the document in which we find the listing of the regulations. The discovery that Professor Yandle made is portrayed on this chart. This is kind of interesting because the red line designates the number of pages in the Federal Register. In other words, we are talking about the red line which goes up like this. And this out here is the peak of the Carter administration when we were trying to get as many regulations on the books before they changed guard after Ronald Reagan was the designee for President of the United States.

Now, the yellow columns here designate in billions of dollars the Federal deficit for that given year. Now, look at this; it is really remarkable. You have this line that is trailing this line going across almost exactly at the same rate. In other words, in those years when we have a higher Federal deficit, we also have more pages of regulations.

And so I would contend to you that the best way we can address the deficit problem is to do something about the overregulation, do something to cut down the number of regulations in our society.

The bill under consideration today, the Comprehensive Regulatory Reform Act of 1995, will go a long way to meeting the concerns of the American public on needless and burdensome Federal regulations. And, as the Senator from Utah said, I would like to have this bill stronger. I think it should be stronger. But this is a compromise bill. This is one that many people on the other side of the aisle who really do not feel we are overburdened with regulation think is probably a good compromise. I would prefer to have it stronger, but it is a compromise, and it is the best we could hope for now.

I would like to outline a few of the key components of the bill, because I think we have kind of lost track of what it actually does, and then give some examples of the types of regulations that we are exposed to. As the Senator from Utah, I spent 35 years of my life in the private sector so I have been on the receiving end of these regulations. I know the costs of these regulations.

An economist the other day said, with all this talk about Japan, if you want to be competitive with Japan, export our regulations to Japan and we will be competitive.

One section of the bill is cost-benefit analysis. The bill will require the use of cost-benefit analysis for major rules, those which have gross annual effects on the economy of $50 million or more, requiring that the benefits of the rule justify the costs of the rule.

This is not the more stringent language we talked about at one time back in January of the benefits outweighing the costs, which I would prefer, but a much more neutral compromise. This is a commonsense approach to costs and benefits. If you are going to buy something for yourself at the store, you do not want to pay more than the benefits you receive from it. It is like buying a 32 cent stamp for 50 cents. You just do not do it. It is like throwing away your laptop computer at the end of each day. Smart shoppers want their money's worth, and I think the American public is entitled to get their money's worth by having some way to measure the value of these regulations.

The second area that is addressed is risk assessment. The bill would require a standardized risk assessment process for all rules which protect human health, safety, or the environment. It will require "rational and informed risk management decisions and informed public input into the process of making agency decisions." I do not see how anyone can be against making informed decisions.

This section will require the "best reasonably available scientific data" to be used and the risk involved to be characterized in a descriptive manner, and the final risk assessment will be reviewed by a panel of peers.

These are not outrageous requirements but basic justifications which should be met by the Government before it imposes costly regulations on businesses costing them millions of dollars and on American families costing them thousands of dollars.

The third area is that of the regulatory review and petition process. The bill will require each agency to review its regulations every 5 years to determine if the rule is still necessary. You know, there are a lot of agencies that are not necessary.

I can remember a very famous speech that was made one time by a man back in 1965 who later on became President of the United States. He observed in that speech, which I think should be in the textbooks of Americans today—it was called A Rendezvous With Destiny—he said there is nothing closer to immortality on the face of the Earth than a government agency. That is the way it is with regulations. They impose the regulations. Maybe the problem goes away or someone takes away that problem, but the regulations stay in. So this would require that every 5 years they look and review to see if they are still needed. If the agency decides not to rewrite a particular regulation, then members of the regulated community—those are the people that are paying taxes for all this fun we are having up here—can petition the agency to have the rule reconsidered.

Now, this will allow the public to draw attention to the needless regulations that help put Government back in the hands of the American people. Nothing unreasonable about that at all.

Then the fourth area is that of judicial review. The bill will also allow for judicial review of these new regulatory requirements. This is important because the regulated community must have some redress for poorly designed or arbitrary regulations. It is no good to require regulatory agencies to change their process if there is no one watching over to make sure that they comply with this.

I realize President Clinton and his regulatory agency heads are dead set against the provision. They did not mind that they look over everybody else's shoulders enforcing the regulatory nightmares on private citizens and the companies that are paying for all these taxes, but they do not want the judicial process to oversee them. So overall the bill will go a long way toward preventing needless and overly burdensome regulations from taking effect.

Unfortunately, there are many examples of existing regulations which have not followed this new process to help stop stupid regulation from being enacted. I would like to just highlight a couple of these, one having to do with the wetlands regulations.

The EPA and the Army Corps of Engineers have promulgated regulations which broadly define the definition of what constitutes a wetland. Under the 1989 definition, land could be dry for 350 days a year and still be classified as wetlands. And to add to some of the examples that have been made here on the floor today:

Mr. Wayne Hage, a Nevada rancher, hired someone to clear scrub brush from irrigation ditches along his property and faces up to a 5-year sentence under the Clean Water Act because it redirected streams.

Another example: Mr. John Pozsgai, a 60-year-old truck mechanic in Philadelphia, filled in an old dump on his property that contained abandoned tires, rusty cars, and had to serve nearly 2 years in jail because he did not get a wetlands permit.

James and Mary Mills of Broad Channel, NY, were fined $30,000 for building a deck on their house which cast a shadow on a wetland.

Endangered species. The Endangered Species Act has infringed upon the property rights of property owners all over the country. When 14-year-old Eagle Scout Robert Graham was lost for 2 days in the New Mexico Santa Fe National Forest, the Forest Service denied a rescue helicopter to land and pick up the Scout where he was spotted from the air because it was a wilderness area.

Mr. Michael Rowe of California wanted to use his land to build on, but it was located in a known habitat of the Kangaroo rat. In order to build, he was told—keep in mind this is his land that he owns—he was told to hire a biologist for $5,000 to survey the land. If no rats were found, he could then build only if he paid the Government $1,950 an acre in development mitigation fees. If even one rat was found, he could not build at all. This is his property, property he bought long before this thing was in effect.

Here we have the Constitution with the 5th amendment and the 14th amendment that are supposed to protect property rights without due process.

Here is Marj and Roger Krueger who spent $53,000 on a lot for their dreamhouse in the Texas hill country. But they could not build on the land because the golden-cheeked warbler had been found in the canyon adjacent to their lands.

And OSHA regulations. I remember when OSHA regulations first came out. At that time I was in business. Of course, I was a part-time legislator in the State of Oklahoma. I was in the State Senate. I used to make speeches and take the manual that is about that thick, the OSHA Manual of Regulations to which all manufacturers had to comply, and I would speak to manufacturers' organizations. And I said, "I can close anybody in the room down." I would be challenged. "No. We run a good clean shop. You cannot close us." I would find regulations that if you were the type of inspector that would walk in, if you wanted to, you could close someone down.

You know, Mr. President, this is one of the problems we have. Years ago I was mayor of the city of Tulsa. We had about 5,000 uniformed police officers. Most of them were great. Now, you have someone who cannot handle the authority that is vested in them by law. The same is true when you get out in the field. It can happen in any bureaucracy, whether it is the EPA, the OSHA regulators, inspectors, or FAA, anyone else, certainly IRS and FDA, and the rest of them.

Anyway, the Occupational Safety and Health Administration is supposed to protect safety and health for workers. But too often the regulators at OSHA have gone overboard, costing jobs and imposing fines.

For example, OSHA regulations have put the tooth fairy out of business, requiring dentists to dispose of teeth in the same manner as human tissue in a closed container for disposal.

In Florida, the owner of a three-person silk-screening company was fined by OSHA for not having a hazardous communications program for his two employees.

Two employees of DeBest, Inc., a plumbing company in Idaho, jumped into the trench to save the life of a coworker who had been buried alive. The company was fined $7,875 because the two workers were not wearing the proper head gear when they jumped into the trench.

Mr. President, I could just go on and on as they have today with example after example of abuses that have taken place. And they are abusing the very people who are paying the taxes.

Last, let me reemphasize, this chart speaks for itself because there is a direct relationship between the deficits that we have experienced every year and the number of pages in the Federal Register which indicates the number of regulations that are in effect.

I thank the President for his time.

Mr. THOMAS addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. THOMAS. Mr. President, I rise in support of S. 343, and appreciate the comments of my friend from Oklahoma who talked a lot about the details that are very important here, the reason for this bill. We have talked about it now for a good long time, as almost is always the case here. Nearly everything has been said, I suppose, in terms of the detail, in terms of the bill. But I would like to talk just a little bit about the fact that it is so important for us to deal with this question of regulation, overregulation.

Clearly, at least in my constituency in Wyoming, the notion of regulation and the overregulation, and the cost of regulation and the interference of regulation, is the item most often mentioned by constituents that I talk to. There is no question, of course, that we need regulation. There will continue to be regulation. And, indeed, there should be regulation. Obviously that is one of the functions of Government.

The question is not whether we have regulation or not. And I wish to comment a little, one of our associates this afternoon rose and indicated that in his view the idea of having some kind of cost-benefit analysis meant that we would no longer have clean water, that we would no longer have clean air. I disagree with that thoroughly.

I do not even think that is the issue. The issue of regulation, the issue of laws, the issue of having a clean environment, a safe workplace is not the issue. Too often we get off on that notion that somehow this bill will do away with regulation. Not so at all. We had an amendment today that said it would be a supplement to the laws and the statutes that exist and the regulations that exist.

It is designed to work in process. It deals with the process of the things that are taken into account as the regulations are developed and as the regulations are applied. So the notion that somehow the good things that have come about as a result of regulation—and, indeed, there have been and our friend cited the idea that we have a cleaner environment in many areas, that we have better water than we have had in years. That is true. That is not the issue. We are not talking about doing away with those regulations.

So I think, Mr. President, we really ought to examine what we are doing here, and the fact is we are looking for a way to apply regulations with more common sense. We are looking for a way to apply regulations with less cost. We are looking for a way to accomplish what regulations are designed to accomplish more efficiently. That is what it is all about.

I understand that there are different views. I understand that there are those who do not choose to take issues like cost-benefit ratios into account. There are those, of course, as has been the case in almost all the issues we have undertaken this year, who prefer the status quo.

But I suggest to you, if there was anything that was loudly spoken in November of 1994 it was that the Federal Government is too big, it costs too much, and there is too much regulation in our lives, intrusive in our lives, that it has to do with economy, it has to do with cost.

We already mentioned cost. Some say it ranges from $400 billion a year, more than all of the personal income tax combined, and I believe that is the case.

But we need to concentrate on what we are seeking to do, and we are seeking to make regulation a more efficient, a more useful tool.

There is a notion from time-to-time that those who seek the status quo are more compassionate, are more caring than those who want change. I suggest that is not the slightest bit in keeping with the flavor of this bill; that, indeed, we are seeking to find a way to do it better.

So, Mr. President, the 1994 elections were about change. The American people, I think, are demanding a change, demanding a regulatory system that works for us as citizens and not against us. I think there is a message that the status quo is not good enough.

For the first time in many years, frankly, the first time in years I observed Congress, certainly in the 6 years I was in the House, we have not really taken a look at the programs that are there. If programs seemed not to be effective, if they were not accomplishing much, what did we do? We put more money into it or increased the bureaucracy. We did not really take a look at ways to improve the outcome, to improve the effect to see if, indeed, there is a better way to do it. So we need meaningful and enforceable regulatory reform.

There has been a great deal of misinformation about this bill, some of it on purpose, some of it just as a matter of not fully understanding. Most of it you see on TV and talk shows, that it does not have the regulatory protection. Not true, not true. Clean water, clean air, and safe food are not negotiable. That is not the issue. This bill specifically exempts potential emergency situations from cost-benefit, and it will strengthen sound regulations by allocating the resources more wisely.

I cannot imagine anything that makes more sense, that makes more common sense than as a regulation is developed that you take a look at what you are seeking to do, how you do it, what it will cost, and what the benefits will be and seek the alternatives that are there. That is what it is all about.

It also provides an opportunity for this body, for the Congress to take a look at regulations as they are prepared by the agencies. We did this in our Wyoming Legislature. It was a routine: The statutes were passed, the agencies developed regulations to carry them out, and there was an oversight function before those regulations were put into place to see if, indeed, they carried out the spirit of the statute, to see if, indeed, they were doing what they were designed to do. Unfortunately, there, too, we did not have a real analysis of the cost-benefit ratio, and I think that is terribly important.

So we talk about compassion, and sometimes those who want to leave things as they are accuse those who want change of not caring. It seems to me that when overregulation puts someone out of work, that is not very compassionate. When we put a lid on the growth of the economy, that is not very compassionate. When we take people's property without proper remuneration, that is not very compassionate.

So we are designed here to do some of those things. It seems to me we have particular interest in the West where 50 percent of our State, for example, is managed and owned by the Federal Government. So we find ourselves in nearly everything we do, whether it be recreation, whether it be grazing, whether it be mining and oil, with a great deal of regulation that comes with Federal ownership.

Much of it is not simply oriented in business. We talked a lot about business because I suppose, on balance, they are the largest recipients of overregulation. Let me tell you, the small towns are also very much affected. We had several instances recently in the town of Buffalo, WY, where they are seeking to develop a water system, in one instance, on forest lands. So they have to deal with the Forest Service to begin with, and then they have to deal with the EPA, and then they have to deal with the Corps of Engineers and finally are turned down entirely and have to start over—millions of dollars of costs to a small town.

It has nothing to do with whether they are going to have a clean water supply. It has to do with whether or not there can be a cost-benefit ratio of what is going on, whether there is a risk assessment, and that is what this is designed to do.

So, Mr. President, our effort here, I think, is a laudable one. I am excited about it. I think we can finally do some things that have needed to be done for a very long time and, I think, do them in a sensible way and preserve the reason for regulation, preserve the environment, preserve the water quality, and do it in a way that is more effective, more cost-effective, more user friendly than in the past.

I rise in strong support of this bill and, frankly, hope we can move to a speedy, successful conclusion.

Mrs. BOXER. Mr. President, one of the primary functions of Government is to protect the public's health and safety. The purpose of the Federal regulatory process is to improve and protect the high quality of life that we enjoy in our country. Every day, the people of our Nation enjoy the benefits of almost a century of progress in Federal laws and regulations that reduce the threat of illness, injury, and death from consumer products, workplace hazards, and environmental toxins.

As the year 2000 approaches, Americans can look back with immense pride in the progress we have achieved in protections of our health and safety.

The economic benefits derived from Federal safeguards such as the Clean Air Act, the Clean Water Act, the Safe Drinking Water Act, the Federal Insecticide, Fungicide and Rodenticide Act [FIFRA], the Food, Drug and Cosmetic Act, and the National Highway and Traffic Safety Act, are incalculable.

The National Highway and Traffic Safety Administration and the Federal Highway Administration estimate that Federal safety rules have resulted in a net gain to the economy of $412 billion between 1966 and 1990. According to the Department of Labor, workerplace safety regulations have saved at least 140,000 lives since 1970. The Consumer Product Safety Commission estimates that standards in four product categories alone save at least $2.5 billion a year in emergency room visits.

While I recognize the tremendous benefits and value of our health and safety laws, I also recognize many instances where Federal agencies have ignored the costs of regulation on businesses, State and local governments, and individuals, who as a result feel that they are being put upon—and rightly so.

This is why we need regulatory reform.

WE NEED REGULATORY REFORM

Mr. President, I firmly believe we need regulatory reform. I believe that all Senators on both sides of the aisle feel very strongly about the need for regulatory reform. Not one of us in the Senate wants the status quo. Regulatory reform is not a partisan issue. At issue this week will be what kind of reform we achieve. We need regulatory reform that will create a regulatory process that is less burdensome, more effective, and more flexible. We need regulatory reform that provides reasonable, logical, and appropriate changes in the regulatory process that will eliminate unnecessary burdens on businesses, State and local governments, and individuals. We need regulatory reform that maintains our Federal Government's ability to protect the health and safety of the American people.

Mr. President, I am committed to the goal of purging regulations that have outlined their usefulness, that are unnecessarily burdensome, or that create needless redtape and bureaucracy.

I believe that Federal agencies should issue only those rules that will protect or improve the well-being of the American people and I am committed to regulatory reform that will ensure this.

For these reasons I am an original cosponsor of the Glenn-Chaffee bill S. 1001, the Regulatory Procedures Reform Act of 1995.

EXAMPLES OF THE KIND OF REGULATORY REFORM WE NEED

Last year, I pushed a bill through the Senate to allow the city of San Diego to apply for a waiver from certain Clean Water Act regulations.

Scientists at the National Academy of Sciences and the Scripps Institute of Oceanography informed us that the regulations mandating that the city treat its sewage to full secondary level were unnecessary to protect the city's coastal waters.

Compliance with those regulations, put in place to protect inland lakes, rivers, and streams, would do little to protect the marine environment but would cost San Diego over $1 billion.

My bill allowed the city to seek a waiver which is not available under current law, giving San Diego the flexibility it needs to protect the marine environment and to focus its resources on other environmental priorities.

The Environment and Public Works Committee, of which I am a member, is currently working on the reauthorization of the Safe Drinking Water Act, the Clean Water Act, other environmental statutes and we are very aware that we need to be mindful of situations like San Diego's—situations where a regulation that makes sense in one place makes little or no sense in another.

For example, under the current Safe Drinking Water Act, EPA may have to issue a rule on radon in drinking water. Radon is a known carcinogen and should be regulated. But in the case of a city like Fresno, CA, the costs of compliance with such a regulation could be staggering. Unlike many cities which have a single drinking water treatment plant, Fresno relies on water from over 200 wells, each of which would require its own Radon treatment facility.

Meeting the EPA's proposed Radon rule could cost the city of Fresno several times what it would cost other cities—over $300 million, an amount the city tells me is simply not available. We will, therefore, work to come up with a solution that protects public health, but doesn't drive cities like Fresno to bankruptcy.

Mr. President, it is our job to fix these problems, to make changes to eliminate the unintended consequences of good laws. The best way to avoid unnecessary, costly, and burdensome regulations is to ensure that the agency analysis of the proposed regulation is based on sound science and reasonable policy assumptions. An agency must consider the costs and the benefits of a regulation, and the possibility for alternative regulatory solutions or no regulation at all.

With this in mind, President Clinton issued Executive Order 12866 in September 1993. The Executive order emphasizes that while regulation plays an important role in protecting the health safety and environment of the American people, the Federal Government has a basic responsibility to govern wisely and carefully, regulating only when necessary and only in the most cost-effective manner.

Can risk assessment and cost-benefit analysis be useful tools to make our regulations more efficient and less burdensome? Yes; and under President Clinton's September 1993 Executive order on regulatory planning and review, the Federal Government is using these tools appropriately and responsibly. Unlike the Dole bill, the President's Executive order does not mistake a sometimes useful tool for the whole tool-box.

As former Senator Robert Stafford—the chairman of the Environment and Public Works Committee when Republicans controlled the Senate in the 1980's—put it:

> We did not abolish slavery after a cost-benefit analysis, nor prohibit child labor after a risk assessment. We did those things because money was only one way of expressing value—and sometimes it is the least important.

When money becomes the only measure of value—as it would under the Dole bill—we are in danger of losing the things in life that really matter. You can't put a price on saving lives, preventing birth defects, avoiding learning disabilities, preserving national parks, or saving the ozone layer. Under the Dole-Johnston bill, the ability of our laws to protect public health and safety would depend upon a bureaucrat's estimate of the dollar value of a child's learning disability, the pain of cancer, or the loss of a life in an aircraft accident.

Mr. President, ultimately our responsibility as legislators is to improve the lives of all the American people, not just the bottom line of the corporations.

THE DOLE BILL IS NOT A RESPONSIBLE REGULATORY REFORM BILL

Republicans know they can't risk the potential political consequences of an open attack on our environmental health and safety laws. One of their own pollsters, Luntz Research and Strategic Services, recently completed a poll on regulatory reform that asked: Which should be Congress' higher priority: cut regulations or do more to protect the environment? Twenty-nine percent said cut regulations. Sixty-two percent said protect the environment. The pollster goes on to comment:

> This question is here as a warning . . . The public may not like or admire regulations, may not think more are necessary, but puts environmental protection as a higher priority than cutting regulations.

They have come up with an ideal back-door solution: This week we will spend many hours debating the proposal forwarded to the Senate by the majority leader, Senator DOLE, that will, in the name of regulatory reform, seriously undermine existing health, safety, and environmental laws and seriously weaken our ability to respond to current and future health, safety, and environmental problems. Supporters of the Dole-Johnston bill are clearly not listening to the American people.

Unfortunately, Mr. President, the Republican proposal before us today is unashamedly aimed at our public health and safety and environmental laws in the name of special interests.

It is a direct attack by the Republican majority on the laws and regulations that protect America's natural resources, including those we take most for granted—laws that protect our clean air and water and safe drinking water. It is a direct attack on the laws and regulations that protect the health and safety of the food and the medicines we buy every day, the toys we give to our children, the cars we drive, the places where we work.

Supporters of Dole-Johnston will claim again and again over the course of this week, that it is only aimed at stopping regulatory excesses and at making the Federal Government justify the costs of the regulations it imposes. They will say that the Dole-Johnston bill is aimed at restoring common sense to the regulatory process. All this bill does, they will say, is make the Government responsible by making agencies consider the costs as well as the benefits of regulations. To be opposed to this bill they will say is to defend inefficient, irrational agency decisions.

Mr. President, the Dole-Johnston bill is not regulatory reform in the name of efficiency and good government, it is regulatory gridlock in the name of special interests and corporate polluters.

Republicans insist this bill is revolutionary regulatory reform. The title of the Dole/Johnston bill is the Regulatory Reform Act of 1995. I think we should rename it for what it is—the Lets Put Special Interest Profits Before Health and Safety Act, or The Regulatory Gridlock Act, or The Polluters Protection Act, or The Special Interest Litigation Act.

I support regulatory reform that will create a regulatory process that is less burdensome, more effective, and more flexible. I support regulatory reform that provides reasonable, logical, and appropriate changes in the regulatory process that will eliminate unnecessary burdens on businesses, state and local governments, and individuals. I support regulatory reform that maintains our Federal Government's ability to protect the health and safety of the American people.

Unfortunately, the Dole/Johnston bill does not achieve these goals.

The Dole/Johnston bill's definition of major rule to mean a rule—or a group of closely related rules—that is likely to have a gross annual effect on the economy of $50 million or more in reasonably qualitifiable direct or indirect costs will greatly increase the burden of our agencies. Just about any rule can be made out to have a $50 million gross effect on the economy in reasonably qualitifiable—direct and indirect—increased costs. I seriously question whether the enormous number of regulations that could be swept in under this standard will benefit, and whether resources spent on the cost-benefit analysis will be well spent. Perhaps we should subject the provisions of the Dole bill to a cost-benefit analysis.

With its petition process and look back provisions, the Dole bill will allow any well financed bad actor to paralyze an agency by flooding it with petitions. This would prevent the agency from spending resources on developing new rules, and from reviewing old rules—forcing a stay on enforcement and the eventual sunset of rules.

Its provisions on so called supplemental decision criteria create a supermandate. Supporters of Dole/Johnston deny this claim. They insist that the intent is not to supersede but to supplement the decisional criteria in other statutes. However, the bill clearly overrides other statutes including our health, safety, and environmental laws because the supplementary standards would still have to be met. The Dole bill goes well beyond sensible reform by establishing a goal that is absolutely at odds with our responsibility to improve the well-being of all the American people. It says that we should protect only those values that can be measured in dollars and cents—it is a corporate bean-counter's dream. Forget about saving lives, forget about getting poison out of our air and water, forget about preventing birth defects, infertility, and cancer—if it you can't put a pricetag on it, it doesn't count.

Its provisions on the toxic release inventory will significantly undermine a community's right to know who is polluting and what kind of toxics are being released into the air. TRI is an effective cost-saving tool: Public scrutiny as a result of the information released under the 1986 Emergency Planning and Community Right to Know Act has often prompted industry to lower pollution levels without the need for new Government regulations.

All in all, Mr. President, the Dole/Johnston bill is a prescription for no Government protection. It does exactly the opposite of what's advertised.

Another key aspect of the Dole/Johnston bill is how it will affect our ability to respond quickly to public health, safety, and the environment.

The Dole bill will further delay the rulemaking procedures of the agencies of the Department of Transportation, particularly their ability to respond promptly with new safety requirements.

Many of the safety rules, particularly at FAA, already take too long. As the FAA clearly knows, I have been concerned about air cabin safety since a 1991 crash at Los Angeles airport when 21 passengers died in a fire while trying to exit the aircraft. We urged the FAA to require that the seat rows at the overwing exist be widened. The agency had known since a 1985 crash in England that this was a problem, but it was not until 1992, 7 years after the crash in England and nearly 1 ½ years following the Los Angeles tragedy did the agency issue a final rule.

If these bills had been in law then, I would not be surprised to still be waiting for the completion of the risk assessment and cost-benefit analysis for this rulemaking. And the families of 21 passengers who died in the Los Angeles crash would still be waiting to know if any good had come out of their tragedy.

Mr. President, we currently have critically important regulations on e-coli, cryptosporidium, and mammograms that will grant the American people much needed health and safety protection. The Dole/Johnston bill would delay and possibly prevent the issuance of these regulations.

As the bill now stands, only those rules which represent an emergency or health or safety threat that is likely to result in significant harm to the public or natural resources would be exempt from the new requirements.

There is no definition of the terms "significant" or "likely" in the bill, making it unclear whether existing environmental and health regulations qualify for an exemption.

The Dole/Johnston bill has an exemption for health and safety regulations that protect the public from significant harm, but it does not define the term "significant."

If one child dies as a result of eating contaminated meat, does that pose a significant harm to the public? It's certainly significant to the child's parents and to others who ate at the same restaurant or bought meat at the same grocery store.

If a person with a weakened immune system—for example, a cancer patient, an organ transplant recipient, an individual born with genetic immune deficiencies, or a person infected with HIV becomes ill and dies from drinking water infected with cryptosporidium. Will the Dole bill let our agencies determine that cryptosporidium poses a significant harm, to the public? What if 104 die as they did in 1993 in Milwaukee?

If a woman has her mammogram read by someone who is poorly trained in mammography, is it of significant harm to the public? It's certainly significant to the woman if that person fails to detect a cancerous lump and to other women who have mammograms at that facility.

E-COLI

According to the Centers for Disease Control, E-coli in food makes 20,000 people severely ill every year and causes 500 deaths; that's more than one death every day. Young children and the elderly are particularly vulnerable. There is clearly an urgent need for additional protection.

In January 1995, the U.S. Department of Agriculture proposed a new rule that will modernize our food safety inspection system for the first time since 1906 by requiring the use of scientific testing to directly target and reduce harmful bacteria.

Currently, meat inspectors do just as they did in 1906 to check for bad meat—they poke and sniff. No scientific sampling is required. Handling meat safely once we purchase it is not enough.

The proposed regulation would require keeping meat refrigerated at more steps during its processing, better procedures to prevent fecal contamination, and testing to be sure that pathogens like e-coli are controlled.

What are the estimated benefits of this legislation? The preliminary impact analysis by the USDA concluded that health benefits to the public would total $1 billion to $3.7 billion. The estimated cost of implementation of the regulation would be $250 million per year for the first 3 years. I am aware of the concerns of small business about the potential impact of this regulation and I would urge the USDA to do everything possible to mitigate the potential impact as effectively as possible rather than delay the rule.

The USDA held 11 public meetings, two 3-day conferences, and received detailed comments from the National Advisory Group for Microbiological Criteria in Food.

The Dole/Johnston bill would, among other things, require a new peer review process which would cause a 6-month delay. Add to this that fact that the Dole/Johnston peer review panel would not exclude individuals who have a conflict of interest.

CRYPTOSPORIDIUM—SAFE DRINKING WATER

We have to ensure that one of the most fundamental needs of any society—safe drinking water—is available to all Americans.

Public health continues to be threatened by contaminated drinking water. Under the current law that is being criticized as overly costly and burdensome—a law approved by a Republican controlled EPW Committee, passed by a vote of 94–0 on the Senate floor and signed into law by President Ronald Reagan—people all across America have been getting sick and even dying from drinking tap water.

In 1987, 13,000 people became ill in Carrollton, GA as a result of bacterial contamination in their drinking water. In 1990, 243 people became ill and 4 died as a result of E-coli bacteria in the drinking water in Cabool, MO. In 1992, 15,000 people were sickened by contaminated drinking water in Jackson County, OR. And 1 year ago, 400,000 people in Milwaukee became ill and 104 died as a result of drinking the water from their taps which was infected with cryptosporidium.

A recent study completed by the Natural Resources Defense Council "You Are What You Drink" found that from a sampling of fewer than 100 utilities that responded to their inquiries, over 45 million Americans drank water supplied by systems that found the unregulated contaminant Cryptosporidium in their raw or treated water.

The solution? According to a Wall Street Journal article by Tim Ferguson on June 27 titled "Drinking-Water Option Comes in a Bottle", the solution is for the American people to drink bottled water. He says:

> Sellers (of bottled water) * * * have taken water quality to a new level in a far more efficient manner than a Washington bureaucracy is likely to do. Let us unscrew our bottle caps and drink to the refreshment of choice.

On June 15, 1995, two Federal agencies, the Environmental Protection Agency and the Centers for Disease Control and Prevention [CDC] warned that drinking tap water could be fatal to Americans with weakened immune systems and suggested that they take the precaution of boiling water before consuming it.

Dennis Juranek, associate director of the division of parasitic diseases at the Centers for Disease Control and Prevention said: "We don't know if the level of (cryptosporidium) in the water poses a public health threat, but we cannot rule out that there will be low level transmission of the bacteria" to people who consume the water directly from the tap.

The CDC estimates that up to 6 million Americans could be affected because they have weakened immune systems: 3 to 5 million cancer patients, organ transplant recipients and individuals born with genetic immune deficiencies, and 1 million persons infected with HIV.

EPA is working on new regulations called the Enhanced Surface Water Treatment Rule to better protect the public's drinking water against cryptosporidium.

The Dole/Johnston bill would delay and possibly prevent the issuance of the Enhanced Surface Water Treatment rule—it would restrict risk assessment to consideration of a best estimate of risk, defined as the average impacts on the population. It would ignore the potential health effects of drinking water contaminants upon children, infants, pregnant women, the elderly, chronically ill people, and other persons who have particularly high susceptibility to drinking water contaminants.

According to the EPA, the Dole bill could preclude the timely data-gathering necessary to support the new proposed regulation. It could force EPA into a catch-22, in which data gathering cannot proceed without a cost-benefit analysis that in the Dole bill requires up-front, the very data the EPA would need to collect. Even if the EPA was allowed to proceed with data collection, the Dole bill's elaborate, inflexible, time consuming risk assessment and cost-benefit analysis procedures would further hamper the EPA from taking effective and timely action with which the regulated community concurs, through negotiated rulemaking, to address the emergent threats of newly recognized waterborne diseases.

MAMMOGRAPHY REGULATIONS

The Mammography Quality Standards Act [MQSA] is an example of a good and necessary regulation which would be seriously delayed and undermined by the Dole bill.

MQSA establishes national quality standards for mammography facilities, including the quality of films produced, training for clinic personnel, record-keeping and equipment.

The law was passed to address a wide range of problems at mammography facilities: poor quality equipment, poorly trained technicians and physicians, false representation of accreditation, and the lack of inspections or governmental oversight.

One in nine women are at risk of being diagnosed with breast cancer in her lifetime. Breast cancer is the most common form of cancer in American women and the leading killer of women between the ages of 35 and 52. In 1995, an estimated 182,000 new cases of breast cancer will be diagnosed, and 46,000 women will die of the disease. Breast self-examination and mammography are the only tools women have to detect breast cancer early, when it can be treated with the least disfigurement and when chances for survival are highest.

The quality of a mammogram can mean the difference between life or death. If the procedure is done incorrectly, and a bad picture is taken, then a radiologist reading the x-ray may miss seeing potentially cancerous lumps. Conversely, a bad picture can show lumps where none exist and a women will have to undergo the trauma of being told she may have cancer—a situation known as a false positive.

To get a good quality mammogram you need the right film and the proper equipment. To protect women undergoing the procedure, you also need the correct radiation dose.

In 1992, Congress passed the Mammography Quality Standards Act in order to establish national quality standards for mammography facilities. At the time, both the GAO and the American College of Radiology testified before Congress that the former patchwork of Federal, State, and private standards were inadequate to protect women.

There were a number of problems at mammography facilities: poor quality equipment, poorly trained technicians and physicians, a lack of regular inspections, and facilities which told women they were accredited when in fact they were not.

The Mammography Quality Standards Act was passed to address these serious problems. Women's health and lives are at stake with this procedure. Quality standards are needed to ensure that they are getting the best care possible. Final regulations for the Mammography Quality Standards Act are expected in October. If the Dole bill passes, such regulations could be delayed for years. Women would see their health care diminished. Ten years ago a survey by the Food and Drug Administration found that over one-third of the x-ray machines used for mammography produced substandard results. We cannot go back. It is time for national quality standards.

CONCLUSION

Mr. President, I would like to conclude my remarks by saying again that supporters of the Dole/Johnston bill are clearly not listening to the American people. The Dole/Johnston bill is a back door attack on our existing health, safety and environmental laws and will seriously weaken our ability to respond to current and future health, safety and environmental problems.

The American people want regulatory reform that will create a regulatory process that is less burdensome, more effective, and more flexible. The American people want regulatory reform that provides reasonable, logical, and appropriate changes in the regulatory process that will eliminate unnecessary burdens on businesses, State, and local governments and individuals. The American people want regulatory reform that maintains our Federal Government's ability to protect the health and safety of the American people.

In summary Mr. President, the American people want the passage of the Glenn/Chafee regulatory reform bill.

MORNING BUSINESS

Mr. DOLE. Mr. President, I ask there now be a period for routine morning business with Members permitted to speak for not more than 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER (Mr. ASHCROFT). The Senator from Delaware.

Mr. BIDEN. Mr. President, I ask unanimous consent that I be allowed 12 minutes in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE FALL OF SREBRENICA

Mr. BIDEN. Mr. President, I rise tonight to deplore the fall of the Bosnian town of Srebrenica.

Almost 2 years ago, when Srebrenica was under siege in the despicable policy of ethnic cleansing, instigated by President Milosevic of Serbia and executed by General Mladic and the leader of the Bosnian Serbs, Mr. Karadzic, I met with Mr. Milosevic to attempt to get into Srebrenica. I was unable to do that and went on up to Tuzla where hundreds, eventually thousands, of Bosnian Muslims and Croats were fleeing for their lives with all of their possessions on their back and their families in tow.

I met in Tuzla with a man and a woman in their early forties who told me they had to make a very difficult decision as they fled over the mountains into Tuzla from Srebrenica, because they could not get back in. And I was wondering what that terrible decision was they were about to tell me. They pointed out they had left to die on the mountain top in the snow the man's elderly mother who was 81. They had to choose between taking their kids, or their mother-in-law, or no one making it.

The Bosnian Serb aggression and Serbian aggression—I know I sound like a broken record, I have been speaking about this for 2 years—seem to cause very little concern in this country and the world.

Mr. President, I think it is time for an immediate and fundamental change in our policy in the former Yugoslavia. Mr. President, the news this morning that the Bosnian Serbs have overrun, finally, Srebrenica, one of the United Nations' so-called safe areas, puts the final nail in the coffin of a bankrupt policy in the former Yugoslavia, begun by the Bush administration and continued with only minor adjustments by the Clinton administration.

Given the feckless performance of the United Nations in Bosnia, it is no surprise that the Bosnian Serbs continue to violate several United Nations resolutions, and do it with impunity, and then thumb their nose at the entire world and the peacekeeping force there.

In Srebrenica, the United Nations first disarmed the Bosnian Government military. I want to remind everybody of that. The Bosnian Government military was in Srebrenica, as in other safe areas, fighting the onslaught of Serbs who were employing heavy artillery. The solution put forward by the United Nations, after having imposed an embargo on the Bosnian Government, was to go in and take the weapons from the Bosnian Serbs, the Bosnian military in Srebrenica, in return for a guarantee of protection for six safe areas. That was the deal.

It was supposed to be putting the city and the surrounding areas under the protection of the United Nations. Then the United Nations, of course, did not live up to its half of the bargain. Its blue-helmeted peacekeepers were kept lightly armed and, as a consequence, unable to withstand a Bosnian Serb onslaught. NATO air strikes were called for by the Dutch blue helmets. The United Nations concluded that this was not a good time to do that. NATO air strikes were eventually called in too late to have any effect. The safe area of Srebrenica proved to be safe only for Serbian aggressors.

Srebrenica was filled with thousands of Muslim refugees from elsewhere in eastern Bosnia, the victims of the vile Serbian practice that they refer to as ethnic cleansing, the very people the United Nations pledged to protect in return for them giving up what few weapons they had. The United Nations defaulted on its honor. It has disgraced itself. And these pathetic souls, already once driven from their ancestral homes, are now reportedly fleeing Srebrenica to an uncertain fate in undetermined locations, and I expect many will meet the fate of that family I visited in Tuzla a year and a half ago.

Could the United Nations have saved Srebrenica? Of course it could have, if it only allowed NATO to do its job promptly and fully. Perhaps the most frustrating and maddening aspect of the entire catastrophe is the fact that the Bosnian Serbs were able to defy NATO, which has been hobbled by being tied to the timorous U.N. civilian command, led by Mr. Akashi.

Mr. President, we must immediately change the course of our policy in the former Yugoslavia. First of all, as I and others have been saying in this Chamber for more than 2 years, we must lift the illegal and immoral arms embargo on the Government of Bosnia and Herzegovina. A resolution to that effect, which I am cosponsoring, will be introduced next week. I am confident that it will pass with a comfortable majority.

Mr. President, the fall of Srebrenica has given the lie to pundits in the United States—but especially in Western Europe—who have ceaselessly issued dire warnings that if the United States would unilaterally lift the arms embargo, the Bosnian Serbs would then overrun the eastern enclaves.

Well, Mr. President, apparently, someone forgot to explain this causal relationship to the Serbs. I suppose the apostles of appeasement will now say that if we lift the embargo, the Bosnian Serbs will overrun the remaining two enclaves, or maybe Sarajevo, or maybe Western Europe. After all, Mr. President, we have been led to believe that we are facing a juggernaut. That is nonsense. We are talking about a third-rate, poorly motivated, middle-aged force that has to dragoon its reserves from the cafes of Belgrade to fight.

In reality, of course, this tiresome rhetoric has been a smokescreen for doing nothing, for sitting back and watching this vile ethnic cleansing, mass rapes, cowardly sniping at children, and other military tactics at which the Bosnian Serbs excel. "How regrettable," the appeasers say publicly. "But as long as these quarrelsome south Slavs contain their feuding to Bosnia," they add, "then it is nothing to get too exercised about."

Well, Mr. President, it is something to get exercised about. The geostrategic reality of the 21st century is that the primary danger to peace will most likely come from regional ethnic crises. We must not allow cold-blooded aggressors like Karadzic and Milosevic to get away with their terrorism. Europe, unfortunately, has other potential Karadzics and Milosevics.

After we lift the arms embargo on Bosnia and Herzegovina, we should immediately put into place a program to train Bosnian Government troops, probably in Croatia.

We should make clear that we are not neutral parties in this conflict, we are on the side of the aggrieved party, the Bosnian Government.

This does not require a single American soldier to set foot in Bosnia and Herzegovina. I have been told time and again that these folks cannot defend themselves. Well, of course they cannot defend themselves, they have no weapons.

We should make it clear, Mr. President, that we are no longer signing on to this incredible policy that has been promoted in Europe.

We should call an emergency session of the North Atlantic Council and tell our allies that NATO must immediately remove itself from the U.N. chain of command in the former Yugoslavia. The conflict there already constitutes a clear and present danger to the European members of the alliance. NATO does not need the blessing of the United Nations to protect its members' vital interests.

Furthermore, we should restate to our NATO allies who have peacekeeping troops in Bosnia and Croatia that we will stand by President Clinton's commitment to extricate them, but only if the entire operation is under the command of the Supreme Allied Commander in Europe, a United States general, and only if the operation is fully conducted under NATO rules of engagement.

We should give immediate public warning to the Bosnian Serbs and their patrons in Belgrade that any further locking-on of radar to American planes flying over Bosnia will be cause for total destruction of the Bosnian Serb radar facilities, which is fully, totally within our capacity to do. Serbia should be given fair warning that if it tries to intervene, it, too, will receive immediate and disproportionate attacks on Serbia proper.

There is no reason why our British, French, Dutch, and other NATO allies should object to this policy. If, however, Mr. President, they do not wish to follow our lead, then we should remind them that four years ago they wanted to handle this southern European problem themselves. And we should say, "Well, good luck, it is now your problem, handle it."

I do not think for a minute, Mr. President, they will take on that responsibility. It is about time this President and this administration understands that we either should do it our way or get out.

Mr. President, nothing good can come out of this latest fiasco in Bosnia. The United Nations has been definitively discredited. NATO has been defied. As usual, defenseless and blameless Bosnian Muslims have been brutalized.

This madness must stop, Mr. President. We must change our policy immediately. Tomorrow is not soon enough.

I yield the floor.

Mr. THOMPSON. Mr. President, I want to join in the comments of my distinguished colleague from Delaware. I could not agree with him more concerning the events of recent hours, and as far as our policies are concerned concerning those events in that part of the country.

What concerns me most about all of this is the credibility of the United States of America. I am beginning to wonder if we have any credibility in any part of the world anymore.

Following the disastrous U.N. lead, and to a certain extent the NATO lead there, not getting them to go along with sound policies and lifting the arms embargo with their cooperation, one sad tale after another, we have gone down a road of totally participating in the discrediting of the United Nations, of NATO, and our own country.

I think that the first step toward rectifying that certainly is not putting our own troops in there, but letting the people defend themselves, which is all they say they want to do, lifting that arms embargo, stepping back and saying, "It is your problem. You solve it. You take care of it."

That is what they deserve to do. We cannot afford to stand by, through our policies, and let this murderous activity go on, and say to the world that we, the strongest power in the world, supposedly are going to countenance that sort of thing and not use the many resources, short of troops on the ground, that we have, to do something about such terrible activities.

COMPREHENSIVE REGULATORY REFORM ACT

Mr. THOMPSON. Mr. President, I rise tonight in support of S. 343, the Comprehensive Regulatory Reform Act of 1995. This bill is an essential part of our effort to make the Federal Government run more efficiently and effectively, and curtail its ability to impose unnecessary burdens on the American people.

We have already enacted laws that will reduce unfunded mandates and the burdens of paperwork on State and local governments, as well as the average citizen. We are moving decisionmaking back to the States in many important areas, because the States are closer to the people and to the problems that need to be solved. We are making real progress toward eliminating Federal departments and agencies that no longer serve a useful purpose. Most importantly, we are well on our way to requiring that the Federal Government live within its means in the form of a balanced budget.

This bill is the next logical step in this process of rethinking the role of the Federal Government in everyday life. This bill's message is very simple. It says: let Members make sure that the Federal Government adequately protects the health and safety of every American. But, also make sure that, when agencies develop regulations to provide that protection, those regulations are founded in good, common sense. Get out of the mindset that the Federal Government needs to regulate everything in this country. And, set priorities, so that the Federal Government addresses the most important problems citizens face.

How does this bill accomplish these goals? Well, the bill requires agencies to make accurate determinations about the good a potential regulation can bring about. In other words, how much disease or premature death can be avoided? Or, how much less dangerous can a situation be made? In answering these questions, the Federal agency must be as precise as possible, using the most carefully prepared and up-to-date scientific information.

Then, the agency needs to look at the negative impact that very same regulation may have on Americans. For example, how much more will the average American have to pay for a particular product? Will some Americans lose their jobs? Will some products no longer be available to American people at all? Will citizens have to spend a greater amount of their leisure time complying with Government mandates? Will preventing one disease cause an increase in some other equally dangerous disease?

Once all of these important questions have been asked and answered, S. 343 requires the Federal agency to put all of this information together and ask the central question: Do the benefits of this rule outweigh the costs? Or, in more simple terms: Does this rule produce enough good things for our citizens to make the negative impacts tolerable?

Mr. President, what I have just laid out is S. 343's approach to developing and issuing Federal rules. I think the American people would say that this approach is based in ordinary common sense. This is how they make decisions on countless questions that come up in their own lives every single day. Do I spend money for a newer, safer car, or keep my old one? Do I put money aside for retirement or do I spend it now? Americans make calculations about the costs and benefits of their behavior all the time.

And now, Americans are asking that the Federal Government approach problems in this way too. They are asking regulators to make decisions as if they were sitting around the kitchen table. They understand that the Federal Government deals with complicated problems. What they don't understand is why the answers to these problems cannot be developed from the same process that they use at home.

Mr. President, so far, I have described the method S. 343 lays out for determining the costs and benefits of Federal regulations. Some of our colleagues believe that S. 343 would be a pretty good bill if it just stopped right there. In my view, if we could trust the agencies to do the right thing, we could stop there. Unfortunately, recent history tells us that the agencies sometime need more encouragement to actually do what is right.

Since the early 1970's, Presidents have asked Federal agencies to analyze the costs and benefits of a regulation before issuing it. On September 30, 1993, President Clinton continued that longstanding tradition by putting in place an Executive order. The philosophy and principles contained in S. 343 largely mirror those in the Executive order of President Clinton. That is where the similarity stops. As with all Executive orders, President Clinton's specifically precludes judicial review as a way of forcing agencies to consider costs and benefits before issuing rules.

If Federal agencies were complying with the Executive order, we would not be here on the Senate floor tonight. The fact is that they are not. When the whim suits them, Federal agencies comply with the Executive order. When it does not, they do not. In most cases, agencies are not making careful assessments of the positive and negative impacts of their regulations.

That is why, in my view, the judicial review provisions of S. 343 are so important—in fact, vital—to this legislation. We must provide judicial review if the legal protections we enact in this bill are to have any significance. Only the availability of judicial review will ensure that agencies will analyze the costs and benefits of major rules, as this bill requires.

Mr. President, S. 343's judicial review provisions provide an essential tool for citizens to hold their Government—and in particular unelected regulators—accountable. But, the bill does not—as its opponents charge—create new causes of action that will clog the courts. This bill merely directs courts, reviewing otherwise reviewable agency action, to consider the compliance of the agency with the requirements of this legislation.

Mr. President, I will have more to say on the important subject of judicial review as this debate goes forward.

S. 343 contains two other provisions that will force Federal regulators to produce sensible regulations also. The first of these provisions, in my view is most important, that is chapter 8 of S. 343, which authorizes congressional review of regulations. My colleagues will recall that this language is virtually identical to the congressional review bill that the Senate passed earlier this year in the place of a 1-year moratorium on regulations.

Section 801 gives the Congress 60 days to review a final rule before that rule actually becomes effective. During that time, Congress can determine whether the rule is consistent with the law Congress passed in the first place. Perhaps more importantly, Congress can look at the rule to see if it makes good sense. I think that this process will not only hold the regulators' feet to the fire, but it will also keep Congress from passing laws that do not work or are too costly.

S. 343 also makes Federal agencies accountable by requiring them to review periodically the rules that they put on the books. Some rules that addressed important needs a long time ago are no longer necessary. Some may just need rethinking. In my view, this is a healthy process for agencies to be engaged in on a regular basis.

Mr. President, if all of this common sense is still not enough to get some of my colleagues to support this legislation, perhaps a few statistics on the cost of Federal regulation will illustrate the need to reign them in. After all, Federal regulations operate as a hidden tax on every American.

It has been estimated that the total cost of Federal regulations is about equal to the Federal tax burden on the American people—a cost of more than $10,000 per household. One estimate of the direct cost imposed by Federal regulations on the private sector and on State and local governments in 1992 was $564 billion; another estimate put the cost at $857 billion.

When the total Federal regulatory burden is broken down into parts, we find several staggering statistics. Economic regulations—imposed largely on the communications, trucking, and banking industries—cost over $200 billion a year. Paperwork costs—the cost to merely collect, report, and maintain information for Federal regulators—add another $200 billion a year and consume over 64 billion person hours per year in the private sector. This figure does not include the massive number of hours Federal employees spend on processing and evaluating information.

Environmental regulation is estimated to cost $122 billion, which represents approximately 2 percent of the gross domestic product. And finally, in 1992, safety and other social regulations imposed costs ranging from $29 billion to $42 billion in 1992.

The numbers reflect the high costs of regulation to the private sector—and I should remind my colleagues that those costs must be borne by small businesses as well as the larger ones. As we all know, a good portion of those costs are passed through to all of us in the form of higher prices. But we also pay for the Government's costs to administer these regulations, and those costs are soaring too.

Measured in constant 1987 dollars, Federal regulatory spending grew from $8.8 billion in 1980 to $11.3 billion by 1992. In addition, by 1992, the Federal Government employed 124,994 employees to issue and enforce regulations—an all-time high.

Higher prices and taxes are not the only result of government regulation. A recent study done for the U.S. Census Bureau found a strong correlation between regulation and reduced productivity. The study found that plants with a significant regulatory burden have substantially lower productivity rates than less regulated plants. And that is one of the factors that I think is missing in our balanced budget debate so often, Mr. President.

We talk about spending. We talk about taxes, as we must and as is proper. But we do not talk enough about the need for growth and the need for productivity. Unless we have productivity in this country, unless we continue to grow in this country, we will never balance the budget. We will never balance the budget. And in order to have that growth in productivity we must have investment. In order to have investment we must have savings. In order to have savings we must get a handle on a ridiculous tax structure that we have in this country. We must get a handle on the national debt. And we must do something about this regulatory burden. It all goes in together and it all finds itself in the bottom line of productivity. So we are really talking about a budgetary matter here, in my estimation, as much as anything else.

Given all of these statistics, you might assume that President Clinton would cut back on Federal regulations. This is what the American people have been asking for. And, indeed, it is what President Clinton promised in his National Performance Review. In that review, the President promised to "end the proliferation of unnecessary and unproductive rules."

Instead of keeping that promise, President Clinton and his administration have gone in the opposite direction. For each of the first 2 years of the Clinton administration, the number of pages of actual regulations and notices published in the Federal Register exceeded any year since the Carter administration. Despite his rhetoric, President Clinton has increased, not decreased, the number of regulations.

The statistics I have just reviewed make a sufficiently compelling case for regulatory reform. But there is still more evidence to support the case for S. 343. Some of my colleagues have already described many examples of the existing regulations that defy common sense. There are many more stories that could be told. I would only like to add a couple to the growing list.

One example of regulation gone wild can be found in the Environmental Protection Agency's implementation of the Federal Superfund Program. As the Members of this body well know, the Superfund law requires the cleanup of some 1,200 toxic waste sites around the Nation. Under this program, the EPA and private parties have spent billions of dollars with very little to show in the way of results. Few sites have actually been cleaned up. Of the ones that have been cleaned up, many have been restored to a level of cleanliness that far exceeds any real health risks to humans.

A March 21, 1993, article from the New York Times, describes the unrealistic level of cleanup EPA required at one site.

> EPA officials said they wanted to make the site safe enough to be used for any purpose—including houses—though no one was propose to build anything there. With that as the agency goal, the agency wanted to make sure children could play in the dirt, even eat it, without risk. And since a chemical in the dirt had been shown to cause cancer in rats, the agency set a limit low enough that a child could eat half a teaspoon of dirt every month for 70 years and not get cancer. Last month, the EPA officials acknowledged that at least half of the $14 billion the nation has spent on Superfund clean-ups was used to comply with similar "dirt-eating rules," as they call them.

Mr. President, in conclusion, burdensome Federal regulations are also imposed on small businesses. Dry cleaners, in particular, must clear a large number of hurdles just to begin operating. According to the National Federation of Independent Businesses, as of 1991, the Federal Government required a new dry cleaner to fill out and comply with nearly 100 forms and manuals before it could open for business.

Yesterday, the Senate approved two important amendments to address the special problems that all small businesses, including dry cleaners, face. As amended, S. 343 now requires regulatory agencies to review regulations imposed on small entities for cost effectiveness.

Mr. President, I think the evidence is clear that our Federal regulatory system has become unreasonable and misguided. S. 343 will put it back on the right track and, therefore, I urge its passage by my colleagues.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The distinguished Senator from Texas.

Mrs. HUTCHISON. Mr. President, I am very glad to follow the Senator from Tennessee. I think he made some very good points, and I think it is important that the people of America see some of the things that are happening in this country that we have to fix. The buck stops right here, and only we can do it because we have passed these laws, and the regulators have gone far beyond what Congress ever intended.

I am the cochair of the Republican Task Force on Regulatory Reform. Because of that, I have heard from literally hundreds of employers, from Texas as well as small business people all over our country. I have heard dozens of absurd, even silly, examples of the impact of the Federal regulatory excess in our daily lives.

Senator HATCH from Utah, who has been managing the bill, has started talking about the 10 most absurd regulations of the day. He is now up to 20, and I am sure he is going to have 10 more tomorrow, that will just make people wonder what in the world is in the water up in Washington, DC.

It is going to be a good question, and I have a few myself that I want to share, to show the importance of passing this bill, to try to take the harassment off the small business people of our country.

The many egregious stories about the enforcement of some of these regulations have become legendary, and the people are asking us to say, "timeout." We are not the All Star baseball game tonight, but we know what timeout is, at least for baseball, and this timeout is to get the regulatory train back on the track.

Common law has relied on a reasonable person approach. The standard behind our laws should be: What would a reasonable person do under these circumstances? But many of our Federal regulations seem to be designed to dictate the way in which a person, reasonable or otherwise, must act in every single situation. You know that is impossible. You cannot anticipate every single situation that might come up and write a regulation to cover that. What happens is you have too many regulations and people do not know what is really important. What are the regulators going to really enforce? And what is just trying to get to some bit of minutia? We have really taken the reasonableness out of the equation, and we have failed to allow for the application of good, old-fashioned common sense. For that reason, this debate is dominated by examples of Government out of control.

Let me give you a few. They may not rival Senator HATCH's, but these are stories that have been related to me. Take the case of a plumbing company in Dayton, TX, cited for not posting emergency phone numbers at a construction site. The construction site was three acres of empty field being developed for low-income housing. OSHA shuts the site down for 3 days until the company constructs a freestanding wall in order to meet the OSHA requirement to post emergency phone numbers on a wall.

There is a roofing company in San Antonio, TX, cited for not providing disposable drinking cups to their workers despite the fact that the company went to the additional expense of providing sports drinks free to their employees in glass containers which the employees in turn used for drinking water. In this case you have a company that went the extra mile, went beyond just paper cups and water. They gave them the sports drink because that gets into the bloodstream faster. They did not meet the lesser standard and, therefore, were cited by OSHA.

Then there is the case of Mrs. Clay Espy, a rancher from Fort Davis, TX. She allowed a student from Texas A&M to do research on the plants on her ranch. He discovered a plant which he thought to be endangered and reported his finding. The Department of the Interior subsequently told Mrs. Espy that she could no longer graze the cattle on her family land. They had been grazing cattle there for over 100 years. But they were afraid that her cattle might eat this weed. Yes; eat the weed. It took a lawsuit and an expenditure of over $10,000 by Mrs. Espy before the Department reversed its ruling and declared that the weed was not, in fact, endangered.

Even more absurd, if you can believe it, is the Texas small businessman who happened to have painted his office the day before an OSHA inspection, and he was cited for not having a material safety data sheet on his half-empty can of Sherwin-Williams paint.

Then there is the employer cited at a job site, in which a hot roofing kettle was in use, because the job foreman was not wearing a long-sleeved shirt. The foreman was wearing a long-sleeved shirt but he rolled up his sleeves between his wrists and his elbows because of the weather.

Recently OSHA contacted a parent company of a chain of convenience stores in Texas threatening to conduct compliance inspection after OSHA learned two employees had gotten into an argument and someone had thrown a punch and struck the other. Well, in Texas, that is not a big, unusual event, I have to say. But it was unusual to the OSHA representative who demanded a complete report of the incident and threatened to follow up with a compliance inspection if the report was not completely satisfactory and timely.

Mr. President, these numerous horror stories which have come forward since we began our efforts for regulatory reform provide convincing, I hope, evidence of a Government regulatory process that is out of control. It demonstrates the need to introduce common sense and reasonableness into a system where these qualities seem to be sorely lacking.

These cases also highlight the way the regulatory excess has been allowed to drift into absurdity. When was it decided and by whom that the Federal Government should become the national nanny? Indeed, the absurd is becoming the norm as millions of Americans who operate small businesses and work for a living know and understand. It is Congress that has refused to acknowledge how long overdue are the fundamental reforms that we need to bring common sense into the equation. We must recognize that the Federal Government cannot issue a rule that will fix every problem which involves human behavior.

That is why one of the messages sent by the American people in 1992, and again in 1994, was, "We have had enough, and you had better fix it."

Mr. President, that is what we are trying to do with this bill. It is one of the most important pieces of legislation that we will take up this year in the reform that the people asked us to make last year. Have we heard the message? That is really the question. I am not sure that everyone in Washington really understands. I am a small business person and I know what it is like to live with the regulations and the taxes that we have put on the small business people of our country.

We must reverse this trend. Our Government must be put to the test. We must put our financial house in order, and we must decrease the size of the Federal Government and return many of these programs to the States.

The 10th amendment says that the Federal Government will have certain specific powers, and everything not specifically reserved to the Federal Government will be left to the States and to the people. Somehow we have lost track of the 10th amendment, and we aim to get it back. And this bill, the Comprehensive Regulatory Reform Act of 1995, is one way that we are going to get this country back on track and put the Government that is closest to the people down there in charge and to get the Washington bureaucrats—who have never been in small business, who really do not understand what it is like to meet a payroll, to worry about your employees, to not be sure if you are going to be able to feed the families that work for you—we are going to make sure that the Federal bureaucrats that do not understand that are no longer in control.

If we are going to be able to compete in the global marketplace, we have to change the regulatory environment. We passed this year GATT and NAFTA last year. We did that to open markets. We wanted to open free trade in the world so that we would be able to export more. We will import more, too, but we will export more. But we have told American business, yes, we are going to give you free trade, but we are going to make you compete with one arm tied behind your back. We are going to put so many regulatory excesses on you that we are going to drive up the prices and the costs, and you are not going to be able to compete in this global economy that we have created for you.

Let us put in perspective just how much this costs the businesses of our country. The businesses are the working people. The cost of complying with current Federal regulations is estimated at between $600 and $800 billion a year.

That is about the cost of the income tax. Corporate and individual taxes totaled almost $700 billion in 1994. So if you put the stealth tax of regulation, $600 to $800 billion a year on top of the income taxes that you pay, you can just double the checks that you wrote on April 15. You can double it because that is the stealth tax, the cost of Federal regulatory compliance.

We need fundamental change to the current regulatory process. The Regulatory Reform Act of 1995 is what will make this happen.

Businesses, especially small businesses, are finding it increasingly difficult to exist in this current regulatory environment—the same small business sector that is the engine of the economic growth of America. Government is not the economic engine of America. It is the small business people of this country that are the economic engine, and sometimes they think the Federal Government is trying to keep them from growing and prospering and creating the new jobs that keep this economy vital, so that we can absorb the new people into the system, the young people graduating from college, the immigrants that are coming to our shores for new opportunities. We have to make sure that those opportunities are there for our future generations.

We have the responsibility to make sure that the regulators are doing what Congress intends for them to do. The Regulatory Reform Act of 1995 is the way to restore congressional intent and hopefully, Mr. President, common sense. That is the mission that we must have this year, so that the people of America know we heard their voices last year and we are going to make the changes, however hard it may be, they asked us to make.

So, Mr. President, regulatory reform is a very important step that we must take. We must balance the budget. We must have regulatory reform. We must have a fair taxation system. We must not raise taxes, but, in fact, we will lower taxes and give the people back the money they rightfully earn and should be able to spend for themselves.

Mr. President, I thank you for helping us lead this country and do the right thing for the working people who are trying so hard to raise their families and do a little better for their families than maybe they were able to get as they were growing up.

I thank the Chair, and I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRIBUTE TO DAVID H. SAWYER—1936–1995

Mr. MOYNIHAN. Mr. President, I rise today to pay tribute to David H. Sawyer, a pioneer in the field of political consulting, a brilliant analyst, and a dear friend. David died on July 2, 1995, in New York City. His presence will be sorely missed by all those who knew him.

"A pioneer in the ways to cope with the weaker party machines of the 1970s," according to the New York Times. In an interview he once defined his work this way, "I don't manipulate voters, because I can't—they're too sophisticated. I'm much more interested in the nature of communication itself. How do you create a dialogue with the electorate? How do you control the dynamic of the campaign? Set the agenda for discussion? Answer an opponent's charges? Those are my issues. You have to get way inside a campaign before you can resolve them, too."

His firm, D.H. Sawyer and Associates, later renamed the Sawyer-Miller Group, took some of the mystery out of how to succeed in today's complicated electoral process. David brought a dynamic and insightful approach to political campaigns. He was able to understand and connect with voters, and to deliver his candidate's message in a simple but absorbing manner. I came to know David during my 1982 re-election campaign, and he has been a loyal and trusted advisor on every campaign since.

David helped to open up the governments of Eastern Europe and Latin America by introducing mass communication into their electoral processes. In an interview with the Los Angeles Times he described this concept as "electronic democracy," and went on to say: "Because of mass communications and the legacy of the '60s, people now speak out, people can and will be heard. Eastern Europe in 1989 and 1990 happened because information had gotten through. What people think about their institutions is crucial to the institutions' ability to govern."

David leaves his wife, Nell; a son, Luke; two stepsons, Andrew and Gavin; his mother Mrs. Edward Brewer; his brother Edward; and a sister Penny. He will be greatly missed by those who love him.

I ask unaminous consent that the full text of the article from the New York Times be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, July 4, 1995]

DAVID H. SAWYER DIES AT 59; INNOVATOR IN POLITICAL STRATEGY

(By David Binder)

WASHINGTON, July 3.—David H. Sawyer, a pioneer in the field of political consulting that burgeoned in the 1970's and 1980's as party machines lost their clout in choosing electoral candidates, died on Sunday in New York Hospital. He was 59 and lived in Manhattan.

He had been under treatment for several weeks for a brain tumor, his family said.

By 1988, Mr. Sawyer's clients included four Senators, Daniel Patrick Moynihan, John D. Rockefeller 4th, Edward M. Kennedy and John Glenn, six Governors as well as leading politicians in the Philippines and Israel.

One notable turnaround engineered by his firm, D. H. Sawyer & Associates (later the Sawyer-Miller Group) was in the 1987 gubernatorial primary in Kentucky, where his client, Wallace Wilkinson, started out with about 5 percent in the polls and went on to win against two strong contenders.

Mr. Sawyer based his strategy then and later on polling studies of the electorate. In the case of Kentucky voters, both major opponents of Mr. Wilkinson had advocated tax increases and attacked each other bitterly. In place of higher taxes, the Sawyer-Wilkinson strategy advocated a state lottery.

In a 1984 interview for the Inc. Publishing Company, Mr. Sawyer defined his work this way: "I don't manipulate voters, because I can't—they're too sophisticated. I'm much more interested in the nature of communication itself. How do you create a dialogue with the electorate? How do you control the dynamic of the campaign? Set the agenda for discussion? Answer an opponent's charges? Those are my issues. You have to get way inside a campaign before you can resolve them, too."

A Democrat, Mr. Sawyer worked only for Democratic candidates, but he had no problem dispensing advice to big corporate clients, including Coca-Cola, Apple Computer, Goldman Sachs, Time Warner and Resorts International.

Colleagues, headed by Scott Miller, bought out Mr. Sawyer's ownership interest in his firm, which had a staff of 40, in 1993. In that same year he opened a political-economic consulting firm called the G.7 Group. By this time there were more than 200 political consulting firms across the country and more than 3,000 people working in the field.

David Haskell Sawyer was born June 13, 1936, in Boston. After earning a bachelor of arts degree at Princeton University in 1959, he made documentary films, working in the cinema verité genre with Frederick Wiseman and Richard Leacock. One film dealt with rural poverty in Maine. Another feature, "Other Voices," about mental health patients, was nominated in 1970 for an Academy Award for best documentary. He was drawn into political consulting in the early 1970's in Illinois, where he did some film work for an elected official.

He is survived by his wife, the former Nell Michel; a son, Luke, and two stepsons, Andrew and Gavin McFarland, all of New York; his mother, Mrs. Edward Brewer of Hartford; a brother, Edward of Cleveland, and a sister, Penny Sawyer, of New York.

REPORT ON THE EMIGRATION LAWS AND POLICIES OF ROMANIA—MESSAGE FROM THE PRESIDENT—PM 63

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Finance:

To the Congress of the United States:

On May 19, 1995, I determined and reported to the Congress that Romania is in full compliance with the freedom of emigration criteria of sections 402 and 409 of the Trade Act of 1974. This action allowed for the continuation of most-favored-nation (MFN) status for Romania and certain other activities without the requirement of a waiver.

As required by law, I am submitting an updated Report to Congress concerning emigration laws and policies of Romania. You will find that the report indicates continued Romanian compliance with U.S. and international standards in the area of emigration policy.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *July 11, 1995.*

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–1140. A communication from the Director of the Standards Conduct Office, Department of Defense, transmitting, pursuant to law, a report relative to DD Form 1787; to the Committee on Armed Services.

EC–1141. A communication from the General Counsel of the Department of Defense, transmitting, a draft of proposed legislation to provide for alternative means of acquiring and improving housing and supporting facilities for unaccompanied members of the Armed Forces; to the Committee on Armed Services.

EC–1142. A communication from the Executive Director of the Thrift Depositor Protection Oversight Board, transmitting, pursuant to law, the financial statement of the

Resolution Trust Corporation for 1994; to the Committee on Banking, Housing and Urban Affairs.

EC–1143. A communication from the First Vice President and Vice Chairman of the Export-Import Bank, transmitting, pursuant to law, a statement regarding a transaction involving U.S. exports to Colombia; to the Committee on Banking, Housing and Urban Affairs.

EC–1144. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report relative to direct spending or receipts legislation within five days of enactment; to the Committee on the Budget.

EC–1145. A communication from the Secretary of Agriculture, transmitting, a draft of proposed legislation to amend the Food Stamp Act of 1977, as amended; to the Committee on Agriculture, Nutrition and Forestry.

EC–1146. A communication from the Under Secretary of Defense, Acquisition and Technology and the Director of Operational Test and Evaluation, transmitting, pursuant to law, a report relative to fire testing of the New Attack Submarine; to the Committee on Armed Services.

EC–1147. A communication from the General Counsel of the Department of Defense, transmitting, a draft of proposed legislation to amend section 404 of title 37, United States Code, to eliminate the requirement that travel mileage tables be prepared under the direction of the Secretary of Defense; to the Committee on Armed Services.

EC–1148. A communication from the President and Chairman of the Export-Import Bank, transmitting, pursuant to law, a report relative to a transaction involving U.S. exports to India; to the Commitee on Banking, Housing and Urban Affairs.

EC–1149. A communication from the Executive Director of the Thrift Depositor Protection Oversight Board, transmitting, pursuant to law, the annual report of the Oversight Board for calendar year 1994; to the Committee on Banking, Housing and Urban Affairs.

EC–1150. A communication from the Executive Director of the Thrift Depositor Protection Oversight Board, transmitting, pursuant to law, the annual report of the Resolution Funding Corporation for calendar year 1994; to the Committee on Banking, Housing and Urban Affairs.

EC–1151. A communication from the Secretary of Housing and Urban Development, transmitting, pursuant to law, a report relative to the status of the nonprofit housing sector; to the Committee on Banking, Housing and Urban Affairs.

EC–1152. A communication from the Administrator of the Energy Information Administration, Department of Energy, transmitting, pursuant to law, a report entitled "International Energy Outlook 1995"; to the Committee on Energy and Natural Resources.

EC–1153. A communication from the Chairman of the United States Enrichment Corporation, transmitting, a draft of proposed legislation to amend the Atomic Energy Act of 1954 to provide for the privatization of the United States Enrichment Corporation; to the Committee on Energy and Natural Resources.

EC–1154. A communication from the Administrator of the Energy Information Administration, Department of Energy, transmitting, pursuant to law, a report relative to foreign direct investment in U.S. energy; to the Committee on Energy and Natural Resources.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, without amendment:

S. 92. A bill to provide for the reconstitution of outstanding repayment obligations of the Administrator of the Bonneville Power Administration for the appropriated capital investments in the Federal Columbia River Power System (Rept. No. 104–102).

S. 283. A bill to extend the deadlines under the Federal Power Act applicable to two hydroelectric projects in Pennsylvania, and for other purposes (Rept. No. 104–103).

S. 468. A bill to extend the deadline under the Federal Power Act applicable to the construction of a hydroelectric project in Ohio, and for other purposes (Rept. No. 104–104).

S. 543. A bill to extend the deadline under the Federal Power Act applicable to the construction of a hydroelectric project in Oregon, and for other purposes (Rept. No. 104–105).

S. 547. A bill to extend the deadlines applicable to certain hydroelectric projects under the Federal Power Act, and for other purposes (Rept. No. 104–106).

S. 552. A bill to allow the refurbishment and continued operation of a small hydroelectric facility in central Montana by adjusting the amount of charges to be paid to the United States under the Federal Power Act, and for other purposes (Rept. No. 104–107).

S. 595. A bill to provide for the extension of a hydroelectric project located in the State of West Virginia (Rept. No. 104–108).

S. 611. A bill to authorize extension of time limitation for a FERC-issued hydroelectric license (Rept. No. 104–109).

S. 801. A bill to extend the deadline under the Federal Power Act applicable to the construction of two hydroelectric projects in North Carolina, and for other purposes (Rept. No. 104–110).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. HELMS, from the Committee on Foreign Relations:

David C. Litt, of Florida, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the United Arab Emirates.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Nomineee: David C. Litt.

Post: United Arab Emirates.

Contributions, Amount, Date, and Donee:

1. Self: David C. Litt, none.

2. Spouse: Beatrice Litt, none.

3. Children and Spouses: Barbara Litt, and Giorgio Litt, none.

4. Parents: Girard Litt (deceased) and Shirley Litt, none.

5. Grandparents: Louis Litt (deceased), Anna Litt (deceased), Henry Suloway (deceased), and Fanny Suloway (deceased).

6. Brothers and Spouses: none.

7. Sisters and Spouses: Leslie Klein (divorced), none; Bonnie Litt, none; and James Paddack, none.

Patrick Nickolas Theros, of the District of Columbia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the State of Qatar.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Nominee: Patrick Nickolas Theros.

Post: Ambassador to Qatar.

Contributions, Amount, Date, and Donee:

1. Self, $250, September 26, 1994, Senator Sarbanes and $75, October 6, 1994, Senator Snowe.

2. Spouse: Aspasia (none).

3. Children and age: Nickolas, 17 (none); Marika, 15 (none); and Helene, 13 (none).

4. Parents: Father: Nickolas (deceased 1976) and Mother: Marika (deceased 1956).

5. Grandparents: Paternal grandfather: Patrikios (deceased, 1910); paternal grandmother: Chrysse (deceased, 1949); maternal grandfather: Michael Condoleon (deceased, 1942); and maternal grandmother: Paraskevi Condoleon (deceased, 1929).

6. Brothers and spouses: (None—I am an only child).

7. Sisters and spouses: (None—I am an only child).

David L. Hobbs, of California, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Co-operative Republic of Guyana.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Nominee: David L. Hobbs.

Post: Guyana.

Contributions, Amount, Date, and Donee:

1. Self, none.

2. Spouse, none.

3. Children and Spouses: Thomas and Priscilla Hobbs, none.

4. Parents: Albert and Frances Hobbs, none.

5. Grandparents: Deceased.

6. Brothers and Spouses: James Hobbs, none.

7. Sisters and Spouses: Jean McKeever, none; Linda and Steven McLure, none; Anna and Michael Citrino, none; and Sandra and Brad Bach, none.

William J. Hughes, of New Jersey, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Panama.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Nominee: William J. Hughes.

Post: Ambassador to Panama.

Nominated: February 2, 1995.

Contributions, Amount, Date, and Donee.

1. Self: William J. Hughes, $500 November 8, 1994, Magazzu for Congress.
2. Spouse: Nancy L. Hughes, none.
3. Children and spouses: Nancy L. Hughes and Douglas Walker, none. Barbara A. Sullivan and Barry K. Sullivan: $25.00, 9/22/94, Ben Jones; $25.00, 10/26/94, Richard Gephardt; $25.00, 8/04/93, Richard Gephardt; $25.00, 6/24/92, Richard Gephardt; $25.00, 9/8/92, DNC Fed'l Acc't. Tama B. Hughes, Dante A. Ceniccola, Jr., and William J. Hughes, Jr., none.
4. Parents: William W. Hughes (deceased) and Pauline Hughes Menaffey (deceased).
5. Grandparents: John Hughes (deceased), Belinda Hughes (deceased), Joseph Neicen (deceased), and Mary Neicen (deceased).
6. Brothers and spouses: Daniel V. and Sue D. Hughes, none.
7. Sisters and spouses: Charlotte and Bernie Keiffer, none; Paula and Arnold Green, none.

Michael William Cotter, of the District of Columbia, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Turkmenistan.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Nominee: Michael William Cotter.

Post: Ambassador to Turkmenistan.

Contributions, Amount, Date, and Donee:

1. Self: Michael W. Cotter, none.
2. Spouse: Joanne M. Cotter, none.
3. Children and spouses: none.
4. Parents: Patrick W. Cotter: $35, 2/15/90, RNC; $25, 5/7/90, Sensenbrenner for Congress Committee; $35, 7/27/90, RNC; $35, 12/26/90, RNC; $35, 1/30/91, RNC of Wisconsin; $35, 1/30/91, RNC; $35, 12/28/91, RNC; $35, 2/2/92, RNC; $25, 5/28/92, RNC; $50, 6/9/90, Moody for Congress Cmte.; $25, 7/16/92, Kasten for Senate Cmte.; $50, 8/12/92, Marotta for Congress Cmte.; $50, 9/17/92, RNC; $25, 9/30/92, Sensenbrenner for Congress Cmte.; $35, 1/28/93, RNC; $50, 2/11/93, Republican Majority Campaign; $35, 4/22/93, RNC of Wisconsin; $40, 1/27/94, RNC; $25, 7/28/94, RNC; $25, 7/28/94, Newman for Congress Cmte.; $25, 9/29/94, Newman for Congress Cmte. Lois K. Cotter, none.
5. Grandparents: William and Clara Cotter (deceased); George and Eleanora Schaus (deceased).
6. Brothers and spouses: Timothy and Laura Cotter, none; Patrick S. Cotter, none.
7. Sisters and spouses: none.

Victor Jackovich, of Iowa, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Slovenia.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Nominee: Victor Jackovich.

Post: Ambassador of Slovenia.

Contributions, Amount, Date, and Donee:

1. Self: None.
2. Spouse: Radmila Jackovich, None.
3. Children and spouses: Jacob Jackovich, None.
4. Parents: Victor Jackovich and Mary Jackovich, None.
5. Grandparents (deceased).
6. Brothers and spouses: no brothers.
7. Sisters and spouses: Janet and Sam Clark, $10, monthly (1992), employees' PAC; $50, 1992, Ron Staskiewicz (R) for U.S. House of Representatives; $750, 1994, Jean Stence (R) for Governor of Nebraska.

A. Elizabeth Jones, of Maryland, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Kazakhstan.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Nominee: A. Elizabeth Jones.

Post: Almaty, Kazakhstan.

Contributions, Amount, Date, and Donee:

1. Self: A. Elizabeth Jones, none.
2. Spouse: Thomas A. Homan, none.
3. Children and Spouses: Todd W. Homan-Jones and Courtney A. Homan-Jones, none.
4. Parents: William C. Jones III, none; Sara F. Jones: $30, 1993, Ntl. Democratic Cmt.; $50, 1994, Sen. Robb Campaign; $50, 1994, Dem. Senator Campaign Committee.
5. Grandparents: Richard B. and Mabel C. Ferris, deceased; Clyde C. and Eunice E. Jones, deceased.
6. Brothers and spouses: none.
7. Sisters and Spouses: Kathleen F. Jones, none; Don Perovich, none; Sara M. Jones, none; Robert Rooy, none; Diana J. Thomas, none; and Brett Thomas, none.

John K. Menzies, of Virginia, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Bosnia and Herzegovina.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Nominee: John Karl Menzies.

Post: Ambassador to Bosnia.

Contributions, amount, date, and donee:

1. Self: John K. Menzies, None.
2. Spouse: Elizabeth A. McNamara, None.
3. Children: Lauren, Alexandra, and Morgan Menzies: None.
4. Parents: James S. and Iridell A Menzies, None.
5. Grandparents: William and Florence H. Menzies, deceased; Frederick and Mabel W. Fisher, deceased.
6. Brothers and spouses: James F. and Bente N. Menzies, None.
7. Sisters and spouses: None.

John Todd Stewart, of California, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Moldova.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Contributions, amount, date, and donee:

1. Self and 2. Spouse: My wife Georgia E. Stewart and I jointly contributed $50 on April 16, 1992, to the campaign of Dixon Arnett, a candidate in the Republican primary in the 14th Congressional District of California.

3. Children and spouses: Names: John Andrew Stewart and wife, Kristin, none; Frederick R. Stewart, none; and Elizabeth W. Stribling (stepdaughter), none.
4. Parents: John Harvey Stewart and Eleanor R. Stewart, both deceased.
5. Grandparents: John Harvey Stewart, Sr. and Anne M. Stewart, both deceased; Morris W. Robinson and Ada T. Robinson, both deceased.
6. Brothers and spouses: None.
7. Sisters and spouses: None.

Peggy Blackford, of New Jersey, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Guinea-Bissau.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of the knowledge, the information contained in this report is complete and accurate.)

Contributions, amount, date, and donee:

1. Self: None.
2. Spouse: Not applicable.
3. Children and spouses: Not applicable.
4. Parents: Deceased.
5. Grandparents: Deceased.
6. Brother and Spouse: Names: Barry and Francis Lefkowitz, $250, August 25, 1991, Nader for Presidential; $50, January 28, 1992, Feinstein for Senate; $250, August 26, 1992, Friends of Congressman Chris Smith; $250, October 13, 1992, Friends of Congressman James Saxton; $35, October 13, 1992, Roma for Congress; $50, October 28, 1992, Kyrillos for Congress; $35, October 30, 1992, LoBiondo for Congress; $500, October 6, 1993, Marks for Senate; $500, December 20, 1993, Haytaian for Senate; $13, January 8, 1994, Congressman Andrews Breakfast Club; $100, February 11, 1994, Cape May Country Dem. Organization; $80, February 23, 1994, Friends of Cardinale; $100, April 15, 1994, LoBiondo for Congress; $150, May 10, 1994, Andrews for Congress; $200, May 21, 1994, Gallo for Congress; $250, May 21, 1994, Lowe for Congress; $224, August 15, 1994, Lowe for Congress; and $200, August 21, 1994, Haytaian—US Senate.
7. Sisters and Spouses: Not applicable.

Edward Brynn, of Vermont, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Ghana.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Contributions, amount, date, and donee:

1. Self: None.
2. Spouse: Jane E.C. Brynn, none.
3. Children and spouses: Names: Sarah, Edward, Kiernan, Anne, and Justin, none.
4. Parents: Names: Walter Brynn and Mary C. Brynn (deceased).
5. Grandparents: Names: Soeren and Agnes Brynn (deceased); Names: Laurence and Ellen Callahan (deceased).

6. Brothers and Spouses: Names: Thomas and Claudia Brynn, none; David and Louise Brynn, none; and Lawrence and Heather Brynn, none.

7. Sisters and Spouses: Names: Katherine and Charles Walther, none; and Mary Anne and Terence O'Brien, none.

John L. Hirsch, of New York, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Sierra Leone.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Contributions, amount, date, and donee:

1. Self: None.
2. Spouse; Rita V., none.
3. Children and spouses: Names: None.
4. Parents: Names: William P. Hirsch, deceased; Elizabeth I. Hirsch, deceased.
5. Grandparents: Names: Joseph Hirsch, deceased; Clementine Hirsch, deceased; and Ella Rosenschein, deceased.
6. Brothers and spouses: Names: Max Rosenschein, deceased.
7. Sisters and spouses: Names: Susan E. Hirsch, not married, none.

Vicky J. Huddleston, of Arizona, a Career member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Democratic Republic of Madagascar.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Nominee: Vicky Huddleston.

Post: Antananarivo.

Contributions, amount, date, and donee:

1. Self: None.
2. Spouse: Robert W. Huddleston, none.
3. Children and spouses: Names: Robert S. Huddleston, none, and Alexandra D. Huddleston, none.
4. Parents: Howard S. Latham, $10, April 1992, Republican National Senate Campaign Committee, and Duane L. Latham, none.
5. Grandparents: Names: Marion and Pauline Latham, deceased, and Edward and Mary Dickinson, deceased.
6. Brothers and spouses: Names: Gary and Louise Latham, none; Jeff Latham, none; and Steve and Dana Latham, none.
7. Sisters and spouses: none.

Elizabeth Raspolic, of Virginia, a Career member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Gabonese Republic and to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to the Democratic Republic of Sao Tome and Principe.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Nominee: Elizabeth Raspolic.

Post: Gabon.

Contributions, amount, date, and donee:

1. Self: $500, (estimate), 1992-94, Emily's List (PAC) and suggested candidates.
2. Spouse: Not applicable.
3. Children and spouses: Not applicable.
4. Parents: Names: Anton Raspolic, deceased and Mildred Raspolic, deceased.
5. Grandparents: Names: Joseph Raynovic, deceased and Edward and Lillian Raynovic, deceased.
6. Brothers Name: Anthony Raspolic, declines to provide information for reason of privacy.
7. Sisters and spouses: Not applicable.

John M. Yates, of Washington, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Benin.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Nominee: John M. Yates.

Post: Ambassador to Benin.

Contributions, amount, date, and donee:

1. Self: None.
2. Spouse: None.
3. Children and spouses: Names; Catherine, none; John S. none; Maureen, none; Paul, none; and Leon Greg, none.
4. Parents: Names: Leon G. Yates (deceased 1992) and Violet M. Yates, $25.00, 1990 and 1991, Republican Party; $10.00, 1994, Republican Party.
5. Grandparents: All deceased more than 25 years.
6. Brothers and spouses: Names: Leon James and Delphine Yates, none; David Arthur and Dolly Yates, none; Robert Loren Yates, none; Wilbur Allen and Karen Yates, (1) one percent of salary (approximately $400/$500 annually) to Carpenters Legislative Improvement Committee; (2) $50, 1990, 1992, and 1994, Representative Tom Foley; (3) $25, 1992, Representative Maria Cantwell; Dale Morris and Sandy Yates, none; and Larry Bruce and Linda Yates, none.
7. Sisters and spouses: Names: Pearl and Paul Wiechmann, none; Ruth and Earl Enos, $10, 1992 and 1994, Democratic Party; and Marilee and George Martin, none.

Daniel Howard Simpson, of Ohio, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Zaire.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Nominee: Daniel H. Simpson.

Post: Ambassador to Zaire.

Contributions, amount, date, and donee:

1. Self: None.
2. Spouse: Elizabeth D. Simpson, none.
3. Children and spouses names: Andrew D. Simpson, none—no spouse; Mark H. Simpson, none—no spouse; Michael J. Simpson, none—no spouse; and Holly A. Simpson, none—no spouse.
4. Parents names: Howard A. Simpson, deceased; and Gladys E. Simpson, none.
5. Grandparents names: Maternal: Clarence and Emma Potts, both deceased; paternal: William and Wilhelmina Simpson, both deceased.
6. Brothers and spouses: No brothers.
7. Sisters and spouses: No sisters.

James E. Goodby, of the District of Columbia, for the rank of Ambassador during his tenure of service as Principal Negotiator and Special Representative of the President for Nuclear Safety and Dismantlement.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. HELMS. Mr. President, for the Committee on Foreign Relations, I also report favorably a nomination list in the Foreign Service which was printed in full in the CONGRESSIONAL RECORD of June 26, 1995, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar, that this nomination lie at the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The nominations ordered to lie on the Secretary's desk were printed in the RECORD of June 26, 1995 at the end of the Senate proceedings.)

The following-named Career Member of the Foreign Service for promotion into the Senior Foreign Service to the class stated, and for the appointment as Consular Officer and Secretary as indicated:

Career Member of the Senior Foreign Service of the United States of America, Class of Counselor; and Consular Officer and Secretary in the Diplomatic Service of the United States of America:

DEPARTMENT OF AGRICULTURE

John H. Wyss, of Texas.

The following-named persons of the agencies indicated for appointment as Foreign Service officers of the classes stated, and also for the other appointments indicated herewith:

For appointment as Foreign Service Officers of Class Two, Consular Officers and Secretaries in the Diplomatic Service of the United States of America:

DEPARTMENT OF COMMERCE

David J. Murphy, of Massachusetts.

For appointment as Foreign Service Officers of Class Three, Consular Officers and Secretaries in the Diplomatic Service of the United States of America:

DEPARTMENT OF COMMERCE

Janice A. Corbett, of Ohio.
Michael P. Keaveny, of California.
Gregory D. Loose, of California.
Rebecca L. Mann, of Florida.

For appointment as Foreign Service Officers of Class Four, Consular Officers and Secretaries in the Diplomatic Service of the United States of America:

DEPARTMENT OF COMMERCE

Donald G. Nay, of Colorado.

DEPARTMENT OF STATE

Anne Marie Kremidas Aguilera, of New Hampshire.
Jake Cosmos Aller, of Washington.
Melissa Buchanan Arkley, of Texas.
Barbara L. Armstrong, of Georgia.

Brian David Bachman, of Virginia.
Carolyn R. Bargeron, of Maryland.
Mary Monica Barnicle, of Illinois.
Erica J. Barks, of Virginia.
Russell Alton Baum, Jr., of California.
Keith Dermont Bennett, of Washington.
Donald Scott Boy, of Massachusetts.
Jeremy Beckley Brenner, of Connecticut.
David Kerry Brown, of Washington.
Ravi S. Candadai, of Washington.
Lisa G. Conner, of California.
David Francis Cowhig, Jr., of Virginia.
Theodore J. Craig, of Virginia.
Jeffrey R. Dafler, of Ohio.
Jason Davis, of Alaska.
Grant Christian Deyoe, of Maryland.
Benjamin Beardsley Dille, of Minnesota.
James Edward Donegan, of New York.
Elizabeth Ann Fritschle Duffy, of Missouri.
Thomas M. Duffy, of California.
Liisa Ecola, of Illinois.
Andrew S.E. Erickson, of California.
Sarah J. Eskandar, of Tennessee.
Oscar R. Estrada, of Florida.
Katherine E. Farrell, of Indiana.
Tamara K. Fitzgerald, of Colorado.
Recebba L. Gaghen, of Montana.
Kira Maria Glover, of California.
Ruth W. Godfrey, of Florida.
Steven Arthur Goodwin, of Arizona.
Elizabeth Perry Gourlay, of South Carolina.
Peter D. Haas, of Illinois.
Matthew T. Harrington, of Georgia.
Andrew B. Haviland, of Iowa.
Margaret Deirdre Hawthorne, of Illinois.
James William Herman, of Washington.
Lawrence Lee Hess, of Washington.
Debra Lendiewicz Hevia, of New York.
Jack Hinden, of California.
Richard Holtzapple, of California.
Natalie Ann Johnson, of Arizona.
Marion Louise Johnston, of California.
Keith C. Jordan, of Ohio.
Richard M. Kaminski, of Nevada.
Anne Katsas, of Massachusetts.
Jonathan Stuart Kessler, of Texas.
Pamela Francis Kiehl, Pennsylvania.
Karin Margaret King, of Ohio.
John C. Kmetz, of Kansas.
Michael B. Koplovsky, of Massachusetts.
Samuel David Kotis, of New York.
Marnix Robert Andrew Koumans, of New Hampshire.
Steven Herbert Kraft, of Virginia.
Kamala Shirin Lakhdhir, of Connecticut.
John M. Lipinski, of Pennsylvania.
Gayle Waggoner Lopes, of Nebraska.
Donald Lu, of California.
Pamela J. Mansfield, of Illinois.
Dubravka Ana Maric, of Connecticut.
William John Martin, of California.
Williams Swift Martin, IV, of the District of Columbia.
John J. Meakem, III, of New York.
Carlos Medina, of New York.
Alexander Jacob Meerovich, of Pennsylvania.
Mario Ernesto Merida, of Colorado.
James P. Merz, of Maryland.
Andrew Thomas Miller, of Michigan.
Keith W. Mines, of Colorado.
Gregg Morrow, of New Hampshire.
Edward R. Munson, of Utah.
Joyce Winchel Namde, of California.
Robert S. Needham, of Florida.
Stacy R. Nichols, of Tennessee.
Joseph L. Novak, of Pennsylvania.
Stephen Patrick O'Dowd, of Virginia.
Sandra Springer Oudkirk, of Florida.
Nedra A. Overall, of California.
Susan Page, of Washington.
Mark A. Patrick, of New Mexico.
Mary Catherine Phee, of the District of Columbia.
Brian Hawthorne Phipps, of Florida.
Theodore Stuart Pierce, of New York.
Jeffrey D. Rathke, of Pennsylvania.
Whitney A. Reitz, of Florida.
Timothy P. Roche, of Virginia.
Daniel A. Rochman, of Nebraska.
Daniel Edmund Ross, of Texas.
Nicole D. Rothstein, of California.
Kristina Luise Scott, of Iowa.
Brian K. Self, of California.
Dorothy Camille Shea, of Oregon.
Apar Singh Sidhu, of California.
John Christopher Stevens, of California.
Leilani Straw, of New York.
Mona K. Sutphen, of Texas.
Landon R. Taylor, of Virginia.
Alaina B. Teplitz, of Missouri.
James Paul Theis, of South Dakota.
Michael David Thomas, of Virginia.
Gregory Dean Thome, of Wisconsin.
Susan Ashton Thornton, of Tennessee.
Leslie Meredith Tsou, of Virginia.
Thomas L. Vajda, of Tennessee.
Chever Xena Voltmer, of Texas.
Eva Weigold-Hanson, of Minnesota.
Matthew Alan Weiller, of New York.
Colwell Cullum Whitney, of the District of Columbia.
David C. Wolfe, of Texas.
Anthony C. Woods, of Texas.
Thomas K. Yadgerdi, of Florida.
Joseph M. Young, of Pennsylvania.
Marta Costanzo Youth, of New Jersey.

The following-named Members of the Foreign Service of the Departments of State and Commerce and the United States Information Agency to be Consular Officers and/or Secretaries in the Diplomatic Service of the United States of America, as indicated:

Consular Officers and Secretaries in the Diplomatic Service of the United States of America:

Vicki Adair, of Washington.
Stephen E. Alley, of the District of Columbia.
Victoria Alvarado, of California.
Travis E. Anderson, of Virginia.
Patricia Olivares Attkisson, of Virginia.
Courtney E. Austrian, of the District of Columbia.
Barbara S. Aycock, of the District of Columbia.
Douglas Michael Bell, of California.
Robert Gerald Bentley, of California.
Jerald S. Bosse, of Virginia.
Bradley D. Bourland, of Virginia.
Steven Frank Brault, of Washington.
Eric Scott Cohan, of Virginia.
Luisa M. Colon, of Virginia.
Patricia Ann Comella, of Maryland.
Clayton F. Creamer, of Maryland.
Thomas Edward Daley, of Illinois.
Mark Kristen Draper, of Washington.
Jeanne M. Eble, of Maryland.
Eric Alan Flohr, of Maryland.
David William Franz, of Illinois.
Justin Paul Freidman, of Virginia.
Stacey L. Fulton, of Virginia.
Susan Herthum Garrison, of Florida.
William Robert Gill, Jr., of Virginia.
Carolyn B. Glassman, of Illinois.
David L. Gossack, of Washington.
Theresa Ann Grencik, of Pennsylvania.
Richard Spencer Daddow Hawkins, of New Hampshire.
Catherine B. Jazynka, of the Mariana Islands.
Richard M. Johannsen, of Alaska.
Arturo M. Johnson, of Florida.
Joanne Joria-Hooper, of South Carolina.
Natalie Joshi, of Virginia.
Erica Jennifer Judge, of New York.
Jacquelyn Janet Kalhammer, of Virginia.
Kimberly Christine Kelly, of Texas.
Robert C. Kerr, of New York.
Farnaz Khadem, of California.
Helen D. Lee, of Virginia.
Nancy D. LeRoy, of the District of Columbia.
Gregory Paul Macris, of Florida.
Arthur H. Marquardt, of Michigan.
Charles M. Martin, of Virginia.
Joel Forest Maybury, of California.
Sean Ian McCormack, of Maine.
Heather D. McCullough, of Arkansas.
Julie A. Nickles, of Florida.
Patricia D. Norland, of the District of Columbia.
Elizabeth Anne Noseworthy, of Delaware.
Barry Clifton Nutter, of Virginia.
Wayne M. Ondiak, of Virginia.
Patrick Raymond O'Reilly, of Connecticut.
Dale K. Parmer, Jr., of Virginia.
Kay Elizabeth Payne, of Virginia.
Terence J. Quinn, of Virginia.
Timothy Meade Richardson, of Virginia.
Edwina Sagitto, of Missouri.
Mark Andrew Shaheen, of Maryland.
Ann G. Soraghan, of Virginia.
Ronald L. Soriano, of Connecticut.
Karen K. Squires, of Illinois.
Cynthia A. Stockman, of Maryland.
James F. Sullivan, of Florida.
Wilfredo A. Torres, of Virginia.
Horacio Antonio Ureta, of Florida.
Miguel Valls, Jr., of Virginia.
Javier C. Villarreal, of Virginia.
Lesley Moore Vossen, of Maryland.
Philip G. Wasielewski, of Virginia.
Joel D. Wilkinson, of Idaho.

Secretary in the Diplomatic Service of the United States of America:

Sean D. Murphy, of Maryland.

The following-named individual for promotion in the Senior Foreign Service to the class indicated, effective October 6, 1991:

Career Member of the Senior Foreign Service of the United States of America, Class of Minister-Counselor:

James J. Blystone, of Virginia.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mrs. HUTCHISON:

S. 1021. A bill to amend the Clean Air Act to extend the primary standard attainment date for moderate ozone nonattainment areas, and for other purposes; to the Committee on Environment and Public Works.

By Mr. FEINGOLD (for himself, Mr. BRADLEY, and Mr. WELLSTONE):

S. 1022. A bill to amend the Internal Revenue Code of 1986 to eliminate the percentage depletion allowance for certain minerals, and for other purposes; to the Committee on Finance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mrs. HUTCHISON:

S. 1021. A bill to amend the Clean Air Act to extend the primary standard attainment date for moderate ozone nonattainment areas, and for other purposes; to the Committee on Environment and Public Works.

THE CLEAN AIR ACT MODERATE NON-ATTAINMENT EXTENSION ACT

Mrs. HUTCHISON. Mr. President, I am committed to improving our air quality, but we can't expect cities to meet arbitrary deadlines for air quality attainment if the EPA is going to hamper rather than help their efforts.

The EPA required, as part of its enhanced monitoring program, an emissions testing system that was expensive, burdensome, and ineffective. Even though the Clean Air Act itself does not mandate centralized testing, the EPA decided that, to prevent fraud, all cars would have to be tested at a State facility. It cost Texas over $100 million, but has been found to cause little or no additional reduction in emissions.

Tests have found auto emissions virtually unchanged when similar centralized programs were initiated in other metropolitan areas. Decentralized testing is far less burdensome on drivers; instead of centralized testing at State-supervised facilities, private repair stations and remote sensing could be used at far less cost without loss of effectiveness.

The fewer than 10 percent of the vehicles that account for more than half of all emissions do not emit the same amount of pollutants from day to day. They often escape penalties by failing tests on one day, and then passing on the next. Testing should focus on identifying and repairing these vehicles first, and reducing the burden on everyone else.

Cities with a high portion of their emissions from cars and trucks—such as Dallas/Fort Worth in Texas—have been unable to reduce their emissions because of the EPA's mishandling of the Clean Air Act's automobile emissions testing requirements. They deserve adequate notice of what will be expected; an effective, low-cost, and efficient plan; and sufficient time to comply.

The choice by the 1990 Clean Air Act Amendments of a 1996 attainment date for moderate areas requires attainment before implementation plans can be put in place, and air quality improvements shown. Today I am introducing a bill to give moderate nonattainment 2 additional years to meet the attainment date for air quality.

An extension of the deadline gives Dallas/Fort Worth, and other moderate nonattainment areas throughout the United States, a chance to prove themselves without being reclassified as serious non-attainment areas. It will give cities time to implement plans next year and still have 2 more years to meet the 3-consecutive-year requirement for air quality attainment. The 2-year extension also will give the EPA time to overhaul its Clean Air Act automobile inspection and maintenance program and administer it fairly across the country.

Dallas/Fort Worth has worked hard to improve its air quality, as I am sure other moderate nonattainment cities have, too. With the exception of enhanced monitoring, Dallas/Fort Worth has improved air quality; almost half of the 145 tons per day emission reduction requirement to achieve attainment under the computer model are in place today. Many of the largest employers have implemented voluntary employee trip reduction programs. In order to provide moderate areas with the flexibility necessary for the proper implementation of the Clean Air Act, and to take into account Federal mistakes in administering this program, I urge the Senate to enact this change as soon as possible.

By Mr. FEINGOLD (for himself, Mr. BRADLEY, and Mr. WELLSTONE):

S. 1022. A bill to amend the Internal Revenue Code of 1986 to eliminate the percentage depletion allowance for certain minerals, and for other purposes; to the Committee on Finance.

ELIMINATION OF THE PERCENTAGE DEPLETION ALLOWANCE

Mr. FEINGOLD. Mr. President, I am pleased to introduce S. 1022, legislation to eliminate percentage depletion allowances for four mined substances—asbestos, lead, mercury, and uranium—from the Federal Tax Code. This measure is based on language passed as part of the Energy Policy Act of 1992 by the other body during the 102d Congress. I am joined in introducing this legislation by my colleague from New Jersey, Mr. BRADLEY, and my colleague from Minnesota, Mr. WELLSTONE.

Analysis by the Joint Committee on Taxation on the similar legislation that passed the House estimated that, under that bill, income to the Federal Treasury from the elimination of percentage depletion allowances in just these four mined commodities would total $83 million over 5 years, $20 million in this year alone. These savings are calculated as the excess amount of Federal revenues above what would be collected if depletion allowances were limited to sunk costs in capital investments. These four allowances are only a few of the percentage depletion allowances contained in the Tax Code for extracted fuel, minerals, metal, and other mined commodities—with a combined value, according to 1994 estimates by the Joint Committee on Taxation, of $4.8 billion.

Mr. President, these percentage depletion allowances were initiated by the Corporation Excise Act of 1909. Provisions for a depletion allowance based on the value of the mine were made under a 1912 Treasury Department regulation, but difficulty in applying this accounting principle to mineral production led to the initial codification of the mineral depletion allowance in the Tariff Act of 1913. The Revenue Act of 1926 established percentage depletion much in its present form for oil and gas. The percentage depletion allowance was then extended to metal mines, coal, and other hardrock minerals by the Revenue Act of 1932, and has been adjusted several times since.

Percentage depletion allowances were historically placed in the Tax Code to reduce the effective tax rates in the mineral and extraction industries far below tax rates on other industries, providing incentives to increase investment, exploration, and output. However, percentage depletion also makes it possible to recover many times the amount of the original investment.

There are two methods of calculating a deduction to allow a firm to recover the costs of their capital investment: cost depletion, and percentage depletion. Cost depletion allows for the recovery of the actual capital investment—the costs of discovering, purchasing, and developing a mineral reserve—over the period which the reserve produces income. Using cost depletion, a company would deduct a portion of their original capital investment minus any previous deductions, in an amount that is equal to the fraction of the remaining recoverable reserves. Under this method, the total deductions cannot exceed the original capital investment.

However, under percentage depletion, the deduction for recovery of a company's investment is a fixed percentage of gross income—namely, sales revenue—from the sale of the mineral. Under this method, total deductions typically exceed, let me be clear on that point, Mr. President, exceed the capital that the company invested.

The rates for percentage depletion are quite significant. Section 613 of the United States Code contains depletion allowances for more than 70 metals and minerals, at rates ranging from 10 to 22 percent—which is the rate used for all uranium and domestic deposits of asbestos, lead, and mercury. Lead and mercury produced outside of the United States are eligible for a percentage depletion at a rate of 14 percent. Asbestos produced in other countries by U.S. companies is eligible for a 10-percent allowance.

Mr. President, in today's budget climate we are faced with the question of who should bear the costs of exploration, development, and production of natural resources: all taxpayers, or the users and producers of the resource? Given that we face significant budget deficits, these subsidies are simply a tax expenditure that raise the deficit for all citizens or shift a greater tax burden to other taxpayers to compensate for the special tax breaks provided to some industries.

Mr. President, the measure I am introducing, despite the fact that taxes seem complicated, is fairly straightforward. It eliminates the percentage depletion allowance for asbestos, lead, mercury, and uranium while continuing to allow companies to recover reasonable cost depletion.

Though at one time there may have been an appropriate role for a Government-driven incentives for enhanced mineral production, there is now a sufficiently large budget deficit which justifies a more reasonable depletion allowance that is consistent with those given to other businesses.

Moreover, Mr. President, these four commodities covered by my bill are among some of the most environmentally adverse. The percentage depletion allowance makes a mockery of conservation efforts. The subsidy effectively encourages mining regardless of the true economic value of the resource. The effects of such mines on U.S. lands, both public and private, has been significant—with tailings piles, scarred earth, toxic byproducts, and disturbed habitats to prove it.

Ironically, as my earlier description highlights, the more toxic the commodity, the greater the percentage depletion received by the producer. Mercury, lead, uranium, and asbestos receive the highest percentage depletion allowance, while less toxic substances receive lower rates.

Particularly in the case of the four commodities covered by my bill, these tax breaks create absurd contradictions in Government policy. The bulk of the tax break shared by these four commodities goes to support lead production. Federal public health and environmental agencies are struggling to come to grips with a vast children's health crisis caused by lead poisoning. Nearly 9 percent of U.S. preschoolers, 1.7 million children, have levels of lead in their blood higher than the generally accepted safety standard. Federal agencies spend millions each year to prevent lead poisoning, test young children, and research solutions. At the same time, the percentage depletion allowance subsidizes the mining of lead with a 22-percent depletion allowance. Lest we think that our nearly 15-year-old ban on lead in paint, or the end of the widespread use of lead in gasoline has solved our lead problems, exposure problems still exist. In 1993, 390 million tons of lead were produced in this country, with a value of $275 million, according to the U.S. Bureau of Mines. Some 82 percent of the production came from 29 plants with annual capacities of more than 6,000 tons. There continue to be major uses of lead in the production of storage batteries, gasoline additives and other chemicals, ammunition, and solder. Even more ironic, Mr. President, though the recovery and recycling of lead from scrap batteries was approximately 780 tons—twice the newly mined production—the recycling industry received no such tax subsidy.

To cite another example, hardly any individual in this body has not been acutely aware of the public health problem posed by asbestos. These compounds were extensively used in building trades and have resulted in tens of thousands of cases of lung cancer and fibrous disease in asbestos workers. As many as 15 million school children and 3 million school workers have the potential to be exposed because of the installation of asbestos containing materials in public buildings between 1945 and 1978. The EPA has already banned the use of asbestos in many building and flame retardant products, and will phase out all other uses over the next 5 years. Asbestos fibers are released at all stages of mining, use, and disposal of asbestos products. The EPA estimates that approximately 700 tons per year are released into the air during mining and milling operations. It certainly seems quite peculiar to this Senator, that a commodity, the use of which the Federal Government will effectively ban before the year 2000, continues to receive a hearty tax subsidy.

Mr. President, the time has come for the Federal Government to get out of the business of subsidizing business in ways it can no longer afford—both financially and for the health of its citizens. This legislation is one step in that direction.

Mr. President, in our efforts to reduce the Federal deficit and achieve a balanced budget, it is critical that we look at tax expenditures that provide special subsidies to particular groups, such as those proposed to be eliminated in this legislation. Tax expenditures are among the fastest growing parts of the Federal budget. According to the General Accounting Office, these tax expenditures already account for some $400 billion each year. GAO has recommended that Congress begin scrutinizing these areas of the budget as closely as we do direct spending programs. Earlier this year, the Senator from Minnesota [Mr. Wellstone] and I introduced a sense-of-the-Senate resolution calling for imposing the same kind of fiscal discipline in the area of tax expenditures that we do for other areas of the Federal budget, an issue that the Senator from New Jersey [Mr. Bradley] has championed for some time as well. I am particularly pleased to have the Senator from New Jersey and the Senator from Minnesota join me in this effort today. As GAO noted in its report last year, "Tax Policy: Tax Expenditures Deserve More Scrutiny", many of these special tax provisions are never subjected to reauthorization or any type of systematic review. Once enacted, they become enshrined in the Tax Codes and are difficult to dislodge.

Of the 124 tax expenditures identified by the Joint Tax Committee in 1993, about half were enacted before 1950—nearly half a century ago. Clearly, in this case, the economic conditions which may have once justified a special tax subsidy have dramatically changed. Eliminating these kinds of special tax preferences is long overdue.

Mr. President, in 1992 I developed an 82+point plan to eliminate the Federal deficit and have continued to work on implementation of the elements of that plan since that time. Elimination of special tax preferences for mining companies was part of that 82-plus-point plan. Achievement of a balanced budget will require that these kinds of special taxpayer subsidies to particular industries must be curtailed, just as many direct spending programs are being cut back.

Finally, Mr. President, in conclusion I want to pay tribute to several elected officials from Milwaukee, Mayor John Norquist, State Representative Spencer Coggs, and Milwaukee Alderman Michael Murphy, who have brought to my attention the incongruity of the Federal Government continuing to provide taxpayer subsidies for the production of toxic substances like lead while our inner cities are struggling to remove lead-based paint from older homes and buildings where children may be exposed to this hazardous material. I deeply appreciate their support and encouragement for my efforts in this area.

Mr. President, I ask unanimous consent that a copy of the legislation be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1022

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CERTAIN MINERALS NOT ELIGIBLE FOR PERCENTAGE DEPLETION.

(A) General Rule.—

(1) Paragraph (1) of section 613(b) of the Internal Revenue Code of 1986 (relating to percentage depletion rates) is amended—

(A) by striking "and uranium" in subparagraph (A), and

(B) by striking "asbestos,", "lead,", and "mercury," in subparagraph (B).

(2) Subparagraph (A) of section 613(b)(3) of such Code is amended by inserting "other than lead, mercury, or uranium" after "metal mines".

(3) Paragraph (4) of section 613(b) of such Code is amended by striking "asbestos (if paragraph (1)(B) does not apply),".

(4) Paragraph (7) of section 613(b) of such Code is amended by striking "or" at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting ", or", and by inserting after subparagraph (C) the following new subparagraph:

"(D) mercury, uranium, lead, and asbestos."

(b) Conforming Amendments.—Subparagraph (D) of section 613(c)(4) of such Code is amended by striking "lead," and "uranium,".

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

Mr. WELLSTONE. Mr. President, I am very pleased to be able today to speak on behalf of the bill that the distinguished Senator from Wisconsin has introduced and that I am co-sponsoring; a bill that I believe takes a crucial step toward returning some standard of fairness to our Nation's Tax Code.

Mr. President, I believe I can speak for a large majority of middle-income families in this country when I say that there are major problems with our tax system. When the American people send their checks to Washington every April 15, they want to know that their money is being used wisely and that everyone in the country is carrying his or her share of the load. They want to know that just because they don't have their own personal lobbyist up on the Hill and that there is a standard of basic economic fairness that is applied in our tax system—that the super-wealthy can and should pay more than those who are struggling.

But the American people are angry—they are angry at Washington because they feel in their hearts that there is no standard of fairness being applied in our tax system anymore. And do you know what Mr. President? They are right. Over the years our national Tax Code has become riddled with corporate tax breaks, loopholes, and outright giveaways, costing the Federal Government over $400 billion each year; Mr. President—talk about the gift that keeps on giving. These are tax dollars that we forego—money that has to be made up somewhere, and all too often ends up costing American families of modest means even more.

These tax loopholes and corporate giveaways are like trying to fill up a bucket with water, but the bucket has hundreds of holes that let the water dribble out from every corner. You can turn on the spigot and put more and more and more water into the bucket, but until the holes are plugged you'll never keep the water where it belongs.

That's what this bill does; it begins to plug some of the tax holes. This bill removes a special tax break that only a very few businesses have in this country—companies that mine lead, mercury, uranium, and asbestos. It's called the special percentage depletion allowance, and it allows mining companies to deduct 22 percent of their profits from their income each and every year for each and every mine they operate. Twenty-two percent, Mr. President. Now I know of lots of small business operators in Minnesota who would love to have that kind of special allowance for their business—but they don't have it. Those who mine these minerals have it.

A twenty-two percent tax break—and for what? So miners can dig hazardous heavy metals like lead and mercury out of the ground? Do we give tax breaks to companies that take these dangerous metals out of our environment and recycle them? Why are we giving a tax break to companies that mine asbestos to encourage them to dig more out of the ground when in just a few years the use of asbestos will be banned altogether? Why give a 22-percent tax credit to a company that mines uranium and not to a company that produces ethanol, or solar panels, or geothermal power?

Mr. President, this 22-percent tax deduction is not free—it costs the American public. The Joint Committee on Taxation said that eliminating this deduction for these minerals would save the Government $83 million over the next 5 years. If corporations do not pay their fair share of taxes, middle-class people have to pay more; the American public is in effect underwriting this tax dodge for these companies. That is not right, it is not fair, and it should be stopped.

This bill takes a bold step, and I applaud its author, my good friend the distinguished Senator from Wisconsin for bringing it to the floor. And, I would say to the people of this country, and to my colleagues, that I see this bill as a beginning. I hope it will be the beginning of an all-out effort to reform what I and others have called corporate entitlements; an effort to cut back on what are spending programs by fiat, programs that, unlike regular spending programs, never come up for review in Congress or by the public at large. It is an effort to return some standard of fairness to our tax system, and rebalance the tax scales to ensure that corporations will pay more of their fair share—and the American public will no longer be forced to underwrite multinational corporations.

ADDITIONAL COSPONSORS

S. 254

At the request of Mr. LOTT, the name of the Senator from Wyoming [Mr. THOMAS] was added as a cosponsor of S. 254, a bill to extend eligibility for veterans' burial benefits, funeral benefits, and related benefits for veterans of certain service in the U.S. merchant marine during World War II.

S. 354

At the request of Mr. BREAUX, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of S. 354, a bill to amend the Internal Revenue Code of 1986 to provide tax incentives to encourage the preservation of low-income housing.

S. 426

At the request of Mr. WARNER, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of S. 426, a bill to authorize the alpha phi alpha fraternity to establish a memorial to Martin Luther King, Jr., in the District of Columbia, and for other purposes.

S. 491

At the request of Mr. BREAUX, the name of the Senator from Maryland [Ms. MIKULSKI] was added as a cosponsor of S. 491, a bill to amend title XVIII of the Social Security Act to provide coverage of outpatient self-management training services under part B of the Medicare program for individuals with diabetes.

S. 628

At the request of Mr. KYL, the name of the Senator from Indiana [Mr. LUGAR] was added as a cosponsor of S. 628, a bill to repeal the Federal estate and gift taxes and the tax on generation-skipping transfers.

S. 743

At the request of Mr. THURMOND, his name was added as a cosponsor of S. 743, a bill to amend the Internal Revenue Code of 1986 to provide a tax credit for investment necessary to revitalize communities within the United States, and for other purposes.

S. 885

At the request of Mr. MOYNIHAN, the names of the Senator from Oregon [Mr. HATFIELD], the Senator from Michigan [Mr. LEVIN], the Senator from Illinois [Mr. SIMON], the Senator from Colorado [Mr. BROWN], and the Senator from Virginia [Mr. WARNER] were added as cosponsors of S. 885, a bill to establish U.S. commemorative coin programs, and for other purposes.

S. 896

At the request of Mr. CHAFEE, the name of the Senator from Tennessee [Mr. FRIST] was added as a cosponsor of S. 896, a bill to amend title XIX of the Social Security Act to make certain technical corrections relating to physicians' services, and for other purposes.

S. 905

At the request of Mr. AKAKA, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 905, a bill to provide for the management of the airplane over units of the National Park System, and for other purposes.

S. 939

At the request of Mr. SMITH, the name of the Senator from Oklahoma [Mr. NICKLES] was added as a cosponsor of S. 939, a bill to amend title 18, United States Code, to ban partial-birth abortions.

S. 957

At the request of Mr. BURNS, the name of the Senator from South Dakota [Mr. PRESSLER] was added as a cosponsor of S. 957, a bill to terminate the Office of the Surgeon General of the Public Health Service.

S. 969

At the request of Mr. BRADLEY, the name of the Senator from Maryland [Ms. MIKULSKI] was added as a cosponsor of S. 969, a bill to require that health plans provide coverage for a minimum hospital stay for a mother and child following the birth of the child, and for other purposes.

SENATE JOINT RESOLUTION 34

At the request of Mr. SMITH, the name of the Senator from Texas [Mrs. HUTCHISON] was added as a cosponsor of

Senate Joint Resolution 34, a joint resolution prohibiting funds for diplomatic relations and most favored nation trading status with the Socialist Republic of Vietnam unless the President certifies to Congress that Vietnamese officials are being fully cooperative and forthcoming with efforts to account for the 2,205 Americans still missing and otherwise unaccounted for from the Vietnam War, as determined on the basis of all information available to the U.S. Government, and for other purposes.

SENATE RESOLUTION 85

At the request of Mr. CHAFEE, the name of the Senator from Pennsylvania [Mr. SANTORUM] was added as a cosponsor of Senate Resolution 85, a resolution to express the sense of the Senate that obstetrician-gynecologists should be included in Federal laws relating to the provision of health care.

SENATE RESOLUTION 133

At the request of Mr. HELMS, the names of the Senator from Mississippi [Mr. COCHRAN], the Senator from Wyoming [Mr. THOMAS], the Senator from South Dakota [Mr. PRESSLER], and the Senator from Alabama [Mr. SHELBY] were added as cosponsors of Senate Resolution 133, a resolution expressing the sense of the Senate that the primary safeguard for the well-being and protection of children is the family, and that, because the United Nations Convention on the Rights of the Child could undermine the rights of the family, the President should not sign and transmit it to the Senate.

AMENDMENTS SUBMITTED

COMPREHENSIVE REGULATORY REFORM ACT OF 1995

DOLE AMENDMENT NO. 1492

Mr. DOLE proposed an amendment to amendment No. 1487, proposed by Mr. DOLE to the bill (S. 343) to reform the regulatory process, and for other purposes, as follows:

On page 25, delete lines 7–15, and insert the following in lieu thereof:

"(f) HEALTH, SAFETY, OR FOODSAFETY OR EMERGENCY EXEMPTION FROM COST-BENEFIT ANALYSIS.—(1) A major rule may be adopted and may become effective without prior compliance with this subchapter if—

"(A) the agency for good cause finds that conducting cost-benefit analysis is impracticable due to an energency, or health or safety threat or a foodsafety threat, (including an imminent threat from E. coli bacteria) that is likely to result in significant harm to the public or natural resources; and".

DOLE AMENDMENT NO 1493

Mr. DOLE proposed an amendment to amendment No. 1493, proposed by Mr. DOLE to amendment No. 1492 to the bill, S. 343, supra; as follows:

In lieu of the language proposed to be inserted, insert the following:

"(f) HEALTH, SAFETY, OR FOODSAFETY OR EMERGENCY EXEMPTION FROM COST-BENEFIT ANALYSIS.—(1) Effective on the day after the date of enactment, a major rule may be adopted and may become effective without prior compliance with this subchapter if—

"(A) the agency for good cause finds that conducting cost-benefit analysis is impracticable due to an emergency, or health or safety threat, or a foodsafety threat (including an imminent threat from E. coli bacteria) that is likely to result in significant harm to the public or natural resources; and".

DOLE AMENDMENT NO. 1494

Mr. DOLE proposed an amendment to the bill, S. 343, supra; as follows:

Strike the word "analysis" in the bill and insert the following: "Analysis.

"( ) HEALTH, SAFETY, OR FOODSAFETY OR EMERGENCY EXEMPTION FROM COST-BENEFIT ANALYSIS.—(1) A major rule may be adopted and may become effective without prior compliance with this subchapter if—

"(A) the agency for good cause finds that conducting cost-benefit analysis is impracticable due to an emergency, or health or safety threat or a foodsafety threat, (including an imminent threat from E. coli bacteria) that is likely to result in significant harm to the public or natural resources."

DOLE AMENDMENT NO. 1495

Mr. DOLE proposed an amendment to amendment No. 1494, proposed by Mr. DOLE to the bill, S. 343, supra; as follows:

In lieu of the language proposed to be inserted, insert the following analysis.

"( ) HEALTH, SAFETY, OR FOOD SAFETY OR EMERGENCY EXEMPTION FROM COST-BENEFIT ANALYSIS.—(1) Effective on the day after the date of enactment, a major rule may be adopted and may become effective without prior compliance with this subchapter if—

"(A) the agency for good cause finds that conducting cost-benefit analysis is impracticable due to an emergency, or health or safety threat (or a food safety threat including an imminent threat from E. coli bacteria) that is likely to result in significant harm to the public or natural resources;".

DOLE (AND OTHERS) AMENDMENT NO. 1496

Mr. DOLE (for himself, Mr. LEVIN, Mr. JOHNSTON, Mr. ROTH, and Mr. HATCH) proposed an amendment to amendment No. 1487, proposed by Mr. DOLE to the bill, S. 343, supra; as follows;

On page 35, line 10, Delete lines 10–13 and insert in lieu thereof:

"(A) CONSTRUCTION WITH OTHER LAWS.—The requirements of this section shall supplement, and not supersede, any other decisional criteria otherwise provided by law. Nothing in this section shall be construed to override any statutory requirement, including health, safety, and environmental requirements."

JOHNSTON AMENDMENT NO. 1497

Mr. JOHNSTON proposed an amendment to amendment No. 1487 proposed by Mr. DOLE to the bill, S. 343, supra; as follows:

On page 14, line 4, strike out subsection (5)(A) and insert in lieu thereof the following new subsection:

"(A) a rule or set of closely related rules that the agency proposing the rule, the Director, or a designee of the President determines is likely to have a gross annual effect on the economy of $100,000,000 or more in reasonably quantifiable increased costs (and this limit may be adjusted periodically by the Director, at his sole discretion, to account for inflation); or".

NOTICE OF HEARINGS

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. ROTH. Mr. President, I would like to announce for the information of the Senate and the public that the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs will hold hearings regarding abuses in Federal student grant programs proprietary school abuses.

This hearing will take place on Wednesday, July 12, 1995, in room 342 of the Dirksen Senate Office Building. For further information, please contact Harold Damelin of the subcommittee staff at 224–3721.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be allowed to meet during the Tuesday, July 11, 1995, session of the Senate for the purpose of conducting a hearing on international aviation and beyond rights.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Tuesday, July 11, 1995, for purposes of conducting a full committee hearing which is scheduled to begin at 9:30 a.m. The purpose of this hearing is to review the Secretary of Energy's strategic realignment and downsizing proposal and other alternatives to the existing structure of the Department of Energy.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. HATCH. Mr. President, I ask unanimous consent that the full Committee on Environment and Public Works be granted permission to meet Tuesday, July 11, 1995, at 10 a.m., to consider an original bill regarding uniform discharge standards for U.S.

Armed Forces vessels under the Clean Water Act and an original bill waiving the local matching funds requirement for the fiscal years 1995 and 1996 District of Columbia highway program.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on Finance be permitted to meet Tuesday, July 11, 1995, beginning at 2:30 p.m. in room SD–225, to conduct a hearing on the taxation of U.S. citizens who expatriate.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, July 11, 1995, at 10 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON VETERANS' AFFAIRS

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on Veterans' Affairs hold a hearing to consider options for compliance with budget resolution instructions and administration budget proposals relating to veterans' programs. The hearing will be held on July 11, 1995, at 10 a.m., in room 418 of the Russell Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON THE CONSTITUTION

Mr. HATCH. Mr. President, I ask unanimous consent that the Subcommittee on the Constitution of the Committee on the Judiciary be authorized to hold a hearing during the session of the Senate on Tuesday, July 11, 1995, at 10 a.m. to consider State sovereignty and the role of the Federal Government.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON DISABILITY POLICY

Mr. HATCH. Mr. President, I ask unanimous consent that the Subcommittee on Disability Policy of the Committee on Labor and Human Resources be authorized to meet for a hearing on the student discipline in IDEA, during the session of the Senate on Tuesday, July 11, 1995, at 2 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

BUDGET SCOREKEEPING REPORT

• Mr. DOMENICI. Mr. President, I hereby submit to the Senate the budget scorekeeping report prepared by the Congressional Budget Office under section 308(b) and in aid of section 311 of the Congressional Budget Act of 1974, as amended. This report meets the requirements for Senate scorekeeping of section 5 of Senate Concurrent Resolution 32, the first concurrent resolution on the budget for 1986.

This report shows the effects of congressional action on the budget through June 30, 1995. The estimates of budget authority, outlays, and revenues, which are consistent with the technical and economic assumptions of the concurrent resolution on the budget (H. Con. Res. 218), show that current level spending is below the budget resolution by $5.6 billion in budget authority and $1.4 billion in outlays. Current level is $0.5 billion over the revenue floor in 1995 and below by $9.5 billion over the 5 years 1995–99. The current estimate of the deficit for purposes of calculating the maximum deficit amount is $238.0 billion, $3.1 billion below the maximum deficit amount for 1995 of $241.0 billion.

Since my last report, dated June 20, 1995, there has been no action that affects the current level of budget authority, outlays, or revenues.

The report follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 10, 1995.

Hon. PETE DOMENICI,
Chairman, Committee on the Budget, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The attached report for fiscal year 1995 shows the effects of Congressional action on the 1995 budget and is current through June 30, 1995. The estimates of budget authority, outlays and revenues are consistent with the technical and economic assumptions of the 1995 Concurrent Resolution on the Budget (H. Con. Res. 218). This report is submitted under Section 308(b) and in aid of Section 311 of the Congressional Budget Act, as amended, and meets the requirements of Senate scorekeeping of Section 5 of S. Con. Res. 32, the 1986 First Concurrent Resolution on the Budget.

Since my last report, dated June 16, 1995, there has been no action to change the current level of budget authority, outlays or revenues.

Sincerely,

JUNE E. O'NEILL,
Director.

THE CURRENT LEVEL REPORT FOR THE U.S. SENATE, FISCAL YEAR 1995, 104TH CONGRESS, 1ST SESSION, AS OF CLOSE OF BUSINESS JUNE 16, 1995

[In billions of dollars]

	Budget resolution (H. Con. Res. 218)[1]	Current level[2]	Current level over/under resolution
ON-BUDGET			
Budget Authority	1,238.7	1,233.1	−5.6
Outlays	1,217.6	1,216.2	−1.4
Revenues:			
1995	977.7	978.2	0.5
1995–99	5,415.2	5,405.7	−9.5
Deficit	241.0	238.0	−3.1
Debt Subject to Limit	4,965.1	4,843.4	−121.7
OFF-BUDGET			
Social Security Outlays:			
1995	287.6	287.5	−0.1
1995–99	1,562.6	1,562.6	(3)
Social Security Revenues:			
1995	360.5	360.3	−0.2
1995–99	1,998.4	1,998.2	−0.2

[1] Reflects revised allocation under section 9(g) of H. Con. Res. 64 for the Deficit-Neutral reserve fund.

[2] Current level represents the estimated revenue and direct spending effects of all legislation that Congress has enacted or sent to the President for his approval. In addition, full-year funding estimates under current law are included for entitlement and mandatory programs requiring annual appropriations even if the appropriations have not been made. The current level of debt subject to limit reflects the latest U.S. Treasury information on public debt transactions.

[3] Less than $50 million.

THE ON-BUDGET CURRENT LEVEL REPORT FOR THE U.S. SENATE, 104TH CONGRESS, 1ST SESSION, SENATE SUPPORTING DETAIL FOR FISCAL YEAR 1995, AS OF CLOSE OF BUSINESS JUNE 30, 1995

[In millions of dollars]

	Budget authority	Outlays	Revenues
ENACTED IN PREVIOUS SESSIONS			
Revenues			978,466
Permanents and other spending legislation	750,307	706,236	
Appropriation legislation	738,096	757,783	
Offsetting receipts	−250,027	−250,027	
Total previously enacted	1,238,376	1,213,992	978,466
ENACTED THIS SESSION			
1995 Emergency Supplementals and Rescissions Act (P.L. 104–6)	−3,386	−1,008	
Self-Employed Health Insurance Act (P.L. 104–7)			−248
Total enacted this session	−3,386	−1,008	−248
ENTITLEMENTS AND MANDATORIES			
Budget resolution baseline estimates of appropriated entitlements and other mandatory programs not yet enacted	−1,887	3,189	
Total current level[1]	1,233,103	1,216,173	978,218
Total budget resolution	1,238,744	1,217,605	977,700
Amount remaining:			
Under budget resolution	5,641	1,432	
Over budget resolution			518

[1] In accordance with the Budget Enforcement Act, the total does not include $3,905 million in budget authority and $7,442 million in outlays in funding for emergencies that have been designated as such by the President and the Congress, and $841 million in budget authority and $917 million in outlays for emergencies that would be available only upon an official budget request from the President designating the entire amount requested as an emergency requirement.•

CONTINUE FUNDING FOR THE OFFICE OF TECHNOLOGY ASSESSMENT

• Mr. INOUYE. Mr. President, I rise today in support of continuing the funding for the Office of Technology Assessment [OTA] of the U.S. Congress. I believe that if more of my distinguished colleagues, as well as the public, knew what the elimination of the OTA would mean to our deliberative processes, they, too, would support this invaluable congressional resource.

Mr. President, there is considerable dedication among my colleagues to reduce the Federal budget deficit and to streamline Federal agencies. This Congress deserves to be commended for bringing the budget deficit, and its burden on future generations, to the attention of the American people more dramatically than ever before. I, too, support the reduction of Federal spending, but only where it makes good sense to do so.

However, I ask, what positive affect will the elimination of the OTA—a 143-person, $20-million-a-year agency that performs a great service to the Congress and that potentially saves billions of dollars—have on reducing the budget deficit?

Mr. President, many of my colleagues know that the OTA does valuable work and that it is well-managed. However, some argue that the OTA is a luxury that the Congress and the country can no longer afford. Mr. President, I submit that the OTA is not an indulgence, but rather a necessity for the Congress and the Nation.

I have frequently turned to the OTA for analysis and information. For example, in 1986, the OTA provided an invaluable service to the Congress and the American Indian community by taking an unprecedented in-depth look at native American health and health care. We learned an enormous amount about both the inadequacies of information technology and the health care delivery systems in the Federal agencies that are charged with implementing our nation-to-nation treaty agreements. As a result of the OTA's study, the Congress will now enjoy a much higher degree of accuracy in reports on the status of Indian health.

Let me give you another example of how the OTA has responded to my requests to deliver impartial information. I was one of the first primary requesters of Adolescent Health—OTA, 1991—the first extensive national examination of the scientific evidence on the efficacy of prevention and treatment interventions directed toward improving the health of our Nation's adolescent population. The OTA clearly gave the authorizing and appropriating committees the message that we should not trick ourselves into thinking that by simply labeling Federal initiatives as "prevention" of adolescent substance abuse, delinquency, AIDS, or pregnancy, the programs were effective. In fact, many of us on both sides of the aisle were disturbed when the OTA concluded that there was very little evidence of success from the prevention efforts that we had promoted. However, the requesters soon came to realize how valuable it was to receive an open-minded and impartial review from the OTA. And, as the OTA was charged to do, its report went well beyond just giving us the bad news. Because its role is to provide useful information to the Congress, the OTA provided sufficient analysis for us to see where our federally funded prevention efforts were going wrong, and provided guidance to the executive branch on how to better target Federal dollars for adolescent health.

I can give you numerous other examples of the OTA's rigorous approach in winnowing through cloudy data in order to provide us with information that is both accurate and useful. For example, since the late 1970's, the OTA has been an often lonely voice in the health care wilderness, carefully assessing whether the country is investing sufficiently in evidence-gathering on health care treatments. Valid information about what works and what doesn't work is critical to the public and private sectors of the health care industry, which represents one-seventh of the Nation's gross domestic product. Senators and staffers need this information as they consider budget requests from the U.S. Department of Health and Human Services, including the upcoming reauthorization for the National Institutes of Health, and proposed reforms to Medicaid, Medicare, and the private insurance market. For example, policymakers need to know the extent to which consumers have sufficient information to choose insurance plans, health facilities, and individual treatments. Just recently, the OTA, reexamined how we know what works by looking at new health assessment technologies—OTA, Identifying Health Technologies That Work: Searching for Evidence, September 1994. I recommend that report to all of my colleagues and to their constituents in the health care business.

As another example, a health technology study by the OTA in December 1986, Nurse Practitioners, Physician Assistants, and Certified Nurse Midwives: A Policy Analysis, concluded that nonphysician providers were "especially valuable in improving access to primary and supplemental care in rural areas and * * * for the poor, minorities and people without insurance." This information was very helpful in developing health care systems enhanced by the utilization of nonphysician care providers for our underserved populations.

Similar, hard-hitting, tell-it-like-it-is analyses have been done by the OTA on subjects ranging from ground water to space. These include classic assessments of polygraph testing, DNA analysis, police body armor, seismic verification of nuclear test ban treaties and other work on weapons of mass destruction, and on risk assessment methods, all of which were greeted with accolades from Members. Right now, the OTA has work under way in areas as important and diverse as earthquake damage prevention, advanced automotive technologies, renewable energy, wireless communications, and Arctic impacts of Soviet nuclear contamination.

Some of my colleagues have suggested that we don't need an OTA—that is, our own group of experts in the legislative branch capable of providing us with these highly technical analyses needed for developing legislation. How many of us are able to fully grasp and synthesize highly scientific information and identify the relevant questions that need to be addressed?

The OTA was created to provide the Congress with its own source of information on highly technical matters. Who else but a scientifically oriented agency, composed of technical experts, governed by a bipartisan board of congressional overseers, and seeking information directly under congressional auspices, and given the Congress and the country accurate and essential information on new technologies?

Can other congressional support agencies and staff provide the information we need? I am second to none in my high regard for these agencies, but each has its own distinct role. The U.S. General Accounting Office is an effective organization of auditors and accountants, not scientists. The Congressional Research Service is busy responding to the requests of members for information and research. The Congressional Budget Office provides the Congress with budget data and with analyses of alternative fiscal and budgetary impacts of legislation. Furthermore, each of these agencies is likely to have its budget reduced, or to be asked to take on more responsibilities, or both, and would find it extremely difficult to take on the kinds of specialized work that OTA has contributed.

I hope that the Congress does not become a body that ignores common sense. If it is to remain the world's greatest deliberative body—possible only because of access to the best and most accurate and impartial information and analysis—the Congress must retain the OTA.•

ERRATA IN CONFERENCE REPORT ON HOUSE CONCURRENT RESOLUTION 67

• Mr. DOMENICI. Mr. President, due to a printing error, the table in the conference report on House Concurrent Resolution 67 setting forth the budget authority and outlay allocations for Senate committees incorrectly shows a budget authority allocation of $1,400 million to the Senate Veterans' Affairs Committee for 1996.

The 1996 budget authority allocation to the Senate Veterans' Affairs Committee is actually $1,440 million. Therefore, the Veterans' Affairs allocation for fiscal year 1996 is as follows:

[In millions of dollars]

Committee	Direct spending jurisdiction		Entitlements funded in annual appropriations	
	Budget authority	Outlays	Budget authority	Outlays
Veterans' Affairs	1,440	1,423	19,235	17,686

•

RECOGNIZING RECIPIENT OF THE GIRL SCOUT GOLD AWARD FROM THE STATE OF MARYLAND

• Ms. MIKULSKI. Mr. President, each year an elite group of young women rise above the ranks of their peers and confront the challenge of attaining the Girl Scouts of the United States of America's highest rank in scouting, the Girl Scout Gold Award.

It is with great pleasure that I recognize and applaud Kerri Marsteller of Monkton, MD, who is one of this year's recipients of this most prestigious and time honored award.

Kerri is to be commended on her extraordinary commitment and dedication to her family, friends, community, and to the Girl Scouts of the United States of America.

The qualities of character, perseverance, and leadership which enabled her to reach this goal will also help her to meet the challenges of the future. She is our inspiration for today and our promise for tomorrow.

I am honored to ask my colleagues to join me in congratulating Kerri Marsteller. She is one of the best and the brightest and serves as an example of character and moral strength for us all to imitate and follow.

Finally, I wish to salute the families and Scout leaders who have provided Kerri and other young women with continued support and encouragement.

It is with great pride that I congratulate Kerri Marsteller on this achievement.●

RESTORATION OF DIPLOMATIC RELATIONS WITH VIETNAM

● Mr. McCAIN. Mr. President, I support the President's decision today to restore full diplomatic relations with Vietnam. This would not be an easy decision for any President to make. President Clinton has shown courage and honor in his resolve to do so.

President Clinton, like Presidents Bush and Reagan before him, took very seriously his pledge to the American people that the first priority in our relationship with Vietnam would be the accounting for Americans missing in action in Vietnam.

Given the importance of that commitment, President Clinton insisted that Vietnam cooperate with our accounting efforts to such an extent that normalization was clearly justified and that tangible progress toward the fullest possible accounting be clear enough to assure us that the prospects for continued cooperation were excellent.

Vietnam has shown that level of cooperation. The President has kept his commitment. Normalizing relations with our former enemy is the right thing to do.

In 1991, President Bush proposed a roadmap for improving our relations with Vietnam. Under its provisions, Vietnam was required to take unilateral, bilateral, and multilateral steps to help us account for our missing. Vietnam's cooperation has been excellent for some time now, and has increased since the President lifted our trade embargo against Vietnam in 1994.

That view is shared by virtually every American official, military and civilian, involved in the accounting process, from the commander in chief of U.S. Forces in the Pacific to the enlisted man excavating crash sites in remote Vietnamese jungles. It is also shared by Gen. John Vessey who served three Presidents as Special Emissary to Vietnam for POW/MIA Affairs, as capable and honorable a man as has ever worn the uniform of the United States.

It is mostly my faith in the service of these good men and women that has convinced me that Vietnam's cooperation warrants the normalization of our relations under the terms of the roadmap. It would be injurious to the credibility of the United States and beneath the dignity of a great nation to evade commitments which we freely undertook.

I should also note that Adm. Jeremiah Denton, my acting senior ranking officer at the Hanoi Hilton and a courageous resister, as well as my dear friend, Ev Alvarez, the longest held POW in Vietnam, join me and many other former POW's in supporting the restoration of diplomatic relations.

Other factors make the case for full diplomatic relations even stronger. Increasingly, the United States and Vietnam have a shared strategic concern that can be better addressed by an improvement in our relations.

I am not advocating the containment of China. Nor do I think such an ambitious and complex strategic goal could be achieved simply by normalizing relations with Vietnam. But Vietnam, which will become a full member of ASEAN later this month, is an increasingly responsible player in Southeast Asian affairs. An economically viable Vietnam, acting in concert with its neighbors, will help the region resist dominance by any one power. That is a development which is clearly in the best interests of the United States.

Human rights progress in Vietnam should also be better served by restoring relations with that country. The Vietnamese have already developed complex relations with the rest of the free world. Instead of vainly trying to isolate Vietnam, the United States should test the proposition that greater exposure to Americans will render Vietnam more susceptible to the influence of our values.

Vietnam's human rights record needs substantial improvement. We should make good use of better relations with the Vietnamese to help advance in that country a decent respect for the rights of man.

Finally, the people of Arizona expect me to act in the best interests of the Nation. We have looked back in anger at Vietnam for too long. I cannot allow whatever resentments I incurred during my time in Vietnam to hold me from doing what is so clearly my duty. I believe it is my duty to encourage this country to build from the losses and the hopes of our tragic war in Vietnam a better peace for both the American and the Vietnamese people. By his action today, the President has helped bring us closer to that worthy goal. I strongly commend him for having done so.●

THE HIGHWAY BILL

● Mr. ABRAHAM. Mr. President, I want to take a few months to explain several of my votes concerning S. 440, the highway bill. I voted in favor of final passage of the bill because it would meet Federal transportation responsibilities while returning to the States much of their rightful authority to manage their own roadways.

Many of the amendments offered to the bill concerned the question of whether the States should be required to enact various highway safety laws. Although the debate on these amendments focused to a large extent on the wisdom of the safety laws at issue, my votes on the amendments turned more on the threshold question of whether the States should retain the power to decide for themselves whether to enact those laws. As a general matter, I think the Federal Government should decide only those issues that, by their very nature, demand a uniform resolution throughout the Nation. On issues like these, a resolution of the issue at the State level would itself be harmful, no matter how wisely the State legislatures exercise their power. National defense is one such example; the need for central direction and economies of scale preclude a satisfactory resolution of the issue at the State level. But our laws in other areas should in the main be left to the discretion of the States, so that they can be tailored to the respective circumstances and values prevalent in each State.

These principles led me to oppose the Reid amendment to set a national speed limit for trucks, the Lautenberg amendment to set a national speed limit for all motor vehicles, and the Dorgan amendment to prohibit open containers of alcohol in motor vehicles. They likewise explain my support for the Smith amendment to repeal Federal seatbelt and motorcycle helmet law mandates, and the Snowe amendment to repeal the Federal motorcycle-helmet law mandate. None of these issues demands a single resolution across the Nation. I further note that my home State of Michigan already has a seatbelt law, which only underscores the fact that my votes on these amendments turned not on my views as to whether States should have seatbelt and helmet laws, but rather on my belief that States ought to be able to decide these issues for themselves.

Similarly, I opposed the Hutchinson amendment to retain the Federal motorcycle-helmet law mandate with respect to States that do not assume the cost of treating injuries attributable to a person's failure to wear a helmet while riding a motorcycle. This amendment was presented as an attempt to marry States' responsibility with States' rights. And it is true that the Federal Government assumes certain medical costs through its Medicaid and Medicare programs. But that does not mean the Federal Government should be able to mandate motorcycle-helmet laws. For if it did, the Federal Government could likewise mandate laws prohibiting other activities—say, smoking or mountain climbing—that involve an appreciable risk of physical harm. The Hutchison amendment in fact would have been a Trojan Horse for increasing the power of the Federal Government at the expense of not only the prerogatives of the States, but also of the liberties of the people.

My support of the Byrd amendment to encourage a national blood-alcohol standard for minor drivers was bottomed on these same principles. No one argues that kids should be able to drink and drive. To the contrary, everyone agrees that teenage drinking and driving is a danger that must be addressed. When there is this kind of overwhelming national consensus with respect to an issue, the question of whether the issue should be decided at the State level in fact becomes merely theoretical. Under these circumstances, the existence of a Federal rule is not likely to frustrate the desire of a State to enact a contrary rule. Such is the case with teenage drinking and driving. In cases like these, the practical, administrative benefits of a uniform Federal rule outweigh theoretical concerns related to federalism.•

THE 125th ANNIVERSARY OF LIBRARY OF CONGRESS COPYRIGHT SERVICE

• Mr. HATFIELD. Mr. President, as Chairman of the Joint Committee on the Library of Congress, it is my pleasure to acknowledge the 125th anniversary of the statute which centralized our Nation's copyright registration and deposit system in the Library. This law, signed by President Ulysses S. Grant on July 8, 1870, was the single most important factor in ensuring that Congress' library would eventually become the Nation's library and, in fact, the greatest repository of knowledge in the world.

Today, Dr. James Billington, our Librarian of Congress, will recognize the role of the copyright in building the Library's unsurpassed collection over the past 125 years in a program being held in the Jefferson Building's Great Hall. I join with Dr. Billington in celebrating the anniversary of this important statute.

The act required both that all works be registered in the Library and that the Library be the repository of these copies. The Library could hold the copy of the work as a record of the copyright registration, but it also had the opportunity to make the work available as a resource for others. The joining of copyright and the Library was, and continues to be, a mutually beneficial arrangement. Then-Librarian of Congress Ainsworth Spofford believed that bringing copyright to the Library could help it become a great library, and he strongly urged passage of the 1870 legislation. However, I think even he could not have foreseen that the Library of Congress would become the great institution it is today.

It is hard to overemphasize the importance of copyright deposits to the collections of the Library and the resulting growth of the institution. Within a decade after the 1870 statute, the Library's collections tripled. When foreign works were granted U.S. copyright protection in 1891, many works from other countries were brought into the Library through copyright deposit.

Among the works the Library has received through copyright deposit are: the first edition of a Dvorak opera; an unpublished composition by the 14 year-old Aaron Copland; all the network news programs since the 1960's; rare performances by artists such as Martha Graham captured on videotape; and important Civil War and Spanish-American War photographs.

The importance of the copyright deposits to the Library continues today. Some of the Library's most heavily used collections, such as the local history and genealogy collection, would hardly exist were it not for copyright deposit. In fiscal year 1994, the value of works received through copyright deposit was estimated at more than $15 million. The acquisition of these works could not have been accomplished through purchasing and gifts.

Mr. President, the Library of Congress provides valuable and unique services to the Congress and the Nation. Copyright continues to play an important role in the Library's work and I once again join in commemorating the 125th anniversary of the act which brought our national copyright system to the Library of Congress.•

RESTORING DIPLOMATIC RELATIONS WITH VIETNAM

• Mr. BINGAMAN. Mr. President, I feel that it is important that the Members of this Chamber move history forward and support the President's decision to normalize diplomatic relations with Vietnam.

Over the last 17 months, the Vietnamese Government has helped to resolve many cases of Americans who were missing in action or held as prisoners of war. I strongly feel that our responsibility to the families of courageous, patriotic Americans who fought in the Vietnam conflict, and who are still missing, will never end until the status of their fate is resolved.

But important progress is being made. As President Clinton stated this afternoon, 29 families have received the remains of their loved ones with the assistance of the Vietnamese Government. Important documents have been passed on to our Government to help shed light on the fate of other missing Americans. And the number of discrepancy cases of Americans thought to be alive after they were lost has been reduced to 55.

Mr. President, we must continue serious efforts to secure information about our lost soldiers, and this effort can be greatly enhanced by coordinating and working with the Vietnamese Government and its people. Normalizing relations will help our cause and further our national interest.

Mr. President, those who have argued against normalization seem more comfortable with the past and have little vision of the future. We were engaged in serious conflict in Vietnam, and much of our military presence in Asia derived from the needs and requirements of that conflict. But who has benefited from American sacrifice? Not many in this country.

Japan has just emerged as the largest foreign investor in Vietnam. During the first half of this year, Japan won 30 major infrastructure projects worth $755 million. Of Vietnam's intake of $3.58 billion for these first 6 months, Taiwan, South Korea, and Singapore followed behind Japan in investment. The United States ranked sixth in this major new growth market in the Asia Pacific region.

Although the United States dropped its trade embargo with Vietnam last year, America's failure to restore diplomatic relations has meant that the Ex-Im Bank could not finance trade, that the Overseas Private Investment Corporation could not insure American firms' commerce with Vietnam, and that our Nation could not develop trade treaties with what many consider to be the most important, new, big-emerging market. Without the ability to establish a treaty and grant MFN status with Vietnam, it is unlikely that the Vietnamese will earn money to purchase American products.

Mr. President, last year in the Washington Post, Alan Tonelson of the Economic Strategy Institute wrote about a 104-page Mitsubishi Corp. report entitled: "Master Plan for the Automobile Industry in Vietnam." He noted that this Japanese trading firm had already organized its efforts and meticulously established a framework to build a Vietnamese automotive industry, dependent on Japanese support. For once, America needs to get ahead of the curve, to support U.S. firms entering new markets, instead of having to elbow in after others have wrapped up the market.

Mr. President, America—more than any other nation in the Asian region—should be the beneficiary of Vietnam's economic development. We have an important duty to determine the fate of our lost and missing. But this effort will best be served by restoring diplomatic relations and recognizing Vietnam's Government. We must understand that our national economic interests are eroding each day that we allow other countries to push forward into this emerging economy and leave U.S. firms and American workers behind.

The time has come, Mr. President, for us to engage Vietnam and to build a future with this Government and its people that helps us deal with our wounds and helps our citizens into a new era.●

REMOVAL OF INJUNCTION OF SECRECY—TREATY DOCUMENT NO. 104–14

Mrs. HUTCHISON. Mr. President, as in executive session, I ask unanimous consent that the Injunction of Secrecy be removed from the Investment Treaty with Trinidad and Tobago (Treaty Document No. 104-14), transmitted to the Senate by the President on July 11, 1995; that the treaty be considered as having been read for the first time, referred with accompanying papers to the Committee on Foreign Relations and ordered to be printed; and that the President's message be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The President's message is as follows:

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the Treaty Between the Government of the United States of America and the Government of the Republic of Trinidad and Tobago Concerning the Encouragement and Reciprocal Protection of Investment, with Annex and Protocol, signed at Washington on September 26, 1994. I transmit also for the information of the Senate, the report of the Department of State with respect to this Treaty.

The bilateral investment Treaty (BIT) with Trinidad and Tobago is the third such treaty between the United States and a member of the Caribbean Community (CARICOM). The Treaty will protect U.S. investment and assist the Republic of Trinidad and Tobago in its efforts to develop its economy by creating conditions more favorable for U.S. private investment and thus strengthen the development of its private sector.

The Treaty is fully consistent with U.S. policy toward international and domestic investment. A specific tenet of U.S. policy, reflected in this Treaty, is that U.S. investment abroad and foreign investment in the United States should receive national treatment. Under this Treaty, the Parties also agree to international law standards for expropriation and compensation for expropriation; free transfer of funds related to investments; freedom of investments from performance requirements; fair, equitable, and most-favored-nation treatment; and the investor or investment's freedom to choose to resolve disputes with the host government through international arbitration.

I recommend that the Senate consider this Treaty as soon as possible, and give its advice and consent to ratification of the Treaty, with Annex and Protocol, at an early date.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *July 11, 1995.*

ORDERS FOR WEDNESDAY, JULY 12, 1995

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 9 a.m. on Wednesday, July 12, 1995; that following the prayer, the Journal of proceedings be deemed approved to date, the time for the two leaders be reserved for their use later in the day, and there be a period for the transaction of morning business until the hour of 9:45 a.m., with Senators permitted to speak for up to 5 minutes each, with the following exceptions: Senator SANTORUM, 10 minutes; Senator MURKOWSKI, 10 minutes; Senator SIMPSON, 15 minutes; Senator DORGAN, 10 minutes. Further, that at the hour of 9:45 a.m., the Senate resume consideration of S. 343, the regulatory reform bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mrs. HUTCHISON. For the information of all Senators, the Senate will resume consideration of the regulatory reform bill tomorrow at 9:45 a.m. Further amendments are expected to the bill. Therefore, Senators should expect rollcall votes throughout the day tomorrow and into the evening in order to make progress on the bill.

RECESS UNTIL 9 A.M. TOMORROW

Mrs. HUTCHISON. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in recess under the previous order.

There being no objection, the Senate, at 8:46 p.m., recessed until Wednesday, July 12, 1995, at 9 a.m.

HOUSE OF REPRESENTATIVES—*Tuesday, July 11, 1995*

The House met at 9 a.m. and was called to order by the Speaker pro tempore [Mr. RADANOVICH].

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
July 11, 1995.

I hereby designate the Honorable GEORGE P. RADANOVICH to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

MORNING BUSINESS

The SPEAKER pro tempore. Pursuant to the order of the House of May 12, 1995, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates. The Chair will alternate recognition between the parties, with each party limited to not to exceed 25 minutes, and each Member, except the majority and minority leader, limited to not to exceed 5 minutes, but in no event shall exceed beyond 9:50 a.m.

WHY FORMAL RECOGNITION OF COMMUNIST VIETNAM IS WRONG

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from North Carolina [Mr. FUNDERBURK] is recognized during morning business for 1 minute.

Mr. FUNDERBURK. Mr. Speaker, today President Clinton will formally recognize Communist Vietnam. While American diplomats toast the brutal Hanoi regime, this White House ignores the wishes of hundreds of POW/MIA families and thousands of Vietnamese-Americans who fled their country to escape Communist tyranny.

In 1992, candidate Clinton promised never to lift the trade embargo on the Hanoi communists unless and until there was a full accounting of American servicemen. Mr. Clinton then turned his back on our POW/MIA families claiming that Hanoi had changed. What change? Vietnam is one of the world's worst human rights abusers. Thousands are imprisoned for political and religious beliefs and Buddhist monks are once again threatening to immolate themselves on the streets. Hanoi continues to torture our POW/MIA families with the slow and selective release of information about their husbands and fathers.

Mr. President, if you want to know why you are wrong listen to what my colleague SAM JOHNSON—7 years a prisoner of Hanoi—told the Washington Post about Vietnamese communists: "They have always lied to us, and they are still lying to us. I see normalization as an attempt on their part to get access to American markets. They are not to be trusted." Mr. President, is breaking faith with hundreds of brave American families really worth the profits of the big multinationals bankrolling your reelection campaign?

OSHA'S NEW ATTITUDE

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Colorado [Mr. HEFLEY] is recognized during morning business for 5 minutes.

Mr. HEFLEY. Mr. Speaker, I am holding a copy of the administration's newest initiative regarding OSHA. It is bound in red, white, and blue, and is filled with lots of rhetoric about changing the way OSHA thinks.

In past Congresses I, and many of my colleagues have criticized many of OSHA's ridiculous regulations.

We watch OSHA deny the regulations exist at the same time they are scrambling to change them.

I want to believe this is an honest attempt at reform. I would like to believe that OSHA tuned in to C-SPAN one day and said, "By golly, those Republicans are right. We've got to change our emphasis."

But I do not think that is how it happened.

November 8 happened.

For OSHA, this document is a matter of self preservation.

I brought another document to the floor with me today.

This is the one the administration would like you to forget.

In the 103d Congress, the administration's idea of OSHA reform was H.R. 1280.

OSHA supported the Comprehensive OSHA Reform Act of 1994.

The legislation which increased penalties, regulation, and paperwork.

This is dated October 3, 1994.

Let's compare these documents:

In 1994, OSHA wanted to impose $62 billion in new costs on the private sector. In 1995 OSHA is backing down from strict new standards on ergonomics.

In 1994, OSHA wanted to redefine occupational safety health standards in order to justify costly new mandates. In 1995, OSHA plans to "improve, update, and eliminate confusing and out of date standards."

In 1994, OSHA wanted to mandate even more paperwork requirements on even more businesses. In 1995 OSHA wants to decrease redtape and paperwork.

In 1994, OSHA was willing to put their ideas into law. In 1995 OSHA is not so willing.

These two documents represent one of the great flip-flops of this administration.

If the administration wants to change OSHA's approach, why don't they put the change into law?

OSHA's new approach means nothing if we leave them the ability to change back to their old gestapo attitude whenever the political climate will tolerate it.

Meanwhile, OSHA's absurdities continue:

We heard about the specially designed rubber gloves used by Secret Service officials at the White House.

It was OSHA which cited serious violations of workers safety at Secret Service guard stations.

In speaking with over 15 guards at our own capitol buildings, I failed to find a single officer who had ever been cut or injured, or that had ever heard of an officer being cut or injured, while searching someone's belongings.

They do have rubber gloves, but are allowed to use them at their discretion.

But that's not all. Back in my home district, a dental office was recently cited with 11 violations, all of them serious and most of them for paperwork violations.

One violation included the office's written hazard communication.

The office took the OSHA approved guidelines from another dental office and used them.

OSHA cited them because they had scratched out the name of the dentist that originated the booklet and wrote in their office name.

To come into OSHA compliance the office had to retype the 65 page document, word for word.

In other citations, OSHA took the word of a disgruntled employee and made citations based on her accusations.

The dentist was cited for bloodying gloves while working on one patient, and then using the same gloves, still bloodied, on another patient.

It is difficult to believe that any dentist, or any patient for that matter, would allow that to happen.

He was also cited for putting used gloves in the same container as new gloves, even though OSHA found no evidence of either of these practices actually occurring.

It's time for OSHA to use a little common sense. It's time for real, permanent, and radical OSHA reform.

THE VIOLENCE AGAINST WOMEN ACT IS BEING DERAILED

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentlewoman from Colorado [Mrs. SCHROEDER] is recognized during morning business for 5 minutes.

Mrs. SCHROEDER. Mr. Speaker, as time evolves we are seeing more and more about how things look and how things really are. I must say, as one of the people who has been very concerned about the Violence Against Women Act, because I think living rooms in America and kitchens in America are the classrooms of violence for many of our young people, I was so proud when this body passed the Violence Against Women Act, and what did it pass by? It passed by 411 to 0, and you really cannot do any better than that. So, after 200-and-some years of this Republic, we finally decided that we would go right to the core of where a lot of this violence was starting, in the home, and we also realized that, if children see every single dispute solved, every single dispute solved with violence at home, they are not going to be able to be given a conflict-resolution course for a couple of hours in school to change their behavior. So, going in and really saying for the first time this country was going to take this seriously I thought was marvelous.

Well, now we see that, while we passed the bill, apparently they are taking all the money out. There was to be $161 million appropriated for such things as shelters for victims of domestic violence, for families; a hotline for the very first time. We have never had a national hotline on this issue. Also for rape crisis centers $161 million was to go out this year to begin those things, and, believe me, that money is really needed because to say to the victims of these kinds of acts that you have to privatize it or you are going to have to pay for it yourself, good luck. Part of the reason they have not been able to get out of the violence at home, or whatever, has been because of the economic dependence they have on the batterer, whether it be male or female, so that is very essential.

Well, what happened? It appears, it appears that $161 million is now $1 million, that they took $61 million out. Now that is an outrage. At that point we ought to just say the act has been canceled. I say to my colleague, "Let's be real honest about this. Don't brag about your vote if you vote to absolutely gut this."

There was also $100 million put into the crime trust fund for this, and that was to help train police and judges and to do more aid in the States and localities to get their laws tougher and so forth. I say to my colleagues, "Well, guess what? If that's all zeroed out, don't brag that you voted for the Violence Against Women Act because obviously that didn't happen."

Now there will be people saying, "Oh, well, it is just women." No, it is not. It is men and women; let me make that perfectly clear. Violence against men or violence against women in the home is wrong. Violence against children in the home is wrong. Instead you see everybody now moving to say that Government should back out of all of that and we should just again go back; the home is totally off limits, and you can batter children, batter spouses, do whatever.

Mr. Speaker, it looks like we are doing something, but we are not because we take all the money away. I hope that people in this country wake up and realize that because, if we ever want to get crime on the streets under control, we are not going to do it until we go to the source. We have had study after study showing that, if a person grows up in this violence, they are going to be violent.

Second, imagine the horror for the many, many Americans living in this type of situation. If you are afraid to be on the street because of crime, but you cannot even go home because you are also afraid to be there, what a nightmare.

So what a wonderful feeling it was a year ago when we all came together in a huge, bipartisan manner, and we voted that out, and we got the bill signed, and we got the details in order, and we really thought the train was moving, and now we find the whole train has been derailed, and they are going to drop a little token, $1 million, in the box and say "Isn't that wonderful? Look what we have done."

Let me tell you what you have done. You have done nothing. You have done absolutely nothing, and we will be back to business as usual on one of the most important crime generators and violence generators in this country.

And let us be perfectly clear about this. It is easy to tell you about other things, but the most important thing is the home and the family, and if the home and the family is the roots of violence, if the home and the family is absolutely torn asunder, then you are never going to get off square one when it comes to fighting crime.

THE MEDICARE CRISIS

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Colorado [Mr. ALLARD] is recognized during morning business for 5 minutes.

Mr. ALLARD. Mr. Speaker, the most important act of this Congress over the next 3 months will be the reform of Medicare. I would like to take a few minutes this morning to talk about what is at stake for America's seniors.

The Medicare Program is in trouble. In April, the trustees of the Social Security and Medicare trust funds issued an alarming report. The report concluded that next year the trust fund that finances Medicare will begin spending more than it takes in and will be bankrupt in 7 years. This will put the health care of 36 million Americans in jeopardy.

Remarkably, this report received almost no coverage by the media. Uncomfortable as it might be, the trustee's report cannot be ignored. The trustees include the Secretaries of Health and Human Services, Labor, and Treasury, as well as the Social Security Commissioner and two other public trustees, one Republican and one Democrat.

The reason for the crisis is clear. Medicare spending is growing at an alarming rate. This year alone, it will increase from $176 billion to $196 billion, a growth of 11 percent. This will be nearly three times the level of spending in 1986. It is obvious that any Federal program that triples its level of spending in a decade is headed for trouble.

Doing nothing might be the easiest course politically, but in my view that is not an option. The crisis must be addressed now. If Medicare goes bankrupt, by law, no payments can be made for hospital care for Medicare beneficiaries or for any other trust fund-paid services. This means that anyone age 58 or older today will be immediately impacted in 2002. And if the system is not then made solvent, millions of Americans who are much younger will be hurt.

Medicare can be fixed right now. And if we do it now, we can make the trust fund solvent without reducing current Medicare expenditures.

Those who oppose reform will make wild charges of draconian cuts. But when you hear those charges ask yourself what opponents of reform are proposing as a solution. The only other options are to either postpone the crisis a few more years, or substantially raise payroll taxes.

While three members of the President's Cabinet are Medicare trustees and signed onto the trustees report, the President's first budget included no reforms. The only response the President and his Democrat colleagues gave to this problem was criticism. However, the new Clinton budget has changed all that.

President Clinton has admitted that a balanced budget is best for our Nation—though his budget falls close to $1 trillion short of the amount actually needed to achieve a balanced budget.

But most importantly for our seniors and soon-to-be seniors, the President admits that Medicare must be reformed and saved from bankruptcy. Still, even with this, many of his Democrat colleagues still only criticize.

In order to reform the Medicare system, we have slowed the rate of growth from over 10 percent to 6.5 percent a year—a rate that will still exceed private-sector health care spending increases and inflation rate increases. Even with this level of reform, the country's annual Medicare spending will still rise from the current $4,700 per beneficiary to $6,400 per beneficiary in 7 years. Similarly, in my own State of Colorado, overall Medicare spending between 1995 and 2002 will increase 60 percent, which results in an increase of $1,385 per beneficiary.

Much of the reform can be accomplished with more private sector involvement in the program, and by giving seniors more choices and more power over the way their health care dollars are spent. Currently, Medicare beneficiaries are given only one option—the bureaucratic, outdated, 30-year-old, one-size-fits-all program. It is time to bring Medicare into the 1990's. No longer should the Government interfere in the relationship between patients and their doctors. We should ensure that Medicare beneficiaries and soon-to-be beneficiaries are able to continue their existing coverage—including their choice of doctors and hospitals, or choose new coverage that better fits their health care needs—such as coverage for prescription drugs, dental, or even to establish a medical savings account.

The goal is to save Medicare. It will not be easy or painless, but it will be much less painful if we do it now, rather than pass the buck one more time. My hope is that reform can be accomplished in a serious manner, without a high level of misinformation and distortion. Congress is now working carefully on a reform plan. Many organizations, such as the American Medical Association, and individuals are providing helpful proposals. The final plan will be available in early fall.

Two things in particular should be kept in mind as the debate progresses. First, no one is proposing any cuts in Medicare, only a slower rate of growth. Second, those who decry the proposed reforms should be challenged to present their solution. Strengthening Medicare is too important to be left to politics as usual. Doing nothing is not an option.

THE MINIMUM WAGE BILL—WHAT HAS HAPPENED?

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentlewoman from North Carolina [Mrs. CLAYTON] is recognized during morning business for 5 minutes.

Mrs. CLAYTON. Mr. Speaker, in February, the President proposed a modest increase in the minimum wage. Following the President's proposal, the Democratic leader introduced H.R. 940, the Working Wage Increase Act of 1995. Under H.R. 940, the minimum wage would be increased, in two steps, to $5.15 by Independence Day in 1996. There are currently 91 cosponsors of H.R. 940.

Nothing has happened on the minimum wage bill since its introduction. Could this be because all of the sponsors are Democrats? It should be a bipartisan effort to raise the minimum wage. It has been in times past. Both Speaker GINGRICH and Senator DOLE have supported minimum wage increases. The minimum wage needs to be increased now for two major reasons. First, to help improve the quality of life for all of our citizens.

And, second, to raise the standards of our workers so that they can keep pace with changing technologies and be better prepared for competing with workers around the world.

WELFARE REFORM—AN UPDATE

While minimum wage is stalled, Congress is moving very fast to drive citizens off welfare. I support welfare reform, but with provisions for training and the minimum wage increase. The welfare reform bill, H.R. 4, passed the House on March 24 of this year and passed the Senate Finance Committee on May 26.

The House-passed bill would block grant cash welfare, child care, school breakfast and lunch programs, and nutrition programs for pregnant women and children. Unwed mothers under the age of 18 and repeat mothers already on welfare, would be purged from the rolls. Fortunately, the Senate bill is less radical in the changes it proposes to welfare programs. And, with passage of other bills, like the farm bill, more level thinking may prevail.

FOREIGN TRADE—ITS IMPORTANCE

At the same time of these actions, a bill was introduced on June 7, H.R. 1756, which proposes to eliminate six programs from the Department of Commerce and to privatize or transfer into other departments, many other Commerce programs. A similar bill, S. 929, has been introduced in the Senate. The bill would eliminate the Economic Development Administration, the Minority Business Development Agency, the Office of the Secretary, General Counsel and Inspector General at Commerce, as well as several other programs under the Department. Indeed, this bill effectively dismantles the Commerce Department which has been the engine that has helped expand job opportunities in the global market.

ANALYSIS

It is obvious to me that in our zeal to cut spending and balance the budget, we are being penny wise and pound foolish. We are putting people out of work, taking benefits from people without giving them work and keeping those who are working at poverty levels. We are creating a larger, and perhaps more permanent, underclass by these irrational actions.

This blind march toward the year 2002 fails to take into account that the best welfare reform is minimum wage reform. This irresponsible cutting of trade programs fails to take into account that foreign trade has created 274,000 jobs in my State of North Carolina alone.

I have consistently stated that I am for welfare reform. I have also consistently maintained that I support a balanced budget. The problem, however, with the direction we are taking is that we have closed our eyes to the impact of our acts. We can cut programs, refuse to raise the minimum wage and save money.

But, the money we lose by these deeds could far exceed the amount we gain. For example, while we are reducing our domestic deficit, we are ignoring our trade deficit, and our trade deficit is soaring. We may save a few billion dollars through eliminating Commerce to help reduce the deficit, but we will lose $20 billion through an increased trade deficit. What sense does it make to eliminate the very structure that assists American businesses in expanding, large and small, and helps create jobs for American workers?

SUPPORT THE MINIMUM WAGE

The President's minimum wage proposal, combined with the earned income tax credit we passed last Congress, will go a long way in pushing millions of working Americans out of poverty. Yet, some of us are in the midst of cutting the earned income tax credit. It makes no sense. Sixty percent or 6 out of every 10 of those who are minimum wage workers are women. Many of them have children. And, most minimum wage workers are poor. Increases in the minimum wage have not kept pace with increases in the cost-of-living.

That is why a worker can work full-time, 40 hours a week, and still be below the poverty level. Surely we can increase the minimum wage for the first time since April 1991, a period during which the cost of housing, food, and clothing has greatly risen for the minimum wage worker.

The best welfare reform is a job, at a livable wage. I support this constrained request to lift millions of workers out of poverty. If we lift workers out of poverty, we will have less of a demand for welfare. If we have less of a demand for welfare, we will have less of a burden on this Nation's resources.

If we have less of a burden on this Nation's resources, we can compete more effectively in the global marketplace. And, if we compete more effectively in the global marketplace, we can reduce the trade deficit, further reduce the domestic deficit, create more jobs, put people to work and restore America. Mr. Speaker, it makes sense to me. I cannot understand why it does not make sense to my colleagues. True vision is the art of seeing things invisible. We see what we want to see. We can keep many of our workers at low wage, unskilled jobs, or we can pay them better and train them better.

This is not 1945. The world community need not buy refrigerators from us. They can buy them almost anywhere. But, if we want to sell our refrigerators, we better have workers who can make them well. Let's reform welfare. But, let's also pass H.R. 940, the modest minimum wage bill.

WHAT A DISGRACEFUL DAY TODAY IS

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from California [Mr. DORNAN] is recognized during morning business for 5 minutes.

Mr. DORNAN. Mr. Speaker and my colleagues who may have clicked on the floor proceedings in their offices this morning, and to a handful of visitors in the gallery, and to the million or so people that track the proceedings of this, the world's greatest legislature, over C–SPAN, I rose this morning to discuss again that 11 July of 1995 is a disgraceful day in the history of our country because the Commander in Chief down at the White House in a Rose Garden ceremony—I gag on the words a Rose Garden ceremony—is going to extend the honor and the dignity of diplomatic relations to the war criminals, the Communist war criminals, who sit in power, and oppressive power, in Hanoi. The Americans that we left behind in Laos, 499 men shot down, some of them captured on the ground, Special Forces men, performing special operations, they may still be alive. There is no proof that they are not. They may be executed by this deed of infamy in the Rose Garden at midday today.

Last night I did a 1-hour special order. I had Robert Strange McNamara's evil book in my hands, this book that the New York Times has on the best seller list. Boggles my mind that people would pay money to read the words of this man who walked off the battlefield in Vietnam, blood dripping from his hands, resigned on February 29, 1968, leap year day of that year, probably a deliberate choice of day. Lyndon Johnson disgracefully gave Robert McNamara, Secretary of Defense, the choice of when he would resign. He made a speech in Canada in October 1967 saying we could not win the Vietnam war, and LBJ, instead of firing him the next day, gave him 4 or 5 more months of payroll, and that February 29 he resigned in a rainy ceremony over on the Mall, had canceled his flyby, thank you God, no Air Force veterans of that long struggle in Vietnam had to fly by and honor this disgraceful man, and then guess where Mr. McNamara went, Mr. Speaker? He went skiing at Aspen and then took a diversionary side trip in March 1968 down to the Caribbean, back for more skiing at Aspen while the hospitals in Vietnam were filled with the broken bodies of young Americans, some of them triple and double amputees, and I remember one quadruple amputee, all from that massive Tet offensive that we won, and Walter Cronkite is writing off our effort to LBJ, forcing him to resign or to say he resigned from the Presidential campaign on the 30th of March, and Bob McNamara is still skiing at Aspen.

Here is what McNamara said in his book, page 105. I am reading from last night's CONGRESSIONAL RECORD where I inserted this. He writes:

> It is a profound, enduring and universal ethical and moral dilemma: How, in times of war and crisis, can senior government officials be completely frank to their own people without giving aid and comfort to the enemy?

There is McNamara talking about Hanoi, North Vietnam calling him the enemy, and they were, and they still are, and he is talking about giving aid to the enemy in Hanoi, comfort to the enemy in Hanoi, and, less than 2 years after that, Bill Clinton was in Moscow giving aid to the people in Hanoi, giving comfort to the people in Hanoi, giving aid and comfort to the Communist forces in Hanoi, and then went down to Prague and did it some more. It is unbelievable that of all the human beings that should be in the White House, in the Oval Office, in the Rose Garden, it is a man who let three high school men go in his place. Maybe one of them was this young missing in action American, Jimmy Holt, captured February 7, 1968, disappeared into the midst of Southeast Asia the very month that McNamara is resigning, and this disgraceful book of McNamara is called "In Retrospect." Clinton said it vindicates his stand to give aid and comfort to the Communist forces in Hanoi. What a disgraceful day today is.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12 of rule I, the Chair declares the House in recess until 10 a.m.

Accordingly (at 9 o'clock and 30 minutes a.m.) the House stood in recess until 10 a.m.

AFTER RECESS

The recess having expired, the House was called to order by the Speaker at 10 a.m.

□ 1000

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

From the first hours of new life to the last rays of the Sun, from the opening of each day of grace to the final moments of our time, may we, O gracious God, not neglect our words of prayer, praise, and thanksgiving. While we know how easily we are absorbed in our tasks and our eyes miss the heavenly vision, we know too that You do not forget us; we acknowledge that our lives stray here or there, yet we know too that Your goodness and Your love sustain us all our days. For these and all Your blessings, O God, we offer these words of thanksgiving. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Ohio [Mr. CHABOT] come forward and lead the House in the Pledge of Allegiance.

Mr. CHABOT led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

> H.R. 400. An act to provide for the exchange of lands within Gates of the Arctic National Park and Preserve, and for other purposes; and
>
> H.R. 716. An act to amend the Fishermen's Protective Act.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

> S. 533. An act to clarify the rules governing removal of cases to Federal court, and for other purposes; and
>
> S. 677. An act to repeal a redundant venue provision, and for other purposes.

U.N. CONTROL OF U.S. FORCES UNCONSCIONABLE

(Mr. SAM JOHNSON of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SAM JOHNSON of Texas. Mr. Speaker, well, here we go again. Our President, without consulting the Congress, has allowed the United Nations to make a decision to bomb in Bosnia. It is going on as I speak. The U.S. F-

18's, according to the press, are over there bombing. U.N. control of U.S. forces is unconscionable, without resorting to consent from the Congress. We did not declare war.

If one American life is lost because of these actions, I think it is a disgrace to American integrity.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will recognize 10 Members from each side for 1-minute speeches.

AFFORDABLE HOUSING MUST BE PROVIDED FOR ALL AMERICANS

(Mr. KENNEDY of Massachusetts asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KENNEDY of Massachusetts. Mr. Speaker, first I might start off the morning by hoping that all of our colleagues will perhaps say a prayer today for our esteemed colleague, JOE MOAKLEY, who has just been raised from critical to serious condition in the hospital after a liver transplant in Virginia. He is a terrific fellow, as we all know, and deserves our prayers and consideration this morning.

Mr. Speaker, I rise today in strong opposition to the action taken by the Committee on Appropriations last night in their 25-percent reduction in our Nation's housing funding.

We have decimated our Nation's housing funding over the course of the last week and a half. A week ago we cut $7 billion out of the Nation's housing. Yesterday evening we cut an additional $7 billion, 25 percent of the annual budget.

We take photo ops and give sound bites in front of the worst public housing, ignoring the fact that 90 percent of the public housing in this country is in good, decent shape and providing affordable housing for the poorest, most vulnerable people in this country.

Let us stand for something in this country. Let us not conduct a war on the poor. Let us conduct a war on poverty. That is what we need, and that is where we should be headed.

SELLING POLITICAL FAVORS

(Mr. CHABOT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CHABOT. Mr. Speaker, while Republicans are working to fulfill their promise of changing business as usual in Washington, liberal Democrats have their sights set on campaign 1996.

The Clinton White House has begun campaign efforts by starting their own version of the Publisher's Clearinghouse Sweepstakes. Instead of buying chances at winning the million dollar grand prize, big Clinton campaign contributors are buying chances at winning big White House favors.

In this political game, grand prize contributors of $100,000 win two dinners with President Clinton, two receptions with Vice President AL GORE, plus, their very own spot on a foreign trade mission with business and party leaders.

They have yet to confirm if Ed McMahon will announce the winners of these special White House perks.

UNITED STATES SHOULD RENEW DIPLOMATIC RELATIONS WITH VIETNAM

(Mr. PETERSON of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PETERSON of Florida. Mr. Speaker, today the President will announce the renewal of diplomatic relations to Vietnam. I applaud these efforts. It is time.

For the record, I spent 6½ years as a POW in Vietnam. I know about as much about Vietnam as anyone in the House. I am convinced that these efforts will enhance our search for the fate of the missing MIA's. We have made significant progress over the last 4 years in our joint efforts with the Vietnamese, searching all over Vietnam, with access to prisons, access to virtually anyone on the street, and certainly access to their archives. We have sincere, trustworthy, and competent people working together in Vietnam in this effort.

But now we are at a point if we do not renew diplomatic relations, the Vietnamese could unilaterally just say get out of here, we quit. We do not want to lose the progress we have made. It is time for diplomatic relations. It is time to move on, with the world bringing Vietnam into the League of Nations.

ADMINISTRATION'S NEW VIETNAM POLICY IS WRONG

(Mr. LAHOOD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LAHOOD. Mr. Speaker, today is a very, very sad day for America, but it is an even sadder day for American families who are waiting word on loved ones that have been designated as MIA's or POW's in Vietnam. The policy of normalizing relations with Vietnam, which will be announced today by the President of the United States, is a slap in the face at those families who are waiting word on their loved ones.

This is not a correct policy, this is a wrong policy, and until the Government of Vietnam comes forward and accounts for all of those who have been missing in action or designated as POW's, we should not normalize relations with Vietnam. We should not do it for economic reasons. That is the worst reason to do it. What we should be saying to them is "give us a full accounting." We owe it to the people who have lost their loved ones.

Mr. Speaker, I hope that all Americans will speak out against this.

A FEDERAL INVESTIGATION OF WACO FIASCO NEEDED

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute.)

Mr. TRAFICANT. Mr. Speaker, the fiasco of Waco, TX, commando raids, machine guns, tear gas, bulldozers, loud music, the recorded screams of dying rabbits all night, young children, 90 dead. And any Federal agent could honestly testify that David Koresh could have been arrested without incident, without harm, without force, any morning he jogged outside that camp, every single morning.

The truth is, the Federal agencies wanted a media milestone. The Federal agencies instead ended up with a media massacre. Yes, there must be a congressional investigation. There must be. Waco screams out louder than the recorded screams of those dying rabbits for a congressional investigation. The Federal agencies earned it, they deserve it.

Mr. Speaker, let us get on with our business.

CHANGING THE STATUS QUO

(Mr. JONES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JONES. Mr. Speaker, since taking control of Congress, the Republican Party has stayed focused on the commitment we made with the American people—to change the status quo. While the Democrats are playing politics by creating a "buyers market" for the White House, we are trying to save and protect Medicare for senior citizens and for future generations.

Our plan abolishes the one-size-fits-all plan, designed over 30 years ago. We replace it with a program that allows senior citizens to have the same health care choices as other Americans.

Also, the well-documented waste and fraud of the Medicare system, will be rooted out allowing for a 54-percent spending increase—the spending per senior will increase from $4,800 to more than $6,700.

Bottom line, the Republicans stand for change and the Democrats stand for the status quo. It is time to put aside political games and address the concerns of the American people.

MEDICARE

(Ms. VELÁZQUEZ asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. VELÁZQUEZ. Mr. Speaker, I rise to take strong exception to the Republican budget resolution that will drastically slash Medicare payments to senior citizens.

Instead of wasting less on weapons and military spending, the Republicans want to balance the budget on the backs of the elderly. This plan will slash $270 billion from future Medicare spending, the largest cut in history.

Large reductions in Medicare payments will mean that Seniors will have to pay more for health care out of their own pockets.

Republicans are cutting Medicare in order to give $240 billion to wealthy corporations.

Balancing the budget is a worthy goal, but it should be done more fairly, and not at the expense of the health and well-being of our Nation's elderly.

Senior citizens have worked hard and contributed all their lives to this country. Let's end these shameless cuts and choose an equitable path to a balanced budget. Less for guns and corporate welfare; more for children, working families and seniors.

A MAN OF CHANGE?

(Mr. HEFLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HEFLEY. Mr. Speaker, recently House Democrats have been posting signs outside their offices that read "Not For Sale." I guess their reasoning for doing so is to distance themselves from the current administration. Democrats might argue that it's in reference to their blatant hypocrisy over a committee seat, but since the White House has begun selling access to the open ear of the executive branch, I think it's because it looks bad back home. The reason it looks bad, is because it is bad. This administration claims to be the party of the poor and working class. Mr. Speaker, I ask how many factory workers, teachers or civil servants you know who could afford to spend $100,000 for a couple of meals at the White House. This administration has claimed to be the party of change and I guess it's true because $100,000 is a lot of change.

TRIBUTE TO FOSTER FURCOLO, FORMER MASSACHUSETTS CONGRESSMAN AND GOVERNOR

(Mr. NEAL of Massachusetts asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. NEAL of Massachusetts. Mr. Speaker, I rise today in this Chamber to pay tribute to a former member of this institution, who has represented the Second Congressional District of Massachusetts, who passed away this past Wednesday.

A distinguished Italian-American from western Massachusetts, Foster Furcolo served as a Member of the 81st and 82d Congresses from 1949 to 1952, where he was known as a moderate Democrat. Five years after serving in this House, Foster Furcolo became Massachusetts' 60th Governor.

A product of Yale University undergrad and law school, educational achievement was on the forefront of Furcolo's political agenda. His proudest achievement in Massachusetts was the establishment of the community college system. He also expanded the University of Massachusetts and sponsored growth in loan and scholarship programs. He strengthened programs for the elderly, and outlawed housing discrimination.

Hailing from Longmeadow, MA, Foster Furcolo was a mentor to those of us from the western part of the State who were interested in public service and government. His contributions to Massachusetts will not be forgotten.

MEDICARE AT A CROSSROADS

(Mr. GUTKNECHT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GUTKNECHT. Mr. Speaker, the Medicare system is at a crossroads. The Medicare Board of Trustees have said, and I quote from page 3 of their report, "* * * The fund is projected to be exhausted in 2001 * * *." That leaves this country with two options. We can either take the path to protect, preserve, and save Medicare or we can do what the President would like to do and walk down the road to no idea land that would throw millions of Americans off needed health benefits. Everyone agrees that there is a problem but only the Republicans pose a solution. Where's your plan Mr. President? Your own trustees agree that Medicare will go broke yet you do nothing. Does that mean that you would rather stay on the political median than save Medicare from bankruptcy? The answer to that question is clear. Our President is once again absent without leadership.

DISMANTLING MEDICARE

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks and include extraneous material.)

Ms. DELAURO. Mr. Speaker, on Saturday, the Washington Times confirmed what seniors have feared about Republican plans to cut Medicare. The conservative newspaper reported that the Republican leadership's ultimate goal is to privatize Medicare.

Now, Republicans claim that their plan to privatize Medicare will offer seniors more choices in the private health care market. But, unfortunately seniors know that the only choices that privatization offers them is to pay and pay and pay.

The privatization of Medicare will mean that seniors will pay more in premiums and deductibles. Recipients who now pay $46.10 per month for Medicare part B would pay more than $110 per month, under the GOP plan.

Thirty years ago when Medicare was established, 95 percent of Republicans opposed the plan. Now, Republicans are out to achieve a 30-year goal, dismantling what they never wanted in the first place—Medicare.

MEDICARE

(Mrs. SEASTRAND asked and was given permission to address the House for 1 minute and to revise and extend her remarks and include extraneous material.)

Mrs. SEASTRAND. Mr. Speaker, over the last month or so, liberal Democrats have proven over and over that they have become the party of obstruction. They have no ideas, they offer no vision. More importantly, they have completely ignored reports of the impending insolvency of Medicare.

Liberal Democrats act so very concerned about Medicare. But let us ask this: Why have they not recognized the report by the Medicare Trustees saying that Medicare will go bankrupt in just 7 years? How come they have not put forth a program to save Medicare?

The differences between the parties on Medicare are all too obvious. Republicans are committed to saving Medicare from bankruptcy and preserving it for future generations. Liberal Democrats play lip service to Medicare and attempt to scare the elderly all in the name of their twisted class warfare agenda.

COMPACT-IMPACT AID

(Mr. UNDERWOOD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. UNDERWOOD. Mr. Speaker, in 1986 the United States flung open its borders to the three countries of the former U.S. Trust Territory of the Pacific. The Compact of Free Association, negotiated between these nations and the United States, waives all usual INS procedures allowing totally unrestricted immigration into the United States. Because of Guam's proximity to these islands, we bear the brunt of this in-migration.

The law implementing the Compact of Free Association authorized reimbursement to Guam for the impact of this policy. Today, over 8,000 foreign citizens, 6 percent of our population, now legally reside on Guam.

The Government of Guam has carried the water for this ill-conceived immigration policy since 1986 and has incurred costs in excess of $70 million. I urge my colleagues to support an amendment that I will offer to the Interior appropriations bill to restore the administration's request of $4.58 million for Guam compact-impact aid. Guam may be 10,000 miles away, but on this immigration issue, Guam will not buy the excuse that the Federal Government lost our compact-impact check in the mail.

MEDICARE OR MEDISCARE

(Mr. HAYWORTH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HAYWORTH. Mr. Speaker, we have heard it again this morning. The gentlewoman from Connecticut brings it up. The only change the guardians of the old order want to make is to change the name from Medicare to Mediscare. They are intent on scaring senior citizens, despite the report of the Medicare Trustees that tell us that Medicare goes broke over the next few years if we fail to do anything.

The new majority is committed to governing this Nation, is committed to saving Medicare, and, yes, is committed to a variety of alternatives. Far be it from the fear tactics of one-size-fits-all with one type of tactic to use. We want to broaden the options, to save Medicare for future generations, because our responsibility to govern allows us to do nothing less.

□ 1020

THE V-CHIP

(Mr. MARKEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MARKEY. Mr. Speaker, yesterday the violence chip received the endorsement of the President of the United States.

This is a watershed moment in the fight for balance between parents who feel overwhelmed by the 200-channel television world of the future, and those who believe that the first amendment denies government any role in managing television.

Parents can set their sets to block out violent shows, and the V-chip does the rest. Any show carrying a rating that the parent wants to keep out, gets blocked.

For those of you who can't program the clock on your VCR, this is easier. If you want, you can set it once and not reset it until your kids are grown.

In the meantime, a parent knows that at least in his or her living room, there is an oasis of peace and quiet, free from the guns and beatings and mayhem and sexual material that is so frequently used to attract TV audiences.

This is nothing more or less than an on-off button, modernized for today's world. Parents can't be home all day, so technology will block shows until parents get home.

It is not censorship, it is parental choice.

It is not content regulation, it is parental mobilization.

It is not big brother, it is big mother and big father.

Ninety percent of parents polled want it. Within the next couple of days the gentleman from Virginia [Mr. MORAN], the gentleman from South Carolina [Mr. SPRATT], the gentleman from Nebraska [Mr. BEREUTER], the gentleman from Arkansas [Mr. DICKEY], and I will be introducing legislation to advance this cause.

THE FISCAL YEAR 1995 EMERGENCY SUPPLEMENTAL AND RESCISSIONS

(Mr. LUCAS asked and was given permission to address the House for 1 minute.)

Mr. LUCAS. Mr. Speaker, as H.R. 1944, the House-passed rescission and emergency supplemental bill, wallows on the other side of this Nation's Capitol, the people's business again is held captive by a tiny fragment of the makeup of the U.S. Congress.

Their opposition to making government smaller and more efficient creates collateral damage to which they seemingly turn a blind eye. They must be made aware that H.R. 1944 is not just about deficit reduction, timber salvage, or any other partisan issue. H.R. 1944 is about victims of flood, earthquake, and terror.

I represent the area of Oklahoma City that was rocked by a man-made devastation never before seen in this country. H.R. 1944 contains crucial aid to help this damaged but healing city get back on its feet. I would plead with those who oppose this measure to listen to the calls of the President, congressional leadership, and overwhelming majorities in each House to free this legislation. It's time we put closure on this issue and put the people's business above partisan politics.

CHINA AND HUMAN RIGHTS

(Mr. STARK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STARK. Mr. Speaker, my constituent, Dr. Harry Wu of Milpitas, CA, a Chinese-born American citizen, has campaigned to publicize conditions in the Chinese labor camps. He has recently been arrested and charged with espionage by the Chinese government, and he could face execution if convicted. Dr. Harry Wu's only crime is exposing the true conditions and purposes of these Chinese labor camps.

Our message, Mr. Speaker, to the Chinese Government and to the world must be crystal clear. No American citizen shall be arrested and mistreated anywhere in the world without all Americans being threatened and all Americans responding.

The Congress will soon be considering most-favored-nation trade status with China. The Chinese are currently running a $36 billion a year trade surplus with us. Without MFN, Mr. Speaker, most of its exports will cease. Let us make Dr. Wu the $36 billion man and withhold MFN from these barbaric goons.

ACCESS TO THE PRESIDENT CAN BE PURCHASED

(Mr. HOKE asked and was given permission to address the House for 1 minute.)

Mr. HOKE. Mr. Speaker, the gentleman from California [Mr. STARK] is absolutely right about Harry Wu.

I want to quote this morning in the spirit of bipartisanship from a book that President Clinton wrote in 1992 called "Putting People First":

> American politics is being held hostage by big money interests, including political action committees, lobbies and cliques of $100,000 donors who buy access to Congress and the White House.

The President actually wrote that in 1992. It is right out of "Putting People First." Well, last week we saw the culmination of what has been a rather shameless parade to the well and a spectacle of self-righteousness unequaled in history. Every day that the House is in session, liberals take to the House floor and denounce and beat their chests about the floods of special interest money. Their self-righteous whimpers can be heard for miles from here.

But we just had the disclosure that the DNC is not immune. Apparently, look what is happening. For $100,000 you can go to dinner at the White House four times, get a spot on a trade mission. For $50,000 you get a Presidential dinner plus high-level briefings.

Come on. Let us back off and get real.

WE JUST NEED THE GUTS TO PAY FOR MEDICARE

(Mr. GENE GREEN of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GENE GREEN of Texas. Mr. Speaker, the Republicans have a plan to cut $270 billion from Medicare between now and the year 2002. During that same period, they plan to cut at least $245 billion in taxes for the most affluent in our country. Does that sound like they are concerned about the senior citizens in our country?

The Republicans claim that Democrats are engaging in scare tactics. They want the public to believe that $270 billion in Medicare cuts will be pain-free and that seniors will be better off, maybe even have more freedom. Seniors have the freedom of choice right now. They can go to their own doctor. They can go to their own hospital. Let me reiterate to my Republican colleagues, this is free enterprise.

I think the public would be a little more confident in the Republican promises if the Medicare cuts were driven by a genuine health care concern instead of the balanced budget. Medicare is not bankrupt any more than the Defense Department is bankrupt. If you want to have senior citizen health care, you have to pay for it. You have to pay for it every year just like we have to pay for the Defense Department.

The Medicare system is not bankrupt. We just need to have the guts to pay for it.

PROVIDING FOR FURTHER CONSIDERATION OF H.R. 1868, FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS ACT, 1996

Mr. GOSS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 177 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 177

Resolved, That during further consideration of H.R. 1868 pursuant to House Resolution 170, consideration of the bill for amendment in the Committee of the Whole House on the state of the Union shall proceed without intervening motion except the amendments printed in the report of the Committee on Rules accompanying this resolution. Each of those amendments may be considered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for twenty minutes equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. All points of order against amendments printed in the report are waived. The chairman of the Committee of the Whole may postpone until a time during further consideration in the Committee of the Whole a request for a recorded vote on any amendment made in order by this resolution. The chairman of the Committee of the Whole may reduce to not less than five minutes the time for voting by electronic device on any postponed question that immediately follows another vote by electronic device without intervening business, provided that the time for voting by electronic device on the first in any series of questions shall be not less than fifteen minutes. Immediately after disposition of the amendments printed in the report, the Committee shall rise and report the bill to the House with such amendments as may have been adopted.

The SPEAKER pro tempore (Mr. Dickey). The gentleman from Florida [Mr. Goss] is recognized for 1 hour.

Mr. GOSS. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the distinguished gentleman from Ohio [Mr. Hall] pending which time I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, I think before we start the proceedings this morning that we all want to be reminded of the fact that our good friend and colleague, the ranking member of the Committee on Rules, the gentleman from Massachusetts, Joe Moakley, is in the hospital. We wish him Godspeed and early return and all good health.

Mr. Speaker, in the week leading up to the Fourth of July break, we witnessed one of the longest campaigns of dilatory floor tactics in the recent history of the House of Representatives. That campaign continues. Yesterday's Roll Call quotes a minority leadership aide as saying, "We are blowing up the House on Monday." Well, it is Tuesday and we are still here, and we are pleased about that.

The minority Members have made references to guerilla warfare. Mr. Speaker, these are not the sentiments of the people of the United States who are interested in working for the national interest. Unfortunately, it is clear that the minority has decided to hold the foreign operations bill and possibly other legislation hostage in order to grandstand on what is an extraneous issue and now one that I hope is behind us and resolved.

To anyone who still has questions about the matter of committee ratios, I simply urge them to look at the history of ratios in the House under Democratic rule. I think the evidence very clearly shows, as we pointed out in debate yesterday, that the Republicans indeed are more generous to the minority on the Committee on Ways and Means than we have experienced when it was the other way around. So let us end that discussion and get on with the business.

Mr. Speaker, the majority is here to do the people's business and today that business is the passage of the foreign operations appropriations bill. Reluctantly, I am here with a second rule, a rule that will enable us to finish this bill and continue the important work of considering appropriations bills. As we all know, we have many left to go before the August recess.

As Members are aware, under the rules of the House, limitation amendments to appropriation bills are subject to the majority leader's motion to rise. In fact, we could cut off all debate here and now and proceed to final passage. But at this point we choose not to do that. But it is an important point, so let me restate it. Under the rules, we could end the amending process right now. But we are not going to do that. Instead we have crafted a rule to ensure that the four pending amendments are protected and each one has adequate debate time.

To those who may rise to claim that this rule is not fair, I would point out the hours upon hours that this body has spent voting on unnecessary motions already on this appropriations bill, procedural motions, dilatory motions, time that could have been used to finish the bill under a completely open rule.

By calculations of the chairman of the Committee on Rules, if I have read his quotes right, so far 27 hours have been used in debate on this, which is 5 more than we used to debate Desert Storm in 1991, and that involved hostile open warfare.

This rule strikes an important balance between the rights of Members to offer amendments, most notably the three Democrat Members, I say the three Democrat Members who still have amendments pending are being provided for under this rule, and one other amendment as well, and the need to finish consideration of this legislation in a timely manner, which is our responsibility.

I think this is the right balance. It allows those who had amendments pending to complete the business of this bill. It does get the bill moving. I urge my colleagues to support the rule.

Mr. Speaker, I reserve the balance of my time.

Mr. HALL of Ohio. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in opposition to House Resolution 177, the second rule on the foreign operations appropriations bill for fiscal year 1996. Approximately 2 weeks ago, on June 22 when we were debating the first rule on this bill, I stood here and commended my colleagues on the other side of the aisle for reporting an essentially open rule. Now, after several days of full and fair debate on many important amendments under the 5 minute rule, we are suddenly closing down the process.

Under this new rule, only the four amendments specified in the accompanying rules report may be offered. These are amendments by Mr. Engel, Ms. Jackson-Lee, Mr. Volkmer, and Mr. Smith of New Jersey. They are debatable for only 20 minutes each, equally divided between an opponent and proponent. Members will not be able to strike the last word and continue debating the merits of these amendments. No Member may offer any other amendment, regardless of how meritorious it may be.

Mr. Speaker, this is no way to do business. I have stated before that some bills may require a structured rule, I have, in fact, supported structured rules on foreign operations appropriations bills in the past. However, if we are going to structure a rule, it should be done from the beginning and in an upfront way. Changing the rules in the middle of the game is not fair to Members who may have been legitimately planning to draft amendments, but are now precluded from doing so. Early on we were promised an open rule on this bill and that promise should be kept.

In my opinion, we have seen some very good debate has taken place in this body over amendments which sometimes went for 2 or even 3 hours. I think that is good. I think our constituents want us to think about what we are doing with their money and to debate it fully before we act hastily. My own children's amendment to transfer $108 million in funds to the new Child Survival Fund and to include basic education activities for millions of poor children overseas was the subject of meaningful debate and drew support from both sides of the aisle. I regret that other Members may not have an equal opportunity to offer their ideas in amendment form.

I am also concerned that under this rule, Mr. FRANK will not be allowed to offer his amendment to withhold funds to Indonesia. The Frank amendment addresses a very severe human rights issue of repression against the people of East Timor. This is a subject that should certainly be addressed in the context of our country's foreign aid expenditures.

Finally, Mr. Speaker, as I indicated during the debate on the American Overseas Interests Act, the International Affairs budget represents only 1.3 percent of total Federal spending. It has already been cut by 40 percent since 1985. As this bill was reported to the floor the fund for Africa absorbed a 21-percent cut, and another 40 percent was squeezed out of development aid. Funds in these areas go for self-help, preventive programs which actually save money down the road. This is a story we need to tell the American people. And to tell our story properly we should do it in a timely and deliberative manner.

I do plan to vote "no" on this rule and I urge my colleagues to join me to oppose it.

Mr. Speaker, I include for the RECORD the following information.

FLOOR PROCEDURE IN THE 104TH CONGRESS; COMPILED BY THE RULES COMMITTEE DEMOCRATS

Bill No.	Title	Resolution No.	Process used for floor consideration	Amendments in order
H.R. 1*	Compliance	H. Res. 6	Closed	None.
H. Res. 6	Opening Day Rules Package	H. Res. 5	Closed; contained a closed rule on H.R. 1 within the closed rule	None.
H.R. 5*	Unfunded Mandates	H. Res. 38	Restrictive; Motion adopted over Democratic objection in the Committee of the Whole to limit debate on section 4; Pre-printing gets preference.	N/A.
H.J. Res. 2*	Balanced Budget	H. Res. 44	Restrictive; only certain substitutes	2R; 4D.
H. Res. 43	Committee Hearings Scheduling	H. Res. 43 (OJ)	Restrictive; considered in House no amendments	N/A.
H.R. 2*	Line Item Veto	H. Res. 55	Open; Pre-printing gets preference	N/A.
H.R. 665*	Victim Restitution Act of 1995	H. Res. 61	Open; Pre-printing gets preference	N/A.
H.R. 666*	Exclusionary Rule Reform Act of 1995	H. Res. 60	Open; Pre-printing gets preference	N/A.
H.R. 667*	Violent Criminal Incarceration Act of 1995	H. Res. 63	Restrictive; 10 hr. Time Cap on amendments	N/A.
H.R. 668*	The Criminal Alien Deportation Improvement Act	H. Res. 69	Open; Pre-printing gets preference; Contains self-executing provision	N/A.
H.R. 728*	Local Government Law Enforcement Block Grants	H. Res. 79	Restrictive; 10 hr. Time Cap on amendments; Pre-printing gets preference	N/A.
H.R. 7*	National Security Revitalization Act	H. Res. 83	Restrictive; 10 hr. Time Cap on amendments; Pre-printing gets preference	N/A.
H.R. 729*	Death Penalty/Habeas	N/A	Restrictive; brought up under UC with a 6 hr. time cap on amendments	N/A.
S. 2	Senate Compliance	N/A	Closed; Put on Suspension Calendar over Democratic objection	None.
H.R. 831	To Permanently Extend the Health Insurance Deduction for the Self-Employed.	H. Res. 88	Restrictive; makes in order only the Gibbons amendment; Waives all points of order; Contains self-executing provision.	1D.
H.R. 830*	The Paperwork Reduction Act	H. Res. 91	Open	N/A.
H.R. 889	Emergency Supplemental/Rescinding Certain Budget Authority	H. Res. 92	Restrictive; makes in order only the Obey substitute	1D.
H.R. 450*	Regulatory Moratorium	H. Res. 93	Restrictive; 10 hr. Time Cap on amendments; Pre-printing gets preference	N/A.
H.R. 1022*	Risk Assessment	H. Res. 96	Restrictive; 10 hr. Time Cap on amendments	N/A.
H.R. 926*	Regulatory Flexibility	H. Res. 100	Open	N/A.
H.R. 925*	Private Property Protection Act	H. Res. 101	Restrictive; 12 hr. time cap on amendments; Requires Members to pre-print their amendments in the Record prior to the bill's consideration for amendment, waives germaneness and budget act points of order as well as points of order concerning appropriating on a legislative bill against the committee substitute used as base text.	1D.
H.R. 1058*	Securities Litigation Reform Act	H. Res. 105	Restrictive; 8 hr. time cap on amendments; Pre-printing gets preference; Makes in order the Wyden amendment and waives germaneness against it.	1D.
H.R. 988*	The Attorney Accountability Act of 1995	H. Res. 104	Restrictive; 7 hr. time cap on amendments; Pre-printing gets preference	N/A.
H.R. 956*	Product Liability and Legal Reform Act	H. Res. 109	Restrictive; makes in order only 15 germane amendments and denies 64 germane amendments from being considered.	8D; 7R.
H.R. 1158	Making Emergency Supplemental Appropriations and Rescissions	H. Res. 115	Restrictive; Combines emergency H.R. 1158 & nonemergency 1159 and strikes the abortion provision; makes in order only pre-printed amendments that include offsets within the same chapter (deeper cuts in programs already cut); waives points of order against three amendments; waives cl 2 of rule XXI against the bill, cl 2, XXI and cl 7 of rule XVI against the substitute; waives cl 2(e) od rule XXI against the amendments in the Record; 10 hr time cap on amendments. 30 minutes debate on each amendment.	N/A.
H.J. Res. 73*	Term Limits	H. Res. 116	Restrictive; Makes in order only 4 amendments considered under a "Queen of the Hill" procedure and denies 21 germane amendments from being considered.	1D; 3R
H.R. 4*	Welfare Reform	H. Res. 119	Restrictive; Makes in order only 31 perfecting amendments and two substitutes; Denies 130 germane amendments from being considered; The substitutes are to be considered under a "Queen of the Hill" procedure; All points of order are waived against the amendments.	5D; 26R
H.R. 1271*	Family Privacy Act	H. Res. 125	Open	N/A
H.R. 660*	Housing for Older Persons Act	H. Res. 126	Open	N/A
H.R. 1215*	The Contract With America Tax Relief Act of 1995	H. Res. 129	Restrictive; Self Executes language that makes tax cuts contingent on the adoption of a balanced budget plan and strikes section 3006. Makes in order only one substitute. Waives all points of order against the bill, substitute made in order as original text and Gephardt substitute.	1D
H.R. 483	Medicare Select Extension	H. Res. 130	Restrictive; waives cl 2(l)(6) of rule XI against the bill; makes H.R. 1391 in order as original text; makes in order only the Dingell substitute; allows Commerce Committee to file a report on the bill at any time.	1D
H.R. 655	Hydrogen Future Act	H. Res. 136	Open	N/A.
H.R. 1361	Coast Guard Authorization	H. Res. 139	Open; waives sections 302(f) and 308(a) of the Congressional Budget Act against the bill's consideration and the committee substitute; waives cl 5(a) of rule XXI against the committee substitute.	N/A.
H.R. 961	Clean Water Act	H. Res. 140	Open; pre-printing gets preference; waives sections 302(f) and 602(b) of the Budget Act against the bill's consideration; waives cl 7 of rule XVI, cl 5(a) of rule XXI and section 302(f) of the Budget Act against the committee substitute. Makes in order Shuster substitute as first order of business.	N/A.
H.R. 535	Corning National Fish Hatchery Conveyance Act	H. Res. 144	Open	N/A.
H.R. 584	Conveyance of the Fairport National Fish Hatchery to the State of Iowa	H. Res. 145	Open	N/A.
H.R. 614	Conveyance of the New London National Fish Hatchery Production Facility.	H. Res. 146	Open	N/A
H. Con. Res. 67	Budget Resolution	H. Res. 149	Restrictive; Makes in order 4 substitutes under regular order; Gephardt, Neumann/Solomon, Payne/Owens, President's Budget if printed in Record on 5/17/95; waives all points of order against substitutes and concurrent resolution; suspends application of Rule XLIX with respect to the resolution; self-executes Agriculture language.	3D; 1R
H.R. 1561	American Overseas Interests Act of 1995	H. Res. 155	Restrictive; Requires amendments to be printed in the Record prior to their consideration; 10 hr. time cap; waives cl 2(l)(6) of rule XI against the bill's consideration; Also waives sections 302(f), 303(a), 308(a) and 402(a) against the bill's consideration and the committee amendment in order as original text; waives cl 5(a) of rule XXI against the amendment; amendment consideration is closed at 2:30 p.m. on May 25, 1995. Self-executes provision which removes section 2210 from the bill. This was done at the request of the Budget Committee.	N/A

FLOOR PROCEDURE IN THE 104TH CONGRESS; COMPILED BY THE RULES COMMITTEE DEMOCRATS—Continued

Bill No.	Title	Resolution No.	Process used for floor consideration	Amendments in order
H.R. 1530	National Defense Authorization Act FY 1996	H. Res. 164	Restrictive; Makes in order only the amendments printed in the report; waives all points of order against the bill, substitute and amendments printed in the report. Gives the Chairman en bloc authority. Self-executes a provision which strikes section 807 of the bill; provides for an additional 30 min. of debate on Nunn-Lugar section; Allows Mr. Clinger to offer a modification of his amendment with the concurrence of Ms. Collins.	36R; 18D; 2 Bipartisan
H.R. 1817	Military Construction Appropriations; FY 1996	H. Res. 167	Open; waives cl. 2 and cl. 6 of rule XXI against the bill; 1 hr. general debate; Uses House passed budget numbers as threshold for spending amounts pending passage of Budget.	
H.R. 1854	Legislative Branch Appropriations	H. Res. 169	Restrictive; Makes in order only 11 amendments; waives sections 302(f) and 308(a) of the Budget Act against the bill and cl. 2 and cl. 6 of rule XXI against the bill. All points of order are waived against the amendments.	5R; 4D; 2 Bipartisan
H.R. 1868	Foreign Operations Appropriations	H. Res. 170	Open; waives cl. 2, cl. 5(b), and cl. 6 of rule XXI against the bill; makes in order the Gilman amendments as first order of business; waives all points of order against the amendments; if adopted they will be considered as original text; waives cl. 2 of rule XXI against the amendments printed in the report. Pre-printing gets priority (Hall) (Menendez) (Goss) (Smith, NJ).	N/A
H.R. 1905	Energy & Water Appropriations	H. Res. 171	Open; waives cl. 2 and cl. 6 of rule XXI against the bill; makes in order the Shuster amendment as the first order of business; waives all points of order against the amendment; if adopted it will be considered as original text. Pre-printing gets priority.	N/A
H.J. Res. 79	Constitutional Amendment to Permit Congress and States to Prohibit the Physical Desecration of the American Flag.	H. Res. 173	Closed; provides one hour of general debate and one motion to recommit with or without instructions; if there are instructions, the MO is debatable for 1 hr.	N/A
H.R. 1944	Recissions Bill	H. Res. 175	Restrictive; Provides for consideration of the bill in the House; Permits the Chairman of the Appropriations Committee to offer one amendment which is unamendable; waives all points of order against the amendment.	N/A
H.R. 1868 (2nd rule).	Foreign Operations Appropriations	H. Res. 177	Restrictive; Provides for further consideration of the bill; makes in order only the four amendments printed in the rules report (20 min each). Waives all points of order against the amendments; Prohibits intervening motions in the Committee of the Whole; Provides for an automatic rise and report following the disposition of the amendments.	

*Contract Bills, 67% restrictive; 33% open. **All legislation, 64% restrictive; 36% open. ***Restrictive rules are those which limit the number of amendments which can be offered, and include so called modified open and modified closed rules as well as completely closed rules and rules providing for consideration in the House as opposed to the Committee of the Whole. This definition of restrictive rule is taken from the Republican chart of resolutions reported from the Rules Committee in the 103rd Congress. ****Not included in this chart are three bills which should have been placed on the Suspension Calendar. H.R. 101, H.R. 400, H.R. 440.

Mr. Speaker, I reserve the balance of my time.

Mr. GOSS. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from New Glens Falls, NY [Mr. SOLOMON], chairman of the Committee on Rules.

Mr. SOLOMON. Mr. Speaker, I thank the gentleman from Sanibel, FL for yielding time to me.

Mr. Speaker, the gentleman who just spoke on the other side of the aisle is one of my best friends in this Congress because he is one of our most respected Members. But I just have to take some exception to a couple of things he said.

One of the things he said was that this is no way to do business. Well, he is right. This is no way to do business. I would just ask those that are watching and those in the gallery and those in the press to watch what happens when this rule comes to a vote. That is no way to do business, dilatory tactics.

The statement made by a very prominent Democrat late last week was that they would blow up this place on Monday. That is no way to do business. All of those dilatory tactic votes that we had all last week interrupting the people's business, that is no way to do business. So I get a little agitated when I hear statements like that.

Let me just say, to underscore some of the things that my good friend from Sanibel, FL has mentioned, that I really do regret things have to come to this juncture. We did something this year that has not been done in 8 years when the Democrats were in control, since 1987, and that is we put out a completely open rule on this foreign operations appropriation bill, a very controversial bill we put it out under an open rule so that any Member could offer amendments to this important piece of legislation.

I think that as a result of that, we did have some good debates on various amendments, like the one by the gentleman from Ohio [Mr. HALL]. That was a good amendment. We had a good substantial debate on it. We had some good interplay with second degree amendments along the way as well. And hopefully, the House was better able to make more informed and wise decisions.

But we also had some intentionally dilatory tactics that I have just mentioned, including votes on frivolous motions and prolonged and repetitive debates that normally would not have happened. If the majority had put out a structured rule, we would have allowed 15 or 20 minutes on 30 minutes on most of those amendments, and that would have been satisfactory in years past. But no, now the Democrats want to drag it out for several hours on relatively noncontroversial issues.

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I do not think it can be said that these tactics were in protest of a completely open rule, Mr. Speaker. Some of it was in protest of the policy nature of a perfectly legitimate limitation amendment that was offered on Haiti. Some of it was completely unrelated to the foreign operations bill itself.

When we began the final stage of the amendment process dealing with limitation amendments, it was the right of the majority leader to move that the committee rise and report at any time. That is according to the rules of the House. Instead, we agree to allow for the further consideration of limitation amendments, and debate went on under the regular rules of the House with no end in sight.

Therefore, what the Appropriations Committee and our leadership recommended was to go back to the Committee on Rules and make in order the four limitation amendments that were pending when the Committee of the Whole last rose. We took them all, every amendment that was pending at that time and which was printed in the RECORD.

In order to allow for these extra amendments, we also had to deal with the prospect of more dilatory tactics. Consequently, we have a rule now that limits these four amendments to 20 minutes each, a concession we made to the minority after initially moving that each be debated for 10 minutes each.

Now I understand, Mr. Speaker, that the gentleman from Alabama, SONNY CALLAHAN, who will be the manager on this side of the aisle on this bill when the rule brings this to the floor, is going to agree to make a unanimous-consent request to lengthen that period of time, at the request of the ranking minority member of the Committee on Appropriations, the gentleman from Wisconsin, Mr. OBEY. We are going to cooperate in every way that we can, in spite of these dilatory tactics, which are upsetting me.

Mr. Speaker, we have also prevented any intervening motions of the kind that have continuously interrupted our work on this bill over the last month. We have allowed for the votes on the amendments to be postponed and to be clustered, which was done before under the Democrat leadership.

In short, Mr. Speaker, this is an eminently fair rule. It allows for more amendments to be considered than are required under a completely open rule. We have made in order three times as many Democrat amendments as Republicans' in this second rule, all that were requested and that had been preprinted in the RECORD. We have even protected them against points of order that would otherwise lie against some of them, which means they could have been knocked out without any debate on this floor.

Mr. Speaker, the Committee on Rules has tried to be as fair as possible under the circumstances. We have bent over backward to allow for an open debate in an amendment process on a bill that has never had an open rule before. Yet, we have been met with demands for rollcall votes on the previous question to the rule, which will appear again here today in a few minutes, and on the adoption of a completely open rule.

The minority has not been content with open rules, it seems. Instead, it has demanded endless debates on amendments not in order under a regular open amendment process.

Mr. Speaker, the time has come to recognize that we had a full debate, a fair debate, and an open amendment process on this bill. We must bring it to a final vote, and the time to do it is right now. We will ultimately be judged not only on how fair and open we have been in arriving at a final passage on this bill, but on how well we have handled the responsibility that goes with that openness.

Let us now act like responsible legislators, the people expect us to do that, and conclude this debate and take a final vote. Members should not think that the American people are not watching out there, Mr. Speaker. They see these silly shenanigans that are going on here, and they resent it as much as I do.

Let us get on with the people's business. Let us put these amendments on the floor that were pending, all of them, and let us bring them to vote. Then let us go to final passage.

Mr. VOLKMER. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. I yield to the distinguished gentleman from Missouri, the home of Harry Truman.

Mr. VOLKMER. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, it has been brought to my attention that at the time that the Committee rose, before we took off for the Fourth of July, that there was a fifth amendment, not the fifth amendment.

Mr. SOLOMON. Mr. Speaker, who is taking the fifth amendment around here?

Mr. VOLKMER. Mr. Speaker, a fifth amendment was pending at the desk, at the Reading Clerk, that was not included and made in order by this rule. I would just like to, out of curiosity, know why the amendment of the gentleman from Massachusetts [Mr. FRANK] was not included in this rule. Do the Members have something against the gentleman from Massachusetts, or what is it?

Mr. SOLOMON. Absolutely not, Mr. Speaker. As a matter of fact, we made amendments in order by the gentleman from Massachusetts many, many times when they were germane and to the point. That amendment was not pending. It had not been preprinted in the RECORD.

Mr. VOLKMER. It was not preprinted.

Mr. SOLOMON. Mr. Speaker, the gentleman asked me to answer his question. Let me answer it and then he can respond, too.

Mr. Speaker, I have here in front of me something I cannot read. As a matter of fact, I even had it magnified. This is the amendment that somebody brought down to the desk just before we adjourned the other day. But I cannot even read the amendment.

Second, the amendment was not in order. It would have been subject to a point of order. Consequently, we took the three Democrat amendments and the one Republican amendment that had been preprinted in the RECORD, we made them in order, we waived points of order against them. Now they are going to be debated on this floor. That is fair, I will say to the gentleman.

Mr. VOLKMER. Mr. Speaker, if the gentleman will continue to yield, did the gentleman examine the RECORD of June 30, 1995?

Mr. SOLOMON. No.

Mr. VOLKMER. That amendment is included in that CONGRESSIONAL RECORD.

Mr. SOLOMON. Mr. Speaker, I would be glad to have the gentleman come over here and show it to me afterward.

Mr. VOLKMER. If the gentleman will continue to yield, Mr. Speaker, he can read it very easily: "None of the funds made available in this act may be used for assistance for Indonesia."

Mr. SOLOMON. Mr. Speaker, I would ask the gentleman, was that the day we adjourned?

Mr. VOLKMER. Yes.

Mr. SOLOMON. Mr. Speaker, it was not preprinted in advance in the RECORD. That is why we took all of those amendments that were preprinted in the RECORD. We went upstairs and made them in order. The gentleman evidently dropped it in just as we were closing that night, which did not qualify it, in my opinion.

Mr. VOLKMER. Mr. Speaker, if the gentleman will continue to yield. I do appreciate the gentleman making this gentleman's amendment in order. I want to recognize that.

Mr. SOLOMON. Mr. Speaker, the gentleman is a very respected Member of the House. The gentleman was diligent in filing his amendment several days before.

Mr. VOLKMER. Yes.

If the gentleman will continue to yield, the other thing I would like to ask of the gentleman, Mr. Speaker, just to perhaps, because the gentleman has the power, or the gentleman from Florida, to do this. They can do this. They can offer an amendment to the rule, amending it. I notice that if it is time that the gentleman is worried about, that the gentleman from Alabama [Mr. CALLAHAN], who is now here, he is going to extend the time.

Mr. SOLOMON. The very distinguished gentleman.

Mr. VOLKMER. Right, the very distinguished gentleman. He is going to give us 10 additional minutes on each amendment. That is a total of 40 more minutes.

Mr. SOLOMON. That is right. He is very cooperative.

Mr. VOLKMER. If the gentleman will yield further, what I was thinking of, Mr. Speaker, is rather than doing that, we can just take our minutes and add that other amendment in, and there is not any more time, and we can vote on the question of Indonesia.

Mr. SOLOMON. Mr. Speaker, I would just say to the gentleman, he really ought to speak to the gentleman from Wisconsin [Mr. OBEY]. The gentleman from Wisconsin was the one requesting the additional time. Perhaps the gentleman could work that out over there. I appreciate the gentleman's point of view.

Mr. HALL of Ohio. Mr. Speaker, I yield 4 minutes to the gentleman from Missouri. [Mr. VOLKMER].

Mr. VOLKMER. Mr. Speaker, even though the Committee on Rules in their generosity has made the amendment that I had printed in the RECORD in order, I still rise strongly in opposition to this rule. I do so because it is another case of not letting the House act on amendments that are normally in order but restricting amendments by this rule.

Mr. Speaker, I think, again, it is a case of here we go again. When the Congress initially started, the day after, we were sworn in on the 4th of January, on the 5th the chairman of the Committee on Rules stood in that well, right at the podium on the Republican side, and talked about rules, and what we were going to do in rules, and how long it took for a bill to get out of committee, reports to be filed, and rules had to be done, and then the bill could come to the floor. It was very elaborate, very good, a very good education. Too bad there were not very many here to listen. This gentleman was, as the gentleman from New York knows.

However, at that time, Mr. Speaker, I and the gentlewoman from Colorado inquired of the gentleman and lo and behold, the gentleman said that by the time the year was over, we were going to have 70 percent of our rules that were going to be open rules, open rules on bills. Mr. Speaker, we are not even 40 percent now. Here we go again. This is not an open rule on this bill. It was an open rule, but it no longer is.

Mr. Speaker, the next time we see this bill, I dare say the next time will be when we are getting ready for the train wreck, when we get all the appropriation bills, we get the reconciliation bill, we get the tax bill, we get the debt limit bill, we get all of the farm bill, and all of these things will be stacked up in one big bill and sent to the President by the majority.

Mr. Speaker, when this occurs, everybody is going to be able to see what we on this side have been saying, and said it again this morning. It was denied again by the Gingrich Republican majority. That is that at that time, we are going to see the cuts in Medicare coming down the road. Where is the money going? We are going to see it in the tax bill. It is all going to be in one bill. We are going to see these big tax breaks for the wealthy. We are going to see our senior citizens in my district, where we have no HMO's, we have no HMO's, we are going to see them have to pay by the year 2002, or supposedly when this balanced budget is coming down the pike, that they are going to be paying over two to three times more for Medicare out of their meager Social Security check, so the wealthy at the same time are getting that $20,000 a year tax break. That is the next time Members are going to see this bill.

I daresay that I think we had better recognize that this bill, along with all the other appropriation bills, and the big spending bills, like the defense spending bill, and at the same time the reconciliation bill, which is the one that cuts my farm programs, is going to cut my senior citizens programs, going to cut the school lunches for the kids, it is going to do all of that, and at the same time in that bill we are going to have a big tax break bill for the wealthy. That is the next time we see this bill.

Mr. Speaker, for that reason, I am not only not going to vote for this rule, I am not even going to vote for the bill, because I think this bill is a lousy bill. I think that we ought to just send it back to committee and get rid of it.

Mr. GOSS. Mr. Speaker, I am privileged to yield 2 minutes to the distinguished gentleman from Alabama [Mr. CALLAHAN], chairman of the subcommittee in the Committee on Appropriations.

Mr. CALLAHAN. Mr. Speaker, I thank the gentleman for his kind and generous allotment of time.

Mr. Speaker, I rise in total support of the rule. I want to tell all the Members on both sides of the aisle that throughout the entire 27 hours of debate on this issue, I have tried diligently to work with both sides. I have tried to work and have worked with the gentleman from Texas [Mr. WILSON]. I have tried and have worked with the gentleman from Wisconsin [Mr. OBEY]. I have assented to just about every request that they have made within my realm of possibility.

Therefore, I am not going to support the four amendments that are offered, but, in the spirit of working together toward a resolution to this issue, we are going to give people the opportunity to debate them. I am going to ask for unanimous consent to give them even more time. I think we have come as far as we can come on this bill, Mr. Speaker.

I realize the dilatory tactics that are taking place. I realize why they are doing it. However, at the same time I think we have dilly-dallied long enough on this bill. I think we ought to go ahead and accept this rule today as it is written, so we can get on with the passage of this bill.

Mr. HALL of Ohio. Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. WILSON].

Mr. WILSON. Mr. Speaker, I would just like to say that the chairman of the subcommittee, the gentleman from Alabama, has certainly been as accommodating as he possibly could. His leadership has been exemplary, and I think in a couple of cases when we were going through the very difficult times the week before last in certain cases, it was only his cool temperament that held things together. I would just like to make that note.

Mr. GOSS. Mr. Speaker, I yield such time as he may consume to my colleague and the distinguished gentleman from greater San Dimas, CA [Mr. DREIER], the chairman of the Subcommittee on Rules and Organization of the House of the Committee on Rules.

Mr. DREIER. Mr. Speaker, I thank the distinguished chairman of the Subcommittee on Legislative and the Budget Process, which I understand is at this moment taking testimony over in the Rayburn Building, for yielding me this time.

Mr. Speaker, I would like to say that it saddens me that we have come to the point where we have to have this rule. We have tried desperately to enhance the level of deliberation in this institution. On January 24 when we put into place the opening day reforms, that was one of the major guides we had, to make this a deliberative body, and one might claim that staying up around the clock, as we did the week before last, was part of the deliberative process. Nothing could be further from the truth. We all know that the dilatory tactics that came from some of our very, very, very distinguished colleagues jeopardized the ability to deliberate over this very important piece of legislation.

We desperately want to have every single rule open. Some have claimed that we have had many, many closed rules. Sixty-two percent of the legislation has come up under an open amendment process, as the chairman of the Committee on Rules has just said. We want more and more open rules. We have done it so far.

However, when people are standing in the way of our responsibility to meet the appropriations deadlines, we have little choice other than to move ahead with some sort of structure with the rule. To me, as one who has worked and continues to this day to work on reform of the institution, I am very sorry that we have to in fact move forward with this kind of structure to the rule.

I hope that when we go ahead with the remaining appropriations bills, Mr. Speaker, that we will be able to work in a bipartisan way to implement the kind of legislation that the American people said last year they wanted us to proceed with, and that I believe with a majority of this institution wants us to implement.

I thank the gentleman for yielding to me, and I rise in support of this rule, because we have no alternative, unfortunately. I hope we will be able to finally bring a successful conclusion to this very important piece of legislation.

Mr. HALL of Ohio. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Speaker, we see a continuation of the pattern here that when amendments are inconvenient, they are simply prevented from being offered. I gather there was some reference to my handwriting, which I will concede is not much better than my diction, but what happened was I have been interested in the issue of Indonesia and its mistreatment to the people of East Timor for some time.

There are currently negotiations going on now between the Portuguese and Indonesian Governments in which the Portuguese Government is trying to bring some help to these beleaguered people. Having us debate this and perhaps adopt an amendment could be very helpful.

As I understand it, Mr. Speaker, during the original debate, someone on the other side was going to offer an amendment and decided not to. When I learned that, I came to the floor and offered one. I had one that was in fact offered and it was at the desk that first night. We then adjourned. I later learned earlier the next day, or later the next day, that there was a rule that was coming and we had to submit, so I hastily, it is true, wrote it and submitted it. However, in fact I had had an amendment at the desk the night before. I submitted one the next day when I was told, with very little notice that it was required to do that.

The question is this: Should we be allowed to debate Indonesia? When we talked about Haiti there was great concern for democracy on the other side. Indonesia now is engaging in East Timor in the worst repression I believe that is going on in the world, a repression that is as bad as any going on in the world. However, Indonesia will be sheltered by the Republican Party from an amendment which would put some pressure on them to stop the systematic denial of the rights of the people of East Timor.

As I said, negotiations are now going on trying to deal with that, but the Republican Party is going to use its majority to keep that from even being debated. Having done that, Mr. Speaker, when they then talk about their concern for human rights and democracy elsewhere, it will seem hollow indeed, because one of the worst cases, the Indonesian repression in East Timor, will go unnoticed in this actual debate.

I would repeat, there was an amendment that was to be offered. When that was withdrawn, I hastily tried to make up for it, and they are going to repress this and protect the Indonesian autocracy.

Mr. GOSS. Mr. Speaker, I reserve the balance of my time.

Mr. HALL of Ohio. Mr. Speaker, I yield myself such time as I may consume.

I have no further requests for time, Mr. Speaker. I would simply like to say to the chairman of the subcommittee, the gentleman from Alabama [Mr. CALLAHAN], that I appreciate all the turmoil and tribulation that he has had to go through on this bill. This is a very difficult bill, it always is, and he has been accommodating. He has been a gentleman, working with both sides of the aisle very, very well. I appreciate that.

We disagree on a portion of the bill, because it has been cut severely, in my opinion. Since 1985 there has been a 40-percent cut. We are cutting it, of course, even much further this year.

□ 1100

I am going to support the bill. I am going to support the bill because of the way the gentleman from Alabama [Mr. CALLAHAN] protected the children's programs relative to immunization and relative to ORT, oral rehydration therapy, and UNICEF and the kinds of programs that really affect children.

I offered an amendment that was accepted. The gentleman from Alabama [Mr. CALLAHAN], of course, did not like it. We debated it, but I believe that it really adds to the bill.

I hope someday that maybe the gentleman from Alabama [Mr. CALLAHAN] and I can maybe travel to some of these Third World nations together and see some of these programs, some of the immunization programs and some of the basic education programs and how they really help children and families develop.

I appreciate what the gentleman has tried to do. He has had a very difficult task. I praise him certainly for the children's portion of this bill. I realize it is a difficult bill.

I have said before that I have favored structured rules and I have supported them and handled them when we were in the majority. But the other side said that this was going to be an open rule, and I praised the process of an open rule, but now we are closing it down.

There are a couple of amendments that wanted to be offered that cannot be offered. The gentleman from Massachusetts [Mr. FRANK] was going to offer, in my opinion, a wonderful amendment.

I have been, with the gentleman from Massachusetts [Mr. FRANK], and even before, a proponent of taking money away from Indonesia because of the whole situation with the island of East Timor, which used to be a Portuguese colony and was taken over by Indonesia when the Portuguese left. Out of 700,000 people that live on the island, 200,000 people have been killed, in my opinion, by the Indonesian Government and it is something that really ought to be debated.

People ask me why do we mess around with East Timor. Nobody knows about it. There is no constituency in this country. It is because of the Nation of who we are. And if we are going to give taxpayers' moneys to a country that oppresses its people, then I think we ought to take a second look at it and have a tremendous debate and we were not able to really vote on this issue.

I hope during this whole process, before the possibility of the previous question being defeated, maybe we could bring this up. Certainly, I will attempt to do that, but maybe in the Senate.

Mr. Speaker, before I close, I would urge a no vote on the previous question and if defeated, I would offer an amendment which would increase the debate time for consideration of amendments and would permit consideration of the Frank amendment, prohibiting funds to Indonesia.

Mr. FRANK of Massachusetts. Mr. Speaker, will the gentleman yield?

Mr. HALL of Ohio. I yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. Mr. Speaker, I have just been speaking to the gentleman from Wisconsin [Mr. OBEY], the ranking Democrat on the Committee on Appropriations. The gentleman tells me that someone wondered where he was and the gentleman would like it reported that where he is is in the Committee on Appropriations. Because under the way this House is now functioning, the Committee on Appropriations is meeting and the gentleman's presence is required there while the rule is being debated.

The gentleman would like to be here to object to this unfair rule, but he has been tied down by the need to be at his committee; an example of how the House is not functioning very well these days.

Mr. HALL of Ohio. Mr. Speaker, I insert in the RECORD the amendment that I would offer to the rule, as follows:

AMENDMENT TO H. RES. 177

On page 2, line 2 insert before the period "and the amendment described in Section 2 of this resolution"

"On page 2, line 5, strike "twenty" and insert "thirty"

After the period on page 2, line 24, insert the following:

"Section 2. The amendment numbered 86 printed pursuant to clause 6 of rule XXIII shall be considered as the printed amendment numbered 5 in the report accompanying this resolution to be offered by Representative Frank or his designee."

Mr. HALL of Ohio. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. GOSS. Mr. Speaker, I will be the closing speaker and I just have a few cleanup remarks I would like to make. Much of the commentary we have heard has been the subject of other debate and there is no point in hashing it over at this point.

Mr. Speaker, I think we are about 80 minutes away from ending a debate that has so far consumed 27 hours, which I point out has been some 5 hours more than the House spent debating Desert Storm back in 1991. That was probably the most important vote that I have made since I have been a Member of Congress and I am sure many other Members would feel that way.

Regarding some other points that have been made about open rules and so forth, I think it is fair to go back and we can put into the procedure, if necessary, the amendment process under the special rules by our Committee on Rules, and comparing the 103d and 104th Congresses. And yes; we argue about definitions, I know. But according to, I think, a fair and reasonable judgment, we have, indeed, had many more open rules or modified open rules in the 104th Congress.

Mr. Speaker, even I think our colleagues on the Committee on Rules on the other side have admitted that, although they feel maybe we are not doing quite as well as we hoped we would do. I think that is a subject of some debate, but I do not think it is debatable that we have not had more open rules. I think we definitely have.

With regard to the opportunity for more amendments here, I think there are probably an endless array of amendments that could come up under the foreign operations appropriation. I, certainly, had a couple of more Haiti amendments I was ready to bring out, but I think probably everybody is relieved that that has not happened, since we have already spent 6 hours on Haiti and that is probably more than enough.

With regard to East Timor, I had understood that the gentleman from Missouri [Mr. VOLKMER], the gentlewoman from New York [Mrs. LOWEY], and the gentleman from Virginia [Mr. WOLF], had all discussed this amongst themselves and had discussed this somewhat in the past and the fact that if there was a casualty on East Timor on this matter, that it is truly a casualty of the dilatory debate tactics. Because had it not been for the dilatory debate, I suspect that would have happened.

But for the record I must state that the Committee on Rules met on the 29th and filed the rule on the 29th. The rule was filed. So a day late and a dollar short, it seems to be the situation with the gentleman from Massachusetts [Mr. FRANK]. I am sorry that it happened.

I suggest that the gentleman from Massachusetts [Mr. FRANK] should talk to the leadership in the Democratic Party and the minority party about the use of dilatory tactics.

The other point, and my good friend, the gentleman from Ohio [Mr. HALL], with whom I serve very happily and proudly on the Committee on Rules, has said that we began with an open rule, and I am sorry we did not stay with an open rule. I feel exactly the same way. We did not begin with an understanding that we were going to have dilatory tactics on an entirely extraneous matter.

I do not know what the problem really was. I do not know whether it was a question of Democratic unity or whether it was a question of a Medicaid speech or whether it was a question of really the committee statistics, the standings of the committees and the Ways and Means issue. I do not know what the issue was, but it clearly was not related to the foreign operations appropriation. It was extraneous, it was dilatory, and that is a matter of record.

The fact that we have had a casualty here and had to close down I think is regrettable. I think that it is very clear where that came from and what the problem with it is.

Having said all that, I think we have done our very best to make sure that all the amendments we did know about at the time that we filed were taken care of, that were timely filed and that we felt had been discussed one way or the other. I think we have done a very fair and reasonable job.

Mr. FRANK of Massachusetts. Mr. Speaker, will the gentleman yield?

Mr. GOSS. I yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. I thank the gentleman for yielding.

Mr. Speaker, first I want to say that to say that you are sorry that the East Timor situation is a victim of dilatory tactics seems to me an example of the kind of disproportion we can get into. We are talking about repression. Hurt feelings between ourselves should not get in the way of our being able to deal with repression.

The amendment that I offered, I came to the floor during the first period of debate, found to my disappointment that people who I thought were going to offer that amendment had not offered it. I then offered it, I submitted it. It had been in fact at the desk. This is not something that just happened the morning after. As soon as I found out that that was not being submitted, I submitted it. The next day when I was told there was a rule, I submitted it again.

As far as dilatory tactics, you are only doing 20 minutes of amendments, so we could hardly have been prolonging it. I submitted it, you come out with a rule that only does 20 minutes per amendment. I do not think another 20 minutes to allow us to deal with the horrible situation of repression in East Timor would have been a problem. To say to them, "Sorry, you don't count because we're mad about dilatory tactics and we can't spare you 20 minutes," I think degrades the process.

Mr. GOSS. Reclaiming my time, I would assure the gentleman I do not believe that was the situation. I believe the Committee on Rules dealt with what they felt they knew were amendments that had been timely filed with us. We did not know what other amendments might have been out there. If there had been other amendments that might have been on the same basis as yours at the time we met, what would we have done?

Mr. FRANK of Massachusetts. If the gentleman would yield further, I filed it the night before. As soon as I was told that there was a requirement for putting an amendment in, I scribbled it out and put it in. It was not written well, but it was submitted to the committee before the committee voted. It had been submitted the night before and it was submitted again before the committee voted. I cannot do any more than that.

Mr. GOSS. Reclaiming my time, I think that the gentleman was in fact a victim of process which was derailed by dilatory tactics.

Mr. FRANK of Massachusetts. It was the people of East Timor who were the victims.

Mr. GOSS. The people of East Timor have been the victims for a long time. I agree it is a serious problem. I recognize the gentleman represents people from Portugal in his district. I understand his sensitivity. I also know that other Members of this body have dealt with the East Timor situation and reached the conclusion not to offer the amendment.

Mr. VOLKMER. Mr. Speaker, will the gentleman yield?

Mr. GOSS. I yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Speaker, the whole thing about not knowing of the amendment of the gentleman from Massachusetts, I am a little fuzzy on that. I just cannot figure this out.

The gentleman from New York stands up here and shows us a big sign that has the amendment of the gentleman from Massachusetts as it was written, has now been enlarged into a sign. I assume that means that he had that at the time.

Mr. GOSS. Reclaiming my time, the chairman did not have that big sign at the time. I think the only reason he had it is it has become sort of a cause celebre.

Mr. VOLKMER. The other thing I would like to ask the gentleman about, the gentleman mentioned on the subject of Indonesia that the gentlewoman from New York, the gentleman from Missouri, and the gentleman from Virginia had discussed it. Was the gentleman when you are talking about Missouri, were you talking about this gentleman?

Mr. GOSS. I was told that they had coordinated with you. If that is not true, then I am misinformed. In any even the gentlewoman from New York [Mrs. LOWEY] and the gentleman from Virginia [Mr. WOLF] apparently did have such an amendment.

Mr. VOLKMER. We had discussed it. I just wanted to make sure you were talking about this gentleman and not someone else from Missouri. But I also had an amendment on Indonesia that I had planned to offer. I did not, as a result of a discussion that I had with the chairman of the subcommittee, but that should not preclude any other Members if they wished to offer it.

Mr. GOSS. I agree. I think what happened clearly was there was the thought, the expectation, that others were going to offer the amendment, and it did not happen and we got into this dilatory process.

Mr. HALL of Ohio. Mr. Speaker, will the gentleman yield?

Mr. GOSS. I yield to the gentleman from Ohio.

Mr. HALL of Ohio. I thank my friend the gentleman from Florida for yielding.

Mr. Speaker, I just want to close by saying that we did really have a discussion on the Frank amendment. As a matter of fact, it was offered in committee, we had a vote on it, the vote was 6 to 3, I think it was the last vote that we took, and all 6 Republicans voted against it and the 3 Democrats voted for it. So there was a discussion. It was not something that we did not have a chance to really talk about. We discussed it and we voted on it.

Mr. GOSS. Reclaiming my time, the gentleman is absolutely right, of course. The concern we have is there were other Republicans who also said, "Look, we have got things we want to put in there, too." I just said that I had another Haiti amendment.

The line was drawn and said, what we have got is what is in; if we start opening up, then you are going to find all kinds of little notes all over this place. People have said, "I had intended to do that, had I only known." You have to draw the line somewhere. I think we drew it fairly. I think we tried to give fair treatment to the four that we have provided for in here.

Mr. Speaker, in closing I wanted to point out that there are some alarming things going on. I read the distinguished minority whip, the gentleman from Michigan [Mr. BONIOR], in the New York Times as saying about these dilatory tactics that "We're going to keep this up until we get justice." I would say that you want to be careful about justice. Sometimes when you pray for it, you get it.

I think when you look at some of the ways that we are trying to accommodate the minority, that we are doing better than in fact was the case when we were in the minority. It is something we are all aware of. We are determined to try to do better and be fairer.

If we are abused by dilatory tactics, obviously, we are going to have to take appropriate countermeasures because we have the Nation's business to attend to. I read this morning in Congress Daily, I was unhappy to read it, a statement by the minority leader, the gentleman from Missouri [Mr. GEPHARDT], that says, "We continue to be deeply concerned about the Republican leadership's attempt to stack the Ways and Means Committee."

We disposed of that yesterday. I suppose I should say I am astonished, shocked, dismayed, incredulous about the minority leader's statement, but I am not speechless about it. The fact is that the Committee on Ways and Means minority is getting better treatment under this majority than the other way around, on a percentage basis.

Mr. VOLKMER. Point of order, Mr. Speaker. The gentleman is not speaking on the rule.

Mr. GOSS. In fact I am speaking on the rule, Mr. Speaker, because what I am talking about is the rule that we have had to put in place is exactly because we have run into problems that we did not anticipate and I am sorry that we have. I am saying that the Committee on Rules will be forced to consider shutting down some of the openness of debate that we strive for and want to have to get the Nation's business done if we are subjected to meaningless, wasteful, dilatory tactics. That is just the fact.

I urge the passage of this resolution.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The SPEAKER pro tempore (Mr. DICKEY). The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. HALL of Ohio. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

Pursuant to clause 5(b)(1) of rule XV, the minimum time for electronic voting on adoption of the resolution, if ordered, will be reduced to 5 minutes.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 236, nays 162, not voting 36, as follows:

[Roll No. 478]

YEAS—236

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Farr
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Petri
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stockman
Stump
Talent
Tate
Tauzin
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Upton
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—162

Abercrombie
Ackerman
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bevill
Bonior
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (OH)
Bryant (TX)
Cardin
Chapman
Clement
Coleman
Condit
Costello
Coyne
Cramer
Danner
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Fazio
Fields (LA)
Filner
Foglietta
Frank (MA)
Furse
Gejdenson
Gephardt
Geren
Gibbons
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hamilton
Harman
Hefner
Hinchey
Holden
Hoyer
Jackson-Lee
Jacobs
Johnson (SD)
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McNulty
Meehan
Meek
Menendez
Miller (CA)
Mineta
Minge
Mink
Mollohan
Montgomery
Moran
Murtha
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Pallone
Pastor
Payne (VA)
Pelosi
Peterson (FL)
Pickett
Pomeroy
Poshard
Rahall
Reed
Richardson
Rivers
Roemer
Roybal-Allard
Sabo
Sanders
Sawyer
Schroeder
Schumer
Serrano
Sisisky
Skaggs
Skelton
Slaughter
Spratt
Stark
Stenholm
Studds
Stupak
Tanner
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Traficant
Velazquez
Vento
Visclosky
Ward
Waters
Waxman
Williams
Wilson
Wise
Woolsey
Wyden

NOT VOTING—36

Andrews
Bishop
Brown (FL)
Clay
Clayton
Clyburn
Collins (IL)
Collins (MI)
Conyers
Fattah
Flake
Ford
Frost
Hastings (FL)
Hilliard
Jefferson
Johnson, E. B.
McKinney
Mfume
Moakley
Nadler
Owens
Payne (NJ)
Peterson (MN)
Rangel
Reynolds
Rose
Rush
Scott
Stokes
Towns
Tucker
Watt (NC)
Watts (OK)
Wynn
Yates

☐ 1135

Mr. SALMON and Mr. YOUNG of Alaska changed their vote from "nay" to "yea."

So the previous question was ordered.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. WATTS of Oklahoma. Mr. Speaker, on rollcall No. 478, I was meeting with constituents and inadvertently missed the vote. Had I been present, I would have voted "yes."

Mr. VOLKMER. Mr. Speaker, I move to reconsider the vote by which the previous question was ordered.

MOTION TO TABLE OFFERED BY MR. GOSS

Mr. GOSS. Mr. Speaker, I move to lay the motion to reconsider the vote on the table.

The SPEAKER pro tempore (Mr. DICKEY). The question is on the motion offered by the gentleman from Florida [Mr. GOSS] to lay on the table the motion to reconsider offered by the gentleman from Missouri [Mr. VOLKMER].

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. VOLKMER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This is a 15-minute vote followed by a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 235, noes 167, not voting 32, as follows:

[Roll No. 479]

AYES—235

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Diaz-Balart
Dickey
Dingell
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Gilchrest
Gillmor
Gilman
Goodlatte
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Jacobs
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Petri
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stockman
Stump
Talent
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—167

Abercrombie
Ackerman
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bevill
Bonior
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (OH)
Bryant (TX)
Cardin
Chapman
Clement
Coleman
Condit
Conyers
Costello
Coyne
Cramer
Danner
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Engel
Ensign
Eshoo
Evans
Farr
Fazio
Fields (LA)
Filner
Foglietta
Frank (MA)
Furse
Gejdenson
Gephardt
Geren
Gibbons
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hamilton
Harman
Hefner
Hinchey
Holden
Hoyer
Jackson-Lee
Johnson (SD)
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Mollohan
Montgomery
Moran
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Pallone
Pastor
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pomeroy
Poshard
Rahall
Reed
Richardson
Rivers
Roemer
Rose
Roybal-Allard
Sabo
Sanders
Sawyer
Schroeder
Schumer
Serrano
Sisisky
Skaggs
Skelton
Slaughter
Spratt
Stark
Stenholm
Studds
Stupak
Tanner
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Traficant
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Waxman
Williams
Wilson
Wise
Woolsey
Wyden

NOT VOTING—32

Andrews
Bishop
Brown (FL)
Clay
Clayton
Clyburn
Collins (IL)
Collins (MI)
Fattah
Flake
Ford
Frost
Goodling
Hastings (FL)
Hilliard
Jefferson
Johnson, E. B.
McIntosh
McKinney
Moakley
Owens
Payne (NJ)
Rangel
Reynolds
Rush
Scott
Stokes
Towns
Tucker
Watt (NC)
Wynn
Yates

□ 1154

So the motion to table was agreed to.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. DICKEY). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. HALL of Ohio. Mr Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 246, noes 156, not voting 32, as follows:

[Roll No. 480]

AYES—246

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Cooley
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Montgomery
Moorhead
Moran
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Petri
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stenholm
Stockman
Stump
Talent
Tate
Tauzin
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Traficant
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—156

Abercrombie
Ackerman
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bevill
Bonior

Borski
Boucher
Brewster
Brown (CA)
Brown (OH)
Bryant (TX)
Cardin
Chapman
Clement
Coleman
Condit
Conyers
Costello
Coyne
Danner
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Eshoo
Evans
Farr
Fazio
Fields (LA)
Filner
Foglietta
Ford
Frank (MA)
Furse
Gejdenson
Gibbons
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hamilton
Harman
Hefner
Hinchey
Holden
Hoyer
Jackson-Lee
Jacobs
Johnson (SD)
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Mollohan
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Pallone
Pastor
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pomeroy
Poshard
Rahall
Reed
Richardson
Rivers
Rose
Roybal-Allard
Sabo
Sanders
Sawyer
Schroeder
Schumer
Skaggs
Slaughter
Spratt
Stark
Studds
Stupak
Tanner
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Waxman
Williams
Wilson
Wise
Woolsey
Wyden

NOT VOTING—32

Andrews
Bishop
Browder
Brown (FL)
Clay
Clayton
Clyburn
Collins (IL)
Collins (MI)
Fattah
Flake
Frost
Gephardt
Hastings (FL)
Hilliard
Jefferson
Johnson, E. B.
McKinney
Moakley
Owens
Payne (NJ)
Rangel
Reynolds
Rush
Scott
Serrano
Stokes
Towns
Tucker
Watt (NC)
Wynn
Yates

□ 1203

So the resolution was agreed to.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. DICKEY). Without objection, a motion to reconsider is laid on the table.

Mr. VOLKMER. Mr. Speaker, I object.

Mr. SOLOMON. Mr. Speaker, I move to reconsider the vote.

MOTION TO TABLE OFFERED BY MR. GOSS

Mr. GOSS. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

> Mr. Goss moves to lay the motion to reconsider on the table.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. GOSS] to lay on the table the motion to reconsider.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. VOLKMER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 248, noes 153, not voting 33, as follows:

[Roll No. 481]

AYES—248

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Boucher
Brewster
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Diaz-Balart
Dickey
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Jacobs
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Montgomery
Moorhead
Myers
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Peterson (MN)
Petri
Pickett
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stenholm
Stockman
Stump
Talent
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—153

Abercrombie
Ackerman
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bevill
Bonior
Borski
Browder
Brown (CA)
Brown (OH)
Bryant (TX)
Cardin
Chapman
Clement
Coleman
Collins (IL)
Costello
Coyne
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Doyle
Durbin
Edwards
Eshoo
Evans
Farr
Fazio
Fields (LA)
Filner
Foglietta
Ford
Frank (MA)
Furse
Gejdenson
Gibbons
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hamilton
Harman
Hefner
Hinchey
Holden
Hoyer
Jackson-Lee
Johnson (SD)
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Mollohan
Moran
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Pallone
Pastor
Payne (VA)
Pelosi
Peterson (FL)
Pomeroy
Poshard
Rahall
Reed
Richardson
Rivers
Roemer
Rose
Roybal-Allard
Sabo
Sanders
Sawyer
Schroeder
Schumer
Serrano
Skaggs
Slaughter
Spratt
Stark
Studds
Stupak
Tanner
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Traficant
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Waxman
Williams
Wilson
Wise
Woolsey
Wyden
Wynn

NOT VOTING—33

Andrews
Bishop
Brown (FL)
Clay
Clayton
Clyburn
Collins (MI)
Conyers
Danner
Fattah
Flake
Frost
Gephardt
Hastings (FL)
Hilliard
Jefferson
Johnson, E. B.
McKinney
Moakley
Morella
Myrick
Owens
Payne (NJ)
Rangel
Reynolds
Roberts
Rush
Scott
Stokes
Towns
Tucker
Watt (NC)
Yates

□ 1222

So the motion to table was agreed to.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, during rollcall votes Nos. 478, 479, 480, and 481 on H.R. 1868, I was unavoidably detained. Had I been present I would have voted "no" on all.

PERSONAL EXPLANATION

Mr. HASTINGS of Florida. Mr. Speaker, I ask that my votes on rollcall votes 478, 479, 480, and 481 be shown in the RECORD at the appropriate places as "no."

I was unavoidably detained.

Mr. RUSH. Mr. Speaker, I was not available to vote for rollcall numbers 478, 479, 480 and 481 because I was at an official meeting with the President of the United States at the White House during that time.

Had I been present I would have voted NAY on rollcall numbers 478, 479, 480, and 481.

PERMISSION TO EXTEND DEBATE TIME DURING FURTHER CONSIDERATION OF H.R. 1868, FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS ACT, 1996

Mr. CALLAHAN. Mr. Speaker, I ask unanimous consent that during further consideration of the bill, H.R. 1868, in the Committee of the Whole, pursuant to House Resolutions 170 and 177, each of the amendments printed in House Report 104–167 be debatable for 30 minutes rather than 20 minutes, equally divided and controlled by the proponent and an opponent.

The SPEAKER pro tempore (Mr. DICKEY). Is there objection to the request of the gentleman from Alabama?

There was no objection.

GENERAL LEAVE

Mr. CALLAHAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 1868, the bill about to be considered, and that I may include tabular and extraneous material.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Alabama?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 5, rule I, the Chair will now put the question on each motion to suspend the rules on which further proceedings were postponed on Monday, July 10, in the order in which that motion was entertained.

Votes will be taken the following order: H.R. 1642 denovo; H.R. 1643 denovo; H.R. 1141, denovo; and S.523, denovo.

The Chair will reduce to 5 minutes the time for any electronic vote after the first vote in this series.

EXTENDING MOST-FAVORED-NATION TREATMENT TO CAMBODIA

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 1642.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. CRANE] that the House suspend the rules and pass the bill, H.R. 1642.

The question was taken; and (two-thirds having voted in favor thereof), the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

EXTENDING MOST-FAVORED-NATION TREATMENT TO BULGARIA

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 1643.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. CRANE] that the House suspend the rules and pass the bill, H.R. 1643.

The question was taken; and (two-thirds having voted in favor thereof), the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

SIKES ACT IMPROVEMENT AMENDMENTS OF 1995

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 1141, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Alaska [Mr. YOUNG] that the House suspend the rules and pass the bill, H.R. 1141, as amended.

The question was taken; and (two-thirds having voted in favor thereof), the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

COLORADO BASIN SALINITY CONTROL ACT AMENDMENTS

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the Senate bill, S. 523.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. DOOLITTLE] that the House suspend the rules and pass the Senate bill, S. 523.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS ACT, 1996

The SPEAKER pro tempore. Pursuant to House Resolution 170 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 1868.

☐ 1228

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 1868) making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1996, and for other purposes, with Mr. HANSEN in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on the legislative day of Wednesday, June 28, 1995, the bill was considered read through page 78, line 9.

Pursuant to House Resolution 177, further consideration of the bill for amendment shall proceed without intervening motion except the amendments printed in House Report 104–167. Those amendments may be considered only in the order printed in the report, by a Member designated in the report, are considered read, shall not be subject to amendment, and shall not be subject to a demand for division of the question.

Pursuant to the order of the House of today, each amendment shall be debatable for 30 minutes, equally divided and controlled by the proponent and an opponent of the amendment.

The Chairman of the Committee of the Whole may postpone until a time during further consideration in the Committee of the Whole a request for a recorded vote on any amendment.

The Chairman of the Committee of the Whole may reduce to not less than 5 minutes the time for voting by electronic device on any postponed question that immediately follows another vote by electronic device without intervening business, provided that the time for voting by electronic device on the first in any series of questions shall not be less than 15 minutes.

☐ 1230

It is now in order to consider amendment No. 1 printed in House Report 104–167.

AMENDMENT OFFERED BY MR. ENGEL

Mr. ENGEL. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. ENGEL: Page 63, after line 4, insert the following new section:

SEC. 540A. RESTRICTIONS ON THE TERMINATION OF SANCTIONS AGAINST SERBIA AND MONTENEGRO.

(a) RESTRICTIONS.—Notwithstanding any other provision of law, no sanction, prohibition, or requirement described in section 1511 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160), with respect to Serbia or Montenegro, may cease to be effective, unless—

(1) the President first submits to the Congress a certification described in subsection (b); and

(2) the requirements of section 1511 of that Act are met.

(b) CERTIFICATION.—A certification described in this subsection is a certification that—

(1) there is substantial progress toward—

(A) the realization of a separate identity for Kosova and the right of the people of Kosova to govern themselves; or

(B) the creation of an international protectorate for Kosova;

(2) there is substantial improvement in the human rights situation in Kosova;

(3) international human rights observers are allowed to return to Kosova; and

(4) the elected government of Kosova is permitted to meet and carry out its legitimate mandate as elected representatives of the people of Kosova.

The CHAIRMAN. Pursuant to the order of the House of today, the gentleman from New York [Mr. ENGEL] and a Member opposed will each be recognized for 15 minutes.

The Chair recognizes the gentleman from New York [Mr. ENGEL].

Mr. ENGEL. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, for too long ethnic Albanian citizens of Kosova, who comprise 90 percent of the province's population, have been dominated and repressed by Serbia. Today I rise to offer an amendment which will demonstrate support for Kosova and serve America's interests by helping prevent a regional spreading of the Balkan conflict.

The people of Kosova voted overwhelmingly for the independence of their state in September of 1990 and chose Ibraham Rigova, a professor of literature, who recently met with Secretary of State Chirstopher, to be the first President of the newly declared republic. Serbia, however, has not seen fit to recognize these valid and legitimate acts of self-determination. Belgrade has prevented the new government from meeting in the capital of Pristina and strictly from meeting in the capital of Pristina and strictly controls the media and all speech.

The human rights situation in Kosova is grave and worsened with the July 1993 expulsion of international monitors according to Amnesty International and Human Rights Watch. Ethnic Albanians are denied access to education, health care, and legal process solely on the basis of their ethnicity.

I might say, by the way, Mr. Chairman, that with the events happening in Bosnia, we can say that those events will look like a tea party compared to what might happen in Kosova if Belgrade gets its way.

The security situation in Kosova is also very troubling. If Serbia escalates its aggressive behavior in Kosova the Balkan conflict may expand into Macedonia, drawing in Albania, Bulgaria, Greece, and possibly Turkey. I support statements by the U.S. Government threatening a stern American response "in the event of conflict in Kosova caused by Serbian action."

In recent months, however, negotiations with Serbia have progressed to the point where the international community has offered to ease sanctions against Belgrade if it recognize Bosnia. While this policy may produce some positive results in Bosnia, it will turn over all leverage we have on Kosova.

I fully agree with President Clinton when, on January 4 of this year, he wrote to the gentlewoman from New York [Ms. MOLINARI] and myself and said, "There are a large number of issues, including Kosova, that must be addressed before Belgrade should be freed of U.N. sanctions."

The amendment I offer today would condition the lifting of sanctions against Serbia upon improvement in human rights in Kosova. Until Milosevic, the leader of Serbia, gives Kosova the right to self-determination, ends human rights violations, allows international monitors to return, and permits the elected government of Kosova to carry out its mandate as representatives of the people of Kosova, we should not lift sanctions on Belgrade. Considering the intensified persecution of the ethnic Albanian majority in Kosova, I strongly believe that sanctions should remain in place until the situation in Kosova improves. I urge Members to support this important amendment.

I might say that the gentleman from New York [Mr. GILMAN], the chairman of the Committee on International Relations, is fully in support of this amendment. It has very deep bipartisan support.

Let me finally add, in view of the actions of the Serbs in Bosnia today which led to U.N. and NATO air strikes on them, is it any wonder that they continue to thumb their nose at the world and continue to think they can slide away from the international sanctions that have been imposed on them? We must not let this happen. I urge my colleagues to support this amendment.

Mr. HOYER. Mr. Chairman, will the gentleman yield?

Mr. ENGEL. I yield to the gentleman from Maryland.

Mr. HOYER. I thank the gentleman for yielding. I appreciate him allowing me to intervene at this time.

Mr. Chairman, I rise in very strong support of the gentleman's amendment. I have been to Kosova and Pristina, the capital. I have talked to the Serbian leadership in Kosova. They have no appreciation for human rights and no appreciation of the individuals there who have a right to practice their own religion, pursue their own culture, use their language of choice, and to enjoy the human rights which are guaranteed by the Helsinki final act.

I congratulate the gentleman from New York for this amendment, which is critical. Frankly, the Milosevic regime is a regime which has been assessed to be a criminal regime by our former Deputy Secretary of State, Larry Eagleburger. I think he was correct.

Kosova is a specific example of where the Milosevic government in Belgrade tramples upon the rights that they are pledged to protect under the Helsinki final act. We ought not to consider lifting sanctions. We ought not to consider making the Milosevic regime's life one whit better without the human rights situation in Kosova very, very substantially improving.

The CHAIRMAN. Is the gentleman from Alabama opposed to the amendment?

Mr. CALLAHAN. Yes, Mr. Chairman.

The CHAIRMAN. The gentleman from Alabama [Mr. CALLAHAN] will be recognized for 15 minutes.

Mr. CALLAHAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in opposition to the amendment. I rise in opposition more to the amendment than to the philosophy.

If this Congress is going to micromanage the executive branch of government with respect to foreign affairs, I think it is a tremendous mistake. The Constitution very clearly gives the authority and the responsibility for foreign affairs to the administrative branch of government. Congress has the right to provide or deny funds.

It seems that every time a Member of Congress, and certainly this is no reflection upon the gentleman from New York, but every time a Member of Congress travels to some foreign nation, they come back with an adopted country and they start trying to demand through legislation the direction that they want the administration to work. I think it grossly interferes with the ability of the administration to have an effective foreign policy.

I am at a distinct disadvantage on Kosova. I have never been to Kosova. I do not even know exactly where Kosova is. I know it is somewhere over near Bosnia and I know it is somewhere in the former Yugoslavia, but nevertheless I am not familiar with it.

I do not deny that there are human rights abuses there. I do not deny that we ought to be concerned about that, but I am concerned about the fact that we in Congress are beginning to be 435 little Under Secretaries of State traveling all over the world and coming back and telling the administration that you cannot do this, you should not do that.

So I am sure that the gentleman from New York [Mr. ENGEL] is very sincere in his desire to improve human rights situations in Kosova and I respect that. And I certainly want human rights protected all over the world. I want them protected here in the United States of America.

Mr. Chairman, I am opposed to it, because the administration has contacted me this morning. The Assistant Secretary of State told me that this amendment will seriously interfere with the ability of the administration to have an effective solution to the problems in Bosnia.

I have to respect the administration's decision in opposing the amendment, while at the same time respecting the gentleman's concerns about human rights violations in Kosova.

Mr. Chairman, I reserve the balance of my time, but still in opposition to the Engel amendment.

Mr. ENGEL. Mr. Chairman, I yield myself 30 seconds to answer the gentleman from Alabama [Mr. CALLAHAN].

The administration has also lobbied this Congress against lifting the arms embargo and this Congress has voted overwhelmingly on a couple of occasions to lift the arms embargo.

I do not think that the administration is proposing effective solutions at all in this area and I think it behooves us in Congress to state very, very strongly that we will not stand for human rights abuses in this part of the world. Perhaps if we had been showing a little gumption over the past few years, the Serbs would not be acting the way they are acting in the Balkans.

Mr. Chairman, I yield 2 minutes to the gentleman from Massachusetts [Mr. OLVER].

Mr. OLVER. Mr. Chairman, I thank the gentleman from New York for yielding me the time.

Mr. Chairman, this is a mild and a bipartisan amendment that I do support. It provides a little bit of protection to Kosova. If you wonder why is it that Kosova needs protection, what is the risk for Kosova? All you need do is remember Bosnia. Remember that Serbia, the last communist dictatorship in Europe, will stop at nothing in pursuit of their goal of a greater Serbia.

Remember the ethnic cleansing and slaughter of whole families in Bosnia. Remember the elected Vice President of Bosnia dragged from a U.N. vehicle and summarily shot by the Serbs. Remember U.N. resolutions for safe areas unenforced by the U.N., ignored by the Serbs.

As we speak here today, one of those safe areas, Srebrenica, is under attack. Remember the old man recovering in a hospital bed from surgery in Sarajevo who was shot by a Serb sniper. Remember the funeral processions that were bombarded; the school yard full of 10- and 11-year-olds playing soccer, bombarded by the Serbs.

Remember the women and children standing in water lines because the water had been cut off to Sarajevo. Remember the bombardments of those water lines.

When the U.N. accepts its humiliation in Bosnia at the orchestration of Milosevic, the last communist dictator in Europe, then it will be Kosova's turn. Because the Serbs, under Milosevic in Serbia, will stop at nothing to achieve Greater Serbia.

Mr. Chairman, the amendment that we have before us will not make it easier for Serbia to strangle Kosova, but it is a start by making certain that those sanctions are not lifted too early in the process. So I hope very much that this amendment will be adopted.

Mr. CALLAHAN. Mr. Chairman, I do not think we have any more speakers, because probably 90 percent of the Congress does not know where Kosova is. But, nevertheless, I do stand by my philosophy; that I think it is a very serious mistake for this Congress, or any Congress, to interfere this way in the ability of the administration to have a foreign policy.

I think that the President has selected Warren Christopher to be the Secretary of State, and I do not think we need pseudo—Secretaries of State trying to dictate policy. Although I still respect what the gentleman from New York [Mr. ENGEL] is saying with regard to his concerns for human rights, I still oppose the amendment.

Mr. Chairman, I insert the following for the RECORD:

U.S. DEPARTMENT OF STATE,
Washington DC, July 11, 1995.

Hon. SONNY CALLAHAN,
Chairman, Subcommittee on Foreign Operations, Committee on Appropriations, House of Representatives.

DEAR MR. CHAIRMAN: As the House continues its deliberations on H.R. 1868, the Foreign Operations, Export Financing and Related Programs Appropriations Bill for FY 1996, I wanted to provide you with the Department's views on the four amendments that may be offered during floor consideration and seek your support in defeating them.

While the Administration supports the goals of the Kosovo amendment, we believe its effects would be counterproductive to our efforts to achieve a regional peace settlement in the former Yugoslavia, which offers the best hope for protecting the rights of Kosovar Albanians.

It is already U.S. and Contact Group policy that some sanctions on Belgrade should remain in place until the autonomy of Kosovo is restored. However, making Kosovo the linchpin for any easing of the embargo would seriously undermine the President's ability to negotiate a regional settlement in Bosnia. Current diplomatic efforts, for example, center on the possibility of limited sanctions suspension in exchange for key Serbian concessions in recognizing Bosnia and improving the border monitoring regime.

At the same time, we are concerned that this new provision could bar the democracy promotion program in Serbia that many in Congress have been encouraging us to expand. Programs such as recent U.S. efforts to establish a democracy commission in Serbia provide an important counterweight to reactionary, anti-democratic forces that are responsible for so much of the current tragedy in the former Yugoslavia.

We object as to the amendment that would cut off assistance to Ethiopia if the government there has not made progress on human rights. In the last year, the Government of Ethiopia took a number of steps to improve its human rights practices. Procedurally fair elections were held. Several thousands persons detained without charge were released and the camps in which they were confined were closed. The concept of respect for the rule of law is gaining acceptance, and open and procedurally fair trials have begun for defendants charged with committing crimes against humanity during the Mengistu regime. Terminating aid would undercut our ability to encourage further human rights progress and would penalize ordinary Ethiopians, who are among the world's poorest people. Of $153 million in U.S. aid provided in FY 1994, $120 million was food aid, which was crucial in feeding approximately 2.5 million Ethiopians.

We also object to the amendment that would prohibit aid to the Government of Kenya because it denies its citizens the right to free and fair elections. While we share Congress' concern about Kenya's human rights record, much of our assistance is directed to projects to improve Kenya's human rights performance, including its electoral practices. Passage of this amendment would undercut our efforts to build democratic institutions and promote good governance. This amendment would undercut our efforts to build democratic institutions and promote good governance. This amendment would also adversely affect our ability to use International Military Education and Training (IMET) funds to train the Kenyan military, an apolitical force that has not been implicated in human rights abuses.

Finally, we oppose the amendment that would prohibit the availability of funds provided in the bill for the salaries and expenses of personnel implementing the Migration and Refugee Assistance Act (MRA). While the Department agrees that none of the funds appropriated for refugees should be spent on population activities, our budget request for FY 1996 proposed consolidating program funding and administrative costs into one account in an effort to simplify the management of the Bureau of Population, Refuges and Migration (PRM). An added benefit would be a reduction of Appropriations Committee oversight responsibility to one rather than two subcommittees. This amendment would divide oversight responsibility and would have the effect of cutting funding for the State Department's already strained operations by another $12 million, as PRM's administrative expenses would be borne by the Department's Salaries and Expenses account.

Thank you for considering the views we have outlined above. We look forward to continuing to work with you and your colleagues to achieve the passage of a bill which garners wide bipartisan support.

Sincerely,

WENDY R. SHERMAN,
Assistant Secretary, Legislative Affairs.

Mr. Chairman, I yield back the balance of my time.

Mr. ENGEL. Mr. Chairman, may I inquire how much time I have remaining?

The CHAIRMAN. The gentleman from New York [Mr. ENGEL] has 8 minutes remaining.

Mr. ENGEL. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, let me say most respectfully to my friend, the gentleman from Alabama [Mr. CALLAHAN], that this bill which we have previously debated all night long contains many statements in policy, which we in Congress have seen fit to put in, involving human rights violations all over the world. And, certainly, when we talk about human rights violations all over the world, Kosova ranks up there, unfortunately, with the best, or should I say with the worst.

On a trip to Kosova a couple of years ago with my colleagues, the gentleman from New York [Mr. KING], the gentlewoman from New York [Ms. MOLINARI], and the gentleman from New York [Mr. PAXON], we were all appalled at what we saw. Truly, people under occupation. And it is certainly something I think that we cannot turn a blind eye to, particularly when we are making statements throughout this bill on human rights violations all over the world.

Mr. Chairman, I might also add that we have had extensive hearings on Kosova in the Committee on International Relations, previously the Foreign Affairs Committee. We have had witness after witness from the administration tell us that they would not lift sanctions on the Belgrade regime until the human rights situation in Kosova improved.

Yet, we see a slipping back of those solemn promises made by Secretary of State Christopher and other administration officials. So I think it is very, very important at this point in time that we stand up very, very strongly, as this Congress has on this bill in many other places all around the world, and say that the United States is not going to stand for human rights violations.

□ 1245

We have witnessed the tragedy in Bosnia. We have witnessed what happens when aggression goes unchecked. We have witnessed what happens when the world turns a blind eye.

We do not want it to happen in Kosova. There are 2 million ethnic Albanians living in Kosova. They have been denied the basic principles of freedom. They do not have schools. They cannot speak their own language. They cannot do what they need to do.

People are summarily fired because they are Albanian, and there are elements in the Serbian regime that would like nothing more than to drive a million or a million and a half ethnic Albanians out of Kosova, out of the border into Albania or over the border into Macedonia and again making what happens in Bosnia look like a tea party by comparison.

I urge my colleagues to stand up. Again, the chairman of the committee, the gentleman from New York [Mr. GILMAN] is in full support of this amendment. This amendment mirrors legislation that he has, the chairman of the committee, the gentleman from New York [Mr. GILMAN], has submitted this year; the gentlewoman from New York [Ms. MOLINARI], my colleague, and I for many years have cosponsored such legislation; and other members of the committee such as the gentleman from New Jersey [Mr. SMITH] and the gentleman from California [Mr. ROHRABACHER] and the gentleman from Virginia [Mr. MORAN] have all supported this.

Mr. Chairman, I yield such time as she may consume to my colleague and friend, the gentlewoman from New York [Ms. MOLINARI].

Ms. MOLINARI. I thank the gentleman for leading the charge here today, and certainly historically, toward the betterment of the quality of life and the sanctity of life and doing all he possibly can to restore some semblance of sanity in the area called Kosova. A time when most people prefer to turn a blind eye, the gentleman from New York [Mr. ENGEL], has really been a leader in human rights in that area of the country, and I am extremely grateful.

Mr. Chairman, while the Balkan spotlight is focused on Bosnia today, a tragedy of immense proportions is happening just 120 miles southeast of Sarajevo in the Republica of Kosova.

The amendment which we offer today will address what is an urgent crisis. Serbian police terrorism, directed at the 92-percent Albanian majority in Kosova, has been skyrocketing. The Prishtina-based Council for the Defense of Human Rights and Freedoms, reported last week that during June alone 918 Albanians in Kosova were subjected to various forms of Serbian repression. Some 384 were arrested, 87 had their homes raided, 379 were subjected to arms searches, 243 were beaten with 9 requiring medical treatment after having been tortured, 62 were detained, 210 were summoned for police interrogation, all in 1 month.

Complete abrogation of human, civil, and national rights of the 2 million Albanians in Kosova have been perpetrated by the Serbs since 1989. How much longer can the Albanians live under the most brutal, diabolical form of marshal law? It started in Croatia, Mr. Chairman, it moved to Bosnia, and unless this Congress and the United States and maybe, pray God, someday the United Nations rises up against Serbian aggression in this area of the world, Kosova will be next, and we do not know where it goes from there.

Today we have an opportunity to make a very important statement against the communist Serbs that have terrorized so many innocents in that area once called the former Yugoslavia. It is happening also in Kosova. They have no friends, they have no one watching. Today we send a message that as Americans we care and we will do all that we can in this democracy to make sure that some day they may live free also.

Mr. Chairman, I urge reply colleagues to join me in supporting this important amendment which at the very least will send a strong message to the Milosevic regime: Stop the siege of Kosova.

I thank the gentleman again for leading this all important effort.

Mr. ENGEL. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. ROHRABACHER].

Mr. ROHRABACHER. Mr. Chairman, I would like to compliment my colleague, the gentleman from New York on the leadership he has provided on this issue, but also on human rights issues across the spectrum.

The fact is this is an issue that should unite Republicans and Democrats and does to the degree that Republicans and Democrats in this body are aware of the human rights abuses that are going on in this world.

What we are saying today is that we recognize that the Serbian oppression in Kosova is unacceptable and that we see what is going on and that we will view further human rights violations of these people as not only just a slap in the face of the Congress but an attack on the basic values of the American people. We represent, yes, the interests of the United States, but also the values of the United States, and we are demanding today by this resolution that the Serbian regime recognize it is dealing with people who have rights in Kosova and that they refrain from the terrible violations and the repression that has been going on with these people.

If we do not send this message, the people there will pay a horrible price, and we are on the people's side, not the repressors' side.

The CHAIRMAN. The gentleman from New York has 1 minute remaining.

Mr. ENGEL. Mr. Chairman, would it be possible to ask unanimous consent for an additional 1 minute? We have two colleagues here that would like to speak. I would like to give them each 1 minute.

The CHAIRMAN. It would be imperative that both sides have additional time.

Mr. CALLAHAN. What was the gentleman's request?

Mr. ENGEL. I would ask for an additional minute. We have two Members who would like to speak for 1 minute each, and I only have 1 minute.

Mr. CALLAHAN. I would like to remind the gentleman we have already extended debate time 10 minutes at your request, but we have got to move on with this. We have other bills.

Mr. ENGEL. Would the gentleman be able to yield an extra minute? We had a vote in the Committee on International Relations.

Mr. CALLAHAN. I have already yielded back my time. I will not object to 1 additional minute, but we are not going to continue this on. I promised the Committee on Rules if they would not object to my unanimous-consent request to extend your time limitation, that we would move through this expeditiously, so I gave up all of my time, and now, I will not object to the 1 additional minute.

The CHAIRMAN. Without objection, both sides are given 1 additional minute.

There was no objection.

Mr. ENGEL. Mr. Chairman, I yield 1 minute to the gentleman from New Jersey [Mr. SMITH].

Mr. CALLAHAN. Mr. Chairman, I yield 1 minute to the gentleman from New Jersey [Mr. SMITH].

Mr. SMITH of New Jersey. Mr. Chairman, I rise in support of the amendment offered by my friend and colleague on the Committee on International Relations, the gentleman from New York [Mr. ENGEL].

It would require the retention of sanctions currently imposed against Serbia until the Serbian Government implements specific improvements in the human rights situation in Kosova. The amendment implements the Kosova Peace, Democracy and Human Rights Act of 1995, which was introduced by the gentleman from New York [Mr. GILMAN], cosponsored by the gentleman from New York [Mr. ENGEL] and myself, among others.

The amendment recognizes the people of Kosova are a captive nation. These ethnic Albanians, who take great pride in their own history, language, and culture, have been forced to submit to a foreign rule, first by great power politics and then by a communist tyranny.

The amendment also recognizes the harsh conditions, and we have had hearings on the Helsinki Commission on this, Mr. Chairman, and it is very, very, very harsh, and they have been imposed by the Serb state.

It further recognizes that until basic justice is done, Kosova will always be a place not only of oppression but also of potential conflict.

Finally, the Engel amendment recognizes the potential of the Kosova conflict to affect relations among a large number of states, including not only Serbia but also Albania, Macedonia, Bulgaria, Turkey.

It is a good amendment. I hope the body will accept it.

Mr. GILMAN. Mr. Chairman, will the gentleman yield?

Mr. SMITH of New Jersey. I yield to the gentleman from New York.

Mr. GILMAN. Mr. Chairman, I just wanted to rise in support of the gentleman's amendment. I think it is long overdue that we take a strong stand and not lift the sanctions of Serbia until human rights in Kosova improve.

I support the amendment proposed by the gentleman from New York, [Mr. ENGEL], whom I wish to commend for his initiative. This amendment essentially mirrors language contained in H.R. 1360 which I introduced earlier this year. Ordinarily, I would oppose such a measure being attached to an appropriations bill, but I am convinced that the situation in Kosova is an extraordinary case, and requires urgent action by this body in order to ensure that in the fast-breaking events of the Balkan crisis we do not overlook the suffering of the Kosovar population.

Adoption of this amendment will help ameliorate in an important way an apparent gap in United States policy concerning the conflict in the former Yugoslavia. It will require the administration to be mindful of the deplorable situation in Kosova whose people have had their political and cultural identity brutally stripped from them by Serbian overlords. The amendment establishes a specific set of conditions aimed at restoring the political autonomy enjoyed by the people of Kosova prior to 1989. It requires the President to certify to Congress that the conditions have been met prior to the relaxation by our Government of all the U.N. economic sanctions imposed upon Serbia.

Regrettably, it has become necessary to consider this amendment at this time because the administration, while it has focused on the debacle in Bosnia, forgets that the situation in Kosova needs to be redressed before a true and just peace can be restored to the former Yugoslavia. That conflict springs from complex roots and sources, but we should not forget that the current campaign of ethnic cleansing by Serbia began in Kosova. Until the people of Kosova are again able to exercise their political, cultural and social rights, as they had when Serbia recognized the autonomous status of Kosova prior to 1989, there can be no lasting peace in the Balkans.

Accordingly, I urge my colleagues to support this amendment, and send a strong signal that the Congress has not forgotten Kosova and its long-suffering people.

Mr. ENGEL. Mr. Chairman, I yield the balance of my time to the gentleman from Virginia [Mr. MORAN].

Mr. MORAN. I thank my friend from New York and my friend from New Jersey.

I was recently in Kosova. It is an unbelievable situation. There are 60,000 paramilitary people, military officers, policemen, who are controlling 2 million Albanian Kosovans. They are controlling them in the most brutal way possible, with constant murders, beatings, rapes, wholesale thefts of property.

In fact, when President Milosevic of Serbia, who represents only 5 percent of the population, forced the withdrawal of the CSCE human rights monitors in July 1993, the incidents of beatings, rapes, and murders has gone up by 85 percent.

We went to the office that documented all of these atrocious, indescribable, brutal acts, and, you know, the police had just been there, had beaten up the staff, had stolen all the documentation. The lawyer who attempted to intervene to complain, he was visited at his apartment and bludgeoned on the head for it.

This has to change. I support the amendment very strongly.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from New York [Mr. ENGEL].

The amendment was agreed to.

The CHAIRMAN. It is now is order to consider amendment No. 2, printed in House Report 104–167.

AMENDMENT OFFERED BY MS. JACKSON-LEE

Ms. JACKSON-LEE. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Ms. JACKSON-LEE: Page 78, after line 6, insert the following new section:

SEC. 564. None of the funds appropriated in this Act may be made available to the Government of Ethiopia if it is made known to the State Department that during fiscal year 1996 the Ethiopian government has not made progress on human rights.

MODIFICATION OF AMENDMENT OFFERED BY MS. JACKSON-LEE

Ms. JACKSON-LEE. Mr. Chairman, I ask unanimous consent that my amendment be modified.

The CHAIRMAN. The Clerk will report the modification.

The Clerk read as follows:

Amendment, as modified, offered by Ms. JACKSON-LEE: Page 78, after line 6, insert the following new section:

SEC. 564. The Department of State should closely monitor and take into account human rights progress in Ethiopia as it obligates fiscal year 1996 funds for Ethiopia appropriated in this act.

The CHAIRMAN. Is there objection to the request of the gentlewoman from Texas?

There was no objection.

The CHAIRMAN. Pursuant to the order of the House of today, the gentlewoman from Texas [Ms. JACKSON-LEE], and a Member opposed will each be recognized for 15 minutes.

The Chair recognizes the gentlewoman from Texas [Ms. JACKSON-LEE].

Ms. JACKSON-LEE. Mr. Chairman, I yield myself such time as I may consume.

Let me first of all, Mr. Chairman, thank the gentleman from Alabama [Mr. CALLAHAN] and the gentleman from Texas [Mr. WILSON] for the very cooperative spirit on the trend and direction of this amendment.

Let me also acknowledge the gentleman from Georgia [Mr. KINGSTON] and the chairman of the Subcommittee on Africa for their cooperation and the spirit of support that they have given the direction of this amendment.

Likewise, I want to acknowledge the task force work that included Mr.

PAYNE and Mr. HASTINGS and the gentleman from Georgia, Mr. KINGSTON, in working with the country of Ethiopia.

For a moment let me share some background on this matter and on my concern. Certainly, I pay great tribute to a Congressperson who served in this great body and, in fact, gave his life for his concern about humanitarian needs in Ethiopia, and that is the Hon. Congressman Mickey Leland, who served the 18th Congressional District in Texas in the 1980's. His concern was that of freedom and justice, and certainly it was a concern for those who could not speak for themselves. And he repeatedly went back to the nation of Ethiopia to provide food for the children, but at the same time he wanted to extend to them his arm of help but also the understanding of the freedoms and democracy of this Nation.

Mr. Chairman, I rise to offer an amendment that strives to improve the conditions in this poverty-stricken land. It is, yes, to applaud the progress that has been made, but it is to acknowledge that we do have a moral commitment in this Nation to be able to join in with our allies and our friends and to encourage them to move toward human rights progress.

Let me also applaud Assistant Secretary of State for Africa, George Moose, for he has worked vigorously with Ethiopia, along with Ambassador Hicks, and the emphasis that we had in discussing this amendment was to emphasize we wanted to have the country of Ethiopia move forward, to improve its stand greatly after the massive periods of starvation and civil war.

There is much more to be done, Mr. Chairman, and my amendment proposes to encourage the government of Ethiopia, throughout the State Department, to continue its progress toward human rights for the citizens of Ethiopia.

This amendment is the best of all worlds. It moves Ethiopia along toward a path of self-sufficiency and a period of fairness for all of its citizens. Ethiopia has just completed a period of transitional government and recently held elections. Though the elections were not elections without incident, they were elections nonetheless.

Ethiopia is moving on the path, and the right path, and I am proposing that we help ensure Ethiopia's continued growth by encouraging a greater attention to human rights by this new and fledgling government.

Are we trying to dictate foreign policy? No, we are not. What we are simply trying to do is to be a partner in this movement toward human rights progress. Is it not the right and the role of those of us who would argue and speak for human rights in this nation to be able to join in with our friends, yes, our friends, and encourage their progress?

Mr. GILMAN. Mr. Chairman, will the gentlewoman yield?

Ms. JACKSON-LEE. I yield to the gentleman from New York.

Mr. Chairman, I just want to rise to join with the gentlewoman from Texas to praise the modification of her amendment, and I think that her proposal of monitoring what is going on in Ethiopia will be extremely helpful, and I thank the gentlewoman for working on this amendment so that it has language we can all agree upon.

Mr. Chairman, I join with the gentlewoman from Texas to praise the modification of her amendment.

Ethiopia represents an enormous humanitarian challenge. From 1984 to 1991, we spent over one billion dollars on disaster relief for Ethiopia. Famines in 1984 and 1990 killed thousands of Ethiopians. All of this occurred while Ethiopia was ruled by one of the most brutal communist dictatorships in the world.

Today, Ethiopia faces a structural food deficit. Millions of Ethiopians are dependent on the international community—particularly the United States—for food and basic services.

Fortunately, the current government in Ethiopia is actively assisting us in these humanitarian efforts. This is a vast improvement from previous regimes which actively opposed our relief efforts and used starvation as a weapon against its domestic opponents. Our assistance program in Ethiopia must be seen in this context.

The Government of Ethiopia does not measure up to our high standards of democracy, human rights and economic reform. The largest ethnic groups in Ethiopia have not been sufficiently included in the government, and the ruling party often uses coercion to manipulate the political process.

The concerns must be addressed, but I believe they are best addressed by a close relationship between the Government of Ethiopia, which has shown remarkable competence in other areas, and the United States, which provides the bulk of humanitarian assistance.

Mr. Chairman, I now support this amendment and commend the gentlewoman for the modification of the amendment.

Ms. JACKSON-LEE. I thank the gentleman so very much for your very kind words. Let me also pay tribute to you for the hard effort that has been made toward human rights throughout this entire world on behalf of those who believe in those issues.

If I might finish and conclude, Mr. Chairman, my remarks, I would hope, as we move in friendship with Ethiopia, affirming again the progress but looking toward more progress, we will see prospectively an integrated military, we will see future elections that will come voluntarily, free and open, all political viewpoints will be heard, as we know they are moving toward, and, yes, we would hope that political prisoners whatever their perspective, that they will come out in freedom but as well in support of an administration and regime that supports human rights.

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As we move toward human rights, we hope the trade unions will be recognized, and its members should not be subjugated. We want the action commissions to be supported in their dissent and also the journalists.

Mr. Chairman, I do not propose to bring about overnight change for the people of Ethiopia. However, I wish to support the current process of democratization in Ethiopia and empower its citizens through free speech, recognition of human rights, and the diversification of the military. I urge my colleagues to join me in support of the people of Ethiopia and the continued growth of their nation.

Let me also thank my esteemed colleague, no longer with us, the honorable Congressman Mickey Leland, for his service to human rights and his commitment to human rights as his life exemplified through the time he served in Congress.

Mr. CALLAHAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, two of the three remaining amendments, ironically, are amendments that impact a possible cut to aid in Ethiopia and to Kenya, two nations in Africa. I find that rather amusing, but let me compliment the gentlewoman from Texas.

I chastised this House a few minutes ago about Members of Congress becoming pseudo-Secretaries of State, and travelling all over the world, and coming back here and dictating policy to the administration. I explained my philosophy about the lessons that civics teaches us—that the executive branch has the authority and the responsibility for foreign policy, apart from appropriations.

The gentlewoman's amendment does not dictate to the administration. She has a legitimate concern that she has brought here, and she wants to make certain that the administration hears her message. In her amendment she states that the State Department should closely monitor and take into account human rights progress in Ethiopia.

Mr. Chairman, that is what the Congress should do. We should give these types of messages when we have a concern, but, at the same time, not dictate policy, and recognize that the administration has to weigh all of the involvements of all the nations in the world in determining their policy.

So, I am not going to object to the amendment, Mr. Chairman, because she has corrected it with her modification.

Ms. JACKSON-LEE. Mr. Chairman, will the gentleman yield?

Mr. CALLAHAN. I yield to the gentlewoman from Texas.

Ms. JACKSON-LEE. Mr. Chairman, I appreciate the gentleman's yielding, and I thank him so very much for both his cooperative spirit and the direction that I think speaks well of this entire body.

Mr. Chairman, if the gentleman would yield to me, I would appreciate having the opportunity to yield to the gentleman from Florida [Mr. JOHNSTON] on this matter for 2 minutes.

Mr. CALLAHAN. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Texas [Ms. JACKSON-LEE] to do whatever she wants to do.

Mr. JOHNSTON of Florida. Mr. Chairman, will the gentlewoman yield?

Ms. JACKSON-LEE. I yield to the gentleman from Florida.

Mr. JOHNSTON of Florida. Mr. Chairman, I do appreciate the gentleman and the gentlewoman yielding this time to me.

Mr. Chairman, I have probably been the most severe critic of Ethiopia and, on the next one, Kenya, under human rights. Last year I visited both countries, spoke to President Moi at length of Kenya, spoke to President Meles at length in Ethiopia. Also, I met with President Meles here in Washington last year and tried to go over the items that I am sure the gentlewoman from Texas [Ms. JACKSON-LEE] has already enumerated.

I will say this though in Ethiopia: Everything being relative, if you check what happened in the Mengistu regime versus what has happened in the Meles regime, it is light years advancement there. No. 2 is Ethiopia has helped tremendously in our conflict in Sudan, and has intervened there, and has shown that they would like to come into the community of nations.

There is a task force that has met with the opposing parties in Ethiopia, in Washington here, in the early winter, in which the State Department, and the Carter Center, and myself, and Congressman HASTINGS met with these parties for 3 days, and I think we are about to arrive at a breakthrough there in which human rights will be observed better than it has been in the past, and I look forward. I appreciate the gentlewoman's understanding here in her ability to come to, I think, an excellent compromise with the State Department, with AID, and with the other factions, and I strongly support the bill.

Mr. Chairman, again I congratulate the gentlewoman on the fine work she has done.

Mr. CALLAHAN. Mr. Chairman, I yield back the balance of my time.

Ms. JACKSON-LEE. Mr. Chairman, I yield myself the balance of my time.

The CHAIRMAN. The gentlewoman from Texas is recognized for 1 minute.

Ms. JACKSON-LEE. Mr. Chairman, I will not use all of that; simply I want to conclude by thanking all of those who have had the opportunity to work on this bill and to thank the gentleman from Florida [Mr. JOHNSTON] and his work in the task force and to affirmatively firm up the position that we take, and that is for human rights and for the support of Ethiopia moving and making progress in human rights.

Mr. BURTON of Indiana. Mr. Speaker, Ethiopia is one of the real bright spots in Africa.

I firmly oppose the Jackson-Lee amendment on Ehtiopia which would send a very bad signal throughout Africa. It is completely superfluous, as the State Department already monitors human rights all over the world.

As former ranking minority member on the Subcommittee on Africa, I had occasion to follow the situation in Ethiopia very closely. The current Government liberated Ethiopia from Mengistu, who was Africa's Hilter and Stalin rolled into one. They deserve a chance to continue to build Ethiopian democracy which is exactly what they have been doing for the past 4 years.

In that short time, this Government has: Ended the war; ended the famine; instituted free markets; and instituted freedom of the press and other democratic institutions.

They are not perfect, but under the leadership of President Meles, one of the most dynamic young leaders in the world, they have made an excellent start.

They deserve our support.

The CHAIRMAN. The question is on the amendment, as modified, offered from the gentlewoman from Texas [Ms. JACKSON-LEE].

The amendment, as modified, was agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 3 printed in House Report 104–67.

AMENDMENT OFFERED BY MR. VOLKMER

Mr. VOLKMER. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. VOLKMER: At the end of the bill, add the following new section:

SEC. . None of the funds appropriated in this Act may be made available to the Government of Kenya already known to be a country which denies its citizens the right to free and fair elections as identified in the Department of State Country Reports on Human Rights Practices. *Provided*, That this section may be waived if the President determines such waiver is in the United States national interest.

The CHAIRMAN. Pursuant to the order of the House of today, the gentleman from Missouri [Mr. VOLKMER] and a Member opposed will each be recognized for 15 minutes.

The Chair recognizes the gentleman from Missouri [Mr. VOLKMER].

Mr. VOLKMER. Mr. Chairman, I doubt very much if we will take the full 15 minutes on this side, but, as we look at the world in which we live, it is we in this country who enjoy the liberties of a democratic society, and under our Constitution, and we try to provide that same type of freedom throughout the world for other peoples and re-review what is going on in other parts of the world, in other countries, and we have some reservations about the democratization process that is evolving in those countries, and at the same time we are asking our taxpayers to provide funds to those countries even though the people, many of them, do not have the freedoms that we believe that they should enjoy.

One of the main reasons I say that I offer to develop this amendment on Kenya, and we can do it on Indonesia and several other countries in the world, is that early on in debate on this bill we had an amendment up concerning a very small Caribbean nation of Haiti, and, as a result of that, we had a long discussion, about 6 hours, on the democratization process that is ongoing in this small nation, a few people, and it just started, and yet we can look around the world, as I have done, and I find that we have a process, been ongoing for a longer period of time, that is not near the part and the place where it is in Haiti, and yet no one on this committee, no one in this Congress, not one person, has offered to say, "Hey, we should cut off aid unless such and such is done."

So for that reason I decided that since, in my observation, we have severe human rights violations in Kenya, that I would offer the amendment that would stop the development assistance and the military aid to the country of Kenya because of the violations that are occurring and continue to occur. Even under the constitution of Kenya one would think otherwise.

They are, I will agree, in Kenya; they have some improvement in human rights, but I think they have a long way to go. We still have serious human rights problems persisting there. The government continues to intimidate and harass those opposed to the government party, the Kenya Africa National Union known as KANU. These actions included violations of civil liberties like freedom of speech, freedom of press, assembly, and association in an attempt to silence critics. Security forces continue to arrest and temporarily detain opposition parliamentarians and journalists. They also harassed voters in several by-elections and have broken up lawful public gatherings.

The arrest of 15 opposition members of parliament after they brought relief supplies to a displaced persons camp; the government characterized the trip as an unlicensed meeting in which they uttered words calculated to incite the public against the President, President Moi.

As my colleagues know, the League of Women Voters attempted to hold a seminar in Kenya, and approximately 100 armed police chased participants from the place by beating them with clubs. Freedom of assembly is provided in the constitution, but is seriously limited by the Public Order Act which prohibits unlicensed meetings of 10 or more persons without an approval from the district commissioner, and the government denied the right to assemble by not granting the permits.

As my colleagues know, the Kenya citizens theoretically have a right to change their government through free and fair elections if they have free and fair elections. But their ability to do so is yet to be demonstrated fully. Their presidential and parliamentary election in 1992 were marked by violence, intimidation, fraud, other irregularities, but opposition candidates still won 63 percent of the vote. Diplomatic observers have viewed the 10 by-elections that have been held in 1994 as generally more free and fair despite some minor irregularities, however the government continued to harass and intimidate the political opposition.

The President, Moi, exercises sweeping powers over the local political structure as well as the National Assembly, and the KANU Party he heads controlled 118 out of the 200 National Assembly seats even though the opposition got 63 percent of the vote.

The President appoints both the powerful provincial and district commissioner, as well as a multitude of district and village officials. At the district and village level these political parties are responsible for security as well as disbursement of Federal development funds. At the national level a constitution authorized the President to dissolve the legislature and prohibits assembly debate on issues under consideration by the courts, and this very interesting:

This law, in conjunction with the Speaker of the Assembly's ruling that the subject of the President's conduct is inappropriate for parliamentary debate—reminds me a little bit of this place—has severely limited the scope of deliberation on many controversial political issues.

Members of the Parliament are entitled to introduce legislation, but in practice it is the attorney general who does so. As the head of the KANU, the President also influences the legislative agenda. He has also bolstered KANU's majority by acting on its constitutional authority by appointing 12 members of Parliament.

Three opposition parties, the Democrat Party, the FORD-K, and the FORD-A, hold the majority of the opposition's 82 seats. KANU used a variety of pressure tactics—and I would like for the gentleman to listen to this one—used a variety of pressure tactics to entice opposition, Members of Parliament, to defect to KANU, and by year's end six opposition Members of Parliament had done so. As a result, there were 10 by-elections including 2 forced by the death of 2 members of Parliament.

During the seven by-elections held in June, last year, there were credible reports that government and KANU officials bribed voters, purchased voters' cards, forcibly removed an election observer from a polling station. There was also violent incidents at public rallies prior to the June elections involving both opposition and KANU's reporters. Street skirmishes between supporters of contending parties also broke out on the day of two by-elections in October. A U.S. Embassy observer witnessed an assault in front of a polling station on a FORD-A candidate, who was later hospitalized. The assailant, who struck the candidate to the ground with repeated blows as armed police looked on, came to the polling station in a convoy of vehicles escorting the KANU Secretary General.

I wonder what President Moi has to say about that following the announcement of October's election results in which two opposition candidates won parliamentary seats. Fights again erupted resulting in the death of at least six people.

Another round of by-elections were held in January 1995—were to be held following the high court's decision in November that nullified opposition majorities, victories, in two 1992 parliamentary elections.

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It appears that in Kenya, if you do not win at the ballot box, then they control the supreme court and you will win there and get rid of the opposition that way. The court overturned the result of one election because the opposition winner had allegedly administered tribal oaths to supporters, although the decision was based on contradictory testimony given by witch doctors.

Although there are no legal restrictions on participation of women and minorities in politics, the role of women in the political process, nonetheless, remains circumscribed by traditional attitudes. In 1994 there were six female members of parliament, no female cabinet ministers, and one female assistant minister. Within the political opposition, women figure most significantly in the Democratic Party, where 25 percent of the party's national office holders are women.

Mr. CALLAHAN. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from Alabama is recognized for 15 minutes.

Mr. CALLAHAN. Mr. Chairman, I yield 2 minutes to the gentleman from Missouri [Mr. EMERSON].

Mr. EMERSON. Mr. Chairman, I thank the distinguished chairman of the subcommittee for yielding time to me.

Mr. Chairman, I rise to strongly urge my colleagues to vote against the Volkmer amendment. I want to address the issue raised in this amendment by speaking primarily from experiences I have personally gained through my involvement with our programs providing basic humanitarian assistance.

This amendment is counterproductive. In my judgment, it does not honor what has been a long-standing and supportive relationship between the governments of Kenya and the United States.

Speaking from personal experience, I recall having first met President Moi during a 1984 trip with the late Mickey Leland to address the famine relief operations in drought-stricken Ethiopia. Moi and his government were entirely responsive to our requests that relief into Ethiopia be headquartered in Kenya. It was my experience then, as it has been consistently since, that President Moi and his Government, for over a decade, have provided first-rate cooperation in meeting the requests of the humanitarian community, in including ours, as it mounts emergency relief operations within the Greater Horn of Africa.

As many of my colleagues concerned with humanitarian issues know, almost all national and multinational humanitarian relief organizations working in the region have retained their headquarters in Nairobi for many years. Kenya consistently has welcomed the humanitarian community and has afforded it the necessary political environment as well as dependable communication and logistical capabilities needed to do its work. Our operations providing emergency food and basic medical care in Somalia and to the refugees of Rwanda have all been headquartered in Nairobi.

Many of you are aware of Operation Lifeline Sudan through which the United Nations has airlifted food relief into southern Sudan to the victims of the decades-long Sudanese civil war. Begun in 1989, this life-sustaining operation could never have been possible, not to mention sustained, if Kenya had not consistently granted permission to the U.N. to base its operations within Kenya at a place called Lokichokio, just inside its border with Sudan. The border proximity of Lokichokio has made an airlift viable in terms of cost and flying conditions. With Kenya's unfaltering help, thousands of Sudanese lives have been saved.

Kenya has demonstrated its commitment to being a responsible member of the international community in other ways as well. For example, Kenya is the second largest contributor of peacekeeping troops in Africa, after Ghana. Kenya peacekeeping troops continue to assume significant roles in Iraq and Bosnia.

We must give full measure to the fact that Kenya has been a staunch supporter of the United States. For over a decade, with no questions asked, Kenya has always agreed to United States military requests to use Kenyan airports, roads, and port facilities. Specifically, during the Persian Gulf war, Kenya provided important logistical support to the United States military, and kept its critical facilities opened to support our military operations, with no questions asked.

This amendment aims to punish Kenya. Yet, to my mind, Kenya has been and continues to be one of the most valuable United States allies in Africa.

I am particularly concerned about the potential consequences of the Volkmer amendment because it comes at a time when we currently are renegotiating the access agreement. How irresponsible our Government would appear should we pass the Volkmer amendment while in the same breath request Kenya to continue to allow our military their free access to its ports, airports, and roads which it has enjoyed for more than a decade. It is incredibly irresponsible for such a proposal to even be put under floor consideration.

This amendment alleges that Kenya denies its citizens the right to free and fair elections. Yet, the facts show that Kenya is one of a handful of countries in Africa that kept a relatively open political system in an era where most countries opted for Marxism and Leninism. Since gaining independence in 1962, Kenya has held competitive elections six times, a record very few African countries can match.

In the recent 1992 general elections eight candidates competed for the presidency. President Moi won because the opposition was unable to unite behind one candidate and was deeply divided along ethnic lines. These opposition parties are now actively engaged in Kenya's parliament. And, I contend that our aim should be to encourage these opposition parties in their reform efforts rather than attempting to punish the entire country through a distorted review of an election which is by now 3 years old.

I say we should be supportive of such a strategic ally as Kenya has consistently been to us. Rather than punish her unfairly by threatening to cut this modest amount of $18 million aid, I urge this body to properly evaluate our long-standing and significant relationship with Kenya. Far better that we do not vote to diminish our valuable relationship with Kenya by inaccurately inflicting a punishment or threatening the embarrassment of requiring a presidential waiver. Rather, our vote should be to clearly support an even more active relationship, promoting more direct involvement both politically and economically, between our two countries.

I strongly urge my colleagues to vote against the Volkmer amendment.

Mr. CALLAHAN. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. WILSON], the ranking member of the subcommittee.

Mr. WILSON. Mr. Chairman, I rise in strong opposition to this amendment.

Mr. Chairman, I would point out to all of my colleagues that the subcommittee has already cut assistance to Africa in general by 50 percent. That will, of course, affect Kenya. The gentleman's amendment relates human rights to the ability to receive funds in Kenya, and I submit that is a standard that could not be met by many other countries in Africa, and, indeed, many countries around the world.

I would add to what the gentleman from Missouri [Mr. EMERSON] said about Kenya being an important staging area for humanitarian relief into other countries in Africa, and certainly it has been an important staging area for our operations in Somalia, as well as other African countries. Mombasa is a very important logistics center for the United States.

We should continue to work with Kenya to improve its human rights record, but certainly this is an ill-advised amendment. We should not sever relations. We should certainly not have the funding cut off at this time.

Mr. CALLAHAN. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from New York [Mr. GILMAN], the chairman of the Committee on International Relations.

Mr. GILMAN. Mr. Chairman, I join with the gentleman from Alabama, Chairman CALLAHAN, in opposing this amendment.

Nevertheless, I am sympathetic to the concerns expressed by Mr. VOLKMER. The Government of Kenya's respect for human rights is, at best, erratic. Lately, the use of ethnic clashes—encouraging violence between different ethnic groups—has been a sad characteristic of the Moi regime. Under President Moi, the Government of Kenya has repressed political activities, the freedom of speech and other basic civil rights. This is the inevitable result of a government that does not have the support of a majority of the population.

But we must also look at the positive side of Kenya. For all of its faults, the Moi government held elections in 1992. But for the division of the opposition into competing parties, there would be a different government in Kenya today. In addition, Kenya has made a number of important and difficult economic reforms that we and other donor nations have encouraged.

Our assistance program reflects both the good and the bad in Kenya. Permit me to remind the gentleman from Missouri [Mr. VOLKMER] that in response to human rights abuses, we have reduced our assistance from $34 million in 1990 to $18 million next year. This level of assistance allows us to remain engaged in Kenya and to help bring reformist elements to the fore.

Mr. Chairman, the United States has had a strong bilateral relationship with Kenya for many years, including during the cold war. We have cooperated with Kenya on a number of issues, from military base rights to humanitarian relief efforts in the Horn of Africa. While Kenya's human rights record has deteriorated recently, I do not believe that we should disengage from Kenya at this time. Kenya has strongly supported our Navy's deployments to the Persian Gulf and for that I must oppose the Volkmer amendment.

Mr. CALLAHAN. Mr. Chairman, I yield 2 minutes to the gentleman from Florida [Mr. JOHNSTON].

Mr. JOHNSON of Florida. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I want to compliment the gentleman from Alabama [Mr. CALLAHAN]. I went to him 2 weeks ago at the conclusion, when we buttoned down then, and told him what an incredible job I thought he and the ranking member were doing under a lot of strain here. The gentleman felt it ironic that two out of four amendments were cutting Africa. I felt it ironic that the Committee on Rules authorized only four amendments, half of which cut money from Africa.

I have visited Kenya, talked to Moi. The election in 1992 was not perfect, but it at least gave them a chance to vote there. In Nairobi I had an opportunity to meet all the factions in southern Sudan which were killing each other down there. It was set out by the Kenyan Government there.

I strongly oppose the amendment proposed here, for a lot a different reasons, but the government has started auditing their banks and things of that nature. While I was there they closed down one of the newspapers. They allowed me to approach and talk to the attorney general of that country and complain.

The gentleman from Missouri, Mr. EMERSON, and the ranking member, the chairman of the committee, Mr. GILMAN, mentioned the fact of what we did in Somalia through Kenya. I visited a refugee camp in Mombasa, where there were 50,000 Somalians, and they were principally there at the behest and at the consent of the Kenyan Government.

The Development Fund for Africa does not spend that much money in this country, and there was already a cut to $18 million from $34 million. Finally, I would like to point out that only 6 percent of the money goes to the government. The rest of it goes to NGO's and PVO's. And I strongly recommend that we seriously consider our future in this country, the fact that it has helped us in the adjoining countries, and the fact they are making some progress, though small I would admit, but I think they are making some progress. To cut them off now I think would be counterproductive.

Mr. Chairman, I strongly oppose the amendment.

Mr. CALLAHAN. Mr. Chairman, I yield myself such time as I may consume. I also am opposed to the amendment.

Mr. Chairman, let me start off by saying that everyone in this Chamber and everyone in this Congress, if not everyone in this country, is concerned about human rights violations throughout the world. Some come before us and talk as if we are not concerned about that when they offer these amendments.

Let me assure you that we are all just as concerned as the gentleman from Missouri [Mr. VOLKMER] about the possibility of any human right violations anywhere. So this is not the issue. The issue is whether or not we are going to tell Kenya that we disagree with what they have been doing with respect to improving the position of human rights violations.

Mr. Chairman, let me say that the Department of State has contacted me as late as this morning and they say to me, "We object to the amendment that would prohibit aid to the Government of Kenya because it denies its citizens the right to free and fair elections. While we share Congress' concern about Kenya's human rights record, much of our assistance is directed to projects to improve Kenya's human rights performance, including its electoral practices. Passage of this amendment would undercut our efforts to build democratic institutions and promote good government. This amendment would also adversely affect our ability to use international military educational training funds to train the Kenyan military as a political force that has not yet been implicated in any human rights violations there."

So let me just say there is going to come a time in the future when we need Kenya once again, when we are faced with a situation like in Rwanda or Somalia, and we are going to have to utilize the bases and help that Kenya provides to the United States and to other areas that are just as concerned about human rights violations as the gentleman.

Mr. Chairman, let me also say that this money, most of this money, that is not earmarked but that would be approved for Kenya, does not go to the Government of Kenya. It goes toward the humanitarian needs of the people of Kenya.

So while I appreciate where the gentleman is coming from with respect to his concerns of human rights, this is not the issue. I certainly take a back seat to the gentleman with respect to his knowledge of international affairs. I know that he is well informed and well read on that. I know of his personal concerns about Kenya. But I would respectfully submit once again that the gentleman go back to basic civics and understand that the people of this country elected President Clinton as President of these United States.

I did not vote for him, but he is my President, and the Constitution tells to the President, you select the Secretary of State that you think is the best person to run all of our international affairs, all of our foreign policy. He selected Mr. Christopher, and I think Mr. Christopher has done a tremendous job. I am a great admirer of his.

So I did not vote for the President, thus Mr. Christopher would not have been there if my candidate had won. But we have a responsibility to the President because he is the President of the United States, and the charge that the American people have given him includes an effective and humanitarian foreign policy. I think he is doing the best he can do, and I think to hamstring him further will be a tremendous mistake.

So I would respectfully request that we vote against this amendment, that we adhere to the request of the President and we adhere to the request of the Secretary of State, and recognize that we are also helping the people of Kenya.

Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. ACKERMAN].

Mr. ACKERMAN. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I regrettably rise in strong opposition to the amendment offered by my good friend and colleague, the gentleman from Missouri [Mr. VOLKMER]. Simply put, this is an unhelpful amendment proffered at the wrong time. While I can understand the gentleman's motivations, I certainly cannot agree with the approach.

Yes, Kenya's human rights record is blemished. Yes, democratic principles have not completely taken root there. And, yes, they have a long way to go before they achieve a full-fledged free market economy. Yes, we must continue to work to improve the situation there. However, by adopting this amendment, we will do serious damage to the important relationship between the United States and Kenya.

In the past few years we have seen unsteady progress in human rights, but in a telling sign, the press has remained sufficiently free, and that has been a consistently critical voice of dissent against the government. Whereas in years past we have overlooked Kenya's human rights violations, as we did similarly with other countries in order to keep their support during the cold war, we no longer tolerate these violations.

In fact, our assistance program has built in performance-based budgeting systems, and aid to Kenya has actually decreased over the past several years. Not only has development aid to Kenya dropped from $34 million in 1990 to $18 million today, but only 6 percent of this aid now goes through government channels.

There is no doubt that Kenya still has a long journey toward fulfilling democratic principles and we should continue to press for improvements in individual freedoms and human rights, but we must also keep in mind our overall relationship and Kenya's key role in the region as well as the loss of influence which will occur if we eliminate all government-to-government aid.

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I stand prepared to work with the gentleman from Missouri [Mr. VOLKMER] in pressing for future and further reforms, but cutting off all aid to this government would eradicate the remaining lever we have preserved through a very small amount of aid, 6 percent of our DFA funding which is funneled through the government.

I urge our colleague to consider withdrawing this amendment. And in the absence of that, I urge its defeat.

Mr. CALLAHAN. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. VOLKMER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I think that everybody should read the amendment because the opponents talks like we are cutting off all aid. The gentleman from Alabama, he is correct, I agree with him completely, that the President should run the foreign policy. I think we should have some input into that, but basically it is up to the administration to do so.

The amendment, the last phrase of the amendment says, "This section may be waived if the President determines such a waiver is in the United States national interest."

I do not see how you can make it anymore easy for him to say, no, we are not going to do this. That is all he has to say. So it really does not really cut off anything, as long as the President says we need to do it. I think that is probably what the President would do.

Basically what this amendment is attempting to do, and I think the gentleman from New York and maybe the gentleman from Florida really caught it better than anybody else, I am just trying to tell President Moi, the people of Kenya, especially the Kanu party, that, hey, let democratization take place, that as we have shown in this country, you do not have to have one party rule for the rest of your life for a country to survive, for a country to persevere.

As long as the people of the country work within the constitution that provides for a process in which you have a government continuation, as we have in this country, they could have the same thing in Kenya and other places in the world, that you do not have to use physical force and violence perfected by the Government and controlled to stymie, to stifle opposition. That you should actually, for the good of the country, permit that opposition to speak, to be able to gather, to be able to discuss, to be able to vote, to elect whoever they want to elect. That is up to them to decide. That is the voters' choice and the voters should be supreme in any nation as they are in this Nation. That is basically what I am trying to send a message.

I know that the country of Kenya has done well, as far as facilitating the supplies that are necessary for humanitarian relief in that part of Africa. I want to commend them on that. I want to thank them for that. But I want to tell them also, hey, wake up. President Moi, you do not have to be president forever. You are not going to be forever. I will guarantee you, you will not be forever. Somebody else is going to be president. Why do you not make it so that when that transition does come about that there is not the big breakup within the country as we have seen in other countries where one person tries to be the strong man and control it all himself. I think that you should be able to say, hey, there is somebody else in this country that can do this job, too.

Mr. JOHNSTON of Florida. Mr. Chairman, will the gentleman yield?

Mr. VOLKMER. I yield to the gentleman from Florida.

Mr. JOHNSTON of Florida. Mr. Chairman, this is a friendly observation, and I thank the gentleman for yielding to me.

In the previous amendment on Ethiopia, I made a commitment to the gentlewoman from Texas [Ms. JACKSON-LEE] that I hoped to be in Ethiopia and in Kenya in 3 weeks and that I would hand deliver a letter jointly by her and me to President Meles. I would make the same commitment to the gentleman that he and I sit down and draft out a letter to President Moi, which I will hand deliver to him, giving him my concerns but principally the gentleman's concerns.

Mr. VOLKMER. Mr. Chairman, I thank the gentleman very much. I will be glad to do it.

Mr. Chairman, I ask unanimous consent to withdraw the amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Missouri?

There was no objection.

The CHAIRMAN. It is now in order to consider amendment No. 4 printed in House Report 104–167.

AMENDMENT OFFERED BY MR. SMITH OF NEW JERSEY

Mr. SMITH of New Jersey. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. SMITH of New Jersey: Page 20, line 25, strike the semicolon and all that follows through "Code" on page 21, line 5.

Page 21, line 7, strike the final comma and all that follows through line 9 and insert the following:

: *Provided*, That none of the funds appropriated under this heading shall be available for salaries and expenses of personnel assigned to the bureau charged with carrying out the Migration and Refugee Assistance Act.

The CHAIRMAN. Pursuant to the order of the House of today, the gentleman from New Jersey [Mr. SMITH] will be recognized for 15 minutes, and a Member opposed will be recognized for 15 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. SMITH].

Mr. SMITH of New Jersey. Mr. Chairman, I yield myself such time as I may consume.

This amendment is designed to achieve several simple but important goals. First, it erects a firewall to ensure that money in the refugee assistance budget will be used for protecting refugees, not for general operating expenses at the State Department, which are adequately funded elsewhere.

Second, it avoids a back-door $12-million cut in the refugee assistance budget. We were very proud, in the Subcommittee on International Operations and Human Rights, to have been able to hold a few programs level with last year. One of those was child survival. And I am very pleased that the Subcommittee on Foreign Operations, Exporting Financing and Related Programs of the Committee on Appropriations has likewise looked to protect this important program. Another was refugee assistance. It was not easy, and I think we all know in these times of deficit reduction, holding anything harmless is very, very hard. But it was done.

Third, my amendment would avoid a corresponding $12-million back-door increase in the general operating budget for the State Department for which, again, we have authorized adequate funds. There is no need for the State Department to raid the refugee budget to pay its operating expenses. It already has $2.1 billion in the two largest operating accounts alone.

Under current law, the PRM Bureau gets its salaries and expenses from these accounts just like every other bureau in the State Department. The State Department operating accounts have not taken the steep cuts that the operating budgets of USIA or AID and other agencies have taken.

Finally, the refugees really do need the money more than the bureaucrats.

Let me cite three examples. In the current fiscal year at the height of the Rwanda refugee crisis, UNHCR found it necessary to reduce food rations in the camps that were holding Rwandan refugees. This was because the World Food Program had run out of food. The UNHCR said it had no money to pay for the food program, in large part because the State Department said there was not enough money in the refugee account to make a contribution for this purpose.

Surely an extra $12 million, perhaps even a smaller amount, would have made it unnecessary to cut those rations.

In Thailand, the State Department decided to shut down an English-language school for the Hmong refugees in order to save money. This will make it more difficult for these refugees to assimilate in the U.S., if they are resettled here. Shutting down the language school may also have had the effect of encouraging the Thai Government in its belief that the United States is not serious about accepting those people.

Finally, in the refugee centers in Croatia that hold victims of ethnic cleansing from Bosnia, the facilities are inadequate and the screening process is slow and it is erratic. Thousands of people have been in these centers for years. The United States claims it cannot find more than a handful of refugees who are eligible for resettlement. Refugee advocates point out that if you cannot find genuine refugees in Bosnia, we will never be able to find them anywhere else in the world. Many of these people can never go home. Their villages have been destroyed. Their families have been massacred. We have been unable or unwilling to commit the resources to do the job right.

Mr. Chairman, we all know we cannot solve all of the world's problems. There are over 40 million refugees and displaced persons in the world. We cannot accept more than a tiny number of them here in the United States, but we can at least keep our priorities right.

In this case, those priorities are so obvious that my amendment has been endorsed by human rights organizations as diverse as the U.S. Committee for Refugees, the Lutheran Immigration and Refugee Services, the U.S. Catholic Conference, the Council of Jewish Federations, the Christian Coalition and the Family Research Council.

The refugee budget has already absorbed real cuts this year, Mr. Chairman, both from inflation and from the dramatic decrease in the value of the dollar against European currencies. The money they are spending this year will buy 15 percent to 20 percent less overseas, less protection, less food, less water, fewer sanitary facilities than the same amount that we spent last year.

We could not afford to raise the refugee budget not even to keep our own spending power even with last year. My amendment, let me remind everyone, does not add a penny to the budget. It simply prohibits a back door transfer that would fund $12 million of spending here in Washington, DC.

I hope Members will vote "yes" on this pro-refugee, pro-fiscal responsibility amendment.

Mr. Chairman, I include for the RECORD the following letter:

U.S. COMMITTEE FOR REFUGEES,
Washington, DC, June 21, 1995.

Hon. CHRIS SMITH,
Chairman, House International Relations Subcommittee on Foreign Operations, House of Representatives, Washington, DC.

DEAR MR. SMITH: This letter is to inform you and your colleagues of our strong support for your proposed floor amendment that would prohibit using the Migration and Refugee Assistance (MRA) account to pay for the State Department's general salaries and administrative expenses.

The Foreign Operations Appropriations bill, H.R. 1868, would, as currently written, use $12 million of MRA funds to pay for salaries and expenses. This would be a damaging change from current law and would effectively result in a $12 million reduction in direct assistance to refugees. Your amendment would wisely retain current law, which allows all MRA expenditures to go toward programs, and pays for salaries and expenses by drawing from the Diplomatic and Consular Programs account.

Your amendment would prevent a backdoor cut in U.S. assistance to the world's 16.2 million refugees. H.R. 1868 should be amended. We wholeheartedly endorse your amendment and urge other Members to give it bipartisan support on the House floor.

Sincerely,

ROGER P. WINTER,
Director.

Mr. Chairman, I reserve the balance of my time.

Mr. CALLAHAN. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from Alabama [Mr. CALLAHAN] is recognized for 15 minutes.

Mr. CALLAHAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, again, while I know what the gentleman from New Jersey wants to do, he wants to provide more money for the refugee assistance program, and we all do.

However, what he is saying in his amendment is that we do not want to provide out of the allocation of this appropriation bill any money to the program. Instead, he wants to transfer the administrative cost over to the State Department's jurisdiction, under the funding jurisdiction of the gentleman from Kentucky [Mr. ROGERS].

I am afraid that what the gentleman is doing is possibly just the opposite of what he intends to be doing with respect to the refugee funding program. The State Department may not be able to fund any of the $12 million because the State Department will not have the money or the authorization to administer the program.

I know where the gentleman is coming from. I know what the gentleman wants to do. But I am afraid also when we get into this jurisdictional problem through floor amendments, it is going to cause problems in the future. I know that the gentleman from Kentucky [Mr. ROGERS] has some concerns about that. He is going to speak to it in just a few minutes.

So while we all would like to do what the gentleman from New Jersey wants to do, transferring the responsibility of administering the refugee program to another appropriations subcommittee is not the right thing to do.

Mr. Chairman, I yield 5 minutes to the gentleman from Kentucky [Mr. ROGERS].

Mr. ROGERS. Mr. Chairman, I thank the gentleman for yielding time to me.

I share the gentleman's sentiments. I know that we both agree with the gentleman from New Jersey [Mr. SMITH], the sponsor of the amendment, emotionally, in that we want to provide as much aid as we can. However, I think this amendment is counterproductive in that we have already cut the State Department personnel account furiously. As a matter of fact, the administration's request would have required a reduction of 350 people from the State Department's personnel accounts and the closing of 21 posts around the world. That was before we got hold of it.

Our markup of the State Department accounts reduced the President's request another $40 million. And we are looking at double the proposed reductions. So if you want to administer this refugee and migration account, it ought to be done internally, because we just do not have the resources in the State Department to manage that kind of an operation. Neither do we have the authorization.

So I would hope that the gentleman would reconsider his amendment because, if it is successful, the only other place that the salaries and expenses to run this program could come from would be out of the State Department regular accounts; and we have already slashed them unmercifully and perhaps there is even more to come.

The amendment would transfer the costs of 90 employees from where they are now to the State Department to an account that is already requiring reductions of five times that number of people. The money is not there. It was not requested there. It was not appropriated there. And there is no room there for anything more.

So I would say to the gentleman from New Jersey, that if we want to ensure that there are enough people to run the migration and refugee program, we ought to leave the funding right where it is, in the program account, under the jurisdiction of the subcommittee whose bill is before us today. Otherwise, there may be a well-funded program but nobody to run it.

So I support the chairman of the Foreign Operations Subcommittee, the gentleman from Alabama [Mr. CALLAHAN]. I commend him for looking out as well as he has for the refugee programs, and I would hope that we would reject this amendment.

Mr. CALLAHAN. Mr. Chairman, I yield 2 minutes to the gentleman from Wisconsin [Mr. OBEY], the ranking member of the full committee.

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Mr. OBEY. Mr. Chairman, I thank the gentleman for yielding time to me.

I would like to follow up and express my agreement with the comments just made by the gentleman from Kentucky. Let me simply say, Mr. Chairman, that I think everyone on this floor is concerned about decent treatment of refugees. Certainly, everyone in the subcommittee has demonstrated that over a lifetime.

However, I do want to suggest that there is a certain aspect to this amendment that bothers me, because what it in essence is saying is, "Look, let us take in every possible refugee." But when it comes to actually paying for the administration of those programs, they expect somebody else to perform a magic loaves and fishes miracle in order to produce the resources to run those programs in an efficient way. In the real world, things do not work like that.

It just seems to me that whether we are asking the State Department to perform miracles with no resources, or whether in fact we are asking local communities who we have largely abandoned to take refugees without having the Federal Government meet its fair share of the cost for retraining and educating and resettling those refugees so that the full burden does not fall on local taxpayers, we have the same sort of unreality here.

Therefore, Mr. Chairman, I understand that the gentleman is going to accept the amendment. I understand why. However, that does not mean that this amendment does not have significant problems, both in equity and in practicality. I would say we are going to have to do a lot of work in conference to fix it up, because frankly, in its present form, I simply do not agree with it.

Mr. CALLAHAN. Mr. Chairman, I yield 1 minute to the gentlewoman from California [Ms. PELOSI].

Ms. PELOSI. Mr. Chairman, I thank the gentleman for yielding time to me.

Now that the chairman has resolved the issue of the Smith amendment, I thought I would take a moment to once again commend him for his leadership in bringing this bill to the floor, working with our ranking member, the gentleman from Texas [Mr. WILSON]. It was, indeed, very encouraging to hear in the course of the debate on this bill, which was a long debate, an overnight debate on the strong commitment to human rights expressed in this House of Representatives.

I also want to point out to our colleagues, Mr. Chairman, as we move to vote on the bill in another couple of motions, that the United States, with all this talk about our foreign aid, the United States gives .2 percent of our GDP to overseas development assistance. We rank 21st of the donor countries, behind countries including Portugal and New Zealand.

Mr. Chairman, I think in some ways our country must examine our priorities. I think in certain ways we are abdicating our responsibilities to promoting freedom and raising the living standard of people throughout the world. However, I do say that while commending our chairman for doing the good job that he did with this legislation.

Mr. CALLAHAN. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. SMITH of New Jersey. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. BECERRA].

Mr. BECERRA. Mr. Chairman, I thank the gentleman from New Jersey for yielding time to me.

Mr. Chairman, let me join with the gentleman from New Jersey [Mr. SMITH] in urging Members to vote for this particular amendment. What we are trying to do with this amendment is provide $12 million that was already allocated for refugee and migration assistance and make sure it goes for that particular purpose, to fund program expenses, not to fund salaries and not to fund administrative costs out of monies that should be spent for programming.

The biggest problem we have sometimes in Congress is making sure that the money we allocate is spent the way it was meant to be spent as it came out of committee. What we would have here, with the way that the bill currently is drafted, is money going not for programs, when it is earmarked for programs, but to pay for salaries and expenses. It may even be spent on salaries and expenses for people who do not even work on refugee and migration assistance issues.

It is $12 million. The State Department has over $2.1 billion to pay for staff and administrative expenses already. This $12 million would be taken from the program accounts for refugee assistance and would do great damage to a program that is already underfunded to try to help the refugees throughout this world.

There is no country that has been more generous when it comes to trying to help refugees in this entire world than the United States. We should not do it more harm by taking away $12 million to pay for things that do nothing to help the people that we are saying in the bill that we are going to try to do. The refugee assistance account needs the $12 million that would be cut so we can provide the assistance.

We should not let a back door attempt to get money to pay for salaries and expenses be used to try to fund further State Department salaries. We should make sure that the monies go where they are supposed to go, program funding for programs, not for administrative salaries and expenses.

Mr. Chairman, I would urge the Members to consider the Smith amendment as one that just repeats what we have said we want to do, not an authorization bill for foreign assistance. What we should be saying in our appropriations bill, that when we allocate money, do what we say we are going to do. If Members say they are going to give money to refugees and migration assistance, give it to refugees and migration assistance, they should not do a back door end around and give it to administration and salaries instead and say that they are giving it to refugees.

I urge Members to support the Smith amendment.

Mr. SMITH of New Jersey. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I thank the gentleman from California for his very fine statement. I urge Members to support this amendment. I think it is very pro refugee. As the gentleman pointed out, there are over $2 million in operating expenses for salaries for the State Department. We held seven hearings in my subcommittee. A portion of those hearings were looking at precisely that very point. There is room there, believe me, to fund the salaries and expenses of the PRN Bureau as there is using those proper spigots to fund the other bureaus and not take it away from the refugees, which again we tried to hold harmless.

I hope this amendment, if passed, will survive in conference, because again we are awash in refugees, and I think we need to recognize this is a modest effort we are making, and there is nothing above and beyond in preserving this $12 million.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Jersey [Mr. SMITH].

The amendment was agreed to.

Mr. MARKEY. Mr. Chairman, I rise today to express my support for development aid for Africa, and to register my concern over the deep cuts in development assistance to that continent that are being considered as part of current proposals to cut foreign aid. For example, H.R. 1561, the American Oversees Interests Act, cuts funding for the development fund for Africa [DFA] by over $170 million from the $802 million requested by the administration for this important program. As we continue to review our foreign assistance budget, DFA stands to lose even more of its funding. Curtailing assistance to Africa—aid that has saved lives, promoted democracy, and created hope—is a bad decision.

Since its inception, United States development aid to Africa has been a foreign policy success story. The DFA, funded at less than one-tenth of 1 percent of the U.S. budget, has helped bring about great change. Since the 1960's, infant mortality rates in Africa have fallen by one-half, average life expectancy has risen by 17 years, and more than 24 countries on the African continent have graduated from foreign aid dependents to U.S. trading partners.

Yet, still more than one-half of Africa's population—54 percent—lives in abject poverty, and as high as that number is, it is projected to grow by 50 percent by the turn of the century if African development efforts are deserted. If we abandon this cost-effective and successful program, our conflict resolution efforts, microenterprise, agriculture, and health care projects will be undermined. Forsaking the sustainable development programs that have made such a difference in the lives of Africa's poor and hungry will open the gates for hopelessness and despair to come rushing right back in.

Assistance to Africa enjoys widespread support among Americans. Two-thirds of the American people believe that the United States has a moral responsibility to help indigent nations. Over 60 percent deem it in our economic interest to aid developing countries. And over 75 percent feel we have a responsibility to aid starving people regardless of whether other foreign policy objectives will be promoted in the process.

Now, one sentiment that my colleagues are well aware of is the public's view that our Nation spends too much money on foreign aid. In a public opinion poll conducted in January 1995, participants asked to estimate the share of the Federal budget devoted to foreign aid responded, on average, that 15 percent of the budget went overseas. When asked what they thought the percentage should be, the average answer was 5 percent, and when informed that foreign aid amounts to less than 1 percent of the budget, fewer than 20 percent still thought we were spending too much.

The reality is that less than one-tenth of 1 percent of the Federal budget is spent on foreign aid to Africa. The reality is that U.S. exports to developing countries have more than doubled in the past decade, and that every additional $1 billion in exported goods creates an estimated 20,000 U.S. jobs. The reality is that the bulk of the money we budget for foreign aid is actually spent on goods and services in the United States. The reality is that assistance promoting self-help development and crisis prevention is cost-effective. And the reality is that a stronger Africa is in the long-term interests of America. I agree that we need to balance the budget. But balancing it on the backs of Africa's impoverished is clearly not the way to do it.

Mr. Chairman, we have a chance to help Africa become a self-sufficient, prosperous, democratic continent. We have the opportunity, we have the ability, and we have the moral obligation to do so. Let us rise and meet the call.

Mr. WALSH. Mr. Chairman, I rise today in strong support of the initiative the House has approved against expropriation in the Dominican Republic in the report accompanying H.R. 1868, the fiscal year 1996 foreign operations appropriations bill.

This initiative grew specifically from an egregious expropriation executed by the Dominican Republic's military in April 1994 against Western Energy, Inc. Western Energy is a United States company that was then operating an important liquid petroleum gas facility in the Dominican Republic, and operates a similar facility in my district.

The expropriation of Western Energy's property was clearly premeditated, and, I understand, in total disregard of specific Dominican contractual procedures for dispute resolution and without any opportunity for Western Energy to be heard or defend itself. The loss is very substantial for the company, but efforts to resolve the situation have thus far been unavailing.

Mr. Chairman, if the initiative the House has approved does not lead to a resolution of the expropriation Western Energy has suffered, then I urge my distinguished colleagues to support further steps to achieve that objective at the earliest opportunity. The United States must not tolerate expropriation of United States property in the Dominican Republic, and around the world.

Mr. COLEMAN. Mr. Speaker, I rise today in strong support of the initiative the House has approved against expropriation in the Dominican Republic in the report accompanying H.R. 1868, the fiscal year 1996 Foreign Operations Appropriations bill.

In April 1994, the Dominican Republic's military executed an egregious expropriation against Western Energy, Inc., the United States company that was then operating an important liquid petroleum gas facility there. The initiative approved by the House grew specifically from this case.

The expropriation of Western Energy's property is a very substantial loss for the company which is headquartered in my district. It is my understanding that numerous high-ranking Dominican government officials have expressed public and private outrage with their government's action but say they are powerless to redress it. The U.S. ambassador should be commended for her efforts to resolve this situation, and the initiative the House approved will buttress them, but they have thus far been unavailing.

Mr. Speaker, if the initiative the House has approved does not lead to a resolution of the expropriation Western Energy has suffered, then I urge my distinguished colleagues to support further steps to achieve that objective at the earliest opportunity. Congress must take whatever actions are necessary to curtail the practice of expropriation in the Dominican Republic.

Mrs. COLLINS of Illinois. Mr. Chairman, I rise in opposition to one more in an inevitable series of highly restrictive rules that have plagued this 104th Congress since its inception under the new Republican majority, the new rule governing debate on H.R. 1868, the Foreign Operations Appropriations for fiscal year 1996. I rise once again to accentuate what is increasingly evident to anyone watching the proceedings of this body over the last 6 months—accountability and democracy have once again become captive to the irrational, frenzied efforts of the Gingrich army to shove legislation through this House for no apparent reason.

Despite the fact that several Members on both sides of the aisle would like to have the opportunity to offer additional amendments to this disastrous piece of legislation, the new rule before us allows only four amendments, debateable for 20 minutes, and bars all others. The last I checked, Mr. Speaker, this was still the United States Congress, the outpost of free speech and open debate. Does the new majority want to turn it into Tiananmen Square? If they keep up these rules, they'll certainly continue to encounter vehement objects from myself and my Democratic colleagues.

I urge my colleagues to stand by the historically democratic processes of this institution and this Nation, vote against this rule, and work to end the outrageous tape over the mouth tactics of those on the other side of the aisle.

Mr. SMITH of Michigan. Mr. Chairman, I rise to address the issue of corporate welfare. As we eliminate the fat from the federal budget, we should recommit ourselves to making sure all projects and programs are closely examined—not just the politically easy ones.

The Export-Import Bank (Eximbank) subsidizes loans and loan guarantees to American exporters. These corporate welfare subsidies have been appropriated $787 million for 1996.

The experts agree; Eximbank should be abolished.

The Congressional Budget Office makes the following observation:

> Eximbank has lost $8 billion on its operations, practically all in the last 15 years;
>
> Little evidence exists that the bank's credit assistance creates jobs;
>
> Providing subsidies to promote exports is contrary to the free-market policies the United States advocates.

The Congressional Research Service writes that:

> Most economists doubt that a nation can improve its welfare over the long run by subsidizing exports;
>
> At the national level, subsidized export financing merely shifts production among sectors within the economy, rather than adding to the overall level of economic activity;
>
> Export financing subsidizes foreign consumption at the expense of the domestic economy;
>
> Subsidizing financing will not raise permanently the level of employment in the economy. . . .

The Heritage Foundation recommends Congress "close down the Export-Import Bank."

Heritage further states:

> Subsidized exports promote the business interests of certain American businesses at the expense of other Americans;
>
> Little evidence exists to demonstrate that subsidized export promotion creates jobs—at least net of the jobs lost due to taxpayer financing and the diversion of U.S. resources into government-favored export activities at the expense of non-subsidized businesses.

According to Heritage, phasing out subsidies will save 2.3 billion over 5 years.

The Director of Regulatory studies at the Cato Institute calls the subsidy activity of Eximbank "corporate pork." He stated, "Even in the face of unfair international competition, the U.S. government doesn't have a right to use tax dollars to match equally stupid subsidies."

Eximbank's financial statements show that the bank has paid $3.8 billion in claims from 1980 to 1994. These dollars paid off commercial banks who couldn't collect from foreign borrowers. American taxpayers took the hit.

Export financed by Eximbank actually hurt competitive U.S. exporters not selected for subsidies. The bank chooses winners and losers in the economy. The only winners are selected foreign consumers and selected U.S. corporations.

The Eximbank is a prime example of corporate welfare. The majority of Eximbank subsidies go to Fortune 500 companies that could easily afford financing from commercial banks:

Boeing—over $2 billion worth of loan guarantees

McDonnell Douglas—$647 million

Westinghouse Electric—$491 million

General Electric—$381 million

AT&T—$371 million

To raise funds for its lending and guarantee programs, Eximbank puts additional pressure on Treasury borrowing, driving up interest rates for private borrowers. That's all of us. From a corner barbershop wanting to expand to a young family trying to finance their first home. We all pay the price.

Sadly, there's more.

Eximbank appears to have wasted money on frivolous items as well. After 50 years with the same agency logo, Eximbank decided it needed a new one. Designing a new logo—including creation, copyright search, and the redesign of bank brochures and literature—cost nearly $100,000 last year.

And in 1993, Eximbank spent $30,000 to train 20 employees how to speak in public—including chairman Kenneth Brody. An outside consultant was paid $3,000 a day for this task.

Mr. Chairman, I believe government shouldn't choose winners in the economy. With Eximbank, the big winners are foreign consumers, large corporations and professional speech coaches. The losers are American taxpayers.

Mr. Chairman, it's time to derail this gravy train.

The CHAIRMAN. Under the rule, the committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. DREIER) having assumed the chair, Mr. HANSEN, the Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill, H.R. 1868, making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1996, and for other purposes, pursuant to House Resolution No. 170, had directed him to report the bill back to the House with sundry amendments adopted in the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the chairman will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read third time.

MOTION TO RECOMMIT OFFERED BY MR. OBEY

Mr. OBEY. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the legislation?

Mr. OBEY. In its present form, I am, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

> Mr. OBEY moves to recommit the bill H.R. 1868 to the Committee on Appropriations with instructions to report the same back to the House forthwith with the following amendment:

Insert at the end of the bill:

"Basic education for children

SEC. . Not more than $108,000,000 under the Agency for International Development Children and Disease Programs Fund may be used for basic education for children."

Mr. OBEY. Mr. Speaker, this motion to recommit is really in essence a bipartisan motion. I understand it will be accepted by the committee. It simply clarifies that funds for basic education included under the children's fund may only be used for basic education programs for children. Other basic education programs for adults must be funded through other accounts. The motion has bipartisan support, and I would urge adoption of the recommital motion.

Mr. CALLAHAN. Mr. Speaker, we agree with the gentleman.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The motion was agreed to.

Mr. CALLAHAN. Mr. Speaker, pursuant to the instructions of the House, I report the bill, H.R. 1868, back to the House with an amendment.

The SPEAKER pro tempore. The Clerk will report the amendment.

The Clerk read as follows:

Amendment:

Insert at the end of the bill:

"Basic education for children

SEC. . Not more than $108,000,000 under the Agency for International Development Children and Disease Programs Fund may be used for basic education for children."

The SPEAKER pro tempore. The question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill. Pursuant to clause 7 of rule XV, the yeas and neas are ordered.

The vote was taken by electronic device, and there were—yeas 333, nays 89, not voting 12, as follows:

[Roll No. 482]

YEAS—333

Ackerman
Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Bentsen
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boucher
Brewster
Browder
Brown (FL)
Brownback
Bryant (TN)
Bunn
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cardin
Castle
Chabot
Chambliss
Chapman
Christensen
Chrysler
Clement
Clinger
Clyburn
Coble
Coleman
Collins (GA)
Collins (IL)
Collins (MI)
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dixon
Doggett
Dooley
Dornan
Doyle
Dreier
Dunn
Durbin
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Evans
Ewing
Farr
Fawell
Fazio
Fields (TX)
Filner
Flake
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Gordon
Goss
Graham
Green
Gunderson
Gutierrez
Gutknecht
Hall (OH)
Hamilton
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Heineman
Hilleary
Hinchey
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson-Lee
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Johnston
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaHood
Lantos
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lightfoot
Linder
Lipinski
Livingston
LoBiondo
Longley
Lowey
Luther
Maloney
Manton
Manzullo
Markey
Martini
Mascara
Matsui
McCarthy
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McIntosh
McKeon
McNulty
Meehan
Meek
Menendez
Metcalf
Mfume
Mica
Miller (FL)
Mineta
Molinari
Moorhead
Moran
Morella
Myers
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Norwood
Nussle
Obey
Ortiz
Owens
Oxley
Packard
Pallone
Parker
Paxon
Payne (VA)
Pelosi
Peterson (MN)
Petri
Pickett
Pomeroy
Porter
Portman
Poshard
Pryce
Quinn
Radanovich
Ramstad
Reed
Regula
Riggs
Rivers
Ros-Lehtinen
Rose
Roukema
Roybal-Allard
Rush
Salmon
Sanford
Sawyer
Saxton
Scarborough
Schiff
Schumer
Scott
Seastrand
Serrano
Shadegg
Shaw
Shays
Sisisky
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stenholm
Stockman
Stokes
Studds
Stupak
Talent
Tate
Taylor (NC)
Tejeda
Thomas
Thornberry
Thurman
Tiahrt
Torkildsen
Torres
Torricelli
Towns
Tucker
Upton
Velazquez
Visclosky
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Ward
Waters
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Williams
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Young (AK)
Zeliff
Zimmer

NAYS—89

Abercrombie
Barrett (NE)
Becerra
Beilenson
Brown (CA)
Brown (OH)
Bryant (TX)
Bunning
Chenoweth
Clay
Clayton
Coburn
Combest
Condit
Conyers
Cooley
Danner
de la Garza
DeFazio
Dellums
Dingell
Doolittle
Duncan
Everett
Fattah
Fields (LA)
Ford
Frank (MA)
Gonzalez
Goodling
Greenwood
Hall (TX)
Hancock
Hansen
Hayes
Hefley
Hefner
Herger
Hilliard
Jacobs
Jones
Kanjorski
Kaptur
LaFalce
Lincoln
Lofgren
Lucas
Martinez
McDermott
Meyers
Miller (CA)
Minge
Mink
Mollohan
Montgomery
Murtha
Oberstar
Olver
Orton
Pastor
Payne (NJ)
Pombo
Quillen
Rahall
Roberts
Roemer
Rogers
Rohrabacher
Roth
Royce
Sabo
Sanders
Schaefer
Schroeder
Sensenbrenner
Shuster
Stark
Stearns
Stump
Tanner
Tauzin
Taylor (MS)
Thompson
Thornton
Traficant
Vento
Volkmer
Watt (NC)
Young (FL)

NOT VOTING—12

Foglietta
Frost
Gibbons
Jefferson
McKinney
Moakley
Peterson (FL)
Rangel
Reynolds
Richardson
Skaggs
Yates

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The Clerk announced the following pairs:

On this vote:

Mr. Yates for, with Mr. Foglietta against.

Ms. McKinney for, with Mr. Peterson of Florida against. Richardson for, with Mr. Jefferson against.

Mr. JONES, Mrs. CLAYTON, Mr. ROYCE, and Mr. HILLIARD changed their vote from "yea" to "nay."

Mr. WYNN, Mrs. MEEK of Florida, Ms. WATERS, Mr. TIAHRT, and Ms. EDDIE BERNICE JOHNSON of Texas changed their vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. SKAGGS. Mr. Speaker, regrettably I missed the vote, rollcall No. 482, on final passage of the foreign ops bill. Had I been present, I would have voted "aye."

As a Vietnam veteran, I had been invited by the President to attend the White House ceremony announcing normalization of relations with Vietnam. At the time I departed for the ceremony, debate on the bill was scheduled to continue past the time the ceremony was expected to end, permitting me to attend and return to Capitol Hill to cast my vote. My beeper went off, indicating the vote, just as the guests had been seated in the East Room and the President was about to enter, and, under the circumstances, it would have been extremely rude and inappropriate to get up and leave. As soon as the President finished his remarks, I returned to the Capitol as quickly as possible, but the vote had been closed. Had I been present, I would have voted "aye".

REFERRAL OF H.R. 1784, VALIDATING CERTAIN CONVEYANCES MADE BY THE SOUTHERN PACIFIC TRANSPORTATION CO. TO THE COMMITTEE ON RESOURCES

Mr. HANSEN. Mr. Speaker, I ask unanimous consent that the bill, H.R. 1784, a bill to validate certain conveyances made by the Southern Pacific Transportation Co. within the cities of Reno, NV and Tulare, CA, and for other purposes, be referred to the Committee on Resources.

The SPEAKER pro tempore (Mr. Dreier). Is there objection to the request of the gentleman from Utah?

There was no objection.

DIRECTING THE SECRETARY OF THE SENATE TO MAKE TECHNICAL CORRECTIONS IN ENROLLMENT OF S. 523, COLORADO BASIN SALINITY CONTROL ACT AMENDMENTS

Mr. HANSEN. Mr. Speaker, I ask unanimous consent for the immediate consideration of the concurrent resolution (H. Con. Res. 82) directing the Secretary of the Senate to make technical corrections in the enrollment of S. 523.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Utah?

There was no objection.

The Clerk read the concurrent resolution, as follows:

H. Con. Res. 82

Resolved by the House of Representatives (the Senate concurring), That in the enrollment of the bill (S. 523) to amend the Colorado River Basin Salinity Control Act to authorize additional measures to carry out the control of salinity upstream of Imperial Dam in a cost-effective manner, and for other purposes, the Secretary of the Senate shall make the following corrections:

(1) In the last sentence of paragraph (1) of section 1 of the bill (adding a new paragraph (6) to section 202(a) of the Colorado River Basin Salinity Control Act) insert a period after the words "submits such report".

(2) In paragraph (2)(B) of section 1 of the bill (amending section 205(a)(4)(i) of the Colorado River Basin Salinity Control Act) strike "section 202(a)(4) and (5)" and insert "sections 202(a)(4) and (5)".

(3) At the end of paragraph (4) of section 1 of the bill (amending section 202(b)(4) of the Colorado River Basin Salinity Control Act) strike the period before the closing quotation marks.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

REPORT ON H.R. 2002, DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS BILL, 1996

Mr. WOLF, from the Committee on Appropriations, submitted a privileged report (Rept. No. 104–177) on the bill (H.R. 2002) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1996, and for other purposes, which was referred to the Union Calendar and ordered to be printed.

PROVIDING FOR CONSIDERATION OF H.R. 1905, ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 1996

Mr. QUILLEN. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 171 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 171

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 1905) making appropriations for energy and water development for the fiscal year ending September 30, 1996, and for other purposes. The first reading of the bill shall be dispensed with. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations. After general debate the bill shall be considered for amendment under the five-minute rule. The bill shall be considered by title rather than by paragraph. Each title shall be considered as read. Points of order against provisions in the bill for failure to comply with clause 2 or 6 of rule XXI are waived except as follows: beginning with ": *Provided further*" on page 6, line 6, through "such transfer" on line 13. Where points of order are waived against part of a paragraph, points of order against a provision in another part of such paragraph may be made only against such provision and not against the entire paragraph. Before consideration of any other amendment it shall be in order to consider the amendment printed in the report of the Committee on Rules accompanying this resolution if offered by Representative Shuster of Pennsylvania or his designee. That amendment shall be considered as read, shall be debatable for ten minutes equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. All points of order against that amendment are waived. After disposition of that amendment, the provisions of the bill as then perfected shall be considered as original text. During further consideration of the bill for amendment, the Chairman of the Committee of the Whole may accord priority in recognition on the basis of whether the Member offering an amendment has caused it to be printed in the portion of the Congressional Record designated for that purpose in clause 6 of rule XXIII. Amendments so printed shall be considered as read. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from Tennessee [Mr. Quillen] is recognized for 1 hour.

Mr. QUILLEN. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from California [Mr. Beilenson] pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 171 is an open rule providing for the consideration of H.R. 1905, the Energy and Water Development Appropriations Act for fiscal year 1996. The rule provides 1 hour of general debate divided equally between the chairman and ranking minority member of the Committee on Appropriations. The bill will be read by title for amendment, with each title considered as read.

The rule waives clause 2 of rule XXI—prohibiting unauthorized appropriations and legislation in an appropriations bill—and also waives clause 6 of rule XXI—prohibiting reappropriations—against provisions of the bill except for the proviso beginning on page 6 at line 6 pertaining to the Cooper Lake and Channels, TX project.

Under the rule, it shall be in order to first consider an amendment offered by Representative Shuster of Pennsylvania printed in the Rules Committee Report to accompany this rule. The amendment shall be considered as read, shall be debatable for 10 minutes, equally divided between the proponent and an opponent of the amendment. This amendment is not subject to amendment or to a demand for a division of the question in the House or the Committee of the Whole. All points of order are waived against the amendment. If adopted, the amendment shall be considered as original text for the purpose of further amendment under the 5-minute rule.

The rule authorizes the Chair to accord priority in recognition to Members who have pre-printed their amendments in the Congressional Record. Finally, the rule allows one motion to recommit, with or without instructions.

Mr. Speaker, I'd like to congratulate my very good friend, Chairman John Myers and the ranking minority member, Tom Bevill, for continuing their long-standing tradition of bringing forward a bipartisan, fiscally responsible bill. They've been working together on this committee for many years. This bill is $1.6 billion lower than the fiscal year 1995 level, and the committee has done an outstanding job in making these limited funds go a long way.

H.R. 1905 makes appropriations for the Corps of Engineers, the Bureau of Reclamation, the Department of Energy, and various independent agencies. I am particularly pleased that funding for the Appalachian Regional Commission and the Tennessee Valley Authority has been included in this bill. Although both received sizable reductions, the committee recognized the valuable contributions they make to recipient States.

The Appalachian Regional Commission is regional economic development agency established 30 years ago to bring almost 400 counties in the 13 Appalachian States into the mainstream of the American economy. ARC's mission is to equip Appalachian citizens with the skills and enterprise development resources they need to create self-sustaining local economies where people take control over their own economic destiny and contribute as taxpayers to the national economy.

Over the years, as a result of ARC programs, the regional poverty rate has been cut in half, the percentage of adults with a high school education has doubled, and the region's infant mortality rate has been cut by two-thirds. But much more remains to be done, and the funding provided in this bill will enable the ARC to continue its mission.

Mr. Speaker, of equal importance is the continued funding for the Tennessee Valley Authority. There seems to be some confusion and misinformation about the use of Federal dollars for TVA, and I want to emphasize that no Federal money goes toward subsidizing the electric power program. This program is entirely funded through power sales and the issuance of securities, and there is no Federal subsidy for the consumer.

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Federal dollars are used specifically for maintenance of the Tennessee River System and stewardship of the Federal lands under TVA's control. This is comparable to the functions provided by the Corps of Engineers in other areas.

Federal dollars also go toward a variety of targeted economic development programs. And to the Land-Between-the-Lakes, a Federal recreation area in Tennessee and Kentucky, which is the largest contiguous forest east of the Mississippi River. These are important services mandated by statute, and we have an obligation to continue to provide funding.

Mr. Speaker, this open rule will allow all Members to fully participate in the amendment process, and I urge its adoption.

Mr. Speaker, alluding further to the Federal funding, for the TVA, already the committee has recommended a $42 million cut in the program. This is only $19 million for economic development, and the balance in the bill goes for operation of the dams, the tributaries of the Tennessee River, and the streams that flow into the river to prevent flood control. As I said, such other functions in other States are controlled by the Corps of Engineers and federally funded.

I understand there may be an amendment offered to eliminate these funds. I want to caution the proponents of TVA that this is an amendment that we must watch, that we must defeat when and if it is presented, because the purpose of the amendment is flawed in its inception, and we must watch carefully to ensure that the TVA is not scuttled from the program mandated by the Congress.

So I urge Members to be aware that the Federal Government provides funding for the programs of maintenance of flood control and operation of other dams and that this is a program that the Federal Government should continue. So, being alerted to that end, I urge the membership to be on the floor if such an amendment is offered, and to vote against it.

THE AMENDMENT PROCESS UNDER SPECIAL RULES REPORTED BY THE RULES COMMITTEE,[1] 103D CONGRESS V. 104TH CONGRESS

[As of July 10, 1995]

Rule type	103d Congress		104th Congress	
	Number of rules	Percent of total	Number of rules	Percent of total
Open/Modified-open[2]	46	44	31	71
Modified Closed[3]	49	47	12	27
Closed[4]	9	9	1	2
Totals:	104	100	44	100

[1] This table applies only to rules which provide for the original consideration of bills, joint resolutions or budget resolutions and which provide for an amendment process. It does not apply to special rules which only waive points of order against appropriations bills which are already privileged and are considered under an open amendment process under House rules.

[2] An open rule is one under which any Member may offer a germane amendment under the five-minute rule. A modified open rule is one under which any Member may offer a germane amendment under the five-minute rule subject only to an overall time limit on the amendment process and/or a requirement that the amendment be preprinted in the Congressional Record.

[3] A modified closed rule is one under which the Rules Committee limits the amendments that may be offered only to those amendments designated in the special rule or the Rules Committee report to accompany it, or which preclude amendments to a particular portion of a bill, even though the rest of the bill may be completely open to amendment.

[4] A closed rule is one under which no amendments may be offered (other than amendments recommended by the committee in reporting the bill).

SPECIAL RULES REPORTED BY THE RULES COMMITTEE, 104TH CONGRESS

[As of May 12, 1995]

H. Res. No. (Date rept.)	Rule type	Bill No.	Subject	Disposition of rule
H. Res. 38 (1/18/95)	0	H.R. 5	Unfunded Mandate Reform	A: 350–71 (1/19/95).
H. Res. 44 (1/24/95)	MC	H. Con. Res. 17	Social Security	A: 255–172 (1/25/95).
		H.J. Res. 1	Balanced Budget Amdt	
H. Res. 51 (1/31/95)	0	H.R. 101	Land Transfer, Taos Pueblo Indians	A: voice vote (2/1/95).
H. Res. 52 (1/31/95)	0	H.R. 400	Land Exchange, Arctic Nat'l. Park and Preserve	A: voice vote (2/1/95).
H. Res. 53 (1/31/95)	0	H.R. 440	Land Conveyance, Butte County, Calif	A: voice vote (2/1/95).
H. Res. 55 (2/1/95)	0	H.R. 2	Line Item Veto	A: voice vote (2/2/95).
H. Res. 60 (2/6/95)	0	H.R. 665	Victim Restitution	A: voice vote (2/7/95).
H. Res. 61 (2/6/95)	0	H.R. 666	Exclusionary Rule Reform	A: voice vote (2/7/95).
H. Res. 63 (2/8/95)	MO	H.R. 667	Violent Criminal Incarceration	A: voice vote (2/9/95).
H. Res. 69 (2/9/95)	0	H.R. 668	Criminal Alien Deportation	A: voice vote (2/10/95).
H. Res. 79 (2/10/95)	MO	H.R. 728	Law Enforcement Block Grants	A: voice vote (2/10/95).
H. Res. 83 (2/13/95)	MO	H.R. 7	National Security Revitalization	PQ: 229–100; A: 227–127 (2/15/95).
H. Res. 88 (2/16/95)	MC	H.R. 831	Health Insurance Deductibility	PQ: 230–191; A: 229–188 (2/21/95).
H. Res. 91 (2/21/95)	0	H.R. 830	Paperwork Reduction Act	A: v.v. (2/2?/95).
H. Res. 92 (2/21/95)	MC	H.R. 889	Defense Supplemental	A: 282–144 (2/22/95).
H. Res. 93 (2/22/95)	MO	H.R. 450	Regulatory Transition Act	A: 252–175 (2/23/95).
H. Res. 96 (2/24/95)	MO	H.R. 1022	Risk Assessment	A: 253–165 (2/27/95).
H. Res. 100 (2/27/95)	0	H.R. 926	Regulatory Reform and Relief Act	A: voice vote (2/28/95).
H. Res. 101 (2/28/95)	MO	H.R. 925	Private Property Protection Act	A: 271–151 (3/1/95)
H. Res. 104 (3/3/95)	MO	H.R. 988	Attorney Accountability Act	A: voice vote (3/6/95)
H. Res. 103 (3/3/95)	MO	H.R. 1058	Securities Litigation Reform	
H. Res. 105 (3/6/95)	MO			A: 257–155 (3/7/95)
H. Res. 108 (3/7/95)	Debate	H.R. 956	Product Liability Reform	A: voice vote (3/8/95)
H. Res. 109 (3/8/95)	MC			PQ: 234–191 A: 247–181 (3/9/95)
H. Res. 115 (3/14/95)	MO	H.R. 1158	Making Emergency Supp. Approps.	A: 242–190 (3/15/95)
H. Res. 116 (3/15/95)	MC	H.J. Res. 73	Term Limits Const. Amdt	A: voice vote (3/28/95)
H. Res. 117 (3/16/95)	Debate	H.R. 4	Personal Responsibility Act of 1995	A: voice vote (3/21/95)
H. Res. 119 (3/21/95)	MC			A: 217–211 (3/22/95)
H. Res. 125 (4/3/95)	0	H.R. 1271	Family Privacy Protection Act	A: 423–1 (4/4/95)
H. Res. 126 (4/3/95)	0	H.R. 660	Older Persons Housing Act	
H. Res. 128 (4/4/95)	MC	H.R. 1215	Contract With America Tax Relief Act of 1995	A: 228–204 (4/5/95)
H. Res. 130 (4/5/95)	MC	H.R. 483	Medicare Select Expansion	A: 253–172 (4/6/95)

SPECIAL RULES REPORTED BY THE RULES COMMITTEE, 104TH CONGRESS—Continued

[As of May 12, 1995]

H. Res. No. (Date rept.)	Rule type	Bill No.	Subject	Disposition of rule
H. Res. 136 (5/1/95)	O	H.R. 655	Hydrogen Future Act of 1995	A: voice vote (5/2/95)
H. Res. 139 (5/3/95)	O	H.R. 1361	Coast Guard Auth. FY 1996	A: voice vote (5/9/95)
H. Res. 140 (5/9/95)	O	H.R. 961	Clean Water Amendments	A: 414–4 (5/10/95)
H. Res. 144 (5/11/95)	O	H.R. 535	Fish Hatchery—Arkansas	A: voice vote (5/15/95)
H. Res. 145 (5/11/95)	O	H.R. 584	Fish Hatchery—Iowa	A: voice vote (5/15/95)
H. Res. 149 (5/16/95)	MC	H. Con. Res. 67	Budget Resolution FY 1996	PQ: 252–170 A: 255–168 (5/17/95)
H. Res. 155 (5/22/95)	MO	H.R. 1561	American Overseas Interests Act	A: 233–176 (5/23/95)
H. Res. 164 (6/8/95)	MC	H.R. 1530	Nat. Defense Auth. FY 1996	PQ: 233–183 (6/13/95)
H. Res. 167 (6/15/95)	O	H.R. 1517	MilCon Appropriations FY 1996	PQ:223–180 A: 245–155 (6/16/95)
H. Res. 169 (6/19/95)	MC	H.R. 1854	Leg. Branch Approps. FY 1996	PQ: 232–196 A: 236–191 (6/20/95)
H. Res. 170 (6/20/95)	O	H.R. 1868	For. Ops. Approps. FY 1996	PQ:221–178 A: 217–175 (6/22/95)
H. Res. 171 (6/22/95)	O	H.R. 1905	Energy & Water Approps. FY 1996	
H. Res. 173 (6/27/95)	C	H.J. Res. 79	Flag Constitutional Amendment	PQ: 258–170 A: 271–152 (6/28/95)
H. Res. 176 (6/28/95)	MC	H.R. 1944	Emer. Supp. Approps.	PQ: 236–194 A: 234–192 (6/29/95)

Codes: O-open rule; MO-modified open rule; MC-modified closed rule; C-closed rule; A-adoption vote; PQ-previous question vote. Source: Notices of Action Taken, Committee on Rules, 104th Congress.

Mr. Speaker, I reserve the balance of my time.

Mr. BEILENSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank the gentleman from Tennessee [Mr. QUILLEN] for yielding the customary 30 minutes of debate time to me.

Mr. Speaker, we support this rule for consideration of H.R. 1905, the energy and water appropriations bill for fiscal year 1996.

Mr. Speaker, the rule does contain waivers of standing House rules for several provisions in the bill. The waivers protect the provisions from points of order that could be raised against them because they violate House rules that prohibit appropriations for authorized projects and legislation in an appropriations bill.

We do not object to the waivers. My colleagues will recall, however, that the authors of this rule complained over and over again last year about legislating in an appropriations bill, calling it, and I quote, a cumbersome and inefficient way of doing business, end of quote. It appears many Members have now discovered that that is often necessary to waive points of order for that purpose. Since the majority raised no objection to the waivers provision in the bill, we did feel it would have been fair to protect the amendments of several Members who requested waivers for them.

We sought unsuccessfully to make several of those amendments in order.

We asked that the Brewster-Harman amendment, which seeks to ensure that any savings from the bill be applied directly to deficit reduction, and the Traficant Buy America sense-of-Congress resolution, receive the necessary waivers. Unfortunately, our requests were defeated on straight party-line votes.

In addition, Mr. Speaker, we requested that the Chapman provision in the reported bill receive the same protection that was accorded all other unauthorized projects in the bill. We felt it was only fair that it be treated in the same way and not be singled out in this manner. Our effort in this respect was also unsuccessful.

Mr. Speaker, we are concerned about the clear shift in direction that is reflected in the funding priorities in this $18.7 billion spending bill. While we understand the budget constraints the Appropriations Committee faced in developing this bill, there is some concern that the choice to cut energy research so drastically was in exchange for maintaining a status quo approach to funding other projects.

Many Members are especially concerned about the severe cut of 51 percent recommended by the committee in renewable energy research an development funding. These energy sources are essential if we are to reduce the trade deficit, and curb greenhouse gas emissions, air pollution, and other waste generation from energy use. We very much regret that our commitment to renewable energy supplies is apparently foundering.

In any event, Mr. Speaker, under this essentially open rule, Members will be able to offer amendments to cut spending further and to change the spending priorities, and, in fact we anticipate quite a number of amendments on a wide range of issues.

We commend the new chairman of the committee, the gentleman from Indiana [Mr. MYERS] and the ranking member, the gentleman from Alabama [Mr. BEVILL] for their good work and their cooperation in bringing this bill to the House.

Mr. Speaker, to repeat, we support the rule. We urge our colleagues to approve it so that we may proceed to the consideration of the energy and water appropriation bill and amendments to it as soon as possible.

Mr. Speaker, we have no requests for time on this side, and I yield back the balance of my time.

Mr. QUILLEN. Mr. Speaker, I, too, have no other requests for time, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MYERS of Indiana. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the consideration of the bill (H.R. 1905) making appropriations for energy and water development for the fiscal year ending September 30, 1996, and for other purposes, and that I be permitted to include tabular and extraneous material.

The SPEAKER pro tempore (Mr. CUNNINGHAM). Is there objection to the request of the gentleman from Indiana?

There was no objection.

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 1996

The SPEAKER pro tempore. Pursuant to House Resolution 171 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 1905.

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IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 1905) making appropriations for energy and water development for the fiscal year ending September 30, 1996, and for other purposes, with Mr. OXLEY in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Indiana [Mr. MYERS] will be recognized for 30 minutes, and the gentleman from Alabama [Mr. BEVILL] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Indiana [Mr. MYERS].

Mr. MYERS of Indiana. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this appropriation bill that is for water and energy development in our country is a bill that touches every congressional district in the country, and it was a difficult job this year, but, through the leadership of our fine staff and the other Members, we were able to accomplish very close to what I would consider to be a miracle. I do want to thank my colleague, the gentleman from Alabama

[Mr. BEVILL]. TOM and I came to Congress 29 years ago together, served on this committee for a great many years, he as chairman, and I was his ranking member, and he was always most courteous and considerate for the minority at that time, and that relationship has continued. Nothing goes in the bill unless we both agree, and we just do not have that—I will say not bipartisan, nonpartisan—everything that went into this bill was totally on the merits. Politics had nothing to do with it, and it was difficult this year. Many committees have experienced problems because we do have new staffs this year; we lost very experienced staff members last year; Hunter Spillan is gone, decided to retire this year, but Jim Ogsbury came in and filled those shoes with a few times that we had to take the racing stripes off, as they say in racing. But our staff, Jeanne Wilson, of course, great job; Bob, wherever Bob is here, and I guess he is here someplace, yes, Bob Schmidt—we had of course Judy, Judy Penry, came in to join us, and I do not see one of our staff members here, Lori Whipp. Lori is here someplace, but the great staff and our individual staffs who put the bill together this year——

But this year's bill is $18,700,000,000. This is the smallest appropriation bill for energy and water development we have had for 6 years. The important thing is that we are $1,600,000,000 below last year.

Now to put that in the vernacular of talk show hosts who often talk about ignoring baseline budgeting, this bill is $1.6 billion below the baseline budget. I want to emphasize $1.6 billion below the baseline budget, making real significant cuts. It is $2 billion less than the President requested. But, breaking it down, we have $3,200,000,000 for the Corps of Engineers. We have a few new start projects this year, but we have held those down.

We could not begin to respond to all the requests we had. But we did ignore the new proposal, the criteria for flood control that the administration recommended which was that to be eligible for flood control, historically the Corps of Engineers has provided flood control and preented floods as much as they could, but the administration proposed to be eligible a program, a project, would have to have more than 50 percent of the water falling in another State, a State different from where the flood treatment would be taken care of and reverse the local project sponsorship and payment from persently 75 percent Federal to 25 percent local to just the reverse. Under their proposal, 25 percent Federal, and 75 percent local, made a great many of these projects just impossible to fund.

In the second title, the Bureau of Reclamation, we have $813 million. This bill is $28 million less than last year, but it is $24 million more than the President requested, including the Central Utah Project where we are trying to expedite and get the project completed as soon as possible to reduce the cost.

In the Department of Energy we have $14,800,000,000. Surprisingly, $10 billion of this is defense and defense-related projects. A lot of people do not understand that nuclear weapons come through this subcommittee. The nuclear weapons and the naval reactors for naval ships come through our subcommittee. So in this $10 billion out of the $14 billion is for defense activities.

One of the areas that we had some problems with this year is the nuclear waste disposal fund, which since 1982 utilities and utility users have been paying into a trust account to provide for a repository for the nuclear waste, high-level waste. In 1988–89 we started exploration of Yucca Mountain in Nevada. Up until this year they have been moving very slowly, but under the contract we had with the utility users in the country by 1998 we were to take the nuclear wastes away from the utilities and have it in permanent storage. It is obvious from this committee's hearings that that will not be possible, so we have decided this year we would back off, not back off from the consideration of Yucca Mountain, but we have to concentrate on finding a spot to take the nuclear waste; so, this year we have recommended $425 million, and that would include interim storage someplace so we can start meeting our contractual responsibility to taking the waste from some of the utilities. We now have 109 reactor sites in the country, and a number of those are already having dry storage, depositing their storage outside, which is dangerous, so we are thinking about and considering that we are going to have to find permanent storage, and we could not designate where that interim storage would be, but the authorizing committee will be talking about this later in our bill.

In title IV; that is, independent agencies, we have two agencies that we have been making reductions, particularly the Appalachian Regional Commission where this year we provide for $142 million, which is a $41 million reduction from last year or a 22-percent reduction. The Tennessee Valley Authority that the gentleman from Tennessee [Mr. QUILLEN] just spoke about earlier in the rule, we provide for $103 million, which is $37 million from last year for reduction of 25 percent below last year.

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We did not fund the three River Basin Commissions. Historically, a number of years ago a number of States formed a compact over control of the rivers and recommendations for the operation of the rivers. The Delaware River, the Susquehanna River, and the Potomac River were three of those projects that no one came before our committee to testify for requests for money, so we did not put the money in. The compacts continue, but they serve the States a lot more than they do the Federal Government, so we took the money out for this.

We have had a number of repeals of legislation this year. We have three repeals in legislation. In the previous years, we prohibited any studies for privatizing the Power Marketing Administrations, the five of them. We refused to permit any study about privatization. We eliminated this restriction.

There has been a prohibition on study of optional rates and employment for the power administrations. We eliminated this. The privatization of hydropower and the rate fixing for those, we eliminated this prohibition. So we allow now reconsideration of rate making, and also other rate making prohibitions we had in previous years.

In closing my remarks, this is not the ideal bill that any of us would have written if we had had the sole responsibility for the 602(b) allocations, which is the allocation of how much money can be spent. If we had been operating as in the previous years where money was not an object, we, of course, would have taken a lot more into consideration for some projects that many of you requested.

But this bill touches every congressional district. As an example, in the Corps of Engineers, in general investigations, we touched this year 41 States. There are going to be investigations in 41 States. In construction, we have construction going in 38 States, plus Puerto Rico. In operation and maintenance, operating the locks and dams, the 25,000 miles of inland waterways we have in the United States, it touches 48 States, plus Puerto Rico and the District of Columbia.

So this is truly a bill that, when the gentleman from Alabama [Mr. BEVILL] and I came to Congress a good many years ago, was called the all-American bill. This year, again, it is the all-American bill. It is an austere bill, one that meets the minimum requirements, one that we can be proud of. Again, it is not the bill we would like to see, but one I hope that all can support.

Members are going to be offering some amendments to cut some projects that the committee in its wisdom and study believes we should consider and fund. We hope the Members will stick with the committee, which has had thousands of pages of hearings, heard thousands of witnesses, had five Governors appear before it, and a great many Members of Congress. It is good legislation, and we commend it for your consideration.

Mr. Chairman, I reserve the balance of my time.

Mr. Chairman, I rise in support of H.R. 1905, the Energy and Water Development Appropriations Bill, 1996.

Because of unprecedented budgetary constraints, assembling this year's energy and water development bill has been a tremendous challenge. The Committee, however, has risen to the challenge and has produced a bill that is balanced and fair. Programs and projects that have marginal value for the taxpayer have been eliminated, while funding for essential activities has been preserved. The bill reflects difficult choices among competing priorities, and I congratulate my friends and colleagues on the Committee for their heroic efforts under difficult budgetary circumstances. I would like to extend special thanks to my good friend, the Honorable BOB LIVINGSTON, the chairman of the Committee and a Member of the Subcommittee, for his support and guidance.

By remaining within its 602(b) allocation, the Energy and Water bill turns the rhetoric of deficit reduction into a reality. The bill's total spending level of $18.7 billion is $1.6 billion below last year's level and $2 billion below the budget request. It is the smallest Energy and Water Development appropriations bill reported by the Committee since fiscal year 1990.

In recommending funding levels for programs funded by the bill, the Committee has worked closely and cooperatively with various authorizing committees of the House. I congratulate these committees for their dedicated efforts to report authorization bills this year, and I thank them for their cooperation.

Title I of H.R. 1905 appropriates $3.2 billion for the civil works program of the U.S. Army Corps of Engineers. This is $189 million (or 6%) lower than the FY 1995 level and $88 million (or 3%) lower than the President's request.

In considering the Administration's budget request, the Committee soundly rejected a proposed new policy of the Corps, which would limit Federal involvement to projects of national scope and significance. If adopted, this policy would eliminate the Corps' traditional participation in flood control projects, small harbor maintenance and shore protection activities. In rejecting this ill-advised proposal, the Committee has revalidated the Corps' proud tradition of protecting our citizens from the devastating impacts of floods. The Committee has also recognized the great value in continuing the Corps' important role in harbor maintenance and shore protection projects.

In order to maximize the value of the Corps' limited resources, the bill deletes funds for a number of low-priority programs and initiatives. These include the Construction Productivity Advancement Research program, research on the economic impacts of global warming, and environmental service partnerships.

Title II of the bill includes funds for the U.S. Bureau of Reclamation. The bill recommends an appropriation of $813 million for the Bureau. This is $28 million (or 3 percent) lower than the fiscal year 1995 level and $24 million (or 3 percent) higher than the President's budget request. Increases above the budget request are included to expedite water projects for which the Administration has not requested sufficient funding. The bill deletes funds for a number of low-priority programs and new initiatives of the Bureau, including a National Fish and Wildlife Foundation grant and the Water Conservation Challenge Partnerships program.

Title III of H.R. 1905 funds programs and activities of the Department of Energy. The appropriation of $14.8 billion for the Department is $940 million (or 6 percent) less than the fiscal year 1995 level and $1.9 billion (or 11 percent) below the Administration's request.

The bill effects serious reductions throughout the Department of Energy. Unneeded bureaucracy is cut from the budget, while essential and necessary activities of the Federal Government are preserved. General science and research activities are preserved within funding constraints, while applied research and commercialization activities—especially those for which private industry investment is more appropriate—are eliminated or dramatically reduced.

The appropriation for general science is $991 million, a $7 million increase over last year's level. The appropriation for solar and renewable energy activities is reduced to $222 million, well under the budget request of $423 million.

The appropriation for defense environmental restoration and waste management is $5.3 billion, consistent with the authorization level developed by the National Security Committee. This is the largest single item within the $10 billion appropriation for the atomic energy defense activities of the Department of Energy.

The bill appropriates $425 million to pursue solutions to the country's growing nuclear waste problem. The Committee directs the Department of Energy to downgrade site characterization activities at Yucca Mountain in Nevada in order to develop a national interim storage program. Authorizing committees retain flexibility to craft a new direction for the civilian nuclear waste program.

The bill eliminates a number of departmental programs and initiatives, including: international solar research, hydropower research, and technology transfer programs. It also repeals a provision of law prohibiting the use of appropriated funds to study the sale of power marketing administrations.

Title IV of the bill includes funding for independent agencies and commissions. For fiscal year 1996, the independent agencies under the Committee's jurisdiction are funded at a level of $276 million. This represents a $195 million reduction from last year's level and a decrease of $93 million from the budget estimate.

As reported by the Appropriations Committee, the bill terminates Federal participation in three river basin commissions: the Delaware River Basin Commission, the Susquehanna River Basin Commission and the Interstate Commission on the Potomac River Basin. Furthermore, the bill effects dramatic reductions in the Appalachian Regional Commission and the appropriated programs of the Tennessee Valley Authority. At $142 million, the appropriation for ARC is 22 percent less than requested by the Administration and approximately one-half of the fiscal year 1995 level. Funding for the TVA is 25 percent less than requested in the budget, and for TVA's Environmental Research Center has been deleted altogether.

Mr. Chairman, I would like to take this opportunity to recognize the tremendous efforts of all Members of the Subcommittee on Energy and Water Development. Throughout an arduous hearing process and the difficult deliberations on program funding, the Members of the Subcommittee have put partisan concerns aside and have consistently acted in accordance with the best interests of all Americans. Their dedication and hard work have been an inspiration, and serving as their Chairman has been both an honor and a privilege.

Finally, Mr. Chairman, I would like pay special tribute to one of the most honorable and distinguished gentleman to ever serve in this chamber. My friend, the Honorable TOM BEVILL, proudly served as the Subcommittee's Chairman for 18 years. As Chairman, his virtues of honesty, fairness, and wisdom were always in abundant evidence. As Ranking Minority Member, his service has been no less honorable. His service to the Committee and to the country have been invaluable, and I am deeply grateful for his cooperation, his assistance, and his friendship.

Mr. Chairman, I urge all of my colleagues to support H.R. 1905.

I reserve the balance of my time.

ENERGY AND WATER APPROPRIATIONS BILL (H.R. 1905)

	FY 1995 Enacted	FY 1996 Estimate	Bill	Bill compared with Enacted	Bill compared with Estimate
TITLE I - DEPARTMENT OF DEFENSE - CIVIL					
DEPARTMENT OF THE ARMY					
Corps of Engineers - Civil					
General investigations	161,199,000	155,625,000	129,906,000	-31,293,000	-25,719,000
Construction, general	983,668,000	785,125,000	807,846,000	-175,822,000	+22,721,000
Flood control, Mississippi River and tributaries, Arkansas, Illinois, Kentucky, Louisiana, Mississippi, Missouri, and Tennessee	328,138,000	319,250,000	307,885,000	-20,253,000	-11,365,000
Operation and maintenance, general	1,646,535,000	1,749,875,000	1,712,123,000	+65,588,000	-37,752,000
Regulatory program	101,000,000	112,000,000	101,000,000		-11,000,000
Flood control and coastal emergencies	14,878,000	20,000,000	10,000,000	-4,878,000	-10,000,000
General expenses	152,800,000	164,725,000	150,000,000	-2,800,000	-14,725,000
Oil spill research	900,000	850,000	850,000	-50,000	
Total, title I, Department of Defense - Civil	3,408,919,000	3,307,450,000	3,219,610,000	-189,309,000	-87,840,000
TITLE II - DEPARTMENT OF THE INTERIOR					
Central Utah Project Completion Account					
Central Utah project construction	22,839,000	18,905,000	18,905,000	-3,934,000	
Fish, wildlife, and recreation mitigation and conservation	11,133,000	18,503,000	18,503,000	+7,370,000	
Utah reclamation mitigation and conservation account	5,000,000	5,485,000	5,485,000	+485,000	
Program oversight and administration	1,191,000	1,246,000	1,246,000	+55,000	
Total, Central Utah project completion account	40,163,000	44,139,000	44,139,000	+3,976,000	
Bureau of Reclamation					
General investigations	14,190,000	13,602,000	13,114,000	-1,076,000	-488,000
Construction program	432,727,000	375,943,000	417,301,000	-15,426,000	+41,358,000
Operation and maintenance	284,300,000	288,759,000	278,759,000	-5,541,000	-10,000,000
Loan program	9,600,000	16,668,000	11,668,000	+2,068,000	-5,000,000
(Limitation on direct loans)	(23,000,000)	(37,000,000)	(37,000,000)	(+14,000,000)	
General administrative expenses	54,034,000	50,327,000	48,630,000	-5,404,000	-1,697,000
Emergency fund	1,000,000			-1,000,000	
Colorado River Dam fund (by transfer, permanent authority)	(-7,472,000)	(-4,556,000)	(-4,556,000)	(+2,916,000)	
Central Valley project restoration fund	45,385,000	43,579,000	43,579,000	-1,806,000	
Total, Bureau of Reclamation	841,236,000	788,878,000	813,051,000	-28,185,000	+24,173,000
Total, title II, Department of the Interior	881,399,000	833,017,000	857,190,000	-24,209,000	+24,173,000
(By transfer)	(-7,472,000)	(-4,556,000)	(-4,556,000)	(+2,916,000)	
TITLE III - DEPARTMENT OF ENERGY					
Energy Supply, Research and Development Activities	3,314,548,000	3,396,535,000	2,596,700,000	-717,848,000	-799,835,000
Uranium Supply and Enrichment Activities	73,210,000	77,195,000	64,197,000	-9,013,000	-12,998,000
Gross revenues	-9,900,000	-34,903,000	-34,903,000	-25,003,000	
Net appropriation	63,310,000	42,292,000	29,294,000	-34,016,000	-12,998,000
Uranium enrichment decontamination and decommissioning fund	301,327,000	288,807,000	278,807,000	-22,520,000	-10,000,000
General Science and Research Activities	984,031,000	1,017,530,000	991,000,000	+6,969,000	-26,530,000
Nuclear Waste Disposal Fund	392,800,000		226,600,000	-166,200,000	+226,600,000
Environmental Restoration and Waste Management:					
Defense function	(4,892,691,000)	(6,008,002,000)	(5,265,478,000)	(+372,787,000)	(-742,524,000)
Non-defense function	(1,045,368,000)	(1,001,797,000)	(905,348,000)	(-140,020,000)	(-96,449,000)
Total	(5,938,059,000)	(7,009,799,000)	(6,170,826,000)	(+232,767,000)	(-838,973,000)
Atomic Energy Defense Activities					
Weapons Activities	3,229,069,000	3,540,175,000	3,273,014,000	+43,945,000	-267,161,000
Defense Environmental Restoration and Waste Management	4,892,691,000	6,008,002,000	5,265,478,000	+372,787,000	-742,524,000
Other Defense Activities	1,849,657,000	1,432,159,000	1,323,841,000	-525,816,000	-108,318,000
Defense Nuclear Waste Disposal	129,430,000	198,400,000	198,400,000	+68,970,000	
Total, Atomic Energy Defense Activities	10,100,847,000	11,178,736,000	10,060,733,000	-40,114,000	-1,118,003,000
Departmental Administration	407,312,000	439,444,000	362,250,000	-45,062,000	-77,194,000
Miscellaneous revenues	-161,490,000	-122,306,000	-122,306,000	+39,184,000	
Net appropriation	245,822,000	317,138,000	239,944,000	-5,878,000	-77,194,000
Office of the Inspector General	28,465,000	30,898,000	28,000,000	-465,000	-4,898,000
Power Marketing Administrations					
Operation and maintenance, Alaska Power Administration	6,494,000	4,260,000	4,260,000	-2,234,000	
Operation and maintenance, Southeastern Power Administration	22,431,000	19,843,000	19,843,000	-2,588,000	
Operation and maintenance, Southwestern Power Administration	21,316,000	29,778,000	29,778,000	+8,462,000	
Construction, rehabilitation, operation and maintenance, Western Area Power Administration	222,295,000	306,352,000	257,652,000	+35,357,000	-48,700,000
(By transfer, permanent authority)	(7,472,000)	(4,556,000)	(4,556,000)	(-2,916,000)	
Falcon and Amistad operating and maintenance fund		1,000,000	1,000,000	+1,000,000	
Total, Power Marketing Administrations	272,526,000	361,233,000	312,533,000	+40,007,000	-48,700,000

ENERGY AND WATER APPROPRIATIONS BILL (H.R. 1905)—Continued

	FY 1995 Enacted	FY 1996 Estimate	Bill	Bill compared with Enacted	Bill compared with Estimate
Federal Energy Regulatory Commission					
Salaries and expenses	166,173,000	136,567,000	132,290,000	-33,883,000	-4,277,000
Revenues Applied	-166,173,000	-136,567,000	-132,290,000	+33,883,000	+4,277,000
Total, title III, Department of Energy	15,701,876,000	16,633,269,000	14,761,811,000	-940,065,000	-1,871,458,000
(By transfer)	(7,472,000)	(4,556,000)	(4,556,000)	(-2,916,000)	
TITLE IV - INDEPENDENT AGENCIES					
Appalachian Regional Commission	282,000,000	183,000,000	142,000,000	-140,000,000	-41,000,000
Defense Nuclear Facilities Safety Board	17,933,000	18,500,000	17,000,000	-933,000	-1,500,000
Delaware River Basin Commission:					
Salaries and expenses	343,000	353,000		-343,000	-353,000
Contribution to Delaware River Basin Commission	478,000	551,000		-478,000	-551,000
Total	821,000	904,000		-821,000	-904,000
Interstate Commission on the Potomac River Basin:					
Contribution to Interstate Commission on the Potomac River Basin	511,000	524,000		-511,000	-524,000
Nuclear Regulatory Commission:					
Salaries and expenses	520,501,000	520,300,000	468,300,000	-52,201,000	-52,000,000
Revenues	-498,501,000	-498,300,000	-457,300,000	+41,201,000	+41,000,000
Subtotal	22,000,000	22,000,000	11,000,000	-11,000,000	-11,000,000
Office of Inspector General	5,080,000	5,500,000	5,000,000	-80,000	-500,000
Revenues	-5,080,000	-5,500,000	-5,000,000	+80,000	+500,000
Subtotal					
Total	22,000,000	22,000,000	11,000,000	-11,000,000	-11,000,000
Susquehanna River Basin Commission:					
Salaries and expenses	318,000	332,000		-318,000	-332,000
Contribution to Susquehanna River Basin Commission	288,000	360,000		-288,000	-360,000
Total	606,000	692,000		-606,000	-692,000
Tennessee Valley Authority: Tennessee Valley Authority Fund	142,873,000	140,473,000	103,339,000	-39,534,000	-37,134,000
Nuclear Waste Technical Review Board	2,664,000	2,970,000	2,531,000	-133,000	-439,000
Office of the Nuclear Waste Negotiator	1,000,000			-1,000,000	
Total, title IV, Independent agencies	470,408,000	369,063,000	275,870,000	-194,538,000	-93,193,000
Grand total:					
New budget (obligational) authority	20,462,402,000	21,142,799,000	19,114,281,000	-1,348,121,000	-2,028,518,000
(By transfer)					

Mr. BEVILL. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this 1996 appropriations bill, effective October 1, has been the most difficult bill Chairman MYERS and I have worked on. As the gentleman has pointed out so well, he and I have worked together for all these years. We have exchanged seats now. He is the chairman and I am the ranking member, and we are working right along just as we have been doing for the last 18 years. The gentleman is great to work with, and I just want to commend him. His leadership has always played a big role in getting this bill put together, making this bill possible and getting the support of the Congress. So we are proud of this bill, when we consider the circumstances and what we have had to face in the way of cuts.

For example, the appropriation bill this time contains $18.7 billion. Just 2 years ago it was $22 billion. It is 10 percent less than the President's budget request for this year. It is 7 percent less than what we appropriated last year. So we have done our part in taking our share of the cuts, and many good programs have not been funded as much as we feel like they should be.

As a matter of fact, there are many good programs we have had to actually just leave out. This is very, very difficult. As Chairman MYERS pointed out, the recommendation by the administration on the flood control projects in our judgment would be a disaster, and we are not going to do it. We are not going to accept that recommendation. The flood control projects are some of the most important work that the U.S. Army Corps of Engineers does, and they need every dollar in this bill that they will receive in the 1996 fiscal year.

In my judgment, if we had to pick out the most important thing the U.S. Army Corps of Engineers does, and they do a good job, it is flood control. There we are talking about not only saving property, but we are talking about saving lives. Certainly, we cannot put any dollar value on saving lives.

The corps has estimated and they have testified before our panel several times to the effect that for every $1 that we invest in flood control projects, there are benefits in the amount of $6. So it is something that pays. Of course, the administration, for some reason, wants to change this formula that has been in effect for years, where the local governments would not be paying the 25 percent of the cost of the flood control projects, but it would change to where the local government would pay 75 percent. Actually, when the division engineers were testifying, most of them, as Members know, are major generals in the U.S. Army Corps of Engineers, and I asked them the question, do you know of any State in the Union or any government or any level of government or any city in the United States that could afford to pay 75 percent of the cost of flood control projects that are needed and are critical? They actually tried to think of a place, but could not think of one in the whole United States.

So I think that tells the story pretty well. On nuclear waste the utilities are paying. The ratepayers in this Nation are paying today through their utility bills to dispose of the nuclear waste throughout the United States. As Chairman MYERS pointed out, we have been very unhappy with the success, or the lack of success would be a better way of putting it, of getting this waste disposed of, nuclear waste, and getting a storage place for it.

So the fund is in there, and the ratepayers are paying for it, and they are not getting it. We are supposed to have a place ready for this waste to start being hauled to and in place by 1997 or 1998. Certainly, it does not look like we are going to meet that target. But we would say on the Yucca Mountain project, that while we have been very disappointed in the past on it, it does seem to be moving now. In the past few months, for the first time, it is actually moving and getting somewhere, and we feel that now we are on the right track, and we hope that we are, and we can do our duty and get this waste disposal underway.

Mr. Chairman, I urge Members to support this legislation. We recommend this bill to Members highly.

Mr. Chairman, I reserve the balance of my time.

Mr. MYERS of Indiana. Mr. Chairman, I yield 3 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I rise in strong support of this piece of legislation. The gentleman from Indiana [Mr. MYERS] has, to the extent possible within his subcommittee's 602(b) allocation, tracked the energy research and development priorities of the Committee on Science as outlined in the authorization bills that are still to come to the floor, but have been cleared out of our committee. I think that the work that the gentleman and his staff have done with my committee has been done to an unprecedented extent, and I want to thank the gentleman for it, and want to thank the gentleman from Alabama for the leadership he has provided to this subcommittee over the years, and I think that we are seeing the results of a lot of good work here in the course of the development of this bill.

The gentleman from Indiana [Mr. MYERS] worked closely with the gentleman from California [Mr. ROHRABACHER], the chairman of the Committee on Science Subcommittee on Energy and Environment, and I thank him for that as well.

This bill is proof that the appropriations process can work along with the authorization process, because we have a close cooperation here that I think is producing the right kind of policies in the energy area. The bill does reflect a very strong commitment to both good, fundamental science that is vital to this Nation's future, and to a balanced budget. The fact is that as we look at development of a lot of our basic science programs, we have to do it in the context of our need to balance the budget by the year 2002. This bill goes a long way down that road.

For example, this bill does specify a commitment to the hydrogen program that I think is a useful direction for the Nation to go. It is a very small program, but it is one that has gone through the right process. We authorized the program earlier this year out of this committee. We authorized it at a somewhat higher level than what is in the bill that comes before us, but, nevertheless, we are making a strong commitment to an energy resource that also happens to be an environmentally safe resource, and I think that is a very, very good direction to go in.

This is also a bill that does a lot in terms of basic energy sciences and in high energy and nuclear physics science. What we have here is a commitment to the idea that we ought to be doing basic research in this country, that there is an underlying need to develop those new knowledge bases that this country will depend upon in the years ahead.

We cannot afford, under a balanced budget scenario, to go out and fund every project that somebody wants to have on a live support system that has been developed in the past, but simply was not commercially viable at the time that it was developed. We cannot continue to do that. But we should and can continue to do the right kind of basic science work in this country. This bill moves in that direction. This bill is that kind of bill.

Mr. Chairman, I congratulate the leadership on both sides of the aisle for the bill they have brought forward, and look forward to supporting it strongly.

Mr. BEVILL. Mr. Chairman, I yield 4 minutes to the gentleman from New Jersey [Mr. PALLONE].

Mr. PALLONE. Mr. Chairman, I just want to take a moment to thank the chairman of the subcommittee, the gentleman from Indiana [Mr. MYERS], the gentleman from Alabama [Mr. BEVILL], and the gentleman from New Jersey [Mr. FRELINGHUYSEN], for their work on this bill, particularly with regard to the Army Corps policy and the recommendations made by the administration.

Mr. Chairman, I do support the bill. I think it is an excellent bill. But I think, in particular, the fact that the committee in its report language specifically says that they are not abiding by the recommendations of the President with regard to Army Corps projects is significant.

I cannot think of any proposal that has been made in the last 6 months that is more ill-conceived than the administration's proposal with regard to Army Corps flood control, shore protection, and small scale navigational dredging. I think we all recognize that flood waters do not recognize state of coastal boundaries.

Just to give you an example, if this policy that was put forward by the administration were to come into effect, a large state like California, for example, would be responsible for flood control projects within its boundaries, which would easily qualify as interstate projects in another area of the country. So just because a state happens to be large or because a state happens to be largely along the coast of the United States, all of a sudden, because 50 percent of the flood waters that are affecting or damaging and resulting in the need for a flood control project are not within the state or not interstate, if you will, the project would no longer qualify.

In effect, I think the chairman and the gentleman from Alabama [Mr. BEVILL] mentioned that what we would be doing if this policy were to come into effect is simply not providing for these flood control or shore protection projects to move forward, because most of the states and the localities would not be able to afford to pay for them, particularly if the cost sharing, which is now 75 percent Federal and 25 percent non-Federal, were to switch and become 75 percent non-Federal or local.

Just to give you an example, in my own district, we have a major shore protection project along the coast. We have towns, I will give you an example, such as Bellmawr, where we have a few thousand residents, but in the summer are besieged by thousands of people who use the beach from Pennsylvania, New York and other states. There is no way that a small town like Bellmawr, and I have others that are even smaller, could possibly afford to contribute the amount of money that would be necessary for the state to go ahead with that project. Even though the flood waters are totally from within the state, if you will, because it is the ocean, the bottom line is that the people that use the beaches and take advantage of that shore protection project are from a number of states and many times not even a majority from our own State of New Jersey.

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So the policy simply makes no sense. Also I think about the fact that the Federal Government and the Corps have the expertise, the consulting, engineering and construction expertise to do these projects, which the state and the local municipalities do not.

So overall, I just wanted to commend again the subcommittee for moving ahead with projects and basically setting aside the President's recommendations.

One of the things I am still concerned about though is I do think it is necessary and I know that the subcommittee in its report asked the administration to essentially reverse its policy. I think that is important, because theoretically, even though we pass this bill and even though it ultimately is signed by the President, there still could be a certain amount of discretion on the part of the administration to withhold funds for some of these projects, unless they decide to reverse their policy. So I think it is also important that in the subcommittee report language, they specifically call upon the administration, and I call upon them as well, to reverse this policy because I would not want to see the various projects that are funded in this legislation to be jeopardized at all. I think that the overall presidential/administration policy was ill-conceived and should be reversed.

Mr. MYERS of Indiana. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. BOEHLERT].

Mr. BOEHLERT. Mr. Chairman, I want to engage the chairman in a colloquy. As you well know, one of the problems that led to the demise of the superconducting super collider was that it never received international support.

I said throughout that debate over the SSC that the infrastructure of physics must become as international as the science. High energy physicists here and abroad have taken the message to heart and are ready to move ahead with a large hadron collider. It is my understanding that this bill provides funding to enable preparatory work to proceed on the LHC; is that correct?

Mr. MYERS of Indiana. Mr. Chairman, will the gentleman yield?

Mr. BOEHLERT. I yield to the gentleman from Indiana.

Mr. MYERS of Indiana. Mr. Chairman, I hope his analogy is not analogous of what happened in Texas, but yes, we have provided $6 million as requested.

Mr. BOEHLERT. I thank the gentleman, because I think the authorization reported out by the Committee on Science last week gives a clear green light to negotiations with the Europeans on this project. I hope negotiations can move forward swiftly and that we can inaugurate a new, truly international era in research, an era that will also ensure that American physics continues to strive.

Mr. BEVILL. Mr. Chairman, I yield 3 minutes to the gentleman from Texas [Mr. BENTSEN].

Mr. BENTSEN. Mr. Chairman, I would first like to thank Mr. BEVILL, the ranking minority member on the Energy and Water Subcommittee, for the opportunity to speak on this important piece of legislation.

Earlier this year the Clinton administration and the Army Corps of Engineers proposed a phase-out of Federal funding for local flood control projects.

I am pleased that the subcommittee rejected this proposal during consideration of the fiscal year 1996 energy and water appropriations bill. In southeast Texas, the administration's plan would have been devastating.

During October 1994, southeast Texas suffered some of the worst flooding our area had ever seen. Several lives and millions of dollars in homes and property were lost.

Under the administration's proposal, seven severely needed projects in the Houston area, including Braes, Sims, Greens, and Clear Creek Bayous, would have been halted because the administration would not classify them as "nationally significant."

This designation would have left many vital flood control projects in my district and around the country in limbo.

In addition to threatening the safety of our constituents and their property, the loss of these funds would create a difficult financial burden on our State and local governments.

Local taxpayers would have been forced to fund the lion's share of the $1.5 billion needed to complete these projects. That's $1.5 billion they cannot afford.

More to the point, this plan would have penalized intrastate projects but not interstate projects.

Southeast Texas includes Houston, our Nation's fourth largest city, the bulk of the country's oil and gas infrastructure.

Under the administration's plan, local taxpayers would foot almost the entire bill, while taxpayers in smaller States with similar projects could still rely on majority Federal funds.

Most importantly, if we can prevent disasters with proper flood control planning, the Federal Government would not be forced to spend billions of taxpayers' dollars on emergency and disaster relief. It is clear that flood control projects save Federal dollars in the long run.

In a time when this Congress is considering turning over many responsibilities to State and local governments, I believe we should maintain Federal support for flood control projects.

The devastating damage from last year's floods are a clear reminder that our lives, our infrastructure, and our economy depend on these projects. This bill maintains that commitment. I applaud the work of the chairman, the ranking member, and my fellow Texan, Mr. CHAPMAN. I urge my colleagues to support H.R. 1905.

Mr. MYERS of Indiana. Mr. Chairman, I yield 2 minutes to the gentleman from Nebraska [Mr. BEREUTER].

Mr. Chairman, this Member rises in strong support of H.R. 1905 and would like to commend the distinguished gentleman from Indiana [Mr. MYERS], the chairman of the Energy and Water Development Subcommittee, and the distinguished gentleman from Alabama [Mr. BEVILL], the ranking member of the subcommittee, for their exceptional work in bringing this bill to the floor. Extremely tight budgetary constraints made the job of the subcommittee much more difficult. The subcommittee is to be commended for its diligence in creating such a fiscally responsible bill. In light of these budgetary pressures, this Member would like to express his appreciation to the subcommittee and formally recognize that the energy and water development appropriations bill for fiscal year 1996 includes funding for several water projects that are of great importance to Nebraska.

Importantly, the bill provides funding for two Missouri River projects which are designed to remedy problems of erosion, loss of fish and wildlife habitat, and sedimentation. First, the bill provides $5.7 million for the four-State Missouri River Mitigation project. This funding is needed to restore fish and wildlife habitat lost due to the federally sponsored channelization and stabilization projects of the Pick-Sloan era. The islands, wetlands, and flat floodplains needed to support the wildlife and waterfowl that once lived along the river are gone. An estimated 475,000 acres of habitat in Iowa, Nebraska, Missouri, and Kansas have been lost. Today's fishery resources are estimated to be only one-fifth of those which existed in predevelopment days.

The Missouri River Mitigation project addresses fish and wildlife habitat concerns much more effectively than the Corps' overwhelmingly unpopular and ill-conceived proposed changes to the Missouri River master manual. Although the Corps' proposed plan was designed to improve fish and wildlife habitat, these environmental issues are already being addressed by the Missouri River Mitigation project. In 1986 the Congress authorized over $50 million to fund the Missouri River Mitigation project to restore fish and wildlife habitat lost due to the construction of structures to implement the Pick-Sloan plan.

Second, the bill provides $200,000 for operation and maintenance and $20,000 for construction of the Missouri National Recreation River project. This project addresses a serious problem in protecting the river banks from the extraordinary and excessive erosion rates caused by the sporadic and varying releases from the Gavins Point Dam. These erosion rates are a result of previous work on the river by the Federal Government.

In addition, the bill provides funding for flood-related projects of tremendous importance to residents of Nebraska's First Congressional District. Mr. Chairman, flooding in 1993 temporarily closed Interstate 80 and seriously threatened the Lincoln municipal water system which is located along the Platte River near Ashland, NE. Therefore, this Member is extremely pleased the committee agreed to continue funding for the Lower Platte River and tributaries flood control study. This study should help to formulate and develop feasible solutions which will alleviate future flood problems along the Lower Platte River and tributaries. Additionally, the bill provides continued funding for a floodplain study of the Antelope Creek which runs through the heart of Nebraska's capital city, Lincoln.

Finally, Mr. Chairman, this Member strongly commends the subcommittee for rejecting the administration's proposed policy which would radically revise the Army Corps of Engineers' mission and severely restrict its role in local flood control projects. The rigid set of criteria proposed by the administration would greatly restrict the Corps' presence in numerous states.

Under the new criteria, projects would be limited to those in which first, more than half the damaging flood water comes from outside the boundaries of the State where the damage is occurring; second, the benefit-to-cost-ratio is two or greater; and third, the non-Federal sponsor is able and willing to pay 75 percent of the first cost of the project. These requirements set an impossibly high threshold for many necessary and worthy projects.

The administration's proposed changes would result in a seriously shortsighted and misguided policy. They would delay urgently needed projects and result in unnecessary costs for States. Under such a policy, each State would be forced to obtain the contracting, engineering, and construction experience which the Corps already possesses. This Member is pleased the subcommittee firmly rejected this seriously flawed administration proposal.

Again, Mr. Chairman, this Member commends the distinguished gentleman from Indiana [Mr. MYERS], the chairman of the subcommittee, and the distinguished gentleman from Alabama [Mr. BEVILL], the ranking member of the subcommittee for their continued support of projects which are important to Nebraska and the First Congressional District, as well as to the people living in the Missouri River Basin.

Again, Mr. Chairman, I commend the distinguished gentlemen and the subcommittee for their work. Their efforts have been appreciated by this Member and my colleagues from Nebraska and elsewhere in the Missouri River Basin.

Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. BEVILL. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. ACKERMAN].

Mr. ACKERMAN. Mr. Chairman, I rise to engage the chairman of the committee in a brief colloquy, if I might.

Mr. Chairman, the committee has included money in H.R. 1905 to complete the reconnaissance portion of the coastal erosion study on the north shore of Long Island, but it does not contain money to begin the feasibility portion of that study.

As the chairman knows, the north shore has had an extensive history of tidal flooding and shore erosion and damage to shore-front development, most recently in 1992.

Since the committee has rejected the President's proposal with regard to shore protection studies and since New York State has already provided money for its share of the project, would the chairman be willing to work with me as the bill moves through the process to see that the Federal Government provides its share of the cost?

Mr. MYERS of Indiana. Mr. Chairman, will the gentleman yield?

Mr. ACKERMAN. I yield to the gentleman from Indiana.

Mr. MYERS of Indiana. Mr. Chairman, the committee has worked with the gentleman from New York on this erosion problem for a number of years and is well aware of the problem. We certainly shall be working to make sure that the reconnaissance study is done and be working toward solving the problem that you have.

Mr. ACKERMAN. Mr. Chairman, I thank the gentleman for his support in the past and for his pledge of support as this process moves forward. I am deeply appreciative.

I would also like to thank the gentleman from Alabama as well as for his support in the past on this project and ask the distinguished ranking member for his continued assistance in the future as this bill moves through the legislative process.

Mr. BEVILL. Mr. Chairman, will the gentleman yield?

Mr. ACKERMAN. I yield to the gentleman from Alabama.

Mr. BEVILL. Mr. Chairman, I concur with the remarks of the gentleman from Indiana [Mr. MYERS] pertaining to this project.

Mr. ACKERMAN. Mr. Chairman, I thank both distinguished gentlemen.

Mr. MYERS of Indiana. Mr. Chairman, I yield 2 minutes to the gentleman from New Jersey [Mr. FRELINGHUYSEN], a very valued new member of this committee.

Mr. Chairman, I rise today in support of H.R. 1905 making appropriations for energy and water development for fiscal year 1996. As a new member of this subcommittee, I would like to thank Chairman MYERS and ranking member BEVILL for their leadership and direction. I would also like to thank the dedicated and capable staff of the subcommittee for their expertise and knowledge of these important issues.

The bill before the House today reduces spending and downsizes the Federal Government, while maintaining funding for critical flood safety projects, coastal protection, and important energy research programs like fusion energy.

We had to make the tough choices about where to reduce spending while supporting programs that are in the best interest of our country.

Overall the bill reflects the changing priorities of the new Congress by reducing spending for the Department of Energy, Bureau of Reclamation, and other agencies by almost $1.6 billion from last year's level: An 8-percent reduction. Unlike the budget resolution which passed the House in May, the decisions in this bill will directly reduce Federal spending and are essential in our efforts to reach a balanced budget.

I am also very pleased with the subcommittee decision to flatly reject the President's wish to end flood control and coastal protection projects. These projects are nationally significant and it is my belief that the President's policy, was ill-conceived and not founded on solid fact. By rejecting the President's policy, New Jersey's shore and flood prone areas will be protected again.

This bill represents real progress toward a smaller, smarter government. It is one more step closer to balancing the budget and keeping our promises to the American people. Mr. Chairman, I urge the adoption of this bill.

Mr. MYERS of Indiana. Mr. Chairman, I thank the gentleman for his remarks. The subcommittee continues to be a supporter of fusion, but the plasma research will continue.

Mr. Chairman, I yield 2 minutes to the gentleman from Illinois [Mr. FAWELL].

Mr. FAWELL. Mr. Chairman, I thank the gentleman very much and commend him for the leadership he has exercised in bringing this bill to the floor. I certainly rise in support of the Energy and Water Appropriation Act of 1995.

As a fiscal conservative Member, I believe that we have a moral imperative to balance the Federal budget. Surely every area of Federal spending must be open to the possibility of reduction, and no role of the Federal Government must remain unexamined. Equally important, however, is our quest to balance the budget, however, with the knowledge that we must and we cannot afford to be penny-wise and pound-foolish.

A few weeks ago, the House Committee on Science moved to reauthorize the budget for the Department of Energy and the science and technology programs it oversees. As a member of the committee, I commend the House Committee on Appropriations for its adherence to authorization legislation adopted by the Committee on Science.

During consideration of H.R. 1905, there may be an amendment to strike $18 million for the nuclear technology research and development at Argonne National Laboratory both in Idaho Falls and in the State of Illinois.

The environmental nuclear waste treatment program, electrorefining of spent nuclear fuel, has the strong potential to significantly reduce the amount of high level waste and spent nuclear fuel, decreasing the toxicity and the volume of over 100 different types of spent fuel, some 2700 metric tons, stored at DOE sites around the nation.

This electrometallurgical research could save taxpayers billions of dollars by treating spent fuel that cannot be disposed of safely. The National Academy of Sciences supports continued funding of this nuclear technology research, saying that it represents promising technology for treating a variety of DOE spent fuels.

In addition, further funding of the research is predicated on the continued approval of the National Academy of Sciences so that funding for the nuclear technology research and development program was requested by the Clinton administration and the Department of Energy.

At $18 million, the nuclear technology program has already been cut 28 percent below the fiscal year 1995 level, 50 percent below the fiscal year 1996 request, and I believe that it is sound science.

Again, I commend the gentleman from Indiana [Mr. MYERS] for the leadership that he has shown in a very difficult task, I know, in putting together this appropriation bill.

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Mr. MYERS of Indiana. Mr. Chairman, I thank the gentleman for his leadership. This committee has worked very closely with the authorizing committee, the gentleman from Illinois [Mr. FAWELL], and certainly the gentleman from California [Mr. ROHRABACHER], who we have worked very closely with.

Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. ROHRABACHER].

Mr. ROHRABACHER. Mr. Chairman, I rise in support of this bill.

This energy and water appropriations bill reflects the tough choices made by members of the Appropriations Subcommittee to put us on the path to a balanced budget in 7 years.

As chairman of the authorizing subcommittee for a portion of this bill, I would like to commend both Chairman MYERS and the ranking minority member, Mr. BEVILL, and their staffs, for a good faith attempt to work with the Science Committee and its staff in crafting the portions of this bill that apply to programs under Science Committee jurisdiction.

This year's bill was not produced under ideal circumstances.

The press of legislation during the first 100 days before many of the committees were fully reorganized and staffed-up hampered the process.

The result is not an ideal product but does represent an historic change in the authorization/appropriations process.

Rather than take a meat-ax approach to budget reductions, the bill attempts, as we did in the Science Committee, to preserve basic research funding while terminating market and development programs that are best handled by the private sector.

Do I agree with every line item in the bill? Of course not.

But I see this bill as laying the foundation for a new partnership that we can build on next year.

I urge my colleagues to support this bill.

Mr. Chairman, I thank the ranking member, the gentleman from Alabama [Mr. BEVILL], and the gentleman from Indiana [Mr. MYERS], again for the great cooperation we have had in putting this together.

Mr. BEVILL. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. MYERS of Indiana. Mr. Chairman, I thank the authorizing committees for the nice words they have said. Mr. Chairman, I yield back the balance of my time, and I hope the authorizing committees continue to work as they have.

Mr. MILLER of California. Mr. Chairman, I rise in support of H.R. 1905 making appropriations for the energy and water development for fiscal year 1996.

This bill provides funds for critical flood control and navigation projects in Contra Costa County and the San Francisco Bay Area of California. I appreciate the Committee's continued support for these projects.

H.R. 1905 and the accompanying Committee report also raise several issues which I will address in my capacity as Ranking Democratic Member of the Committee on Resources.

First, H.R. 1905 will fund important individual projects and program activities of the Bureau of Reclamation. The Bureau of Reclamation has demonstrated consistent leadership in the Administration's efforts to implement significant reforms to Federal water management and construction programs.

Second, H.R. 1905 includes significant funding to implement various programs authorized by P.L. 102–575, the Reclamation Projects Authorization and Adjustment Act of 1992. In particular, title 34 of the law, the Central Valley Project Improvement Act [CVPIA], includes many innovative measures to conserve water and to restore fish and wildlife habitat that has been adversely affected by the development of water and power projects in California. Water marketing, changes in project operations and water allocations, incentives for conservation, and specific goals for fish and wildlife restoration are all included in this title.

I am in complete support of the Bureau of Reclamation's efforts to fairly and promptly implement the provisions of the CVPIA, and I strongly oppose any attempts to amend this law through the appropriations process. I specifically note at this time my strong objections to language contained in the Committee Report accompanying H.R. 1905 (House Report 104–149), which "directs that the $1,000,000 requested for the San Joaquin River Basin Resource Management Initiative not be expended for that purpose." As my colleagues are well aware, this study is required by law; it is not optional. The study was authorized so that we could determine what needs to be done to restore fish to the San Joaquin River, where irrigation water deliveries have wiped out several stocks of commercially valuable anadromous fish.

The Appropriations Committee is obviously determined to kill this study and prevent people from learning the truth about the destruction of fishery resources in the San Joaquin River. The effort to kill this study is important only to a small group of CVP beneficiaries who continue to profit from their subsidized water supplies at the expense of California's commercial and sport fish resources. I wish to associate myself with the views of my colleague from California, Ms. PELOSI, who correctly noted that "the San Joaquin study has been authorized by Congress and is being conducted properly by the Bureau of Reclamation. It should be allowed to proceed without interference from special interests."

Third, with regard to the repayment of costs of cleaning up Kesterson Reservoir and conducting the San Joaquin Valley Drainage Study Program, I am concerned that the Appropriations Committee is again attempting to legislate matters of policy without consulting the authorizing Committee.

My colleagues will recall that the Federal Government has spent approximately $35 million for the cleanup of Kesterson Reservoir, a series of ponds in the San Joaquin Valley that were built in the 1970's to contain subsurface irrigation drainage water collected from farms in the Bureau of Reclamation's San Luis Unit, part of the Central Valley Project. The Kesterson facility was closed in March of 1985 by then-Secretary of the Interior Donald Hodel because the drainage water was contaminated with selenium and other chemicals. Many migratory birds using the Kesterson ponds were being killed in violation of the Migratory Bird Treaty Act. Other birds were hatched with grotesque deformities caused by selenium poisoning. Congress has appropriated tens of millions of dollars to clean up this mess on behalf of the project beneficiaries of the San Luis Unit, and we have also funded extensive multi-disciplinary and multi-agency studies of how to reduce or eliminate irrigation drainage contamination.

There is no legislative language in H.R. 1905 that would amend current law regarding repayment responsibilities for cleaning up Kesterson Reservoir and conducting the San Joaquin Valley Drainage Study Program. The report accompanying H.R. 1905, however (House Report 104–149), refers to a recent report from the Bureau of Reclamation, and concludes that San Luis Unit contractors should work with the Bureau of Reclamation "to develop a reasonable and cost-effective drainage solution". The Committee Report also contains the following statement regarding the subject of Kesterson and drainage study repayment:

> The Committee believes it is premature for Reclamation to collect any costs before these negotiations are complete and appropriate drainage service is provided. Therefore, the Committee directs that the Bureau of Reclamation take no action to collect costs associated with the Kesterson Reservoir Cleanup Program or the San Joaquin Valley Drainage Program until drainage service negotiations are complete, drainage service is provided, or the authorizing Committee has acted on this issue.

The above conclusion and Committee directive to the Bureau of Reclamation are unwarranted and are not supported by any facts whatsoever. Without even consulting the authorizing committee, the Appropriations Committee has decided to indefinitely forgive the repayment of tens of millions of dollars in expenses associated with the cleanup of Kesterson Reservoir and the completion of the San Joaquin Valley Drainage Study Program. Under current law, these costs are a legal responsibility of the water users whose contaminated irrigation wastewater has caused this massive pollution problem. They should be required to pay their bills just like everybody else.

I also remind my colleagues that committee report language from last year's Energy and Water bill specifically noted that repayment of these cleanup and study costs should begin soon after the Bureau's report was made available:

> It was and is the intent of the Committee that the [forthcoming Interior Department] report be used as a resource to assist in the fair and just apportionment of Kesterson and other drainage related costs and not serve as a method of delaying indefinitely repayment obligations. (House Report 103–533).

Since FY 1991, House Appropriations Committee Report language has directed the Department specifically not to collect payments from water users until the Bureau of Reclamation completed the report on allocation of costs. That report was received over four months ago. Now that the Bureau of Reclamation has submitted the report we requested, the water users have decided that they don't like the conclusions of that report and they have asked the Appropriations Committee to indefinitely delay the repayment. This is directly contrary to representations made to this House by the water users regarding their intention to proceed with repayment once the results of the Bureau's study were made available.

The fact of the matter is that the Central Valley Project and San Luis Unit water users are accountable by current law for the money that has been spent on Kesterson cleanup and the San Joaquin Valley Drainage Program.

Until the authorizing Committees and the Full House and Senate and the President have had an opportunity to review information on cleanup costs and decide whether changes to current law are appropriate or not, the Secretary of the Interior is obligated to begin collecting money. The study released this year by the Bureau of Reclamation supports that conclusion. There is no basis whatsoever for the Appropriations Committee to indefinitely forgive the proper repayment of these costs, and this language is not and should not be construed as binding on the Secretary.

Fourth, the elimination of funding for the Bureau of Reclamation and the Army Corps of Engineers to assist salmon migration in the Columbia River basin is outrageously shortsighted. These are not trivial actions by the Bureau and the Corps; the agencies agreed to take these steps only in response to a court order. The court concluded that "business as usual" in the Columbia basin could place endangered salmon in jeopardy of final extinction.

In part as a result of the court's decision, the agencies have tried to find the most cost-effective and least disruptive solution to salmon migration. The Bureau of Reclamation has been purchasing water from willing sellers in the Snake River basin and the Corps has been studying the possibility of lowering the John Day reservoir during migratory periods. These measures enjoy broad regional support, while the measures suggested by the Appropriations Committee will encourage conflict and will probably do little to sustain the salmon.

If the agencies cannot take the regionally-supported steps towards salmon recovery, far more disruptive and costly actions may be required to make sure the salmon are not driven to extinction. Forcing the agencies into this position defies common sense.

Finally, I note that the Committee recommendation includes $94,225,000 for construction of the Central Arizona Project, a generous $1,500,000 above the budget request. While I am generally supportive of plans to complete this project, I note that recent attempts to negotiate a "restructuring" of repayment terms for the Central Arizona Project have failed. It is likely that the project sponsors will soon begin a costly legal battle to settle their disputes with the United States over the amount of money owed for repayment of project construction costs. At the present time, hundreds of millions of dollars are in dispute, and there is no guarantee that these costs will ever be repaid. It should further be noted that we have already provided tens of millions of dollars to make extensive repairs to the CAP water delivery system, and I suspect we have just started to understand how much this project will eventually cost the taxpayers.

Mr. FAZIO of California. Mr. Chairman, I rise in strong support of H.R. 1905, the Energy and Water Appropriations bill.

I wish to thank the members of the subcommittee and full committee for their efforts in developing this measure. Developing this proposal was a difficult challenge for all of us considering the tough financial choices we had to make.

Even in that light, Mr. Speaker, this House appropriations bill reflects a relatively balanced approach for energy and water, although I have some reservations regarding solar and renewables which was cut in half.

As my colleagues know, I am and always have been a strong supporter of Solar and Renewable Energy and would have preferred an increased level of funding. I offered an amendment in committee to add back $15 million which was successful. While I am happy about this modest increase, more is still needed. That is why I have coauthored the Klug amendment which will restore funding for solar and renewable energy.

Mr. Speaker, I know there also will be an attempt to delete funds for the Gas Turbine-Modular Helium Reactor [GT-MHR] Program. I think deleting this funding would be a big mistake and I urge my colleagues to support the Appropriations Committee recommendation.

The bill includes funding for the biochemical conversion program in the solar and renewable accounts that fully supports the level recommended by the House Science Committee. This nation now consumes 70 percent of its energy in the transportation sector, predominantly liquid fuel petroleum. Once again, over half this oil is imported. Therefore, efficient production of ethanol should be a high national priority.

The bill includes critical water resource projects in every State and every region of the country which will help environmental restoration and improvement.

We have provided funding for the key energy, science and water projects, and we have done so within our subcommittee's allocation. We are under the President's budget request, under the 602(b) allocation, and under the amount appropriated last year.

This bill is a joint effort to hold the line financially and continue the process of downsizing. It is about looking ahead for our children's future and making our economy stronger and our communities safer. I strongly urge a yes vote on this year's Energy and Water Appropriations bill.

Mr. LAZIO of New York. Mr. Chairman, I rise today to support H.R. 1905, the FY 1996 Energy and Water Appropriations bill.

As you may know, part of my district lies along New York's Atlantic Coast. Like coastal areas in many parts of the country, the barrier islands along the coast in my district have been hit extremely hard by the storms of the past few winters and remain in a delicate state, vulnerable to breaches and overwashes. Thankfully, this winter was relatively mild, but past damage has never been corrected, and a storm of any significance could be devastating to the mainland of Long Island.

The barrier islands protect Long Island in the same manner that the levees on the Mississippi River protect the river towns. A vulnerable barrier island system cannot protect Long Island's south shore, which has a multi-billion dollar economy and significant public infrastructure. The barriers afford protection to the freshwater wetlands and waters of the back bays, thus nurturing the clamming and fishing industries. Furthermore, Fire Island, Jones Island, Long Beach Island and the rest of Long Island's barrier system provide recreation for the citizens of Long Island and tourists from all over the world. As the tourism industry is the largest employer on Long Island, loss of this vital resource will means loss of jobs.

While the President's budget recommends that the Army Corps of Engineers get out of the business of local flood and shore protection, I believe the Army Corps has a cost-effective and justifiable role in these projects. Savings can surely be made in the way the Corps carries out its mission. But the mission itself is vital to the Nation's coastal communities, and it is not one that can be easily transferred to State or local governments. The shoreline protection projects the Corps is involved in are vitally important to the livelihood of the communities they seek to protect and often end up saving the taxpayers money in the long run.

The first project would provide New York with accurate, real-time information on its coastal processes. Many coastal states already have monitoring systems in place, and such a system is essential for New York. A federally funded monitoring system was authorized for New York in the 1992 Water Resources Development Act, and appropriations have been made over the past 2 years to initiate its implementation.

As the authorization states, successful implementation will take $1.4 million for up to 5 years, at which time the State of New York will take over funding and program implementation. The President has included the full $1.4 million for this program in his fiscal year 1996 budget request, and the fiscal year 1996 Energy and Water Development Appropriations bill also allocates this amount.

The second project has also been requested by the President. This project, the reformulation study of the area from Montauk Point to the Fire Island Inlet, will provide valuable long-term information on the coastal processes of Long Island's south shore. It is expected to take approximately 10 years and $14 million to complete. Over the past two fiscal years, a total of $5 million has been appropriated by this committee for the reformulation study. This has provided important information and will lay the groundwork for possible interim projects needed to shore-up Long Island's coastline. The fiscal year 1996 segment of the study will cost $2.18 million, and this amount was included in H.R. 1905 as part of a $10.4 million total appropriation in this area.

Moving away from flood protection, the final project is a navigation project. The waterways involved, Reynolds Channel and the New York State Boat Channel, run through the western portion of my district, part of Congressman PETER KING's district, 3rd CD, and part of Congressman DAN FRISA's district, 4th CD. The State and local municipalities have only been able to maintain these waterways on a limited basis, causing safety concerns among the parties that use them. Subsequently, the State and local municipalities have sought Federal assistance. A request for an appropriation of $170,000 has been included in the President's fiscal year 1996 budget in order to complete the reconnaissance phase and initiate the feasibility phase, and again, that amount was granted in this bill. There is strong local interest and support in improving navigation through Reynolds Channel and the New York State Boat Channel. These waterways provide important thoroughfares for large volumes of industrial and commercial traffic.

In this time of tight budgets on every level, I understand the fiscal constraints we face. I agree that every expenditure must pass stringent economic tests, and I am confident that, upon examination, expenditure for these projects will pass such tests. The importance of the waterways and the barrier islands to homes and businesses on Long Island and New York cannot be stressed enough. As Westhampton has taught us, the establishment of protective measures now will save the Federal, State, and local government millions of dollars in the long term. I urge my colleagues to support this bill.

Mr. MARTINI. Mr. Chairman, I want to commend the gentlewoman from Washington State with respect to her amendment.

I find it bizarre that the Federal Government of the United States would consider sending American taxpayer funds to some of the wealthiest countries in the world. Especially in a time when we are trying to take the necessary steps to balance our Federal budget within 7 years.

The Bureau of Reclamation is spending taxpayer funds on water projects in the oil rich countries of the Middle East. As my colleague realizes, the Bureau of Reclamation is a water resource agency in 17 contiguous western States, primarily for irrigation. It is supposed to focus its efforts on western water and power related issues. Apparently, the Agency has taken it upon itself to provide water projects for the rest of the world regardless of financial status. I think we need to take steps to ensure that we are providing for our country before we begin to provide this type of aid to our foreign neighbors.

The amendment from the gentlewoman from Washington State would cut the spending for the International Affairs Budget of the Bureau. In August 1993 the Commissioner stated,

> International Major Civil Works Construction does not fit or contribute to Reclamation's new direction and should be phased out in order to make human resources and funding available.

Even the Clinton administration's own officials agreed with this analysis and have adopted a policy to reduce the Bureau's spending.

The United States spends enough on foreign aid without subsidizing water projects in wealthy countries. Make the Bureau of Reclamation live up to its own claims of a new direction of responsible resource management.

Mr. Chairman, I am pleased that Mrs. SMITH has worked with the leadership on this important amendment and I am pleased to support the Smith amendment to the Energy and Water Appropriations bill. In addition, I want to commend the gentleman from Indiana, Mr. MYERS, for taking the steps to ensure that the important programs in this appropriation bill are protected while we continue to strive for a balanced budget for the American taxpayer.

Mr. McDERMOTT. Mr. Chairman, I rise in strong opposition to the treatment of renewable energy and energy conservation programs in the fiscal year 1996 Appropriation bills. These bills threaten America's commitment to proven energy sources and their substantial economic and environmental benefits.

In the rush to cut the Federal budget, Congress should not recklessly endanger America's future environmental health and economic competitiveness. Renewable energy and energy conservation programs will improve America's future by offering clean energy sources at an affordable cost. Instead of cutting these programs, we should be expanding our commitment and support.

Gains in renewable energy are made almost daily. Energy generated by the wind is now being competitively marketed in the State of Washington at 3.5 cents per kilowatt hour. In addition to existing solar energy stations, plans for a high volume solar energy plant in Nevada will competitively market solar energy in rural areas at a price of 5.5 cents per kwh. Besides being cheap, there are no hidden costs—such as environmental degradation through air pollution or threats to human health.

Republican efforts to cut renewable energy research and development and conservation programs by almost 50 percent below fiscal year 1995 levels sets back the Nation's attempt to kick its harmful addiction to fossil fuels. While prices for fossil fuels fluctuate on a whim, fuel costs for renewable energy are zero. If strides are not made in finding alternative energy sources today, it is estimated that by the year 2010, foreign oil will make up 65 percent of U.S. oil consumption. Without an alternative energy plan, the Nation's addictive reliance on oil—both U.S. and foreign—will continue to harm the global environment and increase the Nation's trade deficit by billions of dollars.

In addition to finding new sources of energy, it is important to remember that much can be saved conserving what we already have. The Interior Appropriations bill, to be debated later this week, makes substantial cuts in energy conservation. For example, by the year 2000, a $150 million investment in energy conservation programs will save my own State of Washington almost $700 million, reduce CO_2 emissions by 1.74 millions of metric tons per carbon equivalent [MMTCE]—and create more than 10,000 jobs across the State. If the conservation programs escape radical cuts from the budget knife, the country stands to save over $21 billion in energy costs in the year 2000 and would reduce its carbon emissions by 4.3 percent. Clearly, relatively small investments today could provide huge savings in the future.

Unfortunately, the Republicans don't want to hear these facts, and, instead, prefer to cut state weatherization programs by 50 percent. Programs that not only will save energy, they keep low income individuals warm in the winter, help institutions such as hospitals become more energy efficient, and spur the local economy.

We are so close to providing reliable alternative sources of energy—through renewables and energy conservation—which will have lasting benefits to us all. Why stop now?

Congress should be working to improve America's future by building on today's successes. Let's not squander this opportunity by turning our backs on sources of energy that are vital to improving America's economy and its environment.

The Republican budgetary treatment of renewable energy and energy conservation is short-sighted and foolish. I cannot support bills so absurd in thinking that they ignore the obvious benefits of establishing clean and efficient alternative sources of energy. I urge you to vote against this legislation. Thank you.

Mr. FRELINGHUYSEN. Mr. Chairman, I rise today in support of H.R. 1905 making appropriations for energy and water development for fiscal year 1996. As a new member of this subcommittee, I would like to thank Chairman MYERS and Ranking Member BEVILL for their leadership and direction. I would also like to thank the dedicated and capable staff of the subcommittee for their expertise and knowledge of these important issues.

The bill before the House today reduces spending and downsizes the Federal Government, while maintaining funding for critical flood safety projects, coastal protection, and important energy research programs like fusion energy. We had to make the tough choices about where to reduce spending while supporting programs that are in the best interest of our country.

Overall the bill reflects the changing priorities of the new Congress by reducing spending for the Department of Energy, Bureau of Reclamation, and other agencies by almost $1.6 billion from last year's level. An 8-percent reduction. Unlike the budget resolution which passed the House in May, the decisions in this bill will directly reduce Federal spending and are essential in our efforts to reach a balanced budget.

Specifically, the bill will fund fusion energy research at $229 million, slightly below the new authorized level. I am hopeful that as this bill moves through the committee process we will be successful in meeting this new number. In another area, the bill will close the Tennessee Valley Authority's environmental research center, a facility which I questioned the need for during our hearing process. This is clearly not a priority when we have a $5 trillion debt and we have an EPA that is responsible for these same activities.

I am also very pleased with the subcommittee decision to flatly reject the President's wish to end flood control and coastal protection projects. These projects are "nationally significant" and it is my belief that the President's policy was ill-conceived and not founded on solid fact. By rejecting the President's policy, New Jersey's shore and flood-prone areas will be protected again.

This bill represents real progress toward a smaller, smarter government. It is one more step closer to balancing the budget and keeping our promises to the American people. Mr. Chairman, I urge the adoption of this bill.

Mr. KNOLLENBERG. Mr. Chairman, I rise in support of this bill.

This is a good bill. This bill was created in the spirit of fiscal constraint, yet it prudently continues the gradual downsizing of the Federal energy and water program. I believe it is imperative for this Nation to set its priorities regarding Federal spending. This bill has cut almost $1.6 billion from the 1995 budget and over $2 billion from the Administration's recommendation. In consideration of these cuts, this bill prioritizes where the funds should be appropriated.

The Energy and Water Appropriation Subcommittee has placed a high priority on basic research and development. During the past 17 years since the creation of the Department of Energy, the DOE's focus has been dispersed to a wide array of large Federal programs. Solar and renewables, magnetic fusion, nuclear, and fossil energy begin the list of energy sources the Department of Energy spends billions of dollars each year in an attempt to find the safe and efficient answer to our energy needs.

Frankly, I believe an open and free market is a preferable forum to decide our Nation's energy policy. Withstanding my commitment to a free market, I do recognize that the Federal Government has a proper role in Energy policy to a limited extent, especially in basic research and development.

However, once an energy discovery becomes an applicable energy source, I believe the role of the Federal Government should be limited, and eventually eliminated. Let the entrepreneurial spirit of America apply technology obtained through basic research and development into a practical application. Let the working American family encourage the entrepreneur through the direct support of this entrepreneur's innovation. Encourage the individual innovator by removing burdensome and intrusive regulations. Don't stifle the scientists' imagination by forcing him to plod through a mountain of paper work to obtain Federal funding. And when the consumer chooses one energy source over another, don't interfere with the consumer judgment.

Although we have cut over $2 billion from the administration's budget, including over $1.8 billion cut directly from the Department of Energy's budget, we did not eliminate the Department of Energy itself. And it is not the Appropriations proper role to do so. The proper place for such legislation to be introduced is in the authorizing committees, where an open and full public debate can follow. It is important to understand that even if the Department of Energy is disbanded, a number of programs would remain which require Federal oversight and interaction. For example, the largest focus of the DOE is its defense and national security programs which take up over 60 percent of the Department's funding. These programs include nuclear research, weapons stewardship, and nuclear waste management.

To be candid, I am not happy about every provision of this appropriations bill. For example, I would support smaller cuts in the fusion energy program that promises a safe and inexpensive energy source for the future. And I would seek further cuts in some of the applied technologies, like the solar and renewable energy program. But we cannot let perfection be the enemy of the good. This bill restores prudence by balancing our interest in fiscal responsibility and our interest in a safe, clean and efficient energy and water program.

I seek and encourage your support of this bill.

Mr. SMITH of New Jersey. Mr. Chairman, I appreciate this opportunity to speak to several provisions of the Energy and Water Appropriations bill for fiscal year 1996 which will profoundly affect my home State of New Jersey.

First of all, I am pleased that the committee has soundly rejected President Clinton's short-sighted proposal to phase out the important work of the Army Corps of Engineers in shore protection, navigation, and flood study. The Army Corps has worked to reduce erosion along the Jersey Shore, to make waterways safe for fishing and commercial boat passage, and has protected homeowners from flooding. There is still work to be done.

The Shore is the lifeblood of my home State of New Jersey. The Coast Alliance estimates that three-quarters of the State is located in the coastal zone and that more than 90 percent of the people in the Nation's most populated State live in this coastal zone. These people depend on the Army Corps' experience and know-how to maintain the quality of life they have come to know. In addition, the coastal zone contributes more than $79 billion—or over half of the State's gross State product—to the New Jersey economy through tourism, fishing, and boating or other recreational activities.

While we all realize that cuts in Federal spending are necessary, they should not be arbitrary and they should be based on sound cost-benefit analyses. The President's proposal disregarded the long-term benefits of the Army Corps' work and simply shifted much of the cost of their work to the states. I am proud to have been part of a bipartisan group of legislators who successfully worked against this proposal from its very onset.

In addition, Mr. Chairman, as if to provide evidence of the importance of the Army Corps to New Jersey, H.R. 1905 includes two Corps projects in my district which will help to maintain our strong fishing and tourism industries. Specifically, the bill includes funding to complete a reconnaissance study of the erosion problem along the Shore from Manasquan Inlet to Barnegat Inlet. The study was begun in fiscal year 1995 and, with the $290,000 appropriated in H.R. 1905, will be completed this year. The bill also provides for $100,000 to begin work on maintenance dredging of the Manasquan Inlet.

These appropriations, Mr. Chairman, are modest, but the benefits they will bring to the State are enormous. Tourism is the second greatest contributor to the New Jersey economy, pumping in $22.6 billion in 1994 alone. A stable and preserved shoreline is vital to the success of that industry. In fact, in 1993, the New Jersey coastal regions received almost 14 million overnight visitors who spent an estimated $10.3 billion and created more than 171,000 jobs.

Fishing is also a key industry to the State economy. New Jersey leads the Nation in clam production and is a major producer of scallops and other seafood. In 1993, the New Jersey commercial fishing fleet caught more than $96 million worth of seafood. In addition, anglers contributed more than $649 million to the State economy in 1993. Waterways, like the Manasquan Inlet, must be maintained to allow the fishing industry to do its work.

Mr. Chairman, while I am pleased that the committee gave these Army Corps proposals appropriate attention, I am disappointed that the committee has neglected another industry of importance not only to New Jersey, but to the Nation, and that is fusion energy research.

For years, the Princeton Plasma Physics Lab in Princeton, New Jersey has been a key contributor to the United States' efforts to develop fusion energy for mass consumer use. Just this past year, the Lab reached record levels of energy production and seemed to be on its way to making this safe and clean energy source a reality. Unfortunately, H.R. 1905 stops their progress just as it is beginning to truly pay off. I am hopeful that this will be corrected as we move through the conference process.

Mr. PORTMAN. Mr. Chairman, I rise today in support of the Energy and Water Appropriations bill. This bill represents a good balance between competing interests for a limited pool of resources, and I applaud the Appropriations Committee for their good efforts.

One issue that I have closely monitored during the formulation of this bill is the appropriation for the Department of Energy's [DOE] Environmental Restoration and Waste Management Budget. Those of us who represent districts containing sites where the Department of Energy carried out nuclear energy or weapons research and production activities that resulted or weapons research and production activities that resulted in radioactive and hazardous contamination are committed to ensuring that this budget maintain responsible levels of funding to meet the Federal Government's clean up obligations. If there are no funds to clean up the environmental and health hazards caused by our Nation's nuclear weapons production, the sites will continue to cause an imminent danger to citizens living near the facilities.

I believe the Environmental Restoration and Waste Management Budget appropriation is fair given the Government's budget constraints. The recommended appropriation represents a 7.6-percent increase from last year's budget, increasing spending from $4.9 billion in fiscal year 1995 to $5.3 billion in fiscal year 1996. I understand that the committee has sought to protect funding for cleanup milestones established in compliance agreements by directing cuts against support service contracts, excessive headquarters and field oversight, and by reducing the number of new construction starts proposed to begin in fiscal year 1996. I agree that it is important to ensure that this funding is sued for actual clean up of sites, instead of wasted on overhead costs.

The Fernald site, a former uranium processing center, lies in my congressional district. At no fault of their own, thousands of people living near Fernald have potentially been exposed to dangerous material in the air, soil, and water. With DOE oversight, much progress has been made at Fernald in cleaning up these hazards. However, problems persist.

A specific proposal has been developed to accelerate remediation, so that the site will be clean in 10 years. Having reviewed the proposal and consulted with the various interested parties, I am convinced it is a sound approach. It enjoys widespread support, could serve as a model of successful cleanup efforts, and would result in significant savings to the taxpayer. In fact, I understand that accelerating the schedule for cleanup from 25 years down to 10 years would result in a savings to the taxpayer of approximately $1.4 billion.

I am extremely pleased that the Appropriations Committee has also specifically recognized the prospects for immediate cleanup at Fernald. The Committee Report cites that, "the Committee supports [Fernald's] proposal to reduce costs and accelerate cleanup activities and expects the Department to make every effort to increase funding for this project."

Again, I urge my colleagues to support this appropriations legislation. It provides fair funding levels for our national energy and water priorities, including the cleanup of the Government's nuclear waste sites, while still providing for savings that will help move us to a balanced budget by 2002. Thank you.

Mr. DE LA GARZA. Mr. Chairman, included in the fiscal year 1996 Energy and Water Appropriations package are two projects of great interest to me for which I want to express my support for funding. They are as follows:

Corpus Christi Ship Channel, Texas, is a navigation project which is budgeted for operations and maintenance at $2,190,000. Continued funding of this project is essential due to the impact on the local economy. The project provides for widening and deepening the existing channels to (40.5 miles) and basins from the Gulf of Mexico to deepwater ports at Harbor Island, Ingleside, and Corpus Christi, and a branch channel to the port of La Quinta to provide a project depth of 45 feet. It also includes the construction of mooring areas and dolphins at Port Ingleside, one mooring area and six dolphins constructed initially with seven others deferred to be constructed when required.

Lower Rio Grande Basin, South Main Channel, Texas, is a comprehensive flood control-drainage project which is budgeted at $900,000. It provides the major outlet component of an overall flood protection plan for Willacy and Hidalgo Counties. The authorized plan calls for construction of a major channel extending from near McAllen to the Laguna Madre, and related fish and wildlife mitigating measures. The authorized plan would provide two year protection to rural areas which drain into the South Main Channel; 100-year flood protection to the cities of Edinburg, McAllen and Lyford; and 50-year flood protection for the cities of La Villa and Edcouch.

Mr. LUTHER. Mr. Chairman, I wish to express my concerns regarding the future status of funding for the National Ignition Facility [NIF] included in the fiscal year 1996 House Energy and Water Appropriations measure.

I applaud the Appropriations Committee's decision to defer money for construction on this project. However, I am concerned that the full Appropriations Committee added $10 million to the bipartisan subcommittee funding proposal for the NIF.

My major concern with the NIF is the stark reality of budgetary demands in future years, particularly with respect to the construction funds necessary of completion of the NIF. Current estimates of completion of the NIF, after design and construction, place the cost at more than $1 billion and perhaps as much as $1.5 billion.

At a time when Federal budget realities require hard, difficult choices, the NIF project will require an obligation of an ever-increasing amount of funds from an invariably shrinking funding source.

Therefore, in order to protect higher priorities, particularly basic science research projects, serious questions need to be raised in the coming months about future plans involving future funding for NIF design and construction.

There are some who argue that we need the NIF in order to keep our stockpile of nuclear weapons safe. The NIF is, in fact, the most expensive of many components that make-up DOE's stockpile stewardship program. Yet, according to most experts, the NIF's contribution to stockpile safety is nominal.

Given our current budget situation, and the recommended levels of funding for energy research in the recently passed budget conference report, we cannot afford to fully construct the NIF.

While I understand the compromise position of the full Appropriations Committee, Mr.

Chairman, I intend to monitor the NIF throughout future authorizations and appropriations legislation and when appropriate, will support efforts to limit significant amounts of funding intended for NIF construction.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the bill shall be considered under the 5-minute rule by titles and each title shall be considered read.

Before consideration of any other amendment, it shall be in order to consider the amendment printed in House Report 104–154 if offered by the gentleman from Pennsylvania [Mr. SHUSTER] or his designee. That amendment shall be considered read, is not subject to amendment, and is not subject to a demand for division of the question. Debate on the amendment is limited to 10 minutes, equally divided and controlled by the proponent and an opponent of the amendment.

After disposition of that amendment, the bill as then perfected will be considered as original text.

During consideration of the bill for amendment, the Chairman of the Committee of the Whole may accord priority in recognition to a member who has caused an amendment to be printed in the designated place in the CONGRESSIONAL RECORD. Those amendments will be considered read.

The clerk will designate title 1.

The text of title 1 is as follows:

H.R. 1905

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1996, for energy and water development, and for other purposes, namely:

TITLE I

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

The following appropriations shall be expended under the direction of the Secretary of the Army and the supervision of the Chief of Engineers for authorized civil functions of the Department of the Army pertaining to rivers and harbors, flood control, beach erosion, and related purposes.

GENERAL INVESTIGATIONS

For expenses necessary for the collection and study of basic information pertaining to river and harbor, flood control, shore protection, and related projects, restudy of authorized projects, miscellaneous investigations, and, when authorized by laws, surveys and detailed studies and plans and specifications of projects prior to construction, $129,906,000, to remain available until expended, of which funds are provided for the following projects in the amounts specified:

Norco Bluffs, California, $375,000;

Indianapolis Central Waterfront, Indiana, $2,000,000;

Ohio River Greenway, Indiana, $1,000,000; and

Mussers Dam, Middle Creek, Snyder County, Pennsylvania, $300,000.

CONSTRUCTION, GENERAL

For the prosecution of river and harbor, flood control, shore protection, and related projects authorized by laws; and detailed studies, and plans and specifications, of projects (including those for development with participation or under consideration for participation by States, local governments, or private groups) authorized or made eligible for selection by law (but such studies shall not constitute a commitment of the Government to construction), $807,846,000, to remain available until expended, of which such sums as are necessary pursuant to Public Law 99–662 shall be derived from the Inland Waterways Trust Fund, for one-half of the costs of construction and rehabilitation of inland waterways projects, including rehabilitation costs for the Lock and Dam 25, Mississippi River, Illinois and Missouri, Lock and Dam 14, Mississippi River, Iowa, Lock and Dam 24, Mississippi River, Illinois and Missouri, and GIWW-Brazos River, Floodgates, Texas, projects, and of which funds are provided for the following projects in the amounts specified:

Red River Emergency Bank Protection, Arkansas and Louisiana, $6,600,000;

Sacramento River Flood Control Project (Glenn-Colusa Irrigation District), California, $300,000;

San Timoteo Creek (Santa Ana River Mainstem), California, $5,000,000;

Indiana Shoreline Erosion, Indiana, $1,500,000;

Harlan (Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River), Kentucky, $12,000,000;

Williamsburg (Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River), Kentucky, $4,100,000;

Middlesboro (Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River), Kentucky, $1,600,000;

Salyersville, Kentucky, $500,000;

Lake Pontchartrain and Vicinity (Hurricane Protection), Louisiana, $11,848,000;

Red River below Denison Dam Levee and Bank Stabilization, Louisiana, Arkansas, and Texas, $3,800,000;

Broad Top Region, Pennsylvania, $4,100,000;

Glen Foerd, Pennsylvania, $200,000; and

Wallisville Lake, Texas, $5,000,000.

FLOOD CONTROL, MISSISSIPPI RIVER AND TRIBUTARIES, ARKANSAS, ILLINOIS, KENTUCKY, LOUISIANA, MISSISSIPPI, MISSOURI, AND TENNESSEE

For expenses necessary for prosecuting work of flood control, and rescue work, repair, restoration, or maintenance of flood control projects threatened or destroyed by flood, as authorized by law (33 U.S.C. 702a, 702g–1), $307,885,000, to remain available until expended.

OPERATION AND MAINTENANCE, GENERAL

For expenses necessary for the preservation, operation, maintenance, and care of existing river and harbor, flood control, and related works, including such sums as may be necessary for the maintenance of harbor channels provided by a State, municipality or other public agency, outside of harbor lines, and serving essential needs of general commerce and navigation; surveys and charting of northern and northwestern lakes and connecting waters; clearing and straightening channels; and removal of obstructions to navigation, $1,712,123,000, to remain available until expended, of which such sums as become available in the Harbor Maintenance Trust Fund, pursuant to Public Law 99–662, may be derived from that fund, and of which such sums as become available from the special account established by the Land and Water Conservation Act of 1965, as amended (16 U.S.C. 460l), may be derived from that fund for construction, operation, and maintenance of outdoor recreation facilities: *Provided,* That not to exceed $5,000,000 shall be available for obligation for national emergency preparedness programs: *Provided further,* That $5,926,000 of the funds appropriated herein are provided for the Raystown Lake, Pennsylvania, project: *Provided further,* That the Secretary of the Army is authorized to transfer an appropriate amount of land at the Cooper Lake and Channels, Texas, project, not to exceed 300 acres, from mitigation or low-density recreation to high-density recreation, and is further authorized to take whatever actions are necessary, including the acquisition of additional mitigation lands, to accomplish such transfer.

REGULATORY PROGRAM

For expenses necessary for administration of laws pertaining to regulation of navigable waters and wetlands, $101,000,000, to remain available until expended.

FLOOD CONTROL AND COASTAL EMERGENCIES

For expenses necessary for emergency flood control, hurricane, and shore protection activities, as authorized by section 5 of the Flood Control Act approved August 18, 1941, as amended, $10,000,000, to remain available until expended.

OIL SPILL RESEARCH

For expenses necessary to carry out the purposes of the Oil Spill Liability Trust Fund, pursuant to Title VII of the Oil Pollution Act of 1990, $850,000, to be derived from the Fund and to remain available until expended.

GENERAL EXPENSES

For expenses necessary for general administration and related functions in the Office of the Chief of Engineers and offices of the Division Engineers; activities of the Coastal Engineering Research Board, the Humphreys Engineer Center Support Activity, the Engineering Strategic Studies Center, and the Water Resources Support Center, $150,000,000: *Provided,* That not to exceed $60,000,000 of the funds provided in this Act shall be available for general administration and related functions in the Office of the Chief of Engineers: *Provided further,* That no part of any other appropriation provided in title I of this Act shall be available to fund the activities of the Office of the Chief of Engineers or the executive direction and management activities of the Division Offices: *Provided further,* That with funds provided herein and notwithstanding any other provision of law, the Secretary of the Army shall develop and submit to the Congress within 60 days of enactment of this Act, a plan which reduces the number of division offices within the United States Army Corps of Engineers to no less than 6 and no more than 8, with each division responsible for at least 4 district offices, but does not close or change the function of any district office: *Provided further,* That notwithstanding any other provision of law, the Secretary of the Army is directed to begin implementing the division office plan on May 1, 1996, and such plan shall be implemented prior to October 1, 1997.

ADMINISTRATIVE PROVISIONS

Appropriations in this title shall be available for official reception and representation expenses (not to exceed $5,000); and during the current fiscal year the revolving fund, Corps of Engineers, shall be available for purchase (not to exceed 100 for replacement only) and hire of passenger motor vehicles.

GENERAL PROVISION

CORPS OF ENGINEERS—CIVIL

SEC. 101. (a) In fiscal year 1996, the Secretary of the Army shall advertise for competitive bid at least 7,500,000 cubic yards of the hopper dredge volume accomplished with government-owned dredges in fiscal year 1992.

(b) Notwithstanding the provisions of this section, the Secretary is authorized to use the dredge fleet of the Corps of Engineers to undertake projects when industry does not perform as required by the contract specifications or when the bids are more than 25 percent in excess of what the Secretary determines to be a fair and reasonable estimated cost of a well equipped contractor doing the work or to respond to emergency requirements.

(c) None of the funds appropriated herein or otherwise made available to the Army Corps of Engineers, including amounts contained in the Revolving Fund of the Army Corps of Engineers, may be used to study, design or undertake improvement or major repair of the Federal vessel, MCFARLAND, or for any use of the MCFARLAND to perform work other than emergency dredging work.

The CHAIRMAN. Are there any points of order against title 1?

POINT OF ORDER

Mr. SHUSTER. Mr. Chairman, I make a point of order against page 6, line 6, beginning with the words "provided further," through line 13 on page 6.

The CHAIRMAN. Does the gentleman from Indiana [Mr. MYERS] wish to be heard on the point of order?

Mr. MYERS of Indiana. Mr. Chairman, we concede the point of order.

Mr. SHUSTER. Mr. Chairman, if I might be heard in support of my point of order, nevertheless I want to emphasize that I am sympathetic to the language that my friend, the gentleman from Texas [Mr. CHAPMAN] has attempted to insert here. The problem is we have had many requests for authorizations come before our committee from both sides of the aisle, including members of our own committee, which we have not agreed to. Therefore, I feel constrained to oppose this particular authorization because we have already disagreed and opposed so many.

Mr. Chairman, I want to emphasize that I understand the purpose of the provision, and that we will consider it very seriously and I believe favorably in the context of our authorizing legislation to be brought before the Congress. I want to give my good friend, the gentleman from Texas, that assurance.

The CHAIRMAN. The point of order is sustained.

It is now in order to consider the amendment printed in House Report 104–154.

AMENDMENT OFFERED BY MR. SHUSTER

Mr. SHUSTER. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. SHUSTER: Page 8, line 3, strike "May 1, 1996" and insert "August 15, 1996".

Page 9, line 6, strike "McFARLAND," and all that follows through line 8 and insert "McFARLAND.".

The CHAIRMAN. Pursuant to the rule the gentleman from Pennsylvania [Mr. SHUSTER] and a Member opposed will each be recognized for 5 minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. SHUSTER].

Mr. SHUSTER. Mr. Chairman, as the chairman of the authorizing committee having jurisdiction over the water resources programs of the Army Corps of Engineers, I rise to offer an amendment to title I of the bill. My amendment, Mr. Chairman, is in two parts: first, to change the effective date of a plan to close some of the Corps of Engineers divisions offices, and second, to delete a prohibition against the use of the dredge McFarland during fiscal year 1996.

Regarding the first part of my amendment, I certainly applaud the Committee on Appropriation's efforts to streamline the corps and to save money. The Corps of Engineers must be allowed to downsize and make itself more efficient. The bill requires a plan to close three to five division offices. This plan will be only implemented after Congress has had an opportunity to review it. I have supported this aspect of the bill.

The effect of my amendment simply is to assure that by changing the effective date from May 1, 1996, to August 15, 1996, that the authorizing committee has a reasonable amount of time to review the plan after it has been transmitted to the Congress.

The second part of the amendment recognizes the need to avoid the expenditure of funds to rehabilitate a vessel that may not fit into the long-term plans for the corps' dredging program. Yet, this amendment allows the vessel to be kept operational while decisions are reached. We must carefully review the corps' long-term needs for hopper dredges and the private dredging industry's capability to provide timely and cost-effective dredging services. The proper place to conduct this review is in the context of Water Resource's authorizing legislation, which will be addressed by the Committee on Transportation and Infrastructure.

H.R. 1905 prohibits the use of funds available to the corps in fiscal year 1996 for rehabilitating the dredge McFarland and for use of the dredge for anything other than emergencies. The effect of my amendment is to retain the prohibition against rehabilitating the McFarland, but to allow continued use of the vessel in its current capacity as part of the corps' minimum dredge fleet. This will allow the authorizing committee to fully explore all options for the long-term disposition of the McFarland as well as the overall direction of the dredging program.

Both of these recommended changes to the bill will result in needed improvements and cost savings, and at the same time assure that the issues they represent are fully addressed in the proper form.

I certainly want to emphasize our appreciation for the cooperation shown by my colleagues on the Committee on Appropriations during the development of this legislation, especially from the chairman, the gentleman from Indiana [Mr. MYERS], and the ranking member, the gentleman from Alabama [Mr. BEVILL].

Mr. Chairman, I urge the adoption of this amendment.

Mr. MYERS of Indiana. Mr. Chairman, will the gentleman yield?

Mr. SHUSTER. I yield to the gentleman from Indiana.

Mr. MYERS of Indiana. Mr. Chairman, we accept the gentleman's amendment. First let me state, it has been noted that the corps has tried to consolidate, not close but consolidate, some of the division offices around the country. We could cut back to six or eight offices to be more efficient. We selected May 1 because by this time next year we will have a bill on the floor.

It is not just quite as easy as closing up an office and walking away. It requires appropriations to close some of these offices and to consolidate them. We chose May 1 in order to be able to next year appropriate for that consolidation. I hope the committee will make every effort to try to get the job done, to make these consolidations as soon as possible, so we can appropriate next year.

Mr. SHUSTER. Mr. Chairman, we have a responsibility to get our job done, I would say to the gentleman, and we will make every effort to get that done.

Mr. MYERS of Indiana. It was my understanding we had an understanding about May 1. We were not trying to be arbitrary, but it was just a misunderstanding between the authorizing committee and us.

Mr. SHUSTER. Mr. Chairman, if there is no Member in opposition, I ask unanimous consent that I be yielded that 5 minutes.

The CHAIRMAN. The Chair would inquire if there is any Member in opposition to the amendment offered by the gentleman from Pennsylvania [Mr. SHUSTER].

If not, without objection, the gentleman from Pennsylvania is recognized for 5 minutes

There was no objection.

Mr. SHUSTER. Mr. Chairman, I yield myself such time as I may consume.

Mr. FRELINGHUYSEN. Mr. Chairman, will the gentleman yield?

Mr. SHUSTER. I yield to the gentleman from New Jersey.

Mr. FRELINGHUYSEN. Mr. Chairman, I rise to request a colloquy with the gentleman from Pennsylvania [Mr. SHUSTER], chairman of the Committee on Transportation and Infrastructure.

Mr. SHUSTER. Mr. Chairman, I would be happy to enter into a colloquy with the gentleman from New Jersey.

Mr. FRELINGHUYSEN. As author of section 101 of the bill, let me clarify my intent and the intent of the Committee on appropriations. Our primary motivation was saving extremely scarce dollars without adversely impacting essential corps missions. In addition, we intended to take steps that would be supportive of the private sector which is so essential in ensuring the proper maintenance of the Nation's navigation channels. Specifically, the amendment I offered in committee would prohibit the Army Corps of Engineers from going forward with major repairs and improvements to the Government owned dredge *McFarland*, especially when earlier studies questioned the justification of the current Federal hopper dredge fleet and when the corps is, once again, conducting a reevaluation of the Federal hopper dredge fleet and industry capability.

We on the Appropriations Committee have the responsibility of ensuring that Federal dollars are spent wisely. At the same time, we recognize that the authorizing committee has the major role in deciding the need for and the appropriate size and scope of the Federal hopper dredge fleet. Our intent was simply to defer expenditures for major repairs of one of the vessels until the ongoing study is completed.

Further, we felt that a more accurate assessment of the existing Federal fleet was through a market test—using industry first and the corps vessel in reserve if industry can't do the job. It was never our intent to usurp the jurisdiction of the authorizing committee.

Mr. SHUSTER. I want to thank the gentleman for his reassurance and indicate that the authorizing committee also is seeking to find savings wherever possible and to support the private sector if it can demonstrate it can do the job. We intend to look carefully at the performance of the private sector in evaluating the appropriate scope of and need for a Federal dredging fleet at the earliest opportunity.

Mr. FRELINGHUYSEN. Just for clarification, the compromise that we have agreed to would prohibit the expenditure of funds for improvement or major repair of the dredge *McFarland*.

This language is intended to prohibit the corps from going forward with any substantial new investment in upgrading the *McFarland* or extending the vessel's useful life, but not to limit the corps' ability to undertake repairs needed to keep the vessel operational as part of the corps' minimum dredge fleet and to meet Coast Guard certification. I would ask the gentleman whether this is his understanding as well.

Mr. SHUSTER. The gentleman is correct, that is our understanding. There is no expenditure of additional Federal funds involved here.

Mr. FRELINGHUYSEN. I thank the gentleman for his time and comments.

Mr. BORSKI. Mr. Chairman, will the gentleman yield?

Mr. SHUSTER. I yield to the gentleman from Pennsylvania.

Mr. Chairman, I wish to express my support for the Shuster amendment which will allow the dredge *McFarland* to keep operating to meet the dredging needs of the ports of the east coast and gulf throughout fiscal year 1996.

I compliment the chairman of the Transportation and Infrastructure Committee for taking the initiative on this important matter.

I look forward to working with the chairman when our committee reviews this issue as part of our water resources development legislation later this year.

The continued operation of the dredge *McFarland* is absolutely vital to the port of Philadelphia and the many businesses which depend on the Delaware River Channel.

The Delaware River ports handle almost 80 million tons of cargo annually. They generate $4 billion in commerce for the region.

These ports depend on the 120-mile Delaware River Channel being kept open. The river has a high silt content and frequently requires a rapid, effective response.

It is too much of a risk for the economy of the Greater Philadelphia region to eliminate the *McFarland* without having a proven substitute.

There has been no demonstration that the private dredging industry will provide an effective replacement to the *McFarland*.

The private dredging industry was offered an opportunity in last year's Water Resources Development Act to prove it can do the job while the *McFarland* was being repaired.

If private industry proved up to the task, the *McFarland* would be kept in reserve until it was needed for emergency work.

Mr. Chairman, contrary to some statements, there has been no Corps of Engineers study that finds that the corps' dredge fleet should be reduced.

The study that the corps submitted on this issue was rejected by the Army Audit Agency for using poor data and poor methodology.

The Acting Assistant Secretary of the Army, John Zirschky said, "Given the uncertainties associated with dredging needs, the existing studies do not provide sufficient certainty that the dredging needs of the country can be met by the private sector alone."

He said, "It would not be prudent to reduce the fleet."

The Army Audit Agency reviewed the proposed corps study and found that its data reliability was too low for its conclusions to be carried out. The Army Audit Agency asked for a new study.

That is why the corps is studying the issue again—because the previous studies were inadequate.

Again, I thank the chairman of the Transportation and Infrastructure Committee for offering this amendment and I thank the chairman of the subcommittee, Mr. MYERS, and the ranking Member, Mr. BEVILL, for accepting the amendment.

Mr. FOGLIETTA. Mr. Chairman, I rise in strong support of the amendment offered by Mr. SHUSTER.

I cannot stress enough the importance of the dredge *McFarland* to the operation of the Delaware River ports. These ports handle 80 million tons of cargo, and generate $4 billion in commerce for our region. Eight-five percent of the Northeast's heating oil also passes through these ports. Both our economy and environment could be devastated if the Delaware Channel was not served by the *McFarland*.

And as the only dredge currently operating with sea turtle deflectors, the *McFarland* is proven effective in preserving sensitive marine habitats. This has sent the *McFarland* to several key ports in Florida and Louisiana which have required dredging in sensitive waters. I urge support for the Shuster amendment, and continued operation of the *McFarland*.

Mr. SHUSTER. Mr. Chairman, I thank the gentleman, and I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania [Mr. SHUSTER].

The amendment was agreed to.

□ 1530

AMENDMENT OFFERED BY MR. STUPAK

Mr. STUPAK. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. STUPAK: Page 9, after line 8, insert the following new section:

SEC. 102. (a) SAND AND STONE CAP IN NAVIGATION PROJECT AT MANISTIQUE HARBOR, MICHIGAN.—The project for navigation, Manistique Harbor, Schoolcraft County, Michigan, authorized by the first section of the Act entitled "An Act making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes", approved March 3, 1905 (33 Stat. 1136), is modified to permit installation of a sand and stone cap over sediments affected by polychlorinated biphenyls in accordance with an administrative order of the Environmental Protection Agency.

(b) PROJECT DEPTH.—

(1) IN GENERAL.—Except as provided in paragraph (2), the project described in subsection (a) is modified to provide for an authorized depth of 18 feet.

(2) EXCEPTION.—The authorized depth shall be 12.5 feet in the areas where the sand and stone cap described in subsection (a) will be placed within the following coordinates: 4220N–2800E to 4220N–3110E to 3980N–3260E to 3190N–3040E to 2960N–2560E to 3150N–2300E to 3680N–2510E to 3820N–2690E and back to 4220N–2800E.

(c) HARBOR OF REFUGE.—The project described in subsection (a), including the breakwalls, pier, and authorized depth of the project (as modified by subsection (b)), shall continue to be maintained as a harbor of refuge.

Mr. STUPAK (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. STUPAK. Mr. Chairman, I would like to thank the gentleman from Indiana [Mr. MYERS] and the gentleman from Pennsylvania [Mr. SHUSTER] and the gentleman from Alabama [Mr. BEVILL] and the gentleman from California [Mr. MINETA] for their assistance on this amendment.

This amendment is to allow a harbor to be capped in accordance with an administrative order negotiated between the U.S. Environmental Protection Agency and the Army Corps of Engineers and potentially responsible parties at the Manistique Harbor.

EPA has agreed that a hybrid remedy of dredging and capping could be necessary to cap PCB's in the Manistique Harbor. This agreement was just entered into within the last 2 weeks. The dredging which is part of the remedy negotiated here has already begun in the Manistique Harbor.

We would like to cap yet this year. In order to cap this year, we would have to change the river level, the depth of the river. It is now 18 feet. We would have to change it to 12.5 feet. We would like to do it this year, before the ice moves in in northern Michigan, by the first of the year.

Mr. Chairman, we are scheduled, under the negotiated agreement between all the parties, to begin capping on August the 1st. I have been able to draft this amendment, and I again would like to thank the principals involved in helping me to draft this amendment to make it acceptable to this legislation.

We are not here asking for an authorization of any money now or in the future. Any costs associated with this amendment will be picked up by the potential responsible parties with this negotiated settlement.

I am not here for, nor does my amendment request, any authorizing funds or reprogramming funds. This is not an authorization amendment.

Therefore, I would ask my colleagues to adopt this amendment. Any delay would be a serious delay in the negotiated settlement between the parties, the Army Corps of Engineers and the EPA. As I said, capping is slated to begin next month. If we could pass it through with this legislation now, we will move on to the Senate and we are confident we can get it done yet this year.

Therefore, Mr. Chairman, I would once again ask that this amendment be adopted as written and I appreciate the cooperation of all the parties involved.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan [Mr. STUPAK].

The agreement was agreed to.

The CHAIRMAN. Are there further amendments to title I?

If not, the Clerk will designate title II.

The text of title II is as follows:

TITLE II

DEPARTMENT OF THE INTERIOR

CENTRAL UTAH PROJECT

CENTRAL UTAH PROJECT COMPLETION ACCOUNT

For the purpose of carrying out provisions of the Central Utah Project Completion Act, Public Law 102–575 (106 Stat. 4605), and for feasibility studies of alternatives to the Uintah and Upalco Units, $42,893,000, to remain available until expended, of which $23,503,000 shall be deposited into the Utah Reclamation Mitigation and Conservation Account: *Provided*, That of the amounts deposited into the Account, $5,000,000 shall be considered the Federal Contribution authorized by paragraph 402(b)(2) of the Act and $18,503,000 shall be available to the Utah Reclamation Mitigation and Conservation Commission to carry out activities authorized under the Act.

In addition, for necessary expenses incurred in carrying out responsibilities of the Secretary of the Interior under the Act, $1,246,000, to remain available until expended.

BUREAU OF RECLAMATION

For carrying out the functions of the Bureau of Reclamation as provided in the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto) and other Acts applicable to that Bureau as follows:

GENERAL INVESTIGATIONS

For engineering and economic investigations of proposed Federal reclamation projects and studies of water conservation and development plans and activities preliminary to the reconstruction, rehabilitation and betterment, financial adjustment, or extension of existing projects, to remain available until expended, $13,114,000: *Provided*, That of the total appropriated, the amount for program activities which can be financed by the reclamation fund shall be derived from that fund: *Provided further*, That funds contributed by non-Federal entities for purposes similar to this appropriation shall be available for expenditure for the purposes for which contributed as though specifically appropriated for said purposes, and such amounts shall remain available until expended.

CONSTRUCTION PROGRAM

(INCLUDING TRANSFER OF FUNDS)

For construction and rehabilitation of projects and parts thereof (including power transmission facilities for Bureau of Reclamation use) and for other related activities as authorized by law, to remain available until expended, $417,301,000, of which $27,049,000 shall be available for transfer to the Upper Colorado River Basin Fund authorized by section 5 of the Act of April 11, 1956 (43 U.S.C. 620d), and $94,225,000 shall be available for transfer to the Lower Colorado River Basin Development Fund authorized by section 403 of the Act of September 30, 1968 (43 U.S.C. 1543), and such amounts as may be necessary shall be considered as though advanced to the Colorado River Dam Fund for the Boulder Canyon Project as authorized by the Act of December 21, 1928, as amended: *Provided*, That of the total appropriated, the amount for program activities which can be financed by the reclamation fund shall be derived from that fund: *Provided further*, That transfers to the Upper Colorado River Basin Fund and Lower Colorado River Basin Development Fund may be increased or decreased by transfers within the overall appropriation under this heading: *Provided further*, That funds contributed by non-Federal entities for purposes similar to this appropriation shall be available for expenditure for the purposes for which contributed as though specifically appropriated for said purposes, and such funds shall remain available until expended: *Provided further*, That all costs of the safety of dams modification work at Coolidge Dam, San Carlos Irrigation Project, Arizona, performed under the authority of the Reclamation Safety of Dams Act of 1978 (43 U.S.C. 506), as amended, are in addition to the amount authorized in section 5 of said Act.

OPERATION AND MAINTENANCE

For operation and maintenance of reclamation projects or parts thereof and other facilities, as authorized by law; and for a soil and moisture conservation program on lands under the jurisdiction of the Bureau of Reclamation, pursuant to law, to remain available until expended, $278,759,000: *Provided*, That of the total appropriated, the amount for program activities which can be financed by the reclamation fund shall be derived from that fund, and the amount for program activities which can be derived from the special fee account established pursuant to the Act of December 22, 1987 (16 U.S.C. 4601–6a, as amended), may be derived from that fund: *Provided further*, That funds advanced by water users for operation and maintenance of reclamation projects or parts thereof shall be deposited to the credit of this appropriation and may be expended for the same purpose and in the same manner as sums appropriated herein may be expended, and such advances shall remain available until expended: *Provided further*, That revenues in the Upper Colorado River Basin Fund shall be available for performing examination of existing structures on participating projects of the Colorado River Storage Project.

BUREAU OF RECLAMATION LOAN PROGRAM ACCOUNT

For the cost of direct loans and/or grants, $11,243,000, to remain available until expended, as authorized by the Small Reclamation Projects Act of August 6, 1956, as amended (43 U.S.C. 422a–422l): *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further*, That these funds are available to subsidize gross obligations for the principal amount of direct loans not to exceed $37,000,000.

In addition, for administrative expenses necessary to carry out the program for direct loans and/or grants, $425,000: *Provided*, That of the total sums appropriated, the amount of program activities which can be financed by the reclamation fund shall be derived from the fund.

CENTRAL VALLEY PROJECT RESTORATION FUND

For carrying out the programs, projects, plans, and habitat restoration, improvement, and acquisition provisions of the Central Valley Project Improvement Act, to remain available until expended, such sums as may be collected in the Central Valley Project

Restoration Fund pursuant to sections 3407(d), 3404(c)(3), 3405(f) and 3406(c)(1) of Public Law 102–575: *Provided*, That the Bureau of Reclamation is directed to levy additional mitigation and restoration payments totaling $30,000,000 (October 1992 price levels) on a three-year rolling average basis, as authorized by section 3407(d) of Public Law 102–575.

GENERAL ADMINISTRATIVE EXPENSES

For necessary expenses of general administration and related functions in the office of the Commissioner, the Denver office, and offices in the five regions of the Bureau of Reclamation, $48,630,000, of which $1,400,000 shall remain available until expended, the total amount to be derived from the reclamation fund and to be nonreimbursable pursuant to the Act of April 19, 1945 (43 U.S.C. 377): *Provided*, That no part of any other appropriation in this Act shall be available for activities or functions budgeted for the current fiscal year as general administrative expenses.

SPECIAL FUNDS

(TRANSFER OF FUNDS)

Sums herein referred to as being derived from the reclamation fund or special fee account are appropriated from the special funds in the Treasury created by the Act of June 17, 1902 (43 U.S.C. 391) or the Act of December 22, 1987 (16 U.S.C. 460l–6a, as amended), respectively. Such sums shall be transferred, upon request of the Secretary, to be merged with and expended under the heads herein specified; and the unexpended balances of sums transferred for expenditure under the head "General Administrative Expenses" shall revert and be credited to the reclamation fund.

ADMINISTRATIVE PROVISION

Appropriations for the Bureau of Reclamation shall be available for purchase of not to exceed 9 passenger motor vehicles for replacement only.

The CHAIRMAN. Are there any amendments to title II?

AMENDMENT OFFERED BY MRS. SMITH OF WASHINGTON

Mrs. SMITH of Washington. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mrs. SMITH of Washington: Page 14, line 13, strike "$48,630,000" and insert "$48,150,000".

Mrs. SMITH of Washington. Mr. Chairman, the amendment I am offering is a $480,000 cut in the Bureau of Reclamation's appropriation for their international program. Let me explain why I am offering this amendment.

Mr. Chairman, I did not know that the Bureau of Reclamation had an international program until a constituent asked me at a townhall meeting why we were spending money on sewer systems in Egypt. First, I told him I did not think we were, but then I took a look.

What I found was that the Bureau of Reclamation is spending over a million dollars annually to help build water projects in some of the wealthiest nations on Earth, including Saudi Arabia. Part of this is reimbursed, but not all.

These countries can afford to hire American private sector consultants to teach them to build dams or improve irrigation canals. They do not need the technical assistance that they can get from professionals in the international and private sector.

In fact, the American Consulting Engineers Council supports this amendment. There are 200,000 engineers that could do this in the private sector and not have to compete with public dollars. They support this amendment because they believe they can do the job and do it competitively.

The Bureau of Reclamation commissioner pledged, when he first came in, to phase this program out, but he did not do it. Mr. Chairman, I guess what I am asking today is that we put our vote behind what we have been saying and get unnecessary spending out, return to the private sector, and save the taxpayers some money.

But even if we do not cut this totally out of the budget, we can find somewhere where we want to spend $480,000; somewhere else. I am sure there are projects on children or other projects that would be better served by this money than these wealthy nations.

Mr. MYERS of Indiana. Mr. Chairman, will the gentlewoman yield?

Mrs. SMITH of Washington. I yield to the gentleman from Indiana.

Mr. MYERS of Indiana. Mr. Chairman, the gentlewoman from Washington has discussed her amendment with the members of this committee and we find it acceptable.

Mrs. SMITH of Washington. I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from Washington [Mrs. SMITH].

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to title II?

If not, the Clerk will designate title III.

The text of title III is as follows:

TITLE III

DEPARTMENT OF ENERGY

ENERGY SUPPLY, RESEARCH AND DEVELOPMENT ACTIVITIES

For expenses of the Department of Energy activities including the purchase, construction and acquisition of plant and capital equipment and other expenses incidental thereto necessary for energy supply, research and development activities, and other activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101, et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion; purchase of passenger motor vehicles (not to exceed 25, of which 19 are for replacement only), $2,596,700,000, to remain available until expended.

URANIUM SUPPLY AND ENRICHMENT ACTIVITIES

For expenses of the Department of Energy in connection with operating expenses; the purchase, construction, and acquisition of plant and capital equipment and other expenses incidental thereto necessary for uranium supply and enrichment activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101, et seq.) and the Energy Policy Act (Public Law 102–486, section 901), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion; purchase of electricity as necessary; $64,197,000, to remain available until expended: *Provided*, That revenues received by the Department for uranium programs and estimated to total $34,903,000 in fiscal year 1996 shall be retained and used for the specific purpose of offsetting costs incurred by the Department for such activities notwithstanding the provisions of 31 U.S.C. 3302(b) and 42 U.S.C. 2296(b)(2): *Provided further*, That the sum herein appropriated shall be reduced as revenues are received during fiscal year 1996 so as to result in a final fiscal year 1996 appropriation estimated at not more than $29,294,000.

URANIUM ENRICHMENT DECONTAMINATION AND DECOMMISSIONING FUND

For necessary expenses in carrying out uranium enrichment facility decontamination and decommissioning, remedial actions and other activities of title II of the Atomic Energy Act of 1954 and title X, subtitle A of the Energy Policy Act of 1992, $278,807,000, to be derived from the fund, to remain available until expended: *Provided*, That at least $42,000,000 of amounts derived from the fund for such expenses shall be expended in accordance with title X, subtitle A, of the Energy Policy Act of 1992.

GENERAL SCIENCE AND RESEARCH ACTIVITIES

For expenses of the Department of Energy activities including the purchase, construction and acquisition of plant and capital equipment and other expenses incidental thereto necessary for general science and research activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101, et seq.), including the acquisition or condemnation of any real property or facility or for plant or facility acquisition, construction, or expansion; purchase of passenger motor vehicles (not to exceed 12 for replacement only), $991,000,000, to remain available until expended.

NUCLEAR WASTE DISPOSAL FUND

For nuclear waste disposal activities to carry out the purposes of Public Law 97–425, as amended, including the acquisition of real property or facility construction or expansion, $226,600,000, to remain available until expended, to be derived from the Nuclear Waste Fund.

ATOMIC ENERGY DEFENSE ACTIVITIES

WEAPONS ACTIVITIES

For Department of Energy expenses, including the purchase, construction and acquisition of plant and capital equipment and other incidental expenses necessary for atomic energy defense weapons activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101, et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion; and the purchase of passenger motor vehicles (not to exceed 79, of which 76 are for replacement only, including one police-type vehicle), $3,273,014,000, to remain available until expended.

DEFENSE ENVIRONMENTAL RESTORATION AND WASTE MANAGEMENT

For Department of Energy expenses, including the purchase, construction and acquisition of plant and capital equipment and other incidental expenses necessary for atomic energy defense environmental restoration and waste management activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101, et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion; and the purchase of passenger motor vehicles (not to exceed 7 for replacement only), $5,265,478,000, to remain available until expended.

OTHER DEFENSE ACTIVITIES

For Department of Energy expenses, including the purchase, construction and acquisition of plant and capital equipment and other incidental expenses necessary for atomic energy defense, other defense activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101, et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion $1,323,841,000, to remain available until expended.

DEFENSE NUCLEAR WASTE DISPOSAL

For nuclear waste disposal activities to carry out the purposes of Public Law 97–425, as amended, including the acquisition of real property or facility construction or expansion, $198,400,000, to remain available until expended.

Departmental Administration

For salaries and expenses of the Department of Energy necessary for Departmental Administration and other activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101, et seq.), including the hire of passenger motor vehicles and official reception and representation expenses (not to exceed $35,000), $362,250,000, to remain available until expended, plus such additional amounts as necessary to cover increases in the estimated amount of cost of work for others notwithstanding the provisions of the Anti-Deficiency Act (31 U.S.C. 1511, et seq.): *Provided*, That such increases in cost of work are offset by revenue increases of the same or greater amount, to remain available until expended: *Provided further*, That moneys received by the Department for miscellaneous revenues estimated to total $122,306,000 in fiscal year 1996 may be retained and used for operating expenses within this account, and may remain available until expended, as authorized by section 201 of Public Law 95–238, notwithstanding the provisions of section 3302 of title 31, United States Code: *Provided further*, That the sum herein appropriated shall be reduced by the amount of miscellaneous revenues received during fiscal year 1996 so as to result in a final fiscal year 1996 appropriation estimated at not more than $239,944,000.

Office of the Inspector General

For necessary expenses of the Office of the Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $26,000,000, to remain available until expended.

POWER MARKETING ADMINISTRATIONS

Operation and Maintenance, Alaska Power Administration

For necessary expenses of operation and maintenance of projects in Alaska and of marketing electric power and energy, $4,260,000, to remain available until expended.

Bonneville Power Administration Fund

Expenditures from the Bonneville Power Administration Fund, established pursuant to Public Law 93–454, are approved for official reception and representation expenses in an amount not to exceed $3,000.

During fiscal year 1996, no new direct loan obligations may be made.

Operation and Maintenance, Southeastern Power Administration

For necessary expenses of operation and maintenance of power transmission facilities and of marketing electric power and energy pursuant to the provisions of section 5 of the Flood Control Act of 1944 (16 U.S.C. 825s), as applied to the southeastern power area, $19,843,000, to remain available until expended.

Operation and Maintenance, Southwestern Power Administration

For necessary expenses of operation and maintenance of power transmission facilities and of marketing electric power and energy, and for construction and acquisition of transmission lines, substations and appurtenant facilities, and for administrative expenses, including official reception and representation expenses in an amount not to exceed $1,500 connected therewith, in carrying out the provisions of section 5 of the Flood Control Act of 1944 (16 U.S.C. 825s), as applied to the southwestern power area, $29,778,000, to remain available until expended; in addition, notwithstanding the provisions of 31 U.S.C. 3302, not to exceed $4,272,000 in reimbursements, to remain available until expended.

Construction, Rehabilitation, Operation and Maintenance, Western Area Power Administration

(INCLUDING TRANSFER OF FUNDS)

For carrying out the functions authorized by title III, section 302(a)(1)(E) of the Act of August 4, 1977 (42 U.S.C. 7101, et seq.), and other related activities including conservation and renewable resources programs as authorized, including official reception and representation expenses in an amount not to exceed $1,500, $257,652,000, to remain available until expended, of which $245,151,000 shall be derived from the Department of the Interior Reclamation fund: *Provided*, That of the amount herein appropriated, $5,283,000 is for deposit into the Utah Reclamation Mitigation and Conservation Account pursuant to title IV of the Reclamation Projects Authorization and Adjustment Act of 1992: *Provided further*, That the Secretary of the Treasury is authorized to transfer from the Colorado River Dam Fund to the Western Area Power Administration $4,556,000 to carry out the power marketing and transmission activities of the Boulder Canyon project as provided in section 104(a)(4) of the Hoover Power Plant Act of 1984, to remain available until expended.

Falcon and Amistad Operating and Maintenance Fund

For operation, maintenance, and emergency costs for the hydroelectric facilities at the Falcon and Amistad Dams, $1,000,000, to remain available until expended and to be derived from the Falcon and Amistad Operating and Maintenance Fund of the Western Area Power Administration, as provided in section 423 of the Foreign Relations Authorization Act, fiscal years 1994 and 1995.

Federal Energy Regulatory Commission

SALARIES AND EXPENSES

For necessary expenses of the Federal Energy Regulatory Commission to carry out the provisions of the Department of Energy Organization Act (42 U.S.C. 7101, et seq.), including services as authorized by 5 U.S.C. 3109, including the hire of passenger motor vehicles; official reception and representation expenses (not to exceed $3,000); $132,290,000, to remain available until expended: *Provided*, That notwithstanding any other provision of law, not to exceed $132,290,000 of revenues from fees and annual charges, and other services and collections in fiscal year 1996, shall be retained and used for necessary expenses in this account, and shall remain available until expended: *Provided further*, That the sum herein appropriated shall be reduced as revenues are received during fiscal year 1996 so as to result in a final fiscal year 1996 appropriation estimated at not more than $0.

The CHAIRMAN. Are there any amendments to title III?

AMENDMENT OFFERED BY MR. BARRETT OF WISCONSIN

Mr. BARRETT of Wisconsin. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. BARRETT of Wisconsin: Page 16, line 1, after the dollar amount, insert the following: "(less $5,000,000)".

Mr. BARRETT of Wisconsin. Mr. Chairman, concern over the size of the deficit is at an all-time high, and the last thing taxpayers want to see right now is a Federal program receiving an unjustified 50 percent increase in funding. Yet, that is precisely what is happening with the Department of Energy's hydrogen research program.

Despite all of the hot air about cutting spending, the hydrogen research budget has ballooned. The administration asked for $7.3 million for fiscal year 1996, and the Energy and Water Appropriations Subcommittee responded by providing $10 million. Then the Appropriations Committee saw fit to increase funding in the bill to $15 million, more than double the administration's request and 50 percent more than this year's funding level.

Mr. Chairman, my amendment is very simple. It would reduce the appropriation for hydrogen research by $5 million. It would fund hydrogen research at its fiscal year 1995 level, and at the level recommended by the Energy and Water Subcommittee.

The generous funding for the hydrogen program is excessive when compared to other funding levels in this legislation. Take a close look at H.R. 1905 see how it compares to the fiscal year 1995 budget:

Energy and Water Appropriations are cut by 7 percent. Funding for energy supply research and development is cut by 22 percent. Funding for solar and renewable energy programs is cut by 43 percent.

Hydrogen research is the only program in the solar and renewable energy category that receives any increase, and the increase is enormous. By freezing the appropriation at last year's level, my amendment would restore fairness and balance to the energy research and development budget. Hydrogen research should not be immune to fiscal responsibility.

Opponents of my amendment will argue that $5 million in budget savings is insignificant and that Congress should go ahead and fund the hydrogen program at $15 million, as the committee recommends. Nobody can convince me, however, that $5 million is insignificant.

Moreover, allowing the funding for programs like these to be increased without adequate justification only worsens the deficit problem. The administration, which oversees the actual research, only requested $7.3 million. But if $15 million goes to the Department of Energy, we all know what will happen. DOE will find other ways to spend it. And when DOE makes its budget request next year, it will ask for more dollars to pay for the new initiatives that it launched with this year's appropriation. By providing more than is necessary, we are only feeding the appetite of the deficit.

Mr. Chairman, I want to make it clear that I am not opposed to Federal dollars going toward hydrogen research. Hydrogen research is legitimate science that holds the promise of substantial returns in the next century. But opponents of my amendment have not made the case for increasing it by 50 percent when so many other programs are being slashed.

If we are to craft a responsible budget and a fair budget, then we will have to learn to reject increases in spending for programs we like. My amendment provides the opportunity to save the taxpayers several million dollars while rejecting a meat-ax approach to cutting spending. I urge my colleagues to vote in favor for the amendment.

Mr. WALKER. Mr. Chairman, this is a disappointing amendment because I think it goes after an area where there is a legitimate attempt to try to do all of this process the right way.

Earlier in this Congress the House passed a hydrogen research bill. We actually passed an authorization bill. It is the only item in the energy portion of this bill on which the House has actually acted.

This amount of money that is in the bill represents 60 percent of the amount that the House has previously authorized in its attempt to upgrade hydrogen research in the country. When you try to do the process the right way, you then end up with an amendment like this one suggesting that you ought not follow the priorities as set by the House itself. I think that is disappointing. It is kind of a shame.

It is also, I think interesting to note that the programs that the gentleman from Wisconsin is defending because he says, well, they have been cut and this one is being increased, but the programs that he is defending, the solar program costs $149 million in the bill, nuclear is $164 million in the bill, $229 million for fusion, fossil is $379 million, conservation is $400 million, in the bill. The gentleman is complaining about the fact that there were cuts in those areas but that this one was increased.

Well, let's consider what we are talking about here. We are talking about an increase of a program that is at $10 million now and is going to $15 million. One of the reasons why we ought to be doing what we are doing is readjusting priorities. We ought to be saying that there are some areas of research that have had their day, where we have done good R&D, we have found out what we need to know, and then we ought to apply some money toward doing other areas of high priority research.

This House earlier this year determined that hydrogen was one of those areas that we want to do good research. The gentleman says he is not against hydrogen. Of course he is. Of course he is.

Ten million dollars is what we spent this year. If he does not want to move beyond where we are, then he is opposed to doing some research in an area that promises to be a very good energy resource as well as being an environmentally sound energy resource. You do not often get those kinds of combinations.

Is there scientific knowledge to be gained from this? Yes. This is a place where we could get some significant scientific discovery. The fact is that what this is an effort to do is to stop that from happening, is to simply say, "We don't want to learn, we don't want new knowledge in this area. We would simply like to say where we are, despite the fact that the House has forced us to move ahead."

As I said, that is disappointing. It is particularly disappointing when what the gentleman is doing is complaining about the fact that we are cutting programs in the areas of fossil, for example, where we have done research for many, many years, and are now spending $379 million in this bill versus the $15 million that we are spending in the hydrogen program.

I agree with the gentleman. Five million dollars is always a lot of money. But I have got to tell you, so is $379 million a lot of money. What we need to be doing is deciding what our priorities are in this kind of approach. Do we want to go with $379 million in research in energies that are admittedly environmentally questionable? Or should we do research in an area that is environmentally sound?

We are simply suggesting in this particular bill with this particular spending that we ought to, for once, direct the Energy Department to be doing some energy research in an area where we can produce environmentally sound energy. I am disappointed the gentleman from Wisconsin does not want to proceed down that track. I would hope that it would be something that we could unite around, particularly since the bill that passed the House of Representatives earlier in this Congress passed by an overwhelming margin.

☐ 1545

The role of the Federal Government should be in funding long-term basic research that does have a chance for significant scientific payoff. This is one of those places.

If you support the gentleman's approach of cutting out our investigation of that long-term research, I think that would be disappointing. I would hope that the House would stick with this modest increase in a program that has a chance for massive payoff for us in the years ahead.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Wisconsin [Mr. BARRETT].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. BARRETT of Wisconsin. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 182, noes 243, not voting 9, as follows:

[Roll No. 483]

AYES—182

Ackerman
Allard
Andrews
Baldacci
Ballenger
Barr
Barrett (NE)
Barrett (WI)
Bass
Becerra
Bishop
Bliley
Borski
Boucher
Brewster
Brown (OH)
Bryant (TN)
Burr
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Clay
Coble
Collins (IL)
Combest
Condit
Conyers
Cooley
Costello
Coyne
Cubin
Danner
DeFazio
DeLauro
Deutsch
Diaz-Balart
Doggett
Duncan
Dunn
Edwards
Ehrlich
Engel
Ensign
Eshoo
Evans
Farr
Fattah
Foglietta
Ford
Frank (MA)
Frelinghuysen
Funderburk
Furse
Ganske
Gejdenson
Gephardt
Geren
Goodlatte
Gordon
Green
Greenwood
Gutierrez
Hamilton
Hancock
Hefley
Hilleary
Hinchey
Horn
Hostettler
Inglis
Johnson (SD)
Johnson, E. B.
Johnston
Kaptur
Kelly
Kennedy (RI)
Kennelly
Kildee
Kingston
Kleczka
Klink
Klug
LaFalce
LaHood
Lantos
Largent
Latham
Lewis (GA)
Lincoln
Lipinski
LoBiondo
Lofgren
Lowey
Luther
Maloney
Manzullo
Markey
Mascara
McCarthy
McDermott
McIntosh
McNulty
Meehan
Menendez
Metcalf
Meyers
Miller (CA)
Minge
Nadler
Neal
Nethercutt
Neumann
Ney
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Parker
Pastor
Payne (VA)
Peterson (FL)
Peterson (MN)
Petri
Pomeroy
Portman
Poshard
Ramstad
Rangel
Reed
Rivers
Roemer
Ros-Lehtinen
Rose
Roukema

Royce
Rush
Sabo
Sanders
Sanford
Scarborough
Schroeder
Schumer
Sensenbrenner
Shays
Skaggs
Skelton
Slaughter
Smith (MI)
Smith (WA)
Solomon
Souder
Spratt
Stark
Stearns
Stenholm
Stockman
Stokes
Studds
Stump
Stupak
Tanner
Tate
Taylor (MS)
Tejeda
Thurman
Torres
Towns
Tucker
Vento
Volkmer
Ward
Watt (NC)
Weller
Whitfield
Williams
Wyden
Zeliff
Zimmer

NOES—243

Abercrombie
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Barcia
Bartlett
Barton
Bateman
Beilenson
Bentsen
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Blute
Boehlert
Boehner
Bonilla
Bono
Browder
Brown (CA)
Brown (FL)
Brownback
Bryant (TX)
Bunn
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cardin
Castle
Chrysler
Clayton
Clement
Clinger
Clyburn
Coburn
Coleman
Collins (GA)
Cox
Cramer
Crane
Crapo
Cremeans
Cunningham
Davis
de la Garza
Deal
DeLay
Dellums
Dickey
Dicks
Dingell
Dixon
Dooley
Doolittle
Dornan
Doyle
Dreier
Durbin
Ehlers
Emerson
English
Everett
Ewing
Fawell
Fazio
Fields (LA)
Fields (TX)
Filner
Flake
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frisa
Gallegly
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goodling
Goss
Graham
Gunderson
Gutknecht
Hall (TX)
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefner
Heineman
Herger
Hilliard
Hobson
Hoekstra
Hoke
Holden
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Istook
Jackson-Lee
Jacobs
Johnson (CT)
Johnson, Sam
Jones
Kanjorski
Kasich
Kennedy (MA)
Kim
King
Knollenberg
Kolbe
LaTourette
Laughlin
Lazio
Leach
Levin
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
Longley
Lucas
Manton
Martinez
Martini
Matsui
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McKeon
Meek
Mfume
Mica
Miller (FL)
Mineta
Mink
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murtha
Myers
Myrick
Norwood
Nussle
Oxley
Packard
Pallone
Paxon
Payne (NJ)
Pelosi
Pickett
Pombo
Porter
Pryce
Quillen
Quinn
Radanovich
Rahall
Regula
Richardson
Riggs
Roberts
Rogers
Rohrabacher
Roth
Roybal-Allard
Salmon
Sawyer
Saxton
Schaefer
Schiff
Scott
Seastrand
Serrano
Shadegg
Shaw
Shuster
Sisisky
Skeen
Smith (NJ)
Smith (TX)
Spence
Talent
Tauzin
Taylor (NC)
Thomas
Thompson
Thornberry
Thornton
Tiahrt
Torkildsen
Torricelli
Traficant
Upton
Velazquez
Visclosky
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Waters
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
White
Wicker
Wilson
Wise
Wolf
Woolsey
Wynn
Young (AK)
Young (FL)

NOT VOTING—9

Bonior
Collins (MI)
Frost
Hall (OH)
Jefferson
McKinney
Moakley
Reynolds
Yates

□ 1611

The Clerk announced the following pair:

On this vote:

Ms. McKinney for, with Mr. Yates against.

Messrs. MARTINEZ, GUNDERSON, HOLDEN, BROWNBACK, WAXMAN, and Ms. ROYBAL-ALLARD, Ms. PELOSI, Mr. ABERCROMBIE, Ms. VELÁZQUEZ, Mr. HALL of Texas, Mr. CRAMER, and Ms. WOOLSEY changed their vote from "aye" to "no."

Mr. KLUG, Mr. COOLEY, Ms. EDDIE BERNICE JOHNSON of Texas, and Messrs. GENE GREEN of Texas, LARGENT, HORN, PORTMAN, SCARBOROUGH, WELLER, TATE, McINTOSH, GOODLATTE, HILLEARY, ORTON, and Ms. SLAUGHTER and Mr. STOCKMAN changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. YOUNG of Florida. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise to engage in a brief colloquy with the gentleman from Indiana [Mr. MYERS], the chairman of the Subcommittee on Energy and Water.

Mr. Chairman, as you and the members of the committee know, one of the Department of Energy facilities that is in the process of ceasing production is the Pinellas plant, which I have the privilege of representing. As noted in your report, we are engaged in a very innovative effort there to convert this defense facility to a commercial facility. As part of this effort, the Department of Energy has transferred ownership of the Pinellas facility to the Pinellas County Board of County Commissioners in an agreement that benefits both the Federal Government and the people of Pinellas County, FL, I represent. The Federal Government saves valuable resources by not having to bulldoze the facility and go through the time consuming process of surplusing the property. The county gains from retaining access to this facility which will save many of the jobs that would otherwise be lost from its closure.

Mr. Chairman, in decommissioning and closing out the defense mission of the Pinellas facility, the Department of Energy has certain obligations to leave the facility in compliance with various State and local codes and configured in such a way that it is safe and able to be utilized for its new commercial mission. The cost of these requirements is much less than the cost the Department would incur if it was to simply bulldoze the entire facility.

□ 1615

Mr. Chairman, I would like to clarify that nothing in the bill or accompanying report would in any way impede the ongoing effort to decommission and convert the Pinellas plant from a national defense to a commercial facility.

Mr. MYERS of Indiana. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Florida. I yield to the gentleman from Indiana.

Mr. MYERS of Indiana. The gentleman is correct. The committee is well aware of the innovative ideas and work that the Pinellas County Board of Commissioners is doing in Florida. We hope this will be a model that more industry can take over where the corporations or the government moves out and that corporation or industry can move in. So you are doing a good job, and we are very much aware of it.

Mr. YOUNG of Florida. Mr. Chairman, I thank the gentleman for that.

Mr. CARDIN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise to enter into a colloquy with the gentleman from Indiana [Mr. MYERS].

Mr. Chairman, I would ask if my colleague, WAYNE GILCHREST, and I might engage with you in a colloquy on the future of beneficial use projects for the disposal of dredge spoils. We are particularly interested in the Poplar Island project, planned for the Chesapeake Bay, which could provide a model for such projects throughout the Nation.

As you are well aware, the Port of Baltimore is central to the Maryland, regional, and national economies. An estimated 87,000 jobs are directly or indirectly related to port activity in Maryland. In 1993 a total of 25 million tons of cargo passed through the Port of Baltimore. Over the past 2 years a total of 15 steamship lines have begun or expanded service at the port. Success in maintaining and improving ship channels will help assure the continued growth in activity at the Port of Baltimore into the 21st century and facilitate efficient international trade activity for the United States.

In order to maintain shipping channels serving the Port of Baltimore at their existing authorized depths, each year approximately 4 million cubic yards of material must be dredged from the Maryland waters of the Chesapeake Bay. Any new work, such as improvement or deepening of channels, requires dredging additional amounts of material.

In the past, the Port, working with the Army Corps of Engineers, has been able to meet its dredge disposal needs through careful use of overboard placement within Chesapeake Bay waters and by use of the Hart-Miller Island disposal site. Although limited overboard placement of dredged material will be continued—if and where it can be done without adversely impacting the marine environment—this option will nevertheless provide relatively little capacity. The remaining capacity of the Hart-Miller Island site is limited. Although we are in the process of developing a new containment site within the port, site constraints are such that its capacity will be relatively limited, too. In sum, in order to meet the dredging needs of the port, we must supplement these measures with other options.

Working with many concerned parties, the Corps of Engineers and the State of Maryland have studied a full range of placement options. As a result, four potential beneficial use projects have been identified. Based on a consensus of various Federal, State, and local agencies, our first priority is the Poplar Island project. Poplar Island will provide additional capacity for the placement of dredge materials, while simultaneously enhancing the quality of the Chesapeake Bay.

Across the Nation, many ports are facing similar constraints in finding large, new disposal sites for necessary dredging work. Unless methods are developed to allow this work to proceed, the efficiency of our ports is increasingly threatened and the costs of international trade could grow significantly.

Mr. Chairman, I know that my colleague, the gentleman from Maryland [Mr. GILCHREST], joins me in this colloquy, and I would say to the chairman, if I might, that we appreciate the subcommittee's report language this year supporting the Poplar Hill projects through the use of section 204 wetlands and aquatic habitat creation funds. In this Congress we will be working with the Committee on Transportation and Infrastructure to shape a comprehensive water resource project authorization package that will include Poplar Island. Recognizing tremendous fiscal restraints facing your subcommittee, I hope we can also work with you to see that Federal resources necessary to move this project forward as a national model will be made available over the coming years.

Mr. MYERS of Indiana. Mr. Chairman, will the gentleman yield?

Mr. CARDIN. I yield to the gentleman from Indiana.

Mr. MYERS of Indiana. I thank the gentleman for yielding. You, the gentlemen from Maryland, Mr. CARDIN and Mr. GILCHREST, have worked with our committee very closely in making sure that the Port of Baltimore, which is very important to the economy of our Nation, is kept open.

Spoil from dredging is a problem that our committee has been facing for a number of years, finding a site to dispose of it. The program you have worked out here with Poplar Island, of being able to dispose of the waste, of the dredged material, to enhance the ecosystem, to enhance the environment and wetlands, has been very, very beneficial. We appreciate the good work you have done, and the committee is very much aware of the project, as we have evidenced in our report.

Mr. HOYER. Mr. Chairman, will the gentleman yield?

Mr. CARDIN. I yield to the gentleman from Maryland.

Mr. HOYER. Mr. Chairman, I rise to echo the words of the distinguished gentleman from Maryland [Mr. CARDIN] who does such an outstanding job representing Baltimore, the port, and our State.

Mr. Chairman, I wanted to also rise to thank the gentleman from Indiana [Mr. MYERS], the chairman of the committee, who has been a longstanding supporter. I came here in 1981 and started working on the dredging of the Baltimore Harbor along with others. One of the predecessors on the committee was not too enthusiastic about that, as the gentleman may recall. But the gentleman from Indiana [Mr. MYERS] and the gentleman from Alabama [Mr. BEVILL] have been tremendously helpful to the Port of Baltimore. I thank them, thank the committee, and join my colleague from Maryland in his remarks.

Mr. CARDIN. Mr. Chairman, let me thank the chairman for the work of his committee.

Mr. DEFAZIO. Mr. Chairman, I ask unanimous consent to reopen title II for the purposes of an amendment which I have at the desk, and that the debate be limited, as per prior agreement, to 5 minutes per side.

The CHAIRMAN. Is there objection to the request of the gentleman from Oregon?

Mr. MYERS of Indiana. Mr. Chairman, reserving the right to object, and I hope we will not, this is the only time we are willing to do this, with the understanding to limit the debate to 5 minutes pro, 5 minutes con, and no amendments to the gentleman's amendment.

Mr. DEFAZIO. Mr. Chairman, if the gentleman will yield, that is the understanding.

Mr. MYERS of Indiana. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Oregon?

There was no objection.

AMENDMENT OFFERED BY MR. DE FAZIO

Mr. DEFAZIO. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DEFAZIO: Page 11, line 7, strike "$417,301,000" and insert "$412,180,000".

The CHAIRMAN. The gentleman from Oregon [Mr. DEFAZIO] will be recognized for 5 minutes, and a Member opposed will be recognized for 5 minutes.

The Chair recognizes the gentleman from Oregon [Mr. DEFAZIO]

Mr. DEFAZIO. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this goes to the ultimate commitment of $700 million of Federal taxpayer money. The Committee on Appropriations in its wisdom saw fit to add $5 million to the administration's request on the Animas-La Plata project. The administration asked to continue studies and planning for the Animas-La Plata project, a potential $701 million Federal obligation. The committee has added $5 million to actually begin construction, that is, make an irrevocable commitment to go forward.

I would suggest that this is poor timing. We have a report from the inspector general of the Department of Interior dated July 1994 which finds that this project is not economically justified. Further, the report of the inspector general says,

> Inform the Congress of the economic and financial viability of the Animas-La Plata project based on the results of the reevaluation. If warranted, the commissioner should seek congressional approval for restructuring the project to limit the size and scope of the project to only those water supply functions that are either economically or financially viable or required under the terms of the Colorado Ute Indian Water Right Settlement Act.

Mr. Chairman, that report has been prepared. We know the numbers. It is being concealed downtown, withheld, by the Clinton administration. They have twice withheld release of this report, delayed release of this report, and were prepared to release it this week, but are now going to withhold until after we take this vote.

The last evaluation said that this had a cost-benefit ratio of 0.6 to 1, colleagues—$701 million of Federal money, and we will get back a return of 0.6. According to the rules of the Department of Interior, Bureau of Reclamation, the project should not go forward.

On a per acre cost, the irrigation will be $7,664 per acre, and the repayment will be $303. We would be better to buy out those irrigators or to give them half that amount of money, rather than spending all of this Federal money.

This is a project born in a very different time: Cheap power, cheap water subsidies to agriculture, limitless Federal resources. It was first authorized in 1968. Times have changed, and so should this project.

If we appropriate this additional $5 million and make an irrevocable commitment, begin to turn dirt, you all know how difficult it will be next year to revisit this after we get the new report from the Department of Interior, which is rumored to have lowered the cost-benefit ratio from 0.6 to 1 to 0.36 to 1. That is 36 cents on the dollar returned, in the most generous terms, to the Federal taxpayers for this project.

We should take out this $5 million. It will not kill the project, and it allows continued planning and evaluation and allows us to look for cheaper alternatives. There will still be $5 million in the bill for the project. But then we will have the benefit of the report from the inspector general, the new cost-benefit analysis, and perhaps have an opportunity to review less costly alternatives next year before we make this irrevocable commitment.

It does not make sense to go forward now and commit this Congress and the taxpayers of this country to a $701 million project, when less expensive alternatives are available and when this does not provide a position cost-benefit analysis to the American taxpayers.

Beyond that, it is particularly outrageous to go forward, when the Clinton administration is concealing a very, very negative report downtown, and they are going to release it just after we vote. If you vote to keep these funds in the bill, you will be very embarrassed next week when they finally release that report and show the benefit to be 0.36 to 1, 36 cents on the dollar to the Federal taxpayers.

Mr. McINNIS. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman is recognized for 5 minutes.

Mr. McINNIS. I yield to the gentleman from Alabama [Mr. BEVILL].

Mr. BEVILL. Mr. Chairman, I rise in support of the committee and opposed to this amendment. This project concerns two large Indian tribes in southwest Colorado. We have been working on this project for 10 years. The unemployment rate in the area is some 62 percent, and this is water over which the Indians have given up their water rights, very valuable water rights, that they were given 100 years ago. As a matter of fact, the negotiations have been going on for 100 years between the State of Colorado, the Bureau of Reclamation, the United States Government, and the Department of the Interior. This has been going on for 100 years, and they reached agreement. Secretary Babbitt says this is an obligation to the United States of America, and we are going to stick with our agreement. The subcommittee has supported this position for 10 years, and we expect this project to move on. We do not want to see this project sidetracked again. It has been an environmental matter for years, been in the courts, and now it is all wrapped up. We owe it to these Indians, who have given up very valuable rights in order to get this project going. I urge Members to vote "no" on the amendment.

Mr. McINNIS. Mr. Chairman, I yield to the chairman of the Committee on Resources, the gentleman from Alaska [Mr. YOUNG].

Mr. YOUNG of Alaska. Mr. Chairman, I rise in opposition to the amendment. The gentleman from Alabama put it very clearly: This is not about the author of the amendment's statement about money. This is about, very frankly, the environmental community opposes this dam. Let us get beyond that. Let us go to the commitment we have made to the American Indian. Let us make that commitment one not of the forked tongue. This project has been worked on for over 100 years. It is time that this Congress speaks with a straight tongue and fulfill our obligations.

I would suggest respectfully that if we do not do so, we have gone back and repeated what we have done over the years, breaking our word again and again. I would suggest respectfully this amendment is not appropriate if we are to fulfill our obligations. I urge a strong no vote. Let us speak with a straight tongue, and not forked tongue.

Mr. McINNIS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, first of all, let us start out, the gentleman from Oregon states that the President's recommendation did not include construction. The gentleman is wrong on that. The President did include construction. The President supports this, Bruce Babbitt supports it, there are a lot of people in support for this, except for the Sierra Club. Why are they in support of it? It is because we have a treaty with the native Americans. Let me read a letter, one of the most moving letters I have read.

☐ 1630

This is from the Southern Ute Indian Tribal Council, from the chairman:

> After reading the article on the Animas-La Plata Projection the June 29, 1995, edition of The Washington Post, I knew how my ancestors must have felt when the United States government repeatedly broke treaties with the Colorado Ute Indians. First in 1863, then in 1868, 1873 and, finally, in 1880. With each treaty, the homelands of the Utes were reduced in size. Finally, in 1880, Congress confiscated all of the Ute lands in Colorado—over one-third of the state of Colorado. In the 1930's, a small remnant of our aboriginal homelands in Southwestern Colorado were restored to tribal ownership.
>
> Now, The Washington Post suggests that the United States government breach the agreement that was entered into in 1988. At that time, the Colorado Utes chose to negotiate rather than litigate and entered into another treaty, or contract, with America, in return for deferring the Colorado Utes' senior *Winters* water claims on the rivers in Southwestern Colorado that cross the reservation. Congress and then President Reagan said, "We will build the Animas-La Plata Project. The Utes will have wet water—not paper water rights." Upon passage of the Colorado Ute Indian Water Rights Settlement Act, the legislation was hailed as a model for all tribes to follow—negotiate, do not litigate. Since passage, the States of Colorado, New Mexico, the water districts, the municipalities, and the Indian tribes, have been strangled in a swamp of red tape and bureaucratic backpeddling.
>
> Now comes The Washington Post, not unlike the Indian givers of the last century. Do not honor our commitment to the Indians. Ignore the trust responsibility the United States government has under the Constitution of the United States. Sacrifice the Indian water claims on the alter of economics. It is too expensive to build the Animas-La Plata. Let's give the Indians "wampum" instead of water. My ancestors were all too familiar with the "beads for Manhattan" mentality of the early Indian traders. Colorado Ute Indian tribes honorably negotiated the Colorado Ute Indian Water Rights Settlement Act, which mandates construction of the Animas-La Plata Project. In his inaugural message to the Congress, President Bush said "great men, like great nations, must keep their promises. The Colorado Ute Indian tribes expect this great nation to keep its promise and construct the Animas-La Plata Project."

Above everything else, the number one issue that we have to face as Members of the United States Congress and on this very amendment that is in front of us today is will we or will we not honor our treaty agreement with the native Americans. If you vote yes on this amendment, you once again walk away from the native Americans of this country. Vote "no" on DeFazio.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Oregon [Mr. DEFAZIO].

The question was taken; and the chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. DEFAZIO. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 151, noes 275, not voting 8, as follows:

[Roll No. 484]

AYES—151

Abercrombie
Ackerman
Andrews
Barcia
Barrett (WI)
Becerra
Bentsen
Berman
Boehlert
Bonior
Borski
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Chabot
Chapman
Clayton
Coble
Coleman
Collins (IL)
Collins (MI)
Conyers
Cooley
Costello
DeFazio
DeLauro
Dellums
Deutsch
Dingell
Doggett
Dooley
Duncan
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fields (LA)
Filner
Flake
Ford
Frank (MA)
Furse
Gejdenson
Gephardt
Geren
Gilchrest
Gilman
Goodlatte
Gordon
Green
Gutierrez
Hamilton
Harman
Hinchey
Hoyer
Jackson-Lee
Jacobs
Johnson, E. B.
Johnston
Kaptur
Kennedy (MA)
Kennelly
Kleczka
Klug
LaFalce
LaHood
Levin
Lewis (GA)
Lipinski
LoBiondo
Lofgren
Lowey
Luther
Maloney
Manzullo
Markey
Matsui
McCarthy
McDermott
McIntosh
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Moran
Nadler
Neal
Ney
Obey
Owens
Payne (VA)
Pelosi
Peterson (MN)
Petri
Poshard
Rahall
Rangel
Reed
Rivers
Roemer
Rohrabacher
Roybal-Allard
Royce
Rush
Sabo
Salmon
Sanders
Sawyer
Schroeder
Schumer
Scott
Sensenbrenner

Serrano
Shaw
Shays
Skaggs
Slaughter
Smith (MI)
Solomon
Souder
Stark
Stenholm
Stockman
Stokes
Studds
Stupak
Tanner
Thurman
Torres
Torricelli
Towns
Tucker
Upton
Velazquez
Vento
Ward
Waters
Watt (NC)
Waxman
Woolsey
Wyden
Wynn
Zimmer

NOES—275

Allard
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Beilenson
Bereuter
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehner
Bonilla
Bono
Boucher
Brewster
Browder
Brown (CA)
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chambliss
Chenoweth
Christensen
Chrysler
Clay
Clement
Clinger
Clyburn
Coburn
Collins (GA)
Combest
Condit
Cox
Coyne
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeLay
Diaz-Balart
Dickey
Dicks
Dixon
Doolittle
Dornan
Doyle
Dreier
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fazio
Fields (TX)
Flanagan
Foglietta
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Gibbons
Gillmor
Gonzalez
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hancock
Hansen
Hastert
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hilliard
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson (SD)
Johnson, Sam
Jones
Kanjorski
Kasich
Kelly
Kennedy (RI)
Kildee
Kim
King
Kingston
Klink
Knollenberg
Kolbe
Lantos
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Livingston
Longley
Lucas
Manton
Martinez
Martini
Mascara
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McKeon
McNulty
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Mollohan
Montgomery
Moorhead
Morella
Murtha
Myers
Myrick
Nethercutt
Neumann
Norwood
Nussle
Oberstar
Olver
Ortiz
Orton
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (NJ)
Peterson (FL)
Pickett
Pombo
Pomeroy
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Richardson
Riggs
Roberts
Rogers
Ros-Lehtinen
Rose
Roth
Roukema
Sanford
Saxton
Schaefer
Schiff
Seastrand
Shadegg
Shuster
Sisisky
Skeen
Skelton
Smith (NJ)
Smith (TX)
Smith (WA)
Spence
Spratt
Stearns
Stump
Talent
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thompson
Thornberry
Thornton
Tiahrt
Torkildsen
Traficant
Visclosky
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Williams
Wilson
Wise
Wolf
Young (AK)
Young (FL)
Zeliff

NOT VOTING—8

Frost
Hall (OH)
Jefferson
McKinney
Moakley
Reynolds
Scarborough
Yates

□ 1653

The Clerk announced the following pair: On this vote:

Mr. Yates for, with Mr. Scarborough against.

Mr. ROSE and Mr. DIXON changed their vote from "aye" to "no."

Messrs. DEUTSCH, CONYERS, LAHOOD, KLUG, RAHALL, GILCHREST, TOWNS, and GILMAN changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. The Committee will rise informally in order that the House may receive a message.

MESSAGE FROM THE PRESIDENT

The SPEAKER pro tempore. (Mr. CAMP) assumed the chair.

The SPEAKER pro tempore. The Chair will receive a message.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Edwin Thomas, one of his secretaries.

The SPEAKER pro tempore. The Committee will resume its sitting.

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 1996

AMENDMENT OFFERED BY MR. BARTON OF TEXAS

Mr. BARTON of Texas. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BARTON of Texas: On page 24, after line 18, insert:

Sec. Appropriations made available by the Energy and Water Development Act, 1995 (P.L. 103-316), for a medical treatment facility at the site of the terminated Superconducting Super Collider project shall be rescinded on the thirtieth day after the date of enactment of this Act if: (1) the withdrawal by the State of Texas of its application to the Department of Energy for a contribution to the completion of such facility remains in effect on such thirtieth day, and (2) prior to such thirtieth day, the Attorney General of the United States has determined that the United States has constitutional authority to rescind such appropriation.

In the fiscal year 1995 Energy and Water Development Appropriations Act, Congress permitted the Department of Energy to make $65 million of previously appropriated funds available to the State of Texas for a one-time contribution for the construction of a medical treatment facility at the site of the terminated Superconducting Super Collider. The Committee understands that the State recently withdrew its application to the Department of Energy for the $65 million grant. Accordingly, the Committee has included language to rescind the $65 million, provided that: (1) the State's withdrawal of its application remains in effect thirty days after the enactment of this act, and (2) the Attorney General of the United States determines that the funds are subject to rescission.

Mr. BARTON of Texas (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. MYERS of Indiana. Mr. Chairman, I reserve a point of order on the amendment.

Mr. BARTON of Texas. Mr. Chairman, last year on August 10 before this body, we had the same piece of legislation, the Energy and Water Appropriations bill.

At that point in time there was an amendment offered by the Senate to specifically set aside $65 million as part of the settlement agreement with the State of Texas for the construction of the SSC to use to build a medical treatment center for cancer and research. I stood on this floor and supported that agreement, as did many other Members on both sides of the aisle.

At that time, there was some concern that the State might decide at a future point in time not to use the money for the building of the cancer treatment center, and I again said that that would not happen. To make a long story short, Since August 1994 the State of Texas has, in fact, decided not to use the $65 million to build and operate the cancer treatment center. They want to use the money for other purposes. I think that the only honorable thing to do, since I was a supporter of the agreement, is for me to offer an amendment to rescind that money, if it is constitutional to do so. That is what this amendment does.

I am told that a point of order can be made against it. The distinguished chairman of the subcommittee has reserved that point of order, so at the appropriate time, unfortunately, I will have to withdraw the amendment. However, I believe that we should put in the RECORD that we did intend for this money to be used to build a cancer treatment center. It was my purpose at the time to have the money spent for that reason. I still think that was the best use of those funds.

Mr. LIVINGSTON. Mr. Chairman, will the gentleman yield?

Mr. BARTON of Texas. I yield to the gentleman from Louisiana.

Mr. LIVINGSTON. Mr. Chairman, I just want to be sure that I understand the facts. I know that the gentleman for some 10 years was the most stalwart supporter of the super collider in the House of Representatives. I personally supported the super collider as well, and think that the House and the Congress as a whole made a terrible mistake when it turned its back on that productive science and chose not to go forward with what would have reaped great results for the American people.

However, Congress did decide to scrap the super collider as the project was well underway. There were facilities that were left, and there were moneys that were unexpended in the super collider account. If I am correct, Mr. Chairman, and I hope if I am not the gentleman would correct me, but as I understand it, the $65 million left in the super collider account which, in order to mollify, in effect, the people of Texas for the loss of this project that was begun and then abandoned by the Congress, was expected to go into a cancer research facility.

Mr. BARTON of Texas. Mr. Speaker, that is correct.

□ 1700

Mr. LIVINGSTON. Then the State of Texas asked for the money, accepted the money, and was to use the money for the cancer research facility, but since that decision has been made and all agreements were expected to go forward, the State of Texas has unilaterally decided not to go forward with that facility. Is that correct?

Mr. BARTON of Texas. That is correct. As a part of the settlement agreement, there is an alternative settlement procedure that gives the State the right to do so. That alternative settlement agreement was not a part of the public record.

What is a part of the public record is, and it was unequivocal in the conference report, in the report language and in all the public comments, was that if the House and the Senate would agree, this $65 million would in fact be used to build this cancer research and treatment center if it passed peer review, which it did.

Mr. LIVINGSTON. But if the gentleman would yield further, as I understand it, now that the State of Texas has decided to abandon its plans to go forward with the cancer research center, it still intends to use that $65 million on other projects that the State of Texas deems worthwhile; is that correct?

Mr. BARTON of Texas. That is correct.

Mr. LIVINGSTON. But was that not the intention of the Congress, when they decided to leave the $65 million with the State of Texas after the super collider project collapsed?

Mr. BARTON of Texas. That is correct. In fact, we have a monologue by the gentleman from Indiana [Mr. MYERS], the chairman, last year on that very point. He asked the Department of Energy and they said specifically that they did not believe that they could authorize $210 million unilaterally; that they felt like the most they could give to the State in cash was $145 million, but they could support the $65 million for the cancer treatment center if it passed peer review.

Mr. LIVINGSTON. If the gentleman would yield further, do I understand it is the gentleman's position that if the money is not to be used as a cancer research and treatment center, then indeed the money should be rescinded?

The CHAIRMAN. Does the gentleman from Indiana [Mr. MYERS] continue to reserve his point of order?

Mr. MYERS of Indiana. Mr. Chairman, I continue to reserve my point of order.

Mr. LIVINGSTON. Mr. Chairman, I move to strike the last word.

Mr. Chairman, as I understand it, now that the super collider project has fallen through and the State of Texas has decided unilaterally not to go forward with the cancer treatment and research center, that it is the position of the gentleman from Texas that the right thing would be to return that $65 million to the U.S. Treasury; is that correct?

Mr. BARTON of Texas. If the gentleman would yield, it would be the intent of my amendment, if passed, to put the money back in Federal control, and let the authorizing committees in the House and the Senate reprogram the funds to the best purpose that they see fit. That would be the intent of my amendment.

Mr. LIVINGSTON. But because of House rules and the structure of the rule for this bill, the gentleman is not permitted to go forward with his amendment, or if he were to go forward, it could be struck on a point of order; is that correct?

Mr. BARTON of Texas. That is correct.

Mr. LIVINGSTON. At this point, there is nothing really that the gentleman can do except to clarify the record that it was not the intent of the Congress when this legislation first went through in fiscal year 1995 that the $65 million would be used for anything other than the cancer treatment center.

Mr. BARTON of Texas. All I am trying to do is keep my word to the House of Representatives when I stood on the floor and said these funds would go for cancer treatment and research. I believe that. I still at this point in time think that was the most appropriate use, but our State leaders have decided otherwise. They have the legal authority to do so.

I would just hope that between now and the conference, the subcommittee chairman will work with the ranking member to work with the Attorney General to see if there might be some way yet to rescind these funds.

Mr. LIVINGSTON. I commend the gentleman on his position. I think he has been true to his word from the very beginning, from the inception of his support for the Super Collider project, throughout that project, and since then.

Mr. MYERS of Indiana. Mr. Chairman, will the gentleman yield?

Mr. LIVINGSTON. I yield to the gentleman from Indiana.

Mr. MYERS of Indiana. Mr. Chairman, this subcommittee did support the SSC up to its final blow. It is not quite as simple as has been presented here today.

In settlement for the SSC, the Federal Government agreed to a two-pronged approach, which this subcommittee opposed for quite some time, not so much the cash settlement with Texas but the fact that that $65 million is not left in the account, not at all. It was placed in escrow. It can be spent as far as this committee is concerned only for one purpose, the construction of the cancer treatment facility.

The subcommittee is not opposed to that by any means, but we did not feel that we should tie up the money. Texas should still have the right yet today to spend that money any way they wanted to. So it is not quite like leaving the money there so it can be spent any way it wants to. It was committed.

When I was a trust officer some years ago, when something was put in trust, we had to fulfill that trust. We could not change that agreement by anyone.

We tried to say, just take the $210 million and give it to Texas. DOE would not accept that. With an agreement with the authorities in Texas, they said the only way we can do this is to give the State of Texas $145 million in cash, which they got, and then place $65 million for this cancer center, for which we were told Texas probably would never vote.

They wanted to bypass the system in Texas to obligate the money; am I not correct on this point? Now I think there is a serious legal question. How do we correct the mistake—and I call it a mistake—that was made 2 years ago when this $65 million was put into escrow.

This is the reason I must object today, until we find out what we can legally do. We do not want to hang it up here and leave it hanging again. Let's settle it once and for all how we approach this problem.

Mr. LIVINGSTON. Reclaiming my time, would the distinguished chairman of the subcommittee be inclined to at least address this issue in conference so that we get all the facts and understand really what happened there?

Mr. MYERS of Indiana. If the gentleman would continue to yield, in discussion with the gentleman from Texas [Mr. BARTON], we discussed that. Let's settle the legal question, whether we can do this as simply as we are trying to do it today, before we try to do it. If it gets settled before we go to conference, of course, we will agree with that.

Mr. BARTON of Texas. If the gentleman will yield further, I thank the subcommittee chairman and the full committee chairman.

Mr. Chairman, I submit material from last year's RECORD for this RECORD, as follows:

Senate amendment No. 35: Page 19, line 19, after "tract" insert: ": *Provided further*, That of the amounts previously appropriated to orderly terminate the Superconducting Super Collider (SSC) project in the Energy and Water Development Appropriations Act, 1994, amounts not to exceed $65,000,000 shall be available as a one-time contribution to the completion, with modification, of partially completed facilities at the project site if the Secretary determines such one-time contribution (i) will assist the maximization of the value of the investment made in the facilities and (ii) is in furtherance of a settlement of the claims that the State of Texas has asserted against the United States in connection with the termination of the SSC project: Provided further, That no such amounts shall be made available as a contribution to operating expenses of such facilities".

Mr. BOEHLERT. Mr. Speaker, the conference report before us today in effect approves the tentative agreement reached to settle the claims of Texas against the Department of Energy for shutdown of the superconducting super collider [SSC].

Much about this settlement disturbs me—and should disturb every Member of this body. Under the settlement, taxpayers will be forced to shell out more money for a dead project to pay off spurious claims by Texas—claims that were expressly rejected by this body in 1990.

Worse still, the agreement sets up a mock peer review process to provide additional funds to the States. The review process in the settlement has more in common with a shotgun wedding than with normal scientific merit evaluation.

Under the settlement, if the reviewers—whom Texas will have a say in selecting—do not approve the $65 billion grant, the entire settlement is nullified. This sounds more like peer pressure than peer review. I hope no potential source of future funds for the linear accelerator is taken in by this unusual arrangement.

Finally, I'm concerned that the Department of Energy already seems to be sidling away from its initial statements that the settlement can be funded entirely from fiscal 1994 appropriations. I hope the Department proves more capable of living within cost estimates than it has in the past.

Still, despite all this, and despite the covert way the Department has proceeded, I will reluctantly go along with this settlement because I believe delaying the shutdown now will cost taxpayers even more money. There's a benefit to be gained simply in putting this entire episode behind us.

In addition, my two primary concerns have been addressed. In a letter that I will include in the RECORD, the Department has pleaded that this will be the last Federal money going to the SSC site and that termination costs should be held to the level already appropriated.

HOUSE OF REPRESENTATIVES,
Washington, DC, July 29, 1994.

Hon. HAZEL R. O'LEARY,
Secretary of Energy, U.S. Department of Energy, Washington, DC.

DEAR MADAM SECRETARY: I appreciated the briefing I received from the deputy secretary and our staff last week on the terms of agreement with Texas. I hope the lines of communication can remain open in the future.

I do continue to have several concerns about the agreement with Texas that I hope you can allay.

First, the agreement seems to set up a situation in which Texas could be coming back quickly to the federal government for additional funds to operate former Superconducting Super Collider (SSC) facilities. The grant to complete the Linear Accelerator (LINAC) with its unusual peer review provisions and the continuation of the planning grant to Texas—also awarded under unusual procedures—would seem to indicate that Texas still wishes to encumber the federal government in the future with projects unrelated to national scientific priorities. Has the Department agreed—either in the agreement or in any other documents or discussions—to any future funding of former SSC facilities? I believe it is imperative that the federal government severe all ties (except those concerning liability) with the SSC site.

Second, I remain concerned that the settlement costs could exceed the funding available from existing appropriations. The uncertainties associated with environmental cleanup at the site, the proposed elimination of contingency funds and the continuing threat of claims and litigation from local authorities in Texas raise questions about the adequacy of the $735 million on hand to implement the settlement. And quite frankly, our experience with Department of Energy cost estimates is not good. How certain are you that the settlement outlined in the terms of agreement can be paid for out of existing appropriations?

The Department's proposed settlement with Texas goes much further toward satisfying the state's unreasonable claims than I would prefer. Still, like you, I would prefer to put this whole sorry chapter behind us (And in bills like the one Congressman Boucher and I have drafted, providing for high energy and nuclear physics, we are indeed looking toward the future.) I hope you can offer me the reassurances I need to back the proposed settlement on the House floor. I look forward to hearing from you.

Sincerely,

SHERWOOD BOEHLERT,
Member of Congress.

THE SECRETARY OF ENERGY,
Washington, DC, August 8, 1994.

Hon. Sherwood Boehlert.
U.S. House of Representatives, Washington, DC.

DEAR CONGRESSMAN BOEHLERT: I was very pleased to receive the advice contained in your letter of July 28, 1994 that the briefing on the Department's settlement terms with Texas conducted by Under Secretary Curtis was helpful to you. I share your hope that our lines of communication remain open and constructive.

Turning to your specific questions, the Department has made no commitment for future Federal funding of former Superconducting Super Collider facilities. To the contrary, the $65 million grant toward completion of the Lear Accelerator as a medical facility is described explicitly as a one-time contribution. The settlement terms clearly state that the Department is to have no continuing or additional obligation in financing this or any other former Superconducting Super Collider facility.

The full scope of termination activities includes costs of a settlement of the Texas reimbursement claim and the above-mentioned grant associated with Texas' future use of the Linear Accelerator. During negotiations with Texas, the Department has emphasized the importance of minimizing the prospect of requiring any additional appropriations for Super Collider activities. Based upon our current cost estimates and planning assumptions, the Department fully expects that all anticipated termination expenses—including settlement with Texas and a $65 million one-time Federal contribution toward completion of the LINAC—can be accommodated with existing appropriated funds. We will work aggressively to achieve this goal through management efficiencies and, to the extent possible, changing the scope of termination activities.

Your letter notes concerns regarding the reliability of prior Department of Energy cost estimates regarding the Superconducting Super Collider project, I share those concerns. Therefore I must acknowledge that judgments about estimated costs of termination necessarily will be reassessed as our knowledge increases while project termination progresses. Nonetheless our actions are directed to the goal, which thus far seems an achievable one, of concluding all termination activities—including the settlement—from within the current appropriations of $735 million.

In order to maximize our prospects of meeting our goals of funding all termination activities from within the $735 million we are conducting a complete rebaselining in order to identify the management efficiencies and potential changes in scope of work described above. We will provide you a supplemental report on this work when it is concluded.

I hope this information will help allay the concerns that you have raised, and that they will enable you to conclude, as I have, that these settlement terms are in the national interest and merit your support.

Sincerely,

HAZEL R. O'LEARY.

Mr. BARTON of Texas. Mr. Chairman, I ask unanimous consent to withdraw the amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

AMENDMENT OFFERED BY MR. KLUG

Mr. KLUG. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. KLUG: Page 16, line 1 strike "$2,596,700,000" and insert "$2,576,700,000".

Mr. KLUG. My colleagues, this is an amendment to try to attempt to terminate the GTMHR program, which is a gas turbine nuclear reactor project. But let me, if I can, put two numbers in perspective.

Taxpayers have already spent more than $900 million to develop this technology. This bill in front of us appropriates $20 million under energy research supply activities to fund the project and if we continue to fund the project, the General Accounting Office estimates that we will spend nearly $2.6 billion in additional funds.

It is always interesting to come to this floor to try to argue to terminate science projects, because we are invariably told that science projects are either are in two stages of development. It is early enough in the project where we do not know if the technology is going to pay off, so we cannot stop it, or we have invested so much money in the project over the years, cannot afford to terminate it so we still have to spend the money.

This amendment will simply eliminate the funding this year from the appropriations bill for $20 million the amount appropriated to GTMHR. But let me make it clear to my colleagues immediately that this year's science authorization committee in full committee specifically struck all funding for this project.

Now, you know, you ask yourself why we did not go to the Committee on Rules and ask them to strike on a point of order since we have an appropriations today which has never been authorized. But we were told by the Committee on Rules that we could not do it that way. We had to fight it on the floor in order to kill it. But I think it is clear by the rules of the House, when the authorizing committee kills a program by a vote of 2 to 1, there is absolutely no way this program can stand.

Now, who wants this project killed? Let me start back with the Reagan administration which recommended it be killed; followed by the Bush administration which recommended the program be terminated; followed by the Clinton administration. The Senate voted to kill it last Congress. The National Academy of Sciences twice rejected this technology; once in 1992 and once in 1994.

The National Taxpayers Union and the Citizens Against Government Waste, Friends of the Earth, U.S. PIRG and a number of other groups are all opposed to the technology.

And may I add that a number of my colleagues in particular have been very supportive in my attempts to kill this funding: My colleague, the gentleman from Wisconsin [Mr. OBEY] the distinguished ranking member of the committee, who we will hear from in a few minutes and, particularly, I would like to pay tribute to the gentleman from Florida [Mr. FOLEY], a freshman Congressman who led the fight in the authorizing committee, in fact, over the objections of his committee chairman, to defund this technology.

Mr. Chairman, where does the Department of Energy stand on this? This is from a letter written to the gentleman from Florida [Mr. FOLEY], June 20, 1995. The Energy Department,

> . . . does not support continued funding for the gas turbine nuclear helium reactor. There are significant questions about the viability of this reactor type, including whether the fuel will retain fission products to the extent necessary for safety.
>
> There is little utility interest in this technology and we believe that development of this reactor concept would require Federal expenditures in excess of $1 billion over the next decade."

Again the General Accounting Office says $2 billion.

> Gas cooled reactor technology has been under development by the Federal Government for approximately 30 years without tangible benefits. The Department, therefore, proposes to terminate work on the gas turbine modular helium reactor.

Signed by Terry Lash, who works for Hazel O'Leary, who is the Secretary of Energy.

So we have the Reagan administration, the Bush administration, the Clinton administration, the Senate, the National Academy of Sciences, the authorizing committee. The bottom line is that nobody thinks this technology will work.

In fact, once upon a time there actually was a commercial project which attempted to use this technology. It was run in Colorado at Fort Saint Vrain. The reactor was closed down after 16 years after operating at a very impressive 14 percent of capacity.

I think it is abundantly clear that after 30 years of funding this technology, it is virtually impossible to find any support for it in the scientific community. As we saw last month, there is no support of it in our own Committee on Science. Our Committee on Science voted 2 to 1 to kill authorization for it.

Again, the Department of Energy, the Reagan administration, the Bush administration, and the Clinton administration all recommended this program be terminated. I urge my colleagues today, once and for all, to finally put this technology behind us.

Mr. OBEY. Mr. Chairman, I rise in support of the pending amendment.

Mr. Chairman, as the previous speaker indicated, this is a bipartisan amendment. It is being offered by the gentleman from Wisconsin [Mr. KLUG] and by myself, and the gentleman from Florida [Mr. FOLEY], and by the distinguished gentleman from Minnesota [Mr. LUTHER].

This amendment, as has already been indicated, cuts $20 million in the bill for the gas turbine modular helium reactor. This program is a prime example of the continuation of corporate welfare for a mature segment of the nuclear industry for a program with questionable technology.

Mr. Chairman, as was pointed out, the Committee on Science recently voted 23 to 15 to kill the program, despite the support of the Chairman of that committee. No funds have been requested for this program by the President for 3 years in a row. That is fiscal 1994, 1995, and 1996. And yet somehow Congress finds room, within a brutal budget for working people, to allocate funds for this program.

Over the past 30 years, taxpayers have been asked to spend 900 million smackeroos on gas-cooled reactor programs. And what do we have to show for it? Absolutely zip.

Mr. Chairman, as was indicated previously, the only commercial version ever built was in Colorado. That operation had the worst operating record of any nuclear facility. It was shut down in 1990, after it operated at only 14 percent of capacity. And despite the claims of the proponents of this technology about a new design and 50 percent private sector match, the technology is still not proven.

The real question is simply whether we are going to continue to fund this program at an eventual cost of $5.3 billion. I would hope not.

□ 1715

I would point out there has not been a nuclear power plant successfully licensed in this country since 1974. The nuclear industry itself is lukewarm to this particular type of reactor, and, third, even nuclear advocates admit that there are no utility orders for this type of plant based on this technology that would be placed before the year 2010. So it seems to me this is a little premature.

I would simply say that this Congress appears to be all too willing to cut Medicare, all too willing to cut education, all too willing to cut job training programs, all too willing to cut other science, all too willing to cut anything that benefits directly the working people of this country, but when it comes to hardware items, whether it is the F-22, which we do not need until the year 2014, whether it is this or whether it is several other reactor technologies in the bill, evidently the Congress feels comfortable in funding and providing funds for that. I think that represents misplaced priorities.

I would urge you to vote for this amendment. Turn down this project. Save some money, leave a few table scraps for programs that affect the welfare of working people.

This is a turkey. It is a boondoggle. It is unaffordable. It is not needed. We ought to kill it and kill it right now.

Mr. CUNNINGHAM. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I respect the gentleman's opinion. But let me put some actual facts.

First of all, it was said that the taxpayers were against this. This technology replaces $1 billion per week in oil that we are purchasing, $1 billion, and it is cleaner.

We say there is not benefit from this. There is 75 percent less nuclear heavy metal waste.

It was also mentioned that Colorado was a failure. It is because they used 25-year-old technology, mechanical technology. The system in Pennsylvania has been 86 percent efficient and produces 50 percent higher yield than any current nuclear operating plant that we have in existence. So there is benefit.

The private industry itself has put in over $800 million into this program, and it is good science. Only the modular helium reactor has got these characteristics, that it is also meltdown-proof, one of the problems that many people were afraid of in early nuclear technologies, which was that there was going to be a meltdown. This system will not do that, Mr. Chairman.

Early demonstration plans in Pennsylvania and Colorado have proved the integrity of the basic science. As I mentioned, in Colorado they used 25-year-old technology, and that is why you have a pilot program is to determine the pluses and the minuses. We determined that it was a minus. So we established a system in Pennsylvania which proved very, very effective.

The effort in the 1990's focused on driving down the cost, combining the modular helium reactor with direct drive gas turbine for higher efficiency. Combined with higher thermal outputs, it made dramatic increases in the power outputs.

I could tell you the per module kilowatt-hour, but I will not. It has more than doubled it, more than any current nuclear facility, and that is important, we feel, also.

The $20 million appropriation should be compared, as I mentioned, with $1 billion spent by U.S. foreign oil each week.

Several years ago the National Academy expressed some concerns over the economic competitiveness of GTMHR. Since the increase in power and the increase in costs have been lowered, we expect another report.

Nuclear provides 20 percent of our power today, nuclear energy. There are some Members on the floor, and they have a right to that opinion, are against nuclear energy. We feel that the energy policy of this country has got to involve nuclear energy.

And I think it is fair to ask the question: What would you replace it with? Do you replace it with oil at $1 billion a week? Do you replace it with hydro? Right now the environmentalists are trying to tear down dams because of salmon and fish and so on, and there is none left. Do you replace it with fossil fuels and coal, which is damaging to the environment? Of course, the answer is "no."

Twenty percent of our energy can be replaced with this system, and is, and it is a viable system.

Taxes and jobs and lower electricity costs: We heard about LIHEAP and that we are taking away the cost of supplementing because of energy costs for poor individuals in this country. Well, this reduces those energy rates for individuals not only in San Diego but across this Nation, and I think that is important also, Mr. Chairman.

Nuclear is part of a secure energy future. Can nuclear be improved? Yes, it can, and that is why we have these kinds of pilot programs.

If today's nuclear plants were as efficient as GTMHR, taxpayers would save about $10 billion a year just because of the increased proficiency that has been proven.

The Committee on the Budget said "yes" on the GTMHR. It fulfills the 6 criteria for priority funding for essential science.

I would also like to say to my freshman colleagues, this system was specifically mentioned in the Kasich budget because of its importance and is in the balanced budget. It specifically addresses it because of its importance. The Kasich budget that you voted for includes this program.

I would like to ask you to vote against this amendment and support the turbine because it is the future of energy and the future of science.

Mr. BROWN of California. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment and in support of continuing the modest funding for this gas turbine modular helium reactor.

I recognize that, as the distinguished gentlemen from Wisconsin indicated, that there is a bipartisan effort to strike this $20 million from the funding in this bill and hope that that will balance the Federal budget. I confess to having historic interest in this program and to indicate that there is bipartisan support for continuing with the program.

I note that Chairman WALKER and I both signed a "Dear Colleague" asking you to support this program, and when you get Chairman WALKER and me to agree, you cannot get any more bipartisan than that. And I suggest that our reasons for doing that are because we have been involved in supporting this program with good cause for the better part of the past generation. This is an evolving technology. It will not bear fruit overnight.

It has undergone several changes over the past decade. It has moved to the use of helium gas, for example, as the coolant because helium is inherently safer than any other kind of available coolant systems. There have been a number of other changes to improve the efficiency of the system. It employs a number of unique characteristics which take a great deal of time to fully develop. The pelletized system for containing the plutonium, for example, is a complex technology in itself. But it is my opinion and that of Chairman WALKER and obviously of the gentleman from California, Mr. CUNNINGHAM, who spoke so eloquently and has obviously done his homework on this technology about its potential value, it is our view that with the fairly modest expenditure of funds that this can make a substantial contribution to the energy technologies of the future.

Now, there is some complaint this is long-range, as much of our research and development is. It does not compare in long range to the fusion program, for example, which I have been trying to nurse along for the last 30 years, and I am still told that in another 30 years it may produce a commercially feasible energy technology, and I believe that it will. But that is quite a long-range program, and, of course, the cost of fusion is at least 10 times or more, 10 to 20 times what we are spending on this program, which could pay off sooner and could provide an opportunity for export in this country, which I think would be extremely useful.

The company that is mainly involved in developing this technology has spent tens of millions of dollars of its own money over the past 20 years. It is involved in conversations or discussions with the Russians about the possibility of using this to assist them to replace the present Russian nuclear commercial reactor facilities, and I think this is a very interesting and rater promising possibility.

There are reasons why this Committee on Appropriations, the authorizing committee, have both supported this over the past decade or more. It has this kind of promise that I have indicated. It is worth nursing along.

While we are pressed for funds, obviously, this is included in the budget projections, as the gentleman from California [Mr. CUNNINGHAM] has indicated, because it is a promising technology and it is a relatively expensive energy technology compared to most of the others that we are promoting at this time.

So I ask you to support the committee, support those of us admittedly in the minority on the authorizing committee. This was a generational thing. The senior Members voted for it, but we are outnumbered by the junior Members who want to make their impact by cutting out something, and this was their target of choice.

I do not think this is the proper way to legislate and disregard the efforts that have gone on, as I say, for the last 15 or 20 years to support promising technologies of this sort.

Mr. HUNTER. Mr. Chairman, I move to strike the requisite number of words.

My colleagues, the distinguished gentleman who offered this amendment stated that there is no legitimate support for this reactor, but, in fact, there is, and I have a couple of letters, one here from Duke Power that says, "GTMHR represents breakthrough potential for nuclear power." Maybe its opponents do not want a breakthrough, but if there is no breakthrough, it is hard to explain where the world's electricity is going to come from in the next century.

The Nuclear Energy Institute similarly writes a letter of support, stating, "The nuclear industry also supports Federal funding for other advanced reactor technologies, such as the GTMHR. These technologies will have an important role in America's electricity supply, and the industry has invested more than $10 million in R&D efforts to date on advanced nuclear energy technologies."

Now, my colleagues, we have got a lot of conservatives and a number of Members who are more liberal, alike, but who are concerned about government expenditures, who say, "Well, doggone it, why is private industry not paying for this R&D?" And I think the American nuclear society states it best when they explain why private industry is not coming forth with that money. It is because there is presently a chilling effect throughout this country and throughout industry on any type of reactor. When did we build the last reactor? How many decades ago was it we built the last reactor?

Let me just quote what is stated by the American Nuclear Society, a group which incidentally very strongly supports this reactor. They say, "The United States no longer holds a position of competitive leadership within the international commercial nuclear industry, due, in large part, to a web of disincentives imposed upon nuclear energy technologies, including tax laws discouraging collaborative research and development among corporations." We cannot deny that. That exists today. That is why private industry is not coming forth. "Nuclear plant liability coverage requirements far in excess of other industries, despite demonstrably lower risks to public safety." We cannot deny, in fact, that exists, that liability exists. That chills the industry and deters private industry from investing. "Trade policies prohibiting sale of nuclear energy equipment," that does exist. "Failure of governmental agencies to fulfill mandates for spent fuel storage and waste management, which creates overwhelming economic uncertainties for potential investors," my colleagues, all of those things exist in the private sector, and that is why, if we are going to meet this challenge for a reactor technology which does not melt down and which greatly reduces waste, we are going to have to spend some government dollars, and we, as conservatives and liberals and moderates in this body, have to accept and understand that.

Let me just say, the gentleman from California [Mr. BROWN], who just spoke, was very eloquent on that point. We have a common interest in this body in following this technology.

So, if you just want to be anti-nuclear, vote for this amendment. But if you want to approach and continue development in a rational manner, to meet the two great challenges, that is, meltdown and, second, waste disposal problems, with respect to nuclear reactors, then please vote to reject this amendment.

Mr. BILBRAY. Mr. Chairman, will the gentleman yield?

Mr. HUNTER. I am happy to yield to the gentleman from California.

□ 1730

Mr. BILBRAY. Mr. Chairman, I appreciate the gentleman from California [Mr. HUNTER], my colleague. I think those of us that were involved in the nuclear debate back in the 1970's would recognize that waste production was the major concern at that time, and if that nuclear could have come before America and said, "We will not only produce nuclear wastes, we will consume waste," then I think there would be a whole lot of different discussion by those of us who were involved in the debate at that time. This technology not only has the capability of avoiding those pitfalls, but it also has the ability of consuming a waste problem that has been totally ignored by this body at this time, and that is the fact that there is going to be over 100 metric tons of plutonium, military-grade plutonium between Russia and the United States; that all we are talking about right now is putting it in the ground and hoping, hoping that somebody does not know it is there, and use it for operations we do not care about.

I think one of the concerns we need to recognize is that this technology, it not only consumes waste, it not only produces power, but there is this national defense issue that I think we got to talk about. They will say, "Why doesn't the private sector do this?" I will tell my colleagues we cannot walk away from our obligation to address the plutonium issue, not only in the United States, but across the globe. We have 100 metric tons that this technology can address so that it would not be used against the people of the United States.

The CHAIRMAN. The time of the gentleman from California [Mr. HUNTER] has expired.

(By unanimous consent, Mr. HUNTER was allowed to proceed for 1 additional minute.)

Mr. BILBRAY. Mr. Chairman, will the gentleman yield?

Mr. HUNTER. I yield to the gentleman from California.

Mr. BILBRAY. I think there is an issue there, and I would ask everybody that would love to vote for this amendment to recognize that if they want to try to kill this technology in this research, then be ready to go back to their district and say, "I don't think the issue of our military-grade plutonium, the hundred tons that is going to exist between Russia and the United States, is an issue that we really need to worry about right now." This technology takes a problem and creates an answer to it, and for those of us that have been involved in environmental issues, we use a term called appropriate technology, and this is the appropriate technology for the use of an existing system, and it is probably the best example, Mr. Chairman, of military conversion.

I say to my colleagues, "Let's take that military equipment, the plutonium, and let's convert it into power so the civilian use can help our economic prosperity built on past military expenditures."

The CHAIRMAN. The time of the gentleman from California [Mr. HUNTER] has expired.

(By unanimous consent, Mr. HUNTER was allowed to proceed for 1 additional minute.)

Mr. PACKARD. Mr. Chairman, will the gentleman yield?

Mr. HUNTER. I yield to the gentleman from California.

Mr. PACKARD. Mr. Chairman, I will be very brief. I simply want to commend the committee chairman, the gentleman from Indiana [Mr. MYERS] and the gentleman from Alabama [Mr. BEVILL] for a very good bill, and on this issue I strongly urge the Members to resist the amendment and rise in support of the bill language.

Mr. HUNTER. Mr. Chairman, I thank the gentleman from California, and I also commend the chairman and ranking member for their excellent work. Please oppose this amendment. The committee put together a responsible mark here, and this is specifically included in the balanced-budget resolution. It is within that resolution.

Mr. LUTHER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise today as a cosponsor of this amendment. Recently, along with the gentleman from Florida [Mr. FOLEY] I was part of the bipartisan effort that has been referred to here in the House Committee on Science which eliminated a $25 million authorization for this particular project. Now I stand before my colleagues to urge my colleagues to support this amendment which would eliminate the appropriations for the same project.

I respect the motives of the supporters of this particular program, but I believe it should be terminated because, based on all of the available information, it is too unlikely to become a competitive energy resource for the

Congress to justify a request for more taxpayer dollars. The scientific community in this country has rejected the claims of the supporters of this project. Studies by the National Academy of Sciences, the Department of Energy and the Electric Power Research Institute have pointed out that this technology is expensive, inefficient, potentially unsafe, and a poor option for the disposition of excess plutonium.

Funding for this program is also opposed by the National Taxpayers Union and Citizens Against Government Waste.

Last November, Mr. Chairman, the voters in my State of Minnesota and across the country sent a message to the U.S. Congress. They said the time has come for us to balance our budget by establishing priorities and making tough decisions. Like all programs, a case can be made for this particular program. But this program has been rejected by the administration, the scientific community, the U.S. Senate, the House Committee on Science. It is simply not a high enough priority to justify further expenditure of taxpayer dollars with the budget crisis that we face in this country.

When I came to Congress, people warned me, "Be careful about what you start here because once a program is begun, it just keeps on going and going. You can never stop it here."

I believe that this particular project is a classic example of that kind of self-perpetuation. But today we can disprove that admonition. We can stop this project today on the House floor.

Quite simply, Mr. Chairman, I leave my colleagues with this thought. If we cannot cut this program, what program can we cut in this Congress? I urge my colleagues to make the tough decision and show the American people that Washington can change, that we can prioritize and that we can cut programs. A vote in support of this amendment is a bipartisan vote to change the way Washington operates and a step toward restoring the confidence people have in government.

Mr. FAZIO of California. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the sponsors of this amendment to terminate the gas turbine-modular helium reactor [GT-MHR] program appear not to appreciate the environmental benefits provided by nuclear power and the particularly unique environmental advantages of the GT-MHR technology. To exploit the benefits of nuclear power, the development of advanced nuclear technologies needs to be continued with the objective of achieving higher efficiencies, enhanced safety characteristics, lower costs, greater proliferation resistance, and less environmental impact.

The GT-MHR is the only foreseeable option that offers an improvement in these characteristics. Today, over 20 percent of the Nation's electricity is being produced by nuclear power which is displacing, on a yearly basis, 600 million tons of carbon dioxide, 5 million tons of sulfur dioxide, and 2 million tons of nitrogen oxides. However, 70 percent of the electrical power is being provided by burning fossil fuels—mostly coal, some natural gas, and some oil. Combustion of these fuels results in the production of significant environmental pollution—greenhouse gases such as carbon dioxide, acid rain gases such as sulfur dioxide, and smog effluents such as nitrogen oxides.

Concern for environmental quality is placing an increased emphasis on development of electricity generation options which avoid the environmental impact of burning fossil fuels. Nuclear power has stalled in the United States because of concerns with uncertain safety, marginal economics, waste disposal, and proliferation resistance. The GT-MHR is designed to mitigate or to resolve these concerns. The GT-MHR has: First, the highest safety of any nuclear power system; second, the lowest cost of any alternative system; third, the least waste of any nuclear system; and fourth, the highest proliferation resistance of any nuclear power system. It couples a high-efficiency gas turbine to the passively safe modular helium reactor developed specifically in response to our requests for a simpler, safe nuclear power system.

It achieves a 50 percent improvement in generation efficiency over present nuclear systems. This efficiency improvement plus the physics characteristics of the modular helium reactor result in a 75 percent reduction in heavy metal radioactive waste generation and a 50 percent reduction in thermal discharges per kilowatt hour produced. These environmental advantages coupled with the absence of emissions make the GT-MHR a clear choice to reduce the environmental impact of burning fossil fuels.

The unique safety, economic, and environmental characteristics of the GT-MHR system are the reasons why its development was undertaken in the first place. We have made a significant investment and have made major progress in this technology. In the absence of an energy policy which indicates otherwise, now is not the time to abandon this technology and discard our investment. We are on the threshold of realizing the promise of the high temperature reactor technology. I urge my colleagues' support to defeat this amendment, and I hope we can make valid the investment that this committee and this Congress have made for a number of years. We have eliminated many of the alternatives. It seems to me we should stay the course on those that show the most promise.

Mr. BARTLETT of Maryland. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise to express my strong opposition to the amendment. When a similar amendment was introduced by the gentleman from Florida [Mr. FOLEY] during the Committee on Science markup, I strongly opposed it then, and I strongly oppose it today.

Today, nuclear energy produces about 20 percent of our electricity. This is the largest producer next to coal. World electricity demand is expected to triple over the course of the next century and I feel it would be extremely short-sighted to eliminate this program when we are going to need a means to meet the worlds increasing electricity demands.

Living in a country which now consumes $1 billion in foreign oil imports each week, I think it is imperative to explore other energy options.

The GT-MHR is one of the most promising next generation nuclear reactors. As a scientist, let me tell you why I am supportive of this reactor. It combines a meltdown-proof reactor and advanced gas turbine technology in a powerplant that can provide 50 percent more electrical power per unit of thermal energy than other reactors.

The current design dramatically lowers the production of radioactive wastes and thermal emissions which results in a new kind of powerplant that is efficient and safe provider of low-cost electricity.

Mr. Chairman, this is a prime example of the kind of technology we need to pursue and I urge a no vote on the amendment.

Mr. MINGE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I have an important announcement for the American people. Pork-barrel politics is alive and well in Washington.

My colleagues may have thought that the change which took place last November would bring an end to politics as usual. But that is not the case when it comes to bringing home the pork. True, we are making significant efforts to cut overall spending to balance the budget—and I support those efforts. But despite the deep spending cuts, members of the Appropriations Committee have managed to slip wasteful, unauthorized and unrequested projects into this spending bill for the benefit of local or special interests back home.

As a cochair of the Porkbusters Coalition, I rise today in strong support of the Klug amendment to cut the $20 million in this bill which is earmarked for researching an impractical nuclear technology referred to as the gas turbine-modular helium reactor. The GT-MHR is a prime example of what the Federal Government ought not to be funding. This $20 million appropriation was not requested by the President in his budget and has not been authorized by the Science Committee. In fact, as a member of the Science Committee, I participated in a bipartisan vote to eliminate the GT–MHR. This wasteful boondoggle was also opposed by the Reagan and Bush administrations. In addition, several expert organizations are opposed to funding the GT–MHR including the National Academy of Sciences, the Electric Power Research Institute, and the Department of Energy.

Mr. Chairman, over the past 30 years, American taxpayers have seen nearly 900 million of their hard-earned dollars wasted on this inefficient reactor technology without any tangible benefit. Incredibly, the General Accounting Office has estimated that it will take another $5.3 billion to complete the GT–MHR. I ask my colleagues: Do you think your constituents would approve of throwing more of their money into this black hole of waste? I think not.

I urge my colleagues to take the high ground and suppress efforts such as this to pull a fast one on the American people. If we are insistent on cutting spending, it should begin with cutting the wasteful pork projects which are squandering taxpayer dollars. Support the Klug amendment to cut the GT–MHR.

□ 1745

Mr. WALKER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, there has been a good deal of misinformation out here about GT–MHR, and I would like to at least clarify a point on a couple of things.

First of all, it was stated by someone that the vote in the authorizing committee to kill the GT–MHR was a two-to-one vote. In fact, that is not true. The vote was 23 to 15. A switch of four votes would have in fact passed the program in the committee. So it was nowhere close to a two-to-one vote in that committee.

Second, it has been stated that administrations for the past several years have not requested this program. Well, I have here the 1991 request from the Department of Energy. In fact, it was requested in 1991. It was only appropriated about half the level it was requested, but there had been in fact requests in the past.

This is also a program I would say that has been authorized. Back in 1992, when the Public Law 102–486 was passed, the Energy Policy Act of 1992, Congress specifically went on record saying "The goals of the program established under subsection (a) shall include—to complete necessary research and development on high temperature gas-cooled reactor technology—by September 30th, 1998." We specifically said we ought to go forward with this program in the Energy Policy Act only a couple of years ago.

So the Committee on Appropriations is acting not on a pork-barrel program. They are acting on a direct authorized program, done by the Congress of the United States and our energy policy.

Finally, there is a real myth being perpetrated here on the floor that somehow we are going to save money in 1996 by passing this amendment. The fact is not a dime will be saved by passing this amendment. The amendment purports to save $20 million in this fiscal year. The fact is that there is a legal obligation of the Federal Government to pay the closeout costs of the project. The closeout costs for the project are going to approximate the same $20 million. So we end up with an amendment that absolutely saves no money and would require the same money to be spent in 1996 to terminate a program that in a matter of a couple of years, after several hundred million dollars' worth of spending, will be complete.

You tell me what the sense is on that. You cannot come to the floor and suggest that there are rational ways of doing these things if what you are proposing is irrational. It's absolutely irrational to come to the floor, claim you are going to save money when there are no savings, and in fact cancel out a program in which we have invested hundreds of millions of dollars. I have to tell you, I think what we ought to do is go forward with this.

Finally, let me state that one of the best reasons for proceeding ahead here is what this could mean to us in terms of global competition in the years just ahead. This is a reactor concept which, if it proves feasible, can be done in small factory fabricatable designs that are of modular construction. Now, what you have is then an opportunity to produce electricity in increments of 300 megawatts or less. This is what utilities say that they need in order to meet steadily growing marginal demands.

But the most important factor here is this has an enormous potential for export into developed markets such as Japan. It is needed in smaller, less capital intensive bites for less developed power grids such as those in the Far East and in Eastern Europe. So here is a technology that we have a chance to sell into the global marketplace.

Also, this is something where Russians have expressed an interest in a joint venture with us, in large part because this can destroy all weapons grade useful plutonium in a once-through fuel cycle. Ninety-five percent destruction of PU–239 is involved in this particular technology.

So it seems to me that what we have here is an opportunity to really be economical in what we are doing, support good science, and, in the end, end up with a product that takes us into the global marketplace. That seems like a pretty good bargain for the amount of money we are proposing to spend.

Mr. Chairman, I would suggest we vote against this amendment.

Mr. FILNER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise today as part of a strong bipartisan opposition to this amendment which would delete the funding for the GT–MHR Development Program.

I have heard the opponents to this program argue that it is a pork project, that it is an example of corporate welfare. They have said that this pork has cost the taxpayers $900 million. Well, let us set the record straight. Approximately $900 million has been appropriated from taxpayers' money to be spent on high temperature gas cooled reactor technology. But this expenditure has been a sound public investment for the following reasons. We have had in fact a sound public investment for these reasons:

Number one, an amount substantially equal to the taxpayers' $900 million has also been invested by private industry in the high-temperature gas-cooled reactor technology. This is the kind of government and industry partnership we want for research and development to advance promising technologies.

These funds together have permitted the design, development, and construction of two demonstration plants, permitted the gas-cooled reactor to be selected by the Department of Energy as a new production reactor, and provided the brood technology base which allows a GT–MHR project to proceed.

Second, much of the taxpayers' $900 million has gone to our national laboratories who are involved in research and development. At present, there are four prime contractors and several subcontractors involved in this technology. GT–MHR research and development is being performed throughout the country by several government laboratories and private companies. The prime beneficiary is our country.

Third, the breakthrough achieved by the GT–MHR provides high prospects—higher I am told than ever before—that there will be an investment payoff. Its safety, low cost, low environmental impact, and high proliferation resistance make it an ideal candidate for helping to meet the future electricity requirements which will provide jobs, an export product, and a technology to reduce our dependence on foreign oil.

The gas-cooled reactor was one of the two technologies selected in an exhaustive evaluation for development as a new production reactor and was evaluated to be the most cost-effective alternative. The project was deferred at the end of the cold war because of a lack of immediate need. However, the Department of Energy is now in position of having to identify a new tritium supply source and is in the process of spending significant additional taxpayers' dollars re-looking at tritium production alternatives. Why is this effort being performed again when it was evaluated less than 10 years ago? This is the kind of thing that should be examined to avoid wasting taxpayers' dollars.

The GT–MHR breakthrough is a result of the foresight which went into past congressional actions on this technology, but it is imperative that the research and development be seen through to completion. To stop it now would really be a waste of the investment. Worse yet, another country may step forward and capitalize on our investment. We cannot let that happen. I urge a "no" vote on this amendment.

Mr. SPRATT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I think it would be useful to start by correcting a few statements that have been made here on the floor that are just not supported by fact. It has been stated that the Electric Power Research Institute has decided that this technology is not worth pursuing. I have here a fairly thick study by the Electric Power Research Institute done by Commonwealth Edison, Duke Engineering, Yankee Atomic Energy Electric, here is the conclusion in the executive summary. This is a 1991 study:

> In conclusion, the utility review team recognizes that the high temperature gas reactor design offers a viable potential nuclear option to the power industry for the next century potential and deserves continuing development. This endorsement is consistent with previous opinions expressed by the utility industry and more recently by the endorsement of the Advance Reactor Corporation in the January 10, 1990, report, and the corporation's ad hoc committee on DOE's advanced reactor development plan.

By the same token, it has been said here on the floor that this program was terminated by the Reagan administration and terminated by the Bush administration.

In fact, the high-temperature gas-cooled reactor was one of two candidates for the new production reactor that would have gone to Savannah River or Idaho National Engineering Laboratory for the next tritium production source.

In fact the NPR team, the new production reactor team at the Department of Energy, headed by Dominique Mineta, had settled upon this particular design, the high-temperature modular gas-cooled reactor, for the new tritium production source, when Admiral Watkins as the Secretary of Energy decided that we did not need to incur the expense of building a new production reactor.

Why? Because that fall, in late September 1991, the Bush administration had entered into an agreement with the Soviet Union for the drawdown of nuclear weapons, and we had far more tritium generated as a result of that drawdown than we needed and there was no urgent immediacy or need for tritium. Indeed, we do not need any until the next century. That was the reason that the Bush administration did no go forward with the high temperature gas reactor at that time.

For the statement here on the floor that that administration canceled it, has nothing to do with the merits of this program, and it does have merits. It had merits, first of all, still for the Department of Energy as a tritium production source. Indeed, the Department of Energy, while they are not pursuing this as their primary source, did single it out and did say themselves, their Energy Research Committee, said a couple of years ago, this concept has the highest probability for success if we choose a second generation reactor.

Furthermore, they said that this concept, the high-temperature gas-cooled reactor, presents an opportunity for significant advantages in the level of safety over current commercial reactor experience.

Mr. Chairman, it has been stated here on the floor that this particular design has inherent safety features. It is worth taking those one by one to show the House and the committee why it is worth pursuing this particular technology.

First of all, the fuel particles, these uranium kernels, are encased in a ceramic coating that is pyrolytic, that is fired, that is made of silicone and carbon, and, as a result, the uranium is in an impermeable, impervious case. Consequently, once it is irradiated, it gives off heat, but it does not give off fissionable products. So you do not get the inner area of the reactor contaminated with fissionable products, with radionuclides. These are still contained in the ceramic case of the fuel particle.

Second, to the extent that any of these radionuclides do escape, they are captured by a graphite matrix that is part of the fuel assembly. They absorb them.

Third, the reactor itself has a helium moderator or coolant. Rather than using light water or regular water, it uses helium. Helium is inert. It does not chemically react with the reactor itself or with the fuel elements of the fuel assembly. And, unlike water, it does not boil. This gives it another passive safety feature.

Finally, the fuel core is arranged so that there is a negative temperature coefficient. As the temperature goes up, radioactivity of the core goes down.

All of these are passive safety features. Why is it important? Because this reactor is safe without depending upon the operator's interaction.

Mr. CHAIRMAN. The time of the gentleman from South Carolina [Mr. SPRATT] has expired.

(By unanimous consent, Mr. SPRATT was allowed to proceed for 2 additional minutes.)

Mr. SPRATT. Mr. Chairman, the important inherent safety features of this reactor means that it does not depend for its safety on an alert, astute operator, who is wide awake. Nor does it depend upon backup systems and a power system to supply these systems.

□ 1800

It is passively and inherently safe by its own design. This particular system has been endorsed and supported by a number of people who believe that nuclear power still has a role to play in this country. One of those is Duke Power Co., which is a prominent electric utility in my own district. And the head or chairman emeritus of that company, Bill Lee, wrote us all a letter, wrote the chairman of this committee a letter. I would just like to read what the chairman of that committee said.

People in the utility industry, this is Bill Lee talking, who look ahead, want the improvements in nuclear power that are represented by this technology. The electric utility industry supports the light water technology for its immediate potential benefits, but most people in the industry recognize that breakthrough potential of the gas turbine modular helium reactor and belief that these breakthroughs must be pursued and that it is the proper role of our Government for our Nation's longer term energy competitiveness to underwrite them.

In my opinion, it is essential that this technology be continued along with the advanced light water reactor. If it is not, I fear we will be buying much of our nuclear power generating equipment in the next century from abroad. This would mean the loss of an industry larger than the commercial airplane market, and it would be sad indeed for the U.S. economy, U.S. jobs and the U.S. standard of living.

Mr. Chairman, I urge the defeat of this amendment.

Mr. MARKEY. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I rise in support of the amendment because I wanted to be part of this historic debate. The gentleman from Wisconsin [Mr. KLUG] has put together, in my opinion, the historic trifecta, Reagan, Bush, and Clinton, all supporting the position of the gentleman from Wisconsin; in addition, the National Taxpayers Union, the Friends of the Earth, and the National Academy of Sciences, a combination of truly all-star proportions, all gathered together to kill one technology.

Now, why does this technology deserve to be killed? Very simply, it is the second generation of the same technology. And it is not basic research that we are talking about, it is applied research. That is, it is the point at which they are building this monstrosity for commercial purposes.

Now, ordinarily if you are talking about a nascent industry, one that is just beginning to get off the ground, it would be one thing; and we can debate out here what the proper role is of the Federal Government in subsidizing a new industry. This, however, is one of the oldest industries in the United States and one of the two or three wealthiest industries.

We are talking about the electric utility industry of the United States. Every one of us, all 275 million Americans, has a wire that goes into our home. And every one of us has an electric utility that every time we turn on a light bulb or have our toast pop up, gets ready to send us another bill to charge us for. This multi-hundred-billion dollar a year industry makes an enormous amount of money from doing that. We are grateful to them for the wonderful service which they provide for us and do not really begrudge them the incredible profits which this industry receives.

However, when they then turn to the very same 275 million people, as taxpayers, and say, by the way, we do not want to actually pay for the next generation of our electric utility generating capacity; we would like you, the taxpayers, to put up the money for that as well, well, this is the point at which the American taxpayer and Adam Smiths all begin to spin wondering what is going on with the capitalist system.

As we know, this technology is competing with oil and gas and geothermal and conservation and the new wheeling technologies and interconnection capacities which are reducing the need for electricity inside of our country or generating them in 20 and 30 megawatt size plants, using the new laws which we passed in 1992 to wheel that power to where it is needed around the country.

Now, the problem with the technology is that it goes back to an earlier era, the late 1970's and the early 1980's. During that period of time, the electric utility industry testified before Congress that we would need 500 more 1,000-megawatt nuclear powerplants by the year 2000 or else we would face blackouts of electricity across the country. And that was, I am sure, their sincere testimony before the Congress in the late 1970's and early 1980's. It resulted in a lot of this basic research at least being invested in.

Well, it is 15, 20 years later. We did not build a single new nuclear powerplant in our country during that period of time. We have electricity surpluses across the country because we have, because of the law changes, so many smaller independent generators of electricity who are using the wires to produce electricity using nonnuclear sources.

So as we hit the middle of the 1990's, we have a fundamental question to ask ourselves. Should we, as the Representatives of the taxpayers of the United States, be subsidizing the very wealthiest mature industry in the United States in applied research, as we build the reactor for them, when in fact the most that we can elicit from these electric utility executives are letters of support for us to spend taxpayers money?

The capitalist system demands that in the free market that private sector companies, especially those as well-to-do as the electric utilities of this country, make the investment in the new technologies. If they do not, they must step aside and allow these newer, smaller generators of electricity to continue to do the job for our country which they have over the past several years.

The gentleman from Wisconsin has an amendment which must be embraced, if capitalist, free market principles are to endure in the electricity marketplace of our country. I hope that all understand the importance of this amendment.

Mr. FOLEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong support of this amendment. Let me quote the Bangor Daily News in their editorial calling it a nuclear turkey: "What's tougher than the hide on a M-1 tank, more resilient than the hungriest garden pest and harder to shake than a bad reputation? Time's up. The answer is: a nuclear turkey.

"Most taxpayers remember the mohair subsidies that annually clipped them for millions before Congress recently found the courage to pull the plug.

"Today the target is the gas turbine modular helium reactor, a nuclear turkey that deserves to be carved from the Federal budget."

Taxpayers have been paying $900 million for this technology.

The gentleman from Massachusetts [Mr. MARKEY] made some nice points. He suggested that, if the nuclear and electric companies are so supportive of this, send a check. Send a check to support this technology. Do not just send a letter. The American public who is paying for this technology is paying over and over and over again for a system that clearly does not work.

You read all the documentation. I can read you editorial after editorial, the Oregonian, the San Francisco Chronicle, the Atlanta Constitution. All have weighed in on this subject. All have looked at the expert testimony. All have read the reports from the National Academy of Sciences. All have read the documentation.

Now, the gentleman from California, Mr. BROWN, suggested that it was only new Members of Congress that wanted to eliminate this technology. Let me correct the record, because three subcommittee chairman of the Committee on Science voted to end this project: The gentleman from New Mexico [Mr. SCHIFF], the gentlewoman from Maryland [Mrs. MORELLA], the gentleman form Wisconsin [Mr. SENSENBRENNER]; all subcommittee chairmen stood up and voted against this appropriation.

This is not an antinuclear amendment. I recognize and support the important role of nuclear technology in the Nation's energy needs. In my home State, nearly one-third of the electricity is provided by nuclear facilities. But what I am interested in is cutting funding for things that simply are never going to occur in my lifetime.

Now, the chairman of the Committee on Science suggests that we cannot cut this today because it is going to cost us 20 million more dollars to terminate the program.

Let me give you a letter from the Department of Energy that suggests it will require an additional 1 billion of expenditures to bring this project to fruition.

I will take that bet. I will spend $20 million to get out of this boondoggle before I will spend $1 billion to find out if it works.

Let me say to you in the hallways of this Congress, those listening on their TV sets around our Nation, as a freshman Republican, I came here to make a difference. I came here to cut things that are wasteful spending. If we are to meet the priorities of this Nation, we are going to have to start looking at things like this and saying no to projects like this.

I ask those private utilities again if they like this technology so much, send a check. Bring a check for us.

Let me also suggest to the committee, we had a vote. It may have been 23 to 15, but in my book of politics, 23 to 15 wins; 23 to 15 wins. When I ran for office, I was telling people every vote counts. People have won offices by one vote. So I think 23 to 15 is a fairly significant victory in the committee, the authorizing committee, for this project.

The appropriation is unauthorized. We won in committee, and we are here on the floor to ask the appropriations process of this Chamber to agree with us.

We know the Senate will agree with us because they voted on killing this project before. We know the President's budget. The last three Presidents, as has been mentioned, have not authorized this. Again, the vast majority of my colleagues on the Committee on Science supported the efforts of the gentleman from Minnesota [Mr. LUTHER], the gentleman from Wisconsin [Mr. KLUG], the gentleman from Wisconsin [Mr. OBEY], and myself to terminate this project.

Times have changed. Today we see a new coalition of Members on both sides of the aisle. These coalitions are taking the will of the American people into consideration on every single spending bill.

This amendment will keep the taxpayers from having to continue being high risk financiers for private corporations.

If this program holds the potential that its proponents claim, then let the private sector fund it. Stop ripping dollars out of the constituents hard-earned taxpayer monies for wasteful pork.

I urge every Member that comes to this floor to vote to do what is right for the American people and kill this boondoggle once and for all.

Mrs. LOWEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong support of this amendment. My colleagues, when the National Taxpayers Union, the Sierra Club, the Council of Citizens Against Government Waste, the Cato Institute, Ralph Nader, the National Academy of Sciences and the House authorizing committee all agree, I would submit that we have to pay careful attention.

This diverse group has concluded that the gas turbine modular helium reactor, a proposed gas-cooled nuclear fission reactor in San Diego, fails the important test of scientific merit, environmental safety, and cost effectiveness. And yet, unless we act today, this project will continue to receive significant Federal support.

How much will taxpayers be saddled with before this project is completed?

The General Accounting Office says the project will cost $5.3 billion, and taxpayers will have to pick up half of that tab. Adopting this amendment will save taxpayers $20 million next year and more than $2.5 billion when all is said and done.

Two years ago the Senate voted to cut off funding for the reactor. Now is the time for this body, once and for all, to do the right thing.

At a time, my colleagues, when we are told that we must make massive cuts in Medicare that are going to affect thousands and thousands of people in my district and all of our districts and when we are going to be cutting student loans and when we will be cutting a whole range of education programs, it would be a shameful abdication of our responsibilities not to stop this wasteful spending.

I urge a yes vote on this amendment.

□ 1815

Mr. BROWN of Ohio. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the gas turbine modular helium reactor fails to meet the basic test of spending Americans' hard-earned tax dollars: Does it work? The only commercial version of this reactor closed after 16 years of operation and never achieved more than 14 years of capacity. Based on this failure, the National Academy of Sciences determined the reactor has low market potential and endorses its elimination. Even worse, as has been pointed out on the floor, the gas turbine is a budget-buster. Eliminating it will save $20 million now in fiscal year 1996 and $2.5 billion later.

Several opponents of this amendment, proponents of this boondoggle, have said it does not really save $20 million now. The fact is, every time there is a huge budget-busting engineering project on this floor, whether it is super collider, whether it is the space station, whether it is this reactor, the proponents of these boondoggles always argue "It will not save any money today," and they do not talk about how much money it will save in the future. That cost savings, that $2.5 billion cost saving in the long run, is what is so important.

Additionally, the gas turbine modular helium reactor, Mr. Chairman, is a potential environmental hazard. The reactor does not have a containment structure to prevent an accidental environmental catastrophe in the event of a problem. The gentleman from Massachusetts [Mr. MARKEY] called the support for this by Presidents Reagan, Bush, and Clinton, as a trifecta.

On this day, Mr. Chairman, of the baseball All Star game, I would use a slightly different metaphor. As six Cleveland Indians represent murderers' row in the American League this year in the All Star team, I would say that our murderers' row of Presidents Reagan, Bush, and Clinton, the National Taxpayers Union, Friends of the Earth, and Citizens Against Government Waste underscores the public opposition to this huge hunk of pork.

Mr. Chairman, I urge House support of the amendment.

Mr. BEVILL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to this amendment, and in support of the subcommittee. This is a project that this subcommittee is familiar with. We have supported it over the years. We hear all these things about the National Academy of Sciences, criticizing this technology and actually the last word on the GT–MHR from NAS was a letter to Senator BRADLEY dated December 10, 1993. The National Academy of Sciences' committee chairman notes and points out, "The National Academy committee did not examine and therefore could not evaluate the gas turbine reactor."

Then we hear about the Department of Energy's opposition to this project. The Department of Energy—we consider them the experts and we listen to them. Unfortunately, many times we have regretted listening to them. We have the Clinch River breeder reactor, which is a hole in the ground in Tennessee, because we followed DOE's advice. They said this is a great project. We put $1 billion in it, or so, and then DOE decided they had something else better and the project was terminated.

Then they start the gas concentrifuge plant, and the same thing happened. Then the mirror fusion, and again, the same thing. They get us to start these projects and then they come in and tell us they found something better. We just keep going.

Therefore, do not get carried away with what the Department of Energy says. I think there is more reliable information from people who actually deal with nuclear power and who so enthusiastically support this source of energy—the public utilities who use nuclear power.

Here is a letter from a friend of mine from the State of Alabama who has been involved with nuclear power ever since it came into being. He served as president of Southern Company Nuclear that handles all of Southern Companies' nuclear powerplants in Georgia, Alabama, and northern Florida. He says,

> One of the most promising technologies for the future is the gas turbine engineering reactor program, which has been supported by the nuclear industry and by the Congress for a number of years. It is an extremely safe and efficient technology . . . and it creates less waste for disposition. With a program such as this, if it was terminated, it would be extremely difficult if not impossible to renew our investment. Valuable technology would be lost if we discontinue it.

Duke Power Co. Chairman Emeritus, another person who knows what they are talking about, who deals with these matters every day says, "The cost of the gas turbine is very small when compared to its potential benefits. The gas turbine is a dramatically different helium reactor from that considered by the National Academy of Science." He states that; "The gas reactor represents a breakthrough potential for nuclear power."

These are people that deal with nuclear power and are sold on this project. So, I urge my colleagues to vote against this amendment and support the subcommittee's recommendation. This project has a future. It is long-range research. We are not talking about a large amount of money, as the former chairman of the Committee on Science and present ranking member, Mr. BROWN of California, has pointed out.

Japan and other countries are quick in pursuit of this project. They are putting money into it. They are working on it. They are very supportive of it. We support this research and urge Members to support the subcommittee and the full Committee on Appropriations of the House by voting against this amendment.

Mr. KENNEDY of Massachusetts. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong support of the King-Foley-Luther-Obey amendment to cut $20 million to terminate the gas turbine modular helium reactor, the gas-cooled reactor. The fact is that before I came to the Congress of the United States I spent over 10 years building up an energy company. That energy company worked in oil, in gas, electricity. It worked in a range of renewable energies, from solar energy to conservation energy.

We ought to have a very simple energy policy in this country which is, "Cheaper is better." If we followed that rule, we would be pumping not billions of dollars into this ridiculous technology, but we would be putting money into energy conservation. We would recognize that we could dramatically reduce the amount of administering that this country needs. We could dramatically reduce our balance of trade problems with all the countries around the world, where we have such tremendous difficulties these days. We could increase our own independence if we had a simple policy, if we got away from the kind of corporate welfare that this is the best single example of that exists in the budget of the United States.

Why should we be writing a taxpayer check to the richest industry in this country? The fact of the matter is that what we need is the kind of wheeling capabilities that allow us to trade energy among different utilities all across America that in and of itself will bring down our cost of electricity and increase our capability dramatically. Those are the kinds of areas that we ought to be concentrating in.

Mr. Chairman, if we want to create greater energy independence, put money into basic research. However, this notion of applied research funded by taxpayers is absolutely outrageous. It does nothing to help out our country. All it does is line the pockets of a specific industry.

If we look at the actual technologies that are going into this particular thing, we have a proven failure. Colorado's Fort St. Vrain reactor, the world's only commercial version of this technology, has had one of the worst operating records of any nuclear facility and has consistently operated at a very low capacity. Both the National Academy of Sciences and the Electric Power Research Institute have concluded that the reactor is not commercially viable.

Therefore, why do we pick this particular technology to pump $1 billion into? Nobody can give us a reason. I know it has to be located in somebody's congressional district, but that is no reason to override the authorizing committee. That is no reason to override the best judgment of three Presidents, no reason to do anything other than finally kill this program, put the funds that are necessary into where this country can gain its efficiencies, can gain its independence, can do things that will help out ordinary citizens in their electrical utility needs.

There are a great many areas where we should be putting our money into research. Just because we are opposed to this kind of boondoggle does not mean that we should oppose the basic research budgets of this country. Our country needs vital investments in basic research, so we can have that kind of independence that America has always striven for. This is not basic research, Mr. Chairman. This is money to line the pockets of particular utilities that have already made this investment, and now want the taxpayer to bail them out. Let us not bail out the utility industry, let us bail out the American taxpayer and support the Obey-Foley amendment.

Mr. MYERS of Indiana. Mr. Chairman, I move to strike the requisite number of words.

First off, Mr. Chairman, I would ask the gentleman, are his children and grandchildren going to have power, the electric energy we are using now to cool this building? The light water reactor has been the workhorse for the past 40 years for the Department of Energy, the only reactor we have. What is going to be the power source for our children and grandchildren? This is what we are looking to now. Sure, it is looking down the road a ways, but do we want safe, available power? Then this gas-cooled, yes, helium-cooled, but it is a gas turbine, an entirely different reactor than most of the Members have been describing here today.

First off, Mr. Chairman, I would say to the gentleman from Florida [Mr. FOLEY] and the gentleman from Massachusetts [Mr. KENNEDY], who mentioned the utilities putting their money up. There is more than $800 million spent by the utility companies, the utility consortium, they have put in $800 million of their own money so far, and they are still supporting it, as has been expressed here. It was said it cost over $2 billion, $2.6 billion, to continue the research. That would be a new power reactor which would be the reactor to destroy high level fuel. That has nothing to do with that, it would be entirely owned by government, entirely paid for by government. It is a different reactor entirely.

It has been estimated to us that this gas turbine modular helium reactor can be completed, all the research, all the development, and the certification can be completed for about $2 billion. The question here is, Mr. Chairman, are we going to have a new reactor or are we going to continue with the old workhorse, the light water reactor.

It has been stated here about the National Academy of Sciences. A letter by the chairman of the national committee says, "The National Academy Committee did not examine and therefore could not evaluate the gas turbine reactor," only the old reactor, which was the high temperature gas reactor. The one test they did in 1992, they only tested HTGR, which is an earlier version, not the modern one we are discussing here now. In 1994 the discussion there was about using HTGR to destroy plutonium. Again, it was decided it was not the efficient way, because the gas reactor could be used. However, if you were interested in destroying plutonium, as has been earlier said, this gas turbine can destroy 95 percent of plutonium, compared to about 50 percent with the light water reactor.

This is a reactor that can be used. It is of utility interest. That has been already discussed here. There has been one letter that no one has discussed. Many will remember Eddy Teller, Dr. Teller. He just sent us a letter, and I will just quote a couple of things, and he was kind of the father and knows more about nuclear industry and nuclear research than anybody else that I know of in the country:

> Of all the nuclear technologies, the GT-MHR is a promising and essential step to the ultimate reactors which will some day be deep under ground and have no moving parts . . . . The research and development of the gas turbine reactor is promising and I strongly recommend the continuation of its funding by the House.

In closing, it has been discussed about Fort St. Vrain in Colorado. Yes, it operated I think for 17 years, but here again, it is like comparing a Model T to the modern vehicles we have today. It was the first generation. It did have some problems. However, the problem was not with the reactor itself, the problem was in the cooling system. They could not keep the bearings and all of the cooling system working. It had a very low availability.

However, at the same time, Peach Bottom I, which was a gas reactor, had an 85-percent availability. Therefore, Members only looked at one, did they not, Fort St. Vrain in Colorado? The Public Service Company of Colorado sent us a letter saying it would be a serious mistake for the Department of Energy to turn its back on this superior technology. Mr. Chairman, it is easy to cut the money out, but if Members want to have a new source of reactor that is reliable, safe, then we have to start looking for the 21st century, and this is the reactor we should look to.

Mr. Chairman, I urge a "no" vote on this amendment.

Mr. KLUG. Mr. Chairman, I ask unanimous consent to strike the requisite number of words.

The CHAIRMAN. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. KLUG. Mr. Chairman, I just want to make two points. The National Academy of Sciences in a report from this year says the basic HMHTGR design has been available for many years and has not been commercially successful. Let me reiterate the point made by the gentleman from Wisconsin [Mr. OBEY], the gentleman from Minnesota [Mr. LUTHER], and the gentleman from Florida [Mr. FOLEY]. If money talks, then in this case the utility industry has fundamentally walked.

☐ 1800

Nothing in this amendment prevents any private utility company in the United States from going ahead with this design. It simply says, after $900 million, $2 billion more to finish the project, we have had enough of it.

It used to be called the MHTGR. It is now called the GTMHR, which is an interesting anagram. But, Mr. Chairman, I suggest that any way you spell it, it ultimately is a waste of billions of dollars and fundamentally it is a radioactive boondoggle and I urge a "yes" on the amendment.

Mr. ROEMER. Mr. Chairman, world electricity demands are expected to triple in the next century—we will need nuclear power to meet this need. We need technologies that reduce our dependence on foreign energy sources—we now consume $1 billion in foreign oil imports each week.

The Gas Turbine-Modular Helium Reactor produces only two-thirds of the high-level waste and one-third of the heavy metal waste as current reactors. Contrary to opponents' claims, the National Academy of Sciences has never evaluated this project. The 1988 study opponents of this project are waving around was for a completely different design of gas-cooled reactor.

The direct-drive turbine system of this reactor make it far more efficient than traditional steam-driven reactors. The GT–MHR could be meltdown-proof modular technology, creating a safe as well as efficient reactor technology. And contrary to opponents' assertions, the project enjoys wide support from the utility industry.

The GT–MHR will also create economical production of hydrogen, and can destroy over 90 percent of surplus weapons-grade plutonium by using it as fuel to provide electrical energy. Development of new and advanced energy sources requires government support. Continued government support of this technology will create the technical base needed for industry to assume complete development.

Mr. Chairman, this is an important technological investment, and I urge my colleagues to oppose this amendment which would end the GT–MHR program.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Wisconsin [Mr. KLUG].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. OBEY. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 306, noes 121, not voting 7, as follows:

[Roll No. 485]

AYES—306

Allard
Andrews
Bachus
Baesler
Baldacci
Barcia
Barr
Barrett (NE)
Barrett (WI)
Barton
Bass
Becerra
Beilenson
Bentsen
Bereuter
Berman
Bishop
Blute
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Brewster
Browder
Brown (FL)
Brown (OH)
Brownback
Bryant (TN)
Bryant (TX)
Bunning
Burr
Camp
Castle
Chabot
Chambliss
Chapman
Christensen
Chrysler
Clay
Clayton
Clyburn
Coble
Coburn
Collins (GA)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooley
Costello
Coyne
Crane
Cremeans
Cubin
Danner
Deal
DeFazio
DeLauro
Dellums
Deutsch
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Dornan
Doyle
Duncan
Dunn
Durbin
Edwards
Ehrlich
Engel
English
Ensign
Eshoo
Evans
Farr
Fattah
Fields (LA)
Fields (TX)
Flake
Foglietta
Foley
Forbes
Ford
Fowler
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Furse
Ganske
Gejdenson
Gephardt
Geren
Gibbons
Gillmor
Gilman
Goodlatte
Gordon
Goss
Graham
Green
Greenwood
Gunderson
Gutierrez
Gutknecht
Hall (OH)
Hamilton
Hancock
Hastings (FL)
Hefley
Heineman
Herger
Hilleary
Hilliard
Hinchey
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Hoyer
Hutchinson
Istook
Jackson-Lee
Jacobs
Johnson (CT)
Johnson (SD)
Johnston
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
King
Kingston
Kleczka
Klink
Klug
Kolbe
LaFalce
LaHood
Lantos
Largent
Latham
LaTourette
Laughlin
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lincoln
Linder
Lipinski
LoBiondo
Lofgren
Longley
Lowey
Luther
Maloney
Manton
Manzullo
Markey
Martinez
Martini
Mascara
McCarthy
McCrery
McDermott
McHale
McHugh
McInnis
McNulty
Meehan
Meek
Menendez
Metcalf
Meyers
Mfume
Miller (CA)
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Morella
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Nadler
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Obey
Olver
Ortiz
Orton
Owens
Pallone
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Peterson (MN)
Petri
Pomeroy
Porter
Portman
Poshard
Pryce
Quinn
Radanovich
Rahall
Ramstad
Rangel
Reed
Richardson
Rivers
Roberts
Ros-Lehtinen
Roth
Roukema
Roybal-Allard
Royce
Rush
Sabo
Salmon
Sanders
Sanford
Sawyer
Saxton
Scarborough
Schiff
Schroeder
Schumer
Scott
Seastrand
Sensenbrenner
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Shuster
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Slaughter
Smith (MI)
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Souder
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Stump
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Thompson
Thurman
Tiahrt
Torkildsen
Torres
Towns
Tucker
Upton
Velazquez
Vento
Visclosky
Volkmer
Waldholtz
Wamp
Ward
Waters
Watt (NC)
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Waxman
Weldon (FL)
Weldon (PA)
White
Whitfield
Williams
Wilson
Woolsey
Wyden
Wynn
Zeliff
Zimmer

NOES—121

Abercrombie
Ackerman
Archer
Armey
Baker (CA)
Baker (LA)
Ballenger
Bartlett
Bateman
Bevill
Bilbray
Bilirakis
Bliley
Boucher
Brown (CA)
Bunn
Burton
Buyer
Callahan
Calvert
Canady
Chenoweth
Clement
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Coleman
Cox
Cramer
Crapo
Cunningham
Davis
de la Garza
DeLay
Diaz-Balart
Doolittle
Dreier
Ehlers
Emerson
Everett
Ewing
Fawell
Fazio
Filner
Flanagan
Gallegly
Gekas
Gilchrest
Gonzalez
Goodling
Hall (TX)
Hansen
Harman
Hastert
Hastings (WA)
Hayes
Hayworth
Hefner
Houghton
Hunter
Hyde
Inglis
Jefferson
Johnson, E.B.
Johnson, Sam
Kim
Knollenberg
Lazio
Lightfoot
Livingston
Lucas
Matsui
McCollum
McDade
McIntosh
McKeon
Mica
Mineta
Mollohan
Montgomery
Moorhead
Murtha
Myers
Oxley
Packard
Parker
Pastor
Peterson (FL)
Pickett
Pombo
Quillen
Regula
Riggs
Roemer
Rogers
Rohrabacher
Rose
Schaefer
Skeen
Skelton
Smith (TX)
Solomon
Spence
Spratt
Stearns
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thornberry
Thornton
Torricelli
Traficant
Vucanovich
Walker
Walsh
Weller
Wicker
Wise
Wolf
Young (AK)
Young (FL)

NOT VOTING—7

Cardin
Frost
McKinney
Moakley
Reynolds
Stark
Yates

☐ 1849

Mrs. CHENOWETH, Mr. WELLER, and Mr. BUNN of Oregon changed their vote from "aye" to "no."

Messrs. HANCOCK, SAXTON, BROWDER, and HERGER changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. OBEY

Mr. OBEY. Mr. Chairman, I offer an amendment, amendment No. 23.

The CHAIRMAN pro tempore (Mr. LAHOOD). The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. OBEY: On page 16, line 1, insert "(less $18,000,000)", before "to remain".

Mr. MYERS of Indiana. Mr. Chairman, will the gentleman yield?

Mr. OBEY. I yield to the gentleman from Indiana.

Mr. MYERS of Indiana. Mr. Chairman, I wonder if the gentleman from Wisconsin [Mr. OBEY] would consider limiting the time on his amendment equally divided between yourself and myself, say, at 20 past 7 for this amendment?

Mr. OBEY. Half an hour, with three speakers on each side?

Mr. MYERS of Indiana. I would like to equally divide a half hour, but make the time certain and equally divided, yes.

Mr. OBEY. Surely. I have no objection.

Mr. MYERS of Indiana. Mr. Chairman, I ask unanimous consent for such a request.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

The CHAIRMAN pro tempore. The Chair understands that the amendment and all amendments thereto will be debated for 30 minutes, divided evenly between both sides. The gentleman from Wisconsin is recognized for 15 minutes.

The Chair recognizes the gentleman from Wisconsin [Mr. OBEY].

Mr. OBEY. Mr. chairman, I yield myself such time as I may consume.

Mr. Chairman, I thank the House for their support on the last vote, and I would ask that they continue that support for the next two amendments.

This amendment simply cuts $18 million from the nuclear technology research and development program.

Mr. Chairman, last year the Congress voted decisively to kill the advanced liquid metal reactor program. It was judged to be too costly at $3.3 billion, and the technology too questionable to continue.

The Department of Energy, which has never been able to end a program on its own, sought and received approval from the subcommittee to reprogram $21 million to terminate this program. After receiving approval for this reprogramming, the department reneged on its commitment, terminated only a few people with buyouts, and sought $37 million more in fiscal 1996 to continue to pay the people affected while searching for a new mission for them.

One part of DOE claimed the concept of nuclear fuel reprocessing technology may be a potential treatment for DOE spent fuel, but internal documents from another entity of DOE show that there is no consensus within the department on the use of this technology and, in fact, DOE's waste managers have developed plans for spent fuel which do not involve reprocessing.

In fact, their preference is to obtain approval to haul spent fuel in canisters and dispose of it directly in a repository.

Opponents of my amendment are sending around a Dear Colleague saying that this program will actually save taxpayers' dollars. But, in fact, the National Academy of Science's report yesterday, on page 412, states that the pyro processing approach would require substantial additional engineering development and construction of major new facilities, and I am quoting now,

> including what would amount to a sizable liquid metal reactor fuel reprocessing plant to provide feed material, and it would produce a waste form that has not been characterized at all for long-term deposition, and it would probably be unsuitable for emplacement in Yucca Mountain. All of this is, it strikes our panel.

They went on to say,

> As a prescription for long delays and big investments in pursuit of a program for which satisfactory approaches are much closer at hand.

It would, therefore appear that the jury is still out, at minimum, on the position of the National Academy of Sciences on the issue of electro refining of spent nuclear fuel. It would also appear that the agenda of those who advocate this funding is to keep alive the possibility of reviving the advanced liquid metal reactor program or a hybrid of it.

What is really going on here is that the Department of Energy is seeking funds to keep Argonne National Labs in Idaho and Chicago going until somebody figures out a new mission for them.

The Department of Energy was singled out for elimination in the House budget, but the inability of this committee to recommend the termination of this tiny program, I think, is a perfect illustration of the difficulty that people seem to have in going from the general to the specific, when it comes to budget cutting.

How on Earth are we to take seriously all of the rhetoric about the necessity to abolish the Energy Department, if you cannot even abolish this tiny little program which most unbiased people recognize is a waste of money and a turkey?

Now, what made matters worse is that the committee added $8 million to the original subcommittee mark at the time we met in full committee at the request of the distinguished gentleman from Illinois [Mr. FAWELL].

Now, I have great respect for the gentleman, and I have great respect for the people whom he is trying to defend. But I can recall many an occasion when he has come to this floor saying we should be knocking out congressional pork in other peoples' districts. Well, this is, to me, an example of congressional pork which has no justification. It is an agency and a program in search of a mission. We ought to save this money.

Mr. Chairman, I reserve the balance of my time.

□ 1900

Mr. MYERS of Indiana. Mr. Chairman, I yield 6 minutes to the gentleman from Illinois [Mr. FAWELL].

Mr. FAWELL. Mr. Chairman, it is too bad the time is a bit short, but, Mr. Chairman, I certainly rise in opposition to the Obey amendment. This amendment would zero out an appropriation of $18 million for what I believe is an extremely important ongoing environmental nuclear waste reduction research program being conducted by the Department of Energy in Illinois and Idaho. This environmental nuclear waste treatment program was funded at $25.7 million in fiscal year 1995, the current year. The administration and the Department of Energy requested funding this year at approximately $36 million. The House Committee on Science and the Subcommittee on Energy and Environment of that committee have both authorized funding for that amount in fiscal year 1996, so there is no question about authorization here. The House energy water appropriation bill wrestled with this. They have a long background and knowledge obviously of what they are talking about, and they cut the appropriation down to $18 million from the $36 million that had been authorized, a 50-percent reduction so that there has been some cutting that has taken place.

Now the Obey amendment would zero out this nuclear waste reduction program altogether, and apparently, and I want to stress this point on the mistaken conclusion that it represents continued funding for the Department of Energy's advanced liquid metal reactor IFR program, which was terminated by Congress last year, I think mistakenly, at a cost of something like $330 million over 4 years; but this is not the ALMRIFR program, an advanced nuclear research program aimed at developing a new and safe nuclear reactor which recycled and consumed its own nuclear waste, which I felt was good, but that is gone. It is terminated; it is in the process of termination at a cost, as I said, of $330 million.

Now the environmental nuclear waste treatment program here, which is the subject of this amendment, involves research on an electrometallurgical process that is aimed at decreasing the toxicity and the volume of over 2,700 metric tons of more than 150 different types of nuclear waste stored at the various DOE sites around this Nation in Idaho, Washington, Tennessee, South Carolina, and other places. In fact, Congress last year specifically reaffirmed the importance of this nuclear waste research program precisely because of its applications to help solve current problems with the storage and treatment of nuclear waste. I want to reemphasize it has got nothing to do with the program that was terminated last year.

Is this research supported by the sciences? Yes. The National Academy of Sciences does support continued funding of this research saying that it represents, and I quote, promising technology for treating a variety of Department of Energy spent fuels, end of quote. Indeed further funding of this research is predicated on the continued approval of the National Academy of Sciences, and I have the most recent report from the National Academy of Sciences, which came this day, which deals with the electrometallurgical process that we are talking about here in regard to the treatment of spent fuels, and their quotes, and I set this forth as a quote: "Notwithstanding the above," and they went over disadvantages and concerns, "it is desirable that this process technology based at Argonne National Laboratory be kept viable as a problem-solving research program." This is specifically in regard to the electrometallurgical process, and I believe that the gentleman from Wisconsin was talking about a National Academy's report of yesterday.

The safe disposal of more than 2,700 metric tons of nuclear waste is a dire responsibility of the Federal Government. It will not go away. We are not doing anything about being able to store this properly, and now we have reticence, I gather by some, to do something about the problem of treatment. We need places in which to store spent nuclear waste, and we need the technology to electrometallurgically treat these wastes in order to lessen their volumes and toxicity as well as to assure their safe disposal.

Now I want to emphasize this:

The committees of jurisdiction, both authorizing and appropriations, the administration, the Department of Energy, the National Academy of Sciences all have recommended continued funding of this research, and I believe it is good science. I certainly urge my colleagues to vote no on the Obey amendment.

Mr. OBEY. Mr. Chairman I yield 5 minutes to the distinguished gentleman from Massachusetts [Mr. MARKEY].

Mr. MARKEY. Mr. Chairman, just so everyone can understand what it is that we are debating out here on the floor, this is basically a baby breeder reactor. The name has been changed to protect the guilty, but it is just the next generation of the breeder reactor, that whole debate we had about the Clinch River Breeder Reactor and all of that. I say to my colleagues, "If you remember, this miracle technology is going to produce electricity too cheap to meter, and it is also going to solve our reprocessing problem, if such existed."

The problem with it was that it created two problems. One, it, in fact, cost more than anyone had ever imagined that it could cost to generate electricity; and, second, it blew a hole right through our nonproliferation policy because, as we began the process of constructing a technology to reprocess plutonium, we were sending a signal to North Korea, and Iran, and Iraq, and Libya, and every other country around the world that was contemplating the use of this technology to extract nuclear-weapons-grade fuel and telling them, "Don't listen to what we say. Don't in any was believe that we are sermonizing on the subject. Just look at this huge amount of money that we are willing to spend on the same technology that we are telling you that you should not in fact invest in."

So the $18 million which the gentleman from Wisconsin seeks to cut out of this budget goes right to the heart of this debate. One, we should not be subsidizing once again private-sector technology which is supposed to ultimately reuse this spent fuel for other purposes. That would be wrong. Eighteen million dollars for the nuclear utility industry would be about $100,000 in electric utility per year. If they think it is such a wonderful technology for a hundred thousand bucks apiece, the wealthiest industry in America should be able to finance it.

But second, we all have to ask whether or not our 20-year-old policy of turning our back to this reprocessing technology which blows a hole into our nonproliferation regime is something we want to destroy. Now they can use this new term of pyral processing, but, if we are pyromaniacs here, we are basically going to burn up 18 million bucks and burn up our nonproliferation policy simultaneously out here on the floor this evening. The vote, the correct vote, is to insure that the private sector funds this if in fact it is deemed to be worthy as a generator of a new era of nuclear powerplant fuel, and second, we should understand that the $18 million we spend absolutely makes us look like hypocrites on the world stage, and we try to convince North Korea and others that the nonproliferation regime of the United States has any credibility.

Mr. VOLKMER. Mr. Chairman, will the gentleman yield?

Mr. MARKEY. I yield to the gentleman from Missouri.

Mr. VOLKMER. It is 18 million this year. How much next year, the following year, and the following year?

Mr. MARKEY. It is a pile as high as the Moon because ultimately this technology will never produce any final product which was an unfortunate experience which we had with the Clinch River Breeder Reactor. It never resulted in a final product.

Mr. FAWELL. Mr. Chairman, will the gentleman yield?

Mr. MARKEY. I yield to the gentleman from Illinois.

Mr. FAWELL. I simply want to point out the gentleman said this is private-sector technology. We are talking about spent nuclear fuel that the public owns and creates. This is Department of Energy spent nuclear fuel which is spread all over this Nation at public sites. The private entities have nothing to do with this metallurgical processing of waste products. It has got nothing to do with any physical reactors.

I say to the gentleman, you have got all your information wrong.

Mr. MARKEY. Reclaiming my time, I do not have my information wrong. In fact, as the gentleman knows, the DOE has not even decided whether or not they want to use this technology at all. The gentleman is substituting his own scientific judgment for that of the Department of Energy.

Moreover, we are not even talking about the reprocessing of the spent fuel from the 40 years of the cold war. So what is at the heart, as the gentleman knows, is the plan to reuse this fuel in a civilian context. It is a source of fuel that could be used. The Clinch River Breeder Reactor was originally intended for that purpose. This technology ultimately has the same purpose. It is nothing more than a second generation of that same objective.

So, the DOE says that it will, in fact, cost $85 billion if we do reprocessing for spent fuel from civilian reactors. Eighty-five billion dollars is the number of the Department of Energy. There is no way we are going to spend that kind of money. This is a civilian pork barrel project that blows a hole through our nonproliferation policy.

Mr. MYERS of Indiana. Mr. Chairman, I yield 5 minutes to the gentleman from Michigan [Mr. EHLERS], who was a practicing scientist. A lot of us have been quoting scientific facts here today from what we have read, but our colleague is one of the few scientists we have in Congress.

(Mr. EHLERS asked and was given permission to revise and extend his remarks.)

Mr. EHLERS. Mr. Chairman, in the middle of the desert and underneath a mountain in the western United States we were building or trying to build a repository for nuclear waste. It is commonly known as Yucca Mountain. We have already collected billions and billions of dollars from the consumers in this country, consumers of electric power, in order to pay for that waste storage facility and the problems that arise from it in the future. And we are talking about billions and billions of dollars for that purpose alone.

The question is can we perhaps improve the operation of that facility, can we perhaps save some money by not simply dumping things in there, but rather processing them first, categorizing the waste, putting the short-lived waste in one type of container, putting the long-lived waste in another type of container?

One of the advantages of the project that is before us is that it is an attempt to separate waste into the high-activity, long-life waste and the high-activity, short-life waste, and, if we can do that, I would expect that to result, result in a substantial savings to the American taxpayers who are currently paying for the Yucca Mountain facility.

Getting rid of nuclear waste is a very complex business. If it were easy, it would have been done long ago, and I hope that in fact we do manage to resolve this problem and deal with nuclear wastes in a safe, sane, and less costly fashion in the future.

I do not claim to be an expert on the technology that is under discussion here in this particular amendment, but I will certainly say this is not a nuclear reactor, and certainly it does not deal with purely the private sector's waste. In fact, it is aimed primarily at the nuclear wastes that are produced by the Federal Government and its facilities at Hanford and elsewhere.

I think we ought to continue this. I agree with the report. That is we have a pre-publication copy of the report from the National Research Council. You have heard the Congressman from Illinois read a section from that a few moments ago.

□ 1915

They recommend that even though there are substantial concerns at this point, it is desirable to continue working on this process and keep it viable until we determine whether or not it in fact will assist us in disposing of our nuclear wastes at a lower cost.

I agree with that conclusion. I believe we should continue this project. We should try to determine whether or not it will work, because if it does work, the payoff is large.

The report goes on to say if this does not prove out, we should not hesitate to terminate it. I am sure if this does not prove to be a valid technology, the maker of the motion and those speaking in favor of the motion will be back next year or the year after, waving this language at us and saying "See, it did not work. Let's cut it out."

My response is if in fact that does happen and the National Research Council agrees with the conclusion it does not work, all of us should vote to cut it out. But at this point it looks like a promising, useful approach to dealing with nuclear waste, and I urge defeat of the amendment and continuation of the project until we determine precisely whether or not it will or will not work.

Mr. OBEY. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, I would simply like to make four points once again. After the Congress voted to end the advanced liquid metal reactor program, the agency asked Congress for money to terminate that program and to begin to lay off people at the labs associated with that program.

After they got permission from the Congress to do it, the agency then decided they wanted to change their mind. They asked for $37 million to continue employing 900 people at these labs who were going to be doing work on that project. They asked to continue to employ them rather than to terminate them. Yet they do not have any new mission. That seems to me to be a very big waste of money.

Second, DOE claims that reprocessing technology might be a treatment that can be used for disposing of spent fuel. But the fact is that internal documents in that very same agency show that there is no consensus within that agency on the subject, and they show that in fact their planners are proceeding ahead under the assumption that their plans for dealing with spent fuel will not involve reprocessing.

Third, I will read once again from the report of the National Academy of Sciences released just yesterday entitled "Plutonium Disposition Reactor Related Options," page 412. It says, "The pyro processing approach would require substantial additional engineering development and construction of major new facilities, and it would produce a waste form that has not been characterized at all for long-term disposition, and it would probably be unsuitable for emplacement in Yucca Mountain," which has just been mentioned.

They go on to say, "All of this strikes our panel as a prescription for long delays and big investments in pursuit of a problem for which satisfactory approaches are much closer at hand."

In plain English, it seems to me that says Don't waste the money.

Now, the last point I would simply make is that if you voted for the budget resolution which called for the abolition of the Energy Department, then you have no logical choice, it seems to me, but to vote to end this program. Why on Earth should the country believe that you are serious about abolishing the Department of Energy if you cannot even vote to abolish a program which the Energy Department itself decided they had to close down and asked permission from the Congress in fact to do so? So if you voted for the budget resolution, which called for the abolition of that department, then how on Earth can you not follow through by voting to abolish some of the tiny programs which that department runs, programs which obviously right now are just spinning their wheels, spending money in search of a mission?

Mr. Chairman, I urge Members to defend the taxpayer rather than a piece of pork. I urge Members to vote for this amendment.

Mr. MYERS of Indiana. Mr. Chairman, I yield 1 minute to the gentleman from New York [Mr. SOLOMON].

Mr. SOLOMON. Mr. Chairman, let us be blunt and call a spade a spade. There are two kinds of people supporting this amendment. One is what I call the "Screaming Greenies," the Green Peace group that goes out there and has been trying to sink the nuclear power industry in this country for years. Thank God they did not.

Then you have the other kind that are kind of political and they want to go after the gentleman from Illinois [Mr. FAWELL] because he is a noted pork buster.

Mr. Chairman, there is nothing in this amendment dealing with pork whatsoever. There is nothing in here that this gentleman put in this bill. It has been there. This is an ongoing program.

If you want to cut something, here is $900 billion in cuts, which I have given to every appropriator in this House and every Member of Congress. You can take it page by page, and you can cut, cut, cut, cut, cut. We want to see these amendments offered on the floor. They are real cutting amendments. It is how we can really balance the budget and bring back some fiscal responsibility to this body.

Please, I ask all Republicans, vote "no" on this, and you fiscally responsible Democrats, you do the same thing. Let us defeat this amendment.

Mr. MYERS of Indiana. Mr. Chairman, I yield 2 minutes to the gentleman from Idaho [Mr. CRAPO].

Mr. CRAPO. Mr. Chairman, once again I stand in strong opposition to the efforts to eliminate some of the critical nuclear research that is necessary for our country's nuclear energy programs. We fought these kinds of battles repeatedly, but I think it is important that we recognize, as we did in previous years, that the National Academy of Sciences has recognized this technology as critical, and the reports that have been talked about today do not correctly reflect the information that has come out of the National Research Council and their testing.

In fact, as the gentleman from Illinois has already indicated, today's report states that notwithstanding the above information in the report, it is desirable that the process technology here that we are talking about based at national laboratories be kept viable as a problem solving resource. We must recognize that, according to the DOE, this research can significantly reduce the amount of high level waste in spent nuclear fuel. This offers us the potential key for the safe treatment of our spent nuclear fuel.

Funding fur nuclear technology research and development was requested by the Clinton administration and the Department of Energy and authorized by the House Committee on Science. At these amounts, we are already seeing significant reductions for budget balancing purposes. Now we must follow the strong science in this country and support continuing nuclear research.

We have a problem in this country in dealing with spent nuclear fuel and nuclear waste. We have a scientific opportunity to find the solution, to unlock the problems and to get past the roadblocks that are facing us in the handling of our spent nuclear fuel, its storage and treatment.

This technology is critical. The scientists in the country say it is needed, the Clinton administration says it is needed, the Department of Energy says that it is needed, the authorizing committee says that it is needed. It is time that we stop undercutting the nuclear research in this country and move forward to the kinds of solutions that are critical to the handling of these issues.

Mr. MYERS of Indiana. Mr. Chairman, I yield 1 minute to the gentleman from Illinois [Mr. FAWELL].

Mr. FAWELL. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I think it is awfully important to understand that in this case there is no National Taxpayers' Union opposition to what we are doing here. There is no Citizens Against Government Waste opposition to what we are doing here. This has been authorized by the authorizing subcommittee, by the House Committee on Science itself, and then when it came over to the appropriators they did their job in cutting. I felt they cut too much, because it went down to $18 million.

So the job has been done. It has gone through the process. You have a National Academy of Sciences report that deals with electrometallurgical processing, and the gentleman from Wisconsin is talking about one that deals with plutonium disposition options. We are not talking about plutonium disposition options. We are talking about a metallurgical process on spent fuel that the public, that the DOE, has created.

Mr. MYERS of Indiana. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, the argument during the last amendment that successfully reduced by $20 million research for a reactor for the next century was the fact that, first, the President had not requested it, second, that the Department of Energy did not favor it and, third, it was not authorized.

This program meets all three of those criteria. The President requested $37.3 million, it is authorized, and DOE has strongly supported the program. So if you are going to be consistent, the 300 of you voted a while ago to cut funds for those reasons or some other reasons, now you have no other choice but to vote for this because it meets the three criteria you spelled out during the last amendment.

Mr. Chairman, one of our greatest threats today is nuclear waste. This is an attempt to, and hopefully it will, find a solution to the problem. I ask for a strong vote of no on their amendment.

Mr. MINETA. Mr. Chairman, I rise today in support of the Advanced Light Water Reactor program, and in opposition to the amendment by my friend, Mr. OBEY.

Mr. Chairman, countries around the world recognize the important role nuclear power must play in the production of clean, safe, economical, and abundant electricity. These countries continue to look to America for leadership in nuclear power technology, but increasingly we are falling short of the challenge.

While the market for nuclear reactors is stagnant in this country, there is increasing demand in Asia and elsewhere. Global markets for United States industry are rapidly opening up in countries such as Japan, Taiwan, Korea, and Indonesia. The nuclear power plant market potential in the Pacific Rim nations during the next 15 years is estimated to be over $175 billion. This represents thousands of U.S. jobs.

Mr. Chairman, if we refuse to continue the Advanced Light Water Reactor program we will be shooting ourselves in the foot. We will be relinquishing the fertile world market to our competitors. And we will cease to be a major contributor to the world's need for clean, safe, and low cost electricity.

The $40 million in this legislation for the Advanced Light Water Reactor is very important to our domestic nuclear reactor producers. It will allow them to proceed with design certification and standardization activities—the next steps toward commercialization of these reactors.

The Advanced Light Water Reactor program is a relatively small investment that will pay great dividends. I urge my colleagues to vote against the Obey amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Wisconsin [Mr. OBEY].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. OBEY. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 155, noes 266, not voting 13, as follows:

[Roll No. 486]

AYES—155

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Bass
Becerra
Beilenson
Berman
Bishop
Blute
Bonior
Borski
Browder
Brown (FL)
Brown (OH)
Chabot
Chapman
Christensen
Clayton
Clyburn
Collins (GA)
Collins (MI)
Condit
Conyers
Danner
DeFazio
Dellums
Deutsch
Dingell
Dixon
Doggett
Doyle
Duncan
Edwards
Engel
Eshoo
Farr
Fattah
Fields (LA)
Foglietta
Furse
Ganske
Gephardt
Geren
Gonzalez
Goodling
Gordon
Green
Hall (OH)
Hamilton
Harman
Hefley
Hefner
Hilleary
Hinchey
Hobson
Holden
Hostettler
Jacobs
Johnson (SD)
Johnson, Sam
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kildee
Kleczka
Klug
LaFalce
Lantos
Levin
Lewis (GA)
LoBiondo
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Matsui
McCarthy
McDermott
McHale
McNulty
Meehan
Menendez
Mfume
Miller (CA)
Minge
Mink
Moran
Nadler
Neal
Neumann
Ney
Oberstar
Obey
Olver
Orton
Payne (NJ)
Pelosi
Peterson (MN)
Petri
Pomeroy
Rahall
Ramstad
Rangel
Reed
Rivers
Roemer
Rose
Roth
Roukema
Roybal-Allard
Sabo
Sanders
Sanford
Sawyer
Schroeder
Schumer
Scott
Sensenbrenner
Serrano
Shays
Skelton
Slaughter
Spratt
Stenholm
Stokes
Studds
Stupak
Tanner
Thompson
Torkildsen
Torres
Towns
Tucker
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Williams
Woolsey
Wyden
Wynn
Zimmer

NOES—266

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bateman
Bentsen
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Bonilla
Bono
Boucher
Brewster
Brownback
Bryant (TN)
Bryant (TX)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chambliss
Chenoweth
Chrysler
Clay
Clinger
Coble
Coburn
Coleman
Collins (IL)
Combest
Cooley
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
de la Garza
Deal
DeLauro
DeLay
Diaz-Balart
Dickey
Dicks
Dooley
Doolittle
Dornan
Dreier
Dunn
Durbin
Ehlers
Ehrlich
Emerson
English
Ensign
Evans
Everett
Ewing
Fawell
Fazio
Fields (TX)
Filner
Flake
Flanagan
Foley
Forbes
Ford
Fowler
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Gejdenson
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goodlatte
Goss
Graham
Greenwood
Gunderson
Gutierrez
Gutknecht
Hall (TX)
Hancock
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Hastert
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Heineman
Herger
Hilliard
Hoekstra
Hoke
Horn
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson-Lee
Johnson (CT)
Johnson, E. B.
Jones
Kasich
Kelly
Kennelly
Kim
King
Kingston
Klink
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
Lucas
Manzullo
Martini
Mascara
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Meek
Metcalf
Meyers
Mica
Miller (FL)
Mineta
Molinari
Mollohan
Montgomery
Moorhead
Morella
Murtha
Myers
Myrick
Nethercutt
Norwood
Nussle
Ortiz
Owens
Packard
Pallone

Parker
Pastor
Paxon
Payne (VA)
Peterson (FL)
Pickett
Pombo
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Regula
Richardson
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Royce
Rush
Salmon
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Shadegg
Shaw
Shuster
Sisisky
Skaggs
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stockman
Stump
Talent
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thornberry
Thornton
Thurman
Tiahrt
Torricelli
Traficant
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wilson
Wise
Wolf
Young (AK)
Young (FL)
Zeliff

NOT VOTING—13

Boehner
Brown (CA)
Cardin
Clement
Frost
Jefferson
Longley
McKinney
Moakley
Oxley
Reynolds
Stark
Yates

□ 1947

The Clerk announced the following pair:

On this vote:

Ms. McKinney for, with Mr. Yates against.

Messrs. EVANS, PETERSON of Florida, DE LA GARZA, and ENSIGN changed their vote from "aye" to "no."

Mr. MFUME changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. MYERS of Indiana. Mr. Chairman, I move to strike the last word.

Mr. Chairman, it is my understanding there has been a discussion and an agreement from the minority that this last vote will be the last vote for the evening, but we will have some colloquies with Members who have some expression here of the intent of legislation.

Mr. OBEY. Mr. Chairman, will the gentleman yield?

Mr. MYERS of Indiana. I yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Chairman, I would tell the gentleman, I certainly hope so.

Mr. MYERS of Indiana. Is that my understanding of the agreement we have?

Mr. OBEY. Mr. Chairman, if the gentleman will yield, that certainly would be my hope and expectation. We are being asked to go into a markup at this point at 8 p.m., and it seems to me if we are going to have an appropriation subcommittee markup we should not have to be in two places at the same time, so I see no reason for us to continue the session this evening.

Mr. MYERS of Indiana. Mr. Chairman, we will have the colloquies and the Committee will rise. There will be no more votes this evening, if it can be avoided.

AMENDMENT OFFERED BY MR. SKAGGS

Mr. SKAGGS. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. SKAGGS: On page 19, line 7, strike "$5,265,478,000" and in lieu thereof insert "$5,411,478,000".

Mr. MYERS of Indiana. Mr. Chairman, on this amendment I reserve a point of order.

Mr. SKAGGS. Let me just reassure my colleagues, Mr. Chairman, even though we have called this up as an amendment, this will not involve a vote.

Mr. Chairman, I expect that the distinguished gentleman from Indiana [Mr. MYERS] may insist on his point of order. I appreciate the opportunity to have made these arguments on behalf of this issue.

Mr. Chairman, this amendment would add a modest amount, $146 million, in order to partially correct a serious mistake in this bill.

That mistake is a reduction in funding for the Energy Department's environmental management program—the program to clean up the enormous mess at the various nuclear weapons facilities—a reduction of more than $740 million. In making that reduction, the committee's leadership was taking its lead from the authorizing committee, which cut the authorization for these programs in order to increase spending for missile defenses—the "Star Wars" programs—by a like amount.

In this respect, the priorities in the defense authorization bill were exactly wrong. We shouldn't repeat the mistake. We need to clean up our room before we spend our allowance to buy new toys.

Through its environmental management programs, the Energy Department carries out the work of cleaning up the Rocky Flats site in Colorado, and the other facilities where America developed and built the nuclear weapons that enabled us to win the cold war.

The costs of this cleanup are part of the costs of that victory.

They have to be paid. There is nothing speculative about the environmental and safety problems at Rocky Flats, or Savannah River, or the Hanford Reservation, or any of the other sites. While the benefits that might come from spending more than the Defense Department proposes for the Star Wars programs are at best speculative, there is nothing speculative about the health, safety, and environmental benefits from cleaning up Rocky Flats and the other sites. Nor about the serious risks posed to worker and public health and safety unless funding is at least partly restored.

Much has been done already. The Office of Environmental Management has already safeguarded more than 20 metric tons of weapons-usable plutonium; prevented explosives in tanks of high-level wastes; treated more than 4 billion gallons of contaminated water; and removed or stabilized enough contaminated soil to fill trucks stretching from Alabama to Los Angeles. But more—much, much more—remains to be done.

Progress has been made recently in improving the efficiency of the cleanup. For example, the administration expects to save a billion dollars by privatizing some operations, to let market forces push costs down, and by changing contract incentives to reward efficiency and costs savings, reducing work forces, and focusing research and development on the areas of most pressing needs. But these improved efficiencies cannot make up for the excessive cuts that would be made by this bill.

The effects of this bill's underfunding are more severe because they come down on top of reductions self-imposed by DOE and rescissions adopted for fiscal 1995 funds. Last year, we cut these programs by more than $89 million below the fiscal 1994 level, providing $124.7 million less than the administration had said was needed for fiscal 1995. Compared to the nearly $6.58 billion requirement for fiscal 1996 contemplated in its previous budget submission, the Department this year has requested only $6 billion in the actual fiscal 1996 budget submitted this year. That reduction, more than $557 million, reflects an enormous internal effort by the Department to search out and implement savings and efficiencies on its own.

Unless it's amended, this bill would fall another $742.5 million below what DOE says it needs to do the job. That's why I am urging the House to adopt this amendment and to provide more funding than is now in the bill.

Even with this increase, the bill will not provide all that's necessary for this vital work in the next fiscal year. In fact, even with the amendment's increase the bill will fall short of the administration's request by nearly $600 million. But adoption of the amendment will at least partially close the gap, and I urge its adoption.

Mr. MYERS of Indiana. Mr. Chairman, will the gentleman yield?

Mr. SKAGGS. I yield to the gentleman from Indiana.

Mr. MYERS of Indiana. Mr. Chairman, what the gentleman speaks he speaks firsthand, because Rocky Flats in his State is one of the worst in the country as far as environmental cleanup. The committee has been well aware of the problem there. We have been trying to clean that up for the last several years. We finally, I think, are making more progress today.

However, the committee has realized that almost a $1 billion increase each year occurs in the environmental restoration and the clean-up, and it is a very serious problem this committee and the country faces, but we have not had much success that the gentlemen has been addressing here as far as DOE is concerned.

What we have done, without prejudice to the future, we have said, "Look, you have to improve the efficiency and effectiveness of your clean-up," This is what we are trying to do here. We will work very closely with the gentleman to make sure we do get the most bang for our buck.

Mr. SKAGGS. Mr. Chairman, I understand and share the Chairman's interest in promoting greater efficiency in this area, DOE. As the gentleman knows, the department has taken some important steps itself. I hope the chairman would agree with me that while greater efficiency is desirable, that these programs meet an important responsibility and that we need to continue to provide necessary resources.

Mr. MYERS of Indiana. We certainly do.

Mr. SKAGGS. I hope we can work together on this in connection with the 1997 legislation.

Mr. MYERS of Indiana. The committee makes that commitment to all Members.

Mr. SKAGGS. With that in mind, Mr. Chairman, rather than putting the chairman to the point of order, I ask unanimous consent to withdraw the amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Colorado?

There was no objection.

Mr. TORKILDSEN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to engage my colleague, the gentleman from Indiana [Mr. MYERS], the chair of the Subcommittee on Energy and Water Development of the Committee on Appropriations, in a colloquy regarding H.R. 1905.

Specifically, I rise to inquire about title 3 for the Department of Energy in general science and research activities, subheading for nuclear physics. It is my understanding that the $304.5 million will be appropriated for fiscal year 1996. Of those dollars, I understand that is the intention of the committee to support the university-based accelerators under the nuclear physics account within the funds available.

Furthermore, I understand that it is the intention of the committee to support the Bates Linear Accelerator Center in Middleton, MA, again within the available funds. Is this understanding correct?

Mr. MEYERS of Indiana. Mr. Chairman, will the gentleman yield?

Mr. TORKILDSEN. I yield to the gentleman from Indiana.

Mr. MYERS of Indiana. Mr. Chairman, the gentleman is correct. The committee continues to support university-based research in high physics, recognizing that much of the research is done by universities. But even maybe more importantly, it supports the development and teaching of scientists for the future, so it really serves two purposes. The committee has been a long supporter and will continue. The gentleman is correct, we are continuing that support.

Mr. TORKILDSEN. Mr. Chairman, I thank the gentleman, and I want to thank the chairman of the appropriations subcommittee for clarifying this very important point.

Mr. SCHAEFER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I do rise for the purpose of entering into a colloquy with the gentleman from Indiana [Mr. MYERS].

Mr. Chairman, as I understand it, H.R. 1905 provides $425 million for the nuclear waste program, which is a reduction from past levels. The committee report on H.R. 1905 states this funding level is insufficient to aggressively pursue site characterization activities at Yucca Mountain, and that the Appropriations Committee will be unable to provide resources to match the project's ambitious funding profile for the coming years.

The committee report also directs DOE to concentrate available resources on the development and implementation of a national interim storage program. I would ask the gentleman if this is correct, if I am reading this right.

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Mr. MYERS of Indiana. Mr. Chairman, will the gentleman yield?

Mr. SCHAEFER. I yield to the gentleman from Indiana.

Mr. MYERS of Indiana. The gentleman is correct. This committee has supported long-term storage. At this time we have continued to support the characterization of the site in Nevada known as Yucca Mountain, while recognizing our contractual responsibility as well as our moral responsibility to accept the nuclear waste that is now at 71 locations with 109 reactors around the country where much of the storage is outside in dry storage. We recognize we have to do something about meeting that obligation we have by accepting that storage of the nuclear fuel, spent fuel, from these reactors. That has to be accomplished by 1998. The only way we can see being able to do that is to focus on interim storage.

Mr. SCHAEFER. Reclaiming my time, I appreciate the gentleman's comments. The committee report also directs DOE to downgrade, suspend or terminate its activities at Yucca Mountain. It is my understanding that the energy and water development appropriations bill does not force DOE to abandon site characterization work at Yucca Mountain and that DOE has testified in hearings before the Energy and Power Subcommittee that the funding level for the nuclear waste disposal program in H.R. 1905 is adequate to both develop a Federal interim storage facility and maintain site characterization activity at Yucca Mountain, although site characterization activity would be slow down.

Is it the gentleman's view that H.R. 1905 would permit continued site characterization at Yucca Mountain, although at a slower pace than in the past?

Mr. MYERS of Indiana. If the gentleman would yield further, the committee has of course worked with your subcommittee very closely on this issue. You have visited this mountain more recently than we have. It is exactly the criteria that we developed in this appropriation that while we are not trying to prejudice any future decision, the aggressive program we have had in the last year especially would have to be slowed own. Site characterization of some type will continue, but we just do not have the dollars to do both the aggressive characterization by the drilling in the mountain that we would have and still find the interim site.

Mr. SCHAEFER. Reclaiming my time, the committee report on H.R. 1905 also states the Department should anticipate enactment of expanded authority to accept waste for interim storage and should refocus the civilian radioactive waste program accordingly. I want to assure the gentleman from Indiana that the Committee on Commerce will soon take up the legislation to direct DOE to develop an interim storage site. I thank the gentleman for engaging in this colloquy.

Mr. MYERS of Indiana. I thank the gentleman for bringing the issue up and look forward to working with him in the future development of a site for our nuclear waste.

Mr. WHITFIELD. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I represent the First District of Kentucky, which includes the Land Between the Lakes. LBL is a 170,000-acre national recreation and environmental education area managed by the Tennessee Valley Authority. LBL supports a $400 million regional tourism industry and provides high-quality recreation and environmental opportunities to over 2 million visitors a year.

Mr. Chairman, TVA has been working to create a new public and private partnership to increase the rate of return from LBL. User fees are being collected from the public, and the need for Federal subsidies is expected to decrease as management builds more efficiencies into the LBL system.

As reported by the Committee on Appropriations, the recommended Federal contribution to LBL is $3.1 million, a reduction of $3 million from the budget request of $6.1 million. Although I appreciate the serious budgetary constraints under which the committee is operating, I fear that this reduced level of funding will frustrate TVA's ability to manage a smooth transition to LBL self-sufficiency.

In the past, TVA has used stewardship account funds to support functions of LBL. To the extent that TVA is able to realize reductions, savings, or efficiencies, I presume the committee will allow TVA the flexibility to allocate available resources so that stewardship funds could be used from LBL if necessary.

I would just like to enter into a colloquy with the chairman and ask him if he agrees with that understanding.

Mr. MYERS of Indiana. Mr. Chairman, will the gentleman yield?

Mr. WHITFIELD. I yield to the gentleman from Indiana.

Mr. MYERS of Indiana. This is exactly the position the committee took. We have long supported TVA but we realize with the limited resources you spoke of, we just cannot continue all of these. But we would be glad to work with the Tennessee Valley Authority and the Congressmen from that area, both Tennessee and Kentucky, because this is a problem we have to address but that we are not expecting to be addressed and solved overnight. We will be glad to work with the gentleman.

Mr. WHITFIELD. I appreciate the hard work that the committee has done and commend the chairman for trying to balance the needs of the public versus the resources that we are working with. I appreciate your working with TVA and allowing them some flexibility on these funds.

Mr. RIGGS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, at the outset, let me express as one member of the Subcommittee on Energy and Water Development of the Committee on Appropriations my appreciation to the gentleman from Indiana [Mr. MYERS], the chairman of the subcommittee, and the gentleman from Alabama [Mr. BEVILL], the ranking member, for their help in including in the fiscal year 1996 Energy and Water appropriations bill $250,000 in funds for the Sonoma County, California Vernal Pools Task Force. These funds which I sought along with my colleague the gentlewoman from California [Ms. WOOLSEY] will enable completion of the second phase of a preservation plan for Vernal Pools which are a very sensitive and fragile form of ecosystem and wetlands.

As the subcommittee chairman knows, the Vernal Pools Task Force was established at my initiative in 1991 before my sabbatical from Congress and its primary goal is simplification of the Army Corps of Engineers permitting process for areas that do not contain high-quality vernal pools. In Public Law 102-580, the 102d Congress directed the Secretary of the Army to provide technical assistance to the task force in drafting a plan for the development and preservation of high-quality seasonal wetlands on the Santa Rosa plain.

The task force has now completed the first phase of developing an application to the Army Corps of Engineers general permit, namely, identifying the areas to be considered potential high-quality sites. Specifically at this point, I would like to express my understanding of actions that the subcommittee encourages the Vernal Pools Task Force to undertake with respect to modifying its operations in a number of areas and then ask the subcommittee chairman if he concurs in those expectations.

First of all, approximately one-half of the current task force consists of representatives of Federal and State agencies. The involvement of the agencies as voting members of the task force has inhibited development of a plan that is community-driven. To rectify this, it may be preferable for Federal and State officials to serve in an advisory manner and not to have a vote on the task force.

Second, the committee understands that a large amount of land under consideration by the task force is agricultural in nature and in use, yet the agricultural community does not have sufficient representation on the task force. We would encourage three additional members be added to represent the agricultural community as determined by the Sonoma County Farm Bureau.

Third, the task force does not currently include a representative from my congressional office representing California's First District. The task force should include one nonvoting representative each from the First and Sixth Congressional District offices.

And finally, we believe that affected property owners should have a mechanism to appeal any task force decision to list their property as high-quality wetlands. Before completion of phase II with the funds appropriated by the subcommittee, all owners of property designated as high-quality wetlands should be notified of the pending designation and the task force should develop an appeals process for affected property owners.

So at this point, Mr. Chairman, I would like to yield to the gentleman from Indiana [Mr. MYERS], the subcommittee chairman, again commend him for his fine work in drafting this complex and important piece of legislation, and ask the gentleman if I am correct that the committee views these actions as appropriate.

Mr. MYERS of Indiana. Mr. Chairman, will the gentleman yield?

Mr. RIGGS. I yield to the gentleman from Indiana.

Mr. MYERS of Indiana. Mr. Chairman, the gentleman from California [Mr. RIGGS] is correct. Under his strong leadership before, when the gentleman was here the first term, he became a leader in this field and much of what has been accomplished so far is because of the gentleman's endeavor and hard work. He continues to do the same job as a member of this subcommittee. We work closely with the gentleman and continue, as we have in the past, and the gentleman is correct in what we are trying to do .

Mr. RIGGS. Mr. Chairman, I thank the gentleman for his very kind remarks.

Mr. DICKEY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to enter into a colloquy with the gentleman from Indiana [Mr. MYERS]. I first want to compliment the gentleman and his staff for this fine bill, particularly in light of the fiscal situation with which we are faced, and the yeoman's job the gentleman has done today just staying with it and I know we will continue tomorrow.

Of great importance to Arkansas, and many other states in the Southwest United States, is the McClellan-Kerr navigation project on the Arkansas River. Grain, steel, lumber and finished products are shipped and received on this inland navigation system.

The surface level of the Mississippi River is expected to decline to 95 feet above sea level, roughly 15 feet lower than the original design elevation at the confluence of the river and the McClellan-Kerr project. Without corrective action, not even empty tows could go either way on the river. They would be resting on the bottom with no water for navigation.

Delays and unreliable service due to these low water levels will adversely impact industry as far west as Texas and Colorado and as far north as Iowa and Nebraska. As the President of Century Tube Corp. of my hometown of Pine Bluff, AR, Robert Pfautz, indicated in a letter last month,

> We have experienced river closing in the past which lasted several weeks and caused us to take emergency actions to keep our production lines running at significant cost and possible plant shutdowns. If barges are unable to enter into the Arkansas River from the Mississippi, then we are forced to offload steel at ports on the Mississippi and transport the steel by truck to our plant. This process is very expensive.

Shortage of water not only stops traffic on the river, it also causes people to initially choose more reliable and expensive transportation during certain times of the year.

In 1993, the Army Corps of Engineers finalized a study that detailed the necessity of the construction of lock and dam at the confluence of the Mississippi and the entrance to the McClellan-Kerr project. The other alternative was dredging. Dredging, which is a process that digs land from the bottom of the river to ensure that water levels are maintainable, costs between $6 million and $7 million every year.

I might add that the disposal of the dredged material is an environmental issue. At this time, there are few places we can dispose of this material, as it may risk 2,400 acres of hardwood-wetland wildlife habitat.

The highlights of the important of the Montgomery Point Lock and Dam thus are twofold. By constructing this lock and dam, we can provide industry with a less expensive means of transporting its good in and out of the Midwest and the Southwest United States.

Mr. Chairman, the gentleman from Indiana [Mr. MYERS], in his bill, indicates his recognition that this is a problem and has included $5.4 million to begin land acquisition for the planning and construction of roads and facilities for the Montgomery Point Lock and Dam.

For the past 5 years, Mr. Chairman, as you know, language has been included expressing congressional intent that this project be built. Unfortunately, the Corps, despite Congress' intent to move on this project, has not seen fit to act.

Mr. Chairman, I would ask the gentleman from Indiana [Mr. MEYERS] if it is his intent to direct the Army Corps of Engineers to undertake the activities in fiscal year 1996 as outlined in this bill's accompanying report, thereby enabling Century Tube of Pine Bluff, farmers, and other shippers to use this critical waterway year round.

Mr. MYERS of Indiana. Mr. Chairman, will the gentleman yield?

Mr. DICKEY. I yield to the gentleman from Indiana.

Mr. MYERS of Indiana. Mr. Chairman, the gentleman from Arkansas [Mr. DICKEY] has very accurately described the conditions on the McClellan-Kerr Waterway and it is a very severe problem and we are well aware of that. We have been trying to tell the Corps that we intend it to be built. We have had some difficulty getting it started, but we will work you and the Corps to make sure that they do fulfill the intent of Congress.

We thank the gentleman for his diligence. Perseverance is not lacking in his character.

Mr. DICKEY. Mr. Chairman, also patience and tolerance is not lacking in the gentleman's qualifications either. Let me ask the gentleman one other question. Does this action that he is directing constitute the start of the construction process?

Mr. MYERS of Indiana. Mr. Chairman, we think it is, yes. We will be working with the Corps to make sure that is carried out, and with the gentleman, I am sure.

AMENDMENT OFFERED BY MR. HOKE

Mr. HOKE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HOKE: At the end of the bill, insert after the last section (preceding the short title) the following new section:

SEC. 505. The Secretary of Energy shall transmit a report to the Congress each time the Secretary authorizes the payment of travel expenses of the Secretary or other employees of the Department of Energy in excess of an aggregate of $5,246,200 for fiscal year 1996. Such report shall describe the amount authorized, the purposes for which such funds were originally allocated, and the travel expenses for which they are used.

Mr. HOKE (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. MYERS of Indiana. Mr. Chairman, I reserve a point of order on this amendment.

The CHAIRMAN. The gentleman reserves a point of order.

The amendment as offered by the gentleman from Ohio [Mr. HOKE] goes to title V.

Mr. HOKE. Mr. Chairman, I withdraw the amendment.

The CHAIRMAN. Without objection the gentleman from Ohio withdraws the amendment.

There was no objection.

Mr. HOKE. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise to engage the gentleman from Indiana in a colloquy. Mr. Chairman, as you know, I recently submitted for the RECORD this amendment which was designed to restore some degree of sanity to the official travel policies at the Department of Energy. I want to take a moment just to discuss the reasoning behind the amendment.

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Some months ago I began an investigation of the Secretary of Energy's proclivity to spend generously on herself and her aides in the course of what has been called or billed as "official travel." Through a preliminary inquiry into the agency's activities, it is apparent that Secretary O'Leary has already transferred in excess of $400,000 from nuclear accounts, including accounts used by scientists and technicians in the department's nuclear safeguards and security programs by pay for this travel.

Although the Secretary claims that her use of official funds is not out of the ordinary, the facts paint an entirely different picture. According to a recent L.A. Times article, the Secretary believes in traveling in business and first class more often than not, and she spent approximately $815 per trip, for a total of nearly $50,000 on her domestic travels alone. That does not include the costs associated with those who are traveling with her, her staff, which has included as many has 10 people, nor does that take into account the Secretary's overseas junkets, which include bank-busting visits to Russia, to Italy and to France.

It is truly shocking and without precedent that the Department of Energy seems to become a travel service for the Secretary of Energy. In fact, she has recently demanded that program offices responsible for safeguarding our Nation's nuclear deterrent cough up additional funds to pay for an August trip to South Africa.

The onset of this travel investigation has coincided with the resignation of the No. 2 official in the dependent and with rumors of other top-level officials leaving the department.

As we can all no doubt recall, the President campaigned in 1992 on a pledge his administration would be free from even the taint of inappropriate activity.

In light of all of these recent developments and because I am mindful of the fact my amendment may constitute legislating on an appropriations bill, I do not intend to offer it later today on part 5. However, I do intend to revisit the issue in the very near future, for that reason, I would like to yield for your thoughts and comments on this important issue.

Mr. MYERS of Indiana. Mr. Chairman, will the gentleman yield?

Mr. HOKE. I yield to the gentleman from Indiana.

Mr. MYERS of Indiana. I thank the gentleman for bringing up this issue. The committee is well aware of the press coverage and the accusations of extravagant, if not unnecessary, spending on travel.

We have reduced the administrative resources for the Department of Energy this year. They have done their part. We will be watching this very closely. Also, we appreciate you working with the committee. We will be watching it very closely. I assure you of that.

Mr. HOKE. I do appreciate the chairman's offer and expression of support on that.

Mr. MYERS of Indiana. Thank you for drawing our attention to that.

Mr. HOKE. I know the gentleman from Kansas also wanted to add some thoughts on this.

Mr. TIAHRT. Mr. Chairman, will the gentleman yield?

Mr. HOKE. I yield to the gentleman from Kansas.

Mr. TIAHRT. I know we have some limited time. We do not have time to talk about how the Secretary averages more on a 3-day trip than the next person in the Cabinet averages on a 5-day trip. We really do not have time to talk about the time when the Secretary went to Boston and spent $337 per night in a hotel when the head of the EPA was just there subsequently and only spent $83 per night. We do not have time to talk about how the Secretary of the Department of Energy always travels with 7 or more, as an average, aides. We do not have time to talk about upgrading costs when she took a trip from Chicago to London along with members of her staff, and the upgrades alone cost $10,265 to the taxpayer.

What really is kind of bothering me about this is it is being charged not to just this budget but also to the future. We are borrowing this money. We are going to go out and borrow this money.

On July 4, I had a nephew born, Keenan Tiahrt. He was born July 4, 1995, and because of spending like this that goes to the debt, he is going to have to pay $197,000 in taxes just to pay the interest on the debt. So we are charging it to his account and to my children's account and to the next generation's account.

So it is a little bit difficult. We do not want to micromanage this. But I am not sure what we are going to have to do, whether we have to shame the Secretary of the Department of Energy to travel on the same budget the rest of us travel on. Why does she have to be excessive on the taxpayers' dollars?

I wanted to say I understand why you cannot offer this because of the way the rules are written, but I think that we should have some sanity in the way of traveling. I appreciate Chairman MYERS watching the Secretary.

I know that I had an amendment that I was going to offer. I am not going to offer it because he has done a good job of reducing the Administration's budget, forcing the Secretary of Energy to travel differently.

Mr. TIAHRT. Mr. Chairman, I move to strike the last word.

I just wanted to, before I yield to the gentleman from Ohio, I would just like to say I think Chairman MYERS has done a good job of taking one step forward in seeing we reduce the administrative budget by about approximately 20 percent.

All the corporations across the United States have reduced, and I think it has made them more efficient. If you talk to the corporations, you will find out that by downsizing, they have become more efficient.

So I think this is a good step in the right direction. That is why I am not offering my amendment. I understand the rules, you know, that we cannot micromanage and we cannot put this onto the appropriations bill. I think we are taking the right steps to downsize.

I have a bill that will eliminate the Department of Energy. I think we are in line towards even that goal. So we are taking the right steps as a Congress, and I just want to commend Chairman MYERS.

Mr. HOKE. Mr. Chairman, will the gentleman yield?

Mr. TIAHRT. I yield to the gentleman from Ohio.

Mr. HOKE. The fact is we have got a problem at the Department of Energy with travel, and it is not just a small problem, because what it does do is it takes money away from the accounts that safeguard our nuclear energy program, and it is spending it in a way that is very difficult, to say the least, to understand by Members of Congress who are charged with oversight of the Department of Energy.

I will give you one other example of this, because I think it is instructive, because I think it is important that our colleagues know that there is a real problem. It is a genuine problem, and it is a problem that we want the Department of Energy and the Secretary of that department to take seriously and to get under control and to do it now.

As you know, government officials are permitted to claim up to 100 percent of the maximum per diem in special or unusual circumstances. However, Secretary O'Leary has sought reimbursement for expenses in excess of the maximum per diem on 61 of the 71 occasions when she stayed at a hotel in the United States. She appears to believe that the special or unusual circumstances are the rule when she travels.

Now, she has transferred $400,000 from other program accounts to finance this travel. She has just returned from a trip to Paris, Florence, and Baku. She is currently in Russia for the 8th time, and she is soon going to be off to South Africa. It is enough. Enough is enough, Mr. Chairman, and we want this kind of extravagant travel to stop, and we want the money to be stopped being taken from the accounts and wasted on the travel account.

Mr. TIAHRT. Reclaiming my time, I wanted to note, I want you to know this goes beyond just the travel budget. We have instances pointed out by Vice President GORE in his National Performance Review that the Department of Energy, in their environmental management area, has missed 20 percent of their milestones, which means they are behind schedule. They are 40 percent inefficient. It could cost us $70 billion over the next 30 years. I think Vice President GORE's National Performance Review is clear we need to do something about the management practices at the Department of Energy.

Mr. MYERS of Indiana. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I hope the Secretary was watching C-SPAN in Russia and got the message firsthand.

We are about to finish here the committee's business this day. On behalf of the committee, I want to thank the professional staff here as well as our staff members for the patience and understanding and cooperation today.

Tomorrow will be chapter 2, and we expect to finish by noon tomorrow, noon someplace, anyway, but we have a few more amendments tomorrow, but with the understanding and cooperation, we can finish it. Be here at 10 o'clock sharp, tomorrow morning.

Mr. VOLKMER. Mr. Chairman, will the gentleman yield?

Mr. MYERS of Indiana. I yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Chairman, I was listening to the latest discussion by the gentleman from Ohio and the gentleman from Kansas.

Sitting here, it just struck me, if we are really talking about saving money, and I am not taking up with the Secretary of Energy, Secretary O'Leary, the amounts, or urge the amounts that have been set out. I am not taking up for her. But what was interesting for me to hear that we are running up the big deficit by Secretary O'Leary charging hotel rooms and airplane flights and everything else and just, well, an hour ago, everybody had a chance to save $18 million. I do not think Secretary O'Leary has spent $18 million.

Mr. MYERS of Indiana. She is not home yet.

Mr. VOLKMER. She has not spent $18 million. We could have saved $18 million. They did not want to save that.

Mr. MYERS of Indiana. Mr. Chairman, today's business for the committee is finished at this point.

Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. BARR) having assumed the chair, Mr. LAHOOD, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 1905), making appropriations for energy and water development for the fiscal year ending September 30, 1996, and for other purposes, had come to no resolution thereon.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 1977, DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 1996

Mr. SOLOMON, from the Committee on Rules, submitted a privileged report (Rept. No. 104–182) on the resolution (H. Res. 185) providing for consideration of the bill (H.R. 1977) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1996, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT TO CONGRESS CONCERNING EMIGRATION LAWS AND POLICIES OF ROMANIA—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 104–93)

The SPEAKER pro tempore (Mr. BARR) laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Ways and Means and ordered to be printed:

To the Congress of the United States:

On May 19, 1995, I determined and reported to the Congress that Romania is in full compliance with the freedom of emigration criteria of sections 402 and 409 of the Trade Act of 1974. This action allowed for the continuation of most-favored-nation (MFN) status for Romania and certain other activities without the requirement of a waiver.

As required by law, I am submitting an updated Report to Congress concerning emigration laws and policies of Romania. You will find that the report indicates continued Romanian compliance with U.S. and international standards in the area of emigration policy.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *July 11, 1995.*

□ 2030

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. BARR). Under the Speaker's announced policy of May 12, 1995, and under a previous order of the House, the following Members are recognized for 5 minutes each.

COMMUNICATION FROM THE CHAIRMAN OF THE COMMITTEE ON THE BUDGET REGARDING CURRENT LEVELS OF SPENDING AND REVENUES FOR FISCAL YEARS 1995–1999

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio [Mr. KASICH] is recognized for 5 minutes.

Mr. KASICH. Mr. Speaker, on behalf of the Committee on the Budget and pursuant to sections 302 and 311 of the Congressional Budget Act, I am submitting for printing in the CONGRESSIONAL RECORD an updated report on the current levels of on-budget spending and revenues for fiscal year 1995 and for the 5-year period fiscal year 1995 through fiscal year 1999.

This report is to be used in applying the fiscal year 1995 budget resolution (H. Con. Res. 218), for legislation having spending or revenue effects in fiscal years 1995 through 1999.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE BUDGET,
Washington, DC, July 10, 1995.

Hon. NEWT GINGRICH,
Speaker, U.S. House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: To facilitate application of sections 302 and 311 of the Congressional Budget Act, I am transmitting a status report on the current levels of on-budget spending and revenues for fiscal year 1995 and for the 5-year period fiscal year 1995 through fiscal year 1999.

The term "current level" refers to the amounts of spending and revenues estimated for each fiscal year based on laws enacted or awaiting the President's signature as of June 30, 1995.

The first table in the report compares the current level of budget authority, outlays, and revenues with the aggregate levels set by H. Con. Res. 218, the concurrent resolution on the budget for fiscal year 1995. This comparison is needed to implement section 311(a) of the Budget Act, which creates a point of order against measures that would breach the budget resolution's aggregate levels. The table does not show budget authority and outlays for years after fiscal year 1995 because appropriations for those years have not yet been considered.

The second table compares the current levels of budget authority, outlays, and new entitlement authority of each direct spending committee with the "section 602(a)" allocations for discretionary action made under H. Con. Res. 218 for fiscal year 1995 and for fiscal years 1995 through 1999. "Discretionary action" refers to legislation enacted after adoption of the budget resolution. This comparison is needed to implement section 302(f) of the Budget Act, which creates a point of order against measures that would breach the section 602(a) discretionary action allocation of new budget authority or entitlement authority for the committee that reported the measure. It is also needed to implement section 311(b), which exempts committees that comply with their allocations from the point of order under section 311(a). The section 602(a) allocations printed in the conference report on H. Con. Res. 218 (H. Rept. 103–490) were revised to reflect the changes in committee jurisdiction as specified in the Rules of the House of Representatives adopted on January 4, 1995.

The third table compares the current levels of discretionary appropriations for fiscal year 1995 with the revised "section 602(b)" suballocations of discretionary budget authority and outlays among Appropriations subcommittees. This comparison is also needed to implement section 302(f) of the Budget Act, since the point of order under that section also applies to measures that would breach the applicable section 602(b) suballocation. The revised section 602(b) suballocations were filed by the Appropriations Committee on September 21, 1994.

The aggregate appropriate levels and allocations reflect the adjustments required by section 25 of H. Con. Res. 218 relating to additional funding for the International Revenue Service compliance initiative.

Sincerely,

JOHN R. KASICH,
Chairman.

REPORT TO THE SPEAKER FROM THE COMMITTEE ON THE BUDGET STATUS OF THE FISCAL YEAR 1995 CONGRESSIONAL BUDGET ADOPTED IN H. CON. RES. 218—REFLECTING ACTION COMPLETED AS OF JUNE 30, 1995

[On-budget amounts, in millions of dollars]

	Fiscal year	
	1995	1995-1999
Appropriate Level (as set by H. Con. Res. 218):		
Budget authority	1,238,705	6,892,705
Outlays	1,217,605	6,767,805
Revenues	977,700	5,415,200
Current Level:		
Budget authority	1,233,103	(1)
Outlays	1,216,173	(1)
Revenues	978,218	5,383,557
Current Level over(+)/ under(−) Appropriate Level:		
Budget authority	−5,602	(1)
Outlays	−1,432	(1)
Revenues	518	−31,643

[1] Not applicable because annual appropriations Acts for Fiscal Years 1997 through 1999 will not be considered until future sessions of Congress.

BUDGET AUTHORITY

Enactment of measures providing more than $5.602 billion in new budget authority for FY 1995 (if not already included in the current level estimate) would cause FY 1995 budget authority to exceed the appropriate level set by H. Con. Res. 218.

OUTLAYS

Enactment of measures providing new budget or entitlement authority that would increase FY 1995 outlays by more than $1.432 billion (if not already included in the current level estimate) would cause FY 1995 outlays to exceed the appropriate level set by H. Con. Res. 218.

REVENUES

Enactment of any measures producing any net revenue loss of more than $518 million in FY 1995 (if not already included in the current level estimate) would cause FY 1995 revenues to fall below the appropriate level set by H. Con. Res. 218.

Enactment of any measure producing any net revenue loss for the period FY 1995 through FY 1999 (if not already included in the current level estimate) would cause revenues for that period to fall further below the appropriate level set by H. Con. Res. 218.

DIRECT SPENDING LEGISLATION—COMPARISON OF CURRENT LEVEL WITH COMMITTEE ALLOCATIONS PURSUANT TO BUDGET ACT SECTION 602(a)

[Fiscal years, in millions of dollars]

	1995		NEA	1995–99		NEA
	BA	Outlays		BA	Outlays	
HOUSE COMMITTEE						
Agriculture:						
Allocation	0	0	0	0	0	4,861
Current level	499	−155	0	497	−152	0
Difference	499	−155	0	497	−152	−4,861

DIRECT SPENDING LEGISLATION—COMPARISON OF CURRENT LEVEL WITH COMMITTEE ALLOCATIONS PURSUANT TO BUDGET ACT SECTION 602(a)—Continued

[Fiscal years, in millions of dollars]

	1995		NEA	1995–99		NEA
	BA	Outlays		BA	Outlays	
National Security:						
Allocation	0	0	0	0	0	0
Current level	42	37	0	221	210	82
Difference	42	37	0	221	210	82
Banking, Finance and Urban Affairs:						
Allocation	0	0	0	0	0	0
Current level	−25	−25	0	−75	−75	0
Difference	−25	−25	0	−75	−75	0
Economic and Educational Opportunities:						
Allocation	0	0	309	0	0	5,943
Current level	8	−13	297	104	81	1,674
Difference	8	−13	−12	104	81	−4,269
Commerce:						
Allocation	0	0	0	0	0	0
Current level	0	0	0	0	0	0
Difference	0	0	0	0	0	0
International Relations:						
Allocation	0	0	0	0	0	0
Current level	5	4	0	11	11	0
Difference	5	4	0	11	11	0
Government Reform and Oversight:						
Allocation	0	0	0	0	0	0
Current level	0	0	0	4	4	−3
Difference	0	0	0	4	4	−3
House Oversight:						
Allocation	0	0	0	0	0	0
Current level	0	0	0	0	0	0
Difference	0	0	0	0	0	0
Resources:						
Allocation	0	0	0	0	0	0
Current level	−8	−8	4	0	−2	4
Difference	−8	−8	4	0	−2	4
Judiciary:						
Allocation	0	0	0	0	0	0
Current level	−58	−58	0	−6	−6	0
Difference	−58	−58	0	−6	−6	0
Transportation and Infrastructure:						
location	2,161	0	0	64,741	0	0
Current level	2,161	0	0	4,375	0	0
Difference	0	0	0	−60,366	0	0
Science:						
Allocation	0	0	0	0	0	0
Current level	0	0	0	0	0	0
Difference	0	0	0	0	0	0
Small Business:						
Allocation	0	0	0	0	0	0
Current level	0	0	0	0	0	0
Difference	0	0	0	0	0	0
Veterans' Affairs:						
Allocation	0	0	340	0	0	5,743
Current level	2	2	334	3	3	1,888
Difference	2	2	−6	3	3	−3,855
Ways and Means:						
Allocation	0	0	0	0	0	214
Current level	44	−37	98	−3,674	−5,711	−3,655
Difference	44	−37	98	−3,674	−5,711	−3,869
Total Authorized:						
Allocation	2,161	0	649	64,741	0	16,761
Current level	2,670	−253	733	1,460	−5,637	−10
Difference	509	−253	84	−63,281	5,637	−16,771

DISCRETIONARY APPROPRIATIONS FOR FISCAL YEAR 1995—COMPARISON OF CURRENT LEVEL WITH SUBALLOCATIONS PURSUANT TO BUDGET ACT SECTION 602(b)

[In millions of dollars]

	Revised 602(b) Suballocations (September 21, 1994)				Current level				Difference			
	General purpose		Violent crime		General purpose		Violent crime		General purpose		Violent crime	
	Budget authority	Outlays	Budget authority	Outlays	Budget authority	Outlays	Budget authority	Outlays	Budget authority	Outlays	Budget authority	Outlays
Agriculture, Rural Development	13,397	13,945	0	0	13,396	13,945	0	0	−1	0	0	0
Commerce, Justice, State	24,031	24,247	2,345	667	23,821	24,205	2,345	667	−210	−42	0	0
Defense	243,432	250,515	0	0	241,405	249,636	0	0	−2,027	−879	0	0
District of Columbia	720	722	0	0	712	714	0	0	−8	−8	0	0
Energy & Water Development	20,493	20,888	0	0	20,293	20,784	0	0	−200	−104	0	0
Foreign Operations	13,785	13,735	0	0	13,492	13,717	0	0	−293	−18	0	0
Interior	13,521	13,916	0	0	13,516	13,915	0	0	−6	−2	0	0
Labor, HHS & Education	69,978	69,819	38	8	69,678	69,807	38	7	−300	−12	0	−1
Legislative Branch	2,368	2,380	0	0	2,367	2,380	0	0	−1	0	0	0
Military Construction	8,837	8,553	0	0	8,735	8,519	0	0	−102	−34	0	0
Transportation	13,704	36,513	0	0	13,622	36,511	0	0	−82	−2	0	0
Treasury-Postal Service	11,741	12,256	40	28	11,575	12,220	39	28	−166	−36	−1	0
VA-HUD-Independent Agencies	70,418	72,781	0	0	70,052	72,780	0	0	−366	−1	0	0
Reserve	2,311	6	0	0	0	0	0	0	−2,311	−6	0	0
Grand total	508,736	540,276	2,423	703	502,664	539,133	2,422	702	−6,072	−1,143	−1	−1

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 10, 1995.

Hon. JOHN KASICH,
Chairman, Committee on the Budget,
U.S. House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: Pursuant to section 308(b) and in aid of section 311 of the Congressional Budget Act, as amended, this letter and supporting detail provide an up-to-date tabulation of the on-budget current levels of new budget authority, estimated outlays, and estimated revenues for fiscal year 1995. These estimates are compared to the appropriate levels for those items contained in the 1995 Concurrent Resolution on the Budget (H. Con. Res. 218), and are current through June 30, 1995. A summary of this tabulation follows:

[In millions of dollars]

	House current level	Budget resolution (H. Con. Res. 218)	Current level +/− resolution
Budget authority	1,233,103	1,238,705	−5,602
Outlays	1,216,173	1,217,605	−1,432
Revenues:			
1995	978,218	977,700	518
1995–1999	5,383,557	5,415,200	−31,643

Since my last report, dated June 8, 1995, there has been no action to change the current level of budget authority, outlays or revenues.

Sincerely,

JUNE E. O'NEILL,
Director.

PARLIAMENTARIAN STATUS REPORT, 104TH CONGRESS, 1ST SESSION, HOUSE ON-BUDGET SUPPORTING DETAIL FOR FISCAL YEAR 1995 AS OF CLOSE OF BUSINESS JUNE 30, 1995

[In millions of dollars]

	Budget authority	Outlays	Revenues
ENACTED IN PREVIOUS SESSIONS			
Revenues	....	....	978,466
Permanents and other spending legislation	750,343	706,271	....
Appropriation legislation	738,096	757,783	....
Offsetting receipts	−250,027	−250,027	....
Total previously enacted	1,238,412	1,214,027	978,466
ENACTED THIS SESSION			
1995 Emergency Supplementals and Rescissions Act (P.L. 104–6)	−3,386	−1,008	....
Self-Employed Health Insurance Act (P.L. 104–7)	....	....	−248
Total enacted this session	−3,386	−1,008	−248
ENTITLEMENTS AND MANDATORIES			
Budget resolution baseline estimates of appropriated entitlements and other mandatory programs not yet enacted	−1,923	3,154	....
Total Current Level [1]	1,233,103	1,216,173	978,218
Total Budget Resolution	1,238,705	1,217,605	977,700
Amount remaining:			
Under Budget Resolution	5,602	1,432	....
Over Budget Resolution	....	....	518

[1] In accordance with the Budget Enforcement Act, the total does not include $3,905 million in budget authority and $7,442 million in outlays for funding of emergencies that have been designed as such by the President and the Congress, and $841 million in budget authority and $917 million in outlays for emergencies that would be available only upon an official budget request from the President designating the entire amount requested as an emergency requirement.

VALUE AND IMPORTANCE OF THE PEACE CORPS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. FARR] is recognized for 5 minutes.

Mr. FARR. Mr. Speaker, I rise today with my colleagues who will be on the floor a little bit later tonight to discuss the value and the importance of the Peace Corps and how the corps is affected by this year's budget.

As with most other Federal programs, the Peace Corps is facing cuts. The current budget for the Peace Corps is $231 million. Let me repeat that. The current budget for the Peace Corps is $231 million. That is a very little amount of money in light of what we have been discussing here today in relevance to the history that the Peace Corps has played for this country.

But today the House only appropriated $224 million, a cut of $7 million from the current budget. This cut is going to have a profound effect on the Peace Corps operations. It will cut at least 500 volunteers who could be serving, who would be sent overseas next year. There are approximately 6,500 currently serving this country in countries all over the world. Given the enormous contributions just a few of the volunteers can provide, this means major loss of aid for thousands of needy people.

I am a former Peace Corps volunteer, now serving in Congress. There are six of us in this House, and we are very proud of that service. We remember the vital programs that served the countries that we were invited by those countries to serve in, Programs will be ended entirely in many countries, several countries, in addition to the programs in Nigeria and the Cook Islands, which are already scheduled to be closed.

What my colleagues and I are here to discuss today is the valuable and effective Peace Corps experience, that experience that is shown everywhere around the world, and how we will need to guarantee a stable budget for the Peace Corps in the future, not to go on a roller coaster road that this Congress is starting on.

Let me give you just a few examples of what makes the Peace Corps so unique and effective. Then I will yield time to my colleagues who have also served in the Peace Corps.

In Lesotho, wells and rain catchment systems built by volunteers provide drinking water for 32,000 people. In Benin, volunteers trained 400 people from 1,700 villages in parasite eradication, and worm cases in those areas fell by some 64 percent. In Ghana, volunteers created locally staffed vaccination clinics in 20 villages, which today serve nearly 50,000 people.

Now, I would like to remind the viewers and my other colleagues who will be here in a minute, and particularly Mr. SHAYS, who served in the Peace Corps in Fiji and has been a strong supporter of the Peace Corps, and Mr. WARD, who served in Gambia as a Peace Corps volunteer.

Cuts in the Peace Corps are going to hurt States with large populations, and I represent one of those, California, with 32 million people. Our State has more volunteers serving than any other State in the Union, 827 this year alone. A recent study by the University of Maryland found that 85 percent of the public support maintaining or increasing Peace Corps's budget.

The Peace Corps consumes only $1.50 of every $10,000 spent by the Federal Government. These dollars are well and cost-effectively spent. In Kazakhstan, volunteers are teaching English to 3,000 primary, secondary, and university students; in Armenia the first independent radio station in the country was established with help from the volunteers; in Cameroon, volunteers helped to develop a textbook for teaching AIDS prevention. The result is there are 5,000 students learning how to prevent AIDS. In Ghana, over 1 million seedlings are planted each year to help volunteers helping in the prevention of erosion.

Mr. Speaker, let me conclude by just saying that the Peace Corps has had over 30 years of bipartisan support. It has earned this support because everyone knows that the Peace Corps works. Just ask the villager who learned how to irrigate his farm, or the hundreds of people who did not die from parasites because their doctors were taught how to prevent them, or the thousands of students around the world that now speak English because of the Peace Corps teaching them English.

We need to continue this valuable and cost-effective program. Let us not let our budget cutting frenzy cut merely for the sake of cutting. The Peace Corps is probably one of America's proudest symbols of how we, living in this affluent country, can reach out and help countries around the world. I cannot think of a more cost-effective program in the Federal Government. I would urge my colleagues to reconsider the cuts that were made.

COST EFFECTIVENESS OF THE PEACE CORPS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut [Mr. SHAYS] is recognized for 5 minutes.

Mr. SHAYS. Mr. Speaker, I just want to be here tonight to say that the Peace Corps changed my life in an extraordinary way, as it did my wife, but I get my greatest satisfaction in thinking about what volunteers have done through the course of the past 30 years to change the lives of so many people around the world.

Joining with my colleague to just express the tremendous satisfaction I have in knowing that Peace Corps volunteers are not those fancy consultants, high priced consultants going to countries, staying for a month or two and writing a report, the thing about a Peace Corps volunteer is that they are actually living in the communities. They are riding the buses that the indigenous people ride, they are living in the same communities, in the huts that they live in, eating the food and speaking their language.

While I am not here to criticize the 4-percent reduction in cuts to the Peace Corps, given the other cuts that are taking place throughout our budget, I am here to just caution my colleagues to make sure that we recognize that the Peace Corps is one of the most cost-effective organizations that you could possibly have. The real fact is that you cannot ask for an organization that has done more to help people in Third World countries than this organization begun by President Kennedy and continued by Presidents of both parties.

At this time I would like to yield to the gentleman from California [Mr. FARR] and just thank him for his willingness to speak out on this issue.

Mr. FARR. Mr. Speaker, I thank the gentleman very much.

Mr. Speaker, we wanted to show tonight that there is a bipartisan support for the Peace Corps, that this is not an issue that has ever been just a one party effort.

I would just caution my colleagues in the House that as the world grows smaller and as we need to have more effort to sort of hypereducate the world population, there is not a more cost effective way of doing that than allowing young Americans and old alike, because there is no limit on serving in the Peace Corps, to be able to volunteer. They get paid, we got paid a small amount when we were in the Peace Corps, a stipend.

Mr. SHAYS. Reclaiming my time, it was not quite the minimum wage, but it sure met our needs.

I notice our colleague from Kentucky, and we have very little time left. I would love to yield time to my colleague.

Mr. WARD. Mr. Speaker, I appreciate the gentleman yielding that time. I have a 5-minute opportunity coming up, and we can continue this discussion, because I think it is important to recognize and to emphasize that this is a bipartisan effort.

Mr. Speaker, there are six former Peace Corps volunteers who serve in the House of Representatives, and it is evenly divided, three Democrats and three Republicans. I think that speaks to the fact that all sorts of folks have made the commitment, have been willing to spend the time and go far afield from where they grew up to give a little back and to learn a lot, because one thing that I often tell people about my time in the Peace Corps is that I benefited far more than the people I was there helping.

Mr. SHAYS. Mr. Speaker, I just would say to my colleague, I think about this experience, remembering being in a Fijian hut and seeing a picture of President Kennedy, and how much the Third World reached out to this President who was reaching out to the Third World, and thinking about a great African leader who visited President Kennedy, and President Kennedy, who was sensitive to the culture of the African community, instead of inviting him into the East Room or the Green Room or the Blue Room, invited him up into his own personal living quarters. And volunteers know the symbolism and the significance of when we were visiting a neighbor, if they would actually bring us into the most personal part of their own home, it was a great honor. That electrified the Third World, that he had shown such respect to a great African leader by inviting him into his own personal quarters.

Becoming sensitive to the concerns and the ways that people live in other countries was just a definite part of this whole Peace Corps experience. Candidly, this has brought a tremendous ability for me to interact with people of all income levels and all different social economic circumstances, all educational levels, and realize that behind that income level or that education is an extraordinarily real person that I am about to interact with.

IMPORTANCE OF THE PEACE CORPS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kentucky [Mr. WARD] is recognized for 5 minutes.

Mr. WARD. Mr. Speaker, I yield to the gentleman from California.

Mr. FARR. I thank the gentleman from Kentucky.

Mr. Speaker, I was commenting that one of the unique feelings we all had was that each of us had the ability to live in a minority in another land and learn another language and learn another culture, and essentially be able to really understand what it is like to be outside of our own culture and our own values, because I think in order to educate people and bring them into changing behavior patterns that may have been in existence for hundreds of years, behavior patterns that might not have been good health, sanitary conditions, or nutritional habits, that you really have to be a part of them in order to bring that about. That learning that other culture, that other language, and the language I learned in Spanish, they say with every language comes a second soul.

Mr. SHAYS. I notice that the gentleman from New York [Mr. SOLOMON] is here, who has been so active in support of the veterans and what they have done. In Fiji, Mr. SOLOMON, the impact that Americans had during World War II had such an incredible result to the people of Fiji, because this was a British colony and yet the Americans went and just comfortably lived with the Fijians where they lived and went in the same buses they did.

In fact, there is a wonderful story of an American soldier being driven by an Indian in Fiji, because there are a lot of Indians around the world as we know, and when he came to this British hotel, the Indian was not allowed in. And the American soldier said the hell with that, and just brought his Indian taxicab driver in to stay with him. But this kind of interaction, this one on one on the street, living as they live, has a tremendous benefit to helping us understand their culture, but also having them appreciate Americans. So it is not just the Peace Corps, but it was our American soldiers who were there before us.

Mr. WARD. Mr. Speaker, reclaiming my time for a moment, that was one of the things that was most striking to me, as an American in Gambia, West Africa, which was also a former British colony. And when I would meet folks, meet Gambians and begin to talk to them, I would find there was in the country a certain negative feeling about Europeans, as you might expect, in a former colony.

But I found that the minute I said I was a Peace Corps volunteer, a Peace Corps, the "s" was pronounced, although I was pronouncing the "s" before I got in it, the minute I said that though I found that barriers fell, just as the gentleman from Connecticut says. I found that people became more open, more willing to listen.

Then as the gentleman from California said, when I began to speak Wolloff, which is the language of the Ollif people, there may be 1.5 million people in Western Africa who speak Wolloff, when I began to speak the language, certainly not with the ability to discuss nuclear physics, but with an ability to go through a number of greetings and to ask after family and friends and, to get to the point, we discussed about the total familiarity of saying "Summa harit, sa harit," "My house is your house."

□ 2045

That was the phrase that really tended to bring people together and to bond us, as humans, as people who populate the Earth. I think that there is no better way for America to be represented. That is why I was very discouraged when I heard proposals which have since been dropped but proposals that would have made the Peace Corps part of the State Department. I feel very strongly that the Peace Corps needs to remain an independent entity so that there is no question of its allegiance, of its goals, of its motives.

Mr. SHAYS. When I was in the Peace Corps, one experience you are talking about, we were visiting with a whole number of villagers. We were landing on the moon. And I can remember the aura that my villagers had with the fact that Americans were on the moon and the pride that I had as an American. But to be able to sit with them in their environment and to talk about what we were actually doing was quite an experience for me.

Mr. WARD. Of course, as I would remind the gentleman, I was in high school that year. Sorry. But that is the kind of reaction that you got. When I was up country one time to go to a little tiny store, literally 200 miles in the interior of Africa and there is a picture of Mohammed Ali, another great American who is probably the most famous person in the world, along with President Kennedy. And I said that he was from my home town. And there were a lot of questions, they wanted to discuss it. That is what we really get with the Peace Corps.

Mr. SHAYS. Mr. Speaker, I thank the gentleman for yielding to me.

GOVERNMENT 101

The SPEAKER pro tempore (Mr. BARR). Under a previous order of the House, the gentleman from Georgia [Mr. KINGSTON] is recognized for 5 minutes.

Mr. KINGSTON. Mr. Speaker, a good friend of mine Dave Reed from Savannah, Georgia sent me an article which he entitled Democracy and Government 101. It was an article written by Cecil Hodges, also from Savannah, Georgia who is a friend of mine and pastor of Bible Baptist.

He talks in the article about the size of government and basically what happens when government gets too big. I am going to read parts of this article, Mr. Speaker:

> When government is strong, especially when it is centralized, it poses a real threat to its citizens who are liable to many abuses. Every democracy faces the tendency of government demanding more and more taxes because some of its citizens are seeking ever-increasing benefits of the state.

I thought this was a very telling article. It goes on to say that a great portion of the manpower in the country becomes employed in governmental services. This becomes a problem because when the government seeks to establish a strong bureaucracy, it has to support itself. And of course, we know in this Congress that the way it supports itself is by requiring the citizens through confiscatory policies to pay more and more taxes.

Then it says: All people living in a democratic society must be aware that the more government provides, the more they take from the producing citizens, and the more they control and exercise over the people. And in fact the article goes on, Dr. Hodges points out to us that eventually it enslaves its people.

This is a problem that we are faced with in our Government today. This is one of the things that I am so proud of, the current freshman class, the 73 new Republican freshmen who have come in here to cut down on the size of Government because they cannot do that without cutting down on the bureaucracy.

Just to give you an idea, most people always say, I hate to see the land all going away. The size of the Federal Government, Mr. Speaker, I know you probably will be shocked to learn; the Federal Government owns, listen to this number, 726,686,000 acres of land in the United States of America. The Federal Government, not mentioning the State and local government, owns 32 percent of the land in America.

Now, what does that mean? Of course it needs the taxes to support the services required on that land, people who have to take care of it. What does it also mean? It means 32 percent of the land cannot be owned by the private sector. Therefore, to pay for the upkeep of that land and all the other governmental services, we are only working with 68 percent. But actually it is less than 68 percent when you take out the state and the locally owned land.

Two hundred seventy million acres is managed by the Bureau of Land Management. This is the size, Mr. Speaker, of California, Oregon, Washington, and Arizona. And about half of the 270 million acres is severely restricted for environmental reasons, and the public cannot even go on it.

You may remember the story last year of a Boy Scout troop that was hiking in the wilderness area and one 12-year-old got lost on the trail. And the Boy Scout troop started looking for him and could not find him. Finally they called out all the correct authorities, and he was located by helicopter. They found the 12-year-old boy by helicopter. They spotted him and then they called, I believe it was the Park Service, Mr. Speaker. They said: We need permission to land because this is a motorized vehicle, and this is a public land that restricts motorized vehicles. And sure enough the jar-headed bureaucrats said no, you cannot do it.

How would you like to be that 12-year-old. How would you like to be the parents of that 12-year-old? They told the kid to wait where he was, that they would try to locate him on foot. Eventually they figured out they could not find him on foot. They did give permission for the helicopter to land. But what an absurd notion that we have. But that is what happens when the Government owns too many things, when the Government gets too big for practical and common sense.

Mr. Speaker, I bring that up just to further illustrate the story of what Dave Reed called, Dr. Hodges' article, Government and Democracy 101.

Government gets too big, our own freedoms pay the price.

Mr. Speaker, I include for the RECORD the article to which I referred.

GOVERNMENT FOR THE PEOPLE

(By Cecil Hodges)

> When government is strong, especially when it is centralized, it poses a real threat to its citizens, who are liable to many abuses.
>
> Every democracy faces the tendency of government demanding more and more taxes because some of its citizens seek ever-increasing benefits from the State.
>
> For three hundred years a nation was governed by Judges. They brought chaos to this nation. The people demanded a king. They were warned to be prepared for dangers inherent in government under sinful men. Three hazards to a strong centralized authority were given.
>
> They were warned that a king would conscript their sons for military service. He would appoint leaders and engage workers to render civil service to him and his organization of bureaucrats.
>
> Thus a great portion of the manpower of the country would be employed in governmental service. This has been one of the problems of every society when government seeks to establish a strong, self-serving bureaucratic organization.
>
> They were also warned that in order to pay for an ever-increasing bureaucratic organization, they would pay more and more taxes.
>
> All people living in a democratic society must be aware that the more government provides, the more they take from producing citizens and the more control they exercise over the people.
>
> Whenever the State increases its control over the nation's economy, enlarging its staff of officials and workers, and exacts an ever-growing portion of the nation's wealth through taxation, it becomes a monster which no longer serves the people but enslaves them.
>
> The great privileges of a free people must be safeguarded by every citizen's commitment to and participation in government that maintains law and order, administers economic justice, prevents oppression of the weak, and resists the temptation to serve its own ends.
>
> All Americans should ask themselves, "Is the government here for us or are we here for the government?" Our government should be of the people and for the people.

TRIBUTE TO SHARON PORTMAN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey [Mr. PALLONE] is recognized for 5 minutes.

Mr. PALLONE. Mr. Speaker, I rise today to pay tribute to a community activist whose passing has left a void in the lives of our many friends at the New Jersey shore and in the lives of many other people who did not know her personally but who have been touched in one way or another by her good work.

Sharon Portman of Ocean Township, NJ died last week at the age of 54 after a two-year battle with cancer. She was one of the most caring members of our community in Monmouth County. Sharon received much praise and honor for her many years of kind and generous contributions to both the Jewish community and the community at large.

Back in September of 1993, on the occasion of the historic signing of the peace accord between Israel and the Palestinians on the White House lawn, I brought Sharon as my guest. She had dedicated so much of her time and energy to working for a strong and secure Israel. She believed passionately that one day Israel would achieve peace with her Arab neighbors, and she recognized that the best way to accomplish this goal was to build a State of Israel that remained true to the values of Jewish teaching and a democratic political system process, while maintaining the ability to resist military invasion and terrorism.

When the PLO leadership finally decided to give up its relentless hostility against Israel and work for mutual recognition and peace, the view that Sharon Portman had always supported and worked for was finally vindicated.

Sharon Portman was a lot of things to a lot of people. She was a staunch environmentalist and advocate for the disadvantaged, a women's rights advocate, a friend of animals, and a businesswoman, as well as a wife and mother. I knew her best because of her love of politics. She exemplified for me that motto that we often see on bumper stickers that says, think globally, act locally.

She commented incessantly on international and national issues, but she understood that the best way she could influence public policy was by working in New Jersey for candidates and causes in which she believed. But Sharon did not just work herself. She had an incredible ability to get others involved.

At her funeral service last Sunday, I was talking about politics with a group of people and one person said that he had little interest in running for office. If Sharon were present, she would have talked to that man and encouraged him to participate for the future of his local community, for the State and for the country. She would know how to get him involved.

Sharon was above all a friend to me and everyone else that she could help in difficult times. She suffered for 2 years from a brain tumor, and she refused to give up. She wanted to help others who were afflicted by the same disorder.

Last summer my father-in-law was diagnosed with brain cancer, and every time I spoke to Sharon she asked me about him and wanted to help. She suggested literature, hospitals, methods of treatment, and just general information on how our family could deal with the problem and all this while she suffered so much herself.

Sharon Portman will be remembered by me and others for a long time because she served as such a wonderful example of what helping others is all about.

THE FIRST 6 MONTHS OF THE 104TH CONGRESS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin [Mr. NEUMANN] is recognized for 5 minutes.

Mr. NEUMANN. Mr. Speaker, I stayed late tonight to tell the American people that we have come a long way in the first 6 months of this new Congress. We came here realizing that this Nation was $4.8 trillion in debt, $19,000 for every man, woman, and child in the United States of America. For a family of five like mine, the Nation faces a $95,000 debt. In our district, the income, the average income is about $32,000 a year and to do nothing but pay the interest on that Federal debt, the families in my district will be saddled with the payment of over $6,000 a year, $6,000 a year out of a $32,000 average household income going to do nothing but pay the interest on the Federal debt.

We came here, the 104th Congress, realizing that something had to be done about it. And after 6 months, I am happy to tell you that something has started. We have a long way to go but we have taken a lot of steps in the right direction.

First, we have passed a 7-year balanced budget plan that at least is going to stop the continued growth of this debt that seems to be endless when we start looking at it and how big the numbers are. Although we have passed that, we have done some other things that I think are equally significant. We have talked about budgets that go even further than the 7-year plan.

Out of my office we introduced a plan that would have balanced the budget in 5 years, and for the first time out here in Washington we started talking about paying off the debt. Our plan included a repayment plan so that in a 30-year period of time we could have repaid the entire Federal debt.

It did a third thing as we produced this plan on the floor of the House about 3 months ago, our first 6 months in office. For the first time we did not use the Social Security surplus as part of the computations to balance the budget. That is a significant step forward for this country.

Our plan would have balanced the budget in 5 years, paid off the debt in 30 years, and not used the Social Security trust fund to do it. It is important the American people understand that the Social Security system every year collects more money in taxes than what it pays back out to our senior citizens in benefits and those extra monies that are collected should be set aside and our budget plan would have done just that.

In addition to the budget plans that were debated here, we also had introduced by my good friend from New York a plan that actually would have balanced the budget in 5 years. The specific cuts were laid out item for item that would have gotten us to a balanced budget in a 5-year period of time. This bill is still pending in the House of Representatives and still may pass during this term of Congress. It is my hope and my desire that we see our way clear to actually passing those cuts that get us to a balanced budget in 5 years instead of 7.

The best news of all is that the people that are here right now in this Congress realize that Government cannot keep doing for people what people ought to be doing for themselves. It is with that note that I would conclude this evening. We have got a great start, folks. We have a long ways to go. I am happy to tell you that the first 6 months have been successful, and I look forward to continued successes here in this Congress.

DRUG INTERDICTION STRATEGY

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Maryland [Mr. EHRLICH] is recognized for 30 minutes as the designee of the majority leader.

Mr. EHRLICH. Mr. Speaker, I yield to the gentleman from New York [Mr. SOLOMON].

NOVEMBER'S ELECTION

Mr. SOLOMON. Mr. Speaker, I am here tonight basically to commend something that has happened in this House, and that was the election that took place back in November, because you know it brought 73 new Republican faces to this Congress that have literally changed this Congress.

I can recall last year, the year before, the year before that, when very few of us even talked about a balanced budget. The real problem facing this Nation being the national deficit that is literally turning this country into a sea of red ink and is threatening our children and our grandchildren.

□ 2100

Mr. Speaker, when I look at what has happened now, when we brought the budgets to the floor of this Congress, all the alternatives this year were with a balanced budget. Even the liberals were forced to come on this floor and offer a balanced budget. Their decimated the defense budget, it ruined our foreign policy. Nevertheless, every vote that was taken was on a balanced budget. Now we even have the President of the United States talking about doing it sometime into the next century, which is not satisfactory.

Mr. Speaker, what we were debating was this. Here is a 1,700-page document that is a legislative encyclopedia containing more than 500 specific spending reform proposals, as the gentleman from Wisconsin, MARK NEUMANN, has spoken to earlier. It contains more than $900 billion in budget savings over 5 years, itemized program by program in a format that is so easily transformed into other individual bills or amendments.

The bill is not intended to be used in total but as a resource document that any Member of this Congress can use. Whether it is page 47 or page 1,600, the work has been done for each of the 435 Members of Congress that want to live up to their rhetoric, and that is to bring about a balanced budget and stop this irresponsible spending by this Congress.

Mr. Speaker, I will not go on any further, but the bill, of course, does something that needs to be done. I recall back in 1985 when we had something called a Gramm-Rudman bill that was supposed to balance the budget in 5 years. Of course, the bill was well-intentioned, but the truth of the matter is that after a couple of elections, and the changing faces of the Congress, Congress decided they could not live up to the Gramm-Rudman piece of legislation, and consequently, we abandoned it entirely, and so did we abandon any kind of fiscal responsibility.

Mr. Speaker, I would offer this again to every single Member of the Congress, and hope that as we debate these appropriation bills one by one over the next 5 weeks, that Members will take advantage of what has been done here in this legislation, use it, and let us bring about some fiscal sanity to this Congress.

Again, Mr. Speaker, I want to commend the freshman Republican class for what they have done. We are really going to do it this time, and it is so exciting. The American people really ought to be excited about it. I commend all of the Members for their great work.

Mr. EHRLICH. Mr. Speaker, on behalf of the freshman class, the chairman of the Committee on Rules is an honorary Member of the freshman class. His enthusiasm, his leadership, has pulled a lot of us through, not just during the campaign, but certainly during the first 6 months of our term here in the 104th Congress. We love him and we look to him for leadership and we thank him.

Mr. Speaker, I yield to the gentleman from Kansas.

Mr. TIAHRT. Mr. Speaker, I thank the gentleman from Maryland for yielding to me. Mr. Speaker, I came to Washington because I was concerned about the future for my children. I have three children: Jessica, who is 14; John, who is 10; and Lucas, 7. They are very important to me. I wanted to preserve for them the same opportunity I had while growing up in this free society. I wanted to preserve a future for them. However, when I look at the budget and our mounting Federal debt, and the obligations we have for the trust fund, like the Social Security trust fund, I get very concerned.

There are some schools of thought that think that this country may in fact be bankrupt, that our obligations actually exceed our assets, including all the ground that we have accumulated and highways and buildings. Mr. Speaker, I was very concerned about the future, and I think many others of us are. We want to see that we balance the budget.

As the gentleman from Wisconsin, Mr. NEUMANN, has pointed out, we have made great strides to get the budget balanced and restore faith in our economy. However, it is also important that we do other things like preserve Medicare. In order to achieve those goals we are going to have to look with a close eye to the details of what has been going on inside Congress.

I have headed up, with a group of others and over 50 cosponsors, a bill that will eliminate the Department of Energy as a Cabinet-level position. We are not doing this just to put some type of a goal to achieve, we are doing this because we are concerned about the future. When I got home before July 4 for the in-district work period, I landed about 9:30 at Wichita, Kansas. I got out of the airplane, walked out of Midcontinental International Airport, my necktie blew over my shoulder, I knew I was in Kansas. At home I saw out in the wheat fields farmers that were combining at 10:30 at night, trying to get a few more bushels before the next rainstorm came through.

I thought about how hard they are working for their dollars, and that over half of their money goes to the government, by the time you add up State and local and Federal taxes, and taxes upon taxes, about half their income. I thought about the factory workers who work at Boeing, where I used to work, that works a little overtime so their kids can have something extra.

I saw my brother-in-law who had been working some overtime, he works at Boeing. he showed me his overtime check. Over half the money was going over to taxes for the Federal Government, and how he is struggling to provide a little extra for his kids, and most of it is going to the government because we have so much we are spending.

I think about the single mother who is working a second shift trying to provide a future for her children. That is what balancing the budget is about. It is about that single mother who is working so hard, trying to preserve a future, just like I am for my children. She is trying to preserve a future for hers.

We are all off on the task of trying to balance the budget, and in doing that we are going to have to eliminate agencies, to quote Fred Smith from the Competitive Enterprise Institute. He said, "If we cannot eliminate the Department of Energy as a Cabinet-level position, we have no hope of downsizing government." If we have no hope of downsizing government, we have no hope to balance the budget and preserve the future for our kids.

Mr. Speaker, in looking at the details of the Department of Energy, I found out that we have been spending billions of dollars trying to create jobs, but actually we have failed at it. The government has not done a very good job. In fact, there is $293 million that has gone to eight large corporations.

In spending this money for them we have in effect given them corporate welfare. We have required that welfare reform comes to those who are truly in need, and they are going to have to work for their benefits and do a lot of things through block grants. Now it is time I think that we look at corporate welfare.

I just have eight big beneficiaries here that I have uncovered that have been receiving corporate welfare. Some, I think, are notable because they are spending less and less money on research and development and yet they are spending government money whenever possible.

One is Citicorp. They are a $250 billion corporation according to 94 revenues. Their profits were $3.4 billion. Yet, they required $10 million from the government to help them with research.

They are taking scientists off of their payroll and funding them with our tax dollars, even when they have $3.4 billion in revenues. Another company that I would like to talk about was IBM, $64.1 billion in revenues, and $3.0 billion in profits in 1994. Yet over the last 4 years, we have spent $58 million helping them with research. I think it is time we get a handle on this. All this by the way goes through the Department of Energy. That is how I uncovered it.

What we have been trying to do is create jobs and encourage the private sector. They say "We have some success stories." They do not really name the factories or the individuals that have been successful. They usually talk about their CRDAs, cooperative research and development agreements, with companies. They have about 1,400 of those. How many jobs have they actually created?

Here is one they think is a success story. A guy up in Fairbanks, Alaska has come up with a self-composting toilet. We gave him $90,000, and we thought it was a great idea. We gave him that money in 1990. Since then he has sold 12, for $10,000 each. They declared that a success story.

We have another gentleman that used to work for the Los Alamos lab, but he had a good idea, so he went home and he wanted to create this software package that he could use as kind of electronic mail. He was going to sell it to a Japanese company.

Then he found out that his biggest competitor was the United States Government. The very people that he worked with in Los Alamos wanted to give away this software program to the same Japanese company that he was trying to sell it to. It is going to cost him $600,000 because we are giving away this money.

We have a lot of problems in the Department of Energy, and I think it is time we start uncovering these. If we look at the way it has been run, as many parts of government, it cannot withstand the scrutiny of the public eye. It is time for us to look. It is time for us to work to balance the budget, to get rid of the waste, and preserve the future for our children.

Mr. EHRLICH. Mr. Speaker, I congratulate all my colleagues for the wonderful job they have done in bringing the true message about the budget and the fiscal problems we have in this country today to the American people.

Mr. Speaker, I rise today to engage my colleague, the gentleman from New Hampshire [Mr. ZELIFF], the honorable chair of the Subcommittee on National Security of the Committee on Government Reform and Oversight, in a colloquy.

Mr. Chairman, I know we have a lot of things to talk about tonight. I know we have a lot of numbers, we have graphs to show the American public, but before we get into that I would like to thank you as your vice chairman on our subcommittee for the leadership you have shown with respect to what is in my mind the most important issue confronting this country today, the drug epidemic that drives so many of our social problems in our country.

Mr. Speaker, I know the gentleman brought some graphs and he has some opening remarks. What the gentleman does not know and what I had actually not planned on was a group of kids came to my office today from the Hickey school in Baltimore County, Maryland, troubled kids. These kids had made a wrong decision at some point in their life but now they are turning their lives around. They came to tell me about the fact they had chosen the right way. This was what in past days would have been referred to as a reform school, but we have privatized it and the vendor there is doing a good job.

Just out of curiosity, I asked every kid, there must have been a dozen kids in my office, "How many of you abused drugs?" Every one raised their hands. I asked them "How many thought that drug abuse had led you down the wrong path?" which ended them up at the Hickey school, and every one raised their hands. What a timely incident in my office today to be the predicate to our colloquy here tonight.

I really want to thank you for talking about this issue. We talked about so many different issues on this floor in the course of our campaigns, the first 6 months of the 104th Congress: drug abuse, prison construction, welfare reform, the budget deficit. However, in some way or another, every major issue in this country today, every major issue, is in some very direct way related to the drug epidemic that has hit this country, particularly in the last 15 years. I know you have some charts you want to share with us tonight. Mr. Speaker, I yield to the gentleman from New Hampshire.

Mr. ZELIFF. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I thank the gentleman for his leadership as a vice chair, and particularly his leadership within the committee that has made this such an important priority. We are dealing with Waco, a bunch of other things, but the most important thing we can possibly deal with is the drug war for America.

If we combine drugs and crime into one statistic, it has to be the most overriding issue of national importance to our national security. It is our hope within our committee that we are able to put this on the front burner again and start getting everybody to take a leadership role. I think it is absolutely vital to the future of our country and to our kids.

You just reminded me of my trip to Framingham, MA, to a women's prison, the first time I have ever been inside a prison. That is pretty scary when you hear the closing of those doors.

We visited, Dr. Lee Brown, the President's drug czar, and myself, visited with some of those ladies in there, in their probably late thirties that were in for 7 or 8 or 9 times. They were in involving drug abuse. That is basically where they started going wrong, finally they have hit the bottom and are trying desperately to put their lives back together.

It is a tragic set of events, and what is happening right now, drug use is up in all age categories and drastically up. As these charts will show, you can just see, 17- to 18-year-olds, 15- to 16-year-olds, 13- to 14-years-olds, each category, and particularly I just broke it up into various administrations, Reagan, Bush, and Clinton.

We can just see the difference here where when we stop talking about leadership in drugs, we stop as a country talking about this in our living rooms, in the rotary clubs, in the chambers of commerce, and every day talking about just say no, like Nancy Reagan talked about in her leadership, when we stop doing it, we stop doing interdiction. You just see as we stopped on the chart of interdiction, we stopped putting resources into interdiction, drug use starts to go up. It coincided with our national policies.

We are desperately trying very hard to get the President to join us in this war. I hope he will. We talked to BOB DOLE in the Senate and NEWT GINGRICH in the House. What we are hoping to do is through the efforts of our committee, get a nonpartisan across-the-board support group going where we take leadership roles.

We individually go across the States, across the country, and we go to our TV stations, our radio stations, give public service announcements. Let us start bringing this issue out front. It is very, very serious. I know the gentleman has some thoughts that he would like to add to that.

Mr. EHRLICH. Mr. Speaker, harking back to our visit from the former First Lady, Nancy Reagan, and her testimony before our committee, was it not interesting when she said she never thought "Just say no" would take off the way it did. I know you recall and we all recall Nancy Reagan just offhand, at some stop on her tour, on her anti-drug tour, talked about "Just say no, it is wrong." It was funny, in a very cynical sense, because she became the target of some people in this country who like to make fun of "Just say no."

Mr. ZELIFF. Right, but she also became a role model for those people.

Mr. EHRLICH. Absolutely, absolutely, because there are some people in this country who had just given up. Nancy Reagan never said the entire strategy consists of "Just say no." She never did. But for some, really on the cynical side of politics, she became a target of abuse. How unfortunate that a part of our total strategy must be "Just say no," because there is a moral context to this whole argument. That is what we are trying to bring back as well.

Mr. ZELIFF. Mr. Speaker, I would ask the gentleman, if I can, do we not need to have the leadership of just saying no, role models, along with treatment programs, along with interdiction programs? Do we not need to combine all of these pieces together to have an effective package that will confront drug use in America?

Mr. EHRLICH. It is demand, it is treatment, it is source country, and it is interdiction zone, the transit zone. I know we are going to talk about that, those four elements more in the future. We have talked about this a great deal. As I have said earlier, I really commend your leadership on this, because there is no more important issue facing parents in this country today.

Like you, when I go to schools, particularly junior high schools and senior high schools, I search for something, anything, I can say to leave a message, to maybe just impact one kid. We have taken a trip recently down South, down to Florida, and talked to DEA, talked to Customs, talked to the Coast Guard, talked to Navy.

Mr. ZELIFF. People in the front lines.

Mr. EHRLICH. Right on the front lines, people truly putting themselves in harm's way for our country.

□ 2115

One thing that I feel very positive about as a result of our trip and something that I intend to talk about a lot, on many occasions during my visits to schools, is the relationship between young American men and women being put in harm's way, many miles from home, and the demand for illegal substances in this country.

I really trotted this out recently at a high school in my district. I talked to the kids. Their eyes became wider when I said, you know, there's a relationship between a demand for cocaine at this school in Baltimore County, MD and deaths of American DEA agents in South America. There was a disconnect there. They never really thought about that relationship. But in our unending campaign to strike a responsive chord with the youth of this country in trying to get this message across, I think we have to be innovative. One way certainly is to draw that direct parallel, that direct line, between the demand for drugs in this country, which some people just laugh off, saying we cannot win the war, and the fact that we put DEA agents, FBI agents, CIA agents and Coast Guard personnel and Navy personnel and all these fine young men and women that we met in the course of our trip in harm's way. Making that connection in the minds of young people I think is certainly one very positive way we can get the message across.

Mr. ZELIFF. Another interesting thing, we visited on Saturday afternoon down there the folks that served on board the USS *Mellon*, the Coast Guard cutter that had a successful pickup on the high seas of some 5,000 pounds of marijuana. Each bale is $88,000. Just picture how that can influence people, how that can influence basic infrastructure in terms of the money value, how that can destroy economies, how that can destroy countries, how that can destroy people.

What it is doing to us is just a quiet cancer day by day. The amount of drugs that are coming up through Puerto Rico, because once it gets into Puerto Rico, it is just like a State, it goes straight into the United States. The amount of drugs coming out of Colombia and going right into Mexico, being dropped off in the middle of Mexico and then just transported across the border into the United States. Yes, demand is important.

Here is yesterday's Washington Post: U.S. Falling Far Short in Drug War, Global Criminal Groups Expand Production, Markets.

> The United States and other developed countries are falling further behind in the war on drugs as criminal organizations in Latin America and Asia have increased production and become more sophisticated in distributing cocaine and heroin, according to recent U.S. intelligence reports.

We have got to wake up. If we don't we are going to be in serious trouble.

Mr. EHRLICH. I have some more recent statistics to back up, in fact, that story. If our purpose is to awaken the American public, hopefully colloquies like this will assist us in that goal. A 1994 University of Michigan study showed that 33 percent of all 8th graders, 40 percent of all 10th graders, and 50 percent of all 12th graders, high school seniors, have used some type of illicit drug.

Marijuana. Among eighth graders, twice as many have experimented with marijuana in 1993 as compared to 1991. Daily use by high school seniors in this country is up by 50 percent. The drug abuse warning network showed an 8 percent increase in drug-related emergency room visits in 1991 due to overdoses, suicide attempts, and drug-related diseases.

The numbers go on and on. I have many, many numbers here. Approximately 70 percent of the illegal drugs coming into our country today enter by land, in cargo trucks, in cars over the Mexican border, an issue we have talked about a great deal. Over half of all cocaine, 20 percent of all heroin, and 60 to 80 percent of foreign-grown marijuana available in the United States pass through or originates in Mexico. The demand in this country is so great.

We have talked a lot about putting more resources into the transit zone. The Clinton administration, as you know, has taken resources away from transit, put it into source country. The source country is part of the strategy, but the fact is the demand in this country drives this problem.

Mr. ZELIFF. Let me just add a couple of things to your very important comments.

Our third and fourth drug hearings which were held on June 27 and June 28 had testimony from the head of the DEA, head of U.S. Customs, head of the Coast Guard, President Clinton's interdiction coordinator and GAO investigators who revealed they have just completed, and this is GAO, a major study of the Clinton administration's drug strategy in source countries.

Here is what we learned:

The head of the DEA, Administrator Constantine, admitted that our exploding drug use in this country which was falling until 3 years ago and the international drug cartels should be seen as the No. 1 national security threat. He ranked it above ballistic missiles for the impact on our Nation. Yet he admitted that it is not given that ranking by his own administration's National Security Council. He spoke from the heart and called this threat a time bomb.

What he is saying is that if you put crime and drugs together, the National Security Council should look at this threat as being the No. 1 issue facing our country.

The President's interdiction coordinator, Admiral Kramek, admitted that his office which is supposed to coordinate the Nation's whole drug interdiction effort has just 6 people and that the whole interdiction effort has been cut for 3 straight years. We got admissions from DEA, the President's interdiction coordinator and the head of U.S. Customs that Clinton's drug strategy is not fulfilling expectations.

I just hope and pray that we can all get this thing together and start putting this on the front burner.

Most important of all was the GAO bombshell dropped in the hearing. This is available to anybody that would like to have a copy. After investigating the drug strategy in source countries, including extensive interviews in Colombia and Mexico, they released a study that shows that the Clinton antidrug strategy in the source countries is very badly managed, poorly coordinated among agencies, and holds a low priority in key embassies including the United States embassy in Mexico, even though 70 percent of the cocaine coming into the United States comes in through Mexico, and that the Clinton administration's drug strategy in the source countries has serious accountability problems.

What we need to do together in a nonpartisan way, we need to declare war on this effort. We need to pool resources that are needed. Yes, we do have budget problems, but we need to place priorities. We need to beef up the interdiction effort. We need to declare this a No. 1 issue. We need to go after it in a serious way and win that war.

Mr. EHRLICH. Very well put. The numbers are indeed compelling. There is one last point I would like to make. You have cited the numbers. Our strategy obviously needs to change. But people always come up to me, particularly parents, and say, "What can I do?" We have talked about this a great deal in our private conversations. There is one thing that every single man and woman in this country can do, particularly those who enjoy leadership positions, not just Members of Congress, not just the President, not just Members of State legislatures, but Cub Scout troop leaders, Lions Club presidents, little league coaches. If anyone in this country is in a position of authority, I believe it is incumbent upon that person to renew our commitment to a coherent drug strategy in this country.

That means when you have a stage, whether you are addressing your Lions Club, your little league team, your neighbors, it does not matter the forum, venue is irrelevant. When you have the opportunity to talk, particularly to kids, we need to get the message across. It is incumbent upon every adult in this country to help our kids make the right decision. Because we all know, it only takes one night, one single occasion, to make the wrong decision and you can be dead.

Mr. ZELIFF. Right.

Mr. EHRLICH. We have wonderful parents in this country and most parents do a wonderful job. We have peer pressure in this country on the other side. But the fact is parents and coaches and politicians cannot go with kids when they go out on Friday night and they are with their friends. That is really the troublesome time. That is the time that these kids need to make the right decision. One bad decision out of a million could end them up on the wrong side of the street.

Mr. ZELIFF. I just want to add, again to all of the things you have just said very ably, I was with Dan Golden on Monday with astronaut David Lowe, and I also had Rick Seerfoss, the astronaut on a previous mission that was up in New Hampshire, we went and in 2½ days visited with 7500 kids. You talk about a 38-year-old colonel with 3 kids, an Eagle Scout, a role model that can talk about math and science and doing your homework and reaching out and doing the things that we should be doing in an exciting way and how exciting life is in general and talking about his travels in space and some of the products that we have been able as a by-product of the space program, the space station, and all of this.

I asked Dan Golden on Monday morning if he would be willing to have the astronauts join us in our effort in terms of role models so that we can start talking about this in space as the next mission goes up. I hope that will be successful. We have just got to be able to reach out. We ought to think about doing drug testing for Members of Congress in terms of a volunteer effort, and then staffs, and then potentially maybe every person that gets a Government paycheck, because what is the big deal if we really want to do this, we have got to declare war on it and we have got to be prepared to win the war. We have got to just say that, hey, we have a choice. We can lose everything we have got in terms of the next generation, we can lose our country, we can lose, for example, in Puerto Rico, in those source countries, in Mexico, but the bottom line is we have got to start speaking out so that we curb demand.

Mr. EHRLICH. Roles models become role models because they set an example. I look forward to working with you and the members of our subcommittee in a bipartisan manner to reenergize the leadership in this society. As I said, not just the political leadership, the leadership in all respects as we again reemphasize the message that just saying no is the right thing. It is the right thing for your future.

Mr. ZELIFF. I publicly invite, on behalf of the committee, President Clinton, NEWT GINGRICH, and BOB DOLE to join us at the very top as we will support their efforts at the very top across this country as we fan out to every single State in this country, and hopefully we can get it back on the front burner.

Mr. EHRLICH. There is no more important thing that we are going to accomplish in the 104th Congress than to reenergize the people with respect to this issue. I thank the gentleman again for his leadership.

THE REVOLUTIONARY 104TH CONGRESS

The SPEAKER pro tempore (Mr. BARR). Under the Speaker's announced policy of May 12, 1995, the gentleman from Pennsylvania [Mr. FOX] is recognized for 30 minutes as the designee of the majority leader.

Mr. FOX of Pennsylvania. Mr. Speaker, I appreciate the opportunity to have some of my colleagues join me tonight.

I first wanted to thank Chairman ZELIFF and Vice Chairman EHRLICH for the outstanding job that they have conducted, not only tonight the colloquy but for the ongoing work they have done in the war against drugs. We look forward to working with them on legislative matters that are coming up, not only their hearings but the other work that follows. We congratulate them for their efforts.

IN MEMORIAM SISTER JUDITH CLEARY

Mr. Speaker, before beginning or colloquy tonight with the gentlewoman from Washington [Mrs. SMITH] and the gentleman from Minnesota [Mr. GUTKNECHT], I did want to discuss just for a moment if I could a special part of the order tonight dealing with someone who was close to me and I think close to many people in my area, the Delaware Valley. This week just suddenly a tragic death, Sister Judith Cleary of the St. Joseph Order in Philadelphia who suddenly died.

She was someone who was 50 years old, did many accomplishments in her lifetime, many more than those who may live twice her age. She was a great humanitarian, a great teacher, dean of students at Bishop Conwell Egan, a great friend to all.

What was great about Sister Judith Cleary and I think that her life is instructive to all of us who are looking for role models and heroes and heroines, Sister Judith Cleary would take those students, making sure no one was left behind and no one left out, she would look to each person to find that which was special about them and to inspire them to greatness. I think that is really what made her life and her accomplishments a special milestone in the St. Joseph Convent and the Bishop Conwell Egan School and, for that matter, in the life of those who are in Philadelphia and the Delaware Valley.

She was really the spirit of the St. Joseph Convent where she made sure that everything got organized and done in a real humanitarian way. The world will not be the same without her but it is richer for her contributions. While God will need another angel in heaven to help in His works, we will continue remembering Sister Judith Cleary by making sure that what we do in our life for many of us whose lives she touched, to try to live life a little bit closer to others who need us, to do those things that have to be done that could be forgotten but are often remembered because we took the time to do them.

I hope that this one great American is someone that others who hear about her and who have seen her will try to carry on her great work. We will always miss her. We love her.

At this time, I would ask the gentleman from Minnesota [Mr. GUTKNECHT] and the gentlewoman from Washington [Mrs. SMITH] to join us in this special continued presentation dealing with the 104th Congress march to revolution for change, a revolution to be more accountable, a revolution to spend less of the public's money and return more to the American people.

☐ 2130

In that regard I would ask Congressman GUTKNECHT to give us an update where he thinks we are in the first 6 months of this revolution as a new entering freshman; how he thinks we have done to date and where he sees us going from this point.

Mr. GUTKNECHT. Representative FOX, I want to thank you for reserving this time tonight to speak to other Members who are watching in their offices, and Americans who may be watching, to talk a little bit about what has happened in the last six months. It really has been an exciting and historic time to be here in Washington.

And I think it is important. As I flew home for the 4th of July recess, I said to myself, how lucky we are to be a part of this important point in history. And more importantly, how much has really been accomplished, if you look back in just six short months.

In fact, I remember when some of our critics and cynics were saying in October, "Well, the Republicans have this Contract With America, but they will never be able to pass it." And then as we went through the contract on the first day, as you will remember, as Representative SMITH will remember, our very first official act in this congress was to pass the Shays Act, H.R. 1, which was to make certain that Congress had to play by the same laws and the same rules as everybody else. So that process began.

We also cut the size of Congress itself. We eliminated three full committees. We eliminated 25 subcommittees. We cut our committee staff by a third. We banned proxy voting, which had become so customary, where Members would not even show up for committee meetings anymore. Now we have to actually show up to cast our vote.

Those meetings are open to the public so people can see what actually happens. And we also required a three-fifths vote to pass any kind of a tax increase. That all happened on the very first day. Then we went through the Contract. The Fiscal Responsibility Act, Take Back Our Streets Act, Personal Responsibility Act, the Family Reenforcement Act, the American Dream Restoration Act, right on down through the list.

We passed all of those bills with one exception, and that was term limits, and the Speaker has promised that

that will be H.R. 1 in the next Congress. And I would not hesitate to mention that we got 85 percent of our Members on this side of the aisle to vote for it, while approximately 85 percent of the people on the other side voted against it. But even with that, the American people I think ultimately will prevail.

We have made tremendous progress in beginning. As Representative NEUMANN said so well, when we came here the budget was a serious concern to all of us, the legacy that we are going to leave for our kids. And now as the appropriations bills come to the floor, we are seeing bill after bill that is actually meeting the mark and we are moving on that path toward a balanced budget. I think things are happening.

Let me just mention one other thing. I serve on the Washington, DC, subcommittee and when I volunteered to serve on that subcommittee, I did not realize how serious the problems were here in Washington, DC. The more I learned, the more I wished I had volunteered for a different subcommittee.x

But even there, I think there is reason for hope and there is progress being made. We have appointed a special oversight board to watch over the District, and largely, I have to give a tremendous amount of credit to our chairman on the subcommittee, TOM DAVIS, from just across the river in Virginia, who has been a tremendous leader and negotiator. But we are on the right path, I think, even in the city of Washington to getting the city's fiscal house in order.

More important than even that, it was announced just last week that the Mayor and the chairman of the school board now have come together and they are talking about privatizing at least 11 of the most troubled schools here in Washington, DC, and if that is not enough, they are even going to experiment with vouchers here in Washington, DC.

Mr. FOX of Pennsylvania. Whoever thought that we would have such a revolution right here in the Capital?

Mr. GUTKNECHT. It is amazing. I am just amazed, and I would like to see their voucher plan expanded to nonpublic, private, religious-related schools. That is not going to be the case, at least for the first phase of this.

But as I said, back in the Midwest we have an expression. When people say that will never happen, one of the ways of saying that is "When pigs fly." Believe it or not, here in Washington we are seeing vouchers and experimentation with privatizing the schools. So I am not going to criticize them for not going full scale with a voucher plan, because when pigs fly, I do not think we should criticize them for not staying up very long. So, we are making tremendous progress.

Mr. FOX of Pennsylvania. I think what you are talking about is what the freshman class is working on, and the gentlewoman from Washington, LINDA SMITH, has been a leader on that, when it comes to our Federal agencies looking at reducing, privatizing, consolidating and eliminating. I know that Congresswoman SMITH from Washington State was a leader in her own state in making sure that the taxpayers got their money's worth and no tax increase got through as long as she was around.

I would like to get her impression on where we are in the reform movement now after the first 6 months.

Mrs. SMITH of Washington. This was a person who this time last year said I was not going to run for Congress because Congress never did anything. And then I was a write-in candidate, and in about seven weeks I was here.

I have to say I was wrong. This is a new Congress. Those first votes were the most exciting things I have ever done; cutting this place by a third. We did not just say we were going to do it. And starting to sell a building. How exciting. We are going to cut back the staff, and there is not going to be an office if they try to expand it again.

This is a new place and it is absolutely exciting. One thing that we have done that I like a lot, too, is that we are actually going after the size of the budget in tangible ways. We have had amendment after amendment, on top of the appropriations bills already coming out lower, that are trimming them back or peeling back each layer of bureaucracy, looking underneath it to see if it is necessary.

And even today we took out millions of unnecessary bureaucracy that just did not need to be there. We passed an amendment today that said we will not build sewers and water systems in Egypt. Egypt and Saudi Arabia, where the money was going to, have their own money.

So we are just marching on, but I think there is something that we have not done and something that keeps getting shuffled around, because it is so difficult, and that is clean house. We still have things that are old ways, because they have always gone that way, that we have to fix, and one of those is any fund-raising in Washington, DC.

There is a little bit of trouble when you have to explain that to people and they say, "Why don't you do that at home?" A lot of good people are elected here. They come here, often running against, like one man in our state had to run against a woman called the "PAC Queen." She was an incumbent. She raised millions from PACs. So he ran against her, ended up with a debt, came here and has to raise money all the time to try to pay off his debt. Good man; bad system. We need to go to and change that system.

Mr. FOX of Pennsylvania. Do you not have legislation to try to address some of these reforms?

Mrs. SMITH of Washington. Yes, there is a package coming out with a group of people, freshmen and old-timers too, that will literally stop fundraising in Washington, DC. It also abolishes all gifts and all trips.

You know, good people do things because the system is the way it is. In our State of Washington in 1992, we passed a package of legislation in an initiative that literally changed Washington, and we just got the 1994 reports out. When we abolished all these big groups' ability to give a lot of money, it dropped the cost of campaigns down by over a third and it increased individual involvement.

We literally had an explosion of grassroots activity. And people would have never thought they could run because they were not running against these big groups. If they could get a grassroots group together, then they could run.

Mr. FOX of Pennsylvania. Do not you think these kinds of reforms that Congressman GUTKNECHT is talking about, and the ones you are talking about, are going to restore the confidence of the public in the institution so that more people will want to run? We will have the term limits, so we will have the infusion of new ideas and we will be more accountable back home about spending less?

Mrs. SMITH of Washington. Yes.

Mr. FOX of Pennsylvania. Do you see that already happening in your district?

Mrs. SMITH of Washington. Yes, and when people see that they are not going to have to be running a campaign against every big special interest group in the Nation, it kind of encourages them to get involved.

And I am encouraged because I believe that there is enough guts in this area now to make this big change. But can you just imagine just running your election in your district, not having to worry about tobacco money from the South or Jane Fonda or actors from California?

I had to run against all the PAC's in the Nation, including most of the money from outside my district. But I want to tell you, you can do it. My race was so short, but it was mostly people, and it shows you can do it.

Mr. FOX of Pennsylvania. The power of the individuals over the special interests.

Mrs. SMITH of Washington. That is right. I was an incumbent in our State. I had an 88 percent name ID, and so that gave me a help. But what if you were just some good person that wanted to run and you were going to have to run against an incumbent called the "PAC Queen," would you have much of a chance?

I think when we change the selection system to where you put the elections back in the States, you take good people and allow them to run good, clean campaigns, and you do not put them here, having to work, I consider it like swimming around in a polluted pond. It would be a lot more fun to swim in a clean structure. And we put good people here under a system that just needs to be changed.

Mr. FOX of Pennsylvania. It is certainly true. One of the items that I would like to get the Congressman from Minnesota to talk about.

Mr. KINGSTON. If the gentleman would yield.

Mr. FOX of Pennsylvania. Before you could, Congressman KINGSTON, reglatory reform was an area that I wanted to touch on.

Mr. KINGSTON. I just wanted one second. I never would have accused the gentlewoman from Washington [Mrs. SMITH] of being concerned about Jane Fonda. And I was curious about that, because I see her pawing the ground each night in the House Chamber looking for somebody to debate. So, I just could not let that go by, and I yield back.

Mr. FOX of Pennsylvania. Congressman KINGSTON, thank you. I would like you to join us in this colloquy. We do want to see the continuation, I believe, of what Congressman GUTKNECHT has been working on; that is, the regulatory reform.

Many of the businesses and individuals in this country have been stifled in their individual effort to try to start a business, to in fact have the quality of life they want, because regulations and taxation have been so heavy that they cannot move forward. And the problem has been the Federal Government.

GIL, if you could take a moment to reflect on where you think we are on that war against over-regulation, burdensome rules, and over-taxation, I am sure the American people would like to hear, and my colleagues, where you think we are on that issue.

Mr. GUTKNECHT. I thank the gentleman from Pennsylvania. I would just, in follow-up to what Representative SMITH was talking about, I think the key component of what is happening here in Washington today is something, it is a line from Representative PAT ROBERTS, he said, "The status quo doesn't live here anymore."

And we were talking about this earlier today and one of our colleagues used the example of Cortez, when he came to the New World, he had his people burn their ships because there was no turning back. And hopefully we have come to a new world here in Washington. And there is going to be no turning back.

In fact, the Vikings when they would invade the foreign country, Vikings are more popular in the neighborhood where I come from, they would do the same thing. They would burn their ships so they understood that there was no turning back and there was only one way they were going to leave and that was victorious.

And the battles that we have in front of us, whether it be on regulatory reform, ethics reform, campaign finance reform, downsizing the Federal Government, bringing real sanity to the way the Federal Government spends our tax dollars, and more importantly our grandchildren's tax dollars, I think we have to keep that reformist attitude that there is no turning back. We cannot go back. There is only one way that we can leave.

I want to share a couple of things, because we talked about the six-month anniversary that we celebrated last week of coming here as the new Members of the 104th Congress. But we also celebrated a couple of special holidays last week.

One was, of course, Independence Day, the Fourth of July. But most Americans do not know that we celebrated on July 9th Independence from Government Day. Most people know that we work for the Federal and State government for a long, long time, but what most people do not know is if you add the total cost of regulations, regulatory reform has got to be on our list and certainly is, but the average American will work this year through Sunday, July 9th to pay all the costs of Federal, State, and local taxes and regulations.

Mrs. SMITH of Washington. Will the gentleman yield? Average?

Mr. GUTKNECHT. July 9th. The average American will work this year until July 9th to pay all of the costs of government.

Mr. FOX of Pennsylvania. Regulations and taxes and all fees?

Mr. GUTKNECHT. Regulations and taxes. The average American, and this is according to some research done, and most of the numbers I think originally came from CBO, the average American will work 190 days this year to pay his or her share of government.

That is 13 days to pay interest on the national debt, 15 days to pay for national defense, 29 days to pay for Social Security and Medicare, 36 days to pay for all other Federal programs, 42 days to pay for Federal regulations, and 55 days to pay for State and local taxes and other local regulations. The remaining 175 days, they get to work for themselves.

Mr. KINGSTON. Will the gentleman yield?

Mr. GUTKNECHT. I would be happy to yield to the gentleman from Georgia.

Mr. KINGSTON. You know, one of the tax statistics we do hear over and over again is that in the 1950's a middle-class family paid as a percentage of their income tax on the Federal level 2 percent. In 1972, that was 16 percent. In 1995, on an average, that is 24 percent.

□ 2145

So you can imagine the middle-class tax squeeze. The Secretary of the Treasury says often that we are not gaining. Of course, we are not. Any gains we make the Federal Government takes, and they are just taking it right off the plate.

Mr. FOX of Pennsylvania. I thank the gentleman from Georgia. We appreciate your leadership, being an honorary freshman and keeping your enthusiasm for the positive things we do.

Mr. KINGSTON. Does that mean I get paid what Rush Limbaugh is getting paid? He is an honorary freshman.

Mr. FOX of Pennsylvania. I do not think so. You would not want the money anyhow.

The gentleman from Florida [Mr. FOLEY] has been a leader on another reform, and I would like him to join our colloquy, if he would, on the idea of having a lockbox to make sure when we have savings achieved they actually go to deficit reduction. I think you should share with the colleagues what you did this morning on the Government Reform and Oversight Committee and joint committee with Rules, and if you would share that with us now, we would appreciate hearing about it.

Mr. FOLEY. I thank the gentleman from Pennsylvania. You have been a leader of the freshmen, and I really enjoy working with you.

The thing that is so exciting, as the gentleman from Minnesota [Mr. GUTKNECHT] and the gentlewoman from Washington [Mrs. SMITH] and the gentleman from Georgia [Mr. KINGSTON] mentioned, is the fact that the new Congress is about change. It is about proving to the American public we did not come to Washington to be a part of a system. We came from the communities. We love our communities. We want to go back to our communities. More importantly, we want to go back to our communities with the respect that we asked them to send us here in Washington.

The lockbox will provide us the opportunity for monies we save in the budget; if members of the freshman class or Members of Congress in general find $5 million or $10 million, the concept basically is to put that money in a reserve account, a lockbox, to pay off the Federal debt and deficit of this country.

For too long, if somebody found a savings, if somebody found $10 million, and around here that is small money, I am sad to say to the American public, and $10 million to me is a fortune, so much money I cannot even envision, but up here they talk about billions as if it is, Do not worry about it, America, that is not a lot of money. The lockbox provides us an opportunity to put that money aside, take it away from the hands of the politicians and say you cannot have access to that $25 million, $50 million, $100 million, $1 billion. It is in a lockbox for deficit reduction.

Now, we testified before the Committee on Rules, because they are finally getting serious about it. For the longest time, the Committee on Rules said, no, we cannot use a lockbox; that takes away the power of the appropriators, that really ruins the system of Congress being able to negotiate, you know, you hear all the terms around here, negotiate, satisfy, placate, work it out, conference. The American public did not send us here for happy games, Here, you take care of me this week, I will take care of you next week.

Mrs. SMITH of Washington. If the gentleman will yield, I think I get this, it just simply means when my amendment passed today, when we got rid of money going to Saudi Arabia and Egypt, I could have put that against the deficit.

Mr. FOLEY. Absolutely; absolutely.

Mrs. SMITH of Washington. Instead of maybe somewhere along the line somebody says, "Oh, she saved $500,000, let's use it over there." We have to do this. I totally agree.

Mr. FOLEY. A greater tragedy was the other day in the Science Committee I saved $25 million on one project. I did not commit it to anything else. I said that money should be saved.

The next day, a colleague on the other side of the aisle found that $25 million, fully committed it to another program. So after my efforts to save $25 million, they were all in vain. Today, you had that excellent amendment on the foreign operations budget. That money represents savings for the American public for the first time if we, in fact, have a lockbox, and LINDA SMITH can say to her constituents, "I saved millions of dollars, and it is tucked away, no longer available for pork projects."

Mrs. SMITH of Washington. If the gentleman will yield, see, I do not look at it as savings to people right now. I look at it and look at my five grandchildren and I say it is not charging that to your future, because we are spending $200 billion a year, and it is like the charge card with my grandchildren's picture on it. We are charging away their future, and so for me it is just like every time I find something, I want to make sure that it goes to reducing the deficit, the debt, and establishes a future for my grandkids. They are just tiny little tykes, but I do not know how we can face them after a while if we do not do something serious now.

Mr. FOLEY. It is important you mention that. But you have to think of your families. The wonderful wife of the gentleman from Pennsylvania, Judy, is home in Pennsylvania talking to the constituents that sent her husband here. She has to explain the work he is doing while we are in session. We come to Washington.

We get caught up in that beltway mentality; this charge card, this card we vote with, is the largest credit card in the world, unlimited expenditures.

We have got to be able to once and for all explain to our constituents we are serious about saving their money.

I suggested the other day on a radio show maybe some Members of Congress need to go on Oprah Winfrey, have a therapist there, and talk about working it out.

They are so hungry and hell bent on spending money that does not belong to them.

If this was my Master Card or your Visa——

Mrs. SMITH of Washington. I would be maxed out. They would not let me charge more.

Mr. FOLEY. You would be very cautious about charging on that account.

Mrs. SMITH of Washington. No, the difference is they would tap me somewhere.

Mr. FOLEY. This is phony.

Mr. KINGSTON. I had an interesting experience the other day. A friend of mine from Savannah, where I am from, asked me, he has a son up here, he said, "Would you mind taking an engagement ring up to them?" They did not want to mail a diamond ring at the Post Office. I could not imagine why. They did not want to trust this family heirloom, and they wanted me to take it up there, so I said I would be glad to take it up tomorrow. So I picked up the ring, and I started, and, you know, in the airplane, I started thinking, you know, I have got a $5,000 or $10,000 diamond ring here in my briefcase. I pulled the briefcase up closer to my chest, put a bear hug around it. I started getting a little nervous. I went through the Charlotte airport on the way. I did not go to the bathroom. I did not want to part with my briefcase and the diamond ring. I got real nervous about it. I came up here, and I think within 30 minutes of being here, I voted, as you said, on $2 billion or $3 billion of appropriations. I thought how silly I am, getting worked up and paranoid, about this diamond ring, and yet with that same voting card, I have got one, too, readily vote for billions and billions of appropriations, and as the gentlewoman from Washington [Mrs. SMITH] was saying about that $25 million from Egypt or your amendment on $25 million, what we have been doing is we cut it, but we really just non-earmark it. We free it up, and then the bill goes to the Senate. Your $25 million is sitting there, and some Senator says, "Ah-hah, I have got a new water project in my district. I am going to get that $25 million," and if for some reason it goes through the Senate and that $25 million is setting there, then it comes back to the House, and then the conference committee, they see that $25 million, and you can bet every single dollar ends up being earmarked. So these hours and hours we have debating, cutting the budget, we are not really cutting the budget. We are just not earmarking it.

Mr. FOX of Pennsylvania, I think the fact is that we are all saying, we are talking about accountability, whether it is lockbox legislation, which the gentleman from Florida [Mr. FOLEY] and the gentlewomen from Washington [Mrs. SMITH] and the gentleman from Georgia [Mr. KINGSTON] were talking about, which is going to force the Congress to spend less and make sure we worry about our children and grandchildren and to make sure we actually spend money on things that help people, not more bureaucrats, more bureaucracies. That is what it comes down to. I call on, if I can, the gentleman from Minnesota [Mr. GUTKNECHT] to talk about leading by example, because, frankly, if we do not continue the same kind of verve and spirit this next 6 months and the next year and a half in this Congress that we have in the first 6 months, then the public will not be supporting us with the new reforms we are going for.

Mr. GUTKNECHT. I thank the gentleman. I would just share, you know, in any football game, there are 60 minutes. If you look in the box scores, it will show time of possession, and you either are on offense or you are on defense. The games are almost always won by teams on offense most of the time.

The good news about this freshman class, and we are happy to have the gentleman from Georgia [Mr. KINGSTON] as an honorary member, is we are staying on offense, whether we are talking about campaign finance reform, lockbox reform, budget reform, and we are leading by example. As you say, we actually cut our own franking privileges by one-third in this Congress.

We cut total legislative appropriations by $155 million, and again, you know, in a place where we talk about billions, that may not seem like a lot of money, but if we would reduce the entire Federal budget by that same percentage point, we would pay off the debt or we would get to a zero deficit within about 5 years rather than 7 years, and let me also say that we are contributing more to our pensions. We are reducing congressional pensions. I have a bill, and I hope you will all help me get it passed, which will limit pension accrual for Members of Congress to 12 years, which will mean the end of $100,000 pensions. It will mean the maximum pension a Member could collect would be $27,000. The good news about the 104th Congress and particularly the freshman class, and I thank you again for reserving this time, is we are staying on offense. We are pressing reforms, and I think as long as we do that, I think we are going to win. We are going to get more points on the board. I think that is the key. I think that is what the American people want.

Mr. KINGSTON. If the gentleman will yield, since I am only an honorary member, I wanted to say this, what I say about the freshman class, when I go back home, on a bumper sticker, the freshman class is a group of normal people who do not want to be President, they do not want to be in the U.S. Senate, they do not want to be here forever, but some of that may happen. But for the time being, they want this, and that is to cut the budget and go home, and you are a class of business people, of homemakers, of lawyers, of teachers, of entrepreneurs, you have all kinds of different people there, but, again, you want less regulation, less government, less micromanagement out of Washington, more personal freedom. I think because of that that is why you are on the offense, because the American people are with you 100 percent.

Mr. FOX of Pennsylvania. One of the other items we are embracing, I think, is the idea of Corrections Day, whether it is the gentleman from Florida [Mr. FOLEY], yourself, the gentlewoman from Washington [Mrs. SMITH], the gentleman from Minnesota [Mr. GUTKNECHT], we are trying to make sure we get through those special reforms to make this institution be more accountable, now that we are working closely with the Speaker, NEWT GINGRICH, to make sure that when we have noncontroversial items, we can bypass the committee system so we get the changes the American people want, not get it to the next Congress or next year.

Mr. FOLEY. I think it is appropriate at this point to talk about leadership of this Chamber. You know, past Congresses, many freshman Members came to Congress with the idea of reform, and they were told by the leadership, "Listen, sit in the back row, be quiet, you will get a chance to participate, wait 4, 5, 6 years, you, too, may be vice chairman of a committee. Don't rock the boat."

What I found in the leadership here with the gentleman from Georgia [Mr. GINGRICH], the gentleman from Texas [Mr. DELAY], the gentleman from Texas [Mr. ARMEY], is the fact they said, "Listen, you were sent here by your constituents. You are equal to us. We are not any higher than you are in the electoral process. We are all Members of the House of Representatives. We each have constituents to answer for. Give it your best shot." I have never once been called down to the office, as happened in the past, for a scolding or a lecture or being told, "You know, Mark, you are going out on a limb. You are embarrassing the Congress," or, you know, "That is not appropriate, you are a freshman, let a senior Member lead." I have got to tell you, I am gratified in this process that I have been able, as a freshman, a new Member coming here from the very first day to speak on the floor, I have been given the opportunity to be in the chair, as I know the gentleman from Pennsylvania [Mr. FOX] has, and I believe the others have, that is a unique opportunity to participate fully in this democracy.

So I have to tip my hat to our leadership for giving us the chance to participate fully.

Mr. KINGSTON. I would only say if they had not given you the chance, you would have made it or taken it.

Mrs. SMITH of Washington. I just want to make a comment on what the gentleman from Florida [Mr. FOLEY] said, not only is this freshman class anxious but we are able to fully join. I did not even think about being a freshman. In fact, you do not remember who freshman are.

Have you ever seen a time in history, I am chairing a subcommittee. Now, that is not a major job, but it used to take you 20 years to get there. I do not think there is any woman on the other side, as well as most men, who have had an opportunity to chair unless they have 10, 20 years under their belt. I had 10–20 minutes under my belt and was chairing the Subcommittee on Taxation and Finance for Small Business. They have taken the energies and the talents of all Members, taken a look at them, whether they have been here 1 minute, 2 years or 20 years, and they said, "Let us use them for the people instead of let us let them wait until they have become ripe," and that is just different, and I appreciate the leadership, too, and the other freshman, because this freshman class has just been fantastic at working together. It has been competitive, but competitive for the people, and the American people are really winning by this.

Mr. FOX of Pennsylvania. I think all the Members who joined me for this special colloquy. I hope we can continue a report back to the American people on a regular basis.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. YATES (at the request of Mr. GEPHARDT), on Tuesday, July 11, on account of illness in the family.

Miss COLLINS of Michigan (at the request of Mr. GEPHARDT), between 2 p.m. and 4:15 p.m. today, on account of medical reasons.

Mr. FOGLIETTA (at the request of Mr. GEPHARDT), on Monday, July 10, on account of medical reasons.

Ms. MCKINNEY (at the request of Mr. GEPHARDT) for today, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. PALLONE) to revise and extend their remarks and include extraneous material:)

Mr. FARR, for 5 minutes, today.
Mr. WARD, for 5 minutes, today.
Mr. PALLONE, for 5 minutes, today.
Mr. TOWNS, for 5 minutes, today.
Mr. OWENS, for 5 minutes, today.
Ms. KAPTUR, for 5 minutes, today.

(The following Members (at the request of Mr. FOX of Pennsylvania) to revise and extend their remarks and include extraneous material:)

Mr. DIAZ-BALART, for 5 minutes each day, on July 12 and 13.
Mr. KASICH, for 5 minutes, today.
Mr. SHAYS, for 5 minutes, today.
Mr. KINGSTON, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revised and extend remarks was granted to:

(Mr. MILLER of California, during consideration of H.R. 1905, in the Committee of the Whole today.)

(The following Members (at the request of Mr. PALLONE) and to include extraneous matter:)

Mr. TEJEDA.
Mr. UNDERWOOD.
Mr. KLECZKA.
Mr. HAMILTON in two instances.
Mrs. KENNELLY.
Mr. MILLER of California.
Mr. SKELTON in two instances.
Mr. COLEMAN.
Mr. STARK.
Mr. BENTSEN.
Mr. VISCLOSKY.
Mr. TORRICELLI.
Mr. CARDIN.

(The following Members (at the request of Mr. FOX of Pennsylvania) and to include extraneous matter:)

Mr. DAVIS.
Mr. MOORHEAD.
Mr. WELLER.
Mr. WHITE.
Mr. HUNTER.
Mr. WATTS of Oklahoma.
Mr. PORTMAN.
Mr. CUNNINGHAM.
Mr. GALLEGLY.
Mr. RADANOVITCH.
Mr. SOLOMON.
Mr. SMITH of New Jersey.
Mr. PACKARD.
Mr. SHAW.
Mr. HANSEN.

(The following Members (at the request of Mr. KINGSTON) and to include extraneous matter:)

Mr. HORN.
Mr. BROWN of California.
Mr. DE LA GARZA.
Mr. GILLMOR.
Mr. FATTAH.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under this rule, referred as follows:

S. 533. An act to clarify the rules governing removal of cases to Federal court, and for other purposes; to the Committee on the Judiciary.

S. 677. An act to repeal a redundant venue provision, and other purposes; to the Committee on the Judiciary.

BILL PRESENTED TO THE PRESIDENT

Mr. THOMAS, from the Committee on House Administration, reported that that committee did on the following date present to the President, for his approval, a bill of the House of the following title:

On July 5, 1995:

H.R. 483. An act to amend the Omnibus Budget Reconciliation Act of 1990 to permit Medicare select policies to be offered in all States.

ADJOURNMENT

Mr. KINGSTON. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 9 o'clock and 59 minutes p.m.), the House adjourned until tomorrow, Wednesday, July 12, 1995, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1165. A letter from the President and Chairman, Export-Import Bank of the United States, transmitting a report involving United States exports to Indonesia, pursuant to 12 U.S.C. 635(b)(3)(i); to the Committee on Banking and Financial Services.

1166. A letter from the Executive Director, Thrift Depositor Protection Oversight Board, transmitting the annual report of the Oversight Board on the Resolution Funding Corporation for the calendar year 1994, pursuant to Public Law 101–73, section 511(a) (103 Stat. 404); to the Committee on Banking and Financial Services.

1167. A letter from the Executive Director, Thrift Depositor Protection Oversight Board, transmitting the audited financial statement of the Resolution Trust Corporation as of December 31, 1994, and for the year then ended, pursuant to Public Law 101–73, section 501(a) (103 Stat. 385); to the Committee on Banking and Financial Services.

1168. A letter from the Executive Director, Thrift Depositor Protection Oversight Board, transmitting the annual report of the Oversight Board for the calendar year 1994, pursuant to Public Law 101–73, section 501(a) (103 Stat. 387); to the Committee on Banking and Financial Services.

1169. A letter from the National Center for Education Statistics, Commissioner, Office of Educational Research and Improvement, transmitting the National Center for Education Statistics [NCES] report entitled, "The Condition of Education," pursuant to 20 U.S.C. 9005; to the Committee on Economic and Educational Opportunities.

1170. A letter from the Director, Defense Security Assistance Agency, transmitting notification concerning the Department of the Air Force's proposed Letter(s) of Offer and acceptance [LOA] to Singapore for defense articles and services (Transmittal No. 95–31), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

1171. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of a proposed license for the export of major defense equipment and services sold commercially to Germany (Transmittal No. DTC–41–95), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

1172. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of a proposed license for the export of major defense equipment sold commercially to the Netherlands (Transmittal No. DTC–42–95), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

1173. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of a proposed license for the export of major defense articles and and services sold commercially to Australia (Transmittal No. DTC–32–95), pursuant to 22 U.S.C. 2776 (c) and (d); to the Committee on International Relations.

1174. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification that the President proposes to exercise his authority under section 614(a)(1) of the Foreign Assistance Act of 1961, as amended, to provide $3 million in defense articles and services to countries participating in the Rapid Reaction Force [RRF] in Bosnia, pursuant to 22 U.S.C. 2364(a)(1); to the Committee on International Relations.

1175. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a copy of Presidential Determination No. 95–31: suspending restrictions on United States Relations with the Palestine Liberation Organization, pursuant to Public Law 103–236, section 583(b)(2) (108 Stat. 489); to the Committee on International Relations.

1176. A letter from the Secretary, Department of the Interior, transmitting 1994 annual report of the Southwestern Pennsylvania Heritage Preservation Commission, pursuant to Public Law 100–698, section 104(b) (102 Stat. 4621); to the Committee on Resources.

1177. A letter from the Inspector General, Department of Justice, transmitting audit of the Department's private counsel debt collection program, pursuant to Public Law 102–589, section 6 (106 Stat. 5135); to the Committee on the Judiciary.

1178. A letter from the Architect of the Capitol, transmitting report of the accomplishments in achieving the requirements of the Architect of the Capitol Human Resources Act, pursuant to Public Law 103–283, section 312(d)(1)(B) (108 Stat. 1444); jointly, to the Committees on House Oversight and Appropriations.

1179. A letter from the Secretary, Department of Defense, transmitting semi-annual report on program activities to facilitate weapons destruction and nonproliferation in the former Soviet Union, October 1, 1994, through March 31, 1995, pursuant to 22 U.S.C. 5956; jointly, to the Committees on International Relations, National Security, and Appropriations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. WALKER: Committee on Science. H.R. 1175. A bill to amend Public Law 89–454 to provide for the reauthorization of appropriations; with an amendment (Rept. 104–123 Pt. 2). Referred to the Committee of the Whole House on the State of the Union.

Mr. LIVINGSTON: Committee on Appropriations. Report on the Subdivision of Budget Totals For Fiscal Year 1996 (Rept. 104–175). Referred to the Committee of the Whole House on the State of the Union.

Mr. YOUNG of Alaska: Committee on Resources. H.R. 1091. A bill to improve the National Park System in the Commonwealth of Virginia; with an amendment (Rept. 104–176). Referred to the Committee of the Whole House on the State of the Union.

Mr. WOLF: Committee on Appropriations. H.R. 2002. A bill making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1996, and for other purposes (Rept. 104–177). Referred to the Committee of the Whole House on the State of the Union.

Mr. MOORHEAD: Committee on the Judiciary. H.R. 587. A bill to amend title 35, United States Code, with respect to patents on biotechnological processes (Rept. 104–178). Referred to the Committee of the Whole House on the State of the Union.

Mr. MOORHEAD: Committee on the Judiciary. H.R. 1170. A bill to provide that cases challenging the constitutionality of measures passed by State referendum be heard by a 3-judge court; with amendments (Rept. 104–179). Referred to the Committee of the Whole House on the State of the Union.

Mr. MOORHEAD: Committee on the Judiciary. S. 464. An Act to make the reporting deadlines for studies conducted in Federal court demonstration districts consistent with the deadlines for pilot districts, and for other purposes (Rept. 104–180). Referred to the Committee of the Whole House on the State of the Union.

Mr. MOORHEAD: Committee on the Judiciary. S. 532. An act to clarify the rules governing venue, and for other purposes (Rept. 104–181). Referred to the Committee of the Whole House on the State of the Union.

Ms. PRYCE: Committee on Rules. House Resolution 185. Resolution providing for consideration of the bill (H.R. 1977) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1996, and for other purposes (Rept. 104–182). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. WOLF:

H.R. 2002. A bill making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1996, and for other purposes.

By Mr. de la Garza (for himself, Mr. Emerson, Mr. Baldacci, Mr. Brown of California, Ms. DeLauro, Mr. Dellums, Mr. Farr, Mr. Fazio of California, Mr. Frank of Massachusetts, Mr. Frost, Mr. Gejdenson, Mr. Hall of

Ohio, Ms. Kaptur, Mrs. Kennelly, Mr. Olver, Mr. Pastor, Mr. Sanders, Mr. Stenholm, and Mr. Wilson):

H.R. 2003. A bill to authorize the Secretary of Agriculture to make temporary assistance available to support community food security projects designed to meet the food needs of low-income people, increase the self-reliance of communities in providing for their own food needs, and promote comprehensive, inclusive, and future-oriented solutions to local food, farm, and nutrition problems; to the Committee on Agriculture.

By Mr. BOEHNER:

H.R. 2004. A bill to amend the Internal Revenue Code of 1986 to exclude from the Social Security tax on self-employment income certain amounts received by insurance salesmen after retirement; to the Committee on Ways and Means.

By Mr. FORBES:

H.R. 2005. A bill to direct the Secretary of the Interior to make technical corrections in maps relating to the Coastal Barrier Resources System; to the Committee on Resources.

By Mr. GEKAS:

H.R. 2006. A bill to amend title 31, United States Code, to provide an automatic continuing appropriation for the U.S. Government; to the Committee on Appropriations, and in addition to the Committee on Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

H.R. 2007. A bill to amend titles 5, 31, and 37 of the United States Code to provide for the continuance of pay and the authority to make certain expenditures and obligations during lapses in appropriations; to the Committee on Appropriations, and in addition to the Committee on Government Reform and Oversight, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. Shays (for himself, Mr. Jacobs, Mr. Archer, Mr. Armey, Mr. Baker of California, Mr. Barrett of Wisconsin, Mr. Bass, Mr. Beilenson, Mr. Berman, Mr. Blute, Mr. Bono, Mr. Borski, Mr. Brown of Ohio, Mr. Castle, Mr. Chabot, Mrs. Collins of Illinois, Mr. Cox, Mr. Dellums, Mr. Dornan, Mr. Doyle, Mr. Dreier, Mr. English of Pennsylvania, Mr. Ensign, Mr. Fawell, Mr. Foglietta, Mr. Frank of Massachusetts, Mr. Franks of New Jersey, Mr. Franks of Connecticut, Mr. Frelinghuysen, Mr. Frisa, Ms. Furse, Mr. Gallegly, Mr. Gejdenson, Mr. Gekas, Mr. Gillmor, Mr. Goodling, Mr. Hall of Ohio, Mr. Hancock, Mr. Hansen, Mr. Hefley, Mr. Hinchey, Mr. Hoekstra, Mr. Hoke, Mr. Horn, Mr. Hutchinson, Mr. Hyde, Mr. Kanjorski, Mr. Kasich, Mr. Kim, Mr. King, Mr. Klink, Mr. Klug, Mr. Knollenberg, Mr. Kolbe, Mr. LaTourette, Mr. Lazio of New York, Mr. Lipinski, Mr. LoBiondo, Mrs. Lowey, Mr. Luther, Mr. Markey, Mr. Martinez, Mr. Martini, Mr. Meehan, Mr. Menendez, Mr. Miller of Florida, Mr. Moakley, Mr. Moorhead, Mrs. Morella, Mr. Ney, Mr. Orton, Mr. Oxley, Mr. Packard, Mr. Pallone, Mr. Porter, Mr. Portman, Mr. Radanovich, Mr. Ramstad, Mr. Reed, Mr. Regula, Mr. Riggs, Ms. Rivers, Mr. Rohrabacher, Mrs. Roukema, Mr. Royce, Mr. Salmon, Mr. Saxton, Mrs. Schroeder, Mr. Schumer, Mr. Sensenbrenner, Mr. Shaw, Mr. Skaggs, Mr. Smith of New Jersey, Mr. Solomon, Mr. Souder, Mr. Stark, Mr. Stockman, Mr. Talent, Mr. Torkildsen, Mr. Torres, Mr. Torricelli, Mr. Traficant, Mr. Upton, Mr. Visclosky, Mrs. Waldholtz, Mr. Walker, Mr. Wamp, Mr. Zeliff, and Mr. Zimmer):

H.R. 2008. A bill to repeal the quota and price support programs for peanuts; to the Committee on Agriculture.

By Ms. WOOLSEY:

H.R. 2009. A bill to amend title 5, United States Code, to include medical foods as a specific item for which coverage may be provided under the Federal Employees Health Benefits Program; to the Committee on Government Reform and Oversight.

By Mr. ZIMMER (for himself, Mr. Schumer, Mr. Miller of Florida, Mr. Frank of Massachusetts, Mr. Shays, Mr. Jacobs, Mr. Porter, Mr. Rohrabacher, Mr. Andrews, Mr. Saxton, Mr. Meehan, Mr. Salmon, Mr. Franks of New Jersey, Mr. Greenwood, Mr. Horn, Mr. Ensign, and Mr. Frelinghuysen):

H.R. 2010. A bill to reduce target prices for wheat, feed, grains, rice, and cotton, to provide for the determination of deficiency payments and marketing loans of these crops, to abandon the use of acreage reduction programs regarding these crops, to prohibit the provision of deficiency payments for acreage diverted from these crops, to impose income limitations on participation in programs regarding these crops, and to limit Commodity Credit Corporation outlays on behalf of these crops; to the Committee on Agriculture.

By Mr. CARDIN (for himself, Mrs. Roukema, Mr. McDermott, Mr. Towns, Mr. Pallone, Ms. Rivers, Mr. Nadler, Mr. Wise, Mr. Lewis of Georgia, Mr. Fazio of California, Mr. Moran, Mr. Beilenson, and Mr. Johnson of South Dakota):

H.R. 2011. A bill to assure equitable coverage and treatment of emergency services under health plans; to the Committee on Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. CREMEANS:

H.R. 2012. A bill to amend the Internal Revenue Code of 1986 to revise the income, estate, and gift tax rules applicable to individuals who lose U.S. citizenship; to the Committee on Ways and Means.

By Mr. FOX (for himself, Mr. Spence, Mr. Montgomery, Mr. Cunningham, Mr. Tate, Mr. Dornan, Mr. Stockman, Mr. Holden, Mr. King, Mr. Stearns, Mr. Royce, Mr. Gallegly, Mr. Weller, Mr. Lipinski, Mr. Frost, Mr. Saxton, Mr. Largent, Mr. Weldon of Pennsylvania, Mr. Rahall, Mr. Cramer, Mr. Solomon, Ms. Waters, Mr. Kennedy of Massachusetts, Mr. McHale, Mr. Doyle, Mr. Mascara, Mr. Quinn, Mr. Flanagan, Mr. Buyer, Mr. Hancock, Mr. Armey, Mr. Hayworth, Mr. Hoekstra, Mr. Peterson of Minnesota, Mr. Gutierrez, Mr. Costello, Mr. Evans, Ms. Dunn of Washington, Mr. Smith of New Jersey, Mr. DeLay, Mr. English of Pennsylvania, Mrs. Kelly, Mr. Tauzin, Mr. Ney, MR. Gilman, Ms. Eshoo, Mr. Moran, Mr. Hastings, of Washington, Mr. Watts of Oklahoma, and Mr. Gutknecht):

H.R. 2013. A bill to provide for the display of the POW/MIA flag at each Department of Veterans Affairs medical center until the President determines that the fullest possible accounting of all Vietnam-era POW/MIA's has been made; to the Committee on Veterans' Affairs.

By Mr. HERGER (for himself, Mr. Hancock, and Mr. Christensen):

H.R. 2014. A bill to amend the Internal Revenue Code of 1986 to allow a credit or refund of motor fuel excise taxes on fuel used by the motor of a highway vehicle to operate certain power takeoff equipment on such vehicle; to the Committee on Ways and Means.

By Mrs. KENNELLY:

H.R. 2015. A bill to amend the Internal Revenue Code of 1986 to provide tax incentives for the economic recovery of areas affected by the loss of employment in the financial institution and real estate sectors; to the Committee on Ways and Means.

By Mr. UNDERWOOD (for himself, Mr. Reed, and Mr. Dornan):

H.R. 2016. A bill to amend title 10, United States Code, to eliminate the requirement that commissioned officers of the armed services be initially appointed as reserve officers regardless of the source of their commission; to the Committee on National Security.

By Mr. MOORHEAD:

H.J. Res. 100. Joint resolution to encourage States to study and adopt interstate compacts for the regulation of interstate insurance; to the Committee on the Judiciary, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. YOUNG of Alaska:

H. Con. Res. 82. Concurrent resolution directing the Secretary of the Senate to make technical corrections in the enrollment of S. 523; considered and agreed to.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

127. By the SPEAKER: Memorial of the Senate of the State of Nevada, relative to urging the Congress of the United States to investigate the utility of importing water to Nevada from sources outside Nevada; to the Committee on Resources.

128. Also, memorial of the Senate of the State of Nevada, relative to the management of public rangelands in the State of Nevada; to the Committee on Resources.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 43: Mr. Engel.

H.R. 60: Mr. Wicker, Mr. Bachus, Mr. Chrysler, Mr. Callahan, and Mr. Flanagan.

H.R. 65: Mr. Watts of Oklahoma.

H.R. 104: Mr. LaTourette, Ms. Norton, and Mr. Weldon of Pennsylvania.

H.R. 109: Mr. Engel.

H.R. 123: Mr. Tanner, Mrs. Cubin, Mr. Bass, Mr. Klug, and Mr. Roth.

H.R. 157: Mr. Heineman.

H.R. 218: Mr. WHITFIELD.

H.R. 240: Mr. THOMPSON.

H.R. 259: Mr. DORNAN.

H.R. 303: Mr. MCHALE, Mr. WATTS of Oklahoma, and Mrs. MINK of Hawaii.

H.R. 311: Ms. FURSE.

H.R. 312: Mr. STOCKMAN.

H.R. 357: Mr. LUTHER and Mr. BARCIA of Michigan.

H.R. 359: Mr. PICKETT.

H.R. 394: Mr. DICKEY, Mr. CLEMENT, Mr. CHRYSLER, and Mr. JOHNSON of South Dakota.

H.R. 436: Mr. DOOLITTLE, Mr. HAYES, Mr. LEACH, Mr. POMBO, Mr. PACKARD, Ms. DUNN of Washington, Mr. LIGHTFOOT, and Mr. COX.

H.R. 460: Mr. DEFAZIO, Mr. HANCOCK, Mr. BILIRAKIS, Mr. LEWIS of California, Mr. DAVIS, Mr. OBERSTAR, Mr. GUTKNECHT, and Mr. FORBES.

H.R. 468: Mr. ACKERMAN and Mr. MARKEY.

H.R. 488: Mr. EVANS.

H.R. 598: Mr. DIAZ-BALART, Mr. BROWN of Ohio, Mr. BARCIA of Michigan, Mr. MILLER of Florida, Mr. ORTON, Mr. OBERSTAR, Mr. HASTINGS of Florida, Mr. COX, Mr. FOLEY, Mr. LARGENT, and Mr. CLEMENT.

H.R. 662: Mr. LATOURETTE, Mr. ROHRABACHER, Mr. FIELDS of Texas, and Mrs. KELLY.

H.R. 682: Mr. ENGEL.

H.R. 703: Mr. ZIMMER.

H.R. 713: Mr. ENGEL and Mr. JACOBS.

H.R. 739: Mr. EMERSON.

H.R. 752: Ms. EDDIE BERNICE JOHNSON of Texas, Mr. PAXON, Mr. COLEMAN, Mr. HOEKSTRA, Mr. STUPAK, Mr. SHADEGG, Mr. BREWSTER, Mr. MARTINEZ, Ms. RIVERS, Mr. FOLEY, and Mr. SCHIFF.

H.R. 789: Mr. PAYNE of Virginia.

H.R. 797: Mr. ENGEL.

H.R. 860: Mr. NETHERCUTT and Mr. BRYANT of Tennessee.

H.R. 866: Mr. MANZULLO and Mr. KENNEDY of Massachusetts.

H.R. 952: Mr. STUMP, Mr. FOLEY, Mr. INGLIS of South Carolina, Mr. HEFLEY, Mr. PAXON, and Mr. PETE GEREN of Texas.

H.R. 972: Mr. POMEROY, Mr. MCHALE, and Mr. HALL of Texas.

H.R. 973: Mr. MCHALE.

H.R. 979: Mr. COOLEY.

H.R. 997: Mr. BARTON of Texas, Mr. EVANS, Mr. HINCHEY, Mr. NEY, and Mr. ORTIZ.

H.R. 1023: Mr. KILDEE.

H.R. 1073: Mr. OWENS, Mr. MORAN, Mr. ORTIZ, Mr. WILLIAMS, Mr. MARTINEZ, Mr. ANDREWS, Mr. FRAZER, and Mr. WELDON of Pennsylvania.

H.R. 1074: Mr. OWENS, Mr. MORAN, Mr. ORTIZ, Mr. WILLIAMS, Mr. FRAZER, Mr. STUDDS, and Mr. WELDON of Pennsylvania.

H.R. 1114: Mr. WELDON of Florida, Mr. FOLEY, Mr. LAHOOD, and Mr. JOHNSON of South Dakota.

H.R. 1127: Mr. LATHAM, Ms. DUNN of Washington, Mr. CHRISTENSEN, Mr. ENSIGN, Mrs. CUBIN, Mr. SAXTON, Mr. CHAMBLISS, Mr. SANFORD, Mr. OXLEY, and Mr. FRANK of Massachusetts.

H.R. 1172: Mr. FLAKE, Ms. RIVERS, Mr. LEACH, Mr. GUNDERSON, Mr. DEUTSCH, and Mr. FOX.

H.R. 1222: Ms. WOOLSEY.

H.R. 1299: Mr. MILLER of California and Mr. ENGEL.

H.R. 1318: Mr. STENHOLM.

H.R. 1363: Mr. BAKER of Louisiana.

H.R. 1370: Mr. EDWARDS, Mr. PETE GEREN of Texas, and Mr. STENHOLM.

H.R. 1386: Mr. DORNAN.

H.R. 1454: Mr. RADANOVICH, Mr. CLEMENT, Mr. TORRES, Mr. SKEEN, Ms. ROYBAL-ALLARD, and Mr. PETRI.

H.R. 1547: Mr. BONIOR.

H.R. 1637: Mr. EWING, Mr. PORTER, Mr. ENGLISH of Pennsylvania, and Mr. ZIMMER.

H.R. 1644: Mr. SOUDER and Mr. SANFORD.

H.R. 1661: Mr. CUNNINGHAM, Mr. BAKER of Louisiana, Mr. PICKETT, Mr. MINGE, Mr. UNDERWOOD, and Mr. TALENT.

H.R. 1662: Mr. KLECZKA, Mr. KINGSTON, Mr. JOHNSON of South Dakota, Ms. DUNN of Washington, and Mr. MINGE.

H.R. 1684: Mr. JOHNSON of South Dakota and Mr. OXLEY.

H.R. 1687: Ms. MCCARTHY, Mr. LOBIONDO, Mr. SAXTON, Mr. CREMEANS, Mr. MARTINI, Mr. OLVER, Mr. RIGGS, Mr. MOAKLEY, Mrs. WALDHOLTZ, and Mr. SALMON.

H.R. 1735: Ms. RIVERS and Mr. THOMPSON.

H.R. 1739: Mr. MINGE.

H.R. 1744: Mr. EHLERS, Mr. MINGE, and Mr. SMITH of New Jersey.

H.R. 1749: Mr. DOYLE, Mrs. MORELLA, and Mr. ARMEY.

H.R. 1758: Mr. HILLIARD.

H.R. 1781: Mr. MARTINEZ.

H.R. 1807: Mr. LEWIS of Georgia and Mr. CLEMENT.

H.R. 1818: Mr. SOUDER, Mr. MCKEON, Mr. MCINTOSH, and Mr. EHLERS.

H.R. 1853: Mr. SERRANO and Mr. LAFALCE.

H.R. 1856: Mr. BONO and Mr. BILBRAY.

H.R. 1883: Mr. CREMEANS and Mr. STENHOLM.

H.R. 1904: Mr. STUPAK.

H.R. 1915: Mr. HASTINGS of Washington, Mr. BEREUTER, Mr. COMBEST, and Mr. BARTLETT of Maryland.

H.R. 1950: Mr. MARTINI, Mr. PAYNE of New Jersey, Mr. MORAN, Mr. MARTINEZ, and Ms. WATERS.

H.R. 1957: Mr. TRAFICANT.

H.R. 1963: Mr. LAZIO of New York, Mrs. THURMAN, and Mr. FLAKE.

H.R. 1967: Mr. CAMP, Mr. ENSIGN, Mr. LEWIS of Georgia, and Mr. MCCRERY.

H.R. 1972: Mr. HOKE, Mr. LAHOOD, and Mr. PETERSON of Minnesota.

H.R. 1984: Mr. OXLEY and Mr. ZIMMER.

H.R. 1987: Mr. ROTH, Mr. ROYCE, Mr. MANZULLO, Mr. BALLENGER, Ms. ROS-LEHTINEN, Mr. ROHRABACHER, Mr. KING, Mr. BROWNBACK, Mr. FUNDERBURK, Mr. CHABOT, Mr. SALMON, Mr. HOUGHTON, Mr. SANFORD, and Mrs. MEYERS of Kansas.

H. Con. Res. 21: Ms. MOLINARI, Ms. NORTON, and Mr. FRANK of Massachusetts.

H. Con. Res. 23: Mr. WYNN, Mr. LATHAM, and Miss COLLINS of Michigan.

H. Con. Res. 79: Mr. DELLUMS, Mr. BOUCHER, Mr. MARTINEZ, Mr. THOMPSON, Mr. EVANS, and Ms. WOOLSEY.

H. Res. 174: Mr. KENNEDY of Massachusetts, Ms. PELOSI, Mr. DEFAZIO, Mr. FARR, Mr. FRAZER, Ms. RIVERS, Mr. OBERSTAR, and Mr. BEILENSON.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 1976

OFFERED BY: MR. DEUTSCH

AMENDMENT NO. 5: Page 71, after line 2, insert the following new section:

SEC. 726. None of the funds made available in this Act may be used to provide assistance to, or to pay the salaries of personnel who carry out a market promotion program pursuant to section 203 of the Agricultural Trade Act of 1978 (7 U.S.C. 5623) that provides assistance to, the U.S. Mink Export Development Council or any mink industry trade association.

H.R. 1976

OFFERED BY: MR. DURBIN

AMENDMENT NO. 6: Page 71, after line 2, insert the following new section:

SEC. 726. None of the funds made available in this Act to the Department of Agriculture may be used (1) to carry out, or pay the salaries of personnel who carry out, any extension service program, market news program, or market analysis program for tobacco or tobacco products; or (2) to provide, or to pay the salaries of personnel who provide, crop insurance for tobacco for the 1996 or later crop years.

H.R. 1976

OFFERED BY: MR. GUTIERREZ

AMENDMENT NO. 7: Page 55, line 24 insert after "law" the following:

, and which includes a reasonable amount that shall be expended to prepare a report, to be submitted to the Congress not later than 30 days after the date of the enactment of this Act, identifying the nature and extent of the adverse health effects that would be caused by restricting eligibility for food stamp benefits as a result of enacting section 403 of H.R. 4 as passed on March 24, 1995, by the House of Representatives

H.R. 1976

OFFERED BY: MRS. LOWEY

AMENDMENT NO. 8: At the appropriate place in the bill, insert the following new section:

SEC. . None of the funds made available in this Act may be used to provide deficiency payments and land diversion payments described in paragraph (1), or other payments described in paragraph (2)(B), of section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308) to any person when it is made known to the Federal entity or official to which the funds are made available that the person has an annual adjusted gross income of $100,000 or more from off-farm sources.

H.R. 1976

OFFERED BY: MRS. LOWEY

AMENDMENT NO. 9: At the appropriate place in the bill, insert the following new section:

SEC. . None of the funds made available in this Act may be used for a quota support rate greater than $550 per ton for the 1996 crop of quota peanuts.

H.R. 1976

OFFERED BY: MR. SCHUMER

AMENDMENT NO. 10: Page 29, line 24, strike "$10,400,000,000" and insert "$10,290,000,000".

H.R. 1976

OFFERED BY: MR. SCHUMER

AMENDMENT NO. 11: Page 71, after line 2, insert the following new section:

SEC. 726. None of the funds made available in this Act may be used to pay the salaries of personnel who carry out a market promotion program pursuant to section 203 of the Agricultural Trade Act of 1978 (7 U.S.C. 5623).

H.R. 1976

OFFERED BY: MR. SCHUMER

AMENDMENT NO. 12: Page 71, after line 2, insert the following new section:

SEC. 726. (a) LIMITATION ON USE OF FUNDS.—None of the funds made available in this Act may be used to pay the salaries of personnel who carry out a market promotion program pursuant to section 203 of the Agricultural Trade Act of 1978 (7 U.S.C. 5623).

(b) CORRESPONDING REDUCTION IN FUNDS.—The amount otherwise provided in this Act for "Commodity Credit Corporation Fund—Reimbursement for Net Realized Losses" is hereby reduced by $110,000,000.

H.R. 1977

OFFERED BY: MR. CHABOT

AMENDMENT NO. 11: Page 73, strike line 16 and all that follows through page 74, line 15.

H.R. 1977

OFFERED BY: MRS. CLAYTON

AMENDMENT NO. 12: Page 55, line 5, strike "$384,504,000" and insert "$304,504,000".

Page 66, strike lines 14 and 15 and insert the following: "For necessary expenses for the Office of Indian Education, $81,000,000.".

H.R. 1977

OFFERED BY: MRS. CLAYTON

AMENDMENT NO. 13: Page 66, strike lines 14 and 15 and insert the following: "For necessary expenses for the Office of Indian Education, $81,000,000.".

H.R. 1977

OFFERED BY: MR. COBURN

AMENDMENT NO. 14: Page 5, strike lines 11 through 17.

Page 11, strike lines 9 through 17.

Page 17, strike lines 15 through 26.

Page 47, strike lines 17 through 25.

Page 66, strike lines 11 through 15 and insert the following:

DEPARTMENT OF EDUCATION

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

INDIAN EDUCATION

For necessary expenses to carry out, to the extent not otherwise provided, title VI of the Elementary and Secondary Education Act of 1965, $52,500,000, to be allocated directly to local educational agencies in direct proportion to the funding received in fiscal year 1995, with no administrative costs at the Federal level.

H.R. 1977

OFFERED BY: MR. COBURN

AMENDMENT NO. 15: Page 5, strike lines 11 through 17.

Page 11, strike lines 9 through 17.

Page 17, strike lines 15 through 26.

Page 47, strike lines 17 through 25.

Page 66, strike lines 11 through 15 and insert the following:

Department of Education

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

INDIAN EDUCATION

For necessary expenses to carry out, to the extent not otherwise provided, title VI of the Elementary and Secondary Education Act of 1965, $52,500,000.

H.R. 1977

OFFERED BY: MR. CREMEANS

AMENDMENT NO. 16. Page 94, after line 24, add the following:

SEC. 318. None of the funds appropriated or otherwise made available by this Act may be used for the purposes of acquiring lands in the counties of Lawrence or Washington, Ohio, for the Wayne National Forest.

H.R. 1977

OFFERED BY: MR. FAZIO OF CALIFORNIA

AMENDMENT NO. 17. Page 2, line 11, strike "$570,017,000" and insert "$569,417,000".

Page 2, line 12, strike "of which" and all that follows through ", and" on line 17.

Page 3, line 4, strike "$570,017,000" and insert "$569,417,000".

H.R. 1977

OFFERED BY: MR. FAZIO

AMENDMENT NO. 18: Page 2, line 11, strike "$570,017,000" and insert "$569,417,000".

Page 2, line 12, strike "of which" and all that follows through ", and" on line 17.

Page 3, line 4, strike "$570,017,000" and insert "$569,417,000".

Page 16, line 10, strike "$1" and insert "$1,700,000".

H.R. 1977

OFFERED BY: MR. FAZIO

AMENDMENT NO. 19: Page 2, line 11, strike "$570,017,000" and insert "$569,417,000".

Page 2, line 12, strike "of which" and all that follows through ", and" on line 17.

Page 3, line 4, strike "$570,017,000" and insert "$569,417,000".

Page 16, line 5, strike "$1,088,249,000" and insert "$1,088,849,000".

Page 16, line 9, strike ", and" and all that follows through "serve" on line 12.

H.R. 1977

OFFERED BY: MR. FAZIO

AMENDMENT NO. 20: Page 2, line 11, strike "$570,017,000" and insert "$569,417,000".

Page 2, line 12, strike "of which" and all that follows through ", and" on line 17.

Page 3, line 4, strike "$570,017,000" and insert "$569,417,000".

Page 16, line 10, strike "$1" and insert "$1,700,000".

H.R. 1977

OFFERED BY: MR. FAZIO

AMENDMENT NO. 21: Page 2, line 11, strike "$570,017,000" and insert "$569,417,000".

Page 2, line 12, strike "of which" and all that follows through ", and" on line 17.

Page 3, line 4, strike "$570,017,000" and insert "$569,417,000".

Page 16, line 5, strike "$1,088,249,000" and insert "$1,088,949,000".

Page 16, line 10, strike "$1" and insert "$1,700,000".

H.R. 1977

OFFERED BY: MR. FAZIO

AMENDMENT NO. 22: Page 16, line 9, strike ", and" and all that follows through "serve" on line 12.

H.R. 1977

OFFERED BY: MR. FAZIO

AMENDMENT NO. 23: Page 16, line 5, strike "$1,088,249,000" and insert "$1,088,849,000".

Page 16, line 9, strike ", and" and all that follows through "serve" on line 12.

H.R. 1977

OFFERED BY: MR. FAZIO

AMENDMENT NO. 24: Page 16, line 10, strike "$1" and insert "$1,700,000".

H.R. 1977

OFFERED BY: MR. FAZIO

AMENDMENT NO. 25: Page 16, line 5, strike "$1,088,249,000" and insert "$1,088,949,000".

Page 16, line 10, strike "$1" and insert "$1,700,000".

H.R. 1977

OFFERED BY: MR. GALLEGLY

AMENDMENT NO. 26: Page 34, line 24, strike "$69,232,000" of which (1) $65,705,000 shall be" and insert "$52,405,000, to remain".

Page 34, line 25, strike "technical assistance" and all that follows through "controls, and" on line 1 of page 35.

Page 35, strike lines 11 and 12 and insert: "272): *Provided*".

Page 35, line 25, strike "funding:" and all that follows through line 23 on page 36 and insert "funding.".

H.R. 1977

OFFERED BY: MR. GILCHREST

AMENDMENT NO. 27: Page 19, line 17, insert after "program" the following:

when it is made known to the Federal official having authority to obligate or expend such funds that the volunteers are not properly trained or that information gathered by the volunteers is not carefully verified.

H.R. 1977

OFFERED BY: MR. GUTKNECHT

AMENDMENT NO. 28: Page 94, after line 24, insert the following new section:

SEC. 318. None of the funds provided in this Act may be made available for the Mississippi River Corridor Heritage Commission.

H.R. 1977

OFFERED BY: MR. KENNEDY OF MASSACHUSETTS

AMENDMENT NO. 29: Page 55, line 5, strike "$384,504,000" and insert "$379,524,000".

H.R. 1977

OFFERED BY: MR. KENNEDY OF MASSACHUSETTS

AMENDMENT NO. 30: Page 55, line 5, strike "$384,504,000" and insert "$379,524,000".

Page 56, line 3, strike "$552,871,000" and insert "$557,851,000".

Page 56, line 10, strike "$133,946,000" and insert "$138,926,000".

Page 56, line 17, strike "$107,446,000" and insert "$112,426,000".

H.R. 1977

OFFERED BY: MR. KLECZKA

AMENDMENT NO. 31: Page 55, line 5, strike "$384,504,000" and insert "$379,524,000".

H.R. 1977

OFFERED BY: MR. MILLER OF CALIFORNIA

AMENDMENT NO. 32: Page 5, line 15, strike "$8,500,000" and insert "$14,750,000".

Page 11, line 16, strike "$14,100,000" and insert "$67,300,000".

Page 17, line 21, strike "$14,300,000" and insert "$84,550,000".

Page 17, line 26, strike "$1,500,000" and insert "$3,240,000".

Page 47, line 23, strike "$14,600,000" and insert "$65,310,000".

Page 55, line 5, strike "$384,504,000" and insert "$200,854,000".

H.R. 1977

OFFERED BY: MR. MILLER OF CALIFORNIA

AMENDMENT NO. 33: Page 45, line 24, strike "$1,276,688,000" and insert "$1,245,720,000".

H.R. 1977

OFFERED BY: MR. MILLER OF CALIFORNIA

AMENDMENT NO. 34: Page 47, line 13, strike all that follows after "United States" through line 16 and insert a period.

H.R. 1977

OFFERED BY: MR. OWENS

AMENDMENT NO. 35: Page 94, after line 24, insert the following new section:

SEC. 318. (a) RESERVATION OF ROYALTY.—Production of all locatable minerals from any mining claim located under the general mining laws, or mineral concentrates or products derived from locatable minerals from any mining claim located under the general mining laws, as the case may be, shall be subject to a royalty of 8 percent of the gross income from such production. The claimholder and any operator to whom the claimholder has assigned the obligation to make royalty payments under the claim and any person who controls such claimholder or operator shall be jointly and severally liable for payment of such royalties.

(b) DUTIES OF CLAIM HOLDERS, OPERATORS, AND TRANSPORTERS.—(1) A person—

(A) who is required to make any royalty payment under this section shall make such payments to the United States at such times and in such manner as the Secretary may by rule prescribe; and

(B) shall notify the Secretary, in the time and manner as may be specified by the Secretary, of any assignment that such person may have made of the obligation to make any royalty or other payment under a mining claim.

(2) Any person paying royalties under this section shall file a written instrument, together with the first royalty payment, affirming that such person is liable to the Secretary for making proper payments for all amounts due for all time periods for which such person as a payment responsibility. Such liability for the period referred to in the preceding sentence shall include any and all additional amounts billed by the Secretary and determined to be due by final agency or judicial action. Any person liable for royalty payments under this section who assigns any payment obligation shall remain jointly and severally liable for all royalty payments due for the claim for the period.

(3) A person conducting mineral activities shall—

(A) develop and comply with the site security provisions in operations permit designed to protect from theft the locatable minerals, concentrates or products derived therefrom which are produced or stored on a mining claim, and such provisions shall conform with such minimum standards as the Secretary may prescribe by rule, taking into account the variety of circumstances on mining claims; and

(B) not later than the 5th business day after production begins anywhere on a mining claim, or production resumes after more than 90 days after production was suspended, notify the Secretary, in the manner prescribed by the Secretary, of the date on which such production has begun or resumed.

(4) The Secretary may by rule require any person engaged in transporting a locatable mineral, concentrate, or product derived therefrom to carry on his or her person, in his or her vehicle, or in his or her immediate control, documentation showing, at a minimum, the amount, origin, and intended destination of the locatable mineral, concentrate, or product derived therefrom in such circumstances as the Secretary determines is appropriate.

(c) RECORDKEEPING AND REPORTING REQUIREMENTS.—(1) A claim holder, operator, or other person directly involved in developing, producing, processing, transporting, purchasing, or selling locatable minerals, concentrates, or products derived therefrom, subject to this Act, through the point of royalty computation shall establish and maintain any records, make any reports, and provide any information that the Secretary may reasonably require for the purposes of implementing this section or determining compliance with rules or orders under this section. Such records shall include, but not be limited to, periodic reports, records, documents, and other data. Such reports may also include, but not be limited to, pertinent technical and financial data relating to the quantity, quality, composition volume, weight, and assay of all minerals extracted from the mining claim. Upon the request of any officer or employee duly designated by the Secretary or any State conducting an audit or investigation pursuant to this section, the appropriate records, reports, or information which may be required by this section shall be made available for inspection and duplication by such officer or employee or State.

(2) Records required by the Secretary under this section shall be maintained for 6 years after cessation of all mining activity at the claim concerned unless the Secretary notifies the operator that he or she has initiated an audit or investigation involving such records and that such records must be maintained for a longer period. In any case when an audit or investigation is underway, records shall be maintained until the Secretary releases the operator of the obligation to maintain such records.

(d) AUDITS.—The Secretary is authorized to conduct such audits of all claim holders, operators, transporters, purchasers, processors, or other persons directly or indirectly involved in the production or sales of minerals covered by this title, as the Secretary deems necessary for the purposes of ensuring compliance with the requirements of this section. For purposes of performing such audits, the Secretary shall, at reasonable times and upon request, have access to, and may copy, all books, papers and other documents that relate to compliance with any provision of this section by any person.

(e) COOPERATIVE AGREEMENTS.—(1) The Secretary is authorized to enter into cooperative agreements with the Secretary of Agriculture to share information concerning the royalty management of locatable minerals, concentrates, or products derived therefrom, to carry out inspection, auditing, investigation, or enforcement (not including the collection of royalties, civil or criminal penalties, or other payments) activities under this section in cooperation with the Secretary, and to carry out any other activity described in this section.

(2) Except as provided in paragraph (4)(A) of this subsection (relating to trade secrets), and pursuant to a cooperative agreement, the Secretary of Agriculture shall, upon request, have access to all royalty accounting information in the possession of the Secretary respecting the production, removal, or sale of locatable minerals, concentrates, or products derived therefrom from claims on lands open to location under the general mining laws.

(3) Trade secrets, proprietary, and other confidential information shall be made available by the Secretary pursuant to a cooperative agreement under this subsection to the Secretary of Agriculture upon request only if—

(A) the Secretary of Agriculture consents in writing to restrict the dissemination of the information to those who are directly involved in an audit or investigation under this section and who have a need to know;

(B) the Secretary of Agriculture accepts liability for wrongful disclosure; and

(C) the Secretary of Agriculture demonstrates that such information is essential to the conduct of an audit or investigation under this subsection.

(f) INTEREST AND SUBSTANTIAL UNDERREPORTING ASSESSMENTS.—(1) In the case of mining claims where royalty payments are not received by the Secretary on the date that such payments are due, the Secretary shall charge interest on such under payments at the same interest rate as is applicable under section 6621(a)(2) of the Internal Revenue Code of 1986. In the case of an underpayment, interest shall be computed and charged only on the amount of the deficiency and not on the total amount.

(2) If there is any underreporting of royalty owed on production from a claim for any production month by any person liable for royalty payments under this section, the Secretary may assess a penalty of 10 percent of the amount of that underreporting.

(3) If there is a substantial underreporting of royalty owed on production from a claim for any production month by any person responsible for paying the royalty, the Secretary may assess an additional penalty of 10 percent of the amount of that underreporting.

(4) For the purposes of this subsection, the term "underreporting" means the difference between the royalty on the value of the production which should have been reported and the royalty on the value of the production which was reported, if the value which should have been reported is greater than the value which was reported. An underreporting constitutes a "substantial underreporting" if such difference exceeds 10 percent of the royalty on the value of production which should have been reported.

(5) The Secretary shall not impose the assessment provided in paragraphs (2) or (3) of this subsection if the person liable for royalty payments under this section corrects the underreporting before the date such person receives notice from the Secretary that an underreporting may have occurred, or before 90 days after the date of the enactment of this section, whichever is later.

(6) The Secretary shall waive any portion of an assessment under paragraph (2) or (3) of this subsection attributable to that portion of the underreporting for which the person responsible for paying the royalty demonstrates that—

(A) such person had written authorization from the Secretary to report royalty on the value of the production on basis on which it was reported, or

(B) such person had substantial authority for reporting royalty on the value of the production on the basis on which it was reported, or

(C) such person previously had notified the Secretary, in such manner as the Secretary may by rule prescribe, of relevant reasons or facts affecting the royalty treatment of specific production which led to the underreporting, or

(D) such person meets any other exception which the Secretary may, by rule, establish.

(7) All penalties collected under this subsection shall be deposited in the Treasury.

(g) EXPANDED ROYALTY OBLIGATIONS.—Each person liable for royalty payments under this section shall be jointly and severally liable for royalty on all locatable minerals, concentrates, or products derived therefrom lost or wasted from a mining claim located or converted under this section when such loss or waste is due to negligence on the part of any person or due to the failure to comply with any rule, regulation, or order issued under this section.

(h) EXCEPTION.—No royalty shall be payable under subsection (a) with respect to minerals processed at a facility by the same person or entity which extracted the minerals if an urban development action grant has been made under section 119 of the Housing and Community Development Act of 1974 with respect to any portion of such facility.

(i) EFFECTIVE DATE.—The royalty under this section shall take effect with respect to the production of locatable minerals after the enactment of this Act, but any royalty payments attributable to production during the first 12 calendar months after the enactment of this Act shall be payable at the expiration of such 12-month period.

H.R. 1977

OFFERED BY: MR. RICHARDSON

AMENDMENT NO. 36: Page 23, line 19, strike "$87,000,000" and insert "$60,220,000".

Page 55, line 5, strike "$384,504,000" and insert "$357,724,000".

Page 55, line 22, strike "$151,028,000" and insert "$124,247,000".

Page 66, strike lines 11 through 15 and insert the following:

DEPARTMENT OF EDUCATION

Office of Elementary and Secondary Education

INDIAN EDUCATION

For necessary expenses to carry out, to the extent not otherwise provided, title VI of the Elementary and Secondary Education Act of 1965, $81,341,000.

H.R. 1977

Offered By: Mr. Richardson

Amendment No. 37: Page 29, line 15, strike "*Provided further*," and all that follows through "November 30, 1997:" on line 18.

H.R. 1977

Offered By: Mr. Sanders

Amendment No. 38: Page 37, line 19, strike "$55,982,000" and insert "$53,919,000".

Page 75, line 15, strike "$1,000,000" and insert "$3,063,000".

H.R. 1977

Offered By: Mr. Sanders

Amendment No. 39: Page 37, line 19, strike "$55,982,000" and insert "$53,919,000".

Page 75, strike lines 14 through 17 and insert "For expenses necessary for the Advisory Council on Historic Preservation, $3,063,000".

H.R. 1977

Offered By: Mr. Sanders

Amendment No. 40: Page 55, line 5, strike "$384,504,000" and insert "$284,504,000".

Page 56, line 3, strike "$552,871,000" and insert "$652,871,000".

Page 56, line 10, strike "133,946,000" and insert "$233,946,000".

Page 56, line 17, strike "$107,446,000" and insert "$207,446,000".

H.R. 1977

Offered By: Mr. Schaefer

Amendment No. 41: Page 57, line 7, strike "$287,000,000" and all that follows through "Reserve" on line 21, and insert the following:

$187,000,000, to remain available until expended, which shall be derived by transfer of unobligated balances from the "SPR petroleum account".

H.R. 1977

Offered By: Mr. Schaefer

Amendment No. 42: Page 57, line 9, strike "and" and all that follows through "Reserve" on line 21.

H.R. 1977

Offered By: Mr. Schaefer

Amendment No. 43: Page 57, line 11, strike ": *Provided*" and all that follows through "Reserve" on line 21.

H.R. 1977

Offered By: Mr. Skaggs

Amendment No. 44: On page 5, line 10, after the period insert the following:

None of the funds appropriated to implement such Act shall be used for payments with respect to entitlement lands (as defined in such Act) whose ownership is subject to litigation or with respect to which a State or political subdivision of a State has asserted a formal claim of ownership.

H.R. 1977

Offered By: Mr. Skaggs

Amendment No. 45: On page 17, line 5, strike "$114,868,000," and in lieu thereof insert "$89,868,000 to be used at the discretion of the Secretary of the Interior and "

H.R. 1977

Offered By: Mr. Skaggs

Amendment No. 46: On page 56, line 10, strike "$133,946,000," and in lieu thereof insert "$148,946,000"; on page 56, line 17, strike "$107,446,000" and in lieu thereof "$120,446,000"; and on page 56, line 18, strike "$26,500,000" and in lieu thereof insert "$28,500,000".

H.R. 1977

Offered By: Mrs. Smith of Washington

Amendment No. 47: Page 72, line 12, strike "$6,152,000" and insert "$5,140,100".

H.R. 1977

Offered By: Mr. Zimmer

Amendment No. 48: Page 94, after line 24, insert the following new section:

Sec. 318. None of the funds made available in this Act may be used (1) to demolish the bridge between Jersey City, New Jersey, and Ellis Island; or (2) to prevent pedestrian use of such bridge, when it is made known to the Federal official having authority to obligate or expend such funds that such pedestrian use is consistent with generally accepted safety standards.

H.R. 1977

Offered By: Mr. Zimmer

Amendment No. 49: Page 94, after line 24, insert the following new sections:

SEC. 318. DEFICIT REDUCTION TRUST FUND.

(a) Establishment.—A trust fund known as the "Deficit Reduction Trust Fund" (hereinafter in this Act referred to as the "Fund") shall be established in the Treasury of the United States.

(b) Contents.—The Fund shall consist only of amounts contained in the deficit reduction lock-box provision of any appropriation Act. Such amounts shall be transferred to the Fund as specified in subsection (c).

(c) Transfers of Moneys to the Fund.—Within 10 days of enactment of any appropriation Act which has a deficit reduction lock-box provision, there shall be transferred from the general fund to the Fund an amount equal to that amount.

(d) Use of Moneys in the Fund.—Notwithstanding any other provision of law, the amounts in the Fund shall not be available, in any fiscal year, for appropriation, obligation, expenditure, or transfer.

SEC. 319. DOWNWARD ADJUSTMENTS OF DISCRETIONARY SPENDING LIMITS.

(a) Downward Adjustments.—The discretionary spending limit for new budget authority for any fiscal year set forth in section 601(a)(2) of the Congressional Budget Act of 1974, as adjusted in strict conformance with section 251 of the Balanced Budget and Emergency Deficit Control Act of 1985, shall be reduced by the amount of budget authority transferred to the Fund for that fiscal year under section 2(c), as calculated by the Director of the Office of Management and Budget. The adjusted discretionary spending limit for outlays for that fiscal year and each outyear as set forth in such section 601(a)(2) shall be reduced as a result of the reduction of such budget authority, as calculated by the Director of the Office of Management and Budget based upon such programmatic and other assumptions set forth in the joint explanatory statement of managers accompanying the conference report on that bill. All such reductions shall occur on the same day that the amounts triggering the reductions are transferred to the Fund.

(b) Definition.—As used in this section, the term "appropriation bill" means any general or special appropriation bill, and any bill or joint resolution making supplemental, deficiency, or continuing appropriations.

SEC. 320. DEFICIT REDUCTION LOCK-BOX PROVISIONS OF APPROPRIATION MEASURES.

(a) Deficit Reduction Lock-box Provisions.—Title III of the Congressional Budget Act of 1974 is amended by adding at the end the following new section:

"DEFICIT REDUCTION LOCK-BOX PROVISIONS OF APPROPRIATION BILLS

"Sec. 314. (a) Any appropriation bill that is being marked up by the Committee on Appropriations (or a subcommittee thereof) of either House shall contain a line item entitled 'Deficit Reduction Lock-box'. The dollar amount set forth under that heading shall be an amount equal to the section 602(b)(1) or section 302(b)(1) allocations, as the case may be, to the subcommittee of jurisdiction over the bill of the Committee on Appropriations minus the aggregate level of budget authority or outlays contained in the bill being considered.

"(b) Whenever the Committee on Appropriations of either House reports an appropriation bill, that bill shall contain a line item entitled 'Deficit Reduction Account' comprised of the following:

"(1) Only in the case of any general appropriation bill containing the appropriations for Treasury and Postal Service (or resolution making continuing appropriations (if applicable)), an amount equal to the amounts by which the discretionary spending limit for new budget authority and outlays set forth in the most recent OMB sequestration preview report pursuant to section 601(a)(2) exceed the section 602(a) allocation for the fiscal year covered by that bill.

"(2) Only in the case of any general appropriation bill (or resolution making continuing appropriations (if applicable)), an amount not to exceed the amount by which the appropriate section 602 (b) allocation of new budget authority exceeds the amount of new budget authority provided by that bill (as reported by that committee).

"(3) Only in the case of any bill making supplemental appropriations following enactment of all general appropriation bills for the same fiscal year, an amount not to exceed the amount by which the section 602(a) allocation of new budget authority exceeds the sum of all new budget authority provided by appropriation bills enacted for that fiscal year plus that supplemental appropriation bill (as reported by that committee).

"(c) Whenever a Member of either House of Congress offers an amendment (whether in subcommittee, committee, or on the floor) to an appropriation bill to reduce spending, that reduction shall be placed in the deficit reduction lock-box unless that Member indicates that it is to be utilized for another program, project, or activity covered by that bill. If the amendment is agreed to and the reduction was placed in the deficit reduction lock-box, then the line item entitled 'Deficit Reduction Lock-box' shall be increased by the amount of that reduction.

"(d) It shall not be in order in the House of Representatives or the Senate to consider a conference report that modifies any Deficit Reduction Lock-box provision that is beyond the scope of that provision as so committed to the conference committee.".

(b) Conforming Amendment.—The table of contents set forth in section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by inserting after the item relating to section 313 the following new item:

"Sec. 314. Deficit reduction lock-box provisions of appropriation measures.".

SEC. 321. CBO TRACKING.

Section 202 of the Congressional Budget Act of 1974 is amended by adding at the end the following new subsection:

"(i) SCOREKEEPING ASSISTANCE.—To facilitate compliance by the Committees on Appropriations with section 314, the Office shall score all general appropriation measures as passed the House of Representatives and as passed the Senate and have such scorecard published in the Congressional Record.".

EXTENSIONS OF REMARKS

RECOGNITION OF THE 125TH ANNIVERSARY OF COPYRIGHT IN THE LIBRARY OF CONGRESS

HON. CARLOS J. MOORHEAD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 11, 1995

Mr. MOORHEAD. Mr. Speaker, I rise today to acknowledge the 125th anniversary of the statute which established our national copyright system in the Library of Congress.

Our Nation's Founding Fathers recognized not only the need to protect the rights and property of individual Americans, but also the importance of providing incentives to stimulate the economic and cultural growth of the United States. Thus, in article I, section 8 of the Constitution, they gave the Congress the power "To promote the Progress of Science and Useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries."

In 1870, Congress passed our first copyright law which established a system of copyright registration through the Federal district courts. This system was certainly inadequate in terms of keeping a readily accessible public record of copyright registration and an organized collection of the works which had been submitted for registration. The 1870 legislation transferred the entire copyright business from the Federal courts to the Library of Congress. For the first time, our Nation had a central point for both copyright registration and for the holding of record copies of registered works.

By bringing copyright into the Library of Congress the law also provided the basis for making the Library what it is today—our Nation's Library whose collections are a reflection of the entire breadth of American creativity. By 1875, copyright deposits became the most important source of acquisition for the Library. For works such as maps, musical scores, and graphic arts, copyright deposit accounted for almost 90 percent of all such material acquired by the Library.

The Library's reliance on copyright deposits continues to this day. The Library of Congress collections now encompass almost 110 million items, a substantial number of which have come to the Library as a result of copyright. The type of material received has broadened over the years to include photographs, television shows, movies, compact discs, and computer programs on CD–ROM's. The value of the material transferred to the Library from the copyright system in fiscal year 1994 was in excess of $15 million.

The importance of the Copyright Office to the Library and the work of the Office in advancing the principles of copyright in a changing technological world is being acknowledged today by the Librarian of Congress, Dr. James Billington, in a program being held in the great hall of the Thomas Jefferson Building. Our Register of Copyrights, Marybeth Peters, will also address her staff on the current and future role of that important office.

As chairman of the Subcommittee on Courts and Intellectual Property, I work closely with the Copyright Office on the significant copyright issues Congress must address. This year those issues include proposals to extend the term of copyright and to grant digital performance rights in sound recordings.

Today I join Dr. Billington and Ms. Peters in saluting the Copyright Office for its work in keeping our national copyright system strong and for the role it continues to play in fortifying the Library of Congress.

COMMENDING LT. COL. ALAN KRUSE

HON. JERRY WELLER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 11, 1995

Mr. WELLER. Mr. Speaker, I would like to take this opportunity to commend Lt. Col. Alan Kruse for all his help with plans to redevelop the Joliet Army Ammunition Plant. Colonel Kruse very capably served as the commander of the JAAP, and has dedicated much time and effort to supporting plans to productively utilize this expansive area.

Colonel Kruse was involved with the Citizens Planning Commission that endorsed a plan to use much of the land for conservation and recreation, as well as a veterans cemetery, two areas for economic development, and a county landfill.

This plan has developed into legislation that is very close to passing both the House of Representatives and the Senate. Without the help of Colonel Kruse, seeing this project become a reality may not have been possible. It is so encouraging to have such aggressive, and dedicated people such as Al Kruse working toward this goal.

I extend my sincere thanks and best wishes to Lt. Col. Alan Kruse. He will be missed in Joliet; and we would love to have him back soon to visit the Midewin National Tallgrass Prairie, and the Joliet National Cemetery.

TRIBUTE TO MS. LADISLAVA POTASKI KRAWIEC

HON. ROBERT G. TORRICELLI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 11, 1995

Mr. TORRICELLI. Mr. Speaker, I rise today to pay tribute to an outstanding American citizen as she approaches her 75th birthday. Now living in Ridgefield, NJ, Ms. Ladislava Potaski Krawiec has dedicated her life to serving her family and community. She served as a school and community nurse for 45 years until her retirement in 1987. At a time when women were not encouraged to attend college, Ms. Krawiec continued to develop her health care skills through schooling at various colleges throughout New Jersey. She eventually attained the title of head nurse at Belleville Hospital in charge of diabetes, arthritis, and general medicine.

She did not allow her dedication to her career to interfere with her commitment to her family. After the birth of her first child in 1945, Ms. Krawiec became active in her local PTA and worked to strengthen the health care services in the Ridgefield community. After becoming a part-time nurse at her daughter's school, she decided to return to school at night and 4 years later graduated cum laude from Jersey City College with a BA in health education and school nursing.

Even though Ms. Krawiec's children have grown into adulthood, and she has retired from her nursing career, her volunteer work still continues. She is currently serving in her 11th year as president of the American Legion Auxiliary and she chairs the SHARE program which provides low-cost meals for senior citizens.

Ms. Krawiec's commitment to her family, job, and community serve as a model to all of us. Mr. Speaker, I urge my colleagues to join me in wishing a happy and prosperous 75th birthday to Ms. Ladislava Potaski Krawiec.

COMMENDING AN ARTICLE IN THE WALL STREET JOURNAL

HON. DUNCAN HUNTER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 11, 1995

Mr. HUNTER. Mr. Speaker, I rise today to commend to the House an article in today's Wall Street Journal. Written by the very thoughtful and articulate Bruce Herschensohn, it details, concisely, just what the President is giving away by recognizing the Socialist Republic of Vietnam.

DON'T REWARD VIETNAM

(By Bruce Herschensohn)

This week, President Clinton plans to give full diplomatic recognition to the Socialist Republic of Vietnam. Most of the controversy surrounding the move has focused on the POW/MIA issue. While this is important, it obscures the real significance of the administration's decision: By recognizing Vietnam now, Mr. Clinton would send a message to foreign governments that it's unnecessary to keep agreements with the U.S.

U.S. troops were removed from South Vietnam because of the agreements initialed on Jan. 23, 1973, by Henry Kissinger for the U.S. and Le Duc Tho for Vietnam. Before we make any new agreements with Hanoi,

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

wouldn't it be worthwhile to remember the contents of this treaty, the last one between the two countries?

Chapter 4, Article 9 of the Paris Accords states that "the South Vietnamese people shall decide for themselves the political future of South Vietnam through genuinely free and democratic general elections under international supervision." Article 11 guarantees the "democratic liberties of the people: personal freedom, freedom of speech, freedom of the press, freedom of meeting, freedom of organizations, freedom of political activities, freedom of belief, freedom of movement, freedom of residence, freedom of work."

The accords were taken seriously by the American side. When President Nixon informed the nation of the signing of the accords, he said, "The people of South Vietnam have been guaranteed the right to determine their own future without outside interference."

But to this day, more than 22 years later, the Paris Accords remain unobserved by the Hanoi government. Not only did the North violate the treaty by invading the South in 1975, but since then the government has denied to the people of Vietnam every one of the liberties enumerated in the accords.

The pro-Hanoi lobby doesn't seem to care. Many business people in the U.S., it seems, ignore the moral aspects of recognizing Vietnam and look at it only as a means to fatten their wallets. They justify this approach by arguing that opening ties with Vietnam will pave the way for democracy and human rights.

Please. We've heard it all before.

That was the business lobby's argument for giving "most favored nation" status to the People's Republic of China. Today, along with hundreds of thousands of others who suffer at Beijing's hands, the imprisoned American human-rights campaigner Harry Wu can testify that these arguments were false.

They've always been false. I have on my desk an old and tattered book published before our entry into World War II. Its title is "You Can't Do Business With Hitler," by Douglas Miller. Many American business people ignored this advice then, just as many would ignore a book today called "You Can't Do Business With Le Duc Anh." But it remains as true today as in the 1930s: The U.S. shouldn't open ties with dictatorships that respect neither their own citizens nor foreign treaty obligations.

CLINTON RECESSION

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 11, 1995

Mr. PACKARD. Mr. Speaker, President Clinton is preparing to attack the Contract With America and the Republican policies we have worked so hard to pass. He is going to claim that these policies are to blame for a recession that is just around the corner. Mr. Speaker, nothing could be further from the truth. Our tax cuts and balanced budget proposals have not even been enacted into law and he is claiming Republicans are responsible.

The fact is, when the economy begins to decline, the President need look no further than his own office. His historical tax increase has hurt middle class Americans. Wages and salaries fell 2.3 percent between March 1994 and March 1995. That is the largest drop on record. National savings plummeted 5.2 percent in March and April, most probably because the American taxpayer had to pay more this year than last to the IRS and the list does not end here. Jobs, industrial production, factory orders and housing starts have all dropped. President Clinton's budget policies take the drive out of our economic engine.

Mr. Speaker, I strongly believe that through smaller Government and tax cuts we can recession proof the economy and put it back on track. Furthermore, regulatory and tort reform will put unprecedented muscle behind our economy, creating a vibrant economic future of all Americans.

SALUTE TO ALFRED AND CECILIA HADLEY

HON. ELTON GALLEGLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 11, 1995

Mr. GALLEGLY. Mr. Speaker, I rise today to salute two people who have combined a lifelong dedication to each other with a lifelong dedication to each other with a lifelong dedication to helping others—particularly young people.

Alfred and Cecilia Hadley celebrate their 60th wedding anniversary today, and their personal joy is accompanied by the fact that they have given so many of us so much to celebrate. I can honestly say that I have never met two people as dedicated to serving and guiding others as Al and Cecilia, and no two people have had as great a personal effect on me.

Like many young boys, I became involved in Scouting early in my life and Al Hadley was my Scoutmaster. I frankly cannot imagine a more involved, dedicated and selfless leader. Al more than earned the nickname, "Skipper"—he had an extremely positive influence on all of us.

And Al was not the only member of the Hadley household to live by the code of volunteerism, and service to others.

Cecilia was a church organist and piano teacher for 30 years, although few of her many students ever paid for more than their music. She knitted uncounted numbers of sweaters and blankets for the organization, "Birthright," and served as a hospital auxiliary volunteer for many years—making patients' hospital stays a little bit brighter through her ready care and ready smile. An accomplished cook, she has most recently donated her time and talents as an English coach in a local elementary school.

The Hadleys also found time to raise their own family, of course, and have two loving sons—Peter and David—five grandchildren and one great-granddaughter.

Mr. Speaker, it is rare that one comes across one person as dedicated to serving others as Al and Cecilia. If is rarer still that one encounters two such people, particularly two celebrating their 60th wedding anniversary.

I would like to wish this special couple all the best on their special day and to thank them from the bottom of my heart for the tremendous impact they have had on my life and the lives of so many other youngsters. They are truly a symbol of all that is right with America, of the ideals and commitment to service that makes this nation great.

IN HONOR OF ASSOCIATE CIRCUIT JUDGE MICHAEL LYONS

HON. JERRY WELLER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 11, 1995

Mr. WELLER. Mr. Speaker, today I would like to honor the retirement of Associate Circuit Judge Michael Lyons, who has served Will County with distinction from 1975 to 1995.

Born on August 11, 1916, Judge Lyons graduated from DePaul Law School and was licensed to practice law in 1940. He married Helen Glass in 1945 and together they raised six children, Robert, Thomas, James, John, Joan, and Diane. He also served in the U.S. Army Counter Intelligence Corps during World War II.

Judge Lyons' specialty is in the trial of personal injury cases in the State and Federal Courts throughout the United States.

While Will County is losing a very dedicated and respected judge and public servant, I wish him the best of luck in retirement. His insight and knowledge of the law will be greatly missed.

SUPPORT FOR BENIN'S PEACE INITIATIVES

HON. ROBERT G. TORRICELLI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 11, 1995

Mr. TORRICELLI. Mr. Speaker, I would like to express my support for the initiatives of the Government of Benin in its efforts to facilitate peace in West Africa and the world.

The President of the Republic of Benin, Nicephore Soglo, as two-time head—1992 and 1993—of the Economic Community of West African States [ECOWAS], has led the search for peace throughout Liberia's difficult reconciliation process. President Soglo's administration has hosted several reconciliation conferences and efforts for peace in the region. As noted, he was elected twice to head ECOWAS, because the heads of state were looking for one of their peers who would be totally neutral vis-a-vis all the factions involved in the Liberian crisis.

Although a small nation of approximately 5 million people, Benin made a courageous offer to welcome Haitian refugees during the crisis of 1994. Moreover, Benin's government sent a police force of 30 to 50 persons to participate under the umbrella of the group for the restoration of democracy in Haiti. Benin was the only African country that agreed to do so.

Other examples of peace initiatives in West Africa include Benin's dialogue with its neighbors Niger and Togo. With Niger, Benin has established a joint border demarcation commission to resolve the dispute over the island of Lete on the Niger river. Relations with Togo were strengthened by a recent visit from Togolese Prime Minister Edem Kodjo. Regional stability will stimulate substantially more trade with and among the states of West Africa.

Mr. Speaker, the United States Government has strengthened ties with the Republic of Benin since it has become a model for democratization in Africa. Let us not forget that Benin was the first one-party Marxist State in Africa to achieve a successful transition to democracy, marked by the free and fair Presidential election of 1991. Benin is now using its international credibility and stature to facilitate peace in West Africa and the world.

THE SOFTWARE INDUSTRY IS FACING INCREASING GOVERNMENT OVERSIGHT AND REGULATION

HON. RICK WHITE

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 11, 1995

Mr. WHITE. Mr. Speaker, later this month the House will take up historic telecommunications reform legislation to deregulate and introduce competition into areas that were previously monopolies by government franchise. I can assure my colleagues that the Commerce Committee, under the able leadership of Chairman Bliley and Subcommittee Chairman Fields, also has been on guard to ensure that, as we deregulate the telecommunications industry, we do not inadvertently begin regulating the computer and information services industries.

I am confident that this Congress would never create a "Federal Computer Commission." The computer industry is a model of how a competitive market fosters economic growth. Moreover, it illustrates how technological advance by one company can create enormous economic opportunities for many others in the marketplace. The most recent example, I am proud to note, is the development by Microsoft of its windows 95 personal computer operating system software and its new online information service, The Microsoft Network. As the Wall Street Journal recently noted, much of the high technology sector—and the market generally—anxiously awaits the timely and successful launch of windows 95 and the Microsoft Network on August 24.

Given all this, I thought my colleagues might be interested in the views of several commentators. Many of them have raised questions about the Justice Department's investigation of Microsoft's decision to include a feature in windows 95 that will make it easier for customers to subscribe to the Microsoft Network if they choose to do so. These commentators wonder how such regulatory intervention in the computer industry benefits users, competition or the country generally.

I would ask that these articles be included in the RECORD.

[From the Wall Street Journal, June 19, 1995]

SUCCESSFUL LAUNCH WOULD BE A BOON TO DOZENS OF FIRMS

(By Molly Baker)

Microsoft's Windows 95 may create a tidal wave in the technology and financial markets, but investors looking to profit by it should search among the ripples.

Certainly no one should underestimate the significance of the new operating system, scheduled to be shipped on Aug. 24, less than 10 weeks from now.

"This is a broad infrastructure change that will have ramifications not seen before," proclaims Chris Galvin, a software analyst with Hambrecht & Quist. "This is not your normal upgrade cycle; it is a very significant event."

Obviously, Microsoft has the most to gain or lose from Windows 95 and its price already reflects that. But changes the system will bring—providing, of course, that it is successful—will be a boon to dozens of other companies.

REPLACING PCS

Consider, for instance, that the new operating system probably will make obsolete many of the personal computers sold in the past decade. The sheer number of people who will be seeking to replace or upgrade their existing PCs suggests that computer retailers like CompUSA will be mobbed.

"With its ease of use, [Windows 95] will also draw new users to computers for the first time. It's likely to be one incredible Christmas season," says Shelton Swei, a technology analyst and portfolio manager at Fred Alger Management.

"Because CompUSA is more on the consumer side, they will benefit from the consumers' quick adoption rate," says Mr. Swei. "They'll get traffic from people in the stores getting the upgrade and those people just might pick up a game or two at the same time."

Wholesale distributors such as Tech Data and Merisel can also expect burgeoning orders for both hardware and software. They are two of the largest middlemen that put computer equipment and supplies from the major manufacturers on the shelves of retailers.

UTILITIES PROGRAMS

Along with Windows 95, consumers will also be snapping up new utilities programs, such as virus protection and hard-drive backup tools, as the old set won't work with Windows 95. Many money managers are betting on Symantec, which controls about 75% of the utilities market.

"Our logic with Symantec is real simple. Once [Windows 95] gets released, the utilities upgrades will be pervasive, just like when Windows 3.0 was introduced," says Edward Antoian, a portfolio manager with Philadelphia-based Delaware Management.

Then there are the memory makers. Windows 95 will gobble up memory, requiring at least eight megabytes of random-access memory, or RAM, to run its various tools. Most consumers have been buying computers with just four megabytes of RAM and will be turning to the memory providers for upgrades.

"I think eight megabytes of RAM will be underpowered, and most are going to be looking for 16 megabytes," predicts Charles F. Boucher, a semiconductor analyst with Hambrecht & Quist.

Although the big RAM makers such as Micron and Texas Instruments are the obvious names, smaller companies could profit from the memory demand.

"When it comes to Windows 95, anyone selling anything remotely related to memory will benefit—because you'll need it," comments Lise Buyer, an analyst with T. Rowe Price's Science and Technology Fund.

Integrated Silicon Solutions, which makes the higher performance SRAM memory circuits, is already producing at capacity and orders are expected to increase. The Sunnyvale, Calif., company's shares, which rose ¼ to 51 Friday on the Nasdaq Stock Market, have soared from an initial offering price of 13 in February.

Another 1995 IPO that might ride Windows 95 to bigger gains is Oak Technology, a maker of semiconductors and software specifically for multimedia applications. Multimedia is supposed to be one of Windows 95's especially strong suits. Oak's stock has been rising in tandem with consumer demand for CD-ROM-equipped computers. Shares have more than doubled since Oak's first-quarter IPO at 14 a share to Friday's close of 34¼, up 3¼.

Once armed with the latest turbocharged computers and the new operating system, consumers will turn to software developers to write more advanced multimedia titles to take advantage of that power. To hear and see all of the bells and whistles of the new programs, computer makers and consumers will be loading their PCs with all kinds of graphic accelerator chips and boards.

SOARING SHARES

A number of smaller companies specialize in the graphic chips market, and their stocks have been soaring this year. S3 has more than doubled this year, closing Friday at 34⅝, down 1. Trident Microsystems has gained 64% this year to close at $19.25 a share on Friday, up ½, while Chips & Technologies, which focuses on the portable PC market, has gained 55% since January to end last week at $11.125, up 1.

S3 got an added boost last week when Compaq Computer said it would use an S3-produced multimedia chip package in one of its PC lines. Following the announcement, S3 said it was comfortable with analysts' sales estimates for the year of $300 million, compared with $140 million in 1994.

The second quarter played host to two hot IPOs of companies which make boards combining the various graphics and multimedia chips. Diamond Multimedia Systems and Number Nine Visual Technology should both get a boost from consumers who want to upgrade their capabilities without buying a new computer.

In addition to selling the boards, Number Nine also makes its own high-end 128-bit graphics card—enabling computing to run at near Mach speeds compared with the current 16-bit standard and Windows 95's breakthrough 32-bit capabilities.

"It's a small market right now, but that's where a lot of the growth will be coming from in the next few years," says Brad Hoopman, a technology analyst with Philadelphia-based PNC Small Cap Growth Fund.

With increased memory and the speed of the new system, more consumers will be turning to the Internet for entertainment and information. They might need high-performance modems made by Microcom and U.S. Robotics.

One warning from the analysts: Software makers that aren't ready for Windows 95 when it arrives could be in for some hard times. They recommend evaluating software stocks in light of their ability to offer Windows 95 products.

"Clearly it's something that has to be thought of in the overall investment equation," advises Fred Alger's Mr. Swei. "When considering the technology stocks, you've got to think about whether the product can compete or will it just become irrelevant" in the post-Windows 95 world.

[From the Washington Times, April 21, 1995]

MICROSOFT DESERVES REVERSAL ON MERITS, JUDGE'S GOOFINESS

There is no polite way to put this. The Sporkin-Microsoft antitrust case that goes before a U.S. Court of Appeals on Monday is just about the goofiest, weirdest, most bizarre case of its kind. Ever. Here are the basics of the case:

In the 1980s, Microsoft officials bet the ranch that they could build an operating system that would serve as a foundation, or platform, for most or all of the software applications that run on personal computers. They won—big.

Competition, naturally didn't like this much. Four years ago, they complained to the Federal Trade Commission and then the Justice Department. They said (anonymously) that SYS–DOS and Windows had been so successful that Microsoft's operating systems had become a monopoly. Which is true.

First the FTC and then Justice decided that, in fact, Microsoft did have a monopoly. Never mind that Microsoft had mostly guessed right and that thousands of independent software developers were exceedingly delighted that they had. The government decided to pursue an antitrust case against Microsoft.

Four years and millions of taxpayer dollars later, Justice decided that, well, maybe Microsoft did have a monopoly and their competitors didn't much like it. But consumers were happy—they were getting thousands of new software applications at lower prices—and there wasn't much of an antitrust case after all.

So Justice and Microsoft officials negotiated a deal, a consent decree that essentially ordered Microsoft to change the way it licensed its operating system to others. Everyone—except Apple Computer Inc., and other direct competitors—seemed to be happy.

In the end, the Justice Department conducted more than 100 interviews at about 80 companies, reviewed more than 2 million pages of documents, and devoted more than 20,000 paralegal and economist hours on the case. Kind of takes your breath away.

But this story, as bad as it seems, did not end there. Instead, Stanley Sporkin, the federal district judge assigned to review the consent decree, read a book called "Hard Drive" during his vacation and created a whole bunch of new kooky things for everyone to look at and basically threw the case out and told them to start over.

Judge Sporkin, for instance didn't like something called "vaporware," and was mad that Justice didn't pursue this. And what, exactly is vaporware? Glad you asked.

When a company like Microsoft is developing a new operating system, it announces its future plans to market such a new system. Mostly, it lets computer buyers, dealers, and software makers (or even consumers) know that something new may be on the horizon.

But Judge Sprokin said, no, this "vaporware" (as in, it doesn't exist yet and may never actually exist) is nothing more than a sinister plot by Microsoft to keep people from buying similar competing products before its own product emerges from the factory.

Let's take the judge's reasoning out to its conclusion. Instead of telling people (beforehand) what Windows 95 will look like when it comes out, Judge Sporkin wants Microsoft to just drop the program in people's laps one day. Sure, that makes a lot of sense.

In addition, Judge Sporkin apparently entertained some rather unusual "ex parte" communications with quite interested third parties while he was deliberating the case.

For instance, according to Microsoft's Appeals Court brief, Apple sent a letter and five affidavits accusing Microsoft of various actions unrelated to the Justice case directly to Judge Sporkin's chambers. The other side didn't find out until later.

And a software industry commentator faxed an accusatory letter directly to the judge's chambers opposing the consent decree, according to Microsoft's brief. Judge Sporkin didn't bother to tell anyone about this, which only later emerged as court documents became available.

Just think of the possibilities if all judges had faxes in their chambers to receive such ex parte communications. Have a problem with the way the O.J. Simpson case is going? Just fax in your comments to Judge Lance Ito's chambers.

Reading through the transcript of the Sporkin proceedings is a journey through fantasyland. At one point, he said he was raising issues unrelated to the case before him because "I read a book once that raised all these issues, and that's why I raised them."

At another point, he urged Microsoft legal counsel to read "Hard Drive" so everyone would be on the "same page" and constantly referred to things he'd clearly read from a stack of newspaper clips in his chambers.

And at yet another point, Judge Sporkin said he was concerned about the "schnook consumer" who might be thinking of buying "Turbo Charge." Never mind that cars are turbo-charged and that computer run a programming language called TurboBASIC.

Make no mistake about any of this, Microsoft is clearly an aggressive—maybe even ruthless—company. It offers deals that can't be refused to computer hardware manufacturers so they will install Microsoft operating system in their computers.

But none of this is illegal. Microsoft cornered the market on personal computer operating systems by offering very good products at very good prices. Simple as that.

And no amount of equivocating by anyone—including a judge who wants to be the mediator of the computer industry for perhaps the next 10 to 20 years—is going to change that fact.

Even if Microsoft CEO Bill Gates and his good friend President Clinton, did cut their own side deal on a golf course somewhere to get Justice to back down in the antitrust case, it makes no difference.

The case against Microsoft was a joke to begin with, and it only got worse with the passage of time. "Schnook consumers" are getting murdered by this entire mess.

If there is any intelligent life left in the federal judicial system around here, the U.S. Court of Appeals should review the case immediately, order another federal district judge to enter the consent decree, and let the computer industry get on with its life.

Oh, and while it's at it, the appeals court might want to tell Judge Sporkin to turn off the fax machine in his chambers and avoid bookstores on his next vacation.

CROATIAN AMBASSADOR EXPOSES YUGOSLAVIA'S MILITARY INVOLVEMENT IN SERBIAN OCCUPIED CROATIA

HON. GEORGE P. RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 11, 1995

Mr. RADANOVICH. Mr. Chairman, a memorandum sent by Dr. Petar Šarčević, Ambassador of Croatia to the United States, exposed compelling evidence of direct military involvement by the Yugoslav Government in assisting secessionist Croat Serb forces. I have submitted this memorandum in order to make my colleagues aware of the gravity of these circumstances in hopes of continuing support of internationally imposed sanctions on Yugoslavia.

Washington, DC, June 30, 1995.

Re Belgrade regime responds to offers for suspension of sanctions by stepping up its intervention in the Croatian occupied territories.

To: Members of the U.S. Congress.
From: Dr. Petar Šarčević, Ambassador.

It is with deep concern that I write to you regarding the dangerous build-up of the Yugoslav army forces in the occupied territories of Croatia.

During the past several weeks the international community has been engaged in intensive negotiations with the Belgrade regime over suspension of sanctions in exchange for the normalization of relations with Croatia and Bosnia-Herzegovina. Concurrently, the Belgrade regime stepped up its intervention in Croatia's occupied territories. Croatia has obtained copious evidence that documents the active engagement of the Yugoslav army in Croatia by: sending equipment from Serbia and Montenegro to the occupied territories; directing the paramilitary units on the occupied territories through Belgrade-commissioned officers sent to these territories for that purpose; paying the wages of those officers and of other members of the proxy government and military; and forcibly mobilizing citizens of the "Federal Republic of Yugoslavia" (Serbia and Montenegro) and ethnic Serb citizens of Croatia and Bosnia and Herzegovina for military service in the occupied territories of Croatia.

Taken together, the above evidence (see Attachment) is tantamount to yet another breach of the internationally recognized borders that UNCRO is supposed to protect, as well as fortifying the unlawful occupation of Croatia's territories. At the same time, this evidence confirms an additional build-up in the region, and specifically, threatens the adjacent Bihać safe area in Bosnia and Herzegovina. This situation could result in a renewed attack from occupied Croatian territories on this important Bosniac enclave. My Government would then be placed in a very difficult position in light of its sincere efforts to meet and honor the obligations in bilateral agreements with Bosnia-Herzegovina.

I appeal to you to keep abreast of developments in both the occupied territories of Croatia and neighboring Bosnia-Herzegovina. Your highest consideration of this escalating situation is essential.

ATTACHMENT[1]

EVIDENCE OF OF FORCIBLE MOBILIZATION

The forcible mobilization is proceeding on a large scale and is expected to continue. As of June 14, 1995, over 4,500 mobilized men were transferred against their will and a further 500 volunteers have been transported to the occupied territories of Croatia. In addition, there has been a dramatic increase in the transfer of military personnel from Serbia and Montenegro through the territory of Bosnia and Herzegovina in violent of relevant Security Council resolutions. Soldiers have been transported in vehicles provided by the Yugoslav army and entering the occupied territories of Croatia. The primary objective of Belgrade authorities is to further strengthen and reinforce their hold in the area of Slunj in Croatia, and thereby secure the occupation of this region and amass considerable forces for further engagements in the strategically important region of Bihac (UN "safe area") in Bosnia and Herzegovina.

EVIDENCE OF DIRECT AND INCREASING MILITARY INVOLVEMENT IN CROATIA

The very fact that the commander of the Serb paramilitary forces in Croatia, Lt. Gen. Mile Mrkšić, prior to his present assignment, served as Assistant Chief of the General Staff of the Yugoslav army, demonstrates the level of military involvement of Belgrade authorities in the occupied parts of Croatia. Mrkšić was responsible for the special forces of the Yugoslav army and the JNA officer responsible for the siege of Vukovar.

Other evidence of Serbian military involvement in Croatia include the following. On June 13, 1995 two Yugoslav army tank units totalling 26 M-84 MBTs operated by the Yugoslav army's 211th Armored Brigade, were sent from Niš, Serbia, across the border with Bosnia and Herzegovina, and deployed in Slunj, in the occupied territories of Croatia in sector Glina. In addition, on June 12, 1995 one unit of armored personnel carriers (APCs) consisting of 10 vehicles operated by the Yugoslav army Second Motorized Brigade was sent from Valjevo, Serbia, across the border with Bosnia and Herzegovina, and deployed in the same region in Croatia, at Banovina. Furthermore, on June 19, 1995 the Yugoslav army supplied equipment for two MI-8 rotary-wing aircraft located at the Udbina airport in the occupied territories, sector Knin, through the territory of Bosnia and Herzegovina.

Croatia has also brought to the attention of the United Nations evidence that throughout June 1995 the following senior officials of the Yugoslav army commissioned officers were assigned for duty in the occupied territories of Croatia:

Colonel Slobodan Tarbuk from the Yugoslav army Kragujevac corps, transferred to the 39th corps of the so-called Army of RSK in Petrinja, Croatia, on June 9, 1995.

Lt. Colonel Vučeković from the Yugoslav army, transferred to the 11th corps of the so-called Army of RSK in Croatia, on June 23, 1995.

Colonel Uroš Despotović from the Yugoslav army, transferred to the 70th paramilitary Infantry Brigade of the so-called Army of RSK in Plaški, Croatia, in June 1995.

Colonel Milivojević from the Yugoslav army, transferred to the 70th paramilitary Infantry Brigade of the so-called Army of RSK in Plaški, Croatia, in June 1995.

Lt. Colonel Miloš Cvjetičanin from the Yugoslav army, transferred to the 2nd Armored of the so-called Army of RSK brigade in Croatia, in June 1995.

Colonel Milorad Stupar from the Yugoslav army Pančevo Special Units corps, transferred to the paramilitary Special Forces of the so-called Army of RSK corps in Croatia, in June 1995.

VIOLATION OF THE ZONE OF SEPARATION (ZOS)

As of May 1995 a total of 320 Serb paramilitary troops remain in the zone of separation (ZOS), in violation of the March 29, 1994 cease-fire agreement and UN Security Council Resolution 994 (1995). Of these, 70 are in sector "Vukovar", 50 in sector "Glina", and 200 in sector "Knin". Furthermore, on June 22, 1995 two new platoons of paramilitary personnel were deployed in the ZOS in the vicinity of Kašić, in sector "Knin", directly threatening the civilian traffic on the Zadar-Maslenica highway. On June 23, 1995 two additional platoons of paramilitary personnel were deployed in the ZOS near Osijek.

REINFORCEMENTS TO THE PARAMILITARY FORCES IN THE OCCUPIED TERRITORIES OF CROATIA FROM "ARMY OF YUGOSLAVIA", JUNE 1995

Date	Reinforcement type	Number	From	To
Equipment:				
June 13	Armored personnel carriers	10	2 motorized brig. [Valjevo]	Banovina (sector Glina).
June 13	Main battle tanks M–84	26	211 armored brigade [Nis]	Slunj (sector Glina).
June 19	Anti-armor ordinance for Mi-8 rotary-wing aircraft	2	"Army of Yugoslavia"	Udbina airfield (sector Knin).
Personnel:				
June 4	Volunteers	100	Serbia	Plaski (Knin).
June 13	Volunteers	800	Serbia	Knin (Knin).
June 13	Forcibly mobilized	150	Serbia	Batnoga (Glina).
June 14	Forcibly mobilized	300 to 400	Serbia	Vukovar.
June 14	Forcibly mobilized	400 to 500	Serbia	Slunj (Glina).
June 15	Volunteers	100 to 120	Serbia	Plaski (Knin).
June 16	Forcibly mobilized	700 to 800	Novi Sad	Slunj (Glina).
June 17	Forcibly mobilized	2000 to 2300	Serbia	Slunj (Glina).
June 17	Volunteers	80	Serbia	Soskovci.
	Total	4600 to 5200.		

OFFICERS

Date	Name	Rank	From	To
June 9	Slobodan Tarbuk	Colonel	Kragujevac Corpps, "FRY"	39 corps.
June 26	N. Vuckovic	Lt. Colonel	"Army of Yugoslavia"	11 corps.
June	Uros Despotovic	Colonel	"Army of Yugoslavia"	70 brig. (Plaski).
June	Milivojevic	Colonel	"Army of Yugoslavia"	70 brig. (Plaski).
June	Milos Cvjeticanin	Lt. Colonel	"Army of Yugoslavia"	2 arm. brig/spec. corps.
June	Milorad Stupar	Colonel	Commando brigade Pancevo, "FRY"	Spec. Forces Corps.

Source: Letter from Mr. Hrvoje Sarinic, Head of the Croation Government's Commission for UNCRO, to Mr. Yasushi Akashi, Special Envoy of the UN Secretary General, June 28, 1995.

MFN FOR BULGARIA

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 11, 1995

Mr. HAMILTON. Mr. Speaker, I speak in favor of graduating Bulgaria from title IV trade restrictions, the Jackson-Vanik restrictions, under the Trade Act of 1974. I commend Mr. CRANE, Mr. RANGEL, and the entire Committee on Ways and Means for taking this timely action.

Since the late 1980's Bulgaria has made great strides in ameliorating its political and economic circumstances. Bulgaria's communist government has collapsed, and in its place a democratic republic has emerged. The country's human rights record has improved dramatically. Emigration is no longer a problem; in fact, President Clinton determined in 1993 that Bulgaria is in full compliance with title IV freedom of emigration requirements. Although not yet completely resolved, the Government has made a sustained effort to strengthen its relations with Bulgaria's significant Turkish minority.

On the economic front, Bulgaria's Government has implemented sweeping reforms modeled on free-market principles, including privatization. While reforms are perhaps not proceeding as smoothly as might have been expected, the economic situation in Bulgaria has improved substantially throughout the 1990's. Granting Bulgaria permanent MFN status would decrease the tariffs it pays and ensure that its economic reform program continues at an even faster rate.

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[1] Source: Letter sent by The Minister of Foreign Affairs of the Republic of Croatia to the United Nations Secretary General on June 28, 1995.

The United States would also directly benefit from lifting title IV restrictions vis-a-vis Bulgaria. In general terms, this policy would enhance bilateral trade relations between the two countries. More specifically, the extension of MFN status to Bulgaria is needed if the United States is to take full advantage of all GATT and WTO provisions, for Bulgaria is currently in the process of acceding to the two international trade institutions.

I urge my colleagues to support this measure which will provide an important political and economic boost for Bulgaria's democratic, free-market development.

TRIBUTE TO MAJ. GEN. WALLACE C. ARNOLD

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 11, 1995

Mr. SKELTON. Mr. Speaker, I rise today to pay tribute to a great American, an outstanding Army officer, and a great individual: Maj. Gen. Wallace C. Arnold, known to his many friends as Wally. This month Wally Arnold will complete 35 years of dedicated service to his country. Major General Arnold was born here in Washington, DC, and raised in Warrenton, VA.

Today he serves as the assistant deputy chief of staff for personnel. This is the capstone of a remarkable career which he started in 1957 when he entered college at Hampton Institute and enrolled in the Reserve Officer's Training Corps [ROTC]. Upon graduation in 1960, he was awarded a bachelors of science degree in industrial education and a commission as a air defense artillery 2d lieutenant. His first assignment was to Korea, where he served as a platoon leader in the 2d Battalion 71st Air Defense Artillery. Upon returning to the United States, he served with the 35th Air Defense Artillery Brigade at Fort Meade, MD as the headquarters battery commander.

In 1966, Wally Arnold was transferred overseas for 4 years. First he served with the 30th Air Defense Artillery Brigade in Okinawa, where he began his long service in the personnel area. After 3 years, then Captain Arnold was transferred to the Republic of Vietnam. Here he made a major contribution while serving as the chief, psychological operations division, XXIV Corps in support of several Republic of Vietnam combat units. After a short tour at Fort Bliss, TX, General Arnold was assigned to Washington, DC, where he served as personnel assignments officer.

The Army recognized Wally Arnold's leadership abilities by selecting him in 1974 to command the 3d Battalion, 61st Air Defense Artillery in the 3d Armored Division. After a successful tour as a battalion commander, General Arnold again returned to the Washington area for a variety of staff jobs including such prestigious positions as the military assistant to the Under Secretary of the Army.

The Army again recognized Wally's dynamic leadership abilities, when in 1982, he was selected to command the 69th Air Defense Artillery Brigade in Wurzburg, Germany.

Following his successful command tour and promotion to brigadier general, he remained in Europe to serve in a joint billet as the director of personnel and administration (J1) for the U.S. European Command. Despite the decline in the value of the dollar against foreign currencies, Major General Arnold was able to sustain and in many areas improve the morale, welfare, and recreational facilities available to soldiers and their families. He worked closely with the Department of Defense Dependent Schools Systems to ensure continuation of quality education for the family members of soldiers assigned in Europe.

In 1987 he returned to the United States to begin his long association with the Reserve Officers Training Corps. He served first as the commander of the First ROTC Region, encompassing the eastern seaboard of the United States. Here his dynamic leadership style provided a positive role model for thousands of cadets. Throughout his tenure he was cited for his caring, innovative, and competent leadership. First ROTC Region was rated the best within Cadet Command in recruiting, training, and producing quality officers. Under his leadership the performance of historically black colleges improved dramatically. That First ROTC Region's Advanced Camp was rated the best by Cadet Command is directly attributable to his leadership and managerial skill. He also worked closely with the Junior ROTC Programs to improve their activities and focus on citizenship.

In May 1990, now Major General Arnold assumed command of the entire Cadet Command. He was an inspirational leader, strategic thinker, and role model for all. He oversaw a reasoned and well balanced drawdown of Senior ROTC units across the country that left Cadet Command better able to accomplish its mission, while at the same time, he promoted and implemented the rapid expansion of Junior ROTC.

In his final assignment at the Department of the Army, Major General Arnold was a sage advisor to two Deputy Chiefs of Staff for Personnel. In fact, he served as the acting DCSPER for 5 months last year. In his final assignment, he oversaw the final drawdown policies that were used to properly shape the officer and enlisted forces. He also contributed significantly to the development and funding of personnel automation information systems that will improve the Army for years to come.

Major General Arnold's career has been marked by selfless service, devotion to duty, and dedication to soldiers and their families. His outstanding performance of duty and significant contributions to America's Army mark him as a first rate officer. I am sure my colleagues join me in wishing him and his wife the best in their retirement in the Tidewater area of Virginia.

INTRODUCTION OF THE COMMUNITY FOOD SECURITY ACT

HON. E de la GARZA

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 11, 1995

Mr. DE LA GARZA. Mr. Speaker, I am today with many of my colleagues introducing the Community Food Security Act of 1995. This bill will give the Secretary of Agriculture the authority to award one-time grants to organizations developing innovative community-based projects to address both food access and economic development issues in local communities. At a time when Federal nutrition resources are being stretched to the breaking point, local long term solutions to hunger concerns must be encouraged. Projects that address hunger needs while also providing job training and economic development at the local level deserve our enthusiastic support.

Efforts to deal with hunger in the United States have for the most part relied on a combination of Government food and nutrition programs such as food stamps, WIC, meals for the elderly, and privately funded charitable feeding programs such as food pantries and soup kitchens. Although these programs have gone a long way to reduce hunger and malnutrition in this country, there is still a need to provide innovative ways to address the overall availability of low-cost, nutritious food in low-income communities. There is a little direct relationship between food assistance and nutrition programs, and local farmers. Traditional nutrition programs have not provided opportunities for recipients to participate in the process of providing at least some of their food, nor have they offered economic opportunities or job training that could assist at least some recipients to move beyond the economic conditions that necessitate reliance on food assistance programs. There is a need to develop innovative approaches to providing food to low-income families, particularly approaches that foster local solutions and that deliver multiple benefits to communities.

The concept of community food security is a comprehensive strategy to feeding hungry people, one that incorporates the participation of the community and encourages a greater role for the entire food system, including local agriculture. This strategy can result in many benefits to a low-income community while providing food for poor families. An example is a food bank that sponsors a farm wherein hundreds of households purchase shares that provide them with fresh farm products; the farm also supplies fresh produce to hundreds of pantries and meals programs that feed hungry families. Another example would be a homeless shelter that provides culinary skills training to clients and works with social service agencies to find them regular employment in the food industry. In a recent subcommittee hearing we learned of a nonprofit group, the America the Beautiful Fund, that distributes seeds donated by seed companies to projects in all 50 States; these seeds have produced tons of food for low-income families. These worthy projects should be encouraged, and can be replicated with the help of the grants this bill will provide.

The Community Food Security Act authorizes the Secretary of Agriculture to make grants to organizations to establish community food security projects. The bill requires that each organization receiving such a grant provide at least a 50-percent match. The term of the grant may be for no more than 3 years. These requirements are to ensure strong community support for each project, so that when the Federal grant terminates the project will continue.Preference will be given to projects designed to develop linkages between two or more sectors of the food system; to support the development of entrepreneurial solutions to local food problems; to develop innovative linkages between the for-profit and nonprofit food sectors; or to encourage long-term planning activities and multi-system interagency approaches.

I am hopeful that this legislation can be made a part of the nutrition title of the 1995 farm bill, and I am especially pleased that Mr. Emerson, chairman of the Subcommittee on Department Operations, Nutrition and Foreign Agriculture is cosponsoring this legislation with me.

TRIBUTE TO G. RUSSELL BASSETT

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 11, 1995

Mr. VISCLOSKY. Mr. Speaker, it gives me great pleasure to rise today and pay tribute to a celebrated community servant, Mr. G. Russell Bassett. On Friday, July 14, 1995, Russ, along with his friends and family, will celebrate his retirement from the Sheet Metal Workers Union Local No. 20. This retirement dinner will take place at the Radisson Hotel in Merrillville, IN.

We are all fortunate to have dedicated people, like Russ, involved in the labor movement in Indiana's First Congressional District. Indeed, Russ personifies true selfless dedication. Russ embarked on his distinguished career in former Sheet Metal Workers Local No. 303, where in 1970, he began as a business manager. In 1983, local No. 303 merged with local No. 20, and in the following year, Russ began 8 years as a business representative for the new local. He retired on July 1, 1995, after nearly 12 years as a business representative of Sheet Metal Workers Union Local No. 20. In all, Russ contributed 39 years of his life to fight for labor rights for his union brothers and sisters.

Russ strengthened the labor movement by contributing in several other capacities. For 25 years, Russ served locals Nos. 303 and 20 as a trustee for the health and welfare fund, the Gary area pension fund, and the joint apprenticeship committee. Moreover, Russ served for 3 years as vice president and executive board member for local No. 303.

Outside of his professional career, Russ has devoted a large portion of his life to the betterment of northwest Indiana. Russ devoted 5 years of his life to the Portage Indiana Economic Development Commission on which he served as chairman, and another 5 years on the Indiana OSHA Safety Review Committee.

As we have just celebrated the birthday of our Nation's independence, let us remember those who have worked hard to fulfill the American dream. I offer my heartfelt congratulations to Russ, who has worked arduously to make this dream possible for others. Russ has proven himself to be a distinguished advocate for the labor movement, and he has made northwest Indiana a better place in which to live and work. I sincerely wish Russ a long, happy, and productive retirement.

A TRIBUTE TO STANLEY SCOVILLE

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 11, 1995

Mr. MILLER of California. Mr. Speaker, I rise with great sorrow to inform the Members of the House of Representatives of the passing of our friend and coworker, Stanley Scoville, last Saturday morning.

For nearly a quarter of a century, Stanley Scoville served as a valued, knowledgeable, and dependable colleague on behalf of our former colleague, Hon. Morris K. Udall, and in a variety of positions on the staff of the Committee on Interior and Insular Affairs.

Stanely was born in Phoenix, and retained a great appreciation and attachment to the Southwest throughout his life. He attended both undergraduate and law school at the University of Arizona, and served as a clerk for U.S. District Court Judge James A. Walsh in 1971–72. At the end of his clerkship, he joined the staff of Congressman Udall in Washington, and from that day forward until his retirement earlier this year, he held a succession of positions on Mo's personal and committee staff, including staff director and counsel, and special counsel to the chairman.

I first met Stanley when I came to the Congress in 1975 as a junior member of the committee, and we worked together on a wide variety of issues, including on the Ad Hoc Select Committee on the Outer Continental Shelf. Stanley brought to his job a thorough knowledge of energy and environment policy, and a sharp political sense that was invaluable to a vast array of issues that came before our members every year.

Stanley also had a deep commitment to the institution of the House of Representatives itself, and he continued to work with the committee through great personal difficulties because of his belief in our laws and our system of government. His loss will be deeply felt by all those who work on these issues and all those who were fortunate enough to know and work with him.

A memorial service is being held at 1 p.m. this Friday in the Morris K. Udall Hearing Room of the Committee on Resources, 1324 Longworth Building. I hope that Members and their staffs would attend to show their respect and appreciation for this talented and dedicated public servant.

CONGRATULATING "PARAMETERS" ON ITS 25TH ANNIVERSARY

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 11, 1995

Mr. HAMILTON. Mr. Speaker, Parameters is an official U.S. Army periodical, published quarterly by the U.S. Army War College. I would like to take this opportunity to congratulate "Parameters" on its 25th year of publication.

Alastair Cooke has called Parameters "one of the small but odd mixture of magazines I would not want to be without." Daniel Bell has said,

> I find Parameters one of the more interesting and useful journals I read, largely because issues and questions discussed rarely are found in Foreign Affairs or Foreign Policy.

A professional military is vital to the United States. Through its candid, provocative essays, Parameters helps to keep our military on the intellectual cutting edge of the many complex problems they face. It also contributes to policymakers' understanding of these problems. And perhaps most important, it provides a forum for honest and open debate within the military.

I salute Parameters on its 25th anniversary, and urge my colleagues to read this important quarterly.

TRIBUTE TO CHARLES McCLAIN

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 11, 1995

Mr. SKELTON. Mr. Speaker, I take this opportunity to pay tribute to an exceptional Missourian, Charles McClain, for dedicating 41 years of his life to the education of the young people of Missouri. After 6 years as the commissioner of higher education [CBHE] for the State of Missouri, Charles McClain is stepping down.

Educated at Southwest Missouri State University, he received his bachelor's degree in 1954. He received his doctorate from the University of Missouri-Columbia in 1961.

From 1954 until 1959, Charles was a teacher and administrator in public schools throughout Missouri. In 1961, he became the assistant dean in the College of Education at the University of Missouri-Columbia.

Charles accepted the challenge of becoming the founding president of Jefferson College in 1963. Within 4 years of its establishment, the college received full accreditation.

In 1970 Charles became the president of Northeast Missouri State University. While he was president, Northeast received nationwide recognition. In 1987 Northeast was ranked as one of the five most innovative colleges and universities in the country in a U.S. News & World Report survey of college university presidents. It was also selected as one of the Nation's best of the bargain colleges by Changing Times magazine and a panel of education professionals in March, 1988.

Charles took over as the State commissioner of higher education in July, 1989. As the board's chief executive officer, the commissioner advises the board on policies and action decisions, administers all programs that are mandated by Missouri statute for CBHE implementation, and oversees the functions of the Department of Higher Education. During his time as commissioner he was responsible for the development of a core curriculum that will be required of all first-time, full-time freshmen starting in fall, 1996. Also during Charles McClain's tenure, the CBHE adopted teacher education goals to ensure that Missouri's teachers are highly qualified. Charles also worked to trim administrative expenses and improve accountability of institutions.

I know that my colleagues join me in congratulating Charles McClain for an outstanding career and best wishes in his retirement.

RETIREMENT OF TRAVIS B. KUYKENDALL

HON. RONALD D. COLEMAN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 11, 1995

Mr. COLEMAN. Mr. Speaker, I wish to pay tribute to Travis B. Kuykendall on the occasion of his retirement which became effective June 30, 1995. I am especially indebted to this individual because he has dedicated the past 5 years of his life as Assistant Special Agent in Charge of the Drug Enforcement Administration, El Paso Sector.

Mr. Kuykendall, a native Texan, had a 33-year career in law enforcement which was distinguished by his decency, commitment to the principles of justice, and his concern for his community. Of the 33 years, he served 29 of those years at the Federal level.

He began his law enforcement career in 1962 as chief deputy sheriff of Maverick County, TX. In 1966, he began his Federal law enforcement career as a Special Agent for the Customs Service. In 1973, he transferred to the Drug Enforcement Administration where he served in various capacities culminating with his appointment in El Paso.

In 1990, Mr. Kuykendall was appointed as Assistant Agent in Charge of the Drug Enforcement Administration for the El Paso Sector. As a Federal law enforcement agent, Mr. Kuykendall has participated in various high-level drug enforcement operations including Operation Intercept, Operation Clearview, Operation Falcon, Operation Snowcap, and the restoration of democratic government in Panama after Operation Just Cause.

During his tenure in El Paso, Mr. Kuykendall faced an extraordinary challenge: dramatic increases in drug trafficking across the southwestern border while losing resources due to budget constraints. He rose to the occasion, and displayed courage, fortitude, and leadership. I was always proud to work with him.

Travis Kuykendall has two grown children, Travis and Vanessa, and a patient and supportive wife, Raquel. I am sure he will continue to be active in his community in the future.

Mr. Speaker, I urge my colleagues to join me in paying tribute to an outstanding American, a devoted public servant, and a family man.

TRIBUTE TO BRIG. GEN. MICHAEL R. LEE

HON. GERALD D. KLECZKA

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 11, 1995

Mr. KLECZKA. Mr. Speaker, I rise today to pay tribute to Brig. Gen. Michael R. Lee, the departing commander of the 440th Airlift Wing at General Mitchell International Airport. General Lee has guided this Air Reserve Station superbly over the years. It is with fond memories and deep gratitude that we wish him well on his new assignment at Dobbins Air Force Base in Georgia.

As we all know, reassignments, transfers, and reorganizations are a fact of life in the military. Still, I find it no easier to have to say good-bye to a gentleman who is the epitomy of a dedicated, talented, and revered career Air Force officer.

General Lee is an accomplished military man and a master navigator logging more than 5,500 flying hours. He is also a goodwill ambassador for the Air Force and the U.S. Armed Forces at large.

I truly believe that an individual's character and inner strength are best measured during times of adversity and uncertainty. The last few months were such a time for the general and the 440th, and both fared exceptionally.

Under General Lee's leadership, the 440th successfully survived its placement on the Base Closure and Realignment Commission's list of C–130 bases under examination for possible realignment or closure. In true form, General Lee rallied his staff, pulled together the 440th's Community Council and each and every civilian, and presented the best possible case to the Commission.

Just a few weeks ago the Commission echoed the widely held view that the 440th deserves its reputation as the best of the best. Based on all the 440th's merits and value to our national defense, and in large part due to the general's round-the-clock efforts, the base will remain open.

Mr. Speaker, the 440th and Wisconsin's loss will truly be Georgia's gain. I join the men and women of the 440th Tactical Airlift Wing in wishing General Lee continued success in his new assignment.

NATIONAL MERCY, LOVE, AND COMPASSION MONTH

HON. KEN BENTSEN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 11, 1995

Mr. BENTSEN. Mr. Speaker, I rise today to submit a proclamation endorsed by the Houston City Council to recognize September as National Mercy, Love, and Compassion for the Handicapped Month. I support these efforts to recognize and better understand the special needs of the physically challenged. Such efforts will help ensure that all people have the opportunity to live up to their full potential.

During the month of September, community leaders in Houston will spend a working day with a physically handicapped individual. Participants include Mayor Bob Lanier, members of the Houston City Council, business leaders and religious leaders. National Mercy, Love, and Compassion Month will culminate on October 7, 1995, with a day long celebration at Sam Houston Park.

National Mercy, Love, and Compassion Month is a program promoted by the Hear O' Israel International organization and its founder Olivia Reiner, and I would like to commend her for her tireless efforts to increase awareness of the challenges these individuals face. Therefore, I submit the following proclamation:

PROCLAMATION

Whereas, Hear O' Israel International is raising up a standard and sounding thealarm bringing awareness by calling September, 1995, as National Mercy, Love, and Compassion Month, following with our sixth annual Feast of Joy celebration at Sam Houston Park, for the physically challenged, the elderly, the fatherless, the abused children, and the widows around the world about our duty to take care of these individuals and meeting their special needs.

Whereas, Hear O' Israel and the physically challenged are adopting Mayor Lanier and all the city councilmen of Houston, TX and are also wanting to adopt any willing business and pastors for 1 day during the National Mercy, Love, and Compassion Month of September, 1995. Mayor Lanier and all the city councilmen want to issue a challenge to all businessmen and pastors to participate during National Mercy, Love, and Compassion Month.

Whereas, Hear O' Israel International, a nonprofit and nondenominational organization, will conduct an awareness project called National Mercy, Love, and Compassion Month, throughout the month of September, 1995.

Whereas, National Mercy, Love, and Compassion Month is to call attention to the plight of tens of thousands of physically challenged, the elderly, the fatherless, the abused children, and the widows around the world who have been forgotten and many times rejected by our communities.

Whereas, Hear O' Israel International, and the physically challenged want to challenge all churches, synagogues, businesses, and schools around the world of our duty to take care of these individuals and meeting their special needs.

Whereas, Hear O' Israel International, wants to encourage people to wear a blue ribbon on their lapel during the month of September as a symbol of support and sounding the alarm for the physically challenged, the elderly, the fatherless, the abused, and the widows.

Whereas, we need to execute true judgment by showing mercy and compassion every man to his brother and oppress not the widow, nor the fatherless, the stranger, nor the poor and let none of you imagine evil against his brother in your heart. We need to give of ourselves to help others that are less fortunate, those who cannot repay us.

Whereas, we need to motivate our small children and youth to do good deeds, visit nursing homes, etc., so that they can focus on compassion, and the violence that has come upon small children and youth would cease.

THE VILLAGE OF SOUTH GLENS FALLS CELEBRATES ITS CENTENNIAL

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 11, 1995

Mr. SOLOMON. Mr. Speaker, every day when I am home I have the privilege of driving through one of the most appealing communities on my way to and from my house in

Glens Falls and main district office in Saratoga.

The most important community between those two cities is the Village of South Glens Falls, which will celebrate its centennial this year. It is a village with an interesting heritage and, at the same time, all the resources needed for an equally exciting future. I'd like to say a few words this morning about South Glens Falls.

Like the city across the river, South Glens Falls takes its name and has built its life around the falls in a bend of the Hudson River. There, also, is the site of the famous cave mentioned in James Fenimore Cooper's "Last of the Mohicans."

And like many other communities in the area, the birth of South Glens Falls was intimately tied to the lumber and paper-making industries. It's official beginning as a distinct entity was on August 8, 1895. Voters petitioned the formation of the Village to find a source of wholesome water for its inhabitants. Funding was approved by a local bond vote in early 1896, and the village began building a water system fed by a series of springs, pumps, standpipes, and distribution piping.

A new sewer system was constructed during the 1920's and 1930's, but more stringent regulations in the 1970's and 1980's led to major reconstruction projects.

The village is justifiably proud of its success in cleaning up the Hudson River for future generations to enjoy. Adding to the quality of life was the inclusion of a walk/bike trail along the river and refurbishing the old brick treatment plant into a museum, which will be dedicated this summer.

The village is also known for its excellent school system, and other amenities that enhanced living, but it has never lost its small-town character. Mr. Speaker, the character of America was forged in exactly such small towns and villages, where such virtues as thrift, hard work, and care for one's neighbors abound.

All summer long those small-town virtues and 100 years of existence will be celebrated in South Glens Falls. The highlight will be the week of August 7 to 13, featuring a parade and museum dedication.

Mr. Speaker, I ask all Members to join me in saluting the people of South Glens Falls, with all our best wishes toward a second century of growth and prosperity.

DUTY COMMISSIONS UPON SERVICE ACADEMY GRADUATIONS

HON. ROBERT A. UNDERWOOD

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 11, 1995

Mr. UNDERWOOD. Mr. Speaker, I am pleased to join my distinguished colleagues, Congressman JACK REED of Rhode Island and Congressman BOB DORNAN of California, as original cosponsors to introduce a bill to restore regular, active duty commissions upon graduation to members of the service academies. Beginning with the class of 1997, academy graduates will receive the same reserve commission that ROTC and OCS graduates receive. These young men and women work too hard and sacrifice too much not to be given the proper reward for their dedication.

There are those that would argue that it is fair to give the same commission to all officers regardless of their commissioning source. However, some comparisons shed light on the different nature of the commissioning sources and highlight why it is fair to give regular commissions to academy graduates. I will use the Army as an example for these comparisons.

Graduates of the U.S. Military Academy now have a 6 year active duty obligation to the Army after graduation. ROTC graduates have, at the most, a 4 year active duty requirement; nonscholarship and partial scholarship ROTC graduates only have 3 years. OCS graduates also only have a 3 year obligation.

Cadets at West Point also give up a lot more personal freedom. Underclassmen are restricted to the post limits every day during the week and are further restricted to the cadet area and academic buildings during the evening study periods. Privileges on weekends are also limited. Even at times when cadets are authorized by regulations to leave, they must obtain final permission from their tactical officers. ROTC cadets do not have to live under such strict standards.

In today's Army, there is very little difference, some would say none, between regular and reserve commissions, so service academy graduates are not and would not be given any real advantage. What they would be given is recognition for their devotion to serve their country and their willingness to sacrifice so much.

The academies play a vital role in providing quality officers who will lead the military for our Nation. This country can not afford to lose these institutions. By taking away the regular commissions from the academy graduates, Congress takes away just one more thing that distinguishes them from other programs and risks the eventual closing of the academies. If that were to happen, this seemingly minor event will be considered the first step toward the demise of the academies.

For the past two summers, I have had West Point cadets interning in my office. I have seen first hand the professionalism and ability they possess. Because of his tremendous pride in and concern for the U.S. Military Academy, Cadet Christopher S. Kinney, one of the cadets I have had assisting in my office, brought this issue to my attention. If he is any indication of the type of officers West Point develops, then I know this bill is the right thing to do.

This is not a contest to determine which program trains better officers; it is an effort to let the young men and women who attend the academies, like Chris, know that we appreciate what they are doing for this great country.

SMALL BUSINESS OPPORTUNITIES FOR VETERANS

HON. RANDY "DUKE" CUNNINGHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 11, 1995

Mr. CUNNINGHAM. Mr. Speaker, today I rise to support the creation of small business opportunities for veterans.

Veterans are invaluable to the American economy and represent about 20 percent of the small business owners in this country. Veterans have much to offer to our work force. They are well trained, dedicated, and extraordinarily disciplined workers. Despite having endured the trials and tribulations of war, veterans are resilient and eager to tackle new tasks. With all this in mind, it does not make sense that veterans are continuously discriminated against in the business world.

There is a perception in the banking and financial industries that veterans are a highercredit risk than non-veterans. Therefore, time and again, veterans are turned down for small business loans. I simply ask why? Nobody seems to know the answer. In fact, Mr. Frederick Terrell, managing director of First Boston Corp., testified before the House Committee on Veterans Affairs on March 13, 1993, that veterans are considered high risk loan applicants. However, when Mr. Terrell was asked for his reasoning, he could not fully explain his rationale. I do not understand why such discrimination exists in society. Shouldn't we have more respect for the men and women who helped America maintain its freedom?

Mr. Speaker, many of my colleagues present today are veterans. As you may know, I am proud to be a Vietnam veteran. Not long ago, I experienced the difficulty of returning to a country that was divided over our endeavors in Vietnam. I was one of the lucky ones. All the veterans serving in Congress today are lucky to assist the people of the United States. It is no surprise, however, that most veterans are not so fortunate.

I believe that veterans deserve fair or equal opportunities in the area of small business. Many young soldiers lost their lives in war. Others, often fighting for a cause they did not fully understand, returned from battle either emotionally or physically impaired. They were not always welcomed home with open arms. Rather, veterans were forced to endure years of persistent and obvious discrimination. I believe that the time has come to rectify this situation. First, we must respond by giving veterans the treatment they deserve with respect to their disabilities. Second, priority should be given to disabled veterans, Vietnam veterans, and P.O.W. veteran business owners, equal to that of other special consideration groups deemed worthy of Government assistance. Now is the time to return the spirit of freedom to the hearts of those who fought so valiantly for our country.

In closing, I ask you to join me in support for national veterans business ownership opportunities.

PORTUGAL TO INCREASE ITS UNITED NATIONS PAYMENTS

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 11, 1995

Mr. HAMILTON. Mr. Speaker, Congress has pushed hard to reduce the U.S. assessment for U.N. peacekeeping. That can only happen when other countries increase their payments.

I was therefore pleased to learn that Portugal has voluntarily agreed to increase its U.N. peacekeeping assessments, by moving from the group C category, where it pays about 0.04 percent of U.N. peacekeeping costs, to the higher-paying group B category. This change will be implemented over a 5-year period.

I congratulate Portugal on taking this step, and urge other appropriate group C countries to follow Portugal's lead.

I ask that this correspondence relating to this decision be included in the RECORD.

EMBAIXADA DE PORTUGAL
Washington, June 29, 1995.

Hon. LEE H. HAMILTON,
International Relations Committee, U.S. House of Representatives, Washington, DC.

DEAR MR. HAMILTON: Please find herewith the U.N. SG press release stating his appreciation for the Portuguese Government decision to increase its share in the financing of the peace-keeping operations of that organization.

In responding favorably to the appeal of the U.N. Secretary-General, Portugal will come to feature in Group "B", which encompasses the countries that provide increased financial assistance for those operations, thus contributing proportionally to its share for the U.N. regular budget. In practical terms, this means an increase of 500%, phased-in over the next five years.

This measure, a great burden though it may be for Portugal, derives from the wish of the Portuguese Government to alleviate the difficult financial situation besieging the United Nations, not least in the area of peace-keeping. It also sends a clear signal about Portugal's commitment to finding solutions, through the United Nations, to the vital questions which confront the international community. Moreover, it underlines unequivocally a serious and full commitment to the principles and objectives enshrined in the Charter.

With this decision, the Portuguese Government wishes to reiterate both its support for the U.N. activities and reaffirm the expanded role it has been assuming in multilateral fora. This is also a step toward achieving solutions to the serious financial crisis with which the United Nations is faced as well as responding in a meaningful way to the imperative need for an overhaul of that organization's financial system.

Sincerely,
FERNANDO ANDRESEN GUIMARÃES,
Ambassador of Portugal.

THE FOLLOWING STATEMENT IS ATTRIBUTABLE TO THE SPOKESMAN FOR THE SECRETARY-GENERAL, JUNE 13, 1995

The Secretary-General is pleased to announce that the Government of Portugal has responded positively to the initiative he took last year inviting Governments to consider increasing their contribution to peace-keeping operations.

Ambassador Catarino of Portugal met with the Secretary-General on Friday, 9 June 1995, to convey a letter from his Minister of Foreign Affairs, expressing the willingness of the Government of Portugal to increase its support to peace-keeping operations by accepting that its assessment for peace-keeping operations should be at the same rate as for the regular budget.

Currently a member of Group C—the Group of countries that contribute to peace-keeping operations on the basis of 20 per cent of their regular budget scale of assessments—Portugal has agreed to move voluntarily to Group B, the time-frame for such a change to be agreed upon. Group B is the group of countries that contribute to peace-keeping operations on the basis of the same scale as their regular budget assessment. The competition of these Groups was established by the General Assembly some twenty years ago.

The Secretary-General expressed his deep appreciation to the Government of Portugal and stated that he felt encouraged by this tangible demonstration of Portugal's commitment to the work of the United Nations, particularly at a time when the financial situation of the Organization was so precarious.

ON THE CHANGE OF COMMAND OF COL. JESSE L. BROKENBURR

HON. JAMES V. HANSEN

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 11, 1995

Mr. HANSEN. Mr. Speaker, Col. Jesse L. Brokenburr, U.S. Army, has served his Nation faithfully as commander, Tooele Army Depot [TEAD], Tooele, UT, from July 1993 through July 1995. As such, he commanded a multi-mission industrial complex spread over seven installations, in four different States. Under Colonel Brokenburr's command, the depot complex has remained responsive, flexible, environmentally responsible, and cost efficient. His leadership contributed directly to the fine reputation TEAD enjoys throughout the Army and the Department of Defense.

During Colonel Brokenburr's tenure, the depot complex has faced many challenges, including the BRAC directed closure of the Sacramento Depot Activity [SADA] and the downsizing of the Pueblo Depot Activity, CO, and the Umatilla Depot Activity, OR. As a direct result of his efforts, SADA became the first BRAC installation to sign a basewide record of decision for environmental cleanup, and was also the first economic conveyance of Federal property under President Clinton's five part plan for base reuse. At Pueblo and Umatilla, the difficult BRAC directed downsizing was accomplished efficiently while protecting the surety and safety of the ongoing chemical weapons stockpile storage mission.

BRAC effected the Tooele Army Depot work force as well. Realignment of TEAD's wheeled maintenance mission has resulted in drastic reductions of personnel. Colonel Brokenburr remained responsive throughout to the impact the depot's release of people would have on the surrounding community and the State of Utah. Even as TEAD faced its greatest challenges in over 40 years, Col. Jesse Brokenburr continued to stress the importance of the employee's quality of life, the morale of his work force and the welfare of their families. He possesses the rare quality of leadership that unites all who work for him into a cohesive unit in good times and bad. Colonel Brokenburr made an effort to know all of his people personally. The people that work with him and for him have described him as scrupulous, fair, gentle, understanding, considerate, and honest. Colonel Brokenburr embraces the principle that loyalty runs in two directions.

The following comments were also received from TEAD personnel: "Colonel Jesse Brokenburr distinguished himself as a good Commander, with the qualities of quick comprehension, prompt attention, and sterling integrity in all of his dealings with the depot work force. He is a great American with faith in the United States Army, the United States Government and the American people. His convictions and faith showed through in everything he said and did. Colonel Brokenburr is a true, selfless citizen and a loyal public officer. He possesses the types of qualities we should all try to emulate. Though he leaves Tooele Army Depot, he leaves behind his unforgettable advice and legacy—"stay focused and flexible."

PAYING TRIBUTE TO CHERRY HILL FARM'S 150TH ANNIVERSARY

HON. THOMAS M. DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 11, 1995

Mr. DAVIS. Mr. Speaker, my colleague, Mr. MORAN, and I rise today to pay tribute to the Cherry Hill Farm in Falls Church, VA. On Sunday, July 16, 1995, it will celebrate its 150th anniversary. In 1845 William Harvey purchased the 66-acre tract of land that would become known today as Cherry Hill Farm. Cherry Hill Farm is listed on the National Register of Historic Places and is open to the public. The site interprets antebellum family life in Virginia on a small but productive farm. Both the 1845 farmhouse and the 1850's hand hewn timber barn remain on their original sites.

On Sunday, July 16, 1995, from noon to 6 p.m., Cherry Hill will hold an old-fashioned anniversary celebration. Reenactors will portray antebellum life as they prepare for a mid-19th century wedding. In addition, there will be music from that period, crafts and old fashioned games for children and adults. The barn will also be open and its antique tool collection will be on display.

Mr. Speaker, we know our colleagues join us in honoring Cherry Hill Farm's 150th anniversary. We also invite and encourage any of our distinguished colleagues to attend this truly historic event at a truly historic place.

INTRODUCTION OF FIRE LEGISLATION

HON. BARBARA B. KENNELLY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 11, 1995

Mrs. KENNELLY. Mr. Speaker, I rise today to introduce legislation that would create three additional enterprise zones targeted toward the financial institutions, banking and real estate or "FIRE" industries. I have consistently supported enterprise zones and think the competition for both the zone and community designation provides ample evidence of the broad support for these efforts.

My city of Hartford, CT, applied for designation as an enterprise community but was denied. But when I started looking at the details, it was clear to me that while empowerment zones/enterprise communities are excellent economic development tools, they just do not quite fit all areas.

The tax incentives in empowerment zones include a wage credit, expensing of up to $75,000 and a lossening of restrictions on tax-exempt bonds—all incentives seemingly geared to manufacturing. Hartford and a number of other cities around the Nation, however, are different—our base is services and we would frankly benefit from a different mixture of tax incentives.

Let me talk about Hartford for a moment. Hartford has long been known as the insurance capital of the world. We have also traditionally been a center for financial services. However, any reader of the Wall Street Journal would know of the consolidation in the banking industry in New England and the collapse of the real estate market. On top of this, we are in the midst of unprecedented change in the insurance industry. In just one 10-day period recently, a number of announcements were made in Hartford: Connecticut Mutual Life Insurance was being acquired by Mass Mutual, the Travelers was selling its stake in Metrahealth—the last vestige of its health business, ITT would spin off its ITT/Hartford insurance division effective January 1st and Business Week listed Security-Connecticut as one of the hottest take-over targets in the insurance business.

But because this proposal is not just about Hartford. In the past decade, we have seen unprecedented change in our financial services industries. We have had banking and S&L problems, face increasing competition in the global marketplace, and later in the year will debate allowing banking, and other service industries including securities and insurance to affiliate. In addition, we have seen Bermuda attract over $4 billion in insurance capital in the past few years. It is certainly a beautiful place, but most importantly, it is also a tax haven.

And while change can certainly be good, it does create a tremendous amount of uncertainty. With each and every merger or spin-off, every major and every city council, not to mention the thousands of affected employees ask the same two questions: What does this mean for jobs; and what impact does this have on the property tax base and real estate values?

This legislation would create three additional zones and with tax incentives targeted to services. Specifically, these FIRE zones would be patterned after existing enterprise zones, but could encompass an entire city or municipality, and more important, could include central business districts. Eligibility would be the same as for existing enterprise zones, with an additional requirement that an eligible city would have to have experienced the loss of at least 12 percent of FIRE industry employment, or alternatively, 5,000 jobs.

In lieu of traditional enterprise zone tax incentives, new or existing businesses in FIRE zones would receive a range of tax incentives.

First, to deal with jobs, there would be a wage credit for the creation of new jobs within the zone. This would encourage businesses to hire displaced and underemployed insurance, real estate, and banking workers as well as to create entry level jobs for clerks and janitors.

Second, to deal with the high commercial vacancy rate problem that plagues many cities, there would be unlimited expensing on FIRE buildouts and computer equipment. The proposal would also remove the passive loss restrictions on historic rehabilitation.

Next, to provide an incentive for investors, the proposal would provide for a reduction in the individual capital gains rate for zone property held for 5 years to 10 percent. In addition, capital gains on zone property would not be considered a preference item for individual alternative minimum tax purposes. The corporate capital gains tax rate would also be reduced to 17 percent.

Finally, many big cities are not always as safe as we would like. Therefore, the proposal would provide for a double deduction for security expense within the zone. This should give employers an added stake in the safety of our cities.

I would urge my colleagues to support this legislation.

TRIBUTE TO THE ITALIAN-AMERICANS

HON. E. CLAY SHAW, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 11, 1995

Mr. SHAW. Mr. Speaker, I rise today to pay tribute to the Italian-Americans, pillars of our great Nation.

Since the landing on the shores of this continent by a brave and daring sailor from Genova known to us as Christopher Columbus, Italian-Americans have played a vital role in forming our country.

From the signing of the Declaration of Independence by the Italian William Paca, a declaration that contained the words "and all men were created equal," it is no wonder that this great Nation should be named America, after the Florentine explorer Amerigo Vespucci.

More than 23 million Italian immigrants have come to this country. They worked in the coal mines, they dug our subway systems, they planted our vineyards, and they were foremost in their appreciation of family values. Constantine Brumidi spent his life in America painting the inside of the dome of our Capitol—16 months of it on his back.

They also formed the Garibalde Guard, a fighting unit made up of mostly Italian-Americans who scored victories in numerous battles from Bull Run to Appomattox; and Gen. Luigi di Cesnola, Civil War hero and winner of the Medal of Honor.

The achievements and contributions of Italian-Americans continued into the 20th Century. Amadeo Giannini founded the Bank of America, turning it into the largest, privately-owned banking institution in the world. Angelo Siciliano became America's Charles Atlas, Silvestre Poli started 20th Century Fox, Amadeo Obici founded Planter's Peanuts, Theresa DeFrancischi posed for the Miss Liberty head on our silver dollars, Charles Bonaparte founded the FBI, Rudolph Valentino was the star of the silent screen, and war hero Sgt. John Basilone who was the only one in history to receive our Nation's two highest honors, the Medal of Honor and the Navy Cross.

The tapestry of America is deeply woven with the contributions by Italian-Americans; Joe DiMaggio, Frank Sinatra, Vince Lombardi, Mario Andretti, Rocky Marciano, Frank Capra, Lee Iacocca, Guy Lombardi, Bila Grasso, and Supreme Court Justice Antonin Scalia, are just a few.

The Italian contribution to America spans a history of 503 years. It is a contribution that has continuing residuals that benefit every American every day, and it should not be overlooked, but revered.

Mr. Speaker, today I am happy to join the Governor of the great State of Florida, along with many county commissioners, city mayors and councils, in declaring the month of October 1995, as Italian Heritage and Cultural Month.

TRIBUTE TO PHILIP HUSS

HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 11, 1995

Mr. GILLMOR. Mr. Speaker, I rise today to pay tribute to an old friend and outstanding citizen of Ohio who is no longer with us. Philip Huss of Fremont, OH, was in many ways the epitome of a model citizen and patriot.

Many people in the Fremont area remember Phil as "Smoky" the clown. His death was mourned by the whole community because his love touched so many people. Smoky's charming smile and humorous demeanor delighted children of all ages for many years. You could hardly attend a parade, festival, or community event without witnessing Phil's delightful presence.

Philip Huss served his Nation during World War II as a sailor in the Pacific. He was the Pacific Fleet's Heavyweight Boxing Champion in 1944 and won several Golden Gloves titles in the sport over his lifetime. After the war, Phil joined the Fremont Police Department and worked many years as a detective and juvenile officer. During his tenure on the department, he received numerous awards for outstanding service to the community.

Despite his successful career with the police department, Phil will always be remembered as Smoky. He began clowning in 1954 at the Fremont Speedway. In his ragtag clown outfit and scooter, he brought countless smiles to children, parents, and grandparents over the next 40 years.

Mr. Speaker, Philip Huss distinguished himself as a reliable and dedicated public servant and a genuine role model in his private life. I ask my colleagues to join me in expressing our deepest sympathies to Phil's wife Martha, and in joining the community of Fremont in remembering and celebrating Philip's accomplishments. We will always miss him.

SUPPORTING H.R. 1868

HON. CHAKA FATTAH

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 11, 1995

Mr. FATTAH. Mr. Speaker, I rise to make it a matter of the official record of this body that I strongly support the policy established in H.R. 1868 of continuing full financial support to Israel and the Middle East. I voted against this legislation, however, because it contains deplorable and unjust provisions affecting the poorest countries in the world.

The total appropriation under H.R. 1868 is $12 billion for fiscal year 1996. This is $1.6 billion less than was appropriated in fiscal year 1995, and nearly 50 percent of this reduction was taken from funds for Africa. This bill follows the Republican tradition of taking funds from those who can least afford it, and who have the fewest options.

Adding insult to injury, the bill gratuitously undermines the fledgling Haitian democracy by placing conditions on the distribution of funds to Haiti which assume that its democracy will not succeed. The bill is profoundly isolationist in that it reduces funds for bilateral and multilateral development assistance by one-third, and reduces support for international financial institutions by 40 percent. These funds encourage many of the world's poorest countries to adopt open market reforms, promote private sector development, and focus on poverty reduction. Development banks like the IDA help create jobs and economic security in the United States by making the world's 5.5 billion people better customers for our exports. Cutting funds to these programs will only serve to isolate us from a world in political and economic transition.

I understand that there are people in my district who are strong supporters of aid to Israel and the Middle East. But many of these same people support aid to Africa, and I could not, in the best interest of my constituents, vote for legislation which so disproportionately slashes aid to Africa. I will follow the progress of this legislation as it moves through the Senate, and I look forward to the opportunity to vote for a better bill as it emerges from the House and Senate conference committee.

TRIBUTE IN HONOR OF AMADEO FLORES OF ALICE, TX

HON. FRANK TEJEDA

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 11, 1995

Mr. TEJEDA. Mr. Speaker, I am proud to recognize a distinguished resident of the city of Alice, TX. Mr. Amadeo Flores of Alice was inducted into the Tejano Music Hall of Fame on May 12 in San Antonio at the 15th Annual Tejano Conjunto Festival. It is a well-deserved honor, coming after 50 years of accomplished musicianship on the accordion and the bajo sexto. Mr. Flores is a pioneer of the diatonic accordian, an instrument vitally important to the development of the rich and diverse tradition of Conjunto music.

During his career, Amadeo Flores traveled widely, playing in dance halls throughout the Southwest with many trailblazing Conjunto bands, including Tony de la Rosa and Los Sombra. Even in his retirement, Amadeo Flores plays music with Ruben Naranjo y Los Gamblers.

Amadeo Flores, with his lifelong dedication to this music, exemplifies what is best about Conjunto. His talent and hard work and persistence are unmistakable. Despite years of arduous and constant travel and having to take jobs in other fields to support his family, Amadeo Flores contributed mightily to the history of a vibrant form of music. He stands as a vital link in the history of a music that stretches from the cotton fields and factories of the Southwest to the modern success of such artists as Emilio Navaira and Selena Quintanilla Perez.

The music of a people is more than a collection of pleasant sounds and rhyming words. Taken as a whole, a tradition of music is the history of a people's thoughts and feelings and aspirations. Musicians like Mr. Flores, despite many hardships, worked hard to preserve the Conjunto tradition for future generations. With their talent and creativity, they kept the music alive for everyone to enjoy. Mr. Flores is still, to this day, playing music that moves people and helps express their emotions.

The people who do the everyday work of helping keep a culture vibrant and growing are often forgotten. I am just taking a few moments to remark on a hard-working American, Mr. Amadeo Flores, who is receiving appropriate recognition, a place in the Tejano Music Hall of Fame.

THE INTRODUCTION OF THE ACCESS TO EMERGENCY MEDICAL SERVICES ACT

HON. BENJAMIN L. CARDIN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 11, 1995

Mr. CARDIN. Mr. Speaker, I rise today to introduce the Access to Emergency Medical Services Act. This legislation would end health plans' ability to deny coverage and payment for appropriate emergency room visits. In addition, it would require health plans to pay emergency physicians and hospital emergency departments for federally required evaluation and screening exams.

I'm sure most of you have heard stories from friends, relatives, or the press of people who received care in the emergency room, but their health plan refused to cover that care. Health plans are able to do this by claiming that the patient's diagnosis did not meet the health plan's definition of emergency. I have attached a recent New York Times article which highlights the problem.

A 1992 study of Medicare's HMO claims denials conducted for the Health Care Financing Administration determined that emergency department visits were dispute prone. In fact, the study showed that 40 percent of the claims denied by Medicare HMO's were for emergency care services. The study's author concluded that this was because HCFA's definition of emergency was regulatory and placed patients in the untenable position of having to make quasi-medical judgments about the severity of their symptoms. Unfortunately, for many patients, while their symptoms may suggest that they are experiencing a medical emergency, only a qualified health professional can ultimately make that determination after an appropriate medical evaluation.

The State of Maryland has put an end to many of these after-the-fact denials by establishing a uniform definition of emergency that requires payment determinations to be based upon the patient's symptoms, rather than the patients ultimate diagnosis. Virginia and Arkansas have also adopted this definition. My legislation would take this prudent layperson definition of emergency and make it the national, uniform definition. In addition, the bill would do the following:

Prohibit health plans from requiring prior authorization for emergency services or requiring that the health plan have a contractual arrangement with the hospital emergency department in order for care to be provided to the plan's enrollees.

Require health plans to pay emergency physicians and hospital emergency departments for services they are required by Federal law to provide.

Ensure 24-hour access and timely authorization—30 minutes—from health plans for needed care for an enrollee being treated in an emergency department.

Assure that health plans promote the appropriate use of 911 emergency telephone numbers and do not create barriers to their appropriate use.

Apply these same standards to Medicare and Medicaid.

The Access to Emergency Medical Services Act is supported by both health care providers and consumer organizations. First, I would like to thank the American College of Emergency Physicians [ACEP] who have documented the need for this reform, and worked closely with me to develop this legislation. The bill is also supported by Consumers Union, the National Association of EMS Physicians, Citizen Action, the Coalition for American Trauma Care, Public Citizen, the American Ambulance Association, the International Association of Firefighters, and the Emergency Medical Services Section of the International Association of Fire Chiefs.

The Access to Emergency Medical Services Act enables those in need to be assured of access to emergency medical care. This legislation provides a reasonable definition that may be applied to emergency situations, and safeguards patients both medically and financially. It is imperative that this Congress join in bipartisan support on this issue.

Access to emergency medical service is fundamental to ensuring a viable health care system. What is at stake here is not an issue of governmental regulation, but an issue of protecting patient safety. I urge you, my colleagues, to join me in supporting the Emergency Medical Services Act.

[From the New York Times, July 9, 1995]

H.M.O.'s Refusing Emergency Claims, Hospitals Assert—2 Missions in Conflict

MANAGED CARE GROUPS INSIST THEY MUST LIMIT COSTS—DOCTORS ARE FRUSTRATED

(By Robert Pear)

WASHINGTON.—As enrollment in health maintenance organizations soars, hospitals across the country report that H.M.O.'s are increasingly denying claims for care provided in hospital emergency rooms.

Such denials create obstacles to emergency care for H.M.O. patients and can leave them responsible for thousands of dollars in medical bills. The denials also frustrate emergency room doctors, who say the H.M.O. practices discourage patients from seeking urgently needed care. But for their part, H.M.O.'s say their costs would run out of control if they allowed patients unlimited access to hospital emergency rooms.

How H.M.O.'s handle medical emergencies is an issue of immense importance, given recent trends. Enrollment in H.M.O.' doubled in the last eight years, to 51 million in 1994, partly because employers encouraged their use as a way to help control costs.

In addition, Republicans and many Democrats in Congress say they want to increase the use of H.M.O.'s because they believe that such prepaid health plans will slow the growth of Medicare and Medicaid, the programs for the elderly and the poor, which serve 73 million people at a Federal cost of $267 billion this year.

Under Federal law, a hospital must provide "an appropriate medical screening examination" to any patient who requests care in its emergency room. The hospital must also provide any treatment needed to stabilize the patient's condition.

Dr. Tom A. Mitchell, director of emergency care at Tampa General Hospital in Florida, said: "I am obligated to provide the care, but the H.M.O. is not obligated to pay for it. This is a new type of cost-shifting, a way for H.M.O.'s to shift costs to patients, physicians and hospitals."

Most H.M.O.'s promise to cover emergency medical services, but there is no standard definition of the term. H.M.O.'s can define it narrowly and typically reserve the right to deny payment if they conclude, in retrospect, that the conditions treated were not emergencies. Hospitals say H.M.O.'s often refuse to pay for their members in such cases, even if H.M.O. doctors sent the patients to the hospital emergency rooms. Hospitals then often seek payment from the patient.

Dr. Stephen G. Lynn, director of emergency medicine at St. Luke's-Roosevelt Hospital Center in Manhattan, said: "We are getting more and more refusals by H.M.O.'s to pay for care in the emergency room. The problem is increasing as managed care becomes a more important source of reimbursement. Managed care is relatively new in New York City, but it's growing rapidly."

H.M.O.'s emphasize regular preventive care, supervised by a doctor who coordinates all the medical services that a patient may need. The organizations try to reduce costs by redirecting patients from hospitals to less expensive sites like clinics and doctors' offices.

The disputes over specific cases reflect a larger clash of missions and cultures. An H.M.O. is the ultimate form of "managed care," but emergencies are, by their very nature, unexpected and therefore difficult to manage. Doctors in H.M.O.'s carefully weigh the need for expensive tests or treatments, but in an emergency room, doctors tend to do whatever they can to meet the patient's immediate needs.

Each H.M.O. seems to have its own way of handling emergencies. Large plans like Kaiser Permanente provide a full range of emergency services around the clock at their own clinics and hospitals. Some H.M.O.'s have nurses to advise patients over the telephone. Some H.M.O. doctors take phone calls from patients at night. Some leave messages on phone answering machines, telling patients to go to hospital emergency rooms if they cannot wait for the doctor's offices to reopen.

At the United Healthcare Corporation, which runs 21 H.M.O.'s serving 3.9 million people, "It's up to the physician to decide how to provide 24-hour coverage," said Dr. Lee N. Newcomer, chief medical officer of the Minneapolis-based company.

George C. Halvorson, chairman of the Group Health Association of America, a trade group for H.M.O.'s, said he was not aware of any problems with emergency care. "This is totally alien to me," said Mr. Halvorson, who is also president of HealthPartners, an H.M.O. in Minneapolis. Donald B. White, a spokesman for the association, said, "We just don't have data on emergency services and how they're handled by different H.M.O.'s."

About 3.4 million of the nation's 37 million Medicare beneficiaries are in H.M.O.'s. Dr. Rodney C. Armstead, director of managed care at the Department of Health and Human Services, said the Government had received many complaints about access to emergency services in such plans. He recently sent letters to the 164 H.M.O's with Medicare contracts, reminding them of their obligation to provide emergency care.

Alan G. Raymond, vice president of the Harvard Community Health Plan, based in Brookline, Mass., said, "Employers are putting pressure on H.M.O.'s to reduce inappropriate use of emergency services because such care is costly and episodic and does not fit well with the coordinated care that H.M.O.'s try to provide."

Dr. Charlotte S. Yeh, chief of emergency medicine at the New England Medical Center, a teaching hospital in Boston, said: "H.M.O.'s are excellent at preventive care, regular routine care. But they have not been able to cope with the very unpredictable, unscheduled nature of emergency care. They often insist that their members get approval before going to a hospital emergency department. Getting prior authorization may delay care.

"In some ways, it's less frustrating for us to take care of homeless people than H.M.O. members. At least, we can do what we think is right for them, as opposed to trying to convince an H.M.O. over the phone of what's the right thing to do."

Dr. Gary P. Young, chairman of the emergency department at Highland Hospital in Oakland, Calif., said H.M.O.'s often directed emergency room doctors to release patients or transfer them to other hospitals before it was safe to do so. "This is happening every day," he said.

The PruCare H.M.O. in the Dallas-Fort Worth area, run by the Prudential Insurance Company of America, promises "rock solid health coverage," but the fine print of its members' handbook says, "Failure to contact the primary care physician prior to emergency treatment may result in a denial of payment."

Typically, in an H.M.O., a family doctor or an internist managing a patient's care serves as "gatekeeper," authorizing the use of specialists like cardiologists and orthopedic surgeons. The H.M.O.'s send large numbers of patients to selected doctors and hospitals; in return, they receive discounts on fees. But emergencies are not limited to times and places convenient to an H.M.O.'s list of doctors and hospitals.

H.M.O.'s say they charge lower premiums than traditional insurance companies because they are more efficient. But emergency room doctors say that many H.M.O.'s skimp on specialty care and rely on hospital emergency rooms to provide such services, especially at night and on weekends.

Dr. David S. Davis, who works in the emergency department at North Arundel Hospital in Glen Burnie, Md., said: "H.M.O.'s don't have to sign up enough doctors as long as they have the emergency room as a safety net. The emergency room is a backup for the H.M.O. in all it's operations." Under Maryland law, he noted, an H.M.O. must have a system to provide members with access to doctors at all hours, but it can meet this obligation by sending patients to hospital emergency rooms.

To illustrate the problem, doctors offer this example: A 57-year-old man wakes up in the middle of the night with chest pains. A hospital affiliated with his H.M.O. is 50 minutes away, so he goes instead to a hospital just 10 blocks from his home. An emergency room doctor orders several common but expensive tests to determine if a heart attack has occurred.

The essence of the emergency physician's art is the ability to identify the cause of such symptoms in a patient whom the doctor has never seen. The cause could be a heart attack. But it could also be indigestion, heartburn, stomach ulcers, anxiety, a panic attack, a pulled muscle or any of a number of other conditions.

If the diagnostic examination and tests had not been performed, the hospital and the emergency room doctors could have been cited for violating Federal law.

But in such situations, H.M.O.'s often refuse to pay the hospital, on the ground that the hospital had no contract with the H.M.O., the chest pain did not threaten the patient's life or the patient did not get authorization to use a hospital outside the H.M.O. network.

Representative Benjamin L. Cardin, Democrat of Maryland, said he would soon introduce a bill to help solve these problems. The bill would require H.M.O.'s to pay for emergency medical services and would establish a uniform definition of emergency based on the judgment of "a prudent lay person." The bill would prohibit H.M.O.'s from requiring prior authorization for emergency services. A health plan could be fined $10,000 for each violation and $1 million for a pattern of repeated violations.

The American College of Emergency Physicians, which represents more than 15,000 doctors, has been urging Congress to adopt such changes and supports the legislation.

When H.M.O.'s deny claims filed on behalf of Medicare beneficiaries, the patients have a right to appeal. The appeals are heard by a private consulting concern, the Network Design Group of Pittsford, N.Y., which acts as agent for the Government. The appeals total 300 to 400 a month, and David A. Richardson, president of the company, said that a surprisingly large proportion—about half of all Medicare appeals—involved disagreements over emergencies or other urgent medical problems.

SENATE—*Wednesday, July 12, 1995*

(Legislative day of Monday, July 10, 1995)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

The PRESIDENT pro tempore. Today's prayer will be offered by our guest Chaplain, Rabbi Daniel Fried.

PRAYER

The guest Chaplain, Rabbi Daniel Fried, Congregation Anshe Emeth, Hudson, NY, offered the following prayer:

Almighty God, we ask for Your divine guidance and inspiration for those who are charged with the great responsibility of directing the affairs of our Nation. May Your Holy Spirit dwell richly within them as they manifest abiding courage and sincere faith, in the cherished traditions of our Founding Fathers, to work for freedom, justice, and peace. Grant them loving kindness and patience, understanding and insight.

Bless all of the inhabitants of our country. In our relations with one another, may we ever feel our common humanity and our common duties of justice and truth. Bring us together into an indissoluble bond of friendship and peoplehood in order that we may promote the welfare of our beloved country and increase the happiness of our fellow human beings.

May the Biblical ideals of freedom and fraternity, of justice and equality, enshrined in the American Constitution, become the heritage of all the peoples of the Earth.

We ask it in Your name, O Lord. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able acting majority leader is recognized.

Mr. SANTORUM. Thank you, Mr. President.

SCHEDULE

Mr. SANTORUM. Mr. President, this morning the leader time is reserved and there will be a period of morning business until 9:45 a.m. At 9:45 the Senate will resume consideration of S. 343, the regulatory reform bill. Rollcall votes can be expected throughout today's session of the Senate and into the evening in order to make progress on the bill.

Mr. DASCHLE addressed the Chair.

RECOGNITION OF THE DEMOCRATIC LEADER

The PRESIDENT pro tempore. The Democratic leader is recognized.

Mr. DASCHLE. I thank the President pro tempore. I understand the leader time is reserved. I will use some of my leader time this morning.

UNITED STATES-VIETNAM RELATIONS: LOOKING FORWARD

Mr. DASCHLE. Mr. President, yesterday President Clinton announced that the United States would establish diplomatic ties with the Government of Vietnam. I want to commend the President for having the courage and the vision to begin a new chapter with a nation that was once our enemy.

It has been 20 years since the last U.S. helicopter lifted off the roof of the American Embassy in Saigon, a tragic ending to a long and painful war. For years afterward, relations between our two nations have remained hostile and the question of what happened to the American soldiers missing in action in Southeast Asia remained unanswered.

But times have changed. The Vietnamese leaders who viewed the United States with suspicion and distrust have been replaced by a new generation of leaders, one that has demonstrated a desire to cooperate on the POW/MIA issue and a number of other questions having to do with relations between our two countries. With their help, we have been able to make much progress toward our goal of a full and accurate accounting of our soldiers who did not come home when the war was over.

I understand that the prospect of restoring diplomatic ties with Vietnam is painful to many Americans, particularly those who have friends and family members among those who remain unaccounted for in Vietnam. But experience has shown us that it is precisely by expanding our ties with Vietnam that we are most likely to learn what happened to the soldiers who never returned.

Consider the President's decision on February 3, 1994, to lift the trade embargo against Vietnam. At the time, some Members of Congress and some in the veterans community expressed concern that lifting the embargo would reward Vietnam prematurely and discourage their further cooperation on the POW/MIA issue.

Instead, as we all now know, just the opposite has occurred. Just 2 months ago, officials from the Departments of State, Defense, and Veterans Affairs traveled to Asia for high-level talks with their counterparts in both Vietnam and Laos. During that trip they were presented with more than 100 documents, which the Defense Department has called the most detailed and informative turned over to date. Moreover, our officials characterize the cooperation they had received from the Vietnamese as excellent.

Well, this progress has not gone unnoticed by those who remain committed to a full accounting of our POW's and MIA's. For example, the Veterans of Foreign Wars, one of the Nation's most influential veterans groups and an organization whose membership includes 600,000 Vietnam veterans, released a statement on June 13 regarding the issue of normalizing relations with Vietnam. In that statement, the VFW announced it will support the establishment of diplomatic ties with Vietnam, provided such ties would enable the United States to make even further progress toward a full accounting of the missing.

It is also telling that normalization of relations with Vietnam is strongly supported by three of my colleagues who are distinguished veterans of the Vietnam war and who served with me on the Senate Select Committee on POW/MIA Affairs: Senator JOHN KERRY, the chairman of the committee; Senator JOHN MCCAIN, a prisoner of war in Vietnam for 6 years; and Senator BOB KERREY, the recipient of the Congressional Medal of Honor for heroism in Vietnam. Having devoted countless hours to this issue, all three concluded establishing diplomatic ties with the Vietnamese will lead to greater cooperation in resolving our remaining POW/MIA cases.

Normalizing relations with Vietnam does serve our national interest in another very important respect. Other nations have already created a diplomatic presence in Vietnam, and some have even entered into trade agreements with the Vietnamese Government. This puts U.S. businesses at a competitive disadvantage in one of the fastest growing markets in all of Asia. Establishing a formal presence in Vietnam will help this country even out the playing field with their international competitors, leading to greater exports and greater job creation.

The President has recognized that our relationship with Vietnam should be based on today's national interests, not yesterday's animosities. I fully expect his bold decision will help us find

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● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

the answers about our missing servicemen that their families and we have long awaited.

Madam President, I yield the floor.

MORNING BUSINESS

The PRESIDING OFFICER (Mrs. HUTCHISON). Under the previous order, there will now be a period for the transaction of morning business for not to extend beyond the hour of 9:45 a.m. with Senators permitted to speak therein for not to exceed 5 minutes each, with some exceptions.

Mr. SANTORUM addressed the Chair.

The PRESIDENT pro tempore. Under the previous order, the Senator from Pennsylvania [Mr. SANTORUM] is recognized to speak for up to 10 minutes.

The Senator from Pennsylvania.

Mr. SANTORUM. Thank you, Madam President.

SEEKING JUSTICE

Mr. SANTORUM. Madam President, I rise today to talk about two men; one is a Nazi doctor, the other is his pursuer. Before I get into that, I want to thank my father-in-law and my mother-in-law, Dr. Ken Garber and Betty Lee Garber, for bringing this matter to my attention.

This is a painful subject to talk about for many, particularly as we look at what is going on in Bosnia and some of the ethnic cleansing that is happening there. We talk about Vietnam and our missing in action. Looking at history and digging up the past is not always a pleasant experience but one which I believe is absolutely necessary in this case and one that I come to the floor to talk about and will be on notice to come back to if it is necessary to talk about it again.

The Nazi doctor I am going to talk about this morning is Dr. Hans Sewering. He is just not a normal doctor in Germany. This is a doctor who was the head of the German Medical Society for 17 years—17 years. He was a State senator in the State of Bavaria for 20 years, a very well-known person in Germany.

How this came to the attention of his pursuer 2 years ago, Dr. Michael Franzblau from Marin County in California, was that Dr. Sewering was nominated, in fact elected, to become the president of the World Medical Association, the affiliate of the American Medical Association in the United States.

It came to the attention of Dr. Franzblau that Dr. Sewering was accused of crimes during the Nazi reign.

And who is Dr. Sewering? Dr. Sewering joined the SS in 1933. Nine months later, he joined the Nazi Party. When he graduated from medical school, he went to work in Munich at the tubercular clinic of Schoenbrunn near Dachau in 1932.

During that time, under his administration, Dr. Franzblau, and other medical historians, are suggesting that he sent over 900 disabled children to a "healing center"—a healing center—6 to 10 kilometers away, not far down the road, from the tubercular clinic that he ran. Over 900 children were sent to a healing center.

What was this healing center? It was a euphemism for a "killing center," where disabled children were deliberately starved and given barbiturates to kill them "efficiently," with little cost to the state.

The center was run by a Dr. Helmut Pramueller. Dr. Pramueller in 1949 was convicted by a German court. They found him guilty of murdering 6,000 children who were "unfit" because of their disabilities, which ranged from epilepsy to mild mental illnesses to physical disabilities. By the way, Dr. Pramueller, for killing 6,000 children in this "healing center," was sentenced to 6 years in prison. He got 1 year off for good behavior.

But Dr. Sewering was never prosecuted. The reason for that is that the evidence was not made available. In fact, the only evidence we have been able to ascertain through the work of Dr. Franzblau, and others, is one documented case of which Dr. Sewering sent a 12-year-old girl, Babette Frowiss, to the "healing center" from his tubercular clinic at the Schoenbrunn. We have the document, with his signature on it. It says:

> She is no longer suitable for Schoenbrunn. She will be sent to Egfling-Haar—

The name of this killing center—

> the healing center.

It was well known in Dachau, the vicinity of where these centers were, that this "healing center" was, in fact, a place where children were starved and killed "efficiently."

But nevertheless, we have that document, the origins of which we do not know. It has been authenticated as a real document, but we cannot find any other documents. In fact, the German Government will not make available any of these documents. Some even insist that they are not available or that they do not exist or, if they do, they just cannot find them. But in any case, they are not around, and the prosecutors in Munich that Dr. Franzblau is trying to get to prosecute this case refuse to look into it.

Another curious angle to this question is four nuns. The tubercular clinic at Schoenbrunn where Dr. Sewering worked was run by Franciscan nuns, the Franciscan order. There were four nuns as of 2 years ago, when Dr. Sewering was nominated to presidency of the World Medical Association, who were there at the time. When Dr. Sewering was elected, and then withdrew his nomination in election, these four nuns issued a statement basically indicting Dr. Sewering and what went on at the clinic and at Egfling-Haar, at the healing center, the killing center.

You might think that if you were the prosecutor in Munich who was concerned about sending children to their death by such a horrendous means that you would take the time to interview these nuns who released this statement. Well, the prosecutor has not done so. Despite protestations from Dr. Franzblau, and others, he has refused to interview them. He has refused to pursue the documents that can ultimately convict Dr. Sewering of his crimes. And Dr. Franzblau persists in his trips over there to get them to pay attention to this, but this is an uncomfortable thing to talk about, and this is a very powerful man in Germany. Seventeen years the head of the medical society and they have refused to go after him.

Dr. Franzblau is taking matters into his own hands. On Friday, this will be published in the New York Times. The Friday morning New York Times will have this full-page advertisement. It says:

> We accuse the German State of Bavaria of harboring and protecting a war criminal.
>
> The German State of Bavaria has protected Dr. Hans Joachim Sewering for 50 years.
>
> Dr. Hans Joachim Sewering is accused of participating in the transfer of 900 German Catholic children from Schoenbrunn Sanitarium to a "Healing Center" at Egfling-Haar, where they died.
>
> Four nuns made this allegation in January 1993.
>
> They were eyewitnesses to these crimes and broke their vow of silence 50 years after the fact at the suggestion of the Bishop of Munich.

Yes, they remained silent for 50 years, but after this man was elected to the World Medical Association presidency, they spoke up at the urging of the Bishop of Munich.

> Dr. Sewering, age 78, still practices medicine in Dachau.
>
> Dr. Sewering must be brought to the bar of justice now.
>
> The relatives of the murdered children ask for justice.
>
> The German people will be cleansed of this stain on their honor by the successful prosecution and conviction of Dr. Hans Joachim Sewering for murder and crimes against humanity.

And they ask:

> If you believe, as we do, that Dr. Sewering should be brought to justice, please act now by faxing or writing to the German Consulate . . .

At their number.

I hope that Senators listening to this, if they believe as I believe that the German Government owes more diligence in pursuing this, that they sign on to a letter that I will be sending to the German Government asking them to find these documents and to interview these nuns so we can pursue this case. It is the least they can do. It is the least they can do for 900 children starved to death because of their disabilities.

I come here to the U.S. Senate not casually. I know this is a very important place to make these kinds of statements, but this is an abomination. The children who were murdered deserve justice, their families deserve a full accounting, and Dr. Franzblau, 25 of whose relatives were incinerated in a synagogue in Poland, deserves the satisfaction of knowing that his efforts were not in vain.

Madam President, I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senator from Alaska [Mr. MURKOWSKI] is recognized to speak for up to 10 minutes.

THE SUPERFUND

Mr. MURKOWSKI. Madam President, I rise to discuss that portion of S. 343 covering the Superfund. As we know, Senate bill 343 establishes requirements to do risk assessment and cost-benefit analysis and includes Superfund cleanups that exceed $10 million in total costs.

The administration, however, and some Senators, want this section removed from the bill on the grounds that the application of cost-benefit analysis to Superfund through the regulatory reform process is somehow inappropriate. I think it is fair to say there is also a question of jurisdiction relative to the various committee references that this bill would ordinarily go to that portion—at least under Superfund. I am speaking of the Environment and Public Works Committee.

However, laying that aside, because of the statutory requirements in the Superfund requirements itself, risk and cost-benefit analysis, in my opinion, are precisely the right tools that the Government should be using to carry out the requirements of that law.

Provisions in the Superfund law specifically require cost-benefit and risk analysis. Superfund requires that the President select appropriate remedial actions that "provide for cost effective responses" and to consider both the short-term and the long-term cost of the actions.

Superfund requires the President to publish a regulation called the national contingency plan [NCP], to carry out the requirements of the statute.

Now, the NCP must contain, one, methods for analysis of relative costs for remedial action; two, means for assuring that remedial actions are cost-effective over time; three, criteria "based on relative risk or danger" for determining priorities among releases of hazardous substances for the purposes of taking remedial action.

Now, the national contingency plan also requires a baseline risk assessment to be performed for every remedial action. This means that for every Superfund cleanup, a risk assessment is done right now.

Superfund requires the President to identify priority sites that require remedial action through a hazard ranking system that must "assess the relative degree of risk."

Unlike other environmental statutes, the Congress explicitly wrote provisions into this law that cost and risk were to be taken into account. Yet, the same entrenched bureaucracies that have been running up the costs of these remedial actions for years now say we simply cannot have reform.

But that is what we hear publicly. Within the administration there is a clear recognition that cost-benefit and risk analysis, however, do belong in the Superfund Program.

I refer to a memorandum prepared by the Council on Environmental Quality. In that memo, the administration correctly pointed out the blatant inconsistencies between its posture regarding this section of S. 343 and its position on regulatory reform, as well as reform of the cleanup statutes.

The memo states that opposition to the intent of the cleanup provisions of S. 343 is "inconsistent with several administrative policies."

Further, "The administration has repeatedly testified that cost-benefit analysis is a 'useful tool' in making cleanup decisions."

It also says, "EPA, DOD, and DOE, have made well-publicized commitments to more realistic risk analysis in cleanup activity."

Executive Order 12866 requires cost-benefit analysis for regulations over $100 billion. Many cleanups exceed that amount and the total cost of cleanup activities approaches or exceeds $400 billion.

Quoting, "It will be hard, politically and logically, to defend application of the cost-benefit comparison to the former decisions and not the latter."

The administration also incorrectly states in that memo that supplementing existing decision criteria with cost and risk considerations allows an illegal departure from statutory standards in developing more reasonable alternatives.

As indicated before, remediation under Superfund is currently required to base its decisions on risk and cost considerations. Senate bill 343 has been amended to clarify that statutory provisions cannot be superseded.

Critics of this section argue that these reforms should be addressed in the Superfund reauthorization. Superfund authorization expired last year, and the taxing authority expires this year.

I know many of my colleagues and other members of the Environment and Public Works Committee have been working hard, but Superfund reauthorization may not be completed this year. That is a real possibility.

So, in conclusion, I would like to share with you the realization that the Superfund cleanup provisions of Senate bill 343 are entirely consistent with the existing law, and the planned administrative reforms that the Clinton administration is putting in place even now.

Superfund is not a level playing field. Federal and State regulators have ignored risk and cost considerations throughout this process, in spite of the statutory requirements to consider these factors.

The program is badly broken largely because the degree and costs of cleanup have proceeded virtually unchecked for years.

Further, simply having these provisions in this bill has brought about a new willingness on the part of the regulators to be more realistic in the remedial action selection process.

Finally, the Superfund provisions of S. 343 are consistent with the law, are a needed reform of the remedy selection process, and are an appropriate and necessary reform of one of the most expensive regulatory programs we have experienced in history.

Madam President, I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senator from Wyoming [Mr. SIMPSON], is recognized to speak for up to 15 minutes.

THE REGULATORY REFORM BILL

Mr. SIMPSON. Madam President, just a few words about various things. First, with regard to the efforts of Senator HATCH, Senator DOLE, and others, on both sides of the aisle, including Senator JOHNSTON, with regard to regulatory reform, I think it is very vital that we continue our efforts in a bipartisan way on this issue. It is a very simple issue out in the land. People are pretty well fed up with the quality and quantity of regulations over the years that have been ground out by the Federal Government.

It is long past time that we did something to interject common sense and sound science into the regulatory process, and the bill that Senator DOLE, Senator HATCH, and Senator JOHNSTON put together will really go a very long way in doing that.

We have tried to ensure that Members on both sides of the aisle make their concerns known about various provisions in the legislation. We have worked very hard to include everyone. It is time to start walking the walk instead of talking the talk. So I hope we will continue our vigorous efforts.

We have seen in Wyoming so many issues with regard to coal mining. We are the largest coal-producing State in the Union; yet, we would have EPA come to our State where we have laws that are more strict than the Federal Government, and come to the mining area and set up air quality monitors for things like "fugitive dust," in an area where the wind blows 60 miles an hour three times a week and will peel the vegetation right off the prairie.

They set up their monitors and tell us about regulating and reducing fugitive dust. This is absolutely absurd. It reflects no common sense. Some EPA regulators are people of zeal, without any intellectual understanding of others or of their situation. Remember, too, that this community of Congress is populated by privileged people, many of whom have never met a payroll, many of whom know nothing about real life or how to work—really work—digging a ditch, tamping concrete forms, working for a construction company, cowboying—enough. I think it is time to give them a wake-up call, and I think we will do that.

Hopefully, we will, at the same time, try to deter the trend in this country that has been to try to get every single chemical out of every food, drink, and tube of lipstick known to man or woman. That type of activity causes our society to shoulder exorbitant costs that are just not necessary—$140 billion year on pollution control. We must decide how much will we spend to get the last 5 percent of the pollution out of the smokestack or the waste stream, because it is those expenditures that are so excessive.

We are being forced to recognize that the really tough choices are now unavoidable.

The administration and the environmental groups have been critical of our efforts to mandate that risk assessment and cost benefit analysis be used by the bureaucracy. But even the Washington Post stated in a recent editorial: "Surely it makes sense to do the kind of analysis that weighs one health threat against another, and shows where reductions in pollution will pay off most effectively in lower rates of illness and death." And the Post editorial goes on to correctly recognize that the regulatory reform bill ". . . addresses defects . . . that are real." And "within it lies the genuine opportunity to strengthen the protection of the country's air and water."

I find it disturbing that the environmental groups have run radio ads attacking Members of Congress who support this legislation. These ads greatly oversimplify the issues we are considering and as usual the environmental groups are using fear and emotion to try and turn the public against regulatory reform efforts. So when I hear groups say this is a back door assault on our environmental and health laws I recognize that they are resorting to what Senator Gary Hart used to call "Mau Mau politics."

This kind of activity is real quite uncalled for.

I am fond of saying that everyone is entitled to their own opinions, but nobody is entitled to their own facts. And the fact is that injecting sound science into the regulatory process can enhance our efforts to protect the public health and the environment.

We have a real opportunity to stop the tendency that Federal regulators have to overreact to any newly discovered dangers by diverting disproportionate financial and human resources into hastily conceived remedies. We have seen examples of that with superfund, or the asbestos in schools program and in so many other areas.

In the case of asbestos in schools we were told we had to get the asbestos out or we were going to kill or injure all the children. So Congress rushed to pass a law and the regulators issued regulations and we began a rush job to get the asbestos removed. But what we ended up doing was to release more asbestos into the air and to cost the taxpayers millions of dollars in remediation costs. And more importantly, we have inadvertently exposed more children to more asbestos and greater risk than if we had simply left it in place and contained it. So that is the type of thing that we want to avoid in the future and risk assessment and cost benefit analysis will help do that.

Some in Congress and in the bureaucracy have tried to provide the public with a risk free environment. That is a purely quixotic exercise. We cannot afford to provide a risk free environment and in fact it is not possible to do that in the real world. So let us recognize that and get on with the business of making certain that logical and well informed regulatory decisions are made in the future. We cannot do that without passing legislation such as the Dole bill and I am so very pleased that we are finally going to do something constructive with regard to regulatory reform since we can no longer afford to live with the status quo.

We will hear a metric ton of the tired old rhetoric about how we must protect the children and save the babies. How if we tinker with the current regulatory regime we will cripple the bureaucracy and cause regulatory gridlock. We will hear that it is arrogant to assign a value for human life, or that this is just an attempt to let industry and curses—big business—off the hook. But Mr. President, this is beginning to sound like the boy who cried wolf too many times. The American people are more sophisticated than that. They have heard these tired old phrases time after time. They are beginning to tune it out. They are suffering from what one journalist calls "environmental compassion fatigue." So I trust the larger majority of Senators will not view this as a partisan issue or as an industry versus environmental group issue. But as a chance to help everyday citizens to get sensible and understandable regulations, based on real costs, risks, and common sense—in order that we can restore some of the credibility that the Federal agencies and Congress have lost over the years. This debate is about change. Bureaucrats don't like change. And this administration doesn't like any change that they didn't think of first.

But we must overcome this aversion to constructive change with goodwill, facts, common sense, and perseverance. So I trust my colleagues will put aside partisan rhetoric and fear mongering and we will all join together to truly reform our regulatory system for the benefit of a majority of the American people. They do not expect anything less from us, and I do trust we will not disappoint them.

VIETNAM AND DIPLOMATIC RELATIONS

Mr. SIMPSON. Madam President, with regard to Vietnam, I fully understand the heartfelt emotions and strong feelings which surround the normalization. Obviously we do, especially the delicate and painful issue of the POW/MIA's.

Nobody, nobody in their right mind wants Americans who fought for their country to be forgotten or abandoned, and in no way do I nor do any of my colleagues in this body want our Nation to forget any possible remaining POW/MIA's.

I have always said this. If there is proof of any Americans—any of them—being held against their will—proof—we should get them out right now.

I was involved in this process many years ago with Senator Cranston, my friend from California. We held hearings. I will never forget the gentleman, or I will say the chap, whatever lesser degree I can work up, who came before the Senate and said he had 287 minutes of a movie of someone in a cage imprisoned in Vietnam. We said, well, we would hope that you would produce that. He said, I will for 2 million bucks.

I think that is the closest I came to fisticuffs, at least in these recent times, with that person. Absolutely absurd and disgusting. He said he had these films and, of course, he did not, and then, of course, we had pictures of people in uniform with weapons, and then upon close examination we would find they were taken in Hawaii or some other country in Southeast Asia. Absolutely absurd and disgusting.

We said, "You show us where they are and we will get them." I just believe we need to be very honest where we are with this gut-wrenching issue.

Last year, I applauded the President's decision to announce the lifting of the trade embargo, especially in view of the fact that this has been such a painful issue for him, due to the previous campaign scrutiny of his antiwar efforts during the Vietnam conflict. I am pleased that he did not shirk from the responsibility of doing what he felt was right, even though it was not necessarily popular with all the groups.

I visited Vietnam with some of my distinguished colleagues and saw personally the vast improvements taking place. Firsthand, I saw the continued progress in the area of human rights.

In my opinion, the best way to encourage the Vietnamese to continue along this path of redemption is by establishing these full diplomatic relations with the Vietnamese Government.

As a veteran myself, it is time to continue to march forward regarding this issue. Ever more effectively and positively we will learn about more of the POW/MIA issue, if business people, diplomats, military, American visitors travel and talk with Vietnamese all over that country.

Much will be gained by a larger United States presence in Vietnam. Gaining information about POW/MIA's has been exceedingly difficult without an embassy or other contacts since 1975.

Remember that, as we stiffed Vietnam for 18 years, we received nothing—nothing—in the way of cooperation, nothing in the way of information. Ever since we loosened our grip, much has come forward.

While we speak of the POW/MIA's with great, great compassion, it would be interesting to me to know what happened to the 86,700 people missing in action from the Second World War. Who is out speaking for them, and raising money in the process? Or the 9,000 or 8,700 missing in action from the Korean war. Who is speaking for them?

There had been an unfortunate test case of keeping the issue alive, with some groups, at least, with regard to their own personal gratification, and of course the aspects of the fundraising.

It is going to be a good thing. I commend the President. We will now be the 161st country to recognize Vietnam. Hear that. Normalization of the United States and Vietnam puts the United States on the list at No. 161. Because currently, 160 countries, including all of our major trading partners, have full diplomatic relations with Vietnam, providing their country's companies and citizens with a key political entry for vital decisions of procurement, vital decisions as to travel and intercourse among nations.

I want to commend the VFW. I am a lifetime member of the Veterans of Foreign Wars, who said last month that, "We are of the opinion if normalizing relations with Vietnam furthers the process toward the fullest possible accounting"—meaning POW/MIA's—"then we would support this decision."

I want to commend our sturdy friends, JOHN McCAIN, JOHN KERRY, BOB KERREY, for taking the courageous position they have on this issue. Would it not have been for them, it would not have come to this point. All three serve as a remarkable testimony toward doing the right thing, putting the past aside, moving forward. That is what life is all about—change, moving forward, maturing.

TRIBUTE TO ABBY SAFFOLD

Mr. SIMPSON. Madam President, finally, just a word about this remarkable woman who leaves our midst in the Senate family. That is Abby, known to most Members as Abby.

Abby Saffold, schoolteacher, parole officer—I think perhaps she was that while she was in the Senate, as I think of it—for in many cases, as we would come in the door and we would say, "When is the next vote, Abby? When are we going to get out of here Friday," and "What is next week's schedule?"

There she was, with that very genial and very, very steady manner, sharing her remarkable expertise of the Senate. She was trained well by Senator ROBERT BYRD and others. She did it all, and she did it very well.

I would just like to wish her well and say that the most single particular thing for me about Abby was, whether I was in the minority or the majority, I was treated exactly the same—with courtesy, with intelligence, with good, rich knowledge of the Senate.

I think that is the tribute to her, because there are those—not just staff, but those of us who are known simply as principals—who, when we are riding high in the majority, really do lay it on. Then, when we get in the minority, we kind of whimper and whine a bit. I have been in both places.

To Abby, the tribute is the courtesy that she extended to all, regardless of party, regardless of philosophy, and I certainly wish her well. Knowing her, she will be doing some things that will be very pleasing and important and satisfying to her. God bless her. I yield the floor.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HATCH. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

OPPOSITION TO THE NORMALIZATION OF DIPLOMATIC RELATIONS WITH VIETNAM

Mr. GRASSLEY. Madam President, I want to comment on something that the President did yesterday.

The President normalized relationships with Vietnam. The President, I think, did the wrong thing. The President is not a veteran of any war. I have never been in military service. I do not presume to understand wars. But I do understand the commitments we made to the people who have been drafted and volunteered; that is, if they are missing in action, our Government is going to take all action necessary to make sure that we get information about them, and also, if you are taken as a prisoner of war, we are going to do everything we can to get you out. "Ye shall not be forgotten nor forsaken."

But yesterday there was a deafening roar that we heard all the way down here in the Nation's Capital—and that roar came from Wall Street. No. It was not about the Federal Reserve's decision to lower interest rates. It was because the Dow went through the roof, and it was because yesterday President Clinton announced that he will take steps to normalize diplomatic relations with Vietnam. And that is because it is driven not so much by a commonsense approach but because of corporate and commercial interests in America, and the profit motive was stronger than our humanitarian motives.

Of course, that sent the tickertape cascading through the canyons of steel. The champagne flowed freely throughout corporate America. The powerful forces of business and profit have won an important battle over America's obligation to account for our missing servicemen. The only thing flowing among the MIA families who have not had answers was resignation and despair yesterday.

This is a President whose term is marked by broken promises. I believe that when history recounts the Clinton years, many will reflect and call him "Broken Promise President."

That is what he has done on this issue. Yesterday President Clinton broke another promise, and he made a grave mistake by doing it. His decision is wrong because it displays a gross injustice to Americans who have fought to defend our country's freedom. It displays an injustice to their families, who have waited vigilantly and who have endured a pain of uncertainty for the past 22 years.

The President's action also reveals a dismal commitment to the men and women who are and have been members of the military, loyally serving their country because of this promise we have made to them that was not kept, that we shall not forsake nor forget them.

We are going to have a State Department authorization bill before this body perhaps next week, and I will have more to say about that then. But I want to make just a few comments because I was on the POW/MIA Committee.

I said 3 years ago that on this issue of commercial ties and diplomatic recognition, that there was a steamroller moving through this town headed directly toward normalization of relations with Vietnam. This was despite the fact that an investigation was still underway into the POW/MIA issue by the select committee that I served on.

Corporate America is driving the steamroller. The avenues of its travels were largely underground. They were barely seen by the public. Government officials in all agencies in both branches of Government were busy paving the way for further advancement.

The one potential roadblock was a resolution of the POW/MIA issue. But the roadblock was no match for the steamroller. The Select Committee on POW/MIA's was never able to reach a consensus on the issue of the possibility that men remain in Vietnam. Moreover, there was never a thorough, independent evaluation of each MIA case. There were lots of promises but never an evaluation case by case.

There was also great hyperbole about Vietnam's extensive cooperation in resolving MIA cases. It is coming from the same ones who got all excited when the Vietnamese gave up pilot helmets and artifacts and generally useless photos and other information.

Madam President, that was pure bunk at that time. Vietnam has cooperated in resolving MIA cases about as much as the Japanese cooperate with us in world trade. There sure has been a lot of activity, but it is all atmospheric—lots of scurrying around, lots of digging, lots of busy work. But look at the facts.

Since our select committee finished its work, only 37 sets of remains have been recovered and positively identified. Eight of those were in 1993, 26 in 1994, and only 3 this year. We are still listing 2,202 as missing. So where is the progress?

The President said the following yesterday about the alleged cooperation of the Vietnamese, and I quote: "Never before in the history of warfare has such an extensive effort been made to resolve the fate of soldiers who did not return."

If I could borrow from the President's words, I would have said it this way: "Never before in the history of warfare has such an extensive effort been made to resolve the fate of soldiers who did not return and yet so little accomplished."

Those who have jumped on the steamroller argue that the best way to learn about the fate of the missing is to establish a presence in the country. I think that is a specious argument. It is devoid of rigorous analysis. That is a theory made out of whole cloth. There is no rational basis for it. In fact, it is simplistic.

The only thing that we will get out of the presence in Vietnam—in the absence of full accounting—is a bunch of business deals.

The only time Vietnam ever gave us any data on MIA's is when we played hardball like we think we ought to play hardball with the Japanese on trade.

During the select committee's investigation, we learned that the Vietnamese had at least three categories of information.

The first level is archival. This information is in museums and the like. Even the Vietnamese citizens have access to much of this information. This would include photos and helmets like we were given in the fall of 1992, and which some people went gaga over. This first level of information is, obviously, the least useful.

Next, there are the provincial wartime records of shootdowns. This information is an accounting of the date, the time, and the location of each shootdown of an American plane. It is recorded out in the countryside at the provincial level. It also provided data on the type of aircraft and the status of pilots and the crew.

These are official unit records of the antiaircraft corps of the Vietnamese military. The utility of this information is, among other things, that it would allow us to crosscheck the status of our MIA's with our own records.

Finally, there is the national security information. These are the central committee-level documents, kind of like the Politburo documents. These contain, in essence, Vietnamese national secrets on United States prisoner-of-war information and activities.

Before our committee learned of these levels of information, Vietnam consistently denied their existence. So did our crack investigative outfit on this issue, the Defense Intelligence Agency. Yet, somehow, as we pressed on, some of this information started to appear.

In April 1992, when a delegation from the select committee went to Indochina, the Vietnamese denied to us the existence of the archival material.

But just 6 months later, helmets and photos were sprouting everywhere and it was because the Vietnamese were being told give us data and then President Bush would lift the trade embargo.

Of course, the trade embargo was not lifted because all of the data that supposedly showed their cooperation was not very useful in resolving cases.

A year later, when President Clinton decided not to lift the economic embargo, lo and behold, we started getting some information from the provinces on shootdowns. But that information has remained spotty, and it came not through official channels but through humanitarian channels, the Military Joint Task Force full accounting.

The point again is when we play a little hardball, the data flows. When we do not, it does not.

As for the national security information, the Politburo information I was talking about, we have seen none, and this is notwithstanding the fact that our Government turned over to Vietnam millions of pages of our own declassified national security data on their prisoners and missing in action, as we should, as a result of the 1972 peace agreement.

Establishing a presence and establishing big business in Vietnam is not going to get us access to those national security records. Anyone who thinks that it is, Mr. President, is naive. And unless we press for it, unless we get access to it, there is no way that we can say we have done everything we can for a full accounting of our missing in action.

Mr. President, yesterday is a dark day for America. It was the day that President Clinton put an end to our Nation's pledge to those lost in battle, a pledge that says, "Ye shall not be forgotten nor forsaken." This is a wound to the body politic that will not quickly heal.

ALZHEIMER'S

Mr. REID. Madam President, recently, it was announced that an international research team had discovered a gene that causes the most aggressive form of Alzheimer's disease. This is a tremendous breakthrough. This discovery could lead to solving the mystery of what goes wrong in the brain to cause Alzheimer's, and is a prime example of the need for medical research.

Alzheimer's disease is a progressive, degenerative disease that attacks the brain and results in impaired memory, thinking, and behavior. There have been other breakthroughs in the treatment and cure of Alzheimer's, as well as other neurological diseases. Other genes have been identified that lead to Alzheimer's; the first animal model of Alzheimer's disease—a transgenic mouse—has recently been produced, and is already being used to test drugs to slow the progression of the disease. Furthermore, Cognex, approved in 1994, is the first drug for treating Alzheimer's symptoms, and a combination of genetic testing and positron emission tomography [PET] scanning may yield an early diagnostic test for Alzheimer's. None of these discoveries could have occurred without funding for the research programs and scientists dedicated to finding cures for these devastating diseases.

Four million Americans suffer from Alzheimer's disease. The cost for caring for these men and women is $60 billion a year, making Alzheimer's the most expensive uninsured illness threatening American families. The disease is excluded from coverage by Medicare and most private insurance; therefore, the burden of the expenses is borne by the patient's family. The Alzheimer's Association estimates that at the rate of current research activities, researchers could reach their goal of delaying the onset of the disease by 5 years, reducing by half the number of people with Alzheimer's, and saving the country up to $50 billion a year. It is just common sense that investing in a cure now will result in huge savings in the long run.

I read with satisfaction William Safire's New York Times op-ed this past May, in which he encouraged investment in medical research. He called investment a no-brainer. Mr. Safire also called GOP proposals to cut funding to the National Institutes of Health [NIH] shortsighted. I agree. The most effective way to curb the country's ever-growing medical costs is to cure or ameliorate the diseases that drive people into hospitals.

I would like to commend the Alzheimer's Association for their tireless efforts on behalf of the victims of Alzheimer's and their families, as well as their dedication to acquiring funding for research. The association estimates that Alzheimer's could affect over 14 million Americans by the middle of the 21st century. The costs will be astronomical, and it will be the future generations who will have to pay. The association further states that the disease has not yet financially overwhelmed the country because the families are providing almost all of the care. If this caregiving falls apart our annual health care costs will go up by more than $54 billion.

The ultimate return on our investment in Alzheimer research depends on scientists' ability to continue the search for new pieces of the puzzle. That is now threatened by the GOP budget proposal. For the past 2 years, public funding for Alzheimer's research has not even kept pace with inflation. The results have already proved harmful to research. Less than one in four high-quality applications for grants for Alzheimer's research is being funded. And individual grant awards are being cut by 10 to 20 percent. The number of epidemiological studies, that is—who gets Alzheimer's and why—has been reduced. Entire lines of investigation are being put on hold or lost forever as scientists turn to other fields of study. Funding for 28 Alzheimer's Disease Centers [ADC's], has been cut back. Finally, the National Institute on Aging has abandoned plans for new satellite clinics to serve rural, minority, and low-income communities and to increase their representation in research.

The Federal investment of $311 million in 1995 is less than $78 per person with the disease, or about $1 for every $321 the disease now costs society.

I have been a long-time supporter of NIH funding. It is my belief that medical research is the key to eliminating disease and making our health care system less costly and more effective. In fact, a recent NIH report estimated that approximately $800 million invested in clinical and applied medical research would realize a 1-year savings of approximately $6 billion.

The gene discovery, announced yesterday, will aid in the fight against Alzheimer's disease. These breakthroughs do not occur often enough. We, in Congress, have the responsibility to provide researchers with the funding to enable them to continue their indispensable work.

WAS CONGRESS IRRESPONSIBLE? LOOK AT THE ARITHMETIC

Mr. HELMS. Madam President, it does not take a rocket scientist to be aware that the U.S. Constitution forbids any President's spending even a dime of Federal tax money that has not first been authorized and appropriated by Congress—both the House of Representatives and the U.S. Senate.

So when a politician or an editor or a commentator pops off that "Reagan ran up the Federal debt" or that "Bush ran it up," bear in mind that the Founding Fathers, two centuries before the Reagan and Bush Presidencies, made it very clear that it is the constitutional duty of Congress—a duty Congress cannot escape—to control Federal spending.

Thus, it is the fiscal irresponsibility of Congress that has created the incredible Federal debt which stood at $4,925,464,401,230.13 as of the close of business Tuesday, July 11. This outrageous debt—which will be passed on to our children and grandchildren—averages out to $18,697.15 on a per capita basis.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

COMPREHENSIVE REGULATORY REFORM ACT

The PRESIDING OFFICER. Under the previous order the Senate will now resume consideration of S. 343, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 343) to reform the regulatory process and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Dole amendment No. 1487, in the nature of a substitute.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. HATCH. Madam President, we have been debating this bill now for a number of days. We have made over 100 changes in the bill. We have tried to accommodate our friends on the other side.

Madam President, I notice the distinguished minority leader is here, and I will be delighted to yield to him so he can make his remarks, and then I ask consent I be recognized immediately following the minority leader.

The PRESIDING OFFICER. The Democratic leader is recognized.

Mr. DASCHLE. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WELLSTONE. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. WELLSTONE. Madam President, I ask unanimous consent I be able to speak for 10 minutes as in morning business.

The PRESIDING OFFICER. Is there objection? Is there objection to 10 minutes in morning business being allocated to the Senator from Minnesota?

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. There is objection at this time.

The Senator from Minnesota has been recognized.

Mr. DASCHLE. Madam President, are we still in a quorum call?

The PRESIDING OFFICER. The quorum call has been lifted and the Senator from Minnesota has the floor.

Mr. WELLSTONE. Madam President, I know the minority leader wants to lay down an amendment. Might I ask the minority leader if I can have some time right after that, in morning business?

Mr. DASCHLE. I have no objection to that. I am sure the request of the Senator from Minnesota can be accommodated.

Mr. WELLSTONE. Madam President, I ask unanimous consent, deferring to the minority leader, that I have 10 minutes to speak in morning business after he lays down the amendment.

The PRESIDING OFFICER. Is there objection to the Senator from Minnesota having 10 minutes as in morning business? Is there objection?

Mr. HATCH. Madam President, I am sorry.

The PRESIDING OFFICER. The Senator from Minnesota asked if he can have 10 minutes as in morning business following the Democratic leader's remarks, and asked unanimous consent.

Mr. DASCHLE. Madam President, I have been in consultation with the distinguished manager of the bill. I will withhold offering the amendment momentarily. The distinguished Senator from Utah has an amendment that he would like to offer.

We are willing to accommodate the interests of the distinguished Senator from Utah. Perhaps, following that, the distinguished Senator from Minnesota can be recognized for his morning business time.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Madam President, I say to my colleagues, I would be more than pleased to defer to the Senator from Utah. I was hoping I would be able to speak. I have an engagement at 10. Does the Senator think I would have an opportunity to do that after he lays down the amendment?

Mr. HATCH. I believe we can lay the amendment down and speak to it later.

Let me first get the amendment, and I will call it up and be glad to accommodate the distinguished Senator.

Mr. WELLSTONE. I thank the distinguished Senator from Utah.

AMENDMENT NO. 1498 TO AMENDMENT NO. 1487

(Purpose: To strengthen the agency prioritization and comparative risk analysis section of S. 343)

Mr. HATCH. Madam President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The Senator from Minnesota has yielded the floor. The Senator from Utah sends an amendment to the desk. The clerk will read the amendment.

The assistant legislative clerk read as follows:

The Senator from Utah [Mr. HATCH] proposes an amendment numbered 1498 to amendment No. 1487.

Mr. HATCH. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Delete all of section 635 (page 61, line 1 through page 64, line 14 and insert the following new section 635:

SECTION 635. RISK-BASED PRIORITIES.

(a) PURPOSES.—The purposes of this section are to—

(1) encourage Federal agencies engaged in regulating risks to human health, safety, and the environment to achieve the greatest risk reduction at the least cost practical;

(2) promote the coordination of policies and programs to reduce risks to human health, safety, and the environment; and

(3) promote open communication among Federal agencies, the public, the President, and Congress regarding environmental, health, and safety risks, and the prevention and management of those risks.

(b) DEFINITIONS.—For the purposes of this section:

(1) COMPARATIVE RISK ANALYSIS.—The term "comparative risk analysis" means a process to systematically estimate, compare, and rank the size and severity of risks to provide a common basis for evaluating strategies for reducing or preventing those risks.

(2) COVERED AGENCY.—The term "covered agency" means each of the following:

(A) The Environmental Protection Agency.

(B) The Department of Labor.

(C) The Department of Transportation.

(D) The Food and Drug Administration.

(E) The Department of Energy.

(F) The Department of the Interior.

(G) The Department of Agriculture.

(H) The Consumer Product Safety Commission.

(I) The National Oceanic and Atmospheric Administration.

(J) The United States Army Corps of Engineers.

(K) The Nuclear Regulatory Commission.

(3) EFFECT.—The term "effect" means a deleterious change in the condition of—

(A) a human or other living thing (including death, cancer, or other chronic illness, decreased reproductive capacity, or disfigurement); or

(B) an inanimate thing important to human welfare (including destruction, degeneration, the loss of intended function, and increased costs for maintenance).

(4) IRREVERSIBILITY.—The term "irreversibility" means the extent to which a return to conditions before the occurrence of an effect are either very slow or will never occur.

(5) LIKELIHOOD.—The term "likelihood" means the estimated probability that an effect will occur.

(6) MAGNITUDE.—The term "magnitude" means the number of individuals or the quantity of ecological resources or other resources that contribute to human welfare that are affected by exposure to a stressor.

(7) SERIOUSNESS.—The term "seriousness" means the intensity of effect, the likelihood, the irreversibility, and the magnitude.

(c) DEPARTMENT AND AGENCY PROGRAM GOALS.—

(1) SETTING PRIORITIES.—In exercising authority under applicable laws protecting human health, safety, or the environment, the head of each covered agency should set priorities and use the resources available under those laws to address those risks to human health, safety, and the environment that—

(A) the covered agency determines to be the most serious; and

(B) can be addressed in a cost-effective manner, with the goal of achieving the greatest overall net reduction in risks with the public and private sector resources expended.

(2) DETERMINING THE MOST SERIOUS RISKS.—In identifying the greatest risks under paragraph (1) of this subsection, each covered agency shall consider, at a minimum—

(A) the likelihood, irreversibility, and severity of the effect; and

(B) the number and classes of individuals potentially affected, and shall explicitly take into account the results of the comparative risk analysis conducted under subsection (d) of this section.

(3) OMB REVIEW.—The covered agency's determinations of the most serious risks for purposes of setting priorities shall be reviewed and approved by the Director of the Office of Management and Budget before submission of the covered agency's annual budget requests to Congress.

(4) INCORPORATING RISK-BASED PRIORITIES INTO BUDGET AND PLANNING.—The head of each covered agency shall incorporate the priorities identified under paragraph (1) into the agency budget, strategic planning, regulatory agenda, enforcement, and research activities. When submitting its budget request to Congress and when announcing its regulatory agenda in the Federal Register, each covered agency shall identify the risks that the covered agency head has determined are the most serious and can be addressed in a cost-effective manner under paragraph (1), the basis for that determination, and explicitly identify how the covered agency's requested budget and regulatory agenda reflect those priorities.

(5) EFFECTIVE DATE.—This subsection shall take effect 12 months after the date of enactment of this Act.

(d) COMPARATIVE RISK ANALYSIS.—

(1) REQUIREMENT.—(A)(i) No later than 6 months after the effective date of this Act, the Director of the Office of Management and Budget shall enter into appropriate arrangements with an accredited scientific body—

(I) to conduct a study of the methodologies for using comparative risk to rank dissimilar human health, safety, and environmental risks; and

(II) to conduct a comparative risk analysis.

(ii) The comparative risk analysis shall compare and rank, to the extent feasible, human health, safety, and environmental risks potentially regulated across the spectrum of programs administered by all covered agencies.

(B) The Director shall consult with the Office of Science and Technology Policy regarding the scope of the study and the conduct of the comparative risk analysis.

(2) CRITERIA.—In arranging for the comparative risk analysis referred to in paragraph (1) of this subsection, the Director shall ensure that—

(A) the scope and specificity of the analysis are sufficient to provide the President and agency heads guidance in allocating resources across agencies and among programs in agencies to achieve the greatest degree of risk prevention and reduction for the public and private resources expended;

(B) the analysis is conducted through an open process, by individuals with relevant expertise, including toxicologists, biologists, engineers and experts in medicine, industrial hygiene and environmental effects;

(C) the analysis is conducted, to the extent feasible, consistent with the risk assessment and risk characterization principles in sections 635 and 636 of this title;

(D) the methodologies and principle scientific determinations made in the analysis are subjected to independent and external peer review consistent with section 635, and the conclusions of the peer review are made publicly available as part of the final report required under subsection (e);

(E) there is an opportunity for public comment on the results before making them final; and

(F) the results are presented in a manner that distinguishes between the scientific conclusions and any policy or value judgments embodied in the comparisons.

(3) COMPLETION AND REVIEW.—No later than 3 years after the effective date of this Act, the comparative risk analysis required under paragraph (1) shall be completed. The comparative risk analysis shall be reviewed and revised at least every 5 years thereafter for a minimum of 15 years following the release of the first analysis. The Director shall arrange for such review and revision with an accredited scientific body in the same manner as provided under paragraphs (1) and (2).

(4) STUDY.—The study of methodologies provided under paragraph (1) shall be conducted as part of the first comparative risk analysis and shall be completed no later than 180 days after the completion of that analysis. The goal of the study shall be to develop and rigorously test methods of comparative risk analysis. The study shall have sufficient scope and breadth to test approaches for improving comparative risk analysis and its use in setting priorities for human health, safety, and environmental risk prevention and reduction.

(5) TECHNICAL GUIDANCE.—No later than 180 days after the effective date of this Act, the Director, in collaboration with other heads of covered agencies shall enter into a contract with the National Research Council to provide technical guidance to agencies on approaches to using comparative risk analysis in setting human health, safety, and environmental priorities to assist in complying with subsection (c) of this section.

(e) REPORTS AND RECOMMENDATIONS TO CONGRESS AND THE PRESIDENT.—No later than 24 months after the effective date of this Act, each covered agency shall submit a report to Congress and the President—

(1) detailing how the agency has complied with subsection (c) and describing the reasons for any departure from the requirement to establish priorities to achieve the greatest overall net reduction in risk;

(2) recommending—

(A) modification, repeal, or enactment of laws reform, eliminate, or enhance programs or mandates relating to human health, safety, or the environment; and

(B) modification or elimination of statutorily or judicially mandated deadlines,

that would assist the covered agency to set priorities in activities to address the risks to human health, safety, or the environment in a manner consistent with the requirements of subsection (c)(1);

(3) evaluating the categories of policy and value judgments used in risk assessment, risk characterization, or cost-benefit analysis; and

(4) discussing risk assessment research and training needs, and the agency's strategy and schedule for meeting those needs.

(f) SAVINGS PROVISION AND JUDICIAL REVIEW.—

(1) IN GENERAL.—Nothing in this section shall be construed to modify any statutory standard or requirement designed to protect human health, safety, or the environment.

(2) JUDICAL REVIEW.—Compliance or noncompliance by an agency with the provisions of this section shall not be subject to judicial review.

(3) AGENCY ANALYSIS.—Any analysis prepared under this section shall not be subject to judicial consideration separate or apart from the requirement, rule, program, or law to which it relates. When an action for judicial review of a covered agency action is instituted, any analysis for, or relating to, the action shall constitute part of the whole record of agency action for the purpose of judicial review of the action and shall, to the extent relevant, be considered by a court in determining the legality of the covered agency action.

Mr. HATCH. Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 1499 TO AMENDMENT NO. 1498

(Purpose: To strengthen the agency prioritization and comparative risk analysis section of S. 343)

Mr. HATCH. Madam President, I send another amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Utah [Mr. HATCH] proposes an amendment numbered 1499 to amendment No. 1498.

Mr. HATCH. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the language proposed to be inserted, insert:

SECTION 635. RISK-BASED PRIORITIES.

(a) PURPOSES.—The proposes of this section are to—

(1) encourage Federal agencies engaged in regulating risks to human health, safety, and the environment to achieve the greatest risk reduction at the least cost practical;

(2) promote the coordination of policies and programs to reduce risks to human health, safety, and the environment; and

(3) promote open communication among Federal agencies, the public, the President, and Congress regarding environmental, health, and safety risks, and the prevention and management of those risks.

(b) DEFINITIONS.—For the purposes of this section:

(1) COMPARATIVE RISK ANALYSIS.—The term "comparative risk analysis" means a process to systematically estimate, compare, and rank the size and severity of risks to provide a common basis for evaluating strategies for reducing or preventing those risks.

(2) COVERED AGENCY.—The term "covered agency" means each of the following:

(A) The Environmental Protection Agency.

(B) The Department of Labor.

(C) The Department of Transportation.

(D) The Food and Drug Administration.

(E) The Department of Energy.

(F) The Department of the Interior.

(G) The Department of Agriculture.

(H) The Consumer Product Safety Commission.

(I) The National Oceanic and Atmospheric Administration.

(J) The United States Army Corps of Engineers.

(K) The Nuclear Regulatory Commission.

(3) EFFECT.—The term "effect" means a deleterious change in the condition of—

(A) a human or other living thing (including death, cancer, or other chronic illness, decreased reproductive capacity, or disfigurement); or

(B) an inanimate thing important to human welfare (including destruction, degeneration, the loss of intended function, and increased costs for maintenance).

(4) IRREVERSIBILITY.—The term "irreversibility" means the extent to which a return to conditions before the occurrence of an effect are either very slow or will never occur.

(5) LIKELIHOOD.—The term "likelihood" means the estimated probability that an effect will occur.

(6) MAGNITUDE.—The term "magnitude" means the number of individuals or the quantity of ecological resources or other resources that contribute to human welfare that are affected by exposure to a stressor.

(7) SERIOUSNESS.—The term "seriousness" means the intensity of effect, the likelihood, the irreversibility, and the magnitude.

(c) DEPARTMENT AND AGENCY PROGRAM GOALS.—

(1) SETTING PRIORITIES.—In exercising authority under applicable laws protecting human health, safety, or the environment, the head of each covered agency should set priorities and use the resources available under those laws to address those risks to human health, safety, and the environment that—

(A) the covered agency determines to be the most serious, and

(B) can be addressed in a cost-effective manner, with the goal of achieving the greatest overall net reduction in risks with the public and private sector resources expended.

(2) DETERMINING THE MOST SERIOUS RISKS.—In identifying the greatest risks under paragraph (1) of this subsection, each covered agency shall consider, at a minimum—

(A) the likelihood, irreversibility, and severity of the effect; and

(B) the number and classes of individuals potentially affected, and shall explicitly take into account the results of the comparative risk analysis conducted under subsection (d) of this section.

(3) OMB REVIEW.—The covered agency's determinations of the most serious risks for purposes of setting priorities shall be reviewed and approved by the Director of the Office of Management and Budget before submission of the covered agency's annual budget requests to Congress.

(4) INCORPORATING RISK-BASED PRIORITIES INTO BUDGET AND PLANNING.—The head of each covered agency shall incorporate the priorities identified under paragraph (1) into the agency budget, strategic planning, regulatory agenda, enforcement, and research activities. When submitting its budget request to Congress and when announcing its regulatory agenda in the Federal Register, each covered agency shall identify the risks that the covered agency head has determined are the most serious and can be addressed in a cost-effective manner under paragraph (1), the basis for that determination, and explicitly identify how the covered agency's requested budget and regulatory agenda reflect those priorities.

(5) EFFECTIVE DATE.—This subsection shall take effect 12 months after the date of enactment of this Act.

(d) COMPARATIVE RISK ANALYSIS.—

(1) REQUIREMENT.—(A)(i) No later than 6 months after the effective date of this Act, the Director of the Office of Management and Budget shall enter into appropriate arrangements with an accredited scientific body—

(I) to conduct a study of the methodologies for using comparative risk to rank dissimilar human health, safety, and environmental risks; and

(II) to conduct a comparative risk analysis.

(ii) The comparative risk analysis shall compare and rank, to the extent feasible, human health, safety, and environmental risks potentially regulated across the spectrum of programs administered by all covered agencies.

(B) The Director shall consult with the Office of Science and Technology Policy regarding the scope of the study and the conduct of the comparative risk analysis.

(2) CRITERIA.—In arranging for the comparative risk analysis referred to in paragraph (1) of this subsection, the Director shall ensure that—

(A) the scope and specificity of the analysis are sufficient to provide the President and agency heads guidance in allocating resources across agencies and among programs in agencies to achieve the greatest degree of risk prevention and reduction for the public and private resources expended;

(B) the analysis is conducted through an open process, by individuals with relevant expertise, including toxicologists, biologists, engineers and experts in medicine, industrial hygiene and environmental effects;

(C) the analysis is conducted, to the extent feasible, consistent with the risk assessment and risk characterization principles in section 633 of this title;

(D) the methodologies and principal scientific determinations made in the analysis are subjected to independent and external peer review consistent with section 633(g), and the conclusions of the peer review are made publicly available as part of the final report required under subsection (e);

(E) there is an opportunity for public comment on the results before making them final; and

(F) the results are presented in a manner that distinguishes between the scientific conclusions and any policy or value judgments embodied in the comparisons.

(3) COMPLETION AND REVIEW.—No later than 3 years after the effective date of this Act, the comparative risk analysis required under paragraph (1) shall be completed. The comparative risk analysis shall be reviewed and revised at least every 5 years thereafter for a minimum of 15 years following the release of the first analysis. The Director shall arrange for such review and revision with an accredited scientific body in the same manner as provided under paragraphs (1) and (2).

(4) STUDY.—The study of methodologies provided under paragraph (1) shall be conducted as part of the first comparative risk analysis and shall be completed no later than 180 days after the completion of that analysis. The goal of the study shall be to develop and rigorously test methods of comparative risk analysis. The study shall have sufficient scope and breadth to test approaches for improving comparative risk analysis and its use in setting priorities for human health, safety, and environmental risk prevention and reduction.

(5) TECHNICAL GUIDANCE.—No later than 180 days after the effective date of this Act, the Director, in collaboration with other heads of covered agencies shall enter into a contract with the National Research Council to provide technical guidance to agencies on approaches to using comparative risk analysis in setting human health, safety, and environmental priorities to assist agencies in complying with subsection (c) of this section.

(e) REPORTS AND RECOMMENDATIONS TO CONGRESS AND THE PRESIDENT.—No later than 24 months after the effective date of this Act, each covered agency shall submit a report to Congress and the President—

(1) detailing how the agency has complied with subsection (c) and describing the reasons for any departure from the requirement to establish priorities to achieve the greatest overall net reduction in risk;

(2) recommending—

(A) modification, repeal, or enactment of laws to reform, eliminate, or enhance programs or mandates relating to human health, safety, or the environment; and

(B) modification or elimination of statutorily or judicially mandated deadlines,

that would assist the covered agency to set priorities in activities to address the risks to human health, safety, or the environment in a manner consistent with the requirements of subsection (c)(1);

(3) evaluating the categories of policy and value judgments used in risk assessment, risk characterization, or cost-benefit analysis; and

(4) discussing risk assessment research and training needs, and the agency's strategy and schedule for meeting those needs.

(f) SAVINGS PROVISION AND JUDICIAL REVIEW.—

(1) IN GENERAL.—Nothing in this section shall be construed to modify any statutory standard or requirement designed to protect human health, safety, or the environment.

(2) JUDICIAL REVIEW.—Compliance or noncompliance by an agency with the provisions of this section shall not be subject to judicial review.

(3) AGENCY ANALYSIS.—Any analysis prepared under this section shall not be subject to judicial consideration separate or apart from the requirement, rule, program, or law to which it relates. When an action for judicial review of a covered agency action is instituted, any analysis for, or relating to, the action shall constitute part of the whole record of agency action for the purpose of judicial review of the action and shall, to the extent relevant, be considered by a court in determining the legality of the covered agency action.

AMENDMENT NO. 1500

(Purpose: To establish risk-based priorities for regulations)

Mr. HATCH. Madam President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Utah [Mr. HATCH], for Mr. ROTH, proposes an amendment numbered 1500.

Mr. HATCH. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike the word "analysis" in the bill and insert the following:

"analysis.

"Section 635 is deemed to read as follows:

SEC. 635. RISK-BASED PRIORITIES.

(a) PURPOSES.—The purposes of this section are to—

(1) encourage Federal agencies engaged in regulating risks to human health, safety, and the environment to achieve the greatest risk reduction at the least cost practical;

(2) promote the coordination of policies and programs to reduce risks to human health, safety, and the environment; and

(3) promote open communication among Federal agencies, the public, the President, and Congress regarding environmental, health, and safety risks, and the prevention and management of those risks.

(b) DEFINITIONS.—For the purposes of this section:

(1) COMPARATIVE RISK ANALYSIS.—The term "comparative risk analysis" means a process to systematically estimate, compare, and rank the size and severity of risks to provide a common basis for evaluating strategies for reducing or preventing those risks.

(2) COVERED AGENCY.—the term "covered agency" means each of the following:

(A) The Environmental Protection Agency:

(B) The Department of Labor.

(C) The Department of Transportation.

(D) The Food and Drug Administration.

(E) The Department of Energy.

(F) The Department of the Interior.

(G) The Department of Agriculture.

(H) The Consumer Product Safety Commission.

(I) The National Oceanic and Atmospheric Administration.

(J) The United States Army Corps of Engineers.

(K) The Nuclear Regulatory Commission.

(3) EFFECT.—The term "effect" means a deleterious change in the condition of—

(A) a human or other living thing (including death, cancer, or other chronic illness, decreased reproductive capacity, or disfigurement); or

(B) an inanimate thing important to human welfare (including destruction, degeneration, the loss of intended function, and increased costs for maintenance).

(4) IRREVERSIBILITY.—The term "irreversibility" means the extent to which a return to conditions before the occurrence of an effect are either very slow or will never occur.

(5) LIKELIHOOD.—The term "likelihood" means the estimated probability that an effect will occur.

(6) MAGNITUDE.—The term "magnitude" means the number of individuals or the quantity of ecological resources or other resources that contribute to human welfare that are affected by exposure to a stressor.

(7) SERIOUSNESS.—The term "seriousness" means the intensity of effect, the likelihood, the irreversibility, and the magnitude.

(c) DEPARTMENT AND AGENCY PROGRAM GOALS.—

(1) SETTING PRIORITIES.—In exercising authority under applicable laws protecting human health, safety, or the environment, the head of each covered agency should set priorities and use the resources available under those laws to address those risks to human health, safety, and the environment that—

(A) the covered agency determines to be the most serious; and

(B) can be addressed in a cost-effective manner, with the goal of achieving the greatest overall net reduction in risks with the public and private sector resources expended.

(2) DETERMINING THE MOST SERIOUS RISKS.—In identifying the greatest risks under paragraph (1) of this subsection, each covered agency shall consider, at a minimum—

(A) the likelihood, irreversibility, and severity of the effect; and

(B) the number and classes of individuals potentially affected, and shall explicitly take into account the results of the comparative risk analysis conducted under subsection (d) of this section.

(3) OMB REVIEW.—The covered agency's determinations of the most serious risks for purposes of setting priorities shall be reviewed and approved by the Director of the Office of Management and Budget before submission of the covered agency's annual budget requests to Congress.

(4) INCORPORATING RISK-BASED PRIORITIES INTO BUDGET AND PLANNING.—The head of each covered agency shall incorporate the priorities identified under paragraph (1) into the agency budget, strategic planning, regulatory agenda, enforcement, and research activities. When submitting its budget request to Congress and when announcing its regulatory agenda in the Federal Register, each covered agency shall identify the risks that the covered agency head has determined are the most serious and can be addressed in a cost-effective manner under paragraph (1), the basis for that determination, and explicitly identify how the covered agency's requested budget and regulatory agenda reflect those priorities.

(5) EFFECTIVE DATE.—This subsection shall take effect 12 months after the date of enactment of this Act.

(d) COMPARATIVE RISK ANALYSIS.—

(1) REQUIREMENT.—(A)(i) No later than 6 months after the effective date of this Act, the Director of the Office of Management and Budget shall enter into appropriate arrangements with an accredited scientific body—

(I) to conduct a study of the methodologies for using comparative risk to rank dissimilar human health, safety, and environmental risks; and

(II) to conduct a comparative risk analysis.

(ii) The comparative risk analysis shall compare and rank, to the extent feasible, human health, safety, and environmental risks potentially regulated across the spectrum of programs administered by all covered agencies.

(B) The Director shall consult with the Office of Science and Technology Policy regarding the scope of the study and the conduct of the comparative risk analysis.

(2) CRITERIA.—In arranging for the comparative risk analysis referred to in paragraph (1) of this subsection, the Director shall ensure that—

(A) the scope and specificity of the analysis are sufficient to provide the President and agency heads guidance in allocating resources across agencies and among programs in agencies to achieve the greatest degree of risk prevention and reduction for the public and private resources expended;

(B) the analysis is conducted through an open process, by individuals with relevant expertise, including toxicologists, biologists, engineers and experts in medicine, industrial hygiene and environmental effects;

(C) the analysis is conducted, to the extent feasible, consistent with the risk assessment and risk characterization principles in sections 635 and 636 of this title;

(D) the methodologies and principal scientific determinations made in the analysis are subjected to independent and external peer review consistent with section 635, and the conclusions of the peer review are made publicly available as part of the final report required under subsection (e);

(E) there is an opportunity for public comment on the results before making them final; and

(F) the results are presented in a manner that distinguishes between the scientific conclusions and any policy or value judgments embodied in the comparisons.

(3) COMPLETION AND REVIEW.—No later than 3 years after the effective date of this Act, the comparative risk analysis required under paragraph (1) shall be completed. The comparative risk analysis shall be reviewed and revised at least every 5 years thereafter for a minimum of 15 years following the release of the first analysis. The Director shall arrange for such review and revision with an accredited scientific body in the same manner as provided under paragraphs (1) and (2).

(4) STUDY.—The study of methodologies provided under paragraph (1) shall be conducted as part of the first comparative risk analysis and shall be completed no later than 180 days after the completion of that analysis. The goal of the study shall be to develop and rigorously test methods of comparative risk analysis. The study shall have sufficient scope and breadth to test approaches for improving comparative risk analysis and its use in setting priorities for human health, safety, and environmental risk prevention and reduction.

(5) TECHNICAL GUIDANCE.— No later than 180 days after the effective date of this Act, the Director, in collaboration with other heads of covered agencies shall enter into a contract with the National Research Council to provide technical guidance to agencies on approaches to using comparative risk analysis in setting human health, safety, and environmental priorities to assist agencies in complying with subsection (c) of this section.

(e) REPORTS AND RECOMMENDATIONS TO CONGRESS AND THE PRESIDENT.—No later than 24 months after the effective date of this Act, each covered agency shall submit a report to Congress and the President—

(1) detailing how the agency has complied with subsection (c) and describing the reasons for any departure from the requirement to establish priorities to achieve the greatest overall net reduction in risk;

(2) recommending—

(A) modification, repeal, or enactment of laws to reform, eliminate, or enhance programs or mandates relating to human health, safety, or the environment; and

(B) modification or elimination of statutorily or judicially mandated deadlines,

that would assist the covered agency to set priorities in activities to address the risks to human health, safety, or the environment in a manner consistent with the requirements of subsection (c)(1);

(3) evaluating the categories of policy and value judgments used in risk assessment, risk characterization, or cost-benefit analysis; and

(4) discussing risk assessment research and training needs, and the agency's strategy and schedule for meeting those needs.

(f) SAVINGS PROVISION AND JUDICIAL REVIEW.—

(1) IN GENERAL.—Nothing in this section shall be construed to modify any statutory standard or requirement designed to protect human health, safety, or the environment.

(2) JUDICIAL REVIEW.—Compliance or noncompliance by an agency with the provisions of this section shall not be subject to judicial review.

(3) AGENCY ANALYSIS.—Any analysis prepared under this section shall not be subject to judicial consideration separate or apart from the requirement, rule, program, or law to which it relates. When an action for judicial review of a covered agency action is instituted, any analysis for, or relating to, the action shall constitute part of the whole record of agency action for the purpose of judicial review of the action and shall, to the extent relevant, be considered by a court in determining the legality of the covered agency action.

Mr. HATCH. Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 1501 TO AMENDMENT NO. 1500

(Purpose: To establish risk-based priorities for regulations)

Mr. HATCH. Madam President, I send an amendment to the desk on behalf of Senator ROTH and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Utah [Mr. HATCH], for Mr. ROTH, proposes an amendment numbered 1501.

Mr. HATCH. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the language proposed to be inserted, insert the following:

analysis.

SEC. 635. RISK-BASED PRIORITIES.

(a) PURPOSES.—The purposes of this section are to—

(1) encourage Federal agencies engaged in regulating risks to human health, safety, and the environment to achieve the greatest risk reduction at the least cost practical;

(2) promote the coordination of policies and programs to reduce risks to human health, safety, and the environment; and

(3) promote open communication among Federal agencies, the public, the President, and Congress regarding environmental, health, and safety risks, and the prevention and management of those risks.

(b) DEFINITIONS.—For the purposes of this section:

(1) COMPARATIVE RISK ANALYSIS.—The term "comparative risk analysis" means a process to systematically estimate, compare, and rank the size and severity of risks to provide a common basis for evaluating strategies for reducing or preventing those risks.

(2) COVERED AGENCY.—The term "covered agency" means each of the following:

(A) The Environmental Protection Agency.

(B) The Department of Labor.

(C) The Department of Transportation.

(D) The Food and Drug Administration.

(E) The Department of Energy.

(F) The Department of the Interior.

(G) The Department of Agriculture.

(H) The Consumer Product Safety Commission.

(I) The National Oceanic and Atmospheric Administration.

(J) The United States Army Corps of Engineers.

(K) The Nuclear Regulatory Commission.

(3) EFFECT.—The term "effect" means a deleterious change in the condition of—

(A) a human or other living thing (including death, cancer, or other chronic illness, decreased reproductive capacity, or disfigurement); or

(B) an inanimate thing important to human welfare (including destruction, degeneration, the loss of intended function, and increased costs for maintenance).

(4) IRREVERSIBILITY.—The term "irreversibility" means the extent to which a return to conditions before the occurrence of an effect are either very slow or will never occur.

(5) LIKELIHOOD.—The term "likelihood" means the estimated probability that an effect will occur.

(6) MAGNITUDE.—The term "magnitude" means the number of individuals or the quantity of ecological resources or other resources that contribute to human welfare that are affected by exposure to a stressor.

(7) SERIOUSNESS.—The term "seriousness" means the intensity of effect, the likelihood, the irreversibility, and the magnitude.

(c) DEPARTMENT AND AGENCY PROGRAM GOALS.—

(1) SETTING PRIORITIES.—In exercising authority under applicable laws protecting human health, safety, or the environment, the head of each covered agency should set priorities and use the resources available under those laws to address those risks to human health, safety, and the environment that—

(A) the covered agency determines to be the most serious; and

(B) can be addressed in a cost-effective manner, with the goal of achieving the greatest overall net reduction in risks with the public and private sector resources expended.

(2) DETERMINING THE MOST SERIOUS RISKS.—In identifying the greatest risks under paragraph (1) of this subsection, each covered agency shall consider, at a minimum—

(A) the likelihood, irreversibility, and severity of the effect; and

(B) the number and classes of individuals potentially affected, and shall explicitly take into account the results of the comparative risk analysis conducted under subsection (d) of this section.

(3) OMB REVIEW.—The covered agency's determinations of the most serious risks for

purposes of setting priorities shall be reviewed and approved by the Director of the Office of Management and Budget before submission of the covered agency's annual budget requests to Congress.

(4) INCORPORATING RISK-BASED PRIORITIES INTO BUDGET AND PLANNING.—The head of each covered agency shall incorporate the priorities identified under paragraph (1) into the agency budget, strategic planning, regulatory agenda, enforcement, and research activities. When submitting its budget request to Congress and when announcing its regulatory agenda in the Federal Register, each covered agency shall identify the risks that the covered agency head has determined are the most serious and can be addressed in a cost-effective manner under paragraph (1), the basis for that determination, and explicitly identify how the covered agency's requested budget and regulatory agenda reflect those priorities.

(5) EFFECTIVE DATE.—This subsection shall take effect 12 months after the date of enactment of this Act.

(d) COMPARATIVE RISK ANALYSIS.—

(1) REQUIREMENT.—(A)(i) No later than 6 months after the effective date of this Act, the Director of the Office of Management and Budget shall enter into appropriate arrangements with an accredited scientific body—

(I) to conduct a study of the methodologies for using comparative risk to rank dissimilar human health, safety, and environmental risks; and

(II) to conduct a comparative risk analysis.

(ii) the comparative risk analysis shall compare and rank, to the extent feasible, human health, safety, and environmental risks potentially regulated across the spectrum of programs administered by all covered agencies.

(B) The Director shall consult with the Office of Science and Technology Policy regarding the scope of the study and the conduct of the comparative risk analysis.

(2) CRITERIA.—In arranging for the comparative risk analysis referred to in paragraph (1) of this subsection, the Director shall ensure that—

(A) the scope and specificity of the analysis are sufficient to provide the President and agency heads guidance in allocating resources across agencies and among programs in agencies to achieve the greatest degree of risk prevention and reduction for the public and private resources expended;

(B) the analysis is conducted through an open process, by individuals with relevant expertise, including toxicologists, biologists, engineers and experts in medicine, industrial hygiene and environmental effects;

(C) the analysis is conducted, to the extent feasible, consistent with the risk assessment and risk characterization principles in section 633 of this title;

(D) the methodologies and principal scientific determinations made in the analysis are subjected to independent and external peer review consistent with section 633(g), and the conclusions of the peer review are made publicly available as part of the final report required under subsection (e);

(E) there is an opportunity for public comment on the results before making them final; and

(F) the results are presented in a manner that distinguishes between the scientific conclusions and any policy or value judgments embodied in the comparisons.

(3) COMPLETION AND REVIEW.—No later than 3 years after the effective date of this Act, the comparative risk analysis required under paragraph (1) shall be completed. The comparative risk analysis shall be reviewed and revised at least every 5 years thereafter for a minimum of 15 years following the release of the first analysis. The Director shall arrange for such review and revision with an accredited scientific body in the same manner as provided under paragraphs (1) and (2).

(4) STUDY.—The study of methodologies provided under paragraph (1) shall be conducted as part of the first comparative risk analysis and shall be completed no later than 180 days after the completion of that analysis. The goal of the study shall be to develop and rigorously test methods of comparative risk analysis. The study shall have sufficient scope and breadth to test approaches for improving comparative risk analysis and its use in setting priorities for human health, safety, and environmental risk prevention and reduction.

(5) TECHNICAL GUIDANCE.—No later than 180 days after the effective date of this Act, the Director, in collaboration with other heads of covered agencies shall enter into a contract with the National Research Council to provide technical guidance to agencies on approaches to using comparative risk analysis in setting human health, safety, and environmental priorities to assist agencies in complying with subsection (c) of this section.

(e) REPORTS AND RECOMMENDATIONS TO CONGRESS AND THE PRESIDENT.—No later than 24 months after the effective date of this Act, each covered agency shall submit a report to Congress and the President—

(1) detailing how the agency has complied with subsection (c) and describing the reasons for any departure from the requirement to establish priorities to achieve the greatest overall net reduction in risk;

(2) recommending—

(A) modification, repeal, or enactment of laws to reform, eliminate, or enhance programs or mandates relating to human health, safety, or the environment; and

(B) modification or elimination of statutorily or judicially mandated deadlines,

that would assist the covered agency to set priorities in activities to address the risks to human health, safety, or the environment in a manner consistent with the requirements of subsection (c)(1);

(3) evaluating the categories of policy and value judgments used in risk assessment, risk characterization, or cost-benefit analysis; and

(4) discussing risk assessment research and training needs, and the agency's strategy and schedule for meeting those needs.

(f) SAVINGS PROVISION AND JUDICIAL REVIEW.—

(1) IN GENERAL.—Nothing in this section shall be construed to modify any statutory standard or requirement designed to protect human health, safety, or the environment.

(2) JUDICIAL REVIEW.—Compliance or noncompliance by an agency with the provisions of this section shall not be subject to judicial review.

(3) AGENCY ANALYSIS.—Any analysis prepared under this section shall not be subject to judicial consideration separate or apart from the requirement, rule, program, or law to which it relates. When an action for judicial review of a covered agency action is instituted, any analysis for, or relating to, the action shall constitute part of the whole record of agency action for the purpose of judicial review of the action and shall, to the extent relevant, be considered by a court in determining the legality of the covered agency action.

Mr. HATCH. Madam President, I will speak to these amendments as soon as the distinguished Senator from Minnesota has completed. I ask unanimous consent I be next recognized—except for the minority leader.

Mr. DASCHLE. Reserving the right to object, I will not object, but let me just indicate we are working here in good faith. We have not seen these amendments.

Mr. HATCH. I have not either.

Mr. DASCHLE. I hope we will have an opportunity, first, to look at the amendments; second, let me just say, I hope—I know we are working under the rights that every Senator is accorded under parliamentary procedure. But, again, we filled the tree, and I think we all understand the reasons for filling the tree. I hope we can have some good debate and have the opportunity to lay down amendments.

I was prepared to lay an amendment down—not fill the tree—and have a good debate about it.

The Senator from Utah has asked me to withdraw or delay the offering of that amendment. I have done so. Now I find that after I have conceded to do that we allow the Senator from Delaware to offer an amendment, and now we have not one amendment but four amendments simply to fill the tree.

Mr. HATCH. Will the Senator yield?

Mr. DASCHLE. Certainly. I am happy to yield.

Mr. HATCH. I want to accommodate the distinguished minority leader. He has been so gracious this morning. We are trying to work out the amendment, and we will certainly do so. But we would be happy to set these amendments aside in favor of the amendment of the distinguished minority leader. So it is not a problem. We will be happy to accommodate the minority leader.

Mr. DASCHLE. That is not necessary.

I would just call attention to the fact that I think it is important for us to work through these things and not to deprive either side.

Mr. HATCH. We intend to work in good faith with all Members on the floor, and we will do our very best to do so. As you know, this bill is a tough bill and there is a lot of controversy on both sides of the floor, although I think we are resolving those controversies. I think we are doing it in the ordinary course. We continue to try to resolve all the conflicts that might exist between our two sides. But we will try to cooperate with the distinguished minority leader. We want to move ahead on amendments today and get as much done as we can.

Mr. GLENN. Madam President, do I understand then that the Senator from Utah would be amenable to setting aside what was just accomplished here so that the minority leader could go ahead with the amendment that we have prepared?

Mr. HATCH. Sure. We will be happy to do that.

Mr. GLENN. Madam President, further inquiry, can we have copies of the amendments?

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HATCH. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. I ask unanimous consent that the Senator from Minnesota be permitted to speak for up to 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Minnesota is recognized to speak for up to 10 minutes.

Mr. WELLSTONE. I thank the Chair.

THE RESCISSIONS BILL

Mr. WELLSTONE. Madam President, I read this morning in the paper that the majority leader has dismissed what I think was a very reasonable proposal about how to proceed on the rescissions bill. I want to be just very clear about where we are right now in the deliberations.

Madam President, on Friday morning Senator MOSELEY-BRAUN and I came to the floor of the Senate to express our concerns about the most recent version of the rescissions bill that had been worked out the night before. There had been a deal struck by some parties on Thursday night, and it was coming over to the Senate from the House Friday morning around 10. It was about 120 pages long. We had not had an opportunity to examine it. There were some I think who wanted to just voice vote it. But at a minimum, we wanted an opportunity to propose several amendments and to have debate on each of them.

Madam President, the position that I took then and I think Senator MOSELEY-BRAUN took as well—she certainly can speak for herself—is that when it comes to major spending bills, I have always said we should have recorded votes. That is critically important. We should not have voice votes on large spending bills that are this crucial. By the same token, when you have a bill with $16 billion in spending cuts, and there are changes made from what we had passed in the Senate, changes made at the last second—then clearly it is important to talk about those changes, to talk about the priorities reflected in these cuts, what kind of programs are going to be cut, how they are going to affect people in the country and what the alternatives are.

So we talked some about our amendments. I focused on the Low-Income Energy Assistance Program. I will not take a long time on that right now. I spoke about that at some length on Friday. I talked about a very important Medicare Counseling program for senior citizens to make sure they do not get ripped off. And all too often that happens by insurance companies on supplementary coverage to Medicare. I talked about an important job training program for homeless vets, and other job training funds for dislocated workers. And Senator MOSELEY-BRAUN talked about school infrastructure and all the problems that go with the lack of investment in schools and lack of investment in children.

As it turns out late Thursday night some of the funding we had restored in the Senate was then cut again. This was a deal that we did not think was such a good deal. What we said was that we at least ought to have the right to propose amendments, have debate and have those voted up or down.

Madam President, at the end of this debate on Friday the majority leader pulled the bill from the floor, and said that it would not come back up except under a unanimous-consent agreement but certainly with no amendments. We are talking about a $16 billion spending bill, and he was insisting on no amendments. I sure think there is enough time for a few amendments. We made it very clear yesterday that we would agree to the four amendments. I have three amendments. Senator MOSELEY-BRAUN had one amendment. I think we were going to limit the debate to 1 hour on each amendment, equally divided, and we would stack votes for the next day. And I think we would have 40 minutes for summary of each amendment before votes, 10 minutes for each one. I was surprised that proposal has been turned down, because I thought it was eminently reasonable.

I must say to you, Madam President, that it seems to me that there must be something more at stake here. I do not understand what the majority leader is worried about. I mean I suspect that he would have the votes to defeat these amendments, though I do not think these amendments should be defeated. Certainly, this is all about the whole question of the way the legislative process works.

Madam President, I quote from a piece today in the New York Times about what is going on in the House:

> Draconian cuts; Subcommittee on Labor, Health and Human Resources yesterday did their work . . . eliminating jobs programs, programs in the Department of Energy like the Low-Income Energy Assistance, Head Start, Safe and Drug-Free Schools, assistance for the homeless, enforcement of environmental laws, job training programs for summer youth.

Madam President, in our amendments these are the very priorities we want to call into question. I believe that this rescissions bill was just a glimpse of what is to come. These are truly distorted priorities.

And what is especially troubling is that there are alternatives to cutting these high-priority programs. For example, we do not see rescissions in any of the wasteful spending within the Pentagon. We wanted to transfer a little money out of the travel and administrative budget of the Pentagon; over 60 percent of all the Federal Government's travel and administrative funds is in this one agency; billions and billions of dollars, to make sure people do not go cold in the winter; to make sure there is some support for dislocated workers. We wanted to at least attempt to restore funding for that, offsetting the cuts with cuts elsewhere. The dislocated worker funding is also key to many Americans. For example, we see bases being closed throughout the country. We see people losing their jobs. And we are not going to provide people the opportunity to have retraining and find other work? We are unwilling to provide a little bit of a support for elderly people by way of consumer protection when they purchase health care policies? We are not interested in any support for homeless vets when it comes to some job training or cutting that? But when it comes to subsidies for oil companies, coal companies, tobacco companies, that is not on the table. When it comes to looking at some of the waste within the Pentagon and transferring some of that funding to some of these programs, that is not on the table.

Madam President, let me be very clear about it. Our proposal was eminently reasonable.

We wanted to have some debate on key parts of this bill, which makes $16 billion worth of cuts in Federal spending. We agreed to some time for each amendment. It was limited time. We wanted to talk about the priorities of these cuts, and propose some alternatives. My understanding is that the majority leader has now dismissed even that.

Madam President, I do not think four amendments, a total of about 4 hours, is too much time to spend in the legislative process on a $16 billion rescissions bill. I do not think democracy works well when we shut off this debate and discussion. I do not think people in the country really know what we are doing when we shut off this debate and discussion. Frankly, I think that is the issue.

I am determined, given the reasonableness of our proposal, that we will have an opportunity to have these amendments considered, and we will have debate, within limits, and people will vote up or down, and people in the country will know that we are cutting funds for job training for dislocated workers, low-income energy assistance, counseling programs for older people about consumer protection to make sure they do not get ripped off when they purchase health care coverage, job training for homeless vets, and basic repair of schools for kids.

That is what we are doing. And now look at what the House Appropriations Committee is doing. This rescissions bill is just a glimpse of the distorted priorities that are now being put into effect in this Congress. Americans do not want to see their fellow citizens who have been laid off because of retrenchment or because of base closures without an opportunity to have job retraining. They do not want to see low-income people going cold in cold-weather States. They do not want to see senior citizens without consumer protections. They do not want to see homeless vets without some support. They do not want to see kids without some opportunities, learning in decent schools.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. WELLSTONE. And I think the majority leader may be worried about that. So I am ready for the debate on these amendments, and I hope we will be able to work out some agreement.

I yield the floor.

COMPREHENSIVE REGULATORY REFORM ACT

The Senate continued with the consideration of the bill.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Madam President, I just want to make a few opening comments on this bill before the Senate. It is a very important bill. I consider it one of the most important bills in the last 60 years. It is going to make a difference as to whether or not we are going to be regulated to death or whether regulators are going to have to meet certain standards and norms of common sense before they overregulate us, or should I say before they regulate us properly.

This bill would force them to have to do what is right. It will also force Congress to be a little more specific in its legislation so that we do not always have to rely on regulations. It will make the system more honest.

This bill is about common sense, and I think most Americans would agree that the Federal Government is out of control in terms of the burdens it places on them. A lot of people in this country believe that. We know that the cost of regulations is eating us alive. It is between $6,000 and $10,000 per family in this country.

Now, many of them are essential. We acknowledge that. This bill will protect the essential regulations. And that is as it should be. We also know that some of these regulations are restrictive of freedom, some of them are taking properties away from people, some of them are just plain, downright offensive, and some of them are stupid.

In that regard, let me give my top 10 list of silly regulations—this is my fourth top 10 list of silly regulations—just to kind of bring home to everybody how utterly ridiculous some of the interpretations of regulations and the regulations themselves are in this country.

No. 10. Fining a man $10,000 because he filled out his tax forms with a 10-pitch typewriter instead of a 12-pitch typewriter. That is ridiculous. But that is what happened.

No. 9. Medicare will pay for a pacemaker but will not pay for a newer, smaller version of the pacemaker that actually would be less expensive because that specific version has not been approved by the FDA, even though it has been in clinical trials. It is ridiculous. And the old procedure costs a lot more compared to the new one.

No. 8. Fining a company $5,000 for accidentally placing the answer to line 17 on line 18 in an Environmental Protection Agency form. Now, who would not be upset with that type of ridiculous assessment by the regulators?

No. 7. Prosecuting a rancher for "redirecting streams" when he has cleared scrub brush removed from his irrigation ditches. The ditches have been in use since the beginning of the century, and they have cleaned them all the time. But they prosecuted him for "redirecting the streams." Utterly ridiculous.

No. 6. Spending nearly $3 million to protect the habitat of the endangered dusty seaside sparrow and then managing the land poorly, thus allowing this sacred bird to become extinct. Spend $3 million, wreck the land, and the bird becomes extinct anyway. Ridiculous.

No. 5. A wrecking company's owner was convicted of a felony and sentenced to 3 years in jail. What was his crime? His crime was failing to inform bureaucrats that when his company demolished a building, a total of one single pound of asbestos was released into the atmosphere. Three years in jail. That is more than ridiculous.

No. 4 on this top 10 list of silly regulations for today: Requiring a farmer to suspend all economic activity on 1,000 acres of land because one red-cockaded woodpecker was found. I do not know about you, but my goodness gracious, it is time to put an end to this type of silly regulation.

No. 3 on the list of the silliest regulations, on our top 10 list for today, fining a business $250 for failing to report that no employee has been injured in the preceding year.

No. 2. Withholding approval of a medical waste container for almost a year only to determine that the product did not need FDA review. Ridiculous.

Let us look at No. 1 on our list of 10 silly regulations.

No. 1. The FDA took 7 years to approve a medical device which helped premature newborn infants breathe. It then made the company withdraw the product from over 250 hospitals because the agency found inadequacies in the company's documentation of its manufacturing practices. None of this documentation affected the safety of the product. Physicians later verified that children who could not get this product died.

Now, unfortunately, because of silly regulations, thousands of people are dying in this country, and many, many more people are being oppressed and mistreated in this country.

Mr. President, our Nation is being suffocated under a mountain of redtape. Unnecessary, inefficient, and wasteful regulation stifles business, slows the economy, and costs our fellow Americans their jobs. It has gotten to the point where the words Americans fear most are, "I am from the Government and I am here to help you." Amazingly enough, there are still those who attempt to argue that the Federal bureaucracy is just fine. They are satisfied with the status quo. We are not.

Overregulation is often just plain ludicrous. We have had some fun describing some of the goofy rules that the Feds think we just have to have. But the fact is these regulations are frequently not funny at all. They hurt people. They cause deaths—the very people they are ostensibly supposed to be helping.

For example, the Abyssinian Baptist Church in Harlem struggled for 4 years to get approval for a Head Start program in a newly renovated building. Most of the time was spent arguing with the bureaucrats about the dimensions of rooms that did not satisfy the guidelines. "An entire generation of Head Starters missed the facility," said Kathy Phillips from the church. "The people in Washington want to tell you this or that can't be done. I told them, 'I know you're talking about five pieces of paper, but we're talking about children.'" When regulations hurt children, it is time to change the regulations.

In another case, an OSHA inspector noted that a worker wearing a dust mask had a beard, violating a rule that requires a close fit between face and mask. The dust was not heavy or of hazardous content, and even when used over a beard, the mask filtered out most of what there was. But the rule was clear and, like most rules, did not distinguish among differing situations. Nor did it matter that the worker was Amish. Given a choice between abrogating his religious beliefs or quitting his job, this Amish worker quit his job. Thus, in seeking to protect a worker, OSHA really cost him his job. Now, that is ridiculous.

The rigid nature of regulations is evident in the example of Tony Benjamin, the father of eight, who after reading about lead poisoning made a mistake to look to the Government for help. He had his children tested and found the youngest had lead levels almost at the danger threshold. He got a lead detection kit and, as is common in old houses, found lead beneath the surface of his walls. The State official said not to worry because Mr. Benjamin had recently painted over the old coat.

But the child's test results had been filed with the city health department. One day, unannounced, the city inspectors arrived and stamped the word "violation" in red ink on every nick in his paint, and after finding 17 nicks, declared his home a health hazard. Mr. Benjamin was told to move his family out of their home and strip and repaint it in large sections. If he failed to comply immediately, he was told, he could be fined over $8,000. Mr. Benjamin could not afford to do what the inspectors demanded. Certainly he could not vacate his home with his eight children. Where could they go? Meanwhile, the youngest child's lead level dropped well below the level considered dangerous, but the law still required abatement, clearly without exception. When a family can be thrown out of their own home without good reason, no one can tell me that this system is working.

Another situation involves a man who tried to defend himself against a grizzly bear. Bears had eaten about $1,200 of the man's sheep in one summer. However, the grizzly bear was listed as endangered, and he could do nothing. One night he heard bears attacking. And in his frustration, he came out of his house with a rifle and shot at the bears. Then another bear he had not seen moved to attack him so he shot it. The next day he went out to look for the dead bear. Instead he found it was very much alive as it started to charge him again. He shot it in self-defense, killing it. As a punishment for defending himself he was fined $4,000 for "taking" the bear which had attacked him.

Regulations also impose burdensome costs on hard-working people, burdens that make survival almost impossible. In one case an auto parts storeowner failed to display a sign indicating that his store accepts waste motor oil for recycling. For his crime, he faces a $10,000 fine and a 1-year prison term. The owner said that the sign was down because the windows were being washed. Well, think about it for a minute. You own a business. You are up against a fine of 10 grand and a year in jail for failing to post a sign for 1 day while you are washing the windows. What is wrong with this picture?

What is happening to us in America? Convicted, violent criminals, murderers and rapists are getting out of prison through the revolving door in our justice system, yet a regular guy, who happens to be cleaning his window, is treated like a criminal. I say to my colleagues that if we allow this kind of distorted societal value system to continue, our negligence as holders of the public trust far exceeds anything this business owner could be cited for.

Other times the immense mountain of paperwork buries business alive. I spoke earlier about Mr. Dutch Noteboom, age 72. He has owned a small meatpacking plant in Springfield, OR, for 33 years. The USDA has one full-time inspector on the premises, one full-time inspector, and another spends over half of his time there. The level of regulatory attention is somewhat surprising since Mr. Noteboom has only four employees. But the rules require there be at least one inspector wherever livestock is slaughtered.

Mr. Noteboom said, "I am swimming in paperwork, but I don't even know a tenth of the rules—you should see all these USDA manuals." Now, do we really need an inspector for every two employees?

These silly regulations could even stop well-meaning Government employees from being able to exercise common sense. In the late 1980's, Dr. Michael McGuire, a senior research scientist at UCLA found himself in trouble. His lab, which sits on 5 acres, is funded by the Veterans Administration. Its lawn needs to be cut. When the lawnmower broke, Dr. McGuire decided to go out and buy another one. He filled out no forms and got no approvals. During a routine audit, the auditor asked why the lawnmower was different. Dr. McGuire told the truth, and thus launched an investigation that resulted in several meetings with high-level Federal officials. "I couldn't understand," Dr. McGuire notes, "why important agency officials would spend their time this way." No kidding. I do not understand it either.

Finally, after months, they rendered their findings. They could find no malice, but they determined Dr. McGuire to be ignorant of proper procedures. He received an official reprimand and was admonished to study VA procedures about the size of an encyclopedia.

Oh, one more fact about this case. Dr. McGuire bought the lab's lawnmower with his own money. Now, can anyone believe that this is a useful and productive way to spend taxpayer money—to find fault with Dr. McGuire who did it on his own with his own money to help keep the lawn cut?

Well, Mr. President, I want to emphasize that the cost of regulation is not limited to a few unfortunate individuals. These examples of bureaucratic abuse, of mismanagement add up to a staggering cost for all Americans. The Americans for Tax Reform Foundation estimates that the average American works until May 5 just to pay their taxes. However, when the hidden costs of Government, the regulatory costs, are added in, it is not until July 10 that the people even start to earn money for themselves.

So we are working from January 1 to July 10 to even make a dime for ourselves. Monday was July 10, Mr. President. Until this week started, this very week, every single day that an average American had spent at work so far this year has been to pay for their Government. It was only this morning that they could expect to keep one penny of what they earned. Such a tremendous drain on hard-working Americans cannot be justified when the money is being spent on some of these ridiculous regulations I have mentioned today. They are just a few of literally the thousands and hundreds of thousands of them that are ridiculous and do not work.

This bill will eliminate the wasteful, absurd, and harmful regulations while keeping those that truly protect America. Those regulations that contribute to the greater good will not be affected by this bill. This bill will not summarily overturn environmental laws, antidiscrimination laws, or health and safety laws. Such allegations are pure hogwash.

But as we have noted from these few examples, the true worth of many rules should seriously be questioned. That is what this bill does. It requires the Federal Government to justify the rules and regulations they expect us to live by. And, in my book, that is not too much to ask. So I urge my colleagues in the Senate to support this legislation. And I appreciate being able to just make this short set of illustrations as to why this legislation is so important here today.

Mr. President, I yield the floor.

Mr. GLENN. I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. Frist). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Mr. President, we have had some discussion on both sides of the aisle on various issues. The minority leader would like to call up his amendment. We were first thinking in terms of setting aside these amendments that I have called up on behalf of Senator ROTH. But the way we will approach it is this way.

I ask unanimous consent that we withdraw those amendments and that the yeas and nays that have been ordered be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the amendments (Nos. 1498, 1499, 1500, and 1501) were withdrawn.

Mr. HATCH. Mr. President, as I understand it, the parliamentary situation is that the bill is now open for amendment?

The PRESIDING OFFICER. That is correct.

Mr. HATCH. I yield to the minority leader.

AMENDMENT NO. 1502 TO AMENDMENT NO. 1487

(Purpose: To protect public health by ensuring timely completion of the U.S. Department of Agriculture's rulemaking on "Pathogen Reduction: Hazard Analysis and Critical Control Point (HACCP) Systems" (proposed rule, 60 Fed. Reg. 6774, et al., February 3, 1995)

Mr. DASCHLE. Mr. President, let me thank the distinguished Senator from Utah for his cooperation and the accommodation he has shown us in accommodating the interests of all concerned here.

I call up an amendment that is at the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from South Dakota [Mr. DASCHLE] proposes an amendment numbered 1502 to amendment No. 1487.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 19, line 5, strike out "or".

On page 19, line 7, strike out the period and insert in lieu thereof a semicolon and "or".

On page 19, add after line 7 the following new subparagraph:

"(xiii) the rule proposed by the United States Department of Agriculture on February 3, 1995, entitled "Pathogen Reduction: Hazard Analysis and Critical Control Point (HACCP) Systems" (proposed rule, 60 Fed. Reg. 6774, et al.).".

Mr. DASCHLE. Mr. President, the amendment that we have just offered has one specific purpose, and that is to protect the ability of the Department of Agriculture to issue its proposed rule requiring science-based hazard analysis and critical control point, or HACCP, systems in meat and poultry inspections. The rule is critical, for it will improve the quality of our Nation's food supply and help prevent a repeat of the E. coli bacterial contamination. But it is not just E. coli; it is salmonella, it is listeria, it is a number of other foodborne illnesses that as a result of recent experience has clearly demonstrated the need for a new system.

Last year, 2-year-old Cullen Mack, of my home State of South Dakota, fell ill from eating beef contaminated with E. coli bacteria. As a result of experiences like Cullen's, I held a number of hearings in the Agriculture Committee on the tragic 1993 outbreak of E. coli.

I held numerous follow-up hearings in which industry, producers and consumers all repeatedly called for improving and modernizing the meat and poultry inspection systems. Later, the Department of Agriculture developed regulations to address recurrences of this problem. The rules would modernize the meat inspection process using sensitive scientific techniques to detect contamination and prevent spoiled meat from making its way into our food supply.

Not only would the public benefit from tough new meat inspection rules, but so would farmers and ranchers who raise the livestock and rely on the assurances that their products will reach the market in the best condition possible. Consumers and agricultural producers should not be asked to delay these essential reforms—reforms the entire agricultural and consumer community have been calling for for several years.

Unfortunately, this bill, even with the Dole amendment adopted yesterday, could lead to unacceptable delays in the issuance and implementation of this rule.

The problem is really very simple, Mr. President. In an attempt to reform the regulatory process, the bill overreaches and provides numerous opportunities to those who would seek to delay the rule, prevent it from being issued, or attempt its repeal. Such a result is, frankly, unacceptable and, I believe, would lead to the long-term detriment to the American people and American agriculture.

Yesterday, we debated the Dole amendment, which purported to address the problem. Unfortunately, it did little in that regard. It simply establishes a 180-day grace period for the regulation, at which point the agency must still comply with all of the provisions of the bill. It says for 180 days the effects of this legislation will not be addressed as it relates to the regulations. But after that, everything the bill calls for is every bit as much in effect as it would have been had the 180-day period not been in existence at all. It delays it for 6 months. It does not exempt the rule from the many requirements of the bill. And, as a result, that delay is really no fix at all.

So merely delaying compliance of the burdensome processes of the bill, which ultimately must be met anyway, is no solution. Moreover, once the rule is promulgated, the petition and judicial review processes would still apply. Therefore, the rule will be susceptible to the extensive challenges available through the petition processes and through litigation. All of this for a rule that has already gone through the lengthy rulemaking process, and for a rule that is so essential to protecting public health.

In short, Mr. President, a 180-day delay does not solve the problem.

In addition to these concerns are those that Secretary Glickman outlined in his letter of July 11. In that letter, Secretary Glickman voiced strong opposition to S. 343 because it would unnecessarily delay USDA's food safety reform, among many other things.

The letter explains the Secretary's view that the peer review requirement in S. 343 will delay USDA's food safety reform by at least 6 months.

As I read Secretary Glickman's letter, he is concerned that the bill, as amended by the Dole amendment, requires that risk assessments underlying both proposed and final regulations be peer reviewed prior to becoming final. In other words, before USDA can issue a final regulation reforming our meat and poultry inspection systems—a regulation that has been in the works now for more than 2 years and is based on more than 10 years of science-based reform efforts—the bill would require that the rule go through a lengthy review by scientists before it could be issued in its final form.

According to the Secretary, this peer review requirement would result, as I said, in a 6-month delay in this essential food safety reform.

My good friend and colleague, Senator JOHNSTON, has stated that he believes there are exemptions in the bill to deal with the peer review issue. It is my understanding from reviewing the bill and from discussing the matter with others that it is unclear whether USDA's E. coli rule, the HACCP rule, would fit the exemption and whether it would, therefore, avoid the delays associated with the peer review process.

Like any legal ambiguity, this provision invites litigation and should be corrected here on the floor before the bill becomes law.

If it is the intent of the authors of this legislation to exempt the E. coli regulation from delay caused by the peer review process—and from the other onerous processes in the bill—then they should simply vote for my amendment. My amendment would solve all of these problems by simply stating that the E. coli recall, the HACCP rule, cannot be considered a major rule for the purposes of this bill. It ensures that the bill cannot be used to delay this important rule.

The Department of Agriculture has already gone through a great deal to develop this regulation. USDA published the proposed rule in February of this year with a 120-day comment period. USDA also extended the comment period at the request of a large number of commenters.

Given this extensive comment period, if USDA suddenly declared an emergency exemption to avoid the peer review delay, it would simply be opening itself up to certain litigation, and even greater delay.

I also note that USDA attempted to publish emergency food safety regulations a couple of years ago. To provide consumers with information on how to avoid food-borne illness from pathogens like E. coli and salmonella, USDA issued emergency regulations requiring safe handling labels on meat and poultry products. These safe handling regulations were issued without notice or comment. USDA was sued and lost and had to go through the rulemaking process before the labels could even be required. The result, then, of that "emergency" provision was delay.

Mr. President, all we are seeking here is some common sense, some balance, some way in which to ensure that we can accomplish the goals set out in the bill, but to do so with a recognition that there is a sensitivity to many of the rules that are currently about to go into effect, rules that directly affect the public health and safety of millions of Americans, that ought not to be encumbered, that ought not to be thwarted in any way, as we go through what we consider to be reform in rulemaking overall.

The Secretary felt so strongly about this issue, Mr. President, that he has issued yet a second letter that I would like to read into the RECORD. It was submitted by James Gilliland, general counsel at the Department of Agriculture, and was addressed to me. It simply states:

> DEAR SENATOR DASCHLE: I am writing relative to the amendment Majority Leader Dole offered to S. 343 on the floor of the Senate yesterday. The amendment, which was adopted by a unanimous vote of the Senate, added "food safety threat" to the emergency exemption in the cost-benefit analysis subchapter of S. 343.
>
> I appreciate the Majority Leader's efforts to ensure that the Department of Agriculture's (USDA) efforts to reform the federal meat and poultry inspection system are not delayed by S. 343. However, the amendment does not provide an emergency exemption for the Department's food safety reform proposal and will not alleviate the delay that S. 343, in its current form, would have on the Department's efforts.

So, Mr. President, here again, we have it from the Secretary of Agriculture, from the Department of Agriculture, simply asking us to consider the consequences of what this bill could do to a process for meat inspection that has been under way, under consideration, proposed now for over 24 months. It would stop in its tracks the efforts made by two administrations, really, to put all of the science and the new knowledge and the processes that we have to make food inspection more meaningful and more effective into place. We do not want to do that. I do not believe anybody in the Senate wants to encumber the Secretary's efforts to ensure that meat safety can be provided to an even greater extent than it has been in the past.

My amendment will ensure that the Secretary has the latitude to provide for the culmination of this long effort and in a successful way, in a way that we all want. I urge its adoption.

I yield the floor.

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. GRASSLEY. Mr. President, I appreciate very much what the Senator from South Dakota, the very distinguished leader of the Democratic Party in this body, has to say about bringing common sense and some sensibility to regulation. I do not want to speak just to his amendment. But I think the points he is trying to make are the very basis for the legislation before us.

Although I might disagree with his amendment or whether it is needed, I want to give an example, as I have been trying to do each of the last 2 days, of instances in which regulations have had a very negative impact in my State, a very unfair impact on certain individuals—individuals and small businesses, people that cannot afford to pay the legal fees to fight the harassment they get from Government bureaucrats, or where there is a misapplication of regulation, or where there is what I am going to mention today, disputes between Government agencies.

It is one thing to have a very egregious regulation that may be justified making an impact negatively upon what an individual might want or might not want to do. But it is quite another thing to have one Government agency say you can do something and another Government agency come along and say you cannot do it, and then not even be able to get a resolution to the dispute between the two agencies. And then what is even worse—in the case I want to recite for you—is that there are four Government agencies that have four different definitions of what a wetland is, and then you are negatively impacted.

Some say you can go ahead and do something, and another Government agency comes along and says "No, we are going to fine you for what you did," and you cannot make use of your land.

Then it is really quite perplexing for the farmer who moved ahead on the basis of two Government agencies saying he could do something, and then after a third and a fourth Government agency said he could not do it, one of the first two Government agencies that said he could do it changed their mind and said he could not do it.

Now, when I say we ought to have common sense brought to regulation writing and in the enforcement of regulation, the very least that a citizen ought to be able to expect out of his Government is to get an answer and to get a resolution of a problem, and to get a quick resolution of the problem.

Persons ought to expect in the first place they would not have two Government agencies, one saying you could do something and one saying you could not do it. Or you would at least think if that is the way it is, those two Government agencies ought to get together and say "Yes, you can do it," or, "No, you cannot do it."

We have such a morass of regulation and we have so much conflicting regulation that we actually have citizens of the United States that cannot get a resolution, cannot get agreement among Government agencies, and then it is even difficult to get an answer to your problem when you spend a lot of money on legal fees and appeals.

Now, that is the regulatory state on a rampage that is looking out for its own interest and not the interest of the citizens that it is impacting.

There is not common sense in a lot of regulation writing, and we, in rural America, have found really a lack of common sense when it comes to Government regulation of wetlands.

I want to highlight another case in my State that illustrates this. Remember, yesterday, I spoke about the country cooperative elevators that are impacted from the air quality standards of EPA, where they want to regulate what only occurs about 30 days out of a year as if it were happening 365 days, 24 hours a day, and costing these small cooperative businesses up to $40,000 to fill out a 280-page form that once they get it filled out only 1 percent of the elevators in my State are going to be impacted by the regulation in the first place.

The day before, I spoke about how EPA caused a small business in my State—the costs of legal fees and lost business $200,000—to defend himself against a criminal charge that was brought by EPA, by a paid informant who was a disgruntled former employee, and there was not any case there. Misinformation.

They came on this businessperson, a quiet morning at 9 o'clock in the morning, with their shotguns cocked, wearing bulletproof vests, sticking the gun in the face of the owner and in the face of the accountant, all on misinformation, and costing the business $200,000.

Now, that is what is wrong with regulation. There are people in this body that want Government regulation and they do not care about the adverse impacts upon the small businesses of America and the farmers of America from adverse regulation.

This bill before the Senate is to bring common sense to this process—nothing more, nothing less.

In the instance I want to recite this morning, it all started in April 1989. A young family purchased a 284-acre farm in Mahaska County, IA. I presume from the description of how this problem evolved, this was probably not a very expensive farm. It was probably a farm that only a young person could afford to purchase. Remember, in my State, less than 5 percent of the farmers are under 30 years of age. We lost a whole generation of farmers because of the agriculture depression in the 1980's. The average age of the farmer in my State is 61 years of age.

Do we want young farmers to start farming? Do we want them to start this business where they will produce for the consumer of America the cheapest food of any consumer in the world, because we city slickers only spend 8 percent of disposable income on food? There is no other consumer anywhere in the world that has that cheap of a buy or that quality of a buy. Or do we want corporate farming to take over America, where there are no young farmers who have the ability to get started?

We have a harassment by a Government agency here that I am going to give an example of that is an impediment to young people getting into farming, because this farm was in a state of disrepair. That is why it was cheaper for this person to buy.

The drainage system needed improvement. There was a stand of timber occupying part of the land. He wanted to make some improvements once he purchased it. He did the right thing. Before messing with Government regulation, because we really cannot understand Government regulation, go to some friends at the Soil Conservation Service and check with them, because for 60 years, the Soil Conservation Service provided technical help to the farmer. The farmer considered the employees of the Soil Conservation Service to be people that would level with or help you.

Now, of course, these employees of the Soil Conservation Service are seen as regulators. Farmers do not want them on their farm. You do not go to their office to ask questions any more because some Federal regulator is going to come down on you if there is some suspicion that you might do something that was wrong. Yet we have reduced dramatically the amount of soil erosion in America because of the cooperation between the family farmer and the Soil Conservation personnel.

Even in 1989, this farmer did the right thing, because he does not want to do something to his land and have the Government regulator come in and say "You did this and should not have done it." So he did the right thing and checked with them ahead of time before making the necessary improvements to his drainage system and before clearing some of the trees. He checked with the Soil Conservation Service. The personnel at the SCS authorized his plans.

Also, the Iowa Department of Natural Resources, the State agency which issues farmers flood planning permits, also authorized what he wanted to do.

With the blessing of two Government agencies representing both State and Federal governments, this young farmer cleared trees and improved the drainage on his new farm.

However, in just a few months, October 1989, the Army Corps of Engineers, a Federal agency, visited the farm. They discovered and alleged that a wetland had been filled without a permit. A follow-up letter by the Corps directed the farmer to obtain an after-the-fact permit or be fined up to $25,000 per day. Mr. President, $25,000 per day—that is what the average farmer lives on in Iowa for a whole year.

A short time later, the Fish and Wildlife Service visited the farm and determined that more than 100 acres of wetlands had been impacted. Now, of course, this farmer was shocked to discover wetlands on his otherwise dry farm, especially since the Soil Conservation Service had already approved his actions.

The farmer agreed to a wetlands delineation by the corps. The corps used what is now not used by the corps, a 1989 wetlands manual, and according to this manual, you had to have water within 4 feet of the ground surface for it to be classified as a wetlands. And at no time has there been water at that level. However, they did find, under another provision of the wetlands delineation, the presence of hydric soils, and so they declared 95 percent of the farm wetland.

Since the farmer thought this conclusion was absurd, he decided to appeal to the Soil Conservation Service, another Federal agency, because of that agency's long history of working with farmers and because they said he could go ahead and make these improvements.

Now, this is what is really frustrating to the farmer. This time around, when he went back to the SCS office, he found that the SCS office was more interested in cooperating with the Corps of Engineers than they were with the farmer. Even though they originally said that he could clear the land and improve the drainage system. This time the SCS was not the friend of the farmer. They found his 284-acre farm had 150 acres of wetlands. This determination was made in the face of compelling evidence to the contrary.

An extensive engineering study on the farm shows that normal flooding fails to inundate the farm for the 7 days required under the 1989 manual—which manual is no longer used. Furthermore, evidence from 23 monitoring holes showed that the water depth on the farm is normally 4 to 5 feet and not the 7 days on the surface that you must have under that manual to have a wetlands delineation.

So the farmer used this evidence from this extensive engineering study to appeal, then, to the Soil Conservation Service State office. Although the regulations required the Soil Conservation Service to respond to an appeal request within 15 days, they took more than 150 days to respond.

You know, 150 days is a whole cropping season on Iowa farmland—a growing season. They cannot even respond in the 15 days. Then you wonder why we need a regulatory reform act? It ought to be very obvious why we need one.

Now, surprisingly, when the SCS, the Soil Conservation Service, did respond, do you know what they said? They said they did not have enough information to make a decision. But the Soil Conservation Service had enough evidence to agree with the Corps of Engineers that 150 acres of this 284-acre farm had wetlands on it—after, months before, they said you can go ahead and make these improvements. They said they did not have any information, after both the Corps and the SCS had already made determinations of wetlands based on the exact same information.

Based on this case, it seems to me it is very easy to understand why the American public has become cynical about its Government. All people want for the high taxes they pay in this country, plus all the money we borrow—saddling the next generation of children and grandchildren with a big cost—they may not like the Government they get, and they are not getting what they are paying for, but they would at least like to see their Government work. Instead, what we have is a bureaucracy characterized by overlapping jurisdictions, where one official can authorize an action that another will condemn you for later.

There is also a lack of flexibility and common sense in interpreting and enforcing regulations. The average citizen can find himself subject to the whims of a powerful yet irrational Federal bureaucracy. During the last 2 years this young Mahaska County farmer I am referring to here has spent his own time and money attending countless numbers of meetings, hearings and appeals. His farm has been visited by Government officials on 7 different occasions. And he still does not have an answer. This all started in 1989 and here it is 1995. He spent thousands of dollars defending himself against Federal regulators, and the U.S. Government has spend thousands of taxpayers' dollars to deprive this farmer of the economic use of his property, yet this case remains unresolved.

The consequences are severe for this young farmer. He was deprived of disaster assistance during the floods of 1993, and is not eligible for Federal crop insurance. So the Government is depriving this farmer of benefits, even though a final resolution of his case has not been decided, and apparently this young man, then, is presumed guilty under these other Federal programs, until he proves himself innocent.

This type of overreaching by the bureaucracy must stop. S. 343 will force agencies to more carefully promulgate regulations, paying attention to the costs and benefits of their actions. Maybe this example will help us put in perspective the need for the cost and benefit analysis that is in this legislation.

This Government regulation has tremendous costs for this young farmer that I just referred to. There is nothing wrong with a Government agency, if it is going to have a Government policy, to make sure that the costs of that policy are not greater than the benefits. Or, under this legislation, if there is a determination that the cost is still greater than the benefit, at least you ought to choose the least costly method of accomplishing our goals. So, maybe this will cause these agencies to hesitate and contemplate, before they move ahead and infringe on the rights of our citizens. Hopefully, S. 343 will force these agencies to use more common sense in the future, and avoid situations like the one experienced by the young farmer in Mahaska County.

If the Corps of Engineers, if the Fish and Wildlife Service, if the Soil Conservation Service, and if the Iowa Department of Natural Resources want to show that they are concerned about the impact their regulations have, if they want to show the public that Government works, if they want to show the public that Government is good, if they want to show the public that Government is responsible, if they want to show the public that Government is cost effective, if they want to show the people that Government is humane, it is very easy to do. Just help this young farmer in Mahaska County, IA, to get a resolution to his problem.

Do you know what we think? We think the reason he is not getting his appeals decided is because he is right and the Government is wrong and they do not want to issue an OK to this guy, that he was deprived of something, because it would set a precedent.

A politician who does not admit he is wrong is destined to a rude awakening someday. And regulators that fails to admit they are wrong are subject to a rude awakening someday as well.

I hope that we have an opportunity through this legislation to give justice to our young farmers of America and justice to all young Americans.

Mr. GLENN addressed the Chair.

The PRESIDING OFFICER (Mr. ABRAHAM). The Senator from Ohio.

Mr. GLENN. Mr. President, I rise in support of the amendment offered by the minority leader. I have stated several times in the Chamber the importance of regulatory reform and the importance of the legislation that we are considering here. I know it does not get all the inches in the newspaper and all the TV time because it is bland, dry, arcane, all the words you can put together to make it uninteresting. Yet I would say this. I think this is one of the most important pieces of legislation—it affects more Americans directly—than any legislation we will take up this year except for probably the appropriations bills.

The rules and regulations that are put out pursuant to the laws that we pass here affect every single man, woman and child, every business, every activity that we conduct in this country. I believe very strongly in the need for regulatory reform for every person and business in America, but it must be done sensibly and it must be done with balance.

Regulatory reform, to be true reform, should fulfill two principles. First, it should provide regulatory relief for businesses, State and local governments, and individuals. And, second, it also should provide the necessary protections to the safety, health and environment of the American people.

Now, that is the balance.

S. 343 does not, in my opinion, provide that essential balance of regulatory relief and protection of the American people. That is why in this specific instance I support the minority leader's amendment on the USDA E. coli meat and poultry inspection rule.

Now, what is the problem? E. coli, what does that mean? Most people would not even know what you are talking about. Yet, according to USDA, the U.S. Department of Agriculture, Food Safety and Inspection Service, 3,000 to 7,000 people die each year—not just made ill but 3,000 to 7,000 people die each year—from foodborne illnesses like E. coli, and another 3 to 7 million people get sick every year from such illnesses. Just from the E. coli bacteria alone, the estimates are, about 500 people die per year, year in, year out, year in, year out—500 fatalities.

We have had testimony before our Governmental Affairs Committee; we have heard the stories of those who have lost loved ones to E. coli. Rainer Mueller testified before our committee about his son's death from eating an E. coli contaminated hamburger, painful death. It could have been prevented if we had better inspection standards in the first place.

Nancy Donley came to Washington to tell the story of her son Ellis who also died from eating E. coli contaminated meat. The tragedies are real.

Now, is anyone immune from this? Other figures indicate that about 4 percent of the ground beef in supermarkets has E. coli bacteria present in it—4 percent. Just on an average, that would be 1 out of every 25 hamburger patties that you pick up or 1 out of every 25 steaks that you pick up out of a supermarket has E. coli bacteria.

Why is the problem then not more severe? Because we cook that meat and that kills E. coli. But in the raw state it has E. coli, and if it is not cooked enough you can come down with it. This can cause death, particularly among children.

Now, in the State of Washington, we remember the problem out there where 3 children died, 500 were sick from contaminated hamburgers from just one fast food outlet back a couple of years.

How do we prevent this? USDA is finally modernizing its inspection methods to be able to detect deadly bacteria like E. coli. The new proposal is called hazard analysis and critical control point [HACCP]. That will be the rule which will bring our Nation's meat and poultry inspection system into the 20th century.

Now, the proposed rule, the public comment period for which just closed, was wanted by the meat industry and has wide public support. It was pushed for by the meat industry. And the public certainly wants it. It will prevent deaths and illnesses, and we should not put this off.

The minority leader's amendment would exempt this critically important rule from the burdensome requirements of this bill. I support this amendment in order to show how important rules that are already underway will be delayed and can be stopped by the regulatory reform bill before us.

The situation with this rule reminds me of the regulatory moratorium that we had before us a short time ago except now we are calling it regulatory reform. Rules that are in the pipeline and will be final soon must go back to square one. Forget that the Department of Agriculture has already done a cost-benefit analysis. It now will be subject to all the requirements of S. 343—new rulemaking procedures, new decisional criteria, opportunities for lawyer after lawyer after lawyer to sue the agency and stop the rule, petitions for the agency to review the rule, and so on. Unending legal battles and litigation.

The potential delays for this rule are real but so also real are the additional deaths and sicknesses suffered by Americans who thought they were eating safe meat. And, indeed, every American deserves to have the meat they eat be safe. And yesterday the majority leader offered an amendment which was accepted to specifically include food safety rules among those rules covered by the bill's exemption provision. And yesterday the point was repeatedly made that there already was included in the bill an exemption from analysis requirements of the bill for "health, safety or emergency exemption from cost-benefit analysis," which is the title of that section of the bill, but that is only for a 180-day period. Then the rule could be subject to judicial challenge if the agency had not completed all the analysis, and we would, indeed, be back to square one again.

The problem is that section does not really exempt anything in the bill. It only provides for a 180-day grace period after issuance of the rule, that is, it gives an agency an additional 180 days to comply with all the many requirements of this bill and all the legal challenges that can go along with that. And that is it. At the end of the 180 days, all of the onerous requirements of S. 343 kick in again, no exemption there——

Mr. JOHNSTON. Will the Senator yield at that point?

Mr. GLENN. No. I would rather finish and then answer questions.

Just new opportunities for challenges, uncertainty, and delay. What will happen to the implementation of the rule when it faces these prospects? Regardless of the majority leader's amendment, the E. coli rule will be caught in the vise of S. 343 and public health will be in danger. The minority leader's amendment is a first step in protecting the health of the American people, but it certainly is not enough. S. 343 will catch other important rules, and overall it will make the jobs of the agencies to protect health and safety and the environment much more difficult.

S. 343 simply does not fulfill my two principles for regulatory reform: Regulatory relief and protection for the American people. That is why I, along with Senator CHAFEE and many others, have introduced S. 1001, which I believe is a balanced regulatory reform proposal. Our bill would not shut down important rules such as USDA's meat and poultry inspection rule. Our bill would require cost-benefit analysis and risk assessment, but it would not force agencies to choose the cheapest, least-cost rule. It would not let the lawyers drag the agencies into court over every detail, every step along the way. It would not create several petition processes that could be used to tie up agency resources in litigation. But it would provide for sensible reform and it would allow the agencies to perform their important duties.

Let me add that our bill also would not catch rules that are almost final, like the meat and poultry infection rule. Our bill has an effective date of 6 months from enactment, which gives the agencies time to gear up for the many requirements of this legislation. That makes sense. That is what we should be doing here, working toward common sense reform.

I urge my colleagues to support this amendment. I strongly encourage them to take a hard look at our alternative proposal for regulatory reform, S. 1001. It makes amendments like this unnecessary. But I urge my colleagues to support the amendment put in by the minority leader.

Mr. JOHNSTON. Will the Senator yield for a question?

Mr. GLENN. I will be glad to yield for a question.

The PRESIDING OFFICER. The Senator is yielding for a question.

Mr. JOHNSTON. Mr. President, I simply wanted to tell the Senator that I agree with him that on the 180-day period on the emergency situation, the period is too short. We are requesting—I put in a request to the other side of the aisle that we extend that 180 days to 1 year.

I think your suggestion is a good one and an appropriate one, and we will deal with that separately. That does not concern this amendment at this point.

Mr. GLENN. I yield the floor.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I strongly support the Daschle amendment. Just before making comment on that, I was listening to my good friend from Iowa talk about the rules and regulations going back some years affecting some of his constituents. I think all of us, during the course of this debate, have heard examples of rules and regulations that have been untenable and inexcusable. I think we have to be very careful even in the course of this debate and discussion because often when we go back and review the specific rule, regulation, or enforcement action that has been talked about, that has been addressed and has been altered and has been changed.

If you take the examples of OSHA, that performs 100,000 inspections a year, and they are 99.9 percent good inspections—sound, reasonable, rational—you are still going to have 100 that do not make it. I think we understand that. But we have a measure of lives that have been saved and the quality of life that has been improved by OSHA, for example, by work safety regulation, on the other side. So we will have a chance, as we have during the course of this discussion and debate, to consider that factor.

Those regulations that we heard about from the Senator from Iowa, of course, were issued in a previous administration. And I think any of us who, for example, have watched the difference between the administration of OSHA, particularly in the last 2 years under an excellent administrator, Joe Dear, can see the dramatic change, that the focus and attention has not been on the issuance of paper citations and rules and regulations, but really reaching at the core of what OSHA is really all about.

I was amused at the start of this debate when before our committee, they were talking about the rules and regulations, and how by and large those rules and regulations had accumulated under previous administrations. And it has been this administration that has been working both to try to reduce the complexity of the rules and regulations, simplify the process, and still move ahead in the areas about which I am most concerned; that is in the health and safety areas—in OSHA, the FDA, and in mine safety.

For example, the Delaney clause—I will have more to say about that later—should be updated, not repealed. And OSHA should be helped, not paralyzed, if we want to ensure that we are going to take the best in terms of modern science and industrial techniques in order to make our workplaces safer for American workers.

Mr. President, I strongly support the Daschle amendment, which I hope will serve two purposes: To keep this bill from blocking an important regulation and to illustrate one of the fundamental flaws of S. 343 that is so extreme and antiregulatory that it will block good and essential regulations that Americans want.

I would like to begin by telling a story about a constituent of mine, a 40-year-old woman named Joan Sullivan. Earlier this year, on February 4, 1995, Joan Sullivan did something almost every American does many times a year. She ate a hamburger. She did not know that such a simple act would lead her to the edge of death, to weeks of incapacitation, pain, and suffering, and to catastrophic medical expenses. Joan Sullivan had no idea she was risking her life when she sat down to eat that night, but she was. The meat she ate was tainted by a microorganism, E. coli, a bacterium that is found with increasing frequency in the Nation's meat supply.

When Joan ate that tainted hamburger she contracted an infection of astonishing virulence that came within a hair's breadth of killing her. Joan Sullivan was admitted to her local hospital emergency room with severe stomach pains, constant diarrhea, and vomiting. When her condition worsened, she was transferred to one of America's greatest medical institutions, the Massachusetts General Hospital in Boston, where her condition was diagnosed as hemolytic uremic syndrome.

Desperate measures to save her were undertaken. A tube was placed into Ms. Sullivan's chest without any anesthetic, according to her testimony, and inserted into one of her heart's major blood vessels in order to administer a blood-cleansing treatment. After a month in the hospital, 20 treatments, and the concentrated efforts of dozens of doctors, nurses, and technicians, Joan Sullivan's life was saved. But the cost in terms of her suffering and her family's time and anxiety and in the dollars spent on her care were enormous. Her medical bills alone have totaled approximately $300,000.

What happened to Joan Sullivan has happened to hundreds of other Americans, but many have not been as lucky as she. Many of the victims of E. coli poisoning, especially children, do not survive the infection. Although 5,000 to 9,000 Americans die every year from foodborne diseases, the FDA estimates that another 4 million—4 million—are made ill at a cost to consumers of about $4 billion a year.

That is why the U.S. Department of Agriculture is preparing a new regulation on meat and poultry handling and microbe sampling. The key to the proposed rule is the requirement that meatpackers and processors carry out microbiological tests once a day to be sure that their handling procedures are effective. USDA estimates that the rule, including its testing requirements, will save consumers $1 to $4 billion a year by preventing salmonella, E. coli, and other foodborne illnesses.

This is a rule that is urgently needed and Congress should do whatever it can to expedite. But the pending bill could set back the USDA's efforts by years, blocking the rule until the agency can jump through all of the procedural hoops and red tape associated with the bill's extreme risk assessment and cost-benefit analysis, and allowing businesses to challenge the rule after its issuance for failure to meet those requirements.

The supporters of this misguided bill keep arguing that they are for common sense. Well, common sense tells me that if the USDA has already done a risk assessment under the Executive order, and has already done a cost-benefit analysis estimating that the benefits will be four times greater than the cost, then it would be foolish, wasteful, and dangerous to make them go back and do the analysis again.

How much time and money will the agency waste unnecessarily while Congress forces it to comply with this bill's one-size-fits-all procedures?

Is it common sense to demand that the USDA explore the regional effects of the rule or whether it has analyzed the extent to which the industry can control the problem of E. coli contamination through voluntary measures? That is not common sense, that is common nonsense.

The bill's overly complex and rigid requirements add nothing at all to the agency's efforts to control this serious threat to public health. The bill's exemption for health and safety threats, as amended, clearly excludes rules dealing with E. coli contamination from the cost-benefit and risk assessment rules, at least when the rules are first promulgated. But it is clear that a meatpacker could still petition to force the agency to schedule the rules for the look-back review because the bill's analytical requirements have not been satisfied in every detail.

A hostile USDA Secretary in the next administration, by failing to complete the review, could effectively repeal the rules, leaving the public unprotected again.

This is a very real worry. There are elements of the meat industry and a number of Republicans who are supporting an effort in the U.S. House of Representatives to block the USDA's meat handling and sampling rule. The majority leader, and others, have been embracing this rule in the Senate. But the House Appropriations Committee has voted to send the rule into the limbo of negotiated rulemaking from which it may never emerge.

It is important that the Senate speak out in favor of protecting the public from E. coli and other meat and poultry diseases, to ensure this bill does not jeopardize the public health. We can prevent tragedies like Jean Sullivan's from happening, and we have a duty to do so. I urge support for the Daschle amendment.

Mr. President, what we talked about during the period of the last day or two has been E. coli, as if this was the only kind of problem. Let me mention briefly why the Daschle amendment is so important not just with regard to the proposal that has been made by the majority leader on the E. coli issue.

Under the Dole amendment, the food safety rules can be exempt from the red-tape and delay in S. 343 only if the agency, for good cause, finds that conducting the cost-benefit analysis is impractical due to an emergency of health or safety that is likely to result in significant harm to the public or natural resources. Industry can challenge this finding and block the final rule under the ample judicial review authority in section 625.

So even if you find out that a Secretary is able to move into a faster mechanism to try and address E. coli, you still have all the other procedures of S. 343 that can reduce protections for the public.

Under section 622, the agency is required to complete the analysis within 180 days of the rule's publication. I understand that that is going to at least be addressed in another amendment, but that is only really a part of the problem.

In addition, various meat suppliers and packing houses would be empowered to seek a waiver from the rule's requirements under the new special interest waiver authority in 629. This section allows industry to petition for the so-called alternative method of compliance. This approach allows the rule to be issued but would dramatically undermine its effectiveness.

Once the rule is issued, industry can petition under the rollback authority in the legislation. Industry could seek the weakening of the E. coli rule on the basis that it does not meet the rigorous decision criteria in 624, and the rule automatically sunsets within 3 years if the agency fails to complete the review.

Once the rule is issued, industry can also file a petition under the authority of new revisions to section 553 of the Administrative Procedure Act that empower special interests to seek repeal of rules. The agency must respond within 18 months. Failure to respond, or a denial, could be litigated immediately under the new legislation.

Mr. President, the problem with S. 343, quite frankly, is we are opening up the door for all of the industries in this area. We are interested in their interests, we are interested in their productivity and their financial security, but make no mistake, all of the rules and regulations and the procedures and the look-back procedures are all opening up the door for the industries to come in and alter and change health and safety procedures, the whole series of add-ons that have been spelled out in detail by Senator GLENN and Senator LEVIN.

But I want to just point out, Mr. President, that the amendment of the Senator from South Dakota makes sense in trying to address real protections. The Dole amendment took it part way. The Daschle amendment addresses these other measures, which were not closed in the Dole amendment, which ought to lend credence to the concern of many Americans about what is happening on the floor of the U.S. Senate in terms of their health and their security and their well-being.

Let me mention just a few other of the health regulations endangered by this bill. We have not addressed those. We have the E. coli amendment. But among other regulations that are in the pipeline are the improved quality of mammography standards to ensure better diagnosis and early treatment for the millions of women at risk for breast cancer.

The Mammography Quality Act passed virtually unanimously in the Senate and the House of Representatives. The reason that it passed unanimously is because we found out after long and extensive hearings that in too many instances the various machineries that were being used to test women were not of sufficient accuracy and the people who were using those pieces of equipment had not been adequately trained.

As a result of extensive hearings and review, we have now required—Republicans and Democrats—that we are going to have the issuance of those standards which are going to give, hopefully, the actual scientific results to the people who are going to take the mammography examinations. Too many women in our society going through the existing system would get a stamp of approval when the training and the machinery were not adequate and they would fail to take the other kind of preventive steps and endanger their own health.

It was on that basis that we made these national standards, because the women in California should be protected as well as the women in Massachusetts. But still we find out that the new standards—and they are now being issued—they would be at risk. For what reason? For the various reasons that are outlined in this bill. I will take just a moment. We have gone through this, and the leaders have gone through this in great detail.

Not only do you have the mammography standards that are going to provide lifesaving information for women in terms of breast cancer, but you have the Comprehensive Seafood Safety Program. We had extensive debate in the last Congress about how we were going to make progress in terms of the safety of seafood.

The consumption of seafood has gone up dramatically in this country, and many of the attendant problems we found in terms of meat and poultry also affect seafood. I represent a State that has a great maritime tradition and is one of the leading States in the country in terms of harvesting seafood. The fishermen want this kind of protection because it is important in terms of the integrity of the product, and the people want that.

But there are some within the industry, and the record is replete—not out here but in the hearings that were held in FDA and our own Committee on Labor and Human Resources—about the industry group that does not want those regulations.

We spent a lot of time developing that program in terms of safety. Make no mistake about it, it may be E. coli today, but soon it will be something else related to the safety of seafood products. They do not have a special amendment. They do not have a Dole amendment. There is nothing out here in terms of mammography for the women of this country being proposed to protect them or to protect others with regard to seafood safety.

What about the rule to prevent iron poisoning of children by strengthening the packaging requirements for iron supplements? There are 10,000 incidents a year affecting children, many of them resulting in deaths, as a result of the ingestion of iron supplements. We have regulations that are about to be promulgated on the basis that they will save scores of children's lives a year. And they will be delayed. Another rule will prohibit the use of lead in food cans to protect infants and children from exposure to substances that may contribute to mental retardation, which is one of the major problems that we have in many areas of the country, in urban as well as rural communities. And another rule deals with lead in paint, where we have older rural communities that have used lead paint in their buildings, and in older communities, industrial communities, that not only have it in their buildings but also have it the playgrounds in their communities. We know the direct correlation between ingestion of lead and mental retardation and slow development, particularly of children.

One of the problems the Government intends to address is that the importation of various foods from many different countries around the world is still in cans which have a high content of lead. And in trying to respond not by limiting the opportunity for the consumer to be able to consume those products but to make those cans safer, we have rules and regulations to try and deal with those—children are at risk. And another rule in the works would regulate the level of diesel emissions in the mines, where miners work in the confined spaces. The regulations which are about to be issued in those areas, which have been examined and have taken review year after year, are about to be sidetracked.

Mr. President, I could continue—and will later on in this debate—to go through various other rules and regulations about to be issued on toy safety, because choking on small toys and small parts of toys is the leading cause of toy-related deaths. Between January 1980 and July 1991, 186 children choked to death on balloons, marbles, and small parts of toys. More than 3,000 children are treated in hospital emergency rooms because they swallow or inhale a small toy.

Congress enacted the Child Safety Protection Act last year. The law requires hazard labeling and bans balls that are small enough to choke a young child, and it requires the reporting of choking incidents. The Consumer Product Safety Commission has proposed rules to implement the reporting requirements and interpret other provisions of that.

Now, we say we are going to wipe those things out. We have heard the daily list of 10 rules and regulations do not make any sense. What are you going to tell those parents about toys? Who is going to make the rules and regulations? Do you expect the parents to understand blocking these rules? There is a need for this kind of review and examination and the collection of information.

So whether you live in Boston, or in Palo Alto, or wherever you live, if those parents' kids are going to play with a toy, they are going to be protected. But under the rules and regulations, they are going to have to do a thorough examination to see whether there is a geographical difference, whether there can be voluntary compliance.

We are talking about small children and they are talking about a study for voluntary compliance. Market based mechanisms. Market based mechanisms for children's toys? We are expecting the agency to do a review on that?

Now, Mr. President, we talk about common sense. What they are proposing makes no sense.

You have baby-walker safety. Baby-walkers account for a high number of injuries annually, more than any other nursery product, sending approximately 25,000 infants to hospital emergency rooms in 1993 alone. Eleven children died in walker-related incidents in the past 5 years. In response, the Consumer Product Safety Commission has begun rulemaking to address the hazards associated with baby-walkers. Those are going to be delayed. How many other children are going to be impacted by a failure to be able to get this kind of safety?

Mr. President, the list goes on. I mentioned the iron toxicity prevention. FDA has proposed a rule to prevent the many needless deaths and serious injuries that occur when children accidentally ingest too much iron by eating too many iron tablets or supplements. Iron toxicity is the leading cause of poison deaths in children today. From 1986 through 1992, over 100,000 children were poisoned. Many suffered permanent injury, and at least 33 died. This rule would limit the iron potency of vitamins intended for children to require a warning label and childproof container.

What Member of the Senate has heard from a parent saying, "Look, that kind of rule and regulation is outrageous, and that rule and regulation that is going to protect my child is just Federal bureaucracy. We want you to stop that"? Do you think the parents are going to be able to provide that adequate protection?

I see others of my colleagues on the floor who want to address this issue, as well as other issues. These are just examples. You might talk about the E. coli regulation. We could have a thousand other amendments. That is the trouble with the bill. For each and every one of these, you need another amendment to protect it. When you have the amendment accepted by the overwhelming majority, people might say we have addressed that particular problem. It takes the minority leader, Senator DASCHLE, to get a chance to look through that to try and recognize that only half the job has really been done. I daresay that, even with the acceptance of those amendments, we are still leaving at risk many of the children, the most vulnerable, and the workers, the parents, and millions of families all across this country that rely on the Government for help in the areas of health and safety, who do not have the expertise and ability and scientific information to be able to make these judgments in the interest of their family.

Sure, there have been mistakes. Sure, there have been the issues of regulations which are untenable and wrong. But it seems to me, Mr. President, that we ought to be concerned about those and consider how we can constantly work and try and find ways to work with the private sector, the public sector, the agencies to try and make it better, rather than have a whole scale alteration and change which is going to dramatically—and I say dramatically—put at greater risk the health and safety of the American people.

Mr. LAUTENBERG. Mr. President, I am proud to cosponsor and support the Daschle-Bradley amendment even though I am disappointed that it is necessary to offer the amendment. But we do need to offer the amendment because, once again, our Republican colleagues seem to be more responsive to the special interests than the public interest. It is unacceptable for this body to put thousands of lives at risk in the name of regulatory reform. Yet that, in my view, is what this bill does. Let me give you an example.

An estimated 4,000 people die each year as a result of meat and poultry tainted with harmful bacteria. Another 5 million become ill, but survive. These numbers are too high. You would think the Federal Government would feel an obligation to respond to that problem. This bill is a response. But it is the wrong response. It weakens our ability to regulate food safety rather than strengthen it.

In 1995, the sale of unsafe meat and poultry is unacceptable and deplorable. It is a scandal that meat today is inspected by the same standards first developed in the early 1900's. That is right, today's meat inspection process is nearly the same as it was 100 years ago—inspectors must rely on sight and smell.

USDA recently proposed rules that would finally bring meat and poultry inspection into the 20th century. Scientific testing would be used to prevent contaminated food from reaching American consumers.

These changes would save thousands of lives and prevent millions of Americans from suffering the ill effects of this harmful bacteria.

Death from E. coli poisoning can be excruciatingly painful. Symptoms range from diarrhea and vomiting, to extreme headaches, to neurological damage. Body functions often shut down one at a time. Blood transfusions are necessary. Death is common for children and survivors can suffer from the aftereffects of this poisoning for years.

Last year, I introduced the Katie O'Connell Safe Food Act with Senator BRADLEY. Katie O'Connell was a 23-month-old girl from Kearny, NJ, who died as a result of eating a fast-food hamburger infected with E. coli bacteria.

This act sought to prevent future tragedies like that suffered by Katie O'Connell and her family. I am pleased that after many years, the USDA proposed new standards that would do just this.

There are thousands of Katie O'Connell's across the Nation whose lives could be saved if we had a proper system in place to assure the safety of our food.

We owe it to our children and their families to ensure the safety of our food system. But the so-called regulatory reform bill before us now, even with the Dole amendment, will delay this long-awaited improvement in our meat and poultry inspection system. It will encourage challenges to rules which have already taken too long to be developed. It will delay USDA's ability to issue regulations which we need and most Members of this body want.

Regulations that are vital to the public health ought to be protected from additional delay. That is what the Daschle-Bradley amendment does. And that it why I support it.

Let us use some common sense and pass this amendment in the name of protecting the public health and safety.

Mr. President, let me close by saying that I hope we will have the opportunity to examine other amendments that will put the public health ahead of the special interests.

Mr. JOHNSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

AMENDMENT NO. 1503 TO AMENDMENT NO. 1502

(Purpose: To provide that risk assessments conducted to support proposed rules may be used to support final rules that are not substantially different with respect to the risk addressed)

Mr. JOHNSTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Louisiana [Mr. JOHNSTON], for himself, Mr. HATCH, and Mr. ROTH, proposes an amendment numbered 1503 to amendment No. 1502.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the language proposed on page 1, lines 5 through 9 insert the following:

"(10) Notwithstanding section 632, if the agency head determines that—

(A) a final major rule subject to this subchapter is substantially similar to the proposed major rule with respect to the risk being addressed;

(B) a risk assessment for the proposed major rule has been carried out in substantial accordance with section 633; and

(C) a new risk assessment for the final rule is not required in order to respond to comments received during the period for comment on the proposed rule; the head of the agency may publish such determination along with the final rule in lieu of preparing a new risk assessment for the final rule.

(11) Notwithstanding any provision of the Comprehensive Regulatory Reform Act of 1995 and the amendments made by such Act, including section 9 of such act, any rule for which a notice of proposed rulemaking was filed before April 1, 1995 shall not be subject to the provision of this subchapter or subchapter III except for section 623 (relating to review of rules).".

Mr. JOHNSTON. Mr. President, I invite the attention of my colleagues, particularly the Senator from Massachusetts, and the minority leader, if he is listening on his squawk box, and others, to this amendment, because it fixes the problem.

The problem, Mr. President, was well pointed out by the Secretary of Agriculture in his letter to Senator DASCHLE. What he said, with respect to this ongoing HACCP rulemaking, is that affects the 9,000 federally inspected slaughter processing plants in this country; that they have virtually completed a rulemaking; that that rulemaking has a cost-benefit and has a risk assessment that has been peer reviewed, and it is ready to go into operation. The Secretary says we should not have to go back and do that over again. It would give us a 6-month delay. A legitimate problem.

Now, what this amendment does, Mr. President, is fixes that problem, not only with respect to HACCP, but with all other Federal agencies, because it says that where there is a final rule, which is substantially similar to the proposed rule, where a risk assessment for the proposed major rule has been carried out in substantial accordance with section 633, and a new risk assessment for the final rule is not required in order to respond to comments received during the period for comments on the proposed rule, the head of the agency may publish such determination along with the final rule in lieu of preparing a new risk assessment for the final rule.

So that, in other words, if you have already done your risk assessment, in substantial compliance—not exact compliance—substantial compliance of section 623, which it is my understanding that that risk assessment has been carried out, you are exempt, not only for HACCP, not only this agency, but for all agencies.

Now, if that is not absolutely clear with respect to HACCP, let me give the clincher. The next paragraph, notwithstanding any other provision, if your notice of proposed rulemaking was filed before April 1, 1995, you "shall not be subject to the provisions of this subchapter or subchapter 3 except for section 623."

What that means is, if you have your notice of proposed rulemaking out, prior to April 1, as they did in agriculture, with the HACCP rules, you are exempt from everything except the petition process and the look-back.

That means the rule will go into effect as soon as proposed. It will stay in effect.

Now, if anyone wants to petition, what has to be done in order to get a petition granted, is to bear the burden of establishing, using the words of the statute, "that there is a substantial likelihood that you would not be able to meet the standards of section 624."

What are the standards of section 624? That the benefit justifies the cost, and that you have used the least-cost reasonable alternative that complies with the statute, unless considerations of health, safety, the environment, require a more expensive alternative, or unless scientific or data uncertainties require a higher standard.

Mr. President, if you are able to show that, if the petition is granted, only then do you do the risk assessment and cost-benefit analysis, only then do you have a new rulemaking, and there would be 3 years, plus an extension of 2 years as provided, a total of 5 years, in order to complete that process.

In the meantime, the rule is in effect.

Mrs. BOXER. Will the Senator yield for a series of questions?

Mr. JOHNSTON. I am happy to yield to the Senator.

Mrs. BOXER. Does this take care of the danger of the E. coli rule being repealed by the look-back or sunset provisions? I believe you say it would still have to comply with look-back and sunset; is that correct?

Mr. JOHNSTON. What would happen is the rule goes into effect. If you feel that that rule—the benefits do not justify the cost, and can show a substantial likelihood that that is so, then you could petition. If the agency agrees with you, then they would put you on the schedule for having a risk assessment and a cost-benefit analysis.

You do not throw out the rule in the meantime. You simply go through the scientific procedures.

Mrs. BOXER. I understand. In other words, the rule is in danger of being repealed by the look-back or the sunset procedures and is not exempted from the petition for waivers, according to your explanation—I would like to ask another question.

I believe, as I listen to my friend explain this, that the E. coli rule would have to comply with section 623 of the Dole bill and it seems to me that this in fact substitutes current law with this new law.

Mr. JOHNSTON. That is just not true.

Mrs. BOXER. I say that my friend admits, in fact, there is a danger that the——

Mr. JOHNSTON. I did not admit that.

Mrs. BOXER. Excuse me, my friend says, yes, it is subject to the look-back procedures.

Mr. JOHNSTON. But not in danger of being repealed. Those were the words of the Senator from California.

Mrs. BOXER. I have one more question.

My last question is, Did you work with the minority leader on this? Is Senator DASCHLE in agreement with your substitute amendment?

Mr. JOHNSTON. What Senator DASCHLE wants is to specifically exempt this rule, the HACCP rule, from any consideration of cost-benefit analysis or risk assessment.

We oppose that because we believe that any rule that is—HACCP will go into operation. But if someone can show that HACCP was not properly done and that it cannot meet the cost-benefit analysis, that the benefits do not justify the cost, then all we say is that you can deem the scientific panel, get the best science, and do it right, but the rule stays in effect in the meantime.

There is not a danger of will rules repeal, as if people are not going to be protected. There is a likelihood that if they have not done it right, they would have to do it right.

Now, what is wrong with putting science in control, if they have done it wrong in the first place? What is wrong with that?

Mrs. BOXER. Is the Senator asking a question?

Mr. JOHNSTON. Yes.

Mrs. BOXER. I say to my friend there is great disagreement over the very premise of this bill. Those that oppose it think it goes way too far, that the pendulum is going to swing to the side of the special interests in this country, to the detriment of the people who rely on us to protect the food supply.

I assume the answer to my question is that Senator DASCHLE does not support your substitute amendment.

Mr. JOHNSTON. Mr. President, there is no answer to those that say the bill goes too far, it protects special interests.

We are dealing with a technical amendments bill that involves a lot of provisions. You cannot answer an argument that says it goes too far and it enshrines special interests. It does not. The Senator has not shown me where it does. All I am saying is that this rule goes into effect.

By the way, the Senator from California, I believe, is a cosponsor of the Glenn substitute. Did the Senator know that the Glenn substitute would have the very effect that the Secretary of Agriculture complains about?

Under the Glenn substitute, you would be required to go back and do a cost-benefit analysis because it has not been done in accordance with what the Glenn substitute says.

We get this micromanaging of this bill where they "fly-speck" our bill and look at it and show—find ghosts where none exists, and then they propose legislation that has the exact same fault, sometimes worse faults.

But, that is fine.

Mr. GLENN. Will the Senator yield?

Mr. JOHNSTON. I am happy to yield to the Senator.

The PRESIDING OFFICER (Mr. ASHCROFT). The Senator from Ohio.

Mr. GLENN. We are changing that. We realized that was a fault in ours, and we are changing that. The other bill, S. 343, has not been changed.

Mr. JOHNSTON. We have changed it right now.

Mr. GLENN. Not in that regard.

Mr. JOHNSTON. Mr. President, again, we have this problem on this bill that the opponents of the bill will not take yes for an answer.

Secretary Glickman writes a letter and says, "We have a problem, that we have gone through this extensive rulemaking, we do not want to have to do it over again."

We say, "Yes, Secretary Glickman, you have a problem. You should not have to do it over again. Not only should you not have to do it over again, but nobody in the Federal Government ought to have to do it over again."

We proposed two fixes. If you started your rule prior to April 1 with a notice of proposed rulemaking, you are exempted. Or, if you have already done it and it is in substantial accordance with the section, you do not have to do it again. On both scores, this proposal for safe meat and E. coli, about which I am just as concerned as any member in this body—look, to say we are not concerned about health because we want scientists to do it right is to turn logic on its head. It is to turn the argument 180 degrees around. It is because we want it to be done right that we propose this bill. We do not want to have to do it over again. We do not want to delay. This amendment fixes the problem.

Now, the reason we oppose the Daschle amendment is, in effect, what Senator DASCHLE says; citing the same problem, he says, just exempt HACCP altogether from these requirements.

Well, you could come along and say, Well, this rule or that rule involves health or safety and it ought to be exempted.

Mr. President, we are not diminishing safety by this bill. To the contrary, we are requiring that the benefits ought to justify the cost, a very simple proposition. Why do we propose that? Because, across Federal agencies, we have seen terrible examples of waste, ignoring our own scientists, not even knowing what regulations cost, dealing with risks that do not exist.

With respect to this clean meat inspection, inspection of poultry houses, inspection of slaughterhouses—that regulation is going to go into effect under the second-degree amendment. We have fixed the problem. I wish the opponents to this measure would at least acknowledge that we are fixing the problem and not give us these arguments like: Oh, this is a special interest bill. Oh, you want dirty meat for your children.

Mr. President, it is just not true. Let the opponents to this measure speak to this measure. Do not speak to something that is irrelevant, like whether special interests are being taken care of. This is not a special interest. This second-degree amendment is proposed specifically because the Secretary of Agriculture said he had a problem, and it fixes that problem. If there is another problem, let us deal with that in a separate amendment. We have had over a hundred changes accepted to this bill already. It is a tight bill. It is a good bill. It is a workable bill. And this amendment makes it better and I hope my colleagues will accept it.

Mrs. BOXER addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, I hope, in the course of the next half-hour or so, I can be very specific in my critique of the DOLE bill, so my friend from Louisiana can see that I am coming at it after a great amount of thought.

I support the Daschle amendment because the Daschle amendment says, very simply, in plain English: We are moving ahead with that rule on E. coli. The Johnston amendment that he is substituting for the Daschle amendment deals with a broader issue. Fine.

Mr. JOHNSTON. Mr. President, will the Senator yield?

Mrs. BOXER. If I might complete my thought, then I will be happy to yield.

We believe that the Daschle amendment is necessary so this HACCP rule which I refer to as the E. coli rule, that is about to take effect, can move forward now and be exempted from the bill. It is as simple as that.

If you want to deal with the issue in a broader way, we can look at the Johnston language. But it does not mean that the Daschle language is not needed if you are concerned about E. coli and want to see the rule move forward unencumbered by language that my friend took about 10 minutes to explain. It is still confusing. We think the Daschle language is clear. Just move forward with the rule, exempt it, and let us get a safe meat supply.

That is why I support the Daschle amendment.

Mr. JOHNSTON. Now will the Senator yield on that point?

Mrs. BOXER. I will be glad to.

Mr. JOHNSTON. Does my friend from California understand my amendment allows the E. coli rule to go forward the same as the Daschle amendment does?

Mrs. BOXER. It does not exempt the E. coli rule, in your own words, from the waiver provisions——

Mr. JOHNSTON. Yes, it does.

Mrs. BOXER. From the sunset provisions, from the look-back provisions; and also, from what I gather from my friend's explanation, it still has to comply with section 623 and the spirit of the new law. That is what I understood from my friend.

Mr. JOHNSTON. If I may explain very carefully——

Mrs. BOXER. Therefore I believe the Daschle amendment is necessary, in a simple way, so I can look the people in the eye and say: That rule to protect you from E. coli is moving forward, period. And it is not going to be repealed because of actions by a special interest lobby that forces it to be repealed. I stand by my strong belief that the Daschle amendment is necessary.

Mr. JOHNSTON. Now, does the Senator understand—let us see where we agree and disagree.

Mrs. BOXER. I will be happy to yield.

Mr. JOHNSTON. Does the Senator understand that under the Johnston amendment, the E. coli regulations will go forward; be promulgated without delay?

Mrs. BOXER. As I understand my friend's comments, and I would have to have them read back to me to be certain, he said that you have to make sure, in your generic description, that the spirit of section 623 was complied with.

Mr. JOHNSTON. No. There are two bases on which this would be, that E. coli would go forward. First, that you had substantially complied with the risk assessment under section 633.

Mrs. BOXER. Section 633.

Mr. JOHNSTON. Or—understand "or"—or that your notice of proposed rulemaking was put out before April 1, 1995. And this was put out before April 1, 1995. Therefore, it is exempt from the proposal.

Are we together on that?

Mrs. BOXER. It is not exempt from the look-back. It is not exempt from the sunset. It is not exempt from the waiver.

I would say to my friend, if the April date is consistent, it may well move forward. I concede that. However I believe some of my colleagues have raised questions about the April date.

Mr. JOHNSTON. So we are in agreement.

Mrs. BOXER. I do not know the exact date of the rule, but if my friend says it, I would agree. I have no reason to think he would not be honest on that point.

Mr. JOHNSTON. Do we also understand that in order to petition to have a risk assessment on this, that during all of that time, that the rule stays in effect? Are we in agreement on that?

Mrs. BOXER. Yes. I understand exactly what my friend said. It is subject to the look-back, the waiver, and the sunset provisions of the law.

Mr. JOHNSTON. Do you also understand that, as far as the sunset provisions, those are only rules that the Secretary himself will pick out? In other words, you do not sunset all rules, it is only such rules as he picks out for re-examination? And that is only if Secretary Glickman says he has to go re-do his own work. Does my colleague understand that?

Mrs. BOXER. I understand my friend perfectly. The fact is, Secretary Glickman is here today and could be gone tomorrow. We do not legislate because Secretary Glickman is a good guy. We legislate for whoever happens to be Secretary of Agriculture.

I am going to take back my time, if I may, because I have a long statement on this bill. I have time constraints.

I know my friend speaks in total good faith but I hope he knows I also speak in good faith. I am concerned about E. coli because kids die from it and old people die from it. And I want to go to the route that will exempt it from this legislation. Legislation that is so complicated that two Senators have different ideas about what it means any day of the week. That says to me: Court cases. That says to me: Lawyers' dreams. Why not go with Senator DASCHLE's approach? You have a problem. You have a rule. Put it into place, exempt it from this bill.

If people do not want to vote for that, God bless them, that is their option. I respect them. But no manner of questions to this Senator is going to change my mind that the most direct way to protect people from E. coli is to support the Daschle amendment.

I want to get into the general subject of this bill. I think that all Americans agree there are tremendous benefits that come from our health and safety laws. If you look at some of our rivers, where there was no sign of life and they have been rejuvenated, it is because of our Nation's laws.

If you look at the quality of air in certain areas where we are reaching attainment levels, areas where kids are now born with a healthy ability to breathe, a lung capacity that they deserve, it is because of the Clean Air Act. I could go on and on and cite case after case, of where we have reaped benefits from our health, safety and environmental laws.

I also completely agree that there are instances where Federal agencies have ignored the costs of regulation on business and individuals. And those people feel they were treated unfairly, and in many cases it is true. In other words, I believe that we need to readjust the balance. There is no question about that. And that is why we need regulatory reform. The point I want to make is, while saying we need regulatory reform, I want to underline that we do not need, want, and should not pursue, regulatory repeal.

What the Dole bill will do by coming up with these incredible hurdles that agencies have to go through in order to protect health and safety, in essence, will be the repealing of our laws. We are making it so impossible for them to go into effect that our people could be left unprotected.

The Dole bill is basically a repeal. The Glenn bill cosponsored by Republican JOHN CHAFEE—is regulatory reform. Yes. That is why I have my name on that bill. And I am proud to have my name on that bill. You are going to see some interesting folks crossing party lines on this.

We need regulatory reform that provides reasonable, logical and appropriate changes in the regulatory process, that will eliminate unnecessary burdens on business, State and local government, and individuals. But we need regulatory reform that maintains our National Government's ability to protect the health and safety of the American people.

Why do I say "National Government?" It is because I believe a child in California that bites into a hamburger that could be tainted deserves as much protection as a child in Mississippi or Pennsylvania or New York. All the children of this great country deserve that protection. All the people of this great country deserve those national standards. If I travel to another State, I do not have to worry about ordering a hamburger because that State did not enact good law. I want to know there is a national standard, that there is a national inspection service.

I am committed to doing away with regulations that have outlived their usefulness, or have created needless redtape or bureaucracy.

I am equally committed to making sure the American people's basic needs are protected—the food they eat, the air they breathe, the water they drink—because you may have a great job, you may have a great future, you may have a wonderful family, and yet, if something like this happens—where a family member is killed or maimed or hurt by bacteria in meat or bacteria in the water supply, it does not mean much, folks.

I want to share a chart with you. It is interesting because this public opinion poll was taken, as I understand it, by one of the Republic pollsters, Luntz Research and Strategic Services in March 1995. I think this is a warning, a warning to those who would just say, throw out our regulations.

"Which should be Congress' higher priority: cut regulations or do more to protect the environment?"

Twenty-nine percent of the American people, "cut regulations"; 62 percent, "protect the environment."

And the pollster goes on to comment, "This question here is a warning. Environmental protection is a higher priority than cutting regulations."

It is clear. So what does this mean? It means that there cannot be a frontal assault by politicians on environmental regulations and food and safety regulations because a frontal assault would be so unpopular, those people would be booted out of office in 5 minutes.

So what do they do? They come up with back-door solutions. I think the Dole bill is a back-door solution of this kind. Call it regulatory reform, hide behind words like "bureaucrat, overregulation, cost and benefit studies," and strip protections from the American people. When I talk about protection, I mean the most basic protection, the most basic rights to safe water, clean air, and so on.

I want to share with you some of the editorials and stories that have been appearing in the newspapers about regulatory reform and the Dole bill, the bill we are trying to make better by amending it, the bill for which we have a substitute called Glenn-Chafee bill which we think is far better.

USA Today, "Reforms aimed at health, safety rules are too risky."

The San Francisco Chronicle: "Regulatory Reform or Polluters' Revenge?"

That is how the Chronicle saw it.

Congressional Quarterly cover story, "Industry, Politics Intertwined in Dole's Regulatory Bill: Its sweeping changes offer the campaigning leader a platform and generate a wave of lobbying from affected businesses."

Maine Sunday Telegram: "Senate: No 'Reform' Trashes Environment."

Mesa Tribune: "Regulatory Reform, Polluters' Loophole."

The New York Times talking about this bill: "The Next Environmental Threat."

And here is a story from Business Week: "The GOP's Guerrilla War on Green Laws, Newt & Co. Plan a Procedural Overall, Not a Direct Attack," which is exactly my point.

You cannot say to the people we are repealing food safety laws, but you write a bill that makes it extremely hard for our agencies to protect the food supply. In essence, you have repealed those laws. It could not be said better than in the Business Week headline.

How about this? Detroit Free Press: "Unnatural Reform, GOP Remedies Would be Environmental Disaster."

So, when I criticize the Dole bill, I think I have a lot of support for my position. When I talk about special interests being behind it, which my friend from Louisiana got so upset about, I do not think you need a degree in political science to know that the pin-striped suits are all over this place, by the way, backing off a bill that already passed 15 to nothing out of the Government Affairs Committee because they see a better chance to get relief.

That is what hurts. We had a bill passed in a bipartisan way, but all of a sudden we are into a whole different situation.

Make no mistake about it: Laws that protect our clean air and water and our food supply are at stake here. It is an attack on the laws and regulations that protect us from the medicines we buy every day, the toys we give to our children, the cars we drive and the places where we work. The consequences of this bill are far-reaching—they will reach far into every town in America, into every kitchen in America, because when you turn on the water, and you back off of protecting that water supply, you are in danger.

I believe that this Dole bill, in the name of efficiency, in the name of cost-benefit analysis, will bring us gridlock and that will assist the special interests and the corporate polluters. And I did not come here to protect them. I came here to protect the people in my State who are going to rely on us for their health and safety.

The Dole petition and look-back, which we talked a little bit about with my friend from Louisiana, and the judicial review provisions will allow any well-financed "bad actor"—what I mean when I say "bad actor" is a person in the industry who does not have principles. And that is certainly not a majority, but there are some.

I will never forget a very long time ago when I was very young and I was just getting into local politics. I went to a meeting on the issue of energy policy in America. And discussion on the safety of nuclear energy came up. I made a statement that I was worried about the disposal of nuclear waste. I felt very strongly that until we knew what we were going to do with the nuclear waste, we had better not continue to build nuclear power plants. This was way back in the 1970's.

A utility industry person came up to me, drew me aside, and said, "You know, young lady"— or something like that—he said, "There may be a problem. There may be a health problem from nuclear energy waste. But no matter what you say, no matter what you do, it will not show up for 20 years and no one can prove it was us."

I will never forget that. I looked at him. I said, "When people get cancer, they are going to look to the environment. They are going to look to what we are doing with that nuclear waste." And he said, "They will never pin it on us."

That is a bad actor. That is a bad actor. Who was I? I was just an individual at this conference who was concerned. He would never say that to me today. But he said it to me a long time ago.

So when you think about what we are doing here, you have to think about the bad actors. The majority of people are not that way. They care about their products. Of course, they do. But when you have a bad actor, you have to be sure that that bad actor gets punished. And I believe under the Dole bill, with the petitions, with the look-backs, with the judicial review provisions, we will allow any well-financed bad actor to paralyze an agency, to prevent the agency from developing new rules, to prevent them from reviewing old rules, to force a stay on enforcement of rules and cause the eventual sunset of rules. To me, it is completely unacceptable. I am not casting aspersion at those who like those provisions, but to me they will lead to gridlock. You might as well just repeal the laws if you are going to make it so hard for people to act.

I also believe the Dole provisions on so-called supplemental decision criteria create a supermandate that supersedes current law. Now, supporters of this deny it. They insist it is not the intent to supersede but merely to supplement the decisional criteria in other statutes. However, the bill clearly overrides other statutes including our health, safety and environmental laws because the standards in Dole would still have to be met even if they were in conflict with current law.

Mr. JOHNSTON. Will the Senator yield?

Mrs. BOXER. Yes, I will.

Mr. JOHNSTON. Was the Senator aware of the amendment which was accepted yesterday, the one which was cosponsored by Senator LEVIN, which specifically says that the bill does not override the requirements of any environmental law?

Mrs. BOXER. If that amendment passed, I stand corrected, and I am very pleased.

It covers all laws then or just environmental laws?

Mr. JOHNSTON. All requirements of laws including environmental safety and health laws.

Mrs. BOXER. Very good. Well, that is an improvement, and I am glad that it passed. By the way, there will be many other amendments that will improve this bill including the Daschle amendment.

The Dole bill, in my view, goes well beyond sensible reform by establishing a goal that is absolutely at odds with our responsibility to improve the well-being of all the American people. It says that we should protect only those values that can be measured in dollars and cents. It is a corporate bean counter's dream. This is my view. Forget about saving lives, because you cannot put a dollar figure on a life. Forget about getting poison out of our air and water. Forget about preventing birth defects, infertility, and cancer. If you cannot put a price tag on it, it does not count as a benefit. And that is wrong.

Mr. JOHNSTON. Will the Senator yield?

Mrs. BOXER. Yes.

Mr. JOHNSTON. Is the Senator familiar with provisions of the Dole-Johnston bill now before the Senate which state that the head of an agency can choose a more expensive alternative if nonquantifiable benefits to health and safety of the environment make that appropriate and in the public interest?

Mrs. BOXER. I say to my friend, yes, but that is so inadequate for what I am talking about and it gets back to my conversation I had with the Senator on another issue.

Mr. JOHNSTON. I thought the Senator just said it was impossible to consider nonquantifiable benefits.

Mrs. BOXER. I said very clearly that in this bill there is no way you can put a price tag on those benefits. Now, if you give a bureaucrat a chance to assert his or her own opinion, it is better than nothing. But in my opinion, it does not meet the test. I think that we should be able to consider that and not leave it up to some bureaucrat.

That is the problem I have with this bill. On E. coli, my friend says Dan Glickman will be wonderful. Great. What if it is another administration? I think we should legislate and not give up our power here. And I think we do that to a great degree.

Mr. JOHNSTON. How does the Senator suggest that we legislate with respect to——

Mrs. BOXER. I think we could be very clear and talk about it, if we could, after I finish my statement, on how I think we can measure and quantify these benefits. If my friend is willing, I will definitely propose an amendment that would reach to those issues.

Mr. JOHNSTON. I would invite my colleague to read the language which we have put in. It provides that benefits include all quantifiable and nonquantifiable benefits. So they are all brought in. I think it is really very clear. I invite the Senator to read that.

Mrs. BOXER. I would invite my friend to read the substitute bill because I think on this point it is much stronger when it deals with costs and benefits.

Now, I think Senator GLENN, who is a hero already—in other words, if he did nothing more in his life in the public arena, he would go down as a hero for what he has done in forging the advancement of space. We know that. He is already a hero. He is a hero for what he does here also. And as he says, maybe this is boring, but I have to say I do not think it is that boring. I do not think it is boring if your kid bites into a hamburger and is rushed to the hospital. Not only does it ruin your day, but it could ruin your life and he could lose his life.

I guess I would say to my friend from Louisiana, who is questioning my views on this bill, which is his right to do, we have a bill that passed out of the committee with a bipartisan vote, and now we are facing a bill which, in my opinion, does harm to the health and safety rules. So I think Senator GLENN is right in what he does in relation to cost-benefit analysis, in relation to judicial review, and in the many problems that we have with this bill.

I wish to talk about another area of the Dole bill that I think my friend from Louisiana supports, which is the provision on toxic release inventory, which I think would significantly undermine a community's right to know who is polluting and what kind of toxics are being released into the air. The toxic release inventory is an effective cost saving tool. Public scrutiny as a result of the information released under the 1986 Emergency Planning and Community Right to Know Act has often prompted industry to lower pollution levels without the need for new Government regulations. The Glenn-Chafee bill has no such provision.

In this whole area of toxic relief, my God, if we should be protecting anything here, it should be a community's right to know if someone is coming in and poisoning their neighborhood. Why should that be a secret? Why should they not have the information? Information is power, and a lot of folks who stand up here, particularly on the other side of the aisle, and say States rights, give it all back to the States, are going to support this alternative which takes away a community's right to know. Information is power.

I think the Dole bill strips away that knowledge, and I think that is wrong.

I do not think this bill is boring. Oh, yes, the proponents of the Dole bill will get you off on little sidebars here, but the whole issue is true, as I see it, and I am on the Environment Committee. I served in the House, and I know how these bills go. You had a bipartisan bill that was fair and just. Was it perfect? Probably not. My friend pointed out an area where it was not perfect, and they are fixing it. But it really worked to provide this balance the American people deserve—protection of their water, of their air, of their food supply, of their very lives, if you will, balanced with sensible regulation.

Mr. JOHNSTON. Will my colleague yield at that point?

Mrs. BOXER. I think we have lost it in the Dole bill.

Yes, I will be happy to yield to my friend.

Mr. JOHNSTON. We just had a discussion about benefits and how the definition of "benefits" in the Dole-Johnston bill was insufficient and how the Glenn bill was so much better.

Does my colleague understand that the definition of "benefit" in the Glenn bill is word for word identical to that which is contained in the Dole-Johnston bill, save for one change? At the behest of Democrats we added the words "quantifiable and nonquantifiable effects." That was Democrats who said, "We want to be sure it includes both quantifiable and nonquantifiable." So they added that amendment. Does my colleague understand that? Excuse me, we also added the word "health."

Mrs. BOXER. It is my understanding they are not alike. If the Senator would like, when I finish I can put it side by side where they are not exactly alike.

Mr. JOHNSTON. If the Senator will allow me to come over, I have got them both right here.

Mrs. BOXER. As soon as I finish my prepared remarks I will yield time to my friend, and we can go through it. Right now——

Mr. JOHNSTON. I am looking at it right here.

Mrs. BOXER. I am working on it. It is my understanding it is definitely not the same. I will show it to you in a moment's time. I do not want to interrupt the flow of what I am saying. So if my friend will wait, I think I will be finished in just a few minutes here. We will go through the side by side of both bills on that issue of benefits.

Mr. JOHNSTON. If I am correct, will you acknowledge that?

Mrs. BOXER. I say to my friend, I have great respect for him. I told my friend he is correct a couple times and incorrect a couple times. But I will be glad to agree with my friend when I have the writing in front of me. I am going to have it for you.

Now, I think another key aspect of the Dole bill is how it will affect our ability to respond quickly to the threats of public health, safety and the environment. It is interesting that the majority leader, Senator DOLE, has responded so quickly to concern about E. coli. Now, if I heard my friend right yesterday, he got up and said that the Dole bill was not necessary, the Dole amendment was unnecessary. I thought that was really interesting. Senator JOHNSTON says to Senator DOLE that his amendment on E. coli is not necessary. Then I ask, why did Senator DOLE put it forward? Because it was necessary, because under the emergency provisions it did not say "food safety."

And yet my friends were defending the bill as it was. "Oh, it is covered." I heard the colloquy that went on between the Senator from Delaware and the Senator from Louisiana. "Oh, the Dole amendment is not necessary. The Dole amendment on E. coli is not necessary. We will vote for it."

Well, I am telling you, I am glad that the majority leader offered that E. coli amendment because that opens the door to all of us who have other issues we want exempt as well. Critically important regulations on cryptosporidium and mammograms that my friend from Massachusetts talked about. The Dole bill would delay and possibly prevent issuance of these regulations. And although my friend from Louisiana said it was not necessary to have the Dole language, he voted for it. Well, if it was necessary for E. coli, I say it is necessary for cryptosporidium. I say it is necessary for mammograms, and other areas.

Of course, we know that the Daschle amendment even goes further on E. coli because it says that rule will be exempted from this bill. And my friend from Louisiana stands up and says, we did not need this Daschle amendment because under a substitute he is offering the E. coli rule can move through. But he admits that the E. coli rule would still be subjected to the lookback provisions of the bill, the sunset provisions of the bill, and the waiver provisions of the bill.

So in fact we do need Senator Daschle's amendment. And I hope my colleagues will vote it in. Only those rules which represent an emergency or health or safety threat that is likely to result in significant harm to the public would be exempt under that emergency section. There is no definition of the term "significant" or "likely" in the bill.

Now, I say if one child dies as a result of eating contaminated meat, does that pose a significant harm to the public? It certainly is significant to the child's parents and the others who ate at the same restaurant or bought meat at the same grocery store. Now I want to show my friends the number of outbreaks just recently of the bacteria E. coli. It is enough to make your head spin. It is all across the country—North Dakota, Ohio, Nebraska, California, and so on, and so on, and so on.

As a matter of fact, on this next chart I will show you a personal case. I am going to talk about it. We want to put personal faces on this. We get a lot of talk about section 103 and section 202 and line 4 and line 6. And does the Senator know this and does the Senator know that? This Senator knows one thing. We should vote for the Daschle amendment and get that E. coli rule, moving safely on its way not subject to lookback and not subject to anything else. Let me tell you about this child.

Jesse Fendorf, Shawnee, KS. Unfortunately, Jesse was almost killed by infected meat contaminated by E. coli. To deal with this, Jesse had to have many blood transfusions and was on kidney dialysis for 2½ weeks. Today he is still ill. Someday it is likely he is going to need a kidney transplant. In the meantime, no one will sell his family any insurance. Now, clearly under the Daschle amendment the rule on E. coli would be exempted from the nightmare of this bill. It will go on its way and it will not be repealed. What if we get someone over there in Ag that decides it ought to be repealed? The least we can do for this child is pass the Daschle amendment—I will show you a few more faces.

Here are a few more faces. Alex Donley, Chicago, IL; Katie O'Connell, Kearney, NJ; Scott Hinkley, Saranac, MI; Lauren Rudolph. E. coli in food kills more than one victim each day. Who is next? Who is next?

Let me tell you about this case because it happens to be a constituent. Six-year-old Lauren Rudolph of Carlsbad, CA, was the first person to die on the west coast Jack-In-The-Box case of 1993. She suffered three heart attacks and had to be put on life support before she died. Her mother, Roni Rudolph, founded STOP, Safe Tables Our Priority, a national consumer watch group dedicated to improving our Nation's meat and poultry safety.

I mean, you look at these kids, 1990 to 1992. I am not going to say any more about this. Just look at this and vote for the Daschle amendment. Do not vote to weaken it. If a woman has her mammogram read by someone who is poorly trained in mammography and she dies as a result of not getting help, is that significant harm to the public? That is what you have to deal with in the Dole bill. There is no definition.

I will tell you right now, if it was a Senator's wife it sure would be significant. If a Senator's wife died of cancer because of a faulty mammogram, I am sure it would be significant. Well, to me it is significant if anyone dies because of a faulty mammogram. And yet in this bill we are going to derail these safety regulations.

We have to ensure that one of the most fundamental needs of any society—safe drinking water—is available to all Americans.

Public health continues to be threatened by contaminated drinking water.

In 1987, 13,000 people became ill in Carrollton, GA, as a result of bacterial contamination in their drinking water. In 1990, 243 people became ill and 4 died as a result of E. coli bacteria in the drinking water in Cabool, MO. In 1992, 15,000 people were sickened by contaminated drinking water in Jackson County, OR. And 1 year ago, 400,000 people in Milwaukee became ill and 104 died as a result of drinking the water from their taps which was infected with cryptosporidium.

A recent study completed by the Natural Resources Defense Council "You Are What You Drink" found that from a sampling of fewer than 100 utilities that responded to their inquiries, over 45 million Americans drank water supplied by systems that found the unregulated contaminant cryptosporidium in their raw or treated water.

I am going to show you just a couple more charts and then complete my statement because I know my friend is ready to talk. This is a real-life warning that was distributed by the Environmental Protection Agency as guidance for people with severely weakened immune systems in terms of our water supply.

Current EPA drinking water safety standards were not explicitly designed to assure the removal or killing of cryptosporidium. Efforts are now under way to resolve a number of scientific uncertainties that will enable EPA to set specific safety standards for this parasite in the future. Cryptosporidium has recently caused several large waterborne disease outbreaks of gastrointestinal illness with symptoms that include diarrhea, nausea, and/or stomach cramps. People with severely weakened immune systems are likely to have more severe and more persistent symptoms than healthy individuals. Moreover, cryptosporidium has been a contributing cause of death in some immunocompromised people.

People who have cancer, transplant patients, people on immunosuppressant drugs, little children, pregnant women—these are the most vulnerable.

This is what is going on in communities across the country, and we know people in Milwaukee died of cryptosporidium in the water supply. Do we want to derail a rule that will get this killer out of the water supply? I am sure every Senator would say, "Oh, no, not me; I don't want to do that." But if you support this Dole bill, that is what you are doing, because you are going to subject this rule to all kinds of analyses and lookbacks, petitions, sunsets, judicial reviews, and all the rest of it.

There was an article in the Wall Street Journal, and the author said, "Well, we know how to deal with this problem. Drink bottled water. Go to the store and for a few bucks, buy bottled water."

Well, that is just swell, in a country like America where we are a democracy, we are going to have an environment that is safe for the wealthy, for those who can buy that bottled water. That is wonderful, is it not? What a society that would be. What an answer that is. That is almost as bad as James Watt in the old days under Ronald Reagan saying, "Well, if you don't want to get skin cancer, just wear a hat and put sunglasses on, because we're not going to do anything more in the environment."

That is not what this country is about. This country is about clean water and clean air. We are the best. We are the best in the world. So let us not vote for a back-door repeal of these laws by making it so very difficult to implement them. I do not want to see these anymore. I do not want people to be scared that they are going to die from drinking water out of the tap. Why would we support a bill that will make it more difficult to make the water safe? It just does not make sense.

We have a sound alternative. We have the Glenn-Chafee bill. We can be proud to support that. It takes care of our problems.

So whether it is mammograms, cryptosporidium in the water, E. coli—we could go on—let us not hurt the American people by supporting a bill that makes no sense.

So I am proud to stand in support of the Daschle amendment on E. coli. I am proud to stand in support of the Glenn-Chafee bill, and I am proud to stand in opposition to the Dole bill. This may sound like a boring debate, but when you strip away the arcane language of these bills, the bottom line is the safety and health of the American people.

Thank you very much, Mr. President. I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. ROTH. Mr. President, an effort has been made to use scare tactics to insinuate, to suggest, to expressly assert that those of us who are supporting meaningful regulatory reform are somehow trying to prevent appropriate action being taken in the case of matters that affect the health, the safety of the American people or the environment.

Time after time, statements have been made that we cannot take action to protect the American people from E. coli, admittedly a serious problem.

The reason I say it is scare tactics is the fact that the legislation before us very clearly deals with the situation. In fact, the legislation proposed, the so-called Dole-Johnston amendment, provided that a major rule may be adopted and may become effective without prior compliance with this subchapter if "(A) the agency for good cause finds that conducting cost-benefit analysis is impracticable due to an emergency or health or safety threat or a food safety threat that is likely to result in significant harm to the public or natural resources."

So I think it is important to understand the basic legislation anticipated that there could be situations where there were serious threats to health and safety, and because of the need for action, an exception would be made to the general rule of requiring a cost-benefit analysis.

Let me point out further that that language does not require that it be an emergency to fall within this exception, because the language specifically provides that there is an exception to the rule requiring cost-benefit analysis in the case of, first, an emergency that stands on its own feet—just the word "emergency"—or health, that likewise stands on its own feet. So it does not need to be an emergency as long as it is a question of health. And the same thing, of course, could be said about a safety threat or a food safety threat. So that is point No. 1.

But yesterday action was taken because of concern expressed by the Secretary of Agriculture that there was a problem with respect to a rule involving E. coli. So because of that concern expressed by the Secretary, as well as the many statements that were made in the media, the press, the Senate adopted an amendment proposed by the majority leader that modified the language of which we just spoke and in which it expressly includes an imminent threat from E. coli. The language now reads:

> A major rule may be adopted and may become effective without prior compliance with this subchapter if
>
> (A) the agency for good cause finds conducting a cost-benefit analysis is impracticable due to an emergency or health or safety threat or a food safety threat (including—

This is the new language—

> (including an imminent threat from E. coli bacteria) that is likely to result in significant harm to the public or natural resources. . . .

This legislation was adopted by a unanimous vote, and Senators, both Republicans and Democrats, made it very clear that it was not an attempt in any way to prevent or threaten the issuance of a rule affecting E. coli.

Subsequently, there were concerns expressed again by the Secretary of Agriculture that the legislation unanimously adopted yesterday did not cover two situations that he saw as being burdensome or troublesome.

One was that under the amendment yesterday, it did not exempt his being required to take or make a risk assessment under subchapter 3 of the legislation, and that as part of the risk assessment, it would become necessary to have a peer review. Such peer review, the assertion was made, might delay the issuance of the rule by as much as 6 months.

So, once again, we are here on the floor seeking to allay this concern. And that is, of course, the purpose of the Johnston-Hatch-Roth amendment.

Under the Johnston-Hatch-Roth amendment, two steps are taken. It is specifically provided that a new risk assessment for the final rule need not be made if the final rule is substantially similar to the proposed rule. In other words, when you propose a major rule, there has to be a risk assessment made. And so if the situation is such that the final rule is very similar to the proposed rule, under this legislation, it would not be necessary for a new risk assessment to be made.

So that takes care of the problem. In fact, I point out to my distinguished colleagues that this legislation or this proposal, this amendment, very substantially modifies the burden on agencies because this modification not only applies to E. coli, but is a general rule, so that any time in the future when the final rule, the final major rule, is substantially like the proposed rule, a new risk assessment would not have to be made for the reasons I have already mentioned.

The amendment, of course, goes further and provides that notwithstanding any provision of the Comprehensive Regulatory Reform Act of 1995 and the amendments made by such act, including section 9 of such act, any rule for which a notice of proposed rulemaking was filed before April 1, 1995, shall not be subject to the provisions of this subchapter or subchapter 3, except for section 623 relating to review of rules.

As I understand it, the proposed notice of proposed rulemaking in the case of E. coli was back in February, so the fact that this paragraph exempts any rulemaking where the notice of proposed rulemaking was filed before that date, again, ensures that action can be taken in the case of E. coli.

So I congratulate the Senator from Louisiana for his authorship of this legislation and I think, once again, we have addressed the problems that have been raised. I suspect that tomorrow, we will have some new problem because of the efforts on the part of some to use scare tactics.

Mr. President, I am concerned that the pending regulatory reform legislation, S. 343, has been poorly understood and mischaracterized at times. This legislation, the product of bipartisan compromise, the work of four committee chairmen, including myself, is vitally important to restoring some common sense in the regulatory process.

Simply put, the Dole-Johnston compromise would require regulators to issue regulations whose benefits justify their costs, unless existing statutory instructions prevent that.

This legislation will lead to a more efficient, a more effective regulatory process. But a number of recent statements misconstrue this legislation. I have, of course, just been addressing the misinterpretations, the scare tactics that have been used in the case of E. coli, which is a good example of the recent statements that have been made that are misconstruing this most important piece of legislation.

Let me take a few minutes to address some of these myths. First, S. 343 would not roll back environmental standards and does not—and I underscore the word "not"—contain a supermandate. Section 624 of S. 343 contains the cost-benefit decisional criteria. Section 624 clearly states that the cost-benefit requirements shall supplement and not supersede another existing statutory instruction.

Section 624 merely requires regulators to pick a regulation whose benefits justify its costs, unless the statute authorizing the rule does not allow such an option. This is, in my judgment, just plain common sense.

Now, S. 343 also gives fair and equal treatment to environmental considerations and nonquantifiable benefits. The definition of benefits in section 621(2) clearly shows that in determining whether the benefits of a rule justify its cost, an agency should consider environmental, social, and health benefits. The agency also does not have to quantify all costs and benefits. Nonquantifiable factors count, too. S. 343 merely calls for a reasoned decision from the agency as to whether the benefits of a rule justify its cost, considering all relevant costs and benefits.

I might just point out the importance of the word "justify." It does not mean that benefits have to outweigh costs. The word "justify" is much less strict than that.

Now, to deal with emergencies where an agency must issue regulations quickly to respond to immediate threats to human health, safety, or the environment, S. 343 contains emergency exemption from risk assessment and cost-benefit requirements in sections 632(c)(1)(A) and 622(f).

S. 343 will not roll back environmental standards. S. 343 will not cause undue litigation and will not clog the courts with lawsuits. S. 343 has limited judicial review.

In fact, it does not allow the normal level of judicial review that applies to laws as a matter of due course under section 706 of the Administrative Procedure Act.

Section 625 of S. 343 provides that an agency's failure to comply with S. 343 may only be reviewed by a court in the context of the whole rulemaking record under the very, very, deferential "arbitrary and capricious" standard.

A court cannot overturn a rule because an agency fails to comply with some unimportant procedure in doing a risk assessment or cost-benefit analysis. In other words, a court cannot nitpick an agency for minor procedural missteps in doing the required analysis.

Only if an agency's failure to comply with S. 343 is so glaring as to render the rule arbitrary and capricious can a court overturn a rule.

Three, the process for reviewing old regulations under S. 343 will not overload the agencies or clog up the courts with litigation. Section 623 of S. 343 is designed to allow for the reform or elimination of inefficient, outdated, or ineffective rules already on the books. Again, this is a commonsense solution.

We should look at the old rules that do not make sense and try to reform them. Leave the other rules alone.

Section 623 allows each agency to choose any rule it thinks should be reviewed and place them on a review schedule. The agencies have up to 11 years to review these rules and decide whether they should be continued, reformed, or terminated.

In addition, a petitioner can request that the agency review any overlooked major rules within the first 3 years of the schedule. But to limit the number of petitions, S. 343 requires any petitioner to meet a very high burden of proof. That is, that there is a substantial likelihood that the rule should not meet the cost-benefit test in section 624 of the legislation.

This is a heavy burden of proof that will require substantial supporting documentation. But if a petitioner cares enough about a poorly written rule to prove that the benefits do not justify its cost, or that it otherwise fails the cost-benefit decisional criteria, why should we not review that rule?

Mr. President, section 623 is a fair, workable, and sensible solution to the thorny issue of reviewing existing rules.

In sum, Mr. President, when we look closely at how S. 343 would work, we can see it would achieve its intended goal—a more efficient and effective regulatory system. It will give us more bang for the buck, allowing Americans to achieve greater benefits at less cost. S. 343 will benefit everyone while providing needed protection for the environment, health, and safety. S. 343 will provide smarter regulation. I yield the floor.

Mr. FEINGOLD addressed the Chair.

The PRESIDING OFFICER (Mr. FAIRCLOTH). The Senator from Wisconsin.

Mr. FEINGOLD. I would like to begin, Mr. President, by stating my support for the consideration of appropriate regulatory reform legislation in the U.S. Senate.

I do believe our regulatory process is in need of repair. I would like to compliment the majority leader and the Senator from Louisiana for trying to craft a bill that will reform a regulatory process that, no doubt, has and will continue to serve an important purpose, but has too often infuriated and frustrated a growing number of Americans.

Mr. President, I have held over 175 town meetings in my home State of Wisconsin during the past 2½ years. Many times I have had constituents stand up at the meetings and express their tremendous frustration and anger with the regulatory process that, too often, really, is impractical and impersonal and needlessly burdensome and, of course, many times, costly.

The regulatory process affects just about every American one way or another. It may be the factory owner who is trying to comply with a Federal workplace safety regulation. It might be a young couple shopping for a car safety seat for their child. Or it may be the millions of Americans who sit down every April and have the pleasure of trying to decipher the Rube Goldberg guidelines and rules known as our Federal Tax Code.

It is clearly in all of our interests to make sure we have a regulatory structure that is effective, efficient, and sensible.

Mr. President, though this does not mean that we should entirely dismantle the regulatory process—that is not a solution, because the regulatory process serves as a protective watchdog over the health and safety of every person in this Nation. It is responsible for helping to ensure that we have cleaner air, cleaner water, and safer products.

I am constantly reminded of the need for regulatory reform by constituents who approach me with their concerns with the process. Unfortunately, I am also occasionally reminded by other kinds of incidents, Mr. President, incidents in my home State that illustrate just how important appropriate Government regulation really is.

Mr. President, it was just 2 years ago, in 1993, when an outbreak of cryptosporidium in the Milwaukee municipal water supply left 104 people dead and over 400,000 people seriously ill. Over 100 people, Mr. President, died from a single incidence of a water supply that became contaminated. That was a tragic reminder of how just one little crack in the regulatory process can have devastating consequences for a huge community that until then had never experienced any problems of any proportion of that kind.

Mr. President, that is why I am equally concerned about the impact of this legislation on future regulations. I am particularly concerned about the

Government's ability to protect our drinking water, as it is clear that cryptosporidium, considered Milwaukee's problem in 1993, is now the country's problem.

On June 16, 1995, the Washington Post reported that cryptosporidium is now commonly found in lakes, rivers, and reservoirs all across this country. The Centers for Disease Control has warned that drinking tap water could be fatal to Americans with weakened immune systems, which the center estimates could number as many as 6 million Americans.

The city of Milwaukee itself now notifies at-risk populations of detections of cryptosporidium in municipal water, contacting hospitals, AIDS care facilities, institutions that service the metropolitan area's elderly, informing all those with fragile immune systems, so they may be able to protect themselves.

The city of Milwaukee is engaged in a multitier approach to investigating whether cryptosporidium is present in the drinking water: Testing occurs at the facility for the parasite, particulates, and turbidity of the water are used as indicators, and the city has established a network to monitor disease outbreaks that suggest individuals have been exposed to cryptosporidium.

However, it is not only those with fragile immune systems that experience health problems when exposed to cryptosporidium. As I said, over 400,000 people of all states of health became ill in Milwaukee itself. That is a very significant percentage of the population. And over 100 died following the city's cryptosporidium outbreak in April 1993. So I have observed firsthand the lingering health problems Milwaukee citizens continue to face.

Solutions to the problem of cryptosporidium will have to address nonpoint sources of pollution, and both the new $50 million threshold contained in the original draft of this legislation or the $100 million, and the assumptions that are made about risk characterization may impair our abilities to address this problem and sufficiently protect our water supply.

It is problems such as this that illustrate the consequences—sometimes fatal consequences—that are in store for the American people if a stranglehold is applied to the regulatory process.

We should also remember that there are scores of other regulations that go through without controversy and should not be caught in a big net that would require needless scientific evaluation and analysis that would impede their promulgation.

Indeed, sometimes Government regulations can be deregulatory in nature, such as those regulations that would clarify and simplify the Federal Tax Code, or regulations that might be associated with Federal legislation to reduce paperwork burdens for small businesses. That is the direction of many of our regulations today.

Last year, the Federal Election Commission promulgated a regulation that prohibits Members of Congress from converting campaign contributions into their own personal rainy day slush funds. That is a good regulation and the sort that should not be impeded by unnecessary cost-benefit analyses and risk assessments.

The Department of Veterans Affairs will soon be issuing guidelines for determining eligibility for certain benefits for veterans of the Gulf war who have experienced symptoms of the mysterious illness known as the Persian Gulf syndrome. Again, this is a regulation that I do not think anyone would want to be slowed by new process requirements.

The Consumer Product Safety Commission has thankfully kept thousands of dangerous toys off the market that could be harmful to children. The Department of Agriculture is considering long overdue regulations to improve and modernize the Federal meat inspection system.

I think such changes are crucial if we are to improve the level of protection provided to the American people from bacterial food-borne diseases that can in the worst cases result in death for our most vulnerable population.

There are clearly a large number of regulations that need to be implemented and should be implemented in a relatively quick and efficient manner. Such regulations are critical for protecting the health and safety of this Nation.

As others have correctly pointed out, this issue has a tradition of being handled in a bipartisan fashion in the U.S. Senate. In 1982, the Senate approved S. 1080, the Leahy-Laxalt legislation by a 94 to zero margin.

Then, just 3 months ago, the Government Affairs approved a bill by a margin of 15 to zero that the senior Senator from Maine, Senator COHEN, referred to as a restoration of common sense.

Unfortunately, the bill that was considered by the committee I serve on, the Judiciary Committee, was much more than any sort of reform bill. I had the feeling it was not a reform bill—it was a dismantling bill. A dismantling of our regulatory framework. It is not the sort of bill that I believe the American people would support if they knew all the details.

I am pleased that some of the excessive provisions of that legislation have been dropped and are not a part of the latest Dole-Johnston package. Unfortunately, the Dole-Johnston proposal, as I understand how it currently stands, does contain several provisions that I believe could hamstring the ability of Government agencies to adequately protect the health and safety of the American people. I know the Senator from Louisiana has strong feelings about this, but let me just mention a couple of my concerns. I will certainly listen to any responses he has, as the days goes on.

I think the issue of judicial review and how it has been addressed in different proposals best illustrates the difference between how you can improve the regulatory process and how you can paralyze the regulatory process.

Let me say at the outset that I support the ability of a person subject to a government regulation to ask a court to review the rulemaking record and determine if an agency has followed the proper procedures for issuing a regulation. I have always supported the concept of expanding an individual's access to our judicial system.

What I do not support is allowing a well-financed business interest with a legion of attorneys to file continuous lawsuits to paralyze an agency and prevent that agency from issuing a rule that will benefit the consumers, working people, children, and families of this country.

I find it interesting that just a couple of months ago this body found itself in a frenzy to clamp down on the supposed litigation explosion in product liability cases. So when we are talking about defective products that a manufacturer knowingly markets, those on the other side want to limit an injured consumer's access to the judicial system.

Mr. JOHNSTON. Will the Senator yield at that point?

Mr. FEINGOLD. I will be happy to yield.

Mr. JOHNSTON. I am glad my friend from Wisconsin raised the question of judicial review because, indeed, in the original Judiciary Committee bill, I believe it did open up areas to litigation on procedural matters on the question of compliance with the risk assessment protocol. And I think it did have the possibility of tying things up in court.

But the present Dole-Johnston bill provides that compliance with risk assessment and cost-benefit may be considered by the court, and I am quoting now, "solely for the purpose of determining whether the final agency action"—that is the rule itself—"is arbitrary and capricious or an abuse of discretion." The key words here are "solely for the purpose of determining whether the final agency action is arbitrary and capricious or an abuse of discretion."

The final agency action is appealable anyway, under the present law. This simply makes the risk assessment protocol part of the record which may be considered only in connection with the final agency action.

Mr. FEINGOLD. I thank the Senator from Louisiana. I know he truly has made a good-faith effort to improve these provisions.

I ask unanimous consent to have printed in the RECORD at this point a letter from the U.S. Department of Justice to the majority leader, dated July 11, 1995, from Mr. John Schmidt.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF JUSTICE, OFFICE OF THE ASSOCIATE ATTORNEY GENERAL,
Washington, DC, July 11, 1995.
Hon. ROBERT DOLE,
Majority Leader, U.S. Senate, Washington, DC.

DEAR SENATOR DOLE: This letter provides the views of the Department of Justice on the judicial review provisions of the substitute amendment to S. 343, the Comprehensive Regulatory Reform Act of 1995.

As the agency with responsibility for representing the United States and its various agencies in the courts, the Department is obviously concerned whenever proposed legislation has the potential to result in a large number of new cases being introduced into the court system or in an expansion of issues required to be litigated in cases which are filed. Any proposal that covers nearly 100 pages of legislative text and imposes significant new requirements on every agency in the federal government, as S. 343 does, is bound to increase substantially the volume of federal litigation, and the complexity of cases which are litigated, unless judicial review of agency compliance is carefully delineated and controlled. Unfortunately, the numerous judicial review provisions contained in S. 343 provide a host of new opportunities for challenges to agency actions by regulated entities and other participants in the regulatory process. Because these provisions would increase the volume and complexity of federal litigation arising out of the regulatory process, adding burdens which are inconsistent with the fundamental goals of this legislation, the Department opposes the adoption of the Dole-Johnston-Hatch bill.

There are at least eight different provisions contained in the substitute amendment that provide separate statutory grounds for judicial review and which, in total, provide for the courts to review a wide range of decisions made by the agencies in the process of promulgating rules. The provisions are: section 625, establishing review of cost/benefit analyses and risk assessments as well as major rule determinations; section 5, amending 5 U.S.C. §706, establishing new standards under the Administrative Procedure Act for review; section 4(b), amending 5 U.S.C. §§604 and 611, establishing greater judicial review under the Regulatory Flexibility Act; section 3, amending 5 U.S.C. 553(m); section 623(e), establishing judicial review of compliance with agency regulatory review rules; section 623(g), establishing the right to petition the courts to extend the review period for a rule; section 623(h), providing that an agency decision not to modify a major rule is a final agency action and thus subject to judicial review; and section 623(j), providing that an agency decision to continue or repeal a major rule is a final agency action and thus subject to review. How these various provisions relate to each other provides an additional layer of complexity that will undoubtedly be raised in the courts as well.

There are three provisions that are particularly troublesome:

REVIEW OF COST/BENEFIT ANALYSES AND RISK ASSESSMENTS

Section 625 provides for judicial review of an agency's compliance with S. 343's subchapters on cost/benefit and risk analyses. The language in the substitute appears to be a significant improvement over that contained in the bill reported by the Judiciary Committee; however, it will continue to allow litigation over complex procedural requirements to be filed on every major rule.

There remain two basic problems which create the potential for litigation under section 625. First, section 625 provides that "failure to comply with [the rules pertaining to cost/benefit and risk analyses] may be considered by the court solely for the purpose of determining whether the final agency action is arbitrary and capricious or an abuse of discretion." When this section is read in conjunction with the extraordinarily detailed and prescriptive requirements for risk assessments and cost/benefit analyses contained elsewhere in the bill, it is clear that the alleged failure to comply with any of those requirements will be the subject of litigation. Petitioners will surely argue that failure to comply with the extensive procedural requirements is itself arbitrary and capricious.

This concern is compounded by the second problem. The decisional criteria in section 624 generally prohibit promulgation of a rule unless the agency head finds that it adopts the least cost alternative of the alternatives meeting the applicable criteria in section 624(b) or (c). Thus, the agency's choice is limited to a single alternative, not a range of reasonable alternatives. And while the bill dictates this choice, it fails to acknowledge that the tools of risk assessment or cost-benefit analysis inevitably produce estimates which are subject to dispute between reasonable people. Given the premise that only a single outcome is legally permissible, any of the underlying estimates may be outcome determinative. Thus, the combination of strict decisional criteria and judicial review creates a situation in which non-compliance with any of the many procedural steps mandated by the legislation could well be challenged as constituting an abuse of discretion.

Another issue that should be noted is the provision in 625(e) permitting interlocutory review of agency determinations that a rule is not a major rule. By allowing interlocutory challenges, the bill will potentially allow entities to frustrate the regulatory process with piecemeal litigation.

The Department strongly recommends language for section 625 similar to that in §626 of the Glenn/Chafee alternative that would limit judicial review to whether a rule has been properly classified as a major rule and to whether a risk assessment or cost-benefit analysis has been conducted. Only with this type of provision for narrowly-circumscribed judicial review can we avoid the risk of embroiling every new rule in a complex new layer of litigation and judicial decisionmaking—thereby undermining the goal of simplifying and improving the regulatory process which is the fundamental objective of this legislation.

APA STANDARDS OF REVIEW

Section 5 of the Dole-Johnston-Hatch substitute would amend 5 U.S.C. §706 to alter the Administrative Procedure Act standards of judicial review. In particular, it would amend section 706(a)(2)(F) in a manner that could be read to replace the current "arbitrary and capricious" standard of review of agency finding of fact in informal rulemaking with a new requirement that there be "substantial support in the rulemaking file, viewed as a whole, for the asserted or necessary factual basis." The practical effect of this change is unclear. However, we are concerned that it would make the informal rulemaking process slower and more burdensome, and increase the amount and complexity of litigation over agency rules, without significantly improving the quality of the rules. Furthermore, it simply is not necessary to amend these provisions of the APA in order to meet the goals of this legislation, i.e. to ensure the best available science is brought to the regulatory process and to ensure that regulatory agencies consider the costs and benefits of rules before they are imposed.

REVIEW OF REGULATORY FLEXIBILITY REQUIREMENTS

The Administration supports reasonable judicial review of compliance with regulatory flexibility requirements. However, section 4(b) of the substitute substantially rewrites the Regulatory Flexibility Act to impose a supermandate which will foster endless and needless litigation over whether a rule "minimizes significant economic impact on small entities to the maximum extent possible." That provision, combined with the new standards for judicial review contained in section 4(b), will encourage even more litigation and open many rules to attack. We are particularly concerned that this provision also allows interlocutory challenges to proposed rules. In addition, the provision would expand review to situations in which the agency neither certified the rule nor prepared a preliminary or final analysis. This would arguably extend judicial review beyond the Regulatory Flexibility Act to general matters concerning compliance with the notice and public procedure requirements of the APA, for which judicial review already exists. Further, the one year period for seeking judicial review is too long and invites entities to layer challenges to regulations instead of bringing all such challenges by the time otherwise required for APA review.

We are also concerned by the provision which mandates that a rule be stayed if the agency has not completely complied, within 90 days, with a court order to prepare a regulatory flexibility analysis or take other corrective action. This would apply even to technical errors, to failure to comply with the deadline by just one day, and to situations where ninety days would simply be insufficient time to comply. This is inconsistent with APA practice which lodges discretion in the judiciary to determine whether a stay of a rule or, in the alternative, an extension of time to comply, would be appropriate under the particular circumstances.

For the reasons set forth above, the Department strongly opposes adoption of the Dole-Johnston-Hatch bill.

The Office of Management and Budget has advised that there is no objection to the submission of this letter from the standpoint of the Administration's program.

Sincerely,

JOHN R. SCHMIDT.

Mr. FEINGOLD. Mr. President, that does certainly acknowledge—in fact, I will read the language—the fact that there is improvement but there are still complexities involved. The letter states, in part, on page 2, that:

> Section 625 provides for judicial review of an agency's compliance with S. 343's subchapters on cost/benefit and risk analyses. The language in the substitute appears to be a significant improvement over that contained in the bill reported by the Judiciary Committee; however, it will continue to allow litigation over complex procedural requirements to be filed on every major rule.

So, Mr. President, I recognize the Senator from Louisiana is attempting to address this. I have not finally concluded that he has not addressed it completely. But the Department of Justice still believes the complexity involved here, I think it is fair to say, could invite a great deal of litigation and, I fear, give quite an advantage to the large interests that are more likely to have the attorneys and the wherewithal to fight these battles and jam up the regulatory process.

Mr. GLENN. Will the Senator yield?

Mr. FEINGOLD. I am happy to yield to the Senator from Ohio.

Mr. GLENN. I want to be certain I understood, the Senator asked that the letter be printed in the RECORD; is that correct?

Mr. FEINGOLD. I did ask unanimous consent it be printed in the RECORD.

Mr. GLENN. I think that is good, because a moment ago the Senator from Louisiana was talking about how the judicial review requirements have been cut back, yet this letter from the Justice Department points out eight separate areas for judicial review, and lists them very specifically. They also list the areas that give them particular concern: Review of cost-benefit analysis and risk assessments, the APA standards of review, and the review of regulatory flexibility requirements.

I know this is a lengthy letter. They give it in detail. But to those who think we are not increasing judicial challenges with S. 343, I think they should read this.

This is a letter dated July 11 to the majority leader. It spells out in great detail the specific provisions in S. 343 that will result in unnecessary judicial review. That is the opinion of Department of Justice.

I am glad the Senator is putting that in the RECORD.

Mr. FEINGOLD. I thank the Senator from Ohio.

I recognize that the Senator from Louisiana made a real effort to improve this process. I think he made a fair comment earlier today. It is not a sufficient response to his effort to simply say this bill goes too far. You have to be able to point out where it may go too far. I agree with the Senator from Ohio. Perhaps the guidance of the Department of Justice identifies those areas of continuing concern that we have to address before we make a final judgment about whether this bill is in the right shape to be the vehicle for regulatory reform that we all wish.

Let me continue. I have noticed in the 104th Congress the tremendous desire in this body when it came to product liability to limit litigation, to unclog the courts. That was the real focus of that bill. That was the justification frankly for something I thought took away the rights of a lot of people to potentially sue for damages and get their fair return and being made whole after they have been hurt by a product.

I notice that those who support changing our habeas corpus laws believe that a prisoner awaiting execution should be given one shot and one shot only at having his case reviewed by a high court. So apparently when we are ready to take a person's life away—and in too many cases an innocent person's life—the other side wants to again limit access to courts.

But when corporate America and well-financed business interests are involved, those on the other side—I want to be cautious here—suddenly want to enable those interests to file lawsuit after lawsuit after lawsuit.

There is something wrong here. Do we try to unclog the courts or not?

When you take a close look at some of the judicial review proposals that are out there, you begin to wonder what the litigation departments of the Federal agencies are going to begin to look like should any of these proposals become law.

How many attorneys are the agencies going to have to hire as they find themselves becoming more familiar with a courtroom than they are with their own offices? How many attorneys and other staff are the agencies going to have to hire to deal with the mountain of petitions that will pour into the agencies should the wrong bill be passed?

We do not know the exact answers to these questions. But considering the tremendous effort that the Clinton administration has made to shrink the size of Government—the smallest it has been since the Kennedy administration—considering the tremendous gains made by the Vice President's reinventing Government effort and considering the legislation passed last year that will reduce the size of the Federal work force by 250,000 employees, I think we should be extremely careful not to pass legislation that will nullify the progress that has been made on cutting back on the size of the Government.

I do not want to make these Federal agencies bigger than they need to be. I do not want to have to vote on larger appropriation bills each year to finance new Government bureaucrats and all of these procedural requirements and scientific analyses they must complete to meet the requirements of this bill. And to get the work of the Government done. I do not think that is what the American people had in mind when they hear words such as "reform" and "efficiency."

I am also concerned about the several provisions in this bill that seem to have little to do with the notion of reforming the regulatory process.

In fact, S. 343, the Comprehensive Regulatory Reform Act of 1995, as introduced by the majority leader on February 2, was just 32 pages long. That bill contained what many believe are the key ingredients of a strong regulatory reform bill. It contained requirements for cost-benefit analyses, it contained requirements to perform risk assessments.

It had judicial review and it had a mechanism for those who are being regulated to petition an agency to review an existing regulation.

Interestingly enough, the underlying legislation we are considering today has bloated to nearly 100 pages. It still has cost-benefit analyses, risk assessment, judicial review, a petition process and many other provisions originally a part of S. 343 as it was first introduced. But a host of new provisions, many of which have little or nothing to do with reforming the regulatory process, have been thrown into this pot luck legislation that has tripled in length since originally introduced.

One example is the effective repeal of the Delaney clause in this legislation. The Delaney clause, as many observers agree, is no longer consistent with modern scientific methods of detecting residues of pesticides, fungicides and insecticides on processed foods.

The zero-risk standard prevents use of chemicals that have been used for many years simply because new technology allows us to more easily detect minute levels of residues.

It provides for an inconsistent standard for EPA to set tolerances for pesticide residues in processed foods versus raw foods.

The current law does not provide for consideration of actual consumption patterns of various foods nor does it take into account the dietary intakes of different segments of our population.

And it only addresses cancer risk, rather than other potential health effects of food additives. These are problems that should be addressed.

However, despite these problems with the Delaney clause, a stand alone repeal of the provision—as included in the Dole-Johnston legislation—will do nothing to improve the safety of our food supply and simply does not belong in legislation intended to address the inadequacies of the existing regulatory process.

The fact is that there are incredibly complex and important issues that should be considered as a package of pesticide reform legislation in the appropriate committees.

When I served on the Agriculture Committee, I had a change to hear very compelling testimony on the types of ranges of issues that should be included.

For example, farmers fear that more and more of their crop protection chemicals will be taken without adequate alternatives. This issue needs to be addressed. But repealing Delaney only allows some chemicals to remain on the market—it does nothing to address the environmental side of the equation that farmers are faced with on a regular basis.

Farmers also want to know that so-called minor use pesticides will continue to be available—they want reregistration to be made less burdensome and yet consumers want to be assured that those chemicals are safe despite potentially expedited registration processes. Repealing Delaney does not address this so-called "minor use" issue.

Consumers also want to know that the way in which we set tolerances for chemicals used in food production takes into account the needs of our most vulnerable populations infants and children.

This is what we heard so much about in the Agriculture Committee. A lot of studies and flies are based on adult males, not necessarily on the tolerances that children can absorb of certain pesticides and substances. Again, repealing Delaney does not address that issue.

Consumers want to know that all health risks have been addressed in the process of setting tolerances for chemicals, reproductive and developmental impacts as well as carcinogenic risks. Repealing Delaney does not solve that problem.

The bottom line, Mr. President, is that there is a lot of work that needs to be done with respect to the regulation of chemicals used in food production and processing by the EPA and the FDA. But that sort of reform needs to be done as part of a comprehensive package that addresses the issues of importance to manufacturers, food processors, farmers and consumers.

It should not be inserted as a phantom paragraph in a hundred-page bill that seeks to reform the process by which regulations are issued.

In closing, I want to reiterate my sincere and spirited support for reforming the regulatory process that is currently in place. I do not believe that the current system is acceptable—the need for reform is clear and imperative.

I think what we need is to rededicate ourselves to finding that proper balance between needed health, safety and environmental safeguards, and granting greater relief to those who are being regulated by rules that have little or no rational basis.

I hope that as this bill is considered now and in the coming days, that Members from both sides of the aisle can get together, roll up our sleeves and find an alternative that really does achieve the balance that I think we can support.

I thank the Chair, and I yield the floor.

Mr. GLENN addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Ohio.

Mr. GLENN. Mr. President, I wish to specifically address the Johnston substitute for the Daschle amendment that was proposed earlier today.

Let me say in starting out that I agree with Senator JOHNSTON's intent. I wish there was some other way to do this. I wish that what he is proposing was a freestanding amendment; I could probably vote for it. I do not want to commit to that at this point, but it would make it much more palatable if it was put in in the form of a freestanding amendment instead of trying to replace Senator DASCHLE's amendment.

I agree with Senator JOHNSTON completely that we want to cut down on a repeat of expensive procedures, and that is what he attempts to do with this amendment.

I also understand his concern that he put this in to replace the Daschle proposal because he is afraid that, if the Daschle proposal passes with specific reference to food pathogens such as E. coli, salmonella, and so on, and this passes, it opens the door to a lot of other rules—cryptosporidium and a lot of other proposals. There is almost no end to the number of things that could be brought up as exceptions to S. 343, so I appreciate that.

At the same time, having said that, I disagree with replacing the Daschle amendment and disagree specifically with the proposal by my colleague from Louisiana, Senator JOHNSTON, for the following reasons.

The first involves risk. The Department of Agriculture informs us that whether or not they have to do a second risk assessment at the final rule stage, they will not in any event be able to say that the risk assessment that they have already done, which the Senator from Louisiana refers to, complies with the requirements of S. 343 as it would be amended by the Dole-Johnston substitute. They would have to go back and comply with S. 343, such things as least-cost analysis, new procedures for cost-benefit analysis, and every one of these steps is subject to judicial challenge along the way. So it changes things dramatically.

The Department of Agriculture says they could not just use the old information that they already have developed because there are now new requirements in S. 343, so it just would not work. This part of Senator JOHNSTON's second-degree amendment does nothing to protect the issuance of USDA's meat inspection rule. It just would not do it. So that is the first point.

The second point. Moving the effective date to April 1 for new proposed rules is certainly an improvement from an across-the-board, immediate effective date. I agree with that. Unfortunately, I do not believe it is enough. The requirements of this bill cannot be met within a few weeks or even a few months because the new rulemaking procedures, new least-cost rule criteria, preparing for a new level of judicial review, these all require months and months and months of new extra work.

So this new proposed effective date will let already-issued proposed rules through the process without delay. It will, however, effectively stop all other new rules that are in the pipeline. Agencies will have to go back and start over with their proposals.

Now, this is not right. And it will delay a large number of health and safety rules and just waste agency resources.

Now, lest we think this is just my opinion and I am making this up, let me give a few examples that have come to us so far. This is not a complete listing by any means, but by setting April 1, which the Johnston proposal does now, we then cut out such things as some of the mammography regulations; we cut out some with regard to flammability standards for upholstered furniture; we cut out some regulations with regard to cables and lead wires that particularly protect children. These are just three examples here of rules that would not go into effect, would not be exempted by the April 1 deadline.

Mr. JOHNSTON. Will the Senator yield at that point?

Mr. GLENN. Yes.

Mr. JOHNSTON. Is the Senator requesting that I withdraw the second-degree amendment and vote up or down on the Daschle amendment?

Mr. GLENN. No. I said that I was sorry that the Senator's amendment was not proposed as a completely separate amendment, that we should let the Daschle amendment go and have a vote of its own, and that I might even be able to support the Senator's proposal. I favor the general proposal of trying to cut out unnecessary paperwork, unnecessary risk analysis, unnecessary cost-benefit analysis, to cut those out and to prevent duplicate paperwork. Now, I would have to go through and read your amendment to be specific.

Mr. JOHNSTON. Would the Senator rather go ahead and vote on Daschle right now and propose it as a separate amendment?

Mr. GLENN. I would have preferred that. I said that earlier this morning in our private conversation. What I objected to specifically was cutting Daschle out for what he proposed. This substitute for Daschle is not a second-degree amendment. It substitutes for Daschle.

Mr. JOHNSTON. Mr. President, if the Senator will further yield, I am inclined at this point to pull down the amendment. Frankly, it is likely that there will be another second-degree amendment which will not include the April 1 cutoff date. I am now advised that the April 1 cutoff date, even though agreed to by some on the other side of the aisle, has not been cleared, so in any event it would not pass. I think that is very unfortunate because I think it was a complete fix for this rule as well as other rules.

But if my colleague from Ohio wants it withdrawn and my colleagues on the other side of the aisle want it withdrawn, it is not going to pass anyway, so if that is what I am being asked to do—I want to be sure that if I do this now, that is what everybody wants to do.

The Senator from Ohio would like that done?

Mr. GLENN. I have made my comments about it earlier. I am not advising the Senator what to do. I had my objections this morning that your amendment did away with Daschle. That has been my concern all the way through this, because I think his amendment is good. I think it corrects the inadequacy of the amendment that we passed yesterday.

I support the Daschle amendment for all the reasons I stated earlier in the Chamber today. If the Senator wants a vote on his amendment, we can have a vote on his amendment. I think there are some problems with it that I was about to go into in more detail. If he wishes to withdraw his amendment, then we could proceed with Daschle.

Mr. President, while the other conversations are going on, I will proceed with some of these examples of what would happen if we set the 1 April date that is proposed in the Johnston amendment.

Here is one on mammography that would not fit under the exemption; it would be held up; it would be delayed. Let me read this.

The Mammography Quality Standards Act—MQSA, as it is called—of 1992 requires the establishment of quality standards for mammography clinics, covering quality of films produced, training for clinic personnel, recordkeeping, and equipment. MQSA resulted from concerns about the quality of mammography services that women rely upon for early detection of breast cancer. FDA is planning to publish proposed regulations to implement the MQSA. The potential magnitude of these regulations is substantial. Improving the quality of mammography translates directly into early detection of breast cancer, and earlier detection of breast cancer increases the likelihood of successful treatment and survival.

An interim rule in this regard was published December 21, 1993, and publication of the proposed regulations is planned for October 1995. Under the Johnston amendment, the Johnston replacement for the Daschle amendment, this is well after the 1 April deadline so this would not be exempted. They would have to go back then and redo all of their previous analyses under the new guidelines, the new directions given in S. 343—unnecessary delays, and all the work that has been done already, unnecessarily so.

Let me bring up another one that is different: Flammability standard for upholstered furniture. The Commission is in the process of developing a proposed flammability standard for upholstered furniture. The purpose of the standard is to reduce the deaths and injuries that result from fire incidents involving upholstered furniture started by small open flames—matches, candles, lighters, so on.

The beneficiary of the rule: The potential victims of house fires would benefit from this rule. In 1992, there were an estimated 80 deaths, 490 injuries, $48.3 million worth of property damage associated with open-flame ignition of upholstered furniture. A substantial portion of these are believed to be related to small flame sources.

The impact of S. 343 would keep the Commission from doing the work necessary to develop this standard until after the moratorium period. The delay could result in additional fire-related injuries and deaths that could have been avoided.

Now the date: The Commission issued an advance notice of proposed rulemaking on June 15, 1994, and is working toward a proposed rule. When that would be put out would obviously be after the April 1 deadline.

Let me give another example: cables and lead wires. The Food and Drug Administration has proposed a regulation to require that cables which connect patients to a variety of monitoring and diagnostic devices be designed so that the cables cannot be plugged directly into a power source or electrical outlet.

The agency has received several reports of death and injury resulting from misuse of these devices, including one death and two cases of serious electrical burns when unsupervised children plugged cables from a home apnea monitor into outlets; one death in a hospital when electrocardiogram cables were plugged into an infusion pump power cord; and a death when a neonatal monitor's lead wires were plugged into a power cord for another device.

Advance notice of proposed rulemaking was issued on May 19, 1994. The proposed rule was published June 21, 1995, comments to be received by September 8, 1995. Obviously, that would not go into effect. It would not be permitted to go into effect without all the additional analyses provided in S. 343.

Mr. President, if we are going to have a reasonable effective date, I think we should do what we have in the Glenn-Chafee bill. We should put the effective date out 6 months beyond passage of the legislation to allow agencies some reasonable time to put into place the new requirements to administer the legislation.

The amendment proposed may let the meat inspection rule through; too many others will still be stopped, including these I just mentioned.

Another example. There are also some other problems with S. 343. There is a general problem illustrated by the debate today and yesterday. The amendments offered yesterday, and Senator JOHNSTON's second-degree amendment this morning, show without a doubt that the proponents of S. 343—and I think they know it—have a less than satisfactory bill. They know it is a bad bill. I think it goes too far, and I think they also know it goes too far, because each time we get close to raising issues or offering amendments, as happened yesterday, they leap up to modify their own bill to avoid the inevitable conclusion on the floor that their bill is flawed.

I think the bill they brought to the floor would harm public health and safety. They may not be willing to admit that, but I think they know it is true nevertheless, and the examples I gave this morning of what would happen to the change to it that is proposed by the Johnston amendment, which replaces the proposal made by Senator DASCHLE earlier today, would go further in that direction, as I see it.

Mr. President, I want to point out one other thing. We talk about these amendments and rules and regulations and what would be required of the agencies to comply with the requirements of this bill.

Let me start off by saying that in committee, we had testimony that the estimate is that for each major rule and regulation that is put out under the version of regulatory reform that passed the House, it would cost somewhere around $700,000 to put the rule out. That was questioned by some people when I brought that out on the floor yesterday, and we discussed it in private back here. But let me give an example.

The Clean Water Act was passed back in 1972. There was an amendment to it later in 1972. There was another amendment to the Clean Water Act in 1977, and another one in 1987. It has been 8 years from 1987 to the present time. Just one regulation put out pursuant to that Clean Water Act, and I do not have a listing of how many regs were put out overall. But one regulation, that pertaining to effluent limitation guidelines and standards for metal products and machinery put out under that act, has taken 8 years to do.

This thick document that I hold before you is just the index for it. It just went into effect April 1995. That is just the index. I wish we had time to go through all these pages. These are single-spaced pages, one after the other, all the requirements.

This is just the development document for how they were going to go about it. This is pursuant to laws that we passed. If we want to see who is at fault for a lot of this, look in the mirror.

This is just a development document for the proposed effluent guidelines and standards for the metal products and machinery phase I point source category. That is just one regulation.

Do you know how much shelf space is taken up with that one regulation, that one single regulation put out pursuant to what we passed here in the Clean Water Act? I stepped off the width of this Chamber a while ago, and it comes out to somewhere around 112 to 115 feet of pacing here. That one regulation has shelf space of 123 feet just for the documents involved with one regulation. Yet, we passed yesterday afternoon a new requirement in this bill that would open it up for hundreds and hundreds of new regulations that would have to meet the requirements of S. 343.

Now, sometimes I do not think we know what we are doing around here. In other words, just the shelf space for this regulation would be about 10 feet longer than from that wall to this wall in the Senate Chamber. I know anybody that happens to be watching this discussion on TV does not have an idea of what this dimension is here. But it is about 45 paces across here to get that kind of distance, taking about a yard per pace. That is one regulation we are talking about, under the Clean Water Act.

I do not know how many regulations are required. I think there are probably several hundred. I do not know the exact number, but I am sure there are at least several hundred under the Clean Water Act that we passed right here. Can they cut back on that and can they get by with 60 feet of shelf space? I do not know. I know that what we are going to require with this legislation whole new requirements, a whole new cost-benefit analysis, whole new risk assessment, least cost analysis—that means agencies have to develop a number of additional options to see which one is least costly. You cannot make more judgment and say we go with the one we think is most likely to be successful and exercise some commonsense judgment. Now we are going to have to develop several options under each one of these things, and we will probably double that space across the Chamber that would be needed to hold all these analyses.

That is just an example of what we are requiring here with some of this legislation. At the same time, we are talking about cutting down the agencies, cutting back on their budget, cutting people, getting people out of Government. Through our actions here, we are loading on additional requirements that are almost unbelievable. Can you imagine one regulation that requires 123 feet of shelf space and requires documents like I held up here just for the index?

That is just one under the Clean Water Act of 1972. And the subsequent amendments, and the final amendment that requires this was put out 8 years ago, and the final rule is coming out in 1995.

So, Mr. President, I am very concerned about where we go with this. I think we take a much more logical approach with S. 1001, the Glenn-Chafee bill. We would not leave out certain things, such as I mentioned here on mammography; flammability regulations, which protect families in homes; on the cables and lead wires; medical machinery, and so on. Those would all be left out in S. 1001. They would have to go back and go through this whole process over again if we passed the amendment submitted by the Senator from Louisiana to S. 343.

So, for all these reasons I have just given, I oppose this. I hope we can have, but I do not know whether the Senator from Louisiana still wants, a vote on his amendment. He talked about possibly withdrawing it so we can get on with a vote on the Daschle amendment.

Mr. President, I ask unanimous consent that an article from the July 17, 1995 Business Week be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

ARE REGS BLEEDING THE ECONOMY?

To the Republican Congress, regulations are like a red cape waved in front of a raging bull. "Our regulatory process is out of control," says House Science Committee Chairman Robert S. Walker (R-Pa.). He and other GOP leaders charge that nonsensical federal rules cripple the economy, kill jobs, and sap innovation. That's often true: Companies must spend enormous sums making toxic-waste sites' soil clean enough to eat or extracting tiny pockets of asbestos from behind thick walls.

That's why GOP lawmakers on Capitol Hill want to impose a seemingly simple test. In a House bill passed earlier this year and a Senate measure scheduled for a floor vote in July, legislators demand that no major regulation be issued unless bureaucrats can show that the benefits justify the costs. "The regulatory state imposes $500 billion of burdensome costs on the economy each year, and it is simply common sense to call for some consideration of costs when regulations are issued," says Senate Majority Leader Bob Dole (R-Kan.).

That sounds eminently reasonable. But there's a serious flaw, according to most experts in cost-benefit calculations. "The lesson from doing this kind of analysis is that it's hard to get it right," explains economist Dale Hattis of Clark University. It's so hard, in fact, that estimates of costs and benefits may vary by factors of a hundred or even a thousand. That's enough to make the same regulation appear to be a tremendous bargain in one study and a grievous burden in the next. "If lawmakers think cost-benefit analysis will give the right answers, they are deluding themselves," says Dr. Philip J. Landrigan, chairman of the community medicine department at Mount Sinai Medical Center in New York.

There's a greater problem: The results from these analyses typically make regulations look far more menacing than they are in practice. Costs figured when a regulation is issued "almost without exception are a profound overestimate of the final costs," says Nicholas A. Ashford, a technology policy expert at Massachusetts Institute of Technology. For one thing, there's a tendency by the affected industry to exaggerate the regulatory hardship, thereby overstating the costs.

More important, Ashford and others say, flexibly written regulations can stimulate companies to find efficient solutions. Even critics of federal regulation, such as Murray L. Weidenbaum of Washington University, point to this effect. "If it really comes out of your profits, you will rack your brains to reduce the cost," he explains. That's why many experts say the $500 billion cost of regulation, bandied about by Dole and others, is way too high.

Take foundries that use resins as binders in mold-making. When the Occupational Safety & Health Administration issued a new standard for worker exposure to the toxic chemical formaldehyde in 1987, costs to the industry were pegged at $10 million per year. The assumption was that factories would have to install ventilation systems to waft away the offending fumes, says MIT economist Robert Stone, who studied the regulation's impact for a forthcoming report of the congressional Office of Technology Assessment (OTA).

BOTTOM LINES

Instead, foundry suppliers modified the resins, slashing the amount of formaldehyde. In the end, "the costs were negligible for most firms," says Stone. What's more, the changes boosted the global competitiveness of the U.S. foundry supply and equipment industry, making the regulation a large net plus, he argues.

While federal rules that improve bottom lines are rare, regulatory costs turn out to be far lower than estimated in case after case (table). In 1990, the price tag for reducing emissions of sulfur dioxide—the cause of acid rain—was pegged at $1,000 per ton by utilities, the Environmental Protection Agency, and Congress. Yet today the cost is $140 per ton, judging from the open-market, price for the alternative, the right to emit a ton of the gas. Robert J. McWhorter, senior vice-president for generation and transmission at Ohio Edison Co., says the expense could rise to $250 when the next round of controls kicks in, "but no one expects to get to $1,000." The reason: Low-sulfur coal got cheaper, enabling utilities to avoid costly scrubbers for dirty coal.

Likewise, meeting 1975 worker-exposure standards for vinyl chloride, a major ingredient of plastics, "was nothing like the catastrophe the industry predicted," says Clark University's Hattis. He found in a study he did while at MIT that companies developed technology that boosted productivity while lowering worker exposure.

Of course, it's possible to find examples of underestimated regulatory costs. And even critics of the GOP regulatory reform bills aren't suggesting that cost-benefit analysis is worthless. "We should use it as a tool" to get a general sense of a rule's range of possible effects, says Joan Claybrook, president of the Ralph Nader-founded group Public Citizen. But she and other critics strongly oppose the Republican scheme to kill all regs that can't be justified by a cost-benefit exercise. As a litmus test for regulation, "the uncertainties are too broad to make it terribly useful," says Harvard University environmental-health professor Joel Schwartz.

What is useful is moving away from a command-and-control approach to regulation.

There's widespread agreement among companies and academic experts that bureaucrats should not specify what technology companies must install. It's far better simply to set a goal, then give industry enough time to come up with clever solutions. "We need the freedom to choose the most economical way to meet the standard," explains Alex Knauer, chairman of Ciba-Geigy Ltd. Krauer, for example, points to new, cleaner, processes for producing chemicals that end up being far cheaper than installing expensive control technology at the end of the effluent pipe.

DUMB THINGS

But when goals are being set for industry, the proposed cost benefit analysis approach could have a perverse effect. That's because agencies are rarely able to foresee the low-pollution processes industries may concoct. Smoke-stack scrubbers are a good example. The bean-counters will use the known price of expensive scrubbers in their analyses. Their cost-benefit calculations will then argue for less stringent standards. And those won't help spark cheaper technology. The result can be the worst of both worlds: costlier regulation without significant pollution reductions. "It's a vicious circle," explains Stone, "If you predict that the costs are high, then you stimulate less of the innovation that can bring costs down."

There's no doubt reform is needed. "Frankly, we have a lot of dumb environmental regulations," says Harvard's Schwartz. But he puts much of the blame on Congress for ordering agencies to do dumb things. Now, Congress is tackling an enormously complex issue without fully understanding the ramifications, Schwartz and other critics worry. Overreliance on cost-benefit analysis could make things worse for business, workers and the environment.

REGULATION ISN'T ALWAYS A COSTLY BURDEN

Many regulations cost much less than expected because industry finds cheap ways to comply with them.

COTTON DUST

1978 regulations aimed at reducing brown lung disease helped speed up modernization and automation and boost productivity in the textile industry, making the cost of meeting the standard far less than predicted.

VINYL CHLORIDE

Reducing worker exposure to this carcinogen was predicted to put a big chunk of the U.S. plastics industry out of business. But automated technology cut exposures and boosted productivity at a much lower cost.

ACID RAIN

Efficiencies in coal mining and shipping cut prices of low-sulfer coal, reducing the need to clean up dirty coal with costly scrubbers. So utilities spend just $140 per ton to remove sulfur dioxide, vs,. the predicted $1,000.

Mr. GLENN. I yield the floor.

Mrs. MURRAY addressed the Chair.

The PRESIDING OFFICER (Mr. KEMPTHORNE). The Senator from Washington is recognized.

Mrs. MURRAY. Mr. President, I will speak on the floor later on the entire regulatory reform bill and its affect on the American public.

I rise today to speak specifically to the Daschle amendment because it affects me personally and I feel very strongly about it. The underlying Daschle amendment on the floor for debate right now takes us a step closer to protecting a particularly vulnerable segment of our population—our children—from the most American of foods, the hamburger.

The Center for Disease Control estimates that thousands of people become ill each year due to E. coli-contaminated meat. In fact, one of the first tough issues I had to deal with upon my election to the U.S. Senate was visiting young children in hospitals in my hometown of Seattle and in Tacoma who had innocently eaten Jack in the Box hamburgers and then found themselves in critical condition after being infected by E. coli. Three of those children died in that outbreak. All I could do was stand there and assure those families that I would try to do all I could to make sure that this would not happen to any other child in our State or in this country.

Since that outbreak in the Pacific Northwest, this country has suffered 50 outbreaks of E. coli in 23 other States. E. coli repeatedly appears in ground beef that has been inspected under current meat inspection methods.

But help is finally on the way. This past January, USDA proposed a new meat inspection system that requires modern food handling techniques, safe storage, and scientific testing at slaughter houses and meatpacking plants. I think we all know that such a revised regulatory system is long overdue. But I am afraid that even with the amendment adopted yesterday by this body, this meat inspection regulation will be delayed because its opponents may—and very likely will—petition and subject this rule to the cumbersome review required by this bill. And any delay in this vital regulation's implementation will allow more children to become ill. Consequently, this Congress could become responsible for the illness and perhaps the death of thousands of children in this country.

I do not pretend to be an expert on the intricacies of this regulatory reform bill. I do know, however, that I have given my word to families who have lost children due to our current regulatory system's failure. I promised them I would work to protect children from lethal food products. So I strongly support the Daschle amendment ensuring the most expeditious implementation possible of E. coli regulations.

Mr. President, I intend to keep my word to the families who lost children in my State, who ate hamburgers that were tainted by E. coli. I intend to do it by voting for other amendments to S. 343 that will ensure that the Government works efficiently and cost effectively and that it will encourage general protection of human health and our environment.

We have to remember that it is our responsibility as the Nation's leaders to have commonsense protections in place and to ensure that those are there for all of our constituents. So I urge all of my colleagues to vote for the Daschle amendment.

I yield the floor.

Mr. KERRY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KERRY. Mr. President, I thank the distinguished Chair.

Mr. President, I have listened with some interest, as I am sure other people have, while the distinguished Senator from Utah has come to the floor with a list of egregious regulatory excesses, which I think he has called his top 10 list of silly regulations. And as one listens to those silly regulations, it is pretty easy to sit back and say, hey, that is pretty silly. Why is my Government doing silly things like that? It builds up resentment to regulations, and people say, wow, that is what this bill is all about. This bill will get rid of those silly regulations.

Now, the Senator from North Dakota is going to be here at some point in time, and he is going to discuss a few of the silly designations from the Senator from Utah. I would like to take on a couple, if I can, and I would like to try to substitute reality for the quick hit, easy perception. I begin that, Mr. President, by saying, as a number of us have said on this side of the aisle for a number of days, there are excesses in our regulatory process. And nobody in this Chamber denies that, and nobody in this Chamber is going to deny the need to have regulatory reform. There are stupid things that happen, and when we find them, we ought to get rid of them.

But what disturbs me, Mr. President, is to see an opportunity taken to label as sort of the top 10 silly items, items which when you look at them are not actually so silly after all or do not even fit or belong in that kind of category.

Now, I would like to go through a couple of those and set the record straight and factually look at some of the supposedly silly regulations, and perhaps my colleague from Utah would be willing to look at the real language and acknowledge that there may be a rationale there that has not been properly characterized in his top 10 silly list.

I am reading from the CONGRESSIONAL RECORD of June 28 when the Senator from Utah talked about the Head Start Program. He pointed to a church in Harlem, the Abyssinian Baptist Church, that struggled "for 4 years to get approval for a Head Start program in a newly renovated building. Most of those 4 long years was spent arguing with Federal bureaucrats concerning the dimensions of the rooms."

Mr. President, that is the Senator's rhetoric. Here is the reality: According to the New York City Agency for Child Development, there are not any Federal ordinances or regulations that apply to that building or to the rooms. None. Zero. In fact, it was local regulations—not Federal regulations—with which they were dealing and which were responsible for the delays.

According to Richard Gonzalez, the Assistant Deputy Commissioner responsible for running Head Start, "The Federal Government did nothing to hold up this project." Yes, it took 4 years for the program to become operational, but the 4 years were not spent arguing about the dimensions of the rooms, they were spent finding sponsorship for the program; obtaining a lease agreement between the church, the owner of the property, and the city of New York; and completing the license process with the various city agencies.

So we have rhetoric and we have reality. This is the reality, Mr. President. I submit that that greatly changes the perspective of the way in which we ought to approach this debate.

On the same day, June 28, the Senator from Utah cited the use of Braille on drive-through cash machines. Now, that is pretty silly on its face, is it not? It is nice to come to the floor of the Senate and make fun of the notion that Braille is required on anything to do with a drive-through machine because, obviously, blind people are not driving.

That is basically the thrust of the comments that were made on the floor. It sounds absurd and the rhetoric can make it pretty laughable, and people can get angry at regulations.

But what is the reality, Mr. President? The reality is that the banking industry itself recognized the need for these machines for passengers and for walk-up users. There are plenty of places in America where you have just one machine at a facility and you have a walk-up/drive-in teller, and people walk to the teller machine, just as they drive up to it.

In point of fact, because many blind people or visually impaired people do not want to be required to give up their privacy, they may be riding in a car and the car drives them to the automatic teller machine [ATM]. But they do not want to give their personal identification number to a stranger, so they get out of the car and they walk up and they use the ATM machine.

What happened here on the floor is almost insulting to those who are visually impaired, who have won the right which the banking industry has suggested is necessary.

In discussing the regulation, this is what the American Banking Association said:

> It is entirely conceivable and not unexpected that a passenger may exit the automobile to use the drive-up ATM, and this passenger may be an individual who is visually impaired.

The American Foundation for the Blind brought to my attention that despite what appears to be an obvious conclusion, blind or visually impaired people do use drive-up ATM machines. They may take a cab to the bank. They may ask a friend or a relative to drive them. But bank transactions are very personal and they clearly want to contain their pin number to themselves, so they say many times drive-up ATM machines are the only ones available after regular banking hours.

Now, the regulation that applies to this, Mr. President, only requires one machine of several available to have the Braille. If that machine is indoors, that satisfies the requirement. So there is no requirement that a machine that is drive-up must have the Braille. The only requirement is that one machine be available to the visually impaired. Is that a silly requirement? Not quite as silly as the Senator seemed to want to make it out to be.

Another example of rhetoric versus reality: The Senator from Utah said that Government regulations on the sale of cabbage total almost 30,000 words.

Mr. President, I ask unanimous consent that the Government regulations on cabbage be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AGRICULTURAL MARKETING SERVICE, USDA

GENERAL

§ 51.4120. General.

(a) The accompanying grades for cabbage are intended to facilitate transactions between growers and processors who may wish to use a purchasing system based upon the quality of cabbage delivered. These grades are an out-growth of the widely accepted principle that price should be directly proportional to quality. The grower who delivers high quality cabbage deserves a premium price because such cabbage enables the processor to pack a better quality proudct.

(b) In the application of these standards it is assumed that in most instances sellers will not sort their cabbage into separate lots of U.S. No. 1 and U.S. No. 2 grades before delivery to the buyer, and that the buyer will pay a certain price for the percentage of each in the lot as determined by inspection. Upon delivery, the inspector will simply sort representative samples taken from each lot, and determine the percentage of each grade. Final settlement would then be made by applying the percentage of each grade to the total weight of the lot, and then applying the contract prices established for each grade. Under such a procedure, there is no need for tolerances.

(c) It will be noted, however, that the standards provide tolerances but these apply only when a grower or shipper has actually sorted his cabbage into separate lots of U.S. No. 1 and U.S. No. 2 grades before delivery to the buyer.

GRADES

§ 51.4121. U.S. No. 1.

"U.S. No. 1" consists of heads of cabbage which are firm, and well trimmed; which are free from soft rot, seedstems, and from damage caused by bursting, discoloration, freezing, disease, birds, insects, mechanical or other means. Unless otherwise specified, the weight of each head of cabbage shall be not less than 3 pounds. (See § 51.4124.)

§ 51.4122. U.S. No. 2.

"U.S. No. 2" consists of heads of cabbage which are not soft; which are fairly well trimmed, free from soft rot, seedstems, and from serious damage caused by bursting, discoloration, freezing, disease, birds, insects, mechanical or other means. Unless otherwise specified, the weight of each head shall be not less than 2 pounds. (See § 51.4124.)

CULLS

§ 51.4123 Culls.

"Culls" are heads of cabbage which do not meet the requirements of either of the foregoing grades.

TOLERANCES

§ 51.424 Tolerances.

(a) For the purpose of determining compliance with one of the foregoing grades the following tolerances, by weight, are provided in order to allow for variations incident to proper grading and handling:

(1) For defects. Ten percent for cabbage in any lot which fails to meet the requirements of the grade, including therein not more than 3 percent for cabbage which is affected by soft rot and including in this latter amount not more than 1 percent for cabbage which is seriously damaged by soft rot.

(2) For size. Ten percent for cabbage in any lot which fails to meet the specified minimum size.

(b) In the application of these standards to determine the percentages of cabbage in any lot which meet the requirements of the respective grades, no tolerances apply.

DEFINITIONS

§ 51.4125 Well trimmed.

Well trimmed means that the head shall be free from loose leaves and the stems shall be not longer than one-half inch. Loose leaves shall be considered those leaves which do not closely enfold the head. Heads of cabbage which show evidence of having been well trimmed in the field shall be considered as meeting the trimming requirements although they may have some leaves which have become loose in the process of ordinary handling.

§ 51.4126 Seedstems.

Seedstems means those heads which have seed stalks showing or in which the formation of seed stalks has plainly begun.

§ 51.4127 Damage.

Damage means any defect, or any combination of defects, which materially detracts from the processing quality of the cabbage, or which cannot be removed in the ordinary process of trimming without a loss of more than 5 percent, by weight, in excess of that which would occur if the head of cabbage were perfect.

§ 51.4128 Soft.

Soft means loosely formed or lacking compactness.

§ 51.4129 Serious damage.

Serious damage means any defect, or any combination of defects, which seriously detracts from the processing quality of the cabbage, or which cannot be removed in the ordinary process of trimming without a loss of more than 15 percent, by weight, in excess of that which would occur if the head of cabbage were perfect.

Mr. KERRY. The Government regulations on cabbage, Mr. President, are 1,808 words—only 208 words more than it took the Senator from Utah on June

28 to describe the problems with the 30,000 words and other silly regulations that do not exist.

The truth is, according to the San Diego Union-Tribune:

> That cabbage quote has been kicking around for years. . . It cropped up as a Reader's Digest filler years ago. That is where Ronald Reagan admitted finding it . . . and the thing has obtained a life of its own.

I ask the Senator from Utah if he has actually read the regulations, the 30,000 words, because here are 1,800 words, and what these 1,800 words do, Mr. President, is establish a capacity for the Federal Government to guarantee that those who grow cabbage get the highest price possible for the best cabbage by defining what will be the Grade No. 1 of cabbage and defining subsequently what is Grade No. 2 of cabbage.

Farmers all across this country have appreciated and applauded the fact that a very precise definition of that standard exists, so that high-quality cabbage can command an appropriate price.

I would suggest, Mr. President, that this really frames the debate here, in a sense. There is a rush to try to characterize very legitimate regulations as somehow excessive or unwanted when, in fact, if we stop and take a look at them, there are a number of examples of how these regulations assist people and make a difference to the lives of Americans.

I repeat, there are some silly regulations. Every Member knows that. We ought to be engaged in a process here that allows Members to legislate in a way that tries to get rid of those that are legitimately silly but also allows us to improve this bill and to eliminate provisions which seeks to do things that I do not think any American wants to do.

Let me give an example, Mr. President. There is a provision in this bill that weakens the toxics release inventory [TRI]. The TRI program originated in 1986. This important sunshine law is the most successful voluntary environmental program Congress has ever enacted. Yet all that the toxics release inventory requires is a right-to-know. Because of TRI, emissions from facilities have decreased 42 percent nationwide since 1988; a reduction of 2 billion pounds.

If you are a citizen living in your community, and you have a large chemical plant or a small chemical plant or some business entity, and it is discharging toxins into the environment, the current law does not require them to stop discharging; the current law does not require them to stop using chemicals. It does not require them to stop producing chemicals. It does not require them to stop selling chemicals. This sunshine law does not require anyone to reduce their use of chemicals in any way; TRI only requires that companies that use over 10,000 pounds or produce over 25,000 pounds—a significant amount—of chemicals report the discharges from that usage on the TRI for everyone to see. It just requires them to tell the people in the community what they are emitting.

I just came from a press conference where the head of the Firefighters Union, representing 200,000 firefighters in America, said if you get rid of this, you will cost firefighters lives and the lives of the citizens who they are trying to save. Fire departments need to be able to plan, to know what kind of fire they are fighting in a particular community. Under today's law, if you have a fire in a community, because of the toxics release inventory, they just punch up the information on the computer, and they can look at the business where they are going to fight the fire. They see precisely the kind of chemicals that are contained at that facility, and they know whether they need gas masks, whether they need full chemical enclosures, whether to expect an explosion, whether to evacuate. They know a whole series of things in the public interest, Mr. President.

Since 1988, when the first reporting information was available, we have reduced the chemical emissions in this country by 42 percent voluntarily.

Some 2 billion pounds of chemicals have been taken out of the exposure stream to American citizens. We did not require it. There is no law that made it happen. But, because these companies were required to tell people what they were emitting, they began to better understand themselves what the consequences were and they began to make some different judgments; judgments about how best to prevent pollution, how to better use and conserve their raw materials in order to waste less; how to make their processes more efficient and by so doing save money.

There is no rationale, there is no scientific argument, there is no acceptable health standard argument, there is no environmental argument for coming in here in the Dole-Johnston bill and just throwing this out and creating a new risk-based standard that will require the 280 chemicals that were put on the list in November 1994 to suddenly be available for review again, and for many of them to jump over a whole series of tougher hurdles as to whether or not they will ever get back on the list.

So I hope my colleagues will take a hard, hard look at the reality of some of the provisions in this bill. I repeat, I would like to vote for a regulatory reform bill. I know the Senator from Ohio would. We appreciate the opportunity to be able to legislate and make changes that could improve this bill so we can do so. I am prepared to accept a cost-benefit evaluation and risk assessment standard in the analysis. I think that is fair. I think it is important.

But we should not make it a standard which somehow precludes the capacity of the rulemakers to make some rules, and of people to continue programs of good common sense.

Another example of what this bill is, it essentially eliminates the Delaney clause. The Delaney clause protects our citizens from being exposed to carcinogens in their food. The Dole-Johnston bill does not come in and suggest a responsible fix. It does not come in and suggest we can improve this in a thoughtful way that protects the health of children while reforming the Food, Drug, and Cosmetic Act. This bill legislates changes preferred by one set of special interests and I hope the U.S. Senate does not embrace this provision.

So, my hope is that we are going to keep our eye on the ball here, as we listen to people denigrate—easily denigrate—regulations. I hope that our approach to reform will be done with accuracy and reflect the reality of the benefits that accrue to Americans because many of these efforts will be used to guarantee standards by which products will be sold and Americans will live.

I yield the floor.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Mr. JOHNSTON. Mr. President, we had hoped to set aside the underlying Daschle amendment, which would set aside with it the Johnston substitute amendment. But I understand the minority leader wishes to go ahead with his amendment, so I regret to say the state of play is this.

I proposed a second-degree amendment which I believe totally and completely solves the problem and I have said to my colleagues, Why do you not take "yes" for an answer? My colleagues on this side of the aisle do not seem to want that "yes" for an answer. In the meantime, the proposal that I had, which I thought was suitable on the Republican side of the aisle, apparently has some major problems there. And we cannot bring the bill down at this point.

So I suggest we go ahead and vote on the Johnston amendment, which I guess will be voted down by Republicans because it goes too far. It will be voted down by Democrats because it does not go far enough. But I will vote for it because it solves the problem and I think that is what we want here.

In any event, I think we ought to go ahead and vote and get on with the business so we can deal with some other amendments. Apparently the successful ability to deal with this amendment is eluding us as we speak.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. GLENN. Mr. President, I think the decision expressed by Senator

JOHNSTON to go ahead is one I concur with. I think we have had enough debate on this, all parts of this—the Daschle proposal and the substitute Johnston amendment. We have gone through all of these issues this morning. There have been a number of people who have come to the floor and debated this.

I think we are ready for a vote. And I checked with Senator DASCHLE and he does prefer to have a vote on this. So we will just go ahead and vote through on both of them and see where we go.

I yield the floor.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. ROTH. Mr. President, I make a point of order a quorum is not present.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DASCHLE. Mr. President, we have had a good debate now over the last several hours on this issue. I think there are probably four points that need to be made.

First of all, we all recognize that the legislation we passed yesterday—the Dole amendment—really does not go far enough in addressing the concern that many of us have raised, that simply delaying the implementation of the language for 180 days does not cut it. The Secretary has stated that. I think by and large most of our colleagues now have come to that conclusion.

Point No. 2: The passive process is one that has moved to a point where implementation is necessary. We do not want to encumber the Secretary of Agriculture in attempting to address a very serious concern having to do with meat inspection. We want the freest hand to enable him to do all that he ought to be able to do, given all of the time that has already been invested in this issue, to do so in a way that is meaningful, in a way that ought to be accomplished as a result of the tremendous work done by the Department of Agriculture now in two administrations to reach the point that we are today.

Point No. 3: There is a realization that the current language will encumber the Secretary's effort unless something happens, unless we address through an amendment his ability to deal with all of the complexities of the passive system and to recognize that progress has been made, and that, indeed, we ought to give him the opportunity to do so regardless of what happens on this bill.

No. 4: In my view, the only way to do it, the only way to do it cleanly and without any equivocation, the only way to ensure that we can do it without legal misinterpretation, without the regulation being subjected to a good deal of litigation at some point in the future, is to pass the Daschle amendment, simply to exempt passive completely from the bill.

Were we to do that, the Secretary would have the ability to move ahead to do all that he needs to do to ensure that this rule can be promulgated now in a reasonable period of time. We can do so without any fear of litigation or bureaucratic complexity. We can do so with the knowledge that the work that they have invested, all of the effort put forth now over at least the last 24 months, will not be for naught, that we will actually accomplish what we all know we must do—protect food safety, give the Department of Agriculture the tools that they need to get the job done, ensure that this particular rule which has come as far as it has can be promulgated without the fear at some point in the future of a new challenge, a new complexity that would encumber the Secretary's opportunity to ensure that this rule is promulgated at some point in the future.

So, Mr. President, for all of those reasons, it just seems to me that as well intended as the effort of the distinguished Senator from Louisiana is, I am very concerned that at some point in the future the Department of Agriculture could be intimidated once again, could be encumbered in a number of different ways that were certainly not intended by the Senator from Louisiana or anybody else who indeed wants to resolve this problem. The best way to do it is to defeat the Johnston amendment, pass the Daschle amendment, and then move on to a number of other amendments that have been pending. There are a number of other Senators that have expressed to the Senator from Ohio an interest in coming to the floor and offering their amendments.

We want to expedite consideration of this legislation. I think the best way to ensure that we get on to some of these other amendments is to finally dispose of the Johnston amendment, pass the Daschle amendment, and move on to these other proposals.

We are ready to go. We do not want to prolong this debate any longer than it has to be, and certainly the best way to ensure that we do not prolong it is to dispose of it and to move on.

There has been some talk I know of yet another second-degree on the Daschle amendment. I hope that we can avoid that. I think after the good debate that we have had we deserve an up-or-down vote. We have acted in good faith. We have not in any way attempted to obfuscate the issue or prolong the debate any longer than necessary. I think it has been an enlightened and educational effort.

So I think now having done all that we have in the last 5 hours, it is imperative that we simply finish this and move on to other issues. Let us do that. Let us have a vote on Johnston. Let us have a vote on Daschle. Let us get on with the other amendments that are ready to go. That is the way I think we can ultimately finish this bill. The sooner we get on with it, the better.

With that, I yield the floor.

Mr. JOHNSTON. Mr. President, let me be clear. The Johnston amendment fixes the problem of passive. It simply fixes it. Reasonable minds can disagree about many things about this bill. There is no problem with passive going forward.

What the Johnston amendment says is that if you have already done a cost-benefit analysis and the rule has not changed, you do not have to redo it. And if you have promulgated your notice of proposed rulemaking prior to April 1 of this year, then you are exempted from cost-benefit or from risk assessment—very simple, very clear, very clear-cut. It fixes this problem.

We have had a lot of debate here about whether some woman who went to the Jack-in-the-Box and ate some hamburgers and died, and all of this is going to kill her.

Mr. President, it fixes the problem. Now, unfortunately, the amendment which was put forth on my behalf and with Senators HATCH and ROTH and had a majority of support for a while, now, after having hung out there for a few hours, my friends on the other side of the aisle have changed their minds, apparently some of them at least, with respect to the April 1 date. They are concerned that now there will be this flood of regulations which will be exempt from cost-benefit and risk assessment.

It is very unfortunate, Mr. President, that both sides could not stick together; that on our side of the aisle we could not recognize the fix which this is, and that the other side could not stick with what we thought was a deal. I fear what happens now is this whole bipartisan effort begins to come apart piece by piece—Democrats put forth a substitute and get 30-something votes, and the Republicans put forth their bill and it gets filibustered, and there we go.

We have to be able to come together, Mr. President, if we are going to pass this difficult legislation. We have to be able to come together in some sort of reasonable middle ground that solves the problem and stick to a deal. This is complicated enough. I found myself accepting amendments from our side of the aisle, and then come back and be met from our side of the aisle with that amendment which we accepted on their behalf as being a fault of the legislation. That has happened not once but several times.

We had a fix proposed from the other side of the aisle, and now they thought about it and that is not good enough.

That is not going to pass this bill. This is a very important bill. We have people strung out all over the philosophical spectrum on this bill, and when we start putting forth amendments and then withdrawing them, I fear the whole thing is going to come apart.

Mr. President, as I speak, there is still hope, and so I will yield the floor at this point and hope we can pull this amendment back together and the coalition for reasonable regulatory reform will reform.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. LEAHY. Mr. President, I see both the distinguished leaders in the Chamber.

Mr. DOLE. Will the Senator yield to me?

Mr. LEAHY. Mr. President, I ask if I might be able to yield without losing my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. I think both leaders are trying to determine how we can get to a vote. The Senator from South Dakota had an agreement where we would by consent vote on the Johnston amendment, followed by a vote on the Daschle amendment if Johnston was defeated; otherwise, it would be as amended, I assume.

I am not able to get that agreement, but I would be prepared to vote on the Johnston amendment at this time.

The PRESIDING OFFICER. The Senator from Vermont still retains the floor.

Mr. LEAHY. Mr. President, I yield further, if I could do so without losing my right to the floor. I do not intend to hold the floor very long.

Mr. DASCHLE. Mr. President, if the Senator will yield for me to respond, I have no objection to having a vote on the Johnston amendment, but at some point I think it would be fair to say that we would like to have an up-or-down vote on the Daschle amendment. I do not know if others may have second-degree or substitute amendments that they wish to offer to this one. Obviously, that is anyone's right. But I think at some point it would be helpful if we could get a time certain for an up-or-down vote so we could move on to other amendments.

I know the distinguished majority leader has urged us to try to move this process along. In that interest, I think we have a few other amendments that could be offered maybe even with some time limits. So to accommodate everyone it would be helpful if we could get a time certain for a final vote on this one and move on to other amendments.

Mr. DOLE. If the Senator from Vermont will yield to me to respond to the Democratic leader, I understand the suggestion. I think the Senator from South Dakota probably knows that if the Johnston amendment is accepted—I guess I could say first, would there be any objection to just accepting the Johnston amendment?

Mr. DASCHLE. Accepting the Johnston amendment? We would be opposed to accepting the Johnston amendment. We want a rollcall on that.

Mr. DOLE. Right. So if it were adopted, then we could vote immediately then on the Daschle amendment, as modified. But if it were defeated, there would be probably another second-degree amendment. I think that is the only protection we would like to keep. There would be another second-degree amendment to the Daschle amendment which might be something that the Senator from South Dakota could agree with, maybe not. I am not certain.

Mr. DASCHLE. If the Senator from Vermont will yield again, let me just say we have been working in good faith on both sides to try to resolve this issue, and I especially commend the two managers for their efforts in trying to accommodate everyone. I do not understand, frankly, why it would not be in everyone's best interests just to have, even accept a tabling motion if that were the only option. But this process of second-degreeing all the amendments being offered precludes really an opportunity to have a vote on an issue that is quite simple.

So I understand and again accept the right of any Senator to offer second-degrees, but we would hope on this one, given the debate we have had, given the fact that we have had a good debate yesterday on the Dole amendment—the Senator was protected with second-degrees on that one—we could simply resolve this matter and go on to other amendments. I hope we would not have to have a second-degree on this one, too.

Mr. DOLE. I just want to be certain the Senator understands there could be a second-degree amendment.

Mr. DASCHLE. I understand that.

Mr. DOLE. I would not want to mislead the Senator. But could we then proceed, after the Senator from New Jersey and the Senator from new Vermont finish their statements, to vote on the Johnston amendment?

Mr. DASCHLE. My point is that we could agree to that if we could also agree at some point to have an up-or-down vote on the Daschle amendment.

Mr. DOLE. If the Johnston amendment is accepted, then the question is moot, of course.

Mr. DASCHLE. That is correct.

Mr. DOLE. So it would be hard to make an agreement until after we dispose of the Johnston amendment.

Mr. DASCHLE. If the Johnston amendment were not to pass, it would seem to me then the pending issue would be the Daschle amendment. And if that circumstance were to present itself, it would be helpful I think if we could then have an agreement that that would be the next vote followed without any intervening debate, we would go right to that vote and resolve this issue. If we could do that, I think we would be prepared to go to the vote on the Johnston amendment.

Mr. DOLE. I would have to check with other Members on this side before I could make that agreement. So maybe while they are debating, we can make some determination.

The PRESIDING OFFICER. The Senator from Vermont still retains the floor.

Mr. LEAHY. Mr. President, I do. And I will speak only briefly, as I know the leaders of this legislation want to go forward.

Mr. President, we have many, many issues on this bill, as we know, many issues now and many to come. But we have one issue that we ought to understand, and that is, will our food here in the United States continue to be the safest in the world, which I believe it now is. I believe it now is the safest in the world and it should continue that way. I believe this is important to every American. It is not an issue of whether you are a Democrat or a Republican. You want to have safe food. It is important certainly to every parent as it is to me as a parent because we know that children are uniquely vulnerable to contaminated food. Many times the things that might just cause an adult to get sick can cause a child to die.

Safe food is important to our farmers and ranchers. It is how they make their livelihood. They have to assume the consumers have confidence that the food they raise will be the safest in the world. Our consumers need to have confidence in the safety of the meat they buy or we can all understand how quickly they will stop buying that meat.

In Vermont, meat is the real food that real people eat. It is not just some abstract question. In the United States, half of all farm revenues come from livestock production. Ranchers and farmers cannot afford to have their incomes hit by another food scare. Beef prices, believe me, are low enough already. They will sink through the floor if we have another scare, and that is why I am here.

In the last 10 years, we have been pushing the Agriculture Act to protect the safety of our food supplies. As the past chairman of the Senate Agriculture Committee I tried to pass legislation to reform our food safety laws. Indeed, the legislation I proposed are very similar to the Department's proposed food safety rules.

If you look at the meat inspection laws we have now, they were put in place after the Upton Sinclair book "The Jungle" that warned the public of a threat to their food supply. That was decades and decades ago.

Again, American people assume they walk into the grocery stores and buy meat that is safe. We have built a whole industry. Our ranchers, our livestock, people, farmers, all assume this is in there, this sense of safety. Those who own the stores and distribute them, our restaurants, fast food outlets, have to go on the assumption they are passing out safe food, and the American people assume that. And now we know that we can do much better and that we should allow the American people to have what is much better.

It is not an academic issue because, in spite of the best efforts of thousands of meat inspectors, there have been serious outbreaks of foodborne disease. In 1986, an outbreak caused by the E. coli pathogen killed two elderly women, sickened 37 persons in Washington State. Twenty-seven of them had eaten at the Taco Time restaurant in Walla Walla, WA. Two years ago another outbreak occurred in a Jack in the Box Restaurant. This foodborne illness outbreak, which began January 17, 1993, made over 300 persons ill, resulting in the death of three children. At least one child, a 4-year-old girl, had a stroke caused by hemolytic uremic syndrome caused by the outbreak.

Now, these are serious matters. My full statement will put out a number of things on it. But it is why I support the underlying amendment. I want to make sure that people have safe food, that our farmers and ranchers, producers, and distributors are protected. That is why I support the Daschle amendment. I think the second-degree amendment, with all due respect to my friend from Louisiana, I believe that this really creates only a figleaf. It just says that any risk assessment previously done will continue to be valid.

That does not solve our problem. It does not solve the problem of the people who have suffered from E. coli. It completely eliminates the Daschle amendment. The Daschle amendment, instead, says let us get rid of the roadblocks and protect the American people. We ought, as Senators, to be prepared to support the Daschle amendment. That is not Republican and Democrat. That is saying we want safe food that we buy and safe food our children eat and we want safe food sold. And we want to be able to tell ranchers and livestock owners and farmers that if you put your food in the chain, it is going to be protected and safe.

Now, I think that otherwise you are going to be voting on an effort to stop the real protection of the American people. I believe that the amendment we are soon to vote on means more delay and more sickness. We still have to have another cost-benefit analysis. There still will have to be a new peer review panel and a number of new issues litigated. It becomes a lawyer's dream. I think we ought to stand up for safety and approve the amendment from the Senator from South Dakota, Senator DASCHLE.

Mr. BRADLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

Mr. BRADLEY. Mr. President, I would like to share with the Senate the story of a young woman named Katie O'Connell. She was 2 years old and she died from eating hamburger at a fast food restaurant. Unknown to anyone, her meal was contaminated with E. coli, the deadly pathogen that really is the subject of this amendment. Sadly, the meat that Katie ate had been declared safe by inspectors from the U.S. Department of Agriculture. Katie died from a disease that should have been detected through our Federal meat inspection system. Katie is no longer alive because that system failed her and her family and has failed thousands of others across this country.

Diseases caused by foodborne illnesses often strike those who are most vulnerable in our society, our children. Last summer health officials in my home State of New Jersey, where Katie lived, found another outbreak of the disease that killed Katie just a short time before. One family, the McCormicks in Newton, NJ, had two of their children, ages 2 and 3, hospitalized. Their lives were endangered because they, too, ate meat that was declared safe by Federal inspectors at the Department of Agriculture.

These cases are far from isolated, unfortunately. The Centers for Disease Control estimates that there are over 9,000 people who die and another 6.5 million people who get sick every year from foodborne illnesses.

The USDA regulations proposed last February as an effort to meet this crisis would require daily testing for salmonella at meat and poultry processing plants across America. Additionally, each of the Nation's 6,000 slaughterhouses and processing plants would have to develop operating plans designed to minimize possible sources of contamination; in other words, to design systems to avoid contamination in advance instead of fighting it after it breaks out.

Mr. President, I think this proposal offered by the Department of Agriculture represents a significant improvement over the current system, which has remained in place remarkably unchanged for over 90 years, since reforms were put in place in the wake of, as the Senator from Vermont says, Upton Sinclair's great book, "The Jungle."

Ironically, a cost-benefit analysis was done of these proposed rules. And what did the cost-benefit analysis show? Well, the costs would be $250 million per year, lowering to $200 million after the first 3 years. And the benefits from these regulations would be at least $1 billion per year. In other words, almost a 5-to-1 ratio in terms of benefit over cost. That does not even really count the other fact here, Mr. President, that the Department of Agriculture used a relatively low number of $1 million, for the value of each human life. Contrast these cost with the savings to consumers of $1 to $3.7 billion per year attributable to lost wages and medical costs for sickness caused by foodborne disease that would be paid out without this rule.

Mr. President, what would be the cost to consumers if every penny of this system's cost were passed along? If every penny of the cost of these proposed regulations were passed along to consumers, the cost would be two-tenths of 1 cent per pound. That is right, two-tenths of 1 cent per pound. So a consumer would have to buy 5 pounds of hamburger before incurring any cost at all. Surely, the typical American family would be more than willing to pay this modest price to make sure that when they buy meat or go down to the fast food franchise and buy a cheeseburger for their child, that it will be safe meat.

Mr. President, I know some of my colleagues will say, "Why eliminate these regulations? Why exempt these regulations from the coverage of this regulatory reform bill?"

Why single out this particular issue? Well, I think there is an answer to that. It is pretty simple. I do not want any more children to die. According to the USDA, the summer months are the prime time for foodborne diseases. In fact, last month alone, there were at least four more disease outbreaks. How many more will have to die before we take action, before we allow the regulations that have been proposed to go into effect and to assure families across this country that their children are not going to eat contaminated meat at a fast food franchise?

Mr. President, the National Academy of Sciences recommended that the USDA use this new kind of system that was proposed last February. They recommended it first 10 years ago. Yet, these proposed regulations have been the subject of countless hearings, roundtable meetings with industry and consumers, and on and on.

At one point, the industry even claimed that the E. coli organism was not technically an adulterant under the food safety law, clearly an attempt to deny the agency the ability to regulate E. coli. Mr. President, do we really need to waste years, lives and money redoing all the old analyses and creating new ones in an effort to stall or even defeat these regulations?

Senator DOLE's amendment that he offered yesterday modified the bill slightly regarding the effects of S. 343 on E. coli regulations. Senator JOHNSTON's second-degree amendment to the Daschle amendment would modify it further, but unfortunately not enough to ensure that the regulations would not be caught up in a revolving door of petitions and sunset provisions which could plunge the regulations into a swamp of uncertainty and litigation. The resulting delay would cause even more cases of sickness and death, and the delay is unnecessary.

I am very concerned that these regulations are already a target of Members in the other body who would try to delay them further through appropriations riders and other techniques. Instead of delay, I urge my colleagues to stop interfering with these regulations. They are exactly the kinds of regulations that we claim to want. We have them. They are here. They are cost-effective. They deal with a serious problem, and they have been subjected to close scrutiny by a wide variety of interests.

So, Mr. President, I urge that we reject the amendment by the Senator from Louisiana and adopt the amendment offered by the distinguished Senator from South Dakota and take a giant step toward protecting our families from outbreaks of E. coli on our next visit to a fast food franchise to buy a cheeseburger for our son or daughter.

I yield the floor.

Mr. CRAIG addressed the Chair.

The PRESIDING OFFICER. The senior Senator from Idaho is recognized.

Mr. CRAIG. Mr. President, I might ask in the next few moments if the Senator from New Jersey will remain and we can visit about this issue only briefly because I express the same kind of urgency and the concern that the Senator has just expressed as it relates to a new inspection food safety process that the U.S. Department of Agriculture has begun to put in place, known as HACCP.

Let me also suggest that it was the meat industry of this country that brought this process and concept to USDA and suggest that this be the process that come forward. Why has it not come since 1906 until today? Why have we not been able to change the process? Everybody skirts the issue, but nobody talks about it. Has the industry wanted to change? Not always. The Senator is right. Guess who else has not wanted to change? The thousands of unionized meat inspectors who did not want to lose their jobs, even though—it is very important this be said in the totality of the discussion—even though it might have meant a safer product coming to the market.

In my State of Idaho and in the President's State of Idaho where the beef industry is critically important, 2 years ago something else happened. A child, not unlike the child that the Senator from New Jersey spoke of, went to a fast food restaurant to buy a hamburger and became critically ill. She did not die, but she was near death. It was the result of having ingested an E. coli bacterial-contaminated meat patty. We are all concerned about that.

But the fundamental question is simply: Does what we are doing here today or what we did yesterday stop the process that is currently under way in the U.S. Department of Agriculture? The answer is no.

But there is another side to this story that is very important to discuss, beyond the politics and the rhetoric and the headlines that we have seen over the last 2 weeks that even the Senator from New Jersey would probably argue are not all fact.

When they argue that S. 343 will poison the food chain of America, that is not only not fact—and that is what they argued—that is a fabrication. Here is the reason it is, here is why the Senate ought to know this before they vote on the Daschle amendment.

Is it possible in the producing and the processing of food through to the consumer, be it the restaurant or the home dinner table, to produce a zero-risk food? The answer is, absolutely it is not possible to do. Even though America has the safest food in the world, and even though in the last couple of months in consumer reports from Europe, American meat products are preferred 5 to 1 over any other meat product of the world, and the answer is, because it is the safest in the world; the answer is, it is not zero-proof safe. Why? Because it is not possible to create a zero-safe environment.

Why? Because the Centers for Disease Control in a survey started in 1973 and concluded in 1989, in analyzing the pathogenic-borne food illnesses and deaths, answered the question this way: 97 percent of all deaths occur because of the way the food was prepared for the table, not the way it was processed in the plant.

It is fundamentally important for this Senate to know and for us to understand that the Daschle amendment changes not one iota of that equation. It is false rhetoric on the floor of the Senate to argue that somehow this will make meat safer. It is already 99.9 percent safe, and that is as safe as we can get it, and the institution of HACCP by USDA is an effort to make it 100 percent.

But we must face reality, and there are two very prevalent realities out there: One, we have to expect the preparer of the food to have a responsibility, and we cannot exempt them from that.

Second, something else is happening in America today. As we all become busier people—and we have—the bottom line is we cannot regulate a perfect world. We have to expect the consumer to have a responsibility in the preparation. So does S. 343 change the temperature of the grill in the fast food restaurant? It does not. It has absolutely nothing to do with it.

Here is the problem, though, with what we want to do to create the flexibility. Does the Daschle amendment create lookback so that if HACCP is not working well, we can adjust it? It does not. Do we want to lock in a process that is already one put upon the other, the other one being the old one that is not working anymore, because this administration has tried to bind all two together and you cannot do that and get a product that creates an efficiency in the market. No, it does not. In fact, it may lock us into an imperfect process that we are trying to institute to be a better one.

I hope, as someone from a State that is a major producer of meat products and from a State that is a major consumer of meat products and someone who worked with Mike Espy from day one to create a better process, that we deny the Daschle amendment because we do not want to lock in the forming of a process that may, to date, be imperfect. And staff tells me—and I believe they are accurate—that this may do just that. It may deny us the opportunity to adjust and change in our pursuit of the perfect, because the Senator from New Jersey knows, as I have seen him nod his head, we cannot get to the perfect because perfect is impossible; we can only create the best. Then we must say to the consumer of America that you, too, have a responsibility, whether it is the chef of a local fast food restaurant, or whoever, to make sure that the center of that hamburger patty has reached the temperature that might kill bacteria if it is present, and to say to the preparer in the family home that you, too, have a responsibility because 97 percent of the E. coli deaths in America occur because of the latter and not the former.

Mr. GLENN. Will the Senator yield?

Mr. BRADLEY. Well, I think he wanted to engage me in a colloquy for a question, the answer to which is yes.

Mr. CRAIG. Thank you.

(Mr. GRAMS assumed the chair.)

Mr. BRADLEY. I would like to respond briefly, if I could. I think the Senator makes a number of very good points. There is no question that many of the illnesses with regard to meat come about because the meat is not cooked properly, not cooked well done. Many of us like our meat raw, red. If you do, you increase your chances of E. coli pathogens.

Mr. CRAIG. Only reconstituted meat. Not the steak, but the hamburger.

Mr. BRADLEY. My point is that, after Katie died, I remember giving all kinds of speeches, urging that people insist that all hamburgers be well done, be cooked fully, urging owners of fast food franchises to take that as a responsibility. Some responded, some did not. So let me agree with the Senator on that point.

As to the real reason that has prevented the new regulations from going into effect over many years, well if it was the union, in that case I am against the union. I don't know the reason. I am for the consumer. Let us get the thing done.

Mr. CRAIG. Let me regain my time to say this. From the day that this administration began to work on this process of food inspection, there is no reason to accuse anybody. Everybody worked as quickly as they could to bring the new process on line. My only argument there is, why did it take us from the year 1906 to today to improve a process that we knew 30 years ago ought to be improved?

My point is simply this, relating to the Daschle amendment: The process we are putting in place is not yet complete. The administration knows that. So let us not lock ourselves once again in time and place. Let us be able to look back and make sure that it works, that it is an integrated, evolving process to make a safer meat product than, in my opinion, what the Daschle amendment does free standing, because it happens to fit the political debate of the day. That is not right.

Mr. GLENN. If the Senator will yield for 1 minute, the Daschle amendment——

Mr. BRADLEY. Mr. President, who has the floor?

The PRESIDING OFFICER. The Senator from Idaho has the floor.

Mr. GLENN. When did it get off the Senator from New Jersey?

Mr. CRAIG. I regained my time. But I will yield to the Senator from Ohio.

Mr. GLENN. The Daschle amendment permits USDA to go ahead, without going back and going through the hoops and the new things that would delay the regulations being put out that would be required under S. 343. That is what he does.

Recent surveys have shown that about 4 percent of the ground beef in supermarkets is tainted with E. coli. I do not know what else. That is 1 out of 25 hamburgers, if you want to put it on a percentage basis.

Mr. CRAIG. That is why they should be cooked thoroughly.

Mr. GLENN. Contamination of meat and poultry products sickens 5 million Americans a year and kills 3,500 to 4,000 people every year.

Mr. CRAIG. But 97 percent is as a result of preparation at the home, not at the factory.

Mr. GLENN. Maybe some are. If we prevent deaths with this legislation, what is wrong with going ahead where we know there is a clear and present danger?

Mr. CRAIG. That is not the issue.

Mr. GLENN. That is what Daschle does, whether you think so or not.

Mr. CRAIG. That is what Dole did yesterday.

Mr. GLENN. No, that is not what Dole did yesterday. You have not been listening to the debate on the floor.

Mr. CRAIG. I was here for 3 hours yesterday.

Mr. GLENN. And we went through some of that this morning.

Mr. CRAIG. Mr. President, let me at this point yield the floor. My concern is, of course, is the Daschle amendment creating the flexibility to allow the HACCP process for food inspection to go forward and to be changed and adjusted, as we do for the sake of a better product and program.

I yield the floor.

Mr. BRADLEY. Mr. President, I will not be long, but I would like to continue what I was saying before in response to the statements made by the distinguished Senator from Idaho.

I am all for cooking the meat. Let us cook the meat. But before the meat is cooked, 1 out of 25 hamburgers has E. coli bacteria in it. That is not produced by the person who is preparing it. That exists because it has not been caught earlier; 1 out of 25. So if the distinguished Senator is so concerned about the health of our children—and I believe he is, and I believe the industry is, if for no other reason than self-interest—then we need a new system of inspection, a system that will increase our chances of detecting E. coli before it reaches the unsuccessful preparation process.

So all the Daschle amendment says is, exempt E. coli from the potential of further delays, further petitions, further litigation, and a much longer time before it will ever be in place to capture and prevent the E. coli from being passed on to consumers.

Mr. JOHNSTON. Will my friend yield?

Mr. BRADLEY. No, I will not yield. And so all the Daschle amendment says is exempt E. coli regulations from this bill. If the distinguished Senator does not want E. coli to be in the meat of children in this country, in 1 in 25 hamburgers before preparation, then he should exempt it. Now, I believe that he does not, and I know that he has worked faithfully and diligently with the Department of Agriculture in an attempt to get an agreement among all parties. He is, in a very real sense, somebody who likes to build consensus. And I believe that what we have in the new amendments, as he said, is a much better job—a much better job—than current law. The Senator would admit that.

Is the regulation regime projected to be perfect? No. Is it much better than the current situation? Yes. All we are saying is, allow it to be put in place and do not make the very, very best the enemy of the very, very good, with the hope that at some distant moment, we will have the perfect set of regulations. Or 15 years from now, when we get to that point, there will have been 9,000 more people every year dying and more kids like Katie O'Connell dying.

Put it in place now, and revisit it later. That is what the Daschle amendment says by exempting E. coli from this regulatory reform bill.

Mr. JOHNSTON. Will the Senator now yield?

Mr. BRADLEY. I yield the floor.

Mr. JOHNSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Mr. JOHNSTON. I am disappointed that my colleague would not yield for a question, because I wanted to ask him, did he not admit that the Johnston amendment allows this E. coli regulation to go forward? It does, and he has left the incorrect impression that the Johnston amendment somehow stops this regulation, and it does not.

Let us be candid, Mr. President, about our representations out here. Let us not give the impression that the Johnston amendment somehow is going to allow this hamburger to be tainted and go forward because it stops the E. coli regulation.

It does not. It solves the problem. It is clear that it does. There is no argument that it solves the problem.

Mr. President, I hope my colleagues understand that.

Mr. HATCH. Mr. President, I think we have debated this long enough. I think we have gone on and on here. Frankly, these are important considerations. We need to move on, on this bill.

I think Senator DASCHLE's amendment goes way too far. Exempting the Department of Agriculture's HACCP rule in its entirety is unnecessary.

The distinguished Senator from Louisiana is absolutely correct in the way he has characterized his amendment. Frankly, there is no reason to go to that extent.

There would be arguments—do we not exempt everything else, too, which is, of course, one of the ploys of those who want to defeat this bill. Sooner or later if we want to do something about overregulatory conduct in this society, we will have to pass this bill.

I commend the distinguished Senator from Louisiana for his ingenuity in coming up with this amendment. I support Senator JOHNSTON's approach. It leaves it to the agency head's discretion to determine whether a new risk assessment is necessary for final rules, where one has already been conducted for proposed rules.

This solves the problems for all rules. When an agency has done a risk assessment for a proposed rule before the effective day of this act, if the risk assessment has been properly done, why would we want to force them to do it over again? It just makes sense—again, common sense approach to common sense problems.

The Johnston amendment solves the problem, and it does it in a reasonable way without sharing any preference to industry, any group of people, any particular agency. It allows this bill to work to try and resolve the overregulatory aspects of our society.

As for the effective date provision, I think the April date is fair and will significantly prevent extra costs to the agencies which have already performed good cost-benefit analysis—and risk assessments, I should add—for proposed rules. Not to have them redo them, over again, just to comply with certain procedural requirements. It makes sense. It just makes sense.

The Daschle amendment is totally unnecessary. Any emergency situation is already exempted under S. 343. We take care of it. The language is clear. If a rule needs to be promulgated quickly to protect health, safety, and the environment, S. 343 allows prompt promulgation of those rules.

Concern that S. 343 will not allow rules to protect against E. coli bacteria to go forward is nothing but sheer hype.

The Johnston amendment allows for the proposed rules in the guidelines, in the pipeline, where money has been spent on studies, risk assessment, or cost-benefit analysis, not to have to go through these analyses again. It just makes sense.

Thus, the E. coli and food safety regulations will go forward under the Johnston amendment.

I hope our colleagues will support the Johnston amendment, because I believe that it is a reasonable approach to try and resolve these problems.

It is no secret that there are some who do not like the Johnston amendment, also. For some reason, there are some people who want to go back 50 years, if they could, and revoke everything.

Well, I want to go forward and start doing what we have to do to get this overregulatory burden off our backs in this country so this country can compete and be more competitive with the rest of the world, so that we can have our citizens treated more decently, so that the costs are not eating Americans alive, so that people do not die because of the overregulatory aspects of our society, which is happening today, and so that we have some reasonable, decent, honorable way of trying to get regulation and overregulation under control.

I think we need to go to a vote on this. I am prepared to go to a vote on the Johnston amendment, and we will see where we go from there.

If the Johnston amendment passes, it ends this issue as far as I am concerned. If it does not pass, we will have to look at it at that point.

I have to say that I do not think the Johnston amendment solves every problem. There are some legitimate concerns on our side that people have. Legislation cannot always be perfect—just like food safety cannot be zero risk. We have to do the best we can under the circumstances. This is the best we can do under the circumstances.

I commend the distinguished Senator from Louisiana for being willing to try and resolve this issue. I think his amendment does resolve it, at least on the issue of E. coli and other meat and poultry matters.

Frankly, if all agencies, in the sense of the agency head's discretion, so they did not have to do unnecessary, duplicative efforts on risk assessment and cost-benefit analysis—it makes sense. I think anybody with brains has to consider it makes sense, and I hope we vote this amendment up and get on with the rest of the amendments on this bill. I yield the floor.

Mr. BRADLEY. Mr. President, I would like to make sure that the record is absolutely clear in this debate.

I heard my distinguished colleague from Louisiana take umbrage at my characterization of his amendment. I would like the RECORD to state that, yes, indeed, he allows the E. coli regulation to be placed into effect. He exempts any regulation promulgated before April 1, and the RECORD should show that; that it is the other amendment, the underlying amendment, that has the biggest problem.

I think the distinguished Senator from Louisiana offers an amendment that is a vast improvement over the amendment offered by the distinguished Senator from Kansas—a vast improvement. I salute him for offering this amendment and moving the Senate forward.

However, unfortunately, it is not enough. It is not as much as I think we need. It allows endless petitions. It allows sunsets to be placed on the regulation.

I believe we should simply exempt E. coli and let the Department of Agriculture do what they are going to do, without any kind of back-door or unforeseen event, and strengthen this regulation, to protect the food and meat for people in this country. I yield the floor.

Mr. GLENN. Mr. President, I, too, want to get on with the vote on this. I will be very brief and take just a couple of minutes.

In summary and in response to the Senator from Utah, the manager on the other side, I, too, wish that we had a separate vote on this Johnston amendment. We might be able to vote for it, but not if it replaces Senator DASCHLE's amendment.

The Department of Agriculture informed us whether they have to do a second risk assessment in the final rule stage, they are not going to be able to say that they are already doing risk assessment, complies with the requirements of S. 343, as it would be amended by the Dole-Johnston substitute. In other words, they would have to go back to least-cost, new procedures—all subject to judicial challenge and so on.

Mr. JOHNSTON. Will the Senator yield?

Mr. GLENN. I am happy to yield to the Senator.

Mr. JOHNSTON. The Senator recognizes that since the notice of proposed regulation was put out prior to April 1, 1995, that it would be exempt totally from risk assessment and cost-benefit, under that part of the amendment as well as the other part, am I correct?

Mr. GLENN. Yes.

Mr. President, this brings up the second point. That is, moving the effective date to April 1 for new proposed rules. While it may be an improvement from an across-the-board immediate effective date, unfortunately I do not think that goes far enough.

This bill cannot be met within a few weeks or even a few months.

The new rulemaking procedures, the new least-cost, all the rest of these things that go into this thing are something that is going to take some time to do.

April 1, as an example, setting that as the cutoff time, means that regulations on mammography would be cut off. Regulations on the educational title I, help for the disadvantaged, where they are planning to implement those regulations this fall, in school this fall—those would be cut out.

Mr. JOHNSTON. Mr. President, will the Senator yield on that point?

Mr. GLENN. Yes.

Mr. JOHNSTON. Under the Johnston amendment, each one of those rules, having had a notice of proposed rulemaking prior to April 1, is exempt from this bill.

Mr. GLENN. I believe on all these the notice of proposed rulemaking was April 1.

Mr. JOHNSTON. On mammography? If the notice of proposed rulemaking was after April 1, how is it scheduled to go into operation right away? Most of these rulemakings, the Senator told me, take a long time.

Mr. GLENN. An interim rule was published on mammography on December 21, 1993, and publication of proposed regulations is planned for October 1995.

Mr. JOHNSTON. The April 1 date, under the Johnston amendment, is a notice of proposed rulemaking. So this notice has been out for years.

Mr. GLENN. Publication of proposed regulations is planned for October, 1995.

Mr. JOHNSTON. I know, but when was the notice of proposed rulemaking? That has been in operation—that has been out there for years.

Mr. GLENN. I do not have a particular date on that. It was my understanding, and the people that administer this have interpreted the Senator's proposal, his amendment, as cutting them off.

Mr. JOHNSTON. Mr. President, did the Senator not just tell me the notice of proposed rulemaking was 1993 or something?

Mr. GLENN. No, I said publication of the proposed regulations was planned for 1995.

Mr. JOHNSTON. You gave me a date in 1993 there?

Mr. GLENN. That was an interim rule published in 1993.

Mr. JOHNSTON. There had to be a notice of proposed rulemaking prior to the interim rule.

Mr. GLENN. I am told these are covered at different dates. I would have to go back and correct this. But the people administering this have looked at what the Senator is proposing and they say it would cut them off.

Mr. JOHNSTON. Mr. President, I tell my dear friend, that cannot be. It just cannot be.

Mr. GLENN. Mr. President, I will go on with this and then I propose we get on with the vote on this as soon as we can.

I was talking about the Elementary and Secondary Education Act. That would be held up because the dates on that—the final rule is coming out by July 1, 1995. That would be knocked out. The flammability standards for upholstered furniture would be knocked out. Cable lead wires used on medical equipment—that has caused considerable problems. There is a new rule coming out that would be held up.

This April 1 deadline, whether we argue about proposed rulemaking or specific dates, a couple of things that came to our attention this morning would be held up.

Mr. President, with that I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. EXON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. THOMPSON). Without objection, it is so ordered.

Mr. EXON. Mr. President, I ask unanimous consent that I be allowed to proceed as in morning business for no longer than 6 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

LIES THAT PORNOGRAPHERS TELL

Mr. EXON. Mr. President, I am going to be asking unanimous consent for publication of a letter in the RECORD at the appropriate point, and I would like to ask unanimous consent that the heading of this letter, when it appears in the RECORD, be entitled "Lies That Pornographers Tell."

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EXON. Mr. President, the letter that I referenced is a letter from attorney Bruce Taylor, of the National Law Center for Families and Children, dated July 10, 1995, and I ask unanimous consent that that letter, and an introductory memorandum, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NATIONAL LAW CENTER FOR CHILDREN & FAMILIES

MEMORANDUM OF OPINION IN SUPPORT OF THE COMMUNICATIONS DECENCY AMENDMENT AS ADOPTED BY THE U.S. SENATE ON JUNE 14, 1995

The National Law Center for Children and Families ("NLC")[1] is of the opinion that the Communications Decency Amendment ("CDA") is both effective and constitutional, as adopted by the United States Senate on June 14, 1995, by a vote of 84–16 in favor of Amendment 1288 to Title IV of S. 652, The Telecommunications Competition and Deregulation Act of 1995.

The CDA would clearly extend the historical proscriptions against the knowing distribution of obscenity to the burgeoning computer service networks, such as the "Internet", "Use Net", and "World Wide Web". The amendment also forbids the knowing dissemination of "indecent" material to minor children. Both provisions cover non-commercial, as well as commercial, transmissions. These are critically needed updates in federal law. Present law does not prohibit providing indecency to minors over computer-phone modem facilities, since children are protected from indecency only in commercial dial-porn messages over the phone lines, 47 U.S.C. §223(b)(2) and (c), or when broadcast over TV and radio communications, 18 U.S.C. §1464. Likewise, the CDA would clearly cover all distributions of hardcore obscenity over the computer networks, whereas existing law has been applied only to commercial sales of obscenity by computer bulletin board use of phone facilities, 18 U.S.C. §1465.[2]

"This much has been categorically settled by the Court, that obscene material is unprotected by the First Amendment."—*Miller* v. *California*, 413 U.S. 15, at 23 (1973)

"A requirement that indecent language be avoided will have its primary effect on the form, rather than the content, of serious communication. There are few, if any, thoughts that cannot be expressed by the use of less offensive language."—*F.C.C.* v. *Pacifica Foundation*, 438 U.S. 726, at 743 n.18 (1978)

In *Miller* v. *California*, 413 U.S. at 24–25, the Court announced it's "*Miller* Test" and held, at 29, that its three part test constituted "concrete guidelines to isolate 'hard core' pornography from expression protected by the First Amendment". The Court has consistently upheld federal and state obscenity laws which prohibit the public and commercial dissemination of such unprotected hardcore obscenity. The United States Government and the States have long banned the use of the mails for transporting obscenity. See: *Rosen* v. *United States*, 161 U.S. 29, 41–42 (1896); *Roth* v. *United States*, *Alberts* v. *California*, 354 U.S. 476, 493–94 (1957). The use of common carriers has also been banned for the transportation of obscenity, even for private use. See: *United States* v. *Orito*, 413 U.S. 139, 141–44 (1973). The Court has held that telephone companies are "communication common carriers" subject to federal jurisdiction. See: *United States* v. *RCA*, 358 U.S. 334, 348–49 (1959); *F.C.C.* v. *Sanders Bros. Radio Station*, 309 U.S. 470, 474 (1940). In 1988, Congress amended 18 U.S.C. §1465 to include new technologies, such as computer-phone modem systems, by adding the words "uses a facility or means of interstate commerce" to the prohibitions on commercial shipments of obscenity across state lines. (See: H.R. 3889, The Child Protection and Obscenity Enforcement Act of 1988, 100th Cong., 2nd Sess.)[3] By that 1988 Act, Congress also criminalized the use of cable, subscription, and satellite TV to distribute obscenity, 18 U.S.C. §1468.

Congress also spent several years developing a valid dial-porn statute, resulting in the present, constitutionally valid, version of 47 U.S.C. §223 (b) and (c), as amended in 1988–89. The Supreme Court upheld the power to completely ban obscenity from the phone systems. *Sable Communications of Calif., Inc.* v. *F.C.C.*, 492 U.S. 115, 124–26 (1989). In the *Sable* case, the Court struck down a total ban on indecent dial-porn to adults, but discussed with approval the reasonableness of the F.C.C.'s "least restrictive" practical methods to screen out minors, such as credit cards, access code-pin numbers, and scrambling. Id. at 121–22, 128–31. Tnis blueprint for a valid statutory-F.C.C. scheme was adopted by Congress and upheld by the courts as a valid means to prohibit the distribution of indecency to minors by these "least restrictive means" that allow adult access while providing adequate safeguards to protect all but "the most enterprising and disobedient young people". Information Providers' Coalition v. F.C.C., 928 F.2d 866 (9th Cir. 1991); Dial Information Services v. Thornburgh, 938 F.2d 1535 (2nd Cir. 1991), cert. denied, 112 S.Ct. 966 (1992).

The Senate version of the Communications Decency Amendments, as sponsored by Senators Exon and Coats, amends 47 U.S.C. §223 in a way that is consistent with and follows the Court's pronouncements on First Amendment requirements discussed in the cases cited above. Such an extension of the valid dial-porn law to computer porn would prohibit only illegal obscenity and restrict indecency only to minors, while allowing adults access to non-obscene indecent communications when the F.C.C.'s technical screening devices are used, or when similarly effective practical means are developed by the users or service or access providers themselves, even if beyond those of the present F.C.C. regulations. The "Exon-Coats" amendment is, thus, more protective of legitimate rights than the existing dial-porn scheme.

It is not a valid argument that "consenting adults" should be allowed to use the computer BBS and "Internet" systems to receive whatever they want. If the materials are obscene, the law can forbid the use of means and facilities of interstate commerce and common carriers to ship or disseminate the obscenity. See: Paris Adult Theatre I v. Slaton, 413 U.S. 49, 57 (1973). The Supreme Court has forbidden the criminalization of the mere possession of obscenity in the privacy of one's own home, Stanley v. Georgia, 394 U.S. 557, 568 (1969), but has rejected any "correlative right to receive it, transport it, or distribute it" since there is no "zone of constitutionally protected privacy [that] follows such material when it is moved outside the home area protected by Stanley". Orito, supra, 413 U.S. at 141–42. To the contrary, the Court has held that there is "a long-recognized legitimate interest in regulating the use of obscene material in local commerce and in all places of public accommodation". Paris Adult Theatre, supra, 413 U.S. at 58. The Court also held that Stanley "does not extend to one who is seeking . . . to distribute obscene material to the public, nor does it extend to one seeking to import obscene materials from abroad, whether for private use or public distribution". United States v. Thirty-Seven Photographs, 402 U.S. 363 376–77

Footnotes at the end of article.

(1971) (adding that "Congress may declare it contraband"). Perhaps the best defense for the CDA was summarized by the Court in Orito, supra at 143–44, where it held that Section 1462 could not be used to ship obscenity from San Francisco to Milwaukee by a common carrier, the airlines, stating:

"Given (a) that obscene material is not protected under the First Amendment . . . (b) that the Government has a legitimate interest in protecting the public commercial environment by preventing such material from entering the stream of commerce . . . and (c) that no constitutionally protected privacy is involved . . . we cannot say that the Constitution forbids comprehensive federal regulation of interstate transportation of obscene material merely because such transport may be by private carriage, or because the material is intended for the private use of the transporter. . . . Congress may regulate on the basis of the natural tendency of the material in the home being kept private and the contrary tendency once material leaves that area, regardless of a transporter's professed intent. Congress could reasonably determine such regulation to be necessary to effect permissible federal control of interstate commerce in obscene material, based as that regulation is on a legislatively determined risk of ultimate exposure to juveniles or to the public and the harm that exposure could cause." [Citations omitted.]

As the late Chief Justice Burger stated in Paris Adult Theatre, supra at 69: "The States have the power to make a morally neutral judgment that public exhibition of obscene material, or commerce in such material, has a tendency to injure the community as a whole, to endanger the public safety, or to jeopardize, in Mr. Chief Justice Warren's words, the states' [and the Nation's] 'right . . . to maintain a decent society." The Court has also recognized that legislatures "must be allowed a reasonable opportunity to experiment with solutions to admittedly serious problems", Young v. American Mini Theatres, 427 U.S. 50, 71 (1976), and Congress has taken up such challenges by updating the various federal obscenity, child pornography and exploitation, and telephone and broadcasting statutes to cover new ways that people invent from time to time to traffic in unprotected obscenity and the provision of indecency to minors. The overlap of some criminal acts by inclusion in two or more federal statutes, like the corresponding prohibitions of the various state laws, is a testament to the need to keep all federal statutes comprehensive and paying their individual roles in deterring harmful, unprotected conduct and allowing prosecution under various circumstances. Shortly after World War II, the Court upheld application of the common carrier laws to cover the new technology of phonograph records, recognizing the power and intent of Congress to legislate comprehensively to prohibit traffic in obscenity. United States v. Alpers, 338 U.S. 680682–83 (1950). Congress later amended Section 1462 to specifically include phonographs, so as to clarify and give undeniable notice to all what the law prohibits. Such a task is now before the Congress and the Communications Decency Amendment serves this dual and noble purpose. (Congress should likewise consider updating and clarifying Section 1462 to plainly prohibit commercial and non-commercial use of any and all common carriers, including telephone, wire, cable, microwave, satellite, computers, etc., for carriage of obscenity for private and public use in interstate, intrastate, and foreign commerce and travel. Times are changing, technology is advancing, but obscenity is till obscene, unprotected, and harmful.)

Much of the hard-core obscenity on the BBS and "Internet-World Wide Web" networks is placed there for sale or advertisement by members of the pornography syndicates and by fledgling pornographers. However, the vast amount of hard-core pornography on today's computer bulletin boards and interactive nets is placed there indiscriminately by individual "porn pirates" who post freely available pictures of violence, rape, bestiality, torture, excretory functions, group sex, and other forms of hard and soft core pornography which are as available to teenage computer users as to men who are addicted to pornography. A tough federal law is needed to deter such unprotected and viciously harmful activity and the CDA does just that, making such activity a felony in order to deter those who would violate such federally protected interests and public decency and safety concerns. This proposed law would remove hard-core obscenity from most of the generally available computer boards and sites and isolate those who continue so that the remaining obscenity distributors may be identified and prosecuted or deterred by their own lack of anonymity. Present law is not successfully serving its intended deterrence and apprehension roles, obviously.

The CDA would also channel indecent speech and pictures that are not obscene away from the general access public boards and sites where minors and non-consenting adults could take advantage of the serious uses and benefits of this new computer technology. The service and access providers could and would set up consensual access "adult" boards and sites where adults could subscribe or provide credit cards and/or access-pin codes and engage in all the "adult" (pornographic) speech they wish to consent to. This is no more burdensome than obtaining dial-porn, or cable television's pay-per-view or premium channels, or asking for "men's sophisticate magazines" at the convenience stores, or going to hard-core "adult" bookstores or into the "adult" porn section of video stores, etc., etc., etc. The hysterical arguments about indecency laws banning serious works of literature or library art, so cleverly but hypocritically pandered by the porn user's advocates, are no more real than they would have been under existing laws or in past enforcement actions by the F.C.C. The generations of law enforcement and judicial supervision have narrowly tailored the application of obscenity laws to "hard-core pornography" and indecency laws to intentional patterns of patently offensive sex, graphic sexual nudity, and four-letter "Seven Dirty Words". As the Court said in Pacifica, sura, 438 U.S. at 743, "the Commission's definition of indecency will deter only the broadcasting of patently offensive references to excretory and sexual organs and activities". The Court in Pacifica, at 742, also stressed that "indecency is largely a function of context" and that speech is not indecent unless it is so patently offensive for the time, place, and manner of its utterance that the community would universally disapprove of its open availability in those circumstances.

A review of the decisions of the Supreme Court and other federal and state courts shows that a slip of a four letter word of showing nudity for legitimate reasons has never been, nor would it be, found indecent under the F.C.C.'s, the Court's, or the Justice Department's interpretation of the term "indecent". Those in the ACLU and EFF who sound the screeching alarm are merely trying to deafen the gullible to drown out the screams of the children and parents who are being screamed off the modern age's most promising tool for education and global communications. They don't seek in earnest to "empower" parents to protect children, they want to force parents by the power of their arrogance to kick the kids off the system so they can trade dirty words and pictures. The Internet does not belong to the most obscene and indecent characters of this world, it was created and should be available to everyone, like radio, television, and telephone services, like the mails, common carriers, and other public interstate facilities. To these concerns should Congress turn in this critical time. The recent study of computer porn by the prestigious Carnegie Mellon University, as reported in the venerable Georgetown University law review provides ample reality to the real alarm being heard by the public and responsible public officials. The obscenity and indecency is totally out of control and the law is behind the times. The CDA merely modernizes existing federal law so that the old maxim that "the law is presumed to know what everyone knows" can be fulfilled.

The CDA as adopted by the Senate is both fair and reasonable. It intentionally safeguarded legitimate corporate and private rights. Some provisions of the CDA have even been criticized by pro-family groups as too lenient and providing too many defenses for pornographers, as well as too much exemption and good-faith defense for the online computer service access providers, such as Prodigy, CompuServe, NETCOM, and America On Line. The present version of the Amendment would, indeed, exempt the phone company carriers and computer access providers only to the extent that they provide mere access for users to connect to the services and boards of other companies and individuals beyond their control. This would not make the law ineffectual, however, it would simply channel the blame to those who deserve it and enlist the responsible corporations into taking good-faith efforts to avoid and block hard-core pornography and channel indecent speech to adults. To the extent any phone or computer access company would offer obscenity in their own boards, they would be as liable as anyone else. Likewise for making indecent material available to minors under age 18, if they do it-they are liable, but if they don't do it-they aren't liable if someone else does it. This puts the primary criminal liability on those who distribute obscenity to anyone and on those who make indecency available to minors without taking reasonable steps to limit it to adults. Although some people and groups may feel that the phone and computer access providers should bear responsibility for the traffic in obscenity and indecency that is available to minors, but the law need not extend the strictness of its liability to those who act in good faith or merely provide carriage to the illegal materials of others. Existing Section 1462 does not criminalize the act of the common carrier in merely carrying illegal materials. It prohibits the user from using the carrier to transport the obscenity. The carrier would be liable only if it acted beyond its role as a carrier and conspired with, or intentionally aided and abetted, the misuse of company facilities for illegal purposes. The same type of knowledge and criminal involvement would be required under the CDA and could be applied to such conduct.[4] The

CDA's restrictions to protect minors from indecent speech are the "least restrictive means" to protect minors while allowing adults access to non-obscene speech. This is all the public can demand of its laws. The law cannot impose strict liability, but the CDA is designed to provide a serious criminal deterrent to those who would put obscenity onto the computer nets or who would publicly post indecent materials within easy reach of children.

Consistent with this aim, the Amendment contains "good faith" defenses that would allow any company, carrier, Internet connector, or private individual to create reasonable and effective ways to screen children out of adult conversations and allow adults to use indecent, non-obscene, speech among adults. This would encourage, and enable (or "empower"), the access providers to take steps to enforce corporate responsibility and family friendly policies and monitor their systems against abuse. When they do take such steps, the good faith defense would protect them from becoming liable for unfound or unknown abuses by others, and that is all we think the law can ask of them at this point. There is only so much that can be done in a way that is "technically feasible" at any point in time (as the Court reminded us in Sable), and the CDA would not require anyone to take steps that are not technically feasible and does not, and should not, expect anyone to take all steps that may be technically possible.

This bill would also allow the States to enforce their own obscenity and "harmful to minors" laws against the pornographers and porn pirates. If they chose to regulate the carriers and connectors, they would be bound by the Supremacy Clause of the Constitution and the First Amendment to using consistent measures. This "pre-emption clause", subsection (g), is not intended to be inconsistent with existing requirements for the States to meet under any criminal law. The joint role of federal and state prosecution of those who distribute the obscenity, and indecency to minors, is intended to be a specifically preserved.[5]

The good faith defense also allows responsible users and providers to utilize the existing regulations from the F.C.C. for dial-porn systems, until such time as the F.C.C. makes new regulations specifically for the computer networks. This means that a company or individual who takes a credit card, pin number, or access code would be protected under present F.C.C. rules if a minor stole his parent's Visa card or dad's porn pin number. In other words, some responsibility still resides with parents to watch what their kids are watching on the computer. This is serious business and there is a lot of very harmful pornography on the "Internet", so parents better take an interest in what their children have access to, and cannot rely on the law or the businesses to solve the entire problem for them. Federal law can make it a crime to post hard-core obscenity on the computer boards, but many people are willing to break the law. The porn pirates are posting the kind of porn that hasn't been sold by the pornography syndicates in their "adult" bookstores in nearly 20 years. This law should deter them for doing that any longer and it would allow federal prosecutors to charge them for it now.

The defenses to indecency are available to every one, so that every one has a chance to act responsibly as adults in protecting children from indecency. This is what the Supreme Court will require for the indecency provisions to be upheld as "least restrictive" under the First Amendment. Conversely, no one has a defense to obscenity when they distribute or make obscenity available. The only exception to this is for the carriers and connectors in their role as mere access connectors, only then would they be exempt from the obscenity traffic of others. However, if the on-line service providers go beyond solely providing access, and attempt to pander or conspire with pornographers, for instance, then they would lose their obscenity exemption and be liable along with every one else. This is a limited remedy to prevent the bill from causing a "prior restraint" on First Amendment rights. This bill would be nothing at all if it were struck down or enjoined before it could be used against those who are posting, selling, and disseminating all the pornography on the computer networks.

There has been some criticism that this bill in adopting good faith defenses would make it ineffectual and that this would weaken the bill in the same way that the existing dial-porn law is not completely effective. We disagree. The defenses in the dial-porn law were necessary to having that law upheld by the courts. Without them, it was struck down by the Supreme Court. Only after the F.C.C. provided its technical screening defenses was the law upheld by the federal appeals courts. This law adopts those constitutionally required measures for indecency and for obscenity only for the mere access providers. The dial-porn law has removed the pre-recorded message services from the phone lines. The pornographers have gone to live credit card calls. To the extent they are still obscene, they can and should be prosecuted by the Department of Justice, with the help of the F.B.I. That is what it will take to remove the rest of the illegal dial-porn services. The most ineffective part of the dial-porn law is not the F.C.C. defenses, they are fine. What is broken is the phone company defense in the statute, 47 U.S.C. §223(c)(2)(B), that allows the bell companies to rely on "the lack of any representation by a provider" of dial-porn that the provider is offering illegal messages. This means that if the dial-porn company does not tell the phone company that the messages are obscene or going to children as indecency, then the phone company doesn't have to block all the dial-porn lines until an adult subscribes in writing. This is not workable and should be fixed by Congress. The dial-porn law should also be amended to give good faith reliance only of a false representation by a dial-porn provider. If the phone company doesn't know about a dial-porn service, then they should not be responsible. However, the phone company should block all the dial-porn lines and only unblock them on adult request. This is the provision that is causing the phone companies not to act, not the F.C.C. defenses. There is no such provision in the CDA that would allow the carriers or connectors to wait for the pornographers to confess guilt before they must act. If they know, they must act in good faith. No more, no less. This computer porn law is, therefore, better than the existing dial-porn law in that respect.

This amendment would allow federal prosecutions against the pornographers and porn pirates immediately, thus removing much of the hard-core material from the networks that the carriers would be providing access to. A more perfect solution, if any there could be, cannot wait several months or years. If Congress has to exempt the connectors as long as they merely carry the signal and otherwise act in good faith, then so be it. If they abuse it, then Congress can take that break away when it is shown that they don't deserve it. In the meantime, the CDA will give federal law enforcement agencies a tool to get at those who are responsible for distributing the obscenity that is at the heart of the complaints at present. It is a good and constitutional law and arguments that it is too much Government involvement, or not enough, are not true, not realistic, and should not lead Congress to bypass this opportunity to enact an effective remedy to protect the public and our children from this insidious problem.

Bruce A. Taylor, June 29, 1995.

FOOTNOTES

[1] The National Law Center for Children and Families ("NLC") is a non-profit legal advice organization which supports law enforcement and governmental agencies in the prosecution and improvement of federal and state laws dealing with obscenity and the protection of children.

The author of this Memorandum, NLC's Chief Counsel, Bruce Taylor, has been prosecuting obscenity and child pornography cases since 1973, presenting over 85 cases to juries and numerous oral arguments on appeal, as: Senior Trial Attorney, Child Exploitation and Obscenity Section, Criminal Division, U.S. Department of Justice (1989–94); Assistant Attorney General of Arizona (1989); General Counsel, Citizens for Decency through Law, Inc. (1979–89); Associate in Bertsch, Fludine, Millican & O'Malley, L.P.A. (1978–79); Assistant Director of Law, City of Cleveland (1977–78); Assistant Prosecutor, City of Cleveland (175–77); Chief Law Clerk to the Cleveland Prosecutor (1973–75) (see attached Resume of Bruce A. Taylor).

[2] The CDA and existing Section 223 are attached hereto.

[3] It was under Section 1465 that the Government convicted the operators of Amateur Action BBS in the Western District of Tennessee for shipping hardcore obscenity, depicting rape, incest, torture, children, excretory functions, etc, etc., from Milpitas, Cal., to Memphis by computer-phone modern facilities. The case is U.S. v. Thomas and is presently pending in the U.S. Court of Appeals for the Sixth Circuit. Interestingly, the A.C.L.U. and the Electronic Frontier Foundation, and some interactive computer service and access providers argued, as amici curiae in support of the Defendants, that present law did not apply to the computer systems, BBS and Internet networks, and that the material should be judged according to the "cyberspace" community standards of the customers of such pornographic distributors. This alone should illustrate the need to clarify and update all federal laws on this subject.

[4] In this regard, the Senate version of the CDA would be more clear if it were amended to add the words: "or who aids, abets, or advertises for," after the phrase "or a conspirator with" in subsection (f)(1).

[5] In this regard, the CDA would be more clear by replacing the words "this section" at the end of the pre-emption clause, subsection (g); with: "subsections (a)(2), (d)(2), or (e)(2)". As we pointed out in Senate colloquies, this is intended to preserve the right and ability of the states to enforce this obscenity and harmful to minors statutes, consistent with the decision of the Court in Roth-Alberts, supra, 354 U.S. at 493–94.

LIES THAT PORNOGRAPHERS TELL

NATIONAL LAW CENTER
FOR CHILDREN AND FAMILIES,
July 10, 1995.

Re Cox-Wyden bill on the Internet connectors as consistent with Exon-Coats Senate CDA.

Hon. CHRISTOPHER COX,
House of Representatives, Cannon House Office Building, Washington, DC.

Hon. RON WYDEN,
House of Representatives, Longworth House Office Building, Washington, DC.

DEAR REPRESENTATIVES COX AND WYDEN: Please excuse the length of this letter, but much misinformation needs to be corrected and this is an issue of utmost importance to America's children and families. You have been lied to. I'd like to give you my views on the pornographer's propaganda and offer an explanation of the true meaning of the Exon-Coats amendment dealing with computer assisted obscenity and the problem of indecency being made available to minors.

A review of your proposed legislation to protect the computer information service providers shows that you are trying to accomplish the same objectives as the Senate version of the Communications Decency Amendment ("CDA"). Whatever you may have been led to believe about the "Exon-Coats Amendment" is obviously incorrect. The Senate bill accomplishes the same benefits and protections your proposed bill seeks to provide. However, I feel your bill, in giving immunity and a defense without a corresponding offense, will have the opposite effect to that which you seek.

Your bill imposes no obligations or prohibitions on either the computer or phone companies, nor on the pornographers. No one would be required to remove or restrict obscenity from the Internet or any BBS bulletin board systems, or to restrict indecency from minors. If any company wishes to take responsible corporate policy measures, your bill would only seek to protect them from civil liability. Under the Senate CDA, every company must clean up its own facilities, could not assist other persons to violate the law, and would be protected from both civil and criminal liability for good faith steps to enforce a responsible policy and restrict obscenity from everyone and indecency from minors.

Your explanatory statement for the Cox-Wyden Bill to protect the access provider Internet connectors (Prodigy, AOL, etc.) expressed a genuine concern for the unfairness of holding these connectors liable civilly for acts they may take in good faith to restrict or prevent the transmission of offensive materials over their facilities and services.

I think that your proposed measure is consistent with and intends a like result as the Communications Decency Amendment (CDA) of Senators Coats and Exon. The defense-immunity in your proposal, and the exemption and defenses in the CDA, as passed by the Senate, are co-extensive, not different. It is apparent to me that your purpose would be furthered by supporting the Senate's CDA (and even adding some additional provisions to the House version of the CDA, as discussed below and in my attached Memorandum of Opinion in Support of the CDA).

The New York decision against Prodigy, to which you referred, is a lawsuit result to which we also disagree. In fact, the Exon-Coats amendment recognized the same concern by granting those access providers and phone carriers an exemption from criminal liability for crimes committed by others over the facilities of others beyond their control, in (f)(1). The CDA also provides a good faith defense to offenses committed over one of their own facilities, if they take steps to restrict or prevent such offensive or unlawful communications, in (f)(3). Then, the CDA provided a civil hold-harmless provision to protect users and providers from liability for lawful acts taken in good faith to avoid liability for the offenses specified in 47 U.S.C. §223, as amended, in (f)(4).

The Senate CDA does not exempt access providers "if they exercise 'no control' over the information their customers get", as your release states. Just the opposite is true. A phone carrier or access connector is only exempt, under (f)(1), from crimes committed over facilities over which that company "has no control". If they have control, they must act (such as over their own boards and chat lines and over services with which they enter contracts or carriage agreements). If they truly have no control, they are not strictly liable for another's offenses (such as over a university or pornographer's board existing independently on the Internet or Use Net or World Wide Web to which they "solely" provide unassisted access.

To the extent the phone and access companies learn of other people abusing their systems with unlawful activities, they can and must act in good faith to prevent or restrict access to the offensive and unlawful materials, under (f)(3). The phone carriers and access providers are liable for all unlawful activity they know of on their own facilities, under (d)(1) and (e)(1). They are also liable for knowingly allowing others to use their facilities for unlawful acts, under (d)(2) and (e)(2).

The key to responsible action, to taking "good samaritan" policy measures, therefore, is in the operation of the good faith defenses. If a bill provided strict liability on a carrier or connector for all unlawful acts they know of on their systems, then their only avoidance of liability would be to pull the plug or to maintain complete ignorance (not to know is not to act "knowingly", so they won't look for what would give them guilty knowledge). A strict liability law, without good faith defenses, would have the effect of making the phone and computer companies turn a blind eye. The Senate version requires responsible action and empowers them to use technically feasible software and hardware measures and protects them from liability in doing so. Your bill seeks the effect of the Senate version, and the opposite effect of a "no defense" bill.

Your bill provides a similar exemption from liability for good faith acts to restrict access to objectionable material, in (c) of IFFEA. Without the exemption in (f)(1) and the defenses in (f)(3) of the CDA, the telephone-computer porn statute would provide near strict liability for the carriers and connectors without any incentive to protect themselves except to avoid all knowledge of the offensive materials.

Ignorance would be their best defense if the good faith defenses are removed from the Senate version and they would be criminally, as well as civilly, liable if they knew there were unlawful materials on other facilities over which they had no control but to which they knew one could gain access by using their facilities to reach the Internet and get to those other boards and web sites. The unfairness of this result is the reason the Exon-Coats amendment was structured the way it is and your bill shows a like interest in having a fair application of the law without extending undue liability to those who take responsible action.

Here's how the Senate's CDA really works: No substantive changes are made to existing "dial-a-porn" provisions in 47 U.S.C. §223 (b) and (c). Subsection 223(a) is clarified only to codify that subsection's historic interpretation as applying to unconsented harassing and obscene calls for annoyance or threat. This merely codifies present law and prevents subsection (a) from any argument that it would ban all "indecent" or "obscene" phone or computer conversations.

The CDA adds four new offenses, two in each of the new subsections (d) and (e), which are subdivisions (d)(1) and (d)(2) and then (e)(1) and (e)(2):

(d)(1) knowingly make or make available obscenity;

(d)(2) knowingly allow one's own facility to be used by others to make or make obscenity available;

(e)(1) knowingly make or make available indecency to minors;

(e)(2) knowingly allow one's own facility to be used by others to make or make indecency available to minors.

The (d)(1) and (e)(1) offenses apply to everyone, the pornographers, and the persons who post or sell it on a bulletin board or chat line or web site, and any board or site owner-operator who knowingly conspires with them or aids & abets them. They also apply to phone carriers and computer connectors who would provide such unlawful materials as one of their own services.

The (d)(2) and (e)(2) offenses are "carriers" crimes and apply only to phone carriers and access connectors who own-operate telecom. facilities used by others to make computer-modem connections to the Internet, Use Net, World Wide Web, or private BBS boards. To the extent a computer connector acts as a mere conduit, they act like carriers when they connect someone to the facilities of others on the nets or boards. To that extent, only, they are and should be treated as carriers are treated for the same activity.

Legally, the access provider-connectors (Prodigy, America On Line, CompuServe, NETCOM, etc.) are not "common carriers" like the telephone companies (ATT, MCI, Sprint, and the Bell companies). The Senate CDA specifically recognizes this in the last sentence of (f)(3), thus precluding FCC jurisdiction over the operation of those "enhanced information services". (Your bill, conversely, merely states, in (d), that nothing in your bill gives FCC jurisdiction. Nothing prevents FCC jurisdiction from another source or act, just that your bill doesn't confer it.) The Senate's CDA allow the FCC only to develop defenses and technical methods to screen out children from indecency and allow adults to have reasonable access to indecent material among themselves, like it did for dial-a-porn. The FCC's technical screening devices (credit cards, access-pin codes, and blocking) were cited by the Supreme Court as effective "least restrictive means" to screen out minors without affecting adult's rights to non-obscene but indecent communications among adults. Allowing these FCC regulations, along with any present or future soft or hard-ware solutions to restrict indecency to adults, makes the indecency provisions of subsection (e) of the CDA constitutional and effective.

Since existing federal law (18 U.S.C. §1462 and 47 U.S.C. §223) treats common carriers differently, because of their role as public access carriers, the CDA treated the access connectors in like fashion when they act as common carriers by merely providing access to the facilities of others beyond their control. To the extent a connector gives one access to its own facilities or services, like its own boards and chat sites that are within its control, it is liable like anyone else and must police its own operations. This is like dial-a-porn, where Mountain Bell (which does not provide lines to dial-porn providers) would not be liable for a call from a customer in Arizona who calls through Mountain Bell, then is carried from Mountain Bell by ATT to NYNEX, and reaches a dial-porn company in New York with which NYNEX has a contract. NYNEX can and should be liable if it is culpable, but Mountain Bell should not. The CDA apportions the same criminal liability on those who share the same criminal blame.

The CDA's (f)(1) only exempts the phone carriers and access connectors when they "solely" give one mere access to others' facilities over which they have "no control".

As to their own boards and sites, they are liable for the offenses when they knowingly and intentionally allow users to transmit obscenity, or indecency to minors, through their systems. In that regard, however, they have the good faith defense in (f)(3) if they monitor, block, screen, etc., all the offensive material they know about and someone still gets unlawful material through. If they've done all they could to police their own boards, they would be protected. If they do nothing and they know their facilities are being so used for unlawful purposes, they would be liable under (d)(2) and (e)(2).

The incentive is therefore mandated (f)(3) that they do their own corporate responsible actions to restrict or prevent such transmissions or access. It is obvious, however, that Prodigy cannot police what is posted on a CompuServe board or on an independently operated board on the Internet (such as a university, pornographer, or private company board). They can, and would, delete such boards from their index and directory listings, and they could block the drive paths to known offending sites and porn pictures (known as "GIF" files-Graphic Interchange Format), to the extent technically feasible. If they advertised for such sites or GIF files of others, then they would not be "solely" providing access as exempted under (f)(1).

There is one change to the Senate CDA that could be made to specify some things that an access provider could not do to assist a pornographer on another's service, like listings and advertising porn sites and GIF files. To accomplish this result more clearly, I suggest that the House CDA add the words: "or who aids, abets, or advertises for," after the phrase "or a conspirator with" in (f)(1). This would mean that the access connectors would be responsible for policing their own boards and services and could not assist or aid the unlawful activities of others that they cannot otherwise control.

Another change I would like to see in the CDA is to correct the last clause of the preemption clause, subsection (g), to make it clear and consistent with the first sentence. I suggest the words "this section" be replaced with: "subsections (a)(2), (d)(2), or (e)(2)".

Finally, I believe Congress has been betrayed by some telephone companies by not blocking all their dial-a-porn numbers unless they receive a written request from the customer for access to those numbers, as intended and provided in 47 U.S.C. §223(c)(1). The problem lies with the immunity granted by subsection 223(c)(2)(B)(i), which allows the phone carriers to avoid their blocking duties by relying "upon the lack of any representation" from a dial-porn provider that the provider is selling illegal messages. In other words, if the phone-sex company does not confess guilt to the phone company, the phone company need do nothing. Since the dial-pornographers don't admit anything, some phone companies don't block anything. This loophole has become a sink hole that Congress should plug. This can be remedied to its original intent by removing the immunity from reliance on silence and giving them immunity only if they were lied to or unknowingly misled. Two changes to that clause, §223(c)(2)(B)(i), would remedy this unjust result, as follows: (i) in good faith reliance upon the representation by a provider of communications that communications provided by that provider are not communications specified in subsection (b) of this section, or

Other than the two suggested clarifications to the CDA, and the one suggested correction to the dial-a-porn law, the Senate version of the CDA is eminently fair and as constitutional and effective as the law will allow.

I hope that, when you consider the Senate version in its entirety and as it would be applied and followed in reality, you will agree that the CDA provides the same protections you seek for the legitimate interests of the computer and phone companies, while outlawing illegal obscenity from the computer networks and allowing minor children to take advantage of the educational and growing benefits of the computer without being bombarded with so-called "adult" materials. The Internet need not be the "adult bookstore" of cyberspace. The Senate bill would put the "adult" books in the back room and have adults show ID to get in. Just like in every day life in the rest of the country. This is the least restrictive means to protect children, and they are entitled to at least "the least" the law will allow them under the First Amendment.

As for obscenity, the Senate version only prohibits that which is already illegal to distribute by any other federal means. Existing laws in Title 18 of the U.S. Code prohibit: the sale of obscenity on federal property or in Indian Country (§1460); all mailings of any obscenity (§1461); use of a common carrier to ship any obscenity in interstate or foreign commerce or smuggle it into the U.S.A. (§1462); broadcasting obscenity or indecency by radio or TV (§1464); transporting it across state lines by any method, or using an interstate commerce facility such as computer phone-modems, to ship or transit it for sale or distribution (§1465); selling obscenity at retail that was shipped through interstate commerce (§1466); and using cable, subscription, or satellite TV systems to distribute obscenity (§1468).

The Communications Decency Amendment is a good, fair, and constitutional proposal. You and your colleagues have been lied to about what it would do and what it provides. I trust that you seek a proper blend of law and private action and I trust in your instincts to see through the smoke. Without a law, the computer nets will continue to be abused by the purveyors of hard-core obscenity and it will continue to be a place in which responsible adults should fear to let their children play. A law that does not prohibit unlawful materials is no law at all to the pornography syndicates, their associates, and the addicted customers. An overly strict law would not be tolerated by the courts, for fear of an unconstitutional prior restraint.

There is no reasonable doubt that only a carefully worded and First Amendment sensitive statute will survive the legal challenges that the ACLU, Center for Democracy and Technology, Electronic Frontier Foundation, and some commercial pornography companies will mount. The CDA can withstand the tests to be applied, no other proposal can make that claim. This is a serious problem and needs a serious and lawful solution. The CDA would be a valid extension of Federal obscenity law to the computer networks and a valid extension of dial-a-porn protections for children from indecent adult material.

Our hope is that you sponsor and support the CDA as passed by the Senate. Your leadership would probably insure its passage. The country, all us parents and grandparents, all of our children, our neighbors, even the addicted customers need your help and that of your fellow Members of the House of Representatives. Please reconsider and look at the Communications Decency Amendment in a new light. It is a good bill. Look for yourself. It won't lie to you like porn advocates have.

Please let us know if we can help you in this regard.

Sincerely yours,

BRUCE A. TAYLOR,

President & Chief Counsel.

Mr. EXON. Mr. President, this letter is by a distinguished lawyer, who has, I guess, as much experience with the prosecution of pornographers as most lawyers in the United States would recognize as a real authority on the subject.

The letter of July 10 is addressed to the Honorable CHRISTOPHER COX of the House of Representatives and the Honorable RON WYDEN of the House of Representatives. The subject is the Cox-Wyden bill on Internet connectors as consistent with the Exon-Coats Senate decency amendment. And I quote:

DEAR REPRESENTATIVES COX AND WYDEN: Please excuse the length of this letter, but much misinformation needs to be corrected and this is an issue of utmost importance to America's children and families. You have been lied to. I'd like to give you my views on the pornographer's propaganda and offer an explanation of the true meaning of the Exon-Coats amendment dealing with computer assisted obscenity and the problem of indecency being made available to minors.

A review of your proposed legislation to protect the computer information service providers shows that you are trying to accomplish the same objectives as the Senate version of the communications decency amendment ("CDA"). Whatever you may have been led to believe about the "Exon-Coats amendment" is obviously incorrect. The Senate bill accomplishes the same benefits and protections your proposed bill seeks to provide. However, I feel your bill, in giving immunity and a defense without a corresponding offense, will have the opposite effect to that which you seek.

Mr. President, although the letter has been printed in the RECORD, I would like at this time to quote from the last two or three paragraphs:

The communications decency amendment is a good, fair, and constitutional proposal. You and your colleagues have been lied to about what it would do and what it provides. I trust that you seek a proper blend of law and private action and I trust in your instincts to see through the smoke. Without a law, the computer nets will continue to be abused by the purveyors of hard-core obscenity and it will continue to be a place in which responsible adults should fear to let their children play. A law that does not prohibit unlawful materials is no law at all to the pornography syndicates, their associates, and the addicted customers. An overly strict law would not be tolerated by the courts, for fear of an unconstitutional prior restraint.

There is no reasonable doubt that only a carefully worded and first amendment sensitive statute will survive the legal challenges of the ACLU, Center for Democracy and Technology, Electronic Frontier Foundation, and some commercial pornographic companies will mount. The CDA can withstand the tests to be applied, no other proposal can make that claim. This is a serious problem and needs a serious and lawful solution. The CDA would be a valid extension of Federal obscenity law to the computer networks and a valid extension of dial-a-porn protections for children from indecent adult material.

Our hope is that you sponsor and support the CDA as passed by the Senate. Your leadership would probably insure its passage. The country, all us parents and grandparents, all of our children, our neighbors, even the addicted customers need your help and that of your fellow Members of the House of Representatives. Please reconsider and look at the communications decency amendment in a new light. It is a good bill. Look for yourself. It won't lie to you like porn advocates have.

Please let me know if we can be of help in this regard.

Sincerely yours,

BRUCE A. TAYLOR,
President and Chief Counsel for the National Law Center for Children and Families

Mr. President, since the Exon-Coats measure passed with a 84 to 16 majority, the Senate of the United States sent a very loud and clear signal that something has to be done about obscenity. Something has to be done with regard to material that is being used promiscuously on the Internet today. This is a wonderful new system for the distribution of information. But if we are to sit idly by and listen to some of the opponents, who do not want to do anything about this problem, the American people are being convinced and are now being told by national publications, including Time magazine, who last week had an indepth story with a front-page cover showing a child.

This is a carefully crafted piece of legislation. It is obviously necessary, as has become evident to most people who have taken the time to either see this smut—and I use that word very advisedly because it does not begin to describe the bestiality and the sexual perverts that have invaded this system, primarily to make money.

The courts have continually held that we have the right to do something in the courts when we have this kind of material in full swing. We had a hearing in the Commerce Committee today, primarily on violence on television. The people are justifiably upset about that. We also talked today about the large amount of sex and suggested sex that is being thrown at our children today. The Exon-Coats proposal with regard to our Internet system is an important step in the right direction. And as more and more people look at it, and as more and more people recognize all of the lies that are being told about this piece of legislation—simply untruths designed and planted in many publications by those who want the pornographers to run at will and be available at will to our children on the Internet.

Mr. President, I think this is a step in the right direction. I have personally hand delivered a copy of this letter that I had printed in the RECORD to the Attorney General of the United States, Janet Reno. I have had a personal conversation with the Vice President of the United States about this today. He was very much interested in this letter. I faxed the letter to him. In addition thereto, I have had delivered today to the White House itself, to the attention of the President, this well-thought-out letter that adequately and honestly describes the well-thought-out Exon-Coats amendment. I only hope that the Members of the House of Representatives will awaken. I think too many of them have been misled and lied to about the communications decency amendment. I hope it becomes law.

I thank the Chair and yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. COHEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMPREHENSIVE REGULATORY REFORM ACT

The Senate continued with the consideration of the bill.

Mr. COHEN. Mr. President, I would like to offer a few comments this afternoon about the need for regulatory reform and then more specifically about a substitute amendment that I anticipate will be offered, if not today then sometime during the course of the debate on this bill.

At the outset, I would like to make clear that I believe that we need to have regulatory reform in this country. We now have what is fairly described as a cumbersome regulatory morass. I think it is the result of over 40 years of having a very activist Government. The number of executive branch and independent regulatory agencies has been steadily increasing since the New Deal. This increase in the size of Government has been compounded by the fact that Congress passes hundreds of new laws every year, while statutes are rarely taken off the books. With each new law comes an ever-expanding set of detailed rules and regulations. So, while we cannot deny the fact that those faceless Federal bureaucrats do compound the problem, we also ought to look right here at home in the U.S. Senate and House of Representatives, because we, too, have responsibility for this trend of more and more laws which require more and more regulations.

This regulatory burden that Congress has created, I think everyone recognizes, is daunting even for the largest of corporations that can hire a whole spate of attorneys to advise them in complying with the regulations that are imposed. But I think the burden is clearly overwhelming for most of the small businesses in this country that are bombarded with reams of technical legalese and ordered to comply with regulations they do not understand. These are the very small businesses which happen to be the backbone of this country's economy. I think the overwhelming burden they are required to measure up to, and many cannot do so, has contributed in large part to the disenchantment with Government we are seeing in recent years.

We have heard a lot about bringing common sense into the regulatory process. My colleague from Utah has spoken about this. But I would like to point out the fact it was Senator GLENN, of Ohio, whom I recall first holding up the book, "The Death of Common Sense," in one of our hearings in the Governmental Affairs Committee. We can all quote from this book and others, giving anecdotes which lay a foundation for the need for change in this country.

One anecdote from that book discusses an OSHA regulation that requires manufacturers to describe the possible harmful effects of a hazardous substance on every package or container of the product. In 1991, OSHA decided that packages of everyday bricks must contain a hazardous substance notice because a small amount of silica is released when the bricks are sawed in half. But OSHA did not consider the fact that bricks are rarely sawed in half, and that when they are only trace amounts of silica would be released. Nonetheless, the agency imposed this useless paperwork requirement on the Nation's brick manufacturers. Clearly, in that case, common sense did not prevail.

I recently held a field hearing in Maine on Government regulations. I heard of another case where Federal regulators appeared to lose their common sense. A number of years ago, the Food and Drug Administration, the FDA, demanded that McCurdy Fish Co., of Lubec, ME, change its production method to protect the public from the threat of botulism. The FDA's extensive testing, however, never found any contamination in McCurdy's product. In addition, the FDA was applying a safety standard for freshwater fish even though McCurdy sold small ocean herring, a totally different type of fish. Nonetheless, FDA insisted that this small company purchase $75,000 worth of equipment to eliminate a hazard that had never arisen in the past and that was unlikely to ever arise in the future. Yet, with only $250,000 of annual revenue, McCurdy simply could not comply. As a result, it was forced to close its doors back in 1991, eliminating 22 jobs in an industry that had been part of that small community since the early 1800's.

Twenty-two jobs may not sound like a lot to many of my colleagues here in the Senate, but 22 jobs in a small town like Lubec, on the coast of Maine, has a major impact upon the local economy. That is another case where common sense did not prevail. It is another case where we saw regulations proposed and imposed by the so-called faceless bureaucrats which really produced an inequitable result.

Even though all of us can point to these types of horror stories and we can all agree that we need to reform our regulatory system, I think there is substantial difference of opinion about what is the correct solution.

First of all, I do not think we can accomplish reform in a one-shot proposition. It cannot be accomplished on one piece of legislation; it cannot be accomplished overnight. As impatient as we might be to remove these excessive layers of regulation that have been accumulating over the past 40 years, we cannot succumb to the temptation to look for a quick fix that is going to cause many more problems than it hopes to resolve. Real regulatory reform requires Congress to review each and every piece of Federal legislation, to repeal the laws that are no longer working or serving a useful purpose, and fix those that are unnecessarily causing an undue burden on our economy.

Mr. President, I am prepared to do that. That is what needs to be done. We should not try to pass some sort of regulatory reformation here that is going to deal on a procedural level with what needs to be focused on in terms of substantive issues.

The bill before the Senate seeks regulatory reform through procedural reform rather than substantive changes in the law, and it focuses on reforming the process for implementing and reviewing these Federal regulations. The Governmental Affairs Committee, on which I sit, has been struggling with this issue for decades. Some 20 years ago the committee first issued a comprehensive report, concluding that the regulatory system was too costly and the process for developing the regulations too often ignored the costs that those regulations imposed on the economy. And the problems have only worsened since that time. The annual cost of Federal regulation was recently estimated to be approximately $560 billion for 1992 and projected to reach the staggering level of $660 billion by the year 2000.

The remedy for this ill is twofold. First, Congress has to stop passing laws without considering the huge costs we are imposing on the economy in comparison to the benefits that are going to be derived. Second, after Congress does pass a law, the executive branch agencies need to make every effort to interpret and enforce the laws in the least costly manner possible.

I believe that S. 291, which is the bill that was unanimously reported out of the Governmental Affairs Committee this past March, represented a balanced approach toward reforming the regulatory process. A version of that bill is going to be introduced as a substitute by Senator GLENN and Senator CHAFEE later on during the course of the debate on this measure. It requires the agencies to perform cost-benefit analysis and risk assessment for major rules. It authorizes sufficiently rigorous judicial review to ensure that the agencies take this responsibility very seriously. And it mandates that agencies review their existing regulations of cost effectiveness.

I believe this approach is clearly superior to the one that we are currently considering.

These provisions, combined with the congressional review process already passed by the Senate, would represent a marked improvement in our current regulatory system. I am a cosponsor of the Glenn-Chafee substitute and hope it gains the support of my colleagues.

The Glenn-Chafee substitute is also commendable because it does not alter substantive statutes that are currently in effect and does not delegated to unelected Federal judges the authority to second-guess Congress' judgments about the costs and benefits of public policies.

I frankly do not believe it is appropriate to attempt to alter carefully crafted legislation, some of which has enjoyed the support of Congresses over the years, through a statute which is designed to improve Federal rulemaking. If we do not like the Clean Water Act, if we do not like the Clean Air Act, if we do not like the Superfund Act, we ought to change them. But what we are doing is calling upon the regulators to change the substantive law that we have the responsibility to modify and to change if we are dissatisfied with it.

I also believe it is inappropriate for a Congress which is concerned about litigation, about lawyers, about judges, about judicial activism, to suddenly hand them our laws and say, "Here, you take care of this. You decide whether the agencies have exceeded their mandate. You decide whether or not their cost-benefit analysis was correct or inaccurate. You decide whether or not the least possible cost is involved here, as opposed to another regulatory alternative."

I do not believe that judges are well-equipped to evaluate whether the social and economic benefits of a policy justify its costs. The balancing of costs and benefits is essentially a political judgment, not a legal one. If a law passed by Congress requires agencies to implement inefficient regulations, then the responsibility for reversing those regulations rests with Congress. The Glenn-Chafee alternative accomplishes this by requiring the agencies to notify Congress when a regulation fails a cost-benefit test and by giving Congress the power to void any such regulation through expedited procedures.

Mr. President, I think, for a Congress which is concerned about too much litigation taking place in this country, this bill is really inviting more litigation, and more lawyers and judges to now start interpreting what is taking place in the agencies, rather than the Congress measuring up to its own responsibility.

So I think that the pending bill before us certainly can be improved upon. If the goal of regulatory reform is to make Government work better, we should not be overloading the Government with so many analytical requirements that it does not work at all. We cannot on the one hand bog agencies down with analytical requirements and expose them to additional litigation, and at the same time demand that they be able to meet the public's demand for prompt action.

One thing is for sure. We know this. If another bacteria infects the city water system, the public is going to want to know, "Where is the EPA?" If workers are trapped in a factory fire, the public is going to want to know, "Where was OSHA at the time to prevent this incident from taking place?" If there is an outbreak of contaminated meat, people will look to the Department of Agriculture for answers. The public wants smaller and less intrusive Government. It also expects the Government to perform a core set of functions promptly and effectively.

So these are the issues that are of concern to me: The effect of the bill on existing law, the role of the courts, and the cumulative burden on the agencies.

I believe the Glenn-Chafee substitute is superior to the bill we are considering. I do not know if it will gain a majority. But I hope it receives sufficient support to force some needed changes to S. 343.

Over the past week of debate, progress has been made on a number of fronts and some improvements have been made to the bill. The Johnston amendment raising the threshold for major rules from $50 to $100 million was a step in the right direction.

I would like to see the process of negotiation and compromise continue so a regulatory reform bill passes the Senate by a substantial margin and a bill emerges from conference that will be signed into law by the President. A truly bipartisan regulatory reform bill that could be enthusiastically supported by both parties would go a long way to restoring some of the confidence in our government that unfortunately has eroded over the past years.

I see both of the authors of the bill on the floor. I want to commend them for being open to making changes. I think some real progress has been made during the last several days to improve the legislation now pending.

I am hopeful that we will see even more changes to make sure that a strong bipartisan group of Senators supports the legislation.

For that reason, I would like to urge very strong consideration of the Glenn-Chafee substitute when it is proposed.

Mr. GLENN. Mr. President, I want to respond briefly to the remarks by the senior Senator from Maine because on our committee, the Governmental Affairs Committee, he has been one of the stalwarts on the Republican side in working on these matters of regulatory reform, and he deserves a lot of credit for that.

I particularly appreciate his remarks. He is a cosponsor of the Glenn-Chafee approach to this whole matter of regulatory reform. We worked with him through the years. And I know how devoted he is to bringing some reform in this particular area.

So I appreciate his remarks very, very much.

I yield the floor.

Mr. HATCH. Mr. President, I ask unanimous consent that amendments numbered 1502 and 1503 be withdrawn.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the amendments (Nos. 1502 and 1503) were withdrawn.

Mr. HATCH. Mr. President, I ask unanimous consent that Senator Johnston be recognized to offer a first-degree amendment, the text of which is the pending Johnston amendment, and that a vote occur on the first-degree amendment with no second-degree amendments in order.

Mr. JOHNSTON. Mr. President, will the Senator withhold that? It is a similar text but since it strikes in a different part of the bill, it will not be an identical text to that now pending.

Mr. HATCH. With that understanding.

Mr. GLENN. Mr. President, reserving the right to object, it was our opinion that we knew exactly what we were going to vote on at 5 o'clock. Now I do understand that is liable to be changed?

Mr. JOHNSTON. Under the rules, in order to accomplish what we wanted to accomplish, we had to amend a different page and section of the bill. The guts of this would be identical with a couple of really stylistic changes. The way it would read is: Any rulemaking pending on July 12, 1995, for which a notice of proposed rulemaking or a proposed rulemaking has been published in the Federal Register before April 1, 1995—et cetera.

Mr. GLENN. Mr. President, I would like to see it first so we can consider it with staff and look at it. We will put in a quorum call. I do not know what this does to our 5 o'clock time that was planned. I think we can probably resolve it between now and 5 o'clock. If we do, I will have no objection.

Mr. HATCH. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WELLSTONE. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. THOMAS). Without objection, it is so ordered.

Mr. WELLSTONE. Thank you, Mr. President.

I ask unanimous consent that I be able to speak for 5 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

RESCISSIONS BILL

Mr. WELLSTONE. Thank you, Mr. President.

Mr. President, I was on the floor earlier today trying to just present some clarity about the rescissions bill. I will not go over my remarks I made earlier, but, Mr. President, the simple point I made was that Senator MOSELEY-BRAUN and I, Friday and today, always made it clear that we had several amendments, altogether four amendments, and we agreed to 50 minutes on each amendment, to be in the evening and the stacked votes the next day, and equally divided for summary, 50 minutes equally divided. That seemed an eminently reasonable proposal, especially for a bill where there were changes from what we had done in the Senate and wanted a chance to make some changes in this piece of legislation.

That was rejected by the majority leader, Mr. President, which amazed me. I mean, to argue that Senators cannot come out and have some amendments and some discussion about a peace of legislation so people know what is in there, it seems to me to go against the grain of what we are about and what representative democracy is about.

Now I see something put out by the Republican Policy Committee, "The Cost of Delay: The Filibuster * * *." So, Mr. President, could I just read from the dictionary about what a filibuster is? "The Cost of Delay: The Filibuster * * *." Here is the definition of "filibuster" right out of the dictionary. "The use of obstructionist tactics such as the making of prolonged speeches or the introduction of irrelevant material for the purpose of delaying legislative action."

Our amendments are hardly irrelevant. They deal exactly with these cuts. We wanted to have some offsets. We agreed to a time limit on the amendments; less than an hour for each one. And now I see this accusation of the filibuster.

Mr. HATCH. Will the Senator yield on that?

Mr. WELLSTONE. I would be pleased to, if I could read one more time the definition of "filibuster." Maybe my colleague could further explain what the filibuster is, although I——

Mr. HATCH. I would be happy to.

Mr. WELLSTONE. I cannot think of a better colleague to do that for me. One more time before we get into these kinds of accusations and this kind of attack politics, "The Cost of Delay: The Filibuster * * *." "Filibuster. The use of obstructionist tactics such as the making of prolonged speeches or the introduction of irrelevant material for the purpose of delaying legislative action; an instance of the use of such tactics, especially in the United States Senate."

Again, when Senators have amendments to a piece of legislation, very relevant, and agree to a time limit, and make it very clear that all we want is an opportunity to have a debate and discussion so people know what the priorities are of this rescission bill and some opportunities to improve it as we see it and better represent our constituents, that is hardly a filibuster.

My second point, by the way, Mr. President, is there is no delay on our part. The delay is on the part of the majority leader who will not accept an eminently reasonable proposal. There is probably not a Senator in the U.S. Senate, Democrat or Republican, I say to my colleague from Utah, who does not believe that it is important for us, especially if we do not block a motion to proceed and especially if we have a time agreement, to have an opportunity to improve a piece of legislation.

I would be pleased to yield to the Senator.

Mr. HATCH. If the Senator would yield, I just enjoyed the Senator's remarks. And as someone who has seen filibusters on both sides, it is a little more than long, interminable speeches and irrelevant materials being brought up. The fact of the matter is that we have now been on this E. coli matter for 2 solid days when the original bill took care of that problem. Then to resolve it even further, to make it more explicit, Senator DOLE brought his amendment forth yesterday, and it passed and solved it again.

Now we are talking about exempting all of the HACCP rules, basically everything that the Department of Agriculture wants to do. To be honest with you, we know that this amendment is an amendment just plain geared to try to stop this bill, because if you exempt one agency, then we will see 50 people in here arguing to exempt other agencies or other agency particulars or other special interests. And we would like to just see them all covered.

Now, the E. coli is taken care of. The meat problems are taken care of in this bill. They were taken care of before we got into this amendment process. We have been tied in knots for 2 days over this E. coli problem that was taken care of in the original bill. We have tried to solve the problem for the other side by restating it. We have put new language in this bill. And, frankly, there is a belief on the part of many—I think some on both sides of the aisle, many—that there is delay for delay's sake here.

Now, whether that is true or not, I am not going to say this early in this stage of the bill. But it looks to me like it is starting to smell like it is true. And it is no secret that this is a bill that many on the other side and some on our side do not want to pass. But the vast majority here in the Senate do. And I think it is time to go ahead.

Now, we do not have a time agreement. I have tried to get a time agreement. It has been objected to or at least they have asked me to withhold until the amendment of the distinguished Senator from Louisiana can be thoroughly examined by the other side.

Mr. WELLSTONE. Would the Senator yield?

Mr. HATCH. I might also add that the Senator from Louisiana could have modified his amendment at a whim, as it sat on the desk up here before we talked about a unanimous consent agreement. And he modified it. And in a very innocuous——

Mr. WELLSTONE. Mr. President, do I have the floor?

The PRESIDING OFFICER. The Senator from Minnesota has the floor.

Mr. HATCH. I thought he yielded the floor. I apologize. I thought he yielded the floor.

Mr. WELLSTONE. Mr. President, just so the Senator would—I will let the Senator from Ohio respond, but just for a moment, I want the Senator from Utah to know, I was actually not referring to this piece of legislation at all.

Mr. HATCH. You were referring to something else?

Mr. WELLSTONE. That is correct. I just want to make it clear that when I see a piece of literature coming out on a rescissions bill titled "The Cost of Delay: The Filibuster * * *," I just wanted to read for some of my colleagues who make these accusations the definition of "filibuster." It seems to me when Senators are going to be engaged in these kinds of attacks, we ought to be clear what a filibuster is. So, I read the definition of "filibuster." And I will do it one more time. Dictionary definition: "The use of obstructionist tactics such as the making of prolonged speeches or the introduction of irrelevant material for the purpose of delaying legislative action."

Our proposed amendments are not irrelevant. They are directly relevant to this bill. We have offsets. We have agreed to amendments. We have agreed to time limits on those amendments. That is in no way, shape or form a filibuster.

I do not want to interrupt the flow of discussion about this bill, but I must say that if this goes on, I am going to have to come out here and start reading definitions of democracy and other such terms that are important to the way we conduct our business.

But, Mr. President, before I yield the floor, let me just make it clear one more time. I did this morning, and I want to say it one more time. Senator MOSELEY-BRAUN and I have been very clear. We were clear Friday; we are clear now. The bill comes over, changes are made, changes are made late Thursday night, changes that are made that we think make this rescissions bill not the bill that was passed out of the Senate.

We think it could use improvement. We think the people in the country do not know about some of these changes. We are not at all sure that some people's priorities are to cut low-income home energy assistance, summer jobs training, job training for dislocated workers, or counseling programs for seniors when it comes to consumer protection on health policies that they purchase. Therefore, we wanted the opportunity and desired the opportunity and made it clear to have some discussion. I do not know why my colleagues are afraid of some limited discussion about this so people in the country know what is in it. But it certainly is not a filibuster. We are ready to proceed as soon as there is no longer any delay, and I certainly hope the majority leader will be willing to let us go forward.

I yield the floor.

COMPREHENSIVE REGULATORY REFORM ACT

The Senate continued with the consideration of the bill.

Mr. GLENN addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. GLENN. Mr. President, let me clarify this. There was an agreement worked out between the leaders. Senator HATCH was in the process of reading that. There was disagreement with it from Senator JOHNSTON, who is a coauthor of S. 343, the Dole-Johnston bill. He wanted to change his amendment in some respects in the middle of the unanimous-consent request. I wanted to see what the changes were, which I do not think is at all unreasonable. If they were innocuous, fine, we would go ahead with it. It turned out they are a bit more substantive than I anticipated—dates changed, wording changed. So we have had staff working on it as fast as we can, checking with people who are more familiar with this than some of us.

So that is what is going on right now. There was no intention to delay on our part whatsoever. It is just that in the middle of a unanimous consent which we thought we had agreement on, changes were made in what we were about to vote on supposedly at 5 o'clock. I do not think it is unreasonable at all to know what it is we are voting on when something is being changed. That is the problem.

They are in the cloakroom right now. I think we are going to have agreement on this shortly, but I am not willing to agree to a unanimous-consent request until we know what the vote is going to be on. We thought it was going to be on the amendment that we debated all day. The amendment has changed somewhat. As soon as this is worked out, we can set the vote.

There is no attempt to delay. The change is made not in favor of the Glenn-Chafee bill, but one of the coauthors of the Dole-Johnston bill. That is the reason we are where we are with this delay.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. I thank the Chair.

Mr. President, I have been following the debate in an effort to understand exactly what the ramifications are of the amendment offered by the Senator from South Dakota [Mr. DASCHLE] and the second-degree amendment offered by the Senator from Louisiana [Mr. JOHNSTON].

The manager of the bill, the Senator from Utah, has discussed the matter with me, and in order to try to obtain some clarification, I called the Secretary of Agriculture to try to understand the specifics as to what is involved here on the inspection of meat and poultry.

I favor regulatory reform and, in the course of the debate and amendments for consideration, I have supported amendments which will reform the regulatory process to try to eliminate some of the redtape which is now present. But I do believe that when it comes to matters of health and safety, we have to be very, very careful about how the reform measures impact the regulatory process. Furthermore, the regulatory process has to be reasonable so business can proceed without undue regulations.

There is general agreement today that there is excessive governmental regulation, and it is not easy to find the appropriate balance. In my judgment, it depends upon the specifics.

The Secretary of Agriculture pointed out to me the problems which have been discussed at some length regarding E. coli bacteria and salmonella. He said that for some 10 years, there has been an interest in the scientific community in moving beyond the traditional touching and smelling; that from the E. coli and salmonella, some 4,000 people die each year and several hundred thousand are made ill; that the proposed rulemaking, which was submitted in January, has brought comments from many, many people, thousands of comments, and they are in the process of considering those comments.

The Secretary says there will be appropriate consideration so that there will not be an undue regulatory burden. He has received many complaints from the small packers who complained, understandably, about the cost in the testing, and there have been some complaints that they have not had enough of an input in the process. Secretary Glickman says that there will not be a final rule until there has been very substantial input from small business.

The second-degree amendment which has been offered by Senator JOHNSTON would exempt, as I understand it, the rulemaking process which Secretary Glickman is concerned about here but would not stop at a later time somebody going back and insisting on the kind of cost analysis which might invalidate the rule which the Department of Agriculture is considering at the present time.

A question which is on my mind is whether there should not be some input from the Secretary of Agriculture who could make recommendations so that we could have legislative language which would protect the small packers, the small business people and have some guarantees against excessive regulations, but which would not tie the Secretary's hands on taking the steps which are necessary to guarantee the safety of meat and poultry.

On this date of the record, it is my view at the moment, and I am prepared to listen to further argument, while the amendment by Senator JOHNSTON is a significant step forward in exempting the current regulatory process at least for the time being, that it is not a guarantee that there will not be some revision at a later time which would jeopardize the sanitary condition of meat and poultry.

My colleague from Utah, the distinguished chairman of the Judiciary Committee, asked me to review it to try to give him my thinking, because there is a vote count going on now. As I see it at the moment, I would support the Johnston amendment, but similarly I would support the Daschle amendment. I told my colleague from Utah it might be useful to have a discussion on the record.

Mr. HATCH. I appreciate my colleague's candor. Actually, the Dole amendment yesterday solved the problem. Johnston solves it even further. What apparently the Secretary of Agriculture does not like is the petition process provided in this bill. I just suggest that if, 5 years from now, science dictates there is a need for a change, what is wrong with having the petition process to help to effectuate that change? That is what is provided for here.

The fact of the matter is that the Daschle amendment exempts the Department of Agriculture rules asserting hazard analysis and critical control point systems from S. 343. Those are the systems that deal with E. coli in meat and poultry. Now, it is not necessary because yesterday the Senate, by a large margin, accepted Senator DOLE's amendment that makes it absolutely clear what was already present in S. 343, that the bill contains emergency exemptions from cost-benefit analysis and risk assessment requirements of the bill. Consequently, where an emergency exists, where food safety from E. coli bacteria exists, S. 343 would permit and allow for a prompt promulgation of the HACCP rules.

Mr. SPECTER. Will the Senator yield for a question?

Mr. HATCH. First, I will add one other thing. The Johnston amendment takes care of the problem without exempting a rule from the bill, which is a very bad precedent. If we exempt one rule, everybody will be in here with their own special rules. We think all of the agencies should have the obligation under this bill to pass reasonable regulations.

The Johnston amendment makes clear that the proposed rules in the pipeline as of April 1, 1995, will not have to redo cost-benefit analysis and risk assessment. This applies to the E. coli and food safety USDA-proposed rules, as well.

Now, as I understand it—and I think it is a silly argument—those arguments for the Daschle amendment want a complete exemption for the Department of Agriculture rules because that would mean there would be no costly petition pursuant to section 633 of S. 343, and the petition need not be done. I call that silly because the petition process should lie for proposed rules prior to April 1, 1995. If it turns out that scientific assumptions underlying the bill are erroneous, or the rule turns out to be burdensome, why not allow for the petition and the agency rule? The rule would still be in effect if the petition is filed, so one can argue that safety will not be harmed.

So we do not think that is essential. We think JOHNSTON covers the problem and DOLE does. We do not think there should be an exception for one aspect of regulation that would open the bill for all kinds of arguments that other aspects should be accepted at all. The petition process guarantees that we have the best science, and that petition process goes on for years.

Mr. SPECTER. If my colleague will yield for a question, there are a number of questions I would like to discuss with the Senator from Utah, but I will start with the core question. When you talk about not wanting to have an exception because then you would have other exceptions, is not the issue of safety and health as it relates to meat and poultry a very, very unique circumstance which justifies an exception for that very important category? What other categories would the Senator from Utah anticipate seeking exemptions? Because if there are other categories where an exemption is accorded on a case-by-case basis, I think that is something the Senate ought to consider.

Mr. JOHNSTON. If the Senator would allow me, Mr. President, I will answer. The unique circumstance of meat and poultry inspection is not unique, but it is an unusual circumstance, in that you have a rulemaking that is already mature, that has been out there for a couple of years, and they have already done a cost-benefit analysis and it is ready to go into operation, I think, later this year or early next year. In other words, it is ready to go, and the unusual circumstance is that you do not want to have to go back and redo that. And under the Johnston amendment, that would be exempted from the provisions of this bill, so that the rule can go into effect.

Now, with respect to future rulemakings, 2 years from now or 5 years from now, we are saying this activity, even though it deals with public health, ought to have to go through the same scientific evaluation as any rules, because almost all of this bill is concerned either with safety, with health, or with the environment. If we are going to exempt this, then why not product safety? You know, automobiles kill a lot of people. Why not the Clean Air Act? The Clean Air Act kills more people than E. coli by factors of hundreds. Hundreds of people die because of asthma, or whatever, because of unclean air. There is no problem with emergency rules. We have that taken care of, and we have a further amendment, even better, to take care of that.

But the point is, you do not want to exempt future rules from scientific evaluation, from risk assessment, and from cost-benefit just because they deal with health, because almost everything deals with either health, safety, or the environment. We do want to exempt this rulemaking, which is ready to go forward and which will protect the public. We do not want to delay that.

The Secretary of Agriculture has a very legitimate concern there. But we do not want to come along on a case-by-case basis and exempt anything that relates to health or safety or the environment, which is important, too, because then you have no bill left.

Mr. SPECTER. Has there been an effort made to seek any exemption beyond this one on the Department of Agriculture?

Mr. JOHNSTON. As part of the unanimous consent, we had requested that there be an agreement that there be no other amendments once we vote on the Daschle amendment with respect to health or safety. That was not agreed to on this side.

Frankly, I have been asking around about what is next on that, and I have heard, well, there might be one on mammography, there might be one on cryptosporidium. Who knows? It is health and it is important, sure; everything is important. But under the Johnston amendment, any ongoing rulemaking is not going to be stopped. That is going to be allowed to go into operation. And if any emergency situation beyond that comes up, the bill will allow you to take care of the emergency situation. But if you have a new rulemaking, even though it relates to health, or safety, or the environment, that ought to pass scientific muster just like everything else because, look, great wrongs are committed in the name of health. In fact, most of the problems have been committed in the name of health.

Mr. SPECTER. Both ways.

Mr. JOHNSTON. Both ways. But we are correcting that with the Johnston amendment. And then, other than that, we subject all rules to good science. That is what this bill is basically about.

Mr. SPECTER. If I may reply for a moment to what the Senator from Louisiana has commented about. I would be interested to see in the unanimous consent request if the issue is just limited to the Department of Agriculture. That would be very weighing on my mind on how I vote on the Daschle amendment.

I support the Johnston amendment. I think it is a decisive step forward. I discussed this earlier today off the floor with the Senator from Louisiana. I think it is a step forward. But I want to know what other specific situations might rise to the level of the problem of the E. coli and the salmonella.

Is it not true, if I may ask, whether there is not a lookback procedure, as the expression is used, even with passage of the Johnston amendment, that would open the door to reevaluation of this regulatory process that the Secretary of Agriculture is now engaged in?

Mr. JOHNSTON. What it provides is that a year after the effective date, the Secretary or the agency shall list all rules which he or she thinks should be reviewed and that he or she thinks cannot pass muster under the bill; that is, where the benefits do not justify the costs.

So that the Secretary himself or herself, if they want to review one of these rules, they can. They can do that anyway, today.

In addition to that, if someone out there feels aggrieved, they can file a petition for a review. That is the lookback the Senator is talking about. But it is a high threshold.

They have to show a substantial likelihood that they could not meet the test. The basic test is that the benefits justify the cost.

Mr. SPECTER. To what extent does the Daschle amendment change that?

Mr. JOHNSTON. It would exempt it from any scientific evaluation as provided for in this bill whatever.

For the future, or lookback or anything else, this would be it. No questions asked. It would be business as usual with respect to this activity.

Mr. HATCH. If I could just add to my colleague from Pennsylvania, we do not believe anything should be exempt from S. 343, because what S. 343 requires is that we consistently push for the best science available.

Frankly, the problem the Johnston amendment does deal with is what you do with proposed rules before the effective date. The amendment would set the date of April 1, 1995, as the cutoff date. Anything before that date, including E. coli rules, will not have to redo already done risk assessments and cost-benefit analysis—if, in the discretion of the head of that agency, they have already done that.

We do not want to have to do unnecessary, duplicative risk assessments and cost-benefit analysis. That is what his amendment does.

Frankly, safety is not the issue in this matter. Safety is taken care of through the Johnston amendment. Money is really the issue. Frankly, there is little or no reason for the Daschle amendment, once we have the Johnston amendment.

Mr. SPECTER. I thank my colleagues. I will confer further with the Secretary and further study the matter.

Mr. JOHNSTON. Mr. President, I was going to suggest as a way to handle this unanimous consent that I send an amendment to the desk at this time, and that the unanimous consent refer to the amendment at the desk. I will not do so until Senator GLENN or the representative of the minority leader comes out.

I suggest if we do that, we send a Johnston amendment to the desk, have the unanimous consent refer to the Johnston amendment and to the Daschle amendment in the way that it is now stated.

Mr. President, I see Senator GLENN. I was going to suggest I send an amendment to the desk, and that the unanimous consent refer, then, to the amendment at the desk.

Mr. GLENN. Reserving the right to object, and I do object right now, we are spelling out what the changes are that have been made so we can comment on them briefly before we go to the unanimous consent request. That is being prepared. It should be ready within 4 or 5 minutes. I would rather do that and then send it to the desk.

Mr. JOHNSTON. The Senator could refer to it in the unanimous consent.

Mr. HATCH. I do not see a problem of sending it to the desk.

Mr. GLENN. Mr. President, I still object until we have a chance to look at this.

Mr. President, I object, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator from Louisiana has the floor.

The Chair, in his capacity as a Senator from the State of Wyoming, suggests the absence of a quorum.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Mr. President, I ask unanimous consent that Senator JOHNSTON be recognized to offer a first-degree amendment, the text of which both sides are acquainted with, and a vote occur on the first-degree amendment with no second-degree amendments in order after 5 minutes of debate, divided equally between Senators JOHNSTON and GLENN.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. HATCH. I further ask that following the vote on the Johnston amendment, Senator DASCHLE be recognized to offer a first-degree amendment, the text of which is the pending Daschle amendment, with no second-degree amendments in order, and a vote occur immediately on the amendment without any intervening debate or action.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. HATCH. Finally, I ask unanimous consent that following the disposition of the Daschle amendment, no other amendments regarding the USDA HACCP rules proposed on February 3, 1995, be in order during the pendency of S. 343.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

AMENDMENT NO. 1504 TO AMENDMENT NO. 1487

(Purpose: To provide that risk assessments conducted to support proposed rules may be used to support final rules that are not substantially different with respect to the risk being addressed)

Mr. JOHNSTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Louisiana [Mr. JOHNSTON], for himself, Mr. HATCH, and Mr. ROTH, proposes an amendment numbered 1504 to amendment No. 1487.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 50, between lines 15 and 16, insert the following new paragraph:

"(4) If the agency head determines that—

(A) a final major rule subject to this subchapter is substantially similar to the proposed major rule with respect to the risk being addressed;

(B) a risk assessment for the proposed major rule has been carried out in substantial accordance with section 633; and

(C) a new risk assessment for the final rule is not required in order to respond to comments received during the period for comment on the proposed rule; the head of the agency may publish such determination along with the final rule in lieu of preparing a new risk assessment for the final rule."

1. On page 19 strike out lines 11 through 13 and the words "than 30 days after such date of enactment),".

2. On page 20, line 9 strike out the words "(or, in the case of a notice of proposed rulemaking" and strike out lines 10 through 12.

3. On page 43, amend line 11 to read "agency after the effective date of this subchapter"; strike out lines 12 and 13; and strike out "section 623" on line 14.

4. On page 48 amend lines 4 and 5 to read "effective date of this subchapter, the head of each".

5. On page 97 relable subsection (b) as subsection (c) and insert a new subsection (b) as follows:

"(b) Any rulemaking pending on July 12, 1995 for which a notice of proposed rulemaking or a proposed rulemaking has been published in the Federal register before April 1, 1995 shall not be subject to the provisions of subchapter II or subchapter III of chapter 6 of title 5 U.S. Code except for section 623 (relating to review of rules)."

Mr. JOHNSTON. Mr. President, I think it is fair to say that the Johnston amendment will not be opposed because the Johnston amendment is not now a substitute to the Daschle amendment; the Johnston amendment is a freestanding amendment which exempts the inspection of meat provisions from this subchapter. In other words, it allows that rule to go forward without any delay at all. I believe everyone is for that.

The controversial amendment will be the Daschle amendment which will follow this because, if and when we adopt the Johnston amendment, it will solve the problem of the rulemaking. But what it will do is exempt totally the whole area from future rulemaking. If we do that with respect to inspection of meat and poultry, then what is next? Cryptosporidium, clean water, the Clean Air Act, car seats for kids, radioactivity? It sets a precedent to exempt everything from this bill and, if health is the standard by which you exempt matters from scientific determination, then why do a risk assessment at all because almost everything in this bill—almost everything—has to do with health, safety, or the environment.

So, Mr. President, I ask my colleagues to vote for the Johnston amendment. I expect that almost everyone will. I urge that they vote against the Daschle amendment, as that undermines this whole bill because it sets a precedent for taking everything out of risk assessment and cost-benefit analysis and scientific determination.

I reserve the remainder of my time.

Mr. GLENN. Mr. President, the Johnston amendment, as revised, will exempt from the cost-benefit and risk assessment provisions of this bill any pending rules proposed before April 1 of this year. However, Senator JOHNSTON's amendment does not solve the E. coli problem, since it would continue to subject the HHCCP rule to a petition and look-back process, as well as judicial review. That is of considerable concern. These procedures could expose this important public health rule to unnecessary and potentially life-threatening delay.

In addition, Senator JOHNSTON's amendment would continue to apply the requirements of this bill to many rules now in the pipeline which were proposed after April 1. Those rules would be subject to all of the requirements of the bill—cost-benefit analysis, risk assessment petitions, and look-back.

This amendment would continue to allow the bill to delay rules that are currently in the pipeline, such as protections against cryptosporidium, unsafe mammography standards, and other important rules.

For that reason, I urge my colleagues to vote "no" on the Johnston amendment and "yes" on the Daschle amendment, which would clearly permit the HHCCP rule, a rule that would protect the public from tainted meat, to go forward without change.

I reserve the remainder of my time.

Mr. JOHNSTON. Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator has 20 seconds.

Mr. JOHNSTON. Mr. President, I am surprised that Senator GLENN is now opposing the Johnston amendment because earlier today he said if the Johnston amendment were freestanding, he would support it. It is still a good amendment. It takes care of the problem. It prevents any delay in any pending rule now, and I urge my colleagues to vote for it.

Mr. GLENN. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 1 minute and 6 seconds.

Mr. GLENN. Earlier today, I said I might. I wanted to see the language. I think it was good that I said that earlier. We have had a couple of changes here in the middle of the unanimous-consent request that changed the nature of this.

So I did not make a commitment to vote for this in whatever form it might come up. I am for the general principle being proposed, but not the way this was developed today.

So I yield the remainder of my time, and I am ready to go to a vote.

Mr. JOHNSTON. I ask for the yeas and nays.

Mr. HATCH. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. GLENN. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER (Ms. SNOWE). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 69, nays 31, as follows:

[Rollcall Vote No. 301 Leg.]

YEAS—69

Abraham
Ashcroft
Baucus
Bennett
Bingaman
Bond
Breaux
Brown
Bumpers
Burns
Byrd
Campbell
Chafee
Coats
Cochran
Cohen
Conrad
Coverdell
Craig
D'Amato
DeWine
Dole
Domenici
Exon
Faircloth
Ford
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Harkin
Hatch
Hatfield
Heflin
Helms
Hollings
Hutchison
Inhofe
Jeffords
Johnston
Kassebaum
Kempthorne
Kyl
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Nunn
Packwood
Pressler
Pryor
Robb
Roth
Santorum
Shelby
Simpson
Smith
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner

NAYS—31

Akaka
Biden
Boxer
Bradley
Bryan
Daschle
Dodd
Dorgan
Feingold
Feinstein
Glenn
Graham
Inouye
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moseley-Braun
Moynihan
Murray
Pell
Reid
Rockefeller
Sarbanes
Simon
Wellstone

So the amendment (No. 1504) was agreed to.

Mr. HATCH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATCH. Mr. President, I ask for the yeas and nays on the Daschle amendment.

The PRESIDING OFFICER. Has the amendment been proposed?

AMENDMENT NO. 1505 TO AMENDMENT NO. 1487

(Purpose: To protect public health by ensuring timely completion of the United States Department of Agriculture's rulemaking on "Pathogen Reduction: Hazard Analysis and Critical Control Point (HACCP) Systems" (proposed rule, 60 Fed. Reg. 6774, et al., February 3, 1995)

Mr. DASCHLE. Mr. President, I call up the amendment.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from South Dakota [Mr. DASCHLE] proposes an amendment numbered 1505 to amendment No. 1487.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 19, line 5, strike out "or".

On page 19, line 7, strike out the period and insert in lieu thereof a semicolon and "or".

On page 19, add after line 7, the following new subparagraph:

"(xiii) the rule proposed by the United States Department of Agriculture on February 3, 1995, entitled "Pathogen Reduction; Hazard Analysis and Critical Control Point (HACCP) Systems" (proposed rule, 60 Fed. Reg. 6774, et al.).".

Mr. HATCH. Madam President, I ask for the yeas and nays on the Daschle amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second

The yeas and nays were ordered.

Mr. DOLE. Madam President, I will just say, we are not making much progress on this bill. We hope to have votes on into the evening. So I hope we will have some volunteers ready to offer amendments right after this vote.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 1505. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 49, nays 51, as follows:

[Rollcall Vote No. 302 Leg.]

YEAS—49

Akaka
Baucus
Biden
Bingaman
Boxer
Bradley
Bryan
Bumpers
Byrd
Chafee
Cohen
Conrad
Daschle
Dodd
Dorgan
Exon
Feingold
Feinstein
Ford
Glenn
Graham
Harkin
Hollings
Inouye
Jeffords
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moseley-Braun
Moynihan
Murray
Nunn
Pell
Pryor
Reid
Robb
Rockefeller
Sarbanes
Simon
Snowe
Specter
Thompson
Wellstone

NAYS—51

Abraham
Ashcroft
Bennett
Bond
Breaux
Brown
Burns
Campbell
Coats
Cochran
Coverdell
Craig
D'Amato
DeWine
Dole
Domenici
Faircloth
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hatch
Hatfield
Heflin
Helms
Hutchison
Inhofe
Johnston
Kassebaum
Kempthorne
Kyl
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Packwood
Pressler
Roth
Santorum
Shelby
Simpson
Smith
Stevens
Thomas
Thurmond
Warner

So the amendment (No. 1505) was rejected.

Mr. JOHNSTON. Madam President, I move to re-consider the vote.

Mr. HATCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senate majority leader.

Mr. DOLE. Madam President, I understand—if I could have the attention of my colleagues—I understand the Senator from Wisconsin has an amendment on which he is willing to accept a time agreement of 30 minutes. We were going to propose 30 minutes and any second-degree amendment be limited to 20 minutes equally divided and must be relevant to the first-degree amendment.

I do not have a copy of the second-degree amendment. There may be one or more second-degree amendments. But if we could start off on the premise that the Senator from Wisconsin had 30 minutes, maybe by the time he finishes, we will have a copy of the second-degree amendment. Will that be OK?

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The Senate minority leader.

Mr. DASCHLE. Madam President, we would certainly want to accommodate some time agreement, but I think in order to accommodate any specific time agreement, we would want to see the second-degree amendment. If we could do that, just as soon as we see it and have a chance to look at it, I think we could lock into a time certain. But I would be reluctant to lock into any time until we had a chance to look at it.

Mr. DOLE. In the meantime, the Senator from Wisconsin will proceed on the basis we hope to have a time agreement?

Mr. DASCHLE. That will be all right.

Mr. DOLE. So any of my colleagues who would like to eat, I think it is safe to say there will be no votes until 8 p.m.

Mr. JOHNSTON. Madam President, how long did the majority leader wish to proceed?

Mr. DOLE. Hopefully for a while. I understand the Senator from Delaware will have an amendment following disposition of the amendment of the Senator from Wisconsin. We are not moving too quickly. There are still, as I understand it, numerous amendments. We have not had the major amendment from the other side, the Glenn amendment.

So, we will be here for a while yet this evening.

Mr. JOHNSTON. Madam President, will the Senator yield?

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. We have had some delays on both sides.

Mr. DOLE. Right.

Mr. JOHNSTON. We have a number of amendments we are sort of waiting to get cleared on the other side having to do with the problem Senator GLENN pointed out on 180 days within which to perform a risk assessment. We want to extend that to a year. That is something on which we are just waiting for an answer. It is a very simple, straightforward amendment.

There is another one having to do with Superfund. Those are really big amendments. If we got those adopted, I think it might change the sort of mood, our procedure.

They are not, apparently, ready, so I do not insist on it. But I hope we could get a procedure for clearing these amendments on the other side as well as on our side.

Mr. DOLE. Right. I do not know if we have had any cleared on either side, but I think we should try to cooperate where we can. As far as I know, nothing has been cleared.

Mr. KERRY. Will the majority leader yield for a moment? Madam President, I ask the majority leader. We have a list, a series of sort of major items, and then some less major, that have been presented some time ago. We did, in the day before we departed for the recess, have a negotiating process that at least had just begun. That broke up with the notion that at some point we might hear from people whether we could get back and see if we could make more progress.

It is my sense the Senator from Utah has, in good faith, offered to sit down. The Senator from Louisiana has. The difficulty is both of them have also had a requirement to be on the floor for a significant period of time, so it is very hard to try to accomplish what I think might be possible, which is to have progress in the negotiating effort.

I do not know if that means, therefore, it might make sense to have a prolonged quorum call in the morning, or maybe come in a little later and give us time to get together and see if we could find some commonality. But we are still waiting for a response with some specificity to those things that have been submitted.

Mr. HATCH. If I could answer the distinguished Senator?

Mr. DOLE. I will be happy to yield to the Senator from Utah for that purpose.

Mr. HATCH. If I could answer the distinguished Senator, it is my understanding that both sides are pretty well aware of what we can agree to and what we cannot agree to. But I would be happy to sit down in the morning and go over every detail and see what we can do.

But we have given responses to that. It is my understanding staff has been informed of what our positions are.

Mr. KERRY. Well, Senator——

Mr. HATCH. If that is not so, I will be happy—I would be happy to sit down anyway, because there may be things we can work out.

Mr. KERRY. It was my understanding, in conversations a few moments ago with the Senator from Louisiana, that he thought we had the capacity to accommodate a particular concern on the decisional criteria which we had some colloquy on yesterday on the floor and some further conversation on today.

Mr. HATCH. Let us sit down and see if we can.

Mr. KERRY. But we still do not actually have language or an agreement to do so, so we are in this sort of nebulous area. I think it would be helpful if we could find the time to work through those critical areas. At that point, a lot of our people who would like to vote for this bill if we can fix these things will have the ability to decide whether we are close to that, whether that is a reality or not. I think it would help determine what the course will be on this legislation.

Mr. DOLE. We had a brief discussion last night, I guess before we adjourned, with the Senator from Louisiana because the Senator from Ohio raised a question last evening about 9 major areas of difference and 23 minor areas of difference which consumed—I do not know—25 or 30 pages of suggestions, or a number of pages.

I think we are in the process—at least I understand Senator HATCH and Senator JOHNSTON may be in the process—of going through those one by one trying to get some response to the Senator from Ohio. But that does not mean we should not meet and see if we cannot make further progress.

Mr. JOHNSTON. Mr. President, if the leader will yield, I have completed that process and given answers for those. But we will be happy to meet as well and talk about what the answers are.

Mr. LEVIN. If the leader will also yield for that, I understand from the Senator from Utah that the responses that we now have that we can take a look at overnight are also reflecting his own views and the views of others on that side of the aisle.

Is that fair?

Mr. HATCH. I think that is fair. I think it is correct. Of course, we are going to continue this dialog throughout this process. There will be an attempt to accommodate folks on both sides of the aisle. We are getting down to where we are going to have to battle out some of these issues.

Mr. DOLE. We have, I might add, requests for morning business for about an hour and a half in the morning. That might accommodate concerns, and give Senators time to sit down and at least go over each of the items.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The minority leader is recognized.

Mr. DASCHLE. It is my understanding that the Senator from Wisconsin will be recognized to offer his amendment.

The PRESIDING OFFICER. That is correct.

Mr. KOHL addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

AMENDMENT NO. 1506 TO AMENDMENT NO. 1487

(Purpose: To protect the public from the dangers of Cryptosporidium and other drinking water hazards by ensuring timely completion of rulemaking to protect the safety of drinking water from microbial and other risks)

Mr. KOHL. Madam President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Wisconsin [Mr. KOHL], for himself, Mr. DASCHLE, Mr. GLENN, Mr. FEINGOLD, Mr. LAUTENBERG, and Mrs. BOXER, proposes an amendment numbered 1506 to amendment numbered 1487.

Mr. KOHL. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 19, line 5, strike out "or".

On page 19, line 7, strike out the period and insert in lieu thereof a semicolon and "or".

On page 19, add after line 7 the following new subparagraph:

"(xiii) any rule proposed or promulgated by the Environmental Protection Agency that relates to the control of microbial and disinfection byproduct risks to human health in drinking water supplies."

Mr. KOHL. Madam President, we have heard the arguments made by proponents of S. 343 stating that the emergency exemption section of this bill will protect urgent health and safety regulations in the pipeline. However, a careful reading of the legislation reveals that many essential regulations would not be protected under this section or the bill as a whole. My amendment will address a particularly serious omission: namely regulations to protect the public from the dangers of cryptosporidium and other drinking water hazards.

Simply, what my amendment does is exempt pending EPA regulations regarding cryptosporidium and related waterborne parasites from the strictures of this bill.

Unfortunately, I am all too familiar with the cryptosporidium parasite because of the recent outbreak of this waterborne disease in my State of Wisconsin. As many may recall, the water supply in Milwaukee was contaminated with this parasite in 1993, and 104 people died. Let me repeat, 104 people died. And more than 400,000 became severely ill as a result of drinking ordinary tap water.

As we continue this debate, I urge my colleagues to keep in mind, this bill is not just about how many forms businesses should be required to fill out, this bill is about peoples' lives.

Over the years, we have come to take for granted the safety of our drinking water. We have done much to protect American water consumers from devastating waterborne disease and death that plagues so many other countries in the world. But we have become complacent about the safety of our drinking water—perhaps too complacent.

In the aftermath of the Milwaukee cryptosporidium outbreak, EPA, water utility organizations, local government officials, and public interest groups have worked together to agree upon a plan of action. All parties agree that the cryptosporidium problem must be addressed. And now all parties have agreed on the way to fix this problem. EPA is in the process of issuing three regulations to implement this agreement, in order to prevent the devastation that crippled Milwaukee from occurring again. But S. 343 threatens to stop the process dead in its tracks. While that may not be the intention, I believe that that will be the outcome.

In cooperation with the regulated industry and public interest groups, EPA is moving forward on three regulations:

First, the information collection rule, which requires water utilities to collect data about the contaminants, like cryptosporidium, in their water. Based on the information collected, the next two regulations will be finalized.

Second, the enhanced surface water treatment rule, which, based on the information collected, will require new treatment and filtration methods to protect against cryptosporidium and related parasites, and

Third, the disinfectants/disinfection byproducts rule, which will propose standards on certain harmful byproducts that are created as a result of using chemical disinfectants to treat drinking water.

This is not an example of a Federal agency issuing ridiculous regulations in a vacuum. Instead, this is an example of the Federal Government finally addressing a problem that should have been addressed long ago. And it is an example of a cooperative effort with all involved parties.

Given the overwhelming need and support for these regulations, we should not be subjecting these regulations to the time consuming and extremely complicated labyrinth of S. 343.

I would like to briefly mention just a few of the problems that S. 343 poses for the pending cryptosporidium protection regulations.

First, S. 343 would stop EPA from gathering information on cryptosporidium. One of the first things EPA is doing, even before setting drinking water standards, is to gather information from water utilities to gain a better understanding of the problem. This is a common sense approach. The information gathered will help the agency and the water utilities gain a better understanding of the nature of the cryptosporidium problem and other less-known waterborne parasites. The rules cost would make this information collection rule subject to the strictures of the bill. But this creates a catch-22: The whole purpose of this rule is to gather information to be able to judge the costs and benefits of creating new standards to protect against waterborne diseases. So it would be impossible to do a cost benefit analysis on the effort to gather data. This makes no sense.

A second problem with S. 343 is that it could stop EPA from issuing stronger drinking water rules altogether. Without the information collection EPA has proposed, it will be impossible for EPA to conduct a full risk assessment as required under S. 343. Further, S. 343 makes it nearly impossible for EPA to specify the technology needed to adequately treat water to address cryptosporidium. Instead, the bill requires use of least cost alternatives, and establishment of vague performance goals that make it difficult to protect consumers.

It is highly unlikely that these regulations would be covered by the emergency exemption in the bill. How could the EPA possibly win a court challenge—and I am certain there would be a court challenge—on whether this rule is responding to an emergency? The information collection rule, which starts the whole process, is to determine the extent to which there is an emergency. Certainly for those of us who have watched the human devastation in Milwaukee, there is no question that an emergency exists. And I know that my colleagues from Texas, Georgia, Oregon, Nevada, and other States that have had recent outbreaks view this as an emergency, as well. But we still must determine the extent of the problem nationwide. And that's a time consuming process. Can you imagine the opponents saying, "Well, if you're planning to spend 18 months collecting information it can't really be an 'emergency.'"

One final note on the emergency exemption we have been hearing so much about. The emergency exemption just delays the cost benefit analysis requirement by 180 days. It does not waive the cost benefit analysis. Having to do a risk benefit analysis mid stream would disrupt the data collection process.

Madam President, I urge my colleagues to support this amendment to protect the drinking water rules which are in the works. More than 45 million Americans use tap water from systems that have been found to have cryptosporidium. Everyone agrees that we have a problem here. And, everyone agrees on the solution. My reading of the Dole-Johnston bill is that it would certainly delay and even stop this solution. My amendment would ensure that does not happen.

Madam President, S. 343 is intended to streamline the regulatory process and bring common sense to government. However, there are times when lack of action on the part of the Federal Government does not make sense. If we had stricter water treatment standards in place, maybe the tragedy in Milwaukee would not have happened.

I yield the floor.

The PRESIDING OFFICER (Mr. DeWine). Is there further debate on the amendment?

Mr. FEINGOLD. Mr. President, I rise today in full support of the amendment proposed by my colleague from Wisconsin [Mr. Kohl]. I cannot express to my colleagues in the Senate the significant urgency with which regulations on cryptosporidium, other waterborne parasites, and disinfection byproducts, need to move forward. EPA has negotiated a series of regulations with the cooperation of water utilities and public interest groups to require public water systems to test for cryptosporidium and other parasites and issued them as a proposed rule package. Using information from these negotiations, the EPA has also indicated its intent to prescribe particular treatment and filtration techniques to prevent waterborne disease outbreaks. Mr. President, this regulatory reform bill should support, not hinder, the results of negotiated rulemaking. Bringing the potentially regulated community together with the regulatory agency to discuss in a constructive way the content and scope of governmental requirements in negotiated rulemaking is the type of process that helps to ensure our objectives in regulatory reform.

Lest anyone in this body think that cryptosporidium is either just Milwaukee's problem, or an unfortunately vogue parasite brought into the limelight 2 years ago, cryptosporidium has been widely detected in public water systems, including here in Washington, DC, in 1994. In a September 30, 1994, Congressional Record statement, I described the contents of a three-part NBC news "Dateline" series that ran on cryptosporidium. Though the news show time limits prohibited a listing of all the cases of concern, the program reported that between 1986 and 1992, the Centers for Disease Control reported a total of 102 drinking water disease outbreaks linked directly or indirectly to microscopic parasites, viruses, and bacterium striking 34,155 people in 35 States.

Concerns with cryptosporidium outbreaks continue. On June 15, 1995, the CDC and EPA issued additional guidance for people with weakened immune systems, such as people with HIV and AIDS, cancer and transplant patients taking immunosuppressive drugs, and people with genetically weakened immune systems, to take extra precautions in consuming municipal water such as boiling their water or using a cyst-certified water filter to protect against cryptosporidium.

Some 400,000 people, of all States of health, became ill in Milwaukee and my colleague from Wisconsin and I have seen firsthand the ongoing health problems and the significant institutional response and coordination challenges that Milwaukee citizens continue to face, in the absence of regulation.

I also remain concerned about the health risks posed by disinfection byproducts, rules that were proposed to control the amount of disinfectant byproducts allowed in drinking water at the same time that safeguards would be strengthened against disease-causing microorganisms such as cryptosporidium. According to the fall 1994 EPA Journal, chemicals used to disinfect drinking water, such as chlorine, form byproducts that can harm human health. For example, chronic exposure to excessive amounts of trihalomethanes, a class of byproducts, can cause cancer, liver and kidney damage, heart and neurological effects, and effects on fetuses. The proposed rule would lower the maximum contaminant level for total trihalomethanes from 100 micrograms per liter to 80 and address 6 other byproducts.

In conclusion, our efforts to reform the regulatory process should not thwart rules that are needed and consensus-based, such as the rules on cryptosporidium. The citizens of Milwaukee, and indeed the citizens of many other major cities, are asking for the Government to respond to this public health concern. I believe exempting these rules from this bill is both the responsible public policy course, and the right thing to do.

Mr. ROTH. Mr. President, I make a point of order a quorum is not present.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. KOHL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KOHL. Mr. President, I would like to insert in the Record supporters of the Kohl amendment to exempt microbial and disinfection byproduct rules from S. 343. Those organizations are: American Oceans Campaign, Clean Water Action, Environmental Working Group, Friends of the Earth, National Association of People with AIDS, Natural Resources Defense Council, Physicians for Social Responsibility, Sierra Club, and U.S. Public Interest Research Group.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. GLENN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GLENN. Mr. President, let me congratulate the distinguished Senator from Wisconsin [Mr. KOHL] for taking the initiative on this matter. His constituents were hard hit in Milwaukee not long ago when they had some of these problems with cryptosporidium. It resulted in around 100 deaths and some 400,000 people ill. So he brings this to our attention. He certainly has the personal experience of knowing what happened back right where he lives with people he knows.

For that reason, I fully support the Senator from Wisconsin on this amendment to ensure the health and safety of our people. As I stated earlier when talking about the E. coli bacteria, this bill, S. 343, does not, in my opinion, provide that essential balance of regulatory relief and protection of the American people, and there does have to be that kind of a balance.

That is why I supported the minority leader's amendment on the USDA E. coli meat and poultry inspection rule. And that is why I support this amendment on rules addressing cryptosporidium. The current dangers to public health from contaminated drinking water were made clear by the outbreak of cryptosporidium in the water supply of Milwaukee, WI. As I said a moment ago, it resulted in an estimated 100 deaths and over 400,000 illnesses. I do not know the population of Milwaukee, but that means just about everybody around that area was sick for a while—400,000 people ill, and some ill enough that around 100 died from this—died.

So the amendment of the Senator from Wisconsin would exempt this critically important rule from the burdensome requirements of this bill. I support this amendment in order to show how important rules that are already underway will be delayed and can be stopped by the regulatory reform bill before us.

I stated earlier the situation with this rule reminds me of the regulatory moratorium we had before us not long ago except now we are calling it regulatory reform. Rules that are in the pipeline and will be final soon must still go back to square one all over again. Even with the emergency exemption that the proponents of S. 343 keep pointing to, this rule would still be subject to all the petition provisions, be subject to all the judicial review opportunities, the agency review of rules, and et cetera, all the things that are provided.

Also, the emergency exemption in S. 343 does not really exempt anything from the bill. It would be only temporary at best. It only provides for a 180-day grace period after issuance of the rule. That is, it gives an agency an additional 180 days to comply with the requirements of the bill and that is it.

Now, at the end of the 180 days, all of the onerous requirements of S. 343 kick in again. No exemption then. Just new opportunities for challenges, uncertainty, and delay.

Now, I guess the people who wrote this assume that 180 days was enough to do all the investigating that would have to be done. But some of these rules and regulations take years and years to finalize. Yet, we are saying, Do this within 180 days or you have to go back and start all this all over again. It is just a new opportunity for challenges, uncertainty and delay.

What will happen to the implementation of the rule when it faces those prospects? Well, regardless of the Senator from Wisconsin's amendment, the cryptosporidium rule will be caught in the vise of S. 343 and public health will suffer. The potential delays for this rule are very real. So there will be the additional deaths and sicknesses. They will be very real, too. Those sicknesses and deaths will be to those Americans who possibly assume wrongly that their water is safe to drink.

This amendment is certainly a step in the right direction to protect the health of the American people. But it certainly is not enough. S. 343 will catch other important rules, and overall it will make the jobs of the agencies to protect health, safety, and the environment much more difficult.

S. 343 simply does not fulfill my two principles for regulatory reform: regulatory relief and protection for the American people. And I repeat for the umpteenth time on the floor, there has to be a balance between those two. That is why I, along with Senator CHAFEE and many others, have introduced S. 1001, which we believe is a balanced regulatory reform proposal. It is a tough bill. It is not an easy bill. But our bill would not shut down these important rules that are already in the pipeline.

So I urge my colleagues to support this amendment. I strongly encourage them to take a hard look at our alternative proposal for regulatory reform, S. 1001. It makes amendments like this unnecessary.

Mr. President, I would like to also talk for a moment about problems for control of cryptosporidium with the amendment to exempt prior proposed rules, the Johnston amendment, so-called, that we just passed.

Now, the amendment we passed, which I voted against, would raise several problems for control of cryptosporidium, even apart from the likelihood that the continued application of the section 623 petition process would have the effect of nullifying the exemption.

First, the interim enhanced surface water treatment rule [IESWTR] to address waterborne microbial contamination, was proposed on July 29, 1994. This proposal did not actually contain a specific approach to control such contamination, but as an integral part of the negotiated agreement with stakeholders, including the drinking water industry, it set forth general control options that might be part of a final rule and request for other options. This was done because, per the agreement, the final rule was to be developed after and based on a large effort by the industry to gather scientific information on microbial and related drinking water contaminants. By being made very general as controls, as agreed, the proposal would expedite the regulatory process after the data collection.

Second, given how little of necessity that the proposed IESWTR told about the controls to be required in a final IESWTR, judges may conclude it would be irrational to apply the exemption to a proposed rule which arguably does not fulfill the normal function of a proposal—to describe the initially intended direction of the regulatory agency's approach to controls on the particular issue.

Now, given the general rule of legal interpretation that the legislative body not be presumed to have intended an irrational result and the concern elsewhere in the bill, and in this amendment, that notice in the Johnston amendment—that notice suggests final rules should be substantially similar—substantially similar to proposed rules, some judges might find this a basis for deciding that Congress could not have intended any proposal made before April 1, 1995, to include this proposal.

Further, as the word interim suggests, the regulatory negotiation left open the potential that further controls might be needed for cryptosporidium, and the IESWTR did not necessarily represent the full regulatory response appropriate for cryptosporidium. The concept for the interim rule to be promulgated as quickly as reasonably possible after the information collection was completed shows the intent of the reg neg to put in place—regulatory negotiation—to put in place whatever controls were quickly attainable but still solidly science based.

Thereafter, if implementation of the interim-enhanced surface water treatment rule left a substantial remaining risk to health from cryptosporidium, that risk could be addressed in an enhanced surface water treatment rule. Therefore, even if the proposed IESWTR did prove to be exempted under this amendment, any later enhanced surface water treatment rule clearly would not be exempted. I bring that up because it does apply to cryptosporidium and specifically with regard to the Johnston amendment that we passed just a short time ago.

So once again I urge my colleagues to support the amendment by the distinguished Senator from Wisconsin. He points out the dangers because there were dangers in his State that resulted in around 100 people dying and some 400,000 ill. I think knowing that the danger, knowing that that is what has already occurred, to say that we should take any chance at all or make any requirement for going back and doing new analysis, new risk assessment, we know the risk is there. Doing new cost-benefit ratios, doing new everything when we know what the danger is, I think would be a mistake.

So I fully support the distinguished Senator from Wisconsin, and I would urge my colleagues to support this amendment when we have a vote here in a half hour or so. And I hope that it will pass because it is something that is needed to protect the health and safety of this country so we do not have more outbreaks such as the disastrous one that happened in Milwaukee.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KOHL. I ask unanimous consent that the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KOHL. I would like to thank very much my colleague from Ohio for the kind words he said about this amendment and, of course, for the arguments most importantly that he has presented in support of this amendment.

In the aftermath of the Milwaukee incident, Mr. President, EPA negotiated a package of regulations to protect citizens against future outbreaks. All interested parties participated in this regulatory negotiation, people like water utilities, local officials, public interest groups, and others. And now all parties have agreed to these regulations. They feel strongly about moving ahead as quickly as possible.

I ask unanimous consent to have printed in the RECORD the very broad list of groups that have participated in the very cooperative, commonsense regulatory process.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

REGULATORY NEGOTIATION COMMITTEE, DISINFECTANTS AND DISINFECTION BYPRODUCTS RULE, MEMBERSHIP LIST

Scott Bernstein, Center for Neighborhood Technology, Chicago, IL; David Bailey, Environmental Defense Fund, Washington, DC; James R. Elder, Director, Office of Groundwater and Drinking Water, U.S. Environmental Protection Agency, Washington, DC; Paul Foran, Illinois Commerce Commission, Danville, IL—representing National Association of Regulated Utilities Commissioners; Joe Glicker, Portland Water Bureau, Portland, OR—representing unfiltered surface water systems; Barker G. Hamill, Chief, Bureau of Safe Drinking Water, Dept. of Environmental Protection and Energy, New Jersey Department of Environmental Protection, Trenton, NJ—representing Association of State Drinking Water Administrators; George Haskew, President, Hackensack Water Company, Harrington Park, NJ—representing American Water Works Association; Robert J. Hirsch, Council Member, City of Myrtle Beach, Myrtle Beach, SC—representing National League of Cities; Donald Jackson, South Central Connecticut Regional Water Authority, Branford, CT—representing Association of Metropolitan Water Agencies; Edward G. Means, Director, Water Quality, Metropolitan Water District of Southern California, Los Angeles, CA—representing National Water Resources Association; Kim Mortensen, Chair, Bureau of Epidemiology and Toxicology, Ohio Department of Health, Columbus, OH—representing Association of State and Territorial Health Officials; Erik Olson, Senior Attorney, National Resources Defense Council, Washington, DC; David Ozonoff, School of Public Health, Boston University, Boston, MA—representing Conservation Law Foundation; Scott Rubin, Pennsylvania Office of the Consumer Advocate, Harrisburg, PA—representing National Association of State Utility Consumer Advocates; Margot F. Saunders, National Consumer Law Center, Washington, DC; Ronald Twillman, Manager of Laboratories, St. Louis County Water, St. Louis, MO—representing National Association of Water Companies; Chris Wiant, Director, Tri County Health Department, Englewood, CO—representing National Association of County Health Officials.

Mr. KOHL. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Mr. President, here we go again. This is a very similar amendment my dear colleague from Wisconsin has brought up. It is quite similar to what we have been debating for the last 2 days.

Yesterday the adoption of Senator DOLE's amendment makes crystal clear that S. 343 contains several provisions that deal with health and safety emergencies.

Any rule, including any proposed EPA rule dealing with cryptosporidium, is not delayed by the Dole-Johnston bill. The bill waives the requirement for notice and comment procedures when emergencies occur. I do not know how much more clear we can make it than we have made it in this bill.

The bill waives the cost-benefit requirements when emergencies occur. The bill waives the risk assessment requirements when emergencies occur. Simply put, S. 343 will not—let me just emphasize that, will not—in any way delay the promulgation of a rule when health and safety emergencies require quick public action.

I understand my colleague from Wisconsin—and I know he is very sincere and he is literally trying to solve a problem that he thinks does exist, but we have solved that problem in the prior language that has been put in this bill.

In any event, rules to protect against cryptosporidium microbes are already in place. The public safety is protected today. As we stand on the Senate floor, the public safety is protected.

When EPA enforces a rule, it does so through an adjudicatory order, not a rule. This is important. When an inspector or EPA official shuts down a water processing plant or water reservoir by an order, they do so by an order, not a rule. Such orders, which are not rulemakings, are explicitly exempt from S. 343—explicitly exempt from S. 343.

So nothing will stop the EPA from issuing an order, not a rule, but an order shutting down a water plant or a water processing plant if they find that plant and that water not to be safe.

As to the petition process, it is true that a proposed rule, such as the cryptosporidium proposed rule, may be subject to S. 343's petition process. But this is a good thing.

Why is it a good thing? Years from now when perhaps new science requires a new standard, why should we not put into this bill—which we have—a provision that a petition should be granted to require an agency to look at the latest scientific data? That is what is involved here. We just want all decisions in the future to be made on the best available science so that the decisions will be right.

More important, we put protections in this bill to make sure that the rulemaking by the regulatory agencies is done in the highest form and in the best sense. If a rule becomes burdensome, why should not the rule be reviewed? If we find that there is a scientific change that merits reviewing the rule, why should we not use the best science to do so? That is what this bill does. It is a commonsense bill. It is pure and simple common sense.

The Dole-Johnston bill protects health and safety. The Dole-Johnston bill does not delay the promulgation of emergency rules or even apply at all to orders that enforce agency health and safety rules. And that is something that has not been brought out in our debates up to now, that orders are not covered. Orders can be issued by these agencies and, frankly, emergency rules can be obtained where an emergency exists. The bill is explicit on it. The bill makes it clear. The bill protects the American public, and the bill requires that the best science be used through the years in these areas.

So there is no need for this amendment and, frankly, it is the same issue as we had with regard to the E. coli issue. We have solved that problem. We have an emergency provision in this bill that will allow true emergencies to be taken care of without worrying about risk assessment or cost-benefit analysis until afterwards. And in this particular case, the EPA can issue an order to correct it, if there was a cryptosporidium problem, without any consideration at all and would accomplish exactly what the distinguished Senator from Wisconsin would like to accomplish.

So I hope my colleagues will recognize this and realize that we have to get serious about passing a bill that literally makes a lot of sense, makes common sense, invokes the best science available, not only today but as science develops into the future and, basically, does everything that we really need to have done to force the bureaucracy to be more responsible with regard to the issuance of rules.

That is why this bill is so important, because we can get rid of a lot of the irresponsibility of the bureaucracies in this society, bureaucracies that are eating us all alive and many times without justification, while at the same time upholding rules that are truly drafted, that work, that make sense, that are in the best interest of health and safety and meet the highest scientific standards necessary to protect the American public.

So I hope, as much as I respect my colleague from Wisconsin—and I do, and we work together on the Judiciary Committee—I believe that this amendment is not needed. I know it is not needed. The bill covers these problems, and I hope our colleagues will be willing to vote it down.

I yield the floor.

Mr. KOHL addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. KOHL. Mr. President, I would like to make it clear that I believe this is an emergency, and I would like to think my colleague from Utah agrees we have an emergency situation here. But we also have to understand this is not a situation where there can, under any circumstances, be quick action. This is not a situation where there can be an immediate order. We understand in order to gather the information necessary to promulgate the rules and regulations some amount of time necessarily, if unhappily, but necessarily will take place, and that is why, first, we have to understand we have to gather information.

So I say to my colleague from Utah that if he believes that this situation is covered in the bill, then let us just make it clear. There is no sense getting involved in belaboring the point. Again, if, as my colleague from Utah says, this matter is already addressed in the bill—I do not believe it is—but if he believes that it is addressed in the bill, then there should be no harm in reiterating this point. What I am saying is, let us not leave it later on to lawyers to dispute and to decide, to argue whether or not the bill covers this particular cryptosporidium problem.

Let us simply make it clear with this amendment that it does insert it into the bill in any way in which my colleague from Utah wishes to do that, because I think I hear him saying that there is a problem with cryptosporidium that needs to be addressed. I think he has said that very clearly. He is saying that the bill addresses it.

What we are saying—and what many people would say—is that the bill does not address it. So I do not think it is too much to ask of my colleague from Utah to understand that people are terribly concerned that S. 343 will not derail the cryptosporidium problem and that we are asking for his assurance in the bill that the cryptosporidium problem will not be put off the tracks because of the way in which the bill is written and because of the way in which lawyers then will be able to bring all kinds of arguments against taking action on cryptosporidium.

So I think that is a reasonable request insofar as our colleague agrees that the cryptosporidium problem needs to be addressed and should not be set aside by S. 343.

Mr. HATCH. I believe the cryptosporidium problem is being addressed here and under current law. We even make it stronger under this bill. But the important thing is that we do not think anything should be exempted from this bill, because this bill, by not exempting these matters, requires that the best available science, as it evolves into the future, be applied to these types of issues.

If we exempt cryptosporidium, make an exception for it—as the minority leader wanted to do with the last amendment on the E. coli and meat and poultry inspection problems—then we are not guaranteeing that we will apply the best and finest science into the future. We provide for emergency relief here. We do provide that orders are not to be interfered with. So there is plenty of power in the law right now to resolve this problem. This bill will help to do it anyway. The emergency provisions, I think, are more than adequate and, I think, crystal clear.

Mr. BIDEN addressed the Chair.

Mr. KOHL. Mr. President, I yield to my friend from Delaware.

Mr. BIDEN. Mr. President, I will ask a question of my friend from Utah, or a generic question. It seems to me that what is happening here on the last amendment and this amendment is that we are allowing ourselves to be captives of a rule that we are setting out that makes no sense. This generalized notion, when one states it, that there should be no exemption sounds like a rule of equity. There should be no exemption. But when cryptosporidium—not a thing you take home in your lunch pail to feed to your children, not a thing that anyone can find any rational basis for thinking it could be beneficial in the food or water chain anywhere along the line. To suggest that you cannot take something that is of nothing but destructive capacity when ingested by human beings and explicitly exempt it from this process that is being put in place, seems to me to make one a victim of your own rule—a rule that is of no value in and of itself.

This generalized notion that everything is on the table, everything has to be considered, is a little bit like saying that when we do the Federal budget, everything is on the table, including whether or not we have an army, or everything is on the table, including whether or not we continue to have a Constitution. There are certain things that are not on the table, and there is no value in anything other than keeping them off the table. Other things that are of such clear, damaging consequences to the public at large should be taken out of the general rule we have here, and we should say flatout, no, flatout cannot—cannot. There is no tolerance level for certain things.

I think we are getting caught up, and we are acting like lawyers. I am a lawyer, and I do not accuse my friend from Wisconsin of being a lawyer. I know he is not. Everybody always says, "Do not call me a lawyer." Many of us here are lawyers, and we are sounding like lawyers. We are setting up rules. It is almost a tautology that we are constructing here. We are penalizing ourselves by making ourselves subscribe to a generalized proposition that makes no sense.

And so I compliment my friend from Wisconsin in insisting that this change take place. And I think, to put it on the other side of the coin, what the Senator from Utah is saying—what damage is done to this legislation by doing what the Senator from Wisconsin wants? If we are going to err, does it not make sense to err on the side of seeing to it that there is not a repeat of the situation that occurred in the Senator's State? Does it not make sense to err on that side? What damage are we doing to a specific industry, a specific economic interest, a specific company by doing what the Senator wants? And even if we were, so what?

I find this to be getting to be a very tortured discussion. So I hope our colleagues—and I know the last thing in the world my colleague from Utah would want to happen would be to change the law in such a way that we increase the possibility of what the Senator from Wisconsin is trying to prevent from happening again. This bill requires the agency to conduct all of the analysis required by this bill within 180 days, even if there is an emergency.

I thought an emergency meant an emergency. I do not think the American people think that when they talk about emergency, they are talking about 180 days. Is that an emergency? How many people could we lose in 180 days? How much damage can be done? That is 6 months. We are not talking about an emergency where somebody says, I found this out today and tomorrow it stops. That is, I think, an unrealistic timeframe for conducting risk assessment and peer review and cost-benefit analysis, all of which is required.

Assuming those requirements can be met, the bill then allows regulated parties to come in and challenge whether the benefits justify the cause, or that the agency adopt the cheapest regulatory alternative, or whether any analysis that is conducted has been done properly, or any number of other issues that can be litigated under this bill. The rule could be tied up in litigation. The parties could seek injunctions to prevent it from going into effect, based on the cumbersome requirements of the bill. And once the rule went into effect, industry could also petition to seek a repeal of the rule, or seek interpretation of the rule, or seek a waiver or an alternative method of compliance. If denied, they could then litigate these issues again in court.

This bill already recognizes that some types of rules should be exempted from the requirements. For example, the bill already exempts rules affecting the banking industry—deposit insurance funds, the farm credit insurance fund. It exempts rules relating to financial responsibility of brokers, dealers of futures, commission merchants, and safeguarding investor security. It exempts anything relating to the introduction of a product into the market. Some of these exemptions could well be sensible on precautions, given the complex, cumbersome, expensive process required by this legislation. But certainly a rule affecting, in this case, cryptosporidium, or in the case of the last amendment, meat inspection and safety, is at least as important as to whether or not those exemptions which I just mentioned, including the banking industry and financial transactions, should be exempt.

So we do have in this legislation, in essence, what the Senator from Wisconsin is seeking.

But guess what it is for? It is not for public health and safety. It is for what my Republican friends seem most concerned about, and they should be concerned, I agree with their concern. But it seems they are concerned about property. Property. Not people—property.

Banking industry, deposit insurance, farm credit insurance. We exempt that, why not exempt things that kill people? I am not arguing we should not exempt what they exempted.

What I do not understand is the generalized statement made that everything is on the table. It is not all on the table. The rules affecting banking are not on the table the same way as the rest. Deposit insurance funds are not on the table the same as everything else.

It is kind of funny. It reminds me—I have been here a long time. I remember when there was a move for the neutron bomb back in the 1970's when Carter was President. The virtue of the neutron bomb was that it killed only people and does not destroy property. That was a really great benefit of the neutron bomb.

We are going to make it very, very difficult under the version my Republican friends are offering, to be able to protect the public on matters relating to things like cryptosporidium or E. coli and many other things, but not difficult to protect the public interest when it comes to Federal deposit insurance.

Now, I think we should do what we have done as it relates to these economic interests, but what I do not understand is why is the thing the Senator is talking about, which literally, if not handled well, causes death, human life is lost, why is it not treated the same way?

I suggest to my friend from Wisconsin, keep at it. Do not buy on—which I know he does not—to the argument that everything is on the table. Everything is not on the table. Everything is not being treated the same way. Things affecting public health and safety are put in one category because business has interest in those things. Things that affect business in terms of potentially being exposed financially are exempted from this cumbersome process.

Do not let them kid you, Senator. These folks understand what they are doing. They understand what they are doing. They are making it easier to make a mistake when it comes to public health and safety and making it, as they should, difficult to make a regulatory mistake when it comes to financial transactions.

I do not think that is what the American people want. I think if you gave them a choice, would they take a risk on a Federal bureaucrat overstepping his or her bounds when it came to clean water, or take a risk at overstepping their bounds when it came to financial institutions, what do you think they would pick? I think they would say, "I would run the risk of having an overzealous person take care of my water, an overzealous person taking care of my meat, an overzealous person taking care of the air I breathe."

I know the Senator from Wisconsin. We have worked together too long. If anybody abhors bureaucracy, it is the man from Wisconsin. The Senator is the most no-nonsense businessman I have ever come across.

That is why the Senator has been such a successful businessman as well as such a successful Senator. The Senator is one of the few people on the floor of this Senate who knows how cumbersome bureaucracy can be, who is frustrated by it as a businessman, and worked his way through it to become an incredibly successful businessman, is on the floor here saying, hey, wait a minute, we are going too far here.

I hope the public understands what this is about because it is so complicated. We can get so caught up in this. What does peer review mean? What does it mean when we are talking about all of these various aspects of the bill?

It comes down to simple things. From my standpoint, when it comes to cryptosporidium, which I can hardly pronounce but I know full well what the consequences of its ingestion, I am not as worried about some feckless bureaucrat out there exercising unreasonable power. I do not like bureaucrats exercising unreasonable power. But I want to say this is the place I least worry about it, least worry about it.

Let me say, I would rather have some obnoxious bureaucrat making sure there is no E. coli in the hamburger my kid eats at McDonald's than I would worry about a bureaucrat overstepping their bounds in terms of telling banks what they can and cannot do.

Is it not funny how this debate goes when it comes to money, when it comes to dollars? We do not want to fool around too much. When it comes to human life, when it comes to public health and public safety, well, then, we know how the bureaucrats are.

This is not a defense of bureaucrats. I am a cosponsor of the Glenn bill. I want to remind everyone when the Glenn bill came out in another form—same substance but under another title several months ago—the environmentalists were against it.

The Senator from Wisconsin and the Senator from Delaware are not up here being purists. We realize that bureaucracy gets in the way of business. We realize bureaucracy increases costs unnecessarily for consumers. We realize that Washington does not know all the answers, have all the answers.

That is what the Glenn bill does. But this goes too far. It goes too far. As I said, I think I will go back to my home State, I will not speak for the Senator's State or any other State in the Nation, even presumptuous for me to speak of my own State, although I think I understand it as well as anyone.

I have listened as hard as anyone over the last 25 years I have been in office. I make a bet. Ask them whether or not they are worried about whether or not someone is being overzealous and protecting their water, someone is being overzealous and protecting contaminants in the meat, or feces in the meat that they ingest, and whether that is something they really think the Senate should be worried about right now, and my guess is they are going to say "You know, Senator, I don't think you are doing enough to make sure my water is clean. I don't think you are doing enough to make sure that the meat, the fish and the poultry I ingest lacks contaminants. I don't think you are doing enough to make sure that the environment and the air I breathe and the water I swim in and the beaches I bathe on are clean."

"I do think you are right, Senator, that worrying about pink flamingos and spotted owls and endangered species can be taken to a ridiculous extreme. Senator, when it comes to the water my kid drinks, when it comes to the hamburger my kid eats, when it comes to the beach my kid swims on, I do not think you are doing enough."

Is that not the essence of what this debate is about? Which side can we err on? I think the Senator from Wisconsin is erring on the right side. I would suggest that this notion that everything is on the table, treated the same way, is not accurate.

I yield the floor.

Mr. KOHL. I thank the Senator from Delaware. I could not agree more with his comments. He is talking very clearly about the things that affect human health and safety, the things that the American people have repeatedly insisted that they care about, are concerned about, and do not want to see any mistakes made concerning their human health and safety.

What happened in Milwaukee, which has happened to a lesser extent in other communities, but what happened in Milwaukee, we lost 104 people because the water developed a parasite that was not protected.

What the EPA now is doing, I want to say again, the EPA is now in the process, along with water utilities and other concerned interest groups, without anybody disputing the process that is unfolding, the EPA is in the process of collecting information which will result, finally, in setting up rules and regulations regarding the treatment of drinking water.

Now, I would challenge any Senator, the Senator from Utah or any other Senator, to come to Milwaukee and tell the people that in this regulatory reform bill the Milwaukee situation and the EPA process which is now unfolding is or is not absolutely protected.

I think if we would have to tell them that we think it is protected but we cannot absolutely guarantee that the process that is unfolding is protective, I do not think that any public official could stand up in Milwaukee and make the case and satisfy people in Milwaukee that he or she was doing his job.

We had the outbreak. We lost 104 people. And 400,000 people got sick. There is a process of unfolding to see it does not happen again, not only in Milwaukee but all across the country. What we are simply asking is that this process be guaranteed to unfold, and that there not be any chance that S. 343 could impede that happening. It seems to me, I suggest to my colleague from Utah, that is a reasonable request to make, and a reasonable assurance to ask for, as we move ahead with S. 343.

The PRESIDING OFFICER (Mr. BROWN). The Senator from Utah is recognized.

Mr. HATCH. Mr. President, we have reached a point where I really appreciate my colleague. I know they have had a particular problem. I know he is trying to solve it, as he always does. He is a sincere, dedicated Senator, and I appreciate it personally. And he is a friend.

But the point that I am making is that in this bill it is crystal clear that the regulators have every right to treat any cryptosporidium situation as an emergency and to pass the necessary rule or obtain the necessary orders to stop it. There is no reason to add anything else to this bill with regard to cryptosporidium.

The real point here is that there is nothing in the Dole-Johnston bill that delays, harms, impedes or hinders the promulgation of rules that protect health and safety of the American people—nothing. In fact, there is everything in this bill that would lead one to—and the bureaucracy—to meet the highest scientific standards of the time, not just of today, but as we go into the future.

These are some of the real reasons why this bill is so important and why we cannot exempt anything from the coverage of this bill that might be subject to regulation. The reason is because the bill's main emphasis is on using the highest form of science in order to resolve this. When you exempt something, you do not have to do that.

We have been putting up with really almost 40 years, now, since 1958, with the Delaney clause. The Delaney clause was enacted at a time when we only could determine scientifically parts per thousand—parts per million at the very most—in 1958. Today, because of the scientific advancements that we have had, and because of the scientific attainments that we have attained over these last 40 years, we can now ascertain through science parts per quintillion.

What that means is, parts per quintillion is like having a teaspoonful of water as part of all of the Great Lakes system. Yet we have this stupid, idiotic Delaney clause that requires zero risk with regards to anything that might be carcinogenic. And we have grandfathered foods that are carcinogenic because they have long been used, and we have barred foods that are not, where there is just a negligible risk, or no risk, really, of getting cancer from eating these foods. The fact of the matter is, that is what is wrong when you try to exempt something from what really are good, scientifically based legislative bits of language.

This bill will take care of cryptosporidium. The current law will, but this bill even does more. Because nobody is going to have any delay in any emergency where the bureaucracy would act anyway. Because they would not have to go through a risk assessment or a cost-benefit analysis in an emergency, pre-issuing the rule or order or whatever it may be. They would have to do the cost-benefit analysis and risk assessment afterwards. But they could act immediately on any emergency situation. Any cryptosporidium problem would be resolved.

But more important, because we will not exempt cryptosporidium, the best possible science will be applied through the upcoming years; unlike the Delaney clause, where the worst possible science generally is applied, and where we, like I say, we do not know where we are. And where the rule is used to keep out substances and foods that really have no carcinogenic effect, where there is very negligible or very minimal—de minimis risk of harm to any human being—where we keep those off the marketplace. We have seen that time after time.

What we want to do, and what we are trying to do in this bill, is have the very best science we possibly can. We like the rule of common sense. We have no doubt that, if there is a threat to health and safety of the American population, and it becomes an emergency, that our regulators will immediately attack those problems. But they will attack them by having thought through this bill, and it is requisite that they do it in the right way and that they do it in a non-onerous way. They will not have to go through a risk assessment or a cost-benefit analysis before they act, in the case of true emergencies. Anybody who does not understand that does not understand the bill. There is absolutely no reason, absolutely no reason for us to make exemptions for, really, anything of this nature in the bill.

By the way, Senator KOHL has mentioned that EPA has negotiated an information-gathering rule dealing with cryptosporidium data, scheduled to be released next December. The argument just made that S. 343 will delay or impede the information-gathering rule is simply not true. The information-gathering rule is not covered by the cost-benefit and risk requirement provisions of the bill, of this bill. Research is not covered by the bill's requirements. So that needs to be made clear.

Just to make the point one more time, we do not want to exempt anything from this bill because we have confidence that our regulators are going to go after anything that threatens the health or safety of American citizens. I have no doubt about that. I do not think anybody else does either. We have provided specific language in this bill that, if there is a true emergency, they do not have to go through any delay at all. They can handle that emergency immediately. And we also provide in this bill, once the emergency is handled, that well into the future the very finest science is going to have to be applied in these instances.

Frankly, to go beyond that and to exempt something where we might wind up with another Delaney clause—I admit, people could say that is a stretch, but it is not. We do that all the time in this country. I think it is a real mistake. If you really want to solve the problem of cryptosporidium, then do it with the bill's language, where we provide for emergency relief by those who are concerned about these type of problems as they arise. And since cryptosporidium is something that everybody is concerned about, I cannot imagine any bureaucrat not being willing to solve the health and safety aspects of that particular problem.

We are prepared to go to a vote. I am prepared to move to table.

Mr. BIDEN. Mr. President, if the Senator will withhold the tabling motion, I would like to make several brief comments.

Mr. HATCH. I will be happy to withhold. I would like to move on.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. BIDEN. Mr. President, I will try to decode this in what I understand to be, to use the phrase we all use here, basic old common sense.

What the Senator from Wisconsin is saying is: Hey, look, if a bureaucrat oversteps his bounds and comes up with some preposterous ruling relating to pesticides or parasites in the water, and says that one—I did not even know the figure the Senator used, but one teaspoon—whatever the measurement was that would equal one teaspoon relative to the entire Great Lakes—and says you cannot put that in the water, that amount, if this is that ridiculous, there is emergency relief for the company which is doing that. It is called the Congress. That is the emergency relief. Come to Congress and say, "That stupid bureaucrat just passed this rule saying you cannot have more than 1 part per hundred trillion of such and such in the water. We can pass a law. We can say no. It can be 5 million parts per trillion." That is the emergency relief I think we should have. But what is the emergency relief that he is suggesting for us, if in fact what is being done to the water system is damaging? It is this cumbersome procedure even under an emergency which is declared that takes months to occur.

So I think common sense dictates to me if a manufacturer—that is what we are talking about, a business, an economic interest—is in fact damaged because some silly bureaucrat comes up with a rule that makes it impossible for them to conduct business and does no harm to the water system, there is recourse, emergency recourse—the U.S. Congress.

What is the emergency recourse for the constituent in Wisconsin if in fact a pesticide is being put in the water that is causing serious damage? It takes time under this rule. The Senator says nothing is exempt. First of all, anything, any rule that does not affect $100 million worth of something is exempt from this process, this cost-benefit analysis, this risk assessment laid out in this thick piece of legislation in both the Glenn bill and the Hatch bill we are talking about. So that is one exemption.

There is a second exemption, a series of exemptions. If you turn to page 16 of the text of the bill, it says it does "not include"—meaning that the cost-benefit analysis is not required for the following things: A rule that involves the internal revenue laws of the United States.

So what it says here is even if the IRS comes up with a stupid rule where a cost far outweighs the benefits, it is not reviewable under this law. Even if the rule of an agency that impedes an international trade agreement, and if in the implementation of it the cost far outweighs the benefit, it is not subject to this legislation. The list goes on. Just pick another one.

A rule or agency action that authorizes the introduction into commerce or recognizes a marketable status of a product. You would have the most damaging darned product in the world where the cost would far outweigh the benefit, and it is not reviewable.

So this idea that there is something sacrosanct here about not exempting anything, what the Senator is asking for is this incredible exception where his amendment would be the only thing out there. There are a raft of actions that mindless bureaucrats can take that are not subject to the cost-benefit analysis and risk assessment required in this bill.

Why? Why? Why should we somehow now impose a rule of legerdemain here in the Senate saying, "Senator, what you are asking for is an exemption. You are asking for something to be treated differently than the rest of the bill. And we just cannot do that. It will open up the floodgates here." No one said that. But that is implicit.

I would say to the Senator there are lot of things that are not subject to a cost-benefit analysis that mindless bureaucrats can undertake. I might add I do not think most bureaucrats are mindless. But let us pick that mindless bureaucrat.

In law school we always talked about a "reasonable man." No one could always find a reasonable man. But we always talked about the reasonable man. We have the mindless bureaucrat wandering the halls of Congress and the floor of this body. He or she is the person we are all after. Well, if we find that mindless bureaucrat and he or she is mindlessly engaged in regulations relating to the Internal Revenue Code, we say, "You may continue to be mindless. This does not apply to you." If they are talking mindlessly interfering with a rule, interfering with the introduction of a product into commerce, you say, "You can continue to be mindless."

The list goes on for two pages:

"(iv) a rule exempt from notice and public procedure under section 553(a);

"(v) a rule or agency action relating to the public debt;

"(vi) a rule required to be promulgated at least annually pursuant to statute, or that provides relief, in whole or in part, from a statutory prohibition, other than a rule promulgated pursuant to subtitle C of title II of the Solid Waste Disposal Act (42 U.S.C. 6921 et seq.);

"(vii) a rule of particular applicability that approves or prescribes the future rates, wages, prices, services, corporate or financial structures, reorganizations, mergers, acquisitions, accounting practices, or disclosures bearing on any of the foregoing;

"(viii) a rule relating to monetary policy or to the safety or soundness of federally insured depository institutions or any affiliate of such an institution. . . ."

It goes on and on:

"(xi) a rule or order relating to the financial responsibility of brokers and dealers or futures commission merchants, the safeguarding of investor securities and funds or commodity future or options customer securities and funds, the clearance and settlement of securities, futures, or options transactions, or the suspension of trading under the Securities Exchange Act of 1934.

"(xii) a rule that involves the international trade laws of the United States."

They are all exceptions. There is not a cost-benefit analysis required for those; no requirement to do anything like any of this legislation we are about to pass. We can do that. Why cannot we do it for cryptosporidium or E. coli? What is the problem? Because there is emergency relief for an aggrieved party, if a mindless bureaucrat sets out a rule that has no relationship to science, and it is called the Congress. It can change the law. The bureaucrats can only make laws we authorize them to make.

Why provide this kind of hurdle for an agency attempting to protect the water supply of the Nation? Why provide this hurdle to catch the occasional overzealous bureaucrat overreaching and damaging the property owner, or damaging a business interest? Why not provide it with the 535 Members of the Congress?

If there is one side I would err on, I would err on the side of the Congress. But there are already significant portions of our commerce in this Nation that are legitimately and reasonably exempted from any cost-benefit analysis including any rule that does not have the impact of $100 million.

I yield the floor.

Mr. KOHL. Mr. President, I will take a minute to summarize again what my amendment is all about.

We have a problem of cryptosporidium in this country. We had an outbreak in Milwaukee, and we lost 104 people, leaving 400,000 people seriously ill. We had outbreaks in a dozen other communities in the country. I will not enumerate all of those communities. But San Antonio, Jackson County, OR, Las Vegas, and we had something here in Washington, DC, recently. There is no question about the need to promulgate rules and regulations.

As I said, the involved water utilities—and other interest groups—all of them have agreed that we must set in motion the process we have to collect information and then promulgate rules to protect our water supply in this country from another outbreak of cryptosporidium. No disagreement. And that process is now under way.

Now, people who have looked at S. 343, lawyers and other people—I am not a lawyer—have assured me that there is a real danger that under S. 343 as it is written the EPA process that is underway will be sidetracked, may very well be sidetracked. Some believe that it will. Some believe that it may be.

What we are asking for in S. 343 is assurance that the process now underway and agreed to by EPA and water utilities and other interest groups will not be sidetracked. That is all this amendment says. Let us see to it that the process is not sidetracked.

So I ask my colleagues to consider that simple consideration when they decide how to vote on whether or not to table this amendment which, as I understand, is going to be asked for by the opposition.

I yield the floor.

The PRESIDING OFFICER. Is there other debate on the Kohl amendment? If not, the question is on agreeing to the amendment of the Senator from Wisconsin.

All those in favor of the amendment—the Senator from Utah is recognized.

Mr. KOHL. I ask for the yeas and nays.

Mr. HATCH. Mr. President, I move to table the amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. The yeas and nays have been requested. Is there a sufficient second? There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the amendment. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from North Carolina [Mr. HELMS] is necessarily absent.

Mr. FORD. I announce that the Senator from Hawaii [Mr. INOUYE] is necessarily absent.

The result was announced—yeas 50, nays 48, as follows:

[Rollcall Vote No. 303 Leg.]

YEAS—50

Abraham
Ashcroft
Bennett
Bond
Breaux
Brown
Burns
Campbell
Coats
Cochran
Coverdell
Craig
D'Amato
DeWine
Dole
Domenici
Faircloth
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hatch
Hatfield
Hutchison
Inhofe
Johnston
Kassebaum
Kempthorne
Kyl
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Packwood
Pressler
Roth
Santorum
Shelby
Simpson
Smith
Stevens
Thomas
Thompson
Thurmond
Warner

NAYS—48

Akaka
Baucus
Biden
Bingaman
Boxer
Bradley
Bryan
Bumpers
Byrd
Chafee
Cohen
Conrad
Daschle
Dodd
Dorgan
Exon
Feingold
Feinstein
Ford
Glenn
Graham
Harkin
Heflin
Hollings
Jeffords
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moseley-Braun
Moynihan
Murray
Nunn
Pell
Pryor
Reid
Robb
Rockefeller
Sarbanes
Simon
Snowe
Specter
Wellstone

NOT VOTING—2

Helms
Inouye

So the motion to table the amendment (No. 1506) was agreed to.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. NICKLES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOLE. Mr. President, I am going to propound a unanimous consent request. I am going to ask consent that the Senator from Delaware be recognized next to offer an amendment concerning risk-based priorities; that there be 30 minutes for debate to be equally divided in the usual form; that any second-degree amendment be limited to 15 minutes to be equally divided and must be relevant to the first-degree. I do not know if any second-degree amendments are going to come from that side or not. Since it will not come from this side, maybe it will not be necessary that they be seen ahead of time.

Mr. GLENN. Mr. President, reserving the right to object. I know the majority leader wants to speed this along, and I agree with that. We have been moving along pretty well. But I think without knowing what amendments might even be put forward and how serious they might be, I would not want to agree on time limits unless we had the amendments in advance and could look at them and decide how important they are. I will have to object.

Mr. DOLE. As I understand, the amendment of the Senator from Delaware is available.

Mr. ROTH. I ask the distinguished Senator from Ohio whether it might not be possible on my amendment, which has been cosponsored by Senator BIDEN, that we might not reach a time agreement on that.

Mr. GLENN. I thought the unanimous-consent request was on all the——

Mr. DOLE. Thirty minutes on the Roth amendment equally divided and then any second-degree amendment 15 minutes.

Mr. ROTH. Can we agree there will be no second-degree amendments on this amendment?

Mr. GLENN. On this particular amendment, I probably would accept the amendment. I think there would be objection on our side to accepting the amendment.

Mr. JOHNSTON. Mr. President, we want to accommodate the Senator from Delaware. The problem is it takes the National Academy of Sciences out of the picture at least in part, and it is highly controversial, as I understand it, with the National Academy of Sciences. I confess, I have been working on these other amendments and have not had the time. It is not one of the most important issues, and we do want to try to work with the Senator from Delaware. I wish we had a little time to try to focus on it, because we want to try to find a way to accommodate.

Mr. ROTH. We will just lay it down tonight.

Mr. JOHNSTON. That would be good.

Mr. GLENN. We can lay it down tonight and discuss the time limit tomorrow. I would not want to agree to a time limit tonight.

Mr. DOLE. I understand. The Senator from Ohio is not prepared to consent to any agreement. I do not quarrel with that. The amendment will be laid down tonight, and then maybe tomorrow we can work out a time agreement.

There will be no more votes this evening, unless someone wants to have another vote; no more votes.

Tomorrow morning, there will be, as I understand it, a meeting with Senator KERRY, Senator LEVIN, Senator JOHNSTON, Senator GLENN, Senator HATCH, Senator ROTH and others.

Mr. DOLE. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1507 TO AMENDMENT NO. 1487

(Purpose: To strengthen the agency prioritization and comparative risk analysis section of S. 343)

Mr. ROTH. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Delaware [Mr. ROTH], for himself and Mr. BIDEN, proposes an amendment numbered 1507 to Amendment No. 1487.

Mr. ROTH. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Delete all of section 635 (page 61, line 1 through page 64, line 14 and add in its place the following new section 635:

SEC. 635. RISK-BASED PRIORITIES.

(a) PURPOSE.—The purposes of this section are to—

(1) encourage Federal agencies engaged in regulating risks to human health, safety, and the environment to achieve the greatest risk reduction at the least cost practical;

(2) promote the coordination of policies and programs to reduce risks to human health, safety, and the environment; and

(3) promote open communication among Federal agencies, the public, the President, and Congress regarding environmental, health, and safety risks, and the prevention and management of those risks.

(b) DEFINITIONS.—For the purpose of this section:

(1) COMPARATIVE RISK ANALYSIS.—The term "comparative risk analysis" means a process to systematically estimate, compare, and rank the size and severity of risks to provide a common basis for evaluating strategies for reducing or preventing those risks.

(2) COVERED AGENCY.—The term "covered agency" means each of the following:

(A) The Environmental Protection Agency.

(B) The Department of Labor.

(C) The Department of Transportation.

(D) The Food and Drug Administration.

(E) The Department of Energy.

(F) The Department of the Interior.

(G) The Department of Agriculture.

(H) The Consumer Product Safety Commission.

(I) The National Oceanic and Atmospheric Administration.

(J) The United States Army Corps of Engineers.

(K) The Nuclear Regulatory Commission.

(3) EFFECT.—The term "effect" means a deleterious change in the condition of—

(A) a human or other living thing (including death, cancer, or other chronic illness, decreased reproductive capacity, or disfigurement); or

(B) an inanimate thing important to human welfare (including destruction, degeneration, the loss of intended function, and increased costs for maintenance).

(4) IRREVERSIBILITY.—The term "irreversibility" means the extent to which a return to conditions before the occurrence of an effect are either very slow or will never occur.

(5) LIKELIHOOD.—The term "likelihood" means the estimated probability that an effect will occur.

(6) MAGNITUDE.—The term "magnitude" means the number of individuals or the quantity of ecological resources or other resources that contribute to human welfare that are affected by exposure to a stressor.

(7) SERIOUSNESS.—The term "seriousness" means the intensity of effect, the likelihood, the irreversibility, and the magnitude.

(c) DEPARTMENT AND AGENCY PROGRAM GOALS.—

(1) SETTING PRIORITIES.—In exercising authority under applicable laws protecting human health, safety, or the environment, the head of each covered agency should set priorities and use the resources available under those laws to address those risks to human health, safety, and the environment that—

(A) the covered agency determines to be the most serious; and

(B) can be addressed in a cost-effective manner, with the goal of achieving the greatest overall net reduction in risks with the public and private sector resources expended.

(2) DETERMINING THE MOST SERIOUS RISKS.—In identifying the greatest risks under paragraph (1) of this subsection, each covered agency shall consider, at a minimum—

(A) the likelihood, irreversibility, and severity of the effect; and

(B) the number and classes of individuals potentially affected, and shall explicitly take into account the results of the comparative risk analysis conducted under subsection (d) of this section.

(3) OMB REVIEW.—The covered agency's determinations of the most serious risks for purposes of setting priorities shall be reviewed and approved by the Director of the Office of Management and Budget before submission of the covered agency's annual budget requests to Congress.

(4) INCORPORATING RISK-BASED PRIORITIES INTO BUDGET AND PLANNING.—The head of each covered agency shall incorporate the priorities identified under paragraph (1) into the agency budget, strategic, planning, regulatory agenda, enforcement, and research activities. When submitting its budget request to Congress and when announcing its regulatory agenda in the Federal Register, each covered agency shall identify the risks that the covered agency head has determined are the most serious and can be addressed in a cost-effective manner under paragraph (1), the basis for that determination, and explicitly identify how the covered agency's requested budget and regulatory agenda reflect those priorities.

(5) EFFECTIVE DATE.—This subsection shall take effect 12 months after the date of enactment of this Act.

(d) COMPARATIVE RISK ANALYSIS.—

(1) REQUIREMENT.—(A)(i) No later than 6 months after the effective date of this Act, the Director of the Office of Management and Budget shall enter into appropriate arrangements with an accredited scientific body—

(I) to conduct a study of the methodologies for using comparative risk to rank dissimilar human health, safety, and environmental risks; and

(II) to conduct a comparative risk analysis.

(ii) The comparative risk analysis shall compare and rank, to the extent feasible, human health, safety, and environmental risks potentially regulated across the spectrum of programs administered by all covered agencies.

(B) The Director shall consult with the Office of Science and Technology Policy regarding the scope of the study and the conduct of the comparative risk analysis.

(2) CRITERIA.—In arranging for the comparative risk analysis referred to in paragraph (1) of this subsection, the Director shall ensure that—

(A) the scope and specificity of the analysis are sufficient to provide the President and agency heads guidance is allocating resources across agencies and among programs in agencies to achieve the greatest degree of risk prevention and reduction for the public and private resources expended;

(B) the analysis is conducted through an open process, by individuals with relevant expertise, including toxicologists, biologists, engineers and experts in medicine, industrial hygiene and environmental effects;

(C) the analysis is conducted, to the extent feasible, consistent with the risk assessment and risk characterization principles in section 633 of this title;

(D) the methodologies and principal scientific determinations made in the analysis are subjected to independent and external peer review consistent with section 633(g), and the conclusions of the peer review are made publicly available as part of the final report required under subsection (e);

(E) there is an opportunity for public comment on the results before making them final; and

(F) the result are presented in a manner that distinguishes between the scientific conclusions and any policy or value judgments embodied in the comparisons.

(3) COMPLETION AND REVIEW.—No later than 3 years after the effective date of this Act, the comparative risk analysis required under paragraph (1) shall be completed. The comparative risk analysis shall be reviewed and revised at least every 5 years thereafter for a minimum of 15 years following the release of the first analysis. The Director shall arrange for such review and revision with an accredited scientific body in the same manner as provided under paragraphs (1) and (2).

(4) STUDY.—The study of methodologies provided under paragraph (1) shall be conducted as part of the first comparative risk analysis and shall be completed no later than 180 days after the completion of that analysis. The goal of the study shall be to develop and rigorously test methods of comparative risk analysis. The study shall have sufficient scope and breadth to test approaches for improving comparative risk analysis and its use in setting priorities for human health, safety, and environmental risk prevention and reduction.

(5) TECHNICAL GUIDANCE.—No later than 180 days after the effective date of this Act, the Director, in collaboration with other heads of covered agencies, shall enter into a contract with the National Research Council to provide technical guidance to agencies on approaches to using comparative risk analysis in setting human health, safety, and environmental priorities to assist agencies in complying with subsection (c) of this section.

(e) REPORTS AND RECOMMENDATIONS TO CONGRESS AND THE PRESIDENT.—No later than 24 months after the effective date of this Act, each covered agency shall submit a report to Congress and the President—

(1) detailing how the agency has complied with subsection (c) and describing the reasons for any departure from the requirement to establish priorities to achieve the greatest overall net reduction in risk;

(2) recommending—

(A) modification, repeal, or enactment of laws to reform, eliminate, or enhance programs or mandates relating to human health, safety, or the environment; and

(B) modification or elimination of statutorily or judicially mandated deadlines,

that would assist the covered agency to set priorities in activities to address the risks to human health, safety, or the environment in a manner consistent with the requirements of subsection (c)(1);

(3) evaluating the categories of policy and value judgments used in risk assessment, risk characterization, or cost-benefit analysis; and

(4) discussing risk assessment research and training needs, and the agency's strategy and schedule for meeting those needs.

(f) SAVINGS PROVISION AND JUDICIAL REVIEW.—

(1) IN GENERAL.—Nothing in this section shall be construed to modify any statutory standard or requirement designed to protect human health, safety, or the environment.

(2) JUDICIAL REVIEW.—Compliance or noncompliance by an agency with the provisions of this section shall not be subject to judicial review.

(3) AGENCY ANALYSIS.—Any analysis prepared under this section shall not be subject to judicial consideration separate or apart from the requirement, rule, program, or law to which it relates. When an action for judicial review of a covered agency action is instituted, any analysis for, or relating to, the action shall constitute part of the whole record of agency action for the purpose of judicial review of the action and shall, to the extent relevant, be considered by a court in determining the legality of the covered agency action.

Mr. ROTH. Mr. President, as I understand it, the intent is that I only lay down the amendment at the present time.

I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

Mr. ROTH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DEWINE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DEWINE. Mr. President, I ask unanimous consent that I be allowed to proceed as in morning business.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

AMERICA'S HEMOPHILIA COMMUNITY

Mr. DEWINE. Mr. President, tomorrow the Institute of Medicine will release the findings of a major investigation into how America's hemophilia community came to be decimated by the HIV virus.

Even before this report is released, some of the tragic facts are very well known. In the early 1980's, America's blood supply was contaminated by HIV-infected donors. Many Americans have become HIV positive by transfusions of the HIV-tainted blood.

Mr. President, Americans who contract HIV through a single blood transfusion know they can point to the specific blood supplier and therefore seek redress. But this is not the case with people who suffer from hemophilia. Those individuals have to undergo blood treatment too often and receive blood products from too many sources for this recourse to be open to them. They simply cannot identify the blood supplier that is culpable.

Mr. President, this community has been extremely hard hit by the spread of HIV. Mr. President, this story is one of the great tragedies of the last decade. It is a sad, tragic, and shocking story.

Mr. President, today there are approximately 20,000 Americans who require lifelong treatment for hemophilia, a genetic condition that impairs the ability of blood to clot effectively. In the early 1980's, more than 90 percent of the Americans suffering from severe hemophilia were infected by the HIV virus.

Think of it—more than 90 percent. I think everyone knows someone who suffers from hemophilia. Mr. President, 90 percent of those individuals in this entire country have been affected by HIV.

Mr. President, people with hemophilia have to receive treatment on a regular basis, treatment that requires the use of blood products from many sources.

The danger to this population is and was immense. Their ability to get health insurance and life insurance has been severely limited. They also have very little chance of legal redress for the tainted blood they have received.

Mr. President, in America's past, a challenge of some public health disasters, disasters in which the Federal Government has played a contributing role, has, in fact, been met with a Federal response. I believe, Mr. President, that the U.S. Senate needs to tackle the question of whether the Federal Government should play a similar role in the crisis now taking place in America's hemophilia communities.

The report scheduled to be released tomorrow will be very helpful, as we discuss this problem. It is my hope, it is my expectation, that the report will address three very important questions: First, did the Federal agencies responsible for blood safety show the appropriate level of diligence in screening the blood supply? Second, did the Federal agencies move as quickly as they should have to approve blood products that were potentially safer? Third, did the Federal Government fail to warn the hemophilia community when the government knew or should have known that there were legitimate concerns that the blood supply might not be safe?

Said in another way, what did the Government know? When did it know it? What did it do about it? Whom did it inform? Mr. President, if the answer to any of these three questions is no, it is clear to me, and I would hope to other Americans, that the Federal Government has not met its responsibility—has simply not met its responsibility in this area.

As a result, the Federal Government would have a clear duty to provide some measure of relief to the people with hemophilia who have been infected with the HIV virus.

Mr. President, there is reason to suspect that the answer to all three of these questions is, tragically, "No." No to each of the questions.

Beginning in 1982, an investigation by the Centers for Disease Control suggested that aids was being transferred by blood-borne agents, but the public health service of this country did not call for precautionary measures to protect the blood supply until March 1983.

Mr. President, on January 4, 1983, the Centers for Disease Control recommended the testing of new viral inactivation methodologies—essentially, new strategies to stop the spread of HIV virus in the blood supply.

The public health service did not—I repeat, did not—act on this recommendation. Neither, Mr. President, did the Food and Drug Administration.

Furthermore, we know that Federal agencies assured the American people that it was safe to go ahead and use these blood products. Now we know the products were, in fact, not safe.

Mr. President, I will be examining this report that will be issued tomorrow with great care, as I think all Americans should.

I believe the story this report is going to tell will not be a reassuring story, that the picture that this story will paint will not be a pretty one.

Therefore, I expect to come back to this floor before this Senate to discuss appropriate steps for the Congress to take in response to this very great human tragedy.

I thank the Chair. I yield the floor.

TRIBUTE TO RABBI JUDEA MILLER

Mr. MOYNIHAN. Mr. President, I rise today to pay tribute to a great man, Rabbi Judea Miller. He passed away July 9, 1995, and the loss of his presence is already felt by all those who knew him.

A much respected fixture in the city of Rochester, NY, Rabbi Miller led an exciting life in which he continually challenged the status quo and injustice in society. Born in New York City in the early 1930's, Rabbi Miller first served as a rabbi in the U.S. Army at Fort Riley, KS. After completion of his service, he moved to Temple Emanu-El in Witchita, KS and then to a temple in Malden, MA before settling at Temple B'rith Kodesh in 1973. Yet throughout his geographic moves, the rabbi held dear the notions of equality and acceptance. In 1962, he traveled south to Mississippi to assist in the voter registration drives. There, he and a local minister dined at a Woolworth's lunch counter, marking that restaurant's first integrated meal.

He continued this fight for justice taking stands against slumlords and poor education and capital punishment. He was a defender of faith in the largest sense and he reached out to other religions. Said the Reverend Dwight Cook of Mt. Olivet Baptist Church, "Rabbi Miller was about bringing people of different races and different religions together."

He will be remembered dearly by his friends, his congregation, and the city of Rochester. He will be remembered, the Rochester Chronicle and Democrat said, as, "a voice of dignity, reason and compassion, speaking always on behalf of justice and peace." Those who knew him already miss him dearly.

Rabbi Miller is survived by his wife, Anita; his son, Rabbi Jonathan Miller; his daughter, Rebecca Gottesman; his mother, Yetta Waxman; and five grandchildren.

Mr. President, I ask unanimous consent that the following article from the Rochester Democrat and Chronicle be placed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Rochester Democrat and Chronicle, July 11, 1995]

A Voice for Peace

Regular readers of the Democrat and Chronicle editorial pages knew Rabbi Judea Miller well. He was a frequent contributor, a voice of dignity, reason and compassion, speaking always on behalf of justice and peace. His writings consistently revealed his sense of scholarship and history; and his empathy for peoples of every race and religion.

His death Sunday is a loss to us all.

He wrote often of his wish for security for the Jewish state of Israel, but he often ran into criticism from those who saw him too ready to make peace with the Palestinians. In 1989, for example, he wrote of his visit to the Palestinian refugees at Ramallah, and described in moving terms the conditions he found there. In 1992, he compared Serbian attacks on the Bosnian Muslims to the Nazi attacks on Jews.

Miller was full of intellectual curiosity, and he went where his restless mind took him. In 1987 he journeyed to visit the Russian dissident, Andrei Sakharov, who had only recently been released from his exile. In 1990 he defended the writer Issac Bashevis Singer against Yiddish critics who, Miller said, were so wounded by the pain of the Holocaust that they could not see the uncomfortable truths that Singer was writing.

Hundreds of Rochesterians knew Miller personally, through his unceasing efforts to bridge the racial and religious gaps that divide blacks, whites, Protestants, Catholics and Jews in our community.

In April, when he announced his retirement from Temple B'rith Kodesh, he assured a reporter: "I will still be around to make trouble." The only trouble he ever made was for those whose prejudice or ignorance stood in the way of the world of peace and justice that he envisioned.

THE ARMED SERVICES COMMITTEE NATIONAL DEFENSE AUTHORIZATION BILL FOR FY 1996

Mr. THURMOND. Mr. President, as chairman of the Senate Armed Services Committee I am reporting on behalf of the committee an original bill entitled "The National Defense Authorization Act of Fiscal Year 1996," along with the committee report. I anticipate that the bill and its report will be available in the document room in the next few days.

I would like to extend my sincere appreciation for the fine work of the members of the committee as well as the outstanding efforts and long hours provided by all the committee's staff.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. LOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMPREHENSIVE REGULATORY REFORM ACT

The Senate continued with the consideration of the bill.

CLOTURE MOTION

Mr. LOTT. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The bill clerk read as follows:

Cloture Motion

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the substitute amendment to S. 343, the regulatory reform bill.

Bob Dole, Bill Roth, Fred Thompson, Spencer Abraham, Kay Bailey Hutchison, Jon Kyl, Chuck Grassley, Craig Thomas, Orrin Hatch, Larry E. Craig, Mitch McConnell, Conrad Burns, Bob Smith, Jesse Helms, Jim Inhofe, and Judd Gregg.

Mr. LOTT. Mr. President, I would like to just comment on the cloture motion that was just sent to the desk.

I note on behalf of the leader that we have spent a lot of time today and did not cover a lot of territory. There is real concern we are not making good progress on this regulatory reform package. We have a long way to go, maybe a lot of amendments. We just need to be making a lot more progress.

The leader wanted us to go ahead and file this cloture motion and take a look at what happens tomorrow and on Friday. If good progress is being made, then it would not be necessary, or if some agreements could be reached, it would not be necessary to have this cloture vote. But in order for there to be one this week, it was necessary we go ahead and file a cloture motion. If no agreement is reached, or if progress is not being made, we could expect a vote on this to occur on Friday morning.

So I think it is important to note we are hopeful it will not be necessary to go forward with that, but we had to go ahead and file it in view of the time considerations.

ORDERS FOR THURSDAY, JULY 13, 1995

Mr. LOTT. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 9 a.m. on Thursday, July 13, 1995; that following the prayer, the Journal of proceedings be deemed approved to date, the time for the two leaders be reserved for their use later in the day, and there then be a period for the transaction of morning business until the hour of 10:45 a.m., with Senators permitted to speak for up to 5 minutes each with the following exceptions: Senator Thomas, 25 minutes; Senator Kassebaum, 10 minutes; Senator Kennedy, 10 minutes; Senator Dorgan, 15 minutes; Senator Simpson, 10 minutes; Senator Bingaman, 10 minutes; Senator Specter, 15 minutes; Senator Moseley-Braun, for 10 minutes.

Further, that at the hour of 10:45 a.m., the Senate resume consideration of S. 343, the regulatory reform bill, and the pending Roth amendment No. 1507 on risk-based priorities.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. LOTT. Mr. President, for the information of all Senators, the Senate will resume consideration of the regulatory reform bill tomorrow at 10:45. Pending is the Roth amendment on risk-based priorities. Senators should therefore expect rollcall votes throughout the day.

Mr. President, I see the distinguished manager of the bill for the minority here, seeking recognition. We were prepared to go to close business for the day, but in view of his seeking recognition, I yield the floor at this time.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

COMPREHENSIVE REGULATORY REFORM ACT

Mr. GLENN. Mr. President, I rise now with a sense of real disappointment because I thought we were moving along very well. We were doing this in good faith, moving as fast as we can. There has not been delay on our side. We have not submitted a lot of amendments. The amendments have taken some time to discuss, but that discussion has been as much on the Republican side as it has on the Democratic side. I think any fair analysis of the record over the last 2 days would show that. In fact, on the bill we are considering, S. 343, it is the Dole-Johnston bill, and I think one of the coauthors of that bill has been responsible for as much time on the floor—more time on the floor being spent than have those of us who have opposed some of that.

I do not know why it is necessary to try to make this point with cloture, which means there seems to be a feeling that we have been delaying things on our side so we have to be cut off with cloture. I do not think that is fair. I really do not.

I think anybody who has watched these proceedings or been involved on the floor here knows we have been going ahead in good faith. We have been trying to move things. We have not delayed things. The only delay I can think of, out of the last 2 days, where any time was taken on our side that might be looked at as unnecessary on the other side, was the time this afternoon when we were trying to work out this agreement for whether the Johnson amendment and the Daschle amendment were going to be taken up in what order. There was a period of maybe an hour this afternoon where we wasted time on that, that is true. But that is the only time.

Outside of that, we have been operating in good faith that we were moving ahead on these things. I think this puts a whole different cast on this thing.

I do not know whether this fits the same pattern as some of the patterns a little earlier a month or so ago when we were laying down a bill and putting down the cloture the same day before we even got started. But this is just an unfair castigation, as I see it, of the way we have proceeded on this bill.

So I must say I am disappointed. Obviously, I cannot do anything about it. But I am disappointed that the other side views this with such lack of faith in our good efforts to move forward on this that they think it is necessary to file cloture.

I yield the floor.

Mr. LOTT. Mr. President, if I might respond to the comments of the distinguished Senator, first of all, there has been no castigation in the way this legislation has been handled. As far as laying down cloture the same time bills are offered, I recall that was done an awful lot in the previous 2 years. This cloture was not laid down the same time the bill was brought up for consideration. We have been on this bill now for parts of 4 or 5 days.

Perhaps the Senator from Ohio did not hear my comments when I sent this cloture motion to the desk. If I could have the Senator's attention, I direct his attention to the fact that I said when I sent it to the desk that it was hoped that it will not be necessary to have a vote on the cloture motion. But we did not make a whole lot of progress today in terms of numbers of amendments considered. It may not be necessary to go through with the vote on the cloture motion. But if one is not filed tonight, there would be no way for one to be brought to fruition before next Monday.

It is the clear hope of the leader, and I think the leaders, that this legislation be completed early next week because we do have a long list of very important legislation pending which we hope to be able to consider in a timely fashion and with fair and full debate before we go out for the August recess. I know the Members are looking forward to that opportunity to be with their families, their children, their new brides. And in order to be able to achieve that, we are going to have to make some progress on a long list of legislation that is necessary before we go out. We need to start taking up appropriations bills. We need to get two or three appropriations bills done next week. We need to get several—seven or eight—of the appropriations bills completed before we go out for the August work period.

So all I am saying to the distinguished Senator from Ohio is that I know he is working hard. I know he is working in good faith. We hope that will continue to be the case. We hope tomorrow that we will be able to take up and dispose of a lot of serious, relevant amendments. Then I think the leader would have the option of talking with the distinguished floor managers of the bill, Senator HATCH and Senator GLENN, and see where we are, make a decision as to how much progress is being made, seeing if there is any possibility at that point to get some finite list of amendments and get some idea of when we might be able to bring this legislation to a conclusion.

So I just want to respond, first of all, that there has been no castigation of his efforts or intentions. I think there has been good faith on both sides of the aisle. There has been a bipartisan effort underway. It is not intended to cut off debate, but it is intended by the leader as a signal to let us keep working, let us keep moving, and let us not let it get bogged down between now and Friday afternoon.

Mr. GLENN. Mr. President, talking about castigation, I think the very fact of filing cloture indicates a castigation of how we have been operating on this side. It indicates that something has to be cut off to move us forward and that we have not been doing an adequate job here. I do not think that is the case at all. That is what I referred to by castigation.

As far as the schedule, I do not believe there will be a more important piece of business before this Senate this year than this legislation. It may be dry, it may be arcane, it may be hard to understand, and it may be complicated. But this stuff affects every person here in this room. It affects every person in this city, and across this land, and in major, major ways.

I just do not see that we are going to be able to rush through something like this and do the job that should be done for the people of this country.

Since Monday, I am told by staff there have been 16 amendments; 11 of those were put in by Republicans; 6 of those were withdrawn; there were 5 of the Democratic proposals, I believe, that have been voted on. So that is an indication of what we have done since Monday. This is Wednesday evening. I do not think that is taking too long on what is one of the most important pieces of business that this body will take up this year.

The appropriations bills may be more important. But I do not think any other legislation is going to affect as many people directly in this whole Nation as what we do on this. To now have to go under a 30-hour time limit and say, "If cloture is invoked, that is it. No matter how important it is for the people of the country, no matter how complex, how complicated, yes, we are going to rush through because we have some other stuff we have to get on to."

We all have to get out for that August break, for sure. I agree. I want to go out on the August break. But to rush through this thing and indicate that we have to meet some schedule, I think, is unwarranted because this is a very important piece of legislation.

I say once again that since Monday, 16 amendments, 11 of them Republicans, 6 of those withdrawn, 5 Democrats, and we have had votes. I think we have moved along pretty well since Monday, and so I must say it disappoints me greatly, obviously, when we felt we had to file cloture, or the leader felt he had to file cloture on us when we have been operating in good faith, moving along, spending long hours on this. So I am disappointed, that is all.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The distinguished Democratic leader.

Mr. DASCHLE. Let me just associate myself with the remarks of the distinguished manager of the bill on our side, Senator GLENN. I was hoping we could avoid this. I had the opportunity throughout the last couple of days to talk to the distinguished majority leader about our desire to continue to work in good faith. I think we have done that.

Obviously, today was a good example of what has happened. I laid down an amendment this morning, and by far the bulk of the debate has been on an amendment offered by the distinguished Senator from Louisiana, Senator JOHNSTON, and modified on several occasions throughout the day by Senator JOHNSTON.

It was only at the end of the day, after a great deal of prodding and pleading on our part, that we could finally agree to a time limit and an up-

or-down vote on his amendment and then on mine.

So I think the distinguished Senator from Ohio said it very well—16 amendments, 11 Republican, 5 Democrat. We are here tonight. I would note that in the Chamber there is one Republican and four or five Democrats ready to continue to work. So I am disappointed that the cloture motion was filed. I think it is fair to say that we will not be precluded from offering amendments, from ensuring that this debate receives the full airing it deserves. This is one of the most important pieces of legislation to come before the Senate in this session of Congress, regardless of what else may be brought up before the end of the year.

So we will not be precluded from that. We will offer amendments. I think we will anticipate the unity that we have experienced on several occasions already this year when it has come to cloture in protecting Members' rights to offer amendments and have the full debate.

So while we may have a cloture vote, I have the feeling that we will be on this bill for a little while yet because we need to raise a number of issues that have yet to be addressed. We will have the alternative perhaps as early as tomorrow. Subject to however that may turn out, we may or may not want to protect our rights to deal with other issues. So it is unfortunate, and we will continue to work in good faith. Hopefully we can resolve these outstanding issues in whatever time it may take.

It is not our desire, as the Senator from Ohio has indicated, to prolong debate unnecessarily, to do anything other than work in good faith to resolve the outstanding differences and get on with final passage.

I yield the floor.

Mr. LOTT. Mr. President, if I could respond briefly to the distinguished Democratic leader's comments, first of all, just 20 minutes ago I am sure we probably had 90 or 100 Senators in the Chamber prepared to work. If there had not been agreement that we end the work for today, on both sides of the aisle, we would still all be here, and so I do not believe the RECORD reflecting there are only one or two Republicans here willing to work and four or five Democrats—it was already announced that business was over for the day, and basically we were in the process of shutting down.

I do want to say, secondly, to my distinguished friend from South Dakota that I think there has been a good-faith effort. I think he does want to try to bring this to a reasonable conclusion as far as time and the results, and we continue to hope that will be the case. Maybe we will make good progress tomorrow. Maybe we will make good progress Friday.

Maybe, with him working with the distinguished majority leader, we will find it is not necessary to have a cloture vote, or it may be necessary. I do not think that it is not allowing enough time when you spend 5, 6, 7, 8 days on one piece of legislation. It is very important, I agree on that, and we ought to have it fully discussed, which I think it certainly is being and has been for quite some time.

I note also, though, that we have just had a meeting, bipartisan leadership meeting with the President, in which the President was saying please get together, move forward expeditiously. He was wondering about the rescissions bill. No conclusion has been reached on the rescissions bill. The President was saying he was in hopes that we could move through a long list of important items to him and the country—welfare reform. We would like to work on that. Appropriations bills and reconciliation. So the President is also asking that we move things right along, and I think that we have an obligation to try to do that.

For instance, I was under the impression that there was going to be an alternative maybe available earlier—I thought Monday. We have not seen it. But maybe, as it was just indicated, there will be an alternative, or substitute that will be offered tomorrow and we can have full debate on that, and that will kind of settle the dust. And then we will be able to move on to an expeditious conclusion.

That is all that is done here, for the leader to preserve his options and to, quite frankly, keep pressure on all of us, both sides of the aisle, without being critical of the leaders because they are doing a very difficult and very important job, but to keep pressures on us, to serve notice that we need to keep moving forward, making progress. And if we are not, then he has this option. If we did not file it tonight, we would not have the option until next Monday or Tuesday, depending on when it was filed, for it to ripen for a cloture vote, if necessary. We hope it will not be necessary, but we are going to keep that option available.

Mr. KERRY addressed the Chair.

The PRESIDING OFFICER (Mr. DEWINE). The Senator from Massachusetts is recognized.

Mr. KERRY. Mr. President, I respect the ability of the Senator from Mississippi to be able to put a shiny note on almost anything. But I must say that the question still remains whether or not it is appropriate to file it today, Wednesday, or whether or not you could not preserve the option to file it on Friday, and it would ripen by Monday, or file it Monday and ripen by next Wednesday.

The question is, what signal is being sent. If you look back at the RECORD, this bill was laid down in the Chamber—excuse me, it was printed in the RECORD on a Wednesday night. Thursday it appeared prior to our departure for the July 4 recess.

It was then agreed upon that there would only be debate and no amendments offered. That was a suggestion, I might add, of the majority leader. So we departed on a Friday with everybody agreeing there was only debate.

We came back only this Monday, the mid part of the day. We had an agreement to have some votes in the afternoon. We then went into a recess the next morning for conferences. We recessed in the evening without any additional votes. Now we are back here on Wednesday.

So here we have one of the single most important pieces of legislation that will come before us—I think everybody agrees with that—and here we are with a cloture motion at the desk on Wednesday evening with only five Democratic amendments voted on.

Now, the Senator from Mississippi has suggested, well, this happened a great deal previously. I would say to the Senator, respectfully, that by June of the first session in the prior terms this never happened.

This happened in the second session. And it did begin to happen with some frequency because certain people here adopted a conscious policy of filibustering everything. And everybody knows that our efforts in the final months of the last session of the last term were literally governed by the policy of gridlock that was a calculated strategy to let nothing pass. Thereupon, Senator MITCHELL, who was truly the monument to patience and goodwill, came to the floor again and again and again without pressing the notion of late nights and cloture and order in our lives. So I think that really it does not send a good signal in the context of where we traveled in the last few days.

Second, we entered into some negotiations in those days when the floor was open for debate. I thought we were making some progress. At the last meeting Senator NICKLES, who headed up the task force on the other side of the aisle, stood up and said, "Well, we have gone just about as far as we can go today. I'll let you know when we can have the next meeting." Well, it is now Wednesday, 9:30 at night. We still have not been notified about another meeting. There has been no serious effort to re-engage in negotiations. So this filing has to be placed also in the context of that fact, that if this was serious, we might indeed have met.

Now, I want to have what I call a press alert here tonight because the reason this cloture motion has been filed is basically to empower a certain political strategy to take place, which is to try to put those who want to legislate a good piece of legislation on the defensive with the notion that they are somehow delaying the Holy Grail of regulatory reform. And so we now have hanging over our heads the specter of disappearing for a weekend with a cloture vote where we have to assert our right to legislate under the cloud of being accused of standing in the way of regulatory reform. That is the game here. And my hope is that as more and more of these amendments come to the floor and Americans are given a chance to measure what is happening here with an attempt to take away the right to know and supplant it with the right to hide and the right to pollute, or to take away the ability of regulators to issue reasonable rules, or even to approach a standard of reasonableness here, I think people are going to understand.

Now, I would say for myself, I am running this year. It does not matter to me if we have to vote cloture five, six, seven, eight times to preserve the right to protect those things that in 25 years have made a difference in people's lives. And you know, I think that we ought to get about the business of trying to figure out how we are going to lift stupid rules and legitimately irrelevant, excessive agency regulations, but at the same time not take something like the Delaney clause that keeps carcinogens out of the food that our kids eat and our fellow citizens eat, and somehow just throw it out, which is what this bill does.

So I do not think most Americans have yet come to realize the full measure of what is at stake in this legislation. But this Senator certainly is happy to debate it for some period of time to help them do so.

Mr. LEVIN addressed the Chair.

Mr. LOTT. Mr. President, if I could, if the Senator would yield, I would like to respond to that. First of all, there is some degree of trepidation, I would say. Maybe there is going to be another meeting in the morning at 9:30. Maybe he had not—the Senator from Massachusetts and others—had not received that information. But I understand there is an attempt to meet and to discuss and negotiate further. And I say with some degree of trepidation because, you know, this is regulatory reform. I do think that the American people want that. I do think that the American people and the economy and the people that have lost their jobs because of the overbearing burden of the bureaucrats and the mandates and the regulations spewing out of this city, hundreds of thousands of pages annually going out and being dumped on the private citizens and small businesses and people who are trying to make a living in this country, want regulatory reform. They want regulatory relief.

Mr. KERRY. Would the Senator like me to——

Mr. LOTT. I have to say, I frankly have been shocked at all of the discussion and the concerns and "we must get rid of this, and we must get rid of this portion of the bill." What are we going to wind up doing here, striking out all after the enacting clause and sending it to conference? We did a lot of work that has been done on this, a lot of negotiations.

A lot of compromises, but at some point we have to make up our minds if we want real regulatory reform or not. And I am not questioning there are probably other amendments that are deserving to be considered and we can take up and vote on. We have got time to do that, and we will be doing that tomorrow. But, you know, a lot of negotiations have already gone on. A lot of good portions of the original bill have already been jettisoned, in my opinion. A lot of critical portions have already been weakened that I think are—we are going to regret later on, without getting into specifics at this late hour.

But, you know, I really am concerned that the appearance is beginning to go out that we are going to nitpick a very important piece of legislation. I agree with that, to the degree we will not wind up with very much. I will be glad to yield.

Mr. KERRY. Let me say to my friend, you see, it seems to me that the Senator from Mississippi is now doing exactly the kind of characterization that I just issued a press alert on, suggesting that we are tearing apart a bill that is, in fact, the nirvana of regulatory reform. But what the Senator neglects to tell the American people is that by a vote of 15–0, the committee that has spent years working on this issue sent a bill to the floor. It is the Roth-Glenn bill. It is the heart of what we will vote on as an alternative. And I say again to my friend, 15–0. If that bill were on the floor today, without the Dole-Johnston substitute in the mix, as the only ingredient of legislation, I submit to my friend we would pass it 100–0. Maybe 98–2. But now that we have got the new mix, a contentiousness has entered the entire equation.

I might add, there are two other committees that have jurisdiction here. The Environment Committee, of which the Senator from Rhode Island is the chairman, was bypassed altogether. Now, that may be because he is noted for his reasonableness on these issues. And then the Judiciary Committee, which also has jurisdiction, was not allowed to legislate one amendment. Not one amendment. So what happened is that the three committees with jurisdiction were taken completely out, and this bill was essentially written by the majority leader, by a cabal of people involving a lot of interests that have been specially served here. Take out the Delaney clause. Take out the toxic release. Have a special fix here and a special fix there.

Mr. LOTT. If I could ask the Senator to allow me to reclaim my time.

Mr. KERRY. That is your right.

Mr. LOTT. I think there are 4 committees that have jurisdiction in this area. They had some jurisdiction. Judiciary has jurisdiction. I believe Energy and Natural Resources had a bill that Senator MURKOWSKI and Senator JOHNSTON and others had worked on for a long time, as well as the bill out of the committee chaired by Senator ROTH. Senator ROTH, as a matter of fact, the chairman of the Government Affairs Committee, sent out a letter today saying this is in his opinion a better bill than what was reported out of his committee.

As a matter of fact, what happened with this bill is exactly what I think the Senator from Massachusetts is calling for. This is an amalgamation that has some of the better parts of the Judiciary Committee bill in it, some of the better parts of Government Affairs. It is not some mongrel hybrid; it is an amalgamation of good bills.

So that was point No. 1, that everybody had a jurisdiction here. And to say, Oh, well, only Government Affairs can have the lead call, I do not think that is very fair. Other very important committees had a very important part. But beyond that there were a lot of discussions and negotiations that went on between the distinguished majority leader and Members on your side of the aisle—a lot of discussions, a lot of give and take, a lot of changes, a lot of compromises, many of which this Senator did not agree with. But in an effort to try to come up with a bipartisan bill, those changes were made.

We are going to have to do more of that around here.

Mr. BROWN. Will the Senator yield?

Mr. LOTT. I will be glad to yield.

Mr. BROWN. I simply, as a member of the Judiciary Committee, want to comment on the point raised by the Senator from Massachusetts. The bill was considered over a period of months in the Judiciary Committee. I must say, in the 5 years I have been in the Senate and the 10 years I spent in the House of Representatives, and the 4 years I spent in the Colorado State Senate, it is the first and the only bill I have seen filibustered in committee, and that is exactly what happened.

The reason amendments were not offered by committee Democrats is that, when the floor was open to them to offer amendments, members choose instead to filibuster. I offered an amendment, which was added to the bill, so, clearly amendments were added in our process in the Judiciary Committee. My amendment was not included in the Roth bill that came out of that committee. My amendment simply points out there are times when Federal Government agencies will develop conflicting regulations. My amendment provides a safe harbor for working people who find themselves subjected to conflicting regulations and are put at risk by when Government agencies' regulations require opposite actions.

So the statement that no amendments were considered in the Judiciary

Committee is not accurate. Amendments were considered and amendments were added. The fact that Democratic amendments were not acted on in the last few days came from the fact that members choose to filibuster the bill rather than respond to it.

Finally, I do not want to delay your deliberations in winding up the session, but let me simply add, one of the problems with this bill and one of the problems with this area is that so few Members of the House and the Senate have had a chance to work with their hands and work in business and be subjected to regulation. We passed last year and this Government sent out over 60,000 pages of new regulations.

Let me repeat that, because I do not think Members focused on it. Over 60,000 pages of new regulations, not counting the hundreds of thousands of regulations that exist already. The Federal Government promulgated so many regulations that people who work in this country do not even have time to read the regulations that affect their lives. I suggest to any Senator who is concerned, work in an industry that is subjected to Federal regulations. You cannot even read what you are subjected to. You cannot even get people who work for a living to even read what they are liable for, what they are at risk for that this Government pumps out.

Before we pursue this effort, you ought to place yourself in the position of the people who have to work for a living, who have to live with these regulations and find themselves subjected to fines and penalties for insane regulations they do not have a chance to read.

If you sat down today and read solidly for a year, 8 hours a day, no coffee breaks, no time off, no holidays, read 52 weeks a year without any vacations and you read at 300 words per minute, you would still not read the regulations, the new ones that came out this year. You would probably read a little over half of the pages of the new regulations that came out.

Now we have a problem. We are strangling this economy with redtape and regulations, and I just would say to my good friends that have raised objection about this, honestly talk to some of the people who have to live under these regulations. See what they are subjected to.

This is a burden that is crushing. It is crushing to our competitiveness and the people who operate under this burden. I have talked to contractors who make their living trying to build houses. They find themselves in the position of having somebody who has never built a house in their life come out and tell them how to build a house. They never built a house in their life, do not know anything about it, but if you do not do it the way they tell you, you can be fined and lose your entire business.

What we have done is set up a system to micromanage this economy. The bill that is before us is a joke. Some improvement it is, but to say the only regulations you are going to subject this test to are ones that have the threshold that is included in this bill is absurd. That is the problem.

I do not think what has been voiced on this floor has reflected the impact these regulations have on the working people in this country. We are strangling this economy and working people of this country with needless regulations. What we need is a lick of common sense. So we can fight over this bill, but the fact is the threshold is already so high that you have denied relief to most of the American people that desperately need it.

If we are going to be competitive in the world economy, if we intend to give people good livelihoods, if we are concerned about the wage of working men and women, we better figure out a way to have more of the people pull the wagon and less regulating where it goes. If you are talking about a business, you have to get more people out of the office and onto the assembly line where they do the work.

That is what this bill is all about, to find a way we can make America more competitive and more productive and more creative and spend less time on regulations. We need to do a lot more in this bill. I hope Members will take some time to look at what we have done to this economy, because it is devastating.

Mr. LOTT. Mr. President, if I could continue——

Mr. KERRY. I will not take long.

Mr. LOTT. I still want to respond a little more to your earlier question.

(Mr. BROWN assumed the chair.)

Mr. KERRY. Let me say to my friend from Colorado that when he got into that recitation about the coffee breaks and the amount of time and pages, I all of a sudden feared he might have been one of those people who had written some of these regulations. But knowing that he did not and would not, I just want to say, we agree with everything he just said, and the bill that Senator GLENN and Senator ROTH brought out of committee 15–0 would have, indeed, addressed almost everything that the Senator just said.

The problem is, if you take, for instance, the threshold argument the Senator just made, the threshold was set in 1975 by President Ford. One hundred million dollars is worth $35 million today, and if you lowered it to $50 million, you are talking about reality of a $17 million threshold.

As my friend knows, there is not a lawyer in America who cannot conjure up a threshold impact of $17 million in real value, $50 million, or otherwise. We lifted that to $100 million for a major rule, but we still have a $10 million threshold in here for Superfund. And under the Nunn amendment that was adopted, we brought in this extraordinary panoply of small business at a whole new threshold. So you have literally a 100- to 400-percent increase in EPA and other agency requirements here just to review the new rules you brought under it. I know the Senator is not going to add to the budget to provide personnel to do that. So you have an enormous gridlock problem.

I will just say to my friend from Mississippi, by having filed this cloture motion, I believe, if I am correct in the parliamentary procedure, amendments now have to be filed by 1 p.m. tomorrow; is that correct?

Mr. LOTT. That is correct.

Mr. KERRY. So if amendments have to be filed by 1 p.m. tomorrow, those of us who have to work tonight in preparation for a meeting have to disperse our staff in order to ensure all Democratic amendments can be brought together by 1 p.m. tomorrow. That is an example, I say respectfully, of how this breaches the process. There is, in effect, a chilling effect on our capacity to pull ourselves together for a meeting and negotiate. And second, there is a terribly unfair burden put on all of our colleagues who will arrive tomorrow morning to learn that they have about 2 or 3 hours to put in an amendment.

Mr. LOTT. Mr. President, first of all, I realize this is the Senate, unlike most legislative bodies, but I would be somewhat shocked if most Senators do not already know what amendments they want to offer and have already gotten them drafted.

This is not something that just drifted onto the floor of the Senate. This has been coming for weeks and months. Surely, most Senators have their amendments ready to go. Now, I realize maybe some of them would be affected by other amendments that may be offered during the next couple of days. I do not view it as a real burden. We are on this bill, and everybody knows what is in it supposedly and should have their amendments ready to go.

I want to go back to a point made earlier about how one committee reported out a bill unanimously. That committee was the only committee that considered the so-called original Roth bill. The Dole bill went to four committees—not only Judiciary, Energy, and Governmental Affairs, but Small Business.

Then there were negotiations to try to make it a genuinely bipartisan bill that went on between Senator DOLE and Senator JOHNSTON of Louisiana, who has worked so diligently in trying to find a compromise that could go through in a bipartisan way.

Then I remember there were subsequent negotiations. I went into a meeting in the distinguished Democratic leader's office one day, and there must have been 15 Senators in there. I was floored. I left pretty quickly because I said nothing good will come out of this because there were too many people involved.

There were more changes made. I know changes were made because there were changes made on sections I worked on, some that I certainly did not agree with. There has been a long, protracted effort to develop a compromise bill. There comes a point when you have to stop changing it and vote. We are hoping that point will come early next week.

One final point.

Mr. LEVIN. Will the Senator yield for 1 minute?

Mr. LOTT. One final point, and then I will be glad to yield to you.

There is something that the Senator from Colorado in his fine remarks just reminded me to comment on. We were all home during the Fourth of July recess. I was in my State. I met with some small business representatives, among other things. I remember a small businessman from Fulton, Mississippi. I met with the group and they told me that under a new rule promulgated, that they, for small technical violations in their company, could be fined up to $10,000 per day until the bureaucrat concluded that they had complied with this violation they had. I think probably this bill will help address that kind of problem. And they gave me the new regulations. This is one small business group in my State, although it is a nationwide group. The new regulation that could lead to a $10,000 fine per day, which would put most of them out of business in about 2 days, was that thick. We need to deal with that.

I know we are trying to do that. I hope we will, but I am beginning to really have my doubts about whether or not we can continue to water this bill down and have one that is worth going forward with.

With that, I will yield to the Senator from Michigan.

Mr. LEVIN. I thank the Senator from Mississippi for yielding. I will be very brief. I just want to add one chapter to the historical record here. Immediately prior to the recess, there was a suggestion that those of us that favored the so-called Glenn bill, or the Glenn-Chafee bill, that we put suggested changes——

Mr. LOTT. If the Senator will withhold, I was going to say something to the Senator from Massachusetts, but he may be gone. I will say it now if the Senators from Ohio and Michigan are concerned about the filing deadline of 1 o'clock. I am sure the leader—in fact, I understand he will be willing to get a unanimous-consent to delay that until 5 o'clock tomorrow afternoon. In furtherance of that, would that be helpful?

We will do that in the morning, then, after we have checked with others. I wanted to make that offer so they know we are perfectly willing to be helpful and cooperative if there is a time problem in getting those amendments drafted.

I yield once again.

Mr. LEVIN. As I was saying, there is one element which has not been spoken to, which is the fact that immediately prior to the recess, it was suggested to those of us that support the Glenn-Chafee bill that we put into specific language form suggested changes in the Dole-Johnston bill. And we did that. The staff, I think, probably stayed up all night to do that. Three pages of very specific proposed changes were delivered prior to the recess about two weeks ago. Nothing happened. There was no response to the suggested changes until today. And it is still a bit fragmentary, but at least now we think we understand what the response is on the part of the supporters of the pending Dole-Johnston legislation.

If we are talking about expediting the process here, it seems to me that those of us who support the Glenn-Chafee proposal have, for almost now two weeks, been waiting for a response to some very specific language suggestions. Instead, we raised this issue on Monday, and then I think yesterday the Senator from Utah suggested, well, let us just go at it amendment by amendment. The tree was filled up a couple times, by the way, so that it was all controlled. Amendments could not frequently be offered without a gatekeeper okaying it. And then they were second-degreed. That is all part of the rules. There is nothing new about that.

But to suggest that there has been an effort on the part of the supporters of the Glenn proposal to, in any way, delay instead of to debate and hopefully approve the pending amendment, I think, is a misplaced suggestion. And that suggestion is implied when a cloture motion is filed. That is the implication of the filing of a cloture motion.

Somehow or other, people who are the supporters of the Glenn approach are in some way delaying the legislation that is pending before us, and there is not only no evidence of that, it is quite the contrary. There was an effort made in the last two weeks to get some very specific responses to some very specific proposals. Again, the first glimpse we had of a response was just today.

So I suggest to my good friend from Mississippi that the filing of cloture tonight is inappropriate. It is also, I believe, counterproductive because, just tonight, without any knowledge that a cloture motion might be filed, there was an understanding reached that there would be a meeting tomorrow morning, and I believe the time was set at 9:30. And then, having agreed to do that, suddenly there is a cloture motion filed. That is not the kind of signal which I think is a productive signal in terms of moving legislation.

As far as the legislation is concerned, I have to tell you that I think all of us in this body, hopefully, have seen a great deal of evidence of excessive regulation, of abuse, and of waste in this process.

I came to this town determined to get some kind of accountability in this process. I have been a strong supporter of legislative veto and executive oversight. I believe we ought to have cost-benefit analysis required by law. I believe in the various parts of both proposals.

So the speeches about regulatory overkill, I think, are very appropriate. There has been some. There has also been some very essential regulation that has made it possible for us to breathe cleaner air and to have cleaner water and to have safer vehicles, and other things. The question is the balance. We want both, a cleaner environment, a safer workplace, but not overkill in the regulatory process. We can have both. But the signal that was sent here tonight, when after there was an understanding about meeting tomorrow morning to try to make some more progress, and then to file a cloture motion, it seems to me, is a counterproductive act, and it tends to undermine the possibility of progress here rather than to promote it.

So that is why I think it was a mistake for that cloture motion to be filed. It prevents relevant amendments from being considered if cloture is invoked because they have to be technically germane, but they can be relevant and be prevented from being debated. I do not think it is in anybody's interest, as long as good progress is being made. And surely there has been some progress, and there is no effort to delay the consideration of this bill by anybody I know. I think cloture is not the appropriate signal which should have been sent tonight. I regret that it was.

Mr. LOTT. Mr. President, the only thing we have pending would be to close. Does Senator GLENN wish to make a comment?

Mr. GLENN. Yes, I do. Mr. President, I will not go on long because we have been on the floor a long time today.

I do not want to let the wrong impression go out to those who may be watching. The impression was left perhaps by the distinguished chair in his remarks a moment ago here, the distinguished Senator from Colorado, as though we were delaying and we are not interested—it could give that impression; it could be interpreted that way, at least—and that somehow those for the Dole bill are in favor of regulatory reform, and those of us who have some other views about how that can be accomplished are somehow not as much in favor of regulatory reform. Nothing could be further from the truth.

We have worked hard in committee, and the Senator from Michigan, Senator LEVIN, is maybe too modest. I have heard him say in committee that one of the major things he wanted to get into when he came here—having been president of the city council in Detroit, he knew the impact of regulations and what they did to the business people and the community and the city government of Detroit, and what they did to the surrounding communities of Detroit, and he was determined to do something about it.

I have heard on a number of occasions, both in committee and in private conversation with him, about his dedication to this, which is to his everlasting credit. I think we have worked on this specific legislation in committee for close to 3 years now.

So this is not something that we come at lightly. We are as dedicated on the Democratic side to regulatory reform as anybody on the Republican side. We have some different views about how to get to it, that is all, and what is workable and what is not. That is our difference on this. It is not any difference in dedication. When I spoke on the floor and we opened up on this bill, my earlier remarks were exactly along that line. We are a united Senate on one thing, and that is the need for regulatory reform. But we also, at the same time, know that we must hit a balance. We cannot just do away with all regulations.

I agree with the examples, and I can give a dozen more from Ohio that match those of the distinguished Senator from Colorado, on overregulation. That is what we have to correct.

However, at the time we are doing this, do not throw out the good that the regulations have done in the country along with throwing out the excesses.

We do have better health in this country because of regulations. Some have gone too far—yes. Do we have a better business climate in this country because of regulations? Yes, but there have been excesses in that area, too.

So we certainly do have to correct these things. We agree with that. We are as united with the Republicans as anybody can be in our dedication to seeing that regulatory reform is carried out. We get the same comments from our business people and our organization people, our school people, our local government people, that the Republicans get when we get back home. We are as dedicated to this as anybody can be.

Now I might say in committee, as was already referred to, we voted that out of our committee, the Governmental Affairs Committee, under Chairman ROTH, 15-0. Unanimous.

Now, there is a different approach that Senator DOLE has taken. I think our approach hits a better balance. That is all we are trying to do here, is make sure that balance is hit.

What we are trying to do now in filing cloture is force a restricted time on this legislation—one of the most important pieces of legislation we will have before the Senate—we are trying to take a complicated bill, and instead of saying how good we will make it, we are saying we will spend minimum time on it, force your hand. We will spend minimum time off the floor, will not give time for amendments, for balance, for fairness, for consideration of those things. We will have minimum time on it.

This will be a big concession on the Republican side apparently—big deal, we will have an extension from 1 o'clock to 5 o'clock to get everything that we want in this.

Everything has not been considered in this bill. All amendments have not been considered. These are very complicated pieces of legislation—both of the proposals.

I just want to address one other thing. I just cannot agree with my distinguished colleague from Mississippi when he says we have gotten down to nit-picking on this. That is the phrase that he used. Some 500 people a year die from E. coli. Cryptosporidium killed 104 people, and made 400,000 seriously ill in Milwaukee a couple years ago.

Senator ABRAHAM and Senator NUNN addressed small business interests, Senator DOLE addressed E. coli with his amendment, Senators JOHNSTON and LEVIN put in the super mandates, so existing laws could not be superseded by something an agency does over here.

Now, I do not think of those as nitpicking. I think these are health and safety matters for the people of this country. Anybody that was fair in looking at what has happened on this floor can certainly not come to the conclusion that these things have been nitpicking concerns on the Democratic side.

Quite the opposite. These are life and death concerns, and it is the reason they were brought up, the reason we wanted to amend this. It is the reason I supported some of the amendments on this.

Now, there have been negotiations that have gone on on this legislation in the past, as Senator LEVIN says. We cannot help but wonder whether this was good faith negotiation when we now have cloture filed against Members at this hour of the evening, after we thought we were closing down the Senate, and all at once, staff came running out and said, "Did you know they filed cloture?" They filed cloture. I thought that could not be. I thought there was a mistake. It happens that it is true.

We want to work through this. Obviously we want to have a chance to do as good as we might otherwise have done. I want to disabuse anybody of the idea that we are not concerned about regulatory reform on this side of the aisle. We are as concerned and as dedicated to it as anybody, regardless of whatever political labels each may take. I yield the floor.

Mr. LOTT. Mr. President, I repeat, as the distinguished Senator from Ohio pointed out, this is not a new issue. It has been pending for years. It has been considered for the last 3 or 4 years and in the Governmental Affairs Committee. It has been considered for at least a couple years that I know of, Energy and Natural Resources Committee. There have been hours, days, spent bringing Members to this point.

This is a good bill. This is a bipartisan bill. The Dole-Johnston bill has been laboriously crafted and developed and changed—in some ways people would think improved. In my opinion it has been weakened.

I repeat, I believe we have an especially good bill now, one that is a balance, that is bipartisan. I just have to say, at some point, we have to just agree to disagree. How long can you negotiate? Forever?

This is the most, I think, probably the most negotiated bill that we have had this year. How many changes are we going to make? It reaches a point, I think, that we weaken it so much that then there will be some that have to start asking ourselves, is this still a strong regulatory reform bill.

There is still talk about taking major portions out of it. Talking about taking the Superfund part out of it. Boy, if that has not been a regulatory nightmare, a lawyer's dream. But there are those that say we should not have Superfund as part of regulatory reform. My goodness, I do not know any area where we probably need regulatory reform more than in Superfund.

We could go back and forth, on and on. This is a good bill. We need strong regulatory reform. We are talking about not only 60,000 pages of regulations just last year being promulgated, we are talking about estimates from as much as $300 to $600 billion a year cost to the economy for many regulations that are necessary.

I know many of the Senators here tonight, Senator LEVIN would like to have regulatory reform, but at some point, we just have to stop changing it and vote. Let the votes fall where they do and bring it to a conclusion.

I think we probably talked enough about this tonight. We will see what kind of progress we make tomorrow and the next day, and maybe we can reach agreement and conclude this legislation and go on to other very important pieces of legislation.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT ON THE NATIONAL EMERGENCY WITH RESPECT TO LIBYA—MESSAGE FROM THE PRESIDENT—PM 64

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs:

To the Congress of the United States:

I hereby report to the Congress on the developments since my last report of January 30, 1995, concerning the national emergency with respect to Libya that was declared in Executive Order No. 12543 of January 7, 1986. This report is submitted pursuant to section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c); section 204(c) of the International Emergency Economic Powers Act (IEEPA), 50 U.S.C. 1703(c); and section 505(c) of the International Security and Development Cooperation Act of 1985, 22 U.S.C. 2349aa-9(c).

1. On December 22, 1994, I renewed for another year the national emergency with respect to Libya pursuant to IEEPA. This renewal extended the current comprehensive financial and trade embargo against Libya in effect since 1986. Under these sanctions, all trade with Libya is prohibited, and all assets owned or controlled by the Libyan government in the United States or in the possession or control of U.S. persons are blocked.

2. There has been one amendment to the Libyan Sanctions Regulations, 31 C.F.R. Part 550 (the "Regulations"), administered by the Office of Foreign Assets Control (FAC) of the Department of the Treasury, since my last report on January 30, 1995. The amendment (60 *Fed. Reg.* 8300, February 14, 1995) added 144 entities to appendix A, Organizations Determined to Be Within the Term "Government of Libya" (Specially Designated Nationals ("SDNs") of Libya). The amendment also added 19 individuals to appendix B, Individuals Determined to Be Specially Designated Nationals of the Government of Libya. A copy of the amendment is attached to this report.

Pursuant to section 550.304(a) of the Regulations, FAC has determined that these entities and individuals designated as SDNs are owned or controlled by, or acting or purporting to act directly or indirectly on behalf of, the Government of Libya, or are agencies, instrumentalities or entities or that government. By virtue of this determination, all property and interests in property of these entities or persons that are in the United States or in the possession or control of U.S. persons are blocked. Further, U.S. persons are prohibited from engaging in transactions with these individuals or entities unless the transactions are licensed by FAC. The designations were made in consultation with the Department of State and announced by FAC in notices issued on January 10 and January 24, 1995.

3. During the current 6-month period, FAC made numerous decisions with respect to applications for licenses to engage in transactions under the Regulations, issuing 119 licensing determinations—both approvals and denials. Consistent with FAC's ongoing scrutiny of banking transactions, the largest category of license approvals (83) concerned requests by Libyan and non-Libyan persons or entities to unblock bank accounts initially blocked because of an apparent Government of Libya interest. The largest category of denials (14) was for banking transactions in which FAC found a Government of Libya interest. One license was issued authorizing intellectual property protection in Libya and another for travel to Libya to visit close family members.

In addition, FAC issued one determination with respect to applications from attorneys to receive fees and reimbursement of expenses for provision of legal services to the Government of Libya in connection with wrongful death civil actions arising from the Pan Am 103 bombing. Civil suits have been filed in the U.S. District Court for the District of Columbia and in the Southern District of New York. Representation of the Government of Libya when named as a defendant in or otherwise made a party to domestic U.S. legal proceedings is authorized by section 550.517(b)(2) of the Regulations under certain conditions.

4. During the current 6-month period, FAC continued to emphasize to the international banking community in the United States the importance of identifying and blocking payments made by or on behalf of Libya. The FAC worked closely with the banks to implement new interdiction software systems to identify such payments. As a result, during the reporting period, more than 171 transactions involving Libya, totaling more than $6.5 million, were blocked. As of May 25, 27 of these transactions had been licensed to be released, leaving a net amount of more than $5.2 million blocked.

Since my last report, FAC collected 37 civil monetary penalties totaling more than $354,700 for violations of the U.S. sanctions against Libya. Eleven of the violations involved the failure of banks to block funds transfers to Libyan-owned or -controlled banks. Two other penalties were received from companies for originating funds transfers to Libyan-owned or -controlled banks. Two corporations paid penalties for export violations. Twenty-two additional penalties were paid by U.S. citizens engaging in Libyan oilfield-related transactions while another 54 cases of similar violations are in active penalty processing.

Various enforcement actions carried over from previous reporting periods have continued to be aggressively pursued. The FAC has continued its efforts under the "Operation Roadblock" initiative. This ongoing program seeks to identify U.S. persons who travel to and/or work in Libya in violation of U.S. law.

Several new investigations of potentially significant violations of the Libyan sanctions have been initiated by FAC and cooperating U.S. law enforcement agencies, primarily the U.S. Customs Service. Many of these cases are believed to involve complex conspiracies to circumvent the various prohibitions of the Libyan sanctions, as well as the utilization of international diversionary shipping routes to and from Libya. The FAC has continued to work closely with the Departments of State and Justice to identify U.S. persons who enter into contracts or agreements with the Government of Libya, or other third-country parties, to lobby United States Government officials or to engage in public relations work on behalf of the Government of Libya without FAC authorization. In addition, during the period FAC attended several bilateral and multilateral meetings with foreign sanctions authorities, as well as with private foreign institutions, to consult on issues of mutual interest and to encourage strict adherence to the U.N.-mandated sanctions.

5. The expenses incurred by the Federal Government in the 6-month period from January 7 through July 6, 1995, that are directly attributable to the exercise of powers and authorities conferred by the declaration of the Libyan national emergency are estimated at approximately $830,000.00. Personnel costs were largely centered in the Department of the Treasury (particularly in the Office of Foreign Assets Control, the Office of the General Counsel, and the U.S. Customs Service), the Department of State, and the Department of Commerce.

6. The policies and actions of the Government of Libya continue to pose an unusual and extraordinary threat to the national security and foreign policy of the United States. In adopting UNSCR 883 in November 1993, the Security Council determined that the continued failure of the Government of Libya to demonstrate by concrete actions its renunciation of terrorism, and

in particular its continued failure to respond fully and effectively to the requests and decisions of the Security Council in UNSCRs 731 and 748, concerning the bombing of the Pan Am 103 and UTA 772 flights, constituted a threat to international peace and security. The United States continues to believe that still stronger international measures than those mandated by UNSCR 883, possibly including a worldwide oil embargo, should be imposed if Libya continues to defy the will of the international community as expressed in UNSCR 731. We remain determined to ensure that the perpetrators of the terrorist acts against Pan Am 103 and UTA 772 are brought to justice. The families of the victims in the murderous Lockerbie bombing and other acts of Libyan terrorism deserve nothing less. I shall continue to exercise the powers at my disposal to apply economic sanctions against Libya fully and effectively, so long as those measures are appropriate, and will continue to report periodically to the Congress on significant developments as required by law.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *July 12, 1995*.

MESSAGES FROM THE HOUSE

At 12:03 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, without amendment:

S. 523. An act to amend the Colorado River Basin Salinity Control Act to authorize additional measures to carry out the control of salinity upstream of Imperial Dam in a cost-effective manner, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 82. Concurrent resolution directing the Secretary of the Senate to make technical corrections in the enrollment of S. 523.

The message further announced that the House has agreed to the following bills, in which it requests the concurrence of the Senate:

H.R. 1141. An act to amend the act popularly known as the "Sikes Act" to enhance fish and wildlife conservation and natural resources management programs.

H.R. 1642. An act to extend nondiscriminatory treatment (most-favored-nation treatment) to the products of Cambodia, and for other purposes.

H.R. 1643. An act to authorize the extension of nondiscriminatory treatment (most-favored-nation treatment) to the products of Bulgaria.

H.R. 1868. An act making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1996, and for other purposes.

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent and referred as indicated.

H.R. 1141. An act to amend the act popularly known as the "Sikes Act" to enhance fish and wildlife conservation and natural resources management programs; to the Committee on Environment and Public Works.

H.R. 1642. An act to extend nondiscriminatory treatment (most-favored-nation treatment) to the products of Cambodia, and for other purposes; to the Committee on Finance.

H.R. 1643. An act to authorize the extension of nondiscriminatory treatment (most-favored-nation treatment) to the products of Bulgaria; to the Committee on Finance.

H.R. 1868. An act making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1996, and for other purposes; to the Committee on Appropriations.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. CHAFEE, from the Committee on Environment and Public Works, without amendment:

S. 1023. An original bill to authorize an increased Federal share of the costs of certain transportation projects in the District of Columbia for fiscal years 1995 and 1996, and for other purposes (Rept. No. 104–111).

By Mr. THURMOND, from the Committee on Armed Services, without amendment:

S. 1026. An original bill to authorize appropriations for fiscal year 1996 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes (Rept. No. 104–112).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. CHAFEE:

S. 1023. An original bill to authorize an increased Federal share of the costs of certain transportation projects in the District of Columbia for fiscal years 1995 and 1996, and for other purposes; from the Committee on Environment and Public Works; placed on the calendar.

By Mr. WELLSTONE:

S. 1024. A bill to amend title XVIII of the Social Security Act to assure fairness and choice to patients under the medicare program, and for other purposes; to the Committee on Finance.

By Mr. BUMPERS (for himself, Mr. NICKLES, Mr. PRYOR, and Mr. INHOFE):

S. 1025. A bill to provide for the exchange of certain Federally owned lands and mineral interests therein, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. THURMOND:

S. 1026. An original bill to authorize appropriations for fiscal year 1996 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; from the Committee on Armed Services; placed on the calendar.

By Mr. BROWN (for himself, Mr. BRADLEY, Mr. BRYAN, Mr. CHAFEE, and Mr. LAUTENBERG):

S. 1027. A bill to eliminate the quota and price support programs for peanuts, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. AKAKA:

S. Res. 149. A resolution expressing the sense of the Senate regarding the recent announcement by the Republic of France that it intends to conduct a series of underground nuclear test explosions despite the current international moratorium on nuclear testing; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. WELLSTONE:

S. 1024. A bill to amend title XVIII of the Social Security Act to assure fairness and choice to patients under the Medicare Program, and for other purposes; to the Committee on Finance.

THE MEDICARE HEALTH CARE QUALITY ACT OF 1995

• Mr. WELLSTONE. Mr. President, I am pleased to introduce the Medicare Health Care Quality Act of 1995 today to make certain that Medicare beneficiaries are protected and receive access to high-quality care when they enroll in health plans offered through the Medicare Program.

I am deeply concerned about the extreme cuts in the Medicare Program that would be necessitated by the recently adopted budget resolution. A careful examination of the program clearly shows that the increasing numbers of elderly, disabled, and end-stage-renal disease patients—changing demographics—and overall health care inflation account for most of the increased growth in spending. According to projections based on CBO numbers, the cuts contained in the Republican budget resolution will not allow the Medicare Program to even keep pace with the private sector on a per person basis. And the Medicare Program takes care of many of our society's sickest and frailest members.

We have heard a lot recently about Republican proposals to restructure Medicare by giving seniors a voucher and allowing them to purchase health coverage in the private market. This legislation would ensure that plans participating in such a program would be required to meet minimum standards of performance, and that access to needed care, and quality of that care are assured. Many health plans already meet the standards I have included in this legislation, but for those that do not, this legislation will provide a critical safety net for patients.

If a voucher system is created, it is likely that constraints on the amount of the voucher will force many seniors to choose managed care plans, as their most affordable alternative. Currently about 3 million Medicare beneficiaries are enrolled in managed care plans through the Medicare Program. Most of these patients are satisfied with the care they receive. A significant fraction, however, primarily the frailest, the sick and disabled, are not satisfied, according to a recent report by the office of the inspector general of the Department of Health and Human Services. Serious problems identified with the program identified in this report included:

> Compliance with Federal enrollment standards for health screening and informing beneficiaries of their appeal rights appeared to be problematic.
>
> Perceived unmet service needs . . . led 22% of disenrollees and 7% of enrollees to seek out-of-plan care.
>
> Some beneficiaries reported having difficulty making appointment for services in terms of the days waited for scheduled appointments . . .
>
> Some beneficiaries reported they were refused referrals to specialists . . .

It is clear to me, however, when I look at the managed care plans in Minnesota, that managed care plans can provide access and quality in health care, while holding down the growth of costs. In a recent editorial on July 6, 1995, in the New England Journal of Medicine, the editor-in-chief, Dr. Jerome Kassirer stated:

> Managed care itself is not the enemy. On the contrary, many of its effects are salutary. Patients stay in the hospital far fewer days, many surgical procedures that previously required hospitalization are now safely performed in day surgery, there is far more attention to preventive care, many medical practices have been standardized to produce better outcomes, and satisfying patients has become an explicit goal. There is, however, remarkable diversity among managed-care plans. Some, mostly older plans that were created when cost containment was an unexpected benefit rather than their central purpose, deliver high-quality care economically. Unfortunately, others cut costs by recruiting the healthiest patients, excluding the sickest, rationing care by making it inconvenient to obtain, and denying care by a variety of mechanisms.

The Medicare Health Care Quality Act of 1995 defines the standards that must be met by any health plan, including managed care plans, if they are to participate as a plan for Medicare patients. The major standards would include those for:

Information to be provided to enrollees on plan coverage, benefits, patient satisfaction, and quality indicators to assist consumers in making informed purchasing decisions.

Utilization review activities, credentialing of health professionals, and handling of grievances by consumers and providers to assure that all are treated fairly by the health plan.

Provision of adequate access to care, including specialty and emergency care without penalizing consumers.

Fair marketing of health plans to Medicare beneficiaries to be certain plans cannot selectively market, and enroll only the healthiest patients.

Mr. President, I have repeatedly stated that trying to restructure the Medicare Program without addressing the bigger question of overall health system reform is foolish, and likely to worsen the situation in the private sector. As Medicare cuts are put in place, providers will be forced to shift charges to private sector payers, insurance rates will rise, more people will be unable to afford coverage, and we will all end up paying more for our health care in the end. I believe that we must tackle health care reform in this Congress. Until that happens, however, and as Medicare beneficiaries continue to join private sector health plans, including managed care plans, in increasing numbers, it is critical to be certain that adequate patient protections are in place. The Medicare Health Care Quality Act of 1995 will go a long way toward doing that.

I ask unanimous consent that a copy of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1024

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Medicare Health Care Quality Act of 1995”.

SEC. 2. REFERENCES IN ACT; TABLE OF CONTENTS.

(a) AMENDMENTS TO SOCIAL SECURITY ACT.—Except as otherwise specifically provided, whenever in this Act an amendment is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to that section or other provision of the Social Security Act.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title.
Sec. 2. References in Act; table of contents.
Sec. 3. Requirements relating to health professionals.
Sec. 4. Grievance procedures.
Sec. 5. Discrimination.
Sec. 6. Requirement for utilization review program.
Sec. 7. Access.
Sec. 8. Requirements for organization service areas.
Sec. 9. Other enrollee protections.
Sec. 10. Information on eligible organization.
Sec. 11. Enrollment by mail.
Sec. 12. Waiver of certain medicare coinsurance and deductibles not remuneration.
Sec. 13. Effective date.

SEC. 3. REQUIREMENTS RELATING TO HEALTH PROFESSIONALS.

Section 1876(c) (42 U.S.C. 1395mm(c)) is amended by adding at the end the following new paragraph:

“(9)(A) The eligible organization shall credential health professionals furnishing health care services through the organization.

“(B)(i) The eligible organization shall establish a credentialing process. Such process shall ensure that a health professional is credentialed prior to that professional being listed as a health professional in the eligible organization's marketing materials, in accordance with recorded (written or otherwise) policies and procedures. The credentialing process shall provide for the review of an application for credentialing by the credentialing committee established under clause (iii).

“(ii) The medical director of the eligible organization, or another designated health professional, shall have responsibility for the credentialing of health professionals under the organization.

“(iii)(I) The eligible organization shall establish a credentialing committee that—

“(I) is composed of licensed physicians and other health professionals to review credentialing information and supporting documents;

“(II) provides input to the eligible organization on the credentialing process and procedures; and

“(III) appropriately represents the medical specialties of applicants for credentialing.

“(iv)(I) Credentialing decisions under the eligible organization shall be based on objective standards with input from providers of health services credentialed under the organization. Information concerning all application and credentialing policies and procedures shall be made available for review by the health professional involved upon written request.

“(II) The standards referred to in subclause (I) shall include determinations as to—

“(aa) whether the health professional has a current unrestricted valid license to practice the particular health profession involved;

“(bb) whether the health professional has clinical privileges in good standing at the hospital designated by the practitioner and the primary admitting facility, as applicable;

“(cc) whether the health professional has a valid DEA or CDS certificate, as applicable;

“(dd) whether the health professional has graduated from medical school (allopathic or osteopathic), completed a residency (accredited by the Accreditation Council on Graduate Medical Education or the American Osteopathic Association), or received Board certification (by medical specialty boards recognized by the American Board of Medical Specialties or the American Osteopathic Association), as applicable;

“(ee) the work history of the health professional;

“(ff) whether the health professional has current, adequate malpractice insurance in accordance with the policy of the eligible organization;

“(gg) the professional liability claims history of the health professional;

“(hh) whether the health professional has been convicted of a crime or cited by a licensing board for professional misconduct; and

“(ii) whether the health professional has any malpractice payments or disciplinary actions registered with the National Practitioner Data Bank under section 427(b) of the Health Care Quality Improvement Act (42 U.S.C. 11134(b)).

“(III) A health professional who undergoes the credentialing process shall have the right to review the basis information, including the sources of that information, that was used to meet the designated credentialing criteria.

“(C)(i) A health professional who is subject to credentialing under this paragraph shall, upon written request, receive from the eligible organization any information obtained by the organization during the credentialing process that, as determined by the credentialing committee, does not meet the credentialing standards of the organization, or that varies substantially from the information provided to the eligible organization by the health professional.

"(ii) The eligible organization shall have a formal, recorded (written or otherwise) process by which a health professional may submit supplemental information to the credentialing committee if the health professional determines that erroneous or misleading information has been previously submitted. The health professional may request that such information be reconsidered in the evaluation for credentialing purposes.

"(iii)(I) A health professional is not entitled to be selected or retained by the eligible organization as a participating or contracting provider whether or not such professional meets the credentialing standards established under this paragraph.

"(II) If economic considerations, including the health care professional's patterns of expenditure per patient, are part of a selection decision, objective criteria shall be used in examining such considerations and a written description of such criteria shall be provided to applicants, participating health professionals, and enrollees. Any economic profiling of health professionals must be adjusted to recognize case mix, severity of illness, and the age of patients of a health professional's practice that may account for higher or lower than expected costs, to the extent appropriate data in this regard is available to the eligible organization.

"(iv)(I) The eligible organization shall develop and implement procedures for the reporting, to appropriate authorities, of serious quality deficiencies that result in the suspension or termination of a contract with a health professional.

"(II) The eligible organization shall develop and implement policies and procedures under which the organization reviews the contract privileges of health professionals who—

"(aa) have seriously violated policies and procedures of the eligible organization;

"(bb) have lost their privilege to practice with a contracting institutional provider; or

"(cc) otherwise pose a threat to the quality of service and care provided to the enrollees of the eligible organization.

At a minimum, the policies and procedures implemented under this subparagraph shall meet the requirements of the Health Care Quality Improvement Act of 1986.

"(III) The policies and procedures implemented under subclause (II) shall include requirements for the timely notification of the affected health professional of the reasons for the reduction, withdrawal, or termination of privileges, and provide the health professional with the right to appeal the determination of reduction, withdrawal, or termination.

"(IV) A written copy of the policies and procedures implemented under this paragraph shall be made available to a health professional on request prior to the time at which the health professional contracts to provide services under the organization.

"(D) For purposes of this paragraph, the term 'health professional' means an individual who is licensed, credited, accredited, or otherwise credentialed to provide health care items and services as authorized under State law.".

SEC. 4. GRIEVANCE PROCEDURES.

Section 1876(c)(5)(A) (42 U.S.C. 1395mm(c)(5)(A)) is amended—

(1) by adding "(i)" after "(A)"; and

(2) by adding at the end the following new clause:

"(ii) The procedures described under clause (i) shall include—

"(I) recorded (written or otherwise) procedures for registering and responding to complaints and grievances in a timely manner;

"(II) documentation concerning the substance of complaints, grievances, and actions taken concerning such complaints and grievances, which shall be in writing.

"(III) procedures to ensure a resolution of a complaint or grievance;

"(IV) the compilation and analysis of complaint and grievance data;

"(V) procedures to expedite the complaint process if the complaint involves a dispute about the coverage of an immediately and urgently needed service; and

"(VI) procedures to ensure that if an enrollee orally notifies the eligible organization about a complaint, the organization (if requested) must send the enrollee a complaint form that includes the telephone numbers and addresses of member services, a description of the organization's grievance procedure.

"(iii) The eligible organization shall adopt an appeals process to enable covered individuals to appeal decisions that are adverse to the individuals. Such a process shall include—

"(I) the right to a review by a grievance panel;

"(II) the right to a second review with a different panel, independent from the eligible organization, or to a review through an impartial arbitration process which shall be described in writing by the organization; and

"(III) an expedited process for review in emergency cases.

The Secretary shall develop guidelines for the structure and requirements applicable to the independent review panel and impartial arbitration process described in subclause (II).

"(iv) With respect to the complaint, grievance, and appeals processes required under this paragraph, the eligible organization shall, upon the request of a covered individual, provide the individual a written decision concerning a complaint, grievance, or appeal in a timely fashion.

"(v) The complaint, grievance, and appeals processes established in accordance with this paragraph may not be used in any fashion to discourage or prevent a covered individual from receiving medically necessary care in a timely manner.".

SEC. 5. DISCRIMINATION.

Section 1876(c) (42 U.S.C. 1395mm(c)), as amended by section 3, is amended by adding at the end the following new paragraph:

"(10)(A) The eligible organization may not discriminate or engage (directly or through contractual arrangements) in any activity, including the selection of service area, that has the effect of discriminating against an individual on the basis of race, national origin, gender, language, socio-economic status, age, disability, health status, or anticipated need for health services.

"(B) The eligible organization may not engage in marketing or other practices intended to discourage or limit the enrollment of individuals on the basis of health condition, geographic area, industry, or other risk factors.

"(C) The eligible organization may not discriminate in the selection of members of the health professional or provider network (and in establishing the terms and conditions for membership in the network) of the organization based on—

"(i) the race, national origin, disability, gender, or age of the health professional;

"(ii) the socio-economic status, disability, health status, age, or anticipated need for health services of the patients of the health professional or provider; or

"(iii) the health professional or provider's lack of affiliation with, or admitting privileges at, a hospital.

"(D) The eligible organization may not discriminate in participation, reimbursement, or indemnification against a health professional who is acting within the scope of the license, training, or certification of the professional under applicable State law solely on the basis of the license, training, or certification of the health professional. The eligible organization may not discriminate in participation, reimbursement, or indemnification against a health provider that is providing services within the scope of services that it is authorized to perform under State law.".

SEC. 6. REQUIREMENT FOR UTILIZATION REVIEW PROGRAM.

Section 1876(c) (42 U.S.C. 1395mm(c)), as amended by sections 3 and 5, is amended by adding at the end the following new paragraph:

"(11)(A) The eligible organization shall have in place a utilization review program that meets the requirements of this paragraph and that is certified by the Secretary.

"(B) The Secretary shall establish standards for the establishment, operation, and certification and periodic recertification of eligible organization utilization review programs.

"(C)(i) The Secretary may certify an eligible organization as meeting the standards established under subparagraph (B) if the Secretary determines that the eligible organization has met the utilization standards required for accreditation as applied by a nationally recognized, independent, nonprofit accreditation entity.

"(ii) The Secretary shall periodically review the standards used by the private accreditation entity to ensure that such standards meet or exceed the standards established by the Secretary under this paragraph.

"(D) The standards developed by the Secretary under subparagraph (B) shall require that utilization review programs comply with the following:

"(i) The eligible organization shall provide a written description of the utilization review program of the organization, including a description of—

"(I) the delegated and nondelegated activities under the program;

"(II) the policies and procedures used under the program to evaluate medical necessity; and

"(III) the clinical review criteria, information sources, and the process used to review and approve the provision of medical services under the program.

"(ii) With respect to the administration of the utilization review program, the eligible organization may not employ utilization reviewers or contract with a utilization management organization if the conditions of employment or the contract terms include financial incentives to reduce or limit the medically necessary or appropriate services provided to covered individuals.

"(iii) The eligible organization shall develop procedures for periodically reviewing and modifying the utilization review of the organization. Such procedures shall provide for the participation of providers in the eligible organization in the development and review of utilization review policies and procedures.

"(iv)(I) A utilization review program shall develop and apply recorded (written or otherwise) utilization review decision protocols. Such protocols shall be based on sound medical evidence.

"(II) The clinical review criteria used under the utilization review decision protocols to assess the appropriateness of medical services shall be clearly documented and available to participating health professionals upon request. Such protocols shall include a mechanism for assessing the consistency of the application of the criteria used under the protocols across reviewers, and a mechanism for periodically updating such criteria.

"(v)(I) The procedures applied under a utilization review program with respect to the preauthorization and concurrent review of the necessity and appropriateness of medical items, services or procedures, shall require that qualified medical professionals supervise review decisions. With respect to a decision to deny the provision of medical items, services or procedures, a provider licensed in the same field shall conduct a subsequent review to determine the medical appropriateness of such a denial. Physicians from the same medical branch (allopathic or osteopathic medicine) and specialty (recognized by the American Board of Medical Specialties or the American Osteopathic Association) shall be utilized in the review process as needed.

"(II) All utilization review decisions shall be made in a timely manner, as determined appropriate when considering the urgency of the situation.

"(III) With respect to utilization review, an adverse determination or noncertification of an admission, continued stay, or service shall be clearly documented, including the specific clinical or other reason for the adverse determination or noncertification, and be available to the covered individual or any individual acting on behalf of the covered individual and the affected provider or facility. The eligible organization may not deny or limit coverage with respect to a service that the enrollee has already received solely on the basis of lack of prior authorization or second opinion, to the extent that the service would have otherwise been covered by the organization had such prior authorization or a second opinion been obtained.

"(IV) The eligible organization shall provide a covered individual with timely notice of an adverse determination or noncertification of an admission, continued stay, or service. Such a notification shall include information concerning the utilization review program appeals procedure.

"(vi) An eligible organization utilization review program shall ensure that requests by covered individuals or physicians for prior authorization of a nonemergency service shall be answered in a timely manner after such request is received. If utilization review personnel are not available in a timely fashion, any medical services provided shall be considered approved.

"(vii) A utilization review program shall implement policies and procedures to evaluate the appropriate use of new medical technologies or new applications of established technologies, including medical procedures, drugs, and devices. The program shall ensure that appropriate professionals participate in the development of technology evaluation criteria.

"(viii) Where prior authorization for a service or other covered item is obtained under a program under this paragraph, the service shall be considered to be covered unless there was fraud or incorrect information provided at the time such prior authorization was obtained. If a provider supplied the incorrect information that led to the authorization of medically unnecessary care, the provider shall be prohibited from collecting payment directly from the enrollee, and shall reimburse the organization and subscriber for any payments or copayments the provider may have received.

"(E)(i) The eligible organization shall, with respect to any materials distributed to prospective covered individuals, include a summary of the utilization review procedures of the organization.

"(ii) The eligible organization shall, with respect to any materials distributed to newly covered individuals, include a clear and comprehensive description of utilization review procedures of the organization and a statement of patient rights and responsibilities with respect to such procedures.

"(iii) The eligible organization shall disclose to the Secretary of the eligible organization utilization review program policies, procedures, and reports required by the Secretary for certification.

"(iv) The eligible organization shall have a membership card which shall have printed on the card the toll-free telephone number that an enrollee should call for customer service issues.

"(v) The eligible organization shall establish mechanisms to evaluate the effects of the utilization review program of the organization through the use of member satisfaction data or through other appropriate means.".

SEC. 7. ACCESS.

(a) IN GENERAL.—Section 1876(c) (42 U.S.C. 1395mm(c)), as amended by sections 3, 5, and 6, is amended by adding at the end the following new paragraph:

"(12)(A) The eligible organization shall demonstrate that the organization has a sufficient number, distribution, and variety of qualified health care providers to ensure that all covered health care services will be available and accessible in a timely manner to all individuals enrolled in the organization.

"(B) The eligible organization shall demonstrate that organization enrollees have access, when medically or clinically indicated in the judgment of the treating health professional, to specialized treatment expertise.

"(C)(i) Any process established by the eligible organization to coordinate care and control costs may not impose an undue burden on enrollees with chronic health conditions. The organization shall ensure a continuity of care and shall, when medically or clinically indicated in the judgment of the treating health professional, ensure direct access to relevant specialists for continued care.

"(ii) In the case of an enrollee who has a severe, complex, or chronic condition, the eligible organization shall determine, based on the judgment of the treating health professional, whether it is medically or clinically necessary or appropriate to use a care coordinator from an interdisciplinary team or a specialist to ensure continuity of care.

"(D)(i) The requirements of this paragraph may not be waived and shall be met in all areas where the eligible organization has enrollees, including rural areas.

"(ii) If the eligible organization fails to meet the requirements of this paragraph, the organization shall arrange for the provision of out-of-organization services to enrollees in a manner that provides enrollees with access to services in accordance with this paragraph.".

(b) ACCESS TO EMERGENCY CARE SERVICES.—Section 1876(c)(4)(B) (42 U.S.C. 1395mm(c)(4)(B)) is amended—

(1) by inserting "emergency" before "services" the first place it appears;

(2) by striking ", if (i)" and all that follows through "the organization"; and

(3) by adding at the end the following new sentence: "In such subparagraph, 'emergency services' are services provided to an individual after the sudden onset of a medical condition that manifests itself by symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected by a prudent layperson (possessing an average knowledge of health and medicine) to result in placing the individual's health in serious jeopardy, the serious impairment of a bodily function, or the serious dysfunction of any bodily organ or part, and includes services provided as a result of a call through the 911 emergency system.".

SEC. 8. REQUIREMENTS FOR ORGANIZATION SERVICE AREAS.

(a) IN GENERAL.—Section 1876 (42 U.S.C. 1395mm) is amended by adding at the end the following new subsection:

"(k)(1) Except as provided in paragraph (2), for purposes of this section, if the eligible organization's service area includes any part of a metropolitan statistical area, the service area shall include the entire metropolitan statistical area (including any area designated by the Secretary as a health professional shortage area under section 332(a)(1)(A) of the Public Health Service Act within such metropolitan statistical area).

"(2) The Secretary may permit an organization's service area to exclude any portion of a metropolitan statistical area (other than the central county of such metropolitan statistical area) if—

"(A) the organization demonstrates that it lacks the financial or administrative capacity to serve the entire metropolitan statistical area; and

"(B) the Secretary finds that the composition of the organization's service area does not reduce the financial risk to the organization of providing services to enrollees because of the health status or other demographic characteristics of individuals residing in the service area (as compared to the health status or demographic characteristics of individuals residing in the portion of the metropolitan statistical area not included in the organization's service area).".

(b) CONFORMING AMENDMENT.—Section 1876(c)(4)(A)(i) (42 U.S.C. 1395mm(c)(4)(A)(i)) is amended by striking "the area served by the organization" and inserting "the organization's service area".

SEC. 9. OTHER ENROLLEE PROTECTIONS.

(a) CLARIFICATION OF RESTRICTIONS ON CHARGES FOR OUT-OF-PLAN SERVICES.—

(1) INPATIENT HOSPITAL AND EXTENDED CARE SERVICES.—Section 1866(a)(1)(O) (42 U.S.C. 1395cc(a)(1)(O)) is amended in the matter preceding clause (i) by inserting after "this title" the following: "(without regard to whether or not the services are furnished on an emergency basis)".

(2) PHYSICIANS' SERVICES AND RENAL DIALYSIS SERVICES.—Section 1876(j)(2) (42 U.S.C. 1395mm(j)(2)) is amended by striking "this setion" and inserting "this section (without regard to whether or not the services are furnished on an emergency basis)".

(b) ARRANGEMENTS FOR DIALYSIS SERVICES.—Section 1876(c) (42 U.S.C. 1395mm(c)), as amended by sections 3, 5, 6, and 7 is amended by adding at the end the following new paragraph:

"(13) Each eligible organization shall assure that enrollees requiring renal dialysis services who are temporarily outside of the organization's service area (within the United States) have reasonable access to such services by—

"(A) making such arrangements with providers of services or renal dialysis facilities outside the service area for the coverage of and payment for such services furnished to enrollees as the Secretary determines necessary to assure reasonable access; or

"(B) providing for the reimbursement of any provider of services or renal dialysis facility outside the service area for the furnishing of such services to enrollees.".

SEC. 10. INFORMATION ON ELIGIBLE ORGANIZATION.

Section 1876(c)(3)(C) (42 U.S.C. 1395mm(c)(3)(C)) is amended—

(1) by redesignating clauses (i) and (ii) as subclauses (I) and (II);

(2) by inserting "(i)" after "(C)"; and

(3) by adding at the end the following new clause:

"(ii)(I) The eligible organization shall provide prospective covered individuals with written information concerning the terms and conditions of the eligible organization to enable such individuals to make informed decisions with respect to a certain system of health care delivery. Such information shall be standardized so that prospective covered individuals may compare the attributes of all such organizations offered within the coverage area.

"(II) Information provided under this section, whether written or oral shall be easily understandable, truthful, linguistically appropriate and objective with respect to the terms used. Descriptions provided in such information shall be consistent with standards developed for medicare supplemental policies under section 1882.

"(III) Information required under this clause shall include information specific to medicare beneficiaries concerning—

"(aa) coverage provisions, benefits, and any exclusions by category of service or product;

"(bb) plan loss ratios with an explanation that such ratios reflect the percentage of the premiums expended for health services;

"(cc) prior authorization or other review requirements including preauthorization review, concurrent review, post-service review, post-payment review, and procedures that may lead the patient to be denied coverage for, or not be provided, a particular service or product;

"(dd) an explanation of how organization design impacts enrollees, including information on the financial responsibility of covered individuals for payment for coinsurance or other out-of-plan services;

"(ee) covered individual satisfaction statistics, including disenrollment statistics;

"(ff) advance directives and organ donation;

"(gg) the characteristics and availability of health care professionals and institutions participating in the organization, including descriptions of the financial arrangements or contractual provisions with hospitals, utilization review organizations, physicians, or any other provider of health care services that would affect the services offered, referral or treatment options, or physician's fiduciary responsibility to patients, including financial incentives regarding the provision of medical or other services;

"(hh) quality indicators for the organization and for participating health professionals and providers under the organization, including population-based statistics such as immunization rates and other preventive care and health outcomes measures such as survival after surgery, adjusted for case mix; and

"(ii) an explanation of the appeals process and the grievance procedure.".

SEC. 11. ENROLLMENT BY MAIL.

Section 1876(c)(3) (42 U.S.C. 1395mm(c)(3)) is amended by adding at the end the following new subparagraphs:

"(H) Each eligible organization that provides items and services pursuant to a contract under this section shall permit an individual entitled to benefits under part A to obtain enrollment forms and information and to enroll under this section by mail, and no agent of an eligible organization may visit the residence of such an individual for purposes of enrolling the individual under this section or providing enrollment information to the individual other than at the individual's request.

"(I)(i) Each eligible organization that provides items and services pursuant to a contract under this section shall include the information described in clause (ii) in any solicitation for enrollment in such organization sent by mail to an individual entitled to benefits under part A.

"(ii) The information described in this clause is—

"(I) the toll-free number of the health insurance advisory service program established under section 4359 of the Omnibus Budget Reconciliation Act of 1990 (42 U.S.C. 1395b–3); and

"(II) an appropriate explanation of the services provided by such program.

SEC. 12. WAIVER OF CERTAIN MEDICARE COINSURANCE AND DEDUCTIBLES NOT REMUNERATION.

(a) IN GENERAL.—The Secretary of Health and Human Services shall modify section 1001.952(k) of title 42, Code of Federal Regulations, to provide that the term "remuneration" as used in section 1128B of the Social Security Act (42 U.S.C. 1320a–7b) does not include any reduction or waiver of a coinsurance or deductible amount owed to a provider furnishing patient services covered under part B of the medicare program under title XVIII of such Act if such reduction or waiver is provided under a program that—

(1) facilitates access to health services for patients, who because of economic circumstances might otherwise refrain from seeking needed health care;

(2) initially and annually screens patients to determine financial need and eligibility for the program; and

(3) establishes financial need and eligibility on a case-by-case basis and grants such a reduction or waiver only if the beneficiary—

(A) has an annual gross income (including Social Security benefits, tax-exempt income, and income from any other source) of 200 percent or less of the Federal poverty level;

(B) does not have assets in excess of $30,300, excluding the homestead (as defined in State law) and one automobile;

(C) is not eligible for medical assistance under a State plan under title XIX of such Act; and

(D) is not enrolled in a prepaid health plan.

(b) ADDITIONAL EXCLUSION.—The modification described in subsection (a) shall be in addition to any exclusions contained in such section on the date of the enactment of this Act.

SEC. 13. EFFECTIVE DATE.

The amendments made by this Act shall apply with respect to contract years beginning on or after January 1, 1997.●

By Mr. BUMPERS (for himself, Mr. NICKLES, Mr. PRYOR, and Mr. INHOFE):

S. 1025. A bill to provide for the exchange of certain federally owned lands and mineral interests therein, and for other purposes; to the Committee on Energy and Natural Resources.

THE ARKANSAS-OKLAHOMA LAND EXCHANGE ACT OF 1995

Mr. BUMPERS. Mr. President, today I am pleased to introduce a piece of legislation that will begin a public process for a project of great importance. This legislation would allow for the exchange of lands between the Weyerhaeuser Co., the Forest Service, and the Fish and Wildlife Service. This land exchange could, in my view, achieve a number of worthy goals for the environment in my home State of Arkansas and for the State of Oklahoma. It is a bill that I have been working on, and will continue to work on, with the advice and assistance of Senators PRYOR, NICKLES, and INHOFE, as well as Congressman BREWSTER of Oklahoma and the entire Arkansas House delegation.

First, let me provide a bit of background on this exchange proposal. In 1985, I learned that the Weyerhaeuser Co. had informed the Forest Service that it had thousands of acres of land for sale in Arkansas. These lands included undeveloped timberland adjacent to Lake Ouachita. After a meeting that I had with representatives of the Weyerhaeuser Co., they agreed to withhold the sale to allow me time to work through the appropriations process and acquire environmentally significant lands through the land and water conservation fund for the Ouachita National Forest.

The acquisition of lands inside the Lake Ouachita Management Area presents opportunities for more dispersed recreation, wildlife enhancement work, and protection of visual and water quality of the lake. These acquisitions began in 1989 and have continued up through this year. As a result of these acquisitions, the Government has been able to acquire almost 40,000 acres of some of the best forest lands I have seen. Since the acquisition program started, the bald eagle has become established on Lake Ouachita. In addition, habitat is provided for the red-cockaded woodpecker, Southern lady slipper, and Arkansas fat mucket mussel. The area is popular for deer, turkey, and small game hunting.

While it would be nice to continue acquiring lands through the land and water conservation fund, that is just not a practical strategy. I know that some of my constituents do not like the concept of a land exchange because it means some lands leave Federal ownership and, under this proposal, would go to the Weyerhaeuser Co. However, reality is that this Government has a budget deficit, and funds for land acquisition have been decreasing for several years. In fact, the money that has been dedicated to land acquisition of the Weyerhaeuser property has fallen steadily since 1991. The decrease of funds has not resulted from my lack of interest in this area. It is due to the fact that Federal dollars are scarce for the kind of environmental enhancement I would like to see. Therefore, I believe it is incumbent upon Congress, the Federal Government, land owners and interest groups to be creative about how we can reach mutual goals for conservation. I challenged the Weyerhaeuser Co. to work with me in finding such an opportunity, and I believe they have taken a good step toward such an effort. I know Senator NICKLES offered the same challenge. As a result, for the past year, the Weyerhaeuser Co., the Forest Service and the Fish and Wildlife Service have been working to determine if a mutually agreed upon land exchange proposal could be achieved. The bill today represents the result of that preliminary effort.

Pursuant to this legislation, the State of Arkansas would gain approximately 25,000 acres for a national wildlife refuge. This unique bottomland forest called Pond Creek is located in the floodplain between the Cossatot River and the Little River. It is extremely rich and diverse in wetland habitat for wading birds, resident and migratory waterfowl, small mammals, deer, fish, alligators, and other wildlife. I understand that there are four bird rookeries there, used by herons, egrets, and other birds. This land would become part of the Cossatot National Wildlife Refuge.

Arkansas would also benefit by acquiring lands that would complement Lake Ouachita; the Little Missouri Wild and Scenic River; Flatside Wilderness, and parts of the Ouachita National Forest. These acquisitions would enhance recreational opportunities for hiking, rock climbing and mountain bicycling. It would protect watersheds, and help block up ownership that is currently intermingled between the Weyerhaeuser Co. and the Forest Service. In the State of Arkansas, approximately 30,000 acres would be added to the Ouachita National Forest.

In Oklahoma, the exchange would add more than 100,000 acres to the Ouachita National Forest through the addition of lands around Lake Broken Bow. This lake is similar to Lake Ouachita—very beautiful, and worthy of protection. I will work closely with my colleagues in the Senate and House from Oklahoma to ensure that this legislation fits with their goals for the area.

To summarize, through this exchange the Federal Government stands to receive almost 160,000 acres of land that is currently owned by the Weyerhaeuser Co. I want to emphasize that I have personally viewed this property and believe it is worthy for consideration in this land exchange bill.

Of course, Weyerhaeuser will also receive something in this exchange through the acquisition of approximately 28,000 acres of the Tiak district of the Ouachita National Forest in Oklahoma and approximately 20,000 acres in Arkansas. This is land currently under timber management, and would continue under timber management by the Weyerhaeuser Co. I have inquired into the company's forest practices and understand that these lands would be managed in conjunction with its recently adopted Forestry Resource Goals. These goals strengthen and reinforce the company's commitment to continue protecting water quality and fish habitat in carrying out forest management, providing habitat for wildlife associated with managed forests, using scientifically based practices to protect soil stability and ensuring long term soil productivity; and considering aesthetics in forest practices as they manage forestlands for sustainable production of wood and other forest products. I understand that the Weyerhaeuser practices go beyond the guidelines of State Best Management Practices [BMP's], and that it has a good neighbor policy that calls for carefully considering the concerns of adjacent landowners and host communities.

There are several issues I would like to address. First, is the concern that Weyerhaeuser is merely trading away cutover lands. I have toured the exchange area and seen first hand the quality of lands that the Forest Service has been receiving through the land and water conservation fund, as well as the lands that Weyerhaeuser would transfer to the Government. These are some of the best forests I have seen, and they deserve to be in Federal ownership.

Currently, the Arkansas Nature Conservancy has scientists conducting an ecological assessment of all of the Weyerhaeuser lands that would come into Federal ownership. I am anxious to see the result of this work, and it will be important for Congress to review this proposal as the bill moves ahead. I plan to hold hearings on this very topic so that we can all understand the environmental impact of the land exchange. While we know a great deal about the lands currently in Federal ownership that would go to Weyerhaeuser, this assessment will help us learn more information about the quality of lands owned by Weyerhaeuser that would go to the Ouachita National Forest for management. I understand that preliminary data show that this land provides habitat for a number of sensitive species and serves important watersheds.

A question has arisen about whether this exchange would be a value-for-value exchange. I can assure my colleagues that this exchange would be a value-for-value exchange. I understand that the Forest Service, Fish and Wildlife Service, and Weyerhaeuser Co., have contracted with an independent land appraiser to determine the values of the land and ensure that land is traded on a value-for-value basis. That is, the total value of the land, timber and other economic resources that the Federal Government would give up will equal the total value that it receives from Weyerhaeuser. Determining resource values will involve surveys, land appraisals, timber cruises, mineral and geologic assessments. As with any other business transaction, evaluations would be based on such items as recent comparable sales and current market values. These will provide an economically sound basis for discussion and negotiation—even for areas where the highest and best land uses may be environmental, recreational, or aesthetic rather than economic. I plan to be sure that the land values will be established precisely before this legislation is enacted.

Concerns have also been raised about whether or not hunting and fishing will be allowed in the Cossatot National Wildlife Refuge. I believe that as long as hunting and fishing can be conducted in a manner that is compatible with sound wildlife management, then it makes sense to allow this and other forms of recreation.

One issue that I am committed to working on with my colleagues from Oklahoma is an issue regarding the school districts in McCurtain County. I understand that under the current land exchange proposal, two school districts—Haworth and Tom—would lose money they presently receive under current allocations from the timber receipt payments. I know these timber receipt payments are important to the operation of these school districts and look forward to finding an equitable solution to this situation.

Then there is the issue of minerals. Because of the acreage imbalance, the exchange would result in approximately 100,000 acres of Weyerhaeuser minerals being located under the lands to be conveyed to the Federal Government. At my request, Weyerhaeuser Co. has met with the Forest Service to come up with a recommendation that could be agreed to by all parties. The result of these discussions includes a proposal whereby Weyerhaeuser would trade all Forest Service mineral rights—approximately 50,000 acres—for an equivalent amount of acreage of Weyerhaeuser mineral rights when the surface is exchanged. The Weyerhaeuser hardrock minerals, which means all minerals except oil and gas, on all of the property Weyerhaeuser conveys to the Government, would be conveyed at the time of the surface exchange. However, Weyerhaeuser will reserve oil and gas rights on the acres for 45 years. Ownership by Weyerhaeuser of all oil and gas rights within any section containing a producing oil or gas well would extend beyond 45 years for as long as production continued. Weyerhaeuser would also reserve a proportionally reduced 6.25 percent of 8/8's overriding royalty interest in all oil and/or gas produced from any well located within the eight governmental sections immediately surrounding any section in which well is producing as of December 31, 2041.

Finally, let me say, Mr. President,. that this proposal has a great deal of support. It is supported in concept by the Forest Service and the Fish and Wildlife Service. It has the support of the Arkansas Nature Conservancy and the Oklahoma Wildlife Federation to name but a few. I was particularly encouraged recently by the statement of the Department of Agriculture's Under Secretary for Natural Resources and Environment, James Lyons. When I asked him about the exchange in an Interior Appropriations Subcommittee hearing, he said "I think it is a good exchange for the taxpayers and for Weyerhaeuser, and certainly for the State of Arkansas". I would encourage anyone who has concerns about this proposal to contact Weyerhaeuser and the Forest Service and take the time to tour the proposed lands for exchange. It was time well spend for me, and I would highly recommend it.

I would emphasize that I want to hear from my constituents about this proposal. I want to hear about what they like and what they don't like so that I can be sure that the public process we are beginning today will benefit from their views.

I ask unanimous consent that a copy of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1025

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS AND PURPOSE.

(a) Findings.—Congress finds that:

(1) the Weyerhaeuser Company has offered to the United States Government an exchange of lands under which Weyerhaeuser would receive approximately 50,000 acres of Federal land in Arkansas and Oklahoma in return for conveying to the United States lands owned by Weyerhaeuser consisting of approximately 165,000 acres of forested wetlands and other forest land of public interest in Arkansas and Oklahoma, consisting of:

(A) certain Arkansas Ouachita lands located near Lake Ouachita, Little Missouri Wild and Scenic River, Flatside Wilderness and the Ouachita National Forest;

(B) certain lands in Oklahoma located near McCurtain County Wilderness, the Broken Bow Reservoir, the Glover River, and the Ouachita National Forest; and

(C) certain Arkansas Cossatot lands located on the Little and Cossatot Rivers and identified as the "Pond Creek Bottoms" in the Lower Mississippi River Delta section of the North American Waterfowl Management Plan;

(2) acquisition of the Arkansas Cossatot lands by the United States will remove the lands in the heart of a critical wetland ecosystem from sustained timber production and other development;

(3) the acquisition of the Arkansas Ouachita lands and the Oklahoma lands by the United States for administration by the Forest Service will provide an opportunity for enhancement of ecosystem management of the National Forest System lands and resources;

(4) the Arkansas Ouachita lands and the Oklahoma lands have outstanding wildlife habitat and important recreational values and should continue to be made available for activities such as public hunting, fishing, trapping, nature observation, enjoyment, education, and timber management;

(5) private use of the lands the United States will convey to Weyerhaeuser will not conflict with established management objectives on adjacent Federal lands;

(6) the lands the United States will convey to Weyerhaeuser as part of the exchange described in paragraph (1) do not contain comparable fish, wildlife, or wetlands values;

(7) the United States will convey all mineral interests and oil and gas interests to Weyerhaeuser on or under all surface acres designated to be exchanged pursuant to the exchange described in paragraph (1) in which the Federal Government owns such interests;

(8) pursuant to such exchange, Weyerhaeuser will convey to the United States all mineral interests and equivalent oil and gas interests on or under all surface acres designated to be exchanged pursuant to the exchange described in paragraph (1) in which Weyerhaeuser owns such interests;

(9) the United States and Weyerhaeuser have agreed to the values and boundaries of all lands, mineral interests, and oil and gas interests to be conveyed in the exchange and concur that the lands, mineral interests, and oil and gas interests to be conveyed by Weyerhaeuser and the lands, mineral interests, and oil and gas interests to be conveyed by the United States are approximately equal in value; and

(10) the exchange of lands, mineral interests, and oil and gas interests between Weyerhaeuser and the United States is in the public interest.

(b) Purpose.—The purpose of this Act is to authorize and direct the Secretary of the Interior and the Secretary of Agriculture to enter into an exchange of lands, mineral interests, and oil and gas interests that will provide environmental, land management, recreational, and economic benefits to the States of Arkansas and Oklahoma and to the United States.

SEC. 2. DEFINITIONS.

As used in this Act:

(a) Land.—The terms "land" or "lands" mean the surface estate and any other interests therein except for mineral interests and oil and gas interests.

(b) Mineral Interests.—The term "mineral interests" means geothermal steam and heat and all metals, ores, and minerals of any nature whatsoever, except oil and gas interests, in or upon lands subject to this Act including, but not limited to, coal, lignite, peat, rock, sand, gravel, and quartz.

(c) Oil and Gas Interests.—The term "oil and gas interests" means all oil and gas of any nature whatsoever including carbon dioxide, helium, and gas taken from coal seams (collectively "oil and gas") together with the right to enter lands for the purpose of exploring the lands for oil and gas and drilling, opening, developing, and working wells on such lands and taking out and removing from such lands all such oil and gas together with the right to occupy and make use of as much of the surface of said lands as may reasonably be necessary for these purposes subject to the Secretary of Agriculture's rules and regulations set forth in section 251.15 of title 36, Code of Federal Regulations.

(d) Secretaries.—The term "Secretaries" means the Secretary of the Interior and the Secretary of Agriculture.

(c) Weyerhaeuser.—The term "Weyerhaeuser" means Weyerhaeuser Company, a company incorporated in the State of Washington.

SEC. 3. EXCHANGE.

(a) Exchange of Lands and Mineral Interests.—

(1) In general.—Subject to paragraph (a)(2), within 120 days after the date of the enactment of this Act, the Secretary of Agriculture shall convey to Weyerhaeuser, subject to any valid existing rights, approximately 20,000 acres of Federal lands and mineral interests in the State of Arkansas and approximately 30,000 acres of Federal lands and mineral interests in the State of Oklahoma as depicted for exchange on maps entitled "Arkansas-Oklahoma Land Exchange—Federal Arkansas and Oklahoma Lands," dated 1995 and available for public inspection in appropriate offices of the Secretaries.

(2) Offer and Acceptance of Lands.—The Secretary of Agriculture shall make the conveyance to Weyerhaeuser if Weyerhaeuser offers deeds of title, subject to limitations and the reservation described in subsection (b), acceptable to the Secretary of Agriculture that convey to the United States the following:

(A) approximately 110,000 acres of lands and mineral interests owned by Weyerhaeuser in the State of Oklahoma, as depicted for transfer to the United States upon a map entitled "Arkansas-Oklahoma Land Exchange—Weyerhaeuser Oklahoma Lands," dated 1995 and available for public inspection in appropriate offices of the Secretaries;

(B) approximately 30,000 acres of lands and mineral interests owned by Weyerhaeuser in the State of Arkansas, as depicted for transfer to the United States upon a map entitled "Arkansas-Oklahoma Land Exchange—Weyerhaeuser Arkansas Ouachita Lands," dated 1995 and available for public inspection in appropriate offices of the Secretaries; and

(C) approximately 25,000 acres of lands and mineral interests owned by Weyerhaeuser in the State of Arkansas, as depicted for transfer to the United States upon a map entitled "Arkansas-Oklahoma Land Exhchange—Weyerhaeuser Arkansas Cassatot Lands," dated 1995 and available for public inspection in appropriate offices of the Secretaries.

(b) Exchange of Oil and Gas Interests.—

(1) In general.—Subject to paragraph (b)(2), at the same time as the land and mineral interests exchange is carried out pursuant to this Section, the Secretary of Agriculture shall exchange all Federal oil and gas interests, including existing leases and other agreements, in the lands described in paragraph (a)(1) for equivalent oil and gas interests, including existing leases and other agreements, owned by Weyerhaeuser in the

lands described in paragraph (a)(2). Any exchange of oil and gas interests pursuant to this Act may be made without regard to the limitations requiring that exchanges be made within the same State under section 206 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716).

(2) RESERVATION.—In addition to exchanging oil and gas interests pursuant to paragraph (b)(1), to account for the acreage imbalance in the exchange required under this Act, there is hereby reserved to Weyerhaeuser, its successors, and assigns until December 31, 2041, and for so long thereafter that oil or gas is produced therefrom ("term reservation"), all oil and gas in and under the acreage imbalance lands depicted for reservation by Weyerhaeuser upon a map entitled "Arkansas-Oklahoma Land Exchange—Weyerhaeuser Oil and Gas Interest Reservation Lands," dated 1995 and available for public inspection in appropriate offices of the Secretaries. Beginning January 1, 2042, there is hereby reserved to Weyerhaeuser, its successors and assigns, a proportionately reduced 6.25 percent of 8/8's overriding royalty interest in all oil and gas produced from any well in any governmental section adjacent to or cornering a section in which oil and gas is being produced at the expiration of the term reservation ("overriding royalty"). The overriding royalty will continue until either the producing well (a well producing on December 31, 2041) ceases production or until all federally leased wells to which the overriding royalty applies ceases production, whichever is later.

(c) GENERAL PROVISIONS.—

(1) VALUATION.—The lands, mineral interests, and oil and gas interests exchanged pursuant to this Act shall be approximately equal in value, as determined by the Secretaries and agreed to by Weyerhaeuser. To ensure that the natural values of the area are not affected by the exchange, a formal appraisal based upon drilling or other surface disturbing activities shall not be required for any mineral interests or oil and gas interests exchanged.

(2) MAPS CONTROLLING.—The acreage cited in this Act is approximate. In the case of a discrepancy between the description of lands, mineral interests, and/or oil and gas interests to be exchanged pursuant to subsection (a) and the lands, mineral interests, and/or oil and gas interests depicted on a map referred to in such subsection, the map shall control. Subject to the notification required by paragraph (3), the maps referenced in this Act are subject to such minor corrections as may be agreed upon by the Secretaries and Weyerhaeuser.

(3) FINAL MAPS.—Not later than 180 days after the conclusion of the exchange required by subsection (a), the Secretaries shall transmit maps accurately depicting the lands and mineral interests conveyed and transferred pursuant to this Act and the acreage and boundary descriptions of such lands and mineral interests to the Committees on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives.

(4) CANCELLATION.—If, before the exchange has been carried out putsuant to subsections (a) and (b), Weyerhaeuser provides written notification to the Secretaries that Weyerhaeuser no longer intends to complete the exchange, with respect to the lands, mineral interests, and oil and gas interests that would otherwise be subject to the exchange, the status of such lands, mineral interests, and oil and gas interests shall revert to the status of such lands, mineral interests, and oil and gas interests as of the day before the date of enactment of this Act and shall be managed in accordance with applicable management plans.

(5) WITHDRAWAL.—Subject to valid existing rights, the lands, mineral interests, and oil and gas interests depicted for conveyance to Weyerhaeuser for possible exchange on the maps referenced in subsections (a) and (b) are withdrawn from all forms of entry and appropriation under the public land laws (including the mining laws); and from the operation of mineral leasing and geothermal steam leasing laws effective upon the date of the enactment of this Act. Such withdrawal shall terminate 45 days after completion of the exchange provided for in subsections (a) and (b) or on the date of notification by Weyerhaeuser of a decision not to complete the exchange.

SEC. 4. DESIGNATION AND USE OF LANDS ACQUIRED BY THE UNITED STATES.

(a) NATIONAL FOREST SYSTEM.—

(1) ADDITION TO THE SYSTEM.—Upon acceptance of title by the Secretary of Agriculture, the 140,000 acres of land conveyed to the United States pursuant to Section 3(a)(2)(A) and (B) of this Act shall be administered by the Secretary of Agriculture in accordance with the laws and regulations pertaining to the National Forest system.

(2) PLAN AMENDMENTS.—Within 36 months after the completion of the exchange required by this Act, the Secretary of Agriculture shall amend applicable land and resource management plans and accompanying documents pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976 (16 U.S.C. 1604).

(b) OTHER.—

(1) ADDITION TO THE NATIONAL WILDLIFE REFUGE SYSTEM.—Once acquired by the United States, the 25,000 acres of land identified in section 3(a)(2)(A), the Cossatot lands, shall be managed by the Secretary of the Interior as a component of the Cossatot National Wildlife Refuge in accordance with the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd–668ee).

(2) PLAN PREPARATION.—Within 24 months after the completion of the exchange required by this Act, the Secretary of the Interior shall prepare and implement a single refuge management plan for the Cossatot National Wildlife Refuge, as expanded by this Act. Such plans shall recognize the important public purposes served by the nonconsumptive activities, other recreational activities, and wildlife-related public use, including hunting, fishing, and trapping. The plan shall permit, to the maximum extent practicable, compatible uses to the extent that they are consistent with sound wildlife management and in accordance with the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd–668ee) and other applicable laws. Any regulations promulgated by the Secretary of the Interior with respect to hunting, fishing, and trapping on those lands shall, to the extent practicable, be consistent with State fish and wildlife laws and regulations. In preparing the management plan and regulations, the Secretary of the Interior shall consult with the Arkansas Game and Fish Commission.

(3) INTERIM USE OF LANDS.—

(A) IN GENERAL.—Except as provided in paragraph (2), during the period beginning on the date of the completion of the exchange of lands required by this Act and ending on the first date of the implementation of the plan prepared under paragraph (2), the Secretary of the Interior shall administer all lands added to the Cossatot National Wildlife Refuge pursuant to this Act in accordance with the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd–668ee) and other applicable laws.

(B) HUNTING SEASONS.—During the period described in subparagraph (A), the duration of any hunting season on the lands described in subsection (1) shall comport with the applicable State law.

SEC. 5. OUACHITA NATIONAL FOREST BOUNDARY ADJUSTMENT.

(a) IN GENERAL.—Upon acceptance of title by the Secretary of Agriculture of the lands conveyed to the United States pursuant to Section 4(a)(2)(B) and (C), the boundaries of the Ouachita National Forest shall be adjusted to encompass those lands conveyed to the United States generally depicted on the maps entitled "Arkansas-Oklahoma Land Exchange—Weyerhaeuser Oklahoma Lands" and "Arkansas-Oklahoma Land Exchange—Weyerhaeuser Arkansas Ouachita Lands" dated 1995. For the purpose of section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-9), the boundaries of the Ouachita National Forest, as adjusted by this Act, shall be considered to be the boundaries of the Forest as of January 1, 1965.

(b) MAPS AND BOUNDARY DESCRIPTIONS.—Not later than 180 days after the date of enactment of this Act, the Secretary of Agriculture shall prepare a boundary description of the lands depicted on the maps referred to in Section 3(a)(2)(B) and (C). Such maps and boundary description shall have the same force and effect as if included in this Act, except that the Secretary of Agriculture may correct clerical and typographical errors.

● Mr. NICKLES. Mr. President, today I am introducing the Arkansas-Oklahoma Land Exchange Act of 1995. This legislation represents several years of work on the part of the U.S. Forest Service, the Weyerhaeuser Co., the Oklahoma and Arkansas congressional delegations, State officials, and local communities. I firmly believe that this land exchange will benefit not only timber resource management, but also wildlife habitat, tourism, recreation, and the economic vitality of the region.

During the course of negotiations, I strongly held that any exchange of lands would have to serve the best interests of Oklahoma citizens and the taxpayer. With this in mind, we crafted a proposal that would represent no cost to the Federal Government and that would allow for an equitable exchange of land and resources between the U.S. Forest Service and the Weyerhaeuser Co.

Specifically, the public, through the U.S. Forest Service, will receive 105,000 acres in southeast Oklahoma adjacent to Broken Bow Lake and near the McCurtain County Wilderness Area, the lower Mountain Fork River, and the Glover River. These acres will become part of the Ouachita National Forest. The U.S. Forest Service will also receive approximately 28,000 acres located near Lake Ouachita in Arkansas and an additional 25,000 acres in Sevier County, AR, to become part of the Cossatot National Wildlife Refuge.

In exchange, the Weyerhaeuser Co. will receive 28,000 acres of land located in the Tiak District of the Ouachita National Forest in McCurtain County, OK. The Tiak District was hand planted in pine timber and has been managed commercially in large blocks by the U.S. Forest Service for many years. In Arkansas, Weyerhaeuser will receive approximately 20,000 acres of scattered tracts located in Garland, Yell, and Perry Counties.

I am committed to ensuring this proposal will not have an adverse impact on school district funding in southeastern Oklahoma. I am presently working with State and local officials, as well as the U.S. Forest Service and Weyerhaeuser, to guarantee an equitable and fair distribution of Forest Service timber receipt payments to local school districts. We are progressing positively and will attempt to reach an agreement before the exchange of lands is authorized to proceed.

I have confidence in Weyerhaeuser's sound forest management practices and its commitment to replanting trees and protecting wildlife. I also have confidence in the U.S. Forest Service's ability to manage the land surrounding Broken Bow Lake as it becomes part of the Ouachita National Forest. I appreciate their commitment to managing our natural resources for the benefit of all citizens, including the development of tourism and recreation in the area.

The Arkansas-Oklahoma Land Exchange Act of 1995 has the support of the Oklahoma Wildlife Federation, the Broken Bow Lake and Mountain Fork River Association, the Idabel Chamber of Commerce, the Broken Bow Chamber of Commerce, and the McCurtain County Chapter of Wild Turkey Federation.•

By Mr. BROWN (for himself, Mr. BRADLEY, Mr. BRYAN, Mr. CHAFEE, and Mr. LAUTENBERG):

S. 1027. A bill to eliminate the quota and price support programs for peanuts, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

PEANUTS LEGISLATION

• Mr. BROWN. Mr. President, later this year Congress will be considering a new farm bill. This bill will guide our farm program into the next century. As we look to the future, we must clean up outdated programs of the past. Senator BRADLEY and I are introducing a bill to eliminate the Federal peanut program.

The peanut program was established as part of the Agricultural Adjustment Act in 1938 when America was emerging from the Great Depression. Insuring a stable supply and price for agricultural commodities, including peanuts, was of great importance during the unstable economic times that followed the Great Depression. Today, however, the peanut program drives up the price for consumers and restricts the number of farmers that can take part in the program.

The peanut program was originally intended to stabilize prices for farmers. Now, it has become a cartel. A small number of farmers own licenses, issued by the USDA, that allow them to participate in the program. These licensed farmers are restricted by a set production quotas reminiscent of communist-era central planning. How does someone obtain an allotment under the quota to grow peanuts? The right to participate in the program can be inherited, purchased, or rented. In fact in 1991, 68 percent of the peanuts produced under the peanut program were produced by farmers who rented the right to grow peanuts under the Federal program from licensed quota-owners. Those who rented collectively paid $208 million for the privilege of using someone else's quota.

Farmers who do not own and are not able to rent a quota allotment are shut out of the peanut cartel. They cannot sell their peanuts on the U.S. free market. Unlicensed peanut farmers have only two options. They can sell their peanuts on the international markets where they receive only about half what quota-owners are assured through the Federal program. They also could sell their peanuts to the Federal Government for one-fifth the price the quota-owners receive, which is below the cost to produce the peanuts.

While the peanut cartel benefits a small number of quota-owners, it gouges the American consumer. This program makes peanuts and peanut butter more expensive to Americans. In a 1993 report, the General Accounting Office estimated that the current program cost the U.S. peanut consumer between $314-$513 million per year in higher prices.

The peanut program differs significantly from other commodity programs. Commodity programs should provide a measure of stability to the agriculture industry and insure an abundant supply of food at a reasonable price. The peanut program does not accomplish this goal. The current peanut program prevents farmers who do not own or cannot rent a quota from selling on the U.S. market. The current program artificially raises the price of peanuts and peanut products to U.S. consumers.

Consumers do not benefit from the program. Most of the peanut growers do not benefit from the program. The peanut program only benefits a small number of people who own a quota license.

This program is simply a bad program that needs to be eliminated. The agriculture industry has under gone a significant change since its inception. America and the American farmer have outgrown the peanut program.•

• Mr. BRADLEY. Mr. President, today, Senator BROWN and I are introducing legislation to end the Federal peanut program, a system of production quotas, price support loans and import restrictions which benefit a privileged few at great cost to American taxpayers and consumers.

You do not have to be a peanut farmer to take advantage of the peanut program. In fact, you do not have to be farmer at all. You just have to be lucky enough to inherit—or rich enough to buy—a quota. Quota holders live all over the United States and in foreign countries as far away as Hong Kong and Great Britain.

The Federal peanut program has been in place since the 1930's. It places strict quotas on peanut production, which drive up the cost to consumers by as much as $500 million a year, according to the American Peanut Product Manufacturers.

Farmers who wish to grow peanuts for human consumption in the United States must own or lease a quota. And while quotas are assigned to particular farms, they can be rented or sold to someone else within the same county. The GAO reports that 68 percent of all quota owners merely rent out their quotas to others. Even worse, fewer than 22 percent of all quota holders control 80 percent of the total U.S. peanut quota.

This program does nothing to help American farmers. It simply lines the pockets of what amounts to a Park Avenue peanut cartel.

Additionally, the Government provides Federal price support loans of $678 per ton for peanuts grown within the quota limits, despite the fact that the world price for peanuts is only $350 per ton. If a farmer cannot sell his crop, he can forfeit it to the Government in return for the Federal price support. These price supports will cost American taxpayers $119 million in 1995.

This program turns market capitalism on its head. It forces consumers to pay twice as much for peanuts than they otherwise would pay. Ironically, high peanut prices are shrinking the market for peanut products. At this rate, we're going to make peanut butter and jelly a delicacy.

For the dynasty of peanut quota holders, this program is the greatest thing since sliced bread. But for everyone else, it is a shell game you cannot win. The peanut program does not need overhauling, it needs to end now.•

ADDITIONAL COSPONSORS

S. 256

At the request of Mr. DOLE, the name of the Senator from Tennessee [Mr. FRIST] was added as a cosponsor of S. 256, a bill to amend title 10, United States Code, to establish procedures for determining the status of certain missing members of the Armed Forces and certain civilians, and for other purposes.

S. 332

At the request of Mr. CONRAD, the name of the Senator from New Mexico [Mr. BINGAMAN] was added as a cosponsor of S. 332, a bill to provide means of limiting the exposure of children to violent programming on television, and for other purposes.

S. 394

At the request of Mr. D'AMATO, the name of the Senator from Minnesota [Mr. GRAMS] was added as a cosponsor of S. 394, a bill to clarify the liability of banking and lending agencies, lenders, and fiduciaries, and for other purposes.

S. 620

At the request of Mr. CRAIG, the name of the Senator from Wyoming [Mr. THOMAS] was added as a cosponsor of S. 620, a bill to direct the Secretary of the Interior to convey, upon request, certain property in Federal reclamation projects to beneficiaries of the projects and to set forth a distribution scheme for revenues from reclamation project lands.

S. 741

At the request of Mr. PRESSLER, the name of the Senator from South Dakota [Mr. DASCHLE] was added as a cosponsor of S. 741, a bill to require the Army Corps of Engineers to take such actions as are necessary to obtain and maintain a specified maximum high water level in Lake Traverse, South Dakota and Minnesota, and for other purposes.

S. 800

At the request of Mr. COCHRAN, the name of the Senator from Tennessee [Mr. FRIST] was added as a cosponsor of S. 800, a bill to provide for hearing care services by audiologists to Federal civilian employees.

S. 877

At the request of Mrs. HUTCHISON, the name of the Senator from Louisiana [Mr. JOHNSTON] was added as a cosponsor of S. 877, a bill to amend section 353 of the Public Health Service Act to exempt physician office laboratories from the clinical laboratories requirements of that section.

S. 917

At the request of Mr. DOMENICI, the name of the Senator from Indiana [Mr. LUGAR] was added as a cosponsor of S. 917, a bill to facilitate small business involvement in the regulatory development processes of the Environmental Protection Agency and the Occupational Safety and Health Administration, and for other purposes.

S. 942

At the request of Mr. BOND, the name of the Senator from Indiana [Mr. LUGAR] was added as a cosponsor of S. 942, a bill to promote increased understanding of Federal regulations and increased voluntary compliance with such regulations by small entities, to provide for the designation of regional ombudsmen and oversight boards to monitor the enforcement practices of certain Federal agencies with respect to small business concerns, to provide relief from excessive and arbitary regulatory enforcement actions against small entities, and for other purposes.

SENATE JOINT RESOLUTION 37

At the request of Mr. FEINGOLD, the name of the Senator from North Carolina [Mr. HELMS] was added as a cosponsor of Senate Joint Resolution 37, a joint resolution disapproving the extension of nondiscriminatory treatment (most-favored-nation treatment) to the products of the People's Republic of China.

SENATE RESOLUTION 103

At the request of Mr. DOMENICI, the names of the Senator from Indiana [Mr. COATS], the Senator from Iowa [Mr. GRASSLEY], the Senator from Utah [Mr. HATCH], the Senator from Arizona [Mr. MCCAIN], the Senator from Nevada [Mr. REID], the Senator from Minnesota [Mr. WELLSTONE], the Senator from Montana [Mr. BURNS], the Senator from Florida [Mr. GRAHAM], the Senator from Virginia [Mr. WARNER], and the Senator from Delaware [Mr. BIDEN] were added as cosponsors of Senate Resolution 103, a resolution to proclaim the week of October 15 through October 21, 1995, as National Character Counts Week, and for other purposes.

SENATE RESOLUTION 146

At the request of Mr. JOHNSTON, the name of the Senator from Iowa [Mr. GRASSLEY] was added as a cosponsor of Senate Resolution 146, a resolution designating the week beginning November 19, 1995, and the week beginning on November 24, 1996, as "National Family Week", and for other purposes.

SENATE RESOLUTION 149—RELATIVE TO A SERIES OF UNDERGROUND NUCLEAR TEST EXPLOSIONS

Mr. AKAKA submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 149

Whereas the President of France stated on June 13, 1995, that the Republic of France plans to conduct 8 nuclear test explosions over the next several months;

Whereas the United States, France, Russia, and Great Britain have observed a moratorium on nuclear testing since 1992;

Whereas a resumption of testing by the Republic of France could result in the disintegration of the current testing moratorium and a renewal of underground testing by other nuclear weapon states;

Whereas a resumption of nuclear testing raises serious environmental and health concerns;

Whereas the United Nations Conference on Disarmament presently is meeting in Geneva, Switzerland, for the purpose of negotiating a Comprehensive Nuclear Test Ban Treaty (CTBT), which would halt permanently the practice of conducting nuclear test explosions; and

Whereas the announcement by the President of France severely undermines the efforts of the international community to conclude a CTBT by 1996, a goal endorsed by 175 nations, including France and the United States, at the recently completed NPT Extension and Review Conference (the conference for the extension and review of the Nuclear Non-Proliferation Treaty): Now, therefore, be it

Resolved, That it is the sense of the Senate that the Republic of France should abide by the current international moratorium on nuclear test explosions, refrain from proceeding with its announced intention of conducting a series of nuclear tests in advance of a Comprehensive Test Ban Treaty, and initiate preparations to close its underground test sites at the Mururoa and Fangataufa atolls.

• Mr. AKAKA. Mr. President, today I submit a resolution which expresses the sense of the Senate regarding the Republic of France's intention to conduct a series of underground nuclear test explosions despite the current international moratorium on nuclear testing.

On June 13, 1995, French President Jacques Chirac announced that the Republic of France planned to resume nuclear testing in the South Pacific. A series of eight underground tests are planned beginning September, 1995 and ending in May, 1996 at the Mururoa and Fangataufa atolls located in French Polynesia.

Following the French announcement, I contacted the White House to urge President Clinton to convey the concerns of the United States and the Pacific island nations to France over its resumption of nuclear testing. We in the Pacific, more than any other region in the world, know the ramifications of nuclear testing. We only have to look at what happened to Bikini, Enewetak, or Rongelap Atolls in the Marshall Islands to understand the long-term damage to human lives and the environment that can occur as a result of nuclear testing. I have visited these atolls and I can attest to the plight of the native peoples in these areas. The U.S. nuclear testing between 1950 and 1960 resulted in epidemic-like outbreaks in these communities, including damage to the nervous system, paralysis, impaired vision, and increased rates of cancer. Even a half century later, the effects are still being felt. To this date, clean up efforts have been difficult and slow, and some residents have not been able to return to their homelands.

In May, the world's five nuclear powers—the United States, France, Russia, China, and Britain—persuaded the rest of the world to indefinitely extend the nuclear Non-Proliferation Treaty. To win that consensus, the five countries promised to sign a Comprehensive Test Ban Treaty by the end of next year. The resumption of French nuclear testing seriously undermines these international efforts to curb the proliferation of nuclear weapons.

We cannot ignore the resumption of nuclear testing by France. By adopting this resolution, the Senate will strongly encourage France to abide by the current international moratorium on nuclear testing and refrain from proceeding with its announced intention of conducting a series of nuclear tests in advance of a Comprehensive Test Ban Treaty.●

AMENDMENTS SUBMITTED

THE COMPREHENSIVE REGULATORY REFORM ACT OF 1995

HATCH AMENDMENT NO. 1498

Mr. HATCH proposed an amendment to amendment No. 1487 proposed by Mr. DOLE to the bill (S. 343) to reform the regulatory process, and for other purposes; as follows:

Delete all of section 635 (page 61, line 1 through page 64, line 14 and insert the following new section 635:

SECTION 635. RISK-BASED PRIORITIES.

(a) PURPOSES.—The purposes of this section are to—

(1) encourage Federal agencies engaged in regulating risks to human health, safety, and the environment to achieve the greatest risk reduction at the least cost practical;

(2) promote the coordination of policies and programs to reduce risks to human health, safety, and the environment; and

(3) promote open communication among Federal agencies, the public, the President, and Congress regarding environmental, health, and safety risks, and the prevention and management of those risks.

(b) DEFINITIONS.—For the purposes of this section:

(1) COMPARATIVE RISK ANALYSIS.—The term "comparative risk analysis" means a process to systematically estimate, compare, and rank the size and severity of risks to provide a common basis for evaluating strategies for reducing or preventing those risks.

(2) COVERED AGENCY.—The term "covered agency" means each of the following:

(A) The Environmental Protection Agency.

(B) The Department of Labor.

(C) The Department of Transportation.

(D) The Food and Drug Administration.

(E) The Department of Energy.

(F) The Department of the Interior.

(G) The Department of Agriculture.

(H) The Consumer Product Safety Commission.

(I) The National Oceanic and Atmospheric Administration.

(J) The United States Army Corps of Engineers.

(K) The Nuclear Regulatory Commission.

(3) EFFECT.—The term "effect" means a deleterious change in the condition of—

(A) a human or other living thing (including death, cancer, or other chronic illness, decreased reproductive capacity, or disfigurement); or

(B) an inanimate thing important to human welfare (including destruction, degeneration, the loss of intended function, and increased costs for maintenance).

(4) IRREVERSIBILITY.—The term "irreversibility" means the extent to which a return to conditions before the occurrence of an effect are either very slow or will never occur.

(5) LIKELIHOOD.—The term "likelihood" means the estimated probability that an effect will occur.

(6) MAGNITUDE.—The term "magnitude" means the number of individuals or the quantity of ecological resources or other resources that contribute to human welfare that are affected by exposure to a stressor.

(7) SERIOUSNESS.—The term "seriousness" means the intensity of effect, the likelihood, the irreversibility, and the magnitude.

(c) DEPARTMENT AND AGENCY PROGRAM GOALS.—

(1) SETTING PRIORITIES.—In exercising authority under applicable laws protecting human health, safety, or the environment, the head of each covered agency should set priorities and use the resources available under those laws to address those risks to human health, safety, and the environment that—

(A) the covered agency determines to be the most serious; and

(B) can be addressed in a cost-effective manner, with the goal of achieving the greatest overall net reduction in risks with the public and private sector resources expended.

(2) DETERMINING THE MOST SERIOUS RISKS.—In identifying the greatest risks under paragraph (1) of this subsection, each covered agency shall consider, at a minimum—

(A) the likelihood, irreversibility, and severity of the effect; and

(B) the number and classes of individuals potentially affected, and shall explicitly take into account the results of the comparative risk analysis conducted under subsection (d) of this section.

(3) OMB REVIEW.—The covered agency's determinations of the most serious risks for purposes of setting priorities shall be reviewed and approved by the Director of the Office of Management and Budget before submission of the covered agency's annual budget requests to Congress.

(4) INCORPORATING RISK-BASED PRIORITIES INTO BUDGET AND PLANNING.—The head of each covered agency shall incorporate the priorities identified under paragraph (1) into the agency budget, strategic planning, regulatory agenda, enforcement, and research activities. When submitting its budget request to Congress and when announcing its regulatory agenda in the Federal Register, each covered agency shall identify the risks that the covered agency head has determined are the most serious and can be addressed in a cost-effective manner under paragraph (1), the basis for that determination, and explicitly identify how the covered agency's requested budget and regulatory agenda reflect those priorities.

(5) EFFECTIVE DATE.—This subsection shall take effect 12 months after the date of enactment of this Act.

(d) COMPARATIVE RISK ANALYSIS.—

(1) REQUIREMENT.—(A)(i) No later than 6 months after the effective date of this Act, the Director of the Office of Management and Budget shall enter into appropriate arrangements with an accredited scientific body—

(I) to conduct a study of the methodologies for using comparative risk to rank dissimilar human health, safety, and environmental risks; and

(II) to conduct a comparative risk analysis.

(ii) The comparative risk analysis shall compare and rank, to the extent feasible, human health, safety, and environmental risks potentially regulated across the spectrum of programs administered by all covered agencies.

(B) The Director shall consult with the Office of Science and Technology Policy regarding the scope of the study and the conduct of the comparative risk analysis.

(2) CRITERIA.—In arranging for the comparative risk analysis referred to in paragraph (1) of this subsection, the Director shall ensure that—

(A) the scope and specificity of the analysis are sufficient to provide the President and agency heads guidance in allocating resources across agencies and among programs in agencies to achieve the greatest degree of risk prevention and reduction for the public and private resources expended;

(B) the analysis is conducted through an open process, by individuals with relevant expertise, including toxicologists, biologists, engineers and experts in medicine, industrial hygiene and environmental effects;

(C) the analysis is conducted, to the extent feasible, consistent with the risk assessment and risk characterization principles in sections 635 and 636 of this title;

(D) the methodologies and principle scientific determinations made in the analysis are subjected to independent and external peer review consistent with section 635, and the conclusions of the peer review are made publicly available as part of the final report required under subsection (e);

(E) there is an opportunity for public comment on the results before making them final; and

(F) the results are presented in a manner that distinguishes between the scientific conclusions and any policy or value judgments embodied in the comparisons.

(3) COMPLETION AND REVIEW.—No later than 3 years after the effective date of this Act, the comparative risk analysis required under paragraph (1) shall be completed. The comparative risk analysis shall be reviewed and revised at least every 5 years thereafter for a minimum of 15 years following the release of the first analysis. The Director shall arrange for such review and revision with an accredited scientific body in the same manner as provided under paragraphs (1) and (2).

(4) STUDY.—The study of methodologies provided under paragraph (1) shall be conducted as part of the first comparative risk analysis and shall be completed no later than 180 days after the completion of that analysis. The goal of the study shall be to develop and rigorously test methods of comparative risk analysis. The study shall have sufficient scope and breadth to test approaches for improving comparative risk analysis and its use in setting priorities for human health, safety, and environmental risk prevention and reduction.

(5) TECHNICAL GUIDANCE.—No later than 180 days after the effective date of this Act, the Director, in collaboration with other heads of covered agencies shall enter into a contract with the National Research Council to provide technical guidance to agencies on approaches to using comparative risk analysis in setting human health, safety, and environmental priorities to assist in complying with subsection (c) of this section.

(e) REPORTS AND RECOMMENDATIONS TO CONGRESS AND THE PRESIDENT.—No later than 24 months after the effective date of this Act, each covered agency shall submit a report to Congress and the President—

(1) detailing how the agency has complied with subsection (c) and describing the reasons for any departure from the requirement to establish priorities to achieve the greatest overall net reduction in risk;

(2) recommending—

(A) modification, repeal, or enactment of laws reform, eliminate, or enhance programs or mandates relating to human health, safety, or the environment; and

(B) modification or elimination of statutorily or judicially mandated deadlines,

that would assist the covered agency to set priorities in activities to address the risks to human health, safety, or the environment in a manner consistent with the requirements of subsection (c)(1);

(3) evaluating the categories of policy and value judgments used in risk assessment, risk characterization, or cost-benefit analysis; and

(4) discussing risk assessment research and training needs, and the agency's strategy and schedule for meeting those needs.

(f) SAVINGS PROVISION AND JUDICIAL REVIEW.—

(1) IN GENERAL.—Nothing in this section shall be construed to modify any statutory standard or requirement designed to protect human health, safety, or the environment.

(2) JUDICAL REVIEW.—Compliance or noncompliance by an agency with the provisions of this section shall not be subject to judicial review.

(3) AGENCY ANALYSIS.—Any analysis prepared under this section shall not be subject to judicial consideration separate or apart from the requirement, rule, program, or law to which it relates. When an action for judicial review of a covered agency action is instituted, any analysis for, or relating to, the action shall constitute part of the whole record of agency action for the purpose of judicial review of the action and shall, to the extent relevant, be considered by a court in determining the legality of the covered agency action.

HATCH AMENDMENT NO. 1499

Mr. HATCH proposed an amendment to amendment No. 1498 proposed by him to the bill S. 343, supra; as follows:

In lieu of the language proposed to be inserted, insert:

SECTION 635. RISK-BASED PRIORITIES.

(a) PURPOSES.—The proposes of this section are to—

(1) encourage Federal agencies engaged in regulating risks to human health, safety, and the environment to achieve the greatest risk reduction at the least cost practical;

(2) promote the coordination of policies and programs to reduce risks to human health, safety, and the environment; and

(3) promote open communication among Federal agencies, the public, the President, and Congress regarding environmental, health, and safety risks, and the prevention and management of those risks.

(b) DEFINITIONS.—For the purposes of this section:

(1) COMPARATIVE RISK ANALYSIS.—The term "comparative risk analysis" means a process to systematically estimate, compare, and rank the size and severity of risks to provide a common basis for evaluating strategies for reducing or preventing those risks.

(2) COVERED AGENCY.—The term "covered agency" means each of the following:

(A) The Environmental Protection Agency.

(B) The Department of Labor.

(C) The Department of Transportation.

(D) The Food and Drug Administration.

(E) The Department of Energy.

(F) The Department of the Interior.

(G) The Department of Agriculture.

(H) The Consumer Product Safety Commission.

(I) The National Oceanic and Atmospheric Administration.

(J) The United States Army Corps of Engineers.

(K) The Nuclear Regulatory Commission.

(3) EFFECT.—The term "effect" means a deleterious change in the condition of—

(A) a human or other living thing (including death, cancer, or other chronic illness, decreased reproductive capacity, or disfigurement); or

(B) an inanimate thing important to human welfare (including destruction, degeneration, the loss of intended function, and increased costs for maintenance).

(4) IRREVERSIBILITY.—The term "irreversibility" means the extent to which a return to conditions before the occurrence of an effect are either very slow or will never occur.

(5) LIKELIHOOD.—The term "likelihood" means the estimated probability that an effect will occur.

(6) MAGNITUDE.—The term "magnitude" means the number of individuals or the quantity of ecological resources or other resources that contribute to human welfare that are affected by exposure to a stressor.

(7) SERIOUSNESS.—The term "seriousness" means the intensity of effect, the likelihood, the irreversibility, and the magnitude.

(c) DEPARTMENT AND AGENCY PROGRAM GOALS.—

(1) SETTING PRIORITIES.—In exercising authority under applicable laws protecting human health, safety, or the environment, the head of each covered agency should set priorities and use the resources available under those laws to address those risks to human health, safety, and the environment that—

(A) the covered agency determines to be the most serious, and

(B) can be addressed in a cost-effective manner, with the goal of achieving the greatest overall net reduction in risks with the public and private sector resources expended.

(2) DETERMINING THE MOST SERIOUS RISKS.—In identifying the greatest risks under paragraph (1) of this subsection, each covered agency shall consider, at a minimum—

(A) the likelihood, irreversibility, and severity of the effect; and

(B) the number and classes of individuals potentially affected, and shall explicitly take into account the results of the comparative risk analysis conducted under subsection (d) of this section.

(3) OMB REVIEW.—The covered agency's determinations of the most serious risks for purposes of setting priorities shall be reviewed and approved by the Director of the Office of Management and Budget before submission of the covered agency's annual budget requests to Congress.

(4) INCORPORATING RISK-BASED PRIORITIES INTO BUDGET AND PLANNING.—The head of each covered agency shall incorporate the priorities identified under paragraph (1) into the agency budget, strategic planning, regulatory agenda, enforcement, and research activities. When submitting its budget request to Congress and when announcing its regulatory agenda in the Federal Register, each covered agency shall identify the risks that the covered agency head has determined are the most serious and can be addressed in a cost-effective manner under paragraph (1), the basis for that determination, and explicitly identify how the covered agency's requested budget and regulatory agenda reflect those priorities.

(5) EFFECTIVE DATE.—This subsection shall take effect 12 months after the date of enactment of this Act.

(d) COMPARATIVE RISK ANALYSIS.—

(1) REQUIREMENT.—(A)(i) No later than 6 months after the effective date of this Act, the Director of the Office of Management and Budget shall enter into appropriate arrangements with an accredited scientific body—

(I) to conduct a study of the methodologies for using comparative risk to rank dissimilar human health, safety, and environmental risks; and

(II) to conduct a comparative risk analysis.

(ii) The comparative risk analysis shall compare and rank, to the extent feasible, human health, safety, and environmental risks potentially regulated across the spectrum of programs administered by all covered agencies.

(B) The Director shall consult with the Office of Science and Technology Policy regarding the scope of the study and the conduct of the comparative risk analysis.

(2) CRITERIA.—In arranging for the comparative risk analysis referred to in paragraph (1) of this subsection, the Director shall ensure that—

(A) the scope and specificity of the analysis are sufficient to provide the President and agency heads guidance in allocating resources across agencies and among programs in agencies to achieve the greatest degree of risk prevention and reduction for the public and private resources expended;

(B) the analysis is conducted through an open process, by individuals with relevant expertise, including toxicologists, biologists, engineers and experts in medicine, industrial hygiene and environmental effects;

(C) the analysis is conducted, to the extent feasible, consistent with the risk assessment and risk characterization principles in section 633 of this title;

(D) the methodologies and principal scientific determinations made in the analysis are subjected to independent and external peer review consistent with section 633(g), and the conclusions of the peer review are made publicly available as part of the final report required under subsection (e);

(E) there is an opportunity for public comment on the results before making them final; and

(F) the results are presented in a manner that distinguishes between the scientific conclusions and any policy or value judgments embodied in the comparisons.

(3) COMPLETION AND REVIEW.—No later than 3 years after the effective date of this Act, the comparative risk analysis required under paragraph (1) shall be completed. The comparative risk analysis shall be reviewed and revised at least every 5 years thereafter for a minimum of 15 years following the release of the first analysis. The Director shall arrange for such review and revision with an accredited scientific body in the same manner as provided under paragraphs (1) and (2).

(4) STUDY.—The study of methodologies provided under paragraph (1) shall be conducted as part of the first comparative risk analysis and shall be completed no later than 180 days after the completion of that analysis. The goal of the study shall be to develop and rigorously test methods of comparative risk analysis. The study shall have sufficient scope and breadth to test approaches for improving comparative risk analysis and its use in setting priorities for human health, safety, and environmental risk prevention and reduction.

(5) TECHNICAL GUIDANCE.—No later than 180 days after the effective date of this Act, the Director, in collaboration with other heads of covered agencies shall enter into a contract with the National Research Council to

provide technical guidance to agencies on approaches to using comparative risk analysis in setting human health, safety, and environmental priorities to assist agencies in complying with subsection (c) of this section.

(e) REPORTS AND RECOMMENDATIONS TO CONGRESS AND THE PRESIDENT.—No later than 24 months after the effective date of this Act, each covered agency shall submit a report to Congress and the President—

(1) detailing how the agency has complied with subsection (c) and describing the reasons for any departure from the requirement to establish priorities to achieve the greatest overall net reduction in risk;

(2) recommending—

(A) modification, repeal, or enactment of laws to reform, eliminate, or enhance programs or mandates relating to human health, safety, or the environment; and

(B) modification or elimination of statutorily or judicially mandated deadlines,

that would assist the covered agency to set priorities in activities to address the risks to human health, safety, or the environment in a manner consistent with the requirements of subsection (c)(1);

(3) evaluating the categories of policy and value judgments used in risk assessment, risk characterization, or cost-benefit analysis; and

(4) discussing risk assessment research and training needs, and the agency's strategy and schedule for meeting those needs.

(f) SAVINGS PROVISION AND JUDICIAL REVIEW.—

(1) IN GENERAL.—Nothing in this section shall be construed to modify any statutory standard or requirement designed to protect human health, safety, or the environment.

(2) JUDICIAL REVIEW.—Compliance or noncompliance by an agency with the provisions of this section shall not be subject to judicial review.

(3) AGENCY ANALYSIS.—Any analysis prepared under this section shall not be subject to judicial consideration separate or apart from the requirement, rule, program, or law to which it relates. When an action for judicial review of a covered agency action is instituted, any analysis for, or relating to, the action shall constitute part of the whole record of agency action for the purpose of judicial review of the action and shall, to the extent relevant, be considered by a court in determining the legality of the covered agency action.

ROTH AMENDMENT NO. 1500

Mr. HATCH (for Mr. ROTH) proposed an amendment to the bill S. 343, supra; as follows:

Strike the word "analysis" in the bill and insert the following:

"analysis.

"Section 635 is deemed to read as follows:

SEC. 635. RISK-BASED PRIORITIES.

(a) PURPOSES.—The purposes of this section are to—

(1) encourage Federal agencies engaged in regulating risks to human health, safety, and the environment to achieve the greatest risk reduction at the least cost practical;

(2) promote the coordination of policies and programs to reduce risks to human health, safety, and the environment; and

(3) promote open communication among Federal agencies, the public, the President, and Congress regarding environmental, health, and safety risks, and the prevention and management of those risks.

(b) DEFINITIONS.—For the purposes of this section:

(1) COMPARATIVE RISK ANALYSIS.—The term "comparative risk analysis" means a process to systematically estimate, compare, and rank the size and severity of risks to provide a common basis for evaluating strategies for reducing or preventing those risks.

(2) COVERED AGENCY.—the term "covered agency" means each of the following:

(A) The Environmental Protection Agency:

(B) The Department of Labor.

(C) The Department of Transportation.

(D) The Food and Drug Administration.

(E) The Department of Energy.

(F) The Department of the Interior.

(G) The Department of Agriculture.

(H) The Consumer Product Safety Commission.

(I) The National Oceanic and Atmospheric Administration.

(J) The United States Army Corps of Engineers.

(K) The Nuclear Regulatory Commission.

(3) EFFECT.—The term "effect" means a deleterious change in the condition of—

(A) a human or other living thing (including death, cancer, or other chronic illness, decreased reproductive capacity, or disfigurement); or

(B) an inanimate thing important to human welfare (including destruction, degeneration, the loss of intended function, and increased costs for maintenance).

(4) IRREVERSIBILITY.—The term "irreversibility" means the extent to which a return to conditions before the occurrence of an effect are either very slow or will never occur.

(5) LIKELIHOOD.—The term "likelihood" means the estimated probability that an effect will occur.

(6) MAGNITUDE.—The term "magnitude" means the number of individuals or the quantity of ecological resources or other resources that contribute to human welfare that are affected by exposure to a stressor.

(7) SERIOUSNESS.—The term "seriousness" means the intensity of effect, the likelihood, the irreversibility, and the magnitude.

(c) DEPARTMENT AND AGENCY PROGRAM GOALS.—

(1) SETTING PRIORITIES.—In exercising authority under applicable laws protecting human health, safety, or the environment, the head of each covered agency should set priorities and use the resources available under those laws to address those risks to human health, safety, and the environment that—

(A) the covered agency determines to be the most serious; and

(B) can be addressed in a cost-effective manner, with the goal of achieving the greatest overall net reduction in risks with the public and private sector resources expended.

(2) DETERMINING THE MOST SERIOUS RISKS.—In identifying the greatest risks under paragraph (1) of this subsection, each covered agency shall consider, at a minimum—

(A) the likelihood, irreversibility, and severity of the effect; and

(B) the number and classes of individuals potentially affected, and shall explicitly take into account the results of the comparative risk analysis conducted under subsection (d) of this section.

(3) OMB REVIEW.—The covered agency's determinations of the most serious risks for purposes of setting priorities shall be reviewed and approved by the Director of the Office of Management and Budget before submission of the covered agency's annual budget requests to Congress.

(4) INCORPORATING RISK-BASED PRIORITIES INTO BUDGET AND PLANNING.—The head of each covered agency shall incorporate the priorities identified under paragraph (1) into the agency budget, strategic planning, regulatory agenda, enforcement, and research activities. When submitting its budget request to Congress and when announcing its regulatory agenda in the Federal Register, each covered agency shall identify the risks that the covered agency head has determined are the most serious and can be addressed in a cost-effective manner under paragraph (1), the basis for that determination, and explicitly identify how the covered agency's requested budget and regulatory agenda reflect those priorities.

(5) EFFECTIVE DATE.—This subsection shall take effect 12 months after the date of enactment of this Act.

(d) COMPARATIVE RISK ANALYSIS.—

(1) REQUIREMENT.—(A)(i) No later than 6 months after the effective date of this Act, the Director of the Office of Management and Budget shall enter into appropriate arrangements with an accredited scientific body—

(I) to conduct a study of the methodologies for using comparative risk to rank dissimilar human health, safety, and environmental risks; and

(II) to conduct a comparative risk analysis.

(ii) The comparative risk analysis shall compare and rank, to the extent feasible, human health, safety, and environmental risks potentially regulated across the spectrum of programs administered by all covered agencies.

(B) The Director shall consult with the Office of Science and Technology Policy regarding the scope of the study and the conduct of the comparative risk analysis.

(2) CRITERIA.—In arranging for the comparative risk analysis referred to in paragraph (1) of this subsection, the Director shall ensure that—

(A) the scope and specificity of the analysis are sufficient to provide the President and agency heads guidance in allocating resources across agencies and among programs in agencies to achieve the greatest degree of risk prevention and reduction for the public and private resources expended;

(B) the analysis is conducted through an open process, by individuals with relevant expertise, including toxicologists, biologists, engineers and experts in medicine, industrial hygiene and environmental effects;

(C) the analysis is conducted, to the extent feasible, consistent with the risk assessment and risk characterization principles in sections 635 and 636 of this title;

(D) the methodologies and principal scientific determinations made in the analysis are subjected to independent and external peer review consistent with section 635, and the conclusions of the peer review are made publicly available as part of the final report required under subsection (e);

(E) there is an opportunity for public comment on the results before making them final; and

(F) the results are presented in a manner that distinguishes between the scientific conclusions and any policy or value judgments embodied in the comparisons.

(3) COMPLETION AND REVIEW.—No later than 3 years after the effective date of this Act, the comparative risk analysis required under paragraph (1) shall be completed. The comparative risk analysis shall be reviewed and revised at least every 5 years thereafter for a minimum of 15 years following the release of the first analysis. The Director shall arrange for such review and revision with an

accredited scientific body in the same manner as provided under paragraphs (1) and (2).

(4) STUDY.—The study of methodologies provided under paragraph (1) shall be conducted as part of the first comparative risk analysis and shall be completed no later than 180 days after the completion of that analysis. The goal of the study shall be to develop and rigorously test methods of comparative risk analysis. The study shall have sufficient scope and breadth to test approaches for improving comparative risk analysis and its use in setting priorities for human health, safety, and environmental risk prevention and reduction.

(5) TECHNICAL GUIDANCE.— No later than 180 days after the effective date of this Act, the Director, in collaboration with other heads of covered agencies shall enter into a contract with the National Research Council to provide technical guidance to agencies on approaches to using comparative risk analysis in setting human health, safety, and environmental priorities to assist agencies in complying with subsection (c) of this section.

(e) REPORTS AND RECOMMENDATIONS TO CONGRESS AND THE PRESIDENT.—No later than 24 months after the effective date of this Act, each covered agency shall submit a report to Congress and the President—

(1) detailing how the agency has complied with subsection (c) and describing the reasons for any departure from the requirement to establish priorities to achieve the greatest overall net reduction in risk;

(2) recommending—

(A) modification, repeal, or enactment of laws to reform, eliminate, or enhance programs or mandates relating to human health, safety, or the environment; and

(B) modification or elimination of statutorily or judicially mandated deadlines,

that would assist the covered agency to set priorities in activities to address the risks to human health, safety, or the environment in a manner consistent with the requirements of subsection (c)(1);

(3) evaluating the categories of policy and value judgments used in risk assessment, risk characterization, or cost-benefit analysis; and

(4) discussing risk assessment research and training needs, and the agency's strategy and schedule for meeting those needs.

(f) SAVINGS PROVISION AND JUDICIAL REVIEW.—

(1) IN GENERAL.—Nothing in this section shall be construed to modify any statutory standard or requirement designed to protect human health, safety, or the environment.

(2) JUDICIAL REVIEW.—Compliance or noncompliance by an agency with the provisions of this section shall not be subject to judicial review.

(3) AGENCY ANALYSIS.—Any analysis prepared under this section shall not be subject to judicial consideration separate or apart from the requirement, rule, program, or law to which it relates. When an action for judicial review of a covered agency action is instituted, any analysis for, or relating to, the action shall constitute part of the whole record of agency action for the purpose of judicial review of the action and shall, to the extent relevant, be considered by a court in determining the legality of the covered agency action.

ROTH AMENDMENT NO. 1501

Mr. HATCH (for Mr. ROTH) proposed an amendment No. 1500 proposed by Mr. ROTH to the bill S. 343, supra; as follows:

In lieu of the language proposed to be inserted, insert the following:

analysis.

SEC. 635. RISK-BASED PRIORITIES.

(a) PURPOSES.—The purposes of this section are to—

(1) encourage Federal agencies engaged in regulating risks to human health, safety, and the environment to achieve the greatest risk reduction at the least cost practical;

(2) promote the coordination of policies and programs to reduce risks to human health, safety, and the environment; and

(3) promote open communication among Federal agencies, the public, the President, and Congress regarding environmental, health, and safety risks, and the prevention and management of those risks.

(b) DEFINITIONS.—For the purposes of this section:

(1) COMPARATIVE RISK ANALYSIS.—The term "comparative risk analysis" means a process to systematically estimate, compare, and rank the size and severity of risks to provide a common basis for evaluating strategies for reducing or preventing those risks.

(2) COVERED AGENCY.—The term "covered agency" means each of the following:

(A) The Environmental Protection Agency.

(B) The Department of Labor.

(C) The Department of Transportation.

(D) The Food and Drug Administration.

(E) The Department of Energy.

(F) The Department of the Interior.

(G) The Department of Agriculture.

(H) The Consumer Product Safety Commission.

(I) The National Oceanic and Atmospheric Administration.

(J) The United States Army Corps of Engineers.

(K) The Nuclear Regulatory Commission.

(3) EFFECT.—The term "effect" means a deleterious change in the condition of—

(A) a human or other living thing (including death, cancer, or other chronic illness, decreased reproductive capacity, or disfigurement); or

(B) an inanimate thing important to human welfare (including destruction, degeneration, the loss of intended function, and increased costs for maintenance).

(4) IRREVERSIBILITY.—The term "irreversibility" means the extent to which a return to conditions before the occurrence of an effect are either very slow or will never occur.

(5) LIKELIHOOD.—The term "likelihood" means the estimated probability that an effect will occur.

(6) MAGNITUDE.—The term "magnitude" means the number of individuals or the quantity of ecological resources or other resources that contribute to human welfare that are affected by exposure to a stressor.

(7) SERIOUSNESS.—The term "seriousness" means the intensity of effect, the likelihood, the irreversibility, and the magnitude.

(c) DEPARTMENT AND AGENCY PROGRAM GOALS.—

(1) SETTING PRIORITIES.—In exercising authority under applicable laws protecting human health, safety, or the environment, the head of each covered agency should set priorities and use the resources available under those laws to address those risks to human health, safety, and the environment that—

(A) the covered agency determines to be the most serious; and

(B) can be addressed in a cost-effective manner, with the goal of achieving the greatest overall net reduction in risks with the public and private sector resources expended.

(2) DETERMINING THE MOST SERIOUS RISKS.—In identifying the greatest risks under paragraph (1) of this subsection, each covered agency shall consider, at a minimum—

(A) the likelihood, irreversibility, and severity of the effect; and

(B) the number and classes of individuals potentially affected, and shall explicitly take into account the results of the comparative risk analysis conducted under subsection (d) of this section.

(3) OMB REVIEW.—The covered agency's determinations of the most serious risks for purposes of setting priorities shall be reviewed and approved by the Director of the Office of Management and Budget before submission of the covered agency's annual budget requests to Congress.

(4) INCORPORATING RISK-BASED PRIORITIES INTO BUDGET AND PLANNING.—The head of each covered agency shall incorporate the priorities identified under paragraph (1) into the agency budget, strategic planning, regulatory agenda, enforcement, and research activities. When submitting its budget request to Congress and when announcing its regulatory agenda in the Federal Register, each covered agency shall identify the risks that the covered agency head has determined are the most serious and can be addressed in a cost-effective manner under paragraph (1), the basis for that determination, and explicitly identify how the covered agency's requested budget and regulatory agenda reflect those priorities.

(5) EFFECTIVE DATE.—This subsection shall take effect 12 months after the date of enactment of this Act.

(d) COMPARATIVE RISK ANALYSIS.—

(1) REQUIREMENT.—(A)(i) No later than 6 months after the effective date of this Act, the Director of the Office of Management and Budget shall enter into appropriate arrangements with an accredited scientific body—

(I) to conduct a study of the methodologies for using comparative risk to rank dissimilar human health, safety, and environmental risks; and

(II) to conduct a comparative risk analysis.

(ii) the comparative risk analysis shall compare and rank, to the extent feasible, human health, safety, and environmental risks potentially regulated across the spectrum of programs administered by all covered agencies.

(B) The Director shall consult with the Office of Science and Technology Policy regarding the scope of the study and the conduct of the comparative risk analysis.

(2) CRITERIA.—In arranging for the comparative risk analysis referred to in paragraph (1) of this subsection, the Director shall ensure that—

(A) the scope and specificity of the analysis are sufficient to provide the President and agency heads guidance in allocating resources across agencies and among programs in agencies to achieve the greatest degree of risk prevention and reduction for the public and private resources expended;

(B) the analysis is conducted through an open process, by individuals with relevant expertise, including toxicologists, biologists, engineers and experts in medicine, industrial hygiene and environmental effects;

(C) the analysis is conducted, to the extent feasible, consistent with the risk assessment and risk characterization principles in section 633 of this title;

(D) the methodologies and principal scientific determinations made in the analysis are subjected to independent and external peer review consistent with section 633(g), and the conclusions of the peer review are made publicly available as part of the final report required under subsection (e);

(E) there is an opportunity for public comment on the results before making them final; and

(F) the results are presented in a manner that distinguishes between the scientific conclusions and any policy or value judgments embodied in the comparisons.

(3) COMPLETION AND REVIEW.—No later than 3 years after the effective date of this Act, the comparative risk analysis required under paragraph (1) shall be completed. The comparative risk analysis shall be reviewed and revised at least every 5 years thereafter for a minimum of 15 years following the release of the first analysis. The Director shall arrange for such review and revision with an accredited scientific body in the same manner as provided under paragraphs (1) and (2).

(4) STUDY.—The study of methodologies provided under paragraph (1) shall be conducted as part of the first comparative risk analysis and shall be completed no later than 180 days after the completion of that analysis. The goal of the study shall be to develop and rigorously test methods of comparative risk analysis. The study shall have sufficient scope and breadth to test approaches for improving comparative risk analysis and its use in setting priorities for human health, safety, and environmental risk prevention and reduction.

(5) TECHNICAL GUIDANCE.—No later than 180 days after the effective date of this Act, the Director, in collaboration with other heads of covered agencies shall enter into a contract with the National Research Council to provide technical guidance to agencies on approaches to using comparative risk analysis in setting human health, safety, and environmental priorities to assist agencies in complying with subsection (c) of this section.

(e) REPORTS AND RECOMMENDATIONS TO CONGRESS AND THE PRESIDENT.—No later than 24 months after the effective date of this Act, each covered agency shall submit a report to Congress and the President—

(1) detailing how the agency has complied with subsection (c) and describing the reasons for any departure from the requirement to establish priorities to achieve the greatest overall net reduction in risk;

(2) recommending—

(A) modification, repeal, or enactment of laws to reform, eliminate, or enhance programs or mandates relating to human health, safety, or the environment; and

(B) modification or elimination of statutorily or judicially mandated deadlines,

that would assist the covered agency to set priorities in activities to address the risks to human health, safety, or the environment in a manner consistent with the requirements of subsection (c)(1);

(3) evaluating the categories of policy and value judgments used in risk assessment, risk characterization, or cost-benefit analysis; and

(4) discussing risk assessment research and training needs, and the agency's strategy and schedule for meeting those needs.

(f) SAVINGS PROVISION AND JUDICIAL REVIEW.—

(1) IN GENERAL.—Nothing in this section shall be construed to modify any statutory standard or requirement designed to protect human health, safety, or the environment.

(2) JUDICIAL REVIEW.—Compliance or noncompliance by an agency with the provisions of this section shall not be subject to judicial review.

(3) AGENCY ANALYSIS.—Any analysis prepared under this section shall not be subject to judicial consideration separate or apart from the requirement, rule, program, or law to which it relates. When an action for judicial review of a covered agency action is instituted, any analysis for, or relating to, the action shall constitute part of the whole record of agency action for the purpose of judicial review of the action and shall, to the extent relevant, be considered by a court in determining the legality of the covered agency action.

DASCHLE (AND LAUTENBERG) AMENDMENT NO. 1502

Mr. DASCHLE (for himself and Mr. LAUTENBERG) proposed an amendment to amendment No. 1487 proposed by Mr. DOLE to the bill S. 343, supra; as follows:

On page 19, line 5, strike out "or".

On page 19, line 7, strike out the period and insert in lieu thereof a semicolon and "or".

On page 19, add after line 7 the following new subparagraph:

"(xiii) the rule proposed by the United States Department of Agriculture on February 3, 1995, entitled 'Pathogen Reduction: Hazard Analysis and Critical Control Point (HACCP) Systems' (proposed rule, 60 Fed. Reg. 6774, et al.).".

JOHNSTON (AND OTHERS) AMENDMENT NO. 1503

Mr. JOHNSTON (for himself, Mr. HATCH, and Mr. ROTH) proposed an amendment to amendment No. 1502 proposed by Mr. DASCHLE to the bill S. 343, supra; as follows:

In lieu of the language proposed on page 1, lines 5 through 9, insert the following:

"(10) Notwithstanding section 632, if the agency head determines that—

(A) a final major rule subject to this subchapter is substantially similar to the proposed major rule with respect to the risk being addressed;

(B) a risk assessment for the proposed major rule has been carried out in substantial accordance with section 633; and

(C) a new risk assessment for the final rule is not required in order to respond to comments received during the period for comment on the proposed rule; the head of the agency may publish such determination along with the final rule in lieu of preparing a new risk assessment for the final rule.

(11) Notwithstanding any provision of the Comprehensive Regulatory Reform Act of 1995 and the amendments made by such Act, including section 9 of such Act, any rule for which a notice of proposed rulemaking was filed before April 1, 1995 shall not be subject to the provision of this subchapter or subchapter III except for section 623 (relating to review of rules).".

JOHNSTON (AND OTHERS) AMENDMENT NO. 1504

Mr. JOHNSTON (for himself, Mr. HATCH, and Mr. ROTH) proposed an amendment to amendment No. 1487 proposed by Mr. DOLE to the bill S. 343, supra; as follows:

On page 50, between lines 15 and 16, insert the following new paragraph:

"(4) If the agency head determines that—

(A) a final major rule subject to this subchapter is substantially similar to the proposed major rule with respect to the risk being addressed;

(B) a risk assessment for the proposed major rule has been carried out in substantial accordance with section 633; and

(C) a new risk assessment for the final rule is not required in order to respond to comments received during the period for comment on the proposed rule;

the head of the agency may publish such determination along with the final rule in lieu of preparing a new risk assessment for the final rule."

On page 19 strike out lines 11 through 13 and the words "than 30 days after such date of enactment),".

On page 20, line 9 strike out the words "(or, in the case of a notice of proposed rulemaking" and strike out lines 10 through 12.

On page 43, amend line 11 to read "agency after the effective date of this subchapter"; strike out lines 12 and 13; and strike out "section 623" on line 14.

On page 48 amend lines 4 and 5 to read "effective date of this subchapter, the head of each".

On page 97 reliable subsection (b) as subsection (c) and insert a new subsection (b) as follows:

"(b) Any rulemaking pending on July 12, 1995 for which a notice of proposed rulemaking or a proposed rulemaking has been published in the Federal Register before April 1, 1995 shall not be subject to the provisions of subchapter II or subchapter III of chapter 6 of title 5 U.S. Code except for section 623 (relating to review of rules)."

DASCHLE AMENDMENT NO. 1505

Mr. DASCHLE proposed an amendment to amendment No. 1487 proposed by Mr. DOLE to the bill S. 343, supra; as follows:

On page 19, line 5, strike out "or".

On page 19, line 7, strike out the period and insert in lieu thereof a semicolon and "or".

On page 19, add after line 7 the following new subparagraph:

"(xiii) the rule proposed by the United States Department of Agriculture on February 3, 1995, entitled 'Pathogen Reduction: Hazard Analysis and Critical Control Point (HACCP) Systems' (proposed rule, 60 Fed. Reg. 6774, et al.).".

KOHL (AND OTHERS) AMENDMENT NO. 1506

Mr. KOHL (for himself, Mr. DASCHLE, Mr. GLENN, Mr. FEINGOLD, Mr. LAUTENBERG, and Mrs. BOXER) proposed an amendment to amendment No. 1487 proposed by Mr. DOLE to the bill S. 343, supra; as follows:

On page 19, line 5, strike out "or".

On page 19, line 7, strike out the period and insert in lieu thereof a semicolon and "or".

On page 19, add after line 7 the following new subparagraph:

"(xiii) any rule proposed or promulgated by the Environmental Protection Agency that relates to the control of microbial and disinfection byproduct risks to human health in drinking water supplies."

ROTH (AND BIDEN) AMENDMENT NO. 1507

Mr. ROTH (for himself and Mr. BIDEN) proposed an amendment to

amendment No. 1487 proposed by Mr. DOLE to the bill S. 343, supra; as follows:

Delete all of section 635 (page 61, line 1 through page 64, line 14 and add in its place the following new section 635:

SEC. 635. RISK-BASED PRIORITIES.

(a) PURPOSE.—The purposes of this section are to—

(1) encourage Federal agencies engaged in regulating risks to human health, safety, and the environment to achieve the greatest risk reduction at the least cost practical;

(2) promote the coordination of policies and programs to reduce risks to human health, safety, and the environment; and

(3) promote open communication among Federal agencies, the public, the President, and Congress regarding environmental, health, and safety risks, and the prevention and management of those risks.

(b) DEFINITIONS.—For the purpose of this section:

(1) COMPARATIVE RISK ANALYSIS.—The term "comparative risk analysis" means a process to systematically estimate, compare, and rank the size and severity of risks to provide a common basis for evaluating strategies for reducing or preventing those risks.

(2) COVERED AGENCY.—The term "covered agency" means each of the following:

(A) The Environmental Protection Agency.

(B) The Department of Labor.

(C) The Department of Transportation.

(D) The Food and Drug Administration.

(E) The Department of Energy.

(F) The Department of the Interior.

(G) The Department of Agriculture.

(H) The Consumer Product Safety Commission.

(I) The National Oceanic and Atmospheric Administration.

(J) The United States Army Corps of Engineers.

(K) The Nuclear Regulatory Commission.

(3) EFFECT.—The term "effect" means a deleterious change in the condition of—

(A) a human or other living thing (including death, cancer, or other chronic illness, decreased reproductive capacity, or disfigurement); or

(B) an inanimate thing important to human welfare (including destruction, degeneration, the loss of intended function, and increased costs for maintenance).

(4) IRREVERSIBILITY.—The term "irreversibility" means the extent to which a return to conditions before the occurrence of an effect are either very slow or will never occur.

(5) LIKELIHOOD.—The term "likelihood" means the estimated probability that an effect will occur.

(6) MAGNITUDE.—The term "magnitude" means the number of individuals or the quantity of ecological resources or other resources that contribute to human welfare that are affected by exposure to a stressor.

(7) SERIOUSNESS.—The term "seriousness" means the intensity of effect, the likelihood, the irreversibility, and the magnitude.

(c) DEPARTMENT AND AGENCY PROGRAM GOALS.—

(1) SETTING PRIORITIES.—In exercising authority under applicable laws protecting human health, safety, or the environment, the head of each covered agency should set priorities and use the resources available under those laws to address those risks to human health, safety, and the environment that—

(A) the covered agency determines to be the most serious; and

(B) can be addressed in a cost-effective manner, with the goal of achieving the greatest overall net reduction in risks with the public and private sector resources expended.

(2) DETERMINING THE MOST SERIOUS RISKS.—In identifying the greatest risks under paragraph (1) of this subsection, each covered agency shall consider, at a minimum—

(A) the likelihood, irreversibility, and severity of the effect; and

(B) the number and classes of individuals potentially affected, and shall explicitly take into account the results of the comparative risk analysis conducted under subsection (d) of this section.

(3) OMB REVIEW.—The covered agency's determinations of the most serious risks for purposes of setting priorities shall be reviewed and approved by the Director of the Office of Management and Budget before submission of the covered agency's annual budget requests to Congress.

(4) INCORPORATING RISK-BASED PRIORITIES INTO BUDGET AND PLANNING.—The head of each covered agency shall incorporate the priorities identified under paragraph (1) into the agency budget, strategic planning, regulatory agenda, enforcement, and research activities. When submitting its budget request to Congress and when announcing its regulatory agenda in the Federal Register, each covered agency shall identify the risks that the covered agency head has determined are the most serious and can be addressed in a cost-effective manner under paragraph (1), the basis for that determination, and explicitly identify how the covered agency's requested budget and regulatory agenda reflect those priorities.

(5) EFFECTIVE DATE.—This subsection shall take effect 12 months after the date of enactment of this Act.

(d) COMPARATIVE RISK ANALYSIS.—

(1) REQUIREMENT.—(A)(i) No later than 6 months after the effective date of this Act, the Director of the Office of Management and Budget shall enter into appropriate arrangements with an accredited scientific body—

(I) to conduct a study of the methodologies for using comparative risk to rank dissimilar human health, safety, and environmental risks; and

(II) to conduct a comparative risk analysis.

(ii) The comparative risk analysis shall compare and rank, to the extent feasible, human health, safety, and environmental risks potentially regulated across the spectrum of programs administered by all covered agencies.

(B) The Director shall consult with the Office of Science and Technology Policy regarding the scope of the study and the conduct of the comparative risk analysis.

(2) CRITERIA.—In arranging for the comparative risk analysis referred to in paragraph (1) of this subsection, the Director shall ensure that—

(A) the scope and specificity of the analysis are sufficient to provide the President and agency heads guidance is allocating resources across agencies and among programs in agencies to achieve the greatest degree of risk prevention and reduction for the public and private resources expended;

(B) the analysis is conducted through an open process, by individuals with relevant expertise, including toxicologists, biologists, engineers and experts in medicine, industrial hygiene and environmental effects;

(C) the analysis is conducted, to the extent feasible, consistent with the risk assessment and risk characterization principles in section 633 of this title;

(D) the methodologies and principal scientific determinations made in the analysis are subjected to independent and external peer review consistent with section 633(g), and the conclusions of the peer review are made publicly available as part of the final report required under subsection (e);

(E) there is an opportunity for public comment on the results before making them final; and

(F) the results are presented in a manner that distinguishes between the scientific conclusions and any policy or value judgments embodied in the comparisons.

(3) COMPLETION AND REVIEW.—No later than 3 years after the effective date of this Act, the comparative risk analysis required under paragraph (1) shall be completed. The comparative risk analysis shall be reviewed and revised at least every 5 years thereafter for a minimum of 15 years following the release of the first analysis. The Director shall arrange for such review and revision with an accredited scientific body in the same manner as provided under paragraphs (1) and (2).

(4) STUDY.—The study of methodologies provided under paragraph (1) shall be conducted as part of the first comparative risk analysis and shall be completed no later than 180 days after the completion of that analysis. The goal of the study shall be to develop and rigorously test methods of comparative risk analysis. The study shall have sufficient scope and breadth to test approaches for improving comparative risk analysis and its use in setting priorities for human health, safety, and environmental risk prevention and reduction.

(5) TECHNICAL GUIDANCE.—No later than 180 days after the effective date of this Act, the Director, in collaboration with other heads of covered agencies, shall enter into a contract with the National Research Council to provide technical guidance to agencies on approaches to using comparative risk analysis in setting human health, safety, and environmental priorities to assist agencies in complying with subsection (c) of this section.

(e) REPORTS AND RECOMMENDATIONS TO CONGRESS AND THE PRESIDENT.—No later than 24 months after the effective date of this Act, each covered agency shall submit a report to Congress and the President—

(1) detailing how the agency has complied with subsection (c) and describing the reasons for any departure from the requirement to establish priorities to achieve the greatest overall net reduction in risk;

(2) recommending—

(A) modification, repeal, or enactment of laws to reform, eliminate, or enhance programs or mandates relating to human health, safety, or the environment; and

(B) modification or elimination of statutorily or judicially mandated deadlines,

that would assist the covered agency to set priorities in activities to address the risks to human health, safety, or the environment in a manner consistent with the requirements of subsection (c)(1);

(3) evaluating the categories of policy and value judgments used in risk assessment, risk characterization, or cost-benefit analysis; and

(4) discussing risk assessment research and training needs, and the agency's strategy and schedule for meeting those needs.

(f) SAVINGS PROVISION AND JUDICIAL REVIEW.—

(1) IN GENERAL.—Nothing in this section shall be construed to modify any statutory standard or requirement designed to protect human health, safety, or the environment.

(2) JUDICIAL REVIEW.—Compliance or noncompliance by an agency with the provisions

of this section shall not be subject to judicial review.

(3) AGENCY ANALYSIS.—Any analysis prepared under this section shall not be subject to judicial consideration separate or apart from the requirement, rule, program, or law to which it relates. When an action for judicial review of a covered agency action is instituted, any analysis for, or relating to, the action shall constitute part of the whole record of agency action for the purpose of judicial review of the action and shall, to the extent relevant, be considered by a court in determining the legality of the covered agency action.

SNOWE AMENDMENT NO. 1508

(Ordered to lie on the table.)

Ms. SNOWE submitted an amendment intended to be proposed by her to amendment No. 1487 proposed by Mr. DOLE to the bill S. 343, supra; as follows:

At the appropriate place in the substitute amendment, insert the following new section:

SEC. . BOTTLED WATER STANDARDS.

Section 410 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 349) is amended—

(1) by striking "Whenever" and inserting "(a) Except as provided in subsection (b), whenever"; and

(2) by adding at the end thereof the following new subsection:

"(b)(1)(A) Not later than 180 days after the Administrator of the Environmental Protection Agency promulgates a national primary drinking water regulation for a contaminant under section 1412 of the Public Health Service Act (42 U.S.C. 300g–1), the Secretary, after public notice and comment, shall issue a regulation under this subsection for that contaminant in bottled water or make a finding that the regulation is not necessary to protect the public health because the contaminant is contained in water in public water systems (as defined under section 1401(4) of such Act (42 U.S.C. 300f(4))) but not in water used for bottled drinking water.

"(B) In the case of contaminants for which national primary drinking water regulations were promulgated under section 1412 of the Public Health Service Act (42 U.S.C. 300g–1) before the date of enactment of the Comprehensive Regulatory Reform Act of 1995, the Secretary shall issue the regulation or publish the finding not later than 1 year after such date of enactment.

"(2) The regulation shall include any monitoring requirements that the Secretary determines appropriate for bottled water.

"(3) The regulation shall require the following:

"(A) In the case of contaminants for which a maximum contaminant level is established in a national primary drinking water regulation under section 1412 of the Public Health Service Act (42 U.S.C. 300g–1), the regulation under this subsection shall establish a maximum contaminant level for the contaminant in bottled water that is at least as stringent as the maximum contaminant level provided in the national primary drinking water regulation.

"(B) In the case of contaminants for which a treatment technique is established in a national primary drinking water regulation under section 1412 of the Public Health Service Act (42 U.S.C. 300g–1), the regulation under this subsection shall require that bottled water be subject to requirements no less protective of the public health than those applicable to water provided by public water systems using the treatment technique required by the national primary drinking water regulation.

"(4)(A) If the Secretary fails to establish a regulation within the 180-day period described in paragraph (1)(A) or the 1-year period described in paragraph (1)(B) (whichever is applicable), the national primary drinking water regulation described in subparagraph (A) or (B) of such paragraph (whichever is applicable) shall be considered, as of the date on which the Secretary is required to establish a regulation under such paragraph, as the regulation applicable under this subsection to bottled water.

"(B) Not later than 30 days after the end of the 180-day period, or the 1-year period (whichever is applicable), described in subparagraph (A) or (B) of paragraph (1), the Secretary shall, with respect to a national primary drinking water regulation that is considered applicable to bottled water as provided in subparagraph (A), publish a notice in the Federal Register that—

"(i) sets forth the requirements of the national primary drinking water regulation, including monitoring requirements, which shall be applicable to bottled water; and

"(ii) provides that—

"(I) in the case of a national primary drinking water regulation promulgated after the date of enactment of the Comprehensive Regulatory Reform Act of 1995, the requirements shall take effect on the date on which the national primary drinking water regulation for the contaminant takes effect under section 1412 of the Public Health Service Act (42 U.S.C. 300g–1); or

"(II) in the case of a national primary drinking water regulation promulgated before the date of enactment of the Comprehensive Regulatory Reform Act of 1995, the requirements shall take effect on the date that is 18 months after such date of the enactment.".

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be allowed to meet during the Wednesday, July 12, 1995, session of the Senate for the purpose of conducting a hearing on television violence.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Wednesday, July 12, 1995, for purposes of conducting a Full Committee hearing which is scheduled to begin at 9:30 a.m. The purpose of this hearing is to review proposals with regard to disposition of Power Marketing Administrations.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be granted permission to conduct an oversight hearing Wednesday, July 12, 1995, at 9:30 a.m., on the effects of proposals to statutorily redefine the constitutional right to compensation for property owners, with particular emphasis on Federal environmental laws.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. HATCH. Mr. President, I ask unanimous consent that the Finance Committee be permitted to meet Wednesday, July 12, 1995, beginning at 9:30 a.m. in room SD–215, to conduct a hearing on Medicaid.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. HATCH. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, July 12, 1995, at 2:00 p.m. to hold a closed hearing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. HATCH. Mr. President, I ask unanimous consent that the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs, be authorized to meet during the session of the Senate on Wednesday, July 12, 1994, to hold hearings on abuses in Federal student grant programs proprietary school abuses.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON WESTERN HEMISPHERE AND PEACE CORPS AFFAIRS

Mr. HATCH. Mr. President, I ask unanimous consent that the Subcommittee on Western Hemisphere and Peace Corps Affairs of the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, July 12, 1995, at 10 a.m. to hear testimony on the legislative and municipal elections in Haiti.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

EUROPE VIEWS THE IVY LEAGUE

• Mr. SIMON. Mr. President, I do not ordinarily enter into the RECORD speeches that are 6 years old, but I came across a speech given by James Perkins, the distinguished former president of Cornell, to the Nassau Club in Princeton, NJ, on November 1, 1989.

It was titled "Europe Views the Ivy League: With Astonishment and Jealousy."

Because it contains so many insights into where we are and how we got where we are, I think it is worth reprinting in the CONGRESSIONAL RECORD, and I urge my colleague and their staffs to take the time to read it.

For example, he says: "It is not uncommon for an Ivy League university to have a public relations office of a dozen or more people and a development office of 50 and sometime as many as 70 full-time persons at work on maintaining accurate and up-to-date files on the financial prospects of its important alumni. These files would be the envy of the CIA and the KGB."

As a former Ivy League college president himself, he notes: "that the presidents of Ivy League institutions spent at least 25 percent of their professional time on the financial needs of their universities and personal attention to both individuals and institutions which can provide financial resources to meet its needs." He finds a German observer, "reminded his audience that in Japan, it was the public universities that restricted their enrollment and so expansion was taken care of by the proliferation of private institutions which had, of necessity, to live off their tuitions. The result was the Ivy League experience in reverse. It is the universities of Tokyo and Kyoto that are the Harvards, Yales, and Princetons of Japan. The best students apply to the prestigious public institutions while the privates have to fight to maintain anything like the same quality of instruction. While in the United States 80 percent of undergraduates are in the public sector, in Japan almost 80 percent of students are in private institutions."

Many of my colleagues will remember James Perkins as the person who headed the Commission on Foreign Language and International Studies appointed by President Carter.

It was one of the finest commissions ever to serve this Nation, and no small part of the reason was the leadership of Jim Perkins.

I ask that the text of his 1989 speech be printed in the RECORD.

The speech follows:

EUROPE VIEWS THE IVY LEAGUE WITH ASTONISHMENT AND JEALOUSY

(By James A. Perkins)

European higher education is suffering from three pressures. The first is new limits on public funds after three or four decades of increasing financial support. Consequently, there is a serious effort to secure funds from private sources. In educational systems that have almost been free of student charges, there has been the need to establish tuitions or, in those cases where they exist in small amounts, to increase them. These efforts have not been successful and have often led students to take to the streets. Support from wealthy individuals or corporations is practically non-existent because most European societies see business support as damaging to the intellectual integrity of the university.

A second pressure comes from the increasing demand to decentralize authority from the central government to regions on the one hand and to the universities on the other. The recognized need for flexibility and the capacity to innovate requires plural rather than uniform arrangements. But the legacy of Napoleon, who viewed higher education as a centralized public function, required equal treatment through a uniform curriculum which could only be installed and managed by a central authority. Efforts to decentralize have had extreme difficulties because local authorities have had little experience in managing educational institutions and the universities themselves do not have a system of governance that assures effective autonomy.

The two exceptions to this general rule are Western Germany, where the states preceded the establishment of the central government (although they did not create it), and Spain, where Catalonia and the Basque country have had a long history of considerable independence from the central government in Madrid. It is worthy of some note that the education reform law of 1984 in Spain does, in fact, provide for increased educational responsibility for the provinces, which only a half dozen of them have been able to accept.

A third pressure for change involves the educational consequences of the provision for a strong European community to be established in 1992. There is the possibility of a growing move towards something like the federal system in the United States where the individual countries of Europe are prepared to surrender some of their independence to community authorities.

On all three counts, the search for private funds, the decentralization of control from central governments and the prospects for a European community with federal overtones—all three of these pressures and prospects have led to serious soul-searching on the part of European public officials and educators. It is not surprising that their attention would turn to the experience of the United States which, in one way or another, has had to deal with maintaining a decentralized system, a successful effort to secure private funds for higher education, and a federal system that has acquired a reasonable balance between federal and local authorities, along with a substantial private sector.

It could be that four distinguished European educators decided to study one of the most successful examples of private institutions in the context of a decentralized system on the one hand and a network of connection between universities (both public and private) on the other. The four of them could have decided to make a special study of what we know as the Ivy League. Here are eight private institutions with the highest academic standards, with steady and high demand for admission (in spite of high tuition rates), and having secured what, to European eyes, seems like phenomenal amounts of money, both as endowments under their own control and annual gifts from all sources running into tens of millions of dollars. The question these four educators might have asked themselves was, "how do they do it and what lessons can we draw from their obvious success?" They visited the Ivy League universities, studied their governance and academic programs and their financial arrangements in considerable depth and reported on their findings to a large gathering of their colleagues.

The first critique was by a Swedish social psychologist from the University of Stockholm who reported somewhat as follows. The current success of these 8 institutions finds its roots in the origins of the country where 13 independent colonies became the original states which, on their own initiative, formed a federal government. The United States, he reported, did not have to face the extreme difficulties of decentralizing political power because political power started out decentralized. And each colony was determined to create institutions of higher education long before the successful revolutionary war, the only exception being Cornell which became a land grant university in the 1860s but inherited the academic traditions of its colonial predecessors.

A second historical fact of importance is, so he reported, that early higher education had powerful religious sponsors which, in turn, reflected the many sects of Protestantism as well as the presence of a Catholic interest in higher education. This diffuse religious background assured the plurality of university design and purpose on the one hand and gave the universities strong support in securing their independence from governments, both federal and state. There was, and is, no Church of England or Lutheran predominance as in Scandinavia, nor Catholic monopoly as in the southern half of Europe. Thus independence and differentiation soon led to competition and provided some of the historical basis for the flourishing of these private institutions.

Finally, because of their private initiation, they were almost completely dependent upon the tuitions they charged their students which was possible because only a very small fraction of an age group had any interest in higher education. The dependence on tuition meant that from the very earliest days these institutions were sensitive to student and family demand on the one hand and society's needs on the other for a diversity of trained citizenry with widely held democratic values. This market orientation helped assure that individual needs could have a priority over government prescription.

The Swedish educator ended his report by emphasizing that in the United States the states came first and they, in turn, supported the independence of the private college. Thus they never experienced the agony faced by European universities urging their government bureaucracies to let go some of their power and to build up their regions and universities and the capacity to exercise the responsibility that goes with decentralized power.

His summary point was that not only did the states come first but so did private universities supported almost entirely with private funds. With this background the development of the Ivy League institutions was almost a natural consequence of the early political and social arrangements of the United States.

The next reporter was a French professor from the University of Paris. He said he accepted the report of his Swedish friend and fully agreed that the processes by which the United States developed from states to a federal system and the fact that the private universities came first as a natural consequences surely described the favorable soil which nourished private institutions like the Ivy League. But he went on to report that this independence is, in modern times, secured by multiple sources of funds to carry on the work of these institutions. The early dependence on tuitions has already been noted, but today, they represent only a part of the needed income. Having carefully excluded government in early days, government has not been welcomed back as an important and, indeed, a decisive source of funds for the research enterprise that has given the university its substantial position in society. Tuitions continue to rise, but, in a concern for equal treatment and social justice, they are offset by the availability of scholarships, loans, and campus jobs that have kept these institutions from becoming intolerably elite. They are elite, but only in a meritocratic sense, and not in a social or economic sense.

A second source of funds has been gifts from various sources such as corporations, individuals, and particularly alumni of the various institutions involved. Private universities have relied on gifts for many years but now, it is astonishing to report, public universities are beginning to receive large sums of private money also. He said that it seemed to be deep in the American culture that people of wealth should give to charities, their churches, and their educational institutions. Some of the wealthiest donors to higher education, like Andrew Carnegie and John Rockefeller, really believed that a wealthy man had almost a religious duty to use his wealth for the good of society. It was as if they wished to atone for any sins that might have been committed in the acquisition of their wealth.

As has been mentioned, the third source of funds from government falls into two categories. State governments have been an almost negligible factor in the financing of Ivy League institutions. Once again, he mentioned that Cornell University is something of an exception because the State of New York finances four of its colleges by contracts that provide both its capital and its ongoing expenses. He also found it interesting that many States had now adopted a plan to provide public funds to its private institutions on a formula basis. This means they provide a specified amount of funds based upon the number of recent bachelor's and doctor's degrees granted by the institution in the previous year. This process effectively neutralizes the prospect of undue interference coming along with state money.

With respect to the federal government, the Ivy League institutions receive funds based on the programs they pursue that are of interest to the federal government. Thus, scientific research, undergraduate scholarships, and occasional fellowship programs come to these universities not based upon a judgment of the university as such but rather the value of the programs they pursue as part of the federal interest. It was not many years ago, he reported, that there was a large debate in the United States as to whether federal money should go directly to the institutions. However, this view did not prevail because it was felt that it would interfere with state responsibility on the one hand and the independence of the universities, both public and private, on the other.

Finally, he reported, that in the last 40 years there had been an astonishing increase in support of private universities in general and the Ivy League in particular from business corporations. In 1988 higher education had received over $2 billion of funds with a substantial fraction of this money paid to private universities in general and to the Ivy League in particular. He reported that universities had been able to receive this money, just as they had from government, through a process that effectively protected their independence from having the business interests exercise undue influence over its teaching programs. He stated, however, that in the area of research there was large debate in process in the United States as to whether the desire to acquire business corporations as partners in various research enterprises was not raising danger flags on the integrity of the research enterprise, compromising the primary university preoccupation with basic research, and forcing an imbalance in curricular interests in favor of the more short-run interests of profit-oriented commercial enterprises. He thought that this debate should be followed with interest by the European countries that were looking to business as a source of replacement funds for reduced government expenditures.

His main point was that these four sources of financial support—tuitions, gifts, government, and business—not only were important in themselves but, together, they helped assure the independence of the university by balancing both the funds and their interests in a way that would insure both the development and the independence of their institutions.

The next critique was presented by a Professor of the School of Architecture at the University of Rome. She said that she fully supported the presentations of her two colleagues that the educational quality and institutional success of the Ivy League schools had to be traced to their colonial origins and the current success in arranging for financial support from multiple sources. However, she said that to these two primary factors must be added the skillful development of institutional loyalty on the part of alumni and friends—especially alumni. Looking at the U.S. scene from Europe, the strong, emotional attachment and loyalty to their universities on the part of their graduates is a distinctive feature of the higher educational scene. Among all the institutions, it is the private ones which have been, of necessity, most successful since private contributions are a decisive part of their total income. And of private institutions, perhaps the Ivy League has developed the process of securing alumni support to the highest level of both art and governance.

She pointed out that this highly developed institutional loyalty has produced a continuing influx of funds for operating expenses, for capital buildings, and endowments. But this financial support has not come by chance. She was astonished to find that the development of institutional loyalty started soon after a student's original entry. Even the student newspapers carry reports of the latest benefactions. They also were likely to headline the achievements of its more distinguished, or at least more visible, alumni. Their football teams, whether they won or lost, receive continuous and vocal support from the university's alumni. And all of this adds to the central notions of pride in the university and encourages their interest to assure their university's financial health.

But all this requires hard and careful work by professionals to make sure that the university's activities continually appear in the press and on television. At the same time, every effort is made to encourage alumni to return to the campus, not only for athletic events, but also for lectures and public events of interest to alumni.

To assure the success of this activity, the university has a very substantial office concerned with constructive public relations on the one hand and having an up-to-date knowledge about the potential of key individuals for making financial contributions to the university. It is not uncommon for an Ivy League university to have a public relations office of a dozen or more people and a development office of 50 and sometimes as many as 70 full-time persons at work on maintaining accurate and up-to-date files on the financial prospects of its important alumni. These files would be the envy of the CIA and the KGB. Furthermore, these development offices work closely with university management and faculty leadership to see that these key individuals become members of important departmental advisory committees, leading members of the alumni council, and are promoted to membership on boards of trustees. She found that the presidents of Ivy League institutions spent at least 25% of their professional time on the financial needs of their universities and personal attention to both individuals and institutions which can provide financial resources to meet its needs.

In summary, she said, the business of raising money for private institutions, like the members of the Ivy League, is a big business, requiring many professionals, very hard work, and careful attention to matching needs and sources of funds over a long period of time. She could not fail to mention to her European colleagues, who may believe that securing private support was merely a matter of just asking for it, that it required considerable attention and substantial offices over a long period of time.

The fourth and final rapporteur was the German Director for Higher Education in the Ministry of Education and Science. He, also, reported on the importance of early history, multiple financial sources, and the sophisticated fundraising efforts of the Ivy League universities as decisive factors in their current success.

But he was astonished to discover how little the Ivy League institutions themselves recognized the role of public bodies in assuring this success. He reminded his audience that it was the privilege of the Ivy League schools to remain both selective and relatively small in their admissions which made it possible for them to concentrate on the quality of their education and research. He pointed out that in the great expansion of higher education in recent decades it was public institutions which took in almost 80% of this explosive demand for higher education. Without this expansion of public universities, the pressure on the Ivy League schools to double or even quadruple their numbers would have been irresistible. They would either have to have become much larger or there would have to have been 3 or 4 times as many, which could not possibly be of the same quality.

Diverting from the European scene for a moment, he reminded his audience that in Japan, it was the public universities that restricted their enrollment and so expansion was taken care of by the proliferation of private institutions which had, of necessity, to live off their tuitions. The result was the Ivy League experience in reverse. It is the universities of Tokyo and Kyoto that are the Harvards, Yales, and Princetons of Japan. The best students apply to the prestigious public institutions while the privates have to fight to maintain anything like the same quality of institution. While in the United States 80% of undergraduates are in the public sector, in Japan almost 80% of students are in private institutions.

The German rapporteur ended by repeating that, in his judgment, the administrations and faculties of the Ivy League should recognize that Harvard must be grateful to the University of Massachusetts, Yale to the University of Connecticut, and Princeton to the public universities of Rutgers, Trenton State, and Mercer County Community College. They should view these institutions as their unsung friends, making it possible for them to be universities with world reputations for high quality and institutional success.

The final European report was by the former Vice Chancellor of Sussex University in England. He said it was his assignment to bring the discussion out of the euphoric clouds of astonishment and jealousy. In other words, he, speaking for the group, felt they should record some concerns they had about the future of the Ivy League universities.

They had been very successful in being able to continuously raise tuitions to meet their rising costs. But now these increases were going up faster than inflation and faster than the increase in personal incomes. They had already heard rumblings of discontent on the part of many who felt they could not afford these higher costs which available scholarship funds, particularly for middle income groups, could not fully compensate. They believed the time is not far off when there would be a strong reaction to these increases which would certainly come with any serious recession. In short, the golden age of the Ivy League may be here and now but perhaps not forever.

A second concern was the widely understood knowledge of the great wealth of these institutions with endowments, in some cases, of well over $1 billion and annual gifts in excess of $30 million a year. As the view persists and expands that the Ivy League universities are extremely well off, it will become more difficult to secure support in the face of the rising concerns of drug abuse, the deteriorating environment, and the obvious need to refurbish the physical infrastructure of the nation.

A third concern that must be on the list of these institutions is the rising quality of both instruction and research at the public universities and their recent successful efforts to raise private funds. Indeed, he reported, two of the five wealthiest educational systems, in terms of endowment, were public—Texas and California. And reports of large and successful endowment drives and annual fundraising on the part of the large public universities had become commonplace in the press. The private universities are obviously uneasy at the successful invasion of the private sector by the public universities. But they have no easy reply to the counter-complaint that public funds, both federal and now state, are finding their way into the private institutions.

To top off this report on the fragility of success, the Englishman said that perhaps the biggest difficulty he and his colleagues saw in the Ivy League was a tendency towards complacency. They felt they "had it made" and deserved support just because they were who they were. He was sensitive to this matter because he felt that some of the difficulties of Oxford and Cambridge in his own country was traceable to their belief that they had a right to public support which it was the government's duty to make good.

However, he concluded by saying that, as Europeans, they were jealous of Ivy League success, astonished at the way it was accomplished, but far from clear as to how far the U.S. experience could be transferred to Europe. He thought it was impossible to believe that anything like the Ivy League could be reproduced in Europe. The heavy hand of the Napoleonic belief that the university was a public utility, the faculty appropriately civil servants, and the chief administrators who reigned but did not rule would preclude any similar development. Their higher education would remain public, but he did see the real possibility that there would be an increase in private support of these public institutions and a closer relationship between them and the private sector that would take the form of tuitions providing a larger fraction of income and the business community a larger fraction of research as well as of general costs. On this last score, the hard work of the Ivy League universities over decades of time was a lesson that all European universities could well take to heart.•

FLY AND PROTECT OLD GLORY

• Mr. REID. Mr. President, Congress is again considering a constitutional amendment prohibiting the physical desecration of our flag. As always, I stand firm in my belief that this amendment is both a necessity and a salute to our country.

As our national symbol, the U.S. flag deserves to be honored and protected. Freedom of speech is one of the most cherished and defended rights of the American people; however, desecration of our flag goes beyond the premise of free speech.

As the time nears for this issue to once again come before Congress, a strong division of opinion remains. Constitutional scholars and editorialists have weighed in on both sides of this debate with some very thoughtful columns. One insightful article, in particular, was written by Mike O'Callaghan, a former two-term Governor of Nevada and the current executive editor of the Las Vegas Sun. I ask that this article be printed in the RECORD, and I encourage my colleagues to consider the interesting points raised in this column.

The article follows:

FLY AND PROTECT OLD GLORY

(By Mike O'Callaghan)

Today is Flag Day and time to honor Old Glory. Few, if any, Americans will dispute the honor we bestow upon our symbol of national unity today or any other day. There has been some strong disagreement about amending the U.S. Constitution to give Congress and the states power to make unlawful the physical desecration of our flag.

There is nothing wrong with disagreeing with any attempt to amend the document which spells out the strengths of our nation. The Constitution was written so it can be amended from time to time. Before it is amended, there should be long discussions about the content of any amendment before it is approved by Congress and/or the state legislatures. Those who argue against this latest suggested amendment are no less patriotic than are those who believe the amendment is a necessity.

Many people believe that this proposed amendment isn't necessary. I must agree with them to a point, but they must recognize that our own Supreme Court has made it necessary. Twice the justices have ruled that neither the states nor Congress has the power to make flag desecration illegal. Now that they have told Americans that such flag-protection laws are unconstitutional, the next move for many flag-loving Americans is to amend the Constitution. This is a very American response to what they believe is an illogical Supreme Court ruling.

The American Legion has taken the forefront in pushing for a ban on flag desecration. The American Civil Liberties Union has taken the opposite point of view because that organization views such an amendment as weakening the First Amendment's protection of free speech.

The ACLU isn't the only group that has taken a stand against the proposed amendment. Assistant Attorney General Walter Dellinger, speaking for the Clinton administration, warned that the amendment will "create legislative power of uncertain dimensions to override the First Amendment and other constitutional guarantees." Also, Sen. Ted Kennedy sees it as a "troubling and unprecedented effort to politicize the Constitution."

In addition to Dellinger, Kennedy and the ACLU, the Los Angeles Times refers to the proposed amendment as one we don't need. The Times editorial writer asks, "But should such contemptible disrespect be seen as imperiling the basic fabric of American life? Are we as a people so insecure in our love of country and esteem for its institutions that we let the childish behavior of a few justify the profoundly serious and worrying step of eroding one of the Constitution's most noble and vital protections?"

I find it necessary to disagree with the ACLU, the Clinton administration, Sen. Kennedy and the Los Angeles Times. This won't be the first or last time that I have or will disagree with this distinguished group of intellectuals. As for politicizing the Constitution, I can only shake my head in disbelief after reading Kennedy's worry about amending the Constitution. The entire amending process is a series of political actions provided for by the instrument being amended.

As I have written before, I'm more than a little insulted by the inane argument that such a constitutional change will be an infringement on our right of free speech. That argument, made by many who oppose an amendment to protect the flag, has little or nothing to do with damaging the First Amendment. A person can write and talk all day long and into the night about the shortcomings of our city, state and nation. That same person, if angry enough, can renounce his or her citizenship without being worried about being jailed. Millions of Americans believe public desecration of our nation's symbol is taking it one step beyond acceptable behavior and is an act beyond the bounds of free speech.

Today is Flag Day. Let's honor Old Glory and do our best to protect her from desecration by supporting an amendment to the Constitution. And let's not forget the words of my Navajo friend Thomas Begay who watched our flag unfurl over Mt. Surabachi on Iwo Jima 50 years ago. Recently, he wrote me and said, "Passage of this amendment is but one small step toward restoring some accountability for one's actions. Responsibility for one's actions is part of being a citizen of this country. Responsibility, values, a sense of what's right and wrong are taught at a very early age here on the Navajo reservation. These values come from the family and are reinforced in our school. Respect for the flag is one of the basics that every Navajo child is taught before they even start school. Our nation as a whole could still learn a lot from its Native American population."•

SPECIAL OLYMPICS

• Mr. BINGAMAN. Mr. President, we have all looked with awe and admiration toward the playing fields of Connecticut and the largest sporting event in the world this year—the Special Olympics World Games.

We all know that this singular event is the product of a visionary mind and an energetic spirit, both in the person of Eunice Kennedy Shriver. It was she who dreamed the dream and did the hard work necessary to make that dream come true. Thousands are now involved, but it was Eunice Shriver who made Special Olympics a vital, reliable part of lives that otherwise would have lacked focus and achievement.

People from my State have come east to participate, and today I rise to honor Larenson Henderson and the basketball players of Team New Mexico from Shiprock. This is an all-Navajo team, Mr. President, the first completely American Indian team in any sport in the history of the Special Olympics.

The New York Times had a story on this outstanding group of young men, and quoted their coach as saying, "They have heart," and indeed they do. Heart is the tie that binds all Special Olympic athletes, and it is the driving force behind the Games themselves.

We've seen wonderful things happen in New Haven during these Special Olympics, but perhaps the best is yet to come. One of the Navajo players said, "Losing these games doesn't bother me. We're playing with the best teams. It gives us more confidence just playing them."

Mr. President, I'd say it makes us all proud that this excellent program has produced such an attitude through an atmosphere of healthy competition guided by the simple creed of doing one's best. Eunice Shriver and all associated with this fine effort deserve our warmest thanks and praise for helping these athletes win by simply giving them the means to try.•

NORMALIZATION OF RELATIONS WITH VIETNAM

• Mrs. FEINSTEIN. Mr. President, yesterday afternoon, President Clinton announced his decision to fully normalize relations with Vietnam. I rise today to offer my strong support for this initiative.

I believe it is time for the United States to close the final chapter on a sad history with Vietnam, and open a new chapter with the optimism that a mutually beneficial relationship is now warranted, appropriate, and possible.

Mr. President, last year in response to Vietnam's heightened efforts to help account for the American servicemen lost in the war in Southeast Asia, President Clinton ended our economic embargo of Vietnam. At that time, many argued that ending the embargo would halt Vietnam's efforts to help us locate these men.

In fact, Mr. President, just the opposite has occurred, and Vietnam has actually strengthened its efforts to resolve POW/MIA cases.

By normalizing relations with Vietnam, we will continue on this path of mutual participation and strong efforts to account for these men, and increase our access to evidence in Vietnam.

The Veterans of Foreign Wars, which represents over 600,000 Vietnam veterans, now supports normalizing relations with Vietnam. They are optimistic that normalizing relations will in fact further progress on accounting for POW/MIAs in Southeast Asia.

A senior-level Presidential delegation, including Assistant Secretary of State Winston Lord and Deputy Secretary for Veterans Affairs Hershel Gober, visited Vietnam in May to review the four categories the President laid out for examining progress on the POW/MIA issue; their findings were highly reassuring.

The Vietnamese government provided them with valuable new information, including analyses, maps, and witness data, that will help in reaching the fullest possible accounting of POWs and MIAs.

Mr. President, we made a commitment to the Vietnamese government. The Bush administration laid out specific goals that the Vietnamese would have to meet as conditions for normalization, and the Vietnamese have worked diligently to meet them. We should keep our commitment.

A sad truth of war is that many who courageously fought and gave their lives for the sake of freedom will never be located. The distinguished Senators from Arizona and Massachusetts, who have provided outstanding leadership on this issue, have pointed out that efforts to account for MIAs in Vietnam have been far more extensive than similar efforts after any previous war:

They emphasize that of the approximately 2,000 Americans who remain technically classified as missing-in-action, only 55 cases still hold serious questions, and all of these cases have been investigated at least once.

Mr. President, we must remember that there are over 8,000 remaining MIA cases from the Korean war and 78,000 from World War II, as noted by the Wall Street Journal. And the Vietnamese, who have made great strides in accounting for our MIAs, must live with the knowledge that 300,000 of their own people remain unaccounted for, according to the Vietnam Veterans for Reconciliation, a group of veterans who, although now involved in an array of fields from law to public policy, volunteer their time to try and resolve MIA cases.

All United States military personnel who have been involved in efforts with Vietnam to account for MIAs and POWs, including General John Vessey, who has led these efforts, state unequivocally that Vietnam's cooperation has been extensive.

Of course, the families and loved ones of the missing deserve our strongest efforts to know what happened to these brave Americans. But I believe that, at this point in time, 22 years after the United States withdrew from Vietnam, to normalize relations will be the best way to reach whatever closure to these cases is realistically possible.

Mr. President, normalizing relations with Vietnam will not only further our interests in accounting for our missing servicemen, it will serve other important United States interests in the region as well, particularly by advancing U.S. commercial interests in Asia.

The Pacific Rim holds 60 percent of the world's population today. It is the fastest growing trade area of the world, with many strong and dynamic economies. The Vietnamese economy has been growing at a rate of 8 percent a year and foreign investment in this nation has been rapidly increasing, according to the Wall Street Journal.

Just last month, the European Union announced an expansive economic agreement with Vietnam, including providing Vietnam with most-favored-nation status. This agreement will give the EU a substantial edge in trading in one of the world's fastest growing markets. And the EU is not alone: a total of 160 countries, including all of our major trading partners, enjoy full diplomatic relations with Vietnam.

With a population of over 70 million and enormous economic potential, Vietnam could become a major market for American services and products. Already, dozens of major United States companies are establishing a presence in Vietnam. But until now, they have been unable to reach their full potential.

Some of the companies involved in setting up ventures in Vietnam are Caterpillar, Inc., Proctor and Gamble, Boeing, Eastman Kodak, IBM, Lockheed Martin, and McDonnell Douglas. And the list goes on and on: Citibank, Nike, General Electric. In fact, over 100 companies belong to the Coalition for U.S.-Vietnam Trade, which endorses fully normalized relations. These companies are awaiting the opportunity to invest in Vietnam's dynamic economy.

Mr. President, for Americans, these opportunities mean more jobs at home. One of the great benefits of this new chapter in United States-Vietnamese relations will be that ordinary Americans will benefit economically from the trade that will result.

There is an additional benefit that will flow from fully normalized relations with Vietnam. Greater contacts and expanded trade will put the United States in a better position to encourage respect for human rights and democracy in Vietnam. Increased cooperation and contact will lead to a more active exchange of ideas.

As we saw with the Soviet Union and Eastern Europe, when the barriers began to come down, Western ideas about democracy and freedom soon took hold. So too, with Vietnam: as the American and Vietnamese peoples come into greater contact with each other, the people of Vietnam will benefit by enjoying greater democratization.

Mr. President, today is a day of hope and optimism for the United States and Vietnam. Today, we put the tragedies of the past behind us and begin to work together to build a better relationship. Our children, and the children of Vietnam, will have a brighter future because of this decision. I commend President Clinton for taking this bold step.•

DRUG THERAPY IN PRISONS

• Mr. SIMON. Mr. President, recently the New York Times had a series of three articles on addiction.

The second of the three articles titled "Drug Therapy: Powerful Tool Reaching Few Inside Prisons" tells a tragic story of our failure to provide drug treatment for those in our prisons.

Those who serve on the Labor and Human Resources Committee with me know of my discouragement over our failure to pay more attention to drug treatment.

About a year ago, I visited Cook County Jail in Chicago, and in the process of going around a minimum security area where there were perhaps 40 men on cots in a large room similar to my old Army basic training barracks, I asked one of them what he would like to see to give him a better chance for the future. He told me he would like to get into the drug treatment program.

I turned to the jail official taking me around and asked why he could not. I was told they had 9,000 prisoners and places for only 200 in the drug treatment program. I asked for a show of hands among the other men in the dormitory who would like to get into drug treatment, and 25 or 30 raised their hands. Our failure to provide that opportunity for these men is as shortsighted as anything I can imagine.

As Mr. Treaster points out in his story: "Only a fraction of inmates—about 2 percent—undergo the kind of serious rehabilitation that can change destructive behaviors that have been congealing for a lifetime."

The article also accurately points out: "Drug treatment is a glacial process. Powerful changes can occur, but they take months, not days."

Many of the drug treatments are being cut back in time and, as a result, being cut back in effectiveness.

We should be listening to the practical words of experience that come forward from Joseph Treaster's article.

I ask that his article be printed in the RECORD and urge my colleagues and their staffs to read the article.

The article follows:

Drug Therapy: Powerful Tool Reaching Few Inside Prisons

(By Joseph B. Treaster)

On a summer night as sweet and soft as any he had ever known, Pierre Mathurin and another young man pulled to the curb in a quiet section of Queens, snorted a couple of lines of cocaine and set out down the sidewalk. They had spotted a man and a woman strolling alone, and now they were going after them, Mr. Mathurin's fingers tightening on a chrome-plated .25-caliber pistol.

It was just a week shy of Mr. Mathurin's 20th birthday, and his career as a drug dealer and armed robber was gathering momentum nicely. But that evening did not go as expected. The woman screamed, and Mr. Mathurin, fleeing with a wallet and a gold chain, was chased down by neighbors with baseball bats, turned over to the police and eventually sent to a prison drug treatment program that transformed his life.

Now, more than four years later, Mr. Mathurin says he is a retired criminal and recovering cocaine addict, earning a living as a barber and a partner in a video shop, paying taxes and finding it hard to visualize the frightening predator who stalked the streets in his skin. An energetic fireplug of a man who has traded the excitement of the streets for the dreams of a budding entrepreneur, Mr. Mathurin seems to be living proof that drug treatment, long viewed by skeptics as just so much touchy-feely hokum, can have a powerful impact on the lives of those who sustain the drug culture.

With more than one million Americans now behind bars and up to 80 percent of them involved with powerful drugs like cocaine and heroin, rehabilitation programs, at their best, offer a potent weapon for decreasing addiction, crime and the spiraling costs of incarceration.

Yet only about one in six inmates receives any kind of treatment, and much of it amounts to little more than "just say no" admonishments. Only a fraction of inmates—about 2 percent—undergo the kind of serious rehabilitation that can change destructive behaviors that have been congealing for a lifetime.

A result is that prisons perpetuate a kind of pinwheel of failure among drug users, who return to the streets unchanged and end up back in prison, sometimes within weeks. The best programs drastically cut the rearrest rate of participants. And they seem to be economical. One study in California showed that every $1 invested in solid drug treatment saved $7 in future costs of crime and incarceration.

Abstinence alone would not end the longing for drugs, experts say, but abstinence is not even an issue at most prisons, where drugs are available for those willing to pay.

Drug treatment advocates say the country could be providing intense anti-drug therapy to everyone in prison who needs if for a tiny fraction of what is being spent on the most explosive prison-building spree in history. But the nation's political leaders have stuck with bricks and mortar. Last fall, the Democratic-controlled Congress authorized $8 billion to build new prisons over the next six years, and only $400 million for drug treatment in state and Federal prisons. This year, the new Republican majority in Congress increased the prison construction allotment to $10 billion, leaving the treatment money the same.

few states, like California and South Carolina, are expanding drug treatment for prisoners. Texas began a sweeping new program four years ago, but is now scaling it back. And in New York, one of the pioneers, Gov. George E. Pataki, has cut treatment for several thousand prisoners as part of his plan to reduce state spending.

Joseph A. Califano Jr., the former aide to President Lyndon B. Johnson who now heads the Center on Alcohol and Substance Abuse at Columbia University, said society has a warped image of the inmate population that works against greater allocations for drug treatment.

"The average American thinks we've got guys in jail like the ones Jimmy Cagney and Humphrey Bogart played in the 1930's," Mr. Califano said. "In reality, the prisons are wall to wall with alcohol and drug abusers and the mentally ill. They're not hardened criminals; they're people who can change. But they can't change without help."

But Representative Bill McCollum, a Florida Republican who heads the House subcommittee on crime, said he and many others remain skeptical about the rehabilitative powers of treatment and about its power to reduce prison populations.

"The priority is in taking violent criminal offenders off the street and locking them up for long periods of time," he said. "That comes before drug treatment."

RESHAPING PEOPLE

"My life started changing"

Prison is an ideal place to apply drug treatment, in large part because that is where the addicts are.

On the outside, heavy drug users are scattered through almost every community. It is often hard to locate them and even harder to persuade them to enter treatment. Inside prisons, most inmates are motivated to enter treatment not because they are concerned about their drug problems but because they have something else to gain: early release, in New York; a relief from boredom; a cell in a prison closer to home.

After months in a treatment program, however, many inmates find that they have been drawn into the process despite themselves. That was the case with Mr. Mathurin. "It just started growing on me," he said. "Stuff started happening and my life started changing."

Keeping addicts from dropping out of treatment is almost as big a problem as coaxing them to enter in the first place. In prison, though, partly because the alternative is just another bunk in another cell block, the dropout rate is much lower.

Drug treatment programs, even the least intense ones, seem to bring tranquility to prisons. Administrators and officers say inmates in treatment programs fight less and give their keepers less of a hard time. John P. Erickson, who is in charge of substance abuse programs in the California prison system, said, "There is a ripple effect in terms of the overall prison environment."

The kind of treatment that has proved most effective with inmates is done in a so-called therapeutic community. Residents are housed together, and they eat, sleep and work on their drug problems together. They begin the day at the crack of dawn by cleaning up their cells and making their beds with military tucks. Then, after a peppy morning meeting, they march through a schedule of encounter groups and seminars that continues into the early evening. The structure itself is part of the treatment.

While drug abuse is the universal link in these programs, it is addressed as a symptom rather than the heart of the problem.

"The therapeutic community is a school about life," said Ronald Williams, a former heroin addict and armed robber who now runs New York Therapeutic Communities, which operates treatment programs in prisons in New York and Texas. "It's teaching how to live a life that is crime free and drug free, and providing the tools to accomplish that."

It amounts to reshaping people, and researchers say the best results usually take 12 to 18 months. But a therapeutic community at the R.J. Donovan Correctional Facility, a medium security prison in southern California, has shown a striking impact after only 9 to 12 months. In that therapy program, the reincarceration rate has been cut by about a third. A year after leaving prison, 42.6 percent of the inmates who graduated from the program were back behind bars again—compared with 63 percent of those who had served their time merely lifting weights, playing basketball and doing chores.

The results have been even better at a therapeutic community in a Delaware prison with a program that runs 18 months.

Drug-treatment programs promise eventual savings because they reduce the recidivism rate among graduates. But they require more initial spending, raising the cost per prisoner by about $10 a day in Texas and California and $15 a day in New York. Without treatment, Texas spends $44 a day to keep an inmate in prison. In California the cost is $57, and in New York it is $71.

States try to cut costs while still offering treatment by offering lectures on the dangers of drugs—which are pretty well known to most addicts—and weekly meetings of an hour or two of Narcotics Anonymous and Alcoholics Anonymous. California and New York offer some drug education programs that run over several months, and Alabama and Florida have been providing eight weeks of intensive treatment for many prisoners. But experts say such abbreviated treatment has little lasting effect.

"It's a false economy," said Dr. Lewis Yablonsky, a sociologist at East Texas State University who has been working with therapeutic communities for years. "If the states get behind the therapeutic community concept, we will cut our prison population in half over the next 25 years. That would save billions of dollars."

SHOWING THE WAY

Once an inmate, now a counselor

Drug treatment is a glacial process. Powerful changes can occur, but they take months, not days.

In a session shortly after breakfast one Monday morning at the Donovan Correctional Facility in California, on a sun-parched plateau overlooking the Mexican border, a handful of inmates sat in a circle of armchairs in a pleasant, carpeted room with paintings and color photos on the walls.

Michael Watkins, an imposing young burglar who likes crack cocaine far too much, was hunched over, glowering.

"I dreamed I was getting high," he said. He was upset. He had been working to rid himself of cravings for three months, and now he worried that he was sliding back.

But across the circle, Phillip Serrato, a 25-year-old drug smuggler and heroin addict, could not have been happier with himself. He had been out on the grassy prison yard, between the plaza filled with barbells and weight lifters and the asphalt basketball courts, he said, when some friends from his old neighborhood started passing around heroin and crystal methamphetamine.

"It gave me the chills," he said. "But I didn't take any, and I feel real good in my chest."

Gregory Kuhn, a 30-year-old drug dealer, had just turned down a marijuana joint in the yard. "Being right there, smelling it," he said wistfully. "I looked at it and I know I couldn't touch it."

It was the start of another week of treatment at Donovan, where the drug culture that persists behind bars is so accepted that it goes unremarked upon by prisoners and counselors alike. Russell Power, who has the name Rita tattooed on his neck in small, loopy script, was leading the group. Like many of the counselors working in the program at Donovan, run by Amity, a private treatment organization also operating in Arizona and Texas, Mr. Power, 38, is a former inmate and recovering drug addict, methamphetamine was his drug, manufacturing it was his crime.

Like most of America's inmates, many of the men came from households and neighborhoods where conversations about ideas, emotions and dreams were rarely held. Thinking broadly and deeply about their lives was not easy for them. And so Mr. Power's objective that morning was simply to get them talking and, in turn, thinking, first steps in recognizing and changing habits that repeatedly landed them in prison.

The addict-counselors, like Mr. Power, often seem to be participating as equals. But they are quietly suggesting ethical approaches to life, ways to get along without drugs, often using their own recovery and return from crime as illustrations.

Later that Monday, departing from his notes in a seminar dealing with truth, information, priorities and support, Mr. Power talked about using the group sessions to let off steam and tension. "If you're dreaming about using, you need to be talking about it in groups," he said. "If you're thinking about killing somebody you need to be saying it in the group.

"I use the group that way. If I talk about it, I usually won't do it."

On another afternoon in group therapy, after watching a film about German concentration camps intended to provoke a conversation about hatred, one inmate, Jimmy Carpenter, a heroin addict and shoplifter, objected to comments from another, Larry Jones, that compared the new Republican leadership to the Nazis.

Certain that Mr. Carpenter, who has two years of college, was putting him down Mr. Jones sprang to his feet, veins pulsing in his neck, and lunged across the circle. Standing inches apart, the two men blustered and sputtered. Finally, with everyone shouting them down, they slumped into their chairs.

It has been a close call, two men at the precipice of what would have been the first fist fight since drug treatment was started at Donovan in 1991. And, as it turned out, it was not about Nazis and Republicans at all.

Mr. Carpenter and Mr. Jones had been friends for 25 years. A year ago, when they entered the treatment program, they promised each other they would stay away from drugs. But not long before the holocaust discussion, Mr. Carpenter had broken his word. He had got hold of some marijuana and crystal methamphetamine in the yard and, after everyone else went to sleep, he turned on the light by his bunk and began to party. He stayed up all night, reading, listening to music and savoring the drugs.

A guard noticed the light and, in the morning, Mr. Carpenter was asked to give a urine sample, which, of course, proved he has been using drugs.

Though they try not get so close to the edge, the explosion was the sort of thing the counselors strive for.

"It teaches the inmates how to work through emotions," said Rod Mullen, the executive director of Amity.

"If they don't learn to control their emotions," he said, "the first bad thing that happens will set them off. They'll go rob a store, beat up their girlfriend, get drunk, get into a high-speed chase and then, of course, they're right back in the institution again."

GRADUAL ACCEPTANCE

Success brings more programs

Drug treatment in American prisons has had a rocky history. From its inception in the 1930's at Federal institutions in Lexington, Ky., and Forth Worth, it has generally been poorly administered and ineffective. By the mid-70's, criminal justice experts had come to believe that nothing works.

Some of the first convincing evidence that treatment could have a significant impact on crime came in the late 1980's from a therapeutic community in a New York State prison. Tracking inmates who had been out of the Arthur Kill state prison on Staten Island for three years, Dr. Harry K. Wexler found that of those who had spent a year in the Stay'n Out drug treatment program there, 27 percent had been in trouble with the police again, compared with 41 percent of the inmates who received no treatment.

Gradually, drug treatment in prisons began to expand as word of the success at Arthur Kill and at a prison in Oregon spread among professionals and Federal officials began financing pilot projects around the country. In a bit of horse trading in 1989, the New York State Assembly, which was Democratically controlled, agreed to go along with Gov. Mario M. Cuomo and the Republican-controlled Senate to build more prisons on the condition that drug treatment also be increased. By last year, there were eight therapeutic communities, treating about 8 percent of the state's 68,000 inmates.

Except for Stay'n Out, the therapeutic communities in the New York prisons run programs that last six months, about half as long as most experts think is the minimum necessary. Most of the inmates who go into therapeutic communities are primed with about six months of anti-drug education. But experts say the combined programs have far less impact on inmates than a full year of intensive treatment.

LIVING WITHOUT DRUGS

On his own, tempted no more

Pierre Mathurin's journey to recovery started in the Mohawk state prison in the gently rolling farmlands of central New York. He had been in prison for about a year and he had been getting high on marijuana and cocaine about every other week, depending on how supplies were running. Once in a while, he would get some heroin, he said, and sell it for 10 times its street value.

One morning at Mohawk, he said, he woke up and said to himself, "I don't want to get high no more."

He was not particularly interested in drug treatment. He did not think he needed it.

But he was told that the only way he could get into the work release program that would get him back on the street a year earlier was to go into treatment. So he signed up, and was sent to a therapeutic community run by Phoenix House, the largest residential drug treatment organization in the nation at the state prison in Marcy.

He was not a model patient. Twice he became incensed in encounter groups and threatened to punch other inmates. Each time, he was punished with extra chores and required to repeat parts of the treatment. Therapeutically, that may have worked to his advantage, because he ended up with nine months of treatment, three months more than the standard in New York.

Though experts say that follow-up treatment outside prison further diminishes the likelihood of inmates' being rearrested by as much as 20 percent, Mr. Mathurin, like most inmates around the country, was not required to continue his treatment after being released.

But something had taken hold in him, and he arranged to participate in encounter groups at a Phoenix House center in Manhattan three times a week. Then it was twice a week. Then, once a week and finally, he was on his own, except for the Narcotics Anonymous meetings that he attends three times a week.

He is back with some of his old friends now, and some of them are still using drugs. One of them is the young man with whom he did his last stickup. He got away that night, was picked up for gun possession a couple of years later, but got off with five years' probation. He is still using drugs, and he and Mr. Mathurin are still close. But Mr. Mathurin said he did not feel tempted to get high with his friend.

"He doesn't do it in front of me, and we don't talk about it," Mr. Mathurin said. "One day, he'll probably be like me. But I'm not going to preach recovery. He's got to want it."

In the old days, Mr. Mathurin said, he considered himself mainly a drug dealer and had gone out to rob people only when sales were slow. There was, though, a certain amount of excitement, he said, in "putting somebody in fear."

"Now," he said, "I don't think that was right. I'm not going to say I'm making more money now. But I'm feeling better. I may make less, but you spend more wisely when you actually earn it."●

RECESS UNTIL 9 A.M. TOMORROW

Mr. LOTT. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in recess under the previous order.

There being no objection, the Senate, at 10:07 p.m., recessed until Thursday, July 13, 1995, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate July 12, 1995:

DEPARTMENT OF STATE

JAMES FRANKLIN COLLINS, OF ILLINOIS, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR AT LARGE AND SPECIAL ADVISOR TO THE SECRETARY OF STATE FOR THE NEW INDEPENDENT STATES.

STANLEY TUEMLER ESCUDERO, OF FLORIDA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF UZBEKISTAN.

JOSEPH A. PRESEL, OF RHODE ISLAND, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, FOR THE RANK OF AMBASSADOR DURING HIS TENURE OF SERVICE AS SPECIAL NEGOTIATOR FOR NAGORNO-KARABAKH.

OFFICE OF PERSONNEL MANAGEMENT

STEPHEN D. POTTS, OF MARYLAND, TO BE DIRECTOR OF THE OFFICE OF GOVERNMENT ETHICS FOR A TERM OF 5 YEARS. (REAPPOINTMENT.)

IN THE AIR FORCE

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

MAJ. GEN. KENNETH A. MINIHAN [redacted]

THE FOLLOWING-NAMED OFFICERS, ON THE ACTIVE DUTY LIST, FOR PROMOTION TO THE GRADE INDICATED IN THE U.S. ARMY IN ACCORDANCE WITH SECTION 624, TITLE 10, UNITED STATES CODE. THE OFFICERS INDICATED BY ASTERISK ARE ALSO NOMINATED FOR APPOINTMENT IN THE REGULAR ARMY IN ACCORDANCE WITH SECTION 531, TITLE 10, UNITED STATES CODE:

DENTAL CORPS

To be lieutenant colonel

*ANDERSON, DAVID C. [redacted]
*APICELLA, MICHAEL J. [redacted]
BAUR, DALE A. [redacted]
*BECKER, TIMOTHY A. [redacted]
BLYTHE, GREGORY A. [redacted]
*BODEY, TIMOTHY E. [redacted]
*BRUCE, GEORGE L. [redacted]
CARMICHAEL, WILLIAM [redacted]
COOK, BENJAMIN T. [redacted]
*CORBETT, MARYJO [redacted]
CRIPPS, KATHRYN A. [redacted]
*CURETON, STEVEN L. [redacted]
CZERW, RUSSELL J. [redacted]
DUKE, JIM B., JR. [redacted]
DUVERNOIS, MARK F. [redacted]
*EARLY, CALVIN L. [redacted]
FERGUSON, HENRY W. [redacted]
*FREYFOGLE, MARIA L. [redacted]
*FULKERSON, MICHAEL [redacted]
*GALLOUCIS, THERESE [redacted]
GAWLIK, JOHN A. [redacted]
GIEBINK, DALE L. [redacted]
*GILMAN, DAVID G. [redacted]
*HALL, GARY L. [redacted]
*ISAAC, JOSEPH B. [redacted]
*LAVIN, DANIEL P. [redacted]
MALONE, KAY H. [redacted]
MAXWELL, MARK F. [redacted]
METHVIN, NATHAN F. [redacted]
MOON, MARTY G. [redacted]
*MORRIS, WALTER J. [redacted]
MUSE, JOHN H. [redacted]
OAKES, KEVIN S. [redacted]
PARKER, JAMES E. [redacted]
PIVONKA, TIMOTHY M. [redacted]
RADKE, MARTIN C. [redacted]
*RAEZ, ARLYNN G. [redacted]
REICHL, PETER G. [redacted]
ROACH, ROBERT B. [redacted]
*SANDLEBACK, BRET F. [redacted]
SMITH, ALAN D. [redacted]
SNYDER, HAROLD B. [redacted]
SOUTH, GREGORY R. [redacted]
*SUNDBERG, MARK A. [redacted]
*SWIEC, GARY D. [redacted]
*VAIL, MARK V. [redacted]
WILL, MICHAEL J. [redacted]
WONG, MING T. [redacted]
WUNSCH, KEITH A. [redacted]
*ZUEHLKE, ROBERT K. [redacted]

MEDICAL CORPS

To be lieutenant colonel

*ALITZ, CURTIS J. [redacted]
ANDERSON, LAWRENCE [redacted]
*ANGELONI, VINCENT L. [redacted]
ANGUEIRA, CARLOS E. [redacted]
ARMSTRONG, MICHAEL [redacted]
ARMSTRONG, SCOTT C. [redacted]
*BABCOCK, JANIINE G. [redacted]
*BARRAZA, EVELYN M. [redacted]
BARTHEL, HERMAN J. [redacted]
*BELBEL, ROGER J. [redacted]
*BELL, JAMES A. [redacted]
*BENIQUEZ, ENRIQUE [redacted]
BLACK, JOHN F. [redacted]
BOLAN, CHARLES D. [redacted]
*BRANTNER, LINDA M. [redacted]
BRENT, ELAINE L. [redacted]
*BRITTAIN, PHILIP C. [redacted]
BROADHURST, RICHARD [redacted]
*BROWN, BRUCE F. [redacted]
*BUNDY, EARL D. [redacted]
BURCH, HENRY B. [redacted]
*BURRELL, LINDA M. [redacted]
*CALDWELL, CHARLES M. [redacted]
*CALLAHAN, CHARLES W. [redacted]
*CAMPBELL, BRIAN S. [redacted]
*CANDLER, WILLIAM H. [redacted]
CARDINAL, PETER A. [redacted]
*CARPENTER, ALAN L. [redacted]
*CARTER, WALLACE R. [redacted]
CAUDLE, LESTER C. [redacted]
CHRISTENSON, JOSEPH [redacted]
*CICERI, DAVID P. [redacted]
*CLEMENT, STEPHEN C. [redacted]
*COBB, CLARK H. [redacted]
*COLL, EDWARD J. [redacted]
*COLONNA, JOHN O. [redacted]
*CONRAD, STUART A. [redacted]
CORDTS, PAUL R. [redacted]
COTTER, DERMOT M. [redacted]
*COTTER, FRANK [redacted]
*COUGHLIN, WILLIAM F. [redacted]
DEBO, RICHARD F. [redacted]
*DEMERS, DENISE M. [redacted]
*DEW, MICHAEL S. [redacted]
DICK, JOHN S. [redacted]
*ELG, STEVEN A. [redacted]
ENDY, TIMOTHY P. [redacted]
*EUHUS, DAVID M. [redacted]
FARRINGTON, CHARLES [redacted]
FAUCETTE, KELLY J. [redacted]
*FICHTNER, KURT A. [redacted]
*FITCH, CHARLES P. [redacted]
FLYNN, ANNE M. [redacted]
FOLEY, JOHN P. [redacted]
*FORTENBERY, EDWIN J. [redacted]
*FRANKS, ERIC H. [redacted]
*FRAZIER, DUSTIN C. [redacted]
*FRISHBERG, DAVID P. [redacted]
*GAYLE, EVERETT L. [redacted]
*GEISSELE, ALFRED E. [redacted]
*GONZALEZTORRES, INE [redacted]
*GOODRICH, SCOTT G. [redacted]
*GREEFKENS, STEPHEN [redacted]
GREENE, COLIN M. [redacted]
*HAAK, MICHAEL H. [redacted]
HADLEY, STEVEN C. [redacted]
*HAMELINK, JOHN K. [redacted]
*HAMILL, RANDY L. [redacted]
*HAYS, JANET V. [redacted]
HEAVEN, RALPH F. [redacted]
*HEPPNER, DONALD G. [redacted]
*HEYER, BONNIE L. [redacted]
*HISE, LEO L. [redacted]
*HOGE, CHARLES W. [redacted]
*HORAN, MARY P. [redacted]
HOTARD, MICHAEL C. [redacted]
HUGHES, WILLIAM A. [redacted]
JACOCKS, JOHN M. [redacted]
*KASPER, ROBERT E. [redacted]
KAVOLIUS, JEFFREY P. [redacted]
*KELLER, RICHARD A. [redacted]
*KIM, YOUNGSOOK C. [redacted]
*KIRSHNER, DREW L. [redacted]
KLEMME, WILLIAM R. [redacted]
KNUTH, THOMAS E. [redacted]
*KRYWICKI, ROBERT F. [redacted]
*KULIK, STEVEN A. [redacted]
*LABUTTA, ROBERT J. [redacted]
*LAIRD, JOHN R. [redacted]
*LAWHORN, STEPHEN C. [redacted]
LEIBERT, BRUCE A. [redacted]
LIENING, DOUGLAS A. [redacted]
LISEHORA, GEORGE B. [redacted]
*LOPEZ, JUAN M. [redacted]
*LOUNSBERY, DOREEN M. [redacted]
*LOWRY, PATRICK J. [redacted]
*LYNGHOLM, THOMAS P. [redacted]
*MACDONALD, DAVID C. [redacted]
*MAGILL, ALAN J. [redacted]
*MAHER, CORNELIUS C. [redacted]
*MAHONEY, MICHAEL C. [redacted]
MALAVE, DAVID [redacted]
*MALIK, ANWAR K. [redacted]
*MALONE, RICKY D. [redacted]
*MARINO, CHRIS J. [redacted]
*MARSH, JOHN O [redacted]
*MARTIN, BRYAN L. [redacted]
*MASON, CARL J. [redacted]
*MC CARTER, DALE L. [redacted]
MC DERMOTT, GLENN D. [redacted]
*MEGO, DAVID M. [redacted]
*MELLEN, PAUL F. [redacted]
*MOCZYGEMBA, RICHARD [redacted]
*MOORES, RUSSELL R. [redacted]
MORGAN, ANN M. [redacted]
*MORRIS, JOSEPH T. [redacted]
MULLIN, JAMES C [redacted]
NACE, MARY C. [redacted]
*NATTER, LONNY R. [redacted]
*NAUSCHUETZ, KAREN K. [redacted]
*NOLAN, JOHN W. [redacted]
*NORTH, JAMES H. [redacted]
*O'DONNELL, SEAN D. [redacted]
*OHNO, AGNES K. [redacted]
*PEELE, MARK E. [redacted]
POLLY, DAVID W. [redacted]
POLLY, SHIRLEY M. [redacted]
PORTER, CLIFFORD A. [redacted]
POWELL, JOHN A. [redacted]
*PROCTOR, JON A. [redacted]
*RAEZ, EDUARDO R. [redacted]
*RAMOS, AUGUSTO [redacted]
RANDOLPH, RICHARD J. [redacted]
RENOMDELABAUME, HEN [redacted]
*ROBIE, DANIEL K. [redacted]
RONNINGEN, LELAND D. [redacted]
ROVIRA, MIGUEL J. [redacted]
*SANTIAGOMARINI, JUA [redacted]
SCHLATTER, MARGARET [redacted]
*SCHMIDT, HOWARD J. [redacted]
SEAY, WALLACE J., [redacted]
SEDLAK, RICHARD G. [redacted]
*SHAFFER, RICHARD T. [redacted]
SILKOWSKI, PETER A. [redacted]
*SIMMONS, GARY E. [redacted]
SLACK, MICHAEL C. [redacted]
SMITH, GEORGE R. [redacted]
*SMITH, PAUL D. [redacted]
*SMOLEN, HARRY G. [redacted]
*STEVENS, EDWARD L. [redacted]
STPIERRE, PATRICK [redacted]
*SUDDUTH, LYNN S. [redacted]
*SUDDUTH, ROBERT H. [redacted]
SWANN, STEVEN W. [redacted]
*THEROUX, JOHN F. [redacted]
TSUFIS, MARC P. [redacted]
*UNDERWOOD, PAULA K. [redacted]
*VAUGHAN, THOMAS K. [redacted]
WALTERS, TERRY J. [redacted]

*WARD, THOMAS P. [redacted]
WATERHOUSE, WILLIAM [redacted]
*WELLER, ROBERT W. [redacted]
*WELLFORD, ARMISTEAD [redacted]
*WESCHE, DAVID L. [redacted]
*WESTPHAL, KENNETH W. [redacted]
*WILLIAMS, GUY P. [redacted]
*WILSON, FREDERIC B. [redacted]
*WILSON, JON J. [redacted]
*WILSON, STEVEN S. [redacted]
*WONG, ROLAND W. [redacted]
ZEFF, KARL N. [redacted]
*ZIMMERMAN, GRETA C. [redacted]

THE FOLLOWING-NAMED LIEUTENANT COMMANDERS IN THE STAFF CORPS OF THE NAVY FOR PROMOTION TO THE PERMANENT GRADE OF COMMANDER, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 624, SUBJECT TO QUALIFICATIONS THEREFORE AS PROVIDED BY LAW:

MEDICAL CORPS OFFICERS

To be commander

ACOSTA, JOSE A. [redacted]
AGEE, KIMBERLY [redacted]
ALFORD, PHILIP P. [redacted]
ARMSTRONG, CHRISTOPHER R. [redacted]
BALEIX, JOHN C. [redacted]
BARR, RICHARD S. [redacted]
BILDSTEN, SCOTT A. [redacted]
BONGIOVANNI, MICHAEL S. [redacted]
BOYD, HAROLD D. [redacted]
BRAATZ, STEVEN E. [redacted]
BRAZEE, SYLVIA Y. [redacted]
BRINGS, HANS A. [redacted]
BROOKS, KEVIN E. [redacted]
BRYANT, PAULETTE C. [redacted]
BULGER, ROSE M. [redacted]
BURKE, ROBERT J. [redacted]
CANADY, MICHAEL R. [redacted]
CENTNER, DONALD J. [redacted]
CHIMIAK, JAMES M. [redacted]
CHINN, COLIN G. [redacted]
CHRISTEN, BRUCE R. [redacted]
CLAPPER, LAURA M [redacted]
COHILL, EDWARD N. [redacted]
COLLE, GREGG J. [redacted]
COMBEST, DAVID C. [redacted]
COOK, JOEL P. [redacted]
CRUFF, DENNIS M. [redacted]
CUSHMAN, JERRY F. [redacted]
DAELEY, MARK A. [redacted]
DALY, KAREN A. [redacted]
DARLING, ROBERT G. [redacted]
DEEDMAN, ROBERT A. [redacted]
DOYLE, JOSEPH G. [redacted]
DWYER, TERRENCE X. [redacted]
ELIAS, WALTER, III [redacted]
ELWOOD, WILLIAM S. [redacted]
FITZGERALD, DEBORAH M. [redacted]
FLAX, STEPHEN H. [redacted]
FLEMMING, DONALD J. [redacted]
FORSYTH, JOHN C. [redacted]
GACCIONE, DANIEL R. [redacted]
GALLAGHER, KEVIN L. [redacted]
GASS, FREDERICK C. [redacted]
GERLACH, STEPHAN O. [redacted]
GERSTENFELD, TAMMY S. [redacted]
GILLIS, ROBERT B. [redacted]
GRIFFIN, LORRAINE J. [redacted]
GRIFFIN, RICHARD L. [redacted]
HANSEN, DAVID A. [redacted]
HARRELLBRUDER, BEVERLY G. [redacted]
HATLEY, THOMAS E. [redacted]
HENDRIX, STEPHEN L. [redacted]
HERDEN, MARY J. [redacted]
HERMAN, BARRY E. [redacted]
HIGGINS, JAMES C. [redacted]
HOEKSEMA, GREG W. [redacted]
HOLMBOE, ERIC S. [redacted]
HONIG, MARK P. [redacted]
HUFFORD, DENNIS L. [redacted]
HULLANDER, ROBERT M. [redacted]
HUNTER, ROBERT B., III [redacted]
HURST, WILLIAM [redacted]
JANKIEWICZ, JOSEPH J., [redacted]
JOHNSTON, MARK H. [redacted]
JONES, SHAUN B. [redacted]
KANE, EDWARD J., JR. [redacted]
KARL, ROBERT L. [redacted]
KEEFE, KELLY S. [redacted]
KEMPF, DOUGLAS P. [redacted]
KNIGHTLY, JOHN J. [redacted]
KNITTEL, DOUGLAS R. [redacted]
KNOIZEN, KERRY K [redacted]
KOBERNIK, TIMOTHY [redacted]
KUHN, JEFFERY J. [redacted]
LAMB, CHARLES L. [redacted]
LANE, JOHN I. [redacted]
LEWIS, ANDREW W. [redacted]
LIBERMAN, MARK A. [redacted]
LIGHT, JERRY T. [redacted]
LIM, ALAN [redacted]
LIPTON, JAMES A. [redacted]
LOCKE, RONALD [redacted]
LOWE, ROBERT R., JR. [redacted]
MAC DONALD, MARIAN L. [redacted]
MACYKO, CATHERINE A. [redacted]
MANDIA, STEPHEN E. [redacted]
MARRON, JAMES A. [redacted]
MARSHALL, ROBERT C. [redacted]
MARSHALL, SHARON A. [redacted]
MARTIN, GREGORY J. [redacted]
MARTIN, LAURA M. [redacted]
MASCOLA, JOHN R. [redacted]
MAXWELL, DANIEL L. [redacted]
MC BRIDE, WAYNE Z. [redacted]
MC CANN, DERVILLA M. [redacted]
MC CLATCHEY, SCOTT K. [redacted]
MC DONALD, ERIC C. [redacted]
MC DONOUGH, JOHN L. [redacted]
MC MAHON, ROBERT W. [redacted]
MEVORACH, ROBERT A. [redacted]
MICHALSKI, JOHN A. [redacted]
MINER, DAVID W. [redacted]
MOELLER, KATHLEEN H. [redacted]
MOELLER, MICHAEL S. [redacted]
MOQUIN, ROSS [redacted]
NOWICKI, MICHAEL J. [redacted]
NUTAITIS, MATTHEW J. [redacted]
O'BRIEN, THOMAS J., IV [redacted]
OLIVOS, GUILLERMO [redacted]
O'MALLEY, TIMOTHY P. [redacted]
OOSTERMAN, STEPHAN E. [redacted]
PARKER, RICHARD L. [redacted]
PARRY, ROBERT L. [redacted]
PATTI, MICHAEL J. [redacted]
PERLA, TODD A. [redacted]
PESQUEIRA, MICHAEL J. [redacted]
PETERSON, DREW A. [redacted]
PINTO, FRANK J., JR. [redacted]
PITMAN, KAREN T. [redacted]
PIZARRO, PABLO D. [redacted]
POTTER, PAUL [redacted]
PRATT, DENNIS [redacted]
PROCTOR, JEFFREY G. [redacted]
REBAGLIATI, GERARD S. [redacted]
RECTOR, JAMES T. [redacted]
REDMOND, BILLY [redacted]
ROBERTS, DAVID [redacted]
ROBINSON, WILLIAM P., JR. [redacted]
ROHLEDER, KATHLEEN A. [redacted]
ROSS, MARCO A. [redacted]
SALTZMAN, ANDREW K. [redacted]
SARGENT, BRIAN E. [redacted]
SCHNEIDER, JAMES J. [redacted]
SCHOEM, SCOTT R. [redacted]
SEGNA, RUDY A. [redacted]
SHOWS, DONALD E. [redacted]
SIEFERT, JOHN A. [redacted]
SMITH, JAMES F., JR. [redacted]
SNEAD, THOMAS A. [redacted]
SORENSON, ROBERT B. [redacted]
SOUTHER, STEPHEN D. [redacted]
SPAW, RAYMOND G. [redacted]
STEDWELL, RAY E. [redacted]
STEELE, KIRTH W. [redacted]
SUAREZ, ERIC S. [redacted]
SWARTWORTH, WILLIAM J. [redacted]
SWEGLE, JAMES R. [redacted]
TACORONTI, RUDOLPH V. [redacted]
TEMERLIN, STEVEN M. [redacted]
THOMAS, CORNELIUS W. [redacted]
THOMAS, DAVID E. [redacted]
TOBIN, MICHAEL L. [redacted]
TYSON, JOHN W. [redacted]
ULRICH, GEORGE G. [redacted]
UNGER, DANIEL V., IV [redacted]
VALENTE, JAMES D. [redacted]
VUKOVICH, JONATHAN G. [redacted]
WALL, ROBERT S. [redacted]
WANDEL, ANY G. [redacted]
WEBSTER, NICHOLAS L. [redacted]
WETSMAN, HOWARD C. [redacted]
WILSON, BRITT C. [redacted]
WILSON, JAMES S. [redacted]
WINGLER, KENNETH A. [redacted]
WOYTASH, JAMES J. [redacted]
YOUNG, ROBERT P. [redacted]
ZAUSMER, GLENN [redacted]
ZUKOWSKI, MARK L. [redacted]

SUPPLY CORPS OFFICERS

To be commander

AHERN, MICHAEL G. [redacted]
ANDERSON, BERNIE J., JR. [redacted]
ASSELIN, ROBERT R. [redacted]
AVRAM, GEORGE P. [redacted]
BATES, BASIL B. [redacted]
BETHMANN, THOMAS S. [redacted]
BIANCHI, ROBERT J. [redacted]
BIRDWELL, ROBERT J. [redacted]
BRENNER, GERARD F. [redacted]
BROWN, MARK A. [redacted]
BURTON, CHESTER O. [redacted]
CAMPBELL, RICHARD D. [redacted]
CARLSON, MICHAEL P. [redacted]
CHOJNOWSKI, KIM C. [redacted]
COOPER, DAVID L. JR. [redacted]
COX, WAYNE A. [redacted]
COYNE, JOHN W. [redacted]
CRAFT, MICHAEL J. [redacted]
CRAWFORD, KEVIN P. [redacted]
CURRY, WILLIAM S. [redacted]
CUSKEY, JEFFREY R. [redacted]
DAVIS, HARRY W. [redacted]
DEMANN, PETER J. [redacted]
DESMARAIS, CAROL J. [redacted]
DEXTER, MARK D. [redacted]
DOWNS, DANIEL L. [redacted]
DUCHOW, DARBY J. [redacted]
DUNN, JAMES L. [redacted]
DUNNEHAYES, ANNE [redacted]
FALLON, JAMES S. [redacted]
FLONDARINA, PAUL V. [redacted]
FRASER, HEATHER A. [redacted]
FREEBURN, GREGORY H. [redacted]
GORDON, MICHAEL E. [redacted]
GRAFF, DAVID J. [redacted]
GRAU, CHARLES V. [redacted]
GREEN, BRUCE E., JR. [redacted]
GREEN, TIMOTHY F. [redacted]
GUEVARA, JOY M. [redacted]
HAY, ROBERT W., JR. [redacted]
HAYWARD, JOHN A. [redacted]
HITSON, ROBERT L. [redacted]
JACUNSKI, WALTER W. [redacted]
JORGENSEN, HERMAN J.M., IV [redacted]
KAMMERER, RONALD G. [redacted]
KELLY, GARY E. [redacted]
KERBER, JAMES L. [redacted]
KERTZ, GARY W. [redacted]
KOMPANIK, MICHAEL P. [redacted]
KUHM, FREDERICK G. [redacted]
LAMBERT, MARIE S. [redacted]
LAWRIMORE, JANICE A. [redacted]
MANNA, JOSEPH F. [redacted]
MARCINEK, ROBERT D. [redacted]
MC CARTHY, JOHN P. [redacted]
MC CLELLAN, MOLLY J. [redacted]
MELTON, WALTER H. [redacted]
MENDEZ, RICHARD A. [redacted]
MILLER, DONALD C. [redacted]
MILLER, JONATHAN D. [redacted]
MILLER, ROBERT W. [redacted]
MONETTE, ROBERT L. [redacted]
MOON, KYUNG C. [redacted]
MORGAN, CHARLES W. [redacted]
MUCK, STEVEN R. [redacted]
MURPHY, ROBERT P. [redacted]
NAPOLI, JOSEPH A., JR. [redacted]
O'CONNOR, KEVIN T. [redacted]
PADDOCK, CHRISTOPHER D. [redacted]
PAGE, ASA H. III [redacted]
PINKERTON, KIM G. [redacted]
RACKLIFFE, JOHN A. [redacted]
REIDY, DONALD J. JR. [redacted]
RITCHIE, MARY G. [redacted]
ROE, RUSSELL G. [redacted]
ROMANO, STEVEN J. [redacted]
ROSS, TIMOTHY J. [redacted]
RULE, GADSDEN E. [redacted]
SEIDL, MARK F. [redacted]
SERGESON, ROBERT B. [redacted]
SICARI, JAMES J. [redacted]
SMALL, CHRIS W. [redacted]
SNYDER, ROBERT J. [redacted]
SPEAR, CHARLES O., IV [redacted]
STAGGS, CARL S. [redacted]
STYRON, ERNEST L. [redacted]
SULLIVAN, LOREN C. [redacted]
SWEENEY, EDWARD J. [redacted]
SWEENEY, RICHARD F. [redacted]
SWERCZEK, ANTHONY G. [redacted]
TALWAR, PAUL [redacted]
TIFFANY, MURRAY L., III [redacted]
TILLSON, PATRICK A. [redacted]
TROJAN, GREGORY C. [redacted]
VANHAASTEREN, CLEVE J. [redacted]
VITT, CHRISTOPHER M. [redacted]
WARREN, GRIFFIN L. [redacted]
WIGGS, DAVID B. [redacted]
WISE, MICHAEL S. [redacted]
WRIGHT, WALTER F. [redacted]
ZAK, GARY W. [redacted]
ZUCKER, JANET F. [redacted]

CHAPLAIN CORPS OFFICERS

To be commander

ARNOLD, RALPH W., JR. [redacted]
BARTZ, WILLIAM J. [redacted]
BUENAVENTURA, CESAR V., [redacted]
BURRELL, HAROLD W. [redacted]
CASH, TIERIAN [redacted]
DOUGLAS, RALPH S. [redacted]
DOUGLASS, WILBUR C., III [redacted]
EVANS, ROBERT D. [redacted]
FUNG, KARL K. [redacted]
KLOAK, DAVID G. [redacted]
LOOBY, JAMES F. [redacted]
MILTON, NATHANIEL [redacted]
PUTTLER, JAMES D. [redacted]
SHAFER, DAVID W. [redacted]
THIES, THOMAS E. [redacted]
VILLANUEVA, FELIX C. [redacted]
VINSON, JAMES E., JR. [redacted]
WAUN, WILLIAM G. [redacted]
WILLIAMS, ROBERT L., JR. [redacted]
WOHLRABE, JOHN C., JR. [redacted]
WYRICK, PHILIP A. [redacted]
ZUFFOLETTO, MICHAEL P. [redacted]

CIVIL ENGINEER CORPS OFFICERS

To be commander

BALK, DAVID M. [redacted]
BANHAM, STEPHEN R. [redacted]
BELLIS, CHRISTINA A. [redacted]
BERSSON, THOMAS F. [redacted]
BROWN, JOHN R. [redacted]
CHASE, HENRI G. [redacted]
COLEMAN, BRYCE C. [redacted]
COOK, PAUL S. [redacted]
COWELL, JAMES W., JR. [redacted]
DAVIS, HULEN M., JR. [redacted]

FEILER, PHILIP S. [redacted]
HUBBARD, EUGENE F. [redacted]
INGALLS, JON W. [redacted]
ISELIN, STEVEN R [redacted]
JACKSON, JAMES R. [redacted]
JENNISON, STEPHEN D [redacted]
KING, DANIEL P. [redacted]
LORD, STEPHEN J. [redacted]
MAFFETT, GREGORY L [redacted]
MCKERALL, WILLIAM C. [redacted]
MILLER, CHARLES C., II [redacted]
MONACHINO, JOSEPH A. [redacted]
PARKER, ROBERT F. [redacted]
PECK, JAMES T. V.L [redacted]
PEEK, MICHAEL A. [redacted]
POELKER, SCOTT D. [redacted]
RAMSAY, ROBERT A. [redacted]
RIEGER, MICHAEL N. [redacted]
ROTH, RICHARD D., JR. [redacted]
SARLES, MARK V. [redacted]
SCHLESINGER, R.D. [redacted]
SHOPE, BRUCE G. [redacted]
STEWART, DAVID J. [redacted]
THACKSON, RUSSELL C. [redacted]
WATTS, EDWIN B. [redacted]
WHITE, KEVIN M. [redacted]
WIEGAND, FRANCIS P., JR. [redacted]
ZINK, JOHN W. [redacted]

JUDGE ADVOCATE GENERAL'S CORPS OFFICERS

To be commander

ALLRED, KEITH J. [redacted]
ARGALL, DENNIS J. [redacted]
ARMSTRONG, ERICK L. [redacted]
BATTIN, PATRICIA J [redacted]
CARBER, FRANK H., JR. [redacted]
CLEMENT, DAVID B. [redacted]
CRAWFORD, JAMES W., III [redacted]
DART, BEVERLY R. [redacted]
DONOVAN, DANIEL G. [redacted]
GAASCH, CAROLE J. [redacted]
HOUCK, JAMES W. [redacted]
MACKENZIE, BRUCE W. [redacted]
MASON, MICHAELEEN [redacted]
NEHER, PATRICK J. [redacted]
WALTMAN, BURTON J. [redacted]

DENTAL CORPS OFFICERS

To be commander

ARAGON, JOHN R. [redacted]
AUSMUS, MATHEW S. [redacted]
BABINEC, ROCCO M. [redacted]
BEATTY, DEAN A. [redacted]
BUCK, JOHN S. [redacted]
DICKINSON, JAMES [redacted]
DURY, DOROTHY C. [redacted]
EHRICH, DANIEL G. [redacted]
FOSS, ROBERT D. [redacted]
FUENTES, FRANCISCO [redacted]
GARRITY, PATRICIA M [redacted]
GLYNN, DAVID W. [redacted]
HANKS, ROGER E. [redacted]
HERNANDEZ, ARTHUR J. [redacted]
HOYT, LISA G. [redacted]
HUBER, TIMOTHY R. [redacted]
LUNDGREN, JOHN P. [redacted]
MCCRAVY, LAURIER L. [redacted]
MCLEOD, BRUCE C. [redacted]
MEARS, KEVIN J. [redacted]
PADGETT, THOMAS B. [redacted]
PARREIRA, FRANCIS R [redacted]
PASTUOVIC, MILAN N. [redacted]
REAGAN, PAUL D. [redacted]
REEVES, NANCY L. [redacted]
ROUTIER, DONALD D. [redacted]
RUSSELL, DAVID A. [redacted]
SCHAFER, DUANE R. [redacted]
SELLERS, VERNON [redacted]
SMITH, PAUL R. [redacted]
SZAL, RICHARD L. [redacted]
THOMAS, BRUCE J. [redacted]
THOMPSON, THOMAS M. [redacted]
TODD, ALLEN D. [redacted]
WALKER, CAROL L. [redacted]
WATKINS, DALE V., JR. [redacted]
WATTS, JOHN H. [redacted]
WEBBER, CAROLINE M. [redacted]
WILSON, TIMOTHY J. [redacted]
YOUNGBLADE, CHARLES J., JR. [redacted]

MEDICAL SERVICE CORPS OFFICERS

To be commander

ANDERSON, EDWARD W., JR. [redacted]
ANDERSON, THOMAS J. [redacted]
BATCHELOR, ROGER A. [redacted]
BAYSINGER, MARK O. [redacted]
BRANNMAN, PAMELA S. H. [redacted]
BRESHIKE, KEVIN J. [redacted]
CHURCH, COLE J. [redacted]
CLIPPER, ROBERT W., JR. [redacted]
CORWIN, ANDREW L. [redacted]
DEVINE, RONALD J. [redacted]
EICHNER, RYAN B. [redacted]
FOGARTY, MICHAEL B. [redacted]
FRANCIS, JOSEPH P [redacted]
FRANKE, EILEEN D. [redacted]
HIGGINS, GARRY A. [redacted]
JONES, TREVOR R. [redacted]
KANOUR, WILLIAM W., JR. [redacted]
LEIBOLD, VIRGINIA E. [redacted]
LEMM, MICHAEL E. [redacted]
LUND, PAUL W. [redacted]
LUZ, JAMES T. [redacted]
MANN, MICHAEL O. [redacted]
MASON, RICHARD P. [redacted]
MUNSON, MARK R. [redacted]
MURDOCH, DONNA M. [redacted]
OCKER, KENNETH R. [redacted]
OLSEN, CHARLES N. [redacted]
PATTERSON, ERIN E. [redacted]
POBLETE, RICARDO Q. [redacted]
ROBINSON, CHARLES A. [redacted]
ROBINSON, STEVEN E. [redacted]
SCHWALM, MICHAEL A. [redacted]
SLATER, RANDALL A. [redacted]
STEVENSON, FRANCINE S. [redacted]
TAYLOR, DEAN A. [redacted]
THOMPSON, TIMOTHY E. [redacted]
TINLING, WALTER W. [redacted]
UPDEGROVE, CHARLES D. [redacted]
VALENTIN, ELEANOR V. [redacted]
WEBER, DENISE E. [redacted]
WILKINSON, MICHAEL O. [redacted]

NURSE CORPS OFFICERS

To be commander

ALDRICH, DIANNE J [redacted]
ANDERSON, MARY A. [redacted]
ATCHISON, JOAN R. [redacted]
BACKMAN, MARY P. [redacted]
BANKSTARR, SHARON E. [redacted]
BARENDSE, BARNEY R. [redacted]
BURKE, DARLENE M. [redacted]
CARRIO, JAN M. [redacted]
CHERRY, JOHN W. [redacted]
CHRISTENSEN, SOREN [redacted]
CLOSS, MARGARET M. [redacted]
CULVER, PATRICIA M. [redacted]
DONOVAN, DENDY D. [redacted]
ESPINOSA, JULIO S., JR. [redacted]
FRICKER, DIANA L. [redacted]
FRYSLIE, ARLETTA R [redacted]
GIL, JOSIE I. [redacted]
HAND, WALTER R., JR. [redacted]
HEINDEL, LOUIS J. [redacted]
HIGGINS, LINDA W. [redacted]
JACKSON, MARY K. [redacted]
KOHL, JAMES E. [redacted]
LAMPO, BONNY J.C. [redacted]
LUNDGREN, KARIN E. [redacted]
MADDEN, LORETTA A. [redacted]
MARTINSANDERS, SUSAN L. [redacted]
MCCARTHY, DAVID R. [redacted]
MCCLOSKEY, JUDITH A. [redacted]
MCCORMICKBOYLE, REBECCA J. [redacted]
MCDOWELL, DENISE S. [redacted]
MCKINSEY, KAREN T. [redacted]
MOORING, ELIZABETH M. [redacted]
MORRIS, SANDRA E. [redacted]
MURPHY, PAMELA L. [redacted]
NOGGLE, VANESSA A. [redacted]
PEARLMAN, HELEN V. [redacted]
PENDRICK, PAULA A. [redacted]
PEPPARD, SANDRA W. [redacted]
PIERCE, KATHLEEN M [redacted]
RADERSTORF, VIRGINIA M. [redacted]
RICE, BILLY J. [redacted]
ROARK, PAMELA K. [redacted]
ROSEMOND, ANDREA B. [redacted]
RUFFRIDGE, SUSAN B. [redacted]
SAUNDERS, SANDRA K. [redacted]
SCHMIDTGEARY, MARGARET J., [redacted]
SENZIG, MARIE S. [redacted]
SPENCER, JOHN G. [redacted]
SWANSON, NANCY A. [redacted]
TOLTON, ELLEN S. [redacted]
ULBRICHT, STEPHEN M. [redacted]
WARREN, NANCYE K. [redacted]
WEIBERT, SHEILA M. [redacted]
WILLOUGHBY, DONA M.R. [redacted]
YAKSHAW, RONALD A. [redacted]
YAREMA, DEBRA D. [redacted]

LIMITED DUTY OFFICERS (STAFF)

To be commander

ROSADO, GILBERTO [redacted]
TICHY, THOMAS N. [redacted]

HOUSE OF REPRESENTATIVES—*Wednesday, July 12, 1995*

The House met at 10 a.m. and was called to order by the Speaker pro tempore [Mr. QUINN].

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
July 12, 1995.

I hereby designate the Honorable JACK QUINN to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We pray, O gracious God, for the gift of vision—a vision that will allow us to see beyond where we stand and to glimpse the values and the goals and directions that tell us where we should be. Let us never be content with an insight that is limited to the affairs of the day or to the important actions of the hour, but seek Your word that inspires us, that lifts up higher, that heals and helps, that unites and holds true, now and evermore. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. The gentleman from Rhode Island [Mr. KENNEDY] will lead the House in the Pledge of Allegiance.

Mr. KENNEDY of Rhode Island led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair announces that it will receive ten 1-minute speeches per side this morning.

WHO IS HURTING THE POOR ON MEDICARE?

(Mr. CHABOT asked and was given permission to address the House for 1 minute.)

Mr. CHABOT. Mr. Speaker, Medicare is going bankrupt. That is not my opinion, that is a fact. We can act responsibly and search for a solution, or we act like Congress has for the last 40 years and make decisions based on politics, not on principle. I am proud that my party has chosen to act responsibly. I wish I could say the same about the other party.

Under the Republican proposal to save Medicare, per person Medicare spending will increase from $4,800 today to $6,700 in 2002. Boy, that does not sound like a cut to me. And my colleagues on the other side of the aisle have *no* plan. None. Nada. Zippo.

Mr. Speaker, if we do nothing, Medicare would not just be in financial trouble, it would not exist. So, when hearing the liberal Democrats talk about how Republican spending increases will destroy Medicare, ask yourself a question that is based on facts: Who is hurting the poor, the party acting to save Medicare—the Republicans—or the party defending the status quo and allowing Medicare to go bankrupt—the Democrats? It is kind of like asking, "Who's buried in 'Grant's Tomb.'"

HOW WILL HERB GET BY?

(Mr. KENNEDY of Rhode Island asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KENNEDY of Rhode Island. Mr. Speaker, here in Congress when we debate Medicare we talk in terms of hundreds of billions of dollars.

When my constituent Herb McCullough looks at Medicare cuts he thinks in terms of hundreds of dollars.

Herb lives on $640 a month from Social Security and a union pension.

His Medicare and Medigap expenses are more than $80 a month.

Thanks to subsidized housing, rent is $164 a month.

After other expenses—food, clothing, phone—Herb will be lucky to have $87 left each month.

Recently Herb had to buy two new hearing aids. He took $500 from his pension but still has to pay $100 a month.

How would Herb get by if he had a prescription drug bill like his neighbor—$164 a month?

I urge my colleagues to think of people like Herb when voting to raise Medicare copayments to $110 a month.

THE FIGURES DON'T LIE

(Mr. HAYWORTH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HAYWORTH. Mr. Speaker, with all due respect to the gentleman from Rhode Island [Mr. KENNEDY] and his constituent, it is precisely because we are thinking of people like Herb and people like my 91-year-old granddaddy who is happy to have Medicare, that the new majority is pleased to say we will be raising benefits for Medicare recipients over the years from $4,800 in 1995 to $6,700 in 2002.

I say to my colleagues, Look closely. The figures don't lie. The math is here. Believe the real math and not the new math of alleged school lunch cuts and all the other politics of fear being propagated by the guardians of the old order who always play upon the politics of envy instead of having the vision for the future this American nation needs.

WHY TAKE IT OUT ON SENIORS?

(Ms. KAPTUR asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. KAPTUR. Mr. Speaker, I rise today to remind my colleagues why we have been arguing so vehemently against Speaker GINGRICH's stacking votes on the Committee on Ways and Means. The reason is that committee is precisely where the most egregious assault on the living standards of elderly Americans is taking place. It is on that committee where legislation to cut Medicare benefits and Medicaid benefits for people in nursing homes will be drafted to provide tax breaks for the privileged few. In fact, $245 billion in breaks to the well heeled while cutting the lifeline for Medicare and Social Security recipients.

Mr. Speaker, I favor balancing the budget, but why take it out on seniors? Why not cut costs first by reining in the insurance companies? the hospitals? the pharmaceutical companies responsible for rising costs? Why does the majority party want to balance the budget on the backs of our grandmothers and grandfathers while they pander to the rich and powerful friends they hold in high places?

INFLUENCE FOR SALE

(Mr. HEFLEY asked and was given permission to address the House for 1 minute.)

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Mr. HEFLEY. We all know, Mr. Speaker, what it is that Bill Clinton does best. Unfortunately for the American people it is not foreign policy, it is not solving Medicare problems, and it certainly is not balancing the budget. No, it is not governing that Bill Clinton does best, so he is going to use the White House to do what he does best, to campaign. He is going to use the people's house to raise money for his campaign.

But from the President who claims to "feel your pain" he is not going to pay a visit to the average Americans that tour the White House on a daily basis. Instead he is selling himself to a privileged few for up to $100,000 per person.

Now our friends on the Democratic side of the aisle would be going nuts if this was a Republican President doing this. I wonder where those voices of righteous indignation are today. Unfortunately it is too bad that the President cares more about money for his reelection than earning the people's trust.

DO THE REPUBLICANS REALLY WANT TO SAVE MEDICARE?

(Mr. BONIOR asked and was given permission to address the House for 1 minute.)

Mr. BONIOR. Mr. Speaker, the Republicans say they want to save Medicare. And I wish I could believe them.

But then I recall that 10 years ago, the majority leader based his first campaign on abolishing Social Security.

Three weeks ago, he published a book that calls for Medicare to be replaced.

And 2 days ago, he told reporters that Medicare was "a program he would have no part of in a free world."

Not only that—last January the Speaker himself proposed abolishing Medicare and replacing it with a private system.

To top it all off, just 3 months ago, the Republicans took $87 billion out of the Medicare trust fund to pay for their tax breaks for the wealthy.

Mr. Speaker, Medicare is a trust fund, not a slush fund.

When all is said and done, seniors and their families know who is on their side.

WHEN I'M 65 I'D LIKE TO BE FREE TO CHOOSE MY HEALTH CARE DESTINY

(Mr. ARMEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ARMEY. Well, Mr. Speaker, there they go again, my colleagues on the other side of the aisle feigning moral outrage about something they think they might have imagined they read accurately reported in the paper. The outrage of the week apparently is the fact that I had the temerity to admit publicly that, if I lived in a free world, I would have a world in which I would be free to choose personally and individually that I, as an individual American citizen, would have the freedom to decide for myself whether or not I would enroll myself in a Government-provided benefits program.

Now I do not have the freedom today to decline from paying my FICA taxes to fund that program for those that are enrolled in it today, and I accept that I pay my taxes. I just made the observation yesterday that, when I am 65, I would like to be free to choose not to become, in any extent, a ward of the state. I would like to choose, if I dare make the choice for myself, to not have the Government decide any part of my health care destiny. I do not think it is unreasonable in America that we might dare to believe that we could write legislation that said to individual American citizens at an age of maturity, when they are probably, probably capable of tending to their own affairs, having done so throughout most of their life, that, "You, Mr. and Mrs. America, are free to choose."

Now, if that is an outrage to my colleagues on the left, so be it. It only reflects their inability to understand who we are.

THE REPUBLICAN PLAN FOR CUTTING MEDICARE

(Mr. DOGGETT asked and was given permission to address the House for 1 minute.)

Mr. DOGGETT. My colleagues, I want to focus now on all of the details that the Republicans have given to us today and every other day in the course of this debate about the future of Medicare. Here it is. Here is the plan as they have described it here on the floor, a complete and total blank, and I would challenge the majority leader, the gentleman from Texas, or any other member of the Republican majority, to have the courage to come and fill in this blank page, because the media has already done it by investigating their secret task forces, and they have told the people of America that what this plan calls for is more copayments, more in higher deductibles, more in higher premiums that will come right out of the pocket of America's seniors.

The majority leader has just tried to amplify on his remarks. What else did he say on Tuesday according to the Houston Chronicle? "I resent the fact that I'm 65 and must enroll in Medicare, but I'm not dumb enough to think I'm going to go out there and lay out a plan."

That is why we have a blank. They do not want the American people to know what they are doing in cutting Medicare.

REPUBLICANS, UNLIKE DEMOCRATS, WILL PROTECT MEDICARE

(Mr. HERGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HERGER. Mr. Speaker, liberal Democrats are fond of taking to the floor to whine about Medicare cuts. Why, just the other day, the minority leader himself was here talking about the "deep, deep" cuts in Medicare.

I have here a chart that shows what Republicans will be spending on Medicare through the year 2002. There is no cut. There is not even a "deep, deep" cut.

In fact, spending increases. In 1995, Medicare beneficiaries will receive $4,816. In 2002, they will receive $6,734. The spending increases. Where is the cut?

Mr. Speaker, the liberal Democrats in this Chamber have offered no real, substantive plan to protect Medicare. All they offer—in fact, all they really stand for any more—is paranoia.

This is no way to govern. This is no way to lead. The American people expect and deserve more than just fear tactics. Republicans, unlike Democrats, will protect Medicare and preserve it for future generations.

ARE THEY GOING TO DESTROY MEDICARE IN ORDER TO SAVE IT?

(Mr. KLINK asked and was given permission to address the House for 1 minute.)

Mr. KLINK. To the previous speaker, you know I had a friend that said he made $100 back in 1960 if he made $125 now. That is not an increase; such a thing is inflation. With Medicare there are additional people called baby boomers that are going into the system, and, if you go into my district in Pennsylvania, in fact if you go across the State of Pennsylvania, talk to Republicans, independents, and Democrats who happen to run the hospitals, they will tell you that statewide the Republican Medicare/Medicaid cuts are going to mean 40,000 health car workers are going to be unemployed.

Mr. Speaker, in my district alone over 1,000 people are going to be unemployed because of the Medicare and Medicaid cuts that the Republicans are going to make when we include inflation, when we include the fact of the increased costs and more people going into the system.

Now I am reminded when I look at the plan on Medicare and Medicaid of the comments made by the military spokesman during the Vietnam war. He said we had to destroy the village to save it. They are going to destroy health care, they are going to destroy Medicaid, in order to save it. They are going to destroy Medicare in order to save it.

I may be a casualty of this war; I may even become a POW, but one thing, my colleagues, I will not be, and that is missing in action.

INFLATION IS TAKEN INTO ACCOUNT IN THE REPUBLICAN MEDICARE PROPOSAL

(Mr. HOKE asked and was given permission to address the House for 1 minute.)

(Mr. HOKE. Mr. Speaker, I am glad that the gentleman previously speaking brought up some of these points because it absolutely makes the point that we have been trying to make on this side of the aisle: $4,816 per year in 1995, $6,734 per year in 2002; takes into account the additions in individuals who will be in Medicare, takes into account an obvious raising, it takes into account inflation.

What is going on with inflation right now in the private sector? Inflation in the private sector with respect to health care is about 4.4 percent. In 1993 it was less than that. We have actually seen in the private sector health care costs have dramatically been reduced. Why is that? Because corporations, individuals, institutions have all said enough is enough; 13 to 14 percent compounded inflation is too much.

I say to my colleagues, we can't tolerate it, we won't tolerate it, but what is the plan on the other side of the aisle? Now we are going to continue to inflate Medicare, we are going to continue to inflate Medicaid. We are not going to try to do anything to try and solve that.

SPARE MEDICARE

(Mrs. CLAYTON asked and was given permission to address the House for 1 minute.)

Mrs. CLAYTON. Mr. Speaker, the majority intends to cut Medicare by $270 million. They have not yet told us what they will cut and how they will cut it, to reach that goal. And, they may not tell us until they have to tell us, just before this fiscal year ends in September. But, in a recent article in the Washington Times, we did learn what some in the majority are thinking—they want to privatize Medicare.

If Medicare is privatized, the cost to senior citizens will be out of control. The majority apparently insists upon giving to the wealthy and taking from the old. It is clear that if the majority would not push for a tax break for wealthy Americans, they would not have to push for a Medicare cut for our senior citizens. I suppose when you have the votes to win, you can giveth and you can taketh away. But, power and justice are not synonymous. Let us seek justice. Let us spare Medicare.

CUT SPENDING FIRST

(Mr. JONES asked and was given permission to address the House for 1 minute.)

Mr. JONES. Mr. Speaker, Republicans are continuing to cut Government bureaucracy and waste today as we finish consideration of the energy and water appropriations bill. Keeping our promise to balance the budget by the year 2002, we have cut $1.6 billion from the 1995 funding level, which is $2 billion below the President's request.

We have eliminated scores of Federal programs focusing on energy and water research which are more suited for the private sector, while at the same time preserving the basic scientific research programs that will allow our Nation to remain universally competitive.

We have not forgotten what the people sent us here to do—cut spending first—that was their mandate back in November. Through this bill and others, we make the Government smaller, less costly, more efficient, and more accountable to the American people.

DEMOCRATS CARE ABOUT MEDICARE

(Mr. STUPAK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STUPAK. Mr. Speaker, as the 30th anniversary of the creation of the Medicare Program approaches, I am outraged that the Republicans are trying to force the American public to swallow devastating cuts to the Medicare Program, cuts that will completely gut the Medicare Program.

□ 1020

Every Medicare beneficiary who receives part B Medicare coverage now pays a monthly premium of $46.10. But under the Republican plan, the part B premium will go to $110 per month. That is how they get more money into the Medicare system—they make you pay more.

The proposed cuts to the Medicare Program go beyond higher premiums for Medicare recipients, those whose modest household budgets and Social Security checks are already stretched to the breaking point. As a direct result of the cuts to the Medicare Program, reimbursement rates will drop, so doctors and hospitals will have to absorb a greater share of the health care costs. These costs will then be passed on to the Medicare recipients. In addition, fewer health care services will be offered to senior citizens and working families. Some doctors will not be able to accept patients, and some hospitals in rural areas will have to close their doors completely. The bottom line is these Republican cuts to Medicare will drive senior citizens and low income families into a second-class health care system.

STOP SCARE CAMPAIGN ON MEDICARE

(Mr. RIGGS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RIGGS. Mr. Speaker, the Clinton Democrats on the other side of the aisle have tried their hardest to engage in a scare campaign aimed at our senior citizens. The Clinton Democrats think they are scoring political points by scaring seniors into thinking Republicans are trying to rip Medicare out from under them.

But I wonder what the Clinton Democrats tell their constituents who are 58 years old. You see, this is the age group that's going to be affected most by the Democrats' plan of maintaining the status quo. This is the age group that will have no Medicare benefits period when they turn 65. This is the age group that will suffer the most.

We cannot sit back and do nothing while Medicare continues on its downward slide toward bankruptcy. Republicans want to preserve, protect, and improve Medicare for this and future generations. I ask the Democrats to stop their petty scare campaigns. Work with us to fix Medicare.

DANGEROUS CAMPAIGN RHETORIC

(Mr. MILLER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MILLER of California. Mr. Speaker, yesterday a special congressional panel heard stories of growing threats and attacks against public officials, law enforcement officers, environmentalists, and women advocates by extremist right-wing groups and militia in this country.

This week the Nation was shocked by extremist campaign material produced by the National Republican Congressional Committee in the name of Speaker GINGRICH that suggested Democratic Members of the House are wanted criminals just for disagreeing with the Republican Contract for America.

That extremist rhetoric endangers democracy and encourages a lunatic fringe of this Nation. As a Nation we have learned that when you preach hate; you get hate, when you preach violence, you get violence.

Thirty-two years ago another wanted poster was distributed in Dallas, TX, on November 22, 1963, accusing President Kennedy of selling out America to the United Nations and being anti-Christian. This wanted poster ended in a tragedy.

We should understand that we cannot have the leading politicians of this Nation preaching hatred, preaching the suggestion that politicians who disagree are somehow criminals. Speaker GINGRICH should repudiate this poster and withdraw this campaign rhetoric from the public.

AMERICORPS PROGRAM A WASTE OF MONEY

(Mr. STEARNS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STEARNS. Mr. Speaker, last night, NBC News did an expose on AmeriCorps that proved what a lot of us have suspected for some time—the program is way over budget and wasting taxpayers' money at a phenomenal rate.

AmeriCorps may have worthy goals, but is has lousy execution. According to a report by the General Accounting Office, the Clinton administration projected AmeriCorps to cost $6.43 per hour for each so-called volunteer. The actual cost: $15.65 per hour. Annually, the program was supposed to cost no more than $18,000 per participant. The final tab: $27,000 per participant.

Mr. Speaker, these are large sums of money. Most of the citizens in my district, who work full-time jobs to support their whole families, don't earn this kind of money. Why does it cost $27,000 to support just one AmeriCorps participant?

On Monday night, the VA-HUD Appropriations Subcommittee cut all funding for President Clinton's so-called national service program.

Well, Mr. Speaker, the answer is that it won't anymore. I applaud my colleagues on the VA-HUD Appropriations Subcommittee for stopping this new entitlement program.

CONGRESSIONAL INVESTIGATION OF DOW CORNING NEEDED

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, I want to talk about Medicare, Medicaid, and SSI, because the taxpayers for those programs will be paying for the sins of Dow Corning—Dow Corning, that told hundreds of thousands of American women that silicone breast implants were safe.

The Harvard Nurses Study just came out and said there are no health risks. By the way, that was paid for by Dow Corning.

Mr. Speaker, is there any justice left? If there is, ask Grace Nero's family in my district. Grace passed away on Independence Day after complications from surgery from breast implants, a blood clot.

Dow Corning manipulated Federal bankruptcy laws to avoid a $4 billion settlement. Dow Corning in fact lied to the American people, and I am asking U.S. Attorney General Janet Reno to investigate possible criminal charges.

Dow Corning lied to Congress. Does Congress care anymore? Anybody just comes up here and lies to you? Do we really govern around here? To me, this is unbelievable. Congress should support an investigation of Dow Corning.

KEEP TWO ROCK COAST GUARD TRAINING FACILITY OPEN

(Ms. WOOLSEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. WOOLSEY. Mr. Speaker, for some reason that's beyond me, the U.S. Coast Guard is considering closing its only west coast training facility—the training base at Two Rock, CA.

No doubt about it, the Coast Guard needs to get rid of some dead weight. It will be missing the boat, however, if it shuts down this important base.

Any old coastie can tell you Mr. Speaker, that it makes sense to consolidate one of the four east coast training centers at the Two Rock Base.

It makes sense because of Two Rock's expansion capacity, good climate, available housing, and, above all, the fact that taxpayers recently invested $22 million to make the base's computer and radar training facilities state-of-the-art.

Mr. Speaker, I urge my colleagues to heed this SOS, and join the entire California delegation in ensuring that the Coast Guard can fulfill its mission by having training facilities on both of our coasts by keeping Two Rock open.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will take one additional 1-minute speech from each side.

THE TRUTH ABOUT MEDICARE CUTS

(Mr. LEWIS of Georgia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEWIS of Georgia. Mr. Speaker, I rise today in support of a program that gives security to our Nation's elderly and hard-working families. I rise in support of Medicare.

We beat you to death to keep someone else from killing you. The Republicans say that they are cutting Medicare to save Medicare. But it is time to be honest with the American people. These cuts will not help Medicare. These cuts pay for tax breaks for Americans earning over $200,000 a year.

And, at the same time, the average senior citizen will pay $1,000 more for health care.

We must help the Medicare Program, and I have supported efforts to do so. But we should not and must not take away the security of health care insurance for our elderly.

These cuts to Medicare are not reform. I know it, You know it, It's time the American people know it.

Don't support Medicare cuts to pay for tax breaks for the rich. That is not right. That is not fair.

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 1996

The SPEAKER pro tempore. Pursuant to House Resolution 171 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 1905.

□ 1028

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 1905) making appropriations for energy and water development for the fiscal year ending September 30, 1996, and for other purposes, with Mr. OXLEY in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Tuesday, July 11, 1995, the bill had been read through page 24, line 18, and title III was open for amendment at any point.

Are there further amendments to title III?

AMENDMENT OFFERED BY MR. OBEY

Mr. OBEY. Mr. Chairman, I offer an amendment, numbered 25.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. OBEY: On page 16, on line 1, insert "(less $40,000,000)", before "to remain".

Mr. MYERS of Indiana. Mr. Chairman, I ask unanimous consent for a mutual agreement to limit the debate on this amendment and all amendments thereto, like we did similarly yesterday, to 40 minutes, with the time equally divided between the gentleman from Wisconsin [Mr. OBEY] and myself.

The CHAIRMAN. Is there objection to the request of the gentleman from Indiana?

There was no objection.

The CHAIRMAN. The gentleman from Wisconsin [Mr. OBEY] will be recognized for 20 minutes, and the gentleman from Indiana [Mr. MYERS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Wisconsin [Mr. OBEY].

Mr. OBEY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this is the third cutting amendment that I will have offered on this bill. Let me simply explain what it does. This amendment cuts $40 million in the bill for the advanced light water reactor program.

What I would simply say is "Here we go again" as President Reagan used to say, with another example of corporate welfare for the nuclear industry. Essentially what these funds do is to help large corporations obtain design certification from the Nuclear Regulatory Commission. This amounts to the Government funding a portion of the licensing costs of large corporations in order to comply with its own regulations.

The committee has heard volumes of testimony this year from organization after organization saying, "Let the marketplace determine what is commercially viable; the Government should not be in the business of picking winners and losers."

How many times have you heard that? Yet these remarks apparently have fallen on deaf ears, or, alternatively, the committee has determined these concepts do not apply to the nuclear industry.

Since 1974, the Federal Government has spent $26 billion on nuclear fission programs. This has occurred despite the fact that not one American utility has successfully ordered a nuclear powerplant in all of that time. The House budget resolution, which was passed with so much fanfare, presumes to set criteria for Government science funding, emphasizing that long-term noncommercial R&D with the potential for scientific discovery ought to be funded. What should not be funded, according to that budget resolution, are programs whose economic feasibility and commercialization should be left to the marketplace.

Over and over we have heard those same themes, yet when it comes to actually cutting the corporate welfare out of appropriation bills, this House seems to back away again, and again, and again.

Now, the nuclear industry makes a number of arguments for their program, which I am sure we will hear today. I would simply respond to those arguments as follows:

First of all, nuclear energy supplies about 20 percent of our Nation's electricity; 72 percent of utility executives said in a recent poll conducted by the International Energy Group that their company would never consider ordering a nuclear powerplant. So the industry seems to have determined that the current mix is just fine as far as they are concerned.

Second, I would ask, since when does industry want the Government involved in things like product design? I guess the answer is only when there are Federal dollars available.

The NRC is charged with determining enhanced safety margins and regulatory acceptance of these designs. Their ultimate action on these proposals will be a determinant and will demonstrate to potential customers whether the U.S. Government considers them sound, not whether or not DOE is provided dollars to support industry design efforts.

I would also say, third, that we have received letters in all of our offices indicating that "Failure to meet commitments to the specified amount, $100 million, jeopardizes DOE's ability to recoup the moneys already invested in the program."

Well, ladies and gentlemen, I have been here for quite a while, and I cannot recall anything quite so brazen. I want to make it quite clear, despite that veiled threat, the nuclear industry is legally committed to repaying DOE. Their threat to renege, in my view, borders on the outrageous or the scandalous.

The fourth point I would simply make is that trying to convince somebody that the promotion of nuclear technology through the export of nuclear powerplants to foreign countries in Southeast Asia, that somehow promotes nonproliferation, is an argument I simply cannot swallow. Has anybody in the nuclear industry checked what is going on in North Korea lately?

So I would simply say, in conclusion, this amendment comes back to one central point: Are you for cutting corporate welfare, or do you want to exempt the nuclear industry? Are you for letting the marketplace pick winners and losers, or does the nuclear industry get a buy on the one too? Are you going to respond to the threats of the industry that they are not going to repay previous funding, despite a legal obligation, or are you going to buckle to those threats?

Last night, we met on the labor-health-education appropriation bill. That bill is being cut by $9.5 billion below last year. We are wiping out assistance to senior citizens who make less than $10,000 a year, so they do not have to choose between paying prescription drugs and keeping their houses warm in the winter. We cut back almost $700 million in student aid, not with my vote, but that is what the subcommittee did. We have seen huge reductions in job training, despite this House's vote for things like NAFTA and GATT. We are abandoning workers who desperately need help to be retrained.

So it just seems to me with all of these cuts, for us to say that we are going to continue to subsidize one of the wealthiest industries in this country with funding such as this represents a badly warped sense of priorities. I would urge adoption of the amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. MYERS of Indiana. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I appreciate the efforts of our ranking member, Mr. OBEY, in trying to reduce spending in our country. I share that concern, and I compare my record with just about anyone here, I think, on that cutting effort.

But often as I drive down the interstate highways, 4, 6, or 8 lanes wide, or travel through urban areas with elevated highways, I think where would we be today if Dwight Eisenhower, former President, had not had the vision, the farsightedness, to prepare for today's transportation requirements and needs. And as we approach amendments like this, I wonder, where will our children and grandchildren be a few years from now if we do not today be farsighted and visionary to prepare for the energy that they are going to require if we are to continue our standard of living and be competitive in world markets for industry.

I have children and grandchildren. I think of our two grandsons here, Justin and Austin. They are just little right now. But when they start looking for a job, there may not be jobs here. They may have to go overseas somewhere else.

Yesterday afternoon we struck $20 million in a program to prepare for a reactor for the next century, a gas turbine modular helium cooled reactor, which would be very efficient and very safe in a nuclear reactor.

Now, today the only reactor we really have working and the only one we have in the future available to this committee is the light water reactor, and this is the fifth year of a 5-year program for the advanced light water reactor. To enhance that reactor, to build a reactor that would be competitive in world markets that would be as safe as could be for a light water reactor, now we want to stop the fifth year of a program that we are well down the road in the fourth year already?

The administration's request for this program for the advanced light water reactor was $49.7 million. We cut that back to $40 million. But this is industry coshared at this point. This year, when you look at the budget for the advanced light water reactor research and safety, the U.S. Government would put in $100 million and the industry would put in $170 million.

The industry has been putting their money in, because the CEO's of large companies who are today generating electricity realize they have to be prepared for the next century, even though most of them will not be CEO's at that time. They will be retired. But they have their vision. They are putting their money up front. It would be a terrible mistake today for our government to renege on the commitment of the fifth year of a 5-year contract when we already have 4 years invested.

□ 1040

I urge a "no" vote on this well-intended amendment. It just does not fit with the needs of our society today.

Mr. Chairman, I yield back the balance of my time.

Mr. OBEY. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Wisconsin [Mr. OBEY].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. OBEY. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 191, noes 227, not voting 16, as follows:

[Roll No. 487]

AYES—191

Abercrombie
Ackerman
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Berman
Bilbray
Blute
Bonior
Borski
Browder
Brown (FL)
Camp
Cardin
Chabot
Chapman
Christensen
Chrysler
Clay
Coburn
Collins (GA)
Collins (IL)
Condit
Conyers
Cooley
Costello
Cunningham
Danner
Deal
DeFazio
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Duncan
Edwards
Ensign
Eshoo
Evans
Farr
Fattah
Fields (LA)
Flake
Foglietta
Ford
Frank (MA)
Franks (NJ)
Furse
Ganske
Gephardt
Gibbons
Goodling
Graham
Gutierrez
Hall (OH)
Hamilton
Hancock
Harman
Hastings (FL)
Hefley
Hilleary
Hilliard
Hinchey
Hoekstra
Holden
Horn
Hostettler
Jacobs
Jefferson
Johnson (SD)
Johnson, E.B.
Johnston
Jones
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kildee
Kingston
Kleczka
Klug
LaFalce
LaHood
Lantos
Levin
Lewis (GA)
Lipinski
LoBiondo
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Matsui
McCarthy
McDermott
McHale
McInnis
McKinney
McNulty
Meehan
Menendez
Metcalf
Mfume
Miller (CA)
Minge
Mink
Moran
Nadler
Neal
Neumann
Oberstar
Obey
Olver
Orton
Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Peterson (FL)
Peterson (MN)
Petri
Pomeroy
Portman
Poshard
Rahall
Ramstad
Rangel
Reed
Richardson
Rivers
Rose
Roth
Roukema
Roybal-Allard
Royce
Rush
Sabo
Sanders
Sanford
Schroeder
Schumer
Sensenbrenner
Serrano
Shadegg
Shays
Sisisky
Skaggs
Slaughter
Smith (MI)
Smith (NJ)
Smith (WA)
Souder
Stark
Stenholm
Studds
Stump
Talent
Tanner
Tate
Thompson
Thurman
Torkildsen
Torres
Tucker
Upton
Velazquez
Vento
Visclosky
Volkmer
Wamp
Ward
Waters
Watt (NC)
Watts (OK)
Waxman
Whitfield
Wise
Woolsey
Wyden
Wynn
Yates
Zimmer

NOES—227

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bentsen
Bereuter
Bevill
Bilirakis
Bliley
Boehlert
Boehner
Bonilla
Bono
Boucher
Brewster
Brown (CA)
Brownback
Bryant (TN)
Bryant (TX)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Canady
Castle
Chambliss
Chenoweth
Clayton
Clement
Clinger
Clyburn
Coble
Coleman
Combest
Cox
Coyne
Cramer
Crane
Crapo
Cremeans
Cubin
Davis
de la Garza
DeLauro
DeLay
Diaz-Balart
Dickey
Dooley
Dornan
Doyle
Dreier
Dunn
Durbin
Ehlers
Ehrlich
Emerson
English
Everett
Ewing
Fawell
Fazio
Fields (TX)
Filner
Flanagan
Foley
Forbes
Fowler
Franks (CT)
Frelinghuysen
Frisa
Funderburk
Gallegly
Gejdenson
Gekas
Geren
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Gordon
Goss
Green
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Heineman
Herger
Hobson
Hoke
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson-Lee
Johnson (CT)
Johnson, Sam
Kasich
Kelly
Kennelly
Kim
King
Klink
Knollenberg
Kolbe
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Livingston
Lucas
Manzullo
Martini
Mascara
McCollum
McCrery
McDade
McHugh
McIntosh
McKeon
Meek
Meyers
Mica
Miller (FL)
Mineta
Molinari
Mollohan
Montgomery
Moorhead
Morella
Murtha
Myers
Myrick
Nethercutt
Ney
Norwood
Nussle
Ortiz
Oxley
Packard
Parker
Paxon
Payne (VA)
Pickett
Pombo
Pryce
Quillen
Quinn
Radanovich
Regula
Riggs
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Salmon
Sawyer
Saxton
Scarborough
Schaefer
Schiff
Scott
Seastrand
Shaw
Shuster
Skeen
Skelton
Smith (TX)
Solomon
Spence
Spratt
Stearns
Stockman
Stupak
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thornberry
Thornton
Tiahrt
Torricelli
Towns
Traficant
Vucanovich
Waldholtz
Walker
Walsh
Weldon (FL)
Weldon (PA)
Weller
White
Wicker
Wilson
Wolf
Young (AK)
Young (FL)
Zeliff

NOT VOTING—16

Andrews
Bishop
Brown (OH)
Collins (MI)
Doolittle
Engel
Fox
Frost
Hefner
Longley
Moakley
Porter
Reynolds
Stokes
Tauzin
Williams

□ 1104

The Clerk announced the following pair:

On this vote:

Mr. Stokes for, with Mr. Porter against.

Messrs. CANADY of Florida, LAZIO of New York, ROHRABACHER, and EVERETT, and Mrs. MORELLA changed their vote from "aye" to "no."

Messrs. GEPHARDT, PETERSON of Florida, WATTS of Oklahoma, SHADEGG, HOLDEN, and MCHALE changed their vote from "no" to "aye."

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN. The Chair announces that there was a delay, apparently, in the bell system, so a little more leeway was allowed on the time for voting.

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. KLUG

Mr. KLUG. Mr. Chairman, I offer an amendment, amendment No. 14.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. KLUG: Page 16, line 2, insert before the period the following: : *Provided*, That, of such amount, $44,772,000 shall be available to implement the provisions of section 1211 of the Energy Policy Act of 1992 (42 U.S.C. 13316).

Mr. MYERS of Indiana. Mr. Chairman, will the gentleman yield?

Mr. KLUG. I yield to the gentleman from Indiana.

Mr. MYERS of Indiana. Mr. Chairman, I ask unanimous consent that the time on this amendment and all amendments thereto be limited to 40 minutes equally divided.

The CHAIRMAN. The unanimous-consent request was that the debate be limited to 40 minutes, 20 minutes on each side on this amendment and all amendments thereto. The gentleman from Indiana [Mr. MYERS] would control the 20 minutes on this side, and the gentleman from Wisconsin [Mr. KLUG] would control the 20 minutes on the other side.

Is there objection to the request of the gentleman from Indiana?

There was no objection.

Mr. KLUG. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, this amendment in front of us simply does one thing today, which is to reaffirm this Congress' commitment and, frankly, the American public's commitment to renewable energy, both solar and wind power. This money does not increase the deficit. It simply forces the Committee on Appropriations and the conferees to decide where else to offset spending cuts in order to fund what we think is a very high priority for the American public.

Solar renewable energy programs were gutted from the current funding level of $388 million to $221 million. That represents a 43-percent cut. This amendment increases solar renewable funding to $266 million which we think, frankly, better illustrates the priorities of this Congress, but still I might add at the end of the day results in a 31-percent reduction. This ensures that the United States remains a strong player in energy markets and moves toward self-sufficiency and away from foreign oil imports.

As we all know, there is obviously a finite amount of fossil fuels. I think it is a mistake to continue in many ways to fund outdated post-mature technologies when we are beginning to veer away from wind and solar, which are beginning to show some promise. Fundamentally, what this does is reaffirm this Congress' commitment in basic research in these areas and not necessarily in applied technology.

Overwhelmingly, the American public supports renewable energy programs as an investment in our future.

There was an election last fall, as we know, and which this Congress has been attempting to execute its agenda which said downside and shrink governments. I think the American public understands there are some areas where we may want to spend still more money. According to a survey conducted by Vince Bregala, a pollster for Presidents Reagan and Bush, 85 percent agreed that the Federal Government should continue to support partnerships with American business to promote sales of renewable energy and energy-efficient technologies through research and development. Seventy-five percent agreed that with the overall reduction in the Department of Energy's budget, resources should be redirected toward renewable energy and energy-efficient technologies.

I stand here today to offer this amendment with a number of my colleagues on both sides of the aisle, including the gentleman from Colorado [Mr. SCHAEFER], who I point out chairs the Subcommittee on Energy and Power of the Committee on Commerce, the Gentlewoman from Florida [Mrs. THURMAN], the gentleman from California [Mr. FAZIO], and the gentleman from Massachusetts [Mr. MARKEY].

Mr. Chairman, I would like to make it very clear to my colleagues that what this amendment fundamentally does is invest in America's future, a future clearly defined by the American public.

Mr. MYERS of Indiana. Mr. Chairman, I yield such time as he may consume to the gentleman from Alabama [Mr. BEVILL], former chairman of the subcommittee and longstanding Member.

Mr. BEVILL. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in opposition to this amendment, and urge the Members to support the subcommittee. Throughout this bill we have had to take cuts on programs that are very popular. We realize that there are other ways that we could go in different directions on these things, but the subcommittee has studied this, the full Committee on Appropriations has approved the bill, and actually, I just urge the Members to vote in support of the committee.

Mr. KLUG. Mr. Chairman, I yield 3 minutes to the gentlewoman from Florida [Mrs. THURMAN].

Mrs. THURMAN. Mr. Chairman, I appreciate the gentleman from Wisconsin yielding time to me.

Mr. Chairman, a responsible energy policy requires that we focus our attention and research toward the infinite supply of renewable energy alternatives. As we begin to enter the 21st century, we must begin to shift our reliance away from our finite supply of fossil fuels.

The promotion of renewable energy sources is more important now than ever before. We should have learned by past oil crises that we can not continue to ignore our increasing dependence on imported oil. For the first time, we are now importing more than 50 percent of our oil. Oil accounts for a large part of our trade imbalance. The harsh reality is that the world's oil supply will one day run out. There is nothing that this Congress or our Government can do to change that.

To the extent that we foster the development and use of alternative renewable sources like solar technology, we can act responsibly to reduce our dependence on imported oil.

I am disturbed by the committee's slashing of the solar and renewable energy programs from their current funding level of \$338 to \$221 million, a 43-percent cut. This amendment would restore \$45 million, which still leaves these programs with 31 percent less than they got last year.

I am also concerned about the budget circumstances we must work within. This amendment does not exempt renewables from cuts, it merely seeks to distribute the deficit reduction burden more fairly.

The development of renewable energy technologies stimulates job creation, stimulates the economy, and helps American businesses become more competitive.

The University of Florida's Solar Energy and Energy Conservation Laboratory and the Florida Solar Energy Center have uniquely influenced the development of solar energy. Breakthroughs at these laboratories have helped foster a solar energy industry in Florida that has created high technology jobs. Current developments at these labs continue to create opportunities for U.S. entrepreneurs and industries.

Our investments in solar technologies are just beginning to yield returns in the form of energy security and a cleaner environment. We would be taking a giant step backward if we were to retreat from the successes that solar programs have made. This amendment will ensure that the United States remains a strong player in alternative energy markets of the 21st century.

During the 1970's, the United States was the recognized world leader in solar technology. During the last 20 years, the rest of the world, recognizing the enormous potential solar energy holds, has dramatically increased its commitment to funding solar energy research.

Now, as we stand on the brink of the 21st century, we find ourselves playing catch-up with nations who used to follow us. We should be leading the pack, not playing follow the leader. This amendment will not reverse a 20-year decline in the Federal Government's commitment to our energy future, but it will prevent us from falling even further behind.

Mr. MYERS of Indiana. Mr. Chairman, I yield 4 minutes to the gentleman from Michigan [Mr. KNOLLENBERG], a very valued member of this committee and a hard-working Member.

Mr. KNOLLENBERG. Mr. Chairman, I appreciate very much the courtesy of the chairman of the subcommittee, the gentleman from Indiana [Mr. MYERS].

I do rise in opposition to this amendment, Mr. Chairman. This is a basic question of priorities. To the solar industry's credit, solar technology is no longer at a basic research and development level. It is in fact a commercial technology, ready for use as an energy source in a variety of applications. It is ready, but in many ways, the public is not.

Frankly, I am skeptical that solar energy will ever be the prominent energy source, due to the expense of manufacturing solar panels and the limits in their energy-producing capabilities. I do expect that solar energy will continue as a secondary energy provider for specific energy needs, such as isolated structures which need a limited supply of energy. I am more optimistic about the future of other energy programs, like fusion, for example, which would be a substitute for the current dependence on fossil fuels.

I want to repeat what has been said by others, Mr. Chairman. We are not cutting the entire solar and renewable energy program. Current funding allows continued research into this area at the most basic research and development level. I believe the solar energy program and any other applied technology must prove itself in the marketplace.

I believe that only when the cost to obtain and process fossil fuels becomes increasingly more expensive will the time become right for alternative energy sources, including solar energy. This way they can compete in a free market. I believe the energy debate is more appropriately resolved by the consumer in that free market.

☐ 1115

Let the consumer decide. Let the market work freely. Currently, the relatively low cost of fossil fuels in the form of petroleum, natural gas, and coal keeps these energy sources at the forefront.

Mr. Chairman, I believe this is a good bill. The gentleman from Indiana [Mr.

MYERS] has worked very carefully with the gentleman from Alabama [Mr. BEVILL], the ranking member, and the rest of the subcommittee, to produce a fiscally responsible bill while maintaining a productive energy and water program.

We could debate the merits of increasing funds for every Federal program ad infinitum. If my colleagues are committed to balancing the Federal budget, then they should support the bill as it is and vote in opposition to this amendment. We only seem, in Congress, to try to nourish things that just will not grow in the marketplace. Now, there is a place for this, but frankly we did not cut funding out entirely. We reduced it at a level where we restored enough money to do the job. Let us give it time to work its will.

Mr. KENNEDY of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. KNOLLENBERG. I yield to the gentleman from Massachusetts.

Mr. KENNEDY of Massachusetts. Mr. Chairman, I appreciate and I feel very strongly that we ought to let the market set the pace for the investments in this country in our energy supply. The real question is whether or not all the amendments that have just been passed that provide tremendous subsidies to the nuclear industry, which have absolutely the single highest cost of electricity that is produced in this country.

It does not seem to me to make a lot of sense that we are going to not provide any research, real primary research, for renewables, but will provide for actual applied research for the nuclear industry. It makes no sense.

Mr. KNOLLENBERG. Mr. Chairman, reclaiming my time, I think the gentleman makes a point, but this frankly is not research, what the gentleman is talking about.

All I am saying, and I think the gentleman from Massachusetts agrees with me, is that we have not cut out the idea of considering renewables. They are not being cut away.

In fact, the basic research has been done. The gentleman from Massachusetts [Mr. KENNEDY] is talking about applied research. I would say to my colleague that this is the money that this committee has found to be substantial enough to create what he needs to make his project work. Let the marketplace decide.

Mr. KLUG. Mr. Chairman, I point out to my colleagues that this is a bipartisan amendment and, hopefully, by the time we end debate, that the gentleman from California [Mr. MOORHEAD], the gentleman from California [Mr. BONO], the gentleman from Maryland [Mr. BARTLETT], and the gentleman from Michigan [Mr. EHLERS] from my side of the aisle will be here to help us out.

Mr. Chairman, I yield 4 minutes to the gentleman from Colorado [Mr. SCHAEFER], the chairman of the Subcommittee on Energy and Power, who has been a key ally in this entire fight.

(Mr. SCHAEFER asked and was given permission to revise and extend his remarks.)

Mr. SCHAEFER. Mr. Chairman, in 1992, the Congress passed the Energy Policy Act by a vote of 363 to 60, and it passed by a Democratic-controlled Congress and was signed into law by a Republican President.

This so-called EPACT 92 demonstrated that Congress could address pressing issues of a national energy policy in a very bipartisan way.

Now, in 1995, we stand at another historic juncture. In January, we passed the balanced budget amendment, which I sponsored, by overwhelming vote and I will continue to fight for a balanced budget amendment.

Mr. Chairman, while our country needs this balanced Federal budget, we also need uninterrupted reliable sources of energy. Such energy supplies will assure our continued economic growth in this country and our national security. Some of these sources of energy include nuclear, fossil fuels, and natural gas.

However, the country also needs to develop a robust capability in the critically important area of solar and renewable energies. And this is not only solar; it is also biomass, it is wind, it is every other type of energy that we can think of, because other type of energy that we can think of, because some day, the whole era of fossil fuels will be gone.

EPACT 92 created a 5-year plan authorizing funding to help demonstrate and commercialize new technologies such as biomass, geothermal, solar and wind energy. As we enter the third year of that 5-year plan, it would be irresponsible now to renege on our Government's commitment.

Mr. Chairman, that is why I urge my colleagues to support the Klug amendment earmarking $44.8 million of the energy and water bill for the Solar Technology Transfer Program. Even with this amendment, we are talking about a reduction of 31 percent from last year's level.

It is not widely realized that by the beginning of 1994, renewable energy technologies provided over 8 percent of the Nation's domestic energy production, more than doubling the contributions since 1973.

Renewable energy technologies combined are now producing about 7 quads of energy annually. Roughly half is produced from biomass, over 40 percent from hydroelectric, and the balance from the mix of geothermal, wind, and solar resources.

Between 1973 and 1993, renewable electric capacity, including hydropower, grew by over 70 percent, from about 58 megawatts in 1973 to 100 megawatts in 1993. Of this, the renewable technologies that emerged during the late 1970's and 1980's, solar, geothermal, and biomass, grew from 500 megawatts in 1973 to over 10,000 megawatts today; the equivalency of 17 large coal-fired powerplants.

Clearly, renewable energy is becoming an increasingly important component of our national energy policy. I do not believe we should short-circuit this industry's growth by choking its funding.

Some people may ask, well, maybe this is because the National Renewable Energy Laboratory, or NREL, is located in my district, and, yes, it is. I have been out there and I know the work they are doing and it is very important and I think there is much progress being made in this particular area.

Mr. Chairman, I would like to enter into the RECORD two news articles on behalf of this district. The first one details NREL's receipt of the U.S. Small Business Administration's Dwight D. Eisenhower Award for Excellence, while the other describes NREL's winning of the 1995 Federal Design Achievement Award from the National Endowment for the Arts.

I believe this material will help the Members get a better picture of NREL and I submit these articles as part of the RECORD, Mr. Chairman.

Mr. Chairman, I include the following for the RECORD:

NATIONAL RENEWABLE ENERGY LABORATORY: WE EMPOWER AMERICA WITH NEW ENERGY CHOICES

NREL is dedicated to putting clean, renewable energy to work for you.

Our research transforms wind and sunlight into abundant electricity for your home. We're finding ways to turn fast-growing plants into liquid transportation fuels and valuable chemicals. Better buildings, industrial processes, and recycling methods will help you save energy and reduce our nation's dependence on foreign oil.

But making sure that new energy technologies are both practical and affordable is an awesome challenge. At our 300-acre campus in Golden, Colorado, more than 480 scientists conduct research in fields ranging from bio-chemistry to solid-state physics. Many of our specialized laboratories are available for cost-shared research with U.S. companies as they develop new products and services at competitive prices.

We also work with electric utilities, regulatory bodies and state energy offices to make sure that new technologies reach their full potential as quickly as possible.

A national laboratory of the U.S. Department of Energy, NREL's diverse research programs include:

Analytic studies—Studying the economic aspects, environmental effects, and policy issues related to energy use.

Biofuels—Finding better ways to turn trees, grasses and agricultural waste into cleaner-burning transportation fuels.

Buildings—Developing new materials and systems to reduce energy use in homes and offices.

Fuel use—Studying the use of alternative fuels in fleets of cars, vans and trucks.

Industrial processes—Finding ways to reduce waste and improve the efficiency of industrial processes.

Photovoltaics—Developing efficient solar cells and modules for converting sunlight to electricity.

Resource Assessment—Studying and measuring renewable resources such as sunlight and wind.

Solar thermal electricity—Developing economical systems for transforming the sun's heat to electricity.

Solar thermal industries—Exploring ways to use solar heat for manufacturing and other industrial processes.

Superconductivity—Pursuing practical, low-cost materials to conduct electricity without loss.

Waste management—Finding ways to recover landfill gas, recycle tires and plastic, and generate power using garbage destined for landfills.

RENEWABLE

Americans have made great strides in conserving energy since the oil embargoes of the 1970s. But our need for energy—especially electricity and transportation fuel—continues to grow by about 3% each year. Renewable resources can help meet this growing need without pollution or dependence on foreign oil.

There's no shortage of renewable resources. For example, the sunlight falling on the United States in just one day contains more than twice the energy Americans consume in an entire year. Strong, steady winds in North Dakota alone could supply about 35% of our nation's electricity needs. Fast-growing plants, geothermal energy and ocean energy are three other renewable resources awaiting the right technologies for harvesting.

We've made a good start. About 8% of our nation's energy now comes from renewable resources, primarily falling water (hydropower). Continued research by NREL and its industry partners could help increase the contribution of renewables to 30% by the year 2030.

CLEAN

Imagine a world powered by clean energy technologies.

Rows of sleek solar panels gleam in the sun, using semiconductor materials to directly convert light into electricity. Wind turbines spin out power for large cities without the millions of tons of air pollutants emitted by an oil- or coal-fired power plant every year. Solar thermal systems capture the sun's abundant renewable energy to heat water or drive industrial processes.

These are only a few renewable energy technologies at work today. Many more are on the horizon. For example, NREL is exploring ways to use sunlight to clean up contaminated soil and groundwater. We're also developing methods for recycling plastic and making better use of garbage now dumped in landfills.

Our research preserves America's environmental heritage. It can also lead to a more sustainable energy future.

SECURE

Founded in 1977 in response to oil embargoes, NREL is diversifying U.S. energy options in many ways.

One of those ways is finding alternatives to gasoline, much of which is now made from imported petroleum. NREL is working with U.S. companies to squeeze more ethanol from corn kernels and the woody parts of other plans. We also collect data on the performance of alternatively fueled vehicles and share the results with automobile manufacturers.

In addition to fuels research, NREL is strengthening America's energy security with more efficient buildings. Our guidelines for passive solar homes are used by builders and architects throughout the nation to slash typical home energy costs by as much as 90%. We're also developing ways to rate the energy efficiency of buildings.

Renewable energy and energy efficiency not only lessen U.S. dependence on foreign oil—they strengthen the economy as well.

COMPETITIVE

About half of NREL's federal funding returns to the private sector through subcontracts and cost-shared research agreements.

Thanks to this support, U.S. companies now compete in international markets for wind turbines and blades. American-made solar panels are supplying electricity to thousands of Brazilians. And a leading U.S. ceramics producer may soon replace imported ceramic powders with ones made locally.

Wind energy is already cost-competitive in areas with good wind resources, and solar panels are finding hundreds of remote uses throughout the nation. Ultra-efficient appliances, more reliable electronic components, and better adhesives are just a few other products coming your way as the result of NREL's research.

The renewable energy technologies now being developed at NREL can fill every kind of energy need. They're a smart choice for America.

NREL RECEIVES NATIONAL SBA AWARD

GOLDEN, Colo., April 20/PRNewsire/—The Dwight D. Eisenhower Award for Excellence, the national award given annually by the U.S. Small Business Administration (SBA), will be presented to the Department of Energy's National Renewable Energy Laboratory (NREL) on May 4 during Small Business Week activities in Washington, D.C.

The Eisenhower award annually recognizes large federal prime contractors that excel in their support of small business. In 1994, NREL awarded more than $85.5 million in purchases and subcontracts to small companies—about 77 percent of its total procurements. Of this amount, 25 percent went to businesses owned by women or minorities.

NREL Director Dr. Charles F. Gay said the award is especially significant because the laboratory also was named 1994 Corporation of the Year by Minority Enterprises Inc. "This award is a credit to the many outstanding NREL employees who are committed to the success of small businesses," Gay said.

The SBA award recognizes success in guiding entrepreneurs of diverse backgrounds through the complexities of government procurement.

"We are very active in our outreach and mentoring of small, minority and women-owned firms," said Ed Green, NREL's manager of procurement and small-business liaison. "Linking with small businesses is only half the job. The other part is supporting these firms during contract performance to assure mutual success."

In addition to economic support, NREL has spawned 27 spin-off companies. Laboratory facilities and expertise are available to small businesses, and NREL hosts seminars to help those businesses market their products and services.

To be eligible for the Eisenhower award, a federal prime contractor first must win an SBA Award of Distinction. NREL was one of two organizations in the six states of SBA's Region VIII to receive this award in 1993.

The SBA's Office of Government Contracting selected finalists in three categories this year: research and development, service and construction. NREL won the Eisenhower award in the research and development category.

NREL WINS U.S. DESIGN AWARD

[From Jefferson County Transcript, June 16, 1995]

One of the federal government's most energy-efficient buildings was honored with a 1995 Federal Design Achievement Award from the National Endowment for the Arts.

Golden Mayor Marv Kay was on hand for the ceremony that honored regional winners.

The Solar Energy Research Facility, part of the U.S. Department of Energy's National Renewable Energy Laboratory in Denver West Office Park, is one of 77 federal projects honored nationwide for superior architectural design. SERF and the other winners are now in contention for the nation's highest honor—the Presidential Design Award for Excellence, which will be awarded at the White House this fall.

SERF is a state-of-the-art laboratory facility used for advanced photovoltaic solar cell research.

SERF's unique design incorporates energy efficiency features that reduce energy consumption by 30% to 40%. This reduces annual heating, cooling and lighting costs by almost $200,000. Energy-saving features include the use of daylight to illuminate office areas and corridors.

Mr. MYERS of Indiana. Mr. Chairman, I yield 4 minutes to the gentleman from California [Mr. ROHRABACHER], the chairman of the Subcommittee on Energy and Environment of the Committee on Science.

Mr. ROHRABACHER. Mr. Chairman, first of all I want to express my admiration for the gentleman from Wisconsin [Mr. KLUG]. Many of the things that he does, I am totally supportive of. In this case I cannot be supportive. He is suggesting in this amendment that we earmark $44.8 million for the innovative and renewable technologies transfer program.

We have heard a lot of rhetoric today about the importance of developing solar energy. This has nothing to do with the development of solar energy. Zero. In fact, this will hurt the development of solar energy. What we are doing here is we are talking about a transfer program. We are talking about promotion. We are talking about marketing. We are talking about commercialization. We are not talking about research and development. In fact, we are spending $44 million, if this amendment succeeds, by taking it away from research and development. Some of that money may well come from research and development of solar energy.

Being the chairman of the subcommittee dealing with this issue, I know how much money we have had to cut from the budgets of energy and environmental research in this country. The fact is we did everything we could to protect the fundamental research and what we had to do is cut programs that dealt with promotion and marketing and commercialization of which this is the perfect example.

We need to focus the Federal Government effort on research and development, fundamental research and development that cannot be done by the private sector. Fundamental research in solar was protected. In fact, because it is not coming from anywhere, it is just suggested it is going to be a general cut throughout our budget in this area, this could well come from solar energy research and development money. Certainly it is going to come from somewhere. It might come from fundamental research and development in other type of energies that we need to do research and development on.

Mr. Chairman, what in essence we are doing is taking money away from a budget of research and development that has already been strained to the braking point. We are taking money away from a budget that has already been strained to the breaking point and we are putting it into marketing and commercialization for specific interests that are involved with pushing these products overseas. I think this is green pork. What we are suggesting here by this amendment is green pork, taking the Federal Government away from its essential role on energy research and development and putting it into promotion.

Mr. KENNEDY of Massachusetts. Mr. Chairman, will the gentleman yield.

Mr. ROHRABACHER. I yield to the gentleman from Massachusetts.

Mr. KENNEDY of Massachusetts. Mr. Chairman, I would just like to point out to the gentleman that his own committee is in conflict with the statement that the gentleman just made.

Looking at what has been authorized here, which this money will go toward, it is the Solar Thermal Program to determine the economic viability of dish/Stirling, power tower, and trough systems, it is the concentrated solar energy to break down toxic organic wastes, the development of technologically advanced, higher efficiency wind turbines, the integrated biomass feedstock production. These are all specific programs that were identified by the committee that will be put back in the budget.

Mr. ROHRABACHER. Reclaiming my time, we specifically deauthorized the use of funds for solar technology transfer. What we tried to focus in on at the committee and subcommittee level was direct and solid research and development because that cannot be done by anybody else but the Federal Government.

This indeed is taking the money, I say to the gentleman from Massachusetts [Mr. KENNEDY], $44 million basically from across-the-board cuts to channel it into a program that is aimed at marketing and commercialization.

Mr. KENNEDY of Massachusetts. If the gentleman will yield further, the fact is that what we are talking about is what is in the authorization. What we are talking about is whether or not these industries need this kind of basic research in order to be successful.

Mr. ROHRABACHER. But we are not financing basic research. It is promotion. I thank the gentleman.

Mr. KLUG. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, if I might point out one of the reasons we have had such strong bipartisan support on this amendment is we are talking about renewables across the board, including wind. So this amendment cannot be seen as simply a debate about solar technology. That is one reason that the gentleman from California [Mr. MOORHEAD] and the gentleman from California [Mr. BONO], both of whom had a great deal of success in California with wind power, so clearly understand.

Second, if I may make the point to my colleagues that if we are trying to figure out where we are going to get the money to pay for this, might I suggest we apply some of the $20 million we eliminated yesterday from the nuclear program that 3 to 1 this House agreed was absolutely out of date.

Mr. Chairman, I yield 3 minutes to the gentleman from Massachusetts [Mr. MARKEY].

Mr. MARKEY. Mr. Chairman, I thank the gentleman from Wisconsin for yielding me the time. I very much compliment him on the making of this amendment.

Mr. Chairman, this is really to a very large extent the critical debate that we are going to have out here on the floor. Renewable energy now provides 10 percent of the energy in our country. But it is still in its nascent stage. Whether it be solar voltaic, which has dropped dramatically from upward of 26 cents a kilowatt hour down to 8 or 9 cents a kilowatt hour just over the past decade; wind, which has dropped from 30 cents a kilowatt hour down to 4 or 5 cents a kilowatt hour in the last 10 years, we are seeing dramatic changes in the way in which electricity and energy are generated in this country.

Unfortunately the bill as it is presently constructed still tilts dramatically toward the older technologies. There is $236 million in this budget for fission technology. This is a 40-year-old technology that is already out in the marketplace with one of the wealthiest industries in the United States, the electric utility industry, perfectly capable of doing all additional research on that technology.

In addition, there is $230 million in here for fusion technology. Money is here for coal research. Money is here for all kinds of research on the older technologies.

□ 1130

Now, I really would not mind if the committee cut out all the money for solar and all money for wind if they cut out all the money for fusion and fission. I really would not care. Then it would be a fair fight out in the marketplace. I would feel a lot better about it.

But if you are going to continue the subsidies for the mature industries, it is wrong to have a 43-percent cut for the nascent competitors of solar and wind and geothermal and conservation. That is what disturbs me most about this whole debate. It has either got to be one way or the other, an amendment to cut out all subsidies or an amendment to keep comparable subsidies for all the competing energy technologies.

There is a good reason for it. We are so overly dependent upon imported oil. Sixty percent of the oil is imported. If we are going to break our dependence on that, we have to have these domestic, indigenous sources of energy developed. Those are going to be the renewables. We need ways in which we are going to lower the cost of energy. Only by having competing technologies do we reduce the overall likelihood we are going to see increases in the traditional fossil fuel or nuclear power generated electricity.

We need to reduce the smog in order to reduce the global warming phenomenon, in order to reduce the acid rain problem. These are benign technologies that reduce our need to have more intrusive environmental laws which pass here on the floor of Congress.

So for all of those reasons, the Klug amendment takes us in the right direction.

The history, however, out here on the floor of the House is if it does not glow, it gets no dough. The nuclear budget continues to be enhanced.

The reason we need this is like the fax machine or telephone, while they may have a nascent discovery and application, it takes 20 and 30 years to finally get them to the marketplace. That is what we have found, and that is why I support the Klug amendment.

PARLIAMENTARY INQUIRY

Mr. KLUG. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. KLUG. Mr. Chairman, who has the right to close the debate please?

The CHAIRMAN. The gentleman from Indiana [Mr. MYERS].

Mr. KLUG. Second, Mr. Chairman, how much time do I have remaining?

The CHAIRMAN. The gentleman from Indiana [Mr. MYERS] has 11 minutes remaining; the gentleman from Wisconsin [Mr. KLUG] has 7 minutes remaining.

Mr. KLUG. Mr. Chairman, I yield 1 minute to my colleague, the gentleman from New York [Mr. BOEHLERT].

Mr. BOEHLERT. Mr. Chairman, I rise in strong support of this very sensible amendment.

It is sensible because it does not assume that we will be forever able to draw on our current sources of energy. It is sensible because it would ensure that the Department of Energy has a balanced research portfolio that does not short-change important potential sources of energy. It is sensible because it backs programs in which business and government work together to achieve national goals that would be ignored without these programs. It is sensible because it funds programs that have had bipartisan support. It is sensible because it recognizes that every DOE program must share in budget cuts. And it is sensible because it accomplishes all this without increasing the bottom line of this bill.

Our Nation should not be ignoring renewable energy in the vain hope that fossil fuels will solve our problems forever. This amendment restores needed funding for renewable energy research—funding for well managed programs that would still be cut by almost one-third if this amendment is passed.

Vote for this amendment and vote for a sensible approach to ensure that this Nation can meet its future energy needs.

Mr. KLUG. Mr. Chairman, I yield 2 minutes to my colleague, the gentleman from California [Mr. FAZIO], who has been a strong champion of renewables and a cosponsor of this amendment.

Mr. FAZIO of California. I thank the gentleman from Wisconsin for yielding me this time.

I yield to no Member in my respect for the gentleman from Alabama [Mr. BEVILL] and the gentleman from Indiana [Mr. MYERS]. I have served with them on this subcommittee for 16 years.

During that time, I have been a great advocate of renewable energy, but this bill is $2 billion less than the President's budget. It is $1.5 billion less than last year spent in this area of spending, and I understand, as the gentleman from Massachusetts [Mr. MARKEY] has indicated, that we are all going to have to absorb reductions. There is no question that all forms of energy research and development will have to take their fair share.

But I stand here today for the first time in opposition to my chairman and ranking member on this matter, because I believe we have taken an inordinately deep cut in renewable spending. A 43-percent cut simply is out of whack with all of the other proposals that have been made to reduce spending. We have simply asked too much of an area that is on the upturn. It is a growing area for exports, an important area of small business in this country.

These are proven performers, technological trend setters. We are not where we were 20 years ago where this is merely an ideological issue. Today renewable energy is part of the energy grid. Utilities across this country are adopting these as low cost alternatives.

We have an opportunity in this amendment offered by the gentleman from Wisconsin [Mr. KLUG] to begin to restore some balance to our energy policy.

Now, I have really stood in opposition to all of the cuts in the nuclear fission program, because I truly believe we need a balanced energy policy. We have forgotten the lines at the gas stations. Maybe I have been here too long, folks, but I think many of us have forgotten in our desire to find areas to cut that there is a potential for an energy crisis again. It is out there ahead of us. We are almost at 60 percent reliance on imported fuel from the Middle East and other parts of the world.

This Congress has got to keep in mind that we are headed in the wrong direction, and this amendment makes a modest step back toward the right direction.

I ask for its support.

Mr. KLUG. Mr. Chairman, I yield 1 minute to the gentleman from Massachusetts [Mr. KENNEDY].

Mr. KENNEDY of Massachusetts. Mr. Chairman, I think we have heard a lot of talk about how we are not supposed to pick winners and losers in the Congress of the United States.

This is a blatant attempt to pick a winner, and the winner is the nuclear industry. We are cutting 31 percent of the renewable energy budget in this bill.

This attempt by the gentleman from Wisconsin [Mr. KLUG] and others is to attempt to put a few dollars back into a budget that has already gutted renewable energy supplies of this country. Why do we not recognize that it is the nuclear industry who has singlehandedly raised the cost of electricity for the ordinary citizen of this country and we still have not taken into account how we are going to get rid of the nuclear waste?

This is an energy supply that is clean. It is an energy supply that is renewable. It will enable us to gain some independence from the foreign creditors that are breathing down our necks. Let us say to OPECers, let us say to the rest of the world that wants to continue our dependence on foreign oil that we are sick and tired of it, that we are going to develop our own independent energy sources, and if we need government assistance to develop those new sources, we are going to put the money in and break the dependence on the big nuclear industry and our foreign traders.

Mr. MYERS of Indiana. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. ROHRABACHER], who has a new idea now, a new thought.

Mr. ROHRABACHER. Mr. Chairman, I just would like to point out again we are hearing over and over again that this is in some way juxtaposing some new type of energy research with solar energy research. This debate has nothing to do with the research and development policies on solar energy or any other kind of energy except for the fact that it will take money from research and development programs across the board in energy, some of which are renewable, I might add, and take that research and development money and take and put it into a transfer program, a program that is totally designed for promotion, marketing, and commercialization.

I think our Members should also be aware that the prime beneficiary of the $44 million that is being taken out of energy research and development and put into this promotion marketing commercialization effort, the prime beneficiary is not an American company but a German company, a German company, called Siemens Co., which is the leader, yes, in this type of technology, but we will be providing them funds to help them with the promotion of solar energy.

Now, this is not, again, this gentleman, by the way, took great pains during the authorization process to see that solar energy research and development was protected.

I happen to believe that is a very probable and potential source, a good source, of energy in the future if it is developed. We, in fact, by the way, let me also add that we also made sure that there were major cuts in fusion and nuclear energy programs.

I have become the target of nuclear energy people across the country who are as mad as hell that I have cut, that DANA ROHRABACHER has cut their budget for research and development in the nuclear area.

The fact is we have tried to maintain a balanced research and development program.

Mr. KENNEDY of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. ROHRABACHER. I yield to the gentleman from Massachusetts.

Mr. KENNEDY of Massachusetts. The fact of the matter is there is a 43 percent cut in this bill by solar and renewable energies and a 13 percent in nuclear.

Mr. ROHRABACHER. Not in research and development, only in promotion, which is what this bill deals with.

Mr. KLUG. Mr. Chairman, I yield 1 minute to the gentlewoman from Connecticut [Mrs. KENNELLY].

Mrs. KENNELLY. Mr. Chairman, I rise in strong support of the Klug amendment to restore funding for renewable energy programs in the Department of Energy.

Like my constituents in Connecticut, I believe that no Federal program should be spared from reductions. But fiscal responsibility doesn't mean cutting everything without regard to its value; it means making priorities for our scarce dollars.

Energy-efficient technology opens markets abroad and creates jobs at home, and it must be one of our highest priorities.

As a manufacturer of wind energy equipment in my State puts it, "Renewable energy is an investment into the economic and environmental future of the country."

I urge a "yes" vote on the Klug amendment.

Mr. KLUG. Mr. Chairman, I yield 1 minute to the gentleman from Colorado [Mr. SKAGGS].

Mr. SKAGGS. Mr. Chairman, I thank the gentleman for yielding me this time, and I commend him for his efforts to shift the priorities in this bill in the right direction.

This is not about an increase. It is about choices. It is about energy independence, about sustainable economic growth.

Yes, the solar and renewable accounts do, to a great degree, go to applied research and even to technology transfer. Yes, private industry may not find it profitable enough, quick enough, to go it alone. But that is just another way of saying that the marketplace does not work perfectly. It does not account well for the external costs of the current dominance of fossil fuel sources, and it does not account well for the external benefits in terms of energy independence, jobs, balance of payments, and the avoidance of environmental costs.

This is exactly the kind of situation, therefore, in which some modest government program of R&D assistance, to bridge the gap in a marketplace that is too preoccupied with an immediate payoff, is entirely appropriate.

I commend the gentleman for his amendment, and urge my colleagues' support.

Mr. KLUG. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, let me make several points in closing, if I could.

First of all, let me reiterate to my colleague what the gentleman from Colorado [Mr. SCHAEFER] said, that fundamentally we made a decision in this Congress just 3 years ago that we would make an important transition from an era of fossil fuel to an era that included Federal funding for new emerging renewable technologies. That was just 3 years ago.

And the choice now is as I think a number of my colleagues on the other side, the gentleman from Massachusetts [Mr. MARKEY], the gentleman from Massachusetts [Mr. KENNEDY], the gentleman from California [Mr. FAZIO] have pointed out, here we find a situation where this bill continues to fund substantial amounts of money for coal research which we have been doing for 60 years, nuclear research which we have been doing for 40 years, and while it is true those programs are cut, they are not cut as dramatically as the renewable program under the markup we now find ourselves in from the committee.

Finally, again, if I could say this one more time, this is not a vote about solar. This is a vote about renewables. That includes wind. It includes other technologies as well as solar technology.

And finally, to primarily my Republican colleagues, let me assure them this does not add to the deficit. This is simply shifting money around and trying to reestablish a priority in this Congress that the American public overwhelmingly supports and this Congress overwhelmingly supported just 3 years ago.

Mr. MYERS of Indiana. Mr. Chairman, I yield myself the remainder of my time.

Mr. Chairman, this subcommittee has long been a supporter of the renewables, including solar, wind, geothermal, everything. We have long been a supporter.

But no item, no appropriation in this budget has increased as much as solar has. Solar alone, not all the other renewables, just solar, since 1991, in the last 5 years, this committee has increased the appropriations for solar research, including what we even cut out here this year, by 93 percent. Name any other item we have in our bill other than waste management and environmental cleanup that we have increased that much. None have we increased as much as we have solar.

This committee this year heard a lot about corporate welfare and how often we heard it yesterday about the reactor, "Oh, this is corporate welfare. We are helping some utility some place or General Electric or Westinghouse build a reactor," for our country, hopefully, someday or someplace overseas that we might be able to sell one. Call that corporate welfare.

So our committee this year got to examining just where are the solar dollars going. The gentleman from California [Mr. ROHRABACHER] hit it right on the head. We found that much of the solar research really was not going into research. It is not going into solar panels. It is not going into wind research for better windmills, even though we have a lot of windmills in California, farms of them out there. Some have been closed down; we even built several around the country we have had to close down because of the environment.

So this committee examined these very closely this year and realized we were not getting the bang for the taxpayers' buck in solar. We still support solar, but we have to draw the line.

It has been said here this morning that we are cutting research. We are not cutting research. What we took out of this bill is not as the gentlewoman from Connecticut said, making jobs for the United States. Making jobs for Germany is one example because what we took out, what we reduced this year, primarily we eliminate the solar international marketing program, solar international marketing program, solar technology transfer. We're paying some company this year to put up solar panels on the roof, technology transfer, or energy storage systems. We have been long trying to build a solar battery. We have been working on that for quite some time; not much success; maybe some day we will have it. We have not closed the door on it, but we just found this year that we had to make some choices. We found that 50 percent of the budget request is for cost-sharing arrangements with industry, 50 percent. We did not cut it 50 percent; we left some of it in, but we cut those big programs. The limited resources we have we decided should not be used in corporate welfare, but be directed toward basic science and research programs.

So, if you adopt this amendment, of $44 million, almost $45 million, it will reduce funding for all the other research that is being done around over the country, other research for renewables which are so vitally needed. What we are cutting out, what is unnecessary, is paying companies to try to use solar. This is all we are doing.

We are cutting out corporate welfare.

Mr. Chairman, I ask for a "no" vote.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Wisconsin [Mr. KLUG].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. MYERS of Indiana. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 214, noes 208, not voting 12, as follows:

[Roll No. 488]

AYES—214

Abercrombie
Ackerman
Allard
Baesler
Baldacci
Barcia
Barrett (WI)
Bartlett
Becerra
Beilenson
Bentsen
Bereuter
Berman
Bilirakis
Bishop
Blute
Boehlert
Bonior
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Bryant (TX)
Camp
Cardin
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Condit
Conyers
Costello
de la Garza
Deal
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Dunn
Durbin
Edwards
Engel
Ensign
Eshoo
Evans
Farr
Fattah
Fazio
Filner
Flake
Flanagan
Foglietta
Ford
Frank (MA)
Franks (CT)
Furse
Gejdenson
Gephardt
Geren
Gillmor
Gilman
Goodling
Gordon
Green
Gunderson
Gutierrez
Hall (OH)
Hamilton
Hancock
Harman
Hastings (FL)
Hefley
Hilliard
Hinchey
Hoekstra
Horn
Houghton
Jackson-Lee
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnston
Kaptur
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
Kleczka
Klug
LaFalce
Lantos
Leach

Levin
Lewis (GA)
Lincoln
Lipinski
Lowey
Luther
Maloney
Manton
Markey
Martinez
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Metcalf
Meyers
Mfume
Miller (CA)
Mineta
Minge
Mink
Moorhead
Moran
Morella
Nadler
Neal
Neumann
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Petri
Pombo
Pomeroy
Portman
Poshard
Rahall
Ramstad
Rangel
Reed
Richardson
Rivers
Roberts
Roemer
Roth
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schaefer
Schroeder
Schumer
Scott
Sensenbrenner
Serrano
Shays
Skaggs
Slaughter
Smith (NJ)
Spratt
Stark
Stenholm
Studds
Taylor (MS)
Tejeda
Thomas
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Tucker
Upton
Velazquez
Vento
Volkmer
Vucanovich
Waldholtz
Ward
Waters
Watt (NC)
Watts (OK)
Waxman
Weldon (PA)
Williams
Wise
Woolsey
Wyden
Wynn
Yates
Zimmer

NOES—208

Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Barton
Bass
Bateman
Bevill
Bilbray
Bliley
Boehner
Bonilla
Bono
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Canady
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Cooley
Cox
Coyne
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Doyle
Dreier
Duncan
Ehlers
Ehrlich
Emerson
English
Everett
Ewing
Fawell
Fields (LA)
Fields (TX)
Foley
Forbes
Fowler
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gonzalez
Goodlatte
Goss
Graham
Greenwood
Gutknecht
Hall (TX)
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Heineman
Herger
Hilleary
Hobson
Hoke
Holden
Hostettler
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson, Sam
Jones
Kanjorski
Kasich
King
Kingston
Klink
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Lofgren
Lucas
Manzullo
Martini
Mascara
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Mica
Miller (FL)
Molinari
Mollohan
Montgomery
Murtha
Myers
Myrick
Nethercutt
Ney
Norwood
Oxley
Packard
Parker
Paxon
Pickett
Porter
Pryce
Quillen
Quinn
Radanovich
Regula
Riggs
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schiff
Seastrand
Shadegg
Shaw
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stump
Stupak
Talent
Tanner
Tate
Taylor (NC)
Thornberry
Tiahrt
Traficant
Visclosky
Walker
Walsh
Wamp
Weldon (FL)
Weller
White
Whitfield
Wicker
Wilson
Wolf
Young (AK)
Young (FL)
Zeliff

NOT VOTING—12

Andrews
Brown (OH)
Collins (MI)
Fox
Frost
Hefner
Longley
Moakley
Reynolds
Stockman
Stokes
Tauzin

□ 1210

Messrs. CHRISTENSEN, COYNE, EWING, LIVINGSTON, HOLDEN, SOUDER, KINGSTON, HILLEARY, EHRLICH, SCHIFF, and PORTER, and Mrs. ROUKEMA changed their vote from "aye" to "no."

Ms. BROWN of Florida, Mrs. MEEK of Florida, Mrs. CLAYTON, and Messrs. THOMPSON, POMBO, RAHALL, SCHUMER, FATTAH, POMEROY, GENE GREEN of Texas, YATES, and KIM changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. SANDERS

Mr. SANDERS. Mr. Chairman, I offer an amendment, numbered 38.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. SANDERS: Page 18, strike lines 8 through 20.

Mr. MYERS of Indiana. Mr. Chairman, would the gentleman agree to some limitation on time?

Mr. SANDERS. Mr. Chairman, I would say to the gentleman that I am going to be withdrawing the amendment.

The CHAIRMAN. The gentleman from Vermont [Mr. SANDERS] is recognized for 5 minutes.

Mr. SANDERS. Mr. Chairman, I will be withdrawing this amendment, which would reduce by $3.2 billion in fiscal year 1996 funding for the nuclear weapons activities of the U.S. Department of Energy. Instead, I will be offering an amendment to the fiscal year 1996 defense appropriations bill, which in fact will take a bigger bite out of wasteful Federal spending for unneeded unclear weaponry.

Mr. Chairman, it seems to me that it is absurd for this country to keep producing and deploying huge amounts of nuclear weaponry, and ignore the fact that the cold war is over. This mindless spending costs the American taxpayer over $30 billion a year.

Mr. Chairman, it seems to me that this country has many, many problems. We have people sleeping out on the street; we have children who are hungry; we have elderly people who cannot afford their prescription drugs; we have millions of middle-class families who cannot afford to send their kids to college; we have 30 million people who cannot afford health insurance. We have many problems, but one problem we do not have is a lack of nuclear weaponry.

It may be of esoteric interest to some scientists as to how many times over we can destroy humanity, whether it is 100 times over or 50 times over, through the use of nuclear weapons. That may be of interest to some people, but it really is not one of the pressing problems that this country has right now.

The cold war is over. We should not be spending $30 billion a year on nuclear weaponry, $300 billion a year over a 10-year period.

□ 1215

Mr. Chairman, we have some 20,000 nuclear warheads in our Nation's arsenal. That seems to me to be enough.

Mr. Chairman, I am withdrawing this amendment today but will be bringing it back in a more appropriate fashion through the Department of Defense appropriation. I believe very strongly that we must get our priorities right. We do not need more money on nuclear weaponry when we are cutting program after program that tens of millions of middle-income and working-class Americans depend upon. I look forward to the support of my colleagues when this amendment resurfaces in the Department of Defense appropriation.

Mr. Chairman, I ask unanimous consent to withdraw my amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Vermont?

There was no objection.

AMENDMENT OFFERED BY MR. WARD

Mr. WARD. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WARD: On Page 16, line 1, insert "(less $1,000,000)" before "to remain".

Mr. MYERS of Indiana. Mr. Chairman, I ask unanimous consent that the time on this amendment and any amendments thereto be limited to 10 minutes equally divided.

The CHAIRMAN. Is there objection to the request of the gentleman from Indiana?

Mr. STARK. Mr. Chairman, reserving the right to object, will the gentleman be willing to amend that to 12 minutes?

Mr. MYERS of Indiana. Yes, Mr. Chairman.

The CHAIRMAN. The unanimous-consent request is for 12 minutes, 6 minutes on each side, time to be controlled by the gentleman from Indiana [Mr. MYERS] and the gentleman from Kentucky [Mr. WARD].

Is there objection to the request of the gentleman from Indiana?

There was no objection.

The CHAIRMAN. The gentleman from Kentucky [Mr. WARD] will be recognized for 6 minutes and the gentleman from Indiana [Mr. MYERS] will be recognized for 6 minutes.

The Chair recognizes the gentleman from Kentucky [Mr. WARD].

Mr. WARD. Mr. Chairman, I yield myself such time as I may consume.

My amendment seeks to strike a special earmark in this bill for sonoluminescence. Sonoluminescence is the act of bombarding water with sound waves which excites air bubbles to flash light. This is a legitimate course of study. There is no question of that. But neither the Energy Department nor any of the energy labs in this country have requested money for this program. This is a special earmark.

I would hasten to point out, though, that the gentleman from California who has earmarked this money in the budget does not have this in his district. This is not something that the gentleman from California has done for someone in his district. The gentleman and I have talked about this. I want to hasten to make sure that there is no question in any Member's mind that this is a piece of pork in his district. This is not.

What it is is a reasonable disagreement about how we should be spending our science research dollars. I feel that we should not earmark $1 million when the Department of Energy has not asked for the money, when the lab that is doing the work has not asked for the money, when, in fact, a former director of that lab has been quoted, and this is from Science Magazine, December of last year, the last 6 months, the former director of this lab was quoted as saying that it was highly improbable that researchers can achieve the desired results from this money.

There was no evidence presented at any hearing with respect to this million dollars. There was report language added, but in the subcommittee on which I serve there was never a discussion, a public hearing back and forth on this issue.

What I feel we need to do today, my colleagues, is to strike $1 million to show that we are not going to micromanage America's science programs by spending this earmarked $1 million.

Mr. Chairman, I reserve the balance of my time.

Mr. MYERS of Indiana. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. ROHRABACHER].

Mr. ROHRABACHER. Mr. Chairman, I appreciate this opportunity to talk about fundamental basic research, which is supposed to be the purpose of my subcommittee and the purpose of the Committee on Science. There are some things that cannot get done in the private sector and that is what we try to do in Government. The fact is that this is a program that has nothing to do with my district. In fact, it has nothing to do, I do not know anyone as an individual, there is no friend of mine on this project. It is something that came to my attention from other scientists who suggested it was a good idea, and it was something that was an example of how huge programs that we have, in fusion and all these other mega programs that we spend billions of dollars on, crowd out the small research programs that have a high potential but never get the money because they do not have lobbyists, they do not have any of the big guys behind them.

This program is aimed at achieving a modest amount of fusion energy from a very modest, a $2 million investment over 2 years, research program. It is the first year of the program, so we are asking for $1 million this year and, after 2 years, we will know whether or not this potential research program is viable. But this is exactly the kind of program the Federal Government should be doing.

It is pure research. It is not one of these mega bureaucracies where the money goes into administration. In fact, if the Ward amendment is successful and this money is then cut out from going to this program, the money will likely be channeled directly into one of these mega programs. It might be paying for the office of public relations for one of those programs instead of research and development.

This is scientific research, earmarked by the way. There is nothing wrong with an earmark in the sense that this is, if it is peer reviewed, and this is a peer-reviewed, competitive program, we are not asking for this money to be given to just any company or any laboratory. And the fact that it is an earmark does not make it wrong. We had the debate in the subcommittee. In fact, this is very similar to the earmarking that is for coal research, which I know the gentleman from Kentucky [Mr. WARD] is very in favor of.

So I would ask my colleagues to support this fundamental research program that deserves it. We have the support of many scientists: Dr. Seth Putterman of UCLA, Dr. Kenneth Suslick of the University of Illinois, and Dr. William Moss at Lawrence Livermore. These are men that are preeminent in their field. They think it is a worthwhile program. I think that these are just the type of things the Federal Government should do. I ask my colleagues to oppose this amendment.

Mr. WARD. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. STARK].

Mr. STARK. Mr. Chairman, I would like to engage my distinguished colleague from California, the chairman of the Subcommittee on Energy and Environment.

This is a wonderful project. The gentleman knows it will go to Livermore, CA, and shooting light on these bubbles will cause a lot of wonderful things. Do you know what else they make in Livermore, CA?

Mr. ROHRABACHER. Mr. Chairman, will the gentleman yield?

Mr. STARK. I yield to the gentleman from California.

Mr. ROHRABACHER. Lawrence Livermore happens to be the laboratory that develops a lot of types of energy.

Mr. STARK. It is right in the center, reclaiming my time, Mr. Chairman, of the finest champagne country in the world. What this will do is irradiate that champagne that comes from California, much to the disadvantage of New York, where they do not make such very good champagne.

I understand that the gentleman, and Texas has a problem with it, too. The gentleman from Wisconsin supports this amendment because the bubbles in beer will be irradiated and that will put the gentleman from Missouri at a disadvantage. So that I want to say that if you want to waste $1 million trying to make California champagne better, which you cannot do, then we welcome this money. But if you really think that there is a place for $1 million and fewer bubbles or better beer, we could spend that money elsewhere.

Mr. ROHRABACHER. Mr. Chairman, if the gentleman will continue to yield, I take it that this is tongue in cheek? I just would like my colleagues to know that.

Mr. STARK. This is bubbles in a bottle, shining a little light on the bubbles for California champagne is certainly worth $1 million of the taxpayers' money.

Mr. ROHRABACHER. If it produces energy for the American people.

Mr. STARK. Enough energy to blow those corks right out on New Year's Eve.

Mr. WARD. Mr. Chairman, I yield myself the balance of my time. I appreciate the remarks of the gentleman from California [Mr. STARK]. Of course, I would mention to him this is the first time I have risen to offer an amendment on the floor, and he should not scare me that way.

Two quick points, in response to the gentleman from California [Mr. ROHRABACHER]. The million dollars will go back to the treasury. It is being taken completely out of the budget of the Energy Department.

Second, if the Department of Energy feels that this research is important and they have in the past expended money on this research, in fact since 1934, there has been research going on in this field, they will have the opportunity and certainly have the wherewithal to make these kinds of expenditures.

Remember, this is the Department of Energy energy lab. I think that answers those points.

As I said, this is my first time standing to offer an amendment.

I will close by saying that we need to show that we can give $1 million back to the treasury when it has been earmarked in a legislative committee without a hearing, without a public discussion, on the subcommittee on which I serve. We need to show that we are not going to micromanage every million dollars spent by the Department of Energy, and we need to do it today. Please support the Ward amendment.

Mr. MYERS of Indiana. Mr. Chairman, the committee appreciates the cooperation by the gentleman from Kentucky as a beginner. In Kentucky we do not call them "beginners," we call them "maidens."

Mr. Chairman, I yield the balance of my time to the gentleman from California [Mr. BAKER].

Mr. BAKER of California. Mr. Chairman, I had not intended to speak nor did I know until the gentleman from California [Mr. ROHRABACHER] just informed me that this project was indeed to be done at one of the laboratories, whether it is Livermore or one of the defense laboratories. I have never heard so much smoke and mirrors, let alone bubbles on this debate.

First of all, this was in the bill. The bill had a hearing. The gentleman from Kentucky [Mr. WARD] was there. But he did not bring this amendment up, nor did he discuss this project. So do not say this is some secret earmark that some scientist dreamed up to pork it up. And he was very kind in his remarks to exclude pork in this. But there is no reason to go after a basic science program, $1 million, yet, when it has had a hearing and it went through the process and nobody said "bubble" during that hearing.

So now we use the word "earmark." Well, this is an earmark. If this is such a tremendous earmark, why are not the lobbyists here saying, we have to have this; this is for fossil fuel? Or we have to have this; this is for wind?

This is basic research and we ought to be doing more of it and not less. This is also to improve and give us an alternative to the various fusion programs that everybody is taking pot shots at here on the floor.

Mr. WARD. Mr. Chairman, will the gentleman yield?

Mr. BAKER of California. I yield to the gentleman from Kentucky.

☐ 1230

Mr. WARD. Mr. Chairman, I would say to the gentleman, on the point of this coming before the committee, it was as part of 60 pages of report language that I did not see prior to the time we sat down to discuss the bill.

Mr. BAKER of California. I will excuse the gentleman, then, but I think it is frivolous to bring it up on the floor, to say that out of the 60 pages, this is the one project that the gentleman would like to eliminate.

Mr. VOLKMER. Mr. Chairman, will the gentleman yield?

Mr. BAKER of California. I am happy to yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Chairman, I would ask the gentleman, is this the same type of basic research as why the fly lands on the ceiling and not on the wall?

Mr. BAKER of California. This is the same kind of skepticism that says we cannot balance our budget. We can. This is good basic science. I urge a "no" vote on the amendment.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from Kentucky [Mr. WARD].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. ROHRABACHER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 276, noes 141, not voting 17, as follows:

[Roll No. 489]

AYES—276

Abercrombie
Ackerman
Allard
Archer
Baesler
Baker (LA)
Baldacci
Barcia
Barrett (WI)
Barton
Bass
Becerra
Beilenson
Bentsen
Berman
Bevill
Bishop
Blute
Bonior
Borski
Brewster
Browder
Brown (CA)
Brown (FL)
Bryant (TX)
Callahan
Camp
Canady
Cardin
Chabot
Chapman
Christensen
Chrysler
Clay
Clayton
Clement
Clyburn
Coleman
Collins (GA)
Collins (IL)
Collins (MI)
Condit
Conyers
Costello
Coyne
Cramer
Cremeans
Cunningham
Danner
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Duncan
Dunn
Durbin
Edwards
Ehrlich
Engel
English
Ensign
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Fields (TX)
Filner
Flake
Flanagan
Foglietta
Foley
Ford
Fowler
Frank (MA)
Franks (NJ)
Furse
Ganske
Gejdenson
Gephardt
Geren
Gibbons
Gilchrest
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Green
Gunderson
Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Hancock
Harman
Hastings (FL)
Hefley
Hilliard
Hinchey
Hobson
Hoekstra
Holden
Horn
Hoyer
Hutchinson
Hyde
Inglis
Jackson-Lee
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnston
Jones
Kanjorski
Kaptur
Kasich
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kingston
Kleczka
Klink
LaFalce
LaHood
Lantos
Largent
Latham
LaTourette
Leach
Levin
Lewis (GA)
Lincoln
Lipinski
LoBiondo
Lowey
Luther
Maloney
Manton
Manzullo
Markey
Martinez
Martini
Mascara
Matsui
McCarthy
McCrery
McDermott
McHale
McInnis
McIntosh
McKinney
McNulty
Meehan
Meek
Menendez
Metcalf
Meyers
Mfume
Miller (CA)
Miller (FL)
Mineta
Minge
Mink
Montgomery
Moran
Murtha
Myrick
Nadler
Neal
Neumann
Oberstar
Obey
Olver
Orton
Owens
Pallone
Parker
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pomeroy
Porter
Portman
Poshard
Rahall
Ramstad
Rangel
Reed
Regula
Richardson
Riggs
Rivers
Roemer
Ros-Lehtinen
Rose
Roukema
Roybal-Allard
Royce
Rush
Sabo
Salmon
Sanders
Sanford
Sawyer
Saxton
Schroeder
Schumer
Scott
Sensenbrenner
Serrano
Shaw
Shays
Sisisky
Skaggs
Skelton
Slaughter
Smith (WA)
Spratt
Stark
Stearns
Stenholm
Stokes
Studds
Stupak
Tanner
Tate
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Traficant
Tucker
Upton
Velazquez
Vento
Visclosky
Volkmer
Waldholtz
Ward
Waters
Watt (NC)
Waxman
White
Whitfield
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (FL)
Zimmer

NOES—141

Armey
Bachus
Baker (CA)
Ballenger
Barr
Barrett (NE)
Bartlett
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Boehlert
Boehner
Bonilla
Bono
Boucher
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Calvert
Castle
Chambliss
Chenoweth
Clinger
Coble
Combest
Cooley
Cox
Crane
Crapo
Cubin
Davis
Deal
DeLay
Diaz-Balart
Doolittle
Dornan
Dreier
Ehlers
Emerson
Everett
Ewing
Fawell
Forbes
Franks (CT)
Frelinghuysen
Frisa
Funderburk
Gallegly
Gekas
Gillmor
Gilman
Graham
Greenwood
Gutknecht
Hansen
Hastert
Hastings (WA)
Hayworth
Heineman
Herger
Hilleary
Hoke
Hostettler
Houghton
Hunter
Johnson, Sam
Kelly
Kim
King
Klug
Knollenberg
Kolbe
Laughlin
Lazio
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
Lofgren
Lucas
McCollum
McDade
McHugh
Mica
Molinari
Mollohan
Morella
Myers
Nethercutt
Ney
Norwood
Nussle
Oxley
Packard
Paxon
Pombo
Pryce
Quillen
Quinn
Radanovich
Roberts
Rogers
Roth
Scarborough
Schaefer
Schiff
Seastrand
Shadegg
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Solomon
Souder
Spence
Stump
Talent
Taylor (NC)
Thomas
Thornberry
Tiahrt
Vucanovich
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Wicker
Williams
Young (AK)
Zeliff

NOT VOTING—17

Andrews
Brown (OH)
Coburn
Fox
Frost
Hayes
Hefner
Istook
Longley

McKeon
Moakley
Moorhead
Ortiz
Reynolds
Rohrabacher
Stockman
Tauzin

□ 1250

The Clerk announced the following pair:

On this vote:

Mr. Frost for, with Mr. McKeon against.

Messrs. MICA, KIM, and WALSH changed their vote from "aye" to "no."

Messrs. ALLARD, MCDERMOTT, HOBSON, PORTER, CHRISTENSEN, HALL of Texas, CHRYSLER, CONDIT, COLLINS of Georgia, and JONES changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Mr. SHAW. Mr. Chairman, I move to strike that last word. I would like to take this opportunity to engage in a brief colloquy with the gentleman from Indiana [Mr. MYERS], the chairman of the subcommittee, to clarify the intent of the subcommittee to appropriate $150,000 to fund the Corps of Engineers' study for a 9.1-mile section of the Atlantic Intracoastal Waterway in Palm Beach County, FL.

I am very pleased that the subcommittee made the decision to fund this study, but due to the unique circumstances regarding this project, I believe it is necessary to clarify the congressional intent on how the Corps should proceed with this study.

Mr. MYERS. Mr. Chairman, will the gentleman yield?

Mr. SHAW. I yield to the gentleman from Indiana.

Mr. MYERS of Indiana. The gentleman has accurately portrayed this. We put it in the report accompanying H.R. 1905 and it directs the Corps of Engineers to do a reconnaissance study as to the waterway.

Mr. SHAW. That is correct. However, the traditional definition of a reconnaissance study is not adequate to describe the focus that is needed by the Corps to study this portion of the Intracoastal Waterway.

Mr. MYERS of Indiana. If the gentleman will yield further, no question about it. This thing has been studied to death. And there are a lot of projects like this. And the authorization goes back to 1945. So we will be pushing, helping the gentleman clear this up.

Mr. SHAW. The chairman is absolutely correct. It was on March 2, 1945, that the Congress authorized the channel depth in this area of the Intracoastal Waterway to be 12 feet deep; however, over the years it was only dredged to 10 feet.

Mr. MYERS of Indiana. It is my understanding that because the project has already been authorized by the Corps, all that is necessary is a narrowly refocused reevaluation study to determine the economic viability at this time, and the $150,000 appropriation can be used for this purpose.

Mr. SHAW. Mr. Chairman, I thank the chairman very much for allowing me to discuss this project with him to clarify that it is the congressional intent that this $150,000 appropriation be used for a reevaluation study.

AMENDMENT OFFERED BY MR. VOLKMER

Mr. VOLKMER. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. VOLKMER: Page 16, Line 1 insert "(less $8,000,000)" before "to remain".

Mr. VOLKMER. Mr. Chairman, this amendment would strike $8 million from the legislation, from the appropriation, in order to remove the funds for the conceptual design and for the spallation source conceptual design at the Oak Ridge National Laboratory proposed there for Oak Ridge.

After the cancellation of the advanced neutron source, which we canceled out, the Department proposed ANS-lite, the spallation source, to provide work at Oak Ridge for the scientists whom DOE had promised the ANS.

It appears to me, when we look at this program, even though there may be some worthwhile end results if the project is carried out, at this time when we have the budgetary restraints that we have, I think we need to review these types of projects before they actually get started and say, now, is this really where we want to put our money and how much is it going to eventually cost and where are we going to get the money from to fully fund it, all the way down the road to carry out this project?

I am sure that nobody wants to sit here and start a project and then 2 years from now or 3 years from now when you have gone down that road and spent so much money, find out, hey, it is going to cost too much. That is exactly what ANS is all about, the advanced neutron source. That is what we did.

Should we do it again? I say no. I would say that we should not do it again. I really do not believe that we should use taxpayers' money to keep Federal employees, even though they may be real good scientists, some of them our best scientists, and other ancillary employees that assist them and work there, that we should be spending money to come up with scientific projects because their project which they thought they would be working on got canceled.

I believe that just like when we have base closings, just like when we cut back on USDA employees, everyplace else, that those Federal employees have to suffer like everybody else is going to have to suffer under these budgetary times.

The second thing I would like to point out is that it is projected that even though we may be just starting out with a design stage, $8 million for design, that it is projected that the total cost of this by the time you get through with construction and everything is going to be around $1 billion. It is $1 billion out of this budget, out of this appropriation. That has to come from somewhere, folks. Is it going to come from other research projects? Is it going to come from renewable resources? We just had a vote on that. That committee has already cut back. They did not like that amendment. Does it mean further cuts in those projects, in those type of programs, in that type of research? It is going to mean cuts somewhere in order to have a research program that is questionable as to whether we actually have to do it.

The other thing that really concerned me about this, it is supposedly because the ANS project was being done at Oak Ridge, that Oak Ridge is going to end up with this, too, even though there is no question about it that Los Alamos is a lot better equipped to do this if you are going to do it.

Why did the DOE not decide to let the various laboratories bid on it just like they do other projects? Why did they not say, let's open it up, let's have a bid on it, and let the various laboratories decide which one would do it. Oh, no.

The reason is, and I will go back to it, the reason is, it is a jobs program. It is a $1 billion jobs program from Oak Ridge, TN. They do not want their scientists to be unemployed.

I have a whole bunch of people out there, folks, that are not working. I have a whole bunch of them. If they are going to do this for scientists who make $100, $150,000, $200,000, $75,000——

The CHAIRMAN. The time of the gentleman from Missouri [Mr. VOLKMER] has expired.

(By unanimous consent, Mr. VOLKMER was allowed to proceed for 2 additional minutes.)

Mr. VOLKMER. Mr. Chairman, if we are going to do this in order to keep these scientists on the payroll rather than telling them that, "Sorry, we're not going to do this, we're not going to expend this money to keep you on the payroll," we are going to keep them on the payroll, why do we not say, "We're going to help the other poor people with school lunches, we're not going to cut back on Medicare for our senior citizens"?

No, no. No, no. It appears that right now they would much rather pay high-priced scientists to keep them on the payroll than it would be for other people in this country. I do not think that that is a very good idea. I never have.

□ 1300

I have said the same thing when it comes to military procurement; if we do not need a certain airplane or we do not need submarines or aircraft carriers anymore, I do not think we should keep shipyards in business. I do not think we should keep aircraft manufacturers in business just to keep people on the payroll.

But that is what this project does is keep people on the payroll down at Oak Ridge rather than say to them, "No, you are going to have to go find a job elsewhere."

Mr. WAMP. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I understand the proper intent of our colleague and friend from Missouri to save money and try to help us with this patriotic challenge to balance the Federal budget.

I tell you, we are at a critical time right now with this issue on this floor of the U.S. House of Representatives as we move forward to not make dramatic mistakes in this country. We have got to separate good sense from nonsense, and I will tell you right now, to say that scientific investment in basic research that will not be accomplished by the private sector, we know that anyone that knows, and I am not a scientist but I understand, and I know a lot of real good scientists, and I do represent Oak Ridge, TN, and I am proud of some of the finest scientists in the world Nobel Prize winners, like Dr. Cliff Shull, in neutron science, are in Oak Ridge, TN.

I take great disagreement with the gentleman from Missouri in what he called a jobs program. This is about research in the areas of pharmaceuticals, electronic materials, metallurgy, ceramics, chemistry, biology, superconductivity, condensed matter, physics, and let me walk you though briefly where we have been on this issue.

The advanced neutron sources was a major project. It was what President Reagan would call throwing the ball deep on staying ahead of the rest of the world with respect to research and technology. It was too expensive, sir. Maybe $3 billion, if it would have been built, a lot of money. It was also a nuclear-based, reactor-based project.

We had a nonproliferation problem that we were going to have to address with the reactor-based neutron project. This new project is an accelerator-based project, not a nuclear reactor-based project.

So you do not have the waste problem to deal with, and you have far less expense.

But here is the critical issue: We in the new Republican majority are trying to make statements about basic research versus applied technology, separating the role of the private sector from the critical need for the Federal Government of the United States of America to continue making basic investments so that we stay competitive globally, so we can, sir, save lives, and I mean that.

When you are talking neutron science, you are talking about potential cures for severe medical problems, major breakthroughs.

So, here, are we going to be just absolute libertarians that the Federal Government should even barely exist or not exist at all, or are we going to say in a very conservative budget balancing, stand firm in your conviction, so that the Federal Government has a legitimate role in certain key areas, and that is basic research? And this is at the most basic level, sir, a very good investment, and this is not particularly where this facility is going to be built. We have not selected where the neutron source is going to be built.

This is where the design is going to take place, and this is $8 million. Last year's budget for the ANS was $20 million. We are retreating from that because this is a time of belt tightening and budget restraint. We are doing that.

But we have got to continue the design in this direction so that we are prepared if this Congress makes the decision next year and the year after and the year after to go forward with the construction of this project to say this is where it should go.

I would respectfully disagree, strongly, that Los Alamos is the place for this project because we have been working on this project in Oak Ridge since the inception of neutron science.

Our national competitiveness is at stake. This project warrants our support. It is a small amount of money, and if we in this fever, and I am glad that the fever pitch is here, to balance the budget and cut spending, but this is where I will guarantee you this Congress is going too far if we just say let us just discontinue funding in all of our basic research efforts in science and technology in this country. We will live to regret this if we go forward with killing this initial design money.

The scientists and the technological community agree, including the leaders of the University of Missouri, where our sponsor of this bill hails, support this project.

I clearly believe we need to defeat the Volkmer amendment and stand up for the basic research that this Federal Government can do well.

Mr. WALKER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, this has been a very discouraging day in the House. I have watched peer review science being just put aside by this House in almost a mindless cannibalism of basic science programs. That is a very, very disturbing kind of thing.

If this country is going to move in important ways into the next century, the thing we need is new discovery and new knowledge. This Congress, on this floor today, is putting aside our commitment to the new discovery and that new knowledge, and we are doing so in almost a gleeful way. It is almost fun; you know. "Here is a project that I do not understand the title of, so it cannot be worth anything. Let us just throw it away." And that is exactly what is happening out here today.

It is very discouraging because if this country is going to lead in the global economy, we had better be able to produce the new products of the future.

The gentleman from Missouri a few minutes ago talked about jobs. Where in the world does he think jobs are going to come from if we do not develop the new knowledge and new discoveries that make it possible to create those jobs? I mean maybe he thinks we can be a nation of hamburger flippers and so on that has no economic base to compete in the global economy. Maybe he thinks that is where we are going to find those jobs.

But this amendment, this amendment suggests we are going to go even further down the pike than we have gone before in terms of wiping out the commitment this Government and this Nation should have to basic science.

Now, I am the first to admit this is money we have spent in the name of science over the past years that has not been very good investment, and we ought to take care of that and we ought to make certain we prioritize science.

What we have said, as we prioritize, is that basic science ought to be our goal. This amendment goes after a core basic science program.

Let me tell you what the payoff could be in terms of jobs: Neutrons are an indispensable tool for research in nearly all areas of physics, chemistry, biology, health and materials. Much of the research using neutrons is important to fulfilling the scientific and technological missions of the Department of Energy and will have large technological and economic payoffs, particularly in fields like polymer technology, hydrogen-containing materials, high-temperature superconductors, and the structural studies of catalytic and biological materials. I cannot think of a thing more important in terms of this Nation in terms of developing products of the future and communication skills than to have high-temperature superconductors.

This is the underlying research we are talking about here to doing high-temperature superconductivity, and the gentleman wants to wipe it out, do away with it. I cannot imagine why that makes sense.

The fruits of neutron research will impact the development of new products such as high-tech plastics that are lighter and stronger, that are lighter and stronger than steel. It will allow us to build new generations of silicon chips for electronics. It means better computer disks and video tapes. It means better pharmaceuticals. It means high-performance magnets for motors, and transformers. Those are the things that are going to produce the jobs in the next century. In the knowledge economy of the next century, those are all the items where we are going to be the job generators of the future.

And we want to kill it on the floor today? We have killed off several other basic research programs that are going to take away from the future, and the gentleman from Missouri stands up and wants to kill off another one. It makes absolutely no sense. It is discouraging and disappointing.

If you really do believe that science has something to do with this Nation's ability to do the economy of the future, then, by golly, do not vote for this amendment, and stop voting for some of the rest of them that are out here that are mindless cannibalism of basic research.

It is time we stand up for the future, and this amendment is a regression into the past.

Mr. KENNEDY of Rhode Island. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I was just struck in listening to the gentleman who just spoke about his moral outrage at the cut of basic science.

Now, I share his concern that basic science can be a producer of jobs in the future, but to come on this floor and express the moral outrage that he expressed in this Congress' cutting basic science, I wish I could have heard him express the moral outrage when we cut in this House, based upon the Republican rescissions package, money for women and infants and childrens programs, money that goes to help pregnant women deliver healthy babies, and you are talking about making an investment in this country's future.

I will tell you where the Democrats make their investment. The Democrats make their investment in people, because we know in this country we are not going to be a strong country if we produce babies that are sick babies, who do not have the nutrition they need, but the Republicans did not express that moral outrage when it came to cutting the WIC program. The Republicans did not express the moral outrage when it came to cutting the Meals on Wheels Program or cutting the programs that help our senior citizens.

And this morning when we were in the well of the House speaking on the 1 minutes, I kept hearing how the Democrats refused to reform health care; the Republicans are stuck with cutting $280 billion from Medicare over the next 7 years, and when I spoke, I spoke about Herb McCollock in my district who is going to be spending on average 100——

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. KENNEDY of Rhode Island. No, I will not yield.

On average——

Mr. WALKER. Will the gentleman not yield?

Mr. VOLKMER. The gentleman from Rhode Island has the floor. I would appreciate it if the gentleman would——

The CHAIRMAN. The gentleman from Rhode Island controls the time.

Mr. VOLKMER. Mr. Chairman, will the gentleman yield?

Mr. KENNEDY of Rhode Island. I yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Chairman, I would like to carry on.

Like I said before in my presentation, there is no question about it, ANS was ended because ANS was going to cost too dang much money. We already had spent millions of dollars on it; throw it away, throw it away.

But we had people on the payroll down there. We have got to keep them working. But we do not worry about, like the gentleman from Rhode Island says, we do not worry about young women that are out here going to have babies; because they are poor, tough, you are not going to get any help. We do not worry about the senior citizens in my district who are going to have to pay over $100 a month on Medicare part B in a few years under their program. We do not worry about them, because they are only getting $300 or $400 a month Social Security. You are going to take it and do that.

And you say, "No, we need basic research." Yes, we need basic research. But, like I said, we have got to establish priorities.

Theirs is they want the scientists. They want them to have the money. I, like the gentleman from Rhode Island, I want to take care of the people that are here today that are suffering, and under your programs, they are going to suffer a heck of a lot more.

I do not see that as a very good priority. To me that is the question here today: Whether you want to keep scientists who make over $100,000 a year on the payroll or if you want to say "no" to them, and we are going to help other people out here, we are going to help that young mother that is going to have that baby so that she has a healthy baby, so that she does not have to have an operation or something in order to have that baby, so that she does not have to worry about it, so that she can get just plain old milk and help, you know, for the baby.

Why are my senior citizens, you know, the gentleman, the chairman, you come from a State that has a little cold weather. I have cold weather. But LIPEAP is gone. LIHEAP is gone, lower-income energy assistance. I did not hear the gentleman from Pennsylvania yelling about that. I have got senior citizens out home this winter, come this winter they are going to have a heck of a time. They are going to have to make a decision whether they want to eat or heat their house.

Yes, folks, they are going to have to make that decision. And yet you say let us pay today, let us pay $100,000, $150,000 to these scientists to keep them on the payroll. But you will not give me 1 penny, not 1 penny to help my low-income people pay heating bills this winter.

Well, folks, to me that also is a lot of what we are talking about here today. You can talk all you want about basic research. I am saying it is priorities.

I want to thank the gentleman from Rhode Island. He hit the nail on the head. We are interested in people.

□ 1315

Mr. THOMAS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I yield to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Chairman, I thank the gentleman from California [Mr. THOMAS] for yielding because I think we have just gotten the perfect explanation of the difference between the Democrats and the Republicans, the difference between the minority and majority, and thank goodness the American people, in their wisdom, have helped us have a majority that is in the right direction.

The difference is, and the two gentlemen, one from Rhode Island and one from Missouri, have just described it:

The Republicans are for knowledge. We are for science and knowledge. The Democrats are for welfare. The Republicans want to put money into trying to get new knowledge for the future so that we can produce the jobs of the future. The Democrats want to increase and expand the number of welfare checks we pay in the future. The Democrats believe that the way in which you advance into the future is to grow welfare programs bigger, and bigger, and bigger so that more and more people are not working, but are simply getting a check from Government, while what we want to do is grow the science of the country so that everybody can work in the future and we will have no need for welfare checks.

That is a big difference. We have having it defined on the floor.

The gentleman from Missouri [Mr. VOLKMER] has just perfectly described his amendment. His amendment is in favor of cutting back on the development of new discovery and new knowledge in favor of welfare checks. He wants to make certain that we have enough money to continue to pay welfare checks even if it comes out of the hide of the science programs needed to produce the jobs in the future. The gentleman says right now we want to focus on spending the money on the people here right now. We have already accumulated massive debt for the people in future generations, and what we are now saying is we want to continue to spend the money for all of that, continue to pile on the debt and hand them the bill in the future, and also hand them no new knowledge, no new discoveries, and, therefore no new jobs.

It is the perfect description of the difference between the two parties, the party of welfare and the party of knowledge.

Now I got to tell my colleague, "If you think the next century is going to be the century where we are going to develop the welfare economy, the Democrats are your party, and they just defined themselves. If you believe the next century is going to be the knowledge economy, that we are going to have the information economy, then you've heard them describe the situation. You ought to vote against this amendment and then vote for expanding new opportunities for knowledge and discovery."

This is the perfect prescription. I am glad we have had this debate. The gentleman from Rhode Island and the gentleman from Missouri have described it perfectly:

The Democrats, the party of welfare; the Republicans, the party of knowledge.

Mr. THOMAS. Mr. Chairman, I tell the gentleman from Pennsylvania another way of putting it is the old saying, "You can either give a man a fish and feed him for a day, or teach him how to fish, and he can feed himself for the rest of his life." That is the question of opportunities. Pure science will provide us with those jobs of tomorrow or teaching people how to fish. Clearly this amendment is to give them a fish to feed them for a day. We ought to defeat it and teach them how to fish so that the opportunity for jobs tomorrow will be there.

Mr. OBEY. Mr. Chairman, I move to strike requisite number of words.

Mr. Chairman, we have not heard pure science. We have heard pure bunkum. Let me simply tell my colleagues what the real differences are between the parties as I see them.

Let me stipulate I think both political parties have had a fine tradition in this country. But I think there are some very distinct differences between our party today and theirs, and they do not have to do with who wants to write welfare checks.

I sat last night in the Subcommittee on Labor, Health and Human Services, and Education, and I saw that committee take a number of specific steps which cut the guts out of efforts to help middle-class working families, not welfare recipients, but people who work and sweat every day to make enough money to keep a decent living standard, take care of their grandparents, take care of their parents and worry about sending their kids to school at the same time. And I saw that subcommittee last night cut $2 billion out of, not welfare programs, but education programs to provide help to local school districts. The next biggest whack came at the expense of low-income elderly, disabled and poor kids, a billion and a half dollars cut from programs such as Healthy Start and Head Start. Head Start has been demonstrated to produce less welfare dependency, fewer pregnancies, and less high school dropout tendencies than kids that have not gone to Head Start programs.

The next biggest cut came in programs to train people to get them off welfare.

We hear people in this place talk out of both sides of their mouth and do a duplicitous routine, pretending they are really going to go after welfare. But then, when it comes right down to it, what happened last night is that they gutted virtually every program to help take people off welfare and get them into training programs and working programs. Example: displaced worker program.

Mr. Chairman, I ask my colleagues, how many of you voted for NAFTA? or GATT? I did not because that was an elitist rip-off of working American and working people, but what did they do? What did they do? They wind up, they wind up saying that for displaced workers—and these are not welfare cases—these are people who worked for 20 and 30 years, and now being put out of jobs and are asking after they paid taxes for a long, long time to finally get some of that money back in order to help retrain them for a decent job. And what did your party do last night in Labor-H? They cut the guts out of programs like that. Then what you have done, you have also attacked the NLRB. You made it easier for corporations to violate wage and hour restrictions. You made it easier for them to set up bogus pension systems. You made it easier for them to treat workers like cattle.

Mr. Chairman, I say to my colleagues, you bet you there is a difference between the parties. What is happening in this country is we are ceasing to be a country with a large and growing middle class. Fewer and fewer people are getting tickets into that middle class, and a whole lot more people who used to live like middle-class workers are now thinking of themselves as being lower-class workers, poor workers. And what is happening is, you are taking actions which seriously damage the ability of this society to stay tied together regardless of income because of your attack on working people, your attack on the poor. And yet you stand here, and you have done it on a number of votes today and yesterday, you have defended corporate welfare, all if it's for the nuclear industry. If it is for Westinghouse, if it is for GE, oh, my God, shovel the money out the door. We can't spend it fast enough.

It just seems to me there is a big difference between the parties. We all have our faults, and frankly we deserved to lose the last election because we were lousy salesmen, we fought among ourselves, and we got diverted on some issues we should not have been diverted on, and the public taught us a lesson. Frankly I think it was good for our party that they did, but my colleagues are misreading that election if they think that election produced a battle cry from the American people to cut working people, cut education, cut health care, cut Medicare, but oh, by all means, keep corporate welfare.

Baloney.

Mr. VOLKMER. Mr. Chairman, will the gentleman yield?

Mr. OBEY. I yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Chairman, I would like to point out to the gentleman from Pennsylvania who spoke earlier that this money does not go to welfare if this amendment carries. The money stays unspent. It does not increase the deficit; it reduces the deficit. So, if the gentleman is really interested in balancing the budget, he would vote for this amendment.

The CHAIRMAN. The time of the gentleman from Wisconsin [Mr. OBEY] has expired.

(On request of Mr. VOLKMER and by unanimous consent, Mr. OBEY was allowed to proceed for 2 additional minutes.)

Mr. VOLKMER. Mr. Chairman, will the gentleman yield?

Mr. OBEY. I yield to the gentleman from Missouri.

Mr. VOLKMER. Got to remember we have got to borrow the money to spend this $8 million to keep these scientists on the payroll. That is what we are going to have to do.

Now it is not only corporate welfare who benefits. We heard the gentleman from Pennsylvania talk about all the things that will naturally flow from this basic research.

Impossible. It is a possibility; it is not a necessary. It is not that it will happen. It is a problematical out there. In the meantime we are spending all this money, and we are making the cuts.

I would just like to point out, and the gentleman mentioned I did not know this, that in the retraining programs under NAFTA, Mr. Chairman, they have cut that money? I just had a plant close in my district in the last month. In a small town the largest employer is going to Mexico; they are going to Mexico. Now, if they have gone ahead and proposed to cut those funds, I do not know what those people are going to do. That was our last hope, the only hope. There is no other plant out there. This is a farming community. We do not have another plant for them to go to work at.

Mr. OBEY. Reclaiming my time, Mr. Chairman, I would like to point out just one other thing.

The Federal Reserve, not exactly a left-wing pinko, Democratic institution. They have just completed their second study of wealth in this country; and what that showed is that in the 1980's we saw the richest one-half of 1 percent of American families increase their share of national wealth from 24 to 31 percent of the total national wealth. They increased their wealth by $2 trillion, more than twice as much as the national debt went up during that same period. And yet they want to give them more. They want to cut back on programs for working people to give tax cuts to people who make $200,000 a year, and then they want to defend themselves as defenders of the middle class?

What a joke.

Mr. VOLKMER. Mr. Chairman, will the gentleman yield?

Mr. OBEY. I yield to the gentleman from Missouri.

Mr. VOLKMER. They also want to repeal the EITC, the earned income tax credit.

Mr. OBEY. Which raises taxes for lower-income people.

I say to my colleagues, you're real friends of the working folks; aren't you?

Mr. MYERS of Indiana. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, somehow we strayed away from the intent of this particular amendment, and the program that the gentleman's committee put in here got away to why we are in such straits we are today. I guess I am not quite the oldest person here, but pretty close to it. This House has spent 40 years spending itself into prosperity that the gentleman talked about.

Now we ask for a small investment here in our future, that we might be competitive in the world. I can recall 40 years ago as a teenager working for an industry. That industry is not here any more, and I say to the gentleman, Mr. OBEY, I didn't vote for GATT, I didn't vote for NAFTA. I don't know where that puts me; in no man's land I guess. But I am still concerned about the future. I am concerned, and this committee is concerned, about children, healthy children, women, and infant children, in another appropriation bill providing for them. But, if we do not have jobs in this country, if we are exporting all the jobs, importing all the products that we now import that we once produced in this country because we do not have the technology today to be competitive in the world, how are we going to pay the taxes to do these things you are talking about?

So I remember years ago we were in business, a family business. My dad wanted to cut everything out. No investment; he did not want to take any chances. Yet the money coming in the front door, but do not invest anything and get more people coming in the front door. I remember my dad was a great businessman, better than I will ever be, but I tried to talk my dad into making some investment, and we finally did, and we did double the business.

So this is where we are today as a nation. Do we want to say we are going to save $8 million here, a drop in the bucket? I know it is a lot of money, but a drop in the bucket when we are thinking about being competitive in the world. This is what we are trying to do here, provide this resource that we can provide the tools that industry can be more competitive in the world, and this is all we are asking for.

Mr. ROEMER. Mr. Chairman, will the gentleman yield?

Mr. MYERS of Indiana. I yield to the gentleman from Indiana.

Mr. ROEMER. I would just say, and I feel fascinated, as my colleagues know, in listening to the debate, and, apart from the debate on the merits, on the scientific merits, and the research and so forth in this particular argument, I would encourage my colleagues on the floor and listening in their offices that, if we are going to have good technology jobs, many of which are at Oak Ridge, if we are going to have good scientific jobs in the future, we have got to support Head Start programs. We cannot cut those Head Start programs. That will be coming to the floor in about 2 weeks, as the gentleman from Indiana knows, but we certainly cannot be cutting title I funds. We certainly cannot be taking 60,000 young kids off of Head Start rolls. These kids are the future for the Oak Ridge Laboratories, and for national laboratories, and for our scientific base and for these good jobs that are going to lead this country forward in the 21st century.

So, I would say, if we are going to be consistent here, if we are going to invest in young people, and science, and basic research, I would say that when this Education, Labor, HHS bill comes up, I would hope that we would join together in a bipartisan way to support the educational endeavors in this country.

Mr. MYERS of Indiana. The gentleman from Indiana [Mr. ROEMER] is entitled to his opinion here. I am afraid he is putting the cart out in front of the horse here.

Mr. ROEMER. Mr. Chairman, would the gentleman yield one more time?

Mr. MYERS of Indiana. I yield to the gentleman from Indiana.

☐ 1330

Mr. ROEMER. I do not think the horse is in front of the cart or the cart is in front of the horse at all. I think the two are directly interconnected. If you cannot invest in your people and education——

Mr. MYERS of Indiana. Where are these young people going to work? In Japan, Germany, Latin America, someplace, in GATT? Where are they going to work if we do not create the technology in this country? That comes first or you are not going to have jobs. They are not going to pay the taxes to do the things we want to do for the children. We want to do it, but you have to have the investments first.

Mr. ROEMER. If you cannot have the young people with the knowledge, skills and talent to work with this high technology, then you are going to have a problem.

Mr. MYERS of Indiana. Let us discuss that in a bill coming up in a couple weeks. We are talking about $8 million.

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. MYERS of Indiana. I yield to the gentleman from Pennsylvania.

Mr. WALKER. The fact is that would be one of the reasons why this Nation has a good education program, and we should continue to have a good education program, because we do pursue new knowledge and new discoveries. The fact is that the way in which we pay for most education is paid for at the State and local level through moneys gleaned from profitable businesses and from homeowners and all those people who profit from having real jobs.

Now, the fact is that when we go after the underlying new discoveries that will produce the jobs of the future, we are undermining our ability to continue to do all the good things that these gentlemen have talked about.

Mr. MYERS of Indiana. We spent 40 years doing it their way.

Mr. WALKER. Average middle-class Americans, the working man that we all want to support, deserve to have jobs not only now, but in the future. That is what this issue is all about here, is whether or not we are going to create those jobs for the new discoveries.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Missouri [Mr. VOLKMER].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. VOLKMER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 148, noes 275, not voting 11, as follows:

[Roll No. 490]

AYES—148

Ackerman
Allard
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Bonior
Borski

Brown (CA)
Chabot
Chapman
Clay
Clayton
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Costello

Coyne
Danner
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Doggett
Doyle
Durbin

Edwards
Engel
Ensign
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Flake
Foglietta
Ford
Frank (MA)
Furse
Gephardt
Geren
Green
Hall (OH)
Harman
Hastings (FL)
Hinchey
Holden
Hostettler
Jackson-Lee
Jacobs
Jefferson
Johnson (SD)
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kildee
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lincoln
Lipinski
Lowey
Luther
Maloney
Manton
Manzullo
Markey
Martinez
Mascara
McCarthy
McDermott
McHale
McInnis
McKinney
McNulty
Meehan
Menendez
Mfume
Miller (CA)
Minge
Neal
Neumann
Oberstar
Obey
Olver
Orton
Owens
Pastor
Payne (NJ)
Peterson (FL)
Peterson (MN)
Petri
Pomeroy
Poshard
Rahall
Rangel
Reed
Rivers
Roth
Roybal-Allard
Rush
Sabo
Sanders
Schroeder
Schumer
Sensenbrenner
Serrano
Shays
Skaggs
Skelton
Slaughter
Stark
Stenholm
Stokes
Studds
Stupak
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torres
Towns
Tucker
Velazquez
Vento
Visclosky
Volkmer
Waters
Watt (NC)
Waxman
Woolsey
Wyden
Yates
Zimmer

NOES—275

Abercrombie
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Boucher
Brewster
Browder
Brown (FL)
Brownback
Bryant (TN)
Bryant (TX)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cardin
Castle
Chambliss
Chenoweth
Christensen
Chrysler
Clement
Clinger
Clyburn
Coble
Coburn
Collins (GA)
Combest
Cooley
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
de la Garza
Deal
DeLay
Diaz-Balart
Dickey
Dixon
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Everett
Ewing
Fawell
Fields (TX)
Filner
Flanagan
Foley
Forbes
Fowler
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Gallegly
Ganske
Gejdenson
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hilliard
Hobson
Hoekstra
Hoke
Horn
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, E. B.
Johnson, Sam
Jones
Kasich
Kelly
Kennelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Lofgren
Lucas
Martini
Matsui
McCollum
McCrery
McDade
McHugh
McIntosh
McKeon
Meek
Metcalf
Meyers
Mica
Miller (FL)
Mineta
Mink
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murtha
Myers
Myrick
Nadler
Nethercutt
Ney
Norwood
Nussle
Oxley
Packard
Pallone
Parker
Paxon
Payne (VA)
Pelosi
Pickett
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Richardson
Riggs
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roukema
Royce
Salmon
Sanford
Sawyer
Saxton
Scarborough
Schaefer
Schiff
Scott
Seastrand
Shadegg
Shaw
Shuster
Sisisky
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stockman
Stump
Talent
Tanner
Tate
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Torricelli
Traficant
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Ward
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Williams
Wilson
Wise
Wolf
Wynn
Young (AK)
Young (FL)
Zeliff

NOT VOTING—11

Andrews
Brown (OH)
Fox
Gutierrez
Hefner
Longley
Moakley
Ortiz
Reynolds
Spratt
Tauzin

□ 1352

Messrs. NEY, UPTON, SMITH of Michigan, COBURN, CUNNINGHAM, and Ms. EDDIE BERNICE JOHNSON of Texas changed their vote from "aye" to "no."

Mr. RUSH changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. Are there further amendments to title III?

If not, the Clerk will designate title IV.

The text of title IV is as follows:

TITLE IV

INDEPENDENT AGENCIES

APPALACHIAN REGIONAL COMMISSION

For expenses necessary to carry out the programs authorized by the Appalachian Regional Development Act of 1965, as amended, notwithstanding section 405 of said Act, and for necessary expenses for the Federal Co-Chairman and the alternate on the Appalachian Regional Commission and for payment of the Federal share of the administrative expenses of the Commission, including services as authorized by section 3109 of title 5, United States Code, and hire of passenger motor vehicles, to remain available until expended, $142,000,000.

DEFENSE NUCLEAR FACILITIES SAFETY BOARD

SALARIES AND EXPENSES

For necessary expenses of the Defense Nuclear Facilities Safety Board in carrying out activities authorized by the Atomic Energy Act of 1954, as amended by Public Law 100-456, section 1441, $17,000,000, to remain available until expended.

NUCLEAR REGULATORY COMMISSION

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Commission in carrying out the purposes of the Energy Reorganization Act of 1974, as amended, and the Atomic Energy Act of 1954, as amended, including the employment of aliens; services authorized by section 3109 of title 5, United States Code; publication and dissemination of atomic information; purchase, repair, and cleaning of uniforms, official representation expenses (not to exceed $20,000); reimbursements to the General Services Administration for security guard services; hire of passenger motor vehicles and aircraft, $468,300,000, to remain available until expended, of which $11,000,000 shall be derived from the Nuclear Waste Fund: *Provided*, That from this appropriation, transfer of sums may be made to other agencies of the Government for the performance of the work for which this appropriation is made, and in such cases the sums so transferred may be merged with the appropriation to which transferred: *Provided further*, That moneys received by the Commission for the cooperative nuclear safety research program, services rendered to foreign governments and international organizations, and the material and information access authorization programs, including criminal history checks under section 149 of the Atomic Energy Act of 1954, as amended, may be retained and used for salaries and expenses associated with those activities, notwithstanding 31 U.S.C. 3302, and shall remain available until expended: *Provided further*, That revenues from licensing fees, inspection services, and other services and collections estimated at $457,300,000 in fiscal year 1996 shall be retained and used for necessary salaries and expenses in this account, notwithstanding 31 U.S.C. 3302, and shall remain available until expended: *Provided further*, That the sum herein appropriated shall be reduced by the amount of revenues received during fiscal year 1996 from licensing fees, inspection services and other services and collections, excluding those moneys received for the cooperative nuclear safety research program, services rendered to foreign governments and international organizations, and the material and information access authorization programs, so as to result in a final fiscal year 1996 appropriation estimated at not more than $11,000,000.

OFFICE OF INSPECTOR GENERAL

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, including services authorized by section 3109 of title 5, United States Code, $5,000,000, to remain available until expended; and in addition, an amount not to exceed 5 percent of this sum may be transferred from Salaries and Expenses, Nuclear Regulatory Commission: *Provided*, That notice of such transfers shall be given to the Committees on Appropriations of the House and Senate: *Provided further*, That from this appropriation, transfers of sums may be made to other agencies of the Government for the performance of the work for which this appropriation is made, and in such cases the sums so transferred by be merged with the appropriation to which transferred: *Provided further*, That revenues from licensing fees, inspection services, and other services and collections shall be retained and used for necessary salaries and expenses in this account, notwithstanding 31 U.S.C. 3302, and shall remain available until expended: *Provided further*, That the sum herein appropriated shall be reduced by the amount of revenues received during fiscal year 1996 from licensing fees, inspection services, and other services and collections, so as to result in a final fiscal year 1996 appropriation estimated at not more than $0.

NUCLEAR WASTE TECHNICAL REVIEW BOARD

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Nuclear Waste Technical Review Board, as authorized by Public Law 100-203, section 5051, $2,531,000, to be transferred from the Nuclear Waste Fund and to remain available until expended.

TENNESSEE VALLEY AUTHORITY

TENNESSEE VALLEY AUTHORITY FUND

For the purpose of carrying out the provisions of the Tennessee Valley Authority Act of 1933, as amended (16 U.S.C. ch. 12A), including purchase, hire, maintenance, and operation of aircraft, and purchase and hire of passenger motor vehicles, $103,339,000, to remain available until expended.

The CHAIRMAN. Are there amendments to title IV?

AMENDMENT OFFERED BY MR. KLUG

Mr. KLUG. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. KLUG: Page 25, line 6, strike "$142,000,000" and insert "$0".

Mr. KLUG. Mr. Chairman, this amendment that we have before us now, my colleagues, is an amendment offered by myself, the gentleman from Florida [Mr. GOSS], and also the gentleman from Utah [Mr. ORTON].

I would like to congratulate the chairman of the committee, the gentleman from Indiana [Mr. MYERS], and the hard work the committee did on making some very significant cuts already in the Appalachian Regional Commission. Established in 1965, the Appalachian Regional Commission provides additional money to 13 States, which, as you might take from the title, run along the Appalachian mountain range, stretching from New York on the north, through Pennsylvania, Ohio, Maryland, West Virginia, Virginia, Kentucky, Tennessee, North Carolina, South Carolina, and Georgia, Alabama, and Mississippi. Now, keep that list in mind, if you would, Mr. Chairman, because I suspect most of the speakers we will hear from on the other side of this issue, as luck would have it, happen to fall from the 13 States which are directly affected by this money.

Since 1965, we have spent more than $7 billion in the Appalachian region, trying to bolster economic growth in these 13 States. And I think to ask ourselves, Mr. Chairman, what have we gotten for that $7 billion of investment and why it is 30 years later we are still trying to fund the exact same programs?

What the Appalachian Regional Commission does is essentially allow 13 States in this country to double dip into infrastructure money, money to do economic development, and money also to do highway and water construction and projects like that.

I do not begrudge my colleagues for this additional help because clearly in 1965, when we first established ARC, there was a clear economic need that these States and many of these specific regions were disadvantaged compared to the rest of the country. But here we are again, 30 years later still spending millions of dollars trying to jumpstart the economy of 13 States.

I have to ask my colleagues from the Southeast, what is it that makes a community in Alabama or a community in Tennessee or a community from West Virginia or Virginia or New York that is poor different from a community in Wisconsin, or New Mexico, Oregon, or Idaho, or Utah, or whatever the case might be?

I think this was a well-intentioned program established in 1965. Frankly, it has long outlived its usefulness. While it was established in 1965, it did not take very long for President Nixon to put ARC on the radar screen, but the Nixon administration could not beat it. The Reagan administration tried as well, Mr. Chairman, back in the 1980's and found themselves equally unsuccessful. And I think this is the great challenge for this Congress.

As I was saying, there was an election last fall that I think challenged this Congress to a new mandate. The mandate was to make tough decisions about spending and to begin eliminating programs that could no longer be justified. The gentleman from Tennessee [Mr. QUILLEN] and I, Members of the Tennessee delegation, I think, will have a similar argument a short time on the Tennessee Valley Authority established back in the 1930's. And here we are with the Appalachian Commission established in 1965 to fund development money for these projects.

Now, listen to this, which, I think, is going to be interesting. There is little evidence that ARC has contributed to the long-term economic health of Appalachia. During the 1980's, there was strong economic growth in the Appalachian region. ARC's budget was cut by over 40 percent during the same period. And unbelievably, unemployment rates fell by 38 percent.

So there is clearly no correlation in ARC money with what is going on in those areas. It has to do with economic development and the growth of the country as a whole.

Now, let me point out some of the very important projects that we have managed to fund over the years with the Appalachian Regional Commission, beginning just back in February, when to develop the economic region of the country they paid—they did not pay; taxpayers paid—$750,000 to help the Carolina Panthers build a new football facility. We had a little team up in Green Bay called the Green Bay Packers. I have to tell you, there is not one Federal dollar involved in Lambeau Field. The Packers have been around since 1920. Why is it that the Federal Government is building football stadiums?

Along the way, we have also helped build the Alabama Music Hall of Fame, a program to attract German travelers to West Virginia, build an access road to a Pennsylvania ski resort, helped do a limestone cave display in Georgia. Let us go back to the athletic theme for a minute.

□ 1400

There was $1.2 million for the National Track and Field Hall of Fame and, of course, the NASCAR Hall of Fame, a study on the migration of the elderly, a grant to train workers for a BMW plant, and on and on the list goes.

So here we are, Mr. Chairman, $750,000 for a football stadium, billions of dollars for a region and hundreds of millions of dollars here in 1995. I would suggest to my colleagues in this House, although many of my colleagues from much of the Southeast may fundamentally disagree, the gentleman from Florida [Mr. GOSS], the gentleman from Kentucky [Mr. WARD], and I say it is time to put an end to the Appalachian Regional Commission.

Mr. ROGERS. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, now we know why the gentleman from Wisconsin [Mr. KLUG] is so opposed to the Appalachian Regional Commission. Is it the Carolina Panthers, in opposition to the Green Bay Packers, which motivates this gentleman to try to strike the entire Appalachian Regional Commission effort to end poverty in the most poverty stricken part of the country? Now we know the truth.

The real truth is the Appalachian Regional Commission works to end poverty in the most poverty stricken part of our Nation. Let me point out to the body that the poverty in Appalachia is intractable. Income in these areas is still 17 percent below the national average. The region's poverty rate is 16 percent higher than the national average. In areas like mine, the poverty rate is over 25 percent. Even with ARC funding, Appalachian counties receive 14 percent less in total Federal dollars than the rest of the counties of the State of the gentleman from Wisconsin [Mr. KLUG], even with Appalachian Regional Commission funding.

Many areas of the country have enjoyed the benefits of economic growth and expansion over many decades, but not Appalachia. Yes, on the edges there have been improvements over the years, and we are proud of that. That proves ARC works. However, there are still core counties in Appalachia that simply cannot make it without the work of the Appalachian Regional Commission. The ARC works the way I think the majority in this body would like for other programs to work. It is sort of like a block grant or Federal revenue sharing; local grassroots people involved in their problems getting their local officials involved first, then their Governor, then the Appalachian Regional Commission. All of the Governors support the ARC, Republican and Democrat, because it is the model for the future, a grassroots program with local, State, and Federal governmental involvement.

Mr. Chairman, the ARC funding in this bill has been cut in half. The chairman, the gentleman from Indiana [Mr. MYERS], and ranking member, the gentleman from Alabama [Mr. BEVILL], have done a superb job of reforming this agency. They cut the funding in half. Already ARC has been reformed.

No. 2, Mr. Chairman, the budget that passed this body contains $40 million more than this bill does. This bill is under the House-passed budget resolution, $40 million under it. It is one-half the current level, so already we have reformed, and we have cut and made it more efficient.

Mr. Chairman, please do not snuff out the life of this agency that is making so much of a difference in the lives of poor people, in a part of the country that has been ravaged by nature, by the loss of jobs in the coal and textile business, and others. Give us a chance. This organization works to help poor people help themselves from poverty. It works. Poverty rates have been halved in the region. Incomes have increased. High school graduates have doubled during this period of time.

The dollars are targeted to the most severely distressed counties, putting the money where it is really needed, in drinking water lines, sewer treatment for families without indoor plumbing, even in this day and age, and in health care clinics and hospitals in places that had none before, in job skills training for workers displaced from coal mines and textile shops, since closed.

Mr. Chairman, this appropriation bill continues the ARC, but as I have said before, it reforms it. It directs that the remaining moneys be focused on basic infrastructure and health needs. The gentleman from Pennsylvania [Mr. SHUSTER], the chairman of the Committee on Public Works and Transportation, and the gentleman from Maryland [Mr. GILCHREST], chairman of the subcommittee, will later tell you that they have passed through the subcommittee a new authorization bill for the ARC. It will be authorized and modified and reformed.

The facts speak for themselves. ARC works. It is a model of a conservative nature, in my judgment, that marries the best of the voluntarism in the country with local, State, and governmental help, in order to help us to walk up the stepladder on our own. That is what we most desperately want.

I hope Members will oppose the Klug amendment. Help us keep the ARC alive. We have cut it in half. It is being authorized. It is underneath the budget resolution that has passed both bodies of the Congress now, House and Senate. Please give us a chance to help ourselves. Oppose Klug.

Mr. BROWDER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in opposition to this amendment. My friend, the gentleman from Wisconsin [Mr. KLUG], has raised some good questions, as he has on other amendments. However, I think the gentleman from Indiana [Mr. MYERS] and the gentleman from Alabama [Mr. BEVILL] have dealt with these questions, and they have crafted a very good package for us to continue this program. The gentleman from Kentucky just stated some very strong arguments in favor of the ARC.

The ARC's mission is to equip Appalachian citizens with entrepreneurial skills and enterprise development resources they need to create self-sustaining local economies where people take control over their own economic destiny and contribute as taxpayers to the national economy.

Mr. Chairman, I know a lot of people from the rest of the country may have questions about this program, so I would like to enter into a colloquy with my colleague, the gentleman from Alabama [Mr. CRAMER], who shares our interest in this program in Alabama.

I would ask the gentleman, Mr. Chairman, would the gentleman agree with me that ARC is a proven example of an effective Federal, State, and local partnership that has had a dramatic effect in improving the lives of Appalachian citizens?

Mr. CRAMER. Mr. Chairman, will the gentleman yield?

Mr. BROWDER. I yield to the gentleman from Alabama.

Mr. CRAMER. My colleague from Alabama is correct, Mr. Chairman. ARC, as was stated by our colleague from Kentucky, has helped in slashing the region's poverty rate in half. We have cut the infant mortality rate by two-thirds. We have reduced unemployment rates as well. However, despite these successes, this region still has very much economic needs and unmet needs. We have 399 counties that are classified as severely distressed under ARC and 115 of those counties are still severely distressed. We have come a long way, but we have not come the way that we need to go. That is why this amendment is not justified at this time.

As was pointed out by my colleague, the gentleman from Kentucky, is the gentleman from Alabama aware that this Committee on Appropriations has already cut ARC funding by 50 percent from fiscal year 1995 funding level?

Mr. BROWDER. I am aware of that cut, Mr. Chairman. That is why I cannot support a further cut that would place a heavier burden on some of the most distressed communities in the country.

Mr. CRAMER. If the gentleman will continue to yield, Mr. Chairman, this is not the time that Congress should consider further reductions. The Committee on Public Works and Transportation, finally referred to as the Committee on Transportation and Infrastructure, is completing oversight hearings over ARC. We are in the middle of that oversight review.

This will be a 5-year reauthorization bill that would reform and in fact streamline ARC. This bill eliminates some of the Commission's activities and better targets its resources to the areas of greatest need. One important aspect of ARC is that it is a bipartisan program. At least it has bipartisan support.

Our Governor there in Alabama, Fob James, has stated that ARC is unique in that it is a shared partnership of Federal, State, and local governments. As such, he says ARC provides flexibility to address the needs of the people, and allows Governors and local governments to set priorities, so it is one of the few programs that is responsive to local and State needs. We only request that this program be retained and other programs in fact modeled after it.

Mr. BROWDER. Governor James' statement is right on point, and ARC is responsive to local and State needs and should be retained, Mr. Chairman. I thank the gentleman from Alabama [Mr. CRAMER] for his time in support of ARC. I am sure that my friend, the gentleman from Wisconsin, after hearing this colloquy, wants to withdraw this amendment and let us move on with this very deserving program. I thank the gentleman from Alabama.

Mr. CRAMER. I thank my colleague from Alabama for his interest and support for a program that has as its mission to help communities create self-sustaining economies.

Mr. WICKER. Mr. Chairman, will the gentleman yield?

Mr. BROWDER. I yield to the gentleman from Mississippi.

Mr. WICKER. Mr. Chairman, I think it might also be interesting to point out, in addition to what the gentleman from Alabama just said, that a lot of other solid conservative Governors who are in favor of cutting wasteful spending have given wholehearted support to the Appalachian Regional Commission. Governor George Pataki of New York, Governor George Allen of Virginia, Governor Don Sundquist of Tennessee, Kirk Fordice of Mississippi, have all given the ARC their ringing public endorsements, because they realize that ARC is an example of a proven program which works, and works well. I thank the gentleman for yielding.

Mr. BROWDER. I appreciate the comments from my friend, the gentleman from Mississippi. I think that demonstrates widespread support for this program.

Mr. SHUSTER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong opposition to this amendment. We have not been a bit bashful in the Committee on Transportation and Infrastructure to move to kill agencies, to move to substantially downsize and to streamline. We are killing the ICC, we are substantially downsizing and streamlining the Federal Maritime Commission, we are in the process of imposing tough reforms on Amtrak in order to see if it can be saved.

GSA, we have stopped the construction of courthouses. We are saving hundreds of millions of dollars through actions on our committee. Indeed, when we looked at the Appalachian Regional Commission, as I said, we have asked ourselves with all of the programs under our jurisdictions, "What can we do here to change this program?"

I really came to two conclusions. The first conclusion was that this kind of a program is in many respects a model program. This is the kind of a program we should be urging the Federal Government and the States and the localities to adopt as a model. Why? Because the decisions are not being made by a bunch of bureaucrats here in Washington, but are being made by local officials and State officials in cooperation with the Appalachian Regional Commission, which, indeed, as Members may know, is controlled in large measure by the 13 Appalachian Governors.

I would remind particularly my Republican friends that 8 of those 13 Governors are Republican Governors, and all of them, all 13, have communicated to us their vigorous support of this program, because it is a program that works.

My good friend, the gentleman from Wisconsin, has talked about the boondoggles. He is right, there have been some boondoggles. There is a need for reform. That is precisely what we have done in our committee. We have changed. We have tightened up. We have said that "if you are a severely distressed county, then you qualify for help, but if you are not a distressed county, you do not get any help."

We have not only tightened the requirements, we have cut by $100 million a year, $500 million over the life of the next 5 years, a reduction of spending, so we have stepped up to the plate. We have reformed an already outstanding program. We have reduced spending by $500 million.

My good friend, the gentleman from Wisconsin, says there is no evidence that the program works. The National Science Foundation studied it and released a report where they compared distressed counties in ARC with distressed counties that are not in ARC. What was their conclusion, not my conclusion, their conclusion? That there was a 48-percent faster economic growth rate in the severely distressed counties in the Appalachian region compared to the ones that are not in the Appalachian region. If anything, this suggests that we should be looking at this as a model program if we want to help severely distressed counties across America.

Indeed, there has been substantial progress, and that is why many of the counties in the ARC region no longer qualify under our tightened requirements. That is why only the distressed counties will be the ones which will be supported, and indeed, of the 399 counties in the Appalachian Regional Commission, virtually all of them were distressed counties 20 years ago. Today 115 of them are distressed counties.

There has been very, very substantial improvement. However, the fact remains that many of these counties are severely distressed, and as has been pointed out, the counties in the Appalachian Regional Commission, even with this ARC support, receive 14 percent less Federal funding than other counties like the counties from Wisconsin, of my good friend who has offered this amendment. Therefore, there is still a need. This is a model program. We should be vigorously supporting this program.

Mr. Chairman, I would like to close by quoting a letter from the 13 Appalachian Governors who strongly support this; indeed, a letter from Tom Ridge, Governor of Pennsylvania, a former Member of this House, who says, "The governing structure of the Appalachian Regional Commission serves as a significant model for how the national and State governments can work together in the administration of Federal funding programs."

In summary, there is a need for ARC; the program works. There has been abuse; we have reformed it. The ARC authorization bill provides those reforms. We have cut $500 million in spending over the next 5 years. We are doing what the people sent us here to do. That is to streamline, to reform, to reduce spending, but also to continue supporting the building of needed infrastructure for America, particularly in the pockets of poverty for America.

For all of those reasons I would urge my colleagues to join us in a bipartisan effort to defeat this amendment and support this very worthy program.

□ 1415

The CHAIRMAN. The time of the gentleman from Pennsylvania [Mr. SHUSTER] has expired.

(On request of Mr. KLUG, and by unanimous consent, Mr. SHUSTER was allowed to proceed for 2 additional minutes.)

Mr. SHUSTER. I yield to the gentleman from Wisconsin.

Mr. KLUG. I just want to understand, tell me what it is in 1995 that makes a distressed county in Pennsylvania or West Virginia or Alabama eligible for funds when the same distressed application does not apply to the other 37 States?

Mr. SHUSTER. I thank the gentleman for this question. It is an excellent question. The reason why this should be supported is because we are not talking about an isolated county but we are talking about a region of America that has been severely disadvantaged. Indeed if my friend from Wisconsin wants to come to our committee and say that there needs to be a Great Lakes Commission, or whatever you would like to call it, to accomplish the same kind of thing that we are doing for the Appalachian Regional Commission, I welcome you to do that. I will support this kind of an effort.

No matter where we find these pockets of poverty in America, we should be doing the kinds of things that we are successfully doing in the Appalachian region. I would be very happy to support him in extending this kind of a program to other pockets of poverty across America. It is a great idea, and I welcome the gentleman to come to our committee.

Mr. GILCHREST. Mr. Chairman, will the gentleman yield?

Mr. SHUSTER. I yield to the gentleman from Maryland.

Mr. GILCHREST. I would like to make a comment, not only is it pockets of poverty in a particular region but a program like the Appalachian Regional Commission is way ahead of its time. We know it has been in effect for a few decades now. This is the kind of program that we want to use Federal dollars because it is Federal-State combination dollars. It leverages money. For every dollar we put down there, the Federal Government is going to get back $5 in taxes. But it is a model program.

We talk about block-granting programs, how can the Federal Government help these local communities in a much more efficient manner. The Appalachian Regional Commission is that model program.

Mr. KLUG. I ask the gentleman from Maryland [Mr. GILCHREST], are these counties not already eligible for public works money and for economic development money? What I do not understand is how these 13 States are somehow different from the rest of the world.

Mr. OBERSTAR. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, several years ago when I chaired the Economic Development Subcommittee in partnership with my good friend, the gentleman from Pennsylvania [Mr. CLINGER], we held hearings here in Washington and throughout Appalachia and elsewhere around the country in distressed areas. One of the witnesses, the mayor of Sneedville, KY, said to the committee, "Before the Appalachian Regional Commission came along, we were so far down, we had to look up to see bottom."

What characterized Appalachia for the nearly 100 years before 1965 was 80 acres and a mule. It was isolation.

You have heard about the hills and the mountains of Appalachia. People being isolated. It would take 30 miles for one community to visit another, to go around through the hollows. And why there were generations of intestinal illness from people drinking their own sewage because of the hard pan that would not allow the sewage to filter through, and they needed advanced sewage treatment systems and they could not afford them.

You have head about the domination of King Coal throughout the Appalachian region, and the whole purpose of ARC was to break that domination, to break the isolation, to build roads, to provide communication, to provide access to markets, to give people an opportunity, to build clinics, to provide health, to build the educational/vocational training centers and the health clinics, to give them an opportunity to get out from looking up to see bottom.

At the time the Appalachian Commission was created, the people throughout the 13-State region averaged 45 percent of the average national income. Forty-five percent. After 20 years of ARC, they were up to 82 percent of national income.

The previous speaker talked about growth in Appalachia during the 1980's. That was because of the investments made during the 1960's and the 1970's. That was because there were wise investments made, job opportunities created, industrial parks developed, vocational training centers developed, and skills and jobs came to Appalachia.

At Tennessee, we heard from Tilda Kemplin, director of a day care center, a day training center for children of poor families, who talked about how they had elevated the level of education of these children who had little children who had little opportunity.

In concluding her statement, she said, "Gentleman, when you go back to Washington, please try to look over the top of the dollar and don't see George Washington but see a child. See a child whose life has been rebuilt and reborn."

That is what Appalachia is all about. Sure, you can go around and you can pick up any number of projects and say, oh, that was a waste, building a stadium, building this and building that. But that is your judgment. That is a Washington judgment. Those projects were decided by people who live in the area, who have suffered with poverty, who have lost jobs, who made a decision based on a plan of economic development on what suits them best, what can help them grow. That was a local decision. You are going to say, "We are going to substitute our judgment for yours"? No. That is wrong.

We have made changes in the way the Appalachia Regional Commission functions. During the time when I was chairman and the gentleman from Pennsylvania [Mr. CLINGER] was the ranking Republican, we brought that bill to the floor. We have reformed the way the Federal Economic Development Administration operates, changed the eligibility standards to terminate those counties that were grandfathered in to require new ways of determining eligibility, and those bills have passed this House on a basis of 4-to-1 votes during the Reagan administration, the Bush administration, on a bipartisan basis, because people realized that this is a commission that works, this is a program that helps people, this is a program that gets to the real needs, helps create real jobs and lift people out of poverty.

It was in West Virginia that we went to, I think it was Martinsburg, WV, where we held a hearing, and the mayor of the city took us to his little store and in back of the cash register on the wall hung a sign that said, "God Never Put Nobody in a Place Too Small To Grow." God never put nobody in Appalachia to be condemned to a life of poverty.

Mr. Chairman, we are a country. We worked together to build America. Let's work to build Appalachia.

Mr. BUNNING of Kentucky. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong opposition to the Klug amendment to eliminate funding for the Appalachian Regional Commission.

It is an amendment whose time has not come.

The energy and water appropriations bill that we are considering today already reduces Federal spending on ARC by $142 million for fiscal year 1996.

That is a real cut of 50 percent.

Sometimes in Congress we confuse the issue of cuts in spending by talking about cuts that are not actually cuts. They are just reductions in estimated future spending increases that really are not cuts at all. They are only imaginary.

That is not the case with ARC in this bill. H.R. 1905 reduces ARC spending from $282 million for fiscal year 1995 to $142 million for fiscal year 1996.

The Klug amendment proposes to go further and completely eliminate ARC. Plain and simple, this is just a bad idea.

For the poverty-stricken areas in Kentucky and the other parts of Appalachia that ARC helps, a 50-percent cut is a very, very tough hit. To wipe out ARC completely would be nothing short of disastrous.

Even now when we are finally making the tough reductions in spending necessary to balance the budget, there are scores of other Federal programs that are not getting cut by 50 percent of anything near this figure.

But we are asking ARC beneficiaries, some of the poorest and neediest people in America, to take a 50-percent hit. They are already doing their fair share and more in helping Congress to get the Nation's fiscal house in order.

Trying to up the ante to a 100-percent cut like the Klug amendment proposes literally adds insult and further hurt to an already aching injury.

The Appalachian Regional Commission is one of those rare Government programs that get results. Because of ARC, infant mortality rates in Appalachia are down 67 percent. ARC spending on education has helped double high school graduation rates.

ARC has helped put in roads to link lonely, isolated areas. It has built water treatment plants for communities that could not treat their sewage.

I know personally that in Kentucky ARC has made a real difference in the essential quality of life in the most impoverished areas in my home State.

Everyone knows that Federal agencies have to tighten their belts if we are going to balance the Federal budget. And under this bill ARC has tightened its belt plenty.

But if the Klug amendment passes, we would be tightening the belt so much that we would end up strangling the victim.

The Klug amendment asks us to take from the poorest of the poor. It is that simple. ARC is an agency that helps some of our neediest communities, and to kill it now would be a sad setback.

We are already cutting ARC funding by 50 percent. Half of the loaf is gone. It would be a sad day if we were to adopt the Klug amendment and take the other half away.

Mr. Chairman, I do not think that there are many Members of the House who have a stronger record than I do on cutting Government spending. But the Klug amendment is one proposal that goes too far.

It does not slice off the fat of Government spending. It does not just cut into bone. It rips the heart and soul out of the program. It is a wholesale amputation.

I strongly urge a "no" vote on the Klug amendment.

Mr. WILLIAMS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I represent a place a long way from Appalachia, and I do not serve on this committee, but I wanted to rise today in support of the Appalachian Regional Commission and in support of my colleagues who understand how well it works. Both Republicans and Democrats will defend the results of the good work of this Commission.

I also rise because I want to talk about a couple of matters of the atmospherics in this House and in America which occasion amendments like this.

One of the atmospherics, it seems to me, that is beginning to seep into this Chamber is, if it is more than a couple of decades old, it is bad and it does not work anymore. Despite the fact that the data and the facts and the statistics and the evidence may show otherwise, too many people, sometimes a majority tragically in this Chamber, just go by the criteria that "if it's more than two decades old, we've got to get rid of it, it doesn't work." I think that is wrong on the face of it. Let's not govern that way.

When I was first elected 17 years ago and I went to a Kiwanis or Rotary meeting, they were having a retirement lunch for a woman who had been directing that county's welfare office for I think close to 30 years.

□ 1430

She was one of the first welfare department employees in America, and I will never forget, she said this in her little remarks, this wonderful elderly woman, she said, "When I first went to work in this job 40-some years ago," she said, "I asked how long will this job last," and she said, "My boss at that time said, 'Well, until the Depression goes away.'" And she looked out at those Rotarians, and she smiled, and she said, "You see, for thousands of people in this country, the Depression has never gone away."

Well, that is what the Appalachian Regional Commission is about. For a lot of folks in Appalachia, the problems have not gone away. They are new to them. They are new to poverty, and this program will help lift them out as it helped their predecessors come out.

Just because it is old does not mean it does not work.

There is another atmospheric that occasions amendments like this. Let me close by mentioning that. There have been in my lifetime two great political slogans. One came in the 1960's and the other one in the 1970's. The one in the 1960's was when a young President stood out here on the East Front and said, "Ask not what your country can do for you, ask what you can do for your country." The other great political slogan of my lifetime came in the 1970's when another President looked at America through that window, that eye of the television camera, and during a Presidential debate said, "I will tell you what the question is, my fellow Americans: Are you better off than you were 4 years ago?"

Now, those are two very different Americas. I will take Jack Kennedy's. Support the Appalachian Regional Commission.

Mr. GILCHREST. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I reluctantly rise in opposition to my good friend from Wisconsin, but I would like to make a couple of quick points.

We all know that for every dollar that the U.S. Government spends, we do not often get that money back, but if we look at a program like the Appalachian Regional Commission, and when we spend a dollar on this particular program, very often we get at least $5 back into the Federal Treasury as a result of the infrastructure created that attracts new jobs. So I think as a program, it is powerfully positive for a region that is deserving and needs it.

The other comment is, what is the difference between the Appalachian region and some other areas of the country? My district is not in the Appalachian region. We do not have any mountains. We are not isolated. So we get no money from ARC in the first district of Maryland.

If you go to places like my good friend from Kentucky has described, and other regions of Appalachia, places like Turkey Fork, Stinking Creek, or Hell for Certain, these places are so mountainous the rivers and creeks and streams barely have room to meander through them.

What did we do with the interstate highway plan when we created that in the 1950's? We did not go through the Appalachian region, because it was too mountainous. We have decided to do that for a couple of decades with the ARC, and the highway program that can bring jobs to that community is 75 percent complete. Let us hold onto this for just a few more years.

The poverty rate is down. Infant mortality rate is down. This is a good program. It is the type of program that we want the Federal Government to be involved in.

If you are fiscally conservative and you are sensitive to the needs of people, you will vote for the ARC.

Mr. CLINGER. Mr. Chairman, will the gentleman yield?

Mr. GILCHREST. I yield to the gentleman from Pennsylvania.

Mr. CLINGER. Mr. Chairman, I thank the gentleman for yielding.

The gentleman from Wisconsin mentioned some egregious examples of things that may have been funded by the Appalachian Regional Commission, and nobody is here to defend those projects.

I think the chairman of the Committee on Transportation Infrastructure has indicated we have undertaken numerous reforms that are going to tighten criteria for the Appalachian Regional Commission. What the gentleman from Wisconsin did not mention, however, are the many, many accomplishments the ARC has created and the job opportunities created by ARC.

Projects which have been funded by the ARC over the last 10 years are projected to create 108,000 new jobs and to help retain 80,000 more jobs. I think these are the kinds of statistics, the kinds of criteria we need to look at.

As the gentleman from Maryland has said, the highway system which really is the lifeblood of any area, if you do not have transportation in and out of your area, you are never going to be able to grow or have any kind of economic growth. We have got that system nearly completed.

The poverty rate, as has been mentioned, has been cut in half, from 31 percent to 15 percent. Infant mortality rate has slowed dramatically. We have created water and sewer systems. These are not boondoggles. These are not goldplated projects. These are the lifeblood of the community to be able to have decent water and sewer systems.

Health care, a network of more than 400 Appalachian Regional Commission-funded primary care clinics and hospitals now serve over 4 million Appalachians a year. Again, these are facilities that did not even exist in the most depressed, most hard-bitten area of our entire country.

We have had jobs skills training, small-business assistance; there have been a myriad of programs that really have made a difference that have not been boondoggles.

The gentleman from Wisconsin said you have done it all, but the fact is the job still remains to be done.

I think what needs to be emphasized here is Appalachia is not receiving any kind of special dispensation or any kind of extra help. As a matter of fact, they are disadvantaged below the rest of the country now. They actually receive less in terms of Federal funding than any other region of the country, even with the Appalachian Regional Commission help.

But as has been indicated, there is work left to be done. The highway program is not yet complete. Per capita income is still 17 percent below the national average. The poverty rate is 16 percent higher. These are disturbing statistics.

Appalachia has made a dramatic difference, but the work needs to be continued and completed.

I thank the gentleman very much for yielding and urge a "no" vote on the amendment offered by the gentleman from Wisconsin.

Mr. GILCHREST. I thank the gentleman for his statement.

One quick comment to the gentleman from Wisconsin: When we had the hearings on the Appalachian Regional Commission, I asked for a plan; what are we going to need to stop funding this type of program for Appalachia to come up with the rest of the country, and they have gotten to work on finding a way so that within the next 4 or 5 years this particular program will not be needed. It is a different region. The funds are necessary to complete the task. There is a plan to do that.

I urge my colleagues to vote against the amendment.

Mr. KLUG. Mr. Chairman, will the gentleman yield?

Mr. GILCHREST. I yield to the gentleman from Wisconsin.

The CHAIRMAN. The time of the gentleman from Maryland [Mr. GILCHREST] has expired.

(At the request of Mr. KLUG and by unanimous consent, Mr. GILCHREST was allowed to proceed for 1 additional minute.)

Mr. KLUG. If the gentleman will continue to yield, I say to the gentleman from Maryland [Mr. GILCHREST], you took some time off before you joined me here in Congress in 1990 to work out West. Is that right? Where did you work?

Mr. GILCHREST. I worked within a designated wilderness area in the Bitterroot Mountains of northern Idaho.

Mr. KLUG. So there are mountains in Idaho as there are mountains in Washington, and Montana, Wyoming, Colorado, Utah? These may not be quite as colorful.

Mr. GILCHREST. Reclaiming my time——

Mr. KLUG. What is the difference?

Mr. GILCHREST. Reclaiming my time, let me make a distinction. Do you want to know the distinction between the Bitterroot Mountains of Idaho and the Appalachian region, the Blue Ridge Mountains and this region, the difference is the Bitterroot Mountains, and I will make a distinction with Idaho, it is a national forest, a designated area where there are very few people. There are mostly elk, bear, and so on. In the Appalachian region, in an area that has been so eloquently described by a number of Members here, is a different area because of its geography, but it is also different because you have people there.

Are you going to ask people in the area where the 25 percent of the highway has not been completed so we cannot bring jobs there, they are all going to have to move, or are we going to leverage a few dollars to create jobs for these folks?

Mr. ORTON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, as a cosponsor of this bipartisan amendment, I am pleased to join my colleagues, the gentleman from Wisconsin [Mr. KLUG] and the gentleman from Florida [Mr. GOSS], in offering this amendment to eliminate funding for the Appalachian Regional Commission.

Let us be clear about what this amendment is all about. If we cannot eliminate programs like the Appalachian Regional Commission, we are sending a clear message to the American public that we are not serious about eliminating duplicative Federal programs, and we will be sending a message that we are not serious about ending old-fashioned pork-barrel programs that benefit narrow geographical interests.

That is why both the National Taxpayers' Union and Citizens Against Government Waste have endorsed this amendment.

Earlier this year the Committee on the Budget, which I sit on, passed a resolution that proposed the termination of the Appalachian Regional Commission in the next fiscal year. To quote from the committee report, it says,

> There is little evidence that the ARC can be credited with improvements in the economic health of Appalachia. The programs supported by the ARC are duplicative activities funded by other Federal agencies such as the Department of Transportation's Federal Highway Program and the Department of Housing and Community Development block grant program.

Thus, like many other deficit hawks in the House, I was shocked and amazed to see the appropriations bill come out of the committee with continued funding for ARC at levels of $142 million next year.

How can we face the taxpayers of this country and tell them that we should delay our rate of deficit reduction in order to fund this duplicative, parochial program? How can we face our senior citizens and tell them that we are making cuts of almost $300 billion in Medicare over the next 7 years so that we can accommodate programs like this that benefit only a few selective geographical areas?

Finally, I would like to conclude by quoting the final sentence of the House budget resolution committee report, which argued for termination of the Appalachian Regional Commission,

> The ARC provides resources to poor rural communities in areas that are no worse off than many other areas outside the Appalachian region and, therefore, no more deserving of special Federal attention.

Like many other Members, several of these poorer communities are in my district. They are no less deserving of assistance just because they are not located in Appalachia, and I will give you a specific example: San Juan County, UT, is in the top 10-percent poorest counties in the United States, the top 10-percent highest unemployment rate in the United States, the top 10-percent youngest counties in the United States. This county is not eligible for any funding from the Appalachian Regional Commission to help fund their schools or their economic development projects or their highway systems.

The real question here now, and I admire my friends, the gentleman from Minnesota [Mr. OBERSTAR] and the chairman of the Transportation Committee, and they have eloquently described what benefit this Commission has provided to the poor in those communities. This is not a question of whether the ARC has provided a benefit. This is not even a question as to whether or not the Federal Government can and should be involved in providing economic assistance to poor communities, and there are many in this body who believe that the Federal Government has absolutely no role whatsoever in doing that.

But even if they assume it does have a role in doing that, why is the role limited to a regional area? Why do we not have such a program that says, "Let us identify the 25 or 30 poorest counties in the Nation and provide assistance to those counties even though they are not in Appalachia?"

Now, the chairman of the subcommittee said to the gentleman from Wisconsin [Mr. KLUG], "If you wish to create the Great Lakes Regional Commission, come on in, I would support you." How about the Mountain States Regional Commission? How about a regional commission in the Northwest, where they have been hit terribly by logging declines? How about the central farming States that have been hit terribly?

Now, for those of you in this body who believe that the Federal Government ought to be expanding and creating more commissions to pump more Federal dollars into local communities, then you will vote against this amendment. If you believe that even though we ought to be helping poorer communities we ought to help them on the basis of need and not geographic location, you will vote for this amendment. If you believe the Federal Government has no role in providing that assistance, you will vote for this amendment.

The CHAIRMAN. The time of the gentleman from Utah [Mr. ORTON] has expired.

(On request of Mr. RAHALL, and by unanimous consent, Mr. ORTON was allowed to proceed for 2 additional minutes.)

Mr. RAHALL. Mr. Chairman, will the gentleman yield?

Mr. ORTON. I yield to the gentleman from West Virginia.

Mr. RAHALL. Mr. Chairman, the gentleman makes an excellent point for the ARC by the example he uses that the ARC has been helpful to regional and local economies in the Appalachian region.

The EDA is now trying to take that same example and, by the reforms we are helping the EDA to make, take the successes of the ARC and spread it across the country and help regions such as the gentleman points out in Utah. But let us not zero out the ARC. It has been so successful by involving local communities at the grassroots level, taking their input and bringing it up; a bottoms-up effort. That is exactly what we ought to be spreading to the EDA as the gentleman points out.

Mr. ORTON. The gentleman really raises the crux of this whole debate. If, in fact, this body believes that we should go out and expand the concept, create more regional commissions, fund it with Federal dollars, and put the money into those regional commissions for these kinds of programs, then, in fact, they should vote against the Klug amendment. But in so doing, you have to make a choice. That means we are going to be spending not $147 million. We are going to be spending billions of dollars in putting money out into all of those other regional commissions and communities, and if we are going to do that, you have to pay for it or you are going to borrow the money from the future by increasing the deficit, and so if you are going to pay for it, you either have to pay for it by cutting other programs or you have to pay for it by raising taxes.

I do not believe this body is willing to do either of those. I do not want to increase the debt. So I would urge adoption of the Klug amendment.

□ 1445

Mr. RAHALL. Well, the gentleman does not take into account that the ARC has created jobs over the years of its existence. Creation of jobs means revenue generated——

Mr. ORTON. But that argument is an argument that any money the Federal Government spends creates jobs and increases the economy. That argument——

The CHAIRMAN. The time of the gentleman from Utah [Mr. ORTON] has expired.

(On request of Mr. ROGERS and by unanimous consent, Mr. ORTON was allowed to proceed for 1 additional minute.)

Mr. ROGERS. Mr. Chairman, will the gentleman yield?

Mr. ORTON. I yield to the gentleman from Kentucky.

Mr. ROGERS. Does the gentleman's State benefit from a thing called the Central Utah Project?

Mr. ORTON. It is questionable whether the State benefits from it, but the State does receive money to build it, yes.

Mr. ROGERS. As a matter of fact, there have been over a billion dollars spent on the Central Utah Project——

Mr. ORTON. Over the past 35 years.

Mr. ROGERS. We increased the funding for that project in this bill by how much, Mr. Chairman?

Mr. MYERS of Indiana. Four million dollars.

Mr. ROGERS. Four million dollars——

Mr. ORTON. That is a water project very similar to the TVA, a dozen other water projects throughout the Nation. It is——

Mr. ROGERS. Does the gentleman want us to zero out the project——

Mr. ORTON. Different from the ARC.

Mr. ROGERS. Does the gentleman want us to zero out that project?

Mr. ORTON. It is different from the ARC. The ARC is direct money going to communities to pay for highways, for the kinds of——

Mr. ROGERS. It is OK in central Utah, but not in Appalachia.

Mr. ORTON. The gentleman is talking about apples and oranges. He is talking about the construction of water projects which have gone out through the entire United States, or he is talking about specific funding going to local communities simply because they are located in a particular regional area.

The CHAIRMAN. The time of the gentleman from Utah [Mr. ORTON] has expired.

(On request of Mr. KLUG and by unanimous consent, Mr. ORTON was allocated to proceed for 1 additional minute.)

Mr. KLUG. Mr. Chairman, will the gentleman yield?

Mr. ORTON. I yield to gentleman from Wisconsin.

Mr. KLUG. I think the gentleman from Utah [Mr. ORTON] makes a good point, though I mean everybody in this Chamber's State receives some money, but the question is whether this series of 13 States gets additional money on top of the normal economic development money.

I say to the gentleman, "Mr. ORTON, for example you have mountains in Utah, and I still don't understand Mr. GILCHREST's argument that your mountains are different than West Virginia's mountains because they have more or less people in them. I mean you have ski resorts in Utah. I mean were you eligible to receive Federal funds to help build ski resorts in Utah or Colorado?"

Mr. ORTON. We did not get any money to build a road to a ski resort in Utah as they did in Pennsylvania.

Mr. KLUG. I will tell the gentleman another story. It is interesting the gentleman from Minnesota [Mr. OBERSTAR] was over here talking about northern Minnesota and contrasting Appalachia. There is a Hockey Hall of Fame in northern Minnesota, not built with any Federal dollars. There is a Bowling Hall of Fame in Milwaukee, not built with any Federal dollars. But there is an Alabama Music Hall of Fame and the NASCAR Hall of Fame built with Federal ARC dollars, and that is what we are talking about is double- and triple-dipping for——

PARLIAMENTARY INQUIRIES

Mr. MYERS of Indiana. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. MYERS of Indiana. Mr. Chairman, the Chair has been extending the time beyond the 5 minutes, and we have gone 55 minutes now. I hate to do this, but I am going to object if the Chair extends any Member's time beyond the 5-minute allocation.

Mr. KLUG. Would the gentleman and my colleagues on the other side be willing to agree to a time-limit period at this time?

Mr. MYERS of Indiana. I say to the gentleman, if he is willing at this time.

Mr. ROGERS. Mr. Chairman, if the gentleman would yield, I think we are making pretty good progress. I suppose we can go along with the procedure for a little while longer and see how we are in a few minutes.

Mr. KLUG. If the gentleman objects to a time limit, I understand.

Mr. MINETA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment offered by the gentlemen from Wisconsin, Florida, and Utah.

The Energy and Water development appropriations bill provides $142 million for the programs of the Appalachian Regional Commission [ARC]. This appropriation cuts the ARC's current year funding in half. It is $41 million less than the President's request; it is $40 million less than the authorization which our Subcommittee on Public Buildings and Economic Development unanimously passed 2 weeks ago; and it is $41 million less than the fiscal year 1996 assumption included in the just-passed budget conference agreement.

If we use as a baseline a hard freeze at fiscal year 1995 funding levels for the ARC, this appropriation will save $980 million over 7 years. As ranking member of the Transportation and Infrastructure Committee, I can tell you that the ARC has contributed more than its fair share to deficit reduction.

This amendment seeks to cut what little is left and eliminate all funding for the Appalachian Regional Commission.

Thirty years ago, Appalachia was considered a region apart because its development lagged so far behind the rest of the Nation. With the help of the ARC, the region has made great strides. Yet, one generation cannot overcome a century of neglect.

Although the ARC has helped the region make significant progress, many problems persist. These problems are particularly acute in central Appalachia, where the poverty rate is 27 percent, rural per capita income is only two-thirds of the national average, and unemployment rates are almost double the Nation's average.

The amendment which is before us would kill any effort to turn this around. It would halt development of the Appalachian Development Highway System with only three-fourths of the 3,000 mile system complete and it would cut off the ARC's funding for economic development; cutting Appalachian communities' investments in education, small businesses, and health care.

Mr. Chairman, almost 30 years ago, Congress made a commitment to Appalachia and its people. We promised to help it overcome its isolation, to enhance its quality of life, and to restore pride to this critical area of our Nation. That commitment is not yet fulfilled, and this amendment would make the situation worse.

I urge Members to oppose the amendment.

Mr. WICKER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise today in sharp opposition to the amendment offered by the gentleman from Wisconsin [Mr. KLUG]. I hope that my fellow Members of the freshman class are paying close attention. Several weeks ago I had occasion to hear an address by the Speaker of the House. In those remarks the Speaker talked about the need for dramatic decentralization of government where, and I quote, "local folks are solving local problems with local strategies." Now, Mr. Chairman, I know of only one Federal program which is qualified to serve as a model for this approach, and that is the Appalachian Regional Commission. Mr. Chairman, dollar for dollar the ARC is one of the best bargains we get in Congress each year.

Now, as the gentleman from Kentucky and the gentleman from Pennsylvania related, the ARC is a model for local, State, and Federal cooperation. Under this model, local officials suggest options and refer them to their Governor. The Governor then prioritizes a list and sends it to the national office, which works in conjunction with the Governors to select applications for approval. Most of these projects are then administered locally by local planning and development districts located in the community selected.

The Federal dollars used under ARC serve to leverage many more times that amount in State and local matches. In many cases the ratio of local and State funds to Federal dollars is as much as five to one, as the gentleman from Maryland pointed out. This is a bottom-up program, not a Washington solution for local problems.

It is important for us to understand where the money goes. There is $142 million in this bill for ARC. Of that amount 58 percent will go to the ARC highway program.

The highway portion of ARC was authorized by Congress in 1965. It is nearing 75-percent completion. By act of Congress these highways have been brought under the national highway system. These roads are every bit as legitimate as the highways in other sections of the country that have been paved with Federal dollars under the interstate system. And I can tell my colleagues from personal experience that, when ARC money assists in building four-lane highways, it means greater business growth, increased access, expanded markets, and more taxpayers for the entire United States of America.

I should also point out, Mr. Chairman, that ARC is not the kind of bloated Federal bureaucracy that we hear about a lot. This little agency has only about 50 employees nationwide. Most of the overhead is paid for by the States.

In addition, it cannot be stressed too much that ARC has been cut in half in this bill. It was funded at $282 million in fiscal year 1995. Under this bill, it is reduced by 50 percent, and, Mr. Chairman, that is real budget progress and real budget savings. Actually the energy and water appropriation bill recommendation of $142 million is less than the amount adopted by this House in the budget resolution conference report last month.

I am firmly committed to cutting the budget and cutting programs which do not work, but ARC does work, it is a program that has proven itself. It is not a Federal handout where we take money out of somebody's pocket and write somebody else a check. It develops infrastructure to create private jobs in the private sector. It is working for economic development, and, Mr. Chairman, I urge my colleagues to vote against the Klug amendment and support the ARC program.

Mr. WISE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am going to depart from my prepared remarks and deal with a lot of the issues that have been raised. The one gentleman asked why, why is a mountain different in Utah or wherever, Wisconsin, from a mountain in West Virginia, or Kentucky, or wherever. We are talking about a region. We are not talking about a mountain someplace. We are talking about a region and a common tradition, unfortunately often a common tradition of poverty, not because people were inept, not because people did not try, but because of a whole lot of cultural, historical, and industrial factors. Nobody questioned, for instance, coming out of central West Virginia, nobody questioned why it was that we had such low-energy costs for so many years. That coal had a price to it. It had a human price to it. It had a price in roads that were never built, and schools that were never funded, and children that never got educated that that coal came out cheaply and it built this country. That is one of the reasons we are in the situation we are in. Nobody ever talked about absentee ownership, the fact that from so many other parts of the country there was absentee ownership of central Appalachia, and so that is one reason.

I want to—someone asked the chairman of the Committee on Transportation and Infrastructure why would one county be different from another, and he properly replied because we are talking about a regional approach, not a county approach, not a city-by-city approach, but a regional approach. I think it is worthwhile to note, my colleagues of the House, that Appalachia in fiscal year 1994 had 8.2 percent of the U.S. population, 8.2 percent, and received, even with the ARC going to 13 of the States, Appalachia received 7.5 percent of total Federal expenditures. We are 14 percent per capita below the rest of the country in Federal expenditures, and that is with the ARC, and this would now drop even more because this will cut the Appalachian Regional Commission from roughly $280 to $140 million, which incidentally in terms of the Federal deficit this year we are talking about two one hundred thousandths; that is, 0.002, two one hundred thousandths of the Federal deficit.

There have been questions about why is one county different from another. Let me make a point. Madison, WI, Dane County, median family income, $41,529; unemployment, 3.1 percent. Owsley County, KY, which came before our subcommittee, $12,200 in median family income; unemployment, 8.4 percent; poverty rate, 52 percent. We are dealing with a special set of circumstances.

The gentleman from Mississippi pointed out the value of the Appalachian regional system of highways. Studies conclusively show that in ARC counties with a four-lane ARC highway, job creation has been three times as high in as in counties that do not have that.

□ 1500

Incidentally, this is money that is coming back to the Federal Treasury. Just recently in my district was announced an ARC grant that would create a water system to an industrial area. I calculated that based upon the average income of the jobs that will be created there, the Federal Government, the Federal taxpayer, will receive their money back in about 1½ years, of what went into the ARC, and for that they got several hundred tax paying, job holding citizens, and all of us are better as a result.

Every region has its own approach. Indeed, interestingly enough, the Economic Development Administration and others may be moving more and more towards the ARC model. I think that is important too. We are talking about grassroots up. Thirteen Governors make up this board. You apply from the local level to the statehouse, then to Washington. But the 13 Governors agree, the majority of which are members of the Republican Party this year. They all support this, as well as all the Democrat Governors. Why? Because they know it is a proven job creator.

We are talking $142 million for 13 State regions that clearly have the benefits that have been proven with the ARC.

Incidentally, the job is not done. You do not pull this one back and think you have solved something. You may have made the situation worse, particularly with the highway system that is three-quarters of the way complete. But if you do not complete it, many portions of it will never achieve the promise that they had before.

So I would urge my colleagus to reject this amendment. Appalachia has made great strides, but we still have a ways to go. This is a relatively small amount of money, that has been cut in half from what it was last year, but is so important to a 13 State region.

Mr. RAHALL. Mr. Chairman, will the gentleman yield?

Mr. WISE. I yield to the gentleman from West Virginia.

Mr. RAHALL. Mr. Chairman, I associate myself with the comments of my colleague and friend from West Virginia. The gentleman has made an excellent statement. I think the points the gentleman has made are very important. It shows the people of the Appalachian region are finally taking their economic destinies in their own hands. This is all the more important a reason to keep this program going.

The $142 million contained in H.R. 1905 for the ARC, represents a 50-percent reduction in funds compared with fiscal year 1995—which was set at $283 million.

The ARC reauthorization bill, reported out of subcommittee, reflects a 35-percent cut in authorized funding levels—set at $182 million.

I repeat—this funding is a 50-percent cut in funding for a vitally important program—the ARC.

Many of my colleagues are arguing that they voted for the Kasich budget, and therefore will have to vote for the Klug amendment to kill the ARC.

That is no longer a fact. The budget conference report does contain funding for the ARC—Mr. KASICH having agreed to its funding in conference with the Senate.

Thirteen Governors—eight Republicans and five Democrats—representing the Appalachian region, have asked you to defeat the Klug amendment.

Support 21 million Americans who live in Appalachia, in more than 400 distressed counties, who are just now entering the mainstream of America's economy—who are just now taking control of their economic destines and becoming contributing taxpayers. Don't take away their only means of breaking the cycle of poverty. Defeat the Klug amendment.

In addition, the ARC reauthorization bill, which has been marked up by the Subcommittee on Public Buildings and Economic Development, reflects a 35-percent reduction in the authorization level for ARC in the out years.

We have done our best to be a part of spending cuts and deficit reduction with respect to ARC funding—and we believe the $142 million in this bill, down from $283 million in fiscal year 1995, reflects our fair share toward reaching those important goals.

I am reminded, Mr. Chairman, of a newspaper article from one of our State newspapers, written by a reporter who has no love for the ARC. Ironically, in his effort to be caustic about the ARC, the reporter inadvertently used words that, in fact, tell you what is good about the program.

The lead sentence in the article stated: If you drive a car, flush a toilet, or swallow a gulp of water in West Virginia, you have felt the influence of the ARC.

That statement is a statement of fact—and something I believe we can be proud of.

Indeed, the funds that have come from ARC appropriations over the years have been used to make safe drinking water available to hundreds of small, isolated communities whose children would never have been safe from disease and possible death from impure elements in their drinking water had ARC not been there to provide it. More than 700,000 Appalachians now have access to clean water and sanitation facilities.

The funds have been used to build the Appalachian Development Highway—3,025 miles of road linking rural, isolated towns and hamlets to the rest of the State—and to the rest of the world—for the first time. Through ARC funds, we were able to move towering, rugged mountains out of the path of those who needed to be able to travel beyond their small towns to find good jobs, better homes, an education—a way to break the cycle of poverty.

But aside from water and sewer projects, and aside from highway development, there is the fact that the ARC has helped develop my State's travel and tourism industry—an industry that is crucial to continued job creation in our State.

ARC has also funded adult literacy programs so that unemployed persons needing to read and write in order to find a job, can get that help. ARC helped the Governor's cabinet on children and families plan on how to distribute scarce resources so that the most needy children would be served. ARC funds assisted the State in a tremendously successful effort to teach real West Virginia State history in grades four through eight throughout the public school system. We are really proud of the way the funds have been used to upgrade the quality of education of Appalachia's children.

ARC funds have gone to create or assist 766 businesses, creating 8,000 new jobs. A network of more than 400 primary care clinics and hospitals has been completed with ARC funding, now serving 4 million Appalachians a year.

There are 13 States in the Appalachian Region—and all 13 Governors of those States—eight of whom are Republicans, five of whom are Democrats—all hope and pray that you will defeat the Klug amendment and save the ARC so that it can continue to help those living at and below poverty levels—to help raise themselves up and, as I've said before, to break the cycle of poverty that surrounds them in Appalachia.

There are more than 400 counties in the 13-State region, where 21 million people reside, and who are just now being brought into the mainstream of the American economy, making them contributors to society rather than drains on our national resources. People in Appalachia, through ARC funding, have been enabled—empowered—to take control of their lives, of their economic destinies, and become contributing taxpayers to the Nation's economy.

When I see a newspaper article, intended to deride the ARC, begin with the words, "If you've ever driven a car, taken a drink of water, or flushed a toilet, you've felt the influence of the ARC," then I know that ARC is working just as it was intended to work.

For if any one of you here on this floor didn't have a toilet to flush, or didn't have safe drinking water available to you and your children, or didn't have a decent road to drive on—you'd darn well be wondering what the Federal Government was spending your tax dollars on. In West Virginia, and in 12 other Appalachian States, we're sending their taxes back to them where, at their discretion, decisions are made as to how it will be spent.

This is a model program that ought to appeal to every Member on this floor—conservative to liberal—because it sends tax dollars where they are needed, and allows the recipient population to decide where those dollars will go. The ARC model could very well be a better model than block grants for turning Federal programs back to the States.

Think about it. Reject the Klug amendment. Save the ARC.

Mr. QUILLEN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong opposition to the Klug amendment. You know, the gentleman is getting the reputation of cutting out projects in other parts of the United States, but I know that he leaves his projects alone and does not use the cutting knife when he should be doing so in his own State.

Mr. Chairman, I was on the Committee on Public Works and Transportation from 1963 through 1964 when the Appalachian Regional Commission was conceived and planned and worked out. I know that it is a good program. I helped start it, and it has worked miracles in the Appalachian area.

I live in the heart of Appalachia. I represent a county that was the seventh poorest in the United States. But this is not a pork-barrel bill. This is a bill that helps a region, and, in helping a region, it helps the whole United States of America. It is a good program. It should not be eliminated. Actually it should not suffer a 50-percent loss, but we are willing to accept that. But let us not cut it any further. Hungry people, people who do not have an opportunity in life, they should be building themselves up by their own bootstraps, and this gives a helping hand for them to accomplish that goal.

Mr. Chairman, I rise in strong opposition to the Klug amendment.

Mr. WAMP. Mr. Chairman, will the gentleman yield?

Mr. QUILLEN. I yield to the gentleman from Tennessee.

Mr. WAMP. Mr. Chairman, I thank the distinguished gentleman from the First District of Tennessee, a district they now call by his name after 33 quality years of service.

Mr. Chairman, let me say as a freshman conservative Republican Member of this body, who came here to this Congress a few months ago with the No. 1 goal of staying here to see the Federal Government's budget come into balance, I came here knowing that I represented a part of this country where TVA and the Appalachian Regional Commission have provided quality service for a number of years, and that we would have to cut spending in the programs in my backyard. And we are going to do that. This amendment and the next amendment are taking a budget and shrinking it substantially with severe cuts.

But when I took office I said to the elected representation at the local level throughout my district, will you please tell me as I go to Washington to represent the citizens that you and I represent together, what has worked the best? What is the most effective Federal programs you can refer to?

Let me tell you, the Appalachian Regional Commission was at the top of the list, time after time, because it is hard dollars for roads and gas and sewers and utilities and things that create a better economy in this region. It is a quality service, a critical service, and this is a step toward a balanced budget, a 50-percent cut in funding. This is what a conservative Republican would support, not oppose, as we seek to share this patriotic burden to balance the Federal budget across the board. The ARC has taken a 50-percent cut.

Mr. QUILLEN. Mr. Chairman, reclaiming my time, again I urge defeat of the Klug amendment, and ask everyone to support that effort, because the Appalachian Regional Commission does a tremendously good job.

Mr. BAESLER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong opposition to the Klug amendment. Rather than restate all the reasons everybody else has said, I just join in them.

Not only does the Appalachian Regional Commission make a difference in those counties and States which it serves, it makes a very big difference in those which it does not serve. My district has only eight counties that are qualified and adjoin the district of the gentleman from Kentucky [Mr. ROGERS] but because of the eight that are qualified and because the districts in Appalachia are improved, the quality of life is improved, the whole State of Kentucky benefits, not just ARC counties. It gives our whole State educational opportunities, economic development opportunities, and I urge strong support for the ARC and strong opposition to the amendment of the gentleman from Wisconsin [Mr. KLUG].

Mr. BOUCHER. Mr. Chairman, will the gentleman yield?

Mr. BAESLER. I yield to the gentleman from Virginia.

Mr. BOUCHER. I thank my colleague from Kentucky for yielding. I join him in strong opposition to the Klug amendment, which threatens the very substantial progress that we are making in the Appalachian region in our effort to become a part of the American economic mainstream.

Since 1965, the Appalachian Regional Commission has been a major force in our economic progress, enabling the construction of industrial parks, water systems, wastewater systems, access roads to those industrial parks, in many instances shell buildings. We are growing economically as a consequence of what the Appalachian Regional Commission is doing. Libraries have been built, schools in our region have become more capable and have expanded their course offerings, enabling the people in our area to have access to the same kind of instruction that students in the more financially fortunate parts of the country have long had access to. Factories have opened and new jobs have been created. But we still have a very long way to go.

In my district in the southwestern part of Virginia, unemployment rates in some of our counties are in excess of 20 percent. I know that is a situation that pertains in many of the counties that exist in the Appalachian region elsewhere across that 12-State area. The ARC is a very important part to our answer to that set of problems, and it is a wise investment in the future of our regional economy and the economy of the Nation as a whole.

It has been pointed out by some of the other speakers that when the ARC makes an investment in an industrial park or other job creating facility, that the economy expands, that the tax base expands, and that as a consequence of that, the Government more than gets its money back based upon the very modest investment that is made in Federal dollars in the first instance.

I have figures showing that for every dollar the ARC invests in an industrial park or other job creating facility, that $12 in private sector investment is stimulated. That clearly shows the very important economic effect that the ARC is having. It shows that it is a wise investment in our economic future, and for that reason I join the gentleman in his strong opposition to this amendment.

Mr. LEWIS of Kentucky. Mr. Chairman, will the gentleman yield?

Mr. BAESLER. I yield to the gentleman from Kentucky.

Mr. LEWIS of Kentucky. Mr. Chairman, I would just like to make a personal note here. I grew up in the Appalachian Mountains, and I remember the little one-lane roads, the dusty dirt roads, the lack of utilities, the small one-room schools. I remember how it was.

If you go into eastern Kentucky where I came from today, you will see a tremendous improvement. We still have a way to go. But now there are nice highways, nice schools, utilities reaching into the homes, paved highways.

I remember my grandmother, you had to go about 3 or 4 miles up a hollow on dirt roads. And when it was raining, you could not get there. And I remember when she was very ill, we were concerned if she was going to be able to get out of that hollow to make it to the hospital. Today, you can drive all the way to where her home was at.

It did make a big difference, but there are still things that need to be done. There has been a cut, 50 percent, but we need to continue this program. It is working, one of the few Federal programs that does work, but the reason it does work is because of the community input into it.

I urge defeat of the Klug amendment.

Mr. BACHUS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am up here because of one thing, and that is because the sponsor of this bill gave a very effective, very articulate opening statement. As I listened to that statement, had I not know better, I would have said how could anyone disagree with what the gentleman from Wisconsin is saying? How could anyone oppose this amendment?

Well, let me tell you why I am here in strong opposition to this amendment. I am here because what he said was very effective, it was very articulate, and it was very wrong.

You know, if you can close someone's mind by giving an effective opening statement, you can win a trial. Do you know that a trial can be won in a 1-minute opening statement if everybody accepts what is said as true and quits listening? But let me tell you, I am here for the reason that what was said in the opening statement is incomplete, it is inaccurate, and it certainly is not the complete story.

We were told in the opening statement that the people that you would hear advocating for the ARC were going to be from Alabama, they were going to be from Tennessee, they were going to be from West Virginia. We were not told about the gentleman from Minnesota, the gentleman from Montana, the gentleman from California, the gentleman from New York that I may yield to if I have enough time. We were not told any of that. And had you quit listening, had the Members back in their office quit listening, they might have gotten the wrong impression that this was something that only Members from the ARC States were advocating.

Not true. Let me tell you what is even worse then that, and let me tell you something about the flawed argument. When the California floods came, did I, from Alabama, come out here and say "We have got floods in California. Knee deep?" No. I came and I voted to assist those people.

I am from Alabama. I could have got up and said "Let's vote for no earthquake relief in California, or the floods in the Midwest." I could have said you are going to hear from people in the Midwest. And the gentleman from Utah who sponsors this bill, he comes before us and says, "We need to support the people on the Indian reservations." I have never come down here and said "I do not have any Indian reservations." I do not have any military bases, but I vote for military expenditures.

What an outlandish, illogical argument. Let us not buy this.

Let me conclude in saying then he gave a description of the ARC which was even more inaccurate than who he said would be speaking for this amendment. This is about reducing the number of infant deaths, infant death mortality. This is about clean drinking water. This is about roads for people to get to work and haul their products. But we were told about a few examples that had been limited in the legislation before us, not something that is going to happen but something that happened before and we changed.

Finally, we are not talking about adding. We are talking about a 50-percent cut.

Mr. BARTLETT of Maryland. Mr. Chairman, will the gentleman yield?

Mr. BACHUS. I yield to the gentleman from Maryland.

□ 1515

Mr. BARTLETT of Maryland. Mr. Chairman, I rise in strong opposition to this amendment and urge my colleagues to oppose this attempt to strip an impoverished region of precious funds.

I admit that I have little confidence in most Government programs. Since I came to Congress 3 years ago, I have always supported budget proposals that release the stranglehold that the Federal Government has on our local communities. Washington, DC, has gorged itself on tax dollars long enough.

However, the Appalachian Regional Commission [ARC] is not like most Federal Government programs. It works. I do not know of any Federal programs which involves State Governors and local officials in the decision making process more than ARC. Working through the 69 local development districts that ARC supports, projects originate at the local level, as community leaders determine what programs best serve their needs. As the 104th Congress makes historic and systemic change in the way Washington works, I believe that ARC is already performing in a way that we wish all of our Government programs could operate. It truly is a unique Federal-State-local partnership that should be used as a model for future cooperative efforts, not torn apart.

I understand that times are hard. Sacrifices must be made in all areas if we are going to get the budget deficit under control. My record reflects a strong commitment to reaching a zero budget deficit by 2002 and the subcommittee's bill addresses the necessity to reduce Federal funds for ARC programs. Mr. Chairman, as the bill now exists funding for ARC will be cut in half. That is a significant cut for a program which has in the past provided Appalachian communities with water and sewer systems, access to rural health care centers, child care centers, educational training, job skill training, and affordable housing. Nevertheless, I have heard from a number of local officials in western Maryland who insist that ARC can still play a vital role in our communities. It will simply be leaner, something that all Government programs could be.

Some Members are asking why ARC is still necessary. It has a proven track record of improving the conditions of the Appalachian region. However, the poverty rate for Appalachia is still 16 percent higher than the national average. Appalachia's per capita income is only 83 percent of the U.S. average. Over 20 percent of the youth in northern and southern rural areas grow up in poverty and an even higher 34 percent of youth in central Appalachia live in poverty. In fact, 115 of ARC's 399 counties are classified as severely distressed, which means that they suffer from unemployment rates that are 150 percent of the national average and poverty rates are at least 150 percent of the national average.

There are too many Government programs that are outdated and inefficient. The Federal bureaucracy is bloated and needs a serious diet. But gutting ARC does not address our problems, it only creates new ones. I urge defeat of this amendment and support the subcommittee's recommended appropriation.

Mr. BACHUS. Mr. Chairman, I yield to the gentleman from New York [Mr. HOUGHTON].

Mr. HOUGHTON. Mr. Chairman, I think we have beaten up on the gentleman from Wisconsin, [Mr. KLUG] a little too much. This fellow is doing a great job in trying to cut the expenses. I do not happen to think this is a great idea for a variety of reasons.

Mr. BACHUS. Mr. Chairman, the gentleman means his amendment is certainly not a great idea.

Mr. HOUGHTON. Mr. Chairman, if the gentleman will continue to yield, absolutely. His amendment is not a good idea. I obviously support the ARC. But the thing that I want to mention is that there are two categories of expenses. One is an expense expense; the other is an investment expense. This is really an investment expense.

The CHAIRMAN. The time of the gentleman from Alabama [Mr. BACHUS] has expired.

Mr. HOUGHTON. Mr. Chairman, I ask unanimous consent that the gentleman be allowed to proceed for 1 additional minute.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

Mr. MYERS of Indiana. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. BEVILL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to this amendment and in support of the Appalachian Regional Commission program. Actually in all the years that I have been in this Congress, I do not recall a program receiving the enthusiastic support that this program has received. Today made me feel proud just to have played a role and a part in funding this program, and I wish I could take credit for creating it, but actually, it was created the year before I came to Congress.

I recall, reading the act, when it was passed. It said that the Appalachian area of the United States is the most depressed area of the United States and this is to assist this area of our country to get back on its feet. And I think it uses the words, to give it an "equal economic opportunity." And that is what it has done.

This is a program that is working, and we do not get to stand up here often, I am sorry to say, and say that this program has worked. This program is doing the job that the Members of Congress intended when they passed it. It is working, and it has been very effective.

I commend those of my colleagues, I notice that we had our former chairman here, the gentleman from Minnesota [Mr. OBERSTAR], who is very knowledgeable about this program. He was chairman of the authorizing subcommittee. He, as well as the gentleman from Pennsylvania [Mr. SHUSTER], called it a model program. He is the present chairman of the Committee on Transportation and Infrastructure.

We had the gentleman from California [Mr. MINETA] here, former chairman of the House Committee on Transportation and Infrastructure, to stand up and tell us what a good program it is. These are Members that have no connection with the program whatsoever, as far as the area of the country is concerned.

I think my colleague from Alabama made a good point. When we have these emergencies in other parts of the country, we do not get up here and say, This is just regional and it should not exist. We do not get up here and say, These people do not need this help. We are not going to make this a Federal program, and it is not benefiting my State, all of that kind of thing.

This program—for example, just picking out one thing, because there are many—but this program has made it possible in the Appalachian area of this country, the most depressed area of the United States, for every person in that part of the country to be within 30 minutes of some type of medical care, the first time in history, within 30 minutes. Most of them are little rural clinics, cost practically nothing. They have a registered nurse. They have access to a doctor they can call on the phone.

The preventive medicine, my gosh, think of the children that are getting inoculations in those mountain areas now in the Appalachian area that never did get any preventive medicine before. That saves this treasury money. I am sorry you think that is bad, but I think it is good. I think it is good. It is saving the National Treasury money. It is saving the taxpayers of the whole Nation money, because it is benefiting the entire Nation.

So we could go on and on here, but you have covered it so thoroughly. We have in the Appalachian area now stronger vocational schools. We have got the health care centers I mentioned. We have got roads throughout rural areas that could not get the roads before. They are using this partnership actually, which is, as the gentleman from Pennsylvania [Mr. SHUSTER] said, it is a model program for the United States. I think it ought to be extended to cover the whole United States, because these counties now that have been lifted out of poverty and are now on their own feet and the people are working and the people are getting health care and the people are getting good training at the technology schools. And as the gentleman from Pennsylvania [Mr. SHUSTER] pointed out, they are coming out of this program because they do not need it anymore.

But we have got 115 more counties still left in the Appalachian area that need help and are poverty stricken and that is out of 399 counties. Can you tell me another program that has succeeded like this? This is exactly what you and I on both sides of the aisle have been advocating, joint partnership, a program where the Governors approve these applications.

So I just want to point out that this program has worked and let us be proud of it and proud that it has worked because it is helping people. That is what our Federal Government is about.

Mr. NEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I just wanted to say I am here not to beat up on our colleague, the gentleman from Wisconsin [Mr. KLUG], just to make sure he is defeated in his amendment.

Also, I want to talk about Utah. I do not want to see us get into regional warfare or State-by-State warfare here. Maybe that billion is needed in Utah, but it is not apples to oranges; it is apples to rocks. It is $1 billion for a State, whether it is Utah or California, whatever area. We are talking again, about $142 million for 13 States. I am not going to belabor this point. I know we are close to a vote.

I will tell you something. There is a difference in Appalachia and a difference in the entire region. The more we pool those regions up within those States, the better off we will help surrounding States and other areas, for example, in Ohio, that will have to pay for the distressed economies in their States. In Ohio, part of us are in Appalachia, part of us are not in Appalachian; but again, it benefits the whole.

The one thing I would also tell you, I think I bring a different perspective than any other speaker. I used to work for Appalachia. I was on Appalachia's payroll, federally paid. I worked in the Ohio Appalachian office. I was program manager for education, health, and child development programs.

They paid part of the salary. We ran the show. Local development districts, for a minute, how they work in Ohio. We have real people. Tom Closser down in Marion, OH, we have John Quinlin in the Omega region, they are called local development districts. They have mayors that respond to them. They have mayors that have input. We have OMERSA program run by a gentleman named Craig Closser in Zanesville, OH, who is helping over a couple hundred schools. Small amounts of money we put in that program when I worked there in 1979, very small amounts of money, sometimes $20,000 to help with a road, with a joint, shared activity with the local government that creates 100, 300, 400 jobs.

We have reams of statistics. There may have been some bad projects, but you do not throw the baby out with the bathwater. We are taking a 50-percent cut. I think that is important. These have been good projects. This is something that all of us should support. Let us not get into some warfare from State to State or region to region. We need the help.

Mr. KLINK. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I also vehemently speak against my friend from Wisconsin's amendment. I thank him, though, for offering the amendment because it has made me think about something that has been an ultimate success not only for this Nation but for the region of this country in which I grew up, the region which my family is from. And the gentleman from eastern Kentucky who spoke just a few speakers ago spoke so eloquently and from his heart, I know, reminded me myself of growing up in a little town called Summit Mills in Somerset County in southwestern Pennsylvania.

Back in the late 1950's, I went to one of the one-room schools he was talking about, where we had no running water. Where we had only two outhouses out back and you had the overflow that went in the creek. And that is where the kids swam with the raw sewage in the same stream, which is where you would go out to swim.

We could not understand why people were dying of unusual diseases and unusual forms of cancer. We thought that half the roads were supposed to be dirt roads. Of course, certain times of the year you just did not travel from point A to point B, and people knew they were supposed to lay up supplies. After the Appalachian Regional Commission was founded 30 years ago, things began to change. America discovered Appalachia because one of the networks—I wish I could remember which one it was—ran a news documentary about Appalachia. We did not get it. We were watching, but what was so unusual? This is the way we lived. It is the way things were.

I also was reminded by one of the last speakers who talked about the gentleman from Alabama [Mr. BEVILL], who talked about the vaccinations. I can remember several of the kids that were my own age, one who was in my class, some who were younger than me who got polio. I remember them finally bringing the whole community, from up in the mountain tops, grew up very near the Mason-Dixon line and Mt. Davis which is in the district of the gentleman from Pennsylvania [Mr. MURTHA], the highest points in the State of Pennsylvania, that brought everybody down.

They took us to the old high school gym. Everybody took three different doses of polio vaccine over a 3-week period so that we would not have to deal with that anymore. You see, while things have changed, while we have had a dramatic turnaround in the last 30 years, we have not made up for 100-plus years of neglect. We have indeed cut the infant mortality rate. We have indeed doubled the percentage of high school graduates. We have cut down on the outward migration of people who are leaving our area. We have reduced unemployment.

In fact, if you take those 399 counties that were included, you are right, only 115 now have poverty. So we are not there yet. I would say to the sponsors of this bill, while this may be a number in a budget, to those of us who have watched members of families die of unusual illnesses and cancers because they did not have a well, could not afford to drill one, did not know about the technology and they were drinking water that flowed into a cistern with all kinds of elements of all sorts and one family member would die, this is not lines on budget, on a Federal budget. This is about the lives of Americans. It is about the Federal Government and the State and local governments working together.

It is about a program that has averaged less than 4 percent in administrative costs. It is about a success that has worked. We are cutting it in half. I cannot understand, because, you see, I still come from an area in Pittsburgh where 4 years ago as a television newscaster I said to the people in the city of Pittsburgh who work at the station, I said, give me a camera crew, I will shoot a story for you. We are going to call it the rural third world. They were dumbfounded.

As we went to towns like Outcrop in Fayette County, the way it still is in those towns today, those towns not yet reached by the Appalachian Regional Commission or any other agency, where the outhouses still sit in the front yards of the houses, where when the winter wind blows, if they have curtains over the windows, they flow back and forth. Where there is maybe one coal stove in the center of the house with holes in the walls and in the ceilings and floors so that the heat can radiate to other parts of that room, where there is one hand pump in the middle of town where people can still go and they can pump their buckets of water, take it back, heat it on that same stove if they wanted to heat it to bathe or to wash their clothes.

□ 1550

People still live this way today in Appalachia. It is a whole region that has been neglected for over 100 years. We cannot make that up in 10 years or 20 years or 30 years, but, Mr. Chairman, we are getting there. We are asking the Nation to take a look at Appalachia, to vote against the gentleman's amendment, and to help this region come back into the 20th century before the 21st century gets here.

Mr. MYERS of Indiana. Mr. Chairman, I ask unanimous consent that the discussion on this amendment, which has gone on for an hour and 35 minutes now, end at 3:45, the time to be equally divided between the parties.

The CHAIRMAN. To clarify, the unanimous-consent request offered by the gentleman from Indiana [Mr. MYERS] was that the debate end at 3:45.

Is there objection to the request of the gentleman from Indiana?

Mr. KLUG. Reserving the right to object, Mr. Chairman, if I could extend an invitation to the chairman of the committee, Mr. Chairman, we need 10 minutes on our side, which is what I told my colleague, the gentleman from Mississippi [Mr. WICKER]. We miscommunicated. Twenty minutes more and we will be all right.

Mr. MYERS of Indiana. Mr. Chairman, if the gentleman will yield, I would say to the gentleman, he can have 10 of the 15. How much more generous could I be?

The CHAIRMAN. Would the gentleman from Indiana [Mr. MYERS] please repeat his request?

Mr. MYERS of Indiana. Mr. Chairman, I ask unanimous consent that all discussion on this amendment and any amendments thereto be divided and restricted to 15 minutes, 10 minutes to be controlled by the gentleman from Wisconsin [Mr. KLUG] and 5 minutes on this side.

Mr. BEVILL. Reserving the right to object, could we get 5 minutes over here, Mr. Chairman?

Mr. KLUG. Mr. Chairman, will the gentleman yield?

Mr. BEVILL. I yield to the gentleman from Wisconsin.

Mr. KLUG. Mr. Chairman, I would inform the gentleman, we would have 10 minutes, and the gentleman would have 5 minutes.

The CHAIRMAN. It is my understanding that the gentleman from Wisconsin [Mr. KLUG] will have 10 minutes, and the gentleman from Alabama [Mr. BEVILL] will have 5 minutes. Is that correct?

Mr. MYERS of Indiana. Yes, Mr. Chairman.

Mr. CHAIRMAN. Is there objection to the request of the gentleman from Indiana?

There was no objection.

Mr. KLUG. Mr. Chairman, I yield 3 minutes to my freshman colleague, the gentleman from Kansas [Mr. BROWNBACK].

Mr. BROWNBACK. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I want to say thanks for what the gentleman from Wisconsin [Mr. KLUG] is doing here. I know a lot of people are opposed to this amendment, and I think it has been a very healthy discussion. I have sat here a long time and a lot of people have been watching this going on for a long time. What I think he is doing that is so important is we are moving to balance the budget.

These are then tough choices that we have to make. We are having a good discussion, I think, of a tough choice. Here is a program that has been very successful over a period of 30 years. It is a program that has had some failures over 30 years. I will bet we could find that any program in the Federal Government has had both successes and failures over 30 years.

I think the question we have to ask ourselves today, then: Is this program worth continuing, adding more debt on our kids with the successes that it promises into the future or the potential failures on the path that it is on? I think that is the central question we have to ask. Is this worth putting more debt on the kids?

Mr. Chairman, I think it is great we have cut it in half? I understand the program, though, was at $50 million under the Bush administration, so it has had some up as well as it being knocked on back as well. I just put that question to us, and I say that it seems to me, at the end, in the final analysis, that the biggest problem we are facing as a Nation today is not necessarily what is going on in the Midwest or the Appalachian region or the West or the Northeast or the South, it is the stupid debt and the amount we keep adding to it and growing. If this is worth continuing today what about next year, and the year after that when we really get to the tough choices, in year 3, 4, 5, 6, and 7 to balance the budget?

I would suggest that now is the time to make the tough choice. I think we should support the Klug amendment. I think it has been a legitimate debate. I think the program has had good successes. It has had some failures. We are at a point in time in history where we just cannot mortgage the kids any further. That is why I would urge Members to support the Klug amendment.

Mr. ROGERS. Mr. Chairman, will the gentleman yield?

Mr. BROWNBACK. I yield to the gentleman from Kentucky.

Mr. ROGERS. Mr. Chairman, I assume the gentleman voted for the budget resolution conference report that came back from the House and Senate conference, is that correct?

Mr. BROWNBECK. Yes, I did, Mr. Chairman.

Mr. ROGERS. If the gentleman will continue to yield, does the gentleman realize that in that budget conference the budget allowed for $182 million for the Appalachian Regional Commission? Was the gentleman aware of that?

Mr. BROWNBACK. The budget resolution also called for the elimination of TVA.

Mr. ROGERS. I am talking about the conference report that came back, the House and Senate conference on the budget that came to the House.

Mr. BROWNBACK. I also voted for the budget that came out of the Committee on the Budget that called for the elimination of TVA. Did the gentleman vote for that one?

Mr. ROGERS. Yes, I did. Mr. Chairman, I would say to the gentleman, it is not TVA, it is ARC. Does the gentleman realize that the budget conference that he voted for that came out of the Senate and House conference provided for $182 million for the ARC and this bill only has $140 million in it?

Mr. BROWNBACK. I did realize that.

Mr. BEVILL. Mr. Chairman, I have a point of inquiry. I understand I have 5 minutes remaining, under the agreement.

The CHAIRMAN. The gentleman is correct.

Mr. BEVILL. Mr. Chairman, I yield 2 minutes to the gentleman from Tennessee [Mr. DUNCAN].

Mr. DUNCAN. Mr. Chairman, I thank the gentleman for yielding time to me. I will not take the full time. I simply wanted to rise to say this.

I had not intended to speak, Mr. Chairman, and I think almost everyone knows I am one of the most conservative Members of this Congress, but the ARC is one of the most conservative agencies in the entire Federal Government. As the gentleman from Pennsylvania pointed out a few minutes ago, just 4 percent of this agency's budget are spent for administrative costs. This is one of the least bureaucratic, least top-heavy agencies in the entire Federal Government.

Mr. Chairman, I come from Tennessee, and I come from a district where very little is done by the ARC, but I do know of the good work that has been done throughout our region and throughout these entire 13 States by these agencies. I want to salute the gentleman from Alabama [Mr. BEVILL] and the gentleman from Indiana [Mr. MYERS] and particularly my good friend, the gentleman from Kentucky [Mr. ROGERS], for his yeoman work on this particular amendment.

Mr. Chairman, I rise in strong support of ARC and in strong opposition to this amendment. This agency is already taking a 50-percent cut in this bill. If every department and agency in the Federal Government was receiving a 50-percent cut, it would be amazing. We would be operating with a surplus.

As the gentleman from Alabama [Mr. BACHUS] pointed out a few minutes ago, throughout this country, every region, every State has money that is being spent by the Federal Government in some project or by some agency. As the gentleman from Kentucky [Mr. ROGERS] pointed out, the central Utah project, has had over $1 billion spent on it. This is just $142 million, and is very small in comparison to many, many projects we could name throughout this entire country.

I rise and urge my colleagues to oppose this amendment and support one of the finest and most conservative agencies in the entire Federal Government, an agency that is working to bring the Federal Government home to the people, not spending money here in Washington, but spending it out in the country to help some of our poorest citizens in this Nation. I think it is a fine organization and it deserves the support of this entire body.

Mr. KLUG. Mr. Chairman, I yield 4 minutes to the gentleman from South Carolina [Mr. INGLIS].

Mr. INGLIS of South Carolina. Mr. Chairman, I thank the gentleman for yielding time to me. Earlier in this debate, while I was in the Committee on the Judiciary, I understood there was some discussion of a project in my district involving a training stadium at Wofford College. I can tell the Members that I do not fault the people at Wofford for seeking that ARC funding, nor do I fault the Carolina Panthers for wanting to have the team training there. That has nothing to do with it.

What I do fault, Mr. Chairman, is an old way of thinking here in the Congress among us as Members. Shame on us if we cannot move on with this revolution. Shame on us if we cannot think more creatively about how to solve these problems. The ARC has done some excellent work over the years. It was created long ago and did some great work.

The problem with Federal programs is they never die. This is a time to bring this one to a nice death. It is good that the bill calls for a significant cut. I think it is time to take it straight to zero, though. The reason is we have to think more revolutionarily, if that is a verb or an adjective, I guess that was, or maybe it was an adverb, I am not sure. In any event, we have to think more revolutionarily about how to do this thing.

Sure, it is good to get a grant every once in a while in our districts, but let us think that through. If we just got rid of the unfunded Federal mandates, how much money would there be in the State of South Carolina to deal with our needs? Tremendous amounts of money.

This is the heart of the revolution. We have to start at both ends. We have to eliminate the Federal control through the unfunded Federal mandates, but then we have to stop looking at Uncle Sam as the great sugardaddy that is going to give us this free money from Washington to build a water system here or a road there. We have to think more creatively. We have to be able to see the whole revolution. The revolution involves downsizing this Federal Government, shrinking it to core business, and allowing the States to serve the functions that they can better serve.

There is no such thing as a free lunch, and there is no free money from Washington. This money that we are about to spend is going to go on to the deficit and be added onto the debt. Our children will be paying for this amount for years to come. We have a great opportunity here to complete this revolution, but do it from both ends. We have already taken action on unfunded Federal mandates. We need to go in and repeal some existing ones.

The other part is right here, right now, on this amendment of the gentleman from Wisconsin, an excellent amendment. Let us just get rid of the ARC. Let us finally bring to an end a program that served a very useful life, but now its time has come. I congratulate the gentleman for his amendment.

Mr. RAHALL. Mr. Chairman, will the gentleman yield?

Mr. INGLIS of South Carolina. I yield to the gentleman from West Virginia.

Mr. RAHALL. The gentleman speaks of this great revolution, Mr. Chairman. It seems like this gentleman is speaking about an economic Jihad against all Federal Government. That seems to be the best description of the revolution to which the gentleman referred.

Mr. INGLIS of South Carolina. Mr. Chairman, reclaiming my time, the best people to know how to allocate needs within South Carolina, I submit, are people in Columbia, people in Spartanburg, and Greenville. I daresay that not many of those folks would spend some of the money that has been spent the way ARC has spent their money. We create these programs, they fit those categories, and then the money is spent that way.

What we have to do is be willing to think more creatively and say to the locals: "You run it, you raised the money." Let us not have this pool of money that comes from Washington. I understand that the gentleman from Kentucky will likely tell me that it has been a local decision. I understand that. But it appears to be free money. That is the problem.

Mr. BEVILL. Mr. Chairman, I yield 3 minutes to the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Chairman, I do not rise to demean the efforts of the gentleman from Wisconsin [Mr. KLUG]. I think he means well and is doing a good job for his people and he is consistent. We have differences of opinion. I can recall as a freshman Member going to visit the grand opening of the Tennessee-Tombigbee, called the biggest pork barrel project in our Nation.

All the news media gathered around their good old friend Jamie Whitten, the former chairman of the Committee on Appropriations, and said "Well, they call you the pork-barrel king, Congressman. What do you have to say about that? This is a great day for you, isn't it?" Jamie Whitten looked at the camera and he says, "I want it to be known that I played a part in investing the American taxpayers' dollars in the heartland of America. My son will get a job, my grandson will get a job, his son and his granddaughter have a shot at getting a job."

I am going to vote against this amendment, and I am going to vote against the amendment to cut the TVA. We have to cut, and I offered to cut on the foreign aid bill, 1 percent. I did not see all these hawks running around. There was an article in the Wall Street Journal yesterday, Israel got $13 billion in aid, loans, and grants last year, $21,000 for every man, woman, and child, and they did not get cut by this Congress.

Do Members want to hear something else? This is not taking off on Israel. Israel has a $1 billion trade surplus with America and a $7.5 billion trade deficit with Europe. Come on, Mr. Chairman. I want to make the cuts. I am not going to cut from America. I am not going to cut another damned thing from our people who need it. I think Congress should set its priorities in place. I would ask the Congress to vote "no" on this overwhelmingly, and vote "no" on the amendment to cut the TVA.

Mr. KLUG. Mr. Chairman, I would ask how much time I have remaining.

The CHAIRMAN. The gentleman from Wisconsin [Mr. KLUG] has 3 minutes remaining.

Mr. KLUG. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this has been a long debate this afternoon and an important one. It is amazing we are even at this point in Congress, where we are not debating a 50-percent cut for ARC, we are debating whether or not it should be eliminated.

Again, while I may disagree with the gentleman from Alabama [Mr. BEVILL] and the gentleman from Indiana [Mr. MYERS] on the level, or my colleague, the gentleman from Kentucky [Mr. ROGERS], who has done an excellent job rallying opposition to this amendment, I think we all have to ask ourselves, where are we today in 1995.

Let me just make three more points. First of all, this program was established in 1965, and we have poured billions of dollars into the region. If we listen to the economics we have heard from the gentleman from Maryland [Mr. GILCHREST]; for example, we spent $1 and then got $5 back. That is a great deal. Why do we not spend the entire U.S. economy there and somehow we will magically multiply by five? Those economics just do not make sense.

Now we are told there was an agreement in the authorizing committee that will phase it out over 5 years. We have had this debate over the budget. Why is 7 years magical? What is magical about 7 years? The bottom line is with a $200 billion deficit, I say the decision is not 5 years from now, the decision is finally today, in 1995.

☐ 1545

Just years after this program was established, the Nixon administration took the first shot at it. Then the Reagan administration took a strong shot at it. We have talked about how tough the programs are in ARC today and where we are.

In the first Bush administration budget, the recommendation was only $50 million in funding. Today with a 50-percent reduction, we are at $142 million in funding. The truth of the matter is since the early 1970's, this program has been on everybody's hit list who has objectively stood back and looked at it. I do not begrudge my colleagues involved in the 13 States involved in the Appalachian Regional Commission. As the gentleman from Pennsylvania [Mr. KLINK] I think explained rather passionately, there was a need for this program when it was set up in the 1960's, dramatically illustrated on television and fought for very passionately by President Johnson. But here we are 30 years later. How much longer? How many billions more? How many hundreds of millions of dollars more?

I know that the gentleman from Maryland [Mr. GILCHREST] has assured us we will be all done in 5 years, but do you really want to bet in this Chamber what happens 3 years from now, that it has got to be just 2 years more, and we cannot do it the year after that because it is another election, so it will have to be 2 more years after that.

I am sure the Governors love the money because it is money they do not have to ask their own citizens for. But the problem is this is a double-dipping and in some cases triple-dipping program that has fundamentally benefited 13 States in this country at the disadvantage of the other 37.

Finally for my colleagues in this Chamber, I think you have to ask yourself fundamentally, what is it today about a poor community in West Virginia or Georgia or Kentucky that is different from New Mexico or Wisconsin or Missouri? The answer is, absolutely nothing. We should do economic development for these communities but it should be in the Economic Development Administration, so that all 50 States in this country are treated equally.

Appalachia needed help. My friends, 30 years of help is enough.

Mr. GOSS. Mr. Chairman, these are indeed historic times. This Congress has adopted the first balanced budget resolution in over a generation. We have successfully shifted the debate from more and more big Federal programs to fiscal restraint and responsibility. In this vein, I applaud the work of Chairmen MYERS and LIVINGSTON and the committee in crafting an energy and water appropriations bill that reflects this goal.

Nevertheless, I remain concerned that certain programs prime for elimination may escape intact, battered; and bruised but still standing. The Appalachian Regional Commission [ARC] plainly falls into this category.

ARC was formed in 1965 as a temporary response to poverty in a broad section of the United States known as Appalachia. Thirty years later, we continue to spend hundreds of millions of taxpayer dollars annually on ARC activities that are largely duplicated by several agencies, including DOT's Federal Highways Program and HUD's Community Development Block Grant Program. The legitimate programs the ARC funds, from building highways to sewer projects, will continue to be funded.

However, ARC has a long history of funding projects that have a rather dubious impact on poverty. The ARC has spent taxpayer money on projects ranging from the NASCAR Hall of Fame to a football stadium for the NFL's Carolina Panthers. ARC has spent $100,000 for a film history of West Virginia and another $25,000 to attract German travelers to that same State. During this time of scarce financial resources, we must ask the question, Where is the Federal role here?

I am pleased to join with Representatives KLUG and ORTON to offer this bipartisan amendment to eliminate funding for the ARC. Many will argue that the chairman's mark already contains a substantial reduction in ARC funding for fiscal year 1996 and beyond. However, we are all aware of numerous temporary commissions that have outlived their original mission but continue to survive for political reasons. The Reagan and Bush administrations were successful in dramatically cutting the funding for ARC only to see the program flourish again in future years. In fact, President Bush's first budget called for $50 million for ARC, a paltry sum compared to the $142 million that this bill calls for, even with a 40 percent cut.

Mr. Chairman, it is imperative that we act boldly and rip out the roots of ARC now to ensure it doesn't grow back. Many members have correctly noted that the heavy lifting toward a balanced budget begins with the appropriations bills. Let's match our rhetoric with action and take the overdue step of eliminating the Appalachian Regional Commission.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Wisconsin [Mr. KLUG].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. KLUG. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 108, noes 319, not voting 7, as follows:

[Roll No. 491]

AYES—108

Allard
Andrews
Archer
Armey
Baker (CA)
Barcia
Barton
Bass
Bereuter
Bilirakis
Boehner
Brownback
Burton
Camp
Canady
Castle
Chabot
Christensen
Chrysler
Coble
Coburn
Cox
Crane
Cunningham
DeLay
Doggett
Dornan
Dreier
Dunn
Ensign
Eshoo
Fawell
Fields (TX)
Flanagan
Foley
Fowler
Franks (NJ)
Frisa
Funderburk
Goss
Gunderson
Harman
Hastings (WA)
Hayworth
Hefley
Hoekstra
Hoke
Horn
Hutchinson
Inglis
Johnson, Sam
Kasich
Kim
Kingston
Klug
Largent
Linder
LoBiondo
Luther
Manzullo
Martini
McCollum
McInnis
McIntosh
McKeon
Meehan
Metcalf
Miller (FL)
Minge
Nethercutt
Neumann
Nussle
Orton
Oxley
Parker
Paxon
Petri
Porter
Ramstad
Rohrabacher
Roth
Roukema
Royce
Salmon
Sanford
Sensenbrenner
Shadegg
Shaw
Shays
Smith (MI)
Smith (WA)
Solomon
Souder
Stearns
Stockman
Talent
Tate
Thornberry
Tiahrt
Torkildsen
Torricelli
Upton
Walker
Weldon (FL)
White
Wolf
Zeliff
Zimmer

NOES—319

Abercrombie
Ackerman
Bachus
Baesler
Baker (LA)
Baldacci
Ballenger
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Bateman
Becerra
Beilenson
Bentsen
Berman
Bevill
Bilbray
Bishop
Bliley
Blute
Boehlert
Bonilla
Bonior
Bono
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TN)
Bryant (TX)
Bunn
Bunning
Burr
Buyer
Callahan
Calvert
Cardin
Chambliss
Chapman
Chenoweth
Clay
Clayton
Clement
Clinger
Clyburn
Coleman
Collins (GA)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooley
Costello
Coyne
Cramer
Crapo
Cremeans
Cubin
Danner
Davis
de la Garza
Deal
DeFazio
DeLauro
Dellums
Deutsch
Diaz-Balart

Dickey
Dicks
Dingell
Dixon
Dooley
Doolittle
Doyle
Duncan
Durbin
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Evans
Everett
Ewing
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Forbes
Ford
Frank (MA)
Franks (CT)
Frelinghuysen
Frost
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Gordon
Graham
Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Hastings (FL)
Hayes
Heineman
Herger
Hilleary
Hilliard
Hinchey
Hobson
Holden
Hostettler
Houghton
Hoyer
Hunter
Hyde
Istook
Jackson-Lee
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnston
Jones
Kanjorski
Kaptur
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
King
Kleczka
Klink
Knollenberg
Kolbe
LaFalce
LaHood
Lantos
Latham
LaTourette
Laughlin
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lightfoot
Lincoln
Lipinski
Livingston
Lofgren
Lowey
Lucas
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McCrery
McDade
McDermott
McHale
McHugh
McKinney
McNulty
Meek
Menendez
Meyers
Mfume
Mica
Miller (CA)
Mineta
Mink
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murtha
Myers
Myrick
Nadler
Neal
Ney
Norwood
Oberstar
Obey
Olver
Ortiz
Owens
Packard
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pombo
Pomeroy
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Rahall
Rangel
Reed
Regula
Richardson
Riggs
Rivers
Roberts
Roemer
Rogers
Ros-Lehtinen
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Saxton
Schaefer
Schiff
Schroeder
Schumer
Scott
Seastrand
Serrano
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Spence
Spratt
Stark
Stenholm
Stokes
Studds
Stump
Stupak
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thompson
Thornton
Thurman
Torres
Towns
Traficant
Tucker
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Waldholtz
Walsh
Wamp
Ward
Waters
Watt (NC)
Watts (OK)
Waxman
Weldon (PA)
Weller
Whitfield
Wicker
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates
Young (AK)
Young (FL)

NOT VOTING—7

Fox
Hastert
Hefner
Longley
Moakley
Reynolds
Scarborough

□ 1607

The Clerk announced the following pair:

On this vote:

Mr. Scarborough for, with Mr. Moakley against.

Messrs. DREIER, KIM, and FOLEY changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. KLUG

Mr. KLUG. Mr. Chairman, I offer an amendment, marked as amendment No. 9.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. KLUG: Page 29, line 1, strike "$103,339,000" and insert "$0".

Mr. MYERS of Indiana. Mr. Chairman, will the gentleman yield?

Mr. KLUG. I yield to the gentleman from Indiana.

Mr. MYERS of Indiana. Mr. Chairman, I ask unanimous consent that the debate on this amendment and any amendments thereto be limited to 60 minutes, which will be equally divided between the author of the amendment, the gentleman from Wisconsin [Mr. KLUG], and 30 minutes by the gentleman from Alabama [Mr. BEVILL].

The CHAIRMAN. Is there objection to the request of the gentleman from Indiana?

There was no objection.

The CHAIRMAN. It is the order of the Chair that the debate on the amendment offered by the gentleman from Wisconsin [Mr. KLUG] and any amendments thereto will be 60 minutes in length, divided equally between the gentleman from Wisconsin [Mr. KLUG] and the gentleman from Alabama [Mr. BEVILL].

The Chair recognizes the gentleman from Wisconsin [Mr. KLUG].

Mr. KLUG. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, ladies and gentlemen, what we have before us is a test much like the test we just went through on the Appalachian Regional Commission, which is to ask this Congress to fundamentally reevaluate programs set up decades ago and which continue to live on, perhaps with justification, as I suspect my colleague, the gentleman from Tennessee [Mr. QUILLEN], and the gentleman from Alabama [Mr. BEVILL], and the other side of the fight will argue.

But from my perspective, frankly, I think we have to ask ourselves why in 1995 the Federal Government is still involved in the hydroelectric business. Mr. Chairman, my great wish is we could have a discussion today about whether or not the Tennessee Valley Authority itself should be privatized.

You see, American taxpayers have already invested millions upon millions of dollars in the Tennessee Valley Authority, which now, frankly, owes the taxpayers of the United States $28 billion, $28 billion.

Now, this fight we are about to have in the next hour is not about the power side of the Tennessee Valley Authority. It is about ancillary relationships and ancillary businesses which have grown up around the Tennessee Valley Authority over the course of the last 60 years.

Beginning in the 1930's, the Federal Government began building a series of hydroelectric dams across the United States, the first of which, and really the kind of granddaddy of all those projects, was the Tennessee Valley Authority. It did a marvelous job fulfilling the mission, bringing electricity to much of the Southeast, and to help do important flood control projects. Over the course of time, TVA has begun, like many government projects do, to morph and change and develop an entirely different mission than its original core mission.

Ronald Reagan, back in the 1980's, used to like to say the closest we could ever get to eternity in this lifetime was a Federal project, and so it is with the Tennessee Valley Authority.

Now, again, much like the previous debate, I have to give credit to my colleagues on the Committee on Appropriations, the gentleman from Indiana [Mr. MYERS], the gentleman from Alabama [Mr. BEVILL], because they have made very difficult decisions. We have substantially lowered the amount of money to be given TVA this year for operations, aside from its power operations, which stand on its own and operate with the taxpayer-financed debt I referred to a minute ago.

Now, in the appropriations process, TVA has had three programs for years, one of which was a research center which has been zeroed out. Again, I know that is tough for the gentleman from Tennessee [Mr. QUILLEN], and the gentleman from Tennessee [Mr. WAMP] and my colleagues in Tennessee, and I can understand their hesitation to cut the programs still deeper.

There are still two programs which exist, a stewardship program which involves operation and maintenance of dams and reservoirs, and I think you are going to hear an argument in a minute that says if TVA does not do those projects, somebody else, perhaps the Corps of Engineers, might. That may be true.

I then make the argument what you can achieve is consolidation and slim down a number of other services by consolidating those funds, and perhaps that is an argument we should have.

But, in addition, there is another nearly $19 million for tourism and marketing. There is a series of recreational facilities located at the heart of the TVA region, which is another $3.3 million.

Finally, logger education, regional water supply, et cetera, would total about another $10.9 million, which is another $103 million, because this is actually the money that is given to TVA this year by the taxpayers around this country to run the power marketing administration in the southeast corner of the United States.

I think it is time that we begin to ask the Tennessee Valley Authority to stand on its own and to operate on its own, and if these services are valuable and if they benefit the residents of the Southeastern United States, again I think we have to ask ourselves why it is that the residents of the Southeastern United States are not paying for tourism.

I think the Federal Government has a responsibility and obligation to the water projects. I think the Federal Government had an obligation and responsibility to first build those powerplants. But here we are, my colleagues, 60 years after the construction of the Tennessee Valley Authority, and the Bonneville Power Administration in Pacific Northwest and a whole series of other hydroelectric plants around the country, with nearly a quarter of the Department of Energy staff working on the power and marketing administrations, generating, selling, and marketing electric power.

We cannot, I think, move to privatize TVA today. It is too complicated a subject. In time we may have that debate as we do the Alaska Power Marketing Administration, which we will do this year, thanks to the leadership of Chairman YOUNG, and thanks to the fine works of my colleague, the gentleman from California [Mr. DOOLITTLE], we are likely to do in the Southeast Power Marketing Administration, the Southwest, maybe, fingers crossed, the Western Power Marketing Administration.

The issue before us today is, narrowly, whether the Federal Government will cut its relationship to fund the ongoing operations of the Tennessee Valley Authority, not directly tied in to the power business itself.

So I urge my colleagues, if we are serious, as the National Taxpayers Union suggests, to reevaluate Federal projects and to make tough, difficult decisions and to begin to close down government relationships that have gone on for 10, 20, 30, 50, and 60 years, then the Tennessee Valley Authority is the place to begin today.

Mr. Chairman, I reserve the balance of my time.

□ 1615

Mr. BEVILL. Mr. Chairman, for purposes of control, I yield 15 minutes to the gentleman from Tennessee [Mr. QUILLEN], and I yield the other 15 minutes to the gentleman from Alabama [Mr. CRAMER].

The CHAIRMAN. Without objection, the gentleman from Tennessee [Mr. QUILLEN] and the gentleman from Alabama [Mr. CRAMER] will each control 15 minutes of debate time.

There was no objection.

Mr. CRAMER. Mr. Chairman, I yield 3 minutes to the gentleman from Tennessee [Mr. CLEMENT].

Mr. CLEMENT. Mr. Chairman, I stand here, before my colleagues, today as a former member of the TVA Board as well as a former chairman of the TVA Caucus. I rise in strong opposition to the Klug amendment and strongly urge my colleagues to oppose this measure. I sure want to invite the gentleman from Wisconsin [Mr. KLUG] down to the Tennessee Valley area sometime because I think he totally misunderstands the mission of TVA as well as the debt. I know he mentioned awhile ago a debt of $28 billion, and he is referring to power funds and power debt. Since 1959, we have been under the self-financing act because of the U.S. Congress. We have paid back year after year after year the moneys that were originally borrowed to start TVA back in 1933.

Mr. Chairman, when the gentleman from Wisconsin [Mr. KLUG] sends out colleague letters and makes statements, he always wants to confuse ratepayers' dollars with appropriated dollars. Over 97 percent of the TVA budget is from power funds, from those funds that are spent or from power bills that people pay on a monthly basis. They do not come from the taxpayers from around the country. He is constantly confusing those issues, and I think the time is right to set the record straight.

My colleagues, adopting this amendment would be a serious mistake. If it is adopted, flood control on the Tennessee River would cease, protection of TVA's reservoir shorelines would not be accomplished, and proper care of over 170 acres of park land would not be maintained. If TVA were to disappear, most of the functions would have to be picked up by the appropriate Federal agency, like the Army Corps of Engineers, the Park Service, the Forest Service, the Bureau of Land Management, and the EPA. There are no provisions in the Klug amendment providing for transfer of these duties, and there is no additional funding for these other departments or agencies. Wisconsin and all the other States have provisions, have money, have funding in order to provide for these services, and yet TVA is the vehicle that is used in the seven-State region in order to provide for these services.

But what I want to talk about in my very brief remarks left is the valuable assistance TVA provides for the poor rural counties in seven States which would be eliminated by Mr. KLUG's amendment. When TVA began just over 60 years ago, only 3 farmers in 100 had electricity.

Defeat the Klug amendment.

Mr. Chairman, as a former member of the TVA Board and former chairman of the TVA congressional caucus, I rise in very strong opposition to the Klug amendment and strongly urge my colleagues to oppose this measure.

My friends, adopting this amendment would be a serious mistake. If it is adopted, flood control on the Tennessee River would cease, protection of TVA's reservoir shorelines would not be accomplished, and proper care of over 170 acres of park land would not be maintained. If TVA were to disappear, most of these functions would have to be picked up by the appropriate Federal agencies like the Army Corps of Engineers, the Park Service, the Forest Service, the Bureau of Land Management, and the EPA. There are no provisions in the Klug amendment providing for the transfer of these duties or additional funding for these departments.

But what I want to talk about in my brief remarks, is the valuable assistance TVA provides for the poor rural counties in seven States which would be eliminated by Mr. KLUG's amendment.

Mr. Chairman, my colleague who offers this amendment is not from the seven-State region which TVA services. Perhaps he does not realize the important role TVA plays as a regional development agency.

For those who are not from the valley, let me relate to you a story that emphasizes TVA's importance. In the early 1940's when TVA was not yet a decade old, an old farmer stood up in church on Sunday morning to give a testimonial. "The greatest thing on this Earth is to have the love of God in your heart," he said, "and the next greatest thing is to have electricity in your house."

The farmer knew what he was talking about. He could remember the days before electricity when a coal-oil fired lamp was the only source of light at night, when a block of ice in the icebox was all that kept his meat and milk from spoiling. TVA introduced light and comfort into the farmer's life, and he and his family were grateful. Electricity was a symbol of progress. Electricity brought the Tennessee Valley into the modern age.

When TVA began just over 60 years ago, only three farmers in 100 had electricity. Floods ravaged the countryside every spring. Soils from farm lands were washed away with the rains. Good jobs were scarce. Over the next half of a century, TVA worked with other Federal agencies, the States, business, industry, and the farmers to help solve many of these problems.

These activities continue to this day. While TVA provides electricity to over 7 million citizens in seven States, it is also a resource development agency, charged by Congress to help develop the Tennessee Valley region.

Let me repeat this because I think it gets into the heart of the debate today. TVA is a resource development agency, charged by Congress to help develop the Tennessee Valley region.

TVA is a partner with communities in the Tennessee Valley, providing expertise, support, and ideas needed to help distressed rural areas. TVA's Rural Development Program, which provides valuable assistance to small- and medium-sized businesses to expand their operations and employment, would be terminated under the pending amendment. Mr. Chairman, the small business sector is the only sector of the economy that is creating jobs right now. We should be adopting legislation which encourages growth for small businesses, not discouraging it.

TVA has a program also targeted for elimination by the gentleman's amendment which focuses on the valley's most distressed counties which have unemployment in excess of 10 percent, per capita income less than 60 percent of the national average, a poverty rate of 26 percent, and derive more than 24 percent of total personal income from Government transfer payments like welfare and food stamps.

Under this program, TVA works with local communities in developing economic development projects, education and skills training, waste management, and business competitiveness. Mr. Chairman, TVA turns down requests for assistance each day because they are unable to meet the demand for this program.

I would like to make a final point regarding some of the misconceptions and outright inaccuracies made by the gentleman from Wisconsin. Representative KLUG presumes that the Federal taxpayer is subsidizing TVA's power program.

Nothing could be further from the truth.

The fact is that prior to 1959, TVA's power operations were financed primarily by Federal appropriations. However, in 1959 Congress passed the TVA Self-Financing Act.

Public Law 86–157 required that TVA's power program be self-sustaining—no longer funded by Federal appropriations. The 1959 act even directed TVA to pay back the Government for its initial appropriations out of future power revenues.

The fact is that TVA must charge sufficient electric rates to cover the costs of operations, maintenance, and capital improvements for the power program. Not one single Federal cent goes into TVA's power programs. So when Representative KLUG states that TVA provides Government subsidized power, obviously he has been misinformed or ill-advised.

Mr. Chairman, TVA's appropriation has already been reduced by 28 percent under the bill. I believe we have taken our fair share of cuts. I urge my colleagues to oppose the gentleman from Wisconsin's amendment.

Mr. QUILLEN. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Indiana [Mr. MYERS].

Mr. MYERS of Indiana. Mr. Chairman, I thank the gentleman from Tennessee [Mr. QUILLEN] for yielding me this time.

Mr. Chairman and members of the committee, this afternoon this subcommittee is taking a responsible position on the TVA, cutting what we felt was—could be cut, unnecessary spending, maybe areas that the Tennessee Valley Authority did not belong in, but retaining its right, its responsibility, to operate the rest of its traditional business responsibilities.

A few years ago when the gentleman from Alabama [Mr. BEVILL] and I were on the committee it was reckless. We have to say it was not run prudently as a business should be run. Rates were set arbitrarily with little regard about the ratepayer, and it got way out of hand. There was waste, a tremendous amount of waste, but through the years we have trimmed this down, and I think this year is a huge step. We have reduced the appropriation from last year's level by 26 percent, and that is a level of $39,534,000 less than last year, and we have reduced the President's request for this by 25 percent, $37,134,000.

We have made significant cuts. Please support the committee.

Mr. KLUG. Mr. Chairman, I yield 3 minutes to the gentleman from Minnesota [Mr. RAMSTAD].

Mr. RAMSTAD. Mr. Chairman, I thank the gentleman from Wisconsin [Mr. KLUG] for yielding this time to me and for his efforts at deficit reduction.

Mr. Chairman, today I rise in strong support of the Klug amendment. Mr. Chairman, I think, as my little niece would put it, we have to get real around here about deficit reduction, and, if we cannot cut this $103 million, we are not going to be able to balance this budget.

Mr. Chairman, as one taxpayers' group put it, this is pure pork. How can we justify Federal tax dollars, Federal taxpayers' dollars, going to such functions as boat landings, campgrounds, and logger education? Mr. Chairman, most of these functions, whether it is boat landings, or campgrounds, or logger education, can and should clearly be operated by State and local governments. Of course the operation of the dams and reservoirs are properly functions of the Army Corps of Engineers. If we truly intend to balance the budget, we must examine each and every program in the budget and ask whether or not it is something we should require taxpayers across the country to pay for.

In this case, Mr. Chairman, the answer is a resounding no. We must, must, have the political courage to shut down such programs as this or allow States to take them over.

Mr. Chairman, the American taxpayers are sick and tired, with all due respect to my good friends from Tennessee who are here fighting hard and representing the Tennessee Valley Authority well, but with all respect to them, Mr. Chairman, this is porkbarrell politics in its pure form, and American taxpayers are sick and tired of such politics. Mr. Chairman, this is a real test of whether this Congress is serious about fiscal discipline.

I urge a vote for the American taxpayer. Vote for the Klug amendment.

Mr. CRAMER. Mr. Chairman, I yield 2 minutes to the gentleman from Alabama [Mr. BROWDER].

Mr. BROWDER. Mr. Chairman, I rise in opposition to the Klug amendment to eliminate the Tennessee Valley Authority's appropriated budget. My district is not located in the Tennessee Valley, yet I support continued funding of TVA. This amendment is bad for a number of reasons.

As we have been told, TVA's remaining funds are necessary to carry out Federal responsibilities in areas such as flood control, land management, and resource stewardship. If TVA does not carry out these responsibilities, they will have to be carried out by other Federal agencies such as EPA, the Corps of Engineers, or the U.S. Forestry Service.

Where are the savings purportedly attained through this amendment? There are no savings because these agencies would need additional funds to carry out these activities. If this amendment passes, land management, flood control, and resource stewardship programs would still be needed and will have to be carried out by other Federal agencies. Therefore, the cost savings will not be realized.

Now the gentleman from Wisconsin [Mr. KLUG] has made a very good argument perhaps, that programs should be evaluated. That would perhaps need to be taken up by other agencies. Perhaps we could have that discussion. But this amendment does not provide for that discussion. This amendment zeros out this program without a discussion of whether or not these functions should be funded in another part of the Federal budget.

I think the gentleman from Indiana [Mr. MYERS] and the gentleman from Alabama [Mr. BEVILL] in their committee have done a very good job of tightening the belt and cutting this program down to what we think is reasonable, and I think that it is something that this Congress should approve because it is a good agency, it provides good functions, and those functions would have to be carried out whether they were in the TVA or not.

I oppose this amendment and urge my colleagues to vote against it.

Mr. KLUG. Mr. Chairman, I yield 3 minutes to the gentleman from New Jersey [Mr. ZIMMER], another classmate of mine and a fierce deficit hawk.

Mr. ZIMMER. I thank the gentleman for yielding this time to me, and I commend him for this fight that he has undertaken. The Tennessee Valley Authority is part of our history, it is a proud part of our history, but there comes a time when you have to go back to first principles, especially when we are under the constraints of a balanced budget requirement, and one of the questions that we should ask ourselves with respect to any government program is: Is it appropriate that government—government at any level—fund this program in the first place? I would submit that items such as running boat landings, and campgrounds, and tourism simply are not the appropriate realm for government activity. I would submit that other activities that are covered by this cut, although they may be appropriately within the realm of government, are not within the realm of the Federal Government. This is a quintessentially regional and local program. It is for the benefit of the people who live in the Tennessee Valley, and I do not doubt that there is a considerable benefit to them. But the people who benefit from the program should pay for the program. It should be done, if they choose, by their State, county, and local governments, but it should not be paid for by people living in other parts of the country.

If we had a surplus instead of a multi-hundred-billion-dollar deficit, I think it might be appropriate to fund programs which are not absolutely necessary but which are merely desirable or appealing from a political or regional point of view, but we do not have that luxury, and I think as we scrutinize every single program, regardless of the noble history, regardless of the sentiment, regardless of the good feeling that they have generated over the past several decades, we have to be clear-eyed, we have to be analytical, and we have to reject those programs that do not meet the test. I believe that the TVA programs covered by the amendment do not meet the test, and I urge my colleagues to support the amendment.

Mr. QUILLEN. Mr. Chairman, I yield 2 minutes to the gentleman from Tennessee [Mr. BRYANT].

Mr. BRYANT of Tennessee. Mr. Chairman, I rise in strong opposition to the Klug amendment to eliminate TVA funding.

Colleagues, before you cast your vote for the Klug amendment, consider the ramifications of your vote.

Surely no one in this Chamber is going to blindly believe that the numerous functions of TVA are simply going to disappear into the woodwork if this amendment were to pass?

Let us consider some of TVA's responsibilities for just a moment. TVA's work ensures that over 650 miles of the Tennessee River is navigable to meet the needs of America's intercostal water transportation system by operating some 48 locks and dams.

TVA also has the responsibility for the upkeep of over 250,000 acres of Federal land and the largest contiguous forest east of the Mississippi River, known as Land Between the Lakes.

Are we to simply believe the Klug amendment is going to eliminate TVA's responsibility to operate all of these dams and lands?

Are we to assume that if this amendment passes, then the Federal Government will have cleansed itself from its obligations concerning TVA and its functions?

I would certainly hope that no one in this Chamber would believe that.

What is more, under current law, TVA's functions are to be carried out by TVA, and this amendment does not take that into consideration.

Colleagues, TVA is already going to see a reduction of 28 percent of its funding and the elimination of many of its programs as part of the Appropriations Committee's recommendations.

With so much uncertainty involved with this amendment, I certainly do not want to leave TVA's important functions to the whims and wishes of more Government agencies and departments in Washington.

Colleagues, there is a better solution than the Klug amendment.

□ 1630

Mr. CRAMER. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. MINETA], the distinguished ranking member of the Committee on Transportation and Infrastructure.

Mr. MINETA. Mr. Chairman, I rise in strong opposition to the Klug amendment. This amendment would callously eliminate funding for necessary activities of the Tennessee Valley Authority without making any provision for how these functions will be accomplished.

The Tennessee Valley Authority was created in 1933 to provide flood control, improve navigation, promote economic development, and provide electricity in the Tennessee Valley. Its accomplishment are legendary.

I am concerned that my colleague who is offering the amendment fails to fully understand what the effects of his amendment would be.

First, the TVA power program operates entirely without Federal subsidy—it is a user financed program which never adds to Federal expenditures or to the deficit. Funds from the power program cannot be used to make up the funding shortfall.

The remainder of the program, the nonpower program, plays an important and vital role in the lives of the citizens of the Tennessee Valley and the national economy.

TVA has the responsibility for 1,000 miles of navigable waterways, and of operating 52 dams and 14 navigation locks. It also manages 420,000 acres of public lands. If the Klug amendment were to be enacted, there are no provisions for any other entity taking over these responsibilities. Even if other agencies were to be instructed to take on the responsibilities for managing TVA property, there has been no allowance in any other budget to cover the additional costs.

The result would be 7 million people in the Tennessee Valley with no one responsible for flood control or navigation, and these are not insignificant elements of the TVA program.

In 1994 alone, TVA's flood control program prevented an estimated $1 billion in flood damages across the valley and saved Chattanooga twice from devastation by floodwaters. The navigation system moves 48 million tons of cargo annually. The Klug amendment makes no provision for how these important benefits of TVA will be replaced.

This bill already cuts TVA programs by nearly 30 percent. Let us not be penny-wise and pound-foolish by eliminating necessary functions without adequately considering the needs of the people who depend upon TVA for the same functions which are provided to the remainder of the Nation.

Vote "no" on the Klug amendment.

Mr. QUILLEN. Mr. Chairman, I yield 3 minutes to the gentleman from Tennessee [Mr. WAMP].

Mr. WAMP. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I am from the Third District of Tennessee, and, gratefully, have more TVA employees in my district than any other district in this Nation—6,000 TVA families live and work in my district. I will tell you from firsthand experience, Mr. Chairman, while it might surprise you, that the Tennessee Valley Authority is not perfect. Neither is the Pentagon perfect, neither are the Centers for Disease Control perfect, neither is the White House perfect, and neither is this institution perfect. But I have not seen any amendments to zero those core functions out.

This amendment does not say "Let's find an area that can be restricted further and reduce it." It says zero. It says cut it off, cold. Let me tell Members this: TVA is much better off than it used to be, because the TVA Board is appointed by the President of the United States. The TVA Board has been run by the Democrats at times, it has been run by the Republicans at times. It survived a few years under the leadership of who they call "Carvin' Marvin" Runyon, who now runs the U.S. Post Office. I will tell the gentleman from Wisconsin [Mr. KLUG], he would be one of your kind of guys, because he goes in there and cuts it to the bone. I told TVA at that time I thought it would be good for them to have the years under Marvin Runyon. I tell my friends at the post office the same thing. It is one of the best things that can happen to you. We experienced almost a 50-percent reduction in employment through the Tennessee Valley Authority.

The Tennessee Valley Authority is going in the right direction. There is one basic flaw to the Klug amendment to zero out TVA. That is the stewardship, the water management part, what keeps backyards from flooding all along this river system. There is no provision for the Army Corps of Engineers beginning October 1 of this year when this money runs out to take that function over. We have already gone through that part of this bill, this appropriations bill, and there is no addition to pick this function up. So the bill is fundamentally flawed.

As I said earlier on another amendment, I believe everyone must share in this patriotic challenge to balance the Federal budget. The TVA is no exception, and I told them that earlier when I got here, my friends at TVA, "I am going to fight for you, but you are going to have to take some licks. You are going to have to do your share. You are going to have to show the country." So we reduced the budget in the appropriations process from $143 to $103 million, a substantial reduction. This is the TVA's share to this patriotic challenge.

Mr. Chairman, I urge my colleagues from both sides of the aisle to oppose the Klug amendment and support continued, but less, TVA funding.

Mr. KLUG. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I just want to make two points to respond to the articulate argument of the gentleman from Tennessee [Mr. WAMP], in defense to TVA.

First and foremost, one of the programs we are talking about today is additional economic development money, aside from the water development projects the gentleman talks about. As he knows, and I know all too well, given the vote on the last amendment, the region in Tennessee finds itself not only available for the normal economic development money that a county in Wisconsin or a county in Ohio may be eligible for, but now for Appalachian Regional Commission money as well, and now finally Tennessee Valley Authority money.

So now we have got counties in this region of the country that are eligible for three times as much funding as your counties back in Ohio or mine in Wisconsin or those in Colorado or Minnesota, or whatever the case might be.

Second, I would have loved to have crafted an amendment much differently than the one we have in front of us, but the fundamental point is anybody in this institution understands you cannot legislate on an appropriations bill. So I would love to change the ground rules for TVA. I would love to have arguments about transferring this to the Corps of Engineers. I could not do it because the committee would have never let me do it.

But I think what we are faced with today is an amendment that fundamentally tries to send a message to TVA that says eventually we are going to get to a point where you are going to have just the kind of cuts we have had under the leadership of the gentleman from Indiana [Mr. MYERS] and the gentleman from Alabama [Mr. BEVILL], but eventually TVA is going to have to cut its strings, and eventually, in one form or another, TVA is going to have to stand on its own, whether it privatizes or corporatizes or whatever the model is, because in 1995, the Federal Government should not be in the electric utility business.

Mr. Chairman, I reserve the balance of my time.

Mr. CRAMER. Mr. Chairman, I yield 1½ minutes to the distinguished gentleman from Tennessee [Mr. TANNER].

Mr. TANNER. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, the gentleman evidences a basic misunderstanding here of what TVA is about. TVA stands on its own on its power production and the ratepayers who use the power in the Valley pay for that. You are not talking about the Federal Government being in the electric power business in 1995.

I, quite frankly, to some degree resent this attack on one area of the country, because I think that we are all one country. My friend from Chattanooga before me pointed out very well that there are some things good happening in the Tennessee Valley because of TVA.

We do not attack people because we do not have something that happens in Wisconsin or New Jersey. We do not have a lot of Coast Guard along the Tennessee River. We do not attack the the Coast Guard because they patrol in New Jersey and up in the Great Lakes.

I resent this attack on a small southern area of the country. But more than that, what the gentleman's amendment will fail to do and what he does not understand is this money that is appropriated to TVA is because TVA is the agency of choice to fulfill some of the safety measures that must be undertaken by either the Corps of Engineers, the Coast Guard, or others along 600-plus miles of the Tennessee River with dams and locks and those sorts of things.

That is the kind of money we are appropriating, because the TVA can do it efficiently, and it is the agency of choice in this regard. There is a fundamental difference here between power money, which is not involved, and safety money, which is.

Mr. QUILLEN. Mr. Chairman, I yield 2 minutes to the gentleman from Kentucky [Mr. WHITFIELD].

Mr. WHITFIELD. Mr. Chairman, I rise in strong opposition to the Klug amendment. Back in 1963, President Kennedy initiated a project of TVA called the Land Between the Lakes. And there were 2,500 families and children and mothers and fathers moved out of that property, not because they wanted to leave their farms, but because the Government instituted eminent domain authority and forcibly removed them from the property. So they left.

Under the Klug amendment today, they are going to zero fund this project, as well as others of TVA. This project has nothing to do with electric utilities or anything else, but it is one of the largest wildlife preserves in the United States.

Today at LBL you can find endangered red wolves, bald and golden eagles, coyotes, black vultures, redtail hawks, and there is no provision on what is going to happen to this land, 170,000 acres of it. There is a herd of buffalo on this property. Two million visitors a year visit this property, and they come from all over the United States.

When you make the argument that this is something different or the Federal Government should not be involved in it, we have national parks throughout this country that people visit all the time. This is 170,000 acres of wildlife preserve that this Government made a conscious decision that they wanted, and they moved 2,500 people off of the property, forced them off.

So I say that we are trying to redefine the role of Government, and we can do that, but we need some time. They are reducing the TVA budget this year by 28 percent, but we are not asking many agencies of Government to go to zero funding. We need time, and we can reach that time and make arrangements.

With that, I vigorously urge you to oppose the Klug amendment.

Mr. CRAMER. Mr. Chairman, I yield 1½ minutes to the distinguished gentleman from Tennessee [Mr. GORDON].

Mr. GORDON. Mr. Chairman, in my brief 1½ minutes, let me try to clear up a couple of misunderstandings.

First of all, there has not been a penny of taxpayer Federal dollars going to the TVA power program since 1959. What little Federal money goes to the TVA goes to carry out Federal mandates. And these Federal dollars, as has been pointed out, have been cut by 28 percent already.

So let me point out what are these Federal mandates. Where are these Federal dollars going. TVA manages the Nation's fifth largest river system, using 48 dams to control flooding and maintain the navigability along 652 miles of the Tennessee River. TVA is responsible for keeping up with 250,000 acres of Federal land along with 11,000 miles of environmentally sensitive shoreline, and the Land Between the Lakes, which is a 170,000-acre national recreation area, which is the largest contiguous forest east of the Mississippi River.

□ 1645

So to cut these funds any further does not cut the responsibilites, it just shifts it from one pocket to the other.

Mr. Chairman, I hope this has cleared up some misunderstandings, and I hope my colleagues will vote to only cut the TVA nonpower funds by 28 percent.

Mr. KLUG. Mr. Chairman, I yield myself such time as I may consume. Let me, if I can, clarify somewhat the relationship between the Tennessee Valley Authority and the Federal Government.

This is a General Accounting Office report, dated June 1995. The headline says, Tennessee Valley Authority, problems raise questions about long-term viability.

If I can, Mr. Chairman, let me read briefly:

"While no cash flow crisis exists today, GAO believes that TVA's financial condition threatens its long-term viability and places the Federal Government at risk."

If there is no relationship between the TVA and the Federal Government, how can they possibly be at risk?

"Resolving TVA's financial problems will be costly and require painful decisions.

"In other words," concludes this report, "without the guarantee of the Federal Government, much of the financing of the Tennessee Valley Authority is the equivalent of a junk pile."

That is not my conclusion, that is the conclusion of the U.S. Congress General Accounting Office.

So let us not for a minute pretend there are not any significant financial ties between the U.S. Government and its taxpayers and the Tennessee Valley Authority, because, as everybody in this Chamber understands who is now defending the project, TVA only exists because of $28 billion in taxpayer-financed subsidies.

Mr. Chairman, I reserve the balance of my time.

Mr. QUILLEN. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Tennessee [Mr. DUNCAN].

Mr. DUNCAN. Mr. Chairman, I thank the gentleman for yielding time to me.

Let me say this. As has been pointed out by so many other speakers, TVA is already taking a 28-percent cut in the Federal appropriation. There are very few other agencies or departments in the Federal Government that are taking a hit or a cut of this size. And I yield to no one in my desire and determination to balance the Federal budget. But balancing the Federal budget and reducing Federal spending is one thing; totally eliminating the Federal appropriation is another thing, because very few people are trying, I think, to totally do away with the Federal Government. That is really based on what we are doing with regard to the TVA, if we eliminate this Federal apropriation.

Let me say this, I want to spend most of my time talking about the Federal role here because there is a very important Federal role. TVA is primarily or at least in large part a benefit to citizens all over this country. The people of the Tennessee Valley benefit to a certain extent, but people all over this country benefit from TVA's activities.

For instance, when the Mississippi and Ohio Rivers overflowed 2 years ago, TVA restrained the flow of the Tennessee River saving billions of dollars and an untold number of lives. In 1988, a drought stalled hundreds of barges, and TVA released water that helped keep the Mississippi flowing. The Mississippi, which flows from Minnesota down to New Orleans, again, saving millions, potentially even billions of dollars for shippers and for American consumers, American consumers who live all over the country.

In 1994, 34,000 barges traveled the waterways managed by TVA, 34,000 barges. These barges carried goods and products intended to be used all across the country. In addition, the cheap cost of this type of transportation helped keep prices low for American consumers in every State in this country.

A recent study by the Iowa Department of Transportation stated that it would take 58 tractor-trailers to carry what one barge carries. If TVA had not managed these waterways for the 34,000 barges which used them last year, we could have potentially had to have at least an additional 1.9 million tractor-trailers on our highways. By making these rivers navigable for barge transportation, TVA helps reduce air pollution, road damage and the potential for serious highway accidents.

The amendment would also reduce TVA's ability to manage 11,000 miles of shoreline for which it currently has responsibility. Supervision of this land is not only critical for flood control but also to industrial development, recreation, and wildlife management.

TVA operates 160 public recreation areas for boating, hunting, fishing, hiking, and camping. People from all over the United States visit and enjoy these facilities. Visitation to these recreational areas contributed $1.25 billion to the economy last year.

Thus, in many ways, Mr. Chairman, TVA is a major asset to this country, in many different ways.

Mr. CRAMER. Mr. Chairman, I yield 3 minutes to my friend and colleague the gentleman from Alabama [Mr. BEVILL], distinguished ranking member of this subcommittee of the Committee on Appropriations.

Mr. BEVILL. Mr. Chairman, I rise in strong opposition to this amendment and urge that Members vote against it.

I know my good friend and colleague, the gentleman from Wisconsin [Mr. KLUG], is like all of us, we are anxious to get the budget balanced and we are certainly well on our way to doing it. I do know that there is a little confusion about this.

As my colleagues know, the TVA is not something new. This was an act of Congress, recommended by President Roosevelt, and has been one of the most successful Federal programs that we have ever had in the Nation.

We are talking about a big part of seven States; we are talking about an installation that has over 40 dams along the Tennessee River and its tributaries. We are talking about closing down, privatizing. I notice the gentleman, the author of the amendment there, says, we need to privatize the TVA. We need to get the TVA out of the power business. And can you imagine that? Can you imagine if an amendment like this passed that cut the funding from this program, I will not attempt to talk about all the disasters it would create. Can you imagine the 170,000-acre park down there, without any doubt the biggest animal preserve in the continental United States just suddenly being closed; 2 million people no longer would have a park to go to and the biggest preserve would be closed down there, just automatically, no study, no nothing, no thought about it?

And think about what would happen to the $20 million a year payment that the TVA is paying every year to the U.S. Government. Is that the way you balance the budget? Cut off your income? That is $20 million coming in every year. It is a check. It is money. It is being brought to the U.S. Treasury.

Now, are we going to cut that off, privatize it? That word privatize amazes me, the way they throw it around here. The shoe shine boy even mentioned it the other day. He said, They are trying to privatize me. I hear that word coming in from every angle around here. It sounds like it is magic or something. But I cannot imagine having a complaint about a $20 million payment coming into our Federal Government. I do not know of any other program we have that does that.

If any of you know of it, I would like to know about it, because I have not heard it.

I think the gentleman's intentions are good, but to be exact, there are 48 dams there, 652 miles of the Tennessee River, and there is some thousands of tons, 48 million tons of cargo going down this Tennessee River, this part of the TVA system. We could just go on.

If you want to privatize TVA, let us get a bill and get a study made and see what ought to be done about it. I think they would recommend we forget about it.

Mr. KLUG. Mr. Chairman, may I be advised how much time I have remaining?

The CHAIRMAN. The gentleman from Wisconsin [Mr. KLUG] has 17½ minutes remaining, the gentleman from Alabama [Mr. CRAMER] has 1 minute remaining, and the gentleman from Tennessee [Mr. QUILLEN] has 4 minutes remaining.

Mr. KLUG. Mr. Chairman, I ask unanimous consent to yield 3 minutes of my time to the gentleman from Tennessee [Mr. QUILLEN], and 3 minutes to the gentleman from Alabama [Mr. CRAMER], and that they be permitted to control that time.

The CHAIRMAN. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. KLUG. Mr. Chairman, I yield myself such time as I may consume.

I want to make two points. First, on the argument of the gentleman from Alabama [Mr. BEVILL] that somehow this idea of privatizing the TVA is absolute anathema and will mean the end of the world. May I again refer to the same GAO report on the financial viability of the Tennessee Valley Authority:

> TVA's links to the Federal Government—

these links that do not exist which do exist, says the GAO—

> and its high debt limits have enabled it to borrow the billions of dollars needed for its nuclear construction program. TVA's electricity rates and power production decisions are not subject to the same oversight that other utilities routinely face. Although protected from competition by legislation and its customers contracts in the short run, TVA will have to compete with other utilities in the long run. Because of heavy debt burden and resultant high financing costs, TVA lacks the flexibility to successfully compete in this environment.

May I suggest that if we do not figure a way to privatize the Tennessee Valley Authority, your taxpayers in Alabama and mine in Wisconsin will at some point have to eat $28 billion in TVA debt. I am not making that up. That is the conclusion of the General Accounting Office.

Mr. BEVILL. Mr. Chairman, will the gentleman yield?

Mr. KLUG. I yield to the gentleman from Alabama.

Mr. BEVILL. Mr. Chairman, let us not tell the TVA to quit sending that $20 million a year to the government. Let us agree on that.

Mr. KLUG. Mr. Chairman, sending how much to the Federal Government? Twenty million?

Mr. BEVILL. Mr. Chairman, if the gentleman will continue to yield, $20 million a year paid in to the government. We are talking about balancing the budget.

Mr. KLUG. Mr. Chairman, I will make a deal with the gentleman. They can keep the $20 million and you let me keep the other $103 million that is part of the debate right now.

The second conclusion on the TVA, this was in the House budget resolution:

> Eliminate Federal support for the Tennessee Valley Authority. In 1995, Congress appropriated $143 million for these activities. This proposal would end this annual subsidy for TVA.

I would like Members to listen very carefully to the last sentence here:

> Other equally deserving regions of the country fund these activities either through higher rates for electric power, local tax revenues, or user fees.

Mr. DUNCAN. Mr. Chairman, will the gentleman yield?

Mr. KLUG. I yield to the gentleman from Tennessee.

Mr. DUNCAN. Mr. Chairman, I would just like to point out to the gentleman, he has been reading from a report by the GAO. But in a letter to Mr. QUILLEN, dated June 28, 1995, the GAO said this:

> Dear Mr. Quillen, your staff asked us to clarify whether the scope of our current review of the Tennessee Valley Authority included work on TVA's nonpower programs. Our review focused on TVA's power program. It did not examine TVA's nonpower programs.

We are today discussing TVA's nonpower programs. We are not discussing TVA's power programs. That is the bulk of the TVA work, 98 percent of it. But the GAO report that the gentleman from Wisconsin has been reading from repeatedly today did not examine the nonpower programs that we are discussing here in this amendment today. So there is a pretty big distinction there that I think should be made clear to everyone who is listening.

Mr. KLUG. Mr. Chairman, I think my colleague from Tennessee, Mr. DUNCAN, is absolutely correct. But I brought this report out in order to counter arguments from a number of Members on his side who have been saying, There is no longer a Federal relationship because the power administration operates on its own and the only money the Federal Government is somehow tied to TVA for are these ancillary operations. All I was trying to do in raising this GAO report is to say, any suggestion that the Federal Government is not deeply intertwined in the financial longrun future of TVA is not correct.

Mr. DUNCAN. Mr. Chairman, if the gentleman will continue to yield, but the gentleman does understand though that the TVA power programs are self-supporting and that taxpayers in Wisconsin and other parts of the country are not subsidizing the power programs of the TVA?

Mr. KLUG. Correct, Mr. Chairman, in that they are not paying current payments, but not correct to the degree that they got subsidized loans initially not available to other parts of the country.

Mr. DUNCAN. Initially, many years ago.

Mr. KLUG. Many years ago, correct, but it is still subsidized.

Mr. DUNCAN. The gentleman does understand, as the gentleman from Tennessee [Mr. GORDON] pointed out a few minutes ago, that TVA power rates have not been subsidized since 1959, and then it was only to a very, very small extent.

□ 1700

Mr. QUILLEN. Mr. Chairman, I yield 2 minutes to the gentleman from Tennessee [Mr. HILLEARY].

Mr. KLUG. Mr. Chairman, I yield 1 minute to the gentleman from Tennessee.

The CHAIRMAN. The gentleman from Tennessee [Mr. HILLEARY] is recognized for 3 minutes.

Mr. HILLEARY. Mr. Chairman, I rise in opposition to this amendment. I guess I am going to give a slightly different perspective. I am going to reiterate some of the points, but slightly different. I grew up in the very shadow of TVA. From my parents' home, the home I grew up in, you could actually see the TVA dam and the cooling tower sticking out from the trees. We actually had our best friends in the world work for TVA. Now their sons and daughters work for TVA.

TVA has been a lot of good things to the Tennessee Valley. It has been some bad things. It has provided jobs, flood control, electricity, and in doing so, provided a lot of economic development in a region that sorely needed it. However, I will go a little further than my other colleague, the gentleman from Tennessee [Mr. WAMP], in saying that it is not perfect. It is a long ways from being perfect. In fact, in my opinion, it has been extremely wasteful and mismanaged over the many years in the power part of TVA, not the nonpower part of TVA.

Of course, we pay for this in the Tennessee River Valley with higher rates. No taxpayers in Wisconsin or any other part of the country pay for this, but we, the ratepayers in the Tennessee River Valley, pay for this management.

The amendment of our colleague, the gentleman from Wisconsin, does nothing to alleviate these problems. His amendment seeks to zero out TVA's nonpower budget. In a way, I have no problem with this, in some ways. I have no problem with TVA taking a hit. I tell everybody who comes into my office, people who are very sincere about their programs. Some programs in Tennessee were in the southern region, and I say to them that they are going to have to take a hit, too. We all have to take a hit to balance this budget. I think TVA is taking a hit, 28 percent.

I have no problem with some Federal programs being zeroed out. I think there are some programs in the Federal Government that are absolutely worthless, and should be zeroed out. However, that is not the case in the TVA's nonpower budget. The TVA's nonpower budget goes, to a large extent, for flood control, navigational management, ecological, and environmental stewardship. These things, once again, will have to be picked up by some other Federal agency. These will have to be picked up by some other Federal agency, Mr. Chairman, so this is not one of those Federal programs that needs to be zeroed out.

If it is not picked up by some other Federal agency, the is only one other choice. Those of us in the Tennessee River Valley will be accepting mediocre and in some cases unsafe stewardship of our shoreline, of our flood control. I just do not think that is the right thing to do.

For all these reasons, I urge all my freshman colleagues to pay attention to these very big distinctions. All of us are budget hawks up here. Many of us in the freshman class ran on this, and this is what we are dedicated to. However, this is a big distinction in this particular case. I urge all my colleagues in the freshman class and otherwise to vote "no" on the Klug amendment.

Mr. CRAMER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I want to speak to my colleagues that are both here on the floor and those that are in their offices listening to this debate. I want to say to my classmate, the gentleman from Wisconsin [Mr. KLUG], I applaud him for his consumption with the budget and keeping us on the edge of where we need to be. As we from districts that have irons in these budget fires, the gentleman squeezes this budget and some of us feel the pain from that, but he has made us realize that we have to accept some cuts, that we have to reanalyze some of our connections to the Federal Government, because we cannot keep spending money at the rate or at the level we have been spending money.

However, I also want to say to my classmate that he is consistent with regard to my region, the ARC amendment and how this TVA amendment, and the space station fight we go through annually. I want to echo some of the words of my colleagues from Tennessee and from Kentucky and the other regions that certainly have interests connected to this issue here. I want to remind my colleagues, we are taking a 28-percent cut here. We are talking about an agency that runs dams, almost 50 dams in the TVA area. We are talking about an agency that is charged with obligations that it cannot meet if this irresponsible amendment passes here today.

Mr. Chairman, this amendment does not speak to other alternate ways for us to run those almost 50 dams. This amendment does not talk about the flood control issues that our region of the country would be saddled with. There are many troublesome reasons that we need to oppose this amendment. This amendment ensures that rural communities in the Tennessee Valley will lose access to a variety of information sources, including education, health care, and business opportunities.

Much like the speaker who just spoke from Tennessee, my region takes a cut, a significant cut. We have the environmental research center, a TVA project, that is located in my district. It bears the direct impact of this budget cut, this 28-percent cut here today. That is a very important program in my district that TVA has started, that has environmental impact. I think those of us from our region have taken our fair share of cuts. We only ask the Members not to go so far as to cut us off. We think we have been responsible in this effort. I urge Members to oppose this Klug amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. QUILLEN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I appreciate the gentleman from Wisconsin for yielding the additional time.

However, I would like to set the record straight. As chairman of the TVA Caucus, I am delighted to do that, and I think the gentleman from Wisconsin [Mr. KLUG] should listen carefully. Under the bond covenants financing the power program, there is a provision that no income from ratepayers can be used to maintain the dams, to provide for flood control, to provide for navigation, and all the things that he lists here as stewardship, water and land, land between the Lakes, et cetera, which are a Federal obligation.

Those obligations are performed by the Corps of Engineers throughout the other regions of the United States. If he is successful, and I hope he is not, in his amendment there is no provision in the energy and water bill to increase the funding for the Corps of Engineers to take over this operation. I think what the gentleman is saying is something that is completely foreign to the facts.

Also, the intent of the TVA Act when it was created in 1933, was that the power rates—the income from the power production—was not to be used for flood control, was not to be used for navigation, was not to be used for the protection and the care of the lands bordering the Tennessee River and the dams that they have constructed, so what he is doing is cutting, absolutely cutting and making TVA an inoperative agency.

Therefore, I urge this body, each and every Member, to oppose his amendment, because he does not have the facts in this case. Mr. Chairman, I remember when TVA was created in 1933. I remember how the flooding drove people out of the area. The farmers could not farm. The floods took and washed their crops away. It was disastrous.

Then farsighted Members of this body created the Tennessee Valley Authority to control the flooding, to provide farmland for the farmers to use for this Nation to enjoy the fruits of their labor and the food to eat. It was created. Over the years some 48 dams have been constructed on the Tennessee Valley, in the Tennessee Valley program, along the Tennessee River. It is a power-producing area, and the Federal Government does not pay any of the power production costs. That is done under the bonding of TVA itself.

Mr. Chairman, I remember going over to the Secretary of the Treasury with Marvin Runyon when he was Chairman of the Board of TVA. We finally persuaded the Government to replenish and give us permission to pay the Government off with a private bond program. Finally, after several trips, we were successful in doing that, and TVA issued bonds and paid off the Federal Government, relieved them of that obligation.

Already in this bill $42 million has been cut, whittled away. I do not like that, but I am willing to accept it. However, certainly, we are not going to destroy the viability of TVA. There is no money in any other agency to take over these obligations. In Wisconsin there are 14 Corps of Engineers projects, spending some $15 million. I do not see any amendment offered by the gentleman from Wisconsin to cut out the Corps of Engineers' projects in Wisconsin. That is what he is trying to do, to seven States in the Tennessee Valley area, to cut out and rape the TVA program. I think what is good for the goose is good for the gander. We should defeat his amendment. Defeat it we must, and defeat it we will.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from Wisconsin [Mr. KLUG].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. KLUG. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 144, noes 284, not voting 6, as follows:

[Roll No. 492]

AYES—144

Allard
Andrews
Archer
Armey
Baker (CA)
Baldacci
Ballenger
Barcia
Barrett (WI)
Barton
Bass
Bilbray
Bilirakis
Blute
Boehner
Bonilla
Bono
Brownback
Burton
Camp
Canady
Castle
Chabot
Christensen
Chrysler
Coble
Coburn
Combest
Cooley
Cox
Crane
Cunningham
DeLay
Deutsch
Doyle
Dreier
Dunn
Ehlers
Ehrlich
Ensign
Fawell
Flanagan
Foley
Forbes
Fowler
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gibbons
Goss
Green
Greenwood
Gunderson
Gutknecht
Hancock
Harman
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hobson
Hoekstra
Horn
Hunter
Inglis
Kasich
Kennedy (RI)
Kennelly
Kleczka
Klug
Largent
LaTourette
Lazio
LoBiondo
Luther
Manzullo
Martini
McCarthy
McCollum
McHale
McInnis
McIntosh
Meehan
Metcalf
Meyers
Miller (FL)
Molinari
Moorhead
Myrick
Neal
Nethercutt
Neumann
Nussle
Orton
Owens
Oxley
Parker
Paxon
Petri
Porter
Portman
Pryce
Ramstad
Reed
Regula
Rivers
Roemer
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schumer
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Smith (MI)
Smith (NJ)
Smith (WA)
Solomon
Souder
Stearns
Stockman
Talent
Tate
Thornberry
Tiahrt
Torkildsen
Torricelli
Upton
White
Zeliff
Zimmer

NOES—284

Abercrombie
Ackerman
Bachus
Baesler
Baker (LA)
Barr
Barrett (NE)
Bartlett
Bateman

Becerra
Beilenson
Bentsen
Bereuter
Berman
Bevill
Bishop
Bliley
Boehlert
Bonior
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TN)
Bryant (TX)
Bunn
Bunning
Burr
Buyer
Callahan
Calvert
Cardin
Chambliss
Chapman
Chenoweth
Clay
Clayton
Clement
Clinger
Clyburn
Coleman
Collins (GA)
Collins (IL)
Collins (MI)
Condit
Conyers
Costello
Coyne
Cramer
Crapo
Cremeans
Cubin
Danner
Davis
de la Garza
Deal
DeFazio
DeLauro
Dellums
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Dornan
Duncan
Durbin
Edwards
Emerson
Engel
English
Eshoo
Evans
Everett
Ewing
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Frank (MA)
Franks (CT)
Frost
Furse
Gejdenson
Gekas
Gephardt
Geren
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Gordon
Graham
Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Hansen
Hastings (FL)
Hayes
Heineman
Hilleary
Hilliard
Hinchey
Hoke
Holden
Hostettler
Houghton
Hoyer
Hutchinson
Hyde
Istook
Jackson-Lee
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Johnston
Jones
Kanjorski
Kaptur
Kelly
Kennedy (MA)
Kildee
Kim
King
Kingston
Klink
Knollenberg
Kolbe
LaFalce
LaHood
Lantos
Latham
Laughlin
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
Lofgren
Lowey
Lucas
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCrery
McDade
McDermott
McHugh
McKeon
McKinney
McNulty
Meek
Menendez
Mfume
Mica
Miller (CA)
Mineta
Minge
Mink
Mollohan
Montgomery
Moran
Morella
Murtha
Myers
Nadler
Ney
Norwood
Oberstar
Obey
Olver
Ortiz
Packard
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pombo
Pomeroy
Poshard
Quillen
Quinn
Radanovich
Rahall
Rangel
Richardson
Riggs
Roberts
Rogers
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schiff
Schroeder
Scott
Serrano
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (TX)
Spence
Spratt
Stark
Stenholm
Stokes
Studds
Stump
Stupak
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thompson
Thornton
Thurman
Torres
Towns
Traficant
Tucker
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Ward
Waters
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Williams
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (AK)
Young (FL)

NOT VOTING—6

Fields (TX)	Hefner	Moakley
Fox	Longley	Reynolds

□ 1731

The Clerk announced the following pair:

On this vote:

Mr. Longley for, with Mr. Moakley against.

Messrs. HOLDEN, VENTO, FATTAH, Ms. ESHOO, Mr. CRAPO, and Mrs. CHENOWETH changed their vote from "aye" to "no."

Mr. COOLEY, Mr. DEUTSCH, Mrs. MEYERS of Kansas, Mr. NEAL of Massachusetts, and Mr. BONO changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. Are there further amendments to title IV?

The Clerk will designate title V.

The text of title V is as follows:

TITLE V

GENERAL PROVISIONS

SEC. 501. Sec. 505 of Public Law 102–377, the Fiscal Year 1993 Energy and Water Development Appropriations Act, and section 208 of Public Law 99–349, the Urgent Supplemental Appropriations Act, 1986, are repealed.

SEC. 502. Sec. 510 of Public Law 101–514, the Fiscal Year 1991 Energy and Water Development Appropriations Act, is repealed.

SEC. 503. Without fiscal year limitation and notwithstanding section 502(b)(5) of the Nuclear Waste Policy Act, as amended, or any other provision of law, a member of the Nuclear Waste Technical Review Board whose term has expired may continue to serve as a member of the Board until such member's successor has taken office.

SEC. 504. None of the funds made available in this Act may be used for any program, project, or activity, when it is made known to the Federal entity or official to which the funds are made available that the program, project, or activity is not in compliance with any applicable Federal law relating to risk assessment, the protection of private property rights, or unfunded mandates.

The CHAIRMAN. Are there any amendments to title V?

Mr. VOLKMER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, if I could get the attention of the gentleman from Texas, the majority whip. I have just run across a flyer here on the floor that says that we are going to be in session tomorrow evening, and we are not going to adjourn by 6 o'clock. We are going to be out Friday, but also it says that we are going to be in Monday, and I have already scheduled something out in my district, so I will have to make changes this coming Monday, and votes will begin by 5 o'clock. Is that correct?

Mr. DELAY. If the gentleman will yield, that is correct. I think the majority leader had every intention later on this evening to explain the new schedule.

Mr. VOLKMER. Tonight we go to about midnight?

Mr. DELAY. I am advised that, yes, we intend to go to midnight tonight. We are going until we finish this bill for sure, and we are going tomorrow until we finish the Interior appropriations bill.

Mr. VOLKMER. The majority leader will come in and fully explain why on all of this?

Mr. DELAY. I think the majority leader had the intention of explaining the schedule later on this afternoon and this evening as the schedule applies to tomorrow, I mean, and next week.

Mr. TRAFICANT. If the gentleman will yield, we will be discussing that later. I had a question: Many Members had scheduled that Monday. Is it possible to roll those votes until Tuesday?

Mr. DELAY. Certainly we can take that under advisement, but I think Members need to, right now, plan on votes after 5 o'clock on Monday.

And if we can get a hold of some of the time on some of the amendments, maybe we can schedule the session a little earlier during the days of the week.

Mr. YATES. If the gentleman will yield, may I ask the majority whip a question? Would it be possible tonight, instead of going into the amendment process, to take the rule, then have general debate and stop after general debate and begin the bill tomorrow? That way many Members will be enabled to go home at a fairly reasonable hour, about 10 o'clock.

Mr. DELAY. If the gentleman will yield, to answer the distinguished ranking member of the interior appropriations bill, we, in looking at the amendments that have been published in the amendments, we understand that will be offered on the Interior bill and trying to extrapolate that over time of tonight and up through tomorrow, it looks that we have it pretty well scheduled to where we have to get into amendments in order to finish the Interior bill by tomorrow evening.

Mr. YATES. You may have to go to midnight tomorrow night as well, because, as I understand it, there are 71 amendments to the Interior bill.

Mr. DELAY. Well, we understand that, and if we have to go to midnight tomorrow night to finish the Interior bill, we will just have to do that. We lost a lot of time last week and the early part of this week, and we have every intention of passing every appropriations bill before and honor the August 4 adjournment date.

Mr. MONTGOMERY. If the gentleman will yield, why do you not look into having us come in next week and the week after, just to try to come in at 9 o'clock on Tuesday, Wednesday, and Thursday, and work until 9 o'clock, 12 hours a day? That gives Members a better time to plan, and it makes a lot of sense. I know that does not work very well around here. You ought to look at it from 9 to 9 and do it Tuesday, Wednesday, and Thursday, and it will certainly help Members.

Mr. DELAY. If the gentleman will yield, I think the distinguished gentleman from Mississippi has a very good point, and we just may very well have to do that. We may very well have to look at working the weekend of the 28th and the 29th, through the weekend, in order to finish these bills. We do not intend to take away the privilege of any Member to offer any amendment to strike on an appropriations bill, and we want to make sure every Member of the House has the opportunity to do that, and as we look at the number of amendments that are being filed, it is obvious to us that many Members are taking advantage of that, and we have to adjust the schedule accordingly.

Mr. TRAFICANT. I would hope that the Republican leadership would look at rolling those votes until Tuesday. If we have a schedule where we make plans, even at this critical time, we should try and look at that.

AMENDMENT OFFERED BY MR. TRAFICANT

Mr. TRAFICANT. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. TRAFICANT: At the end of the bill, insert after the last section (preceding the short title) the following new section:

SEC. 505. (a) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available in this Act should be American-made.

(b) NOTICE REQUIREMENT.—In providing financial assistance to, or entering into any contract with, any entity using funds made available in this Act, the head of each Federal agency, to the greatest extent practicable, shall provide to such entity a notice describing the statement made in subsection (a) by the Congress.

Mr. TRAFICANT. Mr. Chairman, ladies and gentlemen, this is an amendment that has been incorporated in all of the appropriations bills. It is the same amendment that has been approved on all others. It poses no controversy. It provides that we might even buy some American-made products and give a little notice encouraging same.

Mr. MYERS of Indiana. Mr. Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from Indiana.

Mr. MYERS of Indiana. Mr. Chairman, I thank the gentleman, the author of the amendment, for yielding. This is an amendment that you have championed for a number of years, very successfully.

This committee has accepted it in the past, and the Republicans accept your amendment.

Mr. TRAFICANT. I thank the chairman. I support his bill.

Mr. BEVILL. Mr. Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from Alabama.

Mr. BEVILL. Mr. Chairman, I have no objections.

Mr. TRAFICANT. Mr. Chairman, I ask for an "aye" vote.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio [Mr. TRAFICANT].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. MARKEY

Mr. MARKEY. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. MARKEY: Page 29, after line 25, insert the following new section:

SEC. 505. The amounts otherwise provided by this Act are revised by reducing the amount made available for "Energy Supply, Research and Development Activities", and increasing the amount made available for "Nuclear Waste Disposal fund" and "Nuclear Regulatory Commission—Salaries and Expenses" (consisting of an increase of $200,000,000 and $11,000,000, respectively), by $211,000,000.

POINT OF ORDER

Mr. MYERS of Indiana. Mr. Chairman, I reluctantly raise a point of order against the amendment.

The CHAIRMAN. The gentleman will state his point of order.

Mr. MYERS of Indiana. Mr. Chairman, the amendment proposes to increase an appropriation not authorized by law and, therefore, is in violation of clause 2(a) of rule XXI. Although the original account funding from nuclear waste fund is unauthorized, it was permitted to remain pursuant to the provisions of the rule we are now considering that provided for consideration of this bill.

When an authorized appropriation is permitted to remain in a general appropriation bill, an amendment merely changing that amount is in order, but the rules of the House apply a merely perfecting standard to the items permitted to remain and do not allow insertion of a new paragraph not part of the original text permitted to remain, to change indirectly a figure permitted to remain. The amendment offered by the gentleman from Massachusetts cannot be construed as merely perfecting, and, therefore, Mr. Chairman, I ask that the Chair rule the amendment out of order.

The CHAIRMAN. Does the gentleman wish to be heard on the point of order?

Mr. MARKEY. I would like, Mr. Chairman, to be heard on the point of order.

The CHAIRMAN. The gentleman from Massachusetts is recognized.

Mr. MARKEY. Mr. Chairman, on page 81 of the committee report, committee states itself quite clearly that the Nuclear Waste Policy Act of 1982 and the Nuclear Waste Policy Act Amendments of 1987 authorize a waste management system for the disposal of spent nuclear fuel and high-level radioactive waste from commercial and atomic energy defense activities.

These laws establish the nuclear waste disposal fund to finance disposal activities through the correction of fees from the owners and generators of nuclear waste. The committee recommends $226 million to be derived from the fund in fiscal year 1996, et cetera, et cetera.

Clearly, the underlying Nuclear Waste Policy Act has authorized, and the Waste Policy Act of 1987 have authorized the money. That is the platform legislation which we are using for discussion in this debate, and any ruling to the contrary would negate the long historical legislative record in this area that clearly makes the amendment which I have before the House in order this evening.

The CHAIRMAN. Does the gentleman from Indiana wish to be heard?

Mr. MYERS of Indiana. Mr. Chairman, I do.

If the gentleman would go over to page 124, the committee has recognized those programs and agencies that are not authorized by law. You will find, pursuant to clause 3 of rule XXI of the House of Representatives, the following table lists the appropriations in the accompanying bill which are not authorized by law, and nuclear waste disposal fund is about the sixth one down.

Mr. Chairman, in title XLII, section 10222, paragraph (e), the administration of a waste fund, the last section, the Secretary may make expenditures from the waste fund subject to appropriations which shall remain available until expended. Appropriations shall be subject to triennial authorization, very clearly.

I insist on my point of order.

Mr. MARKEY. Clearly, there is an internal contradictory position which the committee has taken within its own document.

Page 81, they make it quite clear that the Nuclear Waste Policy Act and the Nuclear Waste Policy of 1982 and of 1987 each have authorized the waste management system, and then within their own document they negate that conclusion by the arbitrary statement that the nuclear waste disposal fund is not authorized. Clearly, there is right now an ongoing excavation at Yucca Mountain. Clearly, there is an ongoing collection of funds from all the nuclear electric utilities in the United States, and clearly the whole subject of this debate is premised upon the authorized 1982 and 1987 Nuclear Waste Policy Acts.

The statement by staff in a committee report later on that this is not, in fact, authorized only seeks to make possible the point of order which the gentleman is making right now, but clearly the earlier part of this legislation that is the committee report had to be stated this way in order for the committee to proceed at all.

□ 1745

So, any ruling by the Chair, notwithstanding the objection by the gentleman from Indiana, has to reflect the actuality that this committee has stated clearly, that the legislation has been—that this has been authorized and, in fact, has been authorized going back to 1982, with continuing legislation in 1987, and the Chair in ruling, I think, should reflect the history of this entire area plus the very statement of the committee in their own document with regard to the authorizing of these funds.

Mr. MYERS of Indiana. Mr. Chairman, there has been long precedents in this House that conclusively establishes that the proponents of an amendment bear the burden of responsibility of establishing the appropriation added by the amendments is authorized in law. Nevertheless, I observe that the payments for the nuclear waste fund are subject to triannual, as we just cited in title XLII, authorization. Pursuant to the provision of the Nuclear Waste Policy Act of 1982, as amended, such authorization has not been enacted since 1987, long past the established provisions of title XLII of the U.S. public health and welfare. It says they must be subject to a triannual authorization.

I insist on my point of order.

The CHAIRMAN. The Chair is prepared to rule.

Mr. MARKEY. I wait for the Chair's ruling with great anticipation.

The CHAIRMAN. The gentleman from Indiana [Mr. MYERS] makes the point of order that the amendment offered by the gentleman from Massachusetts [Mr. MARKEY] violates clause 2 of rule XXI by providing an unauthorized appropriation.

The amendment proposes to insert a new paragraph on page 29 in title V that will indirectly change figures in three earlier paragraphs in title III on pages 16, 18, and 26. It would reduce the amount provided for energy supply, research and development, and increase the amounts provided for nuclear waste disposal and the Nuclear Regulatory Commission.

The increases proposed by the amendment are not authorized by law. The Chair notes that the amounts already carried in the bill for those objects are likewise unauthorized, as indicated on pages 124 and 125 of the committee report and the law cited by the gentleman from Indiana, 42 U.S.C. 10222(e). However, the unauthorized amounts in the bill were permitted to remain by House Resolution 171.

Where an unauthorized appropriation is permitted to remain in a general appropriation bill, an amendment directly changing that amount in that paragraph, and not adding legislative language or earmarking separate funds for another unauthorized purpose, is in order as merely perfecting. But an amendment adding a further unauthorized amount is not in order.

The precedents that admit a germane perfecting amendment to an unauthorized item permitted to remain—for example, Deschler's volume 8, chapter 26, section 3.38—deal with actual changes in a figure permitted to remain. They apply a merely perfecting standard in the strictest sense of that phrase. None involve the insertion of a new paragraph—not part of the text permitted to remain—to change indirectly a figure permitted to remain.

The amendment offered by the gentleman from Massachusetts cannot be construed as merely perfecting under the precedents. Accordingly, the Chair sustains the point of order.

Mr. MARKEY. Mr. Chairman, I move to appeal the ruling of the Chair.

The CHAIRMAN. The question is, Shall the decision of the Chair stand as the judgment of the Committee?

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. MARKEY. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 255, noes 167, not voting 12, as follows:

[Roll No. 493]

AYES—255

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Beilenson
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Collins (GA)
Combest
Cooley
Cox
Crane
Crapo
Cremeans
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Emerson
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Fawell
Fazio
Fields (TX)
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Foley
Forbes
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Franks (CT)
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Frelinghuysen
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Hostettler
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Hyde
Inglis
Istook
Jacobs
Johnson (CT)
Johnson, Sam
Johnston
Jones
Kasich
Kelly
Kennelly
Kim
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Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mfume
Mica
Miller (FL)
Molinari
Montgomery
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
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Smith (MI)
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Solomon
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Stearns
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Stockman
Stump
Talent
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Tauzin
Taylor (MS)
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Thomas
Thornberry
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Upton
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Vucanovich
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Walsh
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Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wilson
Wolf
Yates
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—167

Abercrombie
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Bentsen
Berman
Bevill
Bishop
Bonior
Borski
Boucher
Brewster
Brown (CA)
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Brown (OH)
Bryant (TX)
Cardin
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Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Costello
Coyne
Cramer
DeFazio
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Doggett
Dooley
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Edwards
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Evans
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Fattah
Fields (LA)
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
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Gonzalez
Green
Gutierrez
Hall (OH)
Hamilton
Harman
Hilliard
Hinchey
Holden
Jackson-Lee
Johnson (SD)
Johnson, E.B.
Kanjorski
Kennedy (MA)
Kennedy (RI)
Kildee
Kleczka
Klink
LaFalce
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Miller (CA)
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Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pomeroy
Poshard
Rahall
Rangel
Reed
Richardson
Rivers
Roemer
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Sisisky
Slaughter
Spratt
Stark
Stokes
Studds
Stupak
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Tucker

Velazquez
Vento
Visclosky
Ward
Waters
Watt (NC)
Williams
Wise
Woolsey
Wyden
Wynn

NOT VOTING—12

Ackerman
Browder
Chapman
Coburn
Fox
Hefner
Jefferson
Kaptur
Longley
Martinez
Moakley
Reynolds

□ 1811

Messrs. OWENS, KLECZKA, DURBIN, and BALDACCI changed their vote from "aye" to "no."

Messrs. FAZIO of California, DICKEY, HASTINGS of Florida, MFUME, and GORDON, and Mrs. KENNELLY changed their vote from "no" to "aye."

So the decision of the Chair stands as the judgment of the Committee.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. BEREUTER

Mr. BEREUTER. Mr. Chairman, I offer an amendment, preprinted, amendment No. 1.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. BEREUTER: At the end of the bill, insert after the last section (preceding the short title) the following new section:

SEC. 505. None of the funds made available in this Act may be used to revise the Missouri River Master Water Control Manual when it is made known to the Federal entity or official to which the funds are made available that such revision provides for an increase in the springtime water release program during the spring heavy rainfall and snow melt period in States that have rivers draining into the Missouri River below the Gavins Point Dam.

Mr. BEREUTER. Mr. Chairman, this is a straightforward amendment which simply prevents the Army Corps of Engineers from revising the Missouri River Master Water Control Manual in such a way that it would increase the likelihood of springtime flooding.

Such a commonsense amendment is needed to ensure that the corps does not repeat its previous mistake—a proposal which would have devastated farms, businesses, landowners, and countless communities along the Missouri River.

Last year the corps issued its proposed changes to the Master Manual and made a colossal blunder by proposing to drastically increase the flow and water level of the Missouri River during the months of April, May, and June. These obviously are the very months when States such as Nebraska, Iowa, Kansas, and Missouri are already most vulnerable to flooding due to the mountain snow melt in the Rocky Mountain West and heavy spring rains swelling the immediate watersheds of the Missouri River tributaries in the four-State area.

It's bad enough that farmers and other landowners along the river have to contend with natural disasters. They shouldn't be forced to deal with the kind of man-made disasters which would have been caused by the corps' proposal. The floods of 1993 and the heavy rains this spring offer clear and convincing proof that the corps' recent proposal was seriously flawed.

At a series of two dozen hearings throughout the Missouri River basin region, many hundreds of participants expressed very strong, even vociferous and nearly unanimous opposition to a number of provisions in the corps' preferred alternative. One of the most detested provisions was the proposed increase in its so-called "spring rise."

Mr. Chairman, following this massive opposition to the proposed changes, the corps acknowledged the flaws in the original proposal and expressed a willingness to reevaluate the issue. Hopefully, the corps has gotten the message loud and clear and now understands the devastation which would be caused by the spring rise they originally envisioned. However, this Member believes this common sense amendment is needed to make absolutely certain that the corps does not repeat this mistake.

Mr. Chairman, I know a couple of my colleagues would also like to speak on this. I yield to a colleague and neighbor who has been working very diligently on this effort, the gentleman from Iowa [Mr. LATHAM].

Mr. LATHAM. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I rise to express my strong support for the Bereuter amendment and to commend my colleague and friend from Nebraska on offering this amendment.

The Bereuter amendment prevents the Army Corps of Engineers from spending any funds to implement changes in the corps' Missouri River Master Control Manual that would increase springtime water releases along the river or its tributaries.

I have been pleased to work with Mr. BEREUTER and roughly two dozen colleagues who represent areas downstream on the Missouri or Lower Mississippi Rivers to oppose the so-called "preferred alternative" for river management.

This plan would have resulted in exactly the type of spring-time flooding increases the Bereuter amendment seeks to prevent.

These spring rises coupled with fall flow reductions would have been extremely damaging to my constituents, their land and our local economy.

Fortunately, the Army Corps' Omaha office, under the very able leadership of Cmdr. Mike Thuss, has come to the sensible conclusion that the "preferred alternative" is seriously flawed and a comprehensive revaluation of water control alternatives is needed.

I hope as this effort continues, all my colleagues who represent districts where river navigation and flood control are important will work with Mr. BEREUTER, Ms. DANNER of Missouri other Members and myself who are interested in this issue to ensure that the Federal Government's historic commitment to flood control and river navigation continues.

□ 1815

Mr. BEREUTER. Mr. Chairman, I yield to the gentleman from Missouri [Mr. EMERSON].

Mr. EMERSON. Mr. Chairman, I thank the distinguished gentleman from Nebraska for yielding to me, and I rise in very strong support of his amendment and commend him for his action here.

Mr. Chairman, I rise in strong support of the Bereuter amendment to prohibit any of the bill's funds from being used to make any changes in the Corps of Engineers' Missouri River Master Manual for their plan to increase spring-time water release along the Missouri River and its tributaries. The so-called "Preferred Alternative" is being touted by the Corps of Engineers on behalf of recreational interests and radicals in the environmental community who want to shut our inland waterway system down and restore the breeding ground for the ever-elusive Pallid Sturgeon. Put simply, this plan is misguided and ill-conceived. It would have a devastating impact on agriculture, flood control, and navigation on most of the Missouri and Mississippi Rivers.

The Missouri and Mississippi inland waterway system is a major link for commerce and industry in order to move goods and services throughout America and around the globe. In fact the Missouri River alone is responsible for the shipment of 2.5 million tons of commercial cargo each year. In addition, as its largest tributary, the Missouri River provides 45 percent to 65 percent of the water that flows into the Mississippi River between St. Louis, MO and Cairo, IL—a stretch responsible for tons of cargo valued at $16 billion annually. More than 70 percent of the Nation's total grain exports are handled through Mississippi River port elevators and one half of the total grain exports eventually end up in New Orleans. The controversial plan that some political types would force the corps to foist on the public would significantly shorten the barge season in the fall when commerce and agriculture need water the most to carry their goods to market. It would put barge operators out of business and ruin river transportation. Quite clearly, agriculture and navigation are the targets here—clear them out and shut down the river.

Moreover, the plan proposes to raise the level of water on the Missouri in the springtime—a time of the year when the river is at its highest level. After the Midwest floods of 1993 environmental extremists made ridiculous assumptions that it was the levees that caused the flooding and that we couldn't build them back. Well, I submit to you that if this plan were to go into effect we won't need the levees because each spring the corps will release an extra 20,000 cubic feet per second of water during the flood-prone spring months and it will devastate communities protected along the river. All of this in the name of protecting water skiers and a fish.

Last, Mr. Chairman, I just want to point out that the Environmental Protection Agency—a Federal agency whose work I rarely extol on this floor—has studied the corps' plan. They claim, and I quote, "the U.S. Army Corps of Engineers draft environmental impact statement for the Missouri River Master Water

Control Manual is environmentally unsatisfactory . . . contains inadequate information . . . and is likely to result in little, if any, improvement to the Missouri River ecosystem, including habitat for federally listed threatened or endangered species."

Mr. Chairman, I urge my colleagues to support the Bereuter amendment and preserve our navigation, our flood control, and inland waterway system as we know it.

Mr. BEREUTER. Mr. Chairman, I yield to the gentleman from Missouri [Mr. VOLKMER].

Mr. VOLKMER. Mr. Chairman, I thank the gentleman for yielding to me. I, too, wish to commend the gentleman from Nebraska for this amendment.

As one who has suffered from the floods in the Missouri River Basin in the year of 1993 and again this spring, I realize that the master plan as originally drafted and if implemented by the corps would have meant the types of floods that we had in 1993 and again this spring in 1995 would have been almost an annual thing in the spring, with the spring rains and all the thaws up north and the release of the waters from the reservoirs in the north. It would have meant that we would have had an annual flood. And it does not make sense in order to do so.

It also would have meant that in the time frame of August through December, we would have such a low flow in the Missouri River that we would not have any ability to have barge transportation to move our agriculture products. It just did not make sense.

I want to commend the gentleman from Nebraska. We have been working together, those of us from the States of Iowa, Nebraska, Missouri, Illinois, and others, in order to make sure that this does not happen. The gentleman has a very good amendment. I urge the House to adopt the amendment.

Mr. BEREUTER. Mr. Chairman, my sister has been sandbagging in the gentleman's district the last 2 years and hopefully she will not have to do it the third year.

Mr. Chairman, I yield to the gentleman from Missouri [Mr. SKELTON].

Mr. SKELTON. Mr. Chairman, my wife was sandbagging in 1993 in my home town of Lexington. I point out that my home is on the Missouri River and, throughout my lifetime, I have seen the problems of the rising of the spring floods. And I want to commend the gentleman for this amendment.

I also wish to point out that had the master manual plan gone into effect, it would have been devastating for all of us, particularly for agriculture in the State of Missouri.

The gentleman who has heard us in the Corps of Engineers, and I wish to pay tribute to him, Colonel Mike Thuss, has done a remarkable job of listening and hopefully his recommendations will be along the line that will be suitable for all of Missouri for agriculture and for those downstream people who depend so much upon the natural flow of this river.

I thank the gentleman, and I support the amendment.

Mr. BEREUTER. Mr. Chairman, I thank the gentleman for his comments.

Mr. Chairman, I yield to the gentleman from North Dakota [Mr. POMEROY].

Mr. POMEROY. Mr. Chairman, I thank the gentleman for yielding to me. I recognize the legitimacy of the concern he seeks to address. Speaking from the upstream perspective on the Missouri River, there is a word of reservation I want to advance about dealing in an appropriations bill with the minutiae of the administrative branch, in this case the Corps of Engineers. The process has already worked as it should. The Corps of Engineers had extensive hearings on the spring rise proposal and received a ton of input, nearly all of it negative. They no longer have plans, as I understand it, to implement the spring rise proposal as initially advanced. They are back to the drawing board.

Therefore, this kind of restriction imposed without hearing in the appropriations process is, in my opinion, not necessary, although I do acknowledge the gentleman's concern and would note that my wife, in 1993, spent 3 weeks working in Iowa on the flooding there.

Mr. Chairman, from its origins in Montana to its end near St. Louis, the mighty Missouri River is managed and controlled by the Army Corps of Engineers. Five years ago, the Army Corps of Engineers began a review of its river management plan, commonly called the master manual. This was the first major review of the manual since it was implemented in 1960.

This fair and objective review process, now underway, has included Representatives of each of the States affected by the Missouri River and the master manual, including Mr. BEREUTER. At this point, Congress should not alter this process within the energy and water appropriations bill.

Last month, the corps informed Members of Congress of preliminary draft recommendations for reviewing and updating the master manual. The corps has received thousands of comments on its initial draft recommendation and is specifically concerned with its draft proposal as it relates the spring rise. The corps is addressing the spring rise issue in a revised draft that will be released in 1997.

To be brief, the process is working as intended. The corps put forth a proposal that contained a number of flaws, including the spring rise. Now the corps is reexamining those issues to develop an alternative that will be acceptable to those affected by the spring rise and other Missouri River management concerns.

This Congress should not get involved with the specifics of the master manual. Instead, we should allow the process to proceed as it has with input from all interested and affected parties.

In fact, I do not necessarily oppose the intentions of my friend, Mr. BEREUTER, in addressing his concerns of the spring rise. However, within the process of revising the master control manual we should not address specifics of revising the manual within this appropriations bill.

Mr. BEREUTER. Mr. Chairman, I would say that as the elected Representatives of the people, they expect us to take action when appropriate.

Mr. Chairman, I yield to my neighbor, the gentlewoman from Missouri [Ms. DANNER].

Ms. DANNER. Mr. Chairman, I rise in support of my colleague's amendment. Let me say, for those of us who represent areas that have been flooded, not only in 1993 but in the other serious flood in 1995, we know that we have issues that need to be addressed.

I believe that the gentleman's amendment does that. I am pleased to have been able to work with you during this period of time so that we could bring to the attention of the Corps of Engineers that there were some flaws in their proposal, flaws that needed to be corrected. I think that this will go a long way in that direction.

Mr. BEREUTER. Mr. Chairman, I thank the gentlewoman.

I yield to the gentleman from Indiana [Mr. MYERS].

Mr. MYERS of Indiana. Mr. Chairman, we accept the gentleman's amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Nebraska [Mr. BEREUTER].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. PALLONE

Mr. PALLONE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. PALLONE: Page 29, after line 25 insert the following new section:

SEC. 505. The amount otherwise provided in this Act for the following account is hereby reduced by the following amount:

(1) "Nuclear Waste Disposal Fund", aggregate amount, $1,000.

Mr. MYERS of Indiana. Mr. Chairman, I reserve a point of order against the amendment.

The CHAIRMAN. The gentleman from Indiana reserves a point of order.

Mr. PALLONE. Mr. Chairman, the purpose of this amendment is basically to reduce the amount of money that is set aside for interim storage of nuclear waste and essentially make the point that there is not enough funding for a permanent repository.

As the ranking Democrat on the Subcommittee on Energy and Power, I believe we have a responsibility to both the taxpayers and the ratepayers of our county to ensure that we have a safe and environmentally sound permanent repository for our Nation's nuclear waste.

I also believe that we need to make good on the Federal Government's commitment to utilities to assume responsibility for this waste.

However, I do not think it is fair to anyone to sacrifice long-term disposal for short-term gain. In fact, in the course of two comprehensive hearings held by the Subcommittee on Energy and Power, it became abundantly clear that long-term storage was the priority for all interested parties. That is why I am concerned about the language that is in this bill that funds interim storage yet directs DOE to downgrade or terminate its activities at Yucca Mountain.

This language, in addition to being at odds with existing law, I believe, jeopardizes the important gains we've made in the last 2 years toward siting a permanent repository by focusing funding on an unauthorized interim storage facility. The amendment I am offering makes a token reduction in the waste disposal fund, which is necessary for the amendment to be in order, but my intent is to redirect the focus of the program back to building a permanent waste repository.

I understand the desire to have interim storage, even though onsite storage is safe, and I am not opposed to the idea of interim storage. However, I believe the Federal Government has a moral and statutory responsibility to continue with site characterization work for a permanent repository.

My amendment would allow the Government to fulfill its responsibility to permanently dispose of nuclear waste by indicating the intent of Congress that funds appropriated in this bill for the DOE and NRC be used for site characterization of Yucca Mountain. This is the most responsible approach we can take at this time.

I don't think I have to remind my colleagues that what we are talking about here is ratepayer money. This program is wholly funded by monies paid in good faith by the users of nuclear power. In fact, nuclear utility customers have paid billions of dollars into the fund beyond what has been spent and they continue to pay more each year than we appropriate. So restoring proper direction to this program is, in effect, only an effort to make good on the agreement we made with the ratepayers. These ratepayers provide us with more than $600 million in funding for this program each year: It's only fair that we use that money for the purpose it was intended.

I urge my colleagues to support my amendment.

Mr. MYERS of Indiana. Mr. Chairman, will the gentleman yield?

Mr. PALLONE. I yield to the gentleman from Indiana.

Mr. MYERS of Indiana. Mr. Chairman, the committee is willing to accept the gentleman's amendment.

Mr. Chairman, the committee is pleased to accept the gentleman's amendment, because we recognize that this is a transitional year for the civilian radioactive waste program and that the deletion of $1,000 from the appropriation is unlikely to have a significant impact on the program in fiscal year 1996.

Nevertheless, I emphatically disagree with the gentleman's suggestion that the aggressive development of a permanent repository should proceed at the expense of an interim storage program. The current nuclear waste program was predicated on the assumption that the Federal Government would take title to spent fuel produced at commercial utilities beginning in 1998. Under the best of circumstances, a permanent repository would not be operational before the year 2010. In the meantime, spent fuel continues to pile up at reactor sites across the country. Nuclear utilities, which are rapidly running out of on-site storage capability, will effectively pay for storage twice—once for actual storage costs and again through their contributions to the Nuclear Waste Fund.

Mr. Chairman, th4e expeditious development of interim storage capability should be among the highest of congressional priorities. And, in fact, the distinguished chairman of the Subcommittee on Energy and Power Mr. SCHAEFER, assured me during a colloquy on the House floor yesterday that, "the Committee on Commerce will soon take up the legislation to direct DOE to develop an interim storage site."

Mr. Chairman, I am pleased that the authorizing committee of jurisdiction appreciates the importance of developing interim storage capability, and I look forward to working with that committee to rapidly develop a central storage facility.

Mr. PALLONE. Mr. Chairman, I thank the gentleman.

Mr. MYERS of Indiana. Mr. Chairman, I withdraw my reservation of a point of order.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Jersey [Mr. PALLONE].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. GUNDERSON

Mr. GUNDERSON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GUNDERSON: Page 29, after line 25, insert the following new section:

SEC. 505. None of the funds made available in this Act for the Army Corps of Engineers Upper Mississippi River-Illinois Waterway System Navigation Study may be used to study any portion of the Upper Mississippi River located above Lock and Dam 14 at Moline, Illinois, and Bettendorf, Iowa, except that the limitation in this section shall not apply to the conducting of any system-wide environmental baseline study pursuant to the National Environmental Policy Act.

Mr. GUNDERSON (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. GUNDERSON. Mr. Chairman, I yield to the gentleman from Indiana [Mr. MYERS].

Mr. MYERS of Indiana. Mr. Chairman, the gentleman from Wisconsin has explained his amendment to the committee. We accept the amendment.

Mr. GUNDERSON. Mr. Chairman, my amendment would restrict the Corps from using funds appropriated under this bill to study the capacity needs of the Mississippi River above Lock and Dam 14 in the vicinity of Moline, IL, and Bettendorf, IA. The amendment explicitly protects the Corps' environmental baseline studies required to comply with the National Environmental Policy Act.

The Gunderson amendment is necessary because the resources required to improve the lock and dam system will be available only for those locks and dams that are insufficient to handle increasing commercial barge traffic. For that reason, we must limit the resources appropriated under this bill to those locks where navigation improvements are most needed.

The Upper Mississippi River System is extremely rare among large rivers. It is a vital navigation channel and its five refuges provide vital habitats for fish and waterfowl of all types. Recreation on the upper river yields $1.2 billion annually in economic benefits. For these reasons, Congress has recognized the Upper Mississippi as a dual-purpose waterway: a nationally significant ecosystem and a significant commercial navigation system.

Congress authorized the current 9 foot navigation channel and system of locks and dams in 1930. The system has flourished ever since, and today the Upper Mississippi System includes 37 locks and dams and over 360 terminals. The navigation system carries a large portion of this Nation's coal and corn—over half the corn exported from this country is shipped via the Upper Mississippi River by barge.

Gradual increases in commercial barge traffic, especially in the last 30 years, have strained the lock and dam system on the lower portion of the Upper Mississippi River. Cargo transported on the Upper Mississippi has increased from about 27 million tons in 1960 to 91 million tons in 1990—about a 340-percent increase. Because many of the locks were designed to handle only a fraction of this traffic, backlogs on the lower locks have formed. Much of this is due to the confluence of several large rivers below Lock and Dam 20—the Missouri River, the Illinois Waterway, and the Upper Mississippi.

Evidence of the delays on the lower locks has begun to mount. In a November 1994 newspaper article, the Corps indicated that there is a bottleneck at four or five locks just above St. Louis. Barges delayed because of heavy traffic cost consumers, farmers and businesses a great deal of money. In 1992, tows at the Upper Mississippi River locks 20 through 25 were delayed a total of 87,000 hours at a cost of $35 million.

Mr. Chairman, the Corps began the Upper Mississippi River-Illinois Waterway System Navigation Study in 1993 to assess the need for expansion at all 37 locks in the system. In addition, the study is designed to determine the potential impacts on the river, navigation, the economy and the environment and to prioritize infrastructure improvements over a 50-year time frame. Although I agree with the need to assess the needs for additional investment on a system-wide basis, Mr. Chairman, the fiscal realities are that no significant lock and dam improvements will be done above Lock and Dam 14. In fact, the Corps itself does not foresee any major improvement projects in that area before the year 2050.

At a time when the Congress is trying to balance the budge in 7 years, we must insist that the money we do allocate is used efficiently. Locks 1 through 14 on the Upper Mississippi have the lowest proportion of traffic, so substantial navigation improvements are not a high priority in that area. My amendment would recognize this need by restricting the Corps' navigation study to the lock and dam system below Lock and Dam 14 near Moline, Illinois. However, the amendment specifically allows the Corps to fulfill its responsibilities for conducting baseline environmental studies under the National Environmental Policy Act, and for determining the economic impacts of projects on the lower portion, if such impacts can reasonably be foreseen above Lock and Dam 14.

Substantial improvements on the first 14 locks on the Upper Mississippi River will not be funded in the next 50 years because the Inland Waterway Trust Fund does not have sufficient funds to pay for such improvements. Improvements on the inland navigation system, including on the Mississippi River, are funded 50 percent by the Federal Government and 50 percent by the inland Waterway Trust Fund. The commercial navigation industry supports the trust fund through a fuel tax.

Assuming a current rate of increase, the trust fund will not even be able to support major improvements to the most heavily congested locks on the upper river, let alone locks 1 through 14. In fiscal year 1994, the trust fund had a net increase—receipts minus appropriations—of $21 million; in fiscal year 1995, the trust fund had a net increase of $43 million. Assuming a net increase of $50 million a year, and not considering other construction projects undertaken by the Corps—for example, Ohio River improvements, by the year 2025, the Inland Waterway Trust Fund would only contain approximately $1.8 billion. The cost of building a new lock, by Corps estimates, is $350 million. Given that, construction of six new 1200 foot locks in the most congested areas of the river would cost as much as $2.1 billion in fiscal year 1995). The trust fund's 50-percent share would be enough only to cover the required projects if the Corps did not undertake navigation projects on any other river.

Given that estimate, and by the Corps' own conservative estimates, new projects above Lock and Dam 14 seem unlikely. According to a Corps analysis of the trust fund through 2025, under a scenario considering the very highest possible revenues, projects above Lock and Dam 14 could not feasibly be undertaken until well after 2025. That analysis estimates a balance of $22.6 million at the end of 2024, with estimated receipts of $161.3 million for fiscal year 1995. In order to avoid a trust fund deficit, only 5 of the most important 6 projects, all below Lock and Dam 20, could even be started before 2025.

Mr. Chairman, I appreciate the importance of commercial navigation on the Upper Mississippi River and believe it is important to assess the needs for navigation improvements to the lock and dam system. I offer this amendment to limit the geographical scope of the study, however, because I do not want to see scarce and valuable resources used to examine a portion of the lock and dam system that will not see any significant structural improvements for the next 50 years. Any study of the system above Lock and Dam 14 completed now would, without a doubt, have to be repeated by the time new projects in that area were undertaken, as the Corps, quite understandably, does not have the modeling capabilities to accurately foresee 50 years into the future. So let's not expend energy and money on a study that will not provide any useful results.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Wisconsin [Mr. GUNDERSON].

The amendment was agreed to.

The CHAIRMAN. Are there other amendments to title V?

If not, the Clerk will read the last two lines of the bill.

The Clerk read as follows:

This Act may be cited as the ''Energy and Water Development Appropriations Act, 1996''.

The CHAIRMAN. Are there further amendments to the bill?

If not, under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. HASTINGS of Washington) having assumed the chair, Mr. OXLEY, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 1905) making appropriations for energy and water development for the fiscal year ending September 30, 1996, and for other purposes, pursuant to House Resolution No. 171, had directed him to report the bill back to the House with sundry amendments adopted in the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

Pursuant to clause 7 of rule XV, the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 400, nays 27, not voting 7, as follows:

[Roll No. 494]

YEAS—400

Abercrombie
Ackerman
Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Bentsen
Bereuter
Berman
Bevill
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boucher
Brewster
Brown (FL)
Brown (OH)
Brownback
Bryant (TN)
Bryant (TX)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cardin
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clay
Clayton
Clement
Clinger
Clyburn
Coble
Coburn
Coleman
Collins (GA)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooley
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dixon
Doggett
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Durbin
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Evans
Everett
Ewing
Farr
Fawell
Fazio
Fields (LA)
Fields (TX)
Flake
Flanagan
Foley
Forbes
Ford
Fowler
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Graham
Green
Greenwood
Gunderson
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Heineman
Herger
Hilleary
Hilliard
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson-Lee
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Johnston
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Lantos
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney
Manton
Manzullo
Markey
Martinez
Martini
Mascara
Matsui
McCarthy
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McIntosh
McKeon
McKinney
McNulty
Meehan
Meek
Menendez
Metcalf
Meyers
Mfume
Mica
Miller (CA)
Miller (FL)
Mineta
Minge
Mink
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murtha
Myers
Myrick
Neal
Nethercutt
Neumann
Ney
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Oxley
Packard
Pallone
Pastor
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Richardson
Riggs
Rivers
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Roybal-Allard
Royce
Rush
Sabo
Salmon
Sanford
Sawyer
Saxton
Scarborough
Schaefer
Schiff
Schumer
Scott
Seastrand

Serrano
Shadegg
Shaw
Shays
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stark
Stearns
Stenholm
Stockman
Stokes
Studds
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thompson
Thornberry
Thornton
Thurman
Tiahrt
Torkildsen
Torres
Torricelli
Towns
Traficant
Tucker
Upton
Velazquez
Visclosky
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Ward
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Williams
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—27

Becerra
Beilenson
Bilbray
Brown (CA)
DeFazio
Dellums
Dingell
Fattah
Filner
Foglietta
Frank (MA)
Furse
Harman
Hefley
Hinchey
Jacobs
McDermott
Nadler
Owens
Parker
Reed
Roemer
Sanders
Schroeder
Sensenbrenner
Vento
Waters

NOT VOTING—7

Browder
Fox
Hastert
Hefner
Longley
Moakley
Reynolds

□ 1847

Ms. LOFGREN, Mr. TUCKER, and Mr. PAYNE of New Jersey changed their vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. FOX of Pennsylvania. Mr. Speaker, due to a death in my family and the funeral back in my district today, I was unavoidably detained and I would like to record, Mr. Speaker, how I would have voted on separate votes today dealing with the Energy and Water appropriations bills.

I would deal with them as follows: on rollcall No. 487, the Obey amendment No. 25, I would have voted "no."

On the rollcall 488, the Klug amendment No. 14, I would have voted "no."

On the rollcall 489, the Ward amendment, I would have voted "yes."

On the rollcall 490, the Volkmer amendment No. 32, I would have voted "yes."

On the rollcall 491, the Klug amendment No. 8, I would have voted "yes."

On the rollcall 492, the Klug amendment No. 9, I would have voted "yes."

On the rollcall 493, to sustain the ruling of the Chair, I would have voted "yes."

On the rollcall 494, final passage of the Energy and Water appropriations bill, H.R. 1905, I would have voted "yes."

PERSONAL EXPLANATION

Mr. BROWDER. Mr. Speaker, due to malfunction of my pager, I missed the vote on final passage of the Energy and Water Appropriations Act.

Had I been present I would have voted "yea" on rollcall 494.

PERSONAL EXPLANATION

Mr. HASTERT. Mr. Speaker, on the afternoon of July 12, 1995, I was unavoidably detained. Had I been present, I would have voted:

"Yea" on rollcall vote No. 494, final passage of H.R. 1905, a bill making appropriations for energy and water development for fiscal year ending September 30, 1996.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Edwin Thomas, one of his secretaries.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 530

Mr. HASTINGS of Florida. Mr. Speaker, I ask unanimous consent that my name be removed from cosponsorship of H.R. 530.

The SPEAKER pro tempore (Mr. HASTINGS of Washington). Is there objection to the request of the gentleman from Florida?

There was no objection.

COMMUNICATION FROM THE HONORABLE FRANK MASCARA, MEMBER OF CONGRESS

The SPEAKER pro tempore laid before the House the following communication from the Honorable FRANK MASCARA, Member of Congress:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, July 11, 1995.

Hon. NEWT GINGRICH,
Speaker, House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: I hereby submit my resignation from the Committee on Government Reform and Oversight, effective July 11, 1995.

Very truly yours,
FRANK MASCARA,
Member of Congress.

ELECTION OF MEMBERS TO CERTAIN STANDING COMMITTEES OF THE HOUSE

Mr. FAZIO of California. Mr. Speaker, I offer a privileged resolution (H. Res. 186) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 186

Resolved, That the following named Members be, and are hereby, elected to the committees indicated:

(1) to the Committee on Transportation and Infrastructure: Representative Frank Mascara of Pennsylvania; and

(2) to the Committee on Government Reform and Oversight: Representative Tim Holden of Pennsylvania.

The SPEAKER pro tempore. The gentleman from California [Mr. FAZIO] is recognized for 1 hour.

Mr. FAZIO of California. Mr. Speaker, I simply would indicate that these two gentlemen are very much eligible for the committees they have been recommended by our caucus to assume. The gentleman from Pennsylvania [Mr. MASCARA], a new Member, former county commissioner from Washington County, PA, is eminently qualified for the Committee on Transportation and Infrastructure. When he came to this Congress, he was not given a major committee.

With the opening on the former Committee on Public Works and Transportation, the gentleman from Pennsylvania [Mr. MASCARA] sought and was unanimously selected by our steering committee for that role. In assuming that assignment, he made available a position on the Committee on Government Reform and Oversight which allowed a second-term Member, the gentleman from Pennsylvania [Mr. HOLDEN], to accept a second committee because he had been prevented from having more than his major committee, the Committee on Agriculture.

I think there is no controversy. The ratios on these committees are maintained.

Mr. BOEHNER. Mr. Speaker, will the gentleman yield?

Mr. FAZIO of California. I yield to the gentleman from Ohio.

Mr. BOEHNER. Mr. Speaker, I am somewhat torn as to what to do here today regarding the privileged resolution of the minority caucus leader. The resolution, offered at the direction of the minority caucus, would appoint Mr. MASCARA to the Transportation and Infrastructure Committee and Mr. HOLDEN to the Government Reform and Oversight Committee.

As I pointed out to the minority leader last Monday, the history and precedents of this House allowed each party to appoint those members of its caucus to available committee slots as it saw fit, without the consent or approval of the opposing caucus.

Never before last Monday has a Member of this body had to face the recorded vote of members of the other party to accept his conference's assignment to a standing committee.

Now it seems to me that if the minority wishes to engage in a case of tit-for-tat, then for us as the majority, it is a bit like engaging in a duel with an unarmed man. Two hundred thirty-two Republican votes would indicate that the minority would have a difficult—if not impossible—time placing any member of its caucus on a committee unless the majority party felt it was in the majority's interest to have that minority member on the committee.

And yet, this is what the minority seems to want as a new precedent of the House given their actions of last Monday.

Mr. FAZIO of California. Mr. Speaker, reclaiming my time if I might, I do not believe I have a great deal of time. How much time is available?

The SPEAKER pro tempore. The gentleman from California has 1 hour.

Mr. FAZIO of California. Well, I think that might give me sufficient time to yield further.

Mr. BOEHNER. I thank my friend the gentleman for yielding.

Mr. Speaker, in the interest of comity, however, I will not call for a recorded vote, subjecting your leadership, Mr. MASCARA, and Mr. HOLDEN to the humiliation of defeat.

I would hope that in the future, those Democrats who care for this institution, have a respect for the history of the House, who are tired of pointless dilatory tactics, and who want to roll up their sleeves and get to work on balancing the budget, preserving Medicare, and saving our country for our children, I hope they will prevail upon their leadership to put childish actions aside and put the interest of the country before those of a partisan few.

Mr. FAZIO of California. Mr. Speaker, if I might comment at this time, I think in all the time I have been associated with the leadership on this side of the aisle when we were in the majority, I can remember no instance in which an appointment to a committee was made that would have changed the committee ratio without the complete consultation of the minority leader and the Speaker. I know for a fact that whenever a special election would occur and changes would occur in the ratio of our memberships in the full body or on each committee individually, our Speakers, whether they were recent or in the distant past, consulted with the minority leader, and when it was required, we adjusted the number of members on the committee to conform to the ratio that we had reached agreement on at the beginning of that Congress.

My personal problem with what happened with the appointment of the gentleman from Texas [Mr. LAUGHLIN] was that we did not have that kind of consultation which occurred in every instance when we were in the majority. That is the reason why I think our side reacted as we did. It was not a question of who. It was a question of process, mutual respect, and recognition of each party's role once we had agreed on the ratios at the beginning of the Congress.

I think that was the point that the people on this side of the aisle reacted to, and I think that was really why we acted as we did. Not in a manner that could be described as childish but in a manner that reflected the degree to which we resented the treatment that we had been accorded.

But I think that is behind us for now. Perhaps we will visit this issue again at some point. But I do appreciate the fact that the majority is not going to interfere with the appointment that these two gentlemen seek which does not change the ratios whatsoever and which merely maintains our balance as it existed at the beginning of the Congress on both these committees.

Mr. Speaker, if there is no further comment or request for time, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

APPOINTMENT OF MEMBER TO THE PERMANENT SELECT COMMITTEE ON INTELLIGENCE

The SPEAKER pro tempore. Without objection and pursuant to the provisions of clause 1 of rule XLVIII and clause 6(f) of rule X, the Chair announces the Speaker's appointment of the gentleman from Colorado [Mr. SKAGGS] to the Permanent Select Committee on Intelligence to fill the existing vacancy thereon and to rank after the gentleman from Texas [Mr. COLEMAN].

There was no objection.

PROVIDING FOR CONSIDERATION OF H.R. 1977, DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 1996

Ms. PRYCE. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 185 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 1977) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1996, and for other purposes. The first reading of the bill shall be dispensed with. Points of order against consideration of the bill for failure to comply with section 302(f), 306, or 308(a) of the Congressional Budget Act of 1974 are waived. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations. After general debate the bill shall be considered for amendment under the five-minute rule. The bill shall be considered by title rather than by paragraph. Each title shall be considered as read. Points of order against provisions in the bill for failure to comply with clause 2 or 6 of rule XXI are waived. The amendment printed in section 2 of this resolution shall be considered as adopted in the House and in the Committee of the Whole. All points of order against the amendment printed in section 3 of this resolution are waived. During consideration of the bill for amendment, the Chairman of the Committee of the Whole may accord priority in recognition on the basis of whether the Member offering an amendment has caused it to be printed in the portion of the Congressional Record designated for that purpose in clause 6 of rule XXIII. Amendments so printed shall be considered as read. Points of order against amendments for failure to comply with clause 2(e) of rule XXI are waived. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

SEC. 2. The amendment considered as adopted in the House and in the Committee of the Whole is as follows:

Page 57, line 21, strike "*:Provided further*" and all that follows through "Act" on page 58, line 2.

Page 75, line 24, strike "equivalent to" and insert "not to exceed".

SEC. 3. The amendment against which all points of order are waived is one offered by Representative Schaefer of Colorado or Representative Tauzin of Louisiana as follows:

Page 57, line 11, strike "*:Provided*" and all that follows through "Reserve" on line 21.

The SPEAKER pro tempore. The gentlewoman from Ohio [Ms. PRYCE] is recognized for 1 hour.

Ms. PRYCE. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from California [Mr. BEILENSON], pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, I am pleased to bring this rule to the floor of the House today. It is not an overly complex or unique rule, and I believe it keeps faith with the new majority's pledge to consider major legislation in a manner which is reasonable, open, and fair to both sides of the aisle.

First, this rule is completely open. After an hour of general debate, equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations, the bill will be open to amendment under the 5-minute rule.

The rule provides that the bill shall be read by title, rather than by paragraph, and that each title shall be considered as read.

Under this open rule, any Member can be heard on any germane amendment at the appropriate time, provided it is consistent with the standing rules of the House. I would point out to our colleagues that of the five regular appropriations bills which have come before the Rules Committee thus far, this is the fourth open rule granted by the committee.

Second, the rule provides a limited, but necessary number of waivers which reflects the close cooperation between the Interior Appropriations Subcommittee and the proper authorizing committees.

For example, since authorizing legislation for several programs within the bill has not yet been approved by the House, the rule provides the necessary waivers of clause 2 of rule XXI(21), which prohibits unauthorized provisions. Let me stress that this was done in close coordination with the will of the authorizing committees.

The rule also waives provisions of the Budget Act against consideration of the bill which deals with new entitlement authority and with matters which are within the jurisdiction of the Budget Committee. To address these concerns, the rule provides for the automatic adoption of an amendment printed in the rule, which is included at the suggestion of the chairman of the Budget Committee.

Finally, the rule waives points of order against the amendment printed in the rule relating to the sale of oil from the strategic petroleum reserve, if offered by Representative SCHAEFER of Colorado or Representative TAUZIN of Louisiana.

As in previous rules this year, priority in recognition is accorded to Members who have printed their amendments in the CONGRESSIONAL RECORD prior to their consideration.

Giving Members the option of preprinting amendments for their colleagues to review in advance merely enhances the deliberative process, Mr. Speaker, and I hope Members will continue to take advantage of this useful tool in the future.

One final note on amendments, the rule waives clause 2(e) of rule XXI(21), relating to nonemergency amendments offered to a bill which contains an emergency designation.

We have also included one motion to recommit, with or without instructions, as is the right of the minority.

Mr. Speaker, H.R. 1977 is a very responsible piece of legislation, and I congratulate my colleague from Ohio, Chairman RALPH REGULA, for his leadership in trying to balance the need for meaningful deficit reduction with the need to protect and enhance our Nation's natural and cultural resources.

As we heard in the Rules Committee yesterday, this bill responds to the mandate of the American people to reduce the size and cost of Government by cutting overall spending by more than 11 percent from the 1995 spending levels.

To achieve these savings, the bill recommends that a number of existing agencies or programs be terminated, consolidated, or funded at significantly lower levels on the assumption that they will be phased-out in the near term. H.R. 1977 is more than $1.5 billion below last year's level, and is consistent with the 7-year balanced budget resolution passed by the House this year.

In closing, Mr. Speaker, I believe the rule before us today is both fair and open. House Resolution 185 was reported unanimously by the Rules Committee yesterday, and it will allow our Members to participate most fully in the deliberative process.

I urge its adoption, and encourage our colleagues to use this open amendment process responsibly, and productively.

Mr. Speaker, I include the following data for the RECORD:

THE AMENDMENT PROCESS UNDER SPECIAL RULES REPORTED BY THE RULES COMMITTEE,[1] 103D CONGRESS V. 104TH CONGRESS

[As of July 11, 1995]

Rule type	103d Congress		104th Congress	
	Number of rules	Percent of total	Number of rules	Percent of total
Open/Modified-open[2]	46	44	32	71
Modified Closed[3]	49	47	12	27
Closed[4]	9	9	1	2
Totals:	104	100	45	100

[1] This table applies only to rules which provide for the original consideration of bills, joint resolutions or budget resolutions and which provide for an amendment process. It does not apply to special rules which only waive points of order against appropriations bills which are already privileged and are considered under an open amendment process under House rules.

[2] An open rule is one under which any Member may offer a germane amendment under the five-minute rule. A modified open rule is one under which any Member may offer a germane amendment under the five-minute rule subject only to an overall time limit on the amendment process and/or a requirement that the amendment be preprinted in the Congressional Record.

[3] A modified closed rule is one under which the Rules Committee limits the amendments that may be offered only to those amendments designated in the special rule or the Rules Committee report to accompany it, or which preclude amendments to a particular portion of a bill, even though the rest of the bill may be completely open to amendment.

[4] A closed rule is one under which no amendments may be offered (other than amendments recommended by the committee in reporting the bill).

SPECIAL RULES REPORTED BY THE RULES COMMITTEE, 104TH CONGRESS

[As of May 12, 1995]

H. Res. No. (Date rept.)	Rule type	Bill No.	Subject	Disposition of rule
H. Res. 38 (1/18/95)	0	H.R. 5	Unfunded Mandate Reform	A: 350–71 (1/19/95).
H. Res. 44 (1/24/95)	MC	H. Con. Res. 17	Social Security	A: 255–172 (1/25/95).
		H.J. Res. 1	Balanced Budget Amdt	
H. Res. 51 (1/31/95)	0	H.R. 101	Land Transfer, Taos Pueblo Indians	A: voice vote (2/1/95).
H. Res. 52 (1/31/95)	0	H.R. 400	Land Exchange, Arctic Nat'l. Park and Preserve	A: voice vote (2/1/95).
H. Res. 53 (1/31/95)	0	H.R. 440	Land Conveyance, Butte County, Calif	A: voice vote (2/1/95).
H. Res. 55 (2/1/95)	0	H.R. 2	Line Item Veto	A: voice vote (2/2/95).
H. Res. 60 (2/6/95)	0	H.R. 665	Victim Restitution	A: voice vote (2/7/95).
H. Res. 61 (2/6/95)	0	H.R. 666	Exclusionary Rule Reform	A: voice vote (2/7/95).
H. Res. 63 (2/8/95)	MO	H.R. 667	Violent Criminal Incarceration	A: voice vote (2/9/95).
H. Res. 69 (2/9/95)	0	H.R. 668	Criminal Alien Deportation	A: voice vote (2/10/95).
H. Res. 79 (2/10/95)	MO	H.R. 728	Law Enforcement Block Grants	A: voice vote (2/10/95).
H. Res. 83 (2/13/95)	MO	H.R. 7	National Security Revitalization	PQ: 229–100; A: 227–127 (2/15/95).
H. Res. 88 (2/16/95)	MC	H.R. 831	Health Insurance Deductibility	PQ: 230–191; A: 229–188 (2/21/95).
H. Res. 91 (2/21/95)	0	H.R. 830	Paperwork Reduction Act	A: voice vote (2/22/95).
H. Res. 92 (2/21/95)	MC	H.R. 889	Defense Supplemental	A: 282–144 (2/22/95).
H. Res. 93 (2/22/95)	MO	H.R. 450	Regulatory Transition Act	A: 252–175 (2/23/95).
H. Res. 96 (2/24/95)	MO	H.R. 1022	Risk Assessment	A: 253–165 (2/27/95).
H. Res. 100 (2/27/95)	0	H.R. 926	Regulatory Reform and Relief Act	A: voice vote (2/28/95).
H. Res. 101 (2/28/95)	MO	H.R. 925	Private Property Protection Act	A: 271–151 (3/2/95)
H. Res. 103 (3/3/95)	MO	H.R. 1058	Securities Litigation Reform	
H. Res. 104 (3/3/95)	MO	H.R. 988	Attorney Accountability Act	A: voice vote (3/6/95)
H. Res. 105 (3/6/95)	MO			A: 257–155 (3/7/95)
H. Res. 108 (3/7/95)	Debate	H.R. 956	Product Liability Reform	A: voice vote (3/8/95)
H. Res. 109 (3/8/95)	MC			PQ: 234–191 A: 247–181 (3/9/95)
H. Res. 115 (3/14/95)	MO	H.R. 1159	Making Emergency Supp. Approps.	A: 242–190 (3/15/95)
H. Res. 116 (3/15/95)	MC	H.J. Res. 73	Term Limits Const. Amdt	A: voice vote (3/28/95)
H. Res. 117 (3/16/95)	Debate	H.R. 4	Personal Responsibility Act of 1995	A: voice vote (3/21/95)
H. Res. 119 (3/21/95)	MC			A: 217–211 (3/22/95)
H. Res. 125 (4/3/95)	0	H.R. 1271	Family Privacy Protection Act	A: 423–1 (4/4/95)
H. Res. 126 (4/3/95)	0	H.R. 660	Older Persons Housing Act	A: voice vote (4/6/95)
H. Res. 128 (4/4/95)	MC	H.R. 1215	Contract With America Tax Relief Act of 1995	A: 228–204 (4/5/95)
H. Res. 130 (4/5/95)	MC	H.R. 483	Medicare Select Expansion	A: 253–172 (4/6/95)
H. Res. 136 (5/1/95)	0	H.R. 655	Hydrogen Future Act of 1995	A: voice vote (5/2/95)
H. Res. 139 (5/3/95)	0	H.R. 1361	Coast Guard Auth. FY 1996	A: voice vote (5/9/95)
H. Res. 140 (5/9/95)	0	H.R. 961	Clean Water Amendments	A: 414–4 (5/10/95)
H. Res. 144 (5/11/95)	0	H.R. 535	Fish Hatchery—Arkansas	A: voice vote (5/15/95)
H. Res. 145 (5/11/95)	0	H.R. 584	Fish Hatchery—Iowa	A: voice vote (5/15/95)
H. Res. 146 (5/11/95)	0	H.R. 614	Fish Hatchery—Minnesota	A: voice vote (5/15/95)
H. Res. 149 (5/16/95)	MC	H. Con. Res. 67	Budget Resolution FY 1996	PQ: 252–170 A: 255–168 (5/17/95)

SPECIAL RULES REPORTED BY THE RULES COMMITTEE, 104TH CONGRESS—Continued

[As of May 12, 1995]

H. Res. No. (Date rept.)	Rule type	Bill No.	Subject	Disposition of rule
H. Res. 155 (5/22/95)	MO	H.R. 1561	American Overseas Interests Act	A: 233–176 (5/23/95)
H. Res. 164 (6/8/95)	MC	H.R. 1530	Nat. Defense Auth. FY 1996	PQ: 225–191 A: 233–183 (6/13/95)
H. Res. 167 (6/15/95)	O	H.R. 1517	MilCon Appropriations FY 1996	PQ:223–180 A: 245–155 (6/16/95)
H. Res. 169 (6/19/95)	MC	H.R. 1854	Leg. Branch Approps. FY 1996	PQ: 232–196 A: 236–191 (6/20/95)
H. Res. 170 (6/20/95)	O	H.R. 1868	For. Ops. Approps. FY 1996	PQ: 221–178 A: 217–175 (6/22/95)
H. Res. 171 (6/22/95)	O	H.R. 1905	Energy & Water Approps. FY 1996	
H. Res. 173 (6/27/95)	C	H.J. Res. 79	Flag Constitutional Amendment	PQ: 258–170 A: 271–152 (6/28/95)
H. Res. 176 (6/28/95)	MC	H.R. 1944	Emer. Supp. Approps.	PQ: 236–194 A: 234–192 (6/29/95)
H. Res. 185 (7/11/95)	O	H.R. 1977	Interior Approps. FY 1996	

Codes: O-open rule; MO-modified open rule; MC-modified closed rule; C-closed rule; A-adoption vote; PQ-previous question vote. Source: Notices of Action Taken, Committee on Rules, 104th Congress.

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Ms. PRYCE. Mr. Speaker, I reserve the balance of my time.

Mr. BEILENSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we oppose this rule, and we urge Members to vote "no" on the previous question so that we can amend the rule to make in order the Brewster-Harman deficit-reduction lockbox amendment.

We do appreciate the fact that this bill is open to any amendment that is otherwise eligible to be offered under the standing rules of the House. Members should be aware that, as many previous rules this year have provided, this rule permits the Chair to accord priority in recognition to Members who have preprinted their amendments in the CONGRESSIONAL RECORD.

However, House Resolution 185 is a relatively complex rule for an appropriations bill. It waives several House rules for provisions in H.R. 1977, as well as several sections of the Budget Act against consideration of the bill. The rule also contains a self-executing amendment, and it waives points of order against an amendment to be offered by Representative SHAEFER or TAUZIN, relating to the sale of oil from the Strategic Petroleum Reserve.

The rule provides blanket waivers of clause 2 and clause 6 of rule XXI, prohibiting unauthorized appropriations and legislation in an appropriations bill, and prohibiting reappropriations in an appropriations bill. We recognize that, because Congress does not always complete action on the relevant authorization bills in a timely manner, it is often necessary to waive the prohibition against unauthorized appropriations. In addition, there are often valid reasons for protecting legislative language in an appropriations bill.

We approve of the fact that the majority is generally following the practice—a practice that was established when Democratic members were in the majority—of providing waivers for legislation or unauthorized appropriations only in cases where the relevant authorizing committee chairman agrees to those waivers. In past years, we found that this practice was the most fair and practicable way of moving appropriations bills through the House in a timely manner, while still protecting the prerogatives of authorizing committees. It appears that our colleagues on the other side of the aisle—despite their past criticism of waiving rule XXI—have now reached the same conclusion.

Unfortunately, that same policy has not been extended to ranking minority members. I would note that the senior Democratic member of the Resources Committee, Mr. MILLER of California, strongly objects to waiving the prohibition on legislation in an appropriations bill for provisions in H.R. 1977 that directly or indirectly amend laws under the jurisdiction of the Resources Committee. He noted in a letter to the Rules Committee that the Resources Committee had not considered the impact of changes that H.R. 1977 would make on a number of major environmental laws.

The rule also waives three sections of the Budget Act against consideration of the bill. Two of the waivers are needed to cover the salaries and expenses of the National Capital Planning Commission, which is a minuscule amount of spending. A third waiver covers a change in budget scorekeeping related to the sale of oil from the Strategic Petroleum Reserve.

As a matter of principle, we are normally reluctant to waive the Budget Act. However, because none of the provisions which require these waivers would have any real impact on our efforts to control spending, we do not consider the waivers here to be significant violations of the Budget Act.

An additional budget-related waiver contained in the rule is the waiver of clause 2(e) of rule XXI, which prohibits the consideration of nonemergency amendments to be offered to a bill containing an emergency designation under the Budget Act against amendments to the bill. H.R. 1977 contains at lest two such emergency designations but, without this waiver, no amendments to the bill could be considered.

Finally, Mr. Speaker, we could have had a more evenhanded rule, and probably a better outcome for the bill, had the majority accepted three amendments we offered to the rule in the Rules Committee yesterday.

One amendment would have allowed Representatives RAHALL and KLUG to offer an amendment to the bill that would renew the existing moratorium on new mining patent applications. A second amendment would have permitted Representatives BREWSTER and HARMAN to offer an amendment to apply any savings from spending cuts to a deficit-reduction lockbox. Both of these amendments would have required some of the same waivers that the rule already provides for provisions in the bill; as a matter of fairness, the majority should have been willing to provide waivers for these amendments as well, we believe.

And, in fact, as I mentioned at the beginning of my statement, if the previous question is defeated, we shall amend the rule to provide for consideration of the Brewster-Harman lockbox amendment.

The third amendment would have removed a waiver provided by the rule for language relating to the use of wildlife fees under the Emergency Wetlands Resources Act. Objection to this waiver was made by Representative YOUNG, chairman of the Resources Committee, as well as Representative DINGELL. Normally, the Rules Committee would accede to such an objection if it is made by the chairman of the relevant authorizing committee; in this case, for reasons not well explained to us yesterday, the majority decided not to do so.

Beyond our concerns about the rule itself, many of us have strong objections to the bill this rule makes in order, primarily because of the bill's deep cuts in funding for many important and useful programs—programs that cost very little for the immense value they add to the quality of the lives of tens of millions of American citizens.

We realize that the subcommittee on Interior had an extremely difficult task in determining just how to cut 12 percent of the funding for programs under its jurisdiction, especially since many of those programs have already been squeezed in recent years. But the subcommittee was in that position only because the Republican majority has imposed budget priorities that do not serve the best interests of our Nation. Those priorities are forcing us to cut next year's funding for the relatively modest programs in this bill, for example, by $1½ billion, so that we can fritter away hundreds of billions of dollars over the next several years on unnecessary increases in military spending, and on tax cuts that will mainly benefit the wealthiest among us.

These program cuts will cost our Nation dearly in countless ways:

The bill's 27-percent cut in energy conservation programs will mean a slowdown in the progress we have been making toward reducing our Nation's dependence on imported oil, as well as the cost of energy;

The cut of all but a nominal amount of funding for land acquisition for national parks, and other public lands, will mean that there will be less opportunity in the future for Americans to enjoy the experiences our national parks have to offer;

The 40-percent cut in funding for the National Endowments for the Arts and Humanities—the first step of a 3-year phaseout of both organizations—will mean that fewer Americans will be able to enjoy the very many cultural benefits these organizations have made possible;

And, the elimination of funding for prelisting and listing activities for endangered species will greatly impair our ability to save animal and plant species before they reach critical levels, and the result is likely to be the decline, and possible extinction, of many more species.

In these, and many other ways, the natural and cultural resources, resources of our Nation—resources that help make the United States the greatest nation on Earth—will be severely harmed by this bill. In this misguided attempt to save a modest amount of taxpayers' dollars, we will be robbing our Nation of some of its greatest strengths and assests.

Mr. Speaker, again, we urge Members to vote "no" on the previous question so that we can amend the rule to allow consideration of the Brewster-Harman deficit-reduction lockbox amendment.

Mr. Speaker, I reserve the balance of my time.

Ms. PRYCE. Mr. Speaker, I yield 2½ minutes to my good friend, the gentleman from Sanibel, FL [Mr. Goss], chairman of the Subcommittee on Legislative and the Budget Process.

(Mr. GOSS asked and was given permission to revise and extend his remarks.)

Mr. GOSS. Mr. Speaker, I thank my good friend from Columbus, OH [Ms. Pryce] for yielding me this time.

I rise in support of this remarkable open rule. I would point out to my good friend, the gentleman from California [Mr. Beilenson] we indeed are proceeding under the lockbox. Our subcommittee has already had hearings. We are diligently pursuing that. Things are happening. Under this resolution, the House will consider H.R. 1977, which is a remarkable open rule. The fiscal 1996 Interior appropriations bill is what it is about. It is under a completely open amending process.

Now, this in itself is not remarkable, I agree, since all but one of the appropriations bills this year has come to the floor under an open rule. However, what is remarkable about this rule is it is the first reported by our committee since the July 4 break, and what is remarkable is the decision to continue granting open rules.

We do this in good faith and with full regard to protecting the deliberative debate process for each and every Member despite the recent what I would call guerrilla campaign, to quote the newspapers, of dilatory tactics by some Members of this body.

I am pleased, and I think most of our Members are pleased, that a sense of comity has indeed been restored to the floor, and I hope we continue our work on these important bills which are the vital business of our Nation under a workable open process.

Mr. Speaker, the Interior appropriations bill is an especially important bill for our Nation and for Florida as well. It includes vital Everglades restoration money, which will complement the State of Florida's efforts to protect additional lands in or near the national park, and funding that will allow the Park Service to fix some of the hydrology problems in the park, to begin to restore the natural historical sheet flow to the legendary river of grass.

Also vital to Florida's economy is the annual outer continental shelf oil and gas exploration moratorium, which protects our fragile coastline from devastating oil pollution. While I recognize the early moratorium is not the best way to accomplish this goal, it is necessary while we work on a better long-term solution.

This year's Interior bill is not all good news. Many important programs have been drastically scaled back, as my friend from California has noted. Land and water conservation funds, for instance, used to fund land acquisition in our wildlife areas and elsewhere have been reduced by over 70 percent. This is a big hit.

But I understand the overriding need to balance our budget, and I applaud the chairman, the gentleman from Ohio [Mr. Regula], and the members of the Committee on Appropriations for their hard work trying to craft a reasonable solution, which is this bill.

I would ask my colleagues to support this rule, which provides for full debate, which is what I think the Committee on Rules should be proud of, and I urge the support for this rule.

Mr. BEILENSON. Mr. Speaker, I yield 3 minutes to the gentleman from Oregon [Mr. DeFazio].

Mr. DEFAZIO. Mr. Speaker, I thank the gentleman for yielding.

We have had quite a discussion of the need to cut, need to get the budget balanced, and as a supporter of the balanced budget amendment. I agree there. We have got to do it with a certain sense of priority.

We have also got to realize there are two ways to get a balanced budget. One is to make cuts, and the other is to raise revenues.

What this rule and consideration of this bill specifically prohibits is an egregious loophole which is being used by foreign corporations and by large corporations in America; that is, the giving away of the mineral lands of the western United States for $2.50 an acre.

Just last year a Canadian corporation which pays no income taxes in the United States, they do pay some employee taxes, but no income taxes, got a $10 billion resource for $9,700. That is the return to the U.S. taxpayers.

Now, if we are really serious, we would allow an amendment to this bill that would allow us to raise revenues to offset some of the unwise cuts in this budget.

What are the unwise cuts? Well, for example, we are going to eliminate the Bureau of Mines of the United States of America at the same time that we are allowing foreign corporations to come here and buy our precious mineral resources at $2.50 an acre. We are eliminating the United States Bureau of Mines, something that has been in existence for more than 100 years, an agency that has already been reformed, an agency which has cut its budget 20 percent in the last 2 years, an agency which helps develop the conservative use of these mineral resources, the safe environmental use of these resources.

□ 1915

They provide technical expertise to our small miners and prospectors. They work on safe extraction techniques for the people who work in the mines. They have developed restoration plans for bad mining practices that went on earlier in this century. They have developed ways to classify solid waste. They have developed ways to do in situ purification of heavily polluted waters.

No, we are going to eliminate them. We are going to eliminate the United States Bureau of Mines because we would not want to ask a foreign corporation like American Barrick to pay the American taxpayers a fair return for the extraction of those depletable mineral revenues, and under this bill we will not be allowed to ask those foreign corporations to pay, no. We will eliminate an essential agency, a vital function, investment of the United States Government before we will ask a foreign corporation to pay a penny.

We do not get the same privilege in their country. They should not get it for free here.

We are cutting other vital investments in this bill. We are cutting investments in State and private forestry. We are cutting investments in the O and C lands in the Western United States. We are cutting investment in the National Forest System management. We do not have enough money now to develop the plan proposed by the administration to manage the Federal forest lands in the Western United

States or to begin a deliberate program of forest health recovery across the lands that are ravaged in the inner Mountain States, in eastern Oregon, and other States.

We need more investment, and it is the place to get it, but it is not allowed under this bill.

Ms. PRYCE. Mr. Speaker, I yield 2 minutes to my friend, the gentleman from Massachusetts [Mr. TORKILDSEN].

Mr. TORKILDSEN. Mr. Speaker, I thank the gentlewoman from Ohio [Ms. PRYCE] for yielding this time to me.

Mr. Speaker, I speak in favor of this rule tonight. This rule is an open rule. It allows amendments to cut or strike any program, any program that someone does not like. They can feel free to offer an amendment to reduce the funds. They can feel free to offer an amendment to eliminate the funding and let the argument stand on its merits. But by defeating this rule, it will not allow a lot of issues to be debated, and the reason for this is because, as often happens, the authorizing process has not caught up with the appropriations process yet, however this bill does conform to the authorized levels as they are pending at this moment.

I think that is important to stress. Regardless of anyone's views on different programs within this appropriations bill, I think I would hope that all Members would agree they should be openly debated on this floor and let the majority of this body work its will.

Now there are a couple of programs that I think are very important. I know some Members here are planning on voting against this rule because they are opposed to the NEA and the NEH. I would say it would be a severe mistake if Members vote against this rule because they hope to kill those programs. Members can move to strike those programs if they wish; that is allowed for under this rule, but I would hope that we would keep the funding levels for them. As many Members would know, NEA and NEH have been reduced in funding under this appropriations bill. They are taking a substantial reduction, a reduction of a third this year in the case of NEH. People who want to attack those programs, if that is their opinion, they can do so by offering an amendment, but please do not try a back-door approach to this because that will prevent those issues from being voted on on their merits up or down.

Again I repeat, Mr. Speaker, this rule is an open rule. It allows every Member the chance to offer amendments to reduce or cut. Please do not take a back-door approach to try to scuttle programs and prevent debate on their merits.

I hope the rule is adopted.

Mr. BEILENSON. Mr. Speaker, I yield 3½ minutes to the gentlewoman from California [Ms. HARMAN].

Ms. HARMAN. Mr. Speaker, deficit hawks, freshman Members, lockbox supporters, Members of the House, this is a lockbox. It looks a lot like another box over there, a brown one that says Solomon on it. The gentleman from New York [Mr. SOLOMON] is a wise man, as was King Solomon of ancient days, and I am sure that his box is full of many wise documents.

But, Mr. Speaker, this lockbox is empty. It does not contain the savings that derive from the many cuts we have made to the appropriations bills we have already debated. Imagine this. Those cuts amount to so far $131.58 million. In fact just yesterday and today, Mr. Speaker, four amendments were adopted to the Energy and Water Development Appropriations Act totaling $20.48 million. That brings the total to $131 million. That money will not go to deficit reduction because we do not have the lockbox as part of this appropriations bill under this rule or the three previous appropriations bills.

In addition to that, Mr. Speaker, yesterday the Committee on Appropriations scooped up not only the $130 million in cuts we have passed, but other unused 602(b) spending allocations. It gave some of its subcommittees increased spending allocations and put more than $805 million in an unallocated 602(b) reserve, not a lockbox, a reserve. I say to my colleagues, When you add all this together, we are close to $1 billion in unused spending or spending cuts that will not go to deficit reduction. I call this hypocrisy.

Mr. LIVINGSTON. Mr. Speaker, will the gentlewoman yield since she has called the appropriators hypocrites?

Ms. HARMAN. I yield to the gentleman from Louisiana.

Mr. LIVINGSTON. Mr. Speaker, did the gentlewoman vote for the budget resolution?

Ms. HARMAN. Did I vote for the budget resolution 2 days ago?

Mr. LIVINGSTON. Yes.

Ms. HARMAN. No.

Mr. LIVINGSTON. Why not? The budget resolution calls for a decline in the deficit to the point that by the year 2002 the entire budget deficit will be eliminated.

Now is the gentlewoman not for budget reduction?

Ms. HARMAN. I certainly am for budget reduction, and I am a supporter of the balanced budget amendment and a supporter of the 7-year balanced budget sponsored by the gentleman from Texas [Mr. STENHOLM].

Mr. LIVINGSTON. I suggest, if the gentlewoman would yield, she should use the word "hypocrite" very carefully.

Ms. HARMAN. Mr. Speaker, I would agree that the gentleman has made a point, and, as a Member here who tries to operate on a bipartisan basis, I agree with that.

Mr. Speaker, let me conclude by saying this:

My point is that almost $1 billion in spending cuts and unused spending will not go to deficit reduction because the deficit lockbox, which was supported on this floor earlier this spring by 418 Members and only opposed by 5, cannot be offered as an amendment to this appropriations bill. It is precluded under this rule as it was precluded in the rules for the three previous appropriation bills. On that basis, without reference to the word hypocrisy but with reference to the word candor to the American people, I would urge a defeat of the previous question.

Ms. PRYCE. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from New York [Mr. SOLOMON], the chairman of the Committee on Rules and the author of this most fair and open rule.

Mr. SOLOMON. Mr. Speaker and my colleagues, I wish the gentlewoman from California [Ms. HARMAN] would not leave the floor because she knows I have great respect for her, and she has worked with us on a bipartisan basis, but I am more than a little taken aback because there has been a all-out effort on both sides of the aisle to really bring this lockbox concept into reality. We have been working together. The Committee on Rules and our subcommittee, the Government Operations Committee and the Committee on the Budget have held hearings in which the gentlewoman was invited to participate and to testify, and we all know that in the Crapo lockbox legislation, which is a Republican initiative, there are problems that need to be worked out so that we can make it work. There are problems with the Brewster-Harman approach which need to be worked out. We have to do it on a bipartisan basis.

The gentlewoman knows that we now are almost to the point of coming up with a consensus bill which I am sure she is going to agree to, and I am going to agree to, and we will hold another hearing on this, we will bring it to the floor in the form of a bill. We will do two things. We will bring it to the floor as a piece of legislation so that that can be debated and amended, if necessary, and then given to the President for his signature. Now that may never get past the other body because there is over in the other body a bird over there, and the bird is going to oppose anything like this, and we all know it. So, in tandem approach, which we have agreed to and we have worked on a bipartisan basis we also want to take this finally agreed to consensus piece of legislation and attach it to whatever appropriation bill is on the floor at the time, the next one that is available. We will make it not only retroactive, we will make it inclusive for all of the appropriation bills so that any action that has been taken thus far and will be taken in the future on these 13 appropriation bills, all of those cuts will end up in that lockbox.

Ms. HARMAN. Mr. Speaker, will the gentleman yield

Mr. SOLOMON. I yield to the gentlewoman from California.

Ms. HARMAN. Mr. Speaker, I am very excited about what the gentleman is saying. It is correct that on a bipartisan basis we are working to deal with the remaining technical issues.

It is the first time that I have heard that the lockbox would be retroactive. That is excellent. Retroactivity can deal with the issue I have raised today and the gentleman from Oklahoma [Mr. BREWSTER] and I have raised day after day in appearing before the Rules Committee. We are concerned that $130 million plus $800 million might escape the lockbox, and what the gentleman has just said about retroactivity is extremely reassuring.

Mr. SOLOMON. Well, it is, and just for example:

One of the problems we have is that we end up not comparing apples to apples. We end up with apples and oranges, and we cannot do that, but what we want to work to is so that the final conference report, whatever that level of spending is—in other words that locks it in. We lower those caps. That means the money never gets spent and the savings are there for the American people.

Mr. DREIER. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from California.

Mr. DREIER. Mr. Speaker, I thank the gentleman from New York [Mr. SOLOMON] for yielding this time to me, and I would simply like to ask my very good friend from the Palos Verdes Peninsula if in light of this strong statement that has come from the distinguished chairman of the Committee on Rules if she would now be inclined to support us on this open rule which is very fair and balanced and will, in fact, be inclusive of the lockbox provision once we come up with a bipartisan compromise.

Ms. HARMAN. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. I yield to the gentlewoman from California.

Ms. HARMAN. I appreciate the request, and I will consider the request, and I certainly do see progress here. I am extremely encouraged by the statements that were just made, and I would just like to commend the gentleman from Idaho [Mr. CRAPO] since he was mentioned. He is a classmate of mine, and he and I and many others have worked on this issue for over 2½ years, through two Congresses. The lockbox has wide popularity in this body and enormous popularity with the public. I think that if we can enact a real lockbox, as you have just described it, we will have done a great service for the American people. We will be well on the way to balancing the budget which we all support.

Mr. SOLOMON. Reclaiming my time, if I could, let me make an appeal to the gentlewoman because there is a lot riding on this.

As my colleague knows, we only have something like 13 legislative days, and maybe it is even less than that now, before the August 4 district work period break. We have to deal with these appropriation bills. If this Interior appropriation rule goes down tonight, I am going to tell the gentlewoman, it is going to jeopardize not only a telecommunication bill, if you are interested in that, an antiterrorism bill, if you are interested in that, or a banking and regulatory reform bill, if you are interested in that, because we are losing time that cannot be recovered. I even don't know how, if we pass this Interior rule tonight, how we are going to finish it by tomorrow night.

So I am just going to say to the gentlewoman she knows we are sincere in wanting to bring a lockbox bill to this floor. I am satisfied it is going to meet her satisfaction, it is certainly going to meet Mr. CRAPO'S and therefore the gentlewoman ought to support this rule tonight, and let us have faith in each other in solving this problem.

Ms. HARMAN. Let me just finally answer the gentleman that I may well do it, and let me state, further, that I am very concerned about the reason some others may oppose the previous question or the rule which is to eliminate any funding for the NEA and the NEH, actions I strongly oppose. So, for several reasons I will actively consider the gentleman's request.

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Mr. SOLOMON. Mr. Speaker, I thank the gentlewoman, and I think everybody who is interested in this issue ought to vote for this rule. We ought to get on with our business, because there is no time next week to deal with it. We are going to try to get something up. We are going to consult with the gentleman from Missouri [Mr. GEPHARDT] on your side, and the gentleman from Georgia [Mr. GINGRICH] on ours, both of whom support the concept, and let us move the legislation.

Mr. BEILENSON. Mr. Speaker, I yield 5 minutes to the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Speaker and members of the committee, I would hope that we would oppose this rule tonight and vote this rule down. I do so because of the numerous areas in which this legislation seeks to legislate on an appropriations bill in violation of the rules of the House of Representatives.

The rule provides for waivers so this can be done, but what in fact this means is that we rush to judgment in a number of areas where the committee of jurisdiction has not been allowed to have the debate and to weigh the merits of the various proposals being put forth.

These areas affect the Land and Water Conservation Fund Act, the Emergency Wetlands Resources Act, the California Desert Act, the American Indian Trust Fund and Management Resources Act. These are changes that were made in consideration with everybody on the committees of jurisdiction, and now they are seeking to change those without the debate and without the hearings.

Mr. Speaker, I have for many years opposed legislation on appropriations and tried not to do it when I was chairman of the committee and tried not to let the Committee on Appropriations do it, and in the last few years we have not done it. But here we see in a wholesale manner this take place.

Others, I think, should consider opposing this legislation because of what it does to environmental policy in this country. This is a dramatic step backward in time. It is a dramatic step away from science. It is the inhibiting of science.

It is very interesting that people say, with regard to the Endangered Species Act, they want decisions made upon science. Yet when we have the opportunity to gather that evidence, to protect our environment, to make rational decisions, to allow processes to go forward, we now see that they restrict the ability to even gather the evidence.

In my area, the National Biological Survey, and those kinds of efforts, use volunteers. They use volunteers from Chevron Corp., from Dow Chemical, from du Pont and others; employees who go out and do these counts and figure these issues out to help so we can provide for open space, habitat protection, and provide for economic development in our areas so that we can get on with home building and address those issues.

This says we can no longer do that. We can no longer conduct those surveys if we are using volunteers and, in fact, even if we have the permission of the landowner. That is a step back in my area in terms of economic development, and I think it is wrong.

This bill also lifts the moratorium on the leasing of Federal lands for mineral exploration. That means that we go back to the law of 1872. We continue to give away Federal resources for $2, $3, $4, $5 an acre and those mining companies can take hundreds of millions, and in some cases billions, of dollars of resources off the Federal lands and pay no royalties.

On the leases that they have right next door on private lands, they pay royalties for the privilege of doing that. But we are going to once again engage in that practice, because of what the committee did in lifting that moratorium.

This bill also goes in reverses: Reverses the decision made in the previous Congress with respect to the California Desert Wilderness bill and denies funding for the transfer of the East Mohave Preserve and does not allow us to carry out the decisions and the laws of the land with respect to the East Mohave, even over the objections of the local chambers of commerce, local supporters of that effort, newspaper editorials throughout the South and throughout the State of California asking that we go ahead with that provision to protect the East Mohave.

Mr. Speaker, I think that what you will see if you go through this legislation is that we have a fit of pique here against the environment, against a number of programs that have been very helpful to the protection of the environment in this country.

I would also say that the legislation on appropriations that is provided in this rule not only pertains to the Committee on Resources, it also pertains to the other committees, the Committee on Commerce and other committees where those actions have been taken.

Mr. Speaker, we should reject this rule. We should go back and write a rule that complies with the House rules, and we should get on with the debate and let the chips fall where they may. But we should not write special privilege into the bill and then protect it by the rule for those who seek to have a vote on that matter. I urge rejection of this rule.

Ms. PRYCE. Mr. Speaker, I yield 2 minutes to the gentleman from Colorado [Mr. SCHAEFER], chairman of the Subcommittee on Energy and Power of the Committee on Commerce.

Mr. SCHAEFER. Mr. Speaker, I rise reluctantly to support this rule today. I have these reservations because through this rule we are setting two dangerous precedents.

First, the rule waives all points of order against legislating on an appropriation bill and this has been done in many instances in the past by the authorizing committees. It has been done, but in this particular case, it was done despite the objection of the authorizing committee. Such a precedent seriously undermines the committee system.

Second, the language which is being protected allows the sale of oil from the Strategic Petroleum Reserve. If this sale goes forward, it will be done without any hearing or debate on the impact of such a sale and how it will affect our economy, our national emergency security, or domestic oil markets, our ability to comply with the international energy agreement which we have signed or the cost-effectiveness of taking such a step.

Mr. Speaker, at the appropriate time, I plan on offering an amendment that was made in order by the Committee on Rules to strike the language authorizing the oil sale. I firmly believe that an issue as important as this, whether or not we should maintain a viable oil reserve to protect us in times of oil shortages, deserves more consideration by this body than it has gotten so far. We should not carelessly throw away a national asset as valuable as the Strategic Petroleum Reserve.

Mr. BEILENSON. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Illinois [Mr. YATES], the ranking member of the Committee on Appropriations.

Mr. YATES. Mr. Speaker, by my standards, the interior appropriations bill for this year is not a good bill.

Our current national resources will suffer. The Indian people are going to take a big hit. The protection of our environment will be diminished. Our cultural resources will be severely ambushed. The program to help the needy with their weather problems has been cut most drastically.

Even though I feel that the bill is a bad bill, Mr. Speaker, nevertheless I will vote for the rule because the rule will make in order the National Endowment for the Arts, the National Endowment for the Humanities, and the Institute for Museum Services. Were the rule not to protect them because they have not been authorized, they would be stricken when they reached the floor on a point of order.

For that reason, therefore, Mr. Speaker, I shall support the rule.

Ms. PRYCE. Mr. Speaker, I yield 2½ minutes to the distinguished gentlewoman from Connecticut [Mrs. JOHNSON].

Mrs. JOHNSON of Connecticut. Mr. Speaker, I rise in support of this rule. These are difficult times and there are a lot of tough decisions in this bill, not all of which I agree with. But it does afford us a thoughtful outline through which to proceed through this section of the appropriations bill, and the open rule allows us all to bring forth whatever amendments we see fit and to have this body vote on them.

I know that there are strong feelings among some that we should eliminate immediately in one year NEA, NEH, organizations like that. I would just remind them that while we cut the TVA and the ARC, organizations that have a lot of opposition in this body, we did not pull the rug out from under them. We cut them. We gave them time for them and the States that they serve to think through how best to accomplish the goals that so deeply affect the people that benefit from the work of the TVA and the ARC.

The NEH does some extremely important things, as does the NEA and the Museum Services Administration. The NEH, for example, is sponsoring the brittle books program. The brittle books program will preserve valuable 19th century works printed on acidic paper which are now crumbling at an alarming rate.

Over 12 million unique items, books, maps, music scores, things that are critical to preserving, to tracking the historic and cultural heritage of this Nation, are at risk, and, frankly, only the Federal Government has either the expertise or the dollars to assure the preservation of that heritage.

Mr. YATES. Mr. Speaker, will the gentlewoman yield?

Mrs. JOHNSON of Connecticut. I yield to the gentleman from Illinois.

Mr. YATES. Mr. Speaker, the gentlewoman is exactly right. The National Endowment for the Humanities is the lead organization in preserving the brittle books that are being consumed by the erosion of the pages, and at least one-third of all the great books in this country are being consumed by that slow-burning process. That is why, if there were no other reason, that is enough to support the National Endowment for the Humanities.

Mr. BEILENSON. Mr. Speaker, I reserve the balance of my time, having no further speakers at this time.

Ms. PRYCE. Mr. Speaker, I yield such time as he may consume to my good friend, the distinguished gentleman from the great State of Ohio [Mr. REGULA], chairman of the Subcommittee on Interior of the Committee on Appropriations.

Mr. REGULA. Mr. Speaker, I thank the gentlewoman from Ohio and I rise in strong support of the rule.

Mr. Speaker, I would urge all the Members to vote for the rule. I say that because the rule allows ample opportunity to debate all the issues involved in this bill. It offers an opportunity, through amendments to change the dollar levels, to subtract from a program if you choose to do so. I know some would like to make a change in the dollars on NEA and NEH, and under this rule, they have every opportunity to do so.

The rule does provide waivers for some of the legislative items in the bill. But I want to say to all of you that at the urging of the leadership, we communicated very frequently and very thoroughly with the authorizing committees.

For example, on NEA, NEH and IMS, we followed the guidelines of the authorization bill that was passed out of the full committee of jurisdiction. The same thing is true on a number of other instances in the bill.

So, in the process of putting this bill together, we made every effort to ensure that it did represent something that was approved by the authorizing committees, that we were not appropriating in opposition to the legislative intent of the committees of jurisdiction. And, therefore, since there are some legislative issues and programs for which authorizations have expired in the bill, which we have worked out with the authorizers, they are protected by a waiver. But that does not preclude anyone from offering amendments to take out money or, for that matter, to add money.

We have tried in this bill, in the face of a reduction of almost $1.8 billion in budget authority, if you include the rescission bill, and a reduction of almost $1 billion in outlays, from 1995, or roughly 11 percent to help with the deficit reduction package, but nevertheless, to ensure that we provide ample funding to allow the people of this Nation to have access to the resources they enjoy.

□ 1945

I think we have, working with the subcommittee members, with the authorizers, with the leadership of the full Committee on Appropriations and others, crafted a bill that I think is responsible. I think it does the things that are important to the people of this Nation, addresses their needs while at the same time saving money.

We also tried to eliminate things that have downstream costs, which is necessary if we are to leave as a legacy to our children and grandchildren a balanced budget, something Alan Greenspan said in testimony before the Committee on the Budget, would result in providing them an improved standard of living over ours. If that is to be our legacy, we have to get on a glide path that will take us to a zero deficit in 7 years.

Therefore, in crafting the bill, we tried to avoid starting programs or funding programs or funding new construction, things that will have a substantial downstream cost because we recognize that in future years we will have even less to meet the challenges of this bill.

Having said all those things, I would strongly urge the Members to support the rule so that we can get on with an open debate on the policy issues. I want to say there are a lot of policy issues involved here. I hope the Members will pay attention to the debate so that they can help make the decision, because as we address these policy issues by virtue of amendments and vote on them, we are fulfilling our role under the Constitution.

We are the legislative branch. It is our role to set policy. It is the role of downtown, the President and his team, to execute policy. And there will be a number of opportunities under this rule and under the amendments that will be offered to make, I think, some rather significant policy choices.

We have tried in crafting the bill not to put a personal spin on it but to, rather, bring those issues to all the Members of this body.

So, again, I urge the Members to support the rule. You will have your opportunity during the open debate and the amendment process to express your concerns and your ideas on the policy issues embodied in this legislation.

Ms. PRYCE. Mr. Speaker, I yield 3 minutes to the very distinguished gentleman from Louisiana [Mr. LIVINGSTON], chairman of the Committee on Appropriations.

Mr. BEILENSON. Mr. Speaker, I yield 1 minute to the gentleman from Louisiana [Mr. LIVINGSTON].

The SPEAKER pro tempore (Mr. HASTINGS of Washington). The gentleman from Louisiana [Mr. LIVINGSTON] is recognized for 4 minutes.

Mr. LIVINGSTON. Mr. Speaker, I want to congratulate the Committee on Rules for putting together a good rule. I likewise would like to congratulate the distinguished chairman of the Interior Subcommittee of the Committee on Appropriations for putting together what I feel to be a good package.

I have been trying to remember ever being in the well or at one of the manager's tables in a debate on a rule in which some folks felt that the rule should be more restrictive, that the argument, the thrust was that the rule is too open. But that is basically the case. I cannot ever remember hearing that argument.

I had not really thought about it, but some folks believe that this rule should be more restrictive. The fact is, if anybody has any quarrel with anything in this bill, they can come to the floor of the House with a funds limitation amendment or move to strike anything they would like to zero. That is their purview under the rules of the House and this rule.

Some folks would say, well, what we really would like to do is strike things on points of order so that we do not have to vote on them.

Look, this is not a perfect world. Other people disagree with that. And I think that we ought to work our way through this bill, vote issues, vote issues up or down. If we have a majority on one side or another, let the majority prevail. Let us not deal with technicalities. Let us not get ourselves all tied up in knots.

Let me say this. If this rule goes down, the next rule will probably also go down, and we will not end up getting a rule passed that allows us to consider the Interior appropriations bill on the floor, which means that we will tie up the business of the House, possibly risk not having an August break, taking the whole schedule into September with additional complications and causing ourselves great problems.

Anybody that has an issue that they want debated on this floor of this House can bring it forward. Anybody that wants to limit any program in the bill to zero can offer that.

Mr. SOLOMON. Mr. Speaker, will the gentleman yield?

Mr. LIVINGSTON. I yield to the gentleman from New York.

Mr. SOLOMON. Mr. Speaker, I see the gentleman from Indiana [Mr. BURTON] sitting over here. I wish he would pay attention, too, because it is very important.

Under the old majority, under the Democrat majority around here, when there was an issue like the Endowment for the Arts and we wanted to cut it, which I always wanted to do, the Democrats would gag us. They would not allow us to bring that amendment to the floor. We are not going that way this year. We are opening up these rules so that any Member of this body if they do not like the Endowment for the Arts, the Endowment for the Humanities, they have a right to bring it on this floor. Let us fight it out like men and let us cut it. That is what I am going to help them do. But to try to say that we should gag these rules like we were forced to accept in the old days, that is dead wrong, and we are not going to do it around here.

Mr. DICKS. Mr. Speaker, will the gentleman yield?

Mr. LIVINGSTON. I yield to the gentleman from Washington.

Mr. DICKS. Mr. Speaker, I want to thank the chairman for the rule, the aspects of the rule that I asked for. We asked for a fair debate. I am surprised, my good colleague, the gentleman from Oklahoma, one of the great athletes, great competitors in this Chamber, I never thought I would see the day when he would want to prevail on a technicality, would not want to come out here and get it right, talk about the National Endowment for the Arts.

Let us have a fair debate. Let the Congress decide this issue. I am surprised at my good friend. I think the chairman is right; everybody can offer any amendment they want. This is an open rule.

To walk away from it because you want to win on a technicality, I think, is, I am surprised.

Mr. LIVINGSTON. Mr. Speaker, reclaiming my time, this is an open rule. There is a fair shot at any program in the bill. It ought to be adopted. I hope that our membership will vote for this rule.

Mr. BEILENSON. Mr. Speaker, I do want to point out to our good friend, the chairman of the committee from upstate New York, that past bills, past appropriations bills from this subcommittee have also been open, have come to the floor under open rules, and one was able under those rules in previous years to also attack the same institutions.

Mr. Speaker, I yield 3 minutes to the gentleman from Montana [Mr. WILLIAMS].

Mr. WILLIAMS. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I want to join with the gentleman's last comments. I have been here 17 years, and without exception—I hope the Members who came last January are paying attention to this—without exception, in every one of those 17 years this bill has come to the floor with an open rule. So all of the posturing about how, well, we are finally getting an open rule, particularly from the newer people in the

Chamber, is becoming a bit wearisome, tiresome and, worse, it is really inaccurate.

Now, let me join the leadership on the new majority side in supporting this rule. I think that folks who are urging a "no" vote, and that is Members on both sides, including my own leadership on this rule, are wrong. It is a bad bill? You bet. Very bad. Do the majority of Members and people in this country disagree in poll after poll with the specifics that are in this bill? Absolutely. This is a bad bill.

You put this bill up to a referendum with the American people, it could not pass. But we are not voting on the bill. We are voting on the rule. Do you know what the vote is on the rule, whether or not to protect the National Endowment for the Arts and National Endowment for the Humanities.

I urge my Democratic colleagues to vote "yes" on this rule. If you believe as I do that the National Endowment for the Arts and the National Endowment for the Humanities are worth protecting, these are the agencies that nurtured Garrison Keillor in Lake Woebegon. These are the agencies that created that wonderful film Civil War. These are the agencies that created the design for the Vietnam Memorial Wall. These are the agencies that created the film Baseball. These are the agencies that allowed the author to write Driving Miss Daisy.

These two agencies have nurtured this country, and this vote is whether or not to continue to support the National Endowment for the Arts, the National Endowment for the Humanities. A vote yes on this rule is a vote for these two very small but very important agencies to the cultural life of this Nation.

I urge my colleagues to vote "yes."

Ms. PRYCE. Mr. Speaker, I yield 1½ minutes to the gentlewoman from Maryland [Mrs. MORELLA].

Mrs. MORELLA. Mr. Speaker, I thank the distinguished gentlewoman for yielding time to me.

Mr. Speaker, I rise to express my support for the rule on H.R. 1977. I support open rules because they afford Members the opportunity to bring their concerns before the whole House. It is my understanding that some of my colleagues are opposing the rule because they oppose funding for the Arts and the Humanities.

The Interior appropriations bill funds the National Endowment for the Arts [NEA] and the National Endowment for the Humanities [NEH] at levels that match the recommendations of the Interior Subcommittee. Funding for these two agencies has been slashed by 40 percent. The Arts and the Humanities have absorbed their fair share of the budget cuts, and I want to urge my colleagues to oppose any efforts to eliminate or make further cuts in funding for the NEA and the NEH.

I wholeheartedly believe that Government should support the arts. Americans highly value the arts and culture in their lives. Art is the symbolic expression of who we are. It is how we remember. Here in the Capitol, the history of our Nation is documented in its art and architecture.

Cultural funding is a mere two one-hundredths of one percent of our multibillion-dollar budget. We spend 70 cents per person on the humanities and 64 cents per person on the arts—on history, English literature, foreign languages, sociology, anthropology, comparative religion, and other disciplines.

Let us take a closer look at the humanities.

Seventy cents per person buys teacher training programs. These programs provide professional development opportunities for our teachers to increase their knowledge of their field and pass it on to their students. It is estimated that the 1,000 teachers who participate each summer in NEH-funded summer institutes directly impact 85,000 students each year.

Seventy cents per person buys museum exhibitions throughout the country, both permanent and traveling, and learning experiences for children in museums. As a result of NEH-funded fellowships, nearly 2,000 books have been published, many of which have received national awards.

Mr. Speaker, our legislative agenda could have far-reaching implications for the cultural vitality of our Nation. It is important, even vital, that we support and encourage the promotion of the arts and humanities so that the rich and cultural story of our past can be made available to future generations.

I urge my colleagues to support the rule and oppose amendments that would greatly reduce or eliminate the NEA and the NEH.

Mr. BEILENSON. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. CUNNINGHAM].

Mr. CUNNINGHAM. Mr. Speaker, I would like to speak to my colleagues on our own side of the aisle. In 4 years, I never voted in this House for a rule unless it was an open rule. And that is what we fought for your right to come here for and that is why we fought for a majority.

In the last bill, there were some things that hurt California but it was an open rule. It was a fair and open debate. I did not like that. But that is the way that I think that we have to fight for this place.

The National Endowment for the Arts and the National Endowment for the Humanities are in my subcommittee. You are concerned that the Senate has a 7 year, we have a 3 year. I voted every single year to totally cut out the humanities, the National Endowment for the Arts, and if I thought it was going to go on indefinitely, I would do that again. But what I do want to do is allow the good programs that survive in this program to phase out over a 3-year period and let them establish their own endowment. I think that is fair, and I think that is fair under an open rule. I urge my colleagues to vote for this.

If you do not, in my subcommittee, I will not authorize it at all, if they try and go beyond that.

Mr. BEILENSON. Mr. Speaker, I yield 1 minute to the gentleman from Wisconsin [Mr. OBEY].

Mr. OBEY. Mr. Speaker, I rise to urge a vote against this rule. There are a lot of things in this rule that I would like to protect. But not at the expense of waiving points of order so that the action that Congress took last year on the California Desert Act can be, by fiat of the Committee on Appropriations' will, reversed.

I also do not think that we ought to reverse the Outer Banks Protection Act. I just do not think that we ought to be asked to pay the price for being asked to pay in terms of ignoring our responsibilities to the environment in order to pass this rule.

I think if Members are genuinely interested in having a bipartisan approach and a bipartisan rule, they will quit using the appropriations process to accomplish an idiological agenda that would not be possible under normal parliamentary circumstances.

I would urge strongly a vote against this rule. We can do better.

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Mr. BEILENSON. Mr. Speaker, I yield back the balance of my time and urge a "no" vote.

The SPEAKER pro tempore. (Mr. HASTINGS of Washington). The gentlewoman from Ohio [Ms. PRYCE] has 1½ minutes remaining.

Ms. PRYCE. Mr. Speaker, I yield such time as he may consume to the gentleman from Claremont, CA [Mr. DREIER], vice chairman of the Committee on Rules of the House of Representatives.

Mr. DREIER. Mr. Speaker, I thank my friend from Columbus for yielding me this time. I would like to congratulate her for handling this very challenging rule.

Mr. Speaker, I rise in strong support of this rule for several reasons, first and foremost, because I want to have a chance to vote as I have in the past to zero out the National Endowment for the Arts, to zero out the National Endowment for the Humanities. Guess what, this rule is going to give me a chance to do that. There some people who have been claiming that we will not have a chance to do that if we pass this rule. That is wrong.

I happen to be a very strong supporter of the arts. The former chairman of the subcommittee walking right up to the aisle there, the gentleman from Illinois [Mr. YATES], knows very well that my family has encouraged me to be a supporter of the arts. However, I want to see us do it privately. That is why I am going to support the Crane amendment, if we can get this measure through.

It is my belief that as we look at other way important provisions within this bill just discussed by the former chairman of the Committee on Appropriations, like defunding the California Desert Protection Act, that gives us another very important reason on our side of the aisle, especially, to vote in favor of this rule.

The other reason is the gentleman from New York [Mr. SOLOMON] made it very clear. When it comes to the lockbox, we are going to proceed and make retroactive, retroactive, the provisions that we come to, in a bipartisan way. This is a rule which is balanced, fair, and it is open. I would not dream of voting against an open rule. I cannot imagine why anyone would do that. It is fair, it is balanced, it allows us to zero out the NEA and the NEH. I believe everyone in this House should support it in a bipartisan way.

The SPEAKER pro tempore. All time has expired.

Ms. PRYCE. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. MILLER of California. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 235, nays 193, not voting 6, as follows:

[Roll No. 495]

YEAS—235

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Diaz-Balart
Dickey
Dingell
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Petri
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stockman
Stump
Talent
Tate
Tauzin
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—193

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bevill
Bishop
Bonior
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Costello
Coyne
Cramer
Danner
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Gonzalez
Gordon
Green
Gutierrez
Hamilton
Harman
Hastings (FL)
Hayes
Hilliard
Hinchey
Holden
Hoyer
Jackson-Lee
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Mollohan
Montgomery
Moran
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pomeroy
Poshard
Rahall
Rangel
Reed
Richardson
Rivers
Roemer
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Sisisky
Skaggs
Skelton
Slaughter
Spratt
Stenholm
Stokes
Studds
Stupak
Tanner
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Tucker
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NOT VOTING—6

Hall (OH)
Hefner
Hoke
Moakley
Reynolds
Stark

□ 2021

Mrs. MALONEY changed her vote from "yea" to "nay."

Mr. SHADEGG changed his vote from "nay" to "yea."

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. HASTINGS of Washington). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. BEILENSON. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 192, noes 238, not voting 4, as follows:

[Roll No 496]

AYES—192

Allard
Archer
Armey
Bachus
Baker (LA)
Ballenger
Barr
Barrett (NE)
Barton
Bass
Bateman
Bentsen
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Bunn
Bunning
Burr
Buyer
Callahan
Calvert
Camp
Canady
Castle
Clinger
Coble
Coleman
Collins (GA)
Combest
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Diaz-Balart
Dickey
Dicks
Doggett
Dreier
Dunn
Durbin
Ehlers
Ehrlich
English
Everett
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hefley
Heineman
Herger
Hobson
Hoke
Horn
Houghton
Hyde
Istook
Jackson-Lee
Johnson (CT)
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Latham

LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Maloney
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McKeon
Meyers
Mica
Miller (FL)
Molinari
Moorhead
Morella
Myers
Nadler
Nethercutt
Ney
Nussle
Oxley
Packard
Parker
Paxon
Pelosi
Petri
Porter
Portman
Pryce
Quillen
Quinn
Rahall
Ramstad
Regula
Riggs
Roberts
Rogers
Ros-Lehtinen
Roth
Roukema
Sanford
Sawyer
Saxton
Schaefer
Schiff
Schroeder
Schumer
Sensenbrenner
Shaw
Shays
Shuster
Skaggs
Skeen
Smith (NJ)
Smith (TX)
Solomon
Spence
Stump
Tauzin
Taylor (NC)
Thomas
Thornberry
Torkildsen
Upton
Vucanovich
Waldholtz
Walker
Walsh
Weldon (PA)
Weller
White
Whitfield
Wicker
Williams
Wolf
Yates
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—238

Abercrombie
Ackerman
Andrews
Baesler
Baker (CA)
Baldacci
Barcia
Barrett (WI)
Bartlett
Becerra
Beilenson
Berman
Bevill
Bishop
Bonior
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Brownback
Bryant (TN)
Bryant (TX)
Burton
Cardin
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clay
Clayton
Clement
Clyburn
Coburn
Collins (IL)
Collins (MI)
Condit
Conyers
Cooley
Costello
Cox
Coyne
Cramer
Crane
Danner
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dingell
Dixon
Dooley
Doolittle
Dornan
Doyle
Duncan
Edwards
Emerson
Engel
Ensign
Eshoo
Evans
Ewing
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Frank (MA)
Frisa
Frost
Funderburk
Furse
Gejdenson
Gephardt
Geren
Gonzalez
Gordon
Graham
Green
Gutierrez
Hall (OH)
Hamilton
Hancock
Hayes
Hayworth
Hilleary
Hilliard
Hinchey
Hoekstra
Holden
Hostettler
Hoyer
Hunter
Hutchinson
Inglis
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Johnston
Jones
Kanjorski
Kaptur
Kasich
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Largent
Levin
Lewis (GA)
Lewis (KY)
Lincoln
Lipinski
Lofgren
Lowey
Luther
Manton
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McIntosh
McKinney
McNulty
Meehan
Meek
Menendez
Metcalf
Mfume
Miller (CA)
Mineta
Minge
Mink
Mollohan
Montgomery
Moran
Murtha
Myrick
Neal
Neumann
Norwood
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Peterson (FL)
Peterson (MN)
Pickett
Pombo
Pomeroy
Poshard
Radanovich
Rangel
Reed
Richardson
Rivers
Roemer
Rohrabacher
Rose
Roybal-Allard
Royce
Rush
Sabo
Salmon
Sanders
Scarborough
Scott
Seastrand
Serrano
Shadegg
Sisisky
Skelton
Slaughter
Smith (MI)
Smith (WA)
Souder
Spratt
Stark
Stearns
Stenholm
Stockman
Stokes
Studds
Stupak
Talent
Tanner
Tate
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Tiahrt
Torres
Torricelli
Towns
Traficant
Tucker
Velazquez
Vento
Visclosky
Volkmer
Wamp
Ward
Waters
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Wilson
Wise
Woolsey
Wyden
Wynn

NOT VOTING—4

Ford
Hefner
Moakley
Reynolds

□ 2042

Mr. HAYWORTH and Mr. BARTLETT of Maryland changed their vote from "aye" to "no."

Messrs. SAWYER, GIBBONS, HASTINGS of Florida, DOGGETT, and SCHUMER changed their vote from "no" to "aye."

So the resolution was rejected.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 1996

Mr. REGULA. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 1977) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1996, and for other purposes; and pending that motion, Mr. Speaker, I ask unanimous consent that general debate be limited to not to exceed 1 hour, the time to be equally divided and controlled by the gentleman from Illinois [Mr. YATES] and myself.

MOTION TO ADJOURN

Mr. VOLKMER. Mr. Speaker, I offer a privileged motion.

The SPEAKER pro tempore (Mr. HASTINGS of Washington). The Clerk will report the motion.

The Clerk read as follows:

Mr. VOLKMER moves that the House do now adjourn.

The SPEAKER pro tempore The question is on the motion offered by the gentleman from Missouri [Mr. VOLKMER].

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. VOLKMER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 177, noes 238, not voting 19, as follows:

[Roll No. 497]

AYES—177

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barcia
Becerra
Bentsen
Berman
Bevill
Bishop
Bonior
Borski
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (MI)
Condit
Conyers
Costello
Coyne
Cramer
Danner
Davis
de la Garza
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Dooley
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Fowler
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gonzalez
Gordon
Gunderson
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hayes
Hilliard
Hinchey
Holden
Hoyer
Jackson-Lee
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Klink
LaFalce
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McKinney
McNulty
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Mollohan
Montgomery
Moran
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Orton
Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pomeroy
Poshard
Rangel
Reed
Richardson
Rivers
Roemer
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Sisisky
Skaggs
Skelton
Slaughter
Spratt
Stark
Stenholm
Stokes
Studds
Stupak
Tanner
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Wise
Woolsey
Wyden
Wynn
Yates

NOES—238

Allard
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Beilenson
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Bonilla
Bono
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cardin
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Collins (IL)
Combest
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Deal
DeLay
Diaz-Balart
Dickey
Doggett
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham

Green
Greenwood
Gutknecht
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Jacobs
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Kleczka
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Luther
Manzullo
Martini
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McIntosh
McKeon
Meehan
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Packard
Parker
Paxon
Petri
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stockman
Stump
Talent
Tate
Tauzin
Thomas
Thornberry
Tiahrt
Torkildsen
Traficant
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zimmer

NOT VOTING—19

Archer
Boehner
Boucher
DeFazio
Hefner
Lantos
Moakley
Ortiz
Oxley
Payne (VA)
Reynolds
Scarborough
Shaw
Taylor (NC)
Tucker
Waxman
Williams
Wilson
Zeliff

□ 2101

Mr. GRAHAM changed his vote from "aye" to "no."

Mr. JEFFERSON changed his vote from "no" to "aye."

So the motion was rejected.

The result of the vote was announced as above recorded.

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 1996

Mr. REGULA. Mr. Speaker, I withdraw my motion to go into the Committee of the Whole.

LEGISLATIVE PROGRAM

(Mr. GEPHARDT asked and was given permission to address the House for 1 minute.)

Mr. GEPHARDT. Mr. Speaker, I ask for this time to inquire of the distinguished majority leader about the schedule for the rest of this evening and tomorrow.

Mr. ARMEY. Mr. Speaker, if the gentleman will yield, I thank the gentleman for asking. With respect to the schedule for the rest of this evening, tomorrow, and possibly days beyond, let us start with this evening.

In a few moments, Mr. Speaker, we are going to ask that the House begin special orders. While those special orders are underway, the Committee on Rules will be meeting in order to consider a new rule for the Interior appropriations bill and/or possibly other rules.

We will, if necessary, later in the evening, have a recess of the House subject to the call of the Chair in order to enable the Committee on Rules to report those rules so that they can be taken up tomorrow.

In the meantime, I think it is safe to tell the Members that there will be no more recorded votes tonight and the House, of course, will reconvene at the appointed time tomorrow of 10 a.m. We would expect at that time, or very soon thereafter, to be picking up the new, more up to date, more passable rule on Interior appropriations and then be able to move on the bill tomorrow.

We would still try our very best, in examination of the dual considerations of Members' travel schedules, work period schedules, and our desire to move the bill, to work late tomorrow evening, perhaps, but then try our very best to enable Members to avoid having to work on Friday or the weekend.

But at this point, I cannot say anything more definite about that other than, obviously, it is our desire to be able to resolve the legislative schedule without trespassing against the Members' weekends. I hope to be able to be more clear in my understanding of this in a moment.

Mr. GEPHARDT. Mr. Speaker, if I could ask the gentleman from Texas [Mr. ARMEY], does the gentleman have a number of bills he would like to complete by late tomorrow night so that we could leave for the week, or do you know that at this point?

Mr. ARMEY. Of course, if the gentleman had his way, he would complete all the rest of these appropriations bills by tomorrow night and then everybody could take a vacation. But I would at least like to see us complete the Interior appropriations bill by tomorrow night. I would think that would give us the chance to reinstate our schedule for the August 4th district work recess period.

Our principal focus is to try to protect that departure time for that recess period while we complete the appropriations bills. So if we can find our way back on track as quickly as we can, then hopefully we can smooth things out a little bit again.

Mr. GEPHARDT. And would the gentleman further yield. I saw in a flyer that was on the floor from the distinguished majority whip earlier in the evening that you believe that the House will be in session now on Monday, July the 17th, and votes would begin at 5 p.m. Is that still your intention?

Mr. ARMEY. I am very confident that we will reconvene the House on Monday, the 17th, for votes to begin after 5 o'clock. My only concern right now is whether or not this front end we will get out and have our work down tomorrow night so that we can, as the flyer said, not have votes or work on Friday.

But yes, whenever we finish this week's work, we will be coming back next Monday for votes to begin after 5 o'clock in the evening.

Mr. GEPHARDT. I thank the gentleman.

Mr. ARMEY. I thank the gentleman.

REPORT ON NATIONAL EMERGENCY WITH RESPECT TO LIBYA—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 104–95)

The SPEAKER pro tempore (Mr. HASTINGS of Washington) laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on International Relations and ordered to be printed:

To the Congress of the United States:

I hereby report to the Congress on the developments since my last report of January 30, 1995, concerning the national emergency with respect to Libya that was declared in Executive Order No. 12543 of January 7, 1986. This report is submitted pursuant to section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c); section 204(c) of the International Emergency Economic Powers Act (IEEPA), 50 U.S.C. 1703(c); and section 505(c) of the International Security and Development Cooperation Act of 1985, 22 U.S.C. 2349aa–9(c).

1. On December 22, 1994, I renewed for another year the national emergency with respect to Libya pursuant to IEEPA. This renewal extended the current comprehensive financial and trade embargo against Libya in effect since 1986. Under these sanctions, all trade with Libya is prohibited, and all assets owned or controlled by the Libyan government in the United States or in the possession or control of U.S. persons are blocked.

2. There has been one amendment to the Libyan Sanctions Regulations, 31 C.F.R. Part 550 (the "Regulations"), administered by the Office of Foreign Assets Control (FAC) of the Department of the Treasury, since my last report on January 30, 1995. The amendment (60 Fed. Reg. 8300, February 14, 1995) added 144 entities to appendix A, Organizations Determined to Be Within the Term "Government of Libya" (Specially Designated Nationals ("SDNs")

of Libya). The amendment also added 19 individuals to appendix B, Individuals Determined to Be Specially Designated Nationals of the Government of Libya. A copy of the amendment is attached to this report.

Pursuant to section 550.304(a) of the Regulations, FAC has determined that these entities and individuals designated as SDNs are owned or controlled by, or acting or purporting to act directly or indirectly on behalf of, the Government of Libya, or are agencies, instrumentalities or entities of that government. By virtue of this determination, all property and interests in property of these entities or persons that are in the United States or in the possessions or control of U.S. persons are blocked. Further, U.S. persons are prohibited from engaging in transactions with these individuals or entities unless the transactions are licensed by FAC. The designations were made in consultation with the Department of State and announced by FAC in notices issued on January 10 and January 24, 1995.

3. During the current 6-month period, FAC made numerous decisions with respect to applications for licenses to engage in transactions under the Regulations, issuing 119 licensing determinations—both approvals and denials. Consistent with FAC's ongoing scrutiny of banking transactions, the largest category of license approvals (83) concerned requests by Libyan and non-Libyan persons or entities to unblock bank accounts initially blocked because of an apparent Government of Libya interest. The largest category of denials (14) was for banking transactions in which FAC found a Government of Libya interest. One license was issued authorizing intellectual property protection in Libya and another for travel to Libya to visit close family members.

In addition, FAC issued one determination with respect to applications from attorneys to receive fees and reimbursement of expenses for provision of legal services to the Government of Libya in connection with wrongful death civil actions arising from the Pan Am 103 bombing. Civil suits have been filed in the U.S. District Court for the District of Columbia and in the Southern District of New York. Representation of the Government of Libya when named as a defendant in or otherwise made a party to domestic U.S. legal proceedings is authorized by section 550.517(b)(2) of the Regulations under certain conditions.

4. During the current 6-month period, FAC continued to emphasize to the international banking community in the United States the importance of identifying and blocking payments made by or on behalf of Libya. The FAC worked closely with the banks to implement new interdiction software systems to identify such payments. As a result, during the reporting period, more than 171 transactions involving Libya, totaling more than $6.5 million, were blocked. As of May 25, 27 of these transactions had been licensed to be released, leaving a net amount of more than $5.2 million blocked.

Since my last report, FAC collected 37 civil monetary penalties totaling more than $354,700 for violations of the U.S. sanctions against Libya. Eleven of the violations involved the failure of banks to block funds transfers to Libyan-owned or -controlled banks. Two other penalties were received from companies for originating funds transfers to Libyan-owned or -controlled banks. Two corporations paid penalties for export violations. Twenty-two additional penalties were paid by U.S. citizens engaging in Libyan oilfield-related transactions while another 54 cases of similar violations are in active penalty processing.

Various enforcement actions carried over from previous reporting periods have continued to be aggressively pursued. The FAC has continued its efforts under the "Operation Roadblock" initiative. This ongoing program seeks to identify U.S. persons who travel to and/or work in Libya in violation of U.S. law.

Several new investigations of potentially significant violations of the Libyan sanctions have been initiated by FAC and cooperating U.S. law enforcement agencies, primarily the U.S. Customs Service. Many of these cases are believed to involve complex conspiracies to circumvent the various prohibitions of the Libyan sanctions, as well as the utilization of international diversionary shipping routes to and from Libya. The FAC has continued to work closely with the Departments of State and Justice to identify U.S. persons who enter into contracts or agreements with the Government of Libya, or other third-country parties, to lobby United States Government officials or to engage in public relations work on behalf of the Government of Libya without FAC authorization. In addition, during the period FAC attended several bilateral and multi-lateral meetings with foreign sanctions authorities, as well as with private foreign institutions, to consult on issues of mutual interest and to encourage strict adherence to the U.N.-mandated sanctions.

5. The expenses incurred by the Federal Government in the 6-month period from January 7 through July 6, 1995, that are directly attributable to the exercise of powers and authorities conferred by the declaration of the Libyan national emergency are estimated at approximately $830,000.00. Personnel costs were largely centered in the Department of the Treasury (particularly in the Office of Foreign Assets Control, the Office of the General Counsel, and the U.S. Customs Service), the Department of State, and the Department of Commerce.

6. The policies and actions of the Government of Libya continue to pose an unusual and extraordinary threat to the national security and foreign policy of the United States. In adopting UNSCR 883 in November 1993, the Security Council determined that the continued failure of the Government of Libya to demonstrate by concrete actions its renunciation of terrorism, and in particular its continued failure to respond fully and effectively to the requests and decisions of the Security Council in UNSCRs 731 and 748, concerning the bombing of the Pam Am 103 and UTA 772 flights, constituted a threat to international peace and security. The United States continues to believe that still stronger international measures than those mandated by UNSCR 883, possibly including a worldwide oil embargo, should be imposed if Libya continues to defy the will of the international community as expressed in UNSCR 731. We remain determined to ensure that the perpetrators of the terrorist acts against Pan Am 103 and UTA 772 are brought to justice. The families of the victims in the murderous Lockerbie bombing and other acts of Libyan terrorism deserve nothing less. I shall continue to exercise the powers at my disposal to apply economic sanctions against Libya fully and effectively, so long as those measures are appropriate, and will continue to report periodically to the Congress on significant developments as required by law.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *July 12, 1995*.

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. LONGLEY). Under the Speaker's announced policy of May 12, 1995, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

REPORT ON H.R. 2020, TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT APPROPRIATIONS BILL, 1996

Mr. LIGHTFOOT, from the Committee on Appropriations, submitted a privileged report (Report No. 194–183), on the bill (H.R. 2020) making appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain independent agencies, for the fiscal year ending September 30, 1996, and for other purposes, which was referred to the Union Calendar and ordered to be printed.

The SPEAKER pro tempore. All points of order are reserved on the bill.

CHANGING THE STATUS QUO IN CONGRESS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia [Mr. KINGSTON] is recognized for 5 minutes.

Mr. KINGSTON. Mr. Speaker, we have tried to revise the way we do business in Congress. Everybody is excited about getting out early tonight. We have done a lot of things to revise and change the status quo in Congress. And this freshman class and this new majority has really just rebuilt the way we do business.

As Chairman of the Committee on Agriculture, PAT ROBERTS says, "The status quo doesn't live in Washington, D.C. anymore."

One of the things we did early on is pass a balanced budget amendment in the House. Now, the United States' other body has not seen fit to pass the balanced budget amendment yet, but in the House of Representatives, we are living under the philosophy that we did pass the balanced budget.

It is the intent of the American people to balance the budget and all of our appropriations bills are moving us in the direction of having a balanced budget by the year 2002. Now, a lot of people ask me why are you waiting seven years? And unfortunately it does appear that there are so many programs, it is so complicated when you are spending $1.4 trillion, that you have to go about these things slowly.

Part of the mechanism for balancing the budget is reducing spending, consolidating Government agencies, eliminating bureaucracies, eliminating duplications, getting some of the redtape off of small businesses and large businesses so that they can grow, expand in the economy, create more jobs, and bring in more tax revenues as a result of that.

I see the gentleman from Ohio [Mr. HOKE] is here, the able-bodied chairman of the Theme Team, the most articulate Member of the floor. If the gentleman would like to add to this, I will yield to you.

Mr. HOKE. I appreciate the gentleman from Georgia [Mr. KINGSTON] yielding to me. There seems to be a great deal of commotion here in the House this evening. We failed in passing a rule and we almost devolved into the Committee of the Whole to deal with this Interior appropriations bill without a rule.

□ 2115

Can you tell me what is going on?

Mr. KINGSTON. What has been going on is that the appropriations process, this $1.4 trillion that we spend each year of taxpayer's money and future taxpayers' money, because we deficit spend, as you know, it is broken down in 13 different bills. Each of those bills has a number of cuts; each of those bills has a number of eliminations of policies; each of those bills reduces the growth of spending. And because of that, the Interior bill is controversial, as any other of the 13 bills are, because Members feel very strongly about certain pet projects that are being cut and so forth or being reduced.

So as has been the case here lately, now that we are getting into the appropriations cycle, there is a little more friction, often between parties but sometimes intraparty, among the House Members. So we are having to adjourn for the evening here.

Mr. HOKE. We are certainly not going to adjourn. I hope we are going to continue to talk about it.

Mr. KINGSTON. You and I are, but we are not going to have any more votes tonight until Members agree to the final print in the appropriations process.

One of the things, as you know, that we do is when we reduce spending on a bill, we try to earmark the funds from one area to the other. So a lot of times a guy from one area of the country will try to cut spending from somebody else's area, because it is cheap. There is a political cost to him or her.

Mr. HOKE. Are you suggesting that one person's, one Member's pork is another Member's laudable project of great American strength and importance?

Mr. KINGSTON. The gentleman is a learned politician and that is true.

I was not here, neither were you, when we had the infamous Lawrence Welk debates where the U.S. Congress was funding the Lawrence Welk Museum. I am not sure where he was from.

Mr. HOKE. I can assure you it was not from my district.

Mr. KINGSTON. Of the 435 House districts, all of them but one thought that that was pork. And, yet, we all have that problem.

Mr. HOKE. Would the gentleman yield for a question?

Mr. KINGSTON. Certainly.

Mr. HOKE. To be a little bit more serious, it seems to me that there is a question about this particular bill and the rule and whether what we have seen here tonight is a reflection of a systemic problem in the House with respect to the appropriations process or if what we are dealing with is a problem with respect to this specific bill.

I have some strong feelings about that, that this in fact reflects a systemic problem in the whole appropriations process in the way that we spend money, the taxpayers' money. But maybe it is just about this bill. What are your thoughts?

Mr. KINGSTON. I do not think the problem that we are having right now is directed toward the Interior appropriations bill. It has to do with money.

MEDICARE

The SPEAKER pro tempore (Mr. LONGLEY). Under a previous order of the House, the gentleman from Pennsylvania [Mr. FOX] is recognized for 5 minutes.

Mr. FOX of Pennsylvania. Mr. Speaker, I appreciate the opportunity to address my colleagues tonight with regard to some very important legislation the House will be taking up in the weeks and months ahead.

With health care being so important and with making sure that our constituents get the kind of health care delivery that is so important, I am happy to see that the House is looking to two very important areas.

The first one would be Medicare preservation. We know that within 7 years, if nothing is done, Medicare, as we know it, will not be, in fact, here in the United States. So the Republicans and Democrats are working together to try to make sure that Medicare is preserved.

In my own district of Montgomery County, PA, we have a Medicare preservation task force. We are having a meeting tonight for the purpose of having seniors and others who live in the district to come up with ways and means to make sure that we eliminate the fraud and abuse and waste that is in the system.

The Congressional Budget Office has come up with the fact that, and the GAO, that in fact there is $44 billion in waste, fraud, and abuse in the Medicare and Medicaid systems. If we eliminate that kind of fraud, waste, and abuse, we will get to the heart of what has to be done to reform Mr. Speaker.

Mr. KINGSTON. Mr. Speaker, will the gentleman yield?

Mr. FOX of Pennsylvania. I yield to the gentleman from Georgia.

Mr. KINGSTON. One of the things I want to make sure I understand clearly on Medicare is, I hear that the Republicans are changing it and, yet, is it not the Clinton-appointed Democrats who are saying that Medicare is going to be broke in under 6 years; is that correct?

Mr. FOX of Pennsylvania. That is correct. The fact is that the bipartisan task force studying Medicare has come up with the fact that, in fact, we will be out of money in 7 years. Most of the Clinton appointees, the Secretary of Health and Human Services and others, have clearly said we are going to have a problem. What is interesting about the President though is that he has come up with no solution for it.

Mr. KINGSTON. But the gentleman, if he will continue to yield, it is the Clinton Democrats who are saying Medicare is going broke and yet it is Members of the Republican Party who are trying to preserve and strengthen Medicare through reforms?

Mr. FOX of Pennsylvania. What we are trying to do is make sure we eliminate the fraud, abuse, and waste in the system.

Mr. KINGSTON. What has the Democrat leadership done through the Clinton administration or through the House to offer Medicare solutions?

Mr. FOX of Pennsylvania. They have been absent without leadership; there has been nothing at all.

Mr. KINGSTON. Yet they are criticizing what we are trying to do when we talk about strengthening and preserving the system.

Mr. FOX of Pennsylvania. You are right. We are the ones who in this session have already met and worked with seniors to make sure that we help them earn beyond $11,028 a year, to make sure that in the next 5 years if they earn $30,000 without deducting for Social Security, and we are also saying, the same leadership of this House that has always come forward with the idea of rolling back the unfair 1993 Social Security tax increase, we are here working in a bipartisan fashion, I believe, to try to come up with the kinds of solutions that are meaningful. And it may be that from our own districts, our own Medicare preservation task forces will see that managed care is an option. We will see that the fraud, abuse, and waste is certainly a part of the equation. We need to hear from the American public so that we can make sure we preserve and protect and expand Medicare.

Mr. HOKE. Mr. Speaker will the gentleman yield?

Mr. FOX of Pennsylvania. I yield to the gentleman from Ohio.

Mr. HOKE. Mr. Speaker, I have a chart here that I think goes to exactly what the gentleman is talking about. This is a quotation from the trustees of the Medicare trust fund. These are five people, men and women appointed by the President of the United States. It includes three members of the President's Cabinet, Cabinet Secretaries Shalala, Rubin, and Reich, and the specific quote here is that the fund, the Medicare Health Insurance Trust Fund is projected to be exhausted in 2001.

You have to ask yourself the question, is there a problem or is there not a problem? If there is a problem, then it seems to me that our responsibility as elected officials, as people who have been elected, Members of Congress that have been elected by the people in their districts to represent them, that if there is this problem that is a pressing problem, if it has been identified by the trustees of the President's trust fund, that we have an absolute responsibility to deal with that. And that if we do not deal with it, we are abrogating that responsibility in a way that is completely without precedent and terribly, terribly irresponsible in terms of the implications it has for the rest of the country.

Mr. BAKER of California. Mr. Speaker, will the gentleman yield?

Mr. FOX of Pennsylvania. I yield to the gentleman from California.

Mr. BAKER of California. Mr. Speaker, what you are saying then is if we do nothing by 2002, the Medicare trust fund then becomes insolvent?

Mr. FOX of Pennsylvania. That is correct.

Mr. BAKER of California. I think then we have an obligation, because we were elected by the people to preserve, protect and strengthen Medicare, not to kill it, that we have to take some action which will allow it to live beyond just our generation.

Is that the point the gentleman is making, it that what the trustees, the Democrat members of the trustees have said?

Mr. FOX of Pennsylvania. That is correct.

MORE ON MEDICARE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio [Mr. HOKE] is recognized for 5 minutes.

Mr. HOKE. Mr. Speaker, we have got 5 minutes remaining. I would like to pursue what you were just talking about, Mr. BAKER.

I think you are absolutely right. It seems to me, here is what we have got to realize, is that there is a genuine problem here. It is very easy, with any of these problems in Congress, to subject them to demagoguery, to subject them to hyperbole, to subject them to political talk that is essentially designed to sway people in a way that will give the speaker a political advantage.

The question that you have to ask yourself, as a Member of Congress, that I have to ask myself and that, frankly, the public has got to figure out for themselves is, they have got to cut through the politics of it and decide, is there or is there not a problem? And the truth is that there is a problem. It was not identified yesterday. It was not just identified in April 1995. It has been identified in the previous trustees reports of the past several years that Medicare is going broke.

Mr. BAKER of California. Mr. Speaker, if the gentleman will yield, that must mean that it is the previous two administrations' trustees have told us that is we do nothing, then that line that Mr. KINGSTON from Georgia is showing us will take effect. This is Medicare part A. This is hospitalization. This is nothing that we can fool with, if we want Medicare to be preserved, strengthened and protected for future generations.

Mr. KINGSTON. Mr. Speaker, if the gentleman will yield, this is the report of the Clinton, the Democrat Clinton trustees that came out in April.

Mr. HOKE. April 3, 1995.

Mr. BAKER of California. Previous administrations also have made the same conclusion, that we have about a $140 billion trust fund that will be exhausted because we are now for the first year spending more than we are taking in.

The seniors in my district, who are relatively affluent, want more for their children than they do for themselves. And they want this system to continue. So they are not greedy and they are not selfish. They know there is a problem, but they want us to do something. I wonder if we have the guts and political will to do something.

Mr. KINGSTON. Is it not the intent of this Congress, this Republican majority, to increase spending on a per person basis on Medicare from a $4,800, approximate——

Mr. HOKE. Reclaiming my time, what I have heard on television and I have seen it in some news reports is that the Republicans are slashing spending on Medicare.

Mr. KINGSTON. But, in fact, is it not true that the committees are talking about going from about $4,800 per person to $6,400 per person? Those are round numbers. Is that not an increase over the next seven years?

Mr. HOKE. I just happen to have a chart that shows exactly what we are going to do here. We are going to go from $4,816 per person per beneficiary per year up to $6,734 per beneficiary per year. That takes into account all of the new additions to the Medicare population, Medicare ranks.

I think maybe even more interesting is another chart that shows you that we are going to go on a per beneficiary per month basis from about $401 in 1995 to $561 per month per beneficiary in 2002. We are going up from $178 billion in 1995 to $274 billion in 2002.

Obviously, our challenge as a nation, our challenge as a Congress is to give solutions and reforms that will make it possible for us to serve the Medicare population using this number of dollars.

But it is crystal clear that what we are doing is from where we are today at $178 billion, which is covering that population, we are increasing up to $274 billion in 2002. I think that that is a pretty important fact that the public deserves to know.

Mr. KINGSTON. As Mr. FOX of Pennsylvania said earlier tonight, we are looking at ways to slow the growth, the expense of Medicare to the senior citizens. Medicare inflation right now is about 11 percent. Regular medical inflation is lower than that. Regular inflation, I think, is about 4 percent. So we are trying to reduce that level of cost increase.

Mr. HOKE. What you are saying is completely correct. The health care component of inflation in the private sector right now is about 4.4 percent. But in fact there are other models in the private sector of specific companies or industries that have been able to flatten their health care costs completely, no increase whatsoever, while giving as much as greater choice and service to the people that they are covering.

□ 2130

Mr. HOKE. We ought to be looking at those kinds of models to in fact improve Medicare for the senior citizens of America.

Mr. KINGSTON. Well, the thing that I am curious about is this administration made such a big play on health care reform, it is interesting that they are absent to the Medicare, except to criticize.

Mr. BAKER of California. Well, let me summarize, because we have run out of time, if the gentleman from Ohio will yield one more second, and that is we have established now, there is a problem, because two generations of trustees, Republican and Democrat, have told us we start going broke this year and we will finish going broke in Medicare part A by 2002. It is not a Democratic problem, it is not a Republican problem, it is a congressional problem and we have to act.

Mr. HOKE. It is an American problem.

BONNEVILLE POWER CONTRACTUAL OBLIGATIONS

The SPEAKER pro tempore (Mr. LONGLEY). Under a previous order of the House, the gentleman from Nebraska [Mr. CHRISTENSEN] is recognized for 5 minutes.

Mr. CHRISTENSEN. Mr. Speaker, I rise today to denounce one of the most outrageous and arrogant abuses of government power that I have witnessed since coming to Washington. Sadly, it involves a U.S. Government agency, the Bonneville Power Administration, or better known as BPA, which unilaterally has refused to honor an electric power contract with a Nebraska company, Tenaska Washington Partners II. This decision, if not reversed immediately, could wind up costing the American taxpayer over $1 billion.

To give you a little background on this situation, back in 1991, Bonneville Power issued a request for proposals. They were needing to build some more power into their unit and so they were looking to expand and they sent out a request for proposals. Over 102 bidders responded. Of those 102 bidders, Tenaska won the bid. Well, they went ahead and constructed the facility and are almost 70 percent complete by now. Just last month they went over the 70 percent completion.

In April 1995, Bonneville Power informed Tenaska that the power administration no longer intended to honor the power contract, claiming recent dramatic reductions in projected demand for Bonneville Power. In subsequent correspondence and meetings, Bonneville Power repeatedly has stated that it will not perform its obligations under the power purchase agreement.

Bonneville's action here constitutes a willful repudiation of a valid, binding contract. Bonneville Power has never alleged, nor can they allege, that there has been any fault on the part of Tenaska. In so doing, Bonneville Power violates the principle of the sanctity of contract, a principle that is so fundamental under U.S. law that it underlies every business transaction.

Indeed, the U.S. Secretary of Energy, the head of the very agency which supervises Bonneville Power, recently has explained that breaking a contract in the power industry could substantially inhibit the development of more competitive wholesale power markets, concluding that a competitive market simply will not flourish if the integrity of contractual agreements is subject to question.

Well, that is exactly what has happened here, Mr. Speaker. If Bonneville Power fails to correct what has gone on in the past few months, Tenaska will have no other recourse than to resort to litigation. With the law clearly on Tenaska's side, Bonneville Power should expect that any forum which hears this dispute will likely hold Bonneville Power liable to and for damages, perhaps in excess of $1 billion.

Why $1 billion? Well, this represents the amount of money already expended by Tenaska in construction of its power facility, plus the net present value of what it could expect to receive under the contract. The ability of an aggrieved contracting party to obtain such damages is a fundamental principle of American contract law.

Bonneville Power officials have claimed that there is not enough money in the power administration's trust fund to pay for such damages. Accordingly, American taxpayers would be forced to bail out Bonneville Power to the tune of over $1 billion. The money likely would come from either the Federal Judgment Fund supported by general tax dollars, or from a significant rate hike on Bonneville Power customers.

By taking this action, Bonneville perhaps believes that it is wiser to incur a greater expense later via litigation when a far lesser expense can be incurred today through honoring the contract. What I think is probably more likely the situation that Bonneville Power has chosen here is they would prefer that the money come from another part of the government instead of their own budget.

Such reasoning I believe would be an extraordinary abuse of power. I know that the people of Nebraska, the people that I represent, do not want to be stuck paying the tab for Bonneville Power's unwillingness to live up to its contractual agreement, a signed document. I doubt that any other taxpayer in this country would be pleased that Bonneville Power is spending our money in such an unwise fashion.

I believe the only logical solution is for Bonneville Power to honor its written contract with Tenaska. In order to abide by the law, retain its political viability, and provide for fundamental fairness to its contractors, Bonneville Power must honor its contractual obligations by enabling the Tenaska plant to produce power and to serve Bonneville Power and its customers just like they agreed to and just like they have and will perform.

You know, Mr. Speaker, in a day and a time when the American people are wondering about the efficiency of the Department of Energy, I believe that them stepping forward and telling one of their agencies to honor the contract like they agreed to would be a good step in the right direction.

MEDICARE CUTS

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Washington [Mr. MCDERMOTT] is recognized for 60 minutes as the designee of the minority leader.

Mr. MCDERMOTT. Mr. Speaker, I rise tonight to discuss the impact of the proposed Republican Medicare and Medicaid cuts on American families and the health delivery system as a whole.

The American people have heard a great deal of rhetoric from the Republicans about how Medicare must be cut to save the trust fund.

The Republicans want you to believe that they are being forced to make drastic cuts in your Medicare benefits because the system is about to collapse. But the first thing I want to say to you tonight is that the Republican Medicare cuts have nothing whatsoever to do with saving the Medicare trust fund.

We can all agree that health care costs in general and Medicare costs in particular must be contained to assure long-term security for our Nation and its senior citizens.

In fact, if the Republicans were to be totally honest, they would tell you that the real problem for Medicare comes in 2010 when the first of the baby-boomers enter the program and Medicare enrollment expands dramatically.

The Republican Medicare cut proposal does nothing to confront the real Medicare solvency problem.

In the short run, we can and should stabilize the Medicare trust fund and assure that we can keep our promises to the American people, but this is nothing new. The stability of the Medicare trust fund has always required attention.

In the mid-1970's, the Medicare trust fund was due to expire in 2 years. The same problem recurred in the early 1980's. A 7-year window for the trust fund is about average.

We have always moved quickly and responsibly to keep the trust fund solvent. Under a Republican majority, this will be very difficult, but Democrats are committed to preserving Medicare without breaking our commitment to senior citizens and their families.

In trying to understand these Medicare cuts ask yourself, Why are the Republicans making such drastic and painful cuts? Can't you save Medicare without hurting older Americans?

The answer is yes. But the Republicans need to cut $270 billion out of Medicare so that they can pay for their tax cuts to the well-off and balance the budget by an arbitrary date they picked from a campaign booklet.

They need $270 billion from Medicare to pay for a $245 billion tax cut. They are simply using Medicare as the bank to pay for tax cuts and deficit reduction.

The Medicare trust fund problem is not making these cuts happen. You do not need to take $270 billion out of Medicare—as Republicans propose to do—to save the trust fund.

It is hard to fully understand the magnitude of the cuts proposed by the Republican majority in this Congress. Republicans have proposed cutting substantially more funds from Medicare in the next 7 years than the program spends for its entire costs in 1 year.

Republicans want to limit the rate of growth for the program that provides health insurance to the oldest and the sickest in our population to a rate of growth per person that is almost one-half of the rate of growth per person for the private insurance industry.

The private health insurance industry provides insurance primarily to people that are younger and healthier than the Medicare population. Yet, private premiums and payments still will be almost double the funding provided for the health insurance for the Nation's elderly under the Republican proposal.

I put this chart up here because the blue is for the expected Medicare voucher, and this is the cost, the green is what it costs in the private sector. Each year you can see that the private sector is going up much faster than the voucher is, and that is what is written into their proposal. Senior citizens' out-of-pocket expenses are estimated to increase by at least $3,500 per person under the Republican proposal. Each Medicare beneficiary will have less health care and fewer benefits as the number of Medicare beneficiaries grow, while the dollars shrink, all to pay for tax breaks for the wealthy and a budget tied to Wall Street instead of Main Street.

Now, as people are thinking about this, they really have to think, how will these cuts be achieved? The strongest possibility promoted by the Republicans is to issue vouchers to senior citizens to buy insurance. But the kicker is that the value of the voucher won't be enough to pay for an adequate insurance policy. Senior citizens will have to pay for the difference between the value of the voucher and the cost of the insurance policy. By the year 2002, the cost of private insurance is expected to be 18 percent more than the Medicare voucher is worth.

That is really what this chart is all about. They start out easy on people. They give them the amount of money that an actual insurance policy would cost in 1995. The next year they give them a little less than it would cost, and by the year 2002, you can see that the voucher will be worth $6,500, and they estimate that the cost of an adequate policy to cover what is necessary will be $7,600. Now, that is $1,200 that the senior citizen will have to come up with out of their own pocket because Medicare itself will not cover the cost.

☐ 2145

The result will be that seniors will be forced into the most restrictive HMO's. Contrary, and I say again, contrary to the Republican rhetoric, the vouchers will not be used to give seniors more choice. They will not have more choice because they will not have the money to buy an adequate policy. They will have to buy the cheapest policy possible and if it is adequate or inadequate, that does not make any difference to the Republicans. All they want to do is save the money and force a tax increase on senior citizens of $1,200 a year.

Underfunded vouchers will lead to a loss of choice. They will be used to take away the free choice of provider, the ability to decide which physician you want to see, which hospital you want to be in. You are going to be in an HMO, a managed care operation that will tell you, "This is the doctor you can see. This is the hospital you must go to."

In the present Medicare program, senior citizens have the maximum choice. They can go to any doctor, any hospital they want. Under the Republican plan, if seniors cannot afford the difference, if they cannot come up with the difference between what the voucher gives them and what the actual cost is, they will have to go without health care or they will buy an inadequate policy.

Remember, when the Republicans are ratcheting down the value of the Medicare voucher, they are doing nothing to control costs. They are simply holding down the cost of the voucher each year, but they are not doing anything anywhere in this Congress to control the overall costs.

So the costs will continue to go up at a much faster rate. The gap between the voucher and the health insurance price will be even bigger over time.

Just for a second, think about who Medicare beneficiaries really are. They are senior citizens, over 65, and they are the disabled in this country who need medical care. You do not get on Medicare as a disabled person unless you have a chronic illness and need the care; you have had kidney disease and have had the need for dialysis, you need care, so if you are 45 years old and you are on a Medicare program for dialysis, you are there because that is how we are paying for it in this country.

An increasing number of people in this country are over 85 years old, and the overwhelming majority of people on Medicare have an income of under $25,000 a year. You are thinking about somebody making $25,000 a year having to come up with an additional $1,200 to buy an adequate policy. It is these people that the Republicans want to throw into the water to swim alone with an underfunded voucher through the private insurance market.

Young healthy workers, for heaven's sakes, have great difficulty assessing their health insurance options even with the help of employers and with personnel counselors in their businesses. Senior citizens will have none of these advantages as they try to select the policy that will give them the greatest protection, provided they can pay for it and can overcome the subtle strategies of the health insurance industry to direct the less healthy customers away from their companies.

Imagine if your father is, let's say, going to be 90 years old. He has had a heart attack, he has had a stroke, he has some skin cancer, he has a few problems, and he goes out with his little voucher in his hand looking for an insurance company that is going to want to take him. How many insurance companies are going to run out and meet him in the street and say, "Come on in, sir, we want to sell you insurance"?

They do not want these senior citizens who have illnesses. They want young healthy people, so they are going to try and pick off the healthy seniors and let the sick ones, the ones who have got chronic illnesses—as you get old, that is kind of what happens to you—those people are going to be excluded from the system.

If the Republicans have their way with these cuts in Medicare, they will be moving from a system of guaranteed health insurance for the elderly and disabled to a health insurance lottery for those who can afford it. Whether this policy will be adequate for you or not is going to be sort of luck. Guaranteed health coverage for senior citizens will become a distant memory.

It is bad enough on senior citizens, but it is even worse when you think about it because imagine the families, the children and the grandchildren of these senior citizens. When they find out that Mother or Father or Grandma and Grandpa have not got adequate care, what are they going to do? They are going to say, "Well, sorry, Ma, too bad"? Of course not. They are going to have to reach into their pocket and pay the difference for Mom and Dad. That is what is going to happen.

For 30 years in this country there are people my age, 58 years old, and younger, who have never one time had to think about the health care of their parents. With the Republican proposal, they are going to be forced, we are going to be forced, me and everyone else younger than me is going to be forced to think about how they pay the difference for their mother and father or their grandparents in this system.

The Republicans really want to put that obligation back on the plates of young families. For 30 years, families have not had to choose between Grandma's medical bills and whether they could send a child to community college. But if this Republican budget and cuts in Medicare passes, American families will be forced to face that decision.

It is not just senior citizens and their families that will be affected The entire health care system rests on Medicare. it is the major source of funding in many respects in our system. Major community providers, the hospitals, doctors, nurses and so forth will be severely compromised.

In my district in Seattle, these hospitals get as much as 60 percent of their revenue from Medicare and Medicaid. With cuts of the kind of magnitude suggested here, they simply will not be able to maintain the same level of services to any patient, not just to Medicare patients, but because they lose the Medicare revenue, they are going to have to drop the level of care that they can offer across the board.

Academic medical centers. We are very proud in this country, we have the best medical research and the best medical education in the world. We brag about it. But the fact is that the funding for medical schools is from the Medicare program. Medicare assumes a disproportioned burden of the cost of training new physicians and the burden of the higher costs of academic health centers.

With cuts of this magnitude, academic health centers will not be able to continue training the same number of highly competent physicians. The ability of academic health centers to provide our most sophisticated treatment and care will be greatly diminished. Many hospitals will not survive.

I have a letter from the head of the Harbor View Hospital in Seattle, and he closes by saying this:

> Harbor View is the only Level One trauma center in the State of Washington serving a 4-State area. The magnitude of these cuts is so huge that it presents a doomsday scenario for Harbor View.

They expect to lose $125 million a year out of this proposal.

So it is not just senior citizens. It is not just their families. It is not just the medical schools. It is the very highly trained and very highly sophisticated trauma centers in this country.

Many hospitals, particularly rural hospitals, will not survive this kind of budget. Everyone's access to health care will be reduced, particularly in the rural areas.

As hospitals try and make up the revenues lost through Medicare and Medicaid cuts, the private insurance rates are going to skyrocket if you do not have them adequately funded for the senior citizens who are there.

The bill will be passed to a senior citizen who does not have the money. They are only making $25,000. If they have not got the money, it becomes a bad debt for the hospital. The only way the hospital can get that bad debt taken care of is to put it over onto the people who are buying private insurance. That is called cost-shifting. You shift from people who cannot pay to the people who are paying. If you reduce Medicare, private insurance rates in this country will go up.

Medicare cuts for tax cuts and balanced budget politics will rob the middle class of much of the economic security as well as the health care security. We need to protect the entire American family, old, young, middle-aged, and the quality and stability of American health care, by opposing the Medicare cuts that the Republicans are offering.

Mr. Speaker, I would like to yield to my colleague, the gentlewoman from Texas [Ms. JACKSON-LEE], for some comments that she has.

Ms. JACKSON-LEE. I thank and appreciate the very salient and focused commentary of the gentleman from Washington [Mr. MCDERMOTT], and reasoned explanation to the American people.

The reason why we have taken the time to study this issue, I think we are all grappling with trying to clear away the smoke and mirrors and focus on reality. Clearly I think that when we begin to capture the numbers, we can reach out to the American people, particularly the 18th Congressional District in Houston where I come from, and really highlight $270 billion in cuts in Medicare, as the gentleman has indicated.

Mr. Speaker, this is really sort of a surgical procedure that does not leave the patient in better condition but eliminates their limbs. I am just simply confused. If we are trying to protect seniors and talk about a better health care system, and I would venture to say with your history that that is something that we are all prepared to come to the table to talk about, how we can get better health care for all of our citizens, we would certainly be responsible if we decided to come to the table in a bipartisan manner to deal with that issue.

This is not a health care issue as the Republicans have put it forward. This is a cut issue simply to get some money to give some folks a tax cut. It hurts my community, because basically there are a large number of seniors in that district, a large number of seniors who in fact depend upon their Medicare, as well as working-class families who for the first time are gratified by the good health of their parents, many in the African-American community that have been able to maintain the high blood pressure, keep it under maintenance, other kinds of illnesses that have plagued those in my population or in the African-American population in particular.

Certainly this question goes beyond racial groups, but certain illnesses that have now been able to be maintained because seniors have had access to preventative health care now may shoot up. What you will find out in a district like mine, and I cite mine particularly because there are a number of individuals, poor individuals there, you will find them now in the public hospital system, not there for maintenance but there because they have had a stroke or they have had some other catastrophic results of not being able to take care of themselves. Then that working-class family, maybe the bus driver and the school teacher or whatever combination, then will find mom or dad back home with them, needing to be able to be covered by whatever extra dollars or pennies, I might add, that that working family would have to be able to spend on that elderly.

Let me cite for you just an example, spending a lot of time on this issue, because I really want to get the facts from those who are the beneficiaries right now, besides my parents. We have a hospital that is one of the oldest community hospitals in the State of Texas, Riverside General Hospital, and I took the time to visit with their nurses and their doctors and their patients.

I might add, those soldiers on the battlefield in these community hospitals, anyone who thinks that they are getting a killing financially, that they are making a real profit, even the physicians that practice there or the nurses that work in those hospitals, they have another think coming. They are dependent on Medicare, not just to keep doors open but to serve that base of population, frankly, that I would tell you would not go anywhere else. They do not know about going to the sophisticated medical center in our variety of communities. They know about that community-based hospital that gives that special care.

They gave me the facts that their doors would be shut. They were not there trying to push survival as a hospital, "My job is on the line." They were not really focusing on that. They were talking about the real need of being able to reach these seniors, one, to help them with preventative health care, but as well to be accessible to them where they were not frightened to come into a hospital setting. A lot of our seniors are individuals who say, "I have been healthy all my life and a hospital is not where I would want to be."

□ 2200

Ms. JACKSON-LEE. So Riverside Hospital would be impacted with a great negative impact.

And then, I walked in my community just this last week on one of the older sections in fourth ward and I met seniors there 80 and 86 years old living at home by themselves. Those individuals have a great need for Medicare, but they also are the same individuals that if those premiums went up—I understand we may be looking at $110 and numbers going beyond that—would be the ones choosing whether they have to eat or needed to eat over medication, other health needs. These are the seniors that would be relegated to the horrible stories of dog food or cat food that we have heard.

These seniors are 80 and 86 years old. You made a very good point. They are living longer. What are the Republicans telling us about people living longer? I know they are not advocating anything that would undermine this good news that we have our seniors living longer, but yet, when we talk about this issue of slow growth, which, by the way, someone asked me, what does that mean because that certainly sounds like we are being really responsible? It means eliminating people. It means that you are talking about a whole pool of people the most sickly and the most needy possibly being eliminated.

So I am convinced that we are headed in a very treacherous direction and I am a little bit incensed that we don't have the real facts, for Medicare is being attacked, for it now is a fact of life. Our seniors are living longer. And so when they argue that the system is crumbling because we have had massive abuse and fraud, there is not a person that I have chatted with that does not want us to clean up anything that needs to be cleaned up, and as responsible legislators, I think we should do that. But I think the real key is whether or not we are looking to solve the problem or whether or not we are using smoke and mirrors to frighten people to then make these major cuts and leave in the lurch, if you will, the public hospital system, small community hospitals, and again, not to keep their doors open for keeping them open's sake, but because they serve populations that are in need.

And what we will do with the public hospital system is basically break it because all those people will be headed in that direction, and from that direction as well, the support of their family members will be required for them in terms of their health care.

So I thank the gentleman for yielding and I would only ask as we proceed with this that we do it in a manner that reflects responsibly on our challenge that is to ensure good health care for our citizens, for Americans, but as well, to not disrespect what seniors have done in their work life, in their commitment to this country and the real need that they have for good health care.

Mr. McDERMOTT. I want to thank my colleague. You have raised a very, very important point that I did not emphasize enough because as a physician, I sometimes forget it. The health care system in this country has worked. The average age when they started Social Security for a man at death was 59 in 1935. Today the average age is almost 80. It is around 77, something like that. So we are talking about extending people's life-span by some 20 years since that period of time, largely because of programs like the Medicare program.

And the major thing you are talking about I think that is so important is the whole issue of prevention. What we had before, everybody gets health care in this country. When you are sick, when you are really sick, they call the ambulance and drag your body in and there you are in the emergency room. Everybody gets health care at that point. But that is at the wrong time in the most costly way possible.

What Medicare has made possible for seniors is to have preventive care; that is, to monitor the blood pressure, to monitor the glaucoma, to monitor all the things that have been problems in the past and wind up in these serious debilitating episodes like strokes. We spend millions of dollars on strokes that can be prevented with some blood pressure medication that is monitored on a regular basis, and Medicare has made that possible.

Now, what the Republicans are proposing is that each year seniors would have to come up with more money out of their pocket to buy the same health care that they now have under the Medicare program. The voucher value would be less than the actual cost. In 1996, the average cost to a senior citizen would be $67. You say, well that is not very much, so what is the big deal? The next year it is $254. The next year, $447.

What the Republicans are trying to do is slide this in in the first year where it isn't going to cost them any more. They will get the same thing for the voucher cost, but by the fourth or fifth year, you will be up to $645, and by the year 2002, it will cost you almost $1,140 a year per person more for the same health care benefit you have today and it will all come out of your pocket.

Now, if you think about people who, when you are working regularly and you get a paycheck, you don't think about, well, you know, $67. I mean, I probably could squeeze and make it. But when you are a senior citizen living on a fixed income on a social security check, you are talking about people who are going to have trouble simply making it, much less coming up with this additional amount of money out of their pocket. And I believe that what is happening here that people fail to understand, and in these early years it looks pretty good, but the further out you get, you can say, well, I won't be here in 7 years. But some more and more people are going to be here and they are going to catch the brunt of this.

Ms. JACKSON-LEE. Will the gentleman yield?

Mr. McDERMOTT. Yes.

Ms. JACKSON-LEE. That chart is instructive because wouldn't you say as a physician that what we begin to do is create a chilling effect for those who have to make choices to begin now to not put medical assistance, preventative medicine, making sure they are keeping up with their health needs so that they can stay healthy? It begins to be on the second tier of their needs or their ability to pay, then the third tier, then the fourth, then just simply: I can't go to the doctor.

It is a chilling effect because they have to make real choices, and you mentioned something else. Seniors, I love them because they represent history and wisdom, but they also, I think, are somewhat stubborn sometimes. They get a friendship with a physician because they trust them and they have confidence in them. And this physician guides them along to keep them healthy. All of a sudden, we deny them choice. We make them second class, third class citizens.

They have gotten used to this physician who has been able to follow their history, and we are telling those in the Medicare system that that is not an option for them. It creates an amazing chilling effect, I believe, for good health care. And when I was trying to make the point on the hub hospital system, which we need to emphasize, all that chilling effect winds up with the bulk of those individuals that have not seen physicians now come by ambulance with a stroke in cardiac arrest, with possible need for an amputation if they are diabetic, whatever these ailments are, and this costs of course all communities, all races of people you will find using the public hospital system because they just haven't been able to go to the doctor and now they are in an ambulance coming. I am frightened about that.

And lastly, I am frightened about us saying to those working class families, in addition to the possibility of the responsibility for their parents, scaring them in terms of what will happen to them as they reach the age needing

Medicare. Rather than addressing this issue in a manner that responds to good health reform and provides for a legacy or a future for these families today, we are again giving, I think, falsehoods about what really needs to be done so that Mr. 35-year-old or Miss 35-year-old will be protected in the next 20 or 30 years.

It is not accurate that they need cuts of $270 billion in Medicare. That is not helping Mr. and Mrs. 35-year-old. Let it be known that that is helping the tax cuts of 1995 for individuals making over $200,000. I want to help Mr. and Mrs. 35-year-old. That is the commitment that we should make, and I want to help Mr. and Mrs. 65, 70, 80, 86, these numbers of seniors that are now living to that age. That is how we should bring those two together on a serious proposal of dealing with Medicare and its longevity, not the $270 billion cuts that does not help Medicare's longevity. It helps the current plan to give tax cuts.

Mr. McDERMOTT. I think you raise again that issue, and I think it doesn't—we don't say it often enough. We are all in one family, and it is easy sometimes for people who are younger to somehow think that this is not affecting them, that what is going to happen, well, that is the Medicare program, that is for old people, but the fact is that it has been lifting the burden off the younger people and they are suddenly going to wind up with it suddenly being dropped down on them without them being aware, unless they begin paying attention.

That, I think, is our biggest job as Members of Congress is to educate people about the fact that Medicare, although it has as its clients the disabled and the senior citizen, it is also a part of the economic security of the 35 year old. And sometimes young people sort of miss that. They don't see the connection because in their lifetime they have never had to do it.

I remember when I was much younger, my grandmother and grandfather back in the 1950's did not have Medicare, and the way my father and the uncles took care of it was every Sunday when they went to my grandmother's house, they would slide a ten dollar bill under the plate. My grandmother was too proud to ever ask for money but when she picked up the dishes after lunch, she picked up 50 bucks around the table.

That is how the subsidy was done in those days, and what this is going to do is drive that same system back on every family to look at their mother, their father, their grandparents and say, how are we going to take care of them? We can't just walk away from them, and that is, I think, why this is not just a senior citizen question, but it is a family question. And I think that you bring that well when you talk about that it isn't just Mr. and Mrs. 65; it is also Mr. and Mrs. 35.

Ms. JACKSON-LEE. You remind me, as I have reminded you to remind me, of my grandmother as well and the good times at that time in the 1950's was that she could do something with $50 or so that is left. I think if we began to look realistically of what that will mean for this time and this range of cost, we are realizing that that is not what will be possible for these working families and these individuals in this 35 year range, and we will also need to point out for any accusations that are made against this system that we do want to make work.

There is a lot of cost containment already going on in Medicare, and many of the providers are aware that we must be judicious in how we cost out the particular procedures or services. That is where we need to focus, not to scare people with the fact that it is to be ended and at the same time tell them that they need $270 billion in cuts.

And so your point is very well taken. We could have done that in years past and managed and survived. I think now with catastrophic illnesses and just the recognition of the cost, the legitimate cost of providing care in a hospital, we realize that that would be so extreme a burden. I have heard tell that there is a possibility of families going bankrupt trying to take care of a loved one who has come upon illnesses, and certainly if there was no coverage like Medicare for that senior, what could be expected for families who are trying to make ends meet and then be faced with the needs of their loved ones, of which they would want to be able to support.

Mr. McDERMOTT. I hope that all the Members in the Congress let their constituents know they have to let the Congress know no on vouchers for Medicare. Vouchers in the Medicare system are guaranteed to be inadequate. That is what it is all about. That is how they are saving money, and people need to let their representatives know. I hope they will all call them, write them letters, tell them that they want to keep the kind of security that they presently have under the Medicare program. Thank you very much for your help.

Ms. JACKSON-LEE. Thank you.

□ 2215

SUPPORT HOUSE CONCURRENT RESOLUTION 80, LEGISLATION CALLING FOR A CESSATION OF FRENCH NUCLEAR TESTING IN THE SOUTH PACIFIC

The SPEAKER pro tempore (Mr. LONGLEY). The Chair recognizes the gentleman from American Samoa [Mr. FALEOMAVAEGA] for up to 22 minutes.

Mr. FALEOMAVAEGA. Mr. Speaker, just weeks ago, French President Jacques Chirac announced that France will abandon its 1992 moratorium on nuclear testing and explode eight more nuclear bombs in the South Pacific beginning in September. Chirac said that the nuclear explosions will have no "ecological consequences," and described his decision as "irrevocable."

After detonating at least 187 nuclear bombs in the heart of the South Pacific, France's intent to resume further nuclear poisoning of the South Pacific environment has resulted in deep outrage and alarm in the countries of the region, as well as with the world community.

I rise today to urge my colleagues to support legislation I introduced recently, House Concurrent Resolution 80, which recognizes the environmental concerns of the people of Oceania and calls upon the government of France not to resume nuclear testing in French Polynesia's Moruroa and Fangataufa Atolls.

In a broad showing of bipartisan support, 15 Members of Congress have joined me as original cosponsors of House Concurrent Resolution 80—including the ranking member of the House International Relations Committee, the Honorable LEE HAMILTON; the chairman and ranking member of the Asia-Pacific Affairs Subcommittee, the Honorable DOUG BEREUTER, and the Honorable HOWARD BERMAN; and the chairman and ranking member of the International Operations and Human Rights Subcommittee, the Honorable CHRIS SMITH and the Honorable TOM LANTOS.

I want to express my deepest appreciation to these gentlemen, as well as to other distinguished senior members of the House International Relations Committee—including the Honorable JIM LEACH, the Honorable GARY ACKERMAN, the Honorable JAY KIM and the Honorable DANA ROHRABACHER—for their strong support of this measure. I also want to thank members from districts touching the Pacific that have joined us as original cosponsors, including the Honorable ROBERT UNDERWOOD of Guam, the Honorable PATSY MINK and NEIL ABERCROMBIE of Hawaii, the Honorable NORMAN MINETA from California and the gentleman from Oregon, the Honorable PETER DEFAZIO. The distinguished Member from Massachusetts, the Honorable EDWARD MARKEY, must also be commended for his leadership in the field of nuclear nonproliferation and support of legislation opposing France's nuclear testing in the South Pacific.

Mr. Speaker, like a wild boar on the ocean waves, or a "bulldozer" as described by his mentor, the late President Georges Pompidou, or a mad aberration of 21st century thought, French President Chirac's so-called decision and insistent denial of consequence is what novelist Bernard Clavel called the Shame of France.

Mr. Speaker, we all know nuclear bombs have only one purpose. They were created to destroy every living plant and animal, including humans. The result is they annihilate everything. The people of France know this.

The government of France knows this. Mr. Chirac knows this. We all know why France explodes its bombs in French Polynesia and not in France. The leaders of France do not want to subject their homeland to this danger, if they have a choice.

Historically, the people of the Pacific have had little choice. Nuclear nations, including France and the United States, have consistently deemed Pacific islanders and their way of life expendable. For example, in 1954, on Bikini atoll the United States detonated the "bravo shot," a 15-megaton thermonuclear bomb over a thousand times more powerful than the nuclear bomb dropped on Hiroshima, Japan. Marshall islanders residing on nearby Rongelap and Utirik atolls justifiably believe they were used as "guinea pigs" and test subjects for United States nuclear radiation experiments conducted during this period.

After almost three decades of French nuclear testing in the South Pacific, French Polynesia's Moruroa atoll has been described by scientists as a "Swiss cheese of fractured rock." Moruroa and its sister French test site at Fangataufa are water-permeable coral atolls on basalt, now contaminated in the worst way similar to the crisis at the Chernobyl nuclear plant. Leakage of radioactive waste from the underground test sites to the surrounding waters and air has been predicted, and is inevitable. Epidemic-like outbreaks in surrounding communities have already resulted, but symptoms including damage to the nervous system, paralysis, impaired vision, birth abnormalities, and increased cancer rates among Tahitians, in particular. It is no wonder that the French Government has kept medical records at Moruroa a top secret and has not even permitted long-term follow-up study of the local indigenous or Tahitian workers who were subjected radioactive contamination.

Yet, Chirac, like so many other leaders of nuclear nations, insists that nuclear tests are harmless to the environment. As reported by the National Resources Defense Council in the Bulletin of Atomic Scientists, "the five declared nuclear powers have acknowledged conducting a total of 2,036 nuclear tests since 1945." of this total, 942 of the tests have been conducted within the continental United States, 710 in Russia/Kazakhstan, and 306 atomic explosions conducted by the United States, Great Britain, and France on Pacific islands and atolls.

It is interesting to note that although France has detonated over 200 nuclear bombs in the past 35 years, not one of these bombs has been exploded on, above, or beneath French soil. Mr. Speaker, in the truest form of colonial agression, France, instead, has exploded almost all of its nuclear bombs in its South Pacific colony, after being driven out of Algeria, a former possession also used a nuclear testing dump.

France currently has the world's third largest stockpile of nuclear bombs in the world. But Chirac told reporters on the eve of his first presidential trip abroad that his decision to explode eight more nuclear bombs in the South Pacific was crucial to ensure the reliability and security of the coutry's nuclear weaponry. I made this decision, Mr. Chirac states, "because I considered it necessary in the higher interest of our nation."

Whatever happened to the higher interest of some 170 non-nuclear nations?

I say to the military establishment of France and to the President of France, if exploding eight more nuclear bombs is so crucial to ensure the security of your country's weaponry, explode your eight nuclear bombs under the Arc de Triomphe and along the rural and farm areas of France, and see if the citizens of France will support you in the higher interest of your nation.

Mr. Speaker, the peoples of the North and South Pacific want nothing to do with nuclear weapons. They know firsthand the horrors of nuclear testing and have agreed amongst themselves to keep their part of the planet nuclear-free. Isn't it ironic that it is among these people that France is about to explode 8 nuclear bombs—one nuclear bomb explosion a month—with each detonation up to 10 times more powerful than the nuclear bomb that was dropped on the city of Hiroshima 50 years ago? Incidentally, this is not happening by the choice of the 28 million men, women, and children of a European world power playing the role of colonial master to the detriment of peaceful citizens on the other side of the world.

When is enough, enough? Two hundred-plus nuclear explosions, with almost all in South Pacific waters, apparently is not enough for France. Mr. Chirac wants eight more. So what about the rest of the world? I suspect that the military establishments of every nuclear power want to perform more tests to ensure the reliability of their nuclear arsenals. But the fact is, all of the nuclear powers, except China, have given up this benefit and stopped testing programs in the interest of making the world a safer place to live.

Government after government after government, in a firestorm of international outrage, have spoken out in opposition to France's resumption of nuclear testing. Demonstrations involving tens of thousands of protestors have taken place in French Polynesia, and around the globe. The United States, Russia, Japan, Germany, Austria, the Netherlands, Norway, Sweden, Finland, Belgium, Denmark, Italy, Switzerland, Indonesia, Malaysia, Canada, Chile, Ecuador, Peru, Mexico, Australia, New Zealand, Fiji, and the 12 other island nations which comprise the South Pacific forum have condemned France's decision to resume nuclear testing, noting that it would be a major setback to relations between France and the international community.

Two months ago, the United States, France, and the major nuclear powers promised over 170 non-nuclear nations that the nuclear powers would exercise utmost restraint with regard to nuclear testing and would work toward a comprehensive test ban treaty. Despite reservations, these commitments were accepted at face value by the non-nuclear nations, which make up the vast majority of the countries of the world, and it was only with the support of the non-nuclear nations that permanent extension of the nuclear non-proliferation treaty was gained.

Weeks later, the French Government now sends the message that in the name of national interest, it is more than willing to undermine the Nuclear Non-Proliferation Treaty and impede good faith negotiation of a genuine comprehensive test ban treaty.

Not only does France send the message that world peace takes a back seat to national security paranoia, but it now sends the message that, as a nuclear nation, it shamelessly, shamelessly, Mr. Speaker, deems expendable the welfare and the fragile marine environment of 28 million men, women, and children living in the Pacific region.

Nuclear bomb explosions constitute the ultimate rape of a people. The welfare of the South Pacific's 28 million people should not be the sacrifice paid in the name of France's paranoia and hypocritical policy concerning nuclear deterrence. For France to disregard its moral responsibility to the non-nuclear nations and world community is the eiptome of actions taken by a colonial master against its subjects, and it is about the ugliest form of colonial aggression taken by France against the indigenous people of Tahiti.

"It is regrettable that France has given in to out-dated arguments," respected French oceanographer Jacques Cousteau said. "Great wars are of the past. The struggle for peace is carried out first and foremost through education and the restoration of morality. Today's wisdom makes it necessary to outlaw atomic arms."

Cousteau's sentiments were echoed by former French President Francois Mitterand, who in condemning Chirac's testing decision, recently stated, "The time has come to put an end to the nuclear armaments race." Cousteau and Mitterand's statements reflect how controversial Chirac's nuclear policy is domestically in France. French public opinion polls show an overwhelming 70 percent, Mr. Speaker, in opposition to resumed nuclear testing.

Today, on trial of broken treaties and irrevocable decisions, with the

United States still in flux on nuclear testing while promising to negotiate a comprehensive test ban treaty, the question now on the table for non-nuclear nations is: "Do we depend on nuclear nations to restore morality through treaties and bans, or do we call on the good people of France and the United States to hold their governments accountable for violations of international disarmament agreements?"

"If men were angels," James Madison wrote in The Federalist Papers, "No government would be necessary. If angels were to govern men, neither external nor internal controls on government would be necessary. In framing a government which is to be administered by men over men, the great difficulty lies in this: You must first enable the Government to control the governed; and in the next place oblige it to control itself."

In light of Mr. Chirac's irrevocable decision, and in consideration of opinion polls documenting Jacques Cousteau as the leading popular figure in France, I would again urge Mr. Cousteau to lead the good people of France in the fight to oblige its government to control itself. As the world's preeminent guardian of the environment, his place in history dictates that Mr. Cousteau play a greater and more forceful role in preventing this travesty against the health and welfare of the 28 million men, women and children who live in the Pacific region.

Mr. Speaker, this planet has already been ravaged by more than 2,036 nuclear bomb explosions. It is time that we stop the madness. I would urge most strongly that Paris reconsider its decision to resume nuclear bomb explosions in the South Pacific and would urge the citizens of the world community to take up the fight in holding nuclear nations accountable for the violent rape and utter destruction of non-nuclear nations, peoples, and the environment—until angels govern men.

To this end, Mr. Speaker, I would invite our colleagues to cosponsor House Concurrent Resolution 80 and join us in sending a strong message of support for the peoples of Oceania and in opposition to France's resumption of nuclear testing in the South Pacific.

Mr. Speaker, I want to share with my colleagues and my fellow Americans, a photo shot of a nuclear bomb explosion that was detonated on the Moruroa Atoll in French Polynesia.

Mr. Speaker, the photo of the nuclear explosion—I must confess—is a very pretty one—but very, very deadly. You see Mr. Speaker, modern warfare is no longer something where there is honor to fight hand-to-hand combat—at least combatants meet on the field of battle to fight.

You see Mr. Speaker, nuclear bomb explosions don't just kill human beings—nuclear bomb explosions do not ask for permission to kill just soldiers and sailors—Mr. Speaker, nuclear bomb explosions literally vaporize human beings—you're not even going to have to find many bodies even to give the deceased decent burials.

Mr. Speaker, this photo is an example of what nuclear explosions are like when the Government of France will resume exploding eight more nuclear bombs beginning in early September of this year.

Mr. Speaker, I am making this appeal to my colleagues in the House and to all my fellow Americans who love to sail in the Pacific—who can appreciate the concerns of some 28 million men, women, and children who live in the Pacific—to write and call the officials of the French Government that exploding eight nuclear bombs in the coming months is bad policy, and President Chirac should wake up, and he should come to his senses and stop this madness—stop this insane and inhuman practice of exploding nuclear bombs not only against the fragile environment of the Pacific Ocean but anywhere else in the world.

What a sad commentary on France's upcoming celebration of Bastille Day on July 14—how absurd and stupid can President Chirac be, Mr. Speaker, when 70 percent of the people of France are against nuclear explosions—and yet the President of France has totally disregarded this concern. Let's stop this madness, Mr. Speaker.

Mr. Speaker, I submit for the RECORD the following article from the July 12, 1995 Washington Post:

[From the Washington Post, July 12, 1995]

WHY NOT ATOM TESTS IN FRANCE?

France's unwise decision to resume nuclear testing was an invitation to the kind of protests and denunciations being generated by Greenpeace's skillful demonstration of political theater. But even before Greenpeace set sail for the test site, several Pacific countries had vehemently objected to France's intention of carrying out the explosions at a Pacific atoll. The most cutting comment came from Japan's prime minister, Tomiichi Murayama. At a recent meeting in Cannes the newly installed president of France, Jacques Chirac, confidently explained to him that the tests will be entirely safe. If they are so safe, Mr. Murayama replied, why doesn't Mr. Chirac hold them in France?

The dangers of these tests to France are, in fact, substantial. The chances of physical damage and the release of radioactivity to the atmosphere are very low. But the symbolism of a European country holding its tests on the other side of the earth, in a vestige of its former colonial empire, is proving immensely damaging to France's standing among its friends in Asia.

France says that it needs to carry out the tests to ensure the reliability of its nuclear weapons. Those weapons, like most of the American nuclear armory, were developed to counter a threat from a power that has collapsed. The great threat now, to France and the rest of the world, is the possibility of nuclear bombs in the hands of reckless and aggressive governments elsewhere. North Korea, Iraq and Iran head the list of possibilities. The tests will strengthen France's international prestige, in the view of many French politicians, by reminding others that it possesses these weapons. But in less stable and non-democratic countries, there are many dictators, juntas and nationalist fanatics who similarly aspire to improve their countries' standing in the world.

The international effort to discourage the spread of nuclear weapons is a fragile enterprise, depending mainly on trust and goodwill. But over the past half-century, the effort has been remarkably and unexpectedly successful. It depends on a bargain in which the nuclear powers agree to move toward nuclear disarmament at some indefinite point in the future, and in the meantime to avoid flaunting these portentous weapons or to use them merely for displays of one-upmanship. That's the understanding that France is now undermining. The harassment by Greenpeace is the least of the costs that these misguided tests will exact.

□ 2230

CONSTITUENT FEEDBACK REGARDING THE NEW CONGRESS

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Ohio [Mr. CHABOT] is recognized for 60 minutes as the designee of the majority leader.

Mr. CHABOT. Mr. Speaker, we appreciate the opportunity to have this hour this evening to have a discussion with our constituents and, really, Americans all across this country. I have three other colleagues who are here this evening and we are all going to be talking during the course of this hour, whatever time of the hour that we take up this evening. We wanted to let the American public know what types of things that we have been hearing as we have been back in our district.

For example, we spent about the last 10 days prior to this Monday in districts all over this country talking with regular people in our districts to see what they thought about what we were doing, what suggestions that they had, and what kind of modifications they would like to see made in this, the people's House.

I happen to be from the first district of Ohio, which in essence is the city of Cincinnati and some of the western suburbs. ROB PORTMAN is in the eastern part of the city in some of the eastern areas; I have got basically the west side of town.

I ran, I am a freshman; I was just elected this past November. The people really spoke overwhelmingly, I think, all across this country and said they were not particularly pleased with what had been going on here in Congress. They wanted a change.

Mr. Speaker, I talked to a lot of people before I ran for Congress last year to find out and I asked a basic question. I said, "If you were in Congress, what would you do?" And there were other Members who were running all over the country and they asked basically the same question and we all talked last year and we wrote down a document and we all signed our names to it, telling the American public if we had a majority of Republicans in Congress, what we would do. We told them up front what we would do.

And that is what we have been about for the past 6 months, is delivering on what we told the American public we would do if we had a majority. We do have a Republican majority here in the House for the first time in my lifetime. I am 42 years old. I was born in 1953. And the last time there was a majority of Republicans here in the House was in 1952.

I think the main thing we were told that we heard over and over again is we have got to balance this budget. I heard that over and over again. And what people said. They said, balance the budget; not by raising taxes, but by cutting spending and that is what we are trying to do.

And I heard, and I want to be real clear about one thing in particular, because I heard some of our colleagues on the other side of the aisle, the liberal Democrats, they talk about one issue in particular and that is Medicare. And they keep saying that we have some kind of plan to cut Medicare. That is absolutely not true. I want to make very clear tonight we have absolutely no intention of cutting Medicare.

In fact, our projections are that we are going to increase Medicare spending from $4,800 a year to $6,700 per year per Medicare recipient. So there is absolutely no plan to cut Medicare.

However, the President's own people, his own trustees council, indicated that if we do not do something about Medicare, it is going to go broke by the year 2002. We want to save Medicare. We want to preserve Medicare, and we are absolutely committed to doing that.

So the scare tactics that quite frankly we have heard were the liberal Democrats here in Congress, not all Democrats, but the liberal Democrats in Congress are trying to scare senior citizens all over the country by saying that we have a plan to cut Medicare.

I want to make clear that we have absolutely no plan to cut Medicare, but we do need to balance this budget and we are going to do it by cutting spending, not by raising taxes.

And one of the reasons I think we absolutely should not raise taxes is because the American family is just overburdened with taxes. Taxes are too high in this country.

Around the time when I was born, around 1950, the average American family paid 5 percent of what they made to Washington in the form of Federal taxes. Now it is 25 percent. So the average American family's taxes to Washington have gone up from 5 percent to 25 percent in the last 40 years. That does not count the State taxes and city taxes. We have got to do something about that.

Mr. MANZULLO. Will the gentleman yield?

Mr. CHABOT. I certainly will. At this time, I will recognize three of my esteemed colleagues in Washington tonight. First of all, I would like to introduce the gentleman from Illinois, DON MANZULLO.

Next we have WALTER JONES who is from the great State of North Carolina and I have a particular fondness for the State of North Carolina, because my mother was born and raised in Charlotte, North Carolina.

We also have, tonight, RON LEWIS who is from the State over the Ohio River from my State, the State of Kentucky. At this time I yield to my good friend from Illinois, DON MANZULLO.

Mr. MANZULLO. Thank you, STEVE. When you talk about the tax burden growing from approximately 5 percent to 25 percent in Federal taxes, there is a chapter in the official U.S. budget called the generational forecasts. That states, because of the nearly $5 trillion national debt, that if dramatic changes are not made in the manner in which this country spends money, that by the time every child born after 1992 goes into the work force, he or she will be paying in local, State, and Federal taxes, between 84 and 94 percent of his or her income in taxes. This is astonishing. It is absolutely unbelievable.

I mean, this is a part of the official budget. I mean the Democrats, you know, CBO prepared this. The Republicans, everybody looks at it and says, this is incredible.

We have to do something about it. And yet, you know STEVE, there are 10,000 programs in this country—10,000 that are run. Every program has a constituency and every program has its own special interests.

And one of the things that I noticed is that whenever I go to cut a program, some Federal bureaucrat in Washington calls somebody back in the district that I represent, gets them on the telephone, and the conversation goes something like this: "Congressman MANZULLO?" "Yes, ma'am." "This is so-and-so." "Uh-huh?" "I live in the district you represent." "Yes, ma'am?" "I am a Republican and a Conservative and I voted for you." "Yes, ma'am." "And I really believe that we have got to cut this budget because taxes are too high, the American people are tired of all the spending."

And then comes the long, pregnant pause followed by the word "but," which is underlined, italicized and emboldened with the comma behind it followed by three ellipses. "But . . . let me tell you about this program which is an investment."

And it goes on and on and the American people realize that every single one of these programs, every single one, I will give an example. I sit on the Committee on International Relations with you, STEVE, and we found out that the American taxpayer pays $30 million a year to bring over 6,000 high school students for the former Soviet Union on a cultural exchange.

You think about that. There are about 19 different agencies in this Government spending about $2.5 billion on all these agencies. In fact, there are universities in this country that are getting incredibly large grants for the purpose of bringing over journalists from Latvia and Estonia and teaching them about fairness in journalism. I wonder who their professors would be. But all this at a cost of billions of dollars.

And I moved, and you voted for that measure in the Committee on International Relations, I said, "Let us do away with these Fulbright scholarships. Let us do away with all of them. Most of the programs are good. Bringing over these Russian kids, that is a fantastic program, but we cannot afford it."

So we lost in committee and came back and came up with an amendment and ended up being able to knock off $20 million in spending. I was editorialized saying "Well, we have got to cut spending, but Mr. MANZULLO who is involved in trade issues should understand the necessity of keeping these cultural exchanges."

Everybody says cut somebody else's program, except mine. And I bet you gentleman have had the same things happen.

Mr. CHABOT. That is right. And just to clarify as far as voting for the measure, we voted for the measure to cut, not to fund the program.

Mr. MANZULLO. That is right. We moved to cut it.

Mr. CHABOT. Now, we would like to turn to the gentleman from North Carolina, WALTER JONES. What have you been hearing in your district back home and what do you think the people are thinking now?

Mr. JONES. STEVE, when I have been home, I have seen people on a daily basis speaking to groups and senior citizens in the 19 counties that I have the privilege to serve. I can tell you that what we are doing in the new Congress is helping to rebuild the trust that the citizens and the voters have lost because the past Congresses were not listening to them.

I can honestly tell you I get so upset when I am on the floor, as a member of the theme team, to hear the other side, particularly the liberals, trying to scare the senior citizens. And as I said, and everyone has been saying since we started talking about the Medicare trust fund, that we have no other alternative. We want to protect and save and guarantee for the future needs of our senior citizens.

I do not know how in the world they can continue to say that when you go from, 1995, from roughly $4,700 to the year 2002 to $6,300 that that is a cut.

But I can honestly tell you that back home the senior citizens that I have had a chance to talk to really understand what we are trying to do and they support us.

So I can say that in the 6 months that we have been here I have been home every weekend but one. Every time I went home I was having the opportunity to meet and to speak with people. And I can tell you, frankly, that as long as we stay focused, we keep trying to balance the budget by the year 2002, then I think every day that we are here in the Congress as a new majority we are helping to rebuild the trust that has been lost.

Mr. CHABOT. I think those are excellent, excellent points, WALTER. And something in particular that you said about Medicare and the fact that the liberal Democrats up here in the Congress have been scaring senior citizens about alleged cuts that are nonexistent, but they keep talking about them.

Senator PAUL SIMON, who is a Democrat, said that the greatest threat to Social Security and Medicare is this huge debt. The fact that the budget is not balanced. That is the greatest threat to both Social Security and Medicare.

That is why it is absolutely critical that we balance this budget. We have got an almost $5 trillion debt that we have got to finally balance. And that is what we are about.

Mr. LEWIS of Kentucky. Will the gentleman yield?

Mr. CHABOT. I will certainly yield to the gentleman from Kentucky, RON LEWIS.

☐ 2245

Mr. LEWIS of Kentucky. I would like to just emphasize the scariest thing about the Medicare situation is that the liberals seem to want to just put their head in the sand and say there is no problem and trying to scare senior citizens by saying that we are going to cut Medicare, that we are going to cut it and give the money to the wealthy, which is the furthest thing from the truth.

The truth is, as has been mentioned here tonight, that the President's advisory group, the task force on Medicare, has said that Medicare will be broke by the year 2002 and that next year it will start to go on that downward slide, that downward path to bankruptcy.

So we are being responsible and we are going to save Medicare. We are going to protect it. We are going to make sure that it is going to be secure and that we are going to make it strong for the senior citizens that are coming on in the years ahead.

As I said, the scariest thing is for our friends on the other side of the aisle, the liberals, talking about the conservatives, there are those that really know that we have to do something and are involved in that. But some of the things that we heard tonight, that Medicare is not in trouble, that we can go on the way that we are going and there will be no problem, the fact is, it is going broke. And we are responsible and we are going to do something about it. And even the President, the other night, after denying it for quite some time, in his budget plan said that we needed to do something about Medicare.

I am glad to see that he is willing to admit it now. If we can work together, then we can save it, we can protect it and we can strengthen it and provide for our senior citizens.

Again, there are no cuts. We are going to be moving from $4,800 to $6,700 per beneficiary by the year 2002. That is an increase in anyone's book. We have to slow the growth.

Same thing with the budget. We are going to be spending more money over the next 7 years. We are slowing the growth so that we can reach a balanced budget and have a strong financial future for our children and our grandchildren.

It is important. We have to start now. We cannot wait 7 years. We have to do it now. And the American people, the people in my district, I have 23 counties, and I have been through all those counties. And the people are telling me, you are doing the right thing. Keep on going; do not let up. We want to see a balanced budget; we want to see a strong future for our children.

And I just wanted to mention something else. We keep hearing that we, the Republicans, are trying to take money from the poor and give to the wealthy. We are giving, we are trying to give to the family a $500 tax credit, and we are trying to provide a capital gains tax cut so that we can infuse into the economy a tremendous amount of money that is going to help everyone and is going to allow for job growth. It is going to allow for a stronger economy. It is going to allow actually for more money to be coming into our Federal Treasury. It will help us balance the budget.

Mr. JONES. I would like to add to the point the gentleman made. The election last year, the people said we want less government, less taxes, and they realize, as you just stated and the gentleman from Illinois, that we must balance the budget.

The average family in America today will spend more on paying taxes than that same average family will spend on clothing, housing or food. And yet, the other side keeps saying that the Republican Party only cares about the rich. Again, I want to make this clear, we care about the working man and woman in this country, and that is why I think every day we are helping to rebuild that confidence that I mentioned earlier.

One other point that the gentleman from Kentucky made reference to, the Medicare board of trustees, which includes three of Clinton's own cabinet members, released a report last April stating that the Medicare hospital insurance trust fund, part A, will be bankrupt in 7 years. If that is allowed to happen, more than 37 million Americans will lose their hospital insurance. That is why this Republican majority is working so hard to do what we can to ensure and to protect the Medicare trust fund.

And we will do it, because the American people sincerely believe what we are saying and they want to see us protect the Medicare trust fund. And I believe that we have got the support of the majority of the senior citizens.

Mr. MANZULLO. When I was a young college student, age 20, thinner, dark hair, I worked for the House of Representatives, for the Member that represented the district in which I have lived my entire life. I was 20 years old. That was at the time that Medicare passed. It was 1965, I believe.

And the original cost of Medicare for 17 million people was, I think, $2.5 billion. And the number of recipients has doubled today, but it now costs $140 billion a year for Medicare. And the estimates as to what Medicare would cost in 1993, the estimates that were made back in 1965, I think it was estimated to cost about $9 billion. And it costs in excess of $100 billion. So these projections are just way totally off.

It is due to many things. People are living longer. The cost of medical technology has risen and things of that nature.

And as I travel my district, I do not know about the district that you gentlemen represent, I start over on the river, Mississippi River and represent a county by the name of Jo Daviess County, which is heavy in tourism, number one in hay production in the state. Next county is Stephenson County where the Freeport doctrine was debated, the Lincoln-Douglas debates. That county has the highest milk production and a third of all the dairy cattle in the State of Illinois live in Stephenson County and they eat all the hay that comes from Jo Daviess County.

Next to that county is Winnebago County that has over 1,000 factories, incredible, over 1,000 factories. This is the county that led the nation in unemployment in 1980. We lost 100 factories and 10,000 highly skilled jobs, but it is now the tool and die center of the world, fastener center of the automotive industry.

Below that is Ogle County, a little factory there, Eaton Corp., makes most of the cruise controls for Chrysler Corp. And it is just a beautiful town, a beautiful county. In fact, we live outside of Egan, a town of 42 people where the Leaf River converges into the Rock River, the Leaf River Valley converges into the Rock River Valley and that makes part of the Mississippi Basin.

Then you go eastward and Boone County picks up Belvidere where Chrysler makes the Neon and then to the east of that is McHenry County, which is the fastest growing county in the state. It has to be one of the most diversified congressional districts in the area, probably the United States. It is one of the leading export districts.

As I travel that district, I just love to walk the districts. You walk the areas and sometimes you stop at somebody's house and knock on the door and go in there and exchange howdies or you go into the business district.

Everybody is saying the same thing: Continue the revolution that began in November of 1994. Do not get downtrodden. Do not get disheartened because sometimes the press will come after you because you are trying to balance the budget.

Everbody has this sense of awesome corporate responsibility that we have got to do something and something big in order to save this nation.

I had the opportunity, as many of you did, to speak at the Fourth of July events. I spoke at the prayer breakfast in Rockford, incredible driving rain storm. It was unbelievable. It was buckets of water were pouring down. And people were out there in the gazebos and with the umbrellas. Fortunately, there was not any lightning going on.

I could tell just looking at the people, look at the people, especially in mid-America, they are standing there with their little kids, and they are turning out in the rain to hear their Congressman talk about why this country is great.

I quoted James Flexnor who had written a book called The Indispensable Washington, the life of George Washington. In fact, it served as the text for the three series that were made about the life of Washington. And he said something very remarkable.

He said, for the first time in history people gathered together and set about to prove that people could rule themselves. It had never been done before. Never before in American history had that been done. And now 219 years have come and gone since the scriveners got together and penned their names to that Declaration of Independence.

You know, it takes speaking at the Fourth of July celebration to make you realize how magnificent the American people are and how willing they are to give and how willing they are to go along with the programs and how willing they are to say, we are willing to go the extra mile in order to balance the budget because it is worth it for the kids in this country.

Mr. CHABOT. From what I am hearing here from all three of my colleagues, it sounds like the people, even though our districts may be a little bit different, they are all four in different states, the people are I think essentially giving us the same message. They are saying the same thing; that is, to move forward with what you are doing, do not stop. Do not look back, just keep moving forward.

I think the people of this country are ahead of this Congress. I think we need to keep following that direction. That direction is to balance this budget, again, not by raising taxes but by cutting spending. That is what we have to keep doing.

Again, when you look at the taxes, the average American family is sending 25 percent of their taxes here to Washington. But when you add it to the State and local and all those taxes, it is 40 to 50 percent of the average American family's money goes in taxes. And that means the lifestyle that they have and that their children have is not as good as it should be. You have many fathers and many mothers that are working. They want to give the best life, the best education to their kids they possibly can. But they have to give too much of their money to the Government. That is what we have to turn around.

The good thing is, we can reduce the level of taxes, we can do that and we can still balance this budget. And the liberal folks on the other side of the aisle said it could not be done. They said that, you cannot balance the budget and cut taxes at the same time.

We have proven that it can be done. We passed a budget resolution just a couple of weeks ago which balances the budget by the year 2002 and cuts taxes. And most of those tax cuts go to middle-class Americans. They do not go to the wealthiest people in this country, although we have heard it time and time again, from the liberals on the other side of the aisle. Seventy-five percent of the tax cuts go to people who make less than $75,000 a year.

I think that is important, because that is really what we are about. We are for relieving the overburdened taxpayers of this country and balancing this budget so their children can have a better standard of living than they did. I think that is what all Americans want.

Mr. LEWIS of Kentucky. As you said, with local, State and Federal taxes, the average family is paying 40 percent of their income into taxes. And that can increase, with the hidden taxes, up to around 50 percent or more. Thirty-eight percent of our gross domestic product is consumed by government. And the one common theme that I heard all through my campaign and through my visits back home to the district has always been, government is too big.

The American people feel the burden of too much government, too many taxes. And if we would have seen the Clinton health care plan go through last year, it would have pushed us over 50 percent of our gross domestic product that would be used by the Government. That would have put us into the socialism category.

We have to start moving in the other direction. We have to reduce the taxes, give the families their money back. So many times money that comes into the Federal Treasury is talked about as the Government's money.

Mr. LEWIS of Kentucky. It is the family's money, it is the worker out there that produces products, that puts in the time and the hours. It is their money, and we need to give it back to them.

I think sometimes the liberals think that when we give tax breaks, tax cuts, that that money just stops somewhere out there, that it never goes any further. In fact, it goes out into the economy and it is spent and it is used and it produces, and it allows the money to grow. We have seen that many times before.

President Kennedy, in his administration, he cut taxes and we saw an increase in revenue into the Federal Treasury. Ronald Reagan, he cut taxes; we saw an increase in the Federal Treasury. There are many examples in State government where taxes were cut and there would be an increase in the Federal Treasury. Because people use that money to better their own circumstances a lot better than some bureaucrat here in Washington can do.

Mr. JONES. Will the gentleman from Ohio yield for just moment.

Mr. CHABOT. I will be happy to yield to the gentleman from North Carolina.

Mr. JONES. You touched on a point that I wanted to pick up on. One theme throughout this campaign, when I was campaigning for Congress, people were telling me, we are working longer and harder and taking home less, and that is exactly what the gentleman said.

The American family and retired people who have worked, are working hard and have worked most of their lives and want to save and try to invest, under the liberal Democrats of the past as the majority party, and they have penalized people for saving and investing. Again, the average working man in my district feels that he and she are finally being represented in the Congress by people that will listen to them.

That is something that the gentleman from Ohio said a while ago. We finally have a Congress that is listening to the people, and that is going to make the difference in the success of this new 104th Congress, because again, as we go home, we continue to hear it. People will stop me in a grocery store and say, WALTER, or Mr. JONES, or Congressman, we like what you are doing. These are the people that work hard every day trying to do for their families and finally, they are getting some relief from Washington, thanks to the new majority.

Mr. CHABOT. That is right. I think again, something that the gentleman touched on that is important, is that we are working for all Americans, whether they be poor, whether they be middle class, whether they be better off, and I think what we have to be careful of is that many of the liberals are trying to divide people, to put them into certain categories. That is why we keep hearing over and over again, the Republicans just want to cut spending on poor people or seniors or whatever to give tax cuts to the wealthy.

That is just not true. As we said before, the tax cuts, 75 percent of the tax cuts go to middle-class people. We should not be dividing Americans, we should not be scaring senior citizens. All Americans are going to have to work together in order to solve the problems that we have.

Mr. MANZULLO. One of the things that really amazes me as I hear our colleagues of the liberal persuasion say well, we cannot afford a tax cut. You stop to think about it, to whom does the money belong? The money does not belong to the government, the money belongs to the people. It is the people's money, and the tribute that they pay to support some basic government services should be in the area where they can still have enough to afford to keep their family.

Let me give you an example on this capital gains. A good friend of mine several years ago, they bought a house in the suburban Chicago area. The price of houses went up and they made some money on their house.

Being wise and frugal, they moved to another city. Not that it was wise and frugal to move from a Chicago suburb, but they were leaving the area. So being wise and frugal, they invested in a house; they downsized to a house that they could afford. They ended up paying capital gains taxes on that money, even though during the period of time they owned it, inflation crept up, which was not figured into capital gains; there is no indexing going on. It took away more and more of their money, and now they sold their home again because they are having a very difficult time finding work in the Rockford area and are moving elsewhere. Now they have to pay capital gains tax again on this house that they bought just a few years ago.

These people have no money. They are living, they are living on borrowed capital. By selling their home, they are trying to get a fresh start, and when people tell me that capital gains tax are for the rich, that is a bunch of nonsense. Because it is hard working people in this country that are the beneficiaries of an appreciation of value in their homes, and they are trying to move somewhere or downsize to another house and they get penalized because of that. This is the only nation in the world that has a confiscatory high capital gains tax. It does not make sense, and it is not the wealthy that are being hit.

There is something else, the way the Democrats figure the rich. They are saying well, the rich will gain so many dollars in taxes. Let me give you an example. Let us say a person is of substantial means. That person has a building that he or she wants to sell, but under the present capital gains tax structure, he may have to pay $50,000 in capital gains. I mean it just does not make sense to sell the building. I mean we are talking about a purchase of, maybe the sale of a $200,000 building. So by cutting the capital gains tax in half, he or she might want to sell it.

Then the Democrats say well, you just gave a $25,000 break to the rich. That person wasn't going to sell the property in the first place, because the capital gains tax was too high. I would rather have $25,000 now come into the Treasury than money that may come somewhere down the line. What is that person going to do? He turns over that property, gives $25,000 as opposed to $50,000, which he may never give, to the Government for taxes. Whenever a building is sold, generally another one is built, because he or she is going to go out and build another building.

The person that comes in and buys that building, do you know what they are going to do? They are going to remodel it. I mean this incredible type of solid growth takes place.

If you analyze the capital gains tax structure since the 1950s, there are about five epochs in there where whenever capital gains taxes were reasonable, that the economy grew; I am sorry, that the actual amount of money that came into the Treasury increased each year by between 5 and 7 percent. Since 1986 when capital gains taxes were increased, each year the Federal Treasury sees 2.1 percent less dollars coming in in capital gains taxes.

So if you want less money to come in to the Treasury, raise capital gains taxes. If you want more actual dollars coming in, decrease capital gains taxes. It is so simple. It is the biggest boost; I mean this is real growth. This is not make believe government jobs, this is not Americorps, this is not some government give-away, this is actual sales taking place.

Do you know what? Just look at it. A building sells, you have a realtor involved, you have a title company involved, you have an attorney involved. Even down to the guy that sells flowers, because a lot of people do not realize that whenever there is a real estate transaction, at least back home, it is customary to send flowers to the new buyer of a building or of a home. It is a mushrooming that takes place in the economy, because the taxes are cut.

Mr. CHABOT. Speaking of taxes, I am sure, as I am sure all three of you gentlemen have had town meetings, back in my community I have spoken before a lot of different groups, and one thing that comes up time and time again is how confusing it is when people have to fill out their income taxes, how really the whole system is kind of a mess and needs to be changed.

To kind of give the folks that may be watching C-SPAN a heads-up on what is happening here in Congress, there seems to be two schools of thought that I see up here right now about how we ought to change the tax law. One has been proposed by Congressman DICK ARMEY who is the majority leader here. Most people have probably heard of it, and that is the flat tax. Congressman ARMEY has suggested that rather than have a whole lot of deductions and the confusing tax forms that we all have to fill out every year, that we just have a straight flat tax of 17 percent or thereabouts, which would certainly simplify the system.

Many, many people in my district think that is a good idea. In fact, back in Cincinnati, we have two principal newspapers, the Cincinnati Enquirer and the Cincinnati Post. There are some others, but those are the two major papers. The Cincinnati Enquirer a while back had people give their opinions about the flat tax, and it was overwhelming that people basically liked the idea that they could fill out their tax on basically a postcard and send it in.

The other concept is what Congressman BILL ARCHER, who is the chairman of the Ways and Means Committee, is pushing, and that is to basically eliminate the IRS altogether, eliminate income taxes altogether and substitute some sort of consumption tax, like a sales tax. So no income taxes at all; a sales tax in its place.

Both of those ideas, it may be some years as we deal with these two issues, but I have a feeling that there is going to be a momentum built up here in the Congress to support one plan or the other. So those that might be watching this at home now, I would like them to really follow these issues and be thinking about this in talking with their Member of Congress to let them know what they think about these plans. I think both plans are very interesting. I think both would be better than what we have now. But I can't really predict which one is going to win out.

□ 2310

Mr. JONES. If I could ask the gentleman, do you think that this true tax reform, whether it is the flat tax or consumption tax, would even be discussed in the U.S. House of Representatives if it were not for the Republican majority?

Mr. CHABOT. That is an excellent question. I do not think there is any way that we would be seriously considering this at all. Perhaps people might talk secretly in the hallways about it in the old days, but we certainly would not be talking about it on the floor of Congress.

Just think of that concept, eliminating the IRS, income taxes, altogether, and substituting something else that would be much more simple, many would argue fair, or really the chance of having a flat tax. The fact that we are talking about these things now, I think, is pretty unprecedented in this House. I think it is very encouraging, because I think the system that we have got now is just a mess.

Just think of the number of hours that the average American spends filling out their tax forms and sweating about it or paying somebody else, whether it be H&R Block or whatever, paying somebody else to do them for them. It is just a mess and something we are going to have to change.

We are all going to have to give a lot of thought to this and talk to the people back home to see what they think is the best plan, but I think we do really need to change what we have got now.

Mr. JONES. I can honestly say that it is a hot topic back in my district and has been for the last 6 months. You might also find this of interest. I have had at least two CPA's to tell me that they would like very much to see a much simpler and fairer system. We do have a great deal of support throughout this country in my opinion.

Mr. LEWIS of Kentucky. I just wanted to say, it is a new day when this Congress is talking about tax cuts, talking about tax reform. When we look back over the history of this Congress for the last 40 years, it has been tax-and-spend and big growth in government.

I just want to go back for a second and go back to the capital gains tax and give an example. I talked to a farmer that was really thrilled about the possibility of a capital gains tax cut because he told me—and this, if the liberals want to call him rich, I do not think he would agree with them—because he told me he would like to sell his farm. He is an elderly gentleman. He wants to retire.

He would like to sell his farm and retire, but if he sells his farm, by the time he pays the taxes, the capital gains tax, and by the time he pays the debt on it, then he has nothing. This is not my idea of a wealthy person. To hear the rhetoric from the other side about tax breaks for the wealthy, when I am in my district, I am seeing people that need tax breaks.

Mr. MANZULLO. Do you know how many people earn about $100,000 in this country? Two percent. It is 2 percent. That is the national figure that was calculated for the district that I represent. Somehow I hear all this rhetoric, as you say, talking about the wealthy. We are talking about people mainly earning under $75,000 a year.

It is a lot more expensive here on the East Coast than it is back where I live in northern Illinois. Out here a house is double the amount, and it presumes that both husband and wife have to work in order to pay the mortgage on a house.

When I go to town meetings, we have like open houses. We let the newspaper know that from 7 to 10 on an evening, that Congressman MANZULLO is going to have an open house and you can stop by. We will run anywhere from 150 to 200 people who will stop by the office, have cookies and coffee, and sit there and discuss the issues. Those that have particular problems can meet with our legislative aides in private rooms there.

One of the things that I like to do whenever I am with these groups, I say, let me ask you a question here: How many of you live in a household where both you and your spouse work? There is about half to 60 percent who raise their hands.

I said, do you realize that one of you is working solely to pay taxes? Just one of you. One of you is working just to pay taxes. Every day, every year, the Tax Freedom Day just gets moved back and back and back and back. I just wonder, how long can a nation endure, how long can this republic be free when the tax burden continues to grow and grow and grow and grow and grow?

I shudder to think about that. I think what we talked about earlier, about the tax burden, about these babies now that have a guaranteed tax rate of between 84 and 94 percent.

We had a vote here on the floor a couple of days ago. I cannot remember exactly what it was but somebody said, well, we owe it to such and such to fund this program. I said, "We owe it to the children of this country not to fund this program and to cut back on the spending."

They said, "Well, we had a contract with such and such a group." I said, "And I have got a covenant with my children and with the people that I represent in the 16th Congressional District of Illinois."

We represent the babies and those not even born yet. I mean, we have to make decisions that are going to impact the lives of those who have not even been thought of being born yet.

Mr. JONES. I think each one of us know this figure that I am going to share with the viewers, but if we do not balance the budget, a child born today that lives to be 75 years of age, she or he will have a responsibility of $187,000 to pay on the interest on the debt. That is how important it is that we balance the budget.

Mr. MANZULLO. That is just the interest on the national debt, not the total amount of the debt.

Mr. JONES. Just the interest.

Mr. CHABOT. Like the gentleman says, that is only the interest. The scary part about this whole thing of debt and how large it has gotten, that interest on the debt within a couple of years, we are going to be paying more just on the interest on that debt than we are for our entire military expenditures.

Just think of that, the Army, the Navy, the Air Force, the Marine Corps, the Pentagon, all those things, you can imagine all the ships we have, all the soldiers, all the planes, et cetera, how much that costs.

The spending on the interest on the debt will be more than the whole military. I mean, that is just a mind-boggling figure. We have got to do something about it.

Mr. MANZULLO. We are talking about what we learned back home over the Fourth of July recess. Just prior to that break, I met with a group of university presidents. One of the Democrats in the group said, "Oh, the Republicans are destroying student loans. They're ending student loans."

He went on and on and on and on and on. That is an outright, bald-faced lie. That is the only way I could say it. One of the university presidents said, "We have got to protect student loans, this isn't right."

Afterwards, I talked to him. I said, "Doctor, let me ask you a question. Does your university have a business school?" He said, "Yes."

I said, "Do you teach in the business school that interest begins to accrue from the time that the person gets the money, not 4 years later," as is how the student loan program is presently run. He said, "That's correct."

I said, "Do you realize that a college graduate earns at the minimum $600,000 more in his lifetime than a noncollege graduate? He said, "I understand that."

I said, "And do you also realize that all the Republican plan says is this: That if a college student borrows $30,000, which is the maximum amount of money, and beings to pay it back 4 years after he gets the initial amount, that the additional amount he is going to pay is 55 cents a day in interest until that is paid off"? That is a cup of coffee.

□ 2320

Mr. MANZULLO. I said, now, you tell me to my face that that is going to keep somebody from enrolling at your school. And he couldn't answer that question. And I said, what the Republicans are trying to do is to save that college trust fund so there is more money in it, and the more money that is in that trust fund, the more money there is to spread around to kids who want to go to school and the more interest that comes in. That spreads the pot out. I said, that is all we are trying to do. We are not trying to destroy it.

So we always meet with these incredible arguments that we are trying to destroy, cut out and hurt and be cruel to college students. The farthest thing from the truth.

Mr. CHABOT. You know, I have to mention one other area that I wanted to touch on because it is something that I keep hearing back in my district, and that is the fact that one area that I think we really have wasted a lot of money, at least previous Congresses have wasted a lot of money, is in the area of welfare payments where much of the money that has been spent has been counterproductive.

You know, the area of welfare was something where it was supposed to be temporary help for the truly needy, and this was something back during the depression, back during the 1930's when it started. It had the best of intentions, to really help people who needed that help.

Unfortunately, over the past 60 years, far too often, rather than temporary help, it has become a permanent way of life. And I have had a number of people that have said we did the right thing here in the House when we did what President Clinton said he wanted to do back when he ran for President, and that is change welfare as we know it, and that is what the Republicans in the House did.

Now, the Senate is working on that piece of legislation and hopefully they will be acting upon that soon. But I just think that the way welfare has been run in this country for the past 60 years has wasted billions and billions and billions of dollars and much of it has encouraged people unfortunately to stay on welfare and not get off.

People that are on welfare, I believe very strongly, ought to work for their welfare check and they ought to be in jobs programs, in education programs so that they can get off welfare, and welfare should be temporary. It shouldn't be something permanent. We have got third and fourth generation of people who basically just assume that that is how you get by, that people just get welfare every year. We got kids that grow up in homes all over this country that never see an adult in the home go to work, and so that is an example of a program that truly needs to be changed.

And it is funny, I was in three senior citizens homes last week in one day talking with seniors and I was hearing that from an awful lot of seniors. One thing they really objected to was the fact that there were so many people taking advantage of the welfare system.

Mr. LEWIS of Kentucky. Will the gentleman yield?

Mr. CHABOT. I will yield.

Mr. LEWIS of Kentucky. We have had the great society in place for 30 years, the welfare system. There has been $5 trillion spent. There are more people in poverty now than when that started. Five trillion dollars down the drain and more people on welfare, more people that are—well, let's look at the statistics. The highest crime rate in the world, more teenage pregnancies, more poverty. I mean, it hasn't worked. And you are exactly right. The help is to be temporary, not an ongoing thing, and let's look at our debt. We are $5 trillion in debt. We spent $5 trillion in 30 years to try to solve the poverty problem.

Mr. MANZULLO. Will the gentleman yield?

Mr. LEWIS of Kentucky. Yes.

Mr. MANZULLO. I don't know if the gentleman has read Martin Alaska's book of the Tragedy of American Compassion. It should be a textbook, and in that book he talks about sometimes simply by giving people money, you can really hurt them in the long run. And he talked about early in this country when the role of the churches and the synagogues recognized that it was the primary responsibility of the people, not the government, to take care of those who were involved in poverty. Obviously there are exceptions to everything, people that are disabled or handicapped, obviously our hearts go out to them and it is a matter of priorities to make sure that they are in fact taken care of, and he talked about the wood piles in the bigger cities where men who are unemployed would come to work. They would come to get food, but they were always expected to go out back and chop up wood, which of course was used for heating, and there was nothing demeaning about it because they needed wood to keep the facilities going, and the men willingly would cut the wood because they knew it was short term and there were duties for the women to do that were also on welfare, and the whole purpose of that was that the churches and the synagogues that administered the welfare program wanted to make sure that the people never got used to a life-style where everything was given to them because that robs them of their incentive.

And we have a welfare advisory board back home, some of the most fantastic people in the world, a couple of women on welfare themselves. And you know, one of the startling things I found out, completely changed my mind, revolutionized my mind as it was going on, do you know who wants off welfare the most? It is the recipients. They realize they are trapped. They realize they are trapped, and most of them—I mean, these are not the stereotypes of people who are, you know, the stereotype that we see of the welfare recipients. It is not that. Most are single moms who are desperately trying to break that cycle and to get some schooling done and to get off that welfare roll. So they are willing to do it, and they just need the right tools to be able to break that cycle.

Mr. CHABOT. And I think that the people that are ultimately the victims of this welfare trap is those children.

Mr. MANZULLO. That is right.

Mr. CHABOT. Because they see a check comes from the Government every month and just assume that is the way people get by, the Government sends a check every month, and it just doesn't work that way. And you know, the thing that is unfair also is where does that money come from that is going to the welfare recipients? It is coming oftentime from hard-working, middle-class people, oftentime through both the mom and the dad in the home. Both have to work, just as you said before, DON, to pay their taxes. And where are a lot of those taxes going? Unfortunately, to failed programs like the welfare system in this country.

Mr. MANZULLO. Will the gentleman yield?

Mr. CHABOT. I will yield to the gentleman from North Carolina.

Mr. JONES. Does the gentleman from Ohio feel as I do that as we begin to tackle the welfare reform which we passed on the House side and hopefully the Senate will follow suit, but we are also looking to work closer with the States to take over the welfare program because we think the States can do a better job, a more efficient job than the Federal Government has done? Does the gentleman agree?

Mr. CHABOT. I do agree, and as a matter of fact, as the gentleman from North Carolina understands completely, much of the money is block granted to the States. Some of the most creative programs that we have had in the area of welfare has come at the State level, at some of the governors—my governor in Ohio, Governor George Voinovich, has been a leader in welfare reform, and what they are trying to do is to wean people off, to break that mind-set where people just assume that the Government supports people on welfare basically from cradle to grave.

People need to realize that it is basically their own responsibility, people are responsible for their own lives, and if they depend upon the Government, both they and their children are going to have, over their life-span, a much less standard of living than they will if they work for themselves.

Mr. MANZULLO. Will the gentleman yield?

Mr. CHABOT. Yes.

Mr. MANZULLO. Our colleague, Congressman WELDON, is in your freshman class from Florida, was quoted in the Washington Times about a conversation he had with a constituent. This constituent was talking to some young people, and recalled the following story. He asked them, he said, what do you want to do when you grow up? One said a fireman. What do you want to be when you grow up? One said a policeman. What do you want to be when you grow up? He said, I want to collect checks. Isn't that sad?

Mr. CHABOT. It is.

Mr. MANZULLO. What a sad commentary.

Mr. CHABOT. I realize that our time is drawing to a close and I just want to thank DON MANZULLO from Illinois and WALTER JONES from North Carolina and RON LEWIS from the great State of Kentucky for this colloquy here this evening.

I think it has been very helpful for all of us and hopefully very insightful to those that happen to be watching this evening.

RECESS

The SPEAKER pro tempore (Mr. LONGLEY). Pursuant to clause 12 of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 11 o'clock and 31 minutes p.m.) the House stood in recess subject to the call of the Chair.

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore [Mr. DREIER] at 12 o'clock and 30 minutes a.m.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 1977, DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 1996

Ms. PRYCE, from the Committee on Rules, submitted a privileged report (Rept. 104–184), on the resolution (H. Res. 187) providing for consideration on the bill (H.R. 1977), making appropriations for the Department of the Interior and related agencies for fiscal year ending September 30, 1996, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 1976, THE AGRICULTURE APPROPRIATIONS BILL, 1996

Mr. LINDER, from the Committee on Rules, submitted a privileged report (Rept. 104–185), on the resolution (H. Res. 188) providing for consideration of the bill (H.R. 1976), making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 1996, and for other purposes, which was referred to the House Calendar and ordered printed.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Miss COLLINS of Michigan (at the request of Mr. GEPHARDT), for today from 10 a.m. to 12:30 p.m., on account of medical reasons.

Mr. HEFNER (at the request of Mr. GEPHARDT), for today, on account of illness.

Mr. LONGLEY (at the request of Mr. ARMEY), for today until 6:15 p.m., on account of personal reasons.

Mr. FOX of Pennsylvania (at the request of Mr. ARMEY), for today until 7 p.m., on account of attending a funeral.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. WISE) to revise and extend their remarks and include extraneous material:)

Mr. OWENS, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

(The following Members (at the request of Mr. KINGSTON) to revise and extend their remarks and include extraneous material:)

Ms. ROS-LEHTINEN, for 5 minutes, today.

Mr. BURTON of Indiana, for 5 minutes, today.

Mr. BEREUTER, for 5 minutes, today.

Mr. KINGSTON, for 5 minutes, today.

Mr. FOX of Pennsylvania, for 5 minutes, today.

Mr. HOKE, for 5 minutes, today.

Mr. CHRISTENSEN, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. KINGSTON) and to include extraneous matter:)

Mr. WELLER.

Mr. BALLENGER.

Mr. CLINGER.

Mr. MARTINI in two instances.

Mr. BAKER of California.

Mr. HORN.

(The following Members (at the request of Mr. WISE) and to include extraneous matter:)

Mr. EVANS.

Mr. GUTIERREZ.

Mr. ORTIZ in two instances.

Mr. TOWNS.

Mr. HILLIARD.

Mr. MENENDEZ.

Mr. RUSH.

Ms. NORTON.

(The following Members (at the request of Mr. CHABOT) and to include extraneous matter:)

Ms. VELAZQUEZ.

Mr. THOMPSON.

Mr. FRANKS of New Jersey.

Mr. MINETA.

Mr. BURTON of Indiana.

Mr. BROWN of California.

Ms. PELOSI.

Mr. RICHARDSON.

Mr. DEFAZIO.

ADJOURNMENT

Ms. PRYCE. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 12 o'clock and 31 minutes a.m.), the House adjourned until Thursday, July 13, 1995 at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1180. A letter from the Director, the Office of Management and Budget, transmitting the cumulative report on rescissions and deferrals of budget authority as of July 1, 1995, pursuant to 2 U.S.C. 685(e) (H. Doc. No. 104–94); to the Committee on Appropriations and ordered to be printed.

1181. A letter from the Under Secretary of Defense, transmitting a report of a violation of the Anti-Deficiency Act which occurred in the Aeronautical Systems Division at Wright-Patterson Air Force Base, OH, pursuant to 31 U.S.C. 1517(b); to the Committee on Appropriations.

1182. A letter from the President and Chairman, Export-Import Bank of the United States, transmitting a report involving United States exports to Japan, pursuant to 12 U.S.C. 635(b)(3)(i); to the Committee on Banking and Financial Services.

1183. A letter from the President and Chairman, Export-Import Bank of the United States, transmitting a report involving United States exports to Japan, pursuant to 12 U.S.C. 635(b)(3)(i); to the Committee on Banking and Financial Services.

1184. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of a proposed license for the export of major defense articles and services sold commercially to Australia (Transmittal No. DTC–43–95), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

1185. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11–85, "Industrial Revenue Bond Forward Commitment Program Authorization Act of 1995," pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

1186. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11–89, "HIV Testing of Certain Criminal Offenders Act of 1995," pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

1187. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11–88, "Child Support Enforcement Temporary Amendment Act of 1995," pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

1188. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11–90, "Juvenile Curfew Act of 1995," pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

1189. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11–91, "District of Columbia Board of Education Fees for Adult, Community, and Continuing Education Courses Temporary Amendment Act of 1995," pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

1190. A letter from the Secretary, Department of the Treasury, transmitting the semiannual report of activities of the inspector general for the period ending March 31, 1995, and the Secretary's semiannual report for the same period, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform and Oversight.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. LIGHTFOOT: Committee on Appropriations. H.R. 2020. A bill making appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain independent agencies, for the fiscal year ending September 30, 1996, and for other purposes (Rept. 104–183). Referred to the Committee of the Whole House on the State of the Union.

Mr. LINDER: Committee on Rules. House Resolution 188. Resolution providing for consideration of the bill (H.R. 1976) making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 1996, and for other purposes (Rept. 104–185). Referred to the House Calendar.

Ms. PRYCE: Committee on Rules. House Resolution 187. Resolution providing for the consideration of the bill (H.R. 1977) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1996, and for other purposes (Rept. 104–184). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Ms. NORTON (for herself, Mr. DAVIS, Mr. WOLF, Mrs. MORELLA, Mr. MORAN, and Mr. DIXON):

H.R. 2017. A bill to authorize an increased Federal share of the costs of certain transportation projects in the District of Columbia for fiscal years 1995 and 1996, and for other purposes; to the Committee on Transportation and Infrastructure, and in addition to the Committee on Government Reform and Oversight, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. OLVER (for himself, Mr. DAVIS, Mr. GILMAN, Mr. PETE GEREN of Texas, Mr. PAYNE of Virginia, Mr. MORAN, Mrs. KELLY, and Mr. SHAYS):

H.R. 2018. A bill to amend section 5112 of title 31, United States Code, to authorize the Secretary of the Treasury to mint and issue platinum bullion coins and to mint and issue more than one version of gold bullion coins at the same time; to the Committee on Banking and Financial Services.

By Mr. DEFAZIO (for himself, Mr. BARTON of Texas, Mr. DELAY, Mr. COX, Mr. HINCHEY, Mr. PALLONE, Mr. KINGSTON, Ms. FURSE, Ms. NORTON, Mr. OWENS, Mr. SMITH of New Jersey, Mr. LIPINSKI, Ms. VELAZQUEZ, Mr. EVANS, Mr. DELLUMS, Mr. DEUTSCH, Mr. FRAZER, and Mr. HILLIARD):

H.R. 2019. A bill to allow patients to receive any medical treatment they want under certain conditions and for other purposes; to the Committee on Commerce.

By Mr. LIGHTFOOT:

H.R. 2020. A bill making appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain independent agencies, for the fiscal year ending September 30, 1996, and for other purposes.

By Mr. CREMEANS:

H.R. 2021. A bill to release restrictions imposed on the use of certain real property conveyed by the Secretary of the Interior to Lawrence County, OH; to the Committee on Resources.

By Mr. MCHALE (for himself, Mr. STUPAK, Mr. FILNER, Mr. BUNNING of Kentucky, Mr. POMEROY, Mr. WYDEN, Mr. ORTIZ, Mr. BEILENSON, Mr. MCNULTY, Mr. BARCIA of Michigan, Mr. ZIMMER, Mr. TAYLOR of Mississippi, Ms. WOOLSEY, Mr. ORTON, Mr. EVANS, Mr. JACOBS, Mr. HINCHEY, Ms. LOFGREN, and Mr. VISCLOSKY):

H.R. 2022. A bill to require the partial application of the antitrust laws to major and minor league baseball; to the Committee on the Judiciary.

By Mr. KLUG (for himself, Mr. GILLMOR, Mr. BILIRAKIS, Mr. BROWN of Ohio, Mr. FIELDS of Texas, Mr. FRANKS of Connecticut, Mr. HASTERT, Mrs. LINCOLN, Mr. MANTON, Mr. PALLONE, Mr. RICHARDSON, Mr. STEARNS, Mr. TAUZIN, and Mrs. THURMAN):

H.R. 2024. A bill to phase out the use of mercury in batteries and provide for the efficient and cost-effective collection and recycling or proper disposal of used nickel cadmium batteries, small sealed lead-acid batteries, and certain other batteries, and for other purposes; to the Committee on Commerce.

By Mr. RICHARDSON (by request):

H.R. 2025. A bill to amend the Land and Water Conservation Fund Act of 1965 as regards the National Park Service and for other purposes; to the Committee on Resources.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII.

Mr. CREMEANS introduced a bill (H.R. 2023) to provide for a land exchange between the Ironton Country Club of Ironton, OH, and the Secretary of Agriculture involving Wayne National Forest; which was referred to the Committee on Agriculture.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 44: Mr. TUCKER, Mr. REED, and Mr. FORBES.

H.R. 127: Mr. SANDERS, Mr. OLVER, and Mr. MINGE.

H.R. 218: Mr. LEWIS of Kentucky.

H.R. 263: Ms. ROYBAL-ALLARD.

H.R. 264: Mrs. MALONEY.

H.R. 390: Mr. CONYERS.

H.R. 436: Mr. BREWSTER, Mr. SKELTON, and Mr. KNOLLENBERG.

H.R. 573: Mr. SAXTON.

H.R. 580: Mr. MCCOLLUM, Mr. BACHUS, Mr. BENTSEN, and Mr. TIAHRT.

H.R. 709: Ms. JACKSON-LEE.

H.R. 743: Mr. COBLE, Mr. SCARBOROUGH, and Mr. BRYANT of Tennessee.

H.R. 763: Mr. ENGEL.

H.R. 863: Mr. FROST, Mr. SERRANO, Mr. INGLIS of South Carolina, Mr. MILLER of California, Mr. HILLIARD, Mr. BALDACCI, Mr. BAKER of Louisiana, and Mr. WILSON.

H.R. 883: Mr. TORRES, Mr. NADLER, and Mr. DELLUMS.

H.R. 958: Mr. FORBES, Mr. ENGEL, Mr. LIPINSKI, and Ms. JACKSON-LEE.

H.R. 1005: Mr. BACHUS.

H.R. 1020: Mrs. MEEK of Florida, Mr. BRYANT of Tennessee, Mr. LEACH, and Mr. BALDACCI.

H.R. 1023: Ms. JACKSON-LEE.

H.R. 1073: Mr. FATTAH, Mr. RUSH, and Ms. JACKSON-LEE.

H.R. 1074: Mr. FATTAH, Mr. FRANK of Massachusetts, and Ms. JACKSON-LEE.

H.R. 1114: Mr. MCCOLLUM, Mr. BARTON of Texas, and Mr. GOODLING.

H.R. 1154: Mr. KENNEDY of Rhode Island.

H.R. 1161: Mr. BISHOP, Mr. MCCRERY, Mr. INGLIS of South Carolina, and Mr. MOORHEAD.

H.R. 1289: Mr. THORNBERRY.

H.R. 1333: Mr. INGLIS of South Carolina.

H.R. 1459: Mr. RUSH, Mr. CRAMER, and Mr. PAYNE of New Jersey.

H.R. 1504: Mr. NEAL of Massachusetts, Mr. RAMSTAD, and Ms. PRYCE.

H.R. 1539: Mr. THOMPSON, Mr. FARR, Mr. TORRES, and Mr. HINCHEY.

H.R. 1540: Mr. ORTIZ, Mr. FRELINGHUYSEN, Mr. DOYLE, and Mr. MCCOLLUM.

H.R. 1573: Mr. SOLOMON.

H.R. 1588: Mr. MINGE.

H.R. 1594: Mr. GOODLATTE.

H.R. 1675: Mr. ALLARD.

H.R. 1713: Mrs. CHENOWETH.

H.R. 1768: Mr. MCKEON and Mr. BAKER of Louisiana.

H.R. 1774: Mr. ENGEL and Mr. HINCHEY.

H.R. 1821: Mr. TAYLOR of Mississippi and Mr. STEARNS.

H.R. 1856: Mr. BISHOP and Mr. WELLER.

H.R. 1866: Mr. OBERSTAR, Mr. FIELDS of Texas, and Mr. HORN.

H.R. 1876: Mrs. SCHROEDER and Ms. FURSE.

H.R. 1909: Mr. SALMON, Mr. HUNTER, Mr. KING, and Mrs. SEASTRAND.

H.R. 1945: Mr. DAVIS and Mr. MORAN.

H.R. 1955: Mr. MORAN, Mr. ACKERMAN, Ms. WATERS, Mr. SCOTT, Ms. VELAZQUEZ, Mr. KLINK, and Mr. UNDERWOOD.

H.R. 1965: Mr. FRANK of Massachusetts, Mrs. SEASTRAND, Mr. WYDEN, Ms. DELAURO, Mr. BLUTE, and Mr. MCDERMOTT.

H.R. 1972: Mr. HASTINGS of Washington.

H.R. 1980: Mr. GUTIERREZ, Mr. FROST, Mr. MATSUI, Mr. RANGEL, Mr. COLEMAN, and Mr. UNDERWOOD.

H. Con. Res. 10: Mrs. VUCANOVICH, Mr. HOLDEN, Mr. MORAN, Mr. BROWN of Ohio, and Mr. KLECZKA.

H. Con. Res. 42: Mr. FARR and Ms. ROYBAL-ALLARD.

H. Con. Res. 50: Mr. DEUTSCH and Mr. KENNEDY of Massachusetts.

H. Con. Res. 51: Mr. FUNDERBURK, Mr. FROST, Mr. FORBES, Mr. PACKARD, Mr. HOKE, Mr. SCHUMER, and Mr. FOX.

H. Con. Res. 78: Mr. ACKERMAN, Mr. MARTINEZ, Mr. WAXMAN, Mr. FRANK of Massachusetts, Mr. FLAKE, Mr. EVANS, and Mr. BISHOP.

H. Res. 36: Mr. PALLONE.

H. Res. 39: Mr. BRYANT of Texas, Mr. HASTINGS of Florida, Mr. WILSON, Mr. CLYBURN, Mrs. MALONEY, Ms. WATERS, Mr. RANGEL, Mr. THOMPSON, and Mr. EVANS.

H. Res. 174: Ms. WOOLSEY, Mr. DURBIN, Mrs. SCHROEDER, Ms. ROYBAL-ALLARD, Mr. MILLER of California, Mr. BARRETT of Wisconsin, Mr. HINCHEY, Ms. VELÁZQUEZ, and Ms. MCKINNEY.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 530: Mr. HASTINGS of Florida.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 1976

OFFERED BY: MR. HOKE

AMENDMENT NO. 13: Page 57, line 15, strike "$291,342,000" and insert "$161,540,000".

Page 57, line 17, strike "$25,000,000" and insert "$16,417,000".

Page 58, line 10, strike "$236,162,000" and insert "$131,833,000".

H.R. 1976

OFFERED BY: MR. ZIMMER

AMENDMENT NO. 14: Page 71, after line 2, insert the following new sections:

SEC. 726. DEFICIT REDUCTION TRUST FUND.

(a) ESTABLISHMENT.—A trust fund known as the "Deficit Reduction Trust Fund" (hereinafter in this Act referred to as the "Fund") shall be established in the Treasury of the United States.

(b) CONTENTS.—The Fund shall consist only of amounts contained in the deficit reduction lock box provision of any appropriation Act. Such amounts shall be transferred to the Fund as specified in subsection (c).

(c) TRANSFERS OF MONEYS TO THE FUND.—Within 10 days of enactment of any appropriation Act which has a deficit reduction lock box provision, there shall be transferred from the general fund to the Fund an amount equal to that amount.

(d) USE OF MONEYS IN THE FUND.—Notwithstanding any other provision of law, the amounts in the Fund shall not be available, in any fiscal year, for appropriation, obligation, expenditure, or transfer.

SEC. 319. DOWNWARD ADJUSTMENTS OF DISCRETIONARY SPENDING LIMITS.

(a) DOWNWARD ADJUSTMENTS.—The discretionary spending limit for new budget authority for any fiscal year set forth in section 601(a)(2) of the Congressional Budget Act of 1974, as adjusted in strict conformance with section 251 of the Balanced Budget and Emergency Deficit Control Act of 1985, shall be reduced by the amount of budget authority transferred to the Fund for that fiscal year under section 2(c), as calculated by the Director of the Office of Management and Budget. The adjusted discretionary spending limit for outlays for that fiscal year and each outyear as set forth in such section 601(a)(2) shall be reduced as a result of the reduction of such budget authority, as calculated by the Director of the Office of Management and Budget based upon such programmatic and other assumptions set forth in the joint explanatory statement of managers accompanying the conference report on that bill. All such reductions shall occur on the same day that the amounts triggering the reductions are transferred to the Fund.

(b) DEFINITION.—As used in this section, the term "appropriation bill" means any general or special appropriation bill, and any bill or joint resolution making supplemental, deficiency, or continuing appropriations.

SEC. 320. DEFICIT REDUCTION LOCK-BOX PROVISIONS OF APPROPRIATION MEASURES.

(a) DEFICIT REDUCTION LOCK-BOX PROVISIONS.—Title III of the Congressional Budget Act of 1974 is amended by adding at the end the following new section:

"DEFICIT REDUCTION LOCK-BOX PROVISIONS OF APPROPRIATION BILLS

"SEC. 314. (a) Any appropriation bill that is being marked up by the Committee on Appropriations (or a subcommittee thereof) of either House shall contain a line item entitled 'Deficit Reduction Lock-box'. The dollar amount set forth under that heading shall be an amount equal to the section 602(b)(1) or section 302(b)(1) allocations, as the case may be, to the subcommittee of jurisdiction over the bill of the Committee on Appropriations minus the aggregate level of budget authority or outlays contained in the bill being considered.

"(b) Whenever the Committee on Appropriations of either House reports an appropriation bill, that bill shall contain a line item entitled 'Deficit Reduction Account' comprised of the following:

"(1) Only in the case of any general appropriation bill containing the appropriations for Treasury and Postal Service (or resolution making continuing appropriations (if applicable)), an amount equal to the amounts by which the discretionary spending limit for new budget authority and outlays set forth in the most recent OMB sequestration preview report pursuant to section 601(a)(2) exceed the section 602(a) allocation for the fiscal year covered by that bill.

"(2) Only in the case of any general appropriation bill (or resolution making continuing appropriations (if applicable)), an amount not to exceed the amount by which the appropriate section 602 (b) allocation of new budget authority exceeds the amount of new budget authority provided by that bill (as reported by that committee).

"(3) Only in the case of any bill making supplemental appropriations following enactment of all general appropriation bills for the same fiscal year, an amount not to exceed the amount by which the section 602(a) allocation of new budget authority exceeds the sum of all new budget authority provided by appropriation bills enacted for that fiscal year plus that supplemental appropriation bill (as reported by that committee).

"(c) Whenever a Member of either House of Congress offers an amendment (whether in subcommittee, committee, or on the floor) to an appropriation bill to reduce spending, that reduction shall be placed in the deficit reduction lock-box unless that Member indicates that it is to be utilized for another program, project, or activity covered by that bill. If the amendment is agreed to and the reduction was placed in the deficit reduction lock-box, then the line item entitled 'Deficit Reduction Lock-box' shall be increased by the amount of that reduction.

"(d) It shall not be in order in the House of Representatives or the Senate to consider a conference report that modifies any Deficit Reduction Lock-box provision that is beyond the scope of that provision as so committed to the conference committee.".

(b) CONFORMING AMENDMENT.—The table of contents set forth in section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by inserting after the item relating to section 313 the following new item:

"Sec. 314. Deficit reduction lock-box provisions of appropriation measures.".

SEC. 321. CBO TRACKING.

Section 202 of the Congressional Budget Act of 1974 is amended by adding at the end the following new subsection:

"(i) SCOREKEEPING ASSISTANCE.—To facilitate compliance by the Committees on Appropriations with section 314, the Office shall score all general appropriation measures as passed the House of Representatives and as passed the Senate and have such scorecard published in the Congressional Record.".

H.R. 1977

OFFERED BY: MR. ANDREWS

AMENDMENT NO. 50: Page 12, strike lines 4 through 8.

H.R. 1977

OFFERED BY: MR. BASS

AMENDMENT NO. 51: Page 47, line 25, insert before the period the following:

: *Provided*, That the Forest Service shall make a priority emergency purchase of the Bretton Woods tract within the White Mountain National Forest in New Hampshire

H.R. 1977

OFFERED BY: MR. CRANE

AMENDMENT NO. 52: Page 72, strike line 15 and all that follows through page 73, line 15.

H.R. 1977

OFFERED BY: MR. DEAL

AMENDMENT NO. 53: Page 17, line 5, strike "$114,868,000" and insert "$119,412,000".

Page 72, line 19, strike "$82,259,000" and insert "$77,715,000".

H.R. 1977

OFFERED BY: MR. HUTCHINSON

AMENDMENT NO. 54: On page 16, line 25, delete $37,934,000 and insert $34,434,000.

H.R. 1977

OFFERED BY: MR. KENNEDY OF MASSACHUSETTS

AMENDMENT NO. 55: Page 45, line 24, strike "$1,276,688,000" and insert "$1,263,234,000".

Page 47, line 5 strike "$120,000,000" and insert "$114,980,000".

H.R. 1977

OFFERED BY: MR. KENNEDY OF MASSACHUSETTS

AMENDMENT NO. 56: Page 94, after line 24, insert the following new section:

Sec. 318. None of the funds made available to the Forest Service by this Act may be used for the construction of roads, or the preparation of timber sales, in roadless areas of 3,000 or more acres in size.

H.R. 1977

OFFERED BY: MR. KLUG

AMENDMENT NO. 57: On page 44, after line 19, insert the following:

"SEC. 115. No funds appropriated or otherwise made available pursuant to this Act in fiscal year 1996 shall be obligated or expended to accept or process applications for a patent for any mining or mill site claim located under the general mining laws or to issue a patent for any such claim.".

H.R. 1977

OFFERED BY: MR. MICA

AMENDMENT NO. 58: Page 17, line 21, "$14,300,000" and insert "$29,300,000".

Page 18, line 25, strike "$686,944,000" and insert "$671,944,000".

H.R. 1977

OFFERED BY: MR. MICA

AMENDMENT NO. 59: Page 18, line 25, strike "$686,944,000" and insert "$574,056,000".

Page 19, line 2, strike the comma and all that follows through "1997" on line 5.

Page 19, line 9, strike the colon and all that follows through "1996" on page 20, line 14.

H.R. 1977

OFFERED BY: MR. NEUMANN

AMENDMENT NO. 60: Page 12, strike lines 4 through 8.

Page 12, strike lines 21 through 25.

H.R. 1977

Offered By: Mr. Parker

Amendment No. 61: At the end of the bill, insert after the last section (preceding the short title) the following new section:

Sec. . (a) Limitation on Use of Funds.—None of the funds made available in this Act may be used by the Department of Energy in implementing the Codes and Standards Program to plan, propose, issue, or prescribe any new or amended standard.

(b) Corresponding Reduction in Funds.—The aggregate amount otherwise provided in this Act for "DEPARTMENT OF ENERGY—Energy Conservation" is hereby reduced by $12,799,000.

H.R. 1977

Offered By: Mr. Parker

Amendment No. 62: At the end of the bill, insert after the last section (preceding the short title) the following new section:

Sec. . (a) Limitation on Use of Funds.—None of the funds made available in this Act may be used by the Department of Energy in implementing the Codes and Standards Program to plan, propose, issue, or prescribe any new or amended standard.

H.R. 1977

Offered By: Mr. Skaggs

Amendment No. 63: Page 43, strike lines 13 through 18, and renumber subsequent sections accordingly.

H.R. 1977

Offered By: Mr. Skaggs

Amendment No. 64: On page 56, line 3, strike "$552,871,000, and in lieu thereof insert $567,871,000; page 56, line 10, strike "$133,946,000 and in lieu thereof insert "$148,946,000"; on page 56, line 17, strike "$107,446,000" and in lieu thereof "$120,446,000"; and on page 56, line 18, strike "$26,500,000" and in lieu thereof insert "$28,500,000".

H.R. 1977

Offered By: Mr. Tiahrt

Amendment No. 65: Page 55, line 5, strike "$384,504,000" and insert "$220,950,000".

H.R. 1977

Offered By: Mr. Tiahrt

Amendment No. 66: Page 56, line 3, strike "$552,871,000" and insert "$364,066,000".

H.R. 1977

Offered By: Mr. Underwood

Amendment No. 67: Page 34, line 24, strike "$69,232,000" and insert "$64,652,000".

Page 34, line 24, strike "$65,705,000" and insert "$61,125,000".

Page 37, insert before the colon at the end of line 7 the following: ", and $4,580,000 for impact aid for Guam under section 104(e)(6) of Public Law 99–239".

H.R. 1977

Offered By: Mr. Underwood

Amendment No. 68: Page 37, insert before the colon at the end of line 7 the following: ", and $4,580,000 for impact aid for Guam under section 104(e)(6) of Public Law 99–239".

EXTENSIONS OF REMARKS

COST OF GOVERNMENT DAY

HON. CASS BALLENGER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 12, 1995

Mr. BALLENGER. Mr. Speaker, July 9—the Cost of Government Day—marks the point at which the average American worker finally begins to earn money he can keep for himself—in order to pay for food, housing, living expenses, and savings. Thanks to direct taxes, deficit spending, and excess regulation, our oversized and overpriced government takes 52 cents for every dollar we earn. Hard to believe but true.

It is not difficult to see why it now takes Americans almost 190 days to pay off annual costs to Uncle Sam. For example, Federal regulations cost Americans an estimated $700 billion in 1994 alone. The flow of unfunded mandates issued by the White House has caused substantial increases in State and local taxes. And we continue to feel the effects of the 1993 Clinton tax hike.

I do not believe that it was ever the intent of our Founding Fathers for Americans to work more hours for the government than they work for themselves. I urge my colleagues to continue the progress begun in the Contract With America—such as the passage of the Unfunded Mandate Reform Act—and fight to bring this outrageous trend under control. By reducing the size of our bloated bureaucracy and judging the effects of new Federal regulations in a more responsible manner, we can ensure that the Cost of Government Day rolls around a little sooner each year.

RECOGNITION OF JAMAINE A. FRY

HON. BENNIE G. THOMPSON

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 12, 1995

Mr. THOMPSON. Mr. Speaker, I stand today to recognize Jamaine A. Fry of Tutwiler, MS. Jamaine was a 12-year-old student at the West District Middle School in Sumner MS. Shortly after midnight on June 6, 1995, this young man was awakened to discover the living room wall in the family's apartment was in flames. He quickly alerted his mother and other family members, and helped them escape to safety. Jamaine died from smoke inhalation after re-entering the apartment thinking a family member was still inside.

Today, I salute Jamaine A. Fry for bravery. The example of his courage and love will remain as a source of continued inspiration to his family, friends, and the community of Tutwiler, MS.

TRIBUTE TO STAFF AND PLAYERS OF THE MOODY HIGH SCHOOL BASEBALL TEAM

HON. SOLOMON P. ORTIZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 12, 1995

Mr. ORTIZ. Mr. Speaker, I rise today to pay tribute to the players, coaches, principal and superintendent of the Moody High School State finalist baseball team in Corpus Christi, TX.

Reaching the State finals in the university interscholastic league State tournament in South Texas is a difficult and arduous task, yet the Moody High Trojans proved they could achieve this ultimate goal. They have brought great pride to the south Texas area and I am very proud of their courage and tenacity.

I would like to congratulate the people who have made this accomplishment possible: Parents, coaches, friends, fans, and the entire community. Head coach Steve Castillo has been instrumental in his team's success. He has taught his players the fundamentals of the game as well as the importance of sportsmanship and fair play. These lessons are also true in life. His dedication to the game and to his players is to be commended.

In my entire life, the best feeling I have ever experienced is playing ball with my friends. Participating in athletics not only builds character, but it fosters life-long friendships. Playing ball with your friends, making the big plays, digging in and giving your all—that is what teamwork is all about. Teamwork teaches an individual some of the most important lessons of life: Cooperation, commitment, and hard work.

The baseball team at Moody High School has demonstrated these commendable qualities throughout their season. Their success was undoubtedly due to their hard work and dedication to the sport.

Members of the Moody High School Trojans are: Pete Angel, Roel Rocha, Michael Hebert, Larue Gonzalez, Aaron Gonzalez, Merce Garcia, Freddy Garcia, Jacob Perez, Andrew Gonzalez, Mike Medina, Arnold Padron, Ricky Hernandez, Jimmy Vera, Eric Cabrera, Johnny Gonzalez, Ramsey Reyes, Danny Ledesma, Jesse Hinojosa, Omar Trevino, Chris Bernal, Danny Quintanilla, Rene Hernandez, Joe Luis Lopez, and James Polanco.

I hope my colleagues will join me in paying tribute to the Moody High Trojans for their tremendous accomplishments.

A SALUTE TO THE FULTON COUNTY DEMOCRAT: 140 YEARS OF COMMUNITY SERVICE AND LEADERSHIP

HON. LANE EVANS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 12, 1995

Mr. EVANS. Mr. Speaker, today, I want to salute the Fulton County Democrat, which this month is observing its 140th year of publishing.

This historic and excellent weekly newspaper, which is the oldest continuous business in Fulton County, has provided invaluable community service to its readers and maintained the highest principles of journalism.

The Democrat is also unique in that it has remained in the same family since its founding. That is a real tribute to the Martin family, which started the paper. It is also a tribute to the citizens of Fulton County and their values.

Throughout the years, the Democrat has continually promoted the community and served the citizens of our area with great commitment and dedication.

I applaud its publisher, Robert L. Martin, Jr., for his leadership; its editor, Ruth W. Lynn, for her hard work and dedication; and everyone who works at the paper for their commitment and service.

The Fulton County Democrat is an integral part of our area's proud heritage and tradition. It is with great pride that I join the Fulton County community in recognizing this historic anniversary.

HONORING DENNY AND ROSE HEINDL

HON. WILLIAM F. CLINGER, JR.

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 12, 1995

Mr. CLINGER. Mr. Speaker, I rise today to pay tribute to Denny and Rose Heindl of Ridgway, PA.

On Thursday, July 20, the citizens of Ridgway will gather to dedicate a new fieldhouse and sports pavilion. It is through the generosity and leadership of Denny and Rose Heindl that this day was made possible.

Not only did Denny and Rose provide the funding for materials necessary for the year-round sports facility, but they also contributed their time and energy in its construction. By example, they led what became a true community effort in building the fieldhouse. Since March, as many as 30 volunteers have gathered nightly to make the fieldhouse a reality.

But this is not an isolated instance. It is one shining example of the Heindls' boundless community spirit and selflessness.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Last year, they donated funds for materials to rebuild the high school annex building into a community sports complex. Most recently, they announced that they will fund the replacement of lights at the field around the sport pavilion.

Denny and Rose Heindl have helped to build facilities that the youth of Ridgway will enjoy and that the entire community will treasure. In so doing, they have also brought people together and strengthened Ridgway's sense of unity and civic pride.

Thank you, Mr. Speaker, for the opportunity to recognize these very special people. Congratulations to them and to all of Ridgway's dedicated volunteers.

RECOGNITION OF DR. JUAN ANGEL SILEN

HON. LUIS V. GUTIERREZ

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 12, 1995

Mr. GUTIERREZ. Mr. Speaker, I rise to recognize Juan Angel Silen, Ph.D., of Puerto Rico, one of the island's most prolific writers of the last half century, upon the publication of his 25th book, and upon his designation as the Puerto Rico delegate of the internationally prestigious Association of Spanish Writers and Artists, founded in 1872.

Born in 1938, Dr. Silen has distinguished himself in the areas of education, the social sciences, history, and Puerto Rican literature.

A teacher, college professor, and above all, an educator, Dr. Silen has been recognized by a resolution of the Puerto Rico Senate (1993), a resolution of the Puerto Rico House of Representatives (1994), was nominated for the Juan Rulfo Latin American and Caribbean Literature Prize (1994), and appointed as writer in residence of the Barbara Ann Rossler Academy.

His insightful, albeit controversial book "We, The Puerto Rican People" has seen six printings in the United States, and has been used in countless college and graduate level courses, where it has helped challenge conventional wisdom and develop critical thinking about the complexities of Puerto Rican history and reality.

Dr. Silen's work of many years has now taken him to the field of literature where he has contributed seven historical novels, several important essays and books on literary criticism and history, and a most beautiful book of stories for children.

Mr. Chairman, in these times of a culture of violence, of instant gratification, consumerism and banality, the cultural accomplishments of a dedicated scholar, and writer such as Dr. Silen must not be forgotten. They should, rather, be lifted by us all as an example for our youth and our society as a whole.

THOMAS MONTEIRO

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 12, 1995

Mr. TOWNS. Mr. Speaker, I rise today to pay tribute to Prof. Thomas Monteiro, a product of the New York City school system and a graduate of Winston-Salem State University, Queens College [CUNY] and Fordham University. In addition, to his strong academic credentials, Professor Monteiro has always recognized the need to reach back and educate others.

A teacher, for more than 30 years, Thomas Monteiro has supervised a variety of programs at the secondary school and college level. He served as the first president of the Jamaica Branch of the N.A.A.C.P. and as a former Co-Chairperson of New York City's African American Teachers Association.

Recently, he was appointed by the Commission of Education to the New York Task Force on Minorities, Equity and Excellence. Not only has Professor Monteiro taken an active role in educating our youth; he continued to shine his light on the community by also taking an active role in community affairs.

On a daily basis Thomas touches many lives. He has worked continuously by inspiring and mobilizing many of his peers. His vitality flows out of these experiences. The energy he projects represents a coming together of a personal and professional commitment to enhance educational opportunities for young people. Certainly, it is no coincidence that Prof. Thomas Monteiro is being honored as a result of his retirement from Brooklyn College [CUNY], by his colleagues, family, students, and friends on Sunday, October 29, 1995.

I want to wish him the best of luck in the future and I hope others will follow the example of service and dedication by this distinguished citizen, Prof. Thomas Monteiro.

CONGRATULATIONS TO THE GRADUATES OF THE 12TH CONGRESSIONAL DISTRICT

HON. NYDIA M. VELÁZQUEZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 12, 1995

Ms. VELÁZQUEZ. Mr. Speaker, it pleases me to congratulate some special graduates from the 12th Congressional District of New York. I am certain that this day marks the culmination of much hard work and many valiant efforts for these students, work and efforts which have led and will continue to lead them to success. They have overcome the obstacles of overcrowded and dilapidated classrooms, antiquated and insufficient instructional material, and the all too frequent distractions of random violence and pervasive drug activity. But these students have persevered despite the odds. Their success is a tribute not only to their own strength, but also to the supportive parents and teachers who have encouraged them to make it.

These students have learned that education is priceless. They know that education will provide them with the tools and opportunities to be successful in any endeavor they pursue. In many respects, this is the most important lesson they will carry with them for the rest of their lives.

In closing, I'd like to say that the best and brightest youths in America must be encouraged to stay on course so they can pave the way for a better future for this Nation. Mr. Speaker, I ask my colleagues to join me in congratulating the following graduates who have triumphed despite adversity.

Congratulations to the 1995 graduates of the 12th Congressional District:

Cindy Pargan and Frolan Cancel—Eastern District H.S.; Christine Jackson and Jaime Dottin—W.H. Maxwell H.S.; Monica Mera and Willie Guzman—Bushwick H.S.; Robert Jacobs and Takisha Duggan—Murray Bergtraum H.S.; Ana Ferrin and Aida Markisic—Lower East Side Prep H.S.; Madelin Luna and Wilson Perez—J.H.S. 22; Mia Fowler and Jason Garcia—J.H.S. 56; Luis Barret and Tenaja Middleton—J.H.S. 296; Michael Lebron and Deborah Perez—I.S. 111; Nathaniel Foreman and Naiema Townsley—I.S. 383; Ruth Solis and Raymond Viera—I.S. 291; Rita Salas and Jasmine Velazquez—P.S. 86K; Keziah Ramirez and Erica Morel—P.S. 297; Denise Lebron and Armando Luquis—Transfiguration School.

RECOGNITION OF PRESIDENT LEE TENG-HUI

HON. BENNIE G. THOMPSON

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 12, 1995

Mr. THOMPSON. Mr. Speaker, I rise today in recognition of President Lee Teng-hui. Following many months of congressional support, President Lee Teng-hui of the Republic of China on Taiwan was allowed the opportunity to give the Olin lecture at Cornell University on June 9, 1995. He spoke of his student days at Cornell and especially of the many accomplishments of his country.

President Lee touched upon Taiwan's economic triumphs, political reforms, respect for human rights and prospects for reunification with the Chinese mainland. He remarked:

> Today, the institutions of democracy are in place in the Republic of China; human rights are respected and protected to a very high degree. Democracy is thriving in my country. No speech or act allowed by law will be subject to any restriction or interference. Different and opposing views are heard every day in the news media. * * * Thus the needs and wishes of my people have been my guiding light every step of the way. I only hope that the leaders in the mainland are able one day to be similarly guided, since then our achievements in Taiwan can most certainly help the process of economic liberalization and the cause of democracy in mainland China.

President Lee delivered an outstanding lecture at Cornell University. His heart was always with his country and with his people. President Lee extended his love to his Chinese compatriots on the Chinese mainland:

> We believe that mutual respect will gradually lead to the peaceful reunification of

China under a system of democracy, freedom and equitable distribution of wealth. * * * To demonstrate our sincerity and goodwill, I have already indicated on other occasions that I would welcome an opportunity for leaders from the mainland to meet their counterparts from Taiwan during the occasion of some international event, and I would not even rule out the possibility of a meeting between Mr. Jiang Zemin and myself.

I believe President Lee is absolutely sincere in reaching out to the leaders in Beijing. I too hope that Taiwan and the mainland will one day end their ideological struggles and be reunited as one free democratic country. Thank you.

TRIBUTE TO STAFF AND PLAYERS OF THE CALALLEN HIGH SCHOOL BASEBALL TEAM

HON. SOLOMON P. ORTIZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 12, 1995

Mr. ORTIZ. Mr. Speaker, I rise to pay tribute to the players, coaches, principal, and superintendent of the Calallen High School State finalist baseball team in Corpus Christi, TX.

Reaching the State finals in the University Interscholastic League State tournament in south Texas is a difficult and arduous task, yet the Calallen High Wildcats proved they could achieve this ultimate goal. They have brought great pride to the south Texas area and I am very proud of their courage and tenacity.

I would like to congratulate the people who have made this accomplishment possible: parents, coaches, friends, fans, and the entire community. Head coach Steve Chapman has been instrumental in his team's success. He has taught his players the fundamentals of the game as well as the importance of sportsmanship and fair play. These lessons are also true in life. His dedication to the game and to his players is to be commended.

In my entire life, the best feeling I have ever experienced is playing ball with my friends. Participating in athletics not only builds character, but it fosters lifelong friendships. Playing ball with your friends, making the big play, digging in and giving your all—that is what teamwork is all about. Teamwork teaches an individual some of the most important lessons of life: cooperation, commitment, and hard work.

The baseball team at Calallen High School has demonstrated these commendable qualities throughout their season. Their success was undoubtedly due to their hard work and dedication to the sport. I hope my colleagues will join me in paying tribute to the Calallen High Wildcats for their tremendous accomplishments.

Members of the Calallen High School Wildcats are: Lucas McCain, Kelby Jauer, Jesse Foreman, Casey Pearce, Daniel Henderson, Brent Klosterman, Isaac DeLeon, John Blahuta, Bert Gamez, Justin Home, Dickie Gonzales, Terrence Jacobi, Ryan Vaughn, Tim Ramon, Chip Houston, Casey Doran, Woody Chambers, Marvin Parker, Ray Chapa, C.J. Carroll, and Kevin Mitchell.

I hope my colleagues will join me in paying tribute to the Calallen High Wildcats for their tremendous accomplishments.

TRIBUTE TO GERALD MELLVYN SIMMS

HON. WILLIAM J. MARTINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 12, 1995

Mr. MARTINI. I rise to pay tribute to an extraordinary person who passed away over the weekend, Gerald Mellvyn Simms of Passaic, NJ.

Gerry's departure has left an unfillable void in his community, and a deep sorrow in the hearts of his loved ones. He was an invaluable citizen and a good friend, and to say he will be missed would understate his importance in those lives he touched.

Gerry was a fixture in my hometown of Passaic. A lifelong Republican, he was a staunch defender of civil rights and equal opportunity. Gerry enjoyed many different roles in Passaic City government, and was even the first member of the black community to run for mayor. Although he lost his bid for office, he remained committed to helping the city he loved, and stayed active in city affairs until the end of his life. But he shared himself with the city of Passaic in so many more ways than through work in the public sector. As both a member of the Bethel A.M.E. Church and owner of Kelly Construction Co., Gerry Simms exemplified the highest qualities of civic virtue. Indeed, this was a unique gentleman who demonstrated to everyone how an individual should conduct oneself in both private and public life.

On a personal note, I will always cherish the special relationship forged with Gerry with respect to our family history. I can still recall with great warmth the day I met him at 663 Main Avenue in Passaic nearly 20 years ago when he sought me out in order to lend his help as I was beginning my law career. That day resumed the special and treasured relationship long established by Gerry's family and mine which we mutually cherished. His counsel and loyal friendship will be fondly remembered.

In a very real sense, with the loss of Gerry, Passaic loses a hero; here was a hometown boy who not only made good, but made life better for thousands of others as well. In an era in which this city and this Nation searched desperately for role models, Gerry Simms offered himself as a cut above the rest. To all that watched, he was a model to emulate for young and old alike. He was a man who knew the meaning of the words compassion and respect, and exuded them in everything he did. We were blessed to have been touched by his grace, and will never forget his warmth and compassion. My deepest condolences to his mother, Mrs. Marion West, and to all those who loved and knew him. While Gerry has passed on, his life has left an indelible imprint on our hearts, an imprint that will provide us the strength to live our own lives in a more meaningful and fulfilling way.

THE GROUNDBREAKING FOR THE MEMORIAL MONUMENT

HON. JERRY WELLER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 12, 1995

Mr. WELLER. Mr. Speaker, today we witness a very sentimental and historic moment in Streator, IL—the groundbreaking for the Memorial Monument honoring the hundreds of civilian volunteers of the Illinois Valley area who operated a free canteen at the railroad depot during World War II. During this time volunteers from Streator and surrounding areas provided sandwiches, coffee, fruit, and cookies—in spite of food and gas rationing—for more than 1.5 million men and women in uniform who came by train through Streator. In some cases, the volunteers honored requests by the soldiers to call their families to let them know they were OK.

At the darkest hours of the war—when young soldiers were being sent to the frontline to fight—this community came to the aid of the soldiers. The canteen was one of the greatest morale builders for our soldiers, and the efforts of the volunteers deserve to be immortalized in this statue.

Many letters have been written to the canteen memorial fund since an article ran in Reminisce magazine highlighting how important the canteen was to soldiers. In some cases, soldiers who remember Streator and the free canteen wrote to thank the volunteers for the food and the memories.

One veteran from Florida wrote "I have never forgotten that troop train ride as it was a very uncomfortable trip, but the short stop at the Streator Station made up for the discomfort . . ."

And, another veteran wrote "Your letter in the Jan/Feb 1995 issue of the Reminisce magazine reminded me that I was one of those 1.5 million GI's that you treated so royally. It made a tremendous impression on me at the time and in later years I would think of Streator and wonder about the good people who made that stop so memorable . . ."

It is truly amazing how people come together in times of need and the action taken by volunteers—area men and women—is what makes this country so great. Even the Boy and Girl Scouts contributed by collecting grease from kitchens to sell to the Government to make explosives. Everyone pitched in and contributed to the free canteen.

Perhaps Mary Plimmer, an organizer and worker at the canteen said it best ". . . In the beginning some doubted we could feed so many hungry servicemen, but those of us who believed in the canteen never once thought it would fail. We served the soldiers every day without fail between November 1943 and May 29, 1946, when the canteen finally closed.

We shed some tears and had a few laughs on that closing day, but we were proud. The Streator Free Canteen was our contribution to our country—a contribution we were happy to make."

So, this memorial is truly an opportunity for all of us to honor the people who gave their time, money, and resources to make the canteen such a success. We thank everyone who gave a part of their lives to help the service men and women of this great country. Your actions and good will has not been forgotten.

IN SUPPORT OF H.R. 1905 FISCAL YEAR 1996 ENERGY AND WATER APPROPRIATIONS ACT

HON. BOB FRANKS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 12, 1995

Mr. FRANKS of New Jersey. Mr. Speaker, today I rise in strong support of H.R. 1905, the fiscal year 1996 Energy and Water Appropriations Act. The House Energy and Water Development Appropriations Subcommittee has drafted an excellent bill that meets our Nation's water resources and energy needs. H.R. 1905 also helps shrink the Federal budget deficit by cutting spending from last year by $1.6 billion.

Although H.R. 1905 contains many worthy provisions, I would like to bring to my colleagues' attention a project contained in the bill of particular importance to the people who reside in New Jersey's Middlesex, Somerset, and Union Counties. The project to which I refer is the Green Brook flood control project.

As my colleagues may recall, this project was authorized by Congress under the Water Resources Development Act of 1986—Public Law 99–662, section 401. During the past 10 fiscal years, Congress has appropriated $19.423 million for this project. In fiscal year 1986, Congress appropriated $484,000; in fiscal year 1987, $1.37 million; fiscal year 88, $1.4 million; fiscal year 89, $1.5 million; fiscal year 90, $1.2 million; fiscal year 91, $2 million; fiscal year 92, $3.169 million; fiscal year 93, $3.5 million; fiscal year 94, $2.5 million; and fiscal year 95, $2 million. H.R. 1905 contains $3.6 million for this project.

Mr. Speaker, although Congress has appropriated nearly $20 million for this project, the pace of the project has been slow. Last year I suggested during debate on the fiscal year 95 Energy and Water Appropriations Act that corrective action might be necessary, such as transferring this project to the Philadelphia district of the Army Corps of Engineers, if the New York district did not accord the Green Brook project a higher priority. I also suggested during private meetings with Army Corps personnel that creation of a Green Brook Flood Control Task Force might be necessary to expedite this project.

The Army Corps did not act on my suggestion to create a task force. Instead, the corps increased their activity on this project and improved their responsiveness to the Green Brook Flood Control Commission. As the Green Brook Flood Control Commission was satisfied with the corps' new attitude toward this project, I did not press the task force idea or a transfer of this project to the Philadelphia district with the Army Corps.

Currently, however, this project again seems to have been put on the back burner by the New York district. Therefore, as a member of the House Water Resources and Environment Subcommittee, I will seek to include statutory language in the Water Resources Development Act of 1997 creating a task force dedicated solely to the Green Brook project. The subcommittee is expected to mark up this legislation sometime early next year.

Mr. Speaker, I commend Chairman MYERS and ranking minority member BEVILL for again producing an excellent bill. Although their roles have been reversed since last year, the subcommittee's work product remains undiminished. I also commend my good friend and fellow New Jersey colleague RODNEY FRELINGHUYSEN for his outstanding work on this bill. Representative FRELINGHUYSEN has done an excellent job in ensuring our State's needs were addressed in this bill, and I look forward to working with him on these issues in the years to come.

Mr. Speaker, I urge all of my colleagues to vote "aye" on H.R. 1905.

HONORING CAPTAIN WEYLIN ENG

HON. BILL BAKER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 12, 1995

Mr. BAKER of California. Mr. Chairman, it is a great pleasure for me to recognize Capt. Weylin G. Eng upon his retirement from the U.S. Navy. Captain Eng is, like me, a native of Oakland, CA and is a resident of Orinda, a city in my east bay congressional district in which he is active in community affairs.

Captain Eng is leaving the U.S. Navy after 30 years as an exemplary officer. After earning his doctorate in optometry from the University of California at Berkeley, he was commissioned as an ensign and began his naval career at the National Naval Medical Center in Bethesda, MD.

Captain Eng has served our country with extraordinary ability at bases throughout America. He was ship's optometrist on the U.S.S. *Lexington,* U.S.S. *Enterprise,* U.S.S. *Abraham Lincoln,* and U.S.S. *Carl Vinson.* In addition, Captain Eng conducted clinical research for the Navy in environmental medicine and pioneered vision research with high-altitude wearing of contact lenses.

Captain Eng's leadership was demonstrated as commander of several Naval Reserve units. He led the National Disaster Medical System 120 at the time of the Loma Prieta earthquake, and in 1991 was recalled for active duty during the Persian Gulf war. At present, Captain Eng directs the fleet eyecare program for aircraft carriers berthed at Alameda and serves as the Navy professional school liaison officer to UC Berkeley.

Among the many awards won by Captain Eng for his outstanding service are citations from the President and the Secretary of the Navy. He holds the Meritorious Service Medal and the Navy Commendation Medal, his Reader's Digest "Home Eye Test" received the Scientific Vision Project of the Year Award from the American Public Health Association.

Service to our country in the U.S. Navy is a noble calling, a calling Captain Eng was fulfilled with honor and distinction. I applaud his fine work, and wish him, his wife Roselyn, and four daughters, Kristina, Tiffany, Shannon, and Aimee every success in all their future endeavors.

WELCOME TO PRESIDENT SOGLO OF BENIN

HON. EARL F. HILLIARD

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 12, 1995

Mr. HILLIARD. Mr. Speaker, I rise today to express my welcome to the President of Benin, Mr. Nicephore Soglo, on the occasion of his state visit to the United States this week.

Many of us are encouraged with the initiatives which the Republic of Benin has enacted with respect to human rights and democracy. Although Benin is a small West African nation, it now has a large reputation because of the sterling example it is setting for many other nations throughout the continent of Africa.

Under President Soglo, Benin has quickly overcome its difficult past by establishing a democratic government, based on a constitution which is very similar to the great Constitution of the United States of America. Benin established a constitutional court in 1993, and its rulings have already demonstrated the flexibility of the constitution and the independence of the court. Benin has also established a social and economic council to advise the government of President Soglo that the reforms which were promised are indeed implemented. Benin's National Assembly once little more than a rubber stamp, now debates and decides policy disputes which affect the nation. Also, the press has been given total freedom of expression with the establishment of 12 privately owned newspapers.

It is also encouraging to see how Benin's human rights record has drastically improved since the old Marxist Regime was replaced by the new democratic government of President Soglo. President Soglo has dismantled the repressive security apparatus built by the former dictatorship with the approval of the international human rights community. Academic freedom is also respected and the right to organize and join trade unions has again been reinstituted under President Soglo.

Mr. Speaker, the United States Government must support all efforts of African nations to democratize and respect the human rights of their citizens. The Government of Benin, under the leadership of President Saglo, has instituted these reforms. These efforts have marked a new era of freedom and equality.

RECOGNITION OF LARRY ECCLESTON

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 12, 1995

Mr. MENENDEZ. Mr. Speaker, I rise today to recognize Larry Eccleston, an outstanding individual who has given generously of his time and effort to the senior citizens of Jersey City and the Nation. He has been active in the community all his life and has championed many worthwhile causes.

Larry grew up in Jersey City, attending St. Aeden's Grammar School and Lincoln High

School. He graduated cum laude from St. Peter's College with a bachelor of science degree in urban studies. He then went on to earn a master of science degree in urban affairs at Hunter College in New York City.

Larry serves as an ordained elder in the Old Bergen Reform Church, and as a result of this involvement, he became deeply involved in the issue of homelessness and hunger. He was president of the Association of Shared Ministries, an organization of five urban churches dedicated to community service and social outreach. He helped establish "Let's Celebrate," a cooperative effort of 23 Jersey City churches to fight hunger, which now runs 13 food pantries and a soup kitchen. Because of his distinguished service to the homeless, Larry was appointed to form and chair the Mayor's Task Force on Homelessness.

For the past 10 years, he has worked for the Department of Health and Human Services of Jersey City as the supervisor of senior citizen outreach and referral programs. His innovative programs for seniors as well as his efforts in the field of aging earned him an appointment to the New Jersey State Commission on Aging in 1992 by Governor Jim Florio of New Jersey. He was again nominated for reappointment by Governor Whitman, and was elected by the commission in August of 1994 to serve as chairman.

In November of 1994, I was honored to nominate Larry as a delegate to the White House Conference on Aging, which was established by President Clinton to develop policies for older Americans for the 21st century. Larry continues to work hard in the field of aging and now serves as the president of the board of directors for Senior Support Services Inc., an organization which runs the senior nutrition sites and two local senior centers. He is currently on the advisory board of Foster Grandparents of Hudson County, and is their fund raising chairman. At the State level, Larry now serves on the board of directors of the New Jersey Society on Aging, and the United Senior Alliance.

When senior citizens need help, they know they can count on Larry Eccleston. I am proud to recognize Larry's accomplishments, and I asked my colleagues to join me in saluting this great American.

FUNDING FOR THE ARTS

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 12, 1995

Mr. BROWN of California. Mr. Speaker, this is a very precarious time for the funding for the National Endowment for the Arts [NEA], National Endowments for the Humanities [NEH], and the Institute for Museum Services [IMS], the institutions charged with enriching the quality of life in every part of the country.

Unfortunately, the public perception is that these programs receive substantial portions of the Federal budget, and that is just not true. I recently learned that the U.S. Government spends less on the NEA than it does on military bands.

Nationally the arts industry generates $36 billion in economic activity each year and $3.4 billion in additional Federal tax revenue supporting approximately 1.3 million jobs associated with the arts. It costs the Federal Government about 65 cents per American each year. Simply put, this is a good investment of our dollars.

There are those who do not agree that Government should play a role in the arts and the humanities for either moral or fiscal reasons. However, we must also recognize that governments throughout the ages have supported the artistic endeavors of their society. Today, government's support for the arts has increased public access to creative work, especially in many small communities where funding is scarce or nonexistent.

The 42d District of California, which I represent, has benefited directly from NEA funding for the Arts Foundation of San Bernardino County which received a $30,000 grant to support development of a community cultural plan for the city of San Bernardino. The State of California received a $783,000 basic State grant to be used by the California Arts Council to support arts activities at the State level.

California also received over $14 million in Federal funds to assist the Humanities Council which supports the local Humanities Councils in their work. Federal support helps preserve the cultural traditions and rich heritgage of the American people. Without Federal support the United States becomes the only industrialized democracy which does not provide support for preserving the Nation's culture.

I urge my colleagues to join me in maintaining the modest budgets the NEA, NEH, and IMS need to help preserve the cultural traditions and rich heritage of the American people.

BUN RYAN'S MEMORIAL DAY MESSAGE

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 12, 1995

Mr. RICHARDSON. Mr. Speaker, once a year our country honors our war dead by saluting our fallen heros on Memorial Day. The last Monday in May is set aside for this special day of remembrance. Many of us gather at cemeteries, lay wreathes, make speeches, reminisce about past wars and remember those who have given the ultimate sacrifice.

This past Memorial Day in Los Alamos, NM a moving speech was delivered by a World War II veteran, Bernard "Bun" Ryan. Bun served in the U.S. Army Field Artillery from 1943 to 1946. He attained the rank of master sergeant and was awarded the Bronze Star and other ribbons and medals for his service.

I urge my colleagues to review Bun's speech and share it with others. It is a must-read for all Americans.

Distinguished State and County Representatives, My fellow Veterans, Ladies and Gentlemen,

I am extremely complimented to be invited to speak on this day, set aside each year to honor those who have served our country. I am convinced that the best thing that ever happened to me was being born an American, and raised in a home where allegiance to God and Country went hand in hand.

When I was in my youth this day was known as Decoration Day. My Mom would fix a picnic lunch and we would shoulder our rakes and shovels and like most of the town we would proceed to the cemetery to decorate the graves of our relatives. It assumed the air of a celebration, and I can still see the old wooden gazebo where the band would assemble to play their martial music.

Promptly at 11 o'clock there would be a moment of silence to commemorate the hour the armistice that ended World War I was signed.

That was to be the war to end all wars, and little did we realize in those carefree days that lurking not too far in the future was the biggest war that would ever be fought.

It started for the United States on Dec. 7, 1941 with what President Roosevelt described as Japan's dastardly attack on Pearl Harbor.

The United States, which had assumed an isolationist attitude after World War I, was ill-prepared to fight a war, especially after the tremendous loss of Naval and Air Forces at Pearl Harbor. But on Dec. 8, 1941, President Roosevelt declared war on the axis powers of Germany, Italy, and Japan.

At age 19, I answered my country's call to duty, and spent the next three years in the Field Artillery, United States Army. After six months of training here in the States, I became a part of the forces under Gen. Douglas MacArthur that drove the Japanese from the island of New Guinea and the Philippines back to their home islands, with tremendous losses to both sides in men and material.

This was a two-year endeavor, and as we were securing the Philippines, the war in Europe came to a successful conclusion.

Now came the preparations for the invasion of the Japanese Homeland, an operation that would be the most costly of all. But little did we know that a group of scientists and military personnel, in a little isolated place in New Mexico called Los Alamos, had developed a weapon so powerful, that when used would cause Japan to surrender within three days.

My friends, I take great exception to those who say we won that war. Nobody wins in a war. There are the Victors and there are the Vanquished and thank God we were the Victors. And in being the Victors we secured our freedom and our independence. But if you think there are winners stand with me, in 1945, in my living quarters on the fourth floor of a building in downtown Osaka, Japan, and look out the window at the destruction of what must have been a beautiful, vibrant city. Immediately my thoughts would return to the devastation inflicted on us by the Japanese at Pearl Harbor, and the cruelty inflicted on the victims of the Bataan Death March.

If you think there are winners, stand with me as the American Rangers who had stormed the Japanese prison camp at Cabanatuan return from their successful mission carrying our Death March Survivors piggyback because they were so weak and emaciated from torture and starvation they were unable to walk.

Visit, as I have, the American cemeteries in New Guinea, the Philippines, even Europe, and especially Bastogne where General Patton is buried, and gaze upon row after row of white crosses and Stars of David, often as far as the eye can see, and try to convince me that there are winners in war.

I believe the basis of all love is sacrifice and every one of those graves contain a man or woman who loved their country so much they were willing to make the ultimate sacrifice.

Come with me to Denver, shortly after the war ended, and visit with Mrs. Hamilton, the mother of my High School chum, Eddie Hamilton, whose remains are entombed in the Battleship Arizona at the bottom of Pearl Harbor, and all she had to show for her sacrifice was a Gold Star hanging in the window.

No! my friends, there are no winners. Many of our politicians today say we won the Cold War, but most of the problems in our country today are the result of the tremendous debt, and the interest on that debt, that was accumulated in spending on weaponry, keeping abreast of the Soviet Union. As I see it the Cold War was a race between the United States and the Soviet Union to see who could become bankrupt the earliest, and the Soviet Union won by a nose. But again we maintained our freedom and our independence.

To those in our society who sympathize with the Japanese and criticize President Truman for using the bomb, I patiently remind you, we did not start the war, we merely ended it. And although I do not agree with what you say I will defend to the death, if need be, your right to say it.

Perhaps, if those among you who criticize, had been engaged in World War II, and were waiting for the command to invade the Japanese Homeland which would have cost hundreds of thousands of lives on both sides, your attitude may be a lot different. And isn't it ironic, that no one, seeing the results of what one bomb can do, has seen fit to use an atomic weapon in the last 50 years.

I would also like to ask those critics, Had we been Vanquished, instead of the Victors, do you think the axis powers would have restored our country, and made us an economic giant in the world? I think not!

Were there any good results from World War II? You bet. To name a couple:

Never in the history of our country has it been so united as it was during that era. Everyone pitched in to do whatever was needed. To the point where even today they want to hang on to the music and the memories.

The G.I. Bill which gave veterans the opportunity to acquire a college education, and resulted in the greatest educational opportunity the nation had ever seen. Those who passed up college were given the opportunity to acquire skills through on-the-job training programs.

All of this resulted in the United States being ranked as a Super Power, a status we covert to this day. Back in 1963, President John F. Kennedy wrote these words and I quote:

"We in this country, in this generation, are by destiny rather than choice the watchmen on the walls of world freedom. We ask, therefore, that we may be made worthy of our power and responsibility, that we may exercise our strength with wisdom and restraint, and that we may achieve in our time and for all time the ancient vision of Peace on Earth, Good will Toward Men. That must always be our goal and the righteousness of our cause must underlie our strength. For as t'was written long ago: Except the Lord keep the city, the watchman waketh but in vain."

These were President Kennedy's last official words—the conclusion of a speech he was to have delivered at the Dallas Trade Mart on the day of his assassination. That was 32 years ago, and nothing has changed. We are still the Watchmen on the walls of world freedom, and I would beseech you on this Memorial Day to reflect on how fortunate we are to live in this great country.

Sure, America has her faults, we're not perfect. Nothing is. Perfection is a myth. Sure our leaders make mistakes, we all do. They're still putting erasers on pencils. And making mistakes is a sign that at least we're doing something.

I would also ask that on this day you remember the loss in leadership that our community has suffered recently: Wally Walters, Betty Ehart, Lore Watt and Darleene Bemis, to name a few.

In closing, allow me to reach into my Irish Heritage and wish all of you the blessing of the poetic Irish Heart:

"When the winds break for you, may the trees shake for you their blossoms down. And when your nights are troubled, may a friend wake for you so that your time be doubled. And at the end of all loving and love, may the Lord above give you a crown."

Thank you so much. May God Bless You and may God Bless the United States of America.

THE ACCESS TO MEDICAL TREATMENT ACT

HON. PETER A. DeFAZIO

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 12, 1995

Mr. DEFAZIO. Mr. Speaker, today I am introducing H.R. 2019, with Representatives BARTON, DELAY, COX, HINCHEY, KINGSTON, FURSE, PALLONE, NORTON, OWENS, SMITH (NJ), LIPINSKI, VELÁZQUEZ, EVANS, DELLUMS, DEUTSCH, FRAZER, and HILLIARD, the Access to Medical Treatment Act. This legislation will allow greater freedom of choice in the realm of medical treatments by making alternative treatments more accessible to the public.

The Access to Medical Treatment Act represents a significant departure from the current paternalistic practice of medicine. It is based on two beliefs about our current health care system: First, the system limits patients' choices of medical treatments to conventional modalities; and second, the system effectively discourages the development of alternative therapies that could help treat illnesses that often are unresponsive to conventional medicine. This act opens up the health care system and market, under controlled conditions, to informed consumers.

There is a compelling need for this legislation. Health care reform requires more than just access to conventional treatments. Real reform examines the fundamental premise and framework of our current medical system. As we confront escalating medical costs and struggle to contain Medicare and Medicaid spending, alternative medicine provides some affordable, less invasive, and effective answers, especially in the areas of long term and chronic illnesses.

Canada, Germany, France, and other G–7 and EEC countries know the value of alternative medicine. In fact, many of these countries view alternatives as traditional and essential to their health care systems. The lessons learned abroad show that alternatives can be successfully incorporated into mainstream medicine. It's time that we shift our health care paradigm from a model of disease maintenance to one of wellness, prevention, and holistic care.

The New England Journal of Medicine reported in January 1993, that more than one-third of Americans used alternative, nonconventional medical treatments. Many Americans, suffering from chronic, debilitating, and life-threatening illnesses, are turning to alternative medical treatments.

Unfortunately, our current health care system effectively eliminates access to nonharmful alternative medical treatments that may help patients, complement conventional treatments, contain costs, and generate new approaches to treating illness. Thousands of individuals abroad have legal access to these treatments.

In an effort to protect the public, the Food and Drug Administration [FDA] has effectively restricted the proliferation of alternative therapies. Only large pharmaceutical companies can afford the time and expense—over $100 million—currently required to gain FDA approval of a treatment. The FDA's process effectively excludes potentially innovative contributions by individual practitioners, scientists and smaller companies. Many alternative treatments are combinations of natural products; thus, they are ineligible for patents. Without a patent, companies cannot recover the investment needed for the FDA approval process.

I have met many doctors who could better treat their patients with this legislation and many patients who desperately want more treatments available to them. Former Congressman Berkley Bedell knows firsthand the importance of this legislation and served as a catalyst for its development. Former Congressman Bedell used a treatment that was nothing more than the processed whey of cow's milk to treat his Lyme's disease when costly conventional methods failed. After 2 months of taking regular doses of this processed whey, his symptoms disappeared. He estimates that the total cost for this alternative treatment was no more than a few hundred dollars. He credits this inexpensive treatment for his recovery. Unfortunately, this and many other safe alternative treatments are not available to the public because they have not passed the FDA approval.

Mr. Speaker, there are Berkley Bedells all across our country who are desperate for cures that conventional medicine simply does not seem to effectively provide. The Access to Medical Treatment Act gives patients the right to obtain nonharmful alternative treatments that have not been approved by the FDA from state authorized medical providers. The intent of this bill is merely to extend freedom of choice to medical consumers under controlled situations and grant individuals access to alternative treatments that are currently offlimits. Practitioners who now use alternative, nonharmful treatments risk losing their licenses for trying to help their patients with unconventional treatments.

As with any effort to challenge the status quo there is skepticism about the implications of opening up the market to alternative treatments. We have worked hard to develop a bill that gives patients and their health care practitioners the freedom necessary to treat their illnesses while including the protections necessary to safeguard consumers from dangerous treatments and unqualified practitioners.

It is not my intention to dismantle the FDA or to weaken its authority to regulate the safety and efficacy of most drugs in this country. This legislation does not attack the FDA for the valuable role it plays in helping America maintain a topnotch, high-quality health care system. Unfortunately, the expensive and extensive FDA approval process does prevent low-cost, alternative treatments from gaining access to the market.

The FDA would remain solely responsible for protecting the health of the Nation from unsafe and impure drugs. Before a treatment receives the Government's stamp of approval and has a claim of efficacy attached, it must make it through the FDA approval process.

This bill requires full disclosure to patients of the contents and possible side effects of treatments. In addition, the strict claims section in this bill mandates that patients are notified that the drug has not been proven safe or efficacious by the Federal Government.

The medical treatments prescribed must have no evidence of causing an adverse impact on individuals' health. However, if any treatment is found to cause harm, the treatment must be immediately reported to the Secretary of Health and Human Services and then any practitioner who continues use of the treatment is not covered under this act.

Finally, the greatest concern expressed about this proposal is the issue of consumer protection. This is an essential part of this legislation and I, as much as anyone, want to protect sick and vulnerable individuals from negligent charlatans who would prey on their misfortunes and fears for personal gain. The Access to Medical Treatment Act is armed with these protections.

In order to protect consumers, this bill limits those qualified to administer treatments to State authorized medical providers who are working within their scope of practice. Most importantly, the bill strictly regulates the circumstances under which claims regarding the efficacy of a treatment can be made. It prohibits all advertising and labeling claims and any other claims by individuals for whom the underlying intent of promoting the treatment might be linked to personal financial gain.

There can be no marketing of any treatment administered under this bill. This eliminates the incentive for anyone to attempt to use this bill as a bypass to the process of obtaining FDA approval.

I want to protect consumer safety, but I also want to promote consumer freedom of choice. Individuals, especially those facing life threatening and debilitating illness, should have the option of trying alternative treatments so long as they are informed of possible side effects and there is no evidence that the treatment is harmful. Patients must be given the keys to steer the course of their health with the assistance of trained health care providers. Permitting the administration of and access to alternative medical treatment extends freedom of choice to the realm of medicine.

Opening the health care system to alternative treatment can help patients, complement conventional treatments, contain costs, and generate new ways to treating illness. This choice is one for the consumer, not the Federal Government.

INTRODUCTION OF THE DISTRICT OF COLUMBIA EMERGENCY HIGHWAY RELIEF ACT OF 1995

HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 12, 1995

Ms. NORTON. Mr. Speaker, today I am introducing the District of Columbia Emergency Highway Relief Act of 1995, that would require the District to pay its Federal matching share of highway funds in fiscal year 1997. This legislation must be enacted by the House and the Senate this month if the District is to avoid losing millions of dollars in Federal funds and missing another construction season. Without the swift passage of this legislation in both Chambers, $82 million in fiscal year 1995 apportioned moneys and a similar amount in fiscal year 1996 moneys to the District of Columbia will evaporate effective August 1, 1995. During this period of acute fiscal crisis, such a result would be absurd and counterproductive, and would jeopardize the safety and well-being of local, regional, and national travelers on District roads. This should be considered unacceptable for the Nation's Capital.

At present, no new highway projects are planned this year in the District, and no new bids have been solicited over the past 20 months because the city's fiscal crisis has left the city unable to meet the matching funds requirement for Federal moneys. With this bill, vital District projects to improve the major gateways into the city could proceed, aiding more tourists and commuters than DC residents.

Under this legislation, the District would be required to repay any cost share that is waived. Such cost share waivers have substantial precedent: in 1975 after passage of the Federal jobs stimulus bill; in the 1982 highway bill when the gas tax was increased 5 cents; and in the 1991 transportation bill when program funding was increased. All totaled, 39 States have been granted such cost share waivers under these three authorities. It should also be emphasized that this bill gives the District no extra Federal highway money, but only allows the city to use its own Federal aid funds.

Time is of the essence. If the Congress does not grant the District this waiver before July 31, 1995, the District will lose millions in irretrievable Federal funds. This would be a major loss for the District, but an even greater loss to the region and to the Nation.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, July 13, 1995, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JULY 14

10:00 a.m.

Banking, Housing, and Urban Affairs

To hold hearings on the Mexico and the Exchange Stabilization Fund.

SD–106

JULY 17

2:00 p.m.

Foreign Relations

To hold hearings on the nominations of Sandra J. Kristoff, of Virginia, for the rank of Ambassador as U.S. Coordinator for Asia Pacific Economic Cooperation, John Raymond Malott, of Virginia, to be Ambassador to Malalysia, Kenneth Michael Quinn, of Iowa, to be Ambassador to Cambodia, William H. Itoh, of New Mexico, to be Ambassador of the Kingdom of Thailand, J. Stapleton Roy, of Pennsylvania, to be Ambassador to the Republic of Indonesia.

SD–419

JULY 18

9:00 a.m.

Agriculture, Nutrition, and Forestry

Business meeting, to mark up proposed legislation to strengthen and improve U.S. agricultural programs.

SR–332

9:30 a.m.

Appropriations

Defense Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1996 for the Department of Defense.

SD–138

Energy and Natural Resources

To hold hearings to review existing oil production at Prudhoe Bay, Alaska and opportunities for new production on the coastal plain of arctic Alaska.

SD–366

Labor and Human Resources

To hold hearings to examine issues relating to health insurance reform.

SD–430

10:00 a.m.

Judiciary

Youth Violence Subcommittee

To hold hearings to examine the Federal Government's role in helping prevent guns in schools.

SD–226

2:00 p.m.

Judiciary

To hold hearings on pending nominations.

SD–226

2:30 p.m.

Energy and Natural Resources

Oversight and Investigations Subcommittee

To hold hearings to examine First Amendment activities, including sales of message-bearing merchandise, on public lands managed by the National Park Service and the U.S. Forest Service.

SD-366

JULY 19

8:30 a.m.

Energy and Natural Resources

Business meeting, to mark up S. 852, to provide for uniform management of livestock grazing on Federal land.

SD-366

9:00 a.m.

Agriculture, Nutrition, and Forestry

Business meeting, to continue to mark up proposed legislation to strengthen and improve U.S. agricultural programs.

SR-332

9:30 a.m.

Finance

To hold hearings to examine Medicare payment policies.

SD-215

Governmental Affairs

To hold hearings to review criminal debt collection efforts.

SD-342

Labor and Human Resources

Business meeting, to mark up S. 856, to amend the National Foundation on the Arts and the Humanities Act of 1965, the Museum Services act, and the Arts and Artifacts Indemnity Act to improve and extend the Acts, S. 916, to amend the Individuals with Disabilities Education Act to extend the Act, and proposed legislation relating to health centers consolidation, and to consider the nominations of Mary S. Furlong, of California, to be a Member of the National Commission on Libraries and Information Science, Richard J. Stern, of Illinois, to be a Member of the National Council on the Arts, National Foundation on the Arts and the Humanities, and Lynn Waihee, of Hawaii, to be a Member of the National Institute for Literacy Advisory Board.

SD-430

Select on Intelligence

To hold hearings to examine intelligence roles and missions.

SD-106

JULY 20

8:30 a.m.

Judiciary

Business meeting, to consider pending calendar business.

SD-226

9:00 a.m.

Agriculture, Nutrition, and Forestry

Business meeting, to continue to mark up proposed legislation to strengthen and improve U.S. agricultural programs.

SR-332

9:30 a.m.

Energy and Natural Resources

To hold hearings on S. 871, to provide for the management and disposition of the Hanford Reservation, and to provide for environmental management activities at the Reservation.

SD-366

Labor and Human Resources

To hold hearings on proposed legislation on organ transplantation.

SD-430

JULY 24

10:00 a.m.

Judiciary

To hold hearings to examine child pornography on the Internet.

SD-226

JULY 25

9:30 a.m.

Energy and Natural Resources

Forests and Public Land Management Subcommittee

To hold hearings on S. 45, to require the Secretary of the Interior to sell Federal real and personal property held in connection with activities carried out under the Helium Act, S. 738, to prohibit the Bureau of Mines from refining helium and selling refined helium, and to dispose of the United States helium reserve, and S. 898, to cease operation of the government helium refinery, authorize facility and crude helium disposal, and cancel the helium debt.

SD-366

Indian Affairs

To resume hearings on S. 487, to amend the Indian Gaming Regulatory Act.

Room to be announced

JULY 26

10:00 a.m.

Judiciary

To hold hearings to examine punitive damages reform.

SD-226

JULY 27

10:00 a.m.

Judiciary

Business meeting, to consider pending calendar business.

SD-226

AUGUST 1

2:00 p.m.

Judiciary

To hold hearings on pending nominations.

SD-226

POSTPONEMENTS

JULY 13

9:30 a.m.

Commerce, Science, and Transportation

Business meeting, to consider pending calendar business.

SR-253

SENATE—*Thursday, July 13, 1995*

(Legislative day of Monday, July 10, 1995)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Almighty God, Sovereign of this Nation and personal Lord of our lives, we praise You for our accountability to You. You are a God of judgment as well as grace. If You did not care, life would have no meaning. We thank You that You have given us the basis on which we will be judged each hour, and at the end of each day. You want us to know what is required of us so we can pass Your daily examination with flying colors.

Your commandments are in force as much now as when You gave them to Moses. We also know that You require us to do justly, love mercy, and walk humbly with You, attentively receptive to Your guidance. Integrity, honesty, faithfulness have not gone out of style; nor has absolute trust in You ceased to be the secret for personal peace and the basis of great leadership. Help us to live our Nation's motto, "in God we trust" and judge us by the extent we have put our trust in You for guidance in making our decisions.

Gracious God, as we receive Your judgment, we also seek Your forgiveness and a new beginning. So may Your forgiveness give us the courage to seek first Your rule and righteousness. In Your holy name. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able acting majority leader is recognized.

SCHEDULE

Mr. THOMAS. Mr. President, this morning the leader time has been reserved, and there will be a period for morning business until the hour of 10:45. At 10:45, the Senate will resume consideration of S. 343, the regulatory reform bill. Rollcall votes can be expected throughout today's session of the Senate.

MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 10:45 a.m., with Senators permitted to speak therein for not to exceed 5 minutes each.

Under the previous order, the Senator from Wyoming [Mr. THOMAS] will be recognized to speak for up to 25 minutes.

FRESHMAN FOCUS

Mr. THOMAS. Mr. President, the 25 minutes has been reserved for Members of the freshman focus group, as we continue our effort to seek to focus some of the issues as they appear to those of us who are new to the Senate this year, who recently completed an election, who, I think, in some instances have a unique view of what we are doing or seeking to do here in the U.S. Senate. So I would like to take a few minutes. I will be joined by other Members.

Mr. President, I would like to talk just a little bit this morning about process. I admit to not knowing the rules of this place like some do. I seek to know them. I think I do understand that there is a difference between the U.S. Senate and the U.S. House and that they were designed to be different. This is a deliberative body. The rules are different, which provide for additional discussion and debate, and I understand that, and I think that is proper, certainly.

But, you know, we did not come here to procrastinate. We did not come here to extend debate for the purpose of extending debate. We came here for the purpose of thoroughly examining the issues that are before us, looking at the alternatives, and seeking, then, I think, to find some solutions. And that is what voting is all about. If you do not have enough votes, you lose. If you have enough votes, you win. And you go on to something else.

Mr. President, it seems to me it has become routine in this session of the Congress to extend, to amend, and to debate and, frankly, to stall. We have seen a great deal of that. Whether it is unfunded mandates, whether it is line-item veto, whether it is balanced budget amendment, whether it is telecommunications, whether it is product liability, we find this interminable number of amendments, many of which have already been done.

Yesterday was a good example. We had extended debate over an issue that had already, I think in almost anyone's mind, been resolved. But we went on. We now will have had 4 days of debate. This is an important issue. But everyone rises in the beginning and says: I want regulatory reform, but—but—but we want to do it in the right way. The right way is a pretty subjective kind of thing. What is right to you is not necessarily right to me.

So I guess I am expressing a certain amount of frustration, in that it seems to me we have accomplished a considerable amount in the Senate, but we have an awful lot before us. We have an opportunity in August to be home in our districts to talk to people about the direction this country ought to take, to talk to people about specific items. Frankly, that time in August is being constricted. I think it is almost certain we will not be available to go home as early as we thought we would. We have a lot of things to do. We have not even gotten to the budget—which, by the way, I think we ought to do every 2 years instead of 1. But, nevertheless, that is another issue.

So we have a great deal to do, a great many things. Welfare reform—we have not even talked about that. The items that have been very high on the agenda of the American people we have not gotten to.

So I guess I am expressing my frustration about the system. I urge my colleagues to take some self-analysis. Certainly, everyone is entitled to talk. Everyone is entitled to have an amendment. Everyone is entitled to have a view. But they are not entitled to stall the progress. They are not entitled to say we want more amendments, and when the time comes for amendments there are none to be talked about.

The elections we had—every election, but more particularly the last election—was about change. It was about doing something; about making things different than they are. Almost everybody agrees to that. Everybody stands up and says we are for change, and then resists change. I understand there is a philosophical difference, and properly there can be. There are those who do not want to change. I understand that. There are those who support the status quo, and I understand that. I do not object to that. I do not object to disagreement. I do not object to argument. But I do object to the fact that we never come to a decision, and that is what it should be all about.

I think there is a message: The status quo is not good enough. That is clear. No one says there should not be regulations. Of course, there should be regulations. Of course, it should not be changed to where we do not have clean air and clean water, and that is not the purpose of this. Of course, we ought not to do things that threaten health. Clearly this does not do that. This bill is a procedural bill that takes into account some processes in arriving at the implementation of regulations. That is what it is about. We have said specifically it is a supplement. It does not supersede the issues. But that does not seem to be good enough. We continue to rehash and go over that. I am expressing a little frustration, Mr. President.

In any event, we do need meaningful change. There is no question but what we are overregulated. There is no question but what the process of giving a grazing lease in Wyoming—that now requires a NEPA environmental impact study as if it were a national environmental change. It is a renewal of a 50-year-old process that has been going on.

Those are the kinds of things that we need to change. The law provides for multiple use of the land. But you cannot get on the land because the regulation, as it is implemented, is so costly that doing archaeological surveys and those kinds of things we are looking for is not a process that allows regulations to be implemented in a commonsense kind of a way.

Mr. President, I hope we can move forward. I hope we can move forward on this issue. Frankly, it affects everyone. We think it affects us in the West a little more where 50 percent of the land is owned by the Federal Government. So that anything you do in the Federal Government, if it has to do with recreation or has to do with hunting or has to do with grazing or has to do with mineral production, has to go through this extensive regulatory process. That needs to be changed. I do not think there is a soul who would say, "Oh, no. It does not need to be changed."

Take a look at what we have done in 3 days. We say it needs to be changed. But there are 32 amendments or so sitting out there, many of which have already been dealt with which have nothing to do with creating a strong bill but have more to do with simply moving back the time when we make decisions.

So, Mr. President, I hope we do move forward. I hope we can deal with issues as they are before us and come to some closure, come to some resolution. That is why we are here. That is why we came here. We are trustees. We are trustees for the voters, we are trustees for the citizens, and they are the beneficiaries. They should expect something from us. That is our opportunity.

Mr. President, I yield the floor.

Mr. FRIST addressed the Chair.

The PRESIDING OFFICER (Mr. ASHCROFT). The Senator from Tennessee is recognized.

COMPREHENSIVE REGULATORY REFORM ACT

Mr. FRIST. Mr. President, I rise today to continue discussions on the Comprehensive Regulatory Reform Act of 1995.

Mr. President, in an effort to protect the American consumer and taxpayer from pollution, faulty products, contaminants, unfair business practices and threats to their livelihood and health, our Government has in fact buried us under a mountain of Federal redtape and regulation that far exceeds any recognizable benefit. As a result, the American economy stagnates and the American public continues to be subjected to the ever-increasing presence of the Federal Government in our business practices and in our daily lives.

It is ironic that in an effort to protect the American people and the American industry the Federal Government has become an impediment. The greatest challenges to American industry and businesses do not come from dwindling natural resources or from competition from Europe and Japan, or from any number of social and economic challenges facing our society and culture today. Arguably, the greatest challenges facing American businesses and industries and the Americans who depend on them are the burdens placed on them by their own Federal Government; a Government that may or may not always have the best intentions but whose sole purpose is to protect and promote the common good, not to suffocate or stymie its citizens' and industries' well-intentioned and lawful pursuits. The need for substantial and fundamental regulatory reform cannot be overstated.

As we have heard in the last 3 days, the cost of regulation in this country now exceeds $560 billion every year. It is growing rapidly. And it is the rate of this growth which, like that of the national debt, that is so disturbing—growth, unfortunately, that produces no corresponding rise in benefits to either the economy or the American people.

Mr. President, we have now reached the point where the cost of supposedly protecting ourselves, our businesses and our industries from ourselves now more than doubles the dollar value that we spend on defending our Nation from foreign enemies. Part of the fault is our own. In the past Congress has failed to control the regulating agencies that fall under its jurisdiction. Congress has failed to scrutinize the expense of a regulation as closely as we have included such items in the budget. Congress has failed to consider the cost of regulation to the economy.

But just as we are fixing today our budget problems, we can reduce our regulatory burden if we have the will to do so. I believe the legislation before us is a positive, necessary and long overdue step in that direction.

Mr. President, the regulatory machine in our Government is out of control. Regulating agencies have become something akin to nonelected lawmakers, and almost predatory in nature when dealing with many industries and businesses. These agencies refuse to follow even the simplest of commonsense guidelines requiring validation of their actions for the common good, and that benefits realized from their actions outweigh the costs incurred.

Where was this simple American principle lost on the Federal Government? These are the principles which American citizens follow in their everyday lives, and it should not be difficult or unreasonable for the Government to operate that way also. The arrogance and the paternalism that has typified too much of the rulemaking in this country must end. People are tired of it.

The provisions of this bill are based on the commonsense principles that guide a free market economy in a democracy. These are the very same principles that played a critical role in building the America we know today. At the centerpiece of this legislation is cost-benefit analysis. In simple terms, it dictates that before a new regulation can be implemented it must be determined to be more beneficial to the public good than it will cost the economy.

While cost-benefit analysis has been used in the determination of new rules before, it clearly has not been the guiding principle. This bill dictates that it must now be the centerpiece of the formulation of any new rule and the basis for its justification or its dismissal.

This legislation also establishes—or reestablishes—that regulating agencies prioritize their formulation of new rules. Simply stated, that means the greatest dangers to the public must be addressed first and must be dealt with in the most cost-effective way.

The Government should no longer be allowed to saddle the economy with a supposed protective measure that clearly does not justify the cost it incurs.

With the inclusion of standardized risk assessment guidelines and decisional criteria, this legislation is designed to prevent extensive promulgation of excessive rules from occurring again as it has in the past.

Mr. President, one of the most encouraging and commonsense provisions of this legislation is that it compels the Federal Government to use market-based alternatives rather than proscriptive brute force regulation. Such measures have thus far proven to be extremely effective. They are also less costly, and they are fair.

One of the most common complaints I hear from businesses, both large and small, is the unnecessarily strict and archaic nature of the Delaney clause, or the rule that says even very small traces, trace elements of materials deemed unhealthy prohibit a company from offering that product to the public. The problem is that technology today has progressed far enough and so rapidly from the time the Delaney clause was first introduced that we can now detect these trace elements of substances that simply could never have been detected before and at levels that cannot be reasonably argued to be detrimental to ones health. However, the law has not changed to fit that reality. Such an inflexibility does not have the best interests of the public in mind. This legislation will in large part remedy that problem, and not a minute too soon.

This bill reinforces what this body passed earlier this year in the form of the congressional review, S. 219, of any new major rules. This provision will ultimately allow elected lawmakers—not regulatory agency bureaucrats—to decide if the new rule is in the best interest of the public before rules are applied. And perhaps the most encouraging provision of this legislation is the explicit instruction it includes to minimize the impact on small businesses when formulating and applying rules.

Mr. President, it is high time we reapply this simple set of principles by which the economy and society function to the way our Government works. It is time to hold the Government accountable to the same standards which the public must meet every day. It is unfortunate, if not ludicrous, that it would be any other way, and it is no wonder that the American electorate is restless and upset with their Government.

During the course of this debate, we have heard many examples, both telling and anecdotal. These examples remind us exactly how unprincipled and how out of control our Government can sometimes be. Some of the instances of the regulatory machine run amok are almost unbelievable in their egregious violation of common sense and individual rights. But the one fact that must be kept in mind is that our Government operates in such a way that the common good is no longer the goal. Regulation has become a goal in and of itself. Not only is that dangerous, it is unfair and extraordinarily expensive—almost $600 billion a year.

This legislation should be viewed as nothing short of a necessary complement to what we are striving to accomplish in balancing our budget. Indeed, this legislation could be viewed as the opportunity to give the American public the biggest tax cut in its history without so much as increasing the deficit or reducing benefits by a single cent.

We would be remiss in our duties as popularly elected officials if we failed in this opportunity by failing to pass this important legislation or by passing it in a form so watered down as to hardly check the regulatory machine at all. I strongly urge my colleagues not to miss this opportunity and not to let special interests or partisan concerns guide our upcoming votes.

Thank you, Mr. President. I yield the floor.

Mr. INHOFE addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

REGULATORY REFORM COST-BENEFIT LANGUAGE

Mr. INHOFE. Mr. President, the Senator from Tennessee at the conclusion of his remarks started talking about something that is very, very significant and has been left out of this debate. I have a few comments to make, and then I wish to follow up on that. And that is the budget ramifications of an overregulated society.

I am an original cosponsor of the Dole bill. However, I will say that I do not believe the bill goes far enough. I would like to have it stronger. It does not include a supermandate which would make the new cost-benefit provisions apply to all regulations. It specifically exempts those statutes which set a lesser standard in the statutory language. These exempted laws include many of the environmental statutes such as the Clean Air Act, which really does need a strong cost-benefit provision.

Half of all regulations issued are from the EPA, and half of all the EPA regulations are under the Clean Air Act. So that is why that act is so significant. We need to protect human health, but the EPA has gone way too far.

At the time of the Clean Air Act, the head of the Department of Health and Human Services told the Office of Management and Budget that they had no issues with the air bill. The only health benefit, according to HHS, was removing benzene from gas. This is the head of the public health department saying the bill was not protecting health.

When EPA determines risk in their risk assessments they use something called the maximum exposed individual, which is a person who spends every day of their life, 24 hours a day for 70 years, underneath the factory vent breathing the discharges. And I do not know anybody like that. That is totally unreasonable.

They also use the maximum tolerated dose for rats, which is when they stuff so much of the substance that they are studying into a rat the rat is going to die from stress.

For part of the Clean Air Act, they also observed the effects of emissions on asthma patients. But what they did was take away their medicine and force them to jog in 110 degrees heat, and nobody does this. This again is not realistic. The only realism you will find is in the minds of bureaucrats who do not live in the real world.

We can get 90 percent of the benefits from 10 percent of the costs. What EPA is trying to do is reach that final 10 percent of the benefits which incurs the rest of the costs, which is 90 percent. You do not need to be a rocket scientist to understand that 10 percent of the benefits is not worth 90 percent of the costs.

We should require that benefits outweigh or exceed the costs of regulation. When you reach that 90 percent benefit level, you reach a point of diminishing returns. We are paying for much more than we are getting. Businesses do not operate this way, at least they do not operate this way very long, and neither do consumers. The Government definitely should not either. For an incremental benefit of 1 percent, we should only have to pay an incremental cost of 1 percent or less. Nowhere else but in the Federal Government do people spend $1 million to get $100 worth of benefit, and we must end this practice.

The Clean Air Act refinery MACT rule is a perfect example. As proposed, the rule would cost approximately $10 million and only save less than one-half of one life.

The cost-benefit language in the Dole bill is good but not good enough. And it is a shame it does not apply to all existing statutes. As a Member of the Environment and Public Works Committee, I will strive to place good cost-benefit language in all future reauthorizations, yet I must point out my disappointment with the cost-benefit language in this bill. Perhaps we can work together and strengthen it later. And, of course, it is the only dog in this hunt at this time.

Let me suggest something. Yesterday, I ran out of time when I was talking about the Regulatory Reform Act, and there are a couple of examples that I wanted to use. I had used some examples from around the country, but I did not use the local examples.

Once before, when we were talking about Superfund abuse, which we are dealing with here also, I told the story of a very close personal friend of mine in Tulsa, OK. His name is Jimmy Dunn. His family has Mill Creek Lumber Co. It is the third generation to run this lumber company—highly competitive. It is in an environment in which many of them do not exist; they are not able to survive.

He called me up. At that time, I was a Member of the House. He said, "Congressman INHOFE, the EPA has just put me out of business." I said, "What did you do wrong?" And Jimmy Dunn said, "I don't think I did anything wrong, but for the last 10 years we have been using the same contractor to sell our used crankcase oil." And that contractor was licensed by the Federal Government; he was licensed by the State Government; he was licensed by Tulsa County, and yet they traced some of the crankcase oil from this contractor to the Double Eagle Superfund site.

He read the letter he received from the administrator of the EPA, the last paragraph of which said we are going to impose $25,000-a-day fines on you and possible criminal sanctions.

Now, we were able to stop that, but for every one that we find out about and are able to help, there are thousands that we do not find out about.

I had a visitor in my office yesterday who is the administrator of the endangered species here and a very nice lady, and we visited about it. She said, "Well, I can count on both hands the number of prosecutions we have had. It is fictitious to say that we are being abusive in the Endangered Species Act." I said, "You miss the point altogether." For each one that is ultimately a conviction or a prosecution, you have 100,000 of them out there that are threats, that are threatening those people who are working hard, making money to pay taxes for all this fun that we are having up here.

I have a guy that I met 4 days before Christmas. His name is Keith Carter. Keith Carter lives in a little town in Oklahoma—Skiatook, OK—just north of Tulsa, OK. It is a very small community. Keith Carter developed a spray that he puts on horses. I do not know what it does, but apparently there is a market for it. Keith Carter called me 4 days before Christmas and Keith Carter said, "Congressman, EPA has just put me out of business and I have to fire my only four employees 4 days before Christmas."

The PRESIDING OFFICER. The Senator's time has expired.

Mr. INHOFE. I ask unanimous consent for 2 additional minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INHOFE. I thank the Chair. I do want to finish this story.

What had happened in the case of Keith Carter is that Keith Carter had moved his location from his basement up the street three houses for a larger place. He told the EPA regional office in Texas about it, but he did not tell the office in Washington, and so they took away his number. So we got his number back. It took 3 weeks to do it. Finally, we got his number back.

He called me back. He said, "Congressman, I have another problem; now I can't use my inventory, 25,000 dollars' worth of silkscreen bottles, because they have the old number on them." Well, this is the type of harassment that has taken place.

Lastly, since the Senator from Tennessee brought this up, there is a brilliant guy, a Dr. Bruce Yandle from Clemson University, that made a discovery that everyone should focus on at this time. We are all concerned about deficits. What he discovered was—and he skewed this draft out for us—that there is a direct relationship between the number of pages in the Federal Register, which indicates the number of regulations, and the deficit. These yellow bars down here signify and represent the deficits during these years starting all the way back in 1950 going up to the current year. And if you look at this, it follows exactly along the line of the pages in the Federal Register. So, I would say to those individuals, if you are looking for another excuse, if you do not believe that we have an obtrusive, abusive Government, then look at it from a fiscal standpoint. If you really want to balance the budget, to eliminate the deficit, there is no single greater thing we can do than stop the excessive regulations in our society. And this is our opportunity to do it.

Thank you, Mr. President.

The PRESIDING OFFICER. The Senator from Kansas is recognized under the previous order to speak for up to 10 minutes.

Mrs. KASSEBAUM. I thank the Chair.

(The remarks of Mrs. KASSEBAUM and Mr. KENNEDY pertaining to the introduction of S. 1028 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. Under the previous order, the Senator from North Dakota is recognized to speak for up to 15 minutes.

COMPREHENSIVE REGULATORY REFORM ACT

Mr. DORGAN. Mr. President, the subject on the floor of the Senate is regulatory reform. It is an important issue. Nearly all of us in this Chamber know that there are many Americans confronted these days with regulations that they think do not represent common sense, regulations that are too burdensome, regulations that do not seem appropriate or right. I understand that. I think some of that does exist. And when and where it exists, we ought to put an end to it. Americans have enough trouble without having to deal with regulations that do not make sense.

But the story of regulations is a story with more than one chapter. Another part of the regulations story is the regulations that we have put in place that improve life in this country; regulations that require inspection of food so that we have safe food to eat; regulations that require an approval by the Food and Drug Administration of drugs that are being proposed to be marketed in this country so that consumers have some confidence that these drugs are safe; regulations that prohibit big corporations from dumping their chemicals into our streams and into our lakes and rivers; regulations that prohibit big corporations from pouring pollution into our air. Many of those regulations are critically important, and we ought to keep them.

It is interesting, most of what we see in the Congress is a debate about failure, it is never much a debate about success. Let me just for a moment describe for my colleagues a success.

Today, we use twice as much energy in this country than we did 20 years ago, but we have in this country today, by all standards of measurement, cleaner air. Why would we have cleaner air, less pollution, less smog in this country today than we did 20 years ago if we use twice as much energy? Because this country and this Congress said we are going to change the way we behave in this country; we are not going to allow polluters to any longer pollute the air; we are going to require them to clean up their emissions. And the result is a success story. It has been the Clean Air Act, with all of its imperfections, that has stopped the degradation of America's air. That is a success.

Should we retreat on that? Should we decide that regulations that require corporations to stop polluting are burdensome so, therefore, they should not have to stop polluting? Should we go back to the good old days where we dump all this pollution into the air and let our kids breathe it and say it does not matter, that we can deal with the consequences later? I do not think so. I do not think the American people would believe that we want to go back to those days.

How about water? There is a book by Gregg Easterbrook recently published that talks about these success stories. We have less acid rain and cleaner water these days than we had 20, 25 years ago. You all remember the story about the Hudson River starting on fire.

Now why would a river start to burn? Because of this enormous amount of pollution that was going on in this country. Now our rivers and lakes and streams are cleaner and we have less acid rain. Why is that the case? Is it because someone decided in a corporate boardroom someplace we really have to stop doing this, we have to spend money to stop doing it to clean up our water? No, it is not because of that. It is because Congress decided this ought to stop and that reasonable regulations and rules ought to require the big polluters to stop polluting. The result is, we have cleaner air and cleaner water.

Are all these regulations perfect? No, not at all. Should some be changed? Yes. But should we retreat in this country on the requirement with reasonable regulations to say to those who would pollute our air and water you have to stop polluting? Of course not. We should not retreat on that. What we have done there is a success story for our country.

Should we retreat on food safety? Of course not. That is not what the American people expect us to be doing.

Now, I have been interested in the way this debate has gone here in the

Senate. It has gone like every other bill we have seen this year. A bill is brought to the floor of the Senate and, within hours, the majority party starts complaining about the minority party stalling. Well, this bill was brought to the floor of the Senate much as regulatory reform bills were brought to the committee on which I serve, the Governmental Affairs Committee. The first such bill we saw in committee was a moratorium, a regulatory moratorium; and the majority party thought, gee, this really sounds great, we will just stop everything, no more rules will be issued. No more regulations will be issued. We will stop them in their tracks until a time certain later.

Some of us said that does not make sense. We said the bill does not discriminate between good and bad rules, good regulations and bad regulations. We decided to offer some amendments. And so we offered amendments on E. coli, on clean water, on cryptosporidium, on mammography standards, on commuter airline safety standards, which we were sure the majority party did not want to interrupt. Did they really want to interrupt a regulation that establishes the reasonable standards for mammography screenings for breast cancer? No; it turns out that is not really what they intended to do. What about E. coli? Did they intend to allow for degradation of food safety standards? No; it turns out they did not intend to do that either. We went through a whole series of amendments, and it turns out that is not what they really intended to do.

Well, they come to the floor with a regulatory reform proposal, and we have a number of amendments that we are prepared to offer. The fact is that you cannot get amendments up on the floor. Oh, we got one up yesterday and it took all day. The folks that offered the amendment were ready to vote at noon. We did not vote until the end of the day. Why? Well, because the other side is stalling, and they accuse us of delaying. That is a curious, interesting approach to legislative strategy. You stall and accuse the other side of delay. So far, there have been 16 amendments offered on this bill; 14 of the 16 have been offered by the other side, and only two by those who want to change the bill or would support a substitute to the bill.

If we want to finish this bill—and I do—and if we want to move ahead—and I think we should—we ought to decide to allow all these amendments to be offered, the amendments that address the specific issues. Do you intend really to degrade seafood safety standards? I do not think so. Let us offer an amendment to guarantee that is not the case. Do you intend to undercut and degrade clean air standards? I do not think so. Let us decide we want to vote on that.

Let us offer those amendments. I expect most people would be willing to offer them expeditiously, with time agreements, and we will vote on them. And no one, in my judgment, could genuinely suggest anyone here is stalling. The stall comes from those who bring the bill to the floor but do not want amendments offered that they do not want to vote on. That is the stall. I understand that. But it is not the way we ought to do bills. There are good regulations and bad regulations. We ought to get rid of the bad and keep the good.

I heard somebody this morning talk about the burden. We place an unfair burden on America's corporations with respect to regulations. Well, I will tell you, some corporations have relieved themselves of that burden. Two or three applications a day are being approved for new plants on the maquiladora border, south of the Mexican-United States border—two or three a day. These are new American plants that move to Mexico. Why do they move down there? Because Mexico is a place where they can produce things differently than in our country. First of all, it is much cheaper; they can pay lower wages, and often they can hire kids.

Second, they do not have the enforcement on environmental controls. You can move your plant to Mexico and pollute. You do not have to be burdened by all of those unreasonable standards in the United States; if you are going to produce something, you should not pollute water and air. So it costs less to produce there.

Is it right? Is that the future? Is that what we want to have happen? I do not think so. Is the answer to it to decide we should not burden them, that they should pollute while in this country? I do not think that is the case either.

I think we have provided some good leadership with respect to our set of regulations on requiring polluters to stop polluting, in requiring those who are involved in processing the meat in this country to process it in conditions that we feel are safe for the American consumer. I do not understand those who believe that these are burdens on America's corporations that must be relieved with a bill that cannot be amended because they do not want to vote on these specific issues.

We have been treated in recent months to a lot of very substantial reforms, some of which I have thought made a lot of sense, some of which should have been passed when the Democrats controlled the Congress and were not. It is our fault. I voted for some of these reforms. I voted for unfunded mandates. I thought it made a lot of sense. I voted for the line-item veto. Some of these reforms make sense.

Some of these reforms brought to the floor of the Senate are inherently radical reforms, responding to the big money interests of this country. Regulatory reform, for anybody who is interested, has been largely written by the special interests, by the large corporate interests, largely written by the large corporate interests who want to get out from the burden of costly regulations. I understand that. I understand why they want to do that. But the public interest has been established here from our perspective that we want that burden imposed to require clean air and water and safe food and the rest.

We had a fight in North Dakota in the 1970's when they were going to process coal to produce electricity. I and the then Governor decided the only way we were going to give water permits was to fight for the latest available technology to be put on those plants, which included then wet scrubbers, very expensive environmental control technology, in order to protect North Dakota's air. Well, obviously, the coal industry and others who were processing that coal, the electric generating industry, did not want any part of that. They did not want that. Why? Because it costs money. I understand why. I understand why they fought it. But we were right and we insisted on it, and we now have those coal-fired generating plants in North Dakota. But the fact is the latest available technology was included on those plants, which included wet scrubbers to reduce the effluent that goes into the air. I cannot be more pleased about the fight I was involved in in the 1970's requiring that that happen. We were considered fairly radical at the time. We were environmentalists. We were trying to impose costs on industry. Yes, we were. We wanted those who purchased the electricity from those plants to help pay the costs of keeping the air clean. Is that radical? Well, it was called radical, but I do not happen to think it is. I think it is right.

I am a little tired of special interests beating the drum and calling the tune in this town, to suggest that somehow they now need their burdens relieved—especially when they tell us of those burdens of having to comply with the Clean Air Act, Clean Water Act, food safety standards, and the like.

Yes, let us have regulatory reform, and let us do it in the right way. Let us be aggressive in making sure that regulations make good common sense. Let us get rid of silly, useless regulations, and let us get rid of the people that write those kinds of regulations. But, at the same time, let us make sure that we protect this country with reasonable regulations that protect our air, water, food safety, and more. That ought to be the job for all of us on the floor of this Senate. There ought not be any disagreement about it. Nor should there be disagreement about whether anybody is stalling. If the majority party will simply allow those who believe that amendments are necessary to this bill to be offered and debated, this bill will move, and move quickly—with proper amendments.

But it is disingenuous, in my judgment, to be delaying because you do not want to vote on amendments, and then accuse the other side of stalling. That is not much of a legislative strategy and will not produce much of a result for this country.

Mr. President, I yield the floor.

Mr. SIMPSON addressed the Chair.

The PRESIDING OFFICER (Mr. CAMPBELL). Under the previous order, the Senator from Wyoming is recognized to speak for up to 10 minutes.

(The remarks of Mr. SIMPSON and Mr. BINGAMAN pertaining to the introduction of S. 1029 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

EXTENDING TIME FOR FILING FIRST-DEGREE AMENDMENTS—S. 343

Mr. SIMPSON. Mr. President, on behalf of the leader, I ask unanimous consent that, notwithstanding the provisions of rule XXII, all Senators have until 5 p.m. today in order to file first-degree amendments to the pending Dole-Johnston substitute to S. 343, the regulatory reform bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Madam President, was leader time reserved?

The PRESIDING OFFICER. The Senator is correct.

DISASTER IN SREBRENICA

Mr. DOLE. Mr. President, I had hoped that the profound disaster in Srebrenica would have provoked a greater response from this administration than what we have seen in the last 48 hours. Tens of thousands of Bosnians have fled, Dutch peacekeepers are being held hostage, young girls are being taken away by Bosnian Serb forces, and the two other eastern enclaves—also U.N. designated safe havens—are under continued attack. Yet, instead of leadership, all the administration has to offer is press spokesmen to defend this catastrophe.

The best defense would be a change in the present approach. However, that is unlikely from what the cadre of administration spokesman have said.

Despite the obviousness of this colossal failure, Western leaders cling stubbornly to the myth that no other options exit.

There are reports that the administration is working with the allies to withdraw U.N. forces from the Eastern enclaves and redeploy them in central Bosnia and Sarajevo. In my view, this would be redefining failure.

I remind my colleagues that in the spring of 1993, Secretary Christopher went to Europe with the lift-and-strike plan and returned with the joint action plan. This plan was sold as the humanitarian option. The option that put the Bosnians' interests first. The joint action plan committed the United States, Britain, France, Russia, and the European Union to the protection of six U.N.-designated safe havens and closing the borders between Serbia and Bosnia.

There are those of us who urged the administration not to go along with this so-called plan, who warned that creating giant refugee camps with minimal defense would support Serbian war aims. We were ignored.

I might say these suggestions came not just from this side but on both sides of the aisle.

The administration went ahead and what a trade. Two years later Milosevic is still sending supplies and troops across the border and, the Bosnians are not only defenseless, but undefended.

Now we are faced with a widening catastrophe, but there is no longer any attempt to save the Bosnians—only to save face. The rapid reaction force is intended to save face.

I believe that the United Nations must begin preparations for withdrawal immediately. I am prepared to support the use of U.S. forces, if they are necessary, but under strict conditions.

If we have to use U.S. forces, it is going to be because of a total lack of policy by the Clinton administration. We are going to be backed into the use of U.S. forces because of a lack of clear leadership by this administration. That should be clear to everyone.

But even having said that, we have some obligations and I would be willing to support use of U.S. forces—under strict conditions.

First, unified NATO command—no dual key.

Second, robust rules of engagement which provide for massive retaliation if any U.S. forces are attacked.

Third, all necessary measures are taken to protect United States and NATO personnel from likely threats—from any source, to include Serbia—to include the suppression of Serbian air defenses.

Fourth, no risking U.S. lives to save equipment.

Fifth, agreement from our allies to lift the arms embargo on Bosnia.

The administration must know that it will be held responsible and that if these conditions are not met, the risk to U.S. forces will be far greater than necessary.

Mr. President, the United Nations must withdraw and the arms embargo must be lifted. The United States cannot continue to subsidize and support a U.N. mission that serves largely to supervise ethnic cleansing and aggression. The United States must exercise leadership and support the fundamental right of self-defense.

I listened last night to one of the spokesmen, a White House press person, talking about Bosnia. He said, "Well, we cannot afford to lift the arms embargo. That would cost us money."

What does he think we are spending now? We are spending a great deal of money, and we are picking up 31 percent of the tab right now in Bosnia. Hundreds and hundreds of millions of dollars have been spent by the U.S. taxpayers. So I wish if they are going to trot out the press spokesmen, at least they should have the facts correct and tell the American people the truth, and give them an accurate report of what is actually happening.

I yield the floor.

WAS CONGRESS IRRESPONSIBLE? LOOK AT THE ARITHMETIC

Mr. HELMS. Mr. President, on that evening in 1972 when I learned that I had been elected to the Senate, I made a commitment to myself that I would never fail to see any young person, or any group of young people, who wanted to see me.

It has proved enormously beneficial to me because I have been inspired by the estimated 60,000 young people with whom I have visited during the nearly 23 years I have been in the Senate.

Most of them have been concerned about the magnitude of the Federal debt that Congress has run up for the coming generations to pay. The young people and I always discuss the fact that under the U.S. Constitution, no President can spend a dime of Federal money that has not first been authorized and appropriated by both the House and Senate of the United States.

That is why I began making these daily reports to the Senate on February 22, 1992. I wanted to make a matter of daily record of the precise size of the Federal debt which as of yesterday, Wednesday, July 12, stood at $4,927,810,673,266.79 or $18,706.05 for every man, woman, and child in America on a per capita basis.

Mr. SIMPSON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Under the previous order, the Senator from Pennsylvania, [Mr. SPECTER] is recognized to speak for up to 15 minutes.

THE RUBY RIDGE INCIDENT

Mr. SPECTER. Mr. President, I have sought this special order for recognition this morning to renew my urging that the Senate conduct oversight hearings into the incident at Ruby Ridge, a subject that I have spoken on at length on the Senate floor—on May 9, 10, 11, 18 and 26—and on those occasions urged that hearings be conducted before the August recess because of what I view to be the urgency of the situation.

I renew that request in light of the release by the Federal Bureau of Investigation yesterday, and the extensive publicity in the news media today, reporting on the suspension of a ranking FBI agent involved in the Ruby Ridge incident, the suspension occurring "after authorities allege that he destroyed a document that could have altered the official account of what happened at the standoff on August 22, 1992."

Mr. President, it has been my judgment for some considerable period of time that the Congress has been derelict in failing to have oversight hearings on very serious matters involving Federal law enforcement operations in the United States, and that it is up to the Congress as a matter of congressional oversight to make sure that there is accountability at all levels of the Federal Government.

I have considered very carefully the very heavy responsibility of law enforcement officials, the FBI, the Bureau of Alcohol, Tobacco and Firearms, and others, agencies that I have worked with extensively over my whole career of public service—since I was district attorney of Philadelphia—and have a full appreciation of the very high risks that law enforcement officers at all levels undertake. But there is great concern in America today about excessive Federal authority, and about the incidents which have occurred not only at Waco but also at Ruby Ridge.

This is in line with the concern in this country, which is as old as the Declaration of Independence itself, in challenging the legitimacy of government.

That brought the revolution and the founding of the United States of America. Our history is full of challenges to be sure that the Bill of Rights is respected. It is no coincidence that the United States has had the longest record in world history for stable government, no coincidence that record is the result of having a Bill of Rights which has been meticulously enforced, and one of the agencies of enforcement is the constitutional prerogative and responsibility of the Congress of the United States to conduct oversight.

Mr. President, it is a matter of the utmost gravity when there are allegations that there has been the destruction of a document which could shed light on what happened at Ruby Ridge, and this is only another step along the way on matters which already were in the public record suggesting substantial impropriety.

In my statement on the Senate floor on May 26, I referred to a letter from FBI Special Agent Eugene Glenn, who was on the scene at Ruby Ridge, and who was disciplined, and Mr. Glenn had this to say on page 6 of an extensive letter which he wrote to Mr. Michael Shaheen of the Justice Department's Office of Professional Responsibility:

> On August 22, 1992, then Assistant Director Potts advised during a telephonic conversation with the special agent in charge that he had approved the rules of engagement and that he articulated his reasons for his adjustments to the Bureau standard shooting policy.

At that time, I called the attention of my colleagues to the fact that in my personal conversation with Mr. Potts on May 17, he said to me categorically, "There was never a change in the rules of engagement." And Mr. Potts advised me further that there was "no authorization to change the deadly force policy."

Mr. President, as I have said previously in this Chamber, I have talked extensively to people who have participated, been involved in the incident at Ruby Ridge. I talked to Mr. Randy Weaver at some length back on May 13, 1995, and got his account of what was truly a tragic incident which resulted in the killing of a deputy U.S. marshal, the killing of Mr. Weaver's young son, Sam, who was shot in the back, and the killing of Mr. Weaver's wife, who was holding their infant daughter.

The entire incident involving Mr. Weaver occurred, according to Mr. Weaver, when he was approached by agents from the Bureau of Alcohol, Tobacco and Firearms asking if he could sell them sawed-off shotguns, which apparently he later did in a context where a court found it to be entrapment. I questioned Mr. John Magaw, the Director of the Bureau of Alcohol, Tobacco and Firearms, and he conceded to me that there was what he called borderline entrapment in the Weaver case.

So that you have a sequence of events of Mr. Weaver living in Boundary County, ID, right next to the Canadian border, really wanting to be left alone, an incident with this issue of entrapment, and later the marshals coming to the premises of the Weaver household. And then you have an incident, tragic, the killing of a deputy U.S. marshal, two members of the Weaver family, and then a dispute as to whether the FBI acted properly under the rules of engagement; and then yesterday the disclosure that in fact there had been some indication of further wrongdoing.

This is a matter, Mr. President, in which it seems to me it is imperative that the Congress of the United States exercise its oversight responsibilities.

We have had on the record for some time glaring conflicts which need to be investigated, inquired into by the Congress—the disparity between Special Agent Glenn, who is in charge of the FBI office in Salt Lake City, and the account of Mr. Potts, who has since been promoted to the position of Deputy Director of the FBI.

As noted in this morning's Washington Post:

> Last year, a Justice Department task force sharply criticized the FBI action during the incident.

Referring to Ruby Ridge.

> The task force concluded that the Bureau's conduct "contravened the Constitution" and that criminal charges should be considered against the responsible agents. The task force report was forwarded for comment to the Justice Department's Office of Professional Responsibility and the Civil Rights Division. Those offices in their evaluations held that no criminal conduct took place.

Now, Mr. President, I submit that in the context of a task force report saying the Constitution has been violated and suggesting criminal prosecution, and a disagreement within the Department of Justice itself, that we have is the quintessential circumstance where the Congress of the United States has oversight responsibilities. And yet we sit by idly and do nothing.

I have said on the Senate floor that in my judgment Congress has been derelict in its duties. I think it is a matter of nonfeasance, the failure to perform a positive obligation and a positive duty. And for the Congress, the Senate, the Judiciary Committee to continue to turn its back would amount to more than nonfeasance, perhaps misfeasance, perhaps malfeasance.

There is great unrest in America today, Mr. President, as we all know, with the development of extensive militia around the country and a vivid, active distrust for what goes on in Washington. I can understand that distrust in the face of what I see personally as a Member of the Senate and as a Member of the Senate Judiciary Committee. I not only understand that distrust and skepticism, but I share it in the absence of any oversight having been undertaken by the Congress, the Senate, and the Judiciary Committee on these important matters.

I made an effort to hold these hearings with the Subcommittee on Terrorism, the subcommittee which has jurisdiction over these matters, and I was thwarted in that attempt to do so. And I took the highly unusual step of bringing the matter to the floor of the Senate in a resolution calling for hearings on Ruby Ridge, among other things, in advance of the August 4 recess.

I had no doubt, Mr. President, no naivete that that resolution was not going to be adopted in the face of our standards as to prerogatives of chairmen, but it seemed to me sufficiently serious to bring it to the floor of the Senate and to bring it to a head.

In my capacity as chairman of the Terrorism Subcommittee, I have had a series of hearings, four hearings on the subject, one of which involved the militia where law enforcement officials from the FBI, the Bureau of Alcohol, Tobacco and Firearms, the State police chief from Missouri, and prosecuting attorneys from Phoenix, AZ, and Musselshell County, MT, came forward and testified about the dangers of the militia and at the same time, same hearing, a second panel testified about the reasons why the militia are growing in the United States, members of the militia talking about the distrust of what goes on in Washington, accusing the committee, accusing the Senate, accusing this Senator of corruption, and a very heated exchange followed in which I did not take that accusation lightly. And I do not. But I must say, Mr. President, that I worry about our country when this kind of information is open and notorious and there is no response from this body, from the Judiciary Committee, to have these oversight hearings.

I think that when you now have, beyond the issues which I have raised, where you now have the lead story in this morning's Washington Post, under the banner headline, "Probe of FBI's Idaho Siege Reopened," detailing the destruction of documents on top of the contradictions and problems in this investigation, that this is highly likely to produce the kind of public pressure which it appears is the only way to get any results on a matter of this sort.

Mr. President, I think it is a matter of the utmost gravity and the utmost seriousness, and we sit really on a powder keg with a lot of distrust and anxiety and anger welling up across the country as to excessive action by the Federal Government. Accountability at the highest levels is absolutely mandated, and it is the responsibility of the Congress and the Senate and the Judiciary Committee to conduct these oversight hearings and, in addition to having discussed these matters privately with the appropriate authorities within our own body, I think it absolutely necessary to make the statement as forcefully as I can to urge that these hearings be conducted, conducted promptly and, in any event, before we adjourn for the August recess.

TRIBUTE TO FRANCIS J. BAGNELL

Mr. SPECTER. Mr. President, I would now like to take the few minutes remaining before morning business expires, in the absence of any other Senator on the floor, to comment on the passing of a great American, Francis J. Bagnell, commonly known as "Reg" Bagnell, who, as we speak, is having memorial funeral services conducted in the Philadelphia suburbs.

Reg Bagnell has been an outstanding figure in the Philadelphia area in Pennsylvania and in America as a contributor to important causes. He achieved legendary fame as a young football player at the University of Pennsylvania in the fall of 1946. Reg Bagnell and I were classmates at the University of Pennsylvania in 1951. And I was one of those who sat in the stands and admired his prowess. He weighed about 160 pounds and played tailback. On the old single wing on one glorious autumn day in 1946, he threw 14 consecutive passes against Dartmouth. And he followed his all-American status by being an all-American contributor to the American scene. And I thought it appropriate to take just a few moments to recognize Reg Bagnell's great contribution, not only as an athlete but as a community activist and as a great American.

I see it is now 10:45, Mr. President, the time to adjourn morning business, so I conclude and yield the floor.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order the hour of 10:45 having arrived, morning business is closed.

COMPREHENSIVE REGULATORY REFORM ACT

The PRESIDING OFFICER. The Senate will now resume consideration of S. 343. The clerk will report.

The legislative clerk read as follows:

A bill (S. 343) to reform the regulatory process, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Dole amendment No. 1487, in the nature of a substitute.

Roth/Biden amendment No. 1507 (to amendment No. 1487), to strengthen the agency prioritization and comparative risk analysis section of the bill.

Mr. JOHNSTON addressed the Chair.

The PRESIDING OFFICER. Mr. JOHNSTON is recognized.

Mr. JOHNSTON. Mr. President, last night after I had left the Chamber and repaired to my home, a cloture motion was filed on this bill of which I was totally unaware. Mr. President, I believe that that was exactly the wrong thing to do on this bill. I believe we were making good bipartisan progress on this bill. It is a difficult, complicated bill. I think the legislative process was proceeding, if not with dispatch, at least with a spirit of dealing with the issues. And I think we have begun to make great progress.

Just overnight last night, for example, in a good spirit of bipartisan progress, I understand we have worked out the Roth amendment, I believe to the satisfaction of both sides. That will remain to be seen. But I believe that is so. I think we had a session scheduled this morning for 9:30 dealing with some of those on our side of the aisle who, in a spirit of bipartisan cooperation, wanted to try to work out some of the remaining issues. And I think there was some hope that that could take place.

With the filing of the cloture motion, that meeting was called off because our side, the Democratic side, had to repair to put in all of these amendments which had to be prepared by, I think, 1 p.m. today.

Mr. President, I have just come from a meeting with the majority leader and have urged him in the strongest way possible to withdraw the cloture motion, to let us continue on in a bipartisan spirit to work our way through these amendments. I have not seen yet on this bill delaying tactics. All of the amendments which have been proposed obviously have not been amendments which I have agreed with. But I think they were legitimate amendments. And on, for example, the cryptosporidium amendment last night—I think that was a serious amendment—there was also a time limit agreed to. And, Mr. President, that is not the stuff of a filibuster, when you have a serious amendment with a time limit. So, I am in good hopes, Mr. President, that we can withdraw that cloture motion and let us legislate.

Today, I hope to deal, for example, with the suggestion that Senator GLENN made yesterday about extending the 180-day period for completion of the cost-benefit analysis when you invoke the emergency provisions of the bill when there is an emergency with respect to health, safety, or the environment. I think we can agree to that. It was a good amendment. I hope we can agree to that.

I am very strongly for removing environmental cleanup or Superfund from this bill. I hope to join with Senator BAUCUS in proposing that amendment this morning. I hope we can get that done with a short time agreement.

So, Mr. President, I have urged the majority leader, as I say, in the very strongest way possible to withdraw the cloture motion. Let us return to legislating rather than having to prepare a finite list of amendments. I will say from my side of the aisle I believe that we can secure cooperation. I do not believe there is a filibuster.

Mr. President, if there were a filibuster, we would not have had, believe me, a 30-minute time limit on cryptosporidium last night. That is a great issue to talk about for days. I mean, it has all those elements—public health, people dying. It is a serious issue. But it was a serious amendment. We took a vote on it. I happen to be for the motion to table, not because I do not have sympathy on the issue—I mean more than sympathy; I think it is a tremendous issue—but because I think we had it taken care of. And I might say that I and others spoke to Senator KOHL last night and said we believe we are confident that this issue has been resolved by the earlier Johnston amendment.

However, we will look at that issue between now and the conference, and if it needs fixing, if there is any assurance that we need to give to people that cryptosporidium will not be a problem, that the regulation of it will not be hindered or delayed, we are prepared to do that. I know I heard Senator HATCH say that very thing, and I have given that assurance to Senator KOHL. That is the kind of spirit which I think we need on this bill to successfully pass it.

I hear from my caucus that we want a good, reasonable, workable regulatory reform bill. We certainly hear that from the other side of the aisle. We ought to build on that spirit. To be sure, there are differences on how we think we would arrive at that, but they are differences which can be reconciled.

So, Mr. President, I am hopeful that this will be a productive day of legislating; that we will, in fact, withdraw the cloture motion; that we will resume serious legislating in a spirit of bipartisan cooperation.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah [Mr. HATCH] is recognized.

Mr. HATCH. Mr. President, I got here about a quarter to 7 this morning. I happened to have left before the cloture motion was filed myself and was not sure whether the distinguished majority leader was going to do that, which he has every right to do, especially where it is believed there is a delay for delay's sake.

I remember in the last number of Congresses when Senator Mitchell was the majority leader, they would call up a bill and file cloture that day on almost every controversial bill—it was just amazing to me—and accuse us of filibustering right from the word go. We are now on the fourth day of this—actually the sixth. We have had very few amendments, and the ones that we have had are amendments that seem to want to repeat what is already in the bill.

Be that as it may, I showed up for our negotiating session this morning. I had to testify on the Utah wilderness bill at a 9:30 meeting. I showed up and the room was empty. I was prepared, as my distinguished friend from Louisiana was, to sit down with our colleagues on the other side to find out what we can do to narrow the amendments and resolve any conflicts that exist and try to bring us together, if we can.

I have to say, my friend from Louisiana and I have worked long and hard to try and bring us together, to try and accommodate those on the other side who differ with us on this bill.

There are things we have been able to do and there are things we have not been able to do. On the list they provided us, we gave them answers on every one of the items, and most of the answers were that we cannot do this. But there were still some areas where we probably could get together and hopefully resolve some of the differences between the two sides. If we cannot resolve differences and the amendments are really serious and decent amendments, then we will just have it out on the floor. Whoever wins wins, and we just vote them up or down. I am hopeful our side will stand firm against some of these amendments.

Nobody is trying to give anybody a rough time. The majority leader has a lot of pressure on him to get this matter resolved and to save as many days as he can so that we do not cut into the August recess. He has all kinds of things on the plate that need to be heard, so naturally he wants to move ahead. I want to move ahead. The distinguished Senator from Louisiana would like to move ahead. We would like to resolve the difficulties and certainly have people feeling good about it.

I do not think there is any real reason for any person after 5 days on the bill to pitch a hissy fit with the fact that a cloture motion has been filed. That has happened around here all my Senate career. It is not unique. It says, "Let's get busy, let's work and get this done." I hope the two leaders can work out some way of getting this done. I also hope that we can all work together on this floor.

This is such an important piece of legislation that I hope we can all get together on this floor and help bring it about. This legislation will save lives. This legislation will provide the very best science applicable to some of the most important problems and issues of our society. This legislation will solve the problems, or at least go a long way toward solving the problems of the overregulatory nature of our society, and some of the ridiculous regulations that all of us put up with.

I know some have not liked my top 10 list of silly regulations, but I am going to bring them up everyday anyway, because there are those who are very dedicated to the bureaucracy around here. That is where their power comes from. They can have the bureaucracy do what they could never pass on the floor of the U.S. Senate. It does not make any difference what it is going to cost, the bureaucracy just does it. This bill says, no, you are going to have to have a cost-benefit analysis and risk assessment to determine how dangerous it is before you go and saddle the American people with unnecessary costs and tremendous burdens, and you have to be more serious about regulations rather than have these silly, dumbbell regulations that are eating our country alive and costing us billions of unnecessary dollars, to the extent of $6,000 to $10,000 per family in this society.

Let me just give my top 10 list of silly regulations. This is list No. 5.

Let me give you silly regulation No. 10: This is where over two dozen agents, some in helicopters, stormed a farmer's field and seized his tractor for allegedly harming the endangered kangaroo rat. The farmer was never notified that his land was a habitat for the rat, and even the Federal officials were not certain which type of rats were on his land. And yet they came and stopped this farmer from doing his farming that he had done for years on the basis of an alleged harm to an endangered alleged kangaroo rat. That is silly, but that is what our people out there are going through.

Let me give you silly regulation No. 9: Fining a company for worker safety violations such as: a cut in the insulation of an extension cord which had been taken out of service, three citations, and a splintered handle on a shovel, in spite of the fact that the shovel was placed in the back of a truck after it broke.

Now, that is silly, but that is the type of regulation and interpretation of regulations we are going through in this society.

Silly regulation No. 8: Requiring so many procedures that it took a business an entire month to hire just one person. Because of such complexity and the extreme penalties that go with violations, the owner has resolved never, never to hire more than 10 workers, despite the fact that each worker logs 500 hours of overtime in a year. He just is not going to put up with this type of regulation, and having 10 or fewer, he does not have to. Except he did have to spend an entire month to just hire one person.

Silly regulation No. 7: Fining a roofing company for failure to have a fire extinguisher in the proper place, in spite of the fact that it had been moved to prevent it from being stolen by passersby as three other extinguishers had been in the preceding 3 days.

Silly regulation No. 6: Requiring a trucking company to spend $126,000 to destroy nine fuel tanks which were not leaking.

Silly regulation No. 5: Denying a wetland permit application and ordering an elderly couple to remove dirt in an alleged wetland—dirt which had been placed on the land by the city 10 years before the couple bought the lot—only to concede a year later that the couple did not need a permit to have the fill on their land. That is silly.

Silly regulation No. 4: Seeking a $14 million fine against farmers who were accused of violating the Clean Water Act by building a levy to prevent their farm from flooding. That is ridiculous, but that is what they did, a $14 million fine against these poor farmers who just wanted to prevent their farm from flooding.

Silly regulation No. 3: Prohibiting an 80-year-old farmer from farming his land, claiming it was a wetland when a local business accidentally cut a drainage pipe.

I only have two more, and then I will yield to the majority leader.

Silly regulation No. 2: Preventing a company from harvesting any timber on 72 acres of its land because two spotted owls were seen nesting over a mile and a half away. No spotted owls had actually been seen on the company's land.

Let me just go to silly regulation No. 1: Requiring one of our towns in this country to build a new reservoir in order to comply with the Safe Drinking Water Act and then prohibiting the construction of the reservoir because it would flood a wetland. Fines were threatened if the reservoir was built and if it was not built. So the town did not know what to do. It would be fined either way. That is ridiculous and silly. That is what the American people are putting up with.

We can flood this floor with silly regulations, but we will bring a top 10 list every so often just to remind people of what this is all about: to get rid of this junk and to let us live in more peace and safety in this country.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER (Mrs. HUTCHISON). The majority leader is recognized.

Mr. DOLE. Madam President, first, I want to indicate that I will be meeting with Senator DASCHLE in 2 or 3 minutes. We will be talking about the schedule for the balance of this month and into August.

As I ever said many times—not in any threatening way because it is a matter of fact—there is no question about losing part of the August recess. That is why I have been attempting to move as quickly as possible on this bill so we can go on to what I consider to be the next important thing we need to do before we have the August recess.

I will be going over that list with Senator DASCHLE in a few moments. I do not think it is unreasonable, but it will take the cooperation of all Members, and it will mean, frankly, every day we lose is a day we lose in the recess period, which I think is understandable by most Members.

I listened to the comments of the Senator from Louisiana, and I must say I apologize for not notifying him and others earlier. I had mentioned it in a press conference, and we thought it was fairly public knowledge, that we would file a cloture motion. But more important than the cloture motion is to determine when we can finish this bill and how many amendments there are, and whether we can get time agreements.

We have made some progress, but it has been painfully slow. We started on this bill last Thursday. We had a lot of debate and we did a little debate Thursday before the recess, and a little bit Friday, and we have had 3 days this week.

This is a very important bill. I did not think we would finish it this week, but I would like to finish by next Tuesday. I will discuss that with Senator DASCHLE, and I will have some announcement to all of my colleagues shortly after that time.

AMENDMENT NO. 1507, AS MODIFIED

Mr. ROTH. Madam President, I send a modified amendment to the desk.

The PRESIDING OFFICER. The Senator has the right to modify his amendment.

The amendment is so modified.

The amendment (No. 1507), as modified, is as follows:

Delete all of section 635 (page 61, line 1 through page 64, line 14 and add in its place the following new section 635:

SECTION 635. RISK-BASED PRIORITIES.

(a) PURPOSES.—The purposes of this section are to—

(1) encourage Federal agencies engaged in regulating risks to human health, safety, and the environment to achieve the greatest risk reduction at the least cost practical;

(2) promote the coordination of policies and programs to reduce risks to human health, safety, and the environment; and

(3) promote open communication among Federal agencies, the public, the President, and Congress regarding environmental, health, and safety risks, and the prevention and management of those risks.

(b) DEFINITIONS.—For the purposes of this section:

(1) COMPARATIVE RISK ANALYSIS.—The term "comparative risk analysis" means a process to systematically estimate, compare, and rank the size and severity of risks to provide a common basis for evaluating strategies for reducing or preventing those risks.

(2) COVERED AGENCY.—The term "covered agency" means each of the following:

(A) The Environmental Protection Agency.

(B) The Department of Labor.

(C) The Department of Transportation.

(D) The Food and Drug Administration.

(E) The Department of Energy.

(F) The Department of the Interior.

(G) The Department of Agriculture.

(H) The Consumer Product Safety Commission.

(I) The National Oceanic and Atmospheric Administration.

(J) The United States Army Corps of Engineers.

(K) The Nuclear Regulatory Commission.

(3) EFFECT.—The term "effect" means a deleterious change in the condition of—

(A) a human or other living thing (including death, cancer, or other chronic illness, decreased reproductive capacity or disfigurement); or

(B) an inanimate thing important to human welfare (including destruction, degeneration, the loss of intended function, and increased costs for maintenance).

(4) IRREVERSIBILITY.—The term "irreversibility" means the extent to which a return to conditions before the occurrence of an effect are either very slow or will never occur.

(5) LIKELIHOOD.—The term "likelihood" means the estimated probability that an effect will occur.

(6) MAGNITUDE.—The term "magnitude" means the number of individuals or the quantity of ecological resources or other resources that contribute to human welfare that are affected by exposure to a stressor.

(7) SERIOUSNESS.—The term "seriousness" means the intensity of effect, the likelihood, the irreversibility, and the magnitude.

(c) DEPARTMENT AND AGENCY PROGRAM GOALS.—

(1) SETTING PRIORITIES.—In exercising authority under applicable laws protecting human health, safety, or the environment, the head of each covered agency should set priorities and use the resources available under those laws to address those risks to human health, safety, and the environment that—

(A) the covered agency determines to be the most serious; and

(B) can be addressed in a cost-effective manner, with the goal of achieving the greatest overall net reduction in risks with the public and private sector resources expended.

(2) DETERMINING THE MOST SERIOUS RISKS.—In identifying the greatest risks under paragraph (1) of this subsection, each covered agency shall consider, at a minimum—

(A) the likelihood, irreversibility, and severity of the effect; and

(B) the number and classes of individuals potentially affected, and shall explicitly take into account the results of the comparative risk analysis conducted under subsection (d) of this section.

(3) OMB REVIEW.—The covered agency's determinations of the most serious risks for purposes of setting priorities shall be reviewed and approved by the Director of the Office of Management and Budget before submission of the covered agency's annual budget requests to Congress.

(4) INCORPORATING RISK-BASED PRIORITIES INTO BUDGET AND PLANNING.—The head of each covered agency shall incorporate the priorities identified under paragraph (1) into the agency budget, strategic planning, regulatory agenda, enforcement, and research activities. When submitting its budget request to Congress and when announcing its regulatory agenda in the Federal Register, each covered agency shall identify the risks that the covered agency head has determined are the most serious and can be addressed in a cost-effective manner under paragraph (1), the basis for that determination, and explicitly identify how the covered agency's requested budget and regulatory agenda reflect those priorities.

(5) EFFECTIVE DATE.—This subsection shall take effect 12 months after the date of enactment of this Act.

(d) COMPARATIVE RISK ANALYSIS.—

(1) REQUIREMENT.—(A)(i) No later than 6 months after the effective date of this Act, the Director of the Office of Management and Budget shall enter into appropriate arrangements with a nationally recognized scientific institution or scholarly organization—

(I) to conduct a study of the methodologies for using comparative risk to rank dissimilar human health, safety, and environmental risks; and

(II) to conduct a comparative risk analysis.

(ii) The comparative risk analysis shall compare and rank, to the extent feasible, human health, safety, and environmental risks potentially regulated across the spectrum of programs administered by all covered agencies.

(B) The Director shall consult with the Office of Science and Technology Policy regarding the scope of the study and the conduct of the comparative risk analysis.

(C) Nothing in this subsection should be construed to prevent the Director from entering into a sole-source arrangement with a national recognized scientific institution or scholarly, organization.

(2) CRITERIA.—The Director shall ensure that the arrangement under paragraph (1) provides that—

(A) the scope and specificity of the analysis are sufficient to provide the President and agency heads guidance in allocating resources across agencies and among programs in agencies to achieve the greatest degree of risk prevention and reduction for the public and private resources expended;

(B) the analysis is conducted through an open process, including opportunities for the public to submit views, data, and analyses and to provide public comment on the results before making them final;

(C) the analysis is conducted by a balanced group of individuals with relevant expertise, including toxicologists, biologists, engineers and exports in medicine, industrial hygiene and environmental effects, and the selection of members for such study shall be at the discretion of the scientific institution or scholarly organization;

(D) the analysis is conducted, to the extent feasible and relevant, consistent with the risk assessment and risk characterization principles in section 633 of this title;

(E) the methodologies and principal scientific determinations made in the analysis are subjected to independent peer review consistent with section 633(g), and the conclusions of the peer review are made publicly available as part of the final report required under subsection (e); and

(F) the results are presented in a manner that distinguishes between the scientific conclusions and any policy or value judgments embodied in the comparisons.

(3) COMPLETION AND REVIEW.—No later than 3 years after the effective date of this Act, the comparative risk analysis required under paragraph (1) shall be completed. The comparative risk analysis shall be reviewed and revised at least every 5 years thereafter for a minimum of 15 years following the release of the first analysis. The Director shall arrange for such review and revision with an accredited scientific body in the same manner as provided under paragraphs (1) and (2).

(4) STUDY.—The study of methodologies provided under paragraph (1) shall be conducted as part of the first comparative risk analysis and shall be completed no later than 180 days after the completion of that analysis. The goal of the study shall be to develop and rigorously test methods of comparative risk analysis. The study shall have sufficient scope and breadth to test approaches for improving comparative risk analysis and its use in setting priorities for human health, safety, and environmental risk prevention and reduction.

(5) TECHNICAL GUIDANCE.—No later than 180 days after the effective date of this Act, the Director, in collaboration with other heads of covered agencies shall enter into a contract with the National Research Council to provide technical guidance to agencies on approaches to using comparative risk analysis in setting human health, safety, and environmental priorities to assist agencies in complying with subsection (c) of this section.

(e) REPORTS AND RECOMMENDATIONS TO CONGRESS AND THE PRESIDENT.—No later than 24 months after the effective date of this Act, each covered agency shall submit a report to Congress and the President—

(1) detailing how the agency has complied with subsection (c) and describing the reasons for any departure from the requirement to establish priorities to achieve the greatest overall net reduction in risk;

(2) recommending—

(A) modification, repeal, or enactment of laws to reform, eliminate, or enhance programs or mandates relating to human health, safety, or the environment; and

(B) modification or elimination of statutorily or judicially mandated deadlines,

that would assist the covered agency to set priorities in activities to address the risks to human health, safety, or the environment in a manner consistent with the requirements of subsection (c)(1);

(3) evaluating the categories of policy and value judgments used in risk assessment, risk characterization, or cost-benefit analysis; and

(4) discussing risk assessment research and training needs, and the agency's strategy and schedule for meeting those needs.

(f) SAVINGS PROVISION AND JUDICIAL REVIEW.—

(1) IN GENERAL.—Nothing in this section shall be construed to modify any statutory standard or requirement designed to protect human health, safety, or the environment.

(2) JUDICIAL REVIEW.—Compliance or noncompliance by an agency with the provisions of this section shall not be subject to judicial review.

AGENCY ANALYSIS.—Any analysis prepared under this section shall not be subject to judicial consideration separate or apart from the requirement, rule, program, or law to which it relates. When an action for judicial review of a covered agency action is instituted, any analysis for, or relating to, the action shall constitute part of the whole record of agency action for the purpose of judicial review of the action and shall, to the extent relevant, be considered by a court in determining the legality of the covered agency action.

Mr. ROTH. Madam President, I rise to urge my colleagues to support my amendment to encourage agencies to set risk-based priorities. This amendment incorporates the basic language in S. 291 which I introduced in January and which received bipartisan and unanimous support of the Governmental Affairs Committee. Such language is also in S. 1001, introduced by Senator GLENN.

This language has been modified slightly through negotiations with Senator GLENN and Senator JOHNSTON.

I ask unanimous consent to add the names to my amendment of Senator JOHNSTON and Senator GLENN.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROTH. Madam President, I ask unanimous consent that on the Roth amendment regarding risk-based priorities, there be 30 minutes for debate, to be equally divided in the usual form, and that no second-degree amendments be in order.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. ROTH. Madam President, this amendment would significantly improve upon the current section 635 of S. 343, and it would clarify to the agencies what is expected of them regarding priority setting.

My amendment provides an effective date by which the agencies would set priorities to ensure they achieve the greatest overall risk reduction.

It also defines certain terms such as comparative risk analysis, and most serious risk, to reduce ambiguity about their requirements.

My amendment also lists covered agencies to which this requirement applies.

This amendment will also ensure that the risk study is based on some science. The comparative risk analysis would have to meet the standards for risk assessment, risk characterization, and peer review already provided in S. 343.

The amendment also makes clear that the comparative risk analysis across Federal agencies is institutionalized in agency practice. It is not a one-time event.

Instead of specifying a particular scientific body to conduct a comparative risk analysis, the amendment allows OMB to consult with OSTB in arranging the comparative risk study across Federal agencies.

Madam President, I would like to emphasize that I think it is critically important that we allow full public participation through the risk priority-setting process, and that this amendment assures an open process, allows public comment, and requires that policy judgments in the risk study be separated from scientific determination.

In sum, this amendment will allow Members to be confident that the agencies will use the results of the comparative risk analysis in a meaningful way. It will help ensure that we generate or obtain greater risk reduction at less cost.

Madam President, I would like to take some time to speak about the need for this amendment and what it would require. I believe that setting risk-based priorities offers the best opportunity to allocate rationally the resources of both the government and the private sector to protect human health, safety, and the environment.

With this tool of comparative risk analysis, we can make our health, safety, and environmental protection dollars go farther, providing greater overall protection, and saving even more lives than the current system.

The purpose of my amendment is to, one, encourage Federal agencies engaged in regulating risk to human health, safety, and the environment, to achieve the greatest risk reduction at the least cost practical; two, promote the coordination of policies and programs to reduce risk to human health, safety, and the environment; three, promote open communications among the Federal agencies, the public, the President and Congress regarding environmental health and safety risks and the prevention and management of those risks.

There is widespread support for setting risk-based priorities by many distinguished experts. As the blue ribbon Carnegie Commission panel noted in its report, "Risk in the Environment," the economic burden of regulation is so great and the time and money available to address the many genuine environmental and health threats so limited, that hard resource allocation choices are important.

In the same vein, in 1995, National Academy of Public Administration report to Congress entitled "Setting Priorities, Getting Results," recommends that the Environmental Protection Agency use comparative risk analysis to identify priorities, and use the budget process to allocate resources to the agencies priorities.

The NAPA report recommends that Congress "could enact specific legislation that would require risk-ranking report every 2 to 3 years. Congress should use the information when it passes environmental statutes or reviews EPA's budget proposals."

A national comparative risk analysis also was one of the chief recommendations of the Harvard Group on Risk Management Reform in their March 1995 report "Reform of Risk Regulation: Achieving More Protection at Less Cost."

Justice Steven Breyer has emphasized the need for risk-based priorities in his outstanding book "Breaking the Vicious Circle: Toward Effective Risk Regulation."

Finally, I should note that this idea has its roots in two seminal reports, "Unfinished Business" (1987) and "Reducing Risks."

To provide greater protection at less cost, I believe the Federal Government must systematically evaluate the threats to health, safety and the environment that its programs address, and determine which risks are the most serious, most amenable to reduce in a cost-effective manner.

This amendment requires each designated agency to engage in this evaluation among and within the programs it administers to better enable the President and Congress to prioritize resource agencies. The risk addressed by all of the designated agencies would be evaluated and compared.

Now, the purpose of these analyses is not to dictate how the government uses its resources but to provide Congress and the President with the information to make better informed choices.

These analyses will be useful for identifying unaddressed sources of risk, risks borne disproportionately by a segment of the population, as well as research needs.

This information will foster a clear reasoning for regulating in one area over another, or allocating resources to one program over another.

Finally, conducted in the public view, these analyses are likely to enhance public debate about these choices and ultimately create greater public confidence in government policy. Hard data will form the underpinnings of the analysis.

Public values must be incorporated when assessing the relative seriousness of the risk and when setting priorities. After all, scientific data alone cannot say which of the following is at greater risk or which should be addressed first. Neurological damage, heart disease, birth defects, a plane crash, or cancer.

The comparative risk analysis should be conducted in such a way that public values are asserted and considered. This will require including public input and the comparative risk analysis. When the analysis is completed, it should be clear to the public and the policy makers which part of the risk comparison reflects science and which part reflects value.

To encourage the use of risk-based priorities, my amendment requires not only that each agency set risk-based priorities for its programs, but also for the OMB to commission a report with an accredited scientific body, to study the methodologies of comparative risk analysis and to conduct such an analysis to compare risk across agencies.

The priorities identified must be incorporated into the agency budget, strategic planning, regulatory agenda, enforcement, and, as appropriate, research activities. When submitting its budget request to Congress each agency must describe the risk prioritization results and explicitly identify how the requested budget and regulatory agenda reflect those priorities.

Subsection (d) requires the Director of the Office of Management and Budget to have an accredited scientific body conduct a comparative risk analysis of risks regulated across all agencies.

Because comparative risk analysis is still a relatively new science, particularly when used to compare dissimilar risks, subsection (d)(4) requires that, even while the comparative risk analysis is being conducted, a study be done to improve the methods and use of comparative risk analysis. The study should be sufficient to provide the President and agency heads guidance in allocating resources across agencies and among programs to achieve the greatest degree of risk prevention and reduction.

Subsection (e) requires each covered agency to submit a report to Congress and the President no later than 24 months after the date of enactment of the act, and every 24 months thereafter. The reports should describe how the agencies have complied with subsection (c) and present the reasons for any departure from the requirement to establish priorities. The reports should identify the obstacles to prioritizing their activities and resources in accordance with the priorities identified. At this time, each agency should also recommend those legislative changes to programs or statutory deadlines needed to assist the agency in implementing those priorities.

This report back to Congress is a very critical element in readjusting the Federal Government's priorities so that we can truly achieve the greatest degree of protection for health, safety and the environment with our resources. Congress needs this information to make the necessary changes.

Madam President, we all know that this is a time of limited budgets and economic uncertainty. I believe that most of us recognize the need to reduce the regulatory burden that costs the average American family about $6,000 per year. But at the same time, the public highly values a clean environment, safe workplaces, and safe products. And I must add, that I deeply share these values. I am an environmentalist—proud to be an environmentalist. I want to reduce unduly costly regulations, but still ensure that important benefits and protections are provided. So the goal I seek is smarter regulation.

This amendment will promote smarter regulation. It will provide much-needed reform, not rollback. I ask my colleagues on both sides of the aisle to support this language—as they have done in S. 291 and S. 1001.

I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. GLENN. Madam President, I rise to support this amendment by my friend from Delaware, our committee chairman. I think he is doing a service by proposing this amendment.

He recognizes we cannot do everything. We do not have money enough to do everything we would like to do. We are trying to reform regulations. We are trying to cut back on regulations, onerous regulations. At the same time, what he is addressing is, even where we are trying to make serious approaches to matters like health and safety and so on, where we know we should be doing something in setting new standards for the whole Nation and for every single person, we will not have money enough to do all the things people out there would want done. What he is saying is we have to prioritize these.

How do you do that? How do you make sure you get the greatest good out of every dollar that we spend on health and safety matters? There were a couple of key words there. This is a young science. That is exactly what it is. This comparative risk analysis is a fairly young science and it is a new methodology that is being put forward in how to deal with this. Most scientists who are involved with this, I believe, feel it has tremendous promise and can really guide us into doing a better job of setting our priorities at the Federal level.

It can also tell us some things we should not do, by setting these priorities. It is not just to say we are going to try to do everything so now we will set the priorities of one, two, three, four; how we do these things and include everything in just because somebody came up with the idea. Comparative risk analysis can also say it is going to cost you so darned much to do this, or something else, we just cannot do that. So we would be better off taking that money and do overall more good in the long haul by spending that amount of money on something else, or two or three other things that might improve health and safety or whatever.

So I am glad to support this. I believe I was added as a cosponsor a few moments ago. I think the distinguished author of this amendment asked I be included. If not, I do wish to be included as a cosponsor on this. I am glad to support it. I do not know of any opposition. I do not know whether the Senator from Louisiana wants to speak on this or not, but after he has had time to make remarks, I would be prepared to accept the amendment on our part.

The PRESIDING OFFICER. The Senator from Ohio is listed as a cosponsor.

Mr. GLENN. I thank the Chair.

Madam President, I yield whatever time the Senator from Louisiana needs.

Mr. JOHNSTON. Madam President, I commend Senator ROTH, not only for the amendment, but the spirit of compromise that has made this amendment possible. It shows what we can do. Senator ROTH has contributed so much to this whole bill and the whole issue of risk analysis and a risk assessment and regulatory reform. This is but one additional indication of that.

The amendment, as offered, enables but does not require participation by the National Academy of Sciences in developing methodologies for comparative risk analysis. It applies to a finite list of agencies who would be encouraged to adopt risk-based priorities, and will ensure that risk studies are based on sound science.

Madam President, it is a good amendment. I support it. I am glad to be a cosponsor of it. And, again, I congratulate Senator ROTH for his leadership in this area.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. ROTH. Madam President, I thank my distinguished colleagues, the Senator from Ohio and the Senator from Louisiana, for working with me to amend this proposal so it was acceptable on both sides of the aisle.

I will be frank. I think it is a critically important amendment. I think we must, if we are going to accomplish the good we all desire, prioritize across agencies and within agencies. This will help enable us make better use of the resources that are available to make the quality of life better for the American people.

Madam President, I urge acceptance of the amendment.

The PRESIDING OFFICER. Do the Senators yield back their time on this amendment?

Mr. GLENN. Madam President, all time is yielded back on this side.

Mr. ROTH. I yield back my time.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 1507), as modified, was agreed to.

Mr. ROTH. Madam President, I move to reconsider the vote.

Mr. GLENN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROTH. Madam President, I make a point of order a quorum is not present.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JOHNSTON. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1516 TO AMENDMENT NO. 1487

Mr. JOHNSTON. Madam President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Louisiana [Mr. JOHNSTON] proposes an amendment numbered 1516 to amendment No. 1487.

Mr. JOHNSTON. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 25, line 19, strike out "180 days" and insert in lieu thereof "one year".

Mr. JOHNSTON. Madam President, the Senator from Ohio [Mr. GLENN] pointed out day before yesterday a real fault with this bill, which was that the provision on page 25 of the so-called Dole-Johnston amendment relating to health, safety, or emergency exemptions from the cost-benefit analysis, provides that a rule may go into effect immediately if an agency for good cause finds that conducting cost-benefit analysis is impractical due to an emergency or health or safety threat that is likely to result in significant harm to the public or natural resources. But under that rule, not later than 180 days after the promulgation of such rule, the agency must comply with the subchapter; that is, they must complete the cost-benefit analysis, and under another section of the bill can complete a risk assessment if that is required.

Madam President, 180 days, as the Senator from Ohio pointed out, simply is not enough time to get this done. This amendment extends that period to 1 year. So that, if there is a threat to the public health, safety or the environment, or if there is any kind of emergency, the agency can promulgate the rule, get it out, put it into effect immediately upon the declaration that they do not have time to do otherwise. This would give them then the year to do the cost-benefit or the risk analysis.

Keep in mind also that under other provisions of this bill cost-benefit analysis and risk assessment may be done in such form as is appropriate to the circumstances; that is, it can be done informally sometimes. Under some circumstances, for example, scientific reports which had been peer reviewed could be used and put into the record in lieu of conducting a brand-new peer review risk assessment. So we believe this would be enough time appropriately to finish such a review.

I want to thank the Senator from Ohio for pointing this out. It will make this a much better bill.

Mr. GLENN. Madam President, I think this certainly is a move in the right direction. We discussed this informally a couple of days ago. I hope the year is adequate. I guess if we are discussing this again I might suggest a little longer time or at least put a waiver in for the President or something, and, if at the end of the year they really just cannot do it in that period of time, that the President be granted a waiver authority in that event. That would cover all bases it seems to me for the health and safety for all of our people.

But certainly the doubling of time from 180 days to 365, to a full year, is a step in the right direction. I think by far the greatest percentage of cases this would certainly cover. They could do the analysis and the assessments and all the things that are required within that period of time.

So I would be prepared to accept this. I have a little bit of doubt in my own mind as to whether 1 year covers all of the situations we might run into without having a Presidential waiver at the end of that in case they were really up against it in some analysis.

I do not know whether the author of this, the Senator from Louisiana, would consider granting the President a waiver on the end of that. But in any event, I am prepared to accept the 1 year.

Mr. JOHNSTON. Madam President, I think the Senator's suggestion is a good one which I think we ought to move forward with in the conference committee. I will point out that there is nothing here that let us say they could not get done in a year. There is nothing in this language that says it is only a one-shot deal. They can put forth another major rule at the end of that year and start the 1-year process all over again. So the emergency is really protected by the fact that it says that you can. But in any event, I would be more comfortable with some kind of Presidential waiver. I think we could work on that between now and conference.

Mr. GLENN. Good. I think with that understanding, I am prepared on our side of the aisle to accept this amendment. I think it is good with the length of time. It will protect the health and safety and protect everybody.

Mr. ROTH. Could I ask the distinguished Senator, what is the understanding?

Mr. GLENN. Just that we work further. The Senator from Louisiana is extending the time period from 180 days to 1 year, where that might be necessary to go back. And I mentioned the other day that the 6 months is hardly enough time to do another complete analysis the way these risk assessments and analyses go, and suggested that we lengthen that out to a year. This would be on a re-analysis. The Senator from Louisiana agreed with that.

I would just question whether there might be some cases—I think they would be rare—where we require really more than a year because some of these things in the original or in the first instance takes several years, 4 or 5 years sometimes, to work out all the rules and regulations. But I think in most cases it would be covered by the 1 year.

I am happy to go along with that. What we were discussing was putting something in this also, if at the end of a year there was still a health and safety matter that was still being worked out, to give the President a waiver authority to go beyond that 1-year period. The Senator from Louisiana was pointing out also that the President could introduce a whole new process. I would not think that would be necessary.

Mr. ROTH. I would say that I can support the amendment proposed by my distinguished colleague from Louisiana. I would certainly be happy to look at the suggestion from the Senator from Ohio. I think it is important that our process be realistic, that we do not expect the impossible from the agencies.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment of Senator from Louisiana.

The amendment (No. 1516) was agreed to.

Mr. JOHNSTON. Madam President, I move to reconsider the vote by which the amendment was agreed to.

Mr. GLENN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JOHNSTON. Madam President, while the majority leader is on the floor, I would like to send an amendment to the desk and see if we can deal with this at this time.

AMENDMENT NO. 1517 TO AMENDMENT NO. 1487

(Purpose: To delete the section on "Requirements for Major Environmental Management Activities" relating to cleanups under the Solid Waste Disposal Act, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, and other similar activities)

Mr. JOHNSTON. Madam President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Louisiana [Mr. JOHNSTON], for Mr. BAUCUS, for himself, Mr. JOHNSTON, and Mr. LAUTENBERG, proposes an amendment numbered 1517 to amendment No. 1487.

Mr. JOHNSTON. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike out all of section 628 (on page 42 beginning at line 3 strike out all through line 13 on page 44) and renumber section 629 as section 628.

On page 73 in the table of contents for SUBCHAPTER II—ANALYSIS OF AGENCY RULES, replace "628. Requirements for major environmental management activities" with "628. Petition for alternative method of compliance."

On page 57, lines 6 and 7 strike out the phrase "or a major environmental management activity".

Mr. JOHNSTON. Madam President, this is the amendment which removes from the bill the environmental cleanup, or so-called Superfund activities.

I ask for the majority leader's attention on this matter because we talked about that this morning. I understand that the majority leader may be willing to withdraw the Superfund provisions from the bill. I also understand that Senators may prefer it be withdrawn by unanimous consent rather than have a vote on it. If that is possible, we would be delighted to have that done at this time. That would avoid the debate and the vote.

UNANIMOUS-CONSENT AGREEMENT

Mr. DOLE. Madam President, if I could come back to that in just a moment, I think we are about to get a consent agreement here. The Democratic leader is on the floor.

First, let me indicate that after discussion with the Senator from Louisiana this morning, I did, as I indicated, have a meeting with the distinguished Democratic leader, Senator DASCHLE, with reference to the cloture motion and the cloture vote.

Obviously, we both have the same interest. We want to finish the bill. We do not want to shut off debate, but we do not want delay on either side—either side. And I regret not having a chance to indicate to the leader personally that the cloture motion would be filed last night, or to the managers. I was at home watching on C-SPAN the reaction of Senator GLENN and others.

So what we have agreed to, and I will now propound that request—and then the Senator from South Dakota may have a comment—I ask unanimous consent that the cloture vote scheduled to occur on Friday be postponed to occur on Monday at a time to be determined by the two leaders but not before 5 p.m.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. Is there objection?

Mr. DASCHLE. Madam President, reserving the right to object, and I will not object, I would first clarify with the majority leader that first-degree amendments would still be in order at least as to their filing up until the close of business on Friday. Is that the understanding of the majority leader?

Mr. DOLE. That is correct.

Mr. DASCHLE. I think that would accommodate a lot of the needs of many Senators on our side. As we indicated last night, many of us felt that the filing of the cloture motion was unfortunate, premature, but I think this will allow us to keep working in a meaningful way.

I think it is clear that both sides, Democrats and Republicans, want to accomplish a good deal with regard to regulatory reform, and I think there is a lot of progress that has been made. We have raised a number of issues. While they have not been addressed and resolved to our satisfaction in some cases, these amendments have been proposed in good faith and have raised very important issues.

I am hopeful we can continue to do that today. I am hopeful that at some point between now and Monday we will have the opportunity to debate the Democratic substitute, and we will simply take a look on Monday as to where we are and how much progress we have made as to what our position on cloture will be. But this certainly accommodates the need to allow Senators to come to the floor, to propose their amendments, and to have good debate. I think in many cases that can be done with short timeframes and perhaps some without rollcall votes. I would hope we could continue negotiations as well. I think we have made progress in many areas off the floor, and I hope that effort could continue as well. So I think the majority leader has advanced the effort here substantially, and I would encourage support of the motion.

Mr. JOHNSTON. Madam President, will the minority leader yield for a question?

The PRESIDING OFFICER. Does the minority leader yield?

Mr. DASCHLE. I will be happy to yield. The floor is the majority leader's.

Mr. DOLE. That is all right; I will be happy to yield for a question.

Mr. JOHNSTON. I had urged the majority leader today not to go forward with the motion. I am glad he has delayed it. Does this delay meet with the full approval of the minority leader?

Mr. DASCHLE. I say to the distinguished Senator from Louisiana, who has probably had as much to do with this bill as anybody, this is a very important step procedurally. I think, as I said, this allows us to go forth with additional amendments, perhaps with the substitute, so I think it accommodates the needs of Senators on both sides, and I am enthusiastic about the change that is proposed here today.

Mr. JOHNSTON. I thank the minority leader, and I thank the majority leader for his willingness to accommodate this legislative process.

The PRESIDING OFFICER. Is there objection to the request? If not, the Chair hears none, and it is so ordered.

Mr. DOLE. Madam President, let me further ask, following along what the Senator from South Dakota suggested, that first-degree amendments may be filed up to the close of business on Friday, July 14, or if the Senate recesses prior to that time, early, they may be filed up until 4 p.m. on Friday, even if we were out of here by 1 o'clock.

So let me also indicate that I appreciate the cooperation, and I believe that there is a determined effort on both sides to pass a good regulatory reform bill. That is my conclusion after visiting with the Democratic leader and after visiting with the Senator from Louisiana [Mr. JOHNSTON].

As I have indicated before, what the leader is trying to do, and the leader has that responsibility, is move the program, and I would like to insert in the RECORD at this point a tentative agenda between now and the time we leave here in August. Hopefully it will be August when we leave here for recess. And I will ask to have that printed in the RECORD.

I will just say, to highlight it, it has us completing this bill on Tuesday, and then we have Bosnia. And then we have appropriations next Thursday and Friday, and then the Ryan White provision on July 24, the gift and lobbying bill on that date if possible. Then we get into the State Department and foreign ops authorization bill, which will take us up to July 29, and then the DOD authorization and DOD appropriations bills would take us up until August 5, and then begin welfare reform on August 7. And whenever we concluded our business on welfare reform, the recess would begin.

Now, all these things are, of course, subject to change because if we do not keep up on the schedule, it obviously pushes us further into August. If everything worked as we would like it to work, it is possible we could begin the recess even before August 12.

I ask unanimous consent that this be printed in the RECORD so that everybody will have a chance to look at it carefully and then start complaining to the leader about it.

There being no objection, the schedule was ordered to be printed in the RECORD, as follows:

PROPOSED LEGISLATIVE SCHEDULE JULY-AUGUST

WEEK OF JULY 10

Regulatory reform.

WEEK OF JULY 17

Regulatory reform through Tuesday.

Tuesday p.m.—Bosnia.

Wesnesday—Bosnia.

Thursday—Available Appropriations bills.

Friday—Available appropriations: Military Construction/Legislative/Energy and Water.

WEEK OF JULY 24

Monday—Ryan White bill/Gift lobbying bill.

Tuesday through Friday—Start State Department reorganization bill and Foreign Operations Authorization.

Saturday session if necessary.

WEEK OF JULY 31—AUGUST 4

DOD authorization and DOD appropriations.

Saturday session if necessary.

WEEK OF AUGUST 7[1]

Monday, begin welfare reform (or earlier if schedule permits).

Tuesday through Friday—Continue welfare reform and available appropriations bills or conference reports.

Saturday session possible to complete any items.

The PRESIDING OFFICER. In addition, the Chair would add the previous order will be so modified to reflect the 4 o'clock modification.

Mr. DOLE. With reference to the pending amendment, I will need to do some checking on that before I am in a position to respond to the Senator from Louisiana. In other words, the amendment pending would in effect take Superfund out of the——

Mr. JOHNSTON. That is right, environmental management activities, the whole section, just withdraw that.

Mr. DOLE. I assume there will be Superfund legislation this year, and so at that time we would address the issues that are removed from this bill.

Mr. JOHNSTON. I have heard from many of those Senators involved in the issue, all of whom are anxious to move forward with Superfund in their committee, and I think there is no hesitation in moving forward. I was told this morning that Senator SMITH, who chairs the subcommittee on Superfund, is anxious to move forward but did not want to vote on this; he would rather have it done by the majority leader by unanimous consent. That is the reason I asked for the majority leader's attention.

Mr. DOLE. Right. If I can just have a few minutes to clear that, I did not—we did discuss that this morning at our 8:30 meeting. We did discuss it briefly with the Senator from Louisiana. It is a very important provision. There are some of our colleagues who want to leave it as it is, others who have mixed feelings on it—in fact, some who would probably vote to remove it. The question is how many would vote to remove it. That is sort of the bottom line. If I could have a few moments to check with two or three people.

Mr. JOHNSTON. Madam President, I think it may be appropriate to temporarily lay this aside unless someone has any problem with it, and I think Senator BOXER is ready to move with her amendment under a time agreement. So is there any problem with temporarily laying this aside?

Madam President, I ask unanimous consent that we temporarily lay the pending amendment aside.

The PRESIDING OFFICER. Is there objection?

Mr. ROTH. Reserving the right to object——

Mr. DOLE. I would like to dispose of the pending amendment if the Senator will just give me a few moments.

Mr. JOHNSTON. I withdraw that request.

Mr. DOLE. And either have a quorum or if somebody wanted to speak on some other—does the Senator from California wish to speak on another matter?

Mr. GLENN. She has an amendment, but she could start speaking on it.

Mrs. BOXER. I am waiting to introduce an amendment on mammograms.

Mr. DOLE. The Senator could start speaking on that.

Mr. GLENN. The Senator could start with the agreement that when he gets an answer back, she would be willing to yield the floor for that disposition.

Mrs. BOXER. If the Senator will make that into a unanimous-consent request.

Mr. DOLE. Let me suggest that as soon as we dispose of the amendment offered by the Senator from Louisiana, the Senator from California be recognized to offer an amendment.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. DOLE. The Senator can start speaking now.

Mrs. BOXER addressed the Chair.

The PRESIDING OFFICER. The Senator from California is recognized to begin speaking with the reservation that if the pending amendment is agreed to, we will then interrupt and do that, and then we will return to the Senator from California.

AMENDMENT NO. 1524

Mrs. BOXER. Madam President, thank you very much for that very explicit explanation of where we are in the process.

I want to thank my colleagues because I do think this is a very important amendment. It affects the women of this country and, of course, as a result of that, everyone in this country, because one of the tragedies that we face in America today is an epidemic of breast cancer. And the amendment that I will introduce at the appropriate time will merely say that a rule that is in process now which will set standards for mammograms will be able to move forward and not be subjected to this new bill.

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[1] All items must be completed prior to the start of the August recess. As soon as these items are completed, regardless of the day, the Senate will begin the recess.

Madam President, one in nine women are at risk of being diagnosed with breast cancer in her lifetime. Breast cancer is the most common form of cancer in American women and the leading killer of women between the ages 35 and 52.

In 1995, an estimated 182,000 new cases of breast cancer will be diagnosed, and 46,000 women will die of the disease. Just in the year 1995. We lost 50,000 brave men and women in the Vietnam war, and the country has suffered ever since in grief. Every year we lose 45,000 women, approximately, from breast cancer.

We do not know what causes breast cancer, although we are making progress on that front. We do not know how to prevent breast cancer, but the research that is moving forward hopefully will lead us in the right direction. We certainly do not have a cure for breast cancer, although, again, we are making progress. We do have, however, a couple of tools. Those are breast self-examination, doctor examination, and mammography. Those are the only tools that women have to detect breast cancer early, when it can be treated with the least disfigurement and when chances of survival are the highest.

What does that have to do with the amendment that I will be introducing? And I am very proud to say, Madam President, that this amendment is cosponsored by Senators MURRAY, MIKULSKI, LAUTENBERG, BRADLEY, FEINSTEIN, DORGAN, KENNEDY and REID. What does the tragic history of breast cancer have to do with the amendment that I am going to offer? It is directly related. The quality of a mammogram can mean the difference between life or death. If the mammogram procedure is done incorrectly, if a bad picture is taken, then a radiologist reading the x ray may miss seeing a potentially cancerous lump.

Conversely, a bad picture can show lumps where none exist and a woman will have to undergo the trauma of being told she may have a cancer, a situation known as a "false positive." Now, truly, I do not know many women of my age, younger or older, who have not had the trauma of a false reading. It is very common.

We need to perfect mammograms. But a false positive is obviously nothing compared to a radiologist missing a cancer. To get a good-quality mammogram, you need the right film and the proper equipment. To protect women undergoing the procedure, you need the correct radiation dose. So it is not a mystery. It is not a mystery as far as what we need to do to get better quality mammograms.

I am very proud to say that in 1992, Congress passed the Mammography Quality Standards Act in order to establish national quality standards for mammography facilities. Now, I want to make a point about that. In this Republican Congress we hear a lot of talk about how everything should be given to the States. Why do we need national standards for this? Why should we have national standards for that?

Well, let me tell you honestly, I have never been at a community meeting in my life—and I have been in public life for a very long time—where someone has come up to me and said, "Senator, you are doing too much to protect the food supply. You are doing too much to protect the water. You are doing too much to make sure that mammography is safe." On the contrary, it is, "Senator, I am worried about the safety of the water I drink. I am worried about the safety of the food that we eat. I am concerned about pesticide use, bacteria. What are you going to do to make it better?"

And clearly, when a woman is misdiagnosed and a doctor misses the cancer because of a mammogram that was either improperly done or improperly read—we hear it all the time. And we all know cases where a cancer that could have been detected early was not detected because the quality of the mammogram or the quality of the reading simply was not high enough.

So we passed the Mammography Quality Standards Act in order to establish national quality standards for mammography facilities. At the time, both the GAO and the American College of Radiology testified before Congress that the former patchwork of Federal, State and private standards were inadequate—inadequate—to protect women. So we are not talking about something here that was not studied. The GAO and the American College of Radiology testified before Congress that the patchwork that existed before this act, the Mammography Quality Standards Act, was inadequate. It was inadequate to protect women.

There were a number of problems at mammography facilities: poor-quality equipment, poorly trained technicians and physicians, a lack of regular inspections, and facilities which told women they were accredited when, in fact, they were not accredited. And women walked in for their mammograms. And every woman who had this experience can say that you hold your breath until you get the results. And many women breathed a sigh of relief and said they were cancer free, when in fact they were not cancer free because of the inadequate facilities.

If this regulatory reform bill passes, the final rule that implements the mammography act that we passed could be delayed for years. Let me repeat that. And I hope my friend from Louisiana hears it and I hope the majority leader hears it. And this is not coming from one Senator; it is coming from the people who know. The FDA says to us clearly that if this regulatory reform passes as it is, the final rule implementing the Mammography Quality Standards Act, which is due out in October, could be delayed for years.

My friends, we cannot let this happen. Under the interim rules, the FDA has already certified over 9,000 facilities as providing quality mammography services. If final rules are delayed, then women will no longer be able to rely on the good standards we have put in place.

And that is why the amendment that I am introducing with many of my colleagues and my primary coauthors, Senator MURRAY from Washington—and I look forward to her statement following mine—the amendment simply says that the Mammography Quality Standards Act is not a major rule and is therefore exempt from the requirements in the regulatory reform bill, period.

Anyone who gets up here and says, "You don't need the Boxer-Murray-Mikulski legislation, we cover it," I will look that person in the eye and tell them they are playing Russian roulette with the women of this country, because the FDA has told us we need this Boxer-Murray amendment in order to make sure that this rule moves forward.

So any Senator who stands up and starts questioning this Senator about it is going to have to hear it repeated over and over and over again, as many times as it takes. We jeopardize the health of the women of America if we do not adopt this amendment.

Some are going to say the Mammography Quality Standards Act does not meet the $100 million threshold established by the bill for major rules and, therefore, it would not be affected and we do not need the Boxer-Murray amendment. FDA believes otherwise, and I would rather believe them than some Senator who does not know this issue.

We know already the cost of this rule is about $98 million, dangerously close to the $100 million threshold. With inflation and somebody jacking around the numbers, it could easily go to $100 million. Some may argue that there are health and safety exemptions in the cost-benefit analysis and risk assessment portions of the bill to protect the Mammography Quality Standards Act. In fact, those exemptions apply only when it is "likely to result in significant harm to the public."

The FDA does not believe this exemption would include the mammography quality standards. Moreover, since the bill does not define the term "significant harm," how can we tell if it would apply or not? If a woman has her mammogram read by someone who is poorly trained in mammography, is it of significant harm to the public if she dies? It is certainly significant to that woman if that person fails to detect a cancerous lump, and to her children and to her family. And if it happened to a Senator's wife, it sure would be significant and they would be rushing to the floor to exempt this rule.

I say it is significant. This is such a significant subject—breast cancer—that we should make sure we are doing the right thing and exempt this rule.

Let us concentrate on what we do know. Mammography is the only test we have to detect breast cancer early when survival rates are the highest. We know not enough women, especially older women, have this test. That is why there has been extensive public information campaigns encouraging women to get the test, and, therefore, when they do get the test, we need to know that the mammogram they are getting is accurate and that the person who is reading the mammogram understands how to read the mammogram, and that is why we need this rule, to move forward, and that is why we need the Boxer-Murray-Mikulski amendment.

It is straightforward. It says that quality mammography is so important that we should not do anything to prevent the FDA from moving forward and continue to implement the Mammography Quality Standards Act. I certainly hope we will have broad support for this amendment when I do offer it.

Mr. President, I ask unanimous consent that Senator BUMPERS be added as a cosponsor of the amendment.

The PRESIDING OFFICER (Mr. KYL). Without objection, it is so ordered.

Mrs. BOXER. As I understand the agreement, I was entitled to speak until there was an interruption. I ask unanimous consent that Senator MURRAY be allowed to make her comments now, with the understanding that if there is, in fact, an interruption regarding the Superfund amendment, we will lay this matter aside and come back to it immediately following it.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Washington is recognized.

Mrs. MURRAY. Thank you, Mr. President. I thank my colleague from California, Senator BOXER, for this amendment and for her very well-stated words on this issue. I hope that all of our colleagues took the time to listen to what she had to say. She stated it very clearly for all of us why we need this amendment to exempt the Mammography Quality Standards Act regulations from the requirements of S. 343.

I think we all know that breast cancer has taken the lives of far too many women, and the long list of those who have died include many of my own friends. I am sure everyone on this floor knows of someone who has been touched by breast cancer. It is a growing health concern and problem in this Nation, and it is a great threat to women's health. It is estimated that during the 1990's, nearly 2 million women will be diagnosed with breast cancer and 460,000 women will die from this deadly disease. I assure everyone listening that will include people you know—your sisters, your mothers, your daughters, your friends.

In 1992, Congress understood that and they passed the Mammography Quality Standards Act. The FDA is responsible for issuing regulations under that act to ensure that medical procedures for mammography exams are safe and effective and that mammograms are properly administered and interpreted.

Most of the regulations implementing the Mammography Quality Standards Act are due to be released October of this year. The regulations the FDA hopes to implement will set standards, as the Senator from California has said, for x ray film quality, requirements for staff, for reading and interpreting those x rays, and standards for recordkeeping. Those regulations will ensure that mammograms are done correctly and safely so that we can increase the chances of early detection.

Under the Dole bill, implementation of these quality controls in mammography will qualify as a major rule, either because they may cost $100 million to implement or because they may cause a significant impact on a substantial number of small entities. They will then be subject to the cumbersome, expensive and lengthy cost-benefit analyses and risk-assessment process.

At a time in this Nation when women are already confused by the mixed messages we receive about breast cancer and other diseases affecting us, I believe this bill sends yet another disturbing message: That Congress will demand that the FDA choose the lowest-cost alternative by placing a dollar value on a woman's life.

We cannot let that happen. The potential positive effects of these regulations on the lives of women in this country are substantial. Improving the quality of mammography translates directly into early detection of breast cancer. Early detection of breast cancer increases the likelihood of successful treatment and survival. Delay in issuance of these regulations will cost women's lives.

Mr. President, my colleague from Illinois, Senator SIMON, summed up a simple and important message that is being lost in this debate on regulatory reform. He said what we need in this field is some balance, and I could not agree more. The American people want their elected officials to reduce wasteful and unnecessary spending and make their Government work efficiently. They want a balanced approach to decisionmaking about regulations. They do not want costs to be either the only or primary reason for a regulation. They want us to manage their tax dollars prudently, while also protecting their health and their environment.

The amendment before us on mammography takes a step toward protecting their health. I hope that I can support eventually a comprehensive bill that provides true Government efficiency and rational decisionmaking. Unfortunately, S. 343 as now drafted does not do this.

I urge my colleagues to look carefully at the amendment before us and to support it. I can assure all of you that women across this Nation are disturbed by the mixed messages they have received about mammographies over the last few years. One day we are told if you are over 40, have one every 5 years. Then we are told, if you are over 50, have one every year. Then we are told you do not need to have one until you are a certain age.

Those messages are disturbing because they will cause women not to have mammograms. And when we go in to have one, we want to know that it is safe, effective, and we can be assured of that.

This amendment will assure that this bill will not undo the important progress that we have made on this issue in the past several years. I strongly urge all of my colleagues to accept this amendment so that we can move to a better bill.

Thank you. I yield the floor.

Mrs. BOXER. Mr. President, at this time, I would rather withhold the rest of my debate until I get to lay down the amendment.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that coauthors be added to the pending Baucus amendment as follows: Senators JOHNSTON, LAUTENBERG, BRADLEY, MURRAY, FEINSTEIN, REID, MOYNIHAN, GLENN, and KENNEDY.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GLENN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GLENN. Mr. President, we were discussing the proposal by the Senator from California, Senator BOXER. I wanted to rise in support of the concerns she has expressed here. I think they are very valid. Yesterday, when we were talking about different areas that would be affected if we did not change the April 1 deadline, mammography was one of those things that would be affected and would have the potential of being delayed for almost an indefinite period, if they were forced to go back and start the same risk assessment, the same analysis program, all over again.

Some of the pending rules that would be affected we listed yesterday, such as lead soldering, iron toxicity, a whole list of those. One was mammography. Let me read from a little summary of why we are concerned about this.

The Mammography Quality Standards Act of 1992, MQSA, requires the establishment of quality standards for mammography clinics covering quality of films produced, training for clinic personnel, recordkeeping, and equipment. MQSA resulted from concerns about the quality of mammography services that women rely upon for early detection of breast cancer. FDA is planning to publish proposed regulations to implement the MQSA.

The potential magnitude of these regulations is substantial, and that is what the distinguished Senator from California has been addressing.

Improving the quality of mammography translates directly into early detection of breast cancer, and early detection of breast cancer increases the likelihood of successful treatment and survival. An intramural was published December 21, 1993. This publication of proposed regulations—in other words, follow-on—is planned for October 1995, but it would not be exempt since that occurs after the April 1 cutoff time period that is in the legislation now. So that would mean that under S. 343 the whole process would probably be started all over again.

That is why I do not think we want to see that happen. I do not think we want to see the standards delayed unnecessarily and set back the rules and regulations and place untold thousands of women in additional danger.

I certainly rise to support the proposal made by the distinguished Senator from California.

In addition to that, I do not believe that the letter from the Secretary of the Department of Health and Human Services was entered into the RECORD. I ask unanimous consent that the letter from Secretary Shalala, dated July 12, addressed to the minority leader, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF HEALTH
AND HUMAN SERVICES,
Washington, DC, July 12, 1995.

Hon. THOMAS A. DASCHLE,
Democratic Leader,
U.S. Senate,
Washington, DC.

DEAR SENATOR DASCHLE: It is estimated that 46,000 women die every year from breast cancer. It is the second leading cause of cancer death in women. Early and accurate detection can save thousands of lives.

The Mammography Quality Standards Act (MQSA) of 1992, enacted on October 22, 1992, established quality standards for mammography. MQSA resulted from concerns about breast cancer and the quality of mammography services upon which women rely for early detection of breast cancer. The purpose of MQSA is to ensure all mammography done in this country is safe and reliable.

We have completed the first phase of this program. To complete implementation, we must issue final rules that will establish the full range of standards necessary for a national quality assurance program. These rules have been developed through extensive cooperation with the National Mammography Quality Assurance Committee, including five public meetings. The rules are scheduled to be proposed in October.

This proposal will include a number of the standards required under the statute, such as guidelines for radiologic equipment, consumer protection provisions, and breast implant imaging.

Improving the quality of mammography translates directly into earlier detection of breast cancer, which increases the likelihood of successful treatment and survival. Delay in implementation of the final rule due to the unnecessary and duplicative requirements that would be imposed by S. 343 will delay significant improvements in this life saving program. I urge you to ensure that the MQSA final rule be allowed to proceed without delay.

Sincerely,

DONNA E. SHALALA.

Mr. GLENN. She points out some 46,000 women die every year from breast cancer. It is the second leading cause of death in women, and thousands of lives can be saved if we go ahead and get the standards out, get going with these things, set standards for mammography, x rays, and all the other things that go into this.

The Mammography Quality Standards Act, enacted back in 1992, established some of these standards. The purpose of MQSA was to ensure that all the mammography that is done is safe and reliable, it does not cause more problems than it is trying to cure.

The first phase of all this program has been completed. To complete implementation we need the final rules, still, that will establish the full range of standards necessary for a national quality assurance program.

There has been extensive cooperation with the committee that is dealing with this, the National Mammography Quality Assurance Committee, five public meetings and a lot of witnesses, and the rules are scheduled to be proposed in October of this year.

The proposal will include a number of the standards required under the statutes, such as guidelines for radiologic equipment, consumer protection provisions, and breast implant imaging. Improving the quality of mammography translates directly into earlier detection and the likelihood of successful treatment and survival.

The delay in implementation of this final rule, due to the unnecessary and duplicative requirements that would be imposed by S. 343, because this does not meet the April 1, 1995, cutoff, will delay significant improvements in this life-saving program. So the Secretary urges the Senate to ensure that the MQSA final rule be allowed to proceed without delay. That is what the Senator from California does. That is the reason I rise to speak on behalf of her proposal.

PRIVILEGE OF THE FLOOR

Mr. GLENN. Mr. President, I ask unanimous consent that Lisa Haage be permitted privilege of the floor during consideration of S. 343.

The PRESIDENT pro tempore. Without objection, it is so ordered.

AMENDMENT NO. 1517

Mr. BAUCUS. Mr. President, I would like to speak in favor of the pending amendment. This amendment is a very simple amendment.

Essentially, it is to delete section 628 of the bill, that section now currently in the bill that makes specific changes to Superfund and other hazardous waste cleanup. Simply put, changes to Superfund, I believe, do not belong in this bill. It is as simple as that. This regulatory reform bill was considered earlier in the House, and in earlier versions, this section was not in the bill. Somehow, somebody later added in this section, section 628.

What does it do? Essentially, it says that all the Superfund provisions now also apply to regulatory reform.

I do not think that makes sense. That is a substantive change to a regulatory reform law. Much worse, Mr. President, in doing so—that is, including Superfund in regulatory reform—the net result is we would have a present bad situation made much worse.

Let me explain. If section 628 is enacted, that is, the provision in the bill which includes Superfund to the new cost-benefit and risk assessment provisions in regulatory reform, the Superfund program that currently exists in our country becomes much more complicated, not less.

All across the country hundreds of hazardous waste cleanups would be disrupted. They would be delayed. In some cases, they would be halted. If we can believe it, section 628 would actually make the present very complicated, very unfortunate and very disrupted Superfund program even slower, even more complicated, and much more bureaucratic than it already is.

I am reminded of the late sage of Baltimore, H.L. Mencken. He once said, for every complicated, complex problem there is a simple solution. It is easy. But it is usually wrong.

I cannot think of a better example of that statement of his. That is, Superfund reforms are very complicated problems. What is the simplest solution presented in this bill? It includes Superfund reform in regulatory reform. Simple—and it is wrong.

I do not want any person to misunderstand. Those that want to delete section 628 are not defending the status quo. We are not defending the present Superfund program. Far from it. The Superfund has plenty of problems. It must be corrected.

Let me remind my colleagues that Superfund was a hastily drafted law back in 1979. It was an immediate response to Love Canal. Like most hastily drafted laws, it does not work very well. It was not thought through. Therefore, it is inefficient, ineffective, and many too few cleanups and too many lawsuits.

There are currently 1,300 cleanup sites—roughly 40,000, but EPA says 1,300—down from 40,000 to 1,300. Mr. President, 15 years into the program, out of that 1,300 Superfund sites in our country—that is, cleanup of toxic waste—only 278 have been cleaned up. Mr. President, 15 years, out of 1,300, only 278 have been cleaned up. If we continue at this rate, we will finish the job by the year 2040. I might add, just in time for my 108th birthday.

Unfortunately, the program is slowing down, the present Superfund program. It is not speeding up, it is slowing down. It now takes almost 10 years to clean up an average site, and the cost is roughly $30 million per site, and about 30 percent of the money is spent not in cleanup costs but rather on litigation. When as much as 30 cents to the dollar goes to lawyers, Mr. President, I think we all think something is wrong with the program.

I bet that every Senator has his or her own frustrating personal experience with the Superfund—a site where studies have piled up for years, where delay has dragged on, where lawyers and accountants have made money hand over fist, and the local community is left holding the bag, and where people have become angry. They want, Mr. President, sites to be cleaned up so they can get on with their lives.

There are several steps that we should take to improve Superfund. First, we should establish an allocation system to fairly distribute the cost of cleanups among responsible parties. Current law does not do that.

We should reform the liability system so that small businesses and municipalities are not dragged into burdensome lawsuits.

We should improve cleanup standards and take better account of science, economics, and future land use.

And we should increase community involvement in the cleanup process. Right now, the communities are not involved enough in the early stage of Superfund. If they were, the program could work better because the local folks could say we want this site cleaned up to a higher standard for playground use but this other site cleaned up to a lower standard for industrial use. The communities, the local people, have a much better idea what that remedy selection should be.

There are other changes we should make to the program.

Each of the steps is a bit complex. Each requires tradeoffs. Each should be taken carefully. But each step is necessary.

This is why Superfund reform is a top priority of the Environment and Public Works Committee. Last year, the committee reported a bill that overhauled Superfund from top to bottom, and this year the committee has had seven hearings, and the subcommittee chairman, Senator SMITH from New Hampshire, has proposed a sweeping set of reforms and plans to hold a markup very soon.

So the difficult work of rolling up your sleeves and getting the job done of reforming Superfund is well underway and is being undertaken the right way.

Unfortunately, section 628 does not advance the cause of reform. It sets it back. It takes us in the wrong direction. In a nutshell, section 628 subjects any Superfund cleanup or other so-called environmental management activity that costs $10 million or more to the risk assessment and cost-benefit provisions of the bill. That sounds pretty straightforward. But consider two points.

First, this would apply a different standard for risk assessment and cost-benefit analysis than exists under current law. So, all of the risk assessment, remedial investigations, feasibility studies and other analysis, and all that bureaucratic gobbledygook that has been done under current law is out the window. Go back to the beginning, this section says. Do it all over again.

Second, the new standard applies to hundreds of sites, including many sites where cleanup decisions have already been made and even sites where construction work has already begun.

Let me give an example. In my State of Montana we have the largest Superfund site in America, the Clark Fork River, the result of hundreds of years of large-scale copper mining. It stretches 120 miles from Butte, MT, to Missoula. It has 23 priority sites. Only two are cleaned up.

We have been working for years to get EPA to stop studying and start cleaning up. The studies have cost more than $50 million and now, after years of talk, we have a plan that is finally ready to go. EPA, the State of Montana, the people of Butte, and the responsible company, have agreed on innovative, cost-effective solutions at several spots along the Clark Fork River.

In Butte, for example, rather than remove lead contamination from the soil everywhere, it will only be removed at priority sites, where children live and play. And to make sure that children remain safe under the plan, they will be monitored. This solution makes sense. It is the most sensible way to do the job, and the citizens are anxious to get started. But this bill stops all that dead in its tracks. Montana's Governor, Marc Racicot, wrote me last Friday with this comment.

> If it was necessary to undertake the kind of cost-benefit analysis and risk assessment called for in the bill for these response actions, given how long it would take to do this, the clean-up of these sites, if such clean-up occurred at all, would not occur until well into the 21st century.
>
> This is all the sillier when one considers that EPA routinely prepares risk assessments and undertakes a form of cost-benefit analysis when it makes a decision.

So the cleanup at the Clark Fork will grind to a halt. The cleanup will stop until yet another study is completed. The families and children of Butte, Anaconda, Deer Lodge, Bonner, Lolo, Missoula, and all the other towns on the river that live with pollution, fish kills, and threats to drinking water for years longer will have to suffer. And if the cleanup standard established after these new studies is too low, the damage will be magnified. And all to no purpose, because the EPA has already done the work.

Let me give another example: The streamside tailings along Silver Bow Creek. Here, the State has just completed a detailed study of seven different options for cleaning it up and the people in the community have thought it through. Among other things, they will turn part of the site into a "greenway" with bike trails and hiking trails and picnic areas. But only one of the seven options is less than $10 million, the threshold under the bill, and that is the option of doing absolutely nothing. So any decision to clean up the site, even minimally, will require new cost-benefit studies to be repeated. Once again, the community's plan gets delayed and maybe even gets thrown out the window.

Jack Lynch, the chief executive of Butte-Silver Bow County, wrote me to express concern about another cleanup—Berkeley Pit. The pit is an open copper mine just outside of Butte, abandoned when the Anaconda Co. left town in the early 1980's. Mr. President, I wish you could see this abandoned pit. It is about a mile and a half wide. Every day it is filling up with about 6 million gallons of what you can loosely call water. In fact, it is a liquid so acidic it might burn your eyes out if you attempted to use it to wash your face. The water is so deep now, you can even see waves on a windy day, and if it is not stopped, it will threaten Butte's ground water. Despite these problems, the bill, the one pending before us, would force the people of Butte to endure more studies and more delay.

I can tell you, the people of Butte are up to their necks in studies. They would rather have something done.

Mr. President, I ask unanimous consent the letters from Governor Racicot and Chief Executive Lynch be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

OFFICE OF THE GOVERNOR,
STATE OF MONTANA,
Helena, MT, July 7, 1995.

Hon. MAX BAUCUS,
U.S. Senate,
Washington, DC.

DEAR SENATOR BAUCUS: I write to express concern over certain aspects of the Comprehensive Regulatory Reform Act of 1995, as introduced on June 21, 1995. In short, I am deeply concerned that the bill, if enacted into law, would frustrate response actions and restoration of the Upper Clark Fork River Basin NPL sites.

In order to explain the basis for my concern, a brief discussion of my understanding of the bill follows: Section 628 of the bill imposes requirements for major environmental management activities. The bill defines these activities to include response actions and damage assessments costing more than 10 million dollars pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act. Such activities must meet "decisional criteria" established under §624 of the bill. In order to ensure that the decisional criteria are met, an agency must prepare a cost-benefit analysis and risk assessment (the requirements for which are set forth in Subchapters II and III of the bill) for all such activities pending on the date of enactment of the bill or proposed after such date. However, the bill appears to give an agency some discretion for actions that are pending on the date of enactment or proposed within a year of such date. For these actions a cost-benefit analysis or risk assessment under Subchapters II and III need not be prepared, but an agency can use alternative analyses in order to determine that the decisional criteria are met. For all risk assessments prepared by an agency, even a non-Subchapter III risk assessment, §623 allows an interested person to petition an agency to prepare a revised risk assessment and then allows for judicial review of the agency's decision.

The decisional criteria of §623 envision two scenarios. The first scenario mandates that an agency determine 1) that the action's benefits justify its costs, 2) that the action employ "flexible" alternatives "to the extent practicable," 3) that the action adopts the least cost alternative that "achieves the objectives of the statute," and 4) that the action, if a risk assessment is required, "significantly reduce risks" or if such a finding can not be made, that the action is nonetheless justified and is "consistent" with Subchapter III (which sets forth requirements and standards for risk assessments). The second scenario is when an agency cannot make a finding that an action's benefits justify its costs. In this case, an action must meet all the other criteria identified above and an agency must prepare and submit to Congress a written explanation of its decision.

Section 624 specifically states that its requirements "shall supplement and not supersede any other decisional criteria. . . ." Section 628, regarding major environmental management activities contains this same statement.

As you are aware, EPA and the State of Montana are presently engaged in a cooperative effort to determine and implement appropriate response actions to address adverse impacts to human health and the environment at the Upper Clark Fork Basin NPL sites. As you are also aware, response actions have been completed, are ongoing, have been proposed, and are in the RI/FS developmental stage.

It is important to note that §628 would apply to virtually all response actions, even ongoing response actions. Section 628 applies to ongoing response actions unless "construction or other remediation activity has commenced on a significant portion of the activity" and it is "more cost-effective to complete the work" than to undertake the analysis called for by §628 or the delays caused by undertaking the analysis will "result in significant risk to human health or the environment." This exclusion is so narrowly drawn that almost all response actions, including ongoing response actions at the Clark Fork sites, would be subject to the requirements of §628.

For a pending action, which presumably means either an ongoing response action or a response action for which there is a ROD, or for a response action that is proposed within a year after the bill's enactment, which presumably means a proposed plan on a ROD, an agency apparently does not have to prepare a risk assessment or a cost-benefit analysis pursuant to the requirements of the bill. Rather, an agency may use alternative methodologies to make such a determination.

Thus, at a minimum, the requirement to prepare a cost-benefit analysis and risk assessment will apply to actions proposed more than a year after enactment. If enacted in this session, the bill would likely impose these requirements for several response actions. For example, the response actions for the Clark Fork River and Anaconda Regional Water and Waste are some years away. If it was necessary to undertake the kind of cost-benefit analysis and risk assessment called for in the bill for these response actions, given how long it would take to do this, the clean-up of these sites, if such clean-up occurred at all, would not occur until well into the 21st century.

This is all the sillier when one considers that EPA routinely prepares risk assessments and undertakes a form of cost-benefit analysis when it makes a decision. The bill, however, would require preparation of its highly particularized form of these two analyses, while imposing an entirely new layer of what can only be termed "bureaucratic requirements" for the performance of these tasks. The end result would be to make the performance of risk assessments and cost-benefit analyses much more onerous than what EPA presently does.

Another problem with the bill concerns it provisions for petitions to revise risk assessments. Thus, non-Subchapter III risk assessments that accompany response actions can be, and will be, challenged. Allowance for judicial review will then cause the particular response action to remain in a holding pattern while the sufficiency of the risk assessment is litigated. The end result will be more lawyers and delay.

Regardless of whether a strict cost-benefit analysis or risk assessment has to be prepared, all response actions (except those falling within the narrow significant commencement of construction exclusion) must meet the decisional criteria of §624. Thus, ongoing response actions, response actions for which there is already a ROD, and proposed ROD's will have to retrace their steps and reopen their proceedings in order to make the findings required by this section. And all this after an extensive administrative process, with input from the potentially responsible parties and the public. The lack of finality, which this bill condones and even promotes, results in inefficiencies and, of course, prevents a timely clean-up. I do not believe that such a process constitutes an improvement over the present statutory and regulatory scheme.

Then there is the question of the nature of the criteria. The bill states that the criteria do not supersede but only supplement any other decisional criteria provided by law. This may be a distinction without a difference. The decisional criteria mandate specific findings. Thus, they supplement and supersede the cleanup standards of §121 of CERCLA. In any event, and notwithstanding the provisions of §121, it is clear that the response action must meet the decisional criteria of §624.

The decisional criteria are not without problems, however. For example, when do benefits justify costs? Put another way, is justification synonymous with benefits > costs? Leaving aside definitional problems, which will lead to much litigation, discourage settlements and cooperation between the PRP and EPA, and put cleanups on a slow track, such a requirement is unnecessary. When EPA undertakes a response action it has made a determination that based on the statutory standards, which include that EPA consider costs, the societal benefits from that action justify undertaking it. This is nothing more than a cost-benefit analysis.

Another of the decisional criteria requires that the least cost alternative that achieves the objectives of the statute be selected. This criteria is also highly problematic. For example, two alternative response actions exist at a particular site. One is less expensive than the other but does not protect public health and the environment to the degree that the more expensive alternative does. Accordingly, both alternatives accomplish, but to varying degrees, the objectives of CERCLA. Under this criteria, however, the lower cost alternative would have to be selected, even if the other alternative was slightly more expensive but significantly more protective of public health and the environment. This is nonsensical.

The consequences on the Upper Clark Fork Basin NPL sites from the bill would be drastic. To the extent EPA is required to perform the risk assessments and cost-benefit analyses as set forth in the bill, cleanup actions would be delayed for years. Any risk assessment by EPA could also be challenged in petition proceeding. Timely cleanup will also be frustrated by the decisional criteria. PRPs, will utilize the vagueness and uncertainty associated with the criteria as leverage.

Thus, PRPs will be unwilling to enter into consent decrees and more willing to take their chances in court armed with the criteria. This will cause fewer settlements of actions. It will also, of course, create pressure on EPA to settle for less. Similarly, even if EPA is unwilling to settle on the terms of the PRPs, EPA will have to take into account the risk that its action may not be upheld if challenged. Accordingly, EPA will seek less in its remedy than it would otherwise. As a consequence, the cleanup of the Upper Clark Fork Basin NPL sites both in terms of its timeliness and its completeness will be jeopardized. Given the impacts to public health and the environment in this area, and the degree to which it will likely not be possible to fully remediate these impacts, any lessening of cleanup will be significant indeed.

* * * * *

The bill also presents a significant threat to the State of Montana's natural resource damage litigation and concomitantly the obligation of the State acting as trustee on behalf of its citizens to redress injuries to natural resources and make the public whole.

Major environmental management activities are also defined to include "damage assessments." There is only one form of damage assessment under CERCLA and that is a natural resource damage assessment. Accordingly, it is clear that the bill is attempting to bring within its scope actions related to natural resource damage recovery. It is not entirely clear that the bill is successful in this regard because the bill imposes its requirements on "agencies." Under CERCLA, however, natural resource damages are recovered on behalf of trustees. Notwithstanding the use of the term "agency," it is likely that the bill would be read to impose its requirements on trustees given its clear intent to reach recoveries of natural resource damages.

Thus, the State of Montana, in the pursuit of its natural resource damage case, would be bound by the same requirements as EPA for response actions. Restoration actions have not commenced so the State's natural resource damage assessment and restoration plan would be subject to the bill.

There are two principal problems. First, the bill would necessitate that the State's assessment and restoration plan be revised to meet the new requirements. This would present a real problem for the State since the litigation is proceeding forward. To revise the State's assessment would bring the litigation to a screeching halt, undo much work that has already been done, and would extend the litigation and administrative process on which the litigation depends for years. It would also cost the State hundreds of thousands of dollars to comply with the bill's requirements.

More fundamentally, however, the bill seems to eliminate the possibility of the State recovering restoration costs. In the State's restoration plan various alternatives were identified that would "restore" the resource. The plan acknowledged that given the severity of the injury, actions could not be performed that resulted in immediate or near-term restoration, but felt that this fact should not act to disable the State from taking actions that mitigated injury and so hastened—somewhat—the eventual full recovery of the resource. The plan further acknowledged that in the end resources would be restored as a result of natural recovery. As noted, various alternatives were proposed that to varying degrees mitigated injury. One alternative that was always considered was the alternative of natural recovery. This alternative will result in the restoration of resources in the Upper Clark Fork Basin; however, restoration will not occur for thousands or tens of thousands of years. Since the purpose of the natural resource damage provions of CERCLA is restoration and since natural recovery will accomplish restoration and will almost always be the least cost alternative considered, the bill's decisional criteria would mandate the selection of this alternative notwithstanding any other considerations.

Please object to the provisions of the Regulatory Reform Act that would be harmful to the interests of the State of Montana.

Sincerely,

MARC RACICOT,
Governor.

BUTTE-SILVER BOW,
COURTHOUSE,
Butte, MT, June 28, 1995.

Senator MAX BAUCUS,
U.S. Senate,
Washington, DC.

DEAR SENATOR MAX BAUCUS: I am writing today to express my concerns about certain provisions of the Regulatory Reform Bill. While I surely understand the need for reform, and I applaud the Senate for taking a leadership role in the development of sound reform policy, I have serious reservations that the provisions related to new cost-benefit analyses for Superfund sites will damage and delay ongoing clean-up efforts in Butte and sites along the Clark Fork River.

I can understand how a thorough cost-benefit analysis would be useful for a new site or sites that are early in the process of investigation. However, in Butte, we are well down the road in the decision-making process for several "operable units" within the four NPL sites. There are Records of Decision and various Decrees for several sites, such as the Berkeley Pit/Mine Flooding area, the Montana Pole Treatment Plant, the Lead Poisoning Prevention Program, the Priority Soils Area, Lower Area One/Colorado Tailings, and most recently, the Streamside Tailings along Silver Bow Creek. The prospects of stopping this progress to conduct additional cost-benefit analyses (as per the draft provisions of the legislation, Sections 624 and 628) would be damaging.

I can assure you that, in Butte, cost has been a significant factor in the decision-making process. In our efforts to work with the regulatory agencies and the PRP's in our area, we have developed a very practical view of the balance between clean up and resources expended. We have worked hard to incorporate and substantially address cost considerations in the remedy selection process.

Senator, I would ask that you ensure that any new legislation designed to provide regulatory reform does not, in the process, slow down the work already in progress where significant decisions have been made. If you would like additional information, please do not hesitate to contact me.

Sincerely,

JACK LYNCH,
Chief Executive.

Mr. BAUCUS. Section 628, the section I think should be deleted, clearly causes big problems for the State of Montana. But not just the State of Montana. In fact, my best estimate is the provision affects at least 650 Superfund sites across the country. That is virtually every State. Let me give the numbers.

Today, studies are underway at 263 Superfund sites. Remedies costing more than $10 million have been selected at 285 sites. And cleanup is underway at 430 sites. We do not know how many of these 430 exceed the $10 million threshold, but the average cleanup cost is $30 million. So, obviously, most exceed the threshold. So a conservative estimate is that half of the 430 sites exceed the threshold.

This chart at my left illustrates what would happen to these sites under this bill. Consider the 285 sites where a remedy has already been selected. At each site there has been extensive study, public involvement, and negotiation. After years, people have finally agreed about how to clean up the site.

Let me refer to the chart more fully. Now, as I said, there are about 263 of the sites where study is underway, in red. The yellow shows there are 285 sites where the remedy has been selected. And the green shows there are 430 where there is ongoing cleanup. That is the current situation.

If S. 343 passes, including the section which we want deleted, what will the result be? The result would be twice as many studies. And it will mean—as the chart shows, only half as many sites will be cleaned up. That is a conservative estimate of the consequences of this bill. These sites will get thrown back for further study, which could take years.

Consider the 430 sites where there is an ongoing cleanup. Those sites also get thrown back into further study, unless we can prove the construction has commenced on a "significant portion of the activity," whatever that means, and if other criteria are met.

So putting all this together, the impact of section 628 is very simple. The number of studies will double and the number of Superfund cleanups will be cut in half. This chart shows it. The red is the number of studies which will double. The green shows cleanups which will be cut in half.

I will say that once more. The number of studies will double and the number of cleanups are cut in half. A lot more redtape. A lot less cleanup. I do not I think that is what we want to do.

All across America people will wake up and discover that the purported regulatory reform bill has a very surprising effect. They will discover that virtually with no notice whatsoever, Congress has stopped Superfund cleanups dead in their tracks, and the residents of frustrated and exhausted communities will discover to their amazement that Congress has decided that Superfund sites need more study, more analysis, and more talk before a single shovelful of dirt can be moved or a single thimbleful of groundwater could be pumped.

Before concluding, I would like to repeat a point I made earlier. I am not defending the status quo. Superfund needs to be reformed. And some of the needed reforms may well relate to risk assessment and cost-benefit analysis. The Environmental and Public Works Committee reform efforts are well underway. But the issues are complex, they are controversial, and we cannot reform Superfund overnight.

Ironically, the bill repeats the same mistakes that the original drafters of Superfund made in 1980; that is, it is a hasty overreaction. It is a quick fix. It will cause a lot more problems than it would solve. But it is likely to have a very harsh consequence as well for the people who want their neighborhoods cleaned up and have already suffered enough.

H.L. Mencken must be smiling as he looks down on us from heaven today. We are addressing a complex, difficult issue and we are considering a simple, straightforward, easy solution that is dead wrong.

It is for these reasons I urge my colleagues to support my amendment and strike this provision from the bill.

Several Senators addressed the Chair.

Mr. GLENN. Mr. President, parliamentary inquiry: Earlier on we were waiting for a reply to a proposal by Senator JOHNSTON on the Superfund withdrawal bill. The majority leader indicated that he would check on his side and get back to us. I believe it was agreed—correct me if I am not correct—that the Senator from California, Senator BOXER, was to be recognized to speak on her amendment with the idea that, if the majority leader came back, we would then complete action on the Johnston proposal after which time she would be permitted to continue.

Is that correct?

The PRESIDING OFFICER. The agreement provided that once the Johnston amendment is disposed of, the Senator from California may offer her amendment.

Mr. GLENN. Yes. We were getting in a little time situation here where the Senator from New Jersey was going to speak I believe on a similar subject. I wanted to make sure everybody was aware of what the parliamentary situation was in case the majority leader comes back to the floor and we finish the work on the Johnston amendment.

Mr. LAUTENBERG. I want to be sure. I intend to speak on the Superfund amendment, though I support the amendment by the Senator from California. And I assume that, once having that recognition from the floor, I will be able to continue my remarks.

Mr. HATCH. Will the Senator yield for a parliamentary inquiry?

Mr. LAUTENBERG. Yes.

Mr. HATCH. I thank my colleague.

Mr. President, as I understand it—correct me, if I am wrong—as soon as the Superfund amendment is disposed of one way or the other then anybody can call up an amendment. Or is it by unanimous consent that the Senator from California would have the right to call up her amendment?

The PRESIDING OFFICER. The agreement provided that the Senator from California would have the right to call up her amendment.

The Chair previously recognized the Senator from New Jersey.

The Senator from New Jersey.

Mr. LAUTENBERG. The Senator from New Jersey would be happy with a unanimous-consent agreement to yield to the Senator from Montana to permit him to make his inquiry and to conduct such business as he would like.

Mr. BAUCUS. Mr. President, I ask for the yeas and nays on the pending amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. BAUCUS. I thank the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, I thank my colleagues for clearing the agenda.

Mr. President, I want to take this opportunity to talk about the section 628 of the pending regulatory reform bill. I am delighted to cosponsor this amendment. It deals with environmental cleanup.

As the former chairman and current ranking member of the Environment and Public Works Committee with the jurisdiction over Superfund, I believe that adoption of this amendment is critical to achieving real reform in the program. Let me begin by explaining it.

The language sought to strike has nothing to do with reforming the regulatory process. It has everything to do with undermining and invalidating specific regulations. It does not allow the reform regulatory process to work. Rather, it is an effort to mandate an outcome of that process.

The Superfund provision in the Dole-Johnston substitute makes an exception to the general rules established in the bill so that efforts to regulate Superfund sites—and only Superfund sites—are to be treated differently than all other regulatory actions. As we know, the bill currently says that only if a regulatory decision costs more than $100 million it is considered a major rule, thus triggering lengthy reviews and certain protections in the bill. Only a small percentage of Superfund sites involve costs of more than $100 million. As a result, most Superfund sites would be exempt from the procedures I just mentioned that are established by the bill.

That was apparently unacceptable to those who want to avoid costs and delay in cleanups. As a result, they created the lower threshold of $10 million which would apply only to Superfund sites. And if that triggers some suspicion in the minds of those who are trying to figure it out, that suspicion is warranted. Every other regulatory decision has to cost more than $100 million before it is considered a major rule. But at Superfund sites—and only there—the threshold will be considered to be a major rule when it starts at $10 million.

There is no logical explanation of why; no justification for the exception, just a little provision that treats Superfund differently than any other program in the Federal Government.

Mr. President, to me it is obvious that there is intentionally or otherwise a mission here that would emasculate the Superfund program. That may satisfy some who will do what they can to delay the cleanups required, or at least for it to kill the program. It may help those who want to escape their obligation to pay for the cleanup of sites but it will not satisfy those who want to get after the environmental blight, and it should not satisfy anyone who wants to protect the health and safety of the millions of Americans who live, work, or play near Superfund sites.

By the way, for many, that is not an option. That is where home is. That is where work is. That is where a school might be. They did not choose to build or to live near these sites. But, unfortunately, once these environmental problems were discovered it was a new learning experience for people. Suddenly, they learned that perhaps the water supply may be contaminated or the ground that their kids are playing on may be dangerous for them.

One of the many unintended impacts of this bill is the dead certain proposition that it will make the problems that plague the Superfund program worse.

This bill would have the effect of stopping Superfund cleanups in their tracks apparently under the theory that we need to spend more time doing more studies before deciding what we can do to clean up the mess that we have already been studying for years and years.

Let us be candid. The Superfund program already contains an extensive risk analysis and cost-benefit evaluation. The private parties who are responsible for the cleanup are already involved in the remediation process. And so is the affected community. The criticism of the Superfund program is that it studies too much and does too little. Look at what we do already.

Superfund site remediation decisions are not made casually or without consideration of risks or cost benefit. Under the present law, EPA must conduct numerous studies and consider costs and other factors in selecting a cleanup remedy. During the remedy selection phase, a detailed risk assessment is conducted by looking at the people and the environment exposed to the risks associated with the Superfund with this toxic site. For the pathways of exposure, such as ground water, surface water, air, soil, however, the contamination travels in the specific contaminants present at the site.

Following these studies, EPA announces a proposed cleanup approach, receives public comment on that approach, and issues a record decision to memorialize its final cleanup decision.

Often the private parties performing the studies in cleanups have been very involved in developing the appropriate remedy. We do all of that now. Yet, S. 343 says that we ought to do more studies which would, of course, mean less cleanup. It allows a party to reopen the whole process once a decision about how a cleanup process ought to proceed. In fact, it will allow a party to reopen the whole program even after construction and implementation of the cleanup program has begun.

This legislation virtually requires an expensive, slow, and often duplicative study process even if the private parties involved are not wanted and did not believe it was necessary. This bill would virtually require reconsideration and reevaluation of the cleanup strategies that are being developed and instituted at hundreds of sites. This would be a tragic development and a tremendous waste of resources. It would cause great consternation at the sites where communities have negotiated and agreed to a level of cleanup that could be overruled by this law.

How do we explain to the residents living near Superfund sites that we are going to throw out years of study, years of work, and construction in many cases and stop and restudy the whole cleanup from start to finish?

During the last Congress, EPA, industry and the environmental community produced a set of consensus proposals to reform Superfund, to reduce litigation, to speed cleanups, to cut repetitive analysis and to improve public participation in the cleanup process.

Mr. President, I was again then chairman of the subcommittee, and everybody worked hard—Democrats, Republicans, the administration, outside groups, be they industry, academic, Government, environmentalist. Everybody pitched in to try to reform Superfund because there have been problems with it. No one can deny that. But its mission is a purposeful one.

As a result of some obstruction, we did not pass that reform Superfund proposal. Frankly, I thought it was an environmental tragedy after so much work and so much agreement had been hammered out with parties that typically disagree, and here we are today now first reviewing the Superfund program. Once again, it is nearing its expiration date. Lots and lots of money has been spent, billions by the way, and much of it in the learning process because, unfortunately, it was not the job that we expected to have to do when we set out to do it. It took a lot more because the toxic contamination was a lot worse, and as a consequence we are now in a situation where the moneys spent up front are beginning to pay off. But we did not get the chance, we did not have the outcome that we wanted to have to speed cleanups and to reduce litigation costs.

Additional changes to speed cleanup are now being considered in the Environment and Public Works Committee, and they are likely to be approved. This bill threatens to go in the opposite direction by increasing litigation, adding more needless analyses and slowing cleanups while saddling EPA with new paperwork burdens.

Now, I am working with the chairman of the Superfund subcommittee, Senator SMITH of New Hampshire, on Superfund reform and reauthorization. We do not necessarily agree about how the program ought to be changed, but the fact is that we are talking, and we are bringing in witnesses, and we have had testimony and hearings. I think it has improved the atmosphere as well as the possibility that Superfund reform is going to be accomplished in fairly short order. I believe that we agree that reform is supposed to increase speed and reduce redundant studies.

This bill is inconsistent, Mr. President, with that vision of reform. It is also inconsistent with a serious effort to get Superfund reformed and reauthorized rather than have this buried as a subsection of this long and complex bill dealing with regulatory reform. This is not the way to do business.

Mr. President, Superfund is not necessarily popular with everybody, but cleaning up our hazardous waste is a mission that all of us I believe can agree upon. It is a very expensive proposition. It has been looked at over the last 50 years, and finally in 1980, a law was established to move the process along.

Now, private parties do not like cleaning up the mess if they caused it or if they are found jointly or severally responsible. Insurance companies do not like it because they have to pay the claims. But the strongest criticism of our hazardous waste cleanup programs is our unending studies to determine the proper remedy.

In fact, Congress recently spoke to this issue. During the last rescissions bill, $300 million was rescinded from the Department of Defense cleanup program because it was felt that too much money was being spent on studies and not enough on cleanups. This provision would require yet more money be spent on just such studies which would both delay cleanups and leave less money for that task.

I do not want to go back to Superfund sites in my State and explain to my constituents who live near Superfund sites that agreed upon remedies are going to be reopened for a further round of studies.

I do not want to have to explain that a new study phase will delay cleanup for years and years. They do not like that news. I do not want to have to tell them that cleanups already begun will suddenly be halted when they have already lived with threats to them and their family's health for already too long a period of time.

Why is this delay inevitable? Well, in addition to the opportunities it gives to private interests to create delay, look at what it does to the Government's ability to move forward quickly. The EPA now processes about 10 major rules a year. Under this bill, it is estimated that EPA will have to do a complete risk assessment and cost-benefit analysis for about 45 major rules each year for the various programs it administers.

I wish to make clear what happens with a major rule. It involves lots and lots of people. It involves lots of computer use. It involves lots of calculation. It involves lots of time and lots of money. This is not to say that we should not be doing studies. We should. But we have already done them, done them sufficiently I think to answer all of the concerns that people have. But if our amendment fails here and EPA must do a cost-benefit and risk assessment for Superfund sites over $10 million, it will have to do approximately 650 additional risk assessments and cost-benefit analyses.

Mr. President, my argument can be summarized in these three points. First, the bill before us treats Superfund in an unjustified, special, and unique way. It contains a special carveout for the particular interests that want to reduce or evade their responsibility to pay for cleanups.

Second, the bill before us will inevitably delay cleanups, prolonging the risks those toxic hot spots pose to human beings and to the environment. That delay is a function of the overt mechanisms in the bill which require new studies and the practical inability of EPA to conduct the number of studies which will be required.

We want EPA to be an organization that conducts cleanups. We do not want it to devote all of its time to doing studies.

So the bill will cause delay in cleanup, the one thing that we all want to hasten.

And third, there is no finding that these new studies are required. Superfund already has sophisticated cost-benefit and risk analysis. If you think there ought to be changes in the way that analysis is conducted, then require those changes when we reauthorize Superfund in an orderly process. Do not try to force them into a bill that has a much more general goal of reforming the process by which we regulate.

Mr. President, we ought to let the authorizing committee handle Superfund. We are working toward that goal. And when we bring legislation to the floor we can understand it, we can debate it, and justify the decisions that we make. Doing reform in the backdoor manner proposed by this bill is totally unacceptable.

I want to point out what is here on the chart to emphasize, that is, that presently we have already 430 sites where cleanup is underway. We have decisions being made at 211 sites. We have remedy selections at 74 sites and studies already underway at 263 sites. If S. 343 passes as it is, then what we will do is we will have to study 763 sites. It means practically the end of serious decisions about cleanup and beginning the process.

What we will be left with is 215 sites with cleanup underway, as opposed to 430, and decisions underway for 211 other sites. We will move into the study phase. This will turn out to be a calculous laboratory where everybody will be participating in studies and not getting work done and will exaggerate criticism that now exists that all we do is study things to death. We have studied things, I hope not to death, but we have studied them for a long time. The decisions are made on the science available, and there is an orderly process. We ought not tinker with it, but reform it in an orderly way.

So, Mr. President, I urge my colleagues to support the motion that is now before us to strike the special relief language for special interests that are now in this bill. I yield the floor.

Mr. KYL addressed the Chair.

The PRESIDING OFFICER (Mr. SANTORUM). The Senator from Arizona.

Mr. KYL. Thank you, Mr. President.

I would like to make a few remarks regarding Superfund and the reasons why it is included in this legislation. There are a couple of anomalous things about the Superfund law. One of them is that there is no judicial review. And I think it is no coincidence that one of the laws that is working least well, a point that all of us would agree on, is also a law that provides for no judicial review. The second thing is that the Superfund law actually does provide today for some cost-benefited analysis and risk assessment. So it is not a new concept when applied to this law.

But the bill before us, the Dole-Johnston amendment, would really provide a more precise and meaningful procedure for applying that cost-benefit analysis to Superfund so that the net result should be not more costly studies and delay, but a more precise application of a principle which is already required and which should make much more efficient the process for deciding the priority of sites to be cleaned up, and probably also make it easier if the judicial review provisions are put into place to really test those that need to be tested and allow the others to proceed to clean up.

So we believe that S. 343 establishes strong, good requirements to do the right kind of risk assessment and cost-benefit analysis for Superfund cleanups. And, of course, the point also here is that it is in those cases that exceed $10 million. Now, we have heard arguments here by some that would like to see this section removed from the bill. I will make the point first of all that there is much more than Superfund in the amendment which would be removed from this bill. We will leave that for others to discuss.

But just to focus on the question of whether the Superfund provision should be removed, in many respects Superfund is an example of the best of the worst. Unlike many other programs with tangible results, Superfund has almost nothing to show for its billions of dollars in expenditures of public and private funds, I might add.

And again, this is a point upon which a lot of us would agree: Superfund has just not met the expectations that we had for it at the time that it was adopted. So clearly, more effective risk and cost-benefit analysis are desperately needed for the program. These are the tools that the Government can use in carrying out the requirements of the law.

So instead of trying to remove these provisions from the bill, we ought to be strengthening those procedures so we can really do the prioritization necessary to get to the job of cleaning up the sites that need to be cleaned up and leaving the others alone.

As I said before, also ironically, Superfund already requires cost-benefit analysis. It requires the President to select appropriate remedial actions that "provide for cost effective response" and to consider both the short-term and long-term costs of the actions.

It requires the President to establish a regulation called the national contingency plan to carry out the requirements of the statute. This plan has several requirements that would contain methods for analysis of relative costs or remedial actions; means for assuring that remedial actions are cost-effective over time; criteria based on relative risk or danger for determining priorities among releases of hazardous substances for purposes of taking remedial action. The national contingency plan also requires a baseline risk assessment to be performed for every remedial action. This means that for every Superfund cleanup, a risk assessment is supposed to be done right now.

It requires the President to identify priority sites that require remedial action through a hazard ranking system that must—again, I am quoting—"assess the relative degree of risk."

So to suggest that somehow both cost-benefit and risk assessment are inconsistent with the Superfund is to ignore existing law. It is in the existing law. So by taking it out of that provision, we are not removing that concept. But what we are doing is preventing ourselves from providing a more effective means of applying the cost-benefit and risk assessment to Superfund.

Now what happens at the typical Superfund site? I exaggerate almost none here, Mr. President. You have a release of some kind of hazardous substance discovered. The presence of this substance in the environment may or may not be harmful. Before that is even determined, practically every small business in the community that has ever had any contact with the site at all gets a letter.

The letter basically says, "We think you are liable. Prove to us that you are not." So immediately, you have all of the small businesses and some big businesses, too, immediately put into the position of being in a group of defendants having to try to prove that they are not liable for something that frequently occurred a long time ago without knowledge on their part.

The costs to small business are very high. And it costs more than just money. The cost in time, in terror, literally, in toil and frustration in dealing with the alleged Superfund liability is one of the most gross aberrations in our legal system that we have on the books today, which is one of the reasons why there has been a lot of discussion about the reform of Superfund that hopefully we will get a little later.

But every mom and pop operation that sent trash to a landfill that became a Superfund site knows exactly what I mean. The strict joint and several retroactive liability in this law is dragging down small business for the third time.

And the recourse? Essentially none. Because unlike other laws and unlike S. 343 before us, Superfund expressly prohibits judicial review. Now, is that really what the opponents of this law applied to Superfund want? I do not think it is coincidence, as I said before, that the most oppressive and maligned and dysfunctional environmental program we have is also the one that prohibits redress in the courts. This is something on which we are all in agreement.

So why can we not agree to provide judicial review to Superfund? Why is there opposition to having regulatory reform for Superfund in this bill? Even the administration has said it needs to go forward.

In a memorandum prepared by the Council on Environmental Quality, the administration correctly pointed out the blatant inconsistencies regarding its posture regarding S. 343 and its position on regulatory reform and cleanup statutes.

Here is what this memo states: That opposition to the intent of the cleanup provision in S. 343 is "inconsistent with several administration policies."

Quoting again. "The administration has repeatedly testified that cost-benefit analysis is a 'useful tool' in making cleanup decisions." Again quoting.

"EPA, DOD, and DOE have made well-publicized commitments to more realistic risk analysis in cleanup activity," exactly what we are talking about in this bill.

Executive Order 12866 requires cost-benefit analysis for regulations over $100 million. Many cleanups exceed this amount and the total cost of cleanup activities approaches or exceeds $400 billion. Quoting from this memorandum:

> It will be hard, politically and logically, to defend application of the cost-benefit comparison to the former decisions and not the latter.

This is the administration speaking.

Now, critics of this section argue that these reforms should be addressed in the Superfund reauthorization, and that is an appropriate place to deal with some of the reforms we are talking about.

That is not to suggest, however, that in a bill dealing with cost-benefit analysis and risk assessment and judicial review those matters should not be dealt with in this legislation.

I know that Senator SMITH, and others who have spoken here, members of the Environment and Public Works Committee, have been working very hard, but Superfund reauthorization may not be completed this year. I know the committee that I sit on, Energy and Natural Resources, understands the toll this program is taking on industrial facilities, small businesses and understands the need to get on with the process of reform of the process as opposed to the substance, which will, of course, be covered in the reauthorization.

We are cutting our training and operation budgets in the military services and yet we keep getting higher price tags for installation cleanups. I cannot even begin to tell you what the runaway cleanup costs translate to in the Department of Energy.

So, Mr. President, in conclusion, I believe that the Superfund cleanup provisions in this legislation are entirely consistent with existing law. They are consistent with planned administrative reforms that the Clinton administration is putting in place even now, as indicated by the memorandum I cited, and, perhaps most important, I think many of us would agree that Superfund is not a level playing field, that small business is being savaged by what amounts to institutionalized extortion from regulations.

Federal and State regulators have ignored the risk and cost considerations throughout the process, in spite of the statutory requirement to consider those factors, and that is why this legislation is needed. The program is so badly broken and so desperately in need of major change, largely because the degree and the costs of cleanup have proceeded virtually unchecked for years. Simply having these provisions in this bill has brought about a new willingness on the part of regulators to be more realistic in the remedial action selection process.

The Superfund provisions of S. 343 are consistent with the law, are a needed reform of the remedy selection process, and are an appropriate and necessary reform of one of the most expensive, intimidating and crushing regulatory programs for small business in the history of this country.

Mr. BAUCUS. I wonder if the Senator will yield to me?

Mr. KYL. I will be happy to yield. Of course.

Mr. BAUCUS. I appreciate the Senator yielding. I heard the Senator say that in the Senator's opinion that the provisions of S. 343, particularly section 628, are consistent with or conform with basically the Superfund cost-benefit or risk assessment provisions now, and because they are consistent and basically conform, there should be no opposition. My question is, if they are consistent, conform, then what is the purpose of this provision? That is, the Superfund already does contain, as the Senator already said, cost-benefit and risk assessment provisions in determining sites and remedy selection and plans for cleanup. I am just curious, what is the need for this provision?

Mr. KYL. Precisely the correct question to ask, and I appreciate it, because it applies not only to this issue but several others in other aspects of this legislation. We have Executive orders since the administration of President Ford, for example, which require cost-benefit analysis, but almost all of us, I think, are in agreement that they have not worked. The procedures are not in place to force compliance and to provide for appropriate judicial review.

So what I am saying is that while there is a requirement for cost-benefit analysis and risk assessment in the existing law, it is not working, and the provisions of this bill will allow it to work in a way which gets to the other point that the Senator from Montana was raising, and that is that we have spent a lot of money and do not have a lot to show for it.

Mr. BAUCUS. I understand. If I might ask——

Mr. KYL. We should not delay any longer. I think this legislation will make the existing regulations workable for the first time.

Mr. BAUCUS. Another question. I am just curious of the Senator's view, what is the precise language in section 628 that will speed up cleanups, that will address the problems small businesses face, that will reduce regulatory red tape, that addresses the joint and several and strict liability problem that bedevils so many parties involving cleanup sites? I wonder what is the precise language in this amendment which addresses the real problems—I agree they exist—that so many people face when dealing with Superfund. Can the Senator point out some language in the amendment that he thinks will specifically help answer some of those problems?

Mr. KYL. Sure. The entire section that establishes the procedure and the judicial review, which is missing from the Superfund legislation, will make it possible for individuals to insist that proper risk assessment and cost-benefit analysis is applied, and if it is not, a remedy will exist to require it to be applied, something which does not exist today.

Mr. BAUCUS. I am just perplexed, in all candor, because the provisions of section 628 with respect to risk assessment are actually quite different from current Superfund law.

Let me point out some differences. One, under this bill cleanups would generally be required only if the benefits justify the costs. That is a different standard than current law. And second, under this bill only the least-cost cleanup option would be selected. That is now not the case under Superfund.

So they are not the same. Thus, S. 343, including section 628, would, by definition, require EPA, for example, and the States to stop what they are now doing and go back all over again from scratch and start the risk assessment and cost-benefit analysis, which would add more cost, more delay, and more red tape. And because Federal facility sites will cost more than $10 million to clean up, the clean up of each of these sites would be further delayed under the provisions of this bill.

Why does the Senator believe that those provisions would not necessarily stop the present cleanup program and cause more red tape, more delay?

Mr. KYL. First of all, the Senator is absolutely correct. The provisions of this bill are somewhat different from existing law with respect to the specific tests for cost-benefit analysis and risk assessment. That is the whole point.

My point in pointing out that cost-benefit analysis and risk assessment are already part of Superfund was to illustrate two things: First, that the concept is not alien or inimical to Superfund. This is something that we have already said should be a part of our analysis for Superfund cleanups.

Mr. BAUCUS. If I could just——

Mr. KYL. If I could just go on.

Mr. BAUCUS. Sure.

Mr. KYL. And second, to note that while that is true, while it was our intention, while we wrote the exact words in the statute, it has not worked. And I think we agree on that.

So, yes, the answer to the first question is there are different provisions—that is the whole point—to make it work because it has not worked in the past. The administration itself, CEQ, pointed out the fact that it would be pretty inconsistent to argue you should have cost-benefit analysis before, but now it is not appropriate.

But the second question I think the Senator asks is the more difficult question and the one that is really important—and I respect the Senator for raising the issue—namely, we want to get on with the cleanup of these sites. Will this cause a delay or not?

That is a very legitimate question. But I think, again, there are two answers. One, reasonable people can differ whether it will cause delay. We do not want it to cause delay, but we want it to do the right thing, and that is the other point here. We have to do the right thing. A lot of us believe we are spending millions and billions of dollars, really, in activities which are totally nonproductive where the risks are exceedingly low, where we ought not be wasting our money, and there are other sites that just beg to be cleaned up. Perhaps one of them is the example the Senator from Montana cited where we have to get on with it and prioritize those sites and get the job done where the cost clearly is outweighed by the benefits to be achieved. So that is the kind of analysis in which to engage.

Instead, what we have is taxpayers paying lawyers and consultants billions of dollars to essentially waste time, dollars that are not only Government dollars but also small business dollars and other business dollars, and that is what we are trying to resolve with this legislation.

Mr. BAUCUS addressed the Chair.

Mr. KYL. I am happy to yield my time. I have concluded my remarks. If the Senators would like to take it at this point.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, I appreciate the comments of the Senator from Arizona. With all due respect, they are really not on target. That is for this reason. We all agree that Superfund has terrific problems. But the problems that it has are not solved by this amendment. This amendment does not even address—does not even begin to address—the problems of the Superfund. In some sense, they are irrelevant to the problems facing Superfund. I will explain that.

One of the main problems of Superfund today is joint and several and strict liability. This amendment has nothing to do with that, despite what the Senator from Arizona would like us to believe. Under joint and several and strict liability standards today, all parties are subject to the same joint and several and strict liability standard. And what happens? Some company—maybe the primary perpetrator that caused most of the toxic waste and hazardous waste at a site and other companies may be partners, or another company may have bought the site later, or a company may have owned the site earlier. A bank might be involved. A bank might have made a certain loan to one of the parties. Under the current law, they are all lumped in together. They are all jointly and severally liable and subject to strict liability. That is the current law.

Here is what happens. Everybody sues everybody else claiming that he is the principal problem—not me but him. Well, everybody that is subject to liability, of course, is jointly and severally liable. That is why there are a lot of lawsuits today. It is the standard which creates the lawsuits. All of the people that are involved are suing each other.

This amendment has nothing to do with that—nothing to do with that. So to stand up here on the floor of the Senate and say this amendment, section 628, is going to solve the problems of the red tape and delay, is a nonstatement, it is not accurate. It is not accurate because the problems facing people that cause all of the problems of the Superfund are caused by the underlying statute, substantive law not addressed by this amendment.

Here is another example. Let us take a small businessman, somebody who has fewer than 50 barrels of hazardous waste at a site, who is a de minimis contributor. Under the provisions of the Superfund reform which we tried to enact last year, small businesses would be either exempt if they are particularly small; or if they are somewhat small, they would be entitled to a very expeditious standard and their liability limited to their ability to pay. That is a problem that the Environment and Public Works Committee tried to solve last year. But section 628 of this bill has nothing whatsoever to do with these real problems—nothing.

All section 628 says is cost-benefit analysis and risk assessment must be prepared. It has nothing to do with the problems of small business, Mr. President—nothing. Last year, we tried to enact Superfund reform—and as the Senator from New Jersey a few minutes ago very ably stated, it was stopped. We came up with a provision that eliminated joint and several liability to those who settled their liability through a new voluntary allocation system and not through court. Under this new allocation system companies would have an allocator decide which company is proportionately responsible for which portion of the waste. And if the company agrees and settles, they could not be sued; they would be immune from a lawsuit. Good idea. Everybody thought it was a good idea. Big business loved it. Small business was ecstatic. Environmentalists thought it was great. All the groups came together and agreed that this is a good, major reform to the Superfund.

There are lots of other reforms in Superfund that we tried to pass last year. Some just did not want it passed. It was a disservice to the country. So here we are all over again trying to reform Superfund. This amendment has nothing to do with any of that. Nothing. N-o-t-h-i-n-g. The way to solve Superfund, Mr. President, frankly, is not to pass this amendment.

What does this amendment do? It says you take the current lousy, botched up, unworkable Superfund program and add to all of the problems—more problems. It says start over again and add a new kind of risk assessment and cost-benefit analysis. That is what this amendment does. It says, take the current lousy law and delay it further, add more redtape, start all over again. It means fewer cleanups. There are lots of sites in this country, Mr. President, where cleanups are finally agreed to and are in progress. It has taken 10, 12, 15 years in some cases. This amendment says go back and start over again. That is exactly what it does, despite what anybody else says.

So the answer, I think—and I have given a lot of thoughtful consideration to this, not rhetoric or a lot of stuff, not playing to the cameras—a thoughtful solution to this, frankly, is to delete this provision from the bill. It is not going to solve the Superfund problems. Somebody might like to say that it does for the people back home. In fact, it makes it worse.

Rather, let us solve this the only way these problems can be solved; that is, to lower the rhetoric, quit the demagoguery, sit down and work with all of the people involved. You roll up your sleeves and cross the t's and dot the i's and find a solution, which is what happened over a year ago. Many outside groups who know the subject came together, worked hard, and reached an agreement. Most of the insurance industry also agreed. Some of the insurance industry did not agree, but most did.

Let me read some of the supporters of it: Aetna Life Insurance, Allied Signal, American Automobile Manufacturers—this list goes on and on, and I will not bore the Senate. I am glancing here, and these are big, well-recognized organizations and companies. There must be over 100 on this list.

One of the greatest disservices this Congress has performed, in my judgment, in the last several years is the failure to pass Superfund legislation a year ago because it was a solid reform that would have helped people, provided a public service, which is what we are all elected to do. This amendment in this bill, section 628, not only does not do that, it makes a bad problem worse.

I just ask every Senator and every staff person listening to forget the rhetoric, read the provisions of this bill, section 628, read Superfund, and just think. All you have to do is think. If you think, you are going to reach, I submit, roughly the same conclusion and therefore realize that, maybe we should not be including Superfund in this regulatory reform bill after all. And if we are going to do right by our people back home, let us take it out and reform Superfund in the right way, through the committee process, something along the lines that we enacted a year ago.

Mr. JOHNSTON. Mr. President, I yield to no one in this body on my enthusiasm for risk assessment. It was I who first proposed, wrote, and passed twice a risk assessment provision, which did not pass the House, of course, and so we are here today working on this legislation.

I believe the concept of risk assessment is one of the most important things we can ever do for this Government. It will save, I believe, hundreds of billions of dollars. It will relieve taxpayers and citizens of this country of huge and unnecessary burdens and will allow the means that we have, the dollars that we have in this country, to be spent on environmental and health and safety matters, to be applied to environment and safety and health matters and not to waste, as it is today.

Now, having said that, Mr. President, I rise in enthusiastic and very strong support of this amendment. The reason is that this amendment and the application of this procedure to Superfund, as well as to defense cleanups, as well as to cleanups under the Solid Waste Disposal Act, do not fit.

They do not fit, Mr. President. We have been talking about Superfund, and I concur with comments of my colleague from Montana, that that needs to go through that committee. That committee voted out and passed that bill last year. We need to do that again this year.

Mr. President, we have not spoken about cleanup at defense plants. Cleanup at defense plants is an activity on which we are presently spending over $6 billion a year. It is the largest cleanup activity of the Federal Government.

Now, Mr. President, we commissioned a report on the Hanford site, which is the most difficult site and the most expensive site of the DOE. They came back with a horror story about how money is being squandered and nothing is being done. I will not go into all the reasons, but the principal reasons are that the legal matrix, the legal framework that we in the Congress have created for Hanford as well as other DOE sites, does not work.

We not only have the Superfund, which is applicable to Hanford, we have RCRA, which pertains to chemical wastes. We have a tripartite agreement setting standards, dates, and requirements—dates that cannot be met, standards that have not been passed, and using technologies that do not exist.

Moreover, Mr. President, we have superimposed upon that an act we call the Federal Facilities Act, under which the Federal Government can be sued and the Assistant Secretary of Energy can be put in jail—something he is very concerned about—if they do not meet standards and dates that are impossible to meet because there is no place, for example, to store the waste, because the waste isolation pilot plant is not ready, and that is the only place available for some of these mixed wastes.

Mr. President, it is probably only the Congress of the United States which could have designed a legal framework as confusing, as contradictory, as difficult, as unworkable, as unbelievable as we have created for our defense plants' cleanups.

Now, Mr. President, the Senator from Alaska [Mr. MURKOWSKI] and I have proposed legislation for Hanford. We have proposed to deal not only with CERCLA but RCRA, the Federal Facilities Act, the tripartite agreement. We proposed to reconstruct that and do it over again.

It is not that we do not want to use risk assessment. Risk assessment is central to the issue. It is a risk assessment procedure that would be vastly different from that which we have constructed in this bill.

This bill constructs risk assessment principally for Federal rulemaking, EPA-type rules. It is workable, a good procedure, which, Mr. President, I am very proud of the handiwork in the Dole-Johnston bill. I think it is workable. I think it will improve environment. I think it will improve health. It will save lots of money. It is a very, very good bill.

But it does not fit for defense plants' cleanups. We have to deal with those tripartite agreements. They have, Mr. President, as I am sure all my colleagues know, a problem at these defense plants, what we call mixed waste—mixed chemical waste and mixed nuclear waste or radioactive waste. One set of regulations for radioactive waste, one set of regulations for chemical waste, and no technology yet to deal with the mixed wastes. Some promising research is being done, and no place to put the waste.

Literally, our Assistant Secretary of Energy, unless we change the law, can go to jail for not doing what is impossible to accomplish. Absolutely that is true, Mr. President. The waste isolation pilot plant is not ready.

By the way, the reason it is not ready is also because we do not have a well-working risk assessment bill. If we did, they would have done the risk assessment and would not be doing some of the silly things they are doing down in Carlsbad, NM, on delay and unnecessary expense in the plan.

Be that as it may, WIPP is not ready and we have no place to put the waste and we do not have the technology. It is a grand and glorious mess.

What we propose if we can pass our legislation, Mr. President, is create this paradigm, this legal matrix, limit it to Hanford, and then we propose to use that as the model for other defense plants. We will have to modify it—things are a little bit different, at Rocky Flats in Colorado, et cetera. Each one of these sites has their own peculiarities. Some have a lot of plutonium, some have a lot of mixed waste. Hanford has almost every imaginable kind of waste.

Each of those deserves the time and attention, in the case of defense plants, of the Energy Committee; in the case of CERCLA, of the Environment and Public Works Committee. They are different problems from those we seek to serve in the Dole-Johnston bill presently pending.

Mr. President, in including Superfund and environmental cleanup in the original Dole-Johnston amendment, we knew at the time that we included it that it would be subject to an amendment and that it would probably come out. I say "we" knew that; I do not want to speak for anybody else but myself. Let me say that I and my staff knew it and we discussed it, and I think the feeling was at that time that it should be included in the draft in order, first, to draw attention to the issue; second, to give some leverage in assuring that we would deal with the question of Superfund and of defense cleanup.

Indeed, we have had Senator BAUCUS, the ranking member, come and say that he is anxious, willing, and able and can virtually promise that that committee will deal with the issue.

I think there are Members who are so anxious for risk assessment to be made part of CERCLA that they want to get those assurances. I think now we have heard those assurances on the floor of the Senate.

I hope, therefore, with those assurances, that the committee such as Energy and Natural Resources, with respect to defense plants, can proceed and do our business and enact the legislation that Senator MURKOWSKI and I presently have pending. I hope that the Environment and Public Works Committee will expeditiously report out that bill again which we passed last year, and that we can get on and pass this risk-assessment cost-benefit legislation presently pending.

Mr. President, I am getting more hopeful and more confident as the hours pass, that the spirit in this Chamber is such that it will allow the Senate to pass this bill with a strong bipartisan effort. I think acceptance of this amendment will be a strong indication of that. I hope we can vote soon.

Mr. CAMPBELL. Mr. President, I rise in strong support of the amendment by the Senator from Montana.

Count me in among those who believe that there are serious problems with the superfund program and the Energy Department cleanup program. It is plain to me that we are spending a lot more money, and a lot more time, on lawyers and bureaucracy than we are on getting these cleanups underway.

I agree that the superfund program is not working, and I think we need to make major changes to make it work better. But not at the price of further delay and further bureaucracy that will delay these cleanups even longer.

The Rocky Mountain Arsenal outside of Denver was used for years as a production facility for chemical munitions by the Defense Department. Since the 1950's it was used to produce pesticides. The defense department and the Shell Oil Co. left a pretty tough mess.

In 1984 the site was listed as a national superfund site, and it is now more than a decade that the site has been under study, and significant cleanup has already occurred to resolve immediate threats to human health and the environment. Just last month a conceptual agreement was reached on a final cleanup plan at the arsenal. That agreement must go through the public comment process and a final decision should be made by early next year.

If this amendment is not accepted, the door will be open to anyone to file a new challenge to this long, tortuously negotiated accord based on the new rights created under this bill to seek additional cost benefit and risk analysis studies.

Some Senators may be familiar with the Summitville mine disaster; since that mining company declared bankruptcy and left my State with a massive cleanup problem, we've seen decisions made and cleanup projects begun. Again, I don't want this bill to be the cause of any further delay in getting this critical work underway.

I have other, tough cleanup problems in my State, at Leadville, at Clear Creek, and many other sites. I want this program to work better, and I'll be supporting major changes in the program when we consider reauthorization later this year.

As any of my colleagues who are involved with superfund know, that process takes too long and our constituents get very frustrated when they see a lot of planning and not much actual cleanup. I don't want to extend that process even a day longer than necessary, and so I urge my colleagues to support the Baucus amendment.

Mr. THOMAS. Mr. President, I ask unanimous consent to proceed in morning business for 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Wyoming is recognized.

Mr. THOMAS. I thank the Chair.

(The remarks of Mr. THOMAS pertaining to the introduction of S. 1031 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, we had a lot of discussion in the last 3 days on the need for regulatory reform. We have had a lot of horror stories presented about undue regulation and what it has done to small business people and farmers of the United States. That impacts negatively on everybody as it inhibits the creation of jobs, as it brings undue costs to the operation of a business and, in many instances, with harm to the public if nothing is changed.

I have taken the floor several times to discuss some of these problems with existing rules and regulations, or the implementation of those rules and regulations. I want to address another issue like I did yesterday on the subject of wetlands.

Before I do, I want to visit a little about the general atmosphere of the debate here on this regulatory reform bill in the U.S. Senate. We are led to believe that all of our concern about public health and safety and the environmental policies are going to be thrown out the window with the adoption of a regulatory reform bill. It is not, because our bill does not change any of the substantive laws that are on the books in each one of those areas.

If it did, that is what we would call, in this body, a supermandate, one law overriding others. In fact, we recently adopted an amendment just to make it more clear that there is nothing in this legislation that is a supermandate. And we have also been hearing a lot of other concern expressed, mostly on the Democratic side of the aisle, about bad aspects of this legislation.

I would plead with the Democratic Members of this body who have been fighting this bill so hard, that they should want Government to work well. They should want Government to work efficiently. They should want Government to work in a cost-effective way. They should want Government to serve people rather than people serving the Government.

Another way to say that is, they should want Government to be a servant of the people rather than a master of the people.

I know Democratic Members of this body believe that all Government is good. And I know that they believe that basically Government means well and does well, and they are willing to give the benefit to big Government, that when there is some doubt about whether Government is really going to do well, that we ought to err on the side of Government doing it. That is a legitimate political philosophy that I find no fault with. I do not accept it, but it is a legitimate political philosophy that we can have in our system of government.

What does that have to do with the bill that is before us and my pleading with the Democratic Members of this body? There is nothing wrong with believing in big Government. There is nothing wrong in believing, if you think it is best for the country, in a regulatory state. There may not be anything wrong with believing that regulators ought to dominate more so than the free market system determinations made in our economy.

But the very least, if you believe all those things, you should make sure that the regulatory state, that the big Government you believe in, will actually work well and effectively deliver the services that you want delivered. And the fact of the matter is this big Government, this big regulatory state that you like so well not only does not deliver well, but the rulemaking process is much more costly than it need be. It impinges upon the marketplace much more than need be to protect the public health and safety and the environment. And it just does not work very well because it never delivers a decision. You know it is just awfully difficult to get a decision out of the Government, and particularly when you have two Government agencies fighting each other.

The very least—I plead with you—if you believe in the big Government that you practice, that you ought to be for making it efficient and effective. And your big Government and your big regulatory state, we are saying on this side of the aisle, does not work very well, and we see S. 343 as a process of making sure that it is cost effective because of the cost-benefit analysis, that it has a sound basis because we require scientific determinations and risk assessment, and that it should not be a law unto itself. We protect against that in this legislation through congressional review of regulatory action and through judicial review of regulatory action.

I hope during this debate—and this will be the fourth time I have been involved in an example just in my State—my State is only 1.5 percent of the people in this country, but some horror stories have taken place in my State. Remember the first day I spoke about EPA enforcing one of its rules on toxic waste. They had a paid informant that was a disgruntled employee of a local gravel company, the Higman Co., in a little town of Akron in northwest Iowa. The information was not correct, but they decided to invade his place of business. One quiet morning they came in with their shotguns pumped, their bulletproof vests on, 40 Federal and local law enforcement people to find that toxic waste and to arrest the manager.

He tried to find out what was the big deal. They told him to shut up. They stuck the gun in the face of his accountant. She is a nervous wreck yet as a result of that action. It cost him $200,000 of lost business and legal fees to defend himself on a criminal charge that he was not found guilty on because there was not any toxic waste buried in his gravel pit because this process of making a determination was bad.

I told you the next day about how there is an EPA regulation on the books under the Clean Air Act affecting the grain elevators in the rural communities where farmers send their grain for processing and for sale. We have 700 of these grain elevators in my State. They are charged with proving to the Government that they do not pollute. The initial determination of that is to fill out a 280-page document for EPA, which some of these elevators are paying $25,000 to $40,000 of consulting fees to help get filled out properly. Then once they are filled out properly and go to the EPA, only 1 percent of the 700 are going to come over the threshold determined by EPA that you are a polluting business.

But what really is strange about that rule is this: EPA assumes that you are going to be polluting 365 days a year, 24 hours a day, when the problem that EPA is trying to get at is a seasonal problem in which the elevators are operating for about 30 to 45 days out of a year in which there might not be any problem whatsoever.

They have each one of these little grain elevators supposedly in business processing grain every day of the year, every hour of the day. Any one of these, under that assumption, would have to have the entire corn crop of the entire United States, 10.03 billion bushels, processed through any one of these little businesses.

Then I told you next about the farmer in Mahaska County, IA, that bought a farm in 1988. And in 1989 he got permission from the Soil Conservation Service for clearing some trees and improving the drainage system. He had the approval of a Government agency of everything he did, even the approval of the Iowa Department of Natural Resources.

Within just a few months the Corps of Engineers threatened to fine him $25,000 a day because he was doing something without one of their permits saying it was a wetland when it was not a wetland. All you have to do to prove that is to drill little holes in the ground and find out how close the water is to the surface. And it was not 4 to 5 feet. In order to be a wetland you have to have 7 days of continuous water on the land. Yet, they wanted to fine him $25,000 a day for what another Government agency said he could do. Then later on that first Government agency said he could do it. They backed off and said they had made a mistake. Then he appeals it through the local, the State, and the national office. Here it is 1995, and he still does not have a determination of what he can do with that land.

As I said to the big Government Democrats that are opposing our bill, it seems to me that, if you want to believe in big Government, OK. But at least Government ought to be able to give a constituent some sort of an answer. If you say they have done something wrong, they ought to be able to get an answer. You ought to be able to have the Government agencies agree among themselves on what the policy is.

This is a perfect example of Government out of control. This young Mahaska County farmer still does not know where he stands with this land. He could potentially pay a lot of fees. In the meantime, he has paid a lot of money to try to get what he thought he had the right of in the first place by getting a Government agency to say what he can do and not do to some of his land.

There is no reason why we need four different Government agencies' definition of what a wetland is. How do you expect a poor farmer to understand what a wetland is, or even a rich farmer understand what a wetland is if four Government agencies do not know what a wetland is?

In fact, in the farmer's case I just told you about, the determination of what was a wetland or not a wetland was based on a 1989 Corps of Engineers manual that is not even being used anymore.

(Mr. GRAMS assumed the chair).

Mr. GRASSLEY. Mr. President, in my opinion no other area of regulation needs reform as desperately as wetlands regulation. No less than four Federal agencies claim jurisdiction over agricultural wetlands and these agencies often use conflicting manuals and procedures in delineating and regulating the use of wetlands.

I have addressed this body several times in the past regarding the complex, confusing, illogical, and downright burdensome way that the Federal Government regulates wetlands in agricultural areas.

Most of my colleagues must agree with this assessment because in March, the Senate passed by unanimous consent, a moratorium on new wetland delineations. Subsequently, the administration agreed with the Senate and imposed its own moratorium. This will allow Congress the opportunity to reform existing wetlands policy.

Even if Congress does not act, however, S. 343 will force agencies to recognize common sense and sound science when promulgating wetland regulations. And when agencies begin to act in a rational manner, maybe we can avoid situations like the one in Iowa that I am about to describe.

Mr. President, as I travel across my State and talk to farmers and other property owners, I hear many stories of senseless regulations and bureaucratic nightmares. But the problems of a farmer in Greene County, IA, may be the most vivid example of the need for common sense in rulemaking.

This particular farm in Greene County has been continuously cropped for almost 90 years. The original drainage system was installed in 1906.

As this chart illustrates, from 1906 until 1992, the land was framed and no wetland existed on this part of the farm. In 1992 this all changed.

During the summer of 1992, the local drainage district decided to replace the original system with an open ditch. This was all carried out in consultation with the Soil Conservation Service.

Prior to the construction of the ditch, the owner of the farm was informed by the SCS that the ditch would result in the creation of a small wetland, about 150 feet on each side of the ditch.

After the ditch was installed, however, the SCS district office changed its mind and classified 14.2 acres as "converted wetland."

Now once a farmer has part of his farm declared a wetland, it can no longer be cropped. So in effect, the Government is depriving this farmer of the economic use of his own property, even though the farmer did not create the wetland, and even though the land had been farmland, not a wetland, for the past 90 years.

At that point, the only recourse available to the farmer was through the appeals process. In this case, however, the appeals process only made the situation much worse.

Before the first appeal, the SCS had already changed its initial wetlands classification of 14.2 acres to 10.8 acres. The SCS area office confirmed this designation during the first appeal. At the second appeal, the State SCS office decided that the wetland was actually 17 acres. And at the final appeal level, at the SCS national office, the wetland was determined to be 28.2 acres.

Mr. President, as you can see on this chart, this farm was cropped for 86 years. But then, through no fault of the farmer, the SCS decided there was a wetland on this land. And this wetland apparently was expanding rapidly—from 10.8 acres to over 28 acres in less than 2 years

Keep in mind that nothing had happened during this time that actually changed the size of the wetland. The farmer did not farm the land. The drainage system was not expanded. And no additional water was present in the area.

The only difference was the way each level of the agency interpreted the wetland regulations. And undoubtedly, the lack of common sense contained in the underlying regulations caused this confusion within the agency.

All of this sounds ridiculous until you consider that a real price is paid by our citizens who are subject to these regulations. The farmer in Greene County, IA will lose thousands of dollars in future income because the bureaucracy decided that he could not farm his land. Even though this land had been farmed continuously for the past 90 years.

It is cases such as this that undermine the faith that Americans have in their Government. It is cases such as this that motivate the electorate to throw out a party that has been in control of Congress for the past 40 years. And if S. 343 will help just one person like the farmer in Greene County, IA, then the Senate should pass this bill and the President should sign it into law.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. HATCH. Mr. President, I am about to propound a unanimous-consent request that I think will get us to the Boxer amendment. I ask unanimous consent that, following the remarks of myself and Senator MURRAY—I will not be very long—the Johnston amendment be laid aside and that Senator BOXER be recognized to offer her amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON. Reserving the right to object. And I appreciate my friend from Utah working on this issue of the environmental cleanup, and I hope we will successfully do it. I note that we have been on the amendment for about 3 hours and that it is not a delay coming from this side. I simply mention that to say that I hope we will be able to get time agreements from now on and be able to move expeditiously. We made great progress today so far. And we will continue.

Mr. HATCH. I appreciate that.

Mr. GLENN. Reserving the right to object. I wonder if it will be possible to get a time agreement. Will the Senator give us any idea how much time it will take? We are going to try to—I will tell everybody I would like to get time agreements on everything that comes out from now on.

Mr. HATCH. I do not think Senator BOXER——

Mr. GLENN. We have to wait on the time agreement. She can go ahead and proceed. I will not object to the UC.

Mr. HATCH. Can I reverse the UC, because I understand Senator MURRAY is only going to take 3 or 4 minutes.

Mr. GLENN. Senator BOXER has to come to the floor.

Mr. HATCH. Senator MURRAY is going to speak on Superfund. Why do I not reverse that, have her speak first, I will speak second, and then Senator BOXER can offer her amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. MURRAY addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Mr. President, I thank the Senator from Utah. I simply rise today to support the Johnston-Baucus amendment that strips the Superfund provisions from this bill. It touches on one of the most pressing issues facing my home State of Washington: the cleanup of the tons of nuclear waste that is contained at the Hanford Reservation.

The bill before us specifically targets Superfund sites and subjects activities costing more than $10 million to immediate cost-benefit analysis and risk assessment. This assessment will be required even where agreements have been reached and cleanup has already begun. All cleanup would come to a screeching halt so that the Government could analyze the benefits of cleaning up toxic waste.

Hanford cleanup has come under intense and justified scrutiny by this Congress. Its critics have railed that it has cost billions of dollars and has resulted only in reams of documents, not any actual cleanup. This bill would only exacerbate those problems. Cleanup that is finally getting underway would stop while the Department of Energy conducted potentially dozens of more analyses on the benefits of cleaning up the nuclear waste that today is seeping toward the Columbia River.

Mr. President, there is a lot we do not know about the risks of radioactive waste. We do not know how to clean it up, where to store it, or how fast it migrates, or any number of things. Because so much is unknown, a detailed generic cost-benefit analysis and risk-assessment process would be endless and very costly.

Let me add, however, that while I do not support the cumbersome approach taken in the current bill, I do believe the Hanford site and other Superfund sites will benefit from a cost-benefit analysis. In fact, I will encourage us to move toward a bill that incorporates risk assessment and cost-benefit analysis into the decisionmaking structure at Hanford. We should try to develop a bill that requires consideration of costs but does not impose inefficiencies or unnecessary taxpayer-funded analytical costs that result only in reports, but we should not do it on this bill.

Finally, I would like to remind this body that the Department of Energy is facing tremendous budget cuts and possibly elimination. Burdening it with this review process while at the same time demanding that it improve the pace of its cleanup and reduce costs is a recipe for disaster in my home State.

This bill is not the place to make the reforms most of us believe are necessary to improve Superfund. The place to make those changes is in reauthorization of CERCLA before the authorizing committee with its indepth knowledge of this important law.

For these reasons, I urge my colleagues to support the Johnston-Baucus amendment to strip the Superfund provisions from this bill. Both current and future citizens who live near our Nation's nuclear waste facilities will thank you.

I yield the floor.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

RACIST ACTIVITIES AN OUTRAGE

Mr. HATCH. Mr. President, I am going to divert from this bill for a minute on a matter that I consider to be of extreme importance. I have been reading some accounts in the newspaper, and I would like to take a moment to address something that deeply distresses me.

According to certain press reports, several current and former Alcohol, Tobacco and Firearm agents participated in a so-called good old boys roundup, an event that is alleged to have involved hateful, racist conduct.

As many of my colleagues are no doubt aware, this event involved hundreds of Federal, State, and local law enforcement agents. When African-American agents tried to attend the event, however, they were turned away. According to various news reports, participants at the event displayed blatantly racist signs and sold T-shirts displaying, among other things, Dr. Martin Luther King's face behind a target and a picture of an African-American man sprawled across a police car with the words "Boys on the Hood."

Apparently other things were available for sale that are, frankly, too despicable to even be mentioned on the Senate floor. I can only express my outrage and anger that such activities of this type could occur in America and especially when law enforcement officials are involved.

Mr. President, it means something to me and I think every American—it means something—for a person to be a law enforcement officer. Among other things, it means that the American people have placed their trust in that law enforcement officer. It means that they represent the people, all the people. And it means that they have taken an oath to uphold and enforce the law, and if we cannot rely on law enforcement officers to do that, upon whom can we rely?

That any American, but especially any law enforcement officer who holds a sacred trust, would engage in these racist activities is an outrage, and it must be condemned. To be an effective law enforcement officer, you must have the trust and the respect of our people. Indeed, law enforcement officers take an oath to defend the community. When law enforcement officers engage in racist activities, they betray the trust of the people and they disgrace the uniforms that they are empowered to wear.

This is not only a concern of African-Americans, this is a concern to all Americans. We have a right to expect that our law enforcement officers will treat all citizens equally. If the press reports are true, and these officers engaged in hateful racist conduct, not only must their actions be condemned, but they should be dismissed from their positions, for no one in whom the people's trust is placed should be allowed to destroy that trust by engaging in such hateful behavior.

No doubt some of the participants will say that they were aware of what was going on but did not directly participate. I would ask them, What were you thinking? If you were at a party and people were selling drugs, would you not do something as a law enforcement officer? Those who would stand by while others engage in this kind of conduct are no less guilty than those who turn their heads when crimes are committed on the street. We simply cannot tolerate any sort of racist conduct on behalf of our law enforcement officers, not of any sort by any law enforcement officers.

I hope Director Magaw will take swift action to determine whether these allegations are true and, if so, to dismiss those who are involved.

Similarly, I would tell State and local law enforcement agencies to purge themselves of agents who would violate the people's sacred trust by engaging in such hateful activities. This is America. We are one Nation under God. We are a Nation that guarantees liberty and justice to all people. When one citizen is mistreated regardless of race, color, or creed, all citizens should be outraged. And when a person clothed with the authority of the people engages in hateful conduct, that person's conduct must be condemned by the people. We simply cannot condone racial discrimination in any of its vile forms.

Having said that, I have to say almost all law enforcement officers are good, decent people, but those who betray the public trust by displaying deplorable judgment and terrible prejudice, they forfeit that trust.

Let me be clear that this is not the voice of political correctness. Being a law enforcement officer is a public trust, because public-safety matters of life and death are in the hands of law enforcement officers. The overwhelming majority of our law enforcement officers are really good people. But if someone authorized to wield a gun in the name of the law can organize and find comfort at gatherings such as the one I have described, that person does not deserve the people's trust.

Faced with a threatening situation, or the perception of a threat, can we be confident that such an agent would not react based on prejudice if the situation involved an African-American or some other minority person?

This is not a matter of concern only to African-Americans, I might add. Prejudice is not so readily limited. But I would not want someone exhibiting such terrible judgment and prejudice enforcing the law with respect to me either. If it is determined that these various officers have done these things and that these accounts are true, then, I reiterate, those law enforcement agents who knowingly participated ought to be fired. They ought to be terminated. We should not have them in positions of trust among the people. They should certainly not wear the badge of the Alcohol, Tobacco, and Firearms Bureau.

Having said that, I hope that the director will get behind this, find out exactly what the true facts are, determine who the people are who are culpable and responsible for this kind of activity. I think they should be fired on the spot.

It is just one of those things that you just cannot tolerate in a society as great as ours.

I yield the floor.

COMPREHENSIVE REGULATORY REFORM ACT

The Senate continued with the consideration of the bill.

Mr. DOLE. Mr. President, I know there has been a unanimous-consent agreement. Do we have any time agreements or just consent to start something?

Mr. HATCH. We did not have any time agreements because the Senator from California was not here. Now that she is, we would like to work out a time agreement.

Mr. GLENN. If the majority leader will yield, we are going to try to get time agreements for everything coming to the floor from now on. I hope we can get 15 minutes a side for everything that comes to the floor. We are going to propose that. I hope people listening can think about this and agree to it. We have been wasting time with people talking, and also on various subjects that do not have anything to do with the legislation that we are considering here. So I hope everybody can come up with time agreements, if possible.

Mr. DOLE. In some cases, there may be second-degree amendments on either side. So it may take a bit longer than 30 minutes.

Mrs. BOXER. Mr. President, I ask the majority leader, if he will yield on that point, I feel very strongly that I want to have a vote on my amendment. If there is going to be a second-degree, I will not agree to a time agreement. I will be happy to agree to 15 minutes on each side, but if there is a second-degree, I cannot agree because there is no way for me to get a vote on my underlying amendment. It is a problem for me.

Mr. GLENN. I think that would be the general attitude all the way through this thing. Unless we know what is coming up on the second-degree amendment, we are not likely to agree to a time agreement on it. If we can agree to these things without second-degreeing everything——

Mr. HATCH. But we do not even know the form of the amendment.

Mr. DOLE. We do not even know what the first-degree amendment is.

Mr. HATCH. That is the way the Senate operates.

Mr. GLENN. Then maybe we cannot get time agreements.

Mr. DOLE. Mr. President, at 11 o'clock, we said we were going to start mowing them down around here, and I know the Senator from Louisiana was surprised when I filed cloture. But, frankly, I was surprised when he offered an amendment to knock out Superfund. I did not know that was going to happen. So there has been a double surprise here. We are trying to come to grips with that amendment.

In the meantime, I think there has been agreement to go to the amendment of the Senator from California. But to suggest that we cannot get time agreements and you cannot offer second-degree amendments, then I think we are going to be in real trouble, because both sides always reserve the right to offer second-degree amendments. It seems to me that it is something we need to work out before we start.

Mr. President, the liberal opponents of commonsense regulatory reform must be celebrating after watching some of this week's reports on the evening news, and reading some of the stories and columns in some of our most distinguished newspapers.

Last night, a report on ABC's "World News Tonight" claimed Republican supporters of regulatory reform are "on the defensive." And it is no wonder, considering how the media have fed the American people a steady diet of phony claims that we are out to promote tainted meat and unhealthy food.

Liberal New York Times Columnist Bob Herbert a few days ago took a page out of the liberal consumer activist playbook, labeling our regulatory reform bill "An all-out assault on food safety regulations," adding that it "Would block implementation of the Agriculture Department's meat safety initiative for 2 to 3 years, and probably longer."

If this outright distortion wasn't enough, listen to this from Margaret Carlson's "Outrage of the Week" on CNN's "Capital Gang": "Senator BOB DOLE, under the guise of regulatory reform, is letting the meat industry lawyers block this [meat safety test]." Wrong again.

One network aired a report Monday night that included the following, and I quote:

With Senator Dole's regulatory reform bill, industries could challenge rules they considered too costly or too burdensome. Thirteen-year-old Eric Mueller died in 1993 from E. coli poisoning after eating a fastfood hamburger. His father says any delay in adopting new meat inspection rules is a travesty.

This is indeed a tragic story. The only problem is, this report, like so many others, was simply wrong in its suggestions about this bill.

Our legislation has always made it explicitly clear that regulations are exempted from any delay if there is "an emergency or health or safety threat." Additionally, the Agriculture Department has already conducted a cost-benefit analysis of the meat inspection rule and it passed. But the facts did not stop that network from reporting Monday night that, "A delay is looking more and more likely."

However, on Tuesday, if it was not clear enough already, we specifically added to the bill the words "food safety, including an imminent threat from E. coli bacteria."

But that did not stop the media's drumbeat on food safety. Last night, a network anchor for whom I have great respect claimed that on regulatory reform, Republicans "went further than the public may want on the issue of food inspection." Wrong again. I do not know how many times we have to say it to get the media to understand the fact that this bill does not compromise food safety. Yesterday, the former head of the FDA and four eminent scientists and physicians spoke at a press conference to explain how our bill protects food, health, and the environment—but the media did not seem to notice. I did not see it anywhere. It was not on ABC News, CBS or NBC. They get some liberal Senator on the floor to make some claim, and that was the news. That was the liberal spin and the one the media jumped to in a second.

But ABC did not stop with the issue of food safety. Then they broke out the chainsaws, the strip mining, pesticides, potentially dirty drinking water, and cute endangered animals in their effort to explain the impact of regulatory reform. They do not know any bounds once they get carried away with the liberal spin in this body.

Mr. President, these are just a few examples of the kinds of distortions we have had to confront on this bill. And I am not the only one who has noticed this trend. According to a study released last week by the Advancement of Sound Science Coalition, "media coverage of the congressional debate over environmental regulatory reform slants 'clearly against the regulatory revisions.'" According to Dr. Robert M. Entman of North Carolina State University, who conducted the study, there was a 3-to-1 negative imbalance in news stories about reform between last November and this May 11. Not surprisingly, the study claims that 74 percent of paragraphs that evaluated reforms were critical, criticism reached 87 percent on editorial pages, and 70 percent of the stories on the commercial television networks and in weekly news magazines criticized reform. I ask unanimous consent that the Advancement of Sound Science Coalition's statement about its study be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MEDIA REPORTS SLANTED AGAINST REGULATORY REFORM EFFORTS, STUDY SHOWS

WASHINGTON, DC, July 7, 1995—Media coverage of the Congressional debate over environmental regulatory reform slants "clearly against the regulatory revisions," according to a study released today by The Advancement of Sound Science Coalition (TASSC).

"While some outlets refer in favorable terms to the general idea of reform, most devote far greater space and time to denouncing the specific legislation calling for rigorous application or risk and cost benefit analysis," according to the study, conducted by Dr. Robert M. Entman, Professor of Communication, North Carolina State University and Adjunct Professor of Public Policy, University of North Carolina (Chapel Hill).

"This study demonstrates once again that the media, whether it is consciously aware of it or not, is portraying important, scientific issues in the same 'who's up, who's down' play by play style of reporting that they use in describing political campaigns or football games. While all stories deserve more balanced treatment, stories involving science cry for more fair reporting," said Dr. Garrey Carruthers, Chairman of TASSC, a national organization of scientists, researchers, academicians and others.

The most striking finding in Dr. Entman's study is the "negative imbalance in covering the proposed reform legislation." Dr. Entman said that there was a three-to-one negative imbalance in news stories about reform. Fully 74 percent of paragraphs that evaluated the reforms were critical. On editorial pages, criticism reached 87 percent, a seven-to-one negative ratio. Among his other findings:

70 percent of the stories on the commercial television networks criticized reform.

Weekly magazines surveyed also were 70 percent critical.

Certain key words function to reinforce negative impressions. For example, the word "lobby" or related words show up 10 times as often when referring to those supporting reform as those opposing it, even though both sides are lobbying the Congress.

Headlines, which frame the audience's emotional response to the content of the story, were often emotional or slanted opposed to the reform ideas. For example, Time magazine's "Congressional Chain Saw Massacre" or Newsday's "GOP Frenzy Is Gutting Safety Rules."

Visual images portrayed supporters of reform as enemies of the environment. For example, scenes of industrial plants with numerous pipes and tanks; smokestacks spewing smoke; a large bulldozer. Viewers were repeatedly exposed to "archetypal images of pollution and danger," the report states, images likely to "stir negative emotions toward reform."

While analysis of the "why" of this media slant was beyond the scope of Dr. Entman's study, the report says, "reasons go beyond the standard interpretation of liberal bias. They include the media's tendency to oversimplify; journalists' lack of training in policy analysis; and the commercial incentives that news organizations interpret as requiring appeals to emotion over cognition."

Dr. Carruthers said TASSC commissioned the study because "we want to offer information on how scientific issues are communicated to the public as another means of ensuring that only sound science is used in making public policy decisions."

"Too often, legislation or regulations are the result of political decisions, where the science does not back up the action. One way to better understanding this phenomena is to understand how the media portray scientific issues. TASSC is committed to pointing out not only when unsound science is used to make a decision, but also to point out the media's important role in the public's understanding of science and research," Carruthers said.

To conduct his study, Dr. Entman examined 29 major newspapers across the country, Time, Newsweek and the three broadcast network evening news programs. Stories review included those published or broadcast between November 1, 1994 and May 11, 1995.

Mr. DOLE. Mr. President, I know the media have a tough job to do. But if I believed everything I saw on the evening news or in the newspapers, I would vote against this bill, too. I imagine if all of the anchor people were on the floor, they would vote against it because they would not read it. They would just listen to some liberal on the other side of the aisle and swallow it all and say "I am against it." Fortunately, the facts are on our side, even if some folks in the media are not.

This is not a question of partisanship, not a question of anything but commonsense reform. Maybe those who report the news at the big networks do not worry about things that people have to put up with, the people in my State of Kansas, like businessmen and women, farmers, and ranchers. That is not their concern. They buy into "the more Government the better." If you have little Government, let us have a little more regulation, which costs the average family $6,000 a year.

So we will continue to try to correct the record. We know that it will never make the news. In fact, I challenged the media yesterday, when we had all these imminent scientists and a former FDA commissioner there, to report something they said. There was not one peep, because they were trying to give us facts, not the liberal spin. It makes a great difference in this body and in this town.

Mr. GLENN. Mr. President, I would like to reply to the distinguished majority leader's statement. I want to make it very clear that in S. 343 we say that if there is a real problem, the agency can make an exception and say that the rule can go in.

But the rule that could involve safety, health, E. coli, and cryptosporidium and all the rest of these things, in the original legislation, could only be in effect 180 days, to give them a chance to take into account all the requirements of the law, and then unless they had it done within 180 days, the regulation that protected the health and safety of people in this country would be negated. It would no longer be effective.

Now we have changed that on the floor this evening with the proposal by Senator JOHNSTON that makes it 1 year instead of 180 days. Most of these regulations take 3, 4, 5 years to come into final form. We still have the danger there that we can, with this legislation, have a requirement to complete all this re-analysis in 180 days. It is not done, the regulation goes out, and whether it dealt with E. coli, cryptosporidium or the other things that have caused actual deaths in the country and we know are dangerous, and not need a new investigation, but the regs would be knocked out.

Mr. ROTH. Mr. President, will the Senator yield?

Mr. GLENN. I am happy to yield to the Senator.

Mr. ROTH. It is true under the original legislation that not later than 180 days after the promulgation of the final major rule to which the section applies, the agency shall comply with the provisions of the subchapter, and as therefore necessary revise the rule.

But I am not aware of anywhere where it says the rule is terminated.

Mr. GLENN. The rule could be judicially challenged because it had not complied with the requirements of the legislation, so there would be a judicial challenge. The Senator is right. There would have to be a judicial challenge, but we are such a litigious society today, I do not doubt there would be multiple lawsuits if there is any crack in the law that can benefit a meatpackei or food processor or whoever it may be.

Mr. ROTH. I do not think the court would terminate the rule. A person could go into court and ask that they force the agency to comply with the requirement that the analysis be made.

I think the important point to recognize and understand, there is nothing in this legislation, unless the distinguished Senator form Ohio knows something I do not know, that provides for the termination of the rule.

Mr. GLENN. Let me reverse this. Does the distinguished Senator from Delaware——

The PRESIDING OFFICER. Under a previous order, the order of business was to recognize the Senator from California. If the Senator would wrap this up in a few seconds.

Mr. GLENN. Mr. President, I ask unanimous for 2 more minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GLENN. I ask my distinguished friend from Delaware, is there anywhere in there that says there cannot be a judicial challenge? I know there is not. That means there would be a judicial challenge, the analysis would not be completed, the time would have run out.

Mr. ROTH. The question is, was it violated? If they do not make the study within the times required, then, yes, they can go into court and force the agency to make the study.

There is nothing in it that requires the termination of the rule.

Mr. GLENN. The Senator does not think there would be a judicial challenge?

Mr. ROTH. Not under these circumstances.

Mr. GLENN. I think that is guaranteed in this. We would have a judicial challenge to this, and the rule would be out because the studies had not been completed.

Mr. ROTH. It says here in the legislation a major rule may be adopted and may become effective without prior compliance with the subchapter. It specifically provides the rule shall become effective.

Mr. GLENN. Followed by subchapter—if the agency in good cause finds conducting cost-benefits impractical and so on, but then not later than 180 days, which is now changed to a year after promulgation.

The final rule to which this section applies, "the agency shall comply with the provisions," if they have not done so, it would be subject to judicial challenge. With the provisions of this subchapter, each one of those subchapter provisions would have to be met, or the judicial challenges, and it is thereafter necessary to revise the rule, and if they have not done that, it would still be subject to judicial challenge.

Mr. ROTH. But nowhere does it say the rule terminates. In fact, to the contrary. It says the rule goes into effect. The language that the Senator just quoted does give the right to go into court and require the agency to make the appropriate study. That is all it does.

The PRESIDING OFFICER. Amendment No. 1517 is set aside. The Senator from California is recognized to offer an amendment.

AMENDMENT NO. 1524 TO AMENDMENT NO. 1487

(Purpose: To protect public health by ensuring the continued implementation of mammography quality rules)

Mrs. BOXER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from California [Mrs. BOXER], for herself, Mrs. MURRAY, Ms. MIKULSKI, Mr. LAUTENBERG, Mr. BRADLEY, Mrs. FEINSTEIN, Mr. DORGAN, Mr. KENNEDY, Mr. REID, Mr. BUMPERS, Mr. BIDEN, Mr. LEAHY, Ms. MOSELEY-BRAUN, and Mr. DASCHLE proposes an amendment numbered 1524 to amendment No. 1487.

Mr. DOLE. Mr. President, I send a second-degree amendment to the desk.

The PRESIDING OFFICER. Is there objection to dispensing of the reading of the amendment?

Mrs. BOXER. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. HATCH. I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Is there objection?

Mrs. BOXER. I object.

The PRESIDING OFFICER. The clerk will report.

The amendment is as follows:

On page 19, line 7, strike the period and insert the following:

"; or (xiii) a rule intended to implement section 354 of the Public Health Service Act (42 U.S.C. 263b) (as added by section 2 of the Mammography Quality Standards Act of 1992).".

AMENDMENT NO. 1525 TO AMENDMENT NO. 1524

Mr. DOLE. Mr. President, I send a second-degree amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE] proposes an amendment numbered 1525 to amendment No. 1524.

The amendment is as follows:

In lieu of the matter proposed to be inserted, insert the following:

It is the sense of the Senate that nothing in this Act is intended to delay the timely promulgation of any regulations that would meet a human health or safety threat, including any rules that would reduce illness or mortality from the following: heart disease, cancer, stroke, chronic obstructive lung diseases, pneumonia and influenza, diabetes mellitus, human immunodeficiency virus infection, or water or food borne pathogens, polio, tuberculosis, measles, viral hepatitis, syphilis, or all other infectious and parasitic diseases.

Mr. DOLE. Mr. President, I believe this is a responsible second-degree amendment, that we can dispose of a number of these issues in the spirit expressed this morning by the Democratic leader and managers of the bill so we can move on and try to complete action on this bill no later than next Tuesday. It is offered in that spirit, the spirit of cooperation.

My view is it is a good amendment. I hoped it might be acceptable. It seems to me that it would save hours and hours of debate here and put to rest all the arguments that some people like to make about which party or which side of the aisle is more concerned about some of the health and safety regulations. We are ready to stipulate we are just as concerned as they are on the other side. We think this would lay that to rest. I would hope the amendment would be accepted.

Mr. HATCH. Mr. President, we have now been on this bill 6 days and we have handled very few amendments. One reason is that everyone wants to exempt some rule or other, or some special interest or other, or some issue or other, from the provisions of this bill. This bill's whole purpose is to make sure that the best available science is applied to regulations.

Now, the distinguished Senator from California is very sincere in bringing up her amendment. But, it is another in a series of amendments that we will spend the next 3 months debating if we do not find some way of making clear that the only purpose of this bill is to improve the regulatory process and that everybody should support that goal.

No one is more concerned about breast cancer than I am. It is a grave, grave disease, and each and every Member in this body is disturbed about its incidence and the increase in its incidence. I do not want to see standards delayed unnecessarily any more than Senator BOXER or Senator MURRAY or Senator GLENN.

First of all, I think it is important to know that the Mammography Quality Standards Act was enacted in 1992, 3 years ago. If the proponents of this amendment want to talk about hamstringing the FDA from issuing regulations on the bill, I think they ought to ask themselves, "What has the FDA been doing in the almost 3-year period since the bill's enactment?" They have controlled the FDA for a year and a half of that time.

I understand that my colleagues have stated today that new, proposed regulations are expected this fall to implement the bill. I think we ought to ask ourselves, "Why has the FDA allowed almost 3 years to elapse before the regulations are issued?"

I can answer part of that question. The program is already up and operating. The program is already up and operating.

As I believe Senator GLENN noted earlier, the program is operating under interim final regulations issued on December 23, 1993. Interim final regulations are, by definition, final. They have the full force and effect of law. There is no requirement that they be made final.

I would just like to ask my colleagues, "What public health issues have been raised that need to be addressed now in new regulations?"

The second thing I would ask is this, "If these regulations are such a priority and are needed to save women's lives, then why, on May 8, when the administration issued its regulatory agenda for the year—and I am holding the Federal Register which contains that agenda—then why did the administration when it issued all of its regulatory priorities and set target dates for each regulation, why did they not list a projected date for the MQSA final regulation?

In fact, they did not list an October date or a September date or any date. Ten weeks ago they talked about the current interim final regulation. They did not even mention a new, proposed regulation in the book that was supposed to outline the whole regulatory agenda for the government. In other words: It was not a crisis then, so why is it a crisis today?

I know my colleague, Senator BOXER, is worried that the Act would get caught up in the $100 million threshold in the bill and would be subject to cost-benefit analysis. In fact, in the administration's own regulatory plan, issued only 10 weeks ago, that is just 2½ months ago, the administration printed the following in the Federal Register: "Mammography Quality Standards Act of 1992, Anticipated Costs and Benefits: Direct Federal costs in 1994 are $13 million."

That is $87 million less than what would trigger this bill's cost/benefit requirements.

The administration goes on to say:

> There are approximately 10,000 mammography facilities in the United States. Approximately 8,200 have accreditation or have applied for accreditation and will not incur significant additional cost. The remaining 1,800 facilities will incur approximately $26 million in one-time costs, and recurring costs of about $27 million. Amortizing the one-time costs, the annual costs of the interim rule is about $33 million.

This $33 million is still $67 million less than needed to trigger the effect of this bill.

Thus, the OMB certified estimate, printed in the Federal Register only 10 weeks ago, was $33 million. That was 10 weeks ago.

How can it be over $100 million today? Or anywhere near $100 million now? Or even within the next number of years?

I would like to ask my colleagues who offer this amendment another question: "Why will it take years for FDA to do a cost-benefit analysis on something as important, as significant, and as understandable as the Mammography Quality Standards Act of 1992?"

I suspect part of the reason is that FDA historically has not had a very good record of moving things through very quickly. This is abundantly true with drug approvals, now taking 10 to 15 years at a cost of hundreds of millions of dollars for a major drug. No other country in the world takes that amount of time.

Medical device approvals are also lagging way behind the expectations of Congress. This is true for countless other regulatory undertakings.

In fact, with the FDA we have an agency which is fighting S. 343 as hard as it can.

We have an agency which is sending up packets of information, raising all sorts of red herrings about this bill. We have an agency who wants business as usual, who wants to preserve the status quo, who does not want the pressures that this bill will bring upon them to do their job in a better fashion and in a better manner.

I am not sure we can count on the FDA to seriously take into account the mandates of this bill with this kind of attitude.

I would also like to ask why women should not have access to the most cost-effective procedures? I think it is important to note that our bill does not have the so-called supermandate provision. Our bill does not change any existing requirement of Federal law with respect to the need for quality standards for mammography clinics, including the quality of the mammograms, the training for clinic personnel, or recordkeeping.

All our bill does is say that in implementing the law, the agency must act in a way so that benefits outweigh costs. It goes to the process of implementation, not the need for implementation.

As one who, as I think everybody in this body knows, was very involved, with Senator Adams and Senator MIKULSKI, in drafting the Mammography Quality Standards Act of 1992, as one who has been a leader in this effort, I wish to point out that I recognize the need for that law.

But I also think both the Act and American women can benefit by subjecting the law to a cost-benefit analysis. Especially if the costs of regulation under this law reach a threshold of $100 million in this country.

I am aware that last year one rural hospital in Utah had to close down its mammography machine because of the implementing regulations.

I would suspect that this has not led to better quality mammograms for the citizens of that rural area. I suspect what it means is that women in that rural area will not get mammograms at all, because of some of the bureaucratic ensnarlments which occur in the implementation of legislation, and indeed at times, in the legislation.

S. 343 is essential and it should not be continually tested on this type of basis—which some believe is purely a political basis—when it only delays going forward on this bill.

I do not think that my constituents in that rural Utah community have benefitted by this situation. I do not think that is the way the law or the regulatory process are supposed to work.

I think that the FDA is fighting this bill with everything it can because this bill will correct a lot of the excesses out at the agency, and, indeed, at every Federal agency. It will make them do better, do a better job of regulating.

So it keeps coming back to the question of why women should not have access to the most cost-effective procedures?

As I say, I was involved in writing the MQSA. I have been involved with this issue for years, and with virtually every other health care issue.

I understand how important the MQSA is. Frankly, this bill would not have the dire effects on the MQSA that proponents of this amendment allege, even if the costs of regulation under the law should rise to the level of $100 million—which they will not according to an official appraisal by the administration just 10 weeks ago.

Let me just mention what the second-degree amendment that Senator DOLE has filed says:

> It is the sense of the Senate that nothing in this Act is intended to delay the timely promulgation of any regulations that would meet a human health or safety threat, including any rules that would reduce illness or mortality from the following: heart disease, cancer, stroke, chronic obstructive lung diseases, pneumonia and influenza, diabetes mellitus, human immunodeficiency virus infection, water or food-borne pathogens, polio, tuberculosis, measles, viral hepatitis, syphilis, or all other infectious and parasitic diseases.

You know, the 10 leading causes of death have just been pretty well defined in this sense-of-the-Senate resolution. It makes it clear the Federal regulators can go right ahead and promulgate regulations that are necessary in this area.

What this bill requires is that they do it in a good, cost-efficient manner with good risk assessment considerations as part of the process.

This makes sense.

But the reason we listed all of these diseases in the amendment is that we know we are going to get papered to death on the other side with amendment after amendment with every special interest trying to exempt themselves from the effects of this bill, when in most cases they would be exempt anyway, just as mammography is. This is all for the purpose of making political statements.

We think it is time for the Senate to get around to passing this bill. We need to get time agreements and debate the serious issues that are really needed to be resolved, including the amendment of the distinguished Senator from Louisiana.

I yield the floor.

Mr. GLENN addressed the Chair.

The PRESIDING OFFICER (Mr. THOMPSON). The Senator from Ohio.

Mr. GLENN. Mr. President, I point out that the second-degree amendment starts out with "It is the sense of the Senate." That is all it is, a sense of the Senate. It does not give anything binding and has no standing in law whatsoever. It just says the thoughts of the Senate at the moment happen to be that.

What we are talking about is giving real protections here that the Senator from California is offering as a proposal to exempt this from some of the requirements that would be imposed upon it by S. 343.

One of the reasons she is concerned about this, of course, is because the existing rule, as has already been pointed out, is going to be improved. They have an improved regulation coming out supposedly in October. That would be subject now to all of the review processes. It would have to go back through all of the requirements that are in S. 343, the Dole bill. That does cause delay.

My colleague from Utah asks: Why can we not get it out? They have 3 years. What is the delay? If they are concerned about this, why do we not get that out?

I think there is a lack of knowledge around here about what a regulation is and how voluminous it could be. We used as an example yesterday just one. Let me give an example. This is important for people to understand. Regulations are not something you go over there for and have a little meeting, decide this is what you are going to put out, and then you put out the regulation. They are required by the law that we passed here to go through multiple procedures such as peer review, public meetings, and scientific analysis in all of these areas.

I use this as an example to show why it is not so easy to get a regulation out.

Mr. JOHNSTON. Will the Senator yield for a question?

Mr. GLENN. I would rather go through my statement. Then I will yield.

The Clean Water Act passed in 1972; was amended in 1972; an amendment passed in 1977; in 1987, it had another amendment. For the Clean Water Act, one of the things that was required was effluent limitations on metal products and machinery. It took 8 years to get that one regulation out of EPA. Could they have done it faster? I do not know whether they could have or not. But for the "Effluent Limitations Guidelines and Standards for Metal Products and Machinery", which is the title of it, it took 8 years to get out. This is just the index of that regulation, what is covered. I do not know how many pages it is. It is several hundred pages.

The other document we have here—this is what they were required to do by the law which we passed here. They do not dream these things up. They are by law. This is the development document for how they do the index and how they do the regs. This is the guideline for it—2 inches thick of fine paper.

Listen to this: The final documents on this regulation cover shelf space of 123 feet. To give some idea what that means, we asked the Architect yesterday how high this Chamber is. It is about 42½ feet. The regulations on this one regulation out of several hundred put out pursuant to the Clean Water Act of 1972 are 42½ feet. That means the documentation would be three piles of paper in this well to the ceiling right here—three piles of paper, and that is just one regulation and the backup substantiating documents.

Why do we need that much? I do not know. Look in the mirror, Members of Congress. Look in the mirror, Members of the Senate, as to why we required that much. We are the ones who put out the guidelines for the people as to what is required, what they have to do, and all the studies they have to make in order to make this whole thing work. That is what is required just in one regulation. That is the reason you cannot get these things out in such a short period of time.

We have had, under the Presidential Executive order, requirements to do some of the cost-benefit analysis and to do some of the risk assessment and so on that is being asked for here. Some of those things are already underway. But when we ask why they cannot get these things out faster, that happens to be one of the reasons.

I just hope that the public and the media that have been excoriated here a little bit this afternoon—not on this side of the aisle—but I hope the public and the media have been paying attention to the debate on this bill, because yesterday we spent most of the day trying and finally succeeding in getting votes on two proposals to exempt two rules now in the pipeline designed to protect our people from illness and from death:

The Daschle amendment to exempt from the potentially destructive provisions of this act a rule that protects meat and poultry from contamination with E. coli was defeated by a vote of 51 to 49; the Kohl amendment to exempt from the potentially destructive provisions of S. 343 a rule to protect our drinking water from contamination from cryptosporidium was tabled 50 to 48.

What do we want to conclude from those votes? What principles should we draw from those votes?

S. 343 has a number of exemptions built into it. No one seems to have pointed these things out. There are a number of exemptions already in this thing.

For instance, first, the IRS rules or other rules concerning assessment and collection of taxes and duties—these are all exemptions.

Second, any rule implementing international trade agreements. The Maquiladora in Mexico get an exemption, protection. For the safety and health of Americans, we do not.

Third, any rule that authorizes the introduction into commerce of a product like a bioengineered tomato is free and clear, for instance. It is exempted.

Fourth, any rule or agency action relating to the public debt—that is, selling a Government bond—is exempted, and should be. I agree with these.

Fifth, any rule required to be promulgated at least annually pursuant to statute. For instance, duck hunting rules. I favor this. We exempted duck hunting rules that have to be put out by Federal mandate each year. Duck hunting rules are exempt from this bill. But serious health and safety protections are not.

Sixth, any rule that approves corporate mergers and acquisitions. Wall Street gets an exemption. But the average American's protection from bad meat and bad water does not get an exemption. It does not get that same kind of exemption.

Seventh, any rule relating to the safety and soundness of banks and lending institutions is exempted.

Eighth, any rule by the FERC [Federal Energy Regulatory Commission] that reduces regulatory burdens is exempted. Electric utilities, for instance, get an exemption. For protection from bad meat and bad water, we could not even get that same kind of exemption.

Mr. President, I do not object to the above exemptions. I favor those exemptions. But I say along with it, do we not want to hit some balance and say that the health and safety of our families, of our children, our fathers and mothers, deserves similar protections?

The health and safety concerns addressed in the E. coli and the cryptosporidium votes yesterday are not imagined. Those dangers are not dreamed up dangers or mere possibilities. Quite the opposite. E. coli and similar foodborne illnesses kill some 3,000 to 7,000 people every year in this country. A couple of years ago in Milwaukee, cryptosporidium in the water supply made over 400,000 people seriously ill and 100 of them died.

So these are not imagined dangers, they are real dangers. We know the danger from them. They are not fictitious thoughts that need more and more and more review to determine if there is a danger. Nothing should be permitted to hold up the corrective regulations as could happen under S. 343.

I wish to protect the exemptions listed above. I think they are correct, and I am glad they are in there. Yes, we want to protect those, of course. But I would note that with the exception of duck hunting and the Federal Energy Regulatory Commission, the other six exemptions deal with economic matters.

Now, that, too, is fine as far as I am concerned, but I also firmly believe that we should show the same concerns for known health and safety matters with all of our people.

Mr. ROTH. Will the Senator yield for a question?

Mr. GLENN. Just a moment until I finish my statement here.

Now, it was also brought up that our side of the aisle, apparently it is being talked about that we are delaying things somewhat. It was said that the administration is sending up red herrings. Last night, the distinguished majority whip, I believe, termed them nit-picking on our side.

Yesterday, since we started debate on this bill, we have had 16 amendments put out, 11 by Republicans; 6 of those were withdrawn; we had five votes on Democratic matters here and these were on such things as E. coli, killing 500 people a year; cryptosporidium, from which 100 people died—foodborne diseases kill 3,000 to 7,000 people annually—votes on Abraham and Nunn on small business matters; Senator DOLE put forward an E. coli amendment himself; Johnston-Levin combined to deal with supermandate problems.

So I do not see that these are nitpicking, and these are not red herrings. These are very substantive amendments, most of them dealing with the health and safety of the people of this country.

What the Senator from California is talking about is something that is very important—mammography, the standards for it, and surely having that exempted so that they would not have rules delayed for several years, or the potential for the new and improved rules, they hope, to be delayed for several years, while S. 343, if passed, would force them to go back into a reanalysis that could take a lengthy period of time, as I indicated, from what happens under just one regulation and all the voluminous paperwork which is part of that process.

I do not see these things as being nitpicking as they were referred to last night, nor do I see them as a red herring now.

So I would like to point out once more before I yield the floor here that the second-degree amendment by the distinguished majority leader is a sense-of-the Senate and nothing more. It is not binding in law. And that is what the Senator from California is talking about. I do not disagree. I do not know whether I would vote for this sense-of-the Senate or not. I presume that I would. But it still does not have standing in law. And so it means nothing except it is filling up the tree and trying to delay things further, I guess. Delay on this one certainly is not coming from our side of the aisle.

I yield the floor.

Mr. JOHNSTON. Mr. President, will the Senator yield for a question?

Mr. ROTH. Will the Senator yield for a question?

Mr. GLENN. I suggest the absence of a quorum temporarily.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. JOHNSTON. Mr. President, I was going to ask the Senator from Ohio and perhaps the Senator from Delaware to tell me about the status of the rulemaking under mammography. What I wish to know is if the information I have is correct, which is that there is an interim final rule which has been published and is in effect on mammography. Is that correct? I ask the Senator from Delaware, does he know that, or the Senator from Utah?

Mr. HATCH. Yes, that is correct.

Mr. JOHNSTON. It is. And it has the effect of an interim final rule?

Mr. HATCH. That is correct.

Mr. JOHNSTON. And as I understand it, in October there will be a proposed rule to be published by the FDA. Some say it is not on the President's schedule; some say it is on the President's schedule. Does the Senator from Utah know?

Mr. HATCH. We have been told that that is the case, that there will be a proposal in October. However, it was not listed in the May 5 Federal Register which outlined the administration's regulatory program for the year. But we now have been told by the FDA that it is proposed for October.

Mr. JOHNSTON. There is in fact some doubt as to whether that will be——

Mr. HATCH. I do not think there is much doubt. I think it will happen, but I cannot guarantee it.

Mr. JOHNSTON. But it is a proposed rule to be published in October, by some statements?

Mr. HATCH. That is right.

Mr. JOHNSTON. There may or may not be doubt about whether they will actually go to the proposed rule, but they might as of October go to a proposed rule.

Mr. HATCH. That is right.

Mr. JOHNSTON. Now, that proposed rule——

Mr. HATCH. The odds are they will.

Mr. JOHNSTON. That proposed rule is not an effective rule; it is, in effect, a proposal for rulemaking which will require the full rulemaking process. Is that not correct?

Mr. HATCH. That is correct.

Mr. JOHNSTON. Now, I also understand that their analysis shows that it has a $97 million impact, and under the President's Executive order, which calls for risk analysis, which has a $100 million cutoff, that would not qualify under the President's order as a major rule?

Mr. HATCH. That is correct.

Mr. JOHNSTON. They are, however, as I understand it, treating this as a major rule. Is that correct?

Mr. HATCH. We are told that, but we do not know that. That is the rumor.

Mr. JOHNSTON. I understand that they are treating it as a major rule, that they are proceeding with a risk assessment and with a cost-benefit analysis as though it were a major rule.

Mr. HATCH. That is our understanding.

Mr. JOHNSTON. Now, I also understand that under the President's Executive order, this risk analysis which they are getting ready to perform and the cost-benefit analysis which they are getting ready to perform—first of all, has that been done, the risk assessment and cost-benefit analysis? Has it been done or is it a plan to do?

Mr. HATCH. We do not know whether it has been done. Certainly they should plan to do it.

Mr. GLENN. Mr. President, I was going to put in a quorum call because the distinguished Senator from California had to unavoidably be absent for a few minutes, and she asked I put in a quorum call. I did not know whether this was going to go on very long or not. I would like to wait until she comes back. She will return within 10 minutes, I understand. And I hate for all the discussion going on on her amendment without her being in the Chamber. She asked me to put in a quorum call for just a few minutes, and I will do that and delay things for just a few minutes. So I suggest the absence of a quorum.

Mr. ROTH. Will the Senator withhold that request? I had a question or two I would like to ask him.

Mr. GLENN. This is all on the same subject, though.

Mr. ROTH. Regarding the statement the Senator just made, a question referring to that.

Mr. GLENN. It is all on the same subject. I would rather wait until she gets back. I let this go a while in spite of her request. It is going to go on here for quite a while apparently, so I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. ROTH. I ask unanimous consent that the order for the quorum call be rescinded

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROTH. Mr. President, I would like to raise two or three questions with my distinguished colleague, the Senator from Ohio. I would like to point out that the legislation of the distinguished Senator from Ohio, S. 1001, of course, contains cost-benefit analysis, the same as does the bill before us. But in contrast to the legislation that we are considering which has an exception to the cost-benefit analysis, I wonder if the distinguished Senator from Ohio could tell me where S. 1001 contains any exception from the cost-benefit analysis where it is impracticable because of an emergency or health or safety threat?

Mr. GLENN. I would reply to my friend from Delaware that I think the major difference that protects the health and safety of the people in this country is that all the rules that are under S. 1001, all the rules in the pipeline stay in effect. We would not knock any of them out. We did not send them back and make them go through another long and lengthy process during which time the people would not have the same protection. And also we have no petition process in S. 1001. These things can be bogged down.

Mr. ROTH. I would point out to the distinguished Senator, what we are talking about is a future rule. And if we are not in the immediate case, there are going to be other situations where there are going to be serious threats to health or safety. My question to you is, where is the exception in your legislation where it is impracticable to be making a cost-benefit analysis?

Mr. GLENN. I am not sure in the future it is any different from this bill at all, as far as in the future. What we are talking about are all these things like E. coli, and cryptosporidium that there could have been a challenge made to them in this interim period after the April 1 cutoff.

Mr. ROTH. Let me point out that in S. 343, it specifically provides that "A major rule may be adopted, may become effective without prior compliance with this subchapter if, A, the agency for good cause finds that conducting cost-benefit analysis is impracticable due to an emergency or health or safety threat that is likely to result in significant harm to the public or natural resources."

My question to you is, where is there that kind of exception, that kind of waiver in 1001?

Mr. GLENN. Well, let me tell you about E. coli in particular as it applies here. The agency has told us the rule that includes E. coli protection is a general one and cannot legitimately be considered an emergency rule. Accordingly, the emergency provisions of S. 343 do not apply to the regulation in the pipeline concerning E. coli. And the Dole amendment on E. coli does not prevent the USDA proposed regulation on meat and poultry inspections from being sent back to square one again for cost-benefit analysis and risk assessment.

Mr. ROTH. Again, as far as E. coli is concerned, that specifically is covered in our legislation. But again I would like to know the line and page in S. 1001 where there is an exception to the cost-benefit analysis along the same lines contained in S. 343.

Mr. GLENN. I cannot give the line and the page right now. But I will look it up here. We will try to get an answer very shortly.

Mr. HATCH. Will the Senator yield?

Mr. ROTH. Yes.

Mr. HATCH. The fact of the matter is that if there is no emergency, then why not do a cost-benefit analysis?

If there is an emergency, there is nothing in Senator GLENN's bill that takes care of it.

But there is in our bill which is now under consideration on the floor. Under section 622(f) and section 632(c)(1)(A), cost-benefit analysis and risk assessments are not required if "impracticable due to an emergency or health or safety threat that is likely to result in significant harm to the public or natural resources."

There are no exemptions in the Glenn bill at all for cost-benefit analysis where there is an emergency.

I did not mean to interrupt you, but I wanted to point that out.

Mr. ROTH. I think it is important to understand that, in a case of health or safety threat. It does not have to be an emergency. The legislation provides that an exception can be made in the case of an emergency or health or safety. So there are three different exceptions. So there does not——

Mr. GLENN. I would point out——

Mr. ROTH. Or a threat.

Mr. GLENN. I would point out to my friend from Delaware the exception for that would only be for 180 days. Then it has to go through all the reanalysis and may be held up for years.

Mr. ROTH. That is totally inaccurate. There is nothing in the legislation that says the rule terminates.

Mr. GLENN. But it is judicially challengeable. And there is nothing in there that says it is not challengeable.

Mr. HATCH. We just accepted an amendment this morning to make 1 year.

Mr. GLENN. One year. I am corrected on that. The original language was 180 days in the legislation. And the Senator from Louisiana changed that to 1 year. And that is correct. That has been changed.

Mr. ROTH. I reemphasize a point I made earlier that it can only be challenged in court to have the analysis made. It does not result in the rule itself being terminated. As a matter of fact, this section starts out that a major rule "may be adopted and may become effective without prior compliance with the subchapter."

But a second question I would like to ask the distinguished Senator from Ohio is, he spoke about E. coli and of food poisoning and a number of others. And yet I do not find any of those matters to be listed in the Democratic list of concerns with S. 343. There were presumably 9 major problems with the legislation plus another 17 minor problems. But I do not recall seeing any of these issues being included as part of the problems with the 777 version of the Dole-Johnston substitute.

I have in my hand the document given to us by the Democrats as areas of concern with the legislation before us. At 9:30 this morning, we were supposed to have a discussion of these provisions or concerns. That was not held. But nowhere—but nowhere—do I see the issues raised in this paper that the distinguished Senator raised this afternoon.

Mr. GLENN. Obviously, we missed one. We have one more to add. Put it on. Fine.

Mrs. BOXER addressed the Chair.

Mr. GLENN. I am serious about that. One comment and then I will yield.

Mr. ROTH. I yield to——

Mr. HATCH. May I ask one question?

Mr. ROTH. May I ask who has the floor?

The PRESIDING OFFICER. The Senator from Delaware.

Mr. HATCH. If I may ask one question of my colleague?

Mr. ROTH. I am happy to yield for a question without losing my right to the floor.

Mr. HATCH. If I may ask one question, whether it is 1 year, 180 days or 1 minute, is it not true that the rule will not terminate?

Mr. ROTH. Absolutely. That is exactly the point I have been making.

Mr. HATCH. The rule continues to remain in effect.

Mr. ROTH. Absolutely. There is nothing in the legislation that terminates the rule.

Mr. HATCH. That is true on the rule on mammography, is it not?

Mr. ROTH. Absolutely.

Mr. HATCH. So, what are we arguing about?

One reason we filed this perfecting amendment is because there is no need for this amendment from the distinguished Senator from California, because the bill addresses the issue. There is an interim rule. The fact they do not have a final rule is the fault of the administration and the FDA.

I will say that the amendment of the Senator from California will bring about a beneficial but unintended effect, because I am quite certain the FDA is going to work hard to get their rule done by October. So that will be a good effect of this amendment, in my opinion, but I still believe there is no reason to keep making these special exemptions for anything. Is that not true?

Mr. ROTH. That is absolutely correct.

Mr. GLENN. No, that is not——

Mr. ROTH. Let me——

Mr. JOHNSTON. Mr. President, will the Senator yield for a question or series of questions, or does he want to finish his statement?

Mr. ROTH. I would rather continue just for the moment. I will be happy to yield in just a few minutes. I think it is extremely important to understand that in the Dole-Johnston legislation, on page 25, we have a specific exception to cover the case of emergency health and safety from the general rule of requiring a cost-benefit analysis.

Again, I find no such exception in S. 1001. As a matter of fact, I look on page 5 of S. 1001 and it says that:

> The term "rule" shall not include—
>
> (A) a rule of particular applicability that approves or prescribes for the future rates, wages, prices—

So forth and so forth.

> (B) a rule relating to monetary policy proposed or promulgated by the Board of Governors of the Federal Reserve System or by the Federal Open Market Committee;
>
> (C) a rule relating to the safety or soundness of a federally insured depository.

It goes on with various housing, foreign banks, so forth.

> (D) a rule issued by the Federal Election Commission or a rule issued by the Federal Communications Commission pursuant to section 203 of the Communications Act of 1934.

Those are the exceptions to the rule, in contrast to our legislation where we specifically provide a generic waiver.

Nor do I find anywhere, and I again ask the distinguished Senator from Ohio, where there is any kind of exception in the case of E. coli or breast cancer in the legislation proposed by him.

Mr. GLENN. I reply to my friend from Delaware, in our legislation, S. 1001, rules in the pipeline are permitted to go ahead and be in effect, where under S. 343, they would have to go back and would have 1 year to comply. If they did not comply, then I do not see anything in here at all that says it could not be judicially challenged, which it could.

Mr. ROTH. What about next year under your legislation?

Mr. GLENN. You cannot guarantee getting these things through. Ours leaves things in the pipeline, and we have no petition process. The rules in the pipeline would stay in effect. That is what we are talking about.

Mr. ROTH. The question I am raising, if you have a situation arise where it is an emergency, a safety threat or a health threat in the future and it is impractical to make a cost-benefit analysis, where is the exception in your legislation?

Mr. GLENN. In the future—if we are talking about in the future, I think both pieces of legislation are pretty much identical to what happens in the future. We are talking about the interim period.

Mr. ROTH. That is the point I am making. Our legislation, S. 343, on page 25 has a specific exception to cover these situations. There is no such exception, no such waiver in S. 1001. If I am wrong, I ask for the page and line number.

Mr. GLENN. I think the difference on this, I reply to my friend, is that you have so many more decisional criteria that have to be complied with in this and all complied with within a year, which is not likely, in most cases, to be completed within a year.

Mr. ROTH. But I think the complaint, I will say, is the time that would take in making the cost-benefit analysis.

Let me ask you this. Does your legislation exempt E. coli? Does it have any exemption covering E. coli?

Mr. GLENN. It would not have to because in the pipeline that is covered, and we have no cutoff threshold that would knock it out of the pipeline, we let things in the pipeline stay in there. So E. coli—incidentally, while we are on the subject of E. coli, here is out of Tennessee right now, July 4, five cases of E. coli being treated. One woman, I think one child has already died, I believe it is. These are the press reports I was just handed a few moments ago, multiple newspaper reports about an E. coli outbreak in Tennessee right now. So these were not theoretical things we were talking about on the floor yesterday.

Mr. ROTH. The point I would like to make is, yes, there are going to be serious health, safety and other problems. But the important difference between the legislation before this committee and the amendment being proposed by the distinguished Senator from Ohio is that there is a waiver that anticipates what might happen in the future. That is a critically important difference.

Today it may be E. coli, tomorrow it may be heart disease, a third day it may be something else. But under our legislation, we have anticipated that situation by having a generic exception that covers those situations. That is the reason it is not necessary to spell out each of these exceptions as being proposed, except for public relations reasons.

Mr. GLENN. Let me ask this, then. Does the Senator from Delaware believe that rules in the pipeline now that deal with health and safety should be permitted to remain in effect without having to go through a whole new series of hoops?

Mr. ROTH. Well, we voted yesterday April 1 to make those effective under the Johnston amendment.

Mr. GLENN. I am talking about things in the pipeline that are not to be completed until after April 1. That is the whole area of contention right now—E. coli, cryptosporidium, and all the rest.

Mr. ROTH. Here the exception applies. That is the purpose of this exception. It applies to those that are in the pipeline.

Mrs. BOXER. I have a parliamentary inquiry.

Mr. ROTH. It applies in the future.

Mrs. BOXER. Parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Delaware has the floor.

Mrs. BOXER. I have a parliamentary inquiry.

The PRESIDING OFFICER. Does the Senator from Delaware yield?

Mr. ROTH. No, the Senator does not yield.

The PRESIDING OFFICER. The Senator has the floor.

Mr. ROTH. Mr. President, I think it is critically important to understand that the argument made by the proponents of the pending amendment is that a future anticipated regulation on mammograms would be delayed by compliance with S. 343, and that during such delays, lives would be lost.

In order to address such issues, the majority leader last Tuesday offered an amendment, which was adopted by the Senate, that provides that in exactly those circumstances described by proponents, the relevant agency may issue the rule first and allow it to take effect and, thereafter, finish compliance with S. 343.

Through the Johnston amendment, adopted today, the agency would have 1 year to finish its compliance. The language of that amendment says that a rule, such as the mammogram rule, "may become effective without prior compliance"—Let me read that again: "may become effective without prior compliance if the agency, for good cause, finds that conducting cost-benefit analysis is impractical due to a health threat that is likely to result in significant harm to the public."

Mr. GLENN. Will the Senator yield for a question?

Mr. ROTH. Yes, I will be happy to yield for a question.

Mr. GLENN. But in that case, the rule would still have to go back and go through the new requirements of S. 343 on being reanalyzed, and a new rule as an improvement would not be able to go into effect until that had been completed, which may be several years later.

Mr. ROTH. No, no, that is not correct. Again, I will reread what I read twice. It says, "may become effective without prior compliance * * *" That is critically important.

What we are trying to anticipate in the language on page 25 of S. 343 is making certain that where a situation arises because of cancer, because of heart disease, or whatever it may be, the rule can become effective without making the cost-benefit analysis if the agency finds that conducting such analysis is impractical due to a health threat. Our language is generic. It anticipates that there may be many different situations. That is the reason we do not want to get into spelling out exception by exception.

Mr. GLENN. Might I ask a question?

Mr. ROTH. Yes.

Mr. GLENN. I ask this question with specific reference to the mammography proposal. Would it be the opinion of the Senator from Delaware that the mammography proposal and the proposal that will be made in October, and on which a lot of work has already been done, those should be permitted to go through and be in full effect without having to go back and comply with a lot of new rules and regulations, as required in S. 343? In other words, it could go into effect and stay in effect.

Mr. ROTH. The agency has that authority under our legislation, that is correct.

Mr. GLENN. Without any challenge, without having to go back and go through the requirements of S. 343, is that correct?

Mr. ROTH. Basically, that is correct. They are expected to go ahead and make a cost-benefit analysis the year following. They are required to make it. But that, again, in no way terminates the rule. The rule continues so people are protected. That is what the whole point of the exception is.

Mr. GLENN. A point I made a while ago on what is involved in a regulation is that the likelihood of this being completed in a year is probably not very good. It is probably pretty remote. Most rules take several years to finalize. What happens at the end of that 1-year period? It would be judicially challengeable and could be knocked out. That is the uncertainty we do not want to leave people with. That is the construction of the argument right there.

Mr. ROTH. An individual can go into court and ask that the analysis be made. But that will, in no way, terminate the rule.

So the important fact is that we are protecting the American people, the American public. And where there is a health problem, an imminent threat, or whatever, an exception to the rule is allowed. So what we have done in S. 343, in contrast to S. 1001, has anticipated this need.

So, again, the distinguished Senator from Ohio made many complaints that, as I said, seem curious to me. He complains that the emergency is exempted and S. 343 is insufficient. Yet, his bill, S. 1001, has no exemption at all. The question is, why? Is it not needed? Again, he complains that S. 343 has no individual listing on the E. coli or mammography rule. Yet, his bill, S. 1001, has no exemption at all. Why? It is not needed.

Mr. GLENN. Are you asking me a question?

Mr. ROTH. No.

Mr. GLENN. Everything that is in the pipeline stays there. It does not have to go back for reanalysis. That is the reason.

Mrs. MURRAY. Will the Senator from Delaware yield for a question, Mr. President?

Mr. ROTH. My question is—

Mrs. MURRAY. Mr. President, will the Senator from Delaware yield for a question?

Mr. ROTH. In just a moment. Again, I want to point out that, in the future, a situation can arise under S. 1001 where there is a threat to health or safety, or an emergency and, yet, there is no exception, no waiver permitted under S. 1001. The important point, of course, is that this situation has been addressed in S. 343.

Mr. HATCH. Will the Senator yield for another question?

Mr. ROTH. I am happy to yield.

Mr. HATCH. Excuse me. We want to make sure this is understood. Is it true that this interim rule was issued in December of 1993 on mammography?

Mr. ROTH. Yes, that is true.

Mr. HATCH. Is it not also true that it was in the pipeline before April 1 of this year?

Mr. ROTH. Yes.

Mr. HATCH. Which is the date in this bill, and we protect rules in the pipeline, also, do we not?

Mr. ROTH. That is true.

Mr. HATCH. I think what the Senator is trying to explain here is that the Glenn bill has no protection, no exception at all for E. coli, mammography, or any of these other items. And we do. We provide that if there is even a threat, they do not have to do cost-benefit analysis or risk assessment.

Mr. ROTH. That is correct.

Mr. HATCH. If there is a threat, we do not have to do cost-benefit analysis or risk assessment.

Mr. ROTH. That is correct.

Mr. GLENN. No, it is not.

Mr. HATCH. Yes, it is.

Mr. GLENN. What the Senator says is not correct, no matter what you say. Our bill has the Administrative Procedure Act to go along with——

The PRESIDING OFFICER. The Senator from Delaware has the floor.

Mr. GLENN. Will the Senator yield for my statement?

Mr. ROTH. Without losing my right to the floor.

Mr. GLENN. The Administrative Procedure Act says that when the agency, for good cause, finds and incorporates the finding and a brief statement of reasons therefore——

The PRESIDING OFFICER. The Senator can only yield for a question. Does the Senator from Delaware yield for that purpose?

Mr. GLENN. Well, I will ask a question. Would the Senator agree with the Administrative Procedure Act, that it covers our bill, in that when it says, "When the agency for good cause finds and incorporates the finding and a brief statement of reasons there in the rules issued, that notice and public procedure thereon are impracticable and unnecessary and contrary to the public interest," it would also mean that the agency could control what is an emergency and not? In your bill, it goes back for a year's reanalysis. It is required.

Mr. ROTH. I point out that the Senator is making my argument. That legislation applies, obviously, to S. 343. So what you are, in effect, saying is that none of these exceptions that have been discussed in the last 3 days are necessary because they are already covered by the Administrative Procedure Act.

Mr. GLENN. Well——

Mr. ROTH. That is the main point I have been trying to make, that these specific exceptions are not necessary. If you want to put it on the basis of the basic rule, fine. But I will also point out that, in our specific legislation, we have waivers both with respect to cost-benefit and with respect to risk assessment. So that is the reason we do not think any of these special cases are necessary.

Mr. GLENN. Would the Senator agree, then, that we should change S. 343 to just say that rules in the pipeline stay in effect?

Mr. ROTH. Mr. President, I would not.

Mr. GLENN. That means they have to go back through a whole new procedure that will delay them for years and years.

Mr. ROTH. The Administrative Procedure Act exception, as I said, applies to S. 343 equally. But we do have a better exception. The APA exception only applies to notice and comment for the rule. The exception in S. 343 applies to cost-benefit analysis, and that is what is critically important.

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. BOXER. Thank you, Mr. President. I ask unanimous consent to have printed in the RECORD a clip regarding E. coli that has been occurring in Tennessee in the last few days.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the News Sentinel, June 30, 1995]

BACTERIA STUDIED IN ILLNESS OF BOY, 11

(By Ken Garland)

MARYVILLE.—State health officials hope to know by this afternoon if an 11-year-old Maryville boy—hospitalized since Sunday—is suffering from a severe form of sometimes-fatal E. coli bacteria.

Logan Duckett, son of John and Debbie Duckett, was in fair condition Thursday and is expected to suffer no lasting effects from the illness, said Dr. Charles Raper, his doctor.

The boy was hospitalized after suffering since June 22 with diarrhea, Raper said. Preliminary test results by the hospital laboratory indicated he might be suffering from 0157:H7, the name for the severe form of E. coli.

The state health department is conducting laboratory tests. "We're waiting on confirmation," said Dr. Paul Irwin, East Tennessee director of the Tennessee Department of Public Health. "We know it's E. coli; we just don't know if it is 0157:H7."

E. coli is a bacteria found in meat that has been tainted, usually with feces, Raper said. Proper cooking of the meat will kill the bacteria, officials said.

Mrs. BOXER. Mr. President, I am very pleased to get the floor more than an hour after I introduced a very important amendment. There is a lot of talk about the bill in general. I guess it is time to give a little bit of a wake-up call to some of my colleagues.

This second-degree amendment which would act as a substitute for the Boxer-Murray-Mikulski amendment is the most cynical parliamentary attempt to gut an amendment that I have ever seen.

I have only been here a few years. I have seen a lot of second degrees from both sides. Usually when you second-degree an amendment, it has something to do with the underlying amendment. The underlying amendment that I have put forward would say that the rules regarding mammography shall move forward and they will not be encumbered by this bill.

We have heard three learned Senators squabbling over there for 60 minutes. No one understands anybody else. Ask what is on page 9, page 4, line 1—if these three cannot agree, and they are friends—imagine the field day the lawyers will have.

Should we move this mammography rule forward? Is it stuck? Is it stopped? I want to say I do not want to play Russian roulette with the women of this country.

When I laid down my amendment, it was very clear. I am really glad we can talk about it. It basically said it was very important to keep this rule moving. It is interesting that my friend from Utah complains it has taken so long.

On the one hand, he says there is too much regulation and the bureaucrats cannot wait to regulate; on the other hand, he complains that this regulation is taking too long. We cannot have it both ways. Better they are careful with this rule.

I will go into what this rule does. It is complicated. The fact is, we should not derail it now; 46,000 women every year die of breast cancer, and many of them, tragically, die because the mammogram they took was inaccurate or the technician was not highly trained, or the equipment was not good, it was slipshod.

Then I am told that I am offering a special-interest amendment. I take great offense. What is the special interest? The women of America? Give me a break. The women of America want this amendment.

I have a letter on all Members' desks, supporting this amendment, from the National Breast Cancer Coalition. Is that a special interest? If women who have had breast cancer, who have had loved ones have breast cancer, survivors, if that is a special interest, I do not know what is going on around here.

I will name the special interests—the people who do not want to be regulated, who do not want to upgrade their mammography equipment, who want to get away with hiring people to work for them who are not as well trained and maybe come at a cheaper price. We should talk the truth around here for a change.

Mrs. MURRAY. Mr. President, will the Senator yield?

Mrs. BOXER. I am happy to yield to the Senator.

Mrs. MURRAY. Mr. President, I ask my colleague from California, her amendment specifically exempts the Mammography Quality Standards Act regulation from the underlying bill, is that correct?

Mrs. BOXER. That is correct.

Mrs. MURRAY. The second-degree amendment placed on the desk by Senator DOLE is simply a sense of the Senate, is that correct?

Mrs. BOXER. That is correct. It is a sense of the Senate that does not even deal with this subject matter. It just says that nothing in this bill will harm anybody.

Mrs. MURRAY. If the Senator from California will let me ask another question, certainly she sat with me throughout the budget debate and listened to our colleagues say sense-of-the-Senate resolutions are not binding, and I assume she feels as I do, and I will ask the Senator, will the Senator be able to go back to her friends diagnosed with breast cancer or to women in her State and say, "Don't worry, we have taken care of you with a sense of the Senate that is not binding?"

Mrs. BOXER. I say that any Senator who went to someone who was worried about breast cancer and said the sense of the Senate was going to do one thing to move forward the rule on mammography would simply not be telling the truth.

Of course, the Senator is correct. We cannot tell anybody who cared about this issue that the Dole substitute does a thing to help move the mammography rule along.

Mrs. MURRAY. I thank my colleague.

Mrs. BOXER. Thank you.

I had the feeling that my Republican colleagues would offer a second-degree amendment like this because they have done it before on other amendments.

They did not tell me they were going to do this, but they wanted a time agreement, and I said absolutely. I would give 15 minutes on my side, 15 on their side if there were no second-degree amendments. They said, "Gee, we have not seen your amendment, Senator, how can I do that?"

I gave my amendment, and miraculously in 30 seconds the majority leader appeared with this sense-of-the-Senate substitute. That was fast work. But it will not work. It will not work. I am telling my friends that 46,000 women die of breast cancer every year, so I will stand on my feet for 46,000 minutes or 46,000 hours or whatever it takes, and I know my friend from Washington is in complete agreement so there are two of us, at least.

And by the way, there are a lot more on this amendment and I will mention who they are.

Mr. KENNEDY. Mr. President, will the Senator yield?

Mrs. BOXER. I am happy to yield to the Senator.

Mr. KENNEDY. The Senator has in a very important way changed this debate from just the questions of regulations of rules into real terms.

What we are talking about as the Senator from California and the Senator from Washington, we are talking about mothers, we are talking about sisters, women in our society for whom the incidence for cancer has grown significantly over the period of recent years with regard to breast cancer.

Does the Senator realize that when the Senate, in the last Congress went on record, it was a unanimous vote, unanimous out of our committee to develop these regulations, unanimous in the U.S. Senate to move ahead, unanimous in the House of Representatives in their committee, and unanimous on the floor to develop the regulations? The need is out there.

Can the Senator possibly explain to any Member why, when it was the result of careful consideration both in terms of the committees and the debate here, the recommendations that were made by the testimony that was given overwhelmingly favorable with a sense of urgency in asking not to delay and to move ahead, and now we have the final regulations just being brought up, that we are asked to follow through some other procedure, some other procedure, some other words, which we find out the meaning of which is still very much left in doubt?

I do not know whether the Senator from California was here when we debated the Civil Rights Act, when we spent months here trying to debate the difference between significant and manifest.

Here we have a change in the food standards into insignificant risk without definition. We will come back to that later during the course of the debate on food standards and food safety.

Can the Senator explain to the American people why, if there was such a sense of urgency that Republicans and Democrats, all Americans, are getting behind and say get about the business of doing it? Does it make any sense to the Senator?

Mrs. BOXER. I say to my friend, who is such a leader in all health issues, including this breast cancer issue—it makes no sense to me. And that is why I committed myself, and I know my colleagues have as well, and I am so appreciative the Senator was able to get to the floor at this time, to focus on this issue.

Mr. KENNEDY. Just finally, is the Senator concerned, as I would be, that there may be manufacturers who are out there, who are producing equipment today, that do not meet the standards, and that would be put in a position to question the standards in the future because their equipment does not meet those standards, and they would be able to delay the implementation of those standards? Or there may be groups out there that are going to question and challenge it because they do not have the training and they do not want to comply with the various things. We have heard that, as a reality. We have heard of manufacturers. We have heard of corporate interests that want to resist these kinds of standards.

But what we are faced with is why should we side with those interests when we have something which is of such importance to women, not just to women in our society, to mothers in our society, to sisters, to wives, to members of our families—that is so important.

Why should we desist and give in to these special interests, which are the special interests which are the manufacturers that will be able to tie this up, even under the existing standard, with the look-back provisions, and all the other kinds of mechanisms which have been reviewed? I would like to stay away from those. We can get into those in debate, because there are those here in the Senate who would like to just tie us up and talk about procedure when the Senator is talking about the impact on real people. Why should we side with those companies or manufacturers who will delay this rather than with the sound health policy that would implement it?

Mrs. BOXER. Let me say to my friend, he is so right, because he worked so hard on getting the bill through and getting the law passed in 1992. Now the rule is coming to fruition in October. We are going to have the rule.

If the Senator would have been here, I say to my friend from Massachusetts, three friends from the opposite side of the aisle could not even agree on how this new legislation is going to work. What we are saying is, do not put at risk the women of America for this battle over words. The Senator is so right. We get down to this battle over words and lines on pieces of paper. I am just so pleased the Senator from Massachusetts came here because, after all, why do we have rules? Because we pass legislation.

And the Senator reminds me—which I frankly did not remember—that Republicans and Democrats voted unanimously for the legislation that is leading to this rule that is coming forward in October. Why on Earth we are going to get into a delaying tactic here, I do not know.

I say further to my friend, I am worried even about this debate, that people listening to this debate, business people, may think we are losing our will to move forward with safer standards. It is not just the Senator from California, or Massachusetts, or Washington, who are fearful of this. We have the agencies telling us very clearly that if this bill passes without amendment, this rule will be derailed. If we are going to make a mistake—and our colleagues assure us they are wrong—I do not want to make a mistake in this subject area. Frankly, there are other areas I would not get so upset.

What I find very interesting is the Senator from Utah said we cannot take this anymore. It will be 3 months. It will be exemption after exemption after exemption from this bill.

The bill has a ton of exemptions for business. But when the Democrats offer exemptions for E. coli—which we just heard there is another problem in Tennessee in the last few days on that; and we offer an amendment on cryptosporidium, and today on mammography—oh, we are trying to slow it down. We are standing here for the special interests.

God, I hope the American people are watching this.

The majority leader's sense of the Senate has no force of law. We have already stated that. It has nothing to do with the underlying bill on mammography. It is a general statement which we all can agree with. In nothing that we ever do, do we intend to hurt the fight against disease. But yet, the underlying Boxer amendment, which we are going to get a vote on—because, unlike my Republican friends, I am going to clearly state what I intend to do, so I hope they are listening. I intend to get a vote on the underlying amendment, period. You can second-degree me all night and all day tomorrow and the day after and the day after and the day after and the day after—we will have a vote on the underlying amendment.

So I hope sooner rather than later we can come to that agreement. We did come to that agreement on the E. coli amendment, where the Senator from Louisiana had his second-degree voted on separately and then the underlying amendment came after. Sad to say, we got 49 votes.

Everything you could think of is in the second-degree amendment, in the substitute, except that you should not beat your wife. That was not in there. But nothing specifically to do with exempting the mammography rule.

Let me tell my colleagues what they are stopping here, if we do not get to the underlying Boxer amendment: Specifying performance standards for x-ray equipment. I would say that is rather important, because if you get a mammogram and the x-ray equipment does not meet the standard, or a high enough standard, they can miss the cancer.

I had a friend who had her mammogram; they told her it was fine, but thank God she found the lump herself and we hope she will make it. They missed it. How am I going to tell her that, oh, I just decided for convenience I would not press my amendment and we are going to vote for some sense of the Senate? I cannot.

(Mr. GREGG assumed the chair.)

Mr. KENNEDY. Will the Senator yield on that point?

Mrs. BOXER. Yes, I will.

Mr. KENNEDY. I do not know if the Senator is familiar with the 1992 study by the Physician Insurers Association of America that found that 35 percent of all claimants with breast cancer had a negative mammogram and 14 percent had equivocal mammogram results.

This is prior to the time when we took action to pass this legislation, the rules of which are about to go into effect to protect American women.

Mrs. BOXER. So is my friend saying that half of the mammograms may not have been fully accurate?

Mr. KENNEDY. Mr. President, 35 percent false negative; 14 percent were equivocal—in the 1992 study, which is the most comprehensive study. As compared to the mammography, the most recent studies now, according to the GAO report, find that high-quality mammography can find 85 to 90 percent of breast tumors in women over 50, and discover a tumor up to 2 years before a lump can be felt.

That is in 85 to 90 percent, with the high-quality mammography, with well-trained people, versus the recent study, the 1992 study, that showed 35 percent false negatives with another 14 percent that were equivocal. This is what we are talking about: Real life and death.

I think that the Senator would agree with me that we are not saying that these mammogram standards will solve all of the problems and that all breast cancer is going to be resolved. We are not going to be able say that all of the people who should have those tests and who should receive them will receive them. But it is a beginning.

Final point this: We heard so much that one of the first orders of business by our colleagues on the other side of the aisle was medical malpractice reform. You can do more about medical malpractice reform by implementing these mammogram standards because you are going to get accuracy and you are going to save lives and not have the resulting kinds of challenges that come out.

So I think the point that the Senator was talking about, a friend that experienced these tragic or unfortunate kinds of results, is illustrated by all of the testimony that we had, which, as the Senator from Washington and the Senator from California and others have pointed out, is the reason we got the unanimous results.

So it is important, I think, to understand what is before the U.S. Senate; that is, whether we are going to go forward with a procedure—could we have order, Mr. President?

The PRESIDING OFFICER. Would the Senators please take their conversations to the Cloakroom?

The Senator from Massachusetts?

Mr. KENNEDY. I thank the Chair.

The Senator from California has the floor, but I think the Senator from California and the Senator from Washington will agree that we are talking about a process and a procedure that will be able to really have an impact and save real people's lives. We know that will be the result based on the information that we have, and that under this legislation we are putting them at risk.

There will be those though say, "Well, we have a new kind of way, a new process and procedure. We do not know how it will be interpreted. But why don't you take your chance and roll the dice?" Would the Senator be willing to do that with her daughter? I certainly am not prepared to do it with mine. And I do not think any American family would be prepared to do it with their wife, daughter, or their mother. Why should we ask the American people to go ahead and take that chance and not address that issue during the course of this debate?

Mrs. BOXER. I want to say to my friend from Massachusetts—and I thank him for bringing those statistics to our attention—that 35 percent of the women are told they are OK, there is nothing wrong, when in fact there was a lump present. The Senator is so right to come to this Chamber to talk about his daughter and to talk about my daughter. One of the things I said is that the first time a Senator's wife has a problem, they will be on this floor saying, "Oh, let us pass the Boxer amendment." You know it hits home.

Mrs. MURRAY. Will the Senator from California yield on that question?

Mrs. BOXER. Yes.

Mrs. MURRAY. I want to make sure I understand the process here because I am very concerned about the 46,000 women every year who die because of breast cancer. Friends of mine, friends of yours, and relatives want to make sure that we have in place the best possible assurance that when those women have a mammogram it will be safe and it will be accurate.

If the current bill passes as written, there is a real concern that the rules and regulations that are going to go into effect can be challenged, that they will not be put into place.

Is that correct?

Mrs. BOXER. The Senator is absolutely correct. As we said, and we saw on this floor arguments over interpretation, this bill is a lawyer's dream. I am not willing to put the women of America at risk so that a bunch of lawyers can go to court and squabble like we just saw happen on the floor of the U.S. Senate.

The Senator is right.

Mrs. MURRAY. So the underlying amendment will assure those regulations will go into place after October and women can have a mammogram and know that there is a degree of assurance of accuracy in it that does not exist today.

Is that correct?

Mrs. BOXER. That is true. The rule is going to specify performance standards for X ray equipment; it is going to expand and standardize requirements for recordkeeping on medical records and reports.

By the way, many times women are not notified in a timely fashion of the results of their mammogram. It sounds strange. But it is true. That is one of the areas this rule will cover.

Lastly, there will be expanded quality assurance to allow flexibility for review based on achievement of objectives.

The fact of the matter is that there will be more specific personnel requirements of the people who take these mammograms to ensure that they know what they are doing and do not miss a lump. They will specify procedures and techniques for mammograms of women with breast implants.

As I know the Senators know, we have worked on this issue. It is a big problem when a woman has a breast implant to figure out what is behind that implant. And it could be breast cancer that is undetected.

All of this will be in the rule. My friends on the other side of the aisle think so little of this amendment and this rule that they are willing to second degree it with a litany of wonderful promises that have absolutely no force and effect and impact of law.

Mrs. MURRAY. On that point, would the Senator from California agree that if the sense of the Senate passes, there is no way to go home and assure our mothers and sisters and our daughters that they are going to have safe, accurate mammograms?

Mrs. BOXER. I would say to my friend that not only is there no way to assure them, but I would warn them that a bill that had unanimous support has essentially been derailed, and a rule that was about to be promulgated was taken off track.

So I think the Senator is exactly right in bringing this home to a person-to-person discussion.

I am happy to yield.

Mr. KENNEDY. Let us come back just for a moment and look at where we are. We have accepted now the NUNN amendment, which provides certain provisions or procedures that are going to affect the small business. Now, we have the response of one of the floor managers which said that since this does not reach the capacity, that you might not even be affected. Under the NUNN provision, this would be affected.

Under the criteria for the examination, one of the matters that they have to look at prior to the implementation is voluntary compliance. That is one of the provisions. We have the voluntary compliance. We have geographical distribution, and other requirements for other provisions which I know others would love to be debating all afternoon about. But there are the voluntary requirements.

There will be those who will say, "Why should we go ahead? Let us see what we can do from a voluntary point of view."

Let us look at what happened when we had the voluntary compliance. Prior to the passage of the law, the American College of Radiology had a voluntary quality assurance program, and 38 percent of the clinics failed. Here they tried to do it voluntarily.

People asked why we need regulations. What we are saying is that those mothers who went in and got tested, and with inadequate manufacturing, inadequate procedures, and poorly trained people, thought they were free, and then come down with breast cancer when it could have been avoided, or at least their recovery could have been assured.

They say, "Well, you have that heavy hand of Government regulation over there." I certainly would want that heavy hand if it is going to protect any member of my family. And I think most Americans would, because individuals cannot make air clean, they cannot make water clean, and they cannot solve all of their problems in terms of pesticides and other factors.

Let us see, voluntary—what happened in this particular issue affecting so many of the women in our country? We had a voluntary quality assurance program, and 38 percent of the clinics failed and a third did not even participate in the program. They said, We are not even going to participate. We do not know what happened because a third refused to participate in a voluntary program. That is an alternative.

We could go back into those kinds of procedures when we are about to see the implementation of something that is going to give assurance to the American public that we are going to have quality in terms of manufacturing, well trained, with a good kind of enforcement, hopefully, and assurance.

I just am amazed that—I am not really amazed because we go through this on many different issues. But this is really one of just such enormous importance and consequence to the families in this country when they say, "Well, let us just try and not have regulations. Let us just have a voluntary process."

Mrs. BOXER. If I may on my time ask my friend a question, that is, or my friend from Washington, how many times have you been in a community meeting in your home State of Massachusetts or your home State of Washington where a constituent has come over and looked you in the eye and grabbed you by the sleeve, and said, "Please, Senator. Please, Senator, don't regulate mammograms. Don't regulate food and safety. You are doing too much to make the water safe?"

I really do not understand what is behind this bill. I mean, I do. I do. I think there is a lot of speculation behind it. But from the standpoint of the overall issues, has my friend ever been told that the heavy hand of Government is making mammograms too strict? I ask him.

Mr. KENNEDY. Absolutely not.

I think the American people hopefully are beginning to understand what this debate is about. Even with regard to OSHA, with 10,000 rules a year, if you had 99.9, or your child got 99.9, you would say, "Pretty good; pretty good." Well, if you said 99.9 percent of the regulations were not tested, I am not even prepared to say that, and neither is the head of OSHA. But if you are up to, say, 99.9, you would still have 100 regulations that made no sense, that none of us would support. And we are hearing them every morning, we hear our favorite 10. They are using that to undermine the importance of the protection of mammography or for our food or for our air, for our water. The American people, hopefully, are beginning to understand this.

All of us understand the importance of making progress and reducing the regulation and releasing the energies and expansion and trying to eliminate bureaucracy and duplication and overlap, and the leadership is being provided by Senator GLENN, by Senator LEVIN, and others in a bipartisan manner—Senator ROTH I see in the Chamber at this time. It has been bipartisan efforts that have come out of those committees virtually unanimous, Republican and Democrat. But we are throwing these over, at least not being able to address those kinds of issues and are being asked now to suspend, or effectively emasculate this particular kind of provision on mammography. That makes no sense.

I wish to commend the Senator and ask if she would agree with me that just doing a sense-of-the-Senate is really, I think, trying to raise a false sense of expectation. Would the Senator not agree that we are really doing something when we are not? And for all the lists that are made out there that the majority leader—I mean we will take some time and go through other kinds of diseases that may not have the total numbers of the ones that have been included, but nonetheless, unless they are listed or exempted, otherwise would fall under this process and procedure and put at risk families in this country. That would be unacceptable. Is the Senator troubled by that process as well?

Mrs. BOXER. I am troubled by this process. I think it is a back-door way to undo legislation that, as my friend has pointed out, was unanimous—everyone agreed with the legislation—but when it comes to the rulemaking, they try to stop it.

It is interesting; I do not know if my friends saw the poll which was done that clearly showed that when the American people were asked, "Do you want to cut regulation that has to do with protecting health and safety and the environment?" 62 percent said no.

Well, what does that mean? It means you do not go at the Clean Water Act, you do not go at the Clean Air Act, and you do not go at the Mammography Quality Standards Act, and you do not go at the Safe Drinking Water Act, but you back door it. And this is a clear-cut example of back-door politics. You do not take it on because the American people would be in an uproar. They want clean air. They want clean water. They want protection when they go for a mammogram or another medical procedure. They are fearful without standards.

We already know we have problems. The Senator pointed out that we have problems in this area. Is this a time to turn back when a third of the women get a result which says they are fine, there is no lump found, and in fact it is a false reading? My goodness, I think they would want us to do more, and that is what the rule is all about.

Mr. KENNEDY. Could I just ask one question? And I see others who want to inquire. Does the Senator find it somewhat ironic? Here we have seen in terms of national health policy that women have been effectively shunted aside. That was a tragic reality. It was tragic in terms of the NIH programs and investigation in osteoporosis, breast cancer and ovarian cancer, a wide range of different areas, even though there is basic research that is being done at the NIH in terms of clinical applications. But by and large one could say that women's health issues were not a matter of central importance in terms of the American health agenda. Now we have seen in very recent years, in the last Congress, one of the earliest pieces of legislation was to ensure that there was going to be a fundamental commitment in terms of the NIH for women's health-related issues for research. We are gradually catching up.

I would like to hear in this Chamber why we have the fact that women have half the number of heart attacks as men but only have half the recoveries men do. What is it about that? I mean why? We are putting resources in terms of research into these areas which affect real people and affect our families, and now we have seen that at last, under this administration with the leadership of President Clinton, Mrs. Clinton, BARBARA MIKULSKI, and both of our distinguished Senators who are here, Senator BOXER and Senator MURRAY, we have seen the effort to make sure that we are going to continue that progress. And here we have at the start of this Congress rolling into July a major assault on a major health issue that affects better than half of our population.

Do the Senators find in their own mind, I would ask either the Senator from California or the Senator from Washington, some puzzlement when we have been so far behind on women's health issues—and certainly that has been true in research in these other health policy questions—on one extremely important matter, and that is in terms of breast cancer, which affects so many, and increasingly so, and we know that we can make progress —there are so many areas that still escape us about what we can do in terms of making progress, but we know that in this area we can make a difference in terms of giving some assurance to women that there is a better chance of curing and treating breast cancer with these kinds of standards, that when we do have that opportunity, there are those who want to say no, or let us just go a different way and maybe we will end up with the same result. We do not know quite what these words mean. But why do the women of this country have to jump through these additional hoops as well?

Does the Senator find that somewhat ironic, that we find ourselves in that position on a Thursday afternoon when we ought to be trying to find out and be debating what more we could do in terms of women's health issues, children's health issues, parents' issues in this Chamber rather than try to put them at greater risk?

Mrs. BOXER. Not only do I find it puzzling, but I have to say to my friend, as he put his question forward, I realized something very interesting, and that is this is the third exemption amendment, as the Senator knows, that we are facing. The first one was E. coli, which is that bacteria that is found in hamburger meat and kills kids mostly and old people, and we have a case now in Tennessee—I do not know if the Senator is aware of it.

Mr. KENNEDY. We had Mrs. Sullivan from Haverhill, MA, who works hard all day—I address the Senate; I will not take much time—works all day, goes to school at night, active life, whose greatest problem was she ate a hamburger and $300,000 later and in a most painful, excruciatingly painful kind of condition at Mass General Hospital has been able to survive but is still today in a weakened condition. And we had, earlier this morning, her sister, who happens to be a nurse, and obviously because she was a nurse was able to, I think in a family situation perhaps, get somewhat earlier kind of treatment for that extraordinary woman whose life will never be the same—that with regard to food health standards. And then we have, as the Senator pointed out, the machine in here that is rolling over the protection of food safety for the American people. I just wonder why the Senator thinks this is the case.

Mrs. BOXER. I think if you read the Contract With America, there was a guideline in there. But what I wanted to make a point about, I say to my friend from Massachusetts, is this. When he asked the question, is it not interesting whenever an issue of women's health comes up we cannot seem to get any forward movement? What I wanted to point out to my friend from Massachusetts is this. When the E. coli amendment came up, I say to my friend, there was a substitute second-degree amendment that tried to deal with the E. coli problem. So there was a second-degree amendment to deal with the E. coli problem. And unfortunately it passed. It was not an effective way to go. We lost by two votes. Then the cryptosporidium one came up. They defeated that, up or down. But now that the Senators from California, Washington and Massachusetts and the other women in the Senate on the Democratic side, put together an amendment on breast cancer, guess what? What is the second-degree amendment, I say to my friend? It has nothing to do with breast cancer. It has nothing to do with mammography. What is wrong?

Mrs. MURRAY. Would the Senator yield?

Mrs. BOXER. Yes.

Mrs. MURRAY. Is this the first sense-of-the-Senate that we have dealt with as well?

Mrs. BOXER. Oh, yes. This is the first sense-of-the-Senate. They substitute a very strong amendment to move forward mammography rules with a big fat nothing. A sense-of-the-Senate that does nothing and does not even mention women's health or mammography. It is extraordinary. And that is why I am willing to stand here day after day, and night after night, and morning after morning, with my friends, until we get a vote up or down on the mammography issue, and if my friends want to stay here through the weekend and through next weekend and the weekend after that.

Mr. KENNEDY. Would the Senator yield?

Mrs. BOXER. Yes.

Mr. KENNEDY. I want to commend all those who have been involved with this. But would she not agree with me—I did not want to take the focus off the issue really of the mammography—but basically what we are talking about—I call this the "Polluters and Poisoners Protection Act." We are basically talking about not only in terms of questioning the safety in terms of breast cancer mammography standards, but we are talking about unsafe drinking water that will affect that family, and unsafe meat and the E. coli which you just referenced on that, and we are going to come down here to the change on the unsafe fruits and vegetables, and the unsafe baby foods with the changes in the food standard.

And as the Senator has focused on the E. coli, cryptosporidium debate last night, and now the mammography standards, basically we are talking about these other elements. Would the Senator not agree with me?

Mrs. BOXER. Absolutely. This is part of the process.

Mr. KENNEDY. This is part of the whole process. I want to indicate that the Senator has really brought the focus and attention on this area. We cannot solve all of the problems in these areas of drinking water, and meat and the vegetables and baby foods. We can make them a great deal safer. We think that we are putting at very significant risk all these kinds of protections for the American people. But the Senator from California is saying on the mammography we have specifics. "Do not take this away from protecting the American women. Take your hands off these standards that can make a real difference for the protection of mothers and sisters and daughters." And I just want to commend her and thank her very much.

But I did want to inquire whether the Senator from California or the Senator from Washington agreed with me that we have parallel threats to these other areas in this legislation. And that the American people ought to understand that as well.

Mrs. BOXER. I certainly hope that the American people are watching this debate. You know, you can get off on these different sections of the bill. The lookback procedures, the petitions, all the rest of it. And that is what I believe the proponents of this bill want us to debate. They want to debate, how many days will it be reviewed? How many months will it be reviewed? The bottom line is this bill, if it passes without substantial amendment, is going to derail an urgent rule that is coming forward in October that will provide standards for those who are in the business of providing mammography, the majority of which are terrific people, but there are always those who cut around the edges. And that is why we need these rules, these national standards, so that a woman in California gets the same quality mammogram as a woman in Massachusetts or Tennessee or New Hampshire or Vermont or Rhode Island or Louisiana or Washington.

Mrs. MURRAY. Will the Senator from California yield?

Mrs. BOXER. Or Minnesota.

Mrs. MURRAY. Will the Senator from California agree with me—because I feel very puzzled and baffled and really concerned—that this amendment which deals very specifically with women, our mothers, our sisters, our daughters, our friends, who have had breast cancer, and who are counting on us as the Nation's leaders to assure them that when they go in for a mammography, that they have strict standards; that this amendment that deals with women, and women alone, has a sense-of-the-Senate second-degree; that I believe, if I am not mistaken, when the Senator spoke to it this morning she was not even able to send her own amendment to the desk. When her amendment was at the desk we were not allowed to speak about breast cancer for over an hour, but we did listen to a long litany about charts and graphs and process and long words and ambiguities. And we are finally here able to speak to the realness of this. But I also heard when this was being discussed before, "Do not worry about this. It is only going to cost $98 million." Is that what the Senator from California heard as well?

Mrs. BOXER. Oh, yes. Yes. They say, "Oh, the estimate of cost is $98 million. Since our bill says if you are under $100 million you do not come under this, do not worry. Do not worry."

Mrs. MURRAY. Would the Senator yield?

Is it not clear that $98 million is darn close to $100 million, and could reach $100 million? And not only that, it is my understanding that in the House bill that has passed the threshold is $25 million.

Mrs. BOXER. Yes.

Mrs. MURRAY. When it gets to conference we will see somewhere between $25 and $100 million. So mammographies will be impacted.

Mrs. BOXER. Absolutely.

Mrs. MURRAY. Would the Senator not agree, in this legislation as currently drafted, it says if there is a significant impact on a substantial number of small entities it will be exempt as well? This amendment will not only be applicable because of the cost but it will also be because a substantial number of mammograms are done by small entities.

Is that not correct?

Mrs. BOXER. My friend is so correct. And I do not like to use—well, I will be as delicate as I can. I think claims on this Senate floor that mammography improvements are safe, without the Boxer-Murray amendment are false claims, because of what my friends have pointed out in this question time.

First, the fact that we know $98 million is the cost of this regulation. And that is about as close as you can get to $100 million. And, of course, when this bill goes to conference, with Newt Gingrich and his friends, they have a $25 million trigger. You do not need to go to Poli Sci 101 to know where the numbers come out. We will be lucky if it is $50 million. So ipso facto, protection gone.

And the second point that both my friends pointed out, which is important for this debate, is that under some amendments that we passed here, small businesses will be exempted if a substantial number, by the way not defined, talk about a lawyer's dream, substantial number of small businesses are impacted.

We are talking about endangering the lives of women. And when my friend says our sisters, our grandmothers, our daughters, our granddaughters, I think it affects our grandpas and our dads and brothers and our husbands too. When a woman gets breast cancer this is not only her fight. It is a family struggle. And when a family finds out that it was a mammogram that was not read correctly, or an x-ray machine was defective, imagine the feeling that they lost a member of their family who could have been saved. And that is what we are talking about here. So if they want to talk on the other side about lookbacks and sunsets, and waivers and all the rest—it is newspeak. We now have newspeak around here. We do not get to the issues. Thank God for the Senator from Massachusetts for coming over here and helping us focus. Thank God for him for all these years fighting these battles, sometimes quite a lonely fight. I hope the American people listen, listen up. I am going to get a vote on the underlying amendment.

Mrs. MURRAY. Will the Senator from California yield?

Mrs. BOXER. Yes.

Mrs. MURRAY. Then I assume the Senator from California feels, as I do at this point, that we will not be dismissed by a sense-of-the-Senate amendment; that on the underlying amendment, that clearly says to all women in this country that we will continue forward and put in place assurances for them on mammographies, there will be a vote on this floor.

Mrs. BOXER. We both guarantee that, and I know the Senator from Massachusetts joins us in that, as I am sure the Senator from Minnesota does, who is here listening and I am hoping will be asking us some questions in a short time. We are going to have a vote on the underlying amendment, period. Period. There is no recess that is going to stop us, either. You want to push us up against the recess? OK. Forty-six thousand women a year die of breast cancer. We will stay. We will stay through the summer. We will stay through Thanksgiving, Christmas. We will stay. We will stay through Hanukkah, Passover, Easter.

Mrs. MURRAY. The next Congress.

Mrs. BOXER. The next Congress, and none of us wants to have to do that because we have families, too. We have families, too. But we will do that because one in nine women is going to get breast cancer. Count up the women in this Chamber. Somebody is going to get breast cancer.

I will say this, sometimes you cannot help what happens. Sometimes you cannot help what happens. But many times you can, and we know that early detection is the major tool that we have in the fight against breast cancer.

Mr. WELLSTONE. Will the Senator yield for a question?

Mrs. BOXER. I will be glad to yield to my friend.

Mr. WELLSTONE. I will not take but a couple of minutes. I have from my office watched the Senator from California, the Senator from Washington, and the Senator from Massachusetts out on the floor, and I really have been moved by what you have said.

My wife, Sheila, is not here today. But her mom passed away from breast cancer, and we feel very, very strongly about these issues.

The Senator talks about having an up-or-down vote and we will be here for as long as it takes. If I could just ask my colleagues, why do you feel so strongly about this? Let us just forget all the statistics, all the charts, all the numbers. Why do you feel so strongly about this?

Mrs. BOXER. Well, I thank my friend for asking the question. I feel so strongly about this because I think that this bill is a backdoor attack on a very important series of laws that were passed in a bipartisan way to protect the American people. I feel very strongly it is a backdoor war on these laws. That is how I feel, because I do not think there would be support for repealing any of these acts. There are a lot of special interests out there that do not want the Clean Water Act and the Clean Air Act. Why? Because they feel it in their pocketbook.

While we all agree we do not want unnecessary and burdensome regulations, and all of us are willing to vote to end that, we feel deeply committed that we will not reverse years of progress. I do not care if it is in the Contract With America.

So I feel very strongly that when there is an attack on a law that protects the health and safety of the American people, it is an obligation of U.S. Senators to point it out and to stand on their feet and to fight. I think that is what we are doing.

We all know people who have been misdiagnosed.

I talked about a friend of mine who, because the mammogram was not read properly, suffers terribly, and we pray that she will make it. But every day is like a nightmare because she did not catch it early.

Mrs. MURRAY. If the Senator from California will yield.

Mrs. BOXER. Yes.

Mrs. MURRAY. The Senator has asked a critical question, why would somebody be willing to stand out here on their feet and speak over and over until they are given an up-or-down vote on a very simple amendment. It is because of the women we know—personal friends and personal relatives who have died from breast cancer because it was not detected early. One out of nine women today will be diagnosed with breast cancer. Nine out of ten women will survive if it is detected early. I am determined to make sure that on my watch on this floor of this Senate that I will not allow any of those women to go undetected. I think it is incumbent upon all of us to see that that occurs.

Mr. HATCH addressed the Chair.

Mr. KENNEDY. Will the Senator yield?

Mr. HATCH. Will the Senator yield?

Mrs. BOXER. I am not yielding at this time.

The PRESIDING OFFICER. Will the Senator yield to the Senator from Utah?

Mrs. BOXER. No; I will not. When I simply asked for a parliamentary inquiry before, Senators would not yield to me.

Mr. HATCH. I would have yielded to you. You did not ask me.

Mrs. BOXER. I yield to my friend for a parliamentary inquiry without losing my right to the floor.

Mr. HATCH. I appreciate that. I thank you. Let me make a couple comments. There is nobody on this floor that feels more deeply about mammography than I do. Nobody.

Mrs. BOXER. I ask, is this a parliamentary inquiry?

Mr. HATCH. Yes; I am going to ask a question, and I want to make a few statements so I can get to the question.

There is nobody on this floor who has worked harder, as one of the prime cosponsors of the mammography bill. But is it not true that there is an interim rule in effect on mammography?

Mrs. BOXER. The interim rule does not affect the issues that I read to the Senate. I will reread them. It does not go to these issues. These issues are of crucial importance. They involve the performance standards for x-ray equipment; expanding and standardizing requirements for recordkeeping; expanding quality assurance; clarifying personnel requirements; and specifying procedures and techniques for mammography for examinees who have breast implants.

Mr. HATCH. Are they not in effect now?

Mrs. BOXER. No; there is no rule. I will be happy to share this with the Senator. This is a description of the rule that is going to go into effect in October.

Mr. KENNEDY. Will the Senator yield?

Mrs. BOXER. Yes; I will be happy to yield.

Mr. KENNEDY. As I understand, if the Senator stated it accurately, the new rules are likely to be significant improvements to the interim rule. They include performance standards for radiological equipment; standards for uniform imaging of women with breast implants; and establishing consumer plate procedures.

None of these areas are addressed in the interim regulations. So the interim rule, although much better than what would have existed, still will be strengthened with the permanent requirements.

I see others who want to speak, but let me mention, I was listening to the exchanges. I was going back into the hearing record and the testimony of Dr. Roper, who was the head of the CDC when we were having those hearings, and pointing out the controlled studies have shown that a 35- or 40-percent reduction in mortality related to breast cancer is possible.

I will make a comment and ask the Senator whether she agrees with this. Does the Senator agree that Dr. Roper's testimony was powerful testimony when he pointed out that controlled studies have shown that a 35- or 40-percent reduction in mortality related to breast cancer is possible? However, in order to achieve this level mammography, clinical examination must be performed, interpreted, and reported as accurately as possible. Subsequent steps, including biopsies and other followthrough procedures, must be timely and of high quality.

We, along with the Public Health Service Agency and relevant professional organizations, provide leadership to aggressively pursue a program designed to ensure the highest standards of excellent and early detection of breast cancer with mammography and assure the maximum benefit for lifesaving technology for all Americans.

This is the testimony in favor of this legislation by the head of the Centers for Disease Control, appointed by the previous administration. Controlled studies have shown that a 35- to 40-percent reduction in mortality for cancer is what we are talking about for women.

Let me just ask the Senator whether she would agree with what was a very powerful comment, and that was during the course of our hearing, Mrs. Langor, who is the head of the National Association on Breast Cancer. This is her statement. I ask what is the reaction of the Senator from California.

> We hear many sad things at NABCA, but one of the saddest is the story of the woman who has done everything correctly. She scheduled her mammogram, has received a clean bill of health, then she finds she is dying of breast cancer, not always due to negligence, but rather due to inexperience, poor equipment maintenance, or wrong equipment. She was relying on her medical provider to develop quality care. Her life has been destroyed. Her confidence is gone. She has conveyed this message to every woman she knows. A vital element in our attempts to control the breast cancer epidemic is knowing that after our hard work reaching, educating, and reassuring every American woman about mammography, that it is increasingly safe and affordable, mammography is also universally effective. It is the right of American women to receive screening mammography of the highest quality and the responsibility of lawmakers to grant them that right.

You cannot say it any better than that. That is what the mammography standards bill has done. This legislation is putting this at risk. At risk is that very eloquent statement.

I ask the Senator, again, why we should take any risks at all in doing it after we have had all the testimony in the world. We know about the problems we cannot solve. We can make an important impact in terms of the safety and continued life of women in our society. Why should we throw that over and go to some other kind of process and procedure which, for me, is not worth the paper that we have it written on.

Mrs. BOXER. I thank my friend. He is so right. Women are already at risk for breast cancer. Forty-six thousand a year die of it, and now we are going to add to the risk and derail a rule that—no matter how many times the Senator asked me the question, I will come back and tell you, no, there are no final regulations in place for the x-ray machines. There are no regulations. There are regulations in place for accreditation.

Mr. JOHNSTON. Will the Senator yield for a question?

Mrs. BOXER. Yes.

Mr. HATCH. Will the Senator yield for a unanimous-consent request?

Mrs. BOXER. Of course.

UNANIMOUS-CONSENT AGREEMENT

Mr. HATCH. I would like to resolve this.

Mr. President, I ask unanimous consent that amendments numbered 1524 and 1525 be withdrawn.

Mrs. BOXER. Reserving the right to object.

Mr. HATCH. This is agreed to by both sides. We are going to give you a separate vote.

The PRESIDING OFFICER. Is there objection?

Mrs. BOXER. Reserving my right to object.

The PRESIDING OFFICER. Is there objection to the Senator's request?

Mrs. BOXER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mrs. BOXER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. BOXER. If the Senator will propound the unanimous-consent request, I think we are ready.

Mr. HATCH. I ask unanimous consent that amendments 1524 and 1525 be withdrawn.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

So, the amendments (Nos. 1524 and 1525) were withdrawn.

UNANIMOUS-CONSENT AGREEMENT

Mr. HATCH. Mr. President, I will soon send an amendment to the desk and ask for its immediate consideration.

I ask unanimous consent that no other amendments be in order, that a vote occur on the amendment at 5:05 p.m., with the time equally divided in the usual form.

The PRESIDING OFFICER. Is there objection?

Mrs. BOXER. Reserving the right to object. I want to make sure that before the vote on the Boxer-Murray-Mikulski amendment there be 1 minute on either side.

Mr. HATCH. If we hurry, we have almost 8 minutes.

Mrs. BOXER. I want to make sure that there is a little time on each side.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. HATCH. Mr. President, I ask unanimous consent that following the vote Senator BOXER be recognized to offer an amendment, the text of which is amendment No. 1524, and that no amendments be in order to the Boxer amendment, and a vote occur immediately after 1 minute for Senator BOXER and 1 minute for Senator HATCH, without any intervening action or debate on the Boxer amendment.

Mr. JOHNSTON. Reserving the right to object, and I shall not, I have had a conversation with the Senator from Utah and the Senator from Oklahoma about whether we would be able to accept the other pending amendment, which is the Superfund amendment, accept that by unanimous consent. Do we know whether we can do that at this time?

Mr. HATCH. I am not prepared to do that at this time. But we will certainly look at that.

Mr. JOHNSTON. I say to my colleagues that I think that is in the works. That is, I have requested that we be able to do that. And so I hope after the vote on the Boxer amendment, we would be able to accept that by unanimous consent. I would assume that no one on our side would object. But I would like to get that notice out just in case.

Mr. HATCH. Certainly.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request?

Without objection, it is so ordered.

AMENDMENT NO. 1531 TO AMENDMENT NO. 1487

Mr. HATCH. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Utah [Mr. HATCH] proposes an amendment numbered 1531 to amendment No. 1487.

Mr. HATCH. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the amendment, add the following: It is the sense of the Senate that nothing in this Act is intended to delay the timely promulgation of any regulations that would meet a human health or safety threat, including any rules that would reduce illness or mortality from the following: heart disease, cancer, stroke, chronic obstructive lung diseases, pneumonia and influenza, diabetes mellitus, human immunodeficiency virus infection, or water or food borne pathogens, polio, tuberculosis, measles, viral hepatitis, syphilis, or all other infectious and parasitic diseases.

Mr. HATCH. Mr. President, I ask unanimous consent that no further amendments re: exemptions for mammography be in order during the pendency of S. 343.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mrs. BOXER addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. If I can be clear about the order. The Senator from California has 5 minutes and the Senator from Utah has 5 minutes, is that correct? I want to make that clear. Or is the floor open to whoever seeks recognition?

The PRESIDING OFFICER. The time between now and 5:05 is evenly divided between the two Senators, which means the Senator has about 3½ minutes.

Mrs. BOXER. Thank you very much, Mr. President.

I have no objection to voting for the sense-of-the-Senate resolution offered by Senator DOLE. That is fine. It has nothing to do with my amendment, however, which gets to the issue of mammography. I hope Senators, in a bipartisan spirit, will support both.

There is nothing wrong whatsoever with Senator DOLE's amendment. It is just that, for the last, let us see, about 3 hours he intended for it to substitute for the Boxer-Murray-Mikulski amendment which, to this Senator, made no sense, and to many other Senators, it made no sense.

I am not going to yield to anybody because I only have 2½ minutes. I hope that Senators are listening to this debate. It has been clearly demonstrated via the fact that if we do not pass the Boxer-Murray amendment, we are playing Russian roulette with women's lives. Let me tell you why. In October, a rule is going to go on the books that sets standards for mammography. It is carrying out a law that passed in 1992.

This is not fun and games. This is about breast cancer that is going to strike one out of every nine women in this Chamber. The most painful situation is one where a woman was told her mammogram was fine, only to find out the technician could not read it or the machine was faulty and she has to undergo the most radical kind of therapy.

So my friends can argue about line 6 and line 2 and sunset clauses and all the rest. If Members care about this, Members vote yes. Play it safe for the women of this country and do not gamble. The rule that is about to come out is a rule that will make it far safer. Why on God's green Earth do we want to derail that? To score a political point?

Think again. The American people are catching on to this debate. This is a back-door assault on a bill that was passed in 1992 by Republicans and Democrats alike. But rather than repeal sections of it, we are making it so hard that the rule to carry it out will never go into place.

The first day a Senator's wife comes down with breast cancer and it was missed on a mammogram, we will be on the floor changing this bill.

Mr. President, 46,000 women every year die of this disease. We have talked about our moms, our grandmothers, our sisters, and our daughters. What about the fathers and sons and the grandfathers? It affects each and every American, just as when a man gets prostate cancer and is taken away from the family.

If ever there was a time to pull together as Senators for both parties, this is it. Why do we have to fight over everything around here?

Ms. MIKULSKI. Mr. President, I rise today to join my colleague, Senator BOXER, in offering this amendment that protects the public health by ensuring the continued implementation of mammography quality rules.

As the original coauthor of the Mammography Quality Standards Act, I was especially proud when this act was adopted in 1992. The Mammography Quality Standards Act requires all facilities providing mammography to be accredited and certified. This is extremely important in our efforts to detect breast cancer early when treatment is available and less invasive.

For the past year, the mammography quality standards have been reviewed by a Mammography Advisory Committee. It is my understanding that the FDA is now prepared to move forward with the publishing of these rules in October.

The women of America have waited since October 1992 for these mammography quality standards to be implemented. A delay at this time will result in needless deaths and disability by women who are tested by facilities and equipment not meeting Federal, uniform quality standards for mammography.

We are so close in getting these final rules for mammography quality standards approved. We must ensure that the mammogram women receive is of the highest quality possible.

I urge immediate passage of this amendment.

Mr. COHEN. Mr. President, I am pleased to sponsor this important amendment to ensure that regulations providing for quality standards in mammography screening are fully implemented as swiftly as possible.

Despite promising scientific advances in the treatment and diagnosis of breast cancer, this disease remains a major health threat to millions of American women. Breast cancer is the second leading cause of death among women. Last year alone, it is estimated by the National Cancer Institute that over 182,000 new cases of breast cancer were diagnosed and more than 46,000 women in the United States died as a result of this devastating disease.

This disease often strikes women in the prime of their lives and, as women get older, the odds of developing breast cancer steadily increase. One in eight women will develop breast cancer at some point in their lives. With statistics this sober, nearly every family will be directly affected by this disease.

In 1992, I cosponsored the Mammography Quality Standards Assurance Act because I knew of the critical importance of accurate breast cancer screening. Mammograms are among the most difficult tests to perform. If images are not clear or if tests are improperly read, cancers can be missed, leading to delayed treatment and premature death.

Prior to the adoption of this act, only a patchwork of Federal State, and voluntary standards existed for mammography. Women could not be assured that their mammograms were properly administered, interpreted or communicated to them or their physicians.

In absence of a cure, mammography and the early detection of breast cancer is still the most effective weapon women have to fight this increasingly common—and often fatal—disease.

Currently, the FDA has in place interim rules for the Mammography Quality Assurance Act which establish national standards to ensure the safety and accuracy of breast cancer screening procedures. However, the final proposed regulations are not expected until this October. While the interim regulations are enforceable and have established rules for accreditation, certification and annual inspection, it is crucial that we do not delay in full implementation of final regulations.

I am aware that there are questions as to whether S. 343 would have any effect on the implementation of these standards, but I believe that it is critically important to be absolutely sure that these regulations are not derailed, or delayed. The mammography standards were passed nearly 3 years ago and we must move forward on this important women's health issue.

The proposed final regulations further ensure the safety of mammography in significant ways. They specify performance standards for x-rays, develop procedures for examining women with breast implants and standardize requirements on medical records and mammography reports. Each of these reforms are essential to ensuring that all mammography done in this country is as reliable as possible.

Early detection of breast cancer will save countless lives. The Mammography Quality Standards Assurance Act ensures that women get the best possible breast cancer screening and that they will have the best chance of treating their cancer once diagnosed.

We owe it to each family touched by this devastating disease that these critical standards be exempted from any additional regulatory delays and that they become effective before more precious lives are lost to breast cancer.

The PRESIDING OFFICER (Mr. ABRAHAM). All time has expired.

Mr. HATCH. Mr. President, I think this is important, and I am glad to have an opportunity to get the points on the record.

I have to say again that interim regulations are by definition final. Perhaps the new, proposed regulations will be here in October; we have been assured by those on the other side that this is so.

But I have to keep point out that these interim regulations do have the full force and effect of law.

This particular debate is filled with misrepresentations. Nevertheless, I still think it is an important debate and I am glad to have an opportunity to get some key points on the record.

Mammography is an important tool in our effort to fight a dread disease which now affects an estimated one in nine women.

I believe we should do all we can to protect against breast cancer. I am one of the original sponsors to help to write one bill that does this. I am the sponsor of a bill last year to require that another breast cancer screening tool, self-examination, be taught at all federally funded health clinics. My record in this area is clear.

But whether or not we want to fight breast cancer is not the point of this debate. Of course, we all want to fight breast cancer, and all other cancers for that matter.

The point is that there are regulations in effect to implement the Mammography Quality Standards Act. They were promulgated in December 1993, 1½ years ago.

Nothing I have heard in this Chamber changes that or has convinced me a new proposed regulation under MQSA, would make a significant improvement in the health of women who might get breast cancer.

Nevertheless, in the spirit of moving the larger debate along and recognizing that by the administration's own published estimate, it is likely new rules from MQSA would not be subject to the cost-benefit analysis of this bill, I, personally, am willing to accept this amendment.

If this amendment is necessary to give America's women peace of mind, I think it should go forward, even though I, personally, believe it is not needed.

I do have to underscore again that this bill addresses the mammography situation. It addresses the E. coli. If a rulemaking meets the bill's thresholds, there still can be exemptions for health emergencies or even health threats. It is hard to believe that the administration would not consider the possibility of meat contamination or increased exposure to breast cancer threats to public health.

Our bill allows those exemptions as I have cited before.

I personally resent the representations that have been made on the floor in this regard. It is important that members read the language of the bill; perhaps they have not.

The Glenn bill does not allow such exemptions. We put a lot of effort to make sure we take care of these problems.

I am frustrated because we are undergoing untold hours on the floor just, for the most part, so that political points can be made.

I think it is time to start working on the heart of this bill. If there are major problems in this bill that really need to be corrected, we should address them.

I hate to say this, but I have been working in good faith to try to accommodate the other side, to try to work on this problem and get this matter resolved, and make sure that they are happy with these provisions.

I am concerned because I perceive that we are continuing to get amendments which are permutations of issues which have already been resolved, such as the impact of the bill on the ability of Federal agencies to address public health problems.

One has to conclude that the purpose of all this is to drag out the debate. That is fine.

My personal recommendation is that we should vote for both amendments and get this past us and move on from there. We need to start working on the bill rather than all these amendments that really do not deserve to see the light of day because we have taken care of them in the bill.

I do not see how anybody can disagree with that.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk called the roll.

Mr. FORD. I announce that the Senator from New Mexico [Mr. BINGAMAN] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 99, nays 0, as follows:

[Rollcall Vote No. 304 Leg.]

YEAS—99

Abraham
Akaka
Ashcroft
Baucus
Bennett
Biden
Bond
Boxer
Bradley
Breaux
Brown
Bryan
Bumpers
Burns
Byrd
Campbell
Chafee
Coats
Cochran
Cohen
Conrad
Coverdell
Craig
D'Amato
Daschle
DeWine
Dodd
Dole
Domenici
Dorgan
Exon
Faircloth
Feingold
Feinstein
Ford
Frist
Glenn
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Harkin
Hatch
Hatfield
Heflin
Helms
Hollings
Hutchison
Inhofe
Inouye
Jeffords
Johnston
Kassebaum
Kempthorne
Kennedy
Kerrey
Kerry
Kohl
Kyl
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Mikulski
Moseley-Braun
Moynihan
Murkowski
Murray
Nickles
Nunn
Packwood
Pell
Pressler
Pryor
Reid
Robb
Rockefeller
Roth
Santorum
Sarbanes
Shelby
Simon
Simpson
Smith
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner
Wellstone

NOT VOTING—1

Bingaman

So the amendment (No. 1531) was agreed to.

Mr. HATCH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. ROBB. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Chair recognizes the Senator from California.

AMENDMENT NO. 1532 TO AMENDMENT NO. 1487

(Purpose: To protect public health by ensuring the continued implementation of mammography quality rules)

Mrs. BOXER. Mr. President, I call up my amendment which is at the desk, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from California [Mrs. BOXER], for herself, Mrs. MURRAY, Ms. MIKULSKI, Mr. LAUTENBERG, Mr. BRADLEY, Mrs. FEINSTEIN, Mr. DORGAN, Mr. KENNEDY, Mr. REID, Mr. BUMPERS, Mr. BIDEN, Mr. LEAHY, Ms. MOSELEY-BRAUN, and Mr. DASCHLE, proposes an amendment numbered 1532.

On page 19, strike the period and insert the following: "; or (xiii) a rule intended to implement section 354 of the Public Health Service Act (42 U.S.C. 263b) (as added by section 2 of the Mammography Quality Standards Act of 1992).".

Mrs. BOXER. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mrs. BOXER. Mr. President, I believe under a previous order I have 60 seconds to present the amendment.

The PRESIDING OFFICER. The Senator is correct.

Mr. FORD. Mr. President, may we have order? The Senator deserves to be heard.

Mr. President, we are not in order. Mr. President, I make a point of order that the Senate is not in order.

The PRESIDING OFFICER. The Senate will come to order.

Mrs. BOXER. Mr. President, the amendment that is before the Senate would exempt the new mammogram rules from this bill. When you vote on the Boxer-Murray-Mikulski amendment, I ask you to think about your mother, your sister, your daughter, your granddaughter, and cast a vote that will assure them the best chance to survive breast cancer. And the best chance to survive breast cancer is to have the best equipment run by the best personnel.

That is what these rules are all about. We do not want to derail those rules because, otherwise, the cancer could be missed. And all of us know too many cases where tragedy has ensued. The better standards that are being proposed in the rule that will come out in October will absolutely be derailed because they came out after the April date that is specified in this bill.

So without the Boxer-Murray-Mikulski amendment, and so many other good Senators who are on it, we will derail safe mammograms.

Please vote aye and join with the National Breast Cancer Coalition in support of mammography quality standards.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. I am going to recommend that everybody in the Chamber vote for this amendment, but I have to say this is another 3- or 4-hour expenditure of time that did not have to occur.

The administration, by its own official publication, said only 10 weeks ago that the anticipated costs of implementing the Mammography Quality Standards Act of 1993, a bill that I helped to write, would be about $33 million.

Now we are told up to $97 million, although the administration has not provided us with any details on that cost estimate or why it has changed so dramatically in 10 short weeks. But in any case, $97 million is still $3 million less than the threshold of this bill and could be made even less if the administration so desired.

On the other hand, I do think we should vote for it, because it may give some peace to some people who do not understand this matter is already covered.

I continue to believe that our bill would not engender the ill effects the other side believes.

However, breast cancer is a serious, serious problem, and I would not want to create any feelings in that community that the Congress does not take the problem seriously. Because we do.

So I think that we should vote for the Boxer amendment, and then move on.

The PRESIDING OFFICER. The question is on agreeing to the amendment. The yeas and nays have been have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from New Mexico [Mr. BINGAMAN] is necessarily absent.

The result was announced—yeas 99, nays 0, as follows:

[Rollcall Vote No. 305 Leg.]

YEAS—99

Abraham
Akaka
Ashcroft
Baucus
Bennett
Biden
Bond
Boxer
Bradley
Breaux
Brown
Bryan
Bumpers
Burns
Byrd
Campbell
Chafee
Coats
Cochran
Cohen
Conrad
Coverdell
Craig
D'Amato
Daschle
DeWine
Dodd
Dole
Domenici
Dorgan
Exon
Faircloth
Feingold
Feinstein
Ford
Frist
Glenn
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Harkin
Hatch
Hatfield
Heflin
Helms
Hollings
Hutchison
Inhofe
Inouye
Jeffords
Johnston
Kassebaum
Kempthorne
Kennedy
Kerrey
Kerry
Kohl
Kyl
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Mikulski
Moseley-Braun
Moynihan
Murkowski
Murray
Nickles
Nunn
Packwood
Pell
Pressler
Pryor
Reid
Robb
Rockefeller
Roth
Santorum
Sarbanes
Shelby
Simon
Simpson
Smith
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner
Wellstone

NOT VOTING—1

Bingaman

So the amendment (No. 1532) was agreed to.

Mr. JOHNSTON. I move to reconsider the vote by which the amendment was agreed to.

Mrs. BOXER. I move to lay that motion on the table.

So the motion to lay on the table was agreed to.

Mr. JOHNSTON. What is the pending business?

AMENDMENT NO. 1517

The PRESIDING OFFICER. The pending business is the Johnston amendment No. 1517.

Mr. SMITH. Mr. President, as the chairman of the Senate Subcommittee on Superfund Waste Control and Risk Assessment, and as a member of the Governmental Affairs Committee, I have been closely following the progress of the pending regulatory reform legislation, S. 343, as it pertains to Superfund. I believe this is an important bill, and I think it makes a significant improvement in modernizing an outdated regulatory system.

I have to admit that I have some concerns about Superfund being specifically targeted for reform in this legislation. Before I outline these concerns, however, I think it is important to recognize how we have gotten to this point.

Everyone in this Chamber can agree that our Nation's system of environmental regulations has had its successes: Americans are breathing cleaner air, and drinking cleaner water today than they did a generation ago. Nonetheless, there is uniform consensus that the Superfund program, however well intended, is not living up to its promises. Over the last 14 years we have spent over $30 billion dollars on this program, yet today, we have completed the cleanup at only 70 of the more than 1,300 sites on the national priorities list. Clearly we can and must do a better job of cleaning up these sites.

Beginning this past January, I conducted a series of 7 hearings and received testimony from more than 60 witnesses in an effort to formally incorporate a wide variety of views on the issue of Superfund reform. In addition, Congressman MIKE OXLEY, the chairman of the House Subcommittee on Commerce, Trade and Hazardous Materials, and I met with numerous groups in candid, off-the-record meetings. Participants included: environmental groups, potentially responsible parties, representatives of the environmental justice movement, State and local governments, the Environmental Protection Agency, the Department of Defense, the Department of Energy, the Department of Interior, think tanks, and insurance companies.

After taking the time to digest and analyze the information provided by these groups, I released, on June 28, 1995, a Superfund reform outline which is a comprehensive effort to radically reform the Superfund program. At this time, I ask that a copy of my proposal be entered in the RECORD after my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Based on comments I have received in response to this proposal, I plan on quickly moving to draft a Superfund reauthorization measure that will be available later this summer. I have pledged to the majority leader, Senator DOLE, that this legislation will be available for full Senate consideration and final passage later this year.

This past Monday, I visited a variety of Superfund sites in New Hampshire. One of these sites, the Coakley Landfill in North Hampton, NH, involved the cleanup of a former landfill site. After 10 years of study, the Environmental Protection Agency determined that in addition to capping the site, it wants to require the construction of a $10-million-dollar groundwater pump and treat system. The EPA is insisting on this remedy even though there are no pathways to human exposure, and even though the pollutant could be addressed in the same amount of time through natural attention. All of the potentially responsible parties, the State of New Hampshire, and the local communities have agreed that this expensive system in not necessary. Nonetheless, the EPA is continuing to go forward.

I can understand the impatience of my colleagues in dealing with this frequently onerous program, and I can appreciate their desire that Superfund be addressed in this legislation. Frankly, in light of its past record, the Superfund program is the poster child for regulatory reform. Nonetheless, given the fact that my subcommittee has been working diligently to quickly develop legislation on this issue, I believe that this matter should be addressed in the context of a comprehensive Superfund reauthorization bill, rather than in S. 343. For this reason, I am asking my Republican colleagues to join me in supporting the Baucus amendment.

I want to make something perfectly clear. Although I would prefer that these issues be dealt with in the context of a Superfund reauthorization measure, I agree in spirit with the changes included in this legislation. The fact is that all too frequently the Superfund program ignores common sense principles when dealing with toxic waste cleanups.

I believe that risk assessment and benefit-cost analysis should be utilized in determining how and when we will be cleaning up these toxic waste sites. While I think it is appropriate that this language not be included in the regulatory reform legislation, I want to make it very clear that the use of appropriate risk assessment and benefit-cost analysis will be part of a comprehensive Superfund reform measure.

EXHIBIT 1

SUPERFUND REFORM OUTLINE

(Introduction from Senator Bob Smith)

The Superfund program has had its successes. It is not, however, a successful program. When seeking input on the future of hazardous waste cleanup in the United States, I held no preconceived notions about what would or would not work. I believed that every legitimate idea had a place on the table, and was guided by one important premise: the Superfund program is in need of dramatic reform. My goal has been—and will continue to be—to solicit input and support from all interested parties to achieve that reform.

Creation of this document was an open process. The Subcommittee on Superfund, Waste Control, and Risk Assessment, which I chair, held 7 hearings and received testimony from more than 60 witnesses in an effort to formally incorporate a wide variety of views on the issue of Superfund reform. In addition, Congressman Mike Oxley, the Chairman of the House Subcommittee on Commerce, Trade, and Hazardous Materials, and I met with numerous groups in candid, off-the-record meetings. Participants included: environmental groups, potentially responsible parties, representatives of the environmental justice movement, state and local governments, the Environmental Protection Agency, the Department of Defense, the Department of Energy, the Department of Interior, think tanks, and insurance companies. I also solicited the input of all members of the subcommittee, Chairman John Chafee, Ranking Member Max Baucus, and the Majority Leader.

The release of this Superfund Reform Outline is a natural extension of that process. The purpose of the document is to solicit additional constructive comments, ideas and criticisms that can be used during the bill-drafting process. The document is divided into three parts. Section I provides a brief history of the Superfund program, beginning with its inception in 1980 and continuing through to present day. Section II explains the principles that were used to guide the development of the reform measures. Section III provides a detailed summary of my recommended proposals.

The legislative proposals contained in Section III are intended to serve as the building blocks for a comprehensive reform of the Superfund program. They are not intended to be all inclusive, and no signal, either positive or negative, is intended if any item has been omitted from the outline. It is plausible that the final version of a comprehensive Superfund reform program may not precisely mirror all of the elements contained in this document.

I would appreciate that any specific comments on this plan be provided in writing. These comments should include your name, address and phone number, and should be forwarded no later than July 10, 1995, to:

Jeff Merrifield, Counsel, Subcommittee on Superfund, Waste Control and Risk Assessment, Hart Senate Office Building, Washington, DC 20510.

The Superfund program must be transformed into a more responsive, efficient and fair system for cleaning up hazardous waste sites and returning them to productive use. I believe this document provides a blueprint for reaching that goal. I look forward to receiving your input.

SECTION I—BRIEF HISTORY

The Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), also known as "Superfund", was passed and signed into law during the post-election session of Congress in 1980. The Superfund program was intended to enhance the federal government's ability to compel parties responsible for causing contamination at sites such as Love Canal, New York, and the "Valley of the Drums" in Kentucky, to either clean up the contamination or reimburse EPA for the costs of doing so.

The cleanup program that Congress enacted was premised on the principle that the "polluter pays," through a system of strict, retroactive, joint and several liability. If those responsible for site contamination (potentially responsible parties or "PRPs") could not be found, or were unable to pay, EPA could use a special Trust Fund (hence the term "Superfund") to pay for the cost of cleaning up these sites. This "Superfund" was funded through taxes on the chemical and petroleum industries. Superfund was further amended in 1986 when Congress enacted the Superfund Amendments and Reauthorization Act of 1986 ("SARA"). SARA extended and expanded the Superfund taxes and authorized expenditures of $8.5 billion through December 31, 1991.

Although the Superfund program has achieved some successes, there is widespread agreement that the program is troubled. When CERCLA was enacted, it was expected that only a few hundred sites would need to be cleaned up and that the program would require relatively modest funding. Both of these expectations have proven to be inaccurate. Currently, there are over 1,300 sites on the Superfund list (known as the National Priorities List or "NPL"), and during the last few years, EPA has been adding an average of approximately 30–40 new sites per year to the NPL. To date, the construction of long-term cleanup remedies have been completed at fewer than 300 contaminated sites.

As the magnitude of the problem has increased, the projected cost of the program has risen accordingly. Congress originally set aside $1.6 billion for NPL cleanups when it created the Trust Fund in 1980. Six years later, Congress increased the amount in the Fund to $8.5 billion. In 1990, Congress added another $5.1 billion. Overall, it is estimated that the total amount of money spent on Superfund since 1980, including the settlement costs of PRP's, is in excess of $25–$30 billion.

Given these problems, the Superfund program has been widely criticized, primarily on the following four major grounds: (1) the liability system is unfair and has resulted in excessive litigation and other transaction costs, diverting attention and money from site cleanup; (2) the cumbersome and often overly prescriptive remedy selection process has delayed clean up actions and driven up cleanup costs; (3) states and local citizens do not have the ability to fully participate in the selection and implementation of appropriate remedies; and (4) the stigma of being listed as a Superfund site often creates economic disincentives for the redevelopment and reuse of contaminated properties.

SECTION II—GUIDING PRINCIPLES

Community Empowerment.—The citizens who are most adversely impacted by the cleanup of hazardous waste sites near their homes should be empowered with a greater role in the decisionmaking process and an increased responsibility in helping to select the remedial action that will protect human health and the environment, foster rapid economic redevelopment, and promote expedited restoration of natural resources.

Enhanced State Role.—The states have developed an extensive and sophisticated level of expertise in addressing the problems of hazardous waste contamination outside of the Superfund program. Reform of Superfund should recognize this level of expertise, and should endeavor, to the greatest extent possible, to empower the states to assume the lead role in the Superfund process. An enhanced state role recognizes that the states have a much greater day-to-day involvement with their citizenry and are in a better position to respond to the needs and desires of the affected communities.

Sensible Cleanup Standards.—The goal of protecting human health and the environment must remain at the forefront of any Superfund reauthorization measure. Nonetheless, sensible Superfund reform efforts recognize that our ability to clean up some sites is constrained by both a technical inability to provide permanent solutions, as well as a limitation on national financial resource. Cleanup decisions should be premised on a careful analysis of the potential risks to human health and the environment, as well as a logical balancing of financial expenditures on remedy selection.

Establish Fairer Liability Requirements.—When Superfund was originally adopted in 1980, its primary purpose was to clean up hazardous waste sites that threatened human health and the environment. The adoption of retroactive liability to pay for this program has unfairly penalized a number of individuals and corporations that disposed of hazardous materials in compliance with then existing federal and state environmental laws. In addition, this liability system created an incentive for litigation which has resulted in slower cleanups and more money going to lawyers. The reform of the Superfund should not only strive to lessen incentives for litigation, but it should also result in a greater percentage of money being dedicated towards cleaning up sites.

Restoring Natural Resources.—The sole purpose of natural resource damages is to provide for the rapid restoration and replacement of significant natural resources that have been damaged by contact with hazardous materials. Financial compensation from persons who caused these damages should be used solely for the purpose of restoring or replacing these resources, and should not serve as a means of seeking retribution or punitive damages from potentially responsible parties.

Expedited Economic Reuse.—Although the original purpose of Superfund was to provide for the quick cleanup of hazardous waste sites, the Superfund cleanup process has resulted in delayed site cleanups, economic uncertainty for affected communities, and a disincentive for industry to redevelop so called "brownfield sites." Reform of Superfund should provide incentives for the voluntary cleanup of industrial sites and the expedited reutilization of urban areas to promote rapid economic redevelopment and reuse.

The Future of Superfund.—Superfund was originally intended to be a temporary program lasting for only a short period of time. A comprehensive reform of Superfund should result in meeting that goal. Over the next few years, this program should be targeted towards completing the cleanup of the Superfund sites remaining on the list, significantly reducing the federal involvement, and allowing states to take the primary role in the cleanup of our nation's hazardous waste sites. While the Environmental Protection Agency should continue to be involved in the emergency removal program and research and development efforts, the eventual elimination of the national priorities list should result in a system where the states, and not the federal government, determine the speed, method and order that hazardous waste sites will be cleaned up.

SECTION III—PROPOSED REFORMS

1. Community Response Organizations (CROs)

A. Creation of CROs.—Under this title, the Environmental Protection Agency ("EPA") or applicable state (see state role below) will provide for the establishment of community response organizations ("CROs") to provide direct, regular and meaningful consultation throughout the response action process. CROs shall be established whenever: (1) the EPA or the applicable state determines that such a group will be helpful in the cleanup process; (2) when the local government requests such an organization; (3) when 50 citizens, or at least 20 percent of the population of a locality in which the national priorities list ("NPL") facility is located, petition for a CRO; or (4) when a representative group of potentially responsible parties ("PRPs") request establishment of a CRO.

B. CRO Activities.—CROs should comprise a broad cross-section of the community, and its duties should include: (1) serving as a forum to assist in gathering and transmitting community concerns to the EPA, states, PRPs and other Agencies on a variety of issues related to facility remediation, including facility health studies, potential remedial alternatives, and the selection and implementation of remedial and removal action and land use; and (2) serve as a resource for transmitting site information back to the community. CROs shall be the preferred recipients of any technical assistance grant ("TAG"), and in addition, can receive administrative assistance from the EPA and the States.

C. CRO Participants.—A CRO shall have a membership not to exceed 20 persons, who shall serve without pay. The EPA or applicable state will solicit, accept nominations and select the members of the CRO. The makeup of the CRO shall represent a broad cross section of the local community, including persons who are or historically have been adversely affected by facility contamination in their community. Local residents shall comprise no less than 50 percent of the total membership of the CRO. Membership on the CRO will represent the following groups:

1. persons residing or owning residential property near the facility or persons who may be directly affected by releases from the facility. At least one person in this group shall represent the TAG recipient if such a grant has been awarded prior to the formation of a CRO;
2. members of the local community who, although not residing or owning property near the facility, may be potentially affected by releases from the facility;
3. members of the local medical community and/or public health officials;
4. representatives of local Indian tribes or local Indian communities;
5. local representatives of citizen, environmental, or public interest groups with members residing in the community;
6. local government which may include pertinent city or county governments;
7. workers employed at the facility during facility operations;
8. facility owners;
9. representatives of potentially responsible parties, who represent, wherever practicable, a balance of PRP interests; and
10. members of the local business community.

2. Enhancing the Role of States

A. Empowering the States to List and Delist Sites.—Section 105 would be modified to provide the states with sole authority to veto the addition of any site that the EPA proposes to add to the National Priorities List. States would also be given the authority, with the concurrence of the PRPs, to have sites taken off the NPL to be managed under existing Resource Conservation and Recovery Act ("RCRA") authorities.

B. State Delegation for NPL Sites.—States would have the option of receiving delegation for the cleanup of NPL sites on either a site-by-site or statewide basis. Under this provision, states would request the delegation of all NPL sites within their state, or they could select specific sites on a site-by-site basis, or the state could choose to assume delegation of no sites.

States that choose to take NPL sites under this delegation plan, would be required to utilize federal liability and remedy selection procedures.

States that currently have authorization for a corrective action program under RCRA, could submit a self-certificate of competence to the EPA. Such certificate shall specify whether the state seeks site-by-site or statewide delegation. The EPA would be required to grant automatic certification of these state programs.

States that do not have RCRA corrective action authority would certify that they have the financial and personnel resources, organization and expertise for carrying out the implementation of the program. Within 90 days of the submission of the state certification, the EPA would be required to review the certification and determine if the state's proposal was sufficient to run a delegated program. At the end of 90 days, if the EPA failed to state an objection to the state certification proposal, the delegation would automatically take effect.

C. Sole State Control of Delegated Sites.—Once a state receives its certification from the EPA, the state will have the exclusive authority for implementing and enforcing the federal Superfund program. Delegated states would have the sole authority for implementing the program, including, but not limited to, remedy selection, enforcement, as well as activities under CERCLA sections 104, 106 and 107. The EPA's periodic review of the state programs shall be limited to auditing the state's use of program funds and a narrow ability to decertify states that fail to materially conduct enforcement and cleanup activities.

D. State Remedy Selection.—States that are delegated Superfund authority would be required to apply cleanup standards consistent with the federal Superfund program. Any state with a delegated program could apply cleanup standards more stringent than those required under the federal program, however, the state would be required to bear the additional costs of such remedies rather than the Trust Fund or the PRPs.

E. Non-Superfund Sites.—The states would be authorized to conduct cleanup activities for all facilities that are not on the Superfund list. This would include, with the exception of the 90 sites added under this proposal, all of the sites which are currently on the Comprehensive Environmental Response, Compensation, and Liability Information System ("CERCLIS") list.

F. Voluntary Cleanup Programs.—In addition to delegated authorities outlined above, state could also seek expedited EPA approval of state voluntary response programs. Under this provision, a state would be able to establish voluntary cleanups at hazardous waste sites with the exception of the following: (1) portions of NPL sites for which a ROD has been issued; (2) portions of sites where RCRA subtitle C plans have been submitted and closure requirements have been specified in a plan or permit; (3) portions of sites where corrective action permits or orders have been issued, modified, or amended to require specific corrective measures pursuant to RCRA sections 3004 or 3008; (4) portions of sites controlled by or to be remediated by, a department agency, or instrumentality of the executive branch of the federal government; or (5) portions of a site where assistance for response activities may be obtained pursuant to subtitle I of RCRA from the Leaking Underground Storage Tank Trust Fund.

G. State Assistance Grants.—An appropriate level of assistance grants should be provided to the states over a 3 year period to build and enhance state Superfund program capabilities. Additional block-grant funding shall also be provided for voluntary and non-CERCLA cleanups that are administered and conducted by the states.

3. National Priorities List

A. Flexible Cap.—Amend Section 105 to provide that the EPA would be allowed to add a total of thirty (30) new sites to the NPL each year for three (3) years following passage of the bill. The EPA would be required to determine and prioritize, on a national basis, which 90 sites present the greatest threat to human health and the environment. These sites would be added to the NPL only upon concurrence from the associated state (see State Role below).

B. Sunset Provision.—Three years from the enactment of this legislation, the EPA would not be authorized to add any additional sites to the NPL. At the completion of cleanup at sites remaining on the capped NPL, the EPA authority shall be limited of providing a national emergency response capability, conducting research and development, providing technical assistance, and conducting oversight of grant programs to the states.

C. Expedited Delisting.—Amend Section 105 to provide that sites shall be delisted once the construction of the selected remedy is certified as complete. An informal rulemaking shall be completed 90 days after the passage of the act outlining the process through which expedited delisting shall take place. If the implemented remedy includes institutional or engineering controls, then the EPA or the applicable state should conduct a review of the site every 5 years. Delisting shall in no way relieve the EPA or the applicable state regulators from conducting ongoing cleanup activities, monitoring or post-cleanup operations and maintenance requirements.

4. Remedy Selection

A. Enhanced Cleanup Flexibility.—Amend section 121(b) to eliminate the preferences for permanence and treatment in selecting a remedy at Superfund sites. The EPA shall be directed to consider all options for addressing contamination at a site including, containment, treatment, institutional controls, natural attenuation, or a combination of these alternatives, and select the remedy that protects human health and the environment at the lowest cost. The remedy selected shall recognize the limitations of currently available technology.

Interim containment and remediation shall be used at sites where no current technology is available to remediate sites to the containment levels necessary to protect human health and the environment. Interim remedies shall be preferred where: (1) other treatment remedies are available only at a disproportionate cost; (2) innovative treatment technologies will be available within a "reasonable time" (3–5 years); and (3) the threat can be contained during the interim time period. The EPA or the applicable state shall review the interim containment plan every five years after the date of construction to determine if a continued threat to human health the environment warrants a modification of the interim containment remedy.

B. Revise the ARAR Mandate.—Amend section 121(d) to eliminate the requirement that remedial actions must meet applicable, relevant and appropriate requirements ("ARARs"). Instead, allow the EPA and the applicable states to utilize remedies that are more responsive to the specific site conditions and risks.

C. Protection of Human Health.—Amend section 121 to specify that selective remedies should be protective of human health and the environment. Remedies shall be judged to be protective of the environment if they (1) protect against significant risks to ecological resources which are necessary to the sustainability of a significant or valuable ecosystem and (2) do not interfere with a sustainable functional ecosystem that is consistent with the targeted land use. The objective is protection of human health and the environment from realistic and significant risks through cost-effective and cost-effective remedies.

D. Requiring an Unbiased Risk Based Analysis.—Amend section 121 to require that risk-based decisionmaking be utilized to: (1) identify the principal elements of potential risk posed by the site, and any cumulative effects posted by adjacent NPL sites; (2) analyze the relative health and environmental benefits of alternative remedies and (3) demonstrate that the approved remedy will protect human health and environment in light of the actual or planned future use of the land and water resources. The tools that the EPA or applicable state would be required to utilize in making this risk assessment would include:

1. actual or plausible exposure pathways based on actual or planned future use of the land and water resources (industrial, commercial, residential, etc.);

2. site-specific data shall be used in preference to default assumptions; and

3. where site-specific data are unavailable, utilize an acceptable range and distribution of realistic and plausible default assumptions regarding actual or likely human exposures and site-specific conditions, instead of high-end or worst case assumptions.

E. Planning for Future Land and Water Use.—Amend section 121(b)(1) to require EPA or the applicable state to quantify the actual or planned future use of the contaminated land and water resources based on a mix of several factors including: (1) previous use of the landholdings; (2) site analysis and surrounding land use patterns; (3) current zoning requirements and projected future land uses; and (4) input from CROs, elected municipal and county officials, local planning and zoning authorities, facility owners and potentially responsible parties. The EPA or the applicable state shall then utilize the balancing factors listed below in selecting a remedy:

F. Reasonable Remedy Selection.—Amend section 121(b)(1) to require the EPA or the applicable state to select the most effective remedy that protects human health and the environment, unless the remedy is technically infeasible or the incremental costs are not reasonably related to the incremental benefits. The following balancing factors should be utilized in determining the most sensible, cost effective remedy:

1. the effectiveness of the remedy to protect human health and the environment;

2. reliability of the remedy to protect human health and the environment over the long-term;

3. any short-term risks posed by implementation of the remedy to the affected community, and to remediation workers;

4. the relative implementability and technical feasibility of the remedy; and

5. acceptability of the remedy to the affected community.

G. Establishing Reasonable Groundwater Cleanup Strategies.—Section 121 should be amended to require that remedy selection for groundwater should include a consideration of the current and future use of the resource, including both the nature and timing of uses. The remedy selection should consider a range of possible remedies including pump and treat, point of use treatment, containment and natural attenuation. The application of the possible remedies shall be weighed against the balancing factors outlined in section F (above) to determine the most cost effective remedy that protects human health and the environment that is not technically infeasible or where the incremental costs are not reasonably related to the incremental benefits. The type and timing of the resource use, technical feasibility and reasonableness of cost shall also be considered where the contamination threatens uncontaminated, usable groundwater.

H. Enhancing Emergency Response.—Amend section 104 to increase the duration of Emergency Response actions to 24 months, and increase the authorized cap to $4 million per site. Provide increased flexibility to emergency response managers to conduct removal and cleanup activities beyond the currently authorized level, where such action may significantly reduce or eliminate the necessity for further remedial activities at such a site.

I. Reviewing Past Remedy Decisions.—At sites where a record of decision ("ROD") has not been signed, the EPA or the applicable state shall apply the remedy cleanup provisions contained within this bill. At sites where a ROD has been signed, but where construction has not begun, the EPA, the applicable state or the PRP can request a review of the ROD to determine if the remedy reform changes contained within the bill would result in a lower cost remedy that protects human health and the environment than the one being proposed. At sites where construction has begun, or where construction has been completed, the EPA or applicable state may conduct and implement a modification of the ROD where the EPA or applicable state or the RPR can demonstrate that the changes in remedy selection contained in the bill would result in a total life cycle cost reduction of at least 10 percent. Under no circumstances could a review of a ROD result in the selection of more costly remedies, nor would there be any reimbursement for past costs. Appropriate limitations would be placed on this review process to limit the potential for additional litigation.

5. Liability Standards

A. Repeal Retroactive Liability for Pre-1981 Disposal.—Amend section 107 to provide that no person shall be held liable for the removal or response costs related to hazardous substance disposal at non-federal NPL sites that occurred prior to December 11, 1980. Such costs shall be paid from the Hazardous Substance Superfund ("the Fund"). For those sites where disposal occurred both prior to and after December 11, 1980, the fund would utilize an independent allocator who would apportion the liability for this pre- and post-1980 disposal. Such allocator would also determine the proportionate level of liability for post-1980 disposal as is described below. Retroactive liability repeal would not apply to federal liability that occurred at nonfederal facility NPL sites. This retroactive repeal program would include a mechanism to ensure that PRPs remain on the site to conduct the cleanup program.

The fund would also assume the costs of any ongoing operations and maintenance costs ("O&M) for the proportionate level of pre-1981 disposal activities. The independent allocation process mentioned earlier would also determine the level of pre- and post-1980 liability for ongoing O&M for any facilities that were in construction or had completed construction prior to the passage of this act.

The fund would also assume that proportionate level of liability for pre-1981 disposal activities at those facilities where construction was underway at the time of the act, but where the payment for that construction had not been completed. In addition, the fund shall reimburse PRPs for construction payments made after June 15, 1995, where such activity was incurred to address pre-1981 liability. At PRP led sites, the PRP shall remain responsible for conducting cleanup activities, but shall be reimbursed from the fund consistent with the principles outlined above.

B. Proportionate Liability for Post-1980 Disposal.—Section 107 would be amended to create a proportionate liability scheme for removal costs, response costs and NRD at non-federal facilities at which hazardous substances were released. Such proportionate liability system would utilize an independent allocator that would determine the appropriate level of liability of each party currently liable under section 107(a) of the existing law.

No person shall be held liable for more than the share of removal, response or natural resource damage ("NRD") costs attributable to that person's conduct. In determining the person's proportionate share of liability, the following factors shall be considered: (1) the amount of hazardous substances contributed by each party; (2) the toxicity of the hazardous substances involved; (3) the mobility the materials; (4) the degree of involvement of each party in the generation, transportation, treatment, storage, or disposal of the hazardous substances; (5) the degree of care exercised, taking into account the hazards posed by the material; (6) the degree of cooperation with federal, state and local officials; and (7) any other equitable factors as the allocator determines are appropriate.

At non-federal sites, the fund shall pay the costs of "orphan shares," which shall be defined to include the shares attributed to bankrupt or dissolved parties, as well as shares that cannot be attributed to any party due to insufficient proof. Any PRP unwilling to pay its allocated share can be sued by EPA for all unrecovered costs at the site, including any orphan shares and de micromis shares. Thus, non-settlors may be held liable for the orphan shares and de micromis shares in addition to their own shares. Settling parties would receive complete contribution protection.

C. De Micromis Disposal Exclusion.—Amend section 107 to provide an exception from liability for certain parties who arranged for, or accepted for, disposal, treatment, or transport of municipal solid waste which contained not more than 110 gallons of liquid materials containing hazardous waste, or not more than 200 pounds of solid materials containing hazardous waste.

D. Lender Liability.—Amend CERCLA to limit the liability of lenders or lessors that: acquire property through foreclosure; hold a security interest in the property; hold property as a lessor pursuant to an extension of credit; or exercise financial control pursuant to the terms of an extension of credit. This section would limit the lenders potential liability to the gain in property value resulting from another party's response action to a release or threatened release. A lender would still be liable if it had caused the damage, release or threat.

1. Fiduciary Activities.—The liability of fiduciaries would be limited to the excess of the assets held in the fiduciary capacity that are available for indemnity. Nonetheless, fiduciaries may be held liable for failure to exercise due care which causes or contributes to the release of hazardous materials. In addition, a fiduciary could be held liable for independent actions taken or ownership of properties unrelated to their fiduciary capacity.

2. Owner Operator Definition.—Amend section 101(20) Superfund to provide that the term owner or operator does not include a person who does not participate in management but holds indicia of ownership to protect the security interests of others, nor does it include a person who does not participate in management of the facility prior to foreclosure.

3. Participation in Management.—Amend section 101(20) of Superfund to provide that "participation in management" means actually participating in the management or operation affairs of a vessel or facility, and does not include merely having the capacity to influence, or the unexercised right to control, vessel of facility operations.

E. Response Action Contractor Liability.—("RACs") Amend section 119 of the Act to provide a negligence standard for activities undertaken by RACs. In addition, amend section 101(2) to provide that "owner and operator" does not include in persons performing on written contracts to provide response action activities.

F. Other Small Business Liability.—There are a variety of other CERCLA liability concerns that have been raised by small business that have not been outlined in this legislative specifications paper. Nonetheless, such concerns are intended to be addressed within the context of a comprehensive CERCLA reform measure.

6. Federal Facilities

A. Enhanced State Delegation.—Qualified states could be delegated CERCLA authority at Federally owned or Federally operated facilities, consistent with certification requirements described above.

Delegation would be contingent upon: (1) states applying identical clean up standards and processes at Federal sites as are applied to non-Federal sites, (2) allowing uncontaminated or cleaned up parcels of property to be reused as rapidly as possible, and (3) applying a definition of uncontaminated property that includes property where hazardous materials were stored but not released.

The Department of Energy's Defense Nuclear Facilities where the federal government is the sole PRP would remain under the jurisdiction of the EPA. In addition, a limited number of Department of Defense sites with exceedingly complex environmental contamination would also remain under the jurisdiction of the EPA.

A risk-based prioritization processes, consistent with remedy selection criteria described above, will be utilized to rank proposed actions at federal facility operable units. Existing Federal Facility Compliance Agreements would be renegotiated based on the identified priorities. These agreements would form the basis by which federal facilities would be regulated by the EPA or the applicable states.

B. Clarifying Radionuclide Regulation.—A minimum standard for radionuclides would be established. Such standard would also account for naturally occurring radioactive materials ("NORM").

C. Promoting Innovative Technology.—The use of Federal facilities to encourage and promote innovative cleanup technology that can be used at Superfund sites would be authorized. EPA would be required to develop an expedited permitting process to collect cost and performance data on new characterization, cleanup and waste management approaches.

7. Natural Resource Damages

A. Recoverable Damages.—Amend section 107 to provide that natural resource damages shall only be recoverable for actual injury to measurable, and ecologically significant functions of the environment that were committed to allocated to public use at the time of the conduct giving rise to the damage. The recovery shall be limited to the reasonable cost of restoring, rehabilitating or acquiring a substitute or alternative resource as well as the cost of assessing damages to that resource. With the exception of direct monetary damages resulting from a lost use of the natural resource, there shall be no recovery for lost use or non-use damages.

B. *Liability Cap.*—Amend section 107 to clarify that no natural resource damage liability shall result from activities where the release or releases of hazardous substances occurred prior to 1980. Where the placement of hazardous materials occurred prior to 1980, but where additional releases resulting from that placement occurred after 1980, the PRP shall be liable for post-1980 releases with a total potential liability not to exceed 50 percent of the amount spent on remedial action. Where the placement of materials occurred both before and after 1980, and where the release or releases of hazardous substances occurred after 1980, the total potential liability of the PRP shall not exceed 75 percent of the amount spent on remedial action. Where the placement and release of the hazardous materials occurred wholly after 1980, the total potential liability of the PRP shall not exceed 100 percent of the amount spent on medial action.

C. *Evidentiary Standard.*—Amend section 107 to eliminate the rebuttable presumption in favor of trustee assessments for any natural resource damages claim in excess of $2 million. For all claims in excess of $2 million, the trustee shall establish all elements of the NRD claim by a preponderance of the evidence, which shall be reviewed de novo by a court, upon petition of any party who is potentially liable for NRD at the site.

D. *Natural Recovery.*—Amend section 107 to require that trustees shall give equal consideration to actions that promote the use of natural recovery as an acceptable alternative to replicating the precise physical, chemical, and biological properties of resources prior to injury.

E. *Cost Considerations.*—Amend section 107 to require that restoration alternatives should include a consideration of the most cost effective method of achieving the restoration objective (i.e., the restoration, replacement or acquisition of ecologically significant resource functions) and not solely the replication of the resource.

F. *Cleanup Consistency.*—Amend section 107 to require that the NRD restoration standards and restoration alternatives selected by a trustee shall not be duplicative of, or inconsistent with, actions undertaken pursuant to sections 104, 106 and 121 of the act. In addition, trustees should be involved early in the remedy selection process to ensure consistency between resource restoration and cleanup activities.

G. *Double Recovery.*—Amend section 107(f) to provide that there shall be no recovery for NRD under Section 107 if compensation has already been provided pursuant to CERCLA or any other federal or state law.

Mr. JOHNSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana, [Mr. JOHNSTON] is recognized.

Mr. JOHNSTON. I ask unanimous consent that the pending amendment be agreed to and that a motion to reconsider be laid on the table.

The PRESIDING OFFICER. Is there objection?

The Senator from New Mexico.

Mr. JOHNSTON. Was that reached, Mr. President?

The PRESIDING OFFICER. Does the Senator from New Mexico object?

Mr. DOLE. No.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the amendment (No. 1517) was agreed to.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. MCCAIN. Mr. President, I ask unanimous consent to address the Senate as in morning business for 10 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. LAUTENBERG. Reserving the right to object.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. I would ask the Senator from Arizona how long he would like to take. We have an amendment that is pending.

Mr. MCCAIN. If there is a pending amendment and the managers are interested in moving forward, I will withdraw that unanimous-consent request, if it is the will of the Senate.

Mr. DOMENICI. Mr. President, I understand there is no amendment pending; is that correct?

The PRESIDING OFFICER. That is the Chair's understanding.

Mr. LAUTENBERG. The Senator from New Mexico is right.

Mr. DOMENICI. Mr. President, I wonder if the Senator will let me send an amendment to the desk, and then I will be glad to yield 10 minutes to him.

AMENDMENT NO. 1533 TO AMENDMENT NO. 1487

(Purpose: To facilitate small business involvement in the regulatory development process, and for other purposes)

Mr. DOMENICI. Mr. President, I send an amendment to the desk on behalf of myself, Senator BINGAMAN, and Senator BOND and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

> The Senator from New Mexico [Mr. DOMENICI], for himself, Mr. BOND, and Mr. BINGAMAN, proposes an amendment numbered 1533 to amendment No. 1487.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. JOHNSTON. Will the Senator yield for a unanimous-consent request?

Mr. DOMENICI. Absolutely.

Mr. JOHNSTON. Mr. President, I have cleared this request with Senator LAUTENBERG and with Senator LOTT.

I ask unanimous consent that when an amendment by Senator LAUTENBERG, which deletes the language of the toxic release inventory, is considered, that there be 1 hour evenly divided; that no second-degree amendments be in order; and that there be a vote up or down on the amendment.

The PRESIDING OFFICER. Is there objection?

Mr. NICKLES. I object.

The PRESIDING OFFICER. Objection has been heard.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico still has the floor.

Mr. DOMENICI. I yield to Senator MCCAIN 10 minutes, if the Senate will permit me to do that.

The PRESIDING OFFICER. Is there objection?

Mr. DOMENICI. I ask unanimous consent that I be permitted to yield 10 minutes, and when he finishes, the floor be returned to the Senator from New Mexico to debate the pending amendment.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Arizona.

Mr. GLENN. Will the Senator yield?

Mr. MCCAIN. I have the floor. I will be glad to yield.

Mr. GLENN. I want to ask a question of Senator DOMENICI. Would he be willing to enter into a time agreement?

Mr. DOLE. Will there be any second-degree amendments on Domenici?

Mr. DOMENICI. Let me say to Senator LEVIN, this has nothing to do with toxic matters, nothing to do with that part.

Mr. DOLE. Mr. President, if the Senator from Arizona will yield to me a moment, we would like to get a time agreement on the Domenici amendment and then whatever we work out on the Lautenberg amendment. We would like to have a window of opportunity from 7 until 8 where there will be no votes. So if we can have one vote before 7, and then any other votes will be after 8 o'clock. Maybe we can work that out during the 10 minutes.

Mr. BYRD. Will the Senator yield?

The PRESIDING OFFICER. The Senator from Arizona has the floor.

Mr. MCCAIN. I will be glad to yield to the Senator from West Virginia.

Mr. BYRD. I wanted to ask the distinguished majority leader why we could not just work ahead and not have a window of opportunity?

Mr. DOLE. You mean work right on through?

Mr. BYRD. Yes.

Mr. DOLE. We will both be here. That will be all right with me. I think it is going to work out that way. I do not know how much time the Senator from New Jersey would want. If we reach an agreement, I think it is going to be about an hour on each amendment. I am perfectly willing to continue to operate without any window, but a number of my colleagues have obligations away from the Capitol. Obviously, the important thing is to finish the bill. That is the most important thing.

Mr. BYRD. Mr. President, will the distinguished majority leader yield?

Mr. McCAIN. I yield to the Senator.

Mr. BYRD. Without the time being charged to the distinguished Senator from Arizona, without his losing his right to the floor.

I can understand the desire of Senators to have a window, but there are some of us who understand that we have to stay here. We do not have any obligations away from the Hill. I have a wife and my little dog, Billy, at home. I would like to get home a little more often a little earlier. These windows of opportunities keep us here, those of us who are willing to, they keep us here in order to accommodate a few who want to run hither, thither, and yon, perhaps for good reason. But it delays the rest of us from getting the work done and getting home.

At the same time when we have these windows of opportunities, who stays around here and listens to the Senators talk? This is a poor way to do business. I do not say this critically of the majority leader, because I have been the leader on previous occasions. I just hope we would not fall into a habit here of having these windows of opportunities and keeping others here who are willing to stay here and work and get home and know what is being said by Senators who take the floor for debate.

Mr. DOLE. I appreciate the comments of the Senator from West Virginia, my friend. I think someone said 2 hours would do. I said, no, an hour should be adequate. Maybe that will not happen. Obviously, the important thing is to finish this bill. I think we have made some progress here, hopefully, this afternoon. If we can have time agreements, if they are less than an hour, there will be less than an hour window. I will work with the Senator from West Virginia. My little dog, Leader, misses me and your old dog Billy, we have not gotten them together yet.

Mr. JOHNSTON. Mr. President, if the leader will yield, Senator LAUTENBERG has a request for a 1-hour time agreement. That would be a good 1-hour window right there.

Mr. HATCH. Will Senator DOLE under the same unanimous consent agree to another comment? Will the leader yield? We also have Senator FEINGOLD. I just want to get it out so people know how many possible votes we have. Senator FEINGOLD has an amendment. We have a couple of other Senators who may want to bring up amendments tonight.

Mr. GLENN. Senator PRYOR has one also.

Mr. PRYOR. Mr. President, I have one.

The PRESIDING OFFICER. The Senator from Arizona has the floor.

Mr. HATCH. I just want everybody to be aware.

Mr. DOLE. If the Senator from Arizona will yield to me one additional moment.

Mr. GLENN. Could I have 20 seconds here? All of these agreements on who is going to come up with whatever, all the agreements on time are going to be contingent on not having second-degree amendments. I think we can work out time agreements or an agreement not to have second-degree amendments.

Mr. DOLE. I cannot speak for anybody on that. I do not have any amendments. Others on either side may wish to reserve that right. It is my understanding the other side cannot agree to any vote before 7:15. Somebody on that side must already be out the window.

So we would be happy to try to work it out. We can have two votes at 8 o'clock. If we can get agreements on the Domenici and Lautenberg amendments, we can do it at 8 o'clock.

Mr. GLENN. Senator LAUTENBERG can accept a time agreement, but not if there is restriction on second-degrees.

Mr. DOLE. As I understand it, we cannot give that assurance.

Mr. GLENN. OK. So there will not be any time agreement.

Mr. DOLE. What about Domenici, is that subject to second-degree?

Mr. GLENN. We are still going through Domenici to see what is in it.

Mr. DOLE. Why do we not let Senator MCCAIN proceed? I think he has a very important statement.

The PRESIDING OFFICER. The Senator from Arizona has the floor.

ATROCITIES IN BOSNIA

Mr. MCCAIN. Mr. President, I do not know how many of my colleagues saw the picture on the front page of the New York Times this morning. It is an unusual and historic picture. When you first look at it, all you see is a group of refugees. If you look a little closer, you will see men in military uniform. Those men are part of what has been called the U.N. Protection Force. They are standing by observing men being taken out of Srebrenica who are suspected, by Bosnian Serb forces of "war crimes," young women being taken out for purposes that I cannot describe, old women and children who are starving to death and being forced to walk unknown distances.

Rather than describe it in my words, let me just read:

> In what has been a ritual of previous "ethnic cleansing" campaigns by the Bosnian Serbs to rid territories of Muslim populations, the Serbs who took Srebrenica separated the military-age men from the refugees and said they would be "screened for war crimes," a United Nations spokesman here said. The air was filled with anguished cries as the Bosnian Serbs loaded the first 3,000 women, children and elderly . . .

Mr. President, we have gone from a situation where the Europeans were supposed to be protecting people to now sitting by and watching atrocities and war crimes being perpetrated before their very eyes. And they stand by helpless. What could possibly be the effect throughout the world of scenes such as this?

Mr. President, as Senator DOLE said in his recent statement, it is over. It is over, Mr. President.

"It was quite a horrifying scene," said Steven Oberreit of Doctors Without Borders. "There was screaming and crying and panic. They didn't know where they were being taken to."

> The refugees fled to Potocari on Tuesday night after Bosnian Serb troops swept into the town of Srebrenica, the heart of the United Nations safe area . . .
>
> Today, 1,500 Bosnian Serb troops, backed by tanks . . . overran the base with no resistance after they threatened to shell the refugees and kill the Dutch peacekeepers they were holding hostage if NATO warplanes intervened.

Mr. President, we have crossed the line from danger to humiliation. We have crossed the line from attempts to do the right thing to degradation and dishonor.

Mr. President, we cannot allow this to continue. And if events follow unchecked, next will be the enclave of Zepa, and then Gorazde, and next maybe even Sarajevo. Mr. President, it is time they got out, and it is time we helped them out, and it is time we help the Bosnian Muslims defend themselves.

Mr. BIDEN. Will the Senator yield for an observation?

Mr. MCCAIN. Yes.

Mr. BIDEN. Mr. President, I am glad to hear the Senator on the floor speaking to this. Would the Senator acknowledge what everybody forgets? I know the Senator is angry about it, as well. I want to remind everybody that the reason why the U.N. observers are there is that the United Nations went in and disarmed—disarmed—not only did we fail to allow the Bosnian Government to get arms, the arms that existed, we went into Srebrenica—the United Nations did, with our support—and disarmed the Bosnian Government, disarmed the Muslims, disarmed the Croats, in return for a promise that we would protect them. And when, in fact, it was clear and the Dutch were called in for air strikes by NATO, Mr. Akashi said no.

I want everybody to remember what the Senator from Arizona is saying here. Not only did we not protect, we affirmatively—the United Nations and the West—disarmed those safe areas, took their weapons and said, "We promise you in return that we will keep the Serbs from the door." But they knocked on the door, knocked it down, and there was nothing there for them to defend themselves with.

Now, as the Senator from Arizona said, they stand by and watch. And it is not the fault of those Dutch blue helmets. It is the fault of the contact group. It is the fault of the West for failing to intervene, at a minimum with air power, significant air power. But I think the Senator is absolutely correct. This is an atrocity. We should lift the embargo immediately and we should make available what, under the law, the President is allowed to do.

Two years ago, this Senate and Congress passed a piece of legislation authorizing the President, in his discretion, to make available up to 50 million dollars worth of weapons off the shelf now for those people.

I stood in Tuzla the last time this happened and watched trucks come into Tuzla loaded with women and children, and I thought they were celebrating when I first saw them because they were holding up children in these dump trucks above their heads. As they unloaded the dump trucks, I understood why the children were being held above their heads and held outside of the dump truck. Do you know why, Mr. President? Because when they opened the gate and got out, there were three children smothered to death in the bottom of those 1995 versions of cattle cars being dragged into Auschwitz. If these were not Moslems, the world would be reacting, just like if it were not Jews in the thirties, the world would react. Shame on the West.

Mr. McCAIN. Mr. President, I ask unanimous consent that I be granted an additional 5 minutes.

The PRESIDING OFFICER (Mr. BENNETT). Without objection, it is so ordered.

Mr. McCAIN. Mr. President, I appreciate the emotion of my friend from Delaware. I appreciate his compassion. I think the challenge before us now is to try to devise, working with the administration, a way to end this tragedy as quickly as possible for a minimum loss of human life, recognizing at this point that there are no good options. There are no good options in Bosnia today. What we need to do is choose the least bad option if we expect to stop this ongoing tragedy.

The reason I pointed out this picture again—this is the first time, I think, in history we have ever seen a picture of people who are in uniform, designated as peacekeepers, standing by and watching people being ethnically cleansed, mass rape, and, of course, the arrest and probable torture of young men. That is what the U.N. Protection Force has been reduced to. That is why, in my view, this was ill-conceived and flawed from the beginning—because it was an attempt to keep peace where there was no peace.

I wanted to give some facts as to how bad the situation is. Let me point out that I believe the United States should be prepared to assist in the effort to help remove the United Nations protection force and remove U.N. and allied forces from Bosnia. I want to just lay out the criteria. I hope at some time we can have a significant debate and discussion of this issue, possibly as early as next week. But I want to lay out the following criteria, because we have to be clear.

The operation must be conducted under U.S. or NATO command. It must have a clear mission objective, precluding any danger of mission creep, and the operational rules of engagement must be established and approved by NATO. Under no circumstances should the United Nations be permitted to participate in any way in the planning or implementation of a withdrawal operation. To allow any U.N. influence would be to risk the same failed policies from which UNPROFOR so clearly suffers. To allow U.N. participation in command decisions would be to risk repeating the gutless refusal to destroy Serb air defenses, a U.N. decision which led to the shootdown of an American F–16 last month.

Mr. President, the administration has committed 25,000 U.S. forces as part of an evacuation force. Once again, we must recognize that we must be willing to devote whatever forces in support that are necessary to successfully complete the mission—an overwhelming force to guarantee the safety of our men and women in uniform and those of our allies.

Finally, Mr. President, clear warnings must be issued to all parties involved in the Bosnian conflict. Should one American be injured or killed while participating in a withdrawal operation, the United States will not hesitate to use its military might to punish such aggression.

I would like to be specific. If the Bosnian Serbs harm Americans while this rescue operation is going on, I suggest the most punishing air strikes imaginable, and going as far away as Belgrade, if necessary.

Mr. President, it is our obligation morally to rescue the U.N. Protection Forces. It is also our moral obligation to do everything necessary to protect the lives of our young men and women who are involved in that operation, and make the cost so extremely high that we can guarantee to a significant degree the safety of those men and women.

Every day UNPROFOR stays, every hostage that is taken, every attack on the safe areas, every strategically ineffectual air strike and every sortie that has no mission but returns safely to base, creates the perception of a feeble Western alliance.

Every day UNPROFOR is in place is another day that the Bosnian Government forces are precluded from protecting themselves against Serb aggression. Remove UNPROFOR, lift the arms embargo and allow the people of Bosnia to fight for their future.

Unfortunately, harsh, cold, military facts will resolve this conflict. One side will prevail. I hope it is the lawful government of Bosnia. I find it very troubling that we have interfered with these realities to the benefit of the aggressor, by imposing an arms embargo on the victim. If we are unwilling to commit American forces to defend Bosnians, we cannot in good faith prevent the Bosnians from defending themselves.

I want to thank Senator DOLE for his proposal on this issue. I hope that next week we will take up this issue as soon as possible. Every hour that we delay, more innocent people will die. Every hour that we delay, will mean more humiliation and degradation of the United Nations and NATO. The repercussions of this kind of dishonor will reverberate around the world. We must bring it to a halt.

I appreciate the indulgence of my colleagues.

Mr. DOLE. Mr. President, first let me commend my colleague from Arizona for his eloquent statement and my colleague from Delaware, Senator BIDEN. I certainly share the views they both expressed this evening.

This is a tragedy I do not believe we will be able to measure for a long, long time. It will have an impact on the West for decades. I hope we can take up the Bosnia resolution as early as next Wednesday or Tuesday.

COMPREHENSIVE REGULATORY REFORM ACT

The Senate continued with the consideration of the bill.

Mr. DOLE. Mr. President, we are trying to get some order so Members will know precisely what will happen.

As I understand, Senator DOMENICI is prepared to offer an amendment, and he is prepared to enter into a time agreement. That cannot be done until Senator GLENN has an opportunity to look at the amendment. We are not certain whether or not there will be a second-degree amendment.

I am advised that we can now deal with the Lautenberg amendment without a second-degree amendment, and it will be 1 hour equally divided.

I ask unanimous consent when Senator LAUTENBERG offers his amendment, No. 1535, that no amendments be in order, that there be 1 hour for debate to be equally divided in the usual form, and when the Senate votes, the vote occur on or in relation to the Lautenberg amendment.

Mr. WARNER. Reserving the right to object, I shall not object. Is it possible we could set a precise time on the Lautenberg vote?

Mr. DOLE. That is what we are trying to work out. We will not take up the Lautenberg amendment, I assume, for another 20 minutes, so the vote will not come until the end of that hour.

We hope we get an agreement on the Domenici amendment, also on the

Feingold amendment, and also on an amendment by Senator PRYOR.

We are looking at the Feingold amendment. We did not have a copy of Senator PRYOR's amendment.

If we can start getting these agreements, I can advise my colleagues when we will have the vote.

Mr. DASCHLE. Mr. President, reserving the right to object, I guess I am not clear.

The majority leader, then, would not be prepared to set a time for the vote on the Lautenberg amendment until we know whether we can sequence more amendments and determine from that whether we might be able to sequence, then, the votes following consideration of all the amendments.

Mr. DOLE. That is correct. There have been a couple of suggestions made. One, that we can sequence four or five amendments and have all the votes tomorrow morning.

We would be here this evening debating the amendments, and those who had other plans or just wanted to frankly do something else, that they would be free to do that this evening. We would have votes tomorrow morning.

I think that is what we are trying to put together. There are four amendments we are aware of. I think the Senator from Texas, Senator HUTCHISON, has an amendment. We are trying to contact her.

I think fairly soon we will have the Glenn amendment, the big amendment, the substitute amendment, which I assume will probably take some time to debate on that.

Mr. KENNEDY. Mr. Leader, I have one on the OSHA provisions, and I would be glad to enter into a time limit tomorrow if we are sequencing. I would be glad to be in touch with the floor manager staff. We will make a copy available.

Mr. LEVIN. Will the leader yield?

Mr. DOLE. I am happy to yield to the Senator.

Mr. LEVIN. There are many amendments that are outstanding. I just am wondering whether or not the majority leader was suggesting that there was just that limited few amendments that were still outstanding, because there are many, many.

Mr. DOLE. I hope the number is not too large. I know there are a number of amendments.

Mr. PRYOR. If the distinguished majority leader would yield, I have an amendment. I think it could possibly even be accepted by both sides. I am not certain.

Even if it has to be debated and voted on, I would agree to 30 minutes time, 15 minutes equally divided, sometime tomorrow, and no second-degree amendments to be offered.

Mr. DOLE. As I understand, we have a copy of that amendment, and I will have Senator HATCH and Senator ROTH look at it.

I would hope that even if we reach some agreements that Members with amendments would stay tonight and try to dispose of those amendments. They may be acceptable or reaching some agreement, where we could have the vote, if not tonight, sometime tomorrow morning.

I think there is good-faith effort on the part of the leaders to keep this bill moving. I think we have gone over a couple of large hurdles this afternoon. If we can make some progress this evening, even though there might not be any votes after a certain point, we could still stay here. The managers are anxious to be here late tonight, to deal with amendments.

Mr. DASCHLE. If the majority leader would yield, would it not be in the interest, for the benefit of those who are waiting to offer amendments, to at least provide a sequence? We have Senator DOMENICI prepared to go now, and then Senator LAUTENBERG immediately after that. If it would be appropriate then for Senator FEINGOLD and Senator PRYOR to follow Senator LAUTENBERG —if we know the sequence perhaps we could then——

Mr. DOLE. I make that request.

Mr. DOMENICI. Reserving the right to object, what we intend to do is to speak for 20 minutes on our side on this Domenici amendment, giving your side a chance to look at it.

We will yield the floor and then permit going to Senator LAUTENBERG. That hour will elapse and then by that time your staff can have looked at ours, we will come back to it and finish it—whether it is 10 minutes, 20 minutes—and then of course you can go to the next one.

So that is understood as the sequencing for the conclusion of the Domenici amendment.

Mr. DASCHLE. That was my understanding, that we were going to set aside the Domenici amendment in order to accommodate the other amendments, and come back to the Domenici amendment after we had a chance to look at it.

Mr. DOLE. Following the Pryor amendment, the amendment by Senator HUTCHISON, an amendment on reasonable reliance.

If I could renew that request, that following the debate by Senator DOMENICI, 20 minutes, we then move to the Lautenberg amendment, and after completion of debate on the Lautenberg amendment, be followed by debate on the Feingold amendment, to be followed by debate on the Pryor amendment, to be followed by debate on the Hutchison amendment.

Mr. DASCHLE. If the majority leader would yield, I am informed Senator FEINGOLD has a second amendment very similar in nature to the Pryor amendment that he would be willing to accept a short time agreement on, so if we could put that on the list as well, I think that could accommodate Senator FEINGOLD.

Mr. DOLE. And that he would follow the Hutchison amendment; is that all right?

Mr. DASCHLE. That is correct.

Mr. JOHNSTON. Mr. President, reserving the right to object, were there any—did this ask for no second degrees on any of those amendments?

Mr. DOLE. Not at this point. We are trying to get the sequence. If we cannot agree on second degrees, that will present a problem. We are at least trying to sequence amendments so Senators will know when they may be expected to be here to offer their amendments, and obviously we would like to have additional amendments if anybody has an amendment. The Senator from Massachusetts will do his, I understand, tomorrow?

Mr. KENNEDY. I would prefer that.

The PRESIDING OFFICER. Is there objection?

Mr. DOMENICI. Reserving the right to object, technically you did not say upon completion of Lautenberg we would return to Domenici before we go to the next amendment, and that should be there.

Mr. DOLE. I thought I did.

Mr. DOMENICI. You did not.

Mr. DOLE. Did not. All right. I guess I could not remember your name.

Mr. DOMENICI. It is pretty hard.

Mr. BYRD. Reserving the right to object—I have no intention of objecting—may I ask, is it the intention to vote on all these amendments this evening? As I understand it, we are only sequencing the amendments now. Some of them may be played out on tomorrow?

Mr. DOLE. That is correct. Some may be accepted, as I understand it. Some may need rollcall votes.

Mr. BYRD. And some might go over to tomorrow.

Mr. DOLE. Some might go over. I am not quite ready to announce that, but I agree with the Senator from West Virginia, we are going to take them up. We can either vote as they come up or we can stack the votes, if that is satisfactory.

Mr. BYRD. Mr. President, I can understand the necessity for stacking a few votes, but I would object to stacking a great number of votes.

What do we mean by a great number?

Mr. DOLE. Right. I would say two or three—that is a small number.

Mr. BYRD. Yes. I have no problem with two or three. But I think we ought not to stack a great number of amendments.

Mr. DOLE. If we did, we would check with the Senator from West Virginia and provide for a little debate between each.

Mr. BYRD. That is all right up to, say, three.

Mr. DOLE. But if we decided to do three this evening and the balance tomorrow morning, would that be satisfactory?

Mr. BYRD. I have no problem with three votes. I hope we will stay here and do them. But there are many of us that sacrifice a great deal in order that one or two Senators, on this side of the aisle and on that side of the aisle, keep an engagement off the Hill. The rest of us are pinned down here waiting on action. We sit here for an hour or 2 hours before we get a vote.

I am not attempting to get in the majority leader's way or the minority leader's way. I am not attempting to force my will on the Senate. But I am one Senator who sits here and waits on action that does not accommodate me at this hour of the evening, to stack votes, hold off votes, or to have a window. There are a lot of other Senators here who would rather be home with their spouses than to be sitting around waiting on a window to expire so we can get down to business to accommodate one or two Senators.

Mr. DOLE. I understand. I hope this will work to everyone's satisfaction. We will keep that in mind.

Mr. BYRD. I thank the majority leader.

Mr. NICKLES. Will the majority leader yield?

Mr. DOLE. I will be happy to yield.

Mr. NICKLES. For the information of my colleagues, I was the one who requested that we stack the vote and maybe several votes for tomorrow morning. The reason I was doing that is because a lot of us do have families and would like to have dinner with their families. I cannot do that tonight because I am involved with some of these amendments, so I am not speaking for myself, but I know a lot of colleagues—some of our colleagues do not live real close to the Hill, either. They might live 20 miles away, so they cannot really wait for 2 hours.

So it is my suggestion that we do as many amendments as possible. Maybe some of these amendments—we now have an order for five amendments. It may well be that we can accept two or three of these amendments without rollcall votes. In all likelihood, the Lautenberg amendment will require a vote. I am not sure about the Feingold amendment or the Pryor amendment. Maybe we can accept the Pryor amendment.

I would like to see us make as much progress as possible. We have a lot of work to do. I also hope the majority leader will say that this is not the end of the work tonight.

I hope we plow ahead, because I know people said they have amendments and I know we are running out of days. So I hope the leaders and the managers of the bill will be willing to stay in and work through as many amendments as possible and stack whatever rollcalls are necessary until possibly 9 o'clock tomorrow morning.

Mr. JOHNSTON. Will the Senator yield?

Mr. NICKLES. I will be happy to yield.

Mr. DOLE. Let me respond. I do not disagree with the Senator from Oklahoma or anybody else. I think we all have the same objective and that is to try to finish the bill. As long as we are moving. What we do not want to do is sit around and wait for somebody to come back from somewhere, so 80 of us wait for 5 to come back. I have done that before, as the Senator from West Virginia has. But I think we have a sequence now and we have the people here who will be here and be debating these amendments. I think for the next hour and a half, we are going to have total debate without, probably, a single quorum call. I think that should satisfy everyone.

Mr. JOHNSTON. Mr. President, will the Senator yield?

Mr. DOLE. This is the late night, I might add. Thursday is normally the late night. We are going to continue.

Mr. JOHNSTON. I think we have a good chance of being able to work out some of these without a record vote. We have some changes I think we can work out with Senator DOMENICI and then, at least from my standpoint, that would probably not require a record vote.

Senator PRYOR's amendment does not sound as though it would require a record vote. At least, speaking for myself, it sounds reasonably noncontroversial.

Mr. PRYOR. Fine.

Mr. JOHNSTON. So you have—that is five. If two of them do not require record votes, that is a maximum of three, and we could let our colleagues go home and see their dog Billys.

Mr. DOLE. I think the best thing we can do now is start the debate.

Mr. GLENN. Will the majority leader yield for a question? As I understood this, and so we straighten it out—I checked with the Parliamentarian a moment ago. I think there was a little doubt as to the order here. As I understood it, it was this: Domenici, 20 minutes; Lautenberg; back to Domenici, then at the end of that; then Feingold, Pryor, Hutchison, back to Feingold again, and Kennedy tomorrow probably; is that correct?

Mr. DASCHLE. That is correct.

Mr. DOLE. Unless we can finish this evening. I think we will probably be on it tomorrow.

The PRESIDING OFFICER. Is there objection to the majority leader's request? Hearing none, it is so ordered.

Under the previous order, the Senator from New Mexico is recognized.

The Senator from New Mexico.

Mr. DOMENICI. Mr. President, it is my understanding I have 20 minutes to be used as I see fit; is that correct?

The PRESIDING OFFICER. That is correct.

AMENDMENT NO. 1533

Mr. DOMENICI. Mr. President, this amendment is made up of two parts. The second part is an amendment proposed by the chairman of the Small Business Committee, who is present on the floor, Senator BOND. So I will try to divide the time rather equally, using 10 minutes and yielding 10 to him—maybe a little more on my end, in proportion. There are more words in my amendment than his, which probably means I should talk a little longer.

I am glad the Senator finished. I yielded 40 minutes ago, I thought, and we would have already been finished with me, but we got a lot of work done so I am pleased to have yielded.

Mr. President, I sent this amendment to the desk in behalf of Senator BINGAMAN, Senator BOND, and myself. I think all of us have had experience in our home States, in one way or another, talking to a lot of small business people, men and women, sometimes couples, and a lot of minority businesses and a lot of women-owned businesses that are small and startup.

Frankly, when it comes to regulations, the most consistent complaint is that the regulatory process never involves small business until it is all finished and it is too late. They are not around to make practical suggestions to seek just some ordinary, common sense in this process. Many regulations take a long time from beginning to end. As a matter of fact, some take 2 years, Mr. President, 2½ years.

What we seek in the first part of this amendment is precisely what the small business people have told us, and told this administration, that they desperately want. Last year, five agencies, including the Small Business Administration, EPA, and OSHA, held a forum on regulatory reform. Let me quote what they said:

> . . . the inability of small business owners to comprehend overly complex regulations, and those that are overlapping, inconsistent and redundant.

They have indicated that:

> The need for agency regulatory officials to understand the nuances of the regulated industry [small businesses, women-owned businesses, minority businesses] and the compliance constraints of small business.
>
> The perceived existence of an adversarial relationship between small business owners and Federal agencies.

All of these were statements made at that forum that this administration held with small business for small business.

So let me read one more time:

> The need for more small business involvement in the regulatory development process, particularly during the analytic, risk assessment and preliminary drafting stages.

That is what they said was the paramount problem. It is in their own report.

Mr. President, this amendment has a lot of pages to it because, whenever you start mentioning Federal agencies and bureaucracies, you have to make all kinds of references. Essentially this would create a partnership, not an adversarial, not a take-it-to-court, not a mandatory situation, but would create panels wherein small business would become partners with the agency officials that are doing this work. So that before the regulations are finalized, they would have some input into what the regulations have to say, whether they are consistent, whether they are too confounding, too complicated, where they do not make sense. All of that, in my opinion, should be part of a well-run executive branch with reference to regulations that OSHA and the EPA put out right now.

I just tried to construct a way to set these panels into existence so that they will be ongoing and each State will have small business input within their States through this process to get small business input. It will be a small number of businesses—just three. There will be a group of bureaucrats or agency people who move this along and make sure that the input is given and passed on where it should be. If it works right, in our sovereign States a few small business people become part of an ongoing dialog regarding regulations that, I think, be it utterly simple, could have a profound effect on what currently is a very bad situation.

Who has not heard a small business say that, "Government regulators treat us like enemies"? If you have not heard it, you have not been among them. If you have not heard them say, "They do not care what we think," you have not been among small business people.

We are trying in a simple way to see if in time we can get those kinds of things wiped away from the scene as far as the regulations, and that there be more partnership-type exchange between those that create the jobs in America, that pay the bills, and those that attempt to regulate them and their lives and their businesses sometimes in very wasteful and unreasonable ways.

So, Mr. President, there may be room to change some of the words to make it very clear what we intended. We will work with Senator JOHNSTON's staff and Senator GLENN's staff. We have already talked at length with the chairman of Governmental Affairs, Senator ROTH, and his staff. They tend to think this is a good amendment and should be adopted.

Mr. President, almost all of the small business owners I talked to—who are the people who create almost all of the jobs in my State—told me just how smothering this explosion in regulations has become.

Further, almost without exception, these small business owners identified the Occupational Safety and Health Administration [OSHA] and the Environmental Protection Agency [EPA] as the two Federal agencies which promulgate the most unreasonable and burdensome regulations.

Further, Mr. President, because a great number of new businesses are being started by women, some of the most vocal critics of EPA's and OSHA's unreasonable regulations are women-owned businesses.

I believe one of the biggest reasons for these attitudes among America's small businessmen and women is that they are just not adequately consulted when regulations affecting them are being proposed and promulgated.

I am not alone in this belief.

Last year five agencies—including the Small Business Administration, EPA, and OSHA—held a Small Business Forum on Regulatory Reform.

Let me quote from the Administration's own report summarizing the principal concerns identified at the forum:

> The inability of small business owners to comprehend overly complex regulations and those that are overlapping, inconsistent and redundant.

These panels will be responsible for providing technical guidance for issues impacting small businesses, such as applicability, compliance, consistency, redundancy, readability, and any other related concerns that may affect them.

These panels will then provide recommendations to the appropriate agency personnel responsible for developing and drafting the relevant regulations.

The panels will be chaired by a senior official of the agency and will include staff responsible for development and drafting of the regulation, a representative from OIRA, a member of the SBA Advocate office, and up to three representatives from small businesses especially affected.

The panel will have a total of 45 days each to meet and develop recommendations before a rule is promulgated or before a final rule is issued. Forty-five days, in the context of rules that are years in development, is not a delay.

In fact, these agencies know months in advance that they will be preparing these regulations. Sometime during this period, the agencies can seek these panels' advice.

This will allow the actual small business owners, or their representative associations, to have a voice in the massive regulatory process that affects them so much.

Finally, this amendment will also provide for a survey to be conducted on regulations. This idea is analogous to what the private sector routinely practices.

A customer survey, contracted and conducted with a private sector firm, will sample a cross-section of the affected small business community responsible for complying with the sampled regulation.

I believe that this panel, working together so all viewpoints are represented, will be the crux of reasonable, consistent, and understandable rulemaking.

Further, my amendment enjoys the support of the National Federation of Independent Business.

Also, I previously spoke of the Small Business Advocacy Council which I set up in my State.

Mr. President, I believe this amendment will help reduce counterproductive, unreasonable Federal regulations at the same time it is helping to foster the nonadversarial, cooperative relationships that most agree is long overdue between small businesses and Federal agencies.

CONCLUSION

Mr. President, a second part of this amendment would greatly aid small businesses as they deal with these seemingly endless Federal regulations.

For a further explanation of these provisions, I would like to yield to my good friend and chairman of the Small Business Committee, Senator BOND.

Let me conclude that the National Federation of Independent Businesses wholeheartedly supports this amendment as a bona fide effort to get small business involved in a nonadvocacy manner but regular and ordinary involvement in the preparation of regulations that affect them.

I ask unanimous consent that the letter from the National Federation of Independent Businesses be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NATIONAL FEDERATION OF
INDEPENDENT BUSINESS,
Washington, DC, July 12, 1995.

Hon. PETE DOMENICI,
U.S. Senate, Washington, DC.

DEAR SENATOR DOMENICI: On behalf of the more than 600,000 members of the National Federation of Independent Business (NFIB), I am writing to express NFIB's support for your legislation, the Small Business Advocacy Act, as an amendment to S. 343, along with Senator Bond.

Small businesses have long been at a disadvantage in accessing the regulatory process. They simply do not have the time or resources to closely follow the Federal Register and work with agencies to ensure that regulations are not unnecessarily burdensome. This issue is of such importance that it was voted the number three recommendation in the recent White House Conference on Small Business.

Your legislation provides a mechanism, through its establishment of small business review panels, to ensure that the small business voice is heard as regulations are being developed. As a result, regulators are more likely to achieve their implementation goals at a lower cost and with less burden on small businesses.

Further, your legislation establishes a small business and agriculture ombudsman in federal agencies where small business owners can confidentially report on compliance and enforcement proceedings. The ombudsman can then issue findings and recommendations to improve enforcement activities and ensure that regulations are understandable and reasonable for small businesses.

NFIB supports your efforts and will work with you to enact your amendment.

Sincerely,

DONALD A. DANNER,
Vice President.

Mr. DOMENICI. I yield to my friend, the chairman of the Small Business Committee, Senator BOND.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, I am pleased to join with my very distinguished colleague from New Mexico and the other Senator from New Mexico, Senator BINGAMAN, in offering this amendment. I commend Senator DOMENICI for all of the work that he has been doing on the very difficult budget process, and for the great work he has put in this early on this year.

He asked if I would join him to listen to the small business people who had come to him in New Mexico and who wanted to share with us in Washington the concerns they had about how the Federal Government was making it far more difficult for small businesses to thrive and even to survive.

We had an excellent field hearing in Albuquerque, NM, where we learned a great deal about the concerns of small businesses about excessive regulations and excessive and abusive enforcement tactics by Government agencies.

Here in Washington those might seem like overused phrases. But outside the beltway, in the real world, where the men and women of small business are trying to earn a living for themselves and their families, to create jobs and to improve their communities, they are suffering real harm from precisely those excessive regulations and excessive and arbitrary enforcement.

We heard from Ms. Angela Atterbury, owner of a small business in Albuquerque, NM. She told us of a small businessman who was a first-time offender of an OSHA regulation and was fined $8,000; no education or explanation, just a fine, which almost put the man out of business. She told us of a small pest-control company transporting one to two pints of pesticide who must comply with the same regulations as a large shipper of chemicals. And a candymaker who cannot legibly print all the information required by the FDA on the candy bar wrapper.

You have to have a separate sheet of paper attached to each candy bar to get all the information on it.

We also heard from Mr. Gregg Anesi, a small businessman from Farmington, NM, who testified that too often there is no practical recourse for a bad regulation or a bad regulator.

This is something that we have heard time and time again. Many, many small businessmen and women have asked us, "What do you do if you are small business and you cannot afford to hire a hoard of lawyers, and you cannot afford to carry on a battle with an agency? You have somebody who seems to be overstepping their authority or misinterpreting regulations. How do you get out of it?"

This is really a crushing problem for many small businesses who run head on into the Federal Government and feel like they have been hit by a truck. And many, many more small businessmen who were literally drowning in the flood of Government regulations.

The Small Business Committee has held field hearings in several other States since that time, and the message from small business owners at each of these hearings is strikingly similar. In my own State of Missouri, I heard from Mr. Leon Hubbard, the owner of a small homebuilding company in Blue Springs, MO. Mr. Hubbard persuasively describes the disproportionately burdensome impact on a company like his of regulatory paperwork obligations. OSHA requires companies like his to have files of Material Safety Data Sheets for all hazardous products on a home construction site, in spite of the fact that most products carry their own warning labels and despite a 1992 OSHA study that indicated less than 1 percent of all construction fatalities resulted from chemical exposure.

We know from other instances where people have been hit by OSHA because they did not have a safety material data sheet on a bottle of Dove soap, the kind that any of us may use in household cleaning activities. This is the length to which some of them have gone.

He also pointed out the unfairness of OSHA's multiemployer work site policy. Arbitrary enforcement of this rule makes builders like himself legally responsible for the safety practices of employees of independent subcontractors working on the same job site even though he might not have any direct authority over the employees. This means that one employer could be cited for safety violations of another employer.

Another piece of very compelling and interesting testimony came from Mr. James M. White, senior program director for the Local Initiative Support Corp. in Kansas City describe his frustrations with the problems created for central city redevelopment by the unpredictable enforcement of environmental regulations. Mr. White is a senior program director for a national non-profit organization funded by the private sector to provide support to community development corporations. He testified about his personal involvement in six proposed development projects in central Kansas City where the projected development costs were escalated to excessive levels by uncertainty over cleanup requirements under environmental laws. The defensive and over cautious approach taken by lenders and others as a result of inconsistencies and uncertainties about potential environmental liabilities dramatically increase project costs and reduce redevelopment opportunities. Factories and jobs often are driven to locate in distant suburbs rather than in the central city where they would be welcomed by thousands of job seekers.

As a result of our hearings, Senator DOMENICI introduced S. 917, the Small Business Advocacy Act—to give small business a greater voice in development of regulations of EPA and OSHA—and I introduced S. 942—to give small business a greater voice in dealing with the enforcement of regulations, to give small businesses who feel they are being oppressed either by excessive regulations or by the enforcement of them some place they can go, some voice where they can be heard.

The amendment that Senator DOMENICI, Senator BINGAMAN, and I have proposed draws on both bills to produce what we think is a strong amendment for small business.

The part of the amendment drawn from S. 942 is designed to give small businesses a place to voice complaints about excessive, unfair or incompetent enforcement of regulations, with the knowledge that their voices for once will be heard. The amendment sets up regional small business and agricultural ombudsmen through the Small Business Administration's offices around the country to give small businesses assurance that their confidential complaints and comments will be recorded and heard.

I cannot tell you how many times a small businessperson has come up to me and said, "Man, this inspector from OSHA was really tough on me, but I am scared to death because if I complain to his supervisor, I am going to get it doubly bad the next time."

Well, there ought to be some kind of check, some kind of confidential process in which he can place that complaint. And if there are others like him who are also being abused by that particular inspector, perhaps the ombudsman can do something about it.

The ombudsman also would coordinate the activities of the volunteer Small Business Regulatory Fairness Boards, made up of small business people from each region. The board would be able to investigate and make recommendations about troublesome patterns of enforcement activities. Any small business subject to an inspection or enforcement action would have the chance to rate and critique the inspectors or lawyers with whom they deal.

Now, they may not like them all, but you can sure find out, when you listen to the people who are subjected to the inspections and the regulations, who are the responsible officials and who are the overly aggressive and excessively burdensome and overbearing regulators.

In dealing with small businesses today, too many times an agency seems to assume that everyone is a violator of the rules, trying to get away with something. Many agencies do a good job of fulfilling their legal mandate while assisting small business, but there are some that seem stuck in an enforcement mentality where everyone is presumed guilty until proven innocent. That is not our system. That is not the American way.

From your experience and mine, we know that most people want to comply with the law if they know what it is. We still need sanctions. We still need enforcement for those who willfully refuse to do so. But let us not assume that everyone wants to violate the law and wants to overlook the requirements for safety, for health and other legitimate regulatory purposes.

I think we ought to let small businesses compare their dealings with one agency to dealings with another so that the abusive agencies or agents can be weeded out and exposed. Agencies should be vying to see which can fulfill their statutory mandate in ways that help and empower small business to accomplish their purposes, whether it be safety in the workplace or cleanliness of the environment. The agencies ought to be helping first the people involved to do the job that they want done and to do it properly.

We need direct feedback, and I think the agencies need direct feedback from small business women and men around the country on how well regulators are doing their job.

In my view, the Domenici amendment will for the first time take the fight outside the beltway and attack the regulations and the agencies where they impact people in their day-to-day lives.

Now, most of my colleagues in this body have received complaints. If you have not heard thousands of those complaints, you must not be listening because every day they come to Washington to tell the Members of Congress how bad they are being treated. Let us give them a chance to get a hearing out in the area where they live to identify at the location where it is happening those agencies or representatives of agencies who are overstepping their boundaries.

Mr. President, last month the President told the White House conference that he wants Government regulators to stop treating small businesmen and women as criminals and start treating them as partners or customers. I commend him for that, and I believe this amendment will help to make that goal a reality and bring much needed relief to small businesses across the country. I really hope the President will follow through on his speech to small business and join with the National Federation of Independent Businesses in supporting this amendment.

I point out, since I am talking about the conference, that this White House Conference on Small Business which just completed brought a lot of good ideas and a lot of information to Washington, and the No. 3 priority which the small business delegates put on the agenda was dealing with regulation and paperwork. They had a vote of 1,398 who said the third priority should be amending the Regulatory Flexibility Act, making it applicable to all Federal agencies including IRS and DOD, and including the following—and this I note parenthetically, that the Dole substitute, this measure under consideration, does just that. It strengthens the Regulatory Flexibility Act. It also does the other following things set forth in that priority listing:

A. Require cost-benefit analysis, scientific benefit analysis and risk assessment on all new regulations.

B. Grant judicial review of regulations, providing courts the ability to stay harmful and costly regulations and requiring agencies to rewrite them.

C. Require small business representation on policymaking commissions, Federal advisory and other Federal commissions or boards whose recommendations impact small businesses. Input from small business representatives should be required on future legislation, policy development and regulationmaking affecting small business.

The regulations go on, but I think any of us who travel in our States and listen to the small businesspeople will agree that even if you were not fortunate enough to attend the conference, these are the concerns of small business.

I believe the Domenici amendment helps this excellent substitute that is before us to address those needs.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from New Mexico has 2 minutes.

Mr. DOMENICI. Mr. President, I ask unanimous consent that Senator COHEN of Maine and Senator ABRAHAM of Michigan be added as original cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. I ask unanimous consent there be printed in the RECORD a letter from Angela Atterbury, of Atterbury & Associates, who is the chairperson of my Small Business Advocacy Council, expressing our entire New Mexico Advocacy Council support of this amendment.

There being no objection the letter was ordered to be printed in the RECORD, as follows:

ATTERBURY & ASSOCIATES, INC.,

For the past two years, the Small Business Advocacy Council has worked to identify solutions to regulatory issues which create unreasonable burdens for small business. Our members, comprised of women and men small business owners, currently are underrepresented in the regulatory process. By providing a presence to small business people on a regulatory review panel, Congress would level the playing field toward small business, which often can not absorb the costs or the time required to understand the language of existing regulations.

This is what small business wants—an opportunity to act in an advisory capacity and work together with agencies. This would help refute what is seen by small business as the agencies' adversarial position toward them. It would provide a much-needed dose of reality by those of us who live our day-to-day lives outside the Beltway to those who live within its confines, in terms of application, readability, costs and other germane issues. The review panel will also give each side a means to communicate and soften the stance many in the small business community hold of the agencies, that is, that their existence is justified only by levying fines to small business.

Sincerely,

ANGELA ATTERBURY,
President, Chair,
Small Business Advocacy Council.

Mr. DOMENICI. I was very pleased that my friend from Missouri mentioned some of the people in our State who testified before his small business hearing, and I might just in my remaining minute for the record thank him for mentioning them and refresh his recollection about the farmer who brought to the hearing room all of the attire, from boots to an orange jacket, to a headpiece where he had to cover his face. And it was because of the newest regulatory schemes that we have under the protection of Agricultural Workers Act. That may not be its formal name.

What he said was very interesting. I wanted to say this when Senator NICKLES, the great golfer, was in the Chamber. He said, I believe we can prove that every golfer who plays 18 holes of golf on a modern grass course gets exposed to more of that which you are trying to protect farm workers from than in 1 year on the farm, but farmers' aides will be wearing this attire like they were from outer space. He said, how would the golfers feel with all of that on them to protect their legs which are exposed as they wear shorts out on the golf course.

I think those are some of the things that somehow or another, sooner or later we are hopeful the point will get across about common sense, and we believe our amendment will add a little bit of potential and possibility for that happening.

Mr. President, I understand Senator GLENN and the staff of Governmental Affairs wants more time to look at my amendment. So, I ask unanimous consent that whatever the previous order was, that the Domenici amendment be set aside and that it follow in sequence for tomorrow morning for the first amendment that would come up tomorrow morning, whatever that might be. Is that satisfactory with Senator GLENN?

Mr. GLENN. It is satisfactory to me. All we want to do is have a chance to look at it. There is some irritation expressed that we were even questioning this.

Mr. DOMENICI. Let me ask that it be set aside temporarily.

The PRESIDING OFFICER. The amendment has been set aside for the consideration of the amendment by the Senator from New Jersey.

Mr. DOMENICI. I am supposed to be back here to present the rest of my amendment. I am not going to do that if it is to no avail.

Mr. GLENN. We would be happy to comply with all these things. We have a number of questions on these. They are legitimate. We will have the administration, the Justice Department, look into this tonight to be able to give an answer in the morning. We would not be able to give approval or accept this this evening. I think it is a good idea to put it off until tomorrow. Then the Senator from New Mexico would not have to come back tonight.

The PRESIDING OFFICER. It is the Chair's understanding that the Senator from New Mexico controls when his amendment will be called up. He can have it set aside in order to hear the presentation by the Senator from New Jersey.

Mr. DOMENICI. Thank you.

The PRESIDING OFFICER. It will come up when he calls it.

Mr. GLENN. It is subject to being called up either tonight or tomorrow; is that correct?

The PRESIDING OFFICER. That is correct. We would proceed following the Senator from New Jersey.

The Senator from New Jersey is recognized to proceed.

Mr. ROTH addressed the Chair.

The PRESIDING OFFICER. Under the previous order, the Senator from New Jersey is recognized.

Will the Senator from New Jersey yield?

Mr. ROTH. For the purposes of unanimous consent.

Mr. LAUTENBERG. I would be pleased to yield without losing my right to the floor to the distinguished Senator from Delaware.

Mr. ROTH. We will withhold. I understand there will be one more unanimous consent.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. I thank the Chair.

AMENDMENT NO. 1535 TO AMENDMENT NO. 1487

(Purpose: To strike the provisions relating to the toxic release inventory review)

Mr. LAUTENBERG. I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the pending Domenici amendment is set aside. The clerk will report the Lautenberg amendment.

The legislative clerk read as follows:

The Senator from New Jersey [Mr. LAUTENBERG], for himself, Mr. BAUCUS, Mr. LIEBERMAN, Mr. KERRY, Mr. BRADLEY, Mrs. BOXER, Mr. SIMON, Mr. KENNEDY, and Mr. MOYNIHAN, proposes an amendment numbered 1535 to amendment No. 1487.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 72, strike lines 1 through 15.

Mr. LAUTENBERG. Mr. President, this amendment would delete a provision currently in the bill that is unrelated to regulatory reform and would greatly weaken a critical environmental law generally known as the community right-to-know law, or the Toxics Release Inventory, commonly called TRI.

Mr. President, I was the original sponsor of the right-to-know law. I am proud that it has proved to be one of the most effective environmental laws on the books. The right-to-know law has no prescriptive requirements. It does not force anyone to do anything except release information. It is a simple sunshine statute.

Mr. President, I would strongly oppose the emasculation of the right-to-know law no matter what the vehicle. But this clearly is not the proper way to consider such a huge change in the major environmental law. The right-to-know provision in this bill has been subject to hearings or scrutiny in the Environment and Public Works Committee. And the substance of the proposal goes well beyond the changes proposed for other types of regulations.

Mr. President, as I said, my amendment proposes to delete a section of the proposed legislation that reduces the effectiveness of the right-to-know law, commonly called TRI, Toxics Release Inventory. Most of us who have been here for a while have worked on legislation that sometimes turns out to be less effective than we had hoped. The right-to-know law, on the other hand, has proven to be even more effective than we expected. It has also proved to be less obtrusive to business than other environmental laws that are on the books.

Now, most environmental regulations operate by command and control. They require companies to take specific actions, such as lowering emissions, sometimes by a specific date, sometimes by a specific technology. Some environmental laws require industry to develop technology that does not yet exist. And these types of prescriptive regulations are probably the major reason that industry has been pushing for this so-called reform legislation.

But the right-to-know legislation is quite different. The Toxics Release Inventory imposes no regulatory control. It requires no permitting. It sets no standards. It requires no registration, labeling or reduction in emissions. It does not even require monitoring by a Federal agency. All it requires are estimates of the amount of toxic chemicals that facilities release into our environment. And this information is very helpful to local officials, to fire and emergency personnel and to those who live near the plants. Despite the lack of specific requirements, the right-to-know law has probably led to more voluntary pollution prevention efforts and more environmental cleanup than any other law. The right-to-know law requires companies to list the amount of certain chemicals that leave their facilities through air, through water, or shipment to land disposal facilities.

Currently, 652 chemicals are required to be disclosed. Each has well-established adverse health effects or is carcinogenic or toxic.

Now, under the law, in deciding which chemicals to include on this list, EPA is not required to do a full risk assessment. On the other hand, the law does not restrict companies from releasing these chemicals. All that is required—and I make this point over and over again—is disclosure. The right-to-know law has proven effective primarily because it has influenced the voluntary behavior of corporations. First, many companies have voluntarily reduced the emissions of harmful chemicals in order to avoid negative publicity. By requiring companies to tell the public the truth about the chemicals they are emitting, the law has created a strong incentive for industry to reduce emissions even though, again, they are not required to do so by law.

Beyond creating the possibility of adverse publicity, the right-to-know law has worked by encouraging businesses to reduce waste for the sake of their own bottom line. Company after company has discovered the material they were putting out through the stacks or pouring into the water could be recovered and reused. One company in New Jersey cut its emissions by 90 percent once they looked at the value of the materials they were simply throwing away. And when we look at what some of the companies say, it is rather illuminating. This quote from Ciba-Geigy, a very important pharmaceutical manufacturer, in 1993 in the environmental report that said:

> The initial demand for environmental reporting came from the public. But in responding, we have discovered that the information is extremely useful to our own management. We have learned about our successes, our inadequacies and the gaps in our knowledge. It's a good example of the way in which external pressures ultimately prove of benefit to the environment and to industry.

Mr. President, lots of these materials are very expensive. And when they are wasted, they have a negative effect on the company's bottom line. Yet before the right-to-know law was enacted, perhaps surprisingly many companies simply did not appreciate the extent to which chemicals were being wasted by emitting them into the environment rather than using them in their product manufacturing. The right-to-know law has given many corporations the information they need to reduce this waste. As a result, many have redesigned their manufacturing processes, begun recycling chemicals, and taken other steps to reduce waste.

This chart helps to demonstrate the impact of the Toxics Release Inventory. In 1988, 4.8 billion pounds of toxic material were sent into the waste—air, land, or water. In 1992, 4 years later, we had a dramatic reduction, down to 3.2 billion pounds, and in 1993, 2.8 billion pounds, a reduction of 2 billion pounds of toxic material being emitted into the waste stream in a period of only 5 years.

Now, what is going to happen if the present bill goes into effect as is, turns into law? Then the right to know—nothing will be the predominant rule. Mr. President, not only is it unfair, costly, wasteful, but it will give the companies a chance to relax rules that proved beneficial for them and nonbeneficial for the health and well-being of the residents or those who work in the area.

Let me repeat, emissions have been reduced by 42 percent or, as I said earlier, 2 billion pounds in dangerous chemical emissions. Yet, all of this is at risk if the provision included in the bill is enacted into law.

Do we really want to change the right to know into knowing nothing? I hope not. Should not our citizens be aware of the risks that they and their families undergo?

The chemical industry has acknowledged the value of the right-to-know law. We can look at the testimony by the Association of Chemical manufacturers. They say:

> The chemical industry can work within the requirements of title III to achieve two important objectives: Improving local emergency planning and informing the public about chemical operations.
>
> These objectives are vital to the long-term success and competitiveness of the chemical industry. Facility managers must take the initiative and work directly with local government and communities to make this law work.

Or someone representing DuPont, Mr. Vernon Rice, said:

> The beauty in the TRI is that a company can decide for itself how it will achieve reductions and can deploy the most cost-effective methods to do so. The law and the regulations that follow provide the incentive that industry then is provided with discretion on how to make the reductions.

I might add, Mr. President, industry also can decide not to make any reductions at all.

The bill before us would undermine the right-to-know law by changing the rules for designating those chemicals that must be disclosed. It makes it easier to take chemicals off the list and harder to put them on.

Under the new test, EPA would have to know about emissions and exposure levels at plants throughout the country to determine their likely impact. But because the TRI information on that chemical would not exist, EPA would not have enough information to meet the new test. This new standard puts the cart before the horse. This would completely defeat the purpose, intent, and the positive successes of the TRI program.

The TRI list is not perfect and perhaps some chemicals should be removed. Yet, present law has a proven system to consider petitions to remove chemicals from the list. Seventeen chemicals have been taken off the list through the petition process.

I urge my colleagues in the strongest possible terms to reject this special interest legislation. It is a paternalistic proposal that would have the Congress tell the American communities that they do not have the right to know about chemicals that could have a fundamental negative impact on their lives. It is a proposal that says to community officials that you need not have a right to know about chemicals that can cause serious harm to your constituents. It is a proposal that says to parents, you may be concerned about how toxic chemicals will affect your children, but it is more important that industry should have the right to withhold that information about chemicals that they are emitting into the atmosphere, into the water, and into the land.

This is bad special interest legislation, Mr. President. The section on the right to know is an exception from the $100 million threshold in the rest of the bill. It has no place in this legislation, and I urge my colleagues to support my amendment to delete it.

Mr. President, I believe that we have an hour equally divided, according to the unanimous consent agreement; is that correct?

The PRESIDING OFFICER. That is correct.

Mr. LAUTENBERG. How much time does my side have?

The PRESIDING OFFICER. The Senator has 16 minutes 40 seconds remaining.

Mr. BRADLEY. Mr. President, I rise in support of the amendment to remove the Toxic Release Inventory provisions from the regulatory reform bill. On June 28, 1995, I wrote to the majority leader suggesting that this section and the provisions affecting Superfund be removed from S. 343. I said at that time that I was troubled by the bill's inclusion of special provisions affecting the effectiveness of the toxic release inventory, TRI, also known as the Community Right-To-Know Act.

The Community Right-To-Know Act, which builds on programs pioneered by my home State of New Jersey, is considered a complete success by almost all those who have analyzed its performance. In fact, it is precisely the kind of alternative to conventional command-and-control regulation which the drafters of S. 343 say they endorse. It requires full community disclosure for a list of chemicals which may prove hazardous to human health or the environment, especially in case of accidents.

In response to required TRI disclosures, and without the need for restrictive regulations, companies have voluntarily reduced their use and emissions of chemicals on the TRI list. This form of pollution prevention has actually saved companies money, caused them to retool their operations for greater efficiency and gained them good will in their communities.

And using TRI information, nearby communities have taken the precautions they need to protect themselves in the event of an emergency.

Unfortunately, the bill would require EPA to replace its current hazard-based listing process for the addition of new chemicals under TRI with an unworkable, risk-based process which would result in the addition of few, if any new chemicals to the TRI list. The bill would also require EPA to remove chemicals from the TRI list if the Agency could not make a showing that a particular chemical was acutely toxic to areas beyond a facility's boundaries. Obviously, this kind of restriction on TRI's effectiveness would result in serious emergency response problems. Even worse, the bill's restrictive language would eliminate coverage for chemicals which cause chronic health hazards, reproductive effects or environmental damage. The result—elimination of about 90 percent of the chemicals on the TRI list.

The bill would also require the Agency to prove that listed TRI chemicals cause harm when they are released to the environment before requiring companies to report their pollution under TRI. But since TRI is a full-disclosure statute and not a regulatory one, this standard is irrelevant. The purpose of TRI is to let a plant's workers and nearby community know what is going on at facilities which are their employers and neighbors.

Even with TRI, there are still problems with insuring that a community receives the information it needs for coping with chemical emergencies and discovering bad actor companies. A recent accident in Lodi, NJ points out the need for an expansion of TRI which puts chemical information into a user-friendly form. At the time of the accident the community found it lacked the data it felt it needed.

I will soon introduce legislation to require centralized information collection and distribution of all the information available on a plant or group of plants, including state data, violation and accident history. While all this information is available now, you have to be Sherlock Holmes to ferret it out.

Mr. President, restricting and usefulness of TRI makes no sense. It is a low-cost, nonregulatory way of improving the environment that other programs should be copying. And it is exactly the kind of protection that communities like Lodi need.

Mr. LAUTENBERG. Mr. President, I ask if the people in opposition have comments that they would like to make at this juncture, or if there are any of those people who are cosponsors of my amendment who are here who would like to add their thoughts. We have cosponsors who are indicated on the legislation, a significant number of them. If they would like to make any comments, this is the time they are going to have to do it, because the clock is ticking and I hate to see the time wasted.

Unless anyone wants to speak, Mr. President, I will suggest the absence of a quorum.

Mr. JOHNSTON. Will the Senator withhold?

Mr. LAUTENBERG. I will.

Mr. JOHNSTON. Mr. President, will the Senator yield me 10 minutes?

Mr. ROTH. I will be happy to yield 10 minutes. But first, I want to make three unanimous-consent requests.

The PRESIDING OFFICER. The Senator from Delaware.

UNANIMOUS-CONSENT AGREEMENTS

Mr. ROTH. Mr. President, I ask unanimous consent that when Senator FEINGOLD offers his amendment regarding equal access, that no amendments be in order, or in order to the language proposed to be stricken; that there be 30 minutes for debate to be equally divided in the usual form; and that when the Senate votes, the vote occur on or in relation to the Feingold amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROTH. Mr. President, I ask unanimous consent that when Senator FEINGOLD offers his amendment regarding peer review, that no amendments be in order, or in order to the language proposed to be stricken; that there be 15 minutes for debate to be equally divided in the usual form; and that when the Senate votes, the vote occur on or in relation to the Feingold amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROTH. Finally, Mr. President, I ask unanimous consent that when Senator PRYOR offers his amendment regarding private contractors, that no amendments be in order, or in order to the language proposed to be stricken; that there be 30 minutes for debate to be equally divided in the usual form; and that when the Senate votes, the vote occur on or in relation to the Pryor amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROTH. Mr. President, I yield 10 minutes to my distinguished colleague, the Senator from Louisiana.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, I rise in opposition to the amendment of the Senator from New Jersey. The language now in the Dole-Johnston substitute, I believe, is well tailored, calculated to achieve that result which all of us want, which is notice to the public of a toxic chemical which, under any reasonable scenario, can be expected to do some harm.

The problem is under the present statute, a chemical can be or, indeed, must be listed by the Administrator of EPA if it is known to cause serious chronic health effects. There are a lot of other provisions, but let me reread that: If it is known to cause serious or chronic health effects.

That phrase is so broad and so all encompassing as to encompass ordinary table salt, ordinary table salt which, if taken in sufficient quantities or, indeed, if ingested regularly in slightly too much degree can and does cause high blood pressure, and it can kill you if you take too much salt. Indeed, people out on boats in the ocean have ingested too much sea water and have died because of that.

I am not suggesting here that the Administrator of EPA is getting ready to list ordinary table salt as one of the chemicals. That is not the point. The point is that the phrase, as used in the present law, is so broad that it does not just look at the reasonable possibility of harm to an individual.

Rather, it looks at the chemical in an absolute way, without requiring that you consider whether there is any possible danger to the public from the way the chemical is used.

So what we have done, Mr. President, is added a few words to this so that when the Administrator makes a determination under this paragraph, it shall be based on generally accepted scientific principles, or laboratory tests, or appropriately designed and conducted epidemiological or other population studies.

That is in the present law. We have added this: "And on the rule of reason, including a consideration of the applicability of such evidence to levels of the chemical in the environment that may result from reasonably anticipated releases available to the Administrator."

So, in effect, we are saying do not just look at whether ordinary table salt can cause you to be sick, or can cause high blood pressure, or can poison you if you take too much of it; rather, look at ordinary table salt, or whatever these other chemicals are, and determine whether using, as we say, the rule of reason, including a consideration of the applicability of such evidence, to the levels of the chemical in the environment that may result from reasonably anticipated releases.

All we are asking, Mr. President, is that you use common sense, and that you do not just say because a chemical may be potentially harmful if ingested in ways that are unlikely—not only unlikely, virtually impossible—but rather use, Mr. Administrator, the rule of reason. I cannot think of a more reasonable amendment than to tell the Administrator to use the rule of reason. Does this gut the toxics release inventory? Of course, not. It simply brings a little common sense.

Now, the amendment goes further. It says that "any person may petition the Administrator to add or delete a chemical, and that the Administrator shall grant any petition that establishes substantial evidence that the criteria in subparagraph (a) either are or are not met."

That is the language we added. In other words, you can get a chemical put on. If you are, say, an environmentalist and you want to add a chemical, you can petition to get it added if you meet that standard, or you can get the chemical deleted if you meet that standard. That is all the language does, Mr. President.

Now, you say, well, why would anybody want it to be off the list? Well, first of all, Mr. President, it is not just a question of having these chemicals listed, it is a burdensome and expensive system of having to report. A chemical manufacturer sells these chemicals across the country, and it might be a very benign chemical in the way that it is used. But each one of his vendees would have to report, and on down the line—I forget the amount that you have to have—it is 10,000 pounds, which for an industry is not very much. You would have to report that, even though there is no real possibility that the chemical is ever going to get out.

Now, Mr. President, I do not think that we have to worry about language that asks the Administrator to use the rule of reason in determining whether to put a toxic chemical on the list. I honestly think that any Administrator knows how to interpret those words.

Now, why was it necessary to put these on? Well, because in one day this last year the Administrator listed another 280 chemicals on the toxics release inventory, and the EPA felt that it had no authority, it had no discretion to determine whether there was any danger posed to the public by these chemicals, whether there was any possibility of harm. They felt that under this language, they had to list all 280 chemicals. Maybe the neighbors are upset and they say, oh, my gosh, you have all these terrible chemicals there that can cause all these terrible things —perhaps most of them or perhaps almost all. I do not know about the individual chemicals, Mr. President. But I am told by some people in the EPA—who will not be quoted, I can tell you that—that some of these chemicals are really no problem, should never have been on the list, but there was not the discretion in the Administrator to apply the rule of common sense and reasonableness.

Mr. President, this is not some big industry grab to force these chemicals on people across the country without warning, this is an attempt to apply the rule of reason to a very complicated thing.

Look, if the Administrator goes back, and somebody complains about this, the Administrator could say it is a toxic chemical, I think it is possible that it might get out, and believe me that ought to be on the list if it is possible the chemical will get out and cause harm. The Administrator has all the authority under this language that he or she would ever need to put that chemical on the list.

But, on the other hand, if it is no conceivable danger whatsoever, if you have a table salt kind of chemical, it should not be on the list and the Administrator ought to have the discretion to use the rule of reason and relieve people of these reporting requirements and relieve the community of the unnecessary fear in which a benign chemical might present.

That is all the language does, Mr. President. It is not gutting the toxics release inventory. It is not, in any way, harming the health of people.

Why should it be on this bill? Because it is a question of risk, and this gives to the Administrator the judgment to apply real risk analysis in order to put chemicals on the list or take them off.

I yield the floor.

Mr. ROTH. Mr. President, I yield the distinguished Senator from Oklahoma 5 minutes.

Mr. NICKLES. Mr. President, I wish to compliment my colleague, Senator JOHNSTON from Louisiana, for his statement. I hope my colleagues heard his statement, and I hope they will vote against the amendment of my friend and colleague, Senator LAUTENBERG.

I think the language we have in the bill is good language. I understand the amendment of the Senator from New Jersey would strike that language. I want to make it perfectly clear that the language in the bill dealing with toxics release inventory review does not gut the statute of toxics release inventory—the TRI, as we have heard. What it does is introduce an element of common sense.

The Senator from Louisiana said, yes, if you have any type of chemical listed, it can be listed no matter how minimal that release might be. Even if there is no threat whatsoever under existing interpretation by EPA and others, they can list that chemical and set about a couple things. One, there is an enormous amount of paperwork and an enormous expense that consumers will pay for. Consumers are farmers, in many cases, or they might be somebody that may be making drugs for pharmaceutical companies, which, of course, increases the medical costs and so on. Every day people have to pay the cost.

Senator JOHNSTON also mentioned something else. He said these notices of release, if there is no real threat to public harm or public health and safety, people have a lot of unnecessary fears because of unnecessary notifications.

What this language does, and I will read it from the bill, "including consideration of the applicability of such evidence to levels of the chemical in the environment that may result from reasonably anticipated releases." Reasonably anticipated releases.

In other words, not through the environment that we talked about sometime last year during the clean air debate. If somebody was outside the plant gate for 70 years, 24 hours a day, in the prevailing wind, maybe they might one out of a million chance have obtained a disease.

This says use common sense. That is what this language is about.

Also, it mentioned that if somebody wants to either be put on the list or taken off the list, they must have substantial evidence to do so. It is a higher threshold. They have to have substantial evidence to be able to get a chemical off the list, or substantial evidence to put the chemical on the list. Again, common sense.

I think that the language we have in the bill is well crafted. It is not radical. It is not extreme. It says we should use common sense. We can save a lot of paperwork, a lot of redtape, and we can eliminate unnecessary fears that some people have as a result of overzealous interpretation of the TRI statute.

I compliment my colleague from Louisiana and also the Senator from Utah, Senator HATCH, and Senator ROTH, for this section.

I urge my colleagues to vote no on the Lautenberg amendment. I yield the floor.

Mr. LAUTENBERG. Mr. President, I listened with interest to my colleague's review of what this amendment is about within the bill as it is structured.

The one thing I have not heard is anyone deny this success ratio. From 1988 until the present day we have reduced toxics being emitted into the air, the water, and on the land by 42 percent—2 billion pounds in a period of 5 years, 2 billion pounds less of toxic material hanging around our kids, hanging around our families, hanging around our school yards. Gone.

And it does not mean diddly, as we say, in terms of the company's responsibility. We are not arresting anybody. We are not fining anybody. What we are saying is that they simply have to report. It is sunshine. Let the public know what it is that they ought to be concerned about, in the event of a particular emission.

It is great for fire departments. In one city in New Jersey, we had a fireman's protective gear melt off his body because of the chemical mixture. At least if they know this information, emergency response people can prepare the materials necessary to fight a particular release, explosion, or fire. What we are doing now is we are saying, OK, the public really does not have a right to know this kind of thing.

All of these materials that are released are toxic, Mr. President. They do not get out there willy-nilly. This is not an administrator's dream of torture.

Mr. JOHNSTON. Mr. President, will the Senator yield?

Mr. LAUTENBERG. Very briefly for a question.

Mr. JOHNSTON. Just on the point that the Senator said that EPA is not arresting anybody.

According to "Inside EPA," the weekly report for June 30, 1995, they do say that 3 priority sectors for determining enforcement actions were chosen because of noncompliance histories, toxics release inventory releases, and trans-regional impacts.

In other words, TRI releases are one of the bases on which they bring enforcement actions. Would the Senator agree with that?

Mr. LAUTENBERG. Say it again, please.

Mr. JOHNSTON. That one of the bases on which EPA brings enforcement actions is TRI releases.

Mr. LAUTENBERG. Yes.

Mr. JOHNSTON. So that it does have something to do with enforcement?

Mr. LAUTENBERG. There is a requirement that they have to file this information.

Mr. JOHNSTON. I mean on enforcement, where they send the investigators out. In other words, if you have TRI releases, they enforce the rules.

Mr. LAUTENBERG. If there is an accident that endangers the public health, yes, someone will look at it.

I would love to respond to my friend from Louisiana, but we are using my time and he is in opposition, so I do not want to give him my time to oppose this brilliant amendment.

The Senator from Massachusetts has asked for some time. He has worked very hard on these issues and I would be delighted to yield as much time as he needs, not to exceed 10 minutes.

Mr. KERRY. Mr. President, I think I will not need 10 minutes.

I would like to respond, if I can, to the comments of the Senator from Louisiana and to the whole concept of what is really at stake in revamping the Right-to-Know law and its Toxics Release Inventory (TRI).

First of all, we should remember that TRI is the Emergency Planning and Community Right-to-Know Act of Title III of Superfund. This program does not have the same breadth of regulatory reform we are reaching for in the bill before us. The fact is that this is a non-regulatory sunshine law and should be considered separately by the Senate Environment and Public Works Committee.

In fact, Senator SMITH on the Republican side has been doing a very good job of leading the effort to revamp the Superfund Program and as Title III of that act this issue could be appropriately considered at that time. To date, however, there have been no hearings on this whole question of exactly what the impact of revamping the right-to-know law would be. In fact, there has not been a hearing on TRI in the Senate since 1991.

Yesterday, I attended a press conference outside this Chamber where members of the firefighter unions of the United States, representing several hundred thousand firefighters, said, "Don't do this. Do not change the TRI structure today and thereby put firemen at risk."

What the TRI structure does today is allows fire departments all across this country to be able to plan for what kind of fire they may be going into. Because of the TRI, communities have computerized knowledge of precisely what chemicals exist in certain companies, in certain buildings. When the fire department gets an alarm, they simply punch the computer and the data comes up on the computer screen immediately so that firemen have the ability to be able to don masks, maybe don protective gear, call in additional help, take special measures to secure the area, evacuate personnel. All of that knowledge comes about because of a simple concept called Right-to-Know.

The TRI is not a regulation that does away with chemicals. It does not require companies to spend a whole lot of money to comply with regulations. It simply makes information available to businesses, to communities, and to citizens. That information allows citizens to then decide whether they think they are at risk and gives companies the information they need to help them reduce their wastes before they are created. It is the best tool to promote pollution prevention that we have in effect today.

What is interesting about this, Mr. President, is that just by requiring companies to tell Americans what they are emitting into the air or land or water—solely by the requirement to let people know—companies themselves have made important decisions about reducing wastes. So they have voluntarily removed 42 percent since its reception in 1988—two billion pounds—of the chemical emissions of this Nation.

That is a remarkable success story, Mr. President. It does not come about because we in the Congress have created a whole convoluted regulatory structure where companies are required to reduced their use of chemicals. All that is required is companies that use large volumes of toxic chemicals tell Americans what they are putting into the environment.

More than 2 billion pounds of emissions have been prevented as a consequence of that. That is a success story.

It is really interesting to see the chart from the Senator from New Jersey over there that shows the comments of individual sectors of the industry. The chemical industry itself has found it useful.

In point of fact, the former chairman of the Environment Committee, Senator BAUCUS, has yet to have one chemical company coming to them and saying, "Get rid of TRI." It was not an issue in early regulatory reform bills or in the past two Congresses Superfund debates. It has just been snatched out of the air because clearly a few people decided they thought this got in their way.

Mr. President, turning to the standard that the Senator from Oklahoma talked about, what the language in this bill currently does is, in effect, it applies a 180-day requirement for this risk assessment to take place. If it does not take place, the chemicals come off. So you already have a sword of Damocles hanging over the process. Because if the Administrator does not want to do it, or if they do not have the resources to do it, you may wind up taking out of here an automatic capacity to have a decision. But more important, the language says, "on the rule of reason, including a consideration of the applicability of such evidence to levels of the chemical in the environment that may result from reasonably anticipated releases."

"Reasonably anticipated releases" is the information we get from the TRI. So what they are doing is creating a standard that makes a judgment as to whether or not you are going to be able to put something on the TRI list using information that you have to have from the TRI list in the first place. And since you do not have it from the TRI list, you cannot make the judgment that is required here. That is called the proverbial Catch-22. It is a way of tying everybody up in a process that, in effect, kills the TRI concept.

They can stand here and say, "Oh, no, no, no, no; all we are going to do is have a little risk assessment," but the language of the risk assessment itself depends on reasonably anticipated releases being able to be determined. And unless you know what the company is emitting, there is no way to know what the reasonably anticipated release is going to be.

So I respectfully submit this is one of those places where, again, the words are so important, and where an awful lot hangs in the balance.

Mr. JOHNSTON. Will the Senator yield at that point?

Mr. KERRY. I will be happy—I do not want to yield on my time, but I will yield on my colleague's time for a question.

Mr. JOHNSTON. Will the Senator from Delaware yield me 1 minute to ask a question?

Mr. ROTH. I yield 1 minute.

Mr. JOHNSTON. The Senator read, appropriately, the language which was added, which was, "on the rule of reason," et cetera.

But the first paragraph in the present law is still there. That is, "A determination under this paragraph shall be based on generally accepted scientific principles, or laboratory tests, or appropriately designed and conducted epidemiological"——

Mr. KERRY. Epidemiological.

Mr. JOHNSTON. "Or other population studies, and/or the rule of reason, including consideration of the applicability of said evidence that may result from reasonably anticipated releases."

So all we are giving him is that additionally he may consider additional evidence, including the amount that may be released.

Will the Senator agree that is a correct statement?

Mr. KERRY. Let me say to my friend, I understand his reading of it, but it still begs the question here. Because the standard of "including," which is the most important way to prove what may be the harm to a community, is still not available.

Second, and this is far more important, let me say to my friend from Louisiana, what is critical here is why go through all of these incredible hoops when in fact nothing negative is required of the company unless it uses more than 10,000 pounds and produces more than 25,000 pounds? You are talking about big producers and big users here.

All that is required of these big, 10,000-pound users, 25,000-pound producers, is that they tell people in the community what it is they put into the air or water or land. It is irrelevant whether there is a risk or not in terms of the concept of sunshine and right-to-know.

What, in effect, the Senator from Louisiana and others are setting up here—whether it is wittingly, purposefully, or not—is a new series of hoops which, under the cumulative impact of this bill will allow a series of legal steps to be taken that will prevent people in a community from even knowing what one of these big producer companies is putting into the air.

Mr. JOHNSTON. Mr. President, is the Senator saying——

Mr. KERRY. Again, I do not want to yield on my time. I reserve my time.

Mr. JOHNSTON. Do I still have any of that minute?

The PRESIDING OFFICER. The Senator has used his minute. Will the Senator from Delaware yield him an additional minute?

Mr. ROTH. I will yield 1 minute.

The PRESIDING OFFICER. The Senator yields an additional minute.

Mr. JOHNSTON. I will not use that at this point.

Mr. KERRY. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 4 minutes.

Mr. KERRY. I will just use a moment.

Mr. President, the real issue here is very, very simple. The Senator from Louisiana is trying to explain how the test that they have set up is reasonable. The issue is whether or not there ought to be a test set up for a company that uses 10,000 pounds or more of a chemical or a company that produces 25,000 pounds or more. The issue is, should that company automatically tell people in the community what it puts into the air? It is very simple. And, by coming along with this notion we are going to go through all of this regulatory process with risk assessments and so forth, we are actually applying a series of standards and hoops to jump through that have no relevancy to the purpose of letting people know.

They are creating a risk-based standard for something that does not have to be risk-based but is simply informational. And, on the basis of that, there are certain chemicals that may be, actually, under their standard, taken off the Toxics Release Inventory which, in fact, have a negative effect on people, but they do not fall under their standard because of the level of toxicity.

So I say again, this is a very simple issue. This is a question of when Americans are living in a community where a company uses 10,000 pounds of a specific chemical or produces 25,000 pounds, whether that company ought to tell the fellow citizens who live in that community and who work in the plant, what it is that is being emitted. And by virtue of the law, we have taken 2 billion pounds of that kind of chemical out of the environment, away from people, and made life safer.

If they turn this clock back, we will make life more hazardous. And there is no rationale for saying Americans should not know what chemicals are going into the local environment.

I yield the time to the Senator from New Jersey.

The PRESIDING OFFICER (Mr. KEMPTHORNE). The Senator from New Jersey.

Mr. ROTH. Will the Senator yield so I can make a further unanimous-consent request?

Mr. LAUTENBERG. Yes. I do not want to continue to use my time.

Mr. ROTH. Without using the time of the Senator from New Jersey.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. ROTH. Mr. President, I ask unanimous consent that the 13 minutes that remain in opposition to the Lautenberg amendment be reserved for Senator LOTT and 5 minutes reserved for Senator LAUTENBERG.

Mr. LAUTENBERG. If I might ask, Mr. President, how much time do I have left on my side?

The PRESIDING OFFICER. The Senator from New Jersey has 1 minute 3 seconds.

Is there objection to the unanimous-consent request? Without objection, it is so ordered.

Mr. ROTH. Mr. President, I further ask unanimous consent that following the conclusion of the debate on the time agreements already entered for this evening, the Senate proceed to vote in sequence, with the first vote being the standard 15-minute vote and any remaining stacked votes be 10 minutes in length.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. ROTH. Finally, for the information of all Senators, there could be as many as four rollcall votes beginning as early as 8:30 this evening. Therefore, Senators should be on notice of these upcoming votes.

The PRESIDING OFFICER. Under the previous order, the Senator from Wisconsin is now recognized.

AMENDMENT NO. 1536 TO AMENDMENT NO. 1487

(Purpose: To amend the provisions of titles 5 and 28, United States Code, relating to equal access to justice, award of reasonable costs and fees, hourly rates for attorney fees, administrative settlement offers, and for other purposes)

Mr. FEINGOLD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Wisconsin [Mr. FEINGOLD] proposes an amendment numbered 1536 to amendment No. 1487.

Mr. FEINGOLD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the substituting amendment, add the following new section:

SEC. . EQUAL ACCESS TO JUSTICE REFORM.

(a) SHORT TITLE.—This section may be cited as the "Equal Access to Justice Reform Amendments of 1995".

(b) AWARD OF COSTS AND FEES.—

(1) ADMINISTRATIVE PROCEEDINGS.—Section 504(a)(2) of title 5, United States Code, is amended by inserting after "(2)" the following: "At any time after the commencement of an adversary adjudication covered by this section, the adjudicative officer may ask a party to declare whether such party intends to seek an award of fees and expenses against the agency should it prevail.".

(2) JUDICIAL PROCEEDINGS.—Section 2412(d)(1)(B) of title 28, United States Code, is amended by inserting after "(B)" the following: "At any time after the commencement of an adversary adjudication covered by this section, the court may ask a party to declare whether such party intends to seek an award of fees and expenses against the agency should it prevail.".

(c) HOURLY RATE FOR ATTORNEY FEES.—

(1) ADMINISTRATIVE PROCEEDINGS.—Section 504(b)(1)(A)(ii) of title 5, United States Code, is amended by striking out all beginning with "$75 per hour" and inserting in lieu thereof "$125 per hour unless the agency determines by regulation that an increase in the cost-of-living based on the date of final disposition justifies a higher fee.);".

(2) JUDICIAL PROCEEDINGS.—Section 2412(d)(2)(A)(ii) of title 28, United States Code, is amended by striking out all beginning with "$75 per hour" and inserting in lieu thereof "$125 per hour unless the court determines that an increase in the cost-of-living based on the date of final disposition justifies a higher fee.);".

(d) PAYMENT FROM AGENCY APPROPRIATIONS.—

(1) ADMINISTRATIVE PROCEEDINGS.—Section 504(d) of title 5, United States Code, is amended by adding at the end thereof the following: "Fees and expenses awarded under this subsection may not be paid from the claims and judgments account of the Treasury from funds appropriated pursuant to section 1304 of title 31.".

(2) JUDICIAL PROCEEDINGS.—Section 2412(d)(4) of title 28, United States Code, is amended by adding at the end thereof the following: "Fees and expenses awarded under this subsection may not be paid from the claims and judgments account of the Treasury from funds appropriated pursuant to section 1304 of title 31.".

(e) OFFERS OF SETTLEMENT.—

(1) ADMINISTRATIVE PROCEEDINGS.—Section 504 of title 5, United States Code, is amended—

(A) by redesignating subsections (e) and (f) as subsections (f) and (g), respectively; and

(B) by inserting after subsection (d) the following new subsection:

"(e)(1) At any time after the filing of an application for fees and other expenses under this section, an agency from which a fee award is sought may serve upon the applicant an offer of settlement of the claims made in the application. If within 10 days after service of the offer the applicant serves written notice that the offer is accepted, either party may then file the offer and notice of acceptance together with proof of service thereof.

"(2) An offer not accepted shall be deemed withdrawn. The fact that an offer is made but not accepted shall not preclude a subsequent offer. If any award of fees and expenses for the merits of the proceeding finally obtained by the applicant is not more favorable than the offer, the applicant shall not be entitled to receive an award for attorneys' fees or other expenses incurred in relation to the application for fees and expenses after the date of the offer.".

(2) JUDICIAL PROCEEDINGS.—Section 2412 of title 28, United States Code, is amended—

(A) by redesignating subsections (e) and (f) as subsections (f) and (g), respectively; and

(B) by inserting after subsection (d) the following new subsection:

"(e)(1) At any time after the filing of an application for fees and other expenses under this section, an agency of the United States from which a fee award is sought may serve upon the applicant an offer of settlement of the claims made in the application. If within 10 days after service of the offer the applicant serves written notice that the offer is accepted, either party may then file the offer and notice of acceptance together with proof of service thereof.

"(2) An offer not accepted shall be deemed withdrawn. The fact that an offer is made but not accepted shall not preclude a subsequent offer. If any award of fees and expenses for the merits of the proceeding finally obtained by the applicant is not more favorable than the offer, the applicant shall not be entitled to receive an award for attorneys' fees or other expenses incurred in relation to the application for fees and expenses after the date of the offer.".

(f) ELIMINATION OF SUBSTANTIAL JUSTIFICATION STANDARD.—

(1) ADMINISTRATIVE PROCEEDINGS.—Section 504 of title 5, United States Code, is amended—

(A) in subsection (a)(1) by striking out all beginning with ", unless the adjudicative officer" through "expenses are sought"; and

(B) in subsection (a)(2) by striking out "The party shall also allege that the position of the agency was not substantially justified.".

(2) JUDICIAL PROCEEDINGS.—Section 2412 (d) of title 28, United States Code, is amended—

(A) in paragraph (1)(A) by striking out ", unless the court finds that the position of the United States was substantially justified or that special circumstances make an award unjust";

(B) in paragraph (1)(B) by striking out "The party shall also allege that the position of the United States was not substantially justified. Whether or not the position of the United States was substantially justified shall be determined on the basis of the record (including the record with respect to the action or failure to act by the agency upon which the civil action is based) which is made in the civil action for which fees and other expenses are sought."; and

(C) in paragraph (3) by striking out ", unless the court finds that during such adversary adjudication the position of the United States was substantially justified, or that special circumstances make an award unjust".

(g) REPORTS TO CONGRESS.—

(1) ADMINISTRATIVE PROCEEDINGS.—No later than 180 days after the date of the enactment of this Act, the Administrative Conference of the United States shall submit a report to the Congress—

(A) providing an analysis of the variations in the frequency of fee awards paid by specific Federal agencies under the provisions of section 504 of title 5, United States Code; and

(B) including recommendations for extending the application of such sections to other Federal agencies and administrative proceedings.

(2) JUDICIAL PROCEEDINGS.—No later than 180 days after the date of the enactment of this Act, the Department of Justice shall submit a report to the Congress—

(A) providing an analysis of the variations in the frequency of fee awards paid by specific Federal districts under the provisions of section 2412 of title 28, United States Code; and

(B) including recommendations for extending the application of such sections to other Federal judicial proceedings.

(h) EFFECTIVE DATE.—The provisions of this section and the amendments made by this Act shall take effect 30 days after the date of the enactment of this Act and shall apply only to an administrative complaint filed with a Federal agency or a civil action filed in a United States court on or after such date.

Mr. FEINGOLD. Mr. President, I rise today to offer an amendment to the regulatory reform bill legislation that will improve equal access to justice under what is known as the Equal Access to Justice Act.

I think the thrust of this bill, the thrust of regulatory reform, is to rethink the relationship between Government and business and to make our system of regulation both more effective and less burdensome, and, in some cases, I think we have to stay the hand of Government when we believe it reaches too deeply into the daily affairs of the American people.

As many of us have said on this floor, I think these are goals that everyone supports, even though sometimes we may differ on the way to actually achieve them.

The Equal Access to Justice Act is one effective means for achieving a measure of reform and should be part of our plans to reduce the level of unnecessary Government intrusion in our lives. The Equal Access to Justice Act as it now exists was enacted in 1980, with the idea that small businesses and individuals who have to get into the ring with the Federal Government over enforcement of regulations should be able to recover their legal fees and certain other expenses if they end up winning the case.

They are tied in this litigation with Government and one party has to win and one party has to lose. And if it is the Government that loses, especially after they have brought the case, I think the Government should bear the burden of the attorney's fees and not the small business and not the individual. It is one of a number of fee-shifting statutes in Federal law.

I am as proud to say that much of the work on the original equal access law was done by the former Congressman from my home district, the Second Congressional District of Wisconsin, Representative Robert Kastenmeier when he served on the House Judiciary Committee. I offered the same kind of bill, and got it passed in the State Legislature in Wisconsin. That is now the law, and has been since 1985, and it is the State Equal Access to Justice Act which has been very helpful to businesses and individuals who have been sued by the State government or some of its agencies.

The Equal Access to Justice Act gives prevailing parties in certain kinds of litigation against the Federal Government the right to seek reimbursement of attorney's fees and other costs of litigation from the Government. The intent of the law has always been to make taking on the Federal Government in court somewhat less intimidating although it is always going to be somewhat intimidating.

To that end, the act is specifically targeted at assisting individuals and businesses who do not have ready access to the kinds of resources available to the Federal Government when it goes to court. Under the current law, the law gives this kind of option—or protection—to a person whose net worth does not exceed $2 million or a business that does not have net worth greater than $7 million, or which does not employ more than 500 people. And there are a couple of other minor exceptions.

There was another motive for the bill, and that was to help restrain the regulatory hand of the Federal Government when it was going to trial. The authors of the bill believe that if the agency faced the prospect of not only having decisions nullified but also having to actually pay the attorney's fees of the entity or individual they went after, maybe the agency would think twice before it started the lawsuit or the administrative action in the first place.

I cannot say for sure in the past 10 or 15 years that this second goal has been reached. However, the Equal Access to Justice law has proved to be a bargain based upon the estimates that we have seen. Originally the estimates were that the Equal Access to Justice law would cost about $68 million a year. But according to the Administrative Office of U.S. Courts, annual fee reimbursements have totaled from the Federal Government only about $5 to $7 million between 1988 and 1992. This is despite the fact that litigants are actually more successful in terms of the active percentage of wins than was originally anticipated.

A study done on this examined 629 Federal District and Appellate Court decisions involving EAJA fee award claims during the 1980's. The professors who did the study pointed out that the Congressional Budget Office in making its estimates had assumed that parties seeking fee reimbursement under the act would actually be successful in about 25 percent of the claims filed against the Federal Government.

However, the professors found that they even had a higher level of success, 36 percent and were able to win fees in those cases.

Yes. Mr. President, some may well claim that EAJA has had a scant effect on controlling overreaching regulation. But I believe it is clear that it is another arrow in the quiver of the individual citizen or a small business owner when they have to tangle with the Federal Government in court or in an administrative proceedings.

The EAJA generally has served its function well. The purpose of my amendment this evening is that the act over the course of several years has come to the point where it needs some updating to speed up the process of awarding attorney's fees to prevailing parties and thereby lower the cost of litigation to taxpayers.

Mr. President, briefly, this amendment has three major elements.

First, my bill raises the current cap on attorney's fees in these kinds of situations under the act from the current limitation of $75 to $125 per hour. That would bring the rate somewhat in line with the real world.

My bill retains the cost-of-living increase as a possible element in determining an attorney's fee award but it strikes the current language that permits further increasing an award on the basis of a special factor defined by example in the statute as "the limited availability of qualified attorneys or agents for the proceedings involved."

Mr. President, I believe these improvements will actually make suits against the Government more attractive to attorneys and appropriate cases, which in turn should create a larger pool of attorneys available to private litigants to try to handle these cases. Therefore, we should see less need for this special factor language, and I think it will help simplify the process.

In addition, my bill makes the method of computing cost-of-living increases to fee awards more specific. And I could detail on that, if anybody wishes.

But I will move on to say that the second major change my amendment makes in the current law is to eliminate the language that allows the Government to escape paying attorney's fees, even if the Government has lost in court, if the Government can successfully argue that it had a substantial justification for its action.

Mr. President, I am not generally a supporter of the loser pays concept. But I believe that if a small business owner or an individual American wins in court—not against another private litigant but against the Federal Government—and, if the law provides for the Government to reimburse you for your expenses, then the Government should ante up. I think we should have in effect a loser pays provision when the Federal Government sues a private party and the private party ends up winning the case.

I realize some people are concerned that eliminating this provision will open the floodgates of our Treasury. But let me refer to a study that by Professor Krent which indicates that this is not the case. He indicates that fee awards in the cases we have had during this act were denied in only a small number of cases on the basis of successful substantial justification argument. Apparently that is because this technique of the Government to try to avoid paying fees in these cases in court is routinely raised by Government attorneys as a way to sort of block the private litigant from getting their attorney's fees even though they have prevailed in the underlying case against the Government.

So this extra way out for the Government really allows the creation of another issue at least to more litigation over whether or not there was a substantial justification for the lawsuit to be brought in the first place, even though the Government lost.

The professor suggests that there may even be some cost savings offset any increase in awards due to the elimination of the substantial justification defense. He admits it is impossible to make an exact determination of the expense of litigating this issue in case after case. But he believes, based on the evidence of 1 year—between 1989 and 1990—that whatever is saved by raising the substantial justification defense is not enough to justify the cost of litigating the issue. That is one reason why Professor Krent believes that this extra way out for the Government, in his words, "probably creates a perverse incentive to litigate" on the part of Government attorneys.

My amendment specifically addresses the issue of cost by making it plain that there is to be no new direct spending to cover these fee awards. The amendment also makes it clear that agencies who are required to pay fee awards have to look to their own budgets. They cannot go to the Federal Claims and Judgment Accounts to find the necessary sums. That is in keeping with the original intent of the bill. That intent again is to make an agency think twice before it creates regulations and before initiating certain enforcement actions pursuant to them. I cannot think of anything more consistent with the overall purposes of legislation before us than that.

The third major change in any amendment sets up a settlement process to give the parties a method of resolving the fee issue without resorting to further litigation. It creates an opportunity for the Government, similar to the process in Rule 68 of the Federal Rules of Civil Procedure, to make an offer of settlement up to 10 days prior to the hearing on the fee claim. If that offer is rejected and the party applying for fees later wins a smaller award, there is a negative consequence to the party that did not accept the offer of settlement. That party is not entitled to receive fees or other expenses that are incurred after date of the offer.

My amendment does not specifically expand the reach of the EAJA. But it does require the review of the act and looks ahead to possible future expansion.

We asked both the Justice Department and the Administrative Conference to review various aspects of where the law could be expanded.

My amendment also requires the Administrative Office of the U.S. Courts to submit a report within 180 days as it does for the Justice Department.

The U.S. Supreme Court in a 1991 decision, Ardestani versus INS, held that EAJA fees are available only in cases where hearings are required by law to conform to the procedural provisions of section 554 of the Administrative Procedures Act.

However, Congress had already created a statutory exception. In 1986, Congress extended the coverage of the EAJA to include the Program Fraud Civil Remedies Act.

I think it is reasonable to investigate whether certain agency proceedings such as deportation cases that are nearly identical to proceedings covered by 554 should also be covered by the EAJA.

Mr. President, let me just conclude my comments at this point by indicating that recently a friend of mine I had not seen since high school just came to visit me in my office here and did not come, apparently, for any reason other than to visit.

But during the course of our visit, he told me a story about what had happened to him recently that made him quite down about pursuing the business he is in. He told me that his agency declined to fight a case against the Department of Education, a case their attorneys believed was winnable, because the board of directors of his group did not believe it was worth paying large litigation costs over a claim worth about $32,000 even if the agency had a good case.

The Department of Education, he told me, had reviewed his rehabilitation center, which provided job training and placement services for mentally and physically handicapped people, in 1992. The Department's reviewer found 10 problem areas, which were later actually whittled down, Mr. President, to just one item. All the Government had left in their case, after they went through this process, was saying that my friend's group had inadequate time sheets.

For this and this alone, the Department wanted the center to pay a reimbursement of about $115,000. That was later negotiated down to $32,000. My friend told me that had he known about the EAJA law, he would have pressed the directors to fight, and because he did not know about it, he just gave up.

A few weeks ago, the White House Conference on Small Business discussed this issue. Mr. Carl Schmieder, a Phoenix, AZ, businessman and deputy chairman of the Arizona delegation to the small business conference, helped spearhead a resolution endorsing the type of changes I am talking about for the EAJA. He said the array of resources available to the Government in litigation can be overwhelming to a small business owner, and he called the amendment that we are offering here tonight a tremendous step forward.

Mr. Schmieder's resolution attracted a lot of support among the delegates to the conference. Although it did not appear on the shortest list of recommendations that came out of the conference, when the delegates drew up a list of priorities, these kinds of changes were ranked in the top 20 percent of all issues considered.

I think individuals and small business owners deserve all the help we can give them, and before I close, let me acknowledge the work of the Administrative Conference of the United States which has been very helpful by conducting research into this issue, making many of these recommendations and providing valuable assistance in preparing the amendment.

We all know unnecessary or overburdening Government regulations can be an obstacle to doing business. The Equal Access to Justice Act was conceived to overcome that obstacle, and we in this update that this amendment provides allow the act to work better than it has in the past.

I thank the Chair and reserve the remainder of my time.

The PRESIDING OFFICER. Does the Senator from Delaware oppose the amendment?

Mr. ROTH. We have no request at this time for anyone to speak in opposition.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin has 1 minute remaining.

The Senator from Montana.

AMENDMENT NO. 1535

Mr. BAUCUS. Mr. President, I would like to speak in favor of the TRI amendment offered by Senator LAUTENBERG. I might inquire of the Chair how much time is remaining on that amendment, and I might inquire of the Senator from Delaware, if he is not going to use his time, perhaps I could use some of his time on the TRI amendment.

Mr. ROTH. We are actually checking to see whether there is anyone who wants to speak in opposition.

Mr. BAUCUS. Mr. President, how much time is remaining for those speakers who wish to speak in favor of the Lautenberg amendment?

The PRESIDING OFFICER. The Senator from New Jersey, based on the unanimous consent agreement, controls 5 minutes.

Mr. BAUCUS. And how much time has he utilized?

The PRESIDING OFFICER. There is still 5 minutes remaining.

Mr. ROTH. I will yield 3 minutes to the Senator.

Mr. BAUCUS. I thank the Senator very much.

The PRESIDING OFFICER. The Senator from Delaware has yielded 3 minutes from the time he controls?

Mr. ROTH. That is correct.

Mr. BAUCUS. Mr. President, I might also consume, say, 1 minute of the time controlled by Senator LAUTENBERG, a total of 4.

The PRESIDING OFFICER. Is there objection to that request? Without objection, it is so ordered. The Senator from Montana is recognized.

Mr. BAUCUS. I thank the Chair.

Mr. President, I am rising to strongly support the amendment offered by the Senator from New Jersey [Mr. LAUTENBERG] who wants to strike the so-called TRI provisions from the bill. Under the TRI provisions, the toxics release inventory reporting provisions, currently today in the law, when a major chemical company emits toxic chemicals into the air or water which could cause acute, chronic, adverse health effects to the environment, that company just has to state to the public the amount of toxic chemicals that is released up into the environment.

It does not say to the company you have to put on a scrubber; it does not say to the company you have to clean it up; it does not say to the company you have to do anything to stop what you are emitting, just that you have to disclose to Americans, disclose to the public the amount that is being emitted. That is all it is.

I might say, Mr. President, that the consequences of this provision in the law enacted not too many years ago have been very beneficial. First, to the public so the public knows what is being emitted, and they can take whatever action they may want to take.

It has also been beneficial to the companies. The Chemical Manufacturers Association has said, as a consequence of this act alone, there has been a 50 percent reduction in chemicals emitted by their members. Some major chemical manufacturing companies have said it has helped them because they did not know how much they were emitting in the past. This law requires them to disclose what they are emitting. Now they know and they are able to change their manufacturing process to emit less and to also make their processes much more efficient. It has helped them.

It makes no sense, Mr. President, in this bill before us today, a regulatory reform bill designed to reform regulations and just make sure that regulations are considered more easily and more efficiently, to enact a substantive provision to delete the toxics release inventory law. That is a substantive provision. This is a regulatory reform bill.

I might add there have been no hearings on this provision, none. In fact, this provision was not even in any bill. It was just suddenly jammed in in the Chamber. It has had no consideration. Just as we deleted, a couple of hours ago, another substantive provision regarding the Superfund, it makes eminent sense that we should also here tonight delete this substantive provision, the toxics release inventory provision, a provision which is very beneficial to Americans.

Essentially, this provision that is now before us, I must say, disrupts the basic concept of right to know which simply says, OK, folks, you have a right to know what is emitted. That's all. It does not in any way tell companies to control what is being emitted.

Mr. President, for those reasons we should adopt the Lautenberg amendment to delete this substantive provision.

It is also very ironic; here we are today considering the regulatory reform bill to make the regulatory process more efficient with more information, with risk assessment and cost-benefit analysis. If the Lautenberg amendment does not pass, we are saying less information is better. We are saying that the public does not have a right to know what toxic chemicals are being released. It makes no sense.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. BAUCUS. Mr. President, if the Senator will yield 1 more minute. I have used 1 minute of the Senator's time.

Mr. LAUTENBERG. Certainly. I will be happy to yield another minute to my friend from Montana.

Mr. BAUCUS. Mr. President, again, just to say what this amendment does, currently a chemical is listed if it has acute, or chronic health or environmental effects. The bill before us says, in addition to knowing the toxic effects of the chemical, you have to show how much of the chemical is actually being released and if that release will result in harmful effects. And you have to show this before it is listed on the TRI. It is a catch-22. It cannot be done.

Second, Mr. President, the standard by which a chemical would be listed, that is required to be listed or not, is so vague no one can explain what the standard is. I have read this standard many, many times, over and over again. I do not know what it says. It is a lawyer's paradise. This provision is going to be tremendously litigated. And I just again urge Senators to pass the Lautenberg amendment, which deletes a substantive provision which the public very much desires as the right to know which chemicals are being emitted into the atmosphere.

And I thank the Senator.

The PRESIDING OFFICER. The Senator's time is expired.

Mr. LAUTENBERG. Mr. President, it is my understanding that the Senator from Mississippi was going to be here at—was that 8?

The PRESIDING OFFICER. In response to the Senator from New Jersey, no time had been set. We do have 1 minute remaining under the control of the Senator from Wisconsin.

Mr. LAUTENBERG. I yield the floor.

The PRESIDING OFFICER. The Senator from Delaware——

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. DOLE. I wonder if we could go into a quorum call, if we are waiting for Senator LOTT. Is that it?

Mr. ROTH. And Senator HATCH.

Mr. DOLE. Maybe the Senator from Wisconsin could use some of his time while we are waiting on that.

Mr. FEINGOLD. It is my understanding this side still has 10 minutes.

The PRESIDING OFFICER. The Senator from Delaware has 11 minutes, 35 seconds.

Mr. FEINGOLD. I only have 1 minute remaining. If there is going to be any opposition, I would like to reserve that for a response.

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PRYOR addressed the Chair.

The PRESIDING OFFICER (Mr. DEWINE). The Senator from Arkansas is recognized.

Mr. PRYOR. Mr. President, in order to move things along here, I am going to make this suggestion that we lay the pending amendment aside. And I assume that is the amendment just offered by the Senator from Wisconsin, and that I be allowed to, in the sequencing order, present my amendment; and upon completion of my amendment, we will return to the amendment offered by the Senator from Wisconsin and proceed from there. I think that might expedite our time.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

AMENDMENT NO. 1537 TO AMENDMENT NO. 1487

(Purpose: To prevent conflicts of interest of persons entering into contracts relating to cost-benefit analyses and risk assessments, and for other purposes)

Mr. PRYOR. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Arkansas [Mr. PRYOR] for himself and Mr. FEINGOLD, proposes an amendment numbered 1537 to amendment No. 1487.

Mr. PRYOR. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the substitute amendment, insert the following new section:

SEC. . CONFLICT OF INTEREST RELATING TO COST-BENEFIT ANALYSES AND RISK ASSESSMENTS.

(a) INFORMATION BEARING ON POSSIBLE CONFLICT OF INTEREST.—

(1) DEFINITION.—For purposes of this section, the term "contract" means any contract, agreement, or other arrangement, whether by competitive bid or negotiation, entered into with a Federal Agency for any cost-benefit analysis or risk assessment under subchapter II or III of chapter 6 of title 5, United States Code (as added by section 4(a) of this Act).

(2) IN GENERAL.—This section shall not apply to the provision of section 633(g), when an agency proposes to enter into a contract with a person or entity, such person shall provide to the agency before entering into such contract all relevant information, as determined by the agency, bearing on whether that person has a possible conflict of interest with respect to being able to render impartial, technically sound, or objective assistance or advice in light of other activities or relationships with other persons.

(3) SUBCONTRACTOR INFORMATION.—A person entering into a contract shall ensure, in accordance with regulations prescribed by the head of the agency, compliance with this section by any subcontractor (other than a supply subcontractor) of such person in the case of any subcontract of more than $10,000.

(b) REQUIRED FINDING THAT NO CONFLICT OF INTEREST EXISTS OR THAT CONFLICTS HAVE BEEN AVOIDED; MITIGATION OF CONFLICT WHEN CONFLICT IS UNAVOIDABLE.—

(1) IN GENERAL.—Subject to paragraph (2), the head of an agency shall not enter into any contract unless the agency head finds, after evaluating all information provided under subsection (a) and any other information otherwise made available that—

(A) it is unlikely that a conflict of interest would exist; or

(B) such conflict has been avoided after appropriate conditions have been included in such contract.

(2) EXCEPTION.—If the head of an agency determines that a conflict of interest exists and that such conflict of interest cannot be avoided by including appropriate conditions in the contract, the agency head may enter into such contract if the agency head—

(A) determines that it is in the best interests of the United States to enter into the contract; and

(B) includes appropriate conditions in such contract to mitigate such conflict.

(c) RULES AND REGULATIONS.—No later than 240 days after the date of the enactment of this Act, the Federal Acquisition Review Council shall publish rules for the implementation of this section, in accordance with section 553 of title 5, United States Code, without regard to subsection (a) of such section.

Mr. PRYOR. Mr. President, I have only a very few moments. This is a very simple amendment that I am offering tonight. This basically is an amendment concerning Federal agencies which use private contractors to perform cost-benefit analyses and risk assessments.

Mr. President, one of my main concerns about the bill that we are considering is that it is going to place additional burdens upon the Federal agencies during a period of downsizing of the number of Federal employees. Should S. 343 become law, the respective agencies throughout the Federal Government are going to have to reorder their priorities to allow them to devote a large portion of their resources to cost-benefit analysis, risk assessment, and regulation review. As the Government continues to downsize in the future, Mr. President, the Federal agencies are going to increasingly turn to private contractors to carry out the tasks of government.

As my colleagues know, I have long been concerned with the use of private contractors in the Federal Government. During my years in the Senate, I have sought to shed light on the increasing role of private contractors and the possible conflict of interest involved with their use.

This is no new issue. In 1980, for example, the General Accounting Office examined 156 contracts for regulatory analysis alone and found that 101 of these 156 contracts had a conflict of interest situation. Because S. 343 will likely increase the use of private contractors to conduct regulatory analysis for the Federal Government, I believe that this conflict of interest problem cannot and should not be ignored.

Mr. President, to illustrate the potential for conflict of interest, one need only look at the promotional materials published by a few of the private contractors who have contracts with the Federal Government. For example, Mr. President, one of these contractors is a firm known as P.R.C. In 1990 the P.R.C. company, a consulting company, had four contracts worth $220 million with the Environmental Protection Agency.

Here is their promotional material. This material proclaims to the possible user of their services, and I quote, "Under contract to the United States EPA, P.R.C. has conducted hundreds of regulatory compliance inspections giving us indepth experience with what regulators are looking for."

How then, Mr. President, can this particular company be a company that states that they have no bias and that they have no conflict of interest?

Here is another company, Mr. President. This particular company is another major contractor with the Environmental Protection Agency. In 1990–1991, they had 13 contracts worth over $100 million with the Environmental Protection Agency. They boast to potential users of their services, in their very beautiful brochure—this is called The Weston Managers Design Consulting Company—I quote, "In daily practice, the Weston philosophy has encouraged us to develop and maintain an objective, professional posture relative to public issues so that we can represent either"—and I quote—"the regulated or the regulator." So that we can represent either the regulated or the regulator.

How fair, how objective and how free from conflicts of interest, Mr. President, can a firm be when it is working both sides of the street?

Here is another firm, Mr. President, who has millions of dollars of contracts with the Federal Government today, the ICF Co. Their brochure is entitled: "Environment and Energy."

They list their clients. For example, some of ICF's clients are: Ashland Chemical; Cedar Chemical; Chemical Waste Management; Chevron; Dow Chemical, SCA Chemical Services; Union Carbide; and Vertec.

Now they also list the Government agencies that they work for: the Department of Commerce; the Department of Defense; the Department of Energy; and, yes, Mr. President, the Environmental Protection Agency.

My amendment says that if granting one of these contracts to a company doing business with the Government creates a conflict of interest, then the agency head has the opportunity to publish notice of the conflict in the Federal Register. This can make us aware that the contract has the potential of a conflict, could be printed in the Federal Register and give us fair and just warning of the potential that might exist for a contract.

It would require agencies to gather certain information from its contractors that will allow agencies to determine if a conflict of interest actually exists. It would not, Mr. President, prohibit the agency, under certain circumstances, from hiring a contractor, even if a conflict of interest was found.

My amendment simply sheds sunlight on the process by ensuring that the agency has considered possible conflicts so that the public is assured that potential conflicts of interest are not subverting public policy due to hidden bias in the regulatory analyses process.

Mr. President, I want to thank the distinguished Senator from Wisconsin for being an original cosponsor of this amendment that is now before the Senate.

I reserve the remainder of my time, and I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senator from Delaware has 15 minutes.

Mr. ROTH. Mr. President, I yield 1 minute to my distinguished colleague.

Mr. GLENN. I thank my friend from Delaware. I just want to speak in behalf of Senator PRYOR. I just want to say, there is no one on the Governmental Affairs Committee who has done more work and stuck with the idea of looking into outside contracting, making sure it was not excessive, cutting down the number of contracts where we go out and pay for very expensive contracts that we should be doing in Government itself. He has been following this subject for a number of years and bird-dogging that. He deserves a lot of credit for it, and I think the amendment he is bringing up this evening is an example of making sure that when we do contract out, that it is done legitimately and without conflict of interest and without any taint. It is that kind of thing that happens too often in Government which gives Government a bad name.

He has been determined for many years to root this out. I want to compliment him for it, and I am glad to be supporting his amendment.

I thank my friend from Delaware.

Mr. ROTH. Mr. President, I have to say to my distinguished friend from Ohio, he stole the words out of my mouth. I was going to also comment on the excellence and the persistence with which the distinguished Senator from Arkansas has pursued the problem of conflict of interest.

I would like to ask my distinguished friend one question. In S. 343, in connection with peer review, it is provided that in peer review, that

> shall not exclude any person with substantial and relevant expertise as a participant on the basis that such a person has a potential interest in the outcome if such interest is fully disclosed to the agency and the agency includes such disclosure as part of the record, unless the result of the review would have a direct and predictable effect on a substantial financial interest of such person.

It is my understanding that your amendment has no effect or impact on that section; is that correct?

Mr. PRYOR. Mr. President, let me respond to my friend from Delaware by stating, in the original draft of the amendment, we did not specifically exclude peer review. However, in the latest draft, which is pending before the Senate, we now have a sentence that states:

> This section shall not apply to provisions of section 633(g) .

And I believe that is the peer review section. So peer review is not in any way involved in this proposal that I am submitting. I thank the Senator for asking that clarifying question.

Mr. ROTH. That was my understanding, and I appreciate the answer.

I am prepared to accept the amendment, and I yield back the remainder of my time.

Mr. GLENN. I will be happy to accept on our side also.

Mr. PRYOR. Mr. President, if I may say just a word in thanks to the Senator from Ohio and the Senator from Delaware, two extremely capable Senators that I have had the privilege of working with in the Senate, more specifically in the Governmental Affairs Committee, for a lot of years. I want to thank them for their endorsement, their kind words, patience and perseverance and for them accepting this amendment, endorsing it. I will always be grateful.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Is all time yielded back?

Mr. ROTH. I yield back the remainder of my time.

Mr. PRYOR. I yield back all time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment No. 1537.

So the amendment (No. 1537) was agreed to.

Mr. ROTH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. GLENN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senator from Texas was to offer the next amendment. The Senator from Texas is apparently not here. Therefore, under the previous order, the Senator from Wisconsin is now recognized to offer his second amendment. The Senator from Wisconsin.

AMENDMENT NO. 1538 TO AMENDMENT NO. 1487

(Purpose: To provide that an agency may include any person with substantial and relevant expertise to participate on a peer review panel)

Mr. FEINGOLD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

> The Senator from Wisconsin [Mr. FEINGOLD] for himself and Mr. PRYOR, proposes an amendment numbered 1538 to amendment No. 1487.

Mr. FEINGOLD. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> On page 57, strike out line 18 through line 25 and insert in lieu thereof the following:
>
> "(B) may exclude any person with substantial and relevant expertise as a participant on the basis that such person has a potential financial interest in the outcome, or may include such person if such interest is fully disclosed to the agency, and the agency includes such disclosure as part of the record, unless the result of the review would have a direct and predictable effect on a substantial financial interest of such person:

Mr. FEINGOLD. Mr. President, there are many principles I can support in the Dole-Johnston legislation, but I do have a serious concern about part of the peer review proposal. It is not one of the larger issues at work here, but it is one I feel could have a great deal of impact on the integrity and credibility of the Federal regulatory process.

Section 633 of the Dole-Johnston legislation includes a provision that requires the Federal agencies to develop a systematic program for balanced, independent and external peer review that is to be utilized to review the scientific risk assessments performed under the requirements of the legislation.

I understand that several Senators have serious concerns about the larger issue of peer review and how it is treated in this legislation. There may be a broader amendment offered on that later, though. But the concern of this particular amendment has to do with the few lines contained in the peer review section of the bill that will put new guidelines and requirements on Federal agencies as they go about determining who will serve and who will not serve on these peer review panels.

It is my understanding that, periodically, a Federal agency is faced with a situation where an individual has been selected as a possible peer reviewer and later it is learned that the individual may stand to benefit financially, depending on the outcome of that particular peer review.

For example, the person might be a scientist under the employment of a company or industry that has a considerable financial interest that is dependent on the outcome of the review. That is a conflict of interest, and the type that I understand is not all that uncommon of an occurrence in our regulatory process. It is kind of important to understand how current law operates with respect to these kinds of situations.

Mr. President, under current law, the agencies have the discretion to determine if someone with a direct conflict of interest should be able to serve on a peer review. As I said, this is permitted sometimes because there are instances where it may be appropriate and necessary to allow individuals with conflicts of interest to serve on a particular peer review panel.

However, the Dole-Johnston legislation would go further. It would actually usurp the discretion currently enjoyed by the agencies and expressly state that an agency cannot actually disqualify someone merely because they may stand to benefit financially from the outcome of the review. This language is on page 57 of the bill.

There are three effects of this section. The first effect—the one I am trying to amend—is that an agency will no longer have the discretion to determine on their own whether an individual with a conflict of interest should or should not be permitted to serve on the panel. The second effect is that should an individual have a conflict of interest, the individual must be permitted to serve on the peer review panel so long as the conflict of interest is disclosed and is made part of the record. The result of this is, I believe, at least an improvement that you are going to have the disclosure.

I credit the folks that put this together in that regard. But there is an area where I think the agencies should have discretion. The bottom line is that if someone has a conflict of interest and is serving on a panel, that should be part of the record.

But there is a further effect. The third effect of the Dole-Johnston language is that the only instance where an agency could exclude an individual with a conflict of interest is in the very narrow situation where the result of the review would have a direct and predictable effect on a substantial financial interest of such person.

Now, what is a direct and predictable effect? That is a good question. Under current law, agency officials would be permitted to take a close look at this case and determine if there was enough cause placed on the ties of the individual and the industry being regulated to perhaps exclude the individual from the peer review panel. But under this legislation, as it now stands, the only instance in which an agency could exclude such an individual is to establish that the individual would predictably and directly benefit from the outcome of the peer review panel.

The fact is that not all financial benefits are predictable and/or direct. The amendment I am now offering will change the Dole-Johnston language on this issue so that agencies will be allowed to continue to employ peer reviewers with a conflict of interest, at their own discretion, provided that the conflict of interest is disclosed and made part of the record.

So the agencies would continue to be allowed to determine on their own when it is appropriate or not to allow someone with a conflict of interest to serve on a review panel. However, should the agency decide to allow such an individual to serve on a review panel, my amendment would make it mandatory for the conflict of interest to be disclosed and be made a part of the record.

Finally, my amendment makes clear that there is just one circumstance in which the agencies will have no discretion as to who can be included or excluded from serving, and that in the situation I mentioned before, where a potential peer reviewer will directly and predictably benefit from the outcome of the review. In that case, the agency has to exclude the person. I am afraid that the Dole-Johnston bill, as currently written, will undermine the part of the regulatory process that is responsible for ensuring that risk assessments are performed in an objective and impartial manner.

My amendment is strongly supported by the Clinton administration.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 1 minute 53 seconds.

Mr. FEINGOLD. In short, let me say that my amendment preserves what works in current law and combines it with the progressive disclosure requirements of the Dole-Johnston bill. This will ensure that we have a review process that is fair, equitable and free from any unnecessary influence from the industries and entities that are the subject of the regulation.

I yield the floor and reserve the remainder of my time.

The PRESIDING OFFICER. Under the previous order, the Senator from Delaware has 7½ minutes.

Mr. ROTH. We have just received the language of the distinguished Senator's amendment. I would like to address some questions to the Senator from Wisconsin. As I understand, you are striking out the words, "shall not exclude" and inserting in lieu thereof, "shall permit the agency to include."

Now, it is my understanding that your amendment would allow an agency to include an individual on a peer review panel that may have an interest in the outcome of the review, is that correct?

Mr. FEINGOLD. Mr. President, if I may respond, the version that we have submitted is different than the one the Senator has before him. The language we have submitted indicates the following:

> The agency may exclude any person with substantial and relevant expertise as a participant on the basis that such person has a potential financial interest in the outcome, or may include. . .

So the agency is allowed the option of either including or excluding a person who has a conflict of interest in the version we sent up to the desk.

Mr. ROTH. We apparently do not have a copy of that version of the amendment.

Mr. President, I regret to say that we just received this modified language, and we have not had an opportunity to study this matter to determine exactly what its implications may be. So if it is all right with the leader, I think maybe we ought to set this aside for a moment so that we will have the opportunity to review the language and then proceed.

Instead of that, Mr. President, I suggest the absence of a quorum, and I ask unanimous consent that the time not be counted against either side.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, while we are waiting, I have two amendments here that have been cleared. One is proposed by Mr. BAUCUS and myself.

It would change "shall" to "may" in that provision of the bill that states that the authorizing committee may submit to the Appropriations Committee changes in the schedule, and that the Appropriations Committee then—now it reads "shall propose those amendments to the Senate." And we want to change that "shall" to "may."

Mr. ROTH. Mr. President, parliamentary inquiry. Can the distinguished Senator from Louisiana say what he is proposing at this time?

Mr. JOHNSTON. I have not proposed it yet. I am proposing an amendment that I thought had been cleared on all sides. It changes—

Mr. ROTH. I have not seen it, and we are looking at another amendment at this time.

Mr. JOHNSTON. I thought it had been cleared.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROTH. Mr. President, let me point out that there is absolutely no intention in S. 343 to undermine the integrity of the peer review process.

While I think the concerns of Senator FEINGOLD are unwarranted, I believe that we are willing to accept the amendment.

As I understand the amendment, the Senator is first saying that we may exclude any person with substantial and relevant expertise as a participant, on the basis that such a person has a potential financial interest in the outcome. But the Senator is also providing that such person may be included if his interest is fully disclosed to the agency and the agency includes such disclosure as part of the record.

So, as I understand it, the Senator is trying to be more evenhanded on the matter. Is that correct?

Mr. FEINGOLD. Mr. President, that is correct.

I want to be fair and make it clear, there is only one exception to that. That would require that the agency not be allowed to let the person stay on in the case where the result would have a direct, predictable effect. So a more extreme case, there is no discretion, but we restore the discretion in the more common conflict-of-interest case. That provision is in the Dole-Johnston provision.

Mr. GLENN. Mr. President, as I understand it, this would add some judgment to it. This would let the agency have leeway in determining a balance, and keep the expertise.

I believe that is the intent. I am happy to accept it on our side.

Mr. FEINGOLD. I thank the Senator.

Mr. ROTH. Mr. President, I am willing to accept the amendment and yield back the remainder of my time.

Mr. FEINGOLD. I thank the Senator from Delaware, and I yield the floor.

The PRESIDING OFFICER. The question is on agreeing to the amendment No. 1538.

The amendment (No. 1538) was agreed to.

Mr. GLENN. I move to reconsider the vote by which the amendment was agreed to.

Mr. HATCH. I move to table the motion.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1536

The PRESIDING OFFICER. There are 8 minutes remaining on the debate on Amendment 1536.

The PRESIDING OFFICER. The Senator from Wisconsin has 1 minute remaining.

Mr. FEINGOLD. Mr. President, I yield back my remaining time.

Mr. HATCH. Mr. President, I would like to be clear that we have accepted Senator FEINGOLD's amendment on the Equal Access to Justice Act with reluctance. This is a controversial matter and I still have many concerns. However, as a show of good faith and willingness to work with the distinguished Senator from Wisconsin in the future, we have allowed his amendment to pass without comment at this time.

The PRESIDING OFFICER. The question is on agreeing to the amendment No. 1536.

The amendment (No. 1536) was agreed to.

Mr. ROTH. I move to reconsider the vote by which the amendment was agreed to.

Mr. GLENN. Mr. President, I move to table the motion.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1535

The PRESIDING OFFICER. The question is on agreeing to the amendment No. 1535. Sixteen minutes remain on the debate.

Mr. DOLE. Mr. President, as I understand it, we had four amendments. We have accepted the two Feingold amendments and the Pryor amendment, which leaves the Lautenberg amendment.

Mr. President, I understand the Senator from Mississippi, Senator LOTT, will be here momentarily. He has 13 minutes. The Senator from New Jersey has 3 minutes. If he is not here momentarily, we will yield back his time. Then I will move to table the Lautenberg amendment.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Mississippi has 7 minutes remaining. The Senator from New Jersey has 3 minutes remaining.

Mr. FORD. Mr. President, may we have order, please?

The PRESIDING OFFICER. The Senator will suspend.

The Senator from Mississippi.

Mr. LOTT. Mr. President, after that 10 minutes, then we would be prepared to go to a vote on the pending Lautenberg amendment; is that correct?

The PRESIDING OFFICER. After all time is expired.

If the Senator will suspend, Members who are conversing in the aisle will take their conversations to the cloakroom.

The Senator from Mississippi.

Mr. LOTT. Mr. President, I will be heard tonight in this brief time we have remaining against the Lautenberg amendment. I understand, after the remarks have been made in the next 8 minutes, there will be a motion to table this amendment.

The Lautenberg amendment would strike the provision in the legislation to reform the current petition process regarding adding or deleting chemicals on the Toxic Release Inventory referred to as TRI. The TRI is a list of chemicals emitted by industrial facilities.

Mr. LAUTENBERG. Mr. President, can we have order, please? It is hard to hear the Senator from Mississippi.

The PRESIDING OFFICER. The Senator will suspend.

The Senator from Mississippi.

Mr. LOTT. The TRI is a list of chemicals emitted by industrial facilities as required by the Emergency Planning and Community Right to Know Act of 1986. The current TRI language in S. 343, which was worked out with the distinguished Senator from Louisiana, does not add a new petition process.

The language merely strengthens the current TRI language to require that the Administrator of the EPA "shall grant any petition that establishes substantial evidence that the criteria already in the TRI law either are or are not met."

As we have gone through this process in the last few days, we have continued, in my opinion, to make changes that are not strengthening the bill. I am not questioning anybody's motives or characterizing the amendments. There has continued to be a process that I think is not strengthening this legislation.

I want to urge my colleagues here tonight to defeat this amendment. What we are talking about here is sound science. That is all we are trying to do with their TRI provision. To make this process to involve reasonable, sound science, a responsible threshold should be used as the standard upon which TRI informs and protects the public.

Having said that, what will this toxics release inventory provision in the bill not do? I want to emphasize that.

The language in the bill has several important, positive features. But it will not automatically remove any chemical currently listed. It will not remove any of the existing criteria for listing. It will not prevent further listings of chemicals. It will not repeal the Community Right-to-Know Act. It will not require a new and costly risk assessment. It will not require a lengthy elaborate cost-benefit analysis.

There is a long list of things that this will not do. It will not undermine this law.

It will require that EPA prove the chemical is a genuine risk before it is listed. The provision will not affect the basic integrity of this program.

In fact, I would assert that it enhances the credibility of the TRI listing by only identifying carcinogens that based on reasonable and expected exposure scenarios will present genuine risk to Americans.

I, along with my colleagues who have worked on this, feel that TRI is an important and useful statute and should be preserved.

The change though is focused and directed at only one aspect of the statute. There are three types of listings within this TRI.

The first deals with really nasty chemicals; the second concerns carcinogens; and a third deals with chemicals causing environmental problems.

Nothing is proposed to change listing or delisting standards for the really nasty chemicals, the bad chemicals, we all agree should be identified and listed.

However, a new criteria is combined with the existing standard for listing in the two remaining categories.

A factor which concerns possible exposure by the public in dosages which are hazardous will be added to existing criteria.

This improves a TRI listing by providing the public with accurate and more complete information while avoiding unnecessarily alarming the public.

If a chemical is not toxic in any scientific sense, why grossly mislead the public and divert resources to this nonrisk?

This, in my opinion, is a regulatory abuse, the kind of thing we have been talking about and debating back and forth all week.

I believe the American public has a right to complete and accurate information. They should not be given incomplete or politicized misinformation.

Those who want to remove this provision, in my opinion, are not enhancing the protection offered. In fact, while it is not their intent, it may actually lead to misleading information.

When Congress passed the Right-to-Know Act in 1986, it did not envision that EPA would only consider wild scenarios. But after nearly a decade of considering just these type of scenarios, it has come time I think for Congress to deal with some of the actions that EPA has been taking. And there is one area where we really need it. Let me read what EPA itself has said in its own words. It says there is—

> . . . some confusion about roles and the relationship of emissions inventory, hazard assessment, exposure assessment and risk assessment in the development of the TRI listings and subsequent uses of the TRI data . . . sometimes misinterpreted to imply that they are direct measurements of exposure and risk.

This came from EPA's own Science Advisory Board in a letter to Carol Browner just 5 months ago.

I believe Americans will benefit by a more accurate and valid TRI listing. However, there are those who want to perpetuate a process which misleads as to the risks that are involved and ignoring scientific common sense.

I firmly believe that the additional standard will make TRI more accountable, and I urge that the amendment to delete this language in the bill be defeated.

I yield the floor, Mr. President.

Mr. JOHNSTON. Will the Senator yield?

Mr. LOTT. I yield whatever time I might have for a question.

Mr. JOHNSTON. Mr. President, I was going to say under the present law the EPA interprets its statute, or feels it must interpret their statute, in such a way as to have no discretion if there is a chemical which is known to cause chronic health effects. Ordinary table solvent, mentioned earlier, can cause chronic health effects, hypertension, poison, et cetera. They have not listed that chemical solvent. But they feel that they have no discretion if it causes that, and they have to list those kind of chemicals.

All we want to do is put "the rule of reason" in interpreting those rules. Is that is correct?

Mr. LOTT. That is correct. I thank the Senator.

Mr. LAUTENBERG. Mr. President, I want to point out one thing before we respond directly.

The PRESIDING OFFICER. Will Members standing and talking carry their conversations to the cloakroom?

Mr. LAUTENBERG. I thank you, Mr. President. It is the end of a long day. People are restless. But we have an important matter to settle here.

The fact of the matter is that this has been a very successful program. We have reduced in 5 years 40 percent of the toxic materials emitted. We have go from 4.8 billion pounds a year down to 2.8 billion pounds a year, a reduction of 2 billion pounds being released into the atmosphere, the water, the land, whatever waste stream the company chooses.

Why is it necessary to change it? Mr. President, it is obvious to me. It is necessary to change it to accommodate someone who does not like the chemical that is listed there. We are not talking about chewing gum here. We are talking about chemicals that now are listed as chronic. These chemicals can cause cancer, teratogenic defects, serious or irreversible reproductive dysfunctions, neurological disorders, heritable genetic mutations, and other chronic health effects.

What the Senator from Mississippi wants to do is say unless two-thirds of this list—that is the reality—meet the acute test that none of those conditions that I just mentioned should permit those materials to be listed.

These are toxics that are listed here. I would submit to you that it would be a pity to say to the American public that we are taking away the sunshine. We ask you now to accept the "right to know"—not go from the "right to know" to the "right to know nothing." It is a law that has very little demand. All they have to do—the manufacturer, the transports—is list the chemicals that you emit into the air, list the chemicals that you emit into the water; list the toxics that you store in wasteland fills.

Mr. President, there is very little here that has a negative effect. We have reduced the amount of exposure that our people have to suffer. The thing works well. To leave it there now when this is not a matter of regulation—this is a matter of governance. I think it would be a mistake honestly to continue to leave the language in there that would eliminate a program that has been very, very successful. If we are going to eliminate it, it ought to be through the process of hearings and committees and the legislative process instead of sweeping it all under the pretense that we are making regulation and making life easier for our citizens.

As a matter of fact, it makes life considerably more hazardous.

I yield the floor, Mr. President, and hope that my colleagues will not agree to tabling this amendment.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. All time has expired.

The majority leader.

Mr. DOLE. I move to table the amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. DOLE. Mr. President, let me indicate to my colleagues this will be the only vote tonight because we were able to take three of the amendments, the PRYOR amendment, and two Feingold amendments we were able to work out and accept. So there will just be this one vote.

As I understand, Senator HUTCHISON may be prepared to offer her amendment, at least the debate tonight on her amendment. Is that correct?

Mrs. HUTCHISON. We are almost there. Maybe after the vote.

Mr. DOLE. That is a possibility. So we would like, if we could do that tonight, to finish the debate on the Hutchison amendment, and then we would have a vote on that tomorrow morning. But we would have that vote at the same time we have a vote on the Glenn amendment, which will be around 11 a.m.

Mr. JOHNSTON. At 11:15.

Mr. DOLE. Whatever. If all time is used. I do not think we need 2 hours for sunshine.

In any event, I just advise Members this is the last vote tonight.

There will be votes tomorrow throughout the day, and I would tell my colleagues the first vote will probably be around 10:45, 11:00, 11:15 in the morning.

The PRESIDING OFFICER. The question is on agreeing to table the Amendment No. 1535. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from New Mexico [Mr. BINGAMAN] and the Senator from Nebraska [Mr. KERREY] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 50, nays 48, as follows:

[Rollcall Vote No. 306 Leg.]

YEAS—50

Abraham
Ashcroft
Bennett
Bond
Breaux
Brown
Burns
Campbell
Coats
Cochran
Coverdell
Craig
D'Amato
DeWine
Dole
Domenici
Faircloth
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hatch
Hatfield
Heflin
Helms
Hutchison
Inhofe
Johnston
Kempthorne
Kyl
Lott
Mack
McCain
McConnell
Murkowski
Nickles
Packwood
Pressler
Santorum
Shelby
Simpson
Smith
Specter
Stevens
Thomas
Thompson
Thurmond
Warner

NAYS—48

Akaka
Baucus
Biden
Boxer
Bradley
Bryan
Bumpers
Byrd
Chafee
Cohen
Conrad
Daschle
Dodd
Dorgan
Exon
Feingold
Feinstein
Ford
Glenn
Graham
Harkin
Hollings
Inouye
Jeffords
Kassebaum
Kennedy
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lugar
Mikulski
Moseley-Braun
Moynihan
Murray
Nunn
Pell
Pryor
Reid
Robb
Rockefeller
Roth
Sarbanes
Simon
Snowe
Wellstone

NOT VOTING—2

Bingaman
Kerrey

So the motion to table the amendment (No. 1535) was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the motion was agreed to, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GLENN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Mr. President, I ask unanimous consent that the distinguished Senator from Texas be permitted to offer her amendment, lay it down, and it will become the pending business when we come back in tomorrow. Tonight we will set it aside for the Glenn amendment.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

AMENDMENT NO. 1539 TO AMENDMENT NO. 1487

(Purpose: To protect against the unfair imposition of civil or criminal penalties for the alleged violation of rules)

Mrs. HUTCHISON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Texas [Mrs. HUTCHISON], for herself, Mr. HEFLIN, Mr. HATCH, Mr. NICKLES, Mr. CRAIG, and Mr. LOTT, proposes an amendment numbered 1539 to amendment No. 1487.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Insert at the appropriate place:

"SEC. 709. AGENCY INTERPRETATIONS IN CIVIL AND CRIMINAL ACTIONS.

"(a) No civil or criminal penalty shall be imposed by a court, and no civil administrative penalty shall be imposed by an agency, for the violation of a rule—

"(1) if the court or agency, as appropriate, finds that the rule failed to give the defendant fair warning of the conduct that the rule prohibits or requires; or

"(A) reasonably in good faith determined, based upon the language of the rule published in the Federal Register, that the defendant was in compliance with, exempt from, or otherwise not subject to, the requirements of the rule; or

"(B) engaged in the conduct alleged to violate the rule in reliance upon a written statement issued by an appropriate agency official, or by an appropriate official of a State authority to which had been delegated responsibility for implementing or ensuring compliance with the rule, stating that the action complied with, or that the defendant was exempt from, or otherwise not subject to, the requirements of the rule.

"(b) In an action brought to impose a civil or criminal penalty for the violation of a rule, the court, or an agency, as appropriate, shall not give deference to any interpretation of such rule relied on by an agency in the action that had not been timely published in the Federal Register or communicated to the defendant by the method described in paragraph (a)(2)(B) in a timely manner by the agency, or by a state official described in paragraph (a)(2)(B), prior to the commencement of the alleged violation.

"(c) Except as provided in subsection (d), no agency shall bring any judicial or administrative action to impose a civil or criminal penalty based upon—

"(1) an interpretation of a statute, rule, guidance, agency statement of policy, or license requirement or condition, or

"(2) a written determination of fact made by an appropriate agency official, or state official as described in paragraph (a)(2)(B), after disclosure of the material facts at the time and appropriate review,

if such interpretation or determination is materially different from a prior interpretation or determination made by the agency or the state official described in (a)(2)(B), and if such person, having taken into account all information that was reasonably available at the time of the original interpretation or determination, reasonably relied in good faith upon the prior interpretation or determination.

"(d) Nothing in this section shall be construed to preclude an agency:

"(1) from revising a rule or changing its interpretation of a rule in accordance with sections 552 and 553 of this title, and, subject to the provisions of this section, prospectively enforcing the requirements of such rule as revised or reinterpreted and imposing or seeking a civil or criminal penalty for any subsequent violation of such rule as revised or reinterpreted.

"(2) from making a new determination of fact, and based upon such determination, prospectively applying a particular legal requirement;

"(e) This section shall apply to any action for which a final unappealable judicial order has not been issued prior to the effective date.

Mrs. HUTCHISON. Mr. President, I offer this amendment on behalf of Senators HEFLIN, HATCH, NICKLES, CRAIG, and LOTT, as well as myself. It is the Hutchison-Heflin amendment.

Mr. President, this is an amendment that we will debate tomorrow. It is an amendment that is going to try to put into the Administrative Procedure Act parameters that would not allow an agency to retroactively penalize a business that does not have reasonable notice of a regulation. So I think it is going to be an important amendment. I think we will have good bipartisan support for it.

I ask unanimous consent that we lay it aside.

Mr. GLENN. Reserving the right to object, and I will not object. In the original version of this that we asked the Department of Justice to check out they had objections, and the only reason we cannot debate it tonight is there have been substantial changes made to the original, as I understand it. We are asking Justice to give us an overnight read on those so we can bring it up tomorrow and see if the changes made were adequate, or whether we have to try and debate some change in that. That is the reason it will be put over until tomorrow. We are glad to accommodate the Senator from Texas on this.

Mrs. HUTCHISON. Yes. Mr. President, the Senator from Ohio is correct that there were objections. I think a number of those have been taken care of. I hope that by tomorrow, perhaps, we can have a short debate or even have an acceptance of the amendment. I feel that we have addressed many of the concerns in that letter. So we can take it up tomorrow and go from there.

Mr. HATCH. Mr. President, I ask unanimous consent that the amendment be temporarily set aside so we can address the Glenn amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Mr. President, I want to announce to all Members of our body that we are going to dispose of the Glenn amendment tonight.

Therefore, we could have votes before 11 tomorrow, I have been informed by the leader.

All Members should be aware we could have a vote or more.

Mr. JOHNSTON. Mr. President, will the Senator yield?

Mr. HATCH. I am happy to yield to the Senator.

Mr. JOHNSTON. Repeat that please.

Mr. HATCH. Because we are going to accept the Glenn amendment tonight, and the Hutchison amendment is laid down, Members should become aware that we could have votes before 11 tomorrow.

Mr. JOHNSTON. Mr. President, I have a longstanding doctor's appointment at 9 o'clock, and could be here by 10:30. Could the Senator help me on this? I can be here around 10:30. My guess is it would be hard to have a vote before 11, anyway.

Mr. JOHNSTON. The only amendment I know that might be ripe for a vote is possibly Hutchison.

Senator GLENN has 45 minutes in morning business.

Mr. HATCH. We will certainly try and accommodate the Senator. I cannot make that promise. We will do our best.

AMENDMENT NO. 1540 TO AMENDMENT NO. 1487

(Purpose: To ensure public accountability in the regulatory process by establishing "sunshine" procedures for regulatory review)

Mr. GLENN. On behalf of myself and Senator LEVIN, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Ohio [Mr. GLENN] for himself and Mr. LEVIN, proposes an amendment numbered 1540 to amendment No. 1487.

Mr. GLENN. I ask unanimous consent further reading be dispensed.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 66, after line 15, insert—

§ 643. Public disclosure of information

"(a) OMB RESPONSIBILITY.—The Director or other designated officer to whom authority is delegated under section 642, in carrying out the provisions of section 641, shall establish procedures (covering all employees of the Director or other designated officer) to provide public and agency access to information concerning regulatory review actions, including—

"(1) disclosure to the public on an ongoing basis of information regarding the status of regulatory actions undergoing review;

"(2) disclosure to the public, no later than publication of, or other substantive notice to the public concerning a regulatory action, of—

"(A) all written communications, regardless of form or format, including drafts of all proposals and associated analyses, between the Director or other designated officer and the regulatory agency;

"(B) all written communications, regardless of form or format, between the Director or other designated officer and any person not employed by the executive branch of the Federal Government relating to the substance of a regulatory action;

"(C) a record of all oral communications relating to the substance of a regulatory action between the Director or other designated officer and any person not employed by the executive branch of the Federal Government; and

"(D) a written explanation of any review action and the date of such action; and

"(3) disclosure to the regulatory agency, on a timely basis, of—

"(A) all written communications between the Director or other designated officer and any person who is not employed by the executive branch of the Federal Government;

"(B) a record of all oral communications, and an invitation to participate in meetings, relating to the substance of a regulatory action between the Director or other designated officer and any person not employed by the executive branch of the Federal Government; and

"(C) a written explanation of any review action taken concerning an agency regulatory action.

"(b) AGENCY RESPONSIBILITY.—The head of each agency shall—

"(1) disclose to the public the identification of any regulatory action undergoing review under this section and the date upon which such action was submitted for such review; and

"(2) describe in any applicable rulemaking notice the results of any review under this section, including an explanation of any significant changes made to the regulatory action as a consequence of the review.".

On page 66, line 16, strike "643" and insert in lieu thereof "644".

On page 67, line 1, strike "644" and insert in lieu thereof "645".

Mr. GLENN. Mr. President, we have supported regulatory review in terms of cost-benefit analysis and OMB review of agency rules. During the 1980's, we had a lot of controversy about OMB interference with agency decisions, special access by lobbyists, and finally about secrecy in the Council on Competitiveness.

We, throughout all of this on the Governmental Affairs Committee, stood for open sunshine, nothing that was going to stop OMB review, and we wanted to introduce fairness.

The sunshine language in the Glenn-Chafee bill is consistent with the Clinton administration Executive order, consistent with recommendations of the administrative conference of the United States, also very similar to the OMB public disclosure procedures that CARL LEVIN, one of the cosponsors of this, negotiated with the Bush administration back in 1986.

We have a long history on this. We introduced sunshine legislation in several Congresses.

This year's language is a streamlined version of those bills, less strict, avoids criticism—like detailed logging requirements and early pre-rulemaking release of internal documents. Those requirements are not in this language.

But the provisions have two basic parts. First, OMB responsibilities, they must disclose to the public information about the status of rules under review. We need this to enforce the review time limits.

Two, OMB must release regulatory review documents and comments to agencies as they come in, and to the public; once a rule is proposed, agency and OMB analysis and other regular review documents are included and documents of people outside of government, records of conversations, meetings, review decisions.

The second part involves the responsibilities of the rulemaking agency. Each agency must keep a publication of rules under review at OMB. This matches the OMB lists and is needed to enforce the review time limits.

These requirements work. The Clinton administration abides by almost identical procedures now, and given past problems and requirements, the new regulatory reform bill, we should start with an open process.

I urge adoption of the amendment. It is my understanding that the other side has agreed to accept this amendment.

I am certain that Senator LEVIN, my cosponsor on this, who has done as much work in this area through the years as anybody in the Congress, and I am sure he has some remarks to make.

I am glad to yield the floor.

Mr. LEVIN. Mr. President, first let me thank my friend, the Senator from Ohio, for his tremendous leadership on this issue. He has kept at the forefront, and as a result we will adopt this very important amendment on openness tonight.

This issue began back in 1981 when President Reagan issued Executive Order 12291, requiring review by the OMB, of all significant rules—proposed and final.

I favored Presidential oversight because I like accountability in the rulemaking process. But that process was being done behind closed doors. We could not even tell the public or find out if or when a rule was being reviewed by OMB. Only insiders with the right phone numbers on their rolodex knew what was going on.

We had hearing after hearing, document requests, battles in the press and on the Senate floor, over the critical issue of making the OMB review process subject to the same public disclosure requirements that we impose on rulemaking agencies.

It finally took a threat to shut down the dollars for OIRA, the Office of Information and Regulatory Affairs, the office in the OMB which conducts the review.

Now what we finally got was a policy from OIRA in 1986 from this administrator Wendy GRAMM in the form of the so-called GRAMM memo. That opened the door a bit, an important bit, and put written comments in a record of meetings in a public rulemaking file.

We still did not get the public's right-to-know if and when a rule was at OMB for review. But it was at that time, a big step forward.

The Clinton administration has issued a new Executive order in 1993 that provided an excellent process for making the OMB review process open to the public.

This bill, the bill now that is before the Senate for consideration, provides statutory authority for the President to review rules. It does not, however, provide for any of the openness requirements that we now have in the Executive order and for which we have worked so hard.

This amendment offered by the Senator from Ohio puts those disclosure requirements in law. It is an important amendment. There are also, these requirements in the Glenn-Chafee substitute, as there were in the ROTH bill as reported unanimously by the Governmental Affairs Committee.

Again, I want to thank the Senator from Ohio for his stalwart leadership on this openness issue.

Mr. JOHNSTON. Mr. President, I wonder if the Senator from Ohio would answer a couple of questions.

On page 2 of his amendment, on subsection (C) it states that there must be a record of all oral communications relating to the substance of a regulatory action between the director or other designated officer and any person not employed by the executive branch of the Federal Government, and then it also in subparagraph 3 on the same page talks about disclosure to the regulatory agency on a timely basis of a record of all communications, et cetera.

Now, my question is, does a record of all oral communications mean like a log of calls with a subject matter; or does that mean like a transcript or a summary of the substance of everything that is said?

Mr. GLENN. No, not a transcript. This would be rather, who called, and the general subject of the conversation.

Mr. JOHNSTON. Like I called you about this amendment. To satisfy that record, you would say the date; call from JOHNSTON; subject is sunshine amendment. Would that satisfy?

Mr. GLENN. Yes.

Mr. JOHNSTON. So, the Senator does not mean by a "record," either a transcript or a summary, but name, date, time, subject matter.

Mr. GLENN. General subject, that is correct.

Mr. JOHNSTON. I thank the Senator.

Mr. GLENN. Mr. President, the amendment I am offering is required to provide sunshine during regulatory review. This amendment is needed to maintain public accountability and trust in Government.

While not a central part of the regulatory reform legislation, the bill's Executive oversight provisions ensure that compliance with the many requirements of the bill will be monitored and enforced through OMB regulatory review. This power must be exercised in the light of day.

We have had a lot of experience with OMB regulatory review over the last 15 years. While I think that that review is needed to ensure good cost-benefit analysis by the agencies, it should not be used for undisclosed lobbying, pressure, and delay. Unfortunately, it has been used for those things. We need to put sunshine procedures into law so that it will not happen again.

Let me review how we got to this point.

A key component of the regulatory process under the Administrative Procedure Act [APA] is the requirement that agencies must work to involve interested parties in the development of rulemaking decisions.

Agencies must give the public notice of its proposals, solicit comments on them, and consider those comments in making final rulemaking decisions. This public participation has always been key to protecting the integrity of Government agency decisions. It has also been key to creating the agency record that is reviewed by a court upon a challenge to an agency's final rule decision.

These APA public participation principles were largely sufficient for many years. Over the last 20 years, however, the development of centralized regulatory review has created a new layer of decisionmaking, whereby agency regulatory proposals could be reviewed and changed before being published for public notice and comment.

This regulatory review process, which was created by Presidential Executive order, has been the driving force for cost-benefit analysis in agency rulemaking. I have always supported that purpose. In fact, it is the potential good that OMB has shown can be provided by cost-benefit analysis and risk assessment that brings us to debate the present legislation. We are building on OMB's regulatory review experience in an effort to place these requirements in law for all agencies. I support that purpose. And I am glad that OMB has been here over the years helping to develop the principles of cost-benefit analysis and risk assessment.

Unfortunately, the OMB regulatory review experience has not been without its problems. In addition to regulatory analysis, the OMB process is useful for simply coordinating policies among the various agencies and ensuring consistency with Presidential priorities. While this, too, is a valid purpose, it proved a useful avenue for secret lobbying, political pressure on agencies, and delays of agency decisions. This is not what regulatory review should be about.

Congressional hearings over the last 10 years or more have highlighted complaints about OMB's role in regulations relating to infant formula, lead, ethylene oxide, drinking water, underground storage of toxic chemicals, grain dust, and more. Several court decisions have also focused on some of these cases.

The former OMB Director, Richard Darman, even testified before the Governmental Affairs Committee in 1989 that "OMB had abused the process by using delay as a substantive tool" to control agency decisions.

In 1991, our committee had many of the same complaints with regard to the Council on Competitiveness, which was chaired by Vice President Quayle, and was supervising the OMB regulatory review process. There were a lot of charges about secret lobbying a lot of refusals to disclose who was meeting with Council representatives on current regulatory proposals.

I do not believe the solution to these closed processes is to outlaw them. Regulatory review is useful and should not be curtailed. But it should be more open. With openness the process can go forward and the American people can be confident in knowing that no secret dealings are going on behind closed doors.

Through the years of our oversight in the Governmental Affairs Committee, there has been considerable disagreement in the committee about how much sunshine is needed and at what stages in the process. The committee has, however, always agreed on the need for sunshine and public confidence in the regulatory process. In the consideration of S. 291, Senator ROTH's regulatory reform bill that was supported unanimously by Democrats and Republican in our committee, we arrived at a set of requirements that were acceptable to all. They were reduced in scope from earlier proposals I have made. They are consistent with recommendations of the Administrative Conference of the United States and provisions in current regulatory review order (E.O. 12866). These provisions include openness procedures instituted by OMB in 1986.

In other words, while some past proposals have been criticized as too intrusive into the prerogatives of the Chief Executive, the sunshine provisions in S. 291 work without raising past concerns. There were no complaints in committee about intrusion into executive privilege. Past criticisms about forcing early disclosure of information during regulatory review was resolved by putting off disclosure until after the completion of regulatory review. Earlier complaints about undue administrative burden, such as detailed logging requirements, were also addressed by matching requirements to those currently employed by OMB.

The Glenn/Chafee bill, S. 1001, contains the exact sunshine provisions of S. 291. The amendment I offer today is almost identical to that language—it is only modified in order to fit into the structure of S. 343. Without this amendment, S. 343 has no public protections during regulatory review. I believe that is a fundamental flaw that needs to be addressed. I believe that our bipartisan Governmental Affairs sunshine provisions provide the needed solution.

The amendment has two sets of requirements—one for OMB, and one set for the rulemaking agencies.

First, OMB must disclose to the public information about the status of rules undergoing review. This means that the public should be able to learn from OMB what agency regulatory actions are under review. As a practical matter, this would entail the production of a single monthly listing of proposed rules under review—as OMB currently prepares pursuant to E.O. 12866. In this way, the legislation would merely create a statutory right to information now provided under Presidential Executive order.

Second, the public must have access, no later than the date of publication of the proposed or final rule, to: (A) Written communications exchanged between OMB and the rulemaking agency. These would include draft rules and related analyses; (B) Written communications between OMB and nongovernmental parties relating to the substance of a rule; (C) A record of oral communications between OMB and nongovernmental parties relating to the substance of a rule—as in, who called, when, and on what subject; and (D) A written explanation of any review action and the date of such action.

Each one of these requirements is currently the practice of OMB. Again, we expect that these requirements will entail the continuation of the current OMB practice of maintaining regulatory review files in a public reading room.

Third, as a counterpart to public disclosure, OMB is required to send relevant information to the rulemaking agency to ensure the compilation of a full and accurate rulemaking record. OMB must send to the agency: (A) Written communications between OMB and nongovernmental parties; (B) a description of oral communications, and an invitation to participate in meetings, relating to the substance of a regulatory action between the reviewer and any person not employed by the executive branch of the Federal Government; and (C) a written explanation of any review action.

The second part of the amendment requires agencies to: First, give public notice about rules undergoing regulatory review; and second, describe regulatory review decisions in the relevant rulemaking notices.

With these procedures, we should be able to put behind us much of the rancor and criticism that dogged OMB regulatory review during the past 15 years. The Clinton administration has taken an important step in applying these procedures in its Executive order. The time is now for Congress also to close the book on this issue. We are taking a significant step forward in moving regulatory reform legislation and in order to be successful, it must be accompanied by sunshine.

Mr. HATCH. Mr. President, we do have some concerns about this amendment on this side. We have some constitutional concerns and some others.

We are willing to accept this amendment tonight on the basis that we continue to work with our distinguished colleague and friend from Ohio and others, and we are trying to accommodate over here. So we are prepared to accept the amendment if the Senator will urge it.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. GLENN. Mr. President, I urge adoption of the amendment.

THE PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 1540) was agreed to.

Mr. GLENN. Mr. President, I move to reconsider the vote.

Mr. HATCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JOHNSTON. Mr. President, I wonder if the Senator will yield? May I ask my colleague if we have cleared the Heflin amendment yet? Senator HEFLIN wanted to make section 706 of the APA applicable to appeals from the court of claims.

Mr. HATCH. It is my understanding it has not been cleared yet but it is being worked on.

MORNING BUSINESS

DETENTION OF HARRY WU

Mr. DOLE. Mr. President, by now most of America knows of the unjust detention of Harry Wu by the People's Republic of China. Harry Wu is an American citizen and human rights crusader. Since June 19, 1995, he has been detained in China. Consular access to detained American citizens is required to be granted within 48 hours under the terms of a 1982 agreement with China. But China did not grant access to Mr. Wu until July 10—21 days later. On July 9, Harry Wu was charged with offenses which could carry the death sentence.

Harry Wu was traveling on a valid American passport, with a valid Chinese visa. There seems little doubt that he was targeted by the Chinese Government for his outspoken and brave efforts to describe Chinese human rights abuses. Mr. Wu himself suffered almost two decades of imprisonment in the Chinese gulag. His continued imprisonment is an affront to all freedom loving people.

Mr. President, our relationship with China is at a critical crossroads. Our relations with China are at the lowest point in years, and the list of disputed issues is long: Proliferation, human rights, Taiwan, and trade. We must, however, choose our course carefully. As Henry Kissinger said this morning before the Senate Foreign Relations Committee: "The danger of the existing roller coaster toward confrontation to both China and the United States is incalculable." I share Dr. Kissinger's concern over the dangers of a full-scale confrontation.

But just as we must not casually move toward a conflict that serves neither country, we cannot remain silent in the face of outrageous conduct. The most fundamental duty of Government is to protect the rights of its citizens—and Harry Wu is an American citizen. I urge the Chinese to release Harry Wu, and remove this latest flashpoint in our relations.

A major United Nations Conference on Women is scheduled for September in Beijing. I agree with the bipartisan view recently expressed by my Republican colleague from Kansas, Senator KASSEBAUM, and the Democratic Congressman from Indiana, LEE HAMILTON, when they suggested the United Nations should quit wasting scarce resources on conferences that spend much and achieve little.

I understand the administration plans to send a senior delegation, including two Cabinet officers. In my view, it would be wrong for the United States to participate in the United Nations Women's Conference at any level or in any fashion as long as Harry Wu is held. This morning, along with Speaker GINGRICH, Chairman HELMS, Chairman GILMAN, and Helsinki Commission Co-Chairs Senator D'AMATO and Congressman CHRIS SMITH, I sent a letter to President Clinton urging a U.S. boycott of the U.N. Women's Conference as long as Harry Wu is detained. In my view, that is the least this Government can do to try to show our displeasure with China's action. It is also the only prudent course in light of the State Department's briefing that they could not guarantee the safety of Americans traveling to the conference.

I ask unanimous consent that a copy of the letter, and a copy of a Wall Street Journal article by Nina Shea, "Free Harry Wu" be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CONGRESS OF THE UNITED STATES,
Washington, DC, July 13, 1995.

The PRESIDENT,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: We are writing to express our support for your efforts to secure the release of Harry Wu. It is unconscionable that an American citizen traveling on a valid passport with a valid Chinese visa was arrested, detained and charged in violation of accepted international law. Furthermore, it is an outrage that access to Mr. Wu by American officials was not granted according to the terms of the U.S.-P.R.C. Consular Convention of 1982.

Harry Wu has undertaken heroic efforts to expose Chinese human rights abuses. For almost two decades, he suffered from the ravages of China's prison system. Today, Harry Wu is once again subject to China's closed prison system, and there are concerns about his health and safety.

We are aware that your Administration had planned to participate in the Fourth United Nations Conference on Women, scheduled to be held in September in Beijing. In our view, it would be wholly inappropriate to participate in any international conference in the People's Republic of China while an American citizen is being unjustly detained by the Chinese government. There is ample precedent to deny American participation in international events which only accord prestige to regimes which deserve condemnation—the boycott of the 1980 Olympics in Moscow in the aftermath of the invasion of Afghanistan comes to mind.

Accordingly, we urge you to announce the United States government will not participate—at any level or in any fashion—in the upcoming United Nations Conference on Women as long as Harry Wu is detained in China. Anything less would send a tragic signal of disregard for the human rights of an American citizen.

Sincerely,
NEWT GINGRICH.
BEN GILMAN.
CHRIS SMITH.
BOB DOLE.
JESSE HELMS.
ALFONSE D'AMATO.

[From the Wall Street Journal, July 3, 1995]

FREE HARRY WU

(By Nina Shea)

On June 19, Harry Wu, a 58-year-old American, was arrested by Chinese authorities at the Kazakhstan border. Mr. Wu's passport was in order and he had recently been issued a Chinese entry visa, valid until Sept. 11, 1995. No outstanding charges or arrest warrants were pending against him. No incriminating evidence was found on him or his American traveling companion at the time of the arrest. No charges have been made public against him to date. While his companion has been expelled from China, he remains held incommunicado at an undisclosed location.

The reason the Chinese are detaining Mr. Wu is obvious. In his book "The Power of the Powerless," Vaclav Havel wrote that "living the truth" is "the fundamental threat" to the post-totalitarian system, and thus it is "suppressed more severely than anything else." Mr. Wu is a bald critic of the repressive human-rights policies of Beijing, and the Chinese fear nothing more than the truth he witnesses.

Mr. Wu made a daring trip to China last year to conduct independent investigations into the forcible removal of prisoner organs for transplant and the export of prisoner-produced goods to the U.S. His award-winning documentation aired on American and British television. Mr. Wu's autobiography, "Bitter Winds," is a devastating expose of the Chinese prison work camps, or *laogai*. Mr. Wu knew well of what he wrote; after criticizing the Soviet invasion of Hungary. He was arrested at the age of 23 for being a "rightist," a charge that was "corrected" at the time of his release in 1979, after he had served 19 years in the laogai.

Harry Wu is a hero of our time. He is a human rights dissident of the stature of Mr. Havel, Andrei Sakharov and Anatoly Shcharansky. Like them, he suffered for his principles and spoke of the atrocities of dictatorship from personal experience. And like them, he risked all to give relentless voice to others who are victimized into silence. Through the Laogai Institute, the human rights group he founded, Mr. Wu has painstakingly tracked down other deeply traumatized, former prisoners of the laogai who are in exile throughout the world, encouraging them and providing them with opportunities to tell their stories.

Mr. Wu's last public appearance in the U.S. was at a Puebla Institute-Wethersfield Institute seminar in New York in May, where he briefed American businesses about continuing human rights persecution against Christian churches in China. At a time when the West would rather believe that China, with its new markets, has changed, Mr. Wu would not let it be forgotten that China's one-party Communist political structure and military apparatus remain intact and operational.

In New York, he told the American business community: "The core of the human rights issue in China today is that there is a fundamental machinery for crushing human beings—physically, psychologically and spiritually—called the laogai camp system, of which we have identified, 1,100 separate camps. It is also an integral part of the national economy. Its importance is illustrated by the fact that one third of China's tea is produced in laogai camps. Sixty percent of China's rubber vulcanizing chemicals are produced in a single laogai camp in Shenyang. One of the largest steel pipe works in the country is a laogai camp. I could go on and on. The laogai system is: 'Forced labor is the means; thought reform is the aim.'. . . The laogai is not simply a prison system; it is a political tool for maintaining the Communist Party's totalitarian rule."

For now, Harry Wu has disappeared once again into China's closed penal system. But the U.S. must not forget him. Because he is an American citizen, and because he embodies the best of the indomitable human spirit, the Clinton administration must take extraordinary steps to secure his release. If Mr. Wu is not freed, the U.S. should withdraw from the Fourth United Nations Conference on Women to be held in Beijing in September. This conference is a world-wide summit on the state of human rights as they pertain to women. Since China lost its bid in 1993 to host the Summer Olympics due to its poor human rights record, it has been eager for the prestige accorded a country chosen for this paramount human rights gathering.

At the very time China is violating the human rights of a heroic American citizen, it would be nothing less than craven for the U.S. to lend prestige to China by designating a high-level human rights delegation for the Beijing conference—one to be led by first lady Hillary Rodham Clinton and United Nations Ambassador Madeleine Albright and Timothy Wirth, assistant secretary of state for global affairs. To conduct international diplomatic business-as-usual on the topic of human rights theory as a guest of the very country that is imprisoning, without any human rights, one of our own citizens would be a cynical betrayal, not only of Mr. Wu but of human rights in general.

RECOMMENDATIONS OF THE DEFENSE BASE CLOSURE AND REALIGNMENT COMMISSION—MESSAGE FROM THE PRESIDENT—PM 65

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Armed Services:

To the Congress of the United States:

I transmit herewith the report containing the recommendations of the Defense Base Closure and Realignment Commission (BRAC) pursuant to section 2903 of Public Law 101–510, 104 Stat. 1810, as amended.

I hereby certify that I approve all the recommendations contained in the Commission's report.

In a July 8, 1995, letter to Deputy Secretary of Defense White (attached), Chairman Dixon confirmed that the Commission's recommendations permit the Department of Defense to privatize the work loads of the McClellan and Kelly facilities in place or elsewhere in their respective communities. The ability of the Defense Department to do this mitigates the economic impact on those communities, while helping the Air Force avoid the disruption in readiness that would result from relocation, as well as preserve the important defense work forces there.

As I transmit this report to the Congress, I want to emphasize that the Commission's agreement that the Secretary enjoys full authority and discretion to transfer work load from these two installations to the private sector, in place, locally or otherwise, is an integral part of the report. Should the Congress approve this package but then subsequently take action in other legislation to restrict privatization options at McClellan or Kelly, I would regard that action as a breach of Public Law 101–510 in the same manner as if the Congress were to attempt to reverse by legislation any other material direction of this or any other BRAC.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *July 13, 1995.*

MESSAGES FROM THE HOUSE

At 11:29 a.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 1905. An act making appropriations for energy and water development for the fiscal year ending September 30, 1996, and for other purposes.

The message also announced that pursuant to the provisions of section 169(b) of Public Law 102-138, the Speaker appoints the following Members to the U.S. Delegation to the Parliamentary Assembly of the Conference on Security and Cooperation in Europe on the part of the House: Mr. SMITH of New Jersey, Vice Chairman, Mr. HOYER, Mr. TORRICELLI, Mr. SAWYER, Mr. COLEMAN, Mr. FORBES, Mr. CARDIN, and Ms. SLAUGHTER.

MEASURES REFERRED

The following bill was read the first and second times by unanimous consent and referred as indicated:

H.R. 1905. An act making appropriations for energy and water development for the fiscal year ending September 30, 1996, and for other purposes; to the Committee on Appropriations.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-1155. A communication from the General Counsel of the Department of Defense, transmitting, pursuant to law, a draft of proposed legislation to clarify ambiguity relating to the applicability of section 3703a of title 46, United States Code, to vessels in the National Defense Reserve Fleet; to the Committee on Commerce, Science, and Transportation.

EC-1156. A communication from the Secretary of Commerce, transmitting, pursuant to law, a report relative to increased aeronautical chart prices; to the Committee on Commerce, Science, and Transportation.

EC-1157. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report relative to airport redevelopment areas; to the Committee on Commerce, Science, and Transportation.

EC-1158. A communication from the Administrator of the National Aeronautics and Space Administration, transmitting, pursuant to law, a report relative to metric conversion; to the Committee on Commerce, Science, and Transportation.

EC-1159. A communication from the Deputy Associate Director for Compliance, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, notice of the intention to make refunds of offshore lease revenues where a refund or recoupment is appropriate; to the Committee on Energy and Natural Resources.

EC-1160. A communication from the Deputy Associate Director for Compliance, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, notice of the intention to make refunds of offshore lease revenues where a refund or recoupment is appropriate; to the Committee on Energy and Natural Resources.

EC-1161. A communication from the Deputy Associate Director for Compliance, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, notice of the intention to make refunds of offshore lease revenues where a refund or recoupment is appropriate; to the Committee on Energy and Natural Resources.

EC-1162. A communication from the Deputy Associate Director for Compliance, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, notice of the intention to make refunds of offshore lease revenues where a refund or recoupment is appropriate; to the Committee on Energy and Natural Resources.

EC-1163. A communication from the Secretary of the Interior, transmitting, pursuant to law, the 1994 annual report of the Southwestern Pennsylvania Heritage Preservation Commission; to the Committee on Energy and Natural Resources.

EC-1164. A communication from the Assistant Administrator of the Environmental Protection Agency, transmitting, pursuant to law, a report of progress on the clean water state revolving fund; to the Committee on Environment and Public Works.

EC-1165. A communication from the Chairman of the Nuclear Regulatory Commission, transmitting, pursuant to law, a report relative to abnormal occurrences; to the Committee on Environment and Public Works.

EC-1166. A communication from the Deputy Administrator of the General Services Administration, transmitting, pursuant to law, a space situation report for the National Oceanic and Atmospheric Administration consolidation for Hampton Roads, VA; to the Committee on Environment and Public Works.

EC-1167. A communication from the Acting Administrator of the Environmental Protection Agency, transmitting, a draft of proposed legislation to amend and extend the Toxic Substances Control Act, as amended for 2 years; to the Committee on Environment and Public Works.

EC-1168. A communication from the Assistant Deputy Under Secretary of Defense (Environmental Security), Department of Defense, transmitting, pursuant to law, a notice of intent to submit a corrected final edition of a report relative to the defense environmental restoration program; to the Committee on Environment and Public Works.

EC-1169. A communication from the General Counsel of the Navy, transmitting, a draft of proposed legislation entitled the "Uniform National Discharge Standards for Armed Forces Vessels Act of 1995"; to the Committee on Environment and Public Works.

EC-1170. A communication from the Assistant Secretary (Legislative Affairs), Department of the Treasury, transmitting, pursuant to law, a report relative to the Earned Income Tax Credit; to the Committee on Finance.

EC-1171. A communication from the Secretary of Labor, transmitting, pursuant to law, a report relative to worker adjustment assistance training funds; to the Committee on Finance.

EC-1172. A communication from the President of the United States, transmitting, pursuant to law, a report relative to the emigration laws and policies of the Republic of Bulgaria; to the Committee on Finance.

EC-1173. A communication from the Secretary of Health and Human Services, transmitting, a draft of proposed legislation to improve payment integrity in the Medicare and Medicaid programs, and for other purposes; to the Committee on Finance.

EC-1174. A communication from the Director of the Department of Legislative Reference, transmitting, pursuant to law, a compact relative to the Woodrow Wilson Bridge; to the Committee on the Judiciary.

EC-1175. A communication from the Attorney General of the United States, transmitting, pursuant to law, the fiscal year 1994 report of the activities of the Federal Courts under the Equal Access to Justice Act; to the Committee on the Judiciary.

EC-1176. A communication from the Attorney for the National Council of Radiation Protection and Measurements, transmitting, pursuant to law, the 1994 annual report of independent auditors of the records of the Council; to the Committee on the Judiciary.

EC-1177. A communication from the General Counsel and Chief Financial Officer of the National Tropical Botanical Garden, transmitting, pursuant to law, the calendar year 1994 audit report; to the Committee on the Judiciary.

EC-1178. A communication from the Secretary of Housing and Urban Development, transmitting, a draft of proposed legislation to exempt HUD and Agriculture multifamily loan foreclosures and related actions from the bankruptcy code; to the Committee on the Judiciary.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. CHAFEE, from the Committee on Environment and Public Works, without amendment:

S. 1033. An original bill to amend the Federal Water Pollution Control Act to establish uniform national discharge standards for the control of water pollution from vessels of the Armed Forces, and for other purposes (Rept. No. 104-113).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mrs. KASSEBAUM (for herself, Mr. KENNEDY, Mr. FRIST, Mr. DODD, Mr. JEFFORDS, Ms. MIKULSKI, Mr. GREGG, Mr. WELLSTONE, Mr. GORTON, Mr. BELL, Mr. HATCH, Mr. SIMON, Mr. CHAFEE, and Mr. LIEBERMAN):

S. 1028. A bill to provide increased access to health care benefits, to provide increased portability of health care benefits, to provide increased security of health care benefits, to increase the purchasing power of individuals and small employers, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. SIMPSON (for himself and Mr. BINGAMAN):

S. 1029. A bill to amend the Foreign Assistance Act of 1961 to establish and strengthen policies the global expansion of reproductive choice, and for other purposes; to the Committee on Foreign Relations.

By Mr. REID (for himself, Mr. WELLSTONE, and Ms. MOSELEY-BRAUN):

S. 1030. A bill entitled the "Federal Prohibition of Female Genital Mutilation Act of 1995; to the Committee on the Judiciary/

By Mr. THOMAS (for himself, Mr. SIMPSON, Mr. BURNS, Mr. CRAIG, Mr. STEVENS, Mr. KEMPTHORNE, and Mr. HELMS):

S. 1031. A bill to transfer the lands administered by the Bureau of Land Management to the State in which the lands are located; to the Committee on Energy and Natural Resources.

By Mr. ROTH (for himself and Mr. BAUCUS):

S. 1032. A bill to amend the Internal Revenue Code of 1986 to provide nonrecognition treatment for certain transfers by common trust funds to regulated investment companies; to the Committee on Finance.

By Mr. CHAFEE:

S. 1033. An original bill to amend the Federal Water Pollution Control Act to establish uniform national discharge standards for the control of water pollution from vessels of the Armed Forces, and for other purposes; from the Committee on Environment and Pacific Works; placed on the calendar.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DOLE (FOR HIMSELF AND MR. DASCHLE):

S. Res. 150. A resolution to authorize testimony by Senate employees and representation by Senate Legal Counsel; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mrs. KASSEBAUM (for herself, Mr. KENNEDY, Mr. FRIST, Mr. DODD, Mr. JEFFORDS, Ms. MIKULSKI, Mr. GREGG, Mr. WELLSTONE, Mr. GORTON, Mr. PELL, Mr. HATCH, Mr. SIMON, Mr. CHAFEE and Mr. LIEBERMAN):

S. 1028. A bill to provide increased access to health care benefits, to provide increased portability of health care benefits, to provide increased security of health care benefits, to increase the purchasing power of individuals and small employers, and for other purposes; to the Committee on Labor and Human Resources.

THE HEALTH INSURANCE REFORM ACT OF 1995

Mrs. KASSEBAUM. Mr. President, I rise today to introduce on behalf of myself, Senators KENNEDY, FRIST, GREGG, JEFFORDS, GORTON, HATCH, CHAFEE, PELL, DODD, SIMON, MIKULSKI, WELLSTONE, and LIEBERMAN, the Health Insurance Reform Act of 1995.

This legislation will make it easier for individuals and employers to buy and keep health insurance—even when a family member or employee becomes ill. And it will allow people to change jobs without fear of losing their health coverage.

Despite past State and Federal reform efforts, the lack of poor portability of health insurance remains a serious concern for many Americans, particularly those with preexisting health conditions. The General Accounting Office estimates that as many as 25 million Americans could benefit from this legislation.

The Health Insurance Reform Act builds upon and strengthens the current private insurance market by, one, guaranteeing that private health insurance coverage will be available, renewable and portable; two, limiting preexisting condition exclusions; and, three, increasing the purchasing clout of individuals and small employers by creating incentives to form private, voluntary coalitions to negotiate with the providers and health plans.

Mr. President, I believe that the American people want us to work together to fix what is broken in the current system without relying on big Government solutions.

The legislation we are introducing today does not impose new, expensive regulatory requirements on individuals, employers or States. It does not create new Federal bureaucracies. It does not create any new taxes, spending or price controls nor does it require employers to pay for health insurance coverage.

While this insurance reform legislation alone will not cure all the ills of the Nation's health care system, it will in some small and important ways, I believe, promote greater access and security for health coverage for all Americans by requiring private insurance carriers to compete based on quality, price, and service instead of by refusing to provide coverage to those who are in poor health and who need it the most.

Mr. President, I want to thank all of my cosponsors. Senators GREGG, FRIST, JEFFORDS, HATCH and GORTON have all contributed a great deal to this effort. Senator JEFFORDS has worked particularly hard on the group purchasing provisions of the legislation. But I want to especially recognize the contributions of the ranking member of the Labor and Human Resources Committee, Senator KENNEDY. He has worked, along with his staff, for many hours, in many ways, to help make this legislation a bipartisan effort. Senator KENNEDY has spent many years on the health care agenda working tirelessly to improve the health care delivery system. And I am particularly pleased that this is such a strong bipartisan bill that we are introducing today. It is not a major piece of legislation. As I said, it is not going to be the answer to all the ills in our health care system. But I think it is a very important step forward.

I am confident that with the support of the other original cosponsors and others, the Labor Committee we will be able to report this legislation favorably in the near future and we can begin to move forward, on a bipartisan basis, to make private health insurance more readily available, more secure and more affordable for all Americans. Mr. President, I intend to work with all of my colleagues to ensure that these reforms are enacted during the 104th Congress.

Mr. KENNEDY. Mr. President, first of all, I welcome the opportunity to join Senator KASSEBAUM in the introduction of the Health Insurance Reform Act of 1995. I would like to pay tribute to her leadership in this area which is of enormous concern to the American people—addressing the issue of access to health insurance in a way that is going to be reasonable for working families in this country.

Making health insurance available to working Americans means they will be able to receive the kind of high-quality health care that is possible in this country—and that care will be available in the inner cities and rural communities of this country. Improving access to health care is one more way of stressing the obvious importance of prevention and demonstrating our commitment to the American people, particularly our seniors, to provide them with the security of health benefits in this diverse and complex Nation.

Building on the current health care system is incredibly, incredibly difficult and complex. Many of us have been addressing this issue over a considerable period of time. I think comprehensive reform of the system is still a very, very worthy objective.

But what we have today is something which, I think, is extremely important. There will be those who say, "Well, have we lost our goal of trying to deal in a comprehensive way? Should we just come back and try to reform the entire system? Let's just wait for the opportunity to do so."

Senator KASSEBAUM has said, "Let us try to find common ground and let us try to make progress in areas where progress can be made. And, at a time where we do have diversity on a great many issues that are of very great importance and where there is a difference in viewpoint by the American people, expressed by their representatives—let us put that aside and say that it is more important for families in this country to have access to health care; it is more important to make meaningful progress to try to address their central needs." I think she deserves great credit for these initiatives and for working in a very strong, bipartisan way to try to find common ground on an issue which is going to make a very important and significant difference in the lives of millions of Americans who have preexisting conditions. This bill will help respond to the real needs and anxieties of millions of people.

Often we debate and discuss the bottom line issues in terms of cost, and that is certainly important. But for those who have a disability, we forget that these people live with a sense of fear and anxiety about what their future holds and whether they will have coverage for their health needs, or whether they will be locked into a particular work situation. The reforms in this bill let people know that Congress believes our working Americans deserve opportunities for moving ahead in terms of their career and progress for their families—which have been limited. It also encourages small businesses to work together to try to leverage the system in a positive and constructive way by using their purchasing power in the economy to negotiate a more reasonable cost for health care.

So, even though some might consider this a modest step, I think it is an extremely important one. And it is one in which I welcome the opportunity to work with Senator KASSEBAUM and to work with Senator JEFFORDS, who, as Senator KASSEBAUM has mentioned, spends a great deal of time on this issue. Many others on our committee do also. Senator KASSEBAUM has mentioned our Republican colleagues. I would like to mention our Democratic colleagues as well. Senator WELLSTONE has taken a particular interest and has made important contributions. And generally speaking, all of the members spend time and are interested in improving this Nation's health care system.

Having been honored with chairing the Labor and Human Resources Committee last year, I was enormously impressed with the commitment of the members on the committee when we did move towards a markup on health care. The markup lasted for a period of some 10 days, long days from 8 or 9 in the morning until 10 at night. We had virtually complete attendance of our committee, Republicans and Democrats, all really participating in that process, all who went through an extraordinary learning experience. And, as a result of that, there were broad areas of bipartisan agreement and there were important areas of difference.

For a number of reasons, we were unable to reach final legislation in the U.S. Senate. But nonetheless, I think all of us, as legislators, try and learn from past experiences.

One that certainly continues to ring in my mind is the real desire in this body by Republicans and Democrats alike to see progress in this area. It is enormously obvious the reason why, and that is because this is a matter of ongoing central concern to families in this country. We all have seen the results of various polls about the budget, about deficits, about taxes, about priorities, about Medicare and Medicaid cuts. A variety of opinions are illustrated in newspapers and on radio and television across the country.

But one element that shows up in all kinds of studies and reviews is the real desire of the American people for Congress to try and find common ground; to try and make progress; to try and move this process forward. We have a very, very important responsibility to try and do so.

There are naysayers. There are those who will find reasons to criticize this approach. There will be those who say it goes too far in some areas—and there will be those who say it does not go far enough. I want to be one of those to say—I think this is an enormously important and constructive effort and I am very hopeful that we can build broad support in the Senate with the introduction of this bill as we move through the hearing process and through the markup.

I invite all of the Members on this side, as Senator KASSEBAUM has done on her side, to join with us to make suggestions and recommendations. The issue of health care is a constantly changing landscape. It is dramatically different from where it was 2 or 4 years ago. But despite this, there continue to be issues of great concern for which we all agree something must be done—and those include the issues of access, affordability and coverage.

What we have tried to do in this bill is to respond in a way, under the leadership of Senator KASSEBAUM, that we could find the areas of common stream. We have tried to review what we debated last year and take what was central to the different approaches that were put forward in the Senate by Republicans as well as Democrats. Then we have tried to take those recommendations and shape them in ways which would be more adaptive to the kind of conditions that we find today—advancing those ideas in a way that really can make an important difference.

Mr. President, I welcome the chance of joining today with my colleagues in introducing the Health Insurance Reform Act of 1995. To review, I will now summarize and highlight the specifics of the bill.

Mr. President, it is a pleasure to join Senator KASSEBAUM in introducing the Health Insurance Reform Act of 1995. This bipartisan proposal was developed in close cooperation between our two offices, and I commend her for her leadership.

The private health insurance market in the United States is deeply flawed, and with each passing year, the flaws become more serious. This legislation is designed to remedy some of the worst abuses of the current system, and provides protection to large number of families victimized by such abuses.

Today, insurers often impose exclusion for preexisting conditions. As a result, insurance is often denied for the very illnesses most likely to require medical care.

The valid purpose of such exclusions is to prevent people from gaming the system by purchasing coverage only when they get sick. But too often today, the exclusions go too far. No matter how faithfully people pay their premiums, they may have to start again with a new exclusion period if they change jobs or lose their coverage.

Eighty-one million Americans have conditions that could subject them to such exclusions if they lose their current coverage. Sometimes, the exclusions make them completely uninsurable.

Many employers do not provide health insurance to their workers at all, but too often, even those who want to do the right thing can't find an insurer to write the coverage. Sometimes entire categories of businesses, with millions of employees, are redlined out of coverage. Even if a firm is in an acceptable category, coverage may be denied if someone in the firm—or a member of their family—is in poor health. People who have paid insurance premiums for years can be canceled because they have the misfortune to get sick, just when they need coverage the most.

One consequence of the current system is job lock. Workers who want to change jobs to improve their careers or provide more efficiently for their families must give up the opportunity because it means losing their health insurance. A quarter of all American workers say they have been forced to stay in a job they otherwise would have left, because they were afraid of losing their health insurance.

This legislation addresses these problems. Exclusions for preexisting condition will be limited. They cannot be reimposed on those with current coverage who change jobs or whose employer changes insurance companies. Cancellation of policies will be prohibited for those who continue to pay their premiums. No employers who want to buy a policy can be turned down because of the health of their employees. No employees can be excluded from an employer's policy because they have higher than average health costs. Any employee losing group coverage because they leave their job or for any other reason would be guaranteed the right to buy an individual policy.

Small businesses and individuals are particularly victimized under the current system, because they lack the bargaining power of larger corporations. The legislation addresses this problem by encouraging the development of purchasing cooperatives that will have the same kind of clout enjoyed by large corporations.

Because of concerns about the impact on overall premiums, this legislation does not provide for guaranteed availability of coverage for those who have not been part of an employment group. The bill requires the Secretary of HHS to conduct a study of current State practices in this area, to consult with the National Association of Insurance Commissioners and other appropriate sources of expertise, and to provide recommendations for solving this serious problem.

I continue to support the goal of comprehensive health reform. I am confident we will find a way to provide health security for all citizens, stop the ominous rise in the number of uninsured, and the ridiculous soaring cost of health care. This bill is not a comprehensive reform, but it will eliminate some of the worst abuses of the private insurance market and provide greater protection for millions of our fellow citizens.

Mr. FRIST. Mr. President, I rise today to join the distinguished chair of the Committee on Labor and Human Resources, Mrs. KASSEBAUM, in introducing the bipartisan "Health Insurance Reform Act of 1995".

This bill provides long awaited reforms for this country's health insurance market. I say long awaited because the Senate passed similar insurance reforms a few years ago, but regrettably they failed to become law. This legislation, with its bipartisan support, reflects essential market-based reforms.

One of the important things I have witnessed, from my perspective as a physician and now as a member of the Senate Committee on Labor and Human Resources, is the absolutely critical role that both employers and employees play in the current health care system, and the critical role they must play as we struggle to reform the system to deliver higher quality health care at lower costs.

Over the years, employers have directed much of the change in the health care system. Many employers have been a creative force in containing health care costs. In fact, as a result of innovative and aggressive management of health care costs, employers actually saw their health care costs for 1994 decline 1.1 percent for the first time in a decade.

However, this success does not mean that the current system is free from problems. It is not.

It is the large employers which have the greatest influence in the market. Small employers lack the same bargaining power. For example, the large employers reported health care cost decreases averaging 1.9 percent, while small employers experienced an average cost increase of 6.5 percent. Moreover, uninsured rates continue to climb in many States and many families are finding it more difficult to obtain health coverage.

The system needs to be reformed so that health care is available to all Americans.

Last year, many of these same insurance reforms became entangled with President Clinton's heavy-handed approach to health care reform. As a result, Congress again failed to pass these provisions which are necessary to increase access to insurance. Even so, many States moved forward with their own reforms. Forty-four States, including my State of Tennessee, have passed some type of small group insurance market reform. In addition, 27 States have set up high-risk insurance pools to increase access to insurance for individuals.

There should be no bar to insurance based on preexisting conditions, and no one should have to face the fear that they will lose their health insurance when they lose their job, change jobs, divorce, or become sick. Mr. President, this is the focus of this legislation.

As a transplant surgeon, I have personally witnessed the obstacles my patients face after they have received a new heart and are ready to return to the work force and productive lives. These reforms go to the heart of the problem for families that feel locked into their jobs because an illness makes it difficult to obtain health insurance. If I give someone a new heart today, they cannot hope to look for a new job tomorrow. Rather, they desperately hope to keep their current job to maintain their health insurance coverage. They are trapped. The costs of their care prohibit the freedom of movement. Therefore, Mr. President, this bill ensures portability from one group health plan to another.

When insurers are allowed to discriminate based on a preexisting condition, a heart transplant recipient becomes a liability to the rest of a company's employees. It can even result in an insurer dropping the entire employer group altogether. Mr. President, this legislation prohibits insurance carriers from refusing to issue a policy or refusing to renew an existing policy. It is my hope that this bill will help return my patients to work and back to their pretransplant lives.

This bill reflects a desire to build a partnership between business and Government, not an adversarial relationship. Instead of mandating and controlling the health care market, Government should ensure that the market operates efficiently to deliver value to all consumers regardless of their health status.

Mr. JEFFORDS. Mr. President, I rise today in support of the Health Insurance Reform Act of 1995, which is being introduced today by Senators KASSEBAUM, KENNEDY, FRIST, DODD, GORTON, MIKULSKI, GREGG, PELL, SIMON, WELLSTONE, CHAFEE, HATCH, LIEBERMAN, and myself. I applaud Senator KASSEBAUM and Senator KENNEDY for their commitment in developing, what I believe to be the first truly bipartisan insurance reform bill introduced this Congress. As I have stated many times in the past few years, health care reform cannot be successful unless Republicans and Democrats work together.

I am proud to be an original cosponsor of a piece of legislation that has been developed in one of the most inclusive processes that I have been privileged to be a part. This legislation makes great strides in laying a foundation for a well functioning private market, which is critical if we are to be successful in creating a solid health care system for all Americans.

This bill puts into place minimum national insurance reform standards, which transforms the current exclusionary insurance system into one which moves closer to accepting all comers, yet the bill allows States a great amount of flexibility to move ahead at a faster pace if they choose.

This bill, assures that if any individual has insurance today even if they get sick, or change or lose their job, they will be able to purchase insurance tomorrow.

This bill encourages a variety of health plans to compete in the marketplace. Individuals will have choices between managed care plans which focus on preventative care, as well as, catastrophic plans with medical savings accounts.

This bill fixes certain glitches in COBRA so that individuals with disabilities will no longer have to experience a gap in health insurance between the transition from employer to Medicare coverage.

Mr. President, I am most grateful for the inclusion of the health plan purchasing coalition section of this legislation. I will be introducing legislation next week called the Employer Group Purchasing Reform Act of 1995, in which health plan purchasing coalitions are the center piece. I believe very strongly that voluntary private market group purchasing arrangements, for employers and individuals, is the key to making health insurance not only more accessible but also more affordable for all Americans.

My legislation will also address the fraud and abuse in employer group purchasing arrangements called multiple employer welfare arrangements [MEWA's] under the Employee Retirement Income Security Act of 1974 [ERISA]. Senators NUNN and COHEN have both held hearings over the past few years which have uncovered ponzi schemes that have left millions of small business owners and their employees sick and without insurance. The legislation will give clear authority to the States to shut down group purchasing arrangements that are fraudulent and clear authority to certify health plan purchasing coalitions. In addition, the legislation also begins to level the playing field between insured and self-funded health plans in the market by amending ERISA. I look forward to the same bipartisan support of this bill as has been achieved by Senators KASSEBAUM and KENNEDY.

Mr. President, I am very eager to work with Senator KASSEBAUM, chairman of the Labor and Human Resources Committee, in the next couple of months, to report a market reform bill out of committee that can be brought to the Senate floor this session. We must begin to address Americans concern about portability and affordability of health insurance this year and I believe that the Health Insurance Reform Act of 1995 is an excellent place to start.

Mr. HATCH. Mr. President, I am delighted to join with the distinguished chairman and ranking minority member of the Committee on Labor and Human Resources in cosponsoring today S. 1028, the Health Insurance Reform Act of 1995.

This important piece of legislation is designed not only to increase access to health care benefits, but also to provide portability of those benefits and to increase the purchasing power of individuals and small employers who wish to seek insurance.

As my colleagues know, the issue of health care coverage for millions of Americans remains a critical concern for this Congress and for the American people.

The bill which we introduce today represents a reasonable and significant step in extending health insurance to a larger segment of the American population.

As my colleagues are aware, for 18 years, I had the privilege of serving on the Labor and Human Resources Committee, including 6 years as chairman and 6 years as ranking minority member.

We have spent innumerable hours pondering how to improve our Nation's health care delivery system. There were times when we thought we had the answer, but we could never manage to develop exactly the right bill.

More recently, last year in the Labor Committee we spent innumerable hours considering President Clinton's Health Security Act. Although my esteemed colleague and close friend, Senator KENNEDY, fought long and hard for the President's proposal, that legislation was ultimately rejected by the American people and by the Congress.

If we learned any lesson from that experience, it was that Americans do not want the Federal Government to have a larger role in shaping America's health care system.

However, that does not lessen the need for some health care reform, and it is clear that insurance market reform is one area in which we have had, and continue to have, a good deal of consensus. We should not let the need for other reforms hold up passage of this much needed measure.

Chairman KASSEBAUM and her staff are to be congratulated for developing the Health Insurance Reform Act based on the lessons we learned last year. It is a narrowly tailored bill which addresses very real problems in the marketplace.

This bill will achieve many of the objectives we sought in the areas of insurance portability as well as correcting problems with respect to those individuals with preexisting health conditions.

I am particularly pleased that the measure is receiving wide bipartisan support among the members of the Labor Committee. This is a very good signal that shows we have a viable bill which represents a consensus approach to a difficult and complicated problem.

I strongly believe this bill represents the first meaningful and generally acceptable bipartisan insurance reform proposal in either house of Congress and I hope it will be enacted swiftly.

Mr. WELLSTONE. Mr. President, I am pleased to join Senators KENNEDY and KASSEBAUM, as well as many of my colleagues on the Labor and Human Resources Committee, in introducing the Health Insurance Reform Act of 1995. The reforms included in this legislation would make it illegal for insurers to drop people when they become sick and to discriminate against individuals with preexisting conditions. While I wish that we were doing much more in Congress to ensure that all Americans have access to affordable, comprehensive health insurance coverage, I view the insurance reforms contained in this legislation as a serious step in the right direction. There is no excuse for not doing what we can to make coverage more accessible—especially for people with preexisting conditions and disabilities. It is a disgrace that our private insurance system continues to discriminate against precisely the individuals who most need coverage.

All working Americans face a growing threat from the uncertainties created by the health insurance system. Even people with good health insurance coverage cannot count on protection if they lose or change jobs, especially if someone in their family has a preexisting condition. Our current health care system allows insurers to collect premiums for years and then suddenly refuse to renew coverage if individuals or employees get sick. It also allows insurers to routinely deny coverage to different types of businesses from auto dealers to restaurants.

The GAO has estimated that as many as 25 million Americans could potentially benefit from the insurance reforms included in this bipartisan bill. Most of the people who would be helped by this legislation are people who change jobs and currently face preexisting conditions or waiting periods with their new health coverage.

Many States, including Minnesota, have already enacted standards for insurance carriers, but because ERISA preemption prevents States from regulating self-funded health plans, only Federal standards can apply to all health plans. More and more employers in Minnesota have been choosing to offer self-funded plans to employees. Such plans now enroll about 1.5 million people, up from 890,000 in 1992, and about 50 percent of all privately insured residents. Current estimates also show that more than 400,000 Minnesotans—including 91,000 children—are uninsured.

I am under no delusions that these insurance reforms will fix our broken health care system. They will not result in universal coverage—or anywhere near it—and they will not solve the problem of rising costs. After all, only comprehensive reform will make health care affordable for many of the uninsured who simply cannot afford the high cost of coverage.

While I am committed to fighting for comprehensive reforms that would include everyone and enable working families to afford health care coverage as good as Members of Congress have, I recognize that this may not happen this year. At the very least, however, we should act on reforms that would address some of the most egregious inequities in our current system, as well as those that would allow States to expand access and contain costs.

By Mr. SIMPSON (for himself and Mr. BINGAMAN):

S. 1029. A bill to amend the Foreign Assistance Act of 1961 to establish and strengthen policies and programs for the early stabilization of world population through the global expansion of reproductive choice, and for other purposes; to the Committee on Foreign Relations.

THE INTERNATIONAL POPULATION STABILIZATION AND REPRODUCTIVE HEALTH ACT

Mr. SIMPSON. Mr. President I rise to join my good friend and able colleague from New Mexico, Senator JEFF BINGAMAN. The two of us are reintroducing the very important legislation called the International Population Stabilization and Reproductive Health Act.

During the last congressional session, Senator BINGAMAN and I introduced this bill to call attention to some very vital issues in this country and in the world. Our former colleague, Tim Wirth, championed these issues while he was in the Senate and, together, he and I laid the foundation upon which this bill is built, and then came my colleague from New Mexico, JEFF BINGAMAN—Senator BINGAMAN, who I thoroughly enjoy, and enjoy working with, his word is his bond. We work well together. He shares the same concerns and commitment to this crucial global issue as I do.

I am pleased to be working in a bipartisan fashion with him so we can move forward with an effective public policy on an issue that affects everyone in some way, worldwide.

The legislation we introduce today builds upon the Programme of Action Document adopted by acclamation by 180 nation states in September of 1994 at the International Conference on Population and Development in Cairo.

At the conference, the United States was seen, as always, as the world's leader on population and development assistance. I was a congressional delegate at the conference. There were not a lot of colleagues seeking to go. Senator JOHN KERRY was there and represented our country well.

I came away much impressed with the leadership and direction displayed by our Vice President, AL GORE. Then, of course, assistance given to him by the now Under Secretary of State, former Senator Wirth, in guiding the conference and its delegates in developing a consensus document of a broad range of short- and long-range recommendations concerning maternal and child health care, strengthening family planning programs, the promotion of educational opportunities for girls and women, and improving the status and rights of women across the world.

We surely do not want to lose our moral leadership role and relinquish any momentum by abandoning or severely weakening our financial commitment to population and development assistance. The United States needs to continue its global efforts to achieve responsible and sustainable population levels, and to back up that leadership with specific commitments to population planning activities.

In my mind, of all the challenges facing this country—and there are plenty of them—and around the world—and there are plenty of them—none compares to that of the increasing of the population growth of the world. All of our efforts to protect the environment, I have heard all of that in the last few days—protecting the environment, protecting this, protecting the aged, protecting the young—all the things to protect the environment and promote economic development around the world are compromised and severely injured by the staggering growth in the world's population.

I hope my colleagues realize, of course, that there are currently 5.7 billion people on the Earth. In 1950, when I was a freshman at the University of Wyoming, not that long ago, there were 2.5 billion people on the face of the Earth. Mr. President, 2.5 billion in 1950, 5.7 billion today.

If current birth and death rates continue, the world's population will double again in just 40 years. Despite some progress in reducing fertility rates, birth rates in developing countries are declining too slowly to prevent a cataclysmic near tripling of the human race before stabilization can occur.

The bill as Senator BINGAMAN and I propose focuses on a coordinated strategy that will help to achieve world population stabilization, encourage global economic development and self-determination, and improve the health and well-being of women and their children.

Fundamental to this legislation is a recognition of the fact that worldwide efforts to alleviate poverty, stabilize populations, and secure the environment have been undermined by a total lack of attention to women's reproductive health and the role of women in the economic development of their families, their communities, and their countries.

Under the legislation, global and U.S. expenditure targets will be set for overall population assistance, with specific programs to help achieve universal access to culturally competent family planning services and reproductive health care; expand programs for treatment and prevention of HIV and AIDS and other sexually transmitted diseases; close the gender gap in literacy and primary and secondary education; and increase economic opportunities for women so they can realize their full productivity potential.

Other initiatives authorized under this legislation will help to reduce global maternal and infant mortality rates, and improve the overall health status of women and their children by addressing problems such as unsafe abortion. This is not about abortion. I have been here a long time. Every time we bring up something that has to do with stabilization of the Earth's population, somebody throws in the issue of abortion. That is not what this is about.

It is also about harmful practices such as female genital mutilation, along with malnutrition, low immunization rates, and the spread of contagious diseases.

There is a real need throughout much of the developing world for access to family planning services, especially as to safe abortion. Women in these countries are desperately seeking ways to take control of their reproductive lives and cannot do so because there is a severe lack of access to such services.

Worldwide, estimates are that 350 million couples want to space or prevent another pregnancy but lack the access to a full range of modern family planning.

In addition, any comprehensive family planning initiative must include access to primary health care with an emphasis on child survival to reduce infant mortality. In many developing countries, parents have a perception that many of their children will not survive beyond their first birthdays. If these parent's fears are allayed, they will not feel much pressure to have more children than they actually desire in order to insure against the possible loss of one or more of their children before adulthood.

This is why for all of these pressing reasons, I join today with my friend and colleague from New Mexico, Senator BINGAMAN in introducing this legislation. It is our aim to call attention to global population stabilization, to give it focus, and to make it a vital part of U.S. foreign aid and development assistance programs. We need to begin to make much-needed policy changes in international population stabilization, and the United States needs to take this lead to ensure that these new policy developments are recognized worldwide. This one is long overdue.

Mr. President, I ask unanimous consent to have printed in the RECORD a summary of the bill.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SUMMARY: INTERNATIONAL POPULATION STABILIZATION AND REPRODUCTIVE HEALTH ACT

The International Population Stabilization and Reproductive Health Act lays the foundation for a coordinated U.S. foreign aid strategy, consistent with the Programme of Action endorsed at the 1994 International Conference on Population and Development. This strategy will: help achieve world population stabilization; encourage global economic development and self-determination; and improve the health and well-being of women and their children.

The Act recognizes that worldwide efforts to alleviate poverty, stabilize population, and secure the environment have been significantly undermined by the lack of attention to women's reproductive health and the role of women in the economic development of their families, their communities, and their countries.

1. POLICY AND PURPOSE

A. Key Objectives: To help stabilize the world's population, improve the health and well-being of families, provide greater self-determination for women and ensure the role of women in the development process, and protect the environment, key objectives of U.S. foreign policy will be to:

Assist in the worldwide effort to achieve universal access to safe, effective, and voluntary family planning services;

Promote access to quality reproductive health care for women and primary health care for their children; and

Support the global expansion of basic literacy, education, and economic development opportunities for women.

B. Expenditure Targets: To promote the objectives, expenditure targets for population assistance are:

Global Target: $17 billion by 2000 (total domestic and international)

U.S. Target: $1.85 billion by 2000.

2. U.S. POPULATION ASSISTANCE PROGRAMS

U.S. population assistance will be available to international governments; multilateral organizations, including the United Nations and the UN Population Fund; and nongovernmental organizations.

A. Authorized Activities include:

Affordable, culturally-competent, and voluntary family planning and reproductive health services and educational outreach efforts particularly those designed, monitored, and evaluated by women and men from the local community;

Research on safer, easier to use, and lower-cost fertility regulation options and related disease control for women and men that: are controlled by women; are effective in preventing the spread of sexually transmitted diseases (STDs); and encourage men to take greater responsibility for their own fertility;

Efforts to prevent and manage complications of unsafe abortions, including research and public information dissemination;

Adolescent programs to prevent teen pregnancy, prevent the spread of STDs, and promote responsible parenting; and

Prenatal and postnatal programs that include breastfeeding as a child survival strategy and means for enhancing birth spacing.

B. Conditions on Eligibility for Support:

Largest share of U.S. population assistance will be made available through nongovernmental organizations;

Assistance priority to countries that account for a significant portion of the world's population growth; have significant unmet needs in the delivery of family planning services; or are committed to population stabilization through the expansion of reproductive choice;

Programs receiving support must maintain privacy and confidentiality standards; must support HIV-AIDS prevention; promote responsible sexual behavior; and may not deny services based on ability to pay;

No U.S. funds may be used to coerce any person to accept any method of fertility regulation or undergo contraceptive sterilization or involuntary abortion.

3. Economic and Social Development Assistance: U.S. development assistance will be available to help improve educational and economic opportunities for girls and women and improve the health status of women and their children.

Education: Priority assistance to countries that have adopted strategies to help ensure achievement of the goal of universal primary education of girls and boys before 2015.

Economic Productivity: Priority assistance to governments and nongovernmental organizations for programs that help women increase their productivity through vocational training and access to new technologies, extension services, credit programs, child care, and through equal participation of women and men in all areas of family and household responsibilities.

Women's Health: Priority assistance to governmental and nongovernmental programs that increase the access of girls and women to comprehensive reproductive health care services, including HIV-AIDS prevention and the prevention of other STDs.

Children's Health: Priority assistance to governmental and nongovernmental programs that are aimed at reducing malnutrition; increasing immunization rates; reducing the number of childhood deaths resulting from diarrheal diseases and respiratory infections; and increasing life expectancy at birth to greater than 70 years of age by 2005.

Violence Prevention: Priority assistance to governmental and nongovernmental programs which are aimed at eliminating all forms of exploitation, abuse, and violence against women and children.

4. Safe Motherhood Initiative: The Act authorizes the "Safe Motherhood Initiative," which helps girls and women world-wide gain access to comprehensive reproductive health care, including:

fertility regulation services;

prenatal care and high-risk screening;

supplemental food programs for pregnant and nursing women;

child survival and other programs that promote breastfeeding;

prevention and treatment of STDs, including HIV-AIDS;

programs aimed at eliminating traditional practices injurious to women's health, including female genital mutilation; and

programs promoting midwifery and traditional birth attendants.

5. Reports:

A. Annual Report: To assess progress toward the Act's objectives and expenditure targets, the President will submit an annual report to the Congress which:

estimates international population assistance by government, donor agencies, and private sector entities;

analyzes population trends by country and region; and

assesses by country availability and use of fertility regulation and abortion.

B. Expenditure Target Report: To determine expenditure targets for economic and social development activities, the President will prepare a report which:

estimates the resources needed, in total and by entity, to achieve the education, productivity, and health initiatives in the Act;

identifies legal, social, and economic barriers to women's self-determination and to improvements in the economic productivity of women;

describes existing initiatives aimed at increasing the women's access to education, credit, and child care and new technologies for development; and

describes causes of mortality and morbidity among women of childbearing age around the world and identifies actions and resources needed to address them.

C. Report on Discrimination: Each annual country human rights report will include information on patterns within a country of discrimination against women in inheritance laws, property rights, family law, and access to credit, technology, employment, education, and vocational training.

6. Authorization of Appropriations:

A. Section 104(g)(1): $635 million is authorized for Fiscal Year 1996, $695 million for FY95, for section 104(g)(1) of the Foreign Assistance Act of 1961.

B. Development and Economic Assistance Activities: Authorized levels are:

$165 million in FY96 and $200 million in FY97 to increase primary and secondary school enrollment and equalize levels of male and female enrollment;

$330 million for FY96 and $380 million for FY97 through the Child Survival Fund for child survival activities, including immunization and vaccines initiatives;

$100 million for FY96 and FY97 for the Safe Motherhood Initiative.

C. AIDS Prevention and Control Fund: $125 million is authorized for FY96, $145 million for FY97, for research, treatment, and prevention of HIV-AIDS.

Mr. SIMPSON. Mr. President, we are going to hold hearings on this. Those hearings will be held in my Subcommittee on Social Security and Family Policy. We are going to take this one very seriously. There is no need to talk about what is going to happen to the environment because of methane gas in cows, and how much propellant is in the bottom of the shaving cream can, when the population of the Earth will double in the next 40 years, and how many footprints will the Earth hold. It is very simple.

Mr. BINGAMAN. Mr. President, I want to compliment my colleague who is the prime sponsor of this bill in this Congress, and I am pleased to cosponsor the bill with him. I want to compliment him for his leadership on this very important issue. He has been a leader in trying to deal with the problem of how to stabilize population growth in the world for a very long period of time.

Today, we are reintroducing the International Population Stabilization and Reproductive Health Act. I also believe that this is a very important piece of legislation and has the potential of providing substantial benefits to this country over the coming decades.

I think we have already benefited greatly from the very modest investment we have made in sustainable development and in population efforts.

From my perspective, just as the Senator from Wyoming was saying, the attention to global population issues and support for worldwide development is critical to our future success here in this country.

We have joined, Senator SIMPSON and I, with Congressman BEILENSON and Congresswoman MORELLA, to introduce an earlier version of this in the last Congress, the 103d Congress.

The bill we are introducing today, like the previous bill, will focus U.S. foreign policy on a coordinated strategy to accomplish three things. No. 1, to achieve world population stabilization; No. 2, to encourage global economic development and self-determination for all women; No. 3, to improve the health and well-being of women and their children.

These three objectives are inseparable. To be successful, U.S. foreign policy needs to integrate population strategies and programs into our broader economic and development agenda. The way I see it, the U.S. efforts to help develop economies around the world, to promote democracy around the world, all of those efforts will be futile if we do not first address this issue of the staggering rate of global population growth.

How can we expect underdeveloped countries to pull themselves up when the world's population is growing at a rate of over 10,000 people per hour? When the women and men who make up a nation's work force pool do not even have the right to plan their families? And when millions of women around the world do not have access to basic and lifesaving reproductive health care or educational opportunities?

The 1994 U.N. International Conference on Population Development, which Senator SIMPSON attended and Senator KERRY attended, from this body, focused the world's attention on these issues and began a new era in population and development. At that Cairo conference, Senator SIMPSON indicated there was a program of action that was adopted as a consensus document. That program of action is the foundation for the legislation that we are introducing today. It clearly puts human beings at the center of development activities and encourages the international community to address global problems by meeting individual needs. It calls for gender equity and equality, for women to have and exercise choices in their economic and public and family lives, and for making reproductive health care available throughout the world.

The program of action which was adopted in Cairo recognizes that some significant worldwide progress has already been made in the last few decades, including lower birth and death rates in most parts of the world, reduced infant mortality, increased life expectancy, a slight rise in educational attainment, and a slight narrowing in the gap between the educational levels of men and women.

However, the Cairo Programme of Action, along with the State of Population Report, which was released just 2 days ago by the U.N. Population Fund, also recognized that a tremendous additional amount needs to be done. At the core of both the International Programme of Action and the United Nations report are two fundamental concepts. They are, first of all, that population, poverty, patterns of production and consumption, and the environment are so closely interconnected that none can be considered in isolation. And, second, that sustained economic growth, sustainable development in population, are fundamentally dependent upon investing in people; more specifically, on making advances in education and in economic status and in the empowerment of women.

This legislation, which I am very proud to cosponsor with Senator SIMPSON in this Congress, represents a significant step forward. I sincerely hope our colleagues in the Senate will give it a careful look. I commend him for scheduling a hearing this next week, at which we can explore the issues in more depth, and I look forward to working with him throughout the rest of this Congress in trying to see this legislation enacted into law.

Mr. SIMPSON. Mr. President, I certainly concur. I look forward to working with my friend from New Mexico. Hearings will start next week, and we will be about our business. That is something that is very clear.

By Mr. REID (for himself, Mr. SIMPSON, Mr. WELLSTONE, and Ms. MOSELEY-BRAUN):

S. 1030. A bill entitled the "Federal Prohibition of Female Genital Mutilation Act of 1995"; to the Committee on the Judiciary.

THE FEDERAL PROHIBITION OF FEMALE GENITAL MUTILATION ACT OF 1995

• Mr. REID. Mr. President, last September I introduced a sense-of-the-Senate resolution condemning the practice of female genital mutilation [FGM]. I was compelled to react after I read an article in the newspaper reporting the arrest of two men in Egypt who arranged for the filming of this appalling ritual procedure being performed on a 10-year-old girl for the Cable News Network [CNN]. Last October, Senators WELLSTONE, MOSELEY-BRAUN, and myself introduced legislation that would ban this practice and today, along with Senator SIMPSON, we again introduce such legislation.

I realize the significance of the ritual in the culture and social system of the communities in Africa, Asia, and the Middle East. However, I cannot ignore the cruel and torturous nature of this procedure which is generally performed on very young girls who do not have a choice in what is about to happen to them. The immediate effects of the procedure are bleeding, shock, infections, emotional trauma, and even death because of hemorrhage and unhygienic conditions. As adults, complications during pregnancy and labor can occur.

Although FGM is most prevalent in Africa, Asia, and the Middle East, it is not confined to these areas. It is estimated that over 80 million young girls and women have been mutilated in this ritual. Excision and infibulation are the most common practices. Infibulation, which is practiced in many countries, entails the excision of all of the female genitalia. The remaining tissue is stitched together leaving only a small opening for urine and menstrual flow. FGM has no medical justification for being performed on healthy young girls and women. In Egypt, mothers perpetuate the tradition to shield their girls from lust and to make sure they will be accepted in marriage. They believe an uncircumcised women cannot control her sexual appetite, or if married, is likely to commit adultery.

Although I believe this practice is a torturous act when performed on any woman, I am most concerned about it being performed on children and young girls under the age 18—in other words, below the age at which a child can give consent. A child does not have the ability to consent or understand the significance and the consequence this ritual will have on her life, on her health, or on her dignity. Young girls are tied and held down, they scream in pain and are not only physically scarred, but they are emotionally scarred for life.

Many nations have made efforts to deter the practice of FGM with legislation against its execution as well as creating educational programs for women. The United Kingdom outlawed FGM in 1985 after a BBC documentary revealed that British doctors were performing the procedure on children whose families had immigrated. Unfortunately, despite these initiatives, the societal pressures are too much to overcome. Sudan is a prime example of the failure of honest efforts to deter the practice. Sudan has the longest record of efforts to combat the practice of FGM and has legislated against the procedure. Yet, according to the 1992 Minority Rights Group report, 80 percent of Sudanese women continue to be infibulated. Nevertheless, as stated in my sense-of-the-Senate resolution, it is important that any effort by a nation to curb FGM be recognized and commended.

The most successful endeavors to prevent FGM have been at the grassroots level led by women, many of whom have undergone this excruciating operation, with support from the World Health Organization, UNICEF, and other international human rights groups. African and Arab women have begun to speak out and we must do all we can to support their efforts. They are working under difficult circumstances and often in hostile social environments for the preservation of a woman's health, dignity, and human rights. We must work to support and encourage their efforts to end this violent degradation of female children throughout the world.

Primarily, we must join other countries in legally banning FGM. As immigrants from Africa and the Middle East travel to other nations, the practice of FGM travels with them. The United Kingdom, Sweden, and Switzerland have all passed legislation prohibiting FGM in their countries. France and Canada maintain that FGM violates already established statutes prohibiting bodily mutilation and have taken action against its practice. The United States is also faced with the responsibility of abolishing this specific practice within its borders. Traditional child abuse interventions do not sufficiently address the problem.

FGM is difficult to talk about, but ignoring this issue because of the discomfort it causes us does nothing but perpetuate the silent acquiescence to its practice. The women of Africa and the Middle East are standing up against tremendous pressure and defiance to fight for the health and dignity of their sisters, friends, mothers, and daughters. The least we can do is support and encourage their struggle and to continue to talk about FGM and to condemn its practice. Education will be our most important and effective tool against FGM, and I intend to do my part to educate my colleagues, my constituents, and my friends to the horrors of this ritual practice.

In hopes to educate the public, our legislation provides for research on the prevalence of FGM in the United States. Furthermore, our bill provides that medical studies be aware of the ritual and be trained in how to treat affected women, and it will make illegal the denial of medical services to any woman who has undergone FGM procedures in the past.

Seble Dawit and Salem Mekuria, two African women who are working to end FGM, described the challenges to abolishing FGM. "We do not believe that force changes traditional habits and practices. Genital mutilation does not exist in a vacuum but as part of the social fabric, stemming from the power imbalance in relations between the sexes, from levels of education and the low economic and social status of most women. All eradication efforts must begin and proceed from these basic premises."•

• Mr. WELLSTONE. Mr. President, the issue of female genital mutilation [FGM] was first brought before the Senate last September when Senator REID introduced a sense-of-the-Senate resolution condemning this cruel ritual practice and commending the Government of Egypt for taking quick action against two men who performed this deed on a 10-year-old girl in front of CNN television cameras. Last October, Senators REID and MOSELEY-BRAUN and I introduced a bill entitled Federal Prohibition of Female Genital Mutilation Act of 1994. At that time we committed ourselves to working on this issue until legislation passes that bans the practice of female genital mutilation in the United States.

The bill we are introducing today would accomplish this goal by making it illegal to perform the procedures of FGM on girls younger than 18. In addition, this legislation proscribes the following measures as necessary to the eradication of this procedure: compiling data on the number of females in the U.S. who have been subjected to FGM; identifying communities in the United States in which it is practiced; designing and implementing outreach activities to inform people of its physical and psychological effects; and developing recommendations for educating students in medical schools on treating women and girls who have undergone mutilations. I am proud to be a cosponsor of an act that addresses an issue so crucial to the mental and physical health of women and girls.

The ritual practice of female genital mutilation currently affects an estimated 80 million women in over 30 countries. Although FGM is most widespread in parts of Africa, the Middle East, and the Far East, immigrants from practicing groups have brought the custom to wherever they have settled, including the American cities of New York, Seattle, Portland, San Francisco, and Washington, DC. This tradition is sometimes euphemistically referred to as "female circumcision," a dangerously misleading label which encourages us to think of the procedure as nothing more significant than the culturally required removal of a piece of skin.

A closer examination of the issue makes it clear that female genital mutilation is in fact the ritual torture of young girls. In her Washington Post article, Judy Mann describes female genital mutilation as "the ritualized removal of the clitoris and labia in girls—from newborns to late adolescents. In its most extreme form, a girl's external sexual organs are scraped away entirely and the vulva is sewn together with catgut, leaving a hole the size of a pencil for urine and menses to pass through. Her legs are bound together for several weeks while a permanent scar forms."

In the countries and cultures of its origin, FGM is most commonly performed with crude instruments such as dull razor blades, glass, and kitchen knives while the girl is tied or held down by other women. In most cases, anesthesia is not used. Afterwards, herb mixtures, cow dung, or ashes are often rubbed on the wound to stop the bleeding.

Aside from the obvious emotional and physical trauma which are caused by this procedure, it has been estimated that 15 percent of all circumcised females die as a result of the ritual. The long term effects dealt with by American doctors who treat mutilated women and girls are listed by the New England Journal of Medicine as including chronic pelvic infections, infertility, chronic urinary tract infections, dermoid cysts (which may grow to the size of a grapefruit), and chronic anxiety or depression.

Although female genital mutilation has sometimes been viewed as a purely cultural phenomena, it is clear that no ethical justification can be made for this inhumane practice in any country.

The unacceptable nature of FGM by international human rights standards was underscored by the World Health Organization on May 12, 1993, when it adopted a resolution which highlighted the importance of eliminating harmful traditional practices affecting the health of women, children and adolescents. This resolution explicitly cited female genital mutilation as a practice which restricts "the attainment of the goals of health, development, and human rights for all members of society." In 1993, the Vienna Declaration of the World Conference on Human Rights also held that FGM is an international human rights violation.

Additionally, FGM has already been banned in many Western nations. In 1982, Sweden passed a law making all forms of female circumcision illegal, and the United Kingdom passed a similar law in 1985. France, the Netherlands, Canada, and Belgium have each set a precedent for the illegality of female circumcision by holding that it violates laws prohibiting bodily mutilation and child abuse. Action has been taken to enforce the statutes banning this practice in all the countries I've just mentioned.

However, due to complex cultural factors, dealing with this issue in the United States require more than making the ritual practice of FGM illegal. Immigrant parents in the United States who import a circumciser from their home country or find an American doctor willing to perform the procedure claim to do so out of a desire to do the best thing for their daughters. In the societies and cultures that practice it, FGM is said to be an integral part of the socialization of girls into acceptable womanhood. Often, the mutilations are perceived by a girl's parents as her passport to social acceptance or the required physical marking of her marriageability. In spite of its obvious cruelty therefore, FGM is a part of cultural identity. Clearly, female genital mutilation must be dealt with in a manner which takes into account its complex causes and meanings.

Because of the complexity of this issue and the lack of available information regarding FGM in the United States, this bill includes a provision ensuring that research be carried out to determine the number of females in the U.S. who have undergone mutilations. This research would also document the types of physical and psychological damage dealth with by American medical professionals who treat mutilated women.

The bill also requires that we investigate approaches such as the one used in Great Britain where child protection networks are used to identify at risk girls and trained professionals are assigned to work with their families.

Finally, the legislation would ensure that medical students are educated in how to treat women and girls who have undergone FGM. In 1994, the New England Journal of Medicine reported that pregnant women who have undergone infibulation—in which the labia majora are stitched to cover the urethra and entrance to the vagina—are at serious risk, as are their unborn babies, if treated by physicians who have not been trained in dealing with infibulated women. In fact, untreated infibulated women have double the risk of maternal death and several times increased risk of stillbirth when compared with women who have not undergone mutilation.

The education of medical students regarding FGM is especially essential as under this bill it would be considered illegal to discriminate or deny medical services to any woman who has undergone FGM procedures.

Passage of a bill banning FGM would have helped Lydia Oluloro who fought her deportation and that of her two daughters on the grounds that her sister had threatened to kidnap the girls and have the mutilations performed on them if they were forced to return to their native Nigeria.

Passage of this bill would also send a clear message to American medical professionals, some of whom reportedly have been offered as much as $3,000 to perform mutilations on young girls. It would see to it that the names of Western doctors who mutilate girls would no longer be passed around in immigrant communities. It would help in prosecuting cases resembling the one faced by the Atlanta district attorney in 1986 in which an African-born nurse was charged with child abuse after botching a clitoridectomy on her 3-year-old niece, and it would ensure that immigrants are educated as they enter the country regarding the operations's illegality and its dangers.

Female genital mutilation is the world's most widespread form of torture, yet no other mass dilation of humanity has received so comparatively little journalistic or governmental attention. We in the United States should make it clear that it is a serious crime if it occurs here. I urge my colleagues to support this legislation as an essential tool in the struggle against the perpetuation of this heinous practice.•

• Ms. MOSELEY-BRAUN. Mr. President, I am very pleased to join Senator REID, Senator WELLSTONE and Senator SIMPSON as an original cosponsor to the Federal Prohibition of Female Genital Mutilation Act of 1995.

Male circumcision is a procedure with a long history. It is a common, accepted practice in the United States for male babies to be circumcised. In the Jewish religion, tradition dictates that a baby boy be circumcised when he is 8 days old in a special ceremony to symbolize the covenant between God and the children of Israel. It is quick, relatively painless, and without long-term consequences—for men.

For women, however, circumcision is another matter altogether. The procedure known as female circumcision is not at all benign. It is mutilation.

Eighty million women worldwide have been mutilated by female circumcision. The procedure is most widely seen in eastern and western Africa, and a number of Middle Eastern countries. And as communities from African countries immigrate to the United States, we are tragically seeing more and more cases of genital mutilation in this country. That is why this legislation is so important.

I am concerned that in this country there are misperceptions that this procedure is part of African and Islamic culture and tradition, and that the Government should not interfere. Nowhere in Muslim scripture is female circumcision required. It is not practiced in Saudi Arabia, the cradle of Islam. Historically, the procedure dates back before the rise of the Moslem religion to the times of the Pharaoh in Egypt.

In countries where the practice is not universal, female genital mutilation is more common among poor, uneducated women, and it is inextricably tied to the status of women in the community. In these societies, women who have not been circumcised are considered unclean, and unmarriageable. In communities where the only role for a women is to be married and have children, the fear of being labeled unmarriageable is enormous and real.

Ironically, that is why women are the strongest supporters of this practice. It is the older women who know best about how an uncircumcised woman in a traditional village will be treated. Girls are taught that with circumcision, they enter womanhood. Mothers encourage the mutilation because they want their daughters to marry—because marriage is the only access to a meal ticket. And men support the custom because a woman who is circumcised is considered chaste. In short, circumcision is a passport into the only role that some societies give women.

As a woman and a mother, I can't imagine leading a child to this kind of torture.

I want to raise awareness of this practice. This is mutilation of otherwise healthy women, pure and simple. We must work together to stop teaching girls that undergoing this kind of butchery is essential to their future.

Mr. President, there are very serious health risks associated with the practice of female genital mutilation that do not exist with male circumcision. This practice is most often performed by midwives or other women elders with little or no medical training. It is performed without anesthetic or sanitary tools. Often, the cut is made with a razor blade or a piece of glass.

The New England Journal of Medicine has examined female genital mutilation as a public health issue. They report that women often hemorrhage after the cutting. Prolonged bleeding may lead to severe anemia. Urinary tract infections and pelvic infections are common. Sometimes, cysts form in the scar tissue. The mutilation can also lead to infertility.

At childbirth, circumcised women have double the risk of maternal death, and the risk of a stillbirth increases several fold. And because the cutting is performed without sanitary tools, female genital mutilation has become a means of spreading the HIV virus. There are no records of how many girls die as a result of this practice.

Mr. President, Sweden, Britain, The Netherlands, and Belgium have outlawed this practice. In France, it is considered child abuse. The United States has an important role to play as well. Two years ago, the world health organization adopted a resolution on maternal child health and family planning for health sponsored by Guinea, Kenya, Nigeria, Togo, Zambia and Lebanon that highlights the importance of eliminating harmful traditional practices, includings female genital mutilation, affecting the health of women, children and adolescents.

Banning this practice in the United States is just the first step toward eradicating it. Girls must be taught that they will have opportunities, both in marriage and outside the home, if they are not mutilated. Mothers must believe that their daughters will have a place in the community if they are not circumcised. And men must be taught that the terrible health risks involved with the procedure far outweigh their belief that a circumcised woman is a more suitable bride.

I want to commend the Inter-African Committee on Traditional Practices Affecting the Health of Women and Children, for their work in Africa over the last 10 years to educate women so that this practice can be abolished. It will take much more than Government statements against the procedure to eradicate the tradition.

Mr. President, no woman, anywhere, should have to undergo this kind of mutilation, not to get a husband, not to put food on the table, not for any reason. Female circumcision is, in the final analysis, about treating women as something less than people. It must be stopped. It has no place in today's world.•

By Mr. THOMAS (for himself, Mr. SIMPSON, Mr. BURNS, Mr. CRAIG, Mr. STEVENS, Mr. KEMPTHORNE and Mr. HELMS):

S. 1031. A bill to transfer the lands administered by the Bureau of Land Management to the State in which the lands are located; to the Committee on Energy and Natural Resources.

BLM LEGISLATION

Mr. THOMAS. Mr. President, I rise to introduce legislation that would transfer the lands managed by the BLM in the various States to State control. This bill is not a new one. We have had it in last year. But it is a commonsense approach that supports the goal of good government, supports the goal of bringing government closer to the people, and a necessary reform in the way that public lands are managed.

Currently, the BLM, the Bureau of Land Management, manages nearly 270 million acres of land in the United States, most of it, of course, in the West. Wyoming, for example—nearly 50 percent of Wyoming is owned by the Federal Government, much of it managed by the BLM. In some other States, it is more—86 percent in Nevada. So when half of your State is managed by the Federal Government, it has a great deal to do with your future. It has a great deal to do with the economy and growth, because these are multiple use lands.

Let me make a point originally that is very important to this bill. We are talking about Bureau of Land Management lands. We are not talking about Forest Service. We are not talking about wilderness. We are not talking about parks—lands that are set aside with particular purpose, lands that had a particular character. BLM lands are residual lands that were left when the homesteaders came in the West and took the land that is along the river and took the winter feed and took the best land. That land that was left was managed by the Federal Government.

Indeed, in the early acts that had to do with managing that land, it said "manage it pending disposal." The notion was never to maintain them. So we are talking about a fundamental change and that is sort of what we are doing in this Congress, looking at some fundamental changes in the way we operate Government. It moves Government closer to the people, and that is what it is all about. It helps to reduce the size and cost of the Federal Government and transfers this function to the State as we are talking about transferring others.

It would have to do with the budget. It would, indeed, save money for the budget of the United States. There will be less money going to the Department of Interior. That is just the way it is. So the priorities will have to be established. We heard a lot about not being able to finance national parks, and that is actually going to be the case. So what it does is set some priorities as to where that money ought to be.

There is a fairness doctrine here. The States east of the Missouri River do not have half of their lands belong to the Federal Government. So there is a fairness question. Why should the State not have these lands? There is a question of States rights. Many maintain the Constitution does not provide the authority for the Federal Government to maintain those lands that have no specific use. I do not argue that. Others say we ought to get control by having the counties do zoning. They do that some in Arizona. That is an idea. I say, let us move them back to the States and let the States manage them as public lands. These will be multiple use lands, for hunting, for fishing, for grazing, for mineral development.

If you have ever seen a map of the West, you will see a strange ownership pattern. There are lands spread around over the whole State. One of the most unusual is the checkerboard, what we call the checkerboard, that runs all the way through Wyoming and through much of the West, when every other section was given to the railroads early on, 20 miles on either side of the railroad. So those checkerboards still belong to the Federal Government with deeded lands in between.

These are low production lands. These are not national parks. These are very low rainfall, low moisture content areas, so they are very unproductive. It takes a great deal of land to support one cow-calf unit.

Along with the House—there will be an identical bill in the House that will be introduced to transfer these lands to the State. Actually, in order to have time to accommodate that, in order to do something with the budgeting, that would be a 10-year period before they would be transferred. But we almost constantly have a conflict between the States, between the users—whatever they are, whether they are commodity users or recreational users—and the Federal land managers. And these folks do a good job. I have no quarrel with the managers. I just think, as many others do, the closer you are, with Government, to the people who are governed, the more likely it is to be a successful effort.

So I urge my colleagues to support this legislation. It will help reduce the Federal budget. It will certainly increase individual States rights. It will keep the BLM lands in public lands so they are available for access for everyone. Finally, and perhaps most important of all, it provides fairness and equity for Western States, each of whom would have the option.

The time has come for the Federal Government to release the stranglehold on the Western States and let us manage our own affairs.

I join my colleagues in the effort to reform the way public lands are managed.

• Mr. CRAIG. Mr. President, I would like to compliment Senator THOMAS for bringing this bill forward and opening what I hope will be an enlightening discussion.

The subject matter of this bill is of great consequence in the Western States. The sheer size and proportion of Federal ownership in the West not only contrasts dramatically with the situation in Eastern States, but it is the source of much of the conflict in this country over the use of public lands. A quick look at a U.S. map of government lands dramatically illustrates the differences. Sixty to 80 percent of many Western States are federally owned, while the comparison east of the 100th meridian is typically less than 5 percent. Westerners feel this is inequitable, and some claim it is unconstitutional. They feel burdened by Federal regulation in their daily lives. They feel burdened by Federal regulation in their daily lives. Such sentiment is poorly understood in nonpublic land States.

This bill would improve the balance of State and Federal lands in the West and dissolve some of the source of discontent. It would give citizens more control over their lives through State government. For example, in Idaho BLM controls 12 million acres, or 22 percent of the State. Other Federal agencies control an additional 41 percent. Transfer of BLM ownership to the State would dramatically change the ownership equation to one of much fairer balance.

Nationwide, the Bureau of Land Management oversees 272 million acres, or 41 percent of the total Federal ownership. Nearly all of this is in the West, and it consists largely of those lands remaining in the public domain after the national parks, national wildlife refuges, and national forests were set apart and placed under management of other Federal agencies.

The concept of State management or ownership of Federal lands, in this case the lands of the Bureau of Land Management, has surfaced before. But there has never been a better time to seriously examine the issue.

Congress has agreed to balance the Federal budget by 2002. That goal demands that we investigate new ways of doing business throughout the Federal Government. It may be that the States can own and manage the BLM lands and the underlying mineral estate at much less cost, while protecting the environment and maintaining public access and the many uses of these lands and waters.

I see no reason why that can't be done, and if it can, it would be desirable in several ways: Management costs would decrease, placing less burden on the taxpayers in the long run; management decisions would be made instate with more opportunity for residents to have their voices heard; existing State programs for recreation, grazing, wildfire suppression and environmental protections, such, as water quality standards, could be integrated with similar BLM programs for economies of scale and consistency.

I am cosponsoring Senator THOMAS' bill to encourage debate on these issues. This bill is a starting point. The considerations in each State will differ, of course, and there are a number of amendments which would be needed to address the situation in the State of Idaho. The bill already protects designated wilderness, but we would need to provide for State consideration of more than 900,000 acres recommended for wilderness additions. Our national historic trails, wild and scenic rivers, the Snake River Birds of Prey Area, and other areas of special concern must be maintained.

I should emphasize this bill would not require State ownership. It would offer the opportunity for States to accept ownership and management, only if they elect to do so. Governor Batt, the State legislature, and Idaho interest groups would have 2 years to consider whether to accept the 11 million acres of BLM lands in the State. That seems sufficient time for a thorough airing of the pros and cons. Governor Batt has indicated his willingness to explore the possibilities.

I am sensitive to the fact that mere consideration of this legislation will cause some anxiety among BLM employees, and that concerns me. I will guarantee that employee options will be thoroughly discussed, and resolution on a fair transition reached, as this bill moves through the legislative process. The bill already provides a 10-year transition period from the time of acceptance by a State to actual transfer of ownership.

Some interest groups will immediately attack this legislation as a threat to environmental protections. They should stop and think. These same groups have shown their obvious dissatisfaction with Federal ownership through appeals and court challenges of management decisions. They have complained to me that the short tenure of Federal managers weakens decision-making and discourages accountability in the long run. They have argued that the citizens of Idaho support environmental programs and want a greater voice in their management. Potentially, this bill could satisfy all those concerns, and at far less cost to the taxpayers.

For all these reasons, I am an original cosponsor of this legislation.•

By Mr. ROTH (for himself and Mr. BAUCUS):

S. 1032. A bill to amend the Internal Revenue Code of 1986 to provide nonrecognition treatment for certain transfers by common trust funds to regulated investment companies; to the Committee on Finance.

COMMON TRUST FUND LEGISLATION

• Mr. ROTH. Mr. President, today together with Senator BAUCUS, I am introducing the Common Trust Fund Improvement Act of 1995—In short, this legislation would allow banks to move assets of their common trust funds to one or more mutual funds without gain or loss being recognized by the trust funds or their participants.

Bank common trust funds have been used by banks since World War II to collectively invest pools of monies in their capacities as trustees, executors, administrators, or guardians of certain customer accounts for which they have a fiduciary responsibility. At present, there are more than $120 billion in assets residing in bank common trust funds, but little if any new money is flowing into these common trust funds. By allowing the conversions under this legislation, banks can reduce investment risk and, in some cases, increase total investment return for their customer accounts by using larger, more diversified and efficient investment pools for asset allocation.

Mutual funds are the pooling vehicle of choice because they can grow into much larger investment pools than can common trust funds. By law, the participants in a bank's common trust fund are limited to that bank's fiduciary customers. Mutual funds can be offered to all types of investors. Thus, the conversion of bank common trust fund assets into mutual funds is really a transitional issue, permitting financial institutions the ability to provide their existing trust customers with the same efficient and safe investment vehicles that they are providing to their new customers. The conversion of their common trust funds into one or more mutual funds would also benefit banks by providing them with one set of investment pools to manage.

This legislation is necessary because it appears that the conversion of common trust fund assets into one or more mutual funds would, under current law, trigger tax to the participants of the common trust fund, an event that could be viewed under State laws as a breach of a bank's fiduciary responsibilites. Thus, at present, banks generally are finding it prohibitive to convert their common trust funds into more economically efficient mutal funds.

Permitting tax-free conversions of a common trust fund's assets to more than one mutual fund would allow the more diverse common trust assets to be allocated to several mutual funds according to the appropriate investment and other objectives of the mutual funds. While the multiple conversion feature will benefit all banking institutions, it is particularly significant for small and medium-size banks with smaller common trust funds; these institutions generally find it far too costly to create their own mutual funds, and they are not likely to find a single third party mutual fund for each common trust fund able to accept substantially all the assets of the common trust fund.

While this legislation has been estimated to cost less than $100 million over five years, I am very mindful of the need to ensure that tax-law changes, no matter how appropriate and essential, do not add to the Federal deficit that we are all trying so hard to eliminate. Therefore, it may be necessary to modify this proposal in order to reduce its revenue cost to a negligible level. Unfortunately, as is the case with many tax policy changes, modifications to the legislation that address revenue concerns may make the proposal more complex to administer, however, I am willing to make this trade off if it becomes absolutely necessary in order to include this legislation in a revenue bill later this year. In addition, I intend to introduce legislation soon—also related to financial institutions—to create financial securitization investment trusts [FASITs] that should provide the necessary revenue offset to pay for this proposal.

My legislation addresses an important business issue for large and small banks, and an important investment issue for their customers. Versions of this legislation have passed the Congress on two separate occasions with my strong support in the Senate. Given its modest cost, its noncontroversial nature and its widespread support, I am hopeful that this much needed legislation will be enacted this year.

Let me make a few short comments to summarize why I believe this legislation to permit conversions of common trust funds into mutual funds without the recognition of gain or loss should be enacted:

It will permit all bank customers, not just trust customers, more options for investing their savings.

It will make banks more competitive. Many savers are abandoning bank certificates of deposit for the competition, and banks are unable to offer their customers an option.

Customers are unfamiliar with common trust funds, but do understand mutual funds. Therefore, mutual funds are more attractive to them.

The conversion is like a merger of two existing registered funds which allows securities to move intact from one fund to another with no tax consequences, so there is no "sale". The participant's underlying investment is unchanged. As a result, we also believe that there should not be a revenue loss associated with this proposal. No revenue would be gained under current law, because banks have a fiduciary duty to their customers and they would not incur a capital gains tax in order to make the conversion unless this law is changed. Therefore, the idea that retaining current law will somehow result in more revenue is misplaced.

PROPOSAL TO PERMIT TAX-FREE CONVERSION OF COMMON TRUST FUND ASSETS TO ONE OR MORE MUTUAL FUNDS

CURRENT LAW

Banks historically have established common trust funds in order to maintain pooled funds of small fiduciary accounts. Under section 584, common trust funds must be maintained by banks exclusively for the collective investment of monies in the banks' capacity as trustee, executor administrator, or guardian of certain accounts, in conformity with rules established by the Federal Reserve and the Comptroller of the Currency. Common trust funds are not subject to income tax, and they are not treated as corporations. They are a conduit, with income "passed through" to fund participants for tax purposes.

Mutual funds are also considered conduits under the Tax Code. Unlike common trust funds, however, mutual funds are treated as corporations. As a result of this differing tax treatment, it is unclear whether a mutual fund may merge with or acquire the assets of a common trust fund in a transaction that is tax-free to the common trust fund and its participants.

REASONS FOR CHANGE

The economic efficiencies, diversification, and liquidity of mutual funds are key reasons for their popularity and growth in recent years. These are attributes that are not generally found in common trust funds. It would be desirable for banks to convert their existing common trust funds into mutual funds so that bank customers, including trust participants, may take advantage of the benefits of mutual funds. The conversion of its common trust funds into one or more mutual funds would also benefit banks by providing them with one set of investment pools to manage.

Permitting tax-free conversions of a common trust fund to more than one mutual fund would allow the more diverse common trust fund assets to be allocated to several mutual funds according to the appropriate investment and other objectives of the mutual funds. The multiple conversions feature is particularly significant for banks with small common trust funds, which probably would not be able to find a single mutual fund with the same investment objectives of a common trust fund.

However, until current law is clarified, it appears that the conversion of common trust fund assets into one or more mutual funds would trigger tax to the participants of the common trust fund, an event that could be viewed under State laws as a breach of a bank's fiduciary responsibilities. Thus, at present, banks generally are finding it prohibitive to convert their common trust funds into more economically efficient mutual funds.

PROPOSAL

This proposal would allow a common trust fund to transfer substantially all of its assets to one or more mutual funds without gain or loss being recognized by the trust fund or its participants.

The common trust fund would transfer it assets to the mutual funds solely in exchange for shares of the mutual funds, and the common trust fund would then distribute the mutual fund shares to its participants in exchange for the participants' interests in the common trust fund. The basis of any asset received by the mutual fund would be the basis of the asset in the hands of the common trust fund prior to the conversion. In a conversion to more than one mutual fund, the basis in each mutual fund would be determined by allocating the basis in the common trust fund units among the mutual funds in proportion to the fair market value of the transferred assets.

This proposal has been designed to have a minimal cost to the Federal Treasury, and versions of this proposal have been passed by the Congress on two previous occasions. The benefits of such a change would be felt by customers of large and small banking institutions throughout the country, and has the support of both the mutual funds and banking industries.●

ADDITIONAL COSPONSORS

S. 131

At the request of Mr. LIEBERMAN, the name of the Senator from Nevada [Mr. REID] was added as a cosponsor of S. 131, a bill to specifically exclude certain programs from provisions of the Electronic Funds Transfer Act.

S. 247

At the request of Mr. GREGG, the name of the Senator from Minnesota [Mr. GRAMS] was added as a cosponsor of S. 247, a bill to improve senior citizen housing safety.

S. 457

At the request of Mr. SIMON, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of S. 457, a bill to amend the Immigration and Nationality Act to update references in the classification of children for purposes of United States immigration laws.

S. 470

At the request of Mr. HOLLINGS, the name of the Senator from South Carolina [Mr. THURMOND] was added as a cosponsor of S. 470, a bill to amend the Communications Act of 1934 to prohibit the distribution to the public of violent video programming during hours when children are reasonably likely to comprise a substantial portion of the audience.

S. 491

At the request of Mr. BREAUX, the name of the Senator from Hawaii [Mr. AKAKA] was added as a cosponsor of S. 491, a bill to amend title XVIII of the Social Security Act to provide coverage of outpatient self-management training services under part B of the medicare program for individuals with diabetes.

S. 628

At the request of Mr. KYL, the name of the Senator from Alabama [Mr. SHELBY] was added as a cosponsor of S. 628, a bill to repeal the Federal estate and gift taxes and the tax on generation-skipping transfers.

S. 641

At the request of Mrs. KASSEBAUM, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of S. 641, a bill to reauthorize the Ryan White CARE Act of 1990, and for other purposes.

S. 643

At the request of Mrs. MURRAY, the name of the Senator from Illinois [Mr. SIMON] was added as a cosponsor of S. 643, a bill to assist in implementing the plan of action adopted by the World Summit for Children.

S. 684

At the request of Mr. HATFIELD, the name of the Senator from Pennsylvania [Mr. SPECTER] was added as a cosponsor of S. 684, a bill to amend the Public Health Service Act to provide for programs of research regarding Parkinson's disease, and for other purposes.

S. 692

At the request of Mr. GREGG, the name of the Senator from Indiana [Mr. LUGAR] was added as a cosponsor of S. 692, a bill to amend the Internal Revenue Code of 1986 to preserve family-held forest lands, and for other purposes.

S. 758

At the request of Mr. HATCH, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of S. 758, a bill to amend the Internal Revenue Code of 1986 to provide for S corporation reform, and for other purposes.

S. 772

At the request of Mr. DORGAN, the names of the Senator from West Virginia [Mr. ROCKEFELLER] and the Senator from Maryland [Ms. MIKULSKI] were added as cosponsors of S. 772, a bill to provide for an assessment of the violence broadcast on television, and for other purposes.

S. 774

At the request of Mr. MACK, the name of the Senator from Pennsylvania [Mr. SANTORUM] was added as a cosponsor of S. 774, a bill to place restrictions on the promotion by the Department of Labor and other Federal agencies and instrumentalities of economically targeted investments in connection with employee benefit plans.

S. 847

At the request of Mr. GREGG, the name of the Senator from Arizona [Mr. MCCAIN] was added as a cosponsor of S. 847, a bill to terminate the agricultural price support and production adjustment programs for sugar, and for other purposes.

S. 852

At the request of Mr. BAUCUS, his name was added as a cosponsor of S. 852, a bill to provide for uniform management of livestock grazing on Federal land, and for other purposes.

S. 877

At the request of Mrs. HUTCHISON, the name of the Senator from Oklahoma [Mr. NICKLES] was added as a cosponsor of S. 877, a bill to amend section 353 of the Public Health Service Act to exempt physician office laboratories from the clinical laboratories requriements of that section.

S. 896

At the request of Mr. CHAFEE, the name of the Senator from Vermont [Mr. JEFFORDS] was added as a cosponsor of S. 896, a bill to amend title XIX of the Social Security Act to make certain technical corrections relating to physicians' services, and for other purposes.

S. 923

At the request of Mr. DORGAN, the name of the Senator from Ohio [Mr. DEWINE] was added as a cosponsor of S. 923, a bill to amend title 23, United States Code, to provide for a national program concerning motor vehicle pursuits by law enforcement officers, and for other purposes.

S. 959

At the request of Mr. HATCH, the names of the Senator from Pennsylvania [Mr. SANTORUM], the Senator from

Rhode Island [Mr. PELL], and the Senator from North Carolina [Mr. HELMS] were added as cosponsors of S. 959, a bill to amend the Internal Revenue Code of 1986 to encourage capital formation through reductions in taxes on capital gains, and for other purposes.

SENATE RESOLUTION 103

At the request of Mr. DOMENICI, the names of the Senator from Michigan [Mr. ABRAHAM], the Senator from Oregon [Mr. HATFIELD], the Senator from Maine [Mr. COHEN], the Senator from Kentucky [Mr. FORD], the Senator from Alaska [Mr. STEVENS], and the Senator from Kansas [Mr. DOLE] were added as cosponsors of Senate Resolution 103, A resolution to proclaim the week of October 15 through October 21, 1995, as National Character Counts Week, and for other purposes.

SENATE RESOLUTION 117

At the request of Mr. ROTH, the names of the Senator from Maine [Ms. SNOWE], and the Senator from North Dakota [Mr. DORGAN] were added as cosponsors of Senate Resolution 117, A resolution expressing the sense of the Senate that the current Federal income tax deduction for interest paid on debt secured by a first or second home located in the United States should not be further restricted.

SENATE RESOLUTION 146

At the request of Mr. JOHNSTON, the names of the Senator from Oklahoma [Mr. NICKLES], and the Senator from South Carolina [Mr. THURMOND] were added as cosponsors of Senate Resolution 146, A resolution designating the week beginning November 19, 1995, and the week beginning on November 24, 1996, as "National Family Week", and for other purposes.

AMENDMENT NO. 1507

At the request of Mr. ROTH the names of the Senator from Louisiana [Mr. JOHNSTON], and the Senator from Ohio [Mr. GLENN] were added as cosponsors of Amendment No. 1507 proposed to S. 343, a bill to reform the regulatory process, and for other purposes.

SENATE RESOLUTION 150—RELATIVE TO THE SENATE LEGAL COUNSEL

Mr. DOLE (for himself and Mr. DASCHLE) submitted the following resolution; which was considered and agreed to:

S. RES. 150

Whereas, the plaintiffs in *Barnstead Broadcasting Corporation and BAF Enterprises, Inc. v. Offshore Broadcasting Corporation*, Civ. No. 94-2167, a civil action pending in the United States District Court for the District of Columbia, are seeking the deposition testimony of Barbara Riehle and John Seggerman, Senate employees who work for Senator John Chafee;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate can, by administrative or judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate is needed for the promotion of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges of the Senate;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(2), the Senate may direct its counsel to represent employees of the Senate with respect to subpoenas or requests for testimony issued or made to them in their official capacities: Now, therefore, be it

Resolved, That Barbara Riehle and John Seggerman are authorized to provide deposition testimony in the case of *Barnstead Broadcasting Corporation and BAF Enterprises, Inc. v. Offshore Broadcasting Corporation*, except concerning matters for which a privilege should be asserted; and

SEC. 2. That the Senate Legal Counsel is authorized to represent Barbara Riehle and John Seggerman in connection with the deposition testimony authorized by this resolution.

AMENDMENTS SUBMITTED

THE COMPREHENSIVE REGULATORY REFORM ACT OF 1995

DOMENICI (AND BOND) AMENDMENT NO. 1509

(Ordered to lie on the table.)

Mr. DOMENICI (for himself and Mr. BOND) submitted an amendment intended to be proposed by them to amendment No. 1487 proposed by Mr. DOLE to the bill (S. 343) to reform the regulatory process, and for other purposes; as follows:

AMENDMENT NO. 1509

At the appropriate place in the Dole substitute No. 1487, add the following new title:

TITLE II—AGENCY RESPONSIVENESS TO SMALL BUSINESSES

Subtitle A—Small Business Advocacy Review

SEC. 201. DEFINITIONS.

For purposes of this subtitle, the following definitions shall apply:

(1) AGENCY.—The term "agency" means—

(A) with respect to the Environmental Small Business Advocacy Review Panel, the Environmental Protection Agency; and

(B) with respect to the Occupational Safety and Health Small Business Advocacy Review Panel, the Occupational Safety and Health Administration of the Department of Labor.

(2) AGENCY HEAD.—The term "agency head" means—

(A) with respect to the Environmental Small Business Advocacy Review Panel, the Administrator of the Environmental Protection Agency; and

(B) with respect to the Occupational Safety and Health Small Business Advocacy Review Panel, the Assistant Secretary for Occupational Safety and Health of the Department of Labor.

(3) CHAIRPERSON.—The term "chairperson" means—

(A) with respect to the Environmental Small Business Advocacy Review Panel, the chairperson of such review panel designated under section 202(a); and

(B) with respect to the Occupational Safety and Health Small Business Advocacy Review Panel, the chairperson of such review panel designated under section 202(b).

(4) CHIEF COUNSEL FOR ADVOCACY.—The term "Chief Counsel for Advocacy" means the Chief Counsel for Advocacy of the Small Business Administration.

(5) FINAL RULE.—The term "final rule" means any final rule or interim final rule issued by an agency for which a review panel has been established under section 202(c)(2)(A).

(6) OFFICE.—The term "Office" means the Office of Advocacy of the Small Business Administration.

(7) REVIEW PANEL.—The term "review panel" means—

(A) with respect to a significant rule of the Environmental Protection Agency, an Environmental Small Business Advocacy Review Panel established under section 202(c)(2)(A); and

(B) with respect to a significant rule of the Occupational Safety and Health Administration of the Department of Labor, an Occupational Safety and Health Small Business Advocacy Review Panel established under section 202(c)(2)(A).

(8) RULE.—The term "rule"—

(A) means an agency statement of general applicability and future effect, which the agency intends to have the force and effect of law, that is designed to implement, interpret, or prescribe law or policy or to describe the procedure or practice requirements of the agency; and

(B) does not include any rule that is limited to agency organization, management, or personnel matters.

(9) SIGNIFICANT RULE.—The term "significant rule" means any rule proposed by an agency that the chairperson, in consultation with the Administrator of the Office of Information and Regulatory Affairs within the Office of Management and Budget, reasonably estimates would have—

(A) an annual aggregate impact on the private sector in an amount equal to not less than $50,000,000; and

(B) an impact on small businesses.

(10) SMALL BUSINESS.—The term "small business" has the same meaning as the term "small business concern" in section 3 of the Small Business Act.

SEC. 202. SMALL BUSINESS ADVOCACY CHAIRPERSONS.

(a) CHAIRPERSON OF ENVIRONMENTAL REVIEW PANELS.—

(1) IN GENERAL.—Not later than 30 days after the date of enactment of this Act, the Administrator of the Environmental Protection Agency shall designate an employee of the Environmental Protection Agency, who is a member of the Senior Executive Service (as that term is defined in section 2101a of title 5, United States Code) and whose immediate supervisor is appointed by the President, to serve as the chairperson of each Environmental Small Business Advocacy Review Panel and to carry out this subtitle with respect to the Environmental Protection Agency.

(2) DISABILITY OR ABSENCE.—If the employee designated to serve as chairperson under paragraph (1) is unable to serve as chairperson because of disability or absence, the Administrator of the Environmental Protection Agency shall designate another employee who meets the qualifications of paragraph (1) to serve as chairperson.

(b) CHAIRPERSON OF OSHA REVIEW PANELS.—

(1) IN GENERAL.—Not later than 30 days after the date of enactment of this Act, the Assistant Secretary for Occupational Safety and Health of the Department of Labor shall designate an employee of the Occupational Safety and Health Administration of the Department of Labor, who is a member of the Senior Executive Service (as that term is defined in section 2101a of title 5, United States Code) and whose immediate supervisor is appointed by the President, to serve as the chairperson of each Occupational Safety and Health Small Business Advocacy Review Panel and to carry out the purposes of this subtitle with respect to the Occupational Safety and Health Administration.

(2) DISABILITY OR ABSENCE.—If the employee designated to serve as chairperson under paragraph (1) is unable to serve as chairperson because of disability of absence, the Assistant Secretary for Occupational Safety and Health of the Department of Labor shall designate another employee who meets the qualifications of paragraph (1) to serve as chairperson.

(c) DUTIES OF THE CHAIRPERSON.—

(1) INITIAL DETERMINATION AND NOTIFICATION.—

(A) TIMING.—The chairperson shall take the actions described in subparagraph (B) not later than 45 days before the earlier of—

(i) the date of publication in the Federal Register by an agency of a general notice of proposed rulemaking under section 553(b) of title 5, United States Code, or any other provision of law; or

(ii) the date of publication in the Federal Register by an agency of a proposed rule.

(B) ACTIONS.—With respect to a proposed rule that is the subject of a publication described in clause (i) or (ii) of subparagraph (A), the chairperson shall—

(i) determine whether the subject proposed rule constitutes a significant rule, as defined in section 201(9); and

(ii) if the proposed rule is determined to constitute a significant rule, notify the Administrator of the Office of Information and Regulatory Affairs within the Office of Management and Budget and the Chief Counsel for Advocacy to appoint review panel members for evaluation of the subject significant rule.

(2) ESTABLISHMENT OF REVIEW PANELS.—

(A) IN GENERAL.—Not later than 15 days after receiving notice under paragraph (1)(B)(ii), or such longer period as the chairperson may allow, review panel members shall be appointed by the Administrator of the Office of Information and Regulatory Affairs within the Office of Management and Budget, the Chief Counsel for Advocacy, and the chairperson in accordance with section 203(b).

(B) EXCEPTIONS.—A review panel shall be established in accordance with subparagraph (A) unless the chairperson, in consultation with the Chief Counsel for Advocacy, determines (and notifies the agency in writing of such determination) that—

(i) a good faith effort to secure enough non-Federal employee review panel members necessary to constitute a quorum with respect to the subject significant rule was unsuccessful; and

(ii) compliance with this subtitle is not required with respect to the subject significant rule due to a lack of availability of private sector interests.

(d) DUTIES REGARDING FINAL RULE.—

(1) IN GENERAL.—Not later than 45 days before the issuance of a significant final rule, the chairperson shall—

(A) notify panel members of the intent of the agency to issue a final rule;

(B) provide panel members with a dated draft of the final rule to be issued;

(C) solicit comments from panel members in connection with the duties of the review panel described in section 203(a); and

(D) if the chairperson determines that such action is necessary, call one or more meetings of the review panel and, if a quorum is present, direct the review panel to review, discuss, or clarify any issue related to the subject final rule or the preparation of the report under paragraph (2).

(2) REPORT.—Except as provided in section 204(b), not later than 5 days before the issuance of a final rule, the chairperson shall submit a report in accordance with section 204(a).

SEC. 203. SMALL BUSINESS ADVOCACY REVIEW PANELS.

(a) GENERAL DUTIES.—Before any publication described in clause (i) or (ii) of section 202(c)(1)(A) of a proposed significant rule, and again before the issuance of such rule as a final rule, the review panel shall, in accordance with this subtitle—

(1) provide technical guidance to the agency, including guidance relating to—

(A) the applicability of the proposed rule to small businesses;

(B) enforcement of and compliance with the rule by small businesses;

(C) the consistency or redundancy of the proposed rule with respect to other Federal, State, and local regulations and recordkeeping requirements imposed on small businesses; and

(D) any other concerns posed by the proposed rule that may impact significantly upon small businesses; and

(2) evaluate each rule in the context of the requirements imposed under—

(A) subsections (b) and (c) of section 603, paragraphs (1) through (3) of section 604(a), section 604(b), and paragraphs (1) through (5) of section 609 of title 5, United States Code;

(B) sections 202 and 205 of the Unfunded Mandates Act of 1995 (Public Law 104-4);

(C) subsection (a) and paragraphs (1) through (12) of subsection (b) of section 1 of Executive Order No. 12866, September 30, 1993; and

(D) any other requirement under any other Act, including those relative to regulatory reform requirements that affect compliance, existing Federal or State regulations that may duplicate, overlap, or conflict with the significant rule, and the readability and complexity of rules and regulations.

(b) MEMBERSHIP.—Each review panel shall be composed of—

(1) the chairperson;

(2) not less than 1 nor more than 3 members appointed by the chairperson from among employees of the agency who would be responsible for carrying out the subject significant rule;

(3) 1 member appointed by the Administrator of the Office of Information and Regulatory Affairs within the Office of Management and Budget from among the employees of that office who have specific knowledge of or responsibilities relating to the regulatory responsibilities of the agency that would be responsible for carrying out the subject significant rule;

(4) 1 member appointed by the Chief Counsel for Advocacy from among the employees of the Office; and

(5) not less than 1 nor more than 3 members selected by the Chief Counsel for Advocacy from among individuals who are representatives of—

(A) small businesses that would be impacted by the significant rule;

(B) small business sectors or industries that would be especially impacted by the significant rule; or

(C) organizations whose memberships are comprised of a cross-section of small businesses.

(c) PERIOD OF APPOINTMENT; VACANCIES.—

(1) PERIOD OF APPOINTMENT.—Each review panel member, other than the chairperson, shall be appointed for a term beginning on the date on which the appointment is made and ending on the date on which the report or written record is submitted under section 204.

(2) VACANCIES.—Any vacancy on a review panel shall not affect the powers of the review panel, but shall be filled in the same manner as the original appointment.

(d) QUORUM.—A quorum for the conduct of business by a review panel shall consist of 1 member appointed from each of paragraphs (2) through (5) of subsection (b).

(e) MEETINGS.—

(1) IN GENERAL.—Subject to paragraph (2), the meetings of the review panel shall be at the call of the chairperson.

(2) INITIAL MEETING.—Not later than 15 days after all review panel members necessary to constitute a quorum have been appointed under subsection (b), the chairperson shall conduct the initial meeting of the review panel.

(f) POWERS OF REVIEW PANEL.—

(1) INFORMATION FROM FEDERAL AGENCIES.—A review panel may secure, directly from any Federal department or agency, such information as the review panel considers necessary to carry out this subtitle. Upon request of the chairperson, the head of such department or agency shall furnish such information to the review panel.

(2) POSTAL SERVICES.—A review panel may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(g) NONCOMPENSATION OF MEMBERS.—

(1) IN GENERAL.—Members of the review panel who are not officers or employees of the Federal Government shall serve without compensation.

(2) FEDERAL EMPLOYEES.—Members of the review panel who are officers or employees of the Federal Government shall serve without compensation in addition to that received for their services as officers or employees of the Federal Government.

(h) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to a review panel without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(i) CONSULTATION WITH OTHER ENTITIES.—In carrying out this subtitle, the chairperson shall consult and coordinate, to the maximum extent practicable, the activities of the review panel with each office of the agency that is responsible for the provision of data or technical advice concerning a significant rule.

SEC. 204. REPORT.

(a) IN GENERAL.—Except as provided in subsection (b), the chairperson shall, in accordance with section 202(d)(2), submit to the appropriate employees of the agency who would be responsible for carrying out the subject significant rule and to the appropriate committees of the Senate and the House of Representatives a report, which shall include—

(1) the findings and recommendations of the review panel with respect to the significant rule, including both the majority and

minority views of the review panel members, regardless of the consensus of opinions that may derive from the meetings of the review panel; and

(2) recommendations regarding whether a survey with respect to the subject significant rule should be conducted under section 207, and—

(A) if so—

(i) a timeframe during which the survey should be conducted, taking into account the time required to implement the rule and to gather appropriate data; and

(ii) any recommendations of the review panel regarding the contents of the survey; and

(B) if not, the reasons why the survey is not recommended.

(b) FAILURE TO SUBMIT REPORT.—If the chairperson fails to submit a report under subsection (a), not later than the date on which the final rule is issued, the chairperson shall—

(1) prepare a written record of such failure detailing the reasons therefore; and

(2) submit a copy of such written record to the head of the agency and to the appropriate committees of the Congress.

SEC. 205. APPLICABILITY OF OTHER LAW; JUDICIAL REVIEW.

(a) INAPPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—The provisions of the Federal Advisory Committee Act do not apply to any review panel established in accordance with this subtitle.

(b) PROHIBITION ON JUDICIAL REVIEW.—No action or inaction of a review panel, including any recommendations or advice of a review panel or any procedure or process of a review panel, may be subject to judicial review by a court of the United States under chapter 7 of title 5, United States Code, or any other provision of law.

SEC. 206. MORATORIUM ON CERTAIN PUBLICATIONS.

Notwithstanding any other provision of this subtitle, no agency shall make any publication described in clause (i) or (ii) of section 202(c)(1)(A) until the initial chairperson appointed under section 202 has had an adequate opportunity to review the subject proposed rule in accordance with section 202(c)(1)(A).

SEC. 207. PEER REVIEW SURVEY.

(a) IN GENERAL.—If a review panel makes a recommendation in any report submitted under section 204(a) that a survey should be conducted with respect to a significant rule, the agency shall contract with a private sector auditing firm or other survey-related organization to conduct a survey of a cross-section of the small businesses impacted by the rule.

(b) CONTENTS OF SURVEY.—Each survey conducted under this section shall address the impact of the significant rule on small businesses, including—

(1) the applicability of the rule to various small businesses;

(2) the degree to which the rule is easy to read and comprehend;

(3) the costs to implement the rule;

(4) any recordkeeping requirements imposed by the rule; and

(5) any other technical or general issues related to the rule.

(c) AVAILABILITY OF SURVEY RESULTS.—The results of each survey conducted under this section shall be made available—

(1) to each interested Federal agency; and

(2) upon request, to any other interested party, including organizations, individuals, State and local governments, and the Congress.

Subtitle B—Regulatory Ombudsmen

SEC. 211. SMALL BUSINESS AND AGRICULTURE OMBUDSMEN.

The Small Business Act (15 U.S.C. 631 et seq.) is amended—

(1) by redesignating section 30 as section 31; and

(2) by inserting after section 29 the following new section:

"SEC. 30. OVERSIGHT OF REGULATORY ENFORCEMENT.

"(a) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

"(1) BOARD.—The term 'Board' means a Small Business Regulatory Fairness Board established under subsection (c).

"(2) COVERED AGENCY.—The term 'covered agency' means any agency that, as of the date of enactment of the Comprehensive Regulatory Reform Act of 1995, has promulgated any rule for which a regulatory flexibility analysis was required under section 605 of title 5, United States Code, and any other agency that promulgates any such rule, as of the date of such promulgation.

"(3) OMBUDSMAN.—The term 'ombudsman' means a Regional Small Business and Agriculture Ombudsman designated under subsection (b).

"(4) REGION.—The term 'region' means any area for which the Administrator has established a regional office of the Administration pursuant to section 4(a).

"(5) RULE.—The term 'rule' has the same meaning as in section 601(2) of title 5, United States Code.

"(b) OMBUDSMAN.—

"(1) IN GENERAL.—Not later than 180 days after the date of enactment of the Comprehensive Regulatory Reform Act of 1995, the Administrator shall designate in each region a senior employee of the Administration to serve as the Regional Small Business and Agriculture Ombudsman in accordance with this subsection.

"(2) DUTIES.—Each ombudsman designated under paragraph (1) shall—

"(A) on a confidential basis, solicit and receive comments from small business concerns regarding the enforcement activities of covered agencies;

"(B) based on comments received under subparagraph (A), annually assign and publish a small business responsiveness rating to each covered agency;

"(C) publish periodic reports compiling the comments received under subparagraph (A);

"(D) coordinate the activities of the Small Business Regulatory Fairness Board established under subsection (c); and

"(E) establish a toll-free telephone number to receive comments from small business concerns under subparagraph (A).".

SEC. 212. SMALL BUSINESS REGULATORY FAIRNESS BOARDS.

Section 30 of the Small Business Act (as added by section 211 of this Act) is amended by adding at the end the following new subsection:

"(c) SMALL BUSINESS REGULATORY FAIRNESS BOARDS.—

"(1) IN GENERAL.—Not later than 180 days after the date of enactment of the Comprehensive Regulatory Reform Act of 1995, the Administrator shall establish in each region a Small Business Regulatory Fairness Board in accordance with this subsection.

"(2) DUTIES.—Each Board established under paragraph (1) shall—

"(A) advise the ombudsman on matters of concern to small business concerns relating to the enforcement activities of covered agencies;

"(B) conduct investigations into enforcement activities by covered agencies with respect to small business concerns;

"(C) issue advisory findings and recommendations regarding the enforcement activities of covered agencies with respect to small business concerns;

"(D) review and approve, prior to publication—

"(i) each small business responsiveness rating assigned under subsection (b)(2)(B); and

"(ii) each periodic report prepared under subsection (b)(2)(C); and

"(E) prepare written opinions regarding the reasonableness and understandability of rules issued by covered agencies.

"(3) MEMBERSHIP.—Each Board shall consist of—

"(A) 1 member appointed by the President;

"(B) 1 member appointed by the Speaker of the House of Representatives;

"(C) 1 member appointed by the Minority Leader of the House of Representatives;

"(D) 1 member appointed by the Majority Leader of the Senate; and

"(E) 1 member appointed by the Minority Leader of the Senate.

"(4) PERIOD OF APPOINTMENT; VACANCIES.—

"(A) PERIOD OF APPOINTMENT.—

"(i) PRESIDENTIAL APPOINTEES.—Each member of the Board appointed under subparagraph (A) of paragraph (2) shall be appointed for a term of 3 years, except that the initial member appointed under such subparagraph shall be appointed for a term of 1 year.

"(ii) HOUSE OF REPRESENTATIVES APPOINTEES.—Each member of the Board appointed under subparagraph (B) or (C) of paragraph (2) shall be appointed for a term of 3 years, except that the initial members appointed under such subparagraphs shall each be appointed for a term of 2 years.

"(iii) SENATE APPOINTEES.—Each member of the Board appointed under subparagraph (D) or (E) of paragraph (2) shall be appointed for a term of 3 years.

"(B) VACANCIES.—Any vacancy on the Board—

"(i) shall not affect the powers of the Board; and

"(ii) shall be filled in the same manner and under the same terms and conditions as the original appointment.

"(5) CHAIRPERSON.—The Board shall select a Chairperson from among the members of the Board.

"(6) MEETINGS.—

"(A) IN GENERAL.—The Board shall meet at the call of the Chairperson.

"(B) INITIAL MEETING.—Not later than 90 days after the date on which all members of the Board have been appointed, the Board shall hold its first meeting.

"(7) QUORUM.—A majority of the members of the Board shall constitute a quorum for the conduct of business, but a lesser number may hold hearings.

"(8) POWERS OF THE BOARD.—

"(A) HEARINGS.—The Board or, at its direction, any subcommittee or member of the Board, may, for the purpose of carrying out the provisions of this section, hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Board determines to be appropriate.

"(B) WITNESS ALLOWANCES AND FEES.—Section 1821 of title 28, United States Code, shall apply to witnesses requested to appear at any hearing of the Board. The per diem and mileage allowances for any witness shall be paid from funds available to pay the expenses of the Board.

"(C) INFORMATION FROM FEDERAL AGENCIES.—Upon the request of the Chairperson, the Board may secure directly from the head of any Federal department or agency such information as the Board considers necessary to carry out this section.

"(D) POSTAL SERVICES.—The Board may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

"(E) DONATIONS.—The Board may accept, use, and dispose of donations of services or property.

"(9) BOARD PERSONNEL MATTERS.—

"(A) COMPENSATION.—Members of the Board shall serve without compensation.

"(B) TRAVEL EXPENSES.—Members of the Board shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Board.".

SEC. 213. JUDICIAL REVIEW.

(a) PROHIBITION.—No action or inaction of a Regional Small Business and Agriculture Ombudsman or a Small Business Regulatory Fairness Board, including any recommendations or advice of a Regional Small Business and Agriculture Ombudsman or a Small Business Regulatory Fairness Board or any procedure or process of a Regional Small Business and Agriculture Ombudsman or a Small Business Regulatory Fairness Board, may be subject to judicial review by a court of the United States under chapter 7 of title 5, United States Code, or any other provision of law.

(b) DEFINITIONS.—For purposes of this section—

(1) the term "Regional Small Business and Agriculture Ombudsman" means any ombudsman designated under section 30(b) of the Small Business Act, as added by section 211 of this Act.

(2) the term "Small Business Regulatory Fairness Board" means any board established under section 30(c) of the Small Business Act, as added by section 212 of this Act.

BAUCUS (AND OTHERS) AMENDMENT NO. 1510

(Ordered to lie on the table.)

Mr. BAUCUS (for himself, Mr. JOHNSTON, Mr. LAUTENBERG, Mr. BRADLEY, Mrs. MURRAY, Mrs. FEINSTEIN, Mr. REID, Mrs. BOXER, Mr. MOYNIHAN, and Mr. GLENN) submitted an amendment intended to be proposed by them to amendment No. 1487 proposed by Mr. DOLE to the bill S. 343, supra; as follows:

Beginning on page 42, strike line 3 and all that follows through page 44, line 14, and insert the following:

"§ 628. Petition for alternative method of compliance

HATFIELD AMENDMENTS NOS. 1511–1512

(Ordered to lie on the table.)

Mr. HATFIELD submitted two amendments intended to be proposed by him to amendment No. 1487 proposed by Mr. DOLE to the bill S. 343, supra; as follows:

AMENDMENT NO. 1511

At the end of the substitute amendment add the following new section:

SEC. ___. LOCAL EMPOWERMENT AND FLEXIBILITY.

(a) FINDINGS.—The Congress finds that—

(1) historically, Federal programs have addressed the Nation's problems by providing categorical financial assistance with detailed requirements relating to the use of funds;

(2) while the assistance described in paragraph (1) has been directed at critical problems, some program requirements may inadvertently impede the effective delivery of services;

(3) the Nation's local governments and private, nonprofit organizations are dealing with increasingly complex problems which require the delivery of many kinds of services;

(4) the Nation's communities are diverse, and different needs are present in different communities;

(5) it is more important than ever to provide programs that—

(A) promote more effective and efficient local delivery of services to meet the full range of needs of individuals, families, and society;

(B) respond flexibly to the diverse needs of the Nation's communities;

(C) reduce the barriers between programs that impede local governments' ability to effectively deliver services; and

(D) empower local governments and private, nonprofit organizations to be innovative in creating programs that meet the unique needs of their communities while continuing to address national policy goals; and

(6) many communities have innovative planning and community involvement strategies for providing services, but Federal, State, tribal governments, and local regulations often hamper full implementation of local plans.

(b) PURPOSES.—The purposes of this section are to—

(1) enable more efficient use of Federal, State, and local resources;

(2) place less emphasis in Federal service programs on measuring resources and procedures and more emphasis on achieving Federal, State, and local policy goals;

(3) enable local governments and private, nonprofit organizations to adapt programs of Federal financial assistance to the particular needs of their communities, by—

(A) drawing upon appropriations available from more than one Federal program; and

(B) integrating programs and program funds across existing Federal financial assistance categories; and

(4) enable local governments and private, nonprofit organizations to work together and build stronger cooperative partnerships to address critical service problems.

(c) DEFINITIONS.—For purposes of this section—

(1) the term "approved local flexibility plan" means a local flexibility plan that combines funds from Federal, State, local government or private sources to address the service needs of a community (or any part of such a plan) that is approved by the Flexibility Council under subsection (d);

(2) the term "community advisory committee" means such a committee established by a local government under subsection (h);

(3) the term "Flexibility Council" means the council composed of the—

(A) Assistant to the President for Domestic Policy;

(B) Assistant to the President for Economic Policy;

(C) Secretary of the Treasury;

(D) Attorney General;

(E) Secretary of the Interior;

(F) Secretary of Agriculture;

(G) Secretary of Commerce;

(H) Secretary of Labor;

(I) Secretary of Health and Human Services;

(J) Secretary of Housing and Urban Development;

(K) Secretary of Transportation;

(L) Secretary of Education;

(M) Secretary of Energy;

(N) Secretary of Veterans Affairs;

(O) Secretary of Defense;

(P) Director of Federal Emergency Management Agency;

(Q) Administrator of the Environmental Protection Agency;

(R) Director of National Drug Control Policy;

(S) Administrator of the Small Business Administration;

(T) Director of the Office of Management and Budget; and

(U) Chair of the Council of Economic Advisers.

(4) the term "covered Federal financial assistance program" means an eligible Federal financial assistance program that is included in a local flexibility plan of a local government;

(5) the term "eligible Federal financial assistance program"—

(A) means a Federal program under which financial assistance is available, directly or indirectly, to a local government or a qualified organization to carry out the specified program; and

(B) does not include a Federal program under which financial assistance is provided by the Federal Government directly to a beneficiary of that financial assistance or to a State as a direct payment to an individual;

(6) the term "eligible local government" means a local government that is eligible to receive financial assistance under 1 or more covered Federal programs;

(7) the term "local flexibility plan" means a comprehensive plan for the integration and administration by a local government of financial assistance provided by the Federal Government under 2 or more eligible Federal financial assistance programs;

(8) the term "local government" means a subdivision of a State that is a unit of general local government (as defined under section 6501 of title 31, United States Code);

(9) the term "priority funding" means giving higher priority (including by the assignment of extra points, if applicable) to applications for Federal financial assistance submitted by a local government having an approved local flexibility program, by—

(A) a person located in the jurisdiction of such a government; or

(B) a qualified organization eligible for assistance under a covered Federal financial assistance program included in such a plan;

(10) the term "qualified organization" means a private, nonprofit organization described in section 501(c)(3) of the Internal Revenue Code of 1986 that is exempt from taxation under section 501(a) of the Internal Revenue Code of 1986; and

(11) the term "State" means the 50 States, the District of Columbia, Puerto Rico, American Samoa, Guam, the Virgin Islands, and any tribal government.

(d) PROVISION OF FEDERAL FINANCIAL ASSISTANCE IN ACCORDANCE WITH APPROVED LOCAL FLEXIBILITY PLAN.—

(1) PAYMENTS TO LOCAL GOVERNMENTS.—Notwithstanding any other provision of law, amounts available to a local government or a qualified organization under a covered Federal financial assistance program included in

an approved local flexibility plan shall be provided to and used by the local government or organization in accordance with the approved local flexibility plan.

(2) ELIGIBILITY FOR BENEFITS.—An individual or family that is eligible for benefits or services under a covered Federal financial assistance program included in an approved local flexibility plan may receive those benefits only in accordance with the approved local flexibility plan.

(e) APPLICATION FOR APPROVAL OF LOCAL FLEXIBILITY PLAN.—

(1) IN GENERAL.—A local government may submit to the Flexibility Council in accordance with this subsection an application for approval of a local flexibility plan.

(2) CONTENTS OF APPLICATION.—An application submitted under this subsection shall include—

(A)(i) a proposed local flexibility plan that complies with paragraph (3); or

(ii) a strategic plan submitted in application for designation as an enterprise community or an empowerment zone under section 1391 of the Internal Revenue Code of 1986;

(B) certification by the chief executive of the local government, and such additional assurances as may be required by the Flexibility Council, that—

(i) the local government has the ability and authority to implement the proposed plan, directly or through contractual or other arrangements, throughout the geographic area in which the proposed plan is intended to apply; and

(ii) amounts are available from non-Federal sources to pay the non-Federal share of all covered Federal financial assistance programs included in the proposed plan; and

(C) any comments on the proposed plan submitted under paragraph (4) by the Governor of the State in which the local government is located;

(D) public comments on the plan including the transcript of at least 1 public hearing and comments of the appropriate community advisory committee established under subsection (h); and

(E) other relevant information the Flexibility Council may require to approve the proposed plan.

(3) CONTENTS OF PLAN.—A local flexibility plan submitted by a local government under this subsection shall include—

(A) the geographic area to which the plan applies and the rationale for defining the area;

(B) the particular groups of individuals, by service needs, economic circumstances, or other defining factors, who shall receive services and benefits under the plan;

(C)(i) specific goals and measurable performance criteria, a description of how the plan is expected to attain those goals and criteria;

(ii) a description of how performance shall be measured; and

(iii) a system for the comprehensive evaluation of the impact of the plan on participants, the community, and program costs;

(D) the eligible Federal financial assistance programs to be included in the plan as covered Federal financial assistance programs and the specific benefits that shall be provided under the plan under such programs, including—

(i) criteria for determining eligibility for benefits under the plan;

(ii) the services available;

(iii) the amounts and form (such as cash, in-kind contributions, or financial instruments) of nonservice benefits; and

(iv) any other descriptive information the Flexibility Council considers necessary to approve the plan;

(E) except for the requirements under subsection (g)(2)(C), any Federal statutory or regulatory requirement applicable under a covered Federal financial assistance program included in the plan, the waiver of which is necessary to implement the plan;

(F) fiscal control and related accountability procedures applicable under the plan;

(G) a description of the sources of all non-Federal funds that are required to carry out covered Federal financial assistance programs included in the plan;

(H) written consent from each qualified organization for which consent is required under paragraph (2)(B); and

(I) other relevant information the Flexibility Council may require to approve the plan.

(4) PROCEDURE FOR APPLYING.—(A) To apply for approval of a local flexibility plan, a local government shall submit an application in accordance with this subsection to the Governor of the State in which the local government is located.

(B) A Governor who receives an application from a local government under subparagraph (A) may, by no later than 30 days after the date of that receipt—

(i) prepare comments on the proposed local flexibility plan included in the application;

(ii) describe any State laws which are necessary to waive for successful implementation of a local plan; and

(iii) submit the application and comments to the Flexibility Council.

(C) If a Governor fails to act within 30 days after receiving an application under subparagraph (B), the applicable local government may submit the application to the Flexibility Council.

(f) REVIEW AND APPROVAL OF LOCAL FLEXIBILITY PLANS.—

(1) REVIEW OF APPLICATIONS.—Upon receipt of an application for approval of a local flexibility plan under this section, the Flexibility Council shall—

(A) approve or disapprove all or part of the plan within 45 days after receipt of the application;

(B) notify the applicant in writing of that approval or disapproval by not later than 15 days after the date of that approval or disapproval; and

(C) in the case of any disapproval of a plan, include a written justification of the reasons for disapproval in the notice of disapproval sent to the applicant.

(2) APPROVAL.—(A) The Flexibility Council may approve a local flexibility plan for which an application is submitted under this section, or any part of such a plan, if a majority of members of the Council determines that—

(i) the plan or part shall improve the effectiveness and efficiency of providing benefits under covered Federal programs included in the plan by reducing administrative inflexibility, duplication, and unnecessary expenditures;

(ii) the applicant local government has adequately considered, and the plan or part of the plan appropriately addresses, any effect that administration of each covered Federal program under the plan or part of the plan shall have on administration of the other covered Federal programs under that plan or part of the plan;

(iii) the applicant local government has or is developing data bases, planning, and evaluation processes that are adequate for implementing the plan or part of the plan;

(iv) the plan shall more effectively achieve Federal financial assistance goals at the local level and shall better meet the needs of local citizens;

(v) implementation of the plan or part of the plan shall adequately achieve the purposes of this section and of each covered Federal financial assistance program under the plan or part of the plan;

(vi) the plan and the application for approval of the plan comply with the requirements of this section;

(vii) the plan or part of the plan is adequate to ensure that individuals and families that receive benefits under covered Federal financial assistance programs included in the plan or part shall continue to receive benefits that meet the needs intended to be met under the program; and

(viii) the local government has—

(I) waived the corresponding local laws necessary for implementation of the plan; and

(II) sought any necessary waivers from the State.

(B) The Flexibility Council may not approve any part of a local flexibility plan if—

(i) implementation of that part would result in any increase in the total amount of obligations or outlays of discretionary appropriations or direct spending under covered Federal financial assistance programs included in that part, over the amounts of such obligations and outlays that would occur under those programs without implementation of the part; or

(ii) in the case of a plan or part that applies to assistance to a qualified organization under an eligible Federal financial assistance program, the qualified organization does not consent in writing to the receipt of that assistance in accordance with the plan.

(C) The Flexibility Council shall disapprove a part of a local flexibility plan if a majority of the Council disapproves that part of the plan based on a failure of the part to comply with subparagraph (A).

(D) In approving any part of a local flexibility plan, the Flexibility Council shall specify the period during which the part is effective.

(E) Disapproval by the Flexibility Council of any part of a local flexibility plan submitted by a local government under this title shall not affect the eligibility of a local government, a qualified organization, or any individual for benefits under any Federal program.

(3) MEMORANDA OF UNDERSTANDING.—(A) The Flexibility Council may not approve a part of a local flexibility plan unless each local government and each qualified organization that would receive financial assistance under the plan enters into a memorandum of understanding under this paragraph with the Flexibility Council.

(B) A memorandum of understanding under this subsection shall specify all understandings that have been reached by the Flexibility Council, the local government, and each qualified organization that is subject to a local flexibility plan, regarding the approval and implementation of all parts of a local flexibility plan that are the subject of the memorandum, including understandings with respect to—

(i) all requirements under covered Federal financial assistance programs that are to be waived by the Flexibility Council under subsection (g)(2);

(ii)(I) the total amount of Federal funds that shall be provided as benefits under or used to administer covered Federal financial assistance programs included in those parts; or

(II) a mechanism for determining that amount, including specification of the total amount of Federal funds that shall be provided or used under each covered Federal financial assistance program included in those parts;

(iii) the sources of all non-Federal funds that shall be provided as benefits under or used to administer those parts;

(iv) measurable performance criteria that shall be used during the term of those parts to determine the extent to which the goals and performance levels of the parts are achieved; and

(v) the data to be collected to make that determination.

(4) LIMITATION ON CONFIDENTIALITY REQUIREMENTS.—The Flexibility Council may not, as a condition of approval of any part of a local flexibility plan or with respect to the implementation of any part of an approved local flexibility plan, establish any confidentiality requirement that would—

(A) impede the exchange of information needed for the design or provision of benefits under the parts; or

(B) conflict with law.

(g) IMPLEMENTATION OF APPROVED LOCAL FLEXIBILITY PLANS; WAIVER OF REQUIREMENTS.—

(1) PAYMENTS AND ADMINISTRATION IN ACCORDANCE WITH PLAN.—Notwithstanding any other law, any benefit that is provided under a covered Federal financial assistance program included in an approved local flexibility plan shall be paid and administered in the manner specified in the approved local flexibility plan.

(2) WAIVER OF REQUIREMENTS.—(A) Notwithstanding any other law and subject to subparagraphs (B) and (C), the Flexibility Council may waive any requirement applicable under Federal law to the administration of, or provision of benefits under, any covered Federal assistance program included in an approved local flexibility plan, if that waiver is—

(i) reasonably necessary for the implementation of the plan; and

(ii) approved by a majority of members of the Flexibility Council.

(B) The Flexibility Council may not waive a requirement under this paragraph unless the Council finds that waiver of the requirement shall not result in a qualitative reduction in services or benefits for any individual or family that is eligible for benefits under a covered Federal financial assistance program.

(C) The Flexibility Council may not waive any requirement under this paragraph—

(i) that enforces any constitutional or statutory right of an individual, including any right under—

(I) title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.);

(II) section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.);

(III) title IX of the Education Amendments of 1972 (86 Stat. 373 et seq.);

(IV) the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.); or

(V) the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.);

(ii) for payment of a non-Federal share of funding of an activity under a covered Federal financial assistance program; or

(iii) for grants received on a maintenance of effort basis.

(3) SPECIAL ASSISTANCE.—To the extent permitted by law, the head of each Federal agency shall seek to provide special assistance to a local government or qualified organization to support implementation of an approved local flexibility plan, including expedited processing, priority funding, and technical assistance.

(4) EVALUATION AND TERMINATION.—(A) A local government, in accordance with regulations issued by the Flexibility Council, shall—

(i) submit such reports on and cooperate in such audits of the implementation of its approved local flexibility plan; and

(ii) periodically evaluate the effect implementation of the plan has had on—

(I) individuals who receive benefits under the plan;

(II) communities in which those individuals live; and

(III) costs of administering covered Federal financial assistance programs included in the plan.

(B) No later than 90 days after the end of the 1-year period beginning on the date of the approval by the Flexibility Council of an approved local flexibility plan of a local government, and annually thereafter, the local government shall submit to the Flexibility Council a report on the principal activities and achievements under the plan during the period covered by the report, comparing those achievements to the goals and performance criteria included in the plan under subsection (e)(3)(C).

(C)(i) The Flexibility Council may terminate the effectiveness of an approved local flexibility plan, if the Flexibility Council, after consultation with the head of each Federal agency responsible for administering a covered Federal financial assistance program included in such, determines—

(I) that the goals and performance criteria included in the plan under subsection (e)(3)(C) have not been met; and

(II) after considering any experiences gained in implementation of the plan, that those goals and criteria are sound.

(ii) In terminating the effectiveness of an approved local flexibility plan under this subparagraph, the Flexibility Council shall allow a reasonable period of time for appropriate Federal, State, and local agencies and qualified organizations to resume administration of Federal programs that are covered Federal financial assistance programs included in the plan.

(5) FINAL REPORT; EXTENSION OF PLANS.—(A) No later than 45 days after the end of the effective period of an approved local flexibility plan of a local government, or at any time that the local government determines that the plan has demonstrated its worth, the local government shall submit to the Flexibility Council a final report on its implementation of the plan, including a full evaluation of the successes and shortcomings of the plan and the effects of that implementation on individuals who receive benefits under those programs.

(B) The Flexibility Council may extend the effective period of an approved local flexibility plan for such period as may be appropriate, based on the report of a local government under subparagraph (A).

(h) COMMUNITY ADVISORY COMMITTEES.—

(1) ESTABLISHMENT.—A local government that applies for approval of a local flexibility plan under this section shall establish a community advisory committee in accordance with this section.

(2) FUNCTIONS.—A community advisory committee shall advise a local government in the development and implementation of its local flexibility plan, including advice with respect to—

(A) conducting public hearings; and

(B) reviewing and commenting on all community policies, programs, and actions under the plan which affect low-income individuals and families, with the purpose of ensuring maximum coordination and responsiveness of the plan in providing benefits under the plan to those individuals and families.

(3) MEMBERSHIP.—The membership of a community advisory committee shall—

(A) be comprised of—

(i) persons with leadership experience in the private and voluntary sectors;

(ii) local elected officials;

(iii) representatives of participating qualified organizations; and

(iv) the general public; and

(B) include individuals and representatives of community organizations who shall help to enhance the leadership role of the local government in developing a local flexibility plan.

(4) OPPORTUNITY FOR REVIEW AND COMMENT BY COMMITTEE.—Before submitting an application for approval of a final proposed local flexibility plan, a local government shall submit the final proposed plan for review and comment by a community advisory committee established by the local government.

(5) COMMITTEE REVIEW OF REPORTS.—Before submitting annual or final reports on an approved Federal assistance plan, a local government or private nonprofit organization shall submit the report for review and comment to the community advisory committee.

(i) TECHNICAL AND OTHER ASSISTANCE.—

(1) TECHNICAL ASSISTANCE.—(A) The Flexibility Council may provide, or direct that the head of a Federal agency provide, technical assistance to a local government or qualified organization in developing information necessary for the design or implementation of a local flexibility plan.

(B) Assistance may be provided under this paragraph if a local government makes a request that includes, in accordance with requirements established by the Flexibility Council—

(i) a description of the local flexibility plan the local government proposes to develop;

(ii) a description of the groups of individuals to whom benefits shall be provided under covered Federal assistance programs included in the plan; and

(iii) such assurances as the Flexibility Council may require that—

(I) in the development of the application to be submitted under this title for approval of the plan, the local government shall provide adequate opportunities to participate to—

(aa) individuals and families that shall receive benefits under covered Federal financial assistance programs included in the plan; and

(bb) governmental agencies that administer those programs; and

(II) the plan shall be developed after considering fully—

(aa) needs expressed by those individuals and families;

(bb) community priorities; and

(cc) available governmental resources in the geographic area to which the plan shall apply.

(2) DETAILS TO COUNCIL.—At the request of the Flexibility Council and with the approval of an agency head who is a member of the Council, agency staff may be detailed to the Flexibility Council on a nonreimbursable basis.

(j) FLEXIBILITY COUNCIL.—

(1) FUNCTIONS.—The Flexibility Council shall—

(A) receive, review, and approve or disapprove local flexibility plans for which approval is sought under this section;

(B) upon request from an applicant for such approval, direct the head of an agency that administers a covered Federal financial assistance program under which substantial Federal financial assistance would be provided under the plan to provide technical assistance to the applicant;

(C) monitor the progress of development and implementation of local flexibility plans;

(D) perform such other functions as are assigned to the Flexibility Council by this section; and

(E) issue regulations to implement this section within 180 days after the date of its enactment.

(2) REPORTS.—No less than 18 months after the date of the enactment of this Act, and annually thereafter, the Flexibility Council shall submit a report on the 5 Federal regulations that are most frequently waived by the Flexibility Council for local governments with approved local flexibility plans to the President and the Congress. The President shall review the report and determine whether to amend or terminate such Federal regulations.

(k) REPORT.—No later than 54 months after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the Congress, a report that—

(1) describes the extent to which local governments have established and implemented approved local flexibility plans;

(2) evaluates the effectiveness of covered Federal assistance programs included in approved local flexibility plans; and

(3) includes recommendations with respect to local flexibility.

AMENDMENT NO. 1512

Add at the end of the substitute amendment the following new section:

SEC. ___. LOCAL EMPOWERMENT AND FLEXIBILITY.

(a) FINDINGS.—The Congress finds that—

(1) historically, Federal social service programs have addressed the Nation's social problems by providing categorical assistance with detailed requirements relating to the use of funds;

(2) while the assistance described in paragraph (1) has been directed at critical problems, some program requirements may inadvertently impede the effective delivery of social services;

(3) the Nation's local governments and private, nonprofit organizations are dealing with increasingly complex social problems which require the delivery of many kinds of social services;

(4) the Nation's communities are diverse, and different social needs are present in different communities;

(5) it is more important than ever to provide programs that—

(A) promote local delivery of social services to meet the full range of needs of individuals and families;

(B) respond flexibly to the diverse needs of the Nation's communities;

(C) reduce the barriers between programs that impede local governments' ability to effectively deliver social services; and

(D) empower local governments and private, nonprofit organizations to be innovative in creating programs that meet the unique needs of the people in their communities while continuing to address national social service goals; and

(6) many communities have innovative planning and community involvement strategies for social services, but Federal, State, and local regulations often hamper full implementation of local plans.

(b) PURPOSES.—The purposes of this section are to—

(1) enable more efficient use of Federal, State, and local resources;

(2) place less emphasis in Federal social service programs on measuring resources and procedures and more emphasis on achieving Federal, State, and local social services goals;

(3) enable local governments and private, nonprofit organizations to adapt programs of Federal assistance to the particular needs of low income citizens and the operating practices of recipients, by—

(A) drawing upon appropriations available from more than one Federal program; and

(B) integrating programs and program funds across existing Federal assistance categories; and

(4) enable local governments and private, nonprofit organizations to work together and build stronger cooperative partnerships to address critical social service problems.

(c) DEFINITIONS.—For purposes of this Act—

(1) the term "approved local flexibility plan" means a local flexibility plan that combines funds from Federal, State, local government, tribal government or private sources to address the social service needs of a community (or any part of such a plan) that is approved by the Community Enterprise Board under subsection (e);

(2) the term "community advisory committee" means such a committee established by a local government under subsection (g);

(3) the term "Community Enterprise Board" means the board established by the President that is composed of the—

(A) Vice President;

(B) Assistant to the President for Domestic Policy;

(C) Assistant to the President for Economic Policy;

(D) Secretary of the Treasury;

(E) Attorney General;

(F) Secretary of the Interior;

(G) Secretary of Agriculture;

(H) Secretary of Commerce;

(I) Secretary of Labor;

(J) Secretary of Health and Human Services;

(K) Secretary of Housing and Urban Development;

(L) Secretary of Transportation;

(M) Secretary of Education;

(N) Administrator of the Environmental Protection Agency;

(O) Director of National Drug Control Policy;

(P) Administrator of the Small Business Administration;

(Q) Director of the Office of Management and Budget; and

(R) Chair of the Council of Economic Advisers.

(4) the term "covered Federal assistance program" means an eligible Federal assistance program that is included in a local flexibility plan of a local government;

(5) the term "eligible Federal assistance program"—

(A) means a Federal program under which assistance is available, directly or indirectly, to a local government or a qualified organization to carry out a program for—

(i) economic development;

(ii) employment training;

(iii) health;

(iv) housing;

(v) nutrition;

(vi) other social services; or

(vii) rural development; and

(B) does not include a Federal program under which assistance is provided by the Federal Government directly to a beneficiary of that assistance or to a State as a direct payment to an individual;

(6) the term "eligible local government" means a local government that is eligible to receive assistance under 1 or more covered Federal programs;

(7) the term "local flexibility plan" means a comprehensive plan for the integration and administration by a local government of assistance provided by the Federal Government under 2 or more eligible Federal assistance programs;

(8) the term "local government" means a subdivision of a State that is a unit of general local government (as defined under section 6501 of title 31, United States Code);

(9) the term "low income" means having an income that is not greater than 200 percent of the Federal poverty income level;

(10) the term "priority funding" means giving higher priority (including by the assignment of extra points, if applicable) to applications for Federal assistance submitted by a local government having an approved local flexibility program, by—

(A) a person located in the jurisdiction of such a government; or

(B) a qualified organization eligible for assistance under a covered Federal assistance program included in such a plan;

(11) the term "qualified organization" means a private, nonprofit organization described in section 501(c)(3) of the Internal Revenue Code of 1986 that is exempt from taxation under section 501(a) of the Internal Revenue Code of 1986; and

(12) the term "State" means the 50 States, the District of Columbia, Puerto Rico, American Samoa, Guam, the Virgin Islands, and any Indian tribal government.

(d) DEMONSTRATION PROGRAM.—The Community Enterprise Board shall—

(1) establish and administer a local flexibility demonstration program by approving local flexibility plans in accordance with the provisions of this section;

(2) no later than 180 days after the date of the enactment of this Act, select no more than 30 local governments from no more than 6 States to participate in such program, of which—

(A) 3 States shall each have a population of 3,500,000 or more as determined under the most recent decennial census; and

(B) 3 States shall each have a population of 3,500,000 or less as determined under the most recent decennial census.

(e) PROVISION OF FEDERAL ASSISTANCE IN ACCORDANCE WITH APPROVED LOCAL FLEXIBILITY PLAN.—

(1) PAYMENTS TO LOCAL GOVERNMENTS.—Notwithstanding any other provision of law, amounts available to a local government or a qualified organization under a covered Federal assistance program included in an approved local flexibility plan shall be provided to and used by the local government or organization in accordance with the approved local flexibility plan.

(2) ELIGIBILITY FOR BENEFITS.—An individual or family that is eligible for benefits or services under a covered Federal assistance program included in an approved local flexibility plan may receive those benefits only in accordance with the approved local flexibility plan.

(f) APPLICATION FOR APPROVAL OF LOCAL FLEXIBILITY PLAN.—

(1) IN GENERAL.—A local government may submit to the Community Enterprise Board in accordance with this subsection an application for approval of a local flexibility plan.

(2) CONTENTS OF APPLICATION.—An application submitted under this subsection shall include—

(A) a proposed local flexibility plan that complies with paragraph (3);

(B) certification by the chief executive of the local government, and such additional assurances as may be required by the Community Enterprise Board, that—

(i) the local government has the ability and authority to implement the proposed plan, directly or through contractual or other arrangements, throughout the geographic area in which the proposed plan is intended to apply;

(ii) amounts are available from non-Federal sources to pay the non-Federal share of all covered Federal assistance programs included in the proposed plan; and

(iii) low income individuals and families that reside in that geographic area participated in the development of the proposed plan;

(C) any comments on the proposed plan submitted under paragraph (4) by the Governor of the State in which the local government is located;

(D) public comments on the plan including the transcript of at least 1 public hearing and comments of the appropriate community advisory committee established under subsection (i); and

(E) other relevant information the Community Enterprise Board may require to approve the proposed plan.

(3) CONTENTS OF PLAN.—A local flexibility plan submitted by a local government under this subsection shall include—

(A) the geographic area to which the plan applies and the rationale for defining the area;

(B) the particular groups of individuals, by age, service needs, economic circumstances, or other defining factors, who shall receive services and benefits under the plan;

(C)(i) specific goals and measurable performance criteria, a description of how the plan is expected to attain those goals and criteria;

(ii) a description of how performance shall be measured; and

(D) a system for the comprehensive evaluation of the impact of the plan on participants, the community, and program costs;

(E) the eligible Federal assistance programs to be included in the plan as covered Federal assistance programs and the specific benefits that shall be provided under the plan under such programs, including—

(i) criteria for determining eligibility for benefits under the plan;

(ii) the services available;

(iii) the amounts and form (such as cash, in-kind contributions, or financial instruments) of nonservice benefits; and

(iv) any other descriptive information the Community Enterprise Board considers necessary to approve the plan;

(F) except for the requirements under subsection (h)(2)(C), any Federal statutory or regulatory requirement applicable under a covered Federal assistance program included in the plan, the waiver of which is necessary to implement the plan;

(G) fiscal control and related accountability procedures applicable under the plan;

(H) a description of the sources of all non-Federal funds that are required to carry out covered Federal assistance programs included in the plan;

(I) written consent from each qualified organization for which consent is required under subsection (e)(2)(B); and

(J) other relevant information the Community Enterprise Board may require to approve the plan.

(4) PROCEDURE FOR APPLYING.—(A) To apply for approval of a local flexibility plan, a local government shall submit an application in accordance with this subsection to the Governor of the State in which the local government is located.

(B) A Governor who receives an application from a local government under subparagraph (A) may, by no later than 30 days after the date of that receipt—

(i) prepare comments on the proposed local flexibility plan included in the application;

(ii) describe any State laws which are necessary to waive for successful implementation of a local plan; and

(iii) submit the application and comments to the Community Enterprise Board.

(C) If a Governor fails to act within 30 days after receiving an application under subparagraph (B), the applicable local government may submit the application to the Community Enterprise Board.

(g) REVIEW AND APPROVAL OF LOCAL FLEXIBILITY PLANS.—

(1) REVIEW OF APPLICATIONS.—Upon receipt of an application for approval of a local flexibility plan under this section, the Community Enterprise Board shall—

(A) approve or disapprove all or part of the plan within 45 days after receipt of the application;

(B) notify the applicant in writing of that approval or disapproval by not later than 15 days after the date of that approval or disapproval; and

(C) in the case of any disapproval of a plan, include a written justification of the reasons for disapproval in the notice of disapproval sent to the applicant.

(2) APPROVAL.—(A) The Community Enterprise Board may approve a local flexibility plan for which an application is submitted under this section, or any part of such a plan, if a majority of members of the Board determines that—

(i) the plan or part shall improve the effectiveness and efficiency of providing benefits under covered Federal programs included in the plan by reducing administrative inflexibility, duplication, and unnecessary expenditures;

(ii) the applicant local government has adequately considered, and the plan or part of the plan appropriately addresses, any effect that administration of each covered Federal program under the plan or part of the plan shall have on administration of the other covered Federal programs under that plan or part of the plan;

(iii) the applicant local government has or is developing data bases, planning, and evaluation processes that are adequate for implementing the plan or part of the plan;

(iv) the plan shall more effectively achieve Federal assistance goals at the local level and shall better meet the needs of local citizens;

(v) implementation of the plan or part of the plan shall adequately achieve the purposes of this title and of each covered Federal assistance program under the plan or part of the plan;

(vi) the plan and the application for approval of the plan comply with the requirements of this section;

(vii) the plan or part of the plan is adequate to ensure that individuals and families that receive benefits under covered Federal assistance programs included in the plan or part shall continue to receive benefits that meet the needs intended to be met under the program;

(viii) the qualitative level of those benefits shall not be reduced for any individual or family; and

(ix) the local government has—

(I) waived the corresponding local laws necessary for implementation of the plan; and

(II) sought any necessary waivers from the State.

(B) The Community Enterprise Board may not approve any part of a local flexibility plan if—

(i) implementation of that part would result in any increase in the total amount of obligations or outlays of discretionary appropriations or direct spending under covered Federal assistance programs included in that part, over the amounts of such obligations and outlays that would occur under those programs without implementation of the part; or

(ii) in the case of a plan or part that applies to assistance to a qualified organization under an eligible Federal assistance program, the qualified organization does not consent in writing to the receipt of that assistance in accordance with the plan.

(C) The Community Enterprise Board shall disapprove a part of a local flexibility plan if a majority of the Board disapproves that part of the plan based on a failure of the part to comply with subparagraph (A).

(D) In approving any part of a local flexibility plan, the Community Enterprise Board shall specify the period during which the part is effective. An approved local flexibility plan shall not be effective after the date of the termination of effectiveness of this section under subsection (*l*)(1).

(E) Disapproval by the Community Enterprise Board of any part of a local flexibility plan submitted by a local government under this section shall not affect the eligibility of a local government, a qualified organization, or any individual for benefits under any Federal program.

(3) MEMORANDA OF UNDERSTANDING.—(A) The Community Enterprise Board may not approve a part of a local flexibility plan unless each local government and each qualified organization that would receive assistance under the plan enters into a memorandum of understanding under this subsection with the Community Enterprise Board.

(B) A memorandum of understanding under this subsection shall specify all understandings that have been reached by the Community Enterprise Board, the local government, and each qualified organization that is subject to a local flexibility plan, regarding the approval and implementation of all parts of a local flexibility plan that are the subject of the memorandum, including understandings with respect to—

(i) all requirements under covered Federal assistance programs that are to be waived by the Community Enterprise Board under subsection (h)(2);

(ii)(I) the total amount of Federal funds that shall be provided as benefits under or used to administer covered Federal assistance programs included in those parts; or

(II) a mechanism for determining that amount, including specification of the total amount of Federal funds that shall be provided or used under each covered Federal assistance program included in those parts;

(iii) the sources of all non-Federal funds that shall be provided as benefits under or used to administer those parts;

(iv) measurable performance criteria that shall be used during the term of those parts to determine the extent to which the goals and performance levels of the parts are achieved; and

(v) the data to be collected to make that determination.

(4) LIMITATION ON CONFIDENTIALITY REQUIREMENTS.—The Community Enterprise

Board may not, as a condition of approval of any part of a local flexibility plan or with respect to the implementation of any part of an approved local flexibility plan, establish any confidentiality requirement that would—

(A) impede the exchange of information needed for the design or provision of benefits under the parts; or

(B) conflict with law.

(h) IMPLEMENTATION OF APPROVED LOCAL FLEXIBILITY PLANS; WAIVER OF REQUIREMENTS.

(1) PAYMENTS AND ADMINISTRATION IN ACCORDANCE WITH PLAN.—Notwithstanding any other law, any benefit that is provided under a covered Federal assistance program included in an approved local flexibility plan shall be paid and administered in the manner specified in the approved local flexibility plan.

(2) WAIVER OF REQUIREMENTS.—(A) Notwithstanding any other law and subject to subparagraphs (B) and (C), the Community Enterprise Board may waive any requirement applicable under Federal law to the administration of, or provision of benefits under, any covered Federal assistance program included in an approved local flexibility plan, if that waiver is—

(i) reasonably necessary for the implementation of the plan; and

(ii) approved by a majority of members of the Community Enterprise Board.

(B) The Community Enterprise Board may not waive a requirement under this subsection unless the Board finds that waiver of the requirement shall not result in a qualitative reduction in services or benefits for any individual or family that is eligible for benefits under a covered Federal assistance program.

(C) The Community Enterprise Board may not waive any requirement under this subsection—

(i) that enforces any constitutional or statutory right of an individual, including any right under—

(I) title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.);

(II) section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.);

(III) title IX of the Education Amendments of 1972 (86 Stat. 373 et seq.);

(IV) the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.); or

(V) the Americans with Disabilities Act of 1990;

(ii) for payment of a non-Federal share of funding of an activity under a covered Federal assistance program; or

(iii) for grants received on a maintenance of effort basis.

(3) SPECIAL ASSISTANCE.—To the extent permitted by law, the head of each Federal agency shall seek to provide special assistance to a local government or qualified organization to support implementation of an approved local flexibility plan, including expedited processing, priority funding, and technical assistance.

(4) EVALUATION AND TERMINATION.—(A) A local government, in accordance with regulations issued by the Community Enterprise Board, shall—

(i) submit such reports on and cooperate in such audits of the implementation of its approved local flexibility plan; and

(ii) periodically evaluate the effect implementation of the plan has had on—

(I) individuals who receive benefits under the plan;

(II) communities in which those individuals live; and

(III) costs of administering covered Federal assistance programs included in the plan.

(B) No later than 90 days after the end of the 1-year period beginning on the date of the approval by the Community Enterprise Board of an approved local flexibility plan of a local government, and annually thereafter, the local government shall submit to the Community Enterprise Board a report on the principal activities and achievements under the plan during the period covered by the report, comparing those achievements to the goals and performance criteria included in the plan under subsection (f)(3)(C).

(C)(i) If the Community Enterprise Board, after consultation with the head of each Federal agency responsible for administering a covered Federal assistance program included in an approved local flexibility plan of a local government, determines—

(I) that the goals and performance criteria included in the plan under subsection (f)(3)(C) have not been met; and

(II) after considering any experiences gained in implementation of the plan, that those goals and criteria are sound;

the Community Enterprise Board may terminate the effectiveness of the plan.

(ii) In terminating the effectiveness of an approved local flexibility plan under this subparagraph, the Community Enterprise Board shall allow a reasonable period of time for appropriate Federal, State, and local agencies and qualified organizations to resume administration of Federal programs that are covered Federal assistance programs included in the plan.

(5) FINAL REPORT; EXTENSION OF PLANS.—(A) No later than 45 days after the end of the effective period of an approved local flexibility plan of a local government, or at any time that the local government determines that the plan has demonstrated its worth, the local government shall submit to the Community Enterprise Board a final report on its implementation of the plan, including a full evaluation of the successes and shortcomings of the plan and the effects of that implementation on individuals who receive benefits under those programs.

(B) The Community Enterprise Board may extend the effective period of an approved local flexibility plan for such period as may be appropriate, based on the report of a local government under subparagraph (A).

(i) COMMUNITY ADVISORY COMMITTEES.—

(1) ESTABLISHMENT.—A local government that applies for approval of a local flexibility plan under this section shall establish a community advisory committee in accordance with this subsection.

(2) FUNCTIONS.—A community advisory committee shall advise a local government in the development and implementation of its local flexibility plan, including advice with respect to—

(A) conducting public hearings;

(B) representing the interest of low income individuals and families; and

(C) reviewing and commenting on all community policies, programs, and actions under the plan which affect low-income individuals and families, with the purpose of ensuring maximum coordination and responsiveness of the plan in providing benefits under the plan to those individuals and families.

(3) MEMBERSHIP.—The membership of a community advisory committee shall—

(A) be comprised of—

(i) low income individuals, who shall—

(I) comprise at least one-third of the membership; and

(II) include minority individuals who are participants or who qualify to participate in eligible Federal assistance programs;

(ii) representatives of low income individuals and families;

(iii) persons with leadership experience in the private and voluntary sectors;

(iv) local elected officials;

(v) representatives of participating qualified organizations; and

(vi) the general public; and

(B) include individuals and representatives of community organizations who shall help to enhance the leadership role of the local government in developing a local flexibility plan.

(4) OPPORTUNITY FOR REVIEW AND COMMENT BY COMMITTEE.—Before submitting an application for approval of a final proposed local flexibility plan, a local government shall submit the final proposed plan for review and comment by a community advisory committee established by the local government.

(5) COMMITTEE REVIEW OF REPORTS.—Before submitting annual or final reports on an approved assistance plan, a local government or private nonprofit organization shall submit the report for review and comment to the community advisory committee.

(j) TECHNICAL AND OTHER ASSISTANCE.—

(1) TECHNICAL ASSISTANCE.—(A) The Community Enterprise Board may provide, or direct that the head of a Federal agency provide, technical assistance to a local government or qualified organization in developing information necessary for the design or implementation of a local flexibility plan.

(B) Assistance may be provided under this subsection if a local government makes a request that includes, in accordance with requirements established by the Community Enterprise Board—

(i) a description of the local flexibility plan the local government proposes to develop;

(ii) a description of the groups of individuals to whom benefits shall be provided under covered Federal assistance programs included in the plan; and

(iii) such assurances as the Community Enterprise Board may require that—

(I) in the development of the application to be submitted under this title for approval of the plan, the local government shall provide adequate opportunities to participate to—

(aa) low income individuals and families that shall receive benefits under covered Federal assistance programs included in the plan; and

(bb) governmental agencies that administer those programs; and

(II) the plan shall be developed after considering fully—

(aa) needs expressed by those individuals and families;

(bb) community priorities; and

(cc) available governmental resources in the geographic area to which the plan shall apply.

(2) DETAILS TO BOARD.—At the request of the Chairman of the Community Enterprise Board and with the approval of an agency head who is a member of the Board, agency staff may be detailed to the Community Enterprise Board on a nonreimbursable basis.

(k) COMMUNITY ENTERPRISE BOARD.—

(1) FUNCTIONS.—The Community Enterprise Board shall—

(A) receive, review, and approve or disapprove local flexibility plans for which approval is sought under this section;

(B) upon request from an applicant for such approval, direct the head of an agency that administers a covered Federal assistance program under which substantial Federal assistance would be provided under the plan to provide technical assistance to the applicant;

(C) monitor the progress of development and implementation of local flexibility plans;

(D) perform such other functions as are assigned to the Community Enterprise Board by this section; and

(E) issue regulations to implement this section within 180 days after the date of its enactment.

(2) REPORTS.—No less than 18 months after the date of the enactment of this Act, and annually thereafter, the Community Enterprise Board shall submit a report on the 5 Federal regulations that are most frequently waived by the Community Enterprise Board for local governments with approved local flexibility plans to the President and the Congress. The President shall review the report and determine whether to amend or terminate such Federal regulations.

(*l*) TERMINATION AND REPEAL; REPORT.—

(1) TERMINATION AND REPEAL.—This section is repealed on the date that is 5 years after the date of the enactment of this Act.

(2) REPORT.—No later than 4 years after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the Congress, a report that—

(A) describes the extent to which local governments have established and implemented approved local flexibility plans;

(B) evaluates the effectiveness of covered Federal assistance programs included in approved local flexibility plans; and

(C) includes recommendations with respect to continuing local flexibility.

BUMPERS AMENDMENT NO. 1513

(Ordered to lie on the table.)

Mr. BUMPERS submitted an amendment No. 1487 proposed by Mr. DOLE to the bill S. 343, supra; as follows:

On page 74, line 3 add "independently" immediately prior to "decide".

MCCAIN (AND LIEBERMAN) AMENDMENT NO. 1514

(Ordered to lie on the table.)

Mr. MCCAIN (for himself and Mr. LIEBERMAN) submitted an amendment intended to be proposed by him to amendment No. 1487 proposed by Mr. DOLE to the bill S. 343, supra; as follows:

At the end of the amendment insert the following new section:

SEC. . REPEAL OF MEDICARE AND MEDICAID COVERAGE DATA BANK.

(a) REPEAL.—

(1) IN GENERAL.—Section 13581 of the Omnibus Budget Reconciliation Act of 1993 is hereby repealed.

(2) APPLICATION OF THE SOCIAL SECURITY ACT.—The Social Security Act shall be applied and administered as if section 13581 of the Omnibus Budget Reconciliation Act of 1993 (and the amendments made by such section) had not been enacted.

(b) STUDY AND REPORT.—

(1) STUDY.—The Secretary of Health and Human Services (hereafter in this subsection referred to as the "Secretary") shall conduct a study on how to achieve the objectives of the data bank described in section 1144 of the Social Security Act (as in effect on the day before the date of the enactment of this Act) in the most cost-effective manner, taking into account—

(A) the administrative burden of such data bank on private sector entities and governments,

(B) the possible duplicative reporting requirements of the Health Care Financing Administration in effect on such date of enactment, and

(C) the legal ability of such entities and governments to acquire the required information.

(2) REPORTS.—The Secretary shall report to the Congress on the results of the study described in paragraph (1) by not later than 180 days after the date of the enactment of this Act.

• Mr. MCCAIN. Mr. President, this amendment would eliminate a large and unjustified administrative burden imposed on employers by an ill-considered piece of legislation passed 2 years ago. Specifically, it would repeal the Medicare and Medicaid coverage data bank, section 13581 of OBRA 1993, a law that is extremely expensive, burdensome, punitive, and in my view, entirely unnecessary.

The data bank law requires every employer who offers health care coverage to provide substantial and often difficult-to-obtain information on current and past employees and their dependents, including names, Social Security numbers, health care plans, and period of coverage. Employers that do not satisfy this considerable reporting obligation are subject to substantial penalties, possibly up to $250,000 per year or even more if the failure to report is found to be deliberate.

The purported objective of the data bank law is to ensure reimbursement of costs to Medicare or Medicaid when a third party is the primary payor. This is a legitimate objective. However, if the objective of the data bank is to preserve Medicare and Medicaid funds, why is it necessary to mandate information on all employees, the vast majority of whom have no direct association with either the Medicare or Medicaid Program?

Last year, I introduced S. 1933 to repeal the Medicare and Medicaid coverage data bank. Unfortunately, this bill did not pass in the 103d Congress, in part because of a questionable Congressional Budget Office analysis that estimated that the data bank would save the Federal Government about $1 billion. In contrast, the General Accounting Office found that "as envisioned, the data bank would have certain inherent problems and likely achieve little or no savings to the Medicare and Medicaid programs." Still, due primarily to the fiction that the data bank would save money, S. 1933 was not enacted last year.

The GAO report on the data bank law also found that employers are not certain of their specific reporting obligations, because HCFA has not provided adequate guidance. Much of the information which is required is not typically collected by employers, such as Social Security numbers of dependents and certain health insurance information. Some employers have even questioned whether it is legal for them under various privacy laws to seek to obtain the required information.

The GAO report further found that employers are facing significant costs in complying with the reporting requirements, including the costs of redesigning their payroll and personnel systems. It cites one company with 44,000 employees that would have costs of approximately $52,000 and another company with 4,000 employees that would have costs of $12,000. Overall, the American Payroll Association estimated last year that this requirement will cost between $50,000 and $100,000 per company.

I would add that the reporting requirement applies only to employers that provide health insurance coverage to their employees. It is unconscionable that we are adding costs and penalties to those who have been most diligent in providing health coverage to their employees. The last thing that the Federal Government should do is impose disincentives to employee health care coverage, which is one of the unintended consequences of the data bank law.

Perhaps the most disturbing aspect of the data bank law is that its enormous costs have little or no corresponding benefit. The GAO report concluded that "The additional information gathering and record keeping required by the data bank appears to provide little benefit to Medicare or Medicaid in recovering mistaken payments." This is in part because HCFA is already obtaining this information in a much more efficient manner than that required under OBRA 1993.

For example, OBRA 1989 provides for HCFA to periodically match Medicare beneficiary data with Internal Revenue Service employment information—the Data Match Program. Also, HCFA directly asks beneficiaries about primary payor coverage. To the extent that the data bank duplicates these efforts, any potential savings will not be realized. It is clearly preferable to require HCFA to use the information it already has than to require the private sector to provide duplicative information.

The GAO report found that "the data match not only can provide the same information [as the Data Bank] without raising the potential problems described above, but it can do so at less cost." It also recognized that both the data match and data bank processes rely too much on an after-the-fact recovery approach, and recommended enhancing up-front identification of other insurance and avoiding erroneous payments. In this regard, it documented that HCFA has already initiated this prospective approach.

For these and other reasons, the Labor and Human Resources Appropriations report last year contained language prohibiting the use of Federal funds for developing or maintaining the data bank. However, this provision by itself did not revoke the requirement that covered entities must still provide the required information on the health coverage of current and former employees and their families. This would have resulted in the bizarre situation in which covered employers would have had to report the information, but there would have been no data bank to process or retrieve it.

Finally, in response to the public outcry about this Federal mandate, the Health Care Financing Administration [HCFA] indicated that it will not be enforcing the data bank's reporting requirements in fiscal year 1995. It stated that in light of the refusal of Congress to fund the data bank, "we have agreed to stay an administrative action to implement the current requirements, including the promulgation of reporting forms and instructions. Therefore, we will not expect employers to compile the necessary information or file the required reports. Likewise, no sanctions will be imposed for failure to file such reports."

This was a major step in the right direction. However, the data bank and its reporting requirements are still in the law and are still scheduled to be implemented in the next fiscal year. Consequently, this year I have reintroduced my data bank repeal bill, S. 194. I have recently been informed that the CBO has revised its scoring to recognize that the data bank would not save the Federal Government any money. This removed the only argument in favor of the data bank and the only major impediment to its repeal.

Mr. President, the Federal Government continues to impose substantial financial burdens on the private sector without fully accepting its share of the burden to implement a program. We should once again expect the worst case scenario to occur: employers will provide the required information at substantial administrative burden, there will be no data bank in which to make use of it, and even if a data bank were funded and established, the information stored could not be used efficiently to save Medicare or Medicaid funds.

I do not want this repeal to be construed, in any way, as opposition to HCFA obtaining the information it needs to administer the Medicare and Medicaid programs efficiently, and obtaining reimbursement from third party payors when appropriate. To assure that HCFA has the information it needs, the bill also requires the Secretary of HHS to conduct a study and report to Congress on how to achieve the purported objectives of the data bank in the most cost-effective manner possible.

The Secretary's study would have to take into consideration the administrative costs and burden on the private sector and the Government of processing and providing the necessary information versus the benefits and savings that such reporting requirements would produce. It must also consider current HCFA reporting requirements and the ability of entities to obtain the required information legally and efficiently.

Too often, Congress considers only the costs savings to the Federal Government of legislation while ignoring costs to other parties. The Medicare and Medicaid data bank is a case in point. Congress required information on millions of employees to save the Federal Government money. Yet, it will cost employers more money to comply than the Government saves. Congress must stop passing laws that impose large, unjustified, administrative burdens on other entities. It must consider the impact of its actions on the whole economy and not just on the Government.

In summary, the reporting requirement for the Medicare and Medicaid data bank is duplicative, burdensome, ineffective, and unnecessary. The GAO has characterized it as creating an avalanche of unnecessary paperwork for both HCFA and employers. It penalizes employers who provide health care benefits to their workers—exactly the opposite goal we should be pursuing. The data bank should be repealed and a more cost-effective approach should be found to ensure that Medicare and Medicaid are appropriately reimbursed by primary payors.

Mr. President, the 90 associations, organizations, and individual employers in this coalition continue to demand repeal of this law. Their message is clear. The Federal Government must stop imposing unjustified burdens on the private sector.●

KYL AMENDMENT NO. 1515

(Ordered to lie on the table.)

Mr. KYL submitted an amendment intended to be proposed by him to amendment No. 1487 proposed by Mr. DOLE to the bill S. 343, supra; as follows:

On page 75, between lines 12 and 13, insert the following:

"(c) In reviewing an agency interpretation of a statute made in a rulemaking or an adjudication, the reviewing court shall—

"(1) hold erroneous and unlawful an agency interpretation that fails to give effect to the unambiguously expressed intent of Congress; or

"(2) if the statute is silent or ambiguous with respect to an issue, hold arbitrary and capricious or an abuse of discretion an agency action for which the agency has—

"(A) refused or failed to consider a permissible construction of the statute on the ground that the statute precludes consideration of that interpretation; or

"(B) failed to explain in a reasoned analysis why the agency selected the interpretation it chose and why it rejected other permissible interpretations of the statute.

"(d) Notwithstanding any other provision of law, the provisions of subsection (c) shall apply to, and supplement, the requirements contained in any statute for the review of final agency action that is not otherwise subject to this section.

JOHNSTON AMENDMENT NO. 1516

Mr. JOHNSTON proposed an amendment to amendment No. 1487 proposed by Mr. DOLE to the bill S. 343, supra; as follows:

On page 25, line 19 strike out "180 days" and insert in lieu thereof "one year".

BAUCUS (AND OTHERS) AMENDMENT NO. 1517

Mr. JOHNSTON (for Mr. BAUCUS, Mr. JOHNSTON, Mr. LAUTENBERG, Mr. BRADLEY, Mrs. MURRAY, Mrs. FEINSTEIN, Mr. REID, Mr. MOYNIHAN, Mr. GLENN, and Mr. KENNEDY) proposed an amendment to amendment No. 1487 proposed by Mr. DOLE to the bill S. 343, supra; as follows:

Strike out all of section 628 (on p. 42 beginning at line 3 strike out all through line 13 on p. 44) and renumber section 629 as section 628.

On p. 73 in the table of contents for SUBCHAPTER II—ANALYSIS OF AGENCY RULES, replace "628. Requirements for major environmental management activities" with "628. Petition for alternative method of compliance".

On page 57, lines 6 and 7 strike out the phrase "or a major environmental management activity".

KOHL AMENDMENT NO. 1518

(Ordered to lie on the table.)

Mr. KOHL submitted an amendment intended to be proposed by him to amendment No. 1487 proposed by Mr. DOLE to the bill S. 343, supra; as follows:

On page 46, insert between lines 4 and 5 the following:

"630. NONAPPLICABILITY TO CERTAIN NEGOTIATED RULES.

"(a) The provisions of subchapters II and III of chapter 6 of title 5, United States Code (as added by section 4 of this Act) shall not apply to any rule developed pursuant to procedures authorized by subchapter III of chapter 5 of such title (relating to consensual rule-making through negotiation), unless the rule to be proposed on promulgated by the agency is significantly different from the consensus developed through such procedures.

"(b) The Administrative Conference of the United States shall, no later than March 31, 1996, submit a report to the appropriate committees of the Congress describing the experience of agencies with consensus procedures that in its judgement are equivalent in effect to those specified by subchapter III of chapter 5 and with respect to which it would be appropriate to make applicable the provisions of subsection (a) of this section. In addition, the report shall include an assessment of the effects of the application of the Federal Advisory Committee Act to consensual rule-making procedures and may make recommendations in connection therewith."

FORD AMENDMENT NO. 1519

(Ordered to lie on the table.)

Mr. FORD submitted an amendment intended to be proposed by him to amendment No. 1487 proposed by Mr. Dole to the bill S. 343, supra; as follows:

On page 14, line 16, strike the semicolon and insert the following: ", and includes Federal approval of a plan or program adopted by 2 or more States that contains parallel or coordinated provisions that were developed in response to a Federal direction or under threat of Federal action;

REID AMENDMENTS NO. 1520–1522

(Ordered to lie on the table.)

Mr. REID submitted three amendments intended to be proposed by him to amendment No. 1487 proposed by Mr. Dole to the bill S. 343, supra; as follows:

AMENDMENT NO. 1520

On page 42, line 19, strike out "$10,000,000" and insert in lieu thereof "$100,000,000".

AMENDMENT NO. 1521

On page 43, line 7, strike out "or welfare" and insert in lieu thereof ", welfare, or the environment".

AMENDMENT NO. 1522

On page 43, beginning with line 8, strike out all through line 7 on page 44.

CAMPBELL (AND BROWN) AMENDMENT NO. 1523

(Ordered to lie on the table.)

Mr. CAMPBELL (for himself and Mr. Brown) submitted an amendment intended to be proposed by them to amendment No. 1487 proposed by Mr. Dole to the bill S. 343, supra; as follows:

On page 14, after line 16, amend section 621 of title 5, United States Code, as added by section 4(a) of the amendment No. 1487 by inserting after paragraph (5), the following new paragraph:

"(6) The term 'major rule' does not include a rule that approves, in whole or in part, a plan or program that provides for the implementation, maintenance, or enforcement of Federal standards or requirements adopted by an individual State;"

BOXER AMENDMENT NO. 1524

Mrs. BOXER (for herself, Mrs. Murray, Ms. Mikulski, Mr. Lautenberg, Mr. Bradley, Mrs. Feinstein, Mr. Dorgan, Mr. Kennedy, Mr. Reid, Mr. Biden, Mr. Leahy, Ms. Moseley-Braun, Mr. Bumpers, and Mr. Daschle) proposed an amendment to amendment No. 1487 proposed by Mr. Dole to the bill S. 343, supra; as follows:

On page 19, line 7, strike the period and insert the following: "; or (xiii) a rule intended to implement section 354 of the Public Health Service Act (42 U.S.C. 263b) (as added by section 2 of the Mammography Quality Standards Act of 1992).".

DOLE AMENDMENT NO. 1525

Mr. DOLE proposed an amendment to amendment No. 1524, proposed by Mrs. Boxer, to the bill, S. 343, supra; as follows:

In lieu of the matter proposed to be inserted, insert the following:

It is the sense of the Senate that nothing in this Act is intended to delay the timely promulgation of any regulations that would meet a human health or safety threat, including any rules that would reduce illness or mortality from the following: heart disease, cancer, stroke, chronic obstructive lung diseases, pneumonia and influenza, diabetes mellitus, human immunodeficiency virus infection, or water- or food-borne pathogens, polio, tuberculosis, measles, viral hepatitis, syphilis, or all other infectious and parasitic diseases.

GRAHAM AMENDMENTS NO. 1526–1529

(Ordered to lie on the table.)

Mr. GRAHAM submitted four amendments intended to be proposed by him to amendment No. 1487, proposed by Mr. Dole, to the bill, S. 343, supra; as follows:

AMENDMENT NO. 1526

On page 4, line 9, insert before the semicolon the following: ", including, where practicable, performance-based standards".

AMENDMENT NO. 1527

On page 7, line 18, insert "any performance-based standards," after "of,".

AMENDMENT NO. 1528

On page 77, line 6, insert before the semicolon the following: ", including any performance-based standards".

AMENDMENT NO. 1529

On page 92, line 20, insert "the achievement of any performance-based standards and" after "statement,".

CAMPBELL (AND OTHERS) AMENDMENT NO. 1530

(Ordered to lie on the table.)

Mr. CAMPBELL (for himself, Mr. Warner, and Mr. Robb) submitted an amendment intended to be proposed by them to amendment No. 1487 proposed by Mr. Dole to the bill S. 343, supra; as follows:

On page 14, after line 16, amend section 621 of title 5, United States Code, as added by section 4(a) of the amendment No. 1487 by inserting after paragraph (5), the following new paragraph:

"(6) The term 'major rule' does not include a rule that approves, in whole or in part, a plan or program that provides for the implementation, maintenance, or enforcement of Federal standards or requirements adopted by an individual State that is not part of a coordinated, multi-state program.

HATCH AMENDMENT NO. 1531

Mr. HATCH proposed an amendment to amendment No. 1487 proposed by Mr. Dole to the bill S. 343, supra; as follows:

At the appropriate place in the amendment, add the following:

It is the sense of the Senate that nothing in this Act is intended to delay the timely promulgation of any regulations that would meet a human health or safety threat, including any rules that would reduce illness or mortality from the following: heart disease, cancer, stroke, chronic obstructive lung diseases, pneumonia and influenza, diabetes mellitus, human immunodeficiency virus infection, or water or food borne pathogens, polio, tuberculosis, measles, viral hepatitis, syphilis, or all other infectious and parasitic diseases.

BOXER AMENDMENT NO. 1532

Mrs. BOXER (for herself, Mrs. Murray, Ms. Mikulski, Mr. Lautenberg, Mr. Bradley, Mrs. Feinstein, Mr. Dorgan, Mr. Kennedy, Mr. Reid, Mr. Bumpers, Mr. Biden, Mr. Leahy, Ms. Moseley-Braun, Mr. Daschle, and Mr. Cohen) proposed an amendment to amendment No. 1487 proposed by Mr. Dole to the bill S. 343, supra; as follows:

On page 19, line 7, strike the period and insert the following: "; or (xiii) a rule intended to implement section 354 of the Public Health Service Act (42 U.S.C. 263b) (as added by section 2 of the Mammography Quality Standards Act of 1992).".

DOMENICI (AND OTHERS) AMENDMENT NO. 1533

Mr. DOMENICI (for himself, Mr. Bond, Mr. Bingaman, Mr. Cohen, and Mr. Abraham) proposed an amendment to amendment No. 1487, proposed by Mr. Dole, to the bill, S. 343, supra; as follows:

AMENDMENT NO. 1533

At the appropriate place in the Dole substitute, add the following new title:

TITLE II—AGENCY RESPONSIVENESS TO SMALL BUSINESSES

Subtitle A—Small Business Advocacy Review

SEC. 201. DEFINITIONS.

For purposes of this subtitle, the following definitions shall apply:

(1) Agency.—The term "agency" means—

(A) with respect to the Environmental Small Business Advocacy Review Panel, the Environmental Protection Agency; and

(B) with respect to the Occupational Safety and Health Small Business Advocacy Review Panel, the Occupational Safety and Health Administration of the Department of Labor.

(2) Agency head.—The term "agency head" means—

(A) with respect to the Environmental Small Business Advocacy Review Panel, the Administrator of the Environmental Protection Agency; and

(B) with respect to the Occupational Safety and Health Small Business Advocacy Review Panel, the Assistant Secretary for Occupational Safety and Health of the Department of Labor.

(3) Chairperson.—The term "chairperson" means—

(A) with respect to the Environmental Small Business Advocacy Review Panel, the chairperson of such review panel designated under section 202(a); and

(B) with respect to the Occupational Safety and Health Small Business Advocacy Review Panel, the chairperson of such review panel designated under section 202(b).

(4) Chief Counsel for Advocacy.—The term "Chief Counsel for Advocacy" means the Chief Counsel for Advocacy of the Small Business Administration.

(5) FINAL RULE.—The term "final rule" means any final rule or interim final rule issued by an agency for which a review panel has been established under section 202(c)(2)(A).

(6) OFFICE.—The term "Office" means the Office of Advocacy of the Small Business Administration.

(7) REVIEW PANEL.—The term "review panel" means—

(A) with respect to a significant rule of the Environmental Protection Agency, an Environmental Small Business Advocacy Review Panel established under section 202(c)(2)(A); and

(B) with respect to a significant rule of the Occupational Safety and Health Administration of the Department of Labor, an Occupational Safety and Health Small Business Advocacy Review Panel established under section 202(c)(2)(A).

(8) RULE.—The term "rule"—

(A) means an agency statement of general applicability and future effect, which the agency intends to have the force and effect of law, that is designed to implement, interpret, or prescribe law or policy or to describe the procedure or practice requirements of the agency; and

(B) does not include any rule that is limited to agency organization, management, or personnel matters.

(9) SIGNIFICANT RULE.—The term "significant rule" means any rule proposed by an agency that the chairperson, in consultation with the Administrator of the Office of Information and Regulatory Affairs within the Office of Management and Budget, reasonably estimates would have—

(A) an annual aggregate impact on the private sector in an amount equal to not less than $50,000,000; and

(B) an impact on small businesses.

(10) SMALL BUSINESS.—The term "small business" has the same meaning as the term "small business concern" in section 3 of the Small Business Act.

SEC. 202. SMALL BUSINESS ADVOCACY CHAIRPERSONS.

(a) CHAIRPERSON OF ENVIRONMENTAL REVIEW PANELS.—

(1) IN GENERAL.—Not later than 30 days after the date of enactment of this Act, the Administrator of the Environmental Protection Agency shall designate an employee of the Environmental Protection Agency, who is a member of the Senior Executive Service (as that term is defined in section 2101a of title 5, United States Code) and whose immediate supervisor is appointed by the President, to serve as the chairperson of each Environmental Small Business Advocacy Review Panel and to carry out this subtitle with respect to the Environmental Protection Agency.

(2) DISABILITY OR ABSENCE.—If the employee designated to serve as chairperson under paragraph (1) is unable to serve as chairperson because of disability or absence, the Administrator of the Environmental Protection Agency shall designate another employee who meets the qualifications of paragraph (1) to serve as chairperson.

(b) CHAIRPERSON OF OSHA REVIEW PANELS.—

(1) IN GENERAL.—Not later than 30 days after the date of enactment of this Act, the Assistant Secretary for Occupational Safety and Health of the Department of Labor shall designate an employee of the Occupational Safety and Health Administration of the Department of Labor, who is a member of the Senior Executive Service (as that term is defined in section 2101a of title 5, United States Code) and whose immediate supervisor is appointed by the President, to serve as the chairperson of each Occupational Safety and Health Small Business Advocacy Review Panel and to carry out the purposes of this subtitle with respect to the Occupational Safety and Health Administration.

(2) DISABILITY OR ABSENCE.—If the employee designated to serve as chairperson under paragraph (1) is unable to serve as chairperson because of disability of absence, the Assistant Secretary for Occupational Safety and Health of the Department of Labor shall designate another employee who meets the qualifications of paragraph (1) to serve as chairperson.

(c) DUTIES OF THE CHAIRPERSON.—

(1) INITIAL DETERMINATION AND NOTIFICATION.—

(A) TIMING.—The chairperson shall take the actions described in subparagraph (B) not later than 45 days before the earlier of—

(i) the date of publication in the Federal Register by an agency of a general notice of proposed rulemaking under section 553(b) of title 5, United States Code, or any other provision of law; or

(ii) the date of publication in the Federal Register by an agency of a proposed rule.

(B) ACTIONS.—With respect to a proposed rule that is the subject of a publication described in clause (i) or (ii) of subparagraph (A), the chairperson shall—

(i) determine whether the subject proposed rule constitutes a significant rule, as defined in section 201(9); and

(ii) if the proposed rule is determined to constitute a significant rule, notify the Administrator of the Office of Information and Regulatory Affairs within the Office of Management and Budget and the Chief Counsel for Advocacy to appoint review panel members for evaluation of the subject significant rule.

(2) ESTABLISHMENT OF REVIEW PANELS.—

(A) IN GENERAL.—Not later than 15 days after receiving notice under paragraph (1)(B)(ii), or such longer period as the chairperson may allow, review panel members shall be appointed by the Administrator of the Office of Information and Regulatory Affairs within the Office of Management and Budget, the Chief Counsel for Advocacy, and the chairperson in accordance with section 203(b).

(B) EXCEPTIONS.—A review panel shall be established in accordance with subparagraph (A) unless the chairperson, in consultation with the Chief Counsel for Advocacy, determines (and notifies the agency in writing of such determination) that—

(i) a good faith effort to secure enough non-Federal employee review panel members necessary to constitute a quorum with respect to the subject significant rule was unsuccessful; and

(ii) compliance with this subtitle is not required with respect to the subject significant rule due to a lack of availability of private sector interests.

(d) DUTIES REGARDING FINAL RULE.—

(1) IN GENERAL.—Not later than 45 days before the issuance of a significant final rule, the chairperson shall—

(A) notify panel members of the intent of the agency to issue a final rule;

(B) provide panel members with a dated draft of the final rule to be issued;

(C) solicit comments from panel members in connection with the duties of the review panel described in section 203(a); and

(D) if the chairperson determines that such action is necessary, call one or more meetings of the review panel and, if a quorum is present, direct the review panel to review, discuss, or clarify any issue related to the subject final rule or the preparation of the report under paragraph (2).

(2) REPORT.—Except as provided in section 204(b), not later than 5 days before the issuance of a final rule, the chairperson shall submit a report in accordance with section 204(a).

SEC. 203. SMALL BUSINESS ADVOCACY REVIEW PANELS.

(a) GENERAL DUTIES.—Before any publication described in clause (i) or (ii) of section 202(c)(1)(A) of a proposed significant rule, and again before the issuance of such rule as a final rule, the review panel shall, in accordance with this subtitle provide technical guidance to the agency, including guidance relating to—

(1) the applicability of the proposed rule to small businesses;

(2) compliance with the rule by small businesses;

(3) the consistency or redundancy of the proposed rule with respect to other Federal, State, and local laws or regulations and recordkeeping requirements imposed on small businesses; and

(4) any other concerns posed by the proposed rule that may impact significantly upon small businesses.

(b) MEMBERSHIP.—Each review panel shall be composed of—

(1) the chairperson;

(2) not less than 1 nor more than 3 members appointed by the chairperson from among employees of the agency who would be responsible for carrying out the subject significant rule;

(3) 1 member appointed by the Administrator of the Office of Information and Regulatory Affairs within the Office of Management and Budget from among the employees of that office who have specific knowledge of or responsibilities relating to the regulatory responsibilities of the agency that would be responsible for carrying out the subject significant rule;

(4) 1 member appointed by the Chief Counsel for Advocacy from among the employees of the Office; and

(5) not less than 1 nor more than 3 members selected by the Chief Counsel for Advocacy from among individuals who are representatives of—

(A) small businesses that would be impacted by the significant rule;

(B) small business sectors or industries that would be especially impacted by the significant rule; or

(C) organizations whose memberships are comprised of a cross-section of small businesses.

(c) PERIOD OF APPOINTMENT; VACANCIES.—

(1) PERIOD OF APPOINTMENT.—Each review panel member, other than the chairperson, shall be appointed for a term beginning on the date on which the appointment is made and ending on the date on which the report or written record is submitted under section 204.

(2) VACANCIES.—Any vacancy on a review panel shall not affect the powers of the review panel, but shall be filled in the same manner as the original appointment.

(d) QUORUM.—A quorum for the conduct of business by a review panel shall consist of 1 member appointed from each of paragraphs (2) through (5) of subsection (b).

(e) MEETINGS.—

(1) IN GENERAL.—Subject to paragraph (2), the meetings of the review panel shall be at the call of the chairperson.

(2) INITIAL MEETING.—Not later than 15 days after all review panel members necessary to constitute a quorum have been appointed under subsection (b), the chairperson shall conduct the initial meeting of the review panel.

(f) POWERS OF REVIEW PANEL.—

(1) INFORMATION FROM FEDERAL AGENCIES.—A review panel may secure, directly from any Federal department or agency, such information as the review panel considers necessary to carry out this subtitle. Upon request of the chairperson, the head of such department or agency shall furnish such information to the review panel.

(2) POSTAL SERVICES.—A review panel may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(g) NONCOMPENSATION OF MEMBERS.—

(1) IN GENERAL.—Members of the review panel who are not officers or employees of the Federal Government shall serve without compensation.

(2) FEDERAL EMPLOYEES.—Members of the review panel who are officers or employees of the Federal Government shall serve without compensation in addition to that received for their services as officers or employees of the Federal Government.

(h) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to a review panel without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(i) CONSULTATION WITH OTHER ENTITIES.—In carrying out this subtitle, the chairperson shall consult and coordinate, to the maximum extent practicable, the activities of the review panel with each office of the agency that is responsible for the provision of data or technical advice concerning a significant rule.

SEC. 204. REPORT.

(a) IN GENERAL.—Except as provided in subsection (b), the chairperson shall, in accordance with section 202(d)(2), submit to the appropriate employees of the agency who would be responsible for carrying out the subject significant rule and to the appropriate committees of the Senate and the House of Representatives a report, which shall include—

(1) the findings and recommendations of the review panel with respect to the significant rule, including both the majority and minority views of the review panel members, regardless of the consensus of opinions that may derive from the meetings of the review panel; and

(2) recommendations regarding whether a survey with respect to the subject significant rule should be conducted under section 207, and—

(A) if so—

(i) a timeframe during which the survey should be conducted, taking into account the time required to implement the rule and to gather appropriate data; and

(ii) any recommendations of the review panel regarding the contents of the survey; and

(B) if not, the reasons why the survey is not recommended.

(b) FAILURE TO SUBMIT REPORT.—If the chairperson fails to submit a report under subsection (a), not later than the date on which the final rule is issued, the chairperson shall—

(1) prepare a written record of such failure detailing the reasons therefore; and

(2) submit a copy of such written record to the head of the agency and to the appropriate committees of the Congress.

SEC. 205. APPLICABILITY OF OTHER LAW; JUDICIAL REVIEW.

(a) INAPPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—The provisions of the Federal Advisory Committee Act do not apply to any review panel established in accordance with this subtitle.

(b) PROHIBITION ON JUDICIAL REVIEW.—No action or inaction of a review panel, including any recommendations or advice of a review panel or any procedure or process of a review panel, may be subject to judicial review by a court of the United States under chapter 7 of title 5, United States Code, or any other provision of law.

SEC. 206. SURVEY.

(a) IN GENERAL.—If a review panel makes a recommendation in any report submitted under section 204(a) that a survey should be conducted with respect to a significant rule, the agency shall contract with a private sector auditing firm or other survey-related organization to conduct a survey of a cross-section of the small businesses impacted by the rule.

(b) CONTENTS OF SURVEY.—Each survey conducted under this section shall address the impact of the significant rule on small businesses, including—

(1) the applicability of the rule to various small businesses;

(2) the degree to which the rule is easy to read and comprehend;

(3) the costs to implement the rule;

(4) any recordkeeping requirements imposed by the rule; and

(5) any other technical or general issues related to the rule.

(c) AVAILABILITY OF SURVEY RESULTS.—The results of each survey conducted under this section shall be made available—

(1) to each interested Federal agency; and

(2) upon request, to any other interested party, including organizations, individuals, State and local governments, and the Congress.

Subtitle B—Regulatory Ombudsmen

SEC. 211. SMALL BUSINESS AND AGRICULTURE OMBUDSMEN.

The Small Business Act (15 U.S.C. 631 et seq.) is amended—

(1) by redesignating section 30 as section 31; and

(2) by inserting after section 29 the following new section:

"SEC. 30. OVERSIGHT OF REGULATORY ENFORCEMENT.

"(a) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

"(1) BOARD.—The term 'Board' means a Small Business Regulatory Fairness Board established under subsection (c).

"(2) COVERED AGENCY.—The term 'covered agency' means any agency that, as of the date of enactment of the Comprehensive Regulatory Reform Act of 1995, has promulgated any rule for which a regulatory flexibility analysis was required under section 605 of title 5, United States Code, and any other agency that promulgates any such rule, as of the date of such promulgation.

"(3) OMBUDSMAN.—The term 'ombudsman' means a Regional Small Business and Agriculture Ombudsman designated under subsection (b).

"(4) REGION.—The term 'region' means any area for which the Administrator has established a regional office of the Administration pursuant to section 4(a).

"(5) RULE.—The term 'rule' has the same meaning as in section 601(2) of title 5, United States Code.

"(b) OMBUDSMAN.—

"(1) IN GENERAL.—Not later than 180 days after the date of enactment of the Comprehensive Regulatory Reform Act of 1995, the Administrator shall designate Regional Small Business and Agriculture Ombudsmen in accordance with this subsection.

"(2) DUTIES.—Each ombudsman designated under paragraph (1) shall—

"(A) on a confidential basis, solicit and receive comments from small business concerns regarding the enforcement activities of covered agencies;

"(B) based on comments received under subparagraph (A), annually assign and publish a small business responsiveness rating to each covered agency;

"(C) publish periodic reports compiling the comments received under subparagraph (A);

"(D) coordinate the activities of the Small Business Regulatory Fairness Board established under subsection (c); and

"(E) establish a toll-free telephone number to receive comments from small business concerns under subparagraph (A).".

SEC. 212. SMALL BUSINESS REGULATORY FAIRNESS BOARDS.

Section 30 of the Small Business Act (as added by section 211 of this Act) is amended by adding at the end the following new subsection:

"(c) SMALL BUSINESS REGULATORY FAIRNESS BOARDS.—

"(1) IN GENERAL.—Not later than 180 days after the date of enactment of the Comprehensive Regulatory Reform Act of 1995, the Administrator shall establish in each region a Small Business Regulatory Fairness Board in accordance with this subsection.

"(2) DUTIES.—Each Board established under paragraph (1) shall—

"(A) advise the ombudsman on matters of concern to small business concerns relating to the enforcement activities of covered agencies;

"(B) issue advisory findings and recommendations with respect to small business concerns;

"(C) review and approve, prior to publication—

"(i) each small business responsiveness rating assigned under subsection (b)(2)(B); and

"(ii) each periodic report prepared under subsection (b)(2)(C); and

"(D) prepare written opinions regarding the reasonableness and understandability of rules issued by covered agencies.

"(3) MEMBERSHIP.—Each Board shall consist of—

"(A) 1 member appointed by the President;

"(B) 1 member appointed by the Speaker of the House of Representatives;

"(C) 1 member appointed by the Minority Leader of the House of Representatives;

"(D) 1 member appointed by the Majority Leader of the Senate; and

"(E) 1 member appointed by the Minority Leader of the Senate.

"(4) PERIOD OF APPOINTMENT; VACANCIES.—

"(A) PERIOD OF APPOINTMENT.—

"(i) PRESIDENTIAL APPOINTEES.—Each member of the Board appointed under subparagraph (A) of paragraph (2) shall be appointed for a term of 3 years, except that the initial member appointed under such subparagraph shall be appointed for a term of 1 year.

"(ii) HOUSE OF REPRESENTATIVES APPOINTEES.—Each member of the Board appointed under subparagraph (B) or (C) of paragraph (2) shall be appointed for a term of 3 years, except that the initial members appointed under such subparagraphs shall each be appointed for a term of 2 years.

"(iii) Senate Appointees.—Each member of the Board appointed under subparagraph (D) or (E) of paragraph (2) shall be appointed for a term of 3 years.

"(B) Vacancies.—Any vacancy on the Board—

"(i) shall not affect the powers of the Board; and

"(ii) shall be filled in the same manner and under the same terms and conditions as the original appointment.

"(5) Chairperson.—The Board shall select a Chairperson from among the members of the Board.

"(6) Meetings.—

"(A) In general.—The Board shall meet at the call of the Chairperson.

"(B) Initial meeting.—Not later than 90 days after the date on which all members of the Board have been appointed, the Board shall hold its first meeting.

"(7) Quorum.—A majority of the members of the Board shall constitute a quorum for the conduct of business, but a lesser number may hold hearings.

"(8) Powers of the board.—

"(A) Hearings.—The Board or, at its direction, any subcommittee or member of the Board, may, for the purpose of carrying out the provisions of this section, hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Board determines to be appropriate.

"(B) Witness allowances and fees.—Section 1821 of title 28, United States Code, shall apply to witnesses requested to appear at any hearing of the Board. The per diem and mileage allowances for any witness shall be paid from funds available to pay the expenses of the Board.

"(C) Information from federal agencies.—Upon the request of the Chairperson, the Board may secure directly from the head of any Federal department or agency such information as the Board considers necessary to carry out this section.

"(D) Postal services.—The Board may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

"(E) Donations.—The Board may accept, use, and dispose of donations of services or property.

"(9) Board personnel matters.—

"(A) Compensation.—Members of the Board shall serve without compensation.

"(B) Travel expenses.—Members of the Board shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Board.".

SEC. 213. JUDICIAL REVIEW.

(a) Prohibition.—No action or inaction of a Regional Small Business and Agriculture Ombudsman or a Small Business Regulatory Fairness Board, including any recommendations or advice of a Regional Small Business and Agriculture Ombudsman or a Small Business Regulatory Fairness Board or any procedure or process of a Regional Small Business and Agriculture Ombudsman or a Small Business Regulatory Fairness Board, may be subject to judicial review by a court of the United States under chapter 7 of title 5, United States Code, or any other provision of law.

(b) Definitions.—For purposes of this section—

(1) the term "Regional Small Business and Agriculture Ombudsman" means any ombudsman designated under section 30(b) of the Small Business Act, as added by section 211 of this Act.

(2) the term "Small Business Regulatory Fairness Board" means any board established under section 30(c) of the Small Business Act, as added by section 212 of this Act.

BROWN AMENDMENT NO. 1534

(Ordered to lie on the table.)

Mr. BROWN submitted an amendment intended to be proposed by him to amendment No. 1487, proposed by Mr. Dole, supra; as follows:

At the appropriate place, insert the following:

SEC. . EXECUTIVE PREEMPTION OF STATE LAW.

(a) In General.—Chapter 5 of title 5, United States Code, is amended by inserting after section 559 the following new section:

"§ 560. Preemption of State law

"(a) No agency shall construe any authorization in a statute for the issuance of regulations as authorizing preemption of State law by rulemaking or other agency action, unless—

"(1) the statute expressly authorizes issuance of preemptive regulations;

"(2) there is clear and convincing evidence that the Congress intended to delegate to the agency the authority to issue regulations preempting State law; or

"(3) the agency concludes that the exercise of State authority directly conflicts with the exercise of Federal authority under the Federal statute.

"(b) Any regulatory preemption of State law shall be narrowly tailored to achieve the objectives of the statute pursuant to which the regulations are promulgated.

"(c) When an agency proposes to act through rulemaking or other agency action to preempt State law, the agency shall provide all affected States notice and an opportunity for appropriate participation in the proceedings.".

(b) Conforming Amendment.—The table of sections for chapter 5 of title 5, United States Code, is amended by adding after the item for section 559 the following:

"560. Preemption of State law.".

LAUTENBERG (AND OTHERS) AMENDMENT NO. 1535

Mr. LAUTENBERG (for himself, Mr. Baucus, Mr. Lieberman, Mr. Kerry, Mr. Bradley, Mrs. Boxer, Mr. Simon Mr. Kennedy, and Mr. Moynihan) proposed an amendment to amendment No. 1487 proposed by Mr. Dole to the bill, S. 343, supra; as follows:

On page 72, strike lines 1 through 15.

FEINGOLD AMENDMENT NO. 1536

Mr. FEINGOLD proposed an amendment to the amendment No. 1487 proposed by Mr. Dole to the bill, S. 343, supra; as follows:

At the appropriate place in the substitute amendment, add the following new section:

SEC. . EQUAL ACCESS TO JUSTICE REFORM.

(a) Short Title.—This section may be cited as the "Equal Access to Justice Reform Amendments of 1995".

(b) Award of Costs and Fees.—

(1) Administrative proceedings.—Section 504(a)(2) of title 5, United States Code, is amended by inserting after "(2)" the following: "At any time after the commencement of an adversary adjudication covered by this section, the adjudicative officer may ask a party to declare whether such party intends to seek an award of fees and expenses against the agency should it prevail."

(2) Judicial proceedings.—Section 2412(d)(1)(B) of title 28, United States Code, is amended by inserting after "(B)" the following: "At any time after the commencement of an adversary adjudication covered by this section, the court may ask a party to declare whether such party intends to seek an award of fees and expenses against the agency should it prevail.".

(c) Hourly Rate for Attorney Fees.—

(1) Administrative proceedings.—Section 504(b)(1)(A)(ii) of title 5, United States Code, is amended by striking out all beginning with "$75 per hour" and inserting in lieu thereof "$125 per hour unless the agency determines by regulation that an increase in the cost-of-living based on the date of final disposition justifies a higher fee.);".

(2) Judicial proceedings.—Section 2412(d)(2)(A)(ii) of title 28, United States Code, is amended by striking out all beginning with "$75 per hour" and inserting in lieu thereof "$125 per hour unless the court determines that an increase in the cost-of-living based on the date of final disposition justifies a higher fee.);".

(d) Payment From Agency Appropriations.—

(1) Administrative proceedings.—Section 504(d) of title 5, United States Code, is amended by adding at the end thereof the following: "Fees and expenses awarded under this subsection may not be paid from the claims and judgments account of the Treasury from funds appropriated pursuant to section 1304 of title 31.".

(2) Judicial proceedings.—Section 2412(d)(4) of title 28, United States Code, is amended by adding at the end thereof the following: "Fees and expenses awarded under this subsection may not be paid from the claims and judgments account of the Treasury from funds appropriated pursuant to section 1304 of title 31.".

(e) Offers of Settlement.—

(1) Administrative proceedings.—Section 504 of title 5, United States Code, is amended—

(A) by redesignating subsections (e) and (f) as subsections (f) and (g), respectively; and

(B) by inserting after subsection (d) the following new subsection:

"(e)(1) At any time after the filing of an application for fees and other expenses under this section, an agency from which a fee award is sought may serve upon the applicant an offer of settlement of the claims made in the application. If within 10 days after service of the offer the applicant serves written notice that the offer is accepted, either party may then file the offer and notice of acceptance together with proof of service thereof.

"(2) An offer not accepted shall be deemed withdrawn. The fact that an offer is made but not accepted shall not preclude a subsequent offer. If any award of fees and expenses for the merits of the proceeding finally obtained by the applicant is not more favorable than the offer, the applicant shall not be entitled to receive an award for attorneys' fees or other expenses incurred in relation to the application for fees and expenses after the date of the offer.".

(2) Judicial proceedings.—Section 2412 of title 28, United States Code, is amended—

(A) by redesignating subsections (e) and (f) as subsections (f) and (g), respectively; and

(B) by inserting after subsection (d) the following new subsection:

"(e)(1) At any time after the filing of an application for fees and other expenses under this section, an agency of the United States from which a fee award is sought may serve upon the applicant an offer of settlement of the claims made in the application. If within 10 days after service of the offer the applicant serves written notice that the offer is accepted, either party may then file the offer and notice of acceptance together with proof of service thereof.

"(2) An offer not accepted shall be deemed withdrawn. The fact that an offer is made but not accepted shall not preclude a subsequent offer. If any award of fees and expenses for the merits of the proceeding finally obtained by the applicant is not more favorable than the offer, the applicant shall not be entitled to receive an award for attorneys' fees or other expenses incurred in relation to the application for fees and expenses after the date of the offer.".

(f) ELIMINATION OF SUBSTANTIAL JUSTIFICATION STANDARD.—

(1) ADMINISTRATIVE PROCEEDINGS.—Section 504 of title 5, United States Code, is amended—

(A) in subsection (a)(1) by striking out all beginning with ", unless the adjudicative officer" through "expenses are sought"; and

(B) in subsection (a)(2) by striking out "The party shall also allege that the position of the agency was not substantially justified.".

(2) JUDICIAL PROCEEDINGS.—Section 2412(d) of title 28, United States Code, is amended—

(A) in paragraph (1)(A) by striking out ", unless the court finds that the position of the United States was substantially justified or that special circumstances make an award unjust";

(B) in paragraph (1)(B) by striking out "The party shall also allege that the position of the United States was not substantially justified. Whether or not the position of the United States was substantially justified shall be determined on the basis of the record (including the record with respect to the action or failure to act by the agency upon which the civil action is based) which is made in the civil action for which fees and other expenses are sought."; and

(C) in paragraph (3) by striking out", unless the court finds that during such adversary adjudication the position of the United States was substantially justified, or that special circumstances make an award unjust".

(g) REPORTS TO CONGRESS.—

(1) ADMINISTRATIVE PROCEEDINGS.—No later than 180 days after the date of the enactment of this Act, the Administrative Conference of the United States shall submit a report to the Congress—

(A) providing an analysis of the variations in the frequency of fee awards paid by specific Federal agencies under the provisions of section 504 of title 5, United States Code; and

(B) including recommendations for extending the application of such sections to other Federal agencies and administrative proceedings.

(2) JUDICIAL PROCEEDINGS.—No later than 180 days after the date of the enactment of this Act, the Department of Justice shall submit a report to the Congress—

(A) providing an analysis of the variations in the frequency of fee awards paid by specific Federal districts under the provisions of section 2412 of title 28, United States Code; and

(B) including recommendations for extending the application of such sections to other Federal judicial proceedings.

(h) EFFECTIVE DATE.—The provisions of this section and the amendments made by this Act shall take effect 30 days after the date of the enactment of this Act and shall apply only to an administrative complaint filed with a Federal agency or a civil action filed in a United States court on or after such date.

PRYOR (AND FEINGOLD) AMENDMENT NO. 1537

Mr. PRYOR (for himself and Mr. FEINGOLD) proposed an amendment to the amendment No. 1487 proposed by Mr. DOLE to the bill, S. 343, supra; as follows:

At the appropriate place in the substitute amendment, insert the following new section:

SEC. . CONFLICT OF INTEREST RELATING TO COST-BENEFIT ANALYSES AND RISK ASSESSMENTS.

(a) INFORMATION BEARING ON POSSIBLE CONFLICT OF INTEREST.—

(1) DEFINITION.—For purposes of this section, the term "contract" means any contract, agreement, or other arrangement, whether by competitive bid or negotiation, entered into with a Federal agency for any cost-benefit analysis or risk assessment under subchapter II or III of chapter 6 of title 5, United States Code (as added by section 4(a) of this Act). This section shall not apply to the provisions of section 633.

(2) IN GENERAL.—When an agency proposes to enter into a contract with a person or entity, such person shall provide to the agency before entering into such contract all relevant information, as determined by the agency, bearing on whether that person has a possible conflict of interest with respect to being able to render impartial, technically sound, or objective assistance or advice in light of other activities or relationships with other persons.

(3) SUBCONTRACTOR INFORMATION.—A person entering into a contract shall ensure, in accordance with regulations prescribed by the head of the agency, compliance with this section by any subcontractor (other than a supply subcontractor) of such person in the case of any subcontract of more than $10,000.

(b) REQUIRED FINDING THAT NO CONFLICT OF INTEREST EXISTS OR THAT CONFLICTS HAVE BEEN AVOIDED; MITIGATION OF CONFLICT WHEN CONFLICT IS UNAVOIDABLE.—

(1) IN GENERAL.—Subject to paragraph (2), the head of an agency shall not enter into any contract unless the agency head finds, after evaluating all information provided under subsection (a) and any other information otherwise made available that—

(A) it is unlikely that a conflict of interest would exist; or

(B) such conflict has been avoided after appropriate conditions have been included in such contract.

(2) EXCEPTION.—If the head of an agency determines that a conflict of interest exists and that such conflict of interest cannot be avoided by including appropriate conditions in the contract, the agency head may enter into such contract if the agency head—

(A) determines that it is in the best interests of the United States to enter into the contract; and

(B) includes appropriate conditions in such contract to mitigate such conflict.

(c) RULES AND REGULATIONS.—No later than 240 days after the date of the enactment of this Act, the Federal Acquisition Review Council shall publish rules for the implementation of this section, in accordance with section 553 of title 5, United States Code, without regard to subsection (a) of such section.

FEINGOLD (AND OTHERS) AMENDMENT NO. 1538

Mr. FEINGOLD (for himself, Mr. PRYOR, and Mr. SIMON) proposed an amendment to amendment No. 1487 proposed by Mr. DOLE to the bill S. 343, supra; as follows:

On page 57, strike out line 18 through line 25 and insert in lieu thereof the following:

"(B) may exclude any person with substantial and relevant expertise as a participant on the basis that such person has a potential financial interest in the outcome, or may include such person if such interest is fully disclosed to the agency, and the agency includes such disclosure as part of the record, unless the result of the review would have a direct and predictable effect on a substantial financial interest of such person."

HUTCHISON (AND OTHERS) AMENDMENT NO. 1539

Mrs. HUTCHISON (for herself, Mr. HEFLIN, Mr. HATCH, Mr. NICKLES, Mr. CRAIG, and Mr. LOTT) proposed an amendment to amendment No. 1487 proposed by Mr. DOLE to the bill S. 343, supra; as follows:

Insert at the appropriate place:

SECTION 709. AGENCY INTERPRETATIONS IN CIVIL AND CRIMINAL ACTIONS.

"(a) No civil or criminal penalty shall be imposed by a court, and no civil administrative penalty shall be imposed by an agency, for the violation of a rule—

"(1) if the court or agency, as appropriate, finds that the rule failed to give the defendant fair warning of the conduct that the rule prohibits or requires; or

"(2) if the court or agency, as appropriate, finds that the defendant—

"(A) reasonably in good faith determined, based upon the language of the rule published in the Federal Register, that the defendant was in compliance with, exempt from, or otherwise not subject to, the requirements of the rule; or

"(B) engaged in the conduct alleged to violate the rule in reliance upon a written statement issued by an appropriate agency official, or by an appropriate official of a State authority to which had been delegated responsibility for implementing or ensuring compliance with the rule, stating that the action complied with, or that the defendant was exempt from, or otherwise not subject to, the requirements of the rule.

"(b) In an action brought to impose a civil or criminal penalty for the violation of a rule, the court, or an agency, as appropriate, shall not give deference to any interpretation of such rule relied on by an agency in the action that had not been timely published in the Federal Register or communicated to the defendant by the method described in paragraph (a)(2)(B) in a timely manner by the agency, or by a state official described in paragraph (a)(2)(B), prior to the commencement of the alleged violation.

"(c) Except as provided in subsection (d), no agency shall bring any judicial or administrative action to impose a civil or criminal penalty based upon—

"(1) an interpretation of a statute, rule, guidance, agency statement of policy, or license requirement or condition, or

"(2) a written determination of fact made by an appropriate agency official, or state official as described in paragraph (a)(2)(B), after disclosure of the material facts at the time and appropriate review,

if such interpretation or determination is materially different from a prior interpretation or determination made by the agency or the state official described in (a)(2)(B), and if such person, having taken into account all information that was reasonably available at the time of the original interpretation or determination, reasonably relied in good faith upon the prior interpretation or determination.

"(d) Nothing in this section shall be construed to preclude an agency:

"(1) From revising a rule or changing its interpretation of a rule in accordance with sections 552 and 553 of this title, and, subject to the provisions of this section, prospectively enforcing the requirements of such rule as revised or reinterpreted and imposing or seeking a civil or criminal penalty for any subsequent violation of such rule as revised or reinterpreted.

"(2) From making a new determination of fact, and based upon such determination, prospectively applying a particular legal requirement;

"(e) This section shall apply to any action for which a final unappealable judicial order has not been issued prior to the effective date.

GLENN (AND LEVIN) AMENDMENT NO. 1540

Mr. GLENN (for himself and Mr. Levin) proposed an amendment to amendment No. 1487 proposed by Mr. Dole to the bill S. 343, supra; as follows:

On page 66, after line 15, insert:

"SEC. 643. PUBLIC DISCLOSURE OF INFORMATION.

"(a) OMB Responsibility.—The Director or other designated officer to whom authority is delegated under section 642, in carrying out the provisions of such 641, shall establish procedures (covering all employees of the Director or other designated officer) to provide public and agency access to information concerning regulatory review actions, including—

"(1) disclosure to the public on an ongoing basis of information regarding the status of regulatory actions undergoing review;

"(2) disclosure to the public, no later than publication of, or other substantive notice to the public concerning a regulatory action, of—

"(A) all written communications, regardless of form or format, including drafts of all proposals and associated analyses, between the Director or other designated officer and the regulatory agency;

"(B) all written communications, regardless of form or format, between the Director or other designated officer and any person not employed by the executive branch of the Federal Government relating to the substance of a regulatory action;

"(C) a record of all oral communications relating to the substance of a regulatory action between the Director or other designated officer and any person not employed by the executive branch of the Federal Government; and

"(D) a written explanation of any review action and the date of such action; and

"(3) disclosure to the regulatory agency, on a timely basis, of—

"(A) all written communications between the Director or other designated officer and any person who is not employed by the executive branch of the Federal Government;

"(B) a record of all oral communications, and an invitation to participate in meetings, relating to the substance of a regulatory action between the Director or other designated officer and any person not employed by the executive branch of the Federal Government; and

"(C) a written explanation of any review action taken concerning an agency regulatory action.

"(b) Agency Responsibility.—The head of each agency shall—

"(1) disclose to the public the identification of any regulatory action undergoing review under this section and the date upon which such action was submitted for such review; and

"(2) describe in any applicable rulemaking notice the results of any review under this section, including an explanation of any significant changes made to the regulatory action as a consequence of the review.

On page 66, line 16, strike "643" and insert in lieu thereof "644".

On page 67, line 1, strike "644" and insert in lieu thereof "645".

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet at 9:30 a.m. on Thursday, July 13, 1995, in closed session, to receive a briefing on the recent F-16 shoot-down in Bosnia.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Thursday, July 13, 1995, to conduct a hearing on the dollar coin.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. HATCH. Mr. President, I ask unanimous consent that the Finance Committee be permitted to meet on Thursday, July 13, 1995, beginning at 9:30 a.m. in room SD-215, to conduct a hearing on Medicaid.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, July 13, 1995, at 10 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON INDIAN AFFAIRS

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Thursday, July 13, 1995, beginning at 9:30 a.m., in room 485 of the Russell Senate Office Building on S. 479, a bill to provide for administrative procedures to extend Federal recognition to certain Indian groups.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON SMALL BUSINESS

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on Small Business be authorized to meet during the session of the Senate on Thursday, July 13, 1995, at 9:30 a.m., in room 428A, Russell Senate Office Building, to conduct a hearing focusing on the Small Business Investment Company Program.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON SMALL BUSINESS

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on Small Business be authorized to meet during the session of the Senate on Thursday, July 13, 1995, at 9:30 a.m., in room 428A, Russell Senate Office Building, to conduct a markup on legislation which is pending in the committee.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON AGING

Mr. HATCH. Mr. President, I ask unanimous consent that the Subcommittee on Aging of the Committee on Labor and Human Resources be authorized to meet for a hearing on aging Americans access to medical technology, during the session of the Senate on Thursday, July 13, 1995, at 9:30 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON DRINKING WATER, FISHERIES, AND WILDLIFE

Mr. HATCH. Mr. President, I ask unanimous consent that the Subcommittee on Drinking Water, Fisheries, and Wildlife be granted permission to conduct a hearing Thursday, July 13, at 9 a.m., on reauthorization of the Endangered Species Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON FORESTS AND PUBLIC LAND MANAGEMENT

Mr. HATCH. Mr. President, I ask unanimous consent that the Subcommittee on Forests and Public Land Management of the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Thursday, July 13, 1995, for purposes of conducting a subcommittee hearing which is scheduled to begin at 9:30 a.m. The purpose of this hearing is to receive testimony on S. 882, to designate certain public lands in the State of Utah as wilderness, and for other purposes.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON NEAR EASTERN AND SOUTH ASIAN AFFAIRS

Mr. HATCH. Mr. President, I ask unanimous consent that the Near Eastern and South Asian Affairs Subcommittee of the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, July 13, 1995, at 2 p.m. to hear testimony on economic development and U.S. assistance in Gaza/Jerico.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE

Mr. HATCH. Mr. President, I ask unanimous consent that the Subcommittee on Transportation and Infrastructure be granted permission to conduct an oversight hearing Thursday, July 13, at 2 p.m., on pending GSA building prospectuses, GSA Public Buildings Service cost-savings issues, and S. 1005, the Public Buildings Reform Act of 1995.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

CIVILIAN RADIO ACTIVE WASTE MANAGEMENT PROGRAM

• Mr. MURKOWSKI. Mr. President, the Secretary of Energy has transmitted to the Senate legislation to amend the Nuclear Waste Policy Act of 1982 to create a new funding approach for the Department of Energy's civilian radioactive waste management program. This program was created to meet the Department's obligation under the NWPA to provide for the disposal of spent civilian nuclear fuel in a permanent geologic repository by 1998.

To fund the program, the NWPA requires DOE to collect a fee of one mill per kilowatt hour on electricity generated by nuclear energy. The fee is collected by utilities from their ratepayers in their monthly bills and placed into a special nuclear waste fund in the Treasury. The fund receives approximately $600 million per year from collections and interest. To date, approximately $9 billion in fees and interest has been placed in the fund.

Although the nuclear waste fund has a balance of about $4.9 billion that was collected from ratepayers for precisely this purpose, the money is considered to be on-budget, and as such, is subject to discretionary spending caps under Gramm-Rudman-Hollings. Thus, any increases over past spending levels will require spending reductions in other DOE programs under the spending cap. As a part of the DOE fiscal year 1995 budget request, DOE proposed that future contributions to the nuclear waste fund be set aside in a special off-budget fund for the program, with one-half of those funds available as a permanent appropriation each year. This proposal, which would have required legislative action, was not adopted by the Congress. Instead, increased funding for the program was provided under DOE's discretionary spending caps. In its fiscal year 1996 budget request, DOE has proposed again that a mandatory appropriation be established from the nuclear waste fund of $431.6 million per year. The legislation proposed by DOE would be necessary to effectuate that change.

I believe that this legislation has no chance of success. There is strong opposition to taking the waste fund off budget for a variety of reasons. First in my mind is the limitation on budgetary oversight that would result from such an arrangement. Although DOE will have spent over $4.2 billion through the first quarter of fiscal year 1995 on the program, DOE has conceded that the 1998 deadline for the acceptance of spent nuclear fuel will not be met. Both the Nuclear Waste Technical Review Board and the General Accounting Office have issued reports that are critical of the management of the Yucca Mountain program. Although DOE has recently made progress in improving the management of the program, in the past, overhead has consumed 56 percent of the funding for site characterization.

What is needed is more oversight and involvement by the Congress, not less. The Committee on Energy and Natural Resources is considering legislation that would alter the structure of the NWPA and DOE's program, with the goal of providing for the more efficient use of the ratepayer's money. Funding and oversight issues will be considered in the context of that legislation. Therefore, although I am not introducing this bill as legislation, I am acknowledging receipt of the administration's proposal and request that it be printed in the RECORD.

The material follows;

PROPOSED LEGISLATION

A bill to provide additional flexibility for the Department of Energy's program for the disposal of spent nuclear fuel and high level radioactive waste, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Nuclear Waste Disposal Funding Act".

SEC. 2. NUCLEAR WASTE FUND AVAILABILITY.

Section 302 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222) is amended by inserting the following after subsection (e):

"(f) NUCLEAR WASTE FUND AVAILABILITY.—(1) If the condition in subsection (g)(2) is met, the net proceeds from the sale of the U.S. Enrichment Corporation which are deposited in a special fund in the Treasury under subsection (g)(1) may be used by the Department for radioactive waste disposal activities under this Act. No more than the following amounts shall be made available in the fiscal year specified—

"(A) for fiscal year 1996, $431,600,000;

"(B) for fiscal year 1997, $540,000,000; and

"(C) for fiscal year 1998, $627,400,000.

The net proceeds are the revenues derived from the sale of U.S. Enrichment Corporation stock, based upon its sales price less cash payments to the purchasers and less the value assigned to highly enriched and natural uranium transferred from the Department to U.S. Enrichment Corporation after February 1, 1995, as specified in the stock offering prospectus of the U.S. Enrichment Corporation. In determining net proceeds, the cash and the value of highly enriched uranium shall be prorated in proportion to the amount of stock that is sold to non-Federal entities.

"(2) In addition to the amounts in paragraph (1), amounts deposited in the Nuclear Waste Fund in fiscal years 1996, 1997, and 1998 resulting from any increase in the fee established under this section shall be available to the Department for expenditure for radioactive waste disposal activities under this Act.

"(3) Amounts available under this subsection shall remain available until expended, without further appropriation but within any specific directives and limitations included in appropriations Acts. Amounts for radioactive waste disposal activities shall be included in the annual budget submitted to Congress for Nuclear Waste Disposal Fund activities.

"(g) OFFSETS.—(1) The net proceeds from the sale of all stock of the U.S. Enrichment Corporation shall be deposited in a special fund in the Treasury and be available for the purposes specified in subsection (f).

"(2) If the President so designates, the net proceeds shall be included in the budget baseline required by the Balanced Budget and Emergency Deficit Control Act of 1985 and shall be counted for the purposes of section 252 of that Act as an offset to direct spending, notwithstanding section 257(e) of that Act.".•

WHY BALANCE THE FEDERAL BUDGET?

• Mr. SIMON. Mr. President, some may wonder, why is anyone still talking about the budget when the budget has been adopted?

The reality is that until we act on reconciliation and appropriations, we are still a long way from getting our budget problems resolved.

In addition, without a constitutional amendment requiring a balanced budget, I believe the political pressure will mount to cause us to move away from the direction of a balanced budget. That has been our experience in the past. Legislative answers, such as Gramm-Rudman-Hollings, which I voted for, hold up until they become too politically awkward. And any real move on the budget deficit eventually does become politically awkward.

My reason for mentioning all this is that in the midst of the struggle on the budget, I did not get a chance to read carefully the Zero Deficit Plan put out by the Concord Coalition, headed by two of our former colleagues, Senator Warren Rudman and Senator Paul Tsongas.

It is an impressive document. Each of us could probably make some adjustments, but the staff and officers of the

Concord Coalition should take great pride in their solid contribution. The executive director of the Concord Coalition is Martha Phillips, formerly on the staff of the House Budget Committee, and the president is Peter G. Peterson, the former Secretary of Commerce.

The other officers are:

Lloyd Cutler, secretary and treasurer; Dr. John P. White, vice chair, issues committee; Eugene M. Freedman, vice chair, finance committee; David Sawyer, vice chair, public relations; Roger E. Brinner, vice chair; Hon. Maria Cantwell, vice chair; Dr. John W. Gardner, vice chair; Dr. Hanna Holborn Gray, vice chair; Hon. William H. Gray III, vice chair; Dr. George N. Hatsopoulos, vice chair; Hon. Barbara Jordan, vice chair; Harvey M. Meyerhoff, vice chair; Hon. Timothy J. Penny, vice chair; Joseph M. Segel, vice chair; and Paul Volcker, vice chair.

In the introduction to their proposal, they have a statement that responds to the question "Why Balance the Federal Budget?" I ask that the statement be printed in the RECORD.

The statement follows:

WHY BALANCE THE FEDERAL BUDGET?

The Zero Deficit Plan is a plan for our economic future. The goal is to assure a more secure, prosperous future for us and our children.

We are not seeking to balance the budget for its own sake. Reducing government spending and increasing taxes means short-term sacrifice. This can only be justified by the long-term economic benefits that will flow from putting our fiscal house in order.

Eliminating the deficit will help put the nation back on the path to lasting prosperity and to a rising standard of living in the next century. That larger goal cannot be achieved as long as the nation continues to run large budget deficits in good times and bad, year in and year out.

A balanced budget and the nation's economic future are directly linked. There is a tie between budget deficits today and what we can enjoy tomorrow:

Because there are only so many hours in each day, the principal way in which Americans can increase their standard of living is for each worker to become more productive: workers must produce more and better goods and services for each hour worked.

For workers to become more productive, investments must be made in education and training; in modernized plants, equipment, and productive techniques; in new discoveries and innovations; and in transportation, communications, and other infrastructure.

To make these investments, there must be a pool of savings that can be used for this purpose. Historically, the United States has had a particularly low rate of private savings, but, what is worse, the federal government's deficit is financed by soaking up most of the savings we do manage to put away. When the government spends more money than it has, it borrows the rest. Most of the money borrowed comes from private savings.

Only if the government stops using up private savings will the money be available for investment. Balancing the federal budget will free up the nation's savings for investments that would increase our productivity, create good jobs, and raise our standard of living.

The declining trend in what Americans produce for each hour worked illustrates how serious a problem this has become. From 1946 to 1973, what Americans produced for each hour of work increased 2.9 percent each year. From 1974 to 1994, the increase was only 1.1 percent a year. If productivity had improved as rapidly in the past two decades as it had in the previous three, the median annual family income today would be over $50,500, instead of the $35,000 it is. That $15,500-a-year gap is related to our large federal deficit. But because we never had the $15,500, we don't miss it in the same way we would if we had first enjoyed the income and then given it up. As long as incomes continue to creep up even slightly from one year to the next, the cumulative shortfalls in income remains largely hidden from public indignation.

Solving the deficit problem does not automatically guarantee a rosy economic future. Other developments are needed to complement a balanced budget: reduced consumption, increased savings and investment, improved productivity, education, inflation and interest rates at desirable levels, and a favorable worldwide economic climate. But unless we get our deficit problem behind us, we will remain unable to take advantage of these other necessary economic ingredients.

We cannot ignore the consequences of deficits much longer. Growing commitments made by one generation to the next cannot be honored on empty pocketbooks. A stagnant long-term economy cannot support retirement payments, medical care, and all the other benefits and services we would like. And it cannot support economic opportunity for today's youth to live as well as their parents' generation.

Massive federal budget deficits threaten our economy in other ways as well. They increase the likelihood of reigniting inflation by putting pressure on the government simply to print more money to pay off its debt. The more dollars are printed, the less each dollar in your wallet is worth.

As foreign ownership of our resources has grown, so has our dependence on the actions of foreign investors and governments. These entities have come to own more and more of our productive capacity. In addition, foreign investors have bought up almost 20 percent of our government's recently issued debt. As foreign holding of U.S. debt grows, so will U.S. interest payments to foreign nationals.

Huge, continual deficits strangle the ability of even a nation as rich as ours to respond when emergencies arise or when new opportunities or problems emerge, including recession. With our government deep in debt and continuing to run huge deficits, we remain unable to shoulder new responsibilities.

HOW LARGE ARE OUR ANNUAL DEFICITS AND ACCUMULATED NATIONAL DEBT?

In 1994, our government spent $203 billion more than it raised in taxes. That deficit amounts to $780 for every single American, or $3,120 for each family of four. That is the sum your government borrowed on your behalf last year, whether you wanted it to or not.

The $203 billion deficit was equal to 14 percent of federal spending. For every dollar the government spent, 14 cents was borrowed.

The $203 billion deficit was for all government operations in 1994. It included the $57 billion 1994 surplus in the Social Security Trust Fund., and a $1 billion deficit in the Postal Service. This means that all other government spending exceeded other revenues by $259 billion.

Our national debt, the net accumulation of all of the annual deficits we have run and all the money we have borrowed from government trust funds, stood at $4.8 trillion in May 1995. That is $18,460 for every single American, or $73,840 for each family of four.

The $4.8 trillion debt is equal to 67 percent of our national economic output in 1995 (called the gross domestic product, or GDP). If every American worked from January 1 through September 1 and paid all of his or her earnings to the federal government and spent nothing on food, clothing, shelter, or anything else, the public debt would still not quite be paid off.

Some people say there is no line-item in the federal budget labeled "waste, fraud, and abuse." But, in a way, there is. It is called interest on the national debt, and last year it cost our government $203 billion. We spent more on interest than we spent on the entire U.S. military and almost as much as we spent on Social Security. What did we get for it? Nothing—not a single Social Security check, military aircraft or mile of highway—not even a single school lunch.

Because annual interest payments on the debt are so large, our government is actually borrowing just to pay interest. It is as if we were running up our MasterCard to pay off our debt to Visa, knowing that next year we will have to borrow even more from American Express to keep the game going.

HOW DID WE ACCUMULATE A $5 TRILLION NATIONAL DEBT?

Our Nation was born in debt, a consequence of the high cost of fighting the Revolutionary War. Our first president, George Washington, adopted the practice of running generally balanced budgets. President Thomas Jefferson went one step further, pledging the nation to the goal of paying off its debt within one generation. All subsequent administrations for more than the next century and a half following the founders' lead: running infrequent deficits during most wars and deep recessions, and building surpluses to pay down the national debt in times of peace and relative prosperity.

The Great Depression of the 1930s led to large deficits when government revenues fell dramatically due to the high number of people out of work, who were no longer paying income taxes. Following on the heels of the depression, World War II required still greater borrowing to mobilize 16 million American troops to fight in Europe and Asia.

In the early postwar period, the Truman and Eisenhower administrations and the Congresses with which they worked roughly balanced the budget. Each president presided over three surpluses and five deficits. As the economy boomed, the national debt fell as a percentage of GDP.

However, during the 1960s and 1970s, the government began to run deficits continuously. The debt grew slowly and steadily, and by 1980 it was almost $1 trillion. By the beginning of 1993, it had exploded to $4 trillion. And, despite enactment of President Clinton's deficit reduction legislation in 1993, the debt will reach the $5 trillion level by the end of 1995. Since 1980, our debt has grown far more quickly than our economy. Today, the debt is a much greater percentage of GDP than it has been since the 1950s. The 1980s marked the first peace-time economic expansion during which the debt grew faster than the economy.

Who is to blame for amassing such debt in times of peace and relative prosperity, a debt that would have shamed our nation's founders? All of us. Presidents Reagan, Bush and Clinton, as well a secession of Congresses, resisted spending cuts and tax increases of the magnitude needed to balance the budget. And voters supported candidates of both parties who kept telling us what we wanted to hear instead of what we needed to hear.

TWO VISIONS OF THE FUTURE

WHAT HAPPENS IF WE DO NOTHING?

If we ignore our mounting debt, if we just wish it would go away and do nothing about it, it will grow and grow like a cancer that will eventually overwhelm our economy and our society. The interest we owe on the debt will skyrocket. We will continue our vicious cycle of having to raise taxes, cut spending, and borrow more and more and more to pay interest upon interest. Our productivity growth will remain stagnant; more of our workers will have to settle for low-paying jobs; and our economy will continue its anemic growth. America will decline as a world power.

Sometime early in the next century, we will have to confront in the fundamental truth that low productivity and slow economic growth have failed to generate enough goods and services to satisfy all of our demands. Working people will be required to pay an ever larger share of their earnings to support a growing retired population and to pay the exploding interest on the debt that the older generation accumulated. Eventually, working people will refuse to submit to the crushing burden forced upon them by their elders. They will vote for leaders who will slash entitlement programs, even on the truly needy, rather than raise taxes still further. Millions of elderly people who thought that they could count on their retirement benefits will find that the resources are not there to meet their needs. There will be a generational conflict pitting American against American, child against parent, in a way that our nation has not seen before.

WHAT HAPPENS IF WE INSTEAD BALANCE THE BUDGET?

We could, on the other hand, do the right thing: we could refuse to let our leaders continually borrow and spend and borrow and spend; insist that they stop wasting our money and our children's money on programs that do not work and on entitlement payments for the well-off who do not need them; insist that what spending is done is paid for now, out of current taxation. If we do this, our deficits will disappear; our debt will shrink; our interest payments will become more and more manageable; our businesses will invest; our economy will renew its rapid growth of earlier years; and more of our people will find employment in higher-paying jobs. Our society will continue to flourish, and the American dream will be restored to our children and to our children's children.

DO WE HAVE TO START NOW?

Yes. Every year we delay deficit elimination, the problem gets worse. And every year we muddle through with halfway measures, we slip deeper into debt. Even a smaller deficit adds to our mounting national debt and pushes up interest payments.

Some argue that the economy is headed into recession and that this is the wrong time to launch a serious deficit reduction campaign. the same voices were heard opposing deficit reduction in 1993, when the economy was recovering from a severe recession, and opposing a serious run at the deficit in 1994 because an election was approaching. There will always be excuses for postponing the tough choices required to balance the budget. But until we get control over our deficits and our debt, we will not control our economic destiny.

Mr. SIMON. Then, they outline their principles for the deficit elimination.

Those principles strike me as being eminently sound. It is of no small significance that they do not ask for a tax cut.

Why both political parties are so enamored of a tax cut when we have this huge deficit simply defies all logic.

I ask to have printed in the RECORD their principles of deficit elimination at this point.

The material follows:

WHAT ARE OUR PRINCIPLES FOR DEFICIT ELIMINATION?

From the experience of past deficit reduction attempts, the views of our members, and the economic needs of the country, we have derived the following principles for deficit elimination:

1. Balance the budget by the year 2002, and aim for a surplus thereafter.
2. Distribute short-term sacrifice fairly and equitably among Americans of all ages and income groups, except for the very poor.
3. Enact policy changes right away, but phase them in gradually to accomplish steady deficit reduction while minimizing short-term economic dislocations.
4. Cut defense spending prudently, according to a realistic assessment of the military capability needed to counter threats to our national security today and in the foreseeable future.
5. Control entitlement growth.
6. Contain mounting health care costs.
7. Keep revenue increases to a minimum, but if revenues must rise, the increase should come from energy, luxury, and alcohol and tobacco taxes.
8. Enforce deficit elimination with credible mechanisms, including a balanced budget amendment to the Constitution.
9. Avoid gimmicks. Use conservative economic projections.
10. Attract and deserve broad public support with a sound, realistic deficit elimination plan.

Mr. SIMON. Finally, I simply want to commend the Concord Coalition, again, for a very constructive effort. I believe that their program is more solid than the one adopted and, particularly if combined with a balanced budget constitutional amendment, could really move our Nation in the direction that we ought to go.•

TRIBUTE TO THE ANTIOCHIAN ORTHODOX CHRISTIAN ARCHDIOCESE OF NORTH AMERICA

• Mr. ABRAHAM. Mr. President, I rise today with great pleasure and honor to extend my heartfelt congratulations to the Antiochian Orthodox Christian Archdiocese of North America, and the Most Reverend Metropolitan Philip Saliba, primate, in celebration of their 42d Antiochian Archdiocese Convention. As one of the three Orthodox Christian members of the U.S. Senate, it is a privilege for me to highlight this wonderful convention on the floor of the U.S. Senate.

The convention, held from July 24 through July 30, 1995 in Atlanta, GA, marks a biennial effort to bring together the almost six million Antiochian Orthodox Christians from all over this Nation. This year's convention deserves special praise since it marks the 100-year anniversary of the Antiochian Christian Orthodox Archdiocese in North America. The convention is an opportunity for Orthodox Christians to come together as a community and to provide one another with spiritual guidance and support.

Over the years the Orthodox faith has been a source of enormous strength for those of us who worship in this church. The spirit of community evident in the faith provides strength to its followers and serves as the foundation upon which a family can base its values.

I ask my colleagues to join me in saluting this extraordinary congregation and in extending to it our warmest congratulations.•

TRIBUTE TO THE ASSOCIATION FOR THE ADVANCEMENT OF THE BLIND AND RETARDED

• Mr. MOYNIHAN. Mr. President, I rise today to pay tribute to a most significant organization, the Association for the Advancement of the Blind and the Retarded [AABR].

Based in Jamaica, NY, the AABR is a private organization committed to enhancing the quality of life for our developmentally disabled citizens. For four decades they have been a leader in helping disabled individuals live a more fulfilling, dignified, and independent life. The AABR's professional and paraprofessional staff members are trained in the latest advances and methods of instruction for aiding adults and young adults with multiple handicaps.

Through the operation of intermediate care facilities and community residences, the AABR offers communal settings for young disabled adults to live, work and recreate together under the supervision of an expert staff. As well, the AABR operates day treatment centers, family services, recreation programs, a vacation retreat, and education programs throughout New York City. Their successes are truly inspirational.

AABR's significant accomplishments over the years have won the praise and support of the private sector. And on July 31 of this year the Metropolitan Club Managers Association [MCMA] of New York continues their support by hosting its 22d annual charity golf and tennis tournament and dinner dance to benefit AABR's handicapped youth. The encouragement and support provided by MCMA is indeed noteworthy and sets a glowing example for others to follow.

I ask my colleagues to join me in extending great good wishes for an enjoyable event and much continued success to AABR, MCMA, and all those involved in this most worthwhile cause.•

RICK URAY: FRIEND TO SOUTH CAROLINA BROADCASTERS

• Mr. HOLLINGS. Mr. President, let me take this opportunity to congratulate Prof. Richard Uray of the University of South Carolina College of Journalism and Mass Communication for being inducted last week into the South Carolina Broadcasting Association's Hall of Fame.

Rick's public induction signals what we've all known for a long time—that he is one of the most dedicated broadcasting professionals that South Carolina has ever had. We have known privately for years that he ranks up there with the likes of John Rivers, Walter Brown, Henry Cauthen, Betty Roper, Joe Wilder, Bill Saunders, and Dick Laughridge, among others. Now, everyone in the State will know.

Rick Uray has been teaching and influencing the lives of broadcasters for more than 40 years. After receiving degrees from Kent State University and the University of Houston, he came to South Carolina during the year in which I was first elected to the Senate. That year, 1966, he became the chairman of the broadcasting sequence at the USC College of Journalism and began teaching the art of broadcasting to hundreds of South Carolina's best students. Also in 1966, Rick started a 30-year link with the South Carolina Broadcasting Association when he became the organization's executive manager.

Mr. President, as the leader of the SCBA, Rick Uray has been a testament to true professionalism. His calm dedication and energy made him a model for two generations of broadcasters. And while he'll retire from the university and SCBA at the end of the year, he'll leave a legacy that any college freshman should be proud to emulate.

Mr. President, I appreciate this opportunity to recognize the warmth, energy and lifelong commitment of Dr. Richard Uray. He is a true friend to South Carolina's broadcasting community. Let us wish him a happy retirement and many more years to come.•

HONORING THE 100TH BIRTHDAY OF FRANCES WILHELMINE GODEJOHN

• Mr. ASHCROFT. Mr. President, today I am pleased to honor a woman who has distinguished herself in her lifetime. Frances Wilhelmine Godejohn will celebrate her 100th birthday on July 26. Born and raised in St. Louis, MO, she comes from a colorful heritage and represents a wonderful example of someone who worked long and hard to support herself, living a life of honesty and probity. She is a devout Christian.

Frances Wilhelmine Godejohn was born in St. Louis, MO, on July 26, 1895. Her father, William Mathias Godejohn, was born in Washington, MO, in 1859. Prior to settling in St. Louis, he worked on a railroad construction project in New Mexico where he was shot by Indians, visited Yellowstone before it became a national park, and homesteaded in Montana. Her mother, Mary Elise Dallmeyer, was born in Gasconade County, MO. Both William and Mary's fathers were born in Germany.

Frances Godejohn completed the eighth grade in 1909, then went to Rubicam Business School, where she graduated in 1911. She began a career as a legal secretary that lasted until her retirement in 1972. Primarily, she worked for William H. Allen, first when he was an attorney, then when he served as a judge on the St. Louis Court of Appeals from 1915 to 1927, then again when he was a lawyer until his death in 1952.

Frances Godejohn worked in the corporate headquarters for Pevely Dairy from 1952 to 1960, when she formally retired. Not content in retirement, she resumed work as a legal secretary, first for David Campbell, until he died, and then for Edmund Albrecht. She finally retired in 1972, after breaking her leg while getting off the bus on her way to work.

Still spry and alert, Frances Godejohn regularly attends the Presbyterian Church, reads, follows the St. Louis Cardinals, corresponds with her many relatives and is a source of inspiration to all who know her.•

THE FORGOTTEN GENOCIDE

• Mr. SIMON. Mr. President, recently, I was pleased to note an article in the magazine, the Jerusalem Report, a magazine whose quality of reporting I have come to appreciate. The article concerns the Armenian genocide.

Titled "The Forgotten Genocide," the article deals not only with the genocide but the delicate matter of relations between Israel and Turkey.

It is a frank but sensitive discussion of the problems that have been faced by a people who, in many ways, had an experience similar to the Jewish experience.

I am pleased The Jerusalem Report has published this article by Yossi Klein Halevi, and I hope it is the first of many steps to bring about a closer relationship between Israel and Armenia. I also add the strong hope that the relationship between Armenia and Turkey can improve because both countries can benefit from that improvement.

I ask that the article be printed in the RECORD.

The article follows:

THE FORGOTTEN GENOCIDE

(By Yossi Klein Halevi)

Every night at 10 o'clock, the massive iron doors of the walled Armenian compound in Jerusalem's Old City are shut. Any of the compound's 1,000 residents who plan to return home from the outside world past that time must get permission from the priest on duty. The nightly ritual of self-incarceration is in deference to the monastery, located in the midst of the compound's maze of low arched passageways and stone apartments with barred windows.

Yet the seclusion is also symbolically appropriate: Jerusalem's Armenians are consecrated to historical memory, sealed off in a hidden wound. Every year, on April 24—the date commemorating the systematic Turkish slaughter in 1915 of 1.5 million Armenians, over a third of the total Armenian nation, many of them drowned, beheaded, or starved on desert death marches—the trauma is publicly released, only to disappear again behind the compound's iron doors.

The genocide remains the emotional centerpoint of the "Armenian village," as residents call the compound. In its combined elementary and high school hang photos of 1915: Turkish soldiers posing beside severed heads, starving children with swollen stomachs. On another wall are drawings of ancient Armenian warriors slashing enemies, the compensatory fantasies of a defeated people.

While elders invoke the trauma with more visible passion, young people seem no less possessed. "There is a sadness with me always," says George Kavorkian, a Hebrew University economics student.

In a large room with vaulted ceilings and walls stained by dampness, 89-year-old Sarkis Vartanian assembles old-fashioned pieces of metal type, from which he prints Armenian-language calendars on a hand press. Vartanian is one of Jerusalem's last survivors of the genocide. Though the community has a modern press, it continues to maintain his archaic shop, so that he can remain productive.

Vartanian tells his story without visible emotion. In 1915, he was living in a Greek-sponsored orphanage in eastern Turkey. Police would come every day and ask who among the children wanted to go for a boat ride. Vartanian noticed that none of those who'd gone ever returned. One day, strolling on the beach, he saw bodies. He fled the country, and made his way with a relative to Jerusalem, joining its centuries-old Armenian community.

When he finishes speaking of 1915, he relates some humorous details of his life, a man seemingly at peace with his past. But suddenly, without warning, he begins to sob. For minutes he stands bent with grief. Then, just as abruptly, he turns to the dusty boxes of black metal letters and carefully assembles a line of type.

Even more than grief, Armenians today are driven by grievance: outrage at Turkey's refusal to admit its crime, let alone offer compensation. Though there has been some international recognition of the genocide, a vigorous Turkish public-relations campaign claiming the genocide is a myth has created doubts. The Turks insist that the numbers of Armenian dead have been exaggerated, that no organized slaughter occurred, and that those who did die perished from wartime hardships—the very arguments used by Holocaust "revisionists," notes Dr. Ya'ir Oron, author of a just-published book tracing Israeli attitudes to the Armenian genocide.

Perhaps the most forceful rebuttal to Turkish denial came from the former U.S. ambassador to Turkey, Henry Morgenthau, an eyewitness to the massacres, who wrote in 1917: "The whole history of the human race contains no such horrible episode as this." Despite the overwhelming number of similar eyewitness testimonies, the Armenians must continually prove that their mourning is justified.

Many of Israel's 4,000 Armenians—who live in Haifa and Jaffa as well as in parts of the Old City's Armenian Quarter just outside the monastery compound—feel an almost pathetic gratitude to those Jews who acknowledge them as fellow sufferers. One afternoon, George Hintlian, an Armenian cultural historian, took me to the obelisk memorial in Mt. Zion's Armenian cemetery. I laid a small stone on the memorial, the Jewish sign of respect for the dead. "Thank you," said Hintlian with emotion, as though I'd performed some unusual act of kindess.

While historians attribute the genocide to Turkish fears of Armenian secession from the Ottoman empire, Armenians themselves say the Turks were jealous of their commercial and intellectual success. We're just like the Jews, they say. Indeed, Armenians see the Jewish experience as a natural context for their own self-understanding. They envy the recognition our suffering has earned; they even envy us for having been killed by Germans who, unlike Turks, have at least admitted their crimes and offered compensation.

Like the Jews, say Armenians, they too are a people whose national identity is bound up with religion, whose members are scattered in a vast Diaspora and whose homeland—politically independent since 1991 but economically dependent on neighboring Turkey—is surrounded by hostile Muslim states. And while some Armenians sympathize with the Palestinians, others privately concede their fear of Muslim fundamentalism.

But for all their affinity with the Jews, Armenians are deeply wounded by Israel's refusal to recognize the genocide—a result, says Oron, of Turkish pressure. Israel looks to Turkey as an ally against Muslim extremism, and owes it a debt for allowing Syrian Jews to escape across its territory in the 1980s. And so no government wreath has ever been laid at the Mt. Zion memorial. And Israel TV has repeatedly banned a documentary film about the Armenians, "Passage to Ararat."

Though there are cracks in the government's silence—on the 80th anniversary of the massacre this past April 24, for example, Absorption Minister Yair Tsaban joined an Armenian demonstration at the Prime Minister's Office—the ambivalence persists. Last year, the Education Ministry commissioned Oron to write a high school curriculum on the Armenian and Gypsy genocides. But then, only two weeks before the curriculum was to be experimentally implemented, the ministry abruptly backtracked. A ministry-appointed commission of historians (none of them Armenian experts) claimed that Oron's textbook contained factual errors about the Gypsies and didn't present the Turkish perspective on the Armenians. A spokesman for the ministry says a new textbook will be commissioned.

While Oron is careful to avoid accusing the ministry of political motives. Armenians are far less reticent. Says Hintlian: "Obviously there is Turkish pressure. If the Turks get away with their lie, it will strengthen the Holocaust deniers, who will see that if you are persistent enough a large part of humanity will believe you."

So long as the Turks claim the genocide never happened, the Armenians will likely remain riveted to their trauma.

Bishop Guregh Kapikian is principal of the Armenian school. When he speaks of 1915 his head thrusts forward, voice quivering. His cheeks are hollowed, his chin ends in a white-goateed point—a face gnawed by grief and sharpened by rage.

Kapikian, born in Jerusalem, was 3 when his father, a historian, died of pneumonia, having been weakened from the death march he'd survived. Kapikian eventually become a priest—"to be a soldier of the spirit of the Armenian nation."

Are you concerned, I ask, that your students may learn to hate Turks?

"The Turks have created hatred. Our enemy is the whole Turkish people."

But didn't some Turks help Armenians?

"They weren't real Turks. Maybe they were originally Christian, Armenian."

If Turkey should someday admit its crimes, could you forgive them?

"They can't do that. They're not human. What can you expect from wild beasts?"

There are other Armenian voices.

George Sandrouni, 31, runs a ceramics shop outside the compound. He sells urns painted with clusters of grapes, tiles with horsemen and peacocks, chess boards garlanded with pale blue flowers.

As a boy, he feared everyone he knew would disappear. The son of a man who survived the genocide as an infant, Sandrouni grew up with no close relatives, all of whom were killed in 1915. He resolved that when he married he would have 20 children, to fill the world with Armenians.

Now expecting his first child, he has become "more realistic, less paranoid." He says: "The Turks have to be educated about the genocide. But we also have to learn how to deal with our past. I won't teach my children about the genocide as something abstract, like mathematics. I'll teach them that other people suffer; that some Turks helped Armenians; that evil is never with the majority. I'll try to keep the horror from poisoning their souls."•

CBO ESTIMATES ON INSULAR DEVELOPMENT ACT

• **Mr. MURKOWSKI.** Mr. President, on June 30, 1995, I filed Report 104–101 to accompany S. 638, the Insular Development Act of 1995, that had been ordered favorably reported on June 28, 1995. At the time the report was filed, the estimates by Congressional Budget Office were not available. The estimate is now available and concludes that enactment is now available and concludes that enactment of S. 638 would result in no significant cost to the Federal Government and in no cost to State or local governments and would not affect direct spending or receipts. I ask that the text of the CBO estimate be printed in the RECORD.

The text follows:

CONGRESSIONAL BUDGET OFFICE,
U.S. CONGRESS,
Washington, DC, July 11, 1995.

Hon. FRANK H. MURKOWSKI,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed S. 638, the Insular Development Act of 1995, as reported by the Committee on Energy and Natural Resources on June 30, 1995. CBO estimates that S. 638 would result in no significant cost to the federal government and in no cost to state or local governments. Enacting S. 638 would not affect direct spending or receipts; therefore, pay-as-you-go procedures would not apply.

S. 638 would restructure as agreement for making payments to the Commonwealth of the Northern Mariana Islands (CNMI). Presently, the federal government is obligated to make annual payments of $27.7 million to CNMI. S. 638 would maintain that funding commitment but would expand the purposes for which those funds could be spent. Based on a 1992 agreement reached between CNMI and the federal government, CNMI would receive a declining portion of those funds for infrastructure development through fiscal year 2000. The remaining funds would be used for capital infrastructure projects in American Samoa in 1996 and in all insular areas in 1997 and thereafter. (Insular areas include Guam, the Virgin Islands, American Samoa, CNMI, the Republic of Palau, the Federated States of Micronesia, and the Republic of the Marshall Islands.) Of the funds designated for 1997 and thereafter, $3 million would be designated for the College of the Northern Marianas in 1997 only, and $3 million would be allocated each year to the Department of the Interior (DOI) for either federal or CNMI use in the areas of immigration, labor, and law enforcement. Additionally, beginning in fiscal year 1997, DOI would be required to prepare and update annually a five-year capital infrastructure plan for insular projects.

CBO estimates that the reallocation of funds that would occur under this bill would have little, if any, effect on the rates at which such funds are spent. CBO has no reason to expect that infrastructure funds used by other insular areas would be spent at a rate different from those used by CNMI. Also, based on information provided by the DOI, CBO estimates that the bill's capital infrastructure planning requirement would result in no significant cost to the federal government.

S. 638 also would gradually apply the minimum wage provisions of the Fair Labor Standards Act (FLSA) to CNMI, which would require enforcement activity by the Department of Labor (DOL). The department expects that it would continue to receive annually $800,000 of the CNMI funds allocated to DOI for immigration, labor, and law enforcement purposes. DOL uses these funds to train CNMI officials to enforce labor laws, while providing additional temporary enforcement assistance. Based on information from the DOL, CBO expects that DOL would continue to receive these funds under this bill and that they would be sufficient to conduct FLSA enforcement. Therefore, we estimate that no additional costs to the federal government would result from this provision.

Additionally, S. 638 would require that DOI continue to submit annually to the Congress a report on the "State of the Islands," as well as a report on immigration, labor, and law enforcement issues in CNMI. The bill also would make several clarifications to existing law and would require cooperation in immigration matters between CNMI and the Immigration and Naturalization Service. CBO estimates that these provisions would result in no significant cost to the federal government.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is John R. Righter, who can be reached at 226-2860.

Sincerely,

JUNE E. O'NEILL,
Director.•

ALBUQUERQUE TECHNICAL-VOCATIONAL INSTITUTE

• Mr. BINGAMAN. Mr. President, I rise today to recognize Albuquerque Technical-Vocational Institute, a community college in New Mexico that is celebrating its 30th year of service to the community.

T-VI's impressive growth has paralleled the expansion of the community it has served for 30 years. From its origins with 150 students in an old abandoned elementary school, Albuquerque Technical-Vocational Institute has matured to become New Mexico's second largest higher educational institution with 20,000 students at three campuses, and an additional satellite campus planned in Bernalillo County's South Valley.

The development of Albuquerque's silicon mesa and high-tech economic expansion would have been impossible without the high-tech training provided at T-VI. T-VI wisely seeks out the counsel of the business community to ensure that its programs and training facilities are state-of-the-art. T-VI is a leader in technical education in New Mexico, placing its graduates in working environments that have helped to expand the state's economy and enrich the community.

In a community noted for its cultural diversity, T-VI has become a model of educational advancement. T-VI graduates are at work in a variety of technical careers, trades and professions throughout New Mexico. They provide needed technical assistance and services to a variety of industries including our National Labs.

Mr. President, for its outstanding accomplishments, I would like to commend the students, teachers and administration of the Albuquerque Technical-Vocational Institute for 30 years of service to the community and to the State of New Mexico.•

JOYCE FOUNDATION PRESIDENT SPEECH TO LEAGUE OF WOMEN VOTERS

• Mr. SIMON. Mr. President, a longtime friend of mine, Lawrence Hansen, vice president of the Joyce Foundation, sent me a copy of a speech made by Deborah Leff, the president of the Joyce Foundation, on the occasion of the 75th anniversary of the League of Women Voters of the State of Illinois.

The subject of her address is campaign financing.

It contains material that would be startling to most citizens though, unfortunately, not startling to those of us who serve in the Senate.

While the bulk of her remarks are about campaign financing, I want to quote one item that is not. She says:

> I am saddened by the media's increasing tendency to exploit, entertain and titillate, leaving us less informed about public affairs and more cynical about politics.

She announces that the Joyce Foundation will make a 3-year, $2.3 million special study on money and politics.

While the emphasis of her project will be the State of Illinois, clearly she draws lessons from what has happened at the national level, and we should draw lessons beyond the State of Illinois.

For example, she says:

> In 1976, the average cost of winning a seat in the U.S. House of Representatives was less than $80,000. Last year, it leveled off at $525,000. Between 1990 and 1992 alone, the cost of winning a House seat jumped by 33 percent. In fact, 45 House candidates in 1994 spent over $1 million each.

On PACs, Ms. Leff says:

> To understand the competitive effects of the current campaign finance system, consider the giving habits of political action committees—PACs. Last year, PACs distributed close to $142 million to House candidates, three-quarters of which went to incumbents. To appreciate the enormity of this bias, it's worth noting that the winning candidates last year raised more money from PACs than their challengers generated from all sources, including from PACs, individual contributors, their own donations and loans.

She is concerned, as we should be concerned, the present system of financing campaign makes our political institutions unrepresentative. She observes:

> The skewed distribution of political money is not just a problem for challengers. There's another—and some would argue more pernicious—side to this imbalance. The campaign finance system favors wealthy candidates over poor candidates, male candidates over female candidates, and white candidates over African-American and Latino candidates. And this bias continues to be reflected in the composition of many legislative bodies.
>
> Although less than one-half of one percent of the American people are millionaires, there are today at least 72 millionaires in the U.S. House of Representatives and 29 in the U.S. Senate. (And these figures don't include Michael Huffington, who spent $5 million of his own money to win a House seat in 1992 and an additional $28 million last year in his failed bid to become a Senator.) There is something terribly wrong when millionaires are over-represented in the "People's House" by a factor of 3,000 percent and in the Senate by a factor of more than 5,000 percent.

The president of the Joyce Foundation also notes something every one of us knows to be the fact:

> Candidates' increased reliance on television ads has led to less informative and more mean-spirited campaigns. We are told that attack ads work; they must, because why else would candidates invest so much money in this stuff? But who really benefits and at what cost to the political system? The public is fed slivers of information, often deceptively presented. Real issues are not discussed. The most obvious victim, of course, is a political tradition that once prided itself in allowing serious candidates to debate serious issues in a serious way.

Then, she says something that I do not know to be a fact, but, as far as I know, it is accurate. She tells her audience:

> The United States is the only major democracy that neither restricts the amount of money candidates can spend on broadcast advertising nor regulates their access to and use of this powerful medium. As a result, the quality of the nation's political discourse has declined sharply. And so, too, has the public's confidence in the veracity and judgment of our leaders.

A minor correction I would make to her speech is that she refers to $100 million being spent to defeat health care. Newsweek magazine uses the figure $400 million, and I believe that Newsweek magazine is correct.

She also notes:

> In 1992, half of all the money raised by congressional candidates—$335 million—was provided by one-third of 1 percent of the American people.

Deborah Leff has a number of illustrations of the abuses. They include references to my friend, the former speaker of the Illinois House, Michael Madigan, and the current speaker of the Illinois House, Lee Daniels. What Michael Madigan and Lee Daniels are doing is using the present system. I do not fault them for that. But what Ms. Leff is saying is that the system should be changed, and I agree with her.

She does not call for any specific program of change.

My own belief is that at the Federal level, we have to have dramatic change, and it will not come about without the President of the United States really pushing for change. The system I would like to have is a checkoff contribution of $3 or $5 on our income tax that would go to major candidates for the Senate and the House, and no other money could be spent. Then, in a State like Illinois, instead of spending $8 million or $10 million on a campaign, the candidates could spend $2 million, and have some required free time made available by radio and televisions, not for 30-second spots, but for statements of up to five minutes by the candidates in which there is a serious discussion of the issues.

I ask that the full Deborah Leff speech be printed in the RECORD, and I urge my colleagues of both parties and their staffs to read the Deborah Leff speech.

The material follows:

SPEECH OF DEBORAH LEFF, PRESIDENT, THE JOYCE FOUNDATION AT THE 75TH ANNIVERSARY CONVENTION OF THE LEAGUE OF WOMEN VOTERS OF ILLINOIS—JUNE 2, 1995

INTRODUCTION

I am delighted to be here this evening and to play a small role in celebrating the 75th anniversary of the founding of the League of Women Voters. No organization in this century has contributed more to expanding informed citizen participation in the political process and can legitimately claim more victories for democracy than the league. Yours is a proud legacy, and I salute you.

Through the years the Joyce Foundation has frequently partnered with the league. We have labored together to simplify the Nation's voter registration laws—and despite some unseemly footdragging here in the land of Lincoln and several other States, we have made real progress. I read in the newspaper a few weeks ago that in the few months since the Motor Voter Act was put into effect early this year, two million new voters have been registered. Two million. It's a wonderful number. And you should be very proud.

Joyce also stood with the league in its efforts to institutionalize presidential debates, and happily that has occurred.

Two years ago, we supported the "wired for democracy" project. This collaborative effort, involving the national league and a number of State and local chapters, has been exploring ways of making greater use of communication technologies to meet the informational needs of citizens.

And last year we joined forces with you in an ambitious experiment to make the Illinois gubernatorial race more issue-oriented. The goal was to enable the people of Illinois to identify their major policy concerns, frame an issues agenda, and engage the candidates for Governor in a conversation about their visions and plans for the State's future. That the candidates took less notice of these citizens' messages than they should have only confirms how desperately we need new and inventive ways for reconnecting people and their elected representatives. The "Illinois voter project" was a valiant and useful attempt to bridge that gulf, and Joyce was glad to play a part.

A CRISIS OF CONFIDENCE

Will Rogers once wrote, "I don't make jokes, I just watch the government and report the facts." And although we have much to celebrate tonight, there are a lot of facts to report. And, unfortunately, they're not funny. A terrible malaise has settled over our democracy. The fact is millions of our fellow citizens are fed up with politics. They feel left out, disconnected, unheard, unappreciated and powerless. And in frustration and anger, they are abandoning the system in droves. The signs of discontent are myriad. I'll mention only a few:

Three out of four Americans today say they "trust government in Washington" only "some of the time" or "almost never." In the mid-1960s, only 30 percent—rather than 75 percent—of Americans felt that way. (Roper Organization)

Nearly 60 percent of us believe that "the people running the country don't really care what happens to us." (Louis Harris)

Public approval of Congress almost reached rock bottom in 1994.

The Roper organization reports that millions of citizens have withdrawn from community affairs over the last 20 years. In 1973 one in four American adults said they attended a public meeting on community or school business during the year. Two years ago, only 13 percent of us claimed we had attended such forums.

And from a relatively high point in the early 1960s, voter turnout in national elections has declined by nearly a quarter. In State and local elections, the trends are even worse. Only 37 percent of Chicago's voters bothered to participate in February's mayoral and aldermanic primary election; and just over 40 percent went to the polls in April's general election, marketing the lowest turnout in a city election in more than a half century.

I wish I could report that these discontents were traceable to a single cause, to some easily identified and manageable condition. But clearly, as everybody in this room recognizes, that is not the case.

We know, for example, that economic anxieties are taking a toll on our civic life. Millions of Americans have grown pessimistic about getting ahead in a rapidly changing economy. Many are struggling just to stay even, and they blame government for their plight.

We know that the breakdown of traditional institutions, like families and schools, and an accompanying rise in social pathologies have deepened the public's despair about the political system.

We know that civic education is in a deplorable state and that the ranks of those voluntary organizations that have traditionally and energetically labored over the years to fill this vacuum are today greatly depleted.

As some of you know, I worked for the news media for years. I respect the news media, and I often admire it. But I am saddened by the media's increasing tendency to exploit, entertain and titillate, leaving us less informed about public affairs and more cynical about politics.

We know that technology, television, and talk radio can reinforce our isolation and exacerbate social divisions rather than fostering the cooperative, tolerant, and generous spirit which a democracy requires.

And then there's the issue of money in politics—an old and spirited demon with which both the league and the Joyce Foundation have done battle off and on over the years. As Senator Bill Bradley recently noted,

"Make no mistake, money talks in American politics today as never before. No revival of our democratic culture can occur until citizens feel that their participation is more meaningful than the money lavished by pacs and big donors."

The fundamental problem, Bradley says, is that "the rich have a loudspeaker and everyone else gets by with a megaphone." And, of course, he's absolutely right. The Joyce Foundation believes that overhauling the campaign finance system is as urgent a piece of unfinished business on the Nation's crowded policy agenda as any other.

You know, Eleanor Roosevelt once wrote, "I think if the people of this country can be reached with the truth, their judgment will be in favor of the many, instead of the privileged few." We want a Government for the many, a Government where the concerns of the citizenry are respected and addressed. And for that reason, the Joyce Foundation decided last year to launch a 3-year, $2.3 million special project on money and politics.

Campaign finance reform is not a sexy issue. It doesn't get enough attention from the media, and it doesn't get enough attention from foundations. But I want, in my remaining time with you, to talk about why this problem is so critical to the future of America, and why it must be taken on.

THE PROBLEM

As you know, the financing of political campaigns is governed by a patchwork of laws and regulations. Federal candidates operate under one set of rules; State and local candidates under others. The variations among jurisdictions are endless, but these systems have one thing in common: they don't work very well. Let me briefly discuss their most obvious deficiences, leaving to last what I regard as the most compelling argument for reform.

Problem 1: The current system has allowed campaign costs to rise to prohibitive levels

The cost of running for public office has skyrocketed over the past 20 years, especially at the Federal and State levels. Few campaign finance laws make any effort to restrain spending.

In 1976, the average cost of winning a seat in the U.S. House of Representatives was less than $80,000. Last year, it leveled off at $525,000. Between 1990 and 1992 alone, the cost of winning a House seat jumped by 33 percent. In fact, 45 House candidates in 1994 spent over $1 million each.

The same pattern can be seen here in Illinois. Five State Senate candidates spent more than $500,000 each in their 1992 campaigns. The 20 most expensive Senate races that year cost over $5 million.

These trends have had three effects. First, they have rendered public service unaffordable for a growing number of qualified citizens of ordinary means.

Second, the escalating costs of campaigns are making it easier for wealthy and well-connected citizens to win public office.

And third, those willing to pay the price of admission find themselves spending more time begging than meeting voters, doing their policy homework, and governing.

Problem 2: Under the current campaign finance system, money, more than any other factor, determines who wins and loses elections

As a general rule, candidates who raise and spend the most almost always win. Cash—not the qualifications, character and policy views of candidates—has increasingly become the currency of democracy.

In last year's election, House incumbents on average outspent their opponents by nearly 3-to-1 ($572,388 vs. $206,663), and despite the public's anger with Congress and a higher than usual turnover in the House, 90 percent of the incumbents survived. In fact, 72 percent of House incumbents running in last fall's election outraised their challengers by $200,000 or more, and 23 percent outdistanced their opponents by at least $500,000. If a challenger did not spend at least $250,000—and fewer than one-third of last year's challengers reached that threshold, his or her chances of winning were only one in a hundred.

Problem 3: The current campaign finance system has made elections less competitive

The current rules tilt so heavily in favor of incumbent officeholders that most challengers cannot hope to win. As a result, large numbers of elections that should be competitive rarely are.

In 1994, less than one in three congressional races were financially competitive. In fact, four out of five House incumbents faced challengers with so little money—typically less than 50 percent of the amount available to the incumbent—that they did not pose a serious threat.

To understand the competitive effects of the current campaign finance system, consider the giving habits of political action committees—PAC's. Last year, PAC's distributed close to $142 million to House candidates, three-quarters of which went to incumbents. To appreciate the enormity of this bias, it's worth noting that the winning candidates last year raised more money from PAC's than their challengers generated from all sources, including from PAC's, individual contributors, their own donations and loans.

The real losers, of course, are voters. As elections become less competitive and as the range of candidate and policy decisions voters must make narrows, there is less and less reason to go to the polls. Under the circumstances people cannot be entirely blamed for staying away.

Problem 4: Because of the campaign finance system's inherent biases, many of our representative institutions remain terribly unrepresentative.

The skewed distribution of political money is not just a problem for challengers. There's another—and some would argue more pernicious—side to this imbalance. The campaign finance system favors wealthy candidates over poor candidates, male candidates over female candidates, and white candidates over African-American and Latino candidates. And this bias continues to be reflected in the composition of many legislative bodies.

Although less than one-half of one percent of the American people are millionaires, there are today at least 72 millionaires in the U.S. House of Representatives and 29 in the U.S. Senate. (And these figures don't include Michael Huffington, who spent $5 million of his own money to win a House seat in 1992 and an additional $28 million last year in his failed bid to become a Senator.) There is something terribly wrong when millionaires are over-represented in the "people's house" by a factor of 3,000 percent and in the Senate by a factor of more than 5,000 percent.

When 64 House and Senate candidates can reach into their own pockets and give their campaigns a $100,000 shot in the arm, as occurred last year, it takes your breath away. Twelve of these candidates, let me add, invested more than $1 million each in their campaigns.

These financial disparities are not limited to just rich and poor candidates. In 1991, white candidates for the Chicago city council raised five times more money than African-American candidates and one and a half times more than Latino candidates. If African-Americans had to run regularly against white or Latino candidates in racially and ethnically mixed wards, they would likely operate at a severe financial disadvantage. And given the importance of money, their chances of being elected from such wards would at best be problematic.

As I am sure you know, never in the long history of this city has an African-American represented a predominantly white ward. And were it not for the voting rights act which has helped to mitigate the financial disadvantages experienced by minority candidates, the city council would almost certainly be less representative of Chicago's diversity than it is today.

Problem 5: The current campaign finance system has made legislators and candidates too financially dependent on a small number of legislative leaders.

The past decade has witnessed a proliferation of political action committees established and controlled by Federal and State legislative leaders. These entities, which attract enormous amounts of special interest money, provide an alternative way of getting money to favored candidates. However, these conduits—which are perfectly legal—also allow leaders to solidify their positions within their party caucuses, exercise greater control over members and increase their influence over a range of legislative matters.

This trend has not only accelerated the decline of political parties but has led to an unhealthy financial dependence by many rank and file legislators on their leaders and, according to some experts, to a dimunition of their independence. There was a time, of course, when leaders earned the loyalty of their followers; today, loyalty is increasingly a purchasable commodity. That is not a good development.

In 1994, Federal leadership PACS distributed more than $3.6 million to congressional candidates. But what has occurred in Illinois makes the growth and reach of Federal leadership PACS look trivial in comparison. Last year, Michael Madigan, then the speaker of the Illinois house, controlled a $5.3 million war chest, and his Republican counterpart, Lee Daniels, the current speaker, had $2.5 million at his disposal. Much of this nearly $8 million was directed to candidates in 23 pivotal legislative races in which the candidates on their own had already raised $4.5 million.

Although I have not seen a detailed analysis of how these leadership funds were distributed last year, I can tell you what occurred in 1992. The Democratic House candidates running in 21 targeted races that year received on average $81,000 from the Madigan fund. Of all the money spent by those candidates, nearly 60 percent came from this single source. It is not hard to believe that those Democrats who won feel a special debt of gratitude for the speakers generosity.

Problem 6: The current campaign finance system has coarsened the political dialogue in this country

Costly broadcast advertising has driven up campaign costs. But that is not the only problem. Candidates' increased reliance on television ads has led to less informative and more mean-spirited campaigns. We are told that attack ads work; they must, because why else would candidates invest so much money in this stuff? But who really benefits and at what cost to the political system? The public is fed slivers of information, often deceptively presented. Real issues are not discussed. The most obvious victim, of course, is a political tradition that once prided itself in allowing serious candidates to debate serious issues in a serious way.

The United States is the only major democracy that neither restricts the amount of money candidates can spend on broadcast advertising nor regulates their access to and use of this powerful medium. As a result, the quality of the Nation's political discourse has declined sharply. And so, too, has the public's confidence in the veracity and judgment of our leaders.

Problem 7: The campaign finance system has driven people out of the electoral process and reduced their role to voting on election day

The last 30 years have witnessed what can only be described as a hostile take-over of the election process by highly paid and often unaccountable professional operatives. The campaign finance system has spawned an industry of pollsters, ad producers, time-buyers, professional fundraisers, direct-mail specialists and spin-doctors. Their exorbitant demands on campaign resources require that ever increasing amounts of money be raised. It is a trend that leaves little room in campaigns for the citizen-volunteers who were once the backbone of most campaigns. The ascendancy of political consultants has robbed our politics of the fun, hoopla, and sadly, much of the substance once commonly associated with campaigns.

Problem 8: The campaign finance system all too often elevates or appears to elevate private interests over the public interest

Of all the system's shortcomings, this by far is the most serious. When citizens on a large scale harbor suspicions about the fairness and integrity of policymaking and regulatory processes, as is clearly the case today, it casts doubts on the legitimacy of the political system itself.

VIGNETTES

Hardly a week passes without some news report about how special interest money is being used to skew policy priorities, shape legislation and influence regulatory decisions. Elected officials may find the suggestion offensive, but a growing number of Americans are convinced that those who pay the piper also call the tune. Let me give you some examples.

Tort Reform. When Illinois State legislators on one side of the tort reform debate accept nearly $2 million in campaign contributions as well as business contracts from the Illinois State Medical Society, and lawmakers on the other side accept nearly half a million dollars from the Illinois Trial Lawyers Association and tens of thousands of dollars from individual members, what are we to think? Would it be unfair to conclude that the public interest may not have been the paramount consideration in this debate? I don't think so.

Clean Water. In 1994, 273 PACs associated with industries bent on weakening the Clean Water Act contributed nearly $8 million to Members of the U.S. House Representatives. Those serving on the committee with jurisdiction over the bill alone received $1.2 million. So far, the industries' efforts appear to be paying off. Water quality standards have been rolled back. As a foundation committed to cleaning up the Great Lakes, we are all too aware that money talks . . . and it may speak loudly enough to drown out 25 years of progress on environmental issues.

Pesticides. The environmental working group—one of our foundation's grantees—issued a report late last year showing that sponsors of legislation designed to weaken Federal pesticide laws received $3.1 million in contributions from 44 industry-supported PACs. This represented nearly a 100-percent increase over donations made during a comparable period two years earlier. What accounted for this sudden spurt of generosity? Industry was reacting to a Federal court decision that threatened to ban dozens of cancer-causing pesticides. In the end the pesticide industry got largely what it wanted. Whether the Americans people won is another matter altogether, money talks.

Guns. Last year the National Rifle Association poured $3 million into the campaigns of Congressional candidates who support that organization's agenda—an agenda, I might add, which is at odds with the majority of the American people. The NRA targeted for defeat four Members who had voted in favor of last year's assault weapons ban. Three, including Speaker Tom Foley, lost.

More recently Speaker Gingrich appointed a task force to review current Federal laws pertaining to guns, including the Brady bill and the assault weapons ban. All six Members appointed by the speaker are outspoken opponents of gun control, and four received significant NRA financial support during the last election. Will this panel give people who want to quell the epidemic of gun violence a chance to be heard? And if it does, will it listen to what they, and so many others have to say? Or will they be—if you'll excuse the expression—shot down by the influence of money?

State Contracts. In fiscal year 1992, the State of Illinois contracted with businesses and individuals for $4.6 billion worth of goods and services. A third of those contracts—$1.6 billion—were awarded to campaign contributors of statewide candidates. And about $437 million in State business went to contributors on a non-bid basis. According to the Illinois State-Journal, the dollar amount of the non-bid contracts awarded contributors was six times greater than the value of the contracts awarded non-contributors. For the more enterprising among us, I think there's a message here. Money talks.

Health Care. Despite solemn promises from nearly all quarters, the American people didn't get health care reform last year. In the end, reform was swallowed up in a sea of dollars.

I doubt we will never know how much money was at play. It is conservatively estimated that in 1993 and 1994 the medical professions, insurance industry, pharmaceutical companies and an assortment of business interests spent $100 million to influence the outcome of the health care debate.

There are some things, thanks to disclosure, that we do know. For example, we know that during the last election cycle health care-related industries poured at least $25 million into the campaign coffers of Members of Congress. One-third of that largesse was directed to Members serving on the five House and Senate committees with jurisdiction over health care issues.

We know that in 1992 and 1993 at least 85 Members availed themselves of 181 all-expense paid trips sponsored by health care industries—trips designed to help Members learn about health care in out-of-the-way places where distractions could be kept to a minimum. Places like Paris, Montego Bay, and Puerto Rico.

We also know that health care interests hired nearly 100 law, public relations and lobbying firms to do their bidding at both ends of Pennsylvania Avenue—and that these firms in turn brought 80 or so former high-ranking Federal officials on board, including recently retired Members of Congress, to give their efforts greater authority.

We know that the health insurance association of America spent millions to produce and air its "Harry and Louise" ads—a strategy that almost single-handedly led to a 20-point drop in public approval of the Clinton proposal.

We know that the tobacco industry spent millions more to scuttle a proposed $2 tax on cigarettes, the revenue from which would have helped finance a new health care system.

We know that the national federation of independent businesses spent even more to kill a mandatory employer tax designed to help pay for universal health care coverage.

We are told that all the pushing and shoving by competing interests around health care reform was a textbook demonstration of democracy at work. We may not like the results, we are told, but this is how a democracy functions and should function.

This is not how a democracy functions. The analysis overlooks one critically important fact. The interests of those with the largest stake in reform—the 39 million Americans without health insurance, the 80 million with pre-existing medical conditions, and the 120 million with lifetime limits on their health insurance policies—were grossly underrepresented. Those most in need of help didn't have an army of lobbyists on capitol hill, couldn't afford television ads, and were in no position to contribute millions of dollars to Members of Congress. On every front, they were heavily outgunned.

When the definitive history of this episode is written, one conclusion will be impossible to avoid: in the great debate over health care reform, money didn't just talk, it roared.

CASH CONSTITUENTS

Defenders of the current system are quick to point out that suspected overreaching is not proof of official wrongdoing. They are right. But the absence of indictable offenses is a flimsy defense for practices that bring about widespread distrust of the political system.

In the final analysis, what counts is what people believe, and most people believe they are being shortchanged by a system which puts them into one of two classes: cash constituents or non-cash constituents. Cash constituents have regular access to elected officials; non-cash constituents don't. Cash constituents are willing to pay to play; non-cash constituents can't afford to.

If you remember no other statistic I cite tonight, let me offer one that's worth storing away for future reference. In 1992, half of all the money raised by congressional candidates—$335 million—was provided by one-third of 1 percent of the American people.

Unbelievably, things could get worse. For example, in the name of deficit reduction, Senate Republicans recently tried to scrap the public finance system for presidential candidates—arguably, the most important and durable reform coming out of the Watergate era. The effort was narrowly beaten back.

Congress has already passed legislation that would significantly reduce the budget of the Federal Election Commission. Unless President Clinton vetoes this bill, the agency's ability to ensure financial disclosure by political candidates and committees will be severely crippled. In an unusually blunt letter to Members of Congress, the commission's chairman recently warned that a deep cut could lead "the public, fairly or not, to suspect that Congress is punishing the agency for doing its job."

Now, if these developments were not enough for one season, G. Gordon Liddy, the former Nixon aide and mastermind of the Watergate break-in 23 years ago, has just been honored with the freedom of speech award by the national association of talk show hosts. It's enough to make you question the Bible's assurances about the meek inheriting the earth.

THE FOUNDATION'S APPROACH

In the face of all these problems, what is the Joyce Foundation's strategy? Our goal is to make the issue of campaign finance a more prominent part of the public policy agenda. And we are seeking to do that through projects emphasizing expanded news media coverage, public education, fresh analyses of campaign finance practices and improved disclosure and regulation. Through the work of our grantees, we hope to create incentives that will help persuade lawmakers to face up to and finally meet their responsibilities.

I should quickly add that the foundation is not promoting any particular reform approach. But we believe that reform, if it is worthy of that name, must at a minimum control the costs of campaigns, increase political competition, encourage voting and restore the public's confidence in the fairness of elections and in the integrity of the policymaking process. Two foundation-supported projects designed to move us in these directions deserve mention tonight.

The Illinois Project. Twenty years have elapsed since Illinois last overhauled its campaign finance system. It is time to do it again. Here is a system in which the only limits are the sky itself. In Illinois, there are: no limits on the amount of campaign money candidates can raise; no limits on the sources of campaign contributions; no limits on the amount of money candidates can spend; no limits on the size of contributions individual and institutional donors can make; no limits on the vast war chests candidates can accumulate and carry over from one election to the next; no limits on candidates' use of campaign funds for personal and non-campaign related expenses; and no limits on leadership PACs.

The only restrictions worth noting are those intended to inhibit public access to and understanding of the financial disclosure reports that candidates and committees are required to file periodically with the State board of elections. And, if perchance, you even rummage through these records, you'll quickly discover that it's virtually impossible to figure out, beyond names and addresses, who the State's political high rollers really are. Illinois has the distinction of being one of a handful of States that still does not require candidates to list the occupation of their contributors.

Illinois' campaign finance system makes the federal system look relatively tame, if not pristine. And that is why the Joyce Foundation is supporting a 2-year, $200,000 examination of this system by the State's leading public affairs magazine, Illinois Issues.

By this fall, the magazine's project staff will have put the finishing touches on a vast computerized database that will include all contributions of $25 or more made to legislative and statewide candidates since 1990. And as much occupational information about donors as can be independently obtained will also be incorporated into the database.

This reservoir of information will enable Illinois Issues to begin answering a question that should intrigue us all: Who is giving how much to whom for what purposes and with what effects? Detailed and customized profiles of individual candidates, interest groups, regions and districts will be developed. These reports, which will be made available to the States news media, are certain to shed light on the often murky financial behavior of candidates and donors alike. Citizens wishing direct access to the database will be able to get it at relatively low cost through an on-line information network.

In addition, the magazine has assembled a distinguished panel of citizens who over the next year and a half will examine various alternatives for reforming the State's campaign finance rules. This task force which is comprised of scholars, journalists, political practitioners, and civic leaders—including Senator PAUL SIMON, two university presidents and your own Cindy Canary—is expected to formulate and advance a set of reform recommendations late next year. But before doing so, the panel will consult with and collect testimony from a diverse crosssection of interested Illinoisans as well as carefully weigh the reform experiences of other jurisdictions across the country.

Money, Politics and the Public Voice. As angry as people are about the influence private money exerts on our politics, there is no groundswell of popular support for one reform approach or another. Indeed, there is no clear and loud public demand for change—at least not the kind of impatient outcry elected officials are inclined to take notice of and heed.

The foundation is convinced that reform will come more quickly if the public is brought into this debate in a much bigger way. But this is not small challenge. After all, just how do you clear a space at the policymaking table and pull up a chair for the American people? Well, that's the riddle the League of Women Voters education fund, in partnership with the Benton Foundation and the Hardwood group, have set out to answer over the next 2 years. And the Joyce Foundation is betting nearly half a million dollars that this unusual consortium will help solve that mystery.

About a year from now thousands of citizens, armed with background and discussion materials, will meet in neighborhoods and communities across America to learn about the campaign finance problem, to debate various reform options, and to clarify and make known to their elected Representatives the changes they want and are willing to support. These will not be undisciplined rap and complaint sessions but instead structured and expertly facilitated conversations that we hope and believe will yield the kind of reasoned and considered policy judgments that the political community will find difficult to dismiss.

It is our hope that other groups—like the American association of retired persons, the American association of community colleges and the university extension system—will eventually join the campaign, adding to the league's considerable organizational reach and enabling the project to host at least one forum in each of the country's 435 congressional districts.

To ensure that every step of this process is fully amplified, including the final results and public interactions between project participants and elected officials, the project is developing an aggressive public information and media outreach strategy. In addition, video, teleconferences, computers and other communication technologies will be used to connect the project's participants with each other, the news media and policymakers.

To date, the league-led project team has hired a staff of seasoned organizers, engaged the services of a professional communications firm, assembled an advisory panel of campaign finance experts and completed an exhaustive review of the vast literature on this subject. In the coming days, it will launch a series of focus groups in order to get a better fix on what people know and don't know about the campaign finance problem, how they talk about it, and how they would fix it, were it in their power to do so. These insights will aid in the development of the project's educational materials and a deliberative process designed to assist non-experts work through a complex policy problem like campaign finance.

The two projects I've briefly sketched out are ambitious, complex, expensive and labor intensive. If they are to succeed, the sponsors will need all the help they can garner. I know the ED fund and Illinois Issues would warmly welcome your participation and assistance, and I hope you will be able to offer some of each in the coming months.

Although this organization's plate is always full and this year is no exception, I would strongly encourage you to leave a little room for campaign finance reform. Your reputation for raising public consciousness on important issues, for educating and mobilizing citizens and for talking sense to lawmakers could make a huge difference in ending those campaign finance practices that often make the realization of the league's own policy goals needlessly difficult. So I hope you will join us; the water's fine and sure to get a lot warmer in the next year.

CONCLUSION

If I sound perturbed about the problem of money in politics, it's because I am. It's a problem, after all, that hits very close to home. This year the foundation will award nearly $6 million in grants to scores of organizations that are working tirelessly and in most cases with limited resources to repair and reserve the environment for future generations. These nonprofit organizations are in no position to compete financially with those interests whose commitments to environmental protection often take a backseat to other economic considerations.

It's not a fair fight, when the congressional co-sponsors of amendments to the Safe Water Drinking Act get 60 times more money from businesses supporting the bill than from pro-environmental groups. And it's even less fair, when the co-sponsors of the private property owners bill of rights get 300 times more money from the bill's industry supporters than from pro-environmental groups. For this reason, in addition to all the others I've discussed, the foundation has a keen interest in cleaning up the campaign finance system. If the playing field were more level, I know that our conservation grantees and those working in other areas, like gun violence, could more than hold their own against the forces that oppose them. But as things now stand, every fight involving the good guys is uphill these days, and that's not right.

In conclusion, let me say this. The continuing debate on campaign finance reform is more than a squabble over how to revise the rules of the road. The debate is really about fundamentals and first principles; it is at bottom a struggle for the soul of the American political system. And that is a struggle which people who yearn for a more open, participatory and accountable politics—people like you and me—dare not take lightly, walk away from or lose.●

LIVESTOCK GRAZING ACT

● Mr. BAUCUS. Mr. President, I recently wrote a letter to the principal author of the Livestock Grazing Act outlining my concerns over this bill. I ask that this letter be printed in the RECORD.

The letter follows:

U.S. SENATE,
WASHINGTON, DC,
July 13, 1995.

Hon. PETE V. DOMENICI,
Hart Senate Office Building, Washington, DC.

DEAR PETE: The purpose of this letter is to let you know that I have added my name as a cosponsor of S. 852, the "Livestock Grazing Act." Livestock operators are a vital part of Montana's economic base. It is my belief that S. 852, as originally drafted, offers the security that ranchers need to remain viable during these uncertain economic times.

The men and women who make their living off the land form the backbone of Montana. Without the rancher, many small communities would simply cease to exist. Absent ranching, the wide open spaces that provide elk winter range, wildlife corridors and critical wildlife habitat would be jeopardized by subdivision and development. In short, ranching is fundamental to preserving much of what makes Montana, "the last, best place."

As you move to Energy Committee markup of S. 852, I ask that you satisfy three specific concerns that are critical to my support of this legislation. These concerns are as follows:

1. PUBLIC PARTICIPATION

While the federal public lands are essential to many livestock operators, they are also deeply valued by the general public. Clean streams and healthy wildlife populations are just as important to Montana's sportsmen as predictability and security in the federal grazing rules are to the rancher. S. 852 must ensure that the public is granted full participation in the decision-making process affecting the use and management of these lands. If it does not, I will work to see that comprehensive public participation is assured before this legislation reaches a final vote on the Senate floor.

We must not lose sight of the fact that these are public lands; they belong to all of us. Ranchers, hunters, fishermen, birdwatchers, motorized recreationists and every other segment of the user public must be granted an equal seat at the table. Montana has already worked with the BLM to identify and select individuals interested in working together to improve our public range lands. Just last week, the BLM and the Governor of Montana jointly appointed 45 individuals to three advisory councils to begin this important work. S. 852 cannot deprive these Montanans of their fundamental democratic right of participation.

2. MORE ON-THE-GROUND WORK, LESS PAPERWORK

With over 30 percent of our land base in federal ownership, many Montanans interact on a daily basis with federal land managers. Perhaps our biggest criticism with all federal land management agencies is the ever-increasing allocation of limited resources to paperwork and bureaucracy rather than actual work in the field. The men and women who work for these agencies share this sentiment, and are frustrated by it.

Having spent a rainy day working with ranchers, conservationists and government personnel to rehabilitate a stream in the Blackfoot Valley, I have seen firsthand how much good can be done with a little start-up money and a few strong backs. As the budgets of our land management agencies continue to shrink, their resources must be directed to the field, rather than to increased bureaucracy and paperwork. S. 852 must de-emphasize paperwork and get the money to the allotment level where we can see tangible benefits come from our tax dollars.

3. STEWARDSHIP

Over 70 percent of BLM grazing lands in Montana are rated good to excellent, while less than 5 percent is in poor condition. These numbers demonstrate that our public lands grazers are largely good stewards of the land. Still, there is room for improvement. S. 852 must include a mechanism that gives permittees increased responsibility for bringing the public range into good to excellent condition. Such solutions cannot be rigidly imposed by those who are removed from the land and the unique challenges that exist on each allotment. We will see improvement only if these solutions come from the permittee. S. 852 should encourage innovative local stewardship.

In closing, I look forward to working with you on this very important issue to our states. It is my belief that the fundamental thrust of S. 852, coupled with these recommendations, will serve to promote responsible public lands stewardship while providing the necessary security that our ranchers need to remain viable in Montana and throughout the West.

With best personal regards, I am
Sincerely,
MAX BAUCUS.●

EDMUNDO GONZALES

Mr. BINGAMAN. Mr. President, I rise today to commend the U.S. Senate in its recent confirmation of Mr. Edmundo Gonzales to be Chief Financial Officer of the Department of

Labor. I am confident that Mr. Gonzales will continue to be an asset to that department and to the United States.

Mr. Gonzales is originally from El Rito, a small town in northern New Mexico. He graduated from Arizona State University with an education major, and also received a MBA and Juris Doctor from the University of Colorado. He has worked as an attorney, and as a manager for U.S. West, Inc. In 1993, he came to the Labor Department, where he has worked on management standards and in the Office of the American Workplace.

Throughout his career, Mr. Gonzales has demonstrated a commitment to public service. While working for U.S. West, Inc., in addition to other duties, he served as an Executive on Loan to the Denver Public Schools, working on budgetary and strategic planning matters. He has served as President of the Hispanic Bar Association, and on a number of charitable and cultural boards.

We as a Nation are fortunate to have a person of Mr. Gonzales's caliber serving our Government. I wish him well in his new position.

AUTHORIZING TESTIMONY BY SENATE EMPLOYEES AND REPRESENTATION BY SENATE LEGAL COUNSEL

Mr. HATCH. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Resolution 150, submitted earlier today by Senators DOLE and DASCHLE.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 150) to authorize testimony by Senate employees and representation by Senate legal counsel.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. HATCH. Mr. President, I ask unanimous consent the resolution be considered and agreed to, the preamble be agreed to, the motion to reconsider be laid on the table, and any statements relating to the resolution appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 150) was agreed to.

The preamble was agreed to.

The resolution with its preamble reads as follows:

S. RES. 150

Whereas, the plaintiffs in Barnstead Broadcasting corporation and BAF Enterprises, Inc. v. Offshore Broadcasting Corporation, Civ. No. 94-2167, a civil action pending in the United States District Court for the District of Columbia, are seeking the deposition testimony of Barbara Riehle and John Seggerman, Senate employees who work for Senator John Chafee;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate can, by administrative or judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate is needed for the promotion of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges of the Senate;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(2), the Senate may direct its counsel to represent employees of the Senate with respect to subpoenas or requests for testimony issued or made to them in their official capacities: Now, therefore, be it.

Resolved, That Barbara Riehle and John Seggerman are authorized to provide deposition testimony in the case of Barnstead Broadcasting Corporation and BAF Enterprises, Inc. v. Offshore Broadcasting Corporation, except concerning matters for which a privilege should be asserted; and

SEC. 2. That the Senate Legal Counsel is authorized to represent Barbara Riehle and John Seggerman in connection with the deposition testimony authorized by this resolution.

MEASURE INDEFINITELY POSTPONED—SENATE CONCURRENT RESOLUTION 13

Mr. HATCH. Mr. President, I ask unanimous consent that Calendar No. 109, Senate Concurrent Resolution 13 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

CORRECTING THE ENROLLMENT OF S. 523

Mr. HATCH. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of House Concurrent Resolution 82, just received from the House.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 82) directing the Secretary of the Senate to make technical corrections in the enrollment of S. 523.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. GLENN. Do we have these? Have these been cleared by the leadership?

Mr. HATCH. Yes.

Mr. GLENN. The minority leader cleared them also?

Mr. HATCH. Yes. That is my understanding.

Mr. GLENN. Fine.

Mr. HATCH. Mr. President, I ask unanimous consent the resolution be considered and agreed to, the motion to reconsider be laid on the table, and any statements relating to the resolution appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (H. Con. Res. 82) was considered and agreed to.

ORDERS FOR FRIDAY, JULY 14, 1995

Mr. HATCH. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 9 a.m. tomorrow, July 14, 1995, that following the prayer, the Journal of proceedings be deemed approved to date, the time for the two leaders be reserved for their use later in the day, the Senate then immediately resume consideration of S. 343, the regulatory reform bill, and Senator GLENN be recognized to speak for up to 45 minutes. Further, that at the conclusion of Senator GLENN's remarks, the Senate resume consideration of the Hutchison amendment, No. 1539.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. HATCH. For the information of all Senators, the Senate will resume consideration of the regulatory reform bill tomorrow and the pending Hutchison amendment. Senators should therefore expect votes tomorrow morning and throughout Friday's session of the Senate.

RECESS UNTIL 9 A.M. TOMORROW

Mr. HATCH. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in recess under the previous order.

There being no objection, the Senate, at 9:53 p.m., recessed until Friday, July 14, 1995, at 9 a.m.

HOUSE OF REPRESENTATIVES—*Thursday, July 13, 1995*

The House met at 10 a.m.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

O gracious God, whose love is all about and whose mercy is without end, we pray that Your Spirit will lead us in a better way, Your Word will guide without fail and that by Your grace we will know lives of joy and serenity and peace. Cleanse our thoughts from those feelings that tear us down—from envy or resentment or rancor—and instead fill our hearts and souls with the light of Your Spirit, the beauty of Your company, and the steadfast hope that is Your gift to us. In Your name, we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. The gentleman from New York [Mr. FRISA] will lead the House in the Pledge of Allegiance.

Mr. FRISA led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will recognize 10 1-minute speeches on each side.

BIRTHDAY CARDS FOR MR. MEDICARE

(Mr. HAYWORTH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HAYWORTH. Mr. Speaker, on July 30, 1995, our friend, Mr. Medicare, will turn 30 years old. His trustees recently told him that he is very sick, but he knows that if he just changes some of his habits, he might be able to survive. Let us take a look at some of his birthday cards.

Here is one: "Dear Mr. Medicare: We're very sorry to hear you will be dead in 7 years. We can't help find a cure because we're focusing all of our efforts on misleading the public about your illness. Sincerely, the Democrat caucus."

Here is another: "Dear Mr. Medicare: We hope you're feeling better and are assured that we are doing everything we can to help find a cure for your sickness. Especially considering all the people that you help, we believe it is vitally important that you are around for years to come. Working hard for your future, the Republican conference."

Mr. Speaker, it is obvious which card gives comfort to Mr. Medicare and all the people he helps.

SPEAKER'S PASSION FOR CAMPAIGN REFORM COOLING DOWN

(Mrs. MALONEY asked and was given permission to address the House for 1 minute.)

Mrs. MALONEY. Mr. Speaker, exactly 1 month ago today, I publicly congratulated Speaker GINGRICH for his historic New Hampshire handshake with President Clinton.

The Speaker agreed to establish a nonpartisan commission that would write campaign and political reform legislation.

I urged the Speaker to use the independent commission bill I introduced in March with MARTY MEEHAN, TIM JOHNSON, and others as a starting point.

I sincerely hope that as Washington's summer weather has heated up, the Speaker's passion for reform has not cooled down.

Because, while the Speaker extended his hand to the President, the Republican National Committee is using both hands to grab huge chunks of special interest campaign cash.

It is incredible that the Republican majority deleted new meat inspection rules at the behest of large companies.

Republicans are catering to special interests at the expense of the public interest.

SIMPLIFY

(Mr. JONES asked and was given permission to address the House for 1 minute.)

Mr. JONES. Mr. Speaker, I have one simple proposal to strengthen Medicare—and that is to simplify Medicare. Nearly all seniors have two parts to their Medicare coverage—Medicare part A and Medicare part B—in addition to a MediGap policy. This system is too complicated.

There is too much paperwork. There are too many confusing forms. There are too many documents written by lawyers rather than real people. There are too many difficult rules and restrictions. There are too many examples of fraud and abuse by doctors and hospitals. Medicare must be simplified so that all of us, not just lawyers, can understand the Medicare system.

By simplifying Medicare, we can preserve and strengthen Medicare for those who are currently on it, and for those who are counting on it. Simplifying Medicare is a change seniors deserve and want.

WAIT TILL YOU SEE WHAT THEY ARE GOING TO DO TO MEDICARE

(Mr. ENGEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ENGEL. Mr. Speaker, what have our Republican friends done since they have taken over Congress? They said they would give tax breaks to the rich. They kept their promise. They said they would increase defense spending boondoggles. They kept their promise. They said they would help the rich and powerful and told them that they would continue corporate welfare. They kept their promise.

But what have they done to the rest of us? They told senior citizens they would not touch Social Security or Medicare. They broke their promise. They told the students that they would not touch student loans or aid to education. They broke their promise. They told our veterans they would not harm their COLA's and their veterans' health care benefits. They broke their promise. They told the middle class they would not hurt the middle class. They broke their promise. They told the Nation's schoolchildren they would not rob school lunches, take them out of their mouth. They broke their promise.

In short the Republicans kept their promises to the rich and powerful. They just broke their promise to everyone else.

I say to my colleagues, "Wait until you see what they're going to do to Medicare."

PRESIDENTIAL FLIP-FLOP

(Mr. HEFLEY asked and was given permission to address the House for 1 minute.)

Mr. HEFLEY. Mr. Speaker, in March 1992, then Gov. Bill Clinton was quoted regarding the issue of normalizing relations with Vietnam as saying:

> The president should not just state that the resolution of the issue is a "national priority," he should make it the national priority, and direct that all agencies cooperate and resolve it. . . . Before I would normalize relations or provide assistance to any of the countries involved, they would be required to open their files and actively assist in solving this issue.

And then in October of that same year he said:

> It would be "putting the cart before the horse" to normalize relations before receiving a full accounting of the prisoner situation. . . .

I ask where is that full accounting President Clinton promised before normalizing of relations would occur? Where is it?

President Clinton has indeed put the cart before the horse. He has normalized relations with Vietnam in return he got nothing.

REPUBLICANS ARE CUTTING MEDICARE TO PAY FOR TAX BREAKS FOR THE WEALTHY

(Mr. OLVER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OLVER. Mr. Speaker, every senior citizen in this country needs to understand what is going on here. The Republicans are going to cut $270 billion out of Medicare. To make these huge cuts the Republicans will demand more copayments, raise deductibles, and hike premiums. I say to my colleagues, "You will wake up in the year 2000 and your $46-a-month premium will be at least doubled. Your $100 deductible will be more than double. You will have to pay 20 percent of any home care or rehabilitation care that you need out of your own pocket even if your only income is Social Security."

Why are the Republicans making these huge cuts? To give $245 billion in tax cuts, yet more than half of these cuts will go to people earning more than $100,000 a year. I say to my colleagues, "That's easily 10 times your income on Social Security."

Mr. Speaker, I say to my colleagues, "The Republicans think Medicare is the bank of the budget. They'll pull up to the bank window, withdraw your money, and put it right into the pockets of the richest Americans who simply don't care whether you get needed health care or not."

THE DISTINCTION BETWEEN LEGAL AND ILLEGAL IMMIGRATION

(Mr. BILBRAY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BILBRAY. Mr. Speaker, America is a nation of immigrants; America is also a nation of laws. As the House begins consideration this week on a comprehensive immigration reform, we should be mindful of the distinction between legal and illegal immigration. With this in mind, our laws should reflect our desire to reward legal immigration and discourage illegal immigration.

Current law, Mr. Speaker, sends conflicting signals. Immigrants who play by the rules, observe our laws, and go through the proper legal channels wait for years to be U.S. citizens. Conversely, if an undocumented woman crosses the border illegally, gives birth to a child on U.S. soil, that child automatically becomes a citizen. The child, and by extension its parents who are here illegally, are eligible for a menu of State and Federal benefits.

When our laws punish legal behavior, but reward illegal behavior, Mr. Speaker, it is no wonder the American taxpayers demand that we redress this situation.

SENIORS HAVE REASON TO BE AFRAID OF WHAT THE REPUBLICANS ARE DOING

(Mr. LEVIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEVIN. Mr. Speaker, what is behind the Republicans' wild swings at Medicare? In part it is to finance a tax cut for the privileged few, but it is also a reflection of a basic Republican dislike of Medicare. Words can be very meaningful, and look at what the majority leader said yesterday about Medicare: I would like to be free to choose not to become in any extent a ward of the State.

Americans are not wards of the State when they receive Medicare. Indeed, Medicare helps make seniors independent, not dependent. Medicare helps seniors avoid becoming wards of the State and wards of their children.

Mr. Speaker, Republicans are scaring the seniors of this country, and seniors have reason to be afraid of what the Republicans are doing.

WE NEED TO GET TO WORK ON SAVING MEDICARE

(Mrs. SEASTRAND asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SEASTRAND. Mr. Speaker, a few weeks ago Members on the other side of the aisle demonstrated their unhappiness with this House ending business early in the day. Yet on Monday of this week the very first thing the Democrats wanted to do after a 9-day break for the Independence Day recess was to adjourn the House.

We did not need a recess after 9 days off. We did not need to adjourn the day after a vacation. What we need to do is roll up our sleeves and work on preserving, protecting, and strengthening Medicare.

And now that very famous Democrat liquor store memo that said participants should encourage individuals to, quote, think that the GOP wants to cut Medicare, not to make it more efficient, but to hurt the elderly, end quote. The memo then states that, quote, we need to exploit this, end quote. Mr. Speaker, we do not need to exploit Medicare. We need to save it.

At the end of this month Medicare will celebrate its 30th anniversary, and the new majority of this House wants Medicare to be around for the next 30 years. While we are trying to strengthen, protect, and preserve Medicare, some just want to go home.

SMOKING GUN ON RUBY RIDGE

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, let us look at the facts:

The FBI shot and killed Randy Weaver's unarmed son. The FBI then shot and wounded Randy Weaver. The FBI then shot and killed Randy Weaver's unarmed wife while holding her infant son, shot her right between the eyes. Now reports say that the FBI destroyed documents to conceal the incident of Ruby Ridge.

Did anyone really believe the FBI would leave a smoking gun on Ruby Ridge? It is unbelievable, my colleagues.

The bottom line here is the FBI says they made a mistake. I say the FBI committed felonies and committed a crime on Ruby Ridge. Since when did the Congress of the United States empower the FBI to first entrap and then shoot down and kill unarmed American families?

The remains of the Weaver family are screaming out from graves for justice, and Congress is turning its back. Let us investigate Ruby Ridge, and let us let the FBI answer to the people, the Constitution, and the Congress of the United States of America.

WE ARE GOING TO PROTECT, PRESERVE, AND IMPROVE MEDICARE

(Mr. HOKE asked and was given permission to address the House for 1 minute.)

Mr. HOKE. Mr. Speaker, Republicans have a simple three-step plan to give Medicare recipients the right to the same quality and choice that their own children and grandchildren have.

First, all senior citizens currently on Medicare must be allowed to remain on Medicare just exactly the way it is for as long as they want, if that is what they choose.

Second, all seniors who want to join a health plan that covers more than today's Medicare, including routine physicals, prescription drugs, and eyeglasses, should have that right.

Third, all seniors who want to set up a Medicare savings account that will pay for their health care needs and reward them for making healthy choices should be given that right as well.

Mr. Speaker, today's seniors deserve the right to the best medical care system possible, and tomorrow's seniors deserve to know that the money that they have paid in Medicare taxes will also have been a sound investment, and, Mr. Speaker, according to the budget resolution all of this would be done with an increase in spending per beneficiary from $4,816 in 1995 to $6,734 in 2002.

We are going to protect, preserve, and improve Medicare.

SAVE MEDICARE

(Ms. JACKSON-LEE asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. JACKSON-LEE. Mr. Speaker, the real question is, How many years have your loved ones, parents, aunts and uncles, relatives, been in the work force? 30 years? 40 years? 50 years?

The legacy of our seniors who have given to this country is one of hard work.

But do my colleagues know what the call of the Republican Party is today?

Let's ration them. Let's voucher the Medicare system. Let's make sure that seniors and the disabled just get a minimal amount of medical care and make sure that, if they need more, the heck with them. It doesn't matter whether you've been in the work force and given to this Nation 30, 40, 50 years of commitment, and now you come to a time when you are retired and you need the Medicare system, developed by this Nation in order to relieve the health care burden on seniors and the disabled. What the Republicans want to do is voucher you out of the system. They want to cut $270 billion out of Medicare with the false premise that we're slowing growth.

What does slowing growth mean? It means that those who are diabetic who have been able to be under maintenance, and survive, and be healthy will no longer have any care. It means people with high blood pressure will wind up in hospitals with strokes, without adequate health maintenance to keep their blood pressure down.

Save the Medicare program. What we need is to fix the fraud, but we do not need to voucher those who contributed to this Nation out of the system. Medicare is for those who have worked and the disabled. Both groups now need our help to save Medicare.

ROLE MODEL ECONOMY

(Mr. DICKEY asked and was given permission to address the House for 1 minute.)

Mr. DICKEY. Mr. Speaker, $245 million; that is what the tax cut is proposed right now. People are saying, "What about spending cuts first? Part of this is being overlooked." One way that we can have spending cuts in our Government is to starve the agencies that are overspending at this time. So, we are looking at shrinking the Government by reducing the taxes. That is No. 1.

No. 2 is that we are going to give back to the taxpayers the money that they have earned. We have too long gone with the idea that this money that comes up here is the Government's. It is ours. It is the bureaucrats'. It is the politicians'.

It is not. It is the people who earn it, and those people who earn it are entitled to spend it, and, if we give it back to them, they will spend it the way they want to, or they can save it. We, as a government, are not saving anything. We have a chance to give it back to the people. We have a chance to say, "You've earned it, and you could do what you want to with it. It will help the economy."

One other thing:

When we sit here and say we are going to discriminate against the rich and we do not want to have a tax cut because it will help the rich, it is avoiding an opportunity to have a role model for those people who want to acquire more.

CAMPAIGN AND LOBBY REFORM

(Mr. MEEHAN asked and was given permission to address the House for 1 minute.)

Mr. MEEHAN. Mr. Speaker, last Sunday on "Face the Nation," Speaker GINGRICH backed down on his promise to pass campaign finance and lobby reform. His excuse—Congress is moving too quickly on the issue.

Too quickly? Is he serious? Mr. Speaker, we have yet to have a hearing this Congress on campaign finance reform. And there has been no floor action on lobby reform since the Republican leadership stopped us on the first day of the session. Even the loyal class of freshman Republicans is starting to get fed up with Speaker GINGRICH's string of broken promises on these reform issues.

Mr. GINGRICH, I know you are enjoying the dramatic increase in PAC contributions to the Republican Party and it's clear you don't mind if industry lobbyists co-write legislation. But if you're really serious about curbing the power of special interest in Washington and making Congress more accountable to the voters, it's time to move on campaign finance reform.

You're not fooling anyone with your call for exploratory committees, Mr. Speaker. It's just another transparent delay tactic coming from a party leader benefiting from the status-quo.

□ 1020

SAVE MEDICARE

(Mr. BALLENGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BALLENGER. Mr. Speaker, what do Robert Reich, Donna Shalala, and Robert Rubin have in common?

(a) They are all Democrats

(b) They are all members of President Clinton's cabinet

(c) They all predict that the Medicare Trust Fund will go bankrupt by the year 2002

(d) All of the above

If you picked (d), you're right. Republicans aren't making the Medicare crisis up. The Medicare Trustees, which are members of the President's own Cabinet, have said that the Medicare Trust Fund is going broke. So while the Democrats in the House chose to ignore the Administration, the Republicans have listened. We understand the importance of the situation, and we know what will happen if we do nothing but maintain the status quo—Medicare will go bankrupt.

Republicans will work hard to preserve, protect and improve Medicare not only for this generation, but also for future generations. I urge my Democrat colleagues to listen to their own colleagues and join us in saving Medicare, not the status quo.

MEDICARE PROGRAM IN DISTRESS

(Mr. FARR asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FARR. Mr. Speaker, help.

I've fallen and can't get up!

This is the cry of a program—the Medicare program—in deep distress.

This is the cry of America's elderly as they tremble at the prospect of losing access to doctors, hospitals and medicines as the Medicare program is held hostage to the Republican steamroller of deficit reduction. By the year 2002, the average senior citizen will pay $1,200 a year more in Medicare premiums.

This is the cry of health care providers across the country as they struggle to meet the needs of their patients in the face of ever-restrictive government reimbursement policies. Under the proposed $270 billion cut to Medicare, hospitals will crumple—one hospital in my district will have to reduce its health care services by $5.6 million. That's just one hospital. Multiply that by the number of hospitals in your district.

And what for? So rich people can wallow poolside in their second and third homes.

What do we get?
Tax breaks for the rich.
Tough breaks for the little guy.

MEDICARE

(Mr. FRISA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FRISA. Mr. Speaker, Medicare is a trust fund. People pay their money in and trust that it will be there for them when they need it. But the Democrats broke that trust and squandered our Medicare away. And not only have Democrats left their footprints on our seniors' backs, their fingerprints are all over our seniors' wallets.

But, Mr. Speaker, seniors can finally rest assured, because responsible Republicans have the courage and common sense to protect and preserve the Medicare system for our seniors in the future, while providing affordable increases so that they receive the care they deserve.

It is a good thing the Republicans are in control to get our fiscal house back in order.

MOVE FORWARD ON CAMPAIGN FINANCE AND LOBBY REFORM

(Mr. BENTSEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BENTSEN. Mr. Speaker, as a new Member, I came to this House committed to enacting reform and restoring the trust of the American people in Congress.

I am proud that on my first day in the House, we voted to make the Congress abide by the same laws other Americans do. We cut committee staff by one-third. We opened committee meetings to the public.

But the job is incomplete, and we risk undermining all that we have already done if we don't move forward with campaign finance reform and lobby reform. You cannot have one without the other. It is time to stop the money chase which perverts the electoral process.

It's been a month since the President and the Speaker shook hands over a commission to move these issues forward. The President is ready to act. Why isn't the Speaker? Let's vote on H.R. 1100, which I and others introduced before that meeting in New Hampshire, to form such a commission. The American people want an end to the talk of reform. They want action.

The American people are concerned as we act on legislation to cut Medicare, roll back environmental protection, and cut taxes. For the wealthiest they deserve to know we are doing their work and not that of special interests. Let's end the talk and bring campaign and lobby reform to the floor.

HARRY WU

(Mr. SALMON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SALMON. Mr. Speaker, Harry Wu, an American citizen, a tireless crusader for human rights, and my friend, is being unjustly detained in the People's Republic of China.

Harry Wu survived nineteen years of torture, starvation, and solitary confinement after he was imprisoned for merely criticizing the government. Since then has devoted himself to exposing the horrors of the Chinese gulag.

China, immediately release American citizen Harry Wu and allow his return to the United States. He has committed no crimes and is being detained illegally. This is a gross abuse of his rights and seriously damages U.S.-China relations. Free this innocent man.

To Chinese officials I say this in Chinese:

"Mr. Wu is an American. Mr. Wu is my friend. If you hurt him we will not forget. If you do not free him we will not forget. Be careful."

TIME TO SEND A MESSAGE TO SERBIAN AGGRESSORS

(Mr. HOYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOYER. Mr. Speaker, we shoot at one another across this aisle. We do it verbally. There is a holocaust abroad in the world, and it is on the front page of the Washington Post, the Washington Times, the New York Times, and on every major network: Thirty thousand new refugees yesterday.

And what do we see on the front page of the Washington Post? a Dutch general, our general, the United Nations' general, having a drink with Ratko Mladic, an international terrorist, an international war criminal, an international thug.

Shame on the United Nations. Shame on the international Western community. Shame on America. We have imposed an arms embargo on the Bosnian people so they cannot defend themselves adequately. Shame on us.

Mr. Speaker, a holocaust goes on. Let us stand up, speak up, and vote to let the Serbian aggressors know that the West will not stand for international thuggery.

PROVIDING FOR CONSIDERATION OF H.R. 1977, DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 1996

Ms. PRYCE. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 187 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 187

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for consideration of the bill (H.R. 1977) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1996, and for other purposes. The first reading of the bill shall be dispensed with. Points of order against consideration of the bill for failure to comply with section 302(f), 306, or 308(a) of the Congressional Budget Act of 1974 are waived. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations. After general debate the bill shall be considered for amendment under the five-minute rule. The bill shall be considered by title rather than by paragraph. Each title shall be considered as read. Points of order against provisions in the bill for failure to comply with clause 2 or 6 of rule XXI are waived. The amendments printed in section 2 of this resolution shall be considered as adopted in the House and in the Committee of the Whole. All points of order against the amendment printed in section 3 of this resolution are waived. During consideration of the bill for amendment, the Chairman of the Committee of the Whole may accord priority in recognition on the basis of whether the Member offering an amendment has caused it to be printed in the portion of the Congressional Record designated for that purpose in clause 6 of rule XXIII. Amendments so printed shall be considered as read. Points of order against amendments for failure to comply with clause 2(e) of rule XXI are waived. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

SEC. 2. The amendments considered as adopted in the House and in the Committee of the Whole are as follows:

Page 57, line 21, strike ": *Provided further*" and all that follows through "Act" on page 58, line 2.

Page 72, line 19, insert ", subject to passage by the House of Representatives of a bill authorizing such appropriation," after the dollar figure.

Page 73, line 4, insert ", subject to passage by the House of Representatives of a bill authorizing such appropriation," after the dollar figure.

Page 75, line 24, strike "equivalent to" and insert "not to exceed".

SEC. 3. The amendment against which all points of order are waived is one offered by Representative Schaefer of Colorado or Representative Tauzin of Louisiana as follows:

Page 57, line 9, strike "and" and all that follows through "Reserve" on line 21.

The SPEAKER pro tempore. The gentlewoman from Ohio [Ms. PRYCE] is recognized for 1 hour.

Ms. PRYCE. Mr. Speaker, for the purposes of debate only, I yield the customary 30 minutes to the distinguished gentleman from California, my friend, Mr. BEILENSON, pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, in the immortal words of baseball great Yogi Berra, "It's deja vu all over again."

Less than 12 hours ago, the Rules Committee met to craft this second fair and responsible rule providing for the consideration of H.R. 1977, the Interior appropriations bill for fiscal year 1996.

Having been a part of the discussions which led to this new and improved rule, I can say quite honestly that House Resolution 187 more than adequately addresses concerns which have been raised about certain unauthorized provisions which have been included in the bill, namely those sections dealing with funding for the National Endowment for the Arts.

In response to these concerns, the rule provides for the automatic adoption of an amendment which makes the availability of NEA appropriations subject to passage of an authorization bill in the House.

By including this language, we can ensure that these funds will not be appropriated unless properly authorized, while also giving the full House an opportunity to debate this important and controversial issue.

Otherwise, Mr. Speaker, this rule contains essentially the same provisions as House Resolution 185, which we discussed on the floor of the House late last night.

Specifically, this is another open rule. It provides for 1 hour of general debate, equally divided and controlled by the chairman and the ranking minority member of the Committee on Appropriations, after which time the bill will be open to amendment under the 5-minute rule.

The bill shall be considered by title, rather than by paragraph, and each title shall be considered as read.

As in the previous resolution, this rule waives clause 2, related to unauthorized appropriations and legislative provisions, and clause 6 of rule XXI (21), related to reappropriation in an appropriations bill, against provisions of this bill.

Again, this is done as a precaution since the House, due to time constraints, has not yet approved authorizing legislation for all of the programs and activities contained in the bill.

The rule also waives provisions of the Budget Act against consideration of the bill relating to new entitlement authority and to matters within the jurisdiction of the Budget Committee. Language to correct these Budget Act violations is also included in the self-executing set of amendments.

In addition, the rule waives points of order against the amendment printed in the rule relating to the sale of oil from the Strategic Petroleum Reserve, if offered by Representative SCHAEFER of Colorado or Representative TAUZIN of Louisiana.

Under the rule, the Chairman of the Committee of the Whole may give priority in recognition to Members who have pre-printed their amendments in the CONGRESSIONAL RECORD prior to their consideration, and such amendments shall be considered as read.

As before, the rule waives clause 2(e) of rule XXI(21), relating to nonemergency amendments offered to a bill which contains an emergency designation. Finally, the rule provides for one motion to recommit, with or without instructions.

As I mentioned last evening, H.R. 1977 is a fiscally responsible bill which responds to the American people's clear mandate to reduce the size, scope, and cost of the Federal Government.

The bill is more than $1.5 billion below last year's level—a full 11 percent cut from the 1995 spending level—and is consistent with the balanced budget resolution already adopted by the House.

My good friend from Ohio, the distinguished chairman of the Interior Appropriations Subcommittee, has done yeoman work on this legislation, and I congratulate him on working to reach a compromise which will enable the House to debate, and then pass, this essential funding bill in a timely manner.

Those on both sides of the NEA funding issue owe Chairman REGULA a great debt of gratitude for his strong leadership.

Mr. Speaker, I encourage my colleagues, especially those who voted against the rule yesterday, to realize that this is a wide open, responsible, and reasonable rule. It will create the kind of healthy deliberation which should be the hallmark of this legislative body, and I urge its adoption without any further delay.

Mr. SOLOMON. Mr. Chairman, will the gentlewoman yield?

Ms. PRYCE. I yield to the gentleman from New York.

Mr. SOLOMON. Mr. Speaker, I just want to commend the gentlewoman. I know that she stayed up until the wee hours this morning trying to work out this compromise on the rule. I just want to reemphasize what she said. This is still a totally open rule. Yes, we are self-executing into the base text of the legislation simply the words that say "subject to passage by the House of Representatives of a bill authorizing such appropriation."

But, having done that, and having done it right up front in the beginning of the bill, the bill is still open to amendment at any point so that every single Member, 435 Members of this House, will have the opportunity to come to this floor and work their will in any way that they see fit. We have stuck to our guns in keeping these rules open so that Members on both sides of the aisle, regardless of political or philosophical persuasion, will have their opportunity to legislate on this floor.

I commend the gentlewoman for a great job on this rule. I urge every Member, on both sides of the aisle, to unanimously pass this rule, and let's get on with the people's business.

Ms. PRYCE. Mr. Speaker, in closing, let me say the House needs to move ahead with the appropriations process. We are fast approaching the August district work period, and less than half of our 13 regular appropriations bills have cleared the Committee on Rules. This resolution will get us back on track. I believe it is an immensely fair deal for both sides of the aisle. I urge its adoption without further delay.

Mr. Speaker, I reserve the balance of my time.

THE AMENDMENT PROCESS UNDER SPECIAL RULES REPORTED BY THE RULES COMMITTEE,[1] 103D CONGRESS V. 104TH CONGRESS

[As of July 12, 1995]

Rule type	103d Congress		104th Congress	
	Number of rules	Percent of total	Number of rules	Percent of total
Open/Modified-open[2]	46	44	34	72
Modified Closed[3]	49	47	12	26
Closed[4]	9	9	1	2
Totals:	104	100	47	100

[1] This table applies only to rules which provide for the original consideration of bills, joint resolutions or budget resolutions and which provide for an amendment process. It does not apply to special rules which only waive points of order against appropriations bills which are already privileged and are considered under an open amendment process under House rules.

[2] An open rule is one under which any Member may offer a germane amendment under the five-minute rule. A modified open rule is one under which any Member may offer a germane amendment under the five-minute rule subject only to an overall time limit on the amendment process and/or a requirement that the amendment be preprinted in the Congressional Record.

[3] A modified closed rule is one under which the Rules Committee limits the amendments that may be offered only to those amendments designated in the special rule or the Rules Committee report to accompany it, or which preclude amendments to a particular portion of a bill, even though the rest of the bill may be completely open to amendment.

[4] A closed rule is one under which no amendments may be offered (other than amendments recommended by the committee in reporting the bill).

SPECIAL RULES REPORTED BY THE RULES COMMITTEE, 104TH CONGRESS

[As of July 12, 1995]

H. Res. No. (Date rept.)	Rule type	Bill No.	Subject	Disposition of rule
H. Res. 38 (1/18/95)	O	H.R. 5	Unfunded Mandate Reform	A: 350–71 (1/19/95).
H. Res. 44 (1/24/95)	MC	H. Con. Res. 17	Social Security	A: 255–172 (1/25/95).
		H.J. Res. 1	Balanced Budget Amdt	
H. Res. 51 (1/31/95)	O	H.R. 101	Land Transfer, Taos Pueblo Indians	A: voice vote (2/1/95).
H. Res. 52 (1/31/95)	O	H.R. 400	Land Exchange, Arctic Nat'l. Park and Preserve	A: voice vote (2/1/95).
H. Res. 53 (1/31/95)	O	H.R. 440	Land Conveyance, Butte County, Calif	A: voice vote (2/1/95).
H. Res. 55 (2/1/95)	O	H.R. 2	Line Item Veto	A: voice vote (2/2/95).
H. Res. 60 (2/6/95)	O	H.R. 665	Victim Restitution	A: voice vote (2/7/95).
H. Res. 61 (2/6/95)	O	H.R. 666	Exclusionary Rule Reform	A: voice vote (2/7/95).
H. Res. 63 (2/8/95)	MO	H.R. 667	Violent Criminal Incarceration	A: voice vote (2/9/95).
H. Res. 69 (2/9/95)	O	H.R. 668	Criminal Alien Deportation	A: voice vote (2/10/95).
H. Res. 79 (2/10/95)	MO	H.R. 728	Law Enforcement Block Grants	A: voice vote (2/13/95).
H. Res. 83 (2/13/95)	MO	H.R. 7	National Security Revitalization	PQ: 229–100; A: 227–127 (2/15/95).
H. Res. 88 (2/16/95)	MC	H.R. 831	Health Insurance Deductibility	PQ: 230–191; A: 229–188 (2/21/95).
H. Res. 91 (2/21/95)	O	H.R. 830	Paperwork Reduction Act	A: voice vote (2/22/95).
H. Res. 92 (2/21/95)	MC	H.R. 889	Defense Supplemental	A: 282–144 (2/22/95).
H. Res. 93 (2/22/95)	MO	H.R. 450	Regulatory Transition Act	A: 252–175 (2/23/95).
H. Res. 96 (2/24/95)	MO	H.R. 1022	Risk Assessment	A: 253–165 (2/27/95).
H. Res. 100 (2/27/95)	O	H.R. 926	Regulatory Reform and Relief Act	A: voice vote (2/28/95).
H. Res. 101 (2/28/95)	MO	H.R. 925	Private Property Protection Act	A: 271–151 (3/2/95)
H. Res. 103 (3/3/95)	MO	H.R. 1058	Securities Litigation Reform	
H. Res. 104 (3/3/95)	MO	H.R. 988	Attorney Accountability Act	A: voice vote (3/6/95)
H. Res. 105 (3/6/95)	MO			A: 257–155 (3/7/95)
H. Res. 108 (3/7/95)	Debate	H.R. 956	Product Liability Reform	A: voice vote (3/8/95)
H. Res. 109 (3/8/95)	MC			PQ: 234–191 A: 247–181 (3/9/95)
H. Res. 115 (3/14/95)	MO	H.R. 1159	Making Emergency Supp. Approps.	A: 242–190 (3/15/95)
H. Res. 116 (3/15/95)	MC	H.J. Res. 73	Term Limits Const. Amdt	A: voice vote (3/28/95)
H. Res. 117 (3/16/95)	Debate	H.R. 4	Personal Responsibility Act of 1995	A: voice vote (3/21/95)
H. Res. 119 (3/21/95)	MC			A: 217–211 (3/22/95)
H. Res. 125 (4/3/95)	O	H.R. 1271	Family Privacy Protection Act	A: 423–1 (4/4/95)
H. Res. 126 (4/3/95)	O	H.R. 660	Older Persons Housing Act	A: voice vote (4/6/95)
H. Res. 128 (4/4/95)	MC	H.R. 1215	Contract With America Tax Relief Act of 1995	A: 228–204 (4/5/95)
H. Res. 130 (4/5/95)	MC	H.R. 483	Medicare Select Expansion	A: 253–172 (4/6/95)
H. Res. 136 (5/1/95)	O	H.R. 655	Hydrogen Future Act of 1995	A: voice vote (5/2/95)
H. Res. 139 (5/3/95)	O	H.R. 1361	Coast Guard Auth. FY 1996	A: voice vote (5/9/95)
H. Res. 140 (5/9/95)	O	H.R. 961	Clean Water Amendments	A: 414–4 (5/10/95)
H. Res. 144 (5/11/95)	O	H.R. 535	Fish Hatchery—Arkansas	A: voice vote (5/15/95)
H. Res. 145 (5/11/95)	O	H.R. 584	Fish Hatchery—Iowa	A: voice vote (5/15/95)
H. Res. 146 (5/11/95)	O	H.R. 614	Fish Hatchery—Minnesota	A: voice vote (5/15/95)
H. Res. 149 (5/16/95)	MC	H. Con. Res. 67	Budget Resolution FY 1996	PQ: 252–170 A: 255–168 (5/17/95)
H. Res. 155 (5/22/95)	MO	H.R. 1561	American Overseas Interests Act	A: 233–176 (5/23/95)
H. Res. 164 (6/8/95)	MC	H.R. 1530	Nat. Defense Auth. FY 1996	PQ: 225–191 A: 233–183 (6/13/95)
H. Res. 167 (6/15/95)	O	H.R. 1817	MilCon Appropriations FY 1996	PQ:223–180 A: 245–155 (6/16/95)
H. Res. 169 (6/19/95)	MC	H.R. 1854	Leg. Branch Approps. FY 1996	PQ: 232–196 A: 236–191 (6/20/95)
H. Res. 170 (6/20/95)	O	H.R. 1868	For. Ops. Approps. FY 1996	PQ: 221–178 A: 217–175 (6/22/95)
H. Res. 171 (6/22/95)	O	H.R. 1905	Energy & Water Approps. FY 1996	A: voice vote (7/12/95)
H. Res. 173 (6/27/95)	C	H.J. Res. 79	Flag Constitutional Amendment	PQ: 258–170 A: 271–152 (6/28/95)
H. Res. 176 (6/28/95)	MC	H.R. 1944	Emer. Supp. Approps.	PQ: 236–194 A: 234–192 (6/29/95)
H. Res. 185 (7/11/95)	O	H.R. 1977	Interior Approps. FY 1996	PQ: 235–193 D: 192–238 (7/12/95)
H. Res. 187 (7/12/95)	O	H.R. 1977	Interior Approps. FY 1996 #2	
H. Res. 188 (7/12/95)	O	H.R. 1976	Agriculture Approps. FY 1996	

Codes: O-open rule; MO-modified open rule; MC-modified closed rule; C-closed rule; A-adoption vote; D-defeated; PQ-previous question vote. Source: Notices of Action Taken, Committee on Rules, 104th Congress.

Mr. BEILENSON. Mr. Speaker, I thank the distinguished gentlewoman from Ohio [Ms. PRYCE] for yielding me the customary 30 minutes of debate, and I yield myself such time as I may consume.

Mr. Speaker, we oppose this rule, and we urge Members to vote "no" on the previous question and "no" on the rule.

As the gentlewoman from Ohio has explained, House Resolution 187 is identical to the rule for consideration of the Interior appropriations bill for fiscal year 1996 that the House defeated last night, except for one change related to the NEA, the National Endowment for the Arts.

This new rule provides that the appropriation of $99 million contained in the bill for the NEA would be contingent upon House passage of an authorization bill for the NEA.

Although those of us who strongly support the NEA believe that the organization should be given the same treatment that the bill gives other agencies whose authorizations have expired—that is, we believe that its funding should be fully protected by waiving the prohibition against unauthorized appropriations, without being contingent upon passage of another piece of legislation—we appreciate the fact that the NEA funding will not be able to be struck on a point of order when the House considers H.R. 1977.

Because we discussed the other provisions of the rule in detail last night, I shall only briefly summarize them at this time:

House Resolution 187 is an open rule, as rules for Interior appropriations bills have always been, to the best of our knowledge. Members may offer any amendment that is otherwise eligible to be offered under the standing rules of the House. The rule permits the Chair to accord priority in recognition to Members who have preprinted their amendments in the CONGRESSIONAL RECORD.

The rule waives several House rules for provisions in H.R. 1977, as well as several sections of the Budget Act against consideration of the bill. The rule also contains a self-executing amendment, and it waives points of order against an amendment to be offered by Representative SHAEFER or TAUZIN relating to the sale of oil from the Strategic Petroleum Reserve.

The waivers of clause 2 and clause 6 of rule XXI, prohibiting unauthorized appropriations and legislation in an appropriations bill are necessary because the bill contains funding for numerous programs whose authorizations have expired, and because of legislative language contained in the bill. Despite their past criticism of waiving rule XXI, it is clear that our colleagues on the other side of the aisle have found that it is necessary to provide such waivers in order to move appropriations bills through the House in a timely manner.

However, I want to point out that the senior Democratic member of the Resources Committee, Mr. MILLER of California, strongly objects to waiving the prohibition on legislation in an appropriations bill for provisions in H.R. 1977 that directly or indirectly amend laws under the jurisdiction of the Resources Committee.

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He noted in a letter to the Committee on Rules that the Committee on Resources has not considered the impact of changes that H.R. 1977 would make on a number of major environmental laws. We hope that these changes in laws will be fully explained and debated as the House considers H.R. 1977 so that Members will be fully aware of the consequences to our environmental laws that would result from approving this bill.

The rule also waives three sections of the Budget Act against consideration of the bill. Two of the waivers are needed to cover the minor amount of spending required for salaries and expenses of the National Capital Planning Commission. The third wavier covers the change in budget scorekeeping related to the sale of oil from the Strategic Petroleum Reserve.

As a matter of principle, we are normally reluctant, all of us, to waive the Budget Act. However, because none of the provisions which require these waivers would have any real or serious or substantial impact on our efforts to control spending, we do not consider the waivers here to be significant violations of the Budget Act, and we support them.

Beyond our concerns about the rule itself, many of us do have strong objections to the bill that this rule makes in order, primarily because of its deep cuts in funding for many important and useful programs, programs that cost very little compared to the immense amount of value that they add to the quality of the lives of tens of millions of Americans.

We realize that the Subcommittee on Interior had an extremely difficult task determining how to cut 12 percent of the funding for programs under its jurisdiction, especially since many of these programs have already been squeezed for funding in recent years. But the subcommittee was in that position only because the Republican majority has imposed budget priorities that in our opinion do not serve the best interests of our Nation.

Those priorities are forcing us to cut next year's funding for the relatively modest programs in this bill by $1½ billion, $1½ billion so that hundreds of billions of dollars can be spent over the next several years on unnecessary additional increases in military spending and on tax cuts that will mainly benefit the wealthiest Americans among us.

These program cuts will cost our Nation dearly in countless ways, Mr. Speaker. The bill is a 27-percent cut in energy conservation programs and will mean a slowdown in the progress we have been making toward reducing our Nation's dependence on imported oil as well as the cost of energy. The elimination of all but a nominal amount of funding for land acquisition for national parks and for other public lands will mean that there will be far fewer opportunities in the future for Americans to enjoy the experiences our national parks and other public lands have to offer.

The 40-percent cut in funding for the National Endowments for the Arts and Humanities, the first step of the elimination of both organizations, will mean that fewer Americans will be able to enjoy the very many cultural benefits that these organizations have made possible across this wide and great country of ours. And the elimination of funding for prelisting and listing activities for endangered species will greatly impair our ability to save animal and plant species before they reach critical level. The result is likely to be the decline and the possible extinction of many additional species.

In this and many other ways, the natural and cultural resources of our national resources that help make the United States the greatest nation on Earth will be severely harmed by this bill. This misguided attempt to save a very modest amount of taxpayers' dollars will be robbing our Nation of some of its greatest strengths and assets.

Mr. Speaker, we urge Members to vote "no" on the previous question and "no" on the rule.

Mr. Speaker, I reserve the balance of my time.

Ms. PRYCE. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. Mr. Speaker, I want to congratulate the members of the Committee on Rules and all those who worked so late into the night last night to reach agreement on this rule. The amount of money that is going to go to the NEA, should this rule pass and the bill pass, will be the same as was originally planned and probably a little bit more.

The only difference is, instead of having it in 3-year tranches, it is going to be in 2 years. That will definitely let the people who support the NEA know that after the 2-year period, the money is going to be there, but after the 2-year period they go to private sources to get funding for NEA projects.

Mr. YATES. Mr. Speaker, will the gentleman yield?

Mr. BURTON of Indiana. I yield to the gentleman from Illinois.

Mr. YATES. Mr. Speaker, as I understand it, the gentleman's position is based on what he conceives to be the position of the authorizing committee. That is what we use as the basis for our appropriation. The Senate bill is entirely different. They may come up with another form of the bill and, as a result, the result of what the gentleman predicts may not come to pass.

Mr. BURTON of Indiana. Mr. Speaker, I understand what the gentleman is saying. I thank him for his contribution. But I have great confidence in our conferees that they are going to hold firm. When you have confidence in Members like the gentleman from Ohio, your confidence is well founded.

I think we will have an agreement that was reached last night, one that was acceptable to all factions of our party. I hope to the Democratic Party as well as those of all political persuasions.

I would just like to say to my colleagues who are members of various organizations in the Republican Conference that we worked long and hard last night to hammer out our differences. I cannot think of anybody, liberal, moderate, or conservative, that cannot support this rule. I would like to urge all of my colleagues, when they come to the floor, if they have any doubts about the rule, to look up their friends of the various philosophical persuasions and ask them what happened last night so that they will be fully informed and will vote correctly on the rule.

We should have unanimous consent on the rule, unanimous passage. I doubt if my Democrat colleagues agree with that. But at least on the Republican side, we should have 232 hard votes.

Mr. BEILENSON. Mr. Speaker, I yield 11 minutes to the distinguished gentleman from California [Mr. MILLER], the ranking minority member of the Committee on Resources.

Mr. MILLER of California. Mr. Speaker, I would hope that the House would again reject this rule since this rule is contrary to the rules of the House in that it provides for substantial legislation on an appropriation and protects those items of legislation on an appropriation against a point of order that would ordinarily lie against those provisions under the rules of the House. So we are not quite complying with the rules of the House as the majority has suggested that we are.

But it is also because the changes that they seek to make are devastating to the programs. This legislation that historically has been about the stewardship of this Government of the public's lands, the lands that are owned by the taxpayers and the citizens of the United States of America, public lands that are used by some 300 million visitors this year, public lands that have attracted millions of tourists from other countries to the United States to visit our parks, to visit our wilderness areas, to visit our historical sites, it has been the charge of this committee to provide the resources to take care of those lands. What we see now is for the first time in 40 years, this committee has failed to discharge its duty to the public in the kind of funding that it provides.

This committee has gone far beyond just the issue of the budgetary issues. This committee has gone off in a fit against activities that they do not like. They do not like the Endangered Species Act. So they decided what they would do is they would not let any moneys be used for prelisting activities. That is an interesting notion because that also means that you cannot use money for prelisting activities that might prevent a species from being endangered.

They also tell you that they are not going to let you use volunteers to go around and collect the data that might help us map out how we avoid the endangered species crisis that we have experienced in the past. They also tell you that they will not let you use the

National Biological Survey on private lands, even if requested by private landowners.

And the fact of the matter is, we have forest products companies in this country that have requested this help so they can map out how to harvest their timber in an environmentally safe manner, how they can harvest their timber so they do not run into an endangered species problem, how they can harvest it on a sustainable basis so they can go to their shareholders and they can say: This is on your plan to operate this company in the future. We would not allow them to have the benefit of the knowledge and the scientific expertise of the biological survey even if requested by them.

These Republicans are sticking their head in the sand, and what do they hope happens? They hope that we get into an endangered species crises, one after another, one after another so there will be a growing groundswell to repeal the act. If it is in fact repealed, it will be repealed because they have denied the ability of the agencies to work to protect the endangered species.

Last night we were treated on ABC News to the success of the Endangered Species Act, to the bald eagle being returned from the endangered list to now 4,000 pairs, bald eagles also that are viewed now in many States where they were basically extinct because of DDT and because of other activities, and the delisting of the gray whale and others. So where are we on this?

They have decided they want to fight over the past, and they want to destroy the ability of this agency to do its work. Not only have they weighed in on behalf of the special interests that want to see the repeal of the Endangered Species Act, but they have also weighed in on behalf of the special interests that simply want to continue to use the public's lands without paying for them. In my town hall meetings very often people say to me when they are talking about the deficit, they say, why do not you run the Government like a business?

One of the reasons we do not run the Government like a business is because of the Republicans. No business would give away billions of dollars of gold and platinum and silver and trona and coal and gas and oil and not make those individuals pay a fair royalty. But that is what the Federal Government does.

Last year we witnessed the Federal Government giving away land for a few thousand dollars, of which it was expected to be mined a billion dollars or $10 billion in gold. And the American taxpayer got zip.

You want to know why there is a deficit? You keep pandering to the big energy companies, to the big mining companies, and you will end up with a deficit. The public is entitled to a fair return.

But what does this bill do? This bill says, we will remove the moratorium. It got so outrageous that the Congress decided last year to put a moratorium on this activity until we get a mining reform bill. They have lifted the moratorium, so once again we are back into the business of giving long-term leases, ownership in fact, of Federal lands to the mining companies without their paying their fair share for that effort.

I think that you have got to understand that this legislation is among the worst pieces of environmental legislation to come through the House so far. It falls on the heels of the lobbyists and special interests writing the clean water bill that we witnessed. It falls on the legislation to devastate the environment in terms of regulatory reform that is now being held up in the Senate.

We ought to disavow this legislation. We ought to disavow this rule because of its allowing for legislation on the appropriation. And we also ought to understand that this is a systematic effort to undermine the Endangered Species Act so that Members will hear from their districts that they have to repeal the act because the act does not work.

The reason the act does not work is because the Republicans in the House are falling into the same method that George Bush and Ronald Reagan used, and that was, they would not let the act work because they were hoping that they could build up such anger over the act that it would, in fact, be repealed. It is not going to be repealed because the overwhelming majority of American people do not want it repealed. They want it to work. They want the species saved. They want us to make smart decisions.

Finally, let me just say this, they banned the use of volunteers. They banned the use of volunteers. Four thousand Americans go out and help this Government by surveying the number of birds, breeding birds, and others in this country, and help State agencies to collect that data.

In Yosemite National Park and in Sequoia National Park, they collect biological data. We are trying to restore the Grand Sequoias of the Sierra Mountains. And yet what we find out is, if you want to do that on private land with volunteers, you are not allowed to do that.

Mr. REGULA. Mr. Speaker, will the gentleman yield?

Mr. MILLER of California. I yield to the gentleman from Ohio.

Mr. REGULA. Mr. Speaker, I just want to advise the gentleman that I will be offering an amendment, in conformance with the suggestion of the gentleman from Wisconsin [Mr. OBEY], to allow the volunteers to do the migratory bird counts.

Mr. MILLER of California. Are we going to allow the National Biological Survey on private property?

Mr. REGULA. Mr. Speaker, if the gentleman will continue to yield, I am just talking about the bird count.

Mr. MILLER of California. Mr. Speaker, I thought the gentleman from Ohio [Mr. REGULA] was coming my way. Here I have been speaking for 7 minutes.

Let me tell you about the National Biological Survey on private lands. This is an outrage.

The issue about the National Biological Survey on private land is this, a lot of local communities and a lot of companies, private enterprise, want to avoid the problems of the Endangered Species Act and getting into where you have a threatened endangered species.

In southern California, in northern California that I am familiar with, they are trying to go out and determine the areas that are inhabited by the kit fox, by the salamanders, so that the developers, the home builders, industry and others will know what they can do or not do with their land and how they can develop it. They want the help of the government. They want the help. Forest products companies in the Southeast have asked for help from the National Biological Survey.

What this Congress would say or what this House would say in this bill is, even if requested, they cannot help you, if it is about private land. What you have done is you have diminished the rights of those landowners to get the help of the Government that they pay taxes for that have the expertise to help them get out of a problem that can cost them millions of dollars, if not their companies.

They are asking for help and you are telling them no, we will not allow you to be of help on private land.

Last year we had a problem because people were concerned about the National Biological Survey coming onto their land without permission. And we required that they obey the laws of the State and gain permission. No problem with that. But now you are saying to people who are involved, have hundreds of millions of dollars at risk, have loans at the banks, that they cannot get the help from their Federal Government or Orange County cannot get the help or the Irvine Co. cannot get the help, they cannot get the help to solve this problem because somebody has decided they want a train wreck. They want a national crisis around the Endangered Species Act. It is absolutely mindless.

Let us hear for an amendment on that one. Come on. Do we have one?

Mr. REGULA. Mr. Speaker, if the gentleman will continue to yield, I think it should be pointed out that what you have been addressing is the science, and if you could guarantee to me that every volunteer will be a Ph.D. scientist that is fine. Keep in mind that this does not restrict volunteers in the Fish and Wildlife Service or the

Park Service, the BLM or any of the other agencies of Interior, only the natural resource science of the USGS. So I think we have to be very careful in the definition of our terms here.

Mr. MILLER of California. Why would we not allow this Government to engage volunteers to collect samples of habitat or to map out areas and give that to the scientists and let the scientists make their determination? It is mindless, again, when private companies are asking for the help. You do not say only scientists. You say no volunteers. You say nobody from NBS on private land.

Mr. REGULA. Because the ones you are talking about were used by the NBS, which is no longer funded in the bill. That is gone. And we have a natural resource science function in USGS. And if somebody is taking a blood sample of any of us, we want somebody that knows what they are doing to do it, not somebody that is just a volunteer and may lack appropriate training.

Mr. MILLER of California. You will not even let the science people. No amendment, RALPH?

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. EWING). Members are reminded they should refer to each other by State.

Ms. PRYCE. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Wisconsin [Mr. GUNDERSON].

Mr. GUNDERSON. Mr. Speaker, I come to the floor today as one of those Republicans who has consistently supported the arts and the National Endowment for the Arts. I happen to believe that in an increasingly intolerant and polarized society, the arts are playing an increasingly important role, not a diminished role. And what this Congress is doing has some long-term risks for American society.

Interestingly enough, when I opened my mail this morning, I had a letter from a constituent where she said, "In spite of the openly expressed hostilities to the arts by this Congress, I still urge you to consider reauthorizing the NEA, at least to give it and the arts world a chance to reorganize their means of funding and setting of artistic priorities."

We are here this morning for a couple of reasons. We are here because some of my friends on the Democratic side last night decided it was more important to kill the rule than to preserve a point of order against the NEA. That is your choice, and I understand that.

We are also here, unfortunately, because I think the arts community still does not get it. They are convinced that business as usual will survive. So if we get anything out of this today, I hope we get a clarion call to the arts community that business as usual will no longer survive and that we have got a few precious months in order to get an authorization bill that will allow this funding to go forward for fiscal year 1996, but, more importantly, to include a provision that would begin to create the kind of private endowment that would allow the privatization of the National Endowment for the Arts and the continued Federal commitment to the arts, albeit one without regular annual appropriations of the American taxpayer dollars.

□ 1100

Mr. Speaker, this is not going to be easy. If we want to come even close to the $167 million we presently appropriation, we would need well over a $1 billion endowment. We cannot get there from here in 2 years. I want everyone to understand that. That is why I am not all that excited by the discussions and the tentative understanding of the agreement in the House among many of our parties, including myself, last night. However, I would suggest to my colleagues that this is a start, and we ought to use the weeks and months ahead to make sure we save the mission so many of us believe in.

Mr. BEILENSON. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Wisconsin [Mr. OBEY].

Mr. OBEY. Mr. Speaker, before I comment on the pending rule, I do want to make a few comments that are, I think, required by conscience. I hope the House will indulge me. The gentleman from Maryland [Mr. HOYER] earlier indicated that yesterday we saw Bosnian Serb military forces in essence commit war crimes in places like Potocari and Srebrenica.

Mr. Speaker, I have one simple message for Gen. Ratko Mladic and his associates among the Bosnian Serbian leadership. It is a four-part message. You are sick pigs. You are sick pigs. You are an embarrassment to the human race. If the world has any conscience, you will one day be where you belong, in prison, rather than disgracing the military uniform that you wear.

Having said that, Mr. Speaker, I would now like to move on to the matter before us. This rule is really, in many ways, worse than the rule before us last night. It still violates normal House rules in order to allow a continued onslaught on environmental protection and reversal of environmental progress made by previous Congresses.

The bill, as has been mentioned by the gentleman from California [Mr. MILLER] permits giving away Bureau of Mine facilities. The bill repeals the Outer Banks Protection Act of 1990. The bill includes Columbia River basin ecoregion assessment restrictions and directions which should not be in this bill. The bill reverses the progress that this Congress made last year in establishing the California Desert Act. In general, it contains many legislative provisions that should not be in a spending bill.

It also establishes a distinction between the arts and other unauthorized legislation which I think is both primitive and unfair. What is going on is simply this: The extreme conservatives on the Republican side of the aisle last night used their leverage which they had on the rule to try to further disadvantage the possibility for future funding for the arts.

I would say to our Republican moderate friends who claim to be supporters of the arts that they can stop this onslaught on the arts by voting against this rule, and insisting that the arts be treated precisely the same as other unauthorized programs in this bill. That is all they have to do. That is all they have to do.

They can then bring a bill to the floor which will allow us to have the normal debates on all of these programs without creating a special disadvantage for a tiny little program which has fallen victim both to the extremists of the right and to some of the extreme artists, that very tiny, uncivilized minority, who have, because of their thoughtlessness and their stupidity, allowed the enemies of arts funding to attack the entire program the Maplethorpes of this world, if you want, being joined in their extremism by the extremists on the other side, who together want to savage a program which is meant to increase the civility of this society by just a little bit.

Therefore, Mr. Speaker, I would urge Members to vote against this rule one more time, send it back to the Committee on Rules. The Committee on Rules can do it right. It does not have to continue the onslaught on environmental legislation. It does not have to play this double standard game. We can pass a bill which is far more balanced and a product that is better than the one before us.

Ms. PRYCE. Mr. Speaker, I reserve the balance of my time.

Mr. BEILENSON. Mr. Speaker, I yield 3 minutes to the gentleman from Vermont [Mr. SANDERS].

Mr. SANDERS. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, the rule that we have before us could very well begin the process of ending the funding for the National Endowment for the Arts. I stand in complete opposition to the rule and to the bill.

Mr. Speaker, let us get our priorities straight and let us try to understand what this country is supposed to stand for. Art and culture are a vital part of human existence. The opportunity to enjoy the arts, to enjoy culture, must be open to all of our people, and not just those who can afford $100 for a concert ticket.

Mr. Speaker, the United States spends only 64 cents per person to support the arts endowment, 64 cents, 50 times less than our major allies. In contrast, we spend over $1,000 per person on the military, far more than our allies. Why is it that this Congress can lower taxes on the wealthiest people in America, do away with taxes for the largest corporations in America, but eliminate programs which bring art and culture into classrooms in the State of Vermont and all over this country? Why is it that this Congress can pour billions of dollars more into B-2 bombers that the Pentagon tells us that do not need, but we cut back on funding for symphony orchestras and threater groups all over America?

Mr. Speaker, I would remind our colleagues that one B-2 bomber costs $1.5 billion, 10 times the entire allocation for the National Endowment for the Arts. The entire endowment is 10 percent of one B-2 bomber, a B-2 bomber that the Pentagon tells us they do not need.

Mr. Speaker, where are our priorities? Let us speak up for the kids in this country. Let us speak up for all of the people who appreciate the arts, who appreciate culture. Let us defeat this rule.

Ms. PRYCE. Mr. Speaker, I yield such time as he may consume to the gentleman from the great State of Ohio [Mr. REGULA], my great friend, and distinguished chairman of the Subcommittee on Interior of the Committee on Appropriations.

Mr. REGULA. I thank the gentlewoman from the great State of Ohio. I want to commend the Committee on Rules for trying to bring out a balanced rule, recognizing there are a great number of differences of opinion as to how we should address this.

Mr. Speaker, I would urge all the Members to support this rule. I recognize that because we had to take over a 10 percent cut, we cannot do everything that people would like to do. Nevertheless, we have done the best we could. We have been fair. I think it is a balanced bill, and I would certainly urge Members to support the rule so we can get on with the business.

Mr. Speaker, we have to keep in mind that the budget resolution has been adopted by both houses. This bill is responsive to that. I think it represents a commonsense addressing of that.

Mr. Speaker, we mentioned volunteers earlier. We will get into this more in general debate, but I would point out that there are a couple hundred thousand volunteers, and they will continue to be there in all the agencies of Interior. We can talk about that more later.

Let me say to the Members, my colleagues, that I know all of them are anxious to get out today. If we work at this with goodwill on both sides, I think there will be plenty of opportunity to debate the fundamental policy questions.

Under the Constitution we are charged with the responsibility to make policy for the people of the United States. It is the responsibility of the President and his team to execute that policy. There will be a number of amendments here that represent policy issues. Some I may agree with, some I may not. That is why we have votes.

As I said earlier, Mr. Speaker, if we all work at it and take a goodwill approach, we can get out of here at a decent time and finish this bill. I am not going to take more time. I will not take a lot of time in general debate. I know we are all anxious to get ahead.

One last comment. That is that this is an appropriations bill. We do not do the authorizing. We communicated with the authorities as much as possible, and anything that is in here represents a consensus with authorizing committees in the House. However, basically, it is a bill to determine how much we are going to spend on the programs that have been established by the authorizing committees.

There will be an opportunity to vote on every dollar that is in the bill. People can offer amendments to cut or add to, and these will be subject to a vote. So as the chairman of the Committee on Rules said earlier, it is really an open rule. All the Members will have an opportunity through their votes to establish what they think are responsible policies for the administration of the public lands of this Nation: about one-third of the United States; it is owned by the people of this country, along with energy policies; along with policies affecting the Bureau of Indian Affairs, our responsibility to the native Americans; and a number of others. I think it is a perfect example of how our democracy should work.

We are representatives of the people. That is our title. We will have an opportunity to take care of that role today on the amendments and on the bill itself. I urge the Members to support the rule so we can get on with this and finish it in a timely hour today.

Mr. BEILENSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, since the rule itself executes a provision relating to the NEA appropriations level, I wonder if at this point I might ask the gentlewoman from Ohio, or perhaps through her, either the gentleman from Ohio or the distinguished chairman of the Committee on Rules, if it is her understanding that the self-executing provision in the rule will permit the appropriation of some amount of funding for the NEA, regardless of the level of funding provided in the authorization bill.

In other words, if the authorization bill provides less than the $99 million contained in this appropriations bill, will that lower authorized amount be appropriated, or will the funding for NEA be appropriated only if the authorization bill also provides for an appropriation of $99 million, the exact amount provided in this bill?

Ms. PRYCE. Mr. Chairman, will the gentleman yield?

Mr. BEILENSON. I yield to the gentlewoman from Ohio.

Ms. PRYCE. Mr. Speaker, I believe we have had a ruling from the Parliamentarian.

Mr. BEILENSON. I yield to my colleague, the gentleman from Ohio [Mr. REGULA].

Mr. REGULA. I thank the gentleman for yielding.

Mr. Speaker, it is my understanding from the Parliamentarian that the authorizing bill would have to conform to the appropriation bill in the exact amount, and otherwise, it would eliminate the appropriation totally, so I think it is important that in coming with an authorizing bill, that it be consistent with what we are appropriating in this bill.

Mr. BEILENSON. I thank the gentleman for his response. I think it is different from the understanding we had last night and the arrangement you folks on that side of the aisle worked out. In other words, if the authorizing bill provides for any amount less than the $99 million, even if it is $97 million, that amount would not be appropriated under this bill.

Mr. REGULA. That is my understanding from the Parliamentarian, if the gentleman will continue to yield, that is correct.

Mr. YATES. Mr. Speaker, will the gentleman yield?

Mr. BEILENSON. I yield to the gentleman from Illinois.

□ 1115

Mr. YATES. Does the arrangement respecting the appropriation to which you addressed yourself have the approval of the chairman of the authorizing committee of the House?

Mr. REGULA. If the gentleman from California who has the time will yield, members of the authorizing committee were a party to working out the rule, so I think the answer would be yes.

Mr. BEILENSON. If I may further pursue this, why are we treating this in a different manner than we usually treat appropriations? Ordinarily at least, a lower authorization would appropriate a certain amount of money if the Committee on Appropriations, as in this case, provided a higher amount.

Is there some particular reason for this that anybody can tell us about?

Ms. PRYCE. Mr. Speaker, if the gentleman will yield, I differ with the Parliamentarian's interpretation of this and I think it is just a matter of how it comes down to interpretation in the long run. I am not sure the intention was there at the beginning. But the intention is to authorize in the amount that was provided for here.

Mr. BEILENSON. I appreciate the gentlewoman's response and also the gentleman's response. I simply want to point out to our colleagues and to the friends of the NEA, this is a little bit more complex and perhaps dicey situation, the one perhaps we are in, because it is dependent upon an authorization being exactly the same as the appropriation in this bill and any lower amount would result in no appropriation whatsoever for the NEA in the coming year; is that correct?

Mr. REGULA. If the gentleman will yield further, I want to say, the leadership on our side of the aisle has endorsed this and understands that. So I think that for those that are interested in the NEA, and that is what you are getting to, they can anticipate that we will be consistent on the authorization and the appropriation.

As the gentleman noted, it is self-enacting in that it limits the expenditure of funds in NEA to institutional grants. Of course I think that addresses the problem that the gentleman from Wisconsin [Mr. OBEY] discussed earlier in his remarks about some of the individual grants that have caused the NEA to have some problems.

Mr. BEILENSON. I appreciate the gentleman's response. It makes us feel a little bit better.

Mr. YATES. Mr. Speaker, if the gentleman will yield further, suppose the other body does not agree with what is being provided as self-operating in this rule. Suppose the other body wants to change it, and the conference wants to change it. That can be done, can it not?

Mr. REGULA. If the gentleman from California will yield, obviously we will be part of the conference, and I think, at least I have to speak for myself, as a conferee I fully intend to respect the House's position and maintain it in a conference. Because I think we have an obligation to those who vote for the rule today to do that. I want to say right up front that conferees will be instructed to stay with the House amount, and that is exactly what we plan to do.

The SPEAKER pro tempore (Mr. EWING). The time of the gentleman from California [Mr. BEILENSON] has expired.

Mr. BEILENSON. Mr. Speaker, this is an unusual request, but I wonder if our friends on the other side might yield us an additional 2½ minutes just to pursue this matter for a very short while because it is of some importance.

Ms. PRYCE. Mr. Speaker, I yield 2½ additional minutes to my friend, the gentleman from California.

Mr. BEILENSON. Mr. Speaker, if I may ask just one follow-up question for the gentleman from Ohio. I thank the gentlewoman very, very much.

With respect to the gentleman's response to the distinguished gentleman from Illinois, the only requirements of the rule before us has to do with the passage by the House of Representatives of a bill authorizing a certain amount.

I can only assume, and please tell us if I am correct in this, that once we get past the House authorization of an NEA appropriation for next year, let us assume it is the same amount as is included in this bill, that is all right. That is, whatever is determined finally in conference committee would in fact be authorized under a bill which might have a different amount?

Mr. REGULA. In response to the gentleman, let me just say that it is our every intention to respect the amount that is in the appropriation bill when we go to conference and, second, that will be in the authorizing bill.

Mr. BEILENSON. The principal point here is that if the $99 million is provided for in the bill, in the authorizing bill passed by this House, then that money, whatever eventual amount of money is decided upon can in fact be appropriated so long as it is within those parameters?

Mr. REGULA. Yes.

Mr. BEILENSON. I thank the gentleman for his response and the gentlewoman for her great kindness.

Mr. YATES. Mr. Speaker, if the gentleman will yield further, may I ask the gentleman a question: What happens if the authorizing committee of the other body does not agree and in their conference they come to a different conclusion than, as you say, the authorizing committee in the House?

Mr. REGULA. If the gentleman from California will yield further, the answer is that we made it subject only to the authorization by the House and not be the other body.

Mr. YATES. Does that mean that you have frozen the other body, you have compelled the other body to adhere to whatever you put into this rule?

Mr. REGULA. That will be the bottom line in a conference, I would say to the gentleman.

Mr. YATES. But there is another conference that is coming along and that is on the authorizing committee, as well.

Mr. REGULA. That is correct.

Mr. YATES. So they cannot deviate from this is what you are saying?

Mr. REGULA. I think that our conferees on an authorization bill will feel obligated to hold to the amount that we have agreed upon in this appropriation.

Mr. YATES. Suppose the other body does not agree with you on this. That means that the whole thing may explode?

Mr. REGULA. I will respond to the gentleman by saying that that will be an interesting conference.

Mr. YATES. We may wind up with no bill, then.

Mr. REGULA. I hesitate to predict what might happen in this body. We can only deal with the circumstances before us today.

Mr. BEILENSON. Mr. Speaker, again I thank the gentlewoman for her courteous generosity.

I urge a "no" vote on the previous question in which if it is defeated I will offer an amendment to the rule which would make in order the lock box amendment and also strike the unusual restriction on NEA funding that we have just been discussing.

The SPEAKER pro tempore. The time of the gentleman from California [Mr. BEILENSON] has again expired.

Ms. PRYCE. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. DREIER], my colleague on the Committee on Rules.

Mr. DREIER. Mr. Speaker, I thank my friend for yielding me the time.

I want to again congratulate her on superb management of this rule. It is a little easier today than it was last night, I will acknowledge, because we have, I believe, come to an agreement which will clearly be acceptable to a majority of this House.

Mr. Speaker, many of us have tried for a number of years to delete taxpayer funding of the National Endowment for the Arts, and that is obviously one of the major items of real controversy here. I will acknowledge there are other items that are very, very important in this measure, but the NEA on our side of the aisle especially has been a very, very contentious point.

We are going to, under this open rule, have an opportunity to in fact zero out the National Endowment for the Arts. As the gentleman from Illinois [Mr. CRANE] has offered that amendment in the past, he will have the chance to offer it again today when we proceed with the measure.

I believe that there is a very important signal that has been received. I will acknowledge that there was a little bump in the road last night when we did not quite get a majority vote for this rule, but this has been a very well thought out compromise which, as my friend from Illinois has just raised, in fact, insists that conferees on our side of the aisle adhere to the constraints that have been outlined in our proposal.

This is an open rule. It allows for the kinds of amendments that Members want to offer. I hope very much that we can now proceed and move as expeditiously as possible through this appropriations process, because we are trying desperately to maintain the kind of openness that we proposed at the beginning of this Congress. I believe this bill will be another great example of that.

Ms. PRYCE. Mr. Speaker, I urge adoption of this rule. It will get us back on track. It will give this body the healthy deliberation it needs on these issues.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. BEILENSON. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notice absent Members.

The vote was taken by electronic device, and there were—yeas 230, nays 194, not voting 10, as follows:

[Roll No. 498]

YEAS—230

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Diaz-Balart
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Flanagan
Foley
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Petri
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stockman
Stump
Talent
Tate
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—194

Abercrombie
Ackerman
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bevill
Bonior
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Condit
Conyers
Costello
Coyne
Cramer
Danner
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hayes
Hilliard
Hinchey
Holden
Hoyer
Jackson-Lee
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Mollohan
Montgomery
Moran
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pomeroy
Poshard
Rahall
Rangel
Reed
Richardson
Rivers
Roemer
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Sisisky
Skaggs
Skelton
Slaughter
Spratt
Stark
Stenholm
Stokes
Studds
Stupak
Tanner
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Tucker
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NOT VOTING—10

Andrews
Bono
Collins (MI)
Dickey
Fields (TX)
Forbes
Hefner
Moakley
Reynolds
Tauzin

☐ 1144

Mr. JACOBS changed his vote from "yea" to "nay."

Mr. COBLE changed his vote from "nay" to "yea."

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. EWING). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. BEILENSON. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 229, noes 195, not voting 10, as follows:

[Roll No 499]

AYES—229

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Jacobs
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Moorhead
Morella
Myers
Myrick
Nethercutt
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Petri
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stockman
Stump
Talent
Tate
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Traficant
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Zeliff
Zimmer

NOES—195

Abercrombie
Ackerman
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bevill
Bonior
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Chapman
Clay
Clayton

Clement
Clyburn
Coleman
Collins (IL)
Condit
Conyers
Costello
Coyne
Cramer
Danner
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Gejdenson
Gephardt
Geren
Gibbons
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hayes
Hilliard
Hinchey
Holden
Hoyer
Jackson-Lee
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McInnis
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Mollohan
Montgomery
Moran
Murtha
Nadler
Neal
Neumann
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pomeroy
Poshard
Rahall
Rangel
Reed
Richardson
Rivers
Roemer
Rose
Roukema
Roybal-Allard
Royce
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Sisisky
Skaggs
Skelton
Slaughter
Spratt
Stark
Stenholm
Stokes
Studds
Stupak
Tanner
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Tucker
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NOT VOTING—10

Andrews
Bono
Collins (MI)
Fields (TX)
Furse
Hefner
Moakley
Reynolds
Tauzin
Young (FL)

□ 1202

Mr. STUPAK changed his vote from "aye" to "no."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. REGULA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 1977, which we are about to consider, and that I may be permitted to include tables, charts, and other material.

The SPEAKER pro tempore (Mr. EWING). Is there objection to the request of the gentleman from Ohio?

There was no objection.

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 1996

The SPEAKER pro tempore. Pursuant to House Resolution 187 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 1977.

□ 1203

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 1977) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1996, and for other purposes, with Mr. BURTON of Indiana in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Ohio [Mr. REGULA] and the gentleman from Illinois [Mr. YATES] will each be recognized for 30 minutes.

The Chair recognizes the gentleman from Ohio [Mr. REGULA].

Mr. REGULA. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, Members of the Committee, first of all I want to thank those of my colleagues that supported the rule because I think we have a good bill here given the fact that we are under the constraints of the Budget Act which reduces our amount of money over 10 percent, and also I want to say to the gentleman from Illinois [Mr. YATES] and the members of the subcommittee on both sides of the aisle that we had a very bipartisan subcommittee. We worked well together. We tried to be as totally nonpartisan as we had to make these difficult choices, and we did as much as possible to address the challenges of the Interior and related agencies' responsibility with the funds that were available, and I think on balance we did a good job of achieving that. The gentleman from Illinois [Mr. YATES] and the whole team worked well; the staff and the associate staff worked as a team. We worked very closely with the authorizers. I say to my colleagues, "There isn't anything in this bill that's not approved by at least the chairman and the members of the authorizing committee so that what we have here is a team effort."

Mr. Chairman, obviously we are going to have differences, and that will be reflected in the amendments, some substantial policy issue differences. I will say at the outset, "We'll do everything we can to expedite this so Members can get home but not in any way stifle debate in the process."

I am going to be very brief in my opening comments here. I think it boiled down to three areas, as I would see it, given the constraints of the budget reductions.

First of all, we had the must-dos. The must-dos were keeping the parks open, keeping the Smithsonian open, keeping the visitor facilities at Fish and Wildlife and Bureau of Land Management open to the American people. Two hundred sixty million Americans enjoy the public lands, and they enjoy them in many ways. They enjoy them in terms of looking into the Grand Canyon and seeing a magnificent thing created by our Creator. They likewise enjoy going out and fishing in a stream or hunting in a national forest. They enjoy going to a Fish and Wildlife facility to see how we propagate the species of fish and how we nurture the fishing industry. They enjoy going to the Bureau of Land Management facilities, the millions of acres.

So, Mr. Chairman, we made every effort to do those things that the public enjoys, and we held the operating funds at roughly a flat level given our constraints, meaning that we would in no way restrict public access to these great facilities that people care a lot about, and about a third of the United States is public land owned by all of the people of this Nation, and we make every effort to insure that their experience with that will be very enjoyable, and that led to the second category of things, and that is the need-to-dos.

As I see it, the need-to-dos were to insure that sanitary facilities at our national parks, and forests and other facilities were good. The need-to-dos included fixing a road if it is in bad shape. It included finishing buildings that were under way. I say to my colleagues, "You can't stop a construction job in midstream, and those things had to be taken care of, and we have done so."

The third group was the nice-to-dos, things that are nice if we had the money. There are a lot of activities that we could no longer afford to do. Many of the grant programs had to be terminated, some of the research programs in energy. We had to downscale land acquisition 78 percent. We put in, of course, some money for emergencies, but essentially we will not be doing additional land acquisition because I tell my colleagues, "When you buy lands, you have to take care of it, and that gives you enormous downstream costs." We did some construction where it was necessary to finish buildings, but we do limit new construction. We limit new programs so that we had some tough cuts that we had to make in the things that are nice to do.

Mr. Chairman, we just had a lot of discussion on the NEA, and of course the NEH is similar to that. We have had change. We eliminated the National Biological Survey, and rather than that we have a natural resource science arm in the U.S. Geological Survey. But we are not getting into that now because that will come up to the debate.

I think we have addressed energy security. We want to be sure that the United States will be secure in the future, that we will have energy independence, that we will not have to depend totally on foreign sources, and so we have addressed that in our bill to the best of our ability.

The Bureau of Indian Affairs is our responsibility, and in the bill we said at the outset we are going to take care of education, the basic education, for the Bureau of Indian Affairs and the basic health. That is the responsibility of the Federal Government, and as much as possible we have level funded that along, as I mentioned earlier, with what we were able to do in keeping parks and so on open.

There are lot of other things I could say about this legislation. I simply want to say again I think it represents common sense, I think it represents a responsible use of the funds available. I endorse the fact that we are downsizing the budget, that we are going to get on a glide path to a balanced budget in 7 years. We do not fund programs that have large outyear costs simply because we would not be able to address those in the future.

I just want to close, because I think it reflects the overall philosophy in this budget, with a statement by Chairman of the Federal Reserve, Mr. Alan Greenspan, to the Committee on the Budget, and he said, and I quote:

> I think the concern, which I find very distressing, that most Americans believe that their children will live at a standard of living less than they currently enjoy, that that probably would be eliminated and that they would look forward to their children doing better than they.

That is a significant statement because it says very clearly from one of the economic leaders of this Nation that, if we can balance the budget, we will leave a legacy for our children of a better standard of living than we have, and that to me is what this is all about. That is what we are trying to do here, and not only do we want to try and leave a legacy of a better standard of living by using our resources more wisely, but we are also leaving a legacy, in my judgment, in the way we have handled the responsibilities of public lands that will be even better for their enjoyment, and that is the challenge we face as we deal with the amendments here today. We will try to keep that in mind.

Thomas Jefferson said, "The care of human life and happiness, and not their destruction, is the first and only legitimate object of good government." In this bill I think we are responsibly exercising that important role.

Mr. Chairman, at this point I ask that a table detailing the various accounts in the bill be inserted in the RECORD.

INTERIOR AND RELATED AGENCIES APPROPRIATIONS BILL (H.R. 1977)

	FY 1995 Enacted	FY 1996 Estimate	Bill	Bill compared with Enacted	Bill compared with Estimate
TITLE I - DEPARTMENT OF THE INTERIOR					
Bureau of Land Management					
Management of lands and resources	597,236,000	616,547,000	570,017,000	-27,219,000	-46,530,000
Fire protection	114,748,000	114,763,000		-114,748,000	-114,763,000
Emergency Department of the Interior firefighting fund	121,176,000	131,482,000		-121,176,000	-131,482,000
Wildland fire management			235,924,000	+235,924,000	+235,924,000
Central hazmat account	13,408,000	14,024,000	10,000,000	-3,408,000	-4,024,000
Construction and access	12,068,000	3,019,000	2,515,000	-9,553,000	-504,000
Payments in lieu of taxes	101,409,000	113,911,000	111,409,000	+10,000,000	-2,502,000
Land acquisition	14,757,000	24,473,000	8,500,000	-6,257,000	-15,973,000
Oregon and California grant lands	97,364,000	112,752,000	91,387,000	-5,977,000	-21,365,000
Range improvements (indefinite)	10,350,000	9,113,000	9,113,000	-1,237,000	
Service charges, deposits, and forfeitures (indefinite)	8,883,000	8,993,000	8,993,000	+110,000	
Miscellaneous trust funds (indefinite)	7,605,000	7,605,000	7,605,000		
Total, Bureau of Land Management	1,099,005,000	1,156,682,000	1,055,463,000	-43,542,000	-101,219,000
United States Fish and Wildlife Service					
Resource management	511,334,000	535,018,000	498,035,000	-13,299,000	-36,983,000
Construction	53,768,000	34,095,000	26,355,000	-27,413,000	-7,740,000
Natural resource damage assessment and restoration fund	6,687,000	6,700,000	6,019,000	-668,000	-681,000
Land acquisition	67,141,000	62,912,000	14,100,000	-53,041,000	-48,812,000
Cooperative endangered species conservation fund	8,983,000	38,000,000	8,085,000	-898,000	-29,915,000
National wildlife refuge fund	11,977,000	11,271,000	10,779,000	-1,198,000	-492,000
Rewards and operations	1,167,000	1,169,000	600,000	-567,000	-569,000
North American wetlands conservation fund	8,983,000	12,000,000	4,500,000	-4,483,000	-7,500,000
Lahonton Valley and Pyramid Lake fish and wildlife fund		152,000	152,000	+152,000	
Rhinoceros and tiger conservation fund		400,000	200,000	+200,000	-200,000
Wildlife conservation and appreciation fund	998,000	1,000,000	998,000		-2,000
Total, United States Fish and Wildlife Service	671,038,000	702,817,000	569,823,000	-101,215,000	-132,994,000
National Biological Service					
Research, inventories, and surveys	162,041,000	172,696,000		-162,041,000	-172,696,000
National Park Service					
Operation of the national park system	1,077,900,000	1,157,738,000	1,088,249,000	+10,349,000	-69,489,000
National recreation and preservation	42,941,000	39,305,000	35,725,000	-7,216,000	-3,580,000
Historic preservation fund	41,421,000	43,000,000	37,934,000	-3,487,000	-5,066,000
Construction	167,688,000	179,883,000	114,868,000	-52,820,000	-65,015,000
Urban park and recreation fund	6,000	2,300,000		-6,000	-2,300,000
Land and water conservation fund (rescission of contract authority)	-30,000,000	-30,000,000	-30,000,000		
Land acquisition and state assistance	87,373,000	82,696,000	14,300,000	-73,073,000	-68,396,000
Crime Trust Fund		15,200,000			-15,200,000
Total, National Park Service (net)	1,387,329,000	1,490,122,000	1,261,076,000	-126,253,000	-229,046,000
United States Geological Survey					
Surveys, investigations, and research	571,462,000	586,369,000	686,944,000	+115,482,000	+100,575,000
Minerals Management Service					
Royalty and offshore minerals management	188,181,000	193,348,000	186,556,000	-1,625,000	-6,792,000
Oil spill research	6,440,000	7,892,000	6,440,000		-1,452,000
Total, Minerals Management Service	194,621,000	201,240,000	192,996,000	-1,625,000	-8,244,000
Bureau of Mines					
Mines and minerals	152,427,000	132,507,000	87,000,000	-65,427,000	-45,507,000
Office of Surface Mining Reclamation and Enforcement					
Regulation and technology	109,795,000	107,152,000	92,751,000	-17,044,000	-14,401,000
Receipts from performance bond forfeitures (indefinite)	1,189,000	501,000	500,000	-689,000	-1,000
Subtotal	110,984,000	107,653,000	93,251,000	-17,733,000	-14,402,000
Abandoned mine reclamation fund (definite, trust fund)	182,423,000	185,120,000	176,327,000	-6,096,000	-8,793,000
Total, Office of Surface Mining Reclamation and Enforcement	293,407,000	292,773,000	269,578,000	-23,829,000	-23,195,000
Bureau of Indian Affairs					
Operation of Indian programs	1,519,012,000	1,609,842,000	1,508,777,000	-10,235,000	-101,065,000
Construction	120,450,000	125,424,000	98,033,000	-22,417,000	-27,391,000
Indian land and water claim settlements and miscellaneous payments to Indians	77,096,000	151,025,000	67,145,000	-9,951,000	-83,880,000
Navajo rehabilitation trust fund	1,996,000			-1,996,000	
Technical assistance of Indian enterprises	1,986,000	1,986,000		-1,986,000	-1,986,000

INTERIOR AND RELATED AGENCIES APPROPRIATIONS BILL (H.R. 1977)—Continued

	FY 1995 Enacted	FY 1996 Estimate	Bill	Bill compared with Enacted	Bill compared with Estimate
Indian direct loan program account	779,000			-779,000	
(Limitation on direct loans)	(10,890,000)			(-10,890,000)	
Indian guaranteed loan program account	9,671,000	9,684,000		-9,671,000	-9,684,000
(Limitation on guaranteed loans)	(46,900,000)	(70,100,000)		(-46,900,000)	(-70,100,000)
Total, Bureau of Indian Affairs	1,730,970,000	1,897,941,000	1,673,955,000	-57,015,000	-223,986,000
Territorial and International Affairs					
Assistance to territories	50,481,000	41,512,000	41,512,000	-8,969,000	
Northern Mariana Islands Covenant	27,720,000	27,720,000	27,720,000		
Subtotal	78,201,000	69,232,000	69,232,000	-8,969,000	
Trust Territory of the Pacific Islands	19,800,000			-19,800,000	
Compact of Free Association	13,574,000	10,038,000	10,038,000	-3,536,000	
Mandatory payments	10,000,000	14,900,000	14,900,000	+4,900,000	
Subtotal	23,574,000	24,938,000	24,938,000	+1,364,000	
Total, Territorial and International Affairs	121,575,000	94,170,000	94,170,000	-27,405,000	
Departmental Offices					
Office of the Secretary	62,479,000	64,772,000	55,982,000	-6,497,000	-8,790,000
Office of the Solicitor	34,608,000	35,361,000	34,608,000		-753,000
Office of Inspector General	23,939,000	25,485,000	23,939,000		-1,546,000
Construction Management	1,996,000	2,000,000		-1,996,000	-2,000,000
National Indian Gaming Commission	1,000,000	1,000,000	1,000,000		
Total, Departmental Offices	124,022,000	128,618,000	115,529,000	-8,493,000	-13,089,000
Total, title I, Department of the Interior:					
New budget (obligational) authority (net)	6,507,897,000	6,855,935,000	6,006,534,000	-501,363,000	-849,401,000
Appropriations	(6,537,897,000)	(6,870,735,000)	(6,036,534,000)	(-501,363,000)	(-834,201,000)
Rescission	(-30,000,000)	(-30,000,000)	(-30,000,000)		
Crime trust fund		(15,200,000)			(-15,200,000)
(Limitation on direct loans)	(10,890,000)			(-10,890,000)	
(Limitation on guaranteed loans)	(46,900,000)	(70,100,000)		(-46,900,000)	(-70,100,000)
TITLE II - RELATED AGENCIES					
DEPARTMENT OF AGRICULTURE					
Forest Service					
Forest research	193,748,000	203,798,000	182,000,000	-11,748,000	-21,798,000
State and private forestry	154,268,000	187,459,000	129,551,000	-24,717,000	-57,908,000
Emergency pest suppression fund	17,000,000			-17,000,000	
International forestry	4,987,000	10,000,000		-4,987,000	-10,000,000
National forest system	1,328,893,000	1,348,755,000	1,276,688,000	-52,205,000	-72,067,000
Forest Service fire protection	159,285,000	164,285,000		-159,285,000	-164,285,000
Emergency Forest Service firefighting fund	226,200,000	239,000,000		-226,200,000	-239,000,000
Emergency appropriations	450,000,000			-450,000,000	
Fire protection and emergency suppression			385,485,000	+385,485,000	+385,485,000
Construction	199,215,000	192,338,000	120,000,000	-79,215,000	-72,338,000
Timber receipts transfer to general fund (indefinite)	(-44,769,000)	(-44,548,000)	(-44,548,000)	(+221,000)	
Timber purchaser credits	(50,000,000)	(50,000,000)	(50,000,000)		
Land acquisition	63,882,000	65,311,000	14,600,000	-49,282,000	-50,711,000
Acquisition of lands for national forests, special acts	1,250,000	1,317,000	1,069,000	-181,000	-248,000
Acquisition of lands to complete land exchanges (indefinite)	210,000	210,000	210,000		
Range betterment fund (indefinite)	4,575,000	3,976,000	3,976,000	-599,000	
Gifts, donations and bequests for forest and rangeland research	89,000	92,000	92,000	+3,000	
Total, Forest Service	2,803,602,000	2,416,539,000	2,113,671,000	-689,931,000	-302,868,000
DEPARTMENT OF ENERGY					
Clean coal technology	-337,879,000	-155,019,000		+337,879,000	+155,019,000
Fossil energy research and development	423,701,000	436,508,000	384,504,000	-39,197,000	-52,004,000
(By transfer)	(17,000,000)			(-17,000,000)	
Alternative fuels production (indefinite)	-3,900,000	-2,400,000	-2,400,000	+1,500,000	
Naval petroleum and oil shale reserves	187,048,000	101,028,000	151,028,000	-36,020,000	+50,000,000
Energy conservation	755,751,000	923,581,000	552,871,000	-202,880,000	-370,710,000
Biomass Energy Development (transfer)		-16,000,000	-16,000,000	-16,000,000	
Economic regulation	12,413,000	10,500,000	6,297,000	-6,116,000	-4,203,000
Emergency preparedness	8,233,000	8,219,000		-8,233,000	-8,219,000
Strategic Petroleum Reserve	136,954,000	25,669,000		-136,954,000	-25,669,000
(By transfer)	(90,764,000)	(187,000,000)	(187,000,000)	(+96,236,000)	
Energy Information Administration	84,566,000	84,689,000	79,766,000	-4,800,000	-4,923,000
Total, Department of Energy	1,266,887,000	1,416,775,000	1,156,066,000	-110,821,000	-260,709,000

INTERIOR AND RELATED AGENCIES APPROPRIATIONS BILL (H.R. 1977)—Continued

	FY 1995 Enacted	FY 1996 Estimate	Bill	Bill compared with Enacted	Bill compared with Estimate
DEPARTMENT OF HEALTH AND HUMAN SERVICES					
Indian Health Service					
Indian health services	1,709,780,000	1,816,360,000	1,725,792,000	+16,012,000	-90,568,000
Indian health facilities	253,282,000	242,672,000	236,975,000	-16,307,000	-5,697,000
Total, Indian Health Service	1,963,062,000	2,059,032,000	1,962,767,000	-295,000	-96,265,000
DEPARTMENT OF EDUCATION					
Office of Elementary and Secondary Education					
Indian education	81,341,000	84,785,000	1,000,000	-80,341,000	-83,785,000
OTHER RELATED AGENCIES					
Office of Navajo and Hopi Indian Relocation					
Salaries and expenses	24,888,000	26,345,000	21,345,000	-3,543,000	-5,000,000
Institute of American Indian and Alaska Native Culture and Arts Development					
Payment to the Institute	11,213,000	19,846,000	5,500,000	-5,713,000	-14,346,000
Smithsonian Institution					
Salaries and expenses	313,853,000	329,800,000	309,471,000	-4,382,000	-20,329,000
Construction and improvements, National Zoological Park	3,042,000	4,950,000	3,000,000	-42,000	-1,950,000
Repair and restoration of buildings	23,954,000	34,000,000	24,954,000	+1,000,000	-9,046,000
Construction	21,857,000	38,700,000	12,950,000	-8,907,000	-25,750,000
Total, Smithsonian Institution	362,706,000	407,450,000	350,375,000	-12,331,000	-57,075,000
National Gallery of Art					
Salaries and expenses	52,902,000	54,566,000	51,315,000	-1,587,000	-3,251,000
Repair, restoration and renovation of buildings	4,016,000	9,895,000	5,500,000	+1,484,000	-4,395,000
Total, National Gallery of Art	56,918,000	64,461,000	56,815,000	-103,000	-7,646,000
John F. Kennedy Center for the Performing Arts					
Operations and maintenance	10,323,000	10,373,000	9,800,000	-523,000	-573,000
Construction	8,983,000	9,000,000	8,983,000		-17,000
Total, John F. Kennedy Center for the Performing Arts	19,306,000	19,373,000	18,783,000	-523,000	-590,000
Woodrow Wilson International Center for Scholars					
Salaries and expenses	8,878,000	10,070,000	6,152,000	-2,726,000	-3,918,000
National Foundation on the Arts and the Humanities					
National Endowment for the Arts					
Grants and administration	133,846,000	143,675,000	82,259,000	-51,587,000	-61,416,000
Matching grants	28,512,000	28,725,000	17,235,000	-11,277,000	-11,490,000
Total, National Endowment for the Arts	162,358,000	172,400,000	99,494,000	-62,864,000	-72,906,000
National Endowment for the Humanities					
Grants and administration	146,131,000	156,087,000	82,469,000	-63,662,000	-73,618,000
Matching grants	25,913,000	25,913,000	17,025,000	-8,888,000	-8,888,000
Total, National Endowment for the Humanities	172,044,000	182,000,000	99,494,000	-72,550,000	-82,506,000
Institute of Museum Services					
Grants and administration	28,715,000	29,800,000	21,000,000	-7,715,000	-8,800,000
Total; National Foundation on the Arts and the Humanities	363,117,000	384,200,000	219,988,000	-143,129,000	-164,212,000
Commission of Fine Arts					
Salaries and expenses	834,000	879,000	834,000		-45,000
National Capital Arts and Cultural Affairs					
Grants	7,500,000	6,941,000	6,000,000	-1,500,000	-941,000
Advisory Council on Historic Preservation					
Salaries and expenses	2,947,000	3,063,000	1,000,000	-1,947,000	-2,063,000
National Capital Planning Commission					
Salaries and expenses	5,655,000	6,000,000	5,090,000	-565,000	-910,000
Franklin Delano Roosevelt Memorial Commission					
Salaries and expenses	48,000	147,000	48,000		-99,000

INTERIOR AND RELATED AGENCIES APPROPRIATIONS BILL (H.R. 1977)—Continued

	FY 1995 Enacted	FY 1996 Estimate	Bill	Bill compared with Enacted	Bill compared with Estimate
Pennsylvania Avenue Development Corporation					
Salaries and expenses	2,738,000	3,043,000	2,000,000	-738,000	-1,043,000
Public development	4,084,000	2,445,000		-4,084,000	-2,445,000
Land acquisition and development fund		1,388,000			-1,388,000
Total, Pennsylvania Avenue Development Corporation	6,822,000	6,876,000	2,000,000	-4,822,000	-4,876,000
United States Holocaust Memorial Council					
Holocaust Memorial Council	26,609,000	28,707,000	28,707,000	+2,098,000	
Total, title II, Related Agencies	7,011,333,000	6,961,469,000	5,956,141,000	-1,055,192,000	-1,005,328,000
(Timber receipts transfer to general fund, indefinite)	(-44,769,000)	(-44,548,000)	(-44,548,000)	(+221,000)	
(Timber purchaser credits)	(50,000,000)	(50,000,000)	(50,000,000)		
Grand total:					
New budget (obligational) authority (net)	13,519,230,000	13,817,404,000	11,962,675,000	-1,556,555,000	-1,854,729,000
Appropriations	(13,549,230,000)	(13,832,204,000)	(11,992,675,000)	(-1,556,555,000)	(-1,839,529,000)
Rescission	(-30,000,000)	(-30,000,000)	(-30,000,000)		
Crime trust fund		(15,200,000)			(-15,200,000)
(Timber receipts transfer to general fund, indefinite)	(-44,769,000)	(-44,548,000)	(-44,548,000)	(+221,000)	
(Timber purchaser credits)	(50,000,000)	(50,000,000)	(50,000,000)		
(By transfer)	(107,764,000)	(187,000,000)	(187,000,000)	(+79,236,000)	
TITLE I - DEPARTMENT OF THE INTERIOR					
Bureau of Land Management	1,099,005,000	1,156,682,000	1,055,463,000	-43,542,000	-101,219,000
United States Fish and Wildlife Service	671,038,000	702,817,000	569,823,000	-101,215,000	-132,994,000
National Biological Service	162,041,000	172,896,000		-162,041,000	-172,896,000
National Park Service	1,387,329,000	1,490,122,000	1,261,076,000	-126,253,000	-229,046,000
United States Geological Survey	571,462,000	586,369,000	686,944,000	+115,482,000	+100,575,000
Minerals Management Service	194,821,000	201,240,000	192,996,000	-1,825,000	-8,244,000
Bureau of Mines	152,427,000	132,507,000	87,000,000	-65,427,000	-45,507,000
Office of Surface Mining Reclamation and Enforcement	293,407,000	292,773,000	269,578,000	-23,829,000	-23,195,000
Bureau of Indian Affairs	1,730,970,000	1,897,941,000	1,673,955,000	-57,015,000	-223,986,000
Territorial and International Affairs	121,576,000	94,170,000	94,170,000	-27,406,000	
Departmental Offices	124,022,000	128,618,000	115,529,000	-8,493,000	-13,089,000
Total, Title I - Department of the Interior	6,507,897,000	6,855,935,000	6,006,534,000	-501,363,000	-849,401,000
TITLE II - RELATED AGENCIES					
Forest Service	2,803,602,000	2,416,539,000	2,113,671,000	-689,931,000	-302,868,000
Department of Energy	1,265,887,000	1,416,775,000	1,156,066,000	-109,821,000	-260,709,000
Indian Health Service	1,963,062,000	2,059,022,000	1,962,767,000	-295,000	-96,255,000
Indian Education	81,341,000	84,785,000	1,000,000	-80,341,000	-83,785,000
Office of Navajo and Hopi Indian Relocation	24,888,000	26,345,000	21,345,000	-3,543,000	-5,000,000
Institute of American Indian and Alaska Native Culture and Arts Development	11,213,000	19,846,000	5,500,000	-5,713,000	-14,346,000
Smithsonian Institution	362,706,000	407,450,000	350,375,000	-12,331,000	-57,075,000
National Gallery of Art	56,918,000	64,451,000	56,815,000	-103,000	-7,636,000
John F. Kennedy Center for the Performing Arts	19,306,000	19,373,000	18,783,000	-523,000	-590,000
Woodrow Wilson International Center for Scholars	8,878,000	10,070,000	6,152,000	-2,726,000	-3,918,000
National Endowment for the Arts	162,358,000	172,400,000	99,494,000	-62,864,000	-72,906,000
National Endowment for the Humanities	172,044,000	182,000,000	99,494,000	-72,550,000	-82,506,000
Institute of Museum Services	28,715,000	29,800,000	21,000,000	-7,715,000	-8,800,000
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National Capital Arts and Cultural Affairs	7,500,000	6,941,000	6,000,000	-1,500,000	-941,000
Advisory Council on Historic Preservation	2,947,000	3,063,000	1,000,000	-1,947,000	-2,063,000
National Capital Planning Commission	5,656,000	6,000,000	5,090,000	-566,000	-910,000
Franklin Delano Roosevelt Memorial Commission	48,000	147,000	48,000		-99,000
Pennsylvania Avenue Development Corporation	6,822,000	6,876,000	2,000,000	-4,822,000	-4,876,000
Holocaust Memorial Council	26,609,000	28,707,000	28,707,000	+2,098,000	
Total, Title II - Related Agencies	7,011,333,000	6,961,469,000	5,956,141,000	-1,055,192,000	-1,005,328,000
Grand total	13,519,230,000	13,817,404,000	11,962,675,000	-1,556,555,000	-1,854,729,000

Mr. Chairman, I reserve the balance of my time.

Mr. YATES. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, my good friend, the chairman of the subcommittee, and he is my good friend, and I have differed on an Interior appropriations bill I think for the first time in how long have you been on the committee, RALPH? Twenty years? Twenty years we have been in agreement on the bills, and the reason for that, I think more than any other, is the fact that the bill did not suffer from malnutrition. The heavy hand of the full chairman of the committee was felt immediately by the Interior Subcommittee. Our 692(b) allocation was cut by more than a billion dollars on the first go-around. On the second go-around on the 602(b), we were cutting another $17 million dollars. So, there is a lot of PR work for the chairman and for me to do with the chairman of the full committee if we want to be treated as we should be treated.

This is America's bill. This is the bill that fosters our natural resources. This is the bill that is working on providing energy savings. This is the bill that provides for cultural enrichment throughout the United States.

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Yet, as a result of the 602(b) allocation, we just do not have the funds with which to carry on the kind of activities that we ought to.

Our natural resources are going to suffer. My good friend, the chairman, indicated that we are keeping the parks open. That is not enough, The Grand Canyon, as the gentleman said, will still be there and people will still be able to see the Grand Canyon, but they ought to be able to see the Grand Canyon in comfortable facilities. They ought to be able to see the Grand Canyon driving on roads that do not have ruts and ditches. They ought to be sure that their safety is protected as they go through the national parks.

I do not know that the funds we have provided here will allow that. Construction for the parks, construction for Fish and Wildlife, construction funds for the Bureau of Land Management and the Forest Service, have all been cut back.

I do not know that I can use the phrase "worst of all," but the Indian people are going to take a very big hit in this bill. The protection of our environment will be severely diminished as a result of what we do in this bill.

Of course, we have been arguing about the National Endowments for the Arts and the Humanities and the Institute for Museum Services for 2 days now. The Endowments have been cut by at least 40 percent. That is a huge cut. Our cultural resources are going to suffer.

The program to help the needy people with their problems of weatherization, during the cold of winter, and the heat of summer is being cut. We have a program in our bill that enables the needy to obtain a small amount of funding to improve their physical properties so that the rigors of the winters in cities like Chicago or in States like Minnesota or New England will not be felt as keenly as they are going to be felt now, because there will not be funds with which they could help themselves.

I talked about welfare for the needy, and in this bill, welfare for the needy will be cut. But Western welfare, welfare for the Western States; for example, the program to provide payments in lieu of taxes, PILT, is increased. In a total bill that is cut more than 13 percent below the 1995 appropriation, payments in lieu of taxes, a program heavily weighted to the West, is up 10 percent. Welfare for the needy may be on the wane, but welfare for Western miners has taken new life.

In our bill last year, we approved a moratorium on providing the sale of national lands to miners for $2.95 an acre, lands that have subsequently been sold on many occasions for huge sums of money to big mining companies. This giveaway of public lands will now start again. The patent moratorium is not in this bill. Nothing is done to stop the mining law of 1872's permissive nature. Western States and localities will also be able to build roads through existing parks, refuges, forests, and public lands unabated.

There is much pain in this fiscal year 1996 bill, and it takes various forms. Agencies are being eliminated, programs are being terminated, programs are being phased out. Hard working people are going to lose their jobs, Mr. Chairman. At least 3,000 people in the Department of the Interior will be laid off.

This bill does have some good features. I congratulate the chairman for that. I do hope that the other body, when it considers this bill, will take the steps that are necessary to maintain the vital functions that are carried out in this bill.

But other programs have not been cut.

Welfare for the needy may be cut but western welfare in the form of payments in lieu of taxes is up. In a bill that is cut more than 13 percent below the 1995 appropriation, payments in lieu of taxes, a program heavily weighted to the west is up 10 percent.

Welfare for the needy may be on the wane, but welfare for western miners has new life. The giveaway of public lands will start again because this bill, unlike the fiscal year 1995 appropriation law, does nothing to stop the mining law of 1872's permissive nature.

Under the bill western States and localities can build roads through existing parks, refuges, forest, and public lands unabated.

There is too much pain in this fiscal year 1996 Interior appropriations bill. The pain began with the 602b allocation for this bill. This bill is subject to a larger percentage reduction than any other appropriation bill. At $11.9 billion in new budget authority, this bill is $1.6 billion below 1995 and $1.9 billion below the President's request. What form does the pain take?

Agencies are being eliminated; programs are being terminated immediately; programs are being phased out; and hard working people are going to lose their jobs, with at least 3,000 people in the Department of the Interior subject to a reduction in force.

INDIAN PROGRAMS

Let me speak first to the programs that serve and honor the Indian people. I am grateful that the Indian Health Service and Bureau of Indian Affairs education programs are maintained at the 1995 level. But I know even at the fiscal year 1995 levels, these programs will not come close to meeting the needs. The Bureau of Indian Affairs education programs are $31 million below the President's request at a time when student enrollment is escalating rapidly; the Indian Health Service is $96 million below the President's request. With medical inflation and a growing Indian population, this means that health care will be reduced in a very real way.

Among the most prominent terminations in this bill is the Indian Education Program administered by the Department of Education. It would be easier to accept this $81 million cut if at least some of this money had been transferred to the Bureau of Indian Affairs education programs. But that was not done. This is a program that has enhanced the education of nonreservation Indians across the country.

But this is not the end of the insult to the Indian people.

This mark limits the ability of the Indian people to defend themselves in water rights cases. Even at the $15 million 1995 level, the Bureau of Indian Affairs is unable to meet requests from 30 tribes who need technical and legal assistance in defending their water rights. With a $5 million reduction, the 1995 level will be reduced by one-third and even more tribes will remain unsupported. I view this an abrogation of our trust responsibility to Indian nations.

This marks takes away the ability of the Indian people to help themselves through loan guarantees.

If this mark is approved, the U.S. Government will be breaking yet another promise to the American Indian people. This mark will delay, if not totally stop, the much needed Smithsonian facility at Suitland that would store and conserve the Heye collection of Indian artifacts which will be the central feature of the Smithsonian's American Indian Museum.

Self-governance for Indian tribes, with these budget reductions, will be delayed and the momentum generated in recent years for self-governance lost. I believe self-governance is working and should be encouraged instead of stifled through budget cuts.

Heaped upon all of this is the complete elimination of community economic development grants, community development technical assistance, and the Indian arts and crafts board. And this bill sets in motion termination of Federal support for the Institute of American Indian and Alaska Native Culture and Arts Development.

In total, what is before us today for Indian people is $450 million below what the President requested, an 11-percent reduction for one of the neediest groups in America.

ENERGY PROGRAMS

Moving on to the Department of Energy, I think we all can take great pride in the successes resulting from our investments in energy efficiency technologies. New lighting technology, new windows and efforts to produce more efficient automobiles are all paying off. Now, many of these efforts will be reduced, and eventually eliminated.

One of the most disappointing things in this bill is that it slashes the low income weatherization program in half, a $107 million reduction. This is done at the same time the committee ignores the President's request to delay $155 million in clean coal technology subsidies for industry. Do we really want to continue corporate welfare at the expense of elderly poor people? If this cut is not reversed, efforts to reduce overall energy usage and reduce energy costs for elderly people will be extremely limited.

CULTURAL PROGRAMS

Of course, the proposed decreases in the appropriations for cultural programs is an urgent concern. The cuts in the National Endowment for the Arts and the National Endowment for the Humanities which exceed 40 percent and the cut for the Institute of Museum Services, which exceeds 25 percent, are out of proportion to the total reduction in this bill and for the National Endowment for the Humanities and the Institute of Museum Services the reduction is out of proportion to the recommendations of the Economic and Educational Opportunities Committee.

I wonder if people understand fully the impact these cuts will have on our culture. Performances will be canceled, museums will close their doors earlier, and art education opportunities in our schools will be cut back sharply. Every segment of American society will suffer from these draconian cuts.

SCIENCE PROGRAMS

Not only is this bill unfriendly to cultural programs, it buries biological science. It buries it in the U.S. Geological Survey after cutting biological research by almost one-third and shackles researchers to Federal land. But the creatures of this great land of ours are not restricted to Federal lands. Lets think about what we are doing. The Secretary of the Interior has a trust responsibility for migratory birds as well as international treaties protecting these birds. These migratory birds do not know the boundaries of Federal land. Provisions in this bill though keep the Secretary from doing any science, any research on anything but Federal lands. If there are threats to our waterfowl on non-Federal lands, the Secretary could not study it even if private landowners ask to have their properties studied. Why at a time when duck numbers are finally increasing as a result of combined Federal, State, and private efforts, would we want to place obstacles to the progress now underway? Is that what we want? I think not. But this bill would do that.

Volunteers are even banned by this bill, if they offer their talents to help resource science and research. Let me give one example of what this will mean to one program, the breeding bird survey. The North American Breeding Bird Survey, started in 1966, is the only continental survey program specifically designed to obtain population trend data on all species of birds. At least 4,000 volunteers contribute to this survey. Without their data, it would be extremely difficult to detect declines or increases in our country's bird populations. No one has ever questioned the authenticity of this information and it come to us at no cost. I do not know what public policy purpose is served by banning the use of volunteers.

SHORT ON DOLLARS, LONG ON LEGISLATION

This is bill, as I have documented, short on dollars; yet, it is long on legislative provisions.

The bill requires committee approval for new wildlife refuges.

The bill amends fee language for refuges.

The bill mandates peer review for resources research in the Geological Survey.

The bill permits giving away Bureau of Mines facilities.

The bill amends the American Trust Fund Management Reform Act of 1994.

The bill repeals the Outer Banks Protection Act of 1990.

The bill authorizes and executes the sell of strategic petroleum reserve oil.

The bill terminates the Pennsylvania Avenue Development Corporation and transfers its responsibilities to other agencies.

The bill establishes a new fee program for the Bureau of Land Management, Fish and Wildlife Service, National Park Service and Forest Service; and

The bill includes Columbia River basin ecoregion assessment restrictions and directions.

Beyond that, the Endangered Species Act is circumvented by not providing money for listing species so they can receive the full protection of the Act.

Section 404 of the Clean Water Act is being circumvented by taking away the Fish and Wildlife Service's ability to respond to a permit application for a golf course which would disturb valuable wetlands in Lake Jackson, TX.

The California Desert Protection Act is circumvented by taking away all but $1 for the National Park Service to operate the Mojave National Preserve and returning the management to the Bureau of Land Management. With this bill, the first of the national parks will be closed. How many more will follow?

MORATORIA

And we find that moratoria are OK in some instances but not okay in others. Moratoria are not OK to stop the give away of patents under the 1872 mining law. But a moratoria is acceptable to stop promulgation of an RS 2477 rulemaking, a rulemaking that would prevent the potential despoliation of national parks, wildlife refuges, and wilderness areas.

This bill does include a continuation of the moratoria on Outer Continental Shelf leasing including Bristol Bay in Alaska, California, Oregon, and Washington on the west coast as well as certain Florida areas and east coast areas.

LAND AND WATER CONSERVATION FUND

While I am relieved there is some money for land acquisition, unlike the scorched earth policy of the House budget resolution, the lack of money can only lead to future problems. For many willing sellers, the Government is the only possible buyer. Ongoing acquisitions which have been phased over several years can not be completed. We will have broken commitments with those individuals and concerns that entered into agreements. Of the $51.5 million in the bill related to the land and water conservation fund, only $23 million is for actual acquisition of land. The balance is to administer the program.

The Secretary of the Interior asked for money to help local areas with habitat conservation plans by giving land acquisition grants to State and local governments, a request that was denied. Turning a blind eye to this problem serves only to undermine efforts to improve the Endangered Species Act.

The North American wetlands conservation fund is cut in half with the understanding that it will be terminated next year, another blow to successful efforts to strengthen the number of migratory waterfowl.

CONCLUSION

Given the disproportionately large reduction this subcommittee received from the full Appropriations Committee, large cuts are inevitable and regrettable.

One of the great strengths and appeals of this bill is the wide variety of programs it covers. The all-America bill as I used to call it. The remarkable natural resources of this country, our magnificent cultural resources, the programs that help people, the energy research programs—unfortunately, all will be diminished by the provisions in this bill.

Mr. Chairman, I reserve the balance of my time.

Mr. REGULA. Mr. Chairman, I yield 2 minutes to the gentleman from North Carolina [Mr. TAYLOR], a very good member of our committee and a Member who has done great service on handling the Forest Service issues and who brings to it a lot of knowledge.

Mr. TAYLOR of North Carolina. Mr. Chairman, I rise in strong support of this bill.

Mr. Chairman, before I came to Congress, I was chairman of the State Parks and Recreation Council in overseeing our State parks and facilities, and we never had enough money to do the things we wanted to do or do all the maintenance we wanted to do. And I found it the same on a national basis, but I think the gentleman from Ohio, Chairman REGULA, and the committee, working with Members and the authorizers, have done as much as they possibly can to see that the needs of our Parks and Forest Services are met.

The actual maintenance, park maintenance, even though the total committee was ordered to reduce the cost in order to meet budget reductions, and we reduced this $1.5 billion below the fiscal year 1995 bill, maintenance for the critical areas were held even. I think that is amazing, given the cuts that had to be made.

It also addresses the concerns and the desires of many of the Members' specific things that they had to do, and I again want to thank both Chairman

REGULA and ranking member YATES for the work that has been done in this bill.

We have increased, and I feel very strongly about this, our timber sale program some $7.5 million above current levels. This will increase our timber sale program by 418 million board feet of green sales and 300 million feet of salvage timber. This is a modest increase, but it is moving in the right direction.

We are now in this country in a dangerous situation regarding forest health. We have not been removing salvage as we should have been. We have not been addressing the concerns of management, silviculture concerns of management by professional foresters and science that has been lost in much of our forest management, and it has cost us tens of thousands of jobs. It has cost us millions of dollars in taxes, and it means that we, today, are importing over one-third of our timber.

Mr. Chairman, I certainly urge support of this bill, and will be voting for it.

Mr. Chairman, I rise in strong support of this bill. Not only does H.R. 1977 reflect the serious will of this body to reduce spending—it is $1.5 billion below the fiscal year 1995 bill—it also addresses the concerns, desires, and suggestions of many members and the authorizing committees. Chairman REGULA and the staff have done a terrific job in putting this bill together, and I encourage all my colleagues to support the bill. One aspect that is particularly pleasing to me is the commitment by this committee to turn the management or our national forests around.

This bill moves the timber sale program forward, in a new direction from the past. The increase in the timber management and sales program and road construction funds will allow the Forest Service to increase the timber sale volume to its maximum capacity in fiscal year 1996 of 4.3 billion board feet.

We have increased the timber sale program only $7.5 million above current levels, but this will increase the sale program by at least 418 million board feet of green sales and 300 million board feet of salvage volume. This modest increase will not only maintain jobs, it will create job growth and return many times the amount in timber sale revenues and income taxes.

Although the road construction account has been cut, we have increased the timber road construction account to correspond with the increase in the timber sale program. This account has been maligned for a long time, and I would like to set the record straight.

First, roads in the national forests serve many purposes. They provide the primary access to the 191 million acres that make up the National Forest System. These roads provide access for recreation, for wildlife and fisheries projects, for fire protection, for monitoring water quality, and for many other aspects of ecosystem management and timber harvesting. Funding for road construction ensures watershed protection through better road design, improves safety for road system users, and provide access for fighting wildfires and responding to other emergencies.

The bulk of road construction funds are for reconstruction, that is, restoration and maintenance of existing roads. In fact, the number of miles of new roads has dramatically declined over the past several years. Also, the Forest Service has obliterated more roads than were constructed and the same pattern is being proposed for the next fiscal year. In fiscal 1994, the total road system actually decreased by 1,780 miles and only 519 miles of new roads were constructed.

Today, millions of acres of our forest lands are in need of attention. We are well aware of the forest health problems that pervade our Federal forests—approximately 6 billion board feet of timber dies each year. The road budget is one step toward assuring access for salvage sales and forest restoration projects.

This bill is only a first step. The Forest Service is so depleted of adequately trained personnel that it is still incapable of establishing a timber pipeline, which is desperately needed in many parts of the country. However, by providing funds for timber sale preparation above the level requested by the administration, we expect the Forest Service to make a significant contribution toward the national need for lumber and wood products. I don't know if this body is aware that we are currently importing a third of our wood needs—much of it from environmentally sensitive areas of the world with less sensitive harvest methods than those used here.

For too long, we have ignored professional foresters and silviculture science when managing our national timber assets. Instead, we have relied on the pseudo-science of the environmental community to dominate the discussion. The pendulum swung too far—encouraging the locking up of these valuable assets instead of their wise use. We have a responsibility to protect, conserve and maintain the ecosystems of our Federal forests. To do that we must provide our land management agencies with the resources and tools necessary to get the job done. H.R. 1977 does that.

We are all aware of the widespread forest health problems in our national forests across the country. Chairman REGULA and Chairman LIVINGSTON have been real troopers for including the salvage timber provision in the fiscal year 1995 supplemental-rescissions bill and continuing to fight for its passage. I know we are all looking forward to getting a final resolution on the rescission bill.

The committee understands that the Forest Service can use the timber sale program as a cost-efficient tool to thin and restructure forest stands. Timber harvests improve the forest health by clearing out the dead and dying trees and solving the overcrowded conditions found on many of our national forests. Harvests will also improve the habitat for many creatures that live In the forests and lead to less destructive forest fires.

Although we continue to receive criticisms regarding below-cost timber sales, these determinations have not been based on an evaluation of all the factors that contribute to the profitability or cost of the timber program. Those opposed to timber sales encourage greater costs by supporting more costly harvest methods but have not come forward with proposals to minimize costs incurred by the Forest Service. This, combined with specific direction to manage the timber program for a broader variety of program objectives, continues to drive costs upward.

I remain concerned that staff reductions within the agency to meet the administration's governmentwide FTE reduction targets have been to date disproportionately directed toward staff professionals with expertise in timber management and timber sales planning and preparation. In attempting to meet any future goals relative to agencywide staff reductions, I expect the agency will seek opportunities in other areas to reduce personnel, before considering reducing staff in timber management programs, particularly with regard to personnel stationed in the field.

It is my hope that the Forest Service will not only take the necessary steps at all management levels to provide the maximum amount of timber sales possible in the next year, but also continue to seek ways to more efficiently provide for a timber sales program in a manner that reduces bureaucratic requirements.

Again, I want to thank Chairman REGULA and his staff for working to accommodate the concerns and wishes of many Members, myself included, and I encourage my colleagues to support the bill.

Mr. SKAGGS. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, I would like to state at the outset that I think all of us serving on this committee have a deep and abiding love for the responsibilities that come with the jurisdiction of this subcommittee.

I also want to pay tribute to the gentleman from Ohio [Mr. REGULA], our subcommittee chairman. There is no more decent or thoughtful Member of this body. He has been given an incredibly difficult task to manage the responsibilities that we have within the budget constraints. And while I know he would have liked to have done more and better, he has done well with what was made available to us.

It is also an extraordinary privilege to serve under the leadership of the gentleman from Illinois [Mr. YATES], our ranking member on this subcommittee.

There are a number of good things in this bill. But there are also too many instances where I think it falls very seriously short of what should be done for the proper protection and proper management of our public lands and resources, for the education of native Americans children, and for continuing sound policies about the development and use of energy.

It provides no money for endangered species prelisting work, for instance; that is, for efforts to avoid the necessity of adding species to the list protected under the Endangered Species Act. This is a prescription for increasing, not diminishing, the conflicts about implementing that law, and is extremely unwise and shortsighted. So are funding restrictions for basic biological research, restrictions on the use of volunteers and access voluntarily to private property.

The bill does not include the moratorium that should be there for patenting mining claims until we have a revision of the mining law of 1872. In area after area, this bill puts commercial interests ahead of science, education, proper management and protection of our natural resources, our historical and cultural resources, our human resources.

There will be amendments offered to correct some of these defects. I will support those. But I am afraid that unless the bill is radically revised, and the chances of that are not great, it will be difficult to say that it deserves to be enacted.

This bill, more than any other that comes before this body, is about the profound trust and stewardship responsibilities that this Congress has for our national treasures, for our natural treasures. I am afraid our descendants will look back on these actions and ask how in the world we could so shortchange our trust and our stewardship responsibilities.

Tragedy occurs, Mr. Chairman, when we know better but we do not do better, and I fear today we are writing a tragedy.

Mr. Chairman, I reserve the balance of my time.

Mr. REGULA. Mr. Chairman, I yield 2 minutes to the gentleman from New Mexico [Mr. SKEEN] who is a very valuable member of our subcommittee, who brings a wealth of knowledge as a rancher to some of the tough problems that confront us, as well as a leader in the Western matters and with the cattle association, and other things.

Mr. SKEEN. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I would like to take a little time to give my sense of appreciation for the kind of work that goes on in a committee with as diverse a responsibility as is inculcated into the authorization in the realm of what is known as the Committee on Resources.

I want to say that Chairman REGULA and Ranking Member YATES are some of the finest people I ever worked with and had the opportunity to work with and to deal with in this Congress of the United States, along with the other members of the committee itself. This is my second go-around on that committee, an enormous responsibility.

I want to say, too, to the staffs that back us up, that there are no better people on this Earth who are more learned or a more professional group in the world than the staffs that support the committee work that we do day in and day out. Without them, it would not be possible to put this together, particularly at a time like this when we are cutting back, reducing the size of Government, but yet maintaining that sense of responsibility that is paramount to this entire function.

That word "function" means an awful lot. Because if you do not understand what the function of some of these programs are, then you are hard put to come up with some solutions to some of the things we are trying to do. These folks have done an outstanding job. I wanted to compliment them all and say it is great serving with you.

I hope that those of you who are out there furiously writing new amendments to this bill would stop and listen just once and say do I really understand what the function of this particular element of this bill is, how does it work. If you do not, then skinny yourself over here and talk to some of these people that I just referred to on the staffs, and it will save us an awful lot of talking time, because right now we need to reduce the time and expenditure on some of these bills.

Mr. SKAGGS. Mr. Chairman, I yield 2 minutes to the gentleman from New Jersey [Mr. PALLONE].

Mr. PALLONE. Mr. Chairman, I want to take this opportunity to commend the full Committee on Appropriations and, of course, the gentleman from Illinois [Mr. YATES], for their action to restore a moratorium on offshore drilling along the U.S. coastline in this bill. The committee action puts Congress back on the right track in the protection of our coastal resources.

For more than a decade, Congress has recognized the need to impose sensible safeguards against the exploitation of our offshore areas.

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While some in Congress and, of course, the oil companies want to reopen these areas to drilling, the overwhelming consensus among those of us who live and work in the coastal areas is that it is simply not worth the risk to open these areas up to drilling. Offshore drilling off New Jersey in my State and other mid-Atlantic States is not environmentally sound and also threatens the economies of coastal areas that depend on a healthy coastal environment.

In the areas off the Jersey shore and other Mid-Atlantic States, studies have indicated that the expected yield of oil and gas is rather low. Still there are strong expressions of interest in exploratory drilling which would have disastrous effects on our environment and coastal economy. We must keep the door firmly shut to any drilling or preleasing activities.

Having said that, Mr. Chairman, I want to mention that there are other parts of the bill that I do find objectionable, particularly the committee's decision to derail the Endangered Species Act by defunding the program. This is the wrong way to address individual problems with the Endangered Species Act.

I also object to the bill's drastic reductions in funding for land acquisition under the U.S. Fish and Wildlife Service. In New Jersey, the most urbanized State in the Nation, we have refuges that are under severe threat of development and the $14 million that is provided is not enough to cover even New Jersey's preservation needs, let alone the needs of the Nation as a whole.

Finally, Mr. Chairman, I would like to take this opportunity to speak out against any further cuts in funding for the National Endowment for the Arts and the National Endowment for the Humanities. These influential agencies encourage lifelong learning, promote participation within civic organizations and preserve our country's cultural and intellectual heritage. New Jersey takes advantage of these funds very effectively and I think it would be a mistake for us to make any further cuts in those programs.

Mr. REGULA. Mr. Chairman, I yield 3 minutes to the gentleman from Arizona [Mr. KOLBE].

Mr. KOLBE. Mr. Chairman, I'd like to commend the chairman of the Interior Appropriations Subcommittee and my friend, Mr. REGULA, for his hard work and courageous action in putting this bill together. It has not been an easy task. But throughout the hearing process, as well as the subcommittee and full committee markup, Chairman REGULA and his staff have performed tirelessly, professionally, and with the utmost sensitivity.

Trying to put together a workable budget for the Departments of Interior and Energy, the Forest Service, and the numerous independent agencies under the Interior Subcommittee's jurisdiction is difficult. Add to this an effort to address the personal concerns of the members of this body and you have a very arduous, nearly impossible mission. But, Chairman REGULA and his staff have crafted a good bill that I think is fair, fiscally conservative, and represents an excellent starting point for our 7-year journey to a balanced budget.

Is this bill everything everyone wanted? Of course not. But then we can't—nor should we—ever go back to the fiscally irresponsible practices of the past. We must keep in mind that the fiscal integrity of this nation is our responsibility, and we must act accordingly.

As the chairman has stated, the bill appropriates $11.96 billion in new budget authority for fiscal year 1996, $1.56 billion less than fiscal year 1995, and almost $2 billion less than the President requested. We have attempted to place an emphasis on preserving natural and cultural resources, the maintenance of scientific and research functions, and on our commitment to the health and educational needs of native Americans. H.R. 1977 also ensures that adequate resources are allocated for our Nation's public lands and our crown jewels—our National Park System. In fact, in an era of decreasing budgets, the bill actually contains an increase in the operational account of the National Park Service. This will prove invaluable to those who manage America's parks. And contrary to some published reports, the subcommittee never considered or even contemplated closing any of our Nation's parks.

Overall, the National Park Service fared fairly well. The bill appropriates $1.26 billion in overall funding. The bulk of these funds, $1.08 billion, will go to the management of park areas, visitor services, park police, resources and facility maintenance. This figure represents a $10 million increase over fiscal year 1995.

An important and much needed initiative that is included in the bill is the Recreational Fee Demonstration Program. This innovative program will give the National Park Service, the Bureau of Land Management, the U.S. Fish and Wildlife Service, and the Forest Service the opportunity to establish a 1-year pilot program that allows these land managing agencies to charge, and utilize on-site, recreational use and access fees. The language in the bill directs each agency to establish 10 to 30 demonstration sites where broad fee authorities are established. The best aspect of the program is that the bulk of fees that are collected—stay at the site which collects them. Of the fees, 80 percent that are collected are to be used in that area. The remaining 20 percent of the fees go into an agency account to be used agency-wide for priority backlogged recreational safety and health projects.

On the budgetary side, the bill is quite lean. Most agencies are at or below their 1995 funding level. Land acquisition accounts are reduced 87 percent below the 1995 level. Funds are to be used only for emergencies, hardship situations and high priority acquisitions subject to committee reprogramming guidelines. Major construction accounts are reduced 41 percent below their 1995 level with emphasis on high priority health and safety construction. Funding for the controversial National Endowment of the Arts is reduced 39 percent, and the National Endowment for the Humanities is reduced 42 percent. The bill calls for a 3-year phase-out of Federal funding for these agencies, but new agreements made last night may reduce that to 2 years.

H.R. 1977 also proposes the elimination of a number of agencies and programs. Agencies targeted for termination include the National Biological Service, the Bureau of Mines, the Pennsylvania Avenue Development Corporation, the Department of Energy's Office of Emergency Preparedness, and the Department of Education's Office of Indian Education. The Advisory Council on Historic Preservation is also slated to be terminated.

On the positive side, H.R. 1977 provides $111.4 million for the Bureau of Land Management's Payments in Lieu of Taxes [PILT] Program. As you know, the PILT Program compensates units of government for losses to their real property tax base due to Federal lands within their boundaries. In my State of Arizona, this level of funding is welcomed by several county administrators.

In general, this bill provides a sound and fiscally conservative blueprint for the continued management of our public lands. As stewards of these lands it is incumbent upon us to ensure that they are preserved for future generations to enjoy. I commend Chairman REGULA and his staff, and I hope that through the amendment process we can produce a bill that we will all be proud of.

Mr. SKAGGS. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Chairman, I rise in opposition to the measure that is before us. Frankly, it warrants opposition because of the priorities, because the hand that was dealt to the appropriators under the allocation system is inadequate to meet the responsibilities that we are sworn to discharge. The money is not there. Obviously, you can shift money around and do a little for operation and maintenance in the parks, but then you are denied to buy the in-holdings of lands and the land/water conservation or in other areas. The money is not there, and this bill ought to be rejected because it does not permit us to exercise our responsibilities in a way that is effective.

We are going to see we have a $7 billion backlog in parks or a $9 billion backlog in terms of responsibilities. That is going to grow under this measure. Under anyone's evaluation, we do not put a dent in the backlog. In fact, we add to it.

The other reason that this bill has to be rejected, and there are many such examples in the bill, where it is inadequate, the elimination of essential programs like the weatherization program, the energy programs, these are working programs. They work. They are not just for a time of crisis. They are the way we avoid crisis.

The other reason is that this measure is not just an appropriations bill, this is a whole policy bill. In Congress, we separate policy and authorization from the actual appropriation. The allocation of dollars actually funding programs is essential. That is an essential decision which is supposed to be kept separate. We have always had a little overlap. But in this bill we simply circumvent the policy process completely in many significant areas. We are rewriting the Endangered Species Act. We are rewriting law after law in this legislation, rewriting those laws, in fact, in a way in which we are not able to have essential debate.

My colleagues wonder why we are spending more time on the appropriations bill on the floor. I can tell you, because when you consolidate the appropriation process, one that is highly controversial because of the nature of the cuts that are coming down this year and the strong disagreement in terms of those priorities, and with an entire wholesale rewrite of many laws that affect the management of our forests, management of our park system, fee issues, issue after issue, the Endangered Species Act, the issue with regard to mining law and whether or not we are going to have a moratorium, when you combine all of this into a single legislative bill, you have bought into a significant responsibility.

I have spent some 19 years in this body working on parks and public lands issues, as an example. I think I know a little bit about it. I do not know everything. As my colleague, Congressman Udall, used to say, there are two types of Members of Congress: "those that don't know and those that don't know they don't know."

Obviously, we are always guided by the fact that we are trying to learn in this process, as I am sure my colleagues would agree. But the fact that you consolidate into this measure dozens of policy changes that you do and the other aspects are obviously going to result in a significant policy path changes.

This should not be done. Maybe the chairmen of the various authorizing committees approved of this, but that does not make a majority. That does not provide us with the in-depth debate and hearings and other aspects that are supposed to take place in terms of public participation to at least a limited degree.

So this bill fails in terms of process. It fails in terms of priorities, and it should be defeated.

Mr. Chairman, as we consider H.R. 1977, the fiscal year 1996 appropriations bill, I think it is appropriate to review the mission and purpose of the Department of Interior as outlined in the U.S. Government Manual (1993/94):

> As the Nation's principal conservation agency, the Department of the Interior has responsibility for most of our nationally owned public lands and resources. This includes fostering sound use of our land and water resources; protecting our fish, wildlife and biological diversity; preserving the environmental and cultural values of our national parks and historical places; and providing for the enjoyment of life through outdoor recreation.

Similar analysis and reflection would apply to the Department of Agriculture Forest Service, the sister agency which shares substantial responsibilities for conservation and preservation of our natural and cultural legacy also is addressed in this measure.

I cannot support H.R. 1977 because it doesn't provide the Interior Department or the Forest Service with the resources they need to carry out their stated mission. This is an unfortunate move away from a core conservation and preservation ethic that is basic to the definition and culture of the American people.

The policies and programs in place to carry out the mission of the Interior Department are not the work of Democrats or Republicans alone, rather they were uniquely derived from years of deliberation, of listening and responding to the core conservation and preservation values and ethics of the American people.

Significant programs—the Land Water Conservation Fund [LWCF] and Historic Preservation Fund [HPF] are cut to the point of not being able to fill the backlog or immediate need. Of the one billion of funds generated, only 6–7 percent allocated for its intended purposes.

In their zeal to shun Federal conservation efforts the majority isn't even making sensible choices in funding priorities. For example, zero funding listing and prelisting programs for endangered species and eliminating the National Biological Service demonstrate the height of hypocrisy on the part of the majority. Problems in managing our Federal resources will not go away just because we decide to quit addressing them, and not addressing them is certain to cost the American people more in the long run.

I too want to decrease the Federal deficit. But the most sensible way to do that is through improving the effectiveness and efficiency of Interior Department programs or other funding of agencies with this measure. Many of the programs seriously underfunded or targeted for elimination in this bill are working. Improving programs that work goes a lot farther in reducing the Federal deficit than cutting funding and hoping the problem goes away.

H.R. 1977 zero-funds all prelisting activities until the ESA is reauthorized. The $4.5 million cut from the FWS budget for prelisting activities is vital to the continuation of a highly successful program designed to prevent the need to list under the Endangered Species Act. There are over 4,000 species now under consideration for possible listing. Many of these species could be conserved through simple and inexpensive programs at the Federal, State, and local land management levels.

The Fish and Wildlife Service candidate conservation program serves as an impetus to establishing conservation and stabilization activities before the species reaches critical levels. It is hypocritical for this Congress to criticize the FWS for listing species without giving that agency the opportunity to conserve species before they reach critical levels. It is hypocritical for this Congress to cry for reduced spending and greater economic efficiency while gutting a program that decreases the need for future costly emergency recovery actions.

H.R. 1977 zero-funds all listing activities for endangered and threatened species, thereby extending the current moratorium. The majority is evading the legislative process by using agency appropriations to legislate national policy. By denying FWS any ability to conserve species proactively, Congress is ensuring further decline and the need for drastic and expensive actions to save species. In addition, there are no exceptions in this budget cut for emergency listings or for listing plant species which are potential sources of medicine. Plants, animals and people cannot cling to life waiting for the legislative process to run its course.

The submersion of the National Biological Service into the National Geological Survey is another glaring illustration of fear run amok. There is legitimate room for debate over the merits of what the NBS or any other government agency does or how much funding should be provided for that work. However, the allegations leveled at the NBS, largely unfounded, are being used to justify elimination of the NBS. It is hypocritical for this Congress to call for better science and then deny funding for efforts specifically set up to conduct unbiased science.

H.R. 1977 also eliminates the Advisory Council on Historic Preservation, severely crippling the efforts of the Federal Government to achieve consensus on policy actions and short changing the key efforts which backstop local nonprofit and private preservation efforts.

Historic preservation provides a twofold benefit—preserving historic properties while helping communities achieve the economic advantages that occur as a result of historic preservation. It seems Members who take deficit reduction seriously would see the significant benefit that flow from a program that efficiently achieves a national goal while generating revenue to participating communities.

Beyond these specifics the moratoria to prevent the public land giveaways under the 1872 mining laws are not included. Elimination of the essential weatherization program, appliance development commercialization program and other energy efficiency programs. Most energy conservation programs have been severely cut. Unfortunately this measure bans AmeriCorps funding initiated under the National Service law in spite of the fact that it was self funded by the 1993 law.

The majority claims that their bill strikes a balance between the dual goals of reducing the deficit and protecting and enhancing the Nation's rich natural and cultural resources. This bill does no such thing and in the process, poorly serves the needs of the American people. It's certainly not a good measure we can and should do better.

Mr. REGULA. Mr. Chairman, I yield 2½ minutes to the gentleman from Washington [Mr. NETHERCUTT], a newcomer in terms of service but an oldcomer in terms of knowledge to the subcommittee. The gentleman brings a great perspective on Western issues, particularly as they affect the State of Washington, and the areas surrounding, on forests and some of the river problems.

Mr. NETHERCUTT. Mr. Chairman, I thank the gentleman for the kind remarks.

I am happy to stand before this House today in support of H.R. 1977, the fiscal year 1996 Interior Appropriations Act. I am a new member of the Subcommittee on Interior. I am a new Member of Congress. I was very pleased to work closely with the chairman, the gentleman from Ohio [Mr. REGULA], and certainly the Members of the minority party to craft this legislation in the fairest way possible.

I believe we still have further to go in reducing the size and scope of this Federal Government, but this bill represents a significant first step, I believe, in the right direction in cutting back on unnecessary waste and duplication within the Federal Government.

This bill is about a billion and a half dollars below last year's level of funding. I recognize the difficulty that the chairman had and our subcommittee and committee had in meeting the needs of the Nation with this reduction. But I certainly want to compliment him and the rest of the leadership for allowing such an open process as we go through this very important bill.

I personally had some problems supporting one aspect of the bill regarding the Bureau of Mines. I wanted to keep it open, and we decided not to in the committee. But I was encouraged to offer an amendment in both the subcommittee and the full committee by the chairman and others, and we had a full hearing. I thank the chairman for his forbearance in working with us on that amendment.

I also want to thank the committee for working with me and other Members from the West on programs that are of particular importance to our region. This bill continues funding for the operation of our national parks, our forests, our pubic lands and refuges, and it maintains our forest health programs and provides a modest increase for the timber sales program. This increase comes after a drop in sales targets by about 60 percent over the last 5 fiscal years.

This slight increase will begin to put our timber communities back to work without damaging the environment. The bill eliminates the National Biological Service, an agency that is unauthorized and is really unnecessary at this time. Critical NBS functions will be continued at the Geological Survey while private property rights will be fully preserved. This bill funds the arts and culture at a more fiscally responsible level, a level that all of us should support at this time of the fiscal responsibility that we must exercise.

I urge all Members to support this bill. It is a good bill. It is a fair bill. Let us work hard to pass it.

Mr. SKAGGS. Mr. Chairman, I yield 2½ minutes to the gentleman from New York [Mr. HINCHEY].

Mr. HINCHEY. Mr. Chairman, first of all let me express my profound respect and appreciation for the work of the chairman of the subcommittee. He and I share many of the same values and interests with regard to the Nation's natural and historical resources. But unfortunately, this bill does not reflect those values in the way that I think both the gentleman and I would like it to.

The gentleman has been given a very ugly package to carry here. What does this bill do? First of all, it cuts the Department of the Interior to $500 million below this current year's level, making it more difficult for the Department to protect the Nation's natural and historical resources. It eliminates the National Biological Service as a separate agency and slashes funding for that purpose by about 30 percent. It pretends that we ought not to know more about the Nation's biological resources, pretends that ignorance about these resources is a virtue.

The bill prohibits the research activities of the Department, the former National Biological Service, from using even volunteers to go out and accumulate information. It revels in this kind of ignorance and prevents people from exercising their civic duty in a voluntary sense.

It cuts the National Park Service by $230 million below the administration's request, including $70 million from park operations, making it more difficult for the people of this country to enjoy these natural resources, particularly our national parks.

But it expends money in other areas. It exceeds the House Committee on Science's authorized amounts for the Department of Energy's fossil energy research and development activities by more than $150 million. This is a giveaway to major energy corporations in the country. It provides more than $65 million for six pork barrel projects for which the Committee on Science recommended no funding. At the same time it increases funding in these areas, it slashes funding for the Department of Energy's weatherization program by $100 million, which means there are more people who are going to be colder in the winters and we are going to be wasting more energy.

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Mr. Chairman, Let me focus on one particular provision. The Strategic Petroleum Reserve was set aside in the advent of an incident, another incident which occurred back in the 1970's. This bill reduces the Strategic Petroleum Reserve by 7 million barrels, and it sells those 7 million barrels for now about $15 a barrel. This oil was purchased for $30 a barrel, so we are selling for $15 what we bought a few years ago for $30 a barrel. If this is any indication of the way the majority party in this House is a steward of the Nation's resources and the taxpayers' dollars, then I think it is a poor example of where we are and where we are heading. This is foolhardy to cut back on this reserve, and it is certainly wasteful of the taxpayers' money.

Mr. REGULA. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. GALLEGLY], a member of the Committee on Resources.

Mr. GALLEGLY. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I rise today as chairman of the Subcommittee on Native American and Insular Affairs to express my support for the pending efforts to amend H.R. 1977 to restore funding for either the Office of Indian Education or the education programs supported by that office.

The Office of Indian Education provides financial assistance to elementary and secondary schools, tribal schools, and related Indian education programs.

These programs are important elements in the overall effort to provide quality education for our native American children.

While I support efforts to balance the budget, cut bureaucrats and shrink the Government, H.R. 1977 goes well beyond reason. This bill not only cuts funding, it totally eliminates the office which administers the funds.

To completely abolish these programs is not prudent and asks too much of our Indian children in too short a period of time.

I know several amendments will be offered to reverse the committee's recommendations and I hope the Members of the House will give those amendments every consideration.

Mr. SKAGGS. Mr. Chairman, I am pleased to yield 3 minutes to the gentlewoman from North Carolina [Mrs. CLAYTON].

Mrs. CLAYTON. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, this is the season of sacrifice. We know that. But, why is it that we continue to pick on those least able to defend themselves—the children?

I refer, of course, to that section of this bill that would eliminate the Office of Indian Education.

First established in 1972, through the Indian Education Act, for nearly a quarter of a century the Office of Indian Education has sought to serve the unique cultural and academic needs of the original inhabitants of our land.

Without the Office of Indian Education, American Indian children and Alaska Native children would not be able to achieve the same academic standards as other children.

Most American Indian and Alaska Native children are State recognized, but are not federally recognized.

Elimination of the Office of Indian Education and the loss of funding for that purpose would mean the loss of this special Federal funding for public school districts that provide educational opportunities to the vast majority of these children.

Federal financial assistance to tribal schools, for elementary and secondary schools, and for related Indian education programs will be gone if this bill stands. Our amendment freezes funding at this fiscal year's level.

The administration had sought an increase in funding for the Office of Indian Education, however, in the spirit of deficit reduction, we believe a freeze in funding is appropriate.

But, we do not accept a freeze in progress. The primary focus of the Office of Indian Education is to encourage Indian children to achieve self-sufficiency. That is an important goal—a goal that is consistent with many of the themes embodied in the Contract With America.

As we sacrifice, let us not sacrifice the gains we have made. In addition to assistance to tribal schools and to elementary and secondary schools with significant Indian populations, the Office of Indian Education provides assistance for adult Indian education, for fellowships for those Indian students who have distinguished themselves, for special Indian education programs and for planning, pilot and demonstration projects.

For a small investment, this Office manages to do a lot for a population that deserves the help of this Nation. I urge my colleagues to raise their voices for Indian children and give your vote for the future of America. Vote for the Obey-Richardson-Clayton amendment.

Mr. REGULA. Mr. Chairman, I yield 1 minute to the gentleman from Colorado [Mr. ALLARD], a member of the Committee on Resources, who was a key Member in working with the authorizers and the appropriators in a team effort to address a number of challenging issues in this bill.

Mr. ALLARD. Mr. Chairman, I rise in support of the Interior appropriations legislation. I would like to begin by first of all complimenting the gentleman from Ohio [Mr. REGULA], chairman of the House Subcommittee on the Interior of the Committee on Appropriations, for his hard work on the National Biologic Service issue. I would like to especially thank him for working closely with members of the Western Caucus, who have a very keen interest in this issue.

The Interior appropriations legislation is an important move in the right direction. The independent Biological Research Agency is eliminated. There is no longer a National Biological Survey, a National Biological Service, or a Life Science Research Service. This is a significant victory for taxpayers. Fifty-four million dollars is saved. The overhead of a separate agency is eliminated. Objective science is promoted.

The 1995 funding level for the NBS was $167 million. The Interior appropriations bill eliminates this agency and account entirely. The bill provides $113 million to the U.S. Geological Survey for resources research. The USGS already has an authorized research mission. Further, research will be confined to public land and will be conducted by trained professionals. Equally important, the legislation will provide for greater peer review throughout the research process. An option is to privatize or contract out more of the research being done by the Interior Department.

One of the most important points to make is that the Interior appropriations bill language states that when authorizing legislation is finally passed and signed by the President, it will supersede the current proposal. We all agree research must be based on sound science. Therefore, it is up to the authorizing committee to determine how to guarantee that quality science is used and to include appropriate guidelines and restrictions concerning private property and the use of volunteers in an authorization bill.

Mr. Chairman, I think this is a wise step toward balancing the budget.

Mr. SKAGGS. Mr. Chairman, I yield 3 minutes to the gentleman from Washington [Mr. McDERMOTT].

Mr. McDERMOTT. Mr. Chairman, I rise in vehement opposition to this year's Interior appropriations bill (H.R. 1977).

By slashing the amount of money the Nation spends on protecting various species and their environment, this bill will set back many of the gains the Nation already has made in ensuring that our children and grandchildren have a healthy environment in which to live.

Make no mistake, this bill is the first step by the Republican majority to effectively gut and make useless the Endangered Species Act—an act that has successfully balanced economic development with necessary environmental concerns across the country for almost 25 years.

In fact, over the last 22 years, there have been fewer than 12 court cases concerning habitat modification while countless sustainable compromises have proven ESA's effectiveness.

I am not just talking about preserving ESA moneys so that future strip malls aren't built on wetlands or timber companies clearcut too close to salmon habitat. We need these species for the future because we know how much the vast spectrum of life has helped us in the past.

Right now, ESA protects plant life which may cure diseases such as AIDS. Fifty percent of prescription medicines sold in the United States contain at least one compound originally derived from plants, microbes, fungi, and other obscure species. These medicines play a vital role in fighting cancers, heart disease, and other infectious diseases and have produced considerable economic benefits as well.

Yet, despite the many gains made under the ESA, the Republicans are using the appropriations process as a devious back-door strategy to slightly eliminate the ESA by no longer funding its activities.

Mr. Chairman, I urge Members to vote against this bill on that basis alone.

Mr. REGULA. Mr. Chairman, I yield 3 minutes to the gentleman from Utah [Mr. HANSEN], a valued member of the Committee on Resources, chairman of the Subcommittee on National Parks, Forests and Lands, and a Member who contributed substantially in helping to craft this bill as we worked in a cooperative way with the authorizing committee.

Mr. HANSEN. Mr. Chairman, I rise to engage in a colloquy with the gentleman from Ohio [Mr. REGULA], chairman of the Subcommittee on Interior of the Committee on Appropriations. I appreciate his kind words.

Mr. Chairman, I seek this colloquy to discuss the Interior appropriations subcommittee action to reduce by $5.5 million the administration's budget request for the implementation of the Ute Indian Settlement Act. As the gentleman from Ohio is aware, the Indian settlement was improved by Congress as part of Public Law 102-575, which contained the Central Utah Project Completion Act.

Title V of that act settles certain water claims of the Ute Indian Tribe of Utah relative to prior agreements with the United States, the State of Utah and the central Utah Water Conservancy District. This settlement represents more than a simple authorization for future appropriations to the Ute tribe. It represents a binding obligation by the Federal Government to compensate the Ute tribe for past promises that were never kept.

I am concerned that the members of the Ute tribe will view the subcommittee's action as breaking the Federal Government's commitment to abide by the settlement. Does the subcommittee's action to reduce funding for the settlement in any way suggest that the terms of the settlement will not be fully satisfied?

Mr. REGULA. Mr. Chairman, will the gentleman yield?

Mr. HANSEN. I yield to the gentleman from Ohio.

Mr. REGULA. Mr. Chairman, I would respond to the gentleman from Utah [Mr. HANSEN] by saying no. The action taken by the subcommittee to reduce funding for this settlement should not in any way be viewed as a retreat of the Federal Government to honor the terms of the agreement with the Ute Tribe of Indians. We are honor-bound to fully comply with all aspects of the Ute Indian Settlement Act.

Mr. HANSEN. Could the chairman of the subcommittee then explain why this action was taken?

Mr. REGULA. I would tell the gentleman from Utah, as he is very aware, this year the Subcommittee on the Interior of the Committee on Appropriations did not receive a section 602(b) budget allocation large enough to fully fund the administration's request for the Indian land and water claims settlements and miscellaneous payments account. The subcommittee was forced to reduce the amount appropriated for the Ute Indian Settlement Act by $5.5 million.

The bill does appropriate, however, a sizable remaining amount of approximately $20 million for the Ute settlement. We plan to make up for the reduced level funding in this fiscal year settlement funding by adding in the future year's appropriations bills the appropriate amount.

Mr. HANSEN. Mr. Chairman, if the other body is able to find additional resources under section 602(b) allocation to restore the $5.5 million and appropriates the full amount requested by the administration's budget for the Ute Indian settlement, will the subcommittee chairman defer to the other body in conference on this specific appropriation item, so that the obligation to the Ute tribe could be satisfied in this year's appropriation bill?

Mr. REGULA. Mr. Chairman, I can only assure the gentleman from Utah that I and the other members of the conference committee representing the House will carefully consider this item as we confer with the Senate, with the other body, and seek to achieve, as much as possible, full funding of the Ute Indian settlement.

Mr. HANSEN. Mr. Chairman, I appreciate the willingness of the chairman of the subcommittee to continue to try to find money for this important matter, and also for his excellent work as chairman of the subcommittee.

Mr. YATES. Mr. Chairman, I yield 3 minutes to the gentleman from American Samoa [Mr. FALEOMAVAEGA].

Mr. FALEOMAVAEGA. Mr. Chairman, as the ranking member of the Subcommittee on Native American and Insular Affairs of the Committee on Resources, I rise to express great concerns about the cuts which the Interior appropriations bill makes in the funding of the Bureau of Indian Affairs.

Mr. Chairman, when viewed in the context of the massive cuts which all Federal programs are taking, the BIA cuts may not seem serious. But, when viewed in the context of the special Federal legal and moral obligations to the Indian people, these cuts only further undermine the honor and integrity of this Nation in meeting those obligations.

With that honor and integrity at stake, however, the Appropriations Committee, in its report, makes a serious error which calls into question the good faith of the United States toward all native Americans.

In particular, language on page 53 of the committee's report directs the BIA to submit a report to the committee on the gross gaming revenues of Indian tribes and the amount of Federal funding such tribes are receiving. The threat is thinly veiled.

About one third of the Indian tribes in the lower 48 States have developed tribal revenues from gaming operations. In this respect, they are not unlike nearly all of the States which have developed State lotteries as a means of generating governmental revenues.

Two small tribes, ideally situated, have for all practical purposes achieved economic self-sufficiency and complete independence from Federal funding. Only a handful of other tribes are making significant gains from their gaming operations. The overwhelming majority are deriving revenues from their operations which permit them to only partially meet critical unmet needs which the Federal Government has refused to meet over the years. But in every case, whatever the level of their gaming income, these tribes are devoting the net revenues to governmental operations and programs, as required by the Indian Gaming Regulatory Act.

Yet the committee's report levels a threat at these tribes. After years of encouraging tribes to seek self-sufficiency and after years of failing to meet this Nation's obligation to assist tribes toward that goal, the report threatens to cut off their Federal funds in proportion to governmental revenues generated by their own initiative. But we know, in Indian affairs, that no good deed goes unpunished. If this Congress is going to be consistent, Mr. Chairman, we need to require each State government to make a report to Congress on the gross income derived by that State from gaming and other commercial activities, and to take those State receipts into consideration when allocating Federal funds.

Mr. Chairman, I hope that the Secretary of the Interior, in responding to the study requirement of the committee report—should the Senate concur—will put the report into context. When reporting on the level of tribal gaming revenues and on the level of Federal funding, he must also advise the Congress of the level of unmet need of that tribe and its members. The study of the tribe's unmet need must be comprehensive, accurate, and that need must be measured in terms of the effort necessary to put that tribe and its members into a position comparable to the average circumstances of all Americans.

Until this Nation fulfills its obligation to the Indian people to ensure them a standard of living comparable to the rest of the Nation, it is unjust to threaten the Federal funding of programs for their benefit because they have begun to exert their own efforts toward self-sufficiency.

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Mr. REGULA. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, just a few things that have been brought out here. First of all, concerning eliminating funding for endangered species. I think it should be pointed out that the bill is subject to authorization, and that for those that read today's Congress Daily, one of the headlines is "Young-Pombo Species Bill Readied."

What I am saying is that the funds are there, they are in the refuge operations and maintenance account, but they will be available in conference, assuming we get an authorization bill on endangered species. Right now there is not any. For that reason, we have not put in money for listing and pre-listing.

Mr. Speaker, weatherization was raised as a problem. Of course we had to cut. It was talked about how people are freezing. On weatherization, to my knowledge, there is not anyone freezing in Hawaii but they are getting weatherization money.

I think it illustrates the fact that this program is just one of those that every State gets so many dollars without regard to the need. It seems to me that if you have programs, they should be predicated on the need of recipients.

Then the issue was raised of selling oil from the Strategic Petroleum Reserve and a figure was brought up here of something like $30. I would point out that the last 7 million barrels that were put in the Strategic Petroleum Reserve which this bill proposes to sell cost $17.50. That is what we are talking about.

The problem is that if we do not take care of SPRO, the 590 million barrels that are there will not be accessible. But we will get into that further discussion at the time that we have an amendment on that topic.

One last comment. A number of speakers have addressed the fact that this is below last year, that there are needs that are unmet. But I would just remind everybody that there was an election on November 8, 1994, and I think the message was loud and clear from the voters, that they want to reduce spending.

We are trying to do that. We are reducing spending. We are doing it in a responsible way. Part of our legacy to future generations will be on an economy that will be strong, that will provide them jobs, that will be free of inflation, and that will give the standard of living improvement that Chairman Alan Greenspan talked about.

Mr. Chairman, I have no further requests for time, but I reserve the balance of my time, subject to what the minority would like to do.

Mr. YATES. Mr. Chairman, I yield 3 minutes to the distinguished gentlewoman from Oregon [Ms. FURSE].

Ms. FURSE. Mr. Chairman, there are so many bad cuts in this bill that I do not have time to talk about all of them. I am going to talk abut the ones that matter the most to me. Those are the attacks on our endangered salmon.

This bill, makes no mistake about it, is an attack on environmental protection and the Endangered Species Act. First, it slashes funding for pre-listing activities and habitat acquisition. Why is that a bad idea? Because we want to pre-list species before they reach the point where they need listing. We want to buy habitat so that we do not impact private landowners.

Second, this bill terminates all funding for listing activities. We are simply putting our heads in the sand if we think that just because we do not list a species, it is not going extinct. That is ridiculous. We have got to list these species. The reality of species decline will simply require more money and more drastic measures down the line to stop the extinction of species.

Finally, Mr. Chairman, this bill terminates 3 vital initiatives to protect fisheries habitat in the Northwest: PACFISH, INFISH and the Upper Columbia Basin Assessment. Why are those important? Because they are designed to ensure that the activities in the woods do not impact our vital fishery interests.

On the West Coast, we are trying very, very hard, we have spent millions of dollars to restore our salmon industry. In 1988, these salmon contributed about $1 billion and 60,000 jobs to our region. Since then, the salmon have declined so badly that the fishing revenue has gone down 80 percent.

For this reason, the fishery industry strongly supports the Endangered Species Act I want to quote what they say: "There is . . . no industry more regulated under the ESA presently, nor more likely to be regulated in the future, than the commercial fishing industry. . . . we view these protections as vitally important in protecting and preserving our industry, our jobs and our way of life for the long term. . . . Without a strong ESA, there will be no salmon recovery in the northwest."

To those who might think that gutting funding for the Endangered Species Act will help the economy, I would ask you to go to the Northwest and talk with the unemployed fishermen and fisherwomen in my district. It seems to me if we want to reduce the deficit, and we must, let's cut some Pentagon pork, not gut salmon recovery.

I urge my colleagues to oppose this bill to protect the environment and to protect our salmon jobs and salmon industry.

Ms. RIVERS. Mr. Chairman, I rise today in strong opposition to H.R. 1977, the Interior Appropriations Bill for Fiscal Year 1996. Although there are many reasons for this opposition, the greatest is the elimination of the National Biological Service [NBS]. And although the U.S. Geological Survey will now perform some of the NBS's functions, it comes with a 33 percent cut in funding.

The National Biological Service [NBS] Director, Ronald Pulliam, has stated publicly that the cut in the budget of the NBS would result in, among other things, the closure of the Great Lakes Science Center [GLSC] in my district.

The GLSC provides an invaluable service to the entire Great Lakes Region. Since 1927, the Great Lakes Research Center has been funded by the Federal Government to monitor the status and trends of the Great Lakes ecosystem. The Center's 70 employees provide cutting-edge research in the field of contaminants, wetlands, fish and wildlife habitat, global climate change, fish health, and ecosystem indicators. The Center has been one of the Nation's leaders in researching the problems caused by nonindigenous pest species, such as the zebra mussel.

The Great Lakes contain 95 percent of the fresh surface water in the United States and supply drinking water, fish and other food to millions of Americans. It is of critical importance that we continue working to maintain and improve the environment in the Great Lakes Basin. It is not so long ago that we had headlines declaring that Lake Erie was dead. The research provided by the Great Lakes Science Center has helped to revive that Lake, and this is the thanks it gets?

Mr. Chairman, upon seeing the budget document background materials that were provided as part of the Republican Contract with America, I noticed a line item that stated "Abolish the National Biological Service," and today they are doing it. And with the GLSC we are losing one of the best research facilities in the Great Lakes Region. Losing the Center, which has performed research work on Great Lakes issues since 1917, will truly be a national tragedy.

Mr. McDERMOTT. Mr. Chairman, I rise in vehement opposition to this year's Interior appropriations bill (H.R. 1977).

By slashing the amount of money the nation spends on protecting various species and their environment, this bill will set back many of the gains the nation already has made in ensuring that our children and grandchildren have a healthy environment in which to live.

Make no mistake, this bill is the first step by the Republican majority to effectively gut and make useless the Endangered Species Act—an act that has successfully balanced economic development with necessary environmental concerns across the country for almost 25 years.

In fact, over the last 22 years, there have been fewer than 12 court cases concerning habitat modification while countless sustainable compromises have proven ESA's effectiveness.

I am not just talking about preserving ESA moneys so that future strip malls aren't built on wetlands or timber companies clear cut too close to salmon habitat. We need these species for the future because we know how much the vast spectrum of life has helped us in the past.

Right now, ESA protects plant life which may cure diseases such as AIDS. Fifty percent of prescription medicines sold in the United States contain at least one compound originally derived from plants, microbes, fungi and other obscure species. These medicines play a vital role in fighting cancers, heart disease, and other infectious diseases and have produced considerable economic benefits as well.

Yet, despite the many gains made under the ESA, the Republicans are using the appropriations process as a devious back door strategy to silently eliminate the ESA by no longer funding its activities.

Just take a look at what they're doing. They are eliminating—zeroing out—the money used for prelisting and listing species. Money crucial for minimizing conflicts between economic development and specie extinction. Countless other funds for ensuring that specie habitat can be saved—including money for essential land acquisition—have been dramatically reduced as well.

Mr. Speaker, since ESA has been enacted, the country has made terrific strides in protecting the environment. Strides that have provided both economic and environmental success. Let's not make a 180 degree turn and destroy the progress we have made by allowing bills like this to become law. I urge my colleagues to oppose this effort by the Republican majority to undermine the ESA and threaten the Nation's environment. I urge you to vote "no."

Mr. RICHARDSON. Mr. Chairman, I strongly object to language included in the report accompanying H.R. 1977, the Interior appropriations bill for fiscal year 1996, which directs the Bureau of Indian Affairs [BIA] not to distribute self-governance tribal shares of central office and pooled overhead funding to Indian tribes despite the fact that the distribution of these tribal shares is required by law, namely the Indian Self-Determination and Education Assistance Act. Even the committee's report admits that distribution is required by law. And as the U.S. Supreme Court has stated in the Tennessee Valley Authority and Oklahoma Press Publishing Co. cases, committee reports cannot change or amend the plain intent of statutes.

But we must not also forget that Congress passed the Indian Self-Determination Act and created the self-governance program in order to enable tribes to achieve self-sufficiency, eliminate unnecessary layers of bureaucracy, and reduce governmental red tape and inefficiency by turning over the operation of Federal Indian programs to the tribes themselves. This act was passed with strong bipartisan support and represents the foundation of our policy toward Indian tribes.

The transfer of tribal shares from central office operations to the tribes is part of this effort and has successfully resulted in concrete reductions in the Federal bureaucracy that exist at the central and area office levels of the BIA. As confirmed by a recent inspector general's report, tribes receiving tribal shares further the act's goals by spending these funds on actual services rather than on administrative costs.

The language contained in the Appropriation Committee's report would resurrect the very same bureaucratic obstacles that Congress and the tribes have fought to eliminate over the past decade. If the BIA does not have to distribute central office shares, then the BIA will not have to downsize or restructure itself. The BIA has always opposed the distribution of central office shares, and the language contained in the report will only give it further opportunities to defeat the very purposes of self-governance and the Indian Self-Determination Act. It is vitally important that the policy of self-determination—and the promises we made to the tribes in the Act—be honored.

Mr. DICKS. Mr. Chairman, I rise to discuss H.R. 1977, the fiscal year 1996 appropriations bill for the Department of the Interior and Related Agencies.

I would like to thank the gentleman from Ohio, Mr. REGULA, who has done a fine job under very difficult circumstances in developing this bill in his first year of chairing the Interior Appropriations Subcommittee. I would also like to express my appreciation to the subcommittee's ranking member, Mr. YATES, who has long been a champion of many of the critical needs for the Nation that are funded through this bill.

The Interior appropriations bill had to absorb a reduction of $1.5 billion in budget authority, $750 million in outlays, and an overall cut of 10 percent to base funding. So even though I am not happy with this level of reduced funding for the Interior bill, I believe that our chairman and our subcommittee did its best under difficult circumstances to hold together support for the bill's core priorities.

This bill is important because it funds our national parks. The national park system is currently comprised of 368 areas, encompassing more than 80 million acres, in 49 States and the District of Columbia. This bill provides the operations money to protect our crown jewels in the park system, such as the Olympic National Park, Mount Rainier, Yellowstone, and Grand Canyon, and the Everglades.

The bill supports our national wildlife refuge systems, ensures the protection of species, and encourages ecosystems management. It ensures that the U.S. Geological Survey continues its operations, and is able to investigate and issue warnings of earthquakes, volcanic eruptions, landslides, and other geologic hazards.

The bill takes away the independent status of the National Biological Service, placing it under the jurisdiction of the U.S. Geological Survey, and reduces its base funding by $49 million. Under this bill, the NBS will not be a runaway agency as some opponents have claimed. But I believe that the mission of the National Biological Service is an important one, and we should not make critical decisions on habitat use and species protection in a vacuum. We should know as much as possible, and use that knowledge to make forward-thinking decisions which benefit all concerned.

I just had a private company in my State, Murray-Pacific, produce the first multi-species habitat conservation plan [HCP] in the nation. Their experience, and the progress that others are making, demonstrates that species and humans can co-exist, and the NBS can be a positive catalyst to assist in these efforts.

This bill addresses the needs of our native American citizens, and ensures that we continue to invest in their economic well-being, health, and cultural priorities through the Bureau of Indian Affairs [BIA] and the Indian Health Service [IHS]. I would have killed to have seen the Office of Indian Education funded as well, but I understand the subcommittee's constraints, and we did manage to hold the Bureau of Indian Affairs to only a 3-percent cut, and maintained base funding for the Indian Health Service.

This bill funds the President's forest plan in the Pacific Northwest, and although greater efforts need to be made in the region to reach the timber harvest levels identified in the plan, I believe we are making progress, and the funding within this bill will keep us on a positive track.

The bill provides for the full economic assistance to hardhit timber-dependent communities in the Northwest, and also keeps us moving forward with watershed analysis and the "Jobs in the Woods" watershed restoration program, which is doing great things for the environment and helping dislocated timber workers in my district and the region.

The bill also ensures that we continue to make progress on the national timber sale program. We have a severely depleted national pipeline, and there are funds provided in this bill to increase efforts on advanced timber sales preparation, and prepare an additional 400 million board feet above the 4.9 billion board feet target called for in the President's fiscal year 1996 budget submission.

Finally, the bill funds our cultural institutions: the Smithsonian Institution, the Holocaust Museum, the National Endowment for the Humanities, and yes, the National Endowment for the Arts. I strongly support the Arts and Humanities agencies. They are an investment in America's culture and future. Both the NEA and NEH received 40 percent cuts in this bill and should not be reduced further.

Mrs. ROUKEMA. Mr. Chairman, I will support House passage of H.R. 1977, but I want to take this opportunity to briefly express my concern about several aspects of this very important legislation, which funds the Interior Department and various independent agencies for the coming fiscal year.

Before elaborating on my concerns with the particular details of this bill, let me reaffirm that I vigorously support a balanced Federal budget, and I continue to support efforts to slow down the rate of growth in Federal spending as a means of achieving this objective, instead of raising taxes on the hard-working American people.

I also know that Chairman REGULA, like all other Appropriations Subcommittee chairman, is trying to make the best of a very difficult situation.

H.R. 1977, as reported by the House Appropriations Committee, represents his best effort at balancing far more requests for Federal monies than his subcommittee has the ability to fund, now that the 104th Congress has begun the difficult process of balancing the Federal budget over the next 7 years.

Nevertheless, there are priorities which should be understood. Namely, that inordinate delays in taking action can frequently result in higher costs. In other words, postponement can sometimes be "penny wise, but pound foolish."

Such a delay would, in the case of Sterling Forest, result in enormous additional costs. That is why our New Jersey delegation is aggressively pursuing the following course of action.

In recent years, a bipartisan delegation of members from the states of New Jersey and New York have worked diligently to pass legislation that would initially authorize, and subsequently appropriate, funds to purchase roughly 20,000 acres of undeveloped woodland straddling the New Jersey-New York border commonly know as Sterling Forest.

Protecting Sterling Forest from development is essential, because these lands provide vital watershed protection to millions of residents in the great New York City metropolitan area, including New Jersey and Connecticut.

Developing Sterling Forest, as its current owner has proposed doing, would jeopardize the water quality for hundreds of thousands, if not millions, of people who live and work in the tristate area.

Further delays in purchasing will ultimately cost our citizens much more, both in financial costs as well as public health costs.

Consequently, those of us who have been working to protect Sterling Forest were very encouraged to see the Senate pass legislation that contained authorization for $17.5 million in funding to help purchase Sterling Forest, right before the Fourth of July recess.

I, along with other concerned House Members, will be working with the leadership of the House Resources Committee to encourage the committee to promptly pass this critical authorization legislation through the House of Representatives so that it can go directly to the White House where President Clinton can sign it into law.

If we are successful in these efforts, I hope that the Senate will include funding for Sterling Forest in its version of H.R. 1977, which will be debated by the other body in September or October.

If the Senate version of the fiscal year 1996 Interior appropriations bill contains Sterling Forest funding, I look forward to working with subcommittee Chairman REGULA, and other House conferees, to ensure that the final version of H.R. 1977 contains these essential money.

In addition to having the support of Members from both New Jersey and New York, the effort to preserve and protect Sterling Forest enjoys the support of both Governor Whitman and Governor Pataki.

Clearly, this is a case of bipartisan, interstate support for doing the right thing; namely, purchasing Sterling Forest and preventing its development will help protect the water supply for millions of residents in the northern New Jersey and avoiding escalating costs to the taxpayers in the future.

Enacting this legislation is a very high priority for Governor Whitman, the State of New Jersey, and our congressional delegation. I will continue to work with Chairman REGULA to make this a reality.

In the meantime, I will support House passage of H.R. 1977 with the hope that its final version will enjoy my full and enthusiastic support.

Mr. YOUNG of Alaska. Mr. Chairman, I rise to offer an amendment to H.R. 1977, the Interior appropriations bill. My amendment reduces funding for two unnecessary aircraft and some vehicles to be used by the U.S. Fish and Wildlife Service. These savings are then made available to the Bureau of Indian Affairs for two purposes.

In 1906, Congress enacted the Alaska Native Allotment Act to allocate lands to Native Alaskans. The Alaska Native Claims Settlement Act of 1971 repealed the 1906 Allotment Act and an allottee must have filed an application with the Department of the Interior by December 18, 1971. It has been over 23 years since eligible allottees filed their applications and there still remains a need to resolve the on-going case load of Alaska Native allotment disputes at the Department of Interior. In February of 1994, the Department of Interior, Bureau of Land Management, the Alaska Legal Services, and the Alaska Federation of Natives met to discuss solutions to resolve these disputes, propose to close the last of Native allotment cases and an attempt to finalize land dispute problems in this area. This amendment intends that half of these funds—$442,000—be used for the Alaska Native allotment attorney fee program at the Bureau of Indian Affairs. This will provide funds for representatives for Native allottees with cases with pending at various stages of review within the Department of Interior and before the Interior Board of Land Appeals. The need for outside counsel in these cases is required because of the attorneys within the Department of Interior recognize a conflict of interest between the Native allottees and their institutional clients.

The remaining funds are added to the Bureau's Wildlife and Parks program as additional funds for monitoring and enhancement of the salmon returns within the Arctic-Yukon-Kustokwim regions in Alaska. The Athabaskan, Yup'ik and Inupiaq Natives of western and interior Alaska live a subsistence way of life from harvests of different fish and mammals. Although these resources supply most of their food needs, they also need cash to purchase essentials such as gas, and non-perishable foodstuffs and harvesting equipment such as boats, outboard motors, nets, and rifles. Commercial fishing provides that small but necessary income since other jobs are scarce and seasonal in rural Alaska. Fishing income averages $4,000 from about 7 weeks of fishing and the per capita income in the villages of these regions is about 60 percent of the U.S. national average. Beginning in 1990, chum salmon stocks in these regions declined significantly and spawning escapements were inadequate. For the upcoming fishing seasons, the Alaska Department of Fish and Game is predicting below average return of salmon to these regions. This program fund is intended for salmon monitoring, enhancement and restoration and research projects in these regions.

Ms. FURSE. Mr. Chairman, I rise today in support of this amendment to transfer $2 million from the salaries and administrative expenses of the Department of the Interior to the Advisory Council on Historic Preservation, which is slated for elimination under the current language of the bill. In this day and age of shifting decisionmaking power to the local level, it makes sense to keep the Advisory Council.

An independent Federal agency, the Advisory Council plays a critical role in ensuring that local residents have an opportunity to provide input on Federal projects that affect the historic and cultural resources in their community. If the Advisory Council is eliminated, citizens will not be guaranteed a voice and the process will suffer as decisionmaking becomes less participatory and, hence, less representative.

Without the Advisory Council and the accompanying section 106 process, the average person would be shut off from the consultation process. Decisionmaking will become exclusive and subject to domination by Federal officials and narrow interest groups.

It is imperative that we maintain funding for the Advisory Council to allow communities to continue to have a voice. After all, it is the people at the local level—not the Federal bureaucrats in Washington, DC—whose neighborhoods and towns will be impacted by Federal projects.

In my home State of Oregon, the section 106 process allowed public comment on the construction of the federally-assisted light rail transit project as it was being planned in the 1980's. The local landmarks commission and Portland businessowners, among others, were able to suggest ways to counteract the negative effects of the new construction on two important downtown historic areas—Skidmore Old Town and Yamhill District, both of which are recognized as national historic landmarks.

As a result of local involvement through the section 106 process, special historic-styled benches and shelters were installed and the cobblestone paving around the historic Skidmore Fountain was restored. As the inscription on the Skidmore Fountain reads, "The riches of the city are its citizens." The section 106 process carried out by the Advisory Council similarly recognizes the importance of citizens.

Eliminating the Advisory Council on Historic Preservation runs counter to the very principles of citizen involvement on which our country was founded. The Advisory Council on Historic Preservation deserves our support, and I urge the passage of this amendment.

Mr. YATES. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. REGULA. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the bill shall be considered under the 5-minute rule by titles and each title shall be considered read.

The amendments printed in section 2 of House Resolution 187 are adopted.

During consideration of the bill for amendment, the Chairman of the Committee of the Whole may accord priority in recognition to a Member who has caused an amendment to be printed in the designated place in the CONGRESSIONAL RECORD. Those amendments will be considered read.

The Clerk will designate title I.

The text of title I is as follows:

H.R. 1977

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Department of the Interior and related agencies for the fiscal year ending September 30, 1996, and for other purposes, namely:

TITLE I—DEPARTMENT OF THE INTERIOR

BUREAU OF LAND MANAGEMENT

MANAGEMENT OF LANDS AND RESOURCES

For expenses necessary for protection, use, improvement, development, disposal, cadastral surveying, classification, acquisition of easements and other interests in lands, and performance of other functions, including maintenance of facilities, as authorized by law, in the management of lands and their resources under the jurisdiction of the Bureau of Land Management, including the general administration of the Bureau $570,017,000, to remain available until expended, of which not more than $599,999 shall be available to the Needles Resources Area for the management of the East Mojave National Scenic Area, as defined by the Bureau of Land Management prior to October 1, 1994, in the California Desert District of the Bureau of Land Management, and of which $4,000,000 shall be derived from the special receipt account established by section 4 of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 460l–6a(i)): *Provided*, That appropriations herein made shall not be available for the destruction of healthy, unadopted, wild horses and burros in the care of the Bureau or its contractors; and in addition, $27,650,000 for Mining Law Administration program operations, to remain available until expended, to be reduced by amounts collected by the Bureau of Land Management and credited to this appropriation from annual mining claim fees so as to result in a final appropriation estimated at not more than $570,017,000: *Provided further*, That in addition to funds otherwise available, and to remain available until expended, not to exceed $5,000,000 from annual mining claim fees shall be credited to this account for the costs of administering the mining claim fee program, and $2,000,000 from communication site rental fees established by the Bureau.

WILDLAND FIRE MANAGEMENT

For necessary expenses for fire use and management, fire preparedness, emergency presuppression, suppression operations, emergency rehabilitation, and renovation or construction of fire facilities in the Department of the Interior, $235,924,000, to remain available until expended, of which not to exceed $5,025,000, shall be available for the renovation or construction of fire facilities: *Provided*, That notwithstanding any other provision of law, persons hired pursuant to 43 U.S.C. 1469 may be furnished subsistence and lodging without cost from funds available from this appropriation: *Provided further*, That such funds are also available for repayment of advances to other appropriation accounts from which funds were previously transferred for such purposes: *Provided further*, That unobligated balances of amounts previously appropriated to the Fire Protection and Emergency Department of the Interior Firefighting Fund may be transferred or merged with this appropriation.

CENTRAL HAZARDOUS MATERIALS FUND

For expenses necessary for use by the Department of the Interior and any of its component offices and bureaus for the remedial action, including associated activities, of hazardous waste substances, pollutants, or contaminants pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, as amended (42 U.S.C. 9601 et seq.), $10,000,000, to remain available until expended: *Provided*, That, notwithstanding 31 U.S.C. 3302, sums recovered from or paid by a party in advance of or as reimbursement for remedial action or response activities conducted by the Department pursuant to sections 107 or 113(f) of the Comprehensive Environmental Response, Compensation and Liability Act, as amended (42 U.S.C. 9607 or 9613(f)), shall be credited to this account and shall be available without further appropriation and shall remain available until expended: *Provided further*, That such sums recovered from or paid by any party are not limited to monetary payments and may include stocks, bonds or other personal or real property, which may be retained, liquidated, or otherwise disposed of by the Secretary of the Interior and which shall be credited to this account.

CONSTRUCTION AND ACCESS

For acquisition of lands and interests therein, and construction of buildings, recreation facilities, roads, trails, and appurtenant facilities, $2,515,000, to remain available until expended.

PAYMENTS IN LIEU OF TAXES

For expenses necessary to implement the Act of October 20, 1976, as amended (31 U.S.C. 6901–07), $111,409,000, of which not to exceed $400,000 shall be available for administrative expenses.

LAND ACQUISITION

For expenses necessary to carry out the provisions of sections 205, 206, and 318(d) of Public Law 94–579 including administrative expenses and acquisition of lands or waters, or interests therein, $8,500,000 to be derived from the Land and Water Conservation Fund, to remain available until expended.

OREGON AND CALIFORNIA GRANT LANDS

For expenses necessary for management, protection, and development of resources and for construction, operation, and maintenance of access roads, reforestation, and other improvements on the revested Oregon and California Railroad grant lands, on other Federal lands in the Oregon and California land-grant counties of Oregon, and on adjacent rights-of-way; and acquisition of lands or interests therein including existing connecting roads on or adjacent to such grant lands; $91,387,000, to remain available until expended: *Provided*, That 25 per centum of the aggregate of all receipts during the current fiscal year from the revested Oregon and California Railroad grant lands is hereby made a charge against the Oregon and California land-grant fund and shall be transferred to the General Fund in the Treasury in accordance with the provisions of the second paragraph of subsection (b) of title II of the Act of August 28, 1937 (50 Stat. 876).

RANGE IMPROVEMENTS

For rehabilitation, protection, and acquisition of lands and interests therein, and improvement of Federal rangelands pursuant to section 401 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701), notwithstanding any other Act, sums equal to 50 per centum of all moneys received during the prior fiscal year under sections 3 and 15 of the Taylor Grazing Act (43 U.S.C. 315 et seq.) and the amount designated for range improvements from grazing fees and mineral leasing receipts from Bankhead-Jones lands transferred to the Department of the Interior pursuant to law, but not less than $9,113,000, to remain available until expended: *Provided*, That not to exceed $600,000 shall be available for administrative expenses.

SERVICE CHARGES, DEPOSITS, AND FORFEITURES

For administrative expenses and other costs related to processing application documents and other authorizations for use and disposal of public lands and resources, for costs of providing copies of official public land documents, for monitoring construction, operation, and termination of facilities in conjunction with use authorizations, and for rehabilitation of damaged property, such amounts as may be collected under sections 209(b), 304(a), 304(b), 305(a), and 504(g) of the Act approved October 21, 1976 (43 U.S.C. 1701), and sections 101 and 203 of Public Law 93–153, to be immediately available until expended: *Provided*, That notwithstanding any provision to the contrary of section 305(a) of the

Act of October 21, 1976 (43 U.S.C. 1735(a)), any moneys that have been or will be received pursuant to that section, whether as a result of forfeiture, compromise, or settlement, if not appropriate for refund pursuant to section 305(c) of that Act (43 U.S.C. 1735(c)), shall be available and may be expended under the authority of this or subsequent appropriations Acts by the Secretary to improve, protect, or rehabilitate any public lands administered through the Bureau of Land Management which have been damaged by the action of a resource developer, purchaser, permittee, or any unauthorized person, without regard to whether all moneys collected from each such forfeiture, compromise, or settlement are used on the exact lands damage to which led to the forfeiture, compromise, or settlement: *Provided further*, That such moneys are in excess of amounts needed to repair damage to the exact land for which collected.

MISCELLANEOUS TRUST FUNDS

In addition to amounts authorized to be expended under existing law, there is hereby appropriated such amounts as may be contributed under section 307 of the Act of October 21, 1976 (43 U.S.C. 1701), and such amounts as may be advanced for administrative costs, surveys, appraisals, and costs of making conveyances of omitted lands under section 211(b) of that Act, to remain available until expended.

ADMINISTRATIVE PROVISIONS

Appropriations for the Bureau of Land Management shall be available for purchase, erection, and dismantlement of temporary structures, and alteration and maintenance of necessary buildings and appurtenant facilities to which the United States has title; up to $100,000 for payments, at the discretion of the Secretary, for information or evidence concerning violations of laws administered by the Bureau of Land Management; miscellaneous and emergency expenses of enforcement activities authorized or approved by the Secretary and to be accounted for solely on his certificate, not to exceed $10,000: *Provided*, That notwithstanding 44 U.S.C. 501, the Bureau may, under cooperative cost-sharing and partnership arrangements authorized by law, procure printing services from cooperators in connection with jointly-produced publications for which the cooperators share the cost of printing either in cash or in services, and the Bureau determines the cooperator is capable of meeting accepted quality standards.

UNITED STATES FISH AND WILDLIFE SERVICE

RESOURCE MANAGEMENT

For expenses necessary for scientific and economic studies, conservation, management, investigations, protection, and utilization of fishery and wildlife resources, except whales, seals, and sea lions, and for the performance of other authorized functions related to such resources; for the general administration of the United States Fish and Wildlife Service; and for maintenance of the herd of long-horned cattle on the Wichita Mountains Wildlife Refuge; and not less than $1,000,000 for high priority projects within the scope of the approved budget which shall be carried out by the Youth Conservation Corps as authorized by the Act of August 13, 1970, as amended by Public Law 93-408, $498,035,000, to remain available for obligation until September 30, 1997, of which $11,557,000 shall be for operation and maintenance of fishery mitigation facilities constructed by the Corps of Engineers under the Lower Snake River Compensation Plan, authorized by the Water Resources Development Act of 1976 (90 Stat. 2921), to compensate for loss of fishery resources from water development projects on the Lower Snake River: *Provided*, That unobligated and unexpended balances in the Resource Management account at the end of fiscal year 1995, shall be merged with and made a part of the fiscal year 1996 Resource Management appropriation, and shall remain available for obligation until September 30, 1997.

CONSTRUCTION

For construction and acquisition of buildings and other facilities required in the conservation, management, investigation, protection, and utilization of fishery and wildlife resources, and the acquisition of lands and interests therein; $26,355,000, to remain available until expended.

NATURAL RESOURCE DAMAGE ASSESSMENT FUND

To conduct natural resource damage assessment activities by the Department of the Interior necessary to carry out the provisions of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (42 U.S.C. 9601, et seq.), Federal Water Pollution Control Act, as amended (33 U.S.C. 1251, et seq.), the Oil Pollution Act of 1990 (Public Law 101-380), and the Act of July 27, 1990 (Public Law 101-337); $6,019,000, to remain available until expended: *Provided*, That sums provided by any party in fiscal year 1996 and thereafter are not limited to monetary payments and may include stocks, bonds or other personal or real property, which may be retained, liquidated or otherwise disposed of by the Secretary and such sums or properties shall be utilized for the restoration of injured resources, and to conduct new damage assessment activities.

LAND ACQUISITION

For expenses necessary to carry out the provisions of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 460l-4-11), including administrative expenses, and for acquisition of land or waters, or interest therein, in accordance with statutory authority applicable to the United States Fish and Wildlife Service, $14,100,000, to be derived from the Land and Water Conservation Fund, to remain available until expended.

COOPERATIVE ENDANGERED SPECIES CONSERVATION FUND

For expenses necessary to carry out the provisions of the Endangered Species Act of 1973 (16 U.S.C. 1531-1543), as amended by Public Law 100-478, $8,085,000 for grants to States, to be derived from the Cooperative Endangered Species Conservation Fund, and to remain available until expended.

NATIONAL WILDLIFE REFUGE FUND

For expenses necessary to implement the Act of October 17, 1978 (16 U.S.C. 715s), $10,779,000.

REWARDS AND OPERATIONS

For expenses necessary to carry out the provisions of the African Elephant Conservation Act (16 U.S.C. 4201-4203, 4211-4213, 4221-4225, 4241-4245, and 1538), $600,000, to remain available until expended.

NORTH AMERICAN WETLANDS CONSERVATION FUND

For expenses necessary to carry out the provisions of the North American Wetlands Conservation Act, Public Law 101-233, $4,500,000, to remain available until expended.

LAHONTAN VALLEY AND PYRAMID LAKE FISH AND WILDLIFE FUND

For carrying out section 206(f) of Public Law 101-618, such sums as have previously been credited or may be credited hereafter to the Lahontan Valley and Pyramid Lake Fish and Wildlife Fund, to be available until expended without further appropriation.

RHINOCEROS AND TIGER CONSERVATION FUND

For deposit to the Rhinoceros and Tiger Conservation Fund, $200,000, to remain available until expended, to be available to carry out the provisions of the Rhinoceros and Tiger Conservation Act of 1994 (P.L. 103-391).

WILDLIFE CONSERVATION AND APPRECIATION FUND

For deposit to the Wildlife Conservation and Appreciation Fund, $998,000, to remain available until expended, to be available for carrying out the Partnerships for Wildlife Act only to the extent such funds are matched as provided in section 7105 of said Act.

ADMINISTRATIVE PROVISIONS

Appropriations and funds available to the United States Fish and Wildlife Service shall be available for purchase of not to exceed 113 passenger motor vehicles, of which 59 are for police-type use and 88 are for replacement only; not to exceed $400,000 for payment, at the discretion of the Secretary, for information, rewards, or evidence concerning violations of laws administered by the United States Fish and Wildlife Service, and miscellaneous and emergency expenses of enforcement activities, authorized or approved by the Secretary and to be accounted for solely on his certificate; repair of damage to public roads within and adjacent to reservation areas caused by operations of the United States Fish and Wildlife Service; options for the purchase of land at not to exceed $1 for each option; facilities incident to such public recreational uses on conservation areas as are consistent with their primary purpose; and the maintenance and improvement of aquaria, buildings, and other facilities under the jurisdiction of the United States Fish and Wildlife Service and to which the United States has title, and which are utilized pursuant to law in connection with management and investigation of fish and wildlife resources: *Provided*, That the United States Fish and Wildlife Service may accept donated aircraft as replacements for existing aircraft: *Provided further*, That notwithstanding 44 U.S.C. 501, the Service may, under cooperative cost sharing and partnership arrangements authorized by law, procure printing services from cooperators in connection with jointly-produced publications for which the cooperators share at least one-half the cost of printing either in cash or services and the Service determines the cooperator is capable of meeting accepted quality standards: *Provided further*, That notwithstanding any other provision of law, the Secretary of the Interior may not spend any of the funds appropriated in this Act for the purchase of lands or interests in lands to be used in the establishment of any new unit of the National Wildlife Refuge System unless the purchase is approved in advance by the House and Senate Committees on Appropriations in compliance with the reprogramming procedures contained in House Report 103-551: *Provided further*, That none of the funds made available in this Act may be used by the U.S. Fish and Wildlife Service to impede or delay the issuance of a wetlands permit by the U.S. Army Corps of Engineers to the City of Lake Jackson, Texas, for the development of a public golf course west of Buffalo Camp Bayou between the Brazos River and Highway 332: *Provided further*, That section 201 of the Emergency Wetlands Resources Act of 1986 (16 U.S.C. 3911) is amended—

(1) in subsection (a)(1)(B), by striking "distributed" and inserting "used"; and

(2) in subsection (c)—

(A) by redesignating clauses (i), (ii), and (iii) of subparagraph (A) as paragraphs (1), (2), and (3), respectively;

(B) by striking "shall be distributed as follows:" and all that follows through "such amount—" and inserting "shall be used by the Secretary—"; and

(C) by striking subparagraph (B).

NATIONAL PARK SERVICE

OPERATION OF THE NATIONAL PARK SYSTEM

For expenses necessary for the management, operation, and maintenance of areas and facilities administered by the National Park Service (including special road maintenance service to trucking permittees on a reimbursable basis), and for the general administration of the National Park Service, including not to exceed $1,593,000 for the Volunteers-in-Parks program, and not less than $1,000,000 for high priority projects within the scope of the approved budget which shall be carried out by the Youth Conservation Corps as authorized by the Act of August 13, 1970, as amended by Public Law 93–408, $1,088,249,000, without regard to the Act of August 24, 1912, as amended (16 U.S.C. 451), of which not to exceed $72,000,000, to remain available until expended is to be derived from the special fee account established pursuant to title V, section 5201, of Public Law 100–203, and of which not more than $1 shall be available for activies of the National Park Service at the Mojave National Preserve.

NATIONAL RECREATION AND PRESERVATION

For expenses necessary to carry out recreation programs, natural programs, cultural programs, environmental compliance and review, international park affairs, statutory or contractual aid for other activities, and grant administration, not otherwise provided for, $35,725,000: *Provided*, That $248,000 of the funds provided herein are for the William O. Douglas Outdoor Education Center, subject to authorization.

HISTORIC PRESERVATION FUND

For expenses necessary in carrying out the provisions of the Historic Preservation Act of 1966 (80 Stat. 915), as amended (16 U.S.C. 470), $37,934,000, to be derived from the Historic Preservation Fund, established by section 108 of that Act, as amended, to remain available for obligation until September 30, 1997.

CONSTRUCTION

For construction, improvements, repair or replacement of physical facilities, $114,868,000, to remain available until expended: *Provided*, That not to exceed $6,000,000 shall be paid to the Army Corps of Engineers for modifications authorized by section 104 of the Everglades National Park Protection and Expansion Act of 1989.

LAND AND WATER CONSERVATION FUND

(RESCISSION)

The contract authority provided for fiscal year 1996 by 16 U.S.C. 460l–10a is rescinded.

LAND ACQUISITION AND STATE ASSISTANCE

For expenses necessary to carry out the provisions of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 460l–4–11), including administrative expenses, and for acquisition of lands or waters, or interest therein, in accordance with statutory authority applicable to the National Park Service, $14,300,000, to be derived from the Land and Water Conservation Fund, to remain available until expended, of which $4,800,000 is provided for Federal assistance to the State of Florida pursuant to Public Law 103–219, and of which $1,500,000 is to administer the State assistance program.

ADMINISTRATIVE PROVISIONS

Appropriations for the National Park Service shall be available for the purchase of not to exceed 518 passenger motor vehicles, of which 323 shall be for replacement only, including not to exceed 411 for police-type use, 12 buses, and 5 ambulances: *Provided*, That none of the funds appropriated to the National Park Service may be used to process any grant or contract documents which do not include the text of 18 U.S.C. 1913: *Provided further*, That none of the funds appropriated to the National Park Service may be used to implement an agreement for the redevelopment of the southern end of Ellis Island.

UNITED STATES GEOLOGICAL SURVEY

SURVEYS, INVESTIGATIONS, AND RESEARCH

For expenses necessary for the United States Geological Survey to perform surveys, investigations, and research covering topography, geology, hydrology, and the mineral and water resources of the United States, its Territories and possessions, and other areas as authorized by law (43 U.S.C. 31, 1332 and 1340); classify lands as to their mineral and water resources; give engineering supervision to power permittees and Federal Energy Regulatory Commission licensees; administer the minerals exploration program (30 U.S.C. 641); and publish and disseminate data relative to the foregoing activities; $686,944,000, of which $62,130,000 shall be available for cooperation with States or municipalities for water resources investigations, and of which $112,888,000 for resource research and the operations of Cooperative Research Units shall remain available until September 30, 1997: *Provided*, That no part of this appropriation shall be used to pay more than one-half the cost of any topographic mapping or water resources investigations carried on in cooperation with any State or municipality: *Provided further*, That funds available herein for resource research may be used for the purchase of not to exceed 61 passenger motor vehicles, of which 55 are for replacement only: *Provided further*, That none of the funds available under this head for resource research shall be used to conduct new surveys on private property: *Provided further*, That none of the funds provided herein for resource research may be used to administer a volunteer program: *Provided further*, That no later than April 1, 1996, the Director of the United States Geological Survey shall issue agency guidelines for resource research that ensure that scientific and technical peer review is utilized as fully as possible in selection of projects for funding and ensure the validity and reliability of research and data collection on Federal lands: *Provided further*, That no funds available for resource research may be used for any activity that was not authorized prior to the establishment of the National Biological Survey: *Provided further*, That once every five years the National Academy of Sciences shall review and report on the resource research activities of the Survey: *Provided further*, That if specific authorizing legislation is enacted during or before the start of fiscal year 1996, the resource research component of the Survey should comply with the provisions of that legislation: *Provided further*, That unobligated and unexpended balances in the National Biological Survey, Research, inventories and surveys account at the end of fiscal year 1995, shall be merged with and made a part of the United States Geological Survey, Surveys, investigations, and research account and shall remain available for obligation until September 30, 1996.

ADMINISTRATIVE PROVISIONS

The amount appropriated for the United States Geological Survey shall be available for purchase of not to exceed 22 passenger motor vehicles, for replacement only; reimbursement to the General Services Administration for security guard services; contracting for the furnishing of topographic maps and for the making of geophysical or other specialized surveys when it is administratively determined that such procedures are in the public interest; construction and maintenance of necessary buildings and appurtenant facilities; acquisition of lands for gauging stations and observation wells; expenses of the United States National Committee on Geology; and payment of compensation and expenses of persons on the rolls of the United States Geological Survey appointed, as authorized by law, to represent the United States in the negotiation and administration of interstate compacts: *Provided*, That activities funded by appropriations herein made may be accomplished through the use of contracts, grants, or cooperative agreements as defined in 31 U.S.C. 6302, et seq.

MINERALS MANAGEMENT SERVICE

ROYALTY AND OFFSHORE MINERALS MANAGEMENT

For expenses necessary for minerals leasing and environmental studies, regulation of industry operations, and collection of royalties, as authorized by law; for enforcing laws and regulations applicable to oil, gas, and other minerals leases, permits, licenses and operating contracts; and for matching grants or cooperative agreements; including the purchase of not to exceed eight passenger motor vehicles for replacement only; $186,556,000, of which not less than $70,105,000 shall be available for royalty management activities; and an amount not to exceed $12,400,000 for the Technical Information Management System of Outer Continental Shelf (OCS) Lands Activity, to be credited to this appropriation and to remain available until expended, from additions to receipts resulting from increases to rates in effect on August 5, 1993, from rate increases to fee collections for OCS administrative activities performed by the Minerals Management Service over and above the rates in effect on September 30, 1993, and from additional fees for OCS administrative activities established after September 30, 1993: *Provided*, That beginning in fiscal year 1996 and thereafter, fees for royalty rate relief applications shall be established (and revised as needed) in Notices to Lessees, and shall be credited to this account in the program areas performing the function, and remain available until expended for the costs of administering the royalty rate relief authorized by 43 U.S.C. 1337(a)(3): *Provided further*, That $1,500,000 for computer acquisitions shall remain available until September 30, 1997: *Provided further*, That funds appropriated under this Act shall be available for the payment of interest in accordance with 30 U.S.C. 1721 (b) and (d): *Provided further*, That not to exceed $3,000 shall be available for reasonable expenses related to promoting volunteer beach and marine cleanup activities: *Provided further*, That notwithstanding any other provision of law, $15,000 under this head shall be available for refunds of overpayments in connection with certain Indian leases in which the Director of the Minerals Management Service concurred with the claimed refund due, to pay amounts owed to Indian allottees or Tribes, or to correct prior unrecoverable erroneous payments: *Provided further*, That beginning in fiscal year 1996 and thereafter, the Secretary shall take appropriate action to collect unpaid and underpaid royalties and late payment interest owed by Federal and Indian mineral lessees and other royalty payors on amounts received in settlement or other resolution of disputes under, and for partial or complete termination of, sales agreements for minerals from Federal and Indian leases.

OIL SPILL RESEARCH

For necessary expenses to carry out the purposes of title I, section 1016, title IV, sections 4202 and 4303, title VII, and title VIII, section 8201 of the Oil Pollution Act of 1990, $6,440,000, which shall be derived from the Oil Spill Liability Trust Fund, to remain available until expended.

BUREAU OF MINES

MINES AND MINERALS

For expenses necessary for the orderly closure of the Bureau of Mines, $87,000,000.

ADMINISTRATIVE PROVISIONS

The Secretary is authorized to accept lands, buildings, equipment, other contributions, and fees from public and private sources, and to prosecute projects using such contributions and fees in cooperation with other Federal, State or private agencies: *Provided*, That the Bureau of Mines is authorized, during the current fiscal year, to sell directly or through any Government agency, including corporations, any metal or mineral products that may be manufactured in pilot plants operated by the Bureau of Mines, and the proceeds of such sales shall be covered into the Treasury as miscellaneous receipts: *Provided further*, That notwithstanding any other provision of law, the Secretary is authorized to convey, without reimbursement, title and all interest of the United States in property and facilities of the United States Bureau of Mines in Juneau, Alaska to the City and Borough of Juneau, Alaska; in Tuscaloosa, Alabama, to The University of Alabama; in Rolla, Missouri, to the University of Missouri-Rolla; and in other localities to such university or government entities as the Secretary deems appropriate.

OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT

REGULATION AND TECHNOLOGY

For necessary expenses to carry out the provisions of the Surface Mining Control and Reclamation Act of 1977, Public Law 95–87, as amended, including the purchase of not to exceed 15 passenger motor vehicles for replacement only; $92,751,000, and notwithstanding 31 U.S.C. 3302, an additional amount shall be credited to this account, to remain available until expended, from performance bond forfeitures in fiscal year 1996: *Provided*, That notwithstanding any other provision of law, the Secretary of the Interior, pursuant to regulations, may utilize directly or through grants to States, moneys collected in fiscal year 1996 pursuant to the assessment of civil penalties under section 518 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1268), to reclaim lands adversely affected by coal mining practices after August 3, 1977, to remain available until expended: *Provided further*, That notwithstanding any other provision of law, appropriations for the Office of Surface Mining Reclamation and Enforcement may provide for the travel and per diem expenses of State and tribal personnel attending Office of Surface Mining Reclamation and Enforcement sponsored training.

ABANDONED MINE RECLAMATION FUND

For necessary expenses to carry out the provisions of title IV of the Surface Mining Control and Reclamation Act of 1977, Public Law 95–87, as amended, including the purchase of not more than 22 passenger motor vehicles for replacement only, $176,327,000, to be derived from receipts of the Abandoned Mine Reclamation Fund and to remain available until expended, of which $5,000,000 shall be used for supplemental grants to States for the reclamation of abandoned sites with acid mine rock drainage from coal mines through the Appalachian Clean Streams Initiative: *Provided*, That grants to minimum program States will be $1,500,000 per State in fiscal year 1996: *Provided further*, That of the funds herein provided up to $18,000,000 may be used for the emergency program authorized by section 410 of Public Law 95–87, as amended, of which no more than 25 per centum shall be used for emergency reclamation projects in any one State and funds for Federally-administered emergency reclamation projects under this proviso shall not exceed $11,000,000: *Provided further*, That donations credited to the Abandoned Mine Reclamation Fund, pursuant to section 401(b)(3) of Public Law 95–87, are hereby appropriated and shall be available until expended to support projects under the Appalachian Clean Streams Initiative, directly, through agreements with other Federal agencies, as otherwise authorized, or through grants to States or local governments, or tax-exempt private entities: *Provided further*, That prior year unobligated funds appropriated for the emergency reclamation program shall not be subject to the 25 per centum limitation per State and may be used without fiscal year limitation for emergency projects: *Provided further*, That pursuant to Public Law 97–365, the Department of the Interior is authorized to utilize up to 20 per centum from the recovery of the delinquent debt owed to the United States Government to pay for contracts to collect these debts.

BUREAU OF INDIAN AFFAIRS

OPERATION OF INDIAN PROGRAMS

For operation of Indian programs by direct expenditure, contracts, cooperative agreements, compacts, and grants including expenses necessary to provide education and welfare services for Indians, either directly or in cooperation with States and other organizations, including payment of care, tuition, assistance, and other expenses of Indians in boarding homes, or institutions, or schools; grants and other assistance to needy Indians; maintenance of law and order; management, development, improvement, and protection of resources and appurtenant facilities under the jurisdiction of the Bureau of Indian Affairs, including payment of irrigation assessments and charges; acquisition of water rights; advances for Indian industrial and business enterprises; operation of Indian arts and crafts shops and museums; development of Indian arts and crafts, as authorized by law; for the general administration of the Bureau of Indian Affairs, including such expenses in field offices; maintaining of Indian reservation roads as defined in section 101 of title 23, United States Code; and construction, repair, and improvement of Indian housing, $1,508,777,000, of which not to exceed $106,126,000 shall be for payments to tribes and tribal organizations for contract support costs associated with ongoing contracts or grants or compacts entered into with the Bureau of Indian Affairs prior to fiscal year 1996, as authorized by the Indian Self-Determination Act of 1975, as amended, and $5,000,000 shall be for the Indian Self-Determination Fund, which shall be available for the transitional cost of initial or expanded tribal contracts, grants, compacts, or cooperative agreements with the Bureau of Indian Affairs under the provisions of the Indian Self-Determination Act; and of which not to exceed $330,711,000 for school operations costs of Bureau-funded schools and other education programs shall become available for obligation on July 1, 1996, and shall remain available for obligation until September 30, 1997; and of which not to exceed $67,138,000 for higher education scholarships, adult vocational training, and assistance to public schools under the Johnson O'Malley Act shall remain available for obligation until September 30, 1997; and of which not to exceed $74,814,000 shall remain available until expended for trust funds management, housing improvement, road maintenance, attorney fees, litigation support, self-governance grants, the Indian Self-Determination Fund, and the Navajo-Hopi Settlement Program: *Provided*, That tribes and tribal contractors may use their tribal priority allocations for unmet indirect costs of ongoing contracts, grants or compact agreements: *Provided further*, That funds made available to tribes and tribal organizations through contracts or grants obligated during fiscal year 1996, as authorized by the Indian Self-Determination Act of 1975 (88 Stat. 2203; 25 U.S.C. 450 et seq.), or grants authorized by the Indian Education Amendments of 1988 (25 U.S.C. 2001 and 2008A) shall remain available until expended by the contractor or grantee: *Provided further*, That notwithstanding any other provision of law, the statute of limitations shall not commence to run on any claim, including any claim in litigation pending on the date of this Act, concerning losses to or mismanagement of trust funds, until the affected tribe or individual Indian has been furnished with the accounting of such funds from which the beneficiary can determine whether there has been a loss: *Provided further*, That notwithstanding any other provision of law, the reconciliation report to be submitted pursuant to Public Law 103–412 shall be submitted by November 30, 1997: *Provided further*, That to provide funding uniformity within a Self-Governance Compact, any funds provided in this Act with availability for more than one year may be reprogrammed to one year availability but shall remain available within the Compact until expended: *Provided further*, That notwithstanding any other provision of law, Indian tribal governments may, by appropriate changes in eligibility criteria or by other means, change eligibility for general assistance or change the amount of general assistance payments for individuals within the service area of such tribe who are otherwise deemed eligible for general assistance payments so long as such changes are applied in a consistent manner to individuals similarly situated: *Provided further*, That any savings realized by such changes shall be available for use in meeting other priorities of the tribes: *Provided further*, That any net increase in costs to the Federal Government which result solely from tribally increased payment levels for general assistance shall be met exclusively from funds available to the tribe from within its tribal priority allocation: *Provided further*, That any forestry funds allocated to a tribe which remain unobligated as of September 30, 1996, may be transferred during fiscal year 1997 to an Indian forest land assistance account established for the benefit of such tribe within the tribe's trust fund account: *Provided further*, That any such unobligated balances not so transferred shall expire on September 30, 1997: *Provided further*, That notwithstanding any other provision of law, no funds available to the Bureau of Indian Affairs, other than the amounts provided herein for assistance to public schools under the Act of April 16, 1934 (48 Stat. 596), as amended (25 U.S.C. 452 et seq.), shall be available to support the operation of any elementary or secondary school in the State of Alaska in fiscal year 1996: *Provided further*, That funds made available in this or any other Act for expenditure through September 30, 1997 for schools funded by the Bureau of Indian Affairs shall be available only to the schools which are in the Bureau of Indian Affairs school system as of September 1, 1995: *Provided further*, That no funds available to the Bureau of Indian Affairs shall be used to support expanded grades for any school beyond the grade structure in place at each school in the Bureau of Indian Affairs school system as of October 1, 1995: *Provided further*, That notwithstanding the provisions of 25 U.S.C. 2011(h)(1)(B) and (c), upon the recommendation of a local school board for a Bureau of Indian Affairs operated school, the Secretary shall establish rates of basic compensation or annual salary rates for the positions of teachers and counselors (including dormitory and homeliving counselors) at the school at a level not less than that for comparable positions in public school districts in the same geographic area.

CONSTRUCTION

For construction, major repair, and improvement of irrigation and power systems, buildings, utilities, and other facilities, including architectural and engineering services by contract; acquisition of lands and interests in lands; and preparation of lands for farming, $98,033,000, to remain available until expended: *Provided*, That such amounts as may be available for the construction of the Navajo Indian Irrigation Project and for other water resource development activities related to the Southern Arizona Water Rights Settlement Act may be transferred to the Bureau of Reclamation: *Provided further*, That not to exceed 6 per centum of contract authority available to the Bureau of Indian Affairs from the Federal Highway Trust Fund may be used to cover the road program management costs of the Bureau of Indian Affairs: *Provided further*, That any funds provided for the Safety of Dams program pursuant to 25 U.S.C. 13 shall be made available on a non-reimbursable basis: *Provided further*, That for the fiscal year ending September 30, 1996, in implementing new construction or facilities improvement and repair project grants in excess of $100,000 that are provided to tribally controlled grant schools under Public Law 100–297, as amended, the Secretary of the Interior shall use the Administrative and Audit Requirements and Cost Principles for Assistance Programs contained in 43 CFR part 12 as the regulatory requirements: *Provided further*, That such grants shall not be subject to section 12.61 of 43 CFR; the Secretary and the grantee shall negotiate and determine a schedule of payments for the work to be performed: *Provided further*, That in considering applications, the Secretary shall consider whether the Indian tribe or tribal organization would be deficient in assuring that the construction projects conform to applicable building standards and codes and Federal, tribal, or State health and safety standards as required by 25 U.S.C. 2005(a), with respect to organizational and financial management capabilities: *Provided further*, That if the Secretary declines an application, the Secretary shall follow the requirements contained in 25 U.S.C. 2505(f): *Provided further*, That any disputes between the Secretary and any grantee concerning a grant shall be subject to the disputes provision in 25 U.S.C. 2508(e).

INDIAN LAND AND WATER CLAIM SETTLEMENTS AND MISCELLANEOUS PAYMENTS TO INDIANS

For miscellaneous payments to Indian tribes and individuals and for necessary administrative expenses, $67,145,000, to remain available until expended; of which $65,100,000 shall be available for implementation of enacted Indian land and water claim settlements pursuant to Public Laws 87–483, 97–293, 101–618, 102–374, 102–441, 102–575, and 103–116, and for implementation of other enacted water rights settlements, including not to exceed $8,000,000, which shall be for the Federal share of the Catawba Indian Tribe of South Carolina Claims Settlement, as authorized by section 5(a) of Public Law 103–116; and of which $1,045,000 shall be available pursuant to Public Laws 98–500, 99–264, and 100–580; and of which $1,000,000 shall be available (1) to liquidate obligations owed tribal and individual Indian payees of any checks canceled pursuant to section 1003 of the Competitive Equality Banking Act of 1987 (Public Law 100–86 (101 Stat. 659)), 31 U.S.C. 3334(b), (2) to restore to Individual Indian Monies trust funds, Indian Irrigation Systems, and Indian Power Systems accounts amounts invested in credit unions or defaulted savings and loan associations and which were not Federally insured, and (3) to reimburse Indian trust fund account holders for losses to their respective accounts where the claim for said loss(es) has been reduced to a judgment or settlement agreement approved by the Department of Justice.

ADMINISTRATIVE PROVISIONS

Appropriations for the Bureau of Indian Affairs shall be available for expenses of exhibits, and purchase of not to exceed 275 passenger carrying motor vehicles, of which not to exceed 215 shall be for replacement only.

TERRITORIAL AND INTERNATIONAL AFFAIRS

ASSISTANCE TO TERRITORIES

For expenses necessary for assistance to territories under the jurisdiction of the Department of the Interior, $69,232,000, of which (1) $65,705,000 shall be available until expended for technical assistance, including maintenance assistance, disaster assistance, insular management controls, and brown tree snake control and research; grants to the judiciary in American Samoa for compensation and expenses, as authorized by law (48 U.S.C. 1661(c)); grants to the Government of American Samoa, in addition to current local revenues, for construction and support of governmental functions; grants to the Government of the Virgin Islands as authorized by law; grants to the Government of Guam, as authorized by law; and grants to the Government of the Northern Mariana Islands as authorized by law (Public Law 94–241; 90 Stat. 272); and (2) $3,527,000 shall be available for salaries and expenses of the Office of Insular Affairs: *Provided*, That all financial transactions of the territorial and local governments herein provided for, including such transactions of all agencies or instrumentalities established or utilized by such governments, may be audited by the General Accounting Office, at its discretion, in accordance with chapter 35 of title 31, United States Code: *Provided further*, That Northern Mariana Islands Covenant grant funding shall be provided according to those terms of the Agreement of the Special Representatives on Future United States Financial Assistance for the Northern Mariana Islands approved by Public Law 99–396, or any subsequent legislation related to Commonwealth of the Northern Mariana Islands Covenant grant funding: *Provided further*, That of the amounts provided for technical assistance, sufficient funding shall be made available for a grant to the Close Up Foundation: *Provided further*, That the funds for the program of operations and maintenance improvement are appropriated to institutionalize routine operations and maintenance of capital infrastructure in American Samoa, Guam, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, the Republic of Palau, the Republic of the Marshall Islands, and the Federated States of Micronesia through assessments of long-range operations and maintenance needs, improved capability of local operations and maintenance institutions and agencies (including management and vocational education training), and project-specific maintenance (with territorial participation and cost sharing to be determined by the Secretary based on the individual territory's commitment to timely maintenance of its capital assets): *Provided further*, That any appropriation for disaster assistance under this head in this Act or previous appropriations Acts may be used as non-Federal matching funds for the purpose of hazard mitigation grants provided pursuant to section 404 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170c).

COMPACT OF FREE ASSOCIATION

For economic assistance and necessary expenses for the Federated States of Micronesia and the Republic of the Marshall Islands as provided for in sections 122, 221, 223, 232, and 233 of the Compacts of Free Association, and for economic assistance and necessary expenses for the Republic of Palau as provided for in sections 122, 221, 223, 232, and 233 of the Compact of Free Association, $24,938,000, to remain available until expended, as authorized by Public Law 99–239 and Public Law 99–658: *Provided*, That notwithstanding section 112 of Public Law 101–219 (103 Stat. 1873), the Secretary of the Interior may agree to technical changes in the specifications for the project described in the subsidiary agreement negotiated under section 212(a) of the Compact of Free Association, Public Law 99–658, or its annex, if the changes do not result in increased costs to the United States.

DEPARTMENTAL OFFICES

OFFICE OF THE SECRETARY

SALARIES AND EXPENSES

For necessary expenses of the Office of the Secretary of the Interior, $55,982,000, of which not to exceed $7,500 may be for official reception and representation expenses.

OFFICE OF THE SOLICITOR

SALARIES AND EXPENSES

For necessary expenses of the Office of the Solicitor, $34,608,000.

OFFICE OF INSPECTOR GENERAL

SALARIES AND EXPENSES

For necessary expenses of the Office of Inspector General, $23,939,000.

NATIONAL INDIAN GAMING COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the National Indian Gaming Commission, pursuant to Public Law 100–497, $1,000,000.

ADMINISTRATIVE PROVISIONS

There is hereby authorized for acquisition from available resources within the Working

Capital Fund, 15 aircraft, 10 of which shall be for replacement and which may be obtained by donation, purchase or through available excess surplus property: *Provided*, That notwithstanding any other provision of law, existing aircraft being replaced may be sold, with proceeds derived or trade-in value used to offset the purchase price for the replacement aircraft: *Provided further*, That no programs funded with appropriated funds in the "Office of the Secretary", "Office of the Solicitor", and "Office of Inspector General" may be augmented through the Working Capital Fund or the Consolidated Working Fund.

GENERAL PROVISIONS, DEPARTMENT OF THE INTERIOR

SEC. 101. Appropriations made in this title shall be available for expenditure or transfer (within each bureau or office), with the approval of the Secretary, for the emergency reconstruction, replacement, or repair of aircraft, buildings, utilities, or other facilities or equipment damaged or destroyed by fire, flood, storm, or other unavoidable causes: *Provided*, That no funds shall be made available under this authority until funds specifically made available to the Department of the Interior for emergencies shall have been exhausted: *Provided further*, That all funds used pursuant to this section are hereby designated by Congress to be "emergency requirements" pursuant to section 251(b)(2)(D) of the Balanced Budget and Emergency Deficit Control Act of 1985 and must, be replenished by a supplemental appropriation which must be requested as promptly as possible.

SEC. 102. The Secretary may authorize the expenditure or transfer of any no year appropriation in this title, in addition to the amounts included in the budget programs of the several agencies, for the suppression or emergency prevention of forest or range fires on or threatening lands under the jurisdiction of the Department of the Interior; for the emergency rehabilitation of burned-over lands under its jurisdiction; for emergency actions related to potential or actual earthquakes, floods, volcanoes, storms, or other unavoidable causes; for contingency planning subsequent to actual oilspills; response and natural resource damage assessment activities related to actual oilspills; for the prevention, suppression, and control of actual or potential grasshopper and Mormon cricket outbreaks on lands under the jurisdiction of the Secretary, pursuant to the authority in section 1773(b) of Public Law 99-198 (99 Stat. 1658); for emergency reclamation projects under section 410 of Public Law 95-87; and shall transfer, from any no year funds available to the Office of Surface Mining Reclamation and Enforcement, such funds as may be necessary to permit assumption of regulatory authority in the event a primacy State is not carrying out the regulatory provisions of the Surface Mining Act: *Provided*, That appropriations made in this title for fire suppression purposes shall be available for the payment of obligations incurred during the preceding fiscal year, and for reimbursement to other Federal agencies for destruction of vehicles, aircraft, or other equipment in connection with their use for fire suppression purposes, such reimbursement to be credited to appropriations currently available at the time of receipt thereof: *Provided further*, That for emergency rehabilitation and wildfire suppression activities, no funds shall be made available under this authority until funds appropriated to the "Emergency Department of the Interior Firefighting Fund" shall have been exhausted: *Provided further*, That all funds used pursuant to this section are hereby designated by Congress to be "emergency requirements" pursuant to section 251(b)(2)(D) of the Balanced Budget and Emergency Deficit Control Act of 1985 and must be replenished by a supplemental appropriation which must be requested as promptly as possible: *Provided further*, That such replenishment funds shall be used to reimburse, on a pro rata basis, accounts from which emergency funds were transferred.

SEC. 103. Appropriations made in this title shall be available for operation of warehouses, garages, shops, and similar facilities, wherever consolidation of activities will contribute to efficiency or economy, and said appropriations shall be reimbursed for services rendered to any other activity in the same manner as authorized by sections 1535 and 1536 of title 31, U.S.C.: *Provided*, That reimbursements for costs and supplies, materials, equipment, and for services rendered may be credited to the appropriation current at the time such reimbursements are received.

SEC. 104. Appropriations made to the Department of the Interior in this title shall be available for services as authorized by 5 U.S.C. 3109, when authorized by the Secretary, in total amount not to exceed $500,000; hire, maintenance, and operation of aircraft; hire of passenger motor vehicles; purchase of reprints; payment for telephone service in private residences in the field, when authorized under regulations approved by the Secretary; and the payment of dues, when authorized by the Secretary, for library membership in societies or associations which issue publications to members only or at a price to members lower than to subscribers who are not members.

SEC. 105. Appropriations available to the Department of the Interior for salaries and expenses shall be available for uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901-5902 and D.C. Code 4-204).

SEC. 106. Appropriations made in this title shall be available for obligation in connection with contracts issued for services or rentals for periods not in excess of twelve months beginning at any time during the fiscal year.

SEC. 107. Appropriations made in this title from the Land and Water Conservation Fund for acquisition of lands and waters, or interests therein, shall be available for transfer, with the approval of the Secretary, between the following accounts: Bureau of Land Management, Land acquisition, United States Fish and Wildlife Service, Land acquisition, and National Park Service, Land acquisition and State assistance. Use of such funds are subject to the reprogramming guidelines of the House and Senate Committees on Appropriations.

SEC. 108. Amounts appropriated in this Act for the Presidio which are not obligated as of the date on which the Presidio Trust is established by an Act of Congress shall be transferred to and available only for the Presidio Trust.

SEC. 109. Section 6003 of Public Law 101-380 is hereby repealed.

SEC. 110. None of the funds appropriated or otherwise made available by this Act may be obligated or expended by the Secretary of the Interior for developing, promulgating, and thereafter implementing a rule concerning rights-of-way under section 2477 of the Revised Statutes.

SEC. 111. No funds provided in this title may be expended by the Department of the Interior for the conduct of offshore leasing and related activities placed under restriction in the President's moratorium statement of June 26, 1990, in the areas of Northern, Central, and Southern California; the North Atlantic; Washington and Oregon; and the Eastern Gulf of Mexico south of 26 degrees north latitude and east of 86 degrees west longitude.

SEC. 112. No funds provided in this title may be expended by the Department of the Interior for the conduct of leasing, or the approval or permitting of any drilling or other exploration activity, on lands within the North Aleutian Basin planning area.

SEC. 113. No funds provided in this title may be expended by the Department of the Interior for the conduct of preleasing and leasing activities in the Eastern Gulf of Mexico for Outer Continental Shelf Lease Sale 151 in the Outer Continental Shelf Natural Gas and Oil Resource Management Comprehensive Program, 1992-1997.

SEC. 114. No funds provided in this title may be expended by the Department of the Interior for the conduct of preleasing and leasing activities in the Atlantic for Outer Continental Shelf Lease Sale 164 in the Outer Continental Shelf Natural Gas and Oil Resource Management Comprehensive Program, 1992-1997.

AMENDMENT OFFERED BY MR. KOLBE

Mr. KOLBE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment Offered by Mr. KOLBE: Page 19, line 15, after "property" insert the following: "except when it is made known to the Federal official having authority to obligate or expend such funds that the survey or research has been requested and authorized in writing by the property owner or the owner's authorized representative".

Mr. KOLBE. Mr. Chairman, this amendment has been cleared with the majority and the minority. It has been cleared also with the authorizing committee, so I will take less than 30 seconds to describe it.

Basically, when we transferred the functions of the NBS, National Biological Survey, to the U.S. Geological Survey, we put in language which prohibited the use of any funds to conduct surveys. USGS does do surveys, always with written authorization, so this simply restores that and clarifies it and makes it clear that if they are requested, and if it is authorized in writing by the private property owner, they can do the survey. Without this, USGS, for example, would be unable to go on the property of Phelps Dodge or Magnum or some other company to do a geological survey. We think it does clarify it, and it has been cleared.

Mr. REGULA. Mr. Chairman, will the gentleman yield?

Mr. KOLBE. I yield to the gentleman from Ohio.

Mr. REGULA. Mr. Chairman, as I understand it, it is cleared with the authorizers?

Mr. KOLBE. It has been, that is correct.

Mr. REGULA. Mr. Chairman, we have examined the amendment, we think it is a good one and we are in agreement. We accept the amendment.

Mr. YATES. If the gentleman will yield, we have no objection to the amendment, Mr. Chairman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Arizona [Mr. KOLBE].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. REGULA

Mr. REGULA. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. REGULA: On page 9, line 22, strike "498,035,000" and insert in lieu thereof: "499,235,000", and

On page 18, line 25 strike "686,944,000" and insert in lieu thereof: "685,744,000", and

On page 19, line 3, strike "112,888,000" and insert in lieu thereof: "111,688,000".

Mr. REGULA. Mr. Chairman, this amendment transfers $1.2 million to support the breeding bird survey that transfers from the USGS to the Fish and Wildlife Service. The Fish and Wildlife Service prior to 1993 performed this function. We want to give it back to them. I think this is a very important function.

The gentleman from Wisconsin [Mr. OBEY], the ranking member of the full committee, filed a dissent. It is on the back page of the report. I think the information and the ideas he expressed therein are very constructive. We are trying to respond to the concerns expressed by the gentleman from Wisconsin [Mr. OBEY]. I share them.

Many groups across the country participate in the survey on the breeding birds and they find this something they like to do, so we want this to continue. Therefore, we are taking some of the funding in the resource research division we have created in USGS and have transferred it to the Fish and Wildlife for that function.

Mr. YATES. Mr. Chairman, will the gentleman yield?

Mr. REGULA. I yield to the gentleman from Illinois.

Mr. YATES. Mr. Chairman, I am impressed with the chairman's argument. Why do you not do it for all the other places where you have banned the use of volunteers?

Mr. REGULA. In response to the gentleman's question, Mr. Chairman, this is the biggest item in terms of volunteer hours. It is a selected function in terms of dealing with the migratory birds. We felt that it would be very appropriate to have the volunteers do this.

Mr. YATES. I do not think there is any doubt that this is a place where you can use volunteers. But I should like to suggest to the chairman that there are other places as well. I would hope that he would give them his close attention.

Mr. REGULA. Mr. Chairman, I would point out that with the exception of the natural resource research function, within the USGS there is no restriction on the use of volunteers, and as we all know, there are hundreds of thousands of volunteers in forests, parks, BLM, Fish and Wildlife, USGS, and they are in no way restricted by this bill.

Mr. YATES. If the gentleman will yield further, I have a factsheet from the Department of the Interior. It says that during the last 4 years, 32 veterinary medicine students and 18 others have volunteered over 3 person-years to the National Wildlife Health Center in Madison, WI, to perform postmortem examinations and other highly technical activities in collaboration with the center's diagnostic staff.

Apparently even in scientific work, volunteers have done a creditable job.

Mr. REGULA. We discussed that with the gentleman from California [Mr. MILLER], and I know it is a matter of a difference of opinion.

Let me just mention one further thing. The language in the science portion of USGS as provided in this bill says that if there is an authorized bill on this subject, and I know that the authorizing committee plans to bring one out, that the language in the appropriations bill will drop out and whatever comes in the authorizing bill, they can address the volunteer issue in that bill.

Mr. YATES. I thank the gentleman.

Mr. REGULA. Mr. Chairman, the amendment transfers $1,200,000 from the U.S. Geological Survey, surveys, investigations, and research appropriation, natural resources research activity, to the U.S. Fish and Wildlife Service, resource management appropriation, migratory bird management activity to support the Patuxent bird banding lab and the breeding bird survey, the latter of which is conducted largely by volunteers and is essential in the promulgation of Federal migratory bird hunting regulations. This transfer also includes $200,000 for the related waterfowl survey work on the Yukon Delta refuges in Alaska. These activities were formerly funded in the Fish and Wildlife Service and were transferred to the National Biological Survey when it was established. The amendment does not transfer back the computer support for this program, with the expectation that the data analysis needs of the breeding bird survey be given the highest priority within the resources research activity.

□ 1315

Mr. MILLER of California. Mr. Chairman, will the gentleman yield?

Mr. REGULA. I yield to the gentleman from California.

Mr. MILLER of California. Mr. Chairman, on the point that the gentleman from Illinois was pursuing with you, I appreciate what the gentleman is doing in terms of the migratory birds. But, again, I do not understand why we are going to draw a barrier around one provision where he will not be able to use volunteers.

We started to talk about it this morning in the debate on the rule. But can the gentleman tell me, he says, Well, not for the science functions. He wants everybody to be a Ph.D. But I do not understand.

Mr. REGULA. Mr. Chairman, I would say to the gentleman that this is to try to address the property rights issue. As you know from service on the authorizing committee, there is a divergence of opinion.

As I know the gentleman is the senior member of the minority on the authorizing committee, he is going to be addressing this problem in that committee and I would suggest that the volunteer issue should be raised by the gentleman in developing authorizing legislation.

Mr. DINGELL. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I want to commend the author of this amendment, but I think the gentleman could get greater commendation by doing rather more.

I am curious, why is it that this amendment deals only with the breeding bird situation at Fish and Wildlife and the Interior Department as opposed to dealing more broadly with the entire program for the use of volunteers by the Fish and Wildlife Service? Can the gentleman inform me why this narrow limitation on this matter?

Mr. REGULA. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from Ohio.

Mr. REGULA. In responding, to a certain extent, to the dissenting views of the ranking member of the full committee, and he addressed the breeding bird issue, the migratory breeding birds and, the fact that the great bulk of the volunteer effort is expended on doing the surveys on the migratory breeding birds. And the gentleman is a sportsman and understands that very well.

Mr. DINGELL. Mr. Chairman, I support what the gentleman is doing, but he still has not answered my question. The question really is why is the gentleman just making the use of volunteers by Fish and Wildlife Service available in the case of the migratory bird survey? Volunteers are used by Fish and Wildlife Service for running refuges, for conducting a whole series of surveys, for dealing with the salmon problem in the Pacific Northwest, for addressing different problems that exist within the Service in terms of serving as guides and interpretive people at the refuges.

Indeed, in many refuges these are the only people, the volunteers are the only people that are available to make the refuge system work. I am unaware of any abuse that has been committed by the volunteers or any abuse that exists with regard to this system. And If the gentleman can inform me what that abuse is, or why is it that we are terminating the use of the volunteers in the refuge system, and why the gentleman is limiting this addition only to volunteers with regard to the breeding surveys, he will help me enormously.

Mr. REGULA. If the gentleman will continue to yield, all the activities you described are not affected in any way.

Mr. DINGELL. As a matter of fact, I think they are, because the language of the bill, if the gentleman will permit, simply bans the use of volunteers.

Mr. REGULA. For natural resource research only in USGS. That is the only place it is affected. Fish and Wildlife is in no way affected in the use of volunteers. The Park Service is not affected. The other divisions of the USGS are not affected. And all I have done in the proposed amendment is transfer additional money to the Fish and Wildlife Service to do the functions you are talking about, and specifically the breeding bird survey.

Mr. DINGELL. It may well be that that is so, but the hard fact of the matter is that the Fish and Wildlife Service uses them for fish surveys in the Pacific Northwest, something that is extremely important. The salmon are now approaching the status of endangered species in the entire northwestern part of the United States.

Without that particular use of volunteers for surveys on streams, and things of that kind, to count breeding populations and things of that kind and to identify reproduction, you are going to find a major threat to the salmon resource in the entire Western part of the United States.

Now, why are we not including them?

Mr. REGULA. Mr. Chairman, if the gentleman will continue to yield, the only limitation is on the natural resource function in USGS as far as volunteers.

As far as the Fish and Wildlife Service, any science that they are doing, any activities that they are doing, can be done by as many volunteers as they choose. There is no limitation.

Mr. DINGELL. Mr. Chairman, reclaiming my time, I want to make it very, very clear to my friend, and I applaud what he is doing, but I want to make it very clear to my good friend that I did not favor the idea that we would create a U.S. Biological Survey. I thought it was a step backward. I thought it created great peril. I thought it set up a target where we could do great hurt to the Fish and Wildlife Service and to the conservation efforts of this United States by setting up this kind of an entity. I opposed it on this floor and I think it is a bad idea.

But that is not the problem we confront. There are a number of scientific efforts that are conducted now by this entity. I intend to try and get rid of it at the earliest possible moment. But during the time that it is there, whether you like it or not, the hard fact is this agency has to be able to perform the scientific research that has to be done in order to get the information that is necessary for us to properly manage our Fish and Wildlife resources.

I am not talking about going out and shutting down somebody who has a controversy involving the Endangered Species Act or anything of that sort. I was just saying to find out about the wildlife resources of the United States, this kind of survey has to be done. This kind of survey, under the unfortunate existence of the Biological Survey, is done by the Biological Survey. It is not only the breeding bird population survey which is at stake here.

The CHAIRMAN. The time of the gentleman from Michigan [Mr. DINGELL] has expired.

(On request of Mr. OBEY and by unanimous consent, Mr. DINGELL was allowed to proceed for 5 additional minutes.)

Mr. DINGELL. Mr. Chairman, I want to make it clear, I am trying to proceed in a friendly way. I have great respect for the gentleman, and what he is doing is good, but not good enough.

I yield to my good friend.

Mr. REGULA. Mr. Chairman, I want to reemphasize that any science done by the Fish and Wildlife Service is not affected one iota. This is only the natural resource research, and it is only after October 1.

The NBS, the National Biological Survey that you do not like, and I do not have any great affection for either, will be able to continue their programs until September 30, and by that time we hope the Fish and Wildlife Service can address their needs.

Mr. DINGELL. Mr. Chairman, reclaiming my time, but remember you have runs of spring Chinook. They will be coming in during the time in which this is forbidden. It is not Fish and Wildlife that conducts all of those research efforts. And a lot of the people that do the work are now shifted by a bookkeeping effort from Fish and Wildlife's budget over to the Biological Survey. They are doing the same work that they did when they were in the Fish and Wildlife Service, and they are doing it in concert with people in the Fish and Wildlife Service, but they are paid by the other agency.

So, whether this amendment carries or not, and it is a good amendment. I intend to support it, but I would like to support it if it were better. Whether it carries or not, still the question is going to exist as to whether or not volunteers can participate in that survey.

But I want to reiterate for the benefit not of my friend, because I know he understands what is going on. I understand the politics of this situation. He has been caught in a political situation where some know-nothing somewhere came to the conclusion that we had to do away with the use of volunteers by the Fish and Wildlife Service or the Interior Department.

I want to give my colleagues here some appreciation of the hard facts. If my colleague were to offer a similar amendment with regard to the Defense Department or the Veterans Administration and say that you could not use volunteers in a hospital run by the VA or run by the Department of Defense, people would say you are crazy.

We run the entirety of these hospitals in almost total dependence on volunteers. The volunteers there do the work. The volunteers there comfort the patients. The volunteers do actually research, and things of that kind, which is extremely important to the existence of those agencies and the services at the hospitals.

Now, a similar situation obtains with regard to the Fish and Wildlife Service and the Interior Department. I still have not heard from my dear friend why it is that we are prohibiting the use of volunteers in this. If the Biological Survey is bad, I will be happy to join the gentleman in offering legislation which will simply do away with it. I think it was extremely unwise it was ever adopted. But I do not think we ought to punish ongoing efforts which are extremely important in terms of efforts which are done using scientific methods to manage our living resources, not only in the West but in the East. Can the gentleman tell me why this thing was done in the first place?

Mr. REGULA. If the gentleman would yield, as a veteran, if I go to a veterans hospital, I do not want any of the medical procedures carried on by the volunteers. What we are trying to go on here is the science.

Mr. DINGELL. There are volunteers in the VA hospital and you are going to find out how well you are going to do there, but the gentleman still has not answered the question. And having dealt with the gentleman over the years, I know how adept and adroit my good friend is, but I want to make it clear that he has not answered the question as to what blockhead it was that did this on this particular legislation.

Mr. OBEY. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Chairman, let me say that I share the concern of the gentleman in the well about the creation of the National Biological Service in the first place. I think it was a tactical mistake. I do not think it should have been done and I would join him in the actions that he described.

Mr. DINGELL. Absolutely.

Mr. OBEY. But I want to ask the gentleman from Ohio to reconsider what I think is really a mistake in attitude about how different functions of this Government can be carried out. You said during the debate on the rule that you would be happy to provide support for all of the volunteers that we wanted, if they were Ph.D. biologists.

I would just make this observation. At the National Institutes of Health, if we insisted that only Ph.D. scientists could review routine data and perform routine tasks in compiling observations, we would raise the cost of medical research in this country tenfold.

You do not need Ph.D. scientists to perform a lot of the functions at NIH or with respect to some of the surveys that the gentleman in the well is talking about and, with all due respect, to those who can make somewhat flippant remarks about the knowledge level of these volunteers, I suggest that their usage is perfectly appropriate in most of the instances that the gentleman in the well is talking about.

And if you want to set up a standard that you have got to have a Ph.D. every time you deal with either a medical problem or an environmental problem, you are going to raise the cost of these programs by 10 to 15 times their present cost.

Mr. DINGELL. Mr. Chairman, reclaiming my time, this is particularly true in view of the fact that the Republican Party is also talking about the need to have volunteerism. Here we have a piece of legislation which simply bans volunteerism in a very important area.

Mrs. MEEK of Florida. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I support the Gilchrest-Dingell NBS [National Biological Service] volunteers amendments. During a time when budgets are being cut and agencies are being asked to do more with less, it makes little sense to prohibit the use of properly trained volunteers working under the supervision of professionals.

Volunteers have provided a wide variety of services, from common labor to highly specialized areas of expertise. The last year for which national statistics were gathered—6,080 volunteers added at least 240 FTE's to the National Biological Service's work force. That, Mr. Speaker, was an increase to the paid staff of almost 13 percent. The Department of the Interior's 30-year-old breeding bird survey would have been impossible had they not used volunteers.

Mr. Chairman, I urge my colleague not to set up artificial roadblocks to impede the Department of the Interior from gathering information that allows us to understand the health of our living resources. Support the Gilchrest-Dingell amendments.

□ 1330

Mr. POMBO. Mr. Chairman, I move to strike the requisite number of words.

Mr. REGULA. Mr. Chairman, will the gentleman yield?

Mr. POMBO. I yield to the gentleman from Ohio.

Mr. REGULA. Just to respond to the gentleman from Wisconsin, I would point out that there are over 200,000, probably 300,000, volunteers that serve all the agencies, and this amendment, nor does this language in the bill in any way affect them, and all I said is that if you are doing scientific work, it should be done by professionals as much as possible, and that is what we are attempting to do. If it is a high degree of science and the volunteer limitation is in the area of USGS that is devoted to natural resource research to developing ideas, then I think the researcher needs to have skills in order to make sure that is valid and quality science, and I know the gentleman from Michigan would agree with that.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. POMBO. I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, if that is so, why is this amendment necessary? This amendment is necessary to cure the mischief that is included in the appropriations bill which prohibits the use of these kinds of volunteers for this kind of work.

Mr. REGULA. If the gentleman will yield further, this amendment is necessary to enable Fish and Wildlife to have adequate funds in addition to their regular duties, to do the breeding bird survey, which the gentleman very much wants to happen.

Mr. DINGELL. I applaud what the gentleman is doing, but he still has not addressed the problem.

Mr. POMBO. Mr. Chairman, I would just like to comment that the reason that we wanted to ban volunteers in the scientific part of this bill was we feel that we need to depend upon better science than what is being used right now, and that if you have volunteers out gathering scientific data, that data can come back reflecting the agenda of the volunteers. If we are going to, as policymakers, make decisions based on science, we need to have it based on good science.

If you have a bunch of volunteers running all over the country supposedly collecting scientific data, I believe that the data can come back skewed one way or the other, which does not benefit us.

What the gentleman from Ohio [Mr. REGULA] is trying to do with this amendment is to cure one part of the bill that was overlooked when they drafted it. I believe it is a correct amendment. I support that amendment.

But I will also support the ban on volunteers in gathering scientific data that we are supposed to base our decisions on.

Mr. MILLER of California. Mr. Chairman, I move to strike the requisite number of words.

I hate to belabor the point, ladies and gentlemen, but the gentleman from Ohio has simply not answered the question the gentleman from Michigan [Mr. DINGELL] and others have asked, and that is: Why do you have a ban on volunteers?

And we are told that we have a ban on volunteers by the gentleman from Ohio and the gentleman from California only because we want good science. Well, if a PhD, if a Nobel Prize winner wants to volunteer, they cannot volunteer, because this says, "No volunteers in the USGS", so a Nobel Laureate cannot go out on the weekends and take water samples, take a little test tube, put it into the river and collect it and give it to a government scientist, because it says, "No volunteers." It does not say, "Volunteers except for Einstein." It says, "No volunteers."

So you have not answered the question.

It is not a property issue, because we just accepted the amendment offered by the gentleman from Arizona [Mr. KOLBE] that says you can go onto private property if you are, in fact, invited by the owner of that property, as we have seen with a number of timber companies that want this service provided so they can design their cuts to maximize the efficiency of their operations and environmental protection. So you are stuck here with something that does not quite smell right.

Now what else have you done? You really denigrate hundreds of thousands of people in this country. Some are bird watchers, some are reptilian fanciers, some are people who are interested in habitat, some are interested in this as a hobby, and they are very skilled people. They work in Yosemite National Park, they work in the Sequoias. They are collecting data. Yes; I say to the gentleman from Ohio [Mr. REGULA] they are interrupted because every study that Fish and Wildlife does now will have to be redesigned and refunded because it is relying on volunteer programs designed by the National Biological Survey, which has now been put into the U.S. Geological Survey. You cut that budget by $49 million. You start to see the picture? You cut the budget. We need more volunteers. You prohibit the volunteers, and the other agencies that are relying on these volunteers now will not be able to use them because they come out of USGS.

Why do you not give back the American people the right to volunteer on behalf of their Government? And why do you not give back to the Government the right to supervise those people? Because we have not had these complaints. We have not had the complaints in California where they are working in the Rosewood National Park to document changes in channel stability so we know what the farmers can do upstream in that area. They are working in Sequoia National Park, and they have over 480 hours, for a total of 1,920 hours they have given collecting data, not rocket scientists, collecting data under the direction of people there.

Over the last 15 years, 75 volunteers have contributed to the efforts of the Santa Cruz field station to help the 5 employees who are there. We see it in the National Park Service and the National Marine Fisheries, studies that are used that rely on these same people and these volunteers.

They are doing it in Maine at Acadia National Park, monitoring bald eagle reproduction which contributed to the downlisting to removing this bird from the endangered species; the Southern Science Center has over 30 volunteers. These volunteers help in laboratories and greenhouses and help with the coastal mapping activities.

These are American citizens who are out there helping their Government, helping the private sector, and what you are telling them is, "No," you are telling them "No."

You have them in Massachusetts at Turner Falls, at the global change lab in Hadley and the Cape Cod National Seashore field station; you have the great American fish count, where every year during 2 weeks in July thousands of people go in to count the fish. So, again, we can start to map what catches will be available or not be available. You have them in Alaska, where they help out in counting the Canadian geese. It goes on and on and on.

The point is this: The point is that many of these are very talented graduate students from our finest universities, and they volunteer. Now, mind you, some only have masters degrees, a hell of a lot more educated than many Members of this Congress in a specific field, and they are volunteering. Some of them are some of the most noted people in their fields as private citizens, but they go out during certain periods of the year to help us find out more and more about species and about habitat, to help the Government make intelligent decisions, and we are going to cut these people off. We are going to cut these people off even though we have the protection that they cannot go on private land without being invited and even though they are following the direction of government employees or contractors or what have you.

We have them in the State heritage programs, very important programs to most States. They are helping the States design these programs. We cannot use them, because they are now in the USGS. Why can we not use them? Because we said that we did not want to use them because they are scientists; they are scientists in many instances. You ought to get yourself out of this situation. You ought to get yourself out of this situation. You ought to go back to what President Bush talked about, the 10,000 points of light. We have got to go with what every President of the United States has talked about, encouraging voluntarism.

The CHAIRMAN. The time of the gentleman from California [Mr. MILLER] has expired.

(By unanimous consent, Mr. MILLER of California was allowed to proceed for 4 additional minutes.)

Mr. MILLER of California. Mr. Chairman, we have got to understand the kind of time that these people are giving the Government, and now apparently if they are not associated with the USGS, they will still be allowed to do that.They could do it for NASA, they could do it in the fields of education, they could do it at NIH, they can do it everywhere else in the Government, but we are not going to let them wade into our streams and put a beaker down and pick up some water and take it to the laboratory. We are not going to let them pick a little bit of flowers or identify a bird even though they may be the best people in the Nation identifying the bird.

Mr. REGULA. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. I yield to the gentleman from Ohio.

Mr. REGULA. Mr. Chairman, the gentleman, as a member of the authorizing committee, knows full well that USGS will now have four branches, including the one on natural resource research. There is no limitation in the other three divisions, geologic, water, you mentioned water, there is no restriction, and mapping.

Mr. MILLER of California. There is a restriction.

Here are all the grants; here are all the programs ongoing for 5 years, 3 years. They have to be rewritten now because you prohibit the thousands of Americans who are helping their Government because these programs are off limits. Now these programs are off limits.

You say you want the authorizing committee, fine, let us design it. You put a ban on it, so for the next fiscal year they cannot do this.

Mr. REGULA. If the gentleman will yield further, if you read the language carefully, it says in the natural resource research arm of USGS. That is just 1 out of 4.

Mr. MILLER of California. That is the people running this program.

Mr. Chairman, reclaiming my time, I appreciate what you are saying. You have taken the National Biological Survey, you have put it into the science function of USGS.

Mr. REGULA. We abolished it and created this function.

Mr. MILLER of California. In the transfer, somebody lost $50 million, and in the transfer they lost the right to all the volunteers, and in the transfer they lost the right of these thousands of citizens to participate with Fish and Wildlife or any other agency who are relying on these; yes, they were relying on the Biological Survey. The programs have now been abolished and transferred.

Mr. POMBO. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. I yield to the gentleman from California.

Mr. POMBO. When we started getting into this whole argument about what we did with NSB, the National Biological Survey, in maintaining the science function, I was told as we passed on the House floor last year, there was a ban on volunteers, that the National Biological Survey was not using volunteers in accordance with the ban that was passed on the House floor.

Mr. MILLER of California. You are getting bad information. Here is program after program in our State and other States.

Mr. POMBO. If the director of the National Biological Survey is giving me bad information, I apologize.

Mr. MILLER of California. They are in fact using the volunteers. Here it is. You still have not told me why you would ban this group of Americans from participating with the Government like hundreds of thousands of other Americans getting to participate on a voluntary basis.

The gentleman from Ohio [Mr. REGULA] says if he goes into the hospital, he does not want a volunteer doing the work.

Mr. REGULA. Specific work.

Mr. MILLER of California. When the doctor gets to taking your urine sample, who is going to carry it down the hall? Do you want to pay the surgeon's rates, or would you like to have somebody else help out the surgeon?

Mr. POMBO. If the gentleman would yield, the reason that we are banning them on science is that you are fully aware of the fact that there is very little effort on the part of private property owners in this country to participate with volunteers. We feel that the best way to collect scientific data is using professionals, and we feel it is extremely important that we use the best science possible.

Mr. MILLER of California. Reclaiming my time, the point is this: As already stated, you can have people who have their Ph.D.'s, who have a Nobel Prize, and they cannot volunteer in the science part of USGS under this bill. There are no exceptions.

Now, even though they cannot get onto the land that you are concerned about, and we are all concerned about, without the owners' invitation, and I suspect he would ask are you going to have 50 grade school children running around my land, or are you going to have some serious scientists conducting this study, then he would decide whether or not he or she would extend that invitation. You have all those built-in safeguards. Somehow we are not going to let highly qualified, talented people who happen to want to volunteer in one little piece of the Federal Government, and I still have not heard the reason why.

I think we ought to strike this provision.

AMENDMENT OFFERED BY MR. GILCHREST AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. REGULA

Mr. GILCHREST. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. GILCHREST as a substitute for the amendment offered by Mr. REGULA: Page 19, line 17, insert after "program" the following: "when it is made known to the Federal official having authority to obligate or expend such funds that the volunteers are not properly trained or that information gathered by the volunteers is not carefully verified".

Mr. GILCHREST. Mr. Chairman, I would like to say something quickly about volunteers. My own son right now is an unpaid volunteer to record information for the Museum of Natural History. I was a volunteer for the Forest Service in a wilderness cabin, designated wilderness area, because the Forest Service could not afford to put somebody in that particular cabin.

We are working with the USGS; that is a little bit different, but the concept is the same.

Mr. Chairman, this amendment is fairly straightforward. It would allow the U.S. Geological Survey to use volunteers for research, provided those volunteers are appropriately trained and supervised and that their data is verified. It reflects almost exactly the language adopted in the subcommittee.

Mr. YATES. Mr. Chairman, will the gentleman yield?

Mr. GILCHREST. I yield to the gentleman from Illinois.

Mr. YATES. I accept the gentleman's amendment. I think it is a good amendment.

Mr. GILCHREST. I thank the gentleman.

I would like to make just a couple more points, if I may.

Last year we all learned many Members had concerns about the National Biological Survey. There was a perception that it was a band of environmental activists who would seek to find endangered species on private property, and I would be willing to say, in some instances, that probably happened. It was feared that volunteers had more agenda than training and that their data would be inaccurate. I believe, at best, these concerns very often are overstated.

Let me talk about what this amendment does not do.

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It does not allow anyone to collect any resource data on private property. The explicit language of the bill prohibits research on private property. It does not allow untrained environmental activists to sign up to count species. All volunteers must have adequate training. For those who are concerned that volunteers will manufacture data, the amendment requires supervision of the volunteers and a verification of this data.

This amendment is not about property rights. Again let me emphasize that the language of the bill prohibits data collection on private property. Researchers could only collect data on public property.

This amendment is not about the Endangered Species Act. The purpose of this research is to take inventory of natural resources. If this study were to overlap the Endangered Species Act, it would most likely be because new counts of certain species would result in their being upgraded or delisted, which would help all of us. This is not an effort to find out which species are endangered; it is an effort to find out what species we have.

Day after day on the House floor we hear people talking about good science. The distinguished chairman of the Committee on Science just yesterday, the gentleman from Pennsylvania [Mr. WALKER], made an excellent speech about the value of research, and volunteers are critical for this effort. We simply do not have enough money to pay all the people necessary to collect this data. If this amendment is not adopted, then a retired professional with a degree in ornithology, or something of this nature, would not be allowed to help collect scientific data even though he was perfectly trained to do so.

Mr. Chairman, who benefits from this substitute amendment? How can someone argue that we are better off not knowing what plants or animals are out there? Does anyone believe, does anyone believe, that ignorance is our friend and knowledge is our enemy? I do not think so. People want to give us verified information for free. I cannot understand why we would not want that, and we are prohibiting the Federal Government from accepting it. In fact, we will only accept it if we are allowed to pay for it. I do not think that is being very wise.

Mr. Chairman, let me close by emphasizing that this amendment is not about property rights. We already have that. This amendment is not about endangered species; that fight is yet to come. It is simply about allowing the Government to accept free research, and I would ask my colleagues to accept this substitute amendment.

Mr. YATES. Mr. Chairman, will the gentleman yield?

Mr. GILCHREST. I yield to the gentleman from Illinois.

Mr. YATES. Mr. Chairman, the gentleman's explanation has confirmed the opinion that I expressed in the first place. I think it is a very good amendment, and, as far as our side is concerned, we are willing to accept it. I would urge my chairman to accept it as well.

Mr. GILCHREST. Mr. Chairman, I would like to make one other comment about volunteers and use the State of Alaska for an example.

For 10 years over 20 Yupik Eskimo student volunteers have donated over hundreds of hours assisting the Alaska Science Center band cackling Canada geese in western Alaska. They calculated the annual and seasonal mortality of the population by resighting the neck-collared geese in Oregon and California, their wintering habitat.

Without this data collection there would be basically no hunting season. This type of data collection by volunteers who are trained, whose information is verified, will save the U.S. government millions of dollars and, I am sure, do what both sides of this issue wanted to do. That is try and get information.

The CHAIRMAN. The time of the gentleman from Maryland [Mr. GILCHREST] has expired.

(On request of Mr. POMBO and by unanimous consent, Mr. GILCHREST was allowed to proceed for 1 additional minute.)

Mr. POMBO. Mr. Chairman, will the gentleman yield?

Mr. GILCHREST. I yield to the gentleman from California.

Mr. POMBO. Mr. Chairman, I say to the gentleman, "You in your amendment say that the volunteers are not properly trained or that information gathered by the volunteers is not carefully verified. I would like to ask the maker of this amendment who will be determining whether or not the volunteers are properly trained or that the information is carefully verified."

Mr. GILCHREST. The Federal officials will verify the research and have the funding for that particular program which ultimately is the Secretary of the Interior.

Mr. POMBO. So the gentleman's definition of this is that the Federal officials themselves would be determining that.

Mr. GILCHREST. Yes.

Mr. REGULA. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I reluctantly rise in opposition. I am a big fan of volunteers. As we have hearings, I ask each of the agencies, "How many volunteers do you use?" I am a volunteer myself. I just worked on a home for Habitat last Saturday, and I am not a skilled carpenter, to say the least. But I want to point out to the gentleman from Maryland [Mr. GILCHREST] that this would in no way inhibit his son from working with the Forest Service. It in no way inhibits the volunteers in Alaska. It is a very restrictive area that we do not allow the use of volunteers.

In addition I would say to the gentleman he is a member of the Committee on Natural Resources. The language in this bill that establishes the Natural Resources section of USGS says clearly that, as soon as an authorizing committee produces legislation, that will override, and I would urge the gentleman, as the authorizing committee works on developing legislation in this field, to bring to that, the members of his committee, his ideas on volunteerism, and perhaps it can be very narrowly restricted to ensure to the owners of private property that they will not have the problems that they have suffered to some extent in the past.

In addition let me point out again that this in no way, no way whatsoever, affects volunteers in the Forest Service, the Park Service, the Bureau of Land Management, the U.S. Fish and Wildlife Service, the USGS, except for the very narrow activities in the area of natural resource research.

I think it is great. Volunteerism is very much a part of the American way, and it's just, that in this instance, we are trying to narrow the way in which this program is used.

This is not NBS. This bill will eliminate NBS. Until September 30 they would continue to use volunteers as they choose, and, hopefully before that, the gentleman's committee will have a bill and will reflect some of the gentleman's ideas on volunteerism.

Mr. GILCHRIST. Mr. Chairman, will the gentleman yield?

Mr. REGULA. I yield to the gentleman from Maryland.

Mr. GILCHRIST. Mr. Chairman, I thank the gentleman for his suggestion about correcting some of the problems so that we can make better use of volunteers, reduce the costs of collecting data to enhance the quality of data we collect, and I certainly will pursue that agenda. But I think we could correct the problem right now if we adopt the substitute amendment.

I also want to make two other quick points, if the gentleman will continue to yield. The bill says the following if there are any concerns about private property rights on page 19, starting on line 12:

> *Provided further*, That none of the funds available under this head for resource research shall be used to conduct new surveys on private property.

So the key has locked the door and slammed it shut to protect private property rights.

What we are looking for, Mr. Chairman, and I understand and I appreciate the fact that National Biologic Survey has been wiped out, but sent over to the U.S. Geological Survey, which is a reputable, scientific organization, but in that area of USGS where they will be collecting data for species around this country so that we can have some sense of the health of the biological diversity of this country, the importance of biological diversity of this country, the potential value of biological diversity in this country, will be hampered and hindered unless we give that particular agency the tools to collect that data, and I think we have strapped USGS by limiting the use of trained volunteers when the information that they bring back to them will be verified.

Mr. REGULA. Reclaiming my time, two points. One is that the gentleman will have an opportunity in the authorizing committee to bring to that committee his ideas. We would hope there would be a permanent bill prior to October 1 and, therefore, this language will not go into effect.

Second, we just accepted an amendment on both sides of the aisle that says that, if it is requested and authorized in writing by the property owner, that they can under this natural resource research division in USGS go on private property lands. So it is not just restricted. I say to the gentleman, "You see that changes the dynamics."

Mr. GILCHREST. Mr. Chairman, will the gentleman yield.

Mr. REGULA. I yield to the gentleman from Maryland.

Mr. GILCHREST. There have been some significant changes that I think have gone in the right direction. The Breeding Bird Survey I think takes up about half of the volunteers in this country. To allow a willing property owner to have species studied on his property, that is another move in the right direction, I think, for fiscal reasons.

Mr. DINGELL. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Maryland [Mr. GILCHREST].

Mr. Chairman, again with great respect and great affection for my good friend, the chairman of the subcommittee, I would like to support this amendment very strongly which is offered on behalf of the gentleman from Florida [Mr. GOSS] and by our good friend, the gentleman from Maryland [Mr. GILCHREST]. It is a good amendment.

As my colleagues know, I cannot understand what it is that the Committee on Appropriations has against using volunteers to collect scientific data and information. If that is their concern, they should say so. I have asked on a number of occasions why is the language at lines 12 through 17 in the bill? There is no answer. What abuse is this language directed at? Has there been some impropriety by Fish and Wildlife or by the Biological Survey which has been committed which would trigger this kind of response? The answer is nobody knows, but all of a sudden this language shows up, and it says:

> You can't use volunteers at the Biological Survey to collect data and information which would be of value in understanding what is going on with regard to our fish and wildlife resources in this country.

Now this language is not something which is thought lightly of in the conservation community. The Audubon Society, the Trails Unlimited, National Wildlife Federation, and the International Association of Fish and Wildlife agencies all are opposed to the language, and all support the amendment because they recognize that we need to have information to manage wildlife resources. Without it we cannot do an intelligent job of managing those precious resources.

We are not talking about endangered species. We are not talking about regulatory actions. All we are talking about is the collection of information and data of scientific information and of utilizing volunteers to assist the taxpayers and the Government in carrying out the mission of this Government. Why that should cause distress, pain, suffering, and heartburn on the part of my friends on the Committee on Appropriations I do not know.

Mr. Chairman, I have inquired to find out what it is that distresses so many of my friends on the Committee on Appropriations about that situation. They cannot say.

The hard fact of the matter is that volunteers are used throughout the entirety of government and they serve well and honorably. They provide informational services. They serve as associates in the administration of public lands. They serve as volunteers at hospitals to assist the sick and the ill in government-run hospitals. They serve at the National Institutes of Health, the National Science Foundation. We have a large internship program here, and yet we say no Fish and Wildlife, Biological Survey, Interior Department can use volunteers. Why? Nobody knows, but it causes great distress to the Committee on Appropriations so they put in this language.

Now the International Association of Fish and Wildlife Agencies, all of my colleagues' home-State Fish and Wildlife administrators, their game and fish commissions in their own States, say that is a bad thing, that that language should be removed, that we should use volunteers. My dear friend from Ohio, for whom I have the most enormous respect, cannot tell us why this language is here. Obviously he is under some sort of pressure, and I respect him for having responded to it with such grace and dignity, and I must say that there is no man who could have done a better job in handling a bad hand in a poker game, but the hard fact of the matter is this language is bad, it is unwise, it is unnecessary. The chairman of the subcommittee cannot explain why it is here.

So, we ought to adopt this amendment. What we really ought to do is to strike the entirety of the language from line 12 down through line 17. Then we would have a program which would continue to make the public be able to participate in their government, to enable us to derive enormous advantage from the service of ordinary citizens to save money on behalf of the taxpayers, to gather needed information in a timely fashion so that we can protect the precious and treasured Fish and Wildlife resources in the United States.

□ 1400

Why we are trying to deny ourselves that, I cannot explain. My good friend from Ohio, the chairman of the subcommittee, cannot explain why. I have asked him on several occasions. He suffered mightily over the question, but he cannot answer it.

So my urging to my colleagues is, join the responsible people in the conservation community. Join your own home State fish and game administrator. Support the amendment offered by the gentleman from Maryland [Mr. GILCHREST], and then let us try and lay to rest this cockamamie idea that we should not use volunteers in this country because some oddball somewhere gets the idea that we really should not.

Mr. REGULA. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from Ohio.

Mr. REGULA. Mr. Chairman, there is nothing here that says we cannot use volunteers in America. It is a very narrowly constricted area. We permit hundreds of thousands of volunteers, and your friends at Fish and Wildlife can continue to volunteer. I am trying to let them do the breeding bird survey, if you let me get to the amendment.

Mr. BOEHLERT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong support of the Gilchrest amendment. I am a little bit baffled by the language this bill is amending. Why is the Committee on Appropriations so fearful of volunteers? I always thought the Republican Party was the champion of volunteerism. That is what Ronald Reagan said, volunteers were to take over what had been government responsibilities. That is what George Bush said, volunteers were 1,000 points of light.

But here we have a program that uses thousands of volunteers to help carry out what would otherwise be a very expensive government function, and we want to turn them away unceremoniously.

Mr. REGULA. Mr. Chairman, will the gentleman yield?

Mr. BOEHLERT. I yield to the gentleman from Ohio.

Mr. REGULA. This is a new program. It cannot have used thousands of volunteers, because it has not been in existence.

Mr. BOEHLERT. Mr. Chairman, reclaiming my time, for such a reversal of our party's course, quite frankly, one must assume that these volunteers were some sort of dangerous cabal or cadre. But who are most of these volunteers? Bird watchers? Not a bunch who are thought to be a very dangerous group.

Well, I for one am willing to take the risk and let the bird watchers and the fish counters and other volunteers go about their business. I am willing to trust that they will be well-trained and well-supervised, as they have been, and as the Gilchrest amendment requires, and they will provide information to help policy makers make informed decisions.

I have said it many times on this floor and I will repeat it: The American people want us to do more with less, not to do more knowing less. I urge my colleagues to support this well-reasoned, very carefully crafted amendment, and to endorse our traditional source and encouragement for volunteers.

Mr. GILCHREST. Mr. Chairman, will the gentleman yield?

Mr. BOEHLERT. I yield to the gentleman from Maryland.

Mr. GILCHREST. Mr. Chairman, I want to make a comment about volunteers that would come under the jurisdiction of USGS as far as collecting data on species. In Maine and Maryland, recently volunteers are the ones who collected the data that was used by the National Biological Survey that would now be incorporated into the USGS to delist bald eagles. It was the important use of those volunteers that went out into the field, very well-trained, the information was verified, and in the State of Maine now and the State of Maryland, the bald eagle is now delisted from endangered to threatened. That was the value of volunteers. It could not have been done without those valuable, trained volunteers.

Mr. BOEHLERT. Mr. Chairman, volunteers all across America, in so many aspects of our daily life, do wonderful service for the American people. We here in the people's House should be encouraging them.

Mr. STUDDS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment offered by the gentleman from Maryland [Mr. GILCHREST].

Mr. Chairman, with all due respect to myself and all of my colleagues who have participated in this debate, not only today, but its predecessor a couple of years ago when we first authorized in this House the National Biological Survey, this has to be one of the silliest debates I have ever had the privilege to be participating in.

I invite Members to concentrate on what it is we have been talking about. There have been three propositions before us in the course of the day: The first is the one that is in the bill, and it is based on the premise apparently there is something inherently pernicious about volunteers, because it prohibits them outright from the research of the U.S. Geological Survey. No volunteers. No one has yet told us what is particularly pernicious and dangerous about volunteers, but it prohibits them.

The second proposition before us is offered by the distinguished chairman, the gentleman from Ohio. The essence of the gentleman's amendment is, well, on the other hand, maybe you can have them. They are OK for the migratory bird survey, but not for anything else. But that raises the obvious question, if they are not pernicious for the migratory bird survey, why are they so dangerous for the rest of he Geological Survey?

Now, believe it or not, the third proposition before us, offered by the gentleman from Maryland [Mr. GILCHREST], is, if I may roughly translate it, volunteers are OK, as long as they are competent.

What is truly staggering is that is being opposed here on this floor passionately by Members who think this is a major issue. We must not allow competent volunteers to participate in the Geological Survey.

A citizen, in the unlikely event that one is still listening, might ask himself or herself, what are they doing? Have they lost it altogether? We are actually opposing the proposition that competent volunteers ought to be allowed to help us. For God's sake, we are proposing to extinguish the Points of Light that Republican Presidents used to talk endlessly about.

Not only that, but, shockingly, the gentleman from Ohio [Mr. REGULA] has revealed that in our very midst there are volunteers, on this floor as we speak. My God, there are volunteers. The gentleman from Ohio has pled guilty, the gentleman from Maryland has pled guilty, and I have a revelation to make. I hope Members will not be shocked, because I know there are Members here who are offended, frightened, and somehow outraged by the very thought of volunteers. We do not usually do this, but the distinguished gentlewoman staff member of this committee, Karen Stoyer, was a volunteer. I hate to tell you she is not a Ph.D. She was counting whales at a research center on Cape Cod. She concluded, and I think most Members might agree, that you do not need a Ph.D. They are very big. They are not hard to count. That is part of the work that is being done here.

I submit that the propositions before us are apparently absurd. We have more important work to do. Let us adopt the extraordinary contention of the gentleman from Maryland that competent volunteers are OK, and get along with our business.

Mrs. CUBIN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise to speak adamantly against the proposal, the amendment that is on the floor. First of all, I want to make it very clear that none of us oppose the use of volunteers, and I think those who have any honesty on the other side really do know that. But we are opposed to using volunteers when the work product that is produced is not adequate and is not accurate.

It has been asked several times, well, just exactly what is the problem? Well, I am here to tell you what the problem is. I am from the West, and I notice that people who have spoken in favor of this amendment are from Maine and Maryland and Massachusetts and Michigan and New York. And what they do not understand about places like Wyoming and Nevada and Utah is the ownership configuration of the land. It is a checkerboard configuration. Forty acres is about 2.2 square miles. So every other 2.2 square miles is privately owned, and then publicly owned, privately owned, and then publicly owned. So when volunteers go out, they, unknowingly, possibly, go on to private land and violate private property rights. That is a problem, because this boils down to private property rights.

Many, many times, in their zeal to protect and preserve the resource, they show little respect for private property rights. They also, again, with all the best intentions, sometimes have a subjective bias to the resource that they are counting. That is why they are there, because that is their interest. So they have a subjective bias, and most have their own environmental bias, which tends to totally disregard private property rights.

Mr. PACKARD. Mr. Chairman, will the gentlewoman yield?

Mrs. CUBIN. I yield to the gentleman from California.

Mr. PACKARD. Mr. Chairman, there is no question that if you wanted to do surveys on promoting unionism, labor unionism, the volunteers you would get would be labor. They would not come from the management side. If you wanted to get volunteerism to promote abortion rights, you would not get volunteers from the other side of the issue.

On this issue, the volunteers have a specific agenda, as the gentlewoman has mentioned, and that is natural that you will get volunteers from that side. And when the agenda requires research, and the only research you are going to get and the numbers you are going to get are from the side that promotes the environmental side, that is wrong, and that is the whole reason that you have to do this. Even Ph.D's that have an agenda are not going to solve the problem. If you could get a balance of those that would do the research and the counts and the numbers, that would be a different story, but that is not what is happening.

I could give you horror story after horror story on my own properties as well as property owners within my district that simply say you have got to do away with the people that impose upon your property rights.

Mrs. CUBIN. Mr. Chairman, reclaiming my time, I want to explain one more thing. My district, my State, is 98,000 square miles. As I said, much of it is owned in this checkerboard fashion. So it makes it very difficult to have volunteers go out and have control over them.

If you are going to cover 98,000 square miles with volunteers that are closely supervised, why not just have the supervisors count the flora and fauna on the public lands and leave the private land alone.

Mr. GILCHREST. Mr. Chairman, will the gentleman yield?

Mrs. CUBIN. I yield to the gentleman from Maryland.

Mr. GILCHREST. Mr. Chairman, we want to ensure that no one is going to go on private land. We realize, and I have lived in the West, the difficulty sometimes of knowing what is private land and what is public land. That is why we wanted these volunteers to be very well trained and supervised, so they do not violate anybody's private property.

Mrs. CUBIN. Mr. Chairman, reclaiming my time, many of these places have not been surveyed. Many of these sections have not been surveyed. So it requires a professional to know what is private land and what is public land.

Again, there are thousands and thousands and thousands of square miles that are owned in this way without markers, without corner posts, so that people will know where the land is. That is why I am saying that is is necessary that professionals do the counting in the West, and that is the reason for the chairman's amendment, and I think the chairman's amendment is good, and I hope you will defeat the amendment on the floor.

Mr. YATES. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I just would like to ask the chairman if he could propound a unanimous consent request regarding debate time on this amendment.

Mr. REGULA. Mr. Chairman, if the gentleman will yield, we have been thinking about getting a unanimous consent agreement. Does the gentleman's side want to limit debate to another additional 20 minutes?

Mr. YATES. We would be willing to vote as soon as the gentlewoman from Colorado is through.

Mr. REGULA. If the gentleman will yield, we have a couple more speakers.

Mr. Chairman, I ask unanimous consent that all time for debate on this amendment be limited to 2:30 p.m.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

Mr. MILLER of California. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mrs. SCHROEDER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I stand as a westerner to engage myself in this debate. Mr. Chairman, there seemed to be a protest from the other side that there was nobody talking from the West. Colorado is from the West. I was born in the West, Oregon, and I have letters here from my very own district saying that they really do believe that volunteers are very essential. I have a letter here from a women in my district talking about how important these surveys are and that as an Audubon volunteer she is willing to go out and do all of this.

You just heard about private property, private property, private property. Guess what; you cannot go on private property as a volunteer without permission of the owner. So that is kind of a bogeyman that someone is throwing out there.

The other thing you hear about volunteers are biased, what do you mean? How can you be biased in favor of birds, or biased in favor of migratory birds? I do not understand what all this bias, bias means.

I assume that these are good citizens who are wanting to go out and take a look at what the wildlife is looking like, and they are trying to monitor it. There is never enough money to get that kind of information, I cannot understand what they are talking about, whether they are going to be biased or not.

Mr. OBEY. Mr. Chairman, will the gentlewoman yield?

Mrs. SCHROEDER. I yield to the gentleman from Wisconsin.

☐ 1415

Mr. OBEY. Mr. Chairman, I just heard the gentleman from California somehow talk about unionization in this effort. Is the gentlewoman aware of any effort that she knows of to unionize birds?

Mrs. SCHROEDER. Mr. Chairman, I do not think the birds have a union. I have been listening to this debate thinking it is not worth getting into because it does not make any sense. My understanding is all this debate is about is an amendment to allow volunteers to be used to monitor migratory birds and then there is an amendment to the amendment saying they have to be competent volunteers. I think that is what it is about.

All of this is modified by the fact that you cannot go on private property without the owner's permission and now we are hearing that some of them might be biased or birds may be getting a union. People are wondering what is going on with us. They are going to want volunteers to be in here carrying on this debate.

I have a letter from a woman in Colorado. Her name is Pauline Ritz. She is with the Denver Audubon society. She points out that she is considered perfectly competent to volunteer in her children's schools, as many of us do.

She was considered perfectly competent to volunteer at the Denver Arsenal, when we were busy trying to make it into a wildlife refuge, even though that arsenal had some of the most polluted land in the world. People were able to figure out how to utilize volunteers very well to move that forward and create something very exciting. And she goes on to point out many other things.

So I think this is a wonderful use of resources. America is about volunteerism.

You could go all the way back to the 1700's, Europeans visiting here could never believe the passionate volunteerism that we had trying to make this country great.

Now, migratory birds and all of these issues are terribly important, I think, for future generations, and nobody wants to go out and hire Federal employees to sit around and count them, because we do not have that kind of money. We are cutting off some essential services.

If I am missing something, let me know what it is. This just seems so simple that I understand frustration of the gentleman from Illinois. Why are we debating this? What is wrong with competent volunteers being able to deal with migratory bird issues, even though we are shutting them out of everything else and with the whole private property area saying you have to have the owner. Why is this a debate? People keep accusing this side of the aisle of stalling things, but these amendments are coming from that side of the aisle. And they are just incredible amendments that I cannot figure out why we are spending this body's time.

I would hope that this body could move propitiously to endorse the amendment to the amendment and then the amendment to the bill, and I think everybody out there will scratch their head and say, my goodness, what is going on there today. There must be something in the water.

Mr. REGULA. Mr. Chairman, I ask unanimous consent that all debate on this amendment and any amendments thereto close at 2:30 and that time be equally divided.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

Mr. MILLER of California. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. REGULA. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto close at 2:35 and that the time be equally divided.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

Mr. VOLKMER. Reserving the right to object, Mr. Chairman, there are Members here who have not had an opportunity to speak. And I would appreciate it if the gentleman would at least extend this time. I am sure there are other Members who would like to speak yet.

Mr. Chairman, continuing my reservation of objection, I yield to the gentleman from California [Mr. CUNNINGHAM].

Mr. CUNNINGHAM. Mr. Chairman, we were all going to speak for 5 minutes, too. We said that we will not object to the limitation of time. We would all like to get through the thing and give the gentleman from California [Mr. MILLER] his time and us, too. I will not take the 5 minutes, and I was even going to yield to cut the time.

Mr. REGULA. Mr. Chairman, I withdraw my unanimous-consent request.

Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto close at 2:40 p.m. and that the time be equally divided.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The CHAIRMAN. The time for debate on the pending amendment and all amendments thereto shall expire at 2:40, which would be 20 minutes equally divided and controlled by the gentleman from Ohio [Mr. REGULA] and the gentleman from Illinois [Mr. YATES].

The Chair recognizes the gentleman from Ohio [Mr. REGULA].

Mr. REGULA. Mr. Chairman, I yield 5 minutes to the gentleman from California [Mr. CUNNINGHAM].

Mr. CUNNINGHAM. Mr. Chairman, I thank the distinguished chairman for yielding time to me.

Mr. Chairman, the bird survey that we are talking about is put there for a specific agenda; it is to count birds. We have been asked why would we oppose the amendment of the gentleman from Maryland [Mr. GILCHREST]. Some of the Members have indicated that it is trivial, why we would oppose it. I would say, Mr. Chairman, that it is not.

Why would I say that? The previous actions of this House and of the Members and of specific agendas that have been pushed through in the past have superseded common sense. I look at the last time that this body was in the majority on the other side. They were pushing to even have these volunteers to be able to go on the land without permission, without permission of the private property owner. Now they cannot do that, so they are trying to get volunteers.

I would look at the comments of the gentleman from California [Mr. PACKARD]. If you have different agendas, you would go to those groups to have them go into those areas. And the other side of the aisle, some of the speakers, and some on our side, too, as well, believe and they will say strongly, and they have a right to their opinion, but have pushed that agenda to the extreme. And the people that are out in the field, they support that agenda. That is why those volunteers would be even further pushing that agenda. We think that that is wrong.

I look at past actions on private property rights and the inability of those same people that I discussed of yielding anything but to push right through.

The gentleman here that offers the amendment on private property rights, on the California desert bill, we had a thing in California where people were even asking to disk around their field because there is a fire season, and we were denied. We lost a whole bunch of homes because of it.

It is that reason why we question this amendment. In the future, if we can work closer together to come somewhere to the center of these things, then it would be frivolous to bring this up. But at this time we do not feel it is.

There is no definition of carefully trained. There is no definition of carefully verified. It would be those individuals with that specific agenda in mind that would be out there in the field that would also gather the data, which would be biased. And we object to that type of motivation.

So it is not just volunteers. It is the type of volunteers that would be worked in this group to push a specific agenda.

Mr. YATES. Mr. Chairman, I yield 4 minutes to the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Chairman, the supporters of banning American citizens from volunteering for the USGS are simply not being candid with the Members of this House. They say that the volunteers may be biased. Does that mean that people who they want to volunteer for the migratory bird count are not biased? Are the environmentalists who go out and count for migratory bird count, are they undercounting the birds so the shooting limit will be less? Are the gunners who go out and count for the migratory bird count, are they overcounting the birds so the limits will be higher, the seasons will be longer. You trust those people. But you do not trust the Boy Scouts who gave 1,000 hours in Wisconsin. You do not trust 32 veterinary students who volunteered the time of three full-time employees to do autopsies on animals. You do not trust them.

The gentleman from California [Mr. CUNNINGHAM] comes down here and talks about some conspiracy of bias, and he is sponsoring legislation and pushing for legislation to let us accept science from industry. Something is going on here. What is going on here is a very, very extreme agenda about taking American citizens who are interested in the environment out of the equation.

This amendment now says you must be qualified and supervised, you cannot go on to private land without the invitation of the owner. So it is not a property rights issue. It is not a competency issue. It is an extreme radical right-wing agenda about taking American citizens out of one part, one small part of the environmental movement, one small part of data gathering for the entire Federal Government.

Under the bill as written, it does not matter, as I said, if you have a Nobel laureate; you cannot gather this information. You cannot gather this information. Graduate students cannot gather this information. There is something terribly wrong here, because they are talking all around the amendment, but they will not talk to the amendment.

We look out here at the Patuxent environmental science group; 849 volunteers provide the information. They gather if for the scientists who put it to peer review. We are not going to allow them to do that under this legislation. The thousands of people that go on the Fourth of July butterfly count, the butterfly count across this Nation on the Fourth of July could not turn in their information to the USGS. The Christmas bird count, thousands and thousands of your citizens who go out every year could not turn in their information to the USGS under this amendment.

Is that really what you want to do? Do you want to single out the Boy Scouts, the Nobel laureates, the Fourth of July butterfly count, the Christmas bird count? I do not think that is what you want to do. What you really are trying to do is strangle, strangle our ability to gather information that has an impact on our ability to manage habitat, to manage species and try to help private citizens, governmental agencies, and corporate America make decisions about the use of their lands, the sustainability of their profit-making use of the land and the environmental use of that land.

And somehow this is what you have done. You have decided that you are going to take tens of thousands of Americans who are qualified, who are carrying out the best tradition of volunteerism. You do not like AmeriCorps. You do not like them if they are paid. And now you do not like them if they are volunteers. It is simply not fair to these Americans. It is simply not fair to our constituents.

Mr. REGULA. Mr. Chairman, I yield 2 minutes to the gentlewoman from Maryland [Mrs. MORELLA].

Mrs. MORELLA. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I rise to support the amendment offered by Mr. GILCHREST that would return H.R. 1977 to its original language regarding the selection of personnel for resource research by the National Biological Survey. I believe that the language of the Appropriations Subcommittee had thoughtfully covered the concerns of all parties involved. Volunteers had to be properly trained and supervised, and the information collected carefully verified.

I admit that to be supporting language that does anything less than gratefully thank volunteers for their indispensable assistance is certainly a first for me. We are talking here about citizens who care enough about an issue to give their time, energy, expertise, and dedicated effort for a task that is seldom easy. For example, to obtain information about the causes of the declining populations of canvasback ducks who winter in and around the Chesapeake Bay requires studies of their mortality, nutrition, activity, and habitat. How can we justify refusing the scientists the benefit of volunteer, unpaid assistants to help with this demanding work? In just makes no sense.

I would also like to state that I do not support an interruption in the listing and prelisting process under the Endangered Species Act, even though it is stated that it is only until the act is reauthorized. In addition, I believe that the funding level for the ESA is woefully short of being adequate. Again, I look to the reauthorization process and intend to share my concerns at that time. I do appreciate, however, that the Appropriations Committee has worked long and hard to balance conflicting interests and I accept the fact that several programs that I strongly support will have major changes. However, I think that this particular one, the use of trained and supervised volunteers, will have far-reaching negative and unintended consequences.

I urge this body to support the Gilchrest amendment.

□ 1430

Mr. YATES. Mr. Chairman, I yield 3 minutes to the gentleman from Rhode Island [Mr. KENNEDY].

Mr. KENNEDY of Rhode Island. Mr. Chairman, I rise today in favor of the Gilchrest amendment. Let me just state from the outset that we have seen the devolution of authority go back to the States with respect to a number of programs, one of the most critical of which is protecting our environment. To show the absurdity of the Republican effort to protect the environment, they say "Let all thee States do it. Let us have a State by State approach."

It really makes no sense, when you are trying to clean up the air, because you cannot draw State lines around our air quality. We cannot draw State lines around our water quality.

Now, with the amendment being proposed, they want to draw private property rights around migratory bird patterns. They want to draw property rights around fish species, like the fish only go to some person's property as opposed to someone else's. They want to say, "Listen, if we want to put the power back into the locals' hands," that is what the big Republican mantra is, give it back to the locals; yet with the amendment being proposed, and hopefully we will support Gilchrest that would remedy it, they want to take the local initiative out of environmental protection.

I think this is the critical issue why we need to support the Gilchrest amendment, because we have seen the bumper stickers, "Think globally, act locally." How can we expect people to take the initiative on the local level if we say to them, "We are not going to allow you to participate in protecting your own backyard?" In my State, people are passionate about conserving and protecting their environment. Yet, this proposal by the Republicans on the floor today would say volunteers cannot go out and try to protect their own environment.

Mr. Chairman, I hope that this House adopts the Gilchrest amendment and strikes the language that would bar volunteers from participating in protecting their own environments.

Mr. REGULA. Mr. Chairman, I yield 2 minutes to the gentleman from Maryland [Mr. GILCHREST].

Mr. GILCHREST. Mr. Chairman, I would really like once again to reiterate some points. First of all, this is a Republican amendment, I would just like to make that point. I am a Republican. We are all working together here.

First of all, Mr. Chairman, no one wants to violate anybody's property rights at all. We do not want to do that. It is in the bill to protect property rights.

This agenda to have volunteers is not to make something out of nothing. We are not going to run around there and try to find some hidden way to keep people from using their property. This is about biological data. What is the potential use of collecting biological data? There are a lot of viruses out there that are becoming resistant to antibiotics now. There is endless potential for a variety of chemical agents, yet uncovered, to be able to avoid calamities and disasters with new diseases or present diseases.

This is about collecting biological data which will cure or help with heart problems, with cancer problems, with hypertension, with new viruses, with pain killers, with natural insecticides, with this plague that we call AIDS. This is biological data. We do not have enough money to pay for all of this information. We need well-trained, well-verified, good volunteers. I urge my colleagues to vote for the substitute amendment.

Mr. OBEY. Mr. Chairman, will the gentleman yield?

Mr. GILCHREST. I yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Chairman, in light of the fact that pro-choice and pro-life was brought up, perhaps we can assure our colleagues that we will see to it that the volunteers are equally divided between pro-choice and pro-life, understanding, of course, it is choice for the birds.

Mr. GILCHREST. That is a very good recommendation, and it is whether or not to eat the chicken eggs, or to hatch the chicken eggs, I guess. The question is collecting biological data, the health of the country, using well-trained volunteers. I urge my colleagues to support the Gilchrest amendment.

Mr. YATES. Mr. Chairman, I yield 3 minutes to the gentleman from Missouri [Mr. VOLKMER].

Mr. FARR. Mr. Chairman, will the gentleman yield?

Mr. VOLKMER. I yield to the gentleman from California.

Mr. FARR. Mr. Chairman, I would like to point out that this amendment is a compromise amendment. I cannot imagine why anybody would vote against it. It is not what a lot of people have indicated, an open door to volunteers being able to be utilized.

What the bill says, and I think that the author of the bill recognized it as a Republican amendment, but the bad side is also a Republican bill. That is that the bill says that none of the funds provided for resources research may be used to administer a volunteer program; and what the language says, "unless that volunteer is properly trained and the information is carefully verified." So this is a half a loaf, it is a good amendment. I urge everybody on both sides of the aisle to support it.

Mr. VOLKMER. Mr. Chairman, the gentleman is alluding to the amendment of the gentleman from Maryland, and it is a Republican amendment. I hope everybody will support it.

Mr. Chairman, I have been here 18½ years. This is the weirdest debate that I have ever participated in. For an hour and a half, for an hour and a half, we have been talking about whether we can use volunteers or not. How much money are we saving, here? We are not saving a whole bunch of money, we are not spending a whole bunch of money, we are just asking the right, the gentleman from Maryland [Mr. GILCHREST] is, the right of people, taxpayers, the people that Members are supposed to be so proud of, and these are people that are out there working day and night, and they are taking their time off to go out and get information, information.

Are Members scared of information? That is what it sounds to me like, that the radical right is scared to death that they might find something out that they do not want to know about, so we put it away, do not find out about it. It is only volunteers. What my former President, my President, your President, Reagan pushed so hard for was voluntarism. Now we are saying no to voluntarism.

There might be something under that rock that we do not want to know about, or something in that water, "Oh, oh, we do not want to know about it"; or something in the sky, what is it? No, it is not Superman. It might be a bird. We do not know, we do not want to know. Weird, weird. Oh, boy, scaredy folks. Be scared, the bogeyman might get you. The bogeyman might get you right-wingers, watch out. These volunteers are bad, bad people. Watch out, folks. Be careful. Be careful. Step lightly.

The amendment of the gentleman from Maryland [Mr. GILCHREST] may pass and we may have somebody out there that finds something out that we really do not like. However, I think we can live with it. I think the country will survive. I do believe that we should, and I agree with Reagan, we should use volunteers. I do not see anything wrong with it.

I hope that this House has the sense enough to let volunteers do the work that Government agencies and Government money will not be spent for. I support the amendment offered by the gentleman from Maryland [Mr. GILCHREST] wholeheartedly.

Mr. REGULA. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, I started out here to allow money in Fish and Wildlife to use the volunteers to count the birds, migratory birds, breeding birds. Of course, this was something the gentleman from Wisconsin [Mr. OBEY] is interested in, and all of us are interested in. I have been involved in that, too. We use Boy Scouts, we use 4-H Club members, we use all kinds of people. I do not want to lose sight of the original objective of what I was trying to achieve here.

Mr. Chairman, I will say, in fairness to the westerners, and I have recently spent 2 days in California in the mountains, and there is absolutely no indication, no boundary markers, nothing. If you look at a map, it is a section of private land, a section of public land, a section of private land, and it is a checkerboard, because, of course, that is the way it was laid out when the land was originally given to the railroads, so people who would be out there trying to do any kind of a count, whether it is a fauna or flowers or birds or whatever, would not really know whether they were on public lands or private lands. That was the concern that is expressed.

One last thing, Mr. Chairman. It illustrates the problem, and I hope the gentleman, Mr. GILCHREST, and the gentleman, Mr. MILLER, both of whom are members of the authorizing committee, will resolve this problem in their committee and bring us a piece of legislation. When that happens, all of this drops out. This illustrates the importance of the authorizers dealing with this. This is temporary legislation to deal with an immediate concern.

Mr. OBEY. Mr. Chairman, will the gentleman yield?

Mr. REGULA. I yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Chairman, I very much appreciate the fact that the gentleman with his amendment tried to respond to concerns that I raised in the minority views in the report. It is a constructive effort. However, I would also say that I think that we obviously would prefer to make it even more constructive by adding the amendment offered by the gentleman from Maryland [Mr. GILCHREST] to that amendment.

Mr. REGULA. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The gentleman from Illinois [Mr. YATES] has 1 minute remaining.

Mr. YATES. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Maryland [Mr. GILCHREST] as a substitute for the amendment offered by the gentleman from Ohio [Mr. REGULA].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. POMBO. Mr. Chairman, I deemed a recorded vote.

A recorded vote was ordered.

The CHAIRMAN. Pursuant to clause 2 of rule XXIII, the Chair will reduce to 5 minutes the time for a recorded vote, if ordered, on the Regula amendment without intervening business on debate.

The vote was taken by electronic device, and there were—ayes 256, noes 168, not voting 10, as follows:

[Roll No. 500]

AYES—256

Abercrombie
Ackerman
Andrews
Bachus
Baesler
Baldacci
Barcia
Barrett (WI)
Bass
Bateman
Becerra
Beilenson
Bentsen
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Blute
Boehlert
Bonior
Borski
Boucher
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Bunn
Cardin
Castle
Chapman
Clay
Clayton
Clement
Clinger
Clyburn
Coble
Coleman
Collins (IL)
Condit
Conyers
Costello
Coyne
Cramer
Cunningham
Davis
de la Garza
Deal
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Doyle
Durbin
Ehlers
Ehrlich
Engel
English
Eshoo
Evans
Ewing
Farr
Fattah
Fawell
Fazio
Fields (LA)
Filner
Flake
Flanagan
Foglietta
Forbes
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Gordon
Goss
Greenwood
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hefley
Hilliard
Hinchey
Hobson
Hoekstra

Holden
Horn
Houghton
Hoyer
Inglis
Jackson-Lee
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
Klug
Kolbe
LaFalce
LaHood
Lantos
LaTourette
Lazio
Leach
Levin
Lewis (GA)
Lincoln
Lipinski
LoBiondo
Lofgren
Longley
Lowey
Luther
Maloney
Manton
Markey
Martinez
Martini
Mascara
Matsui
McCarthy
McCollum
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Meyers
Mfume
Miller (CA)
Miller (FL)
Mineta
Minge
Mink
Molinari
Mollohan
Montgomery
Moran
Morella
Nadler
Neal
Oberstar
Obey
Olver
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pomeroy
Porter
Portman
Poshard
Pryce
Quinn
Rahall
Ramstad
Rangel
Reed
Richardson
Rivers
Roemer
Ros-Lehtinen
Rose
Roukema
Roybal-Allard
Rush
Sabo
Sanders
Sanford
Sawyer
Saxton
Scarborough
Schroeder
Schumer
Scott
Serrano
Shaw
Shays
Sisisky
Skaggs
Skelton
Slaughter
Smith (NJ)
Spratt
Stark
Stokes
Studds
Stupak
Tanner
Taylor (MS)
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Tucker
Upton
Velazquez
Vento
Visclosky
Volkmer
Walsh
Ward
Waters
Watt (NC)
Waxman
Weldon (PA)
Weller
White
Whitfield
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates
Zimmer

NOES—168

Allard
Archer
Armey
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bliley
Boehner
Bonilla
Brewster
Brownback
Bryant (TN)
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Coburn
Collins (GA)
Combest
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Danner
DeLay
Diaz-Balart
Dickey
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Edwards
Emerson
Ensign
Everett
Foley
Fowler
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Goodling
Graham
Gunderson
Gutknecht
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Heineman
Herger
Hilleary
Hoke
Hostettler
Hunter
Hutchinson
Hyde
Istook
Johnson, Sam
Jones
Kasich
Kim
King
Kingston
Knollenberg
Largent
Latham
Laughlin
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
Lucas
Manzullo
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Mica
Moorhead
Murtha
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Ortiz
Oxley
Packard
Parker
Paxon
Petri
Pickett
Pombo
Quillen
Radanovich
Regula
Riggs
Roberts
Rogers
Rohrabacher
Roth
Royce
Salmon
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shuster
Skeen
Smith (MI)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stenholm
Stockman
Stump
Talent
Tate
Taylor (NC)
Tejeda
Thomas
Thornberry
Tiahrt
Traficant
Vucanovich
Waldholtz
Walker
Wamp
Watts (OK)
Weldon (FL)
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff

NOT VOTING—10

Bono
Collins (MI)
Fields (TX)
Ford
Green
Hefner
Moakley
Reynolds
Tauzin
Towns

□ 1501

The Clerk announced the following pair:

On this vote:

Mr. Moakley for, with Mr. Bono against.

Mr. MOORHEAD changed his vote from "aye" to "no."

Mr. MILLER of Florida and Mr. MINGE changed their vote from "no" to "aye."

So the amendment offered as a substitute for the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN pro tempore (Mr. DAVIS). The question is on the amendment offered by the gentleman from Ohio [Mr. REGULA], as amended.

The amendment, as amended, was agreed to.

AMENDMENT OFFERED BY MR. REGULA

Mr. REGULA. Mr. Chairman, I offer an amendment marked No. 2.

The Clerk read as follows:

Amendment offered by Mr. REGULA: On page 15, line 3, strike all beginning with ": *Provided further*," down to and including "subparagraph (B)" on page 15, line 16.

Mr. REGULA. Mr. Chairman, my colleagues, this is a bipartisan amendment. It strikes the language in the Fish and Wildlife Service administrative provisions which amends the Emergency Wetlands Act of 1986 to allow the Fish and Wildlife Service to retain the refuge entrance fee collections.

Under the current law, 70 percent of these fee collections are distributed through the Migratory Bird Conservation Act to be used for land acquisitions approved by the Migratory Bird Conservation Commission. And I might add that my amendment that was just approved, as amended by the gentleman from Maryland [Mr. GILCHREST], provides funds to do the bird count.

We looked at the language. In effect what this does is allow the refuge entrance fee collections to be used to buy additional wetlands which, of course, provide habitat for migratory birds. It is supported by a wide range of groups who are interested in the preservation of wildlife, as well as the various sportsmen groups.

I think it is a good amendment. We have worked it out with the authorizers and I know that we have had support on both sides.

The amendment strikes language in the Fish and Wildlife Service administrative provisions which amends the Emergency Wetlands Act of 1986 to allow the Fish and Wildlife Service to retain all of the refuge entrance fees. Under current law, 70 percent of these fee collections are distributed to the migratory bird conservation account to be used for land acquisitions approved by the Migratory Bird Conservation Commission. Currently the Commission receives approximately $21 million from duck stamp receipts, $18 million from import duties, and $1.7 million from refuge entrance fees, which are all available for land acquisition through a permanent appropriation.

The committee had proposed language to allow the Fish and Wildlife Service to retain the $1.7 million which goes to the migratory bird conservation account since the current amount which the Fish and Wildlife Service retains does not cover the costs involved to collect the fees, and serves as a disincentive to increase future collections. The committee also noted the 5-year moratorium on land acquisition that was included in the budget resolution, and reduced funding in the bill for land acquisition by 78 percent or $184 million. The $41 million permanent appropriation out of the migratory bird conservation account for land acquisition would have been reduced by 4 percent or $1.7 million. However, in deference to the authorizing committee which raised an objection to this language in the Rules Committee, the amendment is being offered to strike the language.

Mr. WELDON of Pennsylvania. Mr. Chairman, will the gentleman yield?

Mr. REGULA. I yield to the gentleman from Pennsylvania.

Mr. WELDON of Pennsylvania. Mr. Chairman, I applaud the leadership of the gentleman from Ohio [Mr. REGULA] and the leadership of the other side and the chairman of the authorizing committee [Mr. YOUNG of Alaska], for their work on behalf of resolving this issue which is extremely important to all of us in this country, especially the gentleman from Michigan [Mr. DINGELL] and I, who serve as representatives of this body on the Migratory Bird Commission.

This will allow us to continue to voluntarily set aside land to be used for our refuge system and for the migratory bird flyways of this country and throughout North America. In fact, if this amendment had not been ruled in order and accepted by the chairman, we could have seen 3,500 to 5,000 less acres set aside voluntarily in the next fiscal year.

I might add for my colleagues on both sides, this is a total voluntary program; no condemnation, no taking. This is done through voluntary purchases and setting aside of land to be used for the flyways of our migratory birds. Since the existence of this program, over 4 million acres of land have been set aside for this purpose.

It is supported by groups as diverse as the NRA to Ducks Unlimited to the Nature Conservancy. I applaud the leaders on both sides for this amendment, for accepting it, the gentleman from Illinois [Mr. YATES] and the gentleman from Alaska [Mr. YOUNG] and certainly the gentleman from Ohio [Mr. REGULA].

Mr. YATES. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I personally believe the original idea that the gentleman from Ohio [Mr. REGULA] had was much better than his amendment. It was a good idea. I think the Fish and Wildlife Service spends more money collecting fees than they now get in return.

But I am not going to oppose the amendment. I just want the Record to show that I have no objection to the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio [Mr. REGULA].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. OBEY

Mr. OBEY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. OBEY: Page 23, line 19, strike "$87,000,000" and insert "$70,220,000".

Page 55, line 5, strike "$384,504,000" and insert "$347,724,000".

Page 55, line 22, strike "$151,028,000" and insert "$124,247,000".

Page 66, strike lines 11 through 15 and insert the following:

DEPARTMENT OF EDUCATION

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

INDIAN EDUCATION

For necessary expenses to carry out, to the extent not otherwise provided, title VI of the Elementary and Secondary Education Act of 1965, $81,341,000.

Mr. OBEY. Mr. Chairman, there are a lot of us on this side of the aisle who feel that many of the reductions that are being made in this bill to crucial environment programs, to crucial natural resources programs, are being made for the purpose of transferring these resources to the Ways and Means Committee to, in effect, finance a tax cut for lots of people making $200,000 a year or more. We do not happen to think that is the best use of money.

There is another program which is being savaged in this bill which is the Indian Education Act. This bill eliminates funding for Indian education. My amendment would simply restore funding for that program.

We would restore $80 million for the amendment and we would take it from sources that we think are much less damaged. For instance, we take it from the fossil fuels account, which is already very much over the authorized amount. It is $163 million over the amount provided in the authorized committee. So we think that $36 million reduction does no harm there and it takes it from other sources which we think do very much less harm.

Mr. Chairman, let me explain what it is we are doing. I had always thought that there was general recognition that the education of Indian children was significantly a Federal responsibility, because of the Federal trust status that many of our tribes have.

Now, the money in question, which I am trying to restore, will not go to tribes. The money that I am trying to restore will go to local school districts, will go to local public school districts. It will not go to tribal schools. And this money, if it is not provided, will, in fact, be lacking in those local school budgets and those local school districts will have to raise their own education budgets and their own property taxes to support education to the tune of about $80 million. I do not think they ought to have to do that.

Now, there would be arguments made that this program is duplicative. People will say, for instance, that after all, you have a lot of programs within the BIA to educate Indian children. But the fact is that BIA programs only educate 8 percent of Indian children. This program deals with the rest.

So you cannot fix this problem by relying on the BIA, because the BIA does not provide funding for this purpose.

□ 1515

People will say that impact aid will take up the slack, but, in fact, again, I would point out that impact aid payments flow only to about 700 school districts located on or near Federal reservations. The program does not serve members of State-recognized tribes or off-reservation Indians, and that would leave a substantial gap.

Now, we will also be told, well, title I funds can take care of this problem. The fact is, however, that title I stresses basic academic instruction, while Indian education programs focus heavily on students' culturally related academic needs, and there is a big, big difference.

So I want to make quite clear, and I do not think this is an especially complicated proposition, this is not a proposal which is going to make life easier for Indian tribes. This is not adding money into tribal budgets. This is simply protecting local school districts who have a right to expect that the Federal Government will live up to their responsibilities in educating Indian children.

Now, I must say I think that there is a broader issue involved here than just Indian education. I think that the Federal Government for a long time has been becoming Mr. Bugout When it comes to meeting its responsibilities for educating lots of people.

If this amendment does not pass, not only are we asking local school districts to pick up an obligation which belongs on Federal shoulders, but we are also in many other ways abandoning local school districts. Example: Immigrants who come into this country or refugees who come into this country.

The CHAIRMAN. The time of the gentleman from Wisconsin [Mr. Obey] has expired.

(By unanimous consent, Mr. OBEY was allowed to proceed for 2 additional minutes.)

Mr. OBEY. Mr. Chairman, now, I have no objection to an open and fair immigration policy, but I do have an objection when those refugees come into this country, are then dropped on the local doorstep and the Federal Government forgets its obligation to then help train and educate those children. Those local school districts should not have to carry that burden alone.

All this amendment does with respect to Indian children is to recognize that the Federal Government should not be transferring large financial burdens back to local school districts to carry out what essentially is a Federal responsibility.

And I would urge support for the amendment.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. OBEY. I yield to the gentleman from Minnesota.

Mr. VENTO. I want to commend the gentleman in the well for his work, for his statement and for his support. I think he points out here many of the poorest of the poor, and, you know, frankly, investing in people, and I think that obviously the native American plight in terms of education, in terms of development and skills and so forth has been something which I think is a growing awareness of the shortfall and the uneven nature of what has occurred.

What the gentleman seeks to do is simply to restore the funding, basically a million dollars below this level of funding, simply to restore that by taking the money out of energy programs.

Mr. Chairman, I think we can afford to go without that. I do not think we can afford to go without the investment in these kids that need this help in these areas. I might point out, many have pointed out the profits in terms of gaming and other factors, but in reservation after reservation and area after area, there are many that receive no benefits from that. These programs are absolutely essential for the type of qualitative education programs desperately needed in these areas where we have the greatest degree of poverty in this Nation, in the Indian communities of this Nation, Mr. Chairman.

Mr. REGULA. Mr. Chairman, I move to strike the last word.

Mr. Chairman and members of the committee, I understand the objective of the sponsor of this amendment. As a matter of fact, we will have an amendment shortly from the gentleman from

Oklahoma [Mr. COBURN] to accomplish the education part of it. But in the amendment offered by the gentleman from Oklahoma [Mr. COBURN], we will take the money out of the administrative functions in the Forest Service, the administrators, and I think that to get the necessary funds that the amendment by the gentleman from Oklahoma [Mr. COBURN] takes it from an area that is less important to the people of this Nation than are the things that are being deleted by the Obey amendment.

I would point out that under the amendment by the gentleman from Wisconsin [Mr. OBEY], he would cut coal research, which we have already reduced 14 percent. He would cut oil technology, which is already reduced by 17 percent. He would cut natural gas research, which is reduced by 1 percent. And I might point out the budget that this body adopted proposed very large increases on natural gas research. He goes into fuel cell research.

The problem we have here is that what we have tried to do in the energy portions of this bill is maintain basic research because we are a very energy-driven Nation. Jobs are a way of life because of transportation, because of distances in this country, because automobiles are very much a part of our culture. It puts great demands on our energy resources. We use a lot of electricity, which puts demand on coal, and we have to do a lot of research to ensure that we can get clean-burning coal and use this vast store of coal that we have for the decades to come.

I am really concerned about taking any additional money out of fossil energy research programs, since we have already cut them nearly $40 million in order to meet our budget targets, and I think as we try to have energy security, as we try to maintain a degree of energy independence, as we just fought a war, lost American lives and at great expense, to protect our sources of fuel in the Middle East, that we need to keep these programs going that develop research potential for oil, natural gas, fuel cells, coal research.

If any of you have seen the *Apollo 13* movie or the story of *Apollo 13*, they were using fuel cells, and they lost a fuel cell, which almost resulted in a disaster. Fuel cell research is very important to the future, not only in space but on Earth.

So, while I sympathize with the gentleman's desire to put money back in Indian education, I think the proposal of the gentleman from Oklahoma [Mr. COBURN] to take the money from the Forest Service administrative function would be a better way to do it. For that reason, I would have to oppose this amendment and will support Mr. COBURN's amendment.

Mr. OBEY. Mr. Chairman, will the gentleman yield?

Mr. REGULA. I yield to the gentleman from Wisconsin.

Mr. OBEY. I thank the gentleman for yielding.

I would simply point out that I happen to support these fossil energy programs, but I would simply take note of the fact that the number in this bill is some $163 million over the authorization number, and I am sure that many of the good conservatives on that side of the aisle do not want to see us violate authorization ceilings. So I think we are being very responsible in taking only $36 million out.

Mr. REGULA. Reclaiming my time, as I said at the outset of the debate, we have some very important policy decisions. We both agree, both sides, we need to put the money back in Indian education. The position of our side is that the money ought to come out of the Forest Service administrative account and not out of energy research. And obviously the gentleman from Wisconsin would prefer it out of energy research and the areas I mentioned.

I think if we vote, the vote will be essentially, if you vote down the Obey amendment and then you will vote for the Coburn amendment, you would indicate with that vote that you prefer to get the money for the Indian education program from administrative services in the Forest Service, administrators, rather than take it out of energy research.

So, for my colleagues that are listening to this debate, I just wanted to try to get the choices out here clearly.

Mr. YATES. Mr. Chairman, I move to strike the requisite number of words.

Do I understand the gentleman from Ohio to be in favor of restoring the money for Indian education, and the only question is where the money is to come from for the offset?

Mr. REGULA. If the gentleman will yield, that is correct.

Mr. YATES. You do favor the restoration of the money for Indian education?

Mr. REGULA. I think that we have been persuaded by circumstances, if the gentleman will yield, that we need to put some additional funding in Indian education.

Mr. YOUNG of Alaska. Mr. Chairman, will the gentleman yield?

Mr. YATES. I yield to the gentleman from Alaska.

Mr. YOUNG of Alaska. I happen to think the gentleman from Ohio and yourself have made an agreement here that we want to restore the moneys for Indian education. Is that correct?

Mr. REGULA. That is correct.

Mr. YOUNG of Alaska. There are other ways to restore this money other than taking it from the fossil fuel research. I will have amendments later on down the line that would save in the realm of $108 million that is unnecessary to spend at this time for the purchase of new vehicles and aircraft for agencies that have no reason to purchase them other than to have their own private fleet.

What I am suggesting is that there is plenty of room in this bill to transfer moneys into. I think the gentleman from Michigan will agree, and yourself and the gentleman from Ohio, this is a much higher priority than to purchase hardware for those that want their own little playground to play on with their own little play toys. So I am glad you have reached this agreement.

But I do not support the gentleman from Wisconsin taking it out of the fossil fuel research. I think in the meantime, before we get to title II, we can work out an amendment that can get the moneys to the American Indian education fund.

Mr. YATES. Does the gentleman propose to offer a substitute to the amendment offered by the gentleman from Wisconsin?

Mr. YOUNG of Alaska. Not at this time. I am going to be addressing it probably in title II concerning aircraft, concerning vehicles, and we can direct it at that time, I believe, maybe I am wrong, to the area which the gentleman from Michigan and yourself are seeking.

Mr. YATES. I just want to say, Mr. Chairman, I rise in support of the amendment offered by the gentleman from Wisconsin [Mr. OBEY].

I do not know about all of the offsets that have been discussed here in place of those suggested by the gentleman from Wisconsin [Mr. OBEY], but I do know that the Indian children need the funds that have been taken away from the Office of Indian Education. It would have been easier, of course, if the bill had not taken $81 million away from the education of Indian children in the first place. This should be corrected.

I want to commend the gentleman from Wisconsin for correcting it. We have done enough to the Indian people in the course of the history of this country. We have a national trusteeship to make sure that this kind of treatment of the Indian people is not continued, and certainly when it is proposed to cut funds for education of the Indian children, we are abusing our responsibility.

Mr. REGULA. if the gentleman will yield, I want to say, the gentleman from Illinois, as chairman of this committee for many, many years was always very sensitive to Indian education and health.

Mr. YATES. That is correct.

Mr. REGULA. We have tried to maintain that tradition, given the constraints that we faced, and Indian education is one of the few programs that did not receive much in the way of reductions even though we had an overall 10 percent, and we agree with what you are saying, and that is why it is not a question here of the money. It is where we get it.

The gentleman from Wisconsin would take it out of the energy program research. The gentleman from Oklahoma

[Mr. COBURN] would take it out of administrative programs and forestry. And it seems to me, at least, that it would be from the standpoint of national policy, I prefer to keep the energy research and reduce the forest administrative.

But I think we are in agreement on the objective.

Mr. YATES. I thank the gentleman.

Mr. KILDEE. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the Obey amendment. I suggest from time to time that we go down to the National Archives, just down the street, and read the treaties that we have signed with Germany and England, China, France, and the Indian tribes of this Nation. Those treaties are available for reading, and in almost every instance, when one reads the treaties with the Indian nations, we find the taking away of, very often, millions of acres of land, and almost in every instance the promise of one thing: Education.

□ 1530

And that is a treaty obligation and, I believe, a moral obligation, and that is why in the 19 years I have been here in Congress I have tried to move toward fulfillment on our part of the treaty obligations.

In the State of Michigan they took away everything in Michigan and promised education, and I have served on the former Education and Labor Committee for years, and I focused on Indian education. We have done a little better, but we have not done fully. We do have a moral and, I believe, a treaty obligation to the Indians in the area of education.

Now I have a question, if I may address it to the gentleman. In the Obey amendment we restore about $81 million for Indian education. How much money is restored in the Coburn amendment?

Mr. COBURN. Mr. Chairman, will the gentleman yield?

Mr. KILDEE. I yield to the gentleman from Oklahoma.

Mr. COBURN. In our amendment we restored the $52.5 million that goes for actual education, we eliminate the bureaucracy associated with the Indian education department, but maintain the funds to the school districts where the actual Indian education takes place, and, if I may continue in answer to that, in supporting my amendment in lieu of the amendment that we are now considering of Mr. OBEY's what my colleague will find is that we will be taking that from a source that is more readily available to us with less disconcerting changes for everyone, and so we were more likely to restore the funds for Indian education.

Mr. KILDEE. Well, first of all there is not $30 million of bureaucracy. There is at least $10 million for adult education here, which the gentleman does not restore, and adult education is a very, very significant part of the Indian education money and bureaucracy.

What is a bureaucracy my colleagues? My two sons are lieutenants in the Army. They are part of the administration of the Army. I guess we could call that bureaucracy and reduce the bureaucracy of the Pentagon. When it comes to Indians, we call it bureaucracy. When it is the military, it is part of the important administration which my two sons serve in. So it is very easy to give a bad name, and call it bureaucracy, but of the $30 million, over $10 million, almost $11 million, is for adult education. It is extremely important.

So I think the main issue here is not so much where we take the money for restoration, but how much money is restored. I say to my colleagues, "You still are $30 million short in your restoration, and a good chunk of that $30 million is for adult education."

Mr. WILLIAMS. Mr. Chairman, will the gentleman yield?

Mr. KILDEE. I yield to the gentleman from Montana.

Mr. WILLIAMS. Mr. Chairman, my review of the Office of Indian Education would indicate that at all of its levels, at the very maximum eliminating totally its bureaucracy might save, just might save, $3 million. So the gentleman is correct to question the 30, and I say to the gentleman:

"Bureaucracy, by the way, is the administration of the program, so you get rid entirely of the bureaucracy, and there is nobody there to run the programs, although I do want to make this point: The office that is proposed by the committee to be closed here, and I know they are coming around on this, this is the office where the money follows the study. The BIA education money, as the gentleman from Michigan so well knows, that money follows the Indian schools. This money follows the Indian students. So for those Indian students who go to school in a town just off the reservation, you eliminate this money, you eliminate that school district's opportunity to help, specially help, those Indian children."

Mr. KILDEE. We have some public schools, I might add, that have about 38 percent Indian students, and they depend a great deal upon these dollars. They do not have excess funds. They are not all on reservations. So we are really not only taking away from the Indian students, but taking dollars away from those schools that are educating Indian students.

So I think the point here is the restoration is not total in the Coburn amendment. It is more fulsome in the Obey amendment.

Mr. COBURN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would just like to make the point in closing on the discussion on this amendment that first of all the real issue is Indian children and their education. That is what we are talking about. That is what we are talking about restoring.

There is, in fact, $10 million spent on administration associated with this program. There are no ands, ifs, or buts about that, so therefore the choice is not $52 million or $80 million. The choice is $52 million or no money, and what I want, and I come from the third most populous native American district in this Congress, I want the people in my district to receive the funds for the children who are going to need this money.

Mr. Chairman, I very well understand how important this money is, but I also understand what our priorities are, and this debate is about priorities, and it is about lessening the cost of government and still delivering the product of government, and I would urge that we would defeat the Obey amendment so that we can consider my amendment.

Mr. RICHARDSON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I ask for support for the Obey-Richardson-Clayton amendment, and let me say that what is right now on the floor is the Obey amendment. I have heard this Coburn amendment. Nothing has been offered, and I am not sure it is in order. Let me just say what we are doing with the decimation of the Office of Indian Education:

We are affecting 32 States. Any Member here that has a native American in their district is affected.

Now I am the former chairman of the Native American Subcommittee. The gentleman from American Samoa [Mr. FALEOMAVAEGA] is now the ranking member. He dealt with this issue for years. If the initiative of the Interior appropriations passes, 92 percent of Indian children in this country will not be served because they live off reservations.

One of the myths that we have about the Indian people in this country is that they all live on reservations. They do not. They live in cities. They live in our rural areas. They live in all of our districts.

So what we are doing, what the initiative of the appropriations was doing, was zeroing out the Office of Indian Education that serves 92 percent of Indian children, and what the gentleman from Wisconsin [Mr. OBEY] is trying to do, and the gentlewoman from North Carolina [Mrs. CLAYTON], and myself, and many others; and I think the gentleman from Oklahoma [Mr. COBURN] has some very good intentions; those of us that have Indian districts, is restore the funds for this vital program.

Now what is this money used for? It is used for formula grants. Seventy percent of funding is grants to local schools with Indian populations, special programs for Indian children, dropout prevention, programs for the gifted and talented students, programs for Indian adults. Less than 5 percent of these funds go toward administration.

Now let me just give my colleagues some statistics about Indian children in this country: 12.5 percent below the national average. Thirty-seven percent of Indian children live below poverty level. Only 50 percent of schools with a majority of Indian students have college prep programs compared to 76 percent of other public schools. Only 9 percent of native Americans have bachelor's degrees compared with 20 percent of other adults, and we are taking the money from the Naval Petroleum Reserve, the fossil energy R&D. It has a big budget, it got an increase, and that is important, but we are taking out $20 million or so from it. The Bureau of Mines is being phased out this year, but after this offset the Bureau is still going to have $70 million to shut down, so what we are doing is educating Indian children.

If this amendment passes, we are creating a travesty of the special relationship the Federal Government and we all have with the Indian people that have no lobbyists around here. They do not have anybody down the halls with their Gucci loafers saying, "Restore Indian education." But these are the forgotten Americans. These are the first Americans, and all of a sudden in the name of budget cutting, because we want to increase fossil fuels, they are paying 92 percent of Indian children, and we cannot have these special programs for us. Yes, we have increased money on BIA schools, BIA schools that are not run terribly efficiently on the reservation. That is 8 percent.

So what we need to do is focus clearly on what the Obey amendment does. It restores the funds for these programs, and it takes it out of programs that have been working but clearly have been very generously funded in this subcommittee.

Mr. ROSE. Mr. Chairman, will the gentleman yield?

Mr. RICHARDSON. I yield to the gentleman from North Carolina.

Mr. ROSE. Mr. Chairman, I certainly agree with what the gentleman has said. I support Mr. OBEY'S amendment to restore funding for the Office of Indian Education. Elimination of the funding will mean over a $2 million loss to the State of North Carolina and over $1 million in my own congressional district. There are many members of the Lumbee Indian tribe in my district, the largest tribe east of the Mississippi, and the ninth largest in the United States. They have benefited greatly by the Indian education program. They have become doctors and lawyers. They have become productive, law-abiding citizens, teachers, many professionals, and I am proud of the contribution that the Indian Education Act has made to their lives.

I think our human resources are clearly just as important as our natural resources, and to cut this out to accomplish fiscal austerity on the backs of Indian children is in my opinion mean spirited and shortsighted. Please vote for the amendment proposed by the gentleman from Wisconsin [Mr. OBEY].

The CHAIRMAN. The time of the gentleman from New Mexico [Mr. RICHARDSON] has expired.

(On request of Mr. ROSE and by unanimous consent, Mr. RICHARDSON was allowed to proceed for 3 additional minutes.)

Mr. WILLIAMS. Mr. Chairman, will the gentleman yield?

Mr. RICHARDSON. I yield to the gentleman from Montana.

Mr. WILLIAMS. Mr. Chairman, I appreciated listening to the gentleman's facts with regard to the plight of Indians, which is very real, and his facts are accurate. I do want to point out to my colleagues, however, that Indians have made extraordinary gains over the past approximately 15 years in educational achievement in the number of native Americans going to college and in college graduation rates, and in fact probably greater achievements than any other ethnic group in the United States. In my own State of Montana we have now reached the, some think, extraordinary situation where a higher percentage of native Americans now attend college than do the majority of Montanans, and so native Americans have turned the corner with regard to educational achievements, and we ought not abandon the Federal efforts that brought that about.

Mr. PASTOR. Mr. Chairman, will the gentleman yield?

Mr. RICHARDSON. I yield to the gentleman from Arizona.

Mr. PASTOR. I represent the urban areas of Arizona, Phoenix, Tucson, and these areas are surrounded by Indian reservations, and because the economic opportunities on many of these reservations are very poor, lack of jobs, lack of opportunities, many of my native American constituents move into the urban areas. I have to tell my colleagues that they are people who do not have the highest education, do not have the talents to get the best-paying jobs, and so they tend to live in areas, in school districts, that do not have the highest resources, and that translates into that many of these young native Americans who are in our elementary schools or secondary schools have special needs, have special problems which the public school needs to address, and these moneys which service native Americans who are living in urban areas are much needed.

If there is one thing we need to do as adults, that is to ensure that our children are well educated, and these native Americans need these programs, need these resources, and I would think that all of us would want to ensure that the native Americans of this country would have the opportunities to better themselves.

So I would ask all of my colleagues to support the Obey amendment because it brings hope, it brings opportunities, to native Americans who want to better themselves, and they live in the urban areas.

☐ 1545

Mr. JOHNSON of South Dakota. Mr. Chairman, will the gentleman yield?

Mr. RICHARDSON. I yield to the gentleman from South Dakota.

Mr. JOHNSON of South Dakota. Mr. Chairman, I thank the gentleman for yielding. I rise in strong support of the Obey amendment.

The CHAIRMAN. The time of the gentleman from New Mexico [Mr. RICHARDSON] has expired.

(By unanimous consent, Mr. RICHARDSON was allowed to proceed for 1 additional minute.)

Mr. RICHARDSON. Mr. Chairman, I yield to the gentleman from South Dakota [Mr. JOHNSON].

Mr. JOHNSON of South Dakota. Mr. Chairman, in an entire State, the State of South Dakota, nine Indian reservations, it has become apparent to me the one successful strategy to combat poverty and break away from dependence of the Federal Government, in fact has been quality education. Eliminating the Office of Indian Education would have a profound negative impact in my State of South Dakota. We would lose over $2.6 million in formula and discretionary funds, 49 South Dakota school districts would be negatively impacted, and 17,800 native American children would lose educational opportunities. This is the one area where we should not be retreating.

Mr. Chairman, I again express my strong support for the amendment.

Mr. Chairman, I rise in support of the amendment before us proposed by the Representative from Wisconsin to restore funding for the Department of Education's Office of Indian Education, which has been targeted for elimination. Since 1972, the invaluable programs administered through the Office of Indian Education have helped over 1,200 school districts nationwide address the unique academic needs of millions of American Indian and Alaska Native children and adults. Mr. Chairman, 56 percent of the American Indian population in this country is age 24 or younger. Consequently, the need for improved educational programs and facilities, and for training the American Indian work force is pressing. I wish to use the remainder of my time to urge our continued bipartisan commitment to the Education Department's Office of Indian Education, and the hundreds of thousands of disadvantaged young people served annually by this Office.

American Indians have been, and continue to be, disproportionately affected by both poverty and low educational achievement. In

1990, over 36 percent of American Indian children ages 5–17 were living below the poverty level. The high school completion rate for Indian people aged 20 to 24 was 12.5 percent below the national average. American Indian students, on average, have scored far lower on the National Assessment for Education Progress indicators than all other students. In 1994, the combined average score for Indian students on the scholastic achievement test was 65 points lower than the average for all students. These statistics reflect the continued neglect of America's under-served Indian population and are unacceptable.

By eliminating the Office of Indian Education, there is little hope of breaking the cycle of low educational achievement, and the unemployment and poverty that result from neglected academic potential. This Office, unlike any other, provides educational services that directly address the unique learning needs and styles of Indian students, with sensitivity to Native cultures, ultimately promoting higher academic achievement. Eliminating the Office would have a particularly profound impact on Indian education in my State of South Dakota. More than $2.6 million in formula and discretionary funds assisted American Indian children and adults in South Dakota in fiscal year 1994. Grants were made directly to 49 South Dakota school districts. The education of almost 17,000 of our American Indian children in South Dakota would be significantly affected if the programs administered by the Office were eliminated. In addition, if funding were no longer available, every South Dakota school currently receiving a grant would have to release at least one staff person, resulting in almost 200 teachers and aides no longer working in Indian education in the State. This past year, almost $300,000 went to tribal schools to support innovative approaches to Indian education and more than $350,000 supported student fellows in teacher training programs in colleges throughout our State. The loss of these discretionary programs will not only adversely affect potential recipients of teacher training and professional development, but will virtually cut off those tribal communities which benefit from students returning to education professions on reservations.

In terms of local empowerment, Native Americans remain at a distinct disadvantage. While the growth rate of native populations is accelerating rapidly, the nearly 2 million American Indians living in the United States in 1990 represented an increase of 39 percent over the 1980 total, American Indians and Alaska Natives still comprise less than 1 percent of the total U.S. population. With more than 500 American Indian tribes and Alaska Native villages, the population is also highly diverse in terms of culture and need. Small in numbers, isolated and diverse, this is a population that clearly needs and deserves our special attention.

There are strong historical and moral reasons for continued support of this program. In keeping with our special trust responsibility to sovereign Indian nations, we need to promote the self-determination and self-sufficiency of Indian communities. Education is absolutely vital to this effort. The elimination of the Office of Indian Education would violate the Government's commitment and responsibility to Indian nations and only slow the progress of self-sufficiency.

This question of eliminating the Indian education programs is not just about dollars and programs for a population in need. It is also about helping communities and cultures to survive.

Mr. RICHARDSON. Mr. Chairman, in conclusion, let us invest in people and children. R&D for fossil energy can be done by the private sector, but let us not stop this investment in kids, in programs, and education. I urge support for the Obey-Richardson-Clayton amendment.

Mr. Chairman, I also want to respond to charges that our amendment restores unnecessary bureaucracy. Only $3.8 million of last years $83 million appropriated for title IX funding was spent on the Office of Indian Education and the National Advisory Council on Indian Education.

What Mr. COBURN's amendment, should it be offered, does not do is provide funding for special programs for Indian children and programs for Indian adult education. This is wrong.

The CHAIRMAN. The Committee will rise informally in order to receive a message.

MESSAGE FROM THE PRESIDENT

The SPEAKER pro tempore (Mr. HANSEN) assumed the chair.

The SPEAKER pro tempore. The Chair will receive a message.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Edwin Thomas, one of his secretaries.

The SPEAKER pro tempore. The Committee will resume its sitting.

□ 1548

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 1996

The Committee resumed its sitting.

Mr. HAYWORTH. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, as I look around this Chamber and as I think about the promises in January, the notion was to come here and to end business as usual, and that is in fact the intent of many of us in this Congress. Ofttimes it involves reaching across the aisle, listening to different arguments, and basing our support or our opposition not on previous partisan labels, but taking a look and carefully examining the problems one by one. That is why I am pleased to stand in strong support of this amendment.

Mr. Chairman, I represent a large portion of the Navajo Nation, that sovereign nation within the Sixth District of Arizona and reaching beyond the borders of Arizona to several other States. I am mindful of the fact that in our treaty obligations to the Navajo Nation, we have a variety of promises that were made well over a century ago.

Now, I stand here in support of this amendment not to criticize my friends on this side of the aisle, who believe we can look for other sources of funding, but, instead, to underline the importance of upholding these treaty obligations and looking to educate the children of the native American tribes, for it is a sacred obligation we have, and it is a proper role of the Federal Government to move in that regard.

So, for that reason, again, I stand in strong support of the amendment.

Mrs. CLAYTON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment offered by the gentlemen from New Mexico and Wisconsin and myself. I want to make the distinction that while we are asking our colleagues to reexamine and recommit to restoring the $81 million for the Indian education program, I want us to understand that this is not duplicative of the program that is already there. This really has a distinct value in and above that, and it is supplementary and not duplicative. It means these are programs going to public schools to enable 92 percent of all Indians who live in this country to get additional supplemental education. It is an opportunity to make sure that those young people, who are falling through the cracks academically, have an opportunity to be competitive and do well.

Further, Mr. Chairman, I would think our colleagues would find it unacceptable that $81 million would get in the way of doing what we should be doing for the very first inhabitants of this country. Further, I think we would want to support education as being consistent with self-sufficiency. I see all of these reasons and others as to why we should want to restore this to its full amount, and not reduce it to a lesser amount than it is presently. Really, it should be increased. In the spirit of keeping the budget constraints, we are saying restore it to the $81 million.

So it really is a thoughtful amendment that recognizes under the constraints that all programs have to adjust. I would ask that my colleagues across both sides of the aisle understand, this is an opportunity really that we can say to the native Americans, that we do care about them, and that education is important.

Ms. FURSE. Mr. Chairman, will the gentlewoman yield?

Mrs. CLAYTON. I yield to the gentlewoman from Oregon.

Ms. FURSE. Mr. Chairman, I thank the gentlewoman for yielding.

I rise in very strong support of this amendment. I think unfortunately we know very little about the whole issue of treaty keeping, and I want to congratulate my Republican colleague from Arizona, who understands that we have a sacred trust responsibility to keep treaties. These education funds are just a tiny little downpayment, shall we say, on the land that we enjoy, which we have in our trust because the Indian tribes signed treaties many years ago.

My colleague from North Carolina mentioned that 92 percent of Indian children are affected by this funding, and that is absolutely true. We are told it is duplicative, but in fact the Bureau of Indian Affairs schools do not meet more than 8 percent of the Indian children's educational needs.

We can indeed, and my colleague has spoken of that, change the poverty that has so impacted native Americans by making sure that we live up to our responsibility, our treaty responsibility, a treaty which we swore to uphold when we became Members of this body. We cannot abandon these native American children; we cannot abandon this opportunity.

Mr. Chairman, I support this amendment, and I congratulate the gentlewoman and her colleagues for having brought this amendment forward.

Mr. FATTAH. Mr. Chairman, will the gentlewoman yield?

Mrs. CLAYTON. I yield to the gentleman from Pennsylvania.

Mr. FATTAH. Mr. Chairman, let me associate myself with the remarks of my colleagues on both sides of the aisle in favor of this very important amendment. I think that this legislation, absent the Obey amendment, would be morally bankrupt and fatally deficient for this Congress to pass. We have an absolute commitment, and we should always remind ourselves that no matter how expensive we may perceive education to be, ignorance costs more.

I come from the city of Philadelphia in Pennsylvania, and I just know that my constituents support fully this country's continuing commitment to Indian education. I hope that we would favorably approve the Obey amendment.

Mr. MILLER of California. Mr. Chairman, will the gentlewoman yield?

Mrs. CLAYTON. I yield to the gentleman from California.

Mr. MILLER of California. Mr. Chairman, I want to commend the gentlewoman for offering this amendment to keep our commitment and our trust obligations, and to thank her and her colleagues, Mr. OBEY and Mr. RICHARDSON, for this amendment. I rise in support of it and hope the House will pass this amendment.

Mrs. CLAYTON. Mr. Chairman, reclaiming my time, this is an opportunity. Education is important. More important, it is an opportunity to say the American Indian children are important and they should be included in our commitment to all Americans.

Mr. REGULA. Mr. Chairman, I ask unanimous consent that all debate on this amendment and any amendments thereto close in 10 minutes, and that the time be equally divided.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The CHAIRMAN. The gentleman from Illinois [Mr. YATES] will manage 5 minutes, and the gentleman from Ohio [Mr. REGULA] will manage 5 minutes.

Mr. YATES. Mr. Chairman, I yield 5 minutes to the gentleman from American Samoa [Mr. FALEOMAVAEGA].

Mr. FALEOMAVAEGA. Mr. Chairman, as the ranking member of the Subcommittee on Native Americans and Insular Affairs of the Committee on Resources, I want to express my strong support of the amendment offered by the gentleman from Wisconsin [Mr. OBEY], the ranking member of the House Committee on Appropriations. The amendment simply restores the badly needed funds for education of American Indians and Alaskan Native children in public schools.

Mr. Chairman, I submit this is a downright tragedy that the Congress of the United States would take away money from our American Indian children's future to fund other programs like timber sales management.

Mr. Chairman, I also want to make it clear that funding for title IX is not duplicative of BIA directed funding. Title IX funding is for children in public schools, while BIA funding is for Indian children in BIA or tribally operated schools.

Mr. Chairman, as so eloquently stated in a letter by my good friend from Alaska and chairman of the House Committee on Resources, why do we continue to pick on those who simply cannot defend themselves, the children?

Mr. Chairman, I urge my colleagues to support the Obey amendment and restore the funds needed for the education of American native and Alaskan Native children.

Mr. REGULA. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, let us make it clear what is going to happen here. We will have a vote on the Obey amendment. I urge my colleagues to vote no on the Obey amendment because it takes the money out of fossil energy research. We have already cut that 10 percent. It impacts heavily on States like Ohio, California, Indiana, Illinois, and New York, places where we are doing research. It takes money out of the Bureau of Mines. We have already cut them back. We just leave them enough to close out. If we take any more money, they cannot even do that. It takes money out of the Naval Petroleum Reserves. We have already cut that 20 percent. This is a function that generates $460 million a year in revenues.

I think that we need to foster energy security. We are not arguing about giving the money for the native American education programs. This gives about $153 per child to schools to have enrichment programs for Indian children. We agree on both sides that this needs to be done. The question is where to get the money.

We are going to have a Coburn amendment that is in title II, so it cannot be done immediately, but the Coburn amendment will do essentially the same thing, except it takes the money out of Forest Service administrative expenses. Because of the spendout rate we only need to take $10 million from forest administration to provide the $52 million in the Coburn amendment to provide for the Indian education.

I think it is important that we provide the funds for Indian education, but I think it is also very important that we use the financing mechanism provided in the Coburn amendment.

Mr. Chairman, I would urge my colleagues to vote no on the Obey amendment, recognizing that you will get an opportunity shortly to vote yes on the Coburn amendment to take care of the Indian education, but the source of funding would be far less serious in its impact on the policies of the United States.

Again, "no" on Obey, and very shortly when we get into title II, we will be able to vote for the Indian education with the Coburn amendment.

Mr. Chairman, I urge my colleagues to vote "no" on the Obey amendment that is coming up for a vote immediately, knowing that you can vote "yes" on the Coburn amendment to accomplish the same objective.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Wisconsin [Mr. OBEY].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. MILLER of California. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 143, noes 282, not voting 9, as follows:

[Roll No. 501]

AYES—143

Abercrombie
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bereuter
Berman
Bishop
Bonior
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Clay
Clayton
Clyburn
Coburn
Coleman
Collins (IL)
Conyers
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Durbin
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gonzalez

Gutierrez
Harman
Hastings (FL)
Hayworth
Hinchey
Hoyer
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Lantos
Levin
Lewis (GA)
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Matsui
McDermott
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Peterson (MN)
Pomeroy
Rangel
Reed
Richardson
Rivers
Roemer
Rose
Roth
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Skaggs
Slaughter
Spratt
Stark
Stokes
Studds
Stupak
Tejeda
Thompson
Thornton
Thurman
Torres
Towns
Tucker
Velazquez
Vento
Waters
Watt (NC)
Waxman
Williams
Woolsey
Wyden
Yates
Young (AK)

NOES—282

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bentsen
Bevill
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Borski
Boucher
Brewster
Browder
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clement
Clinger
Coble
Collins (GA)
Combest
Condit
Cooley
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
Deal
DeLay
Diaz-Balart
Dickey
Doggett
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Gordon
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hefley
Heineman
Herger
Hilleary
Hilliard
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson-Lee
Johnson (CT)
Johnson, Sam
Jones
Kanjorski
Kasich
Kelly
Kim
King
Kingston
Klink
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
Mascara
McCarthy
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murtha
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Orton
Oxley
Packard
Parker
Paxon
Payne (VA)
Peterson (FL)
Petri
Pickett
Pombo
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stenholm
Stockman
Stump
Talent
Tanner
Tate
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Torricelli
Traficant
Upton
Visclosky
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Ward
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wilson
Wise
Wolf
Wynn
Young (FL)
Zeliff
Zimmer

NOT VOTING—9

Ackerman
Bono
Collins (MI)
Fields (TX)
Green
Hefner
Moakley
Reynolds
Tauzin

☐ 1620

The Clerk announced the following pair: On this vote:

Mr. Moakley for, with Mr. Bono against.

Messrs. DAVIS, FRELINGHUYSEN, VOLKMER, and HILLIARD changed their vote from "aye" to "no."

Mr. YOUNG of Alaska and Mr. BERMAN changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. GALLEGLY

Mr. GALLEGLY. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. GALLEGLY: Page 34, line 24, strike "$69,232,000" of which (1) $65,705,000 shall be" and insert "$52,405,000, to remain".

Page 34, line 25, strike "technical assistance" and all that follows through "controls, and" on line 1 of page 35.

Page 35, strike lines 11 and 12 and insert: "272): *Provided*".

Page 35, line 25, strike "funding:" and all that follows through line 23 on page 36 and insert "funding.".

Mr. GALLEGLY. Mr. Chairman, I am offering this amendment as the chairman of the Subcommittee on Native American and Insular Affairs.

I am also offering this amendment with the support of the ranking member, the delegate from American Samoa, Mr. FALEOMAVAEGA.

My amendment, quite simply, would cut $16.8 million for funding of the obsolete Office of Territorial and International Affairs and its associated programs. The termination of this one Office will result in a 7-year savings of $120 million.

In the previous Congress, a number of my colleagues joined me in cosponsoring legislation to abolish the office which formerly administered islands with appointed Governors and High Commissioners. This should have taken effect last October when the United Nations terminated the U.S. administered trusteeship.

Earlier this year, Secretary Babbitt formally signaled that it was time to turn the lights out at the OTIA.

As a result of this the Native American and Insular Affairs Subcommittee conducted an extensive review and held hearings to reexamine existing policies affecting these island areas and also concluded that now was the time to terminate this Office. Subsequently, the subcommittee as well as the full Resources Committee passed H.R. 1332 with overwhelming bipartisan support. We expect to bring this legislation to the House floor very soon.

Finally, during our hearings, Gov. Roy L. Schneider of the Virgin Islands testified that "abolishing the Office will save the Federal Government money and will not harm the territories."

The bottom line here, my colleagues, is that we have an opportunity to end a program which was begun when Alaska and Hawaii were territories and save the taxpayer $17 million.

I want to express my appreciation to the chairman of the Interior Appropriations Subcommittee, my friend Mr. REGULA, for his willingness to work with me on this effort.

I urge my colleagues to support the amendment and to join in a substantive action to streamline the Federal Government, advance self-governance, and save taxpayer funds.

I urge passage of the amendment.

Mr. REGULA. Mr. Chairman, I move to strike the last word.

Mr. Chairman, the committee mark already poses a 22.5-percent reduction that is already in the bill for territorial programs. In addition, we have eliminated the Assistant Secretary for Territorial and International Affairs. The bill takes the first steps. These are additional steps being proposed by the gentleman from California [Mr. GALLEGLY].

I urge that we adopt the amendment. I think that the Territorial Office is an anachronism in this period. It saves a considerable amount of money. I think it would be an excellent amendment and an excellent thing for us to accept.

Mr. YATES. Mr. Chairman, will the gentleman yield?

Mr. REGULA. I yield to the gentleman from Illinois.

Mr. YATES. Mr. Chairman, there are a number of questions that require answers. For example, we are told that in eliminating the territories' administrative fund, the Secretary of the Interior continues to be responsible for nearly $2 billion; the current Treasury balance is $310 million; that the future funding mandatory is $1,603,000,000. What happens to that money? Under his amendment, what would happen to that money? Can the gentleman answer my question, or can somebody on that side answer the question? The Secretary now has $2 billion belonging to the territories, for which he is responsible. There is $310 million in the current Treasury balance.

Mr. YATES. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to ask the proponent of this amendment, what happens to the almost $2 billion which is now with the Secretary of the Interior, which he is holding in trust for the territories?

Mr. GALLEGLY. Mr. Chairman, will the gentleman yield?

Mr. YATES. I yield to the gentleman from California.

Mr. GALLEGLY. Mr. Chairman, I am happy to try to respond. We still have 25 people in the inspector general's office that are prepared to administer those funds. We no longer need the OTIA to continue to provide that service.

Mr. YATES. Mr. Chairman, do I understand the gentleman, then, to be saying that the administration of the territories will be moved to the inspector general's office?

Mr. GALLEGLY. Only for the purpose of auditing the funds.

Mr. YATES. Who will have the responsibility of supervising the territories, Mr. Chairman, until they have their freedom?

Mr. FALEOMAVAEGA. Mr. Chairman, will the gentleman yield?

Mr. YATES. I yield to the gentleman from American Samoa.

Mr. FALEOMAVAEGA. Mr. Chairman, if I may respond, what the Secretary of the Interior has done is terminated the Office of Assistant Secretary of Territorial and Insular Affairs. In doing so, he is placing part of the responsibility to his Assistant Secretary for Budget and Planning. Within the Office of Budget and Planning, I am told that under the Deputy Assistant Secretary and further down the line there, he is going to establish an office which is called the director that is supposed to be keeping an eye, at least on behalf of the Secretary, on whatever is left to do with the territories.

What we are trying to do here, if I might respond to the gentleman, the Secretary of Interior made an announcement based on our hearing that he was going to terminate the entire Office of Territorial Affairs. I assume that he is going to do it directly under the auspices of his office and assistants.

Mr. YATES. Mr. Chairman, I would say to the gentleman, however, I do not know how this would correct that situation. In other words, what the gentleman has been saying is the Secretary of the Interior has just practically relieved himself of administering the territories.

Mr. GALLEGLY. If the gentleman will continue to yield, the only thing I would like to say is that we no longer have trust territories. What we do have are elected Governors, democratically elected Governors of these territories. We are absolutely convinced that the territories really should have the right, and we have the confidence that they have the ability to self-govern.

Mr. FALEOMAVAEGA. If the gentleman will continue to yield, to respond further to him, Mr. Chairman, the Federated States of Micronesia, the Republic of the Marshalls, and the Republic of Palau, are basically independent. Basically whatever funding Congress provides for them as part of the compact agreement is administered directly from the Secretary's office. I assume that it now falls in the responsibility of the Assistant Secretary of Planning and Budget.

□ 1630

Mr. YATES. The gentleman from American Samoa has just said the Secretary of the Interior has moved responsibility for the Territories to the Office of Planning and Budget.

Mr. FALEOMAVAEGA. That is correct.

Mr. YATES. Do I understand that your amendment will move supervision of the Territories, such as remains, from the Office of Planning and Budget in the Secretary of the Interior to the Office of the Inspector General?

Mr. GALLEGLY. No, it does not, I say to the gentleman from Illinois [Mr. YATES].

Mr. YATES. Where does it go, then? If it is not to remain in the Office of Planning and Budget, who will have supervision?

Mr. GALLEGLY. If the gentleman would yield further, we are in a new era, I say to the gentleman from Illinois [Mr. YATES]. We no longer are operating the way we have for the last many years.

These Territories have elected Governors and legislators. They have the ability, and the time has come, as the Secretary has said, to allow them their own ability to self-govern. With the exception of the Northern Marianas, there is a Delegate to the House of Representatives, as is the case with the gentleman from American Samoa [Mr. FALEOMAVAEGA]. Every one of the Territories, with the exception of the Northern Marianas, has a Delegate in this body, and the Northern Marianas has a democratically elected governor.

Mr. YATES. I continue to be concerned about the administration of the funding. Even though they are now self-governing, what happens in the event that there is a significant financial loss?

Mr. GALLEGLY. As I said to the gentleman, they do have representation here in this body in the form of Delegates and representation in the committee. I do not see that as a problem. The Secretary of the Interior himself says the time has come to turn out the lights, and I am using his quote.

Mr. FALEOMAVAEGA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise today in strong support of Congressman GALLEGLY's amendment to title I of H.R. 1977, the Interior appropriations bill.

Mr. Chairman, earlier this year, the Committee on Resources had approved by voice vote an authorization bill (H.R. 1332) which will, among other things, delete the position of Assistant Secretary for Territorial and International Affairs, terminate funding for the Commonwealth of the Northern Mariana Islands, terminate funding for four territorial assistance programs, provide multiyear funding for the territory of American Samoa, and add procedural improvements for the relocation of the people of Rongelap. H.R. 1332 will save the U.S. Government in excess of $100 million over the next 7 years. Regrettably, the Appropriations Committee has chosen not to accept the approach adopted by the Resources Committee.

Earlier this year the Secretary of the Interior announced that he was going to close the Office of Territorial and International Affairs, within the Department of the Interior. Later, as the details became available, it became apparent that the administration wanted only to downgrade the office and reduce its size to approximately 25 people.

Given that the territory of American Samoa and the Commonwealth of the Northern Mariana Islands are the only territories in which OTIA is actively involved, and given the increased level of self-autonomy already provided to the territories, I submit that 25 people is much too large of a staff for this office, and believe it should be terminated or cut substantially. While the four assistance programs contained in the President's budget and the appropriations bill have been useful in the past, the time has come to terminate these programs as well, and move forward in our relations with the territories.

Mr. Chairman, the Gallegly amendment is consistent with the budget resolution for fiscal year 1996 and consistent with the actions of the authorizing committee this year. In effect, the authorizing committee, and the full House are moving in one direction on these issues, while the Appropriations Committee is moving in another.

The Gallegly amendment cuts Federal spending, reduces Government bureaucracy, and moves the administration of the U.S. insular areas toward greater self-autonomy.

Chairman ELTON GALLEGLY and I have been working on an authorizing bill for the territories all year. Our approach has been approved by the Resources Committee, and will be a significant change in insular policy for our Government. This change has been a long time in coming, but the time has come.

Mr. Chairman, Congress' move toward reduced Federal spending is causing significant pain throughout our Government. I am pleased that insular policy is one area in which the authorizing committee has achieved substantial bipartisan agreement. Insular policy is not an area followed closely by most of us, but those of us who work in the area see this as a positive change, and I urge my colleagues to support the Gallegly amendment and conform the appropriations bill to the budget resolution and the action of the authorizing committee.

The CHAIRMAN pro tempore (Mr. GOODLATTE). The question is on the amendment offered by the gentleman from California [Mr. GALLEGLY].

The amendment was agreed to.

AMENDMENT OFFERED BY MRS. VUCANOVICH

Mrs. VUCANOVICH. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. VUCANOVICH: On page 33 line 17 strike "67,145,000" and in lieu thereof insert "$75,145,000" and on line 18 strike "65,100,000" and insert in lieu thereof "$73,100,000".

Mrs. VUCANOVICH (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentlewoman from Nevada?

There was no objection.

Mrs. VUCANOVICH. Mr. Chairman, this amendment restores $8 million for the Pyramid Lake water rights settlement. Funds available from a previous amendment which reduced funding from the territorial assistance account is sufficient to offset this amendment.

This water rights settlement is very important to the constituents within my congressional district. The final payment for the Pyramid Lake settlement is due next year, at which time an agreement will be implemented to supply much-needed water to the Reno-Sparks area. It is my understanding that the committee intends to fully fund this program in time to consummate this important water rights agreement.

Mr. YATES. Mr. Chairman, will the gentlewoman yield?

Mrs. VUCANOVICH. I yield to the gentleman from Illinois.

Mr. YATES. Mr. Chairman, our side has no objection to this amendment.

Mrs. VUCANOVICH. I thank the gentleman.

Mr. REGULA. Mr. Chairman, will the gentlewoman yield?

Mrs. VUCANOVICH. I yield to the gentleman from Ohio.

Mr. REGULA. Mr. Chairman, we have no objection. This is an obligation of the U.S. Government. We have freed up the funds to do it because we are on a very tight budget. We are pleased that we are able to accept the amendment.

Mrs. VUCANOVICH. I thank the chairman very much. I urge the acceptance of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from Nevada [Mrs. VUCANOVICH].

The amendment was agreed to.

AMENDMENT, AS MODIFIED, OFFERED BY MR. MILLER OF CALIFORNIA

Mr. MILLER of California. Mr. Chairman, I offer an amendment, amendment No. 32 printed in the RECORD, and I ask unanimous consent that the amendment be modified as set forth in the amendment I have at the desk.

The CHAIRMAN. The Clerk will designate the amendment and report the modification.

The text of the amendment is as follows:

Amendment offered by Mr. MILLER of California: Page 5, line 15, strike "$8,500,000" and insert $14,750,000".

Page 11, line 16, strike "$14,100,000" and insert "$67,300,000".

Page 17, line 21, strike "$14,300,000" and insert "$84,550,000".

Page 17, line 26, strike "$1,500,000" and insert "$3,240,000".

Page 47, line 23, strike "$14,600,000" and insert "$65,310,000".

Page 55, line 5, strike "$384,504,000" and insert "$200,854,000".

The Clerk read as follows:

Amendment, as modified, offered by Mr. MILLER of California: Page 5, line 15, strike "$8,500,000" and insert "$14,750,000".

Page 11, line 16, strike "14,100,000" and insert "$67,300,000".

Page 17, line 21, strike "$14,300,000" and insert "$84,550,000".

Page 17, line 26, strike "$1,500,000" and insert "$3,240,000".

Page 17, after line 26, insert the following: For expenses necessary to carry out the provisions of the Urban Park and Recreation Recovery Act of 1978 (16 U.S.C. 2501–2514), $5,000,000.

Page 47, line 23, strike "$14,600,000" and insert "$65,310,000".

Page 55, line 5, strike "$384,504,000" and insert "$195,854,000".

Mr. MILLER of California (during the reading). Mr. Chairman, I ask unanimous consent that the amendment, as modified, be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN. Without objection, the amendment is modified.

There was no objection.

Mr. MILLER of California. Mr. Chairman, this amendment should be supported by all Members who care about our national parks, national wildlife refuges, national forests and public lands. This is an amendment that should be supported by those who care about our parks and outdoor recreation opportunities in our urban areas. No doubt about it, this amendment directly benefits people in every congressional district in this country.

The land and water conservation fund is one of the most popular and successful programs that our government has run. Funded by a portion of the oil and gas revenues generated from leasing Federal lands on the Outer Continental Shelf, the land and water conservation fund helps to meet the increasingly heavy demand for hunting, fishing, and recreation areas, protects outstanding resources, and preserves the Nation's natural and historical heritage.

In addition to Federal land acquisitions, the fund provides for direct grants to States for parks, open space and outdoor recreational facilities. Since 1965, over 37,000 State and local grants have been awarded, totaling $3.2 billion. The States and localities have matched this amount dollar for dollar to acquire $2.3 million acres of park land and open space and to develop more than 24,000 recreation sites.

In fiscal 1996 there will be $11 billion in this trust fund, yet unappropriated for a lot of political reasons, but unfortunately the short fund, the recreational needs of this country.

My amendment would fund the Land and Water Conservation Program at the same levels that Congress appropriated in fiscal year 1995. In addition, my amendment provides for $5 million to fund the Urban Parks and Recreation Recovery Program. The current bill provides no funding for this program.

My amendment would provide an increase of $183 million over the $51 million which is provided in the bill as reported by the Committee on Appropriations.

The increased funds for land and water conservation provided in this amendment are offset by a corresponding $183 million reduction in the Department of Energy's fossil energy research and development fund.

It is true that the budget resolution which Congress has adopted calls for a 7-year freeze on Federal land acquisitions, but I would remind my colleagues that this House also had voted to abolish the Department of Energy, and yet the bill before us today would provide Department of Energy funding for fossil fuel research to the tune of $384 million. It is my understanding that this research appropriation greatly in excess of the $220 million level which the Committee on Science has authorized in H.R. 1816. By contrast, my amendment would bring the DOE spending within the Committee on Science limits by allowing $195 million for DOE's fossil research programs.

This amendment presents a very real question of priorities. In my view, the national wildlife refuges, the national forests, the public lands and the urban park areas outweigh the need for the excessive and above the level the Committee on Science recommends for spending on DOE research for coal, oil and gas, research which can and should be done by those industries without these Federal subsidies.

Finally, Mr. Chairman, I think the amendment ought to be considered in the context of the debate on the Endangered Species Act and the private property rights. Members recently have received a July 10 "Dear Colleague" on the recent "Sweet Home" Supreme Court decision on the Endangered Species Act. In that "Dear Colleague," the gentleman from Alaska, the chairman of our committee, and five other Members state that if we are to have wildlife refuges and sanctuaries, we should go back to the right way of obtaining them, buy them or pay them for the use of the land for refuges.

We will debate the merits of the Endangered Species Act at length when that legislation is reported to the floor. But what we must understand, that Members cannot continue to claim that they think the right way to provide for these lands is to pay for those private properties, which it is, and then not provide the money to do so when these lands are so important to helping our urban areas, our suburban areas and our rural areas meet the demands for recreation and for public space and to meet the needs of both endangered species and habitat.

The Land and Water Conservation Fund has a priority list of lands that include bear habitat within the Kodiak National Refuge, the Upper Mississippi River National Wildlife Refuge in Minnesota, Wisconsin, Iowa, and Illinois; preserve the natural water flow patterns for the critical Everglades National Park in Florida; to promote the outdoor recreation of the Appalachian National Scenic Trail in Connecticut, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, and New York; to protect the historical integrity of the Gettysburg National Military Park in Pennsylvania; to enhance the scenic and natural values of the Santa Monica Mountains National Recreation Area in Los Angeles, the important national forests of the greater Yellowstone area in Montana; to help protect the salmon streams and the national forests in Oregon and Washington; and to provide resources to those urban areas who are trying to reclaim the recreational opportunities for their youth in cities throughout the country that are trying to bring back the streets, a very successful program where again local government has sought to participate far in excess of the moneys that are available, and without these moneys they simply will not be able to take care of those urban resources and to fully fund the backlog of acquisition and problems that we have.

We have people who are inholders who want to get rid of their private lands, who want the Government to buy those lands. We have management problems created in some cases by those, but there is no money. This is the great backlog that we continue to discuss in this Congress where we continue to add to it. Hopefully we will not continue to add to it in the new Congress, but we ought to start getting rid of it out of fairness to those landholders and those people who are concerned about the integrity of our natural resource system.

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So those are the priorities. The Congress can choose, as this bill does, to force feed energy research in oil and gas and coal far beyond the recommendation of the Committee on Science, or we can take that excess force feeding of those moneys and apply them to very high-priority items throughout the entire country to protect and preserve the environment, to protect and preserve our national parks, to protect and preserve our national forests, and to expand and protect and preserve the recreational opportunities for our citizens in our inner cities and suburban communities and small towns across the country.

That is the choice that this amendment presents. It is neutrally funded. It costs no more money than to force feed this energy research. I would hope my colleagues would choose their local community that is requesting these funds. I would hope they would choose their local counties. I would hope they would choose their local States and the gems of the natural resource system of this country, the national parks, the national wilderness, and the national refuge system of the United States.

Mr. REGULA. Mr. Chairman, I move to strike the last word.

Mr. Chairman, so the Members understand the issue here clearly, this has an appeal, but let me say that the House-passed budget resolution that was adopted here some weeks ago, provided a 5-year moratorium on land acquisition, because when we buy land, we have to take care of it. If we buy land, it means more people, it means more of everything.

We are talking about trying to get to a balanced budget in this Nation in 7 years. We cannot get to a balanced budget by buying more than we can take care of. That is the reason the Committee on the Budget put a moratorium on land acquisition. This would scuttle that moratorium totally and go back to business as usual.

The statement was made that we are force feeding programs in energy research. Let me tell my colleagues again, we have cut back considerably, but we have contractual obligations. We have a number of projects in fossil energy research that have contracts with the private sector. The private sector is putting up anywhere from 50 to 75 percent of the money, which means that they believe that these will be successful.

I think it is a big mistake in terms of national policy to cut back any further on fossil energy research. We are going to downsize it. We are going to get down to the numbers of the authorizing committee, maybe not as quickly as they would but we are headed that way. But we have to recognize our contractual obligations. If we suddenly pull our part of it out, we are subject to lawsuits for failure to perform on contracts that we have made.

Let me also tell my colleagues that we did put in $50 million in an emergency fund for land acquisition. We recognize that there may be parcels of land that become available that we should take advantage of. So, we do have a cushion in the bill, in spite of the fact that the Committee on the Budget and the budget we passed called for a moratorium on land acquisition. The use of that money for land acquisition is subject to the reprogramming, so it has to come back, in effect, to the appropriate committees.

The reason we reduced land acquisition was to fund operations. The money that might have otherwise been spent on land acquisition is put into the operations of the parks. We actually increased the operation money in the parks over 1995.

We want to keep the parks open. We want to keep the forests open. As I said at the outset, these are must-do's. We must keep the facilities available to the public and therefore we have flat-funded them and used that money for the operations that we normally would have put in land acquisition, because we have a responsible number on fossil energy research.

I think what we have done represents a balance. It represents the will of the House as reflected in the budget adopted here. It takes care of operations, and I do not think we ought to tamper with it. These are nice to do. It would be nice to go out and buy more land. It would be nice to fund the UPARR Program, but we cannot do it all when we have a 10-percent cut and we can look forward to more next year. We need to avoid doing things that have substantial downstream costs or otherwise we cannot leave as a legacy for future generations a strong economy that would be generated by a balanced budget.

Mrs. MINK of Hawaii. Mr. Chairman, will the gentleman yield?

Mr. REGULA. I yield to the gentlewoman from Hawaii.

Mrs. MINK of Hawaii. Mr. Chairman, on that point about not wanting to saddle the Federal Government with the maintenance cost for new acquisitions, I understand that motivation prompted the Committee on the Budget, of which I am a member, to put a freeze on the purchase.

But the fundamental principle of the land and water conservation fund, so far as I am acquainted with it, is that there are acquisitions made on a local level and that the maintenance and the care and the development of these lands are basically turned over to the counties and to the States for their assumption of that future responsibility. And all that the land and water conservation fund does is to provide the moneys for acquisition.

So, we are not transferring. By approving this amendment, we would not be transferring a future cost to the Federal Government; is that not true?

Mr. REGULA. Mr. Chairman, reclaiming my time, the gentlewoman from Hawaii is absolutely correct on the UPARR portion, but that is a small part of this amendment. A great bulk of what the gentleman from California [Mr. MILLER] proposes to take out of fossil energy research is going to land acquisition on the national parks and other land management agencies. A very small part of what his amendment would delete would go to the mission that the gentlewoman from Hawaii [Mrs. MINK] has described.

For that much of it, the gentlewoman is correct. But to put over $200 million in land acquisition, obviously, has to generate very substantial maintenance costs downstream for the U.S. Government and that is the reason the Committee on the Budget put a moratorium on additional land acquisition and we tried to respond to the House-passed budget.

Mrs. MINK of Hawaii. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in very strong support of the amendment of the gentleman from California [Mr. MILLER], because I feel that the set aside that we so wisely did in putting aside these oil exploration funds into this land and water conservation fund was for the future use and acquisition of these lands, which are the precious acquisitions for the entire country. It is not for one particular State of locale; it is acquisitions that go to the total assets of the United States.

So I rise in very strong support of this amendment and I hope that the Members will agree and I yield to the offeror of this amendment, the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Chairman, the gentlewoman from Hawaii [Mrs. MINK] raised the question, and the gentleman from Ohio [Mr. REGULA] raised the question, about maintenance costs. In many instances, the land that is in the backlog waiting to be acquired is held by private landowners in the middle of a national forest, on the edge of a national forest, or surrounded on two sides or three sides or four sides by a national forest.

These people want out. They are encumbered by the fact that the forest is there. The Forest Service or the Park Service or the Refuge Service would reduce their operational costs and administrative costs because of these inholdings. These people in many cases have been standing in line for years after year after year. We have heard about them.

And this committee is struggling. I do not doubt what they try to do every year. This committee has struggled to try to meet that demand. The gentleman from Alaska [Mr. YOUNG] and I have sat in our committee and continued to make sure that they never whittle the backlog down. The fact is, the backlog exists. I think that with the new Congress, the backlog is about to not be added to, if I hear what is going on in our committee correctly. But we owe it to those people who are waiting to have their lands purchased.

And there is money available, but there is not if we choose to use it in the Department of Energy fossil fuel research; again, which many of these companies can do on their own and have the availability to do.

It is a question of priorities. Let us understand that in many instances, this is about reducing administrative costs in Park Service units, in National Park Services, in wildlife refuge units. So, it is not all about that.

This would give, obviously, the Forest Service and the Committee on Appropriations the ability to set priorities, but let us get rid of some of this backlog. It is not fair to these people to just leave them hanging there as we have purchased all the land around them. I would hope that we would support the amendment.

Mrs. MINK of Hawaii. Mr. Chairman, if the gentleman would yield to a question from me, is it not true that this backlog that the gentleman speaks of are already acquisitions that the Congress has already acted upon to some extent? It is not as though we are coming in with a new acquisition, a new park idea or some new enhancement of our environment. These are items that have already been set down, but for a variety of reasons, the land and water conservation fund has not been tapped to do this purchase.

Mr. MILLER of California. Mr. Chairman, the gentlewoman is correct. Many of these properties are subject to congressional designation. Many of these properties have a cloud on their title in one fashion or another because of what has taken place around them. And the question is do we start to whittle down that backlog?

Let us understand something here. There is $11 billion in the land and water conservation fund and the agreement was with the American people that we would allow oil drilling off of the coast of this country and we would use those resources to add to the great resource base of this country for recreation and for public use.

That promise was never kept; not by any Congress, not by any administration. It is a little bit of the kind of fraud that we have sometimes around the highway trust fund or the airport trust fund. We put the money in there and we say this is going to go for airport safety or this is going to go for improved highways. But then somehow this Congress starts dipping their fingers into this trust fund or one administration or the other wants to make the budget deficit smaller than it does.

Who are the victims? The victims are the people who paid for the gasoline that expected better roads and safer roads. The victims are the people who bought an airline ticket and expected safer airlines. The victims are the people who agreed to have this oil explored off their coast and said that the tradeoff will be that we will create this trust fund.

We have been robbing this trust fund for years. Now all we are suggesting is that we authorize them to spend some of the $11 billion. I do not think the Committee on Appropriations in the last few years has spent more than $100 million out of the trust fund for acquisition.

That is how you get a backlog. You lie to the American people. You lie to the American people. All of these things that are on this list for acquisition are because Members of Congress thought they were terribly important and voted to pass them. We ought to keep faith with the American people, faith with the budget process, and vote for the Miller amendment. It is a hell of a good deal.

Mrs. MINK of Hawaii. Mr. Chairman, I rise in strong support of the Miller amendment to the Interior appropriations bill which would add $184 million for land acquisitions for preservation of our natural resources.

The Miller amendment attempts to restore the land and water conservation fund [LWCF] to fiscal year 1995 levels, through decreases in fossil energy research to authorized levels set forth by the Science Committee. There is $11.2 billion surplus in the Treasury for the LWCF. The Miller amendment appropriates a mere 2 percent of this surplus.

The LWCF has been essential to the conservation in perpetuity of lands for recreational use since 1965. Under LWCF, local communities and States have the opportunity, through the fund's 50/50 matching grants, to directly invest in parks and recreation in local areas. A modest Federal role in the LWCF provides States and local officials primary responsibility and flexibility for such land acquisition and development projects made possible by the fund.

The reduction in fiscal year 1996 appropriations out of the LWCF represents a serious threat to the promotion of America's national and historical heritage. My State acquired under LWCF Hakalau National Wildlife Refuge, the very first refuge for forest birds in the country and a vital part of Hawaii's battle against an endangered species crisis. Of the 128 bird species that originally nested in the Hawaiian Islands, 58 have disappeared and 32 are on the endangered species list.

Habitat for endangered waterbirds has been protected by the LWCF at the Kealia National Wildlife Refuge on the Island of Maui, which consists of 700 acres of wetlands.

The Fish and Wildlife Service, through the LWCF, has worked with a private landowner to secure the 164-acre James Campbell National Wildlife Refuge, which contains habitat supporting 35 species of birds making up the largest population of waterbirds in Hawaii.

The LWCF funded the Oahu Forest National Wildlife Refuge in the Koolau Mountain range, which is on its way to being the first actively managed habitat for Hawaiian endangered and indigenous tree snails, birds, bats, and plants.

The National Park Service has used the LWCF to augment Hawaii's two major national parks—Hawaii Volcanoes National Park on the Big Island and Haleakala National Park on the Island of Maui.

Since 1965, the LWCF has funded more than 37,000 projects with more than half of these projects invested in urban and suburban areas. To keep the fund at the level in H.R. 1977 would be to rob countless communities across the Nation of the ability to continue developing projects for which substantial sums have been invested, good faith commitments have been put into place with willing landowners, and timetables have been congressionally authorized.

I urge my colleagues to cast their votes in favor of the Miller amendment to restore funding for land and water conservation fund acquisitions for purposes of conservation.

Mr. YOUNG of Alaska. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I reluctantly, but enthusiastically, rise in opposition to the amendment of the gentleman from California [Mr. MILLER]. Much of what the gentleman said is true, but let us keep in mind that these properties that we were supposed to be purchasing were set off limits by another Congress.

In fact, if we look at the GAO report, which I requested with the gentleman from California [Mr. POMBO], that was reported in 1995, we purchased in 1993, through the agencies, a little over 203,000 acres of land. The Forest Service purchased 72,000; the LM 27,000; the Fish and Wildlife, 82,000; the National Park Service, 22,000.

What we have done in the past, and I will respectfully say, we have now hopefully addressed that issue with a commission that will look at our parks. We hope to come forth with another recommendation that we do not constantly create these units without proper scientific research and input.

Mr. Chairman, I happen to agree that there is $11 billion in the fund to buy these properties. We have not. We have used them. All administrations, including this one, have used these moneys to balance the budget, or other purposes than what they were collected for.

But more than that, we have stopped drilling off shore too. There is no drilling taking place in the United States, other than in the Mexican gulf. There is a little off of Alaska. There is none around the United States and I do not think anybody here is advocating that. None in Florida. I am not saying that.

What I am saying is that the gentleman from Ohio said that we did on this side, I am saying this for our Members, agreed to a budget target to balance it by a certain time.

So, Mr. Chairman, I am going to request, respectfully, we vote no on the gentleman's amendment, although much of his argument is correct as to how this has been misused. But I do believe if we want to reach that target, we should reject the amendment, support the chairman of the committee, and go forth with our business.

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Ms. FURSE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong support of this amendment.

You know, over and over again we have heard Members of the 104th Congress speaking very vocally, obviously very enthusiastically, in favor of protecting private property rights, and I do the same myself.

But we have heard them say if you want to protect endangered species living on private lands, then buy the land. In fact, I got this interesting dear colleague letter from people on both sides of the aisle really saying the same thing. Well, this House has passed legislation requiring that the Federal Government purchases property at a landowners' request if the Government impacts its value more than 50 percent. But here we are, we have this bill which is just gutting the very account that would allow us to acquire land.

So I would say to Members who are concerned about private property rights, I would say let us put our money where our mouths are. There are numerous examples of property owners ready, willing to sell their land to the Federal Government so that we can protect fish and wildlife.

In Oregon, we have landowners along the Siletz and Nestucca Rivers who want to sell some of this region's most productive wetlands in order to provide habitat for bald eagles, snowy white plovers, and at-risk of salmon. That is great. We have a willing seller, a willing buyer, we have a good idea.

Farther north on the Columbia River, the endangered Columbia white-tailed deer is a shining example where you have a good management plan, you can take the animal off the endangered species list. We need a little more land to make sure that that habitat is there.

We have willing sellers. We need the money in this account to do that. Now, land acquisition, it seems to me, is a most cooperative, nonintrusive way to protect both the endangered species and private property rights.

At a time when divisiveness has paralyzed many resources issues, land acquisition provides us with that win-win solution that we are all looking for.

It is hypocritical to claim that you want to preserve the rights of private landowners or that you want to prevent species train wrecks, and then turn around and cut the funding for the land acquisition. If you colleagues support private property rights, and if you support the prevention of extinction of species, you have a great opportunity here.

Vote "yes" on the Miller amendment. It is a win-win situation.

Mr. MICA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman and my colleagues, I rise in very strong support of the amendment by my colleague, the gentleman from California [Mr. MILLER].

I think it would be a very sad mistake for this new majority to miss an opportunity, and that opportunity is really to provide the preservation of some of our natural lands in this country.

You know, these bills that we are looking at provide, and this particular legislation provides, opportunity to spend money on surveys and studies and administration. But, really, what do we leave the next generation?

I tell you that we cannot do anything that would be more lasting for the next generation than to invest this small amount of money on preservation of lands, many of them endangered, throughout the United States.

Let me speak from a personal standpoint. I and my family lived, and I grew up, in Miami, and I saw what happened to the Everglades there, how they became neglected and how we did not take the time to preserve that area.

I now have the opportunity to represent central Florida, a beautiful area that has natural bodies of water and hundreds of lakes, and that area is endangered. You know, we have the Ocala National Forest to the north. The State has preserved some land around the urban areas. This area is impacted by tremendous growth, and we have the opportunity to acquire some land in a Federal-State partnership, and that money is not available, and that is sad and that is tragic because the same thing I saw happen as I grew up as a young man now is taking hundreds of millions, billions, of dollars to restore the Everglades. And because we did not make the investment that we needed, we may never get another chance.

I have a photo of the area that I am talking about, the St. John's River, in my district, $15 million from the State, $15 million from the Federal. But we do not have a penny in this bill for land acquisition, and that is wrong, and it is wrong for this side of the aisle to reject this amendment. Because this should be a priority, and we will not get another chance to save these lands.

So I urge my colleagues to look at this. A lot of the things we say here will not make any difference, but something we do here will make a big difference, and that big difference is preserving this land and these natural preserves for the future.

We should be investing in that. I am one of the most fiscally conservative Members in the entire House of Representatives, according to voting records, so I come here speaking not to spend money idly, not to spend money on pork projects, but to spend and make an investment in the future so we can leave a legacy for our children.

So I strongly—I strongly advocate passage of this amendment.

I had an amendment in here just to add a few more dollars to this, and I commend the gentleman for adding the many more dollars that can be well spent and well expended in the national interest, in the public interest and in the interest of our children.

Mr. STUDDS. Mr. Chairman, will the gentleman yield?

Mr. MICA. I yield to the gentleman from Massachusetts.

Mr. STUDDS. Mr. Chairman, I want to commend the gentleman's statement, and I say to him, he need not worry, as I am sure he knows, about putting his conservative credentials at risk. The proposition on behalf of which he speaks is the most profoundly conservative proposition that could possibly come before us. It is literally conservative. It is conservative; it is conserving those things of greatest value to us and future generations.

The gentleman speaks for the best heritage of his party. I hear Teddy Roosevelt and Gifford Pinchot in his voice, and I commend him.

Mr. MILLER of California. Mr. Chairman, will the gentleman yield?

Mr. MICA. I yield to the gentleman from California.

Mr. MILLER of California. I want to thank the gentleman for yielding.

His State is exactly the kind of State that needs this acquisition because they are going through an incredible transition to try to hold onto one of the world's great resources, and to do so, they need the cooperation of farmers and cities and private landowners and homebuilders and others, and they have worked out a State plan. They have tried to patch this together so that they can protect the Florida Keys, they can protect the Everglades, and they can protect the economy in the northern end of that ecosystem.

But they need help in land acquisition because people are willing to help but, as so many have said on both sides of the aisle, they want to be paid. They cannot just give away their families' assets. But those assets, in some cases, in central Florida and elsewhere, are farm lands that are productive but they are key if we are going to save Florida Bay, the Keys, and this great ecosystem.

I really want to commend the gentleman and thank him.

Mr. MICA. I thank the gentleman for his leadership. I regret that I take this position. I know the committee and the chairman have done a great job.

The CHAIRMAN. The time of the gentleman from Florida [Mr. MICA] has expired.

(At the request of Mr. REGULA and by unanimous consent, Mr. MICA was allowed to proceed for 1 additional minute.)

Mr. REGULA. Mr. Chairman, will the gentleman yield?

Mr. MICA. I yield to the gentleman from Ohio.

Mr. REGULA. Mr. Chairman, is the gentleman aware that we have funded the 1995 level on the south Florida ecosystem? We are very aware of the problems.

Mr. MICA. Yes. I do not speak, sir, to the south Florida ecosystem. I am talking about the ecosystem of the United States and the investment that we are making. These are so few dollars compared to the whole budget and to the money that is spent on studies and surveys and administration.

We will never get another chance, and what I would like to avoid is the mistakes that were made in south Florida that I saw as I grew up in south Florida. So again, I strongly urge my colleagues who talked about property rights, about preservation, about environment and being strong supporters, to come forward and to support this amendment.

And I regret that I take a position in opposition to you and the committee.

Mr. CUNNINGHAM. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, for years this body has tried to purchase land when they had no money to buy it, and not only no money, they were in arrears of billions of dollars paying for land that they have already taken, and then they go ahead and try to buy more.

The last Congress, the same gentlemen that are arguing took 3½ million brand-new acres in the California desert plan. They took in Mojave about 1.4 million acres, in Death Valley, they took 1.5 million acres in Joshua Tree, totaling over 3.5 million acres. They did not have the money then to manage it, and then what happens is people go on this list. They say, "Do not leave these people in this position."

Well, when you try to buy land and you do not have the money in the first place, not only in our Congress but for the last 20 years, and you go billions of dollars in the hole and then you take people on that list and you do not let them improve their property, you do not let them do certain things to it and the value goes down and then you come in and say, "Now, we want to give you fair market value, which is probably 10 percent on your buck," that is wrong.

Even in the California desert plan, they are coming up with odd ways to keep people out of it by not even letting them use the current roads that access the California desert.

You say it is wrong to leave these people in there. Well, look who put them in there in the first place. You need to be able to pay for the land that we have. Over 50 percent of California is owned already by the Federal Government, and we are billions of dollars in just the operations.

The chairman is trying to put the money in the operations to manage the systems that we have that are also in arrears.

We need to take a look at what is fairness and access. Yes, there are needs for the environment, and there are certain areas, we have got an area in Carmel Valley I would love to be able to purchase. As a matter of fact, the builders will sell it to us. We do not have the money to do it. I would love to. But we are so many billions of dollars behind, I am going to have hard trouble finding it. It would be a good area because it connects all the things that you want to in endangered species. It gives corridors, it gives areas where we can protect those things.

I would love to help work with you to get the dollars for it, but we do not have it, and if we keep doing this and we keep taking governmental land and making new land and not being able to pay for it, that is wrong, too, by putting private property rights at risk, and that is why most of us are against this.

Mr. MILLER of California. Mr. Chairman, will the gentleman yield?

Mr. CUNNINGHAM. I yield to the gentleman from California.

Mr. MILLER of California. I say to the gentleman, you know, you brought up the California desert. That was already Federal land. We changed the management structure from BLM to the National Park Service.

Mr. CUNNINGHAM. There are 3.5 million acres of brand-new land in that. The total was about 7 million acres.

Mr. MILLER of California. No, no. Those are public lands already owned by the United States.

Let me say this is not unique.

Mr. CUNNINGHAM. What about Catellus?

Mr. MILLER of California. This backlog, Catellus, is not in it. This backlog is not unique to the Democrats, because the majority on our Committee on Resources just reported out a $5 million new national park. I mean if we are really serious about no backlog and whittling down the backlog, let us whittle down the backlog. Let us not add to this. This is money the taxpayers have deposited in a trust fund that they believe that was going to be utilized to take care of whatever that valuable piece of property you described or some other ecosystem of the United States.

Mr. CUNNINGHAM. There are lands, I would say to the gentleman from California, that I would love to work with the gentleman on, especially in our jewel State of California, that I think we can still say that cannot be used, that we would not be violating those private property rights.

I think the chairman has done a good job in acquiescing to the point that we need to support the current systems that we have and maintain the operations.

Mr. MICA. Mr. Chairman, will the gentleman yield?

Mr. CUNNINGHAM. I yield to the gentleman from Florida.

Mr. MICA. One of the things that concerns me is that we do not have funds available for land acquisition for Florida, for example, or for the situation that you have described. How would you propose that we get those funds? I share all of your concerns.

Mr. CUNNINGHAM. The first thing, I would not give $5 billion to the former Soviet Union when they are building submarines. I would not give money to Haiti that can sit there for the next years, and we are spending billions of dollars there. We are looking into Somalia. We are going to spend billions of dollars there. There are a lot of areas this Congress could do it. We are not doing it. I think the chairman, with the limited resources he has, has done a good job.

Mr. VENTO. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment offered by the gentleman from California [Mr. MILLER].

As I was listening to the debate on this, obviously I think a lot of people are talking by one another with records to what the gentleman from California [Mr. MILLER] is proposing.

What he is proposing is to try to keep the commitments that we have made with regards to purchasing lands that are already mostly and already have been designated by this Congress, and these are lands obviously within parks, within the forests, within other areas which are very sensitive, which generally, in fact, of course, when the land management agencies, whether it is Fish and Wildlife Service or any of the others that are to be extended some extra dollars under this or given such authority, it is a willing-seller, willing-buyer basis.

□ 1715

And I just wanted to point out that these are already decisions that have been made, so, the gentleman from California, when these lands are available in Carmel, or wherever we are talking about that are sensitive lands, this is the opportunity to do it. We have set aside this fund. We set aside over $1 billion a year from land water conservation moneys and historic preservation, and it comes out of the resources that were pumping the oil out, that we are using up our natural resources, and the commitment that has been made is that we would take those dollars and put them back into building a legacy for the future, for the next generation, in terms of these special lands that have been designated by Congress.

And the fact of the matter is that we are not, we are not, keeping that commitment. Those dollars are being taken out of the offshore oil and gas reserves and expended in other ways. We tried to do that to insulate it from the type of decisions that we are dealing with when we are dealing with human investment programs and foreign aid programs so that we could have that particular program be inviolate. Today we are $11 billion behind in terms of that fund that is available until expended, so that is where we are at, and we are not going to catch up with it, we are not going to deal with this important legacy, with these commitments.

I can think of parks in my own State that have been designated some 25 years ago which still have inholdings. We have willing sellers, willing buyers, and they are waiting. They are waiting for the Federal Congress, for us, to appropriate the money so that they can begin to negotiate and to purchase these particular inholdings. We have people literally from Alaska to Florida, from California to New York, that basically these commitments have been made, and these parks exist, and it is very complicated.

I say to the gentleman, You talk about administrative costs. You try to administer something when you have lands within that are not public lands within these parks, willing sellers. You are gravely complicating the costs of administering those particular lands under those circumstances.

So the Miller amendment would take this money out of other accounts and provide it so that the States would be able. Here is a very good program where the States have cooperated in partnership, where urban areas would receive a small amount of money and where the Federal Government, our forests, our parks, our Fish and Wildlife Service areas, and the BLM which is buying sensitive riparian lands in their areas so that they have the water to go with the lands, are on a willing seller, willing buyer basis purchasing these particular sites so that we could, in fact, have a meaningful program and protect the legacy of the next generation.

Mr. REGULA. Mr. Chairman, will the gentleman yield?

Mr. VENTO. I yield to the gentleman from Ohio.

Mr. REGULA. Mr. Chairman, the gentleman mentioned that we had commitments. Commitments in what way? Do we have contracts with landowners, or is the gentleman just simply saying these are within the boundaries of the parks or forests as the case might be?

Mr. VENTO. Reclaiming my time, of course they are within the boundaries of places like the Voyageurs where people have lands, of course, because they are within parks. We do not want them to develop it. They are in abeyance. They are holding it. We are building in controversy here. We are, as the gentleman knows, obviously causing greater problems.

As the gentleman from Florida [Mr. MICA] has mentioned, he has seen in Florida the type of problems that have envolved where we made special commitments to the purchase, and nothing is more important than the all right purchases in an honest way.

Mr. MICA. Mr. Chairman, will the gentleman yield?

Mr. VENTO. I yield to the gentleman from Florida.

Mr. MICA. In fact, would not the gentleman view this as a pro-property-rights amendment because we have told so many people out there that we are going to pay for their land, and, if we deprive them of the right to use that land, that is fact that this is a pro-property-rights amendment, that the questions of access, the questions of takings and other issues that have been raised here—would not the gentleman say that they are in fact false issues because we are talking about whether or not we have any funds to acquire these lands?

Mr. VENTO. I think the gentleman makes a very, very good point. I think the reason we have the issue of takings, the limitation on land is aggravated greatly by the fact the Federal Government——

The CHAIRMAN. The time of the gentleman from Minnesota [Mr. VENTO] has expired.

(By unanimous consent, Mr. VENTO was allowed to proceed for 1 additional minute.)

Mr. VETO. Mr. Chairman, just to conclude, I think that the reason we have the problems in terms of the Federal Government and its contact with landowners, whether it is in Alaska or other places, is because we are not keeping our commitments with regards to these sensitive lands and these programs. It has led to the types of problems that we have seen in the sort of solutions that are very—are not workable but nevertheless are being advanced simply on an off-and-on emotional basis, so I hope today—I think we should be able to come together, and put the dollars up there where the commitments have been made to honor basically the contracts we made when we designated these lands, and to help in the efficiency and proper administration, whether it is parks or other public lands. Giving these dollars to the Federal Government under the conditions and strictures that have been in place, the Committee on Appropriations has to approve each one of these particular purposes. I say to my colleagues, "You have got absolute control over this in terms of the reporting requirements which many of us would object to, but that is the case, so I think you can rest assured that these dollars will be spent well. I think we should trust our States and work in a cooperative and a collaborative manner with them on these programs which we have made commitments to rather than pulling the rug out from under them which this bill does today without the Miller amendment."

Vote for the Miller amendment.

Mr. REGULA. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto close in 10 minutes and that the time be equally divided.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The CHAIRMAN. The gentleman from Ohio [Mr. REGULA] will be recognized for 5 minutes, and the gentleman from California [Mr. MILLER] will be recognized for 5 minutes.

The Chair recognizes the gentleman from Ohio [Mr. REGULA].

Mr. REGULA. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. POMBO].

Mr. POMBO. Mr. Chairman, I thank the gentleman for yielding this time to me, and it is quite entertaining to listen to this debate and the poor-mouthing that is going on about the poor people, the poor Federal Government, that has not been able to purchase land. I think that the facts may surprise a few people.

Out of 650 million acres that the Federal Government currently owns, 35 million acres have been bought in the last 20 years, 35 million acres.

Now the gentleman from Florida [Mr. MICA] talks about Florida and areas that he would like to protect in Florida, and granted they may be areas that need to be protected and maybe should be bought and set aside as a preserve, or a wildlife habitat, or a wilderness area for that matter, but in looking through the GAO report, the Federal Government owns 4 million acres in the State of Florida already.

Now is all this 4 million acres land that the Federal Government should own, or maybe should some of it be sold so some money could be gathered up to purchase the land?

I think that it is extremely important that we realize that the Federal Government is adding land every year, not just purchasing land every year, but we are authorizing them to purchase more.

It was brought up by the gentleman from California [Mr. MILLER] that we approved a new park recently which I did not happen to agree and think was that great an idea. I think that maybe we ought to look at all the parks we have right now and decide whether or not they are all that we have.

But we have 650 million acres of Federal land. There is absolutely no reason why we cannot sell off some of that Federal land to purchase some of these sensitive environmental areas, some of these areas that would be ideal endangered-species habitat or wilderness areas.

As the gentleman knows, in my State, 50 percent of which the Federal Government owns, we have enough Federal land. We would be willing to sell some of our land to purchase some sensitive areas.

I think that we have to really look at what we are talking about doing here instead of continuing to add more and more Federal lands.

Mr. REGULA. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, just to get this all totally in focus I say to my colleagues, "If you voted for the budget resolution, it had a moratorium on land acquisition so you should be against this amendment."

We have already cut fossil energy research. This really decimates it. I say to my colleagues, "If you don't care about our energy future, or our energy independence, or our national security, then you're not going to worry, but I think it is important. We have to balance out the needs."

The reason we are not buying a lot more land is that we do not have enough money to take care of what we have, and, therefore, I think it does not make a lot of sense to buy additional land. We could generate revenues with offshore drilling in California and Florida, but I suspect that the proponents here that would like to buy more land and have more money are opposed to offshore drilling.

I would also point out when we did the rescission we found millions of dollars that have been appropriated that have not yet been spent.

One last thing:

We provide in the bill that the agencies can do land exchanges with private for public to adjust the boundaries, and that offers them an opportunity to get lands that are needed without spending more money or without taking on additional responsibilities.

I believe we have a very responsible approach in this bill. I would strongly urge my colleagues to vote against this amendment. We do not want to decimate fossil energy research. We do not want to buy more land. Already more than 38 percent of America is owned by the Federal Government, and we should use these lands for productive purposes. We have great lands that we need to enhance and operate effectively, and to take on more responsibility makes it impossible to get to the kind of deficit lowering that we want to see in the future.

Mr. MILLER of California. Mr. Chairman, I yield 1 minute to the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Well, Mr. Chairman, the fact is that we already take in the money from the offshore oil and gas. Opening up more would not get us the money because it is being diverted to some other place. I know we talk about what was in the budget resolution. The budget resolution abolishes the Department of Energy, abolished it. That is where this money is being taken from, is from the Department of Energy. The question is we have had a lot of these paper promises in terms of delivering the money. As far as the Federal Government is concerned, we have given away 200 million acres of land in the last 30 years. We have given it away, and that is fine. That is appropriate in terms of many of the laws we have, so there is nothing wrong with that in terms of what we purchase. We are buying the sensitive riparian areas, the areas that have the endangered species, trying to round out the ownership for the parks, the BLM, so that we, in fact, can avoid the types of conflicts and reduce the administrative costs, and we need to have a funding account here with these dollars for reasonable land purchases which are approved by the chairman of the appropriations subcommittee, and I know they have done good work in the past and they will do it in the future. We can count on them to properly screen and filter these purchases. Vote for the Miller amendment.

Mr. MILLER of California. Mr. Chairman, I yield 1 minute to the gentleman from Montana [Mr. WILLIAMS].

Mr. WILLIAMS. Mr. Chairman, I want my colleagues to understand we have a several-hundred-million-acre backlog here, and this money is greatly needed. We are not doing the job now.

Now by the way, these are private landholders who are trying to strike agreements, and some of them have waited a very long time, and they will expect that their Government is going to follow through on its commitments. The money that the gentleman proposes to put back in will only bring us up to a level where we still have a several-hundred-billion-acre backlog, but at least it will not get worse.

For the good of habitat in this country, for the good of wild lands in this country, for the good of wild rivers in this country, and for the good of private land holders who want to help and expect the Federal Government to keep the agreements that have been made with them please support this amendment.

Mr. MILLER of California. Mr. Chairman, I yield myself the balance of my time.

The CHAIRMAN. The gentleman from California [Mr. MILLER] is recognized for 3 minutes.

Mr. MILLER of California. Mr. Chairman and members of the Committee, this is about priorities. This budget resolution froze land acquisition. It also abolished the Department of Energy. One of the reasons it abolished the Department of Energy, I suspect, was we have already put $8 billion into this fossil fuel research, and we have gotten bupkiss out of it. We have gotten a huge debt out of it. Here is one of the wealthiest industries in the world who makes huge financial decisions about research, about exploration, about development and the hundreds of billions of dollars, and we are telling ourselves we believe in the marketplace, so to speak, but they are only $200 million of taxpayers' moneys away from a breakthrough. They could not do it on the first 8 billion, and actually it is far more than that. That is just the last 5 or 6 years, $200 million.

So, I say to my colleagues, "Choose the priority. You can choose land acquisition and protection for the national parks and the wildlife refuges, or you can choose to force-feed $200 million more than the Committee on Science tells you that they are prepared to see this organization spend, and this adds to the $8 billion you have tried to force-feed in terms of energy development."

Now, you said abolish the Department of Energy. But apparently when it is gone, the subsidy to these corporate clients will continue to be left.

□ 1730

So this is about priorities, this is about stark choices, and this is about decisions. When your constituents ask you why don't you run the government like a business, it is because you are feeding business $200 million they do not need, do not want, and do not find in their priorities. If this was a priority, they would be spending money on it. They are out in deep waters in the Gulf, they are in Russia, they are in the Middle East, they are in Kazakhstan, they are in China, and they are in Vietnam. And we are, like fools, sitting here saying, "Oh, will you do some energy research in the United States of America?"

Let's choose the ecosystem of America. Let's choose the national parks. Let's choose the refuges, let's choose our urban park land, the families and recreation and the 300 million visitor days that will take place this summer, as we sit here and debate, by people who have chosen our national parks, chosen our seashores, chosen our refuges, chosen our national forests. Give them a hand. Give them a hand. Exxon, Chevron, Shell, Phillips, these boys, they will figure it out themselves. They always have. Vote for the Miller amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. MILLER], as modified.

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. REGULA. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 170, noes 253, not voting 11, as follows:

[Roll No 502]

AYES—170

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Bass
Becerra
Beilenson
Bereuter
Berman
Bishop
Boehlert
Bonior
Borski
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Clay
Clayton
Clement
Clyburn
Collins (IL)
Conyers
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Forbes
Fox
Frank (MA)
Franks (NJ)
Furse
Gejdenson
Gephardt
Gibbons
Gilman
Gutierrez
Hamilton
Harman
Hastings (FL)
Hilliard
Hinchey
Hoyer
Jacobs
Jefferson
Johnson (SD)
Johnston
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klug
Lantos
Lazio
Leach
Levin
Lewis (GA)
Lincoln
LoBiondo
Lofgren
Longley
Lowey
Luther
Maloney
Manton
Markey
Martinez
Martini
Matsui
McCarthy
McDermott
McHale
McKinney
Meehan
Meek
Menendez
Meyers
Mfume
Mica
Miller (CA)
Mineta
Minge
Mink
Moran
Morella
Nadler
Neal
Oberstar
Obey
Olver
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Ramstad
Rangel
Reed
Richardson
Rivers
Rose
Roukema
Roybal-Allard
Rush
Sabo
Sanders
Sanford
Sawyer
Saxton
Schroeder
Schumer
Scott
Serrano
Shays
Skaggs
Slaughter
Smith (NJ)
Spratt
Stark
Studds
Stupak
Tanner
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Tucker
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Weldon (FL)
Weldon (PA)
Williams
Woolsey
Wyden
Wynn
Yates
Zeliff
Zimmer

NOES—253

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bateman
Bentsen
Bevill
Bilbray
Bilirakis
Bliley
Blute
Boehner
Bonilla
Boucher
Brewster
Browder
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
Deal
DeLay
Diaz-Balart
Dickey
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Durbin
Edwards
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Flanagan
Foley
Ford
Fowler
Franks (CT)
Frelinghuysen
Frisa
Frost
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Graham
Gunderson
Gutknecht
Hall (OH)
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson-Lee
Johnson (CT)
Johnson, E. B.
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kim
King
Kingston
Klink
Knollenberg
Kolbe
LaFalce
LaHood
Largent
Latham
LaTourette
Laughlin
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Lipinski
Livingston
Lucas
Manzullo
Mascara
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
McNulty
Metcalf
Miller (FL)
Molinari
Mollohan
Moorhead
Murtha
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Ortiz
Orton
Oxley
Packard
Parker
Paxon
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Rahall
Regula
Riggs
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Royce
Salmon
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stenholm
Stockman
Stokes
Stump
Talent
Tate
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thornberry
Tiahrt
Traficant
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weller
White
Whitfield
Wicker
Wilson
Wise
Wolf
Young (AK)
Young (FL)

NOT VOTING—11

Bono
Coleman
Collins (MI)
Fields (TX)
Green
Greenwood
Hefner
Moakley
Montgomery
Reynolds
Tauzin

□ 1755

The clerk announced the following pairs:

On this vote:

Mr. Moakley for, with Mr. Bono against.

Messrs. HORN, TAYLOR of Mississippi, BENTSEN, and Ms. JACKSON-LEE changed their vote from "aye" to "no."

Messrs. GILMAN, DE LA GARZA, and PETERSON of Florida, Mrs. KELLY, and Messrs. FOX of Pennsylvania, SAWYER, ZELIFF, BRYANT of Texas, and LONGLEY changed their vote from "no" to "aye."

So the amendment, as modified, was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. NEUMANN

Mr. NEUMANN. Mr. Chairman, I offer an amendment.

The CHAIRMAN. pro tempore (Mr. BARRETT of Nebraska). The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. NEUMANN: Page 12, strike lines 4 through 8.

Page 12, strike lines 21 through 25.

Mr. REGULA. Mr. Chairman, I ask unanimous consent that debate on this amendment and all amendments thereto to close in 20 minutes and that the time be equally divided.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

Mr. DICKS. Mr. Chairman, reserving the right to object, the gentleman from California feels very strongly about this. He is willing to agree to 30 minutes, 15 minutes on each side, if that is agreeable.

Mr. REGULA. Mr. Chairman, I withdraw my unanimous consent request.

Mr. Chairman, I ask unanimous consent that debate on this amendment and all amendments thereto close in 30 minutes and that the time be equally divided.

The CHAIRMAN. The Chair will state his understanding of this request. The time for debate on the pending amendment and all amendments thereto shall be limited to 30 minutes, equally divided and controlled by the gentleman from Wisconsin [Mr. NEUMANN] and the gentleman from Washington [Mr. DICKS].

Is there objection to the request of the gentleman from Ohio?

There was no objection.

The CHAIRMAN. The gentleman from Wisconsin [Mr. NEUMANN] will be recognized for 15 minutes, and the gentleman from Washington [Mr. DICKS] will be recognized for 15 minutes.

The Chair recognizes the gentleman from Wisconsin [Mr. NEUMANN].

☐ 1800

Mr. NEUMANN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I want to thank the gentleman from Texas [Mr. STENHOLM] for joining me as a cosponsor in this bill. We have bipartisan support for this bill.

Mr. Chairman, our Nation stands $4.8 trillion in debt. We will overdraw our national checkbook this year alone by over $200 billion. Our children and our grandchildren are counting on us to stop spending money that we do not have. We must start prioritizing ourspending habits. This amendment would cancel the expenditure of $800,000 of taxpayer money to be spent on elephants, tigers, and rhinoceroses. I care about wildlife and I sure do not want to see elephants, tigers, or the rhinos become extinct.

The Neumann-Stenholm amendment would not mean that elephants, tigers, or rhinos would become extinct. In fact, the African elephant fund has collected over $4.5 million since 1991 in private contributions. The taxpayers of the United States have added $3.7 million since that time. This amendment simply turns off the use of Federal tax dollars for this purpose. These programs and activities are properly left for private foundations, not to be paid for by the U.S. taxpayers.

Some people here in Washington would have us believe that $800,000 is not worth worrying about. Let me respond. I understand it takes $1 per day to keep a starving child alive in some of these same foreign countries. That means we could use these same tax dollars to keep 2,100 starving children alive, rather than spend the money to preserve tigers, elephants, and rhinos.

We have told our senior citizens that Medicare is broke, and it is. The fact of the matter is that by the year 2002 the Medicare system does not have enough money to pay its bills. We have told them there is no extra money to put into the system. I would like to know how we are going to explain this sort of an expenditure to those same senior citizens.

Our Nation is counting on this new Congress to solve the financial problems facing our country today. This is just one small step in restoring fiscal responsibility so as to preserve this great Nation of ours. I urge the passage of this amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. DICKS. Mr. Chairman, I yield 7 minutes to the distinguished gentleman from California [Mr. BEILENSON] who has been one of the most knowledgeable Members of this institution on these very important programs. I strongly support these programs, as he does.

(Mr. BEILENSON asked and was given permission to revise and extend his remarks.)

Mr. BEILENSON. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in strong opposition to the Stenholm-Neumann amendment, which would eliminate all funding for the African Elephant Conservation Fund and for the rhinoceros and tiger Conservation Fund.

Mr. Chairman, I also want to say at the outset that I hope we have not reached the point around here where every good and useful thing that we have ever done, or every program, no matter how successful and useful, is automatically suspect, and automatically subject to being eliminated just because it costs some money, even if it is a very, very small amount of money, such as in the case we are discussing here today.

These two programs, tiny as they are, hold the best hope, perhaps our only hope, of saving from extinction three of the world's most venerated creatures. The decision by Congress to eliminate these programs could have terrible consequences that we would never have the chance to reverse.

The amendments being offered, despite the fact that the bill already cuts the elephant fund to $600,000, half the money of this year's appropriation, only half the amount requested by the administration, it also cuts the rhino and tiger fund by $200,000, half the amount required by the administration, so along with virtually everything else in this bill, because of budget constraints, these programs are already being cut by 50 percent with the committee bill.

For the very minor amount of savings that would be gained by this amendment, a total of $800,000, its enactment would deal a potentially catastrophic blow to our efforts to save three species of animals that are on the brink of extinction, and would harm as well many other species which benefit from these programs.

There are fewer than 11,000 rhinoceroses left in the wild today. There are fewer than 6,000 tigers left in the wild today. The numbers of these two creatures have declined rapidly in recent years because of the demand for their parts and the poachers who supply that demand. There may well be no rhinoceroses at all, no tigers at all, left on the face of the earth in the next few years' time, except perhaps for a few in the zoos, and they will not last very much beyond a few additional years.

Mr. Chairman, I personally, and I hope the Members also, find that inexpressibly sad and potentially tragic. I believe that our modest efforts to save these species are well worth the mere $800,000 that we are arguing over here tonight. Although all tiger subspecies and all rhinoceros species have been listed as endangered for many years, the prohibition on trade of these animals has not been well enforced in some countries where their parts are believed by man to have medicinal value. Because of the strong cultural belief in the rhinoceros' and tiger's curative powers, it has been an extremely difficult and complex task to eliminate trade in these species.

However, as the plight of the tiger and rhino has grown increasingly serious, so too has our response. Last year the President imposed trade sanctions on wildlife products from Taiwan, which was the first time the United States has ever opposed such sanctions for trade in the Endangered Species Act. Those sanctions were lifted recently in recognition of the progress Taiwan has made in combatting trade in endangered species, but the situation still requires close monitoring In tandem with that effort, toward the end of last year Congress authorized the rhinoceros and tiger Conservation Fund. We knew from our successful experience in slowing the decline of the African elephant that we could stop the decline of rhinos and tigers by providing assistance to other countries that they need to conserve these animals. The fund would provide grants to foreign governments and nonprofit groups that develop rhino and tiger conservation projects. In addition, private donations could be accepted and used for approved projects.

This is an example, Mr. Chairman, with the rhinoceros there has been some success in efforts to form new herds from scattered individual rhinos and remaining members of herds that have been decimated. If they are brought together in suitable habitat with greatly increased security, in time, group bonds form and a new herd can be established. Unfortunately, rhinos all live in developing nations, which simply do not have the resources to undertake this kind of preservation effort on a sufficiently large scale to ensure the recovery of the species.

Mr. Chairman, we have had a decent amount of experience with such programs. Mr. Chairman, we have had a decent amount of experience with these programs, because the rhinoceros and tiger fund is modeled on the successful African Elephant Conservation Fund that has been in existence since 1989, and is the other program which would be eliminated entirely by this amendment.

The gentleman from Texas [Mr. FIELDS], who unfortunately cannot be here today because of a death in the family, the gentleman from Massachusetts [Mr. STUDDS], and I, concerned by the catastrophic decline of the African elephant whose numbers plummeted from 1.5 million to about 400,000 just in the decade of the 1980's, were the co-authors of that bill, which President Reagan signed into law about 6 years ago.

Under that program, with a relatively modest amount of funding, less than $1.2 million a year, the United States has supported 55 projects in 15 African countries, many of which are extremely poor and desperately need the scientific and antipoaching assistance that we and other nations have to offer to help them manage their elephant populations. In fact, the elephant program has been perhaps the most successful effort ever undertaken anywhere in the world to ensure the preservation of a species in its native habitat.

Because of our leadership and contributions to the international coordinating group, every range country in Africa now has a short-term and a long-term conservation plan and we are all actively engaged together in efforts to implement that plan. Elephant populations now have been stabilized for the first time in recent memory, in the last 6 years, at about 400,000, the level they were at the end of the 1980's.

In addition, the elephant fund helps protect other species as well, because elephants play an enormous role in the ecosystems they inhabit, take up an enormous amount of space and area. Anything we could do to conserve them conserves other species who live in those same spaces.

Most importantly and finally, Mr. Chairman, our efforts have served as a catalyst in generating major contributions and technical assistance from nongovernmental organizations, from other donor nations such as Japan and several western European nations.

Mr. Chairman, in conclusion, I believe, and I hope Members do too, it would be unspeakably tragic if three of the most wondrous and beloved creatures on earth, creatures we have always thought of as part of our world, were no longer in existence. The tragedy would be greatly compounded if in the years to come our children and grandchildren, looking back at this time, saw that one major reason these creatures were no longer part of their world was because back in 1995, the Congress of the greatest, most powerful, and wealthiest Nation of the world refused to spend a mere $800,000 to help to try to save them.

I know it is not a lot of money, I know it is easy to make fun of such a program, I think it is terribly important what we are embarked on here. We are not asking a lot of help. It is being cut by one-half anyway. I urge my colleagues to defeat this amendment and do what the people of this country, if you were to ask them, would want us to do: help preserve these magnificent creatures.

Mr. NEUMANN. Mr. Chairman, I yield 2 minutes to the gentleman from Georgia [Mr. GINGRICH], the Speaker of the House of Representatives, and perhaps one of the finest people in the United States of America.

Mr. DICKS. Mr. Chairman, I would be delighted to yield an additional 2 minutes to the gentleman from Georgia, the Speaker, if he would so choose.

The CHAIRMAN. The gentleman from Georgia [Mr. GINGRICH] is recognized for 4 minutes.

Mr. GINGRICH. Mr. Chairman, let me just say that I very much appreciate the graciousness with which my colleague, the gentleman from Wisconsin, yielded time to me.

Mr. Chairman, this is an amendment which means well, but I think does wrong. This is a very small amount of money, but it is symbolically very important, and symbolically important in part for the signal it sends to people, particularly in Africa and Asia, about whether or not the United States is prepared to reach out and be helpful.

I want to confess up front, from a Republican standpoint I have some concern for elephants, but as a person, and maybe this is because of my own physique, I have a particular affection for rhinoceroses. I happened to have helped the Atlanta zoo get two rhinos. I do not want anyone on this side of the aisle to start making all the obvious comparisons.

However, I will say that when we think about the gesture we are making, and this has already been modified by the subcommittee in a way which I thought was very helpful in moving toward raising private sector funds and in making sure that we had to get involvement from the private sector, but I think that for this tiny amount of money, we are helping maintain an effort on behalf of some large mammals, all of which are severely threatened and all of which could disappear, literally be gone, unable to ever again find them in the wild. Frankly, we are learning more and more about just how difficult it is to reintroduce large animals, because they do not learn the habits in zoos of being capable of survival.

Therefore, I would simply say to all my friends, we have done a lot to cut spending this year. I am eager to get to a balanced budget. Most of us have actually voted for a massive cut in overall spending. We have proven we are committed to fiscal conservatism. This is a very tiny, very good series of programs which are not only important for ourselves, but which I believe send a signal; and I will tell all of the Members, when we look at some of these countries that are very poor, and they have suppressed poaching, and they have suppressed that, if you look at the value of a rhinoceros horn and you are a poor villager in southern Africa, look at the value of an elephant tusk, look at the value of a tiger skin, and look at countries which have voluntarily imposed on their own local people economic deprivation in order to sustain these species so that our children and our grandchildren can have a chance to see some of the most magnificent animals in the modern era; and then to say that we are going to allow them to disappear, and join that dinosaur skull I have in my office and be extinct, for $800,000 total, it just seems to me that there are lots of places to find savings.

We have found vastly more savings, I would say, with the help of the gentleman from Wisconsin, we have found more savings from the legislative branch, we are finding savings every week in the executive branch, and we will continue to work to find places to cut, but I would urge all of the Members, if this comes to a recorded vote, to join together in sending a signal to these poor countries in Africa and Asia, that this is a project they ought to have courage to stay with, that we want to stay with them in making it possible, and then some day, 20 or 30 years from now, if the rhinoceros still survives in the wild and the tiger still survives in the wild and the elephant still survives in the wild, you can feel like, hey, this was a nice thing to do for the human race.

Frankly, I think it is the kind of thing that, occasionally we ought to just stop; we do not have to cut mindlessly just because we want to get to a balanced budget.

Mr. NEUMANN. Mr. Chairman, I yield myself 1½ minutes.

Mr. Chairman, I would just like to add two things to what the Speaker says. First, I have the greatest respect for the Speaker of the House of Representatives. I would like to agree with him that this is clearly a symbolic vote, and that it clearly does send a message to the people of the United States of America as well as to foreign countries.

This is a question about whether we are going to cut back on programs or zero programs out. We have made the efforts to cut back on this program, I concur. The question now is whether we are going to go ahead and zero out programs, as opposed to just cut them back.

☐ 1815

The Republican Party has talked a lot about zeroing out programs, and I would concur that this is a symbolic vote. I would also add that passing this amendment is not designed to terminate the programs to preserve elephants, rhinoceroses or tigers. It is simply an effort to say that the United States tax dollar should not be used for that purpose. We in this Nation need to reach the point where Government does not keep doing for others what others ought to be doing for themselves.

Mr. Chairman, I yield 3 minutes to the gentleman from Texas [Mr. STENHOLM].

(Mr. STENHOLM asked and was given permission to revise and extend his remarks.)

Mr. STENHOLM. Mr. Chairman, I rise in support of the Neumann-Stenholm amendment to H.R. 1977, the Interior appropriations bill for fiscal year 1996. First, I would be remiss if I did not commend the gentleman from Wisconsin for taking the lead on this issue. He is serious about deficit reduction and I am pleased to be a part of this small effort with him.

Our amendment is simple; it is about budget priorities. Our Nation currently has a $4.8 trillion debt. Medicare, Medicaid, education, agriculture, and many other important programs are being forced to make painful cuts due to a significant reduction in their funding. Yet this bill proposes sending nearly $1 million to Africa and other countries for preservation of elephants, tigers, and rhinoceroses.

The folks in my district tell me it is time that the Federal Government set reasonable budget priorities for their hard-earned tax dollars. While the preservation of exotic animals is a worthy goal, which I support wholeheartedly, I do not believe that sending $800,000 to Africa for this purpose meets the test of a reasonable budget priority.

I certainly do not oppose the common sense protection of endangered species. Many species have been saved and some are even flourishing now due to protection of their habitats. Our amendment will not mark the end of financial support for the African elephant, rhinoceroses or tigers. Over the past 5 years, outside groups have donated money for preservation of these species and their habitats totaling over $4.5 million.

Due to our current budgetary crisis, we are being forced to cut many, many good programs. The issue is not whether it is a good idea to preserve the habitats of elephants, rhinoceroses, and tigers in Africa and other countries. The issue is whether this is a current budget priority on which to spend American tax dollars. In this case, there is obviously significant interest and willingness to help from outside groups—they have done and are doing a great job of raising money for this purpose. To the extent possible, I believe we should encourage the private sector to provide funding for these types of projects. As a matter of fact, if those who are busy lobbying against this amendment spent the same amount of time, energy and money on fundraising—everyone would win.

Interestingly, the Federal Government does not currently compensate U.S. landowners whose use of their property is restricted due to the inhabitation of an endangered species. By law, these landowners cannot disturb an endangered species habitat even if it is on their private property. Therefore, the financial cost of protecting a domestic endangered species often falls on everyday U.S. citizens. Yet, at the same time, we send American tax dollars to foreign countries for the purpose of protecting an endangered species and its habitat. This simply does not make sense.

The Neumann-Stenholm amendment makes good sense. I urge my colleagues to support this fiscally responsible amendment.

Mr. DICKS. Mr. Chairman, I yield 1 minute to the gentleman from New Jersey [Mr. PALLONE].

Mr. PALLONE. Mr. Chairman, just very quickly, I have a great deal of respect for the gentleman from Texas [Mr. STENHOLM] and the gentleman from Wisconsin [Mr. NEUMANN], but I have to disagree with them strongly on this issue and certainly agree with what the Speaker said.

The gentleman from Wisconsin mentioned children and the gentleman from Texas mentioned education. I cannot think of anything that is more important in a sense, in an overall sense for children and education, than trying to preserve the species. If anybody, and I am sure many of you have, have ever taken your children to a zoo to see elephants or rhinoceroses, the type of pleasure children get out of seeing those species, so many of the programs that children watch on TV, whether it be cartoons or educational programs, have elephants, rhinoceros and tigers. There is really a great thrill that children get in seeing the species, the animals themselves, as well as seeing the representations on TV.

I think the bottom line here is that these species are seriously threatened. A small amount of tax dollars will only help these nonprofit associations raise money. For the small amount of money we are talking about here, I think it is wisely intended, and we should oppose this amendment.

Mr. NEUMANN. Mr. Chairman, I yield 4 minutes to the gentleman from Ohio [Mr. REGULA].

Mr. REGULA. I thank the gentleman for yielding me the time.

Mr. Chairman, the Speaker was very eloquent in opposing this amendment, and I would only add an "amen" to what he had to say. The request we received from the President was for $1.6 million and it was well-justified. However, in putting our bill together, we recognized we had to cut back as much as possible. So we cut the President's request in half, and that is what is in the bill today.

There has been an enormous decline in the rhino population, the tiger population, the elephant population. Many of us can remember as children first learning about these species in reading the National Geographic, and we want our children and our grandchildren and great-grandchildren to likewise have the experience of knowing about these kind of animals.

We spent last year $69 million here in the United States on endangered species. The rhinos and the tigers and the elephants are more than just the Africans' possessions; they belong to all of us. They are part of our heritage and part of our natural cultural experience. We go to the zoos, we take our children to the zoos, our grandchildren, to see these animals. If they were to become extinct, it would be a tragedy for all of the people of the world.

These countries are poor. They do not have the resources. Of course, as was mentioned, the sale of the rhino horns and other things are an attractive thing for poachers. The way we have structure this, it requires a 2-to-1 match from the private sector. We provide $1, we get $2 from the private sector. Generous people, all over the United States, who care, are contributing.

I would urge my colleagues to vote against this. This is a wonderful investment. When you think we spend $69 million on endangered species, and here we are talking about a mere $800,000 which will be multiplied many times over by the countries where these animals are indigenous by the private sector contributors. I cannot say as eloquently as the Speaker how important this is for the preservation of these species.

Mr. DICKS. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Maryland [Mr. GILCHREST].

Mr. GILCHREST. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. Chairman, I think everyone in this room knows what HIV is, and that it leads to AIDS. HIV is human immunodeficiency virus.

It has just been discovered by a gentleman from Maryland that cats, cats in the wild, have FIV, that is feline immunodeficiency virus. They got it about 200 million years ago and through the course of time they have developed a resistance to FIV. Cats some time ago gave it to monkeys, SIV, simian immunodeficiency virus, and they gave it to humans. If we lose the wild cats in the wild, we will not have any sense of understanding about how they were able to balance HIV with not getting AIDS.

It is important, I think, for us to have some sense of preservation for these wild animals. I urge a "no" vote on this particular amendment. If we want to understand the nature of nature and preserve the quality of life for people, let's contribute just a few dollars which will add up to big bucks later.

Mr. DICKS. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Oklahoma [Mr. BREWSTER].

(Mr. BREWSTER asked and was given permission to revise and extend his remarks.)

Mr. BREWSTER. Mr. Chairman, I rise in opposition today to the Stenholm-Neumann amendment eliminating funding for the Rhino and Tiger Protection Act.

This funding was secured last year as a result of efforts by Congressman JACK FIELDS and several members of the Congressional Sportsmen's Caucus. This funding is vitally important to the international efforts to rehabilitate the populations of these two species of animals.

I believe the question we are facing today goes much deeper than whether or not the U.S. should fund efforts to protect a foreign species. The question we are facing today is whether or not the United States should force unfunded mandates on other governments.

Until last year, the United States had mandated Rhino and Tiger management principles to countries in Africa without providing funding for those mandates. While we are at it, I might as well mention what those mandates are.

As a result of domestic laws such as the Endangered Species Act, the United States has unilaterally dictated to African countries what management principle they can or cannot use. Controlled sport hunting in many countries is the best and/or only way of producing revenues for the management of their domestic wildlife. We have told these countries that they cannot use hunting, which is a scientifically proven and successful wildlife management tool. Because of our unilateral threats, these countries have no way to fund their wildlife management without our support.

We have no more right to send an unfunded mandate to a foreign country than we do in sending an unfunded mandate to the State of Oklahoma or the city of Chicago.

Vote no against the Neumann-Stenholm amendment.

Mr. NEUMANN. Mr. Chairman, I yield 2 minutes to the gentleman from New Jersey [Mr. ANDREWS].

(Mr. ANDREWS asked and was given permission to revise and extend his remarks.)

Mr. ANDREWS. Mr. Chairman, I thank my friend the gentleman from Wisconsin for yielding me the time.

Mr. Chairman, I rise in support of the amendment proposed by my friends the gentlemen from Wisconsin and Texas. I do not doubt for one moment the importance of wildlife management and preservation. I do not doubt for one moment the sincerity of the commitment of the Members who oppose this amendment. But I do not doubt for one moment that a huge majority of our constituents if asked to review our priorities in this case would want us to vote for the Neumann-Stenholm amendment.

The test that I think Members ought to use here, Mr. Chairman, is what I call the supermarket checkout line test. If this Saturday, Mr. Chairman, a Member were home in his or her own district and had to stand in the supermarket checkout line on Saturday morning and look one of their neighbors in the eye and explain to them why they had voted to spend their tax money on this program at a time when we are considering ways to spend less on reading teachers in the public schools, on the acquisition of public lands, on public health research in this country, I do not think there are many of us, Mr. Chairman, who could do that.

There is sincerity in this program, but there is not priority. It is a relatively small number, but it is a relatively big principle.

I urge my colleagues to support the Neumann-Stenholm amendment.

Mrs. ROUKEMA. Mr. Chairman, will the gentleman yield?

Mr. ANDREWS. I yield to the gentlewoman from New Jersey.

Mrs. ROUKEMA. Mr. Chairman, I want to take this opportunity to associate myself with the gentleman's remarks. I think he has hit the nail right on the head, if not the rhino, that this is not a priority, particularly when we have cut back so dramatically on open land in our own State and our own Nation. I thank the gentleman for his comments.

Mr. ANDREWS. I thank my friend the gentlewoman from New Jersey, and I urge a "yes" vote on the amendment.

Mr. NEUMANN. Mr. Chairman, I reserve the right to close. Do I have the right to close?

The CHAIRMAN. The gentleman from Washington [Mr. DICKS] as a representative of the committee has the right to close.

Mr. NEUMANN. Mr. Chairman, I yield myself the balance of my time.

The CHAIRMAN. The gentleman from Wisconsin [Mr. NEUMANN] is recognized for 2 minutes.

Mr. NEUMANN. Mr. Chairman, I would just like to reiterate that this is somewhat of a symbolic vote, a message to the people of the United States that we are serious about changing the spending practices here. No one that I have talked to in this questions the importance of maintaining and preserving endangered species, preserving rhinos, elephants and tigers. No one is questioning that whatsoever. What is being questioned here is whether U.S. tax dollars should be used for that purpose or whether private funding should be doing that. Our children and our grandchildren are counting on this Congress to change the practices of the past, to zero out programs that we can no longer spend money on. If we had the money to spend on this program, it might be a fine program. We do not. Our checkbook is overdrawn. It is time we stopped spending money in this country that we do not have.

I would just close with a statement to reiterate, that it is time that the people in this Congress start sending a loud and clear message to the people of this country that the U.S. Government cannot keep doing for others what others ought to be doing for themselves.

Mr. Chairman, I yield back the balance of my time.

□ 1830

Mr. DICKS. Mr. Chairman, I would just say, again, I think the Speaker hit the right tone this evening. This is a very modest amount of money to help preserve the African elephant, the rhinoceros and the tiger. The gentleman from California [Mr. BEILENSON] I think, made a very impassioned plea.

I would urge the gentleman from Wisconsin [Mr. NEUMANN], I would hope in deference to the speaker, that he would withdraw his amendment. But if not, I would hope we could have a voice vote, vote this amendment down and follow the wise counsel of both the gentleman from California [Mr. BEILENSON] and the Speaker.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Wisconsin [Mr. NEUMANN].

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. STENHOLM. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

Mr. STENHOLN. Mr. Chairman, I withdraw my point of no quorum.

The CHAIRMAN. The Chair announced that pursuant to clause 2, rule XXIII, he will reduce to a minimum of five minutes the period of time within which a vote by electronic device if ordered, will be taken on the pending question following the quorum call.

Mr. DICKS. Mr. Chairman, I ask unanimous consent that we not have a quorum call and we go immediately to a recorded vote.

The CHAIRMAN. The Chair has already announced the absence of a quorum.

The Chairman announced that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to clause 2, rule XXIII, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from Texas [Mr. STENHOLM] for a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 132, noes 289, not voting 13, as follows:

[Roll No. 503]

AYES—132

Allard
Andrews
Armey
Baker (CA)
Barton
Browder
Brownback
Bryant (TN)
Bunning
Burr
Camp
Canady
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Coble
Coburn
Collins (GA)
Condit
Cooley
Costello
Cramer
Crane
Crapo
Cubin
Danner
Dickey
Doyle
Duncan
Dunn
Emerson
Ewing
Fields (LA)
Ford
Franks (NJ)
Funderburk
Ganske
Graham
Hall (TX)
Hancock
Hansen
Hastings (WA)
Hayes
Hayworth
Heineman
Herger
Hilleary
Hilliard
Hobson
Hoekstra
Holden
Hostettler
Johnson, Sam
Jones
Kasich
Kennedy (MA)
Kennedy (RI)
King
Klink
Klug
Kolbe
LaHood
Largent
Latham
Lewis (KY)
Lincoln
Lipinski
LoBiondo
Lucas
Manzullo
Martini
Mascara
McHale
McHugh
McInnis
McIntosh
McNulty
Metcalf
Mfume
Minge
Montgomery
Myrick
Nethercutt
Neumann
Norwood
Parker
Payne (NJ)
Payne (VA)
Petri
Pickett
Poshard
Quinn
Radanovich
Ramstad
Riggs
Roemer
Rogers
Rohrabacher
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Seastrand
Sensenbrenner
Shadegg
Shuster
Sisisky
Skelton
Smith (MI)
Smith (NJ)
Smith (WA)
Souder
Stearns
Stenholm
Stockman
Stump
Tanner
Tate
Taylor (MS)
Thornberry
Thurman
Tiahrt
Traficant
Watt (NC)
Weldon (FL)
White
Young (FL)
Zimmer

NOES—289

Abercrombie
Ackerman
Archer
Bachus
Baesler
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Bass
Bateman
Becerra
Beilenson
Bentsen
Bereuter
Berman
Bevill

Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Borski
Boucher
Brewster
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Bunn
Burton
Buyer
Callahan
Calvert
Cardin
Castle
Chrysler
Clay
Clayton
Clement
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Everett
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Fawell
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Filner
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Foley
Forbes
Fox
Frank (MA)
Franks (CT)
Frelinghuysen
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Gallegly
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Hall (OH)
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Jackson-Lee
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Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E.B.
Johnston
Kanjorski
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Lewis (CA)
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Waters
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Waxman
Weldon (PA)
Weller
Whitfield
Wicker
Williams
Wilson
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Wolf
Woolsey
Wyden
Wynn
Yates
Young (AK)
Zeliff

NOT VOTING—13

Bono
Collins (MI)
Fields (TX)
Fowler
Green
Greenwood
Hefner
Martinez
Moakley
Reynolds
Solomon
Tauzin
Volkmer

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Ms. HARMAN, Ms. PELOSI, and Mr. HOKE changed their vote from "aye" to "no."

Messrs. ZIMMER, STUMP, EWING, CRAMER, HERGER, SALMON, SANFORD, STEARNS, and Ms. DUNN changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mrs. FOWLER. Mr. Chairman, on rollcall No. 503, I was absent due to the death of a friend.

Had I been present, I would have voted "no."

AMENDMENT OFFERED BY MR. UNDERWOOD

Mr. UNDERWOOD. Mr. Chairman, I offer an amendment.

The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. UNDERWOOD: Page 37, insert before the colon at the end of line 7 the following: ", and $4,580,000 for impact aid for Guam under section 104(e)(6) of Public Law 99–239".

Mr. KOLBE. Mr. Chairman, if the gentleman will yield, may I inquire, if I might, about the possibility of a unanimous consent agreement? Would the gentleman be willing to limit the time on this to 10 minutes on a side?

Mr. YATES. If the gentleman will yield, until we hear from the leadership, we are not going to agree.

Mr. OBEY. Mr. Chairman, will the gentleman yield to me to explain to the membership what the situation is?

Mr. Chairman, I move to strike the last word.

The CHAIRMAN. The gentleman from Guam [Mr. UNDERWOOD] controls the time. He has an amendment pending before the body. The gentleman from Guam has 5 minutes.

Mr. OBEY. Mr. Chairman, could I ask the gentleman from Guam [Mr. UNDERWOOD], with the understanding that he would be given 1 additional minute of time, if he would yield to me so I could respond to the gentleman from Arizona [Mr. KOLBE] in a constructive way?

Mr. UNDERWOOD. I yield to the gentleman from Wisconsin.

The CHAIRMAN. Without objection, the gentleman from Guam [Mr. UNDERWOOD] has 1 additional minute.

There was no objection.

Mr. OBEY. Mr. Chairman, I think Members should simply understand there are discussions going on right now between the leadership on both sides of the aisle to try to find some way to get out of here at a reasonable time tonight. We have been asked, until those discussions are over, if we could just continue going in the regular order to keep things as calm as possible, and I would hope that shortly we could get an agreement on time for the remainder of the title.

Mr. KOLBE. If the gentleman from Guam would yield to me to respond, and I would certainly ask unanimous consent for time if he needs more time, would the gentleman yield?

Mr. UNDERWOOD. I yield to the gentleman from Arizona.

Mr. KOLBE. Mr. Chairman, I understand those discussions are going on. I was just trying to expedite what I thought was an amendment we did not need to spend an awful lot of time on, so we could continue moving on.

Mr. OBEY. So as not to inflame people's tempers on arguments over time limits at this point.

The CHAIRMAN. The gentleman from Guam [Mr. UNDERWOOD] is recognized for the remainder of his time.

Mr. UNDERWOOD. Mr. Chairman, I present this amendment. It is designed to reprogram funds to reimburse the government of Guam for expenditures on behalf of immigrants from three newly created independent nations in 1986.

By way of background, three countries were created out of the former trust territory of the Pacific Islands, and the United States negotiated a treaty with each government, allowing unrestricted immigration to the United States.

In 1986, three new nations were created out of the trust territory of the Pacific Islands, and unrestricted in-migration was allowed into the United States. These are the only countries of the world that have that right, and by virtue of Guam's proximity, most of the immigration has been to the island of Guam, so that today approximately 6 percent of our population is composed of these immigrants.

At the same time that these nations were created out of congressional action in recolonizing the trust territory, Mr. Chairman, an obligation was made to the people of Guam that any educational and social costs attendant to this in-migration would be paid for. In the course of over 8 years some $70 million has been expended by the government of Guam on behalf of these immigrants, and to date only $2½ million has been spent. My amendment requests $4½ million, and this is in accordance with an administration request earlier this year. It is bipartisan in nature, and it is supported by the chairman of the Subcommittee on Insular Affairs and Native Americans.

□ 1900

Mr. GALLEGLY. Mr. Chairman, will the gentleman yield?

Mr. UNDERWOOD. I yield to the gentleman from California [Mr. GALLEGLY].

Mr. GALLEGLY. Mr. Chairman, the gentleman from Guam [Mr. UNDERWOOD] is correct. As the chairman of the subcommittee, I stand in strong support of the gentleman's amendment. It is fair.

Mr. GILMAN. Mr. Chairman, will the gentleman yield?

Mr. UNDERWOOD. I yield to the gentleman from New York [Mr. GILMAN], chairman of the Committee on International Relations.

Mr. GILMAN. Mr. Chairman, I rise to support Mr. Underwood's amendment to provide Guam with immigration impact assistance.

This amendment would provide $4.58 million to assist Guam in meeting the demands of new immigrants to have settled in Guam. I understand the amendment is within the budgetary caps, and seeks to carry out a program authorized by Public Law 99-239 the act which set forth the Compact of Free Association between the United States and the Federated States of Micronesia and the Republic of the Marshall Islands.

Given our recognition of these States formally in 1986, it makes sense for them to take part in determining the priorities for federally funded programs. Accordingly, I urge support for Mr. UNDERWOOD's amendment.

Mr. MINETA. Mr. Chairman, will the gentleman yield?

Mr. UNDERWOOD. I yield to the gentleman from California.

Mr. MINETA. Mr. Chairman, I rise in strong support of the Underwood amendment and urge my colleagues to join me in voting to uphold the commitment of the Federal Government to the citizens of Guam.

In adopting the 1986 Compact of Free Association with the Federated States of Micronesia, the Republic of the Marshall islands, and the Republic of Palau, the Federal Government made a promise that Guam would be reimbursed for the costs associated with unrestricted immigration from the Freely Associated States.

Unfortunately, that promise was not kept until last year when the Congress appropriated $2.5 million for fiscal year 1995. Having just begun to live up to our promises, we should not back out now.

Mr. Chairman, we have all too often overlooked our responsibilities and our promises to the peoples of our Pacific Islands Territories.

By adopting the amendment offered by the gentleman from Guam, we can take a small step toward reversing that record.

It is a step well worth taking.

I urge my colleagues to join me in voting "aye" on the Underwood amendment.

Mr. MILLER of California. Mr. Chairman, will the gentleman yield?

Mr. UNDERWOOD. I yield to the gentleman from California [Mr. MILLER], the ranking member of the Committee on Resources.

Mr. MILLER of California. Mr. Chairman, I want to strongly support this amendment offered by the gentleman from Guam [Mr. UNDERWOOD] and again tell the House that this is neutral. He has taken the money that we have saved by closing—a portion of the money from OTIA, and it is a very important amendment, badly needed, and I hope the House will support it.

Mr. UNDERWOOD. Mr. Chairman, I would like to clarify this amendment takes advantage of savings made earlier by the amendment offered by the gentleman from California [Mr. GALLEGLY] in which the Office of Territorial and International Affairs was closed and in which technical assistance money is reprogrammed from other territories. I have the full support of all the Territorial Delegates. I have the full support of all the Territorial Governments on this issue.

Mr. Chairman, it is important to understand that this is really the quintessential unfunded mandate. What we have here is a series of unrestricted immigration. It is important to understand that there are only three countries in the world where its citizens can come into the country without a passport, without a visa, and they can come into any area and work without any restrictions whatsoever, and this happens in the case of Guam.

In order to make the comparison, in the past 8 years we have had 8,000 immigrants come into Guam. This represents approximately 6 percent of our total population. In comparison to the United States this would approximate 15 million people.

I urge support of this. I say to my colleagues, If you are interested in sending a message about unfunded mandates, if you're interested in sending a message about meeting failed Federal commitments on local communities, this is a good way to make that statement.

Mr. KOLBE. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I will not take the entire 5 minutes, but I will rise in support of this amendment. We have previously with the Gallegly amendment made a reduction in some of the funding so that the dollars are available for this purpose, and as has been pointed out, there has been a commitment that has been made to fund in this compact this aid. This has been an informal agreement that has been made through the years between the Territory, and the administration, and this Congress, and for that reason I do support the funding.

I would, however, note that in doing this we do use all the remaining dollars from the amendment that was struck and that this puts us right at our total allocation.

Mr. DICKS. Mr. Chairman, will the gentleman yield?

Mr. KOLBE. I yield to the gentleman from Washington.

Mr. DICKS. Mr. Chairman, I am perfectly willing on the part of our side to accept this amendment if the gentleman is willing to accept it, and I would urge the committee to accept this amendment.

Mr. KOLBE. Mr. Chairman, I would urge support of the amendment.

Mr. FALEOMAVAEGA. Mr. Chairman, I move to strike the requisite number of words.

Mr. FALEOMAVAEGA. Mr. Chairman, I rise today in strong support of Congressman UNDERWOOD's amendment to reallocate funding to the Government of Guam to compensate the financial burden placed on the local government by actions of the Federal Government.

In 1986, by public law the Congress adopted the Compact of Free Association between the United States and the Governments of Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau. This compact exempts citizens of the freely associated states from meeting certain U.S. passport, visa, and work permit requirements, and allows them to reside, work, and attend school in the United States and its territories. Guam and the other territories were not involved in these discussions.

Because Guam is the closest United States soil to the Freely Associated States, many indigent citizens of these states have migrated to Guam, and the Government of Guam has been required to expend in excess of $70 million to provide for the educational and social services of these people. While the United States Government has agreed in principle to assist the Government of Guam with these expenses, to date, only $2.5 million has ever been appropriated.

In fiscal year 1996, the administration proposed $4.5 million for this purpose, but the Appropriations Committee did not include that amount in its bill. As the gentleman from Guam has been saying since he came to Washington, this is a $70 million unfunded mandate. An unfunded mandate we can easily correct with the savings approved in the Gallegly amendment. In effect this is simply a reallocation of a portion of these funds, and the bill will remain below the subcommittee's 602(b) allocation.

I urge my colleagues to provide the funding for this prior U.S. commitment and vote in favor of the Underwood amendment.

Mr. ABERCROMBIE. Mr. Chairman, I move to strike the requisite number of words.

Mr. ABERCROMBIE. Mr. Chairman, I speak in favor of the amendment, and the remarks of the Delegates from Guam and American Samoa would be as my own.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Guam [Mr. UNDERWOOD].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. HUTCHINSON

Mr. HUTCHINSON. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. HUTCHINSON: Amendment No. 54: On page 16, line 25, delete $37,934,000 and insert $34,434,000.

Mr. HUTCHINSON. Mr. Chairman, I commend the work that the committee has done. I think it is an excellent Interior appropriation bill. I think this amendment is important.

Mr. Chairman, the amendment that I am offering today is based on the principle that the Government, especially in this time of severe budget constraints, should not and cannot financially support every interest group, particularly those which have demonstrated the clear ability to be self-sufficient.

My amendment would eliminate the Federal subsidy for the National Trust for Historic Preservation and save the taxpayers $3.5 million.

Now let me emphasize that my intention is not to abolish the Trust or the many good programs that they carry out—but to remove a totally unnecessary Federal subsidy.

The Trust is a congressionally chartered organization established by an act of Congress in 1949. Its original primary mission was to preserve buildings, sites, and objects of historical significance, but since this time, the Trust has acquired 18 such historic properties. But today, the Trust only allocates about 20 percent of their annual $33 million budget to this primary mission. In fact, Mr. Chairman, the Trust has adopted significant administrative barriers which substantially preclude them from carrying out their primary mission. The Trust does not accept new properties unless they are fully endowed to cover all future operating expenses.

The other 80 percent of their budget, according to their 1949 charter, goes to "facilitate public participation in the preservation of historic sites, buildings and objects."

Now apparently, my colleagues, under this category lobbying expenses of over three-quarters of a million dollars is included, lobbying expenses on things like this publication put out by the National Historic Trust lobbying against the free enterprise system, what most of us believe in. They have claimed that they do not engage in lobbying, at least that they do not use Federal expenditures for that, but it is used at least to utilize their private funds in order to lobby State legislatures, local and Federal level. In one case they sent bulletins to all their Virginia members urging them to write their State senators, write their delegates, to oppose pending legislation. They even provided sample letters as to what should be said. They have lobbied repeatedly against the free enterprise system and have waged a virtual war on the mass retailing industry.

Also under this category falls litigation expenses for the Trust. In recent years, the Trust litigation department has had a budget of $700,000. In the last 5 years, the Trust has entered over 30 lawsuits against the Federal Government. They have entered suits against the FAA, State Department, Army Corps—and even the Justice Department and Interior Department, which by law sit on their board of trustees.

The Trust has also managed to come up with $233,000 annually to pay the salary of the organization president.

I ask my colleagues, "Does an organization that pays almost a quarter of a million dollars for their president need a Federal subsidy?"

Six positions at the Trust paid salaries in excess of $100,000 in fiscal year 1994 for a total of $773,482—50 percent of this was charged to the Federal appropriation. In fiscal year 1995, there are five positions paid in excess of $100,000 and $333,362 is being charged to the Federal appropriation.

How do we justify a Federal subsidy for an organization that can afford this?

The bottom line here is that the Government cannot afford to subsidize groups with a proven track record of being able to support themselves. Over the last 5 years, revenues have exceeded Trust expenses every year and have contributed to the Trust developing a lucrative portfolio of assets which now exceeds $50 million. The private funding base, which already constitutes over 80 percent of the funding for the Trust, would only need to be slightly expanded to cover any shortfall.

In November, the elections demonstrated that the American people are clearly disillusioned with the direction the country is taking. We need to restore faith in our Government by honoring our commitment to the American people to reduce unnecessary spending.

Now, Mr. Chairman, I say to my colleagues, You're going to hear that the issue is the mainstream program. It is not. It is not. How can cutting $3½ million out of the budget of over $33 million possibly endanger or jeopardize that program? It jeopardizes litigation, lobbying, entertainment, and high salaries.

My colleagues will hear that the issue is historic preservation. It is not.

It is not historic preservation, it is not mainstream, it is whether we can afford to subsidize well-endowed organizations.

Mr. Chairman, let us return the Trust to the same status that it enjoyed for nearly 20 years when it existed without the benefit of an annual Federal subsidy in realization that we must restrict Federal expenditures to our country's most essential needs. I urge support for the Hutchinson amendment.

Ms. McCARTHY. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Arkansas [Mr. HUTCHINSON].

Mr. Chairman, the National Trust is an American success story. In over 1,000 communities across this great Nation it has worked to help revitalize our downtowns, our Main Streets, and throughout the land since 1980, Mr. Chairman, it has been a very real positive effort in 39 of our States, creating over 23,000 new businesses, over 85,000 new jobs, over 33,000 building rehabilitation projects, and $3.6 billion in new investment and actual physical improvements. Every dollar spent by a local Main Street organization leverages over $25 from other sources.

Mr. Chairman, the committee chose to reduce the appropriation by one-half and to phase out Federal involvement. This amendment would abruptly end one of America's success stories.

□ 1915

It is untimely to do so in such a success story. I, who do support efforts for fiscal responsibility and balancing our budget, do not want to encourage that membership to abandon our downtowns, to abandon our local communities. I urge my colleagues to oppose this amendment.

Mr. MILLER of California. Mr. Chairman, will the gentlewoman yield?

Ms. McCARTHY. I yield to the gentleman from California.

Mr. MILLER of California. Mr. Chairman, I just want to associate myself with the gentlewoman's remarks, and to thank her, because I think that we are picking up on a single issue over here which may have been in fact nothing more than a mistake, and trying to jeopardize the entire program for the Historic Trust. In fact, as the gentlewoman has pointed out, this has been a program that has been used and leveraged in our communities to save in many cases decaying parts of our community, which has brought new investments to our community, and has also preserved the Historic Trust of this Nation, the assets of this Nation, which we want to bring into the future for our children and grandchildren. I want to thank the gentlewoman for her support in opposition to this amendment.

Ms. McCARTHY. Mr. Chairman, reclaiming my time, it is another good example of a local and Federal partnership, and again where those dollars leveraged have been a great boon to the communities. So I do urge defeat of the amendment.

Mr. KOLBE. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, with some reluctance I rise to oppose the Hutchison amendment. This was thoroughly debated in the committee, as well as a lot of discussion in the subcommittee. As has already been pointed out, we have made a very substantial reduction in the amount of funding for the National Trust for Historic Preservation. We have essentially reduced it 50 percent, from the $7 million that was there, to $3.5 million, and we have indicated our intention to reduce that funding to zero in the year after this. We have suggested there would be no funding in fiscal year 1997.

But, as with several of the agencies and programs that I think that the Republican majority has been talking about eliminating, we do recognize that there are many valuable things that are done here, and that we need to give some time for the changes to get made and for them to find alternatives to continue to do the work, which I think most of us would support, or at least many of the things that the National Trust for Historic Preservation does.

Let me just mention a couple. There are very few Members of this body that have not been touched one way or another by the Main Street program. I have had it operate in several of my communities. It has done a lot, I think, to restore and revitalize some historic downtowns in some smaller communities in my district. The Trust makes grants and loans in case after case that help for this kind of program for the Main Street program.

The Federal funds help to leverage the private local dollars, and the grant funds also enable the National Trust to support the historic preservation work of local communities, helping preservation groups to obtain needed technical assistance.

Mr. Chairman, the point of all of this is I believe this is a function which we can turn over to the private sector, but I do think we need to give it another year to do that. I think the reduction of 50 percent, with the clear understanding that we are not going to fund it in the years beyond that, is appropriate. This was the decision of the committee, the full committee, and that is the reason that I would oppose this and urge my colleagues to oppose this.

Mr. HUTCHINSON. Mr. Chairman, will the gentleman yield?

Mr. KOLBE. I yield to the gentleman from Arkansas.

Mr. HUTCHINSON. Mr. Chairman, I have a couple of questions. One is, does the gentleman approve of the fact that the Trust has filed over 30 lawsuits against various agencies of the Federal Government in the last 5 years, and, if that is the case, and it is, that in fact the cost to the Federal Government and the American taxpayer is not just the $3.5 million Federal subsidy, but all of the litigation costs that we have to pay in order to defend the Federal agencies they are suing?

Mr. KOLBE. Reclaiming my time, without commenting on the specifics of the litigation because I am not familiar with each of them, my answer to that would be no. What we seek to do by this reduction of 50 percent and terminating it in the second year is to give it an orderly time to phase out what I just mentioned are, I think, the worthwhile parts of this program, to retain that.

Mr. HUTCHINSON. If the gentleman will yield further, would it not follow that if the $3.5 million which we are subsidizing the Trust could be achieved by reducing a few executive salaries that exceed $233,000, if by reducing the expenditures on lobbying and entertainment and catering, which exceed three-quarters of a million dollars, and this lobby sheet has been passed out all afternoon out front, would it not make a lot more sense for the reductions in those kind of expenditures to pick up the $3.5 million subsidy, and in fact there would be no loss at all in the programs or worthwhile efforts of the Trust?

Mr. KOLBE. Mr. Chairman, reclaiming my time, I would certainly trust that in a 50 percent reduction, that the National Trust for Historic Preservation would indeed be looking for those kinds of reductions, to reduce those things first. We have had considerable discussion in our subcommittee about this. We have also had considerable discussion with the leadership of the National Trust, and expressed our deep concern about the salaries that have been paid.

Mr. KINGSTON. Mr. Chairman, will the gentleman yield?

Mr. KOLBE. I yield to the gentleman from Georgia.

Mr. KINGSTON. Mr. Chairman, in response to Mr. HUTCHINSON's question, is it not true that the Historic Trust is working to reform itself from within already, and they have offered a plan to somewhat go private and change the way they are doing business, and in that regard they are moving towards what Mr. HUTCHINSON wants, but probably not at the speed he wants, but they are not sitting there trying to preserve status quo?

Mr. KOLBE. Mr. Chairman, reclaiming my time, I appreciate the comment that the gentleman has made. The National Trust has, indeed, even before our subcommittee's action, had started work on a 5-year plan for eliminating Federal funding, and what we are doing is insisting we are going to speed it up slightly, and that it will be done in the course of 2 years. I think that is a rather considerable change, and I think it is an orderly way to eliminate the Federal funding for the National Trust.

Mr. NEAL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I oppose the amendment. The proposal by the gentleman from Arkansas is unwise, and it is unwarranted. I rise in opposition to the Hutchinson amendment and offer my support for the National Trust for Historic Preservation.

Since the Trust was chartered by this Congress in 1949, the Federal money allocated to the Trust has been effectively used as seed money and has nearly quadrupled through private donations. These funds help to finance a series of programs aimed at teaching communities revitalization and economic growth through preservation. These programs have proven to be tremendously successful, creating thousands of new jobs and businesses, and financing restoration and renovation projects in distressed communities throughout the country.

An excellent example of this work that the Trust has done would be found in the city of Northampton, Massachusetts, where the First Church of Northampton have duly received assistance. It has helped not only to support efforts to support the church, but also to repair the stonework, to repair the roof, and to make the 117-year-old building fully accessible to the public.

In addition to being a place of worship, the church also houses several community groups and serves meals to the homeless and the needy. Now, thanks to the assistance offered by the Trust, the First Church can continue its contributions to the community in a sturdier and more accessible building.

The National Trust for Preservation is an example of a Federal program that works, and eliminating or curtailing its funding would be a terrible mistake. This program should not be eliminated; it should be imitated. Our country needs more cost effective programs like the National Trust for Historic Preservation.

Mr. Chairman, I urge my colleagues to oppose this proposal.

Anthony Lewis of the New York Times has said that we are rapidly becoming a nation without a memory. The Trust does not allow that to happen. Just as importantly, let me say this, if I can: I served as mayor of a good sized city, the 95th largest city in America, Springfield, MA. I fought with the preservationists time and again. You know what? They took me to court time and again, but at the end of the day their achievements far outweighed their shortcomings.

It is working. The Main Street program has restored thousands of homes across this country. It has renewed neighborhoods that were lifeless. It has brought Main Street, America back to viability.

Just as importantly, a great Republican initiative at the time, the historic tax credit, allowed people to use the Tax Code to rebuild Main Streets across this country. New England today has a complex that has changed in large measure due to the work of the National Trust for Historic Preservation.

It would be shortsighted tonight to go beyond what the committee has recommended. Let the Trust alone. It has succeeded. There are times when I have disagreed with it, but overwhelmingly, its work has been effective and successful.

Mr. Chairman, I hope that we will oppose the gentleman's amendment.

Mr. DOOLITTLE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to support the amendment of the gentleman from Arkansas [Mr. HUTCHINSON]. I think it is long overdue. I think why should we be paying taxpayer funds to support lawsuits being filed against the Federal Government, or any government, for that matter. It just does not make sense.

This Trust is a successful organization, obviously, by the size of its budget, by the fact that 80 percent of its funds come from non-Federal sources. We are in an era where we are trying to bring down our deficit. This is a small but symbolic cut, but I think it is important to send this kind of a message.

This organization can stand on its own. I do not know why we would want to support or subsidize, if you will, an organization adding to the congestion of the courts, adding to the costs imposed upon individuals and businesses and families by bringing lawsuits against them.

I do not know why we would want to support an organization that has an extensive lobbying component. Obviously, if they are capable of funding that kind of a thing with 80 percent of non-Federal funds, they ought to just get off the Federal dole, get out of the trough. That time has ended. We have got some serious priorities to fund, and this ought to be one of the things that we certainly could cut.

By the way, I would just observe that when the president of this organization makes more than the President of the United States that would suggest to me that this organization can stand on its own.

Mr. Chairman, I think the gentleman from Arkansas [Mr. HUTCHINSON] has a great amendment, and I strongly urge its adoption.

Mr. KINGSTON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rarely am on the opposite side of issues with my friend the gentleman from Arkansas [Mr. TIM HUTCHINSON]. He is a great budget watchdog, a super friend of the taxpayers, but this time I find myself going against him. And yet I can say this, that you can vote against the Hutchinson amendment and still be a friend of the taxpayers, because as the committee has reported this bill, it still is in the 602(b) allocation which will move us to a balanced budget. This bill is a bill that is a cut and a reduction bill. Indeed, this program alone has been reduced by 50 percent.

I heard the gentleman from California speaking up on the peanuts. Let me tell you about farm programs and why people from the agriculture communities should listen to this. What we are doing on the Committee on Agriculture is we are saying to our farmer friends, change status quo. Your farm subsidy may be a good investment, there may be a reason for it, but we need to change status quo. The Committee on Agriculture is responding that way.

Well, these folks are doing the same way with historic preservation. They have taken a 50 percent cut, and they have come up with their own plan to reform themselves. In addition to that, keep in mind this is not a frivolous program. They have a statutory obligation under the National Historic Preservation Act. They are doing things which the Federal Government has mandated by law. If we do not like that law, we should change it. We cannot do that on an appropriations bill.

Keep in mind this: the previous speaker said we are forgetting our national heritage. One thing we are not doing though is forgetting our tourism. Tourism in 30 states is the top first, second, or third highest industry, the big top three economic industries there are.

In my district, Savannah, Georgia, one of the leading tourism centers of Georgia, people come because it is the largest historic preservation community or landmark community in the country. Brunswick, Georgia, has come a long way in the last five years because of the Main Street program

These are economic investments. They are not things that are just preserving a building just because it is nice or aesthetically pleasing. This group works closely when a new building is proposed in an historic area. When there is a renovation that is going to take place in an historic area, where there is economic changes or growth in an historic area, they work with the community, with the local officials, with the planning boards, and so forth. This group is important to your community.

I would say this: I reluctantly hate to oppose the gentleman from Arkansas [Mr. HUTCHINSON], but you can oppose the Hutchinson amendment and still support a balanced budget, because the bill, as reported, does that.

□ 1930

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. KINGSTON. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, I commend the gentleman and agree with his statement.

I, furthermore, think that the litigation that has brought is often sometimes necessary. It is the cutting edge of trying to define what the property rights are, what the covenants are, how we are going to proceed with this. And that differs in all 50 states. Frankly, we get by with very little dollars in the Historic Preservation Act.

The state historic preservation offices have little money coming from the Federal Government. We try to set national standards with regards to that so that fabric is consistent nationally.

They have done a very good job in this particular program. If you want to change it, fine. But give them a chance to do it. They have leveraged. They have completed their statutory mission. They are doing it today. Obviously, the fundraising and other activities they do, even the lobbying is set out there separately.

I worked very hard with them on, for instance, the establishment of a coin so that they could issue the Civil War coin. They stated their dollars and accurately, and part of these fundraising and other efforts obviously spill over into that. They are allocating it properly. I think they have done a good job. You have cut them deeply. I do not think we ought to eliminate it. This would be a real mistake.

Mr. KINGSTON. Mr. Chairman, the gentleman is correct. Let me ask the gentleman one more question: Are there any other programs that you know of offhand in this Interior bill that are cut 50 percent?

Mr. VENTO. Well, there are some that are eliminated. I think that is a mistake. In cutting this, you are really forcing change at a rapid pace. We ought to give them an opportunity to survive so that we can fulfill the essential mission that we envision and that we all share in terms of cultural resource preservation.

Mr. KINGSTON. Mr. Chairman, 50 percent is a very significant cut.

Mr. HOUGHTON. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, it is too bad that we really have to spend all this time on this particular amendment. I just do not know why we are even discussing this. This has such tremendous leverage. It had such impact. We have so many things to do in this Congress. To eat up time this way discussing something like this, I think it is too bad. But the reason I do stand up here, because I think it is important and it has got leverage.

Let me make sort of an autobiographical comment. I come from a small town. That town was dying. That town was resuscitated principally because of a grant from the National Trust for Historic Preservation.

That grant alone contributed at a minimum of $100 in private funds to that $1 that was given here. That is far in excess of many of the small-time programs. But that is what it was.

Main Street USA is struggling. The soul of a community is in downtown, small town America. This helps. There is no other fund like it.

I strongly oppose this particular amendment.

Mr. DICKS. Mr. Chairman, will the gentleman yield?

Mr. HOUGHTON. I yield to the gentleman from Washington.

Mr. DICKS. Mr. Chairman, I want to rise in strong support of what the gentleman has just said. I come from a community, Tacoma, in the State of Washington. And we did about the same thing. We restored a theater, the Pantages Theater, also our main train station in the community, Union Station, into a Federal courthouse. And I must tell you, it has done more to restore the spirit of that community and that downtown area. It has created jobs and it has made the city look a lot better.

This idea that somehow these partnerships between the Federal Government where we put in a very small amount of money and the private sector puts in a lot of money and a lot of good things happen because of it, that somehow that is wrong, I think that is ridiculous.

I applaud the gentleman for his statement, and I hope the House will remember, we have cut this program by 50 percent. We have listened to the people and said, we are going to move this budget down. We had to do it. We had to cut more in this bill than I wanted to cut. But to say in one year we are going to take it from 7 million to zero, I think is just ridiculous. I hope that we will all vote down this not-well-thought out amendment.

Mr. HOUGHTON. Mr. Chairman, I would just like to say this, you take the coldest, hardest financial analyst or investment analyst and you say, you give me $1 and I will create $100 for you, it is not a bad return on your money.

Mr. DELAY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I understand the concerns of the gentleman from New York and the gentleman from Washington. But this agency, this organization, let us put it that way, it is a public/private organization because it receives public funds, got and raised its own fund for years, for years. They did not need Federal funds. They operated very well, like we have come to this Congress to try to make happen. They do not need this money.

Frankly, most of the people that belong to the National Trust for Historic Preservation are rich enough to write checks for the amount of money we are quibbling over here and take care of it and leverage it all they want to.

The point is, if we cannot do this, what are we going to do?

Mr. Chairman, I rise in very strong support of the amendment to eliminate the Federal subsidy for the National Trust for Historic Preservation. I offered the very same amendment during consideration of the fiscal year 1994 Interior Appropriations bill several years ago.

I'd like to commend the chairman of the Interior subcommittee for recognizing the questionable nature of the Federal subsidy for the Trust by cutting the appropriation in half and directing the Trust to figure out how to make up these funds in the private sector, as they won't be receiving any Federal funds next year. The question is, do we want to sink another $3.5 million into this program—I submit that the American taxpayers do not.

The Trust was chartered by the Congress in 1949 to protect buildings, sites and objects significant in American history, but not suitable for inclusion in Federal trusteeship. However, only 20 percent of the Trust's budget goes toward administration of their 18 historic properties and the Trust does not accept any new properties unless they come fully endowed to cover all future operating costs.

The other 80 percent of their budget is allocated to activities which facilitate public participation in the preservation of historic sites, buildings and objects. These activities include extensive lobbying, regularly suing the Federal Government, organizing opposition to private property rights and what they call the greatest opponent to historic preservation, superstore sprawl.

These efforts are not activities taxpayers expect to be underwriting. Moreover, the Trust could do this work without tax dollars. The Trust has an extensive fundraising ability as well as dues paying members. Its budget has increased in the last 6 years and its portfolios of assets exceeds $67 million. If this Congress can't find the intestinal fortitude to save tax dollars from being spent on a program which doesn't need it, I have serious doubts about our ability to ever balance the Federal budget.

I'm sure we're going to hear loud wails from opponents of this amendment about how the loss of Federal funds will threaten the Mainstreet program or other true preservation activities of the Trust. Such cries—no doubt prompted by lobbying from employees of the Trust—are simply an effort to allow the Trust to continue its elitist activities and to avoid prioritizing spending.

Let's look at how the Trust allocates its spending:

It pays its president a salary of over $233,000;

Six positions at the Trust paid salaries in excess of $100,000 in fiscal year 1994 charging $385,000 of it to the Federal appropriation—in fiscal year 1995, five positions paid in excess of $100,000 and $333,000 is being charged to the American taxpayers;

In 1993, the Trust spent $884,000 for lobbying, entertainment and catering;

In 1991, the Trust spent over $700,000 on its legal department, which has entered over 30 cases against the Federal Government in the last 5 years.

The Trust also organizes numerous workshops and seminars. Perhaps the workshop that included the Eco Tour of the Boston Park Plaza hotel enabling participants to see an environmentally sound hotel that integrates environmental action into all daily decision making it an activity that could be cut out.

Likewise, perhaps organizing international trips such as the Red Sea Passage tour to Egypt and Jordan, described in the Trust materials as travel with fewer than 95 passengers aboard the splendid Regina Renaissance could be minimized.

Trust efforts like the Mainstreet program should be a top priority for the Trust. It is widely supported and good work is done through the program. To suggest that this would be the first to go if the Trust's budget is a couple million dollars less than this year is absurd. It's a matter of setting priorities and surely I've described many actives in which the Trust is involved that could be cut back or eliminated.

Day after day, we hear cries over the future of our children, of people who rely on Federal welfare and others in need and everyone asks the question, "where can we cut funding so these people don't get hurt." Well, this is a great place to start.

The Trust serves as a slush fund for the most wealthy and elite members in every community to oppose development that offends their aesthetic tastes. A recent article critical of the Trust's efforts to prevent what they call public enemy number one—superstore sprawl—stated, WalMarts and similar stores may not be as quaint as Georgetown shops but they usually offer consumers more for less.

If in these days of fiscal crisis we can't face a program like the Trust and recognize that it's a luxury for a few, not a necessity for many, and discipline ourselves to put the money elsewhere, I fear for our ability to make the far tougher choices we have ahead of us.

Mr. DICKS. Mr. Chairman, I move to strike the requisite number of words, and I rise in very strong opposition to this amendment. The gentleman points out that the Trust has gone out and raised at least 80 percent of the money itself. I think the American people would be very pleased if they knew that every dollar that we have invested in the Main Street organization has been leveraged by $24.46 of from other sources.

Now, what does the National Trust do? One of the major programs and one of the reasons I have always supported it is because of the Main Street program. What does it do? It works with communities to demonstrate how historic preservation can stipulate community revitalization and economic development. The National Trust, national Main Street program helps revive neglected and abandoned downtown commercial districts by providing local groups with organization, design, economic restructuring and marketing assistance.

Since 1980, Main Street has been active in over 1,000 communities in 39 States, creating over 23,000 new businesses, over 85,000 new jobs, over 33,000 building rehabilitation projects, and $3.6 billion in new investment and actual physical improvements.

Now, I think, again, what is wrong with the Federal Government saying that as a nation we care about historic preservation and that we have certain historic buildings that we would like to see preserved? I think the American taxpayers would be pleased that they are making a small contribution to this very important effort.

I hope that we will remember now that the committee, run by the gentleman from Ohio [Mr. REGULA], our distinguished chairman, made a significant reduction in this program and that we are going to end it in a year. This is one group that came in and said we can be phased out over a period of time. But to come here now and breach the committee's action I think would be unwise.

So I urge that all of us on both sides of the aisle resoundingly defeat an amendment aimed at, I think, undermining historic preservation in this country, which the Trust has been at the forefront of and this Congress has supported ever since the creation of the Trust.

Mr. WOLF. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I will be brief. I was not going to speak, but I rise in strong but reluctant opposition to the amendment by the gentleman from Arkansas [Mr. HUTCHINSON] and also the gentleman from Texas [Mr. DELAY]. Let me tell you why.

One, the committee has cut them by 50 percent already. Secondly, they have a plan to go private. Third is the good that the Trust has done on Main Street programs throughout the country. In the town of Winchester in my congressional district, the city of Winchester changed hands 72 times in the Civil War, 72 times. The Trust has been involved, and they have saved Civil War battlefields. The battle of Cedar Creek, which is the only battle in the Civil War that the North and South won the battle the same day, in the morning of the battle, the South won. After they finished winning, they stopped. Then Sheridan came down and then came back and attacked the South and they lost. There at Belle Grove at the Battle of Cedar Creek they have saved. They have done so many other things.

The Civil War battlefields, Montpelier, you go on and on. I think the committee has a reasonable thing. They cut them 50 percent. They are out of business federally next year. But to pull the rug out now I think would be a mistake. I strongly urge Members to vote "no" on the Hutchinson amendment.

□ 1945

Mr. MCINTOSH. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I will be brief. I would like to engage in a question with the author of this amendment. First, let it be said, I am a strong supporter of historical preservation. I think it is a good activity at the local level. I think as long as we protect private property rights, it is an appropriate level for local governments to be engaged in.

With regard to the Main Street program, Mr. Chairman, I would ask the author, is it his intention that this $3 million cut in any way reduces funds available for that program?

Mr. HUTCHINSON. Mr. Chairman, will the gentleman yield?

Mr. MCINTOSH. I yield to the gentleman from Arkansas.

Mr. HUTCHINSON. I appreciate the question, Mr. Chairman. I would say to the gentleman that I also am a strong, strong supporter of the Main Street program. It affects 17 cities in the State of Arkansas, and it does a wonderful job and I fully support that. I would hope that the Trust would prioritize their funds so that program is not touched. We are talking about less than 10 percent of their operating budget.

Mr. Chairman, I would hope that what we would jeopardize would be things like $700,000 for the legal department of $700,000 for lobbying, entertainment, and catering, that those would be the things that would be cut instead of good quality programs that are helping our cities like the Main Street program.

Mr. MCINTOSH. My vote on this, Mr. Chairman, and I think the issue here is whether we should have government-funded, taxpayer-funded lobbying. As I walked into the Chamber earlier today, I was handed a sheet of paper that urged me to vote against this amendment, because one of the valuable things that the National Trust did was lobby with taxpayer dollars.

I disagree with that in principal, Mr. Chairman. I think it is wrong. I plan at a future date to have legislative activity to make it illegal for government grantees to be able to lobby government.

However, at this point, Mr. Chairman, I think the appropriate thing to do would be to support the amendment, to send a message that we do not want taxpayer-funded lobbying.

Mr. DICKS. Mr. Chairman, will the gentleman yield.

Mr. McINTOSH. I yield to the gentleman from Washington.

Mr. DICKS. Mr. Chairman, the gentleman should know, I think he does know, that it is illegal to use government-provided funds for any lobbying. It has been in this bill for years. Maybe they used some private sector money, but the money they get from the Federal Government cannot be used for lobbying. Therefore, if the gentleman is going to vote no on that basis, he is making a big mistake.

Mr. McINTOSH. Let me say, Mr. Chairman, I am aware that there are restrictions on the use of government funds to lobby. They are inadequate. They do not work. They clearly do not work when the supporters of this institution tell me that I should vote for $3 million to them so they can continue to engage in lobbying. I think it is wrong. We do not need taxpayer lobbying.

Mr. GOODLATTE. Mr. Chairman, will the gentleman yield?

Mr. McINTOSH. I yield to the gentleman from Virginia.

Mr. GOODLATTE. Mr. Chairman, I appreciate the gentleman yielding to me.

Mr. Chairman, I would ask the gentleman, is it not true that money is fungible; that the money coming into this organization from the Federal Government can be allocated based upon their needs as they take in other money from private sources? If they need additional funds for lobbying, they can take that from the private sector and use this money for legitimate purposes, so therefore the result of our funding them is to effectuate their ability to lobby the government?

Mr. McINTOSH. Yes, that is correct, especially on the overhead costs, it is very easy to have government funds be fungible.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. McINTOSH. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, that would hold true for anyone that got any Federal dollars, even tax expenditures, that they may use those dollars actually for lobbying. Therefore, we probably should not have any type of funds going to any private person that exercises First Amendment rights. Is that the position of the gentleman from Indiana?

Mr. McINTOSH. Reclaiming my time, Mr. Chairman, I do not believe when you fail to tax somebody that you are giving them money. What you are doing is letting them keep their own money, so there is a fundamental difference there.

Mr. VENTO. I am talking about with regard to grants.

Mr. McINTOSH. Let me say in closing, Mr. Chairman, I support this amendment.

Mr. GOODLATTE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I will be brief. I reluctantly rise in support of this amendment. I for many years was a Member of the National Trust for Historic Preservation. I joined it at Montpelier in Virginia. I strongly support their efforts to acquire historic properties like Montpelier and Belle Grove, and their efforts to support battlefields and other historic treasures in this country.

However, the role and the scope of the National Trust for Historic Preservation, unfortunately, in recent years, has taken a new direction that we can no longer as a Congress publicly fund, because the effect is to have money spent by the Federal Government to support litigation all over this country, to support lobbying efforts in this Congress, to affect rights of local governments and State governments, to affect private property owners' rights.

We have seen an example of it right in my State of Virginia in the past few years. The effort on the part of the National Trust for Historic Preservation to control land use planning in the entire northern Piedmont area of Virginia, 8,000 square miles, because they were opposed to the Disney project, is a tragic broadening of the scope of that organization. They should not be involved in that type of thing. If they choose to be involved, they should do so without the support of the Congress.

Mr. Chairman, when they go around the country filing lawsuits, as they intended to do in that case, and supporting lobbying efforts and other efforts, contrary to the interests of the people of the State of Virginia, certainly of the government of the State of Virginia, that is entirely wrong.

While I will continue to support their efforts to acquire historic properties, Mr. Chairman, and I think that is a very worthwhile goal, they, I think, have stepped over the line when they attempt to use their organization and the funds of the organization to inject themselves in massive land use planning issues that should be left to the discretion of State and local governments. I strongly support this amendment.

Mr. DICKS. Mr. Chairman, will the gentleman yield?

Mr. GOODLATTE. I yield to the gentleman from Washington.

Mr. DICKS. Does the gentleman think we should do away with the Historic Trust, Mr. Chairman?

Mr. GOODLATTE. I think the National Trust for Historic Preservation should make a choice. They should either make the decision that they are going to simply be involved in preserving individual historic properties, in which case there may be an argument to be made for Federal funds, or they should do what they are doing now, but do it only with private support, and not with the support of direct taxpayer subsidies.

Mr. DICKS. If the gentleman will continue to yield, I would suggest that we created the National Historic Trust, we told them to go out and preserve these important properties around the country which have historic heritage. Now we are saying "We are not going to give you any money." Is that not an unfunded mandate?

Mr. GOODLATTE. I would say to the gentleman, it is not an unfunded mandate. It is because they have changed the scope and mission of the organization when they have in recent years expanded beyond their original purpose, which was to acquire and protect individual properties, which I think is a fine idea, and have instead gone into the effort of trying to control development.

In this case, their efforts in Virginia were to say that we should not allow a development like Disney in the entire northern Virginia Piedmont, 8,000 square miles. There may be reasons not to support that, but those reasons should be left to the people of Virginia, and not to an organization funded with taxpayer dollars.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. GOODLATTE. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, I thank the gentleman for yielding.

I would ask, is it not essentially one of the ways of protecting these resources that we have charged them to in fact go into the courts, to implement the laws, to educate about the laws that are passed by the Commonwealth of Virginia, or by the State of Minnesota, or by the national government?

Mr. GOODLATTE. The people of the State of Virginia, through their elected representatives, have the right to decide this issue. We in the Federal Government should not be funding a rogue organization that is going to go in and offer a contrary view to the rights of the people of Virginia, or any other State that faces this type of effort on the part of the Federal Government to fund land use planning contrary to the interests of people at the local or the State level. That is my position.

Mr. VENTO. If the gentleman will yield, was it not consistent with the laws of Virginia, the zoning codes and so forth, that they were trying to implement, educate, and to facilitate the process in terms of the goal of preserving this precious resource?

Mr. GOODLATTE. Reclaiming my time, Mr. Chairman, the Federal Government does not need to get involved in promoting and supporting the laws of the State of Virginia. The people of Virginia are perfectly capable of doing that on their own. When it is correct to historically preserve property, they should do so, and when it is not, they should not.

Mr. TORKILDSEN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, very briefly, we have group after group come up to us and say, "Do not cut my program." The National Trust has said they can live with the cut if it is phased in. We finally have a group that is saying "We will raise the money privately. Just do not take it all away from us at once. Do it on a phase-in basis." The bill before us is a phase-in. The gentleman's amendment seeks to eliminate funding all at once.

I rise in opposition to the amendment. I support historic preservation. I ask all my colleagues to support historic preservation and vote "no" on the amendment.

Mr. Chairman, I rise in opposition to the Hutchinson amendment to eliminate the National Trust for Historic Preservation.

The National Trust was chartered by Congress in 1940, and its mission was significantly expanded by the National Historic Preservation Act in 1966. Last year the National Trust received approximately $7 million in federal funding. The National Trust has initiated many successful programs that leverage private sector investment in preservation projects at a very impressive rate.

Since 1980, the National Trust's Main Street program, which helps revive neglected and abandoned downtown commercial districts by providing local groups with organization, design, economic restructuring and marketing assistance, has been active in over 1,000 communities in 39 states, helping create over 26,000 new businesses, over 100,000 new jobs, and over $5 billion in new investment. Every federal dollar spent through a Main Street program leverages over $25.00 from other sources.

In Massachusetts, the Main Street program has been very successful. Forty-four communities in Massachusetts, including Beverly, Haverhill and Peabody, have participated, resulting in over $66 million in cumulative reinvestment.

There are few federal programs as successful in leveraging private sector investment than the National Trust and its Main Street program. In light of this, $3.5 million—a fifty-percent reduction from last year—is a modest amount of funding.

The National Trust for Historic Preservation is expanding its outreach to enable it to rely solely on private dollars. Elimination of the National Trust's appropriation today would jeopardize these privatization plans and will destroy its ability to carry out its congressionally mandated functions. In addition, eliminating these funds will cripple the National Trust's efforts to replace the current federal appropriation with private dollars.

Mr. Chairman, I urge my colleagues to vote "no" on the Hutchinson amendment and preserve our Historic Trust.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Arkansas [Mr. HUTCHINSON].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. HUTCHINSON. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 129, noes 281, not voting 24, as follows:

[Roll No. 504]

AYES—129

Allard
Archer
Armey
Baker (CA)
Ballenger
Bartlett
Barton
Bilbray
Bilirakis
Boehner
Bonilla
Brownback
Bryant (TN)
Bunning
Burr
Burton
Camp
Canady
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
DeLay
Dickey
Doolittle
Dornan
Dreier
Duncan
Everett
Ewing
Fawell
Flanagan
Franks (CT)
Funderburk
Gekas
Goodlatte
Goodling
Gutknecht
Hancock
Hansen
Hastert
Hastings (WA)
Hayworth
Herger
Hilleary
Hoekstra
Hostettler
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson, Sam
Jones
Kasich
Kim
Klug
Largent
Latham
Lewis (KY)
Linder
Lipinski
Manzullo
McCollum
McInnis
McIntosh
McKeon
McNulty
Metcalf
Moorhead
Myrick
Neumann
Ney
Nussle
Oxley
Petri
Pombo
Porter
Portman
Ramstad
Roberts
Rohrabacher
Roth
Royce
Salmon
Saxton
Seastrand
Sensenbrenner
Shadegg
Shays
Shuster
Smith (MI)
Smith (WA)
Solomon
Souder
Stearns
Stockman
Stump
Talent
Tate
Taylor (MS)
Thomas
Thornberry
Tiahrt
Upton
Visclosky
Vucanovich
Waldholtz
Walker
Wamp
Weldon (FL)
Weller
White
Young (FL)
Zeliff

NOES—281

Abercrombie
Ackerman
Andrews
Bachus
Baesler
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bass
Bateman
Beilenson
Bentsen
Bereuter
Berman
Bevill
Bishop
Bliley
Blute
Boehlert
Bonior
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Bunn
Buyer
Callahan
Calvert
Cardin
Castle
Chapman
Clay
Clayton
Clement
Clinger
Clyburn
Coleman
Collins (IL)
Conyers
Costello
Coyne
Cramer
Davis
de la Garza
Deal
DeFazio
DeLauro
Dellums
Deutsch
Diaz-Balart
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Dunn
Durbin
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Foley
Forbes
Ford
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Furse
Gallegly
Ganske
Gejdenson
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Gordon
Goss
Graham
Gunderson
Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Harman
Hastings (FL)
Hayes
Hefley
Heineman
Hilliard
Hinchey
Hobson
Hoke
Holden
Horn
Houghton
Hoyer
Jackson-Lee
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
King
Kingston
Kleczka
Klink
Knollenberg
Kolbe
LaFalce
LaHood
Lantos
LaTourette
Laughlin
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lightfoot
Lincoln
Livingston
LoBiondo
Lofgren
Longley
Lowey
Lucas
Luther
Maloney
Manton
Markey
Martini
Mascara
Matsui
McCarthy
McDade
McDermott
McHale
McHugh
McKinney
Meehan
Meek
Menendez
Meyers
Mfume
Mica
Miller (CA)
Miller (FL)
Mineta
Minge
Mink
Molinari
Mollohan
Montgomery
Moran
Morella
Murtha
Myers
Nadler
Neal
Nethercutt
Norwood
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Packard
Pallone
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pomeroy
Poshard
Pryce
Quillen
Quinn
Radanovich
Rahall
Rangel
Reed
Regula
Riggs
Rivers
Roemer
Rogers
Ros-Lehtinen
Rose
Roukema
Roybal-Allard
Rush
Sabo
Sanders
Sanford
Sawyer
Schaefer
Schiff
Schroeder
Schumer
Scott
Serrano
Shaw
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (NJ)
Spence
Spratt
Stark
Stenholm
Stokes
Studds
Stupak
Tanner
Taylor (NC)
Tejeda
Thompson
Thornton
Thurman
Torkildsen
Torricelli
Towns
Traficant
Tucker
Vento
Walsh
Waters
Watt (NC)
Waxman
Weldon (PA)
Whitfield
Wicker
Williams
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (AK)
Zimmer

NOT VOTING—24

Baker (LA)
Baldacci
Becerra
Bono
Collins (MI)
Fields (TX)
Green
Greenwood
Hefner
Martinez
McCrery
Moakley
Parker
Pastor
Reynolds
Richardson
Scarborough
Smith (TX)
Tauzin
Torres
Velazquez
Volkmer
Ward
Watts (OK)

☐ 2103

The Clerk announced the following pair:

On this vote:

Mr. Bono for, with Mr. Richardson against.

Mr. SCHAEFER changed his vote from "aye" to "no."

Messrs. METCALF, PORTMAN, and PORTER changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. OBEY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I struck the last word so that I could try to make the Members of the House aware of what at least some of us have been trying to do to get people out of here at a reasonable time and to set reasonable time limits on this bill.

About 6:30, I was informed by representatives of the majority side that they would like to reach a time agreement on this bill and what was suggested to me is that we try to reach agreement to limit title I and all remaining amendments, finish that by roughly 9 o'clock this evening, go home, work over the weekend to set reasonable time limits for the remainder of the bill, and stick to those time limits when we come back.

So, after some negotiation, I agreed to that suggestion.

☐ 2015

I was informed that at a higher level on that side of the aisle that offer was not acceptable and that, in fact, the intention was to keep us here regardless of what we did until about midnight tonight. I do not think honestly that most Members on either side of the aisle think that that is the rational thing to do. Everybody is tired, and it is well if we are making decisions when we are reasonably fresh, and I think we are also much kinder to each other when we are.

So we then went into negotiations to try to find some way to limit time. I then suggested to the majority leader that because I had been told that we had major amendments such as NEA, National Endowment for the Arts, the Humanities, the weatherization amendment, two major amendments on energy program funding, the Strategic Petroleum Reserve, another one on Indian education to replace the one that I offered, the best estimate was probably about 4½ to 5 hours of debate left if we got lucky. There were 20 amendments pending to that title. That is what I was told, that people expected to be offered. So they thought if we limited that to 4½ hours and then took the votes, that would be reasonable length of time.

There were then about 12 or 13 still alive possible amendments to the remainder of the bill. We thought we could compress that to maybe 2 hours in total.

So what I offered was a suggestion that we finish title I, get out of here by 9:30, by that time, and then set a time limit under which we would finish all remaining debate on Monday to title II, stack the votes so that they would occur immediately on Tuesday morning, finish the 2 hours of debate on Tuesday morning on the remainder of the bill and get through at a reasonable hour.

I respect the desire of the majority leader to try to do it somewhat faster, but I do not know how, and so we offered that motion. It was considered for roughly an hour. Then an offer was made, which I think was represented as coming from the majority leader, to finish title I and they go to the NEA tonight. That would still mean we would be here until midnight tonight. I do not think that is reasonable.

I do think I am willing to do almost anything to get reasonable time limits on this bill, and if the majority would like, I would even be willing to take up immediately the Stearns amendment on NEA, and have a vote on that, if you want, 10 minutes' debate on each side, vote on that baby, and go home for this evening with the same kind of time limits that we have been talking about for the remainder of the bill. I do not know if they are perfect. But at least they end this bill and get us on to the next one.

So that is what I have tried to offer in good faith. I do not want to see Members stuck here until midnight tonight for no reasonable purpose when, without time agreements, we are going to continue to be debating title I all night.

So at the end of these remarks. I am going make a unanimous-consent request to see if we can reach that agreement, and I would hope that we can get this done so that we can get this finished in a reasonably bipartisan fashion, and that is all I am trying to do.

Mr. LEWIS of California. Mr. Chairman, will the gentleman yield?

Mr. OBEY. I yield to the gentleman from California.

Mr. LEWIS of California. Mr. Chairman, I appreciate very much my colleague yielding.

When he was talking about this, and I did not get up earlier, the next amendment is an amendment that affects my district nonetheless, and I am very concerned about that.

But I have no problem whatsoever with some kind of a limitation on time. But I would hope that that would come in the context of our working reasonably together, and I would also hope that it would, beyond this amendment, take us to the point where maybe we could close down reasonably early.

Mr. OBEY. I would like to do the same thing. I have been advised that probably on that amendment it would probably take about 15 minutes a side. I do not know if that is true or not. I am willing to settle on any time limit on that amendment that we could agree on.

Mr. REGULA. Mr. Chairman, will the gentleman yield?

Mr. OBEY. I yield to the gentleman from Ohio.

Mr. REGULA. At this moment I guess I am the higher level. I have been looking around.

But anyway, I would like to make a suggestion to the gentleman. We have four amendments left in title I. People have missed their airplanes.

If we could take these one at a time and get time limits, the gentleman from California [Mr. FAZIO], the gentleman from New Mexico [Mr. RICHARDSON], the gentleman from Vermont [Mr. SANDERS], and the gentlewoman from Idaho [Mrs. CHENOWETH], are what we show as being left in title I. If we could get time limits as we go like, for example, perhaps a half hour, whatever, I would like to reserve for our side on time limits, and I think, with a little bit of effort, we can get through these four. We will be finished with title I so when we come back we start on a new title.

Otherwise, if we do not finish title I, we are going to have another 20 amendments on Monday.

Mr. OBEY. That is what I had offered, but I was told by the majority leader he would prefer to see to it that we dealt with NEA tonight. I am trying to accommodate that request.

The unanimous consent request that I would make would be, unless you suggest just to title I, I would suggest we do NEA tonight, if that is what the majority leader wants, do the Stearns amendment, and come back to title I first thing Monday. I am trying to be reasonably responsive to what I thought the majority leader wanted.

Mr. REGULA. If the gentleman will yield, I think if it is agreeable, I would like to go ahead and try to finish these four amendments in title I, get a time limit on each one as we go along. We will get them as short as possible, and hopefully then we can finish up title I.

Mr. OBEY. Then let me simply stop my remarks and let me make the unanimous-consent request if I could.

Mr. YATES. Mr. Chairman, will the gentleman yield?

Mr. OBEY. I yield to the gentleman from Illinois.

Mr. YATES. Mr. Chairman, I want to find out from the gentleman from Ohio [Mr. REGULA] as to whether if we do finish title I, that he would be agreeable to considering title II, not tonight, but on another day.

Mr. OBEY. If I could reclaim my time, I think I will be able to answer that question by the nature of the unanimous consent request that I make.

Mr. Chairman, I ask unanimous consent that debate on all remaining amendments to title II be finished, including votes, by 9:30.

Mr. REGULA. Reserving the right to object, Mr. Chairman, I do not think this is fair to the Members who have an interest in these amendments and, therefore, I have to object to that request.

The CHAIRMAN. Objection is heard.

Mr. OBEY. Mr. Chairman, I ask unanimous consent, trying to respond to the majority leader's interests, and I do not want to imply that he has agreed to it, he has not, but I think it is a reasonable proposal, I ask unanimous consent that we proceed to the Stearns amendment, debate on NEA, debate that for 10 minutes on each side, have a vote, adjourn for the evening, and when we return, agree to a time limit for title II on Monday of 5 hours of debate, with the votes to be taken the next day followed by the discussion on the remainder of the bill to be limited to 2 hours with whatever time is required for rollcall.

The CHAIRMAN. The request for adjournment and votes to be postponed to the next day has to be made in the House.

Would the gentleman care to restate his unanimous consent request?

Mr. OBEY. Mr. Chairman, let me simply state that I would, or my intention would be to deal with the Stearns amendment tonight for 10 minutes apiece, take the vote, and then adjourn for the evening, and when we go into the full House, I would make the motion with respect to the remaining consideration of the bill.

The CHAIRMAN. The gentleman should confine his request to the Stearns amendment.

Mr. OBEY. Then I ask unanimous consent that the gentleman from Florida be permitted to offer the amendment, notwithstanding title II of the bill is not yet considered as read and without prejudice to further amendments to title I of the bill.

The CHAIRMAN. Is there objection to the request of the gentleman from Wisconsin?

Mr. REGULA. I object.

The CHAIRMAN. Objection is heard.

Mr. OBEY. Mr. Chairman, I move the committee do now rise.

The CHAIRMAN. The question is on the motion offered by the gentleman from Wisconsin [Mr. OBEY].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. OBEY. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 168, noes 233, not voting 33, as follows:

[Roll No. 505]

AYES—168

Abercrombie
Ackerman
Andrews
Baesler
Barcia
Barrett (WI)
Beilenson
Bentsen
Berman
Bevill
Bishop
Bonior
Borski
Boucher
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Condit
Conyers
Coyne
Danner
de la Garza
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gonzalez
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hayes
Hefley
Hilliard
Hinchey
Holden
Hoyer
Jackson-Lee
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
Lantos
Levin
Lewis (GA)
Lofgren
Lowey
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Mink
Mollohan
Montgomery
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Pickett
Pomeroy
Poshard
Rangel
Reed
Rivers
Roemer
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Sisisky
Skaggs
Skelton
Slaughter
Spratt
Stark
Stenholm
Stokes
Studds
Stupak
Tanner
Tejeda
Thompson
Thornton
Thurman
Torricelli
Towns
Tucker
Vento
Visclosky
Waters
Watt (NC)
Waxman
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NOES—233

Allard
Archer
Armey
Bachus
Baker (CA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Brewster
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Coble
Coburn
Collins (GA)
Combest
Cooley
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeFazio
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Flanagan
Foley
Forbes
Ford
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Gordon
Goss
Graham
Gunderson
Gutknecht
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayworth
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Jacobs
Johnson (CT)
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Livingston
LoBiondo
Longley
Lucas
Luther
Manzullo
Martini
McCollum
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Minge
Molinari
Moorhead
Morella
Myers
Myrick
Nethercutt
Ney
Norwood
Nussle
Oxley
Packard
Paxon
Peterson (MN)
Petri
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Royce
Salmon
Sanford
Saxton
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stockman
Stump
Talent
Tate
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Traficant
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—33

Baker (LA)
Baldacci
Becerra
Bono
Clinger
Collins (MI)
Costello
Fields (TX)
Gallegly
Green
Greenwood
Hefner
Johnson, Sam
LaFalce
Lipinski
McCrery
Moakley
Moran
Neumann
Parker
Pastor
Reynolds
Richardson
Roukema
Scarborough
Smith (TX)
Tauzin
Torres
Velazquez
Volkmer
Ward
Watts (OK)
Williams

□ 2044

So the motion was rejected.

The result of the vote was announced as above recorded.

Mr. REGULA. Mr. Chairman, if it is in order, I ask unanimous consent that we have 30 minutes, 15 minutes for each side, to debate the amendment to be offered by the gentleman from California [Mr. FAZIO] and any amendments thereto.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

Mr. OBEY. Reserving the right to object, Mr. Chairman, can we reach an understanding that this will be the last amendment of the evening?

Mr. REGULA. Mr. Chairman, will the gentleman yield?

Mr. OBEY. I yield to the gentleman from Ohio.

Mr. REGULA. No, Mr. Chairman, I am not in a position to make that agreement.

Mr. OBEY. Then I object, Mr. Chairman.

The CHAIRMAN. Objection is heard.

□ 2045

Mr. REGULA. Mr. Chairman, at this point, we will just go ahead with the bill and take whatever the next amendment is.

Mr. OBEY. Mr. Chairman, I move that the committee do now rise.

The CHAIRMAN. The question is on the motion offered by the gentleman from Wisconsin [Mr. OBEY].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. OBEY. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 161, noes 233, not voting 40, as follows:

[Roll No. 506]

AYES—161

Abercrombie
Ackerman
Andrews
Baesler
Barcia
Barrett (WI)
Bentsen
Bevill
Bishop
Bonior
Borski
Boucher
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Clay
Clayton
Clyburn
Coleman
Collins (IL)
Condit
Conyers
Coyne
Cramer
Danner
de la Garza
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Foglietta
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gonzalez
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hayes
Hilliard
Hinchey
Holden
Hoyer
Jackson-Lee
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
Lantos
Levin
Lewis (GA)
Lowey
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Mink
Mollohan
Montgomery
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Pickett
Pomeroy
Poshard
Rangel
Reed
Roemer
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Sisisky
Skaggs
Skelton
Slaughter
Spratt
Stark
Stenholm
Stokes
Studds
Stupak
Tanner
Taylor (MS)
Tejeda
Thompson
Thurman
Torricelli
Towns
Tucker
Vento
Visclosky
Waters
Watt (NC)
Waxman
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NOES—233

Allard
Archer
Armey
Bachus
Baker (CA)
Ballenger
Barrett (NE)
Bartlett
Barton
Bass
Beilenson
Bereuter
Bilbray
Bilirakis
Blute
Boehlert
Boehner
Bonilla
Brewster
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Christensen
Chrysler
Clement
Clinger
Coburn
Collins (GA)
Combest
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeFazio
DeLay
Diaz-Balart
Dickey
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Flake
Flanagan
Foley
Forbes
Ford
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Ganske
Gekas
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Gordon
Goss
Graham
Gunderson
Gutknecht
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Jacobs
Johnson (CT)
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Livingston
LoBiondo
Lofgren
Longley
Lucas
Luther
Manzullo
Martini
McCarthy
McCollum
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Minge
Molinari
Moorhead
Morella
Myrick
Nethercutt
Ney
Norwood
Nussle
Oxley
Packard
Paxon
Peterson (MN)
Petri
Pombo
Porter
Portman
Quillen
Quinn
Radanovich
Rahall
Ramstad
Regula
Riggs
Rivers
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stockman
Stump
Talent
Tate
Taylor (NC)
Thomas
Thornberry
Thornton
Tiahrt
Torkildsen
Traficant
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—40

Baker (LA)
Baldacci
Barr
Bateman
Becerra
Berman
Bliley
Bono
Chapman
Chenoweth
Coble
Collins (MI)
Costello
Fields (TX)
Gallegly
Geren
Green
Greenwood
Hefner
Johnson, Sam
LaFalce
Lipinski
McCrery
Moakley
Moran
Myers
Neumann
Parker
Pryce
Reynolds
Richardson
Scarborough
Smith (TX)
Tauzin
Torres
Velazquez
Volkmer
Ward
Watts (OK)
Williams

□ 2104

So the motion was rejected.

The result of the vote was announced as above recorded.

MOTION OFFERED BY MR. REGULA

Mr. REGULA. Mr. Chairman, I move to limit debate on title I and all amendments thereto to 90 minutes not including vote time.

PREFERENTIAL MOTION OFFERED BY MR. OBEY

Mr. OBEY. Mr. Chairman, I offer a privileged motion. I move that the Committee rise and report the bill back to the House with a recommendation that the enacting clause be stricken.

Mr. Chairman, what is at issue here, in my view, is whether or not this House is going to be able to conduct its business at reasonable times in public view or whether we are going to be reduced to making virtually every major decision in subcommittees and on the floor at near midnight, with minimal public attention and minimal public understanding and minimum attention.

Mr. Chairman, the motion that was just offered by the distinguished gentleman from Ohio is virtually identical to the proposition which I first made to the majority leader 2½ hours ago. The only thing that has prevented us from being out of here and all of title I finished by now, because our request was to be finished with title I by 9:00, the only thing that has prevented that has been willfulness, in my view. And I am simply suggesting that it makes no sense whatsoever to be doing at midnight what we could have done at 7:00 or 8:00 in the evening.

I would simply make the additional point that the motion that I made then was made after a request to provide limitations was offered by those on the majority side of the aisle. So what I am been trying to do for the last 2½ hours is to get done what majority Members of this House have asked me to help get done. I do not think that is unreasonable.

Mr. REGULA. Mr. Chairman, I oppose the motion.

I was not a party to the earlier negotiations. The gentleman from Illinois [Mr. YATES] and I discussed a possible agreement here that we would finish title I with time limits on the amendments that remain.

The gentleman from Wisconsin [Mr. OBEY] did not agree with that. Frankly, at this point, let us do the people's business. That is what we are elected to be here for.

Mr. Chairman, I move the previous question on the motion.

The CHAIRMAN. The question is on the preferential motion offered by the gentleman from Wisconsin [Mr. OBEY].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. OBEY. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 162, noes 236, not voting 36, as follows:

[Roll No. 507]

AYES—162

Abercrombie
Ackerman
Andrews
Barcia
Barrett (WI)
Becerra
Bentsen
Berman
Bevill
Bishop
Bonior
Borski
Boucher
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Conyers
Coyne
Cramer
de la Garza
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gonzalez

Gutierrez
Harman
Hastings (FL)
Hilliard
Hinchey
Holden
Hoyer
Jackson-Lee
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
Lantos
Levin
Lewis (GA)
Lofgren
Lowey
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Mink
Mollohan
Montgomery
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Peterson (FL)
Pickett
Pomeroy
Poshard
Rangel
Reed
Rivers
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Serrano
Sisisky
Skaggs
Skelton
Slaughter
Smith (WA)
Spratt
Stark
Stenholm
Stokes
Studds
Stupak
Tanner
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Tucker
Velazquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Wilson
Wise
Woolsey
Wyden
Wynn

NOES—236

Allard
Archer
Armey
Bachus
Baesler
Baker (CA)
Ballenger
Barrett (NE)
Bartlett
Barton
Bass
Beilenson
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Brewster
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
Deal
DeFazio
DeLay
Diaz-Balart
Dickey
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Flake
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Gordon
Goss
Graham
Gunderson
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Jacobs
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Livingston
LoBiondo
Longley
Lucas
Luther
Manzullo
Martini
McCollum
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Minge
Molinari
Moorhead
Morella
Myrick
Nethercutt
Ney
Norwood
Nussle
Oxley
Packard
Paxon
Peterson (MN)
Petri
Pombo
Porter
Portman
Quillen
Quinn
Radanovich
Rahall
Ramstad
Regula
Riggs
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Schaefer
Schiff
Scott
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Skeen
Smith (MI)
Smith (NJ)
Solomon
Souder
Spence
Stearns
Stockman
Stump
Talent
Tate
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Traficant
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zimmer

NOT VOTING—36

Baker (LA)
Baldacci
Barr
Bateman
Bono
Collins (MI)
Costello
Fields (TX)
Gallegly
Green
Greenwood
Hayes
Hefner
LaFalce
Lipinski
McCrery
Moakley
Moran
Myers
Neumann
Parker
Payne (VA)
Pryce
Reynolds
Richardson
Scarborough
Shuster
Smith (TX)
Tauzin
Taylor (MS)
Volkmer
Ward
Watts (OK)
Williams
Yates
Zeliff

□ 2127

Mr. BERMAN changed his vote from "no" to "aye."

So the preferential motion was rejected.

The result of the vote was announced as above recorded.

PREFERENTIAL MOTION OFFERED BY MR. OBEY

Mr. OBEY. Mr. Chairman, I offer a preferential motion.

The CHAIRMAN. The gentleman will state the motion.

Mr. OBEY. Mr. Chairman, I move that the committee do now rise.

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. OBEY. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 150, noes 249, not voting 35, as follows:

[Roll No. 508]

AYES—150

Abercrombie
Andrews
Barcia
Barrett (WI)
Becerra
Berman
Bevill
Bishop
Bonior
Borski
Boucher
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Chapman
Clay
Clayton
Clyburn
Coleman
Collins (IL)
Conyers
Coyne
de la Garza
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gonzalez
Gutierrez
Harman
Hastings (FL)
Hayes
Hilliard
Hinchey
Holden
Hoyer
Jackson-Lee
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
Lantos
Levin
Lewis (GA)
Lowey
Maloney
Manton
Markey
Mascara
Matsui
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Miller (CA)
Mineta
Mink
Mollohan
Montgomery
Murtha
Nadler
Neal
Oberstar
Obey
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Pickett
Pomeroy
Poshard
Rangel
Reed
Roybal-Allard
Rush
Sabo
Sawyer
Schroeder
Schumer
Serrano
Sisisky
Skaggs
Slaughter
Spratt
Stark
Stenholm
Stokes
Studds
Stupak
Tanner
Taylor (MS)
Tejeda
Thompson
Thurman
Torres
Torricelli
Tucker
Velazquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Wilson
Wise
Woolsey
Wyden
Wynn

NOES—249

Allard
Archer
Armey
Bachus
Baesler
Baker (CA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Beilenson
Bentsen
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Brewster
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clement
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
Deal
DeFazio
DeLay
Diaz-Balart
Dickey
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Gordon
Goss
Graham
Gunderson
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Jacobs
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Livingston
LoBiondo
Lofgren
Longley
Lucas
Luther
Manzullo
Martini
McCarthy
McCollum
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mfume
Mica
Miller (FL)
Minge
Molinari
Moorhead
Morella
Myers
Myrick
Nethercutt
Ney
Norwood
Nussle
Oxley
Packard
Paxon
Peterson (MN)
Petri
Pombo
Porter
Portman
Quillen
Quinn
Radanovich
Rahall
Ramstad
Regula
Riggs
Rivers
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Royce
Salmon
Sanders
Sanford
Saxton

Schaefer
Schiff
Scott
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stockman
Stump
Talent
Tate
Taylor (NC)
Thomas
Thornberry
Thornton
Tiahrt
Torkildsen
Towns
Traficant
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Weldon (FL)
Weldon (PA)
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—35

Ackerman
Baker (LA)
Baldacci
Bateman
Bono
Collins (MI)
Costello
Fields (TX)
Gallegly
Goodling
Green
Greenwood
Hefner
LaFalce
Lipinski
Martinez
McCrery
Moakley
Moran
Neumann
Olver
Parker
Pryce
Reynolds
Richardson
Scarborough
Shuster
Smith (TX)
Tauzin
Volkmer
Ward
Watts (OK)
Weller
Williams
Yates

□ 2146

So the motion was rejected.

The result of the vote was announced as above recorded.

MOTION OFFERED BY MR. REGULA

Mr. REGULA. Mr. Chairman, I withdraw my pending motion.

Mr. Chairman, I move to limit debate on title I and all amendments thereto to 60 minutes.

The CHAIRMAN. The question is on the motion offered by the gentleman from Ohio [Mr. REGULA].

The motion was agreed to.

AMENDMENT OFFERED BY MR. FAZIO OF CALIFORNIA

Mr. FAZIO of California. Mr. Chairman, I offer an amendment, amendment No. 12, printed in the RECORD on July 11.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. FAZIO of California: Page 2, line 11, strike "$570,017,000" and insert "$569,417,000".

Page 2, line 12, strike "of which" and all that follows through ", and" on line 17.

Page 3, line 4, strike "$570,017,000" and insert "$569,417,000".

Page 16, line 5, strike "$1,088,249,000" and insert "$1,088,849,000".

Page 16, line 9, strike ", and" and all that follows through "serve" on line 12.

Mr. FAZIO of California. Mr. Chairman, this does not need to be a lengthy debate, because I think it is a rather simple question that the Members need to decide here today.

This amendment, which is budget neutral, would reverse what I believe is a back-door effort to gut the provisions of the California Desert Protection Act. As all the Members who served in the last Congress know, that act took us at least 3 weeks to pass this House of Representatives. It was the culmination of some 8 years of hearings and consideration in every Congress, during the last 4. It was finally signed into law by the President during the last Congress after a tremendous outpouring of political support in California, in the desert and nationally.

Major changes were made in the bill on the House floor to address a number of concerns of landowners and outdoor enthusiasts. We dealt with problems and needs of the gunners and off-road vehicle people, we dealt with the needs of grazers and miners who had long used the area. And when the House acted, it did so with an overwhelming vote of 298 to 128, including the support of 45, as a matter of fact, with two conversions, 47 Republicans who served in the last Congress. The Senate passed it by an over 2-to-1 majority.

Now we have an attempt here, probably in a 10- or 15-minute debate, in a very brief debate after a tremendous struggle that took place in the last Congress. We are being asked, I believe inappropriately, to use a process which does not provide for due deliberation in committee to, frankly, make a mockery of the intense efforts this Congress made to accommodate this wide variety of views with many, many amendments. An amendment was offered by my good friend and colleague, who represents much of the area that is at issue here. It was offered at his suggestion in the Committee on Natural Resources. The subcommittee acted contrary to, I think, its chairman's position to move from the National Park Service to the Bureau of Land Management all the funding that had been provided to implement the national park reserve as a result of this legislation just enacted.

The kicker is only $1 remains to implement the multiple-use plan that was agreed to by all of us. My good colleague and friend, the gentleman from California [Mr. LEWIS], is making us, including many of those who supported it in the past, to flipflop and to take a new tack after not even a year has passed since the enactment of the legislation.

So my amendment would simply restore the bill to its original form. I know that the gentleman from Ohio [Mr. REGULA] has proposed a very strong bill for the National Park Service generally. I want to support his mark, the mark that he would really like to provide for those across the country.

I think if my friend, the gentleman from California [Mr. LEWIS], wants to act to change the law we just enacted, we really ought to move legislation through the Committee on Natural Resources. I am sure the gentleman from Alaska [Mr. YOUNG] would be quick to accommodate him with hearings and a markup because I know he agrees with my friend's view of the Mojave preserve.

But by interfering with the Park Service operation of the Mojave national reserve, we are causing problems, adding to problems that I know the gentleman from California [Mr. LEWIS] wants to avoid. The National Park Service has done an effect statement discussing the impact of these changes. Let me quote from it. It says, "While the funding has been transferred, the national preserve is still, in fact, a unit of the national park system. Implementation of the act requires new activities such as survey and installation of boundary signs, preparation of wilderness maps for 69 new areas, law enforcement patrols and surveillance and resource protection of these areas."

So by limiting the funds to just a dollar, the Park Service cannot adequately carry out these roles. They have two people at any one time, at most, on duty. They have already closed down two meth labs. This is an area that deserves attention.

I think the owners of the 4,500 mining claims located in the preserve would be particularly alarmed. The Park Service says to them without funding, mining plans of operations will not be processed, validity determinations will not be made and environmental reviews will not occur.

The CHAIRMAN. The time of the gentleman from California [Mr. FAZIO] has expired.

(At the request of Mr. DICKS and by unanimous consent, Mr. FAZIO of California was allowed to proceed for 2 additional minutes.)

Mr. FAZIO of California. Mr. Chairman, the Mining in the Parks Act, which requires plans of operation to be prepared prior to mining activity, will still be in effect for the national preserve. We simply will be doing nothing to put any of this into effect.

Now, let me say I think there has been a mood change in the area as well. The San Bernardino board of supervisors, which originally opposed the preserve, is now enthusiastic about winning full funding for it, having noted that tourist visits in the area have increased dramatically since the preserve was established. The Chambers of Commerce of nearby Barstow, Baker and Newberry Springs have recently expressed their support for the Mojave national preserve. Local officials want to give this law a chance to work. We in Congress need to do the same.

In short, we should support Chairman Regula's mark. We should support the 8 years of careful crafting that went into establishing the preserve. We should not be using appropriations, I think, as an improper tool to reverse this law we only so recently have enacted.

In light of all the changes we made to accommodate all the critics, legitimate critics of all types who had an input on this bill, in light of the tremendous investment people on all sides of this issue have made, I urge support for this amendment, and I urge restoration of the law, and I urge all of my colleagues, particularly those who stood for this before in the prior Congress, to reiterate their support and not create any question about their dedication to desert protection in California.

Mr. LEWIS of California. Mr. Chairman, I move to strike the last word.

I certainly hope it is the last word, Mr. Chairman.

Mr. Chairman and my colleagues, I do not intend to take a lot of time, and I certainly want to join my friend, the gentleman from California [Mr. FAZIO], in expressing our sensitivity about keeping you here this late regarding this matter. It is an item that happens to affect the districts of five Members from California. As this amendment applies, however, it is almost entirely in my own district, a district in which you can put five eastern States in just the desert that we are talking about.

The gentleman from California [Mr. FAZIO] is correct in saying that last year we had a very, very extended debate and, as a result of that debate, some very unusual things occurred. The chairman of the Natural Resources Committee last year brought a bill to the floor, did a very fine job representing the Senate sponsor of that bill, but there were many aspects of the bill that were not supported by those people who represented the territory affected, and as a result of that, on 10 different occasions the House, in a bipartisan way, chose to change that legislation, overrode the committee and, indeed, reflected the will of the people who live in and work in the territory involved.

There was one element of the bill that was a very significant controversy, and that swirls around this amendment and problem this evening. That element involves the East Mojave, which originally was to be designated as a park, and as the gentleman from California [Mr. FAZIO] suggested, we changed it so it could be more like a multiple-use area. The Park Service was given responsibility to deal with the East Mojave National Preserve, and that is when the problem began. We were very interested to see what they would do with that preserve because it is an area, some of which is very beautiful and very parklike, but most of which has no parklike quality.

The Park Service immediately asked the agency to transfer $600,000 from the Bureau of Land Management, the multiple-use agency, so they could have $600,000 to run this preserve. Almost overnight, they were putting up no-trespassing signs, "Do not drive your vehicle past this point." Roadways that had been used for decades by people, by families, by people who live there, suddenly were no longer roadways. They were called ways, and they were not open to vehicular traffic.

The public that lives in the area is reacting very intently. So an amendment was made that essentially said, "Hey, wait a minute, Park Service, before you go forward, maybe the real multiple-use agency, the BLM, ought to have that money, most of it, until we can see what your plan really is." So an amendment came forth in the subcommittee that took almost all of the $600,000 and gave it to the Bureau of Land Management, a public agency for multiple use of public lands, and left a dollar in the Park Service so that what we could have some basis for negotiations.

As a result of that, all of those people who the gentleman from California [Mr. FAZIO] suggested from the area thought perhaps they should work with them on the preserve have changed any position they might have considered regarding supporting the Park Service's work. The bipartisan Congressional Sportsmen's Caucus opposes the change the gentleman from California [Mr. FAZIO] is suggesting. All of the Members who represent the area, the people who actually were elected from the district, oppose the amendment offered by the gentleman from California [Mr. FAZIO]. State Assemblyman Keith Olberg, from the territory, opposes the change. The chairman of the San Bernardino County Board of Supervisors, Marsha Turoci, the person the gentleman from California [Mr. FAZIO] suggested in the past was supporting the Park Service, now says they should not go forward from here. We need to insist that we see their plan first. Let the Bureau of Land Management in the meantime go forward. The Needles Chamber of Commerce, the East Mojave Properties Owners Association, the National Cattlemen's Association, hunter and wildlife conservation groups are opposed to allowing the Park Service to go forward without a plan, at least for the people who live there, who understand it, and who love it the most.

Now, ladies and gentlemen, I would not do this to your district. There is not any question that there is a very small group of elitists who would like to tell the people in the desert in California how best this land should be managed.

Indeed, there are portions of it that are park quality. We have recommended in the past that be put into a park, not a preserve, and let the Park Service run it, but in this case, absolutely, there is to question that the extremists are having their way in terms of the ways this place is being run. There is no need for this. The battle will go on forever unless we insist that the Park Service have a plan first.

I urge you to help me with my district and vote "no" on the Fazio amendment.

The CHAIRMAN. The time of the gentleman from California [Mr. LEWIS] has expired.

☐ 2200

(On request of Mr. FAZIO and by unanimous consent, Mr. LEWIS of California was allowed to proceed for 2 additional minutes.)

Mr. FAZIO of California. Mr. Chairman, will the gentleman yield?

Mr. LEWIS of California. I yield to the gentleman from California.

Mr. FAZIO of California. Mr. Chairman, we do not need to prolong this too much. I think we all appreciate and understand the difficulty of getting a new national park off the ground, and there is no question there is some problems that would need to be addressed——

Mr. LEWIS of California. This is not in a national park.

Mr. FAZIO of California. I understand, but it is a preserve, and it is under the park system, and I do not think there is any question that the Park Service needs to reach out to the gentleman and to deal with the gentleman on the issues of concern to his constituents. I think it is fair to say that people really want to put this behind them, though, and I know what the gentleman is attempting to do, and that is to get the attention of the Department of Interior and people who need to accommodate the local concerns. I think the gentleman has done that, I think he has accomplished it, and I would only hope that he would sit down with Roger Kennedy and others, and sort out the differences, and see whether we can move to in the first 6 months of operation—some solutions at this site.

Mr. LEWIS of California. In the spirit of that I say to the gentleman, Mr. FAZIO, I appreciate what you've said. I've attempted to communicate with the Park Service. They have been nonresponsive. Let me say that indeed if we make this change, if it goes forward from here, a dollar for the Park Service, $599,000 for the multiple-use agency, the Bureau of Land management, I know they'll be talking to me between now and the time we go to conference, and that's exactly what the House ought to do. If this House last year had believed—could imagine the Park Service would do this to my district, they would have thrown this idea out. I mean it is almost ridiculous, but we shouldn't prolong the evening, Mr. FAZIO. We have really said all there is to say, and I appreciate your cooperation. I just wish you lived down there in San Bernardino County with me.

Mr. FAZIO of California. Well, some day maybe we will have that great privilege, but at the moment I just want to tell the gentleman that Roger Kennedy has written to the gentleman, and he has indicated his desire to meet with the gentleman, and I really think it is appropriate for that meeting to take place. I am sure it will regardless of what happens this evening, but I do hope that Members will stay the course and follow through with their commitment made last year, and I am certain the gentleman has gotten their attention.

Mr. OBEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would urge that we support the Fazio amendment, and I would like to, in discussing the Fazio amendment, make a suggestion that might get us out of here a lot earlier.

Mr. Chairman, the agreement we are now operating under is virtually the same agreement that I offered to the majority leader at 6:30 this evening. At the time, since it was first suggested to me by representatives of the majority party that we ought to try to get a time limit on title I, we constructed a time limit that was agreed to by Members of both parties on the committee. But, when I then walked over to the majority side of the aisle, I was informed by the majority leader that it was not acceptable. Basically the time limit that had been worked out on both sides at the committee level was that we should finish all amendments to title I, including the votes, by 9 or 9:30 this evening. The majority leader then informed me that regardless of how much progress we made on title I, Mr. Chairman, he wanted the House to stay in session until midnight and expressed great frustration that Members were offering so many amendments.

Mr. Chairman, I share that frustration. But I did not ask for a totally open rule. The majority leader happens to believe in it, and it is his privilege.

I then suggested, Mr. Chairman, to the majority leader that I would be willing not only to agree to a time limit on title I, but on time limits for the entire bill. I was asked what my estimate was of the time that would be required to do that.

Mr. Chairman, I told the majority leader that after consulting staff on both sides of the aisle that I was told that their best estimate of the time needed to complete the 20 expected amendments of title II was somewhere between 4½ and 5½ hours depending on what happened in the forestry issue and the arts issue. I suggested we ought to get a time agreement of that amount or any other number that could be agreed to and that, if that kept us into an hour which would be too late on Monday night, that we then stack the votes and have them occur immediately Tuesday morning, and then we try to compress the 12 expected remaining amendments in title III to 2 hours. That is a lot of compression. And that way we could get out of here in what I thought would be the fastest possible way.

The gentleman from Texas [Mr. ARMEY] suggested that he would like to think about that. About an hour later I was told that he did not find that acceptable but that he wanted to finish title I and then go on to consider the arts issue. I suggested that we either finish title I or go, if that was the preference of the majority party, go immediately to the arts issue, and in fact I offered a motion to—I offered a unanimous-consent request to complete title I and then go home. That was objected to. I then offered a unanimous-consent request to proceed to the Stearns amendment, which it was my understanding the majority party wanted to deal with tonight, and then go home and consider the title I items on Monday. That was again objected to.

Mr. Chairman, we are now going to get to about where I was asking that we get to at 9 or 9:30 by about 11 or midnight. I regret that we were not able to reach a bipartisan agreement because I honestly believe, if we have any chance of completing our appropriations bills, we need to have cooperation of Members on both sides of the aisle, not just that at leadership level, but the rank-and-file level, because there are lots of people who want to offer lots of amendments to lots of coming appropriation bills, and I do not think we want to be here until 1 or 2 o'clock every night. I do not think we do our best work then.

So it seems to me that we have to establish some kind of trust and some kind of willingness to work with each other to help facilitate the majority leader's own schedule. That is all I am trying to do, and I say to my colleagues, If you don't believe it, I invite you to ask any Member of the majority side on the Appropriations Committee. Ask them what I've tried to do on all the bills before us up to this time.

The CHAIRMAN. The time of the gentleman from Wisconsin [Mr. OBEY] has expired.

Mr. DICKS. Mr. Chairman, I ask unanimous consent that the gentleman from Wisconsin have 30 additional seconds.

Mr. SAM JOHNSON of Texas. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. DICKS. Mr. Chairman, I move to strike the last word.

Mr. OBEY. Mr. Chairman, will the gentleman yield?

Mr. DICKS. I yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Chairman, all I am trying to do, if you would have the good grace to let me do it, is to suggest that I do not see any constructive purpose to be served by further delay, and so what I am trying to inform the House, unless I am forced to change my mind, is that I have the right every 5 minutes, if I want, to offer another motion to rise.

Mr. Chairman, this is why I do not think it is good to meet this late, because Members do not often act in their own interests.

All I am trying to say is that I do not intend to offer any other motions to rise this evening. I would ask only two things: that we complete action on the pending amendments as quickly as possible and that the majority leader take into consideration the right of this House to consider every important issue we deal with under the most optimum conditions possible, and that means, I believe, not considering important legislation at 12, 1, and 2 o'clock in the morning, be it in subcommittee or on the floor.

I offer my colleagues my intention to try to cooperate in that, but the majority leader must have some realistic understanding of the time realities which neither the minority on the Committee on Appropriations nor the majority have any power to overcome. If the majority leader wants to insist that every single appropriation bill have totally open rules, then we must accept the logical consequences of that when some 70 amendments are filed. Most are filed on the majority side of the aisle, and it just seems to me it makes no sense to want time requirements that leave Members no time to debate the amendments which the majority leader himself has insisted be made in order.

So with that statement I will simply indicate I am not going to offer any more motions tonight, and I would hope over the weekend we can reach a reasonable understanding on this so that we can deal with these issues in a rational way. That is all I have been trying to do all evening long.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. FAZIO].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. FAZIO of California. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 174, noes 227, not voting 33, as follows:

[Roll No. 509]

AYES—174

Abercrombie
Andrews
Baesler
Barrett (WI)
Becerra
Beilenson
Bentsen
Bereuter
Berman
Bevill
Bishop
Boehlert
Bonior
Borski
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Conyers
Coyne
Cramer
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Forbes
Frank (MA)
Franks (CT)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gilchrest
Gilman
Gonzalez
Gordon
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hilliard
Hinchey
Holden
Horn
Hoyer
Jackson-Lee
Jacobs
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly

Kildee
Kleczka
Klink
Lantos
Lazio
Levin
Lewis (GA)
LoBiondo
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martini
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Meyers
Mfume
Miller (CA)
Mineta
Mink
Morella
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Peterson (FL)
Pomeroy
Porter
Portman
Poshard
Rahall
Ramstad
Rangel
Reed
Regula
Rivers
Roemer
Roybal-Allard
Rush
Sabo
Sanders
Sanford
Sawyer
Schroeder
Schumer
Scott
Serrano
Shays
Skaggs
Skelton
Slaughter
Spratt
Stark
Stokes
Studds
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Tucker
Velazquez
Vento
Waters
Watt (NC)
Waxman
Wise
Woolsey
Wyden
Wynn
Zimmer

NOES—227

Allard
Archer
Armey
Bachus
Baker (CA)
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bilbray
Bilirakis
Bliley
Blute
Boehner
Bonilla
Boucher
Brewster
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Flanagan
Foley
Fowler
Fox
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Ganske
Gekas
Geren
Gillmor
Goodlatte
Goodling
Goss
Graham
Gunderson
Gutknecht
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Jefferson
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Livingston
Longley
Lucas
Manzullo
McCollum
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Mica
Miller (FL)
Minge
Molinari
Mollohan
Montgomery
Moorhead
Myers
Myrick
Nethercutt
Ney
Norwood
Nussle
Ortiz
Orton
Oxley
Packard
Paxon
Payne (VA)
Peterson (MN)
Petri
Pickett
Pombo
Quillen
Quinn
Radanovich
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Saxton
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Sisisky
Skeen
Smith (MI)
Smith (NJ)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stenholm
Stockman
Stump
Stupak
Talent
Tanner
Tate
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thornberry
Tiahrt
Traficant
Upton
Visclosky
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wilson
Wolf
Young (AK)
Young (FL)
Zeliff

NOT VOTING—33

Ackerman
Baker (LA)
Baldacci
Bono
Collins (MI)
Costello
Fields (TX)
Ford
Gallegly
Green
Greenwood
Hefner
LaFalce
Lipinski
Martinez
McCrery
Moakley
Moran
Neumann
Parker
Pryce
Reynolds
Richardson
Rose
Scarborough
Shuster
Smith (TX)
Tauzin
Volkmer
Ward
Watts (OK)
Williams
Yates

□ 2228

The Clerk announced the following pair:

On this vote:

Mr. Richardson for, with Mr. Neumann against.

Mr. Moakley for, with Mr. Bono against.

Messrs. BROWN of California, LAZIO of New York, GILCHREST, GONZALEZ, HOYER, and MARTINI changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. The Chair will announce that under the agreement, there are 38 minutes remaining for debate on the amendments.

AMENDMENT OFFERED BY MR. YOUNG OF ALASKA

Mr. YOUNG of Alaska. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. YOUNG of Alaska:

On page 13, beginning on line 10, strike "113 passenger motor vehicles, of which 59 are for police-type use and 88 are for replacement only" and insert instead "54 passenger motor vehicles, none of which are for police-type use".

On page 14, beginning on line 3, strike "*Provided*, That the United States Fish and Wildlife Service may accept donated aircraft as replacements for existing aircraft: *Provided further*" and insert instead "*Provided*".

On page 9, line 22, insert "(less $885,000)" before ", to remain".

On page 27, line 23, insert "(plus $851,000)" before ", to which".

Mr. YOUNG of Alaska (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Alaska?

There was no objection.

□ 2230

Mr. YOUNG of Alaska. Mr. Chairman, I will not take a great deal of time. This is a very simple amendment.

What my amendment does, very frankly, is to strike the funding for 59 new vehicles for the United States Fish and Wildlife Service for police activities and two airplanes for the Fish and Wildlife Service. It is my strong feeling that these are not needed at this time, and, in fact, these monies should be transferred, and that is what my amendment does, to the BIA.

Mr. REGULA. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentleman from Ohio.

Mr. REGULA. Mr. Chairman, we are prepared to accept this amendment on this side, and concur in it.

Mr. DICKS. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentleman from Washington.

Mr. DICKS. Mr. Chairman, I am prepared to accept this amendment, but the gentleman from Massachusetts [Mr. STUDDS] has a question.

Mr. STUDDS. Mr. Chairman, if the gentleman will yield, would the gentleman explain why he strikes the proviso that the Fish and Wildlife Service may accept donated aircraft?

Mr. YOUNG of Alaska. Mr. Chairman, reclaiming my time, there are two things: The Fish and Wildlife Service now has an exorbitant amount of aircraft that they provide, and I would not like to get into the subject totally tonight.

In my State alone we have over 110 aircraft. There are plenty of aircraft to be chartered out, and my argument all along has been every time they acquired aircraft, if it is from the military or any other place, it takes tax dollars to maintain and operate those aircraft, in direct competition with aircraft that are available for contract. I can go to Alaska, and I hope you have a chance, the gentleman has been to Alaska, and we can go on the turbogoose, we can go into everything but a big jet.

I am saying it is time we get out of this business. I am not striking the aircraft that they have now, but the two aircraft they have requested, I am saying no more. Until they can come to me and justify that aircraft, they can show what the need is, I do not think we ought to be having any more aircraft for them.

Mr. OBEY. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Chairman, let me make certain that I understand this amendment. The gentleman is striking the ability for the agency to receive aircraft, two of them.

Mr. YOUNG of Alaska. Two new ones. And I am also striking the 113 passenger vehicles, the 54 remaining for them, the 59 for police work I am striking, because they never justified the use of those vehicles, and I am transferring that money to the BIA.

Mr. OBEY. These are enforcement vehicles that have been requested by the agency?

Mr. YOUNG of Alaska. Apparently they were requested by the agency, but I do not believe they have been justified, and I really will tell you sincerely, kind sir, that one of our biggest problems, they request these vehicles, they have not shown where they are going to be used; I am letting them purchase the 54, but not the 113.

Mr. OBEY. Could I ask what testimony the committee has taken that indicates that these are not needed?

Mr. YOUNG of Alaska. Well, I am not on the committee, and, very frankly, I just know I am on the authorizing committee, and we are going to review the Fish and Wildlife Service and all of the other agencies that come before my committee. I have not had time to do that, that is all. We will do it. If they can justify it, we will go forth at a later date.

By the way, we will have time as it goes to the Senate and goes to conference, the gentleman from Washington and the gentleman from Ohio, if they are in fact needed and can be justified, that can be handled at a later date. But, frankly, I am concerned that the money is being spent by these agencies when they could be spent in other areas. Now, that is what I am saying here.

Mr. OBEY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I am very dubious about accepting this amendment at this point. And the reason I say that is because, as you know, in many regions of the country, I know the West is one, I know certainly in my own State, there are a number of organizations, malicious and otherwise, who simply do not like the idea that Federal agencies are purchasing or receiving additional equipment which can be used in law enforcement. I really do not believe that their judgments ought to supersede the judgments of agencies who we charge with the responsibility to enforce the law.

I respect people's rights to join any organization they want, but frankly, I am suspicious of many of the forces in this society who are so suspicious of law enforcement officials, whether they be Federal or State officials, that I do not believe that we should be making a decision like this, especially at this late hour. So I do not like to do it.

Mr. REGULA. Mr. Chairman, would the gentleman yield?

Mr. OBEY. I yield to the gentleman from Ohio.

Mr. REGULA. Mr. Chairman, I have been assured by the gentleman from Alaska that he will hold a hearing on this issue prior to the conference on this bill, and if the evidence would indicate that these aircraft are important to law enforcement, I think we can deal with it in the conference committee.

Mr. OBEY. Mr. Chairman, reclaiming my time, I thank the gentleman for that assurance, but let me be very blunt. I know there are a lot of militia organizations around this country that do not like to see these agencies get additional equipment that can be used in law enforcement. I must confess that I am extremely concerned that this may be another one of those cases.

So under those circumstances, I do not believe we ought to accept the amendment, and I am going to feel required to push this to a rollcall vote.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. OBEY. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, I thank the gentleman for yielding, and I think we really ought to understand whether any of these land management agencies have vast responsibilities. We represent and have had in the past a tremendous amount of testimony on illegal drugs entering the country. And very often we have found that the various land management agencies are absolutely key to in fact working with the law enforcement agencies, whether it is the DEA or whether it is the local law enforcement agencies.

Some agencies, as a matter of fact, these land management agencies, have exclusive jurisdiction in some of the remote areas in terms of law enforcement, in terms of enforcement of activities in those lands. The gentleman from Alaska represents a state that has a number of areas that maintains exclusive jurisdiction. I know this just deals with the Fish and Wildlife Service, but the fact of the matter is it is an issue that has brought implications.

We have repeatedly asked for hearings on topics in fact dealing with the problems and the threats to such law enforcement agencies in this instance. And if we are going to take away from them the very tools that they need to do that job, I would have significant concerns about such an amendment.

I just think that the fact is that on an arbitrary basis, coming up here with no testimony from the agency, obviously this was put forth, was looked at by the committee. I have heard no testimony that suggests that they do not need this. I mean without aircraft in Alaska, you do not really get around. You really cannot do your job in that particular instance. We know that there is a greater and greater problem, and many of the problems, frankly, many of the problems, frankly, relate to the fact that in terms of not having and having inadequate personnel on the ground for any of these land management agencies, including the Fish and Wildlife Service. So often they delegate and collaborate and work with other agencies or State agencies. But if they do not have the tools and the resources, we are simply lining them up for failure in terms of these particular issues, and I understand the good faith the gentleman brings this amendment forward with, but I think it has rather significant ramifications, and I think the gentleman from Wisconsin has picked up on it, and I thank the gentleman for yielding.

Mr. OBEY. Mr. Chairman, I thank the gentleman, and I say that I will feel required to push this to a rollcall vote.

Mr. REGULA. Mr. Chairman, I move to strike the requisite number of words.

I think we have had the assurance of the chairman of the Natural Resources Committee that there will be a hearing on this. This bill does not take effect until October 1. We will have a conference committee in September. If the hearing indicates that there is a need, I have been assured by the gentleman that we can deal with that in conference and ensure that there is adequate equipment.

I think the point is accurate; it is not just getting a donation of an airplane. Again, it is the operating costs that factor in. So it does not stop with the airplane.

Mr. YOUNG of Alaska. Mr. Chairman, will the gentleman yield?

Mr. REGULA. I yield to the gentleman from Alaska.

Mr. YOUNG of Alaska. May I suggest, I see my good friend from California and I listened to my good friend from Wisconsin, and it has nothing to do with the militia or any other thing. What I am suggesting respectfully, have not seen the justification for this amount of new vehicles. Remember, this is what we call roaded areas. They may be needed. But we have not so far found out if that need is true.

Second, the aircraft, may I stress, is nothing new. Right now they have a humongous fleet of aircraft operating all across the United States at the taxpayers' cost, and very frankly cannot justify them. I have been fighting this issue for the last 15 years, as I was in the minority. And I will tell you right up front that they cannot come to this House or this committee or any other committee and say that they can truly justify the cost to the taxpayer for this fleet of aircraft. That is all I am saying.

They want two new airplanes. That is wrong. This has nothing to do with the militia or anything else. I am saying if you look at the moneys being spent, this is incorrect. You can say what you want to say.

Mr. DICKS. Mr. Chairman, will the gentleman yield?

Mr. REGULA. I yield to the gentleman from Washington.

Mr. DICKS. Mr. Chairman, I would ask the gentleman from Ohio, though I have the greatest respect and admiration for our friend from Alaska, but I would feel a lot better if it was the Appropriations Committee or Interior that had the oversight hearing and we brought up the Fish and Wildlife Service and spent a morning and took a look at this so we could assure our colleagues that we are doing the right thing here. As I said, I am willing to go along, it is late at night, but I think if we could have, say a one-morning hearing, we could get to the bottom of this.

Mr. REGULA. Reclaiming my time, I do plan to have oversight hearings and we will certainly include one on this prior to conference.

Mr. OBEY. Mr. Chairman, will the gentleman yield?

Mr. REGULA. I yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Chairman, what mystifies me is I thought that appropriation hearings on budgets were in essence oversight hearings. I had the impression that what we had just been told is that no testimony had been collected which indicated that the agency did not need this equipment.

Mr. REGULA. Mr. Chairman, reclaiming my time, I do not know that we had testimony that indicated a need. I think we just accepted the budget justifications that were offered by the department. It is kind of a routine thing, but I think the issue has been raised, and therefore, prior to conference we should have an oversight hearing in our Appropriations subcommittee. We have had a huge workload, and I think this indicates a need for that type of a hearing.

Mr. MILLER of California. Mr. Chairman, I move to strike the last word.

Mr. Chairman, what we are being asked to do here is to reduce the law enforcement capability of the Fish and Wildlife Service by limiting their ability to purchase vehicles that they have deemed and the committee has already passed on as being important to their law enforcement capabilities so we can take that money away and give half of it to pay attorney's fees.

This is a law enforcement agency, or an agency that has law enforcement responsibilities to deal with poachers, to deal with people who traffic in illegal game and illegal protected mammals under the Marine Mammal Act and other such acts, airborne hunting acts, where people go out and illegally slaughter animals, and this is how they enforce the law.

□ 2245

Now what we are going to do is decide to reduce that, so we can pay a bunch of attorneys half of that money to pay the people in Alaska, with no showing that that is necessary, and no showing that this need does not exist. However, here it is at quarter to 11 at night and we are going to make this decision.

The Members would not do this to any other law enforcement agency in the country at quarter to 11 at night, but somehow they decide they can just dismiss the claims of these individuals, actually sworn officers, people out there enforcing the laws of the land, and decide they are just going to willy-nilly take away from them the necessary resources, and even deny them the ability to receive donated planes that they use in carrying out these activities on their behalf.

Mr. Chairman, I think this is a poorly thought out amendment. As has already been determined, we do not have the information to make this decision, but they are giving the benefit of the doubt to the attorneys' fees over law enforcement agents for the Fish and Wildlife Service. I would hope Members would reject the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Alaska [Mr. YOUNG].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. OBEY. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 281, noes 117, not voting 36, as follows:

[Roll No. 510]

AYES—281

Allard
Archer
Armey
Bachus
Baesler
Baker (CA)
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Brewster
Browder
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cardin
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clement
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Cox
Coyne
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeFazio
DeLay
Diaz-Balart
Dicks
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
English
Ensign
Eshoo
Everett
Ewing
Farr
Fawell
Fazio
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Gordon
Goss
Graham
Gunderson
Gutknecht
Hall (OH)
Hall (TX)
Hancock
Hansen
Harman
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hilliard
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Jacobs
Johnson (CT)
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kim
King
Kingston
Klink
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
Mascara
McCarthy
McCollum
McDade
McHugh
McInnis
McIntosh
McKeon
McNulty
Metcalf
Meyers
Mica
Miller (FL)
Minge
Molinari
Mollohan
Montgomery
Moorhead
Morella
Murtha
Myers
Myrick
Neal
Nethercutt
Ney
Norwood
Nussle
Ortiz
Orton
Oxley
Packard
Paxon
Payne (VA)
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Quillen
Quinn
Radanovich
Rahall
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stenholm
Stockman
Stump
Stupak
Talent
Tanner
Tate
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thornton
Thurman
Tiahrt
Torkildsen
Traficant
Tucker
Upton
Visclosky
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
White
Wicker
Wilson
Wise
Wolf
Wyden
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—117

Abercrombie
Andrews
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bevill
Bishop
Bonior
Borski
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Clayton
Clyburn
Coleman
Collins (IL)
Conyers
DeLauro
Dellums
Deutsch
Dingell
Dixon
Doggett
Durbin
Engel
Evans
Fattah
Fields (LA)
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gonzalez
Gutierrez
Hamilton
Hastings (FL)
Hinchey
Hoyer
Jackson-Lee
Jefferson
Johnson (SD)
Johnson, E.B.
Johnston
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Lantos
Levin
Lewis (GA)
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Matsui
McDermott
McHale
McKinney
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Mink
Nadler
Oberstar
Obey
Olver
Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Rangel
Reed
Rivers
Roemer
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Skaggs
Slaughter
Spratt
Stark
Stokes
Studds
Tejeda
Thompson
Torricelli
Towns
Velazquez
Vento
Waters
Watt (NC)
Waxman
Whitfield
Woolsey
Wynn

NOT VOTING—36

Ackerman
Baker (LA)
Baldacci
Bono
Clay
Collins (MI)
Costello
Dickey
Fields (TX)
Gallegly
Gibbons
Green
Greenwood
Hefner
LaFalce
Lipinski
Martinez
McCrery
Moakley
Moran
Neumann
Parker
Pryce
Reynolds
Richardson
Rose
Scarborough
Shuster
Smith (TX)
Tauzin
Torres
Volkmer
Ward
Watts (OK)
Williams
Yates

□ 2304

The Clerk announced the following pairs:

On this vote:

Mr. Watts of Oklahoma for, with Mr. Richardson against.

Mr. Greenwood for, with Mr. Moakley against.

Mr. MFUME changed his vote from "aye" to "no."

Messrs. BASS, ZELIFF, and DEFAZIO changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENTS OFFERED BY MR. SANDERS

Mr. SANDERS. Mr. Chairman, I offer amendments, and I ask unanimous consent that they be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Vermont?

There was no objection.

The CHAIRMAN. The Clerk will designate the amendments.

The text of the amendments is as follows:

Amendments offered by Mr. SANDERS: Page 37, line 19, strike "$55,982,000" and insert "$53,919,000".

Page 75, strike line 14 through 17, and insert "For expenses necessary for the Advisory Council on Historic Preservation, $3,063.000".

Mr. SANDERS. Mr. Chairman, this amendment is very simple, and I want to move it quickly. It transfers $2 million from the salary and expenses of the Department of the Interior into the Council for Historic Preservation. This is a relatively small sum of money, but it is extremely important for historic preservation.

Without this amendment, the bill provides for the elimination of the Advisory Council for Historic Preservation. This amendment saves the Council and funds it at the level requested by the Clinton administration. The Council plays an essential role in historic preservation when the Federal Government's actions, like plans to build a highway, threaten historic preservation.

When the Federal Government's actions, like plans to build a highway, threaten historic properties, there is a consultation procedure that promotes input from the local community preservation interests and private property interests. Without the Advisory Council, special interests would have too great a voice in the process.

The Council is extremely important, because many federally funded projects have a potentially devastating impact on our historical and cultural resources. Thanks to the Advisory Council, historical landmarks throughout the Nation have been rehabilitated rather than replaced. But today, Federal projects threaten many sensitive historic buildings and districts. Those communities have a right to be heard, and that is what this amendment is all about.

This is an issue of balance. Special interests with goals that are inconsistent with historic preservation already have a significant advantage. They have the political clout to lobby the Federal Government and trample on local community interests. We need to continue allowing the communities to have a voice, and that is what this amendment is about.

Mr. Chairman, everyone benefits from historic preservation. In a rapidly changing world, it is imperative for our children to understand their roots, how their communities evolved, and where they came from. What this amendment does is transfer $2 million from the bureaucracy into a council that has historically done an excellent job, and I would urge the support of my colleagues for this.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. SANDERS. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, it is late in the night. The gentleman is bringing a very important amendment to the House. I think most Members are not probably aware of what the Advisory Council on Historic Preservation does, but, as the gentleman has pointed out, they work as an interagency function.

As an example, when we were having difficulties with NASA in some structures that had historic importance with regards to our entire culture in development of the space age, they intervened and worked out and negotiated an agreement between the agencies. They had a high-profile organization with various appointments, individuals very often that are distinguished, that many times are professionals and an excellent staff. They have just done a tremendous amount of work in terms of the national government and the agencies that we have and, of course, in terms of training.

Now, as I said earlier, if the gentleman would continue to yield, our State Historic Preservation Officers are really carrying out national policy with regards to historic standards. What this agency has done is, of course, set up training programs, which keeps them abreast of many of the issues and negotiates settlements. For the amount of dollars, obviously, it is a difficult amendment, because it removes money from our beloved Secretary of Interior, Bruce Babbitt's shop. But, nevertheless, I think that he does not necessarily have always the support. The Park Service does not have the high-profile position, but this organization, these appointments have served us many times over.

So I know that my colleagues face difficult decisions here. I think this is one that we would do well to keep, considering the scarce dollars we have and how we can best stretch that to meet these needs. They are fulfilling a good function. I would hope my colleagues, in spite of the late hour, would listen to the amendment.

Mr. Chairman, I think this underlines and provides a very important Federal function between our agencies and between our States with the Federal statement.

Mr. REGULA. Mr. Chairman, I move to strike the requisite number of words.

□ 2310

I am somewhat surprised at my colleagues from the other side of the aisle wanting to give this vote of no confidence in their Secretary of the Interior. But apparently that is what the thrust of this would be.

Mr. DICKS. If the gentleman would yield, he might help pass this amendment if he keeps putting that out.

Mr. REGULA. I would point out our subcommittee reduced the office of the Secretary more than 13 percent below the enacted level of $62.5 million, and this is one of the highest cuts proportionally that we took, and I do not think it is fair to the Secretary to take any more.

Now, that is on the side of where the money is coming from. Where is it going? It is going, as proposed in the gentleman's amendment, to the Advisory Council on Historic Preservation, nice to have, nice to do, but not needed, because the law very clearly says that every agency has to take into account the impact of its activities on the historic resources.

They already have to do it by law. Sure, they can get an advisory council to do some paper and send it over. They do not have to pay any attention to it. The law does not require that they do anything with the advice they are given by the advisory council, and people enjoy serving on the advisory council, and it is nice to have, but it is $3 million.

As we went through the list of priorities, we felt that this is something we can live without. If we had lots more money, that would be one thing, but I do not want to penalize the Secretary of the Interior any further than we have already. He has a lot of responsibilities, and I would think that the gentleman from Minnesota certainly would not want to do that to his Secretary.

Mr. VENTO. If the gentleman would yield, I appreciate the gentleman's defense of my beloved Secretary Bruce Babbitt. I must say, though, that, and I hope that we can rectify some of the cuts and make adjustments in terms of providing for the opportunity for the advisory council, I think we have to look at the record in terms of the work that this council has done. This has been a working council. This has not been an honorific. These are important works; in other words in the absence of their work, many agreements that we have had between the agencies simply would not have taken place.

So I do not think we want to underestimate the work that they have done and that agencies will do this on their own. Yet they will not.

Mr. REGULA. Reclaiming my time, I think, as the gentleman has pointed out, it is nice to have, but there are a lot of things that are nice to have. Here is an opportunity to save, in this round, $2 million. We leave them a million to close out. In the future we will be saving $3 million year after year after year, and that is what we are trying to do in this bill is to get on a glide path to savings that will benefit the taxpayers.

They have no statutory responsibilities. It is nice to have, but we do not think it is nearly as important as having the money in the Secretary's office to administer the huge agency that is known as the Department of the Interior, and we strongly oppose this amendment.

Mr. ENGLISH of Pennsylvania. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of the Sanders amendment, and let me say I am going to keep my remarks very brief.

But I think this is a very significant amendment. By protecting and continuing the Advisory Council on Historic Preservation, we will be supporting local historic preservation. In my view, this is extremely important because this is the sort of activity that protects our cultural treasures. We are voting tonight, if we vote for this amendment, for our historical buildings and properties, for our archaeological sites, for our cultural districts, and for a council which has demonstrated that it can be a catalyst for local preservation efforts.

May I note that this amendment provides no additional cost to the taxpayers. What we are doing is transferring resources for the bureaucrats to historic preservation, and I think that is very important.

I urge my colleagues to support this amendment.

Mr. KINGSTON. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I think everything has been said except for one thing. This is not a huge advisory council, and maybe that is one reason why many Members have never heard of it. They do not think what it does is very significant.

If you live in an area where there is a big historic preservation movement or even a small one, this advisory council is there. Their work is very important, and I do support the amendment and appreciate the gentleman for offering it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Vermont [Mr. SANDERS].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. SANDERS. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and this were—ayes 267, noes 130, not voting 37, as follows:

[Roll No. 511]

AYES—267

Abercrombie
Andrews
Bachus
Baesler
Barcia
Barr
Barrett (WI)
Bartlett
Bateman
Becerra
Bentsen
Bereuter
Berman
Bilbray
Bilirakis
Bishop
Blute
Boehlert
Boehner
Bonior
Borski
Boucher
Brewster
Browder
Brown (OH)
Bryant (TX)
Bunning
Callahan
Calvert
Castle
Chambliss
Chapman
Clayton
Clement
Clinger
Clyburn
Coble
Coleman
Collins (GA)
Collins (IL)
Combest
Condit
Conyers
Coyne
Cramer
Cremeans
Cunningham
Danner
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dixon
Doggett
Dooley
Dornan
Doyle
Dreier
Duncan
Dunn
Durbin
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Eshoo
Evans
Everett
Farr
Fattah
Fields (LA)
Filner
Flake
Flanagan
Foglietta
Foley
Forbes
Ford
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frost
Furse
Gejdenson
Geren
Gilchrest
Gilman
Gonzalez
Gordon
Goss
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Hastings (FL)
Hayes
Hefley
Heineman
Hilliard
Hobson
Holden
Horn
Houghton
Hyde
Jackson-Lee
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E.B.
Johnston
Jones
Kanjorski
Kaptur
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
Kingston
Kleczka
Klink
Klug
Knollenberg
LaHood
Lantos
LaTourette
Laughlin
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lightfoot
Lincoln
Linder
LoBiondo
Lofgren
Longley
Lowey
Luther
Maloney
Manton
Markey
Martini
Mascara
McCarthy
McCollum
McDermott
McHale
McHugh
McIntosh
McKeon
McKinney
McNulty
Meehan
Meek
Menendez
Metcalf
Meyers
Mfume
Mica
Miller (FL)
Mineta
Minge
Mink
Molinari
Mollohan
Montgomery
Morella
Nadler
Neal
Ney
Oberstar
Ortiz
Orton
Owens
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pomeroy
Quillen
Quinn
Rahall
Ramstad
Reed
Riggs
Rivers
Roberts
Roemer
Rogers
Ros-Lehtinen
Roybal-Allard
Rush
Sanders
Sanford
Sawyer
Schaefer
Schiff
Schroeder
Schumer
Scott
Sensenbrenner
Serrano
Shaw
Shays
Sisisky
Skaggs
Skelton
Slaughter
Smith (NJ)
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stupak
Talent
Tanner
Taylor (MS)
Tejeda
Thomas
Thompson
Thornton
Thurman
Tiahrt
Torkildsen
Torres
Torricelli
Towns
Traficant
Tucker
Upton
Velazquez
Vento
Visclosky
Waldholtz
Walsh
Wamp
Waters
Watt (NC)
Waxman
Weldon (PA)
Weller
Whitfield
Wilson
Wise
Woolsey
Wyden
Wynn
Young (AK)
Young (FL)
Zimmer

NOES—130

Allard
Archer
Armey
Baker (CA)
Ballenger
Barrett (NE)
Barton
Bass
Beilenson
Bevill
Bliley
Bonilla
Brown (CA)
Brown (FL)
Brownback
Bryant (TN)
Bunn
Burr
Burton
Buyer
Camp
Canady
Cardin
Chabot
Chenoweth
Christensen
Chrysler
Coburn
Cooley
Cox
Crane
Crapo
Cubin
Davis
Deal
DeLay
Diaz-Balart
Dickey
Dingell
Doolittle
Ensign
Ewing
Fawell
Fazio
Frank (MA)
Frisa
Funderburk
Ganske
Gekas
Gephardt
Gillmor
Goodlatte
Goodling
Graham
Gunderson
Hancock
Hastert
Hastings (WA)
Hayworth
Herger
Hilleary
Hinchey
Hoekstra
Hoke
Hostettler
Hoyer
Hunter
Hutchinson
Inglis
Johnson, Sam
Kasich
King
Kolbe
Largent
Latham
Lazio
Livingston
Lucas
Manzullo
Matsui
McDade
McInnis
Miller (CA)
Moorhead
Moran
Myers
Myrick
Nethercutt
Norwood
Nussle
Obey
Olver
Oxley
Packard
Pallone
Paxon
Petri
Pombo
Porter
Portman
Poshard
Radanovich
Rangel
Regula
Rohrabacher
Roth
Roukema
Royce
Sabo
Salmon
Saxton
Seastrand
Shadegg
Skeen
Smith (MI)
Smith (WA)
Stockman
Stokes
Studds
Stump
Tate
Taylor (NC)
Thornberry
Vucanovich
Walker
Weldon (FL)
White
Wicker
Wolf
Zeliff

NOT VOTING—37

Ackerman
Baker (LA)
Baldacci
Bono
Clay
Collins (MI)
Costello
Fields (TX)
Gallegly
Gibbons
Green
Greenwood
Harman
Hefner
Istook
LaFalce
Lipinski
Martinez
McCrery
Moakley
Murtha
Neumann
Parker
Pryce
Reynolds
Richardson
Rose
Scarborough
Shuster
Smith (TX)
Stark
Tauzin
Volkmer
Ward
Watts (OK)
Williams
Yates

☐ 2333

The Clerk announced the following pair:

On this vote:

Mr. Watts of Oklahoma for, with Mr. Bono against.

Messrs. LONGLEY, CHAMBLISS, and CREMEANS changed their vote from "no" to "aye."

Mr. ZELIFF changed his vote from "aye" to "no."

So the amendments were agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. MICA

Mr. MICA. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. MICA: Page 17, line 21, strike "$14,300,000" and insert "$29,300,000".

Page 18, line 25, strike "$686,944,000" and insert "$671,944,000".

Mr. MICA. Mr. Chairman, it is really a great honor and privilege to serve in Congress, but it is also an important responsibility. And tonight as we conclude our work on the Department of the Interior appropriations bill, we make a bunch of choices. We decide whether we are really going to do things because we are dealing with the people's moneys and expenditures of public funds.

Tonight we decide whether we are going to spend money on administration. Tonight we decide whether we are going to spend money on studies. Tonight we decide whether we are going to spend money on various new programs.

My amendment simply takes $15 million from the USGS, U.S. Geological Survey, which has an increase of $112 million in this budget over the previous years expenditures and says, we will put this into the State/Federal land acquisition fund.

Earlier tonight we had 177 votes for people who believed in a State and Federal acquisition land program.

This is not a Federal land acquisition. This is the money when you come to the Department of the Interior and they say there are no funds. But let me tell you what you will have if we do not pass my amendment. You will have studies—and I have nothing against the U.S. Geological Survey and their responsibilities since 1879 to conduct studies, and if we expand it another $100 million. I am only taking a small amount of that money for a purpose that I think is reasonable.

Let me ask you, what will we do, 10, 20 years from now? Will we take our children and grandchildren to Florida or to Nevada or to your State, California or wherever and say, my son, my daughter, my grandson, my granddaughter, look at this beautiful study. We set the priorities for this Congress. They have increased the studies and funding for studies by $112 million, whether it is biological survey, whether it is studies for the USGS.

We could line up our children and say, look at the beautiful trucks. We made a decision on vehicles and airplanes tonight. We are making a decision on whether there will be resources.

On the Republican side, the majority side, we have said, let us give responsibilities to State and local government, and let me tell you what this bill says. There are no funds provided for State grant programs. Read it. Get the bill. If all else fails, read the bill, page 39.

I tell you, when your State and your local governments come to you or when you have a project and come to the Department of the Interior and they say there are no funds, this $15 million transfer, we are not cutting anything, it is a transfer, set some priorities. So we have an opportunity tonight and a responsibility to set those priorities.

So my State does not have another five years. My state and my districts do not have another five years. Maybe you come from some of those areas. Out of the millions and billions of dollars that we are, if we cannot put $15 million in the priority of state funding for these projects, there is something wrong.

This amendment will not deny access to anyone. This will not spend a penny on any lands that the people do not want or the State or localities do not want purchased.

I am telling my colleagues that this provides a very limited resource and a very limited amount for a very noble purpose of which every one of you have an important interest.

It will protect land for the future. I cannot change the priorities of the Congress in this bill and redirect money for foreign aid or agricultural subsidies. But tonight you and I can decide whether there are State funds and $15 million out of billions and billions of appropriations. Would it not be a sad commentary on this House of Representatives if we walked away from here and said that there is not one cent, according to this bill, and again read it, this is the language for state acquisition of public lands.

So my colleagues, I urge the adoption of this amendment. I thank you for your consideration and the late hour.

Mr. REGULA. Mr. Chairman, I move to strike the last word.

Mr. Chairman, first of all, for the Members' information, I believe this will be the last amendment and the last vote. There is one additional amendment, and we are going to accept that amendment.

Mr. DICKS. Mr. Chairman, will the gentleman yield?

Mr. REGULA. I yield to the gentleman from Washington.

Mr. DICKS. That is correct. This will be the last one that we will be asking for a vote on.

Mr. REGULA. Secondly, I want to thank all the Members for their patience today. It has been difficult, but we have dealt with a lot of very challenging policy issues. I think we have tried to deal with them in a fair way; you win some and you lose some, but that is the way democracy should work.

Now, let us address this amendment. We had over 400 letters from Members requesting something, almost every Member in this body, we had 150 Members request land acquisition projects, 150. We denied them all. But now we are being asked to give just one out of 150. If we yield to this one, we will have 149 requests later on that we are supposed to meet.

Let me tell you where the money is coming from. USGS, United States Geologic Survey. What do they do, earthquake research, geology research. They provide enormous amounts of scientific advice to many different agencies, and we are being asked to take $15 million out of this agency for one land acquisition, even though we have had requests from 150 Members.

The Committee on the Budget clearly said a moratorium on land acquisition. We have tried to respond to that because that became the policy by a vote of this body. I would point out that this money goes essentially to the State of Florida.

The State of Florida should be responsible for their own projects. I am not questioning the merits of the land acquisition. I am simply saying that, under the circumstances, this is not a good policy and would not be fair to the other 149 Members that we have had to deny land acquisition projects.

Mr. DICKS. Mr. Chairman, if the gentleman will continue to yield, I would urge all of my colleagues on this side of the aisle to support the gentleman from Ohio, Chairman REGULA, in opposition to this amendment. He is absolutely right. We turned down every single individual. We had at least 150, maybe more Members who requested land acquisition funds. We said no to everyone because we just did not have the money. We had to cut this thing back that far.

To make it out of the U.S. Geological Survey, which does earthquake research, deals with volcanoes, deals with some of the most seismic disturbances all over this country. In my judgment that is, and we have already cut it back.

☐ 2340

I would say please, on this one, stay with the chairman, let us vote "no" and go home.

Mr. MICA. Mr. Chairman, will the gentleman yield?

Mr. REGULA. I yield to the gentleman from Florida.

Mr. MICA. Mr. Chairman, I would ask the gentleman, is it not true that this bill provides $6.8 million for land acquisition management, and so we have money for management and administration, and yet we do not have funds for this? Is it not also true that this does not provide any money or guarantee for my State, it provides an opportunity for every one of the 149 Members or whoever came and asked for this? Is it not true in fact that this set a priority and an obligation of this Congress to commit some of these funds for this purpose for the entire country?

Mr. DICKS. Mr. Chairman, will the gentleman yield?

Mr. REGULA. I yield to the gentleman from Washington.

Mr. DICKS. Mr. Chairman, let me just make another point here. We asked the Park Service, can we do it? What the gentleman is asking us to do is give money to the Park Service and then make a grant to the State of Florida. The Park Service says it has no legal authority to do that, so we are going to take money away from the U.S. Geological Survey, and legally we cannot even do what the gentleman is asking us to do, so let us please, please, defeat this amendment.

Mr. REGULA. Reclaiming my time, just one point, one additional fact, Mr. Chairman. That is that the USGS does the mapping for this Nation, they did the mapping for the Department of Defense during Desert Storm, it is a vital agency, and I think it is a great mistake to take money from them. We have already cut them, and to cut more would be irresponsible.

Mr. ALLARD. Mr. Chairman, will the gentleman yield?

Mr. REGULA. I yield to the gentleman from Colorado.

Mr. ALLARD. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I am speaking on behalf of myself and as a member of the Committee on the Budget. Regretfully, I stand in opposition to the amendment by my friend, the gentleman from Florida, because we worked hard in the Committee on the Budget trying to get to a balanced budget amendment by 2002.

The task force which I chaired dealt with natural resources and agriculture and research. We said one thing you do not do when you are going broke is you do not build new buildings, you do not acquire new land. We put some restrictions on this. I would just ask for a "no" vote on this amendment that basically earmarks an acquisition of land.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida [Mr. MICA].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. FALEOMAVAEGA

Mr. FALEOMAVAEGA. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. FALEOMAVAEGA: Page 29, line 15, strike "*Provided further*," and all that follows through "November 30, 1997:" on line 18.

Mr. FALEOMAVAEGA. Mr. Chairman, this is a noncontroversial amendment. It has the support of the majority, and of the distinguished gentleman from Ohio [Mr. REGULA] from the Subcommittee on Interior of the Committee on Appropriations.

Mr. Chairman, as the ranking member of the House Resources Subcommittee on Native American and Insular Affairs, I rise to offer this amendment on behalf of myself, Mr. RICHARDSON, and Mr. WILLIAMS, to hold the Bureau of Indian Affairs to a May 31, 1996, deadline to report to Congress on the status of Indian Trust Fund Accounts.

Mr. Chairman, the Indian Trust Fund Accounts, the trustee of which is the U.S. Government, have been a disaster. In good faith, the American Indian tribes agreed to permit the U.S. Government to invest the profits from certain oil and gas leases on Indian lands in trusts. These funds were to be used for the benefits of the tribes. In what I consider to be probably the biggest disgrace of this country's history, the Bureau of Indian Affairs managed to lose records or misallocate profits to such an extent that one of the major professional accounting firms has not yet been able to determine the status of these accounts after 4 years, and 20 million dollars' worth of investigations and review.

Mr. Chairman, enough is enough. The Indian tribes and Congress have already been patient for too long. If the BIA cannot find the records after 4 years of looking, they are probably not going to find them in an additional 18 months. Congress, and the Resources Committee in particular, need this report to make a policy decision on how best to proceed, given the current status of the trust accounts, whatever the status might be.

Many of us on both sides of the aisle have been working on the problems of Indian trust funds for several years. Just last November we passed the American Indian Trust Fund Reform Act of 1994. This act requires that a special trustee for trust funds be named to overhaul the manner in which these funds are managed.

Further, this act calls for the BIA to submit a report to Congress by May 31, 1996, on the reconciliation activities being conducted.

The date of May 31, 1996, was added to the legislation at the request of the Department of the Interior and is more than adequate. By May 1996 we will know if these accounts can be reconciled or not. It is a waste of time and money to continue to extend this process and it is unfair to the Indian tribes who have shown an abundance of restraint throughout.

Mr. Chairman, let's not extend this embarrassing situation any longer. Let's ensure that the various Indian tribes which have been waiting for an accounting of these trusts do not feel compelled to sue the U.S. Government for the financial information to which they are entitled.

Mr. Chairman, I commend my colleagues on the Appropriations Committee, both Mr. YATES and Mr. REGULA, who have been trying to come to grips with this problem for the past several years. I want to earnestly thank the gentlemen for their support on this proposed amendment because I believe this amendment will give the Bureau of Indian Affairs the time it needs to wrap up the reconciliation process and provide Indian tribes and the Congress with the information needed to determine what we need to do thereafter.

I urge my colleagues to support this amendment.

Mr. RICHARDSON. Mr. Chairman. By October 1 of this year we will have spent almost $20 million in 4 years on an attempt by the Bureau of Indian Affairs to reconcile tribal trust fund accounts. These accounts are comprised mostly of earnings from tribal leases of oil and gas, agriculture, and grazing leases. The BIA is responsible for investing these funds and managing the accounts.

For years these accounts have been mismanaged and the BIA can not even tell the account holders the balance of their accounts. As the legal trustee to these accounts, which total over $1 billion, this leaves the U.S. extremely vulnerable to liability charges.

The BIA entered into a contract with the accounting firm of Arthur Anderson to conduct a reconciliation of tribal accounts and this Congress has supported that process. The preliminary reports are that they will be unable to reconcile most accounts as they have encountered numerous instances of lost documentation.

Many of us on both sides of the aisle have been working on the problems of Indian trust funds for several years. Just last November we passed the American Indian Trust Fund Reform Act of 1994. This act requires that a special trust for trust funds be named to overall the manner in which these funds are managed. Further, this act calls for the BIA to submit a report to Congress by May 31, 1996 on the reconciliation activities being conducted.

This report will tell us which accounts have been reconciled and which could not be. With this knowledge Congress can determine the best and most cost effective process to resolve unreconcilable accounts.

The date of May 31, 1996 was added to the legislation at the request of the Department of the Interior and is more than adequate. By May of 1996 we will know if these accounts can be reconciled or not. It is a waste of time and money to continue to extend this process and it is unfair to the Indian Tribes who have shown an abundance of restraint throughout.

I commend my colleagues on the Appropriations Committee, both Mr. YATES and Mr. REGULA, who have bee with me side by side trying to come to grips with this problem for the past several years. I hope you can support me on this one because I believe this amendment will give the Bureau of Indian Affairs the time it needs to wrap up the reconciliation process and provide Indian Tribes and Congress with the information needed to determine the next step.

I urge my colleagues to support The Richardson/Faleomavaega amendment.

Mr. WILLIAMS. Mr. Chairman, I rise today in strong support of the amendment of my colleague striking the date November 30, 1997 as the deadline for the reconciliation report to be submitted by the Bureau of Indian Affairs.

This extension flies in the face of the Trust Funds Management Legislation that became law in 1994. This legislation represented another step in a long journey to restore the covenant between the Federal Government and Native Americans. While the Bureau of Indian Affairs has been authorized to invest Indian trust funds since 1918, it was not until 48 years had passed—in 1966—that the agency began exercising its full investment authority in terms of Indian monies.

Like so much of the relationship between Indian Tribes and the Federal Government, the management of Indian trust funds is replete with mismanagement, lack of accountability, malfeasance and broken promises. As a result of this management hundreds of million dollars in tribal trust funds and individual Indian monies remain unaccounted for, the trust funds legislation recognized that problem and provided a remedy for the hemorrhaging of Indian monies.

But now the Interior Appropriations Committee has decided that the loss of Indian monies really is not that important and that the BIA should be given an additional year and a half beyond the date required by the trust funds legislation to complete the reconciliation report relating to the amount of Indian monies that remain unaccounted for.

This extension seems particularly incongruous in light of the tenor of this Congress—every penny counts—yet the message out of the Interior Appropriations Committee is that every penny counts unless its Indian money.

Please join me in supporting this amendment deleting the extension of the trust funds reconciliation report.

Mr. REGULA. Mr. Chairman, will the gentleman yield?

Mr. FALEOMAVAEGA. I yield to the gentleman from Ohio.

Mr. REGULA. Mr. Chairman, I accept the amendment.

Mr. DICKS. Mr. Chairman, will the gentleman yield?

Mr. FALEOMAVAEGA. I yield to the gentleman from Washington.

Mr. DICKS. Mr. Chairman, I accept the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from American Samoa [Mr. FALEOMAVAEGA].

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to title I?

If not, the Clerk will designate title II.

The text of title II is as follows:

TITLE II—RELATED AGENCIES

DEPARTMENT OF AGRICULTURE

FOREST SERVICE

FOREST RESEARCH

For necessary expenses of forest research as authorized by law, $182,000,000, to remain available until September 30, 1997.

STATE AND PRIVATE FORESTRY

For necessary expenses of cooperating with, and providing technical and financial assistance to States, Territories, possessions, and others and for forest pest management activities, cooperative forestry and education and land conservation activities, $129,551,000, to remain available until expended, as authorized by law.

NATIONAL FOREST SYSTEM

For necessary expenses of the Forest Service, not otherwise provided for, for management, protection, improvement, and utilization of the National Forest System, for ecosystem planning, inventory, and monitoring, and for administrative expenses associated with the management of funds provided under the heads "Forest Research", "State and Private Forestry", "National Forest System", "Construction", "Fire Protection and Emergency Suppression", and "Land Acquisition", $1,276,686,000, to remain available for obligation until September 30, 1997, and including 65 per centum of all monies received during the prior fiscal year as fees collected under the Land and Water Conservation Fund Act of 1965, as amended, in accordance with section 4 of the Act (16 U.S.C. 4601–6a(i)): *Provided*, That unobligated and unexpended balances in the National Forest System account at the end of fiscal year 1995, shall be merged with and made a part of the fiscal year 1996 National Forest System appropriation, and shall remain available for obligation until September 30, 1997: *Provided further*, That up to $5,000,000 of the funds provided herein for road maintenance shall be available for the planned obliteration of roads which are no longer needed.

FIRE PROTECTION AND EMERGENCY SUPPRESSION

For necessary expenses for forest fire presuppression activities on National Forest System lands, for emergency fire suppression on or adjacent to National Forest System lands or other lands under fire protection agreement, and for emergency rehabilitation of burned over National Forest System lands, $385,485,000, to remain available until expended: *Provided*, That unexpended balances of amounts previously appropriated under any other headings for Forest Service fire activities may be transferred to and merged with this appropriation: *Provided further*, That such funds are available for repayment of advances from other appropriations accounts previously transferred for such purposes.

CONSTRUCTION

For necessary expenses of the Forest Service, not otherwise provided for, $120,000,000, to remain available until expended, for construction and acquisition of buildings and other facilities, and for construction and repair of forest roads and trails by the Forest Service as authorized by 16 U.S.C. 532–538 and 23 U.S.C. 101 and 205: *Provided*, That funds becoming available in fiscal year 1996 under the Act of March 4, 1913 (16 U.S.C. 501) shall be transferred to the General Fund of the Treasury of the United States: *Provided further*, That not to exceed $50,000,000, to remain available until expended, may be obligated for the construction of forest roads by timber purchasers.

LAND ACQUISITION

For expenses necessary to carry out the provisions of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 4601–4–11), including administrative expenses, and for acquisition of land or waters, or interest therein, in accordance with statutory authority applicable to the Forest Service, $14,600,000, to be derived from the Land and Water Conservation Fund, to remain available until expended.

ACQUISITION OF LANDS FOR NATIONAL FORESTS SPECIAL ACTS

For acquisition of lands within the exterior boundaries of the Cache, Uinta, and Wasatch National Forests, Utah; the Toiyabe National Forest, Nevada; and the Angeles, San Bernardino, Sequoia, and Cleveland National Forests, California, as authorized by law, $1,069,000, to be derived from forest receipts.

ACQUISITION OF LANDS TO COMPLETE LAND EXCHANGES

For acquisition of lands, to be derived from funds deposited by State, county, or municipal governments, public school districts, or other public school authorities pursuant to the Act of December 4, 1967, as amended (16 U.S.C. 484a), to remain available until expended.

RANGE BETTERMENT FUND

For necessary expenses of range rehabilitation, protection, and improvement, 50 per centum of all moneys received during the prior fiscal year, as fees for grazing domestic livestock on lands in National Forests in the sixteen Western States, pursuant to section 401(b)(1) of Public Law 94–579, as amended, to remain available until expended, of which not to exceed 6 per centum shall be available for administrative expenses associated with on-the-ground range rehabilitation, protection, and improvements.

GIFTS, DONATIONS AND BEQUESTS FOR FOREST AND RANGELAND RESEARCH

For expenses authorized by 16 U.S.C. 1643(b), $92,000, to remain available until expended, to be derived from the fund established pursuant to the above Act.

ADMINISTRATIVE PROVISIONS, FOREST SERVICE

Appropriations to the Forest Service for the current fiscal year shall be available for: (a) purchase of not to exceed 183 passenger motor vehicles of which 32 will be used primarily for law enforcement purposes and of which 151 shall be for replacement; acquisition of 22 passenger motor vehicles from excess sources, and hire of such vehicles; operation and maintenance of aircraft, the purchase of not to exceed two for replacement only, and acquisition of 20 aircraft from excess sources; notwithstanding other provisions of law, existing aircraft being replaced may be sold, with proceeds derived or trade-in value used to offset the purchase price for the replacement aircraft; (b) services pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $100,000 for employment under 5 U.S.C. 3109; (c) purchase, erection, and alteration of buildings and other public improvements (7 U.S.C. 2250); (d) acquisition of land, waters, and interests therein, pursuant to the Act of August 3, 1956 (7 U.S.C. 428a); (e) for expenses pursuant to the Volunteers in the National Forest Act of 1972 (16 U.S.C. 558a, 558d, 558a note); and (f) for debt collection contracts in accordance with 31 U.S.C. 3718(c).

None of the funds made available under this Act shall be obligated or expended to change the boundaries of any region, to abolish any region, to move or close any regional office for research, State and private forestry, or National Forest System administration of the Forest Service, Department of Agriculture, without the consent of the House and Senate Committees on Appropriations and the Committee on Agriculture, Nutrition, and Forestry in the United States Senate and the Committee on Agriculture in the United States House of Representatives.

Any appropriations or funds available to the Forest Service may be advanced to the Fire and Emergency Suppression appropriation and may be used for forest firefighting and the emergency rehabilitation of burned-over lands under its jurisdiction: *Provided*, That no funds shall be made available under this authority until funds appropriated to the "Emergency Forest Service Firefighting Fund" shall have been exhausted.

Funds appropriated to the Forest Service shall be available for assistance to or through the Agency for International Development and the Foreign Agricultural Service in connection with forest and rangeland research, technical information, and assistance in foreign countries, and shall be available to support forestry and related natural resource activities outside the United States and its territories and possessions, including technical assistance, education and training, and cooperation with United States and international organizations.

None of the funds made available to the Forest Service under this Act shall be subject to transfer under the provisions of section 702(b) of the Department of Agriculture Organic Act of 1944 (7 U.S.C. 2257) or 7 U.S.C. 147b unless the proposed transfer is approved in advance by the House and Senate Committees on Appropriations in compliance with the reprogramming procedures contained in House Report 103–551.

No funds appropriated to the Forest Service shall be transferred to the Working Capital Fund of the Department of Agriculture without the approval of the Chief of the Forest Service.

Notwithstanding any other provision of law, any appropriations or funds available to the Forest Service may be used to disseminate program information to private and public individuals and organizations through the use of nonmonetary items of nominal value and to provide nonmonetary awards of nominal value and to incur necessary expenses for the nonmonetary recognition of private individuals and organizations that make contributions to Forest Service programs.

Notwithstanding any other provision of law, money collected, in advance or otherwise, by the Forest Service under authority of section 101 of Public Law 93–153 (30 U.S.C. 185(l)) as reimbursement of administrative and other costs incurred in processing pipeline right-of-way or permit applications and for costs incurred in monitoring the construction, operation, maintenance, and termination of any pipeline and related facilities, may be used to reimburse the applicable appropriation to which such costs were originally charged.

Funds available to the Forest Service shall be available to conduct a program of not less than $1,000,000 for high priority projects within the scope of the approved budget which shall be carried out by the Youth Conservation Corps as authorized by the Act of August 13, 1970, as amended by Public Law 93–408.

None of the funds available in this Act shall be used for timber sale preparation using clearcutting in hardwood stands in excess of 25 percent of the fiscal year 1989 harvested volume in the Wayne National Forest, Ohio: *Provided*, That this limitation shall not apply to hardwood stands damaged by natural disaster: *Provided further*, That landscape architects shall be used to maintain a visually pleasing forest.

Any money collected from the States for fire suppression assistance rendered by the Forest Service on non-Federal lands not in the vicinity of National Forest System lands shall be used to reimburse the applicable appropriation and shall remain available until expended as the Secretary may direct in conducting activities authorized by 16 U.S.C. 2101 (note), 2101–2110, 1606, and 2111.

Of the funds available to the Forest Service, $1,500 is available to the Chief of the Forest Service for official reception and representation expenses.

Notwithstanding any other provision of law, the Forest Service is authorized to employ or otherwise contract with persons at regular rates of pay, as determined by the Service, to perform work occasioned by emergencies such as fires, storms, floods, earthquakes or any other unavoidable cause without regard to Sundays, Federal holidays, and the regular workweek.

To the greatest extent possible, and in accordance with the Final Amendment to the Shawnee National Forest Plan, none of the funds available in this Act shall be used for preparation of timber sales using clearcutting or other forms of even aged management in hardwood stands in the Shawnee National Forest, Illinois.

Funds appropriated to the Forest Service shall be available for interactions with and providing technical assistance to rural communities for sustainable rural development purposes.

Notwithstanding any other provision of law, eighty percent of the funds appropriated to the Forest Service in the National Forest System and Construction accounts and planned to be allocated to activities under the "Jobs in the Woods" program for projects on National Forest land in the State of Washington may be granted directly to the Washington State Department of Fish and Wildlife for accomplishment of planned projects. Twenty percent of said funds shall be retained by the Forest Service for planning and administering projects. Project selection and prioritization shall be accomplished by the Forest Service with such consultation with the State of Washington as the Forest Service deems appropriate.

None of the funds available in this Act shall be used for any activity that directly or indirectly causes harm to songbirds within the boundaries of the Shawnee National Forest.

DEPARTMENT OF ENERGY

FOSSIL ENERGY RESEARCH AND DEVELOPMENT

For necessary expenses in carrying out fossil energy research and development activities, under the authority of the Department of Energy Organization Act (Public Law 95–91), including the acquisition of interest, including defeasible and equitable interests in any real property or any facility or for plant or facility acquisition or expansion, $384,504,000, to remain available until expended: *Provided*, That no part of the sum herein made available shall be used for the field testing of nuclear explosives in the recovery of oil and gas.

ALTERNATIVE FUELS PRODUCTION

(INCLUDING TRANSFER OF FUNDS)

Monies received as investment income on the principal amount in the Great Plains Project Trust at the Norwest Bank of North Dakota, in such sums as are earned as of October 1, 1995, shall be deposited in this account and immediately transferred to the General Fund of the Treasury. Monies received as revenue sharing from the operation of the Great Plains Gasification Plant shall be immediately transferred to the General Fund of the Treasury.

NAVAL PETROLEUM AND OIL SHALE RESERVES

For necessary expenses in carrying out naval petroleum and oil shale reserve activities, $151,028,000, to remain available until expended: Provided, That the requirements of 10 U.S.C. 7430(b)(2)(B) shall not apply to fiscal year 1996.

ENERGY CONSERVATION

For necessary expenses in carrying out energy conservation activities, $552,871,000, to remain available until expended, including, notwithstanding any other provision of law, the excess amount for fiscal year 1996 determined under the provisions of section 3003(d) of Public Law 99–509 (15 U.S.C. 4502), and of which $16,000,000 shall be derived from available unobligated balances in the Biomass Energy Development account: *Provided*, That $133,946,000 shall be for use in energy conservation programs as defined in section 3008(3) of Public Law 99–509 (15 U.S.C. 4507) and shall not be available until excess amounts are determined under the provisions of section 3003(d) of Public Law 99–509 (15 U.S.C. 4502): *Provided further*, That notwithstanding section 3003(d)(2) of Public Law 99–509 such sums shall be allocated to the eligible programs as follows: $107,446,000 for the weatherization assistance program and $26,500,000 for the State energy conservation program.

ECONOMIC REGULATION

For necessary expenses in carrying out the activities of the Economic Regulatory Administration and the Office of Hearings and Appeals, $6,297,000, to remain available until expended.

STRATEGIC PETROLEUM RESERVE

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses for Strategic Petroleum Reserve facility development and operations and program management activities pursuant to the Energy Policy and Conservation Act of 1975, as amended (42 U.S.C. 6201 et seq.), $287,000,000, to remain available until expended, of which $187,000,000 shall be derived by transfer of unobligated balances from the "SPR petroleum account" and $100,000,000 shall be derived by transfer from the "SPR Decommissioning Fund": *Provided*, That notwithstanding section 161 of the Energy Policy and Conservation Act, the Secretary shall draw down and sell up to seven million barrels of oil from the Strategic Petroleum Reserve:

SPR PETROLEUM ACCOUNT

Notwithstanding 42 U.S.C. 6240(d) the United States share of crude oil in Naval Petroleum Reserve Numbered 1 (Elk Hills) may be sold or otherwise disposed of to other than the Strategic Petroleum Reserve: *Provided*, That outlays in fiscal year 1996 resulting from the use of funds in this account shall not exceed $5,000,000.

ENERGY INFORMATION ADMINISTRATION

For necessary expenses in carrying out the activities of the Energy Information Administration, $79,766,000, to remain available until expended: *Provided*, That notwithstanding Section 4(d) of the Service Contract Act of 1965 (41 U.S.C. 353(d)) or any other provision of law, funds appropriated under this heading hereafter may be used to enter into a contract for end use consumption surveys for a term not to exceed eight years: *Provided further*, That notwithstanding any other provision of law, hereafter the Manufacturing Energy Consumption Survey shall be conducted on a triennial basis.

ADMINISTRATIVE PROVISIONS, DEPARTMENT OF ENERGY

Appropriations under this Act for the current fiscal year shall be available for hire of passenger motor vehicles; hire, maintenance, and operation of aircraft; purchase, repair, and cleaning of uniforms; and reimbursement to the General Services Administration for security guard services.

From appropriations under this Act, transfers of sums may be made to other agencies of the Government for the performance of work for which the appropriation is made.

None of the funds made available to the Department of Energy under this Act shall be used to implement or finance authorized price support or loan guarantee programs unless specific provision is made for such programs in an appropriations Act.

The Secretary is authorized to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, private, or foreign: *Provided*, That revenues and other moneys received by or for the account of the

Department of Energy or otherwise generated by sale of products in connection with projects of the Department appropriated under this Act may be retained by the Secretary of Energy, to be available until expended, and used only for plant construction, operation, costs, and payments to cost-sharing entities as provided in appropriate cost-sharing contracts or agreements: *Provided further*, That the remainder of revenues after the making of such payments shall be covered into the Treasury as miscellaneous receipts: *Provided further*, That any contract, agreement, or provision thereof entered into by the Secretary pursuant to this authority shall not be executed prior to the expiration of 30 calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) from the receipt by the Speaker of the House of Representatives and the President of the Senate of a full comprehensive report on such project, including the facts and circumstances relied upon in support of the proposed project.

No funds provided in this Act may be expended by the Department of Energy to prepare, issue, or process procurement documents for programs or projects for which appropriations have not been made.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

INDIAN HEALTH SERVICE

INDIAN HEALTH SERVICES

For expenses necessary to carry out the Act of August 5, 1954 (68 Stat. 674), the Indian Self-Determination Act, the Indian Health Care Improvement Act, and titles II and III of the Public Health Service Act with respect to the Indian Health Service, $1,725,792,000 together with payments received during the fiscal year pursuant to 42 U.S.C. 300aaa-2 for services furnished by the Indian Health Service: *Provided*, That funds made available to tribes and tribal organizations through contracts, grant agreements, or any other agreements or compacts authorized by the Indian Self-Determination and Education Assistance Act of 1975 (88 Stat. 2203; 25 U.S.C. 450), shall be deemed to be obligated at the time of the grant or contract award and thereafter shall remain available to the tribe or tribal organization without fiscal year limitation: *Provided further*, That $12,000,000 shall remain available until expended, for the Indian Catastrophic Health Emergency Fund: *Provided further*, That $351,258,000 for contract medical care shall remain available for obligation until September 30, 1997: *Provided further*, That of the funds provided, not less than $11,306,000 shall be used to carry out the loan repayment program under section 108 of the Indian Health Care Improvement Act, as amended: *Provided further*, That funds provided in this Act may be used for one-year contracts and grants which are to be performed in two fiscal years, so long as the total obligation is recorded in the year for which the funds are appropriated: *Provided further*, That the amounts collected by the Secretary of Health and Human Services under the authority of title IV of the Indian Health Care Improvement Act shall be available for two fiscal years after the fiscal year in which they were collected, for the purpose of achieving compliance with the applicable conditions and requirements of titles XVIII and XIX of the Social Security Act (exclusive of planning, design, or construction of new facilities): *Provided further*, That of the funds provided, $7,500,000 shall remain available until expended, for the Indian Self-Determination Fund, which shall be available for the transitional costs of initial or expanded tribal contracts, grants or cooperative agreements with the Indian Health Service under the provisions of the Indian Self-Determination Act: *Provided further*, That funding contained herein, and in any earlier appropriations Acts for scholarship programs under the Indian Health Care Improvement Act (25 U.S.C. 1613) shall remain available for obligation until September 30, 1997: *Provided further*, That amounts received by tribes and tribal organizations under title IV of the Indian Health Care Improvement Act, as amended, shall be reported and accounted for and available to the receiving tribes and tribal organizations until expended.

INDIAN HEALTH FACILITIES

For construction, repair, maintenance, improvement, and equipment of health and related auxiliary facilities, including quarters for personnel; preparation of plans, specifications, and drawings; acquisition of sites, purchase and erection of modular buildings, and purchases of trailers; and for provision of domestic and community sanitation facilities for Indians, as authorized by section 7 of the Act of August 5, 1954 (42 U.S.C. 2004a), the Indian Self-Determination Act and the Indian Health Care Improvement Act, and for expenses necessary to carry out the Act of August 5, 1954 (68 Stat. 674), the Indian Self-Determination Act, the Indian Health Care Improvement Act, and titles II and III of the Public Health Service Act with respect to environmental health and facilities support activities of the Indian Health Service, $236,975,000, to remain available until expended: *Provided*, That notwithstanding any other provision of law, funds appropriated for the planning, design, construction or renovation of health facilities for the benefit of an Indian tribe or tribes may be used to purchase land for sites to construct, improve, or enlarge health or related facilities.

ADMINISTRATIVE PROVISIONS, INDIAN HEALTH SERVICE

Appropriations in this Act to the Indian Health Service shall be available for services as authorized by 5 U.S.C. 3109 but at rates not to exceed the per diem rate equivalent to the maximum rate payable for senior-level positions under 5 U.S.C. 5376; hire of passenger motor vehicles and aircraft; purchase of medical equipment; purchase of reprints; purchase, renovation and erection of modular buildings and renovation of existing facilities; payments for telephone service in private residences in the field, when authorized under regulations approved by the Secretary; and for uniforms or allowances therefor as authorized by law (5 U.S.C. 5901–5902); and for expenses of attendance at meetings which are concerned with the functions or activities for which the appropriation is made or which will contribute to improved conduct, supervision, or management of those functions or activities: *Provided*, That in accordance with the provisions of the Indian Health Care Improvement Act, non-Indian patients may be extended health care at all tribally administered or Indian Health Service facilities, subject to charges, and the proceeds along with funds recovered under the Federal Medical Care Recovery Act (42 U.S.C. 2651–53) shall be credited to the account of the facility providing the service and shall be available without fiscal year limitation: *Provided further*, That notwithstanding any other law or regulation, funds transferred from the Department of Housing and Urban Development to the Indian Health Service shall be administered under Public Law 86–121 (the Indian Sanitation Facilities Act) and Public Law 93–638, as amended: *Provided further*, That funds appropriated to the Indian Health Service in this Act, except those used for administrative and program direction purposes, shall not be subject to limitations directed at curtailing Federal travel and transportation: *Provided further*, That the Indian Health Service shall neither bill nor charge those Indians who may have the economic means to pay unless and until such time as Congress has agreed upon a specific policy to do so and has directed the Indian Health Service to implement such a policy: *Provided further*, That, notwithstanding any other provision of law, funds previously or herein made available to a tribe or tribal organization through a contract, grant or agreement authorized by Title I of the Indian Self-Determination and Education Assistance Act of 1975 (88 Stat. 2203; 25 U.S.C. 450), may be deobligated and reobligated to a self-governance funding agreement under Title III of the Indian Self-Determination and Education Assistance Act of 1975 and thereafter shall remain available to the tribe or tribal organization without fiscal year limitation: *Provided further*, That none of the funds made available to the Indian Health Service in this Act shall be used to implement the final rule published in the Federal Register on September 16, 1987, by the Department of Health and Human Services, relating to eligibility for the health care services of the Indian Health Service until the Indian Health Service has submitted a budget request reflecting the increased costs associated with the proposed final rule, and such request has been included in an appropriations Act and enacted into law: *Provided further*, That funds made available in this Act are to be apportioned to the Indian Health Service as appropriated in this Act, and accounted for in the appropriation structure set forth in this Act: *Provided further*, That the appropriation structure for the Indian Health Service may not be altered without advance approval of the House and Senate Committees on Appropriations.

DEPARTMENT OF EDUCATION

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

INDIAN EDUCATION

For necessary expenses for the orderly closure of the Office of Indian Education, $1,000,000.

OTHER RELATED AGENCIES

OFFICE OF NAVAJO AND HOPI INDIAN RELOCATION

SALARIES AND EXPENSES

For necessary expenses of the Office of Navajo and Hopi Indian Relocation as authorized by Public Law 93–531, $21,345,000, to remain available until expended: *Provided*, That funds provided in this or any other appropriations Act are to be used to relocate eligible individuals and groups including evictees from District 6, Hopi-partitioned lands residents, those in significantly substandard housing, and all others certified as eligible and not included in the preceding categories: *Provided further*, That none of the funds contained in this or any other Act may be used by the Office of Navajo and Hopi Indian Relocation to evict any single Navajo or Navajo family who, as of November 30, 1985, was physically domiciled on the lands partitioned to the Hopi Tribe unless a new or replacement home is provided for such household: *Provided further*, That no relocatee will be provided with more than one new or replacement home: *Provided further*, That the Office shall relocate any certified eligible relocatees who have selected and received an approved homesite on the Navajo reservation or selected a replacement residence off the Navajo reservation or on the land acquired pursuant to 25 U.S.C. 640d–10.

Institute of American Indian and Alaska Native Culture and Arts Development

PAYMENT TO THE INSTITUTE

For payment to the Institute of American Indian and Alaska Native Culture and Arts Development, as authorized by title XV of Public Law 99–498 (20 U.S.C. 4401 et seq.), $5,500,000.

Smithsonian Institution

SALARIES AND EXPENSES

For necessary expenses of the Smithsonian Institution, as authorized by law, including research in the fields of art, science, and history; development, preservation, and documentation of the National Collections; presentation of public exhibits and performances; collection, preparation, dissemination, and exchange of information and publications; conduct of education, training, and museum assistance programs; maintenance, alteration, operation, lease (for terms not to exceed thirty years), and protection of buildings, facilities, and approaches; not to exceed $100,000 for services as authorized by 5 U.S.C. 3109; up to 5 replacement passenger vehicles; purchase, rental, repair, and cleaning of uniforms for employees; $309,471,000, of which not to exceed $32,000,000 for the instrumentation program, collections acquisition, Museum Support Center equipment and move, exhibition reinstallation, the National Museum of the American Indian, the repatriation of skeletal remains program, research equipment, information management, and Latino programming shall remain available until expended and, including such funds as may be necessary to support American overseas research centers and a total of $125,000 for the Council of American Overseas Research Centers: *Provided*, That funds appropriated herein are available for advance payments to independent contractors performing research services or participating in official Smithsonian presentations.

CONSTRUCTION AND IMPROVEMENTS, NATIONAL ZOOLOGICAL PARK

For necessary expenses of planning, construction, remodeling, and equipping of buildings and facilities at the National Zoological Park, by contract or otherwise, $3,000,000, to remain available until expended.

REPAIR AND RESTORATION OF BUILDINGS

For necessary expenses of repair and restoration of buildings owned or occupied by the Smithsonian Institution, by contract or otherwise, as authorized by section 2 of the Act of August 22, 1949 (63 Stat. 623), including not to exceed $10,000 for services as authorized by 5 U.S.C. 3109, $24,954,000, to remain available until expended: *Provided*, That contracts awarded for environmental systems, protection systems, and exterior repair or restoration of buildings of the Smithsonian Institution may be negotiated with selected contractors and awarded on the basis of contractor qualifications as well as price.

CONSTRUCTION

For necessary expenses for construction, $12,950,000, to remain available until expended: *Provided*, That notwithstanding any other provision of law, a single procurement for the construction of the National Museum of the American Indian Cultural Resources Center may be issued which includes the full scope of the project: *Provided further*, That the solicitation and the contract shall contain the clause "availability of funds" found at 48 CFR 52.232.18.

National Gallery of Art

SALARIES AND EXPENSES

For the upkeep and operations of the National Gallery of Art, the protection and care of the works of art therein, and administrative expenses incident thereto, as authorized by the Act of March 24, 1937 (50 Stat. 51), as amended by the public resolution of April 13, 1939 (Public Resolution 9, Seventy-sixth Congress), including services as authorized by 5 U.S.C. 3109; payment in advance when authorized by the treasurer of the Gallery for membership in library, museum, and art associations or societies whose publications or services are available to members only, or to members at a price lower than to the general public; purchase, repair, and cleaning of uniforms for guards, and uniforms, or allowances therefor, for other employees as authorized by law (5 U.S.C. 5901–5902); purchase or rental of devices and services for protecting buildings and contents thereof, and maintenance, alteration, improvement, and repair of buildings, approaches, and grounds; and purchase of services for restoration and repair of works of art for the National Gallery of Art by contracts made, without advertising, with individuals, firms, or organizations at such rates or prices and under such terms and conditions as the Gallery may deem proper, $51,315,000, of which not to exceed $3,026,000 for the special exhibition program shall remain available until expended.

REPAIR, RESTORATION AND RENOVATION OF BUILDINGS

For necessary expenses of repair, restoration and renovation of buildings, grounds and facilities owned or occupied by the National Gallery of Art, by contract or otherwise, as authorized $5,500,000, to remain available until expended: *Provided*, That contracts awarded for environmental systems, protection systems, and exterior repair or renovation of buildings of the National Gallery of Art may be negotiated with selected contractors and awarded on the basis of contractor qualifications as well as price.

John F. Kennedy Center for the Performing Arts

OPERATIONS AND MAINTENANCE

For necessary expenses for the operation, maintenance and security of the John F. Kennedy Center for the Performing Arts, $9,800,000.

CONSTRUCTION

For necessary expenses of capital repair and rehabilitation of the existing features of the building and site of the John F. Kennedy Center for the Performing Arts, $8,983,000, to remain available until expended.

Woodrow Wilson International Center for Scholars

SALARIES AND EXPENSES

For expenses necessary in carrying out the provisions of the Woodrow Wilson Memorial Act of 1968 (82 Stat. 1356) including hire of passenger vehicles and services as authorized by 5 U.S.C. 3109, $6,152,000.

National Foundation on the Arts and the Humanities

National Endowment for the Arts

GRANTS AND ADMINISTRATION

For necessary expenses to carry out the National Foundation on the Arts and Humanities Act of 1965, as amended, $82,259,000 subject to passage by the House of Representatives of a bill authorizing such appropriation shall be available to the National Endowment for the Arts for the support of projects and productions in the arts through assistance to groups and individuals pursuant to section 5(c) of the Act, and for administering the functions of the Act, to remain available until September 30, 1997.

MATCHING GRANTS

To carry out the provisions of section 10(a)(2) of the National Foundation on the Arts and the Humanities Act of 1965, as amended, $17,235,000 subject to passage by the House of Representatives of a bill authorizing such appropriation, to remain available until September 30, 1997, to the National Endowment for the Arts, of which $7,500,000 shall be available for purposes of section 5(p)(1): *Provided*, That this appropriation shall be available for obligation only in such amounts as may be equal to the total amounts of gifts, bequests, and devises of money, and other property accepted by the Chairman or by grantees of the Endowment under the provisions of section 10(a)(2), subsections 11(a)(2)(A) and 11(a)(3)(A) during the current and preceding fiscal years for which equal amounts have not previously been appropriated.

National Endowment for the Humanities

GRANTS AND ADMINISTRATION

For necessary expenses to carry out the National Foundation on the Arts and the Humanities Act of 1965, as amended, $82,469,000 shall be available to the National Endowment for the Humanities for support of activities in the humanities, pursuant to section 7(c) of the Act, and for administering the functions of the Act, to remain available until September 30, 1997.

MATCHING GRANTS

To carry out the provisions of section 10(a)(2) of the National Foundation on the Arts and the Humanities Act of 1965, as amended, $17,025,000, to remain available until September 30, 1997, of which $9,180,000 shall be available to the National Endowment for the Humanities for the purposes of section 7(h): *Provided*, That this appropriation shall be available for obligation only in such amounts as may be equal to the total amounts of gifts, bequests, and devises of money, and other property accepted by the Chairman or by grantees of the Endowment under the provisions of subsections 11(a)(2)(B) and 11(a)(3)(B) during the current and preceding fiscal years for which equal amounts have not previously been appropriated.

Institute of Museum Services

GRANTS AND ADMINISTRATION

For carrying out title II of the Arts, Humanities, and Cultural Affairs Act of 1976, as amended, $21,000,000, to remain available until September 30, 1997.

ADMINISTRATIVE PROVISIONS

None of the funds appropriated to the National Foundation on the Arts and the Humanities may be used to process any grant or contract documents which do not include the text of 18 U.S.C. 1913: *Provided*, That none of the funds appropriated to the National Foundation on the Arts and the Humanities may be used for official reception and representation expenses.

Commission of Fine Arts

SALARIES AND EXPENSES

For expenses made necessary by the Act establishing a Commission of Fine Arts (40 U.S.C. 104), $834,000.

NATIONAL CAPITAL ARTS AND CULTURAL AFFAIRS

For necessary expenses as authorized by Public Law 99–190 (99 Stat. 1261; 20 U.S.C. 956(a)), as amended, $6,000,000.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

SALARIES AND EXPENSES

For expenses necessary for the orderly closure of the Advisory Council on Historic Preservation, $1,000,000: *Provided*, That none of these funds shall be available for the compensation of Executive Level V or higher positions.

NATIONAL CAPITAL PLANNING COMMISSION

SALARIES AND EXPENSES

For necessary expenses, as authorized by the National Capital Planning Act of 1952 (40 U.S.C. 71–71i), including services as authorized by 5 U.S.C. 3109, $5,090,000: *Provided*, That all appointed members will be compensated at a rate not to exceed the rate for Executive Schedule Level IV.

FRANKLIN DELANO ROOSEVELT MEMORIAL COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Franklin Delano Roosevelt Memorial Commission, established by the Act of August 11, 1955 (69 Stat. 694), as amended by Public Law 92–332 (86 Stat. 401), $48,000, to remain available until September 30, 1997.

PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION

SALARIES AND EXPENSES

For necessary expenses for the orderly closure of the Pennsylvania Avenue Development Corporation, $2,000,000.

UNITED STATES HOLOCAUST MEMORIAL COUNCIL

HOLOCAUST MEMORIAL COUNCIL

For expenses of the Holocaust Memorial Council, as authorized by Public Law 96–388, as amended, $28,707,000; of which $1,575,000 for the Museum's repair and rehabilitation program and $1,264,000 for the Museum's exhibition program shall remain available until expended.

Mr. REGULA. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. FOX of Pennsylvania) having assumed the chair, Mr. BURTON of Indiana, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 1977), making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1996, and for other purposes, had come to no resolution thereon.

Mr. WARD. Mr. Speaker, due to the fact that I was unavoidably detained, I missed several rollcall votes during consideration of H.R. 1977, Interior and Related Agencies Appropriations bill, on July 13, 1995. Had I been present on rollcall vote 504, Mr. HUTCHINSON's amendment to eliminate $3.5 million Federal subsidy for the National Trust for Historic Preservation, I would have voted "no." Had I been present on rollcall vote 505, Mr. OBEY's motion for the committee to rise, I would have voted "aye." Had I been present on rollcall vote 506, Mr. OBEY's motion for the committee to rise, I would have voted "aye." Had I been present on rollcall vote 507, Mr. OBEY's preferential motion for the committee to rise and report bill to House with recommendation that the enacting clause be stricken, I would have voted "aye." Had I been present on rollcall vote 508, Mr. OBEY's motion for the committee to rise, I would have voted "aye." Had I been present on rollcall vote 509, Mr. FAZIO's amendment supporting the California Desert Protection Act, I would have voted "aye." Had I been present on rollcall vote 510, Mr. YOUNG's amendment striking funding for vehicles for the U.S. Fish and Wildlife Service, I would have voted "no." Had I been present on rollcall vote 511, Mr. SANDERS' amendment transferring $3,063,000 into the Advisory Council on Historic Preservation, I would have voted "aye."

PERSONAL EXPLANATION

Mr. VOLKMER. Mr. Chairman, on Thursday, July 13, 1995, I missed rollcall votes during consideration of H.R. 1977, Interior appropriations for fiscal year 1996.

On rollcall votes Nos. 503 and 504, if present I would have voted no. On rollcall votes Nos. 508, 509, and 510, if present I would have voted aye.

Mr. WATTS of Oklahoma. Mr. Speaker, due to an unavoidable prescheduled speaking engagement in my district, I missed four votes. If I had been here I would have voted: "Nay" on rollcall vote 504—Cut National Trust for Historic Preservation; "Nay" on rollcall vote 509—Alter committee policy on the Mojave National Preserves; "Yea" on rollcall vote 510—To strike funding for 59 new vehicles and 2 airplanes for the U.S. Fish and Wildlife Service; and "Yea" on rollcall vote 511—Transferred $2 million from salaries in Interior to Council for Historic Preservation.

RECOMMENDATIONS OF THE DEFENSE BASE CLOSURE AND REALIGNMENT COMMISSION—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. Doc. 104–96)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on National Security and ordered to be printed.

To the Congress of the United States:

I transmit herewith the report containing the recommendations of the Defense Base Closure and Realignment Commission (BRAC) pursuant to section 2903 of Public Law 101–510, 104 Stat. 1810, as amended.

I hereby certify that I approve all the recommendations contained in the Commission's report.

In a July 8, 1995, letter to Deputy Secretary of Defense White (attached), Chairman Dixon confirmed that the Commission's recommendations permit the Department of Defense to privatize the work loads of the McClellan and Kelly facilities in place or elsewhere in their respective communities. The ability of the Defense Department to do this mitigates the economic impact on those communities, while helping the Air Force avoid the disruption in readiness that would result from relocation, as well as preserve the important defense work forces there.

As I transmit this report to the Congress, I want to emphasize that the Commission's agreement that the Secretary enjoys full authority and discretion to transfer work load from these two installations to the private sector, in place, locally or otherwise, is an integral part of the report. Should the Congress approve this package but then subsequently take action in other legislation to restrict privatization options at McClellan or Kelly, I would regard that action as a breach of Public Law 101–510 in the same manner as if the Congress were to attempt to reverse by legislation any other material direction of this or any other BRAC.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *July 13, 1995.*

REPORT ON RESOLUTION PROVIDING FOR FURTHER CONSIDERATION OF H.R. 1977, DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 1996

Mr. SOLOMON, from the Committee on Rules, submitted a privileged report (Rept. No. 104–186) on the resolution (H. Res. 189) providing for the further consideration of the bill (H.R. 1977), making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1996, and for other purposes, which was referred to the House Calendar and ordered to be printed.

ADJOURNMENT TO MONDAY, JULY 17, 1995

Mr. SOLOMON. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 10:30 a.m. on Monday next for morning hour debates.

The SPEAKER pro tempore. It there objection to the request of the gentleman from New York?

There was no objection.

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DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. SOLOMON. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER pro tempore (Mr. FOX of Pennsylvania). Is there objection to the request of the gentleman from New York?

There was no objection.

AUTHORIZING THE SPEAKER TO DECLARE A RECESS ON WEDNESDAY, JULY 26, 1995, FOR THE PURPOSE OF RECEIVING IN JOINT MEETING HIS EXCELLENCY KIM YONG-SAM, PRESIDENT OF THE REPUBLIC OF KOREA

Mr. SOLOMON. Mr. Speaker, I ask unanimous consent that it may be in order at any time on Wednesday, July 26, 1995, for the Speaker to declare a recess, subject to the call of the Chair, for the purpose of receiving in joint meeting his excellency Kim Yong-Sam, President of the Republic of Korea.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

IN OPPOSITION TO FRENCH NUCLEAR TESTING IN THE SOUTH PACIFIC.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from American Samoa [Mr. FALEOMAVAEGA] is recognized for 5 minutes.

Mr. FALEOMAVAEGA. Mr. Speaker, I rise again to protest France's intent to resume nuclear testing on French Polynesia's Moruroa and Fangataufa coral atolls this September. French President Chirac's decision to detonate eight thermonuclear bombs in the South Pacific—one a month, with each up to 10 times more powerfull than the bomb that devastated Hiroshima—is a crime against nature and a violation of the basic human rights of 28 million men, women, and children of the Pacific to live in a clean, uncontaminated environment.

I cannot comprehend how President Chirac can say with a straight face that the equivalent of 800 Hiroshima bombs exploding in a short time on two tiny coral islands will have no ecological consequences. It doesn't take a rocket scientist to know that is pure baloney. I don't buy it, and neither does the world.

After detonating at least 187 nuclear bombs in the fragile marine environment of the South Pacific, France's desire to again resume the spread of nuclear poison has ignited a firestorm of international outrage and protest by the countries of the world.

Governments around the globe have strongly condemned France's decision. Our Nation in addition to Russia, Japan, Germany, Austria, Holland, Norway, Sweden, Finland, Belgium, Denmark, Italy, Switzerland, The Phillipines, Indonesia, Malaysia, Canada, Chile, Ecuador, Peru, Mexico, Australia, New Zealand, Fiji, and the 12 island nations of the South Pacific forum, have joined ranks in opposition to France's resumption of testing.

Just yesterday, French President Chirac was jeered by Members of Parliament while speaking before the European Union's Assembly. In a 331–74 vote, the European Parliament condemned France's plans to resume nuclear testing, noting that the tests threatened the ecology of the South Pacific around Moruroa Atoll, while undermining progress toward a global test ban treaty.

Mr. Speaker, public opinion polls in France have shown that the overwhelming majority of the French people—over 70 percent—oppose resumption of nuclear testing. There is simply no need to detonate nuclear bombs in the South Pacific, as top advisors to former French President Mitterand have attested recently that France could obtain needed information using computer simulation technology offered by the United States. Chirac, however, has cavalierly discarded this option in favor of developing an independent French simulation technology. Mr. Speaker, this same misplaced arrogance lead to the deaths of 300 French hemophiliacs from AIDS because the French Government refused to use proven American technology in order to develop their own blood test technology.

Mr. Speaker, in light of how controversial the matter is domestically in France, I would issue again an appeal to the world's most revered protector of the environment, Jacques Cousteau, to provide leadership for the good people of France to force their government to reconsider this senseless decision resuming nuclear testing in the Pacific.

Mr. Speaker, I would also challenge President Chirac on his statement that France's nuclear testing program in French Polynesia is harmless to the environment and would take him to his offer inviting scientists to inspect their testing facilities. If President Chirac is truly acting in good faith, then he should have no reservations in authorizing full and unrestricted access—before the resumption of tests in September—for an international scientific mission to conduct a serious independent and comprehensive sampling and geological study of Moruroa and Fangataufa Atolls. In conjunction with the monitoring, there should be a fully independent epidemiological health survey and full disclosure of the French data bases on environmental and health effects from nuclear testing.

Mr. Speaker, if French President Chirac is to be believed, then this should be an easy request to meet. Until he responds, however, I would urge our colleagues to support House Concurrent Resolution 80, legislation I have introduced calling upon the Government of France not to resume nuclear testing in the South Pacific.

Mr. Speaker, in case some of my colleagues may not have seen the photo as an example of a nuclear bomb explosion in the South Pacific. I want to share with my colleagues—once again—a nuclear explosion that took place on the Moruroa Atoll in French Polynesia.

Mr. Speaker, again a very colorful picture of a nuclear bomb explosion—but a very deadly sight on what will happen to the millions of fish, whales, dolphins, turtles—and every form of marine life that comes in contact with nuclear contamination as a result of the nuclear explosion.

Mr. Speaker, I also want to share with my colleagues a photograph showing the President of France—Mr. Chirac—not a popular man among his fellow European parliamentarians. Mr. Speaker, President Khol of Germany is against French nuclear testing in the Pacific, and so are most of the European nations.

Mr. Speaker, I submit what France is doing she's opening up a whole can of worms by encouraging, Mr. Speaker, encouraging nations like Iran, Iraq, Pakistan, North Korea and India to reexamine seriously their nuclear testing programs since France—as a member of the current nuclear family and UN Security Council—simply is telling these countries and all others, were going to explode eight more nuclear bombs—and if it means subjecting the indigenous tahitians to further nuclear contamination—to hell with them. Such arrogance Mr. Speaker!

Mr. Speaker, I have a deep and abiding respect for all the good citizens of France but I am appalled, disappointed, desmayed disgusted and simply outraged that the President of France has the mitigated gall to order his military people to explode eight more nuclear bombs in French Polynesia.

If there is ever a time—Mr. Speaker—that my Polynesian Tahitian cousins have at times described to me—out of utter frustration their dealings the men of France who head lead their government, the Tahitians would say. "Farani taioro—Farani taioro!

[From the Wall Street Journal, July 13, 1995]

FRENCH NUCLEAR TESTS SPARK INTERNATIONAL PROTEST

(By Thomas Kamm)

PARIS.—Protests over France's decision to resume nuclear tests in the South Pacific are spreading, and the repercussions are hitting French companies, too.

And while the chorus of international protests is rising and calls for a boycott of French products are increasing, President Jacques Chirac is standing firm, denouncing environmental concerns as "totally irrational with no scientific backing."

Political analysts think Mr. Chirac is in a bind. He apparently misperceived the international impact of his decision to resume underground nuclear testing at the French Pacific atoll of Mururoa in September. Now, however, he knows that decision is widely unpopular—though far more so abroad than at home.

At the same time, with his government under fire at home for its cautious economic approach and with Prime Minister Alain Juppe enmeshed in a scandal over the allotment of public housing, a climb-down on the nuclear issue could badly damage Mr. Chirac's credibility only two months after he took office.

"He can't change his mind, because he would look ridiculous," says Dominique Moisi, associate director of the French Institute for International Relations. "But France will be blocked for months on the international scene. Every time the president speaks, there will be protest banners and catcalls."

Italian President Oscar Luigi Scalfaro is the latest to join the outcry against the nuclear testing, yesterday urging Mr. Chirac to reconsider his decision. "Nothing is more intelligent than to listen to other people's beliefs when they are expressed so unanimously," he said.

His comments come one day after Mr. Chirac was loudly booed by left-wing and Green members of the European Parliament during a speech in Strasbourg, France. The Parliament building was bedecked with banners bearing statements such as "Less arrogance in the Pacific, more courage in Bosnia," a reference to the French navy's seizure Sunday of a Greenpeace ship in French waters in the Pacific. Later Mr. Chirac was told by German Chancellor Helmut Kohl that the decision to carry out eight underground nuclear tests had "provoked violent public reaction in Germany and elsewhere."

Meanwhile, calls for a boycott of French products are spreading from Australia and New Zealand to Europe. Yesterday, German, Norwegian and other northern European environmental and political groups called for a boycott of French products.

Estee Lauder Inc., the U.S. cosmetics company, was concerned enough about a boycott in Australia that it issued a statement there stressing that it is not French. "It has come to our attention that a number of people are under the assumption that the Estee Lauder companies are French in origin. That is certainly not true," the cosmetics group said.

At least one French company has already been dealt a setback. Lemaitre Securite, a maker of industrial safety shoes, says a licensing deal it signed in March with Austrialia's Dunlop Footwear is on the verge of falling through because its Australian partner says the climate isn't conducive to marketing French products. "French companies shouldn't pay the price of Tarzan's games," says Lemaitre's chairman, Jean-Michel Heckel. Tarzan, he says, is Mr. Chirac.

His comment reflects a widespread feeling in France that Mr. Chirac's decision was based more on political concerns than military ones. Mr. Chirac says the nuclear tests are necessary to ensure the efficiency and safety of France's weapons stockpiles, but he vows that France will join the U.S., Britain, China and Russia in signing a permanent test ban treaty by Sept. 30, 1996.

Many analysts believe the Gaullist Mr. Chirac resumed the tests to differentiate himself from his predecessor, Socialist Francois Mitterrand. In the process, he appears to have underestimated the backlash, and his decision, coupled with his tough talk on Bosnia, gives the appearance of grandstanding.

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LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. TAUZIN (at the request of Mr. GEPHARDT), for today, on account of illness.

Miss COLLINS of Michigan (at the request of Mr. GEPHARDT), for today and the balance of the week, on account of medical reasons.

Mr. VOLKMER (at the request of Mr. GEPHARDT), for today after 6 p.m., on account of illness of spouse.

Mr. HEFNER (at the request of Mr. GEPHARDT), for today and the balance of the week, on account of illness.

Mr. WILSON (at the request of Mr. GEPHARDT), for today after 8:15 p.m., on account of family emergency.

Mr. FIELDS of Texas (at the request of Mr. ARMY), for today, on account of attending a funeral.

Mr. BONO (at the request of Mr. ARMEY), for today, on account of illness.

Mr. GREENWOOD (at the request of Mr. ARMEY), for today after 5 p.m., on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. MCNULTY) to revise and extend their remarks and include extraneous material:)

Mr. FALEOMAVAEGA, for 5 minutes, today.

Mr. HILLIARD, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

Mr. OWENS, for 5 minutes, today.

(The following Members (at the request of Mr. GILCHREST) to revise and extend their remarks and include extraneous material:)

Ms. ROS-LEHTINEN, for 5 minutes, July 18.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. MCNULTY) and to include extraneous matter:)

Mr. STOKES.
Mr. UNDERWOOD.
Mrs. SCHROEDER.
Mr. BROWDER.
Mr. GEJDENSON.
Ms. HARMAN.
Mr. RICHARDSON.
Mr. POSHARD.
Mr. BARCIA.
Ms. WOOLSEY.
Mr. MENENDEZ.
Mr. MARKEY.
Mr. FOGLIETTA.
Mr. JACOBS.
Mr. FARR.

(The following Members (at the request of Mr. GILCHREST) and to include extraneous matter:)

Mr. POMBO.
Mr. FUNDERBURK.
Mrs. CUBIN.
Mr. SHAW.
Mr. ISTOOK.
Mrs. ROUKEMA.
Mr. ALLARD.
Mr. PACKARD.
Mr. ENGLISH of Pennsylvania.
Mr. RADANOVICH.
Mr. KIM.
Ms. ROS-LEHTINEN.
Mr. GILMAN.

ADJOURNMENT

Mr. OBEY. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 12 midnight), under its previous order, the House adjourned until Monday, July 17, 1995, at 10:30 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1191. A letter from the Secretary of Agriculture, transmitting a draft of proposed legislation to authorize the Secretary of Agriculture to expand and streamline a distance learning and telemedicine program by providing for loans and grants and to authorize appropriations for business telecommunications partnerships, pursuant to 31 U.S.C. 1110; to the Committee on Agriculture.

1192. A letter from the Under Secretary for Acquisition and Technology, Department of Defense, transmitting a copy of a report entitled, "New Attack Submarine: Live Fire Test and Evaluation Management Plan for Milestone II," pursuant to 10 U.S.C. 2366(c)(1); to the Committee on National Security.

1193. A letter from the Secretary, Department of Health and Human Services, transmitting draft of proposed legislation entitled, "Older Americans Act Amendments of 1995"; to the Committee on Economic and Educational Opportunities.

1194. A letter from the Secretary of Energy, transmitting the Department's report entitled, "Encouraging the Purchase and Use of Electricmotor Vehicles," pursuant to Public Law 102-486, section 615(b) (106 Stat. 2903); to the Committee on Commerce.

1195. A letter from the Secretary of Energy, transmitting the Department's 30th quarterly report to Congress on the status of Exxon and stripper well oil overcharge funds as of March 31, 1995; to the Committee on Commerce.

1196. A letter from the Director, Defense Security Assistance Agency, transmitting notification concerning the Department of the Navy's proposed Letter(s) of Offer and Acceptance [LOA] to Japan for defense articles and services (Transmittal No. 95-23), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

1197. A letter from the Director, Defense Security Assistance Agency, transmitting notification concerning the Department of the Navy's proposed Letter(s) of Offer and Acceptance [LOA] to Australia for defense articles and services (Transmittal No. 95-30), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

1198. A letter from the Director, Defense Security Assistance Agency, transmitting notification concerning the Department of the Air Force's proposed Letter(s) of Offer and Acceptance [LOA] to Japan for defense articles and services (Transmittal No. 95-32), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

1199. A letter from the Chairman and President, National Railroad Passenger Corporation [Amtrak], transmitting the corporation's annual management report for the year ended September 30, 1994, pursuant to Public Law 101-576, section 306(a) (104 Stat. 2854); to the Committee on Government Reform and Oversight.

1200. A letter from the Acting Assistant Attorney General of the United States, transmitting draft of proposed legislation to amend the criminal copyright provisions with regards to copyrighted computer software; to the Committee on the Judiciary.

1201. A letter from the Assistant Attorney General of the United States, transmitting a draft of proposed legislation to enable the United States to meet its obligations to surrender offenders and provide evidence to the international tribunal for the prosecution of persons responsible for serious violations of international humanitarian law in the territory of the former Yugoslavia and to the international criminal tribunal for the prosecution of persons responsible for genocide and other serious violations of international humanitarian law committed in the territory of Rwanda and Rwandan citizens responsible for genocide and other such violations Committed in the territory of neighboring states; to the Committee on the Judiciary.

1202. A letter from the Secretary of Energy, transmitting the Department's report entitled, "Summary of Expenditures of Rebates from the Low-Level Radioactive Waste Surcharge Escrow Account for Calendar Year 1994", pursuant to 42 U.S.C. 2120e(d)(2)(E)(ii)(II); to the Committee on Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Ms. PRYCE: Committee on Rules. House Resolution 189. Resolution providing for the further consideration of the bill (H.R. 1977) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1996, and for other purposes (Rept. 104-186). Referred to the House Calendar.

Mr. YOUNG of Alaska: Committee on Resources. H.R. 1122. A bill to authorize and direct the Secretary of Energy to sell the Alaska Power Administration, and for other purposes; with an amendment (Rept. 104-187 Pt. 1) Ordered to be printed.

TIME LIMITATION OF REFERRED BILL

Pursuant to clause 5 of rule X the following action was taken by the Speaker:

Referral to Commerce of H.R. 1122 extended July 13, 1995, for a period ending not later than October 16, 1995.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

(Omitted from the Record of July 12, 1995)

By Mr. FAZIO of California:

H. Res. 186. Resolution designating minority membership on certain standing committees of the House; considered and agreed to.

[Submitted July 13, 1995]

By Mr. DAVIS (for himself, Mr. MORAN, Mr. BLILEY, Mr. BOUCHER, Mr. GOODLATTE, Mr. PAYNE of Virginia, Mr. PICKETT, Mr. SCOTT, Mr. SISISKY, Mr. WOLF, Mr. LIVINGSTON, Mr. PORTER, Mr. LEWIS of California, Mr. BAKER of California, Mr. WELDON of Florida, Mrs. KENNELLY, and Mr. HORN):

H.R. 2026. A bill to require the Secretary of the Treasury to mint coins in commemoration of the 200th anniversary of the death of George Washington; to the Committee on Banking and Financial Services.

By Mrs. MEYERS of Kansas (for herself, Mr. GALLEGLY, Mr. FLANAGAN, Mr. GILMAN, Mr. ROBERTS, Mr. GILLMOR, Mr. FAWELL, Mrs. ROUKEMA, Mr. FRANKS of Connecticut, Mr. MCCRERY, Mr. FROST, Mr. WAXMAN, Mr. OLVER, Mr. WYDEN, Ms. JACKSON-LEE, Mr. HILLIARD, Ms. NORTON, Mr. MCDERMOTT, and Mr. ENGEL):

H.R. 2027. A bill to establish an office for rare disease research in the National Institutes of Health, and for other purposes; to the Committee on Commerce.

By Mr. HANSEN (for himself and Mr. DUNCAN):

H.R. 2028. A bill to provide for a uniform concessions policy for the Federal land management agencies, and for other purposes; to the Committee on Resources, and in addition to the Committees on Agriculture, and Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ALLARD (for himself, Mr. JOHNSON of South Dakota, and Mr. RAHALL):

H.R. 2029. A bill to amend the Farm Credit Act of 1971 to provide regulatory relief; to the Committee on Agriculture.

By Mr. MARKEY (for himself, Mr. MORAN, Mr. SPRATT, Mr. BEREUTER, Mr. BURTON of Indiana, Mr. BRYANT of Texas, Mr. DICKEY, Mr. HUNTER, Mr. WOLF, Mr. BEILENSON, Mr. BONIOR, Mr. CLEMENT, Mr. COLEMAN, Mr. FRAZER, Mr. GEJDENSON, Mr. GORDON, Mr. HILLIARD, Ms. JACKSON-LEE, Mr. JACOBS, Mr. LAFALCE, Ms. LOFGREN, Mrs. LOWEY, Mr. LUTHER, Mr. MARTINEZ, Mr. MCHALE, Mr. MENENDEZ, Mr. MILLER of California, Mr. PAYNE of Virginia, Mr. POMEROY, and Mr. UNDERWOOD):

H.R. 2030. A bill to provide technology for parents to control the viewing of programming they believe is inappropriate for their children, and for other purposes; to the Committee on Commerce.

By Mr. ENGLISH of Pennsylvania (for himself, Mr. TRAFICANT, Mr. UPTON, Mr. LIPINSKI, Mr. POSHARD, Mr. KLUG, Mr. GENE GREEN of Texas, Mr. TAYLOR of Mississippi, and Mr. ENSIGN):

H.R. 2031. A bill to amend title 18, United States Code, to prohibit certain former high level Government officials from representing foreign interests for 10 years, and for other purposes; to the Committee on the Judiciary.

By Mr. HANSEN (for himself, Mrs. VUCANOVICH, Mrs. CUBIN, Mr. COOLEY, Mr. POMBO, Mr. DOOLITTLE, Mr. HERGER, Mr. SKEEN, Mr. STUMP, and Mr. ALLARD):

H.R. 2032. A bill to transfer the lands administered by the Bureau of Land Management to the State in which the lands are located; to the Committee on Resources.

By Mr. MORAN:

H.R. 2033. A bill to allow enrollees of the Farm Credit Administration Health Plan to enroll in the Federal Employees Health Benefits Program with a break in coverage; to the Committee on Government Reform and Oversight.

By Mr. NADLER:

H.R. 2034. A bill to protect the free exercise of religion by prohibiting religious coercion in our schools; to the Committee on Economic and Educational Opportunities.

By Mr. ORTON:

H.R. 2035. A bill to expand the boundary of the Manti-La Sal National Forest, and for other purposes; to the Committee on Resources.

By Mr. OXLEY:

H.R. 2036. A bill to amend the Solid Waste Disposal Act to make certain adjustments in the land disposal program to provide needed flexibility, and for other purposes; to the Committee on Commerce.

By Mr. PORTMAN (for himself and Mr. CARDIN):

H.R. 2037. A bill to amend the Internal Revenue Code of 1986 to simplify the pension laws, and for other purposes; to the Committee on Ways and Means.

By Mrs. ROUKEMA (For herself and Mr. GORDON):

H.R. 2038. A bill to amend the Higher Education Act of 1965 to prevent an institution from participating in the Pell Grant Program if the institution is ineligible for participation in the Federal Stafford Loan Program because of high default rates; to the Committee on Economic and Educational Opportunities.

By Mr. SHAW (for himself, Mr. MATSUI, Mr. PORTMAN, Mr. CHRISTENSEN, Mr. MCDERMOTT, Mr. LEWIS of Georgia, Mr. LEVIN, Mr. HERGER, Mr. HANCOCK, Mr. THOMAS, Mr. BUNNING of Kentucky, Mr. ENGLISH of Pennsylvania, Mrs. Meyers of Kansas, Mr. Houghton, Mr. Camp, Mr. Spratt, Ms. Dunn of Washington, Mr. Funderburk, Mr. Crane, Mr. Gordon, Mr. Payne of Virginia, Mr. Longley, Mr. Neal of Massachusetts, Mrs. Johnson of Connecticut, Mr. McCrery, Mr. Kleczka, and Mr. Zimmer):

H.R. 2039. A bill to amend the Internal Revenue Code of 1986 to provide for S corporation reform, and for other purposes; to the Committee on Ways and Means.

By Mr. SHAW (for himself, Mr. McDermott, Mr. Kleczka, and Mr. Hastings of Florida):

H.R. 2040. A bill to provide for the treatment of Indian tribal governments under section 403(b) of the Internal Revenue Code of 1986; to the Committee on Ways and Means.

By Mr. UNDERWOOD:

H.R. 2041. A bill to amend the Organic Act of Guam to provide restitution to the people of Guam who suffered atrocities such as personal injury, forced labor, forced marches, internment, and death during the occupation of Guam in World War II, and for other purposes; to the Committee on Resources, and in addition to the Committees on the Judiciary, and International Relations, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. McINTOSH:

H.R. 2042. A bill to authorize the Secretaries of State, Treasury, and Commerce to jointly conduct a comprehensive investigation of business practices by the State of Kuwait relating to the financial and commercial treatment of United States persons and of the Kuwait system for the resolution of commercial disputes; to the Committee on International Relations.

By Mr. FAZIO of California (for himself, Mr. Doolittle, Mr. Herger, Mr. Matsui, and Mr. Pombo):

H.J. Res. 101. Joint resolution disapproving the recommendations of the Defense Base Closure and Realignment Commission; to the Committee on National Security.

By Mr. SERRANO (for himself, Mr. Pastor, Ms. Ros-Lehtinen, Ms. Velazquez, Mr. Underwood, Mr. Romero-Barcelo, Mr. Gutierrez, Mr. Richardson, Mr. Torres, Mr. Becerra, Ms. Roybal-Allard, Mr. Gonzalez, Mr. Ortiz, Mr. Tejeda, Mr. Menendez, Mr. Towns, Mr. Owens, Mr. Farr, Mr. McDermott, Mr. Moran, Mrs. Meek of Florida, Ms. Jackson-Lee, Mr. Fattah, Mr. Scott, Mr. Dellums, Ms. Pelosi, Mr. Miller of California, Mr. Lewis of Georgia, Mr. Nadler, Mr. Rangel, Mr. Mineta, Mrs. Mink of Hawaii, and Mr. Abercrombie):

H. Con. Res. 83. Concurrent resolution entitled, the "English Plus Resolution"; to the Committee on Economic and Educational Opportunities.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

129. By the SPEAKER: Memorial of the House of Representatives of the State of Indiana, relative to urging the Congress of the United States to amend the United States Code, to permit full concurrent receipt of military longevity retirement pay and service-connected disability compensation benefits; to the Committee on National Security.

130. Also, memorial of the Senate of the State of Maine, relative to memorializing the President and the Congress of the United States to provide support for continued critical access along Maine's Route 1 corridor through replacement of the Carlton Bridge in Bath, ME; to the Committee on Transportation and Infrastructure.

131. Also, memorial of the House of Representatives of the Commonwealth of Pennsylvania, relative to memorializing the Congress of the United States to study certain matters relating to the European Common Market; to the Committee on Ways and Means.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 13: Mrs. Myrick.

H.R. 38: Mr. Sanford, Mr. Fattah, Mr. Studds, Mr. Dellums, and Mr. Durbin.

H.R. 65: Mr. Browder, Mr. Shaw, Ms. Woolsey, and Mr. McKeon.

H.R. 109: Mr. Shaw.

H.R. 165: Mr. Heineman.

H.R. 222: Mr. Knollenberg, Mr. Bunning of Kentucky, Mr. Bachus, and Mr. Istook.

H.R. 303: Mr. Browder and Mr. Shaw.

H.R. 367: Mr. DeFazio.

H.R. 436: Mr. Canady and Mr. Tate.

H.R. 468: Mrs. Lowey.

H.R. 470: Mr. Meehan, Mr. Evans, Mr. Lazio of New York, Mr. Coyne, Mr. Lipinski, Mr. Borski, Mr. Traficant, and Mr. Forbes.

H.R. 559: Mr. Andrews.

H.R. 588: Mr. Davis and Mr. Stockman.

H.R. 635: Mr. Skeen, Mrs. Johnson of Connecticut, Mr. English of Pennsylvania, Mr. Matsui, Mr. Myers of Indiana, Mr. Roberts, Mr. Jacobs, Mrs. Kennelly, Mr. Bunning of Kentucky, Mr. Ensign, Mr. Crane, Mr. Christensen, Mr. Collins of Georgia, Mr. Ramstad, Mr. Shaw, Mr. Sam Johnson, Mr. Camp, Mr. Cardin, Mr. Zimmer, Mr. McCrery, Mr. Houghton, Mr. Payne of Virginia, Mr. Coyne, Mr. Kleczka, Mr. Young of Florida, Mr. Pastor, Mr. Lewis of Georgia, Mr. Callahan, Mr. Funderburk, Mr. Bevill, Mr. Wise, Mr. Brown of California, Mr. McDermott, Mr. Crapo, Mrs. Myrick, and Mr. Hilliard.

H.R. 699: Mr. Calvert and Mr. Radanovich.

H.R. 739: Mr. Hostettler.

H.R. 743: Mr. Allard, Mrs. Fowler, Mr. Thornberry, Mr. Baker of Louisiana, and Mr. Goss.

H.R. 752: Mr. Kildee, Mr. Ackerman, Mr. Cramer, Mr. DeLay, Mr. Pickett, Mr. Dickey, Mr. Coburn, Mr. Ballenger, Mr. Heineman, and Mr. Watt of North Carolina.

H.R. 863: Mr. Watts of Oklahoma, Mr. Rangel, and Mr. Torres.

H.R. 922: Mr. Kleczka and Mr. Ehlers.

H.R. 945: Mr. Camp, Mr. Talent, and Mr. English of Pennsylvania.

H.R. 957: Mrs. Vucanovich, Mr. Greenwood, Mr. Foley, Mr. Zimmer, and Mrs. Lowey.

H.R. 972: Mr. Torricelli, Mr. Olver, and Mrs. Lowey.

H.R. 983: Mr. Vento.

H.R. 994: Mr. Herger, Mr. Royce, Mr. Souder, Mr. Salmon, Mr. Largent, Mr. Brewster, Mr. McIntosh, Mr. Peterson of Minnesota, Mr. McHugh, Mr. Fox, Mr. Gutknecht, and Mr. Tate.

H.R. 1010: Mr. Coleman, Mr. Goodling, and Ms. Dunn of Washington.

H.R. 1021: Mr. Hinchey.

H.R. 1061: Mr. Knollenberg.

H.R. 1090: Mr. Peterson of Florida.

H.R. 1099: Mr. Pomeroy.

H.R. 1114: Mr. Funderburk., Mr. Norwood, Mr. Talent, and Mr. Hutchinson.

H.R. 1136: Mr. Moran and Ms. Roybal-Allard.

H.R. 1161: Mr. Clyburn.

H.R. 1162: Mr. Fox, Mr. Upton, Mr. Cooley, Mr. Zimmer, and Mr. Hoekstra.

H.R. 1172: Mr. Salmon and Mr. Forbes.

H.R. 1229: Mr. Dellums.

H.R. 1242: Mr. Bunning of Kentucky, Mr. Herger, and Mr. Lightfoot.

H.R. 1314: Mr. Christensen.

H.R. 1317: Mr. Andrews.

H.R. 1370: Mr. Tiahrt and Mr. Hoekstra.

H.R. 1384: Mr. Hall of Ohio.

H.R. 1493: Mr. Zimmer, Mr. Baker of Louisiana, Mr. Lipinski, Mr. Burton of Indiana. Mr. Moorhead and Mr. Minge.

H.R. 1496: Mr. Bentsen.

H.R. 1499: Mr. Stockman and Mr. Deutsch.

H.R. 1552: Mr. Wilson, Mr. Weldon of Pennsylvania, Mr. Scott, Mr. Meehan, Mr. Allard, Mr. Engel, Mr. Lewis of Georgia, Mr. Fazio of California, Mr. Flake, Mr. Bishop, and Mr. Fattah.

H.R. 1566: Mr. Serrano, Mr. Frank of Massachusetts, and Mr. Ehlers.

H.R. 1580: Mr. Hastings of Washington and Mr. Salmon.

H.R. 1604: Mr. Ehlers.

H.R. 1619: Mr. Shays, Mr. Franks of New Jersey, Mr. Johnson of South Dakota, Mr. Bentsen, Mr. Schaefer, Mr. Lantos, Mr. Gordon, Mr. Brown of Ohio, Mr. Ensign, and Mr. Goodling.

H.R. 1627: Mr. Clyburn.

H.R. 1702: Mr. McDermott, Mr. Frost, Mr. Meehan, Mr. Dellums, Mr. Torres, Mr. Fattah, Mr. DeFazio, and Mr. LaFalce.

H.R. 1703: Mr. McDermott, Mr. Meehan, Mr. Dellums, Mr. Torres, Mr. Fattah, and Mr. LaFalce.

H.R. 1704: Mr. McDermott, Mr. Meehan, Mr. Dellums, Mr. Torres, Mr. Fattah, and Mr. LaFalce.

H.R. 1709: Mr. Engel, Mr. Foley, and Mr. Sabo.

H.R. 1713: Mr. Pombo.

H.R. 1733: Mr. Hyde.

H.R. 1741: Mr. Spence, Mr. Graham, Mr. Inglis of South Carolina, Mr. Spratt, and Mr. Clyburn.

H.R. 1744: Mr. Brown of Ohio and Mr. Jacobs.

H.R. 1753: Mr. Moran, Mr. Poshard, Mr. Schumer, Mr. Watt of North Carolina, Mr. Blute, Mr. Wynn, Mr. Martinez, Mr. Coyne, Mr. Hastings of Florida, Mr. Frazer, Mr. Ehlers, Mr. Hayes, Mr. Owens, Mrs. Lowey, Mrs. Vucanovich, Mr. McNulty, Mr. Peterson of Florida, and Mr. Lewis of Georgia.

H.R. 1754: Mr. Ehlers.

H.R. 1776: Mr. Engel.

H.R. 1787: Mr. Weldon of Florida, Mr. Johnson of South Dakota, Mr. Barton of Texas, and Mr. Crapo.

H.R. 1806: Mr. Emerson, Mr. Martinez, and Mr. Watts of Oklahoma.

H.R. 1834: Mr. Bass, Mr. Bryant of Tennessee, Mr. Coburn, Mr. Fields of Texas, Mr. McCollum, Mr. Tate, Mr. Thornberry, and Mr. Upton.

H.R. 1884: Ms. Norton, Mr. Engel, and Ms. Velazquez.

H.R. 1889: Mr. Kleczka, Mr. Jacobs, Mr. Serrano, Mr. Hilliard, Mr. Klink, Mr. Bishop, Mr. Gejdenson, Ms. Lofgren, Ms. Norton, and Mrs. Thurman.

H.R. 1891: Mr. Ward.

H.R. 1898: Mr. Martinez, Mrs. Kennelly, Mr. Vento, Mr. Lewis of Georgia, Ms. Furse, and Mr. Hinchey.

H.R. 1915: Mr. BARRETT of Nebraska.

H.R. 1973: Mr. BROWN of Ohio, Mr. EVANS, Mr. FLAKE, Mr. GENE GREEN of Texas, Mr. HINCHEY, Mr. KLUG, Mr. LIPINSKI, Mr. MENENDEZ, Mr. MINGE, Mr. PALLONE, Ms. PELOSI, Ms. RIVERS, and Mr. ZIMMER.

H.R. 1974: Mr. DELAY, Mr. WELDON of Pennsylvania, Mr. MCCOLLUM, and Mr. RADANOVICH.

H.R. 1975: Mr. CREMEANS, Mr. THORNBERRY, Mr. ORTIZ, and Mr. RANDANOVICH.

H.R. 1987: Mr. FALEOMAVAEGA.

H.J. Res. 89: Mr. LINDER.

H.J. Res. 96: Mr. ROGERS, Mr. DORNAN, and Mr. TAYLOR of Mississippi.

H. Con. Res. 42: Mr. WYNN, Mr. MARTINEZ, Mr. PAYNE of New Jersey, Mr. MANZULLO, Mr. GEJDENSON, Mr. CHABOT, and Mr. BERMAN.

H. Con. Res. 79: Ms. LOFGREN, Mr. BROWN of Ohio, and Mr. KENNEDY of Rhode Island.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 1976

OFFERED BY: MR. BUNNING

AMENDMENT NO. 15: Page 60, strike line 4 and all that follows through page 61, line 22.

H.R. 1976

OFFERED BY: MR. DURBIN

AMENDMENT NO. 16: Page 24, line 13, strike the colon and all that follows through "agency" on page 25, line 5.

H.R. 1976

OFFERED BY: MR. GILMAN

AMENDMENT NO. 17: Page 57, line 20, strike "$821,000,000" and insert "$846,000,000".

Page 57, line 23, strike "$50,000,000" and insert "$25,000,000".

H.R. 1976

OFFERED BY: MR. HALL OF OHIO

AMENDMENT NO. 18: Page 53, line 24, strike the colon and all that follows through "7.3 million" on line 26.

H.R. 1976

OFFERED BY: MR. MILLER OF CALIFORNIA

AMENDMENT NO. 19: Page 13, line 24, strike "$31,485,000" and insert in lieu thereof "$15,050,000".

Page 14, line 20, strike "$389,372,000" and insert "$372,937,000".

Page 53, line 17, strike "3,729,807,000" and insert in lieu thereof "$3,743,642,000".

H.R. 1976

OFFERED BY: MR. MILLER OF CALIFORNIA

AMENDMENT NO. 20: Page 13, line 24, strike "$31,485,000" and insert in lieu thereof "$15,050,000".

Page 14, line 20, strike "$389,372,000" and insert "$372,937,000".

Page 52, line 24, strike $7,952,424,000" and insert in lieu thereof "$7,955,024,000".

Page 52, line 25, strike "$2,354,566,000" and insert in lieu thereof "$2,357,166,000".

Page 53, line 6, strike the period and insert the following:

": Provided further, That $2,600,000 shall be available to provide assistance for homeless pre-school children."

H.R. 1976

OFFERED BY: MR. MILLER OF CALIFORNIA

AMENDMENT NO. 21. Page 13, line 24, strike "$31,485,000" and insert in lieu thereof "$15,050,000".

Page 14, line 20, strike "$389,372,000" and insert "$372,937,000".

Page 52, line 24, strike "$7,952,424,000" and insert in lieu thereof "$7,955,024,000".

Page 52, line 25, strike "$2,354,566,000" and insert in lieu thereof "$2,357,166,000".

Page 53, line 6, strike the period and insert the following:

": Provided further, That $2,600,000 shall be available to provide assistance for homeless per-school children."

Page 53, line 17, strike "3,729,807,000" and insert in lieu thereof "$3,743,642,000".

H.R. 1976

OFFERED BY: MR. OWENS

AMENDMENT NO. 22: Page 49, line 20, strike "RURAL TELEPHONE BANK PROGRAM ACCOUNT" and all that follows through line 12 on page 50.

Page 70, strike lines 12 through 14.

H.R. 1976

OFFERED BY: MR. OWENS

AMENDMENT NO. 23: Page 69, line 18, strike "$300,000,000" and insert in lieu thereof "$500,000,000".

Page 70, line 15, strike lines 15 through 19.

H.R. 1976

OFFERED BY: MR. OWENS

AMENDMENT NO. 24: Page 70, line 15, strike lines 15 through 19 and insert in lieu thereof the following:

"SEC. 724. None of the funds appropriated or otherwise made available by this Act shall be used to pay the salaries of personnel who carry out an export enhancement program (estimated to be $1,000,000,000 in the President's fiscal year 1996 Budget Request (H. Doc. 104-4)) if the aggregate amount of funds and/or commodities under such program exceeds $500,000,000."

H.R. 1976

OFFERED BY: MR. SCARBOROUGH

AMENDMENT NO. 25: Page 10, line 3, strike "$81,107,000" and insert "$69,000,000".

H.R. 1976

OFFERED BY: MR. SCARBOROUGH

AMENDMENT NO. 26: Page 26, line 16, strike "$123,520,000" and insert "$96,000,000".

H.R. 1976

OFFERED BY: MR. ZIMMER

AMENDMENT NO. 27: Page 29, line 24, strike "$10,400,000,000" and insert "$10,290,000,000".

H.R. 1976

OFFERED BY: MR. ZIMMER

AMENDMENT NO. 28: Page 71, after line 2, insert the following new section:

SEC. 726. None of the funds made available in this Act may be used to pay the salaries of personnel who carry out a market promotion program pursuant to section 203 of the Agricultural Trade Act of 1978 (7 U.S.C. 5623).

H.R. 1976

OFFERED BY: MR. ZIMMER

AMENDMENT NO. 29: Page 71, after line 2, insert the following new section:

SEC. 726. (a) LIMITATION ON USE OF FUNDS.—None of the funds made available in this Act may be used to pay the salaries of personnel who carry out a market promotion program pursuant to section 203 of the Agricultural Trade Act of 1978 (7 U.S.C. 5623).

(b) CORRESPONDING REDUCTION IN FUNDS.—The amount otherwise provided in this Act for "Commodity Credit Corporation Fund—Reimbursement for New Realized Losses" is hereby reduced by $110,000,000.

H.R. 1977

OFFERED BY: MR. COBURN

AMENDMENT NO. 69: Page 45, line 24, strike "$1,276,688,000" and insert "$1,266,688,000".

Page 66, strike lines 11 through 15 and insert the following:

Department of Education

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

INDIAN EDUCATION

For necessary expenses to carry out, to the extent not otherwise provided, title IX of the Elementary and Secondary Education Act of 1965, $52,500,000, to be allocated to local educational agencies.

H.R. 1977

OFFERED BY: MR. OLVER

AMENDMENT NO. 70: At the end of the bill add the following new section:

"SEC. . None of the funds made available in this Act may be used by the Department of Energy in implementing the Codes and Standards Program to plan, propose, issue, or prescribe any new or amended standard—

"(1) when it is made known to the Federal official having authority to obligate or expend such funds that the Attorney General, in accordance with section 325(o)(2)(B) of the Energy Policy and Conservation Act (42 U.S.C. 6295(o)(2)(B)), determined that the standard is likely to cause significant anticompetitive effects;

"(2) that the Secretary of Energy, in accordance with such section 325(o)(2)(B), has determined that the benefits of the standard do not exceed its burdens; or

"(3) that is for fluorescent lamps ballasts.".

H.R. 1977

OFFERED BY: MR. SKAGGS

AMENDMENT NO. 71: At the end of the bill, add a new section, as follows:

SEC. . None of the funds appropriated to implement the Act of October 20, 1976, as amended (31 U.S.C. 6901-07) shall be used for payments with respect to entitlement lands (as defined in such Act) regarding which it has been made known to the officer or official responsible for such payments that a state or political subdivision of a state has by formal action asserted a claim of ownership.

H.R. 1977

OFFERED BY: MR. STEARNS

AMENDMENT NO. 72: Page 72, line 19, strike "$82,259,000" and insert "$74,033,100".

Page 73, line 4, strike "$17,235,000" and insert "$15,511,500".

Page 73, line 6, strike "$7,500,000" and insert "$6,750,000".

EXTENSIONS OF REMARKS

INTRODUCTION OF THE FARM CREDIT SYSTEM REGULATORY RELIEF ACT OF 1995

HON. WAYNE ALLARD

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 13, 1995

Mr. ALLARD. Mr. Speaker, I am joined today by the gentleman from South Dakota [Mr. JOHNSON] in introducing a bill to provide regulatory relief to institutions of the Farm Credit System, the cooperative lender to America's farmers, ranchers, and member-owned service and supply cooperatives.

I should point out that the Farm Credit Administration [FCA], the System's regulator, has acted diligently in reducing, as safety and soundness considerations allow, the regulatory and cost burdens on System institutions. This legislation in no way reflects on FCA's ability or willingness to carry out the Farm Credit Act efficiently with an eye on the costs and benefits of its regulatory program.

Since assuming the chairmanship of the conservation subcommittee, I have made it a priority to reduce wherever possible the regulatory burden on farmers and ranchers. While the subcommittee, as well as the full Committee on Agriculture, has been looking more at the burdens of environmental regulations, we also must examine, within the full range of our legislative responsibilities, the provision of credit services to agricultural producers.

This bill requires FCA to continue its comprehensive review of regulations in order to identify and eliminate, consistent with safety and soundness, all regulations that are unnecessary, unduly burdensome or costly, or not based on statute.

The bill contains 14 sections, including the bill title and a section of findings and regulatory review requirements.

Section 4 amends the act to provide for institution examinations, except for Federal land bank associations, at least every 18 months. Current law requires examinations at least once a year, which is unduly burdensome. Under the amendment, FCA retains authority to examine institutions more frequently than 18 months should that be necessary.

Section 5 deals with the operations of the Farm Credit System Insurance Corporation [FCSIC]. The section authorizes FCSIC to allocate to System banks excess earnings of the insurance fund. Current law requires FCSIC to assess premiums until such time as the aggregate amount in the insurance fund equals the secure base amount. That number is equal to 2 percent of the insured liabilities of System institutions or such other amount FCSIC determines is actuarially sound. FCSIC assumes the secure base amount to be reached in early 1997, but current law provides no authority to deal with interest earnings once the secure base amount is attained.

This section provides for the rebate of excess interest earnings as well as authorizing the reduction of insurance premiums as the insurance fund approaches the secure base amount.

Section 6 of the legislation requires FCSIC to use the least costly approach should a System institution need assistance instead of the current requirement that any assistance provided must be less costly than liquidation.

Section 7 repeals provisions of the 1992 Safety and Soundness Act that require a new, full-time board to govern FCSIC. This is an unnecessary and costly requirement. The amendment would retain the status quo with the FCA board, a full-time, presidentially appointed panel, responsible for insurance fund activities.

Section 8 authorizes FCSIC to act as either a conservator or receiver.

Section 9 empowers FCSIC to prohibit or limit any golden parachute or indemnification payment by a System institution in troubled condition. This legislative language conforms to similar provisions contained in the Federal Deposit Insurance Act.

Section 10 extends authorizations currently enjoyed by System banks to other System institutions. These authorities would provide for the formation of administrative service entities but does not extend to the offer or sale of credit or insurance services to System institution borrowers.

Section 11 removes borrower stock requirements for any loan originated for sale into the secondary market. Current law requires System institution borrowers to purchase and maintain stock or participation certificates in the institution which originated a loan even though the loan was intended to be sold into the secondary market.

Section 12 removes or changes paperwork requirements currently in place, including disclosure requirements, compensation of certain System institutions' personnel and procedures for the approval of joint management agreements, as well as allowing for a borrower to finance more than 85 percent of the value of real estate if the borrower obtains private mortgage insurance.

Section 13 removes the certification requirement by the Rural Utilities Service [RUS] administrator for the private sector financing of loans or loan guarantees to borrowers who otherwise would be eligible to borrow from the RUS.

Finally, Section 14 provides the flexibility for evolving cooperative structures, including dealing with such issues as dividend, member business and voting practices. Current law requires rigid procedures to maintain borrowing eligibility from a System bank for cooperatives. The language would allow coops to adapt their operations, with the continued traditional farm relationships, so they may continue as a borrower of banks for cooperatives.

Mr. Speaker, the cooperative Farm Credit System has made great strides since the 1987 Agricultural Credit Act brought the System back to its feet. Institutions have provided for the repayment of the assistance received from the 1987 act. System institutions have consolidated and reformed their operations much as the 1987 act contemplated. The System is to be congratulated for these improvements and their diligence in fulfilling the agreements they made with the Congress and each other. FCA has provided sound and efficient regulation; FCSIC will assure the System continues to move forward into the next century. This bill will assist the System institutions in moving forward, and I would hope the House could adopt this bill at its earliest opportunity. Thank you, Mr. Speaker.

RECOGNITION OF REAR ADM. JOHN HEKMAN

HON. RICHARD W. POMBO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 13, 1995

Mr. POMBO. Mr. Speaker, I rise today to recognize and honor Rear Adm. John Hekman, Supply Corps, U.S. Navy, as he prepares to retire on 28 July 1995. Rear Admiral Hekman is completing over 33 years of dedicated service to the Navy and our Nation.

A native of Ripon, CA. Rear Admiral Hekman graduated from Calvin College and was commissioned through Officer Candidate School in 1962. He subsequently earned a Masters of Business Administration degree from George Washington University, and is a graduate of the National War College, class of 1980. Rear Admiral Hekman is a CAPSTONE Fellow and a 1992 graduate of the Senior Executive Program in National and International Security at Harvard University.

For the final tour of his distinguished career, Rear Admiral Hekman currently commands the Naval Information Systems Management Center in Arlington, VA, and is the principal assistant to the Assistant Secretary of the Navy for Information Resources. In his current position Admiral Hekman has provided the leadership and direction for business process reengineering, information technology, enterprise planning, and the procurement of ADP equipment and software for Navy and Marine Corps activities.

Rear Admiral Hekman's other tours ashore have included command at the Defense General Supply Center in Richmond, VA, and the Navy Supply in Charleston, SC. He has also served at the Navy Finance Center, Cleveland, OH; Navy Supply Systems Command, Washington DC; Navy Fleet Material Support Office, Mechanicsburg, PA; Staff of U.S. Pacific Fleet, Pearl Harbor, HI; and at the Naval Support Activity, DaNang, Vietnam.

Admiral Hekman served at sea aboard U.S.S. *Fiske*, a destroyer that participated in

● **This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.**

Matter set in this typeface **indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.**

the 1962 Cuban crisis and made deployments to the Mediterranean and Indian Ocean while he was aboard. He also served on the U.S.S. *Samuel Gompers*, a destroyer tender and on the staff of Cruiser Destroyer Group One where he served in the Western Pacific.

Admiral Hekman's decorations include the Defense Superior Service Medal, the Legion of Merit with one Gold Star, the meritorious Service Medal with two Gold Stars, the Navy Commendation medal with Combat "V", the Navy Achievement Medal, and numerous unit and campaign medals. He is a dynamic and resourceful naval officer who throughout his tenure has proven to be an indispensable asset to our nation and Navy. His superior contributions and distinguished service will have long term benefits for the U.S. Navy.

Mr. Speaker, John Hekman and his wife Gail have made many sacrifices during his 33-year naval career. It is only fitting that we should recognize their many accomplishments and thank them for the many years of service to our country. I ask all of my colleagues on both sides of the isle to join me today in wishing this great American every success as well as "Fair Winds and Following Seas" as he brings to close a long and distinguished career.

S.O.S.—SAVE OUR SENIORS

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 13, 1995

Mr. PACKARD. Mr. Speaker, this week we have witnessed, once again, the Democrats' steadfast opposition to change. Day after day, hour after hour, Democrats insist on playing politics as usual. I am tired of their obstructionist attitude, and so are the American people. When will they realize that America is crying out for change? Republicans have heard the message and are ready to act.

The Medicare crisis paints a crystal clear picture between the party of obstruction and the party of action. According to President Clinton's Medicare trustees, in just 7 years, Medicare will be bankrupt and 37 million senior and disabled Americans will be left out in the cold.

Are we going to wait until then, until it's too late, to do anything? I will not stand by and watch Medicare spend itself into bankruptcy. That is why I fully endorse the Republicans' statement of principles for strengthening Medicare for the 21st century. We must act now to save Medicare.

Thankfully, the President has finally acknowledged the need for action over Medicare. When will the rest of the Democrats wake up to this reality? How much longer will they continue trying to prop up a rotting status quo, blissfully unaware that by their actions millions of Americans will suffer? The fact is, they don't know what else to do. They have no ideas of their own. All they offer is obstruction. Well, I would like to repeat to them the British Prime Minister's words last week to his opponents, "put up or shut up."

A SPECIAL SALUTE TO KALEIDOSCOPE MAGAZINE

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 13, 1995

Mr. STOKES. Mr. Speaker, I rise today to salute an outstanding new publication which is enjoying wide circulation in my congressional district. Since its founding in 1992, Kaleidoscope magazine has more than tripled its circulation. In fact, the magazine is the largest African-American owned and operated periodical in the State of Ohio, with a circulation of more than 20,000.

Kaleidoscope brings a refreshing and unique perspective on a variety of issues of importance to the community. The magazine often highlights individuals who represent professional fields including business, medicine, politics, and law, just to name a few. Kaleidoscope is very popular for its Forty-Forty Club, which focuses on African-American achievers in the Greater Cleveland area who are 40 years of age or younger.

Mr. Speaker, Kaleidoscope magazine can attribute its overwhelming success to the efforts of its publisher and coowner, Richard A. Johnson, and his talented staff. Mr. Johnson, who is a native of Cleveland Heights, takes responsibility for all aspects of publishing Kaleidoscope including editorials, advertising, production, and distribution. He enters the publishing arena with a wealth of experience and a vast knowledge of the greater Cleveland community.

Richard Johnson is a major consultant for minority outreach marketing campaigns. His efforts include work with The Center for Families and Children; Harambee, an organization which recruits black families for the adoption of black children; and MOTTEP, an organization which seeks to educate the African-American community on the issue of organ donation and transplantation. Mr. Johnson's affiliations also include advisory board memberships on the United Negro College Fund and the National Alzheimer's Association. He has been recognized by Crain's Cleveland Business as one of the top 40 leaders in the greater Cleveland area under the age of 40. In addition, the city of Cleveland recently saluted Richard Johnson for his community efforts by proclaiming October 7, 1994, as Richard A. Johnson Day.

Mr. Speaker, the promotion of Kaleidoscope Magazine is also being led by Kevin A. Carter. Mr. Carter serves as vice president and director of Diversity and Business Development for McDonald and Co. Securities, Inc. McDonald and Co. is the largest Ohio-based investment bank in the State. Without the business community's strong support for Kaleidoscope, it would not have been possible to move the idea forward.

Kevin Carter is a former senior analyst at LTV Steel, and a former senior consultant at Ernst and Young Consulting. He serves as president of the Cleveland Chapter of the National Black MBA Association and was elected to the 1993–94 Leadership Class of the Greater Cleveland Growth Association. Mr. Carter is a board member of the Cleveland branch of the NAACP. In addition, his board memberships include the Cleveland Convention Center and the Center for Contemporary Art.

Mr. Speaker, I am proud to applaud Richard Johnson, Kevin Carter and the entire staff at Kaleidoscope magazine. The wealth of information that Kaleidoscope shares with its readers is invaluable. I ask my colleagues to join me today in this special salute to Kaleidoscope magazine. I am certain that the publication will continue to enjoy great success.

THE PELL GRANT STUDENT/TAXPAYER PROTECTION ACT OF 1995

HON. MARGE ROUKEMA

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 13, 1995

Mrs. ROUKEMA. Mr. Speaker, I am pleased today to introduce the Pell Grant Student/Taxpayer Protection Act of 1995. This legislation would prevent a postsecondary school from participating in the Pell Grant Program if that school is already ineligible to participate in the federally guaranteed student loan program. Plain and simple, this legislation will make sure that if you have high default rates, then you should not receive any title IV higher education funding period.

This is a critical time for our country. Congress is trying to save taxpayer dollars while improving the quality of post-secondary education that is available to all Americans. We took strong steps forward in achieving this in 1992 when we reauthorized the Higher Education Act with nearly 100 sorely needed reforms that were good for students and good for taxpayers.

Reforms such as the 3 years 25 percent cohort default rate were intended to put an end to risk-free Federal subsidies for those unscrupulous, for-profit trade schools who promise students a good education that leads to a good job and then fail to deliver on that promise—at the expense of both students and the taxpayer. If these schools violated these rules, then they would be bounced from the program.

We have already determined that schools with unacceptably high student loan default rates should not be permitted to participate in the federally guaranteed student loan program. I submit that if a school is deemed ineligible to participate in the federally guaranteed student loan program, then it should also not be permitted to participate in the Pell Grant Program. While the House passed modified language addressing this concern in 1992, it was mysteriously dropped in conference. So, we are back here today discussing the one that got away.

If we could find a way to pay for an increase in title IV student aid programs, there would be a very few Members, if any, who would not be supportive. But, faced with a $4.7 trillion debt and annual deficits exceeding $200 billion, we do not have that luxury. However, today we have an opportunity to stretch our Pell Grant funds by disqualifying those schools that we have already disqualified from the federally guaranteed student loan program.

Today, the Senate Governmental Affairs Permanent Subcommittee on Investigations will be holding a hearing to examine the abuse of the Pell Grant Program by proprietary schools. In particular, the subcommittee will examine the case of a California-based trade school chain that allegedly stole millions in Pell Grant money, failed to reimburse loans, and filed false loan applications.

The title IV student aid program currently serves 2,487 proprietary schools, and proprietary schools represent 41 percent of all Pell Grant recipients. And, despite corrective actions taken through the 1992 Higher Education Amendments to prevent fraud and abuse of the Federal student aid program, this hearing only confirms that similar problems still persist, and that much more needs to be done to stop them.

I urge my colleagues to support this critical legislation. Make our Pell Grant money go farther. Throw the scam schools out of the Pell program. Protect the taxpayer. Cosponsor the Pell Grant Student/Taxpayer Protection Act of 1995.

CLINTON'S POLICY ON VIETNAM IS CONTEMPTIBLE

HON. DAVID FUNDERBURK

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 13, 1995

Mr. FUNDERBURK. Mr. Speaker, I am the only Member of the House to have served as an ambassador to a Communist country. I have seen first hand the barbarity and duplicity of Communists. In what Winston Churchill called "the dark and lamentable catalog of human crime," there is nothing on record to compare to the 30 years of destruction and human misery, communism brought to Europe, Latin America, Africa, and Asia. Hundreds of millions died. Religious and political freedom was obliterated. To fight communism America spent thousands of lives and trillions of dollars. In light of that bloody history it is all the more tragic that the Clinton administration has decided to ignore a clear campaign promise and recognize and assist one of the last but most brutal Communist dictatorships left—Vietnam.

The Vietnamese Communists deserve only our contempt. They crushed our allies in South Vietnam, killing millions. They overthrew the Government of Cambodia and Laos. They forced the entire ethnic Chinese population of their own country into the sea, prompting Beijing to invade. They opened up reeducation camps and suppressed all dissent and religious expression. As we speak, Buddhist monks are threatening to take to the streets to immolate themselves. Vietnam has entered into formal defense arrangements with Cuba and Iraq and has recently invited Saddam Hussein for a state visit thereby thumbing its nose at the world community.

Hanoi brutally murdered hundreds of American POW's before the Paris peace accords were signed and they have lied about it ever since. Yet, the Clinton administration claims that we must rethink our relationship with Vietnam and reward it with the benefits of American recognition and aid because progress has been made on the POW/MIA issue. That progress is so illusory it is scarcely worth the mention.

There has been no progress in accounting for over 300 Americans last known to be alive in the hands of their Communist captors. According to information produced by Congressman DORNAN's National Security Subcommittee on Personnel, Hanoi still refuses to hand over the remains of almost 100 Americans we know died in captivity. Recently, the Communists have resorted to releasing scores of records and boxes of remains which when examined prove to be the bones of animals and ethnic Asians. In fact over 150 boxes of remains handed over to American authorities in recent years show signs of chemical processing and prolonged cold storage. Mr. DORNAN's subcommittee disclosed that Hanoi stored over 400 boxes of preserved remains to use as leverage over American leaders. Vietnam has cynically and criminally played upon the emotions of POW/MIA families to extract financial and diplomatic concessions from this administration.

In testimony last month, retired military POW/MIA investigators told the House that Hanoi still holds back remains, still holds back documentary evidence, and deliberately manufactures and manipulates crash site evidence. The administration was forced to admit that none of the hundreds of documents and remains handed over to a blue ribbon Presidential delegation in May will lead to the closing of one POW/MIA case. In fact, leaders of the most prominent POW/MIA family and veterans' groups were asked to participate in the administration's trip to Hanoi. They refused, feeling that the entire process was arranged to conclude that the Vietnamese were working hard to full account for missing Americans.

The Pentagon's own joint task force full accounting [JTFFA] has repeatedly been denied access to areas where live sightings have been alleged. In addition, the JTFFA has never been allowed to interview one witness without the presence of a Vietnamese military or political officer. Despite administration claims that better relations with Hanoi have led to more MIA case closings the opposite is in fact true. During the Reagan administration an average of 21 MIA cases were closed per year. Under Bush the average was 24. But, under the Clinton administration case closings have fallen off to 12 per year. Since the open door on trade was granted to Hanoi 5 months ago, only five cases have been closed.

For those who argue that opening up Vietnam to our largest companies will pave the way for reform, one need only look to China for refutation. We have been engaged in China for 25 years and all we have to show for it is an entrenched dictatorship and multinationals which are all too willing to bank in the slave-like working conditions which exist in that country. The same scenario will play out in Vietnam. But it won't stop there. The administration will request and the Vietnamese will demand—in exchange for more cooperation on POW/MIA's—access to the Overseas Private Investment and the Export-Import Bank. Once again the American taxpayer will be stuck floating a brutal dictatorship which will never have the means to repay us.

Some in the administration and Congress are now advocating that we open up relations with Vietnam and open up security ties with her in order to counter balance resurgent Chinese militarism. That is also a prescription for disaster. I have seen what happened when we toyed with a Communist dictator who promised us that he would side with us against a more powerful adversary. We placated Romania's Ceausescu and turned a blind eye to one of the most savage regimes in the history of eastern Europe. Kowtowing to Romania was shameful then, but it pales in comparison to the policy we are about to set for Vietnam.

Mr. Speaker, the only way for reform, the only way to stand up for our ideals is to say that respect for human rights and progress toward democracy is the precondition for American recognition. Vietnam fails our ideals on all accounts not the least of which is the contempt it has shown for the emotions and sensibilities of our POW/MIA families. In that light, the Clinton policy on Vietnam is contemptible.

BLM LANDS TRANSFER

HON. BARBARA CUBIN

OF WYOMING

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 13, 1995

Mrs. CUBIN. Mr. Speaker, I rise in support of the legislation being introduced today by Mr. HANSEN of Utah to transfer lands administered by the Bureau of Land Management to the States. I appreciate the efforts that Mr. HANSEN and Senator THOMAS of Wyoming have put into this legislation and as an original cosponsor of the bill, I will do what I can to help move it quickly through the legislative channels.

In my opinion, this legislation is long overdue. Not since the Sagebrush Rebellion has there been such a groundswell of support for returning the lands to the States. As the 1994 election results have shown, the majority of Americans want to reduce the role of the Federal Government and grant the States more flexibility to arrive at localized solutions to a host of problems. The better the local understanding, the better the decision made by those most affected by a local problem.

With this legislation, the Western States are asking nothing more than to be put on an equal footing with the Eastern States. We want a stable tax base and we can and will see to it that our lands are more efficiently managed and more beneficially used. That includes protecting the scenic beauty of our States while promoting the wise use of our natural resources.

For too long, the Federal Government has forgotten that the Western States are its partners. It is time for us to send a clear signal that we are tired of the historical Federal dominance that has left the West in a state of political and economic decline. This legislation is the proper vehicle for examining how to best end Federal ownership of the vast areas of the West and return stability to that region of our country.

SALUTE TO HARRY WU

HON. SAM GEJDENSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 13, 1995

Mr. GEJDENSON. Mr. Speaker, today is the 25th day of the arrest of American citizen Harry Wu, the tenacious human rights investigator, by the Chinese authorities at the Kazakhstan border.

These are the crimes for which Harry Wu is imprisoned, and facing a possible death sentence: Harry testified before the U.S. Congress many times in the past 5 years, including the subcommittee overseeing international trade which I chaired—that was a crime. Harry recorded and filmed forced hard labor prisons in China, where he himself was a prisoner for 19 years—that was a crime. Harry told the world China was exporting prisoner-produced goods to the United States, among other countries—once again that was a crime. Harry revealed the horrific evidence of forcible removal of prisoner organs; these donations occurred without the donors consent, and at times there were planned executions so that high society Chinese officials could get the organs at the right time—that too was a crime.

The Wall Street Journal calls Harry Wu "A hero of our time. A dissident of the stature of Vaclav Havel and Anatoly Scharansky, like them he suffered for his principles and speaks from personal experience." Harry Wu is an American citizen who was traveling with valid American papers, and was granted a visa from the Chinese Government. As an American citizen, Harry's rights, under the consular agreement between the two countries, to meet a U.S. Embassy official, within 48 hours of an official request, were violated. It took more than 20 days to arrange a meeting. When finally arranged, the conversation took place through thick glass and telephones, with armed supervision making sure the case was not being discussed. The Chinese Government and has continued to violate basic human rights of its own citizens, and is now doing the very same to a U.S. citizen. The United States cannot continue to reward China for these crimes with the most favored nation [MFN] status, as long as Harry's rights and so many others are being violated.

The Chinese Government calls all of these admirable and courageous acts preformed by Harry Wu espionage and treason. I call them worthy of the Nobel Prize, not the death penalty.

THE NEW HOUSE ORDER: BUSY-WORK UP—PRODUCTIVITY DOWN

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 13, 1995

Mrs. SCHROEDER. Mr. Speaker, per today's Roll Call analysis, the House, under Republican rule for the first time in 40 years, has compiled a dismal productivity record so far this year. It's Parkinson's Law at its worst: more activity and less work.

Here are the gory details. As compared to the 103d Congress at this point in 1993, January 3–June 30, the House has been in session 15 percent more days and 70 percent more hours. So much for family friendly. It churned out 52 percent more pages in the CONGRESSIONAL RECORD—the "Hot Air Index"; and has had twice as many recorded votes—the "Busy Work Index." Yet it passed 15 percent fewer bills and had zero public bills enacted into law.

The Senate's record is marginally better, but nothing to write home about.

CONGRESS' BOX SCORE

The workload figures are in for the first six months of the year. Here's a comparison of Congress' effort so far this year against the same time period in 1993:

	House (January 3–June 30)	
	104th Congress	103d Congress
Days in session	90	78
Hours in session	774	454
Pages in Congressional Record	6,699	4,409
Public bills enacted into law	[1]0	20
Measures passed, total	183	208
Measures reported, total	164	157
Conference reports	7	4
Measures pending on calendar	30	22
Measures introduced, total	2,358	3,124
Yea-and-nay votes	117	141
Recorded votes	338	164
Bills vetoed	1	0

	Senate (January 3–June 30)	
	104th Congress	103d Congress
Days in session	108	85
Hours in session	950	587
Pages in Congressional Record	9,596	8,381
Public bills enacted into law	10	23
Measures passed, total	154	172
Measures reported, total	118	114
Conference reports	0	0
Measures pending on calendar	93	53
Measures introduced, total	1,218	1,452
Yea-and-nay votes	296	192
Bills vetoed	0	0

[1] All bills signed into law this year have originated in the Senate. Source: Congressional Record.

INTRODUCTION OF THE GUAM WAR RESTITUTION ACT

HON. ROBERT A. UNDERWOOD

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 13, 1995

Mr. UNDERWOOD. Mr. Speaker, today I am introducing legislation to address the mistakes that were made immediately following the occupation and liberation of Guam in World War II. My bill, the Guam War Restitution Act, would authorize the payment of claims for the people of Guam who endured the atrocities of the occupation, including death, personal injury, forced labor, forced march, and internment in concentration camps. I am introducing this bill today in honor of Mrs. Beatrice Flores Emsley, a great American and advocate of the Chamorro people and their struggle for recognition of their sacrifices on behalf of this great Nation during occupation of our island.

Mrs. Beatrice Flores Emsley has been a leader in this effort, and the bill I am introducing is made possible to a large degree by her work over decades to see that justice is done. She is a legend on our island, and her story of courage and survival against all odds is an inspiration to our people. Mrs. Emsley miraculously survived an attempted beheading in the closing days of the Japanese occupation. She, and a group of Chamorros, were rounded up in the city of Agana and were slated for execution. She was struck on the neck by a sword, was shoved into a shallow grave and left for dead. When she regained consciousness, Mrs. Emsley crawled out and made it to safety. Her survival, and the survival of others at mass executions, was as if the Good Lord ordained that there would be people to bear witness to these events.

Mr. Speaker, I regret to inform this body and this Nation that Mrs. Emsley is seriously ill at this moment on Guam. Our thoughts and prayers are with her today and with her family. I am introducing this bill to let her know that her work is appreciated, her courage is admired, and her love of her people is reciprocated by all those who know her. She has testified in hearings on the war restitution bills that I have introduced, and on a bill to establish a memorial on Guam in honor of our people as part of the 50th anniversary of liberation commemoration last year. Each time her testimony has been powerful and poignant. Each time she has affected all the Members of Congress and congressional staffers who listened to her story. And each time she has helped us to move war restitution forward. I respectfully acknowledge the work and contributions of Mrs. Beatrice Flores Emsley as I call on my colleagues to enact the Guam War Restitution Act.

This is a year of commemoration as we look back 50 years to the Allied victory in Europe and the Pacific. This is also a year of healing for the remaining survivors and descendants of victims of wartime atrocities. While events such as the Holocaust receive vast media attention, there are other dreaded experiences that do not receive this attention and have not received proper restitution. Today, I introduce the Guam War Restitution Act that will compensate the American nationals on Guam who endured great hardship during the war and will help them to finally heal their wounds.

This is not the first time I have spoken to this House and to the American people about the wartime atrocities that were endured during World War II by the people of Guam, and I will continue telling the Nation until we bring justice to these people. It is the job of this Congress to correct the oversight of past Congresses and show the Chamorros that their Government remembers and values the loyalty they demonstrated to the United States during World War II.

From the invasion day of December 10, 1941, to liberation day on July 21, 1944, Guam was the only American soil with American nationals occupied by an enemy; something that had not happened on American soil since the War of 1812. Throughout the occupation, the American nationals' loyalty to the United States would not bend. They even defied the occupiers by providing food and shelter for American sailors who had evaded initial capture by the enemy.

In the months prior to the liberation, thousands of Chamorros were made to perform forced labor by building defenses and runways for the enemy or working in the rice paddies.

Thousands were forced to march from their villages in northern and central Guam to internment camps in southern Guam. Everyone marched; old men and women, newborn babies, children, and the sick. They were marched to internment camps at Maimai, Malojloj, and Manengon, where they awaited their fate—many did not live to see liberation. Once the Japanese realized the end of their occupation was close at hand, they began to execute these victims of war, some by beheadings. Mass executions at Fena, Faha, and Tinta and other atrocities were committed by the enemy forces as their fate became apparent.

There have been several opportunities in the past for Guam to receive war reparations; however, all failed to include Guam or did not provide ample opportunity for the people of Guam to make their claims.

The Guam Meritorious Claims Act of 1946 contained several serious flaws that were brought to Congress's attention in 1947 by the Hopkins Commission and by Secretary of the Interior Harold Ickes. Both the Hopkins Commission and Secretary Ickes recommended that the Guam Act be amended to correct serious problems. Both also noted that Guam was a unique case and that Guam deserved special consideration due to the loyalty of the people of Guam during the occupation.

The problems with this act include:

The act allowed only 1 year for claimants to file with the Claims Commission. Many Chamorros were not aware of the Claims Commission's work due to language barriers, displacement from their homes, and misunderstanding of the procedures. Instead of speeding up the process, the deadline served no useful purpose except to deny valid claims filed after the December 1, 1946, deadline.

It required that claims be settled based on prewar 1941 values. Therefore, property claims were undervalued and residents of Guam were not able to replace structures destroyed during the war.

The act did not allow compensation for forced march, forced labor, and internment during the enemy occupation. Another law, the War Claims Act of 1948, allowed for compensation for American citizens and American nationals for internment and forced labor; however, Guam was excluded from this act even though it was the only American territory occupied in the war.

It allowed death and injury claims only as a basis for property claims. This was another provision unique to the Guam law and an unexplained stipulation. The Guam bill, Senate bill S. 1139, was actually modeled on a claims bill passed for other Americans in 1943, the Foreign Claims Act. The legislative history for the Foreign Claims Act emphasized the need to address these claims. In a floor statement on April 12, 1943, in support of passage of this bill, Senator Barkley noted that, "it is necessary to do this in order to avoid injustices in many cases, especially in cases of personal injury or death."—Senate Report 145, 78th Congress, 1st Session, pp. 2–3. The original language for S. 1139, following the Foreign Claims Act model language, allowed the Claims Commission to adjudicate claims for personal injury and death. But the language was amended by the Senate Naval Affairs Committee to ensure that the U.S. Government, and specifically the Navy, would not be setting a precedent or legal obligation for the Navy—CONGRESSIONAL RECORD, 79th Congress, 1st Session, pp. 9493–9499. However, these types of concerns were not raised for the almost identical situation of the Philippines or other American citizens or nationals when the War Claims Act of 1948 was passed by Congress.

Finally, the Guam Meritorious Claims Act encouraged Chamorros to settle claims for lesser amounts due to the time delay in having claims over $5,000 sent to Washington for congressional approval. Again, this was a procedure unique to the Guam law. No such requirement existed for those covered under the 1948 War Claims Act. The net effect on Guam was that Chamorros with property damage over $5,000 would lower their claims just so that they could be compensated in some fashion and get on with their lives.

These flaws could have been rectified had Guam been included in the 1948 War Claims Act or the 1962 amendment to the act. Unfortunately for the Chamorros, Guam was not included.

The Treaty of Peace with Japan, signed on September 8, 1951, by the United States and 47 Allied Powers, effectively precluded the just settlement of war reparations for the people of Guam against their former occupiers. In the treaty, the United States waived all claims of reparations against Japan by United States citizens. The people of Guam were included in this treaty by virtue of the Organic Act of Guam which gave American citizenship to the people on August 1, 1950.

The bitter irony then is that the loyalty of the people of Guam to the United States has resulted in Guam being forsaken in war reparations.

So while the United States provided over $2 billion to Japan and $390 million to the Philippines after the war, Guam's total war claims have amounted to $8.1 million, and the Guam War Reparations Commission has on file 3,365 cases of filed claims that were never settled. This is a grave injustice whose time has come to an end. It is our duty to bring justice to these people and their descendants; that is why I now propose the Guam War Restitution Act.

Not only will this act provide monetary support to the survivors and their descendants, it will also assure them that the United States recognizes the true loyalty of the people of Guam.

This act will provide for the Guam trust fund from which awards the benefits will be paid to the claimants. This fund will be established by a 0.5 percent surcharge on military sales to Japan and any gifts or donations of funds, services, or property.

Luisa Santos, a survivor of the Tinta Massacre, once told me,

> I have fought hard and suffered, and no one has ever been able to help me or my children, but justice must be done. Even if you have to go to the President of the United States, let him know that the Japanese invaded Guam not because they hated the Chamorro people. The Japanese invaded Guam because we were a part of the United States, and we were proud of it.

Mrs. Santos passed away shortly after our conversation.

Mrs. Emsley, in testifying before a House subcommittee on May 27, 1993, ended her statement with the powerful plea of one who has survived and who daily bears witness to the suffering of the Chamorro people. Mrs. Emsley simply ended by saying, "All we ask Mr. Chairman, is recognize us please, we are Americans."

We cannot wait and hope that the last survivors will pass away before any action is taken. This event will never be forgotten by the people of Guam, and the Government's unwillingness to compensate victims such as Mrs. Santos and Mrs. Emsley will only serve to deepen the wounds they have already incurred, and deepen the bitterness of the Chamorro people.

I believe it is time to truly begin the healing process, and passage of the Guam War Restitution Act is the first step.

THE S CORPORATION REFORM ACT OF 1995

HON. E. CLAY SHAW, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 13, 1995

Mr. SHAW. Mr. Speaker, I rise today to introduce legislation to strengthen small and family-owned businesses. Recently we have grown more aware of the burdens that regulations and tax complexities place on small and family-owned businesses. It is time for us to enact legislation to help the businesses that are the driving force of the American economy. The S Corporation Reform Act of 1995 will provide such support. Today almost 1.9 million businesses pay taxes as S corporations and the vast majority of these are small businesses. The S Corporation Reform Act of 1995 is targeted to growing these small businesses by improving their access to capital, by preserving family-owned businesses, and by simplifying many of the outdated, unnecessary, and complex rules for S corporations.

Under current law, S corporations face obstacles and limitations not imposed on other forms of entities. The rules governing S corporations need to be modernized to bring them more on par with partnerships and C corporations. For instance, S corporations are unable to turn to nontraditional sources of financing such as venture capitalists and pension funds because they are unable to offer inducements that partnerships or C corporations can offer. This has greatly hindered their growth as traditional sources of debt financing, such as commercial bank loans, can at times be hard to get, especially for smaller businesses. This bill would expand S corporations access to capital by increasing the number of permitted shareholders from 35 to 75, by permitting tax-exempt entities to be shareholders, and by allowing nonresident aliens to own S corporation stock. More importantly, S corporations would be allowed to issue convertible preferred stock opening the door to the venture capital market.

Additionally, the bill helps preserve family-owned businesses by counting all family members as one shareholder for purposes of S corporation eligibility and better enabling families to establish trusts funded by S corporation shares. Under current law, multi-generational family businesses are threatened by the artificial 35 shareholder limit which counts each family member as one shareholder. S corporations also do not have access to the same estate planning techniques available to C corporation owners since there are restrictions on the types of trusts permitted to be shareholders of an S corporation.

Another important feature of this bill is the flexibility it would offer to S corporations and their shareholders in structuring their business operations. Under the bill, S corporations would be allowed to hold wholly-owned corporate subsidiaries that would for Federal tax purposes be effectively treated as a division or branch of the parent company. From a compliance perspective, only one tax return would be filed by the corporations, which would significantly simplify the compliance burden imposed by present law.

Further, the bill would eradicate a number of outmoded and arcane provisions some of which date back to enactment of the S corporation in 1958. For example, S corporations would be given the opportunity under the bill to clean up invalid or untimely S corporation elections.

I encourage my colleagues to support this important and badly needed legislation that is vital to small and family-owned businesses' ability to grow and compete in the next century. I am submitting a section-by-section summary of the legislation and I ask unanimous consent that the text of the bill be printed in the RECORD.

TITLE I—ELIGIBLE SHAREHOLDERS OF A CORPORATION

Subtitle A—Number of Shareholders

Sec. 101. S corporations permitted to have 75 shareholders—The maximum number of eligible shareholders would be increased from 35 to 75. Increasing the number of eligible shareholders would help S corporations stay within multi-generational families, and the expanded number would offer opportunity for additional cyclical investors.

Sec. 102. Members of family treated as one shareholder—All family members within seven generations who own stock could elect to be treated as one shareholder. The election would be made available to only one family per corporation, must be made with the consent of all shareholders of the corporation and would remain in effect until terminated. This provision is intended to keep S corporations within families that might span several generations.

Subtitle B—Persons Allowed As Shareholders

Sec. 111. Certain exempt organizations—A new source of financing would be provided to S corporations by allowing certain exempt organizations including pensions, profit sharing plans, and employee stock ownership plans (ESOPs) to acquire S corporation stock. S corporation income that flows through to these organizations would be treated as unrelated business income (UBI) to the organization or entity. In addition, charities would be allowed as shareholders of an S corporation for purposes of allowing more flexibility in estate planning.

Sec. 112. Financial institutions—Under the bill, financial institutions that do not use the reserve method of accounting for bad debts would be eligible to elect S corporation status.

Sec. 113. Nonresident aliens—This provision would provide the opportunity for aliens to invest in domestic S corporations and S corporations to operate abroad with a foreign shareholder by allowing nonresident aliens (individuals only) to own S corporation stock. Any effectively-connected U.S. income allocable to the nonresident alien would be subject to the withholding rules that currently apply to foreign partners in a partnership.

Sec. 114. Electing small business trusts—Trust eligibility rules would be expanded by allowing stock in an S corporation to be held by certain trusts ("electing small business trusts") provided that all beneficiaries of the trust are individuals, estates or exempt organizations. Each potential current beneficiary of the trust would be counted as a shareholder under the counting conventions of the maximum number of shareholder rules. In a situation where there are no potential current beneficiaries, the trust would be treated as a shareholder. For taxation purposes, the portion of the trust consisting of S corporation stock would be treated as a separate taxpayer and would pay tax at the highest individual tax rate.

Subtitle C—Other Provisions

Sec. 121. Expansion of post-death qualification for certain trusts—The bill would extend the holding period for all testamentary trusts to two years.

TITLE II—QUALIFICATION AND ELIGIBILITY REQUIREMENTS FOR S CORPORATIONS

Subtitle A—One Class of Stock

Sec. 201. Issuance of preferred stock permitted—An S corporation would be allowed to issue either convertible or plain vanilla preferred stock. Holders of preferred stock would not be treated as shareholders, thus, ineligible shareholders like corporations or partnerships could own preferred stock interests in S corporations. Payments to owners of the preferred stock would be deemed as interest rather than a dividend and would provide an interest deduction to the S corporation. This provision would afford S corporations and their shareholders more flexibility in estate planning and in capitalizing the S corporation by giving it access to venture capital.

Sec. 202. Financial institutions permitted to hold safe harbor debt—An S corporation is not considered to have more than one class of stock if outstanding debt obligations to shareholders meet the "straight debt" safe harbor. Currently, the safe harbor provides that straight debt cannot be convertible into stock. However, the legislation would permit a convertibility provision so long as that provision is the same as one that could have been obtained by a person not related to the S corporation or S corporation shareholders. Additionally, the straight debt safe harbor would be amended to allow creditors who are persons actively and regularly engaged in the business of lending money to hold such debentures.

Subtitle B—Elections and Terminations

Sec. 211. Rules relating to inadvertent terminations and invalid elections—The legislation would provide the IRS with the authority to extend its current automatic waiver procedure for inadvertent terminations due to defective elections. Additionally, the IRS would be allowed to treat a late Subchapter S election as timely if the Service determines that there was reasonable cause for the failure to make the election timely. The provision would apply to taxable years beginning after December 31, 1982.

Sec. 212. Agreement to terminate year—The bill provides that the election to close the books of the S corporation upon the termination of a shareholder's interest would be made by, and apply to, all affected shareholders rather than by all shareholders.

Sec. 213. Expansion of post-termination transition period—The post-termination period would be expanded to include the 120-day period beginning on the date of any determination pursuant to an audit of the taxpayer that follows the termination of the S corporation's election and that adjust a subchapter S item of income, loss or deduction of the S corporation during the S period. In addition, the bill would repeal the TEFRA audit provisions applicable to S corporations and would provide other rules to require consistency between the returns of the S corporation and its shareholder.

Sec. 214. Repeal of excessive passive investment income as a termination event—This provision would repeal the current rule that terminates S corporation status for certain corporations that have both subchapter C earnings and profits and that derive more than 25 percent of their gross receipts from passive sources for three consecutive years. The legislation would not repeal the rule that imposes a tax on those corporations possessing excess net passive investment income. It would liberalize this tax by raising the threshold triggering the tax to 50% of passive receipts from passive income sources rather the present law 25% threshold. The rate of the passive income tax would be increased if applicable.

Subtitle C—Other Provisions

Sec. 221. S corporations permitted to hold subsidiaries—The legislation would repeal the current rule that disallows an S corporation from being a member of an affiliated group of corporations, thus enabling an S corporation to own up to 100 percent of a C corporation's stock. It does preclude, however, an S corporation from being included in a group filing a consolidated tax return. In addition, S corporations would be permitted to own wholly-owned S corporation subsidiaries. Thus, a parent S corporation and its wholly-owned subsidiary would be treated as one corporation and would file one tax return. This provision offers tremendous structuring flexibility to existing S corporations by allowing them to put operations into wholly-owned subsidiaries and be treated as one S corporation.

Sec. 222. Treatment of distributions during loss years—Basis adjustments for distributions made by an S corporation during a taxable year would be taken into account before applying the loss limitation for the year. This would result in distributions during the year reducing adjusted stock basis for purposes of determining the tax status of the distributions made during that year before determining the allowable loss for the year. A similar concept would apply in computing adjustments to the accumulated adjustments account.

Sec. 223. Consent divided for AAA bypass elections—The bill codifies a Treasury regulation which allows an election to by-pass the AAA to apply to deemed dividends.

Sec. 224. Treatment of S corporations under subchapter C—The current rule treating an S corporation as an individual in its status as a shareholder of another corporation would be repealed, permitting IRC Section 332 liquidations and IRC Section 338 elections. These rules effectively expand an S corporation's ability to participate in tax-free structuring transactions.

Sec. 225. Elimination of pre-1983 earnings and profits—S corporation earnings and profits attributable to taxable years prior to 1983 would be eliminated. This change will simplify distributions for those S corporations in existence prior to 1983.

Sec. 226. Allowance of charitable contributions of inventory and scientific property—This provision would allow the same deduction for charitable contributions of inventory and scientific property used to care for the ill, needy or infants for subchapter S as for subchapter C corporations. In addition, S corporations are no longer disqualified from making "qualified research contributions" (charitable contributions of inventory property to educational institutions or scientific research organizations) for use in research or experimentation. The S corporation's shareholders would also be permitted to increase the basis of their stock by the excess of deductions for charitable over the basis of the property contributed by the S corporation.

Sec. 227. C corporation rules to apply for fringe benefit purposes—The current rule that limits the ability of "more-than-two-percent" S corporation shareholder-employees to exclude certain fringe benefits from wages would be repealed for benefits other than health insurance. Under the bill, fringe benefits such as group-term life insurance would become excludable from wages for these shareholders. However, health care benefits would remain taxable (please note that on April 11, 1995, President Clinton signed into law P.L. 104-7, which provides in years 1995 and thereafter a 30% deduction for health insurance costs of the self-employed which partially offsets taxable health insurance benefits).

TITLE III—TAXATION OF S CORPORATION SHAREHOLDERS

Sec. 301. Uniform treatment of owner-employees under prohibited transaction rules—Provides that subchapter-S shareholder-employees no longer will be deemed to be owner-employees under the rules prohibiting loans to owner-employees from qualified retirement plans.

Sec. 302. Treatment of losses to shareholders—Loss recognized by a shareholder in complete liquidation of an S corporation would be treated as ordinary loss to the extent the shareholder's adjusted basis in the S corporation stock is attributable to ordinary income that was recognized as a result of the liquidation.

TITLE V—EFFECTIVE DATE

Sec. 401. Effective date—Except as otherwise provided, the amendments made by this Act shall apply to taxable years beginning after December 31, 1995.

IMPROVING MEDICARE

HON. GEORGE P. RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 13, 1995

Mr. RADANOVICH. Mr. Speaker, recently, Mr. Frank J. O'Neill, a constituent of mine from Dunlap, CA, wrote to me about his concerns regarding Medicare. I think he expressed his views very well, and I want to take this opportunity to share with my colleagues his words, which were also printed in the Fresno Bee.

Mr. O'Neill recognizes the need to slow the unsustainable high rate of growth in Medicare spending. However, he points out that many other programs are in desperate need of reform, such as food stamps and Social Security disability.

I want to assure Mr. O'Neill that there is a very big difference between the two parties. Republicans are committed to protecting and improving Medicare. We also are committed to reforming every other area of our Government, rooting out waste and fraud, and getting the Federal Government out of functions that are more appropriately handled at the State or local level or by the people themselves. And I think our commitment will be borne out in the months ahead.

The people want us to save Medicare, but at the same time they want us to bring fundamental reform to other programs. I urge my colleagues on both sides of the aisle to heed Mr. O'Neill's wise words of advice:

[From the Fresno Bee, June 10, 1995]

MEDICARE RECIPIENT SAYS ALL PROGRAMS NEED EXAMINATION

(By Frank J. O'Neill)

George Wallace had it exactly right. While campaigning for president as an independent he said, "There's not a dime's worth of difference between Democrats and Republicans."

I was thrilled at the Republican landslide last November. I really thought it would make a big difference. I'm 68 years old. You'd think I'd know better.

As I write there is an American Association of Retired Persons announcement on the radio. In a doomsday voice the speaker is asking if I know what Congress is planning to do to Medicare. He asks, do I know what the reductions in Medicare will cost me?

Why isn't the AARP looking at the big picture and lobbying for a plan that will be good for me, good for my children, good for the country? If they succeed in terrifying all the seniors it will only precipitate a partisan screaming match and solve nothing. Of course it will promote a "who's to blame" contest and generate innumerable bumper stickers for next year's election.

Is it possible that I don't understand the problem? My hero, Rush Limbaugh, coming from the right, challenges that I must understand that "something must be done about Medicare—it will be broke in 2002." Well, a pox on both their houses. I am willing to accept numbers that we say we can't keep spending at the current rate. I am also more than willing to cinch up my belt and contribute my share. But I am not willing to do it alone.

NOT ALONE

Limbaugh says the government has become a giant sow with everyone looking for a nipple. Well, he may be right. And I'll agree that one of the nipples may be labeled "Medicare," but what about all the others?

I'll share my nipple as soon as there is an overall plan to get everyone else to do the same thing. No way will I agree to be penalized as long as I can stand in line at a 7-Eleven in Henderson, Nev., watching a young 30-something buy a package of gooey cinnamon buns with food stamps and then walk across the store to play the slot machine with the change she received in cash. My Medicare is threatened when there is a big new sign in front of the Subway sandwich restaurants announcing, "We now accept food stamps!" Food stamps to eat out! And my Medicare is the economic culprit?

Even if a child's disability is the result of physical abuse inflicted by the parents, the child is still eligible for Social Security disability payments—payments made to the parents who caused the disability. A spokesman for Social Services says, "Well, it is extremely difficult to remove a child from the home of its natural parents!" Need money? Hurt the kid. While my Medicare is threatened.

Drug abusers are in many cases classified as disabled. As such they are eligible for Social Security disability payments. But my Medicare is threatened.

What is needed is an across-the-board analysis of these programs to make sure all facets are examined and treated fairly. The very first step is something that could be done quickly. Separate the Medicare program for seniors over 65 from all these other Social Security activities.

CLEAR DISTINCTION

The Republicans are reported to be surprised to find from a survey that most people don't realize that Medicare and Social Security are separate and different. Oh, yeah? If so how come the Part B payment I must make for Medicare is deducted from my Social Security check? And where does that money go? Into a "trust fund"? Sure. Just like my 40 years of Social Security payments.

I accept as a fact that the Medicare program needs a close examination but I will not support any revisions that penalize me without correcting abuses that are financially impacting the system.

AARP is wrong. Limbaugh is wrong. George Wallace was right.

IN HONOR OF GERALD W. OLSON

HON. PHIL ENGLISH

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 13, 1995

Mr. ENGLISH of Pennsylvania. Mr. Speaker, it is with great pride that I rise to honor Gerald W. Olson, a distinguished policy officer from Lawrence Park, who is retiring tomorrow, July 14, 1995, after 28 years of outstanding service to his community. Mr. Olson began his career as a part time police officer at the age of 27. In addition to serving on the Lawrence Park police force, he also protected his community as a volunteer fireman. While working to make our streets safer, Gerald is also heavily involved in Little League and American Legion Baseball.

A hero can be defined in many different ways. A soldier who is courageous in the face of death on a battlefield, a person who gives selflessly for the benefit of the whole or someone who makes a positive difference in the lives of others. Perhaps the most heroic act is to live your life in a honorable way. Gerald Olson has served his community in many facets and has shown that you can have an impact on the world even if you do so quietly, without the fanfare. He has been a role model to the children of his community and an example to us all.

PERSONAL EXPLANATION

HON. DOUGLAS "PETE" PETERSON

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 13, 1995

Mr. PETERSON of Florida. Mr. Speaker, due to an illness in the family, I was forced to miss rollcall votes 346 through 366, 389 through 391. Had I been present, I would have voted "yes" to rollcalls 349, 354, 355, 358, 360, 361, 365, and "no" on rollcalls 346, 347, 348, 350, 351, 352, 353, 356, 357, 359, 362, 363, 364, 366, 389, 390, 391.

TRIBUTE TO THE WASHINGTON-BONAPART FAMILY REUNION

HON. THOMAS M. FOGLIETTA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 13, 1995

Mr. FOGLIETTA. Mr. Speaker, the Washington-Bonapart family gathers this weekend to celebrate its 15th national family reunion, which has some of its roots in my district in Philadelphia, PA.

The Washington-Bonapart family reunion is composed of the descendants of Moses and Grace Washington, Sr. Grace was born as a slave in the West Indies, eventually immigrating to the United States as a free woman. She settled in Charleston, SC, where she met and later married her beloved husband, Moses. It is from this union that the Washington-Bonapart family was born, now more than 500 members strong.

Family members from six States, and 20 cities will gather in Washington this weekend for a celebration of family, community, and heritage. Highlights of the weekend include an African cultural, fashion, and talent show, and honorary awards dinner, and a posthumous dedication ceremony to distinguished family member Jesse Nathaniel Hunt.

I am especially pleased to commemorate the Winder family of Philadelphia, PA, who are serving as key organizers of this special event. Their dedication to their family and community is most impressive, and will certainly be evident in every activity this weekend.

The Washington-Bonapart family motto is: The family is the strongest institution in the world, and its preservation is essential to a prosperous future for all humankind. I could not agree more. I ask my colleagues to join with me in saluting the Washington-Bonapart family reunion, which I am certain will be a weekend to remember.

RECOGNIZING UNION CITY FOR ITS PARTICIPATION IN NATIONAL NIGHT OUT

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 13, 1995

Mr. MENENDEZ. Mr. Speaker, I rise today to recognize and commend Union City for its participation in National Night Out, 1995. On August 1, residents in this municipality of the 13th District will join fellow Americans across the country to create a night of celebration free from the fear of crime and drugs.

I wish also to pay tribute to the National Association of Town Watch in New Jersey for sponsoring the event. They have succeeded in developing community awareness within many American cities and towns by bringing concerned citizens to the forefront. Community leaders and law enforcement officers are joining them to send the message that crime will not be permitted to threaten our communities and dictate our lives.

I am proud to say I have dedicated citizens in my district creating safe neighborhoods through education and action. On this night Union City residents and law enforcement officers in participating cities will celebrate with a town-wide block party, contests, dances for community youth, concerts at various senior centers, safety demonstrations, and educational forums. These events are a continuation of past efforts whose full benefits will be felt for years to come in my district.

This admirable project is a nation-wide endeavor supported by over 8,000 communities throughout our 50 States. Their continuing aim is to focus America's attention on the alarming crime rates and the unacceptable level of drug abuse which has affected every community in our Nation. Police-citizen partnerships created by the efforts of these organizations have promoted cooperative crime prevention programs allowing Americans to come from behind their locked doors and join their neighbors in the fight for our Nation's safety.

The "12th Annual National Night Out" comes at a time when the leaders of our Nation are debating the appropriate methods of crime prevention here, in the Nation's Capital. But in Union City and in other communities around our great Nation, the people are taking a stand, defending their streets, their homes, and their families.

Union City officials are to be commended not only for their participation in National Night Out 1995 but also for their concern and their efforts. Their fight for safer communities gives me hope that America can build a crime- and drug-free Nation for our children. I salute them today, thank them for their past efforts, and wish them luck in their future crime-fighting endeavors.

IN MEMORY OF EDWARD CHARLES BEDDINGFIELD, SR.

HON. GLENN POSHARD

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 13, 1995

Mr. POSHARD. Mr. Speaker, I rise today to express the sorrow of the people of Decatur and the 19th District at the passing of Mr. Edward C. Beddingfield. Ed's passing is a great loss to all that knew him, and the community he devoted his life to helping.

Ed worked for the Pontiac Division of General Motors for 11 years, and dreamed of one day owning his own automobile business. In 1989, Mr. Beddingfield's dream came true when he purchased a Buick dealership in Decatur, IL, and with much ambition and hard work, Edward turned his dealership into a thriving and successful business.

Mr. Speaker, Ed was involved in many things to help make his community a better place to work and live. He was a Millikin University Trustee, a Decatur sanitary district commissioner, and a pillar of the National Association for the Advancement of Colored People. He also served as president of Webster-Cantrell Hall's board of directors and on the boards of the First National Bank and the Metro Decatur Chamber of Commerce. In addition, he touched the lives of many children throughout central Illinois through his work with the Y.M.C.A., the Boys Club & Girls Club, and the Decatur-Macon County Opportunities Corp.'s summer jobs program.

Mr. Ed Beddingfield was a true example of a public servant. Mr. Speaker, Ed Beddingfield will not be forgotten. His everlasting love, commitment, and dedication serves as a living monument to his family, friends, and neighbors. I want to take this opportunity to offer my condolences to all the people that knew and loved this fine man.

INTRODUCING THE PARENTAL CHOICE IN TELEVISION ACT OF 1995

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 13, 1995

Mr. MARKEY. Mr. Speaker, today, Representatives JIM MORAN, DAN BURTON, JOHN SPRATT, and I, along with a long list of bipartisan cosponsors from every region of the United States, are introducing the Parental Choice in Television Act of 1995.

We are introducing this bill with the intention of offering it as an amendment when the telecommunications bill comes to the House floor in July.

It is supported by a broad coalition of groups from the PTA to the AMA.

It is supported by 90 percent of the American public.

In short, its time has come.

In my view, there is no more compelling governmental interest in the United States today than providing families a healthy, safe environment in which to raise healthy, productive children.

The fact is that television is one of the most important influences on our children's lives. We might wish it were different, but that won't bring us back to the 1950's when children watched relatively little TV. Today they watch 4 to 7 hours every day. "Electronic teacher" for many children, but what it teaches to young children is scary. The average American child has seen 8,000 murders and 100,000 acts of violence by the time he or she leaves elementary school.

Parents know what's going on. I have held six hearings over the last 2 years on the subject of children and televised violence. In every hearing I have heard both compelling testimony about the harmful effects of negative television on young children, and about the efforts of industry to reduce gratuitous violence. But parents don't care whether the violence is gratuitous or not. When you have young children in your home, you want to reduce all violence to a minimum.

That's why parents are not impressed with the temporary promises of broadcast executives to do better. Parents know that the good deeds of one are quickly undermined by the bad deeds of another.

The pattern is familiar. Parents plea for help in coping with the sheer volume and escalating graphics of TV violence and sexual material. Congress expresses concern. The industry screams "first amendment". The press says they're both right, calling on Congress to hold off and calling on industry to tone things down.

Meanwhile, parents get no help.

Until parents actually have the power to manage their own TV sets using blocking technology, parents will remain dependent on the values and programming choices of executives in Los Angeles and New York who, after all, are trying to maximize viewership, not meet the needs of parents.

In 1993, a USA Today survey found that 68 percent of its readers supported mandating the inclusion of V-chip technology in new TV sets. By 1996, a similar survey found that this number had risen to 90 percent.

Clearly the public is clamoring for solutions which make it easier to control their own TV sets.

That is why we in the House intend to move forward with the V-Chip.

We will give the industry a year to develop a ratings system and activate blocking technology on a voluntary basis, but if they fail to act, then the legislation will require the FCC to:

First, form an advisory committee, including parents and industry, to develop a ratings system to give parents advance warning of material that might be harmful to children;

Second, prescribe rules for transmitting those ratings to TV receivers, and

Third, require TV set manufacturers to include blocking technology in new TV sets so that parents can block programs that are rated, of block programs by time or by program.

We want both the House and the Senate on record as favoring this simple, first-amendment friendly, parent-friendly, child-friendly solution to this ongoing problem.

You will hear arguments from some that this technological way of dealing with the problem of TV violence is akin to "Big Brother." It's exactly the opposite. It's more like "Big Mother" and "Big Father." Parents take control.

And we know this technology works. In this country, the Electronics Industries Association has already developed standards for it. In Canada, a test in homes in Edmonton proved that it works and works well.

This is not a panacea. It will take some time for enough new sets to be purchased to have an impact on the Nielsen ratings and, therefore, an impact on advertisers. But its introduction in the cable world through set-top boxes is likely to be much more rapid. The cable industry has said that it is prepared to move forward with a V-chip approach as long as broadcasters move forward as well.

And the Electronic Industries Association has already agreed to introduce the technology into sets that would allow up to four levels of violence or sexual material to be rated.

Only the broadcasters have remained adamant in their opposition. They are opposed because the V-chip will work so well, not because it won't work. It will take only a small number of parents in key demographic groups using the V-chip to test the willingness of advertisers to support violent programming.

Parents will have the capacity to customize their own sets—to create their own private safe harbor—to protect their own children as they see fit.

I urge my colleagues to support this important initiative.

ELIMINATION OF THE INDIAN ARTS AND CRAFTS BOARD

HON. TIM JOHNSON

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 13, 1995

Mr. JOHNSON of South Dakota. Mr. Speaker, I rise today in opposition to the elimination of funds for the Indian Arts and Crafts Board at the Bureau of Indian Affairs. The Board is the primary Federal advocate for American Indian and Alaska Native art and its interconnected economic, cultural, social, and spiritual purposes. I feel strongly that the activities of the Board are in large part responsible for the explosion of interest in contemporary Native American arts and crafts in recent years, laying the ground work for long-term economic benefits to Indian tribes.

The Board is the only Federal program concerned with increasing the economic benefits of American Indian creative work. According to a 1985 Congressionally-mandated Commerce Department study, annual sales of Indian handicrafts and other artwork are over $1 billion. Many producers reside on their own reservations, however American Indians and tribes control only a small portion of this market. The Board engages in a variety of promotional efforts to change that. For example, the Board's source directory publication is the primary means of establishing direct contact between consumers and Indian producers at an annualized cost of $50,000—this publication will end with the termination of the Board.

Federal expenditures for social programs continue to exceed investments for economic growth in Indian country. I feel strongly that the role of the Federal Government must be to encourage tribal self-sufficiency at every opportunity and to prioritize programs which enhance economic growth for tribal communities. Without the Board, the Federal Government will no longer have the capacity to provide economic development assistance for Indian art to the 554 federally-recognized tribes and their thousands of artists and crafts people.

Additionally, the Board has been charged by the Congress with developing regulations and administering, on an ongoing basis, the Indian Arts and Crafts Act of 1990 (Public Law 101–6440), which provides specific legal protection for Indian art producers. This congressional charge of responsibility reflects the unique expertise of the Board relative to marketing Indian arts and crafts. Abolishing the Board will deprive the Secretary of the Interior of the expertise necessary to fulfill this congressional mandate.

The Board maintains outstanding collections of contemporary and historic American Indian and Alaska Native art (23,000 objects), which are a multi-million dollar promotional asset and include over 50 percent of the artwork managed by the Department of the Interior nationwide. The Board's collection's will require continued management and protection and should not be hastily dispersed, as they include objects that some tribes consider sacred, as well as objects of cultural patrimony under the Native American Graves Protection and Repatriation Act (Public Law 101–601). Although the board's collections are well cared for, management of museum property in general is currently identified as one of the most critical department material weaknesses under the Federal Financial Manager's Integrity Act. Abolishing the Board will add to, not diminish, this departmental material weakness.

Mr. Speaker, two thirds of these collections are located at the three Indian museums operated by the Board in reservation areas in Montana, Oklahoma, and my State of South Dakota. They are major economic, cultural and educational attractions in their regions. In Browning, MT, annual attendance at the Museum of the Plains Indians averages over 78,000. Annual attendance at the Southern Plains Indian Museum in Anadarko, OK, and the Sioux Indian Museum in Rapid City, SD, averages over 41,000. For $600,000 per year, the Board maintains its collections and operates these three museums with contemporary exhibitions and sales of the work of emerging Indian artists. These museums, and the museum sales shops operated by local Indian organizations, will close their doors if funding for the Indian Arts and Crafts board is eliminated.

Closing the Sioux Indian Museum in South Dakota will have an especially adverse effect, as the city of Rapid City has just voted $11,000,000 of local tax funds to build an innovative new museum facility which will include the Board's Sioux Indian Museum collection at no additional cost to the Federal Government. It would have a projected operating deficit of $169,000 without the Board's continued financial participation in maintaining the Board's own collection. That level of operating deficit will undermine Rapid City's plans to raise $1.6 million in additional capital from private foundations required to complete the project, which is expected to attract at least 182,000 annual visitors and to generate a direct spending impact of $3.6 million annually on the regional economy.

There are nine federally recognized tribes in South Dakota, whose members collectively make up one of the largest native American populations in any State. At the same time, South Dakota has 3 of the 10 poorest counties in the Nation, all of which are within reservation boundaries. While the elimination of the Board would be a direct blow to the encouragement and development of native American arts and crafts in South Dakota as a sound source for economic growth, I believe the repercussions of the board's termination will be felt nationwide.

THE B-2: A PERFECT WEAPON FOR THE POST-COLD WAR WORLD

HON. JANE HARMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 13, 1995

Ms. HARMAN. Mr. Speaker, I would like to bring to the attention of my colleagues an article by Charles Krauthammer that appeared in today's edition of the Washington Post.

I believe that Mr. Krauthammer presents cogent and powerful arguments for continued production of B-2 bombers. He points out that only the B-2, with its long range, can deploy from secure U.S. bases on short notice and is invulnerable to enemy counterattack. It is the kind of weapon the United States needs for the post-cold war world.

I recommend Mr. Krauthammer's article to my colleagues:

[From the Washington Post, July 13, 1995]

THE B-2 AND THE "CHEAP HAWKS"

(By Charles Krauthammer)

We hear endless blather about how new and complicated the post-Cold War world is. Hence the endless confusion about what weapons to build, forces to deploy, contingency to anticipate. But there are three simple, glaringly obvious facts about this new era:

(1) America is coming home. The day of the overseas base is over. In 1960, the United States had 90 major Air Force bases overseas. Today, we have 17. Decolonization is one reason. Newly emerging countries like the Philippines do not want the kind of Big Brother domination that comes with facilities like Clark Air Base and Subic Bay. The other reason has to do with us: With the Soviets gone, we do not want the huge expense of maintaining a far-flung, global military establishment.

(2) America cannot endure casualties. It is inconceivable that the United States, or any other Western country, could ever again fight a war of attrition like Korea or Vietnam. One reason is the CNN effect. TV brings home the reality of battle with a graphic immediacy unprecedented in human history. The other reason, as strategist Edward Luttwak has pointed out, is demographic: Advanced industrial countries have very small families, and small families are less willing than the large families of the past to risk their only children in combat.

(3) America's next war will be a surprise. Nothing new here. Our last one was too. Who expected Saddam to invade Kuwait? And even after he did, who really expected the United States to send a half-million man expeditionary force to roll him back? Then again, who predicted Pearl Harbor, the invasion of South Korea, the Falklands War?

What kind of weapon, then, is needed by a country that is losing its foreign bases, is allergic to casualties and will have little time to mobilize for tomorrow's unexpected provocation?

Answer: A weapon that can be deployed at very long distances from secure American bases, is invulnerable to enemy counterattack and is deployable instantly. You would want, in other words, the B-2 stealth bomber.

We have it. Yet, amazingly, Congress may be on the verge of killing it. After more than $20 billion in development costs—costs irrecoverable whether we build another B-2 or not—the B-2 is facing a series of crucial votes in Congress that could dismantle its assembly lines once and for all.

The B-2 is not a partisan project. Its development was begun under Jimmy Carter. And, as an urgent letter to President Clinton makes clear, it is today supported by seven secretaries of defense representing every administration going back to 1969.

They support it because it is the perfect weapon for the post-Cold War world. It has a range of about 7,000 miles. It can be launched instantly—no need to beg foreign dictators for base rights; no need for weeks of advance warning, mobilization and forward deployment of troops. And because it is invisible to enemy detection, its two pilots are virtually invulnerable.

This is especially important in view of the B-2's very high cost, perhaps three-quarters to a billion dollars a copy. The cost is, of course, what has turned swing Republican votes—the so-called "cheap hawks"—against the B-2.

But the dollar cost of a weapon is too narrow a calculation of its utility. The more important calculation is cost in American lives. The reasons are not sentimental but practical. Weapons cheap in dollars but costly in lives are, in the current and coming environment, literally useless: We will not use them. A country that so values the life of every Capt. O'Grady is a country that cannot keep blindly relying on non-stealthy aircraft over enemy territory.

Stealth planes are not just invulnerable themselves. Because they do not need escort, they spare the lives of the pilots and the fighters and radar suppression planes that ordinarily accompany bombers. Moreover, if the B-2 is killed, we are stuck with our fleet of B-52s of 1950's origin. According to the undersecretary of defense for acquisition, the Clinton administration assumes the United States will rely on B-52s until the year 2030—when they will be 65 years old!

In the Persian Gulf War, the stealthy F-117 fighter flew only 2 percent of the missions but hit 40 percent of the targets. It was, in effect, about 30 times as productive as non-stealthy planes. The F-117, however, has a short range and thus must be deployed from forward bases. The B-2 can take off from home. Moreover, the B-2 carries about eight times the payload of the F-117. Which means that one B-2 can strike, without escort and with impunity, as many targets as vast fleets of conventional aircraft. Factor in these costs, and the B-2 becomes cost-effective even in dollar terms.

The final truth of the post-Cold War world is that someday someone is going to attack some safe haven we feel compelled to defend, or invade a country whose security is important to us, or build an underground nuclear bomb factory that threatens to kill millions of Americans. We are going to want a way to attack instantly, massively and invisibly. We have the weapon to do it, a weapon that no one else has and that no one can stop. Except a "cheap hawk," shortsighted Republican Congress.

HONORING BON VIEW ELEMENTARY SCHOOL

HON. JAY KIM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 13, 1995

Mr. KIM. Mr. Speaker, it gives me great pleasure to rise today and pay tribute to a wonderful accomplishment that occurred on Saturday July 8, 1995—the grand reopening of Bon View Elementary School in Ontario, CA.

Several years ago, parents, school staff members, and concerned neighbors alerted me to problems surrounding the existing Bon View Elementary School. The school was in a neighborhood that had gone from a rural neighborhood to one in an urbanized setting. The changing environment encroached on the campus with low-flying planes, industrial traffic, city yards and the inherent problems of being completely surrounded by industrial facilities. This was not a good environment for our students to learn in.

The need for a new or relocated school was apparent. Working together with a design team of two teachers, parents, classified staff, maintenance staff, the board of trustees for the Ontario-Montclair School District, the school superintendent, school principal and the architect, a school was put together that truly meets the needs of quality education. This $7.5 million facility was designed for a team approach to both curriculum and management, with the year-round schedule in mind. With funding from Asset Management, $1.5 million from the FAA and Department of Airports, State matching funds, and a generous $2.1 million gift from the city of Ontario, the dream of a new, state of the art school was realized.

The new Bon View Elementary School is truly a school for the entire community, and it is indeed a day for celebration.

A TRIBUTE TO THE VICTIMS OF "13TH OF MARCH" TUGBOAT

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 13, 1995

Ms. ROS-LEHTINEN. Mr. Speaker, today marks the first anniversary of the indiscriminate murder by the Castro regime, of over 40 Cuban citizens, mostly women and children, while they were attempting to escape the island aboard the *13th of March* tugboat. We do not forget the love of freedom which these Cuban nationals represented nor the risks they took to obtain that freedom.

Today, hundreds of Cuban exiles sail toward those same waters where the massacre occurred in order to pay tribute in a solemn ceremony to those who perished on that day and to the thousands of Cubans who struggle daily against Castro's repressive apparatus.

On this tragic anniversary, the White House and the State Department have acted as Castro's spokesman and have warned the flotilla participants that if attacked by Castro authorities, expect no help from their own national government. So it is that the saga continues in the Clinton administration's drive to coddle up to dictator's from Cuba to Vietnam while setting aside the aspirations of freedom of millions of citizens from around the world.

On this day, let us remember that while in the United States we are blessed with countless freedoms, only 90 miles from our shores, in Cuba, life is marked by repression, persecution, and misery. Let us remember those who have perished and continue to suffer under the hand of Cuba's tyrant.

THE 100TH ANNIVERSARY OF SUNNY HILLS CHILDREN'S SERVICES

HON. LYNN C. WOOLSEY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 13, 1995

Ms. WOOLSEY. Mr. Speaker, I rise today to pay tribute to Sunny Hills Children's Services as they celebrate their 100th anniversary. Sunny Hills has a main campus in San Anselmo, CA, as well as two group homes in Novato, CA, and a school and therapy program in San Rafael, CA, all of which are located in the congressional district that I am privileged to represent.

Started in 1895, Sunny Hills Children's Services is an extraordinary nonprofit organization that assists troubled teenagers, and helps them overcome their lives of abuse, neglect, abandonment, and hopelessness. Sunny Hills' programs are so successful that they have become famous throughout the North Bay Area serving as a national model. There is no doubt that Sunny Hills helps hundreds of youth every year to lead independent and productive lives by providing them with the tools they need to deal with their troubles and problems.

The founders of Sunny Hills, which was then called the San Francisco Presbyterian Orphanage and Farm, clearly possessed the vision, compassion, and determination to make this endeavor the success it is. One hundred years later, the many people affiliated with Sunny Hills can be extremely proud of their numerous successes and accomplishments. On July 15, I am proud to be able to join them as they celebrate their achievements and recognize the many outstanding Sunny Hills volunteers, such as Helen Caletti, who has volunteered for the agency for almost 50 years. We will also be joined by current and former members of the Sunny Hills Board of Directors who are to be commended for contributing their time and energy, as well as for their commitment, to such a worthwhile cause.

Sunny Hills continues to be a major resource for young people in the San Francisco Bay area. The need for its services persists. In fact, in 1995, it is expected that half a million California children will be reported abused or neglected. Suicides are twice the national average in the Bay Area where one is seven teenagers contemplates suicide.

Mr. Speaker, I urge my colleagues to pay tribute to everyone who has contributed to making Sunny Hills the success that it is today. It is appropriate that we offer sincere thanks for their dedicated and selfless commitment to helping our Nation's youth—and building our Nation's future.

TRIBUTE TO BOB COLLINS

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 13, 1995

Mr. JACOBS. Mr. Speaker, they very definitely threw away the mold when Bob Collins came along. He bought sunshine to the lives of hundreds of thousands of Hoosiers during his career as both sports writer and all-around wit for the Indianapolis Star.

The reason that we shall miss Bob unusually painfully is that he literally and literarily cannot be replaced.

[From the Indianapolis (ID) Star, May 30, 1995]

ROBERT J. COLLINS

Bob Collins professionally and personally was a legend in his own time. His death here Friday on the eve of this year's biggest sports weekend was as if he planned it that way. And maybe he did.

The veteran sports editor and columnist for the Indianapolis Star, who retired in 1991 after three years of serious illness and dire predictions from his doctors that he would not live another, had said he wanted to die in May because that was when so many of his friends from across the country would be in Indianapolis. But he didn't say what May.

Collins was correctly eulogized by Star sports writter Robin Miller as "the toughest of the tough":

"He never missed a deadline or a nightcap. Burn the candle at both ends? Collins was the enternal flame."

In his 43 years with The Star, Collins had covered virtually every major sporting event of the day, from the Superbowl, the World Series and the Olympics to the Final Four, the PGA tour and the Indianapolis 500 Mile Race where he could count many of the drivers as good friends.

There was no reason to doubt him when he said best of all he had enjoyed covering Indiana high school basketball, that and the Masters golf tournament at Augusta. The Masters, he wrote, was like stepping into another world.

Collins, who was a key organizer of the Indiana Pacers, was also a founder of the Indiana Basketball Hall of Fame. His early reporting of the all-black Crispus Attucks High School teams helped bring them into the mainstream of Indiana basketball.

As a writer's writer, Collins was a master storyteller with an elephantine memory. His simple, straight forward style rippled with humor, surprises and historical references.

Indiana University basketball coach Bob Knight, not one to praise journalists, once wrote that simply calling Collins a writer was an injustice.

"He is an analyst, a satirist, humorist and a philosopher bound together with an extraordinary ability of expression."

Longtime friend and Star sportswriter Don Bates noted correctly that Collins was "one of those rare journalists whose talent was as big as his ego."

Robert Joseph Collins, dead at 68, will be laid to his final rest tomorrow after 11 a.m. services in St. Anthony's Catholic Church. His legend and his words will long live in the hearts and minds of his many readers and friends.

SESQUICENTENNIAL OF CHESTER, ORANGE COUNTY, NY

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 13, 1995

Mr. GILMAN. Mr. Speaker, I want to take this opportunity to pay tribute to the town of Chester in Orange County, NY. Chester celebrated its 150th anniversary on March 22, 1995.

Chester's beginnings can be traced as far back as 1712. The first settlers of Chester settled on a spot on the edge of an Indian trail, later known as Kings Highway. The first house was built in 1716 by Daniel Cromline in Grey County. Chester is named after the birthplace of John Yelvertons, the first private property owner in Chester.

In 1775, several inhabitants of Chester participated in engagements against the British during the Revolution. George Washington frequently visited Chester on his way from Trenton to his main army on the Hudson.

Many of Chester's first residents served in the Continental Army in the American Revolution. Early settlers of Chester were industrious, helping the town to grow quickly into farms and many small businesses. One of the most prominent early settlers of Chester was Hector DeCreveoeur, author of "Letters From an American Farmer." This novel which was written in and about Chester assumed international, literary, and political significance.

On March 22, 1845, after about three quarters of a century as a precinct of Goshen, NY, the town of Chester was founded. Chester was formed from parts of Warwick, Goshen, Monroe, and Blooming Grove.

With its Greycourt meadows known as the Black Dirt Area, Chester provided an unparalleled farming area for early settlers. Onions, celery, lettuce, and other vegetables provided a market that sustained many families whose ancestors still reside in Chester. The uplands of Chester provided a dairyman's paradise. The advent of the Erie Railroad in 1841 provided these farmers with an outlet to distant markets. Moreover, the formation of this railroad provided residents of New York City with their first means of fresh milk and vegetables.

In 1892, the village of Chester, in the northern part of the town, was incorporated. About that same time, an ingenious system brought water to Chester from Walton Lake. In 1903, the Grange came to Chester and was an important influence on the agricultural sciences until the 1960's.

Dairy farming continued to grow in Chester until the 1950's when it slowly began to decline. The Chester Meadows still produce an abundance of vegetables. New businesses, shopping malls, industrial parks are all growing and becoming an integral part of the Chester economy. A new town hall, and library have both been constructed to meet the ever growing needs of this now modern town. Sugar Loaf, one of the oldest communities in Orange County, has changed from a sleepy country village to one of industry and skilled craftsmen. While many of the farmers have disappeared, Chester has now become a desirable place to settle and raise a family.

Beginning on June 2, the town of Chester held a 3-day celebration commemorating its sesquicentennial anniversary. The celebration was hosted by town supervisor, Stephen Shortess, and town historian, Clark Holbert, and included the dedication of a new town flag for Chester, an award ceremony from Chester High School, a dinner dance, and many other fun-filled events. A dinner dance featuring a live band and a fireworks show concluded the opening ceremonies.

On Saturday, June 3, a celebrity softball game against a team of town officials took place. After the game, Vidbel's Olde Circus performed at Chester Commons. A barbecue dinner and dance concluded the second day of the celebration.

On Sunday, June 4, a religious service began the day, and was followed by an old time community picnic, featuring performances by various ethnic groups. Closing ceremonies began at 5 p.m.

Mr. Speaker, I invite all of my colleagues to join in congratulating the town of Chester on this very special occasion.

HAPPY 53D ANNIVERSARY TO HELEN AND HUBERT JOLLY

HON. JAMES A. BARCIA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 13, 1995

Mr. BARCIA. Mr. Speaker, I rise today to salute a couple who has endured the test of time. Today, Hubert and Helen Jolly are celebrating their 53d wedding anniversary.

They met at a high school dance in Albany, NY—two young people from adjoining boys and girls schools. Soon after, they fell in love and on July 13, 1942, Helen and Hubert made a commitment to spend their lives together, a commitment they have taken very seriously.

In these days of disintegrating families, it is reassuring to see a strong, stable marriage built on love, respect, and trust. They show the rest of us by example that a marriage can truly endure. Their faith, loyalty, and sense of humor has been a great example to their 7 children and 10 grandchildren. Their willingness to help others by giving their time and service to their church, scouts, little league, PTA, and other organizations throughout their lives has been greatly appreciated by their family and friends.

While the families have spread across the country, not a Christmas goes by where their children and grandchildren don't think of Helen and Herb's wonderful Christmas Eve celebrations filled with good food, drinks, and lots of laughter and joy. Although the entire family cannot celebrate together, the traditions are carried on through the generations.

A World War II veteran, Herb is active with the VFM and has marched in dozens of parades proudly wearing his uniform. A lifelong humorist, Herb can still reel off a dozen jokes on any topic at the drop of a hat. Helen is a dynamic and energetic woman and her children and grandchildren often have a hard time keeping up with her fast pace. Together, they blossomed into a strong family that is on 53 years and growing. Their newest grandchild is due in November and two of their granddaughters are getting married this year.

With so much talk on reinstalling traditional family values, this event deserves special recognition. I ask my colleagues to join me in wishing Hubert and Helen good health and many more happy years together.

FROM THE HORSE'S MOUTH

HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 13, 1995

Mr. FARR. Mr. Speaker, Members on both sides of the aisle have been known on occasion for playing fast and loose with the facts and obscuring the truth with statistics.

Tonight I'd life to submit for your consideration a different perspective.

This one comes from someone in the field—a nose-to-the-grindstone Federal employee who works as a tax collector for the IRS. In correspondence I received from him, he tells me of the folly of Republican proposals ensconced in the budget resolution to cut funding for, and then privatize certain tax collection activities.

His argument is clear: only the force of the Federal Government can compel tax evaders to comply and only well-trained, dedicated IRS agents have the wherewithal to produce the kind of results that Congress seeks in bringing scofflaws to justice.

You may be tempted to put my comments down as partisan posturing but I submit here a copy of my constituent's letter for the RECORD and ask you to take it from one who knows.

July 7, 1995.

Hon. SAM FARR,

Congress of the United States, Salinas, CA.

DEAR CONGRESSMAN FARR, I just heard some of the provisions of the House Budget Resolution passed last week in the name of deficit reduction, and I am appalled at the contents. It is clear that some members of Congress have taken leave of their senses, and I hope that you can assist me in changing their minds.

As a federal employee, I strongly resent the fact the House chose to "balance the budget" on our backs by increasing the contributions we will have to make to our retirement system, weakening our health insurance system, changing how pensions are to be calculated, etc. As far as I'm concerned, it was an act of cowardice, because law enforcement and general government operations only constitute about 2% of federal outlays. What about taking a look at the other 98%?! However, Congress has never been known for its ability to make the tough choices, so we expected that. We've had to make sacrifices for so many years . . . I guess we can make a few more.

Much worse than that, however, are the seeds of 'FISCAL INSANITY' contained in the Treasury Appropriations portion of the Resolution. Not only does it contain provisions for testing the contracting-out of tax collection activities (a supremely stupid exercise in futility), it cuts the Internal Revenue Service's budget for the Compliance Initiative by $130 million, Returns Processing by $130 million, and enforcement by $268 million!! If the Republican majority in the House thinks this is the way to achieve deficit reduction. I know what they've been smoking—and they did inhale!!

Let me explain, I am a GS–12 Revenue Officer with the IRS here in Salinas. Even if some of your Congressional counterparts don't understand it, we at IRS do understand money. After all revenue is our middle name!! First, we are sworn, commissioned officers with broad powers of collection granted to us by statute. Giving equal powers to a private firm operating under contract would require the modification or deletion of literally hundreds (if not thousands) of existing laws! We have a rate of assaults and threats against us that is twice that of the next highest agency, The Drug Enforcement Administration. How is a private company going to find people that will take that kind of abuse, collect taxes as efficiently and effectively as we do and make a profit??!! Whoever proposed that idea has an intelligence level sufficient to qualify him as plant life. Second, actual numbers are quite telling. The house has proposed a cut in the enforcement portion of IRS budget of $268 million. Well, enforcement is Collection, basically. So how much does Collection collect? Here are some real numbers. My Collection group consists of a Group Manager, a secretary, a Revenue Representative (for simpler, smaller cases) and thirteen Revenue Officers (five of whom are trainees). During the first nine months (which included the highly disruptive move of our entire office to a new location), our group has collected over $9.8 million in back taxes. At an average of $1.1 million per month that would be $13 million for a year. The total of salaries for our sixteen people is $582,953 a year. That means $22.30 in delinquent taxes collected for each dollar of our salaries. That is a "Return on Investment" (ROI) of 2200%!! Where else can you find an ROI like that? Real Estate? The Stock Market? Collectibles? None of them come close—and we do it year after year.

So in order to reduce the deficit, the house intends to cut the Enforcement portion of IRS' budget by $268 million. Well, $268 million X $22.30 equals almost $6 billion that won't get collected. what a novel idea—you reduce the deficit by adding to the deficit!!! The number of returns to be processed increases each year, so we'll decrease the budget for doing that. Compliance has been steadily eroding for years so why not cut monies there and make it even easier for the cheats, the scofflaws and the underground economy to flaunt their noncompliance in the face of the taxpaying public. All of this OZ-type logic is giving me a headache. I guess I'd better hold onto Toto a little more tightly. It doesn't look like we're in Kansas anymore.

I hope that you share my concerns for the severely adverse impact that this portion of the House Budget Resolution will have not only on the administration and enforcement of America's tax laws but on the budget itself? Killing the goose that lays the golden egg is counterproductive.

I've been a registered Republican all my life, but now I'm ashamed to admit it. How the House leadership could even permit (much less promote?) such a gross act of fiscal irresponsibility is beyond my comprehension. They need to rise above whatever petty personal grievances they may have with the Service and think about their country.

Taxes are the lifeblood of Government, and if the taxes due cannot be collected because of budgetary insufficiencies, we will only sink deeper into the morass of mounting deficits in which we find ourselves already. In the end it will be the body politic that will suffer, and the damage will last for years.

I hope you will exercise your good offices as Congressman for our District by meeting with the Treasury Appropriations Committee conferees next week and convincing them how short-sighted and ill-conceived this piece of budgetary lunacy really is. Don't hesitate to give them copies of this letter if you think it will help. Any assistance you can provide will be greatly appreciated.

Sincerely yours,

JAMES R. NORMAN,
Revenue Officer.

SENATE—*Friday, July 14, 1995*

(Legislative day of Monday, July 10, 1995)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Almighty God, we thank You for this moment of quiet in which we can reaffirm who we are, whose we are and why we are here. Once again we commit ourselves to You as Sovereign Lord of our lives and our Nation. Our ultimate goal is to please and serve You. You have called us to be servant-leaders who glorify You in seeking to know and to do Your will in the unfolding of Your vision for America.

We spread out before You the specific decisions that must be made today. We claim Your presence all through the day. Guide our thinking and our speaking. May our convictions be based on undeniable truth which has been refined by You.

Bless the women and men of this Senate as they work together to find the best solutions to the problems before our Nation. Help them to draw on the supernatural resources of Your Spirit. Give them divine wisdom, penetrating discernment, and indomitable courage.

When the day draws to a close, may our deepest joy be that we received Your best for us and worked together for what is best for our Nation. In Your holy name. Amen.

The PRESIDENT pro tempore. The able Senator from Oklahoma is recognized.

Mr. INHOFE. Mr. President, I ask unanimous consent to speak as in morning business for not to exceed 3 minutes.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. INHOFE. Mr. President, thank you.

OUR NATION'S DEFENSES

Mr. INHOFE. Mr. President, I want to call to your attention an editorial which was in yesterday morning's Washington Post by Charles Krauthammer.

I think he best characterizes where we are today in terms of our Nation's defense—in this editorial—more than anything I have read recently. He talks about the problems that we have in our defense system.

I think several of us have been disturbed that this administration has stripped our defenses down to the bone. We are operating now on a budget that is about what it was in 1980 when we could not afford spare parts. There are several of us who believe that we could not fight two regional wars right now. We could not fight the Persian Gulf war as we did.

This Nation has to rebuild its defense system. Charles Krauthammer states three incontrovertible facts.

The first is, America is coming home. He points out that we are bringing from overseas our bases back to the mainland of the United States. In 1960, we had 90 bases around the world. Today we have 17.

His second incontrovertible fact is that America cannot endure casualties. If you look at what is happening on CNN with the coverage on all of these humanitarian missions that are going on right now all over the world, we have more troops in more parts of the world right now on missions that have nothing to do with our Nation's security. We saw Captain O'Grady and how the entire Nation was watching him and hoping and praying for him. This is a concern that the entire Nation has; that we have a very low tolerance of casualties. Yet we look at Somalia. We had 18 Rangers that were killed there. And I have a great fear for what can happen in Bosnia.

The third fact is that America's next war will be a surprise. I think we all understand this. Certainly, Pearl Harbor was a surprise. The invasion of South Korea was a surprise. The Falklands war was a surprise. The next war will be a surprise, too.

To meet this criterion, what weapon, according to Charles Krauthammer, is the best one to do that? He says clearly it is to expand the B-2 bomber program—the B-2 bomber program—because, No. 1, it has the range; No. 2, it is invisible; and, No. 3, it is immediate. If you look at the Persian Gulf war, the F-117's, they had the invisible characteristics of a stealth fighter. Over 2 percent, I think, of the missions were flown by the F-117, and they got 40 percent of their targets.

So, Mr. President, I will conclude by saying that seven of the currently living former Secretaries of Defense agree with Charles Krauthammer that we need to expand the B-2 program, and I believe it, too.

Mr. President, I ask unanimous consent that this editorial by Charles Krauthammer be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, July 13, 1995]

THE B-2 AND THE "CHEAP HAWKS"

(By Charles Krauthammer)

We hear endless blather about how new and complicated the post-Cold War world is. Hence the endless confusion about what weapons to build, forces to deploy, contingency to anticipate. But there are three simple, glaringly obvious facts about this new era:

(1) America is coming home. The day of the overseas base is over. In 1960, the United States had 90 major Air Force bases overseas. Today, we have 17. Decolonization is one reason. Newly emerging countries like the Philippines do not want the kind of Big Brother domination that comes with facilities like Clark Air Base and Subic Bay. The other reason has to do with us: With the Soviets gone, we do not want the huge expenses of maintaining a far-flung, global military establishment.

(2) America cannot endure casualties. It is inconceivable that the United States, or any other Western country, could ever fight a war of attrition like Korea or Vietnam. One reason is the CNN effect. TV brings home the reality of battle with a graphic immediacy unprecedented in human history. The other reason, as strategist Edward Luttwak has pointed out, is demographic: Advanced industrial countries have very small families, and small families are less willing than the large families of the past to risk their only children in combat.

(3) America's next war will be a surprise. Nothing new here. Our last one was too. Who expected Saddam to invade Kuwait? And even after he did, who really expected the United States to send a half-million man expeditionary force to roll him back? Then again who predicted Pearl Harbor, the invasion of South Korea, the Falklands War?

What kind of weapon, then, is needed by a country that is losing its foreign bases, is allergic to casualties and will have little time to mobilize for tomorrow's unexpected provocation?

Answer: A weapon that can be deployed at very long distances from secure American bases, is invulnerable to enemy counterattack and is deployable instantly. You would want, in other words, the B-2 stealth bomber.

We have it. Yet, amazingly, Congress may be on the verge of killing it. After more than $20 billion in development costs—costs irrecoverable whether we build another B-2 or not—the B-2 is facing a series of crucial votes in Congress that could dismantle its assembly lines once and for all.

The B-2 is not a partisan project. Its development was begun under Jimmy Carter. And, as an urgent letter to President Clinton makes clear, it is today supported by seven secretaries of defense representing every administration going back to 1969.

They support it because it is the perfect weapon for the post-Cold War world. It has a range of about 7,000 miles. It can be launched

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● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

instantly—no need to beg foreign dictators for base rights; no need for weeks of advance warning, mobilization and forward deployment of troops. And because it is invisible to enemy detection, its two pilots are virtually invulnerable.

This is especially important in view of the B-2's very high cost, perhaps three-quarters to a billion dollars a copy. The cost is, of course, what has turned swing Republican votes—the so-called "cheap hawks"—against the B-2.

But the dollar cost of a weapon is too narrow a calculation of its utility. The more important calculation is cost in American lives. The reasons are not sentimental but practical. Weapons cheap in dollars but costly in lives are, in the current and coming environment, literally useless: We will not use them. A country that so values the life of every Capt. O'Grady is a country that cannot keep blindly relying on non-stealthy aircraft over enemy territory.

Stealth planes are not just invulnerable themselves. Because they do not need escort, they spare the lives of the pilots of the fighters and radar suppression planes that ordinarily accompany bombers. Moreover, if the B-2 is killed, we are stuck with our fleet of B-52's of 1950s origin. According to the undersecretary of defense for acquisition, the Clinton administration assumes the United States will rely on B-52s until the year 2030—when they will be 65 years old!

In the Persian Gulf War, the stealthy F-117 fighter flew only 2 percent of the missions but hit 40 percent of the targets. It was, in effect, about 30 times as productive as non-stealthy planes. The F-117, however, has a short range and thus must be deployed from forward bases. The B-2 can take off from home. Moreover, the B-2 carries about eight times the payload of the F-117. Which means that one B-2 can strike, without escort and with impunity, as many targets as vast fleets of conventional aircraft. Factor in these costs, and the B-2 becomes cost-effective even in dollar terms.

The final truth of the post-Cold War world is that someday someone is going to attack some safe haven we feel compelled to defend, or invade a country whose security is important to us, or build an underground nuclear bomb factory that threatens to kill millions of Americans. We are going to want a way to attack instantly, massively and invisibly. We have the weapon to do it, a weapon that no one else has and that no one can stop. Except a "cheap hawk," shortsighted Republican Congress.

Mr. INHOFE. Mr. President, I yield the floor.

COMPREHENSIVE REGULATORY REFORM ACT

The PRESIDING OFFICER (Mr. DEWINE). Under the previous order, the Senate will now resume consideration of S. 343, the regulatory reform bill, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 343) to reform the regulatory process, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Dole amendment No. 1487, in the nature of a substitute.

Domenici amendment No. 1533 (to amendment No. 1487), to facilitate small business involvement in the regulatory development process.

Hutchison amendment No. 1539 (to amendment No. 1487), to protect against the unfair imposition of civil or criminal penalties for the alleged violation of rules.

The PRESIDING OFFICER. Under the previous order, the Senator from Ohio [Mr. GLENN] is recognized to speak for up to 45 minutes.

Mr. GLENN. Mr. President, I thank the Chair.

Mr. President, we have heard a lot the last few days about horror stories of regulations, horror stories about Government's heavy hand and how civil servants that serve this country well most of the time sometimes get carried away with the program and throw their Federal regulatory weight around to the point where it really is intrusive in the lives of our citizens and do some things that just defy common sense.

I am not going to be the last one to stand here today and say that never happens. I think when we rise on the floor here and make repeated remarks and make repeated examples of things that are not of obvious truthfulness, that we do a disservice. So some of the things that have been said here on the floor in the last few days I want to spend some time this morning correcting.

Let me say I feel strongly about this for our people that work in civil service for this Nation. For the last 8 years until last fall I was chairman of the Governmental Affairs Committee. One of our areas of oversight, our areas of jurisdiction, is the civil service of this country. We work very closely with them. We have representatives of civil service groups that come in and talk to us on a regular basis. We keep in touch with them on almost a daily basis with staff. We work to get them better pay and working conditions and so on.

So, we work with the people of OPM, the Office of Personnel Management, to make sure that the people in civil service are treated fairly. Many of them are very talented people who serve the Government and who could be doing better outside. They have every bit of the same dedication for their country as we have right here, and they feel strongly. It hurts them when they are unfairly castigated, unfairly pointed out as doing things that are wrong in administering the laws of this land.

So I wanted to correct some of the things that have been said. I know my distinguished colleague from Utah pointed out that he has his daily 10 transgressions in the area of misuse of rules and regulations. I sort of overlooked these things until they started being picked up and published in some of our papers in Ohio.

So I think I have it as a duty to correct some of these things. We have asked the administration downtown to look into some of these things. Some of the information I have puts a little different slant on some of these things. I want to run through a few of these this morning because I think it is important to protect the reputation, protect the feelings—if you want to put it on that basis also—of people who work very hard in the civil service. I want to correct some of these things.

It was said the other day on the floor—I believe it was No. 10 on the list for that particular day—that the Federal Government was "delaying a Head Start facility for years because of the dimensions of the rooms."

The reality of the situation was that this is misleading because it was not due to Federal regulations at all. And I would add that S. 343, the Dole-Johnston bill, would do nothing in any way to solve this problem.

The fact is that Head Start regulations do not address room dimensions. Head Start applies reasonable and flexible standards to its facilities, and over the past 6 years these flexible standards have allowed Head Start to develop thousands of new facilities.

The example that was given by my distinguished colleague was due to a legal dispute between a subcontractor and the city of New York. It had nothing to do with Federal regulations. If such legal disputes are the problem, then I think we should question support of what some describe S. 343 as—a lawyers' full employment act of 1995.

Now, another one was put out which turns out to be a myth also. The claim was that the Federal Government was:

> Forcing a man to choose between his religion and his job because rules do not allow workers to wear a mask over a beard.

The reality. This is flat wrong. OSHA knows of no cases in which a employer received a citation because their employees were not wearing properly fitting respirators because their workers wore beards for religious reasons. In fact, OSHA regularly grants exemptions for protective gear requirements for employees who object due to "personal religious convictions."

Now, the general rule of respiratory protection is for the protection of the people involved, but obviously if a person has a beard for a religious purpose or whatever, they try to take care of that. They do not insist that a person be cited in a situation like that. They give an exemption for that. And that is their policy.

Another one was cited that morning. It was No. 7 that particular morning on the list of items of ridiculous regulations. I quote:

> Fining a gas station owner $10,000 for not displaying a sign stating that he accepts motor oil for recycling.

The reality. There is no such Federal regulation. EPA does not require gas stations to post signs stating that they accept used motor oil. There is no Federal RCRA regulation requiring the posting of such a sign. RCRA does require gas station owners just to label tanks used to store recycled oil, but that is to prevent contamination of stored, used motor oil with other solvents or other contaminants. So there was no regulation on a sign that would accept motor oil for recycling.

Another one stated that same morning. This was No. 3, I believe, on the list:

> Prohibiting an elderly woman from planting a bed of roses on her land.

The reality. There is no current regulation which could prohibit planting a rose bed. This allegation is one that keeps cropping up all the time, it turns out. I was not aware of this, but they say this is one that comes around from time to time—it has been around for years—in Republican administrations and Democratic administrations. It has been recycled for years, and the State in which this is alleged to have occurred has varied with the telling of the story. In some cases it has been Wyoming, in others it has been Texas or Louisiana. So they have heard this over at the agency for a long time.

Whenever it surfaces, EPA or the Army Corps of Engineers attempts to track down the specific situation, so every time this rumor comes up they go at it again to make sure they have not missed something. And since the name of this supposed elderly woman has never surfaced, it has been very difficult to verify it. It involves checking with multiple field offices of various Federal agencies. Despite these numerous checks, there never has been any wetlands case identified that involved anyone planting a rose bush. So that one has been around for years.

Another one. This was cited as No. 2 the morning this particular one was given. It said, and I quote:

> Fining a man $4,000 for not letting a grizzly bear kill him.

Well, the reality is it simply is not true. This story was circulated in a Wall Street Journal editorial on June 23, 1993. The story painted a portrait that would have flattered a Hollywood screen writer and mischaracterized the real facts as much as they were misrepresented on the floor.

A rancher was fined $4,000 for shooting a grizzly bear which is listed as an endangered species, but he shot him because it had killed and eaten some of the rancher's sheep.

Now, the fact is the bear did not attack or threaten the rancher or anyone in his family. Indeed, it is certainly not illegal to kill an endangered species when a human life is threatened.

The rancher in this case was fined because he killed an endangered species for killing the sheep—listen to this—after he was financially compensated for the loss of his sheep, after he was assured that he would be compensated for any further losses, and after he declined the State of Montana's offer to build an electric fence to protect the sheep and after he was informed that if he killed the bear anyway he would be prosecuted.

We do not have too many bears in my home State of Ohio, so I guess we are not going to be coming under some of these same problems, but to the western States that is an important one.

Another one. And this was No. 1 on the hit list the other day on the floor. It says:

> Requiring braille instructions on drive-through ATM machines.

Well, according to the American Bankers Association,

> It is entirely conceivable and not unexpected that a passenger may exit the automobile to use the drive-up ATM and this passenger may be an individual who is visually impaired.

So when no other machines on the premises are available, this is an entirely rational regulation. It recognizes the need for these machines for passengers and walkup users both.

Now, there was another one on one of the other days here. These lists that my colleague from Utah has put out have been I think two mornings I know of, maybe three mornings but two mornings for sure. So this was No. 10 on the list as we counted David Letterman style on the floor on another morning. It was said that we stopped an owner from building on a wetland of 0.006 acres, about the size of a Ping-Pong table.

Well, the reality of the situation when it was checked is this. The applicant proposed to place 30 cubic yards of fill material in a creek and EPA received objections to the proposed project from local property owners. The local property owners themselves complained about this. And the applicant was unwilling to reduce the size of the fill, was unwilling to move the proposed building 25 feet to avoid dumping fill material in the creek. The applicant then attempted to obtain a waiver from the local city to its requirements, not Federal but to its requirement of a 25-foot buffer zone. The applicant evidently obtained a waiver of some sort from the city and did not need to dump fill material in the creek. Those are the facts of the situation.

Another one that day. I think this was No. 7 on the list. I quote:

> Fined a company for not having a comprehensive hazardous materials communication plan for its employees even though the company only has two part-time employees.

Well, the reality of the situation is that OSHA does not require a "comprehensive hazardous materials communication plan." It does have a right to know standard or a hazardous communications standard that protects employees when they are working with potentially toxic substances. And that is common sense. The simple right to know principle would have made a difference, for instance, for a nursing home maintenance worker who unknowingly—he had not been told about this so he did not know what the hazardous materials were—unknowingly mixed bleach and common lime remover in a bucket and was killed by the resulting toxic gas.

Another one was pointed out as a Federal transgression on administration of regulations. This was another one on the list that same day, No. 6.

> Required a $6 hospital mask instead of a $1.25 mask with no analysis of the benefits and costs.

Well, what is the reality of this one? This one is slightly more complicated. In the last 10 years, the rate of new cases of tuberculosis has increased by 23 percent, reversing a 30-year downward trend. Outbreaks have occurred in hospitals in Atlanta, Miami, and New York City. In 1993, OSHA released its guidelines for protecting workers from exposure to TB.

That means they are going to be in where the TB patients are.

> The OSHA guidelines are based on a document issued by the Centers for Disease Control and Prevention in 1990. The CDC guidelines recommend employees wear NIOSH-approved high-efficiency particulate air respirators as a minimum level of protection.
>
> In 1993, OSHA was petitioned to protect workers against contracting TB in certain workplaces. When the proposed rule is published—

It is not finalized.

> when the proposed rule is published, it will include a preliminary risk assessment, a cost of compliance analysis, an analysis of effective indices, and the evaluation of the rule's benefits. Through these analyses, OSHA will then determine which type of mask would adequately protect workers from TB.

Another one pointed out as the heavy hand of Federal regulation that day:

> Required such stringent water testing that local government considered handing out bottled water to save money.

The reality is this. EPA has recognized the high cost of water testing for some small communities can be a serious problem, particularly if water supplies are contaminated and need treatment. EPA has been working for several years to assist States in implementing science-based programs of waivers from monitoring requirements while still assuring the safety of water supplies.

Most States now have waiver programs, but they are not always actively used. But for the vast majority of Americans, drinking water safety monitoring inspection is inexpensive and effective. Costs range from 1 cent to 9 cents a month for 90 percent of U.S. households, far less than the cost of bottled water, as was pointed out.

I will also point out that President Clinton specifically asked EPA on March 16 of this year to undertake revision of water testing to ensure water safety at a reasonable cost. EPA has subsequently met with officials from 19 States that are developing a new approach to streamline the drinking water monitoring.

Ironically, I will point out, the Dole bill, S. 343, might delay implementation of many of these streamlining rules. It could delay solving the problem rather than help out.

Another one pointed out that day as a regulatory misfire, No. 1—counting down 10 to 1 like David Letterman does:

> A company was fined $34,000 by the EPA for failing to fill out form R, even though they did not release any toxic material.

EPA could find no record of any case exactly like this. We think there may be some because the dollar figure is similar, but there is no record of a case like that. EPA is seeking penalties of $34,000 against two companies that did release potentially harmful chemicals.

Two companies, Washington Ornamental Iron Works and Thatcher Tubes, were fined for failure to report air emissions to EPA's toxics release inventory, as required by section 313 of the Emergency Planning and Community Right To Know Act.

The principle behind this statute is that citizens in a community have a right to know what chemicals are being released into their communities, what chemicals their children are breathing, what chemicals they themselves are breathing, when these releases take place and in what quantity.

Washington Ornamental Iron Works of Gardenia, CA, was fined $34,000 for failure to report for the years 1990 and 1991. In 1990, the iron works released 14,000 pounds of trichloroethylene. In 1991, the iron works released 12,000 pounds of the same material. They finally came into compliance in June 1995 after receiving a civil administrative complaint from EPA.

Why is this important? At high levels of exposure, this kind of trichloroethylene causes central nervous system disorders, irregular heart rate, and pulmonary edema. Production of this solvent is scheduled to be phased out by the year 2002 because of its ozone-depleting characteristics also.

I think in a case like that, the fine was well justified. I do not know about form R—nobody knows what happened on form R. That is one case where the $34,000 fits, and I think justly.

Another one happened to also involve a $34,000 fine. Thatcher Tubes of Muscatine, IA, was fined $34,000 for failure to report the company emitted 7,300 pounds of methylethylketone in 1991 and 8,783 pounds of the same chemical in 1992. Methylethylketone is irritating to the eyes, mucous membranes, and the skin. Headache and throat irritations are reported among people exposed to the concentration near the maximum level allowed in the workplace. At higher levels, workers complained of numbness in the fingers and arms, sometimes a leg. Dermatitis was sometimes reported following prolonged exposure to vapors.

Those are two EPA could find where the $34,000 figure fit. I think anybody could look at these things and say, "Good, let us applaud the EPA for what they did for protecting all of us and for the people in those particular communities in those cases."

Here is another one. No. 7 on the list the particular day it was given on the floor.

> Nevada rancher, Wayne Hague, faces a potential 5-year prison sentence under the Clean Water Act by hiring someone to clear scrub brush from irrigation ditches on his property. The ditches have been used since the turn of the century.

Facts of the case, back to reality again: Virtually every part of this statement is false. The case did not even involve violations of the Clean Water Act. The scrub brush, as it is called, consisted of over 100 pinion pines and juniper trees in the Toiyabe National Forest in Nevada. He claimed his property was actually on Federal property. Mr. Hague's actions constituted an unauthorized destruction of Federal property in violation of Federal criminal law.

Another one: Fish and Wildlife Service required a farmer to stop economic activities on his 1,000 acres because of the presence of the red-cockaded woodpecker. The reality is this is just factually incorrect. This example refers, we believe, to Mr. Cohen, a timberland owner of North Carolina who owns far more than 1,000 acres of land, but private property owners, like Mr. Cohen have the opportunity to develop a habitat conservation plan that allows them to both protect the endangered species and to use their land productively.

Many organizations and developers are participating in such plans to protect the woodpecker. Mr. Cohen has submitted a management plan to the U.S. Fish and Wildlife Service, and it has been approved and he is logging his land in a productive way that does not destroy the endangered species.

Another one which was myth No. 3 on the day that it was stated:

> OSHA fined a company $500 for failure to submit a report that no employee was hurt last year.

This is something that was a problem, but the problem has already been fixed. This is no longer a problem. OSHA is committed to injecting common sense into the enforcement process when an employer has an effective health and safety program but fails to meet the exact letter of the law, such as failure to fully complete or sign the annual form. That well-meaning employer is treated differently.

Over the last year, OSHA citations for these recordkeeping requirements have declined by between 60 and 70 percent. It reflects OSHA's new emphasis in this administration on compliance with the spirit rather than simply the letter of the law. OSHA will continue to issue citations when employers clearly disregard their obligation to maintain records of work-related injuries and illnesses. It is important that OSHA continue to provide employees with the message that complete and accurate occupational injury records are of paramount importance. Records of workplace illnesses provide employers and workers information that can help them identify hazards and prevent injuries and illnesses in the future.

Mr. President, those are just a few of the responses. We could not get the complete answers to all of the things that were charged on the floor. I think we see there is a lot of myths going around here. I wanted to make sure the reality of these situations was also brought to light today. I hope that we will have better substantiation of any charges in the future because it reflects poorly on the Federal employees, those in civil service who are trying to administer the law and do it fairly and correctly, not only adhering to the letter of the law but also doing it in a fair manner so that people do not have undue problems with the Federal Government.

I am the last one to say there are not a lot of problems. I have been advocating regulatory reform for years in the Governmental Affairs Committee. We have a bill, S. 1001, which we think does a better job of balancing the requirements for protecting the public while not overburdening people with rules and regulations.

Let me go on to another one stated on the floor also. The distinguished Senator from Iowa has been on the floor for 2 days when I was on the floor, at least, and has repeated this one story in particular that I wanted to address today, because it disturbed me enough the first day that, if it were true, I really wanted to look into it. His description of it was very, very graphic. He talked about Mr. Higman in Akron, IA, and how some 40 agents of the Federal Government—EPA I believe it was stated—came rushing into this establishment with their guns cocked, pointing at everybody, particularly the accountant, as I recall, and that this whole thing cost Mr. Higman about $200,000 in court costs, all because a disgruntled employee gave false information about pollutants, toxic materials at this business site.

Well, I was very curious about this because I thought if there was that kind of egregious behavior going on around the country without due cause, we should be looking into it and maybe we should have a hearing on this. I did not know. So we looked into it. It turns out that a letter was sent to Senator GRASSLEY on August 18, 1993. I would like to read you selected parts of this because it puts a little different light on this incident about these people rushing in with guns cocked, pointing at people in Mr. Higman's establishment in Akron, IA.

The special agents that I am quoting comes in part from the letter from EPA to Senator GRASSLEY. This person was asked by Administrator Browner to respond to Senator GRASSLEY's letter, I gather, of July 1, 1993, concerning a criminal enforcement action taken in 1991 against the Higman Sand & Gravel Co. in Akron, IA. I am pleased to be able to respond. Special agents of EPA's criminal investigation division conducted a search at the Higman site pursuant to a Federal search warrant authorized by a Federal magistrate and approved by a U.S. attorney. This was not something where people decided willy-nilly to come rushing in. The search warrant was authorized by a Federal magistrate, approved by a U.S. attorney.

The affidavit for the search warrant was based on information from, they thought, a confidential, reliable informant that hazardous waste was being stored at the site. The Higman Co. is not a permitted facility to store hazardous waste. It does not have the proper facilities.

Information was also received from another Federal law enforcement agency that searches of the homes of some of the Higman employees had recovered machine guns and explosives and that the agents conducting the search at the Higman Co. site might encounter armed individuals and explosives. An informant advised the agents that a loaded rifle was always kept in the office at the Higman Co.

Based on this information, 17 law enforcement officials from the EPA, ATF, and the Iowa Department of Criminal Investigations participated in the execution of the search warrant at the Higman Co. There were not 40. This says 17, which is certainly enough; there were 10 employees at the company when the search was conducted. The agents recovered loaded weapons from the site, and the hazardous waste specified in the search warrant was found on the grounds of the company.

So the material was there. They were not authorized to have it there. The reason they were not permitted to have it there was because it might be a danger. What was it, cyanide? I do not know. What can you store that is a danger to other people around the community? These things have to have special storage, and this was not a site that was permitted to have this toxic material.

Now, this went to trial. I believe the Senator stated on the floor that Mr. Higman's court costs were somewhere around $200,000. Now, a jury acquitted defendants Harold Higman, Jr., and Harold Higman, Sr., and Higman Sand & Gravel Co. in this case. The jurors were polled after the trial and stated they knew the Higman Co. was not a permitted facility and that the material recovered was in fact hazardous waste. However, they did not believe the Government proved that the hazardous waste was stored at the site knowingly.

So the difference here is that everything that led the agents to come in there in the first place was true. There were loaded weapons. They found those on the site. The toxic material was there on the site. So all the reasons why they took the precautions and acted as they did and got approval from a Federal magistrate and a U.S. attorney, were verified with exactly what happened once they got into that community. EPA special agents are thoroughly trained in the use of force, and they exercise the use of force with great discretion, with the constitutional rights of affected citizens in mind. They take precautions in this area.

I ask unanimous consent that this letter be printed in its entirety in the RECORD so people can make their own judgments on that.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

ENVIRONMENTAL PROTECTION AGENCY,
Washington, DC, August 18, 1993.

Hon. CHARLES E. GRASSLEY,
U.S. Senate,
Washington, DC.

DEAR SENATOR GRASSLEY: Administrator Carol Browner has asked me to respond to your letter of July 1, 1993, concerning a criminal enforcement action taken in 1991 against the Higman Sand and Gravel Company in Akron, Iowa. I am pleased to be able to respond to your letter.

Special agents of EPA's Criminal Investigation Division conducted a search at the Higman site pursuant to a federal search warrant authorized by a Federal Magistrate and approved by a U.S. Attorney. The affidavit for the search warrant was based on information from a confidential reliable informant that hazardous waste was being stored at the site. The Higman Company is not a permitted facility to store hazardous waste.

Information was also received from another federal law enforcement agency that searches of the homes of some Higman employees had recovered machine guns and explosives and that the agents conducting the search at the Higman Company site might encounter armed individuals and explosives. An informant advised our agents that a loaded rifle was always kept in the office at the Higman Company.

Based on this information, seventeen law enforcement officials from the EPA, ATF, and the Iowa Department of Criminal Investigations participated in the execution of the search warrant at the Higman Company. There were ten employees at the company when the search was conducted. The agents recovered loaded weapons from the site and the hazardous waste specified in the search warrant was found on the grounds of the company.

A jury acquitted defendants Harold Higman, Sr., Harold Higman, Jr., and Higman Sand & Gravel Company in this case. The jurors were polled after the trial and stated that they knew the Higman Company was not a permitted facility and that the material recovered was in fact hazardous waste, however, they did not believe the government proved that the hazardous waste was stored at the site "knowingly."

EPA special agents are thoroughly trained in the use of force. They exercise the use of force with great discretion and always with the constitutional rights of affected citizens in mind. Our special agents are also trained to be concerned for their own safety and the safety of others when entering potentially dangerous surroundings. Special agents must weigh and balance all these considerations when executing a search warrant. The recent events in Waco, Texas are a chilling reminder of the very real dangers federal agents face in the performance of their law enforcement duties.

Although I favor an enforcement process without unnecessary confrontation, I would not presume to second-guess the judgment of those special agents who were responsible for the execution of a Federal search warrant for alleged criminal violations of Federal laws. While this Administration is dedicated to the establishment of an improved relationship between the EPA and the business community it regulates, and would always prefer to achieve environmental protection through voluntary compliance, this Agency is also charged with the congressional mandate to aggressively enforce against violators of the environmental laws. The Agency's execution of its enforcement responsibilities is always guided by the particular circumstances surrounding each individual case, exercising the best judgment with the information available.

I hope this responds to the specific concerns raised in your letter. If you wish to discuss your concerns further, please let me know so I can be of assistance.

Sincerely,

STEVEN A. HERMAN,
Assistant Administrator.

Mr. GLENN. Another one brought up on the floor also was that in the July 11 CONGRESSIONAL RECORD, there was an extended statement about how EPA's air permitting program is causing a lot of redtape for the grain elevators in the State of Iowa. This has been a problem, I know that. But I think the statement is misleading in that EPA is aware that small grain elevators operate only on a seasonal basis. They have been working with the Feed and Grain Association to get the facts about the amounts of small particle pollutant emissions that might be expected from these sources. They responded to Senator GRASSLEY's concerns in this regard. I am glad they have done so.

The main points I summarize as follows. EPA's air permitting program provides for a 2-year transition period during which small sources such as some grain elevators can avoid the need to get a Clean Air Act permit and maintaining records sufficient to document their low-level emissions. EPA is working with the Feed and Grain Association to identify more realistic assumptions on the amount of time an elevator can operate. They recognize that small grain elevators only operate on a seasonal basis, not year around. They are participating in an industry-sponsored source-testing effort aimed at the emissions factor, which is the estimate of how much small particle pollution is emitted per unit of grain processes. It is industry sponsored, and EPA is working right along with them on this.

So those efforts, while not completed yet—I grant that—should help clarify which, if any, grain elevators should be considered a major source of emission and subject to air permitting requirements.

Mr. President, these are just a few of the things that have come up here on the floor. I did not try to make the complete 100-percent rebuttal to all of the things said here on the floor because some of these may very well be cases where there were onerous oversteps made by Federal agents in the enforcement of laws. But I also state again what I have stated before.

If we want to see the difficulty with regulation, I think most of us in the Senate need only look in the mirror when we get up in the morning. Eighty percent of the regulations are required by law and passed in the Congress. We pass laws here with the House, back and forth, it goes to the President and is signed, and they implement the laws and regulations. Eighty percent of what they write there are regulations written pursuant to what we require right here.

So if we want to see one of the biggest problems with regulators, we better just look in the mirror in the morning.

We have another problem here. What we are requiring with the proposed legislation, S. 343, there are going to be an awful lot of checks, an awful lot of requirements for regulations.

I had an example here of just one under the Clean Water Act. I will not go through all the details, as I have done the last couple days on the floor here.

This one regulation passed, implemented, just one out of several hundred under the Clean Water Act, just one requires 126 feet of shelf space. We checked with the Capitol Architect. I can tell Members what that is—three piles of documents from this well to the ceiling up there. That is 42½ feet, the Architect says. Mr. President, three piles of documents.

The average cost, we are told by testimony in the Governmental Affairs Committee, was about $700,000 per regulation, that is necessary. I am not one that says we cut back on that. If we are going to have a regulation, we should do it right and make sure the application is absolutely correct.

In the time I have remaining, I would like to point out, also, that these regulations are not all just dreamed up by some Government bureaucrat. Mr. President, 80 percent of them are required by what we require here on the floor, in the laws that we pass.

We are the ones requiring them. I think all the cost analysis that we are now putting over there and requiring on the agencies by this legislation, we should apply to ourselves, right here, when we are considering passing a law. Why do we not do the cost studies, not pass something unless we do the cost studies, not put it over there, require all sorts of studies, and say it is too expensive?

Now we provide a capability for legislative review. We call it so we can bring a rule back, redo it here, after they have done it over there. We should be correcting that in the first instance, right here.

Let me run through just a few of the things, regulations that have saved lives. Toy safety. Small parts on children's toys. We estimate 12 choking deaths are related to such small parts annually. Should we not protect our children against that, if we can? If we can just have some regulations that help establish the right procedures on that? Of course.

Child resistant cigarette lighters. The Consumer Safety Commission issued a safety standard in 1993 that established a requirement to make disposable cigarette lighters child resistant. Fires started by children under age 5 cause an estimated average of 150 deaths, approximately 1,100 injuries, nearly $70 million in property damage.

Can we not do better than that? I think we can. That is what they have done. These are regulations that save lives every year. All regulations are not goofy. All regulations are not something just dreamed up by some bureaucrat and misadministered or maladministered.

Poison prevention safety closures. They estimate that packaging for products like aspirin or turpentine making them child resistant saved over 700 lives per year. Ban on bean bag cushions. Where they had problems with these things, deaths occurred when a pocket was created in a cushion that could trap an infant's exhaled carbon dioxide and the infant could not breathe properly. Had regulations on that that saved lives.

Child-resistant packaging for mouthwash. Very simple things like that, but they save lives. Fireworks requirements. Safe cribs. Flammable children's sleepwear. Power mowers. Are these things that are just dreamed up? No, most of these things, I would say, are required by legislation we passed here. Most of these things are implemented over in the agencies because we required them to be implemented with the legislation that we passed here.

Automatic residential garage door openers. Hit that thing and it comes down. Well, if a child happens to get under it, and the report indicates that some 54 children between the ages of 2 and 14 had died after being trapped under such garage doors. Died. Is it wrong to say that it has to have a safety device on it? Equipment manufacturers, after January 1, 1993, provide features to minimize the likelihood that a child would be trapped and killed by a garage door.

We have more regulations on lead poisoning, and brown lung disease regarding the textile workers. In 1978 there were an estimated 40,000 cases of brown lung—also byssinosis—but in 1985 the prevalence of the disease declined to about 900 cases, or less than 1 percent of cotton textile workers.

There is evidence that complying with OSHA's cost dust standard increased productivity in the textile industry. A 1980 article in the Economist reported that a tighter dust control measure required by OSHA's rule prompted firms to replace outdated machinery with newer, more efficient systems, and they were more productive after they did that.

Exposure to HIV and hepatitis B.—rules were put out to protect workers who routinely were exposed to blood or other infectious material. Saved lives.

Mine explosions and fires. Safety requirements there have been very effective. In my home State of Ohio, which is affected by that because we have a lot of mines in southeast Ohio, near the area I grew up. The ventilation standards for underground coal mines prevent the accumulation of methane and cold dust fuel for explosions and fires.

In the 25 years before passage of the Coal Mine Health and Safety Act of 1969, 901 miners were killed in explosions. I can remember explosions happening when I was a kid back there. There would be a mine explosion and several people would be killed. It would be a terrible thing. In the 25 years after that act was passed, the explosions claimed 133 miners, instead of the 901. Mine falls are also covered by safety rules, black lung disease, mine cave-ins, all with improved, decreased mortality rates.

Mr. President, I say that I did not really plan to get into all of these things originally when these things were brought up on the floor, but I found that some of our papers back home in Ohio were picking up on these examples and using them in editorials, and I thought I better correct some of these things to make sure we understand that all of these rules and regulations that were cited here on the floor are not bad.

Some of them are misunderstandings and some of them are good regulations, even though they are pointed out in a different light.

I do not have much time remaining, but let me say one other thing. We had E. coli debates here on the floor the last couple of days, and votes here on the floor the last couple of days.

I heard on the radio when I was driving in this morning, an outbreak, I believe in Atlanta, where there were 18 cases of E. coli reported yesterday. I already knew about 16 cases. I believe most of that was in Wisconsin. We have an outbreak now in Wisconsin, Tennessee, Illinois, and Georgia, of E. coli.

This is not something that is just a fictitious product of our imagination here when we express concern about E. coli, and we were told we were nit-picking, we were just trying to delay things, because we are concerned about the safety and health of people out there. We know what E. coli does. We lose an average in this country of 500 lives a year to E. coli. This bill would delay implementation of regulations that would help curtail that.

Mr. President, 3,000 to 7,000 total lives lost each year to foodborne illnesses. Cryptosporidium in the water supply, and so on. Up in Milwaukee, it killed 100 people, made 400,000 people deathly ill. Mr. President, 100 died. That is the reason the Senator from Wisconsin, Senator KOHL, was so concerned about this and brought this amendment to the floor.

These are not idle concerns we have had over here. We have been termed all sorts of things the last few days. One that stuck in my mind from the other side is we are liberal Democrats favoring big Government. Liberal Democrats favoring big Government. That is all we are doing—favoring big Government. This is the reason we are opposing S. 343.

Mr. President, that is not the case. I am as concerned as anybody in this body about the health and safety of people across this country. I am as concerned as anybody about having a regulatory system in this country that does not permit excesses but, at the same time, hits that balance of protecting the people from the kinds of things we are talking about here this morning. It protects the people of our country whose health and safety has been hard won over the last 25 years. Have there been excesses? Of course there have been excesses. But by and large have we had people's lives saved? Are our children breathing safer air? Are they drinking safer water? Are they protected more from food illnesses, and so on, than they were back 25 years ago? Yes, the answer is, and these regulations have done that. They have made a better, safer America.

Have there been times when things were overregulated, when people overregulated, got carried away by the particular regulation and went too far with it? Sure there are, and we ought to correct that. But to take a chance of rolling back the clock and saying, as a means of getting more money, disregarding the selfish greed some people might have, that we will let up on these regulations or will somehow make it more difficult to protect health and safety, I think is just plain wrong. That is the reason why we, at the appropriate time, will offer our amendment, S. 1001, as a substitute, because we think it does hit that better balance. It does not have the excesses that S. 343 has.

Mr. President, I only ask one thing, before I yield the floor, and that is when we bring examples to the floor, from now on, from whatever source, on whichever side of the aisle, we document these charges being made, the horror stories about rules and regulations and how maladministered they have been.

I will return to the statement I started out with. The civil service people and the rules and regulations writers, basically, in this country, are people as fine as anybody in this body; as fine as any Senator. They are just as dedicated to their country. They are just as dedicated to the health and safety of this country as anybody in this body. And they are on the firing line. They are charged with administering these things out there. And I do not think we often appreciate it. We castigate them there as though most civil servants administering these things are somehow deficient in mentality, I guess, and cannot administer with some sort of modicum of just plain old common sense.

Yet it is just exactly the opposite. These people are as dedicated as anyone here. If we want to see who is misleading them there, look in the mirror. That is what I tell my colleagues here. Because 80 percent of the regulations that are written are written pursuant—they are required by the legislation we pass here; 80 percent. We had that testimony in committee. That is the best estimate we can make, is 80 percent are required to be written by what we put in legislation here.

So I think our efforts at regulatory reform are good. I think, out of all this debate, we will come out of it with better legislation, better requirements. But, at the same time, I say we should be requiring these same kinds of cost analysis, risk assessments, in the first place, right here. We should be looking at that before we pass legislation, not sending it over there and then griping about the people on the other side, downtown in the agencies, who are trying to administer the laws we pass and then we give them the devil because we did not give them enough guidance in the first place and they come up with something we do not like. We say, "Oh, isn't it terrible?"

I would like to see us take these same laws and requirements and require ourselves to do these thing before we pass legislation here on the floor. That would make common sense. Maybe we would really restore confidence in Government at that time.

I see the Presiding Officer getting a little nervous about my time here. I know I am a few minutes over, and I appreciate his indulgence.

I yield the floor.

AMENDMENT NO. 1539

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of amendment No. 1539, offered by the Senator from Texas [Mrs. HUTCHISON].

The Senator from Utah.

Mr. HATCH. Mr. President, I have been listening to the remarks of my distinguished colleague. I might just add that I have tremendous respect for him, but he has been pretty defensive here this morning on some of these illustrations. I was interested that 80 percent of all regulations are deemed necessary.

Mr. GLENN. They are required by law.

Mr. HATCH. They are required by law. Since there were almost 70,000 pages last year of regulations, I suspect you would have to say that 80 percent of those were required by law. What about the other 20 percent? You see the other 20 percent is what we are concerned about. If that is so, that is between 12,000 and 14,000 pages of regulations that were not required by law.

I think Senator GLENN has misunderstood my point. I have not said that all regulations are goofy. Of course not. If they were, it would take me 50 years of bringing up my list of 10 to even make a dent in the goofy regulations.

What is the point? That the Government is perfect? Efficient? Spends our money wisely? Is that what the point is here today? Because I do not think there is an American citizen alive who believes that.

I would just like to ask a question. Do you really believe out there, America, that you are not overregulated? Do you really believe these people here in Washington are always doing everything just wonderfully right for you? Do you believe small business is not oppressed? Do you believe that private properties are not being taken by ridiculous rules and regulations?

I know people, real down-home people, who have lost their properties without just compensation, which is required under the Constitution, because of goofy regulations. I have to say I enjoyed listening to the distinguished Senator from Ohio this morning. I appreciate all the research he and apparently OSHA and EPA and other agencies have tried to put together to track all of this material down.

I hope these agencies are as quick and responsive to question the concerns raised by me and other members of the public. See, that is the problem here. They are not quick to resolve these goofy regulations that are ridiculous, that wear America down, that cost us our efficiency, that do not really help us, health-and-safety-wise, but just oppress small business, oppress individuals, oppress our farmers—taking property, land values in the process. But I do think the Senator from Ohio has made the point. We can debate the details of these illustrations, but I have tried to cite some examples this week to illustrate a problem that I think the American people can confirm.

Let me just make two additional points.

Mr. GLENN. Will the Senator yield?

Mr. HATCH. I will be happy to, sure.

Mr. GLENN. What I pointed out were things where the examples you gave were flat wrong. That is the point. Those are the ones I pointed out. They were flat not true, and I refuted a good portion of the ones that were pointed out here on the floor.

Everyone knows there is overregulation. I agree with that.

Mr. HATCH. We respectfully disagree. We think they are true, and they come from real, down-home, real-life Americans.

Mr. GLENN. I just gave the data, the specifics of each case here. You must not have been listening.

Mr. HATCH. I was listening. I think you admitted in many cases that this could happen, but there is another spin, another interpretation. I can acknowledge that. But let me just make two points.

That does not mean they are wrong. That does not mean they did not happen. Just because OSHA has a different point of view or EPA has a different point of the view—which naturally they do—that does not mean that they are right and that these poor down-home average citizens of America are wrong.

Let me just make these two quick points. One, we need regulations. We all acknowledge that. Many regulations serve the public well and protect our interests in maintaining healthy and safer workplaces and environment. I am the first to admit that. I agree with that. And I may even agree that up to 80 percent of those regulations are needed, under the statutes that we passed.

By the way, let us not let us off the hook either. Some of the statutes we pass are goofy.

Mr. GLENN. I agree with that.

Mr. HATCH. I heard the distinguished Senator from Ohio agree with that.

Mr. GLENN. I agree with that.

Mr. HATCH. Some of the statutes we pass are goofy. And let me agree with my colleague from Ohio, whom I happen to care a great deal for, even if he is defensive here today, that not only are some of the statutes goofy but we in the Congress, we do not define statutorily what we really want, sometimes, and we just leave it up to the bureaucracy to go out and screw up America. And sometimes they do. And I think anybody who does not agree with that proposition is not living in America, or even outside of America and watching what goes on in America, with some of our overregulatory excesses. That is what this is all about.

I have to say, thousands of workers for the Government work hard and they really do a good job, and many of the regulators do a great job. We are not meaning to malign all Federal regulators, certainly not. But we do know a lot of these regulations are goofy. We do know that a lot of them cost American business and small business a lot of unnecessary money and, thus, every American citizen. We do know that people are being hurt and oppressed in this country because of stupid, idiotic, ridiculous and, yes, to use my term, silly regulations. I have to say, acknowledging that most regulators do a good job and are really trying to do what is right, and we want to recognize and commend their efforts—but this bill does nothing to change good regulation. Good regulation is going to be sustained by this bill and it is going to be more scientifically proven.

We are going to use the best science, not just 1958 Delaney clause science that, really, everybody admits does not really apply today in this sophisticated day, where we can do parts per quintillion compared to the parts per thousand that we did back in 1958 when Delaney was passed, from a scientific standpoint.

All this bill does is try to rationalize the system to make it more accountable to the public. That is first. Second, notwithstanding the many necessary worthwhile regulations in effect, and notwithstanding the commendable efforts of many civil servants, this is a regulatory system out of control. I think the American public can confirm the need to fix the current system, as the Dole bill does, to ensure that common sense and accountability prevail. That is all we are talking about here.

Let me just make a couple of points and then I would like to see if we can get some time agreements.

Mr. President, the Federal bureaucracy does not work the way it should. It is wasteful, it is inefficient, and all too often hurts the American people it is trying to help. Americans have come to fear and even loathe the leviathan that has grown inside of this Washington, DC, beltway.

We have heard a lot about how this bill will harm the public health and safety. The opponents of the bill like to suggest that by stopping the runaway train of regulation we will reduce the protection of public health, safety, and the environment. That simply is not true, and I do not think many Americans believe it to be true.

Opponents of the bill continue to claim—in my view, erroneously—that lives will be lost because if this bill is passed. The fact is that lives are being lost due to the inefficiencies in the current regulatory system. By failing to pass this bill, thousands of people will die due to misplaced priorities in the current system.

There is a report put out by the National Center for Policy Analysis which illustrates this point. They asked Dr. John Graham, the director of the Harvard Center for Risk Analysis, to look at how the Federal bureaucracy spends money. He concluded that they do a very bad job—such a bad job that, if we got them to do it right, we could save 60,000 lives a year every year for the same amount we spend now—60,000 lives, if we would just do regulations right. In other words, a more efficient regulatory system would save lives. According to Dr. Graham, we could save the same number of lives we do now and do it for $31 billion less.

I would like to give a couple of examples from Dr. Graham's study to show how absurd and wasteful the current system is. Right now we spend $115.6 million per year on benzene emission control, and it saves only 5 years of one life; $115.6 million per year on benzene emission control that saves only 5 years of one life—not five lives, but 5 years of one life in this country. If we spent the same amount of money on requiring the installation of collapsible steering columns in automobiles, we could save 1,684 years of life. That is an increase in efficiency of 33,680 percent.

Another example of misplaced resources is the $100 million spent on control of release of low-level radiation from nuclear power plants. According to Dr. Graham—remember, he is a Harvard Ph.D. who is widely respected across the board by the left, right and everybody else—according to Dr. Graham, that $100 million spent on control of release of low-level radiation from nuclear power plants buys 1 year of one life—just 1 year. However, if we spent that money on cervical cancer screening and treatment, it would save 2,000 years of life every year.

I would like to use one other example to illustrate how the money wasted by foolish bureaucrats hurts society. A February 1994 FYI publication by the Heritage Foundation calculated that over $4 billion that is spent to prevent one death under the hazardous waste disposal ban could instead be used to keep over 47,000 criminals in jail for 3½ years. They further estimated that it would reduce the arrest charges over those 3½ years by 22,680 violent crimes, 7,711 robberies, 1,035 homicides, 586 rapes, 1191 other sexual assaults, and 658 kidnapings.

In other words, by spending our resources more wisely we can save even more lives. But, no, the Nader crowd, Ralph Nader, Joan Claybrook, people like that, are crying for an inefficient zero-risk attitude in certain select areas that do not allow us to save all of these lives in another area. These regulations cost us an arm and a leg to save a few months or years out of one life in this whole society when we could be saving 60,000 lives every year. That is what this bill is about, getting some common sense into the regulatory system.

Opponents of this bill might respond by arguing for spending even more money on collapsible steering columns, jails, and more regulations while preserving the status quo. But the status quo is not acceptable. We should be maximizing the benefits to society and minimizing the risk, and doing it intelligently and in a decent way. And this bill will help us to get there. The current bureaucratic mess misses the best opportunities to really help Americans and impose this crushing cost on our citizens. I wanted to make that little point here today.

The Senator from Ohio again referred to his alternative substitute amendment this morning, noting that he planned to offer it. Could I ask the Senator if he is prepared to offer his substitute this morning or today, because I think we ought to get into that. It is really going to lead to a more efficient and more effective debate. We can get right down to the nitty-gritty of what our differences are between the two bills.

Both sides have discussed it this week. We would be happy to enter into a time agreement on it. I think it is just a wise thing for us to get it up and try to narrow the differences between the two bills if we can. The only way we are going to get there is if the Senator calls it up and we debate it. Does he think we can?

Mr. GLENN. We will have meeting in a little while to determine when we will be bringing it up. It will be brought up. There is no doubt about that.

Mr. HATCH. We would like to bring it up today if we can and get moving on it. So I hope that the meeting will allow us to get going. I think it will join the issue. It will do everybody a favor and a service, and we will be able to discuss the differences between the two bills, if we can narrow the differences and go from there.

Could I ask the Senator another question? We have Senator HUTCHISON here today and Senator DOMENICI. They both have amendments. I think the other side is completely aware of these. I think they are prepared to argue them. Is it possible for us to have reasonable time agreements?

Mr. GLENN. I will have to check into that. Maybe we could. I do not know yet. What time would be suggested on Hutchison?

Mr. HATCH. Would she be happy with 10 minutes equally divided?

Mrs. HUTCHISON. Yes. I am happy with 10 minutes equally divided.

Mr. GLENN. I am sure that would not be satisfactory. I think we had some people who wanted to speak on that side on that. I will see if we can come up with a time agreement.

Mr. HATCH. Could I propose a unanimous consent on it? Why do I not just propose it and see if the Senator can accept it. If he cannot, we will understand.

Mr. GLENN. I already said I cannot accept a time agreement until I talk to the people who want to speak on this subject. I will object to it. Go ahead and propound it.

Mr. HATCH. Will the Senator see if he can share with his side a time agreement with 30 minutes equally divided?

Mr. GLENN. We have people interested in speaking on this. They are on their way over now. I do not know how much time they may require. I could not commit to any time agreement at this moment.

Mr. HATCH. There is some indication that we might be able to, if we can join this issue. Some of the Senators are on their way over. We might be able to shoot for a vote sometime right after 11, shortly after 11, maybe around 11:10. Let us at least push for that. Then will the Senator also check and see if we can get a time agreement on the Domenici amendment? We would like to move on these.

We know that a lot of people want to get out of town, but we want to have some votes today, and I do not want to have them at 6 o'clock.

If we could do Hutchison and then Domenici and then Kennedy, if he wants to do his OSHA amendment, that would be great.

Mr. GLENN. We have a list of amendments we can proceed through today all right. We have about, I think there are six or seven substantive amendments, and we do not have time agreements on any of them. We have to discuss time agreements as we go along. I join my friend; I hope we can do that.

Mr. HATCH. If I can recommend something to my dear colleague and friend, what we would like to do is narrow down all the amendments if we could today so we know where we are going and everybody knows what the game plan is and we can plan on this, because I know that we are not going to give too much more time to this bill. I know the majority leader has a very important agenda, and he does not want to spend too much more time on this. So if we could get a list of all the amendments that we are going to have to decide between now and next Monday night, to hopefully finish this bill by Monday evening probably late, then we will work on this side to try to make sure we get time agreements on these amendments as well.

I yield the floor.

Mrs. HUTCHISON addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, if I could ask the Senator from Utah a question, would the Senator like for me to proceed with the amendment?

Mr. HATCH. I think the Senator should begin.

Mrs. HUTCHISON. Explain it, and then as soon as the Democrats who wish to speak on the issue come, we would work out a time agreement?

Mr. HATCH. I think we should move ahead on the amendment and hopefully we can have a vote about 11:10.

Mrs. HUTCHISON. I thank the Senator. I appreciate the Senator from Utah working on this amendment, and I appreciate the fact that he is also cosponsoring the amendment.

Mr. President, the Hutchison-Heflin amendment is also cosponsored by Senators NICKLES, CRAIG, and LOTT. The purpose of our amendment is to prevent agencies from bringing enforcement actions seeking criminal and civil penalties when due process and fair notice are not followed. In some cases, agencies have sought to impose penalties retroactively based on a new agency interpretation of a rule or a new factual determination even where the person against whom the action is brought has reasonably relied upon a prior agency interpretation or determination.

Now, because of this, corporations are forced to spend hundreds of millions of dollars to defend civil and criminal cases brought under the various Federal statutes. These millions, of course, take from that business's ability to grow and create new jobs. It is hurting our economic vitality in this country that we have to spend so much fighting regulations that are unfairly put forward and that the company either does not have notice of or the interpretation has been changed and the company cannot reasonably be expected to know there has been a change.

Now, we in Congress bear a large share of the blame for this situation. For example, we have created open-ended environmental enforcement statutes which call for penalties of up to $25,000 a day in civil cases, months and even years in Federal prison for criminal cases without having to provide proof of actual damage to the environment or the intention to violate a single provision of the Federal regulations. Now is the time to put common sense and justice back into the equation.

This amendment would add a new section 709 to the Administrative Procedure Act to prevent penalties from being imposed for unpublished, inconsistent and retroactive agency interpretations in civil and criminal actions. My amendment would codify into administrative law the fundamental principle that an agency must give the regulated community adequate notice of its interpretation of a statute or any rule enforcing that interpretation through civil or criminal penalties.

We are talking here about people going to prison, or we are talking about huge fines that can make a difference, especially in a small business, as to whether that company can keep on going, if it can hire new people, if it can buy that new machine. That is what we are talking about. The $25,000 a day fine is not small potatoes and especially if you are a small business.

Such notice may be lacking where the agency's interpretation of a rule in question is not made clear to the regulated community or where the agency states that the rule does not apply to certain conduct or where the agency attempts to apply a new interpretation but does it retroactively. It is fine that there is a new interpretation, but I think the people who are responsible for dealing with these regulations certainly should know if the regulation interpretation has changed.

Section 709 would impose limitations on the ability of Federal agencies to pursue civil or criminal penalties for alleged violations of rules in circumstances where the imposition of such penalties would be inconsistent with basic principles of due process.

Now, courts routinely will uphold principles which this amendment embodies. The codification of the principles would deter agencies from pursuing these cases in the first place and save unnecessary legal expense. We know litigation is expensive and burdensome, particularly for small businesses. Many defendants are forced to settle a case and pay a reduced fine because to fight it would be more expensive.

So even if the finding is plainly unfair, a company may just pay the fine to avoid the costly litigation expenses. That is not the way the Federal Government should rule. Federal Government agencies that we delegate should be fair. We are not against the businesses of this country. We are for them. We want business to succeed because that is how we create the economic vitality and the jobs that keep our country going.

Agencies that are used to being given a considerable measure of deference when their regulatory interpretations are challenged in a nonenforcement context sometimes misunderstand that fundamental principles of due process should take precedence over the concept of deference when civil and criminal penalties are at stake in court.

Section 709 will discourage Government regulators from initiating unjustified enforcement or other actions by reminding them through clear statutory pronouncements of their obligation to provide businesses with adequate notice of their regulatory responsibilities and their duty to enforce the regulations fairly.

I urge all of my colleagues to support this amendment, to apply the same principles of due process and justice that are embodied in our Constitution and in our enforcement of civil and criminal laws to the enforcement of agencies' rules. That is what this amendment does. This amendment says that the basic rules of fair play—notice before you are going to have a penalty assessed—would be in this code so that agencies would be on notice and so, of course, the person or business that has to comply with these regulations will know exactly what they are being required to do. That is a concept that is well settled in our Constitution, in the framework of our Government and in the laws that we pass.

Basic fairness and due process has been the foundation of our Government. My amendment today just puts those basic principles into the Administrative Procedure Act so that everyone is on notice—the Federal regulator is on notice and the regulated entity is on notice—that there will be fair and due process.

Mr. President, that is what this amendment does. I hope that we can get a fair debate on this, because I think it is a very important concept for us. But it is essential that everyone have the same book to read from, the same playing field to play on; that everyone is on notice of what the regulations are going to do, what the interpretation by the regulators will be.

We put that in the code so that everyone knows what they are required to do—the agency and the regulated. I would like to see a time in this country when we did not have an adversarial relationship between our regulators and our businesses because, after all, we want our businesses to succeed. We want our companies to export overseas. We want the jobs to be created in America. Why cannot business be a partner rather than an adversary?

That is what my amendment will try to do by putting everyone on notice that they have to have a fair and due process. But it is going to take more than that, Mr. President. It is going to take an attitude by everyone that we are going in the same direction, that we want to have good, solid, firm regulations. If a business gets out of line, we want to make sure that business gets back in line. But we want to do it in a partnership, not an adversarial relationship.

I think just putting it down on paper is the responsibility of Congress. It is our responsibility to say what the parameters are, and that is what this regulatory reform bill does. This regulatory reform bill sets the parameters. It makes Congress do what it should have done a long time ago. And that is, tell the regulators what the congressional intent is.

Why would we pass broad general guidelines, delegate our responsibility to the regulators to enforce these broad general guidelines and then be surprised when they do things that we never envisioned? It is our responsibility to make sure they know what our intent is so that when we delegate that responsibility, they stay within those limitations. It is our responsibility, Mr. President, but I think rather than broad general guidelines, we need to be more specific.

This is a specific. This amendment does put in the Administrative Procedure Act exactly what everyone must do—the people making the regulations and the people following the regulations. It is our responsibility to make it clear. I think this will go a long way toward stopping the over litigation, the money that is wasted on lawsuits, instead of going into the bottom line so that a business can grow and prosper and export and create jobs and keep our economy able to absorb the new people that want to come into our system and the immigrants that are coming into our system. That has been a hallmark of this country, and that is what we want to continue. That is why this is such a good bill and so important that we pass it.

So, Mr. President, I am going to stop and let those who might have other views state them. Let us have a good debate, but I hope that my colleagues will realize that this is a very important amendment for fairness, for justice, for due process and for making sure that everyone is singing from the same hymnal, that we all know what is expected of us, that we know that there will not be a law in this country or a regulation in this country that a company will have to fight when they did not even know that it was on the books. That is the purpose of this amendment.

Mr. President, I yield the floor.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. LOTT. Mr. President, I would like to speak in behalf of the Hutchison amendment. I would like to inquire first—parliamentary inquiry—of what is the time situation. Is there any agreement on this amendment?

The PRESIDING OFFICER. There has been no agreement.

Mr. LOTT. Mr. President, I do want to speak in behalf of the Hutchison amendment and commend her efforts to develop this amendment. I know that she has been working tirelessly to develop the right language, and I know that some changes have been made.

I think this amendment goes to the heart of what this bill is all about. When I look at words that describe what she is trying to accomplish, it is words like "fairness," "understanding of what the rules are," "not being penalized by a change in the rules," or the "effects of retroactive rules."

I have seen in my own State many instances where businessmen and women, large and small, and even farmers complied with the rules that they understood were on the books, and then they had those rules retroactively changed and were told, "You are going to be penalized, you did not comply with the law" when, as a matter of fact, they did. They complied with the existing rules.

What we are asking of the small businessman and woman of America, in some instances, is it to remind readers of how Washington bureaucrats will interpret a rule or how a rule will be interpreted in the future.

What we are trying to do here today is to stop retroactive rulemaking, and get a clarification on what occurs when a rule is changed. Americans need to know what the rules are.

The amendment, in my opinion, will prevent unfair administrative enforcement action. It requires, as I understand it, the agencies to show the same concern for due process—due process—that Americans expect from the courts and the Congress.

The amendment prohibits the imposition of civil or criminal penalties if the agency did not give adequate notice of a prohibited conduct. Let me stop on that. Should you not at least get adequate notice? Should you not be told what you are going to have to comply with? It seems like a minimum sort of requirement.

Or if a court finds that the defendant reasonably determined it was in compliance with a rule based on the published rule or based on its summary explanation in the Federal Register; or if the defendant was told that it was in compliance by the agency.

Think about that. You are told by some agency or department—all of this alphabet soup in Washington—"OK, you're all right, you're in compliance," and then later, weeks, months, years later you are told, "Sorry about that, one of our employees gave you the wrong information. You are not in compliance. And, oh, by the way, there is this little civil or criminal penalty you might be liable for."

These are basic fundamental American rights that we have lost over the past 20 years. I think there have been overzealous interpretations of rules and maybe even laws. Although, when I talk with some of these agency representatives often I am told, "No, no, no, we can't do that, the law doesn't allow that," but when I examine it further I find it is not the law, it is the agency's interpretation of the law. This is not a little difference—this is a big problem.

This amendment would prevent an agency's rule interpretation from being enforced by a court if the agency did not publish in a timely manner the information.

This amendment would prevent courts from imposing civil penalties based on retroactive application of rule changes. I guarantee you, every Senator in this Chamber can tell you an example where a constituent complied with the rules and were faced with fines because the rules were changed and then they were told, "You have to pay."

It does not make any difference that your constituent complied with the law at the time, it does not make any difference if you took action to deal with cleaning up something and you properly transferred what you got in that cleanup process to somebody else, you are responsible for the subsequent requirements of this rule. This is just basically wrong.

This amendment would prevent that from happening if there is a retroactive application of a law or rule or in an agency's interpretation of a law or rule or in an agency's determination of facts.

This amendment does not—does not—prevent agencies from making changes. Sure, lots of times you find new evidence, new science, new factors come into play and changes should be made. That is fine. This is all well and good. I know lots of rules and regulations I would like to see changed. Agencies can make those changes and then apply them prospectively with adequate notice. If an agency makes a change, fine. But it should only apply henceforth, and you must tell the American people that they are going to be affected differently because there has been a change.

Some may be surprised that we even need this amendment in the first place. Most Americans do not have to deal with so many Government agencies and departments. They do not know all of this.

They would be amazed that Americans are denied public notice or that they can have a rule change and then be subjected to a process where they can be put out of business because of unknown penalties or even criminal violations. In their zeal to collect more fines and increase their budgets and sometimes even make work, in my opinion, for an ever-increasing number of cases and lawyers at the Justice Department, agencies have done a number of things.

Let me share with you some examples. One aspect of the regulatory abuse is inadequate notice of an agency's interpretation. The Department of Agriculture tried to impose the continuous meat inspection requirements for meatpackers on a retail grocery store chain because it sold pizzas which were baked at a central location. USDA said the grocery stores were meatpackers because their pizzas had pepperoni, ham, and bacon on them. My son is in the pizza business. If there is any food business I know anything about, it is pizza. This is a crazy rule. USDA said the store was in the meatpacking business, but the Sixth Circuit Court of Appeals ruled that USDA failed to properly give notice that it was going to change and expand its rule interpretation. Therefore, it could not enforce the rule against the grocery store chain.

OSHA—one of my favorite agencies—requires that tunnel diggers have self-rescue equipment when they are near the end of a tunnel where the digging is going on. That makes sense, but then without notice OSHA tried to expand this rule to cover other workers like those building the metro system here in Washington, DC, metro. No notice—that is the key phrase. It is OK to expand a rule, but you should at least tell the folks effected?

The judge—now Supreme Court Justice Scalia—writing for the D.C. Circuit, said:

> Where the imposition of penal sanctions is at issue . . . the due process clause prevents [deference to agency interpretations] from validating the application of a regulation that fails to give fair warning of the conduct it prohibits or requires.

Fair warning and fair notice—this is a basic American tenet, I thought. But over the years we have lost that too.

Another OSHA example of inadequate notice. Here OSHA ruled that a railing be installed around open-sided floors, but not open-sided roofs. It could have required railings for both, but it did not. OSHA then cited a builder for failing to have a railing around an open-sided roof. Maybe it should have been there that is not the point. The Fifth Circuit Court of Appeals found that while OSHA could require rails around open-sided roofs, they clearly knew the difference between floors and roofs, and that it had not done so. But the court ruled that "an employer * * * is entitled to fair notice in dealing with his Government," and that "if a violation of a regulation subjects private parties to criminal or civil sanctions, a regulation cannot be construed to mean what an agency intended but did not express."

An agency should at least tell us what it wants. If they do not express it, why are we liable for that? Again, we are not mind readers of agency bureaucrats.

I have many, many illustrations that there are occasions when inadequate notice of prohibited conduct with retroactive application has occurred, but let me conclude with one final example from EPA. I think EPA is one of the more blatant violators of due process and fair treatment. It fined General Electric Corp. $25,000 for violating the Toxic Substances Control Act, for distilling and reusing a freon solvent rinsing agent. EPA concluded that the distillation and reuse of this solvent posed no health risks and actually produced an environmental benefit by reducing the amount of contaminated materials—but the EPA nevertheless imposed a penalty. In this case they actually said GE had a positive effect on our environment by reusing contaminated materials. Judge Tatel—a recent appointee to the D.C. Circuit Court by President Clinton—said, "In the absence of notice—for example, where the regulation is not sufficiently clear to warn a party about what is expected of it—an agency may not deprive a party of property by imposing a civil or criminal liability."

This is one of President Clinton's own judicial appointees on the D.C.

Circuit Court that, once again, said that without proper notice, you cannot penalize. Clearly, this demonstrates that this amendment is not partisan in nature. It is about basic justice and fairness.

I support this amendment. I think its addition would greatly enhance this regulatory reform bill. Again, I commend the Senator from Texas for her work in this effort. This amendment is so fundamental, so basic, so logical that I would think that it would be just overwhelmingly accepted. I urge its adoption.

I yield the floor.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. BIDEN. Mr. President, I rise to both compliment the Senator from Texas on what she is attempting to do, if it is what I think she is attempting to do, and I would like to be able to ask her a few questions and ask her to consider whether or not she might be willing to make a few modifications.

Let me begin by saying that the idea of an individual or a corporation expending their time, energy, and money in an effort to take an action in which they operate in total good faith, and they go to a Federal agency, speak to an appropriately authorized bureaucrat, someone with authority to make a judgment, and are told that, yes, what you are proposing, based on what information you have given us, is totally appropriate, is consistent with the rules and regulations, and you should be able to go forward; and then that person goes forward and finds—after they have made their investment, after they have undertaken their action, they are told, wrong, wrong, you are violating the regulation, you are violating the rule, you are subject to a civil or criminal penalty here. And the taxpayer retorts and says, but they told me it was all right. They said it was OK to do this. I think that taxpayer should, as this amendment suggests, be exempt from civil and criminal penalties, with no civil administrative penalty, either court imposed or administratively imposed, if they violate a rule after having been told by the rulemaker that it is OK to go ahead and do this.

Now, I understand from the comments—and I was able to listen to some of the comments of the distinguished Senator from Texas in my office on the television, but I did not hear them all. As I understand it, her fundamental intention is to hold harmless people who act in good faith, rely on in good faith, and provide in good faith with the blessing of the appropriate agency.

So my question is: Is that the major thrust and purpose of the Senator's amendment?

Mrs. HUTCHISON. The Senator from Delaware is correct, as far as I can tell from what you are saying. It is a matter of fairness, notice, retroactive interpretation, change, basic due process and basic fairness.

Mr. BIDEN. May I ask the Senator another question. If, in fact, a taxpayer goes in to the regional director of the EPA or into any number of Federal "alphabet" agencies and sits down and says, I want to do the following, and then in laying out the facts of what they intend on doing does not disclose all the facts—does not, for example, tell the regulator that where they want to lay this pipe or where they want to build this building is in the middle of a swamp. He says, "I own a piece of land that is high ground and here is my plan, this is what I want to do. Can I do it?"

If the taxpayer does not fully disclose to the agency the actual facts as the taxpayer knows them, does the Senator intend for that taxpayer to be held harmless, if it turns out the rule has been violated?

Mrs. HUTCHISON. I would say to the Senator from Delaware that becomes a fact question for the agency or for the court to determine if a penalty is put forward.

Mr. BIDEN. So, if, in fact, the agency, after the fact, the agency writes a letter, saying, "John Doe, taxpayer, go ahead and build your building on the site you asked whether you could build it on," and then finds out later that John Doe told them it was high ground, and it turns out to be a literal swamp that they filled in, I assume that John Doe would not be able to say in court, "Look, I got a letter here and it says go ahead and build."

The agency would be able to say, would they not, that, well, "We were not given all the facts, your honor, and the penalty should prevail," is that what the Senator is saying?

Mrs. HUTCHISON. I say probably that situation is covered very well in our amendment, because it says that the agency shall not be able to impose the civil or criminal penalty after disclosure of material facts at the time and appropriate review.

I think it is possibly covered very well.

Mr. BIDEN. I am not suggesting it is not. I want the record to reflect if all the material facts are not made known to the agency at the time the approval is given, I assume the taxpayer does not get the benefit of being held harmless, is that correct?

Mrs. HUTCHISON. I would say any court or any agency probably is going to be able to determine pretty carefully the difference between high ground and a swamp.

Mr. BIDEN. If the Senator reads the first section of the Senator's section 709, subsection (1):

> No civil or criminal penalty shall be imposed by a court, and no civil administrative penalty shall be imposed by an agency, for the violation of a rule.

By law, we are telling a court they cannot impose a penalty.

My question is, Is the exception to that, if it is clear that on a material fact the taxpayer did not disclose all the facts, would the court be able to say as the Senator reads her own amendment, look, I understand section 709 of the amendment says we cannot impose a penalty?

But if we look forward down here, mister lawyer for the defendant, it says material facts—the material facts were not all made available here; therefore, even though the taxpayer has a letter saying go ahead, I will fine the taxpayers.

Mrs. HUTCHISON. I think the Senator from Delaware is stating it correctly.

Reading further through the amendment, after the part that the Senator read: "No civil or criminal penalties shall be imposed" if they find that the defendant "engaged in the conduct alleged to violate the rule in reliance," and it provides all of the ability for the court or the agency to make the fact determination.

Mr. BIDEN. Where does it say that? Can the Senator show me where in the amendment it says that?

Mrs. HUTCHISON. "if the court or agency, as appropriate, finds that the defendant"—in good faith determined based on the language of the rule or "engaged in the conduct alleged to violate the rule in reliance upon a written statement issued by the appropriate official" "* * * stating that the action complied with, or that the defendant was exempt * * *"

I think that there is a lot of latitude by the court to determine. If we go on through the rest of the amendment and go over to the next section it says:

> No agency shall bring any judicial or administrative action to impose a civil or criminal penalty based upon . . . a written determination of fact made . . . after disclosure of the material facts at the time and appropriate review of those or in interpretation of the statute.

Section (c), the third page is where I am reading from.

Mr. BIDEN. The Senator is reading from page 3 of her amendment where it says:

> No agency shall bring any judicial or administrative action to impose a civil or ciriminal penalty based upon—
>
> (1) an interpretation of the statute, rule, guidance, agency statement or policy, or license requirement or condition, or
>
> (2) a written determination of fact made by an appropriate agency official, or state official as described in paragraph (a)(2)(B), after disclosure of the material facts at the time and appropriate review,
>
> if such an interpretation or determination is materially different from the prior interpretation made by the agency or State official described in (a)(2)(B), and if such person, having taken into account all information that was reasonably available at the time of the original interpretation or determination, reasonably relied in good faith upon the prior interpretation or determination.

What that says to me, Mr. President, is not, I think, what the Senator intends.

Would the Senator object to language explicitly saying that if all the material facts are not disclosed to the agency at the time of the letter of approval then a civil and criminal penalty could apply if the law was violated. Would the Senator have any objection to clarifying it?

Mrs. HUTCHISON. I would be happy to sit down with the Senator from Delaware and go through it. I do not think it is a very good idea to write a bill on the floor. The Senator has the evening to look at it.

We can go to your desk, and if there is something we can modify that would allow the Senator to support this amendment, that I can agree to, I would love to do that.

Mr. BIDEN. Let me make another point, and I truly appreciate the Senator's consideration.

The second problem I have with the amendment as it is written is this section (a)(2)(A), it says, "no civil or criminal penalty," and then it shifts to "shall be imposed, if the court or agency as appropriate, finds that the defendant reasonably in good faith determined, based upon the language of the rule published in the Federal Register, that the defendant was in compliance with, exempt from or otherwise not subject to, the requirements of the rule."

Let me explain why that bothers me. We can make an analogy to one of the more loathed agencies in America, the IRS. I know I do not do my taxes anymore, and I have the dubious distinction two times ago as being listed as the poorest man in the U.S. Senate. Second poor only to the man in Montana sitting behind the Senator, so I do not have a very complicated tax form to fill out.

But I do not even do my own taxes anymore. I pay about 1,200 bucks a year to have somebody do my taxes when I do not have anything to declare. I do not have any money. I am not proud of that, but I do not have anything. I do not own a single stock, a single bond, a single investment. I do not own anything, except me and the bank own my house.

Having said that, if I decided I was going to try to save myself this 1,200 bucks this year—were I not a U.S. Senator, I would not have anybody do my taxes, but I am afraid I would inadvertently make a mistake and there would be a headline in the newspaper that says "BIDEN screws up his taxes" so I pay somebody to do them, even though I do not have any need to do it.

Having said that, I sat down and tried to figure out interest, on what interest is a legitimate deductible—on my mortgage. So I wrote this all out and I got it figured. I got this all down just right.

It turns out, when I sent it in, figuring if I sent in this finished tax form to the accountant, one of these big accounting firms, that I would get a break because they would not have to do all this work and maybe it would not be $1,200 or whatever it was, maybe it would be $300—it turns out I was wrong the way I calculated the interest.

I did it in good faith. I acted in good faith. I guess I am revealing the fact that maybe I am not as bright as I would like to think I am, but I am a relatively well educated guy. I acted in good faith. I went out and did it as best I could—fearful of the political consequences if I was wrong, so I had an incentive to get it right. And I still ended up wrong.

Nobody suggests that, even though I relied—I acted in good faith, I reasonably, in good faith, determined that I could deduct more than I was actually able to deduct on my home mortgage interest—because I did not figure out the basis correctly, but at any rate, that I was able to do that—I doubt, when the IRS came to me and said, "No, BIDEN, you owe $220 more than you calculated," that I should go to a court and say, "I am not paying it; take it to court," and you cannot get it from me because I can prove to a court I reasonably relied on what the code said.

I just made a mistake. What worries me here is that some of these regulations are understandably complicated, like the IRS code. So, if I come along, as a guy who in my State wants to build a project or dispose of a chemical or whatever, and I act in good faith and I reasonably, in good faith, determine that this law does not apply to me—when anybody who really knows, knows if I had gone to my lawyer or if I had spoken to somebody they would make it clear that I did have the requirement to abide by a different way—I do not know why we should reward ignorance.

I can understand rewarding reliance, reliance on good faith: Going, disclosing all the facts to the agency, saying "Here is the deal, this is what I plan on doing, here are my plans." And some agency guy or woman saying, "That is OK." Then I go ahead and do that, and they come back and say, "Wrong, wrong. We are going to fine you." That person should be held harmless.

But what I do not agree with, that subsection (a) seems to allow, is, if I sit down as Joe Biden Waste Removal Co., read the regulations, and say, "You know, in good faith I think I can dump this toxin in the local landfill," and I go ahead and dump it in the local landfill, and then the EPA, or State of Delaware comes along and says, "No, you violated the law," for me to be able to go back and say, "You know, I in good faith determined that this word meant that," I do not think I should be held harmless, because the public interest is at stake here.

Mr. NICKLES. Will the Senator yield?

Mr. BIDEN. Yes, I will be delighted to yield.

Mr. NICKLES. If I might just inquire of the Senator, I have an interest in this language but also I have an interest in getting the bill moved.

If the Senator has a suggestion, we are happy to consider those suggestions.

Mr. BIDEN. I agree.

Mr. NICKLES. I know several Senators want to know——

Mr. BIDEN. I will cease and desist and negotiate with my friends. I assume we are not going to vote on this right away, correct?

Mrs. HUTCHISON. Mr. President, if I could interrupt my good friend from Oklahoma, I absolutely agree with him. I think we need to sit down and work together if we can. But, with all due respect, the point that he is making is not even necessary, under this. We are talking about not being able to have a penalty, a fine, or put you in jail. I think that is covered now.

If you sit down with the IRS and say, "I, in good faith, thought I should have this exemption," I would expect the IRS and hope the IRS would say, "No, Senator BIDEN, you actually owe $220 more." And I would not suggest a Senator as smart as the Senator from Delaware would think that is a fine?

Mr. BIDEN. I say to the Senator, maybe it is because I had the disadvantage of having practiced law, I can assure her the IRS does say, "By the way, there is a fine."

Fortunately, the Senator did not have to practice law. And they do that, by the way.

Mrs. HUTCHISON. The Senator from Delaware knows it is well settled in our law that there is a good-faith test. If it is not a willful violation, I would hope we would protect people who in good faith, in a fact determination, would be able to say I did not mean to do this.

If you think the IRS would, in fact, penalize someone with a fine for that, then I think we should protect them from the IRS. That is what my amendment does.

Mr. BIDEN. I do not want to be overtechnical. The Senator from Texas, I think, is confusing the difference between civil law and criminal law. Willfulness is required for criminal, not for civil. But I do not want to get into that debate.

Mrs. HUTCHISON. I think good faith is well settled in principle in civil law.

Mr. BIDEN. Mr. President, I admire the Senator but she is fundamentally wrong on the law. But I do not want to debate that.

Let me just say this. If the Senators are saying that they, in fact, are not going to move to vote on this right away, then there is not a problem. I am willing to yield the floor and go ahead and see if we can negotiate this.

But if we are going to vote, if I yield the floor and we are about to vote on this issue, then I am going to speak on the issue. I do not want to speak on the issue. I would rather try to resolve it. Would the Senator from Oklahoma or the Senator from Texas be kind enough to tell the Senator from Delaware what the plan is, relative to moving on this amendment as is, in terms of the timeframe?

Mr. NICKLES. I will be happy to respond to the Senator. I know Senator DOLE wants a couple of votes quickly. That is the reason why I thought maybe we could talk.

In listening to the Senator from Delaware I thought I heard the Senator say he has real problems with the words that were inserted, "in good faith." If he has other suggestions, I would like us to talk about them and maybe we can resolve that.

Mr. BIDEN. Good.

Mr. NICKLES. I do know Senator DOLE wants some votes. I do not want to get into protracted, extended debate. I know Senator KENNEDY has an amendment dealing with OSHA that shall be controversial. We need to dispose of it, I hope, pretty quickly. We were in hopes we could have votes on Senator HUTCHISON's amendment quickly. My thought is we might be able to resolve more with a little side discussion than we could on the floor.

Mr. BIDEN. Let me say to my friends—it will take 30 seconds to say it—I am delighted to see if we can resolve it. If we cannot, I will have a second-degree amendment to which I will wish to speak. But I thank the Chair and yield the floor, and maybe we can talk.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, while my colleagues are——

Mr. LEVIN. Mr. President, I wonder if the Senator from Idaho could yield just for 2 minutes so I can address the Senator from Delaware and Texas on this issue?

Mr. CRAIG. I will be happy to.

Mr. LEVIN. If I could have the attention of the Senator from Delaware and the Senator from Texas just for one moment? The suggestion has been made by the Senator from Delaware that we attempt to work out language on the amendment of the Senator from Texas. I hope that can be true, because I think the intent of the amendment is an important one and a laudatory one.

There are a number of things which I believe can be clarified, which will help that amendment reflect what is that laudatory purpose, where, if people act in good faith, they should be able to rely on agencies' rules and interpretations.

We do want fair warning to people. In addition to the problem which has been raised by the Senator from Delaware, there is an additional problem which is that there is a narrow reference to the word "rule," in the amendment of the Senator from Texas. I believe that the court opinion which the Senator from Mississippi, I believe, quoted—although it may have been someone else—it is not just a rule, that agencies act by. It is also interpretations, guidance. In other words agencies act in many ways.

As a matter of fact, this bill is going to permit petitions to get agencies to reconsider guidance and interpretations. So the notice which so correctly we should insist upon comes frequently from more than just a published rule, but also comes from agency guidance and interpretations. We do not want the agency to be limited to just published rules. We want people to be able to get interpretation and guidance from agencies, so that when the Senators from Texas and Delaware are sitting down to try to put the language of (c) in (a), I hope they will also look at the use of the word "rule" and expand that to include other published guidance, correspondence and so forth.

That is the suggestion that I would make as they are reviewing this very useful amendment.

Mr. CRAIG. Mr. President, let me reclaim my time. I would be happy to yield for a comment by the Senator from Texas.

Mrs. HUTCHISON. Mr. President, I appreciate that because I would like to respond to the Senator from Michigan that we would be happy to add some language, to have "definition" and "rule." "Rule" is in section C. If you would prefer to put "rule" and "definition" in A, I think we could work something out because, as the Senator from Michigan said, what we are trying to do here is have a due process and a fair play in the Administrative Procedure Act. We want to have that goal. Then perhaps with some word changes and better definitions, we could work something out.

Mr. LEVIN. I thank the Senator from Texas. I thank the Senator from Idaho.

Mr. CRAIG. Mr. President, I am a cosponsor of the amendment of the Senator from Texas. I hope that she and the Senators from Michigan and Delaware can work out the differences because I think it is an extremely important amendment.

When I look at what has gone out there in the past and is currently going on, I pose this question to you, Mr. President: Can you imagine living in a country where the laws are not posted or published—anywhere, in some instances—but you can still get in trouble for violating them? That is kind of the feeling of a lot of our people out in the private sector trying to make a living, especially those in the business community and especially the small business community that does not have the hundreds of thousands of dollars of resources to keep a stable of attorneys around telling them what to do and how to do it. Sometimes they find themselves exactly in that situation. They find themselves in a world where those who enforce the laws tell you it is OK to do something and then turn around and punish you for doing it.

That is some of what the Senator from Delaware just spoke to. But in the same instance, if you have invested a lot of money and time and you thought in good faith you were doing it only to be told you are not and then to be fined, I think in most instances the average citizen in our country who has reacted very openly about these issues would say that is just wrong. Most Americans, I believe, would find that kind of system to be intolerable, outrageous, and in all fairness I agree with them. That is why I am a cosponsor of this amendment.

Yet, as unbelievable as that description may be—Mr. President, we find today that that is in part the regulatory system we have—it is a mystery to me how anyone could most possibly defend that status quo. Yet, we find Senators on the floor saying, Wait, everything is OK. Well, everything is not OK if we spend $600 billion nonproductive dollars in our economy every year in this situation, and yet good-faith citizens find themselves subject to penalties and subject to fine.

It is inconceivable that the current system actually would allow agencies to decide after the fact that an action or a failure to act should be penalized. If we were talking about criminal law—and that became a brief discussion a moment ago—it would be considered flat-out unconstitutional. Well, if it is unconstitutional in criminal law, why should not it be unconstitutional here? That is because for three decades we have been caught up in the attitude that the regulatory agencies of our Government know better how the world out beyond the beltway ought to be instead of the private citizen who is trying to provide the goods and services for society and operate in good faith, who has the right to choose and make reasonable and sound decisions.

So I think if it is unconstitutional in criminal law, it ought to be unconstitutional here, and that is why we ought to fix it. And I think that is why the Senator from Texas is clearly headed in the right direction.

I compliment her for her energies and her effort in her amendment. Her amendment is nothing more than I think, as I mentioned a moment ago, common sense and fair play. It just says that people should be put on notice as to what actions are required or prohibited of them. That ought to be clear and straightforward. Those who get approval before they act from an agency authorized to regulate or speak on policy in a particular area should not be punished for relying on that advice.

The simple question then is, Well, then, where do we go? If I have heard that once, I have heard it a hundred times, Mr. President, in my town meetings from small business people saying, What do we do then? Do we just simply go out of business because we cannot get the right direction, or we cannot find a way to be in compliance with some obscure rule or regulation, that a Federal regulator now comes in and says, Here is the $10,000 fine for doing something wrong, when they in fact may have been advised that the way they were going to do it and then did it was right? That is an intolerable world.

This amendment does not interfere with an agency's ability to revise its rules or to interpret those rules. It just requires penalties to be imposed for future violations as opposed to past violations.

Mr. President, regulations are not supposed to be a goal in themselves. They are supposed to be a way of reaching important goals. Let me repeat that because that is exactly where the small business community, the backbone of the American economy, finds themselves. They find themselves always moving toward the regulation. That is the goal. It ought not to be the goal. It should be the way you get to a productive economy, in the right and proper, socially acceptable level of performance.

If we make the laws and regulatory process a trap for the unwary, nobody is served, and the tragedy of nobody being served is that then nobody wants to play. And in this instance, what we are talking about is the creation of jobs, the strengthening and the building of an economy. When nobody wants to play because they find themselves prohibited or the very limited failure to perform is so violent that it could put them out of business, then something is substantially wrong.

It does not get us to our goals because people do not even know what is required of them. It discourages them from even trying to find a way to work with the law, to work with the enforcing agency. One of those important concepts is embodied in our law and our Constitution, a concept that we all fight to adhere to here. That is called due process. Really, what the Hutchison amendment talks about is the simple concept of due process. That is just another way of defining fairness.

Mr. President, we need this reform. Let us send a strong message of support for fairness and due process with what I hope is an amendment that we could accept unanimously, and that the Senators now involved in it might work out their differences so we can as a Senate say to the American people and to the producers out there, We have heard you, we are responding to you, we are going to create a government that is a good deal more friendly, which respects your right as the producer and the taxpayer, and will work with you in good faith as a partner instead of a cop that comes through the front door and says, Here is the fine, pay up, you are in violation for something we told you to do because now we have decided you did it wrong.

Mr. President, I yield the floor.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER (Mr. SANTORUM). The Senator from Oklahoma.

Mr. NICKLES. Mr. President, negotiations are underway right now to see if we cannot come to a closure on Senator HUTCHISON's amendment. I think there is general agreement that her amendment is needed. I happen to share that concern. I am happy to be a cosponsor of it. I hope maybe we can alleviate some of the concerns that were raised legitimately by Senator BIDEN and Senator LEVIN and pass that amendment. Those negotiations may be going on for a few more minutes.

So I would hope that we could move ahead on a couple of other things. I know Senator KENNEDY mentioned yesterday that he has an OSHA amendment, that he would like to exempt OSHA. I hope he will bring that to the floor. I hope we can have a vote very quickly on Senator DOMENICI's amendment which he raised, and it was debated last night.

So I would let people know that hopefully we will have soon a vote on the Domenici amendment. I hope Senator KENNEDY will bring his amendment to the floor very soon and that we can begin debate on it and hopefully have a vote on it after a short discussion. Maybe a time limit with be necessary on that. Possibly by that time we will have the negotiations completed on the amendment offered by Senator HUTCHISON. I think her amendment is needed. I also think it is well drafted. Maybe we can solve some of the ambiguities on it.

But it is important to let people know that, if they rely on an agency ruling, that ruling made sense and there will not be a retroactive application of a fine or a penalty. If they are given a letter, if they are told by administrative agency, this is OK, this is right, this is in the CONGRESSIONAL RECORD, you should not have retroactive application and fine or some type of other civil penalty. That would be a mistake. That is not fair. That is unjust.

I believe there would be bipartisan support for that. I agree that there should be overwhelming support for this amendment. Hopefully that will be adopted.

I see my friend and colleague from Massachusetts. I mention to him maybe we could move forward on his amendment very quickly and try to solve that. I know Senator DOLE has real concerns about moving this legislation forward.

I want to compliment the managers. I saw Senator GLENN just a moment ago, and Senator ROTH and Senator HATCH, because they worked very, very hard to try to make some progress. It was very frustrating the first 2 or 3 days.

I think yesterday we made a lot of progress. I compliment Senator JOHNSTON for helping make that happen. So yesterday evening we started making real progress. I might mention for those on the other side of the aisle that had raised a lot of concerns about this bill, I think a lot of those concerns were alleviated.

So maybe, again, that will help promote this and make it more possible to pass this bill. I know the majority leader said he would like to have this bill passed no later than Tuesday. I think he is being patient. We started on this bill actually on Thursday before the recess. So we have had a lot of debate.

This bill is needed, Mr. President. In my opinion, it is one of the most important pieces of legislation we will consider this year. It is needed for a lot of reasons. One of the primary reasons is because we have a lot of unnecessary regulation in this country. We have a lot of regulations that do not make sense, a lot of regulations that cost too much. So people do feel like they are overregulated, overburdened. When you have regulations coming in that do not make sense or cost an inordinate amount for marginal improvements, we are saying, wait a minute; let us do something different. And that is what this legislation is all about.

So I compliment the sponsors of this legislation. The idea of saying that we should have a policy to make sure that the benefits justify the costs, I think makes eminent good sense. We have had past Presidents who have put that in Executive orders, but we never had it in the law. Why not put it into law? That is what we are trying to do. We are saying that we should use risk analysis so we can actually prioritize those areas that need a scientific analysis so we will determine where we can focus and concentrate our efforts to make sure that we take the limited resources we have from the regulatory agencies, from the Government, from the taxpayers to concentrate on those that will do the most good.

Some people have characterized this bill and said this will be harmful to their health. I do not think so. I think it will be just the opposite. We only have so many dollars in the agencies; we only have so many dollars from the taxpayers. Let us concentrate those dollars where we can get basically the maximum amount of safety, the maximum amount of health from the dollars that are expended.

Mr. President, again, if there are additional amendments, I urge our colleagues to bring those amendments forward because I know the majority leader wants to draw this bill to a close. At least one cloture motion has been filed. There may be another one filed. I hope that is not necessary. I hope that everyone in good faith will offer their amendments, bring them to the floor, debate them, debate them today, debate them all day Monday if necessary, maybe very late Monday night if necessary, and come to an agreement where we can have final passage on Tuesday.

I also know the majority leader wants to go to a Bosnia resolution on Tuesday. We also have appropriations bills that we must begin consideration of.

I think we are making good progress on the Hutchison amendment, and if we could resolve it and have a vote or pass the Domenici amendment, I think that would be progress, and hopefully dispose of Senator KENNEDY's amendment. That would be excellent progress as well.

So I thank my friends. Again, I compliment Senator HATCH and Senator ROTH and Senator JOHNSTON for their leadership on this bill. I would like to see some greater momentum and movement on the amendments pending today. I encourage all Republicans who have amendments to bring them to the floor as well and maybe we can dispose of those today.

I yield the floor.

Mr. HATCH. Mr. President, the Hutchison amendment that is currently pending, which restores a modified version of section 709 to the Judiciary Committee version of S. 343, is intended to deal with the problem that is appearing with more frequency of agencies bringing enforcement actions and seeking civil and criminal penalties for the alleged violations of rules that are increasingly complex, convoluted, and often unclear.

In their zeal to compile enforcement statistics, some Government agencies have, on occasion, initiated cases based upon novel interpretations of their own rules, interpretations that have never been communicated to the regulated community, or the community they are regulating. In some cases, the actions have been brought to retroactively impose requirements based on some new—some new—agency interpretation of a rule or some new factual determination even where the person against whom the action is brought has reasonably relied upon a prior agency interpretation or determination.

Moreover, there are situations in which agencies develop complicated and ambiguous rules and then seek to punish individuals or companies if they guess wrong as to what those rules mean. At stake in these cases are penalties worth millions of dollars, and even Federal imprisonment is at stake for some of our citizens.

Against this backdrop, I believe the Hutchison amendment contains an appropriate and necessary restraint on the authority of agencies to pursue civil or criminal penalties for the alleged violation of rules and circumstances where the imposition of such penalties would plainly be unfair. In large measure, the amendment simply makes explicit or clarifies requirements that already exist under the Administrative Procedure Act.

Moreover, nothing in this amendment prevents an agency from changing its interpretation of a rule consistent with the requirements of sections 552 and 553 of the Administrative Procedure Act and subject to the protections provided by this section, enforcing the new interpretation prospectively.

The Hutchison amendment does, however, prevent the Government from extracting civil or criminal penalties or retroactively imposing regulatory requirements in cases where the defendant can demonstrate that prior to the alleged violation the responsible agency or State authority told the defendant, either directly or through an interpretation duly published in the Federal Register, that the defendant was in compliance with or was not subject to the rule at issue. The ultimate result of this legislation will be, in my view, better enforcement leading to better compliance, better protection of health, safety, and the environment and greater respect by the regulated community for the enforcement practices of the Federal Government.

So this is an important amendment, and I really hope we can work out the language to the satisfaction of our colleagues on the other side and get this amendment passed as soon as we can.

I agree with the distinguished Senator from Oklahoma that we need to move ahead on this bill. We need to have a number of votes today and, hopefully, get rid of some of the amendments that we have today and move on.

While we have this lull, let me just give my 6th of the top 10 list of silly regulations. And I will start with No. 10.

Silly regulation No. 10: Prohibiting a person from developing his land because it will become a habitat for the endangered salt marsh harvest mouse after—get this—after the polar ice caps melt and the sea rises. That is No. 10 on my list of silly regulations.

Silly regulation No. 9: The owner of a van was in an accident and as a result 2 gallons of gas leaked out of the van's gas tank. The fire department flushed it into a drainage ditch. As a result, the Coast Guard attempted to fine the owner of the van $5,000 for "polluting the waters of the United States." That is silly regulation No. 9.

Silly regulation No. 8: Prohibiting the sale of a children's toy for 8 months, sending the company into financial reorganization only to admit the toy should not have been banned at all. Yet, it admitted that it was an editorial error.

Silly regulation No. 7: Attempting to dismantle private homes at a cost of $8 million due to lead-contaminated soil, except there was no evidence of any lead contamination.

Silly regulation No. 6: The General Accounting Office estimated that in 1990, the IRS imposed over 50,000 incorrect or unjustified levies on citizens and businesses per year. That makes today's list a list of the top 50,000 silly regulations.

Silly regulation No. 5: FDA, which has a legendary bias against dietary supplements, tried to assert that the product, black currant oil—the oil of the fruit, black currants—was not a supplement, but rather an unsafe food additive. The FDA's logic was that the oil was the additive added to the food—the gelatin capsule containing the oil. Two different U.S. courts of appeal rejected this.

Two different U.S. courts of appeal rejected this unanimously, one saying it was "nonsensical," the other saying it was "Alice in Wonderland." Those are actual quotes from the courts.

Silly regulation No. 4: FDA also banned dietary supplement manufacturers from telling women of childbearing age that folic acid could prevent birth defects in their babies, even though the FDA's mother agency, the Public Health Service, and its sister agency, the Centers for Disease Control, had publicly issued this recommendation.

Let us just talk about lives for a minute. Had the FDA allowed the dietary supplement manufacturers to make the absolutely accurate claim—which they, of course, do now—over the last 11 years since they have known about folic acid's 0.4 milligrams of folic acid benefit in helping to prevent neurotube defects, we would have prevented 1,250 neurotube defective babies every year for the last 11 years, babies born with spina bifida. That could have been completely prevented had those claims been permitted. The agency, according to some, has known about it for the last 11 or 12 years. To be fair to the FDA, they knew about it for 3 years before they finally conceded that their bias to the dietary supplement was not valid and 0.4 milligrams of folic acid would prevent 1,250 babies a year from having spina bifida.

Silly regulation No. 3: FDA has a regulation, the so-called food standard of identity, specifying in great detail the Government-mandated ingredients characteristics of French dressing. I might add, they issued no such requirements for any other dressing—Italian, ranch, or honey-mustard to mention a few—but I am sure they are working on it.

Silly regulation No. 2: Seizing $2,000 of a business' bank account only to concede the case against it was baseless, but they still did not return the money because of "computer difficulties."

Finally, silly regulation No. 1: I want to thank my good friend from Texas, Senator HUTCHISON, for bringing today's No. 1 silly regulation to my attention. Requiring a woman's clothing store to hire male salesmen and place them in the fitting rooms.

Now who in America does not know of some of these silly regulations and interpretations of regulations? Who in America doubts that we are inundated with this kind of crap? Who in America is not upset about it? Who in America does not realize that that is what this bill is all about? We are trying to stop this type of stuff and get regulators to be more responsible. And that is recognizing the fact that many of them are and most regulations are, but it is the ones that are not that is driving this country crazy, making us uncompetitive, making it more difficult for this country, in many respects, to be the greatest country in the world. Frankly, it will be the end of us if we keep going the way we are going.

That is why this bill is so important. That is why we simply have to do a better job about regulating in our society. The Hutchison amendment, just to end with that, I think, makes a lot of sense. It protects people against silly interpretations of regulations.

Mr. President, I ask unanimous consent that amendment No. 1539 be temporarily laid aside and that Senator KENNEDY be recognized to offer his amendment on OSHA.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Let me suggest the absence of a quorum. Did the Chair rule on that?

The PRESIDING OFFICER. Yes.

Mr. NICKLES. Will the Senator withhold?

Mr. HATCH. I withhold.

Mr. NICKLES. Mr. President, for the information of our colleagues, I think we are making good progress on the Hutchison amendment. Hopefully, that will be resolved very quickly.

The unanimous-consent request just agreed to says we now go to the amendment of the Senator from Massachusetts dealing with OSHA exemption. Hopefully, we can come to a quick time agreement on that and dispose of that amendment.

RESCISSIONS BILL

I make one other plea. It is Friday morning, and we still have not passed the so-called rescissions package. Mr. President, I believe about 90-some percent of the Senate agrees with passing the rescissions package. I was at the White House earlier this week and President Clinton said he hoped the Senate would pass it very quickly.

I believe there is one or maybe two colleagues that still have some opposition to that package. But I urge that they come forward and agree so we can save the taxpayers $9 billion and we can get some much-needed relief to victims of disasters in California, Oklahoma, and other places. I think it is vitally important.

It is also important for us in the appropriations process so we can have those amounts. It would make a big difference on the appropriations levels for 1996.

I certainly hope we can pass the rescissions package before we leave today.

I see the majority leader on the floor. I also see my friend and colleague from Massachusetts on the floor. I appreciate his cooperation, as well. I hope that we can enter into a time agreement on his amendment very soon.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. Mr. President, I just hope we can get some votes. We have had a lot of speeches. We have not had any votes. It is now 11:30. Many of our colleagues have plans this afternoon. But if we are going to speak all morning, we are going to have to vote all afternoon. It is all right with me, as long as everybody understands that. I hope we can get time agreements so we can make more progress on this bill today.

Our attendance is good. I think most people planned on being here all day today, and we will be here all day today and, hopefully, we will be voting all day today. If we can get time agreements, as suggested by the Senator from Oklahoma, it certainly would be helpful.

Mr. LEVIN. If the majority leader will yield, I think there is good attendance and there was some progress made. The Senator from Texas offered an amendment this morning——

Mr. DOLE. I think Senator BIDEN has been negotiating.

Mr. LEVIN. Yes. I think progress has been made. It is an amendment that has purpose which I think is shared widely and broadly, and there is progress being made on that language. I believe Senator KENNEDY is on the floor ready with his amendment, as well.

Mr. HATCH. Can we agree to a time agreement?

Mr. DOLE. Will the Senator agree to a time agreement? Great.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The Democratic leader.

Mr. DASCHLE. Mr. President, let me comment, too, that I hope we can complete our work on a couple of additional amendments this morning and work well into the afternoon. I have talked to a number of our colleagues, and we are prepared to stay late into the afternoon to work on these amendments. So I encourage the leader to continue to hold us here and continue our work.

RESCISSIONS BILL

I did not have the opportunity to listen to my friend, our colleague from Oklahoma, about the rescissions bill. But I hope we can resolve that matter at some point as well. We have made an offer that, in my view, is a good-faith offer. We have laid down three amendments, and we are prepared to work under very tight time agreements there. We could have that bill on the President's desk by the end of the week. We can do it today.

I hope that we can accommodate the Senators who have expressed an interest simply in being heard on some very important issues. They have agreed to limit their amendments. They have agreed to a limited amount of time. We have had a number of other colleagues that have expressed an interest in modifying the bill, who have said in the interest of moving the bill, they will withhold doing that at this time.

So we are really at a point where a couple of Senators simply want to have the right to offer an amendment. I do not think that is too much to ask. Hopefully, we can resolve that and move on with rescissions. We are here to work, and we will be here this afternoon. I encourage everybody who wants to participate in the debate to do so and come to the floor.

I yield the floor.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Is the bill open for amendment at this time?

Mr. HATCH. If the Senator will yield, is he willing to agree to a time agreement?

Mr. KENNEDY. I will be glad to.

Mr. HATCH. I suggest one-half hour equally divided.

Mr. KENNEDY. No, we would need at least 45 minutes to be able to make our presentation. I do not know what will be necessary on the other side. Why do we not get started, and we can try and work that out.

Mr. LEVIN. Will the Senator yield for a unanimous-consent request?

Mr. KENNEDY. Yes.

PRIVILEGE OF THE FLOOR

Mr. LEVIN. I ask unanimous consent that Scott Garrison, a legislative fellow with the Oversight Subcommittee staff, have floor privileges during consideration of S. 343.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, I wonder if the Senator from Massachusetts—he said he would need 45 minutes. Why do we not get an hour and a half time agreement, and we can yield back time if we do not need all of that.

Mr. HATCH. Let us just move ahead and see where we are.

Mr. JOHNSTON. I think we would do well to get a time agreement.

Mr. KENNEDY. Why do we not get started on it. It is not my intention to take a great deal of time. We would like to get moving and start on it.

AMENDMENT NO. 1543 TO AMENDMENT NO. 1487

(Purpose: To provide that certain cost-benefit analysis and risk assessment requirements shall not apply to occupational safety and health and mine safety and health regulations, and for other purposes)

Mr. KENNEDY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Massachusetts [Mr. KENNEDY] proposes an amendment numbered 1543 to amendment No. 1487.

Mr. KENNEDY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 46, insert between lines 4 and 5 the following:

"§ 629A. Inapplicability to occupational safety and health and mine safety and health regulations

"This subchapter shall not apply to any standard, regulation, interpretive rule, guidance, or general statement of policy relating to—

"(1) occupational safety and health; or

"(2) mine safety and health.

On page 50, insert between lines 15 and 16 the following new paragraph:

"(4) This subchapter shall not apply to any standard, regulation, interpretive rule, guidance, or general statement of policy relating to—

"(A) occupational safety and health; or

"(B) mine safety and health.

On page 96, insert between lines 20 and 21 the following new sections:

SEC. . OCCUPATIONAL SAFETY AND HEALTH REGULATIONS.

(a) PRIORITY FOR ESTABLISHING STANDARDS.—Section 6(g) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 655(g)) is amended—

(1) by striking "(g) In" and inserting "(g)(1) Notwithstanding any provision of the Comprehensive Regulatory Reform Act of 1995, in"; and

(2) by adding at the end the following new paragraph:

"(2) Notwithstanding any provision of the Comprehensive Regulatory Reform Act of 1995, in determining the priority for establishing standards relating to toxic materials or harmful physical agents, the Secretary shall consider the number of workers exposed to such materials or agents, the nature and severity of potential impairment, and the likelihood of such impairment.".

(b) RISK ASSESSMENTS FOR FINAL STANDARD.—Section 6 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 655) is amended by adding at the end the following new subsection:

"(h)(1) In promulgating any final occupational safety and health regulation or standard, the Secretary shall publish in the Federal Register—

"(A) an estimate, calculated with as much specificity as practicable, of the risk to the health and safety of employees addressed by such regulation or standard, the affect of such regulation or standard on human health or the environment, and the costs associated with the implementation of, and compliance with, such regulation or standard;

"(B) a comparative analysis of the risk addressed by such regulation or standard relative to other risks to which employees are exposed; and

"(C) a certification that—

"(i) the estimate under subparagraph (A) and the analysis under subparagraph (B) are—

"(I) based upon a scientific evaluation of the risk to the health and safety of employees and to human health or the environment; and

"(II) supported by the best available scientific data;

"(ii) such regulation or standard will substantially advance the purpose of protecting employee health and safety or the environment against the specified identified risk; and

"(iii) such regulation or standard will produce benefits to employee health and safety or the environment that will justify the cost to the Federal Government and the public of the implementation of and compliance with such regulation or standard.

"(2) If the Secretary cannot make the certification required under paragraph (1)(C), the Secretary shall—

"(A) notify the Congress concerning the reasons why such certification cannot be made; and

"(B) publish a statement of such reasons with the final regulation or standard.

"(3) Nothing in this subsection shall be construed to grant a cause of action to any person.".

SEC. . MINE SAFETY AND HEALTH REGULATIONS.

The Federal Mine Safety and Health Act of 1977 (30 U.S.C. 801 et seq.) is amended by inserting after section 101 the following new section:

"RISK ASSESSMENTS FOR FINAL STANDARDS

"SEC. 101a. (a) In promulgating any final mine safety and health regulation or standard, the Secretary shall publish in the Federal Register—

"(1) an estimate, calculated with as much specificity as practicable, of the risk to the health and safety of employees addressed by such regulation or standard, the affect of such regulation or standard on human health or the environment, and the costs associated with the implementation of, and compliance with, such regulation or standard;

"(2) a comparative analysis of the risk addressed by such regulation or standard relative to other risks to which employees are exposed; and

"(3) a certification that—

"(A) the estimate under paragraph (1) and the analysis under paragraph (2) are—

"(i) based upon a scientific evaluation of the risk to the health and safety of employees and to human health or the environment; and

"(ii) supported by the best available scientific data;

"(B) such regulation or standard will substantially advance the purpose of protecting employee health and safety or the environment against the specified identified risk; and

"(C) such regulation or standard will produce benefits to employee health and safety or the environment that will justify the cost to the Federal Government and the public of the implementation of and compliance with such regulation or standard.

"(b) If the Secretary cannot make the certification required under subsection (a)(3), the Secretary shall—

"(1) notify the Congress concerning the reasons why such certification cannot be made; and

"(2) publish a statement of such reasons with the final regulation or standard.

"(c) Nothing in this section shall be construed to grant a cause of action to any person.".

Mr. KENNEDY. Mr. President, the purpose and effect of this amendment is simple and straightforward; that is, to exempt the rulemaking by the Mine Safety and Health Administration and Occupational Safety and Health Administration from the cost-benefit analysis and risk assessment provisions of S. 343 and to substitute in their place the more sensible provisions of the Gregg-Bond OSHA reform bill.

Mr. DOLE. Will the Senator from Massachusetts take 40 minutes, and we will take 20 minutes?

Mr. KENNEDY. We would like 45, if we could. It is my understanding it will be without a second-degree amendment.

Mr. DOLE. There will be a motion to table.

Mr. HATCH. A total time of 1 hour is fine.

Mr. KENNEDY. As I understand it, we have 45 minutes, and the Senator has 15; is that correct?

Mr. DOLE. That is fair.

Mr. HATCH. I ask unanimous consent that the Kennedy amendment be subject to an hour time agreement, with 45 minutes devoted to Senator KENNEDY, and 15 minutes under my control, and that there be no second-degree amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, the Kennedy amendment takes the exact language from the Gregg-Bond OSHA reform bill, S. 562, and applies it to OSHA and MSHA, as well. Rather than imposing a duplicative new layer of rulemaking procedures, the amendment requires that, along with the publication of a final rule, the Secretary of Labor publish a certification that the rule was developed using good science and that its benefits justify its costs. That is basically what has been the recommendation of those that are supporting S. 343, that we are going to use the best in science and we are going to make sure that the benefits are going to justify the costs.

It is that test, that criteria, that was introduced by the Senator from New Hampshire, Senator GREGG, and Senator BOND, and five other Republicans, to be the test that would be applied in terms of the OSHA legislation. We are accepting that as an additional requirement on the existing cost-benefit ratio, so that we will be complying with the spirit of the legislation and doing it in an effective way, particularly with regard to these two agencies that make such a difference in terms of the protections of the health and safety of the workers.

The purpose of this amendment is simple and straightforward: To exempt the rulemaking by the Mine Safety and Health Administration and OSHA from the cost-benefit analysis and risk assessment provisions of S. 343, and to substitute in their place these more reasonable provisions.

The Mine Safety and Health Act has been a tremendous success—an example of sensible regulation that has saved lives without compromising, in any way, the productivity of the industry. For 25 years, the act has contributed to a steady decline in deaths and disease among mine workers, while productivity has improved dramatically. Mine explosions were once common; today they are rare. Black lung disease was once a fact of life in the coal fields. Now it is much less prevalent—cut by two-thirds.

The charts I have behind me demonstrate what has been the record over the period since 1969 when the MSHA was actually put into effect, in terms of mine safety. If you look here, coal mine fatalities are represented by this falling line here, and coal mining productivity is represented by the rising blue line here. We have seen a dramatic decline in terms of fatalities since the time MSHA was actually put into place, and what we have seen is a dramatic increase in productivity.

This legislation is working. This legislation is working, providing for the protection of workers, and also, as I indicated, productivity for the mine operators. This is another example of the coal mining fatality rate, where we have seen a dramatic decline in terms of the fatalities in the mines of this country.

In 1968, a coal miner was five times more likely to be killed while working than he would be today. Since 1968, coal mining productivity has increased 80 percent. With that kind of record, it is clear that MSHA has provided the kind of commonsense regulation that every mining family and every American are looking for.

Mining and its hazards create the kind of risk that must be regulated. MSHA's concerns are cave-ins, where tons of rock crush miners to death, underground fires that burn miners to death or asphyxiate them, and methane gas explosions. These are dangers that have been present for decades.

These are the tragic mine accidents that occurred in recent years:

The Wilberg Mine fire, 1984, that killed 27 Utah miners.

Magma Copper Mine (1993), where an underground mine structure collapsed and killed four Arizona miners.

The Grundy Mine explosion (1982) that killed 13 Tennessee coal miners.

Golden Eagle Mine (1991) where a methane explosion injured 11 Colorado miners.

Solvay Trona Mine (1995) in Wyoming, where a collapse trapped two miners for days and one died of a heart attack.

Marianna Mine fire (1990), where an explosion and fire injured 11 Pennsylvania firefighters.

We do not have to elaborate on the risk assessment and peer review panels like those required by the bill to tell us that excessive coal dust levels cause black lung disease. Congress, based on unquestioned science, made that judgment in the Mine Act of 1969. We debated it and discussed it. We had hearing after hearing after hearing. All the medical science indicates it.

Why put that particular regulation at risk? Why would we waste taxpayer dollars, forcing the labor Department to respond to petitions questioning whether proper risk assessment and cost-benefit analyses were done for the law's ventilation and dust standards? Who complains to the Congress about these standards? It is not the mining industry. Richard Lawson, who is president of the National Mining Association, regards those rules as in large part responsible for the amazing progress of the last quarter century.

In March, at an event celebrating the Mine Act's success, this is what Lawson said. This is Richard Lawson, the president of the National Mining Association.

> There is no question in my mind, and I don't know of anybody in the entire mining industry that would argue with this statement, that we wouldn't have achieved the results that we have in the past 25 years if we hadn't had a Federal regulatory program and a State regulatory program.

Now, here we have the miners that are supporting it. And Mr. Lawson's statement represents the mine operators' view of the record of what has been achieved in terms of increasing productivity and the success of this program. To my knowledge, there is no welling up from around this country, particularly from mining States, that says that we ought to abandon this or change this in a dramatic way and build in all these other kinds of additional steps into this to make it effective. Yet, we are being asked to do it.

Mr. President, if it ain't broke, why fix it? Why would we waste agency resources and tax dollars by forcing MSHA to respond to petitions by fly-by-night mine operators? They are the ones that are going to make the petitions. Make no mistake about it. They are the ones that are going to be asking for the petitions in terms of rules and regulations. They will be able to do it. They will be qualified and be able to do that under this proposed legislation.

They will seek exemptions from roof support standards or methane gas standards—standards that have saved scores of lives. 1979 to 1983, before MSHA issued its automated temporary roof support system, 64 miners were killed by roof falls while installing temporary support. Since the regulation went into effect, no miners have been killed in this way.

Who can say how many lives have been saved by MSHA's methane gas regulations? The burden is on those who want to change the way the Mine Safety and Health Administration goes about its work. The burden is on them to prove that any change would not impede the agency's performance, let alone that the changes are somehow an improvement.

Mr. President, no one has even attempted to make that case. Why? Because no one but lawyers and lobbyists, and some mining companies, who want to escape the law that would benefit from the changes made by S. 343.

Mr. President, the $100 million threshold amendment that the Senate adopted will do nothing to help MSHA because regulations that cost less than $100 million have a significant impact on small businesses, and are still treated as major rules under the small business impact amendment which was adopted. Ninety-nine percent of the mines are classified by SBA as small businesses. Virtually every MSHA regulation will be classified as a major rule.

Thus, the new MSHA rules have to go through the complex procedures of the bill, and existing rules would be subject to sunset through the bill's petition process. Will MSHA standards be repealed under the lookback provisions? There is a real reason to worry. Mine operators who want to avoid penalties for noncompliance can be expected to petition to have as many rules added to the lookback schedule as possible.

Mr. JOHNSTON. Mr. President, will the Senator yield?

Mr. KENNEDY. I would, for a brief question.

Mr. JOHNSTON. I thank the Senator.

On page 4, line 15 of his amendment, it says if the Secretary cannot make the certification required under section 1(C), he shall notify the Congress and publish his statement.

1(C) says, the main part there, that the benefits must justify the cost.

Now, my question is, when the Senator says he cannot make the certification, does that mean he cannot in good conscience make it, or he cannot because he disagrees with it?

In other words, is there any limitation on why he cannot make the certification?

Mr. KENNEDY. Senator, I will come back to that. I would like to make the presentation with regard to what this section provided. Then I will come back to how this proposal, S. 343, undermines the kinds of protections for miners, even with the Levin amendment, which deals with health standards, but would not apply in terms of the safety standards. I will be glad to come back.

I want to make the point and the case, which is the obvious case, and that is, if the MSHA program is working, and protecting the lives of workers, and if under the S. 343 we are going to be opening up safety and health standards that are working and protecting lives today, the burden ought to be on those who say why the present standards are not working.

The important question is not whether the various new other provisions are going to be adequate or sufficient or insufficient to permit the Secretary, under certain circumstances, to make certain certifications, based upon scientific information.

When a person is out there in the mine and has lost a brother in those mines, lost loved ones in the mines, and we see the dramatic change that has taken place in the mines in productivity, that is what is before the Senate, not some extraneous provisions about certification based upon other scientific information that is going to alter and change.

If the Senator has specific recommendations, the specific issuance of safety regulations that he believes under MSHA have been so bureaucratic, have been so outrageous, have been so intolerable, those are legitimate matters we should debate.

What we will debate and show is that because of the steps that have been taken by MSHA, the mines of this country have become a great deal safer.

That is the basic point. It is the basic point of this amendment, to say, look, it ain't broke, why alter it? Why change it? Why risk it? It is working and working effectively.

I dare say that with regard to occupational health and safety provisions that we have a similar kind of a result as well.

If we take, for example, on the OSHA—and as I mentioned earlier in the course of the debate, we find some 100,000 inspections that are conducted a year—if we have 99.9 percent good ones, we have done extremely well but 100 businesses are still unhappy. And I must say that under the leadership of Joe Dear, the head of OSHA, OSHA has done an extraordinary job in bringing that agency into a sensible, responsible position.

It always amuses me that when examples are raised about the abuses of OSHA, by and large it is under the administration of the previous administration—not of this one.

No one can tolerate that it is the previous administration or this one. We ought to free ourselves. When we have rules coming out and we have 99.9 percent accuracy, solid and sensible and responsible issuance, we still will have some that do not make any sense.

This is not a bad batting average, particularly when looking at what has happened in the annual occupational fatalities declining under OSHA from 1947, 1970 and 1993. These are the figures: 17,000, 13,000 and 9,000.

We can look back and we can either take the time of the Senate or not take the time of the Senate. If we looked at the decline in terms of fatalities prior to OSHA, even based upon the alterations and change in terms of the industrial direction of this country, we still see the dramatic, dramatic, dramatic results which I have mentioned. That is, the very significant decline in terms of fatalities.

That has to be worth something. We listened to our friends and colleagues talk about the person that issued some citation because the failure of publication of some safety standard say, "Well, therefore, we ought to abandon this kind of process." What we have to do is look at the results.

If you look at what is happening in terms of the current timeframe, under OSHA, for the issuance of various standard settings, the standard settings which have direct relationship to the killing of workers in the workplace and also occupationally hazardous conditions in it, you see a picture of delay.

At the present time the number of years, right here on the bottom of this chart, the number of years to complete the rules —take, for example, the cadmium standards. It has taken 3 years to issue these standards—17 deaths a year. Every year we fail to issue it, 17 deaths, plus 78 additional workers developing kidney disease each year.

We look at the confined spaces—17 years to issue these regulations. It took 17 years to do it; 54 deaths a year, 5,000 serious injuries a year.

The lockout/tagout standards—it took 9 years to get these regulations. It has taken 9 years. There were 122 fatal electrocutions a year. Mr. President, 122 electrocutions a year and 85,000 injuries per year that are going to be remedied with the issuance of those lockout standards.

The process safety management standards, that is to prevent chemical explosions—it has taken 5 years. It has taken 5 years for those. There are 26 deaths a year and 150 serious injuries per year. This is the time just on these matters. This is the amount of time it has taken just in these areas. Why? Because of hearings, because of peer review, because of open hearings about re-review, advisory committees, all of the rest of the process that goes on. That takes years and years and years.

If my colleagues want to extend all of those right out here and right across this, then you go ahead and implement S. 343. That is the basic result. Because of the series of petitions, the lookback provisions, the ability for various companies and corporations who are going to be affected by these standards to petition, we will undermine safety standards.

Who is out there to say that these kinds of factors, that we have demonstrated have a direct impact on the safety of working conditions for Americans, should not be addressed? Of course they should be addressed.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. KENNEDY. Mr. President, I see others who wish to address this issue on the floor. I yield myself 2 more minutes and then I will be glad to yield to the Senator from Illinois and then I will be glad to answer some questions on this.

But what we are basically saying is that we have a challenge as a country and a society to ensure that the workplace is going to be as safe as we can make it. There are always going to be accidents. But we ought to have, as a society, the sense that we are not going to be just producing widgets more efficiently and effectively and more dangerously than any other industrial country in the world. We should make every single attempt to try to make sure that the workplace is going to be safe and secure.

By and a large, the employers of this country are desirous to do it. And many of the States have moved ahead in very creative and imaginative ways, like the State of Washington, Oregon, other States as well, in terms of developing systems to be able to do that. And we are encouraging it and want to work and try to find more effective ways.

But the fact of the matter is, at the same time that we are seeing this wholesale assault that we are seeing on MSHA, reducing their budget by a half, we are also complicating their lives with limited resources to be even more dilatory in the publications of rules and regulations that have a direct correlation to the safety and security of those that work in the mines and those that work in other hazardous occupations.

All we are saying at the present time is, first of all, we have OSHA reform regulation that is before the Labor and Human Resources Committee that is being considered at the present time and on which we have had hearings. We have recommendations that have been made by our Republican friends on that committee—I yield myself 2 more minutes—by Republican friends on that committee, to try to work out ways to address, in a very important and significant way, some of the abuses that have been there. We are trying to work together to do that.

But what is happening now here on the floor of the U.S. Senate, S. 343, is, under the guise of regulatory reform, putting in danger the working conditions of workers in the mines of this country, in the most hazardous industry. Make no mistake about it, in the most hazardous industry in this country we are affecting, in an adverse way, protecting the health and safety of those workers without a single hearing and without any kind of due consideration. That is wrong. That is wrong.

For that reason I hope our amendment will be accepted.

To reiterate, if their petitions are granted, the rules will all be scheduled for review in the first 3 years.

This is particularly troubling because MSHA's budget is not growing; the Agency will have fewer people to perform these reviews, not more.

The House Appropriations Committee is in the process of slashing MSHA's budget, and the congressional budget resolution called for a 50 percent cut in MSHA's budget.

There is every reason to fear that even a supportive administration will be so overloaded and hamstrung that it will not be able to complete reviews of all scheduled rules, and they will be repealed, despite their proven effectiveness in savings miners' lives. But there is another problem.

The bill allows a hostile Secretary of Labor to put every safety and health standard up for review—and no one could challenge his action.

The bill provides: "The head of the agency may, at the sole discretion of the head of the agency, add to the schedule any other rule suggested by a commentator during the rulemaking under subsection (a)."

This in an invitation for real mischief. It is no wonder that mineworkers and others fear this bill and suspect that its real purpose is to roll back the regulations that have helped improve their lives.

And what about the future? What is the hope of making further progress in mine safety through sensible regulation, if this bill is enacted? If MSHA is forced to respond to a multitude of petitions and devote additional resources to the lookback process, there will be fewer resources available to develop new standards to deal with emerging threats to miners' lives. And because this bill adds so many new requirements to every rulemaking, each rule will take longer to complete and will be more expensive to develop.

MSHA has an important regulatory agenda, which includes updating 22-year-old air quality standards and addressing the hazards of diesel-powered equipment in underground coal mines. Diesel emissions at the levels commonly found underground have been linked to cancer and chronic lung disease, and diesel equipment poses the risk of fire or explosion. Rules to address these issues should not be delayed.

The same kind of considerations apply to the Occupational Safety and Health Administration, which—like MSHA—has had tremendous success in making America's workplaces safer and healthier.

We hear anecdotes repeatedly about OSHA's overzealous or misguided enforcement, and a small number of those stories are true.

But the plain, unvarnished fact is that OSHA and its State partners conduct 100,000 inspections a year. The handful of stories we hear about overzealous inspectors involve less than one-tenth of 1 percent of OSHA's annual inspections. Yet these anecdotes take on a political importance totally out of proportion to their true impact.

What we hear too little about is the tremendous positive impact of OSHA on the lives of America's working men and women.

Since the creation of OSHA in 1970, the fatality rate from on-the-job accidents has fallen 57 percent. This is an accomplishment we should celebrate, but almost no one in the Senate or in America ever hears this good news.

OSHA has worked. It has saved lives and it continues to save lives.

If Congress does not get in the way, I have no doubt that OSHA will be even more successful in the years to come, thanks to the groundwork laid by its current Assistant Secretary, Joe Dear, and Secretary of Labor, Bob Reich.

Some people have suggested that things improved on their own, that industry was getting safer before OSHA was created, and that OSHA has had no real impact. That is bunk.

As the charts I have with me show, it is true that workplace fatalities were falling before the act's passage in 1970, but the rate of improvement is far greater post-OSHA that pre-OSHA. In the 23 years before OSHA, death rates fell 43 percent. In the 23 years after OSHA, death rates fell 57 percent.

The real impact of OSHA has been even greater than these rates indicate, since such a large number of on-the-job deaths today are caused by murders and homicides which are risks that OSHA has never regulated.

These are impressive numbers, but they deal with only a small part of OSHA's mission. The act's greatest impact is on occupational health, not on accidental, traumatic deaths. And that impact is directly attributable to OSHA's regulations and standards, the subject of my amendment.

OSHA's regulations have been enormously successful in reducing the harm they were designed to address. Let me mention just a few of them:

Cotton dust. In 1978, OSHA issued a standard to protect the Nation's textile workers from brown lung, a crippling and sometimes fatal disease that destroy's the lungs, effectively strangling its victims. At that time, there were 40,000 cases of brown lung among textile workers.

Seven years later, after OSHA's standard had greatly reduced the level of cotton dust in the plants, the prevalence of the disease had declined to about 900 cases, a 98-percent reduction in the disease.

Industry fought the issuance of the cotton dust standard and predicted dire consequences. But the industry's cost estimates for compliance turned out to be wildly exaggerated, and it ignored the economic benefits of the standard.

As it turned out, the new machines installed to reduce dust exposure were so much more efficient that the industry's productivity and profits increased significantly.

The Economist magazine reported that the dust standards unexpectedly gave America's textile industry a leg up on the rest of the world.

Lead poisoning.—In 1978, OSHA issued a standard to protect workers from excessive exposure to lead, which accumulates in the blood, organs, and bones, causing anemia, brain and nerve disorders, high blood pressure, and reproductive illnesses.

Within 5 years, the number of workers in lead smelting and battery manufacturing plants with dangerously high levels of lead in their blood dropped by 66 percent, from 19,000 to 6,500—12,500 workers saved in those two industries, from the disabling and deadly effects of lead poisoning.

HIV and hepatitis B.—In December 1991, pursuant to legislation sponsored by Senator DOLE, Senator HATCH, Senator Mitchell, and myself, OSHA issued a rule to protect workers routinely exposed to blood or other infectious material from HIV, hepatitis B, and other bloodborne diseases. Some people have forgotten the urgency of that standard, now that it has done its job and workers are better protected.

But in 1990 there were 65 reported cases of health care workers becoming infected with HIV from on-the-job exposures, and in 1987, 3,100 health care workers contracted hepatitis B. In 1993, the first full year of employer compliance with the standard, hepatitis B cases among health care workers dropped 77 percent.

OSHA's job safety standards have also been highly effective.

Since OSHA revised its trench standard, which protects workers against cave-ins, the number of deaths in trench and excavation accidents has fallen 35 percent.

In a single month in 1977, 59 people were killed, and another 49 were seriously injured in grain dust explosions. Since OSHA's grain handling rule was issued in 1988, grain dust explosions have fallen by 58 percent.

No one denies that OSHA's fire protection and fall protection standards save lives, though we tend to forget it until something dramatic happens.

The Hamlet, NC, poultry plant fire where 25 employees died and 55 were injured, was a tragic reminder of what noncompliance with OSHA standards can mean for workers.

The Cleveland, OH, construction site where an OSHA inspector ordered compliance with fall protection just 2 days before a scaffold collapsed, and the two workers' lives were saved because of it, was a more positive reminder of the value of these standards.

Few Members of Congress know the facts about these agencies and the laws they administer, let alone the potential adverse effects of applying the Dole-Johnston bill to their standards-setting processes.

There have been no hearings in the Labor and Human Resources Committee on this bill's application to these agencies. The Department of Labor has never been given an opportunity to testify about S. 343 or regulatory reform by any Senate committee.

But one thing is clear, Mr. President, this bill will mean the addition of numerous new steps and months and years of delay in rulemaking at OSHA and MSHA.

OSHA has analyzed the effect the bill would have had on its recent issuance of a standard regulating worker exposure to cadmium, a chemical that causes cancer and kidney ailments. It estimates that S. 343 would have delayed the standard by at least 4 years.

Is delay somehow a good thing? Has OSHA been too hasty over the years in its standard setting? Has it rushed to judgment? Not at all. In fact, just the opposite is true.

OSHA's rules have been issued at a glacial pace that has constantly frustrated worker safety, regardless of which party controlled the executive branch. As the charts I have with me show, OSHA's rules often take many years to complete—17 years in the case of the confined space standard.

Will the bill's requirements lead to better standards?

No. OSHA and MSHA standards are governed by statutes that prohibit the use of cost-benefit analysis as a decisional criterion. And as has been made abundantly clear, the Dole-Johnston decisional criteria do not override the underlying statutory criteria. Because OSHA must set its standards to reduce significant risks of harm "to the maximum extent feasible," cost-benefit analysis cannot change the outcome of the rulemaking.

What sense does it make, therefore, to require OSHA to do elaborate analyses of the regional effects of a rule or to analyze the costs and benefits of numerous alternatives, when it is compelled by statute to choose the level of protection that reduces the risk to the maximum extent feasible?

Many Senators apparently believe that OSHA's rules have been too onerous and costly. In fact, they have not.

As a study recently reported in Scientific American makes clear, health and safety regulation has been a negligible cause of layoffs. The Bureau of Labor Statistics has for many years asked business owners and managers what they perceive to be the cause of layoffs they have ordered. According to the managers themselves, who are the people in the best position to know, environmental and safety regulations combined only cause one-tenth of 1 percent of layoffs.

In fact, OSHA's regulations often cost far less than industry predicts. I mentioned the case of cotton dust earlier, where the industry over-estimated the cost of the rule by 400 percent and failed to anticipate its benefits.

As Business Week magazine pointed out in its July 17 issue, other OSHA rules have also had positive economic effects.

The vinyl chloride standard, for example, succeeded in wiping out the cancer it was designed to prevent, but it also boosted industry employment, productivity, and profits by inducing investments in automated technology.

Will the risk assessment provisions lead to better decisionmaking? No.

OSHA and MSHA deal with recognized hazards of so great a magnitude that the bill can add nothing useful to their risk identification. Following Supreme Court cases, OSHA does not attempt to regulate risks less than one in a thousand, unlike other agencies that sometimes address risks as small as one in a billion.

Will OSHA benefit from the bill's peer review procedures? No. OSHA already employs the most robust peer review procedure of any agency in the Government.

Public hearings are held, on the record, on all proposed OSHA standards. Scientists, lawyers, and technical staff from academia or industry can cross-examine OSHA's staff and experts, submit comments for the record, and critique every document on which the agency relies. Every significant question is answered on the record and in the preamble to the final rule.

Because the bill's provisions will add nothing but expense and delay to worker safety and health rulemaking, my amendment adopts a different approach to this subject—an approach endorsed by seven Republican Senators and suggested by two of them, Senator BOND and Senator GREGG, both of whom were or are members of the Senate Republican Task Force on Regulatory Reform.

My amendment takes the language from the Gregg-Bond OSHA reform bill, S. 562, and applies it to OSHA and MSHA.

Rather than imposing a duplicative new layer of rulemaking procedures, the amendment requires that along with the publication of a final rule, the Secretary of Labor publish a certification that the rule was developed using good science and that its benefits justify its costs. An estimate of the costs and a comparative analysis of the risk addressed by the rule would also have to be published.

This is the sort of commonsense approach to regulatory reform that the American people want—a guarantee that top government officials will not publish rules without examining their costs and benefits, and assurance that they have employed good data and sound science.

The people do not want—and Congress should not impose—a rigid, one-size-fits-all bureaucratic maze that will complicate regulation without making it better.

OSHA and MSHA rules have worked. We should not attempt to fix something that is not broken.

I yield 7 minutes to the Senator from Illinois and then we will answer some questions.

The PRESIDING OFFICER. The Senator from Illinois is recognized for 7 minutes.

Mr. SIMON. Mr. President, I strongly support the Kennedy amendment. This bill, as it stands, is a bureaucracy builder, not a bureaucracy buster. I would just point out that Business Week has an article in the July 15 issue which suggests this is adversely going to affect business as well as working men and women.

But very specifically, the Kennedy amendment protects MSHA and OSHA, and protects working men and women. The Presiding Officer is from the Commonwealth of Pennsylvania, where there is a lot of coal mining. I am down in southern Illinois. From our home, a little community of 402 population, Makanda, the biggest big city, if I can call it that, is Carbondale, IL, which, as its name suggests, used to be a coal mining city. There are a lot of coal mines around there.

I talked to too many people who have lost husbands, fathers, grandfathers in coal mine disasters. I have been at too many entrances to coal mines while people wait. I have been to eastern Kentucky. Congressman Carl Perkins asked me to go there with him after a coal mine disaster in eastern Kentucky. We are not just talking about statistics, those statistics that Senator KENNEDY—if I could ask Senator KENNEDY's staff to put those coal mine statistics up there again?

Mr. KENNEDY. I will be glad to put them up there.

Mr. SIMON. You do an excellent job at that.

Mr. KENNEDY. I appreciate that.

Mr. SIMON. Take a look at what happens there. Those are not just statistics. We are talking about the lives of people. That has been a dramatic change for coal miners in southern Illinois, in Pennsylvania and elsewhere. Why change this when both the industry and the coal miners say this makes sense?

Let me give it from the viewpoint of OSHA. First of all, OSHA has just recently reviewed 33,000 pages of regulations and targeted more than 1,000 of those for elimination. Has OSHA been excessive, had too much minutiae in what they have been doing? No question about it. We have had too much regulation. But they are dealing with it and I am impressed by Joe Dear, who now heads OSHA, and what he is doing.

We had a witness who testified about problems with OSHA. I asked that witness to come that afternoon and asked the head of OSHA to come to my office. He was there. They are moving.

Trenches? 1990, trench deaths have fallen by 35 percent, since they put in their regulation on trenches.

Grain dust, a major problem in Midwest States, deaths from explosions in grain elevators. The grain dust—since 1988, according to the grain industry, the fatality rate in the industry has dropped by 58 percent. And the injury rate has dropped by 41 percent.

I would add here, even with the changes that we have made in OSHA, we still have, among the Western industrialized countries, the highest fatality and injury rate in manufacturing and in construction of any Western industrialized nation. If you adopt this legislation without the Kennedy amendment, let me tell you, the figures that you see right there on coal mine fatalities are going to go up. Just as certain as I am standing here, that is going to be the result.

Brown lung: In 1978, there were an estimated 40,000 cases affecting 20 percent of the industry's work force. I visited with these workers in southern Illinois and talked about this problem. By 1985 only 1 percent of the textile industry work force was affected by the disease.

Here we have OSHA—which, unquestionably, as we all know, has been excessive—getting hold of their situation. They are eliminating over one-third of the regulations they have. They are doing the job. Let us not interfere with the job that is being done well.

The coal miners of Pennsylvania, the coal miners of Illinois, and of every State that has coal mines, would plead with us, if they knew the details of this, they would plead with us to adopt the Kennedy amendment. And the same on OSHA.

I think it is extremely important that we protect our working men and women. OSHA is doing an improved job. OSHA is performing. There have been abuses, like in any good thing. Religion can be abused, education can be abused, affirmative action can be abused, anything can be abused. But OSHA basically has been doing a good job and improving the job. Let us not risk the future of our workers.

I strongly urge the adoption of the Kennedy amendment.

I yield the remainder of my time to Senator KENNEDY.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I want to take a few moments that we have at this time to go through at least some of the types of changes that have taken place in recent times which have made important differences in terms of the health and safety of workers in this country.

In 1978, cotton dust standards: OSHA issued a standard to protect the Nation's textile workers from brown lung, a crippling and sometimes fatal disease that destroys the lungs and effectively strangles its victims. At that time there were 40,000 cases of brown lung among textile workers. Seven years later, after OSHA, the standard had greatly reduced the level of cotton dust in the plants, the prevalence of the disease had declined to about 900 cases, a 98-percent reduction in the disease.

Those cotton dust standards were brought. The question was about the issuance of these standards, whether OSHA was complying with the existing law. That was the statute that had been approved by Congress. It went all the way up to the Supreme Court. The Supreme Court of the United States affirmed that it did. Effectively, that law was being challenged by the major textile companies, and the major textile companies had a different standard. The difference standard effectively is the kind of standard that is included in this legislation. That is a very practical way of describing and understanding what is at risk.

The industry fought the issuance of the cotton dust standards and predicted dire consequences. But the industry's cost estimates for compliance turned out to be widely exaggerated, and it ignored the economic benefits of the standard. As it turned out, the new machines installed to reduce the dust exposure were so much more efficient than the industry's, productivity and profits increased significantly.

Here was a major health standard resisted by the industry but saving thousands and thousands of workers who were working 40 hours a week, 52 weeks of the year, trying to bring up a family, working in the kind of conditions in which their lungs were effectively closed down. There are ways of dealing with it—by establishing limitations on the amount of cotton dust in the workplace. OSHA issued those regulations. As a result of it, thousands of workers are alive today.

That was resisted by the industry, the same industry that supports S. 343. They did not want those kind of standards then and they do not want future standards to protect the workers in those workplaces now.

That is what this thing is all about. You can talk about other things, such as trying to bring the most important and significant new scientific data. We are all for it; that is, the provisions to make sure there is an adequate review of the risk benefits and the bringing of the best in terms of the certification.

But when you have to wait months and years and years for the issuance of standards that can make a difference in terms of the lives of workers, why are we so willing to throw those out? Who on the floor of the Senate could say that there is an uproar across this country, by industries all across this Nation, or by workers that we are being closed down, that we are being put out of business? It is to the contrary, Mr. President.

A recent publication of Business Week talks about how industry in a number of different areas resisted the kind of health and safety standards for their industry, made wild claims about the cost and about what is it was going to mean in unemployment and all the rest. And after they implemented these various health and safety standards, they increased their profitability and productivity because the workers were able to work and work effectively and work harder.

Take another example: lead poisoning. In 1978, OSHA issued a standard to protect workers from excessive exposure to lead which accumulates in the blood, organs and bones causing anemia, brain and nerve disorders, high blood pressure and reproductive illness. Within 5 years the number of workers in lead smelting and battery manufacturing plants with dangerously high levels of lead in their blood dropped 66 percent—from 19,000 to 6,500—12,000 workers saved in those two industries from the disabling and deadly effects of lead poisoning—12,000 workers.

All of us here in the Senate want to work to find ways of eliminating irrational, irresponsible bureaucratic rules and regulations. But when you are talking about saving 12,000 workers from either death or serious injury, and you want to change the process, you want to change the way it is done, you want to open up the door for a lot more industries that are being directly required to implement those health and safety standards, you are putting at risk the lives and the well-being of those workers. Where is the outcry? Where is the outcry from our colleagues in terms of safety?

As I mentioned earlier in the presentations, the statements that are made by the organizations of miners have indicated that the kind of work that has been done in mine safety has been consistent with the increasing productivity.

Mr. BOND. Mr. President, as chairman of the Small Business Committee and chairman of the Regulatory Relief Task Force, I am looking forward to the opportunity to discuss the problems at OSHA and some potential solutions. I believe we will have this debate in earnest after next January 1, when Congress will finally have to comply with the Congressional Accountability Act. For the first time, thanks to the new Republican Congress, we will ourselves get a feel for what we have foisted upon the private sector for a generation, through OSHA regulations and the Fair Labor Standards Act and many others from which we have until now exempted ourselves. This amendment focuses attention on the Gregg-

Bond OSHA reform bill sooner than I expected.

When the Senator from New Hampshire and I introduced the OSHA reform bill in April, we tried to address many of the problems we had heard about from our constituents. And believe me, we have had complaints. We have had complaints of OSHA overreach and OSHA overzealousness from virtually every sector of employment: from bakeries to construction companies to restaurants and retailers to roofers to colleges and universities—we have heard about problems.

Now, I don't for 1 minute advocate abolition of the agency. I believe they are charged with an important public purpose: that is, protecting the health and safety of the American worker. No one disputes the importance of the purpose of the agency. But in this case, enforcement has been a problem.

Yesterday I outlined some of the examples of OSHA silliness: material safety data sheets for common household products, material safety data sheets which are required at every worksite but never looked at by the people they are supposedly protecting, and fines without purpose and without merit.

I hate to tell some of the inside-the-beltway, stuck-in-the-past crowd this, but safe business is good business. I have always believed that most employers have the best interests of their employees at heart. In many cases, employer and employee are neighbors, or members of the same church or parish, or have kids that attend school together. Employers want the best for their employees, and vice versa. But even those few employers who do not care are concerned about the bottom line. With the rising costs of worker's compensation, most employers want to do everything in their power to promote safety and health.

But OSHA still lives in the past, and takes an adversarial role to business. Instead of helping businesses comply with the many rules and regulations they set forth, they send an inspector—who may or may not know anything about the type of business they are inspecting—to a worksite to try to find as many violations as possible. The Gregg bill would codify OSHA's little used onsite consultation program, through which Federal funds are used to provide technical assistance to employers to assist them in complying with OSHA standards. That way, a hospital administrator who is uncertain about specific steps her nurses should take to comply with the bloodborne pathogen standard or the foreman at a construction site uncertain about how many ladders and rails should go up to meet the fall protection standard could call the regional OSHA office and have someone come out to help them come into compliance with the law. Consultation is a part of our bill, but the Senator from Massachusetts has left that, and other good provisions, out of his amendment.

I would like to devote a few moments to discussion of the cost benefit and risk assessment provisions the Senator from Massachusetts has included in his amendment. As he indicated, he has taken language directly from the Gregg bill. I am delighted that he agrees we should examine all OSHA rules, and not just those over $100 million. Perhaps it would not be too big a step to support the rest of the Gregg OSHA reform bill as well. But I must say, frankly, the cost benefit and risk assessment provisions in S. 343 are an improvement over what we envisioned in this bill. I think the Senator from New Hampshire would agree that we did not envision S. 526 as the "be all and end all" of OSHA reform. We are open to new ideas and improvements. And many of us—Senators DOLE, JOHNSTON, ROTH, NICKELS, and others—have spent the last several months working on the fine points of what is needed to achieve a fair regulatory system.

There are several important elements of S. 343 that Senator KENNEDY has left out of his amendment, including judicial review, the requirement that agencies use the least costly option to implement a proposed rule, and the opportunity for affected businesses to petition the agency for permission to implement an alternative method of compliance.

To carve out a special exemption for OSHA from the regulatory process we have laid out in S. 343 is just plain silly. S. 343 clearly permits rules affecting the health and safety of the American people to go into effect without delay. But if the Kennedy amendment were adopted, we would not have the opportunity to get rid of some of the silly OSHA regulations already on the books, that we have heard about over and over during the last few days. Businesses would not have the opportunity to petition for a review of material safety data sheets for Joy detergent, for instance.

So the Senator from Massachusetts has suggested that he will take our old language on the cost benefit and risk assessment verbatim, knowing that we prefer the new language. So I must ask my colleague from Massachusetts, why not take the whole bill?

Why not release the small business men and women of this country, including those in Massachusetts, from the burden of excessive paperwork and the threat of recordkeeping fines, as the Gregg bill does.

Why not release the small business men and women of Massachusetts, Missouri, and every other State from the threat of an OSHA citation—that is, fine—in each and every circumstance where a violation is found—even those that do not put workers at risk or where the employer acts immediately to correct the program. Our bill would give OSHA inspectors the discretion to issue a warning in lieu of a citation in those cases where either there is no danger to the workers or the employer has acted in good faith to correct a violation quickly.

Further, why not release the small business men and women of this country, who create the new jobs that provide paychecks to families, from the burden of large fines for paperwork, recordkeeping, or other relatively minor violations, as the Gregg bill does.

Those are the reforms we need in OSHA; we do not need to change the good language we have agreed on regarding reform of the regulatory process to accommodate the bureaucrats at OSHA.

I urge my colleagues to reject the Kennedy amendment.

Mr. KENNEDY. Mr. President, how much time remains? I know there are others who want to speak on this and are also interested in shortening the period.

The PRESIDING OFFICER. The Senator has approximately 10½ minutes of his time.

Mr. NICKLES. Mr. President, I wonder if my friend from Massachusetts will agree to a unanimous consent to reduce both sides by 5 minutes.

Mr. KENNEDY. How much time does that leave us?

The PRESIDING OFFICER. That would leave the Senator from Massachusetts approximately 5 to 6 minutes.

Mr. KENNEDY. Fine.

Mr. NICKLES. Mr. President, I will put the question. I ask unanimous consent to reduce the time allotted to both sides by 5 minutes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Oklahoma.

Mr. NICKLES. Mr. President, I yield myself 2 minutes.

I rise in strong, strong opposition to the amendment proposed by our friend, Senator KENNEDY. This amendment exempts OSHA. It exempts it from cost-benefit or risk assessment under this bill. If we are going to do that, why have a bill?

I heard my colleague say we are interested in safety and if you are not—almost imply that if you want this bill, you are not interested in safety, and that is totally incorrect.

Mr. President, I happened to be an employer before coming to the Senate. I wish I had all the OSHA volumes that are required for a small manufacturer. I wish I had those. They would not fit on this desk. And if you have 60-some-odd employees, you have reams and reams and reams of volumes, mostly written by unnamed bureaucrats that know very little about business telling you what to do, subjecting you to fines and penalties if you do not subscribe. To say that they should be exempt from cost-benefit or risk assessment is totally wrong—totally, completely wrong. I happen to care about public safety and the safety of our workers and any workers in America as anybody on this floor, but we need to rein in unnecessary regulations. That is what this bill is about. They should not be exempt.

So I would urge my colleagues to support our motion to table the Kennedy amendment.

Mr. JOHNSTON. Mr. President, will the Senator yield me 2 minutes?

The PRESIDING OFFICER. The Chair recognizes the Senator from Louisiana.

Who yields time?

Mr. NICKLES. Mr. President, I yield the Senator 2 minutes.

Mr. JOHNSTON. Mr. President, as I listened to the Senator from Massachusetts, you would have thought we were repealing OSHA and MSHA, repealing the underlying law that protects workers and miners.

Mr. President, this bill, the Dole-Johnston amendment, specifically takes into consideration that all of the standards of existing law remain in effect and are not overridden or changed.

Now, the Kennedy amendment is based on two false premises. First, that good science is somehow an enemy of health and safety. It is exactly the opposite. And second, that somehow the Dole-Johnston amendment does not allow you to take into consideration the value of life, health and safety. And the amendment specifically states that administrators, or agency heads may take into consideration and increase the cost of regulation in order for benefits, nonquantifiable benefits to health, safety, or the environment.

Moreover, Mr. President, the Kennedy amendment, while on the one hand seeming to suggest that you have to have benefits justifying the costs, in another provision about which I asked him, all the administrator has to do, if he does not want to comply with the fact that the benefits have to justify costs, is say he cannot do it. Why can he not do it? Well, he might not in good conscience be able to do it. He might not be able to do it because he disagrees. He might not be able to do it because he wants not to.

And what does he do if he does not make this certification that the benefits justify the costs? All he has to do is publish it and send a copy to the Congress and no problem. In other words, Mr. President, this permits the administrator to waste the taxpayers' money because admittedly the benefits do not justify the costs and no problem; we will continue to do business as usual and waste the taxpayers' money without helping health and safety.

The PRESIDING OFFICER. Who yields time?

The Chair recognizes the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, the issue is are we going to put at risk a set of procedures which have worked and which we want to perfect and which the committee is considering and on which we are prepared to work with our Republican colleagues by accepting a standard of using good scientific information and good cost-benefit analysis as was in the Gregg-Bond bill.

This is not something that was dreamed up by this side. It is a standard which has been included by seven Republicans to require a certification that there will be sound cost-benefit relations and the best in terms of scientific information will be available. We are prepared and urge that that be added to the existing criteria. But to say, well, we are prepared to use a complete new kind of way of regulating the health and safety of workers in the workplace as suggested in this bill I think is a great disservice and puts at serious risk the health and well-being of workers in this country.

How much time remains, Mr. President?

The PRESIDING OFFICER (Mr. COVERDELL). The Senator from Massachusetts has just over 4 minutes; the majority has 5½.

Mrs. KASSEBAUM addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Kansas.

Mrs. KASSEBAUM. Mr. President, I would like to yield myself 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. KASSEBAUM. I would just like to say as chairman of the Labor and Human Resources Committee, that there is no way that either the committee or this body would ever put at risk the lives of American workers. That is not what is in question here. And I find it very troubling that that is the message being conveyed on the floor of the Senate.

We would all agree that health and safety standards are enormously important. That is why there has been support over the years for OSHA. OSHA addresses workplace hazards by issuing safety and health standards. That has not been the question. But OSHA has also become one of the most intrusive of all Federal agencies, and that is one of the primary reasons why we need regulatory reform.

I do not understand, as the Senator from Illinois mentioned, why coal mining fatalities would increase simply because we would do a stronger cost-benefit analysis of regulations promulgated since April.

There has been much made about Senator GREGG's legislation which was, of course, drafted and introduced without knowing whether there would be a significant regulatory reform effort. Since we are now dealing with regulatory reform in this Chamber, Mr. President, OSHA must be considered as part of that process. And I think Senator GREGG's legislation, as he would acknowledge himself at this point, has been overtaken by events.

It is really very sad to me that somehow, some in this Chamber would say that workers' lives were being placed at risk when all we are trying to do is to make the regulatory process work in a positive and constructive way.

The Senator from Illinois acknowledged that OSHA itself is working to eliminate about one-third of their regulations. They are recognizing that changes need to be made. We have held two hearings in the Labor and Human Resources Committee, and we heard from many witnesses that changes must be made. But I think in no way does this regulatory reform legislation undermine that positive effort.

I do not know how much time I have remaining, Mr. President.

The PRESIDING OFFICER. The Senator has 30 seconds.

Mrs. KASSEBAUM. If I may yield myself another minute or two, I would ask the Senator from Delaware.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. KASSEBAUM. Let me just give you an example. For instance, OSHA is currently working on its indoor air quality regulation that it estimates may cost the business community about $8 billion to implement. This indoor air standard, according to OSHA, will prevent some respiratory diseases such as sick building syndrome, which can cause asthma, lung irritation, and other congestion.

Yes, that surely is a problem in some workplaces, but we are not talking about putting a price tag on human life necessarily in this instance. We are talking about congestion and irritation, and we are talking about a process that may become so regulatory and burdensome that we might lose the opportunity to have an effectively functioning work force. And we threaten our workers' job security when the burden becomes so onerous to both the business side and the work force side. To its credit, OSHA is now carefully examining that proposed regulation.

There has to be a balance. It has to be a positive one. There has to be worker protection through health and safety standards that operate to the benefit of both employer and employee. I would just suggest that this is not the time or the place to undermine the efforts that are in this legislation.

I urge my colleagues to defeat the amendment of the Senator from Massachusetts.

I yield the floor, Mr. President.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Massachusetts.

Mr. KENNEDY. I yield myself 15 seconds. Because of the failure of occupational health and lung and respiratory standards, the Department of Registry of Motor Vehicles in my State of Massachusetts just closed down. So I think it is something that is serious, at least in my State.

I yield 1 minute to the Senator from Illinois and the remaining time to the Senator from West Virginia.

The PRESIDING OFFICER. The Chair recognizes the Senator from Illinois.

Mr. SIMON. Mr. President, in response to my friend from Kansas, the reality is what we are doing is we are putting in effect a procedure that will lengthen the time in which MSHA and OSHA can respond to problems.

She mentioned indoor air quality. I do not know very much about it. I know I have been in some factories and it has been great. I have been in others where there clearly is a problem. We want balance, but why lengthen this procedure that is already one that takes years?

It just looks like a blip on the chart when you see the coal mine fatalities go up in 1984. I remember when we cut back on the number of coal mine inspectors and that went up, and then we put more back in and you see the line go down.

What we are doing is making it harder to get standards that make sense. I want balance. The Senator from Kansas wants balance. We will have that with the Kennedy amendment.

The PRESIDING OFFICER. The Chair advises the Senator from Illinois that his 1 minute has expired. The Senator from Massachusetts yielded the remaining time to the Senator from West Virginia.

Mr. BYRD. Mr. President, I thank the distinguished Senator from Massachusetts.

I rise in support of the amendment offered by the Senator from Massachusetts, which will clarify our Nation's policy toward protecting the American worker by exempting the mine safety and health regulations from the subjective cost-benefit analysis and risk assessment requirements in this proposed bill.

Recently, the Mine Safety and Health Administration, MSHA, recognized the 25th anniversary of the Coal Mine Health and Safety Act of 1969, which has led to a quarter-century of effective life-saving health and safety regulations in mining. On this anniversary, mine workers, managers, and owners all praised MSHA's achievements.

I believe Members of the Senate need to pause and consider the hazardous conditions and the risks to which hardworking miners are exposed.

During the 3-year period prior to passage of the act, an average of more than 250 workers died annually in coal mining accidents. Conversely, between 1992 and 1994, the average number of annual coal mining deaths totaled fewer than 50.

In addition, cases of black-lung disease, caused by inhalation of coal dust in the mines, have been reduced in the last 25 years by an average of 75 percent, and the prevalence of black lung disease among miners has declined by more than two-thirds.

I strongly support MSHA's efforts in improving mining safety conditions, and I am thankful for the lives saved because of the passage of the Coal Mine Health and Safety Act 25 years ago.

I urge all Members to support the amendment offered by the Senator from Massachusetts to assure all American miners that our Nation's prosperity will not come at the price of their health and well-being.

Mr. President, I yield back any time.

Mrs. KASSEBAUM addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Kansas.

Mrs. KASSEBAUM. Mr. President, I yield back all time remaining on our side and move to table the amendment of the Senator from Massachusetts. I ask for the yeas and nays.

The PRESIDING OFFICER. The Chair will note that the Senator from Massachusetts still has 17 seconds remaining.

Mr. KENNEDY. I yield back that time.

The PRESIDING OFFICER. The Senator from Massachusetts yields back his time.

Mrs. KASSEBAUM. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table amendment No. 1543. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from Indiana [Mr. LUGAR] is necessarily absent.

Mr. FORD. I announce that the Senator from New Mexico [Mr. BINGAMAN] and the Senator from Ohio [Mr. GLENN] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 58, nays 39, as follows:

[Rollcall Vote No. 307 Leg.]

YEAS—58

Abraham
Ashcroft
Baucus
Bennett
Bond
Breaux
Brown
Burns
Campbell
Chafee
Coats
Cochran
Cohen
Coverdell
Craig
D'Amato
DeWine
Dole
Domenici
Faircloth
Ford
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hatch
Hatfield
Heflin
Helms
Hollings
Hutchison
Inhofe
Johnston
Kassebaum
Kempthorne
Kyl
Lott
Mack
McCain
McConnell
Murkowski
Nickles
Nunn
Packwood
Pressler
Roth
Santorum
Shelby
Simpson
Smith
Snowe
Stevens
Thomas
Thompson
Thurmond
Warner

NAYS—39

Akaka
Biden
Boxer
Bradley
Bryan
Bumpers
Byrd
Conrad
Daschle
Dodd
Dorgan
Exon
Feingold
Feinstein
Graham
Harkin
Inouye
Jeffords
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moseley-Braun
Moynihan
Murray
Pell
Pryor
Reid
Robb
Rockefeller
Sarbanes
Simon
Specter
Wellstone

NOT VOTING—3

Bingaman
Glenn
Lugar

So the motion to lay on the table the amendment (No. 1543) was agreed to.

The PRESIDING OFFICER. The Chair recognizes the Senator from Iowa.

Mr. GRASSLEY. Mr. President, I want to respond to some unfortunate remarks that were made by my friend from Ohio, Senator GLENN, regarding some of the constituents of mine who have been mistreated by Federal agencies. These are examples, over each of the last 4 days, that my colleagues have heard me speak about on the floor of the Senate. And I used these examples of my constituents being mistreated by the bureaucracy as evidence of the need for the regulatory reform bill.

It is very interesting that my colleague from Ohio was interested enough in my constituents to go to those Federal agencies that had abused them and to get some talking points for their defense. I can understand wanting to get the story straight. We should all want to do that. But as most of us know, relying on an agency for the truth can be a big mistake. I say that to say the very least, because, after all, we are not——

Mr. WELLSTONE. Mr. President, can we have order in the Chamber so the Senator from Iowa can be heard?

The PRESIDING OFFICER. The Senator from Minnesota is correct. Will the Senate please come to order and Senators take their conversations to the cloakroom so that we might have order.

Mr. GRASSLEY. Mr. President, really the only person I care who hears this is Senator GLENN. But if everybody else wants to listen and see how what I said these last few days is accurate, I am going to go into those points. But, as I said, Senator GLENN went to the agency and got their side of the story.

There is nothing wrong with that, as long as they get the truth. But as most of us know, relying on an agency for the truth can be a big mistake, and I say that at the very least. After all, we are not having hearings on Waco and Ruby Ridge and Whitewater because Federal agencies and officials always tell the truth.

Now, in regard to the incident I related on Monday, about Mr. Higman of Akron, IA—that is in northwest Iowa, not Ohio—Akron, IA, northwest Iowa. Mr. Higman's was the gravel company that some of you may have heard me use as an example.

Senator GLENN stated that a Federal magistrate and a U.S. attorney approved the search warrant. That is all very true. But, as I said in my remarks on Monday, the Federal agencies, including even the magistrate and U.S. attorney, were relying on a phony informant who, by the way, was a disgruntled employee. And, by the way, Mr. Higman was acquitted. As I said, he, in the process, has lost $200,000 in either legal fees or lost business.

There were supposed to be firearms and machine guns on the property. What did they find? They found a loaded .22 used for rats and varmints, not a shotgun as was alleged by my friend from Ohio. And it is not a crime to have a loaded .22 rifle on your property. Of course, if the ATF and some of my colleagues had their way, there would be millions of people in hot water for having a loaded .22 on their property.

As for the so-called toxic waste that was on the property, the Senator from Ohio made an unfortunate insinuation that it could have been cyanide or something deadly. So, what was it? It was some drums of paint thinner. Maybe paint thinner should not have been on the property. But at least the Senator from Ohio acknowledged that Mr. Higman was acquitted. But then the Senator said that he found that Mr. Higman did not do it knowingly. The fact is, Mr. Higman did not do it knowingly because he did not do it at all. He did not do it at all. Who did store the waste on Mr. Higman's 300-acre property without Mr. Higman's knowledge? It was the paid informant that the EPA used. This paid informant, who, by the way, was offered $24,000 by EPA, was actually paid only $2,000. This paid informant had taken this waste, hid it on the property, and tried to sell it to people. And who did the Federal agencies go after? They went after the innocent small business owner, Mr. Higman, who was set up by this disgruntled employee.

The fact remains that innocent people were subjected to very harsh treatment by a large force of Federal agents, with guns brandished, because the owner had a .22 rifle.

Remember, this is a story where I said a shotgun was pointed in the face of an accountant sitting at her desk doing accounting. Where is the rationality of all of this? You know the story of Federal law enforcement agencies out of control. These are all getting too commonplace. And to defend these actions only makes things worse. We will have a lot about Waco and about Ruby Ridge to consider in this process.

There is one other instance that the Senator from Ohio used, and it will take me a couple of minutes and I will yield the floor. This is in regard to the grain elevator problem I talked about, the grain elevator problem where EPA made a rule that assumed that every grain elevator in my State was going to operate 365 days a year, 24 hours a day, emitting pollution into the air when, if one little elevator operated that long, that would be able to process all of the 10.3-billion-bushel corn crop of the entire United States. How ridiculous can the regulation be?

The Senator from Ohio said that the EPA is aware of this problem and that the EPA is working on this problem. The only reason the EPA is aware of this problem, and supposedly is working on this problem, is because I have introduced a bill to solve this problem and because I grilled Carol Browner, the EPA Administrator, on this problem before a committee. Ms. Browner has been so-called working on it now for 9 months and the problem is still there. The regulation is still on the books. And we are not getting very far.

As a matter of fact, the EPA has refused to communicate with the Feed and Grain Association since May, despite the statement of the Senator from Ohio that the EPA is working with the grain elevator operators and owners.

My question is, why was the EPA not aware of the problem before initiating such a stupid rule in the first place, and hence the need for this legislation? And even Ms. Browner acknowledges that this rule does not make sense. But do we see any changes yet? No. Because this is another example of Federal bungling and Federal inertia, and, hence, the need for this legislation.

So I want Senator GLENN to know, I want EPA to know, that I stand by my constituents and, regardless of whether U.S. Senators or Federal agencies bring their reputations into question, these people were and are still innocent small business people, trying to get by without being strangled by an out-of-control Federal bureaucracy.

The PRESIDING OFFICER. The Chair recognizes the Senator from Illinois.

Mr. SIMON. Mr. President, I offer an amendment in behalf of Senator WELLSTONE and myself.

The PRESIDING OFFICER. The Chair advises the Senator from Illinois that amendment No. 1539, offered by the Senator from Texas, is pending.

Mr. SIMON. I ask unanimous consent that be set aside so this amendment can be considered.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

AMENDMENT NO. 1547 TO AMENDMENT NO. 1487

(Purpose: To exempt rules and agency actions designed to protect children from poisoning)

Mr. SIMON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Illinois [Mr. SIMON], for himself and Mr. WELLSTONE, proposes an amendment numbered 1547 to amendment No. 1487.

Mr. SIMON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 25, between lines 22 and 23, insert the following:

"(g) EXEMPTION FOR THE PROTECTION OF CHILDREN.—None of the provisions of this subchapter shall apply to agency rules or actions intended to protect children against poisoning, including a rule—

"(1) relating to iron toxicity poisoning;

"(2) relating to lead poisoning from food products; or

"(3) promulgated under the Poison Prevention Packaging Act of 1970 (15 U.S.C. 1471 et seq.).

On page 49, line 21, strike "or".

On page 50, line 2, strike the period at the end and insert "; or".

On page 50, between lines 2 and 3, insert the following:

"(F) a rule or agency action a purpose of which is to protect children from poisoning, including a rule—

"(i) relating to iron toxicity poisoning;

"(ii) relating to lead poisoning from food products; or

"(iii) promulgated under the Poison Prevention Packaging Act of 1970 (15 U.S.C. 1471 et seq.)

Mr. SIMON. Mr. President, I am pleased to say that I think we have an amendment that will be agreed to. It is very simple. It says: None of the provisions of this subchapter shall apply to agency rules or actions intended to protect children against poisoning; including a rule, and it specifies three:

Iron toxicity poisoning. We had 28 children die of iron poisoning and those kinds of injuries in the last 3 years;

Relating to lead poisoning from food products. That is, cans that come in from other countries that use lead soldering in the top of the cans;

Third, promulgated under the Poison Prevention Packaging Act to protect children.

I believe my colleagues, Senator HATCH and Senator LEVIN, find the amendment acceptable. I do not want to speak for them.

Mr. HATCH. Mr. President, we are prepared to accept this amendment. I have to say there are some who are concerned about any exemption at this point in the bill. But I am prepared to accept it on behalf of the majority. I presume that the minority is prepared to accept the amendment.

Mr. LEVIN. Mr. President, we are not only prepared to accept the amendment, but we commend our friends from Illinois and Minnesota for offering this amendment and for pointing out the importance of so many of our regulations on health and safety and the risk that we take if we proceed down a road which might jeopardize some of those regulations unnecessarily or needlessly.

We certainly accept the amendment.

The PRESIDING OFFICER (Mr. GRAMS). Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Illinois.

The amendment (No. 1547) was agreed to.

Mr. SIMON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HATCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, we still want to have a few more votes today. It is my understanding that the Domenici amendment is being worked on, and the Hutchison amendment is being negotiated. We are hopeful that we can resolve both. If we cannot, in the case of Hutchison, I just suggest we get it up and vote on it, and do it as soon as we can. So that our colleagues need to understand what is going on. If there are any other amendments that should be brought to the floor at this time, I would sure like to have them so we can move ahead.

Mr. LEVIN. There will indeed be other amendments available should we want to proceed on additional votes. We are working currently on the Hutchison amendment, I understand, and on the Domenici amendment as well. They may be ready soon.

Mr. HATCH. Mr. President, I wonder if it would not be a wise thing for the interim periods like this when we do not have anything else to do, when we are waiting for people to come with their amendment, if we laid down amendments, such as the Glenn amendment, and debated them. There are a lot of differences between the two bills. That would be the best way for people to become informed on what is going on and what the differences are. It is also a methodology for us to get together and see if we can resolve some of the difficulties between the two bills. And then we will have a vote on the Glenn amendment as soon as we can, so everybody knows.

I think that also would help diminish the total number of amendments that we have. We would like to finish this bill and finish it as soon as we can. I think everybody is starting to feel that way. There is no reason for the delays.

In the meantime, I do not see any reason why those who have amendments should not be here right now presenting their amendments. We will set aside temporarily the Domenici and Hutchison amendments and allow any amendment to be presented.

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, it is our intention to lay down the Glenn substitute today. Senator GLENN is not here because of an illness in the family. Even in his absence, we intend to lay that down. I think it is important that the differences between the Glenn-Chafee amendment and the Dole-Johnston approach be laid out clearly. There are many remaining differences. There are many remaining issues to be resolved in the Dole-Johnston substitute for which amendments will be offered.

So even though Senator GLENN cannot be here, the Glenn-Chafee amendment will be laid down a little bit later on this afternoon. In the meantime, we are trying to resolve these other two amendments. There are other amendments available.

Mr. HATCH. Could I also ask the minority, since we have been accepting amendments over here and I understand there is really no logical or real objection to the Snowe bottled water amendment, I think we ought to get that accepted and move it through.

Mr. LEVIN. I am not familiar with the Snowe amendment. I am happy to become familiar with it.

Mr. HATCH. I think the Thomas amendment is one that can be accepted on your side. I think we could move those out of the way. We could certainly be moving forward on those. As soon as you give approval on that, we will go ahead.

Mr. LEVIN. I am not familiar with them. I assume our staff is.

Mr. NUNN addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. Mr. President, my remarks are not related to this legislation, if the managers need to interrupt my remarks. My remarks will not last long. But I do want to make them today in person.

TRIBUTES TO SENATOR JOHN C. STENNIS AT HIS FUNERAL IN MISSISSIPPI

Mr. NUNN. Mr. President, a number of us on the floor of the Senate paid tribute to our former colleague, John Stennis, shortly after his death on April 23 of this year.

From the days when he was the youngest judge in Mississippi, through his time as President pro tempore of this body, when he was third in the line of Presidential succession, John Stennis was a man of integrity, honor, judicious temperament, and great personal kindness.

A robber took the Phi Beta Kappa key he had worn since his graduation from the University of Virginia Law School—and almost took his life—but no one could ever take away the courage, kindness, and humility of this giant who served in this body for more than 41 years. He married a young home demonstration agent who had come to his county to help farm families improve their lives, and together he and Miss Coy demonstrated for 55 years what a happy, loving home could be. He loved his family, his country, and his State, and his great affection for the people of Mississippi was returned in equal measure.

A large delegation of both Democrats and Republicans, led by Senators COCHRAN and LOTT, journeyed to Senator Stennis' hometown, DeKalb, MS, for his graveside service on April 26. The service beautifully symbolized the life of John Stennis. It was simple, but powerful and inspiring, reflecting the quiet dignity, wisdom and humility that characterized the man.

Today I would like to enter into the RECORD the remarks made at Senator Stennis' funeral on April 26, 1995, at Pine Crest Cemetery in DeKalb, MS, by his son, John Hampton Stennis, and his minister, the Reverend Jerry Allan McBride, as well as the tribute sent by President Clinton, and a number of other tributes.

I ask unanimous consent that those tributes be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

A SERVICE IN THANKSGIVING FOR THE LIFE OF THE HONORABLE JOHN CORNELIUS STENNIS, PINECREST CEMETERY, DEKALB, MS, APRIL 26, 1995

REMARKS OF JOHN HAMPTON STENNIS

My sister, Margaret Jane, and I as we grew up in Kemper County during the mid-1940s were required to memorize passages. My mother handled the Bible; my father taught us patriotic sayings and poems.

First was the Pledge of Allegiance to the flag of the United States of America. Daddy taught from the small plaque I now hold. We were in the midst of World War II. He illustrated the meaning of the Pledge of Allegiance by Judge Learned Hands' address at "I Am an American day," entitled "The Spirit of Liberty":

"The spirit of liberty is the spirit which is not too sure that it is right; the spirit of liberty is the spirit which seeks to understand the minds of other men and women; the spirit of liberty is the spirit which weighs their interests longside its own without bias; the spirit of liberty remembers that not even a sparrow falls to earth unheeded; the spirit of liberty is the spirit of Him who, near two thousand years ago, taught mankind that lesson it has never learned, but has never quite forgotten; that there may be a kingdom where the least shall be heard and considered side by side with the greatest."

His patriotism did not consist of short and frenzied outbursts of emotions, but in the tranquil and steady dedication of a lifetime.

My father's oldest sister, Aunt Janie, had given him a copy of One Hundred and One Famous Poems With a Prose Supplement. We learned almost all these poems; I shall share a few lines from some.

From "Be Strong," Maltbie Davenport Babcock:

Be strong!
We are not here to play, to dream, to drift;
We have hard work to do, and loads to lift;
Sun not the struggle-face it; 'tis God's gift.

* * * * *

Be strong!
It matters not how deep intrenched the wrong,
How hard the battle goes, the day how long;
Faint not—fight on! To-morrow comes the song.

From "A Psalm of Life," Henry Wadsworth Longfellow:

Tell me not, in mournful numbers,
  Life is but an empty dream!—
For the soul is dead that slumbers,
  And things are not what they seem.

Life is real! Life is earnest!
  And the grave is not its goal
Dust thou art, to dust returnest,
  Was not spoken of the soul.

* * * * *

Let us then be up and doing,
  With a heart for any fate:
Still achieving, still pursuing,
  Learn to labor and to wait.

From an unknown poem about a young boy who watched his father go to the field behind a mule-drawn plow at sunrise and return at dusk:

I believe my father had a pact with God
To guide his plow and keep his furrow straight.

Finally, from Micah 6:8 of the New English Bible:

God has told you what is good;
and what is it that the Lord asks of you?
Only to act justly, to love loyally,
to walk wisely before your God.

SERMON BY THE REVEREND JERRY ALLAN MCBRIDE

When all is said and done, the most important words that will be said about John Cornelius Stennis will not be that he was a great statesman and United States Senator. He was certainly all of that; but he was so much more. In all of the ways by which we measure value in our society and our world, the person and spirit of this man transcended common worth. For the measure of John Stennis is found in his character and dignity. To his wife, he was a devoted husband and partner. To his children and grandchildren he was a loving father and grandfather and a wise teacher. To his friends he was a man whose friendship could always be counted on. To his country he was a leader who found his "power" only in the commitment to service. And to his state he was a shining example for the very best that is in all of us.

Above all, John Stennis was a man of faith. He spent his life in ministry that was just as dedicated as if he had donned the clerical robes of a minister in his beloved DeKalb Presbyterian Church. John Stennis believed that success was ultimately measured in terms of how faithful he was to the trust that the people had placed in him. And by all accounts, the trust of the people was never betrayed, and although he rose to the highest levels of political power, he never forgot who sent him, and what his mission was. I was so very touched when I walked into the Senator's home. It is a true monument to the goodness of John Stennis and his family. The simplicity of this great man's surroundings spoke of an inner wisdom and a real sense of what is ultimately important; and what is not. John Stennis never forgot where he came from and subsequently he never forgot who he was. The great prophet of social justice in the eighth century B.C., Micah, ask the question, What is it that the Lord asks of you?" And the answer, "to act justly, to love loyally, and to walk wisely before our God," describes the life of this true servant of the people.

So we gather today for all of the reasons that people come together at a time like this. We gather to celebrate the long and meaningful life of John Stennis, and we gather to mourn. Both are part of the cycle of creation. This great man meant so much to so many, and even though I did not know him personally, he knew me. And he knew all of the people who farmed the land, and worked the hills, and built the towns and cities of this our beloved state. John Stennis knew all Mississippians, and all Americans, and for that matter all people everywhere, and he left us such a legacy, and an example of how to live life as a public servant and a citizen of the world.

In the cynical, ego centric, and violent world which we live, it is important that we follow the good example that John Stennis has left us. He was so many things. He was ever a gentleman who never forgot that integrity was the only way to fully honor the trust of the people. He was a man of civility who never forgot that there is a right and a wrong way for men and women to disagree, and then come to a solution that will benefit the common good. Above all, John Cornelius Stennis was a man who, when he saw injustice would have no part of it, and he called us all to a higher standard of fairness and justice. He was a man who believed that service meant giving to others rather than gathering for himself.

In his campaign literature for the 1947 senatorial race, John Stennis stated what would be the standard for his life and his public service when he wrote.

"I want to go to Washington as the free and unfettered servant of the great body of the people who actually carry the burden of everyday life. I want to plow a straight furrow right down to the end of my row. This is my political religion and I have lived by it too long to abandon it now. I base my appeal to you on this simple creed, and with it I shall rise and fall."

By all accounts, John Cornelius Stennis always remembered the "great body of the people who actually carry the burden of everyday life." He remembered them because he was one of them. And by all measures, it can be said that John Stennis did in fact "plow a straight furrow." And not only did he plow it, but he watered, and tended, and harvested, and then he plowed again, and harvested again. John Stennis plowed the straight furrow and we are better because of who he was and what he did for everyone of us. We will miss John Stennis but because of the fruits of his life, which were justice, compassion, and integrity, we will never forget the furrow he plowed.

The liturgy, for Burial, is characterized by joy, in the certainty that "neither death, nor life, nor angels, nor principalities, nor things present, nor things to come, nor powers, nor height, nor depth, nor anything else in all creation, will be able to separate us from the love of God in Christ Jesus our Lord".

This joy, however, does not make human grief unchristian. The very love we have for each other in Christ brings deep sorrow when we are parted by death. Jesus himself wept at the grave of his friend. so, while we rejoice that one we love has entered into the nearer presence of our Lord, we sorrow in sympathy with those whom mourn.

May the souls of the faithful departed rest in peace.

APRIL 25, 1995.

To the Family and Friends of Senator John C. Stennis:

Hillary and I were deeply saddened by Senator Stennis' death, and we extend our heartfelt sympathy.

During more than four decades in the United States Senate, Senator Stennis proved himself to be a wise leader and a devoted patriot, consistently earning the respect of his colleagues and the support of the people of Mississippi. A grateful nation will honor his memory next December with the commissioning of the *John C. Stennis*, the next *Nimitz* class aircraft carrier. His positive influence on our nation's defense policies, his insistence on ethics among public officials, and his many personal examples of bravery remain an inspiration for all Americans.

John, Margaret, and the rest of you are in our thoughts and prayers.

WILLIAM J. CLINTON.

[From the Los Angeles Times, Apr. 24, 1995]

JOHN C. STENNIS; LONGTIME SENATOR

(From a Times Staff Writer)

Former Sen. John C. Stennis (D-Miss.), a deeply religious defense hawk who served four decades in the Senate and exercised a major influence on U.S. military policy, died of pneumonia Sunday afternoon at St. Dominic Hospital in Jackson, Miss. He was 93.

Nicknamed the "Conscience of the Senate" for his personal rectitude and his efforts to shape the upper house's code of ethics, Stennis retired in 1988. He had undergone cardiovascular surgery in 1983 and a year later had his left leg amputated because of a malignant tumor in his upper thigh.

As chairman of the powerful Senate Armed Services Committee for 12 years, beginning in 1969, Stennis played a key role in fighting off deep cuts in the defense budget. He opposed judicial efforts to desegregate public schools in 1964, but three decades later he supported extending the Voting Rights Act.

Close to eight presidents, Stennis was the last of the classic Southern gentlemen who so forcefully shaped the character of the mid-century Senate. He was crusty yet courtly, a stern moralist with an almost mystical devotion to the Senate.

"He was a great senator in every way," Sen. Thad Cochran (R-Miss.) said Sunday. "He was effective, respected and deeply appreciated by the people in Mississippi. He was truly a man of great stature."

Stennis himself was more modest about his place in history. "How would I like to be remembered?" he mused in a 1985 interview. "I haven't thought about that a whole lot. You couldn't give me a finer compliment than just to say, 'He did his best.'"

Despite his genteel manners, Stennis could be tough. Early in 1973, when the senator was 71, he was held up by two young hoodlums in front of his home in northwest Washington. They robbed him and then shot him twice. One bullet pierced his stomach, pancreas and colon.

Surgeons at the Army's Walter Reed Hospital at first doubted he would survive. But then-President Richard Nixon, emerging from Stennis' hospital room, predicted that the senator would make it because "he's got the will to live in spades." Within eight months, Stennis was back on the Senate floor.

Stennis attributed his remarkable recovery to prayer and to his excellent physical condition, achieved from years of exercising in the Senate gym.

"I just prayed that I could be useful again," he said, reflecting on his ordeal. "That's what the consuming thought was, the consuming question—could I survive and be useful I decided that I could."

Stennis displayed a different kind of toughness in 1954 when he served on the select committee that probed charges against the late Sen. Joseph R. McCarty (R-Wis.) and became the first Senate Democrat to call for censure of the free-swinging Wisconsin lawmaker. Although Stennis was a dedicated conservative and an outspoken foe of communism, he was offended by McCarthy's tactics.

During the censure debate, Stennis rallied support from many colleagues who had been afraid to attack McCarthy. In a vigorous speech, he accused McCarthy of besmirching the Senate's good name with "slush and slime."

That same year Stennis was one of the first members of Congress to caution against U.S. involvement in Indochina.

In a Senate speech delivered when the Eisenhower Administration was considering intervention to prevent a French disaster in Vietnam, Stennis presciently warned that committing U.S. ground forces could lead to "a long, costly and indecisive war."

Yet 11 years later, when President Lyndon B. Johnson made a large scale commitment to fight in Vietnam, Stennis loyally backed his commander in chief. "Once the die is cast and once our flag is committed and our boys are sent out to the field, you will find solid support for the war from the South," he said.

He also firmly backed defense spending throughout his career, supporting the Pentagon even when the Vietnam War made weapons procurement unpopular. "If there is one thing I'm unyielding and unbending on, it is that we must have the very best weapons," he once said.

As the Vietnam War wound down, however, Stennis co-sponsored the War Powers Act of 1973, which limits the President's power to send troops into combat without congressional consent.

Senate liberals clashed frequently with Stennis on subjects ranging from defense spending to civil rights, but they invariably praised him for his fairness and courtesy.

And those were the qualities he praised.

From the time he entered politics in 1928 as a member of the Mississippi Legislature, he tried to base his life on this motto: "I will plow a straight furrow right down to the end of my row."

That slogan reflected his rural background. John Cornelius Stennis was born Aug. 9, 1901, in DeKalb, Miss., and grew up on a cotton and cattle farm in what he described as the "poor end of the poor end" of his state. He graduated from Mississippi State University and the University of Virginia Law School, and served as a district attorney and circuit judge before entering politics.

His Scots Presbyterian parents taught him to appreciate the value of a dollar. "I was raised to believe waste was a sin," he once said. Stennis practiced that belief with a vengeance: He carefully saved all the string from packages that arrived at his home.

As a courtly Southern gentleman, Stennis was known to interrupt a Senate committee hearing to find a seat for a woman spectator. But he had little tolerance for miniskirts and other modern feminine trends.

When a female Senate aide once sat on a sofa wearing a skirt that exposed a good deal of her thigh, Stennis averted his eyes and grumbled to a colleague: "I'm going to get a bolt of cloth so that lady can finish her dress."

After his retirement, Stennis served as executive-in-residence at the Mississippi State University campus in Starkville. The university houses the John C. Stennis Institute of Government and the Stennis Center for Public Service, created by Congress.

"I do believe the most important thing I can do now is to help young people understand the past and prepare for the future," Stennis said in 1990. "As long as I have energy left, I want to use it to the benefit of students."

Stennis is survived by two children. His wife, Coy Hines Stennis, whom he always called "Miss Coy," died in 1989.

ABILITY TO ADAPT HELPED STENNIS ENDURE AND MISSISSIPPI ADVANCE

(By Butch John and Jay Hughes)

U.S. Sen. John C. Stennis was remembered Sunday as a man willing and able to adapt to sweeping change in Mississippi without surrendering his dignity or his devotion to its people.

A staunch segregationist during his early years in the U.S. Senate, he became an enthusiastic proponent of equality for all Mississippians in his later years, former state Democratic Party Chairman Ed Cole said.

"He had a deep and abiding respect for people, even when they disagreed with him. He had a deep and abiding faith in the good of people, all people," said Cole, the first black political professional employed by Stennis.

Hired in 1981 to work in Stennis' Jackson Congressional Office, Cole said Stennis, 93, who died Sunday of pneumonia, never forgot the people who helped his four-decade career in the U.S. Senate.

And his state won't forget him, said Gov. Kirk Fordice, who ordered flags at state offices lowered to half-staff in mourning for Stennis.

"All of Mississippi mourns for John C. Stennis, one of the outstanding Americans ever to serve in the United States Senate," Fordice said. "His service to this state was long and faithful."

Fordice, a Republican said he once served on Stennis' local reelection committee in Vicksburg at the senator's request, "probably as a note of bipartisanship."

"He was that kind of guy," Fordice said. "In the olden days I think there was a lot less partisanship."

Stennis never fell prey to many politician's flaw of forgetting the people who put him in office, Cole said.

"I was constantly amazed how he remembered the small things people did for him—seven, eight, nine races before," Cole said. "He would often have you drive up a back road to see some farmer who nobody knew about, and nobody knew Sen. Stennis knew anything about. He never forgot them."

Others who knew him said he never lost his down-home touch despite a rocketlike rise to some of the most powerful positions in the Senate.

"We used to travel some together, go around in the district and to other places. He always would tell me, 'Let's get some ice cream; that's my weakness.' Wherever we were, we'd go get it. That was just the way he was," said 3rd District U.S. Rep. Sonny Montgomery, who served with Stennis for 23 years.

"He was one of the stalwarts for the state of Mississippi," said state Sen. David Jordan of Greenwood, who as an early civil rights supporter found himself on the other side of Stennis' pro-segregation stand.

"I would have liked to have seen him more open to all of the state. We didn't always have the access to him that some of the white folks had. But over the years he changed. He became a statesman for all of the people."

Former Lt. Gov. Evelyn Gandy said Stennis remained in close contact with state officials throughout his stay in Washington. When there was a problem, she said, Stennis would make a point to fix it.

"His heart was with the people of Mississippi, and he responded to their needs, and he helped those of us who were elected at the state level to respond to those needs," she said.

Rex Buffington, Stennis' press secretary from 1978 until the senator retired in 1988, said the key to Stennis' power sprang from his reputation.

"A lot of that came from being committed to doing the right thing. A lot of his power and influence came, not just from the positions that he held, but from the esteam that people held him in," Buffington said.

Buffington said he admired Stennis long before going to work for him, and when he took the job he was concerned that in Washington he would find a man much different from his public reputation.

"What I found when I got there was just the opposite. He was an individual who was even greater than that wonderful image," he said. "It was incredible, really, working for a legend, and one who lived up to and even exceeded his reputation."

Almost immediately after leaving office, Stennis' health began to seriously fail and he was forced to drop out of all public life, Buffington said.

"The senator that we knew has really been gone for a while," he said. "It was as though when he left the Senate he finally let go."

Buffington now serves as executive director of the Stennis Center for Public Service at Mississippi State University. It was created by Congress in 1988 to attract young people to public service careers.

Former Gov. William Winter campaigned for Stennis when Stennis first ran for the Senate in 1947. He later served as his legislative assistant.

"He represented, to me, what a public leader ought to be like," Winter said. "His total commitment to public service, his integrity, his impeccable personal character and his qualities as a true gentleman."

"During his service in the United States Senate, Mississippi had one of the most effective and highly respected senators that this or any other state ever had," Winter said. "We shall not soon see his like again."

Others echo Winter's assessment.

"He truly was a man of great stature. He will long be remembered as one of the finest senators Mississippi ever produced," said U.S. Sen. Thad Cochran, a former colleague. "He never said anything bad about anybody else and looked for the good in others. He was appreciated for that. People noticed that."

Former Gov. Ray Mabus, currently ambassador to Saudi Arabia, called Stennis "a statesman for the ages."

Mr. NUNN. Mr. President, John C. Stennis devoted his long life to public service. He encouraged, taught, and inspired many Senators and Senate staffer members, and was the model for many young people who have entered public service, not only in Mississippi but throughout this country. The John C. Stennis Center for Public Service at Mississippi State University continues that work with programs for young people and for current public servants at the local, State, and Federal level. Starting with the 103d Congress, the center began conducting leadership workshops for senior congressional staff members. Senator Stennis' strong commitment to honorable public service will live on through the work of the Stennis Center, and through the countless lives he influenced.

I thank the Chair.

Mr. HATCH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMPREHENSIVE REGULATORY REFORM ACT

The Senate continued with the consideration of the bill.

Mr. HATCH. Mr. President, I ask unanimous consent that the pending amendment be temporarily laid aside so we can present another amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1548 TO AMENDMENT NO. 1487

(Purpose: To extend the terms of permits for grazing on National Forest System lands to allow time for compliance with the National Environmental Policy Act of 1969 in connection with permit renewals)

Mr. HATCH. Mr. President, I send an amendment to the desk, for and on behalf of Senator THOMAS of Wyoming, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Utah [Mr. HATCH] for Mr. THOMAS, proposes an amendment numbered 1548 to amendment No. 1487.

Mr. HATCH. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following:

SEC. . RENEWAL OF PERMITS FOR GRAZING ON NATIONAL FOREST LANDS.

Notwithstanding any other law, at the request of an applicant for renewal of a permit that has expired before, on, or after the date of enactment of this Act for grazing on land located in a unit of the National Forest System for which a land and resource management plan under section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604) is in effect, if all action required under the National Environmental Policy Act of 1969 with respect to the land and resource management plan has been taken, the Secretary of Agriculture shall reinstate, if necessary, and extend the term of the permit until the date on which the Secretary of Agriculture completes action on the application, including action required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(b) This section shall apply only to permits that were not renewed solely because the action required under the National Environmental Policy Act had not been completed.

Mr. HATCH. Mr. President, it is my understanding that this amendment has been cleared by both sides. We are prepared to accept it and make it part of the Senate bill. I ask the distinguished Senator from Michigan if that is correct.

Mr. LEVIN. The amendment is acceptable on this side, Mr. President.

Mr. HATCH. I urge adoption of the amendment.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment.

So the amendment (No. 1548) was agreed to.

Mr. HATCH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATCH. Mr. President, I again ask unanimous consent that the pending business be temporarily set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1549 TO AMENDMENT NO. 1487

(Purpose: To amend the Federal Food, Drug, and Cosmetic Act to modify the bottled drinking water standards provisions to require the establishment of regulations relating to contaminants in bottled drinking water)

Mr. HATCH. Mr. President, I send another amendment to the desk and ask for its immediate consideration. I send this amendment for and on behalf of Senator Snowe, our Senator from Maine.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Utah [Mr. HATCH], for Ms. SNOWE, for herself, Mr. KEMPTHORNE, Mr. COHEN, Mr. LEAHY and Mr. LIEBERMAN, proposes an amendment numbered 1549 to amendment No. 1487.

Mr. HATCH. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the substitute amendment insert the following new section:

SEC. . BOTTLED WATER STANDARDS.

Section 410 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 349) is amended—

(1) by striking "Whenever" and inserting "(a) Except as provided in subsection (b), whenever"; and

(2) by adding at the end thereof the following new subsection:

"(b)(1)(A) Not later than 180 days after the Administrator of the Environmental Protection Agency promulgates a national primary drinking water regulation for a contaminant under section 1412 of the Public Health Service Act (42 U.S.C. 300g-1), the Secretary, after public notice and comment, shall issue a regulation under this subsection for that contaminant in bottled water or make a finding that the regulation is not necessary to protect the public health because the contaminant is contained in water in public water systems (as defined under section 1401(4) of such Act (42 U.S.C. 300F(4))) but not in water used for bottled drinking water.

"(B) In the case of contaminants for which national primary drinking water regulations were promulgated under section 1412 of the Public Health Service Act (42 U.S.C. 300g-1) before the date of enactment of the Comprehensive Regulatory Reform Act of 1995, the Secretary shall issue the regulation or publish the finding not later than 1 year after such date of enactment.

"(2) The regulation shall include any monitoring requirements that the Secretary determines appropriate for bottled water.

"(3) The regulation shall require the following:

"(A) In the case of contaminants for which a maximum contaminant level is established in a national primary drinking water regulation under section 1412 of the Public Health Service Act (42 U.S.C. 300g-1), the regulation under this subsection shall establish a maximum contaminant level for the contaminant in bottled water that is at least as stringent as the maximum contaminant level provided in the national primary drinking water regulation.

"(B) In the case of contaminants for which a treatment technique is established in a national primary drinking water regulation under section 1412 of the Public Health Service Act (42 U.S.C. 300g-1), the regulation under this subsection shall require that bottled water be subject to requirements no less protective of the public health than those applicable to water provided by public water systems using the treatment technique required by the national primary drinking water regulation.

"(4)(A) If the Secretary fails to establish a regulation within the 180-day period described in paragraph (1)(A) of the 1-year period described in paragraph (1)(B) (whichever is applicable), the national primary drinking water regulation described in subparagraph (A) or (B) of such paragraph (which is applicable) shall be considered, as of the date on which the Secretary is required to establish a regulation under such paragraph, as the regulation applicable under this subsection to bottled water.

"(B) Not later than 30 days after the end of the 180-day period, or the 1-year period (whichever is applicable), described in subparagraph (A) or (B) of paragraph (1), the Secretary shall, with respect to a national primary drinking water regulation that is considered applicable to bottled water as provided in subparagraph (A), publish a notice in the Federal Register that—

"(i) sets forth the requirements of the national primary drinking water regulation, including monitoring requirements, which shall be applicable to bottled water; and "(ii) provides that—

"(I) in the case of a national primary drinking water regulation promulgated after the date of enactment of the Comprehensive Regulatory Reform Act of 1995, the requirements shall take effect on the date on which the national primary drinking water regulation for the contaminant takes effect under section 1412 of the Public Health Service Act (42 U.S.C. 300g–1); or

"(II) in the case of a national primary drinking water regulation promulgated before the date of enactment of the Comprehensive Regulatory Reform Act of 1995, the requirements shall take effect on the date that is 18 months after such date of the enactment.".

Mr. HATCH. Mr. President, I understand that both sides have agreed to accept this amendment. Therefore, I urge adoption of the amendment.

Mr. LEVIN. Mr. President, the amendment is acceptable on this side. My understanding of the amendment, and I would like perhaps confirmation of this from my friend from Utah, is that this amendment gets into the problems that have been created for the bottled water industry by the delay in getting the rules which they are waiting for accepted and promulgated.

If my understanding is correct, this is an instance where it is the business community that wants the rule. Sometimes we think it is the business community alone that is bothered by burdensome regulations. There have been too many instances where there have been burdensome regulations. There has also been many instances where there were critically necessary regulations, and the struggle we are going through is to try to come up with reform which will leave in place the essential process to protect our health and safety.

But my understanding of this amendment is that in the case of the bottled water industry, we have an industry which has been waiting for regulation, asking for regulation in order to stop people from representing on bottled water that it, for instance, might be spring water if it is just tap water.

We need, we are told by the bottled water industry, the agency to act, and the delay in this is actually hurting an industry.

So this is an instance where it is the industry which is trying to get through a regulatory process, trying to get a rule which will both protect it from bottled water which is misrepresented as something other than it is not, and we also had the situation where this was caught up in a moratorium.

One of the arguments against the moratorium is while it may sound good at first blush, the problem is we have a whole lot of businesses, as well as people, waiting for safety and environmental and health rules, that are awaiting the regulatory process to work.

I have not had a chance to study this amendment, and I want to make sure my understanding is correct, but it is my understanding that the purpose of this amendment is an attempt to get the bottled water regulations finally adopted; is that correct?

Mr. HATCH. As I understand it, the Senator has stated it correctly. This is the situation where regulation can be a very good thing if it is appropriately done. And, in many cases, it can be a very good thing. And so I commend the Senator from Maine for bringing it forth at this time. I believe the Senator is correct. I urge adoption of the amendment.

Ms. SNOWE. Mr. President, I want to first thank the majority leader and Senator HATCH for working with me and Senators COHEN, KEMPTHORNE, LEAHY, and LIEBERMAN on this amendment. Throughout this process, they have clearly demonstrated their strong support for the bottled water industry and for bottled water consumers, and they deserve to be commended for their cooperation and good work.

I also wanted to clarify a couple of points that were raised during the discussion on the amendment between Senator HATCH and Senator LEVIN. First, it is definitely correct that the amendment is supported by the bottled water industry. In fact, this legislation has been one of the bottled water industry's biggest priorities for the past couple of years.

Second, Senator LEVIN referenced the FDA's standards for defining spring water. This amendment does not apply to the FDA's spring water definition rules. It applies only to public health standards for bottled water.

In addition, I wanted to point out that the big issue here is more the discrepancy in timing between the EPA's and the FDA's issuance of rules for tap water and bottled water, respectively, than it is the bottled water industry's level of enthusiasm for Federal regulation. The bottled water industry does have an interest in the promulgation of reasonable regulations that provide additional assurances of the safety of its product, but the industry's biggest interest is in making sure that the FDA does not take too long in issuing its regulations for bottled water after the EPA promulgates regulations for tap water. And I will explain why in a moment.

I also wanted to thank Senator KEMPTHORNE, who chairs the Subcommittee on Drinking Water, Fisheries, and Wildlife, for his assistance in getting this amendment adopted. My motive in offering the amendment to the regulatory reform bill was to provide another option by which we can get the legislation enacted, giving it a better chance of ultimate success. But I think it is important to recognize that Senator KEMPTHORNE has been working on this issue as part of the Safe Drinking Water Act reauthorization bill that he is now drafting, and that he will continue to do so as that bill moves through the Environment and Public Works Committee. I commend him for his efforts on this issue, and I look forward to working with him during the SDWA reauthorization process so that we can give this urgently needed legislation another opportunity for eventual adoption.

Mr. President, my amendment, which is cosponsored by Senators COHEN, KEMPTHORNE, LEAHY, and LIEBERMAN, is designed to make the regulatory process for bottled water more efficient and responsive, while expanding health protections for the consuming public.

Under current law, bottled water is considered a food product, and is therefore subject to the Federal Food, Drug, and Cosmetic Act. My amendment requires the FDA, which has jurisdiction over bottled water, to publish final regulations for a contaminant in bottled water no more than 6 months after the EPA has issued regulations for that same contaminant in public drinking water or tap water.

Unfortunately, the FDA has a history of long delays in issuing its regulations for bottled water after EPA publishes its standards for tap water. On December 1, 1994, FDA published a final rule for 35 contaminants in bottled water. Nearly 4 years earlier, however, in January 1991, the EPA regulations for these contaminants had already been issued.

In another case, it took the FDA 4 years to issue regulations for a series of volatile organic chemicals in bottled water after the EPA issued regulations for those chemicals in public drinking water in 1989. And presently, final regulations for 23 new contaminants in bottled water are still pending at FDA, even though the EPA's version of the regulations went into effect in January 1994—a year and a half ago.

While the FDA takes its time, bottled water producers and consumers are left in limbo. In the absence of Federal standards, the bottled water industry, which is composed of 430 bottling facilities in the United States, is vulnerable to charges that its product is unsafe. In fact, the Administrator of the EPA suggested publicly on two occasions that bottled water was not fully protected because the FDA had not issued certain regulations that had already been issued by the EPA for public drinking water.

Of course, charges that bottled water is unsafe or unprotected couldn't be further from the truth. Bottled water is subject to strict industry safety standards and to various State rules. But the Federal standards do provide an important additional assurance for consumers nationwide. Without these standards, consumers may question whether bottled water is really a safe, natural, and healthy alternative to tap water, and sales in the industry could be unnecessarily dampened. Not only do consumers lose when the bureaucracy drags its feet, but an industry that employs thousands of Americans loses.

My amendment will ensure a more expeditious response in the future. In addition to the 6-month deadline for new contaminants, the FDA will be given 1 year to issue final regulations for contaminants that the EPA already regulates, but that have not yet received new FDA standards for bottled water. If the FDA fails to meet either the 6-month or 1-year deadlines, the existing EPA standard is automatically implemented for bottled water.

In some cases, FDA may determine that a particular contaminant regulated by EPA does not occur in bottled water. My amendment would allow the FDA to simply publish such findings in the Federal Register before the deadline periods expire.

The amendment also stipulates that in all cases, the FDA standards for bottled water must be at least as stringent as the EPA's standards for public drinking water. The bill does reserve the FDA's right to issue more stringent standards, however, adding an extra measure of public health protection, if necessary.

It is my hope that this amendment will prompt the FDA to coordinate its regulatory activities for drinking water with the EPA from the beginning, before either agency issues a notice of proposed rulemaking. By coordinating in this process, the agencies could issue their regulations at roughly the same time. The amendment would therefore have the effect of improving the efficiency of the Federal regulatory process—something all of us agree is necessary—while enhancing health protections for consumers. It represents a clear win-win proposition for all of our constituents.

The bottled water industry generates $2.7 billion in sales annually, and it serves millions of American consumers, with the potential to serve even more. Surely, these producers and consumers alike deserve the kind of consideration from their Government that my amendment guarantees. I am pleased to see that Senators on both sides of the aisle agree and support the amendment.

Mr. LEAHY. Mr. President, I am glad to be a cosponsor of Senator SNOWE's amendment which is the exact language of S. 412 regarding bottled water quality standards. Like many other enterprises from heart surgery to hang-gliding, the bottled water industry needs nationwide regulations that ensure the quality of its product.

The Food and Drug Administration [FDA] has been very slow in issuing regulations that guarantee a particular standard of quality. In fact, the FDA has lagged behind the Environmental Protection Agency [EPA], sometimes by a matter of several years. The net result is that some water companies can legally distribute water that is less healthy than ordinary tap water. This is bad for consumers, bad for honest businesses, and underscores one of the reasons why our Nation is supportive of regulated standards.

I am particularly interested in this amendment because of a Vermont business that has a clear interest in enforceable standards of quality. The Vermont Pure Springs Company of Randolph Center, VT, is one of the great success stories of Vermont's growing specialty food industry. Vermont Pure Springs produces, in my opinion, the best bottled water in the world—Vermont Pure Natural Spring Water. In fact, I invite each of my colleagues to stop by my office to taste this water—I keep about a dozen bottles of Vermont Pure water in my refrigerator.

Each bottle of Vermont Pure Natural Spring Water contains water that is naturally filtered through Vermont mountain rock strata for at least 12 to 20 years. Some of Vermont Pure Springs' competition comes from companies whose water is not only not as pure as Vermont Pure, but may in fact have pollutants that are illegal in tap water. Since its beginning in 1990, Vermont Pure Springs has been seeking the regulatory guidance in this amendment to ensure its water is known throughout the world and guaranteed by our Government as Vermont Pure.

The provisions of this bill ensure that whenever the Environmental Protection Agency issues new standards for drinking water, the FDA will have 180 days to issue regulations that address the same contaminants to the minimum standard required by the EPA. If the FDA does not issue formal regulations, the EPA drinking water standards apply to bottled water. In the case of EPA standards that have already been established and the FDA has not yet acted, the FDA has 1 year to act before the EPA standards automatically apply. This bill allows the FDA to hold bottled water to a stricter standard, but ensures that bottled water will be held to a minimal standard

I appreciate the opportunity to consider this amendment today. I look forward to moving this particular legislation through Congress so that it may be signed by the President.

The PRESIDING OFFICER. Is there further debate?

The question is on agreeing to the amendment.

The amendment (No. 1549) was agreed to.

Mr. HATCH. Mr. President, I move to reconsider the vote.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATCH. Mr. President, it appears that we cannot get the Hutchison amendment completed and negotiated in a way that is satisfactory to both sides. It is my understanding that the distinguished Senator from Texas is prepared to go to a vote on the amendment. I hope the other side is prepared to do that.

Mr. LEVIN. Well, we had a conversation where it was, I thought, indicated that we were trying to——

Mr. HATCH. I talked to the Senator from Texas and she felt it was not getting done.

Mr. LEVIN. We are awaiting their redraft of the amendment.

Mr. HATCH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, we are making some progress. We would like to work through the afternoon.

I had a discussion with the distinguished Democratic leader about there being a number of votes on Monday. We may move the time for the cloture vote, depending on what I hear from the Democratic leader.

I have also indicated that in addition to that cloture vote, if cloture fails, there will be another cloture vote on Tuesday.

CLOTURE MOTION

Mr. DOLE. Mr. President, I send a cloture motion to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the pending substitute amendment to S. 343, the regulatory reform bill:

Bob Dole, Bill Roth, Fred Thompson, Spencer Abraham, Kay Bailey Hutchison, Jon Kyl, Chuck Grassley, Craig Thomas, Orrin Hatch, Larry E. Craig, Mitch McConnell, Conrad Burns, Bob Smith, Jesse Helms, Jim Inhofe, Judd Gregg.

Mr. DASCHLE. Mr. President, as the distinguished majority leader indicated, he and I have had the opportunity to discuss this cloture motion.

I will say again, I do not know that cloture motions are even necessary at this point. We have had a very rigorous debate. There have been very few quorum calls and there is not a filibuster going on here.

We are proposing amendments. We will lay down the substitute this afternoon. We are ready to go to additional votes this afternoon. I hope that we could have a vote on the Hutchison amendment this afternoon. I am sure that is something the majority leader is prepared to do.

I yield to the majority leader for comment on the pending amendment.

Mr. DOLE. As we discussed earlier, obviously, if the amendments on either side are acceptable, that is certainly satisfactory to both the leaders, because some Members are necessarily absent, and there is no need to punish Members who are not here.

On the other hand, if we cannot agree, we ought to have the votes, and everybody was notified there could be votes throughout the afternoon on Friday.

As far as I know, the afternoon does not end at 1 o'clock. It ends much, much later. We will be here. As far as I am concerned, we will have votes. If we reach an impasse, or once I think the major amendments have been laid down on the so-called Glenn amendment—I think that will take considerable debate.

Until that happens, I would hope we would continue to work out some of the amendments.

Mr. DASCHLE. That is my point. I want to emphasize, at least to colleagues on this side of the aisle, there is likely to be additional votes this afternoon, and that Members ought to be prepared to come to the floor to cast those votes.

Let me say in the larger context, that is the reason why, in my view, we do not need a cloture motion, because, as I say, the work is getting done.

This has been a good debate this week on a very, very complex issue. I would hope we could continue to work in good faith and find a way to accommodate Senators who have good amendments, who have reasons to offer these amendments, and do so in a time that accommodates the schedule but also accommodates the Senator.

I appreciate the majority leader's decision, but I hope that at some point we could get beyond the cloture votes and try to finish this bill.

Mr. DOLE. I hope, too. The reason for the cloture motion is to make certain we do finish the bill. If we cannot get cloture, we will not finish the bill on Tuesday. It is my hope we can finish the bill on Tuesday.

Let me again indicate to all my colleagues who are at the majority leader. The August recess is not far away—at least the starting date is not far away. We have a certain number, I think a number of legitimate things we should do before that recess begins.

It may not begin on the 4th of August. It may not begin until the 12th or the 15th, or in that area. That is not a threat, just what may happen.

I put in the RECORD yesterday a proposed schedule which I believe is reasonable, but it depends on finishing this bill and then moving to the next bill, and appropriation bills. We hope to do six appropriation bills before the August recess. We have three major authorization bills: DOD authorization bill, foreign operations, State Department authorization. That will take some time. There will be a lot of amendments. Six appropriation bills, plus welfare reform, plus Bosnia, plus lobbying and gift reform, plus the Ryan White bill.

That is the reason the cloture was filed. Hopefully, if we cannot work it out, we will have a cloture vote on Tuesday, which I hope would be successful. Then we would at least have the end in sight.

Obviously, if we are making progress, and we are going to finish the bill Tuesday in any event, I would be happy to withdraw the cloture motion.

Mr. KERRY. If the distinguished majority leader will yield the floor, would it make sense to set a time certain for a vote on the Hutchison amendment? Should we not work it out?

Obviously as the day goes on, both sides may lose more people and therefore it would punish more not to have a time set in the event we do not work it out.

Mr. DOLE. I have no objection to that. Somebody suggested 30 minutes, if they do not work it out. I will not be that arbitrary, but I think after some reasonable time, 30 to 45 minutes, that would be satisfactory.

Mr. KERRY. I thank the Senator.

Mr. DOLE. I know some of these things are very technical and I do not profess to understand some of these technical provisions. I am not on the committee and have not followed that closely. I know they are meeting as we speak. Hopefully, we can do that.

Mr. COATS. Mr. President, I do not want to interrupt the amendment process. I came to make a statement on the bill. I want to proceed if there are no amendments. I am willing to abbreviate my statement when the managers are ready to move to the next amendment.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. COATS. Mr. President, we are grinding away slowly in this process on regulatory reform. I think all Members had hoped we would be able to move much more quickly on this legislation.

The majority leader has just outlined a schedule for the Senate between now and the August—I should say supposed August—recess. It seems to me that schedule will be impossible to meet, given the timeframe and the seriousness of the issues which we will be debating.

Nevertheless, we cannot even begin to get to complete that agenda if we cannot move along on this particular piece of legislation. We are now completing a full week's debate, with amendments. We have had long days and long nights, and there is no end in sight.

I hope that we can continue to make progress. I certainly am not going to be one to delay that process.

Let me say, Mr. President, that during the course of this debate, media reports about activities on the Senate floor, debate on this floor, and general discussion about what is taking place here, have left a misimpression as to what this legislation is designed to achieve.

There have been claims made, by a number of individuals, that if this bill stands as it is and is not drastically changed, the quality of our water and our air will be placed in jeopardy, our environmental treasures will be threatened, our Nation's wildlife will be endangered. There have even been accusations that the result of this legislation would be the increased incidence of contamination of the very food that we eat and the water that we drink.

I think we need to set the record straight on some of these charges. These are disturbing charges because they threaten to undermine a process of reform that I believe is critical to the viability of our economic system. Our current regulatory process is, I believe is complicated beyond the ability of many of our small business people to understand or to comply with. It is punitive in many ways. It is duplicative in many ways. It simply does not provide the efficiency, and in many instances the intended effect of the regulations as they were originally drafted. It drains family income, it chokes small businesses, it denies jobs.

The Small Business Administration has estimated that small business owners spend nearly 1 billion hours a year filling out and completing Government forms. This, at a cost of millions of dollars. Turning this tide, restoring some balance and efficiency to the regulatory process is really what this legislation is all about.

I think it is important we understand what this legislation does and what it does not do. I intend to review that. Before I do, let me provide a couple of examples as to why I think this legislation is necessary.

Perhaps the most important reasons it is necessary is the negative impact the current system has had on our society, on the American family, on those who are seeking to hold meaningful employment. According to a 1993 study conducted by Citizens Against Government Waste, Federal regulations cost the American household $4,000 a year; roughly $400 billion annually. A former OMB official placed the cost even higher, at $500 billion annually, or $5,000 for the average American family.

A popular statistic thrown out in this town every year, particularly in the spring, is how long the average American has to work through the year to pay their Federal and State taxes. The date is now approximately May 5th. If you add on their share of the regulatory burden, you push that date even farther forward, into mid-July.

Many advocates of the status quo, those who would keep the current system of regulations as they are, rejecting this reform process, argue that this legislation will jeopardize our public health. I do not think this is correct. The legislation we are currently debating, and have debated all week, does not override existing health, safety or environmental law. The cost-benefit requirements of this legislation supplement, not supersede existing law.

This legislation does not seek to overturn the very real progress that has been achieved in many cases of public safety regulation. To the contrary, this legislation seeks to provide procedural reform that will ensure that the rules and regulations efficiently and effectively achieve the very goals they were designed to seek.

So I ask my colleagues, why should we not proceed with an effort to provide some efficiency in implementing regulations that are designed and intended to promote vital health and safety concerns for Americans? That is a goal we ought to embrace, not a goal we should resist.

There have been some charges concerning health emergencies, charges that this legislation would place public health in jeopardy in cases of emergency. The reality is that the cost-benefit analyses and risk assessments are not required if they are impractical due to an emergency or health or safety threat, if they are likely to result in significant harm to the public or to our natural resources. Furthermore, on Tuesday this Senate adopted the Dole amendment by unanimous vote. That clarified the intention, in case there was any doubt, of this legislation to cover food safety emergencies in addition to all public health matters.

The legislation further provides the same protections where environmental management activities are concerned. Let me repeat, cost-benefit procedures do not apply where they would result in an actual or immediate risk to human health and welfare.

Where a petition for alternative compliance is sought, the petition may only be granted where an alternative achieves at least an equivalent level of protection of health, safety and the environment.

So in this Senator's opinion, and I think in the opinion of many Senators, this legislation is not a radical overhaul of Federal regulations. It is a procedural reform that is designed to ensure more effective, more efficient rulemaking. I think that is a common sense approach. I doubt if there is a Member of this Chamber who has not been besieged by his constituents back home, or her constituents back home, or by groups that visit us here in the Senate who point out the duplicative, cost-ineffective, procedural nightmare that they have to go through in complying with Federal regulations. Time and time again it has been pointed out to this Senator how one regulation by one agency countermands a regulation by another agency, leaving the individual to throw up his or her hands, saying which regulation am I supposed to comply with? To comply with one violates the other. It is a nightmare of bureaucracy in terms of filling out forms and complying with injunctions handed down by the various regulatory agencies.

A cost-benefit analysis is not an unreasonable request, to examine the benefit of a proposed regulation versus what will be the cost. It is information we ought to have when we assess the viability of rules and regulations and the procedure that produces those.

There has been a lot of talk by advocates of the status quo about their compassion, about justifying this legislation to constituents back home. I challenge Members to go back home to a town meeting, or local diner, and to stand up and make the argument for why the Federal Government should not engage in reform of its regulatory process. Why it should not impose a cost-benefit analysis in determining the viability of a regulation. Why we should not determine whether what is the most efficient and effective way to spend their tax dollars. I suspect they will run into a little opposition if they try to defend the status quo.

There are many agencies that have been highlighted during the debate this week. There are many that we hear complaints about. Perhaps the one I receive the most complaints about from individuals that I represent is OSHA, the Occupational Safety and Health Administration. Regularly, constituents walk into my office with fistfuls of compliance requests and stories of the nightmare of administrative litigation proceedings, complaining, not only about the process but about the ineffectiveness, the inapplicability, and the duplicative efforts of many of the regulations they are asked to comply with.

A roofing business owner in Indiana wrote to me. He said we have these forms, the material safety data sheets, MSDS's, required by OSHA. He said, and I quote from his letter:

> Materials have an MSDS's that were never intended to be encompassed by the regulatory standards. It has gotten to the point that almost every product in America comes with an MSDS. Products like sand and compressed air, dishwashing detergent, glass cleaner, baby oil, powder, shampoo, all have MSDS's.

To carry this product, to use this product, to manufacture this product, if you store this product, you have to fill out this sheet.

He tells the story about an OSHA compliance officer who illegally searched his foreman's vehicle. He writes: He searched our foreman's vehicle and found a small plumber's propane torch in the vehicle.

It was the employee's personal property. It had nothing to do with the company. This was his personal property. It is not even used in the roofing business. The label had fallen off that propane torch. The foreman tried to explain to the OSHA compliance officer that this was his personal property. He even produced an MSDS sheet. The company was fined $825 because the label had fallen off the propane torch, a product not even used in the business of the employer. Yet, the employer was fined.

Another individual from Indiana talked to me about the fact that they had some chalk stored. I believe they used the chalk for certain purposes not necessarily related to the product that they were manufacturing. Yet, they had to fill out the MSDS forms. It was not acceptable to fill out one MSDS form labeling the chalk. But because the chalk came in red, blue, green, yellow and different colors, they had to have separate forms for each color of chalk.

I can go on and on with these stories. In the interest of time, I will not do that.

But the point is that we have an overzealous, an overregulatory process at work in America today that is placing costs and burdens on business, and particularly small business, that is denying job opportunities and competitive advantage to these businesses.

I think every Member understands how the regulatory process grows and mushrooms and continues to ignore the desire and need for efficiency in imposing what had been determined to be necessary health and safety regulations but imposing it in a way that thwarts the very purpose of the rule in the first place.

Mr. President, I hope that we are not derailed in the process of responding to the very clear call of the American people that we clean up the act of the Federal Government here in Washington. We have been given a somewhat historic opportunity to do that. Items that Americans, our constituents, have been complaining about for decades now have an opportunity to be vented in this Congress and reformed in this Congress.

People have lost faith in our ability to apply commonsense solutions to the problems that they face. They have seen an insensitive, uncaring, ineffective government impose law after law, and regulation after regulation on their livelihoods, on their businesses, on their families, and on society as a whole.

They have lost faith in government which reaches into every corner of their lives, stealing from them the very hard-earned wages that they have worked so long to accumulate. They have lost faith in a government that is suffocating their access to opportunity and to the American dream, the hope of starting and running a successful business, the opportunity to benefit from the jobs of a strong economy, the opportunity to pass along to their children the hope of a better life than they have had.

This legislation does not accomplish all that we must. But it is a critical start. If we cannot reform the regulatory process that is suffocating America, there is little that we can do to respond to the very genuine calls for a reformed Congress and a reformed way of doing business.

Mr. President, I hope we can move forward. We spent a week now, long days and long nights with no end in sight, with amendment, after amendment, after amendment. But I hope we can expedite this process and move forward. This is an important piece of legislation. It has been discussed, deliberated, and talked about for years. Now is the time that we need to move forward and enact it.

Mr. President, I urge my colleagues to bring this debate to a reasonable close so that we can exercise our final vote on whether or not we believe that the regulatory process needs to be fixed, needs to be reformed, needs to be made more efficient and effective for this Nation.

Mr. President, with that, I yield the floor.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER (Mr. CRAIG). The Senator from Minnesota.

BOSNIA

Mr. WELLSTONE. Mr. President, I want to take a few moments to take the floor. I do not know quite how to do this. I may not do it very well. I do not know whether my words will accomplish anything. But sometimes, you know, you just feel like you should speak on the floor of the Senate. That is what comes with the honor of being a U.S. Senator.

Mr. President, on the front page of the Washington Post today—this just needs to be recognized on the floor of the Senate—there is a headline, "For Ousted Bosnians, a Trail of Tears."

Under that headline, "Serbs Force Thousands of Muslims in Harrowing Journey."

Then there is a picture of older men, women, and children, a Bosnian woman wheeling what I gather would be, Mr. President, her elderly father in a wheelbarrow. And the first paragraph reads, "Bedraggled, hungry and scared, thousands of Bosnian Muslims flooded into a swelling makeshift refugee camp with little food, water or medicine today after a harrowing journey into Muslim-held territory from the fallen town of Srebrenica, now occupied by Bosnian Serbs reveling in their victory."

Mr. President, another article in the Washington Post is headlined, "Serbs Start Expelling Muslim Civilians From Seized U.N. Conclave," with pictures of women and children herded into refugee camps.

Mr. President, these pictures send chills down my spine. I am the son of a Jewish immigrant born in Odessa in the Ukraine who lived in Siberia in Russia. I am an American Jew, and these pictures send chills down my spine, along with the reports that the Serbs are taking all young men, boys 16 years of age, away from their families. I do not know where they are taking them to. But they are taking them away to find out whether they are guilty of "war crimes."

Mr. President, I do not know exactly what it is the international community should do. But I am convinced the international community has to do something.

Mr. President, it is as if the world has not learned anything in the last half a century. We really are talking about genocide of people.

I will not talk about the position a number of Senators took several years ago in calling for action. I took such a position. Normally, I do not talk about intervention, international military intervention, but several years ago several of us came to the floor and said it had to happen. That is beside the point.

Mr. President, I was thinking about this this morning, and I was talking to my wife, Sheila. We have been debating the regulatory reform bill, and it is extremely important. I have been involved in the debate about the rescissions bill. All of us care about our work, and all of us give everything we have, whether we agree or disagree. The Presiding Officer and I, who are good friends, are good examples; we do not agree on all issues. But I am trying to figure out, for God sake, what in the world is the world going to do? What is the civilized international community going to do? We see people just expelled, expunged, young men taken away from families to see whether they are "guilty of war crimes." Elderly and children, 1-year-olds put on trains—to go where? What is going to happen to these people?

Sometimes, in the history of humankind, silence is betrayal. I do not think we can be silent about it. I wish to God I knew exactly what the international community could do. The fact that there are no good choices does not mean we still should not choose some course of action. I do not mean any easy fix, Mr. President. I do not mean something where we essentially turn our gaze away from the rape and torture and murder of innocent people.

So, Mr. President, I just wanted to take a few minutes to speak to these pictures. If my father, Leon, was alive—he is no longer alive—he would say that there exists on the part of humankind an enormous capacity for good but also, unfortunately, an enormous capacity for evil. It is that parallelism that makes it all so complicated.

I assume that next week in this Chamber we will be talking about what is now happening in the former Yugoslavia. I do not know what the focus of the debate will be. I know there are several resolutions, but I think it has to be more than resolutions and amendments. The international community cannot turn its gaze away from this. This is genocide. We should have learned some lessons over the last half a century. I do not think we can go about our normal business just because it is long distance, somewhere away. These are all of God's children.

I yield the floor.

INHUMANITY IN BOSNIA

Mr. REID. Mr. President, I am on the floor for the same reason that my colleague from the State of Minnesota is here. I have stood silently by for a long time now because I have the same feeling that a lot of us have, one of desperation, despair. I was forced to think about this as a result of the statement given yesterday by the Senator from the State of Arizona [Mr. MCCAIN] a man who understands war, a man who spent more than 5 years as a prisoner of war in Vietnam, a man who spent more than half that time in solitary confinement. So I figure that when Senator MCCAIN talks about war, I should listen. Senator MCCAIN did not use the Washington Post. He used the New York Times as an illustration. I went and looked at the New York Times after he brought it to my attention. It showed a mass of humanity, but if you looked closely at the picture there were uniformed troops in there. Who were those troops? They were U.N. troops. My friend from the State of Minnesota today made the same statement.

Mr. President, each day now brings a whole new series of horrible stories of the inhumanity in Bosnia. I did not know Leon Wellstone. Obviously, with the sensitivity that the Senator from Minnesota has about issues generally, I am sure that Mr. Wellstone was a good teacher and certainly had some wisdom and philosophy about the nature of man as imparted by the Senator from Minnesota.

Mr. Wellstone would, I am sure, stare in amazement, with each day bringing a whole new series of horrible stories of inhumanity in that part of the world. The Bosnian Serbs are conducting offenses on one U.N. safe haven after another, and doing it with remarkable speed, reminding me of the blitzkrieg of 50-odd years ago. Why should they not move with remarkable speed? It is just like 50-plus years ago when Hitler moved into those areas; he had no opposition basically. They have no opposition basically. So why should they not move quickly?

The safe haven's only protection—and I use that word very loosely—is a small number of lightly armed U.N. troops who are quickly forced to surrender their positions. I think most of the time they are not asked to surrender; they wave the white flags very early, leaving Bosnian civilians defenseless to these aggressors. Srebrenica has fallen and has been ethnically cleansed, by their definition. Zepa is under heavy artillery fire and troops there were given an ultimatum to put down their weapons by what was 8 o'clock this morning local time. The Bosnian Serbs have openly declared that the safe area of Gorazde will be next. And 40,000 civilians were forced out of Srebrenica—40,000, as many people as watched the all-star game. Where were they forced? Anyplace they could go. We have reports of murder, rape, torture. The men are lined up, and those that are of military age are taken one place, the old and infirm are taken someplace else. Women are lined up, some taken away for obvious reasons.

These pictures, stories of human suffering, are heart wrenching. Families are torn apart. We have reports of mothers searching for their children, the elderly succumbing to exhaustion from the heat and lack of water as they are forced to leave on foot.

And we do not see all the pictures. We do not know what else goes on. We can only imagine what else goes on. Given the past cases of ethnic cleansing, atrocities committed by the Bosnian Serbs that have already been documented by human rights groups in Bosnia, we can believe the reports are certainly true; that our imagination is certainly without bound. What is next?

There are about 16,000 civilians in Zepa, civilians who now, no doubt, will undergo the same inhumane treatment that we have seen the last week, the last month, the last several years.

And what about Gorazde? It is the most highly populated area of all, with as many as 60,000 civilians. Are we going to stand by and watch these people fall victim to their captors, just as the people of Srebrenica fell victim?

The United Nations officially declared and demilitarized the safe areas, promising to protect civilians and provide aid. But, surely, no one believes anymore that the United Nations has any hope of protecting safe havens anyplace in Bosnia. News reports, and TV news reports in particular, show the anger of the Bosnian Moslems forced out of Srebrenica at the promises made to them by the United Nations and the West.

A United Nations official is quoted in a New York Times article today:

> We are at that point in the war where there is no peace to keep. We were never equipped or given enough troops to protect these enclaves. The Serbs have called our bluff.

Mr. President, certainly they have called our bluff. The United Nations is not a peacemaker—they are a peacekeeper; they were sent in to keep the peace—and that is something they cannot do and should not be asked to do. The Serbs, in the New York Times article today, certainly have called the United Nations' bluff. The will of the West to take definitive action is weak, and the Bosnian Serbs know it.

Time and time again, United Nations officials have rejected NATO's offer to conduct air strikes. The NATO alliance itself shows signs of disintegration as the alliance members disagree on a course of action and find the U.N. troops are used as tools to blackmail the United Nations and NATO into promises not to conduct the strikes.

And the world watches, as U.N. troops watch, while the Bosnian Moslems fall victim. The United Nations cannot protect the men carted off to an unknown fate. They cannot help those women taken from the group. They cannot help the injured and the dying, and they cannot help mothers find their children.

It is a pitiful sight to see the U.N. forces standing in the background as hundreds of thousands of people have been inhumanly herded away like animals. You would not treat rodeo animals the way these people are treated. Animal rights groups would rise up in anger. Animal protection groups would rise up in anger if you treated animals anywhere like these people are being treated.

The President said yesterday that if the United Nations does not get its act together, its days are numbered in that area. The contact group is formulating a regrouping of U.N. forces, consolidating them in Sarajevo. You can move the players around the board all you want, like chess or checker moves, but they will be no more effective if they cannot do something more than what they have done. The U.N. force has already been badly routed. It has failed to influence any peaceful solution, and it has failed to protect civilians.

The present policy of international reliance on continued peace negotiations and containment has only prolonged Serb aggression against the Bosnians. We must lift the arms embargo.

Mr. President, for me to come on the floor and talk about lifting the arms embargo is not easy. I met with a large group of Pakistani physicians 1½ years ago. They asked me, "What about lifting the arms embargo?"

I said we cannot have more military, that is what caused the problems in the world today. I spoke to those people, who were so agitated about what was going on, and said we should not lift the arms embargo. Well, I was wrong. There is nothing else we can do. It will cause more bloodshed, but what else can we do?

We must allow the Bosnians to defend themselves and defend their families. Frankly, most military experts say it is too late, that by the time they get their act together with new arms, a military force, the Serbs will have run over them.

I do not know if that is the case, but at least they need a chance to defend their families. The U.N. forces should withdraw so they no longer can be used by the Serbs to facilitate Serb goals.

The U.N. forces have not helped the Bosnians. They have helped in recent months the Serbs. The Serbs have confiscated arms, they have taken humanitarian aid and money from U.N. forces. They have taken U.N. troops hostage. We all remember the pathetic pictures of U.N. troops chained to poles. It is time for the United Nations to stop aiding the Serbs in this ruthless pursuit. The Bosnian Serbs hold no regard for the U.N. mission or for finding a peaceful solution to the war.

Mr. President, there is no pain-free solution to what is going on now, but we can predict with more certainty what the future brings. The Serbs will continue their aggression. The Serbs will continue ethnic cleansing. The Serbs will attack U.N. safe havens, and they will respond only to a real threat of force. U.N. forces will not alter this course and may only advance the Serbs' cause by serving as hostages, by supplying the arms that they steal and by surrendering their supplies. The arms embargo should be lifted and the Bosnian people allowed to determine their own fate.

The ranking member of the Armed Services Committee, the former chairman from Georgia said in a recent statement, and I quote: "There will be a high price to be paid once the U.N. forces are withdrawn from Bosnia."

As usual, the senior Senator from Georgia is right. There is no easy way out of this conflict. The Bosnians are aware of the high price to be paid, and they are willing to pay it for the right to defend their country and their families. To them, the status quo is far worse than any alternative brought on by lifting the embargo and, if necessary, withdrawing U.N. troops.

Mr. President, I also say this. I say the United States should send no troops to that part of the world. Why not call upon the nations that have influence in that part of the world? That is in their sphere of influence. Where is France? Where is England? France wants to be a superpower. They are setting off tests in the middle of the ocean. Let them bring in their troops and do something rather than talk. It is in their sphere of influence.

The United States, I say, should, at the most, supply air power and have the troops withdrawn. I do not think we should commit troops to that part of the world, even though my colleague, the majority leader from Kansas, has said that there should be U.S. troops supplied to help withdraw the U.N. troops. I do not think I can go that far, Mr. President.

What has gone on there is something that should have the world community saying, "At least let's get the U.N. troops out of there, they are only serving the Serbian forces." I say let us have France and England and the European nations join together and let them bring troops into that area. We have done Somalia; we have done Haiti. Have we not done enough, Mr. President? We have done the gulf war. It is time for the United States to step back and let other countries do their share for a change.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPECTER. I ask unanimous consent that I be allowed to speak as in morning business for 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEVELOPMENTS IN THE RUBY RIDGE INCIDENT

Mr. SPECTER. I thank the Chair. Mr. President, I have just received a release from the Federal Bureau of Investigation advising that the FBI Director is transferring Mr. Larry A. Potts from the position of Deputy Director to a position within the FBI's training division.

I have just had an opportunity to discuss this briefly with FBI Director Louis Freeh. I think that this is a very wise move in light of all of the developments on the Ruby Ridge incident, especially the most recent disclosure of this week that documents were destroyed by one of the FBI agents who was involved in the Ruby Ridge incident.

There is a very substantial question, Mr. President, about what was done at Ruby Ridge with respect to the use of deadly force and also with respect to the rules of engagement with Special Agent Glenn, the special agent in charge at the present time of the Salt Lake City office having been at the scene, saying that there had been changes in the rules of engagement, and Mr. Potts having said that there was no change in the rules of engagement and no change on the use of deadly force.

That is a matter of considerable importance. Also, disclosed in the Washington Post yesterday was the task force report of the Department of Justice, indicating that there was excessive force used within the definition of constitutional parameters, and also with the task force exposure as printed in the Washington Post yesterday about the recommendation for consideration of prosecutions, which was rejected by the Department of Justice.

I have raised the issue of the promotion of Mr. Potts with Attorney General Janet Reno when she testified recently at general oversight hearings before the Judiciary Committee, and had raised the issue as to why Mr. Potts was promoted in light of the outstanding questions about Ruby Ridge. The Attorney General was further questioned about the possibility of a criminal prosecution by the prosecuting attorney of Boundary County, ID, of an official whom I talked to had made comments on the Senate floor some time ago. Attorney General Reno said she would not speculate about what local law enforcement would do and was not going to get involved in any way in hindering local law enforcement which was hardly responsive to my question as to why there was a promotion, in light of these issues which were very much in the public domain.

Mr. President, it is my hope that there will yet be oversight hearings by the Senate. I made an extensive statement about this yesterday, calling for those hearings and, in fact, had pressed the issue in a resolution calling for a Senate vote in May, understanding full well that it was highly unlikely to be accepted, considering the prerogatives of chairmen under our Senate procedures. I think it continues to be a matter of the utmost importance. We have had an enormous growth of the militia, as I commented on more extensively yesterday. I can understand and sympathize with people in the United States who are unhappy with what is going on in Government because of the need to hold people accountable at the highest levels.

I think with the reassignment of Mr. Potts today, it has extra emphasis on the need for hearings. Mr. Potts, for one, is entitled to his day in court or his time to have a hearing to see precisely what it was that he did. There is a cloud hanging over Mr. Potts at this time. There is a cloud hanging over the FBI and a cloud hanging over the Department of Justice, as long as these questions remain unanswered. It is the responsibility of the Congress of the United States to have oversight hearings. We are the proper institution to undertake those hearings, and I renew my request that these hearings be held at the earliest possible time.

I note that the Presiding Officer, the senior Senator from Idaho nodding. I will not make any interpretation from his nods of the head, but I do think this is a matter of great importance. And the reassignment of Mr. Potts today underscores the necessity for prompt hearings on this important matter.

I thank the Chair and yield the floor.

COMPREHENSIVE REGULATORY REFORM ACT

The Senate continued with the consideration of the bill.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I would like to ask the managers of the bill a question. I would like to make about a 5-minute statement. If you are in the midst of some procedure here, I am reluctant to interrupt it.

Mr. LEVIN. We are very close, we believe, to working something out on the Hutchison amendment. That is not quite ready. So I have no objection, and I do not believe Senator HATCH would either.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. CHAFEE. Mr. President, during consideration of this regulatory reform bill, we have heard a litany of horror stories about silly regulations, costly regulations, and useless regulations. Many of these stories have focused on rules and laws that are designed to protect the environment.

It must be remembered, however, that tales of environmental excess do not present the complete story.

I have spoken many times about the tremendous progress we have made in cleaning up our environment over the past 25 years. I think the last 25 years, starting in about 1970, 1972, those were the glory years of environmental legislation. As a result of that legislation, our Nation is far cleaner in its waters and in the air, and far ahead in the preservation of endangered species than we otherwise would have been. In just about every instance, that progress can be attributed directly to environmental rules and regulations and laws that were passed. Surely, there are examples of overly rigid applications of specific rules. But there is no doubt that the world is a better place today precisely because we have stepped in and forced industry to clean up its act.

In today's Washington Post, on page A3, there is a good news, pro-environmental success story. It is a story about environmental "regulation"—that word that everybody seems to rebel against around here. The headline reads, "A Threat to Ozone Layer Diminishes."

Mr. President, I ask unanimous consent that the story from the Washington Post be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

A THREAT TO OZONE LAYER DIMINISHES, SCIENTISTS SAY

(By Boyce Rensberger)

One of the chief threats to Earth's protective ozone layer has begun to diminish, an international group of scientists has found. According to their report in today's issue of the journal Science, the concentration of methyl chloroform in the atmosphere peaked in 1990 and has been falling ever since.

"This represents the first actual decrease in atmospheric concentration recorded for any halocarbon [the class of chemicals that attack ozone] restricted under the Montreal Protocol on Substances that Deplete the Ozone Layer," the researchers wrote.

In a related article in the same issue, other researchers confirmed a finding, first reported two years ago, that CFCs have almost stopped increasing in the atmosphere. These substances pose an even bigger threat to the ozone layer and are also regulated by the Montreal protocol. The growth rates of CFC-11 and CFC-12 "are now close to zero," the scientists said.

If trends continue, the researchers said, CFC (chlorofluorocarbon) levels in the atmosphere are expected to peak next year or in 1997 and then begin to decline slowly. Previous estimates of CFC levels projected a peaking around the year 2000.

Scientists also said a fourth ozone depleting substance regulated under the Montreal protocol, carbon tetrachloride, appears to have begun declining but those data have not yet been published.

The Montreal protocol is a 1987 international treaty to phase out production of all major ozone depleting chemicals. It was amended in 1990 and 1992 to speed up the schedule. Although the ban on CFCs was not to take effect until 1996, most manufacturers cut production of the chemicals well in advance of the deadlines.

"This is good news for the atmosphere," said James W. Elkins, of the National Oceanic and Atmospheric Administration's Climate Monitoring and Diagnostics Laboratory in Boulder, Colo. "We're starting to see the first real benefits of regulation."

"The Montreal protocol works," said an author of one of the Science papers, A.R. Ravishankara of NOAA's Aeronomy Laboratory.

Still, both atmospheric scientists said, the decline in overall threat to the ozone will be slow and is not expected to eliminate recurrences of the Antarctic ozone hole until perhaps 2050. Throughout this period, however, the ozone layer is expected to thicken because ozone constantly is being created by the action of sunlight on ordinary oxygen and, within a year or two, the creation rate will exceed the destruction rate. The ozone layer helps screen out much of the sun's ultraviolet radiation, which causes DNA damage leading to increased rates of skin cancer.

A major concern about the Montreal protocol is whether Russia, China and India will also stop production of CFCs when their opportunity to be exempted expires in a few years. Substitutes for CFCs are more expensive and require costly changes in refrigerating equipment.

The decline in methyl chloroform (also called trichloroethane) was reported by Ronald G. Prinn, of the Massachusetts Institute of Technology, and eight colleagues at various institutions in this country, Australia and Britain.

Their report also contains a major correction to the key method used by atmospheric chemists to estimate the ability of chemicals to deplete ozone or to cause global warming. As a result of the correction it is now clear that many synthetic gases are nearly 20 percent less capable of doing harm than was estimated previously. The immediate practical effect of the correction is to lower the ozone depleting potential, or ODP, of some chemicals below the maximum tolerated under the Clean Air Act.

The law says that gases cannot be released to the atmosphere unless their ODP is less than 20 percent that of CFC-11. Because of the correction, new calculations are likely to reveal that several synthetic gases once thought banned are now acceptable.

The correction grew out of new studies by the Prinn group of the amount of hydroxyl radical, or OH, in the air. Prinn had thought the concentration was low and slowly rising. It now turns out that the OH level is higher than thought and has not risen at least since 1978.

"This is good news," Elkins said, "because OH is a natural cleanser in the atmosphere. It removes various ozone depleting substances [including methyl chloroform] and some 'greenhouse' gases."

Unfortunately, OH does not help break down carbon dioxide, one of the chief greenhouse gases, or CFCs, the major ozone depleters.

Mr. CHAFEE. Mr. President, in 1987, under the leadership of our President—who was President? Ronald Reagan was President in 1987—the Environmental Protection Agency convinced the rest of the world to sign onto a treaty known as the Montreal Protocol. That treaty called for a reduction in the production and use of chemicals that scientists predicted and stated were destroying the stratospheric ozone layer.

The stratospheric ozone layer is Earth's shield against harmful ultraviolet radiation. What is the harm with that? Why do we care about ultraviolet radiation? Well, ultraviolet radiation comes in through these holes made in the ozone layer as a result of chemicals such as chlorofluorocarbons. This was first discovered in the mid-1980's, over Antarctica. Scientists told us that there was a class of ozone-destroying chemicals, such as methyl chloroform and CFC's, as I previously mentioned. As a result of the hole in the ozone layer, the ultraviolet radiation came through without being screened, and that is the principal cause of skin cancers in our society today.

In 1987, the Montreal Protocol called for a 50-percent reduction in the production and use of these chemicals by the signatories to the protocol.

In 1990, under the leadership of another Republican President, President Bush, the protocol was amended, and Congress passed the Clean Air Act, and part of that required a complete elimination of these chemicals.

A number of groups opposed those regulatory efforts. They said it was unnecessary. They said it could not be done, that it would cost too much.

What has been the result? As reported in today's newspaper, one of the chief threats to Earth's protective ozone layer has begun to diminish. The concentration of CFC's in the atmosphere is just about at its peak. In other words, when we stop sending up the CFC's, it does not stop just like that, because those that were released years before are winding their way up into the stratosphere. But because of the efforts we took in the mid-1980's, those that we released at the time have just about completed their journey, and we have cut off the supply, and the number of CFC's going into the stratosphere is beginning to diminish. The concentration is just about at its peak and should start to diminish shortly. The concentration of methyl chloroform peaked in 1990 and has been falling ever since.

I have here a quote by James Elkins of the National Oceanic and Atmospheric Administration's Climate Monitoring and Diagnostics Laboratory in Boulder, CO. "This is good news for the atmosphere. * * * We're starting to see the first real benefits of regulation."

Mr. President, the point of highlighting this good news story is to show that sometimes we get it right. All environmental laws and regulations are not the demons some would have us believe. I am certain that the good news of today would not have been possible if the pending bill had been in effect at the time of the Montreal Protocol in 1987 and the Clean Air Act Amendments in 1990.

If this law that we are debating today had been in effect at that time, the first thing we would have spent years doing would be a risk assessment and a cost-benefit analysis. When all of that was completed, because of the judicial review provisions in this statute before the Senate, this act would be on appeal after appeal after appeal. What we accomplished in 1987 we never would have done.

Mr. President, I wish to draw people's attention to, first, that regulations do produce some good effect; second, to point out some of the problems that are incipient in the act before the Senate.

AMENDMENT NO. 1539, AS MODIFIED

Mrs. HUTCHISON. Mr. President, I ask unanimous consent to modify my amendment No. 1539. I send the modification to the desk.

The PRESIDING OFFICER. The Senator has that right. Is there objection? Without objection, it is so ordered.

The amendment (No. 1539), as modified, is as follows:

Insert at the appropriate place:

SECTION 709. AGENCY INTERPRETATIONS IN CIVIL AND CRIMINAL ACTIONS.

"(a) No civil or criminal penalty shall be imposed by a court, and no civil administrative penalty shall be imposed by an agency, for the violation of a rule—

"(1) if the court or agency, as appropriate, finds that the rule, and other information reasonably available to the defendant, failed to give the defendant fair warning of the conduct that the rule prohibits or requires; or

"(2) if the court or agency, as appropriate, finds that the defendant—

"(A) reasonably in good faith determined, based upon the language of the rule published in the Federal Register, and other information reasonably available to the dependent, that the defendant was in compliance with, exempt from, or otherwise not subject to, the requirements of the rule; or

"(B) engaged in the conduct alleged to violate the rule in reasonable reliance upon a written statement issued by an appropriate agency official, or by an appropriate official of a State authority to which had been delegated responsibility for implementing or ensuring compliance with the rule, after the disclosure of the material stating that the facts, action compliance with, or that the defendant was exempt from, or otherwise not subject to, the requirements of the rule.

In making its determination of facts under this subsection, the court or agency shall consider all relevant factors, including, if appropriate: that the defendant sought the advice in good faith; and that he acted in accord with the advice he was given.

"(b) In an action brought to impose a civil or criminal penalty for the violation of a rule, the court, or an agency, as appropriate, shall not give deference for the propose of that action only to any interpretation of such rule relied on by an agency in the action that had not been timely published in the Federal Register, and was to otherwise personally available to the defendant or communicated to the defendant by the method described in paragraph (a)(2) in a timely manner by the agency, or by a state official described in paragraph (a)(2)(B), prior to the commencement of the alleged violation.

"(c) Except as provided in subsection (d), no civil or criminal penalty shall be imposed by a court and no civil administrative penalty shall be imposed by an agency based upon—

"(1) an interpretation of a statute, rule, guidance, agency statement of policy, or license requirement or condition, or

"(2) a written determination of fact made by an appropriate agency official, or state official as described in paragraph (a)(2)(B), after disclosure of the material facts at the time and appropriate review,

if such interpretation or determination is materially different from a prior interpretation or determination made by the agency or the state official described in (a)(2)(B), and if such person, having taken into account all information that was reasonably available at the time of the original interpretation or determination, reasonably relied in good faith upon the prior interpretation or determination.

"(d) Nothing in this section shall be construed to preclude an agency:

"(1) from revising a rule or changing its interpretation of a rule in accordance with sections 552 and 553 of this title, and, subject to the provisions of this section, prospectively enforcing the requirements of such rule as revised or reinterpreted and imposing or seeking a civil or criminal penalty for any subsequent violation of such rule as revised or reinterpreted.

"(2) from making a new determination of fact, and based upon such determination, prospectively applying a particular legal requirement.

"(e) This section shall apply to any action for which a final unappealable judicial order has not been issued prior to the effective date.

Mr. HATCH. Mr. President, are we prepared to move ahead on this?

Mrs. HUTCHISON. I believe we need a couple of minutes of debate, with perhaps 3 minutes to Senator BIDEN and the same for me, if that is acceptable to everyone.

Mr. LEVIN. One minute.

Mr. HATCH. Mr. President, I ask unanimous consent that we have 6 minutes equally divided between the distinguished Senator from Texas and the distinguished Senator from Michigan.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. LEVIN. Mr. President, we are willing to have this adopted on a voice vote. If there is a request for a rollcall, as apparently there was, of course, that is the right of folks who want a rollcall.

We are prepared to accept this on a voice vote.

Mr. BIDEN. Will the Senator yield a minute?

Mr. LEVIN. I am happy to yield to the Senator.

Mr. BIDEN. I thank the Senator from Texas for her willingness to make the accommodations she has. Because she has operated under such good faith, I will vote for this amendment if there is a vote. I want to make it clear it does not satisfy all of my concerns and objections, nor, I suspect, do the changes satisfy her.

There is an effective date in here that would make this, in effect, retroactive. I think that is bad public policy. I think it is also inconsistent with having a piece of legislation that will take effect as a whole upon passage but one section of it that looks back and is retroactive.

I also am still not satisfied, nor, I suspect, is the Senator from Texas satisfied, with the section allowing, in effect, an individual to be able to say, "I acted in good faith," and not be subject to penalties or not be subject to civil or criminal penalties.

There are a few other things I still have problems with. If we ever get to the point where, in the substitute that the Senator from Ohio is going to offer to this legislation as a whole, I would attempt to put in the language more to the liking of the Senator from Delaware, were that ever to prevail.

Having said that, I sincerely thank the Senator from Texas. This is, from my perspective, a much improved version and meets the vast majority of my concerns that I had relative to the amendment. I yield the floor.

Mr. JOHNSTON. Will the Senator yield?

Mr. LEVIN. I am happy to yield to the Senator.

Mr. JOHNSTON. I thank the Senator from Texas for her cooperation in working out on my behest a number of amendments.

I believe this is a well-drawn amendment now. It speaks to a much needed principle of the law, and that is that Federal officials ought to tell the truth. And we ought to be able to rely on them when they do. This amendment carries out that policy. I enthusiastically support it.

Mr. LEVIN. Mr. President, I do not know if I have any time remaining.

The PRESIDING OFFICER. The Senator has 25 seconds.

Mr. LEVIN. That is long enough.

Mr. President, a number of the problems which I saw in this amendment have been corrected. There still remains a problem with it, but I intend to vote for this amendment, and I want to thank the Senator from Texas for introducing it. It is an important point she is making, and the changes she has made have significantly improved the amendment.

Mrs. HUTCHISON. Mr. President, I appreciate very much the cooperation I have had with the Senator from Michigan, the Senator from Delaware, the Senator from Louisiana, and the Senator from Alabama, all of whom on the other side worked very hard, I think, to improve this amendment.

The purpose of my amendment is to make sure there is fair play in the system, that our administrative regulatory agencies give notice to those who are going to rely on it so that they can comply with the regulations. That is the purpose.

I think, frankly, it is a better amendment now. I think there will be fair play on both sides.

I think it is very important that we keep the principle of fairness in this regulatory reform bill. I think we have achieved that with this amendment.

Mr. President, I ask unanimous consent that Senator MURKOWSKI be added as an original cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. HUTCHISON. Last, I want to thank the Senator from Utah.

I want to say I have never seen a more patient manager of a bill than the Senator from Utah. This has been a very tough amendment. We have spent most of the day on it. He has been very accommodating to all of the differing views on both side, and has listened patiently. For that reason, I think we have improved this bill.

In the future, there is going to be—I hope—a good working relationship, rather than an adversarial relationship, between the regulators and the regulated. That is the purpose of this bill. I think we have achieved it.

I ask for the support of all of our colleagues for this improved amendment. I look forward to a strong vote. I yield the floor.

Mr. HATCH. I want to commend the distinguished Senator from Texas. It corrects some real injustices. She has worked long and hard to accommodate everybody, and I hope we will all vote for this amendment.

Mrs. HUTCHISON. I yield back the remaining time, and I ask for the yeas and nays.

Mr. JOHNSTON. Mr. President, I ask the Senator, will this be the last vote today?

Mr. HATCH. I honestly do not know.

Mr. JOHNSTON. The Senator from Michigan had an amendment ready to go. I urged him not to bring it up at this time because I hope we can work it out over the weekend.

Mr. HATCH. I know the distinguished leaders of both sides prefer to press onward, but I am not sure what their decision will be. I think we need to have this vote and go from there.

Mr. LEVIN. Mr. President, we will also be offering the Glenn-Chafee substitute this afternoon.

Mr. JOHNSTON. That would be voted on Monday.

Mr. LEVIN. That will require some significant debate both Monday and perhaps today.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. LOTT. I announce that the Senator from Missouri [Mr. BOND], the Senator from Montana [Mr. BURNS], the Senator from Colorado [Mr. CAMPBELL], the Senator from Maine [Mr. COHEN], the Senator from Texas [Mr. GRAMM], the Senator from Indiana [Mr. LUGAR], the Senator from Arizona [Mr. MCCAIN], the Senator from Alabama [Mr. SHELBY], and the Senator from Maine [Ms. SNOWE] are necessarily absent.

Mr. FORD. I announce that the Senator from New Mexico [Mr. BINGAMAN], the Senator from California [Mrs. BOXER], the Senator from New Jersey [Mr. BRADLEY], the Senator from Arkansas [Mr. BUMPERS], the Senator from Ohio [Mr. GLENN], the Senator from Iowa [Mr. HARKIN], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Maryland [Ms. MIKULSKI], the Senator from Arkansas [Mr. PRYOR], and the Senator from Maryland [Mr. SARBANES] are absent on official business.

The PRESIDING OFFICER (Mr. JEFFORDS). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 80, nays 0, as follows:

[Rollcall Vote No. 308 Leg.]

YEAS—80

Abraham
Akaka
Ashcroft
Baucus
Bennett
Biden
Breaux
Brown
Bryan
Byrd
Chafee
Coats
Cochran
Conrad
Coverdell
Craig
D'Amato
Daschle
DeWine
Dodd
Dole
Domenici
Dorgan
Exon
Faircloth
Feingold
Feinstein
Ford
Frist
Gorton
Graham
Grams
Grassley
Gregg
Hatch
Hatfield
Heflin
Helms
Hutchison
Inhofe
Inouye
Jeffords
Johnston
Kassebaum
Kempthorne
Kerrey
Kerry
Kohl
Kyl
Lautenberg
Leahy
Levin
Lieberman
Lott
Mack
McConnell
Moseley-Braun
Moynihan
Murkowski
Murray
Nickles
Nunn
Packwood
Pell
Pressler
Reid
Robb
Rockefeller
Roth
Santorum
Simon
Simpson
Smith
Specter
Stevens
Thomas
Thompson
Thurmond
Warner
Wellstone

NOT VOTING—20

Bingaman
Bond
Boxer
Bradley
Bumpers
Burns
Campbell
Cohen
Glenn
Gramm
Harkin
Hollings
Kennedy
Lugar
McCain
Mikulski
Pryor
Sarbanes
Shelby
Snowe

So, the amendment (No. 1539), as modified, was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote.

Mr. HATCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

POSITION ON VOTE

• Mr. BURNS. Mr. President, I was necessarily absent during the vote on the Hutchison modified amendment to S. 343 today. Had I been present, I would have voted for the amendment. The amendment, which stated that civil and criminal penalties shall not apply if the rule failed to give fair warning of required conduct, clarifies S. 343 and, I believe, is a valuable addition to the bill.

I would like to note that my vote would not have affected the outcome of the vote, which was adopted by the Senate, 80–0.•

The PRESIDING OFFICER. The majority leader is recognized.

ORDER OF PROCEDURE

Mr. DOLE. Mr. President, let me indicate there will be no more votes today. I understand that the major amendment on the other side, the so-called Glenn-Chafee, et al, amendment, will be laid down and that will be debated this afternoon, and then on Monday I understand the distinguished Democratic leader would like to change the time of the cloture vote from 5 to 6 p.m.

Mr. DASCHLE. If the leader will yield, that would accommodate a couple of our Members who will be back and ready to vote at 6 o'clock.

Mr. DOLE. I ask unanimous consent that the cloture vote on Monday occur at 6 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DASCHLE. If the leader will yield, does the leader contemplate votes prior to that?

Mr. DOLE. It is my hope—and we were discussing it earlier—there may be solid debate Monday on the major amendment. If that is the case, then there would not be any votes. If there should be a lull, then we would like to set the amendment aside and take up other amendments. So there could be rollcall votes. I think it is probably less than a 50–50 chance. I would not want anybody to leave here thinking there will not be any votes. There could be a vote. But I think that will be determined by debate on this major amendment, which I assume will probably be extended and continuous.

Mr. DASCHLE. If the leader will yield, that would be my understanding as well. I think there are a number of people who have expressed an interest in speaking on the substitute, but I would say, in fair warning to all of our colleagues, if there is a lull, we are prepared on this side to bring up another amendment, set the substitute aside and have a good debate on the amendment.

Mr. DOLE. I think another suggestion might be that if there were any votes—there probably would not be any more than one or two—they could immediately follow the cloture vote. So let us do it that way, so that we could say the first vote will occur at 6 p.m. and if any other votes are ordered during the afternoon, they will occur immediately following the vote on cloture. The vote on the substitute, I am not certain whether that will come on Monday evening or Tuesday. There is no indication of that yet.

Mr. DASCHLE. At this point, I am not sure we are prepared to come to any agreement on a time certain, but we will have a good debate on the substitute on Monday, and I assume sometime either Monday night or Tuesday we will be prepared for a vote on that, too.

Mr. DOLE. It is still our hope to complete action on this bill on Tuesday. I know there are some amendments on each side. I do not know how many, but I think maybe three or four on this side, maybe three, four, five on the other side.

So I advise Members that it will probably be late on Monday evening and early on Tuesday so that we can complete action on this bill, so we can move on to the next matter on the agenda, so that we can start our August recess sometime in August.

Mr. CRAIG addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. CRAIG. Mr. President, I ask unanimous consent to speak in morning business for no more than 2 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

REASSIGNMENT OF DEPUTY FBI DIRECTOR POTTS

Mr. CRAIG. Mr. President, about an hour ago, I had a phone conversation with the Director of the FBI, Louis Freeh. At that time, he told me that he permanently reassigned Larry Potts, his immediate assistant, Deputy Director, to a new assignment in the FBI pending an investigation that is now underway in the Justice Department as it relates to the performance of certain FBI personnel with the Ruby Ridge incident in Idaho.

For over 2 years, I have pursued open, factual airing of the events of that incident. At the time Mr. Freeh had recommended Potts for his appointment, I asked that be deferred and the man not be considered until such time as the cloud over the FBI was cleared up. It appears we now may be moving in the direction of full public disclosure of this incident and the activities of the Federal agents involved.

I say this on behalf of the FBI and its reputation, which is critically important as the major law enforcement community of our country, Federal law enforcement community, and I also say this for the families of the victims of Ruby Ridge, that it is time we move now openly and publicly with hearings both here, in the Senate, and with the activities of the Justice Department to clear this issue.

Mr. Freeh, in that conversation, pledged full cooperation in all activities that will occur in the Senate and in the House in the hearings that may come about. I certainly hope we can move late this summer or early this fall to full and thorough investigative hearings, oversight hearings on this incident. I think the American people now demand it, and I think it is important we once again reestablish the credibility of the FBI by the cleansing of this issue.

I yield back the remainder of my time.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. EXON. Mr. President, I compliment my colleague from the State of Idaho. I probably was nearly as shocked and surprised as he was to hear a few moments ago on national television that the Deputy Director of the FBI has been "reassigned."

It seems to me that the Senator from Idaho has made a very good point. I do not claim to have any inside information with what happened at Idaho. It is entirely possible my colleague from that State knows much more about this than I do.

If I understand it correctly, the Deputy Director of the FBI has been reassigned. I do not know what that means, but I hope that the Senate will move forthwith and speedily for a thorough investigation of this matter. I reserve the right to exercise my final judgment on this after I know more about it than I do at this particular moment.

But I think the Senator from Idaho has put his finger on the matter. The Federal Bureau of Investigation is something that must be beyond reproach. Again, I do not know at this moment what the reason for this was, but as I understand it, the Director of the FBI has determined that, for the good of the service and because Mr. Potts is under some investigation that I believe started in the House of Representatives, that he thought it was best for him to be reassigned.

I do not agree with that matter at all. If Mr. Potts has not done anything wrong, not done anything improper, not violated the law, not violated the Federal Bureau of Investigation rules, then the Director of the FBI and the administration should stand square behind him and fight out the matter.

If, on the other hand, that is not the case and he did do something wrong in any area that I just mentioned, or any other area, he should be fired, because it appears to me that this is a tremendously serious matter. I certainly agree with my colleague from Idaho that I hope the proper committee of jurisdiction, which I assume would be the Judiciary Committee, should move aggressively on this matter in the Senate so we can, too, make sure that we have a full explanation of what is or is not going on.

This is a serious matter that has had a very adverse effect on this Senator's view of the Federal Bureau of Investigation and what it does or does not do properly.

I thank my friend from Idaho for bringing this up. I wish to associate myself with his remarks.

I yield the floor.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington is recognized.

COMPREHENSIVE REGULATORY REFORM ACT

The Senate continued with the consideration of the bill.

Mr. GORTON. Mr. President, there has been a great deal of discussion on the Delaney clause in connection with S. 343, the regulatory reform bill, with which we are dealing right now. There is a provision in S. 343 that would eliminate the Delaney clause "zero-cancer risk" criterion and replace it with a "negligible risk" criterion when determining the maximum permissible levels of pesticide residues on foods.

The Delaney clause, a provision contained in section 409 of the Federal Food, Drug, and Cosmetic Act of 1958 states that no additive will "be deemed safe if it is found to induce cancer when ingested by man or animal. . . ."

The intention of this law is admirable: To prevent cancer-causing agents from entering our food supply. I do not disagree with this intent, and I am sure that no one else does in this body either. The problem, however, is that in 1958 when the Delaney clause was passed, scientists could not measure additives in parts per billion or parts per quintillion, as they can today. In 1958, scientists could only detect cancer-causing additives in parts per thousands—concentrations that, indeed, often posed legitimate health risks to many Americans.

This 37-year-old Federal law establishing a "zero risk" level for pesticide residues in processed food is outdated and unnecessary and has adverse impacts on almost every farmer in the United States.

In my own State of Washington, more than 200 minor crops are affected by the Delaney clause. Since 1988, our farmers have lost nearly half of all pesticides registered for agricultural use and are currently faced with a shortage of agricultural pesticides because the cost of registration and reregistration is so high.

For example, about 2.6 million acres of crops in the United States rely on Propargite. Propargite, a common pesticide used for mite control, is absolutely necessary to combat mites that feed on apples, grapes, hops, mint, potatoes, alfalfa seeds, and many other crops that are grown not only in my State but in other States as well.

The potential impacts of a Propargite cancellation would be detrimental to agricultural producers in States like California, Idaho, Oregon, and my own State of Washington where crops grown on smaller numbers of acres, like these, are important to the economy.

These potential impacts could cost our farmers hundreds of millions of dollars and would not only unnecessarily increase the price of our food but may well jeopardize food safety itself.

Further, I have always been an advocate for safe, affordable, and abundant foods. Let me be clear, safety for foods will not be threatened because of this provision in S. 343. The specific provision only replaces the "zero-cancer-risk" criterion and replaces it with a negligible risk criterion. This "negligible risk" standard will give the Federal Government the flexibility it needs to permit our farmers to use newer and safer pesticides when they do not provide any significant risk to our foods. The status quo, however, is a threat to our farmers because present technology can measure these commodities in amounts so small as not to have any real impact, other than to bar the use of particular pesticides.

As the Senate prepares to pass legislation that will move us toward a balanced budget in the year 2002, we must make tough choices. In light of reducing price support programs, I believe we should also work extremely hard to eliminate outdated and burdensome regulations that are placed on our farmers, among others. The Delaney clause is such an example of such an unnecessary regulation, and I am convinced that the Senate should pass legislation that will reduce regulatory burdens that farmers across this country face every day with no true, valid social purpose.

As I travel around my own State, I have listened closely to the comments, suggestions, and concerns of my State's agricultural community. Their message is clear: Reduce the regulatory burdens that restrict our ability to do what we do best—provide healthy, safe, affordable, and abundant food. As Members of Congress, we should do all we can to provide that relief for those who carry out this important and very vital task.

In summary, the science that drove the intent of the Delaney clause 37 years ago is outdated. With today's technology and science, it is right—not only right but necessary—to revise and to revisit that law passed in 1958 and put a new one in its place that will meet its goals and, at the same time, save the ability of our farmers to produce food accurately and well.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Mr. President, we are prepared to lay down—at least the other side is prepared to lay down—the Glenn-Chafee amendment. So I ask unanimous consent that the pending business be temporarily set aside so that can occur and we can at least begin preliminarily to debate on that.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE TENNESSEE DEBACLE

Mr. HATCH. Mr. President, let me take a minute to state I am going to make an announcement here, in the next half hour or so, about what the Judiciary Committee is going to do about the Tennessee debacle. So I just want to put people on notice that the Judiciary Committee is going to act on that debacle. I am very upset about it. I am upset about the way law enforcement officers have acted. It appears that there may have been—these are allegations, not necessarily facts—may have been ATF agents, FBI agents, perhaps even U.S. attorneys and other officials, there may even have been some Canadian Royal Mounted Police involved in this racist incident.

So I am going to have a few remarks to make, and I am going to set a committee agenda on that before we end today. I just want people to be aware of it because we are not going to sit around and let that type of stuff happen.

Mr. President, I will announce with more specifics what we are going to do. But as of today I am sending out a notice that the Judiciary Committee will hold a hearing next Friday on this matter. We expect top representatives from Justice, Treasury, FBI, ATF, and others to be in attendance and to come and tell us what they are going to do to get to the bottom of this, what kind of action they are going to take, to the extent they can tell us with the investigation as of that date.

So I will talk about it with more specificity before the day is out, but I already have a notice going out. I have consulted with Senator BIDEN, and I have to say I have consulted with the distinguished Senator from Tennessee, Senator THOMPSON, who, representing his State, said that Tennesseans want to get to the bottom of this, they want to resolve it, and that he, representing Tennessee, will want to be involved in it and do everything he can to resolve it as well. He has shown great interest. I want to pay a special tribute to him for his work with me on this matter.

Next Friday there will be an intensive hearing on this matter. We are going to just start to get to the bottom of it, and we are going to make some demands on the leaders of this country to come up with a system that will never permit this to happen again anywhere. We are not going to have law enforcement people, who wear the badge of the public, acting like racists, or being racist, or participating in racist activities.

From what I have heard about this, assuming that it is true—and I have only read newspaper accounts and I have checked with some of these leaders—what I have heard about this, it is abominable. I have to tell you, I have chatted with some of the leaders who confirmed that it is true, that some of our agents have participated in this. Frankly, it is time to put an end, once and for all, to that type of racist activity, and we are going to do it.

I want to personally pay tribute to people in Justice and the FBI and ATF and Treasury who have all indicated to me that they are with me on this, they want to get to the bottom of it, and they are going to handle it with great care and with efficiency.

So we will talk more about it a little bit later. Those hearings are scheduled now for next Friday, and we are going to get to the bottom of this thing as much as we can as of that date. Then we are going to follow up.

Mr. LEVIN. Mr. President, I am sickened by media reports, if they are correct, regarding the so-called "Good O' Boys Roundup" in Tennessee. According to these reports hundreds of law enforcement officials are involved in this whites only event in the spring of each year.

These reports describe events at the gathering, sale of items like T-shirts with a target superimposed over a picture of Rev. Martin Luther King, activities and displays so blatantly racist that I would not want to repeat them on the floor of the Senate. But, I want to make clear that the behavior of these officers, if the reports are true, is reprehensible and cannot be tolerated. They must be condemned if engaged in by anyone. But, if the participants were law enforcement officers sworn to protect the rights of all Americans, such activities are all the more reprehensible.

I am pleased to see that Director John Magaw has ordered an investigation into the involvement of any ATF officers. I would hope that State and local authorities would follow suit. I trust that the ATF investigation will be timely, professional, and thorough, and that a full report will be made to the appropriate committees of Congress, and that officers found to have participated in racist activities should be discharged.

Mr. President, this kind of overt racism is unacceptable and has no place today in American life. It is a sad fact of American history that it has existed at all. I am confident that the American people overwhelmingly reject such behavior, particularly by officers of the law, and will demand that it not be tolerated.

I ask unanimous consent that two articles from the Washington Times be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Washington Times, July 11, 1995]

RACIST WAYS DIE HARD AT LAWMEN'S RETREAT—ANNUAL "GOOD O'BOYS ROUNDUP" CITED AS EVIDENCE OF "KLAN ATTITUDE" AT ATF

(By Jerry Seper)

OCOEE, TENN.—They're trying to tone down the racist trappings of the "Good O'Boys Roundup" here in the Tennessee hills east of Chattanooga, where hundreds of federal, state and local law enforcement officers gather every spring to let off steam.

There was a lot to tone down. Gone, for example, are many of the crude signs that once greeted arriving officers, like this one: "Nigger check point."

The "Good O'Boys Roundup" is organized by agents of the Bureau of Alcohol, Tobacco and Firearms, and it was held this year on May 18–20.

Also gone this year was the traditional Saturday-night skit highlighting the Good O'Boys steak dinner." In one skit, an officer in fake Ku Klux Klan garb pulled a dildo from his robe and pretended to sodomize another officer; who was in blackface.

But according to law enforcement officers who attended this year's and other events, a whites-only policy remains in effect.

Still on sale were T-shirts with Martin Luther King's face behind a target, O.J. Simpson in a hangman's noose and white D.C. police officers with a black man sprawled across the hood of their car under the words "Boyz on the Hood."

"Nigger hunting licenses" also were available throughout the compound, consisting of motor homes, trailers, tents and pickups gathered around a large beer truck.

At this year's event, some black officers—including ATF agents—attempted to crash the party and were turned away after having "bitter words" with some of the white officers in attendance, the sources said.

At attempt by roundup organizers to tone down the event's racist activities comes at a time when black agents have charged ATF with discrimination. In a lawsuit pending in U.S. District Court in Washington, they claim ATF supervisors have done little to address complaints of racial slurs, harassment and other job discrimination.

Brought by 15 plaintiffs, the suit alleges that such incidents as "nigger hunting licenses" seen in ATF offices, a Ku Klux Klan card posted in ATF's Oklahoma City office and use of the word "nigger" by white ATF officials have gone unpunished. There are about 200 blacks among the 2,000 agents within ATF, a law enforcement arm of the Treasury Department.

Representing the black agents is lawyer David J. Shaffer of Washington. He said that his clients were aware of the Good O' Boys Roundup and that discovery in the case found that announcements concerning it had been circulated exclusively by and to white agents.

"This is what this lawsuit is about: a Ku Klux Klan attitude among some of the white agents that seriously affects black agents on a day-to-day basis," Mr. Shaffer said.

Trial in the case has been tentatively set for next year before U.S. District Judge Royce C. Lamberth.

The roundup, according to invitations sent out last year, has been coordinated unofficially for the past several years through the ATF office in Greenville, S.C., and is open to "any good o' boy invited to attend." Non-law-enforcement attendees must be sponsored and accompanied by law enforcement officers, and participants wear wristbands to verify that they were invited.

The event coordinator is Gene Rightmyer, a retired ATF agent who previously was assigned to field offices in Tennessee and South Carolina. Mr. Rightmyer did not return telephone messages left for him with ATF for comment.

Roundup invitations show that participants were asked to send their registration fees—ranging from $70 to $90—to the Greenville ATF office, and the office's telephone was listed as the number for any questions concerning the event.

Todd Lockhart, acting agent in charge of the Greenville office, declined comment, referring inquiries to the ATF regional office in Charlotte, NC.

Several ATF agents in Greenville, however, were aware of the roundup, and during interviews they expressed concern and dismay over the annual event.

"I have never attended, nor would I," said one agent, adding that he and others knew about the racist activities and felt the event reflected poorly on the agency.

"I am not surprised about the signs or the other activities, and whether the racism is overt or subtle, it is wrong," said another ATF official. "I cringe on behalf of the agency."

None of the several Greenville agents interviewed volunteered that they had ever attended the event.

Earl Woodham, ATF spokesman in Charlotte, said he was aware of the annual roundup and had been invited on one occasion to attend but declined. He noted that the event was not sanctioned or authorized by ATF.

"The ATF does not and will not tolerate any kind of discrimination," he said. "But what people do on their own time is their business; we cannot control internal morality."

Mr. Woodham said, however, that Mr. Rightmyer used "poor judgment" in using the ATF address and telephone number in his invitation. He said if Mr. Rightmyer were still employed by the agency, he would be subject to "a full review and possible sanctions."

He also suggested that ATF officials who attend the annual event were "a lot of the older agents, spinoffs from the days of the revenuers and moonshine chasers."

"The younger agents just don't have time for this kind of activity," he said.

ATF spokesman Jack Killorin in Washington did not return calls for comment.

The roundup was organized in 1980 by ATF agents in Chattanooga and Knoxville. It began with 58 persons, mostly ATF agents, from Alabama, Georgia, Tennessee, Kentucky and North Carolina. Roundup attendance jumped to 341 last year.

According to Mr. Rightmyer's invitation, there are few rules. Among those listed were no fighting, no fireworks and "what goes on at the roundup stays there."

Jeff Randall, a former Attalla, Ala., policeman who attended this year's event, said that while he would not "condemn" the entire group, there was "an obvious racist overtone" by many of those in attendance.

"People can gather and have fun, and there was a lot of good, clean fun available," he said. "But the obviously racist stuff was just not acceptable."

Mr. Randall also confirmed seeing black agents at this year's event being turned away, saying that some of the program participants were "real mad" that they had tried to get into the compound.

A former Alabama police official who asked not to be identified said entrance to the roundup has in the past been tightly controlled along a one-lane dirt road. He said he personally saw and photographed racially inflammatory signs along that road.

The former police official, who said he attended three of the roundups, said the majority of participants identified themselves as ATF agents. "The roundup has been a place for law enforcement personnel to go and let their hair down," he said. "But some of this overt racism is just inappropriate, plain and simple."

J.T. Lemons, owner of Grumpy's Whitewater Rafting here, whose company sponsored rafting trips at the roundup, said that organizers have "done what they can over the past few years to clean up the racism" and that some overt signs were ordered taken down.

Mr. Lemons confirmed, however, that racially sensitive T-shirts "and other stuff" remained on sale.

Other business owners in this Polk County, Tenn., community—east of Chattanooga, adjacent to the Cherokee National Forest—also confirmed they had seen the signs, T-shirts and other racist trappings but declined to be quoted on the record.

Meetings "designed to keep the White House informed" on the incident, including a listing of administration officials involved in giving or receiving information.

Mr. Clinton and agency heads have pledged to cooperate with the request.

But yesterday, nine days before the hearings are set to open, the joint panel has received documents on "roughly half" of the issues requested, according to a senior GOP source close to the negotiations.

"The Department of Defense has been very helpful, [and] the Treasury Department just sent over 13,000 pages of documents," Mr. Zeliff said. "Some people are trying to help us do our job, and some people aren't."

Justice Department spokesman Carl Stern denied that his agency was stalling. "We've given the committee complete cooperation."

Mr. Mikva's office and the Defense Department did not return calls seeking comment. Treasury Department officials hotly denied they are stalling, saying about 80 percent of the materials requested have been sent to the committee, and "almost all" of the rest will arrive by tomorrow.

Staffers for Mr. Zeliff's subcommittee have requested seven years' worth of personnel records on every ATF agent charged with misconduct. A senior source at the Treasury Department, which oversees ATF, said officials there don't consider records of agents not disciplined for their involvement in the Waco siege to be relevant to the investigation.

But the subcommittee is pressing on with its request, in an effort to "develop a pattern of overreaching on the part of BATF agents," according to the high-level GOP source on the joint panel.

Also yesterday, Sen. Arlen Specter, Pennsylvania Republican and presidential candidate, attacked Mr. Rubin for charging last week that the hearings are politically motivated and that proponents of hearings are "opponents of law enforcement."

In a response yesterday, Mr. Rubin denied saying that and suggested Mr. Specter "misunderstand[s] my views."

APPALLED ATF CHIEF ORDERS PROBE OF AGENTS' ROLE IN RACIST "ROUNDUP"—PLANS DISCIPLINE FOR THOSE INVOLVED

(By Jerry Seper)

The head of the Bureau of Alcohol, Tobacco and Firearms yesterday ordered an investigation into the involvement of ATF agents in a whites-only "Good O' Boys Roundup" in the Tennessee hills, saying he has "zero tolerance" for racism in the agency.

Director John W. Magaw, who took over ATF in October 1993 in the wake of the botched Branch Davidian raid, said he was "appalled" that agents would take part in an event marred by obvious displays of racism.

The Washington Times reported yesterday that ATF agents had organized and helped coordinate the annual roundup since 1980 and that participants, who numbered more than 300 this year, had displayed crude signs bearing racist remarks and sold T-shirts with racist and degrading slogans with depictions.

The Times also reported that, despite efforts in recent years to tone down the roundup's racist trappings, a whites-only policy has remained in effect, and black law enforcement officers, including an AFT agent, were turned away from this year's May 18–20 event.

"I am appalled that an event as the one reported in today's Washington Times would happen in any facet of our society—particularly involving law enforcement officers," Mr. Magaw said in ordering agency officials to find out how many agents were involved and whether ATF property was used to organize the event.

"Everyone at ATF knows of my intolerance for discrimination and harassment," he said. "If an inquiry finds that anyone is involved in these practices, I will do everything in my power to mete out the strongest possible discipline."

An AFT Officer of Inspection inquiry will look into accusations that current and former agents participated, review whether current agents had breached the agency's code of conduct, and try to determine what role former agent Gene Rightmyer played in the roundup.

Mr. Rightmyer, who has not returned telephone messages, has organized the roundup the past several years and, according to a recent letter of invitation, used the address and telephone number of the ATF office in Greenville, S.C., where he was assigned, as the contract point for registration fees and questions about the event.

Mr. Magaw said a preliminary review of the accusations began last month after article from the Gadsden Minutemen Newsletter was posted on the Internet. The Alabama article said racist activities went on at the roundup and that ATF agents were involved.

The preliminary inquiry found that as many as 10 agents had attended and that a black agent who went with two white agents had left after hearing "the racial undercurrents of other participants," Mr. Magaw said.

* * * * *

Roundup attendance jumped to 341 last year.

Two former Alabama police officers who attended the event this year said there were obvious racist overtones and confirmed seeing black officers being turned away. They said the majority of the participants they met identified themselves as ATF agents, an accusation denied by Mr. Magaw.

ATF has come under fire since the Branch Davidian raid in 1992 near Waco, Texas, during which the agency tried to serve an arrest warrant on sect leader David Koresh, resulting in the deaths of four agents and six Davidians. The agency's actions at Waco will be the subject of House hearings beginning next week.

Black ATF agents have charged in a federal lawsuit that agency supervisors have done little to address complaints of racial slurs, harassment and discrimination.

Trial in the case has been tentatively set for next year before U.S. District Judge Royce C. Lamberth. There are about 200 blacks among the 2,000 agents in ATF, an arm of the Treasury Department.

Mr. LEVIN. Mr. President, again I commend Senator HATCH. I know he will find strong bipartisan support for this initiative he is taking. There is a bipartisan determination to go root out this kind of racism in America.

Again, I think he will find very strong support, both in the administration and in those agencies, to root it out, and, I am sure, on the part of both sides of the aisle.

Mr. HATCH. Mr. President, if I could just add one other thing. The Judiciary Committee is going to resolve that problem. But we are also working very hard on the Ruby Ridge situation and also the Waco situation. We are going to resolve those, too. But I want to do it with a full investigation and not halfcocked. I want to get into it and do what has to be done.

With regard to Waco, we also know the House is starting their hearings next week. They have asked us to defer our hearings until after theirs, in other words until September. We have agreed to do it, on Waco.

On Ruby Ridge we are looking at it very, very carefully. We intend to follow through on it. I know the Senators from Idaho have both talked to me many times about this, and I have assured them this is going to happen and it is going to be done thoroughly and it is going to be done well. I just want everybody to understand that aspect as well, but I do think we do need to do some more investigation.

On the ATF matter, or should I say the Tennessee matter that involves ATF, FBI and others, naturally we will not, by next Friday, have all of the investigation done. But next Friday is to make sure we have our top officials in Government come in and tell us what they are going to do about these racist activities and to chat with us on the Judiciary Committee about what we can do to help them.

I have to, preliminarily, tell you, I am very concerned. I think, currently, our leaders over at the ATF and FBI are as good as we can have. John Magaw and Louis Freeh, Judge Freeh, are excellent leaders. They both are jumping right on this. Both of them have done an awful a lot to try to make sure there is no racism within their agencies, and Director Freeh in particular has been making sure that equal opportunity laws are abided by, outreach is being undertaken for African-Americans and other minorities to come into the FBI. And I commend him for it.

I commend him for it. He has been a breath of fresh air ever since he has been there. I feel sorry that he has had to inherit some of these problems. He has inherited Ruby Ridge, and some of the other problems. But nevertheless, I have confidence in him in helping to resolve these problems, and we are going to do everything we can to help him and the others to do the job, as well as our Secretary of the Treasury, our Attorney General, and others to resolve some of these serious problems.

COMPREHENSIVE REGULATORY REFORM ACT

The Senate continued with the consideration of the bill.

Mr. ROTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

AMENDMENT NO. 1575 TO AMENDMENT NO. 1487

Mr. ROTH. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Delaware [Mr. ROTH] proposes an amendment numbered 1575 to amendment No. 1487.

Mr. ROTH. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Add a new section 637 to Subchapter III as follows:

SEC. 637. INTERAGENCY COORDINATION.

"(a) To promote the conduct, application, and practice of risk assessment in a consistent manner and to identify risk assessment data and research needs common to more than 1 Federal agency, the Director of the Office of Management and Budget, in consultation with the Office of Science and Technology Policy shall—

"(1) periodically survey the manner in which each Federal agency involved in risk assessment is conducting such risk assessment to determine the scope and adequacy of risk assessment practices in use by the Federal Government;

"(2) provide advice and recommendations to the President and Congress based on the surveys conducted and determinations made under paragraph (1);

"(3) establish appropriate interagency mechanisms to promote—

"(A) coordination among Federal agencies conducting risk assessment with respect to the conduct, application, and practice of risk assessment; and

"(B) the use of state-of-the-art risk assessment practices throughout the Federal Government;

"(4) establish appropriate mechanisms between Federal and State agencies to communicate state-of-the-art risk assessment practices; and

"(5) periodically convene meetings with State government representatives and Federal and other leaders to assess the effectiveness of Federal and State cooperation in the development and application of risk assessment.

"(b) The President shall appoint National Peer Review Panels to review every 3 years the risk assessment practices of each covered agency for programs designed to protect human health, safety, or the environment. The Panels shall submit a report to the President and the Congress at least every 3 years containing the results of such review.

Mr. ROTH. Mr. President, my amendment is to promote the use of risk assessment in a consistent manner across agencies because we believe it will clearly improve the intent of S. 343 and will further the bill's intent of improving risk assessment within the Federal Government.

It only makes sense to ensure that the conduct, application, and practice of risk assessment be done as uniformly as possible across agencies. A consistent approach will help to minimize unnecessary bureaucracy, overlap, and duplication, and will lead to a more efficient and effective process of performing risk assessment.

This amendment is pulled directly from the Glenn substitute, and shows our effort to continue this process in a truly bipartisan manner. This amendment would require the Director of OMB, in consultation with the Office of Science and Technology Policy to survey relevant agency risk assessment practices to determine the scope and adequacy of risk assessment practices used by the Federal Government.

The amendment also requires the establishment of interagency mechanisms to promote coordination among agencies' risk assessment practices, to promote the use of state-of-the-art risk assessment practices throughout the Federal Government, and establish mechanisms to communicate risk assessment practices between Federal and State agencies, as well as to promote Federal and State cooperation in the development and application of risk assessment.

In addition, the amendment requires national peer review panels every 3 years to review risk assessment practices across agencies for programs designed to protect human health, safety, and the environment.

This amendment will ensure that advances in science and technology are continuously incorporated in Federal risk assessment practices and ensure coordination of these practices among Federal and State agencies.

This amendment will, therefore, improve risk assessment practices in the Federal Government, and will result in a more effective and efficient risk assessment process—a process that is the foundation of effective health, safety, and environmental regulations.

Mr. President, I urge adoption of my amendment.

The PRESIDING OFFICER (Mr. KYL). Is there further debate on the amendment?

Mr. HATCH. Mr. President, we are prepared to accept the amendment on this side. We think it is a good amendment. I believe the other side is prepared to accept it.

Mr. LEVIN. Mr. President, we are not only prepared to accept the amendment but we are delighted that it is offered. It is language that actually comes from the Glenn-Chafee substitute. Needless to say, the more of that substitute that we can incorporate in the pending bill the happier we are. We are certainly pleased with this amendment.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment of the Senator from Delaware.

The amendment (No. 1575) was agreed to.

Mr. ROTH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HATCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1581 TO AMENDMENT NO. 1487

(Purpose: To reform regulatory procedures, and for other purposes)

Mr. LEVIN. Mr. President, I send to the desk now the so-called Glenn-Chafee substitute. This is on behalf of myself and Senators GLENN, CHAFEE, LIEBERMAN, COHEN, PRYOR, KERRY, LAUTENBERG, DASCHLE, BOXER, KOHL, SIMON, KENNEDY, DODD, MURRAY, AKAKA, JEFFORDS, BIDEN, DORGAN, BAUCUS, and KERREY, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN], for Mr. GLENN, for himself, Mr. CHAFEE, Mr. LEVIN, Mr. LIEBERMAN, Mr. COHEN, Mr. PRYOR, Mr. KERRY, Mr. LAUTENBERG, Mr. DASCHLE, Mrs. BOXER, Mr. KOHL, Mr. SIMON, Mr. KENNEDY, Mr. DODD, Mrs. MURRAY, Mr. AKAKA, Mr. JEFFORDS, Mr. BIDEN, Mr. DORGAN, Mr. BAUCUS, and Mr. KERREY, proposes an amendment numbered 1581 to amendment numbered 1487.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. LEVIN. Mr. President, we are going to begin the debate on this substitute today and then continue this on Monday.

This embodies a number of changes that are really significant from the bill that is before us. They are succinctly set forth in a statement of administration policy.

Mr. HATCH. Mr. President, will the Senator yield? I know the Senator is just beginning what really is a very important statement of his position and others on this bill. But could I ask a special favor of the Senator? Senator STEVENS is here. He just needs to speak for about 4 or 5 minutes. I would rather have him do that.

Mr. LEVIN. I understand Senator CHAFEE is on the way to the airport. If the two of them could work out an order, it would be great.

Mr. HATCH. Senator CHAFEE first, and then Senator STEVENS.

Mr. LEVIN. That is fine.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. CHAFEE. Mr. President, I want to thank the Senator from Alaska very much for permitting me to proceed, and indeed giving me his podium.

Mr. President, I am pleased to join with Senator GLENN and Senator LEVIN and a bipartisan group of cosponsors to put this alternative before the Senate.

First, I want to say something about the pedigree of this amendment we are proposing. It is the bill which was reported unanimously by the Governmental Affairs Committee 15 to nothing. There are other regulatory reform bills before this body. One was reported from a committee on a straight party line vote, Republicans voting one way, the Democrats voting the other. Another was discharged by unanimous consent when the committee could not agree on a procedure for a markup.

In other words, there is tremendous dissension within the committee. But this amendment that we are offering is based on the bill that has the support of all the Republicans, and all of the Democrats on the Governmental Affairs Committee.

There is another point to be made about the history of this amendment. Back in 1982, the Senate passed a regulatory reform bill on a vote of 94 to 0. It is pretty rare that you get a vote like that around here, 94 to 0. A regulatory reform bill was passed just 15 years ago.

Many of the issues that were discussed here on the floor over the past few days were all addressed by that bill; issues such as the role of cost-benefit analysis, judicial review, and setting agency priorities. I invite Members to go back and read that bill. They will find that it has more in common with the amendment that Senator GLENN and I are presenting than it has in common with the underlying substitute.

There was no supermandate in 1982. Cost-benefit analysis did not override other law. There was no prohibition on issuing a rule unless the agency could demonstrate that the benefits justified the cost. Cost-benefit studies were required. Yes; just as they are in this amendment that Senator GLENN and I are presenting. Agencies were asked to determine whether the benefits of a rule justified the cost. But the bill that the Senate adopted unanimously in 1982 did not set cost benefit as the ultimate test that a rule had to pass. That is one of the problems with the bill that we are amending here today.

On judicial review, the 1982 bill specifically precluded judicial review of the substance of cost-benefit studies. The agencies were required to perform them. Yes. They were. But the court challenges to the methods and the assumptions, or the underlying data, could not be used to overturn a rule. This is consistent with judicial review in the provisions we have in the Glenn-Chafee amendment.

Mr. President, the Senate has been down this road before. In 1982 it unanimously adopted a regulatory reform bill. Members ought to read that bill. They will find that the Glenn-Chafee amendment is cut from the same cloth. This year, one committee of the Senate unanimously reported a regulatory reform bill, and that is the Glenn-Chafee amendment.

In addition to the cost-benefit and judicial review benefits, there are other important differences that we will outline in the debate on Monday. I look forward to a spirited discussion.

I wish to thank the Chair and thank the managers of the bill for permitting me to proceed.

I thank the Senator from Alaska.

Mr. STEVENS. Mr. President, I thank my good friend. I will take just a few minutes.

(The remarks of Mr. STEVENS pertaining to the submission of S. Con. Res. 21 are printed in today's RECORD under "Submission of Concurrent and Senate Resolutions.")

Mr. LEVIN. Mr. President, the substitute which we offer is basically the same bill as the Roth-Glenn bill, a bipartisan bill, a strong regulatory reform bill that passed Governmental Affairs unanimously.

Our substitute would fundamentally change the way that Federal regulatory agencies do business and would achieve meaningful, responsible regulatory reform.

The Glenn-Chafee substitute would help prevent regulatory agencies from issuing rules that are not based on good science or common sense and that impose costs that are not justified by the benefits of the rule. At the same time, the Glenn-Chafee substitute would not inhibit or prevent agencies from taking the necessary steps to protect public health, safety, and the environment.

The Glenn-Chafee substitute strikes a good balance between reducing the costs and the burdens of Federal regulation while ensuring that needed public protections and benefits are being provided. It would produce better informed decisions without bringing the regulatory process to a standstill or forcing outcomes which are harmful to health and to safety.

Under the Glenn-Chafee substitute, all Federal agencies would be required to perform and publish cost-benefit analyses before issuing major rules. The agencies must compare the costs and benefits of not only the proposed rule but of reasonable alternatives as well, including nonregulatory market-based approaches. The agency must explain whether the expected benefits of the rule justify the costs and whether the rule will achieve the benefits in a more cost-effective manner in the alternative. The cost-benefit analysis must be reviewed by a panel of independent experts and the agency must respond to peer reviewers' concerns.

Under Glenn-Chafee, the major regulatory agencies would be required to perform and issue risk assessments before issuing major rules. The risk assessments must be based on reliable scientific data and must disclose and explain any assumptions and value judgments. The risk assessment must be reviewed by a panel of independent experts and the agency must respond to peer reviewers' concerns.

Under Glenn-Chafee, Federal agencies are required to review all major regulations and eliminate all unnecessary regulations. If an agency had failed to conduct a review within the time required by the schedule, it would be required to issue a notice of proposed rulemaking to repeal the rule rather than to have the rule automatically sunset.

Under Glenn-Chafee, Congress would have 45 days before issuance of any major rule to review the rule and prevent it from taking effect by passing with expedited procedures a joint resolution of disapproval. This would put elected Representatives in a position to assure that agency rules are consistent with Congress' intent, a power that I have fought for since I first ran for the Senate.

Under Glenn-Chafee, agencies would be required to set regulatory priorities to address the risks that are most serious and can be addressed in a cost-effective manner. Agencies would be required to explain and reflect these priorities in their budget requests.

Under Glenn-Chafee, every 2 years the President would be required to report to Congress the costs and the benefits of all regulatory programs and recommendations for reform.

Under Glenn-Chafee, the Office of Management and Budget would be required by law to oversee compliance with the bill, would be required to review all major rules before issuance, and this would strengthen Presidential control over regulatory agencies, particularly the independent agencies.

Now, Mr. President, the substitute which we offer, the Glenn-Chafee substitute, is a strong and a powerful bill. It is an important reform measure which, again, just a few months ago had the unanimous, bipartisan support of Governmental Affairs.

Glenn-Chafee also avoids some problems that are present in the so-called Dole-Johnston bill. And that is why it represents a balance between reform, which we need, because we have all seen excessive regulatory burdens placed on Americans; we need reform, but we also need clean air and clean water, environmental protection, safe workplaces, safe food, and the other things which a regulatory process produces. We have to have both, and we can have both.

There are a number of problems, as I have said, in the Dole-Johnston bill. These problems are quite succinctly set forth in a document which has been produced by the OMB with a large number of agencies who are involved in the regulatory process.

I am going to read briefly from that document and just take a couple of examples from it and then put the remainder of the document in the RECORD.

It is called, from the Executive Office of the President, "Statement of Administration Policy":

> The Administration strongly supports the enactment of cost-benefit analysis and risk assessment legislation that would improve the regulatory system. S. 343, however, is not such a bill. Because the cumulative effect of its provisions would burden the regulatory system with additional paperwork, unnecessary costs, significant delay, and excessive litigation, the Secretaries of Labor, Agriculture, Health and Human Services, Housing and Urban Development, Transportation, the Treasury, and the Interior, the Administrator of the Environmental Protection Agency, and the Director of the Office of Management and Budget would recommend that the President veto S. 343 in its present form.

This letter is dated, by the way, July 10.

> The Administration is particularly concerned that S. 343 could lead to:

And then they list many of the problems with the so-called Dole-Johnston bill. First:

> Unsound Regulatory Decisions. A regulatory reform bill should promote the development of more sensible regulations. S. 343, however, could require agencies to issue unsound regulations. It would force agencies to choose the least costly regulatory alternative available to them, even if spending a few more dollars would yield substantially greater benefits.

I want to stop there and just use an example of what that document is referring to. The language in the bill requires that the rule adopt the least-cost alternative of the reasonable alternatives that are available. That may sound good at first blush. The problem is we do not always want to buy a Yugo. A Yugo may get you to where you are going, but it may be that you want airbags or it may be that you have five kids or it may be that you want other kinds of features that are not available on a Yugo. That is why Yugos are not selling that well, because even though it may be classified as a car, it still does not do what we want to be done, which we need to have done in a cost-efficient way.

I have a chart behind me which gives an example of what I am referring to. Let us assume that we pass a statute which says that we want a certain toxic substance in the air to be reduced to no more than 10 parts per million. That is what our instruction is to the agency. We decide as a Congress no more than 10 parts per million of a certain substance. We also authorize the agency, based on a cost-benefit analysis, waiving the cost of the benefits of going further, that they can be more restrictive than 10, should that cost-benefit analysis indicate to them that it makes common sense and it is cost-effective to do so.

So the agency makes a study, and that study is that for $200 million, you get to 10; for $400 million, you can get to 7. And from that point on, the line becomes kind of flat and you are not going to be really achieving an awful lot more, although you are going to be spending an awful lot more money.

If you can get to 7 parts per million of a toxic substance, the agency may decide that you are going to quadruple the number of lives that you are going to save—not the agency deciding, but it could be a cost-benefit analysis decides—that for the extra dollars you are going to have a huge return.

Do we have to go with the cheapest, even though it might be the statutory requirement? Or could we, for some additional dollars if there is a huge return, allow the agency to impose the additional dollars? If the cost-benefit analysis tells us that for a relatively few percentage points of additional expenditures, we can gain a huge increase in safety or reduce the loss of human lives by a huge percentage, are we going to say, "You can't do that, you have to go with the cheapest alternative"? Is that what we want to do?

The sponsors of the amendment say there is an escape clause from that. The sponsors of the amendment say that if nonquantifiable benefits to health and safety are such that you can make significant additional gains in health and safety, then you are allowed to go with something more than the least-cost alternative. You are not limited to the cheapest. You do not have to buy the Yugo if the nonquantifiable benefits to health, safety, and the environment make a more costly alternative that achieves the objectives of the statute appropriately.

The problem with that is what happens if the benefits are quantifiable, like on this chart? In my hypothesis, these are not nonquantifiable benefits, these are quantifiable benefits that make it appropriate to go to a more—or might make it more appropriate—to go to a more costly alternative that achieves the objectives of the statute.

Why preclude an agency from using a slightly more expensive alternative if there is a huge benefit? What is cost-benefit all about, except to do that, to analyze cost and benefits? Why are we putting agencies to this requirement, except that we will allow them some flexibility to use the results of the cost-benefit analysis? And if the results of that analysis are that for a relatively small increase in cost we get a relatively large gain, why are we going to say, "Sorry, you can't do that unless the benefits are nonquantifiable"?

We have urged the sponsors of this amendment to make the change to where the benefits are either quantifiable or nonquantifiable. We ought to allow the cost-benefit analysis to be considered, and where a more costly approach will give us a significant gain, we ought to do so.

But we have not been successful in getting an agreement to make that change.

The administration document says that S. 343:

> . . . would also prevent agencies responsible for protecting public health, safety, or the environment from issuing regulations unless they can demonstrate a "significant" reduction in risk . . .

Now, if the cost-benefit analysis that we are requiring, that everybody, I think, in this Chamber wants to require to be done, demonstrates that there is a reduction in the risk for almost no cost, why do we want to put in law that you cannot do that? The reduction has to be significant before it is allowed. Why are we precluding reductions in risk to health, safety, and the environment if the cost-benefit analysis, which we, in both versions of the bill, are requiring to be made indicate that it is worthwhile doing?

Why preclude reductions in risks to our health, our children's health, our children's safety, and our environment unless it rises up to the level of significant if the cost of reduction is minute? I do not see any logic in insisting on the word "significant," once we have a cost-benefit analysis requirement. I think that word should be stricken. We have proposed that it be stricken. In our version, there is no such limitation.

Mr. President, at this point, I ask unanimous consent that the remainder of the statement of administration policy which sets forth many of the problems in the Dole-Johnston bill, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT OF ADMINISTRATION POLICY

S. 343—COMPREHENSIVE REGULATORY REFORM ACT OF 1995

The Administration strongly supports the enactment of cost-benefit analysis and risk assessment legislation that would improve the regulatory system. S. 343, however, is not such a bill. Because the cumulative effect of its provisions would burden the regulatory system with additional paperwork, unnecessary costs, significant delay, and excessive litigation, the Secretaries of Labor, Agriculture, Health and Human Services, Housing and Urban Development, Transportation, the Treasury, and the Interior, the Administrator of the Environmental Protection Agency, and the Director of the Office of Management and Budget would recommend that the President veto S. 343 in its present form.

The Administration is particularly concerned that S. 343 could lead to:

Unsound Regulatory Decisions. A regulatory reform bill should promote the development of more sensible regulations. S. 343, however, could require agencies to issue unsound regulations. It would force agencies to choose the least costly regulatory alternative available to them, even if spending a few more dollars would yield substantially greater benefits. It would also prevent agencies responsible for protecting public health, safety, or the environment from issuing regulations unless they can demonstrate a "significant" reduction in risk—even if the benefits from a small reduction in risk exceed the costs. Both of these features would hinder, rather than promote, the development of cost-beneficial, cost-effective regulations. In addition, S. 343 could be construed to constitute a supermandate that would override existing statutory requirements indiscriminately.

Excessive Litigation. While it is appropriate for courts to review final agency action to determine whether, taken as a whole, the action meets the requisite standards, S. 343 would increase opportunities for lawsuits and allow challenges to agency action that is not yet final. Further, by needlessly altering numerous features of the Administrative Procedure Act, S. 343 could engender a substantial number of lawsuits concerning the meaning of changes to well-established law.

A Backdoor Regulatory Moratorium. S. 343 would take effect immediately upon enactment, consequently leading to an unnecessary and time-consuming disruption of the rulemaking process. It would require proposed regulations that have already been through notice and comment, and are based on cost-benefit analysis, to begin the process all over again because of an agency's unknowing failure to follow one of the many new procedures in the bill.

The Unproductive Use of Analytic Resources in Issuing New Rules. Since the mid-1970s, Presidents of both parties have selected $100 million as the line of demarcation between that which warrants full-blown regulatory analysis and that which does not. Because cost-benefit and risk analyses can be costly and time-consuming, the Administration believes that $100 million continues to be the appropriate threshold. S. 343, however, has as its threshold $50 million—a decision that would require agencies to use their resources unproductively and that therefore cannot itself withstand cost-benefit scrutiny.

Agencies Overwhelmed with Petitions and the Lapsing of Effective Regulations. S. 343 creates numerous, often highly-convoluted petition processes that, taken together, could create opportunities for special interests to tie up an agency in additional paperwork and, in the process, waste valuable resources. Several of these processes allow agencies inadequate time to conduct the required analyses and prepare the required responses to petitions; contain inadequate standards against which the adequacy of petitions can be judged; contain inadequate limitations on who may properly file petitions; and contain inadequate safeguards against an agency becoming overwhelmed by large numbers of petitions. These problems are exacerbated by provisions providing for the sunsetting of regulations according to arbitrary deadlines, which could cause effective regulations to lapse without going through the notice and comment process.

Inappropriate Use of Risk Assessment and Peer Review. S. 343's risk assessment and peer review provisions are overly broad in scope and would introduce unnecessary delays into the regulatory process. They would inappropriately subject all health, safety, and environmental regulations to risk assessment and peer review, regardless of whether such regulations are designed to reduce risk or whether a risk assessment and a peer review would, from a scientific perspective, be useful or appropriate.

Slowed Environmental Cleanups. S. 343 could needlessly slow ongoing and planned environmental cleanup activities, including those at military installations necessary to make the installations being made available for productive non-military use. It would also invite attempts to renegotiate cleanup agreements, thereby hampering enforcement efforts and increasing public and private transaction costs.

A Less Accountable and Less Transparent Regulatory Process. Any regulatory reform bill should bring "sunshine" to the regulatory review process. Executive Order No. 12866, "Regulatory Planning and Review," provides both for centralized Executive branch review of proposed regulations and for the disclosure of communications concerning pending rulemakings between persons outside the Executive branch and centralized reviewers. S. 343, however, contains no such sunshine provision and could consequently remove accountability and transparency from the regulatory process.

An Unduly Lengthy Congressional Layover. S. 343 includes a provision for a congressional layover of 60 days that goes beyond the provisions of S. 219, which provided for a 45-day layover. S. 219 passed the Senate by a vote of 100-0, with Administration support.

Unrealistic, Unmanageable Studies. S. 343 would require a comprehensive study of and report on all risks to health, safety, and the environment addressed by all federal agencies. It would also require the President to produce annually a highly detailed estimate of and report on the costs, benefits, and effects of virtually all existing regulatory programs. Such studies would not only be unmanageable to conduct and costly to produce, but would require scientific and economic analytical techniques that go beyond the state of the art.

Unnecessarily Hindered Enforcement of Regulations and Out of Court Settlements. S. 343 could create disincentives for regulated entities to bring potentially conflicting regulations to the appropriate agencies' attention. It could also make it unnecessarily difficult for agencies to settle litigation out of court.

Significant Changes in Substantive Law Without Proper Consideration. S. 343 goes beyond attempting to reform the regulatory process by making changes in substantive law—altering, for example, the Delaney Clause and the Community Right-to-Know Act. Whether such changes are appropriate should be decided only after full hearings in the committees of jurisdiction and full debate on the merits.

The Administration is as concerned with the cumulative effect of S. 343 as with its particular features. The Administration remains committed, however, to improving the regulatory process, both administratively and through legislation.

Mr. LEVIN. Mr. President, there are major problems in judicial review. It appears as though there are as many as 140 additional items which can be litigated under S. 343 because of some of the language in it beyond items which can be litigated today.

Now, we want to try to fix this thing. We do not want to make it worse. We have a regulatory system which needs to be repaired. We do not want to make it more cumbersome, more confusing, more difficult to operate under. And one of the difficulties with the bill is that it opens the door to so many—indeed over 100, probably—areas of reviewable issues to be litigated. It may be a lawyer's dream, but it is a business person's nightmare, and I think it is a nightmare for the country.

So we have significant problems in the judicial review area, which are also partly set forth in the letter of the administration.

Finally, let me say this: We have worked about a week on this bill. I think we have made some progress this week, and I commend Senator HATCH and others. So many have worked on this during this week, and I thank them for the progress which has been made in the bill.

For instance, in one of the decisional criteria areas, I think we made progress. We added sunshine last night, so that we now have in the underlying Dole-Johnston bill requirements that the process, right up to the OMB, be open, so that when a rule that is going to affect your business or your life is being reviewed in the White House, there is notice in the public file that that is where the review is taking place. It no longer is in the agency; now it is in the White House. An awful lot of people are affected by these rules, and the public has a right to know when it is no longer the agency making the decisions that affect their lives or pocketbooks; it is now the White House and OMB.

Under the sunshine provision, now incorporated in Dole-Johnston and which was part of the Glenn-Chafee bill, we are going to have that kind of sunshine. There have been other improvements in this bill. We have been working on them one by one. This has been time, I think, usefully spent. It is a very serious effort which affects the air we breathe and the water that we drink and commerce and business and everybody's pocketbook. It affects the safety of our children. It affects almost everything that we do. The costs can be immense. We have to try to keep them down. But the losses will be immense to life and safety if we do this thing wrong.

So we have taken some time. It has been time well spent. I thank my friend from Utah and all of the others who have been involved in the last few weeks in trying to work through this process to come up with a bill, if possible, on which there can be a broad consensus and, if not, to at least come up with two alternatives which reflect differences which can be readily understood and voted on profitably by the Members of the body.

(At the request of Mr. LEVIN, the following statement was ordered to be printed in the RECORD.)

● Mr. GLENN. Mr. President, we have talked for many days on the very real need for regulatory reform. While I recognize the tremendous value of many rules in protecting public health, safety, and the environment, I also understand that Federal agencies too often ignore the costs of regulation on businesses, State, and local governments, and individuals. Through sensible, balanced reform, we can restore common sense to government decisions and thereby improve the quality and reduce the burdens of Federal regulations.

Over the past few weeks, and the past few days, we have worked in good faith to explain why we think S. 343 as currently drafted is not the kind of regulatory reform we can support. The majority leader has offered amendments that have indeed made some improvements in his own bill. The threshold for a major rule is now $100 million. We have added in a statement clarifying that the cost-benefit test shall not be construed to override any statutory requirements, including health, safety, and environmental regulations. The provision covering environmental management activities has been dropped.

But these changes alone do not make for balanced regulatory reform. We are still faced with a bill loaded with petitions that would let interested parties tie up agencies in knots. We are still faced with a bill that is a dream for lawyers and special interests. We have stated all of these and other concerns very clearly to the proponents of S. 343. We have worked in good faith to make this a workable bill. In the end, we still feel that there are too many problems with the bill before us. And clearly the proponents of S. 343 also realize the problems with their bill, as shown by the amendments they have been offering themselves to improve their own bill. That is why I am offering the Glenn-Chafee amendment as a substitute for S. 343.

This substitute is based on the bill reported out of the Governmental Affairs Committee on a bipartisan basis, 15 to 0. Like the Governmental Affairs bill, the amendment I am offering to S. 343 has bipartisan support. I am offering the amendment on behalf of myself, Senators CHAFEE, LEVIN, LIEBERMAN, COHEN, PRYOR, KERRY, LAUTENBERG, DASCHLE, BOXER, KOHL, SIMON, KENNEDY, DODD, MURRAY, AKAKA, JEFFORDS, BIDEN, DORGAN, BAUCUS, and KERREY.

I am offering this legislation because I believe the reforms contained in the Dole-Johnston bill are outweighed by the creation of new opportunities to stop environmental and health and safety protections for the American people. It is time to directly compare these proposals and to ask which proposal better fulfills the dual tasks of eliminating unnecessary regulatory burdens on business and individuals while at the same time providing no diminution in the ability of Government to protect the health, safety, and environment of the American people.

I believe that our substitute provides the best answer. It is a very strong reform proposal. It requires cost-benefit analysis, risk assessment, peer review, congressional review of significant rules, and review of existing rules. It provides much-needed reform without paralyzing agencies. Issues—such as how much judicial review is needed and how we should handle existing rules—are critical in this debate.

Our principles for regulatory reform are the following:

First, cost-benefit and risk assessment requirements should apply to only major rules, which has been set at $100 million for executive branch review since President Reagan's time. While S. 343 has increased its threshold to $100 million, it also contains an amendment that was accepted on Monday that would include any rules subject to Regulatory Flexibility analysis as a "major" rule. What we have improved on the one hand by increasing the threshold to $100 million, we have taken away with the other hand by increasing the number of rules that would fall under the requirements of this bill by up to 500 rules. It's too much.

Second, regulatory reform should not become a lawyer's dream, opening up a multitude of new avenues for judicial review.

Our amendment limits judicial review to determinations of: First, whether a rule is major; and second, whether a final rule is arbitrary or capricious, taking into consideration the whole rulemaking file. Specific procedural requirements for cost-benefit analysis and risk assessment are not subject to judicial review except as part of the whole rulemaking file.

S. 343 will lead to a litigation explosion that will swamp the courts and bog down agencies. It would allow review of steps in risk assessment and cost-benefit analysis, in addition to the determination of a major rule and of agency decisions to grant or deny petitions. It allows interlocutory judicial review for the first time—letting lawyers sue before the final rulemaking. It alters APA standards in ways that undermine legal precedent and invite lawsuits. And it seems to limit agency discretion in ways that will lead inevitably to challenges in court.

Third, this legislation should focus on regulatory procedures and not be a vehicle for special interests seeking to alter specific laws dealing with health, safety, the environment, or other matters.

Our amendment focuses on the fundamentals of regulatory reform and contains no special interest provisions.

S. 343 provides relief to specific business interests that should not be considered in the context of regulatory reform. I am referring to provisions, for example, where the bill restricts the toxic release inventory [TRI], limits the Delaney Clause. Yesterday, the proponents of S. 343 voted once again for the special interests and against the public interest in refusing to protect the TRI.

Fourth, regulatory reform should make Federal agencies more efficient and effective, not tie up agency resources with additional bureaucratic processes.

Our amendment requires cost-benefit analysis and risk assessment for major rules, and requires agencies to review all their major rules by a time certain.

S. 343 covers a much broader scope of rules and has several convoluted petition processes for "interested parties"—for example, to amend or rescind a major rule, and to review politics or guidance. These petitions are judicially reviewable and must be granted or denied by an agency within a specified time frame. The petitions will eat up agency resources and allow the petitioners, not the agencies, to set agency priorities.

Fifth, regulatory reform legislation should improve analysis and allow the agencies to exercise common sense when issuing regulations.

Our amendment requires agencies to explain whether benefits justify costs and whether the rule will be more cost-effective than alternatives.

S. 343 has two separate decisional criteria that control agency decisions—for cost-benefit determinations and for regulatory flexibility analyses. The reg flex override actually conflicts with the cost-benefit decisional criteria. And the cost-benefit test limits agencies to the cheapest rule, not the most cost-effective one.

Sixth, there should be sunshine in the regulatory review process.

I am pleased that my colleagues have accepted my amendment to S. 343 to ensure sunshine in the regulatory review process. I am only sorry that it took so long for the proponents of S. 343 to accept it. We offered it several times in the negotiations, and they rejected it each time. At least now, there will be sunshine.

As I have said before, the text of this alternative bill is almost identical to S. 291, except in three main areas. First, it limits the definition of major rule to $100 million impact this, there is no narrative definition, such as "substantial increase in wages"; second, we have changed the review of rules in a way that makes more sense and that does not automatically sunset rules that have not been reviewed; and, third, it covers only particular programs and agencies for risk assessment requirements and it makes other technical changes in line with the National Academy of Science approach to risk assessment.

In addition, our substitute reflects positive changes that have been arrived at through negotiations on the underlying bill.

I believe this is a very strong and balanced approach to regulatory reform. It passes the two tests I believe any regulatory reform legislation must achieve: First, it will provide regulatory relief for business, State and local governments, and individuals. And, second, at the same time, it protects the health, safety and environment of the American people.

Let me conclude by saying that same progress has been made over the past few weeks in improving S. 343. But let us not leave the impression that the bill is close to being acceptable. This is not the case. There remain substantial issues, which we have communicated on numerous occasions to the proponents of this bill and on which no agreement has been forthcoming. These issues are satisfactorily addressed in the Glenn-Chafee substitute amendment. Accordingly, I urge my colleagues to vote for this amendment as a substitute to S. 343.●

Mr. HATCH. Mr. President, let me spend a few minutes addressing the merits of S. 343 and the Glenn amendment. Let me say that, in our opinion, the Glenn amendment is reg lite. It is a somewhat weaker version of S. 291, which was the compromise bill, and for that reason voted out of the Governmental Affairs Committee under my close friend, BILL ROTH, my comanager on this bill. As Chairman ROTH pointed out, S. 343 is a truly superior vehicle for achieving meaningful and effective regulatory reform than either S. 291 or the Glenn-Chafee substitute.

S. 343, unlike the Glenn bill, is a product of the collective wisdom of three committees—Judiciary, Governmental Affairs, and Energy and Natural Resources—and many Senators, including Senators JOHNSTON, HEFLIN, DOLE, and others in addition. It has undergone 100 substantive and technical changes over the last 4 months. We have tried to cooperate with the White House. Many of the changes have been requested by them, and we have to say we have been very cooperative in the process.

I know that just the Judiciary Committee version of S. 343 encompassed helpful changes suggested by the majority and minority staffs of the committee working as a task force, the administration, and various representatives of Federal agencies after lengthy meetings lasting days. These changes are reflected in the final version of S. 343 that is before this body. So, too, are modifications made to the bill before the July 4 recess, which were the product of fruitful negotiations among Senators KERRY, LEVIN, BIDEN, JOHNSTON, ROTH, NICKLES, MURKOWSKI, BOND, DOLE, and myself.

S. 343, you see, represents the aggregate acumen of many viewpoints. It is a workable, balanced, and fair approach to the nettlesome issue of regulatory reform, and it is far preferable to the Glenn substitute.

Here are just some of the principal reasons why. Both bills contain various elements that are important for effective regulatory reform. S. 343 contains cost-benefit requirements that have substantial effect as to which agencies can be held accountable through an effective decisional requirement section enforced through judicial review.

The Glenn substitute's cost-benefit provision is much weaker, and its judicial review provision is ambiguous at best. The Glenn substitute requires "that the benefits of the rule justify the costs of the rule." And that "the rule will achieve the rulemaking objectives in a more cost-effective manner than the alternatives described in the rulemaking."

However, unlike the Glenn substitute, S. 343 contains a decisional criteria section that is far more sophisticated and efficacious. First of all, the decisional criteria section mandates that no rule shall be promulgated unless the rule complies with this section. That requirement will act as a hammer to assure agency compliance with the standards set forth in the decisional criteria section 624 of S. 343.

Now, some will say that this is overkill, that agencies will abide by cost-benefit standards without section 624's hammer. Yet, President Clinton's Executive order on regulations contains a hammerless cost-benefit analysis requirement which is routinely ignored by agencies and OMB—very similar to what the Glenn substitute is. According to an April 1995 study by the Institute for Regulatory Policy, of the 222 major EPA rules issued from April to September 1994, only 6 passed cost-benefit analysis muster. The rest were promulgated anyway. In other words, the President's own Executive order is ignored by OMB and other agencies, and the EPA in this particular case.

Of the 510 regulatory actions published during this period, 465 were not even reviewed by OMB, and of the 45 rules that were reviewed, not one was returned to the agency having failed the obligatory cost-benefit analysis test.

They call this regulatory reform? That is what we would get with the Glenn substitute.

Moreover, section 624 not only requires, like the Glenn substitute, "the benefits of the rule justify the costs of the rule;" but unlike Glenn, it also requires that the rule must achieve the "least cost alternative," of any of the reasonable alternatives facing the agency. Or if the "public interest" requires it, the lowest cost alternative, taking into consideration scientific or economic uncertainty or unquantifiable benefits.

This does two things. First, it assures that the least burdensome rule will be promulgated; Second, that agencies are not straight jacketed when facing scientific or economic uncertainties, or benefits that cannot be quantified into promulgating a rule based on an option that is only the least costly in the short term.

In the latter situation, agencies may explicitly take these factors into account when considering the least cost alternative when promulgating the rule.

What about the effect on existing law? Section 624 of S. 343 provides that its cost-benefit decisional criteria supplement the decisional criteria for rulemaking applicable under the statute, granting the rulemaking authority, except when such an underlying statute requires that a rule to protect health, safety, or the environment should be promulgated, and the agency cannot apply the standard in the text of the statute, satisfy the cost-benefit criteria.

In such a case, under S. 343, the agency taking action may promulgate the rule but must choose the regulatory alternative meeting the requirements of the underlying statute that imposes the lowest cost.

In this way, agencies are given great latitude in promulgating cost effective rules. Thus, S. 343 strongly supplements existing law but does not embody a supermandate. This was made absolutely clear in a bipartisan amendment adopted just a few days ago.

In contrast, the Glenn amendment only requires agencies to justify costs in those situations where such requirement is not expressly or implicitly "inconsistent with the underlying statute." This allows agencies to select any costly or burdensome option allowable under the underlying statute.

What about judicial review? Could not it be argued that the Glenn bill's judicial review provision assures that agencies will comply with that bill's albeit weak cost-benefit analysis requirement?

While both S. 343 and the Glenn bill basically only allow for APA, the Administrative Procedure Act "arbitrary and capricious" review of the rule, and not independent review of the cost-benefit analysis and a risk assessment.

The Glenn judicial review section contains a provision that could be construed to prohibit a court from considering a faulty cost-benefit analysis or risk assessment in determining if a rule passes arbitrary and capricious muster.

That provision states "If an analysis or assessment has been performed, the court shall not review to determine whether the analysis or assessment conforms to the particular requirements of this chapter."

This literally means that a poorly or sloppily done cost-benefit analysis or risk assessment could avoid judicial scrutiny even if material to the outcome of the rule, because the Glenn requirements for analysis and assessments are not reviewable.

A significant reform contained in S. 343, missing in the Glenn bill, is the petition process. While critics of S. 343 contend that the bill's petition processes are too many and overlapping, I believe that the bill's petition provisions are workable, not at all burdensome, and empower that part of the American public effected by existing burdensome regulation, to challenge rules that have not been subject to S. 343's cost-benefit analysis and risk assessment requirements.

For instance, in section 623, the requirement for agency review of existing rules, the petition provision allows for either placing a rule on the agency's schedule for review, or in effect to accelerate agency review of rules already on the agency scheduled for review.

The petitioner has a significant burden to justify that the requested relief is necessary. I might add that this provision was a product of negotiations among Senators KERRY, LEVIN, BIDEN, JOHNSTON, ROTH, NICKLES, MURKOWSKI, BOND, DOLE, and myself.

One other provision that I want to mention is section 629, which allows for the petitioner to seek alternative means to comply with the requirements of the rule. This allows for needed flexibility and will save industry untold amounts of money in having to comply with sometimes irrational requirements, without weakening the protections for health, safety, or the environment.

In this way, agencies are given great latitude in promulgating cost-effective rules. In this way, agencies are given great latitude that they need to have.

Moreover, the following provisions of S. 343 are much better than their counterpart provisions in Senator GLENN's, the risk assessment provisions. S. 343 applies its risk assessment and risk characterization principles to all agency major rules. The Glenn amendment limits the applicability of risk assessment and risk characterization principles to major rules promulgated by certain listed agencies, contains no decisional requirements for risk assessments.

Definition of cost of benefits. S. 343 makes absolutely clear that the definition of cost of benefits includes nonquantifiable factors such as health, safety, social, and environmental concerns.

This is extremely important because not all benefits are quantifiable. You may not be able to place numbers on good health or the beauty of a national park, for instance. The Glenn bill, on the other hand, does not make this clear. When a cost-benefit analysis is done under Glenn, these benefits may be undervalued.

Emergency provisions. The Dole-Johnston bill contains exemptions for imposition of the notice and comments, cost-benefit analysis and risk assessment requirements. When an emergency arises or a threat to public health and safety arises, these provisions will allow for a rule that addresses these concerns to promptly go into effect. There is no delay. The Glenn substitute, on the other hand, only contains one exemption for risk assessments.

Is this not ironic? The supporters of the Glenn measure complained endlessly how S. 343 would prevent the agencies from protecting the public for E. coli bacteria present in bad meat, or cryptosporidium in drinking water, and have screamed that rules addressing these problems be exempt from S. 343. Of course, S. 343's emergency provisions adequately deal with these problems. But Glenn does not.

Where are the equivalent provisions in Glenn? Does Glenn exempt these types of rules from cost-benefit analysis? No.

I find it almost disingenuous, the arguments that were made by many on the other side, about how they were trying to protect the health of the public from E. coli and from cryptosporidium, when their own bill did not even provide a means to do so, and our bill does, and has from the beginning.

All of that rhetoric that was used was what we call bull corn in Utah. This bill takes care of it. It is apparent, Mr. President, that the Dole-Johnston measure is a superior vehicle for regulatory reform. I also want to say that I am one who does not spend a lot of time finding fault with the media, although I have from time to time. Naturally all of us have done that, as Senators. But I have to say that there have been some major media presentations this week that have been so scurrilous they do not belong in regular journalism.

One of our networks has put out two of the most scurrilous, indefensible, factually lacking segments that have maligned my colleague, Senator DOLE, in an unjustifiable way that I consider to be despicable.

Talking about despicability, the July 6 Public Citizen news conference in Washington, DC—we are used to the Ralph Nader gang being out of line and using poor judgment and using bludgeoning tactics, and misrepresenting, and not telling the truth, and using the Ethics Committee to malign people. But even they, as low as they stoop all the time, have stooped to one of the lowest points in the history of legislation when, at a news conference, Joan Claybrook said that cost-benefit analysis was akin to what the Nazis did to prisoners in concentration camps during World War II.

Both parties ought to be outraged at this type of irresponsibility. This group of people has been given much too much consideration by the press through the years.

Joan Claybrook said at that conference:

> Recently, in the New York Times, there was a very interesting letter to the editor commenting on this issue of cost and benefit analysis. And it is taken from a table of profits per prisoner that the SS (Nazi Storm Troopers) created in concentration camps, trying to decide whether or not the holding of the prisoners, the use of prisoners, the renting out of the prisoners, and the killing of the prisoners, was cost beneficial to the SS.

Joan Claybrook went on to say:

> That is what I think of cost-benefit analysis, because you never can have the benefits fully developed in terms of the impact on human life, the trauma and the enjoyment of life.

Maybe it was a mistake. I like Miss Claybrook and I know she is very sincere, albeit radical. And I like her personally. But that type of language just does not belong in this debate.

Unfortunately, some of us have been putting up with this for years from this group of people. I just cannot allow it to stand. It has been a matter of, I think, just total bad taste and really a matter of great irritation to anybody who is a fair-thinking person.

With that, I will reserve the remainder of my remarks until we get into this debate on Monday. But it is clear that we have, still, with all the work we have done—and I want to compliment my friend from Michigan, and certainly Senator GLENN, on the other side of this issue, and Senator KERRY has worked on it, Senator BAUCUS has worked on this matter, and others—I want to compliment them for trying to see that we can get together and have a bill that everybody can support. Unfortunately, I do not think we are going to be able to do that, but we have come a long way in trying to accommodate the other side on this bill.

I have worked very long and hard to do that, as have others. I hope we can continue that spirit of bipartisanship up through—hopefully we will have final passage of this bill on Tuesday. And hopefully we will vote sometime, on the substitute, on Monday or early Tuesday. But I have to say I want to compliment the intelligence of my colleagues on the other side of this issue. They know what they are talking about. Even though we differ on some of these points, I have to say it has been very interesting working with them and I appreciate the good faith that they have put forth.

Mr. President, I would like to change the subject if I can. Hopefully that will end the debate. As soon as we can, I would like to wrap up and let everybody go for the day.

I understand Senator MURKOWSKI will be coming over. I assure the other side we are not going to talk any more on this, unless Senator MURKOWSKI is. I do not know. But if he is, it will only be another statement or so.

JUDICIARY HEARING ON THE EVENTS IN TENNESSEE

Mr. HATCH. Mr. President, I informed everybody that I was going to make a statement on the Tennessee situation.

Mr. President, ours is a Nation of laws. We are a Nation that guarantees liberty and justice to all people. Our Nation is only as strong as our commitment to justice is strong. When the public's faith in the arm of Government responsible for safeguarding our liberty and our democratic Government is threatened, then we have to do something about it.

So I rise to announce that 1 week from today, on Friday of next week, the Senate Judiciary Committee will convene a hearing on the appalling events which took place in Tennessee, the so-called "Good Ol' Boys Roundup."

If newspaper reports are accurate, several Federal law enforcement agents from among other agencies, the ATF, FBI, DEA, Secret Service, and Customs participated in a so-called Good Ol' Boys Roundup, an event that is alleged to have involved hateful, racist, ugly conduct.

After consultation with the Judiciary Committee's ranking member, Senator BIDEN, and fellow committee members—especially Senator THOMPSON, who wants to make sure the great State of Tennessee plays a role in resolving this matter—I have decided it would be best for the Senate to move expeditiously on this matter.

Accordingly, I have informed the Directors of the ATF, FBI, and Deputy Attorney General Gorelick—I have personally informed them of my plan to hold a hearing next Friday. Witnesses I plan to call include the Attorney General of the United States, the Secretary of the Treasury, the Directors of the FBI, ATF, DEA, and others. I can only express my outrage and anger that Federal law enforcement officials would allow themselves to be compromised in such a way, and to participate in such conduct. I am sure that the Clinton administration officials that I have mentioned share my contempt for what has gone on. I expect this hearing will provide the American people with an opportunity to hear from our top law enforcement leaders, the plans they have to root out this racism.

Those who engaged in this conduct, who have stood by, knowing of it, and did nothing, must be held accountable. When a person who is clothed with the authority of the people engages in hateful conduct, that conduct must be condemned by the people. I condemn this conduct. The Senate condemns it.

This hearing will, hopefully, provide the American people with an explanation, detailing what the Clinton administration plans to do about it.

Attorney General Reno, Director Louis Freeh, and others have made great strides in improving the efficiency, fairness, and operation of our law enforcement agencies. These acts of prejudice, if true, and I have been led to believe that many of them are true, threaten to undermine the strides they have made to date.

It is in their interests, the interests of African Americans and other people of color, and the public, that we hold these hearings. In fact, it is in the interest of all Americans that we hold these hearings.

We must not stand by while Government officials betray the public's trust. These events, if true, disgraced Federal law enforcement and the United States. It is Congress' obligation. After all, I have to say all of us are directly accountable to the people. But it is Congress' obligation to hold the executive branch accountable. And I intend to do so.

Now, I have to say in conclusion that these leaders have all expressed a desire to clear up this matter and to stop it and to make sure that this never happens again. These are fine people who lead these organizations. They have made strides in some of these areas and I want to continue those strides and we want to stop this type of offensive, racist, despicable conduct now and we intend to do so, and we hope these hearings will be efficacious in helping us to get there. Having said that, we look forward to those hearings next Friday and I hope all of our Judiciary members will be able to participate.

I see the Senator from Alaska is here.

The PRESIDING OFFICER. The Senator from Alaska.

COMPREHENSIVE REGULATORY REFORM ACT

The Senate continued with the consideration of the bill.

Mr. MURKOWSKI. Mr. President, I thank my friend from Utah and wish the Chair a good day. I know it is late in the afternoon. I just wanted to make a few remarks with regard to the status of our regulatory reform debate that has been going on for an extended period of time.

There is no question, Mr. President, that we all want to see regulatory reform legislation passed by this Congress for two very, very important reasons. They are simply fairness and common sense.

As chairman of the Energy and Natural Resources Committee, we passed out a bill that would accomplish fairness and common sense, and in so doing address corrections needed in our regulatory process. We passed a bill that was easily understood. And, as a consequence, we find ourselves immersed now in almost a legal discussion of various types of binding conditions associated with what was generally understood to be a high degree of frustration among the public, a public which was frustrated over policies of the Environmental Protection Agency such as the one that occurred in the largest city of Alaska, Anchorage, AK, where the city was notified that the water that accumulated after rains in the drains that ordinarily went out in Cook Inlet for disposal. Cook Inlet has some 30-foot tides twice a day.

Suddenly, the city was advised that they were in violation because, prior to discharging that water, 30 percent of the organic matter had to be removed. In testing the water they found there was no organic matter to be removed, and they appealed to the Environmental Protection Agency. Surprisingly enough, the EPA simply came back and said, "You are out of compliance and subject to fine." As a consequence, some enterprising member of the city council suggested that they add some fish guts to the drainage system so that they would have something to remove that was organic and, therefore, comply.

Finally, the issue got so much publicity, Mr. President, that the Environmental Protection Agency saw fit to, so-called, "clean their skirts." So they wrote a letter saying, "Yes, these were the circumstances, but they did not make the city of Anchorage put the organic matter, the fish guts, into the water system." People of Alaska understood that. They understood the lack of sense that such a mandate made.

We have these horror stories. We have heard them on the floor.

Another concern that was expressed from time to time was the realization that citizens will not be asked to pay huge amounts of money to have trace amounts of arsenic or radon or chloroform removed from their drinking water when there was absolutely no evidence of any adverse health affects, no scientific proof of any kind.

We heard cases where workers who have rushed to rescue a colleague from a collapsed ditch are subject to fines, subject to penalties for not having a hard hat on in the first place.

We had a situation in Fairbanks—where it does snow occasionally in Fairbanks, AK—where the city was in violation of a wetland permit because they moved the snow off one lot where the city barn is to the next lot which was classified as a wetlands.

These are things people understand. These are issues of frustration that have been expressed time and time again. But we find ourselves embroiled in a controversy on this legislation that has gotten beyond the ability of the general public to grasp why we are not getting on it and making the corrections that are needed.

We passed a bill that would put consistent procedures for risk assessment and cost-benefit analysis in place for all agencies and make agencies accountable for the actions taken in reliance on those agencies.

Why does this procedure lead to fairness and common sense? Very simply, because they ensure that regulations will direct our limited resources to the substance or activities that are most likely to harm us and prevent that harm in a cost-effective way. It is simply that simple.

We find that we have an ally in this process. Let me quote from the statement of the President. I have this chart here, Mr. President, which I will read very briefly. It is from the President. I quote:

> The American people deserve a regulatory system that works for them, not against them: a regulatory system that protects and improves their health, safety, environment, and well-being and improves the performance of the economy without imposing unacceptable or unreasonable costs on society; regulatory policies that recognize that the private sector and private markets are the best engine for the economic growth; regulatory approaches that respect the role of State, local, and tribal governments; and regulations that are effective, consistent, sensible, and understandable. We do not have such a regulatory system today.

Those are the words of our President. But in spite of what the President, what the Congress and what the American people all know, this legislation has been bogged down in discussions designed to play on emotions. It has become complex. It has become almost a lawyer's delight to deliberate the application.

We went through it the other day on the issue of the Mammogram Quality Standards Act. We all know that this legislation would not in any way have interfered with the promulgation of the rules under that act.

I have had some familiarity with that, Mr. President, because my wife and a group of women in Fairbanks, AK in the mid-1970's started a breast cancer clinic. They purchased a mammogram machine, and, as a consequence, provided free services to the women of interior Alaska for an extended period of time. However, 2 years ago, under the Mammogram Quality Standards Acts procedure, that particular machine became outdated. And in order to comply with the quality standards, it was necessary that a new machine be ordered.

So a number of us got together and raised approximately $150,000 and bought a new machine. This year we are raising some more money to buy a mobile mammogram machine. This is done without any Federal Government assistance of any kind, and provides the service to the women of the interior who are on the road systems of Alaska, and it will be further extended to the villages because this unit will fit inside the National Guard C-130 aircraft. So when they go into the villages, the vehicle can be backed out and made available to serve women that otherwise would not be available for this type of care.

So the point is, Mr. President, that we have a system under the Mammogram Quality Standards Act that works. Not only does this legislation that we are contemplating have an exemption for health emergencies, but it also specifically recognizes that risk and cost-benefit analysis should only be done at the level of detail necessary, taking the need for expedition into consideration.

So, as a consequence, we found ourselves spending a good deal of time debating whether or not—by not excluding mammograms—we were somehow risking the health of women in the United States. And while that argument was voiced extensively on this floor, there was absolutely no justification in my mind, or others who have examined the application of existing laws and regulations that were covered under this legislation, that indeed these services were in jeopardy.

So what this bill does, Mr. President, under Executive Order 12866 issued in 1983, there is a requirement for cost-benefit analysis for major regulations and the use of risk as a basis for regulating.

There are 25 high priority actions which were initiated this past March to reinvent environmental regulations in recognition that the current regulatory system is broken.

Further, after several years of no action, the Environmental Protection Agency recently decided to change a longstanding food safety policy related to residual levels of pesticides that treated flour and tomato paste as ready to eat. EPA has already compiled a list of obsolete, duplicative, or unnecessary regulations and obtained concurrence from States on planned revisions and terminations that would eliminate 16,000 pages from the Code of Federal Regulations.

The administration is planning a project known as XL that would, for the first time, allow pollutant trading among different media such as air and water, as part of the President's plan to emphasize market-based regulation.

A high-level Clinton administration working group has crafted a far-reaching set of proposed administrative, regulatory and legislative changes to reform cleanups under Superfund and the Resource Conservation and Recovery Act, including provisions that elevate the consideration of risk and cost in cleanup decisions.

EPA has launched a major effort to review, streamline, and offer new flexibility for states in implementing the agency's Clean Water Act Permit Program. This is considered a key proposal in the initiative to modify or delete duplicative, burdensome, or obsolete rules.

EPA is moving to pare back routine inspection and enforcement requirements, particularly for industrial wastewater and hazardous waste disposal facilities, to shift agency resources to focus enforcement efforts on high risk facilities or activities.

EPA has changed its position from a December preproposal and decided not to regulate low-level radioactive waste storage sites already overseen by the Nuclear Regulatory Commission, a position taken by six Senators that such regulation would be a wasteful duplication of effort.

A major Clean Air Act rulemaking was initiated in January to allow States to automatically implement broad trading programs in emission reduction credits on the open market. In addition, a model rule allowing banking of credits is under consideration.

In conclusion, Mr. President, I think it is fair to say that each of these proposals covers areas addressed already in S. 343, so one has to ask why are some Members of this body, why are some of those at the White House fighting this legislation when we all know that we need this bill. The American people know we need this bill. We also know that we should not have to stand here and continually recite day after day, hour after hour, horror stories and examples of regulatory excess to get this legislation passed. We all know it has to be done, and it should be done without further delay.

So it is my hope that the leadership on both sides of the aisle can get a handle on this legislation and recognize that the American people want efficiencies in Government; they want efficiencies in regulation; they want efficiencies in oversight; and they want to be able to understand the process that is occurring. They want it based on fairness, and they want it based on common sense, and they want it now.

I thank the Chair. I wish my colleagues a pleasant weekend.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. DOLE. Mr. President, I ask unanimous consent there now be a period for the transaction of morning business with Senators permitted to speak for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT OF THE U.S. ARCTIC RESEARCH PLAN—MESSAGE FROM THE PRESIDENT—PM 66

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Governmental Affairs.

To the Congress of the United States:

Pursuant to the provisions of the Arctic Research and Policy Act of 1984, as amended (15 U.S.C. 4108(a)), I transmit herewith the fourth biennial revision (1996–2000) to the United States Arctic Research Plan.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *July 14, 1995.*

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-220. A resolution adopted by the Society For Conservation Biology relative to late successional forests; to the Committee on Agriculture, Nutrition, and Forestry.

POM-221. A joint resolution adopted by the General Assembly of the State of Colorado; to the Committee on Agriculture, Nutrition, and Forestry.

"HOUSE JOINT RESOLUTION 95-1012

"Whereas, the United States Congress is considering measures to reauthorize the federal 1990 Farm Bill, which includes the 'Conservation Program Improvements Act' ('Act'), a voluntary, incentive-based, non-regulatory land retirement program through which farmers and ranchers have enrolled up to 45 million acres of highly erodible land nationally and just under 2 million acres in Colorado; and

"Whereas, the Act empowers farmers and ranchers to protect the long-term food producing capability of the United States by reducing land and water erosion of crop land; and

"Whereas, the Act enables farmers and ranchers to provide excellent wildlife habitat for game and nongame species and to improve badly silted fisheries habitat; and

"Whereas, the Act has protected and improved water quality by reducing sedimentation and nonpoint source pollution; and

"Whereas, the Act has reduced federal farm program expenditures for deficiency payments, diversion payments, and commodity loan and storage payments; and

"Whereas, the Act has supplemented the incomes of over 6,376 farmers and ranchers in Colorado in return for setting aside highly erodible lands; and

"Whereas, the United States currently has record surplus crop production and will continue to have such in the foreseeable future; now, therefore,

"*Be It Resolved by the House of Representatives of the Sixtieth General Assembly of the State of Colorado, the Senate concurring herein:* That the Colorado General Assembly hereby requests the United States Congress to fully reauthorize the federal 'Conservation Program Improvements Act', Public Law 101–624.

"*Be It Further Resolved*, That copies of this resolution be sent to the President of the United States, the Secretary of the United States Department of Agriculture, the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of Colorado's Congressional delegation."

POM-222. A resolution adopted by the House of the General Assembly of the State of Indiana; to the Committee on Armed Services.

"HOUSE RESOLUTION NO. 75

"Whereas, over 27,619 Hoosiers have given their lives for their country in World War I, World War II, the Korean Conflict, the Vietnam War, and the Persian Gulf Conflict, and over 37,510 Hoosiers remain living with service-connected disabilities from injuries inflicted on them while they were serving their country;

"Whereas, those servicemen and servicewomen who have chosen to make a career of defending their country are integral to the success of our military forces throughout the world;

"Whereas, currently disabled veterans receive compensation proportionate to severity of their injuries; and, military retirees, who have served at least 20 years, accrue retirement pay based on longevity;

"Whereas, federal legislation has been introduced to amend Title 38 of the U.S. Code to eliminate and antiquated inequity which still exists in the federal law applicable to retired career service personnel who also receive service-related disability benefits;

"Whereas, under the 19th century law, these disabled career service personnel are denied concurrent receipt of full retirement pay and disability compensation benefits. They must choose receipt of one or the other or waive an amount of retirement pay equal to the amount of disability compensation benefits;

"Whereas, this discrimination unfairly denies disabled military retirees the longevity pay they have earned by their years of devoted patriotism and loyalty to their country. It, in effect, requires them to pay for their own disability compensation benefits;

"Whereas, many retirees actually returned to active duty to service in Operation Desert Storm and returned home disabled; but, when these loyal Guardsmen and Reservists arrive back home, they were not eligible to receive both VA disability and retirement pay;

"Whereas, no such inequity applies to retired Congress-persons, Federal civil service job-holders, or other retirees who are receiving service-related disability benefits;

"Whereas, America's career service-personnel's commitment to their country-in pursuit of national and international goals—must be matched by their own county's allegiance to them for those sacrifices; and

"Whereas, a statutory change is required to correct this injustice. Now therefore, be it *resolved by the House of Representatives of the General Assembly of the State of Indiana:*

"Section 1. That the General Assembly of the State of Indiana urges the United States Congress to amend the United States Code relating to the computation of retired pay to permit full concurrent receipt of military longevity retired pay and service-connected disability compensation benefits.

"Section 2. That the Principal Clerk of the House of Representatives shall send certified copies of this resolution to the presiding officers and the majority and minority leaders of both houses of the Congress of the United States, to the Secretary of the Senate and the Clerk of the House of Representatives of the Congress of the United States, to the President of the United States, to the Secretary of Defense, and to each member of the Indiana Congressional delegation."

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS ON JULY 13, 1995

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mrs. KASSEBAUM (for herself, Mr. KENNEDY, Mr. FRIST, Mr. DODD, Mr. JEFFORDS, Ms. MIKULSKI, Mr. GREGG, Mr. WELLSTONE, Mr. GORTON, Mr. PELL, Mr. HATCH, Mr. SIMON, Mr. CHAFEE, and Mr. LIEBERMAN):

S. 1028. A bill to provide increased access to health care benefits, to provide increased portability of health care benefits, to provide increased security of health care benefits, to increase the purchasing power of individuals and small employers, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. SIMPSON (for himself and Mr. BINGAMAN):

S. 1029. A bill to amend the Foreign Assistance Act of 1961 to establish and strengthen policies and programs for the early stabilization of world population through the global expansion of reproductive choice, and for other purposes; to the Committee on Foreign Relations.

By Mr. REID (for himself, Mr. SIMPSON, Mr. WELLSTONE, and Ms. MOSELEY-BRAUN):

S. 1030. A bill entitled the "Federal Prohibition of Female Genital Mutilation Act of 1995"; to the Committee on the Judiciary.

By Mr. THOMAS (for himself, Mr. SIMPSON, Mr. BURNS, Mr. CRAIG, Mr. STEVENS, Mr. KEMPTHORNE, and Mr. HELMS):

S. 1031. A bill to transfer the lands administered by the Bureau of Land Management to the State in which the lands are located; to the Committee on Energy and Natural Resources.

By Mr. ROTH (for himself and Mr. BAUCUS):

S. 1032. A bill to amend the Internal Revenue Code of 1986 to provide nonrecognition treatment for certain transfers by common trust funds to regulated investment companies; to the Committee on Finance.

By Mr. CHAFEE:

S. 1033. An original bill to amend the Federal Water Pollution Control Act to establish uniform national discharge standards for the control of water pollution from vessels of the Armed Forces, and for other purposes; from the Committee on Environment and Public Works; placed on the calendar.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS ON JULY 14, 1995

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. BREAUX (for himself and Mr. CHAFEE):

S. 1034. A bill to amend the Internal Revenue Code of 1986 to provide for a moratorium for the excise tax on diesel fuel sold for or used in noncommercial diesel-powered motorboats and to require the Secretary of the Treasury to study the effectiveness of procedures to collect excise taxes on sales of diesel fuel for noncommercial motorboat use; to the Committee on Finance.

By Mr. DASCHLE (for himself, Mr. DOLE, Mr. HARKIN, Mr. HATCH, Mr. GRASSLEY, Mr. PELL, Mr. HATFIELD, Mr. SIMON, and Mr. REID):

S. 1035. A bill to permit an individual to be treated by a health care practitioner with any method of medical treatment such individual requests, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. COHEN (for himself and Mr. KOHL):

S. 1036. A bill to provide for the prevention of crime, and for other purposes; to the Committee on the Judiciary.

By Mr. FORD:

S. 1037. A bill to amend title 49, United States Code, to provide that the requirement that United States government travel be on United States carriers excludes travel on any aircraft that is not owned or leased, and operated, by a United States person; to the Committee on Commerce, Science, and Transportation.

By Mr. HELMS:

S. 1038. A bill to amend the Internal Revenue Code of 1986 to impose a 15 percent tax only on individual taxable earned income and business taxable income, to repeal the estate and gift taxes, to abolish the Internal Revenue Service, and for other purposes; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS ON JULY 13, 1995

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DOLE (for himself and Mr. DASCHLE):

S. Res. 150. A resolution to authorize testimony by Senate employees and representation by Senate Legal Counsel; considered and agreed to.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS ON JULY 14, 1995

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. STEVENS (for himself, Mr. FORD, Mr. DOLE, Mr. DASCHLE, Mr. HATFIELD, Mr. PELL, Mr. HELMS, Mr. MOYNIHAN, Mrs. KASSEBAUM, Mrs. HUTCHISON, Ms. MIKULSKI, and Mr. D'AMATO):

S. Con. Res. 21. A concurrent resolution directing that the "Portrait Monument" carved in the likeness of Lucretia Mott, Susan B. Anthony, and Elizabeth Cady Stanton, now in the Crypt of the Capitol, be restored to its original state and be placed in the Capitol Rotunda; ordered held at the desk.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BREAUX:

S. 1034. A bill to amend the Internal Revenue Code of 1986 to provide for a moratorium for the excise tax on diesel fuel sold for or used in noncommercial diesel-powered motorboats and to require the Secretary of the Treasury to study the effectiveness of procedures to collect excise taxes on sales of diesel fuel for noncommercial motorboat use; to the Committee on Finance.

DIESEL FUEL EXCISE TAXES LEGISLATION

• Mr. BREAUX. Mr. President, today I am introducing a bill to help solve a problem that has made it difficult for recreational boaters to obtain diesel fuel on our Nation's waterways. This bill would correct the significant unintended problems created by the federally mandated diesel fuel dyeing scheme contained in the Omnibus Budget Reconciliation Act of 1993. These problems are national in scope and affect every area of the country with significant boating activity.

Under the 1993 changes, fuel that is subject to taxation is clear and fuel that is exempt from taxation is dyed. The problem for boaters arises because while most marinas have only one fuel tank, they provide fuel to both recreational and commercial boats. Commercial boat fuel is exempt from any tax and therefore commercial boat operators seek to purchase dyed fuel. Recreational fuel is taxable and recreational boaters want to purchase clear fuel. Diesel fuel retailers have been forced to choose either one, to incur the significant costs and regulatory burdens of having separate fuel storage tanks from which to pump untaxed—dyed—and taxed—undyed—diesel fuel or two, to pump only one type of diesel fuel. Many marina operators can only afford to maintain one storage tank. Most marina operators in my State of Louisiana find that their primary customer base is made up of commercial boaters and they are choosing to sell the dyed fuels. Thus, recreational boaters have no place to purchase the clear fuel.

With diesel fuel unavailable for recreational boaters, there is a serious danger that some of these boaters may run out of fuel and become stranded before they are able to find a marina that sells clear fuel. As a further consequence, many marina operators are finding that their diesel fuel sales have declined significantly because they are not allowed to sell dyed diesel fuel—the only fuel they have—to recreational boaters.

Mr. President, this is a clear case of unintended consequences. The boaters are willing to pay the tax, they simply cannot find a place to buy the fuel and pay the tax. The bill I am introducing today addresses this problem in a practical manner by:

Having the Treasury Department asses the effectiveness of various procedures for collecting excise taxes on diesel fuel sold for use, or used, in recreational boats and report to Congress within 18 months the results of the study, including any recommendations.

Suspending collection of the tax for 2 years while the Treasury Department conducts this study.

Reinstituting the current collection procedure at the end of the 2-year suspension period if Congress has not enacted legislation to create a new collection procedure.

Mr. President, I believe that this legislation is necessary to increase the availability of diesel fuel to recreational boaters across the country. Passage of this legislation will ultimately lead to improved collection of the diesel fuel tax, prevent a potentially dangerous safety hazard to recreational boaters, and improve the economic viability of many marine fuel retailers. I urge my colleagues to join me in moving this bill forward as soon as possible.•

• Mr. CHAFEE. Mr. President, I am pleased to join my colleague from Louisiana, Senator BREAUX, in introducing legislation imposing a 2-year moratorium on the collection of the boat diesel fuel tax. this tax has caused diesel fuel shortages across this country.

The Omnibus budget Reconciliation Act of 1993 changed the collection point for the excise tax on diesel fuel. Imposition of the tax was moved from the producer or importer to the terminal rack—the place in the distribution chain where fuel retailers, for example, service stations and boat docks, get their fuel. This change made collecting the diesel fuel tax similar to the system used for gasoline taxes. The intent in making this change was to improve taxpayer compliance and assist the Internal Revenue Service with administering the diesel fuel tax.

Mr. President, collection the tax at the terminal rack works well for gasoline because all of the uses of that fuel are taxable. That is not true for diesel fuel. Home heating oil, which is essentially diesel fuel, is not taxable. Also, diesel fuel used by commercial boaters is not subject to the tax.

Together with moving the collection point of the tax, a dyeing scheme was set up to differentiate diesel fuel on which tax has been paid from fuel which has not been taxes. Dyeing is an important enforcement tool because of the variety of uses of diesel fuel.

Mr. President, I fully support efforts to increase compliance with our tax laws. However, in administering our tax laws, we must be aware of the problems we create. Let me give you a real life example of the problem this tax has created.

Diesel fuel powers many types of boats, the vast majority being commercial boats—such as fishing vessels. Diesel fuel sold to commercial boaters is exempt from the tax, but the same fuel used in a recreational boat is taxable. Under the current collection scheme, fuel sold to the recreational boater must be clear because tax has been paid on that fuel. Fuel sold to the commercial boater must be dyed to show that no tax has been paid. Under no circumstances may dyed fuel be sold to someone who is subject to the tax, even if the retailer collects the tax and remits it to the Federal Government.

The obvious problem created by this arrangement is that a marina or dock that services both commercial and recreational boaters must have two separate storage tanks to service these customers. It may not be economically feasible to install a new tank, and often it is physically impossible to do so. The marina has few options available to it to get around this problem. One solution is to buy dyed fuel for its commercial boaters and forfeit the pleasure boat business. An alternative is to buy undyed—taxed—fuel, pass the tax on to all of its customers and leave it to those who are exempt from the tax to apply for a refund. Commonly cash flow problems associated with this second option cause undue economic hardship for commercial boaters.

The anecdotal evidence suggests that marinas simply are dropping their recreational boat fuel business, because sales to commercial boaters dominate the market. It is this reality of the marketplace that has sent recreational boaters scrambling to find fuel.

The legislation introduced by Senator BREAUX and me imposes a 2-year moratorium on the collection of the boat diesel excise tax. It also requires the Treasury Department to study the various options for collecting the tax and to report its findings to the Ways and Means and Finance Committees. In performing this study, Treasury is specifically instructed to consult with boat owners and diesel fuel retailers. It is our hope that this study will identify ways to modify the current collection system in a way that will ensure compliance without creating the problems boaters are facing today.

Mr. President, I urge my colleagues to cosponsor this legislation.•

By Mr. DASCHLE (for himself, Mr. DOLE, Mr. HARKIN, Mr. HATCH, Mr. GRASSLEY, Mr. PELL, Mr. HATFIELD, Mr. SIMON, and Mr. REID):

S. 1035. A bill to permit an individual to be treated by a health care practitioner with any method of medical treatment such individual requests, and for other purposes; to the Committee on Labor and Human Resources.

THE ACCESS TO MEDICAL TREATMENT ACT

Mr. DASCHLE. Mr. President, today I am reintroducing the Access to Medical Treatment Act. I am pleased to be joined by Senators DOLE, HARKIN, HATCH, GRASSLEY, PELL, HATFIELD, SIMON, and REID in this effort to allow greater freedom of choice in the realm of medical treatments.

I would be remiss if I did not take a moment to mention one other person, someone who has been instrumental in sparking my interest in this issue. That person is Berkley Bedell, a former congressman from the Sixth District of Iowa. His story was one of the main catalysts in my decision to develop the Access to Medical Treatment Act, and provides powerful testimony to the need for this type of legislation.

As did a number of us in the Senate, I had the privilege of serving with Congressman Bedell for several years in the House of Representatives. During his tenure in the House, he acquired a well-earned reputation for intellectual honesty and commitment to principle, as well as for tilting at the occasional windmill. In more than one instance, he appeared out of step with conventional opinion and subsequently proved to be ahead of his time.

As some may remember, Congressman Bedell was ill with Lyme disease when he left the House at the end of the 100th Congress. Having tried several unsuccessful rounds of conventional treatment consisting of heavy doses of antibiotics, the cost of which ran in the thousands of dollars, he turned to an alternative treatment that he believes cured his disease. This treatment, which is actually a veterinary treatment, consisted on its most basic level of nothing more than drinking processed whey from a cow's milk. After approximately 2 months of taking regular doses of this processed whey, his symptoms disappeared. He estimates that the total cost for this alternative treatment was a few hundred dollars.

In spite of Congressman Bedell's amazing recovery, and the fact that this same treatment appeared to be effective in some cases of Lyme disease, the treatment can no longer be administered because it has not gone through the FDA approval process.

Not long after he recovered from Lyme disease, Congressman Bedell discovered he had prostate cancer. He again found conventional treatments to be unsuccessful and turned to alternative medicine. This time he had to leave the country to obtain his treatment. Once again, however, alternative therapy appears to have been successful thus far—he has been free of cancer for 5 years.

Mr. President, there are people in our country who are desperate, as was Berkley Bedell, for cures that conventional medicine simply does not seem to be able to provide. It is a tragedy that, in a nation that considers itself a world leader in the area of health care, many potentially helpful alternative treatments remain unavailable to those without the financial resources to seek them out abroad.

The Access to Medical Treatment Act attempts to address this situation. Is intent is twofold: First, to allow increased access to alternative treatments; and second, to allow increased opportunities for the trial of alternative treatments that may prove to be extremely effective.

It will be asked why this legislation is necessary. If a particular alternative treatment is so effective, then why can't it simply go through the standard FDA approval process?

The answer is that the time and expense currently required to gain FDA approval of a treatment makes it very difficult for all but large pharmaceutical companies to undertake such an arduous and costly endeavor. The heavy demands and requirements of the FDA approval process, and the time and expense involved in meeting them, serve to limit access to the potentially innovative contributions of individual practitioners, scientists, smaller companies, and others who do not have the financial resources to traverse the painstakingly detailed path to certification. This system not only forgoes untold potential for exploring life-saving treatments, but also serves to prevent low-cost treatments from gaining access to the market.

I want to be absolutely clear, however, that this legislation will not dismantle the FDA, undermine its authority, or appreciably change current medical practices. It is not meant to attack the FDA or its approval process. It is meant to complement it.

The FDA should—and would under this legislation—remain solely responsible for protecting the health of the Nation from unsafe and impure drugs. The heavy demands and requirements placed upon treatments before they gain FDA approval are important, and I firmly believe that treatments receiving the Federal Government's stamp of approval should be proven safe and effective.

The intent of my legislation is merely to extend freedom of choice to medical consumers under carefully controlled situations. I believe that individuals, especially individuals who face life-threatening afflictions for which conventional treatments have proven ineffective, should have the option of trying an alternative treatment, so long as they have been fully informed of the nature of the treatment and are aware that it has not been approved by the FDA. This is a choice that is rightly left to the consumer, and not dictated by the Federal Government.

The Access to Medical Treatment Act will allow individuals, under certain carefully circumscribed conditions, to obtain medical treatments that have not yet been approved by the FDA. The medical treatments prescribed under this bill cannot be dangerous to the patient. However, given the fact that the very intent of the bill is to allow treatments that have not necessarily undergone extensive testing, it is possible that a treatment administered under the bill could turn out to be a danger to the patient. In such cases, the treatment and its adverse effects must be immediately reported to the Secretary of Health and Human Services, who must disseminate that information, and the treatment cannot be utilized again.

The bill requires full disclosure to the patient of the treatment's contents, potential side effects, and any other information necessary to fully meet FDA informed consent requirements. The patient must also be informed of the fact that the treatment has not been proven safe and effective by the Federal Government, and is required to sign a written statement indicating that he or she has been made aware of this information.

Finally, no advertising claims can be made about the efficacy of a treatment by a manufacturer, distributor, or other seller of the treatment. Claims may be made by the practitioner administering the treatment, but only so long as he or she has not received any financial benefit from the manufacturer, distributor, or other seller of the treatment. Lastly, a statement made by a practitioner about his or her administration of a treatment may not be used by a manufacturer, distributor, or other seller to advance the sale of such treatment. I ask that the text of the bill be placed into the RECORD upon the completion of my remarks.

Concerns have been voiced about how this proposal safeguards consumer protections. I take seriously these concerns. Individuals are often at their most vulnerable when they are in desperate need of medical treatment, and that is why it is absolutely critical that a proposal of this nature include strong protections to ensure that consumers are not subject to charlatans who would prey on their misfortunes and fears for personal gain. The Access to Medical Treatment Act is armed with these protections.

The bill requires that a treatment be administered by a properly licensed health care practitioner who has personally examined the patient. It requires the practitioner to comply fully with FDA informed consent requirements. Most importantly, however, the bill strictly regulates the circumstances under which claims regarding the efficacy of a treatment can be made. It is designed to prohibit all claims by individuals for whom the underlying intent of promoting the treatment might be linked to personal financial gain.

What this means is that there can be no marketing of any treatment administered under this bill. As such, I see very little incentive for anyone to try to use this bill as a bypass to the process of obtaining FDA approval. Also, because only properly licensed practitioners are able to make any claims at all about the efficacy of a treatment, I see very little room for so-called quack medicine. In short, if an individual or a company wants to earn a profit off their product, they would be wise to go through the standard FDA approval process rather than utilizing this legislation.

Mr. President, I fully realize that there will be significant debate over both the concept and content of this legislation. I welcome this debate, and am open to changes. If this bill generates the serious discussion that I believe these issues merit, then we will have made much-needed progress. If that discussion results in action, then I believe we will offer hope to thousands who feel they have run out of options.

In essence, this legislation addresses the fundamental balance between two seemingly irreconcilable interests: The protection of consumers from dangerous treatments and those who would advocate unsafe and ineffective medicine—and the preservation of the consumer's freedom to choose alternative therapies.

Some may say that reconciling these two interests is an impossible task. I am not convinced of that.

In any case, the complexity of this policy challenge should not discourage us from seeking to solve it. I am convinced that the public good will be served by a serious attempt to reconcile these contradictory interests, and I am hopeful the discussion generated by introduction of this legislation will help point the way to its resolution. I welcome anyone who would like to join me in promoting this important debate to cosponsor this legislation.

Mr. President, I firmly believe that our health care delivery system should be more receptive to alternative treatments. I am also sensitive to the fact that how we accomplish that goal has important ramifications that must be thoroughly explored. It is my hope that the Access to Medical Treatment Act, and the debate it engenders, will serve those ends.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1035

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Access to Medical Treatment Act".

SEC. 2. DEFINITIONS.

As used in this Act:

(1) ADVERTISING CLAIMS.—The term "advertising claims" means any representations made or suggested by statement, word, design, device, sound, or any combination thereof with respect to a medical treatment.

(2) DANGER.—The term "danger" means any negative reaction that—

(A) causes serious harm;

(B) occurred as a result of a method of medical treatment;

(C) would not otherwise have occurred; and

(D) is more serious than reactions experienced with routinely used medical treatments for the same medical condition or conditions.

(3) DEVICE.—The term "device" has the same meaning given such term in section 201(h) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(h)).

(4) DRUG.—The term "drug" has the same meaning given such term in section 201(g)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(g)(1)).

(5) FOOD.—The term "food"—

(A) has the same meaning given such term in section 201(f) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(f)); and

(B) includes a dietary supplement as defined in section 201(ff) of such Act.

(6) HEALTH CARE PRACTITIONER.—The term "health care practitioner" means a physician or another person who is legally authorized to provide health professional services in the State in which the services are provided.

(7) LABEL.—The term "label" has the same meaning given such term in section 201(k) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(k)).

(8) LABELING.—The term "labeling" has the same meaning given such term in section 201(m) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(m)).

(9) LEGAL REPRESENTATIVE.—The term "legal representative" means a parent or an individual who qualifies as a legal guardian under State law.

(10) MEDICAL TREATMENT.—The term "medical treatment" means any food, drug, device, or procedure that is used and intended as a cure, mitigation, treatment, or prevention of disease.

(11) SELLER.—The term "seller" means a person, company, or organization that receives payment related to a medical treatment of a patient of a health practitioner, except that this term does not apply to a health care practitioner who receives payment from an individual or representative of such individual for the administration of a medical treatment to such individual.

SEC. 3. ACCESS TO MEDICAL TREATMENT.

(a) IN GENERAL.—Notwithstanding any other provision of law, and except as provided in subsection (b), an individual shall have the right to be treated by a health care practitioner with any medical treatment (including a medical treatment that is not approved, certified, or licensed by the Secretary of Health and Human Services) that such individual desires or the legal representative of such individual authorizes if—

(1) such practitioner has personally examined such individual and agrees to treat such individual; and

(2) the administration of such treatment does not violate licensing laws.

(b) MEDICAL TREATMENT REQUIREMENTS.—A health care practitioner may provide any medical treatment to an individual described in subsection (a) if—

(1) there is no reasonable basis to conclude that the medical treatment itself, when used as directed, poses an unreasonable and significant risk of danger to such individual;

(2) in the case of an individual whose treatment is the administration of a food, drug, or device that has to be approved, certified, or licensed by the Secretary of Health and Human Services, but has not been approved, certified, or licensed by the Secretary of Health and Human Services—

(A) such individual has been informed in writing that such food, drug, or device has not yet been approved, certified, or licensed by the Secretary of Health and Human Services for use as a medical treatment of the medical condition of such individual; and

(B) prior to the administration of such treatment, the practitioner has provided the patient a written statement that states the following:

"WARNING: This food, drug, or device has not been declared to be safe and effective by the Federal Government and any individual who uses such food, drug, or device, does so at his or her own risk.";

(3) such individual has been informed in writing of the nature of the medical treatment, including—

(A) the contents and methods of such treatment;

(B) the anticipated benefits of such treatment;

(C) any reasonably foreseeable side effects that may result from such treatment;

(D) the results of past applications of such treatment by the health care practitioner and others; and

(E) any other information necessary to fully meet the requirements for informed consent of human subjects prescribed by regulations issued by the Food and Drug Administration;

(4) except as provided in subsection (c), there have been no advertising claims made with respect to the efficacy of the medical treatment by the practitioner;

(5) the label or labeling of a food, drug, or device that is a medical treatment is not false or misleading; and

(6) such individual—

(A) has been provided a written statement that such individual has been fully informed with respect to the information described in paragraphs (1) through (4);

(B) desires such treatment; and

(C) signs such statement.

(c) CLAIM EXCEPTIONS.—

(1) REPORTING BY A PRACTITIONER.—Subsection (b)(4) shall not apply to an accurate and truthful reporting by a health care practitioner of the results of the practitioner's administration of a medical treatment in recognized journals, at seminars, conventions, or similar meetings, or to others, so long as the reporting practitioner has no direct or indirect financial interest in the reporting of the material and has received no financial benefits of any kind from the manufacturer, distributor, or other seller for such reporting. Such reporting may not be used by a manufacturer, distributor, or other seller to advance the sale of such treatment.

(2) STATEMENTS BY A PRACTITIONER TO A PATIENT.—Subsection (b)(4) shall not apply to any statement made in person by a health care practitioner to an individual patient or an individual prospective patient.

(3) DIETARY SUPPLEMENTS STATEMENTS.—Subsection (b)(4) shall not apply to statements or claims permitted under sections 403B and 403(r)(6) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 343-2 and 343(r)(6)).

SEC. 4. REPORTING OF A DANGEROUS MEDICAL TREATMENT.

(a) HEALTH CARE PRACTITIONER.—If a health care practitioner, after administering a medical treatment, discovers that the treatment itself was a danger to the individual receiving such treatment, the practitioner shall immediately report to the Secretary of Health and Human Services the nature of such treatment, the results of such treatment, the complete protocol of such treatment, and the source from which such treatment or any part thereof was obtained.

(b) SECRETARY.—Upon confirmation that a medical treatment has proven dangerous to an individual, the Secretary of Health and Human Services shall properly disseminate information with respect to the danger of the medical treatment.

SEC. 5. REPORTING OF A BENEFICIAL MEDICAL TREATMENT.

If a health care practitioner, after administering a medical treatment that is not a conventional medical treatment for a life-threatening medical condition or conditions, discovers that such medical treatment has positive effects on such condition or conditions that are significantly greater than the positive effects that are expected from a conventional medical treatment for the same condition or conditions, the practitioner shall immediately make a reporting, which is accurate and truthful, to the Office of Alternative Medicine of—

(1) the nature of such medical treatment (which is not a conventional medical treatment);

(2) the results of such treatment; and

(3) the protocol of such treatment.

SEC. 6. TRANSPORTATION AND PRODUCTION OF FOOD, DRUGS, DEVICES, AND OTHER EQUIPMENT.

Notwithstanding any other provision of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 201 et seq.), a person may—

(1) introduce or deliver into interstate commerce a food, drug, device, or any other equipment; and

(2) produce a food, drug, device, or any other equipment,

solely for use in accordance with this Act if there have been no advertising claims by the manufacturer, distributor, or seller.

SEC. 7. VIOLATION OF THE CONTROLLED SUBSTANCES ACT.

A health care practitioner, manufacturer, distributor, or other seller may not violate any provision of the Controlled Substances Act (21 U.S.C. 801 et seq.) in the provision of medical treatment in accordance with this Act.

SEC. 8. PENALTY.

A health care practitioner who knowingly violates any provisions under this Act shall not be covered by the protections under this Act and shall be subject to all other applicable laws and regulations.

Mr. DOLE. Mr. President, I am pleased to be a cosponsor of the Access to Medical Treatment Act. This legislation is very simple—it would allow individuals to access, under certain carefully circumscribed conditions, medical treatments not approved by the FDA.

The Access to Medical Treatment Act gives an individual the freedom to choose any licensed health care practitioner with any method of medical treatment the individual desires as long as the treatment is not dangerous and the patient is fully informed of its side effects.

Other consumer protections in the bill include a prohibition against advertising claims of efficacy. In addition, the labels on the treatment cannot be false or misleading.

Mr. President, this legislation would not dismantle the Food and Drug Administration or allow pharmaceutical companies to circumvent the FDA. The FDA would retain responsibility for certifying treatments as safe and effective. What this legislation does allow is for a bypass for the FDA approval process for alternative medicines that may be the only hope for some individuals.

Mr. President, many times in this Chamber I have applauded the quality of American health care. No doubt about it—it is by far the best in the world. And, although maintaining quality standards is a high priority, there are times when conventional medicine offers limited hope for some life-threatening diseases. While the role of the Government is to ensure quality, denying access to a treatment that may be the only hope for a patient is not the role of the Government.

And, while I support this legislation, I can empathize with those who fear the quality of care will suffer as a result of bypassing the FDA. For this reason, and since there is little data so far on alternative medicines, I would strongly encourage a thorough hearing process on the efficacy of these medical treatments.

Mr. President, no doubt about it, the Food and Drug Administration plays an essential role in evaluating the safety and efficacy of medical treatments to protect our citizens. However, in a free market system, it seems to make sense to make available nonharmful alternative medical treatments to individuals who desire such treatments, without the Federal Government standing in the way.

Mr. HATCH. Mr. President, I am pleased to join with my colleagues today in introducing S. 1035, the new and improved version of a very important bill, the Access to Medical Treatment Act, drafted last year by our colleague, the distinguished minority leader, Senator DASCHLE.

At the outset, let me underscore how committed I am to efforts such as this which will allow Americans the freedom to take advantage of the medical treatments they want and need.

I think that the two big lessons many learned last year from our success on the dietary supplement legislation is that American consumers want the freedom to use products and procedures that improve their health and that we cannot always count on the Food and Drug Administration to foster those freedoms. These consumers spoke out vigorously for their rights.

If any Member doubts this, he or she should simply recall the piles of mail they received on our Dietary Supplement Health and Education Act. I know I received more grassroots constituent communications on this topic than on any other.

I recall a hearing held by our colleague, Senator TOM HARKIN, another leader in the alternative medicine community, last year on the subject of alternative medicine. This was an important hearing; and, as I recall, our colleague Senator DASCHLE took time from his busy schedule to sit in even though he was not a member of the committee.

At that hearing, we heard very compelling testimony from Hon. Berkley Bedell, whose own experience with Lyme disease is quite a testimonial to the need for this legislation. I was very impressed by his knowledge and dedication to this legislation.

However, many of us at the hearing were taken aback, quite frankly, by the FDA's intransigence in refusing to recognize congressional interest in providing Americans with the freedom to choose alternative medicine. Unfortunately, that mindset and lack of leadership at the agency make legislation such as this necessary.

In fact, I recall vividly the testimony of FDA Deputy Commissioner Mary Pendergast—an eloquent spokesperson, albeit one who does not seem to recognize a speeding train when she sees one—when she told the committee that, in essence, all the FDA wanted was for products to be studied. Her concern was that in allowing free use of safe products, the FDA approval—study—process would be circumvented.

Ms. Pendergast's presentation was noticeably lacking in that it did nothing to reassure the committee that FDA has any interest whatsoever in making sure that consumers are able to use these products, or, indeed, in our agenda. The agency was only concerned with the process rather than the outcome.

It is that kind of shortsighted thinking which has made FDA reform increasingly popular on Capitol Hill.

Before I close, I wanted to cite some important modifications that Senator DASCHLE has made to this bill.

First, the new legislation specifically references our work last year and the new dietary supplement law by explicitly stating that the definition of food includes dietary supplements.

I want to commend Senator DASCHLE and his staff for this modification.

Second, the bill now requires the practitioner administering the treatment to personally examine the patient; I think this is an important consumer protection.

Third, the patient must be informed in writing before administration of the treatment that it has not been approved by the Government. Again, I agree that this is important information for consumers.

Fourth, following the precedent we set with dietary supplements, the revised bill prohibits any product labeling which is false or misleading. The FDA, of course, wants to approve each and every label. This is a degree of control which is simply not possible if we are to make alternative treatments available.

Fifth, the language explicitly states that no health care practitioner, manufacturer, or distributor may use this bill to circumvent the Controlled Substances Act. This is a provision I had suggested, and I am glad to see that my colleagues agreed with me that it should be incorporated in the legislation.

Mr. President, in closing, I again want to thank my colleague for his foresight in sponsoring this legislation and for being such an effective advocate for its passage. I am pleased to join him as an original cosponsor.

By Mr. COHEN (for himself and Mr. KOHL):

S. 1036. A bill to provide for the prevention of crime, and for other purposes; to the Committee on the Judiciary.

THE JUVENILE CRIME PREVENTION AND REFORM ACT

• Mr. COHEN. Mr. President, when reflecting upon the condition of American society as we move into the next century, there are few features of our social fabric that give rise to more concern than the violence that is plaguing our major urban centers and creeping into our suburbs and rural areas as well. By far, the most troubling aspect of our culture of violence is that young people, some not old enough to be called adolescents, are armed, dangerous, and committing heinous crimes at an increasing rate in each passing year.

To make matters worse, as the number of young males aged 14 to 17 grows over the next 5 years, we can expect record levels of juvenile crime. One expert estimates that this demographic trend will produce "a minimum of 30,000 more muggers, murders, and chronic offenders" than we have now.

There is no single Government policy or program that will solve our juvenile crime epidemic in the long or short run. Our approach must be comprehensive. First, punishment for violent crime must be swift and certain. We must dedicate adequate resources for police to catch criminals, for prosecutors to convict them, and for prisons to house them. Violent criminals must remain behind bars for a long time, as this is the only way to ensure that they do not victimize other innocent, law-abiding citizens.

While adequate resources for police, prosecutors, and prisons are vitally necessary, we must acknowledge the limitations of the criminal justice system. For the most part, the criminal justice system is reactive—that is, it only engages after a crime has been committed. Since only a small percentage of crimes actually lead to arrests, and an even smaller percentage lead to conviction and punishment, the extent to which the criminal justice system can actually deter crime is limited.

This is especially true with respect to youth from dysfunctional families living in communities riddled by gangs, guns, and drugs. I do not believe that we can deter these young people from crime merely by increasing criminal penalties and building more prisons. These youth turn to violence because it pervades their environment, because gang leaders are their role models, because their lives are filled with despair and hopelessness, and because life in prison is not such a bad alternative to their violent, drug-infested communities.

Programming designed to prevent at-risk youth from turning to a life of crime is an important complement to our criminal justice system. Well-designed programs that give children constructive alternatives to the streets and provide youth with exposure to positive adult role models have made a difference. Over the years, I have met with numerous young people whose lives have been turned around because someone in the community—be it a school principal, police officer, or program director—has taken an interest in them. Investment in prevention programs can save lives and can reduce crime.

Because I believe we must include prevention programming as part of our comprehensive approach toward crime, today I am introducing, along with Senator KOHL, the Juvenile Crime Prevention and Reform Act.

I am very pleased to be joined by Senator KOHL in this effort. We once served as ranking members of the Juvenile Justice Subcommittee. I know that he continues to share a keen interest in this subject and cares a great deal about America's youth.

The purpose of the legislation we are introducing is to remedy the defects in the prevention title of last year's crime bill, while preserving a meaningful role for prevention programming in our national crime strategy.

The problem with last year's crime bill was that it became a vehicle for an assortment of unproven social programs, many of which were not directly linked to crime prevention. The undisciplined addition of these programs gave rise to the charge the bill was laden with pork and that the programs were nothing more than social experimentation.

The proper response to what happened last year, however, is not to repeal all the juvenile crime prevention programs in the crime bill. Eliminating prevention programming would send the wrong message to children and parents from distressed, crime-ridden communities who are trying the best they can to lead normal, productive lives.

As an alternative, this legislation takes a comprehensive look at both the problems and promise of crime prevention programming.

The heart of the bill is a mandate that every program authorized by the legislation be subjected to a rigorous scientific evaluation. This is the only way that Congress and the States can begin to determine which prevention strategies work and which do not.

In addition, we require the administration to develop a proposal to consolidate and rationalize the scores of Federal programs designed to provide assistance to at-risk youth. Preliminary results from a study I requested from GAO indicate that there are over 128 Federal programs that target at-risk youth. Most of these programs have tiny budgets and overlapping missions. Savings can be gained by consolidating redundant programs and repealing programs that have not proven to be effective or have outlived their usefulness.

Third, we start the process of trimming the number of overlapping and redundant programs by repealing 12 programs from last year's crime bill and other statutes. These repeals result in over $1 billion in savings.

Finally, we preserve and streamline four core prevention programs, each of which is carefully targeted to address the needs of communities that have been ravaged by crime:

One program will provide assistance in the form of a block grant directly to local governments where the most creative prevention work is being done. Local governments are given wide latitude as to how these funds should be spent, so long as they are dedicated to programs to prevent juvenile violence and delinquency.

Second, the bill authorizes funding for the Weed and Seed Program, a Bush administration initiative, which requires local police, prosecutors, correctional officers, schools, and community organizations to integrate law enforcement efforts and prevention programming.

Third, the bill preserves the bipartisan Community Schools Program, which provides funding to keep school and other community facilities open in the afternoon, weekends, and summers, to serve as community centers. This program is designed to meet what a school principal from Westbrook, ME has described to me as "our young people's desperate need for quality after-school programs that address both their academic, social, and recreational development."

Finally, the bill will address the pervasive problem of youth gangs by consolidating the Federal Government's fragmented gang intervention efforts and creating a unified antigang program with sufficient funding to have an impact.

The total cost of the four programs is $3 billion, approximately $1 billion less than the amount of funds dedicated to youth prevention programming in last year's crime bill.

One of the Nation's leading experts on crime, James Q. Wilson has testified this year that "I believe we should continue to test promising crime prevention strategies, building on such leads as we now possess and subjecting each strategy to rigorous, external evaluation." That is exactly what this bill accomplishes.

This package is comprehensive, it addresses both the strengths and weaknesses of the Federal Government's crime prevention efforts, and it is sensitive to the genuine needs of our communities.

We owe it to the Nation's youth to continue searching for ways to effectively prevent crime and make our communities safer. I urge my colleagues to support this important legislation.

Mr. President, I ask unanimous consent that the text of the bill and additional material be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1036

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Juvenile Crime Prevention and Reform Act of 1995".

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.
Sec. 3. Purposes.
Sec. 4. Repeals.

TITLE I—EVALUATION OF CRIME PREVENTION PROGRAMS AND DEVELOPMENT OF NATIONAL CRIME PREVENTION RESEARCH AND EVALUATION STRATEGY

Sec. 101. Definition.
Sec. 102. Evaluation of crime prevention programs.
Sec. 103. National crime prevention research and evaluation strategy.
Sec. 104. Evaluation and research criteria.
Sec. 105. Compliance with evaluation mandate.
Sec. 106. Reservation of funds for evaluation and research.

TITLE II—LOCAL CRIME PREVENTION BLOCK GRANT PROGRAM

Sec. 201. Local crime prevention block grant program.

TITLE III—WEED AND SEED COMMUNITY ANTI-CRIME PROGRAM

Sec. 301. Statement of purpose.
Sec. 302. Executive Office for Weed and Seed Programs.
Sec. 303. Grant authorization.
Sec. 304. Priority.
Sec. 305. Use of funds.
Sec. 306. Applications.
Sec. 307. Evaluation and inspection.
Sec. 308. Authorization of appropriations.
Sec. 309. Coordination of Department of Justice programs.

TITLE IV—COMMUNITY SCHOOLS AND SAFE PLACES GRANT PROGRAM

Sec. 401. Community Schools and Safe Places Grant Program.

TITLE V—CONSOLIDATION OF GANG PREVENTION PROGRAMS

Sec. 501. Repeal of existing gang prevention programs.
Sec. 502. Establishment of unified gang prevention and intervention program.
Sec. 503. Application for grants and contracts.
Sec. 504. Approval of applications.

TITLE VI—FURTHER CONSOLIDATION OF PROGRAMS FOR AT-RISK YOUTH

Sec. 601. Further consolidation of programs for at-risk youth.

SEC. 3. PURPOSES.

The purposes of this Act are—

(1) to consolidate, streamline, and more carefully target Federal crime prevention programs; and

(2) to mandate rigorous outcome evaluation of Federal crime prevention programs and other promising crime prevention strategies.

SEC. 4. REPEALS.

The following provisions of law are repealed:

(1) Sections 30102, 30103, and 30104, subtitle C, section 30402, and subtitles H, J, K, O, S, and X of title III of the Violent Crime Control and Law Enforcement Act of 1994.

(2) Part G of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (relating to mentoring).

(3) Section 682 of the Community Services Block Grant Act (42 U.S.C. 9910c) (relating to the National Youth Sports Program).

TITLE I—EVALUATION OF CRIME PREVENTION PROGRAMS AND DEVELOPMENT OF NATIONAL CRIME PREVENTION RESEARCH AND EVALUATION STRATEGY

SEC. 101. DEFINITION.

For purposes of this title, the term "Secretary" means the Secretary of Health and Human Services.

SEC. 102. EVALUATION OF CRIME PREVENTION PROGRAMS.

The Attorney General, with respect to the programs in titles II, III, and V, and the Secretary, with respect to the program in title IV, shall provide, directly or through grants and contracts, for the comprehensive and thorough evaluation of the effectiveness of each program established by this Act and the amendments made by this Act.

SEC. 103. NATIONAL CRIME PREVENTION RESEARCH AND EVALUATION STRATEGY.

(a) STRATEGY.—Not later than 9 months after the date of enactment of this Act, the Attorney General and the Secretary shall formulate and publish a unified national crime prevention research and evaluation strategy that will result in timely reports to Congress, and to State and local governments, regarding the impact and effectiveness of crime and violence prevention initiatives.

(b) STUDIES.—Consistent with the strategy developed pursuant to subsection (a), the Attorney General or Secretary may use crime prevention research and evaluation funds reserved under section 106 to conduct studies and demonstrations regarding the effectiveness of crime prevention programs and strategies that are designed to achieve the same purposes as the programs under this Act, without regard to whether such programs receive Federal funding.

SEC. 104. EVALUATION AND RESEARCH CRITERIA.

(a) INDEPENDENT EVALUATIONS AND RESEARCH.—Evaluations and research studies conducted pursuant to this title shall be independent in nature, and shall employ rigorous and scientifically recognized standards and methodologies.

(b) CONTENT OF EVALUATIONS.—Evaluations conducted pursuant to this title shall include measures of—

(1) reductions in delinquency, juvenile crime, youth gang activity, youth substance abuse, and other high risk factors;

(2) reductions in risk factors in young people that contribute to juvenile violence, including academic failure, excessive school absenteeism, and dropping out of school;

(3) reductions in risk factors in the community, schools, and family environments that contribute to juvenile violence; and

(4) the increase in the protective factors that reduce the likelihood of delinquency and criminal behavior.

SEC. 105. COMPLIANCE WITH EVALUATION MANDATE.

The Attorney General and the Secretary may require the recipients of Federal assistance under programs under this Act to collect, maintain, and report information considered to be relevant to any evaluation conducted pursuant to section 102, and to conduct and participate in specified evaluation and assessment activities and functions.

SEC. 106. RESERVATION OF FUNDS FOR EVALUATION AND RESEARCH.

(a) IN GENERAL.—The Attorney General, with respect to titles II, III, and V, the Secretary, with respect to title IV, shall reserve not less than 3 percent, and not more than 5 percent, of the amounts appropriated pursuant to such titles and the amendments made by such titles in each fiscal year to carry out the evaluation and research required by this title.

(b) ASSISTANCE TO GRANTEES AND EVALUATED PROGRAMS.—To facilitate the conduct and defray the costs of crime prevention program evaluation and research, the Attorney General and the Secretary shall use funds reserved under this section to provide compliance assistance to—

(1) grantees under this title who are selected to participate in evaluations pursuant to section 105; and

(2) other agencies and organizations that are requested to participate in evaluations and research pursuant to section 103(b).

TITLE II—LOCAL CRIME PREVENTION BLOCK GRANT PROGRAM

SEC. 201. LOCAL CRIME PREVENTION BLOCK GRANT PROGRAM.

Subtitle B of title III of the Violent Crime Control and Law Enforcement Act of 1994 is amended to read as follows:

"Subtitle B—Local Crime Prevention Block Grant Program

"SEC. 30201. DEFINITIONS.

"For purposes of this subtitle:

"(1) The term 'at-risk youth' means a juvenile who—

"(A) is at risk of academic failure;

"(B) has drug or alcohol dependency problems;

"(C) has come into contact with the juvenile justice system;

"(D) is at least 1 year behind the expected grade level for the age of the juvenile;

"(E) is a gang member; or

"(F) has dropped out of school or has high absenteeism rates in school.

"(2) The term 'juvenile' means a person who is not younger than 5 and not older than 18 years old.

"(3) The term 'part 1 violent crime' means murder, non-negligent manslaughter, forcible rape, robbery, and aggravated assault as reported to the Federal Bureau of Investigation for purposes of the Uniform Crime Reports.

"(4) The term 'payment period' means each 1-year period beginning on October 1 of the years 1996 through 2000.

"(5) The term 'poverty line' means the income official poverty line, as defined by the Office of Management and Budget and revised annually in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)), applicable to a family of the size involved.

"(6) The term 'State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands, except that—

"(A) American Samoa, Guam, and the Northern Mariana Islands shall be considered as one State; and

"(B) for purposes of section 30205(a), 33 percent of the amounts allocated shall be allocated to American Samoa, 50 percent to Guam, and 17 percent to the Northern Mariana Islands.

"(7) The term 'unit of general local government' means—

"(A) a county, township, city, or political subdivision of a county, township, or city, that is a unit of general local government as determined by the Secretary of Commerce for general statistical purposes; and

"(B) the District of Columbia and the recognized governing body of an Indian tribe or Alaska Native village that carries out substantial governmental duties and powers.

“SEC. 30202. PAYMENTS TO LOCAL GOVERNMENTS.

“(a) Use.—Amounts paid to a unit of general local government under this subtitle shall be used to fund programs to prevent and diminish juvenile violence and delinquency, juvenile gang activity, and the sale and use of illegal drugs by juveniles, including but not limited to—

“(1) programs aimed at preventing children from becoming involved in gangs;

“(2) programs aimed at preventing children from becoming involved with drugs, such as the drug abuse resistance education programs described in section 5122(c) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 3192(c));

“(3) programs providing substance abuse treatment to at-risk youth;

“(4) programs establishing safe havens to prevent the violent victimization of juveniles and to provide children with appropriate education, and recreational and vocational opportunities;

“(5) programs based on community service corps models that use community service activities to teach skills, discipline, and responsibility;

“(6) programs providing mentoring, tutoring, and intensive remedial education to at-risk youth;

“(7) programs for abused children who are at risk of juvenile delinquency, including programs or group homes for children who have been placed outside or removed from the home of the parents as a result of abuse or neglect; and

(8) programs providing at-risk youth with vocational life skills training to improve employment opportunities.

“(b) Timing of Payments.—Each State shall distribute amounts allocated to such State under this subtitle to units of general local government for a payment period not later than the later of—

“(1) 90 days after the date the amount is available; or

“(2) if the unit of general local government has made the certification under section 30204(a), the first day of the payment period.

“(c) Repayment of Unexpended Amounts.—

“(1) Repayment required.—A unit of general local government shall repay to a State, not later than 15 months after receipt from the State, any amount that is—

“(A) paid to the unit from amounts appropriated pursuant to section 30209; and

“(B) not expended by the unit within 1 year after receipt from the State.

“(2) Penalty for failure to repay.—The State shall reduce payments in each future payment period in an amount equal to any amount required to be repaid under paragraph (1) that was not repaid.

“(3) Deposit of amounts repaid.—Amounts received by a State as repayments under this subsection shall be deposited into a fund designated for future payments to units of general local government.

“(d) Nonsupplanting Requirement.—Funds made available pursuant to section 30209 to units of general local government shall not be used to supplant State or local funds, but shall be used to increase the amount of funds that would, in the absence of funds under this subtitle, be made available from State or local sources.

“SEC. 30203. TECHNICAL ASSISTANCE.

“The Ounce of Prevention Council established under section 30101 may provide technical assistance to units of general local government receiving payments under this subtitle, including—

“(1) assistance to communities seeking information regarding crime prevention programs and strategies;

“(2) assistance in the implementation of crime prevention programs and strategies; and

“(3) assistance in the integration and streamlining of community crime prevention functions and activities.

“SEC. 30204. QUALIFICATION FOR PAYMENT.

“(a) General Requirements for Qualification.—A unit of general local government qualifies for a payment under this subtitle for a payment period only if the unit certifies that—

“(1) the government will establish a trust fund in which the government will deposit all payments received under this subtitle;

“(2) the government will use amounts in the trust fund (including interest) during a reasonable period;

“(3) the government will expend the payments received under this subtitle in accordance with the laws and procedures that are applicable to the expenditure of revenues of the government;

“(4) the government will use accounting, audit, and fiscal procedures that conform to guidelines prescribed by the Attorney General after consultation with the Comptroller General of the United States;

“(5) as applicable, amounts received under this subtitle will be audited in compliance with the Single Audit Act of 1984;

“(6) after reasonable notice to the government, the government will make available to the Attorney General and the Comptroller General of the United States, with the right to inspect, records the Attorney General reasonably requires to review compliance with this subtitle or the Comptroller General of the United States reasonably requires to review compliance and operations;

“(7) the government will make reports the Attorney General reasonably requires, in addition to the annual reports required under this subtitle; and

“(8) the government has complied with subsection (b).

“(b) Reporting Requirements.—

“(1) In general.—To facilitate the evaluation of the programs and activities funded under this subtitle, each unit of local government, before receiving payments under this subtitle in any fiscal year, shall submit to the Attorney General a report describing the programs, activities, and functions that will be assisted with such payments.

“(2) Regulations.—The Attorney General shall issue regulations defining the nature and timing of the reporting requirement specified in paragraph (1).

“(c) Effect of Noncompliance.—

“(1) In general.—If the Attorney General determines that a unit of general local government has not complied substantially with subsection (a) or regulations prescribed under subsection (a), the Attorney General shall notify the noncomplying government. The notice shall state that if the government does not take corrective action by the 60th day after the date the government receives the notice, the Attorney General will withhold additional payments to the State for the current payment period and later payment periods until the Attorney General is satisfied that the local government—

“(A) has taken the appropriate corrective action; and

“(B) will comply with subsection (a) and regulations prescribed under subsection (a).

“(2) Notice.—Before giving notice under paragraph (1), the Attorney General shall give the chief executive officer of the unit of general local government reasonable notice and an opportunity for comment.

“(3) Payment conditions.—The Attorney General may make a payment to a State encompassing a unit of general local government notified under paragraph (1) only if the State government has certified to the Attorney General's satisfaction that the local government—

“(A) has taken the appropriate corrective action; and

“(B) will comply with subsection (a) and regulations prescribed under subsection (a).

“SEC. 30205. ALLOCATION AND DISTRIBUTION OF FUNDS.

“(a) State Distribution.—

“(1) In general.—Of the total amounts appropriated pursuant to section 30209 for each payment period, the Attorney General shall allocate to each State the sum of—

“(A) subject to paragraph (2), an amount that bears the same relation to one-third of such total as the population in the State bears to the population in all States;

“(B) an amount that bears the same relation to one-third of the amount remaining after the operation of subparagraph (A) as the number of juveniles in the State bears to the number of juveniles in all States;

“(C) an amount that bears the same relation to one-third of the amount remaining after the operation of subparagraph (A) as the number of juveniles from families with incomes below the poverty line in the State bears to the number of such juveniles in all States; and

“(D) an amount that bears the same relation to the amount remaining after the operation of subparagraph (A) as the average annual number of part 1 violent crimes reported by the State to the Federal Bureau of Investigation for the 3 most recent calendar years for which such data are available, bears to the number of part 1 violent crimes reported by all States to the Federal Bureau of Investigation for such years.

“(2) Minimum requirement.—Each State shall receive not less than .35 percent of one-third of the total amount appropriated pursuant to section 30209 for each payment period.

“(b) Local Distribution.—

“(1) In general.—Subject to paragraphs (2) and (3), each State shall allocate among its units of general local government the amount allocated under subsection (a) in a manner consistent with the factors identified in that subsection, and with the relative burdens and expenditures assumed by each unit of general local government with respect to crime prevention functions and activities.

“(2) Qualification.—A State may distribute funds allocated under paragraph (1) to a unit of general local government only after establishing to the satisfaction of the Attorney General that the unit of general local government is qualified to receive payments in accordance with subsections (a) and (b) of section 30204.

“(3) Minimum requirement.—If under the formula established by a State pursuant to paragraph (1), a unit of general local government would receive less than $5,000 for the payment period, the amount allocated shall be transferred to the Governor of the State who shall equitably distribute the allocation to all such units or consortia thereof.

“(c) Unavailability of Information.—For purposes of this section, if data regarding the measures governing allocation of funds under subsections (a) and (b) in any State are unavailable or substantially inaccurate, the Attorney General and the State shall utilize the best available comparable data for the purposes of allocation of any funds under this subtitle.

"SEC. 30206. UTILIZATION OF PRIVATE SECTOR.

"Funds or a portion of funds allocated under this subtitle may be used to contract with private nonprofit entities or community-based organizations or community development corporations to carry out the uses specified under section 30202(a).

"SEC. 30207. PUBLIC PARTICIPATION.

"A unit of general local government expending payments under this subtitle shall hold at least one public hearing on the proposed use of the payment in relation to its entire budget. At the hearing, persons shall be given an opportunity to provide written and oral views to the governmental authority responsible for enacting the budget and to ask questions about the entire budget and the relation of the payment to the entire budget. The government shall hold the hearing at a time and a place that allows and encourages public attendance and participation.

"SEC. 30208. ADMINISTRATIVE PROVISIONS.

"The administrative provisions of part H of the Omnibus Crime Control and Safe Streets Act of 1968 shall apply to the Attorney General for purposes of carrying out this subtitle.

"SEC. 30209. AUTHORIZATION OF APPROPRIATIONS.

"(a) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There are authorized to be appropriated to carry out this subtitle $300,000,000 for each of the fiscal years 1996, 1997, 1998, 1999, and 2000.

"(2) AVAILABILITY.—Amounts appropriated pursuant to this subsection shall remain available until expended.

"(b) ADMINISTRATIVE COSTS.—Not more than 1.5 percent of the amount made available pursuant to subsection (a) shall be used by the Attorney General for administrative costs.

"(c) TECHNICAL ASSISTANCE.—Not more than 1 percent of funds made available pursuant to this section in any fiscal year shall be available to the Ounce of Prevention Council for the provision of technical assistance under section 30203.".

TITLE III—WEED AND SEED COMMUNITY ANTI-CRIME PROGRAM

SEC. 301. STATEMENT OF PURPOSE.

The purpose of the Weed and Seed Program is to facilitate—

(1) the formation of effective anti-crime and anti-drug partnerships in high crime neighborhoods and communities that involve the participation and cooperation of law enforcement agencies, community groups, volunteer organizations, public and private human service providers, civic and religious organizations, and the business community; and

(2) the creation of comprehensive anti-crime initiatives in high crime neighborhoods and communities that are designed to—

(A) weed out violent crime, gang crime, and drug trafficking by employing intensive community policing strategies and maximizing the coordination and integration of Federal, State, and local law enforcement and criminal justice functions; and

(B) seed targeted geographical areas with an array of crime and drug prevention programs, human service agency resources, and economic revitalization and neighborhood restoration strategies to prevent crime.

SEC. 302. EXECUTIVE OFFICE FOR WEED AND SEED PROGRAMS.

(a) ESTABLISHMENT.—There is established in the Department of Justice an Executive Office for Weed and Seed Programs, under the authority of the Assistant Attorney General for the Office of Justice Programs.

(b) DUTIES.—The Executive Office for Weed and Seed Programs shall, in consultation with the Administrator of the Office of Juvenile Justice and Delinquency Prevention, and the Secretary of Health and Human Services, implement and administer a multidisciplinary approach to weeding out crime and seeding services and activities that promotes—

(1) safety and security;

(2) the prevention of crime and juvenile delinquency; and

(3) community revitalization.

(c) POWERS.—The Executive Office for Weed and Seed Programs shall have all the necessary powers to implement Weed and Seed Program activities, including the authority to—

(1) make grants and awards;

(2) enter into contracts and cooperative agreements;

(3) reimburse and transfer funds to appropriation accounts of the Department of Justice and other Federal agencies; and

(4) execute Weed and Seed Program functions.

SEC. 303. GRANT AUTHORIZATION.

(a) IN GENERAL.—The Attorney General may award grants to units of general local government (as defined in section 30201 of the Violent Crime Control and Law Enforcement Act of 1994 (as amended by section 201)), State and local agencies, and private nonprofit agencies and organizations to implement Weed and Seed Program activities.

(b) WEEDING ACTIVITIES.—Weeding activities include the following activities and functions, implemented in a manner consistent with the community-based plan described in section 306(b)(2):

(1) Intensifying law enforcement efforts to investigate, prosecute, and punish violent and drug-related crime in targeted communities.

(2) Integrating and coordinating the efforts and resources of Federal, State, and local law enforcement agencies, including Federal, State, and local prosecutors.

(3) Implementing intensive community policing strategies designed to enhance public safety by increasing—

(A) the street patrol presence of law enforcement officers in high-crime neighborhoods; and

(B) the interaction and cooperation between law enforcement officers and residents in neighborhoods experiencing high-intensity, high-frequency violent and drug-related crime.

(4) Programs that enhance home security procedures and the security procedures of public and private housing developments.

(c) SEEDING ACTIVITIES.—Seeding activities include the following activities and functions, implemented in a manner consistent with the community-based plan described in section 306(b)(2):

(1) The coordinated collaborative efforts of law enforcement agencies, human service agencies, the private sector, and community groups to concentrate a broad array of crime prevention programs such as drug treatment, family services, and youth services in targeted neighborhoods and communities to—

(A) create an environment where crime cannot thrive;

(B) instill discipline and responsibility in at-risk youth; and

(C) develop positive community attitudes toward combating violence and drug trafficking.

(2) Efforts to revitalize distressed neighborhoods by integrating Federal, State, local, and private sector resources to facilitate the development of safe and secure housing and economic opportunities in targeted neighborhoods.

(3) Programs that engineer low-cost physical improvements within neighborhoods.

(4) Programs that increase the safety and security of communities through environmental design and modification.

SEC. 304. PRIORITY.

In awarding grants under section 303, the Attorney General shall give priority to applications that—

(1) are innovative in approach to the implementation of a coordinated Weed and Seed strategy;

(2) are innovative in approach to the prevention of crime in a specific area;

(3) contain component programs and activities that have clearly defined goals, objectives, and evaluation designs;

(4) vary in approach to ensure that the effectiveness of different anti-crime strategies may be evaluated;

(5) demonstrate the financial and organizational commitment of State and local public and private resources to support specific Weed and Seed activities; and

(6) coordinate crime prevention programs and activities funded under this title with other existing Federal, State, local, and private programs and activities operating in the targeted Weed and Seed geographic area.

SEC. 305. USE OF FUNDS.

(a) IN GENERAL.—Funds awarded under this title may be used only to implement Weed and Seed activities consistent with this title and described in an approved application.

(b) GUIDELINES.—The Attorney General shall issue guidelines that describe suggested purposes for which Weed and Seed grant awards may be used.

(c) EQUITABLE DISTRIBUTION.—In distributing funds under this title, the Attorney General shall target funds to communities that have been severely distressed by crime and delinquency but shall also ensure the equitable distribution of awards on a geographic basis.

SEC. 306. APPLICATIONS.

(a) IN GENERAL.—Each applicant seeking a grant under this title shall prepare and submit to the Attorney General an application in such form, at such time, and in accordance with such procedures, as the Attorney General shall establish.

(b) CONTENTS OF APPLICATION.—Each application for assistance under this section shall include—

(1) a description of the distinctive factors that contribute to chronic violent and drug-related crime within the area proposed to be served by the grant;

(2) a comprehensive community-based plan to attack intensively the principal factors identified in paragraph (1), including a description of—

(A) the specific weeding and seeding purposes and activities for which grant funds are to be used;

(B) how law enforcement agencies, other State and local government agencies, private nonprofit organizations, civic and religious organizations, business organizations, and interested members of the community will cooperate in carrying out the purposes of the grant, and the various activities and programs to be funded by the grant; and

(C) how seeding activities proposed under the plan are coordinated with, or related to, any other crime-, gang-, and violence-prevention programs or activities funded by

Federal, State, or local government in the geographic area targeted by the application;

(3) an assurance that funds received under this title shall be used to supplement, not supplant, non-Federal funds that would otherwise be available for programs and activities funded under this title;

(4) an assurance that the recipients of funding under this title will maintain separate and complete accounting records for Weed and Seed Program activities;

(5) an assurance that a community that seeks funding under this title has convened a steering committee to supervise and facilitate development of the community plan described in paragraph (2) and the implementation of Weed and Seed Program activities, and that such body—

(A) is comprised of high-level officials from relevant State and local agencies, law enforcement and prosecutorial authorities, public and private human service and youth development providers, representatives from the business sector, and members of the applicant community; and

(B) includes the United States Attorney for the District in which the applicant community is located; and

(6) an assurance that residents of the geographic area that will be served by the grant have been involved in the formulation of the community plan, and will be involved in its implementation through volunteer activities and organizations.

SEC. 307. EVALUATION AND INSPECTION.

(a) IN GENERAL.—The Attorney General shall provide for the rigorous and independent evaluation of the Weed and Seed Program in accordance with title I of this Act.

(b) COLLECTION OF INFORMATION.—The Attorney General may require grant recipients under this title to collect, maintain, and report information relevant to any evaluation conducted pursuant to subsection (a), and to conduct and participate in specified evaluation and assessment activities and functions.

(c) INVESTIGATIONS AND INSPECTIONS.—The Attorney General may conduct such investigations and inspections as may be necessary to ensure compliance with this title.

SEC. 308. AUTHORIZATION OF APPROPRIATIONS.

(a) ALLOCATION OF COPS ON THE BEAT FUNDING FOR WEEDING ACTIVITIES.—Section 1001(a)(11)(B) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793) is amended by inserting after the third sentence the following new sentence: "In each fiscal year, the Attorney General may allocate up to $100,000,000 for grants to support weeding activities under the Weed and Seed Program under title III of the Juvenile Crime Prevention and Reform Act of 1995 consistent with the purposes specified in part Q.".

(b) SEEDING ACTIVITIES.—There are authorized to be appropriated to carry out seeding activities under this title, $100,000,000 for each of the fiscal years 1996, 1997, 1998, 1999, and 2000.

SEC. 309. COORDINATION OF DEPARTMENT OF JUSTICE PROGRAMS.

Funds allocated to other Department of Justice appropriations accounts and designated by the Congress through legislative language or through policy guidance for Weed and Seed Program activities shall be managed and coordinated by the Attorney General through the Executive Office for Weed and Seed Programs. The Attorney General may direct the use of other Department of Justice funds and personnel in support of Weed and Seed Program activities after notifying the Committees on Appropriations of the Senate and House of Representatives.

TITLE IV—COMMUNITY SCHOOLS AND SAFE PLACES GRANT PROGRAM

SEC. 401. COMMUNITY SCHOOLS AND SAFE PLACES GRANT PROGRAM.

(a) GRANT PROGRAM.—Section 30401 of the Violent Crime Control and Law Enforcement Act of 1994 is amended to read as follows:

"SEC. 30401. COMMUNITY SCHOOLS AND SAFE PLACES PROGRAM.

"(a) SHORT TITLE.—This section may be cited as the 'Community Schools and Safe Places Grant Program Act of 1995'.

"(b) DEFINITIONS.—For purposes of this section—

"(1) the term 'youth' means a person who is not younger than 5 and not older than 18 years old;

"(2) the term 'community-based organization' means a private, locally initiated organization that—

"(A) is a nonprofit organization, as defined in section 103(23) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5603(23)); and

"(B) involves the participation, as appropriate, of members of the community and community institutions including—

"(i) business and civic leaders actively involved in providing employment and business development opportunities in the community;

"(ii) educators;

"(iii) religious organizations (which shall not provide any religious instruction or religious worship in connection with an activity funded under this title);

"(iv) law enforcement agencies; or

"(v) other interested parties;

"(3) the term 'eligible community' means an area identified pursuant to subsection (e);

"(4) the term 'Indian tribe' means a tribe, band, pueblo, nation, or other organized group or community of Indians, including an Alaska Native village (as defined in or established under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.)), that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians;

"(5) the term 'poverty line' means the income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)) applicable to a family of the size involved;

"(6) the term 'public school' means a public elementary school, as defined in section 1201(i) of the Higher Education Act of 1965 (20 U.S.C. 1141(i)), and a public secondary school, as defined in section 1201(d) of such Act (42 U.S.C. 1141(d));

"(7) the term 'Secretaries' means the Secretary of Health and Human Services and the Secretary of Education acting jointly, in consultation and coordination with the Attorney General; and

"(8) the term 'State' means a State, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, and the United States Virgin Islands.

"(c) PROGRAM AUTHORITY.—

"(1) IN GENERAL.—

"(A) ALLOCATIONS FOR STATES AND INDIAN TRIBES.—(i) For any fiscal year in which the sums appropriated to carry out this section equal or exceed $20,000,000, from the sums appropriated to carry out this section, the Secretaries shall allocate for grants under subparagraph (B) to community-based organizations or public schools in each State, an amount bearing the same ratio to such sums as the number of children in the State who are members of families with incomes below the poverty line bears to the number of children in all States who are members of families with incomes below the poverty line.

"(ii) The Secretaries shall allocate an appropriate amount of funds available under this section for grants to Indian tribes.

"(B) GRANTS TO COMMUNITY-BASED ORGANIZATIONS AND PUBLIC SCHOOLS FROM ALLOCATIONS.—For each fiscal year described in subparagraph (A), the Secretaries may award grants from the appropriate State or Indian tribe allocation determined under subparagraph (A) on a competitive basis to eligible community-based organizations and public schools to pay for the Federal share of assisting eligible communities develop and carry out programs in accordance with this section.

"(C) REALLOCATION.—If, at the end of such a fiscal year, the Secretaries determine that funds allocated for a particular State or Indian tribe under subparagraph (B) remain unobligated, the Secretaries shall use such funds to award grants to eligible community-based organizations or public schools in another State or Indian tribe to pay for the Federal share of assisting eligible communities develop and carry out programs in accordance with this section. In awarding such grants, the Secretaries shall consider the need to maintain geographic diversity among the recipients of grants.

"(D) AVAILABILITY OF FUNDS.—Amounts made available through under this paragraph grants shall remain available until expended.

"(2) OTHER FISCAL YEARS.—For any fiscal year in which the sums appropriated to carry out this section are less than $20,000,000, the Secretaries may award grants on a competitive basis to eligible community-based organizations or public schools to pay for the Federal share of assisting eligible communities develop and carry out programs in accordance with this section.

"(3) ADMINISTRATIVE COSTS.—The Secretaries shall not use more than 2 percent of the funds appropriated to carry out this section in any fiscal year for administrative costs, including training and technical assistance.

"(d) PROGRAM REQUIREMENTS.—

"(1) LOCATION.—A community-based organization or public school that receives a grant under this section shall ensure that the program is carried out—

"(A) when appropriate, in the facilities of a public school during nonschool hours; or

"(B) in another appropriate local facility that is—

"(i) in a location easily accessible to children in the community; and

"(ii) in compliance with all applicable State and local ordinances.

"(2) USE OF FUNDS.—A community-based organization or public school that receives funds under this section—

"(A) shall use the funds to provide to children in the eligible community services and activities that include extracurricular and academic programs that are offered—

"(i) after school and on weekends and holidays, during the school year; and

"(ii) as daily full-day programs (to the extent available resources permit) or as part-day programs, during the summer months;

"(B) may use the funds for incidental expenses related to authorized programs, including the purchase of equipment, repair or minor renovation of facilities, transportation, staffing, health services, substance abuse treatment, and family counseling for program participants;

"(C) shall use not more than 5 percent of the funds to pay for the administrative costs of the program;

"(D) shall not use the funds to provide religious worship or religious instruction; and

"(E) may not use the funds for the general operating costs of public schools.

"(e) Eligible Community Identification.—

"(1) Identification.—To be eligible to receive a grant under this section, a community-based organization or public school shall identify an eligible community to be assisted under this section.

"(2) Criteria.—Such eligible community shall be an area that meets such criteria as the Secretary may by regulation establish, including criteria relating to poverty, juvenile delinquency, and crime.

"(f) Community Participation.—To be eligible to receive a grant under this section, a community-based organization or public school submitting an application shall demonstrate that the projects and activities it seeks to fund involve the participation, when feasible and appropriate, of—

"(1) parents, family members, and other members of the community being served;

"(2) civic and religious organizations;

"(3) local school officials and teachers employed at schools within the eligible community;

"(4) public housing resident organizations; and

"(5) public and private nonprofit organizations and organizations serving youth that provide education, child protective services, or other human services to low-income, at-risk children and their families.

"(g) Applications.—

"(1) Requirement.—To be eligible to receive a grant under this section, a community-based organization or public school shall submit an application to the Secretaries at such time, in such manner, and accompanied by such information, as the Secretaries may reasonably require, and obtain approval of such application.

"(2) Contents of application.—Each application submitted pursuant to paragraph (1) shall—

"(A) describe the activities and services to be provided through the program for which the grant is sought;

"(B) contain a comprehensive plan for the program that is designed to achieve identifiable goals for children in the eligible community;

"(C) specify measurable goals and outcomes for the program that—

"(i)(I) will make a public school the focal point of the eligible community; or

"(II) will make a local facility described in subsection (d)(1)(B) a focal point of the community; and

"(ii) include reducing the percentage of children in the eligible community that enter the juvenile justice system, increasing the graduation rates, school attendance, and academic success of children in the eligible community, and improving the skills of program participants;

"(D) contain an assurance that the community-based organization or public school will use grant funds received under this section to provide children in the eligible community with activities and services consistent with subsection (d)(2)(A);

"(E) demonstrate the manner in which the community-based organization or public school will make use of the resources, expertise, and commitment of private entities in carrying out the program for which the grant is sought;

"(F) include an estimate of the number of children in the eligible community expected to be served under the program;

"(G) include a description of charitable private resources, and all other resources, that will be made available to achieve the goals of the program;

"(H) contain an assurance that the community-based organization or public school will comply with any evaluation under subsection (k), any research effort authorized under Federal law, and any investigation by the Secretaries;

"(I) contain an assurance that the community-based organization or public school will prepare and submit to the Secretaries an annual report regarding any program conducted under this section;

"(J) contain an assurance that the program for which the grant is sought will, to the maximum extent practicable, incorporate services that are provided solely through non-Federal private or nonprofit sources; and

"(K) contain an assurance that the community-based organization or public school will maintain separate accounting records for the program.

"(3) Priority.—In awarding grants to carry out programs under this section, the Secretaries shall give priority to community-based organizations and public schools that submit applications that demonstrate the greatest local support for the programs they seek to fund.

"(h) Eligibility of Participants.—

"(1) In general.—To the extent practicable, each youth who resides in an eligible community shall be eligible to participate in a program carried out in such community that receives assistance under this section.

"(2) Eligibility.—For a youth to be eligible to participate in a program, the grantee shall obtain the consent of a parent or guardian, unless it is not feasible to do so.

"(3) Nondiscrimination.—In selecting children to participate in a program that receives assistance under this section, a community-based organization or school shall not discriminate on the basis of race, color, religion, sex, national origin, or disability.

"(i) Investigations and Inspections.—The Secretaries may conduct such investigations and inspections as may be necessary to ensure compliance with this section.

"(j) Payments; Federal Share; Non-Federal Share.—

"(1) Payments.—The Secretaries shall, subject to the availability of appropriations, pay to each community-based organization or public school submitting an application under subsection (g) the Federal share of the costs of developing and carrying out programs described in subsection (c).

"(2) Federal share.—The Federal share of the costs of a program under this section shall be not more than—

"(A) 75 percent for each of the first 2 years of a grant's duration;

"(B) 70 percent for the third year of a grant's duration; and

"(C) 60 percent for each year thereafter.

"(3) Non-federal share.—

"(A) In general.—The non-Federal share of the costs of a program under this section may be in cash or in kind, fairly evaluated, including plant, equipment, and services (including the services described in subsection (d)(2)(B)). Federal funds appropriated for the activity of any agency of an Indian tribal government or the Bureau of Indian Affairs on any Indian lands may be used to provide the non-Federal share of the costs of programs or projects funded under this section.

"(B) Special rule.—Not less than 15 percent of the non-Federal share of the costs of a program under this section shall be provided from private or nonprofit sources.

"(k) Evaluation.—In accordance with title I of the Juvenile Crime Prevention and Reform Act of 1995, the Secretaries shall conduct a thorough evaluation of the programs assisted under this section.".

(b) Continuation of Certain Grants.—Notwithstanding section 4, the Secretaries may continue grants or fund applications under subtitle D of title III of the Violent Crime Control and Law Enforcement Act of 1994 for which an application has been submitted on or before the date of enactment of this Act.

(c) Funding.—Section 30403 of the Violent Crime Control and Law Enforcement Act of 1994 Act is amended to read as follows:

"SEC. 30403. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to the Department of Health and Human Services to carry out this subtitle, $160,000,000 for each of the fiscal years 1996, 1997, 1998, 1999, and 2000.".

TITLE V—CONSOLIDATION OF GANG PREVENTION PROGRAMS

SEC. 501. REPEAL OF EXISTING GANG PREVENTION PROGRAMS.

(a) In General.—The following provisions of law are repealed:

(1) Sections 3501, 3502, 3503, 3504, and 3505 of the Anti-Drug Abuse Act of 1988 (42 U.S.C. 11801, 11802, 11803, 11804, 11805).

(2) Sections 281, 281A, 282, and 282A of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5667, 5667-1, 5667a, 5667a-1).

(b) Continuation of Programs.—Notwithstanding subsection (a), the Administrator of the Office of Juvenile Justice and Delinquency Prevention and the Assistant Secretary for Children and Families of the Department of Health and Human Services (referred to in this title as the "Administrator" and the "Assistant Secretary", respectively) may continue grants awarded under the provision referred to in subsection (a) on or before the date of enactment of this Act.

SEC. 502. ESTABLISHMENT OF UNIFIED GANG PREVENTION AND INTERVENTION PROGRAM.

The Administrator and the Assistant Secretary may jointly make grants to public agencies and private nonprofit agencies, organizations, and institutions to—

(1) prevent and reduce the participation of juveniles in the illegal activities of gangs;

(2) promote the involvement of juveniles who are at risk of gang involvement in constructive, productive, lawful alternatives to illegal gang activities;

(3) support local law enforcement agencies in conducting educational outreach activities in communities in which gangs commit drug-related and violent crimes;

(4) prevent gang-related activities from endangering and disrupting the learning environment in elementary and secondary schools;

(5) support the coordination and integration of the gang prevention and intervention activities of local education, juvenile justice, employment and social service agencies, and community-based organizations with a proven record of providing juvenile gang prevention and intervention services in an effective and efficient manner;

(6) provide treatment and rehabilitation services to members of juvenile gangs who abuse drugs; and

(7) provide services to prevent juveniles who have come into contact with the juvenile justice system as a result of gang-related activity from repeating or continuing such conduct.

SEC. 503. APPLICATION FOR GRANTS AND CONTRACTS.

(a) SUBMISSION OF APPLICATIONS.—Any agency, organization, or institution seeking to receive a grant, or to enter into a contract, under this title shall submit an application at such time, in such manner, and containing such information as the Administrator and Assistant Secretary may jointly prescribe.

(b) CONTENTS OF APPLICATION.—Each application for assistance under this title shall—

(1) specify a project or activity for carrying out 1 or more of the purposes specified in section 502 and identify the purpose that such project or activity is designed to carry out;

(2) provide that such project or activity shall be administered by, or under the supervision of, the applicant;

(3) describe how such program or activity is coordinated with, or relates to, any other crime, gang, or violence prevention programs or activities funded by Federal, State, or local government—

(A) in which the applicant participates; and

(B) in the geographic area targeted by the application;

(4) provide that regular reports on such project or activity shall be submitted to the Administrator and Assistant Secretary; and

(5) provide for such fiscal control and fund accounting procedures as may be necessary to ensure prudent use, proper distribution, and accurate accounting of funds received under this title.

SEC. 504. APPROVAL OF APPLICATIONS.

In jointly selecting among applications submitted under section 503, the Administrator and the Assistant Secretary shall give priority to applications that—

(1) substantially involve, or are broadly supported by, community-based organizations experienced in providing services to juveniles; and

(2) support projects and activities in geographical areas in which juvenile gang-related crime is frequent and serious.

"SEC. 505. AMOUNT OF GRANT.

The amount of a grant under this title shall not exceed 75 percent of the total costs of the program described in the application submitted under section 503 for the fiscal year for which the program receives assistance.

SEC. 506. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Department of Justice to carry out this title $25,000,000 for each of the fiscal years 1996, 1997, 1998, 1999, and 2000.

TITLE VI—FURTHER CONSOLIDATION OF PROGRAMS FOR AT-RISK YOUTH

SEC. 601. FURTHER CONSOLIDATION OF PROGRAMS FOR AT-RISK YOUTH.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Ounce of Prevention Council shall submit to Congress a report regarding the elimination of duplication and inefficiency in the structure and operation of Federal juvenile crime and delinquency prevention programs.

(b) REQUIREMENTS.—The report required under subsection (a) shall—

(1) discuss the extent to which programs in different Federal agencies serve similar purposes and target populations;

(2) discuss whether multiple Federal program structures, each receiving limited appropriations, deliver services to at-risk youth (as defined in section 30201(1) of the Violent Crime Control and Law Enforcement Act of 1994 (as amended by section 201)) in an optimal, cost-effective fashion; and

(3) make specific recommendations regarding the elimination, consolidation, and modification of crime and delinquency prevention programs in all Federal agencies and departments.

JUVENILE CRIME PREVENTION AND REFORM ACT OF 1995

Sections 1–2. Short Title and Table of Contents.

Section 3. Purposes. The Act is intended to consolidate and streamline juvenile crime prevention programs under the 1994 Crime Act and other authorizing statutes. These programs include the following:

Ounce of Prevention Grant Program.
Model Intensive Grants.
Family and Community Endeavor Schools (FACES).
Police Recruitment Grants.
Local Partnership Act.
National Community Economic Partnership.
Urban Recreation.
Family Unity Demonstration.
Gang Resistance Education and Training (GREAT).
Juvenile Mentoring Program.
National Youth Sports.
HHS Youth Drug/Gang Prevention Grant Program (repealed in Sec. 501 of the Act).

TITLE I—EVALUATION OF PROGRAMS AND DEVELOPMENT OF NATIONAL CRIME PREVENTION AND RESEARCH STRATEGY

This title requires that the Attorney General (with respect to Titles II, III, and V of the Act) and the Secretary of Health and Human Services (with respect to Title IV) evaluate all programs funded under the Act. They are also responsible for formulating a comprehensive national evaluation strategy.

The Act requires rigorous, independent evaluation of each and every prevention program funded by the Act, and grantees must collect the data necessary for thorough evaluations to occur. These evaluations will be funded with 3–5% of the moneys allocated for each program.

TITLE II—LOCAL CRIME PREVENTION BLOCK GRANT PROGRAM

This title amends subtitle B of Title III of the Crime Bill (the Local Crime Prevention Block Grant Program) to increase funding over five years to $1.5 billion (from $377 million), by reallocating Local Partnership Act funding. By consolidating these block grants, significant savings are achieved.

Under the new block grant program, the Ounce of Prevention Council is authorized to provide technical assistance to local governments that receive payments.

TITLE III—WEED AND SEED COMMUNITY ANTI-CRIME PROGRAM

This title funds targeted anti-crime and anti-drug partnerships between law enforcement agencies and schools, social service providers and community organizations. These programs are designed to mobilize communities in a joint effort to weed out violent crime and drug crime through community policing and coordinated law enforcement, while seeding targeted areas with crime and drug prevention programs.

Through an Executive Office of Weed and Seed, the Attorney General is responsible for making grants to State and local governments, as well as private non-profit organizations. Funding for weeding activities is provided through the Omnibus Crime Control and Safe Streets Act of 1968, while funding for seeding is provided through this Act, at $500 million over five years.

TITLE IV—COMMUNITY SCHOOLS AND SAFE PLACES GRANT PROGRAM

The Act retains the bi-partisan (Danforth-Bradley) Community Schools program which helps communities maintain "safe havens" in high risk neighborhoods. The community centers funding by the Act will provide children at-risk of violent victimization with shelter and support after school, on weekends, and during the summer. The program is jointly administered by the Secretaries of HHS and Education, who provide grants in consultation with the Attorney General. The proposed funding is $800 million over five years.

TITLE V—CONSOLIDATION OF GANG PREVENTION PROGRAMS

The Act consolidates three distinct gang prevention programs currently in the federal budget—one in HHS and two in DOJ—creating, instead, one comprehensive federal anti-gang effort administered jointly by the Office of Juvenile Justice and Delinquency Prevention and HHS. By placing this component within the prevention compromise, the federal government's anti-gang effort will be subject to the research and accountability provisions of the Evaluation Mandate. The proposed funding level is $125 million over five years.

TITLE VI—FURTHER CONSOLIDATION OF PROGRAMS FOR AT-RISK YOUTH

Under this title, the Ounce of Prevention Council is charged with providing Congress with a report regarding the elimination of duplication and inefficiency in the structure and operation of Federal juvenile crime and delinquency programs, including specific recommendations for eliminating these problems.

- Mr. KOHL. Mr. President, I introduce the Juvenile Crime Prevention and Reform Act of 1995, which I am proud to cosponsor with my friend and colleague, Senator COHEN. Our legislation offers the middle ground: it will help stop violence before it starts, and make Federal prevention programs work more efficiently and effectively.

The good news, Mr. President, is that overall crime rates have bucked this trend. So we need more police officers on the streets, and more certainty of punishment. Nevertheless, prevention must also be part of our strategy—because we cannot afford to lay aside any weapons in the battle for safe streets. After all—what kind of reasonable society would pay billions for prisons, while doing nothing to prevent crime in the first place?

Prevention is essential because there is empirical evidence indicating that many prevention programs now on the chopping block do stop crime before it happens. For example, a Milwaukee program, called "Summer Stars," combining recreation, employment counseling and coaching resulted in a 27-percent decrease in robberies and a 40-percent reduction in auto thefts in targeted areas. And in Madison, WI, President Bush's "weed and seed" program reduced serious crime by almost 20 percent. Moreover, Lansing MI found that crime fell by 60 percent in two troubled neighborhoods after a cooperative effort among local law enforcement officers, schools, and social service agencies began.

Yet despite the success of crime prevention efforts—and past bipartisan support led by Senator BIDEN—the 1995 prevention debate has been skewed by overblown rhetoric. While some opponents of prevention have simplistically labeled all programs "pork," some defenders of prevention have fought only for the status quo, without answering the legitimate questions about whether each prevention program actually works—and whether all programs target those most in need.

Mr. President, neither side is right. While we must not reject all prevention, there is considerably more research to be done before we can confidently assert exactly which prevention strategies work best. And there is waste and duplication among prevention programs created and expanded upon in the crime act.

Our proposal takes the sensible middle ground. While preserving essential prevention programs, the bill also consolidates and eliminates others, and requires all prevention programs to prove themselves. Specifically, the bill will achieve these results in three ways.

First, because there is much more we need to know about prevention programs, the evaluation mandate in our bill requires rigorous, independent evaluation of each and every prevention program funded in the compromise package; and it will require grantees to collect the data necessary for thorough evaluations to occur. In other words, you don't collect the data, you don't get the funds.

Second, too much duplication has resulted in a multitude of programs where fewer could do the job. For example, the local partnership act funds largely the same kinds of programs as the local crime prevention block grant. By consolidating these programs, and eliminating the administrative structure for the local partnership act, we can save millions of dollars.

Finally, in an effort to target at-risk juveniles, and in recognition of our responsibility to the American taxpayer, this legislation will either eliminate or consolidate 12 Federal crime prevention programs. The remaining programs are redirected to one of four core prevention initiatives. The net fiscal result: a cut of more than $1 billion from current crime act prevention funding levels. While I am not entirely happy about pursuing this cut in prevention funds, I propose it only as a reasonable alternative to the Republican plan for outright elimination of crime prevention funding.

Mr. President, I reject the elimination of prevention because we must not give up on our young people, and resign ourselves to more victims, more criminals, and more prisons. We must ensure community safety, but merely building more prisons is like paying billions for ambulances at the bottom of a cliff yet spending nothing to build guardrails at the top. That just doesn't make sense.

We must also be sure, however, that the guardrails we invest in do the job efficiently and effectively. While continuing the fight to prevent crime, our legislation will also give us more bang for our crime prevention buck. I hope that my colleagues will join Senator COHEN and myself in this effort.●

By Mr. FORD:

S. 1037. A bill to amend title 49, United States Code, to provide that the requirement that U.S. Government travel be on U.S. carriers excludes travel on any aircraft that is not owned or leased, and operated, by a U.S. person; to the Committee on Commerce, Science, and Transportation.

THE FLY AMERICA AMENDMENTS ACT OF 1995

Mr. FORD. Mr. President, today I am introducing the Fly America Amendments Act of 1995. As the workers of our country know, the Fly America Act is an indispensable element of American aviation policy. The act was intended to ensure that to the extent service is available on U.S. carriers, employees of the Federal Government must use that service.

On May 3, 1994, the General Services Administration issued a request for proposals [RFP] for 1 year requirement contracts for carriers to provide air transportation services to Government employees traveling on U.S. official Government business. The RFP contained more than 5,000 city-pairs, of which approximately 1,114 involved international routes. American Airlines protested, because the RFP allowed U.S. carriers to bid on routes where the services was actually being provided by a foreign airlines under a code-sharing arrangement.

On December 29, 1994, the Comptroller General of the United States held that code-sharing did not violate the Fly America Act. What the decision means is that a U.S. airline may submit the bid to GSA for an international route, but the actual travel is on a foreign airline. To put this more directly, Lufthansa is the designated provider of United States Government travel from Atlanta to Germany. Lufthansa and United Airlines are code-sharing partners, and United won the Atlanta bid. As far as I can tell, Lufthansa is not a United States citizen, is not a United States flag carrier, does not participate in the civil reserve air fleet [CRAF] program, and but for the Comptroller General misinterpretation, would not be able to bid on carrying United States Government employees on United States Government business.

The bill I am introducing today essentially overturns the Comptroller's misinterpretation. The bill will restore the requirement that U.S. Government travel be provided on an aircraft that is owned or leased by a U.S. citizen and operated by a U.S. citizen.

I urge my colleagues to support the bill.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1037

Be it enacted by the Senate and House of Representatives of the United States of American in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Fly America Amendments Act of 1995".

SEC. 2. UNITED STATES AIRCRAFT.

(a) TRAVEL PREFERENCE FOR AIRCRAFT OWNED AND OPERATED BY UNITED STATES CITIZENS.—Section 40118(a) of title 49, United States Code, is amended by inserting after "title" the following: "on an aircraft that is owned or leased by a United States citizen and operated by a United States citizen".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to transportation originating more than 90 days after the date of enactment of this Act.

By Mr. HELMS:

S. 1038. A bill to amend the Internal Revenue Code of 1986 to impose a 15-percent tax only on individual taxable earned income and business taxable income, to repeal the estate and gift taxes, to abolish the Internal Revenue Service, and for other purposes; to the Committee on Finance.

THE FLAT TAX CUT OF 1995

Mr. HELMS. Mr. President, in sending to the desk a bill entitled "The Flat Tax Act of 1995," my hope is that this legislation will help stimulate further interest and understanding regarding the replacing of the present cumbersome and complex Tax Code with a simple 15-percent flat tax. It also, by the way, provides a standard deduction of $10,000 for individuals and an extra $5,000 for each child.

This means that a family of four would not pay taxes on its first $30,000 of income.

The bill also requires a 15 percent across-the-board reduction in Federal spending; it cuts foreign aid by 50 percent; and eliminates the IRS entirely, thereby giving millions of taxpayers a tax cut and sharply reducing Federal spending at the same time.

Now, the flat tax has been discussed many, many times. Thus far, it has not advanced to any extent measurable, but it is fair, it is simple, and it will eliminate the myriad of loopholes that presently riddle the Tax Code. In contrast to the existing system, a flat tax would save billions of dollars each year in time and paperwork. It will spur massive economic growth.

Mr. President, I believe that Congress absolutely must overhaul the

Federal income tax system and, at the same time, overhaul the Federal Government. Any flat tax proposed must be based on three fundamental principles: First, it must be simple and pure—there should be no exceptions or deductions other than a standard personal deduction; second, it should provide Americans with a tax cut; third, it should be coupled with a meaningful cut in spending.

On the first point, it is abundantly clear that the Federal tax laws are too complex, unfair, and unworkable. There are more than 480 tax forms confronting the taxpayers of the United States. I have copies of all of the tax forms at my desk, and I ask Senators, at some convenient time, to contrast that pile of forms to the flat tax postcard which I have in my hand.

Incidentally, I ask unanimous consent that this proposed tax postal card be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

HELMS 15 PERCENT FLAT TAX

FORM 1—INDIVIDUAL WAGE TAX—1995

Your first name and initial (if joint return also give spouse's name and initial), last name.

Your social security number.

Home address (number and street including apartment number or rural route).

Spouse's social security number.

City, town, or post office, state and ZIP code.

1. Wages, Salaries, and Pensions.
2. Personal Exemptions: a. $20,000 for married filing jointly, b. $10,000 for singles, c. $15,000 for single head of household.
3. Number of Dependents, not including spouse.
4. Personal Exemptions for Dependents (line 3 multiplied by $5,000).
5. Total Personal allowances (line 2 plus line 4).
6. Taxable Wages (line 1, less line 5, if positive, otherwise zero).
7. Tax (15% of line 6).
8. Tax already paid.
9. Tax due (line 7 less line 8, if positive).
10. Refund due (line 8 less line 7, if positive).

Mr. HELMS. Mr. President, U.S. taxpayers spend 5.4 billion hours and $192 billion every year trying to fill out these tax forms. One can only imagine how easy it would be simply to submit this postcard in lieu of the existing paperwork.

Mr. President, taxpayers spend a lot of money trying to comply with or to avoid the tax laws. We all know that.

A study by James Payne of Lytton Research estimates that the Tax Code costs $593 million every year, which includes tax avoidance, tax compliance, paperwork, and lost production. The flat tax would save taxpayers an enormous amount of time and money.

Now, the second benefit of the flat tax proposal that I just sent to the desk would provide millions of Americans with a tax cut. Over the years, taxpayers have been taken to the cleaners by the Federal Government, a government which has taken more and more money away from the American workers every year.

I noticed in a report from the Heritage Foundation recently that in 1948 the average family of four paid 2 percent of its income to the Federal Government. In 1992, that same family of four would pay 24.5 percent of its income to Uncle Sam. That is only Federal taxes.

Third, we should dramatically reduce the size of the Federal Government by eliminating every dollar of Federal spending that is not absolutely essential. Entire programs should be abolished or reformed, including the Internal Revenue Service itself. With a flat tax, those countless thousands of IRS agents would no longer be justified in harassing the taxpayers.

A General Accounting Office study, by the way, Mr. President, disclosed one-half of the 10 million notices sent out by the IRS are—quoting the General Accounting Office— "incorrect, unresponsive, unclear, or incomplete." I might add, or all four.

Mr. President, the flat tax would have a profound effect on the economy. It will promote growth by increasing incentives for work and investment and production. It will eliminate the double taxation of interest and dividends and the taxation of capital gains, which will increase savings, of course, and investments, and obviously it will stimulate growth and create jobs.

The economists have said that a flat tax would increase work output by 3 percent, and an additional 3 percent from capital formation. That translates into about $1,900 extra for every American worker by the year 2002.

Furthermore, increased savings will push interest rates down and thus reduce the cost of capital and the cost of homes, cars, and college educations for American families.

Finally, Mr. President, this bill provides a transition rule for home mortgage. I thought about this a lot. I came to the conclusion that those families who have existing home mortgages should be allowed to deduct the interest for the duration of that existing mortgage. This is only a transition rule and applies only to existing home mortgages.

Now, I recognize that the concept of flat tax is not new. As a matter of fact, I offered my first flat tax bill, S. 2200, back in 1982, March 15. It called for a 10-percent flat tax.

Needless to say, I commend Representative ARMEY for his having put forward a solid proposal. He is doing the Nation a great service and I plan to support his version, cosponsor it, when it comes over to the Senate.

Our tax system has become so complex and so economically unproductive, outmoded, and riddled with exceptions that it is no wonder that the American people have lost faith in their Government to such a high degree.

Mr. President, a flat tax is based on equity, efficiency, and simplicity. I think the American people want a flat tax because they understand that it is fair. They understand that it will save billions of dollars and that it will be a spark plug for the economy.

ADDITIONAL COSPONSORS

S. 25

At the request of Mr. HELMS, the name of the Senator from New Hampshire [Mr. SMITH] was added as a cosponsor of S. 25, a bill to stop the waste of taxpayer funds on activities by Government agencies to encourage its employees or officials to accept homosexuality as a legitimate or normal lifestyle.

S. 304

At the request of Mr. SANTORUM, the names of the Senator from Connecticut [Mr. LIEBERMAN] and the Senator from Pennsylvania [Mr. SPECTER] were added as cosponsors of S. 304, a bill to amend the Internal Revenue Code of 1986 to repeal the transportation fuels tax applicable to commercial aviation.

S. 317

At the request of Mr. HELMS, the name of the Senator from New Hampshire [Mr. SMITH] was added as a cosponsor of S. 317, a bill to stop the waste of taxpayer funds on activities by Government agencies to encourage its employees or officials to accept homosexuality as a legitimate or normal lifestyle.

S. 678

At the request of Mr. AKAKA, the names of the Senator from Iowa [Mr. GRASSLEY], the Senator from North Dakota [Mr. DORGAN], the Senator from South Carolina [Mr. THURMOND], and the Senator from Maryland [Mr. SARBANES] were added as cosponsors of S. 678, a bill to provide for the coordination and implementation of a national aquaculture policy for the private sector by the Secretary of Agriculture, to establish an aquaculture development and research program, and for other purposes.

S. 877

At the request of Mrs. HUTCHISON, the name of the Senator from South Dakota [Mr. PRESSLER] was added as a cosponsor of S. 877, a bill to amend section 353 of the Public Health Service Act to exempt physician office laboratories from the clinical laboratories requirements of that section.

S. 928

At the request of Mr. INHOFE, the name of the Senator from Wyoming [Mr. THOMAS] was added as a cosponsor of S. 928, a bill to enhance the safety of air travel through a more effective Federal Aviation Administration, and for other purposes.

S. 979

At the request of Mrs. BOXER, the name of the Senator from Montana

[Mr. BAUCUS] was added as a cosponsor of S. 979, a bill to protect women's reproductive health and constitutional right to choice, and for other purposes.

S. 986

At the request of Mr. D'AMATO, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 986, a bill to amend the Internal Revenue Code of 1986 to provide that the Federal income tax shall not apply to United States citizens who are killed in terroristic actions directed at the United States or to parents of children who are killed in those terroristic actions.

S. 1000

At the request of Mr. BURNS, the name of the Senator from Connecticut [Mr. LIEBERMAN] was added as a cosponsor of S. 1000, a bill to amend the Internal Revenue Code of 1986 to provide that the depreciation rules which apply for regular tax purposes shall also apply for alternative minimum tax purposes, to allow a portion of the tentative minimum tax to be offset by the minimum tax credit, and for other purposes.

SENATE RESOLUTION 146

At the request of Mr. JOHNSTON, the names of the Senator from Utah [Mr. HATCH], the Senator from Indiana [Mr. LUGAR], and the Senator from Georgia [Mr. NUNN] were added as cosponsors of Senate Resolution 146, a resolution designating the week beginning November 19, 1995, and the week beginning on November 24, 1996, as "National Family Week", and for other purposes.

SENATE RESOLUTION 149

At the request of Mr. AKAKA, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of Senate Resolution 149, a resolution expressing the sense of the Senate regarding the recent announcement by the Republic of France that it intends to conduct a series of underground nuclear test explosions despite the current international moratorium on nuclear testing.

AMENDMENT NO. 1539

At the request of Mrs. HUTCHISON the name of the Senator from Alaska [Mr. MURKOWSKI] was added as a cosponsor of amendment No. 1539 proposed to S. 343, a bill to reform the regulatory process, and for other purposes.

SENATE CONCURRENT RESOLUTION 21—RELATIVE TO THE PORTRAIT MONUMENT

Mr. STEVENS (for himself, Mr. FORD, Mr. DOLE, Mr. DASCHLE, Mr. HATFIELD, Mr. PELL, Mr. HELMS, Mr. MOYNIHAN, Mrs. KASSEBAUM, Mrs. HUTCHISON, Ms. MIKULSKI, and Mr. D'AMATO) submitted the following concurrent resolution; ordered to be held at the desk:

S. CON. RES. 21

Whereas in 1995, women of America are celebrating the 75th anniversary of their right to participate in our government through suffrage;

Whereas Lucretia Mott, Elizabeth Cady Stanton, and Susan B. Anthony were pioneers in the movement for women suffrage and the pursuit of equal rights; and

Whereas, the relocation of the "Portrait Monument" to a place of prominence and esteem in the Capitol Rotunda would serve to honor and reserve the contribution of thousands of women: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Architect of the Capitol shall restore the "Portrait Monument" to its original state and place it in the Rotunda of the United States Capitol.

Mr. STEVENS. Mr. President, I want to call attention to the Senate that on August 26, Americans will celebrate the 75th anniversary of women's suffrage.

On August 26, 1920, the 19th amendment to the U.S. Constitution granting women the right to vote was ratified in the State legislatures of the country after having been sent to the States by the Congress of the United States.

Alaska was in the forefront of the suffrage movement. Few people know that during the mining days that preceded this century, in the last part of the last century and the early part of this century, women voted in the mining camps in the organization of local governments in our territory.

As a matter of fact, the first act of the first territorial legislature in Alaska was to grant women the right to vote. That 1913 resolution said that:

> In all elections that are now or may hereafter be authorized by law in the Territory of Alaska or any subdivision or municipality thereof, the elective franchise is hereby extended to such women as have the qualifications of citizens required of male electors.

It just so happens that E.B. Collins, who was my first senior partner when I went to Alaska and practiced in Fairbanks, was the speaker of the first house of representatives in that territorial legislature. He said to me that he felt like giving women the right to vote was one of his greatest victories in the days of the Territory of Alaska. I am sure he would be pleased to know today, that his position as speaker of the State of Alaska is held by an Alaskan woman, Gail Phillips of Homer, AK, and the president of our Alaska State Senate is Drue Pearce, another successful Alaska woman.

Unfortunately, history has not fully recognized the role that these courageous suffragists have played in our history. While a statue was commissioned to honor those women involved in the process, it has been relegated to the basement of the Capitol and faces a back wall. At one time, the inscription was actually painted over with whitewash.

In our Rotunda, most of the statues honor Presidents, and as we know, all to date have been men. Someday I hope the Rotunda will be graced with a statue of the first female President. Until then, it is my hope to honor the role women have played by moving the women's suffrage statue up to the place of honor it should have in the Rotunda. So today I am sending to the desk a resolution directing the Architect of the Capitol to move the women's statue from the basement into the Rotunda before August 26.

Mr. President, this concurrent resolution is cosponsored by Senators DOLE, FORD, HATFIELD, PELL, HELMS, MOYNIHAN, KASSEBAUM, HUTCHISON, and MIKULSKI.

I ask unanimous consent that it be held at the desk until the close of business Monday so all Senators who may wish to do so may cosponsor it, and then having cleared this with the minority and majority, I ask that it be held on the calendar until such time as the leadership will bring it to a vote, which I hope will be very soon.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I thank this young lady, Sherry Little, who works on the Rules Committee staff, who brought this statue to my attention.

I thank the Senator from Michigan for his courtesy.

AMENDMENTS SUBMITTED

THE COMPREHENSIVE REGULATORY REFORM ACT OF 1995

HARKIN AMENDMENT NO. 1541

(Ordered to lie on the table.)

Mr. HARKIN submitted an amendment intended to be proposed by him to amendment No. 1487 proposed by Mr. DOLE to the bill (S. 343) to reform the regulatory process, and for other purposes; as follows:

At the appropriate place, insert the following:

SEC. . DIRECTIVE TO THE ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY CONCERNING REGULATION OF FISHING LURES.

(a) FINDINGS.—Congress finds that—

(1) millions of Americans of all ages enjoy recreational fishing; fishing is one of the most popular sports;

(2) lead and other types of metal sinkers and fishing lures have been used by Americans for fishing for hundreds of years;

(3) the Administrator of the Environmental Protection Agency has proposed to issue a rule under section 6 of the Toxic Substances Control Act, to prohibit the manufacturing, processing, and distribution in commerce in the United States, of certain smaller size fishing sinkers containing lead and zinc, and mixed with other substances, including those made of brass;

(4) the Environmental Protection Agency has based its conclusions that lead fishing sinkers of a certain size present an unreasonable risk of injury to human health or the environment on less than definitive scientific data, conjecture, and anecdotal information;

(5) alternative forms of sinkers and fishing lures are considerably more expensive than

those made of lead; consequently, a ban on lead sinkers would impose additional costs on millions of Americans who fish;

(6) in the absence of more definitive evidence of harm to the environment, the Federal Government should not take steps to restrict the use of lead sinkers; and

(7) alternative measures to protect waterfowl from lead exposure should be carefully reviewed.

(b) FISHING SINKERS AND LURES.—

(1) DIRECTIVE.—The Administrator of the Environmental Protection Agency shall not, under purported authority of section 6 of the Toxic Substances Control Act (15 U.S.C. 2605), take action to prohibit or otherwise restrict the manufacturing, processing, distributing, or use of any fishing sinkers or lures containing lead, zinc, or brass.

(2) FURTHER ACTION.—If the Administrator obtains a substantially greater amount of evidence of risk of injury to health or the environment than the evidence that was adduced in the rulemaking proceedings described in the proposed rule dated February 28, 1994 (59 Fed. Reg. 11122 (March 9, 1994)), the Administrator shall report those findings to Congress, with any recommendation that the Administrator may have for further action.

HARKIN (AND LUGAR) AMENDMENT NO. 1542

(Ordered to lie on the table.)

Mr. HARKIN (for himself and Mr. LUGAR) submitted an amendment intended to be proposed by them to amendment No. 1487 proposed by Mr. DOLE to the bill S. 343, supra; as follows:

On page 96, between lines 20 and 21, insert the following:

SEC. . EDIBLE OIL REGULATORY REFORM.

(a) DEFINITIONS.—In this section:

(1) ANIMAL FAT.—The term "animal fat" means each type of animal fat, oil, or grease (including fat, oil, or grease from fish or a marine mammal), including any fat, oil, or grease referred to in section 61(a)(2) of title 13, United States Code.

(2) VEGETABLE OIL.—The term "vegetable oil" means each type of vegetable oil (including vegetable oil from a seed, nut, or kernel), including any vegetable oil referred to in section 61(a)(1) of title 13, United States Code.

(b) DIFFERENTIATION AMONG FATS, OILS, AND GREASES.—

(1) IN GENERAL.—In issuing or enforcing a regulation, an interpretation, or a guideline relating to a fat, oil, or grease under a Federal law, the head of a Federal agency shall—

(A) differentiate between and establish separate categories for—

(i)(I) animal fats; and

(II) vegetable oils; and

(ii) other oils, including petroleum oil; and

(B) apply different standards to different classes of fat and oil as provided in paragraph (2).

(2) CONSIDERATIONS.—In differentiating between the classes of animal fats and vegetable oils referred to in paragraph (1)(A)(i) and the classes of oils described in paragraph (1)(A)(ii), the head of the Federal agency shall consider differences in physical, chemical, biological, and other properties, and in the effects on human health and the environment, of the classes.

(c) FINANCIAL RESPONSIBILITY.—

(1) LIMITS ON LIABILITY.—Section 1004(a)(1) of the Oil Pollution Act of 1990 (33 U.S.C. 2704(a)(1)) is amended by striking "for a tank vessel," and inserting "for a tank vessel carrying oil in bulk as cargo or cargo residue (except a tank vessel on which the only oil carried is an animal fat or vegetable oil, as those terms are defined in section 2 of the Edible Oil Regulatory Reform Act),".

(2) FINANCIAL RESPONSIBILITY.—The first sentence of section 1016(a) of the Act (33 U.S.C. 2716(a)) is amended by striking ", in the case of a tank vessel, the responsible party could be subject under section 1004(a)(1) or (d) of this Act, or to which, in the case of any other vessel, the responsible party could be subjected under section 1004(a)(2) or (d)" and inserting "the responsible party could be subjected under section 1004(a) or (d) of this Act".

KENNEDY AMENDMENT NO. 1543

Mr. KENNEDY proposed an amendment to amendment No. 1487 proposed by Mr. DOLE to the bill S. 343, supra, as follows:

On page 46, insert between lines 4 and 5 the following:

"§ 629A. Inapplicability to occupational safety and health and mine safety and health regulations

"This subchapter shall not apply to any standard, regulation, interpretive rule, guidance, or general statement of policy relating to—

"(1) occupational safety and health; or

"(2) mine safety and health.

On page 50, insert between lines 15 and 16 the following new paragraph:

"(4) This subchapter shall not apply to any standard, regulation, interpretive rule, guidance, or general statement of policy relating to—

"(A) occupational safety and health; or

"(B) mine safety and health.

On page 96, insert between lines 20 and 21 the following new sections:

SEC. ___. OCCUPATIONAL SAFETY AND HEALTH REGULATIONS.

(a) PRIORITY FOR ESTABLISHING STANDARDS.—Section 6(g) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 655(g)) is amended—

(1) by striking "(g) In" and inserting "(g)(1) Notwithstanding any provision of the Comprehensive Regulatory Reform Act of 1995, in"; and

(2) by adding at the end the following new paragraph:

"(2) Notwithstanding any provision of the Comprehensive Regulatory Reform Act of 1995, in determining the priority for establishing standards relating to toxic materials or harmful physical agents, the Secretary shall consider the number of workers exposed to such materials or agents, the nature and severity of potential impairment, and the likelihood of such impairment.".

(b) RISK ASSESSMENTS FOR FINAL STANDARD.—Section 6 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 655) is amended by adding at the end the following new subsection:

"(h)(1) In promulgating any final occupational safety and health regulation or standard, the Secretary shall publish in the Federal Register—

"(A) an estimate, calculated with as much specificity as practicable, of the risk to the health and safety of employees addressed by such regulation or standard, the affect of such regulation or standard on human health or the environment, and the costs associated with the implementation of, and compliance with, such regulation or standard;

"(B) a comparative analysis of the risk addressed by such regulation or standard relative to other risks to which employees are exposed; and

"(C) a certification that—

"(i) the estimate under subparagraph (A) and the analysis under subparagraph (B) are—

"(I) based upon a scientific evaluation of the risk to the health and safety of employees and to human health or the environment; and

"(II) supported by the best available scientific data;

"(ii) such regulation or standard will substantially advance the purpose of protecting employee health and safety or the environment against the specified identified risk; and

"(iii) such regulation or standard will produce benefits to employee health and safety or the environment that will justify the cost to the Federal Government and the public of the implementation of and compliance with such regulation or standard.

"(2) If the Secretary cannot make the certification required under paragraph (1)(C), the Secretary shall—

"(A) notify the Congress concerning the reasons why such certification cannot be made; and

"(B) publish a statement of such reasons with the final regulation or standard.

"(3) Nothing in this subsection shall be construed to grant a cause of action to any person.".

SEC. . MINE SAFETY AND HEALTH REGULATIONS.

The Federal Mine Safety and Health Act of 1977 (30 U.S.C. 801 et seq.) is amended by inserting after section 101 the following new section:

"RISK ASSESSMENTS FOR FINAL STANDARDS

"SEC. 101a. (a) In promulgating any final mine safety and health regulation or standard, the Secretary shall publish in the Federal Register—

"(1) an estimate, calculated with as much specificity as practicable, of the risk to the health and safety of employees addressed by such regulation or standard, the affect of such regulation or standard on human health or the environment, and the costs associated with the implementation of, and compliance with, such regulation or standard;

"(2) a comparative analysis of the risk addressed by such regulation or standard relative to other risks to which employees are exposed; and

"(3) a certification that—

"(A) the estimate under paragraph (1) and the analysis under paragraph (2) are—

"(i) based upon a scientific evaluation of the risk to the health and safety of employees and to human health or the environment; and

"(ii) supported by the best available scientific data;

"(B) such regulation or standard will substantially advance the purpose of protecting employee health and safety or the environment against the specified identified risk; and

"(C) such regulation or standard will produce benefits to employee health and safety or the environment that will justify the cost to the Federal Government and the public of the implementation of and compliance with such regulation or standard.

"(b) If the Secretary cannot make the certification required under subsection (a)(3), the Secretary shall—

"(1) notify the Congress concerning the reasons why such certification cannot be made; and

"(2) publish a statement of such reasons with the final regulation or standard.

"(c) Nothing in this section shall be construed to grant a cause of action to any person.".

CAMPBELL AMENDMENT NO. 1544

(Ordered to lie on the table.)

Mr. CAMPBELL submitted an amendment intended to be proposed by him to amendment No. 1487 proposed by Mr. DOLE to the bill S. 343, supra; as follows:

On page 19, line 5, strike "or".

On page 19, line 7, strike the period and insert "; or".

On page 19, between lines 7 and 8, insert the following:

"(xiii) a rule that approves, in whole or in part, a plan or program that provides for the implementation, maintenance, or enforcement of Federal standards or requirements adopted by an individual State.

FEINGOLD (AND OTHERS) AMENDMENT NO. 1545

(Ordered to lie on the table.)

Mr. FEINGOLD (for himself, Mr. MCCAIN, Mrs, FEINSTEIN, Mr. JEFFORDS, Mr. WELLSTONE, Mr. BRADLEY, Mr SIMON, Mr. BIDEN, Mr. LEAHY, Mr. AKAKA, and Mr. GRAHAM) submitted an amendment to amendment No. 1487 proposed by Mr. DOLE to the bill S. 343, supra; as follows:

At the appropriate place, insert the following new section:

SEC. . CAMPAIGN FINANCE REFORM.

(a) FINDINGS.—The Congress finds that—

(1) the current system of campaign finance has led to public perceptions that political contributions and their solicitation have unduly influenced the official conduct of elected officials;

(2) the failure to limit campaign expenditures in any way has caused individuals elected to the United States Senate to spend an increasing portion of their time in office raising campaign funds, interfering with the ability of the Senate to carry out its constitutional responsibilities;

(3) the public faith and trust in Congress as an institution has eroded to dangerously low levels and public support for comprehensive congressional reforms in overwhelming; and

(4) reforming our election laws should be a high legislative priority of the 104th Congress.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that as soon as possible before the conclusion of the 104th Congress, the United States Senate should consider comprehensive campaign finance reform legislation that will increase the competitiveness and fairness of elections to the United States Senate.

DORGAN AMENDMENT NO. 1546

(Ordered to lie on the table.)

Mr. DORGAN submitted an amendment intended to be proposed by him to amendment No. 1487 proposed by Mr. DOLE to the bill S. 343, supra; as follows:

On page 16, strike out lines 12 through 14.

SIMON (AND WELLSTONE) AMENDMENT NO. 1547

Mr. SIMON (for himself and Mr. WELLSTONE) proposed an amendment to amendment No. 1487 proposed by Mr. DOLE to the bill S. 343, supra; as follows:

On page 25, between lines 22 and 23, insert the following:

"(g) EXEMPTION FOR THE PROTECTION OF CHILDREN.—None of the provisions of this subchapter shall apply to agency rules or actions intended to protect children against poisoning, including a rule—

"(1) relating to iron toxicity poisoning;

"(2) relating to lead poisoning from food products; or

"(3) promulgated under the Poison Prevention Packaging Act of 1970 (15 U.S.C. 1471 et seq.).

On page 49, line 21, strike "or".

On page 50, line 2, strike the period at the end and insert "; or".

On page 50, between lines 2 and 3, insert the following:-

"(F) a rule or agency action a purpose of which is to protect children from poisoning, including a rule—

"(i) relating to iron toxicity poisoning;

"(ii) relating to lead poisoning from food products; or

"(iii) promulgated under the Poison Prevention Packaging Act of 1970 (15 U.S.C. 1471 et seq.).

THOMAS AMENDMENT NO. 1548

Mr. HATCH (for Mr. THOMAS) proposed an amendment to amendment No. 1487 proposed by Mr. DOLE to the bill S. 343, supra; as follows:

At the appropriate place, insert the following:

SEC. . RENEWAL OF PERMITS FOR GRAZING ON NATIONAL FOREST LANDS.

Notwithstanding any other law, at the request of an applicant for renewal of a permit that has expired before, on, or after the date of enactment of this Act for grazing on land located in a unit of the National Forest System for which a land and resource management plan under section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604) is in effect, if all action required under the National Environmental Policy Act of 1969 with respect to the land and resource management plan has been taken, the Secretary of Agriculture shall reinstate, if necessary, and extend the term of the permit until the date on which the Secretary of Agriculture completes action on the application, including action required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(b) This section shall apply only to permits that were not renewed solely because the action required under the National Environmental Policy Act had not been completed.

SNOWE (AND OTHERS) AMENDMENT NO. 1549

Mr. HATCH (for Ms. SNOWE for herself, Mr. KEMPTHORNE, Mr. COHEN, Mr. LEAHY, and Mr. LIEBERMAN) proposed an amendment to amendment No. 1487 proposed by Mr. DOLE to the bill S. 343, supra; as follows:

At the appropriate place in the substitute amendment insert the following new section:

SEC. . BOTTLED WATER STANDARDS.

Section 410 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 349) is amended—

(1) by striking "Whenever" and inserting "(a) Except as provided in subsection (b), whenever"; and

(2) by adding at the end thereof the following new subsection:

"(b)(1)(A) Not later than 180 days after the Administrator of the Environmental Protection Agency promulgates a national primary drinking water regulation for a contaminant under section 1412 of the Public Health Service Act (42 U.S.C. 300g-1), the Secretary, after public notice and comment, shall issue a regulation under this subsection for the contaminant in bottled water or make a finding that the regulation is not necessary to protect the public health because the contaminant is contained in water in public water systems (as defined under section 1401(4) of such Act (42 U.S.C. 300f(4))) but not in water used for bottled drinking water.

"(B) In the case of contaminants for which national primary drinking water regulations were promulgated under section 1412 of the Public Health Service Act (42 U.S.C. 300g-1) before the date of enactment of the Comprehensive Regulatory Reform Act of 1995, the Secretary shall issue the regulation or publish the finding not later than 1 year after such date of enactment.

"(2) The regulation shall include any monitoring requirements that the Secretary determines appropriate for bottled water.

"(3) The regulation shall require the following:

"(A) In the case of contaminants for which a maximum contaminant level is established in a national primary drinking water regulation under section 1412 of the Public Health Service Act (42 U.S.C. 300g-1), the regulation under this subsection shall establish a maximum contaminant level for the contaminant in bottled water that is at least as stringent as the maximum contaminant level provided in the national primary drinking water regulation.

"(B) In the case of contaminants for which a treatment technique is established in a national primary drinking water regulation under section 1412 of the Public Health Service Act (42 U.S.C. 300g-1), the regulation under this subsection shall require that bottled water be subject to requirements no less protective of the public health than those applicable to water provided by public water systems using the treatment technique required by the national primary drinking water regulation.

"(4)(A) If the Secretary fails to establish a regulation within the 180-day period described in paragraph (1)(A) or the 1-year period described in paragraph (1)(B) (whichever is applicable), the national primary drinking water regulation described in subparagraph (A) or (B) of such paragraph (whichever is applicable) shall be considered, as of the date on which the Secretary is required to establish a regulation under such paragraph, as the regulation applicable under this subsection to bottled water.

"(B) Not later than 30 days after the end of the 180-day period, or the 1-year period (whichever is applicable), described in subparagraph (A) or (B) of paragraph (1), the Secretary shall, with respect to a national primary drinking water regulation that is considered applicable to bottled water as provided in subparagraph (A), publish a notice in the Federal Register that—

"(i) sets forth the requirements of the national primary drinking water regulation, including monitoring requirements, which shall be applicable to bottled water; and

"(ii) provides that—

"(I) in the case of a national primary drinking water regulation promulgated after the date of enactment of the Comprehensive Regulatory Reform Act of 1995, the requirements shall take effect on the date on which the national primary drinking water regulation for the contaminant takes effect under section 1412 of the Public Health Service Act (42 U.S.C. 300g–1); or

"(II) in the case of a national primary drinking water regulation promulgated before the date of enactment of the Comprehensive Regulatory Reform Act of 1995, the requirements shall take effect on the date that is 18 months after such date of the enactment.".

BROWN AMENDMENT NO. 1550

Mr. BROWN proposed an amendment to amendment No. 1487 proposed by Mr. DOLE to the bill S. 343, supra; as follows:

At the appropriate place in the Dole substitute, No. 1487, insert the following:

SEC. . EXECUTIVE PREEMPTION OF STATE LAW.

(a) IN GENERAL.—Chapter 5 of title 5, United States Code, is amended by inserting after section 559 the following new section:

"§ 560. Preemption of State law

"(a) No agency shall construe any authorization in a statute for the issuance of regulations as authorizing preemption of State law by rulemaking or other agency action, unless—

"(1) the statute expressly authorizes issuance of preemptive regulations;

"(2) there is clear and convincing evidence that the Congress intended to delegate to the agency the authority to issue regulations preempting State law; or

"(3) the agency concludes that the exercise of State authority directly conflicts with the exercise of Federal authority under the Federal statute.

"(b) Any regulatory preemption of State law shall be narrowly tailored to achieve the objectives of the statute pursuant to which the regulations are promulgated.

"(c) When an agency proposes to act through rulemaking or other agency action to preempt State law, the agency shall provide all affected States actual notice and an opportunity for appropriate participation in the proceedings under sections 553 and 554.".

(b) CONFORMING AMENDMENT.—The table of sections for chapter 5 of title 5, United States Code, is amended by adding after the item for section 559 the following:

"560. Preemption of State law.".

(c) APPLICATION.—The amendments made by this section shall apply to rulemaking initiated on or after the date of enactment of this section.

SHELBY (AND OTHERS) AMENDMENTS NOS. 1551–1552

(Ordered to lie on the table.)

Mr. SHELBY (for himself, Mr. FRIST, Mrs. HUTCHISON, Mr. LOTT, Mr. HELMS, Mr. COCHRAN, and Mr. GRAMS) submitted an amendment intended to be proposed by them to amendment No. 1487 proposed by Mr. DOLE to the bill S. 343, supra; as follows:

AMENDMENT NO. 1551

At the appropriate place in the Dôle substitute amendment 1487 add the following new section:

SEC. . SMALL BUSINESS REGULATORY BILL OF RIGHTS.

(a) SHORT TITLE.—This section may be cited as the "Small Business Regulatory Bill of Rights Act".

(b) IN GENERAL.—Chapter 5 of title 5, United States Code, is amended by adding at the end the following new subchapter:

"SUBCHAPTER VI—SMALL BUSINESS REGULATORY BILL OF RIGHTS

"§ 597. Definition

"For purposes of this subchapter, the term 'small business' has the same meaning given such term in section 601(3).

"§ 597a. Rights of small businesses prior to enforcement act

"Except as provided in section 597c, each agency shall ensure that its regulatory enforcement program includes—

"(1) a no-fault compliance audit program in which no penalties may be assessed against a small business upon voluntary application by the business to the agency or a licensed private sector business for a compliance audit;

"(2) a publicized, coherent compliance assistance program available to regulated small businesses under the agency's jurisdiction that provides technical and other compliance related assistance to small businesses upon request of a small business;

"(3) a method to enforce regulations in a uniform, consistent, and nonarbitrary manner nationwide; and

"(4) an abatement period of not less than 60 days to allow the small business to correct any violations before a penalty is assessed.

"§ 597b. Rights after investigative or enforcement action

"Except as provided in section 597c, each small business that has been found in violation of a regulation and was subject to an enforcement action or penalty shall have the right—

"(1) to be free from inspections for 180 days after the date on which the small business obtains certification from the agency that the small business is in compliance with the regulation;

"(2) to have ability to pay factored into the assessment of penalties through flexible payment plans with reduced installments that reflect the business's long-term ability to pay (taking into account cashflow and long-term profitability); and

"(3) to not have fines paid be used to finance the inspecting agency, but instead credited to the General Treasury of the United States, to be used for reduction of the Federal deficit.

"§ 597c. Exceptions and limitation

"(a) A provision of this subchapter shall not apply if compliance with such provision of this subchapter would—

"(1) substantially delay responding to an imminent danger to person or property;

"(2) substantially or unreasonably impede a criminal investigation; or

"(3) enable any small business to knowingly disregard applicable regulations, except a request for a non-fault compliance audit shall not constitute prima facie evidence of knowingly disregarding applicable regulations.

"(b) A small business shall not be entitled to the benefit of a no-fault compliance audit program under section 597a(1) regarding a particular enforcement issue for 60 days after the business has had an agency-initiated contact regarding such issue.

"(c) This subchapter shall not apply to any rule or regulation described under section 621(9)(B)(i).".

(c) TECHNICAL AMENDMENT.—The analysis for chapter 5 of title 5, United States Code, is amended by adding at the end the following:

"SUBCHAPTER VI—SMALL BUSINESS REGULATORY BILL OF RIGHTS

"Sec.

"597. Definition.

"597a. Rights of small businesses prior to enforcement action.

"597b. Rights after investigative or enforcement action.

"597c. Exceptions and limitation.".

(d) REPORTS TO CONGRESS.—The Director of the Office of Management and Budget shall submit an annual report to Congress on the progress of the agencies in complying with this Act and the amendments made by this Act.

AMENDMENT NO. 1552

At the appropriate place in the Dole Substitute 1487 add the following new section:

SEC. . SMALL BUSINESS REGULATORY BILL OF RIGHTS.

(a) SHORT TITLE.—This section may be cited as the "Small Business Regulatory Bill of Rights Act".

(b) IN GENERAL.—Chapter 5 of title 5, United States Code, is amended by adding at the end the following new subchapter:

"SUBCHAPTER VI—SMALL BUSINESS REGULATORY BILL OF RIGHTS

"§ 597. Definition

"For purposes of this subchapter, the term 'small business' has the same meaning given such term in section 601(3).

"§ 597a. Rights of small businesses prior to enforcement action

"(a) Except as provided in section 597c, each agency shall ensure that its regulatory enforcement program includes—

"(1) implementation of a no-fault compliance audit program;

"(2) a publicized, coherent compliance assistance program available to regulated small businesses under the agency's jurisdiction that provides technical and other compliance related assistance to small businesses upon request of a small business;

"(3) a method to enforce regulations in a uniform, consistent, and nonarbitrary manner nationwide;

"(4) an abatement period of not less than 60 days to allow the small business to correct any violations before a penalty is assessed; and

"(5) a grace period of not less than 180 days to allow the small business to correct any violation discovered through participation in the programs created under paragraph (1) or (2).

"(b) No penalties or enforcement actions will be assessed or taken if such violations are corrected during the grace period described under subsection (a)(5), so long as the business has not engaged in a pattern of intentional misconduct.

"§ 597b. Rights after investigative or enforcement action

"Except as provided in section 597c, each small business that has been found in violation of a regulation and was subject to an enforcement action or penalty shall have the right—

"(1) to be free from inspections for 180 days after the date on which the small business obtains certification from the agency that the small business is in compliance with the regulation;

"(2) to have ability to pay factored into the assessment of penalties through flexible payment plans with reduced installments that reflect the business's long-term ability to pay (taking into account cash-flow and long-term profitability); and

"(3) to not have fines paid be used to finance the inspecting agency, but instead credited to the General Treasury of the United States, to be used for reduction of the Federal deficit.

"§ 597c. Exceptions and limitation

"(a) A provision of this subchapter shall not apply if compliance with such provision of this subchapter would—

"(1) substantially delay responding to an imminent danger to person or property;

"(2) substantially or unreasonably impede a criminal investigation; or

"(3) enable any small business to knowingly disregard applicable regulations, except a request for a no-fault compliance audit shall not constitute prima facie evidence of knowingly disregarding applicable regulations.

"(b) A small business shall not be entitled to the benefit of a no-fault compliance audit program under section 597a(1) regarding a particular enforcement issue for 60 days after the business has had an agency-initiated contact regarding such issue.

"(c) This subchapter shall not apply to any rule or regulation described under section 621(9)(B)(i).".

(c) TECHNICAL AMENDMENT.—The analysis for chapter 5 of title 5, United States Code, is amended by adding at the end the following:

"SUBCHAPTER VI—SMALL BUSINESS REGULATORY BILL OF RIGHTS

"Sec.
"597. Definition.
"597a. Rights of small businesses prior to enforcement action.
"597b. Rights after investigative or enforcement action.
"597c. Exceptions and limitation.".

(d) RESPONSIBILITIES OF THE DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET.—

(1) COORDINATION.—The Director of the Office of Management and Budget shall coordinate the implementation of this section and establish a schedule for bringing all affected agencies into full compliance by the effective date of this section. Agencies may be brought into partial compliance before such date.

(2) REPORT.—The Director of the Office of Management and Budget shall submit an annual report to Congress on the progress of the agencies in complying with this section and the amendments made by this section.

(e) EFFECTIVE DATE.—This section shall take effect on the earlier of the date designated by the President or January 1, 1998.

HEFLIN AMENDMENT NO. 1553

(Ordered to lie on the table.)

Mr. HEFLIN submitted an amendment intended to be proposed by him to amendment No. 1487 proposed by Mr. DOLE to the bill S. 343, supra; as follows:

On page 76, insert immediately before line 10 the following:

(c) COURT OF FEDERAL CLAIMS.—Section 1491(a) of title 28, United States Code, is amended by adding at the end the following new paragraph:

"(4) In proceedings within the jurisdiction of the Court of Federal Claims which constitute judicial review of agency action (rather than de novo proceedings), the provisions of section 706 of title 5 shall apply.".

HATCH AMENDMENTS NOS. 1554–1555

(Ordered to lie on the table.)

Mr. HATCH submitted two amendments intended to be proposed by him to amendment No. 1487 proposed by Mr. DOLE to the bill S. 343, supra; as follows:

AMENDMENT NO. 1554

In lieu of the language to be proposed, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Comprehensive Regulatory Reform Act of 1995".

SEC. 2. DEFINITIONS.

Section 551 of title 5, United States Code, is amended—

(1) in the matter preceding paragraph (1), by striking "this subchapter" and inserting "this chapter and chapters 7 and 8";

(2) in paragraph (13), by striking "and";

(3) in paragraph (14), by striking the period at the end and inserting "; and"; and

(4) by adding at the end the following new paragraph:

"(15) 'Director' means the Director of the Office of Management and Budget.".

SEC. 3. RULEMAKING.

Section 553 of title 5, United States Code, is amended to read as follows:

"§ 553. Rulemaking

"(a) APPLICABILITY.—This section applies to every rulemaking, according to the provisions thereof, except to the extent that there is involved—

"(1) a matter pertaining to a military or foreign affairs function of the United States;

"(2) a matter relating to the management or personnel practices of an agency;

"(3) an interpretive rule, general statement of policy, guidance, or rule of agency organization, procedure, or practice, unless such rule, statement, or guidance has general applicability and substantially alters or creates rights or obligations of persons outside the agency; or

"(4) a rule relating to the acquisition, management, or disposal by an agency of real or personal property, or of services, that is promulgated in compliance with otherwise applicable criteria and procedures.

"(b) NOTICE OF PROPOSED RULEMAKING.—General notice of proposed rulemaking shall be published in the Federal Register, unless all persons subject thereto are named and either personally served or otherwise have actual notice of the proposed rulemaking in accordance with law. Each notice of proposed rulemaking shall include—

"(1) a statement of the time, place, and nature of public rulemaking proceedings;

"(2) a succinct explanation of the need for and specific objectives of the proposed rule, including an explanation of the agency's determination of whether or not the rule is a major rule within the meaning of section 621(5);

"(3) a succinct explanation of the specific statutory basis for the proposed rule, including an explanation of—

"(A) whether the interpretation is clearly required by the text of the statute; or

"(B) if the interpretation is not clearly required by the text of the statute, an explanation that the interpretation is within the range of permissible interpretations of the statute as identified by the agency, and an explanation why the interpretation selected by the agency is the agency's preferred interpretation;

"(4) the terms or substance of the proposed rule;

"(5) a summary of any initial analysis of the proposed rule required to be prepared or issued pursuant to chapter 6;

"(6) a statement that the agency seeks proposals from the public and from State and local governments for alternative methods to accomplish the objectives of the rulemaking that are more effective or less burdensome than the approach used in the proposed rule; and

"(7) a statement specifying where the file of the rulemaking proceeding maintained pursuant to subsection (j) may be inspected and how copies of the items in the file may be obtained.

"(c) PERIOD FOR COMMENT.—The agency shall give interested persons not less than 60 days after providing the notice required by subsection (b) to participate in the rulemaking through the submission of written data, views, or arguments.

"(d) GOOD CAUSE EXCEPTION.—Unless notice or hearing is required by statute, a final rule may be adopted and may become effective without prior compliance with subsections (b) and (c) and (e) through (g) if the agency for good cause finds that providing notice and public procedure thereon before the rule becomes effective is impracticable, unnecessary, or contrary to the public interest. If a rule is adopted under this subsection, the agency shall publish the rule in the Federal Register with the finding and a succinct explanation of the reasons therefor.

"(e) PROCEDURAL FLEXIBILITY.—To collect relevant information, and to identify and elicit full and representative public comment on the significant issues of a particular rulemaking, the agency may use such other procedures as the agency determines are appropriate, including—

"(1) the publication of an advance notice of proposed rulemaking;

"(2) the provision of notice, in forms which are more direct than notice published in the Federal Register, to persons who would be substantially affected by the proposed rule but who are unlikely to receive notice of the proposed rulemaking through the Federal Register;

"(3) the provision of opportunities for oral presentation of data, views, information, or rebuttal arguments at informal public hearings, meetings, and round table discussions, which may be held in the District of Columbia and other locations;

"(4) the establishment of reasonable procedures to regulate the course of informal public hearings, meetings, and round table discussions, including the designation of representatives to make oral presentations or engage in direct or cross-examination on behalf of several parties with a common interest in a rulemaking, and the provision of transcripts, summaries, or other records of all such public hearings and summaries of meetings and round table discussions;

"(5) the provision of summaries, explanatory materials, or other technical information in response to public inquiries concerning the issues involved in the rulemaking; and

"(6) the adoption or modification of agency procedural rules to reduce the cost or complexity of the procedural rules.

"(f) PLANNED FINAL RULE.—If the provisions of a final rule that an agency plans to adopt are so different from the provisions of the original notice of proposed rulemaking that the original notice did not fairly apprise the public of the issues ultimately to be resolved in the rulemaking or of the substance of the rule, the agency shall publish in the Federal Register a notice of the final rule the agency plans to adopt, together with the information relevant to such rule that is required by the applicable provisions of this section and that has not previously been published in the Federal Register. The agency shall allow a reasonable period for comment on such planned final rule prior to its adoption.

"(g) STATEMENT OF BASIS AND PURPOSE.—An agency shall publish each final rule it adopts in the Federal Register, together with a concise statement of the basis and purpose of the rule and a statement of when the rule may become effective. The statement of basis and purpose shall include—

"(1) an explanation of the need for, objectives of, and specific statutory authority for, the rule;

"(2) a discussion of, and response to, any significant factual or legal issues presented by the rule, or raised by the comments on the proposed rule, including a description of the reasonable alternatives to the rule proposed by the agency and by interested persons, and the reasons why such alternatives were rejected;

"(3) a succinct explanation of whether the specific statutory basis for the rule is expressly required by the text of the statute, or if the specific statutory interpretation upon which the rule is based is not expressly required by the text of the statute, an explanation that the interpretation is within the range of permissible interpretations of the statute as identified by the agency, and why the agency has rejected other interpretations proposed in comments to the agency;

"(4) an explanation of how the factual conclusions upon which the rule is based are substantially supported in the rulemaking file; and

"(5) a summary of any final analysis of the rule required to be prepared or issued pursuant to chapter 6.

"(h) NONAPPLICABILITY.—In the case of a rule that is required by statute to be made on the record after opportunity for an agency hearing, sections 556 and 557 shall apply in lieu of subsections (c), (e), (f), and (g).

"(i) EFFECTIVE DATE.—An agency shall publish the final rule in the Federal Register not later than 60 days before the effective date of such rule. An agency may make a rule effective in less than 60 days after publication in the Federal Register if the rule grants or recognizes an exemption, relieves a restriction, or if the agency for good cause finds that such a delay in the effective date would be contrary to the public interest and publishes such finding and an explanation of the reasons therefor, with the final rule.

"(j) RULEMAKING FILE.—(1) The agency shall maintain a file for each rulemaking proceeding conducted pursuant to this section and shall maintain a current index to such file.

"(2) Except as provided in subsection (k), the file shall be made available to the public not later than the date on which the agency makes an initial publication concerning the rule.

"(3) The rulemaking file shall include—

"(A) the notice of proposed rulemaking, any supplement to, or modification or revision of, such notice, and any advance notice of proposed rulemaking;

"(B) copies of all written comments received on the proposed rule;

"(C) a transcript, summary, or other record of any public hearing conducted on the rulemaking;

"(D) copies, or an identification of the place at which copies may be obtained, of factual and methodological material that pertains directly to the rulemaking and that was considered by the agency in connection with the rulemaking, or that was submitted to or prepared by or for the agency in connection with the rulemaking; and

"(E) any statement, description, analysis, or other material that the agency is required to prepare or issue in connection with the rulemaking, including any analysis prepared or issued pursuant to chapter 6.

The agency shall place each of the foregoing materials in the file as soon as practicable after each such material becomes available to the agency.

"(k) CONFIDENTIAL TREATMENT.—The file required by subsection (j) need not include any material described in section 552(b) if the agency includes in the file a statement that notes the existence of such material and the basis upon which the material is exempt from public disclosure under such section. The agency may not substantially rely on any such material in formulating a rule unless it makes the substance of such material available for adequate comment by interested persons. The agency may use summaries, aggregations of data, or other appropriate mechanisms to protect the confidentiality of such material to the maximum extent possible.

"(*l*) RULEMAKING PETITION.—(1) Each agency shall give an interested person the right to petition—

"(A) for the issuance, amendment, or repeal of a rule;

"(B) for the amendment or repeal of an interpretive rule or general statement of policy or guidance; and

"(C) for an interpretation regarding the meaning of a rule, interpretive rule, general statement of policy, or guidance.

"(2) The agency shall grant or deny a petition made pursuant to paragraph (1), and give written notice of its determination to the petitioner, with reasonable promptness, but in no event later than 18 months after the petition was received by the agency.

"(3) The written notice of the agency's determination shall include an explanation of the determination and a response to each significant factual and legal claim that forms the basis of the petition.

"(m) JUDICIAL REVIEW.—(1) The decision of an agency to use or not to use procedures in a rulemaking under subsection (e) shall not be subject to judicial review.

"(2) The rulemaking file required under subsection (j) shall constitute the rulemaking record for purposes of judicial review.

"(3) No court shall hold unlawful or set aside an agency rule based on a violation of subsection (j), unless the court finds that such violation has precluded fair public consideration of a material issue of the rulemaking taken as a whole.

"(4)(A) Judicial review of compliance or noncompliance with subsection (j) shall be limited to review of action or inaction on the part of an agency.

"(B) A decision by an agency to deny a petition under subsection (*l*) shall be subject to judicial review immediately upon denial, as final agency action under the statute granting the agency authority to carry out its action.

"(n) CONSTRUCTION.—(1) Notwithstanding any other provision of law, this section shall apply to and supplement the procedures governing informal rulemaking under statutes that are not generally subject to this section.

"(2) Nothing in this section authorizes the use of appropriated funds available to any agency to pay the attorney's fees or other expenses of persons intervening in agency proceedings.".

SEC. 4. ANALYSIS OF AGENCY RULES.

(a) IN GENERAL.—Chapter 6 of title 5, United States Code, is amended by adding at the end the following:

"SUBCHAPTER II—ANALYSIS OF AGENCY RULES

"§ 621. Definitions

"For purposes of this subchapter—

"(1) except as otherwise provided, the definitions under section 551 shall apply to this subchapter;

"(2) the term 'benefit' means the reasonably identifiable significant favorable effects, quantifiable and nonquantifiable, including social, environmental, health, and economic effects, that are expected to result directly or indirectly from implementation of a rule or other agency action;

"(3) the term 'cost' means the reasonably identifiable significant adverse effects, quantifiable and nonquantifiable, including social, environmental, health, and economic effects that are expected to result directly or indirectly from implementation of a rule or other agency action;

"(4) the term 'cost-benefit analysis' means an evaluation of the costs and benefits of a rule, quantified to the extent feasible and appropriate and otherwise qualitatively described, that is prepared in accordance with the requirements of this subchapter at the level of detail appropriate and practicable for reasoned decisionmaking on the matter involved, taking into consideration the significance and complexity of the decision and any need for expedition;

"(5) the term 'major rule' means—

"(A) a rule or set of closely related rules that the agency proposing the rule, the Director, or a designee of the President determines is likely to have a gross annual effect on the economy of $50,000,000 or more in reasonably quantifiable increased costs; or

"(B) a rule that is otherwise designated a major rule by the agency proposing the rule, the Director, or a designee of the President (and a designation or failure to designate under this clause shall not be subject to judicial review);

"(6) the term 'market-based mechanism' means a regulatory program that—

"(A) imposes legal accountability for the achievement of an explicit regulatory objective on each regulated person;

"(B) affords maximum flexibility to each regulated person in complying with mandatory regulatory objectives, which flexibility shall, where feasible and appropriate, include, but not be limited to, the opportunity to transfer to, or receive from, other persons, including for cash or other legal consideration, increments of compliance responsibility established by the program; and

"(C) permits regulated persons to respond to changes in general economic conditions and in economic circumstances directly pertinent to the regulatory program without affecting the achievement of the program's explicit regulatory mandates;

"(7) the term 'performance-based standards' means requirements, expressed in terms of outcomes or goals rather than mandatory means of achieving outcomes or goals, that permit the regulated entity discretion to determine how best to meet specific requirements in particular circumstances;

"(8) the term 'reasonable alternatives' means the range of reasonable regulatory options that the agency has authority to consider under the statute granting rulemaking authority, including flexible regulatory options of the type described in section 622(c)(2)(C)(iii), unless precluded by the statute granting the rulemaking authority; and

"(9) the term 'rule' has the same meaning as in section 551(4), and—

"(A) includes any statement of general applicability that substantially alters or creates rights or obligations of persons outside the agency; and

"(B) does not include—

"(i) a rule that involves the internal revenue laws of the United States, or the assessment and collection of taxes, duties, or other revenues or receipts;

"(ii) a rule or agency action that implements an international trade agreement to which the United States is a party;

"(iii) a rule or agency action that authorizes the introduction into commerce, or recognizes the marketable status, of a product;

"(iv) a rule exempt from notice and public procedure under section 553(a);

"(v) a rule or agency action relating to the public debt;

"(vi) a rule required to be promulgated at least annually pursuant to statute, or that provides relief, in whole or in part, from a statutory prohibition, other than a rule promulgated pursuant to subtitle C of title II of the Solid Waste Disposal Act (42 U.S.C. 6921 et seq.);

"(vii) a rule of particular applicability that approves or prescribes the future rates, wages, prices, services, corporate or financial structures, reorganizations, mergers, acquisitions, accounting practices, or disclosures bearing on any of the foregoing;

"(viii) a rule relating to monetary policy or to the safety or soundness of federally insured depository institutions or any affiliate of such an institution (as defined in section 2(k) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(k))), credit unions, Federal Home Loan Banks, government sponsored housing enterprises, farm credit institutions, foreign banks that operate in the United States and their affiliates, branches, agencies, commercial lending companies, or representative offices, (as those terms are defined in section 1 of the International Banking Act of 1978 (12 U.S.C. 3101));

"(ix) a rule relating to the payment system or the protection of deposit insurance funds or the farm credit insurance fund;

"(x) any order issued in a rate or certificate proceeding by the Federal Energy Regulatory Commission, or a rule of general applicability that the Federal Energy Regulatory Commission certifies would increase reliance on competitive market forces or reduce regulatory burdens;

"(xi) a rule or order relating to the financial responsibility of brokers and dealers or futures commission merchants, the safeguarding of investor securities and funds or commodity future or options customer securities and funds, the clearance and settlement of securities, futures, or options transactions, or the suspension of trading under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) or emergency action taken under the Commodity Exchange Act (7 U.S.C. 1 et seq.), or a rule relating to the protection of the Securities Investor Protection Corporation, that is promulgated under the Securities Investor Protection Act of 1970 (15 U.S.C. 78aaa et seq.); or

"(xii) a rule that involves the international trade laws of the United States.

"§ 622. Rulemaking cost-benefit analysis

"(a) DETERMINATIONS FOR MAJOR RULE.—Prior to publishing a notice of proposed rulemaking for any rule (or, in the case of a notice of proposed rulemaking that has been published but not issued as a final rule on or before the date of enactment of this subchapter, not later than 30 days after such date of enactment), each agency shall determine—

"(1) whether the rule is or is not a major rule within the meaning of section 621(5)(A)(i) and, if it is not, whether it should be designated as a major rule under section 621(5)(B); and

"(2) if the agency determines that the rule is a major rule, or otherwise designates it as a major rule, whether the rule requires or does not require the preparation of a risk assessment under section 632(a).

"(b) DESIGNATION.—(1) If an agency has determined that a rule is not a major rule within the meaning of section 621(5)(A) and has not designated the rule as a major rule within the meaning of section 621(5)(B), the Director or a designee of the President may, as appropriate, determine that the rule is a major rule or designate the rule as a major rule not later than 30 days after the publication of the notice of proposed rulemaking for the rule (or, in the case of a notice of proposed rulemaking that has been published on or before the date of enactment of this subchapter, not later than 1 year after such date of enactment).

"(2) Such determination or designation shall be published in the Federal Register, together with a succinct statement of the basis for the determination or designation.

"(c) INITIAL COST-BENEFIT ANALYSIS.—(1)(A) When the agency publishes a notice of proposed rulemaking for a major rule, the agency shall issue and place in the rulemaking file an initial cost-benefit analysis, and shall include a summary of such analysis in the notice of proposed rulemaking.

"(B)(i) When an agency, the Director, or a designee of the President has published a determination or designation that a rule is a major rule after the publication of the notice of proposed rulemaking for the rule, the agency shall promptly issue and place in the rulemaking file an initial cost-benefit analysis for the rule and shall publish in the Federal Register a summary of such analysis.

"(ii) Following the issuance of an initial cost-benefit analysis under clause (i), the agency shall give interested persons an opportunity to comment in the same manner as if the initial cost-benefit analysis had been issued with the notice of proposed rulemaking.

"(2) Each initial cost-benefit analysis shall contain—

"(A) a succinct analysis of the benefits of the proposed rule, including any beneficial effects that cannot be quantified, and an explanation of how the agency anticipates such benefits will be achieved by the proposed rule, including a description of the persons or classes of persons likely to receive such benefits;

"(B) a succinct analysis of the costs of the proposed rule, including any costs that cannot be quantified, and an explanation of how the agency anticipates such costs will result from the proposed rule, including a description of the persons or classes of persons likely to bear such costs;

"(C) a succinct description (including an analysis of the costs and benefits) of reasonable alternatives for achieving the objectives of the statute, including, where such alternatives exist, alternatives that—

"(i) require no government action, where the agency has discretion under the statute granting the rulemaking authority not to promulgate a rule;

"(ii) will accommodate differences among geographic regions and among persons with differing levels of resources with which to comply;

"(iii) employ performance-based standards, market-based mechanisms, or other flexible regulatory options that permit the greatest flexibility in achieving the regulatory result that the statutory provision authorizing the rule is designed to produce; or

"(iv) employ voluntary standards;

"(D) in any case in which the proposed rule is based on one or more scientific evaluations, scientific information, or a risk assessment, or is subject to the risk assessment requirements of subchapter III, a description of the actions undertaken by the agency to verify the quality, reliability, and relevance of such scientific evaluation, scientific information, or risk assessment; and

"(E) an explanation of how the proposed rule is likely to meet the decisional criteria of section 624.

"(d) FINAL COST-BENEFIT ANALYSIS.—(1) When the agency publishes a final major rule, the agency shall also issue and place in the rulemaking file a final cost-benefit analysis, and shall include a summary of the analysis in the statement of basis and purpose.

"(2) Each final cost-benefit analysis shall contain—

"(A) a description and comparison of the benefits and costs of the rule and of the reasonable alternatives to the rule described in the rulemaking record, including flexible regulatory options of the type described in subsection (c)(2)(C)(iii), and a description of the persons likely to receive such benefits and bear such costs; and

"(B) an analysis, based upon the rulemaking record considered as a whole, of how the rule meets the decisional criteria in section 624.

"(3) In considering the benefits and costs, the agency, when appropriate, shall consider the benefits and costs incurred by all of the affected persons or classes of persons (including specially affected subgroups).

"(e) REQUIREMENTS FOR COST-BENEFIT ANALYSES.—(1)(A) The description of the benefits and costs of a proposed and a final rule required under this section shall include, to the extent feasible, a quantification or numerical estimate of the quantifiable benefits and costs.

"(B) The quantification or numerical estimate shall—

"(i) be made in the most appropriate unit of measurement, using comparable assumptions, including time periods;

"(ii) specify the ranges of predictions; and

"(iii) explain the margins of error involved in the quantification methods and the uncertainties and variabilities in the estimates used.

"(C) An agency shall describe the nature and extent of the nonquantifiable benefits and costs of a final rule pursuant to this section in as precise and succinct a manner as possible.

"(D) The agency evaluation of the relationship of benefits to costs shall be clearly articulated.

"(E) An agency shall not be required to make such evaluation primarily on a mathematical or numerical basis.

"(F) Nothing in this subsection shall be construed to expand agency authority beyond the delegated authority arising from the statute granting the rulemaking authority.

"(2) Where practicable and when understanding industry-by-industry effects is of central importance to a rulemaking, the description of the benefits and costs of a proposed and final rule required under this section shall describe such benefits and costs on an industry by industry basis.

"(f) HEALTH, SAFETY, OR EMERGENCY EXEMPTION FROM COST-BENEFIT ANALYSIS.—(1)

A major rule may be adopted and may become effective without prior compliance with this subchapter if—

"(A) the agency for good cause finds that conducting cost-benefit analysis is impracticable due to an emergency or health or safety threat that is likely to result in significant harm to the public or natural resources; and

"(B) the agency publishes in the Federal Register, together with such finding, a succinct statement of the basis for the finding.

"(2) Not later than 180 days after the promulgation of a final major rule to which this section applies, the agency shall comply with the provisions of this subchapter and, as thereafter necessary, revise the rule.

"§ 623. Agency regulatory review

"(a) PRELIMINARY SCHEDULE FOR RULES.—(1) Not later than 1 year after the date of the enactment of this section, and every 5 years thereafter, the head of each agency shall publish in the Federal Register a notice of proposed rulemaking under section 553 that contains a preliminary schedule of rules selected for review under this section by the head of the agency and in the sole discretion of the head of the agency, and request public comment thereon, including suggestions for additional rules warranting review. The agency shall allow at least 180 days for public comment.

"(2) In selecting rules for the preliminary schedule, the head of the agency shall consider the extent to which, in the judgment of the head of the agency—

"(A) a rule is unnecessary, and the agency has discretion under the statute authorizing the rule to repeal the rule;

"(B) a rule would not meet the decisional criteria of section 624, and the agency has discretion under the statute authorizing the rule to repeal the rule; or

"(C) a rule could be revised in a manner allowed by the statute authorizing the rule so as to—

"(i) substantially decrease costs;

"(ii) substantially increase benefits; or

"(iii) provide greater flexibility for regulated entities, through mechanisms including, but not limited to, those listed in section 622(c)(2)(C)(iii).

"(3) The preliminary schedule under this subsection shall propose deadlines for review of each rule listed thereon, and such deadlines shall occur not later than 11 years from the date of publication of the preliminary schedule.

"(4) Any interpretive rule, general statement of policy, or guidance that has the force and effect of a rule under section 621(9) shall be treated as a rule for purposes of this section.

"(b) SCHEDULE.—(1) Not later than 1 year after publication of a preliminary schedule under subsection (a), and subject to subsection (c), the head of each agency shall publish a final rule that establishes a schedule of rules to be reviewed by the agency under this section.

"(2) The schedule shall establish a deadline for completion of the review of each rule listed on the schedule, taking into account the criteria in subsection (d) and comments received in the rulemaking under subsection (a). Each such deadline shall occur not later than 11 years from the date of publication of the preliminary schedule.

"(3) The schedule shall contain, at a minimum, all rules listed on the preliminary schedule.

"(4) The head of the agency shall modify the agency's schedule under this section to reflect any change ordered by the court under subsection (e) or subsection (g)(3) or contained in an appropriations Act under subsection (f).

"(c) PETITIONS AND COMMENTS PROPOSING ADDITION OF RULES TO THE SCHEDULE.—(1) Notwithstanding section 553(*l*), a petition to amend or repeal a major rule or an interpretative rule, general statement of policy, or guidance on grounds arising under this subchapter may only be filed during the 180-day comment period under subsection (a) and not at any other time. Such petition shall be reviewed only in accordance with this subsection.

"(2) The head of the agency shall, in response to petitions received during the rulemaking to establish the schedule, place on the final schedule for the completion of review within the first 3 years of the schedule any rule for which a petition, on its face, together with any relevant comments received in the rulemaking under subsection (a), establishes that there is a substantial likelihood that, considering the future impact of the rule—

"(A) the rule is a major rule under section 621(5)(A); and

(B) the head of the agency would not be able to make the findings required by section 624 with respect to the rule.

"(3) For the purposes of paragraph (2), the head of the agency may consolidate multiple petitions on the same rule into 1 determination with respect to review of the rule.

"(4) The head of the agency may, at the sole discretion of the head of the agency, add to the schedule any other rule suggested by a commentator during the rulemaking under subsection (a).

"(d) CRITERIA FOR ESTABLISHING DEADLINES FOR REVIEW.—The schedules in subsections (a) and (b) shall establish deadlines for review of each rule on the schedule that take into account—

"(1) the extent to which, for a particular rule, the preliminary views of the agency are that—

"(A) the rule is unnecessary, and the agency has discretion under the statute authorizing the rule to repeal the rule;

"(B) the rule would not meet the decisional criteria of section 624, and the agency has discretion under the statute authorizing the rule to repeal the rule; or

"(C) the rule could be revised in a manner allowed by the statute authorizing the rule so as to meet the decisional criteria under section 624 and to—

"(i) substantially decrease costs;

"(ii) substantially increase benefits; or

"(iii) provide greater flexibility for regulated entities, through mechanisms including, but not limited to, those listed in section 622(c)(2)(C)(iii);

"(2) the importance of each rule relative to other rules being reviewed under this section; and

"(3) the resources expected to be available to the agency under subsection (f) to carry out the reviews under this section.

"(e) JUDICIAL REVIEW.—(1) Notwithstanding section 625 and except as provided otherwise in this subsection, agency compliance or noncompliance with the requirements of this section shall be subject to judicial review in accordance with section 706 of this title.

"(2) The United States Court of Appeals for the District of Columbia Circuit shall have exclusive jurisdiction to review agency action pursuant to subsections (a), (b), and (c).

"(3) A petition for review of final agency action under subsection (b) or subsection (c) shall be filed not later than 60 days after the agency publishes the final rule under subsection (b).

"(4) The court upon review, for good cause shown, may extend the 3-year deadline under subsection (c)(2) for a period not to exceed 1 additional year.

"(5) The court shall remand to the agency any schedule under subsection (b) only if final agency action under subsection (b) is arbitrary or capricious. Agency action under subsection (d) shall not be subject to judicial review.

"(f) ANNUAL BUDGET.—(1) The President's annual budget proposal submitted under section 1105(a) of title 31 for each agency subject to this section shall—

"(A) identify as a separate sum the amount requested to be appropriated for implementation of this section during the upcoming fiscal year; and

"(B) include a list of rules which may terminate during the year for which the budget proposal is made.

"(2) Amendments to the schedule under subsection (b) that change a deadline for review of a rule may be included in annual appropriations Acts for the relevant agencies. An authorizing committee with jurisdiction may submit, to the House of Representatives or Senate appropriations committee (as the case may be), amendments to the schedule published by an agency under subsection (b) that change a deadline for review of a rule. The appropriations committee to which such amendments have been submitted shall include or propose the amendments in the annual appropriations Act for the relevant agency. Each agency shall modify its schedule under subsection (b) to reflect such amendments that are enacted into law.

"(g) REVIEW OF RULE.—(1) For each rule on the schedule under subsection (b), the agency shall—

"(A) not later than 2 years before the deadline in such schedule, publish in the Federal Register a notice that solicits public comment regarding whether the rule should be continued, amended, or repealed;

"(B) not later than 1 year before the deadline in such schedule, publish in the Federal Register a notice that—

"(i) addresses public comments generated by the notice in subparagraph (A);

"(ii) contains a preliminary analysis provided by the agency of whether the rule is a major rule, and if so, whether it satisfies the decisional criteria of section 624;

"(iii) contains a preliminary determination as to whether the rule should be continued, amended, or repealed; and

"(iv) solicits public comment on the preliminary determination for the rule; and

"(C) not later than 60 days before the deadline in such schedule, publish in the Federal Register a final notice on the rule that—

"(i) addresses public comments generated by the notice in subparagraph (B); and

"(ii) contains a final determination of whether to continue, amend, or repeal the rule; and

"(iii) if the agency determines to continue the rule and the rule is a major rule, contains findings necessary to satisfy the decisional criteria of section 624; and

"(iv) if the agency determines to amend the rule, contains a notice of proposed rulemaking under section 553.

"(2) If the final determination of the agency is to continue or repeal the rule, that determination shall take effect 60 days after the publication in the Federal Register of the notice in paragraph (1)(C).

"(3) An interested party may petition the U.S. Court of Appeals for the District of Columbia Circuit to extend the period for review of a rule on the schedule for up to two years and to grant such equitable relief as is appropriate, if such petition establishes that—

"(A) the rule is likely to terminate under subsection (i);

"(B) the agency needs additional time to complete the review under this subsection;

"(C) terminating the rule would not be in the public interest; and

"(D) the agency has not expeditiously completed its review.

"(h) Deadline for Final Agency Action on Modified Rule.—If an agency makes a determination to amend a major rule under subsection (g)(1)(C)(ii), the agency shall complete final agency action with regard to such rule not later than 2 years of the date of publication of the notice in subsection (g)(1)(C) containing such determination. Nothing in this subsection shall limit the discretion of an agency to decide, after having proposed to modify a major rule, not to promulgate such modification. Such decision shall constitute final agency action for the purposes of judicial review.

"(i) Termination of Rules.—If the head of an agency has not completed the review of a rule by the deadline established in the schedule published or modified pursuant to subsection (b) and subsection (c), the head of the agency shall not enforce the rule, and the rule shall terminate by operation of law as of such date.

"(j) Final Agency Action.—(1) The final determination of an agency to continue or repeal a major rule under subsection (g)(1)(C) shall be considered final agency action.

"(2) Failure to promulgate an amended major rule or to make other decisions required by subsection (h) by the date established under such subsection shall be considered final agency action.

"§ 624. Decisional criteria

"(a) Construction With Other Laws.—The requirements of this section shall supplement, and not supersede, any other decisional criteria otherwise provided by law.

"(b) Requirements.—Except as provided in subsection (c), no final major rule subject to this subchapter shall be promulgated unless the agency head publishes in the Federal Register a finding that—

"(1) the benefits from the rule justify the costs of the rule;

"(2) the rule employs to the extent practicable flexible reasonable alternatives of the type described in section 622(c)(2)(C)(iii); and

"(3)(A) the rule adopts the least cost alternative of the reasonable alternatives that achieve the objectives of the statute; or

"(B) if scientific, technical, or economic uncertainties or nonquantifiable benefits to health, safety, or the environment identified by the agency in the rulemaking record make a more costly alternative that achieves the objectives of the statute appropriate and in the public interest and the agency head provides an explanation of those considerations, the rule adopts the least cost alternative of the reasonable alternatives necessary to take into account such uncertainties or benefits; and

"(4) if a risk assessment is required by section 632—

"(A) the rule is likely to significantly reduce the human health, safety, and environmental risks to be addressed; or

"(B) if scientific, technical, or economic uncertainties or nonquantifiable benefits to health, safety, or the environment, preclude making the finding under subparagraph (A), promulgating the final rule is nevertheless justified for reasons stated in writing accompanying the rule and consistent with subchapter III.

"(c) Alternative Requirements.—If, applying the statutory requirements upon which the rule is based, a rule cannot satisfy the criteria of subsection (b), the agency head may promulgate the rule if the agency head finds that—

"(1) the rule employs to the extent practicable flexible reasonable alternatives of the type described in section 622(c)(2)(C)(iii);

"(2)(A) the rule adopts the least cost alternative of the reasonable alternatives that achieve the objectives of the statute; or

"(B) if scientific, technical, or economic uncertainties or nonquantifiable benefits to health, safety, or the environment identified by the agency in the rulemaking record make a more costly alternative that achieves the objectives of the statute appropriate and in the public interest, and the agency head provides an explanation of those consideration, the rule adopts the least cost alternative of the reasonable alternatives necessary to take into account such uncertainties or benefits; and

"(3) if a risk assessment is required by section 632—

"(A) the rule is likely to significantly reduce the human health, safety, and environmental risks to be addressed; or

"(B) if scientific, technical, or economic uncertainties or nonquantifiable benefits to health, safety, or the environment, preclude making the finding under subparagraph (A), promulgating the final rule is nevertheless justified for reasons stated in writing accompanying the rule and consistent with subchapter III.

"(d) Publication of Reasons for Noncompliance.—If an agency promulgates a rule to which subsection (c) applies, the agency head shall prepare a written explanation of why the agency was required to promulgate a rule that does not satisfy the criteria of subsection (b) and shall transmit the explanation with the final cost-benefit analysis to Congress when the final rule is promulgated.

"§ 625. Jurisdiction and judicial review

"(a) Review.—Compliance or noncompliance by an agency with the provisions of this subchapter and subchapter III shall be subject to judicial review only in accordance with this section.

"(b) Jurisdiction.—(1) Except as provided in subsection (e), subject to paragraph (2), each court with jurisdiction under a statute to review final agency action to which this title applies, has jurisdiction to review any claims of noncompliance with this subchapter and subchapter III.

"(2) Except as provided in subsection (e), no claims of noncompliance with this subchapter or subchapter III shall be reviewed separate or apart from judicial review of the final agency action to which they relate.

"(c) Record.—Any analysis or review required under this subchapter or subchapter III shall constitute part of the rulemaking record of the final agency action to which it pertains for the purposes of judicial review.

"(d) Standards for Review.—In any proceeding involving judicial review under section 706 or under the statute granting the rulemaking authority, failure to comply with this subchapter or subchapter III may be considered by the court solely for the purpose of determining whether the final agency action is arbitrary and capricious or an abuse of discretion (or unsupported by substantial evidence where that standard is otherwise provided by law).

"(e) Interlocutory Review.—(1) The United States Court of Appeals for the District of Columbia Circuit shall have jurisdiction to review—

"(A) an agency determination that a rule is not a major rule pursuant to section 622(a); and

"(B) an agency determination that a risk assessment is not required pursuant to section 632(a).

"(2) A petition for review of agency action under paragraph (1) shall be filed within 60 days after the agency makes the determination or certification for which review is sought.

"(3) Except as provided in this subsection, no court shall have jurisdiction to review any agency determination or certification specified in paragraph (1).

"§ 626. Deadlines for rulemaking

"(a) Statutory.—All deadlines in statutes that require agencies to propose or promulgate any rule subject to section 622 or subchapter III during the 5-year period beginning on the effective date of this section shall be suspended until the earlier of—

"(1) the date on which the requirements of section 622 or subchapter III are satisfied; or

"(2) the date occurring 2 years after the date of the applicable deadline.

"(b) Court-Ordered.—All deadlines imposed by any court of the United States that would require an agency to propose or promulgate a rule subject to section 622 or subchapter III during the 5-year period beginning on the effective date of this section shall be suspended until the earlier of—

"(1) the date on which the requirements of section 622 or subchapter III are satisfied; or

"(2) the date occurring 2 years after the date of the applicable deadline.

"(c) Obligation To Regulate.—In any case in which the failure to promulgate a rule by a deadline occurring during the 5-year period beginning on the effective date of this section would create an obligation to regulate through individual adjudications, the deadline shall be suspended until the earlier of—

"(1) the date on which the requirements of section 622 or subchapter III are satisfied; or

"(2) the date occurring 2 years after the date of the applicable deadline.

"§ 627. Special rule

"Notwithstanding any other provision of the Comprehensive Regulatory Reform Act of 1995, or the amendments made by such Act, for purposes of this subchapter and subchapter IV, the head of each appropriate Federal banking agency (as defined in section 3(q) of the Federal Deposit Insurance Act), the National Credit Union Administration, the Federal Housing Finance Board, the Office of Federal Housing Enterprise Oversight, and the Farm Credit Administration, shall have authority with respect to such agency that otherwise would be provided under such subchapters to the Director, a designee of the President, Vice President, or any officer designated or delegated with authority under such subchapters.

"§ 628. Requirements for major environmental management activities

"(a) Definition.—For purposes of this section, the term 'major environmental management activity' means—

"(1) a corrective action requirement under the Solid Waste Disposal Act;

"(2) a response action or damage assessment under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.);

"(3) the treatment, storage, or disposal of radioactive or mixed waste in connection with site restoration activity; and

"(4) Federal guidelines for the conduct of such activity, including site-specific guidelines,

the expected costs, expenses, and damages of which are likely to exceed, in the aggregate, $10,000,000.

"(b) APPLICABILITY.—A major environmental management activity is subject to this section unless construction has commenced on a significant portion of the activity, and—

"(1) it is more cost-effective to complete construction of the work than to apply the provisions of this subchapter; or

"(2) the application of the provisions of this subchapter, including any delays caused thereby, will result in an actual and immediate risk to human health or welfare.

"(c) REQUIREMENT TO PREPARE RISK ASSESSMENT.—(1) For each major environmental management activity or significant unit thereof that is proposed by the agency after the date of enactment of this subchapter, is pending on the date of enactment of this subchapter, or is subject to a granted petition for review pursuant to section 623, the head of an agency shall prepare—

"(A) a risk assessment in accordance with subchapter III; and

"(B) a cost-benefit analysis equivalent to that which would be required under this subchapter, if such subchapter were applicable.

"(2) In conducting a risk assessment or cost-benefit analysis under this section, the head of the agency shall incorporate the reasonably anticipated probable future use of the land and its surroundings (and any associated media and resources of either) affected by the environmental management activity.

"(3) For actions pending on the date of enactment of this section or proposed during the year following the date of enactment of this section, in lieu of preparing a risk assessment in accordance with subchapter III or cost-benefit analysis under this subchapter, an agency may use other appropriately developed analyses that allow it to make the judgments required under subsection (d).

"(d) REQUIREMENT.—The requirements of this subsection shall supplement, and not supersede, any other requirement provided by any law. A major environmental management activity under this section shall meet the decisional criteria under section 624 as if it is a major rule under such section.

"§ 629. Petition for alternative method of compliance

"(a) Except as provided in subsection (e), or unless prohibited by the statute authorizing the rule, any person subject to a major rule may petition the relevant agency to modify or waive the specific requirements of the major rule (or any portion thereof) and to authorize such person to demonstrate compliance through alternative means not otherwise permitted by the major rule. The petition shall identify with reasonable specificity the requirements for which the waiver is sought and the alternative means of compliance being proposed.

"(b) The agency shall grant the petition if the petition shows that there is a reasonable likelihood that the proposed alternative means of compliance—

"(1) would achieve the identified benefits of the major rule with at least an equivalent level of protection of health, safety, and the environment as would be provided by the major rule; and

"(2) would not impose an undue burden on the agency that would be responsible for enforcing such alternative means of compliance.

"(c) A decision to grant or to deny a petition under this subsection shall be made not later than 180 days after the petition is submitted, but in no event shall agency action taken pursuant to this section be subject to judicial review.

"(d) Following a decision to grant or deny a petition under this section, no further petition for such rule, submitted by the same person, shall be granted unless such petition pertains to a different facility or installation owned or operated by such person or unless such petition is based on a significant change in a fact, circumstance, or provision of law underlying or otherwise related to the rule occurring since the initial petition was granted or denied, that warrants the granting of such petition.

"(e) If the statute authorizing the rule which is the subject of the petition provides procedures or standards for an alternative method of compliance the petition shall be reviewed solely under the terms of the statute.

"SUBCHAPTER III—RISK ASSESSMENTS

"§ 631. Definitions

"For purposes of this subchapter—

"(1) except as otherwise provided, the definitions under section 551 shall apply to this subchapter;

"(2) the term 'exposure assessment' means the scientific determination of the intensity, frequency and duration of actual or potential exposures to the hazard in question;

"(3) the term 'hazard assessment' means the scientific determination of whether a hazard can cause an increased incidence of one or more significant adverse effects, and a scientific evaluation of the relationship between the degree of exposure to a perceived cause of an adverse effect and the incidence and severity of the effect;

"(4) the term 'major rule' has the meaning given such term in section 621(5);

"(5) the term 'risk assessment' means the systematic process of organizing and analyzing scientific knowledge and information on potential hazards, including as appropriate for the specific risk involved, hazard assessment, exposure assessment, and risk characterization;

"(6) the term 'risk characterization' means the integration and organization of hazard and exposure assessment to estimate the potential for specific harm to an exposed population or natural resource including, to the extent feasible, a characterization of the distribution of risk as well as an analysis of uncertainties, variabilities, conflicting information, and inferences and assumptions in the assessment;

"(7) the term 'screening analysis' means an analysis using simple conservative postulates to arrive at an estimate of upper bounds as appropriate, that permits the manager to eliminate risks from further consideration and analysis, or to help establish priorities for agency action; and

"(8) the term 'substitution risk' means an increased risk to human health, safety, or the environment reasonably likely to result from a regulatory option.

"§ 632. Applicability

"(a) IN GENERAL.—Except as provided in subsection (c), for each proposed and final major rule, a primary purpose of which is to protect human health, safety, or the environment, or a consequence of which is a substantial substitution risk, that is proposed by an agency after the date of enactment of this subchapter, or is pending on the date of enactment of this subchapter, the head of each agency shall prepare a risk assessment in accordance with this subchapter.

"(b) APPLICATION OF PRINCIPLES.—(1) Except as provided in subsection (c), the head of each agency shall apply the principles in this subchapter to any risk assessment conducted to support a determination by the agency of risk to human health, safety, or the environment, if such determination would be likely to have an effect on the United States economy equivalent to that of a major rule.

"(2) In applying the principles of this subchapter to risk assessments other than those in subsections (a), (b)(1), and (c), the head of each agency shall publish, after notice and public comment, guidelines for the conduct of such other risk assessments that adapt the principles of this subchapter in a manner consistent with section 633(a)(4) and the risk assessment and risk management needs of the agency.

"(3) An agency shall not, as a condition for the issuance or modification of a permit, conduct, or require any person to conduct, a risk assessment, except if the agency finds that the risk assessment meets the requirements of section 633 (a) through (f).

"(c) EXCEPTIONS.—(1) This subchapter shall not apply to risk assessments performed with respect to—

"(A) a situation for which the agency finds good cause that conducting a risk assessment is impracticable due to an emergency or health and safety threat that is likely to result in significant harm to the public or natural resources;

"(B) a rule or agency action that authorizes the introduction into commerce, or initiation of manufacture, of a substance, mixture, or product, or recognizes the marketable status of a product;

"(C) a human health, safety, or environmental inspection, an action enforcing a statutory provision, rule, or permit, or an individual facility or site permitting action, except to the extent provided by subsection (b)(3);

"(D) a screening analysis clearly identified as such; or

"(E) product registrations, reregistrations, tolerance settings, and reviews of premanufacture notices under the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.) and the Toxic Substances Control Act (15 U.S.C. 2601 et seq.).

"(2) An analysis shall not be treated as a screening analysis for the purposes of paragraph (1)(D) if the result of the analysis is used—

"(A) as the basis for imposing a restriction on a previously authorized substance, product, or activity after its initial introduction into manufacture or commerce; or

"(B) as the basis for a formal determination by the agency of significant risk from a substance or activity.

"(3) This subchapter shall not apply to any food, drug, or other product label or labeling, or to any risk characterization appearing on any such label.

"§ 633. Principles for risk assessments

"(a) IN GENERAL.—(1) The head of each agency shall design and conduct risk assessments in a manner that promotes rational and informed risk management decisions and informed public input into the process of making agency decisions.

"(2) The head of each agency shall establish and maintain a distinction between risk assessment and risk management.

"(3) An agency may take into account priorities for managing risks, including the types of information that would be important in evaluating a full range of alternatives, in developing priorities for risk assessment activities.

"(4) In conducting a risk assessment, the head of each agency shall employ the level of detail and rigor considered by the agency as appropriate and practicable for reasoned decisionmaking in the matter involved, proportionate to the significance and complexity of the potential agency action and the need for expedition.

"(5) An agency shall not be required to repeat discussions or explanations in each risk assessment required under this subchapter if there is an unambiguous reference to a relevant discussion or explanation in another reasonably available agency document that was prepared consistent with this section.

"(b) ITERATIVE PROCESS.—(1) Each agency shall develop and use an iterative process for risk assessment, starting with relatively inexpensive screening analyses and progressing to more rigorous analyses, as circumstances or results warrant.

"(2) In determining whether or not to proceed to a more detailed analysis, the head of the agency shall take into consideration whether or not use of additional data or the analysis thereof would significantly change the estimate of risk and the resulting agency action.

"(c) DATA QUALITY.—(1) The head of each agency shall base each risk assessment only on the best reasonably available scientific data and scientific understanding, including scientific information that finds or fails to find a correlation between a potential hazard and an adverse effect, and data regarding exposure and other relevant physical conditions that are reasonably expected to be encountered.

"(2) The agency shall select data for use in a risk assessment based on a reasoned analysis of the quality and relevance of the data, and shall describe such analysis.

"(3) In making its selection of data, the agency shall consider whether the data were published in the peer-reviewed scientific literature, or developed in accordance with good laboratory practice or published or other appropriate protocols to ensure data quality, such as the standards for the development of test data promulgated pursuant to section 4 of the Toxic Substances Control Act (15 U.S.C. 2603), and the standards for data requirements promulgated pursuant to section 3 of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136a), or other form of independent evaluation.

"(4) Subject to paragraph (3), relevant scientific data submitted by interested parties shall be reviewed and considered by the agency in the analysis under paragraph (2).

"(5) When conflicts among scientific data appear to exist, the risk assessment shall include a discussion of all relevant information including the likelihood of alternative interpretations of the data and emphasizing—

"(A) postulates that represent the most reasonable inferences from the supporting scientific data; and

"(B) when a risk assessment involves an extrapolation from toxicological studies, data with the greatest scientific basis of support for the resulting harm to affected individuals, populations, or resources.

"(6) The head of an agency shall not automatically incorporate or adopt any recommendation or classification made by any foreign government, the United Nations, any international governmental body or standards-making organization, concerning the health effects value of a substance, except as provided in paragraph (2) of this subsection. Nothing in this paragraph shall be construed to affect the implementation or application of any treaty or international trade agreement to which the United States is a party.

"(d) USE OF POLICY JUDGMENTS.—(1) An agency shall not use policy judgments, including default assumptions, inferences, models or safety factors, when relevant and adequate scientific data and scientific understanding, including site-specific data, are available. The agency shall modify or decrease the use of policy judgments to the extent that higher quality scientific data and understanding become available.

"(2) When a risk assessment involves choice of a policy judgment, the head of the agency shall—

"(A) identify the policy judgment and its scientific or policy basis, including the extent to which the policy judgment has been validated by, or conflicts with, empirical data;

"(B) explain the basis for any choices among policy judgments; and

"(C) describe reasonable alternative policy judgments that were not selected by the agency for use in the risk assessment, and the sensitivity of the conclusions of the risk assessment to the alternatives, and the rationale for not using such alternatives.

"(3) An agency shall not inappropriately combine or compound multiple policy judgments.

"(4) The agency shall, subject to notice and opportunity for public comment, develop and publish guidelines describing the agency's default policy judgments and how they were chosen, and guidelines for deciding when and how, in a specific risk assessment, to adopt alternative policy judgments or to use available scientific information in place of a policy judgment.

"(e) RISK CHARACTERIZATION.—In each risk assessment, the agency shall include in the risk characterization, as appropriate, each of the following:

"(1) A description of the hazard of concern.

"(2) A description of the populations or natural resources that are the subject of the risk assessment.

"(3) An explanation of the exposure scenarios used in the risk assessment, including an estimate of the corresponding population at risk and the likelihood of such exposure scenarios.

"(4) A description of the nature and severity of the harm that could plausibly occur.

"(5) A description of the major uncertainties in each component of the risk assessment and their influence on the results of the assessment.

"(f) PRESENTATION OF RISK ASSESSMENT CONCLUSIONS.—(1) To the extent feasible and scientifically appropriate, the head of an agency shall—

"(A) express the overall estimate of risk as a range or probability distribution that reflects variabilities, uncertainties and data gaps in the analysis;

"(B) provide the range and distribution of risks and the corresponding exposure scenarios, identifying the reasonably expected risk to the general population and, where appropriate, to more highly exposed or sensitive subpopulations; and

"(C) where quantitative estimates of the range and distribution of risk estimates are not available, describe the qualitative factors influencing the range of possible risks.

"(2) When scientific data and understanding that permits relevant comparisons of risk are reasonably available, the agency shall use such information to place the nature and magnitude of risks to human health, safety, and the environment being analyzed in context.

"(3) When scientifically appropriate information on significant substitution risks to human health, safety, or the environment is reasonably available to the agency, or is contained in information provided to the agency by a commentator, the agency shall describe such risks in the risk assessments.

"(g) PEER REVIEW.—(1) Each agency shall provide for peer review in accordance with this section of any risk assessment subject to the requirements of this subchapter that forms that basis of any major rule or a major environmental management activity.

"(2) Each agency shall develop a systematic program for balanced, independent, and external peer review that—

"(A) shall provide for the creation or utilization of peer review panels, expert bodies, or other formal or informal devices that are balanced and comprised of participants selected on the basis of their expertise relevant to the sciences involved in regulatory decisions and who are independent of the agency program that developed the risk assessment being reviewed;

"(B) shall not exclude any person with substantial and relevant expertise as a participant on the basis that such person has a potential interest in the outcome, if such interest is fully disclosed to the agency, and the agency includes such disclosure as part of the record, unless the result of the review would have a direct and predictable effect on a substantial financial interest of such person;

"(C) shall provide for a timely completed peer review, meeting agency deadlines, that contains a balanced presentation of all considerations, including minority reports and agency response to all significant peer review comments; and

"(D) shall provide adequate protections for confidential business information and trade secrets, including requiring panel members to enter into confidentiality agreements.

"(3) Each peer review shall include a report to the Federal agency concerned detailing the scientific and technical merit of data and the methods used for the risk assessment, and shall identify significant peer review comments. Each agency shall provide a written response to all significant peer review comments. All peer review comments, conclusions, composition of the panels, and the agency's responses shall be made available to the public and shall be made part of the administrative record for purposes of judicial review of any final agency action.

"(4)(A) The Director of the Office of Science and Technology Policy shall develop a systematic program to oversee the use and quality of peer review of risk assessments.

"(B) The Director or the designee of the President may order an agency to conduct peer review for any risk assessment or cost-benefit analysis that is likely to have a significant impact on public policy decisions, or that would establish an important precedent.

"(5) The proceedings of peer review panels under this section shall not be subject to the Federal Advisory Committee Act.

"(h) PUBLIC PARTICIPATION.—The head of each agency shall provide appropriate opportunities for public participation and comment on risk assessments.

"§ 634. Petition for review of a major freestanding risk assessment

"(a) Any interested person may petition an agency to conduct a scientific review of a risk assessment conducted or adopted by the agency, except for a risk assessment used as the basis for a major rule or a site-specific risk assessment.

"(b) The agency shall utilize external peer review, as appropriate, to evaluate the claims and analyses in the petition, and shall consider such review in making its determination of whether to grant the petition.

"(c) The agency shall grant the petition if the petition establishes that there is a reasonable likelihood that—

"(1)(A) the risk assessment that is the subject of the petition was carried out in a manner substantially inconsistent with the principles in section 633; or

"(B) the risk assessment that is the subject of the petition does not take into account material significant new scientific data and scientific understanding;

"(2) the risk assessment that is the subject of the petition contains significantly different results than if it had been properly conducted pursuant to subchapter III; and

"(3) a revised risk assessment will provide the basis for reevaluating an agency determination of risk, and such determination currently has an effect on the United States economy equivalent to that of major rule.

"(d) A decision to grant, or final action to deny, a petition under this subsection shall be made not later than 180 days after the petition is submitted.

"(e) If the agency grants the petition, it shall complete its review of the risk assessment not later than 1 year after its decision to grant the petition. If the agency revises the risk assessment, in response to its review, it shall do so in accordance with section 633.

"§ 635. Comprehensive risk reduction

"(a) SETTING PRIORITIES.—The head of each agency with programs to protect human health, safety, or the environment shall set priorities for the use of resources available to address those risks to human health, safety, and the environment, with the goal of achieving the greatest overall net reduction in risks with the public and private sector resources expended.

"(b) INCORPORATING RISK-BASED PRIORITIES INTO BUDGET AND PLANNING.—The head of each agency in subsection (a) shall incorporate the priorities identified under subsection (a) into the agency budget, strategic planning, regulatory agenda, enforcement, and research activities. When submitting its budget request to Congress and when announcing its regulatory agenda in the Federal Register, each covered agency shall identify the risks that the covered agency head has determined are the most serious and can be addressed in a cost-effective manner using the priorities set under subsection (a), the basis for that determination, and explicitly identify how the agency's requested budget and regulatory agenda reflect those priorities.

"(c) REPORTS BY THE NATIONAL ACADEMY OF SCIENCES.—(1) Not later than 6 months after the date of enactment of this section, the Director of the Office of Science and Technology Policy shall enter into an arrangement with the National Academy of Sciences to investigate and report on comparative risk analysis. The arrangement shall provide, to the extent feasible, for—

"(A) 1 or more reports evaluating methods of comparative risk analysis that would be appropriate for agency programs related to human health, safety, and the environment to use in setting priorities for activities; and

"(B) a report providing a comprehensive and comparative analysis of the risks to human health, safety, and the environment that are addressed by agency programs to protect human health, safety, and the environment, along with companion activities to disseminate the conclusions of the report to the public.

"(2) The report or reports prepared under paragraph (1)(A) shall be completed not later than 3 years after the date of enactment of this section. The report under paragraph (1)(B) shall be completed not later than 4 years after the date of enactment of this section, and shall draw, as appropriate, upon the insights and conclusions of the report or reports made under paragraph (1)(A). The companion activities under paragraph (1)(B) shall be completed not later than 5 years after the date of enactment of this section.

"(3)(A) The head of an agency with programs to protect human health, safety, and the environment shall incorporate the recommendations of reports under paragraph (1) in revising any priorities under subsection (a).

"(B) The head of the agency shall submit a report to the appropriate Congressional committees of jurisdiction responding to the recommendations from the National Academy of Sciences and describing plans for utilizing the results of comparative risk analysis in agency budget, strategic planning, regulatory agenda, enforcement, and research and development activities.

"(4) Following the submission of the report in paragraph (2), for the next 5 years, the head of the agency shall submit, with the budget request submitted to Congress under section 1105(a) of title 31, a description of how the requested budget of the agency and the strategic planning activities of the agency reflect priorities determined using the recommendations of reports issued under subsection (a). The head of the agency shall include in such description—

"(A) recommendations on the modification, repeal, or enactment of laws to reform, eliminate, or enhance programs or mandates relating to human health, safety, or the environment; and

"(B) recommendation on the modification or elimination of statutory or judicially mandated deadlines,

that would assist the head of the agency to set priorities in activities to address the risks to human health, safety, or the environment that incorporate the priorities developed using the recommendations of the reports under subsection (a), resulting in more cost-effective programs to address risk.

"(5) For each budget request submitted in accordance with paragraph (4), the Director shall submit an analysis of ways in which resources could be reallocated among Federal agencies to achieve the greatest overall net reduction in risk.

"§ 636. Rule of construction

"Nothing in this subchapter shall be construed to—

"(1) preclude the consideration of any data or the calculation of any estimate to more fully describe or analyze risk, scientific uncertainty, or variability; or

"(2) require the disclosure of any trade secret or other confidential information.

"SUBCHAPTER IV—EXECUTIVE OVERSIGHT

"§ 641. Procedures

"(a) IN GENERAL.—The Director or a designee of the President shall—

"(1) establish and, as appropriate, revise procedures for agency compliance with this chapter; and

"(2) monitor, review, and ensure agency implementation of such procedures.

"(b) PUBLIC COMMENT.—Procedures established pursuant to subsection (a) shall only be implemented after opportunity for public comment. Any such procedures shall be consistent with the prompt completion of rulemaking proceedings.

"(c) TIME FOR REVIEW.—(1) If procedures established pursuant to subsection (a) include review of any initial or final analyses of a rule required under chapter 6, the time for any such review of any initial analysis shall not exceed 90 days following the receipt of the analysis by the Director, or a designee of the President.

"(2) The time for review of any final analysis required under chapter 6 shall not exceed 90 days following the receipt of the analysis by the Director, a designee of the President.

"(3)(A) The times for each such review may be extended for good cause by the President or by an officer to whom the President has delegated his authority pursuant to section 642 for an additional 45 days. At the request of the head of an agency, the President or such an officer may grant an additional extension of 45 days.

"(B) Notice of any such extension, together with a succinct statement of the reasons therefor, shall be inserted in the rulemaking file.

"§ 642. Delegation of authority

"(a) IN GENERAL.—The President may delegate the authority granted by this subchapter to an officer within the Executive Office of the President whose appointment has been subject to the advice and consent of the Senate.

"(b) NOTICE.—Notice of any delegation, or any revocation or modification thereof shall be published in the Federal Register.

"§ 643. Judicial review

"The exercise of the authority granted under this subchapter by the Director, the President, or by an officer to whom such authority has been delegated under section 642 and agency compliance or noncompliance with the procedure under section 641 shall not be subject to judicial review.

"§ 644. Regulatory agenda

"The head of each agency shall provide, as part of the semiannual regulatory agenda published under section 602—

"(1) a list of risk assessments subject to subsection 632 (a) or (b)(1) under preparation or planned by the agency;

"(2) a brief summary of relevant issues addressed or to be addressed by each listed risk assessment;

"(3) an approximate schedule for completing each listed risk assessment;

"(4) an identification of potential rules, guidance, or other agency actions supported or affected by each listed risk assessment; and

"(5) the name, address, and telephone number of an agency official knowledgeable about each listed risk assessment.".

(b) REGULATORY FLEXIBILITY ANALYSIS.—

(1) FINAL REGULATORY FLEXIBILITY ANALYSIS.—Section 604 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(c)(1) Except as provided in paragraph (2), no final rule for which a final regulatory flexibility analysis is required under this section shall be promulgated unless the agency finds that the final rule minimizes significant economic impact on small entities to the maximum extent possible, consistent with the purposes of this subchapter, the objectives of the rule, and the requirements of applicable statutes.

"(2) If an agency determines that a statute requires a rule to be promulgated that does not satisfy the criterion of paragraph (1), the agency shall—

"(A) include a written explanation of such determination in the final regulatory flexibility analysis; and

"(B) transmit the final regulatory flexibility analysis to Congress when the final rule is promulgated.".

(2) JUDICIAL REVIEW.—Section 611 of title 5, United States Code, is amended to read as follows:

"§ 611. Judicial review

"(a)(1) For any rule described in section 603(a), and with respect to which the agency—

"(A) certified, pursuant to section 605(b), that such rule would not have a significant economic impact on a substantial number of small entities;

"(B) prepared a final regulatory flexibility analysis pursuant to section 604; or

"(C) did not prepare an initial regulatory flexibility analysis pursuant to section 603 or a final regulatory flexibility analysis pursuant to section 604 except as permitted by sections 605 and 608,

an affected small entity may petition for the judicial review of such certification, analysis, or failure to prepare such analysis, in accordance with this subsection. A court having jurisdiction to review such rule for compliance with section 553 or under any other provision of law shall have jurisdiction over such petition.

"(2)(A) Notwithstanding any other provision of law, an affected small entity shall have 1 year after the effective date of the final rule to challenge the certification, analysis or failure to prepare an analysis required by this subchapter with respect to any such rule.

"(B) If an agency delays the issuance of a final regulatory flexibility analysis pursuant to section 608(b), a petition for judicial review under this subsection may be filed not later than 1 year after the date the analysis is made available to the public.

"(3) For purposes of this subsection, the term 'affected small entity' means a small entity that is or will be subject to the provisions of, or otherwise required to comply with, the final rule.

"(4) Nothing in this subsection shall be construed to limit the authority of any court to stay the effective date of any rule or provision thereof under any other provision of law.

"(5)(A) Notwithstanding section 605, if the court determines, on the basis of the court's review of the rulemaking record, that there is substantial evidence that the rule would have a significant economic impact on a substantial number of small entities, the court shall order the agency to prepare a final regulatory flexibility analysis that satisfies the requirements of section 604.

"(B) If the agency prepared a final regulatory flexibility analysis, the court shall order the agency to take corrective action consistent with section 604 if the court determines, on the basis of the court's review of the rulemaking record, that the final regulatory flexibility analysis does not satisfy the requirements of section 604.

"(6) The court shall stay the rule and grant such other relief as the court determines to be appropriate if, by the end of the 90-day period beginning on the date of the order of the court pursuant to paragraph (5), the agency fails, as appropriate—

"(A) to prepare the analysis required by section 604; or

"(B) to take corrective action consistent with section 604.

"(b) In an action for the judicial review of a rule, any regulatory flexibility analysis for such rule (including an analysis prepared or corrected pursuant to subsection (a)(5)) shall constitute part of the whole record of agency action in connection with such review.

"(c) Except as otherwise required by the provisions of this subchapter, the court shall apply the same standards of judicial review that govern the review of agency findings under the statute granting the agency authority to conduct the rulemaking.".

(c) REVISION OF CERTAIN PROVISIONS OF THE FEDERAL FOOD, DRUG, AND COSMETIC ACT RELATING TO TESTING.—In applying section 409(c)(3)(A), 512(d)(1), or 721(b)(5)(B) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 348(c)(3)(A), 360b(d)(1), 379e(b)(5)(B)), the Secretary of Health and Human Services and the Administrator of the Environmental Protection Agency shall not prohibit or refuse to approve a substance or product on the basis of safety, where the substance or product presents a negligible or insignificant foreseeable risk to human health resulting from its intended use.

(d) TOXIC RELEASE INVENTORY REVIEW.—Section 313(d) of the Emergency Planning and Community Right-to-Know Act of 1986 (42 U.S.C. 11023(d)) is amended—

(1) in paragraph (2) by inserting after "epidemiological or other population studies," the following: "and on the rule of reason, including a consideration of the applicability of such evidence to levels of the chemical in the environment that may result from reasonably anticipated releases"; and

(2) in subsection (e)(1), by inserting before "Within 180 days" the following: "The Administrator shall grant any petition that establishes substantial evidence that the criteria in subparagraph (A) either are or are not met.".

(e) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) CHAPTER ANALYSIS.—Part I of title 5, United States Code, is amended by striking the chapter heading and table of sections for chapter 6 and inserting the following:

"CHAPTER 6—THE ANALYSIS OF REGULATORY FUNCTIONS

"SUBCHAPTER I—REGULATORY ANALYSIS

"Sec.
"601. Definitions.
"602. Regulatory agenda.
"603. Initial regulatory flexibility analysis.
"604. Final regulatory flexibility analysis.
"605. Avoidance of duplicative or unnecessary analyses.
"606. Effect on other law.
"607. Preparation of analysis.
"608. Procedure for waiver or delay of completion.
"609. Procedures for gathering comments.
"610. Periodic review of rules.
"611. Judicial review.
"612. Reports and intervention rights.

"SUBCHAPTER II—ANALYSIS OF AGENCY RULES

"621. Definitions.
"622. Rulemaking cost-benefit analysis.
"623. Agency regulatory review.
"624. Decisional criteria.
"625. Jurisdiction and judicial review.
"626. Deadlines for rulemaking.
"627. Special rule.
"628. Requirements for major environmental management activities.

"SUBCHAPTER III—RISK ASSESSMENTS

"631. Definitions.
"632. Applicability.
"633. Principles for risk assessments.
"634. Petition for review of a major free-standing risk assessment.
"635. Comprehensive risk reduction.
"636. Rule of construction.

"SUBCHAPTER IV—EXECUTIVE OVERSIGHT

"641. Procedures.
"642. Delegation of authority.
"643. Judicial review.
"644. Regulatory agenda.".

(2) SUBCHAPTER HEADING.—Chapter 6 of title 5, United States Code, is amended by inserting immediately before section 601, the following subchapter heading:

"SUBCHAPTER I—REGULATORY ANALYSIS".

SEC. 5. JUDICIAL REVIEW.

(a) IN GENERAL.—Chapter 7 of title 5, United States Code, is amended—

(1) by striking section 706; and

(2) by adding at the end the following new sections:

"§ 706. Scope of review

"(a) To the extent necessary to reach a decision and when presented, the reviewing court shall decide all relevant questions of law, interpret constitutional and statutory provisions, and determine the meaning or applicability of the terms of an agency action. The reviewing court shall—

"(1) compel agency action unlawfully withheld or unreasonably delayed; and

"(2) hold unlawful and set aside agency action, findings and conclusions found to be—

"(A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;

"(B) contrary to constitutional right, power, privilege, or immunity;

"(C) in excess of statutory jurisdiction, authority, or limitations, or short of statutory right;

"(D) without observance of procedure required by law;

"(E) unsupported by substantial evidence in a proceeding subject to sections 556 and 557 or otherwise reviewed on the record of an agency hearing provided by statute;

"(F) without substantial support in the rulemaking file, viewed as a whole, for the asserted or necessary factual basis, in the case of a rule adopted in a proceeding subject to section 553; or

"(G) unwarranted by the facts to the extent that the facts are subject to trial de novo by the reviewing court.

"(b) In making the determinations set forth in subsection (a), the court shall review the whole record or those parts of it cited by a party, and due account shall be taken of the rule of prejudicial error.

"§ 707. Consent decrees

"In interpreting any consent decree in effect on or after the date of enactment of this section that imposes on an agency an obligation to initiate, continue, or complete rulemaking proceedings, the court shall not enforce the decree in a way that divests the agency of discretion clearly granted to the agency by statute to respond to changing circumstances, make policy or managerial choices, or protect the rights of third parties.

"§ 708. Affirmative defense

"Notwithstanding any other provision of law, it shall be an affirmative defense in any enforcement action brought by an agency that the regulated person or entity reasonably relied on and is complying with a rule, regulation, adjudication, directive, or order of such agency or any other agency that is incompatible, contradictory, or otherwise cannot be reconciled with the agency rule, regulation, adjudication, directive, or order being enforced.".

(b) TECHNICAL AMENDMENT.—The analysis for chapter 7 of title 5, United States Code, is amended by striking the item relating to section 706 and inserting the following new items:

"706. Scope of review.
"707. Consent decrees.
"708. Affirmative defense.".

SEC. 6. CONGRESSIONAL REVIEW.

(a) FINDING.—The Congress finds that effective steps for improving the efficiency and proper management of Government operations will be promoted if a moratorium on the implementation of certain significant final rules is imposed in order to provide Congress an opportunity for review.

(b) IN GENERAL.—Title 5, United States Code, is amended by inserting immediately after chapter 7 the following new chapter:

"CHAPTER 8—CONGRESSIONAL REVIEW OF AGENCY RULEMAKING

"801. Congressional review.
"802. Congressional disapproval procedure.
"803. Special rule on statutory, regulatory, and judicial deadlines.
"804. Definitions.
"805. Judicial review.
"806. Applicability; severability.
"807. Exemption for monetary policy.

"§ 801. Congressional review

"(a)(1)(A) Before a rule can take effect as a final rule, the Federal agency promulgating such rule shall submit to each House of the Congress and to the Comptroller General a report containing—

"(i) a copy of the rule;

"(ii) a concise general statement relating to the rule; and

"(iii) the proposed effective date of the rule.

"(B) The Federal agency promulgating the rule shall make available to each House of Congress and the Comptroller General, upon request—

"(i) a complete copy of the cost-benefit analysis of the rule, if any;

"(ii) the agency's actions relevant to sections 603, 604, 605, 607, and 609;

"(iii) the agency's actions relevant to sections 202, 203, 204, and 205 of the Unfunded Mandates Reform Act of 1995; and

"(iv) any other relevant information or requirements under any other Act and any relevant Executive orders, such as Executive Order No. 12866.

"(C) Upon receipt, each House shall provide copies to the Chairman and Ranking Member of each committee with jurisdiction.

"(2)(A) The Comptroller General shall provide a report on each major rule to the committees of jurisdiction to each House of the Congress by the end of 12 calendar days after the submission or publication date as provided in section 802(b)(2). The report of the Comptroller General shall include an assessment of the agency's compliance with procedural steps required by paragraph (1)(B).

"(B) Federal agencies shall cooperate with the Comptroller General by providing information relevant to the Comptroller General's report under subparagraph (A).

"(3) A major rule relating to a report submitted under paragraph (1) shall take effect as a final rule, the latest of—

"(A) the later of the date occurring 60 days after the date on which—

"(i) the Congress receives the report submitted under paragraph (1); or

"(ii) the rule is published in the Federal Register;

"(B) if the Congress passes a joint resolution of disapproval described under section 802 relating to the rule, and the President signs a veto of such resolution, the earlier date—

"(i) on which either House of Congress votes and fails to override the veto of the President; or

"(ii) occurring 30 session days after the date on which the Congress received the veto and objections of the President; or

"(C) the date the rule would have otherwise taken effect, if not for this section (unless a joint resolution of disapproval under section 802 is enacted).

"(4) Except for a major rule, a rule shall take effect as otherwise provided by law after submission to Congress under paragraph (1).

"(5) Notwithstanding paragraph (3), the effective date of a rule shall not be delayed by operation of this chapter beyond the date on which either House of Congress votes to reject a joint resolution of disapproval under section 802.

"(b) A rule shall not take effect (or continue) as a final rule, if the Congress passes a joint resolution of disapproval described under section 802.

"(c)(1) Notwithstanding any other provision of this section (except subject to paragraph (3)), a rule that would not take effect by reason of this chapter may take effect, if the President makes a determination under paragraph (2) and submits written notice of such determination to the Congress.

"(2) Paragraph (1) applies to a determination made by the President by Executive order that the rule should take effect because such rule is—

"(A) necessary because of an imminent threat to health or safety or other emergency;

"(B) necessary for the enforcement of criminal laws;

"(C) necessary for national security; or

"(D) issued pursuant to a statute implementing an international trade agreement.

"(3) An exercise by the President of the authority under this subsection shall have no effect on the procedures under section 802 or the effect of a joint resolution of disapproval under this section.

"(d)(1) In addition to the opportunity for review otherwise provided under this chapter, in the case of any rule that is published in the Federal Register (as a rule that shall take effect as a final rule) during the period beginning on the date occurring 60 days before the date the Congress adjourns sine die through the date on which the succeeding Congress first convenes, section 802 shall apply to such rule in the succeeding Congress.

"(2)(A) In applying section 802 for purposes of such additional review, a rule described under paragraph (1) shall be treated as though—

"(i) such rule were published in the Federal Register (as a rule that shall take effect as a final rule) on the 15th session day after the succeeding Congress first convenes; and

"(ii) a report on such rule were submitted to Congress under subsection (a)(1) on such date.

"(B) Nothing in this paragraph shall be construed to affect the requirement under subsection (a)(1) that a report shall be submitted to Congress before a final rule can take effect.

"(3) A rule described under paragraph (1) shall take effect as a final rule as otherwise provided by law (including other subsections of this section).

"(e)(1) Section 802 shall apply in accordance with this subsection to any major rule that is published in the Federal Register (as a rule that shall take effect as a final rule) during the period beginning on November 20, 1994, through the date on which the Comprehensive Regulatory Reform Act of 1995 takes effect.

"(2) In applying section 802 for purposes of Congressional review, a rule described under paragraph (1) shall be treated as though—

"(A) such rule were published in the Federal Register (as a rule that shall take effect as a final rule) on the date of enactment of the Comprehensive Regulatory Reform Act of 1995; and

"(B) a report on such rule were submitted to Congress under subsection (a)(1) on such date.

"(3) The effectiveness of a rule described under paragraph (1) shall be as otherwise provided by law, unless the rule is made of no force or effect under section 802.

"(f) Any rule that takes effect and later is made of no force or effect by enactment of a joint resolution under section 802 shall be treated as though such rule had never taken effect.

"(g) If the Congress does not enact a joint resolution of disapproval under section 802, no court or agency may infer any intent of the Congress from any action or inaction of the Congress with regard to such rule, related statute, or joint resolution of disapproval.

"§ 802. Congressional disapproval procedure

"(a) For purposes of this section, the term 'joint resolution' means only a joint resolution introduced during the period beginning on the date on which the report referred to in section 801(a) is received by Congress and ending 60 days thereafter, the matter after the resolving clause of which is as follows: 'That Congress disapproves the rule submitted by the ___ relating to ___, and such rule shall have no force or effect.'. (The blank spaces being appropriately filled in.)

"(b)(1) A resolution described in paragraph (1) shall be referred to the committees in each House of Congress with jurisdiction. Such a resolution may not be reported before the eighth day after its submission or publication date.

"(2) For purposes of this subsection the term 'submission or publication date' means the later of the date on which—

"(A) the Congress receives the report submitted under section 801(a)(1); or

"(B) the rule is published in the Federal Register.

"(c) If the committee to which is referred a resolution described in subsection (a) has not reported such resolution (or an identical resolution) at the end of 20 calendar days after the submission or publication date defined under subsection (b)(2), such committee may be discharged from further consideration of such resolution in the Senate upon a petition supported in writing by 30 Members of the Senate and in the House upon a petition supported in writing by one-fourth of the Members duly sworn and chosen or by motion of the Speaker supported by the Minority Leader, and such resolution shall be placed on the appropriate calendar of the House involved.

"(d)(1) When the committee to which a resolution is referred has reported, or when a committee is discharged (under subsection (c)) from further consideration of, a resolution described in subsection (a), it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) for a motion to proceed to the consideration of the resolution, and all points of order against the resolution (and against consideration of resolution) are waived. The motion is not subject to amendment, or to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the resolution is agreed to, the resolution shall remain the unfinished business of the respective House until disposed of.

"(2) Debate on the resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate is in order and not debatable. An amendment to, or a motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the resolution is not in order.

"(3) Immediately following the conclusion of the debate on a resolution described in subsection (a), and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the appropriate House, the vote on final passage of the resolution shall occur.

"(4) Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution described in subsection (a) shall be decided without debate.

"(e) If, before the passage by one House of a resolution of that House described in subsection (a), that House receives from the other House a resolution described in subsection (a), then the following procedures shall apply:

"(1) The resolution of the other House shall not be referred to a committee.

"(2) With respect to a resolution described in subsection (a) of the House receiving the resolution—

"(A) the procedure in that House shall be the same as if no resolution had been received from the other House; but

"(B) the vote on final passage shall be on the resolution of the other House.

"(f) This section is enacted by Congress—

"(1) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a resolution described in subsection (a), and it supersedes other rules only to the extent that it is inconsistent with such rules; and

"(2) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

"§ 803. Special rule on statutory, regulatory, and judicial deadlines

"(a) In the case of any deadline for, relating to, or involving any rule which does not take effect (or the effectiveness of which is terminated) because of enactment of a joint resolution under section 802, that deadline is extended until the date 1 year after the date of the joint resolution. Nothing in this subsection shall be construed to affect a deadline merely by reason of the postponement of a rule's effective date under section 801(a).

"(b) The term 'deadline' means any date certain for fulfilling any obligation or exercising any authority established by or under any Federal statute or regulation, or by or under any court order implementing any Federal statute or regulation.

"§ 804. Definitions

"(a) For purposes of this chapter—

"(1) the term 'Federal agency' means any agency as that term is defined in section 551(1) (relating to administrative procedure);

"(2) the term 'major rule' has the same meaning given such term in section 621(5); and

"(3) the term 'final rule' means any final rule or interim final rule.

"(b) As used in subsection (a)(3), the term 'rule' has the meaning given such term in section 551, except that such term does not include any rule of particular applicability including a rule that approves or prescribes for the future rates, wages, prices, services, or allowances therefor, corporate or financial structures, reorganizations, mergers, or acquisitions thereof, or accounting practices or disclosures bearing on any of the foregoing or any rule of agency organization, personnel, procedure, practice or any routine matter.

"§ 805. Judicial review

"No determination, finding, action, or omission under this chapter shall be subject to judicial review.

"§ 806. Applicability; severability

"(a) This chapter shall apply notwithstanding any other provision of law.

"(b) If any provision of this chapter or the application of any provision of this chapter to any person or circumstance, is held invalid, the application of such provision to other persons or circumstances, and the remainder of this chapter, shall not be affected thereby.

"§ 807. Exemption for monetary policy

"Nothing in this chapter shall apply to rules that concern monetary policy proposed or implemented by the Board of Governors of the Federal Reserve System or the Federal Open Market Committee.".

(c) EFFECTIVE DATE.—The amendment made by subsection (b) shall take effect on the date of enactment of this Act and shall apply to any rule that takes effect as a final rule on or after such effective date.

(d) TECHNICAL AMENDMENT.—The table of chapters for part I of title 5, United States Code, is amended by inserting immediately after the item relating to chapter 7 the following:

"8. Congressional Review of Agency Rulemaking .... 801".

SEC. 7. REGULATORY ACCOUNTING.

(a) DEFINITIONS.—For purposes of this section, the following definitions apply:

(1) MAJOR RULE.—The term "major rule" has the same meaning as defined in section 621(5)(A)(i) of title 5, United States Code. The term shall not include—

(A) administrative actions governed by sections 556 and 557 of title 5, United States Code;

(B) regulations issued with respect to a military or foreign affairs function of the United States or a statute implementing an international trade agreement; or

(C) regulations related to agency organization, management, or personnel.

(2) AGENCY.—The term "agency" means any executive department, military department, Government corporation, Government controlled corporation, or other establishment in the executive branch of the Government (including the Executive Office of the President), or any independent regulatory agency, but shall not include—

(A) the General Accounting Office;

(B) the Federal Election Commission;

(C) the governments of the District of Columbia and of the territories and possessions of the United States, and their various subdivisions; or

(D) Government-owned contractor-operated facilities, including laboratories engaged in national defense research and production activities.

(b) ACCOUNTING STATEMENT.—

(1) IN GENERAL.—(A) The President shall be responsible for implementing and administering the requirements of this section.

(B) Not later than June 1, 1997, and each June 1 thereafter, the President shall prepare and submit to Congress an accounting statement that estimates the annual costs of major rules and corresponding benefits in accordance with this subsection.

(2) YEARS COVERED BY ACCOUNTING STATEMENT.—Each accounting statement shall cover, at a minimum, the 5 fiscal years beginning on October 1 of the year in which the report is submitted and may cover any fiscal year preceding such fiscal years for purpose of revising previous estimates.

(3) TIMING AND PROCEDURES.—(A) The President shall provide notice and opportunity for comment for each accounting statement. The President may delegate to an agency the requirement to provide notice and opportunity to comment for the portion of the accounting statement relating to that agency.

(B) The President shall propose the first accounting statement under this subsection not later than 2 years after the date of enactment of this Act and shall issue the first accounting statement in final form not later than 3 years after such effective date. Such statement shall cover, at a minimum, each of the fiscal years beginning after the date of enactment of this Act.

(4) CONTENT OF ACCOUNTING STATEMENT.—(A) Each accounting statement shall contain estimates of costs and benefits with respect to each fiscal year covered by the statement in accordance with this paragraph. For each such fiscal year for which estimates were made in a previous accounting statement, the statement shall revise those estimates and state the reasons for the revisions.

(B)(i) An accounting statement shall estimate the costs of major rules by setting forth, for each year covered by the statement—

(I) the annual expenditure of national economic resources for major rules, grouped by regulatory program; and

(II) such other quantitative and qualitative measures of costs as the President considers appropriate.

(ii) For purposes of the estimate of costs in the accounting statement, national economic resources shall include, and shall be listed under, at least the following categories:

(I) Private sector costs.

(II) Federal sector costs.

(III) State and local government administrative costs.

(C) An accounting statement shall estimate the benefits of major rules by setting forth, for each year covered by the statement, such quantitative and qualitative measures of benefits as the President considers appropriate. Any estimates of benefits concerning reduction in health, safety, or environmental risks shall present the most plausible level of risk practical, along with a statement of the reasonable degree of scientific certainty.

(c) ASSOCIATED REPORT TO CONGRESS.—

(1) IN GENERAL.—At the same time as the President submits an accounting statement under subsection (b), the President, acting through the Director of the Office of Management and Budget, shall submit to Congress a report associated with the accounting statement (hereinafter referred to as an "associated report"). The associated report shall contain, in accordance with this subsection—

(A) analyses of impacts; and

(B) recommendations for reform.

(2) ANALYSES OF IMPACTS.—The President shall include in the associated report the following:

(A) Analyses prepared by the President of the cumulative impact of major rules in Federal regulatory programs covered in the accounting statement on the following:

(i) The ability of State and local governments to provide essential services, including police, fire protection, and education.

(ii) Small business.

(iii) Productivity.

(iv) Wages.

(v) Economic growth.

(vi) Technological innovation.

(vii) Consumer prices for goods and services.

(viii) Such other factors considered appropriate by the President.

(B) A summary of any independent analyses of impacts prepared by persons commenting during the comment period on the accounting statement.

(3) RECOMMENDATIONS FOR REFORM.—The President shall include in the associated report the following:

(A) A summary of recommendations of the President for reform or elimination of any Federal regulatory program or program element that does not represent sound use of national economic resources or otherwise is inefficient.

(B) A summary of any recommendations for such reform or elimination of Federal regulatory programs or program elements prepared by persons commenting during the comment period on the accounting statement.

(d) GUIDANCE FROM OFFICE OF MANAGEMENT AND BUDGET.—The Director of the Office of Management and Budget shall, in consultation with the Council of Economic Advisers, provide guidance to agencies—

(1) to standardize measures of costs and benefits in accounting statements prepared pursuant to sections 3 and 7 of this Act, including—

(A) detailed guidance on estimating the costs and benefits of major rules; and

(B) general guidance on estimating the costs and benefits of all other rules that do not meet the thresholds for major rules; and

(2) to standardize the format of the accounting statements.

(e) RECOMMENDATIONS FROM CONGRESSIONAL BUDGET OFFICE.—After each accounting statement and associated report submitted to Congress, the Director of the Congressional Budget Office shall make recommendations to the President—

(1) for improving accounting statements prepared pursuant to this section, including recommendations on level of detail and accuracy; and

(2) for improving associated reports prepared pursuant to this section, including recommendations on the quality of analysis.

(f) JUDICIAL REVIEW.—No requirements under this section shall be subject to judicial review in any manner.

SEC. 8. STUDIES AND REPORTS.

(a) RISK ASSESSMENTS.—The Administrative Conference of the United States shall—

(1) develop and carry out an ongoing study of the operation of the risk assessment requirements of subchapter III of chapter 6 of title 5, United States Code (as added by section 4 of this Act); and

(2) submit an annual report to the Congress on the findings of the study.

(b) ADMINISTRATIVE PROCEDURE ACT.—Not later than December 31, 1996, the Administrative Conference of the United States shall—

(1) carry out a study of the operation of the Administrative Procedure Act (as amended by section 3 of this Act); and

(2) submit a report to the Congress on the findings of the study, including proposals for revision, if any.

SEC. 9. MISCELLANEOUS PROVISIONS.

(a) EFFECTIVE DATE.—Except as otherwise provided, this Act and the amendments made by this Act shall take effect on the date of enactment.

(b) SEVERABILITY.—If any provision of this Act, an amendment made by this Act, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this Act, the amendments made by this Act, and the application of the provisions of such to any person or circumstance shall not be affected thereby.

AMENDMENT NO. 1555

In lieu of the language to be proposed, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Comprehensive Regulatory Reform Act of 1995".

SEC. 2. DEFINITIONS.

Section 551 of title 5, United States Code, is amended—

(1) in the matter preceding paragraph (1), by striking "this subchapter" and inserting "this chapter and chapters 7 and 8";

(2) in paragraph (13), by striking "and";

(3) in paragraph (14), by striking the period at the end and inserting "; and"; and

(4) by adding at the end the following new paragraph:

"(15) 'Director' means the Director of the Office of Management and Budget.".

SEC. 3. RULEMAKING.

Section 553 of title 5, United States Code, is amended to read as follows:

"§ 553. Rulemaking

"(a) APPLICABILITY.—This section applies to every rulemaking, according to the provisions thereof, except to the extent that there is involved—

"(1) a matter pertaining to a military or foreign affairs function of the United States;

"(2) a matter relating to the management or personnel practices of an agency;

"(3) an interpretive rule, general statement of policy, guidance, or rule of agency organization, procedure, or practice, unless such rule, statement, or guidance has general applicability and substantially alters or creates rights or obligations of persons outside the agency; or

"(4) a rule relating to the acquisition, management, or disposal by an agency of real or personal property, or of services, that is promulgated in compliance with otherwise applicable criteria and procedures.

"(b) NOTICE OF PROPOSED RULEMAKING.—General notice of proposed rulemaking shall be published in the Federal Register, unless all persons subject thereto are named and either personally served or otherwise have actual notice of the proposed rulemaking in accordance with law. Each notice of proposed rulemaking shall include—

"(1) a statement of the time, place, and nature of public rulemaking proceedings;

"(2) a succinct explanation of the need for and specific objectives of the proposed rule, including an explanation of the agency's determination of whether or not the rule is a major rule within the meaning of section 621(5);

"(3) a succinct explanation of the specific statutory basis for the proposed rule, including an explanation of—

"(A) whether the interpretation is clearly required by the text of the statute; or

"(B) if the interpretation is not clearly required by the text of the statute, an explanation that the interpretation is within the range of permissible interpretations of the statute as identified by the agency, and an explanation why the interpretation selected by the agency is the agency's preferred interpretation;

"(4) the terms or substance of the proposed rule;

"(5) a summary of any initial analysis of the proposed rule required to be prepared or issued pursuant to chapter 6;

"(6) a statement that the agency seeks proposals from the public and from State and local governments for alternative methods to accomplish the objectives of the rulemaking that are more effective or less burdensome than the approach used in the proposed rule; and

"(7) a statement specifying where the file of the rulemaking proceeding maintained pursuant to subsection (j) may be inspected and how copies of the items in the file may be obtained.

"(c) PERIOD FOR COMMENT.—The agency shall give interested persons not less than 60 days after providing the notice required by subsection (b) to participate in the rulemaking through the submission of written data, views, or arguments.

"(d) GOOD CAUSE EXCEPTION.—Unless notice or hearing is required by statute, a final rule may be adopted and may become effective without prior compliance with subsections (b) and (c) and (e) through (g) if the agency for good cause finds that providing notice and public procedure thereon before the rule becomes effective is impracticable, unnecessary, or contrary to the public interest. If a rule is adopted under this subsection, the agency shall publish the rule in the Federal Register with the finding and a succinct explanation of the reasons therefor.

"(e) PROCEDURAL FLEXIBILITY.—To collect relevant information, and to identify and elicit full and representative public comment on the significant issues of a particular rulemaking, the agency may use such other procedures as the agency determines are appropriate, including—

"(1) the publication of an advance notice of proposed rulemaking;

"(2) the provision of notice, in forms which are more direct than notice published in the Federal Register, to persons who would be substantially affected by the proposed rule but who are unlikely to receive notice of the proposed rulemaking through the Federal Register;

"(3) the provision of opportunities for oral presentation of data, views, information, or rebuttal arguments at informal public hearings, meetings, and round table discussions, which may be held in the District of Columbia and other locations;

"(4) the establishment of reasonable procedures to regulate the course of informal public hearings, meetings and round table discussions, including the designation of representatives to make oral presentations or engage in direct or cross-examination on behalf of several parties with a common interest in a rulemaking, and the provision of transcripts, summaries, or other records of all such public hearings and summaries of meetings and round table discussions;

"(5) the provision of summaries, explanatory materials, or other technical information in response to public inquiries concerning the issues involved in the rulemaking; and

"(6) the adoption or modification of agency procedural rules to reduce the cost or complexity of the procedural rules.

"(f) Planned Final Rule.—If the provisions of a final rule that an agency plans to adopt are so different from the provisions of the original notice of proposed rulemaking that the original notice did not fairly apprise the public of the issues ultimately to be resolved in the rulemaking or of the substance of the rule, the agency shall publish in the Federal Register a notice of the final rule the agency plans to adopt, together with the information relevant to such rule that is required by the applicable provisions of this section and that has not previously been published in the Federal Register. The agency shall allow a reasonable period for comment on such planned final rule prior to its adoption.

"(g) Statement of Basis and Purpose.—An agency shall publish each final rule it adopts in the Federal Register, together with a concise statement of the basis and purpose of the rule and a statement of when the rule may become effective. The statement of basis and purpose shall include—

"(1) an explanation of the need for, objectives of, and specific statutory authority for, the rule;

"(2) a discussion of, and response to, any significant factual or legal issues presented by the rule, or raised by the comments on the proposed rule, including a description of the reasonable alternatives to the rule proposed by the agency and by interested persons, and the reasons why such alternatives were rejected;

"(3) a succinct explanation of whether the specific statutory basis for the rule is expressly required by the text of the statute, or if the specific statutory interpretation upon which the rule is based is not expressly required by the text of the statute, an explanation that the interpretation is within the range of permissible interpretations of the statute as identified by the agency, and why the agency has rejected other interpretations proposed in comments to the agency;

"(4) an explanation of how the factual conclusions upon which the rule is based are substantially supported in the rulemaking file; and

"(5) a summary of any final analysis of the rule required to be prepared or issued pursuant to chapter 6.

"(h) Nonapplicability.—In the case of a rule that is required by statute to be made on the record after opportunity for an agency hearing, sections 556 and 557 shall apply in lieu of subsections (c), (e), (f), and (g).

"(i) Effective Date.—An agency shall publish the final rule in the Federal Register not later than 60 days before the effective date of such rule. An agency may make a rule effective in less than 60 days after publication in the Federal Register if the rule grants or recognizes an exemption, relieves a restriction, or if the agency for good cause finds that such a delay in the effective date would be contrary to the public interest and publishes such finding and an explanation of the reasons therefor, with the final rule.

"(j) Rulemaking File.—(1) The agency shall maintain a file for each rulemaking proceeding conducted pursuant to this section and shall maintain a current index to such file.

"(2) Except as provided in subsection (k), the file shall be made available to the public not later than the date on which the agency makes an initial publication concerning the rule.

"(3) The rulemaking file shall include—

"(A) the notice of proposed rulemaking, any supplement to, or modification or revision of, such notice, and any advance notice of proposed rulemaking;

"(B) copies of all written comments received on the proposed rule;

"(C) a transcript, summary, or other record of any public hearing conducted on the rulemaking;

"(D) copies, or an identification of the place at which copies may be obtained, of factual and methodological material that pertains directly to the rulemaking and that was considered by the agency in connection with the rulemaking, or that was submitted to or prepared by or for the agency in connection with the rulemaking; and

"(E) any statement, description, analysis, or other material that the agency is required to prepare or issue in connection with the rulemaking, including any analysis prepared or issued pursuant to chapter 6.

The agency shall place each of the foregoing materials in the file as soon as practicable after each such material becomes available to the agency.

"(k) Confidential Treatment.—The file required by subsection (j) need not include any material described in section 552(b) if the agency includes in the file a statement that notes the existence of such material and the basis upon which the material is exempt from public disclosure under such section. The agency may not substantially rely on any such material in formulating a rule unless it makes the substance of such material available for adequate comment by interested persons. The agency may use summaries, aggregations of data, or other appropriate mechanisms to protect the confidentiality of such material to the maximum extent possible.

"(*l*) Rulemaking Petition.—(1) Each agency shall give an interested person the right to petition—

"(A) for the issuance, amendment, or repeal of a rule;

"(B) for the amendment or repeal of an interpretive rule or general statement of policy or guidance; and

"(C) for an interpretation regarding the meaning of a rule, interpretive rule, general statement of policy, or guidance.

"(2) The agency shall grant or deny a petition made pursuant to paragraph (1), and give written notice of its determination to the petitioner, with reasonable promptness, but in no event later than 18 months after the petition was received by the agency.

"(3) The written notice of the agency's determination shall include an explanation of the determination and a response to each significant factual and legal claim that forms the basis of the petition.

"(m) Judicial Review.—(1) The decision of an agency to use or not to use procedures in a rulemaking under subsection (e) shall not be subject to judicial review.

"(2) The rulemaking file required under subsection (j) shall constitute the rulemaking record for purposes of judicial review.

"(3) No court shall hold unlawful or set aside an agency rule based on a violation of subsection (j), unless the court finds that such violation has precluded fair public consideration of a material issue of the rulemaking taken as a whole.

"(4)(A) Judicial review of compliance or noncompliance with subsection (j) shall be limited to review of action or inaction on the part of an agency.

"(B) A decision by an agency to deny a petition under subsection (*l*) shall be subject to judicial review immediately upon denial, as final agency action under the statute granting the agency authority to carry out its action.

"(n) Construction.—(1) Notwithstanding any other provision of law, this section shall apply to and supplement the procedures governing informal rulemaking under statutes that are not generally subject to this section.

"(2) Nothing in this section authorizes the use of appropriated funds available to any agency to pay the attorney's fees or other expenses of persons intervening in agency proceedings.".

SEC. 4. ANALYSIS OF AGENCY RULES.

(a) In General.—Chapter 6 of title 5, United States Code, is amended by adding at the end the following:

"SUBCHAPTER II—ANALYSIS OF AGENCY RULES

"§ 621. Definitions

"For purposes of this subchapter—

"(1) except as otherwise provided, the definitions under section 551 shall apply to this subchapter;

"(2) the term 'benefit' means the reasonably identifiable significant favorable effects, quantifiable and nonquantifiable, including social, environmental, health, and economic effects, that are expected to result directly or indirectly from implementation of a rule or other agency action;

"(3) the term 'cost' means the reasonably identifiable significant adverse effects, quantifiable and nonquantifiable, including social, environmental, health, and economic effects that are expected to result directly or indirectly from implementation of a rule or other agency action;

"(4) the term 'cost-benefit analysis' means an evaluation of the costs and benefits of a rule, quantified to the extent feasible and appropriate and otherwise qualitatively described, that is prepared in accordance with the requirements of this subchapter at the level of detail appropriate and practicable for reasoned decisionmaking on the matter involved, taking into consideration the significance and complexity of the decision and any need for expedition;

"(5) the term 'major rule' means—

"(A) a rule or set of closely related rules that the agency proposing the rule, the Director, or a designee of the President determines is likely to have a gross annual effect on the economy of $50,000,000 or more in reasonably quantifiable increased costs; or

"(B) a rule that is otherwise designated a major rule by the agency proposing the rule, the Director, or a designee of the President (and a designation or failure to designate under this clause shall not be subject to judicial review);

"(6) the term 'market-based mechanism' means a regulatory program that—

"(A) imposes legal accountability for the achievement of an explicit regulatory objective on each regulated person;

"(B) affords maximum flexibility to each regulated person in complying with mandatory regulatory objectives, which flexibility shall, where feasible and appropriate, include, but not be limited to, the opportunity to transfer to, or receive from, other persons, including for cash or other legal consideration, increments of compliance responsibility established by the program; and

"(C) permits regulated persons to respond to changes in general economic conditions and in economic circumstances directly pertinent to the regulatory program without affecting the achievement of the program's explicit regulatory mandates;

"(7) the term 'performance-based standards' means requirements, expressed in terms of outcomes or goals rather than mandatory means of achieving outcomes or goals, that permit the regulated entity discretion to determine how best to meet specific requirements in particular circumstances;

"(8) the term 'reasonable alternatives' means the range of reasonable regulatory options that the agency has authority to consider under the statute granting rulemaking authority, including flexible regulatory options of the type described in section 622(c)(2)(C)(iii), unless precluded by the statute granting the rulemaking authority; and

"(9) the term 'rule' has the same meaning as in section 551(4), and—

"(A) includes any statement of general applicability that substantially alters or creates rights or obligations of persons outside the agency; and

"(B) does not include—

"(i) a rule that involves the internal revenue laws of the United States, or the assessment and collection of taxes, duties, or other revenues or receipts;

"(ii) a rule or agency action that implements an international trade agreement to which the United States is a party;

"(iii) a rule or agency action that authorizes the introduction into commerce, or recognizes the marketable status, of a product;

"(iv) a rule exempt from notice and public procedure under section 553(a);

"(v) a rule or agency action relating to the public debt;

"(vi) a rule required to be promulgated at least annually pursuant to statute, or that provides relief, in whole or in part, from a statutory prohibition, other than a rule promulgated pursuant to subtitle C of title II of the Solid Waste Disposal Act (42 U.S.C. 6921 et seq.);

"(vii) a rule of particular applicability that approves or prescribes the future rates, wages, prices, services, corporate or financial structures, reorganizations, mergers, acquisitions, accounting practices, or disclosures bearing on any of the foregoing;

"(viii) a rule relating to monetary policy or to the safety or soundness of federally insured depository institutions or any affiliate of such an institution (as defined in section 2(k) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(k))), credit unions, Federal Home Loan Banks, government sponsored housing enterprises, farm credit institutions, foreign banks that operate in the United States and their affiliates, branches, agencies, commercial lending companies, or representative offices, (as those terms are defined in section 1 of the International Banking Act of 1978 (12 U.S.C. 3101));

"(ix) a rule relating to the payment system or the protection of deposit insurance funds or the farm credit insurance fund;

"(x) any order issued in a rate or certificate proceeding by the Federal Energy Regulatory Commission, or a rule of general applicability that the Federal Energy Regulatory Commission certifies would increase reliance on competitive market forces or reduce regulatory burdens;

"(xi) a rule or order relating to the financial responsibility of brokers and dealers or futures commission merchants, the safeguarding of investor securities and funds or commodity future or options customer securities and funds, the clearance and settlement of securities, futures, or options transactions, or the suspension of trading under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) or emergency action taken under the Commodity Exchange Act (7 U.S.C. 1 et seq.), or a rule relating to the protection of the Securities Investor Protection Corporation, that is promulgated under the Securities Investor Protection Act of 1970 (15 U.S.C. 78aaa et seq.); or

"(xii) a rule that involves the international trade laws of the United States.

"§ 622. Rulemaking cost-benefit analysis

"(a) DETERMINATIONS FOR MAJOR RULE.—Prior to publishing a notice of proposed rulemaking for any rule (or, in the case of a notice of proposed rulemaking that has been published but not issued as a final rule on or before the date of enactment of this subchapter, not later than 30 days after such date of enactment), each agency shall determine—

"(1) whether the rule is or is not a major rule within the meaning of section 621(5)(A)(i) and, if it is not, whether it should be designated as a major rule under section 621(5)(B); and

"(2) if the agency determines that the rule is a major rule, or otherwise designates it as a major rule, whether the rule requires or does not require the preparation of a risk assessment under section 632(a).

"(b) DESIGNATION.—(1) If an agency has determined that a rule is not a major rule within the meaning of section 621(5)(A) and has not designated the rule as a major rule within the meaning of section 621(5)(B), the Director or a designee of the President may, as appropriate, determine that the rule is a major rule or designate the rule as a major rule not later than 30 days after the publication of the notice of proposed rulemaking for the rule (or, in the case of a notice of proposed rulemaking that has been published on or before the date of enactment of this subchapter, not later than 1 year after such date of enactment).

"(2) Such determination or designation shall be published in the Federal Register, together with a succinct statement of the basis for the determination or designation.

"(c) INITIAL COST-BENEFIT ANALYSIS.—(1)(A) When the agency publishes a notice of proposed rulemaking for a major rule, the agency shall issue and place in the rulemaking file an initial cost-benefit analysis, and shall include a summary of such analysis in the notice of proposed rulemaking.

"(B)(i) When an agency, the Director, or a designee of the President has published a determination or designation that a rule is a major rule after the publication of the notice of proposed rulemaking for the rule, the agency shall promptly issue and place in the rulemaking file an initial cost-benefit analysis for the rule and shall publish in the Federal Register a summary of such analysis.

"(ii) Following the issuance of an initial cost-benefit analysis under clause (i), the agency shall give interested persons an opportunity to comment in the same manner as if the initial cost-benefit analysis had been issued with the notice of proposed rulemaking.

"(2) Each initial cost-benefit analysis shall contain—

"(A) a succinct analysis of the benefits of the proposed rule, including any beneficial effects that cannot be quantified, and an explanation of how the agency anticipates such benefits will be achieved by the proposed rule, including a description of the persons or classes of persons likely to receive such benefits;

"(B) a succinct analysis of the costs of the proposed rule, including any costs that cannot be quantified, and an explanation of how the agency anticipates such costs will result from the proposed rule, including a description of the persons or classes of persons likely to bear such costs;

"(C) a succinct description (including an analysis of the costs and benefits) of reasonable alternatives for achieving the objectives of the statute, including, where such alternatives exist, alternatives that—

"(i) require no government action, where the agency has discretion under the statute granting the rulemaking authority not to promulgate a rule;

"(ii) will accommodate differences among geographic regions and among persons with differing levels of resources with which to comply;

"(iii) employ performance-based standards, market-based mechanisms, or other flexible regulatory options that permit the greatest flexibility in achieving the regulatory result that the statutory provision authorizing the rule is designed to produce; or

"(iv) employ voluntary standards;

"(D) in any case in which the proposed rule is based on one or more scientific evaluations, scientific information, or a risk assessment, or is subject to the risk assessment requirements of subchapter III, a description of the actions undertaken by the agency to verify the quality, reliability, and relevance of such scientific evaluation, scientific information, or risk assessment; and

"(E) an explanation of how the proposed rule is likely to meet the decisional criteria of section 624.

"(d) FINAL COST-BENEFIT ANALYSIS.—(1) When the agency publishes a final major rule, the agency shall also issue and place in the rulemaking file a final cost-benefit analysis, and shall include a summary of the analysis in the statement of basis and purpose.

"(2) Each final cost-benefit analysis shall contain—

"(A) a description and comparison of the benefits and costs of the rule and of the reasonable alternatives to the rule described in the rulemaking record, including flexible regulatory options of the type described in subsection (c)(2)(C)(iii), and a description of the persons likely to receive such benefits and bear such costs; and

"(B) an analysis, based upon the rulemaking record considered as a whole, of how the rule meets the decisional criteria in section 624.

"(3) In considering the benefits and costs, the agency, when appropriate, shall consider the benefits and costs incurred by all of the affected persons or classes of persons (including specially affected subgroups).

"(e) REQUIREMENTS FOR COST-BENEFIT ANALYSES.—(1)(A) The description of the benefits and costs of a proposed and a final rule required under this section shall include, to the extent feasible, a quantification or numerical estimate of the quantifiable benefits and costs.

"(B) The quantification or numerical estimate shall—

"(i) be made in the most appropriate unit of measurement, using comparable assumptions, including time periods;

"(ii) specify the ranges of predictions; and

"(iii) explain the margins of error involved in the quantification methods and the uncertainties and variabilities in the estimates used.

"(C) An agency shall describe the nature and extent of the nonquantifiable benefits and costs of a final rule pursuant to this section in as precise and succinct a manner as possible.

"(D) The agency evaluation of the relationship of benefits to costs shall be clearly articulated.

"(E) An agency shall not be required to make such evaluation primarily on a mathematical or numerical basis.

"(F) Nothing in this subsection shall be construed to expand agency authority beyond the delegated authority arising from the statute granting the rulemaking authority.

"(2) Where practicable and when understanding industry-by-industry effects is of central importance to a rulemaking, the description of the benefits and costs of a proposed and final rule required under this section shall describe such benefits and costs on an industry by industry basis.

"(f) HEALTH, SAFETY, OR EMERGENCY EXEMPTION FROM COST-BENEFIT ANALYSIS.—(1) A major rule may be adopted and may become effective without prior compliance with this subchapter if—

"(A) the agency for good cause finds that conducting cost-benefit analysis is impracticable due to an emergency or health or safety threat that is likely to result in significant harm to the public or natural resources; and

"(B) the agency publishes in the Federal Register, together with such finding, a succinct statement of the basis for the finding.

"(2) Not later than 180 days after the promulgation of a final major rule to which this section applies, the agency shall comply with the provisions of this subchapter and, as thereafter necessary, revise the rule.

"§ 623. Agency regulatory review

"(a) PRELIMINARY SCHEDULE FOR RULES.—(1) Not later than 1 year after the date of the enactment of this section, and every 5 years thereafter, the head of each agency shall publish in the Federal Register a notice of proposed rulemaking under section 553 that contains a preliminary schedule of rules selected for review under this section by the head of the agency and in the sole discretion of the head of the agency, and request public comment thereon, including suggestions for additional rules warranting review. The agency shall allow at least 180 days for public comment.

"(2) In selecting rules for the preliminary schedule, the head of the agency shall consider the extent to which, in the judgment of the head of the agency—

"(A) a rule is unnecessary, and the agency has discretion under the statute authorizing the rule to repeal the rule;

"(B) a rule would not meet the decisional criteria of section 624, and the agency has discretion under the statute authorizing the rule to repeal the rule; or

"(C) a rule could be revised in a manner allowed by the statute authorizing the rule so as to—

"(i) substantially decrease costs;

"(ii) substantially increase benefits; or

"(iii) provide greater flexibility for regulated entities, through mechanisms including, but not limited to, those listed in section 622(c)(2)(C)(iii).

"(3) The preliminary schedule under this subsection shall propose deadlines for review of each rule listed thereon, and such deadlines shall occur not later than 11 years from the date of publication of the preliminary schedule.

"(4) Any interpretive rule, general statement of policy, or guidance that has the force and effect of a rule under section 621(9) shall be treated as a rule for purposes of this section.

"(b) SCHEDULE.—(1) Not later than 1 year after publication of a preliminary schedule under subsection (a), and subject to subsection (c), the head of each agency shall publish a final rule that establishes a schedule of rules to be reviewed by the agency under this section.

"(2) The schedule shall establish a deadline for completion of the review of each rule listed on the schedule, taking into account the criteria in subsection (d) and comments received in the rulemaking under subsection (a). Each such deadline shall occur not later than 11 years from the date of publication of the preliminary schedule.

"(3) The schedule shall contain, at a minimum, all rules listed on the preliminary schedule.

"(4) The head of the agency shall modify the agency's schedule under this section to reflect any change ordered by the court under subsection (e) or subsection (g)(3) or contained in an appropriations Act under subsection (f).

"(c) PETITIONS AND COMMENTS PROPOSING ADDITION OF RULES TO THE SCHEDULE.—(1) Notwithstanding section 553(*l*), a petition to amend or repeal a major rule or an interpretative rule, general statement of policy, or guidance on grounds arising under this subchapter may only be filed during the 180-day comment period under subsection (a) and not at any other time. Such petition shall be reviewed only in accordance with this subsection.

"(2) The head of the agency shall, in response to petitions received during the rulemaking to establish the schedule, place on the final schedule for the completion of review within the first 3 years of the schedule any rule for which a petition, on its face, together with any relevant comments received in the rulemaking under subsection (a), establishes that there is a substantial likelihood that, considering the future impact of the rule—

"(A) the rule is a major rule under section 621(5)(A); and

(B) the head of the agency would not be able to make the findings required by section 624 with respect to the rule.

"(3) For the purposes of paragraph (2), the head of the agency may consolidate multiple petitions on the same rule into 1 determination with respect to review of the rule.

"(4) The head of the agency may, at the sole discretion of the head of the agency, add to the schedule any other rule suggested by a commentator during the rulemaking under subsection (a).

"(d) CRITERIA FOR ESTABLISHING DEADLINES FOR REVIEW.—The schedules in subsections (a) and (b) shall establish deadlines for review of each rule on the schedule that take into account—

"(1) the extent to which, for a particular rule, the preliminary views of the agency are that—

"(A) the rule is unnecessary, and the agency has discretion under the statute authorizing the rule to repeal the rule;

"(B) the rule would not meet the decisional criteria of section 624, and the agency has discretion under the statute authorizing the rule to repeal the rule; or

"(C) the rule could be revised in a manner allowed by the statute authorizing the rule so as to meet the decisional criteria under section 624 and to—

"(i) substantially decrease costs;

"(ii) substantially increase benefits; or

"(iii) provide greater flexibility for regulated entities, through mechanisms including, but not limited to, those listed in section 622(c)(2)(C)(iii);

"(2) the importance of each rule relative to other rules being reviewed under this section; and

"(3) the resources expected to be available to the agency under subsection (f) to carry out the reviews under this section.

"(e) JUDICIAL REVIEW.—(1) Notwithstanding section 625 and except as provided otherwise in this subsection, agency compliance or noncompliance with the requirements of this section shall be subject to judicial review in accordance with section 706 of this title.

"(2) The United States Court of Appeals for the District of Columbia Circuit shall have exclusive jurisdiction to review agency action pursuant to subsections (a), (b), and (c).

"(3) A petition for review of final agency action under subsection (b) or subsection (c) shall be filed not later than 60 days after the agency publishes the final rule under subsection (b).

"(4) The court upon review, for good cause shown, may extend the 3-year deadline under subsection (c)(2) for a period not to exceed 1 additional year.

"(5) The court shall remand to the agency any schedule under subsection (b) only if final agency action under subsection (b) is arbitrary or capricious. Agency action under subsection (d) shall not be subject to judicial review.

"(f) ANNUAL BUDGET.—(1) The President's annual budget proposal submitted under section 1105(a) of title 31 for each agency subject to this section shall—

"(A) identify as a separate sum the amount requested to be appropriated for implementation of this section during the upcoming fiscal year; and

"(B) include a list of rules which may terminate during the year for which the budget proposal is made.

"(2) Amendments to the schedule under subsection (b) that change a deadline for review of a rule may be included in annual appropriations Acts for the relevant agencies. An authorizing committee with jurisdiction may submit, to the House of Representatives or Senate appropriations committee (as the case may be), amendments to the schedule published by an agency under subsection (b) that change a deadline for review of a rule. The appropriations committee to which such amendments have been submitted shall include or propose the amendments in the annual appropriations Act for the relevant agency. Each agency shall modify its schedule under subsection (b) to reflect such amendments that are enacted into law.

"(g) REVIEW OF RULE.—(1) For each rule on the schedule under subsection (b), the agency shall—

"(A) not later than 2 years before the deadline in such schedule, publish in the Federal Register a notice that solicits public comment regarding whether the rule should be continued, amended, or repealed;

"(B) not later than 1 year before the deadline in such schedule, publish in the Federal Register a notice that—

"(i) addresses public comments generated by the notice in subparagraph (A);

"(ii) contains a preliminary analysis provided by the agency of whether the rule is a major rule, and if so, whether it satisfies the decisional criteria of section 624;

"(iii) contains a preliminary determination as to whether the rule should be continued, amended, or repealed; and

"(iv) solicits public comment on the preliminary determination for the rule; and

“(C) not later than 60 days before the deadline in such schedule, publish in the Federal Register a final notice on the rule that—

“(i) addresses public comments generated by the notice in subparagraph (B); and

“(ii) contains a final determination of whether to continue, amend, or repeal the rule; and

“(iii) if the agency determines to continue the rule and the rule is a major rule, contains findings necessary to satisfy the decisional criteria of section 624; and

“(iv) if the agency determines to amend the rule, contains a notice of proposed rulemaking under section 553.

“(2) If the final determination of the agency is to continue or repeal the rule, that determination shall take effect 60 days after the publication in the Federal Register of the notice in paragraph (1)(C).

“(3) An interested party may petition the U.S. Court of Appeals for the District of Columbia Circuit to extend the period for review of a rule on the schedule for up to two years and to grant such equitable relief as is appropriate, if such petition establishes that—

“(A) the rule is likely to terminate under subsection (i);

“(B) the agency needs additional time to complete the review under this subsection;

“(C) terminating the rule would not be in the public interest; and

“(D) the agency has not expeditiously completed its review.

“(h) DEADLINE FOR FINAL AGENCY ACTION ON MODIFIED RULE.—If an agency makes a determination to amend a major rule under subsection (g)(1)(C)(ii), the agency shall complete final agency action with regard to such rule not later than 2 years of the date of publication of the notice in subsection (g)(1)(C) containing such determination. Nothing in this subsection shall limit the discretion of an agency to decide, after having proposed to modify a major rule, not to promulgate such modification. Such decision shall constitute final agency action for the purposes of judicial review.

“(i) TERMINATION OF RULES.—If the head of an agency has not completed the review of a rule by the deadline established in the schedule published or modified pursuant to subsection (b) and subsection (c), the head of the agency shall not enforce the rule, and the rule shall terminate by operation of law as of such date.

“(j) FINAL AGENCY ACTION.—(1) The final determination of an agency to continue or repeal a major rule under subsection (g)(1)(C) shall be considered final agency action.

“(2) Failure to promulgate an amended major rule or to make other decisions required by subsection (h) by the date established under such subsection shall be considered final agency action.

“§ 624. Decisional criteria

“(a) CONSTRUCTION WITH OTHER LAWS.—The requirements of this section shall supplement, and not supersede, any other decisional criteria otherwise provided by law.

“(b) REQUIREMENTS.—Except as provided in subsection (c), no final major rule subject to this subchapter shall be promulgated unless the agency head publishes in the Federal Register a finding that—

“(1) the benefits from the rule justify the costs of the rule;

“(2) the rule employs to the extent practicable flexible reasonable alternatives of the type described in section 622(c)(2)(C)(iii); and

“(3)(A) the rule adopts the least cost alternative of the reasonable alternatives that achieve the objectives of the statute; or

“(B) if scientific, technical, or economic uncertainties or nonquantifiable benefits to health, safety, or the environment identified by the agency in the rulemaking record make a more costly alternative that achieves the objectives of the statute appropriate and in the public interest and the agency head provides an explanation of those considerations, the rule adopts the least cost alternative of the reasonable alternatives necessary to take into account such uncertainties or benefits; and

“(4) if a risk assessment is required by section 632—

“(A) the rule is likely to significantly reduce the human health, safety, and environmental risks to be addressed; or

“(B) if scientific, technical, or economic uncertainties or nonquantifiable benefits to health, safety, or the environment, preclude making the finding under subparagraph (A), promulgating the final rule is nevertheless justified for reasons stated in writing accompanying the rule and consistent with subchapter III.

“(c) ALTERNATIVE REQUIREMENTS.—If, applying the statutory requirements upon which the rule is based, a rule cannot satisfy the criteria of subsection (b), the agency head may promulgate the rule if the agency head finds that—

“(1) the rule employs to the extent practicable flexible reasonable alternatives of the type described in section 622(c)(2)(C)(iii);

“(2)(A) the rule adopts the least cost alternative of the reasonable alternatives that achieve the objectives of the statute; or

“(B) if scientific, technical, or economic uncertainties or nonquantifiable benefits to health, safety, or the environment identified by the agency in the rulemaking record make a more costly alternative that achieves the objectives of the statute appropriate and in the public interest, and the agency head provides an explanation of those consideration, the rule adopts the least cost alternative of the reasonable alternatives necessary to take into account such uncertainties or benefits; and

“(3) if a risk assessment is required by section 632—

“(A) the rule is likely to significantly reduce the human health, safety, and environmental risks to be addressed; or

“(B) if scientific, technical, or economic uncertainties or nonquantifiable benefits to health, safety, or the environment, preclude making the finding under subparagraph (A), promulgating the final rule is nevertheless justified for reasons stated in writing accompanying the rule and consistent with subchapter III.

“(d) PUBLICATION OF REASONS FOR NONCOMPLIANCE.—If an agency promulgates a rule to which subsection (c) applies, the agency head shall prepare a written explanation of why the agency was required to promulgate a rule that does not satisfy the criteria of subsection (b) and shall transmit the explanation with the final cost-benefit analysis to Congress when the final rule is promulgated.

“§ 625. Jurisdiction and judicial review

“(a) REVIEW.—Compliance or noncompliance by an agency with the provisions of this subchapter and subchapter III shall be subject to judicial review only in accordance with this section.

“(b) JURISDICTION.—(1) Except as provided in subsection (e), subject to paragraph (2), each court with jurisdiction under a statute to review final agency action to which this title applies, has jurisdiction to review any claims of noncompliance with this subchapter and subchapter III.

“(2) Except as provided in subsection (e), no claims of noncompliance with this subchapter or subchapter III shall be reviewed separate or apart from judicial review of the final agency action to which they relate.

“(c) RECORD.—Any analysis or review required under this subchapter or subchapter III shall constitute part of the rulemaking record of the final agency action to which it pertains for the purposes of judicial review.

“(d) STANDARDS FOR REVIEW.—In any proceeding involving judicial review under section 706 or under the statute granting the rulemaking authority, failure to comply with this subchapter or subchapter III may be considered by the court solely for the purpose of determining whether the final agency action is arbitrary and capricious or an abuse of discretion (or unsupported by substantial evidence where that standard is otherwise provided by law).

“(e) INTERLOCUTORY REVIEW.—(1) The United States Court of Appeals for the District of Columbia Circuit shall have jurisdiction to review—

“(A) an agency determination that a rule is not a major rule pursuant to section 622(a); and

“(B) an agency determination that a risk assessment is not required pursuant to section 632(a).

“(2) A petition for review of agency action under paragraph (1) shall be filed within 60 days after the agency makes the determination or certification for which review is sought.

“(3) Except as provided in this subsection, no court shall have jurisdiction to review any agency determination or certification specified in paragraph (1).

“§ 626. Deadlines for rulemaking

“(a) STATUTORY.—All deadlines in statutes that require agencies to propose or promulgate any rule subject to section 622 or subchapter III during the 5-year period beginning on the effective date of this section shall be suspended until the earlier of—

“(1) the date on which the requirements of section 622 or subchapter III are satisfied; or

“(2) the date occurring 2 years after the date of the applicable deadline.

“(b) COURT-ORDERED.—All deadlines imposed by any court of the United States that would require an agency to propose or promulgate a rule subject to section 622 or subchapter III during the 5-year period beginning on the effective date of this section shall be suspended until the earlier of—

“(1) the date on which the requirements of section 622 or subchapter III are satisfied; or

“(2) the date occurring 2 years after the date of the applicable deadline.

“(c) OBLIGATION TO REGULATE.—In any case in which the failure to promulgate a rule by a deadline occurring during the 5-year period beginning on the effective date of this section would create an obligation to regulate through individual adjudications, the deadline shall be suspended until the earlier of—

“(1) the date on which the requirements of section 622 or subchapter III are satisfied; or

“(2) the date occurring 2 years after the date of the applicable deadline.

“§ 627. Special rule

“Notwithstanding any other provision of the Comprehensive Regulatory Reform Act of 1995, or the amendments made by such Act, for purposes of this subchapter and subchapter IV, the head of each appropriate

Federal banking agency (as defined in section 3(q) of the Federal Deposit Insurance Act), the National Credit Union Administration, the Federal Housing Finance Board, the Office of Federal Housing Enterprise Oversight, and the Farm Credit Administration, shall have authority with respect to such agency that otherwise would be provided under such subchapters to the Director, a designee of the President, Vice President, or any officer designated or delegated with authority under such subchapters.

"§ 628. Requirements for major environmental management activities

"(a) DEFINITION.—For purposes of this section, the term 'major environmental management activity' means—

"(1) a corrective action requirement under the Solid Waste Disposal Act;

"(2) a response action or damage assessment under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.);

"(3) the treatment, storage, or disposal of radioactive or mixed waste in connection with site restoration activity; and

"(4) Federal guidelines for the conduct of such activity, including site-specific guidelines,

the expected costs, expenses, and damages of which are likely to exceed, in the aggregate, $10,000,000.

"(b) APPLICABILITY.—A major environmental management activity is subject to this section unless construction has commenced on a significant portion of the activity, and—

"(1) it is more cost-effective to complete construction of the work than to apply the provisions of this subchapter; or

"(2) the application of the provisions of this subchapter, including any delays caused thereby, will result in an actual and immediate risk to human health or welfare.

"(c) REQUIREMENT TO PREPARE RISK ASSESSMENT.—(1) For each major environmental management activity or significant unit thereof that is proposed by the agency after the date of enactment of this subchapter, is pending on the date of enactment of this subchapter, or is subject to a granted petition for review pursuant to section 623, the head of an agency shall prepare—

"(A) a risk assessment in accordance with subchapter III; and

"(B) a cost-benefit analysis equivalent to that which would be required under this subchapter, if such subchapter were applicable.

"(2) In conducting a risk assessment or cost-benefit analysis under this section, the head of the agency shall incorporate the reasonably anticipated probable future use of the land and its surroundings (and any associated media and resources of either) affected by the environmental management activity.

"(3) For actions pending on the date of enactment of this section or proposed during the year following the date of enactment of this section, in lieu of preparing a risk assessment in accordance with subchapter III or cost-benefit analysis under this subchapter, an agency may use other appropriately developed analyses that allow it to make the judgments required under subsection (d).

"(d) REQUIREMENT.—The requirements of this subsection shall supplement, and not supersede, any other requirement provided by any law. A major environmental management activity under this section shall meet the decisional criteria under section 624 as if it is a major rule under such section.

"§ 629. Petition for alternative method of compliance

"(a) Except as provided in subsection (e), or unless prohibited by the statute authorizing the rule, any person subject to a major rule may petition the relevant agency to modify or waive the specific requirements of the major rule (or any portion thereof) and to authorize such person to demonstrate compliance through alternative means not otherwise permitted by the major rule. The petition shall identify with reasonable specificity the requirements for which the waiver is sought and the alternative means of compliance being proposed.

"(b) The agency shall grant the petition if the petition shows that there is a reasonable likelihood that the proposed alternative means of compliance—

"(1) would achieve the identified benefits of the major rule with at least an equivalent level of protection of health, safety, and the environment as would be provided by the major rule; and

"(2) would not impose an undue burden on the agency that would be responsible for enforcing such alternative means of compliance.

"(c) A decision to grant or to deny a petition under this subsection shall be made not later than 180 days after the petition is submitted, but in no event shall agency action taken pursuant to this section be subject to judicial review.

"(d) Following a decision to grant or deny a petition under this section, no further petition for such rule, submitted by the same person, shall be granted unless such petition pertains to a different facility or installation owned or operated by such person or unless such petition is based on a significant change in a fact, circumstance, or provision of law underlying or otherwise related to the rule occurring since the initial petition was granted or denied, that warrants the granting of such petition.

"(e) If the statute authorizing the rule which is the subject of the petition provides procedures or standards for an alternative method of compliance the petition shall be reviewed solely under the terms of the statute.

"SUBCHAPTER III—RISK ASSESSMENTS

"§ 631. Definitions

"For purposes of this subchapter—

"(1) except as otherwise provided, the definitions under section 551 shall apply to this subchapter;

"(2) the term 'exposure assessment' means the scientific determination of the intensity, frequency and duration of actual or potential exposures to the hazard in question;

"(3) the term 'hazard assessment' means the scientific determination of whether a hazard can cause an increased incidence of one or more significant adverse effects, and a scientific evaluation of the relationship between the degree of exposure to a perceived cause of an adverse effect and the incidence and severity of the effect;

"(4) the term 'major rule' has the meaning given such term in section 621(5);

"(5) the term 'risk assessment' means the systematic process of organizing and analyzing scientific knowledge and information on potential hazards, including as appropriate for the specific risk involved, hazard assessment, exposure assessment, and risk characterization;

"(6) the term 'risk characterization' means the integration and organization of hazard and exposure assessment to estimate the potential for specific harm to an exposed population or natural resource including, to the extent feasible, a characterization of the distribution of risk as well as an analysis of uncertainties, variabilities, conflicting information, and inferences and assumptions in the assessment;

"(7) the term 'screening analysis' means an analysis using simple conservative postulates to arrive at an estimate of upper bounds as appropriate, that permits the manager to eliminate risks from further consideration and analysis, or to help establish priorities for agency action; and

"(8) the term 'substitution risk' means an increased risk to human health, safety, or the environment reasonably likely to result from a regulatory option.

"§ 632. Applicability

"(a) IN GENERAL.—Except as provided in subsection (c), for each proposed and final major rule, a primary purpose of which is to protect human health, safety, or the environment, or a consequence of which is a substantial substitution risk, that is proposed by an agency after the date of enactment of this subchapter, or is pending on the date of enactment of this subchapter, the head of each agency shall prepare a risk assessment in accordance with this subchapter.

"(b) APPLICATION OF PRINCIPLES.—(1) Except as provided in subsection (c), the head of each agency shall apply the principles in this subchapter to any risk assessment conducted to support a determination by the agency of risk to human health, safety, or the environment, if such determination would be likely to have an effect on the United States economy equivalent to that of a major rule.

"(2) In applying the principles of this subchapter to risk assessments other than those in subsections (a), (b)(1), and (c), the head of each agency shall publish, after notice and public comment, guidelines for the conduct of such other risk assessments that adapt the principles of this subchapter in a manner consistent with section 633(a)(4) and the risk assessment and risk management needs of the agency.

"(3) An agency shall not, as a condition for the issuance or modification of a permit, conduct, or require any person to conduct, a risk assessment, except if the agency finds that the risk assessment meets the requirements of section 633 (a) through (f).

"(c) EXCEPTIONS.—(1) This subchapter shall not apply to risk assessments performed with respect to—

"(A) a situation for which the agency finds good cause that conducting a risk assessment is impracticable due to an emergency or health and safety threat that is likely to result in significant harm to the public or natural resources;

"(B) a rule or agency action that authorizes the introduction into commerce, or initiation of manufacture, of a substance, mixture, or product, or recognizes the marketable status of a product;

"(C) a human health, safety, or environmental inspection, an action enforcing a statutory provision, rule, or permit, or an individual facility or site permitting action, except to the extent provided by subsection (b)(3);

"(D) a screening analysis clearly identified as such; or

"(E) product registrations, reregistrations, tolerance settings, and reviews of premanufacture notices under the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.) and the Toxic Substances Control Act (15 U.S.C. 2601 et seq.).

‘‘(2) An analysis shall not be treated as a screening analysis for the purposes of paragraph (1)(D) if the result of the analysis is used—

‘‘(A) as the basis for imposing a restriction on a previously authorized substance, product, or activity after its initial introduction into manufacture or commerce; or

‘‘(B) as the basis for a formal determination by the agency of significant risk from a substance or activity.

‘‘(3) This subchapter shall not apply to any food, drug, or other product label or labeling, or to any risk characterization appearing on any such label.

‘‘§ 633. Principles for risk assessments

‘‘(a) In General.—(1) The head of each agency shall design and conduct risk assessments in a manner that promotes rational and informed risk management decisions and informed public input into the process of making agency decisions.

‘‘(2) The head of each agency shall establish and maintain a distinction between risk assessment and risk management.

‘‘(3) An agency may take into account priorities for managing risks, including the types of information that would be important in evaluating a full range of alternatives, in developing priorities for risk assessment activities.

‘‘(4) In conducting a risk assessment, the head of each agency shall employ the level of detail and rigor considered by the agency as appropriate and practicable for reasoned decisionmaking in the matter involved, proportionate to the significance and complexity of the potential agency action and the need for expedition.

‘‘(5) An agency shall not be required to repeat discussions or explanations in each risk assessment required under this subchapter if there is an unambiguous reference to a relevant discussion or explanation in another reasonably available agency document that was prepared consistent with this section.

‘‘(b) Iterative Process.—(1) Each agency shall develop and use an iterative process for risk assessment, starting with relatively inexpensive screening analyses and progressing to more rigorous analyses, as circumstances or results warrant.

‘‘(2) In determining whether or not to proceed to a more detailed analysis, the head of the agency shall take into consideration whether or not use of additional data or the analysis thereof would significantly change the estimate of risk and the resulting agency action.

‘‘(c) Data Quality.—(1) The head of each agency shall base each risk assessment only on the best reasonably available scientific data and scientific understanding, including scientific information that finds or fails to find a correlation between a potential hazard and an adverse effect, and data regarding exposure and other relevant physical conditions that are reasonably expected to be encountered.

‘‘(2) The agency shall select data for use in a risk assessment based on a reasoned analysis of the quality and relevance of the data, and shall describe such analysis.

‘‘(3) In making its selection of data, the agency shall consider whether the data were published in the peer-reviewed scientific literature, or developed in accordance with good laboratory practice or published or other appropriate protocols to ensure data quality, such as the standards for the development of test data promulgated pursuant to section 4 of the Toxic Substances Control Act (15 U.S.C. 2603), and the standards for data requirements promulgated pursuant to section 3 of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136a), or other form of independent evaluation.

‘‘(4) Subject to paragraph (3), relevant scientific data submitted by interested parties shall be reviewed and considered by the agency in the analysis under paragraph (2).

‘‘(5) When conflicts among scientific data appear to exist, the risk assessment shall include a discussion of all relevant information including the likelihood of alternative interpretations of the data and emphasizing—

‘‘(A) postulates that represent the most reasonable inferences from the supporting scientific data; and

‘‘(B) when a risk assessment involves an extrapolation from toxicological studies, data with the greatest scientific basis of support for the resulting harm to affected individuals, populations, or resources.

‘‘(6) The head of an agency shall not automatically incorporate or adopt any recommendation or classification made by any foreign government, the United Nations, any international governmental body or standards-making organization, concerning the health effects value of a substance, except as provided in paragraph (2) of this subsection. Nothing in this paragraph shall be construed to affect the implementation or application of any treaty or international trade agreement to which the United States is a party.

‘‘(d) Use of Policy Judgments.—(1) An agency shall not use policy judgments, including default assumptions, inferences, models or safety factors, when relevant and adequate scientific data and scientific understanding, including site-specific data, are available. The agency shall modify or decrease the use of policy judgments to the extent that higher quality scientific data and understanding become available.

‘‘(2) When a risk assessment involves choice of a policy judgment, the head of the agency shall—

‘‘(A) identify the policy judgment and its scientific or policy basis, including the extent to which the policy judgment has been validated by, or conflicts with, empirical data;

‘‘(B) explain the basis for any choices among policy judgments; and

‘‘(C) describe reasonable alternative policy judgments that were not selected by the agency for use in the risk assessment, and the sensitivity of the conclusions of the risk assessment to the alternatives, and the rationale for not using such alternatives.

‘‘(3) An agency shall not inappropriately combine or compound multiple policy judgments.

‘‘(4) The agency shall, subject to notice and opportunity for public comment, develop and publish guidelines describing the agency's default policy judgments and how they were chosen, and guidelines for deciding when and how, in a specific risk assessment, to adopt alternative policy judgments or to use available scientific information in place of a policy judgment.

‘‘(e) Risk Characterization.—In each risk assessment, the agency shall include in the risk characterization, as appropriate, each of the following:

‘‘(1) A description of the hazard of concern.

‘‘(2) A description of the populations or natural resources that are the subject of the risk assessment.

‘‘(3) An explanation of the exposure scenarios used in the risk assessment, including an estimate of the corresponding population at risk and the likelihood of such exposure scenarios.

‘‘(4) A description of the nature and severity of the harm that could plausibly occur.

‘‘(5) A description of the major uncertainties in each component of the risk assessment and their influence on the results of the assessment.

‘‘(f) Presentation of Risk Assessment Conclusions.—(1) To the extent feasible and scientifically appropriate, the head of an agency shall—

‘‘(A) express the overall estimate of risk as a range or probability distribution that reflects variabilities, uncertainties and data gaps in the analysis;

‘‘(B) provide the range and distribution of risks and the corresponding exposure scenarios, identifying the reasonably expected risk to the general population and, where appropriate, to more highly exposed or sensitive subpopulations; and

‘‘(C) where quantitative estimates of the range and distribution of risk estimates are not available, describe the qualitative factors influencing the range of possible risks.

‘‘(2) When scientific data and understanding that permits relevant comparisons of risk are reasonably available, the agency shall use such information to place the nature and magnitude of risks to human health, safety, and the environment being analyzed in context.

‘‘(3) When scientifically appropriate information on significant substitution risks to human health, safety, or the environment is reasonably available to the agency, or is contained in information provided to the agency by a commentator, the agency shall describe such risks in the risk assessments.

‘‘(g) Peer Review.—(1) Each agency shall provide for peer review in accordance with this section of any risk assessment subject to the requirements of this subchapter that forms that basis of any major rule or a major environmental management activity.

‘‘(2) Each agency shall develop a systematic program for balanced, independent, and external peer review that—

‘‘(A) shall provide for the creation or utilization of peer review panels, expert bodies, or other formal or informal devices that are balanced and comprised of participants selected on the basis of their expertise relevant to the sciences involved in regulatory decisions and who are independent of the agency program that developed the risk assessment being reviewed;

‘‘(B) shall not exclude any person with substantial and relevant expertise as a participant on the basis that such person has a potential interest in the outcome, if such interest is fully disclosed to the agency, and the agency includes such disclosure as part of the record, unless the result of the review would have a direct and predictable effect on a substantial financial interest of such person;

‘‘(C) shall provide for a timely completed peer review, meeting agency deadlines, that contains a balanced presentation of all considerations, including minority reports and agency response to all significant peer review comments; and

‘‘(D) shall provide adequate protections for confidential business information and trade secrets, including requiring panel members to enter into confidentiality agreements.

‘‘(3) Each peer review shall include a report to the Federal agency concerned detailing the scientific and technical merit of data and the methods used for the risk assessment, and shall identify significant peer review comments. Each agency shall provide a written response to all significant peer review comments. All peer review comments, conclusions, composition of the panels, and the agency's responses shall be made available to the public and shall be made part of the administrative record for purposes of judicial review of any final agency action.

"(4)(A) The Director of the Office of Science and Technology Policy shall develop a systematic program to oversee the use and quality of peer review of risk assessments.

"(B) The Director or the designee of the President may order an agency to conduct peer review for any risk assessment or cost-benefit analysis that is likely to have a significant impact on public policy decisions, or that would establish an important precedent.

"(5) The proceedings of peer review panels under this section shall not be subject to the Federal Advisory Committee Act.

"(h) PUBLIC PARTICIPATION.—The head of each agency shall provide appropriate opportunities for public participation and comment on risk assessments.

"§ 634. Petition for review of a major freestanding risk assessment

"(a) Any interested person may petition an agency to conduct a scientific review of a risk assessment conducted or adopted by the agency, except for a risk assessment used as the basis for a major rule or a site-specific risk assessment.

"(b) The agency shall utilize external peer review, as appropriate, to evaluate the claims and analyses in the petition, and shall consider such review in making its determination of whether to grant the petition.

"(c) The agency shall grant the petition if the petition establishes that there is a reasonable likelihood that—

"(1)(A) the risk assessment that is the subject of the petition was carried out in a manner substantially inconsistent with the principles in section 633; or

"(B) the risk assessment that is the subject of the petition does not take into account material significant new scientific data and scientific understanding;

"(2) the risk assessment that is the subject of the petition contains significantly different results than if it had been properly conducted pursuant to subchapter III; and

"(3) a revised risk assessment will provide the basis for reevaluating an agency determination of risk, and such determination currently has an effect on the United States economy equivalent to that of major rule.

"(d) A decision to grant, or final action to deny, a petition under this subsection shall be made not later than 180 days after the petition is submitted.

"(e) If the agency grants the petition, it shall complete its review of the risk assessment not later than 1 year after its decision to grant the petition. If the agency revises the risk assessment, in response to its review, it shall do so in accordance with section 633.

"§ 635. Comprehensive risk reduction

"(a) SETTING PRIORITIES.—The head of each agency with programs to protect human health, safety, or the environment shall set priorities for the use of resources available to address those risks to human health, safety, and the environment, with the goal of achieving the greatest overall net reduction in risks with the public and private sector resources expended.

"(b) INCORPORATING RISK-BASED PRIORITIES INTO BUDGET AND PLANNING.—The head of each agency in subsection (a) shall incorporate the priorities identified under subsection (a) into the agency budget, strategic planning, regulatory agenda, enforcement, and research activities. When submitting its budget request to Congress and when announcing its regulatory agenda in the Federal Register, each covered agency shall identify the risks that the covered agency head has determined are the most serious and can be addressed in a cost-effective manner using the priorities set under subsection (a), the basis for that determination, and explicitly identify how the agency's requested budget and regulatory agenda reflect those priorities.

"(c) REPORTS BY THE NATIONAL ACADEMY OF SCIENCES.—(1) Not later than 6 months after the date of enactment of this section, the Director of the Office of Science and Technology Policy shall enter into an arrangement with the National Academy of Sciences to investigate and report on comparative risk analysis. The arrangement shall provide, to the extent feasible, for—

"(A) 1 or more reports evaluating methods of comparative risk analysis that would be appropriate for agency programs related to human health, safety, and the environment to use in setting priorities for activities; and

"(B) a report providing a comprehensive and comparative analysis of the risks to human health, safety, and the environment that are addressed by agency programs to protect human health, safety, and the environment, along with companion activities to disseminate the conclusions of the report to the public.

"(2) The report or reports prepared under paragraph (1)(A) shall be completed not later than 3 years after the date of enactment of this section. The report under paragraph (1)(B) shall be completed not later than 4 years after the date of enactment of this section, and shall draw, as appropriate, upon the insights and conclusions of the report or reports made under paragraph (1)(A). The companion activities under paragraph (1)(B) shall be completed not later than 5 years after the date of enactment of this section.

"(3)(A) The head of an agency with programs to protect human health, safety, and the environment shall incorporate the recommendations of reports under paragraph (1) in revising any priorities under subsection (a).

"(B) The head of the agency shall submit a report to the appropriate Congressional committees of jurisdiction responding to the recommendations from the National Academy of Sciences and describing plans for utilizing the results of comparative risk analysis in agency budget, strategic planning, regulatory agenda, enforcement, and research and development activities.

"(4) Following the submission of the report in paragraph (2), for the next 5 years, the head of the agency shall submit, with the budget request submitted to Congress under section 1105(a) of title 31, a description of how the requested budget of the agency and the strategic planning activities of the agency reflect priorities determined using the recommendations of reports issued under subsection (a). The head of the agency shall include in such description—

"(A) recommendations on the modification, repeal, or enactment of laws to reform, eliminate, or enhance programs or mandates relating to human health, safety, or the environment; and

"(B) recommendation on the modification or elimination of statutory or judicially mandated deadlines,

that would assist the head of the agency to set priorities in activities to address the risks to human health, safety, or the environment that incorporate the priorities developed using the recommendations of the reports under subsection (a), resulting in more cost-effective programs to address risk.

"(5) For each budget request submitted in accordance with paragraph (4), the Director shall submit an analysis of ways in which resources could be reallocated among Federal agencies to achieve the greatest overall net reduction in risk.

"§ 636. Rule of construction

"Nothing in this subchapter shall be construed to—

"(1) preclude the consideration of any data or the calculation of any estimate to more fully describe or analyze risk, scientific uncertainty, or variability; or

"(2) require the disclosure of any trade secret or other confidential information.

"SUBCHAPTER IV—EXECUTIVE OVERSIGHT

"§ 641. Procedures

"(a) IN GENERAL.—The Director or a designee of the President shall—

"(1) establish and, as appropriate, revise procedures for agency compliance with this chapter; and

"(2) monitor, review, and ensure agency implementation of such procedures.

"(b) PUBLIC COMMENT.—Procedures established pursuant to subsection (a) shall only be implemented after opportunity for public comment. Any such procedures shall be consistent with the prompt completion of rulemaking proceedings.

"(c) TIME FOR REVIEW.—(1) If procedures established pursuant to subsection (a) include review of any initial or final analyses of a rule required under chapter 6, the time for any such review of any initial analysis shall not exceed 90 days following the receipt of the analysis by the Director, or a designee of the President.

"(2) The time for review of any final analysis required under chapter 6 shall not exceed 90 days following the receipt of the analysis by the Director, a designee of the President.

"(3)(A) The times for each such review may be extended for good cause by the President or by an officer to whom the President has delegated his authority pursuant to section 642 for an additional 45 days. At the request of the head of an agency, the President or such an officer may grant an additional extension of 45 days.

"(B) Notice of any such extension, together with a succinct statement of the reasons therefor, shall be inserted in the rulemaking file.

"§ 642. Delegation of authority

"(a) IN GENERAL.—The President may delegate the authority granted by this subchapter to an officer within the Executive Office of the President whose appointment has been subject to the advice and consent of the Senate.

"(b) NOTICE.—Notice of any delegation, or any revocation or modification thereof shall be published in the Federal Register.

"§ 643. Judicial review

"The exercise of the authority granted under this subchapter by the Director, the President, or by an officer to whom such authority has been delegated under section 642 and agency compliance or noncompliance with the procedure under section 641 shall not be subject to judicial review.

"§ 644. Regulatory agenda

"The head of each agency shall provide, as part of the semiannual regulatory agenda published under section 602—

"(1) a list of risk assessments subject to subsection 632 (a) or (b)(1) under preparation or planned by the agency;

"(2) a brief summary of relevant issues addressed or to be addressed by each listed risk assessment;

"(3) an approximate schedule for completing each listed risk assessment;

"(4) an identification of potential rules, guidance, or other agency actions supported or affected by each listed risk assessment; and

"(5) the name, address, and telephone number of an agency official knowledgeable about each listed risk assessment.".

(b) REGULATORY FLEXIBILITY ANALYSIS.—

(1) FINAL REGULATORY FLEXIBILITY ANALYSIS.—Section 604 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(c)(1) Except as provided in paragraph (2), no final rule for which a final regulatory flexibility analysis is required under this section shall be promulgated unless the agency finds that the final rule minimizes significant economic impact on small entities to the maximum extent possible, consistent with the purposes of this subchapter, the objectives of the rule, and the requirements of applicable statutes.

"(2) If an agency determines that a statute requires a rule to be promulgated that does not satisfy the criterion of paragraph (1), the agency shall—

"(A) include a written explanation of such determination in the final regulatory flexibility analysis; and

"(B) transmit the final regulatory flexibility analysis to Congress when the final rule is promulgated.".

(2) JUDICIAL REVIEW.—Section 611 of title 5, United States Code, is amended to read as follows:

"§ 611. Judicial review

"(a)(1) For any rule described in section 603(a), and with respect to which the agency—

"(A) certified, pursuant to section 605(b), that such rule would not have a significant economic impact on a substantial number of small entities;

"(B) prepared a final regulatory flexibility analysis pursuant to section 604; or

"(C) did not prepare an initial regulatory flexibility analysis pursuant to section 603 or a final regulatory flexibility analysis pursuant to section 604 except as permitted by sections 605 and 608,

an affected small entity may petition for the judicial review of such certification, analysis, or failure to prepare such analysis, in accordance with this subsection. A court having jurisdiction to review such rule for compliance with section 553 or under any other provision of law shall have jurisdiction over such petition.

"(2)(A) Notwithstanding any other provision of law, an affected small entity shall have 1 year after the effective date of the final rule to challenge the certification, analysis or failure to prepare an analysis required by this subchapter with respect to any such rule.

"(B) If an agency delays the issuance of a final regulatory flexibility analysis pursuant to section 608(b), a petition for judicial review under this subsection may be filed not later than 1 year after the date the analysis is made available to the public.

"(3) For purposes of this subsection, the term 'affected small entity' means a small entity that is or will be subject to the provisions of, or otherwise required to comply with, the final rule.

"(4) Nothing in this subsection shall be construed to limit the authority of any court to stay the effective date of any rule or provision thereof under any other provision of law.

"(5)(A) Notwithstanding section 605, if the court determines, on the basis of the court's review of the rulemaking record, that there is substantial evidence that the rule would have a significant economic impact on a substantial number of small entities, the court shall order the agency to prepare a final regulatory flexibility analysis that satisfies the requirements of section 604.

"(B) If the agency prepared a final regulatory flexibility analysis, the court shall order the agency to take corrective action consistent with section 604 if the court determines, on the basis of the court's review of the rulemaking record, that the final regulatory flexibility analysis does not satisfy the requirements of section 604.

"(6) The court shall stay the rule and grant such other relief as the court determines to be appropriate if, by the end of the 90-day period beginning on the date of the order of the court pursuant to paragraph (5), the agency fails, as appropriate—

"(A) to prepare the analysis required by section 604; or

"(B) to take corrective action consistent with section 604.

"(b) In an action for the judicial review of a rule, any regulatory flexibility analysis for such rule (including an analysis prepared or corrected pursuant to subsection (a)(5)) shall constitute part of the whole record of agency action in connection with such review.

"(c) Except as otherwise required by the provisions of this subchapter, the court shall apply the same standards of judicial review that govern the review of agency findings under the statute granting the agency authority to conduct the rulemaking.".

(c) REVISION OF CERTAIN PROVISIONS OF THE FEDERAL FOOD, DRUG, AND COSMETIC ACT RELATING TO TESTING.—In applying section 409(c)(3)(A), 512(d)(1), or 721(b)(5)(B) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 348(c)(3)(A), 360b(d)(1), 379e(b)(5)(B)), the Secretary of Health and Human Services and the Administrator of the Environmental Protection Agency shall not prohibit or refuse to approve a substance or product on the basis of safety, where the substance or product presents a negligible or insignificant foreseeable risk to human health resulting from its intended use.

(d) TOXIC RELEASE INVENTORY REVIEW.—Section 313(d) of the Emergency Planning and Community Right-to-Know Act of 1986 (42 U.S.C. 11023(d)) is amended—

(1) in paragraph (2) by inserting after "epidemiological or other population studies," the following: "and on the rule of reason, including a consideration of the applicability of such evidence to levels of the chemical in the environment that may result from reasonably anticipated releases"; and

(2) in subsection (e)(1), by inserting before "Within 180 days" the following: "The Administrator shall grant any petition that establishes substantial evidence that the criteria in subparagraph (A) either are or are not met.".

(e) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) CHAPTER ANALYSIS.—Part I of title 5, United States Code, is amended by striking the chapter heading and table of sections for chapter 6 and inserting the following:

"CHAPTER 6—THE ANALYSIS OF REGULATORY FUNCTIONS

"SUBCHAPTER I—REGULATORY ANALYSIS

"Sec.
"601. Definitions.
"602. Regulatory agenda.
"603. Initial regulatory flexibility analysis.
"604. Final regulatory flexibility analysis.
"605. Avoidance of duplicative or unnecessary analyses.
"606. Effect on other law.
"607. Preparation of analysis.
"608. Procedure for waiver or delay of completion.
"609. Procedures for gathering comments.
"610. Periodic review of rules.
"611. Judicial review.
"612. Reports and intervention rights.

"SUBCHAPTER II—ANALYSIS OF AGENCY RULES

"621. Definitions.
"622. Rulemaking cost-benefit analysis.
"623. Agency regulatory review.
"624. Decisional criteria.
"625. Jurisdiction and judicial review.
"626. Deadlines for rulemaking.
"627. Special rule.
"628. Requirements for major environmental management activities.

"SUBCHAPTER III—RISK ASSESSMENTS

"631. Definitions.
"632. Applicability.
"633. Principles for risk assessments.
"634. Petition for review of a major freestanding risk assessment.
"635. Comprehensive risk reduction.
"636. Rule of construction.

"SUBCHAPTER IV—EXECUTIVE OVERSIGHT

"641. Procedures.
"642. Delegation of authority.
"643. Judicial review.
"644. Regulatory agenda.".

(2) SUBCHAPTER HEADING.—Chapter 6 of title 5, United States Code, is amended by inserting immediately before section 601, the following subchapter heading:

"SUBCHAPTER I—REGULATORY ANALYSIS".

SEC. 5. JUDICIAL REVIEW.

(a) IN GENERAL.—Chapter 7 of title 5, United States Code, is amended—

(1) by striking section 706; and

(2) by adding at the end the following new sections:

"§ 706. Scope of review

"(a) To the extent necessary to reach a decision and when presented, the reviewing court shall decide all relevant questions of law, interpret constitutional and statutory provisions, and determine the meaning or applicability of the terms of an agency action. The reviewing court shall—

"(1) compel agency action unlawfully withheld or unreasonably delayed; and

"(2) hold unlawful and set aside agency action, findings and conclusions found to be—

"(A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;

"(B) contrary to constitutional right, power, privilege, or immunity;

"(C) in excess of statutory jurisdiction, authority, or limitations, or short of statutory right;

"(D) without observance of procedure required by law;

"(E) unsupported by substantial evidence in a proceeding subject to sections 556 and 557 or otherwise reviewed on the record of an agency hearing provided by statute;

"(F) without substantial support in the rulemaking file, viewed as a whole, for the asserted or necessary factual basis, in the case of a rule adopted in a proceeding subject to section 553; or

"(G) unwarranted by the facts to the extent that the facts are subject to trial de novo by the reviewing court.

"(b) In making the determinations set forth in subsection (a), the court shall review the whole record or those parts of it cited by a party, and due account shall be taken of the rule of prejudicial error.

"§ 707. Consent decrees

"In interpreting any consent decree in effect on or after the date of enactment of this section that imposes on an agency an obligation to initiate, continue, or complete rulemaking proceedings, the court shall not enforce the decree in a way that divests the agency of discretion clearly granted to the agency by statute to respond to changing circumstances, make policy or managerial choices, or protect the rights of third parties.

"§ 708. Affirmative defense

"Notwithstanding any other provision of law, it shall be an affirmative defense in any enforcement action brought by an agency that the regulated person or entity reasonably relied on and is complying with a rule, regulation, adjudication, directive, or order of such agency or any other agency that is incompatible, contradictory, or otherwise cannot be reconciled with the agency rule, regulation, adjudication, directive, or order being enforced.".

(b) TECHNICAL AMENDMENT.—The analysis for chapter 7 of title 5, United States Code, is amended by striking the item relating to section 706 and inserting the following new items:

"706. Scope of review.
"707. Consent decrees.
"708. Affirmative defense.".

SEC. 6. CONGRESSIONAL REVIEW.

(a) FINDING.—The Congress finds that effective steps for improving the efficiency and proper management of Government operations will be promoted if a moratorium on the implementation of certain significant final rules is imposed in order to provide Congress an opportunity for review.

(b) IN GENERAL.—Title 5, United States Code, is amended by inserting immediately after chapter 7 the following new chapter:

"CHAPTER 8—CONGRESSIONAL REVIEW OF AGENCY RULEMAKING

"801. Congressional review.
"802. Congressional disapproval procedure.
"803. Special rule on statutory, regulatory, and judicial deadlines.
"804. Definitions.
"805. Judicial review.
"806. Applicability; severability.
"807. Exemption for monetary policy.

"§ 801. Congressional review

"(a)(1)(A) Before a rule can take effect as a final rule, the Federal agency promulgating such rule shall submit to each House of the Congress and to the Comptroller General a report containing—

"(i) a copy of the rule;

"(ii) a concise general statement relating to the rule; and

"(iii) the proposed effective date of the rule.

"(B) The Federal agency promulgating the rule shall make available to each House of Congress and the Comptroller General, upon request—

"(i) a complete copy of the cost-benefit analysis of the rule, if any;

"(ii) the agency's actions relevant to sections 603, 604, 605, 607, and 609;

"(iii) the agency's actions relevant to sections 202, 203, 204, and 205 of the Unfunded Mandates Reform Act of 1995; and

"(iv) any other relevant information or requirements under any other Act and any relevant Executive orders, such as Executive Order No. 12866.

"(C) Upon receipt, each House shall provide copies to the Chairman and Ranking Member of each committee with jurisdiction.

"(2)(A) The Comptroller General shall provide a report on each major rule to the committees of jurisdiction to each House of the Congress by the end of 12 calendar days after the submission or publication date as provided in section 802(b)(2). The report of the Comptroller General shall include an assessment of the agency's compliance with procedural steps required by paragraph (1)(B).

"(B) Federal agencies shall cooperate with the Comptroller General by providing information relevant to the Comptroller General's report under subparagraph (A).

"(3) A major rule relating to a report submitted under paragraph (1) shall take effect as a final rule, the latest of—

"(A) the later of the date occurring 60 days after the date on which—

"(i) the Congress receives the report submitted under paragraph (1); or

"(ii) the rule is published in the Federal Register;

"(B) if the Congress passes a joint resolution of disapproval described under section 802 relating to the rule, and the President signs a veto of such resolution, the earlier date—

"(i) on which either House of Congress votes and fails to override the veto of the President; or

"(ii) occurring 30 session days after the date on which the Congress received the veto and objections of the President; or

"(C) the date the rule would have otherwise taken effect, if not for this section (unless a joint resolution of disapproval under section 802 is enacted).

"(4) Except for a major rule, a rule shall take effect as otherwise provided by law after submission to Congress under paragraph (1).

"(5) Notwithstanding paragraph (3), the effective date of a rule shall not be delayed by operation of this chapter beyond the date on which either House of Congress votes to reject a joint resolution of disapproval under section 802.

"(b) A rule shall not take effect (or continue) as a final rule, if the Congress passes a joint resolution of disapproval described under section 802.

"(c)(1) Notwithstanding any other provision of this section (except subject to paragraph (3)), a rule that would not take effect by reason of this chapter may take effect, if the President makes a determination under paragraph (2) and submits written notice of such determination to the Congress.

"(2) Paragraph (1) applies to a determination made by the President by Executive order that the rule should take effect because such rule is—

"(A) necessary because of an imminent threat to health or safety or other emergency;

"(B) necessary for the enforcement of criminal laws;

"(C) necessary for national security; or

"(D) issued pursuant to a statute implementing an international trade agreement.

"(3) An exercise by the President of the authority under this subsection shall have no effect on the procedures under section 802 or the effect of a joint resolution of disapproval under this section.

"(d)(1) In addition to the opportunity for review otherwise provided under this chapter, in the case of any rule that is published in the Federal Register (as a rule that shall take effect as a final rule) during the period beginning on the date occurring 60 days before the date the Congress adjourns sine die through the date on which the succeeding Congress first convenes, section 802 shall apply to such rule in the succeeding Congress.

"(2)(A) In applying section 802 for purposes of such additional review, a rule described under paragraph (1) shall be treated as though—

"(i) such rule were published in the Federal Register (as a rule that shall take effect as a final rule) on the 15th session day after the succeeding Congress first convenes; and

"(ii) a report on such rule were submitted to Congress under subsection (a)(1) on such date.

"(B) Nothing in this paragraph shall be construed to affect the requirement under subsection (a)(1) that a report shall be submitted to Congress before a final rule can take effect.

"(3) A rule described under paragraph (1) shall take effect as a final rule as otherwise provided by law (including other subsections of this section).

"(e)(1) Section 802 shall apply in accordance with this subsection to any major rule that is published in the Federal Register (as a rule that shall take effect as a final rule) during the period beginning on November 20, 1994, through the date on which the Comprehensive Regulatory Reform Act of 1995 takes effect.

"(2) In applying section 802 for purposes of Congressional review, a rule described under paragraph (1) shall be treated as though—

"(A) such rule were published in the Federal Register (as a rule that shall take effect as a final rule) on the date of enactment of the Comprehensive Regulatory Reform Act of 1995; and

"(B) a report on such rule were submitted to Congress under subsection (a)(1) on such date.

"(3) The effectiveness of a rule described under paragraph (1) shall be as otherwise provided by law, unless the rule is made of no force or effect under section 802.

"(f) Any rule that takes effect and later is made of no force or effect by enactment of a joint resolution under section 802 shall be treated as though such rule had never taken effect.

"(g) If the Congress does not enact a joint resolution of disapproval under section 802, no court or agency may infer any intent of the Congress from any action or inaction of the Congress with regard to such rule, related statute, or joint resolution of disapproval.

"§ 802. Congressional disapproval procedure

"(a) For purposes of this section, the term 'joint resolution' means only a joint resolution introduced during the period beginning on the date on which the report referred to in section 801(a) is received by Congress and ending 60 days thereafter, the matter after the resolving clause of which is as follows: 'That Congress disapproves the rule submitted by the ____ relating to ____, and such rule shall have no force or effect.'. (The blank spaces being appropriately filled in.)

"(b)(1) A resolution described in paragraph (1) shall be referred to the committees in each House of Congress with jurisdiction. Such a resolution may not be reported before the eighth day after its submission or publication date.

"(2) For purposes of this subsection the term 'submission or publication date' means the later of the date on which—

"(A) the Congress receives the report submitted under section 801(a)(1); or

"(B) the rule is published in the Federal Register.

"(c) If the committee to which is referred a resolution described in subsection (a) has not reported such resolution (or an identical resolution) at the end of 20 calendar days after the submission or publication date defined under subsection (b)(2), such committee may be discharged from further consideration of such resolution in the Senate upon a petition supported in writing by 30 Members of the Senate and in the House upon a petition supported in writing by one-fourth of the Members duly sworn and chosen or by motion of the Speaker supported by the Minority Leader, and such resolution shall be placed on the appropriate calendar of the House involved.

"(d)(1) When the committee to which a resolution is referred has reported, or when a committee is discharged (under subsection (c)) from further consideration of, a resolution described in subsection (a), it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) for a motion to proceed to the consideration of the resolution, and all points of order against the resolution (and against consideration of resolution) are waived. The motion is not subject to amendment, or to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the resolution is agreed to, the resolution shall remain the unfinished business of the respective House until disposed of.

"(2) Debate on the resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate is in order and not debatable. An amendment to, or a motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the resolution is not in order.

"(3) Immediately following the conclusion of the debate on a resolution described in subsection (a), and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the appropriate House, the vote on final passage of the resolution shall occur.

"(4) Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution described in subsection (a) shall be decided without debate.

"(e) If, before the passage by one House of a resolution of that House described in subsection (a), that House receives from the other House a resolution described in subsection (a), then the following procedures shall apply:

"(1) The resolution of the other House shall not be referred to a committee.

"(2) With respect to a resolution described in subsection (a) of the House receiving the resolution—

"(A) the procedure in that House shall be the same as if no resolution had been received from the other House; but

"(B) the vote on final passage shall be on the resolution of the other House.

"(f) This section is enacted by Congress—

"(1) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a resolution described in subsection (a), and it supersedes other rules only to the extent that it is inconsistent with such rules; and

"(2) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

"§ 803. Special rule on statutory, regulatory, and judicial deadlines

"(a) In the case of any deadline for, relating to, or involving any rule which does not take effect (or the effectiveness of which is terminated) because of enactment of a joint resolution under section 802, that deadline is extended until the date 1 year after the date of the joint resolution. Nothing in this subsection shall be construed to affect a deadline merely by reason of the postponement of a rule's effective date under section 801(a).

"(b) The term 'deadline' means any date certain for fulfilling any obligation or exercising any authority established by or under any Federal statute or regulation, or by or under any court order implementing any Federal statute or regulation.

"§ 804. Definitions

"(a) For purposes of this chapter—

"(1) the term 'Federal agency' means any agency as that term is defined in section 551(1) (relating to administrative procedure);

"(2) the term 'major rule' has the same meaning given such term in section 621(5); and

"(3) the term 'final rule' means any final rule or interim final rule.

"(b) As used in subsection (a)(3), the term 'rule' has the meaning given such term in section 551, except that such term does not include any rule of particular applicability including a rule that approves or prescribes for the future rates, wages, prices, services, or allowances therefor, corporate or financial structures, reorganizations, mergers, or acquisitions thereof, or accounting practices or disclosures bearing on any of the foregoing or any rule of agency organization, personnel, procedure, practice or any routine matter.

"§ 805. Judicial review

"No determination, finding, action, or omission under this chapter shall be subject to judicial review.

"§ 806. Applicability; severability

"(a) This chapter shall apply notwithstanding any other provision of law.

"(b) If any provision of this chapter or the application of any provision of this chapter to any person or circumstance, is held invalid, the application of such provision to other persons or circumstances, and the remainder of this chapter, shall not be affected thereby.

"§ 807. Exemption for monetary policy

"Nothing in this chapter shall apply to rules that concern monetary policy proposed or implemented by the Board of Governors of the Federal Reserve System or the Federal Open Market Committee.".

(c) EFFECTIVE DATE.—The amendment made by subsection (b) shall take effect on the date of enactment of this Act and shall apply to any rule that takes effect as a final rule on or after such effective date.

(d) TECHNICAL AMENDMENT.—The table of chapters for part I of title 5, United States Code, is amended by inserting immediately after the item relating to chapter 7 the following:

"8. Congressional Review of Agency Rulemaking .... 801".

SEC. 7. REGULATORY ACCOUNTING.

(a) DEFINITIONS.—For purposes of this section, the following definitions apply:

(1) MAJOR RULE.—The term "major rule" has the same meaning as defined in section 621(5)(A)(i) of title 5, United States Code. The term shall not include—

(A) administrative actions governed by sections 556 and 557 of title 5, United States Code;

(B) regulations issued with respect to a military or foreign affairs function of the United States or a statute implementing an international trade agreement; or

(C) regulations related to agency organization, management, or personnel.

(2) AGENCY.—The term "agency" means any executive department, military department, Government corporation, Government controlled corporation, or other establishment in the executive branch of the Government (including the Executive Office of the President), or any independent regulatory agency, but shall not include—

(A) the General Accounting Office;

(B) the Federal Election Commission;

(C) the governments of the District of Columbia and of the territories and possessions of the United States, and their various subdivisions; or

(D) Government-owned contractor-operated facilities, including laboratories engaged in national defense research and production activities.

(b) ACCOUNTING STATEMENT.—

(1) IN GENERAL.—(A) The President shall be responsible for implementing and administering the requirements of this section.

(B) Not later than June 1, 1997, and each June 1 thereafter, the President shall prepare and submit to Congress an accounting statement that estimates the annual costs of major rules and corresponding benefits in accordance with this subsection.

(2) YEARS COVERED BY ACCOUNTING STATEMENT.—Each accounting statement shall cover, at a minimum, the 5 fiscal years beginning on October 1 of the year in which the report is submitted and may cover any fiscal year preceding such fiscal years for purpose of revising previous estimates.

(3) TIMING AND PROCEDURES.—(A) The President shall provide notice and opportunity for comment for each accounting statement. The President may delegate to an agency the requirement to provide notice and opportunity to comment for the portion of the accounting statement relating to that agency.

(B) The President shall propose the first accounting statement under this subsection not later than 2 years after the date of enactment of this Act and shall issue the first accounting statement in final form not later than 3 years after such effective date. Such statement shall cover, at a minimum, each of the fiscal years beginning after the date of enactment of this Act.

(4) CONTENT OF ACCOUNTING STATEMENT.—(A) Each accounting statement shall contain estimates of costs and benefits with respect to each fiscal year covered by the statement in accordance with this paragraph. For each such fiscal year for which estimates were made in a previous accounting statement, the statement shall revise those estimates and state the reasons for the revisions.

(B)(i) An accounting statement shall estimate the costs of major rules by setting forth, for each year covered by the statement—

(I) the annual expenditure of national economic resources for major rules, grouped by regulatory program; and

(II) such other quantitative and qualitative measures of costs as the President considers appropriate.

(ii) For purposes of the estimate of costs in the accounting statement, national economic resources shall include, and shall be listed under, at least the following categories:

(I) Private sector costs.

(II) Federal sector costs.

(III) State and local government administrative costs.

(C) An accounting statement shall estimate the benefits of major rules by setting forth, for each year covered by the statement, such quantitative and qualitative measures of benefits as the President considers appropriate. Any estimates of benefits concerning reduction in health, safety, or environmental risks shall present the most plausible level of risk practical, along with a statement of the reasonable degree of scientific certainty.

(c) ASSOCIATED REPORT TO CONGRESS.—

(1) IN GENERAL.—At the same time as the President submits an accounting statement under subsection (b), the President, acting through the Director of the Office of Management and Budget, shall submit to Congress a report associated with the accounting statement (hereinafter referred to as an "associated report"). The associated report shall contain, in accordance with this subsection—

(A) analyses of impacts; and

(B) recommendations for reform.

(2) ANALYSES OF IMPACTS.—The President shall include in the associated report the following:

(A) Analyses prepared by the President of the cumulative impact of major rules in Federal regulatory programs covered in the accounting statement on the following:

(i) The ability of State and local governments to provide essential services, including police, fire protection, and education.

(ii) Small business.

(iii) Productivity.

(iv) Wages.

(v) Economic growth.

(vi) Technological innovation.

(vii) Consumer prices for goods and services.

(viii) Such other factors considered appropriate by the President.

(B) A summary of any independent analyses of impacts prepared by persons commenting during the comment period on the accounting statement.

(3) RECOMMENDATIONS FOR REFORM.—The President shall include in the associated report the following:

(A) A summary of recommendations of the President for reform or elimination of any Federal regulatory program or program element that does not represent sound use of national economic resources or otherwise is inefficient.

(B) A summary of any recommendations for such reform or elimination of Federal regulatory programs or program elements prepared by persons commenting during the comment period on the accounting statement.

(d) GUIDANCE FROM OFFICE OF MANAGEMENT AND BUDGET.—The Director of the Office of Management and Budget shall, in consultation with the Council of Economic Advisers, provide guidance to agencies—

(1) to standardize measures of costs and benefits in accounting statements prepared pursuant to sections 3 and 7 of this Act, including—

(A) detailed guidance on estimating the costs and benefits of major rules; and

(B) general guidance on estimating the costs and benefits of all other rules that do not meet the thresholds for major rules; and

(2) to standardize the format of the accounting statements.

(e) RECOMMENDATIONS FROM CONGRESSIONAL BUDGET OFFICE.—After each accounting statement and associated report submitted to Congress, the Director of the Congressional Budget Office shall make recommendations to the President—

(1) for improving accounting statements prepared pursuant to this section, including recommendations on level of detail and accuracy; and

(2) for improving associated reports prepared pursuant to this section, including recommendations on the quality of analysis.

(f) JUDICIAL REVIEW.—No requirements under this section shall be subject to judicial review in any manner.

SEC. 8. STUDIES AND REPORTS.

(a) RISK ASSESSMENTS.—The Administrative Conference of the United States shall—

(1) develop and carry out an ongoing study of the operation of the risk assessment requirements of subchapter III of chapter 6 of title 5, United States Code (as added by section 4 of this Act); and

(2) submit an annual report to the Congress on the findings of the study.

(b) ADMINISTRATIVE PROCEDURE ACT.—Not later than December 31, 1996, the Administrative Conference of the United States shall—

(1) carry out a study of the operation of the Administrative Procedure Act (as amended by section 3 of this Act); and

(2) submit a report to the Congress on the findings of the study, including proposals for revision, if any.

SEC. 9. MISCELLANEOUS PROVISIONS.

(a) EFFECTIVE DATE.—Except as otherwise provided, this Act and the amendments made by this Act shall take effect on the date of enactment.

(b) SEVERABILITY.—If any provision of this Act, an amendment made by this Act, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this Act, the amendments made by this Act, and the application of the provisions of such to any person or circumstance shall not be affected thereby.

SPECTER AMENDMENT NO. 1556

(Ordered to lie on the table.)

Mr. SPECTER submitted an amendment intended to be proposed by him to amendment No. 1487 proposed by Mr. DOLE to the bill, S. 343, supra; as follows:

On page 2, insert between lines 3 and 4 the following:

(2) in paragraph (1) by inserting "(including the President)" after "Government of the United States";

HATCH AMENDMENTS NOS. 1557–1558

(Ordered to lie on the table.)

Mr. HATCH submitted two amendments intended to be proposed by him to amendment No. 1487 proposed by Mr. DOLE to the bill S. 343, supra; as follows:

AMENDMENT NO. 1557

At page 37, strike lines 9–18 (Sec. 624(c)(2)(B)) and insert the following in lieu thereof:

(b)(3)(B) if scientific, technical, or economic uncertainties or benefits to health, safety, or the environment identified by the agency in the rulemaking record makes a more costly alternative that achieves the objectives of the statute appropriate and in the public interest and the agency head provides an explanation of those considerations, the rule adopts the least cost alternative of the reasonable alternatives necessary to take into account such uncertainties or *adopts the greater net benefits of the type that achieves the objectives of the statute for identified benefits to health, safety, or the environment.*

AMENDMENT NO. 1558

At page 36, strike lines 1–10 (Sec. 624(6)(3)(B)) and insert the following:

(b)(3)(B) if scientific, technical, or economic uncertainties or benefits to health, safety, or the environment identified by the agency in the rulemaking record makes a more costly alternative that achieves the objectives of the statute appropriate and in the public interest and the agency head provides an explanation of those considerations, the rule adopts the least cost alternative of the reasonable alternatives necessary to take into account such uncertainties or *adopts the greater net benefits of the type that achieves the objectives of the statute for identified benefits to health, safety, or the environment.*

GRAHAM AMENDMENTS NOS. 1559–1560

(Ordered to lie on the table.)

Mr. GRAHAM submitted two amendments intended to be proposed by him to amendment No. 1487 proposed by Mr. DOLE to the bill S. 343, supra; as follows:

AMENDMENT NO. 1559

On page 92, line 19, insert "including, if appropriate, the achievement of any performance-based standards," after "statement,".

AMENDMENT NO. 1560

On page 7, line 18, insert "including, if appropriate, any performance-based standards," after "of,".

DORGAN AMENDMENT NO. 1561

(Ordered to lie on the table.)

Mr. DORGAN submitted an amendment intended to be proposed by him to amendment No. 1487 proposed by Mr. DOLE to the bill S. 343, supra; as follows:

On page 96, insert between lines 20 and 21 the following new section:

SEC. . REPORT BY BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.

(a) DEFINITIONS.—For purposes of this section—

(1) the term "Board" means the Board of Governors of the Federal Reserve System; and

(2) the term "Committee" means the Federal Open Market Committee established under section 12A of the Federal Reserve Act.

(b) REPORT REQUIRED.—No later than 30 days after the Board or the Committee takes any action to change the discount rate or the Federal funds rate, the Board shall submit a report to the Congress and to the President which shall include a detailed analysis of the projected costs of that action, and the projected costs of any associated changes in market interest rates, during the 5-year period following that action.

(c) CONTENTS.—The report required by subsection (b) shall include an analysis of the costs imposed by such action on—

(1) Federal, State, and local government borrowing, including costs associated with debt service payments; and

(2) private sector borrowing, including costs imposed on—

(A) consumers;

(B) small businesses;

(C) homeowners; and

(D) commercial lenders.

GRASSLEY AMENDMENT NO. 1562

(Ordered to lie on the table.)

Mr. GRASSLEY submitted an amendment intended to be proposed by him to amendment No. 1487 proposed by Mr. DOLE to the bill S. 343, supra; as follows:

At the appropriate place in the amendment add the following:

(a) Each final cost benefit analysis shall contain an analysis, to the extent practicable, of the effect of the rule on the cumulative financial burden of compliance with the rule and other related existing regulations on persons complying with it.

BROWN AMENDMENT NO. 1563

(Ordered to lie on the table.)

Mr. BROWN submitted an amendment intended to be proposed by him to the bill S. 343, supra; as follows:

At the appropriate place insert the following:

SEC. 709. AGENCY INTERPRETATIONS IN CIVIL AND CRIMINAL ACTIONS.

(a) In any civil or criminal action to enforce a regulation, and in which the government must prove that the party acted willfully, the factfinder shall consider in making that determination by a federal agency charged with enforcement of the regulation, or a state agency to which enforcement authority has been delegated, that the defendant was in compliance with, was exempt from, or was otherwise not in violation of the rule. The defendant must show:

(1) that he sought advice in good faith;

(2) that he did so prior to taking action;

(3) that he fully and accurately disclosed all material facts to the agency official; and

(4) that he acted in accord with the advice he was given.

(b) In making the determinations necessary in (a), the court shall consider:

(1) the sophistication of the defendant; and

(2) whether the governmental representative had the authority to make the determination.

(c) If the factfinder determines that a rule or agency interpretive material failed to give the defendant fair warning of the conduct the rule prohibits or requires, no civil or criminal penalty shall be imposed.

(d)(1) In any civil or criminal action to enforce a regulation, seeking the retroactive application of a requirement against any person that is based upon—

(A) an interpretation of a statute, rule, guidance, agency statement of policy, or license requirement or condition; or

(B) a determination of fact;

if such determination is different from a prior interpretation or determination by the agency, and if such person reasonably relied upon the prior interpretation or determination.

(2) The defendant must show:

(1) that he sought advice in good faith;

(2) that he did so prior to taking action;

(3) that he fully and accurately disclosed all material facts to the agency official; and

(4) that he acted in accord with the advice he was given.

(3) In making the determinations necessary in (d)(2), the court shall consider:

(1) the sophistication of the defendant; and

(2) whether the governmental representative had the authority to make the determination.

(4) This section shall apply to any civil or criminal action initiated on or after the date of enactment of this section.

(e) Nothing in this section shall require any agency to issue advisory opinions or rulings.

GRAMM AMENDMENT NO. 1564

(Ordered to lie on the table.)

Mr. GRAMM submitted an amendment intended to be proposed by him to the bill S. 343, supra; as follows:

At the appropriate place, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Private Property Rights Restoration Act.".

SEC. 2. PRIVATE PROPERTY RIGHTS RESTORATION.

(a) CAUSE OF ACTION.—(1) The owner of any real property shall have a cause of action against the United States if—

(A) the application of a statute, regulation, rule, guideline, or policy of the United States restricts, limits, or otherwise takes a right to real property that would otherwise exist in the absence of such application; and

(B) such application described under subparagraph (A) would result in a discrete and non-negligible reduction in the fair market value of the affected portion of real property.

(2) Notwithstanding paragraph (1)(B), a prima facie case against the United States shall be established if the Government action described under paragraph (1)(A) results in a temporary or permanent diminution of fair market value of the affected portion of real property of the lesser of—

(A) 25 percent or more; or

(B) $10,000 or more.

(b) JURISDICTION.—An action under this Act shall be filed in the United States Court of Federal Claims which shall have exclusive jurisdiction.

(c) RECOVERY.—In any action filed under this Act, the owner may elect to recover—

(1) a sum equal to the diminution in the fair market value of the portion of the property affected by the application of a statute, regulation, rule, guideline, or policy described under subsection (a)(1)(A) and retain title; or

(2) the fair market value of the affected portion of the regulated property prior to the government action and relinquish title to the portion of property regulated.

(d) PUBLIC NUISANCE EXCEPTION.—(1) No compensation shall be required by virtue of this Act if the owner's use or proposed use of the property amounts to a public nuisance as commonly understood and defined by background principles of nuisance and property law, as understood under the law of the State within which the property is situated.

(2) To bar an award of damages under this Act, the United States shall have the burden of proof to establish that the use or proposed use of the property is a public nuisance as defined under paragraph (1) of this subsection.

SEC. 3. APPLICATION; STATUTE OF LIMITATIONS.

(a) APPLICATION.—This Act shall apply to the application of any statute, regulation, rule, guideline, or policy to real property, if such application occurred or occurs on or after January 1, 1994.

(b) STATUTE OF LIMITATIONS.—The statute of limitations for actions brought under this Act shall be six years from the application of any statute, regulation, rule, guideline, or policy of the United States to any affected parcel of property under this Act.

SEC. 4. AWARD OF COSTS; LITIGATION COSTS.

(a) IN GENERAL.—The court, in issuing any final order in any action brought under this Act, shall award costs of litigation (including reasonable attorney and expert witness) to any prevailing plaintiff.

(b) PAYMENT.—All awards or judgments for plaintiff, including recovery for damages and costs of litigation, shall be paid out of funds of the agency or agencies responsible for issuing the statute, regulation, rule, guideline or policy affecting the reduction in the fair market value of the affected portion of property. Payments shall not be made from a judgment fund.

SEC. 5. CONSTITUTIONAL OR STATUTORY RIGHTS NOT RESTRICTED.

Nothing in this Act shall restrict any remedy or any right which any person (or class of persons) may have under any provision of the United States Constitution or any other law.

GRAMM AMENDMENT NO. 1565

(Ordered to lie on the table.)

Mr. GRAMM submitted an amendment intended to be proposed by him to the bill, S. 343, supra; as follows:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Omnibus Property Rights Act of 1995".

TITLE I—FINDINGS AND PURPOSES

SEC. 101. FINDINGS.

The Congress finds that—

(1) the private ownership of property is essential to a free society and is an integral part of the American tradition of liberty and limited government;

(2) the framers of the United States Constitution, in order to protect private property and liberty, devised a framework of Government designed to diffuse power and limit Government;

(3) to further ensure the protection of private property, the fifth amendment to the United States Constitution was ratified to prevent the taking of private property by the Federal Government, except for public use and with just compensation;

(4) the purpose of the takings clause of the fifth amendment of the United States Constitution, as the Supreme Court stated in Armstrong v. United States, 364 U.S. 40, 49 (1960), is "to bar Government from forcing some people alone to bear public burdens, which in all fairness and justice, should be borne by the public as a whole";

(5) the Federal Government has singled out property holders to shoulder the cost that should be borne by the public, in violation of the just compensation requirement of the takings clause of the fifth amendment of the United States Constitution;

(6) there is a need both to restrain the Federal Government in its overzealous regulation of the private sector and to protect private property, which is a fundamental right of the American people; and

(7) the incremental, fact-specific approach that courts now are required to employ in the absence of adequate statutory language to vindicate property rights under the fifth amendment of the United States Constitution has been ineffective and costly and

there is a need for Congress to clarify the law and provide an effective remedy.

SEC. 102. PURPOSE.

The purpose of this Act is to encourage, support, and promote the private ownership of property by ensuring the constitutional and legal protection of private property by the United States Government by—

(1) the establishment of a new Federal judicial claim in which to vindicate and protect property rights;

(2) the simplification and clarification of court jurisdiction over property right claims;

(3) the establishment of an administrative procedure that requires the Federal Government to assess the impact of government action on holders of private property;

(4) the minimization, to the greatest extent possible, of the taking of private property by the Federal Government and to ensure that just compensation is paid by the Government for any taking; and

(5) the establishment of administrative compensation procedures involving the enforcement of the Endangered Species Act of 1973 and section 404 of the Federal Water Pollution Control Act.

TITLE II—PROPERTY RIGHTS LITIGATION RELIEF

SEC. 201. FINDINGS.

The Congress finds that—

(1) property rights have been abrogated by the application of laws, regulations, and other actions by the Federal Government that adversely affect the value of private property;

(2) certain provisions of sections 1346 and 1402 and chapter 91 of title 28, United States Code (commonly known as the Tucker Act), that delineate the jurisdiction of courts hearing property rights claims, complicates the ability of a property owner to vindicate a property owner's right to just compensation for a governmental action that has caused a physical or regulatory taking;

(3) current law—

(A) forces a property owner to elect between equitable relief in the district court and monetary relief (the value of the property taken) in the United States Court of Federal Claims;

(B) is used to urge dismissal in the district court on the ground that the plaintiff should seek just compensation in the Court of Federal Claims; and

(C) is used to urge dismissal in the Court of Federal Claims on the ground that plaintiff should seek equitable relief in district court;

(4) property owners cannot fully vindicate property rights in one court;

(5) property owners should be able to fully recover for a taking of their private property in one court;

(6) certain provisions of section 1346 and 1402 and chapter 91 of title 28, United States Code (commonly known as the Tucker Act) should be amended, giving both the district courts of the United States and the Court of Federal Claims jurisdiction to hear all claims relating to property rights; and

(7) section 1500 of title 28, United States Code, which denies the Court of Federal Claims jurisdiction to entertain a suit which is pending in another court and made by the same plaintiff, should be repealed.

SEC. 202. PURPOSES.

The purposes of this title are to—

(1) establish a clear, uniform, and efficient judicial process whereby aggrieved property owners can obtain vindication of property rights guaranteed by the fifth amendment to the United States Constitution and this Act;

(2) amend the Tucker Act, including the repeal of section 1500 of title 28, United States Code;

(3) rectify the constitutional imbalance between the Federal Government and the States; and

(4) require the Federal Government to compensate property owners for the deprivation of property rights that result from State agencies' enforcement of federally mandated programs.

SEC. 203. DEFINITIONS.

For purposes of this title the term—

(1) "agency" means a department, agency, independent agency, or instrumentality of the United States, including any military department, Government corporation, Government-controlled corporation, or other establishment in the executive branch of the United States Government;

(2) "agency action" means any action or decision taken by an agency that—

(A) takes a property right; or

(B) unreasonably impedes the use of property or the exercise of property interests;

(3) "just compensation"—

(A) means compensation equal to the full extent of a property owner's loss, including the fair market value of the private property taken and business losses arising from a taking, whether the taking is by physical occupation or through regulation, exaction, or other means; and

(B) shall include compounded interest calculated from the date of the taking until the date the United States tenders payment;

(4) "owner" means the owner or possessor of property or rights in property at the time the taking occurs, including when—

(A) the statute, regulation, rule, order, guideline, policy, or action is passed or promulgated; or

(B) the permit, license, authorization, or governmental permission is denied or suspended;

(5) "private property" or "property" means all property protected under the fifth amendment to the Constitution of the United States, any applicable Federal or State law, or this Act, and includes—

(A) real property, whether vested or unvested, including—

(i) estates in fee, life estates, estates for years, or otherwise;

(ii) inchoate interests in real property such as remainders and future interests;

(iii) personalty that is affixed to or appurtenant to real property;

(iv) easements;

(v) leaseholds;

(vi) recorded liens; and

(vii) contracts or other security interests in, or related to, real property;

(B) the right to use water or the right to receive water, including any recorded lines on such water right;

(C) rents, issues, and profits of land, including minerals, timber, fodder, crops, oil and gas, coal, or geothermal energy;

(D) property rights provided by, or memorialized in, a contract, except that such rights shall not be construed under this title to prevent the United States from prohibiting the formation of contracts deemed to harm the public welfare or to prevent the execution of contracts for—

(i) national security reasons; or

(ii) exigencies that present immediate or reasonably foreseeable threats or injuries to life or property;

(E) any interest defined as property under State law; or

(F) any interest understood to be property based on custom, usage, common law, or mutually reinforcing understandings sufficiently well-grounded in law to back a claim of interest;

(6) "State agency" means any State department, agency, political subdivision, or instrumentality that—

(A) carries out or enforces a regulatory program required under Federal law;

(B) is delegated administrative or substantive responsibility under a Federal regulatory program; or

(C) receives Federal funds in connection with a regulatory program established by a State,

if the State enforcement of the regulatory program, or the receipt of Federal funds in connection with a regulatory program established by a State, is directly related to the taking of private property seeking to be vindicated under this Act; and

(7) "taking of private property", "taking", or "take"—

(A) means any action whereby private property is directly taken as to require compensation under the fifth amendment to the United States Constitution or under this Act, including by physical invasion, regulation, exaction, condition, or other means; and

(B) shall not include—

(i) a condemnation action filed by the United States in an applicable court; or

(ii) an action filed by the United States relating to criminal forfeiture.

SEC. 204. COMPENSATION FOR TAKEN PROPERTY.

(a) IN GENERAL.—No agency or State agency, shall take private property except for public use and with just compensation to the property owner. A property owner shall receive just compensation if—

(1) as a consequence of an action of any agency, or State agency, private property (whether all or in part) has been physically invaded or taken for public use without the consent of the owner; and

(2)(A) such action does not substantially advance the stated governmental interest to be achieved by the legislation or regulation on which the action is based;

(B) such action exacts the owner's constitutional or otherwise lawful right to use the property or a portion of such property as a condition for the granting of a permit, license, variance, or any other agency action without a rough proportionality between the stated need for the required dedication and the impact of the proposed use of the property;

(C) such action results in the property owner being deprived, either temporarily or permanently, of all or substantially all economically beneficial or productive use of the property or that part of the property affected by the action without a showing that such deprivation inheres in the title itself;

(D) such action diminishes the fair market value of the affected portion of the property which is the subject of the action by 33 percent or more with respect to the value immediately prior to the governmental action; or

(E) under any other circumstance where a taking has occurred within the meaning of the fifth amendment of the United States Constitution.

(b) NO CLAIM AGAINST STATE OR STATE INSTRUMENTALITY.—No action may be filed under this section against a State agency for carrying out the functions described under section 203(6).

(c) BURDEN OF PROOF.—(1) The Government shall bear the burden of proof in any action described under—

(A) subsection (a)(2)(A), with regard to showing the nexus between the stated governmental purpose of the governmental interest and the impact on the proposed use of private property;

(B) subsection (a)(2)(B), with regard to showing the proportionality between the exaction and the impact of the proposed use of the property; and

(C) subsection (a)(2)(C), with regard to showing that such deprivation of value inheres in the title to the property.

(2) The property owner shall have the burden of proof in any action described under subsection (a)(2)(D), with regard to establishing the diminution of value of property.

(d) Compensation and Nuisance Exception to Payment of Just Compensation.—(1) No compensation shall be required by this Act if the owner's use or proposed use of the property is a nuisance as commonly understood and defined by background principles of nuisance and property law, as understood within the State in which the property is situated, and to bar an award of damages under this Act, the United States shall have the burden of proof to establish that the use or proposed use of the property is a nuisance.

(2) Subject to paragraph (1), if an agency action directly takes property or a portion of property under subsection (a), compensation to the owner of the property that is affected by the action shall be either the greater of an amount equal to—

(A) the difference between—

(i) the fair market value of the property or portion of the property affected by agency action before such property became the subject of the specific government regulation; and

(ii) the fair market value of the property or portion of the property when such property becomes subject to the agency action; or

(B) business losses.

(e) Transfer of Property Interest.—The United States shall take title to the property interest for which the United States pays a claim under this Act.

(f) Source of Compensation.—Awards of compensation referred to in this section, whether by judgment, settlement, or administrative action, shall be promptly paid by the agency out of currently available appropriations supporting the activities giving rise to the claims for compensation. If insufficient funds are available to the agency in the fiscal year in which the award becomes final, the agency shall either pay the award from appropriations available in the next fiscal year or promptly seek additional appropriations for such purpose.

SEC. 205. JURISDICTION AND JUDICIAL REVIEW.

(a) In General.—A property owner may file a civil action under this Act to challenge the validity of any agency action that adversely affects the owner's interest in private property in either the United States District Court or the United States Court of Federal Claims. This section constitutes express waiver of the sovereign immunity of the United States. Notwithstanding any other provision of law and notwithstanding the issues involved, the relief sought, or the amount in controversy, each court shall have concurrent jurisdiction over both claims for monetary relief and claims seeking invalidation of any Act of Congress or any regulation of an agency as defined under this Act affecting private property rights. The plaintiff shall have the election of the court in which to file a claim for relief.

(b) Standing.—Persons adversely affected by an agency action taken under this Act shall have standing to challenge and seek judicial review of that action.

(c) Amendments to Title 28, United States Code.—(1) Section 1491(a) of title 28, United States Code, is amended—

(A) in paragraph (1) by amending the first sentence to read as follows: "The United States Court of Federal Claims shall have jurisdiction to render judgment upon any claim against the United States for monetary relief founded either upon the Constitution or any Act of Congress or any regulation of an executive department, or upon any express or implied contract with the United States, in cases not sounding in tort, or for invalidation of any Act of Congress or any regulation of an executive department that adversely affects private property rights in violation of the fifth amendment of the United States Constitution";

(B) in paragraph (2) by inserting before the first sentence the following: "In any case within its jurisdiction, the Court of Federal Claims shall have the power to grant injunctive and declaratory relief when appropriate."; and

(C) by adding at the end thereof the following new paragraphs:

"(4) In cases otherwise within its jurisdiction, the Court of Federal Claims shall also have ancillary jurisdiction, concurrent with the courts designated in section 1346(b) of this title, to render judgment upon any related tort claim authorized under section 2674 of this title.

"(5) In proceedings within the jurisdiction of the Court of Federal Claims which constitute judicial review of agency action (rather than de novo proceedings), the provisions of section 706 of title 5 shall apply.".

(2)(A) Section 1500 of title 28, United States Code, is repealed.

(B) The table of sections for chapter 91 of title 28, United States Code, is amended by striking out the item relating to section 1500.

SEC. 206. STATUTE OF LIMITATIONS.

The statute of limitations for actions brought under this title shall be 6 years from the date of the taking of private property.

SEC. 207. ATTORNEYS' FEES AND COSTS.

The court, in issuing any final order in any action brought under this title, shall award costs of litigation (including reasonable attorney and expert witness fees) to any prevailing plaintiff.

SEC. 208. RULES OF CONSTRUCTION.

Nothing in this title shall be construed to interfere with the authority of any State to create additional property rights.

SEC. 209. EFFECTIVE DATE.

The provisions of this title and amendments made by this title shall take effect on the date of the enactment of this Act and shall apply to any agency action that occurs after such date.

TITLE III—ALTERNATIVE DISPUTE RESOLUTION

SEC. 301. ALTERNATIVE DISPUTE RESOLUTION.

(a) In General.—Either party to a dispute over a taking of private property as defined under this Act or litigation commenced under title II of this Act may elect to resolve the dispute through settlement or arbitration. In the administration of this section—

(1) such alternative dispute resolution may only be effectuated by the consent of all parties;

(2) arbitration procedures shall be in accordance with the alternative dispute resolution procedures established by the American Arbitration Association; and

(3) in no event shall arbitration be a condition precedent or an administrative procedure to be exhausted before the filing of a civil action under this Act.

(b) Compensation as a Result of Arbitration.—The amount of arbitration awards shall be paid from the responsible agency's currently available appropriations supporting the agency's activities giving rise to the claim for compensation. If insufficient funds are available to the agency in the fiscal year in which the award becomes final, the agency shall either pay the award from appropriations available in the next fiscal year or promptly seek additional appropriations for such purpose.

(c) Review of Arbitration.—Appeal from arbitration decisions shall be to the United States District Court or the United States Court of Federal Claims in the manner prescribed by law for the claim under this Act.

(d) Payment of Certain Compensation.—In any appeal under subsection (c), the amount of the award of compensation shall be promptly paid by the agency from appropriations supporting the activities giving rise to the claim for compensation currently available at the time of final action on the appeal. If insufficient funds are available to the agency in the fiscal year in which the award becomes final, the agency shall either pay the award from appropriations available in the next fiscal year or promptly seek additional appropriations for such purpose.

TITLE IV—PRIVATE PROPERTY TAKING IMPACT ANALYSIS

SEC. 401. FINDINGS AND PURPOSE.

The Congress finds that—

(1) the Federal Government should protect the health, safety, welfare, and rights of the public; and

(2) to the extent practicable, avoid takings of private property by assessing the effect of government action on private property rights.

SEC. 402. DEFINITIONS.

For purposes of this title the term—

(1) "agency" means an agency as defined under section 203 of this Act, but shall not include the General Accounting Office;

(2) "rule" has the same meaning as such term is defined under section 551(4) of title 5, United States Code; and

(3) "taking of private property" has the same meaning as such term is defined under section 203 of this Act.

SEC. 403. PRIVATE PROPERTY TAKING IMPACT ANALYSIS.

(a) In General.—(1) The Congress authorizes and directs that, to the fullest extent possible—

(A) the policies, regulations, and public laws of the United States shall be interpreted and administered in accordance with the policies under this title; and

(B) subject to paragraph (2), all agencies of the Federal Government shall complete a private property taking impact analysis before issuing or promulgating any policy, regulation, proposed legislation, or related agency action which is likely to result in a taking of private property.

(2) The provisions of paragraph (1)(B) shall not apply to—

(A) an action in which the power of eminent domain is formally exercised;

(B) an action taken—

(i) with respect to property held in trust by the United States; or

(ii) in preparation for, or in connection with, treaty negotiations with foreign nations;

(C) a law enforcement action, including seizure, for a violation of law, of property for forfeiture or as evidence in a criminal proceeding;

(D) a study or similar effort or planning activity;

(E) a communication between an agency and a State or local land-use planning agency concerning a planned or proposed State or local activity that regulates private property, regardless of whether the communication is initiated by an agency or is undertaken in response to an invitation by the State or local authority;

(F) the placement of a military facility or a military activity involving the use of solely Federal property;

(G) any military or foreign affairs function (including a procurement function under a military or foreign affairs function), but not including the civil works program of the Army Corps of Engineers; and

(H) any case in which there is an immediate threat to health or safety that constitutes an emergency requiring immediate response or the issuance of a regulation under section 553(b)(B) of title 5, United States Code, if the taking impact analysis is completed after the emergency action is carried out or the regulation is published.

(3) A private property taking impact analysis shall be a written statement that includes—

(A) the specific purpose of the policy, regulation, proposal, recommendation, or related agency action;

(B) an assessment of the likelihood that a taking of private property will occur under such policy, regulation, proposal, recommendation, or related agency action;

(C) an evaluation of whether such policy, regulation, proposal, recommendation, or related agency action is likely to require compensation to private property owners;

(D) alternatives to the policy, regulation, proposal, recommendation, or related agency action that would achieve the intended purposes of the agency action and lessen the likelihood that a taking of private property will occur; and

(E) an estimate of the potential liability of the Federal Government if the Government is required to compensate a private property owner.

(4) Each agency shall provide an analysis required under this section as part of any submission otherwise required to be made to the Office of Management and Budget in conjunction with a proposed regulation.

(b) GUIDANCE AND REPORTING REQUIREMENTS.—

(1) The Attorney General of the United States shall provide legal guidance in a timely manner, in response to a request by an agency, to assist the agency in complying with this section.

(2) No later than 1 year after the date of enactment of this Act and at the end of each 1-year period thereafter, each agency shall submit a report to the Director of the Office of Management and Budget and the Attorney General of the United States identifying each agency action that has resulted in the preparation of a taking impact analysis, the filing of a taking claim, or an award of compensation under the just compensation clause of the fifth amendment of the United States Constitution. The Director of the Office of Management and Budget and the Attorney General of the United States shall publish in the Federal Register, on an annual basis, a compilation of the reports of all agencies submitted under this paragraph.

(c) PUBLIC AVAILABILITY OF ANALYSIS.—An agency shall—

(1) make each private property taking impact analysis available to the public; and

(2) to the greatest extent practicable, transmit a copy of such analysis to the owner or any other person with a property right or interest in the affected property.

(d) PRESUMPTIONS IN PROCEEDINGS.—For the purpose of any agency action or administrative or judicial proceeding, there shall be a rebuttable presumption that the costs, values, and estimates in any private property takings impact analysis shall be outdated and inaccurate, if—

(1) such analysis was completed 5 years or more before the date of such action or proceeding; and

(2) such costs, values, or estimates have not been modified within the 5-year period preceding the date of such action or proceeding.

SEC. 404. DECISIONAL CRITERIA AND AGENCY COMPLIANCE.

(a) IN GENERAL.—No final rule shall be promulgated if enforcement of the rule could reasonably be construed to require an uncompensated taking of private property as defined by this Act.

(b) COMPLIANCE.—In order to meet the purposes of this Act as expressed in section 401 of this title, all agencies shall—

(1) review, and where appropriate, re-promulgate all regulations that result in takings of private property under this Act, and reduce such takings of private property to the maximum extent possible within existing statutory requirements;

(2) prepare and submit their budget requests consistent with the purposes of this Act as expressed in section 401 of this title for fiscal year 1997 and all fiscal years thereafter; and

(3) within 120 days of the effective date of this section, submit to the appropriate authorizing and appropriating committees of the Congress a detailed list of statutory changes that are necessary to meet fully the purposes of section 401 of this title, along with a statement prioritizing such amendments and an explanation of the agency's reasons for such prioritization.

SEC. 405. RULES OF CONSTRUCTION.

Nothing in this title shall be construed to—

(1) limit any right or remedy, constitute a condition precedent or a requirement to exhaust administrative remedies, or bar any claim of any person relating to such person's property under any other law, including claims made under this Act, section 1346 or 1402 of title 28, United States Code, or chapter 91 of title 28, United States Code; or

(2) constitute a conclusive determination of—

(A) the value of any property for purposes of an appraisal for the acquisition of property, or for the determination of damages; or

(B) any other material issue.

SEC. 406. STATUTE OF LIMITATIONS.

No action may be filed in a court of the United States to enforce the provisions of this title on or after the date occurring 6 years after the date of the submission of the applicable private property taking impact analysis to the Office of Management and Budget.

TITLE V—PRIVATE PROPERTY OWNERS ADMINISTRATIVE BILL OF RIGHTS

SEC. 501. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) a number of Federal environmental programs, specifically programs administered under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) and section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344), have been implemented by employees, agents, and representatives of the Federal Government in a manner that deprives private property owners of the use and control of property;

(2) as Federal programs are proposed that would limit and restrict the use of private property to provide habitat for plant and animal species, the rights of private property owners must be recognized and respected;

(3) private property owners are being forced by Federal policy to resort to extensive, lengthy, and expensive litigation to protect certain basic civil rights guaranteed by the United States Constitution;

(4) many private property owners do not have the financial resources or the extensive commitment of time to proceed in litigation against the Federal Government;

(5) a clear Federal policy is needed to guide and direct Federal agencies with respect to the implementation of environmental laws that directly impact private property;

(6) all private property owners should and are required to comply with current nuisance laws and should not use property in a manner that harms their neighbors;

(7) nuisance laws have traditionally been enacted, implemented, and enforced at the State and local level where such laws are best able to protect the rights of all private property owners and local citizens; and

(8) traditional pollution control laws are intended to protect the general public's health and physical welfare, and current habitat protection programs are intended to protect the welfare of plant and animal species.

(b) PURPOSES.—The purposes of this title are to—

(1) provide a consistent Federal policy to encourage, support, and promote the private ownership of property; and

(2) to establish an administrative process and remedy to ensure that the constitutional and legal rights of private property owners are protected by the Federal Government and Federal employees, agents, and representatives.

SEC. 502. DEFINITIONS.

For purposes of this title the term—

(1) "the Acts" means the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) and section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344);

(2) "agency head" means the Secretary or Administrator with jurisdiction or authority to take a final agency action under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) or section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344);

(3) "non-Federal person" means a person other than an officer, employee, agent, department, or instrumentality of—

(A) the Federal Government; or

(B) a foreign government;

(4) "private property owner" means a non-Federal person (other than an officer, employee, agent, department, or instrumentality of a State, municipality, or political subdivision of a State, acting in an official capacity or a State, municipality, or subdivision of a State) that—

(A) owns property referred to under paragraph (5) (A) or (B); or

(B) holds property referred to under paragraph (5)(C);

(5) "property" means—

(A) land;

(B) any interest in land; and

(C) the right to use or the right to receive water; and

(6) "qualified agency action" means an agency action (as that term is defined in section 551(13) of title 5, United States Code) that is taken—

(A) under section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344); or

(B) under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

SEC. 503. PROTECTION OF PRIVATE PROPERTY RIGHTS.

(a) IN GENERAL.—In implementing and enforcing the Acts, each agency head shall—

(1) comply with applicable State and tribal government laws, including laws relating to private property rights and privacy; and

(2) administer and implement the Acts in a manner that has the least impact on private property owners' constitutional and other legal rights.

(b) FINAL DECISIONS.—Each agency head shall develop and implement rules and regulations for ensuring that the constitutional and other legal rights of private property owners are protected when the agency head makes, or participates with other agencies in the making of, any final decision that restricts the use of private property in administering and implementing this Act.

SEC. 504. PROPERTY OWNER CONSENT FOR ENTRY.

(a) IN GENERAL.—An agency head may not enter privately owned property to collect information regarding the property, unless the private property owner has—

(1) consented in writing to that entry;

(2) after providing that consent, been provided notice of that entry; and

(3) been notified that any raw data collected from the property shall be made available at no cost, if requested by the private property owner.

(b) NONAPPLICATION.—Subsection (a) does not prohibit entry onto property for the purpose of obtaining consent or providing notice required under subsection (a).

SEC. 505. RIGHT TO REVIEW AND DISPUTE DATA COLLECTED FROM PRIVATE PROPERTY.

An agency head may not use data that is collected on privately owned property to implement or enforce the Acts, unless—

(1) the agency head has provided to the private property owner—

(A) access to the information;

(B) a detailed description of the manner in which the information was collected; and

(C) an opportunity to dispute the accuracy of the information; and

(2) the agency head has determined that the information is accurate, if the private property owner disputes the accuracy of the information under paragraph (1)(C).

SEC. 506. RIGHT TO AN ADMINISTRATIVE APPEAL OF WETLANDS DECISIONS.

Section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344) is amended by adding at the end the following new subsection:

"(u) ADMINISTRATIVE APPEALS.—

"(1) The Secretary or Administrator shall, after notice and opportunity for public comment, issue rules to establish procedures to allow private property owners or their authorized representatives an opportunity for an administrative appeal of the following actions under this section:

"(A) A determination of regulatory jurisdiction over a particular parcel of property.

"(B) The denial of a permit.

"(C) The terms and conditions of a permit.

"(D) The imposition of an administrative penalty.

"(E) The imposition of an order requiring the private property owner to restore or otherwise alter the property.

"(2) Rules issued under paragraph (1) shall provide that any administrative appeal of an action described in paragraph (1) shall be heard and decided by an official other than the official who took the action, and shall be conducted at a location which is in the vicinity of the property involved in the action.

"(3) An owner of private property may receive compensation, if appropriate, subject to the provisions of section 508 of the Emergency Property Owners Relief Act of 1995.".

SEC. 507. RIGHT TO ADMINISTRATIVE APPEAL UNDER THE ENDANGERED SPECIES ACT OF 1973.

Section 11 of the Endangered Species Act of 1973 (16 U.S.C. 1540) is amended by adding at the end the following new subsection:

"(i) ADMINISTRATIVE APPEALS.—

"(1) The Secretary shall, after notice and opportunity for public comment, issue rules to establish procedures to allow private property owners or their authorized representatives an opportunity for an administrative appeal of the following actions:

"(A) A determination that a particular parcel of property is critical habitat of a listed species.

"(B) The denial of a permit for an incidental take.

"(C) The terms and conditions of an incidental take permit.

"(D) The finding of jeopardy in any consultation on an agency action affecting a particular parcel of property under section 7(a)(2) or any reasonable and prudent alternative resulting from such finding.

"(E) Any incidental 'take' statement, and any reasonable and prudent measures included therein, issued in any consultation affecting a particular parcel of property under section 7(a)(2).

"(F) The imposition of an administrative penalty.

"(G) The imposition of an order prohibiting or substantially limiting the use of the property.

"(2) Rules issued under paragraph (1) shall provide that any administrative appeal of an action described in paragraph (1) shall be heard and decided by an official other than the official who took the action, and shall be conducted at a location which is in the vicinity of the parcel of property involved in the action.

"(3) An owner of private property may receive compensation, if appropriate, subject to the provisions of section 508 of the Emergency Property Owners Relief Act of 1995.".

SEC. 508. COMPENSATION FOR TAKING OF PRIVATE PROPERTY.

(a) ELIGIBILITY.—A private property owner that, as a consequence of a final qualified agency action of an agency head, is deprived of 33 percent or more of the fair market value, or the economically viable use, of the affected portion of the property as determined by a qualified appraisal expert, is entitled to receive compensation in accordance with the standards set forth in section 204 of this Act.

(b) TIME LIMITATION FOR COMPENSATION REQUEST.—No later than 90 days after receipt of a final decision of an agency head that deprives a private property owner of fair market value or viable use of property for which compensation is required under subsection (a), the private property owner may submit in writing a request to the agency head for compensation in accordance with subsection (c).

(c) OFFER OF AGENCY HEAD.—No later than 180 days after the receipt of a request for compensation, the agency head shall stay the decision and shall provide to the private property owner—

(1) an offer to purchase the affected property of the private property owner at a fair market value assuming no use restrictions under the Acts; and

(2) an offer to compensate the private property owner for the difference between the fair market value of the property without those restrictions and the fair market value of the property with those restrictions.

(d) PRIVATE PROPERTY OWNER'S RESPONSE.—(1) No later than 60 days after the date of receipt of the agency head's offers under subsection (c) (1) and (2) the private property owner shall accept one of the offers or reject both offers.

(2) If the private property owner rejects both offers, the private property owner may submit the matter for arbitration to an arbitrator appointed by the agency head from a list of arbitrators submitted to the agency head by the American Arbitration Association. The arbitration shall be conducted in accordance with the real estate valuation arbitration rules of that association. For purposes of this section, an arbitration is binding on—

(A) the agency head and a private property owner as to the amount, if any, of compensation owed to the private property owner; and

(B) whether the private property owner has been deprived of fair market value or viable use of property for which compensation is required under subsection (a).

(e) JUDGMENT.—A qualified agency action of an agency head that deprives a private property owner of property as described under subsection (a), is deemed, at the option of the private property owner, to be a taking under the United States Constitution and a judgment against the United States if the private property owner—

(1) accepts the agency head's offer under subsection (c); or

(2) submits to arbitration under subsection (d).

(f) PAYMENT.—An agency head shall pay a private property owner any compensation required under the terms of an offer of the agency head that is accepted by the private property owner in accordance with subsection (d), or under a decision of an arbitrator under that subsection, out of currently available appropriations supporting the activities giving rise to the claim for compensation. The agency head shall pay to the extent of available funds any compensation under this section not later than 60 days after the date of the acceptance or the date of the issuance of the decision, respectively. If insufficient funds are available to the agency in the fiscal year in which the award becomes final, the agency shall either pay the award from appropriations available in the next fiscal year or promptly seek additional appropriations for such purpose.

(g) FORM OF PAYMENT.—Payment under this section, as that form is agreed to by the agency head and the private property owner, may be in the form of—

(1) payment of an amount equal to the fair market value of the property on the day before the date of the final qualified agency action with respect to which the property or interest is acquired; or

(2) a payment of an amount equal to the reduction in value.

SEC. 509. PRIVATE PROPERTY OWNER PARTICIPATION IN COOPERATIVE AGREEMENTS.

Section 6 of the Endangered Species Act of 1973 (16 U.S.C. 1535) is amended by adding at the end the following new subsection:

"(j) Notwithstanding any other provision of this section, when the Secretary enters into a management agreement under subsection (b) with any non-Federal person that establishes restrictions on the use of property, the Secretary shall notify all private property owners or lessees of the property that is subject to the management agreement and shall provide an opportunity for each private property owner or lessee to participate in the management agreement.".

SEC. 510. ELECTION OF REMEDIES.

Nothing in this title shall be construed to—

(1) deny any person the right, as a condition precedent or as a requirement to exhaust administrative remedies, to proceed under title II or III of this Act;

(2) bar any claim of any person relating to such person's property under any other law, including claims made under section 1346 or 1402 of title 28, United States Code, or chapter 91 of title 28, United States Code; or

(3) constitute a conclusive determination of—

(A) the value of property for purposes of an appraisal for the acquisition of property, or for the determination of damages; or

(B) any other material issue.

TITLE VI—MISCELLANEOUS

SEC. 601. SEVERABILITY.

If any provision of this Act, an amendment made by this Act, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this Act, the amendments made by this Act, and the application of the provisions of such to any person or circumstance shall not be affected thereby.

SEC. 602. EFFECTIVE DATE.

Except as otherwise provided in this Act, the provisions of this Act shall take effect on the date of enactment and shall apply to any agency action of the United States Government after such date.

PRESSLER (AND OTHERS) AMENDMENT NO. 1566

(Ordered to lie on the table.)

Mr. PRESSLER (for himself, Mr. FAIRCLOTH, Mr. BURNS, and Mr. THOMAS) submitted an amendment intended to be proposed by them to amendment No. 1487 proposed by Mr. DOLE to the bill, S. 343, supra; as follows:

At the appropriate place in the Dole substitute amendment No. 1487, insert the following:

SEC. . WAIVER OF PENALTIES WHEN FEDERAL WATER POLLUTION CONTROL ACT COMPLIANCE PLANS ARE IN EFFECT.

Section 309 of the Federal Water Pollution Control Act (33 U.S.C. 1319) is amended by adding at the end the following:

"(h) WAIVER OF PENALTIES WHEN COMPLIANCE PLANS ARE IN EFFECT.—

"(1) IN GENERAL.—Except as provided in paragraph (2), notwithstanding any other provision of this Act, no civil or administrative penalty may be imposed under this Act against a unit of local government for a violation of a provision of this Act (including a violation of a condition of a permit issued under this Act)—

"(A) if the unit of local government has entered into an agreement with the Administrator, the Secretary of the Army (in the case of a violation of section 404), or the State to carry out a compliance plan with respect to a prior violation of the provision by the unit of local government; and

"(B) during the period—

"(i) beginning on the date on which the unit of local government and the Administrator, the Secretary of the Army (in the case of a violation of section 404), or the State enter into the agreement; and

"(ii) ending on the date on which the unit of local government is required to be in compliance with the provision under the plan.

"(2) REQUIREMENT OF GOOD FAITH.—Paragraph (1) shall not apply during any period in which the Administrator, the Secretary of the Army (in the case of a violation of section 404), or the State determines that the unit of local government is not carrying out the compliance plan in good faith.

"(3) OTHER ENFORCEMENT.—A waiver of penalties provided under paragraph (1) shall not apply with respect to a violation of any provision of this Act other than the provision that is the subject of the agreement described in paragraph (1)(A).".

SIMON AMENDMENT NO. 1567

(Ordered to lie on the table.)

Mr. SIMON submitted an amendment intended to be proposed by him to amendment No. 1487 proposed by Mr. DOLE to the bill, S. 343, supra; as follows:

On page 96, strike lines 22 through 24 and insert the following:

(a) EFFECTIVE DATE.—Notwithstanding any other provision of this Act, this Act and the amendments made by this Act shall take effect 45 days after the date on which Congress enacts legislation specifying the laws and proposed and existing regulations that will be affected by this Act and the amendments made by this Act.

SIMON (AND OTHERS) AMENDMENT NO. 1568

(Ordered to lie on the table.)

Mr. SIMON (for himself, Mr. HATFIELD, and Mr. REID) submitted an amendment intended to be proposed by them to amendment No. 1487 proposed by Mr. DOLE to the bill, S. 343, supra; as follows:

At the appropriate place, insert the following new section;

SEC. . REPEAL OF PROHIBITIONS AGAINST POLITICAL RECOMMENDATIONS RELATING TO FEDERAL EMPLOYMENT.

(a) IN GENERAL.—(1) Section 3303 of title 5, United States Code, is repealed.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—(1) The table of sections for chapter 33 of title 5, United States Code, is amended by striking out the item relating to section 3303.

(2) Section 2302(b)(2) of title 5, United States Code, is amended to read as follows:

"(2) solicit or consider any recommendation or statement, oral or written, with respect to any individual who requests or is under consideration for any personnel action unless such recommendation or statement is based on the personal knowledge or records of the person furnishing it and consists of—

"(A) an evaluation of the work performance, ability, aptitude, or general qualifications of such individual; or

"(B) an evaluation of the character, loyalty, or suitability of such individual;".

SIMON AMENDMENTS NOS. 1569–1571

(Ordered to lie on the table.)

Mr. SIMON submitted three amendments intended to be proposed by him to amendment No. 1487 proposed by Mr. DOLE to the bill, S. 343, supra; as follows:

AMENDMENT NO. 1569

On page 34, strike lines 20 through 25 and insert the following:

"(i) FAILURE TO COMPLETE REVIEW.—If an agency has not completed review of the rule by the deadline established under subsection (b), the agency shall immediately commence a rulemaking action pursuant to section 553 to repeal the rule.

AMENDMENT NO. 1570

On page 34, strike lines 20 through 25 and insert the following:

"(i) FAILURE TO COMPLETE REVIEW.—If the head of the agency has not completed the review of a rule by the deadline established in the schedule published or modified pursuant to subsection (b) or (c), any person may file a civil action against the head of the agency for injunctive relief to compel the completion of such review by a date certain. The United States District Court for the District of Columbia shall have exclusive jurisdiction to grant such relief. The judge to whom any such case is referred shall hold a hearing on the case at the earliest practicable date and shall expedite the case in every way.

AMENDMENT NO. 1571

On page 34, strike lines 20 through 25.

HATCH AMENDMENT NO. 1572

(Ordered to lie on the table.)

Mr. HATCH submitted an amendment intended to be proposed by him to amendment No. 1487 proposed by Mr. DOLE to the bill, S. 343, supra; as follows:

On page 1, strike lines 3 and 4 and insert: "This Act may be cited as the 'Dole-Johnston Regulatory Reform Act of 1995'."

BOND (AND ROBB) AMENDMENT NO. 1573

(Ordered to lie on the table.)

Mr. BOND (for himself and Mr. ROBB) submitted an amendment intended to be proposed by them to amendment No. 1487 proposed by Mr. DOLE to the bill, S. 343, supra; as follows:

On page 44, line 15, strike everything after "Section 629" through page 46 line 4 and replace with the following:

"PETITION FOR ALTERNATIVE MEANS OF COMPLIANCE.

"(a) IN GENERAL.—Any person may petition an agency to modify or waive one or more rules or requirements applicable to one or more facilities owned or operated by such person. The agency is authorized to enter into an enforceable agreement establishing methods of compliance, not otherwise permitted by such rules or requirements, to be complied with in lieu of such rules or requirements. The petition shall identify with reasonable specificity, each facility for which an alternative means of compliance is sought, the rules and requirements for which a modification or waiver is sought and the proposed alternative means of compliance and means to verify compliance and for communication with the public. Where a State has delegated authority to operate a federal program within the State, or is authorized to operate a state program in lieu of an otherwise applicable federal program, the relevant agency shall delegate, if the state so requests, its authority under its authority under this section to the state.

"(b) STANDARDS.—The agency shall grant the petition if the state in which the facility is located agrees to any alternative means of compliance with respect to rules or requirements over which such State has delegated authority to operate a federal program, or is authorized to operate a State program in lieu of an otherwise applicable federal program, and the agency determines that there is a reasonable likelihood that the alternative means of compliance—

(1) would achieve an overall level of protection of health, safety and the environment at least substantially equivalent to or exceeding the level of protection provided by the rules or requirements subject to the petition;

(2) would provide a degree of public access to information, and of accountability and enforceability, at least substantially equivalent to the degree provided by the rules and requirements subject to the petition; and

(3) would not impose an undue burden on the agency responsible for enforcing the agreement entered into pursuant to subsection (f).

"(c) OTHER PROCEDURES.—If the statute authorizing a rule subject to a petition under this section provides specific available procedures or standards allowing an alternative means of compliance for such rule, such petition shall be reviewed consistent with such procedures or standards, unless the head of the agency for good cause finds that reviewing the petition in solely accordance with subsection (b) is in the public interest.

"(d) PUBLIC NOTICE AND INPUT.—No later than the date on which the petitioner submits the petition to the agency, the petitioner shall inform the public of the submission of such petition (including a brief description of the petition) through publication of a notice in the newspapers of general circulation in the area in which the facility or facilities are located. Agencies may authorize or require petitioners to use additional or alternative means of informing the public of the submission of such petitions. If the agency proposes to grant the petition, the agency shall provide public notice and opportunity to comment.

"(e) DEADLINE AND LIMITATION ON SUBSEQUENT PETITIONS.—A decision to grant or deny a petition under this subsection shall be made no later than 180 days after a complete petition is submitted. Following a decision to deny a petition under this section, no petition, submitted by the same person, may be granted unless it applies to a different facility, or it is based on a change in a fact, circumstance, or provision of law underlying or otherwise related to the rules or requirements subject to the petition.

"(f) AGREEMENT.—Upon granting a petition under this section, the agency shall propose to the petitioner an enforceable agreement establishing alternative methods of compliance for the facility in lieu of the otherwise applicable rules or requirements and identifying such rules and requirements. Not withstanding any other provision of law, such enforceable agreement may modify or waive the terms of any rule or requirement, including any standard, limitation, permit, order, regulations or other requirement issued by the agency consistent with the requirements of subsection (b) and (c), provided that the state in which the facility is located agrees to any modification or waiver of a rule or requirement over which such state has delegated authority to operate a federal program within the state, or is authorized to operate a state program in lieu of an otherwise applicable federal program. If accepted by the petitioner, compliance with such agreement shall be deemed to be compliance with the laws and rules identified in the agreement. The agreement shall contain appropriate mechanisms to assure compliance including money damages and injunctive relief, for violations of the agreement. The agreement may provide the state in which the facility is located with rights equivalent to the agency with respect to one or more provisions of the agreement.

"(g) NEPA NONAPPLICABILITY.—Approval of an alternative means of compliance under this section by an agency shall not be considered a major Federal action for purposes of the National Environmental Policy Act.

LAUTENBERG AMENDMENT NO. 1574

(Ordered to lie on the table.)

Mr. LAUTENBERG submitted an amendment intended to be proposed by him to amendment No. 1487 proposed by Mr. DOLE to the bill, S. 343, supra; as follows:

On page 72, strike lines 1 through page 73 line 5 and insert the following:

(d) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) CHAPTER ANALYSIS.—Part I of title 5, United States Code, is amended by striking the chapter heading and table of sections for chapter 6 and inserting the following

"CHAPTER 6—THE ANALYSIS OF REGULATORY FUNCTIONS

"SUBCHAPTER I—REGULATORY ANALYSIS

"601. Definitions.
"602. Regulatory agenda.
"603. Initial regulatory flexibility analysis.
"604. Final regulatory flexibility analysis.
"605. Avoidance of duplicative or unnecessary analyses.
"606. Effect on other law.
"607. Preparation of analysis.
"608. Procedures for waiver or delay of completion.
"609. Procedures for gathering comments.
"610. Periodic review of rules.
"611. Judicial review.
"612. Reports and intervention rights.

"SUBCHAPTER II—ANALYSIS AGENCY RULES

"621. Definitions.
"622. Rulemaking cost-benefit analysis.
"623. Agency regulatory review.
"624. Decisional criteria.
"625. Jurisdiction and judicial review.
"626. Deadlines for rulemaking.
"627. Special rule.
"628. Requirements for major environmental management activities.

"SUBCHAPTER III—RISK ASSESSMENTS

"631. Definitions.
"632. Applicability.
"633. Principles for risk assessments.
"634. Petition for review of a major freestanding risk assessment.
"635. Comprehensive risk reduction.
"636. Rule of construction.

"SUBCHAPTER IV—EXECUTIVE OVERSIGHT

"641. Procedures.
"642. Delegation of authority.
"643. Judicial review.
"644. Regulatory agenda.".

(2) SUBCHAPTER HEADING.—Chapter 6 of title 5, United States Code, is amended by inserting immediately before section 601, the following subchapter heading:

"SUBCHAPTER I—REGULATORY ANALYSIS".

(3) This subsection will be effective one day after enactment.

ROTH AMENDMENT NO. 1575

Mr. ROTH proposed an amendment to amendment No. 1487 proposed by Mr. DOLE to the bill S. 343, supra; as follows:

Add a new section 637 to Subchapter III as follows:

SEC. 637. INTERAGENCY COORDINATION.

"(a) To promote the conduct, application, and practice of risk assessment in a consistent manner and to identify risk assessment data and research needs common to more than 1 Federal agency, the Director of the Office of Management and Budget, in consultation with the Office of Science and Technology Policy, shall—

"(1) periodically survey the manner in which each Federal agency involved in risk assessment is conducting such risk assessment to determine the scope and adequacy of risk assessment practices in use by the Federal Government;

"(2) provide advice and recommendations to the President and Congress based on the surveys conducted and determinations made under paragraph (1);

"(3) establish appropriate interagency mechanisms to promote—

"(A) coordination among Federal agencies conducting risk assessment with respect to the conduct, application, and practice of risk assessment; and

"(B) the use of state-of-the-art risk assessment practices throughout the Federal Government;

"(4) establish appropriate mechanisms between Federal and State agencies to communicate state-of-the-art risk assessment practices; and

"(5) periodically convene meetings with State government representatives and Federal and other leaders to assess the effectiveness of Federal and State cooperation in the development and application of risk assessment.

"(b) The President shall appoint National Peer Review Panels to review every 3 years the risk assessment practices of each covered agency for programs designated to protect human health, safety, or the environment. The Panels shall submit a report to the President and the Congress at least every 3 years containing the results of such review."

DODD AMENDMENTS NOS. 1576–1580

(Ordered to lie on the table.)

Mr. DODD submitted five amendments intended to be proposed by him to amendment No. 1487 proposed by Mr. DOLE to the bill, S. 343, supra; as follows:

AMENDMENT NO. 1576

On page 14, between lines 16 and 17, insert the following:

"(6) the term 'major rule' does not include a rule the primary purpose of which is to protect the health and safety of children."

AMENDMENT NO. 1577

On page 50, line 2, strike the period at the end and insert "; or".

AMENDMENT NO. 1578

On page 49, line 21, strike "or".

AMENDMENT NO. 1579

On page 50, between lines 2 and 3, insert the following:

"(F) a rule or agency action the primary purposes of which is to protect the health or safety of children."

AMENDMENT NO. 1580

On page 88, strike lines 15 through 19 and insert the following:

"§ 807. Exemptions.

"Nothing in this chapter shall apply to rules—

"(1) that concern monetary policy proposed or implemented by the Board of Governors of the Federal Reserve System or the Federal Open Market Committee; or

"(2) the primary purposes of which is to protect the health or safety of children.".

GLENN (AND OTHERS) AMENDMENT NO. 1581

Mr. LEVIN (for Mr. GLENN, for himself, Mr. CHAFEE, Mr. LEVIN, Mr. LIEBERMAN, Mr. COHEN, Mr. PRYOR, Mr. KERRY, Mr. LAUTENBERG, Mr. DASCHLE, Mrs. BOXER, Mr. KOHL, Mr. SIMON, Mr. KENNEDY, Mr. DODD, Mrs. MURRAY, Mr. AKAKA, Mr. JEFFORDS, Mr. BIDEN, Mr. DORGAN, Mr. BAUCUS, and Mr. KERREY) proposed an amendment to amendment No. 1487 proposed by Mr. DOLE to the bill, S. 343, supra; as follows:

In lieu of the matter proposed to be inserted, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Regulatory Procedures Reform Act of 1995".

SEC. 2. DEFINITIONS.

Section 551 of title 5, United States Code, is amended—

(1) in paragraph (13), by striking out "; and" and inserting in lieu thereof a semicolon;

(2) in paragraph (14), by striking out the period and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(15) 'Director' means the Director of the Office of Management and Budget.".

SEC. 3. ANALYSIS OF AGENCY RULES.

(a) IN GENERAL.—Chapter 6 of title 5, United States Code, is amended by adding at the end the following:

"SUBCHAPTER II—ANALYSIS OF AGENCY RULES

"§ 621. Definitions

"For purposes of this subchapter the definitions under section 551 shall apply and—

"(1) the term 'benefit' means the reasonably identifiable significant favorable effects, quantifiable and nonquantifiable including social, environmental, and economic benefits, that are expected to result directly or indirectly from implementation of or compliance with, a rule or an alternative to a rule;

"(2) the term 'cost' means the reasonably identifiable significant adverse effects, quantifiable and nonquantifiable including social, environmental, and economic effects that are expected to result directly or indirectly from implementation of, or compliance with, a rule or an alternative to a rule;

"(3) the term 'cost-benefit analysis' means an evaluation of the costs and benefits of a rule, quantified to the extent feasible and appropriate and otherwise qualitatively described, that is prepared in accordance with the requirements of this subchapter at the level of detail appropriate and practicable for reasoned decisionmaking on the matter involved, taking into consideration the significance and complexity of the decision and any need for expedition;

"(4)(A) the term 'major rule' means a rule or a group of closely related rules that the agency proposing the rule, the Director, or a designee of the President reasonably determines is likely to have a gross annual effect on the economy of $100,000,000 or more in reasonably quantifiable costs and this limit may be adjusted periodically by the Director, at his or her sole discretion, to account for inflation; and

"(B) the term 'major rule' shall not include—

"(i) a rule that involves the internal revenue laws of the United States;

"(ii) a rule or agency action that authorizes the introduction into, or removal from, commerce, or recognizes the marketable status, of a product; or

"(iii) a rule exempt from notice and public comment procedure under section 553 of this title;

"(5) the term 'market-based mechanism' means a regulatory program that—

"(A) imposes legal accountability for the achievement of an explicit regulatory objective, including the reduction of environmental pollutants or of risks to human health, safety, or the environment, on each regulated person;

"(B) affords maximum flexibility to each regulated person in complying with mandatory regulatory objectives, and such flexibility shall, where feasible and appropriate, include the opportunity to transfer to, or receive from, other persons, including for cash or other legal consideration, increments of compliance responsibility established by the program; and

"(C) permits regulated persons to respond at their own discretion in an automatic manner, consistent with subparagraph (B), to changes in general economic conditions and in economic circumstances directly pertinent to the regulatory program without affecting the achievement of the program's explicit regulatory mandates under subparagraph (A);

"(6) the term 'performance standard' means a requirement that imposes legal accountability for the achievement of an explicit regulatory objective, such as the reduction of environmental pollutants or of risks to human health, safety, or the environment, on each regulated person;

"(7) the term 'risk assessment' has the same meaning as such term is defined under section 631(5); and

"(8) the term 'rule' has the same meaning as in section 551(4) of this title, and shall not include—

"(A) a rule of particular applicability that approves or prescribes for the future rates, wages, prices, services, corporate or financial structures, reorganizations, mergers, acquisitions, accounting practices, or disclosures bearing on any of the foregoing;

"(B) a rule relating to monetary policy proposed or promulgated by the Board of Governors of the Federal Reserve System or by the Federal Open Market Committee;

"(C) a rule relating to the safety or soundness of federally insured depository institutions or any affiliate of such an institution (as defined in section 2(k) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(k)); credit unions; the Federal Home Loan Banks; government-sponsored housing enterprises; a Farm Credit System Institution; foreign banks, and their branches, agencies, commercial lending companies or representative offices that operate in the United States and any affiliate of such foreign banks (as those terms are defined in the International Banking Act of 1978 (12 U.S.C. 3101)); or a rule relating to the payments system or the protection of deposit insurance funds or Farm Credit Insurance Fund;

"(D) a rule issued by the Federal Election Commission or a rule issued by the Federal Communications Commission pursuant to sections 312(a)(7) and 315 of the Communications Act of 1934 (47 U.S.C. 312(a)(7) and 315); or

"(E) a rule required to be promulgated at least annually pursuant to statute.

"§ 622. Rulemaking cost-benefit analysis

"(a) Before publishing notice of a proposed rulemaking for any rule, each agency shall determine whether the rule is or is not a major rule. For the purpose of any such determination, a group of closely related rules shall be considered as one rule.

"(b)(1) If an agency has determined that a rule is not a major rule, the Director or a designee of the President may, as appropriate, determine that the rule is a major rule no later than 30 days after the close of the comment period for the rule.

"(2) Such determination shall be published in the Federal Register, together with a succinct statement of the basis for the determination.

"(c)(1)(A) When the agency publishes a notice of proposed rulemaking for a major rule, the agency shall issue and place in the rulemaking file an initial cost-benefit analysis, and shall include a summary of such analysis in the notice of proposed rulemaking.

"(B)(i) When the Director or a designee of the President has published a determination that a rule is a major rule after the publication of the notice of proposed rulemaking for the rule, the agency shall promptly issue and place in the rulemaking file an initial cost-benefit analysis for the rule and shall publish in the Federal Register a summary of such analysis.

"(ii) Following the issuance of an initial cost-benefit analysis under clause (i), the agency shall give interested persons an opportunity to comment pursuant to section 553 in the same manner as if the draft cost-benefit analysis had been issued with the notice of proposed rulemaking.

"(2) Each initial cost-benefit analysis shall contain—

"(A) an analysis of the benefits of the proposed rule, including any benefits that cannot be quantified, and an explanation of how the agency anticipates that such benefits will be achieved by the proposed rule, including a description of the persons or classes of persons likely to receive such benefits;

"(B) an analysis of the costs of the proposed rule, including any costs that cannot be quantified, and an explanation of how the agency anticipates that such costs will result from the proposed rule, including a description of the persons or classes of persons likely to bear such costs;

"(C) an identification (including an analysis of costs and benefits) of an appropriate number of reasonable alternatives allowed under the statute granting the rulemaking authority for achieving the identified benefits of the proposed rule, including alternatives that—

"(i) require no government action;

"(ii) will accommodate differences among geographic regions and among persons with differing levels of resources with which to comply; and

"(iii) employ voluntary programs, performance standards, or market-based mechanisms that permit greater flexibility in achieving the identified benefits of the proposed rule and that comply with the requirements of subparagraph (D);

"(D) an assessment of the feasibility of establishing a regulatory program that operates through the application of market-based mechanisms;

"(E) an explanation of the extent to which the proposed rule—

"(i) will accommodate differences among geographic regions and among persons with differing levels of resources with which to comply; and

"(ii) employs voluntary programs, performance standards, or market-based mechanisms that permit greater flexibility in achieving the identified benefits of the proposed rule;

"(F) a description of the quality, reliability, and relevance of scientific or economic evaluations or information in accordance with the cost-benefit analysis and risk assessment requirements of this chapter;

"(G) if not expressly or implicitly inconsistent with the statute under which the agency is proposing the rule, an explanation of the extent to which the identified benefits of the proposed rule justify the identified costs of the proposed rule, and an explanation of how the proposed rule is likely to substantially achieve the rulemaking objectives in a more cost-effective manner than the alternatives to the proposed rule, including alternatives identified in accordance with subparagraph (C); and

"(H) if a major rule subject to subchapter III addresses risks to human health, safety, or the environment—

"(i) a risk assessment in accordance with this chapter; and

"(ii) for each such proposed or final rule, an assessment of risk reduction or other benefits associated with each significant regulatory alternative considered by the agency in connection with the rule or proposed rule.

"(d)(1) When the agency publishes a final major rule, the agency shall also issue and place in the rulemaking file a final cost-benefit analysis, and shall include a summary of the analysis in the statement of basis and purpose.

"(2) Each final cost-benefit analysis shall contain—

"(A) a description and comparison of the benefits and costs of the rule and of the reasonable alternatives to the rule described in the rulemaking, including the market-based mechanisms identified under subsection (c)(2)(C)(iii); and

"(B) if not expressly or implicitly inconsistent with the statute under which the agency is acting, a reasonable determination, based upon the rulemaking file considered as a whole, whether—

"(i) the benefits of the rule justify the costs of the rule; and

"(ii) the rule will achieve the rulemaking objectives in a more cost-effective manner than the alternatives described in the rulemaking, including the market-based mechanisms identified under subsection (c)(2)(C)(iii).

"(e)(1) The analysis of the benefits and costs of a proposed and a final rule required under this section shall include, to the extent feasible, a quantification or numerical estimate of the quantifiable benefits and costs. Such quantification or numerical estimate shall be made in the most appropriate units of measurement, using comparable assumptions, including time periods, shall specify the ranges of predictions, and shall explain the margins of error involved in the quantification methods and in the estimates used. An agency shall describe the nature and extent of the nonquantifiable benefits and costs of a final rule pursuant to this section in as precise and succinct a manner as possible. An agency shall not be required to make such evaluation primarily on a mathematical or numerical basis.

"(2)(A) In evaluating and comparing costs and benefits and in evaluating the risk assessment information developed under subchapter III, the agency shall rely on cost, benefit, or risk assessment information that is accompanied by data, analysis, or other supporting materials that would enable the agency and other persons interested in the rulemaking to assess the accuracy, reliability, and uncertainty factors applicable to such information.

"(B) The agency evaluations of the relationships of the benefits of a proposed and final rule to its costs shall be clearly articulated in accordance with this section.

"(f) As part of the promulgation of each major rule that addresses risks to human health, safety, or the environment, the head of the agency or the President shall make a determination that—

"(1) the risk assessment and the analysis under subsection (c)(2)(H) are based on a scientific evaluation of the risk addressed by the major rule and that the conclusions of such evaluation are supported by the available information; and

"(2) the regulatory alternative chosen will reduce risk in a cost-effective and, to the extent feasible, flexible manner, taking into consideration any of the alternatives identified under subsection (c)(2) (C) and (D).

"(g) The requirements of this subchapter shall not alter the criteria for rulemaking otherwise applicable under other statutes.

"§ 623. Judicial review

"(a) Compliance or noncompliance by an agency with the provisions of this subchapter and subchapter III shall not be subject to judicial review except in connection with review of a final agency rule and according to the provisions of this section.

"(b) Any determination by a designee of the President or the Director that a rule is, or is not, a major rule shall not be subject to judicial review in any manner.

"(c) The determination by an agency that a rule is, or is not, a major rule shall be set aside by a reviewing court only upon a clear and convincing showing that the determination is erroneous in light of the information available to the agency at the time the agency made the determination.

"(d) If the cost-benefit analysis or risk assessment required under this chapter has been wholly omitted for any major rule, a court shall vacate the rule and remand the case for further consideration. If an analysis or assessment has been performed, the court shall not review to determine whether the analysis or assessment conformed to the particular requirements of this chapter.

"(e) Any cost-benefit analysis or risk assessment prepared under this chapter shall not be subject to judicial consideration separate or apart from review of the agency action to which it relates. When an action for judicial review of an agency action is instituted, any analysis or assessment for such agency action shall constitute part of the whole administrative record of agency action for the purpose of judicial review of the agency action.

"§ 624. Deadlines for rulemaking

"(a) All deadlines in statutes that require agencies to propose or promulgate any rule subject to section 622 or subchapter III during the 2-year period beginning on the effective date of this section shall be suspended until the earlier of—

"(1) the date on which the requirements of section 622 or subchapter III are satisfied; or

"(2) the date occurring 6 months after the date of the applicable deadline.

"(b) All deadlines imposed by any court of the United States that would require an agency to propose or promulgate a rule subject to section 622 or subchapter III during the 2-year period beginning on the effective date of this section shall be suspended until the earlier of—

"(1) the date on which the requirements of section 622 or subchapter III are satisfied; or

"(2) the date occurring 6 months after the date of the applicable deadline.

"(c) In any case in which the failure to promulgate a rule by a deadline occurring during the 2-year period beginning on the effective date of this section would create an obligation to regulate through individual adjudications, the deadline shall be suspended until the earlier of—

"(1) the date on which the requirements of section 622 or subchapter III are satisfied; or

"(2) the date occurring 6 months after the date of the applicable deadline.

On page 15, beginning with line 23, strike out all through line 18 on page 21 and insert in lieu thereof the following:

"§ 625. Agency regulatory review

"(a) PRELIMINARY SCHEDULE FOR RULES.—(1) Not later than 1 year after the date of the enactment of this section, and every 5 years thereafter, the head of each agency shall publish in the Federal Register a notice of proposed rulemaking under section 553 that contains a preliminary schedule of rules selected for review under this section by the head of the agency and in the sole discretion of the head of the agency, and request public comment thereon, including suggestions for additional rules warranting review. The agency shall allow at least 180 days for public comment.

"(2) The preliminary schedule under this subsection shall propose deadlines for review of each rule listed thereon, and such deadlines shall occur not later than 11 years from the date of publication of the preliminary schedule.

"(3) In selecting rules and establishing deadlines for the preliminary schedule, the head of the agency shall consider the extent to which, in the judgment of the head of the agency—

"(A) a rule is unnecessary, and the agency has discretion under the statute authorizing the rule to repeal the rule;

"(B) the benefits of the rule do not justify its costs or the rule does not achieve the rulemaking objectives in a cost-effective manner;

"(C) a rule could be revised in a manner allowed by the statute authorizing the rule so as to—

"(i) substantially decrease costs;

"(ii) substantially increase benefits; or

"(iii) provide greater flexibility for regulated entities, through mechanisms including, but not limited to, those listed in section 622(c)(2)(C)(iii);

"(D) the importance of each rule relative to other rules being reviewed under this section; or

"(E) the resources expected to be available to the agency to carry out the reviews under this section.

"(b) SCHEDULE.—(1) Not later than 1 year after publication of a preliminary schedule under subsection (a), the head of each agency shall publish a final rule that establishes a schedule of rules to be reviewed by the agency under this section.

"(2) The schedule shall establish a deadline for completion of the review of each rule listed on the schedule, taking into account the criteria in subsection (a)(3) and comments received in the rulemaking under subsection (a). Each such deadline shall occur not later than 11 years from the date of publication of the preliminary schedule.

"(3) The head of the agency shall modify the agency's schedule under this section to reflect any change contained in an appropriations Act under subsection (d).

"(c) JUDICIAL REVIEW.—(1) Notwithstanding section 623 and except as provided otherwise in this subsection, judicial review of agency action taken pursuant to the requirements of this section shall be limited to review of compliance or noncompliance with the requirements of this section.

"(2) Agency decisions to place, or decline to place, a rule on the schedule, and the deadlines for completion of a rule, shall not be subject to judicial review.

"(d) ANNUAL BUDGET.—(1) The President's annual budget proposal submitted under section 1105(a) of title 31 for each agency subject to this section shall—

"(A) identify as a separate sum the amount requested to be appropriated for implementation of this section during the upcoming fiscal year; and

"(B) include a list of rules which may be subject to subsection (e)(3) during the year for which the budget proposal is made.

"(2) Amendments to the schedule under subsection (b) to place a rule on the schedule for review or change a deadline for review of a rule may be included in annual appropriations Acts for the relevant agencies. An authorizing committee with jurisdiction may recommend, to the House of Representatives or Senate appropriations committee (as the case may be), such amendments. The appropriations committee to which such amendments have been submitted may include the amendments in the annual appropriations Act for the relevant agency. Each agency shall modify its schedule under subsection (b) to reflect such amendments that are enacted into law.

"(e) REVIEW OF RULE.—(1) For each rule on the schedule under subsection (b), the agency shall—

"(A) not later than 2 years before the deadline in such schedule, publish in the Federal Register a notice that solicits public comment regarding whether the rule should be continued, amended, or repealed;

"(B) not later than 1 year before the deadline in such schedule, publish in the Federal Register a notice that—

"(i) addresses public comments generated by the notice in subparagraph (A);

"(ii) contains a preliminary analysis provided by the agency of whether the rule is a major rule, and if so, whether the benefits of the rule justify its costs;

"(iii) contains a preliminary determination as to whether the rule should be continued, amended, or repealed; and

"(iv) solicits public comment on the preliminary determination for the rule; and

"(C) not later than 60 days before the deadline in such schedule, publish in the Federal Register a final notice on the rule that—

"(i) addresses public comments generated by the notice in subparagraph (B); and

"(ii) contains a final determination of whether to continue, amend, or repeal the rule;

"(iii) if the agency determines to continue the rule and the rule is a major rule, describes a final analysis as to whether the benefits of the rule justify its costs; and

"(iv) if the agency determines to amend or repeal the rule, contains a notice of proposed rulemaking under section 553.

"(2) If the final determination of the agency is to continue the rule, that determination shall take effect 60 days after the publication in the Federal Register of the notice in paragraph (1)(C).

"(3) If the final determination of the agency is to continue the rule, and the agency has concluded that the benefits do not justify the costs, the agency shall transmit to the appropriate committees of Congress the cost-benefit analysis and a statement of the agency's reasons for continuing the rule.

"(f) DEADLINE FOR FINAL AGENCY ACTION ON MODIFIED RULE.—If an agency makes a determination to amend or repeal a major rule under subsection (e)(1)(C)(ii), the agency shall complete final agency action with regard to such rule not later than 2 years of the date of publication of the notice in subsection (e)(1)(C) containing such determination. Nothing in this subsection shall limit the discretion of an agency to decide, after having proposed to modify a major rule, not to promulgate such modification. Such decision shall constitute final agency action for the purposes of judicial review.

"(g) COMPLETION OF REVIEW OR REPEAL OF RULE.—If an agency has not completed review of the rule by the deadline established under subsection (b), the agency shall immediately commence a rulemaking action pursuant to section 553 of this title to repeal the rule and shall complete such rulemaking within 2 years of the deadline established under subsection (b).

"(h) FINAL AGENCY ACTION.—(1) The final determination of an agency to continue a rule under subsection (e)(1)(C) shall be considered final agency action.

"(2) Failure to promulgate an amended major rule or to make other decisions required by subsection (g) by the date established under such subsection shall be subject to judicial review pursuant to section 706(1) of this title.".

"§ 626. Public participation and accountability

"In order to maximize accountability for, and public participation in, the development and review of regulatory actions each agency shall, consistent with chapter 5 and other applicable law, provide the public with opportunities for meaningful participation in the development of regulatory actions, including—

"(1) seeking the involvement, where practicable and appropriate, of those who are intended to benefit from and those who are expected to be burdened by any regulatory action;

"(2) providing in any proposed or final rulemaking notice published in the Federal Register—

"(A) a certification of compliance with the requirements of this chapter, or an explanation why such certification cannot be made;

"(B) a summary of any regulatory analysis required under this chapter, or under any other legal requirement, and notice of the availability of the regulatory analysis;

"(C) a certification that the rule will produce benefits that will justify the cost to the Government and to the public of implementation of, and compliance with, the rule, or an explanation why such certification cannot be made; and

"(D) a summary of the results of any regulatory review and the agency's response to such review, including an explanation of any significant changes made to such regulatory action as a consequence of regulatory review;

"(3) identifying, upon request, a regulatory action and the date upon which such action was submitted to the designated officer to whom authority was delegated under section 644 for review;

"(4) disclosure to the public, consistent with section 633(3), of any information created or collected in performing a regulatory analysis required under this chapter, or under any other legal requirement; and

"(5) placing in the appropriate rulemaking record all written communications received from the Director, other designated officer, or other individual or entity relating to regulatory review.

At the appropriate place in the bill, insert the following new section:

SEC. 627. CONFLICT OF INTEREST RELATING TO COST-BENEFIT ANALYSES AND RISK ASSESSMENTS.

(a) INFORMATION BEARING ON POSSIBLE CONFLICT OF INTEREST.—

(1) DEFINITION.—For purposes of this section, the term "contract" means any contract, agreement, or other arrangement, whether by competitive bid or negotiation, entered into with a Federal agency for the conduct of research, development, evaluation activities, or for technical and management support services relating to any cost-benefit analyses or risk assessment under subchapter II or III of chapter 6 of title 5, United States Code (as added by section 4(a) of this Act). This section shall not apply to the provisions of section 635.

(2) IN GENERAL.—When an agency proposes to enter into a contract with a person or entity, such person shall provide to the agency before entering into such contract all relevant information, as determined by the agency, bearing on whether that person has a possible conflict of interest with respect to being able to render impartial, technically sound, or objective assistance or advice in light of other activities or relationships with other persons.

(3) SUBCONTRACTOR INFORMATION.—A person entering into a contract shall ensure, in accordance with regulations prescribed by the head of the agency, compliance with this section by any subcontractor (other than a supply subcontractor) of such person in the case of any subcontract of more than $10,000.

(b) REQUIRED FINDING THAT NO CONFLICT OF INTEREST EXISTS OR THAT CONFLICTS HAVE BEEN AVOIDED; MITIGATION OF CONFLICT WHEN CONFLICT IS UNAVOIDABLE.—

(1) IN GENERAL.—Subject to paragraph (2), the head of an agency shall not enter into any contract unless the agency head finds, after evaluating all information provided under subsection (a) and any other information otherwise made available that—

(A) it is unlikely that a conflict of interest would exist; or

(B) such conflict has been avoided after appropriate conditions have been included in such contract.

(2) EXCEPTION.—If the head of an agency determines that a conflict of interest exists and that such conflict of interest cannot be avoided by including appropriate conditions in the contract, the agency head may enter into such contract if the agency head—

(A) determines that it is in the best interests of the United States to enter into the contract; and

(B) includes appropriate conditions in such contract to mitigate such conflict.

(c) RULES AND REGULATIONS.—No later than 240 days after the date of the enactment of this Act, the Federal Acquisition Review Council shall publish rules for the implementation of this section, in accordance with section 553 of title 5, United States Code, without regard to subsection (a) of such section.

"SUBCHAPTER III—RISK ASSESSMENTS

"§ 631. Definitions

"For purposes of this subchapter, the definitions under sections 551 and 621 shall apply, and—

"(1) the term 'covered agency' means each agency required to comply with this subchapter, as provided in section 632;

"(2) the term 'emergency' means an imminent or substantial endangerment to public health, safety, or the environment if no action is taken;

"(3) the term 'exposure assessment' means the scientific determination of the intensity, frequency, and duration of exposures to the hazard in question;

"(4) the term 'hazard assessment' means the scientific determination of whether a hazard can cause an increased incidence of one or more significant adverse effects, and a scientific evaluation of the relationship between the degree of exposure to a perceived cause of an adverse effect and the incidence and severity of the effect;

"(5) the term 'risk assessment' means the systematic process of organizing and analyzing scientific knowledge and information on potential hazards, including as appropriate for the specific risk involved, hazard assessment, exposure assessment, and risk characterization;

"(6) the term 'risk characterization' means the integration and organization of hazard and exposure assessment to estimate the potential for specific harm to an exposed individual population or natural resource including, to the extent feasible, a characterization of the distribution of risk as well as an analysis of uncertainties, variabilities, conflicting information, and inferences and assumptions in the assessment;

"(7) the term 'screening analysis' means an analysis using simple conservative postulates to arrive at an estimate of upper and lower bounds as appropriate; and

"(8) the term 'substitution risk' means an increased risk to human health, safety, or the environment reasonably likely to result from a regulatory option.

"§ 632. Applicability

"(a) Except as provided in subsection (c), this subchapter shall apply to all risk assessments and risk characterizations prepared in connection with a major rule addressing health, safety, and environmental risks by—

"(1) the Secretary of Defense, for major rules relating to the programs and responsibilities of the United States Army Corps of Engineers;

"(2) the Secretary of the Interior, for major rules relating to the programs and responsibilities of the Office of Surface Mining Reclamation and Enforcement;

"(3) the Secretary of Agriculture, for major rules relating to the programs and responsibilities of—

"(A) the Animal and Plant Health Inspection Service;

"(B) the Grain Inspection, Packers, and Stockyards Administration;

"(C) the Food Safety and Inspection Service;

"(D) the Forest Service; and

"(E) the Natural Resources Conservation Service;

"(4) the Secretary of Commerce, for major rules relating to the programs and responsibilities of the National Marine Fisheries Service;

"(5) the Secretary of Labor, for major rules relating to the programs and responsibilities of—

"(A) the Occupational Safety and Health Administration; and

"(B) the Mine Safety and Health Administration;

"(6) the Secretary of Health and Human Services, for major rules relating to the programs and responsibilities assigned to the Food and Drug Administration;

"(7) the Secretary of Transportation, for major rules relating to the programs and responsibilities assigned to—

"(A) the Federal Aviation Administration; and

"(B) the National Highway Traffic Safety Administration;

"(8) the Secretary of Energy, for major rules relating to nuclear safety, occupational safety and health, and environmental restoration and waste management;

"(9) the Chairman of the Consumer Product Safety Commission;

"(10) the Administrator of the Environmental Protection Agency; and

"(11) the Chairman of the Nuclear Regulatory Commission.

"(b)(1) No later than 18 months after the effective date of this section, the President, acting through the Director of the Office of Management and Budget, shall determine whether other Federal agencies should be considered covered agencies for the purposes of this subchapter. Such determination, with respect to a particular Federal agency, shall be based on the impact of risk assessment documents and risk characterization documents on—

"(A) regulatory programs administered by that agency; and

"(B) the communication of risk information by that agency to the public.

"(2) If the President makes a determination under paragraph (1), this subchapter shall apply to any agency determined to be a covered agency beginning on a date set by the President. Such date may be no later than 6 months after the date of such determination.

"(c)(1) This subchapter shall not apply to risk assessments or risk characterizations performed with respect to—

"(A) an emergency determined by the head of an agency;

"(B) a health, safety, or environmental inspection, compliance or enforcement action, or individual facility permitting action; or

"(C) a screening analysis.

"(2) This subchapter shall not apply to any food, drug, or other product label, or to any risk characterization appearing on any such label.

"§ 633. Savings provisions

"Nothing in this subchapter shall be construed to—

"(1) modify any statutory standard or requirement designed to protect human health, safety, or the environment; or

"(2) require the disclosure of any trade secret or other confidential information.

"§ 634. Principles for risk assessments

"(a)(1) The head of each agency shall design and conduct risk assessments in a manner that promotes rational and informed risk management decisions and informed public input into the process of making agency decisions.

"(2) The head of each agency shall establish and maintain a distinction between risk assessment and risk management.

"(3) An agency may take into account priorities for managing risks, including the types of information that would be important in evaluating a full range of alternatives, in developing priorities for risk assessment activities.

"(4) An agency shall not be required to repeat discussions or explanations in each risk assessment required under this subchapter if there is an unambiguous reference to a relevant discussion or explanation in another reasonably available agency document that meets the requirements of this section.

"(5)(A) In conducting a risk assessment, the head of each agency shall employ the level of detail and rigor appropriate and practicable for reasoned decisionmaking in the matter involved, proportionate to the significance and complexity of the potential agency action and the need for expedition.

"(B)(i) Each agency shall develop and use an iterative process for risk assessment, starting with relatively inexpensive screening analyses and progressing to more rigorous analyses, as circumstances or results warrant.

"(ii) In determining whether or not to proceed to a more detailed analysis, the head of the agency shall take into consideration whether or not use of additional data or the analysis thereof would significantly change the estimate of risk.

"(b)(1) The head of each agency shall consider in each risk assessment sound, reasonably available scientific information, including scientific information that finds or fails to find a correlation between a potential hazard and an adverse effect, and data regarding exposure and other relevant physical conditions.

"(2) The head of an agency shall select data for use in the assessment based on an appropriate consideration of the quality and relevance of the data, and shall describe the basis for selecting the data.

"(3) In making its selection of data, the head of an agency shall consider whether the data were developed in accordance with good scientific practice or other appropriate protocols to ensure data quality.

"(4) Subject to paragraph (3), relevant scientific data submitted by interested parties shall be reviewed and considered in the analysis by the head of an agency under paragraph (2).

"(5) When material conflicts among scientific data appear to exist, the risk assessment shall include a discussion of all relevant information, including the likelihood of alternative interpretations of data.

"(c)(1) To the maximum extent practicable, the head of each agency shall use postulates, including default assumptions, inferences, models, or safety factors, when relevant and adequate scientific data and understanding, including site-specific data, are lacking.

"(2) When a risk assessment involves choice of a postulate, the head of the agency shall—

"(A) identify the postulate and its scientific or policy basis, including the extent to which the postulate has been validated by, or conflicts with, empirical data;

"(B) explain the basis for any choices among postulates; and

"(C) describe reasonable alternative postulates that were not selected by the agency for use in the risk assessment, and the sensitivity for the conclusions of the risk assessment to the alternatives, and the rationale for not using such alternatives.

"(3) An agency shall not inappropriately combine or compound multiple postulates.

"(4) The head of each agency shall develop a procedure and publish guidelines for choosing default postulates and for deciding when and how in a specific risk assessments to adopt alternative postulates or to use available scientific information in place of a default postulate.

"(d) The head of each agency shall provide appropriate opportunities for public participation and comment on risk assessments.

"(e) In each risk assessment supporting a major rule, the head of each agency shall include in the risk characterization, as appropriate, each of the following:

"(1) A description of the hazard of concern.

"(2) A description of the populations or natural resources that are the subject of the risk assessment.

"(3) An explanation of the exposure scenarios used in the risk assessment, including an estimate of the corresponding population at risk and the likelihood of such exposure scenarios.

"(4) A description of the nature and severity of the harm that could plausibly occur.

"(5) A description of the major uncertainties in each component of the risk assessment and their influence on the results of the assessment.

"(f) To the extent feasible and scientifically appropriate, the head of an agency shall—

"(1) express the overall estimate of risk as a range or probability distribution that reflects variabilities and uncertainties in the analysis;

"(2) provide the range and distribution of risks and the corresponding exposure scenarios, identifying the range and distribution of risk to the general population and, where appropriate, to more highly exposed or sensitive subpopulations; and

"(3) where quantitative estimates of the range and distribution of risk estimates are not available, describe the qualitative factors influencing the range of possible risks.

"(g) The head of an agency shall place the nature and magnitude of risks to human health, safety, and the environment being analyzed in context, including appropriate comparisons with other risks that are familiar to, and routinely encountered by, the general public. Such comparisons should consider relevant distinctions among risks, such as the voluntary or involuntary nature of risks.

"(h) In any notice of proposed or final regulatory action subject to this subchapter, the head of an agency shall describe significant substitution risks to human health or safety identified by the agency or contained in information provided to the agency by a commentator.

"§ 635. Peer review

"(a) The head of each covered agency shall develop a systematic program for independent and external peer review required under subsection (b). (1) Such program shall be applicable throughout each covered agency and—

"(A) shall provide for the creation or utilization of peer review panels, expert bodies, or other formal or informal devices that are balanced and that consist of members with expertise relevant to the sciences involved in regulatory decisions and who are independent of the covered agency; and

"(B) be broadly representative and balanced and, to the extent relevant and appropriate, may include persons affiliated with Federal, State, local, or tribal governments, small businesses, other representatives of industry, universities, agriculture, labor consumers, conservation organizations, or other public interest groups and organizations;

"(2) may exclude any person with substantial and relevant expertise as a panel member on the basis that such person represents an entity that may have a potential financial interest in the outcome, or may include such person if such interest is fully disclosed to the agency, and in the case of a regulatory decision affecting a single entity, no peer reviewer representing such entity may be included on the panel;

"(3) shall provide for a timely completed peer review, meeting agency deadlines, that contains a balanced presentation of all considerations, including minority reports and an agency response to all significant peer review comments; and

"(4) shall provide adequate protections for confidential business information and trade secrets, including requiring panel members to enter into confidentiality agreements.

"(b)(1)(A) Except as provided under subparagraph (B), each covered agency shall provide for peer review in accordance with this section of any risk assessment or cost-benefit analysis that forms the basis of any major rule that addresses risks to the environment, health, or safety.

"(B) Subparagraph (A) shall not apply to a rule or other action taken by an agency to authorize or approve any individual substance or product.

"(2) The Director of the Office of Management and Budget may order that peer review be provided for any risk assessment or cost-benefit analysis that is likely to have a significant impact on public policy decisions or would establish an important precedent.

"(c) Each peer review under this section shall include a report to the Federal agency concerned with respect to the scientific and technical merit of data and methods used for the risk assessments or cost-benefit analyses.

"(d) The head of the covered agency shall provide a written response to all significant peer review comments.

"(e) All peer review comments or conclusions and the agency's responses shall be made available to the public and shall be made part of the administrative record for purposes of judicial review of any final agency action.

"(f) No peer review shall be required under this section for any data, method, document, or assessment, or any component thereof, which has been previously subjected to peer review.

"(g) The requirements of this subsection shall not apply to a specific rulemaking where the head of an agency has published a determination, with the concurrence of the Administrator of the Office of Information and Regulatory Affairs, and notified the Congress, that the agency is unable to comply fully with the peer review requirements of this subsection and that the rulemaking process followed by that agency provides sufficient opportunity for scientific or technical review of risk assessments or cost-benefit analysis required by this subchapter."

"§ 636. Guidelines, plan for assessing new information, and report

"(a)(1)(A) As soon as practicable and scientifically feasible, each covered agency shall adopt, after notification and opportunity for public comment, guidelines to implement the risk assessment principles under section 634, as well as the cost-benefit analysis requirements under section 622, and shall provide a format for summarizing risk assessment results.

"(B) No later than 12 months after the effective date of this section, the head of each covered agency shall issue a report on the status of such guidelines to the Congress.

"(2) The guidelines under paragraph (1) shall—

"(A) include guidance on use of specific technical methodologies and standards for acceptable quality of specific kinds of data;

"(B) address important decisional factors for the risk assessment, risk characterization, and cost-benefit analysis at issue; and

"(C) provide procedures for the refinement and replacement of policy-based default assumptions.

"(b) The guidelines, plan and report under this section shall be developed after notice and opportunity for public comment, and after consultation with representatives of appropriate State agencies and local governments, and such other departments and agencies, organizations, or persons as may be advisable.

"(c) The President shall review the guidelines published under this section at least every 4 years.

"(d) The development, issuance, and publication of risk assessment and risk characterization guidelines under this section shall not be subject to judicial review.

"§ 637. Research and training in risk assessment

"(a) The head of each covered agency shall regularly and systematically evaluate risk assessment research and training needs of the agency, including, where relevant and appropriate, the following:

"(1) Research to reduce generic data gaps, to address modelling needs (including improved model sensitivity), and to validate default options, particularly those common to multiple risk assessments.

"(2) Research leading to improvement of methods to quantify and communicate uncertainty and variability among individuals, species, populations, and, in the case of ecological risk assessment, ecological communities.

"(3) Emerging and future areas of research, including research on comparative risk analysis, exposure to multiple chemicals and other stressors, noncancer endpoints, biological markers of exposure and effect, mechanisms of action in both mammalian and nonmammalian species, dynamics and probabilities of physiological and ecosystem exposures, and prediction of ecosystem-level responses.

"(4) Long-term needs to adequately train individuals in risk assessment and risk assessment application. Evaluations under this paragraph shall include an estimate of the resources needed to provide necessary training.

"(b) The head of each covered agency shall develop a strategy and schedule for carrying out research and training to meet the needs identified in subsection (a).

"§ 638. Interagency coordination

"(a) To promote the conduct, application, and practice of risk assessment in a consistent manner and to identify risk assessment data and research needs common to more than 1 Federal agency, the Director of the Office of Management and Budget, in consultation with the Office of Science and Technology Policy, shall—

"(1) periodically survey the manner in which each Federal agency involved in risk assessment is conducting such risk assessment to determine the scope and adequacy of risk assessment practices in use by the Federal Government;

"(2) provide advice and recommendations to the President and Congress based on the surveys conducted and determinations made under paragraph (1);

"(3) establish appropriate interagency mechanisms to promote—

"(A) coordination among Federal agencies conducting risk assessment with respect to the conduct, application, and practice of risk assessment; and

"(B) the use of state-of-the-art risk assessment practices throughout the Federal Government;

"(4) establish appropriate mechanisms between Federal and State agencies to communicate state-of-the-art risk assessment practices; and

"(5) periodically convene meetings with State government representatives and Federal and other leaders to assess the effectiveness of Federal and State cooperation in the development and application of risk assessment.

"(b) review every 3 years the risk assessment practices of each covered agency for programs designed to protect human health, safety, or the environment and submit a report to the President and the Congress at least every 3 years containing the results of such review.

"§ 639. Plan for review of risk assessments

"(a) No later than 18 months after the effective date of this section, the head of each covered agency shall publish a plan to review and revise any risk assessment published before the expiration of such 18-month period if the covered agency determines that significant new information or methodologies are available that could significantly alter the results of the prior risk assessment.

"(b) A plan under subsection (a) shall—

"(1) provide procedures for receiving and considering new information and risk assessments from the public; and

"(2) set priorities and criteria for review and revision of risk assessments based on such factors as the agency head considers appropriate.

"§ 640. Judicial review

"The provisions of section 623 relating to judicial review shall apply to this subchapter.

"§ 640a. Deadlines for rulemaking

"The provisions of section 624 relating to deadlines for rulemaking shall apply to this subchapter.

"SUBCHAPTER IV—EXECUTIVE OVERSIGHT

"§ 641. Definition

"For purposes of this subchapter, the definitions under sections 551 and 621 shall apply.

"§ 642. Procedures

"The Director or other designated officer to whom authority is delegated under section 644 shall—

"(1) establish procedures for agency compliance with this chapter; and

"(2) monitor, review, and ensure agency implementation of such procedures.

"§ 643. Promulgation and adoption

"(a) Procedures established pursuant to section 642 shall only be implemented after opportunity for public comment. Any such procedures shall be consistent with the prompt completion of rulemaking proceedings.

"(b)(1) If procedures established pursuant to section 642 include review of any initial or final analyses of a rule required under this chapter, the time for any such review of any initial analysis shall not exceed 60 days following the receipt of the analysis by the Director, a designee of the President, or by an officer to whom the authority granted under section 642 has been delegated pursuant to section 644.

"(2) The time for review of any final analysis required under this chapter shall not exceed 60 days following the receipt of the analysis by the Director, a designee of the President, or such officer.

"(3)(A) The times for each such review may be extended for good cause by the President or such officer for an additional 30 days.

"(B) Notice of any such extension, together with a succinct statement of the reasons therefor, shall be inserted in the rulemaking file.

"§ 644. Delegation of authority

"(a) The President shall delegate the authority granted by this subchapter to the Director or to another officer within the Executive Office of the President whose appointment has been subject to the advice and consent of the Senate.

"(b) Notice of any delegation, or any revocation or modification thereof shall be published in the Federal Register.

"§ 645. Public disclosure of information

"The Director or other designated officer to whom authority is delegated under section 644, in carrying out the provisions of section 642, shall establish procedures (covering all employees of the Director or other designated officer) to provide public and agency access to information concerning regulatory review actions, including—

"(1) disclosure to the public on an ongoing basis of information regarding the status of regulatory actions undergoing review;

"(2) disclosure to the public, no later than publication of, or other substantive notice to the public concerning a regulatory action, of—

"(A) all written communications, regardless of form or format, including drafts of all proposals and associated analyses, between the Director or other designated officer and the regulatory agency;

"(B) all written communications, regardless of form or format, between the Director or other designated officer and any person not employed by the executive branch of the Federal Government relating to the substance of a regulatory action;

"(C) a record of all oral communications relating to the substance of a regulatory action between the Director or other designated officer and any person not employed by the executive branch of the Federal Government; and

"(D) a written explanation of any review action and the date of such action; and

"(3) disclosure to the regulatory agency, on a timely basis, of—

"(A) all written communications between the Director or other designated officer and any person who is not employed by the executive branch of the Federal Government;

"(B) a record of all oral communications, and an invitation to participate in meetings, relating to the substance of a regulatory action between the Director or other designated officer and any person not employed by the executive branch of the Federal Government; and

"(C) a written explanation of any review action taken concerning an agency regulatory action.

"§ 646. Judicial review

"The exercise of the authority granted under this subchapter by the Director, the President, or by an officer to whom such authority has been delegated under section 644 shall not be subject to judicial review in any manner.".

(b) REGULATORY FLEXIBILITY ANALYSIS.—

(1) IN GENERAL.—Section 611 of title 5, United States Code, is amended to read as follows:

"§ 611. Judicial review

"(a)(1) Except as provided in paragraph (2), no later than 1 year after the effective date of a final rule with respect to which an agency—

"(A) certified, pursuant to section 605(b), that such rule would not have a significant economic impact on a substantial number of small entities; or

"(B) prepared a final regulatory flexibility analysis pursuant to section 604, an affected small entity may petition for the judicial review of such certification or analysis in accordance with this subsection. A court having jurisdiction to review such rule for compliance with section 553 of this title or under any other provision of law shall have jurisdiction to review such certification or analysis.

"(2)(A) Except as provided in subparagraph (B), in the case of a provision of law that requires that an action challenging a final agency regulation be commenced before the expiration of the 1-year period provided in paragraph (1), such lesser period shall apply to a petition for the judicial review under this subsection.

"(B) In a case in which an agency delays the issuance of a final regulatory flexibility analysis pursuant to section 608(b), a petition for judicial review under this subsection shall be filed no later than—

"(i) 1 year; or

"(ii) in a case in which a provision of law requires that an action challenging a final agency regulation be commenced before the expiration of the 1-year period provided in paragraph (1), the number of days specified in such provision of law,

after the date the analysis is made available to the public.

"(3) For purposes of this subsection, the term 'affected small entity' means a small entity that is or will be adversely affected by the final rule.

"(4) Nothing in this subsection shall be construed to affect the authority of any court to stay the effective date of any rule or provision thereof under any other provision of law.

"(5)(A) In a case in which an agency certifies that such rule would not have a significant economic impact on a substantial number of small entities, the court may order the agency to prepare a final regulatory flexibility analysis pursuant to section 604 if the court determines, on the basis of the rulemaking record, that the certification was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.

"(B) In a case in which the agency prepared a final regulatory flexibility analysis, the court may order the agency to take corrective action consistent with section 604 if the court determines, on the basis of the rulemaking record, that the final regulatory flexibility analysis was prepared by the agency without complying with section 604.

"(6) If, by the end of the 90-day period beginning on the date of the order of the court pursuant to paragraph (5) (or such longer period as the court may provide), the agency fails, as appropriate—

"(A) to prepare the analysis required by section 604; or

"(B) to take corrective action consistent with section 604 of this title,

the court may stay the rule or grant such other relief as it deems appropriate.

"(7) In making any determination or granting any relief authorized by this subsection, the court shall take due account of the rule of prejudicial error.

"(b) In an action for the judicial review of a rule, any regulatory flexibility analysis for such rule (including an analysis prepared or corrected pursuant to subsection (a)(5)) shall constitute part of the whole record of agency action in connection with such review.

"(c) Nothing in this section bars judicial review of any other impact statement or similar analysis required by any other law if judicial review of such statement or analysis is otherwise provided by law.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on the effective date of this Act, except that the judicial review authorized by section 611(a) of title 5, United States Code (as added by subsection (a)), shall apply only to final agency rules issued after such effective date.

(c) PRESIDENTIAL AUTHORITY.—Nothing in this Act shall limit the exercise by the President of the authority and responsibility that the President otherwise possesses under the Constitution and other laws of the United States with respect to regulatory policies, procedures, and programs of departments, agencies, and offices.

(d) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Part I of title 5, United States Code, is amended by striking out the chapter heading and table of sections for chapter 6 and inserting in lieu thereof the following:

"CHAPTER 6—THE ANALYSIS OF REGULATORY FUNCTIONS

"SUBCHAPTER I—REGULATORY ANALYSIS

"Sec.
"601. Definitions.
"602. Regulatory agenda.
"603. Initial regulatory flexibility analysis.
"604. Final regulatory flexibility analysis.
"605. Avoidance of duplicative or unnecessary analyses.
"606. Effect on other law.
"607. Preparation of analysis.
"608. Procedure for waiver or delay of completion.
"609. Procedures for gathering comments.
"610. Periodic review of rules.
"611. Judicial review.
"612. Reports and intervention rights.

"SUBCHAPTER II—ANALYSIS OF AGENCY RULES

"621. Definitions.
"622. Rulemaking cost-benefit analysis.
"623. Judicial review.
"624. Deadlines for rulemaking.
"625. Agency review of rules.
"626. Public participation and accountability.

"SUBCHAPTER III—RISK ASSESSMENTS

"631. Definitions.
"632. Applicability.
"633. Savings provisions.
"634. Principles for risk assessment.
"635. Peer review.
"636. Guidelines, plan for assessing new information, and report.
"637. Research and training in risk assessment.
"638. Interagency coordination.
"639. Plan for review of risk assessments.
"640. Judicial review.
"640a. Deadlines for rulemaking.

"SUBCHAPTER IV—EXECUTIVE OVERSIGHT

"641. Definition.
"642. Procedures.
"643. Promulgation and adoption.
"644. Delegation of authority.
"645. Public disclosure of information.
"646. Judicial review.".

(2) Chapter 6 of title 5, United States Code, is amended by inserting immediately before section 601, the following subchapter heading:

"SUBCHAPTER I—REGULATORY ANALYSIS".

SEC. 4. CONGRESSIONAL REVIEW.

(a) IN GENERAL.—Part I of title 5, United States Code, is amended by inserting after chapter 7 the following new chapter:

"CHAPTER 8—CONGRESSIONAL REVIEW OF AGENCY RULEMAKING

"§ 801. Congressional review of agency rulemaking

"(a) For purposes of this chapter, the term—

"(1) 'major rule' means a major rule as defined under section 621(4) of this title and as determined under section 622 of this title; and

"(2) 'rule' (except in reference to a rule of the Senate or House of Representatives) is a reference to a major rule.

"(b)(1) Upon the promulgation of a final major rule, the agency promulgating such rule shall submit to the Congress a copy of the rule, the statement of basis and purpose for the rule, and the proposed effective date of the rule.

"(2) A rule submitted under paragraph (1) shall not take effect as a final rule before the latest of the following:

"(A) The later of the date occurring 45 days after the date on which—

"(i) the Congress receives the rule submitted under paragraph (1); or

"(ii) the rule is published in the Federal Register.

"(B) If the Congress passes a joint resolution of disapproval described under subsection (i) relating to the rule, and the President signs a veto of such resolution, the earlier date—

"(i) on which either House of Congress votes and fails to override the veto of the President; or

"(ii) occurring 30 session days after the date on which the Congress received the veto and objections of the President.

"(C) The date the rule would have otherwise taken effect, if not for this section (unless a joint resolution of disapproval under subsection (i) is approved).

"(c) A major rule shall not take effect as a final rule if the Congress passes a joint resolution of disapproval described under subsection (i), which is signed by the President or is vetoed and overridden by the Congress.

"(d)(1) Notwithstanding any other provision of this section (except subject to paragraph (2)), a major rule that would not take effect by reason of this section may take effect if the President makes a determination and submits written notice of such determination to the Congress that the major rule should take effect because such major rule is—

"(A) necessary because of an imminent threat to health or safety, or other emergency;

"(B) necessary for the enforcement of criminal laws; or

"(C) necessary for national security.

"(2) An exercise by the President of the authority under this subsection shall have no effect on the procedures under subsection (i) or the effect of a joint resolution of disapproval under this section.

"(e)(1) Subsection (i) shall apply to any major rule that is promulgated as a final rule during the period beginning on the date occurring 60 days before the date the Congress adjourns sine die through the date on which the succeeding Congress first convenes.

"(2) For purposes of subsection (i), a major rule described under paragraph (1) shall be treated as though such rule were published in the Federal Register (as a rule that shall take effect as a final rule) on the date the succeeding Congress first convenes.

"(3) During the period between the date the Congress adjourns sine die through the date on which the succeeding Congress first convenes, a rule described under paragraph (1) shall take effect as a final rule as otherwise provided by law.

"(f) Any rule that takes effect and later is made of no force or effect by the enactment of a joint resolution under subsection (i) shall be treated as though such rule had never taken effect.

"(g) If the Congress does not enact a joint resolution of disapproval under subsection (i), no court or agency may infer any intent of the Congress from any action or inaction of the Congress with regard to such major rule, related statute, or joint resolution of disapproval.

"(h) If the agency fails to comply with the requirements of subsection (b) for any rule, the rule shall cease to be enforceable against any person.

"(i)(1) For purposes of this subsection, the term 'joint resolution' means only a joint resolution introduced after the date on which the rule referred to in subsection (b) is received by Congress the matter after the resolving clause of which is as follows: 'That Congress disapproves the rule submitted by the __________ relating to __________, and such rule shall have no force or effect.' (The blank spaces being appropriately filled in.)

"(2)(A) In the Senate, a resolution described in paragraph (1) shall be referred to the committees with jurisdiction. Such a resolution shall not be reported before the eighth day after its submission or publication date.

"(B) For purposes of this subsection, the term 'submission or publication date' means the later of the date on which—

"(i) the Congress receives the rule submitted under subsection (b)(1); or

"(ii) the rule is published in the Federal Register.

"(3) In the Senate, if the committee to which a resolution described in paragraph (1) is referred has not reported such resolution (or an identical resolution) at the end of 20 calendar days after its submission or publication date, such committee may be discharged on a petition approved by 30 Senators from further consideration of such resolution and such resolution shall be placed on the Senate calendar.

"(4)(A) In the Senate, when the committee to which a resolution is referred has reported, or when a committee is discharged (under paragraph (3)) from further consideration of, a resolution described in paragraph (1), it shall at any time thereafter be in order (even though a previous motion to the same effect has been disagreed to) for any Senator to move to proceed to the consideration of the resolution, and all points of order against the resolution (and against consideration of the resolution) shall be waived. The motion shall be privileged in the Senate and shall not be debatable. The motion shall not be subject to amendment, or to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the resolution is agreed to, the resolution shall remain the unfinished business of the Senate until disposed of.

"(B) In the Senate, debate on the resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate shall be in order and shall not be debatable. An amendment to, or a motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the resolution shall not be in order. A motion to reconsider the vote by which the resolution is agreed to or disagreed to shall not be in order.

"(C) In the Senate, immediately following the conclusion of the debate on a resolution described in paragraph (1), and a single quorum call at the conclusion of the debate if requested in accordance with the Senate rules, the vote on final passage of the resolution shall occur.

"(D) Appeals from the decisions of the Chair relating to the application of the rules of the Senate to the procedure relating to a resolution described in paragraph (1) shall be decided without debate.

"(5) If, before the passage in the Senate of a resolution described in paragraph (1), the Senate receives from the House of Representatives a resolution described in paragraph (1), then the following procedures shall apply:

"(A) The resolution of the House of Representatives shall not be referred to a committee.

"(B) With respect to a resolution described in paragraph (1) of the Senate—

"(i) the procedure in the Senate shall be the same as if no resolution had been received from the other House; but

"(ii) the vote on final passage shall be on the resolution of the other House.

"(6) This subsection is enacted by Congress—

"(A) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed to be a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a resolution described in paragraph (1), and it supersedes other rules only to the extent that it is inconsistent with such rules; and

"(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

"(j) No requirements under this chapter shall be subject to judicial review in any manner.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of chapters for part I of title 5, United States Code, is amended by inserting after the item relating to chapter 7 the following:

"8. Congressional Review of Agency Rulemaking .... 801".

SEC. 5. STUDIES AND REPORTS.

(a) RISK ASSESSMENTS.—The Administrative Conference of the United States shall—

(1) develop and carry out an ongoing study of the operation of the risk assessment requirements of subchapter III of chapter 6 of title 5, United States Code (as added by section 3 of this Act); and

(2) submit an annual report to the Congress on the findings of the study.

(b) ADMINISTRATIVE PROCEDURE ACT.—No later than December 31, 1996, the Administrative Conference of the United States shall—

(1) carry out a study of the operation of chapters 5 and 6 of title 5, United States Code (commonly referred to as the Administrative Procedure Act), as amended by section 3 of this Act; and

(2) submit a report to the Congress on the findings of the study, including proposals for revision, if any.

SEC. 6. RISK-BASED PRIORITIES.

(a) PURPOSES.—The purposes of this section are to—

(1) encourage Federal agencies engaged in regulating risks to human health, safety, and the environment to achieve the greatest risk reduction at the least cost practical;

(2) promote the coordination of policies and programs to reduce risks to human health, safety, and the environment; and

(3) promote open communication among Federal agencies, the public, the President, and Congress regarding environmental, health, and safety risks, and the prevention and management of those risks.

(b) DEFINITIONS.—For the purposes of this section:

(1) COMPARATIVE RISK ANALYSIS.—The term "comparative risk analysis" means a process to systematically estimate, compare, and rank the size and severity of risks to provide a common basis for evaluating strategies for reducing or preventing those risks.

(2) COVERED AGENCY.—The term "covered agency" means each of the following:

(A) The Environmental Protection Agency.

(B) The Department of Labor.

(C) The Department of Transportation.

(D) The Food and Drug Administration.

(E) The Department of Energy.

(F) The Department of the Interior.

(G) The Department of Agriculture.

(H) The Consumer Product Safety Commission.

(I) The National Oceanic and Atmospheric Administration.

(J) The United States Army Corps of Engineers.

(K) The Nuclear Regulatory Commission.

(3) EFFECT.—The term "effect" means a deleterious change in the condition of—

(A) a human or other living thing (including death, cancer, or other chronic illness, decreased reproductive capacity, or disfigurement); or

(B) an inanimate thing important to human welfare (including destruction, degeneration, the loss of intended function, and increased costs for maintenance).

(4) IRREVERSIBILITY.—The term "irreversibility" means the extent to which a return to conditions before the occurrence of an effect are either very slow or will never occur.

(5) LIKELIHOOD.—The term "likelihood" means the estimated probability that an effect will occur.

(6) MAGNITUDE.—The term "magnitude" means the number of individuals or the quantity of ecological resources or other resources that contribute to human welfare that are affected by exposure to a stressor.

(7) SERIOUSNESS.—The term "seriousness" means the intensity of effect, the likelihood, the irreversibility, and the magnitude.

(c) DEPARTMENT AND AGENCY PROGRAM GOALS.—

(1) SETTING PRIORITIES.—In exercising authority under applicable laws protecting human health, safety, or the environment, the head of each covered agency should set priorities and use the resources available under those laws to address those risks to human health, safety, and the environment that—

(A) the covered agency determines to be the most serious; and

(B) can be addressed in a cost-effective manner, with the goal of achieving the greatest overall net reduction in risks with the public and private sector resources expended.

(2) DETERMINING THE MOST SERIOUS RISKS.—In identifying the greatest risks under paragraph (1) of this subsection, each covered agency shall consider, at a minimum—

(A) the likelihood, irreversibility, and severity of the effect; and

(B) the number and classes of individuals potentially affected, and shall explicitly take into account the results of the comparative risk analysis conducted under subsection (d) of this section.

(3) OMB REVIEW.—The covered agency's determinations of the most serious risks for purposes of setting priorities shall be reviewed and approved by the Director of the Office of Management and Budget before submission of the covered agency's annual budget requests to Congress.

(4) INCORPORATING RISK-BASED PRIORITIES INTO BUDGET AND PLANNING.—The head of each covered agency shall incorporate the priorities identified under paragraph (1) into the agency budget, strategic planning, regulatory agenda, enforcement, and research activities. When submitting its budget request to Congress and when announcing its regulatory agenda in the Federal Register, each covered agency shall identify the risks that the covered agency head has determined are the most serious and can be addressed in a cost-effective manner under paragraph (1), the basis for that determination, and explicitly identify how the covered agency's requested budget and regulatory agenda reflect those priorities.

(5) EFFECTIVE DATE.—This subsection shall take effect 12 months after the date of enactment of this Act.

(d) COMPARATIVE RISK ANALYSIS.—

(1) REQUIREMENT.—(A)(i) No later than 6 months after the effective date of this Act, the Director of the Office of Management and Budget shall enter into appropriate arrangements with a nationally recognized scientific institution or scholarly organization—

(I) to conduct a study of the methodologies for using comparative risk to rank dissimilar human health, safety, and environmental risks; and

(II) to conduct a comparative risk analysis.

(ii) The comparative risk analysis shall compare and rank, to the extent feasible, human health, safety, and environmental risks potentially regulated across the spectrum of programs administered by all covered agencies.

(B) The Director shall consult with the Office of Science and Technology Policy regarding the scope of the study and the conduct of the comparative risk analysis.

(2) CRITERIA.—The Director shall ensure the arrangements under paragraph (1) provide that—

(A) the scope and specificity of the analysis are sufficient to provide the President and agency heads guidance in allocating resources across agencies and among programs in agencies to achieve the greatest degree of risk prevention and reduction for the public and private resources expended;

(B) the analysis is conducted through an open process including opportunity for public to submit views, data, and analyses and to provide public comments on the results before making them final.

(C) the analysis is conducted by a balanced group of individuals with relevant expertise, including toxicologists, biologists, engineers and experts in medicine, industrial hygiene and environmental effects and the selection of members for such study committee shall be at the discretion of the scientific body;

(D) the analysis is conducted, to the extent feasible and relevant, consistent with the risk assessment and risk characterization principles in section 634 of this title;

(E) the methodologies and principal scientific determinations made in the analysis are subjected to independent peer review, consistent with section 635 and the conclusions of the peer review are made publicly available as part of the final report required under subsection (e); and

(F) the results are presented in a manner that distinguishes between the scientific conclusions and any policy or value judgments embodied in the comparisons.

(G) Nothing in this subsection shall be construed to prevent the Director from entering into a sole-source arrangement with a nationally recognized scientific institution or scholarly organization.

(3) COMPLETION AND REVIEW.—No later than 3 years after the effective date of this Act, the comparative risk analysis required under paragraph (1) shall be completed. The comparative risk analysis shall be reviewed and revised at least every 5 years thereafter for a minimum of 15 years following the release of the first analysis. The Director shall arrange for such review and revision with an accredited scientific body in the same manner as provided under paragraphs (1) and (2).

(4) STUDY.—The study of methodologies provided under paragraph (1) shall be conducted as part of the first comparative risk analysis and shall be completed no later than 180 days after the completion of that analysis. The goal of the study shall be to develop and rigorously test methods of comparative risk analysis. The study shall have sufficient scope and breadth to test approaches for improving comparative risk analysis and its use in setting priorities for human health, safety, and environmental risk prevention and reduction.

(5) TECHNICAL GUIDANCE.—No later than 180 days after the effective date of this Act, the Director, in collaboration with other heads of covered agencies shall enter into a contract with the National Research Council to provide technical guidance to agencies on approaches to using comparative risk analysis in setting human health, safety, and environmental priorities to assist agencies in complying with subsection (c) of this section.

(e) REPORTS AND RECOMMENDATIONS TO CONGRESS AND THE PRESIDENT.—No later than 24 months after the effective date of this Act, each covered agency shall submit a report to Congress and the President—

(1) detailing how the agency has complied with subsection (c) and describing the reasons for any departure from the requirement to establish priorities to achieve the greatest overall net reduction in risk;

(2) recommending—

(A) modification, repeal, or enactment of laws to reform, eliminate, or enhance programs or mandates relating to human health, safety, or the environment; and

(B) modification or elimination of statutorily or judicially mandated deadlines,

that would assist the covered agency to set priorities in activities to address the risks to human health, safety, or the environment in a manner consistent with the requirements of subsection (c)(1);

(3) evaluating the categories of policy and value judgments used in risk assessment, risk characterization, or cost-benefit analysis; and

(4) discussing risk assessment research and training needs, and the agency's strategy and schedule for meeting those needs.

(f) SAVINGS PROVISION AND JUDICIAL REVIEW.—

(1) IN GENERAL.—Nothing in this section shall be construed to modify any statutory standard or requirement designed to protect human health, safety, or the environment.

(2) JUDICIAL REVIEW.—Compliance or noncompliance by an agency with the provisions of this section shall not be subject to judicial review.

(3) AGENCY ANALYSIS.—Any analysis prepared under this section shall not be subject to judicial consideration separate or apart from the requirement, rule, program, or law to which it relates. When an action for judicial review of a covered agency action is instituted, any analysis for, or relating to, the action shall constitute part of the whole record of agency action for the purpose of judicial review of the action and shall, to the extent relevant, be considered by a court in determining the legality of the covered agency action.

SEC. 7. REGULATORY ACCOUNTING.

(a) DEFINITIONS.—For purposes of this section, the following definitions apply:

(1) AGENCY.—The term "agency" means any executive department, military department, Government corporation, Government controlled corporation, or other establishment in the executive branch of the Government (including the Executive Office of the President), or any independent regulatory agency, but shall not include—

(A) the General Accounting Office;

(B) the Federal Election Commission;

(C) the governments of the District of Columbia and of the territories and possessions of the United States, and their various subdivisions; or

(D) government-owned contractor-operated facilities, including laboratories engaged in national defense research and production activities.

(2) REGULATION.—The term "regulation" means an agency statement of general applicability and future effect designed to implement, interpret, or prescribe law or policy or describing the procedures or practice requirements of an agency. The term shall not include—

(A) administrative actions governed by sections 556 and 557 of title 5, United States Code;

(B) regulations issued with respect to a military or foreign affairs function of the United States; or

(C) regulations related to agency organization, management, or personnel.

(b) ACCOUNTING STATEMENT.—

(1) IN GENERAL.—(A) The President shall be responsible for implementing and administering the requirements of this section.

(B) Every 2 years, no later than June of the second year, the President shall prepare and submit to Congress an accounting statement that estimates the annual costs of Federal regulatory programs and corresponding benefits in accordance with this subsection.

(2) YEARS COVERED BY ACCOUNTING STATEMENT.—Each accounting statement shall cover, at a minimum, the 5 fiscal years beginning on October 1 of the year in which the report is submitted and may cover any fiscal year preceding such fiscal years for purpose of revising previous estimates.

(3) TIMING AND PROCEDURES.—(A) The President shall provide notice and opportunity for comment for each accounting statement. The President may delegate to an agency the requirement to provide notice and opportunity to comment for the portion of the accounting statement relating to that agency.

(B) The President shall propose the first accounting statement under this subsection no later than 2 years after the effective date of this Act and shall issue the first accounting statement in final form no later than 3 years after such effective date. Such statement shall cover, at a minimum, each of the fiscal years beginning after the effective date of this Act.

(4) CONTENT OF ACCOUNTING STATEMENT.—(A) Each accounting statement shall contain estimates of costs and benefits with respect to each fiscal year covered by the statement in accordance with this paragraph. For each such fiscal year for which estimates were made in a previous accounting statement, the statement shall revise those estimates and state the reasons for the revisions.

(B)(i) An accounting statement shall estimate the costs of Federal regulatory programs by setting forth, for each year covered by the statement—

(I) the annual expenditure of national economic resources for each regulatory program; and

(II) such other quantitative and qualitative measures of costs as the President considers appropriate.

(ii) For purposes of the estimate of costs in the accounting statement, national economic resources shall include, and shall be listed under, at least the following categories:

(I) Private sector costs.

(II) Federal sector costs.

(III) State and local government costs.

(C) An accounting statement shall estimate the benefits of Federal regulatory programs by setting forth, for each year covered by the statement, such quantitative and qualitative measures of benefits as the President considers appropriate. Any estimates of benefits concerning reduction in human health, safety, or environmental risks shall present the most plausible level of risk practical, along with a statement of the reasonable degree of scientific certainty.

(c) ASSOCIATED REPORT TO CONGRESS.—

(1) IN GENERAL.—At the same time as the President submits an accounting statement under subsection (b), the President, acting through the Director of the Office of Management and Budget, shall submit to Congress a report associated with the accounting statement (hereinafter referred to as an "associated report"). The associated report shall contain, in accordance with this subsection—

(A) analyses of impacts; and

(B) recommendations for reform.

(2) ANALYSES OF IMPACTS.—The President shall include in the associated report the following:

(A) The cumulative impact on the economy of Federal regulatory programs covered in the accounting statement. Factors to be considered in such report shall include impacts on the following:

(i) The ability of State and local governments to provide essential services, including police, fire protection, and education.

(ii) Small business.

(iii) Productivity.

(iv) Wages.

(v) Economic growth.

(vi) Technological innovation.

(vii) Consumer prices for goods and services.

(viii) Such other factors considered appropriate by the President.

(B) A summary of any independent analyses of impacts prepared by persons commenting during the comment period on the accounting statement.

(3) RECOMMENDATIONS FOR REFORM.—The President shall include in the associated report the following:

(A) A summary of recommendations of the President for reform or elimination of any

Federal regulatory program or program element that does not represent sound use of national economic resources or otherwise is inefficient.

(B) A summary of any recommendations for such reform or elimination of Federal regulatory programs or program elements prepared by persons commenting during the comment period on the accounting statement.

(d) GUIDANCE FROM OFFICE OF MANAGEMENT AND BUDGET.—The Director of the Office of Management and Budget shall, in consultation with the Council of Economic Advisers and the agencies, develop guidance for the agencies—

(1) to standardize measures of costs and benefits in accounting statements prepared pursuant to this section and section 3 of this Act, including—

(A) detailed guidance on estimating the costs and benefits of major rules; and

(B) general guidance on estimating the costs and benefits of all other rules that do not meet the thresholds for major rules; and

(2) to standardize the format of the accounting statements.

(e) RECOMMENDATIONS FROM CONGRESSIONAL BUDGET OFFICE.—After each accounting statement and associated report submitted to Congress, the Director of the Congressional Budget Office shall make recommendations to the President—

(1) for improving accounting statements prepared pursuant to this section, including recommendations on level of detail and accuracy; and

(2) for improving associated reports prepared pursuant to this section, including recommendations on the quality of analysis.

(f) JUDICIAL REVIEW.—No requirements under this section shall be subject to judicial review in any manner.

SEC. 8. EFFECTIVE DATE.

Except as otherwise provided in this Act, this Act shall take effect 180 days after the date of the enactment of this Act, but shall not apply to any agency rule for which a general notice of proposed rulemaking is published on or before such date.

DOMENICI AMENDMENT NO. 1582

(Ordered to lie on the table.)

Mr. DOMENICI submitted an amendment intended to be proposed by him to amendment no. 1487 proposed by Mr. DOLE to the bill, S. 343, supra; as follows:

At page 77, line 8, after "rule" and before ";" insert the following: ", including whether it is a major rule".

At page 77, line 11, after "available" and before "to" insert the following: "to the Comptroller General, and, upon request,".

At page 77, line 11, after "Congress", strike the following: "and the Comptroller General, upon request".

At page 78, line 12, after "information" and before "relevant" insert the following: "the Comptroller General determines to be".

At page 78, line 13, after "subparagraph (A)" and before "." insert the following: "at such times and in such form as the Comptroller General prescribes".

At page 82, after line 12, insert the following new subsection:

"(4) The Comptroller General shall not be required to report on a rule described under paragraph (1) of this subsection unless so requested by a committee of jurisdiction of either House of Congress."

ROTH AMENDMENTS NOS. 1583–1587

(Ordered to lie on the table.)

Mr. ROTH submitted five amendments intended to be proposed by him to amendment No. 1487 proposed by Mr. DOLE to the bill, S. 343, supra; as follows:

AMENDMENT NO. 1583

On page 65, strike all from line 1 through line 15 on page 66 and insert in lieu thereof the following (and thereafter, renumber subsequent sections accordingly):

SUBCHAPTER IV—EXECUTIVE OVERSIGHT

§641. Procedures

(a) IN GENERAL.—The President shall, to the extent permitted by law—

(1) establish a process for the centralized review and coordination of Federal agency regulatory actions; and

(2) monitor, review, and ensure agency compliance with such process. Such review shall be conducted by and be the responsibility of the Director of the Office of Management and Budget, except to the extent that the President designates another reviewing entity to resolve conflicts, as provided under subsection (e).

(b) REGULATORY REVIEW.—For the purpose of carrying out the review established under subsection (a), the Director, not later than 12 months after the date of enactment of this subchapter, shall—

(1) develop and oversee uniform regulatory policies and procedures, including guidelines by which each agency shall prepare the cost-benefit analyses and risk assessments required by subchapter II and III. The guidelines shall—

(A) ensure that evaluations are consistent with subchapters II and III and, to the extent feasible, represent realistic and plausible estimates;

(B) be adopted following public notice and adequate opportunity for comment; and

(C) be used consistently by all agencies covered by this subchapter; and

(D) be reviewed, and when appropriate, revised at least every 4 years by the Director or designee of the President; and

(2) develop policies and procedures for regulatory review, including those by which the Director shall—

(A) designate current regulatory actions or existing rules for analysis and review in accordance with section 623; and

(B) review agency regulatory actions to ensure that they are consistent with applicable law, the purposes of this chapter, and the policies or actions of other agencies, including authority of the Director to—

(i) identify any agency regulatory actions that are duplicative, conflicting, or otherwise inconsistent with any law or policy or with the purposes of this chapter; and

(ii) return to the agency for further consideration any regulatory action in order to minimize or eliminate duplication, conflict, or inconsistency with any law or policy or with the purposes of this chapter.

(c) COMPLIANCE IN EMERGENCY SITUATIONS.—In emergency situations or when an agency is obligated by law to act more quickly than review procedures allow, the agency shall notify the Director or other reviewing entity as soon as possible and, to the extent practicable, comply with the requirements of this section. For those regulatory actions that are governed by a statutory or court imposed deadline, the agency shall, to the extent practicable, schedule rulemaking proceedings so as to permit sufficient time for the Director or other reviewing entity to comply with the requirements of this section.

(d) REGULATORY ACTION REVIEW BEFORE PUBLIC AVAILABILITY.—Except to the extent required by law, each agency shall not publish or otherwise issue to the public any regulatory action that is subject to review under this section until whichever of the following occurs first—

(1) the Director or other reviewing entity has waived review of the action, has completed review without any requests for further consideration under subsection (b)(2)(B), or otherwise approved publication; or

(2) the time period in Section 642(b) expires without the Director or other reviewing entity having notified the agency that it is returning the regulatory action for further consideration under subsection (b)(2)(B).

(e) RESOLUTION OF AGENCY CONFLICTS.—To the extent permitted by law, disagreements or conflicts between or among agencies or between the Director and an agency regarding regulatory actions or regulatory review that cannot be resolved by the Director, shall be resolved by the President, or by a reviewing entity designated by the President, as provided under subsection (a). Any review undertaken as provided under this subsection shall be in accordance with other requirements of law.

§642. Promulgation and adoption

(a) PUBLIC COMMENT.—Procedures established pursuant to section 641 shall only be implemented after opportunity for public comment. Any such procedures shall be consistent with the prompt completion of rulemaking proceedings.

(b) TIME FOR REVIEW.—(1) If procedures established pursuant to section 641 include review of any initial or final analyses of a rule required under chapter 6, the time for any such review of any initial analysis shall not exceed 90 days following the receipt of the analysis by the Director, a designee of the President, or by an officer to whom the authority granted under section 641 has been delegated pursuant to section 643.

(2) The time for review of any final analysis required under chapter 6 shall not exceed 90 days following the receipt of the analysis by the Director, a designee of the President, or such officer.

(3)(A) To the extent permitted by law and any applicable schedule issued under section 623, the times for each such review may be extended for good cause by the Director for a definite period of time.

(B) Notice of any such extension together with a succinct statement of the reasons therefor, shall be inserted in the rulemaking file.

AMENDMENT NO. 1584

Add a new section 637 to Subchapter III as follows:

SEC. 637. INTERAGENCY COORDINATION.

"(a) To promote the conduct, application, and practice of risk assessment in a consistent manner and to identify risk assessment data and research needs common to more than 1 Federal agency, the Director of the Office of Management and Budget, in consultation with the Office of Science and Technology Policy, shall—

"(1) periodically survey the manner in which each Federal agency involved in risk assessment is conducting such risk assessment to determine the scope and adequacy of risk assessment practices in use by the Federal Government;

"(2) provide advice and recommendations to the President and Congress based on the surveys conducted and determinations made under paragraph (1);

"(3) establish appropriate interagency mechanisms to promote—

"(A) coordination among Federal agencies conducting risk assessment with respect to the conduct, application, and practice of risk assessment; and

"(B) the use of state-of-the-art risk assessment practices throughout the Federal Government;

"(4) establish appropriate mechanisms between Federal and State agencies to communicate state-of-the-art risk assessment practices; and

"(5) periodically convene meetings with State government representatives and Federal and other leaders to assess the effectiveness of Federal and other leaders to assess the effectiveness of Federal and State cooperation in the development and application of risk assessment.

"(b) The President shall appoint National Peer Review Panels to review every 3 years the risk assessment practices of each covered agency for programs designed to protect human health, safety, or the environment. The Panels shall submit a report to the President and the Congress at least every 3 years containing the results of such review.

AMENDMENT NO. 1585

On page 35, line 23, after "(3)", strike "(A)";

On page 35, line 23, strike "least cost" and insert in lieu thereof "most cost-effective";

On page 35, line 25, strike "; or" and insert in lieu thereof a period;

On page 36, strike lines 1 through 21 in their entirety.

On page 37, line 6, after "(2)", strike "(A)";

On page 37, line 6, strike "least cost" and insert in lieu thereof "most cost-effective";

On page 37, line 8, strike "; or" and insert in lieu thereof a period;

On page 37, strike lines 9 through page 38, line 5.

AMENDMENT NO. 1586

On page 35, line 23, strike lines 23 through 25 and insert in lieu thereof "the rule adopts the alternative with greater net benefits than the reasonable alternatives that achieve the objectives of the statute.

On page 36, strike lines 1 through 21 in their entirety.

On page 37, insert "and" at the end of line 5.

On page 37, strike lines 6 through 8 and insert in lieu thereof "the rule adopts the alternative with the least net cost of the reasonable alternatives that achieve the objectives of the statute."

AMENDMENT NO. 1587

On page 21, between lines 10 and 11, insert the following:

"(A)(i) if a risk assessment is required under subchapter III, the analysis shall summarize the nature and magnitude of the risk identified pursuant to subchapter III and explain how and to what extent such risk is reduced by the proposed rule;".

On page 21, line 11, strike "(A)" and insert in lieu thereof "(A)(ii)".

CHAFEE AMENDMENT NO. 1588

(Ordered to lie on the table.)

Mr. CHAFEE submitted an amendment intended to be proposed by him to amendment No. 1487 proposed by Mr. DOLE to the bill, S. 343, supra; as follows:

Beginning on page 75, line 1, strike the following:

"(F) without substantial support in the rulemaking file, viewed as a whole, for the asserted or necessary factual basis, in the case of a rule adopted in a proceeding subject to section 553; or"

and redesignate the following subparagraph as "(F)".

On page 75, after line 12, insert the following:

"(c) In making a finding under subsection (a)(2)(A) of this section, the court shall determine whether the factual basis of a rule adopted in a proceeding subject to section 553 of this title is without substantial support in the rulemaking file."

ROTH AMENDMENT NO. 1589

(Ordered to lie on the table.)

Mr. ROTH submitted an amendment intended to be proposed by him to amendment no. 1487 proposed by Mr. DOLE to the bill, S. 343, supra; as follows:

Beginning on page 75, line 1, strike the following:

"(F) without substantial support in the rulemaking file, viewed as a whole, for the asserted or necessary factual basis, in the case of a rule adopted in a proceeding subject to section 553; or" and redesignate the following subparagraph as "(F)".

CHAFEE AMENDMENTS NOS. 1590–1591

(Ordered to lie on the table.)

Mr. CHAFEE submitted two amendments intended to be proposed by him to amendment No. 1487 proposed by Mr. DOLE to the bill, S. 343, supra; as follows:

AMENDMENT NO. 1590

Beginning on page 59, line 10, strike all through page 60, line 23 (the proposed section 634 on petition for review of a major freestanding risk assessment).

AMENDMENT NO. 1591

On page 40, line 11, strike "5-year" and insert "2-year".

On page 40, line 16, strike "2 years" and insert "6 months".

On page 40, line 21, strike "5-year" and insert "2-year".

On page 41, line 1, strike "2 years" and insert "6 months".

On page 41, line 5, strike "5-year" and insert "2-year".

On page 41, line 11, strike "2 years" and insert "6 months".

CHAFEE (AND LIEBERMAN) AMENDMENT NO. 1592

(Ordered to lie on the table.)

Mr. CHAFEE (for himself and Mr. LIEBERMAN) submitted an amendment intended to be proposed by them to amendment No. 1487 proposed by Mr. DOLE to the bill, S. 343, supra; as follows:

Beginning on page 38, line 14, strike all through page 40, line 7 (the proposed section 625 on jurisdiction and judicial review), and insert in lieu thereof the following:

SEC. 625. JUDICIAL REVIEW.

"(a) Compliance or noncompliance by an agency with the provisions of this subchapter and subchapter III shall not be subject to judicial review except in connection with review of a final agency rule and according to the provisions of this section.

"(b) Any determination by a designee of the President or the Director that a rule is, or is not, a major rule shall not be subject to judicial review in any manner.

"(c) The determination by an agency that a rule is, or is not, a major rule shall be set aside by a reviewing court only upon a clear and convincing showing that the determination is erroneous in light of the information available to the agency at the time the agency made the determination.

"(d) If the cost-benefit analysis or risk assessment required under this chapter has been wholly omitted for any major rule, a court shall vacate the rule and remand the case for further consideration. If an analysis or assessment has been performed, the court shall not review to determine whether the analysis or assessment conformed to the particular requirements of this chapter.

"(e) Any cost-benefit analysis or risk assessment prepared under this chapter shall not be subject to judicial consideration separate or apart from review of the agency action to which it relates. When an action for judicial review of an agency action is instituted, any analysis or assessment for such agency action shall constitute part of the whole administrative record of agency action for the purpose of judicial review of the agency action.".

CHAFEE AMENDMENTS NOS. 1593–1595

(Ordered to lie on the table.)

Mr. CHAFEE submitted three amendments intended to be proposed by him to amendment No. 1487 proposed by Mr. DOLE to the bill, S. 343, supra; as follows:

AMENDMENT NO. 1593

Amend section 621 of title 5, United States Code, as added by section 4(a) by inserting after paragraph (5), the following new paragraph:

"(6) The term 'major rule' does not include a rule that approves, in whole or in part, a plan or program adopted by a State that provides for the implementation, maintenance, or enforcement of Federal standards or requirements;".

AMENDMENT NO. 1594

On page 36, beginning at line 11, strike all through line 21 (the proposed paragraph (4) on reducing risks).

Beginning on page 37, line 19, strike all through page 38, line 5 (the proposed paragraph (3) on reducing risks).

AMENDMENT NO. 1595

On page 25, after line 6, insert the following new paragraph:

"(3) No numerical estimate of benefits prepared pursuant to this subchapter shall in any way discount the value of benefits expected to be experienced in the future."

CHAFEE AMENDMENT NO. 1596

(Ordered to lie on the table.)

Mr. CHAFEE submitted an amendment intended to be proposed by him to amendment No. 1487 proposed by Mr. DOLE to the bill, S. 343, supra; as follows:

Beginning on page 35, line 9, strike all through page 38, line 13 (the proposed section 624 on decisional criteria) and insert in lieu thereof the following:

"SECTION 624. DECISIONAL CRITERIA.

"(a) CONSTRUCTION WITH OTHER LAWS.—If, with respect to any action to be taken by a

Federal agency, it is not possible for the agency to comply both with the provisions of this section and the provisions of other law, the provisions of this section shall not apply to the action.

"(b) REQUIREMENTS.—Except as provided in subsection (c), no final major rule subject to this subchapter shall be promulgated unless the agency head publishes in the Federal Register a finding that—

"(1) the benefits from the rule justify the costs of the rule;

"(2) the rule employs to the extent practicable flexible reasonable alternatives of the type described in section 622(c)(2)(iii); and

"(3)(A) there is no other reasonable alternative that provides equal or greater benefits at less cost; or

"(B) if scientific, technical, or economic uncertainties or nonquantifiable benefits to health, safety, or the environment identified by the agency in the rulemaking record make a more costly alternative that achieves the objectives of the statute appropriate and in the public interest and the agency provides an explanation of those considerations, the rule adopts the least cost alternative of the reasonable alternatives necessary to take into account such uncertainties or benefits.

"(c) ALTERNATIVE REQUIREMENTS.—If an agency head has a nondiscretionary duty to promulgate a rule that cannot satisfy one or more of the criteria established by subsection (b), the agency head shall promulgate the rule ensuring that the remaining criteria of subsection (b) are satisfied.

"(d) PUBLICATION OF THE REASONS FOR NONCOMPLIANCE.—If an agency promulgates a rule to which subsection (c) applies, the agency head shall prepare a written explanation of why the agency is required to promulgate a rule that does not satisfy the criteria of subsection (b) and shall transmit the explanation with the final cost-benefit analysis to Congress when the final rule is promulgated."

STEVENS AMENDMENTS NOS. 1597–1603

(Order to lie on the table.)

Mr. STEVENS submitted seven amendments intended to be proposed by him to amendment No. 1487 proposed by Mr. DOLE to the bill, S. 343, supra; as follows:

AMENDMENT NO. 1597

On page 19, strike lines 5 through 7 and insert in lieu thereof the following:

"78aaa et seq.);

"(xii) a rule that involves the international trade laws of the United States;

"(xiii) a rule intended to implement section 354 of the Public Health Service Act (42 U.S.C. 263b) (as added by Section 2 * * * of the Water Quality Standards Act of 1992);".

"(xiv) a rule that allocates resources or promotes competition among industry sectors, such as a rule to establish catch limits pursuant the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.) or to require interconnection among common carriers pursuant to the Communications Act of 1934 (47 U.S.C. 151 et seq.); or

"(xv) a rule that involves hunting under the Migratory Bird Treaty Act (16 U.S.C. 703 et seq.).

AMENDMENT NO. 1598

On page 19, beginning on line 16, strike all through page 20, line 6, and insert in lieu thereof the following:

"(1) whether the rule is or is not a major rule within the meaning of section 621(5)(A)(i) or 621(5)(C), or has been designated a major rule under section 621(5); and

"(2) if the agency determines that the rule is a major rule, whether the rule requires or does not require the preparation of a risk assessment under section 632(a).

"(b) DESIGNATION.—(1) If an agency has determined that a rule is not a major rule within the meaning of section 621(5)(A)(i) or 621(5)(C), the President may determine that the rule is a major rule or designate".

AMENDMENT NO. 1599

On page 20, beginning on line 23, strike all through page 21, line 4, and insert in lieu thereof the following:

"(B)(i) When the President has published a determination or designation that a rule is a major rule after the publication of the notice of proposed rulemaking for the rule, the agency shall promptly issue and place in the rulemaking file an initial cost-benefit analysis for the rule and shall publish in the Federal Register a summary of such analysis."

AMENDMENT NO. 1600

On page 14, strike lines 3 through 17 and insert in lieu thereof the following:

plexity of the decision and any need for expedition.

"(5) the term 'major rule' means—

"(A) a rule or set of closely related rules that the agency proposing the rule or the President determines is likely to have a gross annual effect on the economy of $100,000,000 or more in reasonably quantifiable increased costs (and this limit my be adjusted periodically by the Director, at the Director's sole discretion, to account for inflation);

"(B) a rule that is otherwise designated a major rule by the President (and designation or failure to designate under this clause shall not be subject to judicial review); or

"(C) any rule or set of closely related rules, not determined to be a major rule pursuant to subparagraph (A) or (B), that the agency proposing the rule determines will have a significant economic impact on a substantial number of small businesses, pursuant to subchapter I;

"(6) the term 'market-based mechanism' means—.

AMENDMENT NO. 1601

On page 3, line 7, strike "dures." and insert in lieu thereof "dures established by law or practice for the internal procurement or administrative functions of that agency."

AMENDMENT NO. 1602

On page 12, beginning with "(1)" on line 13, strike all through "(2)" on line 18.

AMENDMENT NO. 1603

On page 48, line 7, strike "this subchapter." and insert in lieu thereof "this subchapter. For the purposes of this subchapter, the term 'protection of the environment' shall not include any rule to manage the harvest of fish or game.".

HATCH AMENDMENTS NOS. 1604–1608

(Order to lie on the table.)

Mr. HATCH submitted five amendments intended to be proposed by him to amendment No. 1487 proposed by Mr. DOLE to the bill, S. 343, supra; as follows:

AMENDMENT NO. 1604

On page 38, strike lines 6 through 13, and insert in lieu thereof the following:

"(d) To the maximum extent possible, and consistent with the policy goals of this subchapter, agency discretion under existing statutes shall be construed broadly to require the agency to identify and select reasonable alternatives that satisfy subsection (b) and maximize net benefits.

"(e) PUBLICATION OF REASONS FOR NONCOMPLIANCE.—If an agency promulgates a rule to which subsection (c) applies, the agency head shall prepare a written explanation of why the agency was required to promulgate a rule that does not satisfy the criteria of subsection (b) and shall transmit the explanation with the final cost-benefit analysis to Congress when the final rule is promulgated.".

AMENDMENT NO. 1605

On page 35, strike lines 23 through 25 and insert in lieu thereof the following:

"(3)(A) the rule adopts the alternative that achieves the greater net benefits of the reasonable alternatives that achieve the objectives of the statute; or".

AMENDMENT NO. 1606

On page 36, strike lines 1 through 21.

AMENDMENT NO. 1607

On page 37, strike lines 6 through 8, and insert in lieu thereof the following:

"(2)(A) the rule adopts the alternative that achieves the least net cost of the reasonable alternatives that achieve the objectives of the statute; or".

AMENDMENT NO. 1608

On page 37, strike lines 9 through 25 and on page * * *, lines 1 through 5.

CRAIG AMENDMENTS NOS. 1609–1610

(Ordered to lie on the table.)

Mr. HATCH (for Mr. CRAIG) submitted two amendments intended to be proposed by him to amendment No. 1487 proposed by Mr. DOLE to the bill, S. 343, supra; as follows:

AMENDMENT NO. 1609

On page 27, line 20, strike the number "11", and insert the number "7".

AMENDMENT NO. 1610

On page 27, line 5, strike the number "11", and insert the number "7".

LIEBERMAN AMENDMENT NO. 1611

(Ordered to lie on the table.)

Mr. LIEBERMAN submitted an amendment intended to be proposed by him to amendment No. 1487 proposed by Mr. DOLE to the bill, S. 343, supra; as follows:

On page 44, beginning with line 14, strike all through line 4 on page 46 and insert in lieu thereof the following:

"§ 629. Petition for alternative method of compliance

"(a) Except as provided in subsection (j) or unless prohibited by the statute authorizing a rule, any person subject to a rule may petition the relevant agency implementing the rule to modify or waive the specific requirements of a rule and to authorize an alternative compliance strategy satisfying the criteria of subsection (b).

"(b) Any petition submitted under subsection (a) shall—

"(1) identify with reasonable specificity the requirements for which the modification or waiver is sought and the alternative compliance strategy being proposed;

"(2) identify the facility to which the modification or waiver would pertain;

"(3) considering all the significant applicable human health, safety, and environmental benefits intended to be achieved by the rule, demonstrate that the alternative compliance strategy, from the standpoint of the applicable human health, safety, and environmental benefits, taking into account an environmental media, will achieve—

"(A) a significantly better result than would be achieved through compliance with the rule; or

"(B) an equivalent result at significantly lower compliance costs than would be achieved through compliance with the rule; and

"(4) demonstrate that the proposed alternative compliance strategy provides a degree of accountability, enforceability, and public and agency access to information at least equal to that of the rule.

"(c) No later than the date on which the petitioner submits the petition to the agency, the petitioner shall inform the public of the submission of such petition (including a brief description of the petition) through publication of a notice in newspapers of general circulation in the area in which the facility is located. The agency may authorize or require petitioners to use additional or alternative means of informing the public of the submission of such petitions. If the agency proposes to grant the petition, the agency shall provide public notice and opportunity to comment.

"(d) The agency may approve the petition upon determining that the proposed alternative compliance strategy—

"(1) considering all the significant applicable human health, safety, and environmental benefits intended to be achieved by the rule, from the standpoint of the applicable public health, safety, and environmental benefits, taking into account all environmental media, will achieve—

"(A) a significantly better result than would be achieved through compliance with the rule; or

"(B) an equivalent result at significantly lower compliance costs than would be achieved through compliance with the rule;

"(2) will provide a degree of accountability, enforceability, and public and agency access to information at least equal to that provided by the rule;

"(3) will not impose an undue burden on the agency that would be responsible for administering and enforcing such alternative compliance strategy; and

"(4) satisfies any other relevant factors.

"(e) Where relevant, the agency shall give priority to petitions with alternative compliance strategies using pollution prevention approaches.

"(f) In making determinations under subsection (d), the agency shall take into account any relevant cross-media effects of the proposed alternative compliance strategy, and whether the proposed alternative compliance strategy would transfer any significant health, safety, or environmental effects to other geographic locations, future generations, or classes of people.

"(g) Any alternative compliance strategy for which a petition is granted under this section shall be enforceable as if it were a provision of the rule being modified or waived.

"(h) The grant of a petition under this section shall be judicially reviewable as if it were the issuance of an amendment to the rule being modified or waived. The denial of a petition shall not be subject to judicial review.

"(i) No agency may grant more than 30 petitions per year under this section.

"(j) If the statute authorizing the rule that is the subject of the petition provides procedures or standards for an alternative method of compliance, the petition shall be reviewed solely under the terms of the statute.

CHAFEE (AND LIEBERMAN) AMENDMENT NO. 1612

(Ordered to lie on the table.)

Mr. CHAFEE (for himself and Mr. LIEBERMAN) submitted an amendment intended to be proposed by them to amendment No. 1487 proposed by Mr. DOLE to the bill, S. 343, supra; as follows:

On page 23, strike lines 1 through 3.

On page 23, strike lines 17 through 19, and insert in lieu thereof:

"(B) if not expressly or implicitly inconsistent with the statute under which the agency is acting, a reasonable determination, based on the rulemaking file considered as a whole, whether—

"(i) the benefits of the rule justify the costs of the rule; and

"(ii) the rule will achieve the rulemaking objectives in a more cost-effective manner than the alternatives described in the rulemaking, including the market-based mechanisms identified under subsection (c)(2)(C)(iii)".

On page 25, insert between lines 22 and 23:

"(g) CERTIFICATION OF ANALYSIS.—Each agency shall, consistent with Chapter 5 and other applicable law, provide in any proposed or final rulemaking notice published in the Federal Register—

"(1) a certification of compliance with the requirements of this chapter, or an explanation why such certification cannot be made; and

"(2) a certification that the rule will produce benefits that will justify the cost to the Government and to the public implementation of, and compliance with, the rule, or an explanation why such certification cannot be made.

On page 26, lines 16–17, strike "the decisional criteria of section 624" and insert in lieu thereof: "the determination made in section 622(d)(2)(B)".

On page 28, line 22, strike "the findings required by section 624" and insert in lieu thereof: "the determination made in section 622(d)(2)(B)".

On page 29, lines 22 through 23, strike "the decisional criteria under section 624" and insert in lieu thereof: "the determination made in section 622(d)(2)(B)".

On page 32, line 18, strike "the decisional criteria of section 624" and insert in lieu thereof: "the determination made in section 622(d)(2)(B)".

On page 33, lines 11 through 12, strike "the decisional criteria of section 624" and insert in lieu thereof: "the determination made in section 622(d)(2)(B)".

On page 35, line 9, through page 38, line 13, strike entire section 624, and renumber sections accordingly.

On page 44, strike lines 8 through 13.

LIEBERMAN (AND CHAFEE) AMENDMENT NO. 1613

(Ordered to lie on the table.)

Mr. LIEBERMAN (for himself and Mr. CHAFEE) submitted an amendment intended to be proposed by them to amendment No. 1487 proposed by Mr. DOLE to the bill, S. 343, supra; as follows:

On page 97, after line 7, insert the following:

"SEC. 10. HUMAN HEALTH, SAFETY AND THE ENVIRONMENT.—Nothing in this Act shall be construed to revise, amend or in any fashion weaken the requirements or criteria of any statute protecting human health, safety or the environment, including the Clean Air Act, the Clean Water Act, the Safe Drinking Water Act or the Resource Conservation and Recovery Act, or any amendments thereto."

KENNEDY AMENDMENT NOS. 1614–1626

(Ordered to lie on the table.)

Mr. KENNEDY submitted 13 amendments intended to be proposed by him to amendment no. 1487 proposed by Mr. DOLE to the bill, S. 343, supra; as follows:

AMENDMENT NO. 1614

On page 71, strike out lines 13 through 23.

AMENDMENT NO. 1615

On page 71, strike out lines 13 through 23 and insert in lieu thereof the following new subsection:

(c) SENSE OF THE SENATE REGARDING REFORM OF THE DELANEY CLAUSE.—It is the sense of the Senate that—

(1) the Delaney Clause in the Federal Food, Drug, and Cosmetic Act governing carcinogens in foods must be reformed;

(2) any such reform of the Delaney Clause—

(A) should reflect the care and deliberativeness due to a subject as important as whether and to what extent infants and children shall be exposed to carcinogens through the food they consume; and

(B) should not undermine other safety standards.

(3) advances in science and technology since the Delaney Clause was originally enacted in 1958 have prompted the need to refine the standards in current law with respect to pesticide residues, and may have limited the appropriateness of such standards with respect to food additives and animal drugs;

(4) the Delaney Clause should be replaced by a contemporary health-based standard that takes into account—

(A) the right of the American people to safe food;

(B) the conclusions of the National Academy of Sciences concerning the special susceptibility of infants and children to the effects of pesticide chemicals and the cumulative effect of the residues of such pesticide chemicals on human health;

(C) the importance of a stable food supply and a sound agricultural economy; and

(D) the interests of consumers, farmers, food manufacturers, and other interested parties; and

(5) prior to the end of the first session of the 104th Congress, after appropriate consideration by the committees of jurisdiction, the Senate should enact legislation to reform the Delaney Clause.

AMENDMENT NO. 1616

On page 71, strike out lines 13 through 23 and insert in lieu thereof the following new subsection:

(c) REVISION OF CERTAIN PROVISIONS OF THE FEDERAL FOOD, DRUG, AND COSMETIC ACT RELATING TO THE SAFETY OF FOOD.—

(1) TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES.—Section 408(b) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(b)) is amended—

(A) by striking "and (3) to the opinion" and inserting "(3) to the opinion"; and

(B) by striking the period at the end of the second sentence and inserting the following: "; and (4) to the susceptibility of infants and children to the effects of pesticide chemicals and the residues of such pesticide chemicals.".

(2) FOOD ADDITIVES.—

(A) IN GENERAL.—Section 409(c)(3)(A) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 348(c)(3)) is amended to read as follows:

"(A) fails to establish that the proposed use of the food additive, under the conditions of use to be specified in the regulation, will be safe: *Provided*, That no additive shall be deemed to be safe if such additive is found to induce cancer when ingested by man or animal, or if such additive is found, after tests that are appropriate for the evaluation of the safety of food additives, to induce cancer in man or animal, except that this proviso shall not apply with respect to—

"(i) the use of a substance as an ingredient of feed for animals that are raised for food production if the Secretary finds that—

"(I) under the conditions of use and feeding specified in the proposed labeling, and reasonably certain to be followed in practice, such additive will not adversely affect the animal for which such feed is intended; and

"(II) there are no residues of the additive as defined by the Secretary (when tested by methods of examination prescribed or approved by the Secretary by regulation, which regulations shall not be subject to subsections (f) and (g)) in any edible portion of such animal after slaughter or in any food derived from the living animal;

"(ii) the use of any substance in food (except the use of a substance as an ingredient of feed for animals that are raised for food production) that the Secretary, by regulation (which regulations shall not be subject to subsections (f) and (g)) finds that the petitioner has shown, based on clear and convincing scientifically valid data, that—

"(I) the amount of the additive that is present in food as a result of the intended uses of such additive will be insignificant; and

"(II) the amount of the additive that is present in food as a result of the intended uses of such additive will present no risk to the public health;

"(iii) the use of any substance in food if the Secretary finds that the petitioner has shown, based on clear and convincing scientifically valid data, that the additive induces cancer in animals through mechanisms that do not operate in humans and, therefore, that the additive would be reasonably anticipated not to cause cancer in humans; or

"(iv) a residue of a pesticide chemical; or".

(B) ADDITIONAL ASSESSMENT CONSIDERATIONS.—Section 409(c)(5) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 348(c)(5)), as amended by subparagraph (A), is further amended—

(i) in subparagraph (B), by striking "and" at the end thereof;

(ii) in subparagraph (C), by striking the period at the end thereof and inserting "; and"; and

(iii) by adding at the end thereof the following new subparagraph:

"(D) the susceptibility of infants and children to the effects of residues of pesticide chemicals.".

(3) NEW ANIMAL DRUGS.—Section 512(d)(1)(I) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(d)(1)) is amended to read as follows:

"(I) such drug induces cancer when ingested by man or animal, or, after tests that are appropriate for the evaluation of the safety of such drug, induces cancer in man or animal, except that this subparagraph shall not apply with respect to—

"(i) such drug if the Secretary finds that—

"(I) under the conditions of use and feeding specified in the proposed labeling, and reasonably certain to be followed in practice, such drug will not adversely affect the animal for which such drug is intended; and

"(II) there are no residues of such drug as defined by the Secretary (when tested by methods of examination prescribed or approved by the Secretary by regulation, which regulations shall not be subject to subsections (f) and (g)) in any edible portion of such animal after slaughter or in any food derived from the living animal; or

"(ii) such drug if the Secretary finds that the applicant has shown, based on clear and convincing scientifically valid data, that such drug or the residues of such drug induce cancer in animals through mechanisms that do not operate in humans and, therefore, that neither such drug nor the residues of such drug would be reasonably anticipated to cause cancer in humans;".

AMENDMENT NO. 1617

On page 71, strike out lines 13 through 23 and insert in lieu thereof the following new subsection:

(c) REVISION OF CERTAIN PROVISIONS OF THE FEDERAL FOOD, DRUG, AND COSMETIC ACT RELATING TO THE SAFETY OF FOOD.—

(1) FOOD ADDITIVES.—

(A) IN GENERAL.—Section 409(c)(3)(A) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 348(c)(3)) is amended to read as follows:

"(A) fails to establish that the proposed use of the food additive, under the conditions of use to be specified in the regulation, will be safe: *Provided*, That no additive shall be deemed to be safe if such additive is found to induce cancer when ingested by man or animal, or if such additive is found, after tests that are appropriate for the evaluation of the safety of food additives, to induce cancer in man or animal, except that this proviso shall not apply with respect to—

"(i) the use of a substance as an ingredient of feed for animals that are raised for food production if the Secretary finds that—

"(I) under the conditions of use and feeding specified in the proposed labeling, and reasonably certain to be followed in practice, such additive will not adversely affect the animal for which such feed is intended; and

"(II) there are no residues of the additive as defined by the Secretary (when tested by methods of examination prescribed or approved by the Secretary by regulation, which regulations shall not be subject to subsections (f) and (g)) in any edible portion of such animal after slaughter or in any food derived from the living animal;

"(ii) the use of any substance in food (except the use of a substance as an ingredient of feed for animals that are raised for food production) that the Secretary, by regulation (which regulations shall not be subject to subsections (f) and (g)) finds that the petitioner has shown, based on clear and convincing scientifically valid data, that—

"(I) the amount of the additive that is present in food as a result of the intended uses of such additive will be insignificant; and

"(II) the amount of the additive that is present in food as a result of the intended uses of such additive will present no risk to the public health;

"(iii) the use of any substance in food if the Secretary finds that the petitioner has shown, based on clear and convincing scientifically valid data, that the additive induces cancer in animals through mechanisms that do not operate in humans and, therefore, that the additive would be reasonably anticipated not to cause cancer in humans; or

"(iv) a residue of a pesticide chemical; or".

(B) ADDITIONAL ASSESSMENT CONSIDERATIONS.—Section 409(c)(5) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 348(c)(5)), as amended by subparagraph (A), is further amended—

(i) in subparagraph (B), by striking "and" at the end thereof;

(ii) in subparagraph (C), by striking the period at the end thereof and inserting "; and"; and

(iii) by adding at the end thereof the following new subparagraph:

"(D) the susceptibility of infants and children to the effects of residues of pesticide chemicals.".

(2) NEW ANIMAL DRUGS.—Section 512(d)(1)(I) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(d)(1)) is amended to read as follows:

"(I) such drug induces cancer when ingested by man or animal, or, after tests that are appropriate for the evaluation of the safety of such drug, induces cancer in man or animal, except that this subparagraph shall not apply with respect to—

"(i) such drug if the Secretary finds that—

"(I) under the conditions of use and feeding specified in the proposed labeling, and reasonably certain to be followed in practice, such drug will not adversely affect the animal for which such drug is intended; and

"(II) there are no residues of such drug as defined by the Secretary (when tested by methods of examination prescribed or approved by the Secretary by regulation, which regulations shall not be subject to subsections (f) and (g)) in any edible portion of such animal after slaughter or in any food derived from the living animal; or

"(ii) such drug if the Secretary finds that the applicant has shown, based on clear and convincing scientifically valid data, that such drug or the residues of such drug induce cancer in animals through mechanisms that do not operate in humans and, therefore, that neither such drug nor the residues of such drug would be reasonably anticipated to cause cancer in humans;".

AMENDMENT NO. 1618

On page 19, between lines 7 and 8, insert the following new clause:

"( ) a rule or agency action relating to performance standards for electrical wires that connect patients to medical devices".

AMENDMENT NO. 1619

On page 44, after line 13, strike section 629.

AMENDMENT NO. 1620

On page 14, between lines 16 and 17, insert the following:

"(6) the term 'major rule' does not include a rule the primary purpose of which is to protect the special health needs of women.

On page 49, line 21, strike "or".

On page 50, line 2, strike the period at the end and insert "; or".

On page 50, between lines 2 and 3, insert the following:

"(F) a rule or agency action the primary purposes of which is to protect the special health needs of women.

On page 88, strike lines 15 through 19 and insert the following:

"§ 807. Exemptions.

"Nothing in this chapter shall apply to rules—

"(1) that concern monetary policy proposed or implemented by the Board of Governors of the Federal Reserve System or the Federal Open Market Committee; or

"(2) the primary purposes of which is to protect the special health needs of women.".

AMENDMENT NO. 1621

On page 14, between lines 16 and 17, insert the following:

"(6) the term 'major rule' does not include a rule the primary purpose of which is to protect the health and safety of children.

On page 49, line 21, strike "or".

On page 50, line 2, strike the period at the end and insert "; or".

On page 50, between lines 2 and 3, insert the following:

"(F) a rule or agency action the primary purposes of which is to protect the health or safety of children.

On page 88, strike lines 15 through 19 and insert the following:

"§ 807. Exemptions.

"Nothing in this chapter shall apply to rules—

"(1) that concern monetary policy proposed or implemented by the Board of Governors of the Federal Reserve System or the Federal Open Market Committee; or

"(2) the primary purposes of which is to protect the health or safety of children".

AMENDMENT NO. 1622

On page 16, line 16, insert "or removal from" after "into".

AMENDMENT NO. 1623

On page 49, line 12, insert "or removal from" after "into".

AMENDMENT NO. 1624

On page 49, line 17, insert "compliance activities, educational and guidance documents," after "permit,".

AMENDMENT NO. 1625

On page 46, insert between lines 4 and 5 the following:

"§ 629A. Inapplicability to mine safety and health regulations

"This subchapter shall not apply to any standard, regulation, interpretive rule, guidance, or general statement of policy relating to mine safety and health.

On page 50, insert between lines 15 and 16 the following new paragraph:

"(4) This subchapter shall not apply to any standard, regulation, interpretive rule, guidance, or general statement of policy relating to mine safety and health.

On page 96, insert between lines 20 and 21 the following new section:

SEC. . MINE SAFETY AND HEALTH REGULATIONS.

The Federal Mine Safety and Health Act of 1977 (30 U.S.C. 801 et seq.) is amended by inserting after section 101 the following new section:

"RISK ASSESSMENTS FOR FINAL STANDARDS

"SEC. 101a. (a) In promulgating any final mine safety and health regulation or standard, the Secretary shall publish in the Federal Register—

"(1) an estimate, calculated with as much specificity as practicable, of the risk to the health and safety of employees addressed by such regulation or standard, the affect of such regulation or standard on human health or the environment, and the costs associated with the implementation of, and compliance with, such regulation or standard;

"(2) a comparative analysis of the risk addressed by such regulation or standard relative to other risks to which employees are exposed; and

"(3) a certification that—

"(A) the estimate under paragraph (1) and the analysis under paragraph (2) are—

"(i) based upon a scientific evaluation of the risk to the health and safety of employees and to human health or the environment; and

"(ii) supported by the best available scientific data;

"(B) such regulation or standard will substantially advance the purpose of protecting employee health and safety or the environment against the specified identified risk; and

"(C) such regulation or standard will produce benefits to employee health and safety or the environment that will justify the cost to the Federal Government and the public of the implementation of and compliance with such regulation or standard.

"(b) If the Secretary cannot make the certification required under subsection (a)(3), the Secretary shall—

"(1) notify the Congress concerning the reasons why such certification cannot be made; and

"(2) publish a statement of such reasons with the final regulation or standard.

"(c) Nothing in this section shall be construed to grant a cause of action to any person.".

AMENDMENT NO. 1626

On page 25, between lines 22 and 23, insert the following:

"(g) EXEMPTION FOR RULE OR AGENCY ACTION RELATING TO THE SAFETY OR BLOOD SUPPLY.—None of the provisions of this subchapter or subchapter III shall apply to any rule or agency action intended to ensure the safety, efficacy, or availability of blood, blood products, or blood-derived products.

LEVIN AMENDMENTS NOS. 1627–1649

(Ordered to lie on the table.)

Mr. LEVIN submitted 23 amendments intended to be proposed by him to amendment No. 1487 proposed by Mr. DOLE to the bill, S. 343, supra; as follows:

AMENDMENT NO. 1627

On page 75, strike lines 1 through 5 and renumber accordingly.

On page 8, line 12, strike "substantially."

AMENDMENT NO. 1628

On page 19, between lines 7 and 8, insert the following new subparagraph:

"(xiii) a rule or agency action of the Federal Election Commission or a rule or agency action issued under section 315 and section 312(a)(7) of the Federal Communications Act of 1934."

AMENDMENT NO. 1629

On page 3, line 2, strike "or".

On page 3, line 7, strike the period and insert the following: "; or

"(5) a rule relating to government loans, grants or benefits."

AMENDMENT NO. 1630

On page 57, line 25, strike "such person;" and insert "such person or an employer of such person;"

AMENDMENT NO. 1631

On page 21, line 25, insert between "of" and "reasonable" the following: "a reasonable number of".

On page 23, line 11, insert between "and of" and "the" the following: "a reasonable number of".

AMENDMENT NO. 1632

On page 39, line 18, strike subsection (e).

AMENDMENT NO. 1633

On page 36, line 2, strike "nonquantifiable".

On page 36, line 10, strike "; and" and substitute "."

On page 36, line 11, strike paragraph (4).

On page 37, line 10, strike "nonquantifiable".

On page 37, at the end of line 5, insert "and".

On page 37, line 18, strike "; and" and insert ".".

On page 37, line 19, strike paragraph (3).

AMENDMENT NO. 1634

On page 22, line 19, after "scientific evaluations," insert "cost estimates,".

On page 22, line 24, after "scientific evaluation," insert "cost estimate,".

AMENDMENT NO. 1635

On page 16, lines 15 and 16, strike "a rule or agency action that authorizes the introduction into" and substitute "the introduction into or removal from".

On page 16, line 25, strike "or that provides relief, in whole or in part, from a statutory prohibition," and all that follows through page 17, line 4.

On page 49, line 11, strike "a rule or agency action that authorizes the introduction into" and substitute "the introduction into or removal from".

AMENDMENT NO. 1636

On page 8, line 12, strike "substantially".

AMENDMENT NO. 1637

On page 3, line 25, strike "text of".

On page 4, line 2, strike "text of".

On page 8, line 3, strike "text of".

On page 8, line 5, strike "text of".

AMENDMENT NO. 1638

On page 57, line 11, insert after the word "panels" the following: "or reports which have been subject to peer review".

AMENDMENT NO. 1639

On page 58, line 24, strike everything through page 59, line 3.

AMENDMENT NO. 1640

On page 57, line 11, insert after the word "panels" the following: "or reports which have been subject to peer review".

AMENDMENT NO. 1641

On page 40, line 8, strike everything through page 41, line 12, and insert the following:

SEC. 626. DEADLINES FOR RULEMAKING.

"(a) All deadlines in statutes that require agencies to propose or promulgate any rule subject to section 622 or subchapter III during the 2-year period beginning on the effective date of this section shall be suspended until the earlier of—

"(1) the date on which the requirements of section 622 or subchapter III are satisfied; or

"(2) the date occurring 6 months after the date of the applicable deadline.

"(b) All deadlines imposed by any court of the United States that would require an agency to propose or promulgate a rule subject to section 622 or subchapter III during the 2-year period beginning on the effective date of this section shall be suspended until the earlier of—

"(1) the date on which the requirements of section 622 or subchapter III are satisfied; or

"(2) the date occurring 6 months after the date of the applicable deadline.

"(c) In any case in which the failure to promulgate a rule by a deadline occurring during the 2-year period beginning on the effective date of this section would create an obligation to regulate through individual adjudications, the deadline shall be suspended until the earlier of—

"(1) the date on which the requirements of section 622 or subchapter III are satisfied; or

"(2) the date occurring 6 months after the date of the applicable deadline.

AMENDMENT NO. 1642

On page 75, strike lines 1 through 5 and renumber accordingly.

AMENDMENT NO. 1643

On page 57, line 25, strike "such person;" and insert "such person or an employer of such person;"

AMENDMENT NO. 1644

On page 14, strike out line 11 and all that follows through line 18 and substitute the following:

"(B) any other rule that is—

"(i) otherwise designated a major rule by the agency proposing the rule, the Director, or a designee of the President; or

"(ii) designated a major rule by the Chief Counsel for Advocacy of the Small Business Administration with the concurrence of the Administrator of the Office of Information and Regulatory Affairs, or solely by the Administrator of the Office of Information and Regulatory Affairs, pursuant to the designation procedures established in paragraphs (e)(2) and (3) of section 623,

provided that a designation or failure to designate under this clause shall not be subject to judicial review;

"(6) the term 'market-based mechanism' means a regulatory program that—".

AMENDMENT NO. 1645

On page 33, at the end of line 13, insert "or repeal".

On page 33, line 17, strike "or repeal".

On page 34, line 11, after "to amend", insert "or repeal".

On page 34, line 17, after "modify" insert "or repeal".

On page 34, line 24, strike "the head of the agency" and all that follows through the end of the sentence and insert in lieu thereof the following:

"the rule shall be subject to the congressional disapproval procedure under section 802 as of the date of the deadline, and shall terminate by operation of law upon the enactment of a joint resolution of disapproval pursuant to such section.".

AMENDMENT NO. 1646

On page 15, line 18, strike paragraph (8) and substitute the following:

"(8) the term 'reasonable alternatives' means a reasonable number of significant alternatives proposed by the agency or by persons commenting on a proposed rule, which the agency has authorization to consider under its permissible interpretation of the statute, including flexible regulatory options described in section 622(c)(2)(c)(iii), unless precluded by the statute granting the rulemaking authority."

AMENDMENT NO. 1647

On page 25, beginning with line 23, strike out all through line 8 on page 35 and insert in lieu thereof the following:

"§ 623. Agency regulatory review

"(a) PRELIMINARY SCHEDULE FOR RULES.—(1) Not later than 1 year after the date of the enactment of this section, and every 5 years thereafter, the head of each agency shall publish in the Federal Register a notice of proposed rulemaking under section 553 that contains a preliminary schedule of rules selected for review under this section by the head of the agency and in the sole discretion of the head of the agency, and request public comment thereon, including suggestions for additional rules warranting review. The agency shall allow at least 180 days for public comment.

"(2) The preliminary schedule under this subsection shall propose deadlines for review of each rule listed thereon, and such deadlines shall occur not later than 11 years from the date of publication of the preliminary schedule.

"(3) In selecting rules and establishing deadlines for the preliminary schedule, the head of the agency shall consider the extent to which, in the judgment of the head of the agency—

"(A) a rule is unnecessary, and the agency has discretion under the statute authorizing the rule to repeal the rule;

"(B) the benefits of the rule do not justify its costs or the rule does not achieve the rulemaking objectives in a cost-effective manner;

"(c) a rule could be revised in a manner allowed by the statute authorizing the rule so as to—

"(i) substantially decrease costs;

"(ii) substantially increase benefits; or

"(iii) provide greater flexibility for regulated entities, through mechanisms including, but not limited to, those listed in section 622(c)(2)(C)(iii);

"(D) the importance of each rule relative to other rules being reviewed under this section; or

"(E) the resources expected to be available to the agency to carry out the reviews under this section.

"(b) SCHEDULE.—(1) Not later than 1 year after publication of a preliminary schedule under subsection (a), the head of each agency shall publish a final rule that establishes a schedule of rules to be reviewed by the agency under this section.

"(2) The schedule shall establish a deadline for completion of the review of each rule listed on the schedule, taking into account the criteria in subsection (a)(3) and comments received in the rulemaking under subsection (a). Each such deadline shall occur not later than 11 years from the date of publication of the preliminary schedule.

"(3) The head of the agency shall modify the agency's schedule under this section to reflect any change contained in an appropriations Act under subsection (d).

"(c) JUDICIAL REVIEW.—(1) Notwithstanding section 623 and except as provided otherwise in this subsection, judicial review of agency action taken pursuant to the requirements of this section shall be limited to review of compliance or noncompliance with the requirements of this section.

"(2) Agency decisions to place, or decline to place, a rule on the schedule, and the deadlines for completion of a rule, shall not be subject to judicial review.

"(d) ANNUAL BUDGET.—(1) The President's annual budget proposal submitted under section 1105(a) of title 31 for each agency subject to this section shall—

"(A) identify as a separate sum the amount requested to be appropriated for implementation of this section during the upcoming fiscal year; and

"(B) include a list of rules which may be subject to subsection (e)(3) during the year for which the budget proposal is made.

"(2) Amendments to the schedule under subsection (b) to place a rule on the schedule for review or change a deadline for review of a rule may be included in annual appropriations Acts for the relevant agencies. An authorizing committee with jurisdiction may recommend, to the House of Representatives or Senate appropriations committee (as the case may be), such amendments. The appropriations committee to which such amendments have been submitted may include the amendments in the annual appropriations Act for the relevant agency. Each agency shall modify its schedule under subsection (b) to reflect such amendments that are enacted into law.

"(e) REVIEW OF RULE.—(1) For each rule on the schedule under subsection (b), the agency shall—

"(A) not later than 2 years before the deadline in such schedule, publish in the Federal Register a notice that solicits public comment regarding whether the rule should be continued, amended, or repealed;

"(B) not later than 1 year before the deadline in such schedule, publish in the Federal Register a notice that—

"(i) addresses public comments generated by the notice in subparagraph (A);

"(ii) contains a preliminary analysis provided by the agency of whether the rule is a major rule, and if so, whether the benefits of the rule justify its costs;

"(iii) contains a preliminary determination as to whether the rule should be continued, amended, or repealed; and

"(iv) solicits public comment on the preliminary determination for the rule; and

"(C) not later than 60 days before the deadline in such schedule, publish in the Federal Register a final notice on the rule that—

"(i) addresses public comments generated by the notice in subparagraph (B); and

"(ii) contains a final determination of whether to continue, amend, or repeal the rule;

"(iii) if the agency determines to continue the rule and the rule is a major rule, describes a final analysis as to whether the benefits of the rule justify its costs; and

"(iv) if the agency determines to amend or repeal the rule, contains a notice of proposed rulemaking under section 553.

"(2) If the final determination of the agency is to continue the rule, that determination shall take effect 60 days after the publication in the Federal Register of the notice in paragraph (1)(C).

"(3) If the final determination of the agency is to continue the rule, and the agency has concluded that the benefits do not justify the costs, the agency shall transmit to the appropriate committees of Congress the cost-benefit analysis and a statement of the agency's reasons for continuing the rule.

"(f) Deadline for Final Agency Action on Modified Rule.—If an agency makes a determination to amend or repeal a major rule under subsection (e)(1)(C)(ii), the agency shall complete final agency action with regard to such rule not later than 2 years of the date of publication of the notice in subsection (e)(1)(C) containing such determination. Nothing in this subsection shall limit the discretion of an agency to decide, after having proposed to modify a major rule, not to promulgate such modification. Such decision shall constitute final agency action for the purposes of judicial review.

"(g) Completion of Review or Repeal of Rule.—If an agency has not completed review of the rule by the deadline established under subsection (b), the agency shall immediately commence a rulemaking action pursuant to section 553 of this title to repeal the rule and shall complete such rulemaking within 2 years of the deadline established under subsection (b).

"(h) Final Agency Action.—(1) The final determination of an agency to continue a rule under subsection (e)(1)(C) shall be considered final agency action.

"(2) Failure to promulgate an amended major rule or to make other decisions required by subsection (g) by the date established under such subsection shall be subject to judicial review pursuant to section 706(1) of this title.".

Amendment No. 1648

On page 11, strike lines 5 through line 19.

On page 12, strike line 9 through line 12.

On page 59, strike lines 10 and all that for follows through page 60, line 23.

On page 44, strike line 14 and all that follows through page 46, line 4.

Amendment No. 1649

On page 39, lines 11 and 12, strike "failure to comply with" and insert in lieu thereof "any analysis or assessment pursuant to".

GLENN AMENDMENTS NOS. 1650–1652

(Ordered to lie on the table.)

Mr. GLENN submitted three amendments intended to be proposed by him to amendment No. 1487 proposed by Mr. Dole to the bill, S. 343, supra; as follows:

Amendment No. 1650

On page 1, line 5, through page 12, line 21, strike all text.

Amendment No. 1651

Strike page 67, lines 1–18.

Amendment No. 1652

On page 35, strike out all from line 10 through page 38, line 5, and insert in lieu thereof the following:

"(a) Construction With Other Laws.—The requirements of this section shall supplement, and not supersede, any other decisions criteria otherwise provided by law, and in the event of conflict, the statute under which the rule is promulgated shall govern.

"(b) Requirements.—Except as provided in subsection (c), no final major rule subject to this subchapter shall be promulgated unless the agency head publishes in the Federal Register a finding that—

"(1) the benefits from the rule justify the costs of the rule;

"(2) the rule employs to the extent practicable flexible reasonable alternatives of the type described in section 622(c)(2)(C)(iii); and

"(3)(A) there is no other reasonable alternative that provides equal or greater benefits at less cost that achieves the objectives of the rulemaking as specified by the agency head and consistent with the statute; or

"(B) if scientific, technical, or economic uncertainties or nonquantifiable benefits to health, safety, or the environment, or the achievement of constitutional rights of individuals, or the achievement of statutory rights that prohibit discrimination identified by the agency in the rulemaking record make a more costly alternative that achieves the objectives of the statute appropriate and in the public interest and the agency head provides an explanation of those considerations, the rule adopts the least cost alternative of the reasonable alternatives that achieves the objectives of the rulemaking as specified by the agency head and consistent with the statute, necessary to take into account such uncertainties or benefits; and

"(c) Alternative Requirements.—If, applying the statutory requirements upon which the rule is based, a rule cannot satisfy the criteria of subsection (b), the agency head may promulgate the rule if the agency head finds that—

"(1) the rule employs to the extent practicable flexible reasonable alternatives of the type described in section 622(c)(2)(C)(iii);

"(2)(A) there is no other reasonable alternative that provides equal or greater benefits at less cost that achieves the objectives of the rulemaking as specified by the agency head and consistent with the statute; or

"(B) if scientific, technical, or economic uncertainties or nonquantifiable benefits to health, safety, or the environment, or the achievement of constitutional rights of individuals, or the achievement of statutory rights that prohibit discrimination identified by the agency in the rulemaking record make a more costly alternative that achieves the objectives of the statute appropriate and in the public interest and the agency head provides an explanation of those considerations, the rule adopts the least cost alternative of the reasonable alternatives that achieves the objectives of the rulemaking as specified by the agency head and consistent with the statute, necessary to take into account such uncertainties or benefits."

GLENN (AND LEVIN) AMENDMENTS NOS. 1653–1658

(Ordered to lie on the table.)

Mr. GLENN (for himself and Mr. Levin) submitted six amendments intended to be proposed by them to amendment No. 1487 proposed by Mr. Dole to the bill, S. 343, supra; as follows:

Amendment No. 1653

On page 52:

Lines 9 through 10, strike "that are reasonably expected to be encountered".

Strike line 4 and insert in lieu thereof, "shall consider in each risk assessment sound, reasonably"

Line 15 insert ", where appropriate," after "consider".

On page 53:

Line 4, insert "material" before "conflicts".

Line 7, strike "emphasizing" and insert "including".

Line 8, strike "the most".

Lines 12 through 13, strike "the greatest" and insert in lieu thereof "sound".

On page 54, line 1, after "(1)" insert "To the extent feasible and scientifically appropriate."

On page 56, line 10, strike "the reasonably expected risk" and insert in lieu thereof "the range and distribution of risk".

Amendment No. 1654

On page 16, line 16, insert "or removal from" after "the introduction into".

On page 49, line 12, insert "or removal from" after "the introduction into".

On page 50, strike lines 6 through 9.

Amendment No. 1655

On page 46 between lines 11 and 12, insert the following:

"(2) the term "covered agency" means—

"(A) the Secretary of Defense, for major rules relating to the programs and responsibilities of the United States Army Corps of Engineers;

"(B) the Secretary of the Interior, for major rules relating to the programs and responsibilities of the Office of Surface Mining Reclamation and Enforcement;

"(C) the Secretary of Agriculture, for major rules relating to the programs and responsibilities of—

"(i) the Animal and Plant Health Inspection Service;

"(ii) the Grain Inspection, Packers, and Stockyards Administration;

"(iii) the Food Safety and Inspection Service;

"(iv) the Forest Service; and

"(v) the Natural Resources Conservation Service;

"(D) the Secretary of Commerce, for major rules relating to the programs and responsibilities of the National Marine Fisheries Service;

"(E) the Secretary of Labor, for major rules relating to the programs and responsibilities of—

"(i) the Occupational Safety and Health Administration; and

"(ii) the Mine Safety and Health Administration;

"(F) the Secretary of Health and Human Services, for major rules relating to the programs and responsibilities assigned to the Food and Drug Administration;

"(G) the Secretary of Transportation, for major rules relating to the programs and responsibilities assigned to—

"(i) the Federal Aviation Administration; and

"(ii) the National Highway Traffic Safety Administration;

"(H) the Secretary of Energy, for major rules relating to nuclear safety, occupational safety and health, and environmental restoration and waste management;

"(I) the Chairman of the Consumer Product Safety Commission;

"(J) the Administrator of the Environmental Protection Agency; and

"(K) the Chairman of the Nuclear Regulatory Commission.

On page 48, line 3, strike "an" and insert "a covered";

On page 48, line 9, after "each" insert "covered";

On page 48, line 18, after "each" insert "covered".

Amendment No. 1656

On page 67, beginning on line 19, strike out all through page 71, line 12, and insert in lieu thereof—

(b) REGULATORY FLEXIBILITY ACT JUDICIAL REVIEW.—Section 611 of title 5, United States Code, is amended to read as follows:

"SEC. 611. JUDICIAL REVIEW.

"(a)(1) Except as provided in paragraph (2), not later than the end of the 120 day period beginning on the date of publication of a final rule with respect to which an agency—

"(A) certified, pursuant to section 605(b), that such rule would not have a significant economic impact on a substantial number of small entities; or

"(B) prepared a final regulatory analysis pursuant to section 604;

an affected small entity may petition for the judicial review of such certification, or analysis in accordance with this subsection. A court having jurisdiction to review such rule for compliance with section 553 or under any other provision of law shall have jurisdiction over such petition.

"(2)(A) Except as provided in subparagraph (B), in the case where a provision of law requires that an action challenging a final agency regulation be commenced before the expiration of the 120-day period provided in paragraph (1), such lesser period shall apply to a petition for judicial review under this subsection.

"(B) In the case where an agency delays the issuance of a final regulatory flexibility analysis pursuant to section 608(b) of this title, a petition for judicial review under this subsection shall be filed not later than—

"(i) 120 days after the date the analysis is made available to the public; or

"(ii) in the case where a provision of law requires that an action challenging a final agency regulation be commenced before the expiration of the 120-day period provided in paragraph (1), the number of days specified in such provision of law that is after the date the analysis is made available to the public.

"(3) For purposes of this subsection, the term 'affected small entity' means a small entity that is or will be adversely affected by the final rule.

"(4) Nothing in this subsection shall be construed to limit the authority of any court to stay the effective date of any rule or provision thereof under any other provision of law.

"(5)(A) In the case where the agency certified that such rule would not have a significant economic impact on a substantial number of small entities, the court may order the agency to prepare a final regulatory flexibility analysis pursuant to section 604 of this title if the court determines, on the basis of the rulemaking record, that the certification was arbitrary, capricious, or an abuse of discretion.

"(B) If the agency prepared a final regulatory flexibility analysis, the court shall order the agency to take corrective action consistent with section 604 if the court determines, on the basis of the court's review of the rulemaking record, that the final regulatory flexibility analysis does not satisfy the requirements of section 604.

"(6) The court may stay the rule or grant such other relief as the court determines to be appropriate if, by the end of the 90-day period (or such longer period as the court may provide) beginning on the date of the order of the court pursuant to paragraph (5), the agency fails, as appropriate—

"(A) to prepare an analysis required by section 604; or

"(B) to take corrective action consistent with section 604.

"(7) In making any determination or granting any relief authorized by this subsection, the court shall take due account of the rule of prejudicial error.

"(b) In an action for the judicial review of a rule, any regulatory flexibility analysis for such rule (including an analysis prepared or corrected pursuant to subsection (a)(5) shall constitute part of the whole record of agency action in connection with such review.

"(c) Except as otherwise required by the provisions of this subchapter, the court shall apply the same standards of judicial review that govern the review of agency findings under the statute granting the agency authority to conduct the rulemaking.".

AMENDMENT NO. 1657

On page 96, line 24, strike out "on the date of enactment" and insert in lieu thereof "'180 days after the date of enactment of this Act, but shall not apply to any agency rule for which a general notice of proposed rulemaking is published on or before such date".

AMENDMENT NO. 1658

On page 75, strike out lines 13 through 21.

On page 75, line 22, strike out "708" and insert in lieu thereof "707".

GLENN AMENDMENT NO. 1659

(Ordered to lie on the table.)

Mr. GLENN submitted an amendment intended to be proposed by him to amendment No. 1487 proposed by Mr. DOLE to the bill, S. 343, supra; as follows:

On Page 59 strike out lines 4 through 6.

GLENN (AND LEVIN) AMENDMENT NO. 1660

(Ordered to lie on the table.)

Mr. GLENN submitted an amendment intended to be proposed by them to amendment No. 1487 proposed by Mr. DOLE to the bill, S. 343, supra; as follows:

On page 35, strike out all from line 10 through page 38, line 5, and insert in lieu thereof the following:

"(a) CONSTRUCTION WITH OTHER LAWS.—The requirements of this section shall supplement, and not supersede, any other decisional criteria otherwise provided by law, and in the event of conflict, the statute under which the rule is promulgated shall govern.

"(b) REQUIREMENTS.—Except as provided in subsection (c), no final major rule subject to this subchapter shall be promulgated unless the agency head publishes in the Federal Register a finding that—

"(1) the benefits from the rule justify the costs of the rule;

"(2) the rule employs to the extent practicable flexible reasonable alternatives of the type described in section 622(c)(2)(C)(iii); and

"(3)(A) the rule adopts the most cost-effective of the reasonable alternatives that achieves the objectives of the rulemaking as specified by the agency head and consistent with the statute; or

"(B) if scientific, technical, or economic uncertainties or nonquantifiable benefits to health, safety, or the environment, or the achievement of constitutional rights of individuals, or the achievement of statutory rights that prohibit discrimination identified by the agency in the rulemaking record make a more costly alternative that achieves the objectives of the statute appropriate and in the public interest and the agency head provides an explanation of those considerations, the rule adopts the least cost alternative of the reasonable alternatives that achieves the objectives of the rulemaking as specified by the agency head and consistent with the statute, necessary to take into account such uncertainties or benefits; and

"(c) ALTERNATIVE REQUIREMENTS.—If, applying the statutory requirements upon which the rule is based, a rule cannot satisfy the criteria of subsection (b), the agency head may promulgate the rule if the agency head finds that—

"(1) the rule employs to the extent practicable flexible reasonable alternatives of the type described in section 622(c)(2)(C)(iii);

"(2)(A) the rule adopts the most cost-effective of the reasonable alternatives that achieves the objectives of the rulemaking as specified by the agency head and consistent with the statute; or

"(B) if scientific, technical, or economic uncertainties or nonquantifiable benefits to health, safety, or the environment, or the achievement of constitutional rights of individuals, or the achievement of statutory rights that prohibit discrimination identified by the agency in the rulemaking record make a more costly alternative that achieves the objectives of the statute appropriate and in the public interest and the agency head provides an explanation of those considerations, the rule adopts the least cost alternative of the reasonable alternatives that achieves the objectives of the rulemaking as specified by the agency head and consistent with the statute, necessary to take into account such uncertainties or benefits."

GLENN (AND LEVIN) AMENDMENT NO. 1661

(Ordered to lie on the table.)

Mr. GLENN (for himself and Mr. LEVIN) submitted an amendment intended to be proposed by him to amendment No. 1487 proposed by Mr. DOLE to the bill, S. 343, supra; as follows:

On page 23, strike lines 20 through 23.

LEVIN AMENDMENT NO. 1662

(Ordered to lie on the table.)

Mr. LEVIN submitted an amendment intended to be proposed by him to amendment No. 1487 proposed by Mr. DOLE to the bill, S. 343, supra; as follows:

On page 39, strike lines 18 through line 7 on page 40.

DORGAN AMENDMENT NO. 1663

(Ordered to lie on the table.)

Mr. DORGAN submitted an amendment intended to be proposed by him to amendment No. 1487 proposed by Mr. DOLE to the bill, S. 343, supra; as follows:

On page 17, beginning on line 8, strike out "mergers, acquisitions,".

BIDEN AMENDMENTS NOS. 1664–1665

(Ordered to lie on the table.)

Mr. BIDEN submitted two amendments intended to be proposed by him to amendment No. 1487 proposed by Mr. DOLE to the bill, S. 343, supra; as follows:

AMENDMENT NO. 1664

On page 75, lines 24 through 26 delete "it shall be an affirmative defense in any enforcement action brought by an agency that" and insert "no civil or criminal penalty shall be imposed if".

AMENDMENT NO. 1665

Delete from page 35 line 23 to page 37 line 18 and insert in lieu thereof the following:

"§ 624. Decisional criteria

"(a) CONSTRUCTION WITH OTHER LAWS.—The requirements of this section shall supplement, and not supersede, any other decisional criteria otherwise provided by law.

"(b) REQUIREMENTS.—Except as provided in subsection (c), no final major rule subject to this subchapter shall be promulgated unless the agency head publishes in the Federal Register a finding that—

"(1) the benefits from the rule justify the costs of the rule;

"(2) the rule employs to the extent practicable flexible reasonable alternatives of the type described in section 622(c)(2)(C)(iii); and

"(3)(A) the rule adopts a cost-effective choice among the reasonable alternatives that achieve the objectives of the statute; or

"(4) if a risk assessment is required by section 632—

"(A) the rule is likely to significantly reduce the human health, safety, and environmental risks to be addressed; or

"(B) if scientific, technical, or economic uncertainties or nonquantifiable benefits to health, safety, or the environment, preclude making the finding under subparagraph (A), promulgating the final rule is nevertheless justified for reasons stated in writing accompanying the rule and consistent with subchapter III.

"(c) ALTERNATIVE REQUIREMENTS.—If, applying the statutory requirements upon which the rule is based, a rule cannot satisfy the criteria of subsection (b), the agency head may promulgate the rule if the agency head finds that—

"(1) the rule employs to the extent practicable flexible reasonable alternatives of the type described in section 622(c)(2)(C)(iii);

"(2)(A) the rule adopts a cost-effective choice among the reasonable alternatives that achieve the objectives of the statute; or

GLENN AMENDMENT NO. 1666

(Ordered to lie on the table.)

Mr. GLENN submitted an amendment intended to be proposed by him to amendment No. 1487 proposed by Mr. DOLE to the bill, S. 343, supra; as follows:

Delete from page 38, line 15 to page 39, line 17 and insert the following:

"(a) Compliance or noncompliance by a agency with the provisions of this subchapter and subchapter III shall not be subject to judicial review except in connection with review of a final agency rule and according to the provisions of this section.

"(b) Any determination by a designee of the President or the Director that a rule is, or is not, a major rule shall not be subject to judicial review in any manner.

"(c) The determination by an agency that a rule is, or is not, a major rule shall be set aside by a reviewing court only upon a clear and convincing showing that the determination is erroneous in light of the information available to the agency at the time the agency made the determination.

"(d) If the cost-benefit analysis or risk assessment required under this chapter has been wholly omitted for any major rule, a court shall vacate the rule and remand the case for further consideration. If an analysis or assessment has been performed, the court shall not review to determine whether the analysis or assessment conformed to the particular requirements of this chapter.

"(e) Any cost-benefit analysis or risk assessment prepared under this chapter shall not be subject to judicial consideration separate or apart from review of the agency action to which it relates. When an action for judicial review of an agency action is instituted, any analysis or assessment for such agency action shall constitute part of the whole administrative record of agency action for the purpose of judicial review of the agency action."

BOXER AMENDMENTS NOS. 1667–1678

(Ordered to lie on the table.)

Mrs. BOXER submitted 12 amendment intended to be proposed by her to amendment No. 1487 proposed by Mr. DOLE to the bill S. 343, supra; as follows:

AMENDMENT NO. 1667

On page 96, insert between lines 20 and 21 the following new section:

SEC. . RULE OF CONSTRUCTION RELATING TO THE COMMUNITY RIGHT TO KNOW ACT.

Nothing in this Act (including any amendment made by this Act) shall be construed to revise, amend, weaken or delay in any way, the requirements or criteria under the Community Right to Know Act.

AMENDMENT NO. 1668

On page 96, insert between lines 20 and 21 the following new section:

SEC. . RULE OF CONSTRUCTION RELATING TO THE CLEAN AIR ACT.

Nothing in this Act (including any amendment made by this Act) shall be construed to revise, amend, weaken or delay in any way, the requirements or criteria under the Clean Air Act.

AMENDMENT NO. 1669

In section 621(9)(B), strike clause (xii) and renumber accordingly.

AMENDMENT NO. 1670

In section 621(9)(B), strike clause (xi) and renumber accordingly.

AMENDMENT NO. 1671

In section 621(9)(B), strike clause (x) and renumber accordingly.

AMENDMENT NO. 1672

In section 621(9)(B), strike clause (vi) and renumber accordingly.

AMENDMENT NO. 1673

In section 621(9)(B), strike clause (iii) and renumber accordingly.

AMENDMENT NO. 1674

In section 621(9)(B), strike clause (ii) and renumber accordingly.

AMENDMENT NO. 1675

On page 25, between lines 22 and 23, insert the following:

"(g) EXEMPTION FOR RULE OR AGENCY ACTION RELATING TO THE SAFETY OF BLOOD SUPPLY.—None of the provisions of this subchapter or subchapter III shall apply to any rule or agency action intended to ensure the safety, efficacy, or availability of blood, blood products, or blood-derived products.

AMENDMENT NO. 1676

On page 96, insert between lines 20 and 21 the following new section:

SEC. . RULE OF CONSTRUCTION RELATING TO THE SAFE DRINKING WATER ACT.

Nothing in this Act (including any amendment made by this Act) shall be construed to revise, amend, weaken, or delay in any way, the requirements or criteria under title XIV of the Public Health Service Act (42 U.S.C. 300f et seq.) (commonly known as the "Safe Drinking Water Act").

AMENDMENT NO. 1677

On page 96, insert between lines 20 and 21 the following new section:

SEC. . RULE OF CONSTRUCTION RELATING TO THE COASTAL ZONE MANAGEMENT ACT OF 1972 AND THE OIL POLLUTION ACT OF 1990.

Nothing in this Act (including any amendment made by this Act) shall be construed to revise, amend, weaken, or delay in any way, the requirements or criteria under the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.) and the Oil Pollution Act of 1990 (33 U.S.C. 2701 et seq.).

AMENDMENT NO. 1678

At the end of section 621, add the following:

"(xiv) a rule or other action taken in connection with the safety of aviation."

CRAIG (AND HELFIN) AMENDMENT NO. 1679

(Ordered to lie on the table.)

Mr. CRAIG (for himself and Mr. HEFLIN) submitted an amendment intended to be proposed by them to amendment No. 1487 proposed by Mr. DOLE to the bill S. 343, supra; as follows:

On page 96, between lines 20 and 21, insert the following:

SEC. . REGULATORY AGREEMENTS.

(a) IN GENERAL.—Subchapter II of chapter 5 of title 5, United States Code, is amended by adding at the end of the following:

"§ 557a. Regulatory agreements

"(a) DEFINITION.—In this section, the term 'regulatory agreement' means an agreement entered into under this section.

"(b) GENERAL AUTHORITY.—An agency that is authorized or directed by law to issue a rule (with or without a hearing on the record) that would govern an activity of any person, may, prior to commencing a proceeding to issue such a rule or an amendment to such a rule under the rulemaking procedure that would otherwise apply under that law or this subchapter—

"(1) enter into a regulatory agreement with a person or group of persons engaged in those activities; or

"(2) enter into separate regulatory agreements with different persons or groups of persons engaged in the activity if the agency determines that separate agreements are appropriate in view of different circumstances that apply to different persons or groups of persons.

"(c) REQUEST FOR NEGOTIATIONS.—Negotiations for a regulatory agreement may be commenced—

"(1) at the instance of a person or group of persons engaged in the activity to be regulated by the submission to the agency by such a person or group of persons of a request for negotiations, which may be accompanied by a proposed form of regulatory agreement or by a general description of the proposed terms of a regulatory agreement; or

"(2) at the instance of the agency by publication in the Federal Register of a request to persons engaged in the activity to participate in negotiations, which may be accompanied by a proposed form of regulatory agreement or by a general description of the proposed terms of a regulatory agreement and which shall specify a closing date by which such persons shall notify the agency of their willingness to participate in negotiations.

"(d) DETERMINATION WHETHER TO PROCEED WITH NEGOTIATIONS.—

"(1) IN GENERAL.—Not later that 60 days after receiving a request for negotiations under subsection (c)(1) or after the closing date specified in a request for negotiations under subsection (c)(2), an agency shall publish in the Federal Register a determination whether to conduct negotiations for a regulatory agreement, accompanied by a statement of reasons for the determination.

"(2) CRITERIA.—An agency may determine not to conduct negotiations for a regulatory agreement under this section—

"(A) if the agency finds that the number of persons that have expressed willingness to participate in negotiations, as a proportion of the number of persons whose activity would be governed by the rule, is not sufficient to justify negotiation of a regulatory agreement in addition to issuance of a rule that would govern other persons engaged in the activity; or

"(B) for any other reason, within the sole discretion of the agency.

"(3) NO JUDICIAL REVIEW.—A determination under paragraph (1) shall not be subject to judicial review by any court.

"(d) TERMS AND CONDITIONS.—A regulatory agreement shall contain terms and conditions that—

"(1) in the judgment of the agency, accomplish a degree of control, protection, and regulation of the activity to be regulated that is equivalent to the degree that would be accomplished under a rule issued under the rulemaking procedure that would otherwise apply;

"(2) provide for the addition as parties to the regulatory agreement, with or without a reopening of negotiations, of persons that did not participate in the negotiations;

"(3) provide for renegotiation of the regulatory agreement, at a stated date or from time to time, as renegotiation may become appropriate in view of changed circumstances or for any other reason; and

"(4) specify the provisions of law for the purposes of which the regulatory agreement shall, or shall not, be treated as a rule issued under section 553 or sections 556 and 557, as the case may be.

"(e) ENFORCEMENT.—A regulatory agreement shall provide for injunctive relief and penalties for noncompliance that—

"(1) shall, in the judgment of the agency, adequately deter parties from noncompliance; and

"(2) may be greater or lesser in severity than relief or penalties authorized under the law under authority of which a rule would have been issued.

"(f) CONSIDERATION OF COMMENT BY THE GENERAL PUBLIC.—

"(1) NOTICE.—Before executing a regulatory agreement, an agency shall publish a notice of the terms of the agreement in the Federal Register and solicit comments on the regulatory agreement for a period of not less than 60 days.

"(2) DECISION.—Not later than 60 days after the close of the comment period, an agency shall publish in the Federal Register a decision that includes—

"(1) a response to all comments received; and

"(2) an explanation of the agency's decision to—

"(A) enter into the regulatory agreement as agreed on in negotiations or as modified in response to public comment; or

"(B) decline to enter into the regulatory agreement.

"(h) RULEMAKING.—After publication of a decision under subsection (f)(2), an agency shall commence a rulemaking proceeding to govern the activity of—

"(1) all persons engaged in the activity in question, if the agency declined to enter into a regulatory agreement; or

"(2) if the agency entered into regulatory agreement with fewer than all of the persons engaged in the activity in question, all persons engaged in the activity that are not party to the regulatory agreement.

"(i) JURISDICTION.—The United States district courts shall have jurisdiction to enforce a regulatory agreement in accordance with the terms of the regulatory agreement.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 5 of title 5, United States Code, is amended by inserting after the item for section 557 the following:

"Sec. 557a. Regulatory agreements.".

JOHNSTON AMENDMENTS NOS. 1680–1693

(Ordered to lie on the table.)

Mr. JOHNSTON submitted 14 amendments intended to be proposed by him to amendment No. 1487 proposed by Mr. DOLE to the bill S. 343, supra; as follows:

AMENDMENT NO. 1680

On page 28 after line 23 insert "and may place such rule on the final schedule for the completion of review within the first 3 years of the schedule if the rule was included on the schedule under subsection (b)(1).

AMENDMENT NO. 1681

On page 28 at the end of line 14 after the word "rule" insert "that had not been included on the schedule under subsection (b)(1) by the head of the agency".

AMENDMENT NO. 1682

On page 79, strike lines 22 and 23 and insert: "final rule, if a joint resolution of disapproval is enacted under section 802."

AMENDMENT NO. 1683

On page 31, line 23 strike out "shall" and insert "may".

AMENDMENT NO. 1684

On page 37, line 24 through page 38, line 5, strike out subparagraph (B) and insert in lieu thereof the following new subparagraph:

"(B) if scientific, technical, or economic uncertainties preclude making the finding under subparagraph (A), or if a more cost-effective approach to risk reduction is possible, or if net benefits to health, safety, or the environment make a more costly alternative that achieves the objectives of the statute appropriate and in the public interest, promulgating the rule is nevertheless justified for such reasons, stated in writing in such finding."

AMENDMENT NO. 1685

On page 36, line 15 through 21, strike out subparagraph (B) and insert in lieu thereof the following new subparagraph:

"(B) if scientific, technical, or economic uncertainties preclude making the finding under subparagraph (A), or if a more cost-effective approach to risk reduction is possible, or if net benefits to health, safety, or the environment make a more costly alternative that achieves the objectives of the statute appropriate and in the public interest, promulgating the rule is nevertheless justified for such reasons, stated in writing in such finding."

AMENDMENT NO. 1686

On page 36, line 16 strike out the word "nonquantifiable".

AMENDMENT NO. 1687

On page 36, line 2 strike out the word "nonquantifiable".

AMENDMENT NO. 1688

On page 37, line 10 strike out the word "nonquantifiable".

AMENDMENT NO. 1689

On page 37, line 25 strike out the word "nonquantifiable".

AMENDMENT NO. 1690

On page 96, starting at line 21, strike section 9 and insert in lieu thereof the following new section:

"SEC. 9. EFFECTIVE DATES AND SEVERABILITY.

"(a) Except as otherwise provided, this Act and the amendments made by this Act shall take effect on the date of enactment.

"(b) Section 3 of this Act shall take effect on the date that is 90 days after the date of enactment.

"(c)(1) Except as provided in paragraph (2), section 4 of this Act shall take effect on the date that is 60 days after the date of enactment.

"(2) For final major rule that is promulgated after the effective date of section 4 but not later than 2 years after the date of enactment of this Act, in lieu of preparing a cost-benefit analysis under section 622 or a risk assessment under section 633, an agency may use other appropriately developed analyses that allow it to make the findings required by section 624.

"(d) If any provision of this Act, an amendment made by this Act, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this Act, the amendments made by this Act, and the application of the provisions of such to any person or circumstance shall not be affected thereby."

AMENDMENT NO. 1691

On page 73, between lines 5 and 6, insert the following new paragraph:

"(3) Conformance of Administrative Procedure Requirements in the Department of Energy Organization Act with Section 553 of Title 5, As amended.—

"(A) Subsections (b) through (e) of section 501 of the Department of Energy Organization Act (42 U.S.C. 7191 (b) through (e)) are hereby repealed.

"(B) Subsections (f) and (g) of section 501 of the Department of Energy Organization Act (42 U.S.C. 7191 (f) and (g)) are hereby redesignated as subsections (b) and (c)."

AMENDMENT NO. 1692

On page 41, line 22, before the comma insert the following: "and the Nuclear Regulatory Commission".

AMENDMENT NO. 1693

On page 22, between lines 17 and 18, insert the following new subparagraph and redesignate the following subparagraph accordingly:

"(D) a succinct comparison of the estimated costs of the proposed major rule and the annual expenditure of national economic resources reported for the regulatory program issuing the major rule, as reported in the most recent report issued pursuant to section 7(b)(4)(B)(i) of the Comprehensive Regulatory Reform Act of 1995."

SIMON AMENDMENTS NOS. 1694–1695

(Ordered to lie on the table.)

Mr. SIMON submitted two amendments intended to be proposed by him to amendment No. 1487 proposed by Mr. DOLE to the bill S. 343, supra; as follows:

AMENDMENT NO. 1694

On page 71, strike out lines 13 through 23 and insert in lieu thereof the following new subsection:

(c) SENSE OF THE SENATE REGARDING REFORM OF THE DELANEY CLAUSE.—It is the sense of the Senate that—

(1) the Delaney Clause in the Federal Food, Drug, and Cosmetic Act governing carcinogens in foods must be reformed;

(2) any such reform of the Delaney Clause—

(A) should reflect the case and deliberativeness due to a subject as important as whether and to what extent infants and children shall be exposed to carcinogens through the food they consume; and

(B) should not undermine other safety standards.

(3) advances in science and technology since the Delaney Clause was originally enacted in 1958 have prompted the need to refine the standards in current law with respect to pesticide residues, and may have limited the appropriateness of such standards with respect to food additives and animal drugs;

(4) the Delaney Clause should be replaced by a contemporary health-based standard that takes into account—

(A) the right of the American people to safe food;

(B) the conclusions of the National Academy of Sciences concerning the special susceptibility of infants and children to the effects of pesticide chemicals and the cumulative effect of the residues of such pesticide chemicals on human health;

(C) the importance of a stable food supply and a sound agricultural economy; and

(D) the interests of consumers, farmers, food manufacturers, and other interested parties; and

(5) prior to the end of the first session of the 104th Congress, after appropriate consideration by the committees of jurisdiction, the Senate should enact legislation to reform the Delaney Clause.

AMENDMENT NO. 1695

On page 71, strike out lines 13 through 23.

NUNN (AND COVERDELL) AMENDMENTS NOS. 1696–1700

(Ordered to lie on the table.)

Mr. NUNN (for himself and Mr. COVERDELL) submitted five amendments intended to be proposed by them to amendment No. 1487 proposed by Mr. DOLE to the bill S. 343, supra; as follows:

AMENDMENT NO. 1696

On page 68, strike line 23 and all that follows through page 71, line 13, and insert the following:

"(B) prepared an initial regulatory flexibility analysis pursuant to section 603 or a final regulatory flexibility analysis pursuant to section 604; or

"(C) did not prepare an initial regulatory flexibility analysis pursuant to section 603 or a final regulatory flexibility analysis pursuant to section 604 except as permitted by sections 605 and 608,

an affected small entity may petition for the judicial review of such certification, analysis, or failure to prepare such analysis, in accordance with this subsection. A court having jurisdiction to review such rule for compliance with section 553 or under any other provision of law shall have jurisdiction over such petition, except that the United States Court of Appeals for the District of Columbia Circuit shall have exclusive jurisdiction to review such certification, analysis, or failure to prepare such analysis in connection with a general notice of proposed rulemaking.

"(2)(A) Notwithstanding any other provision of law, an affected small entity shall, beginning on the date of publication of the final rule, have 1 year after the effective date of the final rule to challenge the certification, analysis or failure to prepare an analysis required by this subchapter with respect to any such final rule.

"(B) If an agency delays the issuance of a final regulatory flexibility analysis pursuant to section 608(b), a petition for judicial review under this subsection may be filed not later than 1 year after the date the analysis is made available to the public.

"(C) Notwithstanding any other provision of law, an affected small entity shall file a petition for review of a certification, analysis, or failure to prepare an analysis required by this subchapter in connection with a general notice of proposed rulemaking not later than 90 days after the publication of such general notice of proposed rulemaking.

"(3) For purposes of this subsection, the term 'affected small entity' means a small entity that is or will be subject to the provisions of, or otherwise required to comply with, the final rule.

"(4) Nothing in this subsection shall be construed to limit the authority of any court to stay the effective date of any rule or provision thereof under any other provision of law, or to grant any other relief in addition to the requirements of this section.

"(5)(A) Notwithstanding section 605, if the court determines, on the basis of the court's review of the rulemaking record as a whole, that there is substantial evidence that the rule would have a significant economic impact on a substantial number of small entities, the court shall order the agency to prepare an initial regulatory flexibility analysis that satisfies the requirements of section 603, or a final regulatory flexibility analysis that satisfies the requirements of section 604.

"(B)(i) If the court determines, on the basis of the court's review of the whole rulemaking record, that an initial regulatory flexibility analysis prepared by an agency does not satisfy the requirements of section 603, the court shall order the agency to prepare an initial regulatory flexibility analysis that satisfies the requirements of such section.

"(ii) If the court determines, on the basis of the court's review of the rulemaking record, that a final regulatory flexibility analysis prepared by an agency does not satisfy the requirements of section 604, the court shall order the agency to prepare a final regulatory flexibility analysis that satisfies the requirements of such section.

"(6) The court shall stay the rule and grant such other relief as the court determines to be appropriate if, by the end of the 90-day period beginning on the date of the order of the court pursuant to paragraph (5), the agency fails, as appropriate—

"(A) to prepare the analysis required by section 603 or 604; or

"(B) to take corrective action consistent with section 604.

"(b) In an action for the judicial review of a rule, any regulatory flexibility analysis for such rule (including an analysis prepared or corrected pursuant to subsection (a)(5)) shall constitute part of the whole record of agency action in connection with such review.

"(c) Except as otherwise required by the provisions of this subchapter, the court shall apply the same standards of judicial review that govern the review of agency findings under the statute granting the agency authority to conduct the rulemaking.".

(c) CERTIFICATIONS.—Section 605(b) of title 5, United States Code, is amended to read as follows:

"(b) Sections 603 and 604 shall not apply to any proposed or final rule if the head of the agency certifies that the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. If the head of the agency makes a certification under the preceding sentence, the agency shall publish such certification in the Federal Register at the time of publication of the general notice of proposed rulemaking for the rule or at the time of publication of the final rule, as appropriate, and a succinct statement providing the factual basis for such certification, and shall provide such certification and statement to the Chief Counsel for Advocacy of the Small Business Administration.".

AMENDMENT NO. 1697

On page 39, amend section (e)(1), as notified by amendment No. 1491, to read as follows:

"(e) INTERLOCUTORY REVIEW.—(1) The United States Court of Appeals for the District of Columbia Circuit shall have jurisdiction in review—

"(A) an agency determination that a rule is not a major rule pursuant to section 622(a); and

"(B) an agency determination that a risk assessment is not required pursuant to section 632(a).

AMENDMENT NO. 1698

On page 14, amend subparagraph (C), as added by the amendment No. 1491, to read as follows:

"(C) solely for purposes of subchapter II, any rule or set of closely related rules, not determined to be a major rule pursuant to subparagraph (A) or (B), that the agency proposing the rule determines will have a significant economic impact on a substantial number of small businesses, pursuant to subchapter I;

AMENDMENT NO. 1699

On page 39, amend section (e)(1), as modified by the amendment No. 1491, is deemed to be as follows:

(e) INTERLOCUTORY REVIEW.—(1) the United States Court of Appeals for the District of Columbia Circuit shall have jurisdiction to review—

"(A) an agency determination that a rule is not a major rule pursuant to section 622(a); and

"(B) an agency determination that a risk assessment is not required pursuant to section 632(a).

AMENDMENT No. 1700

On page 14, amend subparagraph (C), as added by the amendment No. 1491, is deemed to be as follows:

"(C) solely for purposes of subchapter II, any rule or set of closely related rules, not determined to be a major rule pursuant to subparagraph (A) or (B), that the agency proposing the rule determines will have a significant economic impact on a substantial number of small businesses, pursuant to subchapter I;

JOHNSTON AMENDMENT NO. 1701

(Ordered to lie on the table.)

Mr. JOHNSTON submitted an amendment intended to be proposed by him to amendment No. 1487 proposed by Mr. DOLE to the bill S. 343, supra; as follows:

At the end of subchapter III add the following new section:

"§ 637. Research and training in risk assessment

"(a) The head of each covered agency in section 635 shall regularly and systematically evaluate risk assessment research and training needs of the agency, including, where relevant and appropriate, the following:

"(1) Research to reduce generic data gaps, to address modelling needs (including improved model sensitivity), and to validate default options, particularly those common to multiple risk assessments.

"(2) Research leading to improvement of methods to quantify and communicate uncertainty and variability among individuals, species, populations, and, in the case of ecological risk assessment, ecological communities.

"(3) Emerging and future areas of research, including research on comparative risk analysis, exposure to multiple chemicals and other stressors, noncancer endpoints, biological markers of exposure and effect, mechanisms of action in both mammalian and nonmamalian species, dynamics and probabilities of physiological and ecosystem exposures, and prediction of ecosystem-level responses.

"(4) Long-term needs to adequately train individuals in risk assessment and risk assessment application. Evaluations under this paragraph shall include an estimate of the resources needed to provide necessary training.

"(b) The head of each covered agency in section 635 shall develop a strategy and schedule for carrying out research and training to meet the needs identified in subsection (a).

LEVIN AMENDMENTS NOS. 1702–1707

(Ordered to lie on the table.)

Mr. LEVIN submitted six amendments intended to be proposed by him to amendment No. 1487 proposed by Mr. DOLE to the bill S. 343, as follows:

AMENDMENT No. 1702

On page 78, line 17, strike "60" and insert "45".

On page 80, line 23, strike "60" and insert "45".

AMENDMENT No. 1703

On page 40, line 8, strike everything through page 41, line 12, and insert the following:

SECTION 626. DEADLINES FOR RULEMAKING.

"(a) All deadlines in statutes that require agencies to propose or promulgate any rule subject to section 622 or subchapter III during the 2-year period beginning on the effective date of this section shall be suspended until the earlier of—

"(1) the date on which the requirements of section 622 or subchapter III are satisfied; or

"(2) the date occurring 6 months after the date of the applicable deadline.

"(b) All deadlines imposed by any court of the United States that would require an agency to propose or promulgate a rule subject to section 622 or subchapter III during the 2-year period beginning on the effective date of this section shall be suspended until the earlier of—

"(1) the date on which the requirements of section 622 or subchapter III are satisfied; or

"(2) the date occurring 6 months after the date of the applicable deadline.

"(c) In any case in which the failure to promulgate a rule by a deadline occurring during the 2-year period beginning on the effective date of this section would create an obligation to regulate through individual adjudications, the deadline shall be suspended until the earlier of—

"(1) the date on which the requirements of section 622 or subchapter III are satisfied; or

"(2) the date occurring 6 months after the date of the applicable deadline.

AMENDMENT No. 1704

On page 22, line 19, after "scientific evaluations," insert "cost estimates,"

On page 22, line 24, after "scientific evaluation," insert "cost estimate,".

AMENDMENT No. 1705

On page 3, line 2, strike "or".

On page 3, line 7, strike the period and insert the following: "; or

"(5) a rule relating to government loans, grants or benefits."

AMENDMENT No. 1706

On page 23, line 11, insert between "and of" and "the" the following: "a reasonable number of".

AMENDMENT No. 1707

On page 21, line 25, insert between "of" and "reasonable" the following: "a reasonable number of".

BIDEN AMENDMENTS 1708–1710

(Ordered to lie on the table.)

Mr. BIDEN submitted three amendments intended to be proposed by him to amendment No. 1487 proposed by Mr. DOLE to the bill S. 343, supra; as follows:

AMENDMENT No. 1708

On page 19, line 7, strike the period and insert the following: "; or (xiii) a rule intended to protect the blood supply of the United States from communicable diseases or other threats to public health."

AMENDMENT No. 1709

On page 49, line 12, after "into," insert: "or removal from".

AMENDMENT No. 1710

On page 16, line 16, after "into," insert: "or removal from".

DASCHLE AMENDMENTS NOS. 1711–1712

(Ordered to lie on the table.)

Mr. DASCHLE submitted two amendments intended to be proposed by him to amendment No. 1487 proposed by Mr. DOLE to the bill S. 343, supra; as follows:

AMENDMENT No. 1711

On page 50, add after line 2 the following new paragraph:

"(F) a rule or agency action intended to enhance fish and seafood safety through the use of Hazard Analysis Critical Control Point principles, including the rulemaking proposed by the Food and Drug Administration (Department of Health and Human Services) in the Federal Register on January 28, 1994."

AMENDMENT No. 1712

On page 25, add after line 22 the following new provision:

"(3) None of the provisions of this subchapter shall apply to any rule or agency action intended to enhance fish and seafood safety through the use of Hazard Analysis Critical Control Point principles, including the rulemaking proposed by the Food and Drug Administration (Department of Health and Human Services) in the Federal Register on January 28, 1994."

ASHCROFT AMENDMENT NO. 1713

(Ordered to lie on the table.)

Mr. ASHCROFT submitted an amendment intended to be proposed by him to amendment No. 1487 proposed by Mr. DOLE to the bill S. 343, supra; as follows:

At the end, add the following new title:

"TITLE II—URBAN REGULATORY RELIEF ZONES

SECTION 201. SHORT TITLE.

This Act may be cited as the "Urban Regulatory Relief Zone Act of 1995".

SEC. 202. FINDINGS.

The Congress finds that—

(1) the likelihood that a proposed business site will comply with regulations is inversely related to the length of time over which a site has been utilized for commercial and/or industrial purposes, thus rendering older sites in urban areas most unlikely to be chosen for new development and thereby forcing new development away from the most needy areas; and

(2) broad Federal regulations often have unintended social and economic consequences in urban areas where such regulations, among other things—

(A) offend basic notions of common sense, particularly when applied to individual sites;

(B) adversely impact economic stability;

(C) result in the unnecessary loss of existing jobs and businesses;

(D) undermine new economic development, especially in previously used sites;

(E) create undue economic hardships while failing significantly to protect human health, particularly in areas where economic development is urgently needed in order to improve the health and welfare of residents over the long term; and

(F) contribute to social deterioration to such a degree that high unemployment, crime, and other economic and social problems create the greatest risk to the health and well-being of urban residents.

SEC. 203. PURPOSES.

The purposes of this tile are to—

(1) empower qualifying cities to obtain selective relief from Federal regulations that

undermine economic stability and development in distressed areas within the city; and

(2) authorize Federal agencies to waive the application of specific Federal regulations in distressed urban areas—

(A) upon application through the Office of Management and Budget by an Economic Development Commission established by a qualifying city pursuant to section 205; and

(B) upon a determination by the appropriate Federal agency that granting such a waiver will not substantially endanger health or safety.

SEC. 204. ELIGIBILITY FOR WAIVERS

(a) ELIGIBLE CITIES.—The mayor or chief executive officer of a city may establish an Economic Development Commission to carry out the purposes of section 205 if—

(1) the city has a population greater than 200,000 according to the U.S. Census Bureau's latest estimates for city populations.

(b) DISTRESSED AREAS.—Any census tract within a city shall qualify as a distressed area if—

(1) 33 percent or more of the resident population in the census tract is below the poverty line; or

(2) 45 percent or more of out-of-school males aged 16 and over in the census tract worked less than 26 weeks in the preceding year; or

(3) 36 percent or more families with children under age 18 in the census tract have an unmarried female as head of the household; or

(4) 17 percent or more of the resident families in the census tract received public assistance income in the preceding year.

SEC. 205. ECONOMIC DEVELOPMENT COMMISSIONS.

(a) PURPOSE.—The mayor or chief executive officer of a qualifying city under section 204 may appoint an Economic Development Commission for the purpose of—

(1) designating distressed areas, or a combination of distressed areas with one another or with adjacent industrial or commercial areas, within the city as Urban Regulatory Relief Zones; and

(2) making application through the Office of Management and Budget to waive the application of specific Federal regulations within such Urban Regulatory Relief Zones.

(b) COMPOSITION.—to the greatest extent practicable, an Economic Development Commission shall include—

(1) residents representing a demographic cross section of the city population; and

(2) members of the business community, private civic organizations, employers, employees, elected officials, and State and local regulatory authorities.

(c) LIMITATION.—No more than one Economic Development Commission shall be established or designated within a qualifying city.

SEC. 206. LOCAL PARTICIPATION

(a) PUBLIC HEARINGS.—Before designating an area as an Urban Regulatory Relief Zone, an Economic Development Commission established pursuant to section 205 shall hold a public hearing, after giving adequate public notice, for the purpose of soliciting the opinions and suggestions of those persons who will be affected by such designation.

(b) INDIVIDUAL REQUESTS.—The Economic Development Commission shall establish a process by which individuals may submit requests to the Economic Development Commission to include specific Federal regulations in the Commission's application to the Office of Management and Budget seeking waivers of Federal regulations.

(c) AVAILABILITY OF COMMISSION DECISIONS.—After holding a hearing under paragraph (a) and before submitting any waiver applications to the Office of Management and Budget pursuant to section 207, the Economic Development Commission shall make publicly available—

(1) a list of all areas within the city to be designated as Urban Regulatory Relief Zones, if any;

(2) a list of all regulations for which the Economic Development Commission will request a waiver from a Federal agency; and

(3) an explanation of the reasons that the waiver of a regulation would economically benefit the city and the data supporting such a determination.

SEC. 207. WAIVER OF FEDERAL REGULATIONS.

(a) SELECTION OF REGULATIONS.—An Economic Development Commission may select for waiver, within an Urban Regulatory Relief Zone, Federal regulations that—

(1)(A) are unduly burdensome to business concerns located within an area designated as an Urban Regulatory Relief Zone; or

(B) discourages new economic development within the zone: or

(C) creates undue economic hardships in the zone; or

(D) contributes to the social deterioration of the zone; and

(2) if waived, will not substantially endanger health or safety.

(b) REQUEST FOR WAIVER.—(1) An Economic Development Commission shall submit a request for the waiver of Federal regulations to the Office of Management and Budget.

(2) Such request shall—

(A) identify the area designated as an Urban Regulatory Relief Zone by the Economic Development Commission;

(B) identify all regulations for which the Economic Development Commission seeks a waiver; and

(C) explain the reasons that waiver of the regulations would economically benefit the Urban Regulatory Relief Zone and the data supporting such determination.

(c) REVIEW OF WAIVER REQUEST.—No later than 60 days after receiving the request for waiver, the Office of Management and Budget shall—

(1) review the request for waiver;

(2) determine whether the request for waiver is complete and in compliance with this title, using the most recent census data available at the time each application is submitted; and

(3) after making a determination under paragraph (2)—

(A) submit the request for waiver to the Federal agency that promulgated the regulation and notify the requesting Economic Development Commission of the date on which the request was submitted to such agency; or

(B) notify the requesting Economic Development Commission that the request is not in compliance with this Act with an explanation of the basis for such determination.

(d) MODIFICATION OF WAIVER REQUESTS.—An Economic Development Commission may submit modifications to a waiver request. The provisions of subsection (c) shall apply to a modified waiver as of the date such modification is received by the Office of Management and Budget.

(e) WAIVER DETERMINATION.—No later than 60 days after receiving a request for waiver under subsection (c) from the Office of Management and Budget, a Federal agency shall—

(A) make a determination of whether to waive a regulation in whole or in part; and

(B) provide written notice to the requesting Economic Development Commission of such determination.

(2) Subject to subsection (g), a Federal agency shall deny a request for a waiver only if the waiver substantially endangers health or safety.

(3) If a Federal agency grants a waiver under this subsection, the agency shall provide a written statement to the requesting Economic Development Commission that—

(A) describes the extent of the wavier in whole or in part; and

(B) explains the application of the waiver, including guidance for the use of the waiver by business concerns, within the Urban Regulatory Relief Zone.

(4) If a Federal agency denies a waiver under this subsection, the agency shall provide a written statement to the requesting Economic Development Commission that—

(A) explains the reasons that the waiver substantially endangers health or safety; and

(B) provides a scientific basis in writing for such determination.

(f) AUTOMATIC WAIVER.—If a Federal agency does not provide the written notice required under subsection (e) within the 120-day period as required under such subsection, the waiver shall be deemed to be granted by the Federal agency.

(g) LIMITATION.—No provision of this Act shall be construed to authorize any Federal agency to waive any regulation or Executive order that prohibits, or the purpose of which is to protect persons against, discrimination on the basis of race, color, religion, gender, or national origin.

(h) APPLICABLE PROCEDURES.—A waiver of a regulation under subsection (e) shall not be considered to be a rule, rulemaking, or regulation under chapter 5 of title 5, United States Code. The Federal agency shall publish a notice in the Federal Register stating any waiver of a regulation under this section.

(i) EFFECT OF SUBSEQUENT AMENDMENT OF REGULATIONS.—If a Federal agency amends a regulation for which a waiver under this section is in effect, the agency shall not change the waiver to impose additional requirements.

(j) EXPIRATION OF WAIVERS.—No waiver of a regulation under this section shall expire unless the Federal agency determines that a continuation of the waiver substantially endangers health or safety.

SEC. 208. DEFINITIONS.

For purposes of this Act, the term—

(1) "regulation" means—

(A) any rule as defined under section 551(4) of title 5, United States Code; or

(B) any rulemaking conducted on the record after opportunity for an agency hearing under sections 556 and 557 of such title;

(2) "Urban Regulatory Relief Zone" means an area designated under section 205;

(3) "qualifying city" means a city which is eligible to establish an Economic Development Commission under section 204;

(4) "industrial or commercial area" means any part of a census tract zoned for industrial or commercial use which is adjacent to a census tract which is a distressed area pursuant to section 205(b); and

(5) "poverty line" has the same meaning as such term is defined under section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)).".

MOYNIHAN AMENDMENTS NOS. 1714–1718

(Ordered to lie on the table.)

Mr. MOYNIHAN submitted five amendments intended to be proposed by him to amendment No. 1487 proposed by Mr. DOLE to the bill S. 343, supra; as follows:

AMENDMENT No. 1714

On page 2, strike lines 15 through 25; on page 3, strike lines 1 through 7 and insert in lieu thereof, the following:

"(a) APPLICABILITY.—This section applies to every rulemaking according to the provisions thereof, except to the extent that there is involved—

"(1) a matter pertaining to an auxiliary or foreign affairs function of the United States;

"(2) a matter relating to the management or personnel practices of an agency;

"(3) an interpretative rule, general statement of policy, guidance, or rule of an agency, organization, procedure, or practice unless such rule, statement, or guidance has general applicability and substantially alters or * * * rights or obligations of persons outside the agency;" strike "or;

"(4) a rule relating to the acquisition, arrangements, or disposal by an agency of real or personal property, or of services; these are promulgated in compliance with otherwise applicable criteria and procedures; or

"(5) an interpretative rule involving the internal revenue laws of the United States other than an interpretative regulation."

AMENDMENT No. 1715

On page 12, line 9: after "petition", insert "(other than a petition relating to a rule described in section 621(9)(B)(i))".

AMENDMENT No. 1716

On page 68, line 18: insert "(other than a rule described in section 621(9)(B)(i))" after "rule".

AMENDMENT No. 1717

On page 9, line 5: insert "Nothing in this section shall be interpreted to limit the application of 26 U.S.C. 7805."

AMENDMENT No. 1718

On page 13, line 4: insert "(or as otherwise provided)" after "subchapter".

On page 16, line 8: insert "for purposes of this chapter" after "(i)".

PACKWOOD AMENDMENTS NOS. 1719–1723

(Ordered to lie on the table.)

Mr. PACKWOOD submitted five amendments intended to be proposed by him to amendment No. 1487 proposed by Mr. DOLE to the bill S. 343, supra; as follows:

AMENDMENT No. 1719

Strike page 2: line 15 through page 3: line 7 and add at page 2: line 15, the following:

"(a) APPLICABILITY—(1) In General.—This section applies to every rulemaking, according to the provisions thereof, except to the extent there is involved—

"(i) A matter pertaining to a military or foreign affairs function of the United States;

"(ii) A matter relative to the management or personnel practices of an agency;

"(iii) An interpretive rule, general statement of policy, guidance, or rule of agency organization, procedures or practices, unless such rule, statement, or guidance has general applicability and substantially alters or creates rights or obligations of persons outside the agency.

"(iv) A rule relating to the acquisition, management, or disposal by an agency of real or personal property, or of services, that is promulgated in compliance with otherwise applicable criteria and procedures.

"(2) APPLICATION TO THE DEPARTMENT OF THE TREASURY.—In the case of Rulemaking of the Department of the Treasury, this section applies to Treasury Regulations.

AMENDMENT No. 1720

On page 13, line 4: insert "(or as otherwise provided)" after "subchapter".

On page 16, line 8 insert "for purposes of this chapter" after "(i)".

AMENDMENT No. 1721

On page 9, line 5, insert "Nothing in this section shall be interpreted to limit the application of 26 U.S.C. 7805."

AMENDMENT No. 1722

On page 68, line 18, insert "(other than a rule described in section 621(9)(B)(i))" after "rule."

AMENDMENT No. 1723

On page 12, line 9: after "petition", insert: "(other than a petition relating to a rule described in section 621(9)(B)(i))".

GLENN (AND LEVIN) AMENDMENTS NO. 1724–1725

(Ordered to lie on the table.)

Mr. GLENN (for himself and Mr. LEVIN) submitted two amendments intended to be proposed by them to amendment No. 1487 proposed by Mr. DOLE to the bill S. 343, supra; as follows:

AMENDMENT No. 1724

On page 57, at the end of paragraph (1), insert:

"The requirements of this subsection shall not apply to a specific rulemaking where the head of an agency has published a determination, with the concurrence of the Administrator of the Office of Information and Regulatory Affairs, and notified the Congress, that the agency is unable to comply fully with the peer review requirements of this subsection and that the rulemaking process followed by that agency provides sufficient opportunity for scientific or technical review of risk assessments required by this subchapter."

AMENDMENT No. 1725

On page 21, line 25, insert between "of" and "reasonable" the following: "a reasonable number of".

On page 23, line 11, insert between "and of" and "the" the following: "a reasonable number of".

NOTICE OF HEARING CANCELLATION

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MURKOWSKI. Mr. President, I would like to announce for the information of the Senate and the public that the hearing on S. 871, the Hanford Land Management Act, previously scheduled before the full Committee on Energy and Natural Resources for Thursday, July 20 at 9:30 a.m. in room SD–366 of the Dirksen Senate Office Building in Washington, DC, has been canceled. For further information, please call Maureen Koetz at 202–224–0765 or David Garman at 202–224–7933.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. NICKLES. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Friday, July 14, 1995, to conduct a hearing on Mexico and the exchange stabilization fund.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

B–2 BOMBERS

• Mr. NUNN. Mr. President, I am disappointed that the Senate Armed Services Committee did not include funding for additional B–2 bombers in the National Defense authorization bill that was filed yesterday. In my view, this was a short-sighted decision, one which I hope can be reversed. Today, Mr. President, I want to enter into the RECORD two recent editorials and a letter, all of which, I believe, help Members to understand the importance of continuing the B–2 program.

The first editorial comment was authorized by Paul Wolfowitz, and appeared in the June 12 edition of the Wall Street Journal. Mr. Wolfowitz points out that the DOD–IDA bomber study had assumed enough warning time for over 500 U.S. tactical aircraft and many other assets to arrive before the war started. He notes, and I quote, "Not surprisingly, the contribution of additional B–2's would not be cost-effective in those hypothetical circumstances." Mr. Wolfowitz goes on posit the importance of the B–2 bomber in less favorable scenarios and circumstances, noting its independence from foreign bases; its value in possible East Asian scenarios, where neither land-based nor carrier air have the needed range; and its ability both to deter and to retaliate while placing few Americans in harm's way. After noting the advantages of stealth, Mr. Wolfowitz goes on to note, and I quote:

> With more than 30 wings of traditional fighter aircraft and only one wing of B–2's and two wings of F–117's it could hardly be said that the U.S. is overemphasizing stealthy attack capability.

The second editorial comment is by Charles Krauthammer, and is in today's Washington Post. Mr. Krauthammer notes that, and I quote:

> There are three simple, glaringly obvious facts about this new era: (1) America is coming home; (2) America cannot endure casualties; (3) America's next war will be a surprise. * * *

He goes on to note that the B–2 is not a partisan project, that today it is supported by,

> Seven Secretaries of Defense representing every administration going back to 1969.

> They support it because it is the perfect weapon for the post-cold war world.

Mr. Krauthammer goes on to note that the so-called Republican cheap hawks, concerned about high costs, hold the future of the program in their hands. He notes, and I quote,

> But the dollar cost of a weapon is too narrow a calculation of its utility. The more important calculation is cost in American lives. The reasons are not sentimental, but practical. Weapons cheap in dollars but costly in lives are, in the current and coming environment, useless. A country that so values the life of every Captain O'Grady is a country that cannot keep blindly relying on nonstealthy aircraft over enemy territory.

My third submission, Mr. President, is a letter to me from recently retired Air Force Gen. Chuck Horner, who was the overall air commander during Operation Desert Storm. He begins by noting that his career was spent in operations and that in his entire career, he had never advocated buying any specific weapons system. Having said that, General Horner begins by saying, and I quote:

> As the former commander of Operation Desert Storm, I feel a duty to put the B-2 debate in perspective, and sound a warning on any recommendation to stop production of this aircraft. To put it bluntly, halting this Nation's B-2 production capability is dangerously short-sighted, and would lead ultimately to the extinction of the long-range bomber force, at the very time when bombers are emerging as America's most critical 21st Century military asset.

General Horner goes on to note that the B-2 program and America's bomber production capability are one and the same, and that starting a new bomber program a few years hence would require 10 to 15 years to field, and cost countless billions to develop. He further notes that even if a new bomber were started a few years hence, most of our nonstealthy bombers would be obsolete. He then writes, and I quote:

> The next Desert Storm Air Commander could be sending Americans into war aboard a 70-year-old bomber, an act I find unconscionable.

General Horner goes on to discuss the value of the combination of long-range, large-payload, precision weapons, and stealth, and concludes by stating, and I quote:

> It is important to understand the long-term national and international security ramifications of the quantum leap in military capabilities offered by the B-2. If we don't, it may disappear when we need it most, and can buy it most cheaply. Make no mistake about this: the B-2 is designed to extend America's defense capabilities into the next century. Can we afford to do less?

Mr. President, I ask that these three items be printed in the RECORD. I commend the substance of all three of these thoughtful pieces to my colleagues. I yield the floor.

The material follows:

[From the Wall Street Journal, June 12, 1995]

A BOMBER FOR UNCERTAIN TIMES

(By Paul Wolfowitz)

It has been nearly 30 years since Robert McNamara left the Pentagon. Yet, from what has been made public about the systems analysis behind the decision to halt production of the B-2 bomber, one can only conclude that Mr. McNamara's influence lingers.

As Congress deliberates the question of whether to halt production of the B-2 bomber, it needs to have a healthy respect for the fundamental uncertainty of the world of the next century.

Just one year before the Iraqi invasion of Kuwait, Adm. William Crowe, the chairman of the Joint Chiefs of Staff, had proposed eliminating the Persian Gulf from U.S. Military planning on the grounds that the Soviet threat to the region had gone away. In the end, Secretary of Defense Richard Cheney and Gen. Colin Powell overruled the Joint Staff and directed the military to begin planning instead for an Iraqi threat to the Arabian Peninsula. Yet no one expected such a threat to materialize as quickly as it did.

In fact, none of the major threats we have faced in this century were foreseen even five years before they appeared. None of the smaller wars we have fought for the past 50 years were foreseen clearly even one year before. Certainly no one would have dreamed of suggesting in 1945 that five years later we would almost be driven off the Korean Peninsula by a third- or fourth-ranked military power.

A MCNAMARA TECHNIQUE

In an old joke, a befuddled drunk searches for his keys under the street light even though he knows he dropped them somewhere else, because "that's where the light is." So it is with the Pentagon's decision to stop production of the B-2, which can deliver precise conventional weapons with great accuracy at extraordinary distances, with surprise, and with unprecedented safety for its crew of two pilots.

In an apparent inability to take account of uncertainty, the Defense Department justifies its decision based on a systems analysis of a hypothetical future war with Iraq. Systems analysis—a technique that Mr. McNamara so proudly introduced to the Pentagon and which I, myself, have had many occasions to use—is a powerful tool for certain limited purposes but useless for others. Sometimes, like a bright light in a murky room, its very power leads analysts to focus on those questions that the technique can illuminate, whether or not they are the right ones.

According to congressional testimony, the Defense Department analysis assumes that there would be enough warning, and sufficient bases made available in the region, to enable the U.S. to deploy 500 tactical aircraft before the war begins and before our bases come under attack. Not surprisingly, the contribution of additional B-2s would not be cost-effective in those hypothetical circumstances.

Not only are the analysts refighting the last war, but they are making assumptions about warning time and the availability of bases that did not apply in the Gulf five years ago and may no longer be valid five years from now. Worst of all, those assumptions may bear little relation to the much broader range of unpredictable circumstances that could confront us in a post-Cold War world—contingencies in which the B-2 would be uniquely valuable:

The B-2's exceptionally long range makes it much less dependent on access to overseas bases. Even after Iraq invaded Kuwait, it took the Saudis several days to decide to permit American use of their bases—and they agreed only because of their high level of confidence in President Bush. A future president may need to act unilaterally. In fact, we are more likely to get multilateral cooperation if we have that ability—a paradox still poorly understood by many in Washington.

The B-2 can attack nuclear and other high-value targets. In an era of nuclear proliferation, this capability appears particularly important. In a letter to President Clinton, seven former secretaries of defense—of both Democratic and Republican administrations—urged the continuation of low-rate production of the B-2, calling it "the most cost-effective means of rapidly projecting forces over great distances," able "to reach any point on earth" within hours, "to destroy numerous time-sensitive targets in a single sortie," and do so "without fear of interception."

The B-2's range would be invaluable in large regions, such as East Asia, where the potential distances are far greater than the effective range of conventional fighter aircraft. Though it is hard at the moment to envision an Asian scenario (outside of Korea) requiring long-range conventional strike capability, the point is that by the time such requirements become clear, it would almost certainly be too late to acquire the capabilities.

The B-2 is effective for deterrence and retaliation. Forces may be used not only to defend but, for example, to punish or deter acts of state terrorism against the U.S. or its citizens. The B-2's range and stealth characteristics make it a particularly useful instrument of deterrence.

The B-2 can operate from secure bases. Future aggressors may draw a lesson from the Gulf War and attack nearby bases from the outset, perhaps even using ballistic missiles and chemical weapons. In those circumstances, additional B-2 bombers, operating from bases beyond the reach of enemy missiles or aircraft, would be far more valuable than they were in the Pentagon study.

No systems analysis can assess the value of the B-2's enormous flexibility. Nor can a systems analysis assess the importance of the B-2 for maintaining the U.S. lead in a revolutionary new technology. Being the first country to develop stealth technology does not guarantee continued American leadership. In the further development of both tactics and technology, of counter-measures and counter-counter-measures, the U.S. needs to capitalize on its lead in stealth development.

With more than 30 wings of traditional fighter aircraft and only one wing of B-2s planned (in addition to two wings of the shorter-range, first generation F-117s), it could hardly be said that the U.S. is overemphasizing stealthy attack capability.

It is difficult to imagine any other country, having developed an advanced capability like the B-2, halting production after just 20 aircraft because of an unwillingness to allocate 1% of its defense budget or 5% of its combat aircraft budget for the next few years. It is a system that excels in two dimensions that are hard or impossible to evaluate in a systems analysis, but that are of central importance for defense planning in the post-Cold War world: flexibility to deal with a world that has become even more unpredictable; and innovation to deal with the consequences of revolutionary technological change.

CONGRESSIONAL INTERVENTION

Only through congressional intervention was Adm. Hyman Rickover able to build the nuclear submarine program that eventually became the pride of the Navy. At a later time, when the military was more interested in the development of manned aircraft, congressional pressure kept U.S. conventional cruise missile options from being given away in arms-control negotiations, thus protecting the extraordinary capability for accurate long-range conventional delivery that the Tomahawk cruise missile demonstrated during the Gulf War. And, were it not for the intervention of Sen. Sam Nunn and the House and Senate Armed Service committees, the U.S. would have had only one squadron of F–117 bombers in that war, rather than two.

Let us hope that Congress intervenes again. As the seven former defense secretaries said: "It is already apparent that the end of the Cold War was neither the end of history nor the end of danger. We hope it will also not be the end of the B–2."

[From the Washington Post, July 13, 1995]

THE B–2 AND THE "CHEAP HAWKS"

(By Charles Krauthammer)

We hear endless blather about how new and complicated the post-Cold War world is. Hence the endless confusion about what weapons to build, forces to deploy, contingency to anticipate. But there are three simple, glaringly obvious facts about this new era:

(1) America is coming home. The day of the overseas base is over. In 1960, the United States had 90 major Air Force bases overseas. Today, we have 17. Decolonization is one reason. Newly emerging countries like the Philippines do not want the kind of Big Brother domination that comes with facilities like Clark Air Base and Subic Bay. The other reason has to do with us: With the Soviets gone, we do not want the huge expense of maintaining a far-flung global military establishment.

(2) America cannot endure casualties. It is inconceivable that the United States, or any other Western country, could ever again fight a war of attrition like Korea or Vietnam. One reason is the CNN effect. TV brings home the reality of battle with a graphic immediacy unprecedented in human history. The other reason, as strategist Edward Luttwak has pointed out, is demographic: Advanced industrial countries have very small families, and small families are less willing than the large families of the past to risk their only children in combat.

(3) America's next war will be a surprise. Nothing new here. Our last one was too. Who expected Saddam to invade Kuwait? And even after he did, who really expected the United States to send a half-million man expeditionary force to roll him back? Then again, who predicted Pearl Harbor, the invasion of South Korea, the Falklands War?

What kind of weapon, then, is needed by a country that is losing its foreign basis, is allergic to casualties and will have little time to mobilize for tomorrow's unexpected provocation?

Answer: A weapon that can be deployed at very long distances from secure American bases, is invaluable to enemy counterattack and is deployable instantly. You would want, in other words, the B–2 stealth bomber.

We have it. Yet, amazingly, Congress may be on the verge of killing it. After more than $20 billion in development costs—costs irrecoverable whether we build another B–2 or not—the B–2 is facing a series of crucial votes in Congress that could dismantle its assembly lines once and for all.

The B–2 is not a partisan project. Its development was begun under Jimmy Carter. And, as an urgent letter to President Clinton makes clear, it is today supported by seven secretaries of defense representing every administration going back to 1969.

They support it because it is the perfect weapon for the post-Cold War world. It has a range of about 7,000 miles. It can be launched instantly—no need to beg foreign dictators for base rights; no need for weeks of advance warning, mobilization and forward deployment of troops. And because it is invisible to enemy detection, its two pilots are virtually invulnerable.

This is especially important in view of the B–2's very high cost, perhaps three-quarters to a billion dollars a copy. The cost is, of course, what has turned swing Republican votes—the so-called "cheap hawks"—against the B–2.

But the dollar cost of a weapon is too narrow a calculation of its utility. The more important calculation is cost in American lives. The reasons are not sentimental but practical. Weapons cheap in dollars but costly in lives are, in the current and coming environment, literally useless: We will not use them. A country that so values the life of every Capt. O'Grady is a country that cannot keep blindly relying on non-stealthy aircraft over enemy territory.

Stealth planes are not just invulnerable themselves. Because they do not need escort, they spare the lives of the pilots of the fighters and radar suppression planes that ordinarily accommodate bombers. Moreover, if the B–2 is killed, we are stuck with our fleet of B–52s of 1950s origin. According to the undersecretary of defense for acquisition, the Clinton administration assumes the United States will rely on B–52s until the year 2030—when they will be 65 years old.

In the Persian Gulf War, the stealthy F–117 fighter flew only 2 percent of the missions but hit 40 percent of the targets. It was, in effect, about 30 times as productive as non-stealthy planes. The F–117, however, has a short range and thus must be deployed from forward bases. The B–2 can take off from home. Moreover, the B–2 carries about eight times the payload of the F–117. Which means that one B–2 can strike, without escort and with impunity, as many targets as vast fleets of conventional aircraft. Factor in these costs, and the B–2 becomes cost-effective even in dollar terms.

The final truth of the post-Cold War world is that someday someone is going to attack some safe haven we feel compelled to defend, or invade a country whose security is important to us, or build an underground nuclear bomb factory that threatens to kill millions of Americans. We are going to want a way to attack instantly, massively and invisibly. We have the weapon to do it, a weapon that no one else has and that no one can stop. Except a "cheap hawk," shortsighted Republican Congress.

SHALIMAR, FL, *June 22, 1995.*

Hon. SAM NUNN,
U.S. Senate, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR NUNN: Earlier this month I wrote to your colleagues in the House of Representatives about the need to continue the B–2 program. The debate has now shifted to the Senate and my concern with our future security compels me to share the same thoughts with you. This is a difficult letter for me to write as in more than thirty years of service in the Air Force, I have always concentrated on military operations, and refrained from commenting on issues such as whether or not to purchase a specific aircraft. However, the Pentagon recently released a study based on assumptions, constraints, and methodology that can lead to the conclusion that the United States can safely terminate B–2 stealth bomber production at 20 aircraft. As the former Air Commander of the Desert Shield/Desert Storm Air Forces, I feel a duty to put the B–2 debate in perspective, and sound a warning on any recommendation to stop production of this aircraft. To put it bluntly, halting this nation's B–2 production capability is dangerously short-sighted and would lead ultimately to the extinction of the long-range bomber force, at the very time when bombers are emerging as America's most critical 21st Century military asset.

Since the B–2 is the only bomber in production or development, and the Pentagon has no plans for a new bomber program in the future, the B–2 program and America's bomber production capability are one and the same. If this sole remaining bomber capability is lost, replacing our aging bombers will become unaffordable. Inevitably, the nation may lose its manned bomber force, and the unique capabilities it provides. A new bomber would take from 15–20 years to go from the drawing board to the battlefield and cost tens of billions of dollars just to design. With the current administration balking at spending a fraction of this amount on a finished, proven product, there is little likelihood of a future government sinking many times that amount into a new program. Even if a new program was initiated in the near term, most of our existing bombers would be obsolete before the first "B–3" entered service. The next Desert Storm Air Commander could be sending Americans into war aboard a 70-year old bomber, an act I find unconscionable.

In my opinion, the B–2 is now more important than ever. Heavy bombers have always possessed two capabilities—long range and large payload—not found in other elements of our military forces. As we base more and more of our forces in our homeland, the bomber's inter-continental range enables us to respond immediately to regional aggression with a rapid, conclusive military capability. Just as important, this capability may deter aggressors even as the bombers sit on the air base parking ramps in the United States. In war, the large bomber payloads provide a critical punch throughout the conflict—just ask General Schwarzkopf what he wanted from the Air Force when he was under attack in Vietnam, or whenever our ground forces faced danger during Desert Storm.

What the B–2 adds to this equation are two revolutionary capabilities not available in any other long-range bomber—precision and stealth. The Gulf War showed how precision weapons delivery from stealthy platforms provides a devastating military capability. The F–117 stealth fighter proved its effectiveness on the first day of the war when 36 aircraft flew just 2.5% of the sorties, but attacked almost 31% of the targets.

In the past, employing bombers for critical missions against modern air defenses required large, costly packages of air escort and defense suppression aircraft. The B–2's unmatched survivability reduces the need for escorts and defense suppression aircraft. As we found in the Gulf War with the F–117, stealth allows the U.S. to strike any target with both surprise and near impunity. Analysis of the Gulf War air campaign reveals that each F–117 sortie was worth approximately eight non-stealth sorties. To put B–2 capabilities into perspective, consider that the B–2 carries eight times the precision payload of the F–117, has up to six times the range, and will be able to accurately deliver its weapons through clouds or smoke. What does all of this mean? It means that a single B–2 can accomplish missions that required dozens of non-stealthy aircraft in the past.

Many may wonder why the Department of Defense would advocate terminating the most advanced weapon system ever developed. The B–2 program was cut by the Bush Administration for budget-related political reasons, and some concern that the program would not meet expectations. Since then, delivered aircraft have demonstrated, without qualification, that the B–2 is a superb weapon system—performing even better than expected.

Yet, defense spending has declined, bomber expertise has been funded out of the Air Force, and people's careers have been vested in other programs. Unfortunately, some in the Army and Navy believe the B–2's revolutionary capability is a threat to their own services' continuing relevancy. Just the opposite is true, long-range, survivable bombers will contribute to the effectiveness of the shorter range carrier air by striking those targets which pose the greatest threat to our ships. The troops on the ground have long recognized the value of air support, especially the tremendous impact that large bomb loads have on enemy soldiers. This was again demonstrated by the B–52 strikes used to demoralize the Iraqi Army. If anyone needs B–2s, it's our soldiers and sailors. Some people harp on the issue of the B–2's cost. The Air Force, at times, seems at odds about asking for this much needed aircraft because they fear it could endanger their number one priority program, the F–22. All miss the point. True the B–2 has a high initial cost, but its capabilities allow it to accomplish mission objectives at a lower total cost than other alternatives. And keep in mind, the true cost of any weapons system is how many or how few lives of our service personnel are lost. The B–2 lowers the risk to our men and women. The B–2 will allow us to accept lower levels of overall military spending without compromising our security.

As we approach this year's critical defense budget decisions, it is important that we understand the long-term national and international security ramifications of the quantum leap in military capabilities offered by the B–2. If we don't, it may disappear when we need it most, and can buy it most cheaply. Make no mistake about this: the B–2 is designed to extend America's defense capabilities into the next Century. Can we afford to do less?

Sincerely,

CHARLES A. HORNER,
General, USAF (Ret.).•

(At the request of Mr. DOLE, the following statement was ordered to be printed in the RECORD.)

JAMES SMITH

• Mr. LUGAR. Mr. President, on this Friday morning, many of my close friends and fellow members of Saint Luke's United Methodist Church are gathering in Indianapolis, IN, to honor the life of a very special public servant and leader in our State.

The untimely loss of James Smith on July 10, 1995, will be felt throughout Indiana, just as his personal energy impacted so many people during his remarkable life.

I enjoyed working with Jim during his early years of service to our State, when he worked as an assistant to Gov. Otis Bowen. His effective leadership in several roles in Indiana's State government throughout the 1970's earned the praise and support of both Governor Bowen and his successor, Governor Robert Orr.

He won respect from all who followed his activities, both before and after he left State government. I was not surprised to see the law firm he helped found quickly develop into one of the largest firms in Indiana.

I was proud to count Jim Smith as a friend ever since our early association. I will miss the enrichment I received from our visits together.

My thoughts this morning, especially, are with his wife Susan, who not only served as Jim's partner professionally in Governor Bowen's administration and in their law firm, but also in their home raising five beautiful children. My prayers are for her renewed strength and courage as she faces most difficult times ahead.•

75th BIRTHDAY OF EDWIN ZEHNDER

• Mr. LEVIN. Mr. President, I rise today to honor one of the leaders of the community of Frankenmuth, MI. Edwin Zehnder is owner of Zehnder's of Frankenmuth restaurant, one of the top ten independent restaurants in total sales in the United States. July 25, 1995 will mark Edwin's 75th birthday. The city of Frankenmuth will be honoring Edwin on his birthday by naming a park located near his restaurant in his honor. This event is especially significant because 1995 also marks the 150th anniversary of the city of Frankenmuth. It is only fitting that this great citizen's 75th birthday happens to coincide with the 150th anniversary of the community to which he has given so much.

Frankenmuth is a unique community and one of Michigan's largest tourist attractions. It is a quaint Bavarian village which maintains a festival atmosphere year-round. Everything from its authentic architecture to the popular Frankenmuth Bavarian and Oktoberfest celebrations make this community a special place to live in and visit. At the center of it all is Zehnder's of Frankenmuth restaurant. The restaurant serves traditional Bavarian cuisine as well as American fare. However, most visitors come to Zehnder's for its famous Frankenmuth-style chicken dinners.

Edwin and his wife Marion have four children—L. Susan, Albert, Catherine, and Martha. Family has always been an important part of this gentleman's life. The family business was started in 1927, when Edwin's father, William, bought the circa 1856 Exchange Hotel. The Zehnder family then began work on building the restaurant into the institution it is today. Edwin and his wife Marion assumed ownership of the family business in 1965. The couple were able to cater to the growing numbers of tourists visiting the city by continually expanding the restaurant. They added a retail gift store, retail food store, and a coffee shop in 1977. In 1983, the family broke ground for a 5,000-square-foot addition which now houses a bakery. Zehnder's of Frankenmuth today is a 84,000 square-foot, 1,500 seat establishment.

Edwin Zehnder graduated from Valparaiso University in 1942, and later went on to do graduate work at the University of Chicago and the University of Michigan. Edwin served his country in World War II with the U.S. Navy. Edwin was stationed in the Marshall Islands in the South Pacific.

Edwin maintained his commitment to service after the war by becoming a vital member of the community. He is a member of St. Lorenz Lutheran Church and sits as a member of the board of Concordia Theological Seminary in Fort Wayne, IN. He was also director of the Michigan State Chamber of Commerce and has served as president and director of the Frankenmuth Chamber of Commerce. In 1982, he received the 4–H Friend Award, which is the highest award given by the organization for support of its many causes.

On the basis of his expertise in restaurant management, he was elected director of the Michigan Restaurant Association and the National Restaurant Association. He has also served as a circuit speaker for the Michigan and National Restaurant Associations. In 1975, he received the Excellency Award of the restaurant association.

I know thousands of people in Michigan and around the Nation join me in congratulating Edwin Zehnder for the fine work he has done and also in wishing him a happy 75th birthday.•

REGULATORY REFORM DISTORTIONS

Mr. DOLE. Mr. President, in their ongoing efforts to frighten the American people, the opponents of regulatory reform continue to spread their distortions through the media.

Last night, in a report on ABC's "World News Tonight," President Clinton's EPA Administrator, Carol Browner, made the following outrageous statement about our regulatory reform bill. That is the one we are considering right now.

> If these provisions had been in place over the last 10 years, EPA would not have been able to ban lead in gasoline, and a whole generation of children would have suffered real and permanent brain damage.

Now, that is a catchy sound bite, but it is flatly false, and it went unchallenged in the report.

Here are the facts viewers did not get last night. When a rule on lead phase-out was being considered in 1982, EPA resisted doing a cost-benefit analysis. However, when a cost-benefit analysis was performed, it demonstrated the benefits outweighed the costs of eliminating lead from gasoline. Only then did EPA issue a rule providing for quick phaseout of lead. And in fact, as a result of that analysis, EPA issued a tougher standard than it would have previously. So getting lead out of gasoline occurred precisely because a cost-benefit analysis supported doing so.

Rather than undermining our reform effort, as Ms. Browner suggests, this example actually validates it.

This is not the first time we have heard this phony story from the administration. Even though we have set the record straight on that point during this debate, the EPA and some folks in the media do not seem to notice.

Mr. President, I am hardly the only one who has been disappointed by the spread of distortions about this bill.

I ask unanimous consent to have printed in the RECORD a letter I received from the Governor of Ohio, George Voinovich, and the Governor of Iowa, Terry Branstad, taking exception to another ABC report last night that framed the debate on environmental regulations in Washington-knows-best terms.

Mr. President, this is certainly a complicated piece of legislation, but sometimes the facts are very simple. And dealing in facts is not too much to ask even for the media.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

JULY 14, 1995.

Hon. BOB DOLE,
Senate Majority Leader, U.S. Senate, Washington, DC.

DEAR SENATOR DOLE: As strong supporters of your efforts to pass regulatory reform legislation, we were very disappointed with an ABC News report last night on environmental regulation.

We are dismayed by the suggestion that enhanced flexibility for states in making environmental and regulatory decisions would inherently harm the environment. In essence, their coverage seems to propose that regulatory reform should not be pursued because states cannot be trusted as regulators. As you well know, Mr. Majority Leader, states and local governments already are responsible for implementing and overseeing these laws.

ABC is correct in noting that "dirty air travels." However, the proposition that regulatory and environmental reform supported by governors would allow states to "set their own environmental standards" is patently false. Governors and other state and local officials do not seek to set our own environmental standards, nor would pending legislation permit us to do so. rather, we support enhanced flexibility to implement remedies specific to our states and communities to meet federally established standards.

EPA Administrator Carol Browner's assertion that reforms would lead states to "race to lower standards" is particularly insulting. It is typical beltway arrogance to presume that state and local elected officials are somehow less interested in protecting the environment than officials in Washington. We are truly puzzled that a former state environmental director would say such a thing.

We also want to point out that environmental reform is a partisan issue only in Washington. Across the country Republican and Democrat governors, state legislators, county officials, and mayors support environmental and regulatory reform legislation to provide greater flexibility and unfunded mandate relief for states and local governments. In fact, a bipartisan meeting of state and local government officials last month in Baltimore determined that environmental reform legislation is the top priority of the state-local government coalition in the 104th Congress.

Thank you for your leadership in support of environmental and regulatory reform. We look forward to continuing to work with you to enact reform legislation that ensures that new regulations justify their costs and provides states and local governments with enhanced flexibility to meet the federal standards.

Sincerely,

GEORGE V. VOINOVICH,
Governor of Ohio.
TERRY E. BRANSTAD,
Governor of Iowa.

IN MEMORY OF WHITE EAGLE

Mr. DASCHLE. My State of South Dakota is small in population but large in spirit. This is particularly true of the native American population that calls South Dakota home. Indian people have blazed their way into American history in countless ways. Even their names convey poetry and magic: from great leaders like Sitting Bull, Crazy Horse, and Black Elk, to modern day role models like Billy Mills and Jim Thorpe.

White Eagle—Wanblee Ska—was a Rosebud Sioux who soared on the wings of classical music. Last week, at his parents' home in Mission, SD, White Eagle died at the age of 43. In spite of his untimely death, he left a legacy that will live on for generations.

In a State where country/western music is heard on most radios, White Eagle turned his natural gift for song into a polished operatic tenor talent. He sang for the inauguration of a President and at Carnegie Hall. Despite his relative youth, he had already been enshrined in the South Dakota Hall of Fame at the time of his death.

Dennis Holub, director of the South Dakota Arts Council, says that White Eagle was "the epitome of a great artist * * * [he] sang in some of the world's finest halls but also brought his songs home so South Dakotans could enjoy them, too."

But it was not only his gift of song that made White Eagle rise on currents of critical and public acclaim. It was his courage in overcoming obstacles and misfortune, his ability to make himself continually better while remaining utterly human, that made him an inspiration to the people of South Dakota.

Although he began singing as a child and achieved some success as a church soloist and musical performer, he stopped singing after developing nodes on his vocal cords. Nevertheless, when he was subsequently asked by a friend to help out the Mile High Opera Workshop after the company lost its tenor, it became clear that White Eagle had found his true vocation.

His 30th birthday was already behind him when he began voice lessons. He continued his studies and graduated from the San Francisco Opera's Merola Opera Program. He went on to work in New York City, and with the Pennsylvania Opera Theater, the Cleveland Opera, and others.

White Eagle developed AIDS in the late 1980's. In a State where AIDS is even rarer than classical concerts, he became the human face of the disease. He could have hidden; instead, he became a powerful force for understanding and compassion.

White Eagle overcame many obstacles in his tragically short life. He succeeded, but fate decreed he would not have enough time to fully savor his success. Nor did we have enough time to enjoy his gift.

But White Eagle left an enduring legacy. Many who otherwise might not have been exposed to classical music became devotees because of White Eagle's gift. Many who might never have seen the human face of AIDS gained understanding through his courage and dignity.

My connection to White Eagle stems not only from my love of his music, but also from the fact that his brother, Robert Moore, is a former member of my Washington staff. I know I speak for my office, and all of South Dakota, as I offer our condolences and prayers of support for his family in this difficult time. We join them in mourning the untimely death of White Eagle. But, even as we mourn, we celebrate his life and his gift of music, and we remember his courage and compassion.

White Eagle will be missed, but he will not be forgotten, for the spirit of his gifts will endure for generations to come.

UNFUNDED MANDATES UNDER SENATE FINANCE WELFARE BILL

Mr. DASCHLE. Mr. President, yesterday we had a very productive meeting with the President, a number of my colleagues here in the Senate, Governor Carper, Mayor Archer of Detroit, County Executive Rick Phelps of Dane County, WI, and Bill Purcell, majority leader of the Tennessee House of Representatives.

It is clear that the Work First Coalition is growing. Government leaders at all levels agree that we need to move forward with welfare reform—that we can't let extremists hold this very important reform hostage.

We have a plan. It is about work. It is about ending the cycle of dependency and helping single mothers and unemployed fathers become self-sufficient and stay that way.

The bill that was reported from the Finance Committee is not about work. It's a huge unfunded mandate to the States.

In fact, the head of the bipartisan U.S. Conference of Mayors may have put it best when he called the Republican welfare reform plan the "mother of all unfunded mandates."

It's ironic that S. 1, the first bill the Republican leadership introduced this Congress, was a bill to stop unfunded mandates. Now they want to dump a $35 billion unfunded mandate on the States.

Why is the welfare reform bill as reported from the Finance Committee an unfunded mandate? The reason is simple.

The bill as reported by the committee freezes Federal funding to the States at the fiscal year 1994 level in each of the next 7 years. At the same time, the bill requires an increasing percentage of welfare recipients to participate in the current-law JOBS Program, which offers education or training or other work opportunities to welfare recipients.

But, participation in the JOBS Program is not free. There is a cost to providing education or job training. In addition, when we talk about welfare recipients, we are usually talking about single mothers raising children, many of them small children or infants.

To enable a single parent to participate in an education or training program, someone has to care for her child during that time period. She may be lucky; perhaps a relative will watch her child for free. But, chances are, she will not be lucky. She, like the majority of working parents today, will have to pay for child care—will have to pay someone to take care of her child while she is away from home.

The cost of child care is not cheap. In fact, today the cost of child care is often a low-income family's largest expense—larger even than rent.

And, the problem for parents of very young children is that the cost of child care is greatest for toddlers and infants.

Certainly, if we want to put the parents of these young children to work—if we want them to stay in the workforce and become truly self-sufficient—then we need to help them afford quality day care.

I do not think any Member of the Senate would suggest that we promote a policy that would result in infants and toddlers being left home alone—even in the name of requiring parents to work or participate in the JOBS Program. I do not believe any Senator truly wants that.

However, it needs to be clearly understood that, in order to avoid that result and, at the same time, comply with the participation rates in the Finance Committee bill, States will have to pay for increased JOBS Program participation and child care to enable mothers to participate. Otherwise, participation in the JOBS Program simply won't happen, and/or mothers will be forced to leave young children and infants alone.

The Finance Committee bill provides no funds to help States comply with this mandate.

What will States have to pay? About $35 billion over the next 7 years.

Now, one begins to understand why this bill has been called the mother of all unfunded mandates.

Who will pay that $35 billion? I'll tell you if you haven't already figure it out. The States. The counties. The cities. And, last, but certainly not least, the local taxpayers will have to pay. That's who.

If a mandate is enacted and resources aren't provided to facilitate compliance with that mandate, someone will have to foot the bill. That's a simple fact that we cannot afford to overlook in the welfare debate.

I ask unanimous consent that two charts I have be printed in the RECORD.

There being no objection, the charts were ordered to be printed in the RECORD, as follows:

Unfunded mandates to the States (or counties, cities, local taxpayers) under the Senate Finance Committee welfare bill

[Fiscal years 1996-2002 in millions of dollars]

	Additional 7-year cost passed on to States in order to comply with the Senate finance bill
Alabama	299.4
Alaska	82.6
Arizona	565.8
Arkansas	207.7
California	5,290.0
Colorado	288.9
Connecticut	434.7
Delaware	86.3
District of Columbia	206.5
Florida	1,978.4
Georgia	1,066.3
Hawaii	156.7
Idaho	58.5
Illinois	1,622.6
Indiana	579.7
Iowa	241.8
Kansas	147.5
Kentucky	553.5
Louisiana	682.6
Maine	182.4
Maryland	672.9
Massachusetts	946.0
Michigan	1,470.0
Minnesota	543.0
Mississippi	403.6
Missouri	761.8
Montana	74.7
Nebraska	25.8
Nevada	108.1
New Hampshire	69.8
New Jersey	953.2
New Mexico	235.7
New York	3,399.5
North Carolina	687.3
North Dakota	49.1
Ohio	1,747.6
Oklahoma	412.2
Oregon	238.5
Pennsylvania	1,631.6
Rhode Island	160.6
South Carolina	361.3
South Dakota	20.5
Tennessee	841.0
Texas	2,270.2
Utah	17.8
Vermont	85.2
Virginia	550.8
Washington	638.7
West Virginia	247.4
Wisconsin	415.2
Wyoming	20.6
Total	34,791.6

Notes:

Analysis prepared by staff of the Democratic Policy Committee based on HHS/ASPE data.

Estimates assume that States maintain the number of participants in the JOBS program projected under current law and keep current law exemptions through FY 1998, and comply with participation rates required under the Senate Finance Committee welfare bill for years FY 1996–FY 2002. Expected average national costs per countable participant for JOBS/work and child care: FY 1999 $5,700; FY 2000 $5,900; FY 2001 $6,200; FY 2002 $6,400. [For example, the Finance Committee bill freezes funding at the FY 1994 level through FY 2002. Therefore the seven-year costs are derived by subtracting FY 1994 JOBS participants from the number of participants expected to be required to participate in each year to find the number of net new recipients required to participate in JOBS in each year to comply with the Finance Committee bill. The net new number of participants each year has then been multiplied by the average cost to fulfill JOBS requirements and cover day care costs to enable parents to participate for 20 hours per week.]

The top 10 States with the largest unfunded mandates under the Senate Finance Committee welfare bill

[In millions of dollars]

	Additional 7-year cost passed on to States in order to comply with the Senate Finance bill
1. California	5,290.0
2. New York	3,399.5
3. Texas	2,270.2
4. Florida	1,978.4
5. Ohio	1,747.6
6. Pennsylvania	1,631.6
7. Illinois	1,622.6
8. Michigan	1,470.0
9. Georgia	1,066.3
10. New Jersey	953.2

Note: Analysis prepared by staff of the Democratic Policy Committee based on HHS/ASPE data.

Mr. DASCHLE. Mr. President, the first chart, entitled, "Unfunded Mandates to the States (or Counties, Cities, Local Taxpayers) Under the Senate Finance Committee Welfare Bill (FY 1966–FY2002)." is a State-by-State breakdown of the unfunded mandates under the legislation over the next 7 years.

The analysis was prepared by the staff of the Democratic Policy Committee based on HHS data on JOBS participation and the cost of such participation.

The second chart is entitled, "The Top Ten States With the Largest Unfunded Mandates Under the Senate Finance Committee Welfare Bill."

South Dakota didn't make the top 10 list, but anyone in our small State will tell you that an unfunded mandate of $20.5 million is a lot of money. I suspect people in the other 39 States facing similar shortfalls would react the same way.

I am disappointed that so few Members have focused on the unfunded mandate aspect of this legislation. Instead, they have chosen to focus on the size of the slice of pie they expect to get.

During the last several weeks, I have read on numerous occasions that one of the largest reasons the Senate Republicans have not brought the legislation to the floor for consideration is that there is a formula fight brewing in their caucus.

What's the fight about? The distribution of money. Under a frozen block grant as proposed in the Finance Committee bill, funds are really frozen. Despite your circumstances, that's it. You get one piece of the pie each year.

The problem is that a number of Members have looked ahead and seen their slice of the frozen pie, and they don't know if they're so hungry for block grants anymore. What about population growth? What about times of recession or economic downturn? Unemployment? Natural disaster?

Perhaps there ought to be adjustments they say. Adjustments for these uncontrollable things or events. Southern States don't want to be punished just because their populations are growing.

Mr. President, I agree with them. That's why our plan isn't a frozen pie that locks States into the same size piece each year for the next 7 years.

Our plan abolishes AFDC, but continues a matching share partnership with the States so that, as need rises, the Federal Government will be there to remain a partner. So we don't have a formula fight over our plan.

We recognize that, to put welfare recipients to work, to end the cycle of dependency, we must first make some initial investments to get welfare recipients into the work force.

Our plan cuts existing welfare programs and re-invests those funds in the effort to putting welfare recipients to work, and in day care to enable these mothers to go to work without abandoning their children.

I have said it before and I'll say it again. Senate Democrats are ready to debate welfare. Senate Republicans have delayed that debate time and again. I call on the other side not to let extremists hold welfare reform hostage. Join with us. Work with us. It's not too late.

We can enact a bipartisan welfare reform plan. A plan that is truly about putting welfare recipients to work and enabling them to become self-sufficient.

We support that. Able-bodied welfare recipients ought to work. As some have said, they need to get out of the cart and help pull it. But, babies and toddlers shouldn't be thrown out of the cart. That kind of extremism aims at the mother and hits the child.

We believe the Senate can enact a welfare reform plan that is not extreme, but that is fair and requires work and personal responsibility. Rhetoric is fine, but the reality is that a small minority support the extreme approach and are using their power to block real reform.

If the rest of us join together, we can have a pragmatic, sensible, realistic plan to reform welfare.

RECENT ACHIEVEMENTS OF STUDENTS FROM THE SOUTH DAKOTA SCHOOL OF MINES AND TECHNOLOGY

Mr. PRESSLER. Mr. President, today, I would like to commend the recent accomplishments of the innovative students at the South Dakota School of Mines and Technology, SDSM&T, in Rapid City, SD. On Thursday, June 29, the SDSM&T solar motion team placed 16th in Sunrayce '95, a solar-powered car race from Indianapolis, IN to Golden, CO. Then, on July 1, SDSM&T engineering students captured the national title at the eighth annual National Concrete Canoe Competition here in Washington, DC.

Sunrayce '95 was a 10-day, 1,150-mile cross-country race. Despite the cloudy and rainy conditions they experienced, the SDSM&T team still managed to better all other rookie teams with their solar-powered car, the Solar Rolar. On the last day of the meet, the team finished the 53-mile race in seventh place, passing several top-ranked rivals. The teamwork and endurance demonstrated by this first-year team is admirable. They are sure to be contenders in the years to come.

Last month, I had the privilege to visit with the SDSM&T concrete canoe team before their competition. ,The school was represented by a group of hard-working and dedicated individuals. After last year's fourth-place finish in the competition, these engineering students devoted much time to training and fine-tuning their 92 pound canoe, the Predator. Their efforts paid off as they competed in various divisions against 21 other colleges from across the country.

Taking the first-place trophy was not all fun and games for the South Dakota team. The recent flooding which took place in Virginia sent debris floating down the Potomac River. The Predator was struck by a log and sustained minor damage, but repairs were made and the canoe remained in the competition.

Muscle and boat design were not the only factors that determined the final outcome of the competition. A majority of team points were captured in verbal and written presentations about the canoe. When all was said and done, the South Dakota School of Mines and Technology team accumulated the most team points, receiving a $5,000 scholarship for their efforts.

Mr. President, I am extremely proud of the students from the School of Mines and Technology. They have proven that South Dakota students can compete—and be front-runners—in the field of civil engineering. A July 5, 1995, Rapid City Journal editorial praised the teams for their accomplishments and I ask that a copy of the editorial be printed at the end of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. PRESSLER. Mr. President, again I congratulate the administrators, teachers, and students of the South Dakota School of Mines and Technology for their great work. They have given added meaning to the South Dakota work ethic. I wish them continued success in the future.

EXHIBIT 1

[From the Rapid City Journal, July 5, 1995]

A BANNER WEEK FOR TECH

Teams from the South Dakota School of Mines & Technology displayed the quality of the schools's technical expertise and people.

Last week, people across America, particularly those in circles of higher education, were finding out something that people in our community already know but sometimes take for granted:

South Dakota School of Mines & Technology is an outstanding institution of higher learning that attracts quality students and faculty.

On Saturday, Tech won the 8th annual National Concrete Canoe Race put on in Washington, D.C., by the American Society of Civil Engineers. Among the 22 competing schools, Tech was the champion.

On Thursday, Tech's Solar Motion team finished 16th in the grueling Sunrayce '95, a solar-powered vehicle race from Indianapolis, Ind., to Golden, Colo.

On Friday, Tech's effort in Sunrayce '95 was rewarded with a pair of honors that typify the best of Tech.

The quality of the school's engineering expertise was recognized in the awarding of a plaque and a $1,000 cash prize for the best overall use of technology in its Sunrayce vehicle.

The quality of the school's people was recognized in a humanitarian award to Ragnar Toennessen, race manager for Solar Motion, for going above and beyond the call of duty. On the race's final leg, Toennessen and communications specialist Zach Spencer left Tech's chase vehicle to help Iowa State team members after their car blew a tire and wrecked. Toennessen was still directing traffic around the wrecked vehicle when Tech's entry crossed the finish line almost an hour later.

Tech's efforts in both the concrete canoe race and Sunrayce '95 showed that the school is achieving its mission to prepare students to meet the demands of the coming century—demands that will require not only a high level of technical expertise but also a sensitivity for human needs.

Thanks to the work of these two teams, more people across America now know what people here have known for a long time: Tech is an outstanding school.

CHINA AND VIETNAM

Mr. KENNEDY. Mr. President, last month, William Ketter, vice president and editor of the Patriot Ledger of Quincy, MA, traveled to China and Vietnam to observe first hand the rapid economic and social changes taking place in those countries. At this crucial juncture in our relations with both nations, Mr. Ketter's articles provide interesting insights into China and Vietnam. I ask unanimous consent that his articles may be printed in the RECORD, along with his editorial on the importance of normalizing relations with Vietnam.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Patriot Ledger, June 19, 1995]

YOUNG WANT A BETTER LIFE

(By William B. Ketter)

Buoyed by the opportunity to practice his English, the Beijing University graduate student reeled in his year-of-the-pig kite from high above Tiananmen Square and motioned for me to step closer.

"The most important thing to young people in China today is a better economic future—for themselves, for their family, for their friends," he whispered. "Politics is politics. . . . We don't try to influence it."

Our conversation occurred a few days before the sixth anniversary of the anti-government uprising of workers and students in this very square, a convulsive episode in the 46-year history of communist China.

Yet this young man, who identifies himself as Li Zeng, a 23-year-old master of science student, appeared uninspired by the significance of that defining event. What's more, he seemed to represent the prevailing mood in today's China: a changed attitude that places the pursuit of material well-being over the fight for democracy.

"How can I put it? Li Zeng continued, "Protesting in the streets, yelling slogans, causing rebellion doesn't work. We are more interested in buying a car and getting ahead. There's no future in worrying about what happens after Deng Xiaoping or what Premier Li Peng and President Jiang Zeming might think."

His predication that few people would gather in Tiananmen Square of June 4 to mourn the massacre of 500 demonstrators on that fateful day in 1989 proves correct. The cry for political reform in China has been muted by the heavy hand of the government (a dozen dissidents were detained in advance of the anniversary) and by the sprouting riches of a market economy.

Marxism is still central to the political process, but it is fading fast from the economic scene as farmers and city dwellers are encouraged to improve their individual lot and not to rely entirely on the state. Free market offer everything from antique furniture to bicycles to exquisitely carved Buddha statues to fresh turnips.

Furthermore, there is evidence this strange mix of political communism and market capitalism is working, at least to some degree. Gone are the drab-looking Mao suits nearly everybody wore eight years ago when I was last in China. Designer jeans, Western suits, formfitting skirts, and Italian shoes are the dress of the day.

Gone too, is the sight of boulevards filed only with bicycles.

Motorscooters and motorcycles are quickly becoming the Great Wheels in China. There are also many more cars on the road, especially taxicabs. The consequence: cram-jammed streets and rush-hour gridlock.

High-rise apartments, office buildings and hotels are multiplying as fast as you can say Mao Tse-tung, creating dazzling towers of steel, glass and chrome over the dusty plains of Beijing.

"Does all this surprise you?" asked Li Jianping, deputy director of the U.S. Division of the Chinese People's Association for Friendship with Foreign Countries. He was host to the group of American newspaper editors I joined for a week in China as part of an Asia tour.

"It shouldn't," he continued. "We even have a McDonald's and a Hard Rock Cafe not far from Tiananmen Square."

A BUCK FOR A BIG MAC

A visit to both confirms that the Chinese are no different than Americans when it comes to Big Macs and ear-numbing music. Only the prices are lower: 25 cents for a plain hamburger, $1 for the Big Mac, and Beijing beer goes for 75 cents a glass at the Hard Rock. Save The Planet T-shirts sell for $6.

The disco in the China World Hotel features American songs, strobe lights and hip-hop dancers. So, too, the hottest nightspot in Beijing, The NASA. It features a helicopter jutting from the wall and prostitutes that slink after businessmen on expense accounts. The hookers make more in a week ($500) than the average person takes home in a year. But if they get caught, the penalty is an automatic year in jail for first-time offenders, longer for repeaters.

One club-hopping beauty, who identified herself only as "Winnie," said the risk is worth it. "I can buy what I want: clothes, makeup, CD-player, color TV," she said. "I live the good life."

And if the long arm of the law should tap her bare shoulder, she has cash reserves to pay off the police. "They like money, too," Winnie laughed.

Indeed they do. Corruption and nepotism are widespread in China despite efforts to curtail them. The daughter and son of Deng Xiaoping, the ailing paramount leader, who is 90, hold high government jobs, as so the children of most other senior officials.

It is nearly impossible, government leaders admit, to keep track of the multitude of underpaid bureaucrats who approve licenses and the cadres that enforce loose laws in the overpopulated cities and provinces. They consider gifts and payoffs part of their compensation. So do some high government officials because of the system of low pay. The premier and president of China make only $125 per month in salary. The perks are generous, however. Free food, housing, transportation, medical services and vacations.

Taxi drivers aren't as fortunate, and so they regularly overcharge unsuspecting foreigners by speeding up their meters or driving around in circles. A 10-mile ride from my hotel in Central Beijing to visit a friend on the northern edge of the capital cost $3 out, $7 back. Complaining to the Beijing Taxi Control Bureau brings a shrug and the excuse that there aren't enough inspectors to control the 60,000 licensed cabs on the streets of Beijing.

And while China has eliminated the two-currency system—one for foreigners, another for natives—that encouraged black market money dealers, outsiders still pay inflated prices for many goods and services.

ETHICS RULES FOR OFFICIALS

Vice Premier Lo Lanqing, a dour hardliner, stiffened at the suggestion that China's move to a market economy has created greater corruption and brought Western vices to the land known as the Middle Kingdom.

"Oh, yes, we have (corruption) problems with some people," he said during an interview in the Great Hall of the People overlooking Tiananmen Square. "Our problems, though, are no greater than others, and we are dealing with them through reform. Certainly your country has this problem."

Among the reforms are new rules requiring government and party officials to disclose their sources of income and banning gifts and favors that might influence their decisions. The regulations even apply to the children of senior party leaders.

Disclosing sources of income and prohibiting conflict-of-interest gift-giving "will keep clean and honest organizations of the Communist Party and government bodies and strengthen their ties with the people," the official New China News Agency declared.

The unanswered question is whether the government will ever enforce the new ethics rules. Similar crackdowns in years' past were never fully implemented.

Vice Premier Lanqing was more forthcoming when the conversation turned to Chinese-American relations. He said China needs U.S. technical know-how and access to our markets to develop into a world economic power.

"We have a long way to go to catch up to the United States, and we may not even be able to do so by the end of the next century," he said. "You are our most important international trading partner. We only wish you would see us that way."

U.S.-China trade currently amounts to $50 billion per year, with imports from China accounting for 65 percent of the total. China's major exports to the United States are electrical machinery, footwear, clothing, toys and sports equipment. The fastest growing U.S. exports to China are aircraft, cotton, fertilizer and wood pulp.

One thing Lanqing does not want from America is "your violent and pornographic culture of movies and music. This is bad for our people, and we won't allow it."

The reality is that what Lanquing fears is already there. Hollywood movies and music are pirated by unscrupulous businesses and sold on the black market throughout China. So, too, computer software, textbooks, sneakers and watches. They're called knockoffs, and they are a major concern of corporate America.

Lanquing admitted that piracy of American goods occurs, but he said U.S. business interests in southern China, not Chinese nationals, are primarily responsible for the illegal activity.

"We have courts to deal with this," he said, pointing out that China recently established a copyright law designed to punish knockoff manufacturers and distributors.

And, in fact, during our visit a Beijing court issued a verdict under the new law against three Chinese publishing houses that had published a series of Disney-character children's books without permission from the Walt Disney Company.

The court fined the defendants $26,100, ordered them to stop selling the books, and required them to issue an apology to Disney through the news media.

Mickey Mouse punishment for years of profit at the expense of the Disney Company, but an American official in Beijing said it was an important step toward establishing some semblance of legal protection against trademark counterfeiters.

"We would like to see greater punishment of these knockoff artists," the U.S. official said. "But something is better than nothing, and it does appear the Chinese government is trying to stop the piracy."

CURBING THE BIRTHRATE

It is also trying to stop the runaway birthrate—without great success. China is now home to 1.2 billion or one-fifth of the world's people. And the population is growing at the rate of 15 million a year. That's more than twice the population of Massachusetts.

Thus there's enormous pressure on the women of China to have just one child, and abort subsequent pregnancies, even up to the eighth month. But the Confucian tradition of "the more sons, the more blessings" dies hard in the countryside, where 80 percent of China's population lives. There the government allows two children; many families have five or more.

There are substantial economic incentives to restrict family size. One-child families get priority in new housing, medical care for children, and education. Mothers who sign a pledge to have only one baby get generous maternity leave.

But first you must apply to the government for permission to have a child. If approved, you are given 12 months to get pregnant or go to the back of the line. Permission is denied to anyone who is not married. Or if you are under 25 years old.

Divorce is legal in China, but not an easy option out of an unhappy marriage. Chinese culture frowns on divorce and less than 1 percent of the marriages are dissolved. Yet our guide, Li Jianping, conceded that more than half the couples would probably call it quits if Chinese attitudes on marriage were similar to those in the United States.

"I would guess that one-third of the families are happy, one-third want a divorce now, and one-third have at least thought about divorce," he said. "It is not a simple social question now. Maybe it will change in time."

CREDIT CARDS UNWANTED

Like the use of credit cards. They were unknown in China until recently. Now, ordinary folk can apply for one from the Bank of China. All you need is proof of employment, an above-average income, and a person of means to vouch for your trustworthiness.

"Image the potential for the credit card companies," smiled Jianping. "More than a billion prospective card holders. But they shouldn't hold their breath waiting or they'll turn blue. This is not something we want or need."

The reason: Save and pay-as-you-go remain valued economic traits among the Chinese masses, a holdover tradition from the days of a managed economy and central control of their lives.

And the millions of unemployed, unskilled peasants who roam the big cities are obviously not candidates for credit cards. They are desperate for work. But the Chinese economy struggles to keep up with the crush of population growth and the ranks of the jobless grow ever more crowded. Some experts estimate that 200 million Chinese will be unemployed within the next 5 years.

In an effort to create more jobs, the government recently changed the work week from 60 hours over six days to 40 hours in five days. The change applies to everyone but doctors, nurses and other medical personnel; they still work six and sometimes seven days per week.

"We don't have enough medical people to handle the country's medical needs," Jianping explained. "Training more doctors and nurses has become a priority."

COLLEGES NEED CASH

But huge obstacles lie between that goal and the desired result. Only 5 percent of China's high school graduates are allowed to go on to college because of limited classroom capacity. The elite are chosen through a rigorous series of tests. Those who don't pass are sent to vocational schools or left to fend for themselves.

If the University of International Business and Economics in Beijing is typical, the colleges of China need an infusion of cash. A visit to the campus turned up outdated equipment, tattered textbooks, sweltering classrooms, and too few faculty members. Even university President Sun Weiyan is required to teach four hours a week. He doesn't complain. Nor do the students. They're just happy to be in school.

Small wonder. During China's Cultural Revolution of 1966–76, the university was closed down. Millions of Chinese scholars, including President Weiyan, were exiled from their life's work. Many had to work on farms and in factories. He was relegated to teaching English to Vietnamese students in a rural high school and tending to a flock of ducks after classes.

Now, he speaks optimistic of the future. "The leaders of the country are very much aware that education is critical to progress," he said. "They are planning to broaden the higher education system. This can and will happen as we move toward a socialist market economy."

Just who are the leaders of China now that Deng Xiaoping, the resilient compatriot of the late Chairman Mao, has been incapacitated by advanced Parkinson's disease and no longer holds sway?

No one knows for sure. Chinese political experts look for a generational change in leadership over the next several years and the shifting of more authority to the National People's Congress, or national legislature. The Communist Party, while gradually losing membership, will continue to set the agenda, including any political reform that might occur.

President Jiang Zemin, at 69, has been consolidating his power since Deng's illness forced him to curtail his role two years ago. He was Deng's choice as his successor. But there has been growing criticism of Deng's reform movement lately, and Zemin, who is also general secretary of the party, has been among the principal detractors.

"He's trying to assert himself as his own leader," an American official in Beijing said. "If he gets the support of the army, he will be the next Deng Xiaoping."

Prime Minister Li Peng, 66, is perhaps the best known senior Chinese official to the outside world. His future was clouded by his role in the Tiananmen massacre, and China experts say he does not enjoy the support of economic reformers.

Such is political life in today's China. Even Chairman Mao, who overthrew Chiang Kai-shek in 1949 and made China a communist nation, is falling from favor. His massive statue at the entry to Beijing University has been removed. The only prominent image left of the once ubiquitous Great Helmsman, who died in 1976, hangs in Tiananmen Square. Only foreigners bother to photograph it.

"Mao represents the past," said the Beijing University graduate student in Tiananmen Square. "We're more interested in the future—and with making money—than the teachings of Mao."

In these and other ways, China is undergoing transformation from a command-and-control government to a land of economic opportunity. That, one can hope, will also eventually result in a Western-style political system.

[From the Patriot Ledger, June 20, 1995]

IN VIETNAM, ONLY THE FUTURE MATTERS

(By William B. Ketter)

The story of Miss Saigon, that popular musical about doomed romance between a Vietnamese bar girl and an American soldier, has taken a new and happy twist on Vietnam's real-life stage.

Miss Saigon of 1995, Nguyen My Hanh, dances for tips in a karaoke bar by night, scoots to college and modeling gigs on her Honda Dream motorcycle by day, and cheerfully flips pizza dough at her family's hole-in-the-wall eatery "Manhattan" on weekends.

She doesn't have time to pine for anyone—and certainly not a GI lover. At 19, she wasn't even born when American troops fought in Vietnam. Nor does she ask her mother and father about that sorry era.

"Why bother?" she asks. "That's the past. I have other, more important things to do. These are exciting times."

Welcome to today's Vietnam, where more than half the population is under 30 and too young to know or care about the war that still haunts the American psyche. Economic success through individual ingenuity is Vietnam's top priority—and no wonder. The average income is only $450 a year in this ancient land of mythical dragons.

"Oh, yes, our history courses cover the American war, and all the other wars against Vietnam, from the perspective of our long struggle for liberation," Hanh says.

"I've seen the American war movies. You know, 'Deer Hunter,' 'Platoon,' 'Born on the Fourth of July.' But that's about it. No big deal. OK?"

And so it goes during a week of talking with government leaders, military heroes, journalists, businessmen and ordinary people. Twenty years after their civil war ended, the Vietnamese give the impression they are not bitter; they just want to get on with improving their lot.

"Well, we like Americans," smiled Nguyen The Quynh, vice director of the official Vietnam News Agency. "You come from a rich and successful country. You won't find hard feelings. You will find people who want to get ahead . . . to be successful—like you."

With that goal in mind, communist Vietnam has initiated a radical economic development program called doi moi, or renewal. It is designed to breathe life into this enfeebled socialist society by loosening restrictions on free enterprise and introducing the profit principle to state-owned industries.

Slowly, a tradition-bound culture is acceding to modern ways. On city streets you see hip, fashion-conscious young people bustling by old women in conical hats sweeping sidewalks with twig-bundle brooms. At night the streets come alive with heavy-metal music and T-shirted rogues peddling fake American dog tags. At dawn aging war veterans practice tai chi and play badminton in the parks. In the cities motorcycles rule the road; in the country the water buffalo is still king.

Will a new age of prosperity for Vietnam emerge from this paradoxical blend of the old and the new?

Perhaps.

Office buildings, hotels and restaurants are sprouting like rice grass in Hanoi, the national capital and home to 3 million people.

Even the notorious Hoa Lo prison, known to American prisoners of war as the Hanoi Hilton, is changing into an office building-hotel complex. A small section will be preserved for a monument to the most famous prisoner, U.S. Sen. John McCain, R-Ariz. He spent 5½ years there after parachuting into Hanoi's West Lake from his disabled Navy fighter jet on Oct. 26, 1967.

Construction cranes also loom over Saigon, which is officially called Ho Chi Minh City but which everybody refers to by its old name. Rooms at the Floating Hotel on the Saigon River go for $200 a night. Small merchants do a brisk business, selling their wares at free markets and in street stalls. Whole blocks boast tinseled stores displaying TV sets, stereos, VCRs.

But beggars and pickpockets also roam the streets, and malnutrition afflicts 40 percent of the nation's children, many of whom wander about hawking stamps, gum, postcards. Anything they can get their hands on.

And boat people still set sail for refugee camps in Hong Kong and Malaysia, fleeing not from political oppression but rather from starvation, even though Vietnam is the world's third-largest producer of rice.

FRENCH, U.S. MOVIES POPULAR

Economic liberalization is fast changing the colonial character of Hanoi, the drab citadel of communism. Movie theaters feature French and American fare, including "True Lies" and "The Fugitive." A national TV channel plays pop music videos a la MTV. Karaoke clubs thrive, as do the attractive young ladies who gladly dance and sing with the patrons for $5 an hour and tips. Prostitution has become a national worry because of a dramatic increase in AID—20,000 cases reported last year alone. Breweries work overtime to keep up with the consumption of Tiger and "333" beer.

Much of this buzz is old hat to Saigon, a larger, more colorful and livelier city. It experienced free-wheeling commercialism during the American presence in Vietnam and obviously hasn't forgotten how to enjoy it. Successful enterprises from the war years are back in business, sharing their expertise and helping to stimulate economic growth.

But the centerpiece of national reverence is not the American dollar or the Vietnamese dong. It is Ho Chi Minh's waxen body, lying in serene attentiveness in a neo-Stalinist marble mausoleum in the heart of Hanoi. Lines of people file into the tomb, paying respects to the whispy-bearded man who brought communism to Vietnam. His remains are mechanically raised from a freezer for viewing in a glass-enclosed casket, then lowered again at night. Once a year the body is shipped to Moscow for touching up. Russia, home to Lenin's tomb in Red Square, is apparently the expert on embalmed patriots.

A Sunday visitor to Ho's tomb allowed that he would surely roll over in his grave—If he were in one—at the thought of the government touting his body and modest nearby home as prime tourist shrines. Yet every cent counts in a cash-poor Third World country.

More than anything, the doi moi policy is aimed at enticing foreign investors and tourists to Vietnam. And the primary target in America.

"Vietnam needs many things from the United States—technology, machinery, medicine, consumer goods," acknowledged Luu Van Dat, a government trade expert. "We are a poor, backward country. You are the most advanced nation in the world."

And what can Vietnam offer in return?

"The short answer is cheap labor," Dat said. "We also have rice, seafood, leather goods. And we do have some of the best beaches in the world."

So good that an American company, BBI Investment Group of Chevy Chase, Md., plans to build a $250 million resort and golf complex on China Beach along the South China Sea near the spot where the U.S. Marines first landed in 1965. And Coca-Cola and Pepsi-Cola fight for the soft drink market. The Boston-based Gillette Company sees gold in the faces and legs of 75 million Vietnamese.

"There are encouraging signs of real progress," reports Nguyen Xuan Oanh, the Harvard-educated Saigon businessman, who was the chief architect of doi moi.

"Inflation is under control. And the reform policy has transformed Vietnam into a market mechanism that's allowed to operate freely and efficiently. The growth rate, which has been some 3 percent for several decades, has jumped to 9 and 10 percent per year. What's more, the best is yet to come."

U.S. COMPANIES CAUTIOUS

Oanh's optimism springs from his personal experience. Twice the acting prime minister of South Vietnam, he was placed under house arrest for "re-education" when the communist North captured Saigon in 1975. But later he emerged as the principal economic adviser to the unified government, was allowed to set up an international management and finance company, and eventually became a millionaire again.

"I gambled (by not fleeing Vietnam), and I won," he said. "My message to American business is you can also win."

Still, most U.S. companies are cautious about investing in Vietnam right now. For one thing, we do not have full diplomatic ties with the government. The 19-year American embargo was lifted 15 months ago, and this has led to the opening of diplomatic liaison offices in Hanoi and Washington. But further thawing of relations could be delayed by the American presidential campaign.

There are other concerns, too—trademark and patent protections, an uncertain legal environment, inadequate infrastructure, and rampant corruption among government officials. Bribery is the best way to fast-track an application to do business in Vietnam. But American companies are prohibited by U.S. law from offering money or gifts in return for regulatory favors.

U.S. business interests, with an aggregate outlay of $525 million per year, rank eighth among Vietnam's foreign investors. Taiwan is No. 1 at $2.5 billion. Hong Kong, Singapore, South Korea, Japan, Australia and Malaysia rank ahead of us.

All of which frustrates the Vietnamese leaders to no end.

"We want to close the past with America, and build cooperatively with you for a better future," said Communist Party General Secretary Do Muoi during an interview of his Hanoi headquarters, a lifesize bust of Ho Chi Minh casting a shadow in the background.

"Why can't you do that? Why does your government put up roadblocks? This is not helpful to you or to us—and we both know we need each other for economic opportunity."

ATTITUDE CALLED WRONG-HEADED

Muoi, considered Vietnam's shrewdest senior official, noted that the United States has been reluctant to normalize ties with Vietnam until more progress is made on accounting for the 1,648 American military listed as missing in action in Vietnam.

To him, and other Vietnamese leaders, this is wrong-headed.

But the question persists: Are there still any American MIAs living in Vietnam?

"No," replied retired Gen. Nguyen Giap. "If there were, we would have turned them over to your government long ago. The war is over. We have no reason to hold anyone against their will."

Furthermore, Muoi said, Vietnam has "cooperated completely" with U.S. officials in searching for the remains of the MIAs, including turning over military records and digging up grave sites.

Vietnam, he said, long ago gave up looking for its 300,000 missing soldiers.

"This is not entirely a humanitarian issue with the United States," the 78-year-old Muoi said. "This is linked to politics—and we are very sad about that."

To underscore his point, he mentions that the United States had thousands of MIAs in Korea and World War II and "no similar conditions were placed on diplomatic relations with Germany and Japan."

Because of the MIA issue, Vietnam has been deliberately downplaying the military side of the war of late. That includes renaming the House of American War Crimes in Saigon to simply the War Museum.

But the reminders of horror have not been toned down. An oversized Life magazine photograph of the March 16, 1968, My Lai massacre that shocked the conscience of America adorns one wall. Other photos show the deforming effects of U.S. bombs and the defoliant Agent Orange on the women and children of Vietnam.

There are, of course, no similar photos of the hurt and sorrow caused by the North Vietnamese military. To the victor goes the privilege of selecting which images of war's hell go on public display.

American planes, tanks, bombs and other war materials captured or abandoned prominently occupy the museum grounds and viewing rooms.

WHY WE LOST THE WAR

Such an impressive collection of modern-day weaponry begs the question of how we could lose a war against a lesser-armed enemy. The answer comes into focus the next day during a trip to the famous Cu Chi tunnels. Communist North Vietnam used narrow passageways—just 3 feet high and across—to wage a relentless guerrilla war that baffled, enraged and ultimately defeated the U.S.-backed South Vietnamese government.

More than 100 miles of the underground network stretch from northwest to Saigon to the Cambodian border and functioned as subterranean Viet Cong villages—with kitchens, dormitories, hospitals and command posts.

They were cleverly defended: Americans small enough to descend into them were often trap-doored to death over pits of razor-sharp poles.

Burrowed three stories deep into rock-like soil, the tunnels were the most bombed, gassed and defoliated section of Vietnam. Yet they withstood the heavy assault and serve as a monument to man over machine.

Gen Giap, the mastermind of the communist victories over the French and the Americans, said it was far more than tunnel soldiers that resulted in America's defeat in the only war it has ever lost. Resiliency, a history of nationalism and the will to win at any cost were the real keys to victory, he said.

"Our weapons were not as good as yours," the 84-year-old general said in an interview. "But your human factor was not as good as ours. We had a popular patriotic cause; you had confusion over why you were in Vietnam. We had patience; you wanted instant victory."

Now Vietnam is counting on that same purposeful spirit and unswerving focus to win its economic struggle. But no one really expects significant progress until the government invests billions of dollars in highways, bridges, railroads, commercial port facilities—and public education.

Five decades of war have left Vietnam with a large unskilled labor force and growing illiteracy. The population is exploding and the school system is ill-equipped to respond. Even health care is a touch-and-go matter.

As the deputy minister of education, Tran Xuan Nhi, put it: "We are learning the lessons of the free market, and one of those is the need to train and educate our people so we can build our country into an industrialized society. The future will belong to the educated."

Like Miss Saigon 1995, who is driven by a passion "to study and learn so I can make more money and buy the things I want. OK?"

Ties That Bind Us to Vietnam

Fifteen months ago, President Clinton lifted the trade embargo against Vietnam. Now he should establish full diplomatic relations with this important Southeast Asia country.

Twenty years have passed since the Vietnam war ended. It is time to replace bitterness and recrimination with peace and reconciliation.

Private visits and business relationships are pushing the process along. Just this week, a Massachusetts trade delegation led by Lt. Gov. Paul Cellucci is talking business in Vietnam—business that can create local jobs. And the U.S. already has opened a diplomatic liaison office in Hanoi.

The next logical step is to exchange ambassadors, and there's little to be gained by waiting. The sooner we open an embassy, the better we'll be positioned to expand trade, investment and influence in this vibrant nation of 75 million.

Vietnam is a young, eager and changing society which harbors no grudge against the United States despite our decade-long involvement in their civil war. That's over, as far as most Vietnamese are concerned. And that's the word from the top: "We want to close the past with America, and build cooperatively with you for a better future," Communist Party General Secretary Do Muoi recently told a group of visiting American editors.

The welcome mat is out and the timing is fortuitous. Vietnam has launched a radical economic development program that relaxes restrictions on free enterprise and encourages state industries to be profitable. Political change will surely follow.

Vietnam, moreover, wants and needs American know-how and investment in order to modernize and raise living standards. This is a process in which the United States, with its sizable Vietnamese population and experience in the region, should want to participate. But we need to get going to make the most of the opportunity. American business ranks only eighth among foreign investors there. Establishing full diplomatic ties would give U.S. companies greater support and confidence in doing business with Vietnam. It also would put us in a better position to influence Vietnam's policies.

Normalizing relations does not mean abandoning our efforts to get as full an accounting as possible from Vietnam about Americans still listed as missing from the war years. And, in fact, the Vietnamese are trying to help us do that. They have no real reason to detain Americans against their will or withhold information about MIAs.

Congressman Bill Richardson, D-N.M., for one, is convinced that's the case. He recently returned from Vietnam with more than 100 pages of material relating to American MIAs, and found no traces of alleged underground prisons or other places of detainment. He thinks it's time to normalize relations. So does U.S. Secretary of State Warren Christopher.

So President Clinton should act now—and avoid the risk of making recognition a political football in next year's election campaign. Hesitating can only work against our interests in the region, leaving other countries to gain from Vietnam's budding economy at our expense.

GEORGE SELDES

Mr. LEAHY. Mr. President, George Seldes, who died Sunday in Vermont at the age of 104, was literally, a Witness to a Century—the title of his autobiography.

A true investigative reporter who refused to accept the subtle pressures imposed upon journalists by publishers, editors, and advertisers—he was uncompromising in reporting what he saw and heard, and printed those observations in his own independent publication—In Fact.

Izzy Stone called Seldes the "granddaddy" of investigative reporters—high praise from another great independent journalist of our century.

My visits and frequent correspondence with George rank among the highlights of my Senate career. He never intruded, but did on occasion offer some very good advice to this Senator—and most times, I was smart enough to recognize good counsel when I heard it. I had the great pleasure of joining him at his 100th birthday party in Vermont—an event that became a public celebration of his life.

Here was a man who interviewed William Jennings Bryan, Theodore Roosevelt, Eddie Rickenbacker, Generals Pershing, Patton, and MacArthur; a personal observer of Lenin and Mussolini and a confidant of Picasso, Ernest Hemingway, and Sinclair Lewis.

One of the great lives of our century has passed—but George Seldes left behind a recorded history to guide our understanding of the turbulent time.

I attach an editorial that appeared in the July 8, 1995 edition of The Burlington Free Press, and a column written by Colman McCarthy that appeared in the July 11 edition of The Washington Post.

They capture the spirit and dogged pursuit of truth that marked George Seldes' lasting contribution to journalism and the history of our age. I ask unanimous consent that they be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

[From the Burlington Free Press, July 8, 1995]

A Contrary Voice

George Seldes, who died Sunday at 104, was a journalist and harsh critic of mainstream journalists who might be best remembered by Vermont newspaper editors and reporters from an appearance before the Vermont and New Hampshire Press Associations in the late 1980s.

Except for a slowed step and a bit of a stoop, nothing in Seldes' appearance betrayed his exceptional age, nor hints of any mellowing on matters he found important—beginning and invariably ending with a journalist's responsibility to tell it straight.

What bothered this long-time resident of Hartland Four Corners most during his 86 years of covering historic events was not so much what got into newspapers of his day but what didn't—especially immediately preceding and following World War II. Errors of omission.

It was a time when some journalists doubled as government informers for U.S. intelligence agencies as a gesture of patriotism; when the Washington Press Corps kept many elected officials' personal foibles and peccadillos a secret; and powerful publishers ran newspapers more like personal fiefdoms in pursuit of selective causes than purveyors of the larger truth.

Like I.F. Stone, Seldes figured if mainstream newspapers wouldn't print what he wrote for fear of riling advertisers or powerful news sources, he would print it in his own publication. In Fact, it was called, and it took on, among many powerful interests, the tobacco industry and its ability to keep damaging health data out of newspapers—a consequence, Seldes was never shy about charging, or newspapers' heavy reliance on cigarette advertising.

In some cases, he was acting on tips from mainstream reporters who knew their own papers would never print what they'd dug up. They would leak the news to Seldes who would print it. In other cases, In Fact became a more reliable source of news for mainstream newspapers than their own sources—the ultimate flattery for any newspaper person, and ultimate indictment of those who missed the news.

In his later years, Seldes was always careful to note improvements in the objectivity of today's newspapers—while holding firm to the belief that when newspapers forget their responsibility to truth, they risk retreat into those bad old days.

Nor was his burr-under-the-saddle style without fault—his muckraking, make-waves narrowness of vision caused him to miss some of the bigger picture, too; a heavy dose of Seldes at this prime could be hard for any average reader with broader interests to take.

What seemed most striking about his comments at that appearance in Hanover, N.H. however—just as it does now—is the diminished capacity of contrary voices like his to be heard today in the din of the modern information age.

Today, so many loud, contrary voices compete for listeners' ears, with so many public outlets for spreading their views, the problem is no longer an absence of facts, in some cases it's too many facts—and too few people taking the time to make sense of them.

More big-picture wisdom and few disconnected facts in every type of media today would go a long way—a need that's grown wider with George Seldes' passing.

[From the Washington Post, July 11, 1995]

George Seldes: Giant of Journalism

(By Colman McCarthy)

As a traveling companion, George Seldes didn't believe in letting you rest. In the spring of 1982 when he was 91 and in New

York to collect a George Polk Award for a lifetime of contribution to journalism, I took the Fifth Avenue bus with him for a 30-block ride between the ceremony and his nephew's apartment. We would have taken a cab but he preferred the bus: a better way to get the feel of the city and its people.

Along the jostling way, Seldes threw at me a half-dozen story ideas, mingled with sidebars of his opinions, plus advice on how not merely to gather facts but to cull the useless from the useful, and then a string of mirthful recollections from his newspapering days going back eight decades. If we were the boys on the bus, George Seldes was some boy.

He died on July 2, in his 104th year and only a half-decade or so after retiring from a reporting career that began in 1909 with the Pittsburgh Leader.

It's well within the bounds of accuracy to say of Seldes—and this isn't the kind of gassy praise that's the customary sendoff for the deceased—that for much of the 20th century he stood as a giant and a pilar of journalism, a reporter's reporter. He had the subverse notion that investigating the press—the money-saving schemings of the publishers of his day, editors cowering before advertisers, reporters fraternizing with the pashas they write about—should be as vital a beat as skeptically covering politicians.

At the Polk ceremony, the citation of the awards committee succinctly summarized the spirit of intellectual independence Seldes committed himself to: "By mutual agreement, George Seldes belonged not to the journalism establishment, nor was he tethered to any political philosophy. With a gimlet eye ever fixed upon transgressors, he soared above the conventions of his time—a lone eagle, unafraid and indestructible. He is 91 now and still a pretty tough bird."

Seldes lived in Hartland Four Corners, Vt. Until recently, he was self-sufficient at home and ever delighted to receive such pilgrims as Ralph Nader, Morton Mintz and Rick Goldsmith, a California filmmaker who is completing a documentary on Seldes's life. The film will include references to I.F. Stone, who credited Seldes' newsletter "In Fact"—which had 176,000 subscribers for a time in the 1940's—as the model for his own carefully researched I.F. Stone's Weekly."

The titles of some of Seldes's books give a hint of the fires that burned within him: "You Can't Print That: The Truth Behind the News" (1928). "Never Tire of Protesting" (1986), "Tell the Truth and Run" (1953), "Lords of the Press" (1935). In the 1980s, he wrote his memoir "Witness to a Century" and edited "The Great Thoughts," the latter a thick and rich collection of ideas Seldes had gathered throughout a lifetime of reading and listening.

"Sometimes in isolated phrase or paragraph," he said of his selections from Abelard to Zwingli and from Ability to Zen, "will work on the reader's imagination more forcefully than it might when buried in a possibly difficult text. Each time a quotation in this book makes a reader think in a new way, I shall have achieved my aim."

As a reporter and press critic, Seldes was more than an iconoclastic outsider, as worthy and rare as that calling is. His newsgathering and analysis were ethics-based. Omitting the news is as vile a sin as slanting the news, he believed. Too many papers avoid stories that might upset the powerful or the majority, while printing news on safe subjects and editorializing to bloodless conclusions.

In "freedom of the Press," Seldes recalled how he was compromised while covering World War I: "The journals back home that printed our stories boasted that their correspondents had been at the fighting front. I now realize that we were told tonight but buncombe, that we were shown nothing of the realities of the war, that we were, in short, merely part of the Allied propaganda machine whose purpose was to sustain morale at all costs and help drag unwilling America into the slaughter. . . We all more or less lied about the war."

If so, that was to be the last time Seldes shied from getting the whole story. For the rest of his long life, his reporting on what were often no-no subjects—workers' rights, public health and safety, press sellouts, corporate and government lies—was the essence of truth-telling. Like his life, the telling had fullness.

ACDA ANNUAL REPORT IS INFORMATIVE, CLEAR-HEADED EFFORT

Mr. PELL. Mr. President. Yesterday, the President transmitted to the Senate the annual report for 1994 of the Arms Control and Disarmament Agency. In addition to detailing the Agency's many activities during 1994, the report includes a major section on the adherence by the United States to its arms control obligations and the compliance of other nations with their arms control obligations.

This compliance report, which was provided in both classified and unclassified versions, is the most detailed annual compilation of arms control issues available to us. It has been required of the agency for a number of years, and it is particularly thorough and detailed in this year's iteration. I believe that my fellow Senators should avail themselves of the opportunity to obtain the report from ACDA and to review both the Agency's activities and the numerous arms control compliance questions addressed in the report.

This year's unclassified report is remarkably open with regard to the kind of problems that we must address, and it represents a serious effort by ACDA Director, John Holum, and his staff to be informative and clear-headed in their analysis and judgments.

Let me give you several examples of the kind of information included in the report:

With regard to Russia's compliance with the 1972 Biological and Toxin Weapons Convention, the report says:

> Previous assessments of Russian compliance have highlighted the dichotomy between what appears to be the commitment from President Yeltsin and other members of the Russian leadership in attempting to resolve BWC issues and the continued involvement of "old hands" in trilateral BW discussions and in what Russia describes as a defensive BW program.
>
> With regard to former Soviet biological weapons related facilities, some research and production facilities are being deactivated and many have taken severe personnel and funding cuts. However, some facilities, in addition to being engaged in legitimate activity, may be maintaining the capability to produce biological warfare agents. The Russian Federation's 1993 and 1994 BWC data declaration contained no new information and its 1992 declaration was incomplete and misleading in certain areas. With regard to the trilateral process that began in 1992, while there has been progress towards achieving the openness intended in the Joint Statement, the progress has not resolved all U.S. concerns.
>
> NEXT STEPS
>
> The United States remains actively engaged in efforts to work with the Russian leadership to ensure complete termination of the illegal program and to pursue a number of measures to build confidence in Russian compliance with the BWC.

With regard to the 1972 Biological and Toxin Weapons Convention and China, the report says:

> The United States believes that China had an offensive BW program prior to 1984 when it became a Party to the BWC.
>
> FINDING
>
> The United States Government believes that based on available evidence, China maintained an offensive BW program throughout most of the 1980s. The offensive BW program included the development, production, stockpiling or other acquisition or maintenance of biological warfare agents. China's CBM mandated declarations have not resolved U.S. concerns about this program and there are strong indications that China probably maintains its offensive program. The United States Government, therefore, believes that in the years after its accession to the BWC, China was not in compliance with its BWC obligations and that it is highly probable that it remains noncompliant with these obligations.

The report is quite forthcoming and realistic with regard to some of the serious problems regarding compliance with the Nuclear Non-proliferation Treaty. For example, the report says this about the Iraqi situation:

> Iraq's nuclear weapons program violated Article 11's requirement that Parties not * * * manufacture or otherwise acquire nuclear weapons or other nuclear explosive devices; and not * * * seek or receive any assistance in the manufacture of nuclear weapons or other nuclear explosive devices. Iraq's construction of secret facilities, including its construction of a facility for nuclear weapons development and assembly, contributed to its violation of Article 11. Iraq's failure to apply safeguards to its clandestine program also constituted a violation of Article 111, which requires that safeguards be applied with a view to preventing diversion of nuclear energy from peaceful purposes to nuclear weapons or other nuclear explosive devices.
>
> The war and inspections have significantly set back Iraq's program to develop a nuclear weapon. Nonetheless, Iraq almost certainly intends to continue nuclear weapons related activities and to build a nuclear weapon as soon as domestic and international circumstances permit.
>
> FINDING
>
> The United States Government has determined that Iraq violated its Safeguards Agreement when it pursued an active nuclear weapons development program and that this program violated its obligations under Article 11 and 111 of the NPT. The United States Government has further determined that Baghdad is continuing its effort to undermine the UNSCOM/IAEA inspection

process by withholding relevant information, and to preserve as much nuclear-related technology as possible for a renewed weapons effort.

NEXT STEPS

The United States plans to continue to support UNSCOM/IAEA inspections in Iraq and the long-term monitoring of Iraq's nuclear program in accordance with UNSCR 687 and 715.

Mr. President, I have something of an ulterior motive in bringing this report to the Senate's attention at this time. As most of you know, there is a movement afoot to abolish the Arms Control and Disarmament Agency and make it a part of the Department of State. I have opposed that effort in the Committee on Foreign Relations, and I intend to oppose it on the floor when the relevant legislation is before the Senate. I am not going to make a case here for ACDA because I deeply believe that any Senator reading this report and getting a sense of the tenacity and seriousness that ACDA brings to these crucially important national security issues is quite likely to reach the judgment that the modest number of dollars necessary to keep ACDA as an independent agency are among the best spent dollars in the Federal budget.

Mr. President, I ask unanimous consent that the letter from President Clinton transmitting the ACDA annual report be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
Washington, July 13, 1995.

Hon. JESSE HELMS,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I am pleased to transmit the 1994 Annual Report of the United States Arms Control and Disarmament Agency (ACDA).

The ACDA was established in 1961 in part because Dean Rusk, Secretary of State at that time, believed the President needed access to unfiltered arms control analysis.

After a comprehensive review in 1993 and a second review in early 1995, it is clear to me that Secretary Rusk was correct: sound arms control and nonproliferation policy requires an independent, specialized, and technically competent arms control and nonproliferation agency.

In the absence of such an agency, neither I nor any future President could count on receiving independent arms control advice, unfiltered by other policy considerations. A President would thus at times have to make the most consequential national security decisions without the benefit of vigorous advocacy of the arms control point of view.

Moreover, I have found that ACDA's unique combination of single-mission technical expertise with its painstakingly developed capability for multilateral negotiation and implementation of the most intricate arms control and nonproliferation agreements could not be sustained with equal effectiveness outside of a dedicated arms control agency.

The ACDA's first major success was the establishment of the Nuclear Non-Proliferation Treaty. Twenty-five years later, its most recent major success is its long-term effort culminating in permanent and unconditional extension of that same Treaty. On both counts, America and the world are far more secure because of the ability and dedication of ACDA's leadership and professional staff.

I have therefore decided that ACDA will remain independent and continue its central role in U.S. arms control and nonproliferation policy.

Whether the issue is nuclear nonproliferation, nuclear missile reduction, chemical weapons elimination, or any of the other growing arms control and nonproliferation challenges America faces, ACDA is an essential national security asset.

In that spirit, I commend this report to you.

Sincerely,

WILLIAM J. CLINTON.

WAS CONGRESS IRRESPONSIBLE? LOOK AT THE ARITHMETIC

Mr. HELMS. Mr. President, as of the close of business yesterday, Thursday, July 13, the Federal debt stood at $4,933,342,394,729.43. On a per capita basis, every man, woman, and child in America owes $18,727.05 as his or her share of that debt.

TRIBUTE TO FRANCES B. TURNAGE

Mr. THURMOND. Mr. President, I rise today to pay tribute to a woman who was well known and liked in the city of Charleston, South Carolina, Mrs. Frances Baker Allen Turnage, who passed away last month at the age of 70.

Charleston ladies are known for their graciousness, hospitality, and elegance, and Mrs. Turnage was certainly a lady of Charleston in every manner. Born in the city, she was graduated from both the prestigious prepatory school Ashley Hall and Chevy Chase Junior College, and she attended the College of Charleston. A dedicated member of her community, Mrs. Turnage was active in a number of civic organizations, including the Junior League; the Ivy Garden Club; the Association of the Blind; and Grace Episcopal Church. Her efforts and work greatly benefitted her hometown and helped to make it such a special place to live.

Mrs. Turnage led a full and rewarding life. She will be greatly missed by all those who had the pleasure of knowing her and my condolences go out to her husband, retired Maj. Gen. Benjamin O. Turnage, Jr.; her children, C.M. "Chipper" Allen, Ann A. Harris, Frances A. Sadler, Robin A. Rodenberg; her stepsons, Col. John O. Turnage and Rev. Benjamin W. Turnage; and numerous grandchildren and stepgrandchildren. They may all take solace in knowing their mother and grandmother was a very special lady.

ORDERS FOR MONDAY, JULY 17, 1995

Mr. DOLE. Mr. President, I ask unanimous consent when the Senate completes its business today, it stand in recess until the hour of 9:30 a.m. on Monday, July 17, 1995; that following the prayer, the Journal of proceedings be deemed approved to date, and the time for the two leaders be reserved for their use later in the day, and there then be a period for morning business until 10 a.m., with Senators permitted to speak up to 5 minutes each; further, that at the hour of 10 a.m., the Senate immediately resume consideration of S. 343, the regulatory reform bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

MANDATORY LIVE QUORUM WAIVED—S. 343

Mr. DOLE. I now ask unanimous consent that the mandatory live quorum for the cloture vote on the substitute amendment be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. DOLE. So, Mr. President, for the information of all Senators, the Senate will resume consideration of the regulatory reform bill at 10 a.m. on Monday. Pending to the bill is a Glenn substitute amendment which is expected to be debated throughout the day.

Under the previous order, there will be a cloture vote on the Dole-Johnston substitute amendment at 6 p.m. Any other votes ordered on or in relation to additional amendments will be stacked to begin following that 6 p.m. cloture vote. Senators should be aware that the first vote on Monday will occur at 6 p.m.

As a reminder to all Senators, under the provisions of rule XXII, any second-degree amendments must be filed by 5 p.m. on Monday. Further, the majority leader has filed a second cloture motion today. Therefore, Members may file first-degree amendments with respect to the second cloture motion up until 1 p.m. on Monday.

ORDER FOR RECESS

Mr. DOLE. The only other business to come before the Senate is a statement by Senator HELMS. I ask unanimous consent that when he completes that statement, the Senate stand in recess under the previous order.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from North Carolina is recognized.

(The remarks of Mr. HELMS pertaining to the introduction of S. 1038 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

RECESS UNTIL 9:30 A.M. MONDAY, JULY 17, 1995

Mr. HELMS. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in recess under the previous order.

There being no objection, the Senate, at 5:44 p.m., recessed until Monday, July 17, 1995, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate July 14, 1995:

DEPARTMENT OF THE TREASURY

DARCY E. BRADBURY, OF NEW YORK, TO BE AN ASSISTANT SECRETARY OF THE TREASURY, VICE HOLLIS S. MCLOUGHLIN, RESIGNED.

DEPARTMENT OF THE INTERIOR

MICHAEL P. DOMBECK, OF WISCONSIN, TO BE DIRECTOR OF THE BUREAU OF LAND MANAGEMENT, VICE JIM BACA.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

JEANNE R. FERST, OF GEORGIA, TO BE A MEMBER OF THE NATIONAL MUSEUM SERVICES BOARD FOR A TERM EXPIRING DECEMBER 6, 1999, VICE ROY L. SHAFER, TERM EXPIRED.

DEPARTMENT OF AGRICULTURE

JILL L. LONG, OF INDIANA, TO BE UNDER SECRETARY OF AGRICULTURE FOR RURAL ECONOMIC AND COMMUNITY DEVELOPMENT (NEW POSITION).

FEDERAL DEPOSIT INSURANCE CORPORATION

JOSEPH H. NEELY, OF MISSISSIPPI, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE FEDERAL DEPOSIT INSURANCE CORPORATION FOR A TERM OF 6 YEARS, VICE C.C. HOPE, JR.

FEDERAL MARITIME COMMISSION

JOE SCROGGINS, JR., OF FLORIDA, TO BE A FEDERAL MARITIME COMMISSIONER FOR THE TERM EXPIRING JUNE 30, 2000 (REAPPOINTMENT).

DEPARTMENT OF STATE

CHARLES H. TWINING, OF MARYLAND, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF CAMEROON.

SENATE—*Monday, July 17, 1995*

(Legislative day of Monday, July 10, 1995)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

*Commit your way to the Lord, trust also in Him and He shall bring to pass * * * rest in the Lord, wait patiently for Him * * *.*—Psalm 37:5,7.

Lord, as we begin a new week we take these four vital verbs of the psalmist as our strategy for living in the pressure of the busy days ahead. Before the problems pile up and the demands of the day hit us, we deliberately stop to commit our way to You, to trust in You, to rest in You, and wait patiently for You. Nothing is more important than being in an honest, open, receptive relationship with You. Everything we need to be competent leaders comes in fellowship with You. We are stunned by the fact that You know and care about us. We are amazed and humbled that You have chosen to bless this Nation through our leadership. In response, we want to be spiritually fit for the rigorous responsibilities. So, we turn over to Your control our personal lives, our relationships, and all the duties You have entrusted to us. We trust You to guide us. We seek the source of our security and strength in You. We will not run ahead of You or lag behind, but will walk with You in Your timing and pacing toward Your goals. You always are on time and in time for our needs. May the serenity and peace we feel in this time of prayer sustain us throughout this day. We thank You in advance for a great day filled with incredible surprises of sheer joy. In Your all-powerful name. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able acting majority leader is recognized.

SCHEDULE

Mr. GRAMS. Mr. President, leader time has been reserved for today. There will be a period for morning business until 10 a.m. At 10 a.m., the Senate will resume consideration of S. 343, that is the regulatory reform bill, with the Glenn substitute amendment pending.

The first votes today will begin at 6 p.m. The first one will be a 15-minute vote on the motion to invoke cloture on the Dole-Johnston substitute amendment to S. 343. That will be followed by any votes ordered on or in relation to amendments considered throughout the session today.

Further votes are also expected beyond those ordered for 6 p.m., and a late night session is possible in order to make progress on the regulatory reform bill.

Also today, Senators are reminded under the rule XXII, second-degree amendments to the Dole-Johnston substitute must be filed by 5 p.m. today in order to qualify postcloture.

Also, a second cloture motion on the Dole-Johnston amendment was filed on Friday, which will ripen tomorrow, if necessary. In connection with that cloture motion, any further first-degree amendments must be filed by 1 p.m. today.

MORNING BUSINESS

The PRESIDING OFFICER (Mr. INHOFE). Mr. President, under the previous order, there will now be a period for the transaction of morning business, not to extend beyond the hour of 10 a.m., with Senators permitted to speak for up to 5 minutes each.

The Senator from Minnesota.

GUARDING AGAINST BUREAUCRACY

Mr. GRAMS. Mr. President, any successful entrepreneur who starts out small and gradually builds their business up knows about bureaucracy.

As his or her company grows, so do the piles of paperwork, and the number of employees handling it, and pretty soon projects that used to take a day are taking weeks, or even longer. Lines of communication that used to be clear and open become tangled and confused. What began as a lean machine too often turns into a convoluted, Rube Goldberg contraption.

"In every small business lies the seeds of a bureaucracy."

I read that line in a recent column in the Minneapolis Star-Tribune—a piece by Mark Stevens entitled "Action Needed to Guard Against Bureaucracy."

"Rules begin to sprout," wrote Mr. Stevens, "and procedures start to take hold that do more to complicate life than to achieve objectives. Left unchecked, these enemies of efficiency tend to multiply until they choke the business."

How many entrepreneurs, do you suppose, have choked on their own enemies of efficiency? How many have been done in by a self-generated bureaucracy that simply ate up resources, devoured precious time, and clouded the original goals outlined in the business' master plan?

Judging by the rate that small businesses come and go in this country, I guess that it is a significant number. Bureaucracy is a lot like hail on a cornfield—a little is not going to hurt, but too much of it can be disastrous.

And nobody knows more about bureaucracy than the folks who work here on Capitol Hill.

Mr. Stevens was writing about small business in his article, but he could just as easily have been describing the Federal Government—the biggest bureaucracy this world has ever known.

I have said it often: small business and Government actually have a great deal in common. But the bureaucratic problems that can plague a small business are magnified a million times in Washington.

Imagine having so many new regulations that it took 65,000 pages to print them last year alone.

Imagine having so many employees that you are not only far and away the largest employer in the Nation, but your annual receipts put you at the very top of the Fortune 500 list as well.

Imagine having your finger in so many pies that diversified is just too small a word to describe your operation.

Your employees are overseeing thousands of individual little bureaucracies, thousands of programs, projects, and agencies that have taken on lives of their own, and have little accountability to the home office or the folks who ultimately pay the bills—the taxpayers.

That is the Federal Government.

But just as small business owners need to take steps to clear out the cobwebs of bureaucracy and get back to basics to survive, so should Washington.

In fact, the line that originally caught my eye in Mr. Steven s article could easily be turned around to read: "In every bureaucracy lies the seeds of a small business."

Re-exposing those seeds to the light of day and refocusing on the basics is the key to what we are now trying to create in Congress—a Federal Government that runs with the same efficiency as an effective small business.

In his column, Mr. Stevens outlined four steps that managers can use to gauge whether a business is drowning

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

in bureaucracy, and suggestions on how to turn things around if it is. His ideas work equally well when applied to the Federal Government.

STEP NO. 1:

> Review company rules and procedures, questioning why they were established and, equally important, if they still make sense. [Eliminate] anything that detracts from your company's ability to achieve its business objectives rapidly and productively.

Of course, the National agenda changes with time and circumstances, but we are in a period now where our objectives, as mandated by the voters, seem better focused than ever.

Provide for the Nation's needs, protect the unprotected, and unshackle our job providers, so that they are able to put more Americans to work in new, higher paying jobs.

Mountains of Federal rules and procedures litter the track and keep the objectives out of reach.

Sure, they may create Federal jobs—after all, there are some 128,000 regulators on the Federal payroll—but in reality they are job-killers for the private sector, with a cost to the economy as high as $1.65 trillion each year.

More Government jobs are not the answer.

That is why the efforts in this Congress toward regulatory reform, and the legislation we are considering on the floor, are so critical.

Cutting back the forest of Federal regulations will make Government more efficient. Loosening the bureaucracy will free Government to meet its objectives.

STEP NO. 2:

> Take a fresh look at payroll, asking if you really need all of the people who work at your company. Investigate whether some people have been added to back up others—who have little to do themselves—or to enforce the wasteful rules and procedures already in place.

Small business owners often work 80-hour weeks just to barely break even. When they see how the Government wastes their tax dollars, they get furious. They could not run their business the way Congress runs the Government, with reckless overspending and billion dollar deficits. The Government would toss them in jail.

Many businesses, large and small, realized during the past decade that bigger does not necessarily mean better. To help boost their profit margin and cut back on the waste, they began downsizing. It is a move that has saved many businesses from extinction and returned them to profitability, and it is a move being duplicated here in Washington. We call it "reinventing Government." With fewer rules and regulations clogging the pipeline, fewer Federal employees are needed to enforce them, and fewer taxpayer dollars are wasted.

But re-inventing does not just apply to the number of people on the payroll, because bureaucracy is more than just employees—it is also the programs that the employees create, enlarge, and regulate. In the balanced budget resolution we have crafted, this Congress has taken a close look at each and every place we are spending the taxpayers' dollars. If a program or an agency does not meet the test of relevancy, if it is not meeting an important national need during tight economic times, then perhaps this nation can do without it.

Small business makes these tough decisions every day—it is about time Congress makes some tough decisions, too. Writes Mr. Stevens:

> Unless you rid your company of this dead wood, you will be building a bloated company that is likely to sink under its own weight.

STEP NO. 3:

> Make certain that accountability is built into every job. Every personal function and responsibility should be monitored and evaluated. Be sure that seniority is not the criterion for promotion.

There is a strong correlation to this in Washington. When it comes to spending decisions on the Federal level, the effectiveness of a Government program does not always determine whether it gets funded year after year. Far too often, Government programs get their annual funding simply because they are there. Unmonitored and unevaluated, they are often automatically renewed for decades. And nothing breeds more bureaucracy than an entity which never needs to justify its existence.

If Washington is serious about guarding against bureaucracy, it will build accountability into the budget process by sunsetting Federal spending. Congress needs the opportunity to reexamine what works and what does not. Just because a program has been around for a while does not mean it is a good investment.

STEP NO. 4:

> Grant responsible employees the authority to make certain decisions—for which they now need approval—unilaterally. Elaborate approvals do little more than slow the company's response time and make it more difficult to serve customers.

For the Federal Government, that means moving the concentration of power from Washington back to the States, where it belongs. There is more than just a physical distance between Washington and the rest of the country. There are different priorities outside here as well, and nobody on the other side of the Beltway really believes that Congress can spend the taxpayers' dollars better than local officials can.

Our responsibility is to leave the decisionmaking where it can do the most good and speed up the response time to best serve the taxpayers—who are not only the customers of this Government, but its owners as well.

"Keep in mind that no one sets out to create a bureaucracy," wrote Mark Stevens. "But unless you are diligent in protecting it, the bureaucracy will form on its own."

Of course, that is exactly what happened in Washington. But if we follow the same advice that scores of small businesses have used to pull themselves out of the bureaucratic quagmire—eliminating senseless rules and regulations, downsizing to promote efficiency, evaluating spending decisions, and putting faith, and the dollars to go along with it, in the hands of the States, not Washington—we will shrink the bureaucracy. And while we are doing that, Mr. President, we will expand the people's faith in their Government.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. INHOFE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. GRAMS). Without objection, it is so ordered.

Mr. INHOFE. Mr. President, I ask unanimous consent that I be allowed to speak for whatever time I shall consume during morning business between now and 10 o'clock.

The PRESIDING OFFICER. Without objection, it is so ordered.

REGULATORY REFORM

Mr. INHOFE. Mr. President, on Saturday President Clinton gave his Saturday speech wherein he justified defeating the regulatory reform bill.

I really believe that so many people who are opposed to this regulatory reform bill did not get the message that came from the American people on the 8th of November because, loudly and clearly, they wanted to redefine the role of Government in our lives.

The President talked about how you are going to be poisoned by your hamburgers. He talked about how people are dying in the streets because they are not adequately protected from exposure to the physical elements, and from food, as if Government has a role of taking care of everyone and people's responsibility for themselves is nonexistent. And the theme of all of this was that Government really does things better than people do. That is not what this country is all about.

The other day we were talking about some reforms that were necessary insofar as the EPA is concerned. The EPA is a good example of a regulator that has gone far beyond the intent of what we have always felt a regulator should do.

I remember in my city of Tulsa, OK, there is a lumber company called Mill

Creek Lumber Co. owned by the Dunn family. It is a third generation lumber company owned by the family. It is a competitive business. It is a tough business.

I got a call from Jimmy Dunn, the owner and CEO of Mill Creek Lumber Co., that family lumber company on 15th Street in Tulsa, OK. He said, "The EPA just put me out of business after three generations of family running this business." I said, "What did you do wrong?" He said, "I do not think I did anything wrong." He said, "About 10 years ago I sold used crankcase oil to a licensed contractor, and the licensed contractor apparently disposed of it in the wrong place." It was called the Double Eagle site.

So this guy 10 years later, after disposing of crankcase oil, long before the law was even in effect, ended up with a letter from the EPA Administrator saying that you are going to be fined $25,000 a day, and you are going to maybe even have criminal sanctions.

Then a year ago Christmas, about 4 or 5 days before Christmas, I got a phone call from a guy named Keith Carter. Keith Carter was a man of very modest means. He had developed a business in Skiatook, OK, which was in my congressional district at that time. He called up one day 4 days before Christmas and he said, "Congressman INHOFE, I have a serious problem. The EPA just put me out of business, and right before Christmas, I have to fire my six employees." I said, "What happened?" He said, "Well, about 2 years ago I moved from the basement in my home three blocks down the street to another location because the business was kind of good and I needed a little bit more room. Apparently they say that I did not advise the EPA that I made my move." I said, "My gosh. You have been operating for 2 years in an area where they did not know where you were?" He said, "Oh, no. I told the regional office in Texas. But apparently they did not tell the office in Washington." They called up and put him out of business.

It took me about a week to get him back in business. He called up a week later, and he said, "I have another problem, Congressman." He said, "They let me back in business but I cannot use the number that I had before because they said during that 1 week I was out of business, they assigned it to somebody else. I had $25,000 worth of inventory."

So we finally got it corrected. But for each one who calls a Congressman or someone to intervene in behalf of decency and honesty and good sense, there are hundreds of them who do not do that. If he had not called, then Keith Carter would have been out of business and his employees would be unemployed today, most likely. That is the kind of abuse that takes place by regulators in our society.

I suggest, Mr. President, the theme of this thing is far greater than we have been talking about. We are talking about freedom. That is what this whole thing is about; freedom, individual freedom. That is what this country is supposed to be all about.

I remember a few years ago when we had the problems down in Nicaragua. And I know, Mr. President, you were serving over in the House at that time and remember it also. At that time, it was, fortunately, driven home to me how we are perceived around the world, that we are the bastion of freedom, that we are the beacon of freedom. If you lose it here, you do not have it anywhere else. That is what this regulation is about, the theme that Government knows better how to take care of our lives than we do.

This is what was happening in Nicaragua at that time, if you will remember the big controversy we had here in both Houses of the U.S. Congress with people saying, "Well, the freedom fighters are really a bunch of rebels. We should not get involved in this thing." Yet, we knew that the Communists at that time were supplying them with the best of armaments, with the best of tanks, and with the best of helicopters. And so you had the freedom fighters risking their lives.

I can remember going down to Honduras. I think we were only about 7 miles from the Nicaraguan border. And I went through a hospital tent down there where they were bringing the freedom fighters in and nursing them back to health. The tent was about the size of these Chambers. It was a very large tent. And all around the periphery they had hospital beds that were in a circle. And then they did their surgical procedures in the center. About all they did was amputations at that time because most of the young people who were in there, the freedom fighters from Nicaragua, were in there because they had stepped on land mines or something like that, so most of them were amputations. The average age of the freedom fighter was 18 at that time, because the older ones had either died or lost their arms or legs.

I remember, I went all the way around—I speak Spanish—and I talked to each one of those individuals. I tried to get in my own mind: What is it that is driving these people? What is it that they risk their lives for that so many of them are dying? And so I asked the question to each of them. The last one was a young girl 19 years old. Her name was Maria Lynn Gonzalez. I will always remember her because she was an itty-bitty girl. It was her third visit to the hospital tent; she kept coming back. But she would not go back to fight again because that morning they amputated her left leg and blood was oozing through the bandages.

As she lay there, with her large eyes looking up after having gone through all that terror, I asked her that question. She responded to me, and she said:

> Es porque han tomado nuestras casas, campos, todo lo que tenemos. Pero, de veras, ustedes en los Estados Unidos entienden. Porque ustedes tuvieron qué luchar por su libertad lo mismo que estamos luchando ahora.

What the little girl was saying was well, of course, we are fighting; we are fighting because they have taken our farms and our houses and everything we own. But surely you in the United States do not have to ask that question because you had to fight for your freedom from an abusive government the same as we are fighting for our freedom today.

It occurred to me at that time this little girl, Maria Lynn Gonzalez, who could not read or write, she was not well educated; she had never gone to school; she was brilliant in her knowledge and appreciation of freedom, and she was willing to die for it. She looked at our revolution in this country, that revolution which we could not have won any other way than our reliance upon God and the principles that made this country so great, and she did not know whether we won that revolution 5 years ago or 200 years ago; she did not have any concept of when all this was happening, but to her it was a fight for freedom against all odds, and we were that beacon of freedom that led them to their success down there.

It has been that way for 200 years. The whole world looks at us. And while the world looks at us as the example that people are bigger than government, and that totalitarian government, centralized government that is in charge of people's lives does not perform as people do when they are unleashed and can do as they wish and have the product of their labors, then that means so much more.

So while we are the beacon of that freedom, the administration is trying to hold on to the old, abusive governmental waste of the past with white knuckles.

And so I say to you, Mr. President—not this Mr. President but Mr. President Clinton—that you are not going to win this battle because there was an election. When that election took place in November 1994, there were a lot of loud messages. They wanted to rebuild a strong national defense at the same time they wanted to balance the budget. We are going to do both.

They wanted to change the role of Government so it no longer has abusive control and power over the citizenry, and that is exactly what is going to happen.

So this is a very important debate that we are in the middle of right now, Mr. President, the debate on the role of Government, how abusive is Government, and for all those people around the world who look to us as that beacon of freedom we are going to keep that beacon very bright and shiny for them.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. INHOFE). Without objection, it is so ordered.

TRIBUTE TO SENATOR PRYOR

Mr. JOHNSTON. Mr. President, Senator DAVID PRYOR is a man of many accomplishments. In his distinguished career, he has been a journalist and founder of a newspaper, a member of the Arkansas House of Representatives and a two-term Governor of his State. In Arkansas, they still talk about his achievements as Governor during the 70's recession. Carefully and caringly, he cut spending without cutting the programs that people depended on.

He is also a lawyer who served three terms as the Representative of the Fourth Congressional District of Arkansas. He has served three terms in this body as a U.S. Senator and the last time he ran, he was so popular that nobody bothered to run against him. As a member of the Agriculture Committee, he has actively shaped innovative programs and policies which have helped the farmers of Arkansas while furthering the leadership position of the United States in the world agricultural community.

More than anything else, what has distinguished Senator PRYOR's legislative work in the U.S. Congress has been his sensitivity to the needs of private citizens. As a member of the Senate Finance Committee, he wrote a "Taxpayer Bill of Rights" which guaranteed—for the first time in 40 years—the rights of individual citizens in their dealings with the IRS.

Senator PRYOR is known as an advocate for senior citizens. His advocacy is based on an extensive acquaintance with their situation, a compassionate understanding of their needs and a thorough knowledge of the existing support systems for the elderly. As a Member of the House of Representatives, he at one point worked incognito to gain first-hand experience of conditions in the nursing home industry. He served for 6 years as chairman of the Senate Special Committee on Aging, and, as ranking member, is continuing the fight to save Social Security and bring down prescription drug prices.

Senators, and I was one of them, heard his announcement that he did not plan to run again in 1996 with both relief and great regret. Relief, because he works too hard. If by leaving the Senate he can stop working too hard, then that is the right thing to do, for his health and for his wonderful wife and family. But I do feel sincere regret, for the Senate and for the Nation, that in 1996 we will lose his legislative skills and his compassion for the individual. And speaking for myself, I feel genuine regret that our working relationship will be ending. It has been a warm, collegial, productive relationship for 17 years, most notably on the Aging Committee. I have appreciated both the astuteness of his insights and the pleasure of his company, and hope to do so for the remainder of our terms.

THE NUCLEAR AGE'S BLINDING DAWN

Mr. DOMENICI. Mr. President, 50 years ago yesterday, July 16, 1945, the course of human history was changed forever.

President Harry Truman, Winston Churchill, and Joseph Stalin were preparing for the European peace conference to end the war with Hitler and the Axis. There were major questions to be answered. Where would the conference be held? The war in the Pacific was still raging; would Russia enter into the war against Japan?

And, then, we learned about the events at Los Alamos, NM. We did not know that we had just succeeded in the greatest scientific race of all time, let alone the unquestionable magnitude of this achievement that would end the Second World War. Until this time, the activities at Los Alamos were shrouded in complete secrecy.

As recounted in several superb articles in New Mexico newspapers, the activities at Los Alamos changed the lives of New Mexicans as much as they impacted upon the rest of the world.

During the early morning of July 16, 1945, some of the citizens in New Mexico witnessed a sudden illumination in the sky. A friend of mine Rowena Baca, was quoted as saying that her "grandmother thought it was the end of the world." This shocking irradiation incited Mrs. Baca's grandmother to shove her, as well as her cousin, under the bed. From underneath the bed, the two children saw the walls and ceiling reflect a red color. They were 35 miles from the Trinity sight, where the explosion occurred.

Dolly Oscuro's ranch used to include the land that became the Trinity sight. Where the cattle grazed, Mrs. Oscuro remembers looking out her window and seeing a rising mushroom cloud.

Helen and William Wrye, also ranchers, were returning home from a long and exhausting trip. They live in the same house that is 20 miles from the Trinity sight. They slept through the explosion. The radiation, according to Mr. Wrye, caused his beard to quit growing for a while. Of course, we are not sure that was the case, but at least that is what he perceives.

Mr. friend, Larry Calloway, who writes for the Albuquerque Journal, wrote what is in my opinion an articulate, well-documented, and human perspective of the first successfully tested atomic bomb. The article, "The Nuclear Age's Blinding Dawn," describes in detail the events of the night and morning leading up to this first display of atomic power.

Mr. Calloway's article portrays the human side of this historic day: about people such as Joe McKibben who wired the instruments that set off the implosion bomb; Berlyn Brizner who served as chief photographer; and Jack Aeby, a civilian technician who assisted in placing the radiation detectors—just to name a few.

"The Nuclear Age's Blinding Dawn" is worthy reading for all Americans. Many times, the specific event in history overshadows the individuals who made the event possible. Mr. Calloway tells us about the people in New Mexico who made this historic achievement happen.

Fifty years later, in hindsight, debate continues on the issue of whether development and deployment of the atomic bomb was the right thing to do. For example, a Smithsonian exhibit featuring the *Enola Gay*, the plane that dropped "Little Boy" on Hiroshima, becomes controversial. It is probably fair to suggest that the debate will rage for another 50 years. However, many believe that their work associated with this effort was right.

On this anniversary, let's turn to other aspects of this event. Our entrance into the Nuclear Age is as much about people as it is about science. It is the well known people: J. Robert Oppenheimer, Enrico Fermi, I.I. Rabi, Niels Bohr, Hans Bethe, Luis Alvarez, Emilio Segre, Norman Ramsey, Val Fitch, Aage Bohr, A.H. Compton, E.O. Lawrence, and James Chadwick, and Maj. Gen. Leslie R. Groves, to mention a few.

It is about the citizens of New Mexico who witnessed the Trinity test.

And, it is about the unsung workers and scientists at Los Alamos who were important players in this enormous discovery. They were not alone. They were joined by many thousands in the State of Tennessee at Oak Ridge and other scientific locations around America. Together they performed their duties for a cause they believed in. The employees of New Mexico's national laboratories continue this legacy today.

In honor of these men and women, let us acknowledge their countless contributions since that time. Let us give appreciation for their dedication and commitment. These are the people who changed the course of human history.

I respectfully ask unanimous consent that the text of Mr. Calloway's "The Nuclear Age's Blinding Dawn," Fritz Thompson's article "Locals Had Ringside Seat to History," and Patrick

Armijo's article, "A-Bomb Scientists Bear No Regrets" be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE NUCLEAR AGE'S BLINDING DAWN

(A half-century ago on July 16, the United States detonated the first atomic bomb. The test, code named Trinity, was the conclusion of the Manhattan Project to build the bomb in a frantic race with Adolf Hitler's scientists. The explosion ushered in the nuclear age, gave rise to New Mexico's modern economy, led to Japan's surrender and set off 50 years of debate about the morality of using such awesome force.)

(By Larry Calloway)

For Joe McKibben, the Nuclear Age came in the back door without knocking. For Jack Aeby, it slipped blindingly through a crack in his welder's goggles. For Berlyn Brixner, it rose in dead silence like an awesome new desert sun.

After 50 years, they are among the few who remain to tell about the test of the first atomic bomb, made in the secret wartime city of Los Alamos and code named Trinity by lab director J. Robert Oppenheimer. The survivors are among the dwindling few on Earth who have seen any nuclear explosion. It's been 32 years since the last U.S. atmospheric test.

On that Monday, July 16, 1945, at 5:10 a.m., the senatorial voice of physicist Sam Allison began what's now called a countdown. "Minus 20 minutes" boomed over the loudspeakers and shortwave radios in the dark Jornada del Muerto in New Mexico's dry Tularosa Basin.

By space-age standards, it was a very short countdown, but it was probably the first in the about-to-be-born world of big science. "Sam seemed to think it was," McKibben says. "He told me, 'I think I'm the first person to count backward.'"

Just as Allison is remembered for the Trinity countdown, McKibben will probably be remembered as the guy who pushed the button. "That kind of annoys me," says McKibben, 82, folding himself down on a couch in his cluttered study in White Rock. "I consider it a minor part of my work."

EXHAUSTIVE PREPARATION

It wasn't minor at the time, of course. McKibben, a lanky Missouri farm boy-turned-Ph.D physicist, sat at the Trinity control panel. For three months, he had been wiring instruments across 360 square miles of desert around a 100-foot steel tower. The fat implosion bomb, 5 feet round, 5 tons heavy, squatted in a harness of cables on a platform on top. And the desert floor was scattered with instruments.

McKibben, of the University of Wisconsin, had spent the night at the tower on guard duty with two Harvard physicists, Trinity director Kenneth Bainbridge and Russian explosives wizard George Kistiakowsky, a former Cossack.

This was the second night of uneasy thunderstorms with close strikes of lightning in the Jornada.

McKibben fell asleep under some tarps on the clean linoleum floor at the tower base where the final assembly team had done its job carefully, very carefully.

And McKibben had a dream. It was simple, peaceful. "I started dreaming Kistiakowsky had gotten a garden hose and was sprinkling the bomb. Then I woke up and realized there was rain in my face."

EVERYTHING IN PLACE

Soon the rain paused, and Bainbridge rescheduled the shot for 5:30 a.m. After closing the last open circuits, the three physicists drove south in a jeep as fast as they could on the straight blacktop road.

They were the last men out of the zone of lethal heat, blast and radiation. The nearest humans were in bunkers called North 10,000, West 10,000 and South 10,000 because they were 10,000 meters (6.2 miles) from Ground Zero.

"We got to South 10,000 (the control bunker) at 5:10, and that was the time I needed to throw the first switch," McKibben recalls. Allison took up the microphone in the countdown booth. A quick young Harvard physicist named Donald Hornig, who would become President Johnson's science adviser 18 years later, took his place near McKibben at an abort switch. Hornig's job was to stop everything if the detonation circuit faltered, in order to save the first precious production of the Hanford, Wash., plutonium plant.

Kistiakowsky, who would become President Eisenhower's science adviser, was in and out of the crowded room. An 18-year-old soldier named Val Fitch was attending British scientist Ernest Titterton at a set of vacuum tubes that would deliver the detonating voltage 6 miles of cable. Fitch would win the 1980 Nobel Prize in physics. Also there was Navy Cmdr. Norris Bradbury, who would become director of the Los Alamos lab from 1945–70.

McKibben recalls these men but says, "I didn't see Oppenheimer. I was told that he came in the door and observed me at the controls and went away. Just to see that I was sane." And he laughs.

Hundreds turned their expectant eyes to the unforgiving New Mexico desert; it was a who's who of the scientific world.

At North 10,000, Berlyn Brixner was in the open on top of the bunker at the controls of a fast movie camera with a blackened viewfinder. "I was one of the few people given permission to look directly at the bomb at zero time," says Brixner, an amiable man of 84 sitting alertly in his minimalist living room in a ponderosa-shaded Los Alamos neighborhood.

Brixner's assignment as chief photographer was this: Shoot movies in 16-millimeter black-and-white, from every angle and distance and at every speed, of an unknown event beginning with the brightest flash ever produced on Earth.

"The theoretical people had calculated a . . . 10-sun brightness. So that was easy," Brixner says. "All I had to do was go out and point my camera at the sun and take some pictures. Ten times that was easy to calculate."

The theoretical people also knew a little about radiation, which fogs film, and Brixner consequently shielded two of his near-tower cameras behind 12-inch-thick leaded glass. Some of his cameras were so fast they shot 100 feet of film in a second. Some were 20 miles away and ran for 10 minutes.

And now he waited on top of the bunker, gripping the panning mechanism of his movie camera, which like all the others would be turned on by signals from McKibben's control panel.

SNEAKING A CAMERA IN

At Base Camp, the old David McDonald ranch house 10 miles south of the tower, the box-seat audience included Maj. Gen. Leslie Groves, the hard-driving director of the whole Manhattan Project, and its presidential overseers—Carnegie Institute president Vannevar Bush and Harvard president James Bryant Conant. Among the physicists at Base Camp were I.I. Rabi, a New Yorker who would go on to win a Nobel Prize, and the revered Italian Enrico Fermi, who had led the research on the first nuclear chain reaction. Among the 250 lab workers and 125 soldiers was a young civilian technician named Jack Aeby who was exempt from the draft because he'd suffered from tuberculosis.

Now 72 and retired from a Los Alamos career in health physics, Aeby sits in his solar home near Española and recalls how his job in the weeks leading to the test was to help the Italian physicist Emilio Segré set radiation detectors near the tower. Some of the instruments were hung on barrage balloons tethered 800 yards from the tower. They'd be vaporized in a millisecond after they transmitted their nuclear data.

Aeby carried his personal 35 millimeter still camera, which Segré got through security, and as the countdown started, he was planning to take a new Anscochrome color transparency picture of the bomb. Aeby had carried a chair out into the darkness and was sitting there with the camera propped on the back and pointed north. He put on his government-issue welding goggles, not noticing in the dark that there was a crack in one lens. And he listened to the countdown on the Base Camp loudspeakers.

PREPARING FOR THE BEST

At the VIP viewing area called Compania Hill, 20 miles northwest of the tower and about 10 miles southeast of the village of San Antonio, N.M., two refugee physicists put on sunscreen in the dark. They were Edward Teller of Hungary and Hans Bethe of Germany. Teller would become famous as an advocate of the hydrogen bomb, and Bethe would win the 1967 Nobel Prize in physics.

Teller put on gloves to protect his hands and sunglasses under his welder's goggles, for extra protection. "I expected it to work," Teller, now 87 and bent, said in a June interview.

Not far away was German Communist refugee Klaus Fuchs, who would be uncovered as a Russian spy five years later.

Outside the Jornada, of course, New Mexico had eyes and ears. Teller said that many Los Alamos employees, including his secretary Mary Argo, slipped away to Sandia Crest for a direct 100-mile view of the shot that morning.

And in Potsdam, just outside the rubble of bombed-out Berlin, President Truman waited for coded messages so he could tell Josef Stalin what the Russians already knew.

But the rest of the world didn't have a clue. Not the B–29 pilots who had hit Tokyo, again, with 3,000 conventional bombs that Friday. Not the 750,000 American troops that would be needed in the planned Nov. 1 invasion of Japan.

A countdown. A bellow of "Zero!" Silence. A flash of light brighter than the rising of the sun. Then the shock wave hit, and the blast's roar echoed off the mountains.

At minus 45 seconds, McKibben cut in an automatic timing drum he and Clarence Turner had made to generate the final 20 relay signals, including the big one. The drum turned once a second, and McKibben says he had attached a chime that struck once each revolution. So there were 44 chimes before Allison bellowed: "Zero!"

It was 5:29.45 a.m. Mountain War Time, the same as Mountain Daylight Time.

McKibben's bunker was under dirt on the north, and there was a small open door on the south, facing away from the shot.

"Suddenly, I realized there was a hell of a lot more light coming in the back door," McKibben says. "A very brilliant light. It outdid the light I had on the control panel many times over. I looked out the back door and I could see everything brighter than daylight."

Aeby had put his Perfex 44 camera on "bulb" and in the dark before "Zero" opened up the shutter, figuring that way he'd get a good image of the flash. Suddenly, the light cut a sharp white line across his vision. "I could see that crack for some time afterward," he says. It was daylight, and Aeby flung off the goggles to reset his camera. "I released the shutter, cranked the diaphragm down, changed the shutter speed and fired three times in succession," he says. "I quit at three because I was out of film."

Brixner, at North 10,000, was stunned. "The whole filter seemed to light up as bright as the sun. I was temporarily blinded. I looked to the side. The Oscura Mountains were as bright as day. I saw this tremendous ball of fire, and it was rising. I was just spellbound! I followed it as it rose. Then it dawned on me. I'm the photographer! I've gotta get that ball of fire." He jerked the camera up.

One thing more, he says: "There was no sound! It all took place in absolute silence."

UNIQUE SIGHTS AND SOUNDS

By the time the blast hit, 30 seconds after the flash, most of Brixner's 55 cameras in the desert were finished. Some had done their work in a second. There would be 100,000 frames to develop in black and white and a few in temperamental Kodachrome.

In the silence, McKibben stepped out the back door of South 10,000 and looked north over the bunker. "It was quite a pretty sight. Colored. Purplish. No doubt from the iron in the tower and a lot of soil off the ground that had been vaporized. I was surprised at the enormity of it and immediately felt it had gone big."

McKibben ducked behind the bunker just as the shock wave hit. "Then an amazing thing: It was followed by echoes from the mountains. There was one echo after another. A real symphony of echoes."

As the shock wave hit Base Camp, Aeby saw Enrico Fermi with a handful of torn paper. "He was dribbling it in the air. When the shock wave came it moved the confetti."

Fermi had just estimated the yield of the first nuclear explosion at the equivalent of 10,000 tons of TNT. Later measures put the yield nearly twice as much, at 18.6 kilotons. And this terrible new energy came from a plutonium ball weighing 13.6 pounds.

Thes test's success brought elation yet was tempered for many by the knowledge that the world had suddenly taken a hazardous turn.

Robert Van Gemert of Albuquerque, now 79, who was at Base Camp after the shot, says, "I'm just amazed how those scientists whipped out so many bottles of gin or whatever they could find. And it was rapidly consumed, I can tell you that."

Writer Lansing Lamont in 1965 recorded secondhand some GI exclamations: "Buddy, you just saw the end of the war!" "Now we've got the world by the tail!"

At South 10,000, Frank Oppenheimer recalled, his brother probably said, "It worked!" Kistiakowsky is supposed to have said to Robert Oppenheimer, "You owe me 10 dollars" because of a bet they had. Bainbridge is supposed to have told Oppie, "Now we are all sons of bitches."

At Compania Hill, Teller remembers, "I was impressed."

Hans Bethe, now 89, remembers his first thought was, "We've done it!" and his second was, "What a terrible weapon have we fashioned."

FLEEING THE RADIATION

At North 10,000, Brixner and the others were thinking suddenly only of a kind of hazard the world had never known. "I was looking up, and I noticed there was a red haze up there, and it seemed to be coming down on us," he says.

"Pretty soon the radiation monitors said, 'The radiation is rising! We've got to evacuate!' I said, 'That's fine, but not until I get all the film from my cameras.'" In the midst of the world's first fallout, somebody helped Brixner throw his last three cameras in an Army car, and they all got out of there fast. Film badges later showed they got low doses—by the standards of the time.

About 160 men were waiting secretly north of the Jornada with enough vehicles to evacuate the small communities in the probable fallout path. Gen. Groves had phoned Gov. John Dempsey before the test to warn him that he might be asked to declare martial law in southwest New Mexico.

But the radiation readings from people secretly stationed all over New Mexico stayed safe—again by the standards of the time.

The test was shrouded in secrecy, but, within weeks, the world would know what science had wrought in a lonely stretch of New Mexico desert.

When Teller returned to his Los Alamos office, he says, Mary Argo ran to him, breaking all the secrecy rules, "'Mr. Teller! Mr. Teller! Did you ever see such a thing in your life?' I laughed. And she laughed," he says with joy in his voice. "Does that tell you something?"

At community radio station KRS in Los Alamos, Bob Porton, a GI, was about to rebroadcast the noon news, courtesy of KOB. "Suddenly, about 30 or 40 scientists all came in and stood around," he says. "We knew something was up."

The lead story, Porton says, was this: "The commanding officer of Alamogordo Air Base announced this morning a huge ammunition dump had blown up, but there were no injuries."

"All these scientists jumped up and down and slapped each other on the back," Porton says. "I was familiar with secrecy. I never asked any questions. But I knew it was something big."

It was something big. What they'd heard was the coverup story for the first atomic bomb blast.

COUNTING BACKWARD AGAIN

Brixner was on his way to Hollywood to get his film developed in secrecy at a studio lab. One reel showed his jerk of the camera.

Aeby developed his color film that night in Los Alamos, using the complex system of a half dozen Ansco chemicals. The first shot of the bomb was overexposed off the scale, but one of the next three became the only good color picture known of the first atomic explosion.

Weeks later, Ellen Wilder Bradbury of Santa Fe recalls, the Wilder family tuned in the only radio they had, in their car, to hear a wire recording broadcast over KRS. Ellen was about five and hadn't understood about Hiroshima. And now she was hearing a recording made in the cockpit of Bocks Car, the B–29 that dropped "Fat Man," identical in design to the Trinity bomb, on Nagasaki.

Ellen, who would marry Norris Bradbury's son, recalls the now-lost recording clearly: "They said, 'We've got an opening in the clouds. OK. We're going ahead.' And then they counted down to drop it. And they did say, 'Bombs away!' But I had just learned to count, and I was most impressed by the fact that they could count backwards."

Locals Had Ringside Seat to History

(By Fritz Thompson)

Sparkey Harkey and his son, Richard, were standing in the gloom before dawn, waiting for a train at Ancho, N.M., when the bomb went off.

"Everything suddenly got brighter than daylight," Richard Harkey remembers today. "My dad thought for sure the steam locomotive had blown up.".

Ir was 5:29.45 a.m. on July 16, 1945. Harkey and his father didn't know it then, but they had just witnessed, in that instant 50 years ago, an event that came to change the course of history and to thereafter touch the lives of everyone in the world.

It was mankind's first detonation of an atomic bomb—at Ground Zero on the empty, foreboding sweep of some of the most desolate land in New Mexico; Jornada del Muerto, it is called, the Journey of Death.

Awesomely thunderous, the explosion transformed the sand in the desert to green glass, hurled dust and smoke thousands of feet into the sky and startled the bejabbers out of early morning risers in central New Mexico.

The place where the bomb exploded is called Trinity Site, and it was 50 miles and a mountain range away from the Harkeys, standing as they were on the tracks, mouths agape, bathed in the glow from man's most fearsome and terrible weapon. That they could see a manmade light brighter than the sun from their far vantage point attests to the incredible power unleashed that morning.

Ancho was not even a whistle-stop then. Sparkey, the stationmaster, was out on the tracks, ready to wave a red flag to stop the train so Richard, then 18, could board and ride to his job in Tucumcari.

"It was a blinding flash and it lasted at least a full minute," Richard says. "We didn't know what it was."

Was he curious?

"Yeah. But when you see something like that you're so flabbergasted that you just let it go."

THE SUN WAS COMING UP

Ranchers and other residents on both sides of the Oscura Mountains had a ringside seat to the explosion but didn't know it. In one of the best-kept secrets before or since, civilians had no warning.

The lone exception was the late José Miera, proprietor of the Owl Bar in San Antonio, a mere 35 unobstructed miles northwest from Trinity and a popular hangout for the site's scientists and soldiers. Rowena Baca, who runs the family establishment these days, says friendly MPs that night went to her grandfather's house, woke him up, "and told him to stand in the street out front because he was going to see something he had never seen before."

Sure enough.

Baca remembers that the sky suddenly turned red. It illuminated the inside of the house she was in, reflecting red off the walls and the ceiling.

"My grandmother shoved me and my cousin under a bed," Baca remembers, "because she thought it was the end of the world.".

At the same moment, a U.S. Navy aviator named John R. Lugo, now of Scottsdale, Ariz., was flying a naval transport plane at 10,000 feet some 30 miles east of Albuquerque, en route to the West Coast.

"I saw this tremendous explosion to the south of me, roughly 55 miles from my position," Lugo recalls. "My first impression was, like, the sun was coming up in the south. What a ball of fire! It was so bright it lit up the cockpit of the plane."

Lugo radioed Albuquerque. He got no explanation for the blast, but was told "don't fly south."

As the sun itself finally rose, rancher Dolly Onsrud of Oscuro woke up, looked out her window and saw a mushroom cloud rising from the other side of the mountains—right about where her cattle-grazing land had been before the U.S. Army took it over three years earlier.

She had been none too happy about giving up her 36 sections, and now it looked as if the government was blowing it up.

Like Onsrud, most ranchers who witnessed some aspect of the blast are the same ones who were moved off what became White Sands Missile Range. They are still bitter—bitter that the Army never returned the land, bitter that they weren't more generously compensated for giving up their ranches for what they believed was a patriotic duty. And, these days, they would much rather talk about their lost lands than about the first atomic bomb.

With the passage of half a century, these same people also find it remarkable that the government never warned them about an event that some scientists thought might set off a chain reaction and destroy all humanity.

The fact was, not many workers at Trinity knew for sure what they were working on. Retired teacher Grace Lucero of San Antonio said soldiers who came to the bar that her husband operated told him they were building a tower. "They said they didn't know what it was for," Lucero says. The tower, everyone later learned, steadied the bomb before it was detonated.

"No one knew what was going on out there," says Evelyn Fite Tune, who lives on a family ranch 24 miles west of Trinity. "And of course none of us ever heard of Los Alamos or the atomic bomb."

She and her late husband, Dean Fite, were away in Nevada when the blast went off. They couldn't tell from the news accounts of those days exactly where it happened.

"Finally, on the way back we went to a movie house in Denver and watched the newsreel," she says. "When they showed the hills around the blast area, my husband said 'Hell, that's our ranch!'"

Pat Withers lives south of Carrizozo. He is 86 now and has been a rancher all his life. His house is 300 yards from the black and hardened lava flow that's sometimes called the malpais.

"The explosion was loud enough that I jumped out of bed," he says. "I thought the malpais had blowed up. It wasn't on fire, so I went back to bed."

Few ranchers had an experience to match that of William Wrye, whose house then and now is 20 miles northeast of Trinity.

Wrye and his wife, Helen, had been returning from a tiring trip to Amarillo the night before the explosion. "We got to Bingham (on U.S. 380) and there were eight or 10 vehicles and all kinds of lights shining up on the clouds. We were stopped by an MP and a flashing red light. After we told them who we were, they let us go on to the ranch. We were so tired we must have slept right through the blast.

"Next morning, we were eating breakfast when we saw a couple of soldiers with a little black box out by the stock tank, I went out there and asked what they were doing, and they said they were looking for radioactivity. Well, we had no idea what radioactivity was back then. I told them we didn't even have the radio on.

"For four or five days after that, a white substance like flour settled on everything. it got on the posts of the corral and you couldn't see it real well in the daylight, but at night it would glow."

Before long, Wrye's whiskers stopped growing. Three or four months later, they came back, but they were white, then later, black.

Cattle in the area sprouted white hair along the side that had been exposed to the blast. Half the coat on Wrye's black cat turned white.

END OF INNOCENCE

Out at the north end of the Oscura range, 30 miles from Trinity, rancher Bill Gallacher was 15 years old. He remembers the blast, that it lighted up the sky and the rooms in his house, much brighter than a bolt of lightning. His father, evidently man of few words who was just getting out of bed, simply said "Damm."

"It was a sort-of-sudden deal," Gallacher says, "especially before you've had your morning coffee."

Several ranchers say they never believed the Army cover story that an ammunition dump had blown up. But they didn't guess what it was until the devastation of bombs at Hiroshima and Nagasaki weeks later. Even then, they didn't guess the import of what had been wrought in their backyard.

Evelyn Fite Tune and her friends and neighbors visited the site soon after. "We found the hole, we picked up the glass, we climbed the twisted and melted parts of the tower," she says.

"All those people," she says, "grew up and got married and had kids. Nobody that I know of ever turned up sterile."

Back at the Wrye Ranch, Helen Wrye goes to the front door, gazing at the sweep of prairie and desert, the Oscuras looming to the south, 20 miles from here to Trinity. She speaks of this dawn of the atomic age, and she sounds wistful. "People weren't afraid of the government then," she says. "It was a time of innocence. People were trusting. We had never heard of an atomic bomb."

She is silhouetted against the sunlight of a bright spring day.

"It was a happy time to live," she says. "It was a happy time to live."

A-BOMB SCIENTISTS BEAR NO REGRETS

(By Patrick Armijo)

LOS ALAMOS.—The view from three Manhattan Project scientists was unanimous Thursday.

Questioned by Japanese journalists who wanted to know what they felt upon hearing about Hiroshima and Nagasaki, the three couldn't hide the pride they have in the work they did 50 years ago.

The retired scientists said their work on the bomb was vital to ending World War II—that bombing Hiroshima and Nagasaki was necessary to end prolonged fighting.

"It looked like very quickly it would be the end of the war, which otherwise who knew how long it would drag on?" Manhattan Project chemist John Balagna told Hiromasa Konishi of Japan America Television.

Konishi was at the Bradbury Science Museum with several other reporters from Japan, Britain and Australia to hear the Manhattan Project recollections of Balagna, L.D.P. "Perc" King and Joseph McKibben.

Balagna said the A-bombing of Hiroshima and Nagasaki kept someone from using the even more destructive hydrogen bomb in later years.

"The demonstration was so graphic, it put the fear of the Lord in everyone," he said. "That's what kept the Cold War cold."

He said he believes invading Japan would have resulted in more loss of life than the bombings.

The Japanese reporters' perspective differed.

"The director Steven Spielberg asked me why the cities were rebuilt and not kept as a memorial to genocide. It was like a genocide. The two bombs killed 200,000 people instantly," Konishi said.

Japan America Television was in Los Alamos working on stories for the 50th anniversary of the bombings.

Konishi said the bombing of Nagasaki, in particular, was "a difficult thing for the Japanese people to understand."

The Japanese still question the thinking behind the bombings, Konishi said, but his country for the past several years also has been coming to grips with its wartime "atrocities."

Itsuki Iwata, Los Angeles bureau chief for The Yomiuri Shibun, a Japanese newspaper, said he has conducted numerous interviews with the Manhattan scientists, and virtually all report they had few moral qualms about using the A-bomb.

"The view of the scientists is very much like the point of view you hear today. I think this is a very difficult thing for the scientists to talk about," Iwata said.

For King the problems people face today can't be superimposed onto 1945.

"We were terribly worried that Hitler had it (the bomb). It was the inspiration to work very long hours, six days a week," he said.

Balagna, who lost a brother in France about a month after D-Day, said, "My only regret is that we didn't finish in time to use it on Hitler."

WAS CONGRESS IRRESPONSIBLE? THE VOTERS HAVE SAID YES

Mr. HELMS. Mr. President, the incredibly enormous Federal debt is like the temperature outside—rising rapidly. As for the rising Federal debt, Congress had better get cracking—time is a-wasting and the debt is mushrooming and approaching the $5 trillion level.

In the past, a lot of politicians talked a good game, when they were back home with the voters, about bringing Federal deficits and the Federal debt under control. But many of them regularly voted in support of bloated spending bills that rolled through the Senate like Tennyson's brook. So look at what has happened:

As of Friday, July 14, at the close of business, the Federal debt stood—down to the penny—at exactly $4,933,039,330,339.52. This debt, remember, was run up by the Congress of the United States.

Mr. President, most citizens cannot conceive of a billion of anything, let alone a trillion. It may provide a bit of perspective to bear in mind that a billion seconds ago, the Cuban Missile Crisis was in progress. A billion minutes ago, the crucifixion of Jesus Christ had occurred not long before.

Which sort of puts it in perspective, does it not, that Congress has run up an incredible Federal debt totaling 4,808 of those billions—of dollars. In other words, the Federal debt, as I said earlier, stood this morning at opening time at four trillion, 933 billion, 39 million, 330 thousand, 339 dollars and 52 cents. It'll be even greater at closing time today.

STATE DEPARTMENT'S REFORM IS HISTORIC OPPORTUNITY

Mr. HELMS. Mr. President, the majority leader announced today his intentions to bring S. 908, the State Department Authorization Bill, to the Senate floor before the August recess.

As my colleagues are well aware, this bill proposes to reorganize the agencies of the executive branch charged with the conduct of America's foreign policy, saving needed Federal tax dollars in the process.

Before my colleagues rush to judgment on the efforts to restructure the State Department, I recommend they read John Bolton's June 25 op-ed piece in the Washington Times, "Quest for a Stronger Foreign Policy Hand."

Mr. President, John Bolton writes with authority on the purpose and past performance of the State Department because of his having served as Assistant Administrator of the Agency for International Development in the Reagan administration and as assistant Secretary of State in the Bush administration. Currently, John Bolton serves as the president of the National Policy Forum.

I urge Senators to take note of John Bolton's counsel. His advice regarding strengthening America's foreign policy hand is both sound and sorely needed.

Mr. President, I ask unanimous consent that the June 25 op-ed piece in the Washington Times, "Quest for a Stronger Foreign Policy Hand", be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Times, June 25, 1995]

QUEST FOR A STRONGER FOREIGN POLICY HAND

(By John Bolton)

The House of Representatives has just adopted sweeping organizational changes in formulating American foreign policy. The Clinton administration has argued that the restructuring under debate—merging the Agency for International Development, the U.S. Information Agency and the Arms Control and Disarmament Agency into the State Department—are isolationist and unnecessary. Comparable legislation is now pending in the Senate.

Lost in the swirling and sometimes confusing arguments about reorganization is the principal point: How to strengthen the hand of the president in the conduct of foreign policy. Constitutionally, only the president can and should speak authoritatively for the United States in international matters.

The paramountcy of executive branch leadership in these affairs, however, has been repeatedly compromised by splitting, again and again, the president's authority among a multiplicity of agencies. Each agency develops its own "mission," its own political constituencies, and its own set of priorities, many or all of which may have little or no congruence with the wishes of the sitting president. The result, too often, has been interagency disagreements that retard if not entirely paralyze effective decision-making and policy implementation.

Over the years, therefore, the president's has been weakened, and his ability to act firmly and decisively hampered. Now, in the early days of a post-Cold War era, it is precisely the right time to sweep away the bureaucratic remnants of the past, and the ossified "old thinking" they have come to embody. It is simply wrong to argue that the proponents of change are attempting to shift power between the branches. To the contrary, the proposals are intended to enhance presidential authority within his own often-unruly family.

Advocates of USIA's continued independence, for example, argue that its news and other functions should remain rigorously independent from the tainting touch of foreign policy considerations. AID's defenders assert that providing foreign economic assistance should serve as a poverty program rather than a support for vital U.S. interests. ACDA's champions believe that only its separateness will protect the Holy Grail of arms control. In fact, the secret agenda in all three cases is to insulate the sub-Cabinet agencies from effective control by the secretary of state, for fear that their respective missions will be "politicized." In this context, "politicized" means becoming consonant with U.S. national interests, which most Americans would simply take as a given, not as a problem.

Many who wish to preserve AID's separateness, such as Vice President Al Gore, do so because they support increased spending on international population control and environmental matters rather than fundamental economic policy reforms in developing countries. The vice president's preference for condoms and trees instead of markets notwithstanding, these policies will receive long-term political support in Congress only if they are tied to enhancing demonstrable U.S. foreign policy interests.

Changes in bureaucratic structures, however, do not require or even imply changes in budget levels or program priorities. Any such changes in these areas must stand or fall on their own merits, independently of which department or agency actually implements policies and programs. Disagreements on funding and program matters can be handled through the legislative amendment process, and will change over time in any event. Anyone who has actually served in the federal government knows that one of the few effective ways to capture the bureaucracy's attention is to threaten massive changes in its budget. Even so, efforts by opponents of reorganization to confuse structure and policy are simply obscurantist at best.

These are the tired arguments of inside-the-Beltway turf warriors. They deserve exactly as much weight as the voters gave to similar arguments on the domestic front in November. In fact, most breathtaking here is the opposition to reform agencies created up to 35 years ago, a pace that would imply roughly three bureaucratic reorganizations every century.

Nonetheless it is the centrality of enhancing the president's foreign policy authority that provides the inspiring vision to the reform proposals crafted by Rep. Benjamin Gilman, New York Republican, and Sens. Jesse Helms, North Carolina Republican, and Mitch McConnell, Kentucky Republican. Rising above the narrow political temptations occasioned by the split in control between democrats in the executive and Republicans in the legislative branches, they have crafted reorganization plans that transcend today's particular partisan wrangling. They have gained widespread support—including from distinguished career Foreign Service officers like former Secretary of State Larry Eagleberger. These may be sweeping proposals, but they are not extreme.

The reforms' directions, more-over, are decidedly internationalist in their implications. Reorganization opponents have repeatedly attempted to paint efforts to achieve sound policy-making and management as isolationist, but their ad hominem rhetoric is off the mark. By attempting to evoke dark memories of pre-World War II policies, they demonstrate that they are simply unable to appreciate why new international realities require new American structures.

It is precisely to make the United States more forceful, more dynamic and more adaptable that restructuring is so necessary. Thus, the real internationalists today in foreign affairs follow the lead of predecessors who were also not afraid of massive change in process and structure. Those internationalists who were "present at the creation" of U.S. policy and institutions in the aftermath of World War II would undoubtedly be cheerleaders for the reorganizations under discussion.

How the reorganizations are actually implemented and in what period of time they must be made operational are subjects for reasonable debate, as is the degree of flexibility the president and the secretary of state should be provided in reordering the combined agencies. Important as these questions may be, however, they are simply details in the larger vision of Messrs. Gilman, Helms and McConnell.

Moreover, no one should be confused that the proposals to fold USIA, AID and ACDA into the Department of State are preferred because of any illusion that the State Department is the unique repository of superior skill or efficiency. Phase two of the reorganization process should encompass a major re-examination of attitudinal, press and management issues within the department itself.

To step back now from the reform proposals out of timidity or indecision would be to miss an historic opportunity. Soon, the House of Representatives will complete consideration of the Gilman version of reorganization, where it deserves overwhelming approval, followed by immediate action by the Senate. What President Clinton ultimately does with the legislation when it reaches him will speak volumes about whether his "reinventing government" initiative is just one more disposable promise.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

COMPREHENSIVE REGULATORY REFORM ACT

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of S. 343, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 343) to reform the regulatory process, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Dole amendment No. 1487, in the nature of a substitute.

Domenici amendment No. 1533 (to amendment No. 1487), to facilitate small business involvement in the regulatory development process.

Levin (for Glenn) amendment No. 1581 (to amendment No. 1487), in the nature of a substitute.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, we are already in the second full week of this bill. It is an important bill and it does deserve the type of consideration that we have been giving to it, but we are, hopefully, coming to closure on it.

This is a very, very important bill to our society. I do not think there is anybody in this body that will not admit that our society is overregulated. In fact, some people think we are being regulated to death, that it will be the end of a great society, the end of the greatest country in the world if we keep going the way we are, if we have bureaucrats back here, who do not understand the problems out there, issuing ridiculous, silly regulations.

This bill is about common sense. It is putting common sense into the regulatory process. It does not mean doing away with regulations. This bill means we are going to have to use common sense in coming up with regulations. I think most Americans would agree the Federal Government is out of control, certainly in terms of the burdens that it places upon them and their small businesses in particular.

What this bill does is it requires governmental agencies to abide by rules and regulations that they issue that help rather than hurt our people. It will require the Federal bureaucracy to live by the same rules that Americans live by in their day-to-day lives.

Those rules are that the benefits of what you are telling people to do have to be justified by the costs of those benefits, the cost imposed because of the regulations.

The notion of common sense and accountability in rulemaking sounds like a radical idea inside the beltway, but it is really something people want outside the Washington beltway.

Americans are smothered, inundated. They are drowning in redtape in all aspects of their lives, and they are getting tired of it. They have asked us to get rid of the status quo and to get some reason into this system. This bill certainly does not mean the end of health concerns or safety concerns and it certainly does not mean the end of health and safety regulations. It just means they have to be regulations that make sense. They just cannot be imposed ad infinitum on top of American citizens without some justification for the regulations themselves.

We have seen on the floor of the Senate a lot of effort to maintain the status quo. That is at the same time that everybody prefaces their remarks with "the status quo is unacceptable." The debate this week is going to determine whether we stick with the status quo or whether we do some things that will really help our country and resolve some of these difficulties. We simply have to get rid of the silly, ridiculous regulations.

In that regard, let me give you my top 10 list of silly regulations. This will be list No. 7. I might add that all of these are from Utah constituents this time, but they apply across the country. I think you will find some similarities in each and every one of our States.

Silly regulation No. 10: Requiring a company, if they spill just 1 pint of antifreeze, to call the Coast Guard in Washington, DC, to alert them. That is silly.

Silly regulation No. 9: Purposefully releasing more water from a dam to create a flood-stage flow in order to help endangered fish, regardless of the farmland that was flooded as a consequence.

Silly regulation No. 8: Requiring a person who is on a 6-foot scaffold to be tethered to a fall protection device which is also 6 feet high.

I cannot help laughing at some of these. Some are so bad. This is what our people go through out there. The problem is, if you think about it, that the person with that 6-foot tether would already hit the ground before the device could save him.

Silly regulation No. 7: Requiring a company to hire an outside contractor to check emissions, in spite of the fact the company does it themselves every 8 hours.

Silly regulation No. 6: Refusing to approve a plan to divert a portion of a flow of water for stock watering, in spite of the fact that it would drain into the same basin. Further, the Bureau of Land Management, U.S. Forest Service, State engineer and Utah Department of Water Resources all approve of the plan.

Silly regulation No. 5: Requiring buildings built after the asbestos ban took effect to be inspected for asbestos, despite the fact they contain no asbestos. That is just typical of what is happening all the time. These are specific cases, but it is typical to require stupid, idiotic things just because the people back here are not willing to do what is right or use common sense.

Silly regulation No. 4: Requiring a company to use only hand tools if they want to replace a concrete ditch with an underground pipeline, despite warnings that the ditch may fail. This spring, the ditch did fail and flooded the whole surrounding area.

Silly regulation No. 3: Requiring a contractor to pay a person $55 an hour to walk in front of a back hoe to look out for the desert tortoise. People in southern Utah are just beside themselves. Can you imagine paying a person $55 an hour to walk in front of a back hoe to look out for the desert tortoise? Well, I admit, desert tortoises are wonderful creatures that ought to be preserved, but there is a limit, it seems to me, to this type of stupid action.

Silly regulation No. 2: Diverting water to aid the "Lady's Ute tress orchid," in spite of the fact that this will reduce the flow to a family farm with a decreed right to the water. No prior notice of the plan diversion was given to the family, nor were they made aware of the issuance of a wetlands permit for the plan.

I have to acknowledge that the Lady's Ute tress orchid, I am sure, is a beautiful flower, but I also think that that family farm is important, too. That just shows how ridiculous some of these rules and interpretations of the rules are.

Now let us turn to silly regulation No. 1: Requiring that a company submit a list to the fire department of all the ingredients in their fire proof bricks, sand, gravel, mortar, and steel. This semiannual report containing the list to the fire department of all of the ingredients of fire proof bricks, gravel, mortar and steel is about six inches thick. You wonder why people do not want to go into business today or put up with this. This is a perfectly good explanation why.

Well, to make a long story short, it is easy to see why Federal regulators—even the good ones—are held in disdain by our people out there. And there are good regulators, we know that. We know there is a need for good regulation. We know there is a need to have Washington operate in a careful fashion to protect health and safety and other things.

On the other hand, these types of interpretations of regulations and these types of regulations, I think, bring condemnation upon the people, on everybody, even those who are sincere and who do a good job.

Now, Mr. President, finally, I want to once again address the relative merits of S. 343 and the Glenn amendment. Last Friday, I stated that the Glenn amendment could be termed "reg lite," because it was a somewhat weaker version of S. 291, which was itself a product of compromise and, for that reason, unanimously voted out of the Governmental Affairs Committee under my good friend, Senator BILL ROTH. I noted that Chairman ROTH explained that S. 343 is a superior vehicle for achieving meaningful and effective regulatory reform that neither S. 291 or the Glenn substitute does. I also critiqued in some detail the Glenn bill's provisions and concluded that S. 343 is a far more effective mechanism for regulatory reform—that is, if you really want to do something about regulatory reform.

Last Friday, a modified Glenn amendment was introduced. This is a little bit stronger and moves a little bit closer to the Dole-Johnston bill by adopting a little more of S. 343's reform measures. The gap is narrowing. We appear to be moving closer together. Nonetheless, while imitation is the sincerest form of flattery, my original conclusion remains the same: S. 343 is a far superior vehicle for regulatory reform.

Let me first say that the Dole-Johnston bill is not a bill that simply requires agencies to perform cost-benefit analysis or risk assessment. It is a comprehensive regulatory reform measure that, for the first time in about a half century, reforms the Administrative Procedure Act.

These reforms, many of which were recommended by the Administrative Conference of the United States and the American Bar Association, are commonsense proposals that make the notice and comment requirements of the Administrative Procedure Act more productive. These reforms guarantee effective public participation in the promulgation of rules and assure that judicial review will be more effective. They provide fairness to the administrative process. And most are missing in the Glenn substitute.

More specifically, Dole-Johnston, amends section 553 of the Administrative Procedure Act by requiring, among other things, in the notice of proposed rulemaking in the rule's statement of basis and purpose:

First, a succinct explanation of the need for and specific objectives of the rule.

Second, a succinct explanation of the statutory basis for the rule, including whether the agency's interpretation is clearly required by the text of the statute and, if not, an explanation that the interpretation selected by the agency is within the range of permissible interpretations identified by the agency, and an explanation of why the interpretation selected by the agency is the preferred interpretation.

Third, a summary of the cost-benefit analysis required to be prepared pursuant to chapter 6 of this bill.

Fourth, a statement in the proposed stage of the rule that the agency will seek proposals from the public and local governments for alternative methods of accomplishing the objectives of the rulemaking.

Fifth, in the statement of basis and purpose, a discussion and response to any factual and legal issues raised by the comments to the proposed rule, including a description of all reasonable alternatives to the rule raised by the agency and the commenters, and the reason why such alternatives were rejected.

All of these statements and explanations must be part of the rulemaking file and, along with factual and methodological material supporting the basis of the rule, made available to the public for inspection and copy.

These requirements are absolutely essential for regulatory reform. They assure that the public has the needed information to cogently comment on—or challenge—the rule. They also assured that the courts have the needed information to effectively review the factual and legal underpinnings of the rule.

To be sure, without these requirements—and the requirements of section 622 that all reasonable alternatives facing the agency in rulemaking be identified—judicial review of cost-benefit analysis is effectively impossible.

How can there be review of whether cost justify benefits if all the relevant factors facing the agency are not fully disclosed? The absence of such requirements are a fatal weakness of the Glenn substitute.

I also want to point out that these requirements are hardly controversial. These rulemaking requirements were all endorsed by the American Bar Association, and the American Bar Association has correctly criticized the Glenn bill for not containing these needed reforms.

The fairness provisions of Dole-Johnston also constitute significant reformation of the administrative process. They include section 707, the reform of consent decree provision.

This section assures that consent decrees are not construed in such a way as to limit agency discretion to protect the rights of innocent third parties or to respond to changing circumstances. All too often, particularly in environmental enforcement actions, sweetheart consent decrees are entered into by agencies and special interest environmental groups that impinge on the rights of innocent third parties and implement the political agenda of those special interests. The Glenn bill contains no equivalent provision.

Section 708 is another one of these fairness provisions. This provision prevents impaling the regulated public on the horns of a dilemma. An affirmative defense is provided in any enforcement action where a regulated party faces compliance with contradictory or inconsistent regulations. Who can argue with this fairness provision? I guess the sponsors of the Glenn substitute can because it is, again, absent from their substitute, from their bill.

The sponsors of the Glenn bill are also AWOL in not including the final of these fairness provisions—section 709. This provision was originally in the Judiciary Committee version of S. 343 and was unanimously restored to the bill, 80 to 0, by amendment introduced by Senator HUTCHISON last Friday. It prevents the imposition of criminal penalties or civil fines in a situation where parties reasonably relied on a long-standing position of an agency, and the agency tries to retroactively enforce a new interpretation of law or policy. This administrative ex post facto provision is a codification of a fundamental precept of justice dating back to Magna Carta; yet, it is missing from the Glenn substitute.

Besides Administrative Procedure Act reform, the Glenn substitute does not contain certain critical elements of regulatory reform. Perhaps the most important missing element is Dole-Johnston's "decisional criteria" section 624. This section is the heart of Dole-Johnston and constitutes a far more sophisticated and efficacious approach to assuring the compliance with cost-benefit analysis and risk assessment requirements than does the Glenn approach.

First of all, this decisional criteria section mandates that no rule shall be promulgated unless the rule complies with this section—624. That requirement will act as a hammer to assure agency compliance with the standards set forth in the decisional criteria section 624 of S. 343.

Some will say this is overkill, that agencies will abide by cost-benefit standards without section 624's hammer. Yet, every President since President Ford, including President Ford, right up to the current President, President Clinton, have issued Executive orders on regulations. And President Clinton's Executive order on regulations contains a hammerless cost-benefit analysis requirement, which is why it is routinely ignored by all of his Federal agencies and OMB, the Office of Management and Budget.

According to an April 1995 study by the Institute for Regulatory Policy, of the 222 major EPA rules issued from April to September 1994, only six passed cost-benefit analysis muster.

The rest were promulgated anyway. So we see there is a need to assure agency compliance, because when they will not listen to their own President, or their own Presidents through the years, imagine how they will not listen to us if we do not go into a compliance process together.

Of the 510 regulatory actions published during this period, this period of April to September of 1994, 465 were not even reviewed by the Office of Management and Budget; and of the 45 rules that were reviewed, not one—not one, not a single one—was returned to the agency for having failed the obligatory cost-benefit analysis. They call this regulatory reform?

Moreover, section 624 not only requires, like the Glenn substitute, that "benefits of the rule justify the costs of the rule," but unlike the Glenn substitute, it also requires that the rule must achieve the "least cost alternative" of any of the reasonable alternatives facing the agency, or if the "public interest" requires it, the lowest cost alternative taking into consideration scientific or economic uncertainty or unquantifiable benefits.

Now, this does two things. No. 1, it assures that the least burdensome rule will be promulgated; No. 2, that agencies are not straitjacketed, when facing scientific or economic uncertainties or benefits that cannot be quantified, into promulgating a rule based on an option that is only the least costly in the short-term. In the latter situation, agencies may explicitly take these factors into account when considering the least cost alternative when promulgating a rule.

What about the effect on existing law? Section 624 of 343 provides that its cost-benefit decisional criteria "supplement" the decisional criteria for rulemaking applicable under the statute granting the rulemaking authority.

This supplement requirement is applicable except when an underlying statute mandates that a rule to protect health, safety, or the environment be promulgated, and the agency rule cannot, applying in the standard in the text of the statute, satisfy the cost-benefit criteria of section 624.

In such a case, the agency taking action may promulgate the rule but must choose the regulatory alternative meeting the requirements of the underlying statute that imposes the lowest cost. In this way, agencies are given great latitude in promulgating cost-effective rules. Thus, S. 343 strongly supplements existing law but does not embody a supermandate.

This was made absolutely clear in a bipartisan amendment adopted last week. In contrast, the Glenn amendment only requires agencies to justify costs in those situations where such requirement is not expressly or implicitly "inconsistent with" the underlying statute. This allows agencies to select any costly or burdensome option allowable under the underlying statute.

What about judicial review? Could it not be argued that while Glenn does not contain a decisional criteria section, forcing agencies to abide by cost-benefit analysis and risk assessment criteria, its judicial review provision assures that agencies will comply with that bill's albeit weak cost-benefit analysis requirement. The answer is, unfortunately, no.

While both S. 343 and the Glenn bill basically only allow for administrative procedure action "arbitrary and capricious" review of the final, and not independent review of a cost-benefit analysis and a risk assessment, the Glenn judicial review section contains a provision that perhaps inadvertently could be construed to prohibit a court from considering a faulty cost-benefit analysis or risk assessment in determining if a rule passes arbitrary and capricious muster.

That provision expressly states that "if an analysis or assessment has been performed, the court shall not review to determine whether the analysis or assessment conform to the particular requirements of this chapter."

This means that a poorly or sloppily done cost-benefit analysis or risk assessment could avoid judicial scrutiny even if material to the outcome of a rule, because the Glenn judicial review section literally states that the bill's "requirements" for analysis and assessment are not reviewable.

Now, that is serious. That is a critical difference on the judicial review aspects of these two approaches, S. 343 and the Glenn substitute amendment.

Another significant reform contained in S. 343 but missing in the Glenn bill is the petition process. While critics of S. 343 contend that the bill's petition processes are too many and overlapping, I believe that the bill's petition provisions are workable, not at all burdensome, and empower that part of the American public affected by existing burdensome regulations to challenge rules that have not been subject to S. 343's cost-benefit analysis and risk assessment requirements.

For instance, in section 623, the requirement for agency review of existing rules, the petition provision allows for either placing the rule on the agency schedule for review, or in effect to accelerate agency review of rules already on the agency's schedule for review. The petitioner has a significant burden to justify that the requested relief is necessary. I might add that this provision was a product of negotiations between Senators KERRY, LEVIN, BIDEN, JOHNSTON, ROTH, NICKLES, MURKOWSKI, BOND, DOLE, and myself.

One other petition provision that I want to mention is section 629, which allows for the petitioner to seek an alternative means to comply with the requirements of a rule. This allows for needed flexibility that will save industry untold amounts of money and having to comply with sometimes irrational requirements, without weakening the protection of health, safety, or the environment.

In this way, agencies are given great latitude in promulgating cost-effective rules. In this way, agencies can do a better job.

Moreover, the following provisions of S. 343 are much better than their counterpart provisions in Senator GLENN's.

Risk assessment provisions: S. 343 applies its risk assessment and risk characterization principles to all agency major rules. The Glenn amendment, by sharp contrast, limits even the applicability of the risk assessment and risk characterization principles to major rules promulgated by certain listed agencies and it contains no decisional requirements for risk assessments.

Emergency provisions: The Dole-Johnston bill contains exemptions for imposition of the notice and comment, cost-benefit analysis, and risk assessment requirements. When an emergency arises where a threat to public health and safety arises, these provisions would allow for a rule that addresses these concerns to promptly go into effect. There is absolutely no delay. The government can protect our health and safety in all of these cases, including the red herring of E. coli. The Glenn substitute, on the other hand, only contains one exemption, and that is for risk assessments.

As I pointed out last Friday, this contains an element of irony. The supporters of the Glenn measure have complained endlessly how S. 343 would prevent the agencies from protecting the public from E. coli bacteria present in bad meat, or cryptosporidium in drinking water, and have screamed that rules addressing these problems be exempt from S. 343.

Of course, S. 343's emergency provisions adequately deal with the problem. But Glenn does not. There is not even similar language.

Where are the equivalent provisions in the Glenn substitute? Does the Glenn substitute exempt these types of rules from cost-benefit analysis? No. It is apparent, Mr. President, that the Dole-Johnston measure is a superior vehicle for regulatory reform. I ask my colleagues to vote against the Glenn "reg lite" bill and support the real thing. I yield the floor.

The PRESIDING OFFICER (Mr. JEFFORDS). The Senator from Ohio.

Mr. GLENN. Mr. President, last week I took the floor to reply to some of the top 10 silly regulations that the Senator from Utah had brought up last week. We found, upon investigation, that of some of those silly regulations last week there were, probably a good half of them, I do not know the exact number, but probably half of them I gave responses to that showed that the so-called silly regulations were not regulations at all and were, in some cases, municipal or State regulations that were being somehow tossed over into the Federal bailiwick of responsibility. And I gave real details on that, and it caused considerable concern on the other side of the aisle, I understand.

I do not know the regulations that were cited this morning, how they originated or what their backgrounds are, but I hope we have better substantiation for the ones given this morning than we did for the ones last week. If we wish to take up our time here going through those, we can do that again like the ones that were put in last week. But we found in many of the cases mentioned they were not Federal regulations at all. There was no requirement in Federal law for some of the things that Federal regulators were being credited with doing.

So what we are trying to do is bring some common sense to this regulatory process. I have said many times during this debate, regulatory reform is probably the most important issue we will take up this year, outside of the actual appropriations bills, because it affects every person in this Chamber today, whether on the floor, in the gallery, every person outside, every man, woman, child, every business, every organization across the whole United States of America. So regulatory reform is one of the most important items.

The American people want regulatory reform. I want regulatory reform. I believe the vast majority of Members of Congress do. I do not know of anybody who does not want regulatory reform. When we go back to our States, the horror stories we hear every time are about some of the rules and regulations that are too heavy-handed and too intrusive, so we need to correct those things. The question is, how will we correct them? If we are drowning in red tape, how do we correct it?

I have made no effort to retain the status quo, in spite of what was said this morning. Quite the opposite. I do not want to retain the status quo. That is the reason why we worked 2½ years on the Governmental Affairs Committee to try to get responsible regulatory reform legislation ready. We have heard a lot of talk about specific instances of regulatory excess. And, as I have pointed out, many of these stories are just factually not true. But even for those that may be true, let us make sure that the medicine we prescribe is not worse than the illness we want to cure. Individual instances of excess do not justify bogging down our Government with equally excessive bureaucratic procedures and litigation, and that is what I fear the proponents of S. 343 are giving us.

Instead of making Government more cumbersome, more bureaucratic, and more expensive, we should be working to make the regulatory process more effective, more efficient, and less burdensome. Regardless of our debates about process, about how Federal agencies should make decisions, we must not forget what the process is all about. The regulatory process is about protecting the public interest. It is about implementing the laws that we in Congress pass. It is about providing for the common good, protecting public health and safety, preserving the environment, and making this country a land of opportunity for all and, at the same time, correcting regulatory excesses to make sure that those just do not happen. That is a balance. It is a balance that we have to seek and it is a balance that I think we have addressed in S. 1001, which was laid down last Friday afternoon.

That is why, as we debate how to reform the regulatory process, we must ask ourselves two essential questions—basically what I stated a moment ago. First, does the bill before us provide for reasonable and appropriate changes to regulatory procedures to eliminate unnecessary burdens on businesses and individuals and organizations and everyone all over this country? And, second, does the bill maintain our ability to protect the environment and the health and the safety of our people? In other words, does the legislation strike an appropriate balance? That is what we have to find in this debate—is the balance.

If we find the proper balance, there will be broad support for this effort. However, if we produce a bill that relieves regulatory burdens but threatens protections for the American people in health and in safety or the environment, the legislation should be opposed.

Today we will focus our debate on two bills, the Dole-Johnston substitute and the Glenn-Chafee substitute to that substitute. Both will transform the regulatory process, but I am convinced that the Dole-Johnston substitute goes too far. I believe that only the Glenn-Chafee substitute will reform the regulatory process in a way that meets my tests just outlined. The Glenn-Chafee bill will relieve burdens and maintain an efficient and effective process to protect public health and safety and the environment.

Before I discuss the differences between the two bills, I want to review the debate of last week, because I believe that this past week's debate alone, just standing by itself, makes the case for the Glenn-Chafee substitute.

Proponents of the Dole-Johnston substitute have repeatedly stated that their bill is a good bill, that their bill went through a long process of improvement before coming to the floor, and that it is ready for enactment. But I believe our activities on the Senate floor last week proved otherwise. When confronted with the challenge that their bill would threaten important health and safety rules—impending rules, now, not just something thought about for the future, but important pending health and safety rules such as those for food safety, drinking water, mammograms—the proponents of Dole-Johnston first denied that their bill would compromise those regulations. Then they tried to add general and symbolic exemptions just in case, like the sense-of-the-Senate resolution that was supposed to be a substitute for the Boxer amendment protecting mammogram rules. But when all the votes were done, we see that they voted against meat and poultry inspection rules, putting the American people at risk due to the dangers of E. coli and other foodborne diseases; and that they voted against drinking water safety rules. But we see that they voted for mammogram rules and for child poisoning protection rules.

I do not think my colleagues value food and drinking water safety less than women's or children's health. What I really think is that the proponents of the Dole-Johnston bill have yet to come to terms with the fact that their bill fails my test. It may reduce regulatory burdens—it will do that—but it will also jeopardize public health and safety and the environment. In other words, it does not hit the balance that I spoke about earlier.

They say their bill will not harm the public but they are not really sure. I am sure that the Glenn-Chafee substitute will protect the public and reduce regulatory burdens, and I say we should support that Glenn-Chafee substitute.

When it came time last week to discuss the effect of their bill on the implementation of current laws, again we saw confusion and uncertainty. Throughout the negotiations, prior to coming to the floor, and during the first hours of debate, the proponents again and again denied that their bill contained a supermandate—that is, a prevision that would have economic cost-benefit analyses override other statutory requirements if there was any conflict between the two.

Those other statutory requirements are things like clean air, clean water, and worker safety. Even so, they refused to add language to clearly state that assertion, that in a case of a conflict between the cost-benefit test and the statutory requirement, the underlying statute would prevail. In other words, there would not be a supermandate that said: If there is a conflict, that the earlier law would be knocked out. Their provision would have provided that, if there was a conflict between the rule that came up and a previous law passed by the Congress, signed by the President, and in effect all over this country, the underlying statute could be knocked out by a regulation.

Finally, on the floor an amendment appears from the proponents to do just that, to say that if there is a conflict between the cost-benefit test and the statutory requirement, that the underlying statute would prevail. Again, I have to ask why was the Dole-Johnston bill brought to the floor in the form it was? The proponents insisted it was in fine shape and provided just the right amount of reform, but when pressed on the floor, their arguments went both ways and the weaknesses of the bill, their bill, were revealed.

When it came time to discuss what their bill covers, again we saw confusion and inconsistency. Their bill provided the proper threshold, they said—a major rule should be a rule with an annual effect of $50 million or more. On Monday, the first day of debate, that threshold was, however, lowered even further with the addition of significant, what are called significant rules, under the Regulatory Flexibility Act. This will add between 500 and 800 rules to the agency cost-benefit process. This was an incredible expansion of coverage. It could quadruple the number of rules that agencies have to put through detailed analysis.

The very next day an amendment was passed, which I supported, to raise the threshold from the $50 million figure to $100 million. But the problem is that the amendments are inconsistent. It makes no sense to say that we have restricted the scope of the bill to a more reasonable threshold—$100 million overall economic impact on the country—when the threshold at the same time had just been lowered to include hundreds and hundreds and hundreds of more rules.

I simply do not understand how my colleagues can think that agencies in a time of falling budgets and full-time employees—FTE's—will be able to effectively perform the duties that we give them. Yes, you have to remember that we in Congress passed the laws that require agency action. I add that some 80 percent of the regulations written are required in the laws that we sent over to the agencies to have the regulations written.

Now those agencies will have to spend scarce resources on analyzing rules that do not have a significant impact on the Nation as a whole. This is simply a mistake. They cannot do something with nothing. We are cutting their budgets with fewer full-time employees and at same time loading them up with new policies that must be done, new analyses—that I favor but not the expansion that was done on the floor—in the numbers of overall reviews that have to be made. We need to stick with the higher threshold, and that is it. That is manageable.

Agencies need to be more sensitive to the burdens that Government places on small business. I also add that is what the Regulatory Flexibility Act is all about. Thinking that businesses somehow are being overregulated is not something new. We passed the Regulatory Flexibility Act I believe back in 1972 or 1973. It was supposed to address some of this problem.

Let me repeat that agencies need to be more sensitive to the burdens that Government places on small business. That is what the Regulatory Flexibility Act is all about. But requiring agencies to go through lengthy analyses for nearly every rule that comes under that act is just too much. We will end up with a Government that spends more money and more time, and has less and less to show for it.

If the proponents of Dole-Johnston are trying to make it much harder to issue regulations, regulations that we in Congress often require—require as much as 80 percent of the time—then this is the way to do it. If they want to make it harder to issue rules that protect the health and safety of the American people, this is the way to do it.

Let me just observe that two major supporters of the Dole-Johnston substitute, Senator JOHNSTON and Senator ROTH, did not support the expansion of the bill to cover regulatory flexibility rules. So I hope we can still address this problem in a reasonable way and maybe work out something on that before we come to a final vote on this legislation.

Finally, let me mention the issue of sunshine. On Thursday, my amendment to the Dole-Johnston substitute to provide for sunshine in the OMB regulatory review process was accepted. I was very happy that amendment was accepted. It was not just passed by a vote. It was accepted unanimously. That was very good because it shows support for an important component of reasonable regulatory reform. This sunshine provision came from the bipartisan Governmental Affairs Committee bill, the bill sponsored by my good friend from Delaware, Senator ROTH. The provision is also contained in the Glenn-Chafee bill.

The problem is that for the last 2 months we have repeatedly urged those Senators involved in crafting the Dole-Johnston substitute to incorporate that sunshine provision. Despite our requests we were turned down at every turn. The latest rejection came last Wednesday, July 12, when we finally got a response to our June 28 list of 9 major and 23 minor issues with the Dole-Johnston bill. We were told then that we would have an answer. We do not have a full answer yet. But we did get a response to our June 28 list of 9 major and 23 minor issues with the Dole-Johnston bill. But then the next day, on Thursday, July 13, when confronted with the sunshine provision as an actual amendment, suddenly it was fine. Suddenly it was acceptable.

I have a lot of respect for the intelligence and good faith and legislative abilities of the proponents of the Dole-Johnston substitute. I must admit I do not understand the thinking that goes into developing a legislative proposal of such great complexity and far reaching impact in a closed room dismissing compromise proposals out of hand and insisting that the bill should be passed, and then on the floor accepting some of the very proposals that were earlier rejected all the while maintaining that no changes are needed.

I have not changed the stand I took, along with Senator ROTH and our other colleagues in the Governmental Affairs Committee 3 months ago. I believe we had a tough but workable regulatory reform bill in S. 291. That bill provides the basis for the Glenn-Chafee substitute that I think should be supported now. So my position has not changed. Of course, there is always room for improvement in any bill. We modified Glenn-Chafee to reflect improvements that we have seen over the last several weeks. But on the basic provisions of the bill, my position is clear. It has been consistent.

With the proponents of the Dole-Johnston substitute I think the story is different. I believe the truth is they are finally realizing that their bill is flawed, weighted with ill-thought-through provisions that will frustrate the very reform that they say they want to accomplish.

I believe my colleague from Louisiana, Senator JOHNSTON, has accomplished significant changes in S. 343 in the month or so that he has been working with the majority leader and the Senator from Utah, Senator HATCH. I also believe Senator JOHNSTON deserves a great deal of credit for his commitment to regulatory reform, and for his tireless efforts to improve S. 343. He has been involved in regulatory reform for a number of years, and that has had pieces of legislation passed here on the Senate floor before. But if nothing else, his constant presence on the floor over the last week, and the detailed personal knowledge he has of the bill, shows his commitment and expertise. I certainly commend him for his effort. I believe the product, though, is still flawed, too unwieldy, too unworkable to provide the reform that we all believe is necessary and needed for the regulatory process. I think last week's debate highlighted a number of these differences.

To bring the debate to the present, I would like to describe the major differences that I see between the Dole-Johnston bill, as modified this past Friday, and the Glenn-Chafee substitute.

The Dole-Johnston substitute is based on the Judiciary Committee's bill that emerged from a divisive committee proceeding that was cut short before the bill could be fully debated. The Glenn-Chafee substitute is based on the Governmental Affairs Committee's unanimous bipartisan legislation. S. 291 which was sponsored by Senator ROTH, the chairman of our committee, and fully debated in committee. Nothing was cut short there. It was fully debated before it was voted out with eight Republican votes and seven Democrat votes. It was a unanimous committee vote.

An examination of the two committee reports shows the differences between those two bills. The Governmental Affairs report had a unanimous bipartisan discussion of a tough but workable approach to regulatory reform. The Judiciary report is divided and filled with divergent views, and they have never been reconciled yet.

I believe that these two reports tell us why we are in the posture we are in today. Instead of choosing the path of bipartisan dialog and cooperation, the proponents of S. 343 chose to push ahead with what I view as an extreme bill. All the effort of Senator JOHNSTON to moderate that bill—and again he has accomplished much—has not altered the fundamental nature of that bill. As I have said previously during this debate, the result is a bill tailored to special interests, and is a lawyer's dream. It does not, in my view, meet the goals of at the same time protecting health and safety or of having a more effective and efficient Government.

Yes, we want agencies to have more thoughtful and less burdensome rules, but we also want agencies to be effective. The American public does not want the Federal Government to be more inefficient or to have important public protections delayed or bogged down in red tape, delay and courtroom argument. That is why Senator CHAFEE, myself and several others offered an alternative bill just before the last recess, and it was laid down here before the Senate last Friday as a substitute.

Our substitute bill, S. 1001, is based on that same Governmental Affairs Committee bill, S. 291, that was reported out with full bipartisan support. It provides for tough but fair reform. It will require agencies to do cost-benefit analyses and risk assessments, but it will not tie up all their resources unnecessarily. It does not provide for special interest fixes, and it does not create a lawyer's dream. It provides for reasonable, fair, and tough reform.

Since introducing the bill, we have incorporated additional changes to reflect agreed upon improvements arrived at during negotiations and debate on the underlying bill.

This is a very complex matter. We do not necessarily claim we have the very last word on every detail, and we look forward to suggestions for improvement. We do think our approach is much more workable than the Dole-Johnston substitute and that our substitute provides the better approach for reform.

Now, that is a little bit on the background, and that brings us to today. After a week of debate and amendments as well as the negotiations that preceded floor action, the Dole-Johnston substitute has been modified in a number of ways. There are, however, major issues that still distinguish the two bills and recommend support for the Glenn-Chafee substitute.

In my mind, there are five major areas of difference remaining. First is the issue of how agencies should use regulatory analysis. We believe that agencies should be required to perform risk assessments and cost-benefit analyses for all major rules. These analyses should inform agency decisionmaking—inform agency decisionmaking. They should not unilaterally control those decisions and impose least-cost solutions to every problem. Let us put some common sense into this process. We should not unilaterally control those decisions and impose least-cost solutions to every problem.

Second is the question of look back. We believe that agencies should review existing rules, those that have been in effect, some for a long time, but their reviews should not be dictated by special interests or lead to wasteful litigation.

Third is a matter of judicial review. The courts should be used to ensure that final agency rules are based on adequate analysis. Regulatory reform should not be a lawyer's dream with unending ways for special interests to bog down agencies in litigation.

Fourth is the concern about special interests. Regulatory reform should provide a new, across-the-board process for Federal agency decisionmaking. It should not provide program fixes for special interests.

Fifth is the implementation of the new reforms. In a nutshell, this is the issue of effective date. More broadly, however, it involves the question of whether we want to implement reforms in a way that improves Government decisions or whether we want to impose new requirements in order to frustrate decisions, create more delay, waste resources, introduce uncertainty, and open up new avenues for litigation. I believe that implementation of the Glenn-Chafee substitute will improve decisionmaking and reduce burdens on the American public. The Dole-Johnston substitute, on the other hand, has the potential to create problems, cost money, and harm the public interest.

If we could resolve these five sets of issues, we could establish for the first time a governmentwide comprehensive regulatory reform process. This process would produce better, less burdensome, and fewer regulations. It would also provide the protections for the public interest that the American people demand of their Government and that they have a right to expect from their Government.

S. 343 does not follow these principles. Instead, it does special favors for a special few. In so doing, it creates a process that will delay important decisions, waste taxpayer dollars, enrich lawyers and lobbyists, undermine protections for health, safety, and the environment, and further erode public confidence in government.

Now, let me talk about each one of these five major issue areas. The first issue is the question of the use of regulatory analysis. We believe that agencies should perform risk assessment and cost-benefit analyses for all major rules. As I have already said, the threshold for a major rule should be a $100 million economic impact. If it includes more rules, as the Dole-Johnston substitute now does, it will fail its own cost-benefit test, and we will just waste Government resources instead of reforming Government. Once undertaken, the cost-benefit analyses and risk assessments should be used to inform agency decisionmaking.

We all agree that regulatory decisions will be improved if Federal agencies routinely use consistent economic and scientific analysis to test their proposals. The question is, should that analysis control agency decisions, as under the Dole-Johnston approach, by requiring that the agency choose the least-cost solution to every problem—the least-cost solution to every problem.

We had examples last week in the Chamber. If something costs $2 more but saves 200 lives, would it be worth that excess cost? Yes, it would. Right now, you could not do that, as this is worded, as I understand it. You have to have a least-cost solution.

I simply do not believe we always want the agencies to take the cheapest path to implement our laws. What if that alternative that costs $2 extra saves 200 lives? Do we say pick the cheapest; do not look at the benefits of the alternatives before you? That is what S. 343 does.

What if the cheapest alternative imposes more costs on State and local governments? Or what if it imposes more costs on small business, or a specific region of our country, a certain section of our Nation? Do we want to stop agencies from considering such distributional effects?

I think we have to let agencies use common sense. We keep saying that is what regulatory reform is all about. If so, then agencies should be able to choose the most cost-effective approach—the cost-effective approach we use in the Glenn-Chafee bill, looking not just at cost but also at the benefits. Remember, if for some reason we in Congress do not agree with the agency's solution, the congressional review provisions of both bills, S. 343 and S. 1001, allow us to rescind that rule by bringing it back to Congress for further action. That is something that has not been done in the past. We have that provision in both of these bills. So should we not create a process that allows for good decisions and a way to catch the bad ones rather than to create a process that ensures there probably will be bad decisions in the first place?

The Glenn-Chafee substitute requires the analysis of costs and benefits. It requires agencies to certify whether benefits justify the costs and to explain if those benefits do not justify the costs. In other words, Glenn-Chafee uses cost-benefit analysis to improve decisions, but it does not give important decisions over to a mechanical economic analysis. Too much is at stake with Government decisions to simply rely on a least-cost approach to protecting the public interest.

Let me point out here that the Dole-Johnston substitute also creates confusion with its Regulatory Flexibility Act decisional criteria. Section 604 is amended by adding a requirement that agencies not issue a rule unless it minimizes the economic impact "to the maximum extent possible" on small entities; that is, small businesses, State and local governments, and other small organizations.

The least-cost-alternative test in this minimal impact test will probably conflict quite often. Least cost overall may often involve more than the lowest cost possible for small entities. As brought to the floor, the Dole-Johnston substitute simply did not address this inherent contradiction. As now amended, there is something of a fix. Agencies are to explain whenever the tests are in conflict but can go forward. My personal opinion is this is still not enough.

To create a standard for government-wide rulemaking that says, "Choose the alternative that is the absolute cheapest for small business and other small entities," is to me to turn away from common sense, away from traditional notions of administrative law and reasoned decisionmaking and to create a lengthy analytic process that, again, is geared to the cheapest solution, not the most cost-effective solution.

The Regulatory Flexibility Act was designed to ensure that agencies consider more flexible and less burdensome alternatives for small entities. The Dole-Johnston substitute would turn that important purpose around and let it govern decisionmaking. I am all for looking out for the interest of small business and State and local governments, but American public interest is broader than that. Protecting public health and safety and the environment, for example, requires a broad view of what works best for the Nation as a whole, not just for some.

That brings us back, once again, to the issue of balance that we are looking for.

The second major issue is the question of look back. We believe that agencies should review existing rules, but their reviews should not be dictated by special interests or lead to wasteful litigation. Regulatory reform is not just about improving new rules. It must also look back and help existing rules, existing laws that currently govern so many activities in our country. So we all agree that agencies should use cost-benefit analysis and risk assessment to look back and review existing regulations to eliminate outdated, duplicative and unnecessary rules and to reform and streamline others.

This process should be fair and open with plenty of opportunity for public comment, so that those who are interested in particular rules can make their concerns known to the agency. But this review should not be dictated by special interests, and I believe this is what would happen should the Dole-Johnston substitute become law. It would create a number of petition processes. That is an innocuous sounding phrase, "petition processes." It would create a number of petition processes that has the potential of gridlocking agencies and putting special interests and the courts, not the agencies and the executive branch, in charge of the review.

The Dole-Johnston substitute uses a petition process to put rules on a schedule for review, and if the agency grants the petition, it has to review the rule in 3 years, which is a very short timeframe for such matters. If it fails to review the rule in that time, the rule automatically sunsets, goes out of existence. It just automatically sunsets. This process, it seems to me, puts the petitioner in the driver's seat, not the agency or the Congress who passed the law in the first place. It also creates a process more prone to just killing regulation than creating a thoughtful, balanced review of regulations.

In addition to the review petitions, the Dole-Johnston substitute has several other petitions for "any interested party" to challenge an agency on any rule, not just major rules. This is another example of the lawyer's-dream approach taken under this bill.

People could petition for the issuance, amendment, or repeal of any rule. They could petition for the amendment or repeal of an interpretive rule or general statement of policy or guidance, and they could petition for the interpretation of the meaning of a rule, interpretive rule, general statement of policy or guidance. That is a mighty big list of things that could be petitioned under S. 343.

Just to add to the confusion, the bill also has a separate section, section 629, for petitions for alternative compliance. Any person subject to a major rule can petition an agency to modify or waive the specific requirements of a major rule and to allow the person to demonstrate compliance through alternative means not permitted by the rule. In addition, it adds yet another petition process in section 634 so that interested persons may petition an agency to conduct a scientific review of a risk assessment.

Each agency decision on every one of these petitions, except that petition for alternative compliance, is judicially reviewable. What a dream for lawyers. At any step along the way, in other words, they can bring a suit for any one of the list of things I mentioned. All of these petitions and reviews add up to one of the worst parts of this bill. It is a formula for true gridlock. Agencies will have to spend enormous resources responding to each other and every petition. Then they can be dragged to court if they turn down a petition.

So I do not feel this comes close to being real regulatory reform. This is regulatory and judicial gridlock, and this is the way to keep the agencies from doing their jobs and to keep lawyers happy and, I would add, extremely prosperous. This bill would make all the rhetoric about tort reform a big joke, except in this case judicial gridlock means the health and safety of the American people would be jeopardized.

Mr. President, I think sometimes people think that a regulation is put out by the agencies with a little bit of effort and very few people involved. They do not understand why the delay and why they are so complex. We gave an example on the floor the other day.

Just one regulation pursuant to the Clean Water Act that dealt with some of the metal fabricating areas, just one regulation covers, now that it is in place and it has been finalized, covers 123 feet of shelf space. That is a pile of documents from the well, right here in the Senate, to the ceiling, which is 42½ feet, we found out from the Capitol Architect. That is three piles of documents from the well to the ceiling. Three piles of documents to implement one regulation, and under the Clean Water Act there are hundreds of regulations like that.

So we are not talking about something that is just a little thing—well, we can just throw that over at the agencies and they can handle that OK, they can grind these out OK. That was one regulation written to a small part of what was addressed in the Clean Water Act.

So these are not small things. When we talk about upping the cost for each regulation that would have to be written by some $500,000 to $800,000, I think is what the estimate was made last week on the floor, and we had testimony before the committee at one time that each regulation averages out, or can average out, around $700,000 per regulation to get it implemented.

We begin to see that this is no small matter. Now, these petitions that we were addressing here—each agency decision on every one of these petitions, except that petition for alternative compliance I mentioned, is judicially reviewable. That is an absolute dream for the lawyers. All of these petitions and reviews add up to one of the worst parts of the bill—that is, it is a formula for true gridlock. Agencies are going to have to spend enormous resources responding to each petition. They can be dragged to court if they turn down a petition—just a petition. It does not come close to being real regulatory reform. It is regulatory and judicial gridlock. It opens up to those who would thwart a particular piece of regulation that might be in the public good. They can thwart it and stop it dead in its tracks by keeping it in court. So this is a way to keep agencies from doing their jobs and to keep lawyers happy and prosperous. So all this tort reform becomes a big joke if this type of thing goes into effect.

Now, while the Dole-Johnston substitute creates a recipe for gridlock, the Glenn-Chafee approach provides a workable process of review. Every 5 years, agencies will have to produce a 10-year schedule of rules to be reviewed. Opportunities for public comment will identify rules that the agency may not think is pressing. While there is no petition process or judicial review, our process allows Congress to add rules to the agency schedule. In other words, if we think their priority review of existing rules and regulations is not what it should be, Congress can add rules to that agency's schedule.

Now, I must admit that I am not 100 percent happy with using the annual appropriations process, as we are proposing, to amend these schedules. I would be happy to consider alternatives. But the critical point is that we provide for amendments to the review schedules without bogging down agencies into the lengthy petition and judicial proceedings created under Dole-Johnston.

I think that is the key point. We want review. We want a review that is sensitive to the complaints of people covered by the rules, but we do not want gridlock. We want Government to keep working so that we can have more effective and more efficient protections of public health and safety and the environment.

The third major issue that distinguishes the Dole-Johnston substitute from the Glenn-Chafee substitute involves judicial review. The courts should be used to ensure that final agency rules are based on adequate analysis. Regulatory reform should not be a lawyer's dream, with unending ways for special interests to bog down agencies in litigation. We firmly believe in the courts' role in determining whether a rule is arbitrary or capricious. The Glenn-Chafee substitute authorizes judicial review of determinations of two things—whether a rule is major and therefore subject to the requirements of the legislation. Also, it allows review of the whole rulemaking record, which would include any cost-benefit and risk assessment documents.

In other words, it allows review of the final rules at the final stage before that can be taken to court to see whether all of the requirements of cost-benefit and risk assessment have been provided. We should not, however, provide unnecessary, new avenues for technical or procedural challenges that can be used solely as impediments by affected parties to stop a rule. Courts should not, for example, be asked to review the sufficiency of an agency's preliminary cost-benefit analysis, or the use of particular units of measurement for costs and benefits.

While courts have a vital role to play, they should not become the arbiters of the adequacy of highly technical cost-benefit analysis or risk assessment, independent of the rule itself. Thus, Glenn-Chafee clearly states that "if an analysis or assessment has been performed, the court shall not review to determine whether the analysis or assessment conformed to the particular requirements of this chapter, section 623(D)."

I believe the way the Dole-Johnston substitute is currently drafted that lawyers and the courts will get into the details of a risk assessment or cost-benefit analysis. I think that is a mistake. From what I understand, there has been a great deal of discussion about this issue, and I believe many of us want the same result. The question is how to get there from here. Leaving the language as ambiguous as it is now is unacceptable. That is just an invitation to litigation.

With all of the attention to the question of to what extent might the courts get into the details of cost-benefit analysis and risk assessment, we have not discussed enough the amendments that the Dole-Johnston substitute makes to the Administrative Procedure Act. I am not a lawyer, but I know that with every statute we pass, the courts slowly, over the years, develop a body of case law that interprets each statute. The APA is no exception. It was enacted in 1946 and, to a great extent, it has been given more meaning by the courts in the intervening 50 years than Congress was able to squeeze into its relatively brief sections in 1946. While judicial interpretation of administrative procedures continues, I am not aware of any major criticisms of the APA. Certainly, the Administrative Conference has not proposed any major overhaul. But that is what will happen should the Dole-Johnston substitute be enacted into law. Its amendments to the APA, innocuous though they may seem to some, will usher in a whole new generation of lawsuits that will use the new legislative language to attack the case law that has developed around the 1946 statutory language.

Adding more petition processes, requiring new details in rulemaking notices, adding the phrase "substantial support in the Record" to the traditional formulation of arbitrary and capricious, these will invariably be used by lawyers to go after rules not on substantive grounds but on these procedural grounds. This is not reform. This will recreate a litigation explosion that will give deeper gridlock than we could ever imagine.

Let me just add that this is one of the reasons that I believe such important pending rules as the USDA meat inspection rules—the rules that are needed to protect the American people from foodborne illnesses, such as E. coli—should be exempted from Dole-Johnston. Independent of its cost-benefit analysis, all the supporting evidence, procedural steps, rulemaking notices, and more will all be open to challenge in the courts under these APA amendments.

Again, this is not reform. This is a lawyer's dream and a potential nightmare for the American people. I am sure my colleagues, Senator LEVIN and Senator BIDEN, both excellent lawyers, will go into this issue. But it seems to me that these unneeded amendments to the APA alone are reason enough to oppose the Dole-Johnston substitute.

The fourth major difference between the two bills is the concern about special interest. Regulatory reform should provide a new across-the-board process for Federal agency decisionmaking. It should not provide program fixes for special interests.

From the beginning, S. 343 has included a number of provisions that are not about Government-wide regulatory reform. Quite the contrary, they are about giving specific relief to specific interests or stalling particular programs. Frankly, I do not think these provisions have any place in a regulatory reform bill that should be meant to establish a fair process, fair and equal to all.

Unlike S. 343, and unlike its revised alternative, the Dole-Johnston substitute, our bill, the Glenn-Chafee substitute, like its predecessor, Senator ROTH's S. 291, has no such special fixes. Let me say that I sympathize with those who would like to fix particular problems. I know of examples where regulations go too far and where agencies go too far. But as testimony before our committee showed, 80 percent of the rules are required by Congress. It is not up to the agencies. We require them in the legislation that we send over. So it is not just the regulatory process that needs fixing. We in Congress are also responsible for a lot of these problems. In other words, if we have a problem, we ought to look in the mirror a good part of the time.

Let us focus on making the regulatory process better as a whole and not a fix for special interests. Let me give some examples. This is not just idle talk. The original S. 343 tried to rewrite the Delaney clause. Now, I happen to think the Delaney clause needs some modification, but they went too far in rewriting the Delaney clause. They also shut down the EPA toxic release inventory, providing enforcement relief for companies and so on.

Now, while I agree that some of these legitimate problems deserve our attention, this is not the place. A regulatory reform bill should address regulatory issues. It should not become a Christmas tree for lobbyists to hang solutions to whatever problems they may have.

Over the last week, the Senate's resolution of amendments on several of these special fixes shows that they are divisive, unrelated to the basic process reforms proposed in the legislation, and simply an attempt to avoid going through the appropriate legislative channels.

For example, the section that would delay an increased cost for environmental cleanups was stricken on the grounds that it was a specific program fix unrelated to the larger process reforms, and that Superfund reform is currently under consideration by the committee of jurisdiction.

When it came time to consider a similar amendment to strike a section that would restrict EPA's toxic release inventory, the same arguments were rejected. Outside the scope of general regulatory reform—no matter. More properly considered by the committee of jurisdiction—no matter. Special interests want the TRI gutted—you got it.

This is not how we should be reforming the regulatory process. We say we are creating a new, fair, and reasonable process. What we are really showing the American people is that if they are a big enough company, they use enough high-priced lawyers, you can fill the halls of power and get relief.

It is unfortunately clear how a majority of the body weigh the community's right to know about the release of toxics into the environment against companies who apparently do not want companies around the plant to know what they are drinking and breathing.

The irony for me is that the TRI is perhaps the most notable example of a rule that is relatively inexpensive and really not that burdensome. It is a so-called risk communication rule. Unlike a command and control rule that would prohibit the use of such toxic materials, TRI merely requires industry to inform the communities of the release of such chemicals.

Now, do you know who cares about the TRI as much as anyone? It is local fire departments. People probably would not have thought of that, but they are the men and women who have to fight the local chemical plant fires and clean up chemical spills, and they want to know what they will face. They do not want a Bhopal, the tragedy that took place in India, to take place in their city or town.

But no matter to the proponents of S. 343. Powerful business interests and their lawyers have sent the word around they do not want to have to comply with TRI. So it will be reworked, it will be revised, it will be restricted. I know what that means. I do not think the American public comes out on top in that particular consideration.

These and other fixes are found in the Dole-Johnston substitute. They are not found in the Glenn-Chafee substitute. We stuck with the process of how the Government should go about regulatory reform. This is reason enough to support our bill.

The fifth and final major difference between our two bills involves the implementation of the new reforms. In simple terms, this is a question of the statute's effective date. Last week, several questions arose about the effect of reform legislation on pending rules, on expected rules, and on avenues for increased litigation. I have already talked at some length about these in this statement.

I believe if we are serious about changing the way Federal agencies make regulatory decisions, if we are serious about improving those decisions, about reducing burdens and improving commonsense solutions to pressing issues involving public health and safety and the environment, then we must have a sensible approach to implement the reforms.

The Dole-Johnston substitute, as it now stands, reaches back and covers health and safety rules whose notice of proposed rulemaking occurred as early as April of this year. While that is supposed to let some rules off the hook, it also means that should that bill become law, rules in the pipeline between April and the date of enactment could be challenged in court and would have to go back to square one to comply with the many requirements of the new law.

Now, I want to improve rulemaking. But I see no value in wasting resources already expended to promulgate a rule. If the rule is so bad, a court can overturn it under current law. There is no need to reach back and waste Government resources. The Dole-Johnston immediate effective date for all other rules simply adds to this bad picture. Challenges will flood the court's the very next day to go after rules developed under current law—current until the day Dole-Johnston S. 343 is enacted.

During our debate last week, proponents of the S. 343 substitute argued that because the Glenn-Chafee substitute does not have a broad exemption for health and safety rules, it is more restrictive than Dole-Johnston in its effect on pending rules. This argument is based on a misunderstanding of our bill.

We apply our reform legislation to rules that are proposed 6 months after enactment. This delay gives agencies a reasonable amount of time to develop new procedures, bring new regulatory proposals up to the new standards before they are published as proposed rules. Again, Dole-Johnston applies all requirements immediately.

Once promulgated and coming under Glenn-Chafee, rules will face analytic requirements that are tough, but they are also fair and they are not unreasonable. Remember, we do not have the least-cost alternative. We do not have the least-cost alternative test or the minimal impact reg flex test of Dole-Johnston. We are not afraid to have important rules go through our process. They will face a tough test. But if they are needed, the rules will survive.

What they will not face are the challenges that rules under Dole-Johnston would face such as the new APA challenges that would be created for rulemaking procedures and substantial evidence requirements.

The basic question is whether we want government to work better for the American people or whether we want to impose new requirements in order to frustrate decisions, create more delay, waste resources, introduce uncertainty, and open up new avenues for litigation.

I believe that implementation of the Glenn-Chafee substitutes will improve decisionmaking and will reduce burdens on the American public.

The Dole-Johnston substitute, on the other hand, will create problems, cost money—we do not know how much yet—and harm the public interest.

In conclusion, I want to state again, I want regulatory reform. We have worked on this in the Governmental Affairs Committee for the last several years. It is not something that came up just recently.

I believe that S. 343 does not provide the balanced regulatory reform we should have. I believe the Glenn-Chafee S. 1001, the substitute that we are proposing today, does that job.

In the coming hours of debate, we will focus more closely on these two alternatives. I welcome suggestions for improvement to our bill. I am sure there are details that can be revised. I am also sure our bill provides a better approach. I urge our colleagues to support our substitute.

Mr. President, I reiterate, once again, these areas: The Glenn-Chafee substitute focuses on truly major rules. Glenn-Chafee substitute requires cost-benefit analysis for all major rules. It does not take the least-cost approach that the Dole-Johnston bill does.

The Glenn-Chafee substitute provides for review of current rule but with no automatic sunset. If we run out to a time period and the agency has not taken adequate action in the prescribed time period, then they must issue a notice of proposed rulemaking to repeal the rule. In other words, either approve it or put the forces in motion to repeal it, but allowing public comments on the rule.

Also, the Glenn-Chafee substitute is not a lawyer's dream. We allow for judicial review of the determination of a major rule and whether the final rule is arbitrary and capricious in light of the whole rulemaking file.

The Dole-Johnston bill provides procedures, petition, multitudinous places where suits can be filed to stop even the best of legislation.

Also, the Glenn-Chafee substitute does not create brand-new petitions by private persons that will eat up agency resources and let special interests—not the agency or Congress—guide priorities.

Last, Glenn-Chafee substitute has no special interest provision. We did not put a section in here that deals with things like the Delaney clause or toxic release inventory or things like that, that have a special interest to a special few.

For all the reasons given this morning, Mr. President, I urge support of the Glenn-Chafee substitute which was laid down Friday evening before we left. I yield the floor.

Mr. JOHNSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Mr. JOHNSTON. Mr. President, the lines in this debate are becoming very, very clear. If you are for risk assessment, if you are for regulatory reform, you should be for the Dole-Johnston bill which is pending. If you are against that reform, you should be for the Glenn-Chafee substitute because, Mr. President, the Glenn-Chafee substitute is sham reform. Make no mistake about it, it is totally consensual. There are no requirements to it. If the agency head wants to do it, it will be done.

We are told that this is an outgrowth of the Roth bill which came out of committee unanimously, with both Democrats and Republicans supporting it, and so it did. And it had some teeth in it. All of those teeth have now been removed, so now it is totally consensual.

We do not need a bill for consensual reform. We now have that. That is the problem. Right now there is a risk assessment rulemaking which applies to Federal agencies, but it is consensual and they do not do it—and that is the problem. We have been told there are all these lists of these rules, the top 10 list we have been talking about here on the floor, and that some of those were not Federal rules, they were State rules or whatever. But what really is the problem? The problem is that Federal agencies today are not doing the risk assessment, are not doing the cost-benefit analysis, are not using good science, and their regulations are a disaster.

Who says so? EPA says so. In their own studies they have determined that the risks which they have rules against are risks perceived by the public rather than real risks. So anyone who says there is no problem with rulemaking, let them go on like they are doing, let them be consensual; we can trust these bureaucrats, they have done a great job—those who say that are not reading EPA's own documents.

I say this is a consensual bill. It has no teeth. What is the basis of saying that? If you look at section 625 of the Glenn-Chafee substitute, it says that the agency head picks the rules to be reviewed "in the sole discretion of the head of the agency." Let me repeat that. According to the Glenn-Chafee substitute, the only rules to be reviewed are those which the agency head picks at the sole discretion of the agency head.

If there was any chance of any court reversing that discretion, that also is totally removed by section 625, which says on judicial review that "judicial review of agency action taken pursuant to the requirements of this section shall be limited to review of compliance or noncompliance with the requirements of this section."

What does that mean? It means when you judicially review, you look at that phrase "sole discretion of the head of the agency," and it disappears. There is no judicial review. There is sole discretion of the agency. There is nothing enforceable. So if Carol Browner, the head of the EPA, decides she wants to review a rule she can do so. And if she does not want to, guess what, Mr. President? Nobody can force her to do that. She can do that today. She can do that today. So why do we have all these pages of bills if we are going to adopt the Glenn-Chafee substitute? What is the point of all that, if it is all going to be consensual? If we think these bureaucrats are doing a great job?

How about new rules? First of all, let me compare that with the Roth bill. Under the original Roth bill, which came out unanimously, all rules had to be reviewed by every agency head, every single rule had to be reviewed—every single major rule, $100 million, had to be reviewed. And at the end of 10 years they were sunsetted, boom, unless they were continued or modified, which, in turn, would have been a major Federal action or final agency action subject to judicial review.

So under the original Roth bill, it had sharp teeth. In fact, I think its teeth were maybe even a little too sharp because they had to review all the rules. But the fact of the matter is, all those rules were there to be reviewed and they were there, there was judicial review of the agency action.

So if you were an aggrieved party and there was one of these bad rules, either it was sunsetted or you had your right to come in and have your say. Under the Glenn-Chafee bill, all of those rules out there, which again EPA, in its own documents, says do not realistically reflect risk—some of them imposing hundreds of millions of dollars, hundreds of billions of dollars in some instances, costs on the taxpayers and on citizens—you cannot get to them. You have no right to be heard. You have no ability to review those rules.

Oh, you can call it special interest. You can say special interests should not be able to come in and be heard on these rules. I can tell you who pays for those rules. It is the American taxpayer. It is the American citizen who pays for those rules.

How about the new rules under the Glenn-Chafee amendment? We have a new provision here that says you do not have to do a cost-benefit analysis if a cost-benefit analysis is "expressly or implicitly inconsistent with the statute"—"expressly or implicitly inconsistent with the statute."

And do not forget the agency head is able to interpret the statute and that judgment is reversed only if it is arbitrary and capricious. So a new rule comes along and the head of the agency says, "I think this is not expressly inconsistent." There is nothing in this new statute that comes along that says you should not do a cost-benefit analysis. There is nothing here that prohibits it. There is no language on it. But I, agency head, think it is implicitly inconsistent with the statute.

If there was ever a subjective rule, beauty in the eye of the beholder, unfettered discretion in an agency head, it is found in this word "implicitly" inconsistent. Implicitly inconsistent—Mr. President, it is a hole wide enough to drive three M–1 tanks side by side through and never touch the sides. It does not pass the straight-face test. Really, "implicitly inconsistent"? If that is not enough, they have taken out the rule about the benefits justifying the costs.

I have told my colleagues, when we initially came up almost 2 years ago with the first risk assessment amendment—which passed overwhelmingly here in the Senate—of the example of the carbon 14 rule which EPA came up with which set these limits at 0.063 of the amount of carbon 14 contained in the body naturally, and they set that limit at that amount. Yet, it was going to cost $2.3 billion to comply with the rule.

If there was ever an example of something that needed to be done—I mean you needed—they did not know what it was going to cost, and it was clearly not a risk. In other words, this was over 6,000 times the risk of dancing with your wife than was allowed in this carbon 14 provision. But it was going to cost $2.3 billion to comply with it.

Why should you not have that kind of information? Why should not that be there? Under this new language you do not have to certify that the benefits justify the cost. All you have to do is indicate whether the benefits justify the costs.

In other words, rather than a rigorous test that says the benefits ought to justify the cost, all you have to do is sort of give the information whether it is or whether it is not. It does not matter in the bill.

So, Mr. President, we have consensual legislation that does not make any requirements on anybody to do anything. And it is, as I say, sham reform.

Now, if you are against risk assessment, if you are against cost-benefit analysis, vote for this amendment because you can feel very confident that you are not going to change anything in the Federal Government, that it is going to be business as usual, that we are going to let the bureaucrats continue to waste the money of American taxpayers and American citizens as they have in the past by the hundreds of billions of dollars.

Mr. President, there really are two bills being debated; two Dole-Johnston bills. One is the bill that is before the Senate. The other is this fictitious bill that is misdescribed, mischaracterized, factually misquoted. And let me tell you what I mean.

My friend from Ohio, Senator GLENN, just said that the Dole-Johnston bill requires the cheapest solution. He went on to say you could not get an alternative that cost a little more and saves 200 lives. He just said that, Mr. President.

Mr. President, here is the decisional criterion. It says you adopt the "least cost." Or "if scientific, technical, or economic uncertainties are nonquantifiable benefits to health, safety, or the environment, identified by the agency in the rulemaking record make a more costly alternative that achieves the objectives of the statute appropriate and in the public interest and the agency head * * *" explains that, then you may adopt the "more costly alternative."

What are "nonquantifiable benefits to health, safety, or the environment?" Mr. President, the value of 200 lives is first of all a benefit defined as a benefit in the bill.

Second, it explicitly states that you can have a more costly alternative; not only that, but "scientific, technical, or economic uncertainties" because the science is frequently uncertain.

Mr. President, it escapes me how people can continue to say that we require the "least cost alternative" when the plain language of the bill states otherwise. I mean, why can people not understand the English language? Why can they not understand this, Mr. President? It is clear. And we have continually stated what that English language is.

The fact of the matter is that the agency head under this has enormous discretion. And the agency head ought to have enormous discretion. But it requires this rigorous analysis so that if there is uncertain science the agency head has to make an explanation of those considerations. And if it is nonquantifiable benefits to health, safety, or the environment, you have to make an explanation of those things. It is designed to focus the logic of the thinking of the agency process to make them focus on what it is they are trying to achieve because in the past that has not been done. We do not know. With that carbon 14 regulation, we just did not know what the thinking was because they had ignored their own scientists, did not know what it was going to cost, and trotted out the regulation without any idea of what they were doing.

Mr. President, let me turn to judicial review. The judicial review provisions of the Roth amendment have changed at least twice since Senator Roth reported that legislation. It was changed again this morning.

Mr. President, the fact of the matter is that the Glenn-Chafee substitute has the faults which they accuse the Dole-Johnston bill of having—which we do not have and which they do have. May I explain?

First of all, let me say what the problem is here. What we wanted to achieve all along was to have a review of the final agency action; that is, in most cases that will be the major rule. We wanted that to be approved, to be tested according to the standard of whether or not it is arbitrary and capricious or an abuse of discretion. Those are the old standards in the Administrative Procedure Act. We wanted those standards to govern the final agency action. We did not want the cost-benefit analysis, or the risk assessment provisions to be independently reviewed so as to test them for the procedures, for the adequacy of the procedures.

The reason we wanted the risk assessment and the cost-benefit analysis to be made part of the record is because only by making them part of the record and considering that can you understand whether the final agency action is arbitrary and capricious. In effect, it would be a rule of common sense.

Let me tell my colleagues how it might work on three rules which may come up in the future. They are not proposed now. But it will give you a good indication of what is at stake here.

One possible rule is electromagnetic fields, so-called EMF. EMF regulations could cost literally hundreds of billions of dollars because it could require the relocation of electric lines, high power tension lines all over this country. We have ongoing studies now, scientific studies, as to whether or not EMF causes cancer, and if so, at what levels, and to what extent. I might tell my colleagues that we do that under the Energy Committee. We have been funding those studies. I do not want to prejudge all of them. But the preliminary studies indicate that the level at which people receive EMF does not cause cancer. But again, that will await bringing in all of the science.

Let us suppose you have an EMF rule here, and let us suppose that the scientists that they pick for peer review violates section 627 on conflict of interest. Let us say, for example, that all of the scientists, if it is EPA who is doing the rule, are from the electric power industry. They come up with a rule that says no problem; it does not cause cancer.

Why, Mr. President, in that kind of situation, with the importance of that rule, the huge amount of expense involved, the centrality of the question of science, then I believe, if I were in the Court—and that is the record we had under this language—I would reverse it and send it back and say you have to get this science right, because the science is very important. On the other hand, if you had a rule where the science is fairly well understood and is not central to the issue, I think you could leave out a risk assessment altogether, and the final agency action might not be arbitrary and capricious.

The point is that the risk assessment might or might not, depending on the circumstances, be grounds for reversal.

Let us take another one: radon. We have had various radon legislation and some rules up on radon. Radon could be very expensive as well. And the scientific judgments there are very well known. We know radon causes cancer, but at what levels does it cause cancer, and in what sections of the country is it a risk, and what efforts ought to be made to deal with radon.

If you picked scientists who are, say, with the home building industry and are not impartial, I can imagine a reversal on that ground. If you did not have a cost-benefit analysis on something like radon, which could cost a huge amount of money, I can imagine a reversal on that ground.

Or suppose we have a regulation on second-hand tobacco smoke, to name one of our biggest areas now. Suppose you had a regulation on that, and all the scientists came from the tobacco companies. You mean to tell me you could not reverse on that ground? Because the science is so critical to that particular issue. On the other hand, if you were going to be setting a hunting season—I think, by the way, hunting seasons have been expressly exempted. In earlier versions of the act, they were not. But I can imagine that you might leave out the cost-benefit analysis altogether in setting a hunting season, and it would not affect the final agency action. So it is a rule of reason, and under this language:

> Failure to comply with this subchapter—

This subchapter, of course, deals with risk assessment and cost-benefit analysis.

> and subchapter III may be considered by the Court solely—

s-o-l-e-l-y, which means solely.

> for the purpose of determining whether the final agency action is arbitrary and capricious or an abuse of discretion.

Mr. President, we are continually told by the opponents of risk assessment that "solely" does not mean solely. "Solely" means something else. "Solely" means solely part of the time and means something else some other part of the time.

Mr. President, it is as clear as the noonday Sun on a cloudless day that "solely" means solely and only for the purpose of determining whether that final agency action is arbitrary and capricious, which is exactly what we want to achieve.

Now, Mr. President, let us look at this new iteration of the Glenn-Chafee judicial review language. It says:

> When an action for judicial review of an agency action is instituted—

In other words, when you get to appeal.

> any analysis or assessment of such agency action shall constitute part of the whole administrative record of agency action for the purpose of judicial review of the agency action.

"For the purpose of judicial review of the agency action."

Now, what is the guiding rule of review of agency action? Under the Administrative Procedure Act, particularly section 706 of the Administrative Procedure Act, it provides for review of all agency action—all final agency action.

So I assume that section 706 is the guiding rule for appellate review. I tell my friend from Ohio that I am going to ask him some questions about it if he is willing to answer when I finish these remarks because I would like to know what in his opinion the standard of that review is.

When you say, "judicial review of the agency action," what is the standard? Now, if it is section 706, section 706 has two pertinent provisions. One is the same standard we have here, that is, arbitrary and capricious or an abuse of discretion. But it also has subsection (d) that says "without observance of procedure required by law."

Now, if I am correct that it is section 706 under which this is reviewed, then under the Glenn-Chafee amendment by that last phrase you can review both the arbitrary and capricious nature of the final agency action, the abuse of discretion of the final agency action, and you can review with the phrase "without observance of procedure required by law."

Now, there is another provision, though, of the Glenn-Chafee judicial review provision upon which they rely which says this:

> If an analysis or assessment has been performed, the Court shall not review to determine whether the analysis or assessment conformed to the particular requirements of this chapter.

Now, the operative phrase here, Mr. President, is "particular." One of the oldest rules of statutory construction is that when two provisions are in pari materia; that is, when they are on the same subject and particularly when they are in the same section, you read those two together so as to give life to both of them, so that you do not nullify one at the expense of the other.

Now, I will tell you what this means to me. "Shall not review to determine whether the analysis or the assessment conformed to the particular requirements of this chapter." The word "particular" must have some meaning, and I believe that meaning is to institute a de minimis test; that is to say, you do not reverse for procedural errors of small degree, but you may reduce for procedural errors of greater degree.

If that is the not the meaning, then what is the meaning of the word "particular"? They could have said conform to the requirements of this subchapter as opposed to the particular requirements of this subchapter. And if, Mr. President, I am wrong on that, then you still have a review under the other provisions of section 706, which leads you to the same conclusion we have here.

So either the Glenn-Chafee amendment goes beyond what our amendment goes to by at least implicitly allowing a procedural review, or it at least provides for a review of the final agency action and to the same extent that ours does.

So now, Mr. President, if the distinguished Senator from Ohio would yield for a few questions, if I may ask him, when you say "purpose of judicial review of the agency action," by what rule is that? Is that not under section 706 of the APA and, if not, then under what standard?

Mr. GLENN. I think we are referring to—you are talking about section 706?

Mr. JOHNSTON. In your amendment, this is section 623(e), providing for judicial review, the last sentence of which says, "When an action for judicial review of an agency action is instituted, any analysis or assessment for such agency action shall constitute part of the whole administrative record of agency action for the purpose of judicial review of the agency action."

My question is, Is that review not under section 706 of the Administrative Procedure Act, and if that is not the applicable section, what is the applicable section?

(Mr. KYL assumed the Chair.)

Mr. GLENN. I reply to my colleague from Louisiana, we maintain the current status under the APA, the standard being arbitrary and capricious, which has been the case for a long time.

Mr. JOHNSTON. That is section 706.

Mr. GLENN. Section 706. It is my understanding, under Dole-Johnston, it expands 706 for scope of review. It allows a court to set aside an agency action if findings are "without substantial support." That is a new and higher standard of review than APA has acknowledged in the past.

Mr. JOHNSTON. That is a different section. For the purpose of compliance with this subchapter, subchapter II, and subchapter III, that is risk assessment and cost-benefit analysis, that review shall be solely on the basis of what is arbitrary and capricious or an abuse of discretion.

Mr. GLENN. Then we disagree on the meaning of—

Mr. JOHNSTON. "Solely"?

Mr. GLENN. Arbitrary and capricious.

Mr. JOHNSTON. That language is excerpted—it is the same standard that you have. That is section 706.

Mr. GLENN. No, it is my understanding Dole-Johnston goes beyond that and establishes "without substantial support" as a new and higher standard of review, where we stick with the Administrative Procedure Act that has been in effect, acknowledged under law, a whole body of law developed under that, and we stick with that so there can be no misunderstanding of it. Dole-Johnston goes well beyond that and establishes a whole new procedure.

Mr. JOHNSTON. I say to my friend, that is a different question. That is a different section. We are talking about the review of cost-benefit analysis and risk assessment which, under our language, specifically states that it is solely for the purpose of determining whether the final agency action is arbitrary and capricious.

My question to you is, under your language which says—you allow risk assessments—"analysis or assessment shall constitute part of the whole administrative record for the purpose of judicial review of the agency action," is that review not under section 706?

Mr. GLENN. The difference here being, what we provide is that final review, just before the rule or reg would go into effect, then it would be challengeable in the court. There would be judicial review at that point. They could consider everything that has happened up to that point. It would not be judicially reviewable at all the multitudinous steps along the way that would still be permitted under Dole-Johnston.

Mr. JOHNSTON. I do not even know what you are talking about, multitudinous. Name one place.

Mr. GLENN. I will get the detail on that a little later on today.

Mr. JOHNSTON. I suggest to my friend from Ohio that there is only one review, explicitly only one review, under our proposal, and that is final agency action.

Mr. GLENN. Will the Senator yield so I can read some of the areas——

Mr. JOHNSTON. I want to clear this up, because we say specifically that there is—all right, let me read this, from section 625 of Dole-Johnston:

> Compliance or noncompliance by an agency with the provisions of this subchapter and subchapter III shall be subject to judicial review only in accordance with this section.

> (b) except as provided in subsection (e) and subject to subchapter II each court with jurisdiction under a statute to review final agency action to which this title applies has jurisdiction to review any claims of noncompliance with this subchapter and subchapter III. . . .

And then next:

> Except as provided in subsection (e), no claims of noncompliance with this chapter or subchapter III shall be reviewed separate or apart from judicial review of the final agency action to which they relate.

And then we state here that that is a review of final agency action.

It is as clear as it can be. Now tell me where else you were going to be able to review this? It says "compliance or noncompliance shall be subject to judicial review only in accordance with this section," and there is the section. It is final agency action. Now is that not clear, I ask my friend?

Mr. GLENN. No, I do not think it is. EPA has given a list of things where they feel this could be challenged, where litigation could come out of this. I was asked a moment ago, I believe the gist of it was, what possible litigation could come out of this?

Mr. JOHNSTON. Right.

Mr. GLENN. We have here—I do not know whether it is necessary to read all of these or not—but there are 144 items that could be litigated under S. 343 as counsel to EPA interprets this. Let me go through some of these.

No. 1: Did the agency sufficiently explain the need for and objectives of a rule?

No. 2——

Mr. JOHNSTON. On that first one——

Mr. GLENN. Is the Senator going to let me read these?

Mr. JOHNSTON. Not 144.

Mr. GLENN. I am not the counsel for EPA. I am saying this is their interpretation of exactly what you are referring to here.

Mr. JOHNSTON. But you said you would have a separate review, even under what counsel for EPA says, that would come only at the final review and solely for the purpose of determining whether or not the final agency action was arbitrary and capricious; is that not correct? It is clear.

Mr. GLENN. We stick with the arbitrary-and-capricious rule. We do not expand that as Dole-Johnston does.

Mr. JOHNSTON. There is the standard right there. It is plain English. It is as plain as it can be. It is "arbitrary and capricious or abuse of discretion," that is the sole and only basis for review of the cost-benefit analysis or of the risk assessment. That is it. Look, read the language.

Mr. GLENN. I say to my friend from Louisiana, there is a difference of opinion here on what is meant by the language. I know we have had a number of discussions back and forth, and with the Senator from Louisiana and Senator LEVIN on the Senate floor.

The interpretation counsel at EPA is giving on this is the one I was about to read, and there are 144 different questions where they feel litigation can come up under this.

Mr. JOHNSTON. Those may be requirements of risk assessment or cost-benefit analysis which, to the extent they are relevant, can be used to challenge the final agency action. Maybe so. But those are only arguments you make. The first one there is notice. Do you really think you are going to throw out a final agency action as being arbitrary and capricious because they did not give notice?

Mr. GLENN. This was not notice. I read this. "Did agencies sufficiently explain the need for and objectives of a rule?"

They feel, under S. 343, this language under your proposal could be challenged in litigation.

Mr. JOHNSTON. You can challenge anything.

Mr. GLENN. No, not under Glenn-Chafee, you cannot challenge anything. We have the final rule that can be challengeable, or whether it is a major rule or not. We specify that.

Mr. JOHNSTON. If you ever got a cost-benefit analysis done under Glenn-Chafee, all that is consensual. If you want to do it, if you feel like it, if it feels good, do it. Otherwise, do not do it because you do not have to. It is business as usual. Am I not right that it is all consensual on the lookback process under Glenn-Chafee; is that correct?

Mr. GLENN. No, that is not correct. I will tell you the difference. What we provided in both pieces of legislation is the right for Congress to get in the act and review anything that we want to that could come back to Congress. So if there is any question about it, it comes back to Congress. That is provided in both pieces of legislation.

Mr. JOHNSTON. Oh, well, sure. Congress can always pass a law. The Constitution provides that. This bill does not provide that. But save Congress enacting a law, it is consensual, is it not?

Mr. GLENN. I say to my friend that we provide specifically for a procedure for any rule to come back to Congress for further consideration. And in both bills, we give a time period that is required for Congress to review whatever it is that was brought back. One is 60 days, the other is 45 days—not a huge difference. So it seems to me that protects whatever may be required or whatever may come up over there, as far as whether something has had adequate review or not before it was put into a rule.

Mr. JOHNSTON. Well, let us say that the Director of EPA or another agency looks back and says, "We have done a heck of a good job, we have great bureaucrats in this agency, and we do not think anything needs to be reviewed." So the slate is clean, it is a tabula rasa, it is a devoid of any rules to be reviewed. I am an aggrieved party and what is my remedy? To come to Congress and ask them to pass an act? That is it, is it not?

Mr. GLENN. I will reply. The standard of review is arbitrary and capricious under Dole-Johnston, but that issue itself is what can be reviewed. Now, these 144 items here—

I ask unanimous consent that these 144 items be printed in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

ONE HUNDRED FORTY-FOUR ITEMS TO LITIGATE UNDER S. 343 (VERSION 783)

1. Did agency sufficiently explain the need for and objectives of a rule?
2. Did agency identify and sufficiently discuss all significant legal and factual issues presented by a rule?
3. Did agency identify and adequately describe all reasonable alternatives to a rule?
4. Did agency adequately explain why all reasonable alternatives to rule were rejected?
5. Did agency sufficiently explain whether a rule is expressly required by the text of a statute?
6. Did agency identify and sufficiently explain all the statutory interpretations upon which a rule is based?
7. Did agency identify all alternative statutory interpretations and sufficiently explain why all such alternatives were rejected?
8. Did agency identify each factual conclusion upon which a rule is based and adequately explain how each such conclusion is substantially supported in the rulemaking file?
9. Did agency respond to rulemaking petition under §553(l) within 18 months?
10. Did agency appropriately deny a rulemaking petition under §553(l)?
11. Does a rule cost more than $50 million?
12. Is rule closely related to other rules that aggregate into major rule?
13. Did initial cost-benefit analysis contain a sufficient description of the benefits of a proposed rule?
14. Did initial cost-benefit analysis include a sufficient description of how the benefits would be achieved?
15. Did initial cost-benefit analysis contain a sufficient description of the persons or classes of persons likely to receive such benefits?
16. Did initial cost-benefit analysis contain a sufficient description of the costs of a proposed rule?
17. Did initial cost-benefit analysis include a sufficient description of how the costs would result from the rule?
18. Did initial cost-benefit analysis contain a sufficient description of the persons or classes of persons likely to bear such costs?
19. Did initial cost-benefit analysis adequately identify alternatives that require no government action?
20. Did initial cost-benefit analysis adequately assess costs/benefits of no-action alternatives?
21. Did initial cost-benefit analysis adequately identify alternatives that accommodate differences among geographic regions?
22. Did initial cost-benefit analysis adequately assess costs/benefits of geographic alternatives?
23. Did initial cost-benefit analysis adequately identify alternatives that accommodate different compliance resources?
24. Did initial cost-benefit analysis adequately assess costs/benefits of different compliance resource alternatives?

25. Did initial cost-benefit analysis adequately identify performance-based, market-based alternatives, or other flexible alternatives?

26. Did initial cost-benefit analysis adequately assess costs/benefits of performance-based, market-based, or flexible alternatives?

27. Did initial cost-benefit analysis adequately assess costs-benefits of all other reasonable alternatives?

28. Did agency in proposed rule adequately verify quality, reliability, and relevance of science?

29. Did final cost-benefit analysis contain a sufficient description of the benefits of a proposed rule?

30. Did final cost-benefit analysis include a sufficient description of how the benefits would be achieved?

31. Did final cost-benefit analysis contain a sufficient description of the persons or classes of persons likely to receive such benefits?

32. Did final cost-benefit analysis contain a sufficient description of the costs of a proposed rule?

33. Did final cost-benefit analysis include a sufficient description of how the costs would result from the rule?

34. Did final cost-benefit analysis contain a sufficient description of the persons or classes of persons likely to bear such costs?

35. Did final cost-benefit analysis adequately assess costs/benefits of performance-based, market-based, or flexible alternatives?

36. Did final cost-benefit analysis adequately assess costs/benefits of all other alternatives?

37. Did agency adequately consider benefits and costs incurred by all affected persons or classes of persons, including specially affected subgroups?

38. Did agency adequately determine whether benefits of rule justify costs?

39. Did agency adequately determine whether the rule employs flexible alternatives to the extent practicable?

40. Did agency adequately determine whether rule adopts the least cost alternative of the reasonable alternatives?

41. Did agency correctly identify and sufficiently describe scientific, technical, or economic uncertainties or nonquantifiable benefits that make a more costly alternative appropriate and in the public interest?

42. Did agency sufficiently describe why such alternatives are appropriate and in the public interest?

43. Did agency sufficiently explain why any such alternative is the least cost alternative of the reasonable alternatives necessary to take into account uncertainties or nonquantifiable benefits?

44. Did agency correctly determine that rule is likely to significantly reduce risks addressed?

45. If uncertainties preclude such a finding, did agency adequately justify the issuance of the rule?

46. Did agency correctly determine that a rule could not satisfy the cost-benefit decisional criterion applying the statutory requirements upon which the rule is based?

47. Did agency quantify costs and benefits to extent feasible?

48. Did quantification adequately specify ranges of predictions?

49. Did quantification adequately explain margins of error?

50. Did quantification adequately address the uncertainties and variabilities in the estimates used?

51. Did agency adequately describe nature and extent of nonquantifiable costs and benefits?

52. Did agency clearly articulate relationship of benefits to costs?

53. Is understanding of industry-by-industry effects of central importance to a rulemaking?

54. If so, were costs and benefits broken down appropriately on industry-by-industry basis?

55. Did agency correctly determine that conducting a cost-benefit analysis would have been impracticable due to an emergency or threat likely to result in significant harm to the public or natural resources?

56. In developing a preliminary schedule for regulatory review, did the agency appropriately consider whether a rule is unnecessary and may be repealed?

57. In developing a preliminary schedule for regulatory review, did the agency appropriately consider whether a rule would meet the decisional criteria of §624?

58. In developing a preliminary schedule for regulatory review, did the agency appropriately consider whether the rule could be amended to substantially decrease costs, increase benefits, or provide greater flexibility for regulatory entities?

59. In developing a final schedule for regulatory review, did the agency appropriately consider whether a rule is unnecessary and may be repealed?

60. In developing a final schedule for regulatory review, did the agency appropriately consider whether a rule would meet the decisional criteria of §624?

61. In developing a final schedule for regulatory review, did the agency appropriately consider whether the rule could be amended to substantially decrease costs, increase benefits, or provide greater flexibility for regulated entities?

62. In developing a final schedule for regulatory review, did the agency appropriately consider the importance of each rule relative to other rules being reviewed under the section?

63. In developing a final schedule for regulatory review, did the agency appropriately consider the resources expected to be available to the agency for the review?

64. Did petition establish substantial likelihood that future impact of rule would be equivalent of major rule?

65. Did petition on its face establish substantial likelihood that head of agency would not be able to make the findings required by §624?

66. Did agency correctly conclude that petition did not show substantial likelihood that guidance would have effect of a major rule?

67. Did agency correctly conclude that petition did not show substantial likelihood that agency would not be able to find that guidance document meets criteria of §624?

68. Did agency complete rulemaking within two years of determination to amend a rule pursuant to §623?

69. Did agency develop adequate regulatory flexibility analysis?

70. Is a cleanup a "major environmental activity" (will it exceed $10 million in costs, expenses, and damages)?

71. Did agency correctly conclude that construction had commenced on a significant portion of the cleanup activity?

72. Did the agency correctly conclude that it would have been more cost-effective to complete cleanup construction than perform a cost-benefit analysis and risk assessment?

73. Did agency correctly conclude that cleanup delays associated with development of cost-benefit analysis and risk assessment would have resulted in actual and immediate risk to human health or welfare?

74. Did agency prepare risk assessment for major environmental management activity in accordance with risk assessment provisions of S. 343?

75. Did agency prepare appropriate cost-benefit analysis for major environmental management activity in accordance with cost-benefit provisions of S. 343?

76. Did agency appropriately identify the reasonably anticipated probable future use of land and its surroundings affected by a major environmental management activity?

77. Did agency appropriately incorporate such reasonably anticipated probable future use of land and its surroundings in conducting a cost-benefit analysis of a major environmental management activity?

78. Did agency appropriately incorporate such reasonably anticipated probable future use of land and its surroundings in conducting a risk assessment of a major environmental management activity?

79. For actions pending or proposed within one year of enactment of bill, did agency use an appropriate alternative analysis to assess the costs and benefits and risks associated with a major environmental management activity?

80. Did agency adequately determine whether benefits of major environmental management activity justify costs?

81. Did agency adequately determine whether the activity employs flexible alternatives to the extent practicable?

82. Did agency adequately determine whether the activity adopts the least cost alternative of the reasonable alternatives?

83. Did agency correctly identify and sufficiently describe scientific, technical, or economic uncertainties or nonquantifiable benefits that make a more costly alternative cleanup activity appropriate and in the public interest?

84. Did agency sufficiently describe why such alternatives are appropriate and in the public interest?

85. Did agency sufficiently explain why any such alternative is the least cost alternative of the reasonable alternatives necessary to take into account uncertainties or nonquantifiable benefits?

86. Did agency correctly determine that cleanup activity is likely to significantly reduce risks addressed?

87. If uncertainties preclude such a finding, did agency adequately justify the cleanup activity?

88. Did agency correctly determine that a cleanup activity could not satisfy the cost-benefit decisional criterion applying the statutory requirements upon which the activity is based?

89. Did the agency correctly conclude that a risk assessment would not likely have an effect on the U.S. economy equivalent greater than $50 million/year?

90. Did the agency correctly conclude that a risk assessment for the issuance or modification of a permit meets the requirements of §633.

91. Did the agency correctly conclude that conducting a risk assessment would have been impracticable due to an emergency or health and safety threat likely to result in significant harm to the public or natural resources?

92. Is risk assessment related to rule authorizing a product's introduction into commerce?

93. Is risk assessment an exempt screening analysis?

94. Is screening analysis used as the basis for imposing restriction on previously authorized any activities?

95. Is screening analysis used to as the basis for a formal determination of significant risk from a substance or activity?

96. Does agency conduct risk assessments in manner that promotes informed public input into decision-making process?

97. Does the agency maintain appropriate distinction between risk assessment and risk management?

98. Did agency apply appropriate level of detail and rigor to risk assessment?

99. Did agency develop an appropriate iterative process for risk assessments?

100. Did agency correctly determine that additional data would significantly change the estimate of risk and the resulting agency action?

101. Is risk assessment based on best reasonably available scientific data and understanding?

102. Did agency appropriately analyze the quality and relevance of data used in risk assessment?

103. Did agency appropriately describe the analysis of the quality and relevance of the data used?

104. Did agency appropriately consider whether data were appropriately peer-reviewed or developed in accordance with good laboratory practices?

105. Does risk assessment adequately discuss conflicts among scientific data?

106. Does risk assessment include adequate discussion of likelihood of alternative interpretations of data?

107. Does risk assessment appropriately emphasize postulates representing the most reasonable inferences from supporting scientific data?

108. Does risk assessment appropriately emphasize data indicating greatest scientific basis of support for resulting harm to affected individuals?

109. Does agency appropriately assess whether foreign determinations of health effects values should be utilized in agency decisions?

110. Does risk assessment use site-specific information to maximum extent practicable?

111. Does risk assessment inappropriately rely on policy judgments or default assumptions?

112. Does risk assessment appropriately identify policy judgments used?

113. Does risk assessment appropriately describe scientific or policy judgments used?

114. Does risk assessment adequately explain the extent policy judgments have been validated by data?

115. Does risk assessment adequately explain the basis for choosing particular policy judgments?

116. Does risk assessment adequately identify and explain all reasonable alternative policy judgments that were not selected by agency for use in risk assessment?

117. Does risk assessment adequately explain sensitivity of conclusions to such alternative policy judgments?

118. Does risk assessment adequately explain rationale for not using such alternative policy judgments?

119. Does risk assessment inappropriately combine or compound multiple policy judgments?

120. Does risk characterization appropriately describe hazard of concern?

121. Does risk characterization appropriately describe populations or natural resources at risk?

122. Does risk characterization appropriately explain the exposure scenarios used in risk assessment?

123. Does risk characterization appropriately estimate population at risk?

124. Does risk characterization appropriately describe likelihood of different exposure scenarios?

125. Does risk characterization appropriately describe the nature and severity of harm that could plausibly occur?

126. Does risk characterization appropriately identify major uncertainties in each component of risk assessment?

127. Does risk characterization appropriately address the influence of each uncertainty on the results of the risk assessment?

128. Does risk assessment conclusion appropriately express overall estimate of risk as a range of probability distribution reflecting variabilities, uncertainties, and data gaps in analysis?

129. Does conclusion appropriately provide range and distribution of risks and corresponding exposure scenarios?

130. Does conclusion appropriately identify reasonably expected risk to general population?

131. Does conclusion appropriately identify risk to more highly exposed or sensitive subpopulations?

132. Does conclusion appropriately describe qualitative factors influencing range of possible risks?

133. Do scientific data and understanding permit relevant comparisons of risk?

134. If so, did agency appropriately place nature and magnitude of risks to human health, safety, and the environment in context?

135. Did agency appropriately describe substitution risks?

136. In reviewing petition for review of free-standing risk assessment, did agency correctly conclude that risk assessment or entry was consistent with risk assessment and characterization principles in S. 343?

137. In reviewing petition for review of risk assessment, did agency correctly conclude that risk assessment does not fail to take into account material new scientific information?

138. In reviewing petition for review of risk assessment, did agency correctly conclude that risk assessment would not have contained significantly different results if properly conducted pursuant to provisions of S. 343?

139. In reviewing petition for review of risk assessment, did agency correctly conclude that revised risk assessment would not provide basis for reevaluating an agency determination of risk that currently has an effect on the U.S. economy of $50 million/year?

140. Does consent decree imposing rulemaking obligations divest agency of disrection to respond to changing circumstances, make policy or managerial changes, or protect rights of third parties?

141. Did the agency appropriately apply a rule of reason in determining whether to add or delete a chemical from the Toxics Release Inventory?

142. In determining whether to add or delete a chemical from TRI, did the agency appropriately consider the levels of the chemical in the environment that might result from reasonably anticipated releases?

143. In an enforcement proceeding, did a defendant reasonably rely on and comply with a rule, regulation, adjudication, directive or order?

144. Was such reliance and compliance incompatible, contradictory, or otherwise irreconcilable with the rule, regulation or directive for which enforcement is sought?

Mr. GLENN. Mr. President, this is a list of 144 bases upon which a rule can be challenged using the arbitrary and capricious standard that you are talking about.

Mr. JOHNSTON. Well——

Mr. GLENN. These can still be challenged.

Mr. JOHNSTON. Let me ask my friend to answer this question: EPA does not do anything. It puts no rule up for review. What is your remedy if you are an aggrieved party, if you are outraged citizens, if you are millions of American citizens, what is your remedy? To come to Congress?

Mr. GLENN. Yes, that is the ultimate protection, Congress, where 80 percent of these things start to begin with, where the requirements are put in.

Mr. JOHNSTON. I tell my friend that the American public has come to Congress. That is what we are doing here today. That is what this is all about. EPA has reviewed its own rules and says they are not based on real risks, they are based on public perceptions of risk and we need to do something about it. Everybody says let us do something about it. And now that is where we are.

There was a 1987 study called "Unfinished Business" where EPA systematically ranked the seriousness of the various risks that it was addressing or could address. The report found that there was little correlation between the risk that the EPA staff judged as most threatening and EPA's program priorities. Instead, EPA found a correlation between EPA's priorities and public opinion on the seriousness of the various environmental threats. "Overall, EPA's priorities appear more closely aligned with public opinion than with our estimated risk."

Mr. President, these conclusions were confirmed in 1990 by EPA's Science Advisory Board, in its report entitled "Reducing Risks." The report urged EPA to target its environmental protection efforts on the basis of opportunities for the greatest risk reduction.

So, Mr. President, I think we now have the picture. The Glenn-Chafee amendment allows aggrieved parties to come to Congress, and that is it. Other than trusting in the judgment—to use the words of the statute, "the sole discretion of the head of the agency," that is it. You have the sole discretion of the head of the agency, and that is exactly what we have right now.

Mr. President, right now, we have the sole discretion of the head of the EPA. We have the sole discretion of OSHA and all these other places that are run amok. Listen to what EPA says about its own rules. This is not some right-wing interest group talking about how badly EPA is assessing its rules. This is EPA saying it. Its own Science Advisory Board confirmed it in 1990, and we are told, well, trust them. Let us continue to go with unfettered discretion, with "sole discretion." Now, that is what Glenn-Chafee says—"sole discretion."

Now, Mr. President, we have been on the floor for 6 days. This is the 6th day on this legislation, the 6th straight day going through all of these provisions and arguing about these provisions and all that. And we are told, well, leave it to the sole discretion of the agency head. And then, as for new rules, if it is implicitly—whatever that means, and I think it means whatever in the sole discretion of the agency head they want it to mean—you do not have to do for a new rule the cost-benefit analysis. By the way, you do not even have to justify the cost—that benefits justify the cost.

Mr. GLENN. If the Senator will yield, the Senator defends the petition process in the Dole-Johnston bill. On March 14, the Senator from Louisiana responded to a letter that Senators LEVIN, LIEBERMAN, and I had sent to him asking his opinion on these, because he has had a lot of experience in these areas. We asked him to comment on S. 291 and S. 343. He sent us back a very thoughtful and well-reasoned-out letter response of his views at that time. I say that within that letter—and I will not read the whole letter because it was rather lengthy—but in talking about the petition process, the Senator from Louisiana stated the following:

> To help set priorities for the review, I prefer some sort of advisory committee to assist the agency head. I am very skeptical of the petition process, which is likely to skew the priorities, and I am strongly opposed to any judicial review of actions taken under a lookback provision.

It seems to me that is pretty clear as to what the thinking was in March. Further on down in another paragraph, it says:

> The Dole bill, however, allows any person to petition for a cost-benefit analysis of an existing regulation. If the analysis shows that the regulation does not satisfy the decisional criteria of the bill (that is, that the benefits of the regulation outweigh the cost) the agency must either revoke the regulation or amend it to conform to the decisional criteria. Denial of the petition by an agency head is subject to judicial review.

Needless to say, I strongly disagree with this approach. Unless I am reading something wrong, the Senator from Louisiana is stating one thing in March and a different thing on the floor here today.

Mr. JOHNSTON. Mr. President, I appreciate that question.

This is the very provision that we accepted, the advice of Sally Katzen, who is head of OIRA, and other Democrats.

Frankly, I think we ought to have advisory boards. But the advisory boards were objected to by the Senator from Ohio, the Senator from Michigan, Senator LEVIN, and others, who said we should not have this advisory board, and it would clog up the thing.

I think advisory boards would be useful.

Mr. GLENN. Could the Senator tell me when he objected to that? I do not believe there was an objection to that.

Mr. JOHNSTON. I thought it was in our negotiating session. Does the Senator wish to get advisory boards back in?

Mr. GLENN. I do not know what happened in our session. There were so many things that occurred in those sessions. It would be hard to go back and recall everything that occurred.

Mr. JOHNSTON. The advisory boards, in my judgment, are useful, and I tried to sell advisory boards. I do not think they are central to the process, but if the Senator from Ohio thinks they are important, I will come back——

Mr. GLENN. I would be happy to talk about advisory boards. We might be able to get some wording here that would be proposed as an amendment here, and we would be glad to consider that if that is possible.

Mr. JOHNSTON. Under the original Dole amendment, people would be able to petition as often as they wished to. They would have an automatic judicial review of that.

Sally Katzen suggested—I think it was an excellent idea. I think the Senator carried forward some of the ideas with that, which was we have 180 days after the publication of the initial list within which to petition with a very high threshold. That is, we have to show a substantial likelihood that the existing rule does not meet the test. If you do not make the application during the 180 days, you cannot apply again for 5 years. This is only an every 5-year process.

The appeals from that are consolidated so that there is only one appeal, so that the very problems that I was talking about in my bill, that Sally Katzen was talking about in our negotiating session, were accepted on terms suggested by her.

It deals with that problem of agency overload and court overload. We did that. I think it was an ingenious suggestion that she made. We accepted it hook, line, and sinker. We said, "Yes." That is the problem with this bill. It is hard to accept "yes" for an answer.

Mr. President, this bill, virtually everything, virtually all the major areas of opposition to this bill as suggested have been dealt with, and dealt with successfully.

Supermandate—that is, does this statute override any other underlying statutes? We, first of all, made it clear in the Dole-Johnston original bill and Senators came back and said it is not clear. Well, we made it absolutely clear by stating it again on terms agreed to by both the left and the right of this Chamber. Supermandate is solved.

Judicial review, I submit, is solved. The language is clear.

The $100 million threshold, that is a big thing. We had the amendment here and we passed it. It is now part of the process.

The petition process, we accepted the Katzen suggestion, wholly and completely, and it is now incorporated. Now, they may want more. Was it Samuel Gompers, the labor leader, when they asked, "What does labor want?" and he said, "More, more, more." Whoever said it, they should have said it for this bill. Because they come in and ask for things, and we do them, and somehow it is not enough.

Effective day—we dealt with the effective date. The problem was we have all the ongoing rules that have to be redone. We say, OK, if you have a notice of proposed rulemaking out by April 1 of this year, you do not have to go back and redo any cost-benefit or risk assessment. You are home free.

Now, I think that solves the problem because if you just started with a notice of proposed rulemaking since April 1, you got plenty of time to incorporate that in your bill.

Superfund—Mr. President, one of the toughest issues in this bill as to which there was a huge amount of disagreement, I very strongly sided with the Senator from Ohio in thinking that all of this environmental cleanup, all of these Superfund provisions ought to be out of here. And we accepted. As a matter of fact, we did it by unanimous consent. We probably should have had a vote to have seared that into the memory of our colleagues, but at least we did it. Superfund is gone. Sayonara.

The sunshine amendment—the Senator from Ohio suggested it. We accepted it. It is done. Now, it is, I am sure, not enough. I am sure that there is not enough we can do to satisfy some people, other than to make this bill solely in the discretion of the agency heads, because that in effect is what Glenn-Chafee does. Solely in the discretion, not reviewable by the court, do it if you want to, but if you did not want to, do not bother.

And you have plenty of redress by coming to the Congress.

Mr. GLENN. Would the Senator yield? That is what the Senator argued for in his letter.

Mr. JOHNSTON. Not that, no, indeed.

Mr. GLENN. Yes. I read it into the letter a little while ago. I will ask anybody to reread that to see if this is not a change in position.

Mr. JOHNSTON. I have never said this ought to be consensual, that it ought to be solely in the discretion of the agency head. Never have said that. Never believed that. It simply is not so.

I think we have delivered very, very well on this letter of mine.

Mr. GLENN. This position, I submit to my friend from Louisiana, is 180 degrees opposed. "To help set priorities for the review, I prefer some sort of advisory committee to assist the agency head. I am very skeptical of a petition process which is likely to skew the priorities, and am strongly opposed to any judicial review of actions taken under a lookback provision."

Now, that is diametrically opposed to what the Senator is talking about here today. Further, if I might continue just for a second here, I think in all of our best recollection of those here who were in some of those negotiating sessions, Miss Katzen never supported the petitioner a right to have a major rule reviewed in 3 years. That is way too short and forces an agency to set priorities by petition and not by what is most important or what is most pressing.

In addition, Dole-Johnston also allows for interlocutory appeal of three different issues. No. 1, a major rule. No. 2, does it require risk assessment? No. 3, does it require regulatory flexibility analysis? It allows judicial review in the middle of the rulemaking.

Mr. JOHNSTON. If the Senator would allow me to answer that, first of all, on the reg flex, I did not support the reg flex. A big bipartisan vote of 58 votes approved reg flex.

I really do not think it is workable. But the two Senators from Georgia, NUNN and COVERDELL, have indicated that they would work on this and try to relieve the burden.

Let me tell the Senator from Ohio, that is not the fault of this Senator. I suspect that if by any chance the Glenn-Chafee amendment got adopted, that it would have the Nunn-Coverdell amendment bit. Do not criticize Dole-Johnston for having Nunn-Coverdell. I was not for it, and the Senator would get it if he had it.

With respect to the interlocutory appeal on the size of the rule, whether it is a $100-million rule or whether it is one that requires a risk assessment because it pertains to health, safety, and the environment, I had said all along that was a proposal which I put in. It was not in the original Dole amendment. It was meant to give agency heads flexibility and help. And if that is a real problem, it can come out. I think those who criticize the interlocutory appeal do not understand it. I mean, it is meant so agency heads will know at the end of 60 days whether they are going to have a challenge on whether it is a major rule.

The problem you have now—for example, we had hearings on NEPA. If the Senator would follow through with me on this, we had hearings on NEPA and we found that EPA is spending $100 million a year on NEPA studies. As the Senator knows, an environmental impact statement is much more detailed and, in turn, much more expensive than an environmental impact assessment. But they always do an environmental impact statement rather than an assessment because they do not want to wait until the end of all this study and rulemaking and what have you and have to go back and redo it.

That was, frankly, the idea of the interlocutory appeal. So that, if you do not complain about the size of the rule in the first 60 days, then that is forever sealed in. And if they do complain and do make the appeal, the agency head can moot the appeal by simply going back and agreeing to do the risk assessment and cost-benefit analysis. It is simply meant to help them.

But if that is a problem, the whole thing can come out. Let me just make a remark or two and then I will yield the floor.

Mr. ROTH. Will the Senator yield for a question?

Mr. JOHNSTON. Yes, of course.

Mr. ROTH. Am I correct in understanding that I believe every President since President Ford has required a cost-benefit analysis to be made, but, despite that general requirement through Executive order and otherwise, it has not been adhered to? Is that correct?

Mr. JOHNSTON. There has been a risk assessment rulemaking rule out there—Executive order I should say—under every President since President Ford.

By the way, I have a copy of it here. The problem is that it is consensual as well, and it is generally ignored, as my friend suggests.

Mr. ROTH. That is the point I am trying to make. It is consensual under current conditions, and the Glenn-Chafee would make no change, it would continue to be consensual. Is that correct?

Mr. JOHNSTON. It would even more clearly be consensual under those because they make sure, and they say, "in sole discretion of the agency head," and then they go back, under section 625, and ensure that there is no appeal from the exercise of sole discretion. I do not know how you could otherwise have an appeal from the exercise of sole discretion, but they make sure that there is no appeal. It is nonenforceable. It is sort of the honor system, or I should say the buddy system, the bureaucratic buddy system. ,

Mr. ROTH. So, in a very real way, the adoption of the Glenn-Chafee legislation would mean no significant change, at least as far as cost-benefit is concerned?

Mr. JOHNSTON. The Senator has put it very, very well. No significant change. And your recourse, according to the Senator from Ohio, is to come to Congress.

Mr. ROTH. As the distinguished Senator from Louisiana already pointed out, that is what we are doing now. It is a fact—is it not a fact that the Vice President, the head of OIRA, and others, have said that there are bad rules on the books and something needs to be done? Is that not correct?

Mr. JOHNSTON. That is exactly correct. But they say, trust us, we will do them in our sole discretion.

Mr. ROTH. But that is the problem; it has not been done. Is that not correct?

Mr. JOHNSTON. That is, even according to EPA's own studies. They had one study in 1987 that determined that risks conformed—the EPA study in 1987 entitled, "Unfinished Business" says that they "systematically failed to properly rank risks." They ranked them according to public opinion rather than science.

Then they came back 3 years later, in 1990, had another study from EPA's Science Advisory Board, and said they were continuing to do the same thing.

I submit they are continuing to do the same thing today. And this same crowd is coming in and saying, trust us, we are doing it right, and no change needs to be made.

Mr. ROTH. As I understand it, and of course none of us have had a chance to review that carefully, the new language of the Glenn-Chafee bill—but essentially what they have done is taken the teeth out of the legislation that was reported out by the Governmental Affairs Committee?

Mr. JOHNSTON. That is exactly right. The Roth bill, which came out unanimously, out of Governmental Affairs, had a lot of teeth. The Senator and I have talked about that. My own view was I liked some of the teeth. I thought some of the other teeth were too sharp.

Mr. ROTH. The Senator is partly right.

Mr. JOHNSTON. But no need to worry, all of those teeth are gone. You do not even have false teeth here.

Mr. ROTH. So this, in a sense, would be an exercise in futility.

Mr. JOHNSTON. This is a waste of time. If you want to kill this bill, enact this Glenn-Chafee amendment, beat your chest, feel good about it. It has risk assessment in the title of the bill, but it amounts to nothing, zero.

Mr. ROTH. I congratulate the distinguished Senator from Louisiana for his very penetrating analysis.

Mr. JOHNSTON. I thank my colleague and yield the floor.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. GLENN. Mr. President, this was an interesting discussion. It shows the complexities of this legislation and why we should not be rushed on the floor of the Senate putting it into effect. We should be considering all these things and all the legal ramifications of it in every respect.

I come back, though, that if the Agency passes something that is considered to be not OK, or tries to put something into effect, that anyone can petition the Agency and say, "We think this should go back to Congress," or notify their Congressman, notify their Senator, we can call it back.

I do not see yet why that is not—that is where the responsibility lies, is right here. We are the ones who passed the original legislation. What we have done is, for the first time, put into play a specific arrangement. We are detailing it in legislation. We are inviting people to watch what goes on in the agencies and say we will bring it back.

The Senator from Louisiana is absolutely correct. We always have the right in Congress to do something like this if we want to pass separate legislation. But that takes a lot of time. It is time consuming, it could go on for a whole session of Congress. It could go on for another year. What we did is provide, in both pieces of legislation, time restraints by which Congress has to complete its action. In other words, any authorizing committee can call back a rule or regulation for reconsideration before it goes into effect. I really do not see how there could be a better protection than that. I do not know what else there is that would be needed.

Let me read some things into the RECORD that apply to this judicial review:

JUDICIAL REVIEW PROVISIONS IN GLENN-CHAFEE AND DOLE-JOHNSTON VERSIONS OF S. 343—A COMPARATIVE APPROACH

1. RULEMAKING FILE REQUIREMENTS AND REVIEW

The Dole-Johnston bill amends the A.P.A. to add elaborate rulemaking file requirements to all notice-and-comment rulemaking; these sections contain their own confusing judicial review provision [553(m), p. 12] and would encourage lawsuits over the adequacy of the file and whether items were placed in the file as quickly as possible. Additionally, the Dole-Johnston bill would change the standards of review for rules issued under notice-and-comment; it would add 5 U.S.C. §706(a)(2)(F) to require that the factual basis for a rule have "substantial support" in the rulemaking file. See discussion below.

The Glenn-Chafee bill does not include these troublesome provisions.

2. JUDICIAL REVIEW OF SCHEDULING REVIEW/LOOKBACK

Section 623(e) (p. 30) of the Dole-Johnston bill provides for judicial review of agency non-compliance with the process for scheduling of review of existing rules. However, the section does not clearly limit judicial review to only the reasonableness of the schedule. The scope of review is broad—i.e., "agency compliance or noncompliance with the requirements of this section" and review exists "notwithstanding section 625." Review is limited to the D.C. Circuit Court of Appeals. Review of final agency action must be filed within 60 days of publication of the final rule. However, the section does not preclude interlocutory review.

Section 625(c) of the Glenn-Chafee bill (p. 18) provides for judicial review of the agency regulatory review but precludes review of agency decisions whether to place a rule on the schedule and the deadlines for completion.

3. REVIEW OF DECISION TO "SUNSET" RULE

Section 623(g)(3) (p. 33–34) of the Dole-Johnston bill grants interested parties the right to petition the D.C. Circuit Court of Appeals to extend the period for review of a rule up to two years and to grant equitable relief to prevent termination where, inter alia, termination of the rule would not be in the public interest.

The last sentence of section 623(h) provides that the decision of an agency to not modify a major rule "shall constitute final agency action for the purposes of judicial review." Section 623(j)(2) similarly states that failure to promulgate an amended major rule or to make decisions by the date required shall be considered final agency action.

Under the Glenn-Chafee bill, rules would not automatically "sunset." Instead, the agency would be required to publish a notice of rulemaking to terminate a rule. §625(e)(1)(C)(iv).

4. JURISDICTION AND JUDICIAL REVIEW

Clarity of limitation on judicial review.—Section 625(a) and (b) of the Dole-Johnston bill (p. 38) affirmatively grant jurisdiction to review "any claims of noncompliance with this subchapter and subchapter III." While compliance is subject to judicial review "only in accordance with this section," subsection 625(d) arguably permits broad judicial review.

By contrast, the Glenn-Chafee bill clearly states there is no judicial review except as provided therein. §623(a), p. 13. Section 623 of the Glenn-Chafee bill is very clear concerning what is reviewable and what is not.

Procedural errors.—Section 625 of the Dole-Johnston bill is unclear as to whether procedural errors are reviewable. It states that "failure to comply" may be considered by the court solely to determine "whether the final agency action is arbitrary and capricious or an abuse of discretion (or unsupported by substantial evidence where that standard is otherwise required by law." 625(d), p. 39

The use of the words "failure to comply" in at least three places in section 625 suggests procedural errors are reviewable.

The limitation of review to the "arbitrary and capricious" or "abuse of discretion" test may not be sufficient to keep courts from reviewing alleged agency non-compliance just as they otherwise would under the A.P.A. That was the view of one court in a case where Congress limited review of agency procedural error to those which rendered the agency action arbitrary and capricious. That court had difficulty understanding the limitation as violation of procedure is often regarded as rendering the action arbitrary and capricious. *Small Refiner Lead Phase-Down Task Force* v. *U.S. E.P.A.*, 705 F.2d, 521 (D.C. Cir. 1983). See also, *Motor Vehicle Mfrs. Assn. of U.S.* v. *E.P.A.*, 768 F. 2d 385 (D.C. Cir. 1985) (statutory test of action in excess of statutory authority same standard as arbitrary and capricious).

The Glenn-Chafee bill, by contrast, makes it clear that courts are not to review the underlying steps and procedures leading up to the cost-benefit analysis and risk assessment. Section 623(d) expressly states that ". . . the court shall not review to determine whether the analysis or assessment conformed to the particular requirements of this chapter." §623(d), p. 14. The Glenn-Chafee bill would permit the court to consider the actual documents produced by the agency to evaluate cost-benefit analysis and risk assessment in determining the reasonableness of the agency action but not to permit review of the underlying steps to development of the risk assessment or cost-benefit analysis.

Judicial "second-guessing" of agency judgment and scientific expertise The Dole-Johnston bill creates great risk that courts will second guess agency judgments and scientific determinations which go into the cost-benefit analysis, risk assessment, and application of the prescriptive decisional criteria.

The Dole-Johnston bill contains many prescriptive requirements which tell agencies what they must consider and what they cannot. However, many of these factors are very difficult in application. Yet consideration of factors Congress has decided are not to be considered has been cited as a basis for reversal under arbitrary and capricious review. *Citizens to Preserve Overton Park* v. *Volpe*, 401 U.S. 402, 416 91 S. Ct. 814, 823, 28 L. Ed. 2d 136 (1971).

S. 343 turns administrative law on its head if it takes away agency's ability to make policy choices and to have those upheld so long as they are reasonable and consistent with the statute being applied. See cases cited in *Small Refiner Lead Phase-Down Task Force*, 705 F. 2d at 520. If Congress takes away an agency's discretion to make policy choices, then special interests challenging a rule will argue that an abuse of discretion standard permits the court to second-guess the agency's decision as to what is a "policy judgment" and what is "scientific understanding."

Courts are not situated to "second-guess" the prescriptive requirements of the Dole-Johnston bill. Courts are not well situated to review the underlying basis of cost-benefit analyses and risk assessments against the prescriptive standards of the bill.

> ". . . the crowded states of judicial dockets offers a highly practical reason why judges will not, and probably should not, devote the considerable time and effort needed to review a several-thousand-page agency record, informed by a thorough understanding of the substance of risk-related regulatory problems, in order to see whether or not that agency determination was arbitrary."

Justice Breyer, Breaking the Vicious Circle: Toward Effective Risk Regulation (Cambridge, Mass.: Harvard University Press 1973), pp. 58–59 (describing why courts are not institutionally suited to resolve risk issues).

Prejudicial error [Note: Neither bill contains a prejudicial error provision in this section. However, Senator Johnston says concerns with the decisional criteria and judicial review provisions are solved by the prejudicial error test in 5 U.S.C. 706. This is not an adequate protection.]

The problems with judicial review of the many prescriptive requirements of the Dole-Johnston bill are also not cured by the "prejudicial error" test in 5 U.S.C. §706. That test, which is unchanged from the current APA, has been described as requiring remand if the court "cannot be sure that under the correct procedures the Agency would have reached the same conclusion . . ." *Weyerhaeuser Co.* v. *Costle*, 590 F.2d 1011, 1031 (D.C. Cir. 1978). That case invalidated a pollution emission limitation rule for failure to provide adequate notice for comment on agency data even though petitioner could not show that recomputation of the data would have made the process so costly as to invalidate the limitation as an abuse of discretion.

Clogging the Courts.—The language of section 625 will encourage years of litigation before even the question of what is reviewable is resolved. This bill gives regulated industry many hooks to delay rulemaking and then to challenge the final result. If those steps are subject to judicial review, there will be every incentive to stop regulation through complex and lengthy judicial review proceeding. When this is combined with the increased time and cost of rulemaking under this bill, the result may be gridlock. This frustration of law is not a desirable goal.

Judicial review of whether the agency chose the "least cost alternative," given the great differences in underlying data, will generate challenges.—The Dole-Johnston bill takes away agency discretion and mandates that all costs and benefits be turned into one number and that the agency select the "least cost alternative" of those available under 624 (b) or (c). Yet some say that cost-benefit analyses may be off by a magnitude of hundreds. This makes it difficult for agencies to achieve any certainty concerning application of cost-benefit analyses. If agencies must constantly be looking over their shoulder at the possibility of judicial review, it is clear this will provide many opportunities for challenges to rules by the regulated industry.

By contrast, the Glenn-Chafee bill provides a range of discretion to the agency decisionmaker in section 622(f) and is much more clear that the decisional criteria do not alter statutory criteria for rulemaking.

5. INTERLOCUTORY REVIEW OF DETERMINATION OF "MAJOR RULE"

The Dole-Johnston bill permits interlocutory appeal of an agency decision that a rule is not a major rule or is not subject to risk assessment requirements. §625(e) p. 39.

The Glenn-Chafee bill requires "a clear and convincing showing that the determination is erroneous in light of the information available to the agency at the time the agency made the determination. §623(c). It does not authorize interlocutory review.

6. DOLE-JOHNSTON AMENDS THE APA STANDARDS OF JUDICIAL REVIEW FOR ALL AGENCY RULES—GLENN-CHAFEE DOES NOT

Factual basis for rules—5 U.S.C. §706(a)(2)(F)

The Dole—Johnston bill amends 5 U.S.C. 706(a)(2) by adding (F) which requires courts to set aside agency action, findings and conclusions found to be "without substantial support in the rulemaking file, viewed as a whole, for the asserted or necessary factual basis, as distinguished from the policy or legal basis, of a rule adopted in a proceeding subject to section 553. . ."

The Dole-Johnston version of S. 343 also requires the final notice of rulemaking to explain how the factual conclusions upon which the rule is based are substantially supported in the rulemaking file. 5 U.S.C. §553(g)(4), p. 8). The "rulemaking file" must identify factual and methodological material that pertains directly to the rulemaking and was considered by the agency or submitted to or prepared by or for the agency in connection with the rulemaking. §553(j)(3)(d), p. 10.

Position: The standards for judicial review in the APA should not be changed. Agencies should be able to rely on their knowledge and expertise in informal notice-and-comment rulemaking. Review should be on an arbitrary and capricious standard, not require that the factual basis have "substantial support" on a limited record. This new standard will create much litigation in an established area of the law.

This standard may encourage judicial intrusion into agency's scientific determinations. In *Corrosion Pipe Fittings* v. *E.P.A.*, 947 F.2d 1201, 1213–1214 (5th Cir. 1991), the court held that the "substantial evidence" test used in the Toxic Substances Control Act for notice-and-comment rulemaking was a more rigorous standard than the "arbitrary and capricious" standard applied now to informal rulemaking and showed that Congress wanted the courts to scrutinize the agency's actions more closely. The Court then proceeded to apply close scrutiny to the agency's cost-benefit calculations and invalidated the asbestos rule that had taken ten years to develop. 947 F. 2d at 1223–1230.

New section 706(a)(2)(F) requires the agency to amass a record for potential litigation in every case. It calls into question the principle that an agency can utilize its knowledge and expertise.

It gives well-healed parties the opportunity to skew the results on judicial review by salting the rulemaking file with comments and materials which support their position. Even in cases where the agency position has an adequate factual basis in scientific literature, this standard might require the agency to list all sources in the file or not be able to later rely on them if a challenge is raised on judicial review.

7. MULTIPLE OPPORTUNITIES FOR REVIEW

Dole Johnston contains other provisions permitting judicial review. Glenn-Chafee contains other provisions making it clear that judicial review is not available. See, §636(d), p. 40, no judicial review of risk assessment guidelines' development, issuance, or publication; §646 (p. 48), no judicial review of executive oversight authority; §6(f), p. 70, no judicial review of study of comparative risk; §6(f), p. 78, no judicial review of regulatory accounting.

8. GLENN-CHAFEE REDUCES UNCERTAINTY AND INCREASES DISCRETION AND THEREBY REDUCES OPPORTUNITIES FOR SUCCESSFUL CHALLENGES TO AGENCY RULES

An example where Glenn-Chafee gets rid of a problem is the effective date provision, §8, p. 70. By making it clear that the section does not apply to pending rules and by providing a reasonable grace period, this eliminates a troublesome problem for pending rules.

9. REGULATORY FLEXIBILITY

Glenn-Chafee eliminates some of the problems with regulatory flexibility under the Dole-Johnston bill. Section 611 (p. 48) avoids inconsistent statutes of limitation where that for the underlying rule is less than 1 year. It provides that court may stay the rule if a failure is not corrected within 90 days but does not automatically terminate a rule if not corrected in that period. Its judicial review standard is more limited, and it does not contain the decisional criteria of the Dole-Johnston bill.

Mr. President, I think this indicates to all who might be paying attention to this debate in the Chamber today how very, very complex and how far-reaching some of these decisions are. It is not something we can rush through. I know it has been stated we want to move forward as rapidly as possible, and I agree with that. But I also want to make sure that while we are setting up a new regulatory review process, we at the same time make every protection for whatever existing law deserves that kind of protection, and before we make changes that we make very certain we do it in a way which protects the health and benefit and safety of the American people.

Mr. President, I would go further in talking a little bit more about the cost-benefit analysis and the decisional criteria.

Glenn-Chafee has no "decisional criteria requiring agencies to pass cost-benefit tests before issuing a rule."

Our response to some of the charges under that are, No. 1: Both the Glenn-Chafee and Dole-Johnston substitutes require agencies to do the same type of cost-benefit analysis. We believe in making agencies do such analyses to better understand what the costs and benefits are of a rule. There is no problem with that with either bill. The differences, though, between our substitutes is how they use cost-benefit analysis.

Glenn-Chafee uses cost-benefit analysis as a tool and not just as a final decisional criteria. There is no language in the Glenn-Chafee substitute that states, "An agency shall not promulgate a rule," unless it passes a cost-benefit test. Glenn-Chafee requires agencies to provide an explanation and certification of whether: One, benefits of the rule justify the cost and; two, the rule achieves the objectives of the rulemaking in a more cost-effective manner than the alternatives.

If it cannot make such a determination, it has to explain why not. The Dole-Johnston substitute has decisional criteria that prohibit using a rule unless, one, the benefits justify the costs, the rule uses flexible alternatives to the extent practicable, the rule is the "least-cost alternative" that satisfies the objectives of the statute, and if a risk assessment is required, the rule is likely to "significantly reduce the risks addressed by the rule."

Why the decisional criteria are problematic: No. 1, cost-benefit analysis is an imprecise science. Cost and benefits are hard to quantify and are loaded with assumptions, and some economists might even say, tell me what answer you want and I will give you the right numbers for costs and benefits.

Agencies should not be required to decide whether or not to promulgate a rule based just on a cost-benefit test.

No. 2, another reason why decisional criteria are problematic: Agencies would have to choose the least-cost alternative. We should require agencies to choose the most cost-effective rule, not just the cheapest. The distinguished Senator from Louisiana has pointed to the out for agencies. They can choose something other than a least-cost solution in the event of "scientific, technical or economic uncertainties or nonquantifiable benefits to health, safety or the environment."

But what if there are certain quantifiable benefits? Agencies would still have to put out the least-cost rule, and that just makes no sense. Even if something is more cost-effective, beneficial to the people of this country, we still have to go with whatever the alternative was that was solely least cost. That makes no sense.

Mr. ROTH. Mr. President, will the Senator yield?

Mr. GLENN. I am almost finished. Another minute or two and I will be glad to yield.

No. 3, agencies must prove that a rule significantly reduces risk. The FAA tells us, however, that some of their safety rules, while quite important and quite effective, may not pass the "significant" test.

No. 4, if agencies determine that the benefits of a rule do not justify its costs, that rule should come back to Congress. And that is a key element of this; that rule should come back to Congress if the agency determines that the benefits do not justify its costs. Agencies should not be the ones to decide whether to issue a rule based on a cost-benefit test. That rule should come back to Congress to decide whether a rule should go forward or not, and that is provided. Congressional veto, as it is called, makes more sense than decisional criteria. It does not hand over Congress' responsibilities to the agencies.

Mr. President, I yield the floor.

Mr. ROTH addressed the Chair.

The PRESIDING OFFICER (Mr. FRIST). The Senator from Delaware.

Mr. ROTH. Mr. President, I say to my distinguished friend and colleague from Ohio that I have been in negotiations and discussions with representatives of his side of the aisle in an effort to revise the decisional criteria with respect to the least cost. I am sympathetic to the concept of utilizing a test of cost-effectiveness or greater net benefit to avoid some of the problems raised in his discussion of this section.

I wonder if the distinguished Senator is willing to proceed along those lines at this time in developing such an amendment?

Mr. GLENN. Yes; as I understand it, what the Senator was proposing was that there are some negotiations going on in this regard, and we would be willing to proceed with further negotiations with regard to cost effective as opposed to least cost; is that correct?

Mr. ROTH. That is correct.

Mr. GLENN. Certainly, I always want to negotiate on these things and see what we can come out with.

Mr. ROTH. I think it important we proceed on this matter, because it is an important one, and that we proceed as rapidly as possible. To be candid, I am disappointed that we have not been able to address this problem on the floor.

Mr. GLENN. I think what the distinguished Senator from Delaware is addressing is one of the most important items in all of this legislative package. I think it is important that we get that one ironed out, because it is a major issue in how we deal with regulatory reform. I agree with him.

Mr. ROTH. I thank the distinguished Senator for his comments.

Mr. President, I rise to call upon my colleagues to support meaningful regulatory reform. I want to explain why I believe that the Dole-Johnston compromise, S. 343, is the key to changing the status quo, and why the Glenn substitute is not the solution to reforming the regulatory process.

I believe that regulatory reform is one of the most important issues we face. The reason is that, overall, Government regulation has an enormous impact on our lives—for better or for worse. If regulations are well-designed and implemented, they can do a lot of good—by making a cleaner environment, safer workplaces, and safer products. But, at the same time, regulations can be very costly, and, if poorly designed, too costly—by raising prices, taxes, and paperwork; diminishing wages; eating up time; and wasting opportunities to do better things with our limited resources. The cumulative regulatory burden costs about $600 billion per year. I believe that, if this massive regulatory machine were retooled, it could do much more good at less cost.

Most experts who have examined the regulatory process, regardless of background or political bent, have concluded that the regulatory process is seriously out of whack and must be reformed. Few if any of my colleagues would dare to say publicly that we should be happy with the status quo.

So the question is, why is there so much controversy about the S. 343? The answer is simple—it is very hard to change the status quo in a significant way. It is a Herculean task to reform one of the most untamed frontiers of big Government—a massive regulatory machine that costs the average American family about $6,000 per year.

That explains why an earlier attempt at regulatory reform, S. 1080, which passed the Senate 94–0 in 1982, was killed in the House. And that explains why people are accusing supporters of S. 343 of wanting to expose the public to tainted meat, breast cancer, and contaminated drinking water. None of this is remotely true, and it does not belong on the Senate floor.

We wasted days last week on meritless arguments that S. 343 needs specific exemptions for meat inspection rules, mammography rules, and so on. The fact is, these arguments got a lot of press, but such exemptions were not needed. The Dole-Johnston compromise has a clear exemption for threats to human health and safety, as well as other emergencies.

In fact, the Glenn bill itself does not have such exemptions, because, as anyone recognizes who knows how these bills work, such exceptions are not needed.

The truth is, if you compare the Dole bill and the Glenn bill section by section, they look a lot alike. At bottom, there are only a few key differences. But these few differences are critical to effective regulatory reform.

First, meaningful regulatory reform must change future rules. The key to ensuring that new rules will be efficient and cost-effective is to have an effective cost-benefit test.

The Dole bill has a focused cost-benefit test. The decisional criteria in section 624 ensures that the benefits of a rule will justify its cost, unless prohibited by the underlying law authorizing the rule. Section 624 is not a supermandate; it does not trump existing law. It simply tells the agency, if possible and allowed by law, to issue regulations whose benefits justify their costs. That is plain common sense.

In contrast, the Glenn bill has no cost-benefit decisional criteria. The bill requires that a cost-benefit analysis be done, but the bill does not require that the cost-benefit analysis be used or that the rule will be affected by the cost-benefit analysis.

The agency only has to publish a determination whether the benefits of a rule will justify its costs and whether the regulation is cost-effective. But the Glenn bill does not push regulators to issue rules whose benefits actually do justify their costs. I have always believed that an effective regulatory reform bill should have a stronger cost-benefit test.

Some of my colleagues, including Senators GLENN and LEVIN, have complained repeatedly about the least cost component of the decisional criteria. Section 624 of S. 343 says, whether or not the benefits of a rule can justify its costs, the agency should select the least cost alternative the achieves the objectives of the statute.

I think there is some merit to the concern that the least cost standard is too limited. If a rule costs a little more than the least cost alternative but provides much greater benefits, I believe that the agency should pick the much more beneficial rule—even if the benefits are quantifiable or are not environmental, health or safety benefits. Why not? Why not spend a little more to get much greater benefits for the public?

Yet, while I share the concerns of many of my colleagues, I have not been able to work out a solution. For weeks, I have tried to work out two solutions—a most cost-effective test or a greater net benefits test—with my other colleagues. I believe that either test is far better than the least cost test with its vague exception for certain nonquantifiable benefits. Yet, we have made no progress, even though proponents of the substitute continue to complain about the least cost standard. I think it is time we worked this out in a bipartisan fashion.

Now, I want to return to a second point about regulatory reform: effective regulatory reform cannot be prospective only; it must look back to reform old rules already on the books. The Dole-Johnston compromise contains a balanced, workable, and fair resolution of how agencies should review existing rules. Agencies may select for themselves any particular rules that they think need reexamination, while allowing interested parties to petition the agency to add an overlooked rule. To ensure that only a limited number of petitions will be filed, S. 343 limits petitions to major rules and sets a high burden of proof—petitioners must show a substantial likelihood that the rule could not satisfy the cost-benefit decisional criteria of section 624.

This is an efficient and workable method to review problematic rules.

The Glenn substitute, on the other hand, makes the review of agency rules a voluntary undertaking. There are no firm requirements for action—no set rules to be reviewed, no binding standards, no meaningful deadlines. The Glenn substitute simply asks that, every 5 years, the agencies issue a schedule of rules that each agency in its sole discretion thinks merits review. It does not require any particular number of rules to be reviewed. And, if someone asks the agency to review a particular rule, there is no judicial review of a decision declining to place the rule on the schedule.

Moreover, there is no judicial review of deadlines for completing the review of any rules. No matter how irrational a rule is, no matter how many people it is burdening, an agency does not have to review it. If the agency happens to put the rule on the schedule, nothing prevents the agency from procrastinating for 11 years. Again, the only deadline is a modest 11-year deadline for reviewing the rule.

The third point I want to emphasize is that effective regulatory reform must be enforceable to be effective. That means there has to be some opportunity for judicial review of the requirements of the legislation, just as there is with almost any law Congress passes. S. 343 strikes a balance by allowing limited, but effective, judicial review. I should note at the outset that S. 343 has been mischaracterized as a lawyer's dream and a litigation morass. In fact, S. 343 provides less judicial review than is normally provided for any law that Congress passes.

S. 343 carves away from the standard level of judicial review provided by the Administrative Procedure Act, which has existed for almost 50 years. The limited judicial review provided by S. 343 will help discourage frivolous lawsuits, and that is why S. 343 has limited judicial review. At the same time, it does allow an agency to be held accountable for complying with the major requirements of the bill.

An agency's compliance or noncompliance with the provisions of S. 343 can be considered by a court to some degree. The court can, based on the whole rulemaking record, determine whether the agency sufficiently complied with the cost-benefit analysis and risk assessment requirements of S. 343 so that the rule passes muster under the arbitrary and capricious standard. The arbitrary and capricious standard is very deferential to the agency. A court would uphold the rule unless that agency's cost-benefit analysis or risk assessment was so flawed that the rule itself was arbitrary and capricious. The court would not strike down a rule merely because there were some minor procedural missteps in the cost-benefit analysis or risk assessment.

In contrast, the Glenn substitute, as now redrafted, does not permit meaningful judicial review of the risk assessment or cost-benefit analysis. The Glenn substitute only requires a court to invalidate a rule if the cost-benefit analysis or risk assessment was not done at all. But the Glenn substitute does not really allow the court to consider whether the cost-benefit analysis or risk assessment was done properly. Indeed, Senator GLENN has weakened the language originally in his bill so that now substantial portions of his bill are irrelevant to the extent that a court could not require the agency to perform the cost-benefit analysis, risk assessment, or peer review in the manner prescribed by the bill.

Compliance with cost-benefit analysis and risk assessment requirements of the bill would be optional by the agency, the same way it is optional for them to comply with the Executive order that now requires these analyses.

Senator GLENN has claimed that his bill is essentially the same as S. 291—the regulatory reform bill I introduced in January and which received the bipartisan support of the Committee on Governmental Affairs. Although the original Glenn bill was similar to the Roth bill, the current Glenn substitute seriously differs from the Roth bill. For example, Senator GLENN has seriously weakened the review of rules provision.

The Roth bill required agencies to review all major rules in a 10-year period, with a possible 5-year extension, or the rules would sunset, or terminate. The revised Glenn substitute lacks any firm requirement about the number of rules to be reviewed.

Worse still, Senator GLENN has weakened the judicial review provision that was in the Roth bill and that originally appeared in the Glenn bill. Section 623(e) of the Roth bill and the original Glenn bill stated that the cost-benefit analysis and risk assessment "shall, to the extent relevant, be considered by a court in determining the legality of the agency action."

That meant that the court should focus on the cost-benefit analysis and risk assessment in determining whether the rule was arbitrary and capricious. Now, the Glenn substitute strikes that language. The Glenn substitute merely asks the agency do the cost-benefit analysis and risk assessment, but the agency can do a sloppy job. The agency also does not have to act upon the analyses and issue a rule whose benefits justify its costs. In fact, the agency simply can ignore the cost-benefit analysis. And nobody can do much about an agency that is doing a bad job. For a reviewing court, the analyses are just some more pieces of paper among the many thousands of pieces of paper in the rulemaking record.

The court does not have to focus on the cost-benefit analysis in determining whether the rule makes sense. Mr. President, that is not real regulatory reform. That is protecting the bureaucracy at the expense of the public.

I should also mention that the Glenn bill seriously weakens the risk assessment provisions of the Roth bill. The Glenn substitute significantly carves back on the number of agencies and programs that would have to comply with the risk assessment requirements. Moreover, the risk assessment language itself is weakened. As just one example, section 634(c)(1) of the Glenn language reverses the standard interpretation of how defaults should be used. The substitute relies on a minority comment in the National Academy of Science report, Science and Judgment. That is, the Glenn substitute prefers default assumption when relevant data is available. That is not what good scientists would do. And that is not what the majority of the National Academy would recommend.

Finally, Senator GLENN has weakened the definition of "major rule." There are no narrative provisions under which OMB could list certain problematic rules as major rules subject to full analysis.

Now, as I mentioned, if you compare S. 343 with the Glenn substitute, you would see that, section-by-section, they look similar. Both have provisions for cost-benefit analysis, risk assessment, review of existing rules, comparative risk analysis, market mechanisms and performance standards, reform of the Regulatory Flexibility Act, congressional review of rules, and regulatory accounting.

But without a focused and effective cost-benefit test, there is nothing to require future rules to be justifiable and cost-effective. And without an effective lookback provision with real requirements, there is nothing to ensure that old rules already on the books will be reformed. Finally, without effective judicial review, we may as well not have a statute at all—we could keep the existing Executive order 12866 that governs regulatory planning and review.

But the whole reason for regulatory reform legislation is that the Executive orders for regulatory review, issued by every President since President Ford, have not been working well enough. There is widespread consensus that the regulatory process is broken and that firm action is needed. There is widespread agreement that many rules have been issued in violation of the requirements of the Executive orders.

Many rules could not be justified if scrutinized under a cost-benefit test. Yet, Executive orders since President Ford have required cost-benefit analysis. The current Executive order of President Clinton, No. 12866, similarly requires cost-benefit analysis, but again, there is nothing to ensure that the agencies will comply. There is no effective judicial review in Senator GLENN's substitute to solve this problem.

I also should add that many of the objections that Senator GLENN and others have raised are off the mark or have already been addressed. First, we agree agencies should be required to perform risk assessment and cost-benefit analysis. Second, S. 343 clearly does not override existing statutory criteria. Moreover, S. 343 is not a special interest bill. It does add a petition process to review rules so that the work does get done. I should also note that we did add Senator GLENN's sunshine provision verbatim. Finally, as I have detailed, we agree with Senator GLENN that "judicial review should be available to ensure that final agency rules are based on adequate analysis." The Dole-Johnston compromise meets these principles.

The Dole-Johnston compromise merely directs regulators to issue regulations whose benefits justify their costs. But the bill does not override existing law. This should not be a radical idea in the White House or on Capitol Hill. I do not believe that the American people think it is radical to ask that the benefits of regulations justify their costs.

Similarly, review of existing rules has been required for almost 15 years under Executive order. Yet, there is a lot of evidence that getting agencies to review existing rules is a lot easier said than done. In the first annual report on President Clinton's Executive Order 12866, OIRA Administrator Sally Katzen admitted that bureaucratic incentives make reviewing rules a difficult undertaking. In discussing the "lookback" requirement of Executive Order 12866, Administrator Katzen said:

> It had proven more difficult to institute than we had anticipated. . . . [A]gencies are focused on meeting obligations for new rules, often under statutory or court deadlines, at a time when staff and budgets are being reduced; under these circumstances, it is hard to muster resources for the generally thankless task of rethinking and rewriting current regulatory programs.

After extensive review of the regulatory process, Vice President GORE concluded that "thousands upon thousands of outdated, overlapping regulations remain in place." The long but disappointing record of executive branch review efforts necessitates a legislative mandate. But this must be a real mandate, with real requirements. As redrafted, the Glenn substitute does not adequately address this pressing problem. The Dole bill will bring real change.

The Dole compromise reflects many comments and suggestions from numerous Senators of both parties, the Clinton administration, the American Bar Association, and many scholars and legal experts.

In sum, the Dole-Johnston compromise strikes a balance between reform that is strong but workable. I urge my colleagues to set aside partisan politics and support the effort to restore common sense to the regulatory process.

Mr. President, I yield back the floor.

Mr. JOHNSTON. Did the Senator have a question for me?

Mr. ROTH. No.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, getting back to this question of the scope of review under section 706 of the Administrative Procedure Act, which is contained in our bill, there is a subsection (e), about which there has been some comment and argument. Subsection (e) adds new language as follows, that:

> The reviewing court shall . . . hold unlawful and set aside an agency action if it is:
>
> (e) . . . substantial evidence in a case subject to section 556 and 557 . . . and otherwise reviewed on the record.

Excuse me, it is not subsection (e). It is subsection (f). It says it shall hold unlawful an action:

> Without substantial support in the rulemaking file viewed as a whole, for the asserted or necessary factual basis.

This, as I understand it, is a principle of law which is about a century old. And this codifies that view. It was first proposed by Senator BUMPERS, and I hope Senator BUMPERS will come over and defend this provision.

From my own point of view, it adds, really, very little. It has very little to do with risk assessment. It has nothing to do with risk assessment or cost-benefit analysis because that provision does not relate to risk assessment or cost-benefit analysis. That relates to the Administrative Procedure Act appeals, which are outside of cost-benefit analysis or risk assessment.

So it is really, in my view, not a very important issue in this bill. I hope and believe that Senators will be able to get together on that issue.

Mr. President, I believe that we have accommodated virtually every complaint with this bill, save some of those which we have debated. We have not yet satisfied everybody on toxic relief inventory. But I believe that is also in the total scheme of things, not a terribly important provision of this bill.

But we have satisfied the critics of the bill on the question of supermandate. That was always the hot button in this bill. The House bill has a supermandate; that is, under the House bill, you can change existing standards under existing law. Expressly, they override existing law.

Mr. President, we have made it clear—expressly, explicitly clear—that there is no supermandate in this bill. We have straightened out the judicial review provisions, so there is no independent review of the procedures as opposed to the final agency action.

We have passed the threshold of $100 million, the threshold that Senators so insisted upon. It is done. It is in the bill. It is passed.

We have straightened out the petition process so that there is one opportunity to get on the list for review, if you were left off. It is 180 days in length. And, if you miss that 180-day window, then you are foreclosed for a full 5 years.

The appeal from that provision is consolidated. So that the former criticism of the Dole bill, the original Dole bill, which was that there would be this multiplicity of appeals, is simply not here on this bill. There is one consolidated appeal. It will not overload agencies or their legal staffs. There will be simply one appeal and one rulemaking action with respect to the schedule.

We have dealt with the effective date, so that those ongoing rules, which have been in the making for, in some cases, 2 and 3 years, will not be subject to either cost-benefit or to risk assessment. They do not have to do it. They are exempted totally. In fact, all rules are exempted from cost-benefit or from risk assessment, if the original notice of proposed rulemaking was filed on or before April 1st, 1995. If it was filed after that, they have ample opportunity to do what the law requires.

Mr. President, we won the fight on Superfund. Superfund environmental activities are now out of this bill. And we have passed the Glenn sunshine amendment.

What we have not done is to go along with what the Glenn-Chafee amendment now requires, which is to throw out any requirements and to make this bill completely consensual, because the Glenn-Chafee substitute is sham reform. If you do not want to have cost-benefit analysis, if you do not want to have risk assessment, then vote for the Glenn-Chafee amendment because it is all consensual. If an agency head wants to do it in his or her sole discretion, then vote to put it in their sole discretion. There is no judicial review. There is no requirement. And you can be sure it will not be done.

It will be business as usual if you vote for the Glenn-Chafee amendment. There is no requirement of meeting a test that the benefits justify the cost. Oh, to be sure, you must state whether the benefits justify the costs, but you do not have to meet that test. You just give the information and go merrily on your way and nobody can question you.

Mr. President, the Dole-Johnston amendment is a workable, logical, scientifically sound set of requirements that will put agencies of this Federal Government to a rigorous set of logical steps so that we can avoid what we have under the present law, which is regulations not based on science, not based on real risks, but, as EPA said in 1987 in their own study, that systematically they rate risk according to what the public thinks about those risks as opposed to what the scientists think about those risks. That is a 1987 study by EPA, not some industry group, not some right-wing think tank, but EPA's own study, which said in 1987 in their publication entitled "Unfinished Business," that their estimations of risk were wrong.

In 1990, EPA's own Science Advisory Board made a new study of the old study. They made a new study to determine whether the old study was correct. And they stated that the 1987 study was correct; that is, EPA has not been using science or the proper estimation of risks.

To bring science into the proposition is not to erode health standards. It is not to allow E. coli in meat. It is not to make people less safe. To the contrary, the way we determine whether someone is at risk in the health, safety, or the environment is by a scientific evaluation. You do not decide what to do on a health standard by consulting some soothsayer or some pollster or some political operative. You determine what meets a standard of health by looking at the best science available. That is what we do in this bill. We require the best science available—not the best politics, not the best bureaucrat, not the pressure group with the most members, not the one that can make the most noise, not the one that can meet the most people at a public meeting, but the best science available. And we require them to justify the cost—not to get the cheapest, not to get the least cost, but to get that which satisfies the requirement of health, safety, or the environment, and satisfies the uncertainties of science or data.

Mr. President, the Dole-Johnston bill is a tightly drawn bill which serves the public well. I hope my colleagues will endorse that bill today and vote cloture.

Mr. President, I yield the floor.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mr. DORGAN. Mr. President, I have listened for some long while to this debate and participated during previous days in this debate on regulatory reform.

I must say that in the early stages of this debate, it was beyond boring. I mean there are boring debates and then there are boring debates that are well beyond the definition of boring. I suppose the reason for that is because the language of this legislation—and also, in some respects, the language of the debate itself—is technical and so arcane and so terribly difficult to understand. I suspect for that reason it has not been very interesting.

Yet the debate itself about regulatory reform, or what kind of regulations we ought to have in this country, is a debate that will affect every single American. It is very important, especially this debate as it relates to the safety of what we eat and drink and breathe. It relates to the controversy that we have had now for a couple of decades over how we do things in this country.

It was not too many years ago that we did not care much about environmentalism or about environmental concerns. The issue was if you are going to produce widgets or you are going to manufacture widgets, you get yourself a manufacturing plant and you start manufacturing widgets, whatever they are, and you can dump the pollution into the airshed; you can drop your raw chemicals into the waters and streams and lakes. It just did not matter because you were providing jobs and producing widgets. And, of course, what you were doing was passing the costs of this manufacturing down the road to someone else who someday would be required to clean up the air and those streams and rivers and lakes.

About 20 or 30 years ago, the people in this country started asking a question: Would it not make more sense for us to stop spoiling this place in which we live by requiring those who produce and those who do certain things to do it without despoiling the air or the water? Would that not make more sense? And, of course, those who were producing, those who wanted to dump chemicals and effluents and pollution into the air, and those who dumped chemicals into the water, did not want to change the way they did business. Frankly, it was costly to change the way they did business.

I have told my colleagues before; I grew up in a town of about 300 to 400 people, which is a small town, in North Dakota. When I was a young boy, my father ran a service station and farm implement dealership, and part of what was done in that service station was people would drive in and we would change the oil in their cars. After we had changed the oil—we would take the nut out of the crankcase and drain their crankcase of the used oil—it would go into a barrel, and when the barrel was full, the barrel was poured into a large tank. And when the tank was full of all of this used oil, we would hook the tank up to a little co-op tractor and drive up and down Main Street of Regent, ND. We had a pipe on the back of that tank with little drip valves on it, and we would drip that used oil all up and down the Main Street of my hometown.

Why did we do that? Because my hometown did not have paved streets, and it was a wonderful thing that the Farmers Union Oil Co. did for Regent. And for that matter, it was a wonderful thing the Regent Garage did for Regent. Every so often, when they had enough used oil in their tank, they hooked it behind the tractor and drove up and down Main Street and dripped that oil on Main Street to keep the dust down.

That was an old-time version of blacktop, I guess, just drip used oil on Main Street to keep the dust down. Of course, if you caught someone today riding a little co-op tractor dripping a barrel of used oil on Main Street of Regent, ND, someone would soon have them on the way to a penitentiary someplace because that is a very serious violation of Federal law and State law. You cannot decide to drop oil on the main street of a town in order to hold the dust down as we did because we understand now, many decades later, we were contaminating and polluting and ruining our water supply. It was not the right thing to do. We did not know it at the time; we thought we were doing a good thing at the time. The people of my hometown thought it was wonderful. But we were polluting the water supply, contaminating groundwater.

So we have rules and regulations that say you cannot do that. If you are going to take used oil out of cars, you are going to have to figure out a way of disposing of that used oil without ruining our water supply—a fairly simple requirement except it costs money. It is a pain for somebody who is changing oil in cars to have to figure out what to do with that used oil. It costs money to deal with that used oil in the right way.

Well, is it reasonable to require that we not dump that on the streets or dump it in a ditch someplace? Yes, that is reasonable. And it is a cost that then is passed on with the cost of doing business.

In a much larger way, we have had that same debate with respect to air pollution. In the 1970's in North Dakota, there was a decision that we were going to use a lot more lignite coal. We are part of the Fort Union Basin, which has the largest lignite coal deposits in the world. In order to produce electricity to fuel Minneapolis, using lignite coal from North Dakota out there in the prairies, they wanted to build large coal-fired generators to burn that coal and produce electricity. The problem with that was that North Dakota was to host this lignite coal burning. If you are going to burn lignite coal to ship electricity to Minneapolis-St. Paul, for example, so they can have heat in the winter and air conditioning in the summer, do we want air pollution in our airshed in North Dakota as a result of doing that? The answer is no.

So in the 1970's, I and two or three other fellows led at the time a fight in

North Dakota to say if you are going to build coal generating plants in North Dakota, you are going to do it right. In other words, you are going to be required to use the latest available technology with respect to your stacks, and the effluence or emissions that come from those coal-fired generating plants have to be reduced by using the latest available technology; in other words, wet scrubbers on those stacks to clean the air. Expensive? You bet. Very expensive. Was it the right thing? Well, 20 years later, I can tell you I am proud of having been involved in that fight and proud of having been in a group that won that fight in North Dakota because, yes, we burn a lot of lignite coal. I am pleased that we do. But it is burned in plants that have wet scrubbers and the latest available technology to prevent the kind of pollution we would have had.

The result is that North Dakota met the clean air standards. We still have a good airshed, largely because we fought the fight and said you are required to do this the right way. That was a regulation, a requirement. Was it a pain for somebody? Was it costly? Yes, it was. But it was the right thing, as well. Had we not done that, we would have produced power and sent it east somewhere and we would have been stuck with dirty air in North Dakota. It is not the right way to do things.

Now, the issue with respect to this matter in this Chamber is an issue, it seems to me, of what is reasonable. Some call this regulatory reform. Others call it regulatory rollback. I happen to believe there are a lot of silly, unnecessary, and unreasonable Federal rules and regulations, and we ought to get rid of them and the people who write them. There is no excuse for that. But we ought to deal with facts, not fiction.

It is interesting, in the book The "Death of Common Sense," among other things, it is said a dentist is now prevented from extracting a tooth, a child's tooth, and giving the tooth to the child. I thought to myself when I read that, what on Earth is happening? Who would write a rule like that? Well, I looked into it. It turns out it is not true—a great story, but it just is not true.

There is a host of those kinds of myths that gain life because someone said it in an anecdote that turns out to be just not true. In fact, there are a dozen or so that have been used in the Chamber, which I am going to come and describe, and most of those dozen are not true either. I will do that in a subsequent presentation. It is one thing if we are dealing with fact. It is another thing if we are not dealing with the truth.

One of the issues that has been raised in the Chamber as silly regulations, we are told, is that a worker cannot wear a beard. In fact, I think it was on Senator HATCH's top 10 list, No. 9. It says forcing a man to choose between his religion and his job because rules do not allow workers to wear a mask over a beard. A stupid rule, Senator HATCH alleged.

Well, I looked into that to try to understand: Is that the case? The Government, at least to the extent that I have been able to find—and maybe someone will correct this—never forces workers to choose between their safety and their religious beliefs about wearing beards.

There are some businesses that do that, that require their male employees to be clean shaven. This actually deals with the question of respirators, which prevent workers from breathing in harmful substances such as asbestos, lead, or toxic chemicals, and apparently about 2.6 million American workers do wear respirators. One kind of respirator does not work if you wear a beard, because you do not get a good seal around your mouth.

But a better respirator can work even if you wear a beard. And if you use environmental engineering controls, to stop workers from breathing in these toxic substances in the first place, you do not need to wear a respirator at all.

So the fact is the Government does not force workers to choose between their safety and their religious beliefs about wearing beards.

Here is another one. An elderly woman cannot plant a rose garden. No. 3 on the top 10 list of silly regulations. We do not have any idea where that comes from. The suggestion, I guess, is that section 404 of the Clean Water Act is preventing someone from gardening as they wished. As we understand it, the story turns out to be almost entirely apocryphal. A number of people have tried to get the facts on this silly regulation, or alleged regulation.

It first appeared in 1991, I understand. It was alleged it happened to a woman in Louisiana. And then when retold, apparently it happened to a woman in South Carolina. And then retold again, it turns out it was probably a woman in Georgia. The Heritage Foundation said that this was a woman in Wyoming. Well, the Army Corps of Engineers has never been able to determine where this story might have come from.

Perhaps if Senator HATCH, or others, might tell us who this happened to and give us some details, we can verify whether this is actually the case. At least those who have tried to verify this say the allegation that an elderly woman was prevented from planting a bed of roses on her own land is simply not the case, simply not true. There are no facts to support it.

There are a whole series of these myths.

No. 4 that was offered in a chart, Senator HATCH's list of top 10 silly regulations, was failing to approve a potentially lifesaving drug, thus forcing a terminal cancer patient to go across the border to Mexico to have it administered.

Now, I want to note that we have provisions of the Federal Food, Drug and Cosmetic Act in this country that do relate to the question of what drugs patients who are terminally ill may use.

First, since 1968, the FDA has had what is called a "compassionate use policy," to permit the use of a drug that is still being tested if there is no other drug available for the condition. Second, the FDA may make promising drugs that are still under investigation available to terminally ill patients before the drugs go on the general market. Third, FDA now has a new fast-track procedure to speed approval of new drugs for serious or life-threatening illnesses.

I understand that there are some concerns about the speed or the pace with which the FDA acts. It seems to me that the Congress and the FDA have tried to address this issue.

You know, the FDA has had an interesting history in this country. They have been careful, it is true. A recent study showed that 56 drugs have been removed from the market in the United States, Great Britain, France, and Germany since 1970. In other words, drugs have been removed from the market 56 times. Of these, only nine removals occurred in the United States. Why? Because the drugs that were removed from British, French and German markets were not approved by the FDA.

Mr. JOHNSTON. I wonder if the Senator will yield.

Mr. DORGAN. I will be happy to yield.

Mr. JOHNSTON. The Senator has been talking about the list of the top 10 worst regulations. Frankly, I have not paid too much attention to those anecdotal sort of things. Is the Senator aware that EPA did a study of its own regulations in 1987 called "Unfinished Business: A Comparative Assessment of Environmental Problems," and that they concluded that their own estimation of risk did not comport with scientific risk, but rather with the public opinion about those risks? Is the Senator aware that was EPA's own evaluation of its own regulations?

Mr. DORGAN. I am familiar with the study, but I have not had the opportunity to review it in detail.

Mr. JOHNSTON. I have a copy of it here. I wonder if the Senator is aware that in 1990, the Science Advisory Board did a study of that and, in effect, concluded that the first study was correct; that is, that it did not comport with scientific evaluation of those risks, but rather with public perception of those risks. The Senator was not aware of that?

Mr. DORGAN. Again, I have not examined the results of that study in depth.

However, I do not think the Senator would use either study to demonstrate a conclusion that the central thesis of what I am talking about, the Clean Air Act, the Clean Water Act and a whole range of other health, safety and environmental standards, are somehow not grounded in science or not grounded in fact. I think the Senator would not be correct if he says the bulk of what we do to make sure our water is safe, to make sure our air is clean, to make sure drugs are tested and safe, the bulk of what we do is inappropriate. The Senator would not be making that case, would he?

Mr. JOHNSTON. Absolutely not. As a matter of fact, we have specifically stated that all of those laws to which the Senator refers will not be changed in any way, will not be overridden. I thought it was clear in the original Dole-Johnston bill, and we have had a lot of debate here, as the Senator knows, about the question of whether it was clear. We accepted the amendment that made it doubly clear; that is, that each one of those laws will remain in full force and effect, all the standards will be there.

What we are dealing with here is rules. When you take those laws and translate them into rules, what we are saying is that you must look at those laws through the lens of sound science and proper risk assessment, rather than public opinion, politics, emotion, prejudice, superstition—whatever. We are saying translate those good laws, which protect public health and safety, but do it in a rigorously logical and scientifically appropriate way. Would you agree with that?

Mr. DORGAN. Well, as the Senator states that principle, I have no substantial disagreement with him. However, the Senator understands very well what is at work with respect to this body of change and reform. The Senator is perhaps familiar with the stories of the bill that is similar to this one—though not identical—the regulatory reform bill that went through the House of Representatives?

Mr. JOHNSTON. It differs with this bill as night does day.

Mr. DORGAN. Perhaps. My point is with respect to the regulatory reform agenda, I know the Senator has read the accounts and probably verified them in discussing them with our colleagues that the bill in the House of Representatives was actually written by a bunch of lobbyists sitting in a room saying, "This is what we need to have happen."

I guarantee you this—I just guarantee because I have been in these fights in North Dakota for a long time, with respect to air pollution and other matters. The corporate system is interested in profit, and they should be because they are responsible to their stockholders. When they sit around and propose regulatory reform legislation, they are designing to find ways to weaken the Clean Air Act, the Clean Water Act and a whole series of regulatory standards. That is simply the way it works. I think that is unfortunate, but they have every right to try to do that. I want to make sure we get rid of the silly and the outrageous regulations—and there are some—but I want to keep the foundation of what we have done.

Is the Senator aware of this: I wonder if the Senator is aware—likely, because I think he is one of the best in the Senate on the issue of energy and related issues—that in the last 20 years, we have nearly doubled the amount of energy we use, and yet the airshed in America is cleaner than it was 20 years ago?

Mr. JOHNSTON. Absolutely.

Mr. DORGAN. If the Senator is aware of that, the Senator, I think, would agree with me that is not because the captains of American industry said, "We ought to invest our money to clean the air." It is because Congress decided to do something. We decided to say to people, "When you produce, part of the cost of the production is the requirement not to pollute America's air."

Mr. JOHNSTON. And that is why we have every single provision of that Clean Air Act unchanged, not overridden, and the full force and effect if this bill passes.

Did the Senator know the original risk assessment was proposed by a Democrat, namely me, and passed overwhelmingly here?

Mr. DORGAN. In the last session of Congress, absolutely.

Mr. JOHNSTON. I do not know what happened in the House, whether or not lobbyists were involved in it. That is irrelevant to this bill. We took the original Dole bill which came out of committee, which, in turn, differed from the House bill, and made over 100 changes, including all of those I talked about. So I do not know how it started or how it changed or how the House did it or what the Louisiana Legislature did. I am telling you what is before the Senate now, which is the relevant thing, and what is before the Senate now is a tough bill which incorporates all of those good provisions for clean air and water that the Senator speaks about.

Mr. DORGAN. I appreciate the Senator's participation. I have great respect for Senator JOHNSTON.

Let me finish what I was trying to say.

Mr. LEVIN. While the Senator is yielding, if the Senator will yield for an additional question.

Mr. DORGAN. Yes, I yield.

Mr. LEVIN. The Senator from Louisiana asked if the Senator was familiar with a number of documents, and there is a third document I would like to refer to, which is the March 1995 report, later than the two documents to which the Senator from Louisiana referred.

In the 1994 report of the National Academy of Sciences—that report entitled "Science and Judgment in Risk Assessment"—they made a number of specific recommendations to the EPA where they might improve policies, practices, and methods of risk assessment, but also concluded the following:

> EPA's approach to assessing risks is fundamentally sound, despite often-heard criticisms.

I ask this question of my friend—as to when the Senator was reviewing the two earlier documents of the Senator from Louisiana—whether he might also add to that reading list the 1994 report of the National Academy of Sciences?

Mr. DORGAN. I would be happy to add that report to the list of reports I should review. I have heard the Senator from Louisiana refer to his two in previous debate. I doubt whether the conclusion one can reach from them is that you have a bunch of folks proposing regulations on unscientific basis. Let us think about the facts here.

The fact is we use twice as much energy now and have cleaner air. Why is that? Because we have clean air regulations that do not work? Of course not. They have succeeded. One of the things we at least ought to take credit for is having marched in the right direction. I think the Senator from Louisiana would not contest that. He is making the case, yes, that is probably true, but we are not interfering with that.

So let us understand that what has been done in the name of regulation, in many instances, has been awfully good for this country. We now have started to clean up America's airshed. I think a lot of the kids and families would say thanks for that. That is the right thing. We want to live in a healthier place. My sense is that if you ask folks out there: Do you think that the food safety standards in this country make sense? Would you sooner go into a restaurant and order a side of beef—not that the Senator from Louisiana would eat a whole side of beef at one sitting—but would you like to see on that side of beef one of those big stamps that says "USDA inspected," or would you like to see that it has a little stamp that says, "This side of beef was inspected by Sid and Arnie's Meatpackers Co."?

Well, look, I think what we have done for food safety has made a lot of sense in this country. I will not tell the stories about bread and rat poison and meat going down the same holes in the 1900's before we decided to have meat safety standards.

Mr. JOHNSTON. The answer is, of course, I want that "USDA inspected" label on there, and I want scientists to make that inspection based on scientific standards and not on some public opinion poll or some prejudice or some superstition. Put good science in the picture. That is all we are saying. I want the inspections to continue, but with good science. That is what we are about. You know, it is the scientists who discovered E. coli, not some pollster out there reading the results of the last election.

Mr. DORGAN. The Senator knows what has happened with E. coli in the last couple of days. He has read the reports about outbreaks in three or five States in recent days. We are now going to be talking, one of these days—I hope seriously—about inspection of fish and seafood. That is now voluntary in this country, and it ought not be. When we get to that point, I wonder whether we will be as aggressive and interested in making sure that that inspection is the equivalent of other flesh food and that we will have the same kind of assurance for the American consumer that they are buying fish and seafood that is healthy and wholesome.

I happen to think that in some areas regulations make sense. I do not think the Senator from Louisiana disagrees with that. But we have been in this circle here where if somebody holds up a silly regulation, I guarantee you—and I know we are not debating the House bill—that that bill was written by the people who want to get out from under the cost of regulations. People used silly examples then to demonstrate the rule. Well, even if the exception is true, it does not demonstrate the rule.

We are always debating things the Government is spending. Somebody might say, gee, "Did you know somebody in a research is studying the sex life of a screw worm?" Yes, they study that with public dollars. Why? They did that to save the beef industry in this country. And they did. I cannot even describe to you the cost-benefit ratio of that work. But someone can make fun of that, I suppose, or the fact that somebody was sitting in a laboratory with dark glasses studying molds and discovered penicillin. You can go on forever.

With respect to regulations, we go through the same kind of situation. Someone holds up a silly one—and there are some—and says, "This demonstrates the rule."

I am going to support the Glenn-Chafee regulatory reform substitute because I think it moves in the right direction. It is substantial reform. It requires agencies to show that benefits justify the costs, but it does not allow the cost estimates to control, just singularly——

Mr. JOHNSTON. If the Senator will yield, I submit to the Senator the Glenn-Chafee bill does not make such a requirement. It makes a requirement of stating whether the benefits justify the cost. But it is no longer a decisional criterion. You state it, but you do not have to comply with it. That is the point.

Mr. DORGAN. I will yield soon, but I say that my understanding of the Glenn-Chafee substitute is that it requires that the agency use a cost-effectiveness standard, and the cost effectiveness standard, in looking at which regulatory scheme or approach to use, is substantially different than what I believe your proposal would require, which is the least-cost standard. You might find a standard that is the least cost but is less appropriate than the most cost-effective standard. That is how I view the differences in these proposals.

I yield to the Senator from Michigan.

Mr. LEVIN. The Senator has pointed exactly to one of the major differences in the two bills, which is the requirement in the Johnston bill that you go with least cost, unless there is a certain nonquantifiable benefit. But if the benefits are quantifiable—which they are in many instances—you are forced to go with the least cost, even though a slightly larger cost would produce a major additional benefit.

So the Senator is exactly right on that. On the question of whether or not cost-benefit analyses were required in the Glenn-Chafee substitute, it is required. It is right here on page 29, line 14. I am going to read the language because it is required, but if it cannot be given, then the agency must say why, in fact, the certification that the benefits justify the cost cannot be made, because there are instances where an agency cannot make that certification. This is the language:

> The agency must certify that the rule will produce benefits that will justify the cost to the Government and to the public of implementation of and compliance with the rule, or an explanation of why such certification cannot be made.

And in addition to requiring that that certification be given, the Glenn-Chafee approach is that Congress is then put in the position where, if such a certification is not or cannot be made, then it will or can veto such a regulation. We are put in the position, because of the expedited process here, for Congress to review regulations, and where the benefits do not justify the costs or any other regulation, we are accountable.

Finally, there is some accountability in the elected officials of this land for the regulations which people might think are burdensome. We are not going to be able to hide behind the regulators under Glenn-Chafee. We have here legislative veto.

So in the event an agency cannot certify that the benefits justify the cost, someone can come to us—a constituent can come to us and say, hey, look at this cost-benefit analysis. They are producing here something which costs $1 billion and only produced one-half billion dollars in benefits. We want you to veto that because it does not make sense. We are not going to have any excuses—no more excuses, no more hiding behind regulatory agencies. So there are significant differences between the two bills, but they are not both regulatory reform, and cost-benefit is required in both bills. The difference is what happens when an agency cannot certify, or should certify, that the benefits justify the cost under Glenn-Chafee. We then take the position as to what should happen.

Mr. DORGAN. Mr. President, I know that others want to speak. Let me make two final points on this subject. I appreciate the comments of the Senator from Michigan.

It is very hard, it seems to me, for anyone to talk much about success. Failure is what sells. Scandal sells. Success is largely boring.

You know, Gregg Easterbrook has recently published a book about the circumstances we face in this country with our air and our water. He points out something most Americans probably do not know, that our air is cleaner now than 20 years ago. Is it perfect? No. Are we moving in the right direction? Yes. Our water is cleaner now than it was 20 years ago. Our lakes, rivers, and streams are cleaner than 20, 25 years ago.

Think back 20 or 25 years ago. Most people foresaw an era ahead of gloom and doom. That seemed to be where we were headed—more pollution, more use of energy, and more pollution of our air, of our water. And they figured that we were consigned to do that. It was inevitable, they thought, because we could not control it.

Congress decided we wanted to do something about it, and we passed legislation and said we have to change the way we do business. Yes, it is costly. Yes, it is probably a pain to do that. But we insist it is a cost of doing business, to keep America's airshed clean, to clean up our rivers and streams.

Mr. President, 20 years later we can stand on the floor of the Senate and debate regulations and talk about the fact that we changed the direction this country was headed in. How? By regulations, by laws that say we demand this country change the way it is moving.

Now, I happen to think that is wonderful. We should claim a little success in areas where we have made progress.

Those who are elected to Congress under a regime of reform or change, who come here thinking they ought to change what is successful, in my judgment, jumped on the wrong wagon on the way to town.

We ought not be reforming something that is working and moving us in the right direction. If anyone believes that the direction of the regulatory reform bills in the House and some that have been proposed here would weaken the fundamental structure of our attempt to clean our air and clean our water and keep our food safe, it seems to me the choice is pretty clear. The choice is to support the Glenn-Chafee bill, which does reform our scheme of regulations in a sound and a practical way but does not jeopardize what we have accomplished in this country.

When I began this presentation, to those who took umbrage when I said this debate is beyond boring, and for those who have participated in it, I do not mean this personally. I say it is beyond boring because most of it is so fundamentally arcane and technical and hard to understand, but it will affect the life of every American citizen. It might be boring, but it is critically important.

If we strip the peeling off, we are talking at the roots, yes, about E. coli; yes, about mammograms. We are talking about health, safety, clean air, clean water, and that affects every single American. That is why this debate is important. It is why it is important we get it right.

Finally, it is why it is important we not decide to be champions of change in areas where we are successful. That makes no sense.

That is why I come here supporting the Glenn-Chafee bill, the substitute, and hope that we will not invoke cloture late today, and instead decide to embrace the Glenn-Chafee regulatory reform substitute. I yield the floor.

Mr. BOND. Mr. President, I thank the Chair. I rise to support S. 343, the Comprehensive Regulatory Reform Act of 1995, and in strong opposition to the amendment offered by our friends, the Senators from Ohio and Rhode Island.

Let Members know at the outset that the Dole-Johnston substitute is not a regulatory repeal act. It is not a regulatory prohibition act. It is, in fact, a strong, regulatory reform act.

It reforms the way Government regulations are issued, with three goals in mind: First, to bring accountability to the bureaucrats writing the regulation and, just as importantly, to those in Congress, who, after all, write the laws that generate those regulations; second, it attempts to bring a little common sense to the regulations that are issued; third, it brings a little more honesty to the way we talk about what we are regulating and why some truth in regulating is necessary.

I am afraid that the Glenn-Chafee amendment comes up short when measured by these criteria. This is an effort to go back to the status quo. It will ensure we stay where we are. It would fail to ensure that Government agencies obey the law and follow common sense like the rest of Americans have to do.

If the Glenn-Chafee amendment were to be adopted, we might as well do nothing—for that is, in fact, what will happen. There will be no change. Same old 6's and 7's, the same old way we have been doing things.

It is my contention that we simply cannot afford to do nothing. We cannot accept the status quo. Regulations are like water: Too little and you cannot live; too much and you drown. In our crowded society, there is no question that regulations are needed to help make our communities a better place.

As has been pointed out at length in the recent discussions on this floor, over the last 25 years, environmental regulations have helped ensure that the air we breathe is cleaner, the water we drink is safer, and the rivers we fish and play in are increasingly less polluted.

Workplace regulations have made our jobs safer. One would think from listening to the recent debate that we were going to change all that. That is not the point.

Those who argue for 25 years are not being contested. But the argument is about here, today, and where we go from here. That is the point that has been missed in some of the discussions we have just heard.

In recent years, the fact is that government regulation has risen to the level where it is choking off the growth of jobs, the growth of economic opportunity and the betterment of the way of life of everyone.

Just like the waters of the Missouri River that recently rose to flood part of my home State of Missouri, we are suffering a flood tide of regulation. The Comprehensive Regulatory Reform Act of 1995 will go a long way to stop the rising tide of overregulation. When the President signs this legislation, as I believe he eventually will, because he must, we are going to reduce the burden of government regulations below the flood stage so that regulations continue to enhance the quality of life, not interfere.

Now, opponents of this legislation have taken the approach that there is no problem with overregulation; regulation is only good. We have heard stated how many good things regulation has done. They say, Do not worry, be happy; regulatory burdens are all in your imagination. To that I say, respectfully, Bunk. Get outside the beltway, ask the people who live and work in the rest of America what they think. Ask the people who have to comply with the regulations. Ask small businesses.

I have had the opportunity as chairman of the Small Business Committee and as cochair of the Regulatory Relief Task Force to hear plenty from people in small business. Last week, I spoke on this floor about a series of field hearings the Small Business Committee has held around the country. I can say that the Senators who attended those hearings had our eyes open to what is going on with small business and the cumulative burden of regulations.

As the Chair well knows, we heard in Memphis from people from all different areas of small business how the burdens of government regulation were making it impossible for them to continue to bring the jobs, to provide the products that were essential, not only to the economy, but to the well-being of the people in that area.

Just last month, I heard the same message from delegates to the White House Conference on Small Business. They made it very clear to anyone who was willing to listen that excessive overreaching regulations and outrageous enforcement zeal are a top priority for the Nation's small entrepreneurs who create large numbers of new jobs.

These delegates came to Washington, took time away from their business, spent their money, and devoted resources and effort of extraordinary magnitude to speak on behalf of small business.

They voted on the biggest concerns to small business from a list of several hundred proposals, from judicial review of the Regulatory Flexibility Act to cost-benefit analysis, to protection for self-audits, to sunsetting old regulations, to reform of OSHA—the delegates sent a clear message to us and to the President. Maybe some people stuck inside the beltway do not know that regulations are a big problem. But small business knows that it is drowning in a floodtide of regulations.

Mr. President, I ask unanimous consent to have printed at the end of my remarks the list of the top 30 concerns as voted on by the delegates to the White House Conference on Small Business, so everyone can see how important this legislation is to small business.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See Exhibit 1.)

Mr. BOND. I do not believe the delegates to the White House conference would want to see this bill weakened by the Glenn-Chafee amendment.

Let us look at environmental regulations as an example of the rising cost of regulation. In the past, environmental regulations were based on common sense and they have been responsible for giving us a much improved quality of life. But increasingly they are now choking off American entrepreneurship and producing fewer and fewer benefits.

I think I understand why this is happening. Because, to me, solving our environmental problems is a little like harvesting a Missouri soybean field. You can get most of the soybeans quickly and efficiently with a modern combine. It is an expensive machine but it is worth the cost because it is fast, efficient, gets the soybeans that provides a vital food source supply, and it does so in an economical way. We could build a superefficient combine, designed to harvest almost every single soybean, leaving almost none behind, but it would sure be a lot slower and it would undoubtedly be far more expensive. And very few farmers in Audrain County, MO, where I am from, could afford it because it would only get a few more soybeans. You could even take that one step farther. You could get every last bean, perhaps, if you hired an army of people to crawl through the fields on their hands and knees, looking for any single bean the machine has missed.

The point of all this is, simply, there is a diminishing return on investment at some point. Sooner or later, you have to say enough is enough and move on to another field. When is it that you say enough is enough? You say enough is enough when science says that it is enough. If there is something truly dangerous, if the gathering of that last soybean out of the field has to be done for critically important human health, welfare and environmental needs, then yes, let us talk about getting that last bean. But when there is no real danger to the environment, or to human health, what good is there to pursue perfection?

Environmental regulations work just like that. Initially, our regulations were based on common sense and well worth the money we spent to reduce pollution. Nobody wants to go back—and nobody is talking about going back—to the days of dirty water, dirty air, dirty food. We have made great gains in environmental quality and significantly reduced pollution at moderate costs.

But in the last few years, I will tell you, something has gotten out of whack. In many areas of environmental protection we have found the costs to get those last few molecules of pollution skyrocketed. Achieving additional gains is exorbitantly expensive, with more and more money being spent on fewer and fewer results. In these areas we have reached the point of dramatically diminishing returns.

If we cannot achieve zero risk—and most scientists I talk to tell me that nature and this world is not a zero risk environment—does this mean we should stop writing regulations to protect our health and environment? No. Not at all. It simply means we cannot afford to regulate unwisely, as if we were going to achieve a zero risk, absolute perfection ideal, without regard to costs.

The current effort before us today in this body is to pass regulatory reform. Foremost, it is to ensure that regulation is done wisely. Those of us who are pushing for reform believe that knowledge, scientific knowledge and common sense, are important parts of wisdom. If we are going to spend $160 billion on the environment, we think everyone should get a better understanding of what kinds of risks we are protecting against, the benefits of specific regulations and the cost of those regulations.

The real tragedy of this is that our desire for perfection will bankrupt us and divert our efforts away from more significant risks. Every day of every year, real people die because we have misallocated our resources. One study conducted at the Harvard Center for Risk Analysis has shown that if EPA did a better job of prioritizing the resources consumed by a sample of 90 average regulations, 1,200 needless deaths would be avoided. That is just 90 rules at just 1 agency.

Across the Government, this same study showed that by using common sense and getting the most bang for the buck, we could save tens of thousands of additional people every year without imposing any additional cost on our cities or businesses. These are the real victims of the status quo. The complaints of how this bill might lead to someone being exposed to some increased theoretical risk pale in comparison to the deaths that occur every day because we have spent our resources responding to the latest media scare instead of basing our decisions on sound science and cost-benefit analysis.

Those on the other side who are exposed to regulatory reform—there are some who are opposed to any kind of regulatory reform, they like it just the way it is—like to trout out the phoney scare stories of the victims of E. coli food poisoning. They know that this bill contains clear safeguards for regulations that protect us from food poisoning. But the other side does not say much about those who are inquired or killed every year because we waste resources on trival risks, instead of focusing on the real health and safety risks. These are the victims who are left with no hope if the Glenn-Chafee amendment passes.

The Dole-Johnston substitute has three simple goals: we want Government regulators and the Congress to be more accountable for their actions. We want Government regulators to be honest. And we want them to use a little common sense.

Central to increased accountability are the congressional review and tailored judicial review provisions of this bill.

Judicial review of the Regulatory Flexibility Act was the third highest vote-getter at a recent White House conference. Let me take just a moment to explain why this is important.

The Regulatory Flexibility Act, for those who are not familiar with the terminology, refers to a measure passed in 1980 by Congress. It was supposed to give a break to small business by telling agencies that they had to be flexible in passing regulations that deal with small business. They were supposed to conduct a regulatory flexibility analysis to see if there are other ways of getting the same job done if it affected small business.

Unfortunately, the problem was that Congress in its wisdom—and I apologize for the oxymoron—struck any kind of judicial enforcement out of the Regulatory Flexibility Act. So what happened? Every time the Advocacy Council and the SBA went to another agency and said, "You did not comply with the Reg Flex Act," or a small business went in and said "You did not comply with the Reg Flex Act," the answer in too many cases was, "Tough. There is nothing you can do about it."

There we see the provisions of the Glenn-Chafee amendment making judicial review almost ineffective, totally ineffective in many instances, if there is only a show of cost-benefit analysis. We do not want to make that same mistake again. We put in an appropriate judicial review for reg flex, and on decisions such as cost-benefit analysis.

The judicial review provisions of S. 343 will provide a much-needed check on the actions of agencies, without subjecting rules to judicial scrutiny of minute procedural steps. This provision strikes the right balance between accountability and a desire not to clog up Federal courts.

The bill provides for greater congressional accountability by including the provisions of the Nickles-Reid Congressional Review Act passed by the Senate 100 to 0. There are two important changes. First, the period for congressional review is extended from 45 to 60 days. Second, the threshold for rules whose effectiveness is delayed during the congressional review period is tied to the overall definition of a major rule.

The second goal of the bill is more honesty in the pronouncements of the Federal Government. S. 343 would for the first time require Federal agencies, not only to tell us what they know, but also to tell us what they do not know, when it comes to assessing risks. EPA would no longer be able to hide the ball from the public in their analysis of regulations. From now on, Federal agencies will have to come clean on the assumptions they make and the quality of the science they use in making regulatory decisions. This is a provision that ought to be called truth in regulating legislation. I expect and hope that as a result of this legislation, many so-called risks that EPA tries to regulate will turn out—like the alar scare—to be based more on fear than fact. After passage of this legislation, if sound science indicates that a significant risk needs to be addressed, then, of course, we must support sensible and cost-effective regulations. That is what this is all about, making sure that we get regulations focused on the design to get rid of those risks.

This bill is also about a return to common sense in regulating. Federal agencies spend too much time focusing on the small risks and not enough time on the big risks. This legislation would go a long way toward fixing that. This bill directs agencies to set priorities with the goal of achieving the greatest net reduction in risk with the public and private sector resource expended, and to incorporate those priorities in the agency budget, regulatory agenda, and enforcement and research activities. As I mentioned last week, over the last several years in the Appropriations Committee, the ranking member on the HUD–VA Subcommittee, Senator MIKULSKI, and I, have been pushing agencies to use comparative risk assessments to prioritize their budgets to focus on the biggest risks. The National Academy of Public Administration recently released a report to the Committee on the EPA entitled "Setting Priorities and Getting Results." One of its top recommendations was to "Use comparative risk analysis to inform the selection of priorities and the development of specific program strategies." It only makes sense that agencies use their resources to tackle the worst problems facing the country. Sound like common sense, but the sad fact is that is not what's happening today.

The bill includes an additional way to bring some common sense to regulatory decisions—cost-benefit analysis. The basic idea is a simple one. We should spend more resources and effort on big problems and less on small problems—that is cost-benefit analysis, that is what is so scary to the opponents of this bill. We say that in meeting the requirements of existing laws, Government agencies should pick a regulatory solution with costs that are justified by the benefits. It seems astounding to me—and I think it would to most people in America—that today Government regulators write rules for the rest of us without an established procedure to evaluate costs and benefits, but frankly that is what is happening. And it is even more astounding that some people have been using emotional appeals to generate irrational fears of this commonsense approach that all of us use in our everyday lives.

Finally, the bill repeals the Delaney clause, one of the worst examples of regulation with no basis in sound sciences. Public health protections are maintained with a replacement provision that allows regulation unless there is only a negligible or insignificant foreseeable risk to human health. American farmers will no longer be hamstrung from using safe and effective crop protection products simply because our technology lets us measure parts per trillion or parts per quadrillion.

We have had testimony before our committee from scientists, including the President's own Science Advisory Board, saying the Delaney amendment is no longer good science. The Delaney amendment cannot be justified in a time and day when we are able to measure the most minute parts, parts per trillion or even quadrillion. This is not sound science they have told us. It is time to get the Delaney amendment off the books.

Mr. President, the Dole/Johnston substitute will help small business that are hamstrung by Government redtape. That is why it has the overwhelming support of the small business community, including the National Federation of Independent Business, the Small Business Legislative Council, National Small Business United, and other small business groups.

I would ask unanimous consent to have printed in the RECORD at the end of my remarks, several letters of support for the bill from these small businesses.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. BOND. Mr. President, small business is not alone in its support of this bill. The Dole/Johnston substitute will also help the farmer who cannot use products that good science shows have no risk to health. Small towns will have less to fear from arbitrary pronouncements from Washington. I have a letter from the National Association of Towns and Townships that has written me in particular support of the language in the bill pertaining to the judicial review of the Regulatory Flexibility Act. You see, these towns know that for too long, Government agencies have ignored the impact of regulations on small and rural communities. They are counting on this legislation to force Government agencies to obey the law and minimize the impact of regulations on small communities.

The Dole/Johnston substitute will bring some much needed accountability to the faceless regulators sitting in their Washington office buildings cranking out the stream of new rules. It will also bring accountability to Congress, where some of the blame lies for those regulations. It brings sunshine and openness to the way the Government analyzes and talks about health risk, to give us a more honest discussion of the problems facing us.

Finally, it brings some common sense to the decisions that the bureaucrats make. Just like every family in America who looks at the costs and benefits of going on vacation or buying a smoke detector, Government regulators are going to have to take a hard look at the cost and benefits of their actions.

The claims made by some of the extremist pressure groups that this legislation will harm the environment are simply false. By grounding our health and safety rules on sound science we can avoid wasting our money on phantom risks. By dealing with the worst problems first, and spending our resources wisely, this bill will help afford a safer and cleaner environment for us and our children.

In contrast, the Glenn/Chafee amendment ensures that we will continue on our present course, the flood waters of regulations will rise ever higher and more and more small and large businesses will drown in the flood. Make no mistake, a vote for this amendment is a vote against small business, a vote against common sense, and ultimately a vote against the environment—because unless we reform the way we do business we will continue to waste our resources on trivial risks, and have nothing left over for the very real health, safety, and environmental problems that call for commonsense solutions.

Mr. President, I yield the floor.

EXHIBIT 1

FINAL RECOMMENDATIONS—1995 WHITE HOUSE CONFERENCE ON SMALL BUSINESS

Rank	No./Issue	Votes
1	224 Independent Contractors	1471
2	214 Meals & Entertainment Expense	1444
3	183 Regulatory Flexibility Act	1398
4	218 Estate Tax Repeal	1385
5	87 Health Care Reform	1371
	*63 Superfund Reform	1371*
7	91 Pension Reform	1369
8	265 NII/Intellectual Property/SIC Code	1358
9	51 Environmental Enforcement	1342
10	200 Tort Reform	1332
11	121 Association Export Programs	1329
12	194 Agency Enforcement Reform	1328
13	406 SBIR/Patient Capital	1292
14	144 Unfair Competition	1285
15	78 100% Health Care Deduction	1283
16	5 Pension Investments	1279
17	9 Bank Lending Incentives	1275
18	385 Tax Equity	1258
19	286 SBA Survival	1249
20	34 Home Office Deduction	1239
21	129 Export/Import Bank Financing	1181
22	57 Regulatory Takings/Brown Fields	1118
23	115 Intellectual Property Protection	1080
24	242 Capital Gains	1054
25	164 Davis-Bacon/Service Contract Act	1046
	188 Paperwork & Regulatory Reform	1046
27	41 Entrepreneurial Education	1035
28	369 OSHA Reform	1030
29	24 SCOR	1027
30	14 Secondary Market for S.B. Investments	1009

EXHIBIT 2

NATIONAL FEDERATION OF
INDEPENDENT BUSINESS,
Washington, DC, June 28, 1995.

Hon. CHRISTOPHER BOND,
U.S. Senate,
Washington, DC.

DEAR SENATOR BOND: I am writing to support your efforts to insure that the strongest possible judicial review language is included in the Comprehensive Regulatory Reform bill. The promise of regulatory reform will not be fulfilled if the council of the self appointed guardians of bureaucratic baloney is followed regarding amendments to "reg flex". Many of those who have criticized the direction you are headed with the Regulatory Flexibility Act and with your reading of how it interacts with the Administrative Procedures Act are only vaguely aware of the purposes or processes of either law. I urge you to hold fast to the course you have set—a course laid out in clear language by the Regulatory Flexibility Act to fit regulations to the ability of small entities to comply with them.

Sincerely,

MICHAEL O. ROUSH,
Director of Federal Governmental Relations—Senate.

SMALL BUSINESS LEGISLATIVE COUNCIL,
Washington, DC, June 26, 1995.
Hon. CHRISTOPHER BOND,
Chairman, Committee on Small Business, Russell Senate Office Building, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: On behalf of the Small Business Legislative Council (SBLC), I wish to express our strong support for the "compromise version" of regulatory relief legislation. We believe it is an important step forward on behalf of the small business community.

At the recent White House Conference for Small Business, several of the top 10 recommendations included suggestions to improve the regulatory process. We note that several of those recommendations are addressed within the compromise version of the regulatory relief legislation.

While the delegates to the conference did not rank the proposals, the number three vote-getter at the conference was a call to amend the Regulatory Flexibility Act to add judicial review. We note that the compromise version of the regulatory relief legislation includes strong language to provide the judicial review necessary to ensure that agencies comply fully with the Regulatory Flexibility Act.

The Small Business Legislative Council (SBLC) is a permanent, independent coalition of nearly one hundred trade and professional associations that share a common commitment to the future of small business. Our members represent the interests of small businesses in such diverse economic sectors as manufacturing, retailing, distribution, professional and technical services, construction, transportation, tourism, and agriculture. For your information, a list of our members is enclosed.

We at the Small Business Legislative Council look forward to working with you to see this legislation passed and ultimately enacted into law.

Sincerely,
JOHN S. SATAGAJ,
President.

Enclosure.

MEMBERS OF THE SMALL BUSINESS LEGISLATIVE COUNCIL

Air Conditioning Contractors of America.
Alliance for Affordable Health Care.
Alliance of Independent Store Owners and Professionals.
American Animal Hospital Association.
American Association of Equine Practitioners.
American Association of Nurserymen.
American Bus Association.
American Consulting Engineers Council.
American Council of Independent Laboratories.
American Gear Manufacturers Association.
American Machine Tool Distributors Association.
American Road & Transportation Builders Association.
American Society of Interior Designers.
American Society of Travel Agents, Inc.
American Subcontractors Association.
American Textile Machinery Association.
American Trucking Associations, Inc.
American Warehouse Association.
AMT—The Association for Manufacturing Technology.
Architectural Precast Association.
Associated Builders & Contractors.
Associated Equipment Distributors.
Associated Landscape Contractors of America.
Association of Small Business Development Centers.
Automotive Service Association.
Automotive Recyclers Association.
Automotive Warehouse Distributors Association.
Bowling Proprietors Association of America.
Building Service Contractors Association International.
Christian Booksellers Association.
Cincinnati Sigh Supplies/Lamb and Co.
Council of Fleet Specialists.
Council of Growing Companies.
Direct Selling Association.
Electronics Representatives Association.
Florists' Transworld Delivery Association.
Health Industry Representatives Association.
Helicopter Association International.
Independent Bankers Association of America.
Independent Medical Distributors Association.
International Association of Refrigerated Warehouses.
International Communications Industries Association.
International Formalwear Association.
International Television Association.
Machinery Dealers National Association.
Manufacturers Agents National Association.
Manufacturers Representatives of America, Inc.
Mechanical Contractors Association of America, Inc.
National Association for the Self-Employed.
National Association of Catalog Showroom Merchandisers.
National Association of Home Builders.
National Association of Investment Companies.
National Association of Plumbing-Heating-Cooling Contractors.
National Association of Private Enterprise.
National Association of Realtors.
National Association of Retail Druggists.
National Association of RV Parks and Campgrounds.
National Association of Small Business Investment Companies.
National Association of the Remodeling Industry.
National Chimney Sweep Guild.
National Electrical Contractors Association.
National Electrical Manufacturers Representatives Association.
National Food Brokers Association.
National Independent Flag Dealers Association.
National Knitwear & Sportswear Association.
National Lumber & Building Material Dealers Association.
National Moving and Storage Association.
National Ornamental & Miscellaneous Metals Association.
National Paperbox Association.
National Shoe Retailers Association.
National Society of Public Accountants.
National Tire Dealers & Retreaders Association.
National Tooling and Machining Association.
National Tour Association.
National Wood Flooring Association.
NATSO, Inc.
Opticians Association of America.
Organization for the Protection and Advancement of Small Telephone Companies.
Petroleum Marketers Association of America.
Power Transmission Representatives Association.
Printing Industries of America, Inc.
Professional Lawn Care Association of America.
Promotional Products Association International.
Retail Bakers of America.
Small Business Council of America, Inc.
Small Business Exporters Association.
SMC/Pennsylvania Small Business.
Society of American Florists.
Turfgrass Producers International.

NATIONAL SMALL BUSINESS UNITED,
Washington, DC., June 28, 1995.
Senator CHRISTOPHER BOND,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR BOND: National Small Business United is extremely pleased with your efforts to pass into law S.B. 343. Ever since the original passage of the Regulatory Flexibility Act, small businesses have expected the federal government to offer more flexibility when imposing federal regulations on small businesses. Unfortunately, agencies have not been held accountable to this act. It did not provide for judicial review which is so essential to its implementation.

The language which you have submitted to this bill will be most beneficial to small businesses across the United States. It is high time that Congress and the President act to provide small businesses with the opportunity to hold our federal government accountable for the regulations they impose on small business. Your leadership on this issue is most helpful and NSBU is grateful for your efforts.

Having just participated in the 1995 White House Conference on Small Business, I am aware that this issue was number three (3) on the final list of recommendations to the President and to Congress. Small business owners who were delegates to that conference want real reform. Your language will deliver a pragmatic response to their recommendation.

Now is not a time to compromise on this issue. It is too important to job creation and the growth of the small business community.

Thank you for your leadership. NSBU will do all it can to support your efforts.

Sincerely,
JOHN PAUL GALLES,
President.

NATIONAL ROOFING CONTRACTORS ASSOCIATION,
Washington, DC, July 5, 1995.
Hon. CHRISTOPHER S. BOND,
Chairman, Committee on Small Business, U.S. Senate, Washington, DC.

DEAR CHAIRMAN BOND: The National Roofing Contractors Association (NRCA) applauds your excellent language providing judicial review for the Regulatory Flexibility Act of 1980 (Reg Flex) in the Comprehensive Regulatory Reform Act of 1995, S. 343.

NRCA is an association of roofing, roof deck and waterproofing contractors. Founded in 1886, it is one of the oldest associations in the construction industry and has over 3,500 members represented in all 50 states. NRCA contractors are small, privately held companies, and our average member employs 35 people with annual sales of $3 million.

Reg Flex requires that federal agencies analyze the impact their regulations would have on small business before they go into effect and minimize that impact. But with no judicial review, agencies disregard it. If an agency head certifies that a regulation will have no significant economic impact on small business, the agency can ignore Reg Flex.

For example, OSHA's new Fall Protection Standard, Subpart M, requires all persons working above six feet to have either a safety harness on, safety nets, or scaffolding with a walkway and a guardrail. We estimate its impact to be at least $250 million annually; OSHA's estimate is $40 million annually, and the agency goes on to state that the standard will not have a significant impact upon a substantial number of small entities.

Your judicial review language for Reg Flex would put a stop to this kind of agency noncompliance, and NRCA would oppose any effort to weaken it.

Sincerely,

CRAIG S. BRIGHTUP,
Director of Government Relations.

Mrs. FEINSTEIN addressed the Chair.

The PRESIDING OFFICER (Mr. DEWINE). The Senator from California.

Mrs. FEINSTEIN. I thank the Chair.

Mr. President, I have not had an opportunity yet to speak on the bills before us, most specifically S. 343. For many days now I have listened as the Senate has been debating what are two major regulatory reform bills. They are complex and detailed and some have said boring. But one way or another they will touch the life of virtually every American citizen.

The fact is that regulations serve an important purpose in our society. But as with all laws, they have to be balanced against other competing needs, and reexamined from time to time in order to remain effective.

I happen to be a great fan of the Senator from Louisiana. I believe he is a sound thinker. He is an effective leader, and he has played a major role in the debate on these issues. I respect him. I also respect the majority leader, whose bill this is, as a seasoned, experienced Senator who understands the impact of regulations upon the community regulated.

As we address the issue of regulatory reform, I think certain considerations should guide us in the process.

First and foremost, public health and safety must be the paramount concern. And we have heard that concern voiced over and over in the debate over breast cancer, over E. coli, and over a myriad of other regulatory programs.

Second, Government regulations should not strangle business and commerce but should seek to encourage economic growth as much as possible. That is often easier said than done, particularly in the largest State in the Union where problems are severe and often businesses will seek to choose an easier way and leave the State.

But the bottom line is: regulations have to make sense. Finding the right balance will be the determining factor as to whether we are successful in this effort.

California has a huge stake in this bill both from a public safety perspective and an economic perspective.

We have the biggest air pollution problem in the Nation. Children today, born in the Los Angeles basin, suffer from a 10 to 15 percent decrease in lung function compared with children in other areas as a result of air quality.

California has 96 Superfund sites, the second largest number in the country—that is almost two major toxic waste dumps for every county in our State. In 1990, I had occasion to visit one of them. It is a place called Iron Mountain mine, near Redding, that had been owned by a chemical company and had been mined for various minerals. There were holes in this mountain, some the size of 30-story office buildings. When it rained, water interspersed with the chemicals producing sulfuric acid which then drained out onto the banks of the Trinity River actually metallizing some of the banks. This Superfund site is now in the process of being cleaned up. So I am very pleased that the portion of the legislation impacting Superfund sites has been removed from the bill.

Santa Monica Bay, one of the most beautiful areas in the country and a premier tourist attraction in my State, has been contaminated with heavy metals and DDT to such an extent that the public is often warned not to eat fish caught there. I remember when I first went to live in Los Angeles, I went into a restaurant and ordered sand dabs and the waiter said, "Don't order sand dabs; they are bottom-feeding fish and they are caught in the Santa Monica Bay, and the bay is polluted."

Economically, California's unemployment rate, though beginning to improve, is still two percentage points above the national average. We are still struggling to climb out of the recession and cope with continued defense downsizing.

So the last thing California businesses need is unnecessary or cumbersome regulations that drive up costs and drive out jobs.

So I have listened with great care to this debate, and I have had the privilege of discussing certain of my concerns with the Senator from Louisiana. But the bottom line and the one that I have reached is that the Glenn-Chafee bill contains the best and most balanced approach to regulatory reform.

I would like to address what I believe are the primary weaknesses in the Dole-Johnston legislation.

In the area of cost-benefit, I believe the Dole-Johnston legislation, in a sense, throws the baby out with the bathwater. Cost-benefit analyses are supposed to weigh cost and benefit and then allow for the best alternative to be chosen.

The Dole-Johnston bill does not do that—it simply requires choosing the least-cost alternative. That does not always make sense, and it could have unfortunate results.

Let me give you some examples.

Seatbelts in the front seat. If the standards in the Dole-Johnston bill were applied to seatbelts, I am told by the National Highway Traffic Safety Administration that they would probably not be able to require both lap and shoulder belts in cars.

That is because, even though having both lap and shoulder belts save lives, the lap belt alone is the least-cost alternative.

Seatbelts in the back seat. They would also not be able to require seatbelts in the back seat.

Because 90 percent of those killed in automobiles are people in the front seat, rear-seat fatalities are not likely to meet the statistical threshold that would allow the agency to require seatbelts in the back. My source for this information is the Department of Transportation's general counsel's office.

Airbags. If airbags were not already required by law, which they are, it is unclear under Dole-Johnston whether airbags could be required.

Again, this is because airbags, even though they are much safer, are also more costly than manual seatbelts or lap and shoulder belts. And again, the least cost alternative would have to be chosen.

Airline flight data recorders. This is the black box that we all read about when a plane goes down. If the standards of the Dole-Johnston bill were applied to airline flight data recorders, the FAA tells me that it might not be able to require flight data recorders on airlines.

This is because flight data recorders do not necessarily reduce immediate risks. Instead, they provide valuable information which can greatly enhance airline safety in the future.

The Glenn-Chafee bill, I believe, is far preferable. Unlike the Dole-Johnston bill, the Glenn-Chafee bill requires a rigorous cost-benefit analysis and permits both costs and benefits to be weighed intelligently, with public health and safety given its full and proper weight in the equation.

Now let me talk about petitions. The Dole-Johnston bill's petition process would allow special interests to challenge new rules and reopen existing rules, giving them unprecedented power to jam up the process.

By some estimates, the Dole-Johnston bill would allow 80 to 100 new reasons for challenging an agency rule. My source is attorneys who deal with these matters. With 80 to 100 new reasons for challenging an agency rule, agencies will be forced to divert their resources—their time, their staff, their dollars—to respond to these petitions.

Dole-Johnston would open the door to hundreds of additional lawsuits, increasing the volume and complexity of Federal litigation—some want that—and further clogging the court system.

This is one of the main reasons why the Justice Department strongly opposes this bill.

Let me give an example of some possible results.

Commuter airline safety. In recent months, there have been three crashes of commuter airlines in which a total of 40 people have been killed. Following a fatal commuter airline accident in December 1994, the Secretary of Transportation proposed new commuter airline safety regulations.

More and more people are flying commuter airlines. Having completed their own cost-benefit and risk-analysis assessment, the FAA is close to finalizing these new, urgently needed safety standards.

Again, the general counsel of the Department of Transportation informs us that they will be faced with a Hobson's choice. Let me give you an example. They are nearly ready to finalize. The language in Dole-Johnston would derail these efforts and force the FAA to either start over in order to comply with the specific least-cost and risk-assessment criteria in S. 343, or proceed with the new regulations, knowing they will likely be challenged and held up in court for years.

So, in other words, the FAA would be challenged that they do not meet the specific new cost-benefit requirements or they could delay and redo the cost-benefit and the risk assessment. But if they move ahead, as under the present legislation, as they are prepared to do, they run this jeopardy.

Let me talk for a moment about an automatic sunset. My understanding of the legislation is that once a petition is accepted, the agency has a 3-year review period to review the rule. If an agency is unable to complete this review, a sunset of the rule would result. So the arbitrary deadline of 3 years is a trigger for sunsetting some of these regulations.

This could result in an automatic sunset of important health and safety rules. Let me give you some examples.

Automobile fuel efficiency standards.

Food labeling regulations—which have served to educate consumers.

Does every Member in this body remember food labeling regulations were very much contested by the industries affected, but they are now part of every product? People respect them, use them, and I think they are effective.

Regulations to ensure the safety of children's toys, cribs, bed clothing.

The Glenn-Chafee bill, on the other hand, accomplishes regulatory review of existing rules without creating regulatory gridlock. It requires agencies to review existing rules every 10 years, without allowing special interests to dictate the workload of Federal agencies whose mission is to protect public health and safety.

One of the major criticisms of the Dole-Johnston bill is that it is too ambiguous. Let me tell you what I mean by this.

Let us take the issue of the supermandate.

From the language of Dole-Johnston and a recent amendment, it is still unclear what will happen when the bill's requirements conflict with requirements in existing statutes.

Although the new amendment states that Dole-Johnston's requirements should not override existing statutory requirements, which will be given more weight? What legally does the word "override" actually mean?

Would the least-cost requirement trump the health-based standards of the Clean Air Act?

What is the impact on annual farm programs? Because the Department of Agriculture currently uses greatest-net-benefit criteria and not the least-cost alternative required under Dole-Johnston, it throws open the question of who can participate, what the terms of participation are, and what the costs will be.

The Dole-Johnston bill leaves these questions up to the courts.

Let us take the issue of judicial review.

According to the Justice Department, eight different sections of the bill provide separate statutory grounds for judicial review. The Justice Department in its letter to Senator DOLE lists the sections. Even the Justice Department is unsure about how these provisions would relate to each other.

Moreover, the ambiguous language could mean that the courts will be called upon to evaluate scientific and technical steps in cost-benefit analyses and risk assessments, issues outside of the realm of expertise of judges.

Let us take the issue of emergency exemptions.

Another problem with ambiguity in Dole-Johnston is its definition of an emergency.

For example, the bill refers to actions to protect public health and safety or natural resources, but the Department of Agriculture has raised with us questions about how Dole-Johnston would affect an emergency such as infestation of the Mediterranean fruit fly.

Let me explain why. The Department of Agriculture believes the emergency provisions are sufficiently ambiguous and relate to health and safety, not to economic emergency.

Now, the Medfly in California is a major problem. Parts of the State have been quarantined because of the Medfly. But it is really an economic emergency because the farmers lose their entire crop when a Medfly is found. And emergency actions periodically have to be taken, such as tree stripping, aerial spraying, and so on. It is unclear under Dole-Johnston whether the Animal and Plant Health Inspection Service could act quickly enough to take the necessary steps to protect the economic interests of agriculture from pest infestations.

The inability to act quickly could cost agriculture millions of dollars in destruction of crops and loss of export markets.

Let me conclude.

I support regulatory reform that solves problems that have been identified in the regulatory system, not one that creates more problems.

I support reform that puts public health and safety first.

And I support reform that makes the Federal Government more efficient and effective.

I do not believe the Dole-Johnston bill meets that test. I do not believe it is really regulatory reform. It does not simplify the process. Instead, I believe it will burden the agencies so that they cannot do their job. And as the Justice Department has warned, it will burden the courts significantly. I simply cannot support it.

Many regulations are essential to protect public health, safety, and the environment.

I remember when we had the worst air in Los Angeles. I lived in southern California for 5 years, and I remember when I went outside, my eyes burned and teared. The air quality is better now, and that is because of clean air regulations. They have been hard on hundreds of businesses, no question about it. But you have to consider, what is the cost of 15 to 20 percent of youngsters born in the Los Angeles Basin having reduced lung capacity and, therefore, a shortened span of life. How do you measure that cost?

The San Francisco Bay area is now the largest metropolitan area of the country that complies with the clean air standards. In the early 1970's, I served on the air board. Even major oil companies have told me that the air regulations have worked.

Nobody should think that Glenn-Chafee is a copout, a soft bill, or that it will not do the job. The Glenn-Chafee bill is a very tough bill.

It represents real regulatory reform, without unjustifiably burdening the agencies or clogging the court system.

The Glenn-Chafee bill requires cost-benefit analysis for all major rules, just where we should be. It requires risk assessments for all major rules related to environment, health, and safety, just where we should be.

It requires peer review of cost-benefit analysis and risk assessments, just where we should be.

It accounts for the special needs of small businesses, allowing small entities to petition for judicial review of compliance with the Regulatory Flexibility Act.

It requires public disclosure and openness in the regulatory process.

And it limits judicial review to determine: First, whether a rule is major; and, second, whether a final rule is arbitrary or capricious.

Most importantly, the Glenn-Chafee bill cuts redtape while retaining the role of Government in protecting public health, safety, and the environment.

I believe the Glenn-Chafee substitute is a good bill, and I intend to support it.

I yield the floor.

Mr. JOHNSTON. Mr. President, the distinguished Senator from California has raised eight different points. There is a full, complete, definitive and, I believe, unassailable answer to each of these. If the Senator will allow me, I will tell her why in each of these instances, the information she has been given is dead, flat wrong.

You know, Mr. President, there is a saying that "There is none that is so blind as he who will not see." I think we have, on behalf of some of these agencies that have been advising my friend from California, a terminal blindness.

Let us start with No. 1. We are told again that the Dole-Johnston bill requires the least-cost alternative. Mr. President, here is the language.

> Least cost alternative, or if scientific, technical, or economic uncertainties, or nonquantifiable benefits to health, safety, or the environment identified by the agency in the rulemaking record make a more costly alternative * * * appropriate or in the public interest * * * they can do so.

Mr. President, what could fit more perfectly into these kinds of benefits than shoulder belts, back-seat seatbelts, and airbags? As my friend from California says, an airbag is "much safer but more costly."

Now, I ask my friend, what is ambiguous about that? It is just as plain as the nose on your face. If it is good for safety, even though it is not quantifiable—because the value of a human life is, by its nature, nonquantifiable—you can do it.

Black boxes on airplanes. Mr. President, the same thing.

Now, how do my colleagues continue to say that this language requires the least-cost alternative?

Mr. LEVIN. Mr. President, will the Senator yield?

Mr. JOHNSTON. Yes.

Mr. LEVIN. Since the Senator asked and my colleagues continue to ask that question, let me try to answer that question: It is because we have repeatedly, over and over again, said that if the benefits to health and safety or the environment are quantifiable, your exception does not apply.

Now, what sense does it make to say that if the benefits to health, safety, and the environment can be quantified, that then we have to go with least cost, even though a slight additional cost would give much greater benefits?

Now, I have never understood why the Senator from Louisiana insists on the word "nonquantifiable benefits." We have gone over and over that issue.

That is the answer to the question.

Mr. JOHNSTON. It is because, Mr. President, the definitions in section 621 state clearly that the term "benefit" means the reasonably identifiable significant, favorable effects, quantifiable and nonquantifiable.

Mr. LEVIN. Except that is limited by the Senator's language in subsection (b). When it comes to the least costly alternative, the Senator does not say "benefit" which is, in fact, defined somewhere else. It is limited to nonquantifiable benefit.

That is a question which has been raised for the last week, and for the life of me, I do not understand why the word "benefit" means quantifiable or nonquantifiable for the purposes of the act generally, but when it comes to the least-cost requirement, it is only the nonquantifiable benefits which are going to be an exception. That is the answer to the Senator's question.

Mr. JOHNSTON. Mr. President, let me ask my friend from Michigan, it is right there in the definition of section 621. If we took that word "nonquantifiable" out, would the Senator then agree with me that it does not require least cost, that this discretion is there? Or is this just another one of the ghosts, once we get out of here there are more ghosts to be found?

Will this solve the provision?

Mr. LEVIN. It solves one of three decisional criteria raised by my good friend from Louisiana. It addresses one of the remaining decisional criteria issues. These have been described, I think, in fairness. I think my friend would say that we have set forth in a document the difficulties with the definition "decisional criteria," and this is one, I believe, if my memory is correct, one of three which have been very precisely specified. I think it does address the one specific one of the three we have raised.

For instance, another exception, if my friend——

Mr. JOHNSTON. Mr. President I want to keep this discussion to a question, and not a speech.

Again, the question is, what is the value of a human life? It is, in my view, very clearly by nature nonquantifiable. That is the reason for putting in the language.

Mrs. FEINSTEIN. Would the Senator yield the floor?

Mr. JOHNSTON. Yes.

Mrs. FEINSTEIN. The point I was trying to make is the back seat seatbelts are quantifiable. Therefore, it would not apply.

Mr. JOHNSTON. This is for health, for life.

Mrs. FEINSTEIN. But it is quantified in that only 10 percent of the people die in the back seat. The problem is in the front seat.

Mr. JOHNSTON. There are thousands of people who die in automobile accidents and many whose death could be prevented by back seat seatbelts. That is a nonquantifiable value.

We do not have to get least cost. The very idea that we say we have a rule that would save a lot of lives, that we have to go to the least cost which is front seat instead of back seat, I submit to my friend, is patently absurd.

Mr. BOND. Will the Senator yield the floor?

Mr. JOHNSTON. I am happy to yield to the Senator.

Mr. BOND. I wonder if the Senator is aware that Prof. John Graham, of the Harvard Center for Risk Analysis, who is an expert on risk assessment, started off his analysis by finding that a regulation requiring airbags, for example, was precisely the kind of regulation that was worth the cost, and that Professor Graham is currently or has just concluded a session with the media next door to the Chamber, pointing out that the Dole-Johnston bill precisely does meet the criteria which he developed in the Harvard Center for Risk Assessment as developed for determining what are reasonable regulations and, in fact, has stated that the Dole-Johnston substitute does permit the kind of analysis which would lead to the kind of life-saving regulations such as the requirement for airbags.

Mr. JOHNSTON. It is absolutely true. Professor Graham has testified before our committee. Of course it allows for that.

Mr. LEVIN. Mr. President, will the Senator yield?

Mr. JOHNSTON. Briefly.

Mr. LEVIN. The Senator raises a question. If there are 823 lives saved, according to a cost-benefit analysis, for the cost of $1 million, is that quantified or not quantified?

Mr. JOHNSTON. Generally for the life, for the 20th or 30th time, the value of the life is not quantifiable by its nature.

Mr. LEVIN. The definition in the bill says that "if the nonquantifiable benefits to health, safety, or the environment identified by the agency," et cetera.

The number of lives in my hypothetical is very, very precise and is quantified. Now, since the agencies are likely to read that cost-benefit analysis and they have said that the number of lives saved is quantified in my hypothetical, therefore, it would not be eligible for this exception. Again, for the life of me, I do not understand why the Senator from Louisiana in his bill insists on the word "nonquantifiable benefit" when the word "benefits" as defined generally, is both quantifiable and nonquantifiable, and where if, in fact, benefits are quantified, it would seem to me it would be essential we allow the same exemption as when they are nonquantified.

Mr. JOHNSTON. Mr. President, I have given the answer to that question. I will give it again.

It is because the definition of section 621 includes both quantifiable and nonquantifiable and because life is, by its very nature, not quantifiable in value, although we may count up the number of lives.

Point No. 2, my friend from California says the petition process would open up 80 to 100 new reasons why attorneys could challenge rules.

Not so, Mr. President. There is one single standard, which is that you must show a substantial likelihood that the existing rule does not meet the standards of this bill, which means that the benefits do not justify the cost. It is one standard. You have one chance to do it in the 180-day period. It is just as clear as it can be. I do not know where the 80 to 100 new reasons—I suspect that there are some lawyers who were told that they are against this bill, and go make up reasons, and they did not do a very good job of making them up.

Point No. 3—I hope my friend from California is listening—commuter airlines, 40 people killed, they are ready to finalize the order, and they would have to start over.

Now, Mr. President, last week we put in an amendment specifically to deal with this question. If the notice of proposed ruling making was out by April 1, they are not covered by these requirements—not covered by these requirements. We had a long debate, and we accepted the amendment.

Now, Mr. President, these commuter airline proposals were out long, long before April 1. Now, does my friend from California understand that? Did someone say that amendment does not cover this?

Mrs. FEINSTEIN. If the Senator was asking me a question, let me answer it with this question back to the Senator.

Are they still subject to the petition process?

Mr. JOHNSTON. They are subject to a petition process, but that does not—the Senator said that they are ready to finalize, and they have to start over again, the rule would go into effect.

Mrs. FEINSTEIN. But they would have to face the challenge, because the cost-benefit risk assessment that they were doing is different from the one that would be required.

Mr. JOHNSTON. No, they do not have to do a cost-benefit or a risk assessment if their notice of proposed rulemaking was out before April 1. It is just as clear as it can be.

Let me finish answering these questions from the Senator from California.

My friend from California says there is an automatic sunset. If she would look at the section on page 33, that is section 623, it provides that, if a rule is likely to terminate and the agency needs additional time, and terminating the rule is not in the public interest, and the agency has not expeditiously completed its review, you not only can get up to an additional 2 years, but you can get a court order to tell them to complete the rule or to do other needful things.

I do not know where this automatic sunset comes from. It is not an automatic sunset. It is just not. And the words are clear.

Mr. GLENN. Will the Senator yield?

Mr. JOHNSTON. Yes.

Mr. GLENN. But if the time came for the rule to expire? Let us say we are reviewing the rule, the existing rule, and the time came and went past for the review of that rule. It could sunset at that point unless you asked for this extension.

Then, if you ask for the extension, let us say it was granted; let us say it was extended. Then, when you run out of that time period, it would in fact sunset.

Mr. JOHNSTON. If everybody wants the rule to sunset it can sunset. You can terminate a rule today.

Mr. GLENN. Here is what we do on Glenn-Chafee. We say at the end of that time period the agency has to either approve the rule or start the rulemaking process to repeal it. And that lets all public comment come in, which is a much fairer process than just running out a couple of extensions and guillotining the whole thing.

Mr. JOHNSTON. There is virtually no difference between this 2-year extension provision of the Dole-Johnston amendment and in the Glenn-Chafee substitute.

Mr. GLENN. No, I disagree with that.

Mr. JOHNSTON. You provide for the court to use section 706 of the Administrative Procedure Act in order to give the needful review. We provide that the court of appeals grant such equitable relief as is appropriate. If anything, ours is broader than yours.

The point is, it is not an automatic sunset. It is just not. It may sunset, that is if everybody wants it to sunset. But if anybody cares, they can petition the court.

Mrs. FEINSTEIN. May I just read the section on its face? Will the Senator yield for a moment?

Mr. JOHNSTON. Yes.

Mrs. FEINSTEIN. Termination of the rules, page 34:

> If the head of an agency has not completed the review of a rule by the deadline established in the schedule published or modified pursuant to subsection (b) and (c), the head of the agency shall not enforce the rule and the rule shall terminate by operation of law as of such date.

Mr. JOHNSTON. But now if the Senator will look over on the previous page, subsection (3),

> An interested party may petition the U.S. Court of Appeals for the District of Columbia to extend the period for review of a rule on the schedule for up to 2 years, and to grant such equitable relief as is appropriate.

To be sure, if nobody cares, if the agency head wants the rule to terminate and the whole world wants it to terminate and nobody cares, nobody files a petition—yes. But that is a whole lot different from saying that this thing automatically sunsets.

Mr. LEVIN. If the Senator will yield on that point? Is the Senator then willing to amend his bill to say if anybody petitions a court at any time opposing sunset, that then it will not sunset? Just the act of petitioning a court? Because the Senator said "if nobody cares."

It seems to me that is quite, quite different from what is in the bill, which says: Sure, if you go to a court and get an order that says it does not sunset it will not sunset.

But that is not the obvious meaning of the word sunset.

Mr. JOHNSTON. It is quite clear. It is a low barrier. You have to show the rule is likely to terminate, the agency needs additional time, that terminating the rule would not be in the public interest, and that the agency has not expeditiously completed its review.

Mr. LEVIN. That is for the extension. I am not referring to the extension. I am talking about after the 2 years runs out, if a court has not ordered that rule to continue it expires.

Mrs. FEINSTEIN. Right.

Mr. JOHNSTON. The court has had a chance to review this and has given such orders as are necessary, which might be—I guess what the court would order is a schedule. Public comments to be completed by such and such a time. Final rule by such and such a time. They have full and complete discretion.

There may be some rules that, upon review by the court, should terminate. But it is not automatic. You have a chance to go to court to get that rule extended.

Mr. LEVIN. Will the Senator yield for a question?

Mr. JOHNSTON. I think I have answered that. Let me move on.

Mr. LEVIN. This is a different question. Can the court extend the period for review beyond 2 years?

Mr. JOHNSTON. No. They have already had—first of all, they have had 1 year after the expiration—I mean after the effective date of the act. They have had 3 years minimum initially, plus they have had these 2 years—that is 6 years. They cannot extend it beyond 6 years. But they can make such orders to continue the rule as is necessary.

Now, my friend from California says the supermandate language is ambiguous. For the life of me, Mr. President, the supermandate language we said was unnecessary in the first place because the bill is clear and I believe it is. But at the behest of all the people who said we have to have supermandate language, we adopted the language using their word. "Override" was not our word, it was the word of others.

It says, now, "nothing in this section shall be construed to override any statutory requirements including health, safety and environmental requirements."

For the life of me I do not know what you do to please the opponents of this provision. We first accept the principle and put it in the bill, and it is clear. But, oh, no, they find an ambiguity.

We come back and put in the precise language, the override language that they want, and it is still not good enough.

Mr. President, what can we do to satisfy the opponents of this bill? If that language is not good enough—tell me what is. It is incredible.

Judicial review language, Mr. President—my friend from California says that you ought to have review of the final agency action to determine whether it is arbitrary and capricious and that is the only purpose for which risk assessment and cost-benefit can be considered.

I invite my friend from California to look at the language. That is exactly—exactly what it says. If you can find an ambiguity in these words we will change them, because there is no ambiguity in those words.

There is a lot of ambiguity in the Glenn substitute and I can show you exactly where that ambiguity is. But there is no ambiguity in that. It adopts exactly and precisely what the Senator says. Those studies can be used solely—"solely for the purpose of determining whether the final agency action is arbitrary and capricious or an abuse of discretion."

Where is the ambiguity in that language? I am at a loss to understand.

I can show the Senator where the ambiguity in the Glenn-Chafee language is, but there is clearly not any here.

Mr. LEVIN. I wonder if the Senator will yield on that question?

Mr. JOHNSTON. I will.

Mr. LEVIN. Because the Justice Department has set forth the ambiguity in the words "failure to comply."

The question is whether or not those words refer to the procedural irregularities which could occur in the cost-benefit analysis or in the risk assessment.

Their letter dated July 11, 1995, is a pretty serious source, the Justice Department. They say on page 2 in a letter to Senator DOLE that there remain two basic problems which create the potential for litigation under section 625.

> First, section 625 provides that failure to comply—they underline the words "with the." They now substitute the words "the rules pertaining to cost-benefit and risk analysis."

If, in fact, that is not what the Senator's language——

Mr. JOHNSTON. That is correct.

Mr. LEVIN. "Failure to comply with the rules pertaining to the cost-benefit and risk analysis." Again, they insert as to what they believe you are intending, that failure may be considered by the court solely for the purpose of determining whether the final agency action is arbitrary or capricious or an abuse of discretion.

> When this section is read in conjunction with the extraordinarily detailed and proscriptive requirements for risk assessment and cost-benefit analyses contained elsewhere in the bill, it is clear that the alleged failure to comply with any of those requirements will be the subject of litigation. Petitioners will surely argue that failure to comply with the extensive procedural requirements is itself arbitrary and capricious.

That is the Justice Department. That is a pretty solid source of a question. Since the Senator asked, "Where is the question?" There it is.

Mr. JOHNSTON. They do not say why it is. I must say that this letter from the Justice Department gives me real pause to consider what the quality of our people in the Justice Department is because there is no ambiguity here. They simply say it. They make an unsupported statement and anybody can say anything. But you cannot read out this the word "solely." They just read it out. They go on to say—you will notice that the letter says not that "solely" is not there but that it will be the subject of litigation.

It is like when I used to practice law, Mr. President. Somebody would come in and say, "Can I sue somebody about such and such?" And I would say, "Sure. You can sue. But the courts are not going to grant the subject of your suit." You know, you can summons up the witches from the briny deep. But will they come? No. They will not come. They will not. Alleging something that is clear in the four corners of the statute does not mean it has any substance. If they are going to sue on that, let me tell you. They are going to sue on Glenn-Chafee because Glenn-Chafee is ambiguous.

Let me finish these two other points, and then I want to ask a question.

Mr. LEVIN. May I ask a narrow question of my friend?

Mr. JOHNSTON. Let me return to this in just a moment. I will engage you when I finish these two other things.

My friend from California says that the emergency regulations here are not clear, that they are ambiguous. The first time I heard that raised—honestly, to say that you cannot deal with the medfly, that somehow that escapes health, safety, or the environment, Mr. President, if medfly is not included in the environment, I do not know what is; or under health. I mean we are talking about something that could destroy all the fruit in California. And that does not have anything to do with health? Who are these people over in the Agriculture Department telling you that fruit does not have anything to do with health? I mean what kind of contorted, convoluted logic, to say that fruit does not have anything to do with health? I mean it is clear, Mr. President. I mean these people who oppose risk assessment are looking for ghosts, and finding them everywhere. And you find one ghost, you say what does it take to fix that ghost? You are given the language they want, and they come back and say, "Ah ha. But that language is ambiguous." The supermandate language which was unnecessary in the first place which said for a second time in words that the opponents suggested and know it is somehow ambiguous, I mean this is a no-win situation. We have to face the fact that some people are opposed to risk assessment.

Now my friend from Michigan finds ambiguity in this. I now have the Glenn-Chafee language here. I would like to ask him how this last language differs from our language when our language says that you may consider final agency action to determine whether it is arbitrary and capricious. You did, by the way, have in the RECORD the risk analysis and cost-benefit, did you not? Is that required?

Mr. LEVIN. Yes.

Mr. JOHNSTON. All right. How does this differ from what we have said?

Mr. LEVIN. I think the difference is in the preceding language. The difference is in the preceding language in Glenn-Chafee which, if an analysis assessment had been performed, the courts shall review to determine whether the analysis or assessment conformed to the "particular requirements." I am wondering whether or not my friend from Louisiana might be willing to add that same language into his bill.

Mr. JOHNSTON. In the first place, I think it is ambiguous. What are "particular requirements"? That to me means a de minimis test. Words are supposed to mean something. It means something different than "conformed to the requirements of this chapter."

So when it says "particular requirements," I would assume that means that you need not deal with the technical——

Mr. LEVIN. "Specific."

Mr. JOHNSTON. "Individual," but you look at the requirements of the chapter.

Would not that be fair?

Mr. LEVIN. Look at the "specific requirements." But my question is since that is a narrowing language that is intended—I do not believe my friend from Louisiana has too much objection to it—assuming that one little issue can be addressed, does the Senator from Louisiana have a problem with adding that narrowing language to his bill?

Mr. JOHNSTON. I think it does not narrow.

These two proposals, I believe—you have to read them In pari materia. What I get from this last sentence is that this is a review. You have "judicial review of the agency action."

I submit to you that review is under section 706 of the Administrative Procedures Act. If it is not, tell me under what standard it is reviewed.

Mr. LEVIN. I think that is correct.

Mr. JOHNSTON. That is correct.

Mr. LEVIN. I believe that is correct. Under that section, the courts have adopted the following standard, that the procedural errors "were so serious and related to matters of such central relevance to the rule that there is a substantial likelihood that the rule would have been significantly changed if such errors had not been made."

So that has been the interpretation under 706 by the courts, that the procedural errors "were so serious and related to matters of such central relevance to the rule that there is a substantial likelihood that the rule would have been significantly changed if such errors had not been made."

That interpretation is a narrowing interpretation where the new language——

Mr. JOHNSTON. There may be a court interpretation of that. But you have under your amendment a review of subsection (d), "without observance of the procedure required by law." According to what you have said, you are going to review the procedure because that is what subsection (d) says. We do limit under our amendment. Our amendment is limited specifically to whether the final agency action is "arbitrary and capricious." That is much narrower than that which you state. It is at least ambiguous.

Mr. LEVIN. I am wondering, relevant to the answer that I gave the Senator, whether or not the Senator is willing to incorporate that narrowing language?

Mr. JOHNSTON. No. I say the answer is no for the third time. And the reason is that it is not narrowing. It is expanding, and it is ambiguous.

Mr. LEVIN. I am referring here though now to the interpretation of section 706. You see, that has been interpreted. It has been interpreted as I just read. The language of the Senator from Louisiana has not so been interpreted yet, and is open to a much more expansive interpretation.

Mr. JOHNSTON. Look. That is precisely the same. That is an additional interpretation. "Arbitrary, capricious, an abuse of discretion." That is the standard that we bring forward. We leave out "otherwise not in accordance with law" because we wanted to leave out the procedural review.

That is one of the most litigated and judicially interpreted phrases in all of the annals of judicial review. And it is the same precise and exact standard which you claim is provided in your review.

You see the only difference between yours and ours, we both use "arbitrary, capricious, an abuse of discretion." But you have "observance of procedure required by law." But you claim that either that is meaningless or that your language takes it away. So I say it adds nothing to it other than ambiguous.

Mr. LEVIN. The difference though again is that the Senator's bill has new language which has not interpreted failure to comply whereas the language, as the Senator points to in our bill, has been interpreted in a way which is significantly narrower than—may I say—what the Justice Department feels is likely or could be interpreted into the words "failure to comply."

That is the difference, that there is a new test, failure to comply, in the Senator's language and has not been made the subject of the kind of review under the Administrative Procedures Act.

Mr. JOHNSTON. We say, "Failure to comply may be used solely for the purpose of determining whether that is arbitrary and capricious," and that differs not at all from what you have said. You allow for a review of procedures. What does it mean in subsection (d) when you state "without observance of the procedure required by law"?

Mr. LEVIN. Would the Senator agree that the words "failure to comply with" intend to refer to the rules pertaining to cost-benefit and to risk analysis? That is the intention of the Senate?

Mr. JOHNSTON. Look, we have a whole big section there that speaks for itself, of course, that means the risk analysis and cost-benefit, and it means peer review. And, as I said earlier, there will be times when procedural defects, if someone calls them that, might throw the whole rule out.

Suppose it is a regulation on secondhand smoke. If all the scientists were from the tobacco industry, it would be fundamentally unfair and the scientific judgment would be important. And if I were the judge I would throw it out, even though that is a failure to comply because it would render the whole thing as an abusive discretion and arbitrary and capricious.

Mrs. FEINSTEIN. Will the Senator yield for just a moment?

The Senator had one question he asked, his first question for the list of 80 to 100 reasons. I have 144, some of which have been remedied. I would like to enter this into the RECORD, if I may.

Mr. JOHNSTON. Sure. I think that may have been put into the RECORD earlier. I think that was put into the RECORD earlier this morning.

I believe we might check with Mr. Weiss.

Mr. THOMPSON. Will the Senator yield for a question?

Mr. JOHNSTON. Yes, I will yield for a question.

Mr. THOMPSON. I ask the Senator, is it accurate that section 625 has to do with jurisdiction and judicial review?

Mr. JOHNSTON. Section 625. The answer is yes.

Mr. THOMPSON. And with regard to any question such as the one that the Senator from Michigan raised pertaining to jurisdiction and judicial review, would that section apply?

Mr. JOHNSTON. Would it apply?

Mr. THOMPSON. With regard to the questions of to what judicial review will pertain, would that be the governing section, section 625?

Mr. JOHNSTON. You mean judicial review under titles II and III of cost-benefit analysis?

Mr. THOMPSON. Yes.

Mr. JOHNSTON. The answer is yes.

Mr. THOMPSON. The question has arisen as to the language "failure to comply" and how that might relate to some other section. I share the concern of the Senator from Louisiana and bemusement really as to why our friends refuse to read the rest of that sentence. Instead of reading the rest of the sentence in which that phrase is contained, other sections are referred to.

Is it not true that it is "failure to comply with this subsection may be considered by the Court solely for the purpose of determining whether or not the final agency action is arbitrary and capricious," et cetera?

Mr. JOHNSTON. The Senator is correct. And the critics read out of that statute the word "solely," and they find ghosts everywhere. But "solely" means solely, and it is right there in the language. For the life of me, I cannot understand where people find ambiguity in it other than they are looking for it.

Mr. THOMPSON. I compliment the Senator in his attempt to deal with this issue. It is as if someone would say that the Senator's desk is yellow, and you can argue that it is not, and someone else can argue that it is. But there comes a point at which you want to throw up your hands, I am sure, because you are dealing with clear language, and I fail to see how anyone could misinterpret this. It has only to do with final agency action. Is that correct?

Mr. JOHNSTON. That is absolutely correct.

Mr. THOMPSON. And if there is a phrase or a couple of words within that provision that our friends think may in some way be ambiguous in interpreting another section or another phrase in another section of the statute, would still not section 625 be the ruling section as far as what judicial review is? It is a judicial review question we are concerned with here, is it not?

Mr. JOHNSTON. That is exactly right.

Mr. THOMPSON. I share the Senator's real perplexity as to what the confusion is with regard to the review in that section. It is clear that it cannot be considered independently, that you cannot take—you can look at a cost-benefit analysis or a risk assessment independently and provide your own independent judgment on that, but it can only go into the final rule in making a determination as to whether or not the final rule is arbitrary and capricious, et cetera. Is that correct?

Mr. JOHNSTON. Exactly and precisely. My friend from Tennessee puts it very well.

Mr. THOMPSON. I thank the Senator.

Mr. JOHNSTON. I am reminded, I tell my friend from Tennessee, of the old quotation from Groucho Marx, who said, "Politics is the art of looking for trouble, finding it everywhere, and applying to it the wrong solutions."

Mr. THOMPSON. And most of it finds its way into legislation, I venture to say.

Mr. JOHNSTON. With this bill, the opponents look for ghosts and trouble everywhere, they find it everywhere, and they apply to it the wrong solutions.

Mr. President, this language is clear, and I do not care who says otherwise. Show me where that is unclear. As I say to my friend from Michigan, his interpretation of his judicial review provision is exactly what ours says. His gives with the left hand a procedural review, takes it away with the right hand in ambiguous language, and interprets that with court cases which he says are clear. But we obviate the problem for any of that by simply saying there is no procedural review. He has a procedural review in his proposal. We do not have that in ours. That is why ours is preferable. It is clearer. It is free of all ambiguity.

I yield the floor.

Mr. DODD. Mr. President, I rise today in strong support of the bipartisan regulatory reform bill introduced by Senators GLENN and CHAFEE. Unlike the more radical Dole-Johnston proposal, this legislation would make much-needed reforms to the regulatory process without jeopardizing the health and safety of American families.

There is widespread agreement about the need for regulatory reform. Nobody wants to see American businesses, our engine of economic growth, hampered by unnecessary regulations. We must constantly monitor Federal agencies to ensure that the rules they issue are narrowly tailored and rationally enforced.

In some instances today, this is unfortunately not the case. Many residents of my home State of Connecticut have told me about regulations that are not working well. And we have all heard stories about regulations that seem to defy commonsense. The answer, however, is to change nonsensical regulations and implement some common sense reforms. We should not overreact by bringing the Government's ability to protect American families and workers to a grinding halt.

In my view, President Clinton has done an outstanding job in this area. As part of their ongoing effort to reinvent government, he and the Vice President ordered all Government agencies to carefully examine their regulatory processes and put all the regulations they have issued under the microscope. Their instructions have been to keep what works and eliminate or fix what does not.

In February, the President announced the first benefits from this effort. The administration dramatically changed the Federal Government's approach to small businesses. Paperwork requirements were cut in half, and regulators were told to take a more practical approach to enforcement by stressing compliance over punishment.

As part of this effort, the Food and Drug Administration has implemented some major reforms. The FDA eliminated 600 pages of burdensome regulations. The agency also made changes to its review process to help consumers get high-quality drugs and medical devices more quickly and more cheaply. These results are impressive, and soon other agencies will be announcing much-needed reforms.

Of course, there is a limit to what the Administration can do on its own. Since many regulations result from statutes passed by Congress, Congress must also act. Earlier this year, we made a good bipartisan start by passing the Regulatory Transition Act. It would provide a 45-day period during which Congress could review new regulations and potentially reject rules through a resolution of disapproval.

Once that process is in place, Congress would better be able to fulfill its mission of regulatory oversight. But we also need to make improvements to ensure that the regulatory process works properly before rules are issued. That is why I have cosponsored the Glenn-Chafee bill. In my view, the bill does a much better job of rationalizing regulations while protecting American families than the more drastic proposals by Senators DOLE and JOHNSTON.

The Glenn-Chafee substitute is a tough, fair regulatory reform bill. It is not a catch-all for special interests. It would give agencies the responsibility to determine a schedule to review all major rules in a timely manner, and there would be no automatic sunset. Finally, judicial review would be more limited in scope, therefore preventing an inundation of frivolous challenges from overwhelming the courts.

Many Senators have taken to the floor to highlight burdensome and ridiculous regulations. The Senator from Utah has even given us a top ten list.

I would suggest that it is always easier to ridicule what does not work than it is to point out what does. It is a simple, and often effective, rhetorical tool to string together isolated abuses to give the impression that they are the rule, rather than the exception.

I want to break from this practice, however, and speak about some of the success stories. American lives are strengthened and saved every day by good, sound regulations. "Regulation" has become a dirty word in some quarters, but we should remember what a regulation is: the means by which the law is implemented and enforced. Regulation is the tool the government uses to execute the people's will, as expressed through their elected representatives in Congress.

Sound regulations have saved countless lives and prevented numerous injuries in the workplace, on the highways, in the air, and in the home. These regulations have also saved millions of dollars in medical costs, lost wages and reduced productivity from injury. They have also immeasurably improved our quality of life.

I can speak to one example in particular. Since the passage of the Clean Water Act in 1972, water pollution control programs have been able to greatly improve our water quality everywhere, including in the Long Island Sound. The current water quality of the sound is directly attributable to these pollution control programs, which have been effective in the face of increasing population and activities in and around the sound.

Environmental cleanup in the sound has led to increased tourism, increased property values, new industry and a better economy. However, the Long Island Sound cleanup is not finished. In fact, today it faces new challenges from residential, commercial, and recreational development. It is crucial that pollution control programs remain in force for the sake of the sound and those who live around it.

I fear that continued attempts to clean up the sound would be undermined by the Dole-Johnston bill. In fact, the legislation could actually turn the clock back and reverse years of progress.

I am also troubled by other provisions and their impact on Americans' health and safety. The Dole-Johnston bill is still ambiguous about what would become of rules currently in the pipeline—those that have been issued but have not yet taken effect. The bill is also unclear as to whether agencies would have to go back and redo risk assessment to comply with the complicated risk assessment provision.

I also worry about the impact of this bill on the Occupational Safety and Health Administration's ability to prevent workplace injuries and deaths. OSHA is already unable to fulfil its mandate in a timely fashion. It took the agency 10 years, for example, to issue rules ensuring that workers would know about the dangers of the toxic chemicals in their workplace. These delays would grow immeasurably worse if, under this bill's provisions, we build even more bureaucratic delay into the system. In the meantime, countless workers could be hurt unnecessarily.

While, I appreciated some changes made to the Dole-Johnston bill, I was equally disappointed that other amendments to strengthen meat safety, OSHA and safe drinking water standards failed. No one should have to live in fear of illness or death from the E.

coli bacteria or tainted water. In 1993, Milwaukee drinking water became tainted and more than 100 people were killed and 400,000 people became sick. We do not want to do anything here that would limit our ability to prevent such tragedies in the future.

I hope that in the coming days we can achieve a bipartisan consensus on regulatory reform. I believe that the Glenn-Chafee bill provides the best framework for these efforts, and I urge my colleagues to support its intent.

Mr. SIMON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. Mr. President, I ask unanimous consent to set aside temporarily the Glenn-Chafee amendment to offer an amendment by myself, Senator HATFIELD, and Senator REID.

The PRESIDING OFFICER. Is there objection?

Mr. JOHNSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, what is the subject of this amendment?

Mr. SIMON. We are talking about regulations that we have passed that do not make much sense. We passed a law that among other things prohibited Members of Congress from writing recommendations. If you have a member of your staff who wants to get a civil service job, it is against the law for you to write a letter of recommendation. If we see a page here doing a great job, we cannot write a letter of recommendation. This simply permits us to do that, and I hope it could be disposed of without great debate.

Mr. JOHNSTON. Mr. President, will the Senator yield?

Mr. SIMON. I will be pleased to yield to my colleague.

Mr. JOHNSTON. Mr. President, I am familiar with the general problem. Of course, all of us have run into this. I am less familiar with the solution, and I am totally ignorant of whether the committees of jurisdiction have had a chance to look at it and whether they approve or disapprove. I wonder if the Senator could withhold to a later status in this bill and see if this can be cleared. I see Senator ROTH. I do not know whether that is within his committee of jurisdiction. Perhaps he can speak to it.

Mr. ROTH. Reserving the right to object, Mr. President, I respectfully request that the Senator from Illinois withdraw his request.

First of all, the amendment he is proposing is not germane to the legislation before us. It does represent a very considerable change in our civil service rules that are worthy of review. But I hope that rather than bringing it up at this time, this is a matter that could be reviewed by the Governmental Affairs Committee which has jurisdiction over the matter.

Mr. SIMON. Mr. President, with all due respect, I do not think the Governmental Affairs Committee, which created this law, is likely to repeal it. But I have talked to a number of my colleagues, and I think the sentiment in this body is overwhelming that we made a mistake.

Let me tell you how I happened to get into this. This is a letter I wrote to Donna Shalala about a person who lives in an apartment building where we live:

> DEAR DONNA: I am enclosing a resume for Dennis Gowie who was a hospital administrator in Washington, DC until the new administration here took over.
>
> I do not know him well, but he lives in the same apartment building that Jeanne and I live in, and he makes an excellent impression and has a superior background.
>
> I don't know where or if you are able to use someone with his background in your administration, but I think his background is so rich in the health care administration field that he is worthy of consideration.
>
> Cordially.

I got the letter back with a letter saying I violated the law. A lobbyist, any lobbyist, can send a letter of recommendation for anyone, but if you have somebody working on your staff who is doing a good job and you want to send a letter of recommendation for a civil service job for that person, that is a violation of the law. We are in the process of talking about regulations that are ridiculous. This is a law that is ridiculous that is a regulation on us. I think we ought to get rid of it. I think this is a good time to do it. I am not trying to impose myself in the middle of this particular amendment, and I might say to my colleague from Ohio, I strongly support his amendment. But if I may ask my colleague from Delaware, if I were to ask unanimous consent to have this up on the floor of the Senate after the Glenn-Chafee amendment is disposed of, would that be satisfactory?

Mr. ROTH. Let me answer the distinguished Senator this way. As he knows, we are having a very serious, a very important discussion on judicial review. So I think it would be unhelpful to suddenly turn to a matter that is not even directly related to the legislation before us.

Second, I think we all agree this legislation on regulatory reform is among the most important legislation that shall come before us this year. For that reason, it concerns me if we begin to add amendments—this would be the first—that are not related.

I would be happy to assure the distinguished Senator from Illinois that we would be happy to take a hard look at this in committee. I have had a number of people mention the problems, the concern it causes them, but I think if we are going to change it—and perhaps we should—then it should be done in a manner that is most constructive under the circumstances, rather than being done on an unrelated piece of legislation.

Mr. SIMON. Mr. President, frankly, it is not satisfactory to me to have the committee take a hard look at it. I want to get a vote on it. We have crafted this very carefully, I want to assure my colleagues. In terms of it not being germane, the Senator from Delaware and I have voted for a thousand amendments that are not germane to legislation that is up. It is in a peripheral way germane.

I will change my unanimous consent request, Mr. President. I ask unanimous consent that when the Chafee amendment is disposed of, the Simon-Hatfield-Reid amendment be up for consideration at that point.

The PRESIDING OFFICER. Is there objection?

Mr. JOHNSTON. Mr. President, why does the Senator not give us a little time to work this issue? I personally have no objection to this. Rather than seal in a nongermane amendment at this point—that may be tonight—we may be able to make some progress on some other amendments tonight. If my friend will withhold, he will have a right to bring up his amendment at some other time.

(Mr. GRAMS assumed the chair.)

Mr. SIMON. Mr. President, because I am interested in adopting this, and I am not trying to cause problems on the floor, I will withhold my request at this point. But I want to assure my colleagues on the floor, I am going to bring this amendment up one way or another on this bill before it passes.

If I may add one other point, Mr. President, and I say to my colleague from Delaware, as well as Senator GLENN from Ohio, if there is some wording here that needs improvement, I am not wedded to this wording. We think we have drawn it very carefully. But if there is something that is not prudent here, what we say is that where there is on the basis of personal knowledge or records of the person furnishing we can make an evaluation of the work performance, ability, aptitude, general qualifications, valuation of character, loyalty, or suitability of such individual. I think those are the kind of things that should not present a problem. I hope we will do this.

Let me just add, I am leaving this body. This is going to have a lot more to do with the future of Senator ROTH and Senator THOMPSON and the distinguished junior Senator from Minnesota than it will for PAUL SIMON. But I want to be free if I have a good staff person or I know someone would be good for a job, to write a letter of recommendation. My experience is those letters do not mean that much, but at least I can get it off my chest. I want to have the right to write that letter and not just leave that right to lobbyists and others.

Mr. THOMPSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. THOMPSON. Mr. President, I would like to address the subject of judicial review which my colleagues have been so eloquently discussing this morning. I think this, first of all, goes to the very heart of this legislation, because we can pass all of the requirements and all of the commonsense proposals that we want, but if it is left totally in the hands of the bureaucracy to decide whether or not they want to comply with it or how they want to comply with it, then it is meaningless. In other words, if there is not some semblance of judicial review, even for the most egregious conduct and outrageous decisions, it is, indeed, meaningless.

Mr. President, this is a nation of laws, not of men and women, the bedrock of our country. Legislation gives tremendous authority to the executive branch. That is what this body, that is what the Congress of the United States does on a daily basis: It gives great authority to the executive branch to implement the laws that are passed.

The bureaucracy, the administrative agencies—and I do not use that term derogatorily—but the bureaucracy works in that regard in adopting regulations to implement the laws that we pass. This is an awesome authority that we give to the executive branch.

We have seen in times past in this country, and other nations, that power does tend to corrupt. Executive branch authority has to be looked at carefully; it has to be looked at constantly. Goodness knows, this body, in my brief observation, seldom has the opportunity for effective oversight.

The Senator from Ohio made a very impressive statement on more than one occasion concerning the regulations of one particular regulation pertaining to the Clean Water Act—I believe, effluent emissions—where he said that from the well to the ceiling of this Chamber is 42½ feet, and those documents would go all the way from the well to the ceiling three times—three stacks of documents for one regulation.

I am not sure the Senator would share the same conclusion that I would share from that. But, obviously, we do not have the time nor the inclination to go back and revisit the laws and revisit the regulations, certainly, that have been passed up until this time. What we can do is establish some rules of the road, interject some commonsense ways for the agencies to justify future rules, future regulations.

Now, this authority that we give the executive branch is proper and appropriate in our constitutional scheme. That is what it is all about. We are supposed to have oversight of that. I think anyone who has spent any time here at all must acknowledge that that is a very tenuous situation at best in terms of effective oversight. We must look prospectively.

So we have a system where citizens who are affected by this legislation, not just depending on Congress, but citizens affected by this legislation can come into court and say basically, "We are not being treated right." That is all judicial review means. They come into the third branch of Government, an independent branch of Government—the judiciary—to make a determination as to whether or not the citizen, the private concern, is being treated right.

We can talk about special interests and all of that in a pejorative way, but there are a lot of small businesses out there, a lot of individuals, there are a lot of public interest groups who take advantage of judicial review on a daily basis. It is not just the corporate fat cats who are sitting back out there to be labeled as special interest to whom this is important. It is important to everybody. It is important to every citizen. And it is really strange and inappropriate, I think, if we carve out one or two little pieces in this entire administrative framework that we are dealing with here and say everyone has the opportunity to come into court except these particular individuals, or except in these particular circumstances, because we place so much confidence in the nameless, faceless administrators who come up with these analyses, or these rules, that we really effectively do not want any judicial review in this particular area.

Mr. President, I do not share the confidence that the opponents of Dole-Johnston seem to have in the agencies. They do a lot of good work on many occasions. But we cannot give that kind of authority, unchecked, unreviewed, to anybody, including them.

We hear a lot of talk about a "lawyer's dream." We are concerned now that we are going to create new causes of action, we are going to provide a new access for somebody coming into court. I share that concern across the board. I think that in times past we have not paid enough attention to that fact. But it is a strange occurrence for us to all of a sudden be concerned about that in the middle of this debate, when we are trying to bring some commonsense reform to this regulatory maze that is costing every American family $6,000 a year, because this body, the Congress of the United States, as a whole, are the reasons for the litigation explosion in the Federal system.

It is the laws that we create, giving judicial review almost on every occasion, that create all of the litigation and all of the new regs, and we could not fill in this Chamber with all of the legislation that we have passed that give people new causes of action and new motivation to come to court, and new ways to burden the Federal court system. If you have a civil case anymore in the Federal court system, and many places in this country, you may as well forget about it for a good long while. Under the speedy justice acts, criminal cases take precedence. And that is because of what we have done here in this body. Not only do we constantly create new causes of action in this body, but on many occasions we finance it ourselves. We not only say you can come into court and get judicial review, which effectively is being denied, I submit, by the Glenn-Chafee amendment, but we have created all sorts of legislation where the Government will either pay the attorney's fees, or there are attorney's fees shifting. In other words, what could be more of an inducement to people to bring lawsuits and to come with new litigation than to say you are going to get your attorney's fees paid for? Yet, we do that time and time again. We are the cause of all of that.

There are the civil rights cases, which we are familiar with; Fair Housing Act, Fair Labor Standards Act; Age Discrimination in Employment Act of 1967; Equal Credit Opportunity Act; Civil Service Rehabilitation Act; Individuals With Disabilities Act; Religious Freedom Restoration Act; Violence Against Women Act. There are awards for attorney's fees in tax cases that we give to citizens if they prevail in certain tax cases. Awards for attorney's fees we give in certain lawsuits against the States, and in certain lawsuits against judges. We not only give them a cause of action, and we not only give them judicial review, we see that their attorney's fees are paid.

There was the Federal Contested Elections Act; Government Employees Rights Act of 1991; Equal Access to Justice Act; Freedom of Information Act and Privacy Act; Government in the Sunshine Act; Whistleblower Protection Act of 1989; Civil Service Reform Act of 1978; NEPA; Commodity Exchange Act; Packers and Stock Yards Act; Perishable Agricultural Commodity Act; Federal Crop Insurance Act, Animal Welfare Act; Agricultural Unfair Trade Practices Act; Plant Variety; Immigration and Naturalization Act; National Aeronautics and Space Administration Act; National Defense Authorization Act; Bankruptcy Act; Federal Home Loan Bank Act; Home Owners Loan Act; Housing Act of 1959.

These are all acts not only where we are creating new causes of action and giving people access to the court, in addition giving them judicial review, but we are seeing that their attorney's fees get paid if they prevail. That is a very loose definition.

I will continue: National Housing Act; Federal Credit Union Act; Federal Deposit Insurance Act; Bank Holding Company Act; Bank Tying Act—whatever that is—Farm Credit Amendments Act; Real Estate Settlement Procedures Act; International Banking Act; Expedited Funds Availability Act.

Mr. President, there are hundreds. I will not take the Senate's time with reading all of them. But there are literally hundreds of pieces of legislation that this body has created where not only do we create new causes of action and provide judicial review; no question is usually ever raised about full judicial review. All of these are important subjects. I am not saying they were bad legislation in every case; certainly not. I am just saying that it is mighty strange that in the middle of all of this, when we want to say let us supply a little common sense to the regulatory process, let us require a cost-benefit analysis, just put down on paper whether the benefits justify the costs—as we have seen here, we are not talking about a money situation here. Benefits are defined as social benefits, as well as economic benefits. Costs are defined as social costs—social costs, as well as economic costs; not only direct benefits and direct costs, but indirect benefits and indirect costs. What could give an agency more discretion than dealing with something that might be described as an indirect social benefit? That is great leeway.

Yet, we want to limit judicial review when they make these commonsense assessments that we say since we cannot and will not go back to the 3-foot stack of regulations and deal with them, which is what we really ought to do, we are going to at least try to apply some commonsense standards as far as we go forward. That is all this is about. Judicial review is the norm. It is the way it ought to be. The Administrative Procedures Act provides broad, broad discretion and judicial review. We keep talking about this explosive litigation situation that is going to develop from all of this. Not so. We create no new causes of action with the Dole-Johnston bill.

The judicial review is already contained in the substantive legislation. I must say, it seems in times past when we gave authority to an agency, we have readily granted judicial review. But when we are putting certain restrictions on an agency and making them justify what they do, some seem to want no judicial review.

The opponents say not only too much litigation; second-guessing scientific opinions, the rulemakers will be tied up in knots. Well, the Senator from Louisiana, I think, has very, very effectively addressed most of those. I share his concern that if something is repeated long enough, saying that it will cause an explosion in litigation and that will tie the courts up in knots, some people will get to believe it. It is just not true. Repeating it does not make it true.

Section 625, no new causes of action. Final agency action is the only thing that can be looked at. Cost-benefit analysis will be included in the directive. Only if the final agency action is arbitrary or capricious will it be overturned. In other words, no independent second-guessing or analysis of the cost-benefit analysis. It is just a part of the picture. It is part of the overall picture, and it can be considered. It can be looked at.

Mr. President, I submit that this provision is narrower than the law is now. Traditionally, any procedure defect can be appealed and be a ground for upsetting the agency action. Here it is only if it is a part of an overall review, if the final agency action is arbitrary and capricious. It cannot be considered independently. Under the old law if something was faulty, if the cost-benefit analysis was faulty, that kind of a defect would be reviewable and enough to overturn the opinion.

Actually, it seems to me that as far as this new cost-benefit is concerned, we have a narrower scope review than we traditionally have for other defects in the process. Of course, 706 is just the same as under the Administrative Procedure Act that we have been dealing with for so many years, except with section (F).

As I understand it, we have to look at (E) in conjunction with that. It is a substantial evidence test in (E), substantial support test in (F). Substantial evidence test, as I understand it, where there is a record administrative law judge, substantial evidence test is something that has been applied now for years and years on the record, and I think the thinking with (F) is apply that to the rulemaking process, the same kind of review, substantial support test, and do we want a rule that does not have support in the record in the rulemaking, substantial support? It is not a de novo review by any stretch of the imagination. The court must show deference to what the agency has done under that kind of scheme.

Will there be more litigation? I submit certainly not. I submit nobody knows, certainly. Nobody knows. There is always litigation. There always will be litigation. Trying to pinpoint the cause for a particular lawsuit cause of action is a fruitless process.

I submit a very good case could be made for the proposition that it will result in less litigation, Mr. President, instead of more, because now at least the courts have some fairly objective criteria to look at.

Cost-benefit analysis: Do the benefits justify the costs? Are the costs justified by the benefits? I think it could go to make better rules. I think the agencies have been engaging in this process all along, anyway, in some rough form.

Any rule that we put down, certainly, I hope that agencies would consider how much benefit are we going to get out of this and what will it cost? By putting it down somewhere—with the tremendous prejudice in favor of the agency action going in, the tremendous hurdles a petitioner has to overcome—putting it down somewhere and having developed some case law on the subject, and it becoming more objective, I submit that people would be less likely to attack it because it is less nebulous than it has been in times past.

Will there be more litigation? There is very limited interlocutory review. Now, if an agency decides that something is not a major rule, it does not meet the $100 million threshold, then there is review under those circumstances. But I think the Senator from Louisiana hit it on the head. It looks to me to be in the interests of both sides, if the determination is made that it is not a major rule, to go ahead and get that resolved.

Otherwise, we go on through the process, all the way to the end, get to the final rulemaking, get there, then an appeal is taken. Then if it is determined it was, in fact, a major rule, have to go all the way back, and it affects everything that has been done, and you have to start back from scratch.

This is not a problem, interlocutory situation, that gives the petitioner some great advantage.

What about second-guessing scientific study and that sort of thing? I submit, Mr. President, that right now we have courts in a position under the arbitrary and capricious standard and all the other standards under 702 that courts are making some kind of rough determination on scientific principles of some kind, scientific analysis, totally unequipped in many cases, I am sure, to do it. But under the Dole-Johnston bill, we have peer review. We actually have an opportunity for the experts to come in and interject their analysis into the process.

Again, my understanding is that this is nothing new in the well-crafted rules and procedures that are done now under current law. Peer review is not a stranger—National Academy of Science—and the agencies are well equipped to do this peer review. They are well equipped to do the cost-benefit analysis. There is nothing new with regard to that. Now they must do it in every instance where we have a major rule.

So the courts now are having to deal with this scientific evidence test. Actually, this legislation will assist the court because of the additional peer review. The courts will not be second-guessing the agency's actions here. I share with the proponents of the Glenn-Chafee substitute that we do not want to be able to have people come in and tie up legitimate rulemaking functions at the drop of a hat and stop everything in its tracks. Nobody is propounding that.

What is being done here, it looks to me, the problem with it, it is such a modest proposal, it is such a modest first step to interject an element of common sense into a process that I think just about everybody in this country has concluded has gone too far. Every once in a while things gets out of hand. We have to get back toward the middle of the road a little bit.

I think that is what this legislation does in a very modest way.

Increased delay, tie the court in knots—it is simply not in the legislation. These objections cannot be identified and pinpointed with regard to any particular section in this legislation in the Dole-Johnston amendment. Under ordinary circumstances, you cannot get a stay, you cannot come in, you cannot file a lawsuit and stop the proceedings. That simply does not happen except in rare circumstances.

What are those circumstances? Same old, traditional circumstances that we have already had in other situations. That is, if a petitioner can overcome the very high burden of proving that he is likely to prevail ultimately in the case, if the petitioner can show that he will suffer irreparable injury, not just injury but irreparable injury, if he can show it is in the public interest, if he can do all of those things, he might stay the proceedings for a while. Would we not want him to?

If petitioners can show that they are likely to prevail, that they are going to suffer irreparable injury, is there anything wrong, within that limited circumstance, with being able to have a stay? It is a very, very rare situation, indeed, where that would come into play. So there is no tying up of the courts. There is no stopping of the courts. There is no keeping the forward move of the rule from making progress.

What are the hurdles? Look at a situation that a petitioner has. Look at what a petitioner has to go through in order to challenge a rule.

First of all, you have the definition of benefit and the definition of costs that we referred to a little bit earlier. I think we need to go back to that, because I think we get away from that. The definition applies throughout for both subchapter 2 and 3. The definitions are ruling. The definitions are standard, and apply every time these terms are used anywhere in the act. It says:

> The term "benefit" means the reasonable, identifiable, significant favorable effects including social, environmental, health and economic effects that are expected to result directly or indirectly from implementation of a rule or other agency action.

So, when people talk about seatbelts, or people talk about food, and people talk about all those things that are vital concerns to all of us—certainly you can consider the noneconomic benefits. You can consider the social benefits. You can consider the environmental benefits. You can consider all of the health benefits. And, if an agency does a halfway decent job of addressing that and putting it down on paper, look at the hurdles that a petitioner has to overcome in order to challenge that. Consider the court's natural hesitancy to second-guess an agency under those circumstances; a natural hesitancy to second-guess technical evaluations.

Then you have the harmless error rule. Suppose you go through all that. OK, the agency messed up. OK, even by the loosest definition of benefit or cost, the benefits did not outweigh the costs so the petitioner has crossed that first hurdle. Then he has to get by the harmless error rule, and that is no mean feat. That has been with us for a long time. It has made a lot of agency actions prevail in circumstances they otherwise would not.

So, those are the hurdles that a petitioner has. Now, under the Glenn substitute, first of all, for something that has to do with judicial review I am struck by the consistency of what is not subject to judicial review. I think we have five sections here and in four of them the emphasis is on what is not subject.

Section 623(a): "Shall not be subject to judicial review in connection with," et cetera.

"(b) shall not be subject to judicial review in any manner"

"(d) court shall not review to determine whether," et cetera.

"(e) shall not be subject to judicial consideration separate and apart," et cetera.

I will go into the details of all this later. But is it not strange that in something that is supposed to deal with judicial review, that the entire emphasis seems to be on what is not subject to judicial review? It looks like we are leaving a very, very narrow window indeed.

Let us look at the provisions of the Glenn-Chafee substitute. In the first place you have (b), "any determination by designee of the President or the director that a rule is or is not a major rule shall not be subject to judicial review in any manner." It just stops in its tracks, if I understand it correctly. That can just stop everything in its tracks right there.

It says in (e) that "a determination by an agency that it is not a major rule shall be set aside by a reviewing court on clear and convincing evidence." But who gets to decide last? If an agency made this determination and the President or the director made a subsequent determination, or contemporaneous determination, would that not be the end of it?

In other words, the executive branch has total discretion, it looks to me like, in determining whether or not the process goes forward in terms of cost-benefit analysis, risk assessment or whatever, because they can decide, no matter how clear it is to most people that it meets the $100 million threshold—they could just say that it does not and nobody can review that. Nobody can question that.

Indeed, "If a cost-benefit analysis or risk assessment required under this chapter has been wholly omitted for any major rule, a court shall vacate the rule and remand the case for further consideration."

In other words, if you have what has been decided and what has been determined is a major rule, therefore under the law requiring the agency to make the cost-benefit analysis, but the agency just says I am not going to do it, they suffer the severe penalty of having the court simply remand it back to them for further consideration. I do not know what happens if they do the same thing again and the court remands it back again, and again and again.

The rest of it I think the Senator from Louisiana has addressed. It is essentially very similar to the Dole-Johnston bill in that basically it is still an arbitrary and capricious test. I did not even mention that in the hurdles that a petitioner has to overcome, which is a very, very tough test for a petitioner to have to overcome to prove that something is arbitrary and capricious.

So, Mr. President, I think it just comes down to whether or not you want to do anything about this problem. I think it comes down to whether or not you want risk assessment, you want to have a cost-benefit analysis. Because, if you do, it cannot possibly mean anything. It would be totally meaningless unless you have more of a redress for people who are aggrieved.

I might point out, in this legislation business, it seems to me we often go off on the basis of whose ox is being gored at the moment. What if you had a President who did not like any rules? Should we cut off people, public interest groups, whatever, from judicial review and petitioning and doing what they would want to do in order to get effective rules passed and make sure they are not just dismissed out of hand and erroneous determinations as to whether or not something is a major rule? Some President could decide everything is going to be a major rule, no matter how minuscule it is. If he was really an enemy of rules and regulations, he could just decide everything is going to go be a rule and make everyone go through the process.

It is a two-way street if we look at it that way, and I urge the Dole-Johnston amendment does that. It is a modest proposal to try to get our arms around, in some way, and make some progress towards interjecting some simple, some commonsense principles into this regulatory mess that we have gotten ourselves into and do not seem to know how to get out of that is costing the American taxpayers' $6,000 per year per family and going up. And then get on about the business of passing laws that will be subject to real oversight. I think that is one of the most important provisions of this bill. I think it gives us another look at these rules that are going to be passed, now, and give us really an opportunity to focus on our oversight responsibility.

We do pretty good at turning these laws out but it seems to me like we wake up a few years down the road and get a deluge of citizens coming in here saying you did not know it at the time but look what you have done to us. And then it is too late to do anything about the regulatory mess we have created.

We have an opportunity here to do something about that and I urge the defeat of the Glenn-Chafee amendment and the adoption of the Dole-Johnston amendment.

I yield the floor.

Mr. COCHRAN. Mr. President, we finally have, as the distinguished Senator from Tennessee said, the opportunity to legislate an end to the unnecessarily costly consequences of Federal Government regulations.

This legislation that has been introduced by the Majority Leader, which I am cosponsoring, will make it necessary to consider the cost effectiveness of regulations that seek to manage the risks to health, safety, and our environment. In short, it will help ensure that the benefits derived from Federal regulatory actions justify their cost.

The Federal regulatory burden has become too heavy and too expensive. There are several recent studies that confirm this. One is a March 1995 publication of the Harvard School of Public Health which analyzed 200 Federal programs and revealed that many highly cost-effective programs were not fully implemented, while other highly cost-ineffective programs were widely implemented. It suggested that a reallocation of resources to more cost-effective programs could save an additional 60,000 lives per year at no increased cost to taxpayers or to the private sector. The conclusion was that we could save the same number of lives, but with a $31 billion annual savings to the American people.

In an American Enterprise Institute policy paper, Christopher DeMuth has described Federal regulations this way, and I quote:

> They are much more costly than all the domestic discretionary spending programs of the Federal Government combined. Regulatory agencies can tax and spend freely in pursuit of environmental quality, product safety, and other regulatory goals, and the costs they impose are free of the budget and appropriations controls that constrain spending programs.

That is the end of the quote.

The Heritage Foundation's "A Citizens Guide to Federal Regulation" estimates that the cost of Federal regulation to the economy exceeds $500 billion, or about $5,000 per household each year. EPA has estimated that environmental regulations alone in 1990 cost the U.S. economy about $115 billion. As a result of the Clean Air Act amendments and other new requirements, spending by business on environmental protection is expected to exceed $200 billion annually within 5 years.

In 1993, the President's National Performance Review estimated that complying with Federal regulations cost the private sector $430 billion per year. This is almost 10 percent of the gross national product.

One of the more frequently cited economists on the costs of regulation, Thomas Hopkins of the Rochester Institute, has estimated the direct Federal regulatory burden for 1994 to be approximately $630 billion.

So whatever estimate you choose, it is a big one. The burden is enormous and, without action on our part, it is only going to get bigger.

One sector of our economy that has come under special pressure from environmental and related Federal regulations is American agriculture. Excessive regulation of agriculture has become in some instances counterproductive to our efforts to maintain the safety and integrity of the U.S. food supply.

Some Federal regulations not only impose unnecessary and burdensome costs on farmers, but they make our farm and food products less competitive in world markets. The Delaney clause, for example, enacted in 1958, has been strictly interpreted and enforced in such a way that it has imposed enormous expenses and burdens while providing very little benefit to the public. In many instances, the Delaney clause has become an obstacle to the implementation of sensible food safety policy because it has prohibited the use of production efficiencies that pose little or no risk to the public.

This problem was compounded by the 1992 Ninth Circuit Court of Appeals ruling which invalidated the EPA's negligible risk interpretation of the Delaney clause and required a zero risk interpretation that threatens to restrict the use of up to 80 widely used crop protection tools. These tools are important in the production of a safer, abundant, and affordable U.S. food supply.

EPA Administrator Carol Browner has acknowledged that the pesticides affected by this recent court decision pose no risk to public health. Lynn Goldman, Assistant Administrator of the EPA, has admitted that the Delaney clause is an outdated approach for protecting consumers from pesticide residues and that the loss of selected pesticide uses may affect the price or seasonal availability of particular commodities.

Furthermore, in 1993, the EPA stated that the potential economic impact of a strict interpretation of the Delaney clause could reach $1 billion per year.

In rice-producing States, like my State of Mississippi, uncontrolled rice plant diseases can lower crop yields by 75 to 80 percent. The fungicide benomyl, which is used to control rice blast on 15 to 30 percent of the rice acres in the Southeastern States, is the only fungicide registered for that purpose. Under a strict interpretation of the Delaney clause, EPA intends to prohibit the use of benomyl on rice. This will result in higher costs to farmers and consumers and will provide no real improvement in food safety.

Mr. President, the outdated Delaney clause rests on a flawed premise. It assumes that a carcinogen at any level of exposure can cause cancer. Because of recent advances in research, we know that premise is wrong. With current technologies that allow the detection of minute quantities of potential carcinogens that were previously undetectable, the number of substances subject to the Delaney clause expands with every advance in analytical chemistry. We are now able to discover in food previously undetectable trace levels of materials used in production and distribution that are not added to food in any conventional sense, yet are food additives under the law.

Reform of the Delaney clause, as provided for in this legislation, is essential to preserving a safe, abundant, and affordable U.S. food supply. And it is long overdue.

Numerous other excessive and costly regulatory burdens imposed on American agriculture will also be relieved by this legislation. In a recent Washington Times op-ed article, I described several examples where the Department of Agriculture, the Department of the Interior, and other Federal agencies have gone beyond the intent of Congress in the regulatory requirements imposed on agriculture.

The Farm Bureau Federation estimates that U.S. agricultural interests spend between $18 and $20 billion per year complying with Federal regulations. This amounts to roughly 35 percent of total net farm income in our country.

The Delaney clause, and all the other Federal regulations, that are squeezing the American farmer and food industries must be subjected to a reasonable, fair, and sound science-based assessment of the real risks to safety, health, and the environment.

While such reform will help the entire economy, it will help U.S. agriculture in particular, and it will reduce costs to consumers without endangering their health or our environment.

Mr. President, the American people want reasonable reform of the current regulatory system. This legislation provides such reform, and I urge my colleagues to support it.

I also ask, Mr. President, unanimous consent that the op-ed article I mentioned be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Times, April 4, 1995]

(By Thad Cochran)

REGULATORY RELIEF FOR FARMERS

The regulators have run amok in America and nowhere have things gotten more out of control than on the farm.

As long as the two key ingredients in food production remain land and water, agriculture will be in the eye of the environmental storm. But it is not—and has never been—a struggle between pro- and anti-environmental forces. As entrepreneurs whose very livelihood rests on the careful stewardship of an ecological system, farmers have long supported measures to protect our natural resources. But those same farmers, who are already up against the uncertainties of the weather and heavy foreign government subsidies, now increasingly have to "do battle" with regulators in Washington.

The reason? Because in too many cases, regulators at the Environmental Protection Agency, the U.S. Department of Agriculture, the Interior Department and other agencies have gone far beyond the intent of Congress.

In an effort to produce a better coordinated approach, EPA has combined, or "clustered," certain air and water standards. The goal of avoiding incompatible and contradictory rules is laudable. But the result is another case of regulatory overkill.

EPA's "cluster rule" for the pulp and paper industry is the most costly environmental rulemaking ever proposed for a single industry. It is estimated that compliance with this rule will cost more than $11 billion despite the solid progress already made by forest and paper companies. The industry, for example, without the cluster rule has reduced dioxin in effluent by 92 percent since 1988.

The treatment of wetlands is another case in point. Despite a recent Memorandum of Agreement among several federal agencies, the process of defining a wetland and delineating sites remains confusing and contentious. Farmers now dutifully file requests for permits to make modifications to portions of their own property that have been designated wetlands. Almost half of the applications filed for a permit involve an impact on less than one acre.

Bob Floyd of Muncie, Ind., had a "wetland" mysteriously appear on his property when a local business accidentally cut a drainage pipe. Federal regulators swooped in to protect this "wetland" and forced the 80-year-old farmer to stop farming. Because of this wetland area (which has since dried up), Mr. Floyd may have to sell the land his family had farmed for a half-century.

This might be funny if it were an isolated incident. But it is not. At a Senate Agriculture Committee hearing in February, witness after witness came forward with examples of farmers tangled in red tape, thousands of dollars incurred in filling out forms and family farms being threatened by the Endangered Species Act or the Clean Water Act or some other regulatory requirement.

The American Farm Bureau Federation estimates that U.S. agricultural interests spend between $18 billion and $20 billion per year complying with federal regulations. To put things in perspective, that figure is roughly 35 percent of total net farm income in the United States. If this estimate is correct, and if anything it is probably low, farmers spend $2 complying with government mandated regulations for every $1 they receive in price supports.

Clearly, things have gotten seriously out of hand. Fortunately, the utter frustration with this and other problems manufactured in Washington was powerfully communicated through the elections last November.

Congress is now under new management—and a wide range of issues, including the need for regulatory relief, are being addressed. Last month the Senate Government Affairs Committee reported two bills (S343 and S291) which would require federal regulatory agencies to prepare a cost-benefit analysis (for major regulations) and incorporate that analysis into the rulemaking process. Before new rules could take effect, federal agencies would have to (1) determine that the benefits outweigh the costs, and (2) determine that the proposed rule will provide a greater benefit to society than any other alternatives.

If this all sounds like plain old common sense, the similarity is intentional. We have gotten to the point in this country where farm and landowners are almost considered guilty until they can prove their innocence. The burden of proof should be on the regulator and the place to start is to require the regulators to prove that the rules are necessary, that they benefit the public at large and generally pass the common-sense test.

All this is compounded by overlapping, and in some cases competing, jurisdictions among federal agencies. It is common for a farm enterprise or agriculture business to have to deal simultaneously with the EPA, the Army Corps of Engineers, the Transportation Department, the Agriculture Department, the Occupational Safety and Health Administration, and others.

There is a groundswell of support in Congress to slow the regulatory machine until Washington can "get its act together." The House of Representatives has already passed a bill to place a moratorium on significant regulations, retroactive to November of last year. A week ago, the Senate passed legislation giving Congress 45 days to review proposed major regulations. The Senate bill establishes a "fast track" review process and provides that any regulation can be blocked if both the House and Senate disapprove it within the 45-day time frame. The congressional review would apply not only to any future rulemaking but retroactively to any significant regulation issued since Nov. 20, 1994.

Obviously, the differing House and Senate bills will have to be reconciled in conference; but it is clear we are going to restrain the regulators.

Even though commodity prices generally were solid last year, net farm income is at its lowest point in a decade. If American agriculture is to prosper, it will have to increase productivity and capture new foreign markets. That is a challenge under normal circumstances. But it will be almost impossible if the American farmer, increasingly tangled in a destructive web of red tape, is forced to spend a third of his net income complying with government rules. Unfortunately, that is the track we are on in this country. It is a course that I and many others in Congress are determined to reverse.

Mr. ASHCROFT addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. ASHCROFT. Mr. President, I thank the Chair.

It is a pleasure to rise today to discuss with you an opportunity to provide relief from many of the threats to the safety, security, and well-being of those individuals who populate our urban centers. Our cities today, especially our inner cities, have become areas of hopelessness and decay and despair.

Consider these facts:

America's urban areas suffer a murder every 22 minutes, a robbery every 49 seconds, an aggravated assault every 30 seconds. In a survey of first and second graders in Washington, DC, the Nation's capital, 31 percent reported having witnessed a shooting; 39 percent said they had seen dead bodies; 40 percent of low-income parents worry a lot about their children being shot, compared to 10 percent of all parents who worry about their children being shot; 1 out of every 24 black males in this Nation, 1 out of every 24 black males in America, will have his life ended by a homicide.

A report in the New England Journal of Medicine stated that a young black man living in Harlem is less likely to live until the age of 40 than a young man in Bangladesh, perhaps the poorest country on Earth.

The roots of these pathologies are various. They are at least partly cultural, partly economic, and partly social. These challenges, these problems, are about values. They are about knowing right from wrong. But they also have something to do with hope and meaning. For too many of our inner city residents today, hope and meaning and opportunity, are unknown words of uncertain origins. Many people are born, live, and die without ever knowing what it is like to have a job, to feed a family, and to fulfill their dreams.

In a number of the high schools in central cities, for example, the dropout rate rises as high as 80 percent. In 1990, 81 percent of young high school dropouts living in distressed urban areas were unemployed. In that same year, more than 40 percent of all adult men in the distressed inner cities of America did not work, while a significant number worked only sporadically or part time. Today, half of all residents of distressed neighborhoods live below the federally defined poverty threshold. In 1993, that was $14,763 for a family of four.

Why do we have these problems in our inner cities? Well, as I have indicated, there are a variety of reasons. But I submit that one of the significant reasons for all of these facts is what I would call a regulatory redlining of our urban centers, a series of pervasive regulations promulgated by a variety of agencies that have literally driven jobs from the center of America's urban environments. As a matter of fact, the older the site is, the longer there has been industry, the longer there has been manufacturing, and the longer there has been industrial activity, the less likely the site is to qualify with and escape from the kind of onerous regulations which drive away jobs in those settings.

As well meaning as many regulations may have been, the reality is that they have been incredibly destructive of opportunity in our inner cities.

Now, there is a great debate about regulation and the regulatory burden in America. But the people who live in our inner cities bear not only their portion of the $600 billion in regulatory costs that are built into our products, they also experience and sustain a cost of regulation which is substantially higher in many circumstances. It is a cost of lost opportunity. It is a cost of poor health. It is a cost of the lack of personal security and safety. It is truly a major challenge.

This last year, I had the opportunity to spend days during the year working in different settings around the country. I was delighted to work in one manufacturing concern in the city of St. Louis. It was called the Anpaul Window Co. They make windows for home construction, for remodeling as well as new construction. It is a thriving business, about 40 employees, one of those small business Horatio Alger stories that inspire us all.

I noted when I went to spend my day there making windows with its work force, that well over half the employees are minorities. It was a good work force, very productive. The business was thriving. As a matter of fact, it was growing. And it became clear that the success of the business was going to be a part of its downfall, because they needed to expand. And they could not expand on their site in St. Louis because of regulations. There were four EPA test wells around the facility, and the owner said he would not take that facility on a bet. He simply could not expand on that site.

So in order to expand—and I should also mention that the building had been designated as historic and the doorways were not wide enough—the owner of the business had to move from the city, in the urban center of St. Louis, where the challenges are strong and the pathologies are very pervasive, where we have all the problems that attend the urban core of America's cities. And in order to grow and in order to be what they wanted the business to be, they had to move the business to a suburban setting 50 miles from St. Louis.

I thought to myself, here is the Federal Government, which should be finding a way for the people in the very heart of our cities, who have families in need of the income and support, who have young minds that need the example of working parents, who have the potential but do not have the productivity, actually working against economic stability. And I thought the reason we do not have the productivity is too frequently the onerous rules and regulations that have finally accumulated at the core of our urban centers. Regulations that were designed to promote health and safety and well-being, have redlined development out of our urban centers and have sent development and jobs packing to the green fields of suburbia. They have left an empty, hollow core in the urban centers of America and have defined a circumstance where 1 in 24 black males will probably be shot at some time during his life, according to the statistics we read.

I thought to myself, these are well-intentioned regulations, the regulations about cleanup and the fact that you should be able to eat the dirt in order to avoid being poisoned by contamination. But the truth of the matter is that the regulations in these older parts of Missouri's cities and of America's cities drive development out of the place where we need development most.

They do so with very interesting and laudable concerns about the environment and about health and safety. But, frankly, the statistics tell us that the individuals who are poor and inhabitants of our urban centers have a lot more to worry about in lead poisoning from a .38 than they do from other contaminating sources. And the truth of the matter is we have to find a way to bring jobs back into our cities. The risks associated with unemployment are very substantial, they are much greater than the risks associated with a door that may be 36 instead of 38 inches wide, or do not comply with a particular statute. The risk of being shot in a drive-by shooting is much more pressing and demanding and challenging than the risk of being contaminated by dirt beneath the parking lot, especially dirt which was contaminated in some previous industrial experiment.

Under the guise of noise abatement, we have merely exchanged the sounds of productivity for the sounds of silent factories. The crack of cocaine has been the sound of productivity in our cities' centers. The wail of a family in the wake of a siren, the echoing clang of a cell door—those are the sounds that have abated the noise of factories, and I think we need to look carefully at what the comparative risks are in these cases.

We literally have a substantial group of people in this country at the core of our urban centers and in our cities, whose opportunities have been diminished, whose safety has been impaired, whose health has been undermined, whose security has been threatened, and whose longevity has been shortened because of well-meaning but misapplied regulations.

Our challenge is to find a way to make our urban centers places where people can thrive again. But inappropriate, or excessive regulation, without understanding the real risks that exist in the center of our cities, make that a very serious challenge.

That is why I am going to be proposing an amendment to this Regulatory Reform Act which I will entitle "The Urban Regulatory Relief Zone" amendment. This amendment will provide an opportunity for the mayor of a city, any city over 200,000, to appoint an Economic Development Commission. This commission would have the chance to assess regulations which impair the health, safety, and well-being of the citizens by keeping jobs out of the zone; and to weigh whether or not abatement and waiver of those regulations could give rise to an influx of opportunity which would provide an improvement in the health, an improvement in the security, an improvement in the education, and an improvement in the longevity of the individuals in that zone.

I very seriously hope that these commissions of economic development would have a view toward mobilizing the resources, not just as it relates to the Federal Government and Federal regulations, but as they would relate to State and local regulations as well.

It is time for us to understand that regulations, sometimes misapplied, have effectively redlined development out of our inner cities and subjected our inner-city population to a set of risks that are far greater than the risks which the regulations sought to abate. It is time to empower cities to apply for such waivers. It is time to say to the cities, "We will let you help make a decision here about what the real well-being of your citizenry is."

Then the commission would send that waiver application to the Federal Government and ask that the approval from an appropriate agency be made in order to protect the city from further harm. In my judgment, this is a chance for us to change the way in which regulation has literally created a crisis, or participated in the creation of a crisis, at the center of American cities. We can no longer afford regulations which redline American cities away from development.

We have to give cities a chance to say to individuals: "You can come in here, you don't have to be responsible for all the past sins of prior incarnations of industry here; you don't have to make sure the dirt under your parking lot could be eaten by an individual for his or her entire 70 years of existence. We want to have you here because we know that an employed person is safer than an unemployed person; an employed person, the statistics tell us, is healthier than an unemployed person; that employed people are far less likely to be killed in drive-by shootings than unemployed individuals; that where there is economic vitality and industry, there is a far greater chance that the young people will persist in their education, avoiding the dropout situation; and that we will upgrade what happens in our very inner cities."

I believe that it is time for us to look at those regulatory concerns as it relates to the well-being of the individuals in the areas in which those regulations are imposed. Where there are impositions of regulations which actually undermine the safety, undermine the security, undermine the employability of individuals, where the imposition of a regulation does not enhance safety or security or health or well-being or longevity, it should be an option that the Economic Development Commission of that particular urban center could submit an application to the Federal Government and say, "Why don't we abate this particular requirement, because in so doing, it will elevate the opportunity of our citizens to be productive, to be healthy, to be secure and safe, to be examples in their community for the kind of industry and productivity which will inspire young people to stay in school and inspire individuals to have hope and to understand the meaning which can change the destiny of the inner cities of America."

Mr. President, I thank you for this opportunity. I look forward to submitting the urban regulatory relief zone amendment to this legislation in the hours ahead, and I hope that we will have the good judgment to share with the people of the United States the opportunity to make sound decisions about improving the standing of those who are at peril in our inner cities, the core of our largest urban centers. And I hope that we will give them the opportunity to get relief when that relief will increase their likelihood for safety, for health, for security, for productivity and for longevity.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. ABRAHAM). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. GLENN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GLENN. Mr. President, we have talked about other costs, we have talked about complexities, we have talked about the costs of business, we have talked about costs of everything except costs to the Federal Government of this legislation. It seems to me that in any consideration of this legislation, that has to be taken into account.

I do not know exactly what it will cost the taxpayers for the Dole-Johnston bill to be carried out by the agencies as it stands right now. But I would like to read a letter to the chairman of the Judiciary Committee, Senator HATCH, from the Executive Office of the President, Office of Management and Budget on July 7. It applies to the original Dole bill. There have been some changes made since this letter was written, but I think the changes that were made make it even more expensive. But I would like to read this letter in its entirety, because I think it is extremely important that everyone understand exactly what it is we are getting into.

Alice Rivlin, Director of the Office of Management and Budget, writes as follows:

DEAR MR. CHAIRMAN: On April 26, 1995, the Senate Judiciary Committee reported S. 343, the "Comprehensive Regulatory Reform Act of 1995," for floor consideration. The Congressional Budget Office estimated that the bill, if enacted, would impose additional discretionary costs of at least $180 million annually. We have worked over the last several weeks with both the program and the budget offices of agencies with major regulatory programs, in order to arrive at our own estimate of the potential costs of the bill as reported by the Judiciary Committee.

CBO indicated in its analysis that few of the agencies had sufficient time to determine the additional costs that the bill would impose. Further, it assumed that the sole feature of S. 343 that would make issuing new regulations more costly was the lowering of the threshold for cost-benefit analysis to $50 million. Our request to the agencies, however, asked them to consider not only the lowering of the threshold but also the many additional analytic steps, such as risk assessment and peer review, that S. 343 would require agencies to undertake in situations where they are not now carried out. In addition, our analysis, unlike CBO's, contemplated the additional costs that S. 343 would impose, both by significantly expanding existing litigation opportunities and by substantially expanding the coverage and the requirements of the Administrative Procedures Act. Our analysis, unlike CBO's, also included the costs involved in implementing the many new petition processes that S. 343 would create for reviewing existing regulations.

Based on our more extensive analysis, we have arrived at a cost figure that is significantly larger than CBO's. Our preliminary estimate is that S. 343, as reported by the Judiciary Committee, could impose discretionary costs of approximately $1.3 billion annually and consume the time of approximately 4,500 full-time employees. Although there have been some modifications made to the bill since it was reported by the Judiciary Committee, we believe this information remains useful in light of CBO's estimate.

I hope this information is useful to you as S. 343 approaches the floor.

Sincerely,

ALICE RIVLIN,
Director.

I ask unanimous consent that a copy of this letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEAR MR. CHAIRMAN: On April 26, 1995, the Senate Judiciary Committee reported S. 343, the "Comprehensive Regulatory Reform Act of 1995," for floor consideration. The Congressional Budget Office estimated that the bill, if enacted, would impose additional discretionary costs of at least $180 million annually. We have worked over the last several weeks with both the program and the budget offices of agencies with major regulatory programs, in order to arrive at our own estimate of the potential costs of the bill as reported by the Judiciary Committee.

CBO indicated in its analysis that few of the agencies had sufficient time to determine the additional costs that the bill would impose. Further, it assumed that the sole feature of S. 343 that would make issuing new regulations more costly was the lowering of the threshold for cost-benefit analysis to $50 million. Our request to the agencies, however, asked them to consider not only the lowering of the threshold, but also the many additional analytic steps—such as risk assessment and peer review—that S. 343 would require agencies to undertake in situations where they are not now carried out. In addition, our analysis, unlike CBO's, contemplated the additional costs that S. 343 would impose both by significantly expanding existing litigation opportunities and by substantially expanding the coverage and the requirements of the Administrative Procedure Act. Our analysis, unlike CBO's, also included the costs involved in implementing the many new petition processes that S. 343 would create for reviewing existing regulations.

Based on our more extensive analysis, we have arrived at a cost figure that is significantly larger than CBO's. Our preliminary estimate is that S. 343, as reported by the Judiciary Committee, could impose discretionary costs of approximately $1.3 billion annually and consume the time or approximately 4,500 FTEs. Although there have been some modifications made to the bill since it was reported by the Judiciary Committee, we believe that this information remains useful in light of CBO's estimate.

I hope this information is useful to you as S. 343 approaches the floor.

Sincerely,

ALICE M. RIVLIN,
Director.

Mr. GLENN. Mr. President, let me further comment on this. In the bill as it originally came out, CBO estimated $180 million. OMB analyzes what would occur here with the additional petition processes and so on, and after canvassing some of the agencies, as Director Rivlin says, as much information as they could get, estimates that it would cost about $1.3 billion and with 4,500 full-time employees.

Let me point something out. Their analysis was based on the $50 million base, and since that time, the Nunn amendment, which was added to this, adds a substantial number of regulations that would have to be reviewed. In the original legislation that was addressed by Director Rivlin, major rules would probably have been somewhere between 200 and 500, something like that. We do not know exactly, of course.

Now, under Glenn-Chafee, the major rules are estimated to be between 100 and 200. With the Nunn amendment addition, the estimate is to go up to between 500 and 800 rules that would have to be reviewed. The Rivlin estimate from CBO of $1.3 billion in annual costs and the time of approximately 4,500 full-time employees to comply with S. 343 was made before the Nunn amendment on small business was passed. So that at least doubles the number of rules that would have to go back for reconsideration, with all the analysis that goes along with that.

I know that just the number of rules cannot be equated directly to a specific budget figure. But I think it is fair to say that the cost of the bill will be similar to the cost of the Dole bill, as it emerged from the Judiciary Committee, which is $1.3 billion. You have to add onto that the estimate of approximately doubling the number of rules and regulations that would have to be reviewed again, if you add the additional requirement of review put forward by the Nunn amendment. I am not saying it would double that $1.3 billion, but it certainly is going to add a considerable amount onto it. I think it would probably add at least half to it. I do not base that on anything except to say that if you double the number of rules, we should add another $400 or $500 million onto that $1.3 billion. It seems that would be logical.

The point I am making is that we do not get this for free. We want regulatory reform. But at the same time, a vote for the Dole-Johnston bill is a vote to spend a minimum of $1.3 billion, by OMB estimates, in additional Government paperwork. What reform. That is not much of a reform, it seems to me.

So I think we have to think about this. We have not provided anywhere in this legislation for that $1.3 billion annually that would be required, nor for the 4,500 full-time employees. We are in the process, as a result of the President's national performance review, of reducing the civil service rolls in this country, and doing pretty well with that reduction, also. They are trying to cut down 272,000 civil service positions over a 4-year period. The last count I had, as of about 30 days ago, we had actually reduced around 110,000 and are on schedule to probably accomplish that full 272,900 reduction by the end of this year. That comes at a time when, at least in these departments, we are going to have some 4,500 additional FTE's just to carry out the analysis that would be required by the Dole-Johnston bill, at a cost of about $1.3 billion, and that was before the Nunn amendment took the threshold way down, and probably, as near as we can estimate, doubled the number of reviews that would have to be made.

So I think, as we consider this, we want to consider whether we are also going to up the appropriation, whether that would be required, whether we are going to up the number of FTE's to do the job that would be required on this legislation.

I yield the floor.

Mr. ROTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. ROTH. Mr. President, I would just observe that the additional cost identified by the distinguished Senator from Ohio as applying to the Dole amendment would also apply to the Glenn-Chafee amendment. My reason for stating that is that the threshold for a major rule in the Dole-Johnston amendment has been increased to $100 million. That, of course, is exactly the same as the threshold for the Glenn-Chafee bill.

I also point out that there is no question, at least in my judgment, that the Nunn-Coverdell amendment—the amendment offered by the distinguished Democrat from Georgia—would also be offered to amend the Glenn-Chafee bill if it were believed that that legislation was going to successfully move forward.

So, in large part, either proposal will face some increased cost. As I say, in my judgment, it would be in somewhat the same ballpark. But I think the important point to understand is the cost of the current regulatory maze of the private sector and local government. It is estimated that the current regulatory requirements cost this country something like $600 billion a year, a very substantial amount.

It is further estimated that this roughly breaks down to a cost of $6,000 per American family. Again, a very substantial cost to the typical American family.

One of the goals of the legislation that we all on both sides of the aisle are in support of in either amendment, agree that regulatory reform is critically important. One of the principal purposes of our legislation is to get a better bang for the buck.

Hopefully, we can do even a better job in providing clean air and clean water, at a lesser cost, because of the regulatory reforms we are proposing.

While it may be there may be some additional cost on the Federal Government, that should be more than substantially offset by the benefits and lesser costs that will be experienced by the private sector.

For that reason, while it is true that regulatory reform may result in some additional cost to the Federal Government, that is substantially true of both proposals, whether one is supporting the Dole-Johnston amendment or the Glenn-Chafee.

I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LIEBERMAN. Mr. President, I rise to speak about the bill before the Senate, S. 343, and the vote that will occur at 6 p.m., a little more than half an hour from now, asking that we invoke cloture on this bill.

Mr. President, the last week has seen an intensive debate and a very thorough debate on not just the bill but on the values and ideals and processes that underlie our whole regulatory process.

While I feel from my perspective that we have made some progress, at least by my standards, have improved the bill, I intend to vote against cloture because I still believe that this bill, as amended, so fundamentally alters the regulatory process and increases the obstacles and hurdles within that process, that it does damage to the laws—the public health, consumer protection, environmental protection laws—that underlay those regulations.

Mr. President, this has been, I think, a very important debate in which, in general terms, all Members here in the Chamber have expressed our support of two basic goals. One is to acknowledge that the regulatory process in many ways has grown top heavy.

Senator HATCH has given the list of the bottom 10 regulations which often seem silly and off the mark. Senators GLENN and KERRY and others have occasionally set the record straight on some of those bottom 10.

The underlying point of Senator HATCH's list, I think, is agreed to by everyone here, which is that in some sense our regulatory process has become too complicated. It takes too long to render decisions. It often costs more than it should cost.

I think we also have another set of values that we share. This is where we part company. Some think the reforms of the regulatory process get in the way of the protective goals of the underlying environmental protection, consumer protection, public health and safety laws that generate those regulations.

Remember, the regulations do not arise out of nowhere. They arise, for the most part, out of laws that we adopt. We adopt those laws because we are responding to problems. We are, in the best exercise of governmental authority, making judgments about certain threats to the well-being of people in this country that they cannot protect themselves from.

In some measure, in our increasingly complicated world—much more complicated than when this country was founded—we have extended what we lawyers like to call the police power of the State to encompass not just the traditional prohibitions of criminal acts and punishment for commission of those acts, but to protect people from being assaulted, for instance, by toxic chemicals in the air or in the water, substances that, if you listen to the public health experts—and they are credible ones—can do as much damage to people as criminals can.

So we have adopted this law to protect people, whether it was against food poisoning or protecting children from iron toxicity, whether it is to ensure that mammography done in this country is safe and reliable, whether it is to protect us against the now legendary cryptosporidium, a microscopic parasite found in drinking water. This is why we adopt regulations. I hope this debate has reminded us of those underlying purposes.

It seems to me S. 343, as amended, continues to present serious obstacles to the realization of those protective goals. I must say that, as I go around the State of Connecticut, I find that one of the aspects of our Government that people I speak to most support, even though they are upset about much else that we do here, is the work we do to protect the environment, to conserve the great natural resources that the good Lord has given this country and, in fact, this world, to protect them from threats that they cannot see in the water they drink, in the food they eat.

They want us to continue to do this. And I am convinced that in the layers of hurdles—in the petition process set up within S. 343, as amended, in the decisional criteria, these four very high hurdles that regulations, protective regulations will have to jump over in order to stay valid, in the judicial review process, and so much else that is in this bill—that though the bill has been improved, it still needs to be improved more, or we will inadvertently, I believe—I hope unintentionally—have made it much more difficult for Government to protect people from threats to their health and safety and well-being that they cannot protect themselves from.

The best way to describe and explain all this is with concrete examples, and let me give a few. The Clean Air Act requires that the standards for air quality be set at a level to provide protection of public health with an adequate margin of safety. I would guess, if we asked constituents in our district whether they want us, when it comes to protecting public health, their health, from pollution in the air—whether they want us to do that with an adequate margin of safety, they would say yes. Sure, people are cost conscious. Obviously, they are cost conscious. But when it comes to their health, their parents' health, their children's health, I think they would want us to err on the side of that health, not on the side of the cost to the source of the pollution.

Acting on guidance from Congress, the Environmental Protection Agency has set the standards for air quality, public health, at levels which err on the side of caution, at levels which do protect not just average people but also sensitive subgroups of the public such as the elderly, who are less able, because their bodies are older, to withstand pollution in the air; persons who have more respiratory problems; or children; or such subgroups in the population who already are ill for one reason or another—they may have asthma, they may have heart disease. They are particularly vulnerable to dirty, polluted, toxic air.

Although the statute on its face, the Clean Air Act, does not prohibit consideration of costs, EPA, for 25 years, has implemented the statute based on health protection and health protection alone. And the courts have upheld EPA's approach.

For example, one of the pollutants that EPA regulates is sulfur dioxide, which comes from coal-burning utilities and smelters primarily. EPA long ago determined that its standard for sulfur dioxide emissions in the air should be set, not just to protect the average group of healthy Americans, but to protect asthmatics as well.

There has been a 40 percent increase in asthma in our country in the last decade. That is a topic for another discussion as to why that has happened. My internists at home in New Haven said to me that he sees what he is calling an epidemic of asthma, particularly among kids. The standard EPA sets is at a level to protect asthmatics. The Clean Air Act requires that EPA periodically review this standard. And, under the bill before us, S. 343, as amended, industry—that is source of pollution who feel they are adversely affected by this sulfur dioxide standard—can petition to have the standard reviewed under the new decisional criteria, those four high hurdles that I have talked about.

I respectfully suggest that the likely result, under this series of decisional criteria, would be that despite the long history I have talked about and the court decisions, EPA could no longer set the standard for sulfur dioxide at the level to protect as much public health and as many people in our country, including those with asthma and respiratory problems, as they do now.

Instead, it would be required to look at the benefits from avoiding medical treatment for asthmatics and weigh those against the compliance costs imposed on the sources of the pollution, the smelters, and other facilities.

Inevitably, this will mean that the standard will not be set at a level that will protect the asthmatics who are protected now. And that is a lot of people. That is millions of people. It is our kids. It is our spouses. It is our parents. For the first time, the degree to which EPA is permitted to set these standards for air quality based on health protection would be compromised. And even if EPA could avoid this strict cost-benefit weighing part of the test that I have just described, one of the other sections of the decisional criteria is the least-cost section, which says that you have to do what you are supposed to do at the least cost possible, would require a weighing of costs which, again, would compromise the health-based standard but, more to the point, compromise the health of a lot of people in this country.

Finally, because I see other colleagues on the floor, let me give a specific example of why the second decisional criteria, the least-cost alternative, could significantly reduce protection of public health and the environment.

In 1991 EPA conducted a comprehensive cost-benefit analysis of options for the rule it was issuing that dealt with lead in drinking water—lead in drinking water. When you open the tap and drink the water, what about the lead in it? Several options had been suggested ranging from simply telling people to run their water before drinking it, which reduces the problem in some but not all cases, and depends on assuring that, for instance, children and others will run the water for a couple of minutes before drinking.

Mr. President, I do not know about your kids—they are younger than mine—but I do not think mine will run a tap for a few minutes before drinking.

Other alternatives for dealing with lead in water, drinking water, would require universal use of a corrosion-inhibiting chemical and the replacement of all lead-contaminated pipes or setting an "at-the-tap" standard for lead. So there were three or four alternatives available to EPA for dealing with this problem, the real public health problem of lead in drinking water.

EPA conducted a detailed cost-benefit analysis for three alternative rules, all of which had benefits greater than costs. EPA chose the middle-of-the-road option, requiring some but not all water utilities, water companies, to use a corrosion-inhibiting chemical and requiring replacement of the worst lead pipes, but over a 22-year schedule to phase it in.

It is very likely that under S. 343, if it is adopted as amended, the least-cost alternative would have been to issue a much more limited chemical treatment rule.

Under the alternative selected by EPA, the benefits have been enormous. For a little more expenditure, we have received and obtained much greater health benefits, assuring, according to public health experts, that thousands of children would not have elevated blood lead levels and others with vulnerability to lead because of heart conditions would be saved, quite literally, from heart attacks.

That EPA middle of the road rule had far, far greater benefits than the least-cost alternative that would be driven by S. 343, as amended, in terms of public health—and that means children have higher blood lead levels, they lower IQ's. It is pretty hard to calculate the cost of that, but in my opinion it is incalculable.

EPA would simply not have been able to adopt the sensible midcourse alternative it selected if we adopted the bill as amended. That would not have made good common sense and obviously it would not have made good public health.

Mr. President, I see other colleagues on the floor. I will yield the floor. But to say again what I said, at the beginning, we have made some progress on this bill. But there is a way to go before we accomplish both real regulatory reform and cut down the red tape, which all of us want to do, and the Glenn-Chafee bill does very sensibly. But what we have not done yet is assure that the public health, environmental protection, and consumer protection, which generated the adoption of the laws that gave birth to these regulations, are going to continue to be adequately protected. And until that is so, I will vote as I will in a short while against cloture on this bill.

I thank the Chair. I yield the floor.

Mr. KERRY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, I see the Senator from Rhode Island wants to go forward for a few minutes. I ask unanimous consent that he proceed for 4 minutes, and that I then be recognized for 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Rhode Island.

Mr. CHAFEE. Thank you. I want to thank the distinguished Senator from Massachusetts for permitting me to go for 2 minutes.

I would like to make a couple of points. One of the major objections to the Johnston bill is the so-called judicial review. We have dealt with the language of the Johnston bill and judicial review before. What is the language that is so objectionable? It is in section F. It says, "The reviewing court shall hold unlawful and set aside agency action findings or conclusions found to be without substantial support in the rulemaking file viewed as a whole."

That is complicated. But it is a very high standard to meet. It is very, very difficult. And what it means for those who are implementing the rule—any of the agencies, whether it is EPA or whatever it is—it is very hard for them to have a rule that cannot be thrown out by the courts under this definition. We have done this before.

In 1982, Senator BUMPERS had an amendment that came out of the committee when we were doing regulatory reform in that year, which had exactly the same language that we—I and others on this side—are objecting to, and that Senator HATCH and others put into this bill.

So we had a Republican administration. We had a Republican Senate, and that group—the administration and the Republican Senate—vigorously objected to the language that was in that bill, the so-called "Bumpers language," which is exactly the same as the Hatch language today.

So Senator BUMPERS came up with an amendment. He changed that objectionable language. And the Vice President of the United States, on February 23, 1982, George Bush, wrote the letter.

> DEAR DALE: We have received your proposed amendments to S. 1080 and the explanation of those amendments. We believe that these changes, as explained by what would be legislative history, are significant improvements.

On and on he goes.

So the language that I am objecting to, and others who will not support cloture tonight, is the exact same language that a Republican administration, that a Republican Senate, objected to in 1982. It was objectionable then, it is just as objectionable now.

I do hope that cloture will not prevail.

I thank the Chair. I thank the Senator from Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. HATCH. Will the Senator yield for a request?

Mr. KERRY. I yield for a request.

Mr. HATCH. I ask unanimous consent that following the remarks of the distinguished Senator from Massachusetts that I be permitted to speak a few words on this before cloture.

The PRESIDING OFFICER. Is there objection?

Mr. GLENN. Reserving the right to object, Mr. President, would we still have the vote at 6 o'clock?

Mr. HATCH. Oh, yes.

Mr. GLENN. We have both leaders who wish to speak.

Mr. HATCH. That is right. I will be short. We want to allow enough time for both Senators to have a few remarks.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from Massachusetts.

Mr. KERRY. Mr. President, I congratulate my colleague from Rhode Island for his comments, and also the Senator from Connecticut, who in a detailed fashion has summarized why this bill is not prepared to be passed on by the Senate, and why colleagues sought to oppose cloture at this point.

Mr. President, this bill flies directly contrary in its current form to the principles espoused by Philip Howard in "The Death of Common Sense," and to the whole concept of reform. Reform is supposed to create simplicity. It is supposed to create fairness. It is supposed to reduce the paperwork and reduce the opportunities for litigation.

This bill in its current form is a lawyer's and an accountant's dream.

Mr. President, here is a list of 88 new opportunities for litigation in the Dole-Johnston bill before us. This bill is supposed to simplify. We keep hearing in the U.S. Senate about how there is too much litigation. However, there is no such opportunity for litigation in the current law for these items. But under this bill, here are the opportunities for litigation—88 new opportunities—for lawyers to dream up ways they can come into court. This is not speculative. This is by the very language written in this bill.

For instance, section 622, (c)(2)(C)(1), "Did the agency adequately identify alternatives that require no government acts?"

If somebody wants to sue suggesting that they did not, all they have to do is make the claim, come into court, and that review will take place.

"Did the agency adequately describe attempts to verify quality, reliability and relevance of science?" Section 622, (d)(2)(A)?

I can go through the entire bill where, because they are opening up procedure to review—not just substance but procedure—you are going to tie up an agency in court.

Mr. President, they will come back and say, "No, no, no, we do not want the procedure to be reviewed." And they will suggest that there is language here that precludes that.

I respectfully say that is not the case; there is sufficient ambiguity that lawyer-legislators on both sides are arguing about it. And the question is, therefore, if their intent is not to create that avenue of judicial review, if their intent is to do as they say, to preclude it, then why do we not make it clear in this legislation? Every attempt to try to make it clear has been rebuffed.

So I respectfully suggest that, just as in the area of least cost alternative where they suggest that there is not a rigid rule precluding judgment and discretion by the agency head, there will be sort of discretion. We are saying no. The language of this bill provides a rigidity, and we do not want that rigidity in this particular legislation.

In addition, I would like to point out that in today's Washington Post, there was an article that talked about being buried by paperwork. It had the amounts of money, and how the regulatory paper trail leads nowhere. But interestingly enough, almost every dollar in this article was in the SEC and the IRS, both of which are exempted under the Dole-Johnston bill.

So the very place where you find the problem, they have exempted it. Then they come in and say, well, there is $500 billion worth of cost to our economy. Yet the GAO has shown that study is totally faulty, that in point of fact there is only about $225 billion total cost to a $1.6 trillion economy. All the additional costs that they throw into their pot are costs that are related to what we call transfer payments and process costs that have nothing to do with the regulatory process itself.

So, Mr. President, if we want to simplify, which we do, you have an alternative. It is the Glenn-Chafee, or Chafee-Glenn bill. It is similar to a bill that came out of committee 15 to nothing in a bipartisan form. That is a bill which has review. It is a bill which has a cost-benefit analysis. It is a bill that has risk assessment. But it does not create a rigid rule that denies discretion or judgment to the agency heads who deal with these issues.

Mr. JOHNSTON. Will the Senator yield at that point?

Mr. KERRY. I am happy to yield for a question.

Mr. JOHNSTON. Is the Senator aware that the original Roth bill that came out of committee unanimously, as the Senator says, required a review of rules?

Mr. KERRY. Yes.

Mr. JOHNSTON. This is the exception. There is no rule that needs to be reviewed, unless the agency head wishes to in his sole discretion, and that is not reviewable.

Mr. KERRY. The Senator is not only aware of it, but that is the standard which we would embrace in this bill. But because of the judicial review standard that the Senator from Louisiana is pressing and because of the petition process which the Senator from Louisiana is pressing, we totally inundate the agencies.

What is going to happen here, Mr. President, is that a process that is supposed to simplify is going to swamp the agencies. The EPA currently has a very clear graph that shows how many hours go into rulemaking from business. Business currently spends about 70,000 hours putting together the reports for the process of rulemaking. Under this process, you are going to triple or quadruple the amount of industry input. You are going to at least double the governmental input, and there will be no commensurate increase in resources or budget.

The effect will be they will be swamped, because there is a clever little clause in here that says if you do not get your review done in 3 years, we are going to throw the rule out. So first they swamp the agency. Then they provide a whole bunch of opportunities for litigation. And they say if you have not performed your responsibility within that span of time, which is impossible, we throw the rule out anyway. That is stripping America of 25 years of effort to try to have a reasonable process of regulation.

I wish to give all colleagues time here, but I just say, Mr. President, I am prepared to vote for a reasonable reform bill that has a reasonable judicial review standard, a reasonable cost-benefit analysis and risk-assessment approach, but that does not tie the Government in knots and that does not take the current 1-page Administrative Procedure Act approach to rulemaking and add an additional 64 new pages from the Dole-Johnston bill.

That is not simplification. That is not reform. That is an opportunity for lawyers to have a field day in court and to prevent us from ever having a rule that addresses the public safety and health needs and environmental needs of this country.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, what 343 requires is that when there is a major rule, if there is going to be litigation, it has to be the whole rule. It cannot be nit-picked to death as has been suggested under the language there. And every major rule is litigated now. So there is nothing to those arguments that have been argued here.

With regard to what Senator CHAFEE said, Senator JOHNSTON does, indeed, amend section 706 of the Administrative Procedure Act to apply the "substantial evidence test" to informal—notice and comment—rulemaking.

I wish to point out that this test is hardly novel. It has been codified in the Administrative Procedure Act for almost 50 years—section 706(2)(E)—as the standard to apply in adjudicatory rulemakings.

Moreover, Congress has in specific statutes required the substantial evidence test for informal rulemakings since the late 1960's. Just some examples include the Occupational Health and Safety Act of 1970 and the Magnuson-Moss FTC Improvement Act of 1975.

In 1981, the Administrative Conference of the United States recommended that section 706 of the APA be amended to include a substantial evidence test for informal rulemakings. That was recommendation No. 81-2. The Administrative Law Section of the American Bar Association made a similar recommendation in 1986.

Also, in 1981, the Senate approved the Bumpers amendment to S. 1080, the precursor to present S. 343 that passed the Senate 94 to 0 in 1982. That amendment's language applying the substantial evidence test to informal rulemakings is virtually similar to the language of Dole-Johnston. I might add that the American Bar Association strongly recommended including the substantial evidence test for informal rulemakings in S. 343.

The substantial evidence test is the appropriate standard for judicial review when examining whether the factual basis of the rule justifies the rulemaking. Contrary to assertions made by some of my colleagues, the substantial evidence test is not so stringent as to impede the implementation of rules.

It is now recognized that the substantial evidence test is the functional equivalent of the standard arbitrary and capricious test. Indeed, a number of courts and legal commentators have concluded that, when applied to court review of factual conclusions made by agencies, the distinction between the substantial evidence test and the arbitrary and capricious standard is largely semantic.—*Association of Data Processing Service Organizations* v. *Board of Governors*, 745 F.2d 677, 684 (1984) (and cases cited therein).

Nonetheless, adoption of this test is important because it is the appropriate standard for courts to employ when reviewing factual determinations. In other words, the substantial evidence standard aids the court in determining whether an agency abused its discretion in promulgating a rule.

I notice the distinguished majority leader is here.

Mr. President, just let me say this. Despite all of the hysterical rhetoric that we have heard on this bill, this bill is simply a commonsense bill. It is a reasonable effort to rationalize the regulatory process. Meaningful regulations in the areas of health, safety, and environment are important and necessary. This bill does nothing to repeal or change needed and reasonable regulations. All this bill does is require a reasonable process whereby we ensure that the benefits from these regulations justify the costs. We have a Government out of control. This is a modest attempt to try to get it back into control, and I hope everybody will vote for cloture on this bill.

I yield the floor.

Mr. DASCHLE. Mr. President, I know that we are about ready to cast the vote. I will be very brief.

As we have said over and over throughout the debate today and over the course of the last several days, the fact is that there has been a very good debate about a number of extraordinarily complex issues, issues that ought to be aired, issues that ought to be raised in the context of both regulatory reform and public safety.

We have done that. We have offered amendments. We have had a good debate. There have been very few quorum calls. There is no filibuster. I hope all colleagues consider this vote very carefully and vote against cloture this afternoon.

Let me remind my colleagues that 38 amendments, so far, have been offered—38 amendments over the last 7 days or so. Of the 38 amendments that were offered, 24 of those amendments were offered by proponents—24 of them. Only 14 of the 38 amendments which have been offered have been offered by those who are not supporters of the legislation. Of those, 7 were adopted, 3 were rejected by a 2-vote margin, 2 were withdrawn, 1 was the only one to lose by more than 10 votes, and 1 is pending right now, the Glenn-Chafee substitute.

So if you take the substitute away, 13 amendments are all the amendments that have been offered on our side to date. And of those, very few were rejected—in fact, only 1 was rejected—by more than 10 votes.

I think the point of all this is very clear. We are making a good-faith effort to try to work through this issue in a meaningful way. Even if the substitute is declared germane, as I understand it has been, there are a number of additional relevant amendments, amendments that we have been waiting to offer, amendments that we hope to be able to propose at some point in the not-too-distant future, most likely even with time agreements. We are willing to do that, but if we are going to be able to offer those amendments, invoking cloture now would preclude a lot of Members from having the right to do so.

So I urge our colleagues to oppose cloture, recognize that we are not filibustering, we are not extending debate unnecessarily, recognize that the amendments that have been offered in large measure have been offered by those on the other side, and recognize as well that as complicated as this is, it is imperative we continue to try to work through the bill, as difficult as it may be.

I believe we can do it. I am still optimistic that we can accommodate all Senators in trying to achieve our objective of reaching some ultimate compromise on this legislation and vote in a bipartisan manner. But we cannot do that today; we cannot do that by cutting off debate. We cannot do that by precluding Senators' rights to offer amendments as they have been doing now for about a week.

I yield the floor.

Mr. DOLE. Mr. President, tonight we take the first step toward bringing this important debate to a close.

Despite all the horror stories, despite all the distortions, despite the desperate attempts to shift the focus of this debate, I want to make very clear that I intend to fulfill the mandate given to us by the American people—and bring some common sense to the regulatory process and get the Government off our backs.

On one side of this debate stand the defenders of the status quo. Regulatory reform is a direct threat to their smug assumption that Washington knows best and that it cannot do any better. The defenders of the status quo can only win by delay and distortion.

On the other side of this debate stand those Senators—and I must point out that we have Republicans and Democrats—who understand that we have to provide relief to American families and small businesses who bear the burden of overregulation. We understand we can do so in ways that protect health and safety.

Though I do not really expect to close off debate tonight, it is important to understand that we intend to win, and that it is our obligation to pass meaningful regulatory relief, not just some watered-down version that accomplishes nothing.

Therefore, if cloture is not invoked tonight, we will vote again on cloture tomorrow. And if we do not succeed at that time, we will vote again to close debate on Wednesday.

The issues at stake are too important. Unfortunately, those issues have often been obscured by those like Ralph Nader and President Clinton who repeatedly make basic factual errors about this bill.

The reality is not so hard to understand:

This bill has been amended over 100 times, incorporating comments and suggestions from the Clinton administration and Democrat and Republican Members;

This bill largely codifies President Clinton's Executive order on the regulatory process;

This bill incorporates whole sections of S. 1080, a bill passed unanimously in the Senate in 1982;

And perhaps most important, this bill includes close to 20 different protections for health, safety, and the environment.

These are the facts. Those facts—as opposed to the twisted version reported by the media—suggest that those who oppose our reforms have some explaining to do. Those who seek to stall reform will have to answer to the American people.

And in the end, I am confident that we can pass this bill with broad bipartisan support.

Mr. President, I would be very willing to sit down with the Democratic leader and figure out how we could bring this matter to a conclusion tomorrow or even on Wednesday. But this is the seventh or eighth day we have been on this bill. It is a very important bill. Many of the amendments offered by proponents were in response to requests from those who opposed the bill—this would make it better, this is a compromise, work it out. There have been a number of amendments. In fact, we took a major amendment of the Senator from Ohio, who was prepared to debate it for 2 hours. We said we will take it. It is the sunshine amendment, a major amendment.

We have taken a number of amendments. We have addressed the 180 days problem. We have addressed a number of major problems, as I understand it.

So now there are 267 amendments pending at the desk, first- and second-degree amendments—267 or 260-some. How do you finish a bill with that many amendments? In fact, it is worse than the tax bill where sometimes you have 80 or 100 amendments. And I must say some of those amendments are on this side so they are not just coming from that side. I do not want to leave that impression. Most are coming from that side but some are coming from this side.

We thought last week, or last Thursday or Friday, according to our list—not everybody would tell us what their amendments were—there were probably two or three on this side and five or six on the other side, including the major substitute which we are on right now.

I do not want to shut off anybody. If we cannot get cloture, we cannot get cloture, we will not have regulatory reform. That is not a threat, but if you just take out the calendar—there are already people complaining about not getting a full August recess and there are probably going to be more and more complaints as we get closer to August 4. I would like to accommodate most people to get out at least a part of August. But if we want to spend more time on this bill than we should, do not be coming around to the majority leader saying, "Oh, you can't take away our August recess."

I do not want to take away anything. I have a lot of places I can go in August, would like to go in August, other than Iowa and New Hampshire.

[Laughter.]

We are not going to get cloture. We have four or five absentees. We have two or three who have not seen the light on this side yet, maybe four. But despite all the horror stories, despite all the distortions and despite the desperate attempt to shift the focus of this debate—in fact, the President said on Saturday on the radio show if you adopt this bill, there are going to be more air crashes. And this is the same President a week ago who said we should be more civil, we should not make statements like this, we should treat everybody with civility. And he charges Republicans, on a bill like this, with air crashes, dirty meat, dirty water, dirty air, two or three other things. He did not have much time on the air. He mentioned three or four ridiculous, ludicrous, exaggerated statements like that.

We think we have made a lot of progress. We think this is a bipartisan effort. If I have missed something somewhere along the line, then I think we should try to address it. I am willing at any time to set down a schedule of amendments to finish this bill. I am ready to vote tomorrow morning, tomorrow noon on the big substitute. Maybe that is one way. Once we determine how that is going to come out, maybe that will move the debate.

I think we may as well vote. We do not have the votes. Those who are not ready for regulatory reform will vote "no." Those who are will vote "aye."

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, the hour of 6 p.m. having arrived, the clerk will report the motion to invoke cloture.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators in accordance with the provisions of rule XXII of the Standing Rules of the Senate do hereby move to bring to a close debate on the pending substitute amendment to S. 343, the regulatory reform bill.

Bob Dole, Bill Roth, Fred Thompson, Spencer Abraham, Kay Bailey

Hutchison, Jon Kyl, Chuck Grassley, Craig Thomas, Orrin Hatch, Larry E. Craig, Mitch McConnell, Conrad Burns, Bob Smith, Jesse Helms, Jim Inhofe, Judd Gregg.

CALL OF THE ROLL

The PRESIDING OFFICER. Under the previous order, the mandatory quorum call has been waived.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on amendment No. 1487 to S. 343, the regulatory reform bill, shall be brought to a close?

The yeas and nays are required. The clerk will call the roll.

The legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from Utah [Mr. BENNETT], the Senator from Idaho [Mr. KEMPTHORNE], the Senator from Arizona [Mr. MCCAIN], and the Senator from South Dakota [Mr. PRESSLER], are necessarily absent.

Mr. FORD. I announce that the Senator from Alabama [Mr. HEFLIN] and the Senator from Nebraska [Mr. KERREY], are necessarily absent.

The PRESIDING OFFICER (Mr. SANTORUM). Are there other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 48, nays 46, as follows:

[Rollcall Vote No. 309 Leg.]

YEAS—48

Abraham
Ashcroft
Bond
Breaux
Brown
Burns
Campbell
Coats
Cochran
Coverdell
Craig
D'Amato
DeWine
Dole
Domenici
Faircloth
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hatch
Helms
Hutchison
Inhofe
Johnston
Kassebaum
Kyl
Lott
Lugar
Mack
McConnell
Murkowski
Nickles
Packwood
Pell
Roth
Santorum
Shelby
Simpson
Smith
Snowe
Stevens
Thomas
Thompson
Thurmond
Warner

NAYS—46

Akaka
Baucus
Biden
Bingaman
Boxer
Bradley
Bryan
Bumpers
Byrd
Chafee
Cohen
Conrad
Daschle
Dodd
Dorgan
Exon
Feingold
Feinstein
Ford
Glenn
Graham
Harkin
Hatfield
Hollings
Inouye
Jeffords
Kennedy
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moseley-Braun
Moynihan
Murray
Nunn
Pryor
Reid
Robb
Rockefeller
Sarbanes
Simon
Specter
Wellstone

NOT VOTING—6

Bennett
Heflin
Kempthorne
Kerrey
McCain
Pressler

The PRESIDING OFFICER. On this vote, the yeas are 48, the nays are 46. Three-fifths of those duly chosen and sworn not having voted in the affirmative, the motion is rejected.

EXPLANATION OF ABSENCE

Mr. DOLE. Mr. President, the distinguished Senator from South Dakota, Senator PRESSLER, was necessarily absent during the cloture vote on the Dole-Johnston substitute amendment to S. 343, the regulatory reform bill.

Senator PRESSLER was on his way back to Washington from Sioux Falls, SD, but has experienced a number of flight delays due to mechanical difficulties and weather surveillance. Had Senator PRESSLER been here for the vote, he would have voted to invoke cloture.

(At the request of Mr. DOLE, the following statements were ordered to be printed in the RECORD.)

EXPLANATION OF ABSENCE

• Mr. PRESSLER. Mr. President, I was necessarily absent during rollcall vote No. 309 on the motion to invoke cloture on the Dole-Johnston substitute amendment to S. 343, the comprehensive regulatory reform bill. Had I been present for the vote, I would have voted in the affirmative.

I was unable to be here for the vote due to a number of travel problems that occurred on my flights from Sioux Falls to Washington, DC. Specifically, the aircraft that was to have taken me from Sioux Falls to Minneapolis was kept on the ground due to mechanical problems. The delay, in fact, forced me to take a later flight on another plane. I was further delayed at Minneapolis due to weather surveillance. I regret this series of flight delays prevented me from being present during the cloture vote earlier this evening.•

• Mr. KEMPTHORNE. Mr. President, I rise today to explain my absence from the floor during Senate vote No. 309 to invoke cloture on S. 343. I was necessarily detained on my return flight to Washington, DC, due to severe weather conditions causing flight delays. Had I been present for vote No. 309, I would have voted "aye."•

Mr. WARNER. Mr. President, as an original cosponsor of Majority Leader DOLE's regulatory reform package, I am delighted to have this opportunity to discuss the many benefits to be gained from its enactment. For perhaps the first time, we are confronting the astoundingly sensible idea that the regulations we impose at the Federal level should reflect risk-assessment and cost-benefit analyses. These important tools will ensure that limited dollars are spent on solving our most serious problems and in turn will return the greatest results.

Throughout this debate, we have been treated to a barrage of rhetoric from naysayers, the opponents of common-sense regulating. Those in favor of realistic balance have been portrayed as coldhearted calculators determined to destroy the environment, eradicate the safe workplace, and jeopardize the health of every American.

Mr. President, that simply is not true.

Regulations imposed by the Federal Government should bear a direct relationship to the potential risk to public health, safety, and the environment. They should also reflect a significant benefit for the costs incurred.

Those dual considerations form the centerpiece of the Dole-Johnson substitute.

The measure directs Federal agencies to conduct a cost-benefit analysis for major regulations, defined as having a gross annual economic impact of $50 million in reasonably quantifiable direct and indirect costs. Where appropriate, standardized risk assessments reflecting the best available science also would be conducted, with public participation and peer review. Since many speakers have preceded me, I will not belabor the specific provisions of this package.

Earlier this year, the Environment and Public Works Committee, on which I have served for 9 years, held a hearing on the impact of regulatory reform proposals on environmental and other statutes. That hearing confirmed a glaring certainty: Federal agencies are not using the discretion at their disposal to adequately consider or appropriately weigh costs and benefits. Burdensome Government regulations are imposing significant costs on our national economy, our productivity, and our ability to compete in the global marketplace. To reverse that trend, we must include cost-containment features and regulatory impact analyses whenever any new Federal regulation is considered. Agencies should be required to include sound science before they promulgate rules and regulations anew; the public should be allowed to petition for the review of risk assessments made by agencies.

Mr. President, less regulation will not result in less protection for the public if our dollars are used efficiently. On the contrary, the net effect of using sound science and real risk assessment to prioritize regulations would be more real protection. Best of all, that enhanced protection of health and safety would be cost-effective.

We are all aware that life will always involve some risk—we cannot and should not attempt to protect everyone from every possible degree of risk. Instead, we must prioritize on the basis of definitive risk factors. Each rule must be carefully scrutinized; choices must be based on relative risks and associated costs.

My interest in regulatory reform has been honed further by my membership on another committee—Agriculture.

I am deeply concerned with the economic health of the agriculture community, especially that of the family farmer. One of the most debated issues concerning agriculture and agricultural chemicals today is the so-called Delaney clause. Under its restrictions, pesticide residues found in processed foods are considered food additives. The Delaney clause prohibits the inclusion of any chemicals or additives in processed foods, including pesticides and inert ingredients, which have been found to be carcinogenic in humans or animals.

Ironically, the very good intention of the Delaney clause—to protect consumers from unsafe exposure to chemicals which might induce cancer—is being subverted. Technological advances which make it possible to detect trace compounds in parts per trillion and greater have made the zero risk standard of the Delaney clause unreasonable. The very scientific advancements which should be enhancing consumer safety are instead hindering. It would be far more reasonable to institute a negligible risk standard. For carcinogens, such a standard would represent an upper-bound risk of 1 in 1 million over a lifetime, calculated using conservative risk assessment methods. Again, we are talking about a matter of sensible risk assessment.

Mr. President, listening to this debate, I have had to ask myself why anyone would not want to see beneficial rules and regulations, which protect from real risk while outweighing their costs. At a time when budgetary constraints are a serious priority, we should—we must—spend those scarce dollars wisely. Regulations associated with high levels of risk undoubtedly may be expensive to comply with, but if they are deemed necessary to protect the national health, safety, and the environment, the compliance costs will be money well spent.

However, excessive rules and regulations associated with minimal public risk amounts to hunting fleas with an elephant gun. It is neither fair nor reasonable to ask the taxpayers to bear such expense.

ORDER OF PROCEDURE

Mr. DOLE. Mr. President, I hope we can now agree on a time to vote on the substitute. We have had a lot of debate on the substitute. I hope we can reach an agreement before we depart, with the managers, on when we can vote on the Glenn substitute—hopefully tomorrow morning or by noon tomorrow.

There will be no more votes tonight. I think the first thing we want to do is have a vote on the substitute and perhaps we can reach some agreement on that.

Mr. STEVENS. I ask unanimous consent that I may have a few moments to speak as in morning business to introduce a bill and make a few remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I thank the Chair.

(The remarks of Mr. STEVENS pertaining to the introduction of S. 1043 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

U.S. POSTAL SERVICE

Mr. STEVENS. Mr. President, there has been much discussion lately about the future of the U.S. Postal Service. Should the Postal Service be freed from current statutory restrictions in order to become more competitive? Should the Postal Service be privatized?

Many observers believe there are problems which need to be resolved in order for the Postal Service to continue into the next century. Unfortunately, there is not a consensus on the solutions to the problems—and, indeed, not everyone agrees that there are problems which require changes in current law.

As part of the ongoing review of the Postal Service, I received a paper written by Murray Comarow. Mr. Comarow served as the Executive Director of President Johnson's Commission on Postal Reorganization in the late 1960's and was a Senior Assistant Postmaster General.

In the paper he urges the appointment of a nonpartisan commission to analyze the root causes of the Postal Service's problems and recommend changes. He suggests that perhaps the Postal Rate Commission and the requirement for binding arbitration with employee unions be eliminated, and that the Postal Service should have the ability to close small, unprofitable post offices if service could be maintained through other means such as leasing space in local businesses.

In addition, Mr. Comarow observes that the monopoly on first-class letters as well as universal service at a uniform price should be maintained. However, the Postal Service should be able to compete for large contracts and offer experimental services, and he does not believe that employees should be given the right to strike—a right not possessed by any other Federal employees.

Mr. President, I do not here pass judgment on the conclusions reached by Mr. Comarow, but he provides an historical reference and raises some issues which ought to be considered during any debate on the future of the Postal Service. In the interest of reducing costs, I will not ask unanimous consent that the text of Mr. Comarow's paper be reprinted in the Congressional RECORD. Copies of the complete paper can be obtained by contacting Mr. Comarow directly at 4990 Sentinel Drive, No. 203, Bethesda, MD, 20816-3582.

Mr. LAUTENBERG. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DEWINE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DEWINE. Mr. President, I ask unanimous consent to proceed as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Again, Mr. President, I do not think the Senate is in order for my friend to speak, any more than it was when I was speaking.

The PRESIDING OFFICER. The Senator is correct. The Senate will come to order.

The Senator from Ohio.

HEMOPHILIA AND HIV

Mr. DEWINE. Mr. President, the Institute of Medicine—or IOM—last Thursday released the findings of a major investigation into how America's hemophilia community came to be decimated by the HIV virus. It is a very sad and compelling story.

In the early 1980's, America's blood supply was contaminated with HIV. Many Americans have become HIV-positive by transfusions of the HIV-tainted blood.

One particular group of Americans has been extremely hard-hit by this public health disaster. There are approximately 16,000 Americans who require lifelong treatment for hemophilia, a genetic condition that impairs the ability of blood to clot effectively.

In the early 1980s, more than 90 percent of the Americans suffering from severe hemophilia were infected by the HIV virus—more than 90 percent, an absolutely unbelievable figure.

That is a major human tragedy. I believe we should look to the IOM report released last Thursday for answers as to the level of Federal Government culpability for this disaster.

Last Wednesday, on this floor, I discussed three questions that I believed were going to be addressed in the IOM report.

First, did the Federal agencies responsible for blood safety show the appropriate level of diligence in screening the blood supply?

Second, did the Federal agencies move as quickly as they should have to approve blood products that were potentially safer?

Third, did the Federal Government warn the hemophilia community, when the Government knew—or should have known—that there were legitimate concerns that the blood supply might not be safe?

Mr. President, if the answer to any of these three key questions is no, it seems to me it should be clear that the Federal Government had not met its responsibilities in this area. As a result, the Federal Government would have a clear duty to provide some measure of relief to the people with hemophilia who have been infected with the HIV virus.

Mr. President, today the report is in. The answer to each of these questions is, in fact, no.

Question 1. Did the Federal agencies responsible for blood safety show the appropriate level of diligence in screening the blood supply? The report's answer is "No."

In January 1983, scientists from the Centers for Disease Control recommended that blood banks use donor screening and deferral to protect the blood supply. According to this report, "it was reasonable"—based on the scientific evidence available in January 1983—"to require blood banks to implement these two screening procedures."

The report says that "federal authorities consistently chose the least aggressive option that was justifiable" on donor screening and deferral.

The report's conclusion is:

> The FDA's failure to require this is evidence that the agency did not adequately use its regulatory authority and therefore missed opportunities to protect the public health."

By January 1983, epidemiological studies by the Centers for Disease Control strongly suggested that blood products transmitted HIV. First of all, it was becoming clear that blood recipients were getting AIDS—even though the recipients were not members of a known high-risk group. Second, the epidemiological pattern of AIDS was similar to that of another blood-borne disease—hepatitis.

According to the report, these two facts should have been enough of a tip-off to the public health authorities. As early as December 1982, the report says,

> (p)lasma collection agencies had begun screening potential donors and excluding those in any of the known risk groups.

The report says that Federal authorities should have required blood banks to do the same.

Question 2: Did the Federal agencies move as quickly as they should have to approve blood products that were potentially safer? Again, the report's answer is "No."

The report says that certain heat treatment processes—processes that could have prevented many cases of AIDS in the hemophilia community—could have been developed earlier than 1980.

> In the interval between the decisions of early 1983 and the availability of a blood test for HIV in 1985, public health and blood industry officials became more certain that AIDS among hemophiliacs and transfused patients grew. As their knowledge grew, these officials had to decide about recall of contaminated blood products and possible implementation of a surrogate test for HIV. Meetings of the FDA's Blood Product Advisory Committee in January, February, July and December 1993 offered major opportunities to discuss, consider, and reconsider the limited tenor of the policies.

I say again, Mr. President: "Major opportunities," major opportunities to change the course of the government's blood-protection policies.

The report continues:

> For a variety of reasons, neither physicians . . . nor the Public Health Service agencies actively encouraged the plasma fractionation companies to develop heat treatment measures earlier.
>
> Despite these opportunities and others to review new evidence and to reconsider earlier decisions, blood safety policies changed very little during 1983.

Mr. President, I cannot avoid agreeing with the conclusion of this report: "(T)he unwillingness of the regulatory agencies to take a lead role in the crisis" was one of the key factors that "resulted in a delay of more than 1 year in implementing strategies to screen donors for risk factors associated with AIDS."

Question 3. Did the Federal Government warn the hemophilia community, when the Government knew—or should have known—that there were legitimate concerns that the blood supply might not be safe?

The report's answer is "No."

According to the report, "a failure of (government) leadership may have delayed effective action during the period from 1982 to 1984. This failure led to less than effective donor screening, weak regulatory actions, and"—this is the key, Mr. President—"insufficient communication to patients about the risks of AIDS."

As a result, Mr. President, and I am again quoting from the report: "individuals with hemophilia and transfusion recipients had little information about risks, benefits, and clinical options for their use of blood and blood products." The response of "policymakers" was "very cautious and exposed the decision makers and their organizations to a minimum of criticism."

In effect, Mr. President, the inertial reflex of bureaucratic caution led to a serious failure to protect the public health. That really is the bottom line.

The Americans suffering from hemophilia were relying on their government to exercise due care about the safety of the blood supply. It is my view, in light of the very important report released today, that the Government failed to meet its responsibilities to the hemophilia community.

It is therefore my intention to introduce, in the coming days, legislation that will offer some measure of relief to those who have been seriously harmed by this governmental failure.

I have had a discussion with my colleague from Florida, Senator GRAHAM, who has been a leader in this area, who has been working for a long time with the hemophilia community and those who have been impacted by this horrible tragedy. And I would expect to be working with him in the future in regard to legislation to be introduced.

Mr. President, at this time, I yield the floor.

COMPREHENSIVE REGULATORY REFORM ACT

The Senate continued with the consideration of the bill.

Mr. FAIRCLOTH addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. FAIRCLOTH. Mr. President, as I have listened to the debate and editorializing surrounding the Comprehensive Regulatory Reform Act I am struck by the extreme rhetoric and baseless accusations made by opponents of this legislation. If you were to believe all that has been said, you would be convinced that this bill would undermine all of our health and safety protections. You would also believe that the Clinton administration has dramatically reformed the regulatory process during its 2 years in office. Well, Mr. President, nothing could be further from the truth.

Let us first examine the Clinton administration's record on regulatory reform. Despite rhetoric claiming support for a more reasonable approach to regulation, Federal regulatory activity has significantly increased during the past 2 years. In November 1994, the administration itself identified over 4,300 new rulemakings underway throughout the Federal Government—4,300 new ones working their way through the process.

The Institute for Regulatory Policy recently studied EPA regulations issued by the Clinton administration. This study examined all EPA proposed and final rules published in the Federal Register during the second 6 months after President Clinton's regulatory reform Executive order took effect. Based on an analysis of 222 rulemakings, the study found that only six rulemakings offered a determination that there was a compelling public need for regulation. That is 6 out of 222 regulations. Only six of them were worth the paper they were printed on. This demonstrates that the benefits justify the cost of the regulations on only six.

To put Federal regulation in historical perspective, during the 1960's, the Federal Register—where regulations are published—devoted approximately 170,000 pages to Federal regulatory requirements for that decade. In the 1970's, this number jumped to approximately 475,000 pages. During the early 1980's, President Reagan achieved a significant reduction in the growth of regulations, Unfortunately, at the end of President Clinton's first year in office, the number of Federal Register pages reached the highest annual level since 1980.

Once you strip away the rhetoric and look at the facts, it is clear who stands on the side of restraining our runaway bureaucracy and who seeks to defend the status quo. And the bureaucracy is and has run away. It is clear who stands on the side of protecting individual liberties and who stands on the side of handing-over unchecked political power to unelected bureaucrats. It is clear who stands on the side of increased economic growth and economic opportunity, and who would allow our economy and our opportunities as a free people to be strangled by redtape.

Although the legislative language of this bill can be complex and confusing, it is really based on a handful of easily-understandable commonsense principles.

First, the bill would require agencies to conduct risk assessment. Risk assessment is a scientific process that requires regulators to evaluate and compare the risks of different activities in order to focus regulations and scarce Federal dollars on those activities posing the greatest threat to consumers. Too often in the past, regulations have been aimed at issues identified through media attention rather than sound science.

Second, this bill would require cost-benefit analysis to ensure that agencies do not impose undue burdens on the public. The premise of cost-benefit analysis is simple. Before an agency issues a regulation, it should be required to systematically measure the benefits of the regulation and compare them to the costs. Such an analysis allows a more accurate understanding of the regulatory burden imposed on consumers by the Federal Government.

Finally, the Dole-Johnston substitute amendment permits judicial and congressional review of various agency determinations. Opponents of these provisions claim that they will lead to gridlock. I claim that such reviews are essential to hold unelected bureaucrats accountable to the American people for the rules and regulations which they would impose on us. Can you imagine anything more ridiculous than an unelected bureaucrat not being held subject to judicial and legislative review?

I would like to give an example of how Government infringement upon private property rights in the form of uncompensated regulatory takings can have negative environmental impacts. I would like to illustrate this problem by talking about the case of a constituent of mine, Mr. Ben Cone, of Ivanhoe, NC, who has been mentioned previously during debate on this bill.

Mr. Cone owns 8,000 acres of timber land in North Carolina. Over the years, Ben Cone has deliberately managed much of his land in such a way so as to attract wildlife to his property. Mr. Cone has actively and intentionally created wildlife habitat. Through selective logging and long rotation cycles. Mr. Cone has been very successful in his efforts, attracting many species to his land—from wood duck and quail to black bear and deer.

Mr. Cone has also provided habitat for the red-cockaded woodpecker, an endangered species.

In response, the Federal Government has placed a large portion of his land off limits to logging. The value of his land has been reduced by approximately $2 million. This has taught Mr. Cone a lesson: He should no longer manage his land in such a way that would attract the red-cockaded woodpecker if he wants to be able to use it.

In other words, if he allows the trees to mature, he simply cannot cut them because of the red-cockaded woodpeckers. So what he is doing and can do is cut the trees that they do not inhabit and ultimately they will go away.

I believe the case of Ben Cone and the central issue at stake in this legislation is about preserving fundamental liberties under our constitutional system of checks and balances. In short, our problem is one of limited accountability. It is about who regulates the regulators. And it is about whether the executive branch alone should oversee our massive Federal bureaucracy or whether Congress and the Federal courts should have a greater role in this process.

I firmly believe that the Congress and the courts should have the major role in regulating the bureaucracy.

I believe that one of the lessons of our experiment with big Government in the last half of this century is that agencies tend to take on a life of their own. Despite the efforts of various Presidents to rein in agencies, they have continued to grow in size, cost, and power. We have ceded increasing power and control over our lives to a "fourth branch" of Government which has consistently resisted efforts to be held accountable.

The time is long overdue to increase oversight of agencies by the judicial and legislative branches of Government. Perhaps such oversight will in some instances result in a slowdown in the implementation of some regulations. And if it does, that is exactly what we need and what the country needs.

Some will say that such a slowdown is intolerable. I believe it is absolutely essential to preserve our hard-won constitutional liberties and freedoms to have such review.

I oppose the Glenn-Chafee substitute, which I believe fails to address many of the central issues in regulatory reform. Therefore, I strongly support the Dole-Johnston substitute amendment and urge its adoption.

Mr. President, I yield the floor.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I believe the Domenici amendment has been set aside so that the Senate could consider the Glenn substitute to the whole bill. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. DOMENICI. I further understand Senator GLENN on the Democrat side and Senator ROTH on the Republican side have no objection to my getting unanimous consent that my amendment now be in order and the Glenn amendment remain as is but that we dispose of the Domenici amendment tonight.

The PRESIDING OFFICER. The Senator may call for the regular order and that will bring the amendment in order.

Mr. DOMENICI. I call for the regular order.

The PRESIDING OFFICER. The pending question now is the Domenici amendment.

AMENDMENT NO. 1784 TO AMENDMENT NO. 1533

(Purpose: To facilitate small business involvement in the regulatory development process, and for other purposes)

Mr. DOMENICI. Mr. President, I send a substitute to the desk in behalf of myself and Senators BOND, BINGAMAN, ABRAHAM, COHEN, HUTCHISON, and ROTH, and ask for its immediate consideration.

The PRESIDING OFFICER. If there is no objection, the clerk will report the amendment.

The legislative clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI], for himself, Mr. BOND, Mr. BINGAMAN, Mr. ABRAHAM, Mr. COHEN, Mrs. HUTCHISON, and Mr. ROTH, proposes an amendment numbered 1784 to amendment No. 1533.

Mr. DOMENICI. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. DOMENICI. Mr. President, I note that a number of other Senators had cosponsored the original Domenici small business advocacy bill, but since I have changed it I have not had time to ask them if they want to be cosponsors, and so I am going to send to the desk a list of the cosponsors and ask that overnight Senators' offices decide whether they want to be original cosponsors, in which event tomorrow I would seek unanimous consent that they be made original cosponsors as if I had done it this evening.

Mr. President, I wish to thank Senator BOND, the chairman of the Small Business Committee, for offering a package of amendments to the original Domenici small business advocacy representation amendment, and then I wish to thank Senator GLENN and Senator ROTH for their cooperation and Senator JOHNSTON and his staff. I think we have now crafted a measure that will be accepted this evening by the Senate, and I feel very proud of the amendment because I think ultimately the cry by small business across this land that they ought to be somewhat involved, albeit it in an informal way, in the development of regulations that affect them, both before they are finalized and after they are finalized, will have been accomplished.

Last year, five agencies including Small Business, EPA, and OSHA held small business forums on regulatory reform, and this report is their findings, findings and recommendations of the industry working groups.

In that document, which was put together by the executive branch of Government, the small business people recited over and over again that the inability of small business owners to comprehend overly complex regulations and those that are overlapping and inconsistent and redundant was a major problem. They continued to state over and over the need for agency regulatory officials to understand the nuances of the regulated industry and the compliance constraints of small business. They stated over and over that the need for more small business involvement in the regulatory development process, particularly during the analytic risk assessment and preliminary drafting stages, was imperative if in fact we were going to have commonsense regulations.

So let me once again read the conclusion of this very large group of small business people: The need for more small business involvement in the regulatory development process during analytic risk assessment and preliminary stages is of utmost importance.

What we have done in this compromise measure, which many have participated in drafting, is we have complied with a number of the White House Conference on Small Business final recommendations which are included in this document. I will make those a part of the RECORD. I will just recite a few of the 60 recommendations to the President and the Congress. I am going to cite just four of them and they are in here, in this amendment:

> Input from small business representatives should be required in any future legislation, policy development, and regulation making affecting small business.
>
> Congress shall enact legislation . . . to include the following: require all agencies to simplify language and forms required for use by small business . . . and eliminate duplicate regulations from multiple Government agencies.
>
> Require agencies to assemble *information through a single source on all business related government programs, regulations,* reporting requirements, and key federal contact's names and phone numbers.
>
> Congress shall enact legislation to include the following: Require all agencies provide a cooperative/consulting regulatory environment that follows due process procedures and that they be less punitive and more solution oriented.

These are the highlights concerning regulations from the final 60 recommendations the delegates made to the President. They were among hundreds of grass-roots ideas the delegates voted on.

The delegates felt so strongly about the recommendations I just read, that they received an overwhelming number of votes.

The President's own welcoming letter to the delegates states, "Small businesses are the heart of America. We look to you for our new best ideas * * *" My amendment will implement these ideas.

Mr. President, what we have accomplished in the first part of this amendment, which will then be followed by the ombudsman legislation that Senator BOND, chairman of the Small Business Committee, has put in, small business panels will come into play in each of the States and the small business advocate within Small Business will get them together on an informal basis with five or six of the lead Government officials who work in this area of regulation, and together they will go over the regulatory problems that are coming up on regulations as we define them in this bill.

This means that if this works, for the first time in history as part of our Government we will recognize in each State the need for small business, that is, the Small Business Administration, which some people wonder what do they do for business in general, they will now go out and pick six small business people, men or women, generally from our States, and they will work with them regarding the regulatory activities that are taking place that are approaching finalization. There is plenty of time to get it done because these regulations take a long time. It is not intended to be formal. It is a real bona fide effort to see if cooperation and partnership can be generated by statute law which will bring small business people into direct contact with those who are preparing regulations, all under the auspices of the Small Business Administration and its advocates bringing this together.

There are some technical issues I need not mention but that are part of this which I think will make it work. Essentially, it will depend on whether the bureaucrats want to listen to small business. But at least they will be given a chance to participate in what is happening in the regulatory process. I look for some good things to come from it, not because they will get their way all the time, because nobody expects that, but I think they will have the kind of input so they will not in a few years be telling us that small business does not know what the regulatory process is all about, what they are doing to them and then the regs are without commonsense.

Small businesses panels will be responsible for providing technical guidance for issues impacting small businesses, such as applicability, compliance, consistency, redundancy, readability, and any other related concerns that may affect them.

They will then provide recommendations to the appropriate agency personnel responsible for developing and drafting the relevant regulations.

The panels will be chaired by a senior official of the agency and will include staff responsible for development and drafting of the regulation, a representative from OIRA, a member of the SBA Advocate Office, and up to six representatives from small businesses especially affected.

The panel will have a total of 45 days each to meet and develop recommendations before a rule is promulgated or before a final rule is issued. Forty-five days, in the context of rules that are years in development, is not a delay.

In fact, these agencies know months in advance that they will be preparing these regulations. Sometime during this period, the agencies can seek these panels' advice

This will allow the actual small business owners, or their representative associations, to have a voice in the massive regulatory process that affects them so much.

Finally, this amendment will also provide for a survey to be conducted on regulations. This idea is analogous to what the private sector routinely practices.

A customer survey, contracted and conducted with a private sector firm, will sample a cross-section of the affected small business community responsible for complying with the sampled regulation.

I believe that this panel, working together so all viewpoints are represented, will be the crux of reasonable, consistent and understandable rulemaking.

Further, my amendment enjoys the support of the National Federation of Independent Business.

Mr. President, I believe this amendment will help reduce counterproductive, unreasonable Federal regulations at the same time it is helping to foster the nonadversarial, cooperative relationships that most agree is long overdue between small businesses and Federal agencies.

Mr. President, a second part of this amendment would greatly aid small businesses as they deal with these seemingly endless Federal regulations.

Mr. President, I yield the floor to Senator BOND who wants to talk about the second part of the amendment, and then I assume Senator GLENN will speak and we will, hopefully, have the Senate adopt the amendment this evening.

Mr. BOND addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. I thank the Chair and my distinguished friend from New Mexico.

Mr. President, I will abide by the suggestion that we keep this short because I do believe, first, thanks are in order to Senator DOMENICI for the concept of this amendment. I was pleased to join with him on adding provisions with respect to the ombudsmen, but sincere thanks to Senator GLENN, Senator LEVIN and their staffs because they made very helpful and constructive suggestions that we think can improve the working of these provisions.

The part of the amendment which I had earlier introduced legislation on provides a means for small businesses who feel that they are being abused by a particular regulator to get some relief without having to risk heightening the animosity of that particular regulator by going through the Small Business Advocacy Council in the Small Business Administration. This, we think, will respond to the many complaints we have heard in hearings we had in New Mexico, in my State, and other places around the country, where they think the enforcement is excessive.

There was a suggestion by the Senator from Michigan that we have the appointment of the regional small business regulatory fairness board by the SBA Administrator so it would not be burdensome, having to go through Presidential and congressional leadership appointment. I think that improves the bill.

I express my appreciation to the managers on both sides for their help in getting this amendment through. I really think this is going to be a significant step forward for small business. As Senator DOMENICI has pointed out, small business has expressed their frustration with regulations. Now they will have an opportunity to sit in on the crafting of the regulations.

They will also have a place to go if they are treated unfairly by particular regulators or the particular agencies. I hope that there will not be a need for the small business ombudsmen. I hope that with the establishment of this procedure, there will be a strong push and a greater effort on behalf of all agencies to become servers of the businesses and the people they regulate and the people of the United States.

Mr. President, I want to speak briefly about the need for the Domenici-Bond-Bingaman amendment. This amendment opens a new front in our fight against oppressive, onerous, and overly meddlesome Government regulations. This new front will, for the first time, take the fight outside the beltway and attack regulations and agencies where they impact people in their day-to-day lives.

Since the election, there has been tremendous activity in reforming the way Federal agencies develop and issue regulations, and I have been deeply involved in this effort as cochair of the regulatory relief task force. S. 343 is so important because it makes fundamental changes in the way Government regulations are developed. It is vitally important if we are to reduce the flood of runaway regulations. And it is particularly important for small business to add meaningful judicial enforcement provisions to the Regulatory Flexibility Act, and I am very pleased to see the strong reforms of the Reg Flex Act in this bill.

So far, most of our efforts have focused on changing the way agencies enact regulations. The Domenici-Bond-Bingaman amendment begins to reform the way Government officials enforce Federal regulations. After all, most people, most small business people, do not have the time to concern themselves with the process of reviewing and commenting on proposed and final rules in the Federal Register. Small businesses have to deal with regulations when the regulator shows up on the doorstep to inspect their facility or to enforce a new Federal mandate. As I have taken the Senate Small Business Committee around the country, I have heard numerous horror stories about burdensome regulations. But as I have listened and learned from business men and women with real life problems, I have become increasingly convinced that the enforcement of regulations is a problem as troublesome as the regulations themselves.

The Domenici-Bond-Bingaman amend- ment will begin to make fundamental changes in the way regulatory agencies think about small business. It should be every regulatory agency's mission to encourage compliance by making rules easier to understand and by not enforcing their regulations in a way that unnecessarily frustrates law-abiding small businesses. This is the essence of President Clinton's call for Government regulators to treat small businessmen as clients and not criminals, partners not adversaries. In fact, the administration should support this amendment. It establishes a type of performance-based standard for regulators that the Vice President has talked about in the national performance review. This allows the customers—small business—to rate the regulators.

The Domenici-Bond-Bingaman amend- ment is designed to give small businesses a place to voice complaints about excessive, unfair, or incompetent enforcement of regulations. It sets up regional Small Business and Agriculture ombudsmen through the Small Business Administration's offices around the country to give small businesses assurance that their confidential complaints and comments will be recorded and heard. These ombudsmen also will coordinate the activities of volunteer Small Business Regulatory Fairness Boards, made up of small business people from each region. These Boards will be able to report on and make recommendations about troublesome patterns of enforcement activities. Any small business that is subject to an inspection or enforcement action will have the chance to rate and critique the inspectors or lawyers they deal with. In dealing with small businesses today, agencies seem to assume that every one is a violator of their rules, trying to get away with something. Some agencies do a good job of fulfilling their legal mandate while assisting small business, but many agencies seem stuck in an enforcement mentality where everyone is presumed guilty until proven innocent. I think we should let small businesses compare their dealings with one agency to dealing with another so the abusive agencies or agents can be weeded out and exposed. Agencies should be trying to see who can fulfill their statutory mandate in a way that helps and empowers small business.

This is an important amendment. It has the strong support of small business. I believe it will help to bring about a more cooperative relationship between regulators and small business. I urge my colleagues to support the amendment.

In recent weeks, we have heard from the President about all the ways he is going to reduce the burdens of Government regulations. I commend him for recognizing the forces at work in Congress and responding quickly to it. He has found a parade and now is hustling to get in front of it, as a good politician will do. Presidential directives and agency policies can change as often as the weather, though, and I want the comfort of knowing that Congress has passed a law that permanently changes the enforcement attitudes of Federal regulators so small business can get on with what they do best, creating jobs and driving the engine of America's economy.

I appreciate the willingness of the managers to accept the measure.

Mr. ROTH. Mr. President, I rise in support of the Domenici-Bond amendment.

In 1980, Congress enacted the Regulatory Flexibility Act in recognition of the fact that Government regulations have a disproportionate impact on small business. In that act we asked Government agencies to take this fact into account in issuing regulations. Today, some 15 years later, it is generally accepted that the 1980 act has been an ineffective response to a growing problem.

The pending amendment is an effective remedy. It flashes out what two agencies—EPA and OSHA—must do to take the concerns of small business into account. It formalizes a dialog between small business and those agencies which, I am sure, will be helpful to both. With this amendment, these agencies can no longer brush aside the legitimate concerns of small business. There is a real difference in how regulations impact a conglomerate and a sole proprietor.

Fifteen years ago we notified agencies that they should recognize this difference and gave them discretion. But that discretion has not been exercised as it should have been. So no Congress must respond with more precise direction.

This amendment embodies a second major component. It establishes regional small business ombudsmen to solicit and receive comments from small businesses regarding enforcement activities of Federal agencies and periodically evaluate how responsive agencies have been to small business concerns.

This amendment impresses me as an appropriate solution to the concerns of small business. The requirements of the pending amendment regarding the issuance of rules pertain only to two agencies and, there, only formalize what should now be taking place—a dialog between small business and the agencies.

Mr. President, Government must be made sensitive to the regulatory burden on small business. Small business is the backbone of America—a crucial provider of jobs, a wellspring of entrepreneurial innovation, and a central part of the American dream. I congratulate Senators DOMENICI and BOND for their efforts to help America's millions of small business owners, their employees, and their families.

I urge the adoption of this amendment.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, the small business advocacy review panels that are created by this amendment should make the regulatory processes of OSHA and the Environmental Protection Agency more user friendly and, in a sense, bring small business and those two regulatory agencies into some kind of cooperative spirit where heretofore they seemed to have kind of thrived on being adversarial.

I want to thank Senator HATCH who is managing this bill for helping us get our amendment to this point. I understand he, too, is going to express a willingness to accept it. I thank him for that. I yield the floor.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I want to thank my friend and colleague from New Mexico and compliment him for his amendment. We are prepared to accept this amendment at this point, and I believe the other side is as well.

Mr. GLENN addressed the Chair.

The PRESIDING OFFICER (Mr. THOMAS). The Senator from Ohio.

Mr. GLENN. Mr. President, I want to comment briefly on the amendment offered by Senator Domenici.

First of all, I do want to recognize his concerns regarding the ability of small businesses to have a role in the regulatory process. Like all other Americans, their voices should be heard.

I also want to acknowledge the charges made by Senators DOMENICI and BOND and their staffs to address concerns raised by myself and others, including Senator LEVIN.

I am pleased that the sponsors have done away with the Federal Advisory Committee Act [FACA] exemption. I will have more to say about the importance of FACA when I offer my amendment to strike the FACA exemption for the risk assessment peer review panels in the underlying Dole-Johnston bill. In fact, we spent a whole day discussing FACA on the floor last August when we eliminated such exemptions in the health care bill.

I am also glad that the role of the small business designated representatives has changed somewhat—they will be primarily to furnish information to the review panel.

Second, I am glad that we were able to straighten out the definition of rules for when these panels come into play, so it mirrors the language in the underlying bill.

Third, I am pleased that we have clarified that any information made available to the small business designated representatives will also be publicly accessible. They will not be privy to any information that other citizens will not be able to access.

Fourth, regarding the surveys which may be ordered, we not only will know the results, but also the cost paid by taxpayers to undertake them.

Having said this, let me also voice my concerns over some of the provisions in the amendment.

Let me be clear: we are giving one special interest—no matter how meritorious their cause—a leg up over all other citizens in the regulatory process.

These small business review panels will come into play even prior to the issuance of a notice of proposed rulemaking. That is a marked departure from current practice.

We don't have special review panels to hear from labor interests prior to issuance of regulatory proposals. Workers will have an interest—perhaps their safety or lives depend on it—in presenting their views, also.

We do not have teachers giving their comments prior to the promulgation of a rulemaking notice for an education proposal by the Department of Education.

I understand what the proponents of this amendment are trying to do. It is important to reach out and consult with those of our citizens who will be most affected by a proposed rule. I do not disagree with the principle, and I am a strong supporter of small business, but I support workers and teachers too, and we are not giving them equivalent access.

Second, I am concerned about the survey these review panels may order to assess the impact of a final rule. We hear a lot about government red tape and the endless burden of paperwork.

But now we are going to have an agency contracting with a private sector firm to do an assessment—from a cross-section of affected small businesses—which, it would seem to me, will add to the burden of paperwork that the Paperwork Reduction Act is supposed to reduce. I hope OMB reviews any such survey proposal carefully.

I understand the sponsor will not request a rollcall vote. On that basis, I will not oppose the amendment.

Mr. President, we are going to accept this. It is my intention to do that. I want to recognize the concerns of Senator DOMENICI regarding the ability of small business to have a role in the regulatory process. Their voices should be heard. There were changes made that took care of some of our problems with FACA, in particular, the Federal Advisory Committee Act, which requires a balance on certain committees, and so on.

I will have some more to say about that later on, not in regard to this particular amendment, but to the underlying bill. There are some problems still in that area.

I have expressed some concerns about how this might be applied to other speciality areas that we have some concern about, but that is of no concern in this particular area. We may want to address some of that later.

With that, I will be glad to accept the amendment.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to amendment No. 1784 to amendment No. 1533.

So the amendment (No. 1784) was agreed to.

Mr. HATCH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. GLENN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question now occurs on agreeing to amendment No. 1533, as amended.

So the amendment (No. 1533), as amended, was agreed to.

Mr. DOMENICI. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HATCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1785 TO AMENDMENT NO. 1487

(Purpose: To repeal the Medicare and Medicaid coverage data bank, and for other purposes)

Mr. HATCH. Mr. President, I send an amendment to the desk for and on behalf of Senators MCCAIN and

LIEBERMAN and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Utah [Mr. HATCH] for Mr. MCCAIN, for himself and Mr. LIEBERMAN, proposes an amendment numbered 1785 to amendment No. 1487.

Mr. HATCH. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the amendment, insert the following new section:

SEC. . REPEAL OF MEDICARE AND MEDICAID COVERAGE DATA BANK.

(a) REPEAL.—

(1) IN GENERAL.—Section 13581 of the Omnibus Budget Reconciliation Act of 1993 is hereby repealed.

(2) APPLICATION OF THE SOCIAL SECURITY ACT.—The Social Security Act shall be applied and administered as if section 13581 of the Omnibus Budget Reconciliation Act of 1993 (and the amendments made by such section) had not been enacted.

(b) STUDY AND REPORT.—

(1) STUDY.—The Secretary of Health and Human Services (hereafter in this subsection referred to as the "Secretary") shall conduct a study on how to achieve the objectives of the data bank described in section 1144 of the Social Security Act (as in effect on the day before the date of the enactment of this Act) in the most cost-effective manner, taking into account—

(A) the administrative burden of such data bank on private sector entities and governments,

(B) the possible duplicative reporting requirements of the Health Care Financing Administration in effect on such date of enactment, and

(C) the legal ability of such entities and governments to acquire the required information.

(2) REPORT.—The Secretary shall report to the Congress on the results of the study described in paragraph (1) by not later than 180 days after the date of the enactment of this Act.

Mr. MCCAIN. Mr. President, this amendment which is cosponsored by Senator LIEBERMAN and Senator KYL would eliminate a large and unjustified administrative burden imposed on employers by an ill-considered piece of legislation passed 2 years ago. Specifically, it would repeal the Medicare and Medicaid Coverage Data Bank, section 13581 of OBRA 1993, a law that is extremely expensive, burdensome, punitive, and in my view, entirely unnecessary.

The data bank law requires every employer who offers health care coverage to provide substantial and often difficult-to-obtain information on current and past employees and their dependents, including names, Social Security numbers, health care plans, and period of coverage. Employers that do not satisfy this considerable reporting obligation are subject to substantial penalties, possibly up to $250,000 per year or even more if the failure to report is found to be deliberate.

The purported objective of the data bank law is to ensure reimbursement of costs to Medicare or Medicaid when a third party is the primary payor. This is a legitimate objective. However, if the objective of the data bank is to preserve Medicare and Medicaid funds, why is it necessary to mandate information on all employees, the vast majority of whom have no direct association with either the Medicare or Medicaid Program?

Last year, I introduced S. 1933 to repeal the Medicare and Medicaid Coverage Data Bank. Unfortunately, this bill did not pass in the 103d Congress, in part because of a questionable Congressional Budget Office analysis that estimated that the data bank would save the Federal Government about $1 billion. In contrast, the General Accounting Office found that "as envisioned, the data bank would have certain inherent problems and likely achieve little or no savings to the Medicare and Medicaid Programs." Still, due primarily to the fiction that the data bank would save money, S. 1933 was not enacted last year.

The GAO report on the data bank law also found that employers are not certain of their specific reporting obligations, because HCFA has not provided adequate guidance. Much of the information which is required is not typically collected by employers, such as Social Security numbers of dependents and certain health insurance information. Some employers have even questioned whether it is legal for them under various privacy laws to seek to obtain the required information.

The GAO report further found that employers are facing significant costs in complying with the reporting requirements, including the costs of redesigning their payroll and personnel systems. It cites one company with 44,000 employees that would have costs of approximately $52,000 and another company with 4,000 employees that would have costs of $12,000. Overall, the American Payroll Association estimated last year that this requirement will cost between $50,000 and $100,000 per company.

I would add that the reporting requirement applies only to employers that provide health insurance coverage to their employees. It is unconscionable that we are adding costs and penalties to those who have been most diligent in providing health coverage to their employees. The last thing that the Federal Government should do is impose disincentives to employee health care coverage, which is one of the unintended consequences of the data bank law.

Perhaps the most disturbing aspect of the data bank law is that its enormous costs have little or no corresponding benefit. The GAO report concluded that "The additional information gathering and record keeping required by the data bank appears to provide little benefit to Medicare or Medicaid in recovering mistaken payments." This is in part because HCFA is already obtaining this information in a much more efficient manner than that required under OBRA 1993.

For example, OBRA 1989 provides for HCFA to periodically match Medicare beneficiary data with Internal Revenue Service employment information—the data match program. Also, HCFA directly asks beneficiaries about primary payor coverage. To the extent that the data bank duplicates these efforts, any potential savings will not be realized. It is clearly preferable to require HCFA to use the information it already has than to require the private sector to provide duplicative information.

The GAO report found that "the data match not only can provide the same information [as the Data Bank] without raising the potential problems described above, but it can do so at less cost." It also recognized that both the data match and data bank processes rely too much on an after-the-fact recovery approach, and recommended enhancing up-front identification of other insurance and avoiding erroneous payments. In this regard, it documented that HCFA has already initiated this prospective approach.

For these and other reasons, the Committee on Labor and Human Resources appropriations report last year contained language prohibiting the use of Federal funds for developing or maintaining the data bank. However, this provision by itself did not revoke the requirement that covered entities must still provide the required information on the health coverage of current and former employees and their families. This would have resulted in the bizarre situation in which covered employers would have had to report the information, but there would have been no data bank to process or retrieve it.

Finally, in response to the public outcry about this Federal mandate, the Health Care Financing Administration [HCFA] indicated that it will not be enforcing the data bank's reporting requirements in fiscal year 1995. It stated that in light of the refusal of Congress to fund the data bank, "we have agreed to stay an administrative action to implement the current requirements, including the promulgation of reporting forms and instructions. Therefore, we will not expect employers to compile the necessary information or file the required reports. Likewise, no sanctions will be imposed for failure to file such reports."

This was a major step in the right direction. However, the data bank and its reporting requirements are still in the law and are still scheduled to be implemented in the next fiscal year. Consequently, this year I have reintroduced my data bank repeal bill, S. 194.

I have recently been informed that the CBO has revised its scoring to recognize that the data bank would not save the Federal Government any money. This removed the only argument in favor of the data bank and the only major impediment to its repeal.

Mr. President, the Federal Government continues to impose substantial financial burdens on the private sector without fully accepting its share of the burden to implement a program. We should once again expect the worst case scenario to occur: employers will provide the required information at substantial administrative burden, there will be no data bank in which to make use of it, and even if a data bank were funded and established, the information stored could not be used efficiently to save Medicare or Medicaid funds.

I do not want this repeal to be construed, in any way, as opposition to HCFA obtaining the information it needs to administer the Medicare and Medicaid Programs efficiently, and obtaining reimbursement from third-party payors when appropriate. To assure that HCFA has the information it needs, the bill also requires the Secretary of HHS to conduct a study and report to Congress on how to achieve the purported objectives of the data bank in the most cost-effective manner possible.

The Secretary's study would have to take into consideration the administrative costs and burden on the private sector and the Government of processing and providing the necessary information versus the benefits and savings that such reporting requirements would produce. It must also consider current HCFA reporting requirements and the ability of entities to obtain the required information legally and efficiently.

Too often, Congress considers only the cost savings to the Federal Government of legislation while ignoring costs to other parties. The Medicare and Medicaid Data Bank is a case in point. Congress required information on millions of employees to save the Federal Government money. Yet, it will cost employers more money to comply than the Government saves. Congress must stop passing laws that impose large, unjustified administrative burdens on other entities. It must consider the impact of its actions on the whole economy and not just on the Government.

In summary, the reporting requirement for the Medicare and Medicaid Data Bank is duplicative, burdensome, ineffective, and unnecessary. The GAO has characterized it as creating "an avalanche of unnecessary paperwork for both HCFA and employers." It penalizes employers who provide health care benefits to their workers—exactly the opposite goal we should be pursuing. The data bank should be repealed and a more cost-effective approach should be found to ensure that Medicare and Medicaid are appropriately reimbursed by primary payors.

Mr. President, I ask unanimous consent that letters of support from the Coalition on Employer Health Coverage Reporting and the Medicare/Medicaid Data Bank, the ERISA Industry Committee [ERIC] and the National Federation of Independent Business be printed in the RECORD. They represent the numerous associations, organizations, and individual employers that continue to demand repeal of this law. Their message is clear. The Federal Government must stop imposing unjustified burdens on the private sector.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

THE ERISA INDUSTRY COMMITTEE,
July 11, 1995.

Hon. JOHN MCCAIN,
U.S. Senate, Senate Russell Office Building, Washington, DC.

DEAR SENATOR MCCAIN: We understand that you are planning to offer a floor amendment to S. 343, the Comprehensive Regulatory Reform Act of 1995, to repeal the requirement that employers report certain health coverage information to the Health Care Financing Administration (HCFA) for use by the Medicare and Medicaid Data Bank. The members of the ERISA Industry Committee (ERIC) strongly support your amendment.

The ERISA Industry Committee is a nonprofit employer association committed to the advancement of the employee retirement, health and welfare benefit plans of America's major employers. ERIC represents the employee benefits interests of more than 125 of the nation's largest employers. As sponsors of health, disability, pension, savings, life insurance, and other welfare benefit plans directly covering approximately 25 million plan participants and beneficiaries, ERIC's members provide coverage to about 10 percent of the U.S. population.

The reporting requirement was created by OBRA'93, P.L. 103-66. ERIC's analysis has concluded that the employer reporting requirement neither successfully addresses HCFA's concerns regarding the prevention of mistaken primary payments nor justifies the enormous reporting burdens it imposes on employers. Therefore, its repeal is consistent with the laudable goal of reducing unnecessary and inappropriate regulation.

ERIC is committed to working with you and others to find alternative means to address HCFA's secondary payer enforcement and compliance needs that do not impose disproportionate financial and administrative burdens on employers. In particular, the multiple sources of data and data collection vehicles already available to HCFA should be fully implemented rather than imposing massive new reporting burdens on employers.

In conclusion, we applaud your efforts to repeal this onerous reporting requirement and urge your colleagues in the Senate to support your amendment.

Sincerely,

MARK J. UGORETZ,
President.

THE ERISA INDUSTRY COMMITTEE—MEMBER COMPANIES

Aetna Life & Casualty, Alexander & Alexander Inc., Allied-Signal Inc., American Express Co., American Home Products Corp., American International Group, American National Can Co., Ameritech, Amoco Corp., Anheuser-Busch Companies Inc., Apache Corp., Ashland Oil Inc., AT&T Corp., Atlantic Richfield Co.,

Bankers Trust Co., Baxter Healthcare Corp., Bell Atlantic Corp., Bell Communications Research, BellSouth Corp., Bethlehem Steel Corp., The Boeing Co., BP America Inc., Bristol-Myers Squibb Co., Buck Consultants Inc.,

Caterpillar Inc., Champion International Corp., Chase Manhattan Bank N.A., Chemical Bank, Chevron Corp., Chrysler Corp., CIBA-GEIGY Corp., CIGNA Corp., Citibank N.A., The Coastal Corp., Coopers & Lybrand,

Dana Corp., Deere & Co., Delta Air Lines Inc., Digital Equipment Corp., The Dow Chemical Co., Dresser Industries Inc., duPont Co.,

Eastman Kodak Co., Eli Lilly and Co., Enron Corp., Ernst & Young, Exxon Corp.,

Federated Department Stores Inc., FMC Corp., Ford Motor Co., A. Foster Higgins & Co. Inc.,

General Electric Co., General Motors Corp., The Goodyear Tire & Rubber Co., W.R. Grace & Co., Grand Metropolitan, GTE Corp.,

Halliburton Co., Harris Corp., Hazlehurst & Associates Inc., The Hearst Corp., Hewitt Associated LLC, Hewlett-Packard Co.,

IBM Corp., ITT Corp.,

John Hancock Mutual Life Insurance Co., Johnson & Johnson,

Kimberly-Clark Corp.

The LTV Corp.,

MCI Communications Corp., McDonnell Douglas Corp., William M. Mercer Incorporated, Merck & Co. Inc., MetraHealth, Metropolitan Life Insurance Co., Michelin North America Inc., Minnesota Mining & Manufacturing Co., Mobil Corp., J. P. Morgan & Co. Inc., Motorola Inc., Mutual of New York,

Nestle USA Inc., NYNEX Corp.,

Occidental Petroleum Corp., Olin Corp., Owens-Corning Fiberglas Corp.,

Pacific Gas & Electric Co., Pacific Telesis Group, Pathmark Stores Inc., J. C. Penney Co. Inc., Pennzoil Co., PepsiCo Inc., Pfizer Inc., Philip Morris Companies Inc., PPG Industries Inc., Price Waterhouse, The Procter & Gamble Co., The Prudential Insurance Co. of America,

Ralston Purina Co., Rockwell International Corp.,

Sears Roebuck & Co., Shell Oil Co., The Southland Corp.,

Tenneco Inc., Texaco Inc., Texas Instruments Inc., Textron Inc., Time Warner Inc., Towers Perrin, The Travelers, TRW Inc.,

Unilever United States Inc., Union Camp Corp., Union Pacific Corp., Unisys Corp., United Technologies Corp., Unocal Corp., U S West Inc., USX Corp.,

Westvaco Corp., Weyerhaeuser Co., Whirlpool Corp., The Wyatt Co., Xerox Corp., Zeneca Inc.

COALITION ON EMPLOYER HEALTH COVERAGE REPORTING AND THE MEDICARE/MEDICAID DATA BANK
July 11, 1995.

Hon. JOHN MCCAIN,
U.S. Senate, Senate Russell Office Building, Washington, DC.

DEAR SENATOR MCCAIN: We understand that you are planning to offer a floor amendment to S. 343, the Comprehensive Regulatory Reform Act of 1995, to repeal the requirement that employers report certain health coverage information to the Health Care Financing Administration (HCFA) for use by the Medicare and Medicaid Data Bank. On behalf of the Coalition's members, I would like to express their support for your amendment.

The Coalition on Employer Health Coverage Reporting and the Medicare/Medicaid Data Bank consists of more than 90 assocations, organizations and individual employers working together since January 1994 in a joint effort to repeal the reporting requirement.

The reporting requirement was created by OBRA'93, P.L. 103-66. The Coalition's analysis (summary attached) concluded that the employer reporting requirement neither successfully addresses HUFA's concerns regarding the prevention of mistaken primary payments nor justifies the enormous reporting burdens it imposes on employers.

We applaud your efforts to repeal this onerous reporting requirement and urge your colleagues in the Senate to support your amendment.

Sincerely,
ANTHONY J. KNETTEL,
Director, Health Policy, The ERISA Industry Committee Coalition Coordinator.

COALITION ON EMPLOYER HEALTH COVERAGE REPORTING AND THE MEDICARE/MEDICAID DATA BANK—JULY 11, 1995

COALITION ANALYSIS: REPORTING REQUIREMENT IMPOSES UNREASONABLE COSTS ON EMPLOYERS BUT STILL FAILS TO REMEDY HCFA'S SECONDARY PAYER PROBLEMS

Summary: The Coalition's analysis has concluded that the employer health coverage reporting requirement,[1] which is intended to provide data for the Medicare/Medicaid Data Bank, neither successfully addresses the concerns of the Health Care Financing Administration (HCFA) regarding mistaken primary payments nor justifies the burdens imposed on employers. Therefore, the data bank reporting requirement should be repealed as soon as possible.

Unreasonable costs imposed on employers: The administrative and financial burden imposed on employers by full compliance with the reporting requirement is enormous. A significant portion of the information to be reported to the data bank is not currently maintained by most employers for *any* business purpose. In many cases this information will have to be compiled manually (*i.e.*, most employers do not have payroll systems and computer data bases that are designed to collect and maintain this required information) at tremendous cost.

GAO determines that the data bank won't work: On May 6, 1994, Leslie Aronovitz testified on behalf of the General Accounting Office (GAO) before the Senate Committee on Governmental Affairs that "the enormous administrative burden the data bank would place on HCFA and the nation's employers. . . likely would do little or nothing to enhance current efforts to identify those beneficiaries who have other health insurance coverages." The basis for GAO's conclusions is discussed in detail in a report, "Medicare/Medicaid Data Bank Unlikely to Increase Collections From Other Insurers," prepared at the request of Senator Joseph Lieberman and released the same day.

Coalition's analysis supports GAO's conclusions: The data bank's employer reporting requirement will not solve HCFA's secondary payer enforcement problems—despite the massive administrative burdens and expenses it imposes on employers—for the following reasons:

In many cases it is impossible for employers to fully comply with the reporting requirement. Collection of such information from employees is even harder for employers than it is for the government to obtain it directly from Medicare and Medicaid beneficiaries. Obtaining information about dependents, in particular, will be very difficult, time consuming, expensive, and in many cases impossible—especially for employers with high work force turnover. Further, employers' ability to collect certain information (*e.g.*, dependents' social security numbers) may be limited by privacy laws. Collection of information in cases where employers contribute to, but do not administer, Taft-Hartley multi-employer health plans will also be difficult, if not impossible.

Requiring employers to collect the data for HCFA is incredibly inefficient. Only a minute amount of the information employers must collect and report will be of any use to the data bank because only a small fraction (less than 5 percent) of employees and their dependents are Medicare or Medicaid beneficiaries. In effect, more than 95 percent of employers' effort will be wasted because the data collected will be irrelevant to secondary payer enforcement.

The data bank won't improve secondary payer enforcement in any case. The data to be reported by employers was intended to be matched against government records in an effort to identify (after the fact) mistaken reimbursements for health care services by Medicare and Medicaid. But in many cases the data reported by employers will still not be sufficient to enable HCFA (by its own admission) to identify or prevent mistaken payments. Moreover, it is unlikely HCFA would be able to process any relevant information it did receive fast enough to meet applicable claims filing deadlines and recover mistaken payments.

Data bank compounds "Pay-and-chase" inefficiencies: Mistaken primary payments by Medicare and Medicaid most often result from health care providers billing the wrong parties. Yet HCFA's secondary payer enforcement efforts are based on a "pay-and-chase" strategy—reconciling mistaken payments with employers (not providers) years after the fact. The data bank reporting requirement does not alter this "pay-and-chase" strategy significantly because of the time delay implicit in the collection and processing of the information to be reported to the data bank.

Better alternatives are available: To date the federal government has not made effective use of relevant and more timely information it already receives or could obtain from sources other than the data bank in order to prevent mistaken payments before they occur. For example, HCFA already receives or could obtain much of the same information when claims are filed by health care providers. This is because the UB-92 and other claim forms require secondary payer information to be included on the form. In fact, secondary payer information has been sent to HCFA for years, but HCFA has not been successful at fully incorporating this information into its systems. HCFA has also been unable to take full advantage of additional information it receives or could obtain from other sources, such as new beneficiary questionnaires. Rather than overwhelm HCFA with new data that the agency can't effectively utilize, it makes more sense to help HCFA manage the information it already has or could readily obtain.

Compelling arguments for repeal: The preceding analysis suggests several compelling arguments for repealing the data bank reporting requirement, including:

Employers' compliance costs will far outweigh (by orders of magnitude) any potential government savings. For all of the reasons discussed above and in the GAO's 1994 report, the data bank reporting requirement will generate little or no additional savings for the federal government despite tens of millions of dollars in annual employer compliance costs.

The data bank reporting requirement compounds rather than solves the inherent inefficiency of HCFA's "pay-and-chase" enforcement efforts. HCFA's enforcement efforts instead should be focused on preventing mistaken claims before they occur by requiring health care providers to bill the proper parties.

NATIONAL FEDERATION
OF INDEPENDENT BUSINESS,
July 12, 1995.

Hon. JOHN MCCAIN,
U.S. Senate, Washington, DC.

DEAR SENATOR MCCAIN: On behalf of the over 600,000 members of the National Federation of Independent Business (NFIB), I am writing to strongly support the McCain-Lieberman amendment to repeal the Medicare and Medicaid Data Bank. This data bank is nothing short of another regulatory and paperwork nightmare for America's already overburdened small businesses.

Unless repealed, this provision will require employers to report detailed health insurance coverage information for more than 140 million individuals—including employees, retirees and their dependents. Information from the Health Care Financing Administration (HCFA) suggests these statistics will be useless 98 percent of the time.

Ironically, the government currently receives much of the information the data bank would mandate. Through better management of current resources, and with information gathered through the study your amendment directs the Secretary of Health and Human Services to undertake, we believe the federal bureaucracy can avoid this costly and time consuming burden altogether.

Thanks for your continued leadership on behalf of small business. We look forward to working with you to pass this important anti-paperwork amendment.

Sincerely,
DONALD A. DANNER,
Vice President.

Mr. HATCH. Mr. President, I understand that both sides have approved this amendment and will agree to its adoption.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

So the amendment (No. 1785) was agreed to.

Mr. HATCH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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[1] Beginning January 1, 1994, current law requires employers to report the health insurance coverage status of employees and their dependents to a data bank to be administered by HCFA. This reporting requirement was created by OBRA '93 (P.L. 103-66). HCFA has indefinitely suspended implementation of the data bank because Congress has not appropriated any funds for that purpose. The coalition strongly supported the Appropriation Committees' decision not to appropriate funds for data bank implementation. Employers remain subject to the statutory obligation to collect and report the data, however, so repeal of the reporting requirement is still urgently needed.

Mr. GLENN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATCH. Mr. President, I think we are about ready to shut the Senate down in just a minute or so. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Mr. President, the distinguished Senator from Missouri would like to send an amendment to the desk.

AMENDMENT NO. 1786 TO AMENDMENT NO. 1487

(Purpose: To provide for the designation of distressed areas within qualifying cities as regulatory relief zones and for the selective waiver of Federal regulations within such zones)

Mr. ASHCROFT. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Missouri [Mr. ASHCROFT] proposes an amendment numbered 1786 to amendment No. 1487.

Mr. ASHCROFT. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end, add the following new title:

"TITLE II—URBAN REGULATORY RELIEF ZONES

SECTION 201. SHORT TITLE.

This Act may be cited as the "Urban Regulatory Relief Zone Act of 1995".

SEC. 202. FINDINGS.

The Congress finds that—

(1) the likelihood that a proposed business site will comply with many government regulations is inversely related to the length of time over which a site has been utilized for commercial and/or industrial purposes in the past, thus rendering older sites in urban areas the sites most unlikely to be chosen for new development and thereby forcing new development away from the areas most in need of economic growth and job creation; and

(2) broad Federal regulations often have unintended social and economic consequences in urban areas where such regulations, among other things—

(A) offend basic notions of common sense, particularly when applied to individual sites;

(B) adversely impact economic stability;

(C) result in the unnecessary loss of existing jobs and businesses;

(D) undermine new economic development, especially in previously used sites;

(E) create undue economic hardships while failing significantly to protect human health, particularly in areas where economic development is urgently needed in order to improve the health and welfare of residents over the long term; and

(F) contribute to social deterioration to such degree that high unemployment, crime, and economic and social problems create the greatest risk to the health and well-being of urban residents.

SEC. 203. PURPOSES.

The purposes of this title are to—

(1) enable qualifying cities to provide for the general well-being, health, safety and security for their residents living in distressed areas by empowering such cities to obtain selective relief from Federal regulations that undermine economic stability and development in distressed areas within the city; and

(2) authorize Federal agencies to waive the application of specific Federal regulations in distressed urban areas designated as Urban Regulatory Relief Zones by an Economic Development Commission—

(A) upon application through the Office of Management and Budget by an Economic Development Commission established by a qualifying city pursuant to section 205; and

(B) upon a determination by the appropriate Federal agency that granting such a waiver will not substantially endanger health or safety.

SEC. 204. ELIGIBILITY FOR WAIVERS

(a) ELIGIBLE CITIES.—The mayor or chief executive officer of a city may establish an Economic Development Commission to carry out the purposes of section 205 if the city has a population greater than 200,000 according to:

(1) the U.S. Census Bureau's 1992 estimate for city populations; or

(2) beginning six months after the enactment of this title, the U.S. Census Bureau's latest estimate for city populations.

(b) DISTRESSED AREA.—Any census tract within a city shall qualify as a distressed area if—

(1) 33 percent or more of the resident population in the census tract is below the poverty line; or

(2) 45 percent or more of out-of-school males aged 16 and over in the census tract worked less than 26 weeks in the preceding year; or

(3) 36 percent or more families with children under age 18 in the census tract have an unmarried parent as head of the household; or

(4) 17 percent or more of the resident families in the census tract received public assistance income in the preceding year.

SEC. 205. ECONOMIC DEVELOPMENT COMMISSIONS.

(a) PURPOSE.—The mayor or chief executive officer of a qualifying city under section 204 may appoint an Economic Development Commission for the purpose of—

(1) designating distressed areas, or a combination of distressed areas with one another or with adjacent industrial or commercial areas, within the city as Urban Regulatory Relief Zones; and

(2) making application through the Office of Management and Budget to waive the application of specific Federal regulations within such Urban Regulatory Relief Zones.

(b) COMPOSITION.—To the greatest extent practicable, an Economic Development Commission shall include—

(1) residents representing a demographic cross section of the city population; and

(2) members of the business community, private civic organizations, employers, employees, elected officials, and State and local regulatory authorities.

(c) LIMITATION.—No more than one Economic Development Commission shall be established or designated within a qualifying city.

SEC. 206. LOCAL PARTICIPATION

(a) PUBLIC HEARINGS.—Before designating an area as an Urban Regulatory Relief Zone, an Economic Development Commission established pursuant to section 205 shall hold a public hearing, after giving adequate public notice, for the purpose of soliciting the opinions and suggestions of those persons who will be affected by such designation.

(b) INDIVIDUAL REQUESTS.—The Economic Development Commission shall establish a process by which individuals may submit requests to the Economic Development Commission to include specific Federal regulations in the Commission's application to the Office of Management and Budget seeking waivers of Federal regulations.

(c) AVAILABILITY OF COMMISSION DECISIONS.—After holding a hearing under paragraph (a) and before submitting any waiver applications to the Office of Management and Budget pursuant to section 207, the Economic Development Commission shall make publicly available—

(1) a list of all areas within the city to be designated as Urban Regulatory Relief Zones, if any;

(2) a list of all regulations for which the Economic Development Commission will request a waiver from a Federal agency; and

(3) the basis for the city's findings that the waiver of a regulation would improve the health and safety and economic well-being of the city's residents and the data supporting such a determination.

SEC. 207. WAIVER OF FEDERAL REGULATIONS.

(a) SELECTION OF REGULATIONS.—An Economic Development Commission may select for waiver, within an Urban Regulatory Relief Zone, Federal regulations that—

(1)(A) are unduly burdensome to business concerns located within an area designated as an Urban Regulatory Relief Zone; or

(B) discourages new economic development within the zone; or

(C) creates undue economic hardships in the zone; or

(D) contributes to the social deterioration of the zone; and

(2) if waived, will not substantially endanger health or safety.

(b) REQUEST FOR WAIVER.—(1) An Economic Development Commission shall submit a request for the waiver of Federal regulations to the Office of Management and Budget.

(2) Such request shall—

(A) identify the area designated as an Urban Regulatory Relief Zone by the Economic Development Commission;

(B) identify all regulations for which the Economic Development Commission seeks a waiver; and

(C) explain the reasons that waiver of the regulations would economically benefit the Urban Regulatory Relief Zone and the data supporting such determination.

(c) REVIEW OF WAIVER REQUEST.—No later than 60 days after receiving the request for waiver, the Office of Management and Budget shall—

(1) review the request for waiver;

(2) determine whether the request for waiver is complete and in compliance with this title, using the most recent census data available at the time each application is submitted; and

(3) after making a determination under paragraph (2)—

(A) submit the request for waiver to the Federal agency that promulgated the regulation and notify the requesting Economic Development Commission of the date on which the request was submitted to such agency; or

(B) notify the requesting Economic Development Commission that the request is not in compliance with this Act with an explanation of the basis for such determination.

(d) MODIFICATION OF WAIVER REQUESTS.—An Economic Development Commission may submit modifications to a waiver request. The provisions of subsection (c) shall apply to a modified waiver as of the date such modification is received by the Office of Management and Budget.

(e) WAIVER DETERMINATION.—(1) No later than 120 days after receiving a request for waiver under subsection (c) from the Office of Management and Budget, a Federal agency shall—

(A) make a determination of whether to waive a regulation in whole or in part; and

(B) provide written notice to the requesting Economic Development Commission of such determination.

(2) Subject to subsection (g), a Federal agency shall deny a request for a waiver only if the waiver substantially endangers health or safety.

(3) If a Federal agency grants a waiver under this subsection, the agency shall provide a written statement to the requesting Economic Development Commission that—

(A) describes the extent of the waiver in whole or in part; and

(B) explains the application of the waiver, including guidance for the use of the waiver by business concerns, within the Urban Regulatory Relief Zone.

(4) If a Federal agency denies a waiver under this subsection, the agency shall provide a written statement to the requesting Economic Development Commission that—

(A) explains the reasons why the waiver substantially endangers health or safety; and

(B) provides a scientific basis in writing for such determination.

(f) AUTOMATIC WAIVER.—If a Federal agency does not provide the written notice required under subsection (e) within the 120-day period as required under such subsection, the waiver shall be deemed to be granted by the federal agency.

(g) LIMITATION.—No provision of this Act shall be constructed to authorize any Federal agency to waive any regulation or Executive order that prohibits, or the purpose of which is to protect persons against, discrimination on the basis of race, color, religion, gender, or national origin.

(h) APPLICABLE PROCEDURES.—A waiver of a regulation under subsection (e) shall not be considered to be a rule, rulemaking, or regulation under chapter 5 of title 5, United States Code. The Federal agency shall publish a notice in the Federal Register stating any waiver of a regulation under this section.

(i) EFFECT OR SUBSEQUENT AMENDMENT OF REGULATIONS.—If a Federal agency amends a regulation for which a waiver under this section is in effect, the agency shall not change the waiver to impose additional requirements.

(j) EXPIRATION OF WAIVERS.—No waiver of a regulation under this section shall expire unless the Federal agency determines that a continuation of the waiver substantially endangers health or safety.

SEC. 208. DEFINITIONS.

For purposes of this Act, the term—

(1) "regulation" means—

(A) any rule as defined under section 551(4) of title 5, United States Code; or

(B) any rulemaking conducted on the record after opportunity for an agency hearing under sections 556 and 557 of such title;

(2) "Urban Regulatory Relief Zone" means an area designated under section 205;

(3) "qualifying city" means a city which is eligible to establish an Economic Development Commission under section 204;

(4) "industrial or commercial area" means any part of a census tract zoned for industrial or commercial use which is adjacent to a census tract which is a distressed area pursuant to section 205(b); and

(5) "poverty line" has the same meaning as such term is defined under section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)).".

UNANIMOUS-CONSENT AGREEMENT

Mr. HATCH. Mr. President, I ask unanimous consent that the vote occur on the Glenn amendment at 2:15 p.m. on Tuesday, July 18, and immediately following that vote, the Senate proceed to vote on the motion to invoke cloture on the Dole-Johnston substitute, with mandatory quorum under rule XXII being waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. I further ask unanimous consent that if the Glenn substitute is agreed to, it be considered original text for the purpose of further amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Finally, I ask unanimous consent that the first vote at 2:15 p.m. be the standard 15-minute vote, and the second vote in the voting sequence be limited to 10 minutes in length.

The PRESIDING OFFICER. Without objection, it is so ordered.

CLOTURE MOTION

Mr. HATCH. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the Dole-Johnston substitute amendment to S. 343, the regulatory reform bill.

Bob Dole, Christopher S. Bond, Bill Roth, Frank H. Murkowski, Rod Grams, John Ashcroft, Spencer Abraham, Craig Thomas, Pete V. Domenici, Bill Frist, Fred Thompson, Mike DeWine, Thad Cochran, Larry E. Craig, Bob Smith, Chuck Grassley.

MORNING BUSINESS

Mr. HATCH. Mr. President, I ask unanimous consent that there now be a period for the transaction of morning business, with Senators permitted to speak therein for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees and a withdrawal.

(The nominations received today are printed at the end of the Senate proceedings.)

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-1179. A communication from the Secretary of Agriculture, transmitting, pursuant to law, the annual animal welfare enforcement report for fiscal year 1994; to the Committee on Agriculture, Nutrition, and Forestry.

EC-1180. A communication from the Secretary of Agriculture, transmitting a draft of proposed legislation to authorize the Secretary of Agriculture to expand and streamline a Distance Learning and Telemedicine Program by providing for loans and grants and to authorize appropriations for business telecommunication partnerships; to the Committee on Agriculture, Nutrition, and Forestry.

EC-1181. A communication from the general counsel of the Department of Defense, transmitting a draft of proposed legislation to designate defense acquisition pilot programs in accordance with the National Defense Authorization Act for fiscal year 1991 and for other purposes; to the Committee on Armed Services.

EC-1182. A communication from the Secretary of the Treasury, transmitting, pursuant to law, a report on specialized government securities brokers and dealers; to the Committee on Banking, Housing, and Urban Affairs.

EC-1183. A communication from the president and chairman of the Export-Import Bank, transmitting, pursuant to law, a statement with respect to a transaction involving United States exports to Morocco; to the Committee on Banking, Housing, and Urban Affairs.

EC-1184. A communication from the president and chairman of the Export-Import Bank, transmitting, pursuant to law, a statement with respect to a transaction involving United States exports to Japan; to the Committee on Banking, Housing, and Urban Affairs.

EC-1185. A communication from the president and chairman of the Export-Import Bank, transmitting a draft of proposed legislation to amend the Export-Import Bank Act of 1945, as amended; to the Committee on Banking, Housing, and Urban Affairs.

EC-1186. A communication from the Secretary of Housing and Urban Development, transmitting, pursuant to law, the 1994 annual report of the Government National Mortgage Association; to the Committee on Banking, Housing, and Urban Affairs.

EC-1187. A communication from the director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report on direct spending or receipts legislation within 5 days of enactment; to the Committee on the Budget.

EC–1188. A communication from the Secretary of Commerce, transmitting, pursuant to law, a report required under the Antarctic Marine Living Resources Convention Act of 1984; to the Committee on Commerce, Science, and Transportation.

EC–1189. A communication from the Acting Assistant Secretary of the Interior, Territorial and International Affairs, transmitting a draft of proposed legislation to amend the Magnuson Fishery and Conservation Management Act; to the Committee on Commerce, Science, and Transportation.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. ABRAHAM (for himself, Mr. Dole, Mr. Brown, Mr. Hatch, Mr. DeWine, Mr. Kyl, and Mr. Kempthorne):

S. 1039. A bill to require Congress to specify the source of authority under the U.S. Constitution for the enactment of laws, and for other purposes; to the Committee on the Judiciary.

By Mr. GORTON:

S. 1040. A bill to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel *Onrust*; to the Committee on Commerce, Science, and Transportation.

S. 1041. A bill to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel *Explorer*; to the Committee on Commerce, Science, and Transportation.

By Mr. MACK:

S. 1042. A bill to designate a route as the "POW/MIA Memorial Highway," and for other purposes; to the Committee on Environment and Public Works.

By Mr. STEVENS (for himself, Mr. Inouye, Mr. Murkowski, Mr. Simon, Mr. Inhofe, Mr. Dodd, Mr. Simpson, Mr. Akaka, Mr. Santorum, and Mrs. Feinstein):

S. 1043. A bill to amend the Earthquake Hazards Reduction Act of 1977 to provide for an expanded Federal program of hazard mitigation, relief, and insurance against the risk of catastrophic natural disasters, such as hurricanes, earthquakes, and volcanic eruptions, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mrs. KASSEBAUM (for herself, Mr. Kennedy, Mr. Jeffords, Mr. Pell, and Mr. Simon):

S. 1044. A bill to amend title III of the Public Health Service Act to consolidate and reauthorize provisions relating to health centers, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. ABRAHAM (for himself and Mr. Coats):

S. 1045. A bill to amend the National Foundation on the Arts and the Humanities Act of 1965, the Museum Services Act, and the Arts and Artifacts Indemnity Act to privatize the National Foundation on the Arts and the Humanities and to transfer certain related functions, and for other purposes; to the Committee on Labor and Human Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. MACK (for himself and Mr. Lieberman):

S. Res. 151. A resolution to designate May 14, 1996, and May 14, 1997, as "National Speak No Evil Day", and for other purposes; to the Committee on the Judiciary.

By Mr. ABRAHAM (for himself, Mr. Dole, Mr. Brown, Mr. Hatch, Mr. DeWine, Mr. Kyl, and Mr. Kempthorne):

S. Res. 152. A resolution to amend the Standing Rules of the Senate to require a clause in each bill and resolution to specify the constitutional authority of the Congress for enactment, and for other purposes; to the Committee on Rules and Administration.

By Mr. DOLE (for himself and Mr. Daschle):

S. Res. 153. A resolution to make certain technical corrections to Senate Resolution 120; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. ABRAHAM (for himself, Mr. Dole, Mr. Brown, Mr. Hatch, Mr. DeWine, Mr. Kyl, and Mr. Kempthorne):

S. 1039. A bill to require Congress to specify the source of authority under the U.S. Constitution for the enactment of laws, and for other purposes; to the Committee on the Judiciary.

LEGISLATION REQUIRING SPECIFICATION OF CONSTITUTIONAL AUTHORITY

Mr. ABRAHAM. Mr. President, I rise today to introduce two pieces of legislation. One is a bill and the other is a resolution. The effect of each is to require that every law that passes through this Chamber explicitly state the constitutional authority pursuant to which it is being enacted.

I believe this requirement will help this body by giving us occasion to pause and reflect on whether the legislation we are considering is in fact within the province of the national government.

It will also help the American people evaluate our work, keeping in mind the question of constitutionality as well as the immediate policy questions presented by the bill.

And it may discourage us, at least at the margin, from adopting legislation outside our proper sphere of authority and responsibility.

All these factors would enhance our citizenry's freedom and make it easier for them to exercise their self-governing authority at the State and local level—the level closest to the people.

Mr. President, it has become commonplace to observe that the elections of 1994 showed the voters' frustration with big government. It seems clear to me that the American people feel that the Federal Government is interfering too much in their lives.

Whether through costly and ineffective Federal programs fraught with micro-managing mandates, business regulations that increase prices and cost jobs, environmental controls that forbid farmers to use their own land in a reasonable fashion, or workplace rules that forbid workers from saving fellow workers from danger, the people have had enough of Washington-knows-best programs.

And I believe the people are right to be concerned about a government that considers everything in life to be a proper subject for Federal legislation. We are in danger in this country of instituting a kind of soft despotism that will crush our democratic liberty under the weight of well-intentioned but overzealous regulations and programs. Intended to serve the people, these laws may enslave them by taking away too much of their natural freedom of action.

That is not the National Government that our Framers envisioned. Clearly there are areas where the Federal Government should intervene to protect people's health, safety and rights. But there must likewise be areas in which the Federal Government cannot intervene in regulating the peoples' lives.

The Framers of our Constitution believed they had devised a system that would separate these areas from each other. They thought that one of the powerful limitations on the National Government would be the principle that the Congress could exercise only the limited, enumerated powers granted it by the people and set out in the Constitution.

That principle was made clear in the original Constitution, which gave Congress not general legislative authority but only "all legislative powers herein granted." And it was emphasized by the adoption of the 10th amendment in the Bill of Rights, which states that "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."

Until this last term the Supreme Court for decades had not struck down a law as outside Congress's powers. As a result many people claimed that the principle that Congress has only limited enumerated powers is a dead letter. But our everyday experience shows otherwise. Everybody knows that we do not turn to the National Government for help with most problems in our everyday lives. We turn to family members, friends, doctors, community or volunteer organizations, and churches; or to local government officials, such as school teachers, police men and women, and others.

The 1994 congressional elections were in large measure about the size of government. And in my view, Mr. President, those elections made one thing very clear: The belief that our National Government should have only limited powers remains alive in the hearts of the people.

The most important efforts of this Congress have been undertaken to respond to the people's demand for prompt and serious action to return the National Government to its proper functions.

The budget that we have been debating for the past few days is the first in many years to take that responsibility very seriously.

The regulatory reform legislation currently on the floor is similarly an effort to impose reasonable and meaningful restrictions on the interventions of regulatory bureaucracies in our lives.

The proposals to abolish Cabinet Departments will likewise get the National Government out of areas where it does not belong.

It is in this context that we should consider the Supreme Court's decision a few months ago in United States versus Lopez and the rather modest legislative proposals I am introducing today. In Lopez, the Supreme Court for the first time in 60 years struck down an act of Congress as exceeding the powers granted it in the Constitution. The Court ruled that a Federal law about guns in schools was beyond Congress' powers because its connection to commerce was too remote.

Now I think there are few higher priorities than reversing the accelerating decline of our schools into armed camps. But, not surprisingly, so do the States, which is why almost all of them already have laws addressing this problem.

Thus this important case is not about whether we should have guns in schools, but about whether policing the schools is principally the responsibility of parents, local governments and States, or the responsibility of Congress. The Court correctly found that the Framers did not assign us that responsibility—which is just as well, since I have no idea how we could possibly be in a position to figure out what is needed in every locality in the country.

The Court's opinion does signal something of a change in approach by the Court to issues of this type. But it is always dangerous to read too much into an individual Supreme Court decision. Moreover, the Court did not give much indication, other than something of a change in attitude, about how it would be approaching future cases.

I do not think we should be disappointed about this. After all, we in Congress's new majority should not leave it to the Supreme Court to do all of the thinking on this subject. The courts, Congress, and the President working together expanded government to its present dimensions. A similar cooperative effort by all three branches will likely be needed to re-establish our central government's status as a government of limited powers.

This will be no easy task. But it is our duty to make limited government as much of a reality in the lives of Americans and American culture 30 years from now as the notion of inexorable expansion was until Ronald Reagan's election as President and the election of the current Congress.

We have begun the difficult task of restoring ordered liberty in a number of ways in this Congress. Our efforts toward a balanced budget promise to return our Government to fiscal responsibility; to make us recognize our duty to pay our bills and refrain from burdening our children with massive debts.

Our regulatory reform measures promise to rein in government agencies by forcing them to conduct real cost-benefit analyses, based on sound science. In this way regulation will be reduced and limited to those that actually will promote the public good.

Our steps toward elimination of unnecessary Cabinet Departments promise to reduce government's interference with our daily lives. By eliminating unneeded Departments we will eliminate bureaucrats' drive to justify their jobs by finding new areas to regulate.

I do not for a minute equate the proposals I am introducing today with these other efforts. I do believe however, that a requirement that we include a statement of what power, granted it by the Constitution, Congress is using in enacting every piece of legislation, will play a modest role in assisting our ongoing reexamination of the role and limits of the National Government.

This requirement will perform three important functions.

First, it will encourage us to pause and reflect about where the law we are considering enacting fits within the constitutional allocation of powers between the Federal Government and the States.

As Justices Kennedy and O'Connor noted in their concurrence in Lopez, that is one of our important responsibilities:

> It would be mistaken and mischievous for the political branches to forget that the sworn obligation to preserve and protect the Constitution in maintaining the federal balance is their own in the first and primary instance.

A statement of constitutional authority also will put Congress' view of its constitutional authority on the record for the people to judge. This will spur further useful reflection on our part and open up the possibility of conversation with the people on the subject of Federal powers.

Finally, such a statement also will help the courts evaluate the legislation's constitutionality. Legislation that falls within our enumerated powers will more likely be upheld if it contains an explicit statement of its constitutional authority. As important, we will be less likely to allow laws or regulations that overstep proper constitutional bounds to pass out of this Chamber.

In this way we will protect the liberties of our people, the prerogatives of our States and local communities, and the structure of limited government bequeathed to us by our Founders. We will, then, defend that constitutional structure designed to foster virtue in the people, discipline in the government and peace and prosperity in the nation.

I urge your support of this legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1039

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SPECIFICATION OF CONSTITUTIONAL AUTHORITY FOR ENACTMENT OF LAW.

(a) CONSTITUTIONAL AUTHORITY.—This Act is enacted pursuant to the power granted Congress under Article I, section 8, clause 18, of the United States Constitution.

(b) IN GENERAL.—Chapter 2 of title 1, United States Code, is amended by inserting after section 102 the following new section:

"§ 102a. Constitutional authority clause

"(a) A constitutional authority clause shall follow the enacting clause of any Act of Congress or the resolving clause of any joint resolution. The constitutional authority clause shall be in the following form (with appropriate modifications and appropriate matter inserted in the blanks):

" 'This Act (or resolution) is enacted pursuant to the power(s) granted to the Congress under Article(s) section(s) , clause(s) of the United States Constitution.' "

"(b) A similar clause shall precede the first title, section, subsection or paragraph, and each following title, section, subsection or paragraph to the extent the later title, section, subsection or paragraph relies on a different article, section, or clause of the Constitution from the one pursuant to which the first title, section, subsection or paragraph is enacted.".

(c) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 2 of title 1, United States Code, is amended by inserting after the item relating to section 102 the following:

"102a. Constitutional authority clause.".

By Mr. STEVENS (for himself, Mr. INOUYE, Mr. MURKOWSKI, Mr. SIMON, Mr. INHOFE, Mr. DODD, Mr. SIMPSON, Mr. AKAKA, Mr. SANTORUM, and Mrs. FEINSTEIN):

S. 1043. A bill to amend the Earthquake Hazards Reduction Act of 1977 to provide for an expanded Federal program of hazard mitigation, relief, and insurance against the risk of catastrophic natural disasters, such as hurricanes, earthquakes, and volcanic eruptions, and for other purposes; to the Committee on Commerce, Science, and Transportation.

NATURAL DISASTER PROTECTION ACT

Mr. STEVENS. Mr. President, Alaska has three times more earthquakes than

California. Since 1938, Alaska has had at least nine quakes of 7.4 magnitude or more on the Richter scale. Alaska's 1965 Good Friday earthquake was one of the world's most powerful, at the magnitude of 9.2 on the Richter scale.

Senator INOUYE and I have been studying this matter. We find that over the last two decades Federal taxpayers have paid out over $140 billion in aid following earthquakes.

Before 1989, the United States had never experienced a disaster costing more than $1 billion in insured losses. Since then, we have had nine disasters that have cost more than $1 billion.

Today, Senator INOUYE and I introduced a bill to try and reduce the cost to the Federal Government of earthquakes, hurricanes, and floods.

First, the bill will reduce Federal costs by expanding the use and availability of private insurance. The bill also disqualifies those who do not buy private insurance from long-term Federal disaster assistance.

Second, the bill will provide incentives to improve the ability of buildings to withstand disasters and, in doing so, will reduce the risk of injury to people. As one expert put it: "It is buildings, not earthquakes, that kill people."

And, third, the bill will create a national, privately funded catastrophic insurance pool to shoulder the risk of very large disasters.

Mr. President, the more private insurance individuals buy, the less disaster relief Federal taxpayers must pay. For instance, if this bill had been in place before Hurricane Andrew and California's Northridge earthquake, it would have reduced Federal costs by at least $5 billion.

Not only will the bill help reduce the costs to the Federal taxpayer, it will make insurance more available for those in States with higher risk of disaster.

Alaska has three times more quakes than California. Since 1938, Alaska has had at least nine quakes of 7.4 magnitude or more on the Richter scale. Alaska's 1964 Good Friday quake was one of the world's most powerful at a magnitude of 9.2. I lived through that quake. The earth shook for 7 minutes. Most quakes last under 2 minutes. For example, California's Northridge quake lasted about 30 seconds.

The Alaska quake destroyed the economic bases of entire communities. Whole fishing fleets, harbors, and canneries were lost. The shaking generated catastrophic tidal waves. Petroleum storage tanks ruptured and the contents caught fire. Burning oil ran into the bay and was carried to the waterfront by the large waves. These waves of fire destroyed docks, piers, and small-boat harbors. The effects of the 1964 quake were felt as far away as San Diego and Hawaii. Total property damage was $311 million in 1964 dollars. Experts predict that a quake this size in the lower 48 would kill thousands and cost up to $100 billion.

About 100 miles off Alaska's coast and 10,000 feet below the sea, the ocean floor is moving eastward. This drifting floor meets the North American seabed at what is called the Yakataga seismic gap. Scientists predict that during our lifetimes, it is likely the seabed will move, generating a major quake and a huge tsunami.

Today, seismic instruments detect between 90 and 120 earthquakes per week in Alaska. Of these, 1 to 3 quakes per week can be felt by people. In May, the citizens of Anchorage awoke in the middle of the night to an earthquake that measured 5.5 on the Richter scale.

It is a mistake, however, to believe that the threat of a major quake is confined to California or Alaska.

Some of America's largest earthquakes have occurred in Tennessee and Missouri along the New Madrid Fault. In the last century, four quakes, measuring up to 8.6 on the Richter Scale, struck that area. The shaking rang church bells in Boston 1,000 miles away.

Should a quake of that size hit this area today, FEMA estimates the damage at $52 billion. One expert noted that the impact of a major quake in the central United States. today would only be exceeded in devastation by a general nuclear attack on the Central Mississippi Valley.

This bill is also important for areas prone to hurricanes and floods.

Only 20 percent of the homes in flood plains today have the flood insurance required by current law.

Damage in Florida from Hurricane Andrew was 30 to 40 percent higher because building codes were not properly enforced. The bill will increase the use of private insurance coverage for hurricanes and floods. It will also improve the structures we live in to reduce damage from these hazards before they occur.

I hope we can move quickly on this bill this year.

Thank you, Mr. President.

Mr. INOUYE. Mr. President, I am pleased to announce the reintroduction of the Natural Disaster Protection Act [NDPA] in an effort to create a comprehensive Federal strategy for disaster preparation and planning. I hope that many of my colleagues will join Senator STEVENS and me as cosponsors, so that we can ensure that this bill is considered by the full Senate at the earliest possible opportunity. Time, however, is working against us.

Since our original legislation was introduced in the last Congress, we have experienced time and time again why the bill is so urgently needed. The earthquake which struck Los Angeles in January 1994 is now rated the second most costly disaster in United States history, adding more than $11 billion to the Federal debt and saddling its victims, most of whom were uninsured, with even greater losses. The tragic earthquake in Kobe, Japan, and the recent California and Midwest floods are just two further examples of nature's unpredictability.

This issue is very important to me particularly since Hurricane Iniki struck my State in 1992, causing several billion dollars in damage and widespread economic disruption. Unfortunately, there are millions of Americans who know firsthand about the destruction and suffering caused by these terrible events.

What troubles me most is that the worst could still be ahead of us. The U.S. Weather Service predicts that this year's hurricane season, which began a few weeks ago, could be worse than 1992, the year of Hurricanes Andrew and Iniki. I am deeply concerned that we are not prepared for another major natural disaster. That is why we are renewing our effort to enact major disaster policy reform.

We simply must insist that all segments of Government, not to mention insurers and homeowners, are doing all that is prudently possible to prevent losses before they occur and to reduce the long-term costs of disasters to Federal taxpayers. We need better enforcement of building codes, more thorough mitigation plans, and a funding mechanism that is both predictable and adequate. We must make sure our citizens are protected with adequate insurance so that those at greatest risk from hurricanes, earthquakes, and floods do not end up totally dependent on disaster relief. We must also be certain that such an insurance system is capable of withstanding the worst-possible catastrophes. The NDPA accomplishes these aims and does so with a program that is totally self-funding.

This bill advocates private insurance as an alternative to costly Federal relief. It also creates a national disaster fund to assure the availability of private insurance before and after a major disaster and promotes better building practices and increased planning for catastrophes. This legislation would encourage States and local governments to adopt building codes and the type of mitigation strategies I mentioned, and it would provide them with funds derived from private industry, not the Federal Government, to implement those measures. The bill would substantially increase participation in insurance programs for the perils homeowners face and provide for a Federal backstop of the private insurance market in the event of a mega-catastrophe which could result in extreme devastation and economic disruption.

The new bill improves upon last year's legislation by relying primarily on the private sector to address insurance availability issues and by modifying Federal disaster assistance programs to reduce the share of disaster relief borne by U.S. taxpayers.

The NDPA enjoys the support of numerous State and local government officials, and organizations representing homeowners, consumers, emergency management and response personnel, realtors, lenders, and the insurance industry. It is clear that Members of Congress are beginning to recognize the problem we face in dealing with these catastrophic events and want to do something about it.

Must we wait until another disaster on the scale of the Japanese earthquake strikes here in America before we do something? We are committed to bringing this important matter before the entire Senate at the earliest possible opportunity. We need to act now, before it is too late. Accordingly, I urge my colleagues to join Senator STEVENS and me in cosponsoring this bill.

By Mrs. KASSEBAUM (for herself, Mr. KENNEDY, Mr. JEFFORDS, Mr. PELL, and Mr. SIMON):

S. 1044. A bill to amend title III of the Public Health Service Act to consolidate and reauthorize provisions relating to health centers, and for other purposes; to the Committee on Labor and Human Resources.

THE HEALTH CENTERS CONSOLIDATION ACT OF 1995

Mrs. KASSEBAUM. Mr. President, I am pleased to introduce with Senators KENNEDY, JEFFORDS, PELL, and SIMON, the Health Centers Consolidation Act of 1995. This legislation consolidates and reauthorizes the community and migrant health center programs, the health care for the homeless program and the health services for residents of public housing program as one streamlined, flexible program authority.

These programs play a vital role in ensuring access to health care services for millions of medically-underserved Americans. Consolidating the current, often duplicative authorities will simplify grant application and recordkeeping requirements, freeing up time and money better spent on expanding access to care. The legislation provides the enhanced program flexibility necessary to respond to the unique challenges of providing health care services to medically underserved populations.

This legislation also substantially strengthens the ability of health centers to respond to our nation's changing health care environment through the development of provider networks and health plans to improve access to better-coordinated, more cost-effective services. The ability to form networks and health plans, including managed care plans, is particularly important as states are increasingly moving their Medicaid beneficiaries into managed care plans.

Finally, the Health Centers Consolidation Act responds to the unique challenges of delivering health care services in rural areas. The legislation authorizes and focuses the current rural health outreach grant program on the formation of provider networks, including telemedicine networks, to strengthen the rural health care delivery system, encourage the consolidation and coordination of services on a local and regional basis, and bring access to specialized services to remote rural areas.

By Mr. ABRAHAM (for himself and Mr. COATS):

S. 1045. A bill to amend the National Foundation on the Arts and the Humanities Act of 1965, the Museum Services Act, and the Arts and Artifacts Indemnity Act to privatize the National Foundation on the Arts and the Humanities and to transfer certain related functions, and for other purposes; to the Committee on Labor and Human Resources.

THE NEA AND NEH PRIVATIZATION ACT

Mr. ABRAHAM. Mr. President, today I introduce my bill to privatize the National Foundation for the Arts and the Humanities. I have sent a detailed memo to all my colleagues regarding this bill, which I would like to enter into the RECORD. The memo sets forth my reasons for designing a privatization plan, how it will work, and why I believe it will work.

Here's a quick summary: Controversy and anger have swirled around the Endowments virtually since their creation. On one side we have constituents who are upset that their tax dollars are subsidizing work that they find aggressively offensive. This includes the work of Mapplethorpe, funded by the NEA, as well as the National History Standards, funded by the NEH. On the other side we have artists and writers who believe the Government is engaging in censorship when their grant proposals are denied or their projects are edited.

The Endowments' troubles are not recent phenomena and they show no sign of dissipating anytime soon.

If we cannot re-create the NEA and NEH in a way that gets the Government out of the vortex of this maelstrom, at some point, the NEA or the NEH are going to fund one more project so objectionable that the American people are going to take the matter out of our hands. And then the endowments are going to be re-created right out of existence.

My bill provides for the gradual privatization of the endowments over a 5-year period. It will reduce the budgets of the Endowments by 20 percent each year during that period, and also specifically allows the Endowments to use a portion of their budgets for the express purpose of promoting private fundraising activities during the phase-out period. At the end of the 5 years, the Endowment's charter with the Federal Government will end. Finally, as a further inducement to private-fundraising, my bill includes a sense-of-the-Senate resolution endorsing changes in the Tax Code to spur charitable giving to the arts and humanities.

The "Endowments"—or, as I envision, the "American Endowment for the Arts and Humanities"—will then be free of Government control either as censors or as tax collectors for controversial artists.

I am confident that private national foundations in support of the arts and humanities can succeed. The people we have heard from in support of the NEA and NEH—art enthusiasts, philanthropists, actors, and singers—will want to contribute to private arts and humanities foundations. Assuming their belief in a national organization supporting the arts and humanities is as ardent as they claim when they lobby Congress, there will be a wellspring of support for private endowments.

I ask unanimous consent that my "Dear Colleague" be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, July 14, 1995.

Re Privatizing the NEA and NEH: The right way to get government out of arts.

DEAR COLLEAGUE: I invite you to cosponsor my legislation to privatize the National Endowment for the Arts and the National Endowment for the Humanities.

It is beyond dispute that the arts and humanities are of unparalleled importance to a civilized nation. Unfortunately, the federal government's current method of "supporting" the arts is neither substantial nor fair. Amid all the critical accounts on both sides of the debate over the Endowments, it seems to have been lost that these agencies actually contributed surprisingly little to the arts or the humanities in this country.

However sincere is Mary Chapin Carpenter's suggestion that the "Arts are as important as school lunches . . . ," a majority of citizens simply do not agree with this view. In a time of extreme pressures on the federal budget, the NEA and NEH's appropriations simply cannot be a priority expenditure. For this reason alone (putting the Mapplethorpe and the national history standards controversies et. al. aside) there needs to be a plan to reduce the taxpayer's role in these national endowments.

This attached memorandum outlines the Abraham legislation to privatize the national endowments for the arts and humanities.

If you would like to cosponsor this legislation, please contact Ann Coulter at 4-3807.

Sincerely,

SPENCER ABRAHAM.

I. The National Endowment For The Arts And The National Endowment For The Humanities: Current Problems

A. THE NATIONAL ENDOWMENT FOR THE ARTS AND THE NATIONAL ENDOWMENT FOR THE HUMANITIES ARE ORGANIZATIONS IN TROUBLE

It is clear that the NEA and NEH are in trouble. They are in trouble because many people question the need to spend the taxpayers' money on such non-vital programs. Further, in this era of budget austerity where funding for many social programs is being significantly reduced, it is difficult to rationalize full funding for the NEA and NEH. Finally, the activities of the NEA and NEH run against the sensitivities of many American taxpayers who are opposed to seeing their dollars fund projects that they find objectionable. It is this latter concern that has come into focus in recent weeks.

Shortly before the first scheduled Labor Committee mark-up of the NEA and NEH, there were several critical news accounts of the summer schedule at "Highways," an NEA-funded performance art center in California. The theater's brochure listed acts intended "to push the right wing into spiritual contortions." Performances included "Dyke Night," described as "our series of hot nights with hot dykes," and "Boys 'R' Us," similarly billed as "our continuing series of hot summer nights with hot fags." Another number, titled "Not For Republicans," included a comedienne's discourse on "sex with Newt Gingrich's mother."

The NEA's response to public criticism of this NEA grant? "[Highways] is consistent with the Endowment's Congressionally-mandated mission of fostering 'mutual respect for the diverse beliefs and values of all persons and groups,'" wrote the current NEA Chairperson, Jane Alexander, in a letter to various Senators dated June 26, 1995. Alexander went on to describe her alarm, not at Highways' "Ecco Lesbo-Ecco Homo" summer program, but at criticisms leveled at these NEA-funded performances: "I am concerned that once again the Endowment is being criticized for supporting an institution that serves its community well—this time, one that supports the work of homosexual and minority artists . . . ." She dismissed criticisms of the "sex with Newt Gingrich's mother" routine as being politically motivated: "I am also concerned that we are being criticized for Highways having presented comedienne Marga Gomez because her stand-up routine pokes fun at the current Congressional leadership."

While much of the public objects to taxpayer-supported performances like these, that is not the only quarter from which opposition to federal funding of the NEA has come. The Progressive Policy Institute, for example, (an offshoot of the Democratic Leadership Council) stated in its 1993 "Mandate for Change" that there should be "no federal role" in the arts. In a Lou Harris poll taken in January, 1995, the NEA was at the top of the list of federal programs Americans would like abolished—ahead of the Department of Housing and Urban Development, Public Broadcasting Service, and the Energy Department. (43% of respondents wanted the Endowment eliminated.)

Long before the "Ecco Lesbo-Ecco Homo" summer program at Highways, there was Mapplethorpe and "Piss Christ" and the performance art of Karen Finley and Ron Athey, to name just a few of the more notorious NEA-funded projects. Provocations like these may be a small percentage overall, but each such sensational affront adds to the growing list of people irrevocably opposed to the Endowment. Citizens who are offended by having their tax revenues supporting the likes of Mapplethorpe do not forget that offense just because the Endowment manages to avoid funding another offensive project for a short while. And Chairman Alexander's reaction to this latest public outcry demonstrates pretty clearly that the NEA is out of touch with the public's concerns.

The NEH is no less out of touch with the public whose tax dollars it consumes. Through less outrageous—and less suitable for sound-bites—the NEH's projects may well have a longer lasting impact than the NEA's, because they infect American education rather than only its art museums and theaters. The national history standards released last January by a group at UCLA were the product of an NEH grant. Though intended to improve the education of all United States students, so objectionable were the standards that, before the ink was dry, 99 Senators voted in favor of a Sense of the Senate resolution denouncing the standards.

Perhaps there are still enough votes in the Congress to save the NEA and the NEH in their present form for a few more years. But that will not end the disquietude and rancor surrounding the agencies. And that will do nothing to prevent any new NEA or NEH-funded affronts, each one adding to the growing list of citizens opposed to the Endowments. Sooner or later the Endowments are going to fund one more project so offensive that the public will rise up and demand their elimination. And then, there will be no time to assemble an alternative mechanism to fund the arts and humanities on a national level. Many of our States have arts and humanities institutions that are not going to be able to survive a withdrawal of federal funds cold turkey.

We shirk our obligation to the arts and humanities as well as our obligation to the people if we refuse to acknowledge that these are federal programs teetering toward abolition. Now is the time to reconfigure the agencies in a way that is built to last. The following proposal does just that. The proposed bill combines a gradual phase-out of direct federal funding with inducements to privatization, such as earmarking a portion of the funds for private fundraising and proposing additional tax incentives for charitable gifts to the arts and humanities.

B. HALFWAY MEASURES WON'T WORK

One thing that the history of the endowments proves is that no matter who runs the organizations, maddening government grants to the arts will continue to be made. Virtually since the Endowment's first grant in 1965, the organization has inspired opposition. In 1967, Congressional hearings were held in response to public outcry over NEA-funded projects. More recently, controversies in the late eighties begot not quietude, but the Ron Athey performance[1] in 1994—long after "Piss Christ." Endowment supporters are whistling past the Endowments' graveyards if they operate on the assumption that the affronts can be entirely eliminated with a series of statutory restrictions. There will be more controversies. Those interested in the NEA have considered a variety of modifications to the Endowment's granting authority intended to circumvent the problems. Across the board and without question, these are doomed to failure.

1. Eliminating Individual Grants, For Example, Will Not Stem Offensive Projects. A number of the more notorious Endowment-supported projects have, in fact, been made possible by Endowment grants to museums and other institutions, rather than directly to the offending artists themselves. These include NEA grants to the Walker Art Center in Minneapolis and to P.S. 122, a theater in New York City, both of which used NEA grant money to fund Ron Athey's performance. In addition, the Whitney Museum of Art in New York used a portion of its $200,000 NEA grant to sponsor "Abject Art: Repulsion and Desire in Art," which exhibited excrement, dead animals, and similar objects to make the artistic statement of: degrading the purity of an art museum. These exhibits and others will not be affected by a ban on individual grants.

2. Block Granting Endowment Money To The States Also Fails To Prevent The Use Of Federal Dollars On Dubious Or Potentially Objectionable Art. Indeed, many of the institutions which have taken part in controversial projects are also recipients of monies allocated by state arts councils. Thus, for example, both the Walker and Whitney Museums have been the beneficiaries of state and municipal arts funding, the latter receiving $134,952 from the New York State government and $5,000 from the city government in 1994. Since New York will undoubtedly continue to receive a disproportionate amount of Endowment money, taxpayers in Tennessee, Ohio, and Illinois will essentially be subsidizing art in New York. There is no reason to think New York State arts panels will suddenly begin to use Endowment money only to fund that which will play in Peoria.

3. An Across-The-Board Reduction In The NEA and NEH's Budgets Doesn't Make Sense. Some have suggested punishing the NEA and NEH for their irresponsible funding projects by cutting the Endowments' budgets by some arbitrary percentage. But the NEA and NEH are either beneficial in their current structures or they aren't. The better solution is to attempt to preserve both a national arts foundation and a national humanities foundation at appropriate funding levels, but without requiring the taxpayers' involuntary contributions.

4. Direct Federal Funding Of The Arts Forces The Federal Government Into The Thankless Role Of Playing Either Censor On One Hand Or Obscenity-Promoter On The Other. Since the actual monetary value of NEA funding is virtually negligible compared to private giving to the arts, the principal argument for Endowment grants is their tremendous influence. This, however, is a risky role. On one side we have constituents who are upset that its tax dollars are subsidizing work that they find aggressively offensive. And it bears repeating that since 1967—two years after the NEA's creation—its grants have been inciting controversy.

On the other side we have artists who believe the government is engaging in censorship. One recipient of NEA grants, Leonard Koscianski, has written that the NEA "excludes whole categories of art . . . from serious consideration," citing watercolors as one of the categories that has received very few NEA grants. Moreover, the NEA was recently forced to settle a case for $252,000 brought by four performance artists—Karen Finley, John Fleck, Holly Hughes, and Tim Miller—who claimed they had been denied Endowment grants on political grounds. Many other artists will not even apply for an NEA grant because of the paperwork involved. Reed Zitting, an instructor of theater arts and design at the Interlochen School at Michigan, has observed that the bureaucratic necessities of governments are antithetical to the creative processes of art.

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[1] Athey's performance consisted of slicing the back of another man with razors, blotting the blood, and sending the bloodied towels over audience members' heads. This caused some consternation among the audience members, many of whom fled the room. Athey and, it was assumed, his artistic companion, are HIV-positive.

5. The More The Congress Tries To Respond To Taxpayer Complaints About Their Money Funding Obscene Art—By Imposing A Variety Of Restrictions On Endowment Grants—The More Artists Will Have Legitimate Grounds To Complain About Federal Government Censorship. Rules such as requiring theaters to submit a complete and immutable schedule of the entire season's events are unworkable, excessive and intrusive. Another proposal has been to jettison seasonal grants altogether. While that measure would provide the federal government with a needed measure of control over government grant money, it would also deprive an important segment of the arts community of any grant money whatsoever. It is simply impossible for the federal government to design an organization to fund the arts staffed with federal bureaucrats that does not in some sense engage in censorship through its regulation. It doesn't help that the NEA has a tin ear with respect to the public's concerns with projects such as Highways' "Ecco Lesbo-Ecco Homo" summer program. Furthermore, the much vaunted power of an NEA grant places the federal government in a highly questionable role: Why should the federal government be the arbiter of what is and is not art and which artists will be famously successful and which will wait tables?

C. THE FEDERAL GOVERNMENT'S DIRECT FUNDING OF THE NEA AND NEH ALSO SUBJECTS IT TO CLAIMS OF DISCRIMINATION BY CERTAIN STATES AND AREAS OF THE COUNTRY

Some states' citizens are clearly shortchanged by the federal government's current distribution of NEA and NEH grant money. In 1994, for example, New York City alone received about 15% of the NEA's total budget, about 10-20 times the amount the NEA gave certain states. Further, many believe that rural areas are short changed by the Endowments. Privately-funded Endowments remove the government as the decisionmaker—and the federal taxpayer as the funding source—from a selection process that inevitably strikes some as unfair.

II. How the Abraham Bill Would Work

A. MOVING TOWARD PRIVATELY FUNDED ENDOWMENTS FOR THE ARTS

Private Endowments awarding grantees money from private donors will preserve the good things about the Endowment such as the imprimatur of a national organization and the financial support for the arts and humanities. Meanwhile, though, the government will be out of the business of using taxpayer money either to support obscenity or to censor artists.

The Abraham bill would reduce the budgets of the Endowments gradually over a five year period and also would allow the Endowments to use a portion of their budgets for the express purpose of promoting private fundraising activities during the phase-out period.

At the end of five years, the Endowments' charter with the federal government would end. The "Endowments"—or as we suggest, "the American Arts and Humanities Endowment"—would then be free of government bureaucrats either as censors or as tax collectors for the arts. The newly free arts and humanities organizations could reconfigure themselves as a single tax deductible organization, as two separate organizations, or in any manner their private boards of directors deem desirable.

B. A PROGRESSIVE DECREASE IN THE NEA AND NEH'S FEDERAL BUDGETS

Using the 1995 fiscal year appropriations as the base line, the Endowment's budgets would be reduced by twenty percent each year over a five year period. This approach permits a gradual, orderly transition from government-sponsored organs to private entities.

1. A Specific Set-Aside For Fundraising. In addition to these absolute decreases, the Endowments will be authorized to use an amount of their appropriations equal to 10% of the cut amount for fundraising purposes alone. This amounts to 2% of each Endowment's 1995 appropriation the first year, 4% the second year, and so on. Thus, for example, in the first year the NEH will be permitted over $3.5 million (2% of $175 million) federal dollars for the sole purpose of encouraging private fundraising on behalf of the humanities endowment.

2. Tax Incentives For Donations To The Arts and Humanities. Finally, the bill would include a Sense-of-the-Senate resolution proposing a return to tax deductions for nonitemizers, elimination of the cap on deductions for charitable contributions, and other tax benefits for charitable donations. Since amending the Tax Code to encourage charitable giving is not within the purview of the Labor Committee, the Sense-of-the-Senate resolution appended to the Endowment Privatization bill would simply make the point that the Committee favors creating additional tax incentives for charitable giving to the arts and humanities (and all 501(c)(3)s), in lieu of direct government funding of the NEA and NEH.

III. The Abraham Proposal Can Work

A. ALTHOUGH RAISING MONEY IS ALWAYS HARD, THE NEA AND NEH BUDGETS ARE A VERY SMALL PART OF THE NATION'S TOTAL ARTS AND HUMANITIES BUDGET

Some have expressed doubt that private donations can take up the slack in government funding. It bears mentioning at the outset then, that the NEA and NEH do not, in fact, constitute a significant proportion of funding for the arts and humanities in this country. It is difficult to isolate "the humanities" for calculating private donations because it encompasses such a wide range of prospective philanthropies—museums, colleges and universities, music academics, writing workshops, to name a few. Private donations to the arts, however, are easily quantifiable.

In 1993, private giving to the arts totalled $9.57 billion. Meanwhile, the NEA's total budget for 1995 is $167.4 million. Thus, private giving to the arts in this country dwarfs the NEA's contribution 50 times over. Not only does the NEA's total annual funding of the arts amount to less than 1.7% of private donations to the arts, but it is also less than the states' contributions to the arts. In 1994, state legislatures gave $265 million to the arts. Perhaps the more striking comparison is to the annual operating budget of the Lincoln Center for the Performing Arts in New York City. Its budget for 1995 is almost twice that of the NEA's: $316 million. Moreover, looked at from the perspective of the recipient arts organization, the NEA's contributions are still relatively insignificant. Thus, for example, the sources of income for all the country's nonprofit theaters breaks down as follows:

B. LEAVING THE TAXPAYER OUT OF THE EQUATION DOES NOT REDUCE A NATIONAL ENDOWMENT'S PRESTIGE

Since the actual monetary value of arts and humanities funding provided by the NEA and NEH is very small compared to private giving to the arts, the principal argument for NEA and NEH grants is their glamour—the imprimatur of excellence an Endowment grant provides. According to NEA Chairman Jane Alexander, "[T]he prestige of getting a grant from the Endowment is often critical in leveraging legislatures to provide additional funding." The prestige associated with a grant from a national arts organization will not be lost under a privately-funded Endowment. Indeed, the glamour of an NEA grant will most likely expand because of the private interests involved: Corporate sponsors will want to publicize the results of their philanthropy—as will the privately-funded Endowment itself, in order to attract more private dollars.

C. WAYS TO PRIVATELY FUND A NATIONAL ENDOWMENT . . .

1. The Federal Government Can Still Play An Important Role. There are several ways the federal government can help private endowments succeed without direct contributions. These include:

(a.) Tax Code Revisions Designed To Generally Stimulate Charitable Giving Or Specifically Aid The New Foundations. A variety of possible tax code changes could greatly enhance private giving to the new foundations. Possible approaches are:

Reinstituting tax deductions for nonitemizers, as was permitted until the Tax Reform Act of 1986;

Elimination of the caps on charitable deductions; and

Instituting a tax credit of $50—$100 for charitable donations to the newly-created private endowments.

(b.) Government Leaders' Involvement In National Fundraising Efforts. Even if the government is not directly funding the NEA and NEH, government officials can play a role in helping the new endowments succeed. For example, a series of Washington fundraising events featuring the President or other highranking government officials can serve as a spur to donations by major donors. Another option would be fundraising appeal letters from prominent arts supporters in government. Finally, government leaders who back the arts can play a very helpful role recruiting major benefactors for the Endowments.

2. Other Private Fundraising Efforts Have Unlimited Potential. Besides the things the government can do to support private Endowments, there is a role for private organizations, individuals and corporations as well. Many organizations will be able to raise money for a private NEA and NEH through a wide array of activities. It also includes several innovative ideas devised as potential unique sources of funding for the endowments by those seeking a solution to this situation.

Below are some ideas to be explored. This list is by no means exclusive but it nonetheless illustrates the private fundraising opportunities that have been used by other charitable causes and which could be employed effectively for the benefit of a private arts and humanities national endowment.

(a.) Fundraising Events.—The actors, artists and musicians who have publicly declared their avid commitment to the NEA and NEH could conduct special concerts or benefits to support the private endowments. Individual entertainers as well as groups of entertainers routinely hold such benefits for various charities and causes. Such star-supported events certainly seem plausible when the beneficiaries are the arts and humanities. Moreover, now that cable television and pay-per-view has penetrated such a substantial percentage of America's households, the potential income from a televised pay-per-view benefit concert featuring some of the greats who have campaigned on behalf of the NEA (Garth Brooks, Kenny G., Michael Bolton, etc.) is phenomenal. Consider this: pay-per-view sports events such as Wrestlemania and heavyweight championship boxing matches bring in receipts of over $50 million.

(b.) Special Event Revenues.—Each year, during various televised award ceremonies celebrating the arts such as the Oscars, Emmys, Tonys, and so on, one hears a great deal of support expressed for the NEA and NEH. These programs, which are built around the appearance of entertainers who frequently use these opportunities on camera to promote funding for the endowments, are hugely profitable and generate sizeable revenues for the networks that broadcast them. In light of this—the question is, why not let the Endowments receive some of the profits from these shows? If the artists and entities who make these shows feasible want to help the endowments, these shows constitute a great vehicle.

As an alternative to the endowments receiving a share of the profits from these programs, the artists who appear on them and the academies who support such events could simply turn the shows into pay-per-view programs from which the endowments could receive virtually all of the net profits. This year, for example, the Academy Awards show drew a world-wide audience of over 500 million. If only 5% of that audience was still willing to pay to watch the Oscars in the amount that households across America pay to watch a second-run movie on pay-per-view ($4.95 in the Washington metro area) the Endowments could generate gross revenue of over $100 million from the Oscars show alone! Add to that similar revenues from such shows as the Emmy Awards, the Tony Awards, the Country and Western Music Awards and the Grammys and we're talking about total revenue greater than the current funding for the NEA or the NEH.

(c.) Other Collaborative Efforts.—In addition to benefit concerts and awards programs, there are other collaborative efforts through which those who care deeply about the arts—the artists themselves—can make privately funded endowments work. The "We Are The World" recording is a good example of the collaborative good that charitable causes can engender. That recording brought together 45 music superstars to record a single song; the resulting single, album, video, television and radio specials, merchandise and associated enterprises raised over $60 million for "U.S.A. For Africa." In that so many recording artists are supporters of the National Arts and Humanities Endowments, private entities supporting the arts and humanities would seem to be a natural beneficiary of such collective philanthropy. Certainly, if the musicians who have appeared before Congress to promote the Endowments (the aforementioned Garth Brooks, Kenny G. Michael Bolton etc.) were themselves to collaborate and recruit others for a single recording each year or two, the private Endowments' fundraising events would be hugely successful.

(d.) Paybacks for Commercially Successful Grants/Events.—On occasion, the NEA and NEH have funded projects that become great commercial successes, earning the grantee far more than the amount of the original grant. When this happens, the grantee could be required to reinvest some portion of the proceeds back in the Endowment in return for the original grant money. NEH-sponsored tourism events, for example, have allowed grant recipients to reap financial benefits. According to the NEH's own review, an endowment-sponsored exhibit called "The Age of Rubens" at the Toledo Museum of Art brought in approximately 226,000 visitors benefiting the whole geographic region. Similarly, individual NEA and NEH grantee who are able to bring their creative works to lucrative markets like Broadway have some moral debt to make the catalyst of their success—NEA and NEH support—more widely available to other artists.

(e.) Traditional Major Donor Fund Raising.—In addition to the ideas listed above, the new private endowments would also be the beneficiaries of traditional philanthropic efforts that other major institutions receive. Certainly, a national organization charged with supporting the nation's arts and humanities would attract large corporate and individual donors who will want to be part of such prestigious organizations. Since private giving to the arts in this country already exceeds $9 billion a year, an increase of just 1% in this base of support would establish a strong funding foundation for the private endowments.

IV. CONCLUSION

Through a five-year privatization of the NEA and NEH, the Abraham bill permits the growth of private giving to the arts (with government-supported fundraising during the transition). The Abraham approach also proposes tax incentives for charitable donations to create broad-based opportunity for private giving; reinstatement of tax deductions for non-itemizers may very well engender increased funding of the arts.

More importantly though, privatization has the distinct advantage of allowing the citizenry to direct those funds more efficiently and without controversy. Simply decreasing federal funding of the Endowments or providing for increased block grants to the states fails to resolve the fundamental problem associated with today's NEA and NEH. By contrast, privatization removes the government from the unwinnable task of balancing censorship and obscenity, once and for all.

Federal bureaucracies on every level are being scaled back or eliminated entirely. Government programs, particularly non-essential ones like the NEA and NEH, that can be replaced with privately-run entities, must be. The manifest support from an array of celebrities and arts patrons for the arts and humanities makes clear that a reconstituted NEA and NEH will thrive. In short, a privately-funded "American Endowment for the Arts" and an "American Endowment for the Humanities" can provide as much support for artists and writers without the attendant, ongoing disputes faced by a government-managed entity.

The people we have heard from in support of the NEA and NEH—art enthusiasts, philanthropists, actors, and singers—will want to contribute to private arts and humanities foundations. Assuming their belief in a national organization supporting the arts and humanities is an ardent as they claim when they lobby Congress, there will be a wellspring of support for private endowments.

ADDITIONAL COSPONSORS

S. 295

At the request of Mrs. KASSEBAUM, the name of the Senator from Colorado [Mr. BROWN] was added as a cosponsor of S. 295, a bill to permit labor management cooperative efforts that improve America's economic competitiveness to continue to thrive, and for other purposes.

S. 304

At the request of Mr. SANTORUM, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 304, a bill to amend the Internal Revenue Code of 1986 to repeal the transportation fuels tax applicable to commercial aviation.

S. 457

At the request of Mr. DASCHLE, his name was added as a cosponsor of S. 457, a bill to amend the Immigration and Nationality Act to update references in the classification of children for purposes of United States immigration laws.

At the request of Mr. SIMON, the name of the Senator from Utah [Mr. BENNETT] was added as a cosponsor of S. 457, supra.

S. 772

At the request of Mr. DORGAN, the names of the Senator from Vermont [Mr. JEFFORDS], the Senator from Arizona [Mr. MCCAIN], and the Senator from North Dakota [Mr. CONRAD] were added as cosponsors of S. 772, a bill to provide for an assessment of the violence broadcast on television, and for other purposes.

S. 789

At the request of Mr. CHAFEE, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of S. 789, a bill to amend the Internal Revenue Code of 1986 to make permanent the section 170(e)(5) rules pertaining to gifts of publicly-traded stock to certain private foundations, and for other purposes.

S. 920

At the request of Mr. PRESSLER, the name of the Senator from Iowa [Mr. HARKIN] was added as a cosponsor of S. 920, a bill to assist the preservation of rail infrastructure, and for other purposes.

S. 959

At the request of Mr. HATCH, the name of the Senator from Minnesota [Mr. GRAMS] was added as a cosponsor of S. 959, a bill to amend the Internal Revenue Code of 1986 to encourage capital formation through reductions in taxes on capital gains, and for other purposes.

S. 968

At the request of Mr. MCCONNELL, the names of the Senator from New Hampshire [Mr. SMITH], the Senator from Arizona [Mr. MCCAIN], and the Senator from Vermont [Mr. JEFFORDS] were added as cosponsors of S. 968, a bill to require the Secretary of the Interior to prohibit the import, export, sale, purchase, and possession of bear viscera or products that contain or claim to contain bear viscera, and for other purposes.

S. 1009

At the request of Mr. D'AMATO, the name of the Senator from Iowa [Mr. GRASSLEY] was added as a cosponsor of S. 1009, a bill to prohibit the fraudulent production, sale, transportation, or possession of fictitious items purporting to be valid financial instruments of the United States, foreign governments, States, political subdivisions, or private organizations, to increase the penalties for counterfeiting violations, and for other purposes.

S. 1028

At the request of Mrs. KASSEBAUM, the names of the Senator from Maine [Mr. COHEN], the Senator from Wyoming [Mr. SIMPSON], the Senator from West Virginia [Mr. ROCKEFELLER], and the Senator from Nebraska [Mr. KERREY] were added as cosponsors of S. 1028, a bill to provide increased access to health care benefits, to provide increased portability of health care benefits, to provide increased security of health care benefits, to increase the purchasing power of individuals and small employers, and for other purposes.

AMENDMENT NO. 1533

At the request of Mr. D'AMATO his name was added as a cosponsor of amendment No. 1533 proposed to S. 343, a bill to reform the regulatory process, and for other purposes.

SENATE RESOLUTION 152—STATEMENT OF CONSTITUTIONALITY REQUIREMENT

Mr. ABRAHAM submitted the following resolution; which was referred to the Committee on Rules and Administration:

S. RES. 152

Resolved,

SECTION. 1. CONSTITUTIONAL AUTHORITY.

This resolution is approved pursuant to the powers granted to the Senate under Article I, section 5, clause 2 of the United States Constitution.

SEC. 2. CONSTITUTIONAL AUTHORITY CLAUSE IN LEGISLATION.

The Standing Rules of the Senate are amended by adding at the end thereof the following:

"RULE XLIV

"CONSTITUTIONAL AUTHORITY CLAUSE IN LEGISLATION

"1. (a) A constitutional authority clause shall follow the enacting clause of any bill or the resolving clause of any joint resolution. The constitutional authority clause shall be in the following form (with appropriate modifications and appropriate matter inserted in the blanks):

"'This Act (or resolution) is enacted pursuant to the power(s) granted to the Congress under Article(s) section(s) , clause(s) of the United States Constitution.'".

"(b) A similar clause shall precede the first title, section, subsection, or paragraph and each following title, section, subsection, or paragraph relies on a different article, section, or clause of the Constitution from the one pursuant to which the first title, section, subsection or paragraph is enacted.

"2. It shall not be in order for the Senate to consider any bill, joint resolution, amendment, motion, or conference report that does not comply with the provisions of paragraph (1), on the objection of any Senator.".

SENATE RESOLUTION 153—MAKING TECHNICAL CORRECTIONS TO SENATE RESOLUTION 120

Mr. DOLE (for himself and Mr. DASCHLE) submitted the following resolution; which was considered and agreed to:

S. RES. 153

Resolved, That Senate Resolution 120, agreed to May 17, 1995 (104th Congress, 1st Session), is amended—

(1) in section 2(a)(1)(A) by inserting ", except that Senator Frank H. Murkowski shall substitute for Senator Phil Gramm" before the semicolon;

(2) in section 5(b)—

(A) in paragraph (11) by inserting "with the approval of the Committee on Rules and Administration" before the period; and

(B) in paragraph (12) by inserting "and the Committee on Rules and Administration" after "concerned"; and

(3) in section 8 by adding at the end the following. "There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the Special Committee from May 17, 1995 through February 29, 1996, to be paid from the appropriations account for 'Expenses of Inquiries and Investigations' of the Senate.".

AMENDMENTS SUBMITTED

THE COMPREHENSIVE REGULATORY REFORM ACT OF 1995

(Amendment No. 1719 is reproduced for the RECORD of July 14, 1995.)

PACKWOOD AMENDMENT NO. 1719

(Ordered to lie on the table.)

Mr. PACKWOOD submitted an amendment intended to be proposed by him to the bill (S. 343) to reform the regulatory process, and for other purposes; as follows:

Strike page 2, line 15 through page 3, line 7 and add at page 2, line 15, the following:

"(a) APPLICABILITY.—

"(1) IN GENERAL.—This section applies to every rulemaking, according to the provisions thereof, except to the extent there is involved—

"(i) a matter pertaining to a military or foreign affairs function of the United States;

"(ii) a matter relating to the management or personnel practices of the agency;

"(iii) an interpretive rule, general statement of policy, guidance, or rule of agency organization, procedure or practice, unless such rule, statement, or guidance has general applicability and substantially alters or creates rights or obligations of persons outside the agency;

"(iv) a rule relating to the acquisition, management, or disposal by an agency of real or personal property, or of services, that is promulgated in compliance with otherwise applicable criteria and procedures.

"(2) APPLICATION TO THE DEPARTMENT OF THE TREASURY.—In the case of rulemaking of the Department of the Treasury, this section applies to Treasury Regulations.

HARKIN AMENDMENTS NOS. 1726–1727

(Ordered to lie on the table.)

Mr. HARKIN submitted two amendments intended to be proposed by him to amendment No. 1487 proposed by Mr. DOLE to the bill (S. 343) to reform the regulatory process, and for other purposes; as follows:

AMENDMENT NO. 1726

On page 36, line 3, insert after "environment" the following: "or to the achievement of statutory rights that prohibit discrimination".

AMENDMENT NO. 1727

On page 37, line 11, insert after "environment" the following: "or to the achievement of statutory rights that prohibit discrimination".

BOXER AMENDMENTS NOS. 1728–1729

(Ordered to lie on the table.)

Mrs. BOXER submitted two amendments intended to be proposed by her to amendment No. 1487, supra; as follows:

AMENDMENT NO. 1728

At the end of Section 622(e)(1) add the following new paragraph:

"(G) In conducting a cost-benefit analysis, the agency shall include an analysis of how the proposed rule or subject of the analysis will affect vulnerable subpopulations including: infants, children, pregnant women, the frail elderly, immunocompromised and other vulnerable groups; and shall consider, address and describe the persons or classes of persons likely to receive benefits under (c)(2)(A) of this section or likely to bear costs under (c)(2)(B) of this section."

AMENDMENT NO. 1729

At the end of Section 633(f) add the following new paragraph:

"(4) The head of an agency in presenting risk assessment conclusions shall describe how the agency will address the risk to health or safety which is the subject of the rule, on vulnerable subpopulations including: infants, children, pregnant women, the frail elderly, immunocompromised and other vulnerable groups."

CRAIG (AND HEFLIN) AMENDMENT NO. 1730

(Ordered to lie on the table.)

Mr. CRAIG (for himself and Mr. HEFLIN) submitted an amendment intended to be proposed by them to amendment No. 1487 proposed by Mr. DOLE to the bill S. 343, supra; as follows:

On page 96, between lines 20 and 21, insert the following:

SEC. . REGULATORY AGREEMENTS.

(a) IN GENERAL.—Subchapter II of chapter 5 of title 5, United States Code, is amended by adding at the end the following:

"§ 557a. Regulatory agreements

"(a) DEFINITION.—In this section, the term 'regulatory agreement' means an agreement entered into under this section.

"(b) GENERAL AUTHORITY.—An agency that is authorized or directed by law to issue a rule (with or without a hearing on the record) that would govern an activity of any person, may, prior to commencing a proceeding to issue such a rule or an amendment to such a rule under the rulemaking procedure that would otherwise apply under that law or this subchapter—

"(1) enter into a regulatory agreement with a person or group of persons engaged in those activities; or

"(2) enter into separate regulatory agreements with different persons or groups of persons engaged in the activity if the agency determines that separate agreements are appropriate in view of different circumstances that apply to different persons or groups of persons.

"(c) REQUEST FOR NEGOTIATIONS.—Negotiations for a regulatory agreement may be commenced at the instance of a person or group of persons engaged in the activity to be regulated, by the submission to the agency by such a person or group of persons of a request for negotiations, which may be accompanied by a proposed form of regulatory agreement or by a general description of the proposed terms of a regulatory agreement.

"(d) DETERMINATION WHETHER TO PROCEED WITH NEGOTIATIONS.—

"(1) IN GENERAL.—Not later than 60 days after receiving a request for negotiations under subsection (c)(1), an agency shall publish in the Federal Register a determination whether to conduct negotiations for a regulatory agreement, accompanied by a statement of reasons for the determination.

"(2) CRITERIA.—An agency may determine not to conduct negotiations for a regulatory agreement under this section—

"(A) if the agency finds that the number of persons that have expressed willingness to participate in negotiations, as a proportion of the number of persons whose activity would be governed by the rule, is not sufficient to justify negotiation of a regulatory agreement; or

"(B) for any other reason, within the sole discretion of the agency.

"(3) NO JUDICIAL REVIEW.—A determination under paragraph (1) shall not be subject to judicial review by any court.

"(e) TERMS AND CONDITIONS.—A regulatory agreement shall contain terms and conditions that—

"(1) in the judgment of the agency, accomplish a degree of control, protection, and regulation of the activity to be regulated that is equivalent to the degree that would be accomplished under a rule issued under the rulemaking procedure that would otherwise apply;

"(2) provide for the addition as parties to the regulatory agreement, with or without a reopening of negotiations, of persons that did not participate in the negotiations;

"(3) provide for renegotiation of the regulatory agreement, at a stated date or from time to time, as renegotiation may become appropriate in view of changed circumstances or for any other reason; and

"(4) specify the provisions of law for the purposes of which the regulatory agreement shall, or shall not, be treated as a rule issued under section 553 or sections 556 and 557, as the case may be.

"(f) ENFORCEMENT.—A regulatory agreement shall provide for injunctive relief and penalties for noncompliance that, in the judgment of the agency, are adequate to deter parties from noncompliance.

"(g) CONSIDERATION OF COMMENT BY THE GENERAL PUBLIC.—

"(1) NOTICE.—Before executing a regulatory agreement, an agency shall publish a notice of the terms of the agreement in the Federal Register and solicit comments on the regulatory agreement for a period of not less than 60 days.

"(2) DECISION.—Not later than 120 days after the close of the comment period, an agency shall publish in the Federal Register a decision that includes—

"(1) a response to all comments received; and

"(2) an explanation of the agency's decision to—

"(A) enter into the regulatory agreement as agreed on in negotiations or as modified in response to public comment; or

"(B) decline to enter into the regulatory agreement.

"(h) CONTINUING AGENCY AUTHORITY AND RESPONSIBILITY.—The making by an agency of a determination not to proceed with negotiations or the entry by an agency into a regulatory agreement with fewer than all of the persons that are engaged in the activity regulated by the agreement shall not relieve the agency of its statutory authority or responsibility with respect to the activity or persons engaged in the activity.

"(i) JURISDICTION.—The United States district courts shall have jurisdiction to enforce a regulatory agreement in accordance with the terms of the regulatory agreement.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 5 of title 5, United States Code, is amended by inserting after the item for section 557 the following:

"Sec. 557a. Regulatory agreements.".

REID AMENDMENT NO. 1731

(Ordered to lie on the table.)

Mr. REID submitted an amendment intended to be proposed by him to amendment No. 1487, supra; as follows:

In lieu of the matter proposed to be inserted, insert the following:

TITLE I—REGULATORY TRANSITION

SEC. 101. SHORT TITLE.

This title may be cited as the "Regulatory Transition Act of 1995".

SEC. 102. FINDING.

The Congress finds that effective steps for improving the efficiency and proper management of Government operations will be promoted if a moratorium on the effectiveness of certain significant final rules is imposed in order to provide Congress an opportunity for review.

SEC. 103. MORATORIUM ON REGULATIONS; CONGRESSIONAL REVIEW.

(a) REPORTING AND REVIEW OF REGULATIONS.—

(1) REPORTING TO CONGRESS AND THE COMPTROLLER GENERAL.—

(A) Before a rule can take effect as a final rule, the Federal agency promulgating such rule shall submit to each House of the Congress and to the Comptroller General a report containing—

(i) a copy of the rule;

(ii) a concise general statement relating to the rule; and

(iii) the proposed effective date of the rule.

(B) The Federal agency promulgating the rule shall make available to each House of Congress and the Comptroller General, upon request—

(i) a complete copy of the cost-benefit analysis of the rule, if any;

(ii) the agency's actions relevant to section 603, section 604, section 605, section 607, and section 609 of Public Law 96-354;

(iii) the agency's actions relevant to title II, section 202, section 203, section 204, and section 205 of Public Law 104-4; and

(iv) any other relevant information or requirements under any other Act and any relevant Executive Orders, such as Executive Order 12866.

(C) Upon receipt, each House shall provide copies to the Chairman and Ranking Member of each committee with jurisdiction.

(2) REPORTING BY THE COMPTROLLER GENERAL.—

(A) The Comptroller General shall provide a report on each significant rule to the committees of jurisdiction to each House of the Congress by the end of 12 calendar days after the submission or publication date as provided in section 104(b)(2). The report of the Comptroller General shall include an assessment of the agency's compliance with procedural steps required by subparagraph (B) (i) through (iv).

(B) Federal agencies shall cooperate with the Comptroller General by providing information relevant to the Comptroller General's report under paragraph (2)(A) of this section.

(3) EFFECTIVE DATE OF SIGNIFICANT RULES.—A significant rule relating to a report submitted under paragraph (1) shall take effect as a final rule, the latest of—

(A) the later of the date occurring 45 days after the date on which—

(i) the Congress receives the report submitted under paragraph (1); or

(ii) the rule is published in the Federal Register;

(B) if the Congress passes a joint resolution of disapproval described under section 104 relating to the rule, and the President signs a veto of such resolution, the earlier date—

(i) on which either House of Congress votes and fails to override the veto of the President; or

(ii) occurring 30 session days after the date on which the Congress received the veto and objections of the President; or

(C) the date the rule would have otherwise taken effect, if not for this section (unless a joint resolution of disapproval under section 104 is enacted).

(4) EFFECTIVE DATE FOR OTHER RULES.—Except for a significant rule, a rule shall take effect as otherwise provided by law after submission to Congress under paragraph (1).

(5) FAILURE OF JOINT RESOLUTION OF DISAPPROVAL.—Notwithstanding the provisions of paragraph (3), the effective date of a rule shall not be delayed by operation of this title beyond the date on which either House of Congress votes to reject a joint resolution of disapproval under section 104.

(b) TERMINATION OF DISAPPROVED RULEMAKING.—A rule shall not take effect (or continue) as a final rule, if the Congress passes a joint resolution of disapproval described under section 104.

(c) PRESIDENTIAL WAIVER AUTHORITY.—

(1) PRESIDENTIAL DETERMINATIONS.—Notwithstanding any other provision of this section (except subject to paragraph (3)), a rule that would not take effect by reason of this title may take effect, if the President makes a determination under paragraph (2) and submits written notice of such determination to the Congress.

(2) GROUNDS FOR DETERMINATIONS.—Paragraph (1) applies to a determination made by the President by Executive order that the rule should take effect because such rule is—

(A) necessary because of an imminent threat to health or safety or other emergency;

(B) necessary for the enforcement of criminal laws; or

(C) necessary for national security.

(3) Waiver not to affect congressional disapprovals.—An exercise by the President of the authority under this subsection shall have no effect on the procedures under section 104 or the effect of a joint resolution of disapproval under this section.

(d) Treatment of Rules Issued at End of Congress.—

(1) Additional opportunity for review.—In addition to the opportunity for review otherwise provided under this title, in the case of any rule that is published in the Federal Register (as a rule that shall take effect as a final rule) during the period beginning on the date occurring 60 days before the date the Congress adjourns sine die through the date on which the succeeding Congress first convenes, section 104 shall apply to such rule in the succeeding Congress.

(2) Treatment under section 104.—

(A) In applying section 104 for purposes of such additional review, a rule described under paragraph (1) shall be treated as though—

(i) such rule were published in the Federal Register (as a rule that shall take effect as a final rule) on the 15th session day after the succeeding Congress first convenes; and

(ii) a report on such rule were submitted to Congress under subsection (a)(1) on such date.

(B) Nothing in this paragraph shall be construed to affect the requirement under subsection (a)(1) that a report must be submitted to Congress before a final rule can take effect.

(3) Actual effective date not affected.—A rule described under paragraph (1) shall take effect as a final rule as otherwise provided by law (including other subsections of this section).

(e) Treatment of Rules Issued Before This Act.—

(1) Opportunity for congressional review.—The provisions of section 104 shall apply to any significant rule that is published in the Federal Register (as a rule that shall take effect as a final rule) during the period beginning on November 20, 1994, through the date on which this Act takes effect.

(2) Treatment under section 104.—In applying section 104 for purposes of Congressional review, a rule described under paragraph (1) shall be treated as though—

(A) such rule were published in the Federal Register (as a rule that shall take effect as a final rule) on the date of the enactment of this Act; and

(B) a report on such rule were submitted to Congress under subsection (a)(1) on such date.

(3) Actual effective date not affected.—The effectiveness of a rule described under paragraph (1) shall be as otherwise provided by law, unless the rule is made of no force or effect under section 104.

(f) Nullification of Rules Disapproved by Congress.—Any rule that takes effect and later is made of no force or effect by the enactment of a joint resolution under section 104 shall be treated as though such rule had never taken effect.

(g) No Inference to be Drawn Where Rules Not Disapproved.—If the Congress does not enact a joint resolution of disapproval under section 104, no court or agency may infer any intent of the Congress from any action or inaction of the Congress with regard to such rule, related statute, or joint resolution of disapproval.

SEC. 104. CONGRESSIONAL DISAPPROVAL PROCEDURE.

(a) Joint Resolution Defined.—For purposes of this section, the term "joint resolution" means only a joint resolution introduced during the period beginning on the date on which the report referred to in section 103(a) is received by Congress and ending 45 days thereafter, the matter after the resolving clause of which is as follows: "That Congress disapproves the rule submitted by the ____ relating to ____, and such rule shall have no force or effect.". (The blank spaces being appropriately filled in.)

(b) Referral.—

(1) In general.—A resolution described in paragraph (1) shall be referred to the committees in each House of Congress with jurisdiction. Such a resolution may not be reported before the eighth day after its submission or publication date.

(2) Submission date.—For purposes of this subsection the term "submission or publication date" means the later of the date on which—

(A) the Congress receives the report submitted under section 103(a)(1); or

(B) the rule is published in the Federal Register.

(c) Discharge.—If the committee to which is referred a resolution described in subsection (a) has not reported such resolution (or an identical resolution) at the end of 20 calendar days after the submission or publication date defined under subsection (b)(2), such committee may be discharged from further consideration of such resolution in the Senate upon a petition supported in writing by 30 Members of the Senate and in the House upon a petition supported in writing by one-fourth of the Members duly sworn and chosen or by motion of the Speaker supported by the Minority Leader, and such resolution shall be placed on the appropriate calendar of the House involved.

(d) Floor Consideration.—

(1) In general.—When the committee to which a resolution is referred has reported, or when a committee is discharged (under subsection (c)) from further consideration of, a resolution described in subsection (a), it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) for a motion to proceed to the consideration of the resolution, and all points of order against the resolution (and against consideration of resolution) are waived. The motion is not subject to amendment, or to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the resolution is agreed to, the resolution shall remain the unfinished business of the respective House until disposed of.

(2) Debate.—Debate on the resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate is in order and not debatable. An amendment to, or a motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the resolution is not in order.

(3) Final passage.—Immediately following the conclusion of the debate on a resolution described in subsection (a), and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the appropriate House, the vote on final passage of the resolution shall occur.

(4) Appeals.—Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution described in subsection (a) shall be decided without debate.

(e) Treatment if Other House Has Acted.—If, before the passage by one House of a resolution of that House described in subsection (a), that House receives from the other House a resolution described in subsection (a), then the following procedures shall apply:

(1) Nonreferral.—The resolution of the other House shall not be referred to a committee.

(2) Final passage.—With respect to a resolution described in subsection (a) of the House receiving the resolution—

(A) the procedure in that House shall be the same as if no resolution had been received from the other House; but

(B) the vote on final passage shall be on the resolution of the other House.

(f) Constitutional Authority.—This section is enacted by Congress—

(1) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a resolution described in subsection (a), and it supersedes other rules only to the extent that it is inconsistent with such rules; and

(2) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

SEC. 105. SPECIAL RULE ON STATUTORY, REGULATORY AND JUDICIAL DEADLINES.

(a) In General.—In the case of any deadline for, relating to, or involving any rule which does not take effect (or the effectiveness of which is terminated) because of the enactment of a joint resolution under section 104, that deadline is extended until the date 12 months after the date of the joint resolution. Nothing in this subsection shall be construed to affect a deadline merely by reason of the postponement of a rule's effective date under section 103(a).

(b) Deadline Defined.—The term "deadline" means any date certain for fulfilling any obligation or exercising any authority established by or under any Federal statute or regulation, or by or under any court order implementing any Federal statute or regulation.

SEC. 106. DEFINITIONS.

For purposes of this title—

(1) Federal agency.—The term "Federal agency" means any "agency" as that term is defined in section 551(1) of title 5, United States Code (relating to administrative procedure).

(2) Significant rule.—The term "significant rule"—

(A) means any final rule that the Administrator of the Office of Information and Regulatory Affairs within the Office of Management and Budget finds—

(i) has an annual effect on the economy of $100,000,000 or more or adversely affects in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or

State, local, or tribal governments or communities;

(ii) creates a serious inconsistency or otherwise interferes with an action taken or planned by another agency;

(iii) materially alters the budgetary impact of entitlement, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(iv) raises novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in Executive Order 12866;

(B) does not include any agency action that establishes, modifies, opens, closes, or conducts a regulatory program for a commercial, recreational, or subsistence activity relating to hunting, fishing, or camping.

(3) FINAL RULE.—The term "final rule" means any final rule or interim final rule. As used in this paragraph, "rule" has the meaning given such term by section 551 of title 5, United States Code, except that such term does not include any rule of particular applicability including a rule that approves or prescribes for the future rates, wages, prices, services, or allowances therefor, corporate or financial structures, reorganizations, mergers, or acquisitions thereof, or accounting practices or disclosures bearing on any of the foregoing or any rule of agency organization, personnel, procedure, practice or any routine matter.

SEC. 107. JUDICIAL REVIEW.

No determination, finding, action, or omission under this title shall be subject to judicial review.

SEC. 108. APPLICABILITY; SEVERABILITY.

(a) APPLICABILITY.—This title shall apply notwithstanding any other provision of law.

(b) SEVERABILITY.—If any provision of this title, or the application of any provision of this title to any person or circumstance, is held invalid, the application of such provision to other persons or circumstances, and the remainder of this title, shall not be affected thereby.

SEC. 109. EXEMPTION FOR MONETARY POLICY.

Nothing in this title shall apply to rules that concern monetary policy proposed or implemented by the Board of Governors of the Federal Reserve System or the Federal Open Market Committee.

SEC. 110. EFFECTIVE DATE.

This title shall take effect on the date of the enactment of this Act and shall apply to any rule that takes effect as a final rule on or after such effective date.

TITLE II—TERM GRAZING PERMITS

SEC. 201. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) the Secretary of Agriculture (referred to in this title as the "Secretary") administers the 191,000,000-acre National Forest System for multiple uses in accordance with Federal law;

(2) where suitable, one of the recognized multiple uses for National Forest System land is grazing by livestock;

(3) the Secretary authorizes grazing through the issuance of term grazing permits that have terms of not to exceed 10 years and that include terms and conditions necessary for the proper administration of National Forest System land and resources;

(4) as of the date of enactment of this Act, the Secretary has issued approximately 9,000 term grazing permits authorizing grazing on approximately 90,000,000 acres of National Forest System land;

(5) of the approximately 9,000 term grazing permits issued by the Secretary, approximately one-half have expired or will expire by the end of 1996;

(6) if the holder of an expiring term grazing permit has complied with the terms and conditions of the permit and remains eligible and qualified, that individual is considered to be a preferred applicant for a new term grazing permit in the event that the Secretary determines that grazing remains an appropriate use of the affected National Forest System land;

(7) in addition to the approximately 9,000 term grazing permits issued by the Secretary, it is estimated that as many as 1,600 term grazing permits may be waived by permit holders to the Secretary in favor of a purchaser of the permit holder's permitted livestock or base property by the end of 1996;

(8) to issue new term grazing permits, the Secretary must comply with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and other laws;

(9) for a large percentage of the grazing permits that will expire or be waived to the Secretary by the end of 1996, the Secretary has devised a strategy that will result in compliance with the National Environmental Policy Act of 1969 and other applicable laws (including regulations) in a timely and efficient manner and enable the Secretary to issue new term grazing permits, where appropriate;

(10) for a small percentage of the grazing permits that will expire or be waived to the Secretary by the end of 1996, the strategy will not provide for the timely issuance of new term grazing permits; and

(11) in cases in which ranching operations involve the use of a term grazing permit issued by the Secretary, it is essential for new term grazing permits to be issued in a timely manner for financial and other reasons.

(b) PURPOSE.—The purpose of this title is to ensure that grazing continues without interruption on National Forest System land in a manner that provides long-term protection of the environment and improvement of National Forest System rangeland resources while also providing short-term certainty to holders of expiring term grazing permits and purchasers of a permit holder's permitted livestock or base property.

SEC. 202. DEFINITIONS.

In this title:

(1) EXPIRING TERM GRAZING PERMIT.—The term "expiring term grazing permit" means a term grazing permit—

(A) that expires in 1995 or 1996; or

(B) that expired in 1994 and was not replaced with a new term grazing permit solely because the analysis required by the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and other applicable laws has not been completed.

(2) FINAL AGENCY ACTION.—The term "final agency action" means agency action with respect to which all available administrative remedies have been exhausted.

(3) TERM GRAZING PERMIT.—The term "term grazing permit means a term grazing permit or grazing agreement issued by the Secretary under section 402 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1752), section 19 of the Act entitled "An Act to facilitate and simplify the work of the Forest Service, and for other purposes", approved April 24, 1950 (commonly known as the "Granger-Thye Act") (16 U.S.C. 580*l*), or other law.

SEC. 203. ISSUANCE OF NEW TERM GRAZING PERMITS.

(a) IN GENERAL.—Notwithstanding any other provision of law, regulation, policy, court order, or court sanctioned settlement agreement, the Secretary shall issue a new term grazing permit without regard to whether the analysis required by the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and other applicable laws has been completed, or final agency action respecting the analysis has been taken—

(1) to the holder of an expiring term grazing permit; or

(2) to the purchaser of a term grazing permit holder's permitted livestock or base property if—

(A) between January 1, 1995, and December 1, 1996, the holder has waived the term grazing permit to the Secretary pursuant to section 222.3(c)(1)(iv) of title 36, Code of Federal Regulations; and

(B) the purchaser of the term grazing permit holder's permitted livestock or base property is eligible and qualified to hold a term grazing permit.

(b) TERMS AND CONDITIONS.—Except as provided in subsection (c)—

(1) a new term grazing permit under subsection (a)(1) shall contain the same terms and conditions as the expired term grazing permit; and

(2) a new term grazing permit under subsection (a)(2) shall contain the same terms and conditions as the waived permit.

(c) DURATION.—

(1) IN GENERAL.—A new term grazing permit under subsection (a) shall expire on the earlier of—

(A) the date that is 3 years after the date on which it is issued; or

(B) the date on which final agency action is taken with respect to the analysis required by the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and other applicable laws.

(2) FINAL ACTION IN LESS THAN 3 YEARS.—If final agency action is taken with respect to the analysis required by the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and other applicable laws before the date that is 3 years after the date on which a new term grazing permit is issued under subsection (a), the Secretary shall—

(A) cancel the new term grazing permit; and

(B) if appropriate, issue a term grazing permit for a term not to exceed 10 years under terms and conditions as are necessary for the proper administration of National Forest System rangeland resources.

(d) DATE OF ISSUANCE.—

(1) EXPIRATION ON OR BEFORE DATE OF ENACTMENT.—In the case of an expiring term grazing permit that has expired on or before the date of enactment of this Act, the Secretary shall issue a new term grazing permit under subsection (a)(1) not later than 15 days after the date of enactment of this Act.

(2) EXPIRATION AFTER DATE OF ENACTMENT.—In the case of an expiring term grazing permit that expires after the date of enactment of this Act, the Secretary shall issue a new term grazing permit under subsection (a)(1) on expiration of the expiring term grazing permit.

(3) WAIVED PERMITS.—In the case of a term grazing permit waived to the Secretary pursuant to section 222.3(c)(1)(iv) of title 36, Code of Federal Regulations, between January 1, 1995, and December 31, 1996, the Secretary shall issue a new term grazing permit under subsection (a)(2) not later than 60 days after the date on which the holder waives a term grazing permit to the Secretary.

SEC. 204. ADMINISTRATIVE APPEAL AND JUDICIAL REVIEW.

The issuance of a new term grazing permit under section 203(a) shall not be subject to administrative appeal or judicial review.

SEC. 205. REPEAL.

This title is repealed effective as of January 1, 2001.

KENNEDY AMENDMENTS NOS. 1732–1741

(Ordered to lie on the table.)

Mr. KENNEDY submitted 10 amendments intended to be proposed by him to amendment No. 1487 proposed by Mr. DOLE to the bill S. 343, supra; as follows:

AMENDMENT NO. 1732

On page 71, strike out lines 13 through 23 and insert in lieu thereof the following new subsection:

(c) SENSE OF THE SENATE REGARDING REFORM OF THE DELANEY CLAUSE.—It is the sense of the Senate that—

(1) the Delaney Clause in the Federal Food, Drug, and Cosmetic Act governing carcinogens in foods must be reformed;

(2) any such reform of the Delaney Clause—

(A) should reflect the care and deliberativeness due to a subject as important as whether and to what extent infants and children shall be exposed to carcinogens through the food they consume; and

(B) should not undermine other safety standards.

(3) advances in science and technology since the Delaney Clause was originally enacted in 1958 have prompted the need to refine the standards in current law with respect to pesticide residues, and may have limited the appropriateness of such standards with respect to food additives and animal drugs;

(4) the Delaney Clause should be replaced by a contemporary health-based standard that takes into account—

(A) the right of the American people to safe food;

(B) the conclusions of the National Academy of Sciences concerning the special susceptibility of infants and children to the effects of pesticide chemicals and the cumulative effect of the residues of such pesticide chemicals on human health;

(C) the importance of a stable food supply and a sound agricultural economy; and

(D) the interests of consumers, farmers, food manufacturers, and other interested parties; and

(5) prior to the end of the first session of the 104th Congress, after appropriate consideration by the committees of jurisdiction, the Senate should enact legislation to reform the Delaney Clause.

AMENDMENT NO. 1733

On page 71, strike out lines 13 through 23, and redesignate the remaining subsections and cross references thereto accordingly.

AMENDMENT NO. 1734

On page 71, strike out lines 15 through 16, and insert the following: "TESTING.—In applying the proviso in section 409(c)(3)(A), or in applying section 512(d)(1) or 721(b)(5)(B), of the Federal Food, Drug, and Cosmetic".

AMENDMENT NO. 1735

On page 71, strike out lines 15 through 17, and insert the following: "TESTING.—In applying section 409(c)(3)(A) or 512(d)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 348(c)(3)(A) and 360b(d)(1)),".

AMENDMENT NO. 1736

On page 71, strike out lines 15 through 17, and insert the following: "TESTING.—In applying the proviso in section 409(c)(3)(A) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 348(c)(3)(A)),".

AMENDMENT NO. 1737

On page 71, strike out lines 15 through 17, and insert the following: "TESTING.—In applying the proviso in section 409(c)(3)(A) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 348(c)(3)(A)) with respect to pesticides,".

AMENDMENT NO. 1738

On page 71, line 23, insert before the period the following: ": *Provided*, That this subsection shall not take effect until the Secretary of Health and Human Services and the Administrator of the Environmental Protection Agency have certified that the implementation of this subsection will not place at risk the long-term health of infants and children".

AMENDMENT NO. 1739

On page 71, line 23, insert before the period the following: ": *Provided*, That this subsection shall not take effect until the Secretary of Health and Human Services and the Administrator of the Environmental Protection Agency have certified that the implementation of this subsection will not increase the incidence of cancer in the United States".

AMENDMENT NO. 1740

On page 71, line 23, insert before the period the following: ": *Provided*, That this subsection shall not take effect until the Secretary of Health and Human Services and the Administrator of the Environmental Protection Agency have certified that the implementation of this subsection will not expose infants and children to cancer-causing chemicals through the food such infants and children consume".

AMENDMENT NO. 1741

On page 71, line 23, insert before the period the following: ": *Provided*, That this subsection shall not take effect until the Secretary of Health and Human Services and the Administrator of the Environmental Protection Agency have certified that the implementation of this subsection will not place at risk the long-term health of infants and children as a result of exposure to cancer-causing chemicals added to the food such infants and children consume".

LIEBERMAN AMENDMENT NO. 1742

(Ordered to lie on the table.)

Mr. LIEBERMAN submitted an amendment intended to be proposed by him to amendment No. 1487 proposed by Mr. DOLE to the bill S. 343, supra; as follows:

On page 44, beginning with line 14, strike out all through line 4 on page 46 and insert in lieu thereof the following:

"§ 629. Petition for alternative method of compliance

"(a) Except as provided in subsection (j) or unless prohibited by the statute authorizing a rule, any person subject to a rule may petition the relevant agency implementing the rule to modify or waive the specific requirements of a rule and to authorize an alternative compliance strategy satisfying the criteria of subsection (b).

"(b) Any petition submitted under subsection (a) shall—

"(1) identify with reasonable specificity the requirements for which the modification or waiver is sought and the alternative compliance strategy being proposed;

"(2) identify the facility to which the modification or waiver would pertain;

"(3) considering all the significant applicable human health, safety, and environmental benefits intended to be achieved by the rule, demonstrate that the alternative compliance strategy, from the standpoint of the applicable human health, safety, and environmental benefits, taking into account all cross-media impacts, will achieve—

"(A) a significantly better result than would be achieved through compliance with the rule; or

"(B) an equivalent result at significantly lower compliance costs than would be achieved through compliance with the rule; and

"(4) demonstrate that the proposed alternative compliance strategy provides a degree of accountability, enforceability, and public and agency access to information at least equal to that of the rule.

"(c) No later than the date on which the petitioner submits the petition to the agency, the petitioner shall inform the public of the submission of such petition (including a brief description of the petition) through publication of a notice in newspapers of general circulation in the area in which the facility is located. The agency may authorize or require petitioners to use additional or alternative means of informing the public of the submission of such petitions. If the agency proposes to grant the petition, the agency shall provide public notice and opportunity to comment.

"(d) The agency may approve the petition upon determining that the proposed alternative compliance strategy—

"(1) considering all the significant applicable human health, safety, and environmental benefits intended to be achieved by the rule, from the standpoint of the applicable human health, safety, and environmental benefits, taking into account all cross-media impacts, will achieve—

"(A) a significantly better result than would be achieved through compliance with the rule; or

"(B) an equivalent result at significantly lower compliance costs than would be achieved through compliance with the rule;

"(2) will provide a degree of accountability, enforceability, and public and agency access to information at least equal to that provided by the rule;

"(3) will not impose an undue burden on the agency that would be responsible for administering and enforcing such alternative compliance strategy; and

"(4) satisfies any other relevant factors.

"(e) Where relevant, the agency shall give priority to petitions with alternative compliance strategies using pollution prevention approaches.

"(f) In making determinations under subsection (d), the agency shall take into account whether the proposed alternative compliance strategy would transfer any significant health, safety, or environmental effects to other geographic locations, future generations, or classes of people.

"(g) Any alternative compliance strategy for which a petition is granted under this section shall be enforceable as if it were a provision of the rule being modified or waived.

"(h) The grant of a petition under this section shall be judicially reviewable as if it were the issuance of an amendment to the rule being modified or waived. The denial of a petition shall not be subject to judicial review.

"(i) No agency may grant more than 30 petitions per year under this section.

"(j) If the statute authorizing the rule that is the subject of the petition provides procedures or standards for an alternative method of compliance, the petition shall be reviewed solely under the terms of the statute.

ASHCROFT AMENDMENT NO. 1743

(Ordered to lie on the table.)

Mr. ASHCROFT submitted an amendment intended to be proposed by him to the bill S. 343; as follows:

At the end, add the following new title:

"TITLE II—URBAN REGULATORY RELIEF ZONES

SECTION 201. SHORT TITLE.

This Act may be cited as the "Urban Regulatory Relief Zone Act of 1995".

SEC. 202. FINDINGS.

The Congress finds that—

(1) the likelihood that a proposed business site will comply with many government regulations is inversely related to the length of time over which a site has been utilized for commercial and/or industrial purposes in the past, thus rendering older sites in urban areas the sites most unlikely to be chosen for a new development and thereby forcing new development away from the areas most in need of economic growth and job creation; and

(2) broad Federal regulations often have unintended social and economic consequences in urban areas where such regulations, among other things—

(A) offend basic notions of common sense, particularly when applied to individual sites;

(B) adversely impact economic stability;

(C) result in the unnecessary loss of existing jobs and businesses;

(D) undermine new economic development, especially in previously used sites;

(E) create undue economic hardships while failing significantly to protect human health, particularly in areas where economic development is urgently needed in order to improve the health and welfare of residents over the long term; and

(F) contribute to social deterioration to a such degree that high unemployment, crime, and other economic and social problems create the greatest risk to the health and well-being of urban residents.

SEC. 203. PURPOSES.

The purposes of this title are to—

(1) empower qualifying cities to obtain selective relief from Federal regulations that undermine economic stability and development in distressed areas within the city; and

(2) authorize Federal agencies to waive the application of specific Federal regulations in distressed urban areas—

(A) upon application through the Office of Management and Budget by an Economic Development Commission established by a qualifying city pursuant to section 205; and

(B) upon a determination by the appropriate Federal agency that granting such a waiver will not substantially endanger health or safety.

SEC. 204. ELIGIBILITY FOR WAIVERS.

(a) ELIGIBLE CITIES.—The mayor or chief executive officer of a city may establish an Economic Development Commission to carry out the purposes of section 205 if the city has a population greater than 200,000 according to:

(1) the U.S. Census Bureau's 1992 estimate for city populations; or

(2) beginning six months after the enactment of this title, the U.S. Census Bureau's latest estimate for city populations.

(b) DISTRESSED AREA.—Any census tract within a city shall qualify as a distressed area if—

(1) 33 percent or more of the resident population in the census tract is below the poverty line; or

(2) 45 percent or more of out-of-school males aged 16 and over in the census tract worked less than 26 weeks in the preceding year; or

(3) 36 percent of more families with children under age 18 in the census tract have an unmarried parent as head of the household; or

(4) 17 percent or more of the resident families in the census tract received public assistance income in the preceding year.

SEC. 205. ECONOMIC DEVELOPMENT COMMISSIONS.

(a) PURPOSE.—The major of chief executive officer of a qualifying city under section 204 may appoint an Economic Development Commission for the purpose of—

(1) designating distressed areas, or a combination of distressed areas with one another or with adjacent industrial or commercial areas, within the city as Urban Regulatory Relief Zones; and

(2) making application through the Office of Management and Budget to waive the application of specific Federal regulations within such Urban Regulatory Relief Zones.

(b) COMPOSITION.—To the greatest extent practicable, an Economic Development Commission shall include—

(1) residents representing a demographic cross section of the city population; and

(2) members of the business community, private civic organizations, employers, employees, elected officials, and State and local regulatory authorities.

(c) LIMITATION.—No more than one Economic Development Commission shall be established or designated within a qualifying city.

SEC. 206. LOCAL PARTICIPATION.

(a) PUBLIC HEARINGS.—Before designating an area as an Urban Regulatory Relief Zone, an Economic Development Commission established pursuant to section 205 shall hold a public hearing, after giving adequate public notice, for the purpose of soliciting the opinions and suggestions of those persons who will be affected by such designation.

(b) INDIVIDUAL REQUESTS.—The Economic Development Commission shall establish a process by which individuals may submit requests to the Economic Development Commission to include specific Federal regulations in the Commission's application to the Office of Management and Budget seeking waivers of Federal regulations.

(c) AVAILABILITY OF COMMISSION DECISIONS.—After holding a hearing under paragraph (a) and before submitting any waiver applications to the Office of Management and Budget pursuant to section 207, the Economic Development Commission shall make publicly available—

(1) a list of all areas within the city to be designated as Urban Regulatory Relief Zones, if any;

(2) a list of all regulations for which the Economic Development Commission will request a waiver from a Federal agency; and

(3) an explanation of the reasons that the waiver of a regulation would economically benefit the city and the data supporting such a determination.

SEC. 207. WAIVER OF FEDERAL REGULATIONS.

(a) SELECTION OF REGULATIONS.—An Economic Development Commission may select for waiver, within an Urban Regulatory Relief Zone, Federal regulations that—

(1)(A) are unduly burdensome to business concerns located within an area designated as an Urban Regulatory Relief Zone; or

(B) discourages new economic development within the zone; or

(C) creates undue economic hardships in the zone; or

(D) contributes to the social deterioration of the zone; and

(2) if waived, will not substantially endanger health or safety.

(b) REQUEST FOR WAIVER.—(1) An Economic Development Commission shall submit a request for the waiver of Federal regulations to the Office of Management and Budget.

(2) Such request shall—

(A) identify the area designated as an Urban Regulatory Relief Zone by the Economic Development Commission;

(B) identify all regulations for which the Economic Development Commission seeks a waiver; and

(C) explain the reasons that waiver of the regulations would economically benefit the Urban Regulatory Relief Zone and the data supporting such determination.

(c) REVIEW OF WAIVER REQUEST.—No later than 60 days after receiving the request for waiver, the Office of Management and Budget shall—

(1) review the request for waiver;

(2) determine whether the request for waiver is complete and in compliance with this title, using the most recent census data available at the time each application is submitted; and

(3) after making a determination under paragraph (2)—

(A) submit the request for waiver to the Federal agency that promulgated the regulation and notify the requesting Economic Development Commission of the date on which the request was submitted to such agency; or

(B) notify the requesting Economic Development Commission that the request is not in compliance with this Act with an explanation of the basis for such determination.

(d) MODIFICATION OF WAIVER REQUESTS.—An Economic Development Commission may submit modifications to a waiver request. The provisions of subsection (c) shall apply to a modified waiver as of the date such modification is received by the Office of Management and Budget.

(e) WAIVER DETERMINATION.—(1) No later than 120 days after receiving a request for waiver under subsection (c) from the Office of Management and Budget, a Federal agency shall—

(A) make a determination of whether to waive a regulation in whole or in part; and

(B) provide written notice to the requesting Economic Development Commission of such determination.

(2) Subject to subsection (g), a Federal agency shall deny a request for a waiver only if the waiver substantially endangers health or safety.

(3) If a Federal agency grants a waiver under this subsection, the agency shall provide a written statement to the requesting Economic Development Commission that—

(A) describes the extent of the waiver in whole or in part; and

(B) explains the application of the waiver, including guidance for the use of the waiver by business concerns, within the Urban Regulatory Relief Zone.

(4) If a Federal agency denies a waiver under this subsection, the agency shall provide a written statement to the requesting Economic Development Commission that—

(A) explains the reasons that the waiver substantially endangers health or safety; and

(B) provides a scientific basis in writing for such determination.

(f) AUTOMATIC WAIVER.—If a Federal agency does not provide the written notice required under subsection (e) within the 120-day period as required under such subsection, the waiver shall be deemed to be granted by the Federal agency.

(g) LIMITATION.—No provision of this Act shall be construed to authorize any Federal agency to waive any regulation or Executive order that prohibits, or the purpose of which is to protect persons against, discrimination on the basis of race, color, religion, gender, or national origin.

(h) APPLICABLE PROCEDURES.—A waiver of a regulation under subsection (e) shall not be considered to be a rule, rulemaking, or regulation under chapter 5 of title 5, United States Code. The Federal agency shall publish a notice in the Federal Register stating any waiver of a regulation under this section.

(i) EFFECT OF SUBSEQUENT AMENDMENT OF REGULATIONS.—If a Federal agency amends a regulation for which a waiver under this section is in effect, the agency shall not change the waiver to impose additional requirements.

(j) EXPIRATION OF WAIVERS.—No waiver of a regulation under this section shall expire unless the Federal agency determines that a continuation of the waiver substantially endangers health or safety.

SEC. 208. DEFINITIONS.

For purposes of this Act, the term—

(1) "regulation" means—

(A) any rule as defined under section 551(4) of title 5, United States Code; or

(B) any rulemaking conducted on the record after opportunity for an agency hearing under sections 556 and 557 of such title;

(2) "Urban Regulatory Relief Zone" means an area designated under section 205;

(3) "qualifying city" means a city which is eligible to establish an Economic Development Commission under section 204;

(4) "industrial or commercial area" means any part of a census tract zoned for industrial or commercial use which is adjacent to a census tract which is a distressed area pursuant to section 205(b); and

(5) "poverty line" has the same meaning as such term is defined under section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)).".

PACKWOOD AMENDMENTS NOS. 1744–1747

(Ordered to lie on the table.)

Mr. PACKWOOD submitted four amendments intended to be proposed by him to amendment No. 1487 proposed by Mr. DOLE to the bill S. 343, supra; as follows:

AMENDMENT NO. 1744

Beginning on page 2, line 15, strike all through page 3, line 7, and insert the following:

"(a) APPLICABILITY.—(1) This section applies to every rulemaking, according to the provisions thereof, except to the extent that there is involved—

"(A) a matter pertaining to a military or foreign affairs function of the United States;

"(B) a matter relating to the management or personnel practices of an agency;

"(C) an interpretive rule, general statement of policy, guidance, or rule of agency organization, procedure, or practice, unless such rule, statement, or guidance has general applicability and substantially alters or creates rights or obligations of persons outside the agency; or

"(D) a rule relating to the acquisition, management, or disposal by an agency of real or personal property, or of services, that is promulgated in compliance with otherwise applicable criteria and procedures.

"(2) In the case of rulemaking involving the internal revenue laws of the United States, this section applies only to rules subject to section 7805(f) of the Internal Revenue Code of 1986 of general applicability that substantially alter or create rights or obligations of persons outside the agency.

AMENDMENT NO. 1745

On page 9, line 5, strike "rule." and insert "rule. This subsection shall not apply to rules subject to section 7805(f) of the Internal Revenue Code of 1986."

AMENDMENT NO. 1746

On page 12, line 10, insert "(other than a decision relating to a rule subject to section 7805(f) of the Internal Revenue Code of 1986)" after "(*l*)".

AMENDMENT NO. 1747

On page 69, line 10, strike "petition." and insert "petition. In the case of a certification, analysis, or failure to prepare an analysis of a rule involving the internal revenue laws of the United States, a petition for judicial review shall be submitted to the Administrator of the Small Business Administration and shall not be in order if the Administrator certifies within 30 days that such petition—

"(I) involves a certification, analysis, or failure to prepare an analysis that does not involve a material issue warranting judicial review, or

"(II) is made for a purpose described in section 6702(a)(2)(B) of the Internal Revenue Code of 1986 (without regard to the filing of a return).

LEVIN AMENDMENTS NOS. 1748–1769

(Ordered to lie on the table.)

Mr. LEVIN submitted 22 amendments intended to be proposed by him to amendment No. 1487 proposed by Mr. DOLE to the bill, S. 343, supra; as follows:

AMENDMENT NO. 1748

On page 22, line 24, after "scientific evaluation," insert "cost estimates,".

AMENDMENT NO. 1749

On page 22, line 19, after "scientific evaluations," insert "cost estimates,".

AMENDMENT NO. 1750

On page 3, line 7, strike the period and insert the following: "; or

"(5) a rule relating to government loans, grants or benefits."

AMENDMENT NO. 1751

On page 11, strike line 5 through line 19.

AMENDMENT NO. 1752

On page 12, strike line 9 through line 12.

AMENDMENT NO. 1753

On page 59, strike line 10 and all that follows through page 60, line 23.

AMENDMENT NO. 1754

On page 44, strike line 14 and all that follows through page 46, line 4.

AMENDMENT NO. 1755

On page 16, lines 15 and 16, strike "a rule or agency action that authorizes the introduction into" and substitute "the introduction into or removal from."

AMENDMENT NO. 1756

On page 16, line 25, strike "or that provides relief, in whole or in part, from a statutory prohibition," and all that follows through page 17, line 4.

AMENDMENT NO. 1757

On page 49, line 11, strike "a rule or agency action that authorizes the introduction into" and substitute "the introduction into or removal from".

AMENDMENT NO. 1758

On page 37, line 19, strike paragraph (3).

AMENDMENT NO. 1759

On page 33, at the end of line 13, insert "or repeal".

AMENDMENT NO. 1760

On page 37, line 18, strike "; and" and insert ".".

AMENDMENT NO. 1761

On page 37, at the end of line 5, insert "and".

AMENDMENT NO. 1762

On page 37, line 10, strike "nonquantifiable".

AMENDMENT NO. 1763

On page 36, line 11, strike paragraph (4).

AMENDMENT NO. 1764

On page 36, line 10, strike "; and" and substitute ".".

AMENDMENT NO. 1765

On page 36, line 2, strike "nonquantifiable".

AMENDMENT NO. 1766

On page 34, line 24, strike "the head of the agency" and all that follows through the end of the sentence and insert in lieu thereof the following: "the rule shall be subject to the congressional disapproval procedure under section 802 as of the date of the deadline, and shall terminate by operation of law upon the enactment of a joint resolution of disapproval pursuant to such section."

AMENDMENT NO. 1767

On page 34, line 17, after "modify" insert "or repeal".

AMENDMENT NO. 1768

On page 34, line 11, after "to amend", insert "or repeal".

AMENDMENT NO. 1769

On page 33, line 17, strike "or repeal".

ROTH AMENDMENT NO. 1770

(Ordered to lie on the table.)

Mr. ROTH submitted an amendment intended to be proposed by him to amendment No. 1487 proposed by Mr. DOLE to the bill S. 343, supra; as follows:

Insert after section 637 the following:

"§ 638. Research and training in risk assessment

"(a) The head of each covered agency shall regularly and systematically evaluate risk assessment research and training needs of the agency, including, where relevant and appropriate, the following:

"(1) Research to reduce generic data gaps, to address modelling needs (including improved model sensitivity), and to validate default options, particularly those common to multiple risk assessments.

"(2) Research leading to improvement of methods to quantify and communicate uncertainty and variability among individuals, species, populations, and, in the case of ecological risk assessment, ecological communities.

"(3) Emerging and future areas of research, including research on comparative risk analysis, exposure to multiple chemicals and other stressors, noncancer endpoints, biological markers of exposure and effect, mechanisms of action in both mammalian and nonmammalian species, dynamics and probabilities of physiological and ecosystem exposures, and prediction of ecosystem-level responses.

"(4) Long-term needs to adequately train individuals in risk assessment and risk assessment application. Evaluations under this paragraph shall include an estimate of the resources needed to provide necessary training.

"(b) The head of each covered agency shall develop a strategy and schedule for carrying out research and training to meet the needs identified in subsection (a).

GRAHAM AMENDMENT NO. 1771

(Ordered to lie on the table.)

Mr. GRAHAM submitted an amendment intended to be proposed by him to amendment No. 1487 proposed by Mr. DOLE to the bill S. 343, supra; as follows:

On page 94, insert after line 11, "(C) an analysis of the potential of flexible regulatory options, including performance-based standards, to provide greater efficiency in the use of national economic resources for regulation."

GRAHAM AMENDMENT NO. 1772

(Ordered to lie on the table.)

Mr. GRAHAM submitted an amendment intended to be proposed by him to amendment No. 1487 proposed by Mr. DOLE to the bill S. 343, supra; as follows:

On page 4, line 18, insert before the semicolon the following: ", including, where practicable, performance-based standards".

LEVIN AMENDMENT NO. 1773

(Ordered to lie on the table.)

Mr. LEVIN submitted an amendment intended to be proposed by him to an amendment to the bill, S. 343, supra; as follows:

In lieu of the matter proposed to be inserted, insert the following:

SEC. . SMALL BUSINESS COMPLIANCE INCENTIVES.

(A) SHORT TITLE.—This section may be cited as the "Small Business Compliance Incentive Act".

(b) IN GENERAL.—Chapter 5 of title 5, United States Code, is amended by adding at the end the following new subchapter:

"SUBCHAPTER VI—SMALL BUSINESS COMPLIANCE INCENTIVES

"§ 597. Definition

"For purposes of this subchapter, the term 'small business' means a person, corporation, partnership, or other entity that employs 100 or fewer individuals on a company-wide basis.

"§ 597a. Small business compliance assistance

"Each regulatory agency shall establish a comprehensive compliance assistance strategy consisting of such elements as the provision of information, consultation, technical assistance, and educational guidance. The strategy shall be well publicized and disseminated to small businesses.

"§ 597b. Penalty waivers for small businesses

"(a) Except as provided in section 597c, each agency shall ensure that its regulatory enforcement program includes—

"(1) a full waiver of administrative or civil judicial penalties against a small business for violations that are disclosed to the agency for the first time through compliance assistance or other self-disclosure mechanism established by the agency if—

"(A) the small business has made a good faith attempt to comply with the law;

"(B) the small business is not in violation of a regulatory requirement for which the small business has received a warning letter, notice of violation, field citation, enforcement action, or other notification from the agency within the 5 years preceding the request for compliance assistance;

"(C) the small business has not been subject to 2 or more Federal or State enforcement actions for violations of the same statute in the 5 years preceding the request for compliance assistance;

"(D) the small business corrects the violations within 60 days or within an alternative compliance period not to exceed 180 days specified by the agency under which the small business compliance assistance program operates, subject to the condition that any agreement between the agency and the small business to establish a compliance period of more than 60 days shall be in writing and shall set forth the steps to be undertaken by the small business to achieve compliance; and

"(E) the small business meets all other conditions for waiver of penalties established under this paragraph; and

"(2) a partial waiver of administrative or civil judicial penalties against a small business for violations that are disclosed to the agency for the first time through a compliance assistance program or other self-disclosure mechanism established by the agency when a small business has made a good faith effort to comply with all applicable regulatory requirements.

"(b) Nothing contained in this section shall be construed to—

"(1) require or prohibit imposition of a penalty for a violation where a penalty may not be waived for a violator under subsection (a) (1) or (2); or

"(2) discourage the development of other agency programs to assist small businesses to achieve regulatory compliance.

"§ 597c. Exceptions and limitation

"(a) The penalty waivers in section 597b shall not apply to—

"(1) violations—

"(A) that involve criminal conduct or the detection thereof;

"(B) that have caused actual harm, or a significant threat of future harm, to public health or safety, private property, or the environment;

"(C) of a rule that involves the internal revenue laws of the United States, or the assessment or collection of taxes, duties, or other revenues or receipts;

"(D) of a rule that implements an international agreement, including trade agreements, to which the United States is a party;

"(E) of the Federal acquisition regulations;

"(F) that involve national security or foreign affairs functions;

"(G) that are first disclosed through Federal, State, or local enforcement inspections;

"(H) that are first disclosed to Federal, State, or local officials by third parties;

"(I) that are reported to Federal, State, or local officials as required by applicable regulations or permits; or

"(J) that are not within the scope of eligible violations for these incentives under regulations promulgated pursuant to section 597b; and

"(2) any injunctive, remedial, corrective, or forfeiture action, or criminal enforcement authorities of any Federal agency to which this subchapter applies.

"(b) A small business shall not be entitled to a penalty waiver under section 597b regarding a particular enforcement issue for 60 days after the entity has had an agency-initiated contact regarding such issue.".

(c) TECHNICAL AMENDMENT.—The analysis for chapter 5 of title 5, United States Code, is amended by adding at the end the following:

"SUBCHAPTER VI—SMALL BUSINESS COMPLIANCE INCENTIVES

"Sec.

"597. Definition.

"597a. Small business compliance assistance.

"597b. Penalty waivers for small businesses.

"597c. Exceptions and limitation.".

LIEBERMAN AMENDMENT NO. 1774

(Ordered to lie on the table.)

Mr. LIEBERMAN submitted an amendment intended to be proposed by him to amendment No. 1523 proposed by Mr. CAMPBELL to the bill S. 343, supra; as follows:

In lieu of the matter proposed to be inserted, insert the following:

"(6) the term 'major rule' does not include a rule that approves, in whole or in part, a plan or program adopted by a State that provides for the implementation, maintenance, or enforcement of Federal standards or requirements. This paragraph shall take effect one day after the date of the enactment of this subchapter;

LIEBERMAN AMENDMENT NO. 1775

(Ordered to lie on the table.)

Mr. LIEBERMAN submitted an amendment intended to be proposed by him to amendment No. 1530 proposed by Mr. CAMPBELL to the bill S. 343, supra; as follows:

In lieu of the matter proposed to be inserted, insert the following:

"(6) the term 'major rule' does not include a rule that approves, in whole or in part, a plan or program adopted by a State that provides for the implementation, maintenance, or enforcement of Federal standards or requirements;

LIEBERMAN AMENDMENT NO. 1776

(Ordered to lie on the table.)

Mr. LIEBERMAN submitted an amendment intended to be proposed by him to amendment No. 1544 proposed by Mr. CAMPBELL to the bill S. 343, supra; as follows:

In lieu of the matter proposed to be inserted, insert the following:

"or

"(xiii) a rule that approves, in whole or in part, a plan or program adopted by a State that provides for the implementation, maintenance, or enforcement of Federal standards or requirements. This clause shall take effect 1 day after the date of the enactment of this subchapter.

KYL AMENDMENT NO. 1777

(Ordered to lie on the table.)

Mr. KYL submitted an amendment intended to be proposed by him to amendment No. 1513 proposed by Mr. BUMPERS to the bill S. 343, supra; as follows:

In lieu of the matter proposed to be inserted, insert the following:

"(c) In reviewing an agency construction of a statute made in a rulemaking or an adjudication, the court shall independently review the interpretation without giving the agency any deference and shall—

"(1) hold erroneous and unlawful an agency interpretation that fails to give effect to the intent of Congress; or

"(2) if the statute is silent or ambiguous with respect to a specific issue, hold arbitrary and capricious or an abuse of discretion an agency action for which the agency has refused to consider a permissible construction of the statute or has failed to explain in a reasoned analysis why the agency selected the interpretation it chose and why it rejected other permissible interpretations of the statute.

"(d) Notwithstanding any other provision of law, the provisions of subsection (c) shall apply to, and supplement, the requirements contained in any statute for the review of final agency action that is not otherwise subject to this section.

MOYNIHAN AMENDMENTS NOS. 1778–1779

(Ordered to lie on the table.)

Mr. MOYNIHAN submitted two amendments intended to be proposed by him to an amendment to the bill, S. 343, supra; as follows:

AMENDMENT NO. 1778

At the end of the pending amendment insert the following:

Notwithstanding any other provision of this act the procedure for reviewing existing risk assessments will be as follows:

PLAN FOR THE REVIEW OF RISK ASSESSMENTS.—

(a) No later than 18 months after the effective date of this section, the head of each covered agency shall publish, after notice and public comment, a plan to review and revise any risk assessment published before the expiration of such 18-month period if the covered agency determines that significant new information or methodologies are available that could significantly alter the results of the prior risk assessment.

(b) A plan under subsection (a) shall—

(1) provide procedures for receiving and considering new information and risk assessments from the public; and

(2) set priorities and criteria for review and revision of risk assessments based on such factors as the agency head considers appropriate.

(3) provide a schedule for the review of risk assessments. This schedule shall be revised as appropriate based on new information received under (b)(1) and reviewed under criteria developed in accordance with paragraph (b)(2).

(c) The head of each covered agency shall review risk assessments according to the schedule published by the agency under paragraph (a).

AMENDMENT NO. 1779

Notwithstanding any other provision of this act the procedure for reviewing existing risk assessment will be as follows:

PLAN FOR THE REVIEW OF RISK ASSESSMENTS.—

(a) No later than 18 months after the effective date of this section, the head of each covered agency shall publish, after notice and public comment, a plan to review and revise any risk assessment published before the expiration of such 18-month period if the covered agency determines that significant new information or methodologies are available that could significantly alter the results of the prior risk assessment.

(b) A plan under subsection (a) shall—

(1) provide procedures for receiving and considering new information and risk assessments from the public; and

(2) set priorities and criteria for review and revision of risk assessments based on such factors as the agency head considers appropriate.

(3) provide a schedule for the review of risk assessments. This schedule shall be revised as appropriate based on new information received under (b)(1) and reviewed under criteria developed in accordance with paragraph (b)(2).

(c) The head of each covered agency shall review risk assessments according to the schedule published by the agency under paragraph (a).

STEVENS AMENDMENTS NOS. 1780–1783

(Ordered to lie on the table.)

Mr. STEVENS submitted four amendments intended to be proposed by him to an amendment to the bill S. 343, supra; as follows:

AMENDMENT NO. 1780

In lieu of the matter proposed to be inserted, insert the following:

78aaa et seq.);

"(xii) a rule that involves the international trade laws of the United States;

"(xiii) a rule intended to implement section 354 of the Public Health Service Act (42 U.S.C. 263b) (as added by section 2 of the Mammography Quality Standards Act of 1992); or

"(xiv) a rule that involves hunting under the Migratory Bird Treaty Act (16 U.S.C. 703 et seq.) or fishing under the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).

AMENDMENT NO. 1781

In lieu of the matter proposed to be inserted, insert the following:

"(1) whether the rule is or is not a major rule within the meaning of section 621(5)(A) or 621(5)(C), or has been designated a major rule under subsection (b); and

"(2) if the agency determines that the rule is a major rule, whether the rule requires or does not require the preparation of a risk assessment under section 632(a).

"(b) DESIGNATION.—(1) If an agency has determined that a rule is not a major rule within the meaning of section 621(5)(A) or 621(5)(C), the President or a person to whom the President has delegated authority under section 642 (hereinafter the 'President's designee') may determine that the rule is a major rule or designate".

AMENDMENT NO. 1782

In lieu of the matter proposed to be inserted, insert the following:

"(B)(i) When the President or the President's designee has published a determination or designation under subsection (b) that a rule is a major rule after the publication of the notice of proposed rulemaking for the rule, the agency shall promptly issue and place in the rulemaking file an initial cost-benefit analysis for the rule and shall publish in the Federal Register a summary of such analysis.".

AMENDMENT NO. 1783

In lieu of the matter proposed to be inserted, insert the following:

plexity of the decision and any need for expedition;

"(5) the term 'major rule' means—

"(A) a rule or set of closely related rules that the agency proposing the rule or the President determines is likely to have a gross annual effect on the economy of $100,000,000 or more in reasonably quantifiable increased costs (and this limit may be adjusted periodically by the Director, at the Director's sole discretion, to account for inflation);

"(B) a rule that is otherwise designated a major rule by the President or the President's designee under section 622(b) (and designation or failure to designate under this clause shall not be subject to judicial review); or

"(C) any rule or set of closely related rules, not determined to be a major rule pursuant to subparagraph (A) or (B), that the agency proposing the rule determines will have a significant economic impact on a substantial number of small businesses, pursuant to subchapter I;

"(6) the term 'market-based mechanism' means—

DOMENICI (AND OTHERS) AMENDMENT NO. 1784

Mr. DOMENICI (for himself, Mr. BOND, Mr. BINGAMAN, Mr. COHEN, Mrs. HUTCHISON, Mr. ABRAHAM, and Mr. ROTH) proposed an amendment to amendment No. 1533 proposed by Mr. DOMENICI to the bill, S. 343, supra; as follows:

In lieu of the matter proposed to be inserted, insert the following:

TITLE II—AGENCY RESPONSIVENESS TO SMALL BUSINESSES

SUBTITLE A—SMALL BUSINESS ADVOCACY REVIEW

SEC. 201. DEFINITIONS.

For purposes of this subtitle, the following definitions shall apply:

(1) AGENCY.—The term "agency" means—

(A) with respect to the Environmental Small Business Advocacy Review Panel, the Environmental Protection Agency (EPA); and

(B) with respect to the Occupational Safety and Health Small Business Advocacy Review Panel, the Occupational Safety and Health Administration of the Department of Labor (OSHA).

(2) AGENCY HEAD.—The term "agency head" means—

(A) with respect to the Environmental Small Business Advocacy Review Panel, the Administrator of the Environmental Protection Agency; and

(B) with respect to the Occupational Safety and Health Small Business Advocacy Review Panel, the Assistant Secretary for Occupational Safety and Health of the Department of Labor.

(3) CHAIRPERSON.—The term "chairperson" means—

(A) with respect to the Environmental Small Business Advocacy Review Panel, the chairperson of such review panel designated under section 202(a); and

(B) with respect to the Occupational Safety and Health Small Business Advocacy Review Panel, the chairperson of such review panel designated under section 202(b).

(4) CHIEF COUNSEL FOR ADVOCACY.—The term "Chief Counsel for Advocacy" means the Chief Counsel for Advocacy of the Small Business Administration.

(5) FINAL RULE.—The term "final rule" means any final rule or interim final rule issued by an agency for which a review panel has been established under section 202(e)(1).

(6) OFFICE.—The term "Office" means the Office of Advocacy of the Small Business Administration.

(7) REVIEW PANEL.—The term "review panel" means—

(A) with respect to a significant rule of the Environmental Protection Agency, an Environmental Small Business Advocacy Review Panel established under section 202(e)(1); and

(B) with respect to a significant rule of the Occupational Safety and Health Administration of the Department of Labor, an Occupational Safety and Health Small Business Advocacy Review Panel established under section 202(e)(1).

(8) DESIGNATED REPRESENTATIVES.—The term "designated representatives" means individuals selected by the Chief Counsel for Advocacy to make presentations to, and to engage in discussions with, a review panel on behalf of small entities with a common interest in the subject rulemaking, including entities that are—

(A) small businesses that would be impacted by the significant rule;

(B) small business sectors or industries that would be especially impacted by the significant rule; or

(C) organizations whose memberships are comprised of a cross-section of small businesses.

(9) RULE.—The term "rule"—

(A) means an agency statement of general applicability and future effect, which the agency intends to have the force and effect of law, that is designed to implement, interpret, or prescribe law or policy or to describe the procedure or practice requirements of the agency; and

(B) does not include any rule that is limited to agency organization, management, or personnel matters.

(10) SIGNIFICANT RULE.—The term "significant rule" has the same meaning as the term "major rule" as defined in sec. 621(5) of title 5.

(11) SMALL BUSINESS.—The term "small business" has the same meaning as the term "small business concern" in section 3 of the Small Business Act.

SEC. 202. SMALL BUSINESS ADVOCACY CHAIRPERSONS AND ESTABLISHMENT OF REVIEW PANELS.

(c) CHAIRPERSON OF ENVIRONMENTAL REVIEW PANELS.—

(1) IN GENERAL.—Not later than 30 days after the date of enactment of this Act, the Administrator of the Environmental Protection Agency shall designate an employee of the Environmental Protection Agency, who is a member of the Senior Executive Service (as that term is defined in section 2101a of title 5, United States Code) and whose immediate supervisor is appointed by the President, to serve as the chairperson of each Environmental Small Business Advocacy Review Panel and to carry out this subtitle with respect to the Environmental Protection Agency.

(2) DISABILITY OR ABSENCE.—If the employee designated to serve as chairperson under paragraph (1) is unable to serve as chairperson because of disability or absence, the Administrator of the Environmental Protection Agency shall designate another employee who meets the qualifications of paragraph (1) to serve as chairperson.

(b) CHAIRPERSON OF OSHA REVIEW PANEL.—

(1) IN GENERAL.—Not later than 30 days after the date of enactment of this Act, the Assistant Secretary for Occupational Safety and Health of the Department of Labor shall designate an employee of the Occupational Safety and Health Administration of the Department of Labor, who is a member of the Senior Executive Service (as that term is defined in section 2101a of title 5, United States Code) and whose immediate supervisor is appointed by the President, to serve as the chairperson of each Occupational Safety and Health Small Business Advocacy Review Panel and to carry out the purposes of this subtitle with respect to the Occupational Safety and Health Administration.

(2) DISABILITY OR ABSENCE.—If the employee designated to serve as chairperson under paragraph (1) is unable to serve as chairperson because of disability or absence, the Assistant Secretary for Occupational Safety and Health of the Department of Labor shall designate another employee who meets the qualifications of paragraph (1) to serve as chairperson.

(c) INITIAL DETERMINATION AND NOTIFICATION.—

(1) TIMING.—The chairperson shall take the actions described in paragraph (2) not later than 45 days before the date of publication in the Federal Register by an agency of a general notice of proposed rulemaking under section 553(b) of title 5, United States Code, or any other provision of law.

(2) ACTIONS.—With respect to a proposed rule that is the subject of a publication described in subparagraph (A) or (B) of paragraph (1), the chairperson shall—

(A) determine whether the subject proposed rule constitutes a significant rule, as defined in section 201(10); and

(B) if the proposed rule is determined to constitute a significant rule, notify the Administrator of the Office of Information and Regulatory Affairs within the Office of Management and Budget and the Chief Counsel for Advocacy to appoint review panel members for evaluation of the subject significant rule, and for the Chief Counsel for Advocacy to identify and select designated representatives.

(C) provide the Chief Counsel for Advocacy with materials related to the subject proposed rule. Information made available to the designated representatives shall be made available to the public upon request and at the cost of reproduction.

(d) DUTIES OF THE CHIEF COUNSEL FOR ADVOCACY.—

(1) Not later than 15 days after receiving notice under subsection (c)(2)(B), or such longer period as the chairperson may allow, the Chief Counsel for Advocacy shall identify and select not less than 2 and not more than 6 designated representatives for review of the subject significant rule.

(2) Not later than 45 days before the issuance of a significant final rule, the Chief Counsel for Advocacy shall identify and select not less than 2 and not more than 6 previously selected, or new, designated representatives for review of the subject significant final rule.

(e) ESTABLISHMENT OF REVIEW PANELS.—

(1) IN GENERAL.—Not later than 15 days after receiving notice under subsection (c)(2)(B), or such longer period as the chairperson may allow, review panel members shall be appointed by the Administrator of the Office of Information and Regulatory Affairs within the Office of Management and Budget, the Chief Counsel for Advocacy, and the chairperson in accordance with section 203(b).

(2) EXCEPTIONS.—A review panel shall be established in accordance with paragraph (1) unless the chairperson, in consultation with the Chief Counsel for Advocacy, determines (and notifies the agency in writing of such determination) that

(A) a good faith effort to identify and select designated representatives with respect to the subject significant rule was unsuccessful; and

(B) compliance with this subtitle is not required with respect to the subject significant rule due to a lack of availability of designated representatives.

(f) DUTIES REGARDING FINAL RULE.—

(1) IN GENERAL.—Not later than 45 days before the issuance of a significant final rule, the chairperson shall—

(A) notify panel members of the intent of the agency to issue a final rule;

(B) provide panel members with a dated draft of the final rule to be issued;

(C) solicit comments from panel members in connection with the issues described in section 203(a);

(D) provide the Chief Counsel for Advocacy with materials related to the subject final rule. Information made available to the designated representatives shall be made available to the public upon request and at the cost of reproduction.

(E) solicit comments from designated representatives in connection with the issues described in section 203(a); and

(F) if the chairperson determines that such action is necessary, call one or more meetings of the review panel and, if a quorum is present, direct the review panel to review, discuss, or clarify any issue related to the subject final rule or the preparation of the report under paragraph (2).

(2) REPORT.—Except as provided in section 204(b), not later than 5 days before the issuance of a final rule, the chairperson shall submit a report in accordance with section 204(a).

SEC. 203. SMALL BUSINESS ADVOCACY REVIEW PANELS.

(a) GENERAL DUTIES.—Before any publication described in subparagraph (A) or (B) of section 202(c)(1) of a proposed significant rule, and again before the issuance of such rule as a final rule, the review panel shall, in accordance with this subtitle provide technical guidance to the agency, including guidance relating to the following issues—

(1) the applicability of the proposed rule to small businesses;

(2) compliance with the rule by small businesses;

(3) the consistency or redundancy of the proposed rule with respect to other Federal, State, and local laws or regulations and recordkeeping requirement imposed on small businesses; and

(4) any other concerns posed by the proposed rule that may impact significantly upon small businesses.

(b) MEMBERSHIP.—Each review panel shall be composed wholly of full-time officers or employees of the Federal Government, and shall include—

(1) the chairperson;

(2) not less than 1 nor more than 3 members appointed by the chairperson from among employees of the agency who would be responsible for carrying out the subject significant rule;

(3) 1 member appointed by the Administrator of the Office of Information and Regulatory Affairs within the Office of Management and Budget from among the employees of that office who have specific knowledge of or responsibilities of the agency that would be responsible for carrying out the subject significant rule; and

(4) 1 member appointed by the Chief Counsel for Advocacy from among the employees of the Office.

(c) PERIOD OF APPOINTMENT; VACANCIES.—

(1) PERIOD OF APPOINTMENT.—Each review panel member, other than the chairperson, shall be appointed for a term beginning on the date on which the appointment is made and ending on the date on which the report or written record is submitted under section 204.

(2) VACANCIES.—Any vacancy on a review panel shall not affect the powers of the review panel, but shall be filled in the same manner as the original appointment.

(d) QUORUM.—A quorum for the conduct of business by a review panel shall consist of 1 member appointed from each of paragraphs (2) through (4) of subsection (b).

(e) MEETINGS.—

(1) IN GENERAL.—Subject to paragraph (2), the meetings of the review panel shall be at the call of the chairperson.

(2) INITIAL MEETING.—Not later than 15 days after all review panel members necessary to constitute a quorum have been appointed under section (b), the chairperson shall conduct the initial meeting of the review panel.

(f) POWERS OF REVIEW PANEL.—

(1) INFORMATION FROM FEDERAL AGENCIES.—A review panel may secure, directly from any Federal department or agency, such information as the review panel considers necessary to carry out this subtitle, other than any material described in section 552(b) of title 5. Upon request of the chairperson, the head of such department or agency shall furnish such information to the review panel.

(2) POSTAL SERVICES.—A review panel may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(g) NONCOMPENSATION OF MEMBERS.—Members of the review panel shall serve without compensation in addition to that received for their services as officers or employees of the Federal Government.

(h) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to a review panel without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(i) CONSULTATION WITH OTHER ENTITIES.—In carrying out this subtitle, the chairperson shall consult and coordinate, to the maximum extent practicable, the activities of the review panel with each office of the agency that is responsible for the provision of data or technical advice concerning a significant rule.

SEC. 204. REPORT.

(a) IN GENERAL.—Except as provided in subsection (b), the chairperson shall, in accordance with section 202(f)(2), submit to the appropriate employees of the agency who would be responsible for carrying out the subject significant rule and to the appropriate committees of the Senate and the House of Representatives a report, which shall include—

(1) the findings and recommendations of the review panel with respect to the significant rule, including both the majority and minority views of the review panel members, regardless of the consensus of opinions that may derive from the meetings of the review panel;

(2) a summary of the views and recommendations of each individual designated representative with respect to the significant rule, including each individual designated representative's recommendation with respect to whether a survey should be conducted under section 205; and

(3) recommendations of the review panel regarding whether a survey with respect to the subject significant rule should be conducted under section 205, and—

(A) If so—

(i) a timeframe during which the survey should be conducted, taking into account the time required to implement the rule and to gather appropriate data; and

(ii) any recommendations of the review panel regarding the contents of the survey; and

(B) if not, the reasons why the survey is not recommended.

(b) FAILURE TO SUBMIT REPORT.—If the chairperson fails to submit a report under subsection (a), not later than the date on which the final rule is issued, the chairperson shall—

(1) prepare a written record of such failure detailing the reasons therefore; and

(2) submit a copy of such written record to the head of the agency and to the appropriate committees of the Congress.

SEC. 205. SURVEY.

(a) IN GENERAL.—If a review panel makes a recommendation in any report submitted under section 204(a) that a survey should be conducted with respect to a significant rule, the agency shall contract for an independent private sector survey of a cross-section of the small businesses affected by the rule.

(b) CONTENTS OF SURVEY.—Each survey conducted under this section shall address the impact of the significant rule on small businesses, including—

(1) the applicability of the rule to various small businesses;

(2) the degree to which the rule is easy to read and comprehend;

(3) the costs to implement the rule;

(4) any recordkeeping requirements imposed by the rule; and

(5) any other technical or general issues related to the rule.

(c) AVAILABILITY OF SURVEY RESULTS.—The results and costs of each survey conducted under this section shall be made available—

(1) to each interested Federal agency; and

(2) upon request, to any other interested party, including organizations, individuals, State and local governments, and the Congress.

SEC. 206. JUDICIAL REVIEW.

No action or inaction of a review panel, including any recommendations or advice of a review panel or any procedure or process of a review panel may be subject to judicial review by a court of the United States under chapter 7 of title 5, United States Code, or any other provision of law.

SUBTITLE B—REGULATORY OMBUDSMEN

SEC. 211. SMALL BUSINESS AND AGRICULTURE OMBUDSMEN.

The Small Business Act (15 U.S.C. 631 et seq.) is amended—

(1) by redesignating section 30 as section 31; and

(2) by inserting after section 29 the following new section:

"SEC. 30. OVERSIGHT OF REGULATORY ENFORCEMENT.

"(a) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

"(1) BOARD.—The term 'Board' means a Small Business Regulatory Fairness Board established under subsection (c).

"(2) OMBUDSMAN.—The term 'ombudsman' means a Regional Small Business and Agriculture Ombudsman designated under subsection (b).

"(3) REGION.—The term 'region' means any area for which the Administrator has established a regional office of the Administration pursuant to section 4(a).

"(4) RULE.—The term 'rule' has the same meaning as in section 601(2) of title 5, United States Code.

"(b) OMBUDSMAN.—

"(1) IN GENERAL.—Not later than 180 days after the date of enactment of the Comprehensive Regulatory Reform Act of 1995, the Administrator shall designate Regional Small Business and Agriculture Ombudsmen in accordance with this subsection.

"(2) DUTIES.—Each ombudsman designated under paragraph (1) shall—

"(A) solicit and receive comments from small business concerns regarding the enforcement activities of federal agencies and maintain such comments on a confidential basis;

"(B) based on comments received under subparagraph (A), annually assign and publish a small business responsiveness rating to each federal agency as appropriate;

"(C) publish periodic reports compiling the comments received under subparagraph (A);

"(D) coordinate the activities of the Small Business Regulatory Fairness Board established under subsection (c); and

"(E) establish a toll-free telephone number to receive comments from small business concerns under subparagraph (A).".

SEC. 212. SMALL BUSINESS REGULATORY FAIRNESS BOARDS.

Section 30 of the Small Business Act (as added by section 211 of this Act) is amended by adding at the end the following new subsection:

"(c) SMALL BUSINESS REGULATORY FAIRNESS BOARDS.—

"(1) IN GENERAL.—Not later than 180 days after the date of enactment of the Comprehensive Regulatory Reform Act of 1995, the Administrator shall establish in each region a Small Business Regulatory Fairness Board in accordance with this subsection.

"(2) DUTIES.—Each Board established under paragraph (1) shall—

"(A) advise the ombudsman on matters of concern to small business concerns relating to the enforcement activities of covered agencies;

"(B) issue advisory findings and recommendations with respect to small business concerns;

"(C) review and comment on, prior to publication—

"(i) each small business responsiveness rating assigned under subsection (b)(2)(B); and

"(ii) each periodic report prepared under subsection (b)(2)(C); and

"(D) prepare written opinions regarding the reasonableness and understandability of rules issued by covered agencies.

"(3) MEMBERSHIP.—Each Board shall consist of five members appointed by the Administrator for terms of three years.

"(4) VACANCIES.—Any vacancy on the Board—

"(i) shall not affect the powers of the Board; and

"(ii) shall be filled in the same manner and under the same terms and conditions as the original appointment.

"(5) CHAIRPERSON.—The Board shall select a Chairperson from among the members of the Board.

"(6) MEETINGS.—

"(A) IN GENERAL.—The Board shall meet at the call of the Chairperson.

"(B) INITIAL MEETING.—Not later than 90 days after the date on which all members of the Board have been appointed, the Board shall hold its first meeting.

"(7) QUORUM.—A majority of the members of the Board shall constitute a quorum for the conduct of business, but a lesser number may hold hearings.

"(8) POWERS OF THE BOARD.—

"(A) HEARINGS.—The Board may, for the purpose of carrying out the provisions of this section, hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Board determines to be appropriate.

"(B) WITNESS ALLOWANCES AND FEES.—Section 1821 of title 28, United States Code, shall apply to witnesses requested to appear at any hearing of the Board. The per diem and mileage allowances for any witness shall be paid from funds available to pay the expenses of the Board.

"(C) INFORMATION FROM FEDERAL AGENCIES.—Upon the request of the Chairperson, the Board may secure directly from the head of any Federal department or agency such information as the Board considers necessary to carry out this section, other than any material described in section 552(b) of title 5, United States Code.

"(D) POSTAL SERVICES.—The Board may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

"(E) DONATIONS.—The Board may accept, use, and dispose of donations of services or property.

"(9) BOARD PERSONNEL MATTERS.—

"(A) COMPENSATION.—Members of the Board shall serve without compensation.

"(B) TRAVEL EXPENSES.—Members of the Board shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Board.".

SEC. 213. JUDICIAL REVIEW.

(a) PROHIBITION.—No action or inaction of a Regional Small Business and Agriculture Ombudsman or a Small Business Regulatory Fairness Board, including any recommendation or advice of a Regional Small Business and Agriculture Ombudsman or a Small Business Regulatory Fairness Board or any procedure or process of a Regional Small Business and Agriculture Ombudsman or a Small Business Regulatory Fairness Board, may be subject to judicial review by a court of the United States under chapter 7 of title 5, United States Code, or any other provision of law.

(b) DEFINITION.—For purposes of this section—

(1) the term "Regional Small Business and Agriculture Ombudsman" means any ombudsman designated under section 30(b) of the Small Business Act, as added by section 211 of this Act.

(2) the term "Small Business Regulatory Fairness Board" means any board established under section 30(c) of the Small Business Act, as added by section 212 of this Act.

MCCAIN (AND LIEBERMAN) AMENDMENT NO. 1785

Mr. HATCH (for Mr. MCCAIN, for himself and Mr. LIEBERMAN) proposed an amendment to amendment No. 1487, proposed by Mr. DOLE, the bill. S. 343, supra; as follows:

At the end of the amendment and insert the following new section:

SEC. . REPEAL OF MEDICARE AND MEDICAID COVERAGE DATA BANK.

(A) REPEAL.—

(1) IN GENERAL.—Section 13581 of the Omnibus Budget Reconciliation Act of 1993 is hereby repealed.

(2) APPLICATION OF THE SOCIAL SECURITY ACT.—The Social Security Act shall be applied and administered as if section 13581 of the Omnibus Budget Reconciliation Act of 1993 (and the amendments made by such section) had not been enacted.

(b) STUDY AND REPORT.—

(1) STUDY.—The Secretary of Health and Human Services (hereafter in this subsection referred to as the "Secretary") shall conduct a study on how to achieve the objectives of the data bank described in section 1144 of the Social Security Act (as in effect on the day before the date of the enactment of this Act) in the most cost-effective manner, taking into account—

(A) the administrative burden of such data bank on private sector entities and governments,

(B) the possible duplicative reporting requirements of the Health Care Financing Administration in effect on such date of enactment, and

(C) the legal ability of such entities and governments to acquire the required information.

(2) REPORT.—The Secretary shall report to the Congress on the results of the study described in paragraph (1) by not later than 180 days after the date of the enactment of this Act.

ASHCROFT AMENDMENT NO. 1786

Mr. ASHCROFT proposed an amendment to amendment No. 1487 proposed by Mr. DOLE to the bill, S. 343, supra; as follows:

At the end, add the following new title:

"TITLE II—URBAN REGULATORY RELIEF ZONES

SECTION 201. SHORT TITLE.

This Act may be cited as the "Urban Regulatory Relief Zone Act of 1995".

SEC. 202. FINDINGS.

The Congress finds that—

(1) the likelihood that a proposed business site will comply with many government regulations is inversely related to the length of time over which a site has been utilized for commercial and/or industrial purposes in the past, thus rendering older sites in urban areas the sites most unlikely to be chosen for new development and thereby forcing new development away from the areas most in need of economic growth and job creation; and

(2) broad Federal regulations often have unintended social and economic consequences in urban areas where such regulations, among other things—

(A) offend basic notions of common sense, particularly when applied to individual sites;

(B) adversely impact economic stability;

(C) result in the unnecessary loss of existing jobs and businesses;

(D) undermine new economic development, especially in previously used sites;

(E) create undue economic hardships while failing significantly to protect human health, particularly in areas where economic development is urgently needed in order to improve the health and welfare of residents over the long term; and

(F) contribute to social deterioration to such a degree that high unemployment, crime, and other economic and social problems create the greatest risk to the health and well-being of urban residents.

SEC. 203. PURPOSES.

The purposes of this title are to—

(1) enable qualifying cities to provide for the general well-being, health, safety and security for their residents living in distressed areas by empowering such cities to obtain selective relief from Federal regulations that undermine economic stability and development in distressed areas within the city; and

(2) authorize Federal agencies to waive the application of specific Federal regulations in distressed urban areas designated as Urban Regulatory Relief Zones by an Economic Development Commission—

(A) upon application through the Office of Management and Budget by an Economic Development Commission established by a qualifying city pursuant to section 205; and

(B) Upon a determination by the appropriate Federal agency that granting such a waiver will not substantially endanger health or safety.

SEC. 204. ELIGIBILITY FOR WAIVERS.

(a) ELIGIBLE CITIES.—The mayor or chief executive officer of a city may establish an Economic Development Commission to carry out the purposes of section 205 if the city has a population greater than 200,000 according to:

(1) the U.S. Census Bureau's 1992 estimate for city populations; or

(2) beginning six months after the enactment of this title, the U.S. Census Bureau's latest estimate for city populations.

(b) DISTRESSED AREA.—Any census tract within a city shall qualify as a distressed area if—

(1) 33 percent or more of the resident population in the census tract is below the poverty line; or

(2) 45 percent or more of out-of-school males aged 16 and over in the census tract worked less than 26 weeks in the preceding year; or

(3) 36 percent or more families with children under age 18 in the census tract have an unmarried parent as head of the household; or

(4) 17 percent or more of the resident families in the census tract received public assistance income in the preceding year.

SEC. 205. ECONOMIC DEVELOPMENT COMMISSIONS.

(a) PURPOSE.—The mayor or chief executive officer of a qualifying city under section 204 may appoint an Economic Development Commission for the purpose of—

(1) designating distressed areas, or a combination of distressed areas with one another or with adjacent industrial or commercial areas, within the city as Urban Regulatory Relief Zones; and

(2) making application through the Office of Management and Budget to waive the application of specific Federal regulations within such Urban Regulatory Relief Zones.

(b) COMPOSITION.—To the greatest extent practicable, an Economic Development Commission shall include—

(1) residents representing a demographic cross section of the city population; and

(2) members of the business community, private civic organizations, employers, employees, elected officials, and State and local regulatory authorities.

(c) LIMITATION.—No more than one Economic Development Commission shall be established or designated within a qualifying city.

SEC. 206. LOCAL PARTICIPATION.

(a) PUBLIC HEARINGS.—Before designating an area as an Urban Regulatory Relief Zone, an Economic Development Commission established pursuant to section 205 shall hold a public hearing, after giving adequate public notice, for the purpose of soliciting the opinions and suggestions of those persons who will be affected by such designation.

(b) INDIVIDUAL REQUESTS.—The Economic Development Commission shall establish a process by which individuals may submit requests to the Economic Development Commission to include specific Federal regulations in the Commission's application to the Office of Management and Budget seeking waivers of Federal regulations.

(c) AVAILABILITY OF COMMISSION DECISION.—After holding a hearing under paragraph (a) and before submitting any waiver applications to the Office of Management and Budget pursuant to section 207, the Economic Development Commission shall make publicly available—

(1) a list of all areas within the city to be designated as Urban Regulatory Relief Zones, if any;

(2) a list of all regulations for which the Economic Development Commission will request a waiver from a Federal agency; and

(3) the basis for the city's findings that the waiver of a regulation would improve the health and safety and economic well-being of the city's residents and the data supporting such a determination.

SEC. 207. WAIVER OF FEDERAL REGULATIONS.

(A) SELECTION OF REGULATIONS.—An Economic Development Commission may select for waiver, within an Urban Regulatory Relief Zone, Federal regulations that—

(1)(A) are unduly burdensome to business concerns located within an area designated as an Urban Regulatory Relief Zone; or

(B) discourages new economic development within the zone; or

(C) creates undue economic hardships in the zone; or

(D) contributes to the social deterioration of the zone; and

(2) if waived, will not substantially endanger health or safety.

(b) REQUEST FOR WAIVER.—(1) An Economic Development Commission shall submit a request for the waiver of Federal regulations to the Office of Management and Budget.

(2) Such request shall—

(A) identify the area designated as an Urban Regulatory Relief Zone by the Economic Development Commission;

(B) identify all regulations for which the Economic Development Commission seeks a waiver; and

(C) explain the reasons that waiver of the regulations would economically benefit the Urban Regulatory Relief Zone and the data supporting such determination;

(c) REVIEW OF WAIVER REQUEST.—No later than 60 days after receiving the request for waiver, the Officer of Management and budget shall—

(1) review the request for waiver;

(2) determine whether the request for waiver is complete and in compliance with this title, using the most recent census data available at the time each application is submitted; and

(3) after making a determination under paragraph (2)—

(A) submit the request for waiver to the Federal agency that promulgated the regulation and notify the requesting Economic Development Commission of the date on which the request was submitted to such agency; or

(B) notify the requesting Economic Development Commission that the request is not in compliance with this Act with an explanation of the basis for such determination.

(d) MODIFICATION OF WAIVER REQUESTS.—An Economic Development Commission may submit modifications to a waiver request. The provisions of subsection (c) shall apply to a modified waiver as of the date such modification is received by the Office of Management and Budget.

(e) WAIVER DETERMINATION.—(1) No later than 120 days after receiving a request for waiver under subsection (c) from the Office of Management and Budget, a Federal agency shall—

(A) make a determination of whether to waive a regulation in whole or in part; and

(B) provide written notice to the requesting Economic Development Commission of such determination.

(2) Subject to subsection (g), a Federal agency shall deny a request for a waiver only if the waiver substantially endangers health or safety.

(3) If a Federal agency grants a waiver under this subsection, the agency shall provide a written statement to the requesting Economic Development Commission that—

(A) describes the extent of the waiver in whole or in part; and

(B) explains the application of the waiver, including guidance for the use of the waiver by business concerns, within the Urban Regulatory Relief Zone.

(4) If a Federal agency denies a waiver under this subsection, the agency shall provide a written statement to the requesting Economic Development Commission that—

(A) explains the reasons that the waiver substantially endangers health or safety; and

(B) provides a scientific basis in writing for such determination.

(f) AUTOMATIC WAIVER.—If a Federal agency does not provide the written notice required under subsection (e) within the 120-day period as required under such subsection, the waiver shall be deemed to be granted by the Federal agency.

(g) LIMITATION.—No provision of this Act shall be construed to authorize any Federal agency to waive any regulation or Executive order that prohibits, or the purpose of which is to protect persons against, discrimination on the basis of race, color, religion, gender, or national origin.

(h) APPLICABLE PROCEDURES.—A waiver of a regulation under subsection (e) shall not be considered to be a rule, rulemaking, or regulation under chapter 5 of title 5, United States Code. The Federal agency shall publish a notice in the Federal Register stating any waiver of a regulation under this section.

(i) EFFECT OF SUBSEQUENT AMENDMENT OF REGULATIONS.—If a Federal agency amends a regulation for which a waiver under this section is in effect, the agency shall not change the waiver to impose additional requirements.

(j) EXPIRATION OF WAIVERS.—No waiver of a regulation under this section shall expire unless the Federal agency determines that a continuation of the waiver substantially endangers health or safety.

SEC. 208. DEFINITIONS.

For purposes of this Act, the term—

(1) "regulation" means—

(A) any rule as defined under section 551(4) of title 5, United States Code; or

(B) any rulemaking conducted on the record after opportunity for an agency hearing under sections 556 and 557 of such title;

(2) "Urban Regulatory Relief Zone" means an area designated under section 205;

(3) "qualifying city" means a city which is eligible to establish an Economic Development Commission under section 204;

(4) "industrial or commercial area" means any part of a census tract zoned for industrial or commercial use which is adjacent to a census tract which is a distressed area pursuant to section 205(b); and

(5) "poverty line" has the same meaning as such term is defined under section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)).".

PORTRAIT MONUMENT RESTORATION ACT

STEVENS AMENDMENT NO. 1787

Mr. HATCH (for Mr. STEVENS) proposed an amendment to the concurrent resolution (S. Con. Res. 21) directing that the "Portrait Monument" carved in the likeness of Lucretia Mott, Susan B. Anthony, and Elizabeth Cady Stanton, now in the Crypt of the Capitol, be restored to its original state and be placed in the Capitol rotunda; as follows:

Strike all after the resolving clause and insert: "That the Architect of the Capitol shall—

"(1) restore the "Portrait Monument" to its original state and place it in the Rotunda of the United States Capitol; and

"(2) make all necessary arrangements for the rededication ceremony of such statue in the Capitol Rotunda and procession connected therewith, in cooperation with the 75th Anniversary of Woman Suffrage Task Force.

"SEC. 2. The Rotunda of the Capitol is authorized to be used from 7 o'clock ante meridiem until 4 o'clock post meridiem on August 26, 1995, for such ceremony."

FEDERAL REPORTS ELIMINATION AND SUNSET ACT OF 1995

McCAIN (AND LEVIN) AMENDMENT NO. 1788

Mr. HATCH (for Mr. McCAIN, for himself and Mr. LEVIN) proposed an amendment to the bill (S. 790) to provide for the modification or elimination of Federal reporting requirements; as follows:

1. Section 1011(d): After the word "repealed," insert the following: "and section 1559 and 1560 of such Act are redesignated as sections 1558 and 1559, respectively.".

2. Section 1011(h): After the word "repealed," insert the following: "and sections 2518 and 2519 of such Act are redesignated as sections 2517 and 2518, respectively.".

3. Section 1011(o): Strike this section entirely.

4. Section 1011(r): After the word "repealed," insert the following: "and sections 1507, 1508, 1509, and 1511 of such Act are redesignated as sections 1506, 1507, 1508, and 1509, respectively.".

5. Section 1012(e): Strike this section entirely.

6. Section 1012(i): Strike lines 5 through 14. Insert the following:

"(b) An analysis and determination shall be made, and a report on the Secretary's findings and conclusions regarding such analysis and determination under subsection (a) shall be transmitted within 90 days after the end of each of the following periods:

"(1) The period beginning on the date of the enactment of the Federal Reports Elimination and Sunset Act of 1995 and ending on December 31, 1995.

"(2) Each 10-year period thereafter.".

7. Section 1041(e): Strike out the phrase "(20 USC 2303(d))," and replace it with the following: "(20 USC 28)".

8. Section 1041: Insert the following:

REPORT ON ANNUAL UPWARD MOBILITY PROGRAM ACTIVITY.—Section 2(a)(6)(A) of this Act of June 20, 1936 (20 U.S.C. 107a(a)(6)(A)), is amended by striking "and annually submit to the appropriate committees of Congress a report based on such evaluations,".

9. Section 1051: Insert the following:

REPORT ON CURRENT STATUS OF COMPREHENSIVE MANAGEMENT FOR NUCLEAR SAFETY RESEARCH, DEVELOPMENT, AND DEMONSTRATION.—Section 8(c) of the Nuclear Safety Research, Development, and Demonstration Act of 1980 (42 U.S.C. 9707(c)) is repealed.

REPORT ON ACTIVITIES OF THE GEOTHERMAL ENERGY COORDINATION AND MANAGEMENT PROJECT.—Section 302(a) of the Geothermal Energy Research, Development, and Demonstration Act of 1974 (30 U.S.C. 1162(a)) is repealed. Report on activities under the magnetic fusion energy engineering act of 1980.—Section 12 of the Magnetic Fusion Energy Engineering Act of 1980 (42 U.S.C. 9311) is repealed.

REPORT ON ACTIVITIES UNDER THE ELECTRIC AND HYBRID VEHICLE RESEARCH, DEVELOPMENT, AND DEMONSTRATION ACT OF 1976.—Section 14 of the Electric and Hybrid Vehicle Research, Development, and Demonstration Act of 1976 (15 U.S.C. 2513) is repealed.

REPORT ON ACTIVITIES UNDER THE METHANE TRANSPORTATION RESEARCH, DEVELOPMENT, AND DEMONSTRATION ACT OF 1980.—Section 9 of the Methane Transportation Research, Development, and Demonstration Act of 1980 (15 U.S.C. 3808) is repealed.

10. Section 1071(e): Strike this section entirely. Insert the following in its place:

COLLECTION OF AND ANNUAL REPORT ON RACIAL AND ETHNIC DATA.—Section 562 of the Housing and Community Development Act of 1987 (42 U.S.C. 3608a) is amended—

(1) in subsection (a)—

(A) in the first sentence—

(i) by striking "the Secretary of Housing and Urban Development and"; and

(ii) by striking "each", the first place it appears; and

(B) in the second sentence, by striking "involved"; and

(2) in subsection (b)—

(A) by striking "The Secretary of Housing and Urban Development and the" and inserting "The"; and

(B) by striking "each".

11. Section 1091(a): Strike this section entirely.

12. Section 1122(a): Strike this section entirely.

13. Sections 1141(a) and (d): Strike these sections entirely.

14. Section 2121: Strike lines 6 through 12 and insert the following:

"(g) NATIONAL AERONAUTICS AND SPACE ADMINISTRATION AND REGIONAL TECHNOLOGY TRANSFER CENTERS.—The National Aeronautics and Space Administration and regional technology transfer centers supported by the National Aeronautics and Space Administration are authorized and directed to cooperate with small business development centers participating in the program.".

15. Section 3001(f): Strike this section entirely.

16. Section 3003(a)(2)(A): Strike out the phrase "Public Law 95-452."

17. Section 3003(c): Strike out the phrase "(Report No. 103-7)" and insert "(House Document No. 103-7)."

18. Title IV—Effective Date: Strike this section entirely.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FOREIGN RELATIONS

Mr. ROTH. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Monday, July 17, 1995, at 2 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

FLOYD CECEL COUGIL

• Mr. SIMON. Mr. President, I rise today to commemorate Floyd Cecel Cougil, a distinguished Illinoisan who passed away recently. Mr. Cougil's strong sense of community service, especially his involvement with local union activities, was a great asset to labor relations in Illinois.

At age 13, Floyd Cougil started work at the Metropolis Box Factory in southern Illinois. In 1951, he became a charter member of local 1301 of the Laborers Union of North America and he later founded the Construction and General Laborers Local 1320 of the AFL.

Floyd served as trustee for the construction area conference in Cairo, IL. He served with distinction on a panel created by the Southern Illinois University to improve labor-management relations. Floyd was awarded his 50-year gold pin and membership card in 1989 for his continued service with local 1320.

Floyd maintained a farm in Massac County, IL, and was a member of the Massac County Farm Bureau. His strong sense of community pride and involvement was demonstrated by the integral role he played in bringing both the EEI and the Allied Chemical plants to Massac County. He is also credited with helping solidify the Government contract with F.H. McGraw and Co. for the construction of the Atomic Energy Commission project in McCracken County, KY.

Floyd Cougil had unquestionable personal integrity with a genuine concern for the well-being of his fellow man. His passing leaves a great void that will be felt not only by his family and his many friends and colleagues, but by the whole State of Illinois as well.•

DIRECTING THAT THE "PORTRAIT MONUMENT" BE RESTORED AND PLACED IN THE CAPITOL ROTUNDA

Mr. HATCH. Mr. President, I ask unanimous consent that the Senate turn to the consideration of Senate Concurrent Resolution 21, now being held at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 21) directing that the "Portrait Monument" carved in the likeness of Lucretia Mott, Susan B. Anthony and Elizabeth Cady Stanton, now in the Crypt of the Capitol, be restored to its original state and be placed in the Capitol Rotunda.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution.

AMENDMENT NO. 1787

Mr. HATCH. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Utah [Mr. HATCH], for Mr. STEVENS, proposes an amendment numbered 1787.

Mr. HATCH. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all after the resolving clause and insert: "That the Architect of the Capitol shall—

"(1) restore the 'Portrait Monument' to its original state and place it in the Rotunda of the United States Capitol; and

"(2) make all necessary arrangements for the rededication ceremony of such statue in the Capitol Rotunda and procession connected therewith, in cooperation with the 75th Anniversary of Woman Suffrage Task Force.

"SEC. 2. The Rotunda of the Capitol is authorized to be used from 7 o'clock ante meridian until 4 o'clock post meridian on August 26, 1995, for such ceremony."

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1787) was agreed to.

Mr. HATCH. Mr. President, I ask unanimous consent that the concurrent resolution be agreed to and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the concurrent resolution (S. Con. Res. 21), as amended, was agreed to.

The preamble was agreed to.

The concurrent resolution, as amended, with its preamble, is as follows:

S. CON. RES. 21

Whereas in 1995, women of America are celebrating the 75th anniversary of their right to participate in our government through suffrage;

Whereas Lucretia Mott, Elizabeth Cady Stanton, and Susan B. Anthony were pioneers in the movement for women suffrage and the pursuit of equal rights; and

Whereas, the relocation of the "Portrait Monument" to a place of prominence and esteem in the Capitol Rotunda would serve to honor and revere the contribution of thousands of women: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring) That the Architect of the Capitol shall—

(1) restore the "Portrait Monument" to its original state and place it in the Rotunda of the United States Capitol; and

(2) make all necessary arrangements for the rededication ceremony of such statue in the Capitol Rotunda and procession connected therewith, in cooperation with the 75th Anniversary of Women Suffrage Task Force.

SEC. 2. The Rotunda of the Capitol is authorized to be used from 7 o'clock ante meridian until 4 o'clock post meridian on August 26, 1995, for such ceremony.

FEDERAL REPORTS ELIMINATION AND SUNSET ACT

Mr. HATCH. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of calendar No. 108, S. 790, the Federal Reports Elimination and Sunset Act.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

A bill (S. 790) to provide for modification or elimination of Federal reporting requirements.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 1788

Mr. HATCH. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Utah [Mr. HATCH], for Mr. MCCAIN, for himself and Mr. LEVIN, proposes an amendment numbered 1788.

Mr. HATCH. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

1. Section 1011(d): After the word "repealed," insert the following: "and sections 1559 and 1560 of such Act are redesignated as sections 1558 and 1559, respectively."

2. Section 1011(h): After the word "repealed," insert the following: "and sections 2518 and 2519 of such Act are redesignated as sections 2517 and 2518, respectively."

3. Section 1011(o): Strike this section entirely.

4. Section 1011(r): After the word "repealed," insert the following: "and sections 1507, 1508, 1509, and 1511 of such Act are redesignated as sections 1506, 1507, 1508, and 1509, respectively."

5. Section 1012(e): Strike this section entirely.

6. Section 1012(i): Strike lines 5 through 14. Insert the following:

"(b) An analysis and determination shall be made, and a report on the Secretary's findings and conclusions regarding such analysis and determination under subsection (a) shall be transmitted within 90 days after the end of each of the following periods:

"(1) The period beginning on the date of the enactment of the Federal Reports Elimination and Sunset Act of 1995 and ending on December 31, 1995.

"(2) Each 10-year period thereafter.".

7. Section 1041(e): Strike out the phrase "(20 USC 2303(d))," and replace it with the following: "(20 USC 28)".

8. Section 1041: Insert the following:

REPORT ON ANNUAL UPWARD MOBILITY PROGRAM ACTIVITY.—Section 2(a)(6)(A) of this Act of June 20, 1936 (20 U.S.C. 107a(a)(6)(A)), is amended by striking "and annually submit to the appropriate committees of Congress a report based on such evaluations,".

9. Section 1051: Insert the following:

REPORT ON CURRENT STATUS OF COMPREHENSIVE MANAGEMENT FOR NUCLEAR SAFETY RESEARCH, DEVELOPMENT, AND DEMONSTRATION.—Section 8(c) of the Nuclear Safety Research, Development, and Demonstration Act of 1980 (42 U.S.C. 9707(c)) is repealed.

REPORT ON ACTIVITIES OF THE GEOTHERMAL ENERGY COORDINATION AND MANAGEMENT PROJECT.—Section 302(a) of the Geothermal Energy Research, Development, and Demonstration Act of 1974 (30 U.S.C. 1162(a)) is repealed.

REPORT ON ACTIVITIES UNDER THE MAGNETIC FUSION ENERGY ENGINEERING ACT OF 1980.—Section 12 of the Magnetic Fusion Energy Engineering Act of 1980 (42 U.S.C. 9311) is repealed.

REPORT ON ACTIVITIES UNDER THE ELECTRIC AND HYBRID VEHICLE RESEARCH, DEVELOPMENT, AND DEMONSTRATION ACT OF 1976.—Section 14 of the Electric and Hybrid Vehicle Research, Development, and Demonstration Act of 1976 (15 U.S.C. 2513) is repealed.

REPORT ON ACTIVITIES UNDER THE METHANE TRANSPORTATION RESEARCH, DEVELOPMENT, AND DEMONSTRATION ACT OF 1980.—Section 9 of the Methane Transportation Research, Development, and Demonstration Act of 1980 (15 U.S.C. 3808) is repealed.

10. Section 1071(e): Strike this section entirely. Insert the following in its place:

COLLECTION OF AND ANNUAL REPORT ON RACIAL AND ETHNIC DATA.—Section 562 of the Housing and Community Development Act of 1987 (42 U.S.C. 3608a) is amended—

(1) in subsection (a)—

(A) in the first sentence—

(i) by striking "the Secretary of Housing and Urban Development and"; and

(ii) by striking "each", the first place it appears; and

(B) in the second sentence, by striking "involved"; and

(2) in subsection (b)—

(A) by striking "The Secretary of Housing and Urban Development and the" and inserting "The"; and

(B) by striking "each".

11. Section 1091(a): Strike this section entirely.

12. Section 1122(a): Strike this section entirely.

13. Sections 1141 (a) and (d): Strike these sections entirely.

14. Section 2121: Strike lines 6 through 12 and insert the following:

"(g) NATIONAL AERONAUTICS AND SPACE ADMINISTRATION AND REGIONAL TECHNOLOGY TRANSFER CENTERS.—The National Aeronautics and Space Administration and regional technology transfer centers supported by the National Aeronautics and Space Administration are authorized and directed to cooperate with small business development centers participating in the program.".

15. Section 3001(f): Strike this section entirely.

16. Section 3003(a)(2)(A): Strike out the phrase "Public Law 95-452."

17. Section 3003(c): Strike out the phrase "(Report No. 103-7)" and insert "(House Document No. 103-7)."

18. Title IV—Effective Date: Strike this section entirely.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1788) was agreed to.

Mr. LEVIN. Mr. President, today, the Senate will be voting on the passage of the Federal Reports Elimination and Sunset Act of 1995 which will eliminate and modify over 200 outdated or unnecessary congressionally mandated reporting requirements and will also place a sunset on those reports with an annual, semiannual, or other regular periodic reporting requirement 4 years after the bill's enactment. The passage of this piece of legislation will help to improve the efficiency of agency operations by reducing staff time in and resources spent on producing unnecessary reports to Congress.

The Congressional Budget Office estimates that enactment of this legislation could result in savings of up to $5 to $10 million even without factoring in the savings from the sunset provision.

The legislation that we will be voting on today is similar to the bill Senator COHEN and I introduced last year, S. 2156. That bill contained nearly 300 recommendations for eliminations or modifications, and was the product of an extensive process that started with recommendations from executive and independent agencies. Senator COHEN and I wrote to all 89 executive and independent agencies and asked that they identify reports required by law that they believe are no longer necessary or useful and, therefore, that could be eliminated or modified. We stressed the importance of a clear and substantiated justification for each recommendation made.

S. 2156 was unanimously approved by the Governmental Affairs Committee on August 2, 1994. Senators GLENN, ROTH, STEVENS, and MCCAIN cosponsored the bill. Unfortunately, the Senate was unable to act on the bill before the close of the 103d Congress. But I am more hopeful that both Houses of Congress will pass this very timely piece of legislation this year.

In March 1995, the Senate agreed to include the language for S. 2156 in the form of two separate amendments to S. 244, the Paperwork Reduction Act of 1995. The amendments, however, were struck in conference. But the chairman of the House Committee on Government Reform and Oversight—Representative William Clinger—proposed to combine and introduce the amendments as a free-standing piece of legislation in the House of Representatives. The Senate also decided to combine the amendments into our piece of legislation—S. 790—and placed directly onto the Senate Calendar for immediate consideration since the language had previously been approved as amendments.

S. 790 will eliminate 157 reports and modify 59 reports. The legislation also includes a modified version of Senator McCain's sunset provision which will eliminate those reports with an annual, semi-annual, or regular periodic reporting basis 4 years after the bill's enactment, while allowing Members of Congress to reauthorize those reports it deems necessary in carrying out effective Congressional oversight. the sunset provision does not apply to any reports required under the Inspector General Act of 1978 or the Chief Financial Officers Act of 1990.

The House of Representatives circulated its reports elimination and sunset companion bill to all of its appropriate committees in order to receive their input on the items slated for elimination and modification. Since that time, the House has requested several minor changes—the overwhelming majority of which are technical, having no effect whatsoever on those items being eliminated and modified. For example, a certain legal cite had to be corrected. In other cases, the House requested that certain reports selected for elimination be kept in order to conduct proper oversight functions. The House has also requested the elimination of five additional Department of Energy reports beyond those listed in S. 790. The Senate Committee on Energy and Natural Resources—both the majority and minority sides—concurred with the House on this matter. On the Senate side, one report slated for elimination was reinstated. As of this moment, the language for the Senate and House bills are identical.

Both the Senate and House of Representatives are ready to eliminate those reports that are never or are simply dropped into file cabinets and wastebaskets, never to be seen again. In this era, we must ensure that our scarce resources are utilized efficiently toward productive activities. I urge my colleagues to support this bipartisan piece of legislation.

The PRESIDING OFFICER. If there is no objection, the bill is deemed read the third time, and passed.

So the bill (S. 790), as amended, was passed, as follows:

S. 790

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Reports Elimination and Sunset Act of 1995".

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title.

Sec. 2. Table of contents.

TITLE I—DEPARTMENTS

Subtitle A—Department of Agriculture

Sec. 1011. Reports eliminated.

Sec. 1012. Reports modified.

Subtitle B—Department of Commerce

Sec. 1021. Reports eliminated.

Sec. 1022. Reports modified.

Subtitle C—Department of Defense

Sec. 1031. Reports eliminated.

Subtitle D—Department of Education

Sec. 1041. Reports eliminated.

Sec. 1042. Reports modified.

Subtitle E—Department of Energy

Sec. 1051. Reports eliminated.

Sec. 1052. Reports modified.

Subtitle F—Department of Health and Human Services

Sec. 1061. Reports eliminated.

Sec. 1062. Reports modified.

Subtitle G—Department of Housing and Urban Development

Sec. 1071. Reports eliminated.

Sec. 1072. Reports modified.

Subtitle H—Department of the Interior

Sec. 1081. Reports eliminated.

Sec. 1082. Reports modified.

Subtitle I—Department of Justice

Sec. 1091. Reports eliminated.

Subtitle J—Department of Labor

Sec. 1101. Reports eliminated.

Sec. 1102. Reports modified.

Subtitle K—Department of State

Sec. 1111. Reports eliminated.

Subtitle L—Department of Transportation

Sec. 1121. Reports eliminated.

Sec. 1122. Reports modified.

Subtitle M—Department of the Treasury

Sec. 1131. Reports eliminated.

Sec. 1132. Reports modified.

Subtitle N—Department of Veterans Affairs

Sec. 1141. Reports eliminated.

TITLE II—INDEPENDENT AGENCIES

Subtitle A—Action

Sec. 2011. Reports eliminated.

Subtitle B—Environmental Protection Agency

Sec. 2021. Reports eliminated.

Subtitle C—Equal Employment Opportunity Commission

Sec. 2031. Reports modified.

Subtitle D—Federal Aviation Administration

Sec. 2041. Reports eliminated.

Subtitle E—Federal Communications Commission

Sec. 2051. Reports eliminated.

Subtitle F—Federal Deposit Insurance Corporation

Sec. 2061. Reports eliminated.

Subtitle G—Federal Emergency Management Agency

Sec. 2071. Reports eliminated.

Subtitle H—Federal Retirement Thrift Investment Board

Sec. 2081. Reports eliminated.

Subtitle I—General Services Administration

Sec. 2091. Reports eliminated.

Subtitle J—Interstate Commerce Commission

Sec. 2101. Reports eliminated.

Subtitle K—Legal Services Corporation

Sec. 2111. Reports modified.

Subtitle L—National Aeronautics and Space Administration

Sec. 2121. Reports eliminated.

Subtitle M—National Council on Disability

Sec. 2131. Reports eliminated.

Subtitle N—National Science Foundation

Sec. 2141. Reports eliminated.

Subtitle O—National Transportation Safety Board

Sec. 2151. Reports modified.

Subtitle P—Neighborhood Reinvestment Corporation

Sec. 2161. Reports eliminated.

Subtitle Q—Nuclear Regulatory Commission

Sec. 2171. Reports modified.

Subtitle R—Office of Personnel Management

Sec. 2181. Reports eliminated.

Sec. 2182. Reports modified.

Subtitle S—Office of Thrift Supervision

Sec. 2191. Reports modified.

Subtitle T—Panama Canal Commission

Sec. 2201. Reports eliminated.

Subtitle U—Postal Service

Sec. 2211. Reports modified.

Subtitle V—Railroad Retirement Board

Sec. 2221. Reports modified.

Subtitle W—Thrift Depositor Protection Oversight Board

Sec. 2231. Reports modified.

Subtitle X—United States Information Agency

Sec. 2241. Reports eliminated.

TITLE III—REPORTS BY ALL DEPARTMENTS AND AGENCIES

Sec. 3001. Reports eliminated.

Sec. 3002. Reports modified.

Sec. 3003. Termination of reporting requirements.

TITLE I—DEPARTMENTS

Subtitle A—Department of Agriculture

SEC. 1011. REPORTS ELIMINATED.

(a) Report on Monitoring and Evaluation.—Section 1246 of the Food Security Act of 1985 (16 U.S.C. 3846) is repealed.

(b) Report on Return on Assets.—Section 2512 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 1421b) is amended—

(1) in subsection (a), by striking "(a) Improving" and all that follows through "Forecasts.—"; and

(2) by striking subsection (b).

(c) Report on Farm Value of Agricultural Products.—Section 2513 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 1421c) is repealed.

(d) Report on Origin of Exports of Peanuts.—Section 1558 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 958) is repealed and sections 1559 and 1560 of such Act are redesignated as sections 1558 and 1559, respectively.

(e) Report on Reporting of Importing Fees.—Section 407 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736a) is amended—

(1) by striking subsection (b); and

(2) by redesignating subsections (c) through (h) as subsections (b) through (g), respectively.

(f) Report on Agricultural Information Exchange With Ireland.—Section 1420 of the Food Security Act of 1985 (Public Law 99–198; 99 Stat. 1551) is amended—

(1) in subsection (a), by striking "(a)"; and

(2) by striking subsection (b).

(g) Report on Potato Inspection.—Section 1704 of the Food Security Act of 1985 (Public Law 99–198; 7 U.S.C. 499n note) is amended by striking the second sentence.

(h) Report on Transportation of Fertilizer and Agricultural Chemicals.—Section 2517 of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 4077) is repealed and sections 2518 and 2519 of such Act are redesignated as sections 2517 and 2518, respectively.

(i) Report on Uniform End-Use Value Tests.—Section 307 of the Futures Trading Act of 1986 (Public Law 99–641; 7 U.S.C. 76 note) is amended by striking subsection (c).

(j) Report on Project Areas With High Food Stamp Payment Error Rates.—Section 16(i) of the Food Stamp Act of 1977 (7 U.S.C. 2025(i)) is amended by striking paragraph (3).

(k) Report on Effect of EFAP Displacement on Commercial Sales.—Section 203C(a) of the Emergency Food Assistance Act of 1983 (7 U.S.C. 612c note) is amended by striking the last sentence.

(l) Report on WIC Expenditures and Participation Levels.—Section 17(m) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(m)) is amended—

(1) by striking paragraphs (8) and (9); and

(2) by redesignating paragraphs (10) and (11) as paragraphs (8) and (9), respectively.

(m) Report on WIC Migrant Services.—Section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786) is amended by striking subsection (j).

(n) Report on Demonstrations Involving Innovative Housing Units.—Section 506(b) of the Housing Act of 1949 (42 U.S.C. 1476(b)) is amended by striking the last sentence.

(o) Report on Land Exchanges in Columbia River Gorge National Scenic Area.—Section 9(d)(3) of the Columbia River Gorge National Scenic Area Act (16 U.S.C. 544g(d)(3)) is amended by striking the second sentence.

(p) Report on Income and Expenditures of Certain Land Acquisitions.—Section 2(e) of Public Law 96–586 (94 Stat. 3382) is amended by striking the second sentence.

(q) Report on Special Area Designations.—Section 1506 of the Agriculture and Food Act of 1981 (16 U.S.C. 3415) is repealed and sections 1507, 1508, 1509, and 1511 of such Act are redesignated as sections 1506, 1507, 1508, and 1509, respectively.

(r) Report on Evaluation of Special Area Designations.—Section 1510 of the Agriculture and Food Act of 1981 (16 U.S.C. 3419) is repealed.

(s) Report on Agricultural Practices and Water Resources Database Development.—Section 1485 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5505) is amended—

(1) in subsection (a), by striking "(a) Repository.—"; and

(2) by striking subsection (b).

(t) Report on Plant Genome Mapping.—Section 1671 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5924) is amended—

(1) by striking subsection (g); and

(2) by redesignating subsection (h) as subsection (g).

(u) Report on Appraisal of Proposed Budget for Food and Agricultural Sciences.—Section 1408(g) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3123(g)) is amended—

(1) by striking paragraph (2); and

(2) by redesignating paragraph (3) as paragraph (2).

(v) Report on Economic Impact of Animal Damage on Aquaculture Industry.—Section 1475(e) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3322(e)) is amended—

(1) in paragraph (1), by striking "(1)"; and

(2) by striking paragraph (2).

(w) Report on Awards Made by the National Research Initiative and Special Grants.—Section 2 of the Act of August 4, 1965 (7 U.S.C. 450i), is amended—

(1) by striking subsection (l); and

(2) by redesignating subsection (m) as subsection (l).

(x) Report on Payments Made Under Research Facilities Act.—Section 8 of the Research Facilities Act (7 U.S.C. 390i) is repealed.

(y) Report on Financial Audit Reviews of States With High Food Stamp Participation.—The first sentence of section 11(l) of the Food Stamp Act of 1977 (7 U.S.C. 2020(l)) is amended by striking ", and shall, upon completion of the audit, provide a report to Congress of its findings and recommendations within one hundred and eighty days".

(z) Report on Rural Telephone Bank.—Section 408(b)(3) of the Rural Electrification Act of 1936 (7 U.S.C. 948(b)(3)) is amended by striking out subparagraph (I) and redesignating subparagraph (J) as subparagraph (I).

SEC. 1012. REPORTS MODIFIED.

(a) Report on Animal Welfare Enforcement.—The first sentence of section 25 of the Animal Welfare Act (7 U.S.C. 2155) is amended—

(1) by striking "and" at the end of paragraph (3);

(2) by striking the period at the end of paragraph (4) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(5) the information and recommendations described in section 11 of the Horse Protection Act of 1970 (15 U.S.C. 1830).".

(b) Report on Horse Protection Enforcement.—Section 11 of the Horse Protection Act of 1970 (15 U.S.C. 1830) is amended by striking "On or before the expiration of thirty calendar months following the date of enactment of this Act, and every twelve calendar months thereafter, the Secretary shall submit to the Congress a report upon" and inserting the following: "As part of the report submitted by the Secretary under section 25 of the Animal Welfare Act (7 U.S.C. 2155), the Secretary shall include information on".

(c) Report on Agricultural Quarantine Inspection Fund.—The Secretary of Agriculture shall not be required to submit a report to the appropriate committees of Congress on the status of the Agricultural Quarantine Inspection fund more frequently than annually.

(d) Report on Estimated Expenditures Under Food Stamp Program.—The third sentence of section 18(a)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2027(a)(1)) is amended—

(1) by striking "by the fifteenth day of each month" and inserting "for each quarter or other appropriate period"; and

(2) by striking "the second preceding month's expenditure" and inserting "the expenditure for the quarter or other period".

(e) Report on Priorities for Research, Extension, and Teaching.—Section 1407(f)(1) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3122(f)(1)) is amended—

(1) in the paragraph heading, by striking "Annual report" and inserting "Report"; and

(2) by striking "Not later than June 30 of each year" and inserting "At such times as the Joint Council determines appropriate".

(f) 5-Year Plan for Food and Agricultural Sciences.—Section 1407(f)(2) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3122(f)(2)) is amended by striking the second sentence.

(g) Report on Examination of Federally Supported Agricultural Research and Extension Programs.—Section 1408(g)(1) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3123(g)(1)) is amended by inserting "may provide" before "a written report".

(h) Report on Effects of Foreign Ownership of Agricultural Land.—Section 5(b) of the Agricultural Foreign Investment Disclosure Act of 1978 (7 U.S.C. 3504(b)) is amended to read as follows:

"(b) An analysis and determination shall be made, and a report on the Secretary's findings and conclusions regarding such analysis and determination under subsection (a) shall be transmitted within 90 days after the end of each of the following periods:

"(1) The period beginning on the date of the enactment of the Federal Reports Elimination and Sunset Act of 1995 and ending on December 31, 1995.

"(2) Each 10-year period thereafter.".

Subtitle B—Department of Commerce

SEC. 1021. REPORTS ELIMINATED.

(a) Report on Voting Registration.—Section 207 of the Voting Rights Act of 1965 (42 U.S.C. 1973aa–5) is repealed.

(b) Report on Estimate of Special Agricultural Workers.—Section 210A(b)(3) of the Immigration and Nationality Act (8 U.S.C. 1161(b)(3)) is repealed.

(c) Report on Long Range Plan for Public Broadcasting.—Section 393A(b) of the Communications Act of 1934 (47 U.S.C. 393a(b)) is repealed.

(d) Report on Status, Activities, and Effectiveness of United States Commercial Centers in Asia, Latin America, and Africa and Program Recommendations.—Section 401(j) of the Jobs Through Exports Act of 1992 (15 U.S.C. 4723a(j)) is repealed.

(e) Report on Kuwait Reconstruction Contracts.—Section 606(f) of the Persian Gulf Conflict Supplemental Authorization and Personnel Benefits Act of 1991 is repealed.

(f) Report on United States-Canada Free-Trade Agreement.—Section 409(a)(3)(B) of the United States-Canada Free-Trade Agreement Implementation Act of 1988 (19 U.S.C. 2112 note) is amended to read as follows:

"(3) The United States members of the working group established under article 1907 of the Agreement shall consult regularly with the Committee on Finance of the Senate, the Committee on Ways and Means of the House of Representatives, and advisory committees established under section 135 of the Trade Act of 1974 regarding—

"(A) the issues being considered by the working group; and

"(B) as appropriate, the objectives and strategy of the United States in the negotiations.".

(g) Report on Establishment of American Business Centers and on Activities of

THE INDEPENDENT STATES BUSINESS AND AGRICULTURE ADVISORY COUNCIL.—Section 305 of the Freedom for Russia and Emerging Democracies and Open Markets Support Act of 1992 (22 U.S.C. 5825) is repealed.

(h) REPORT ON FISHERMAN'S CONTINGENCY FUND REPORT.—Section 406 of the Outer Continental Shelf Lands Act Amendments of 1978 (43 U.S.C. 1846) is repealed.

(i) REPORT ON USER FEES ON SHIPPERS.—Section 208 of the Water Resources Development Act of 1986 (33 U.S.C. 2236) is amended by—

(1) striking subsection (b); and

(2) redesignating subsections (c), (d), (e), and (f) as subsections (b), (c), (d), and (e), respectively.

SEC. 1022. REPORTS MODIFIED.

(a) REPORT ON FEDERAL TRADE PROMOTION STRATEGIC PLAN.—Section 2312(f) of the Export Enhancement Act of 1988 (15 U.S.C. 4727(f) is amended to read as follows:

"(f) REPORT TO THE CONGRESS.—The chairperson of the TPCC shall prepare and submit to the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Committee on Foreign Affairs of the House of Representatives, not later than September 30, 1995, and annually thereafter, a report describing—

"(1) the strategic plan developed by the TPCC pursuant to subsection (c), the implementation of such plan, and any revisions thereto; and

"(2) the implementation of sections 303 and 304 of the Freedom for Russia and Emerging Democracies and Open Markets Support Act of 1992 (22 U.S.C. 5823 and 5824) concerning funding for export promotion activities and the interagency working groups on energy of the TPCC.".

(b) REPORT ON EXPORT POLICY.—Section 2314(b)(1) of the Export Enhancement Act of 1988 (15 U.S.C. 4729(b)(1)) is amended—

(1) in subparagraph (E) by striking out "and" after the semicolon;

(2) in subparagraph (F) by striking out the period and inserting in lieu thereof a semicolon; and

(3) by adding at the end thereof the following new subparagraphs:

"(G) the status, activities, and effectiveness of the United States commercial centers established under section 401 of the Jobs Through Exports Act of 1992 (15 U.S.C. 4723a);

"(H) the implementation of sections 301 and 302 of the Freedom for Russia and Emerging Democracies and Open Markets Support Act of 1992 (22 U.S.C. 5821 and 5822) concerning American Business Centers and the Independent States Business and Agriculture Advisory Council;

"(I) the programs of other industrialized nations to assist their companies with their efforts to transact business in the independent states of the former Soviet Union; and

"(J) the trading practices of other Organization for Economic Cooperation and Development nations, as well as the pricing practices of transitional economies in the independent states, that may disadvantage United States companies.".

Subtitle C—Department of Defense

SEC. 1031. REPORTS ELIMINATED.

(a) REPORT ON SEMATECH.—Section 274 of The National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180; 101 Stat. 1071) is amended—

(1) in section 6 by striking out the item relating to section 274; and

(2) by striking out section 274.

(b) REPORT ON REVIEW OF DOCUMENTATION IN SUPPORT OF WAIVERS FOR PEOPLE ENGAGED IN ACQUISITION ACTIVITIES.—

(1) IN GENERAL.—Section 1208 of the National Defense Authorization Act for Fiscal Year 1991 (10 U.S.C. 1701 note) is repealed.

(2) CLERICAL AMENDMENT TO TABLE OF CONTENTS.—Section 2(b) of such Act is amended by striking out the item relating to section 1208.

Subtitle D—Department of Education

SEC. 1041. REPORTS ELIMINATED.

(a) REPORT ON PERSONNEL REDUCTION AND ANNUAL LIMITATIONS.—Subsection (a) of section 403 of the Department of Education Organization Act (20 U.S.C. 3463(a)) is amended in paragraph (2), by striking all beginning with "and shall," through the end thereof and inserting a period.

(b) REPORT ON SUPPORTED EMPLOYMENT ACTIVITIES.—Subsection (c) of section 311 of the Rehabilitation Act of 1973 (29 U.S.C. 777a(c)) is amended—

(1) by striking paragraph (3); and

(2) by redesignating paragraph (4) as paragraph (3).

(c) REPORT ON THE CLIENT ASSISTANCE PROGRAM.—Subsection (g) of section 112 of the Rehabilitation Act of 1973 (29 U.S.C. 732(g)) is amended—

(1) by striking paragraphs (4) and (5); and

(2) in paragraph (6), by striking "such report or for any other" and inserting "any".

(d) REPORT ON THE SUMMARY OF LOCAL EVALUATIONS OF COMMUNITY EDUCATION EMPLOYMENT CENTERS.—Section 370 of the Carl D. Perkins Vocational and Applied Technology Act (20 U.S.C. 2396h) is amended—

(1) in the section heading, by striking "**AND REPORT**";

(2) in subsection (a), by striking "(a) LOCAL EVALUATION.—"; and

(3) by striking subsection (b).

(e) REPORT ON THE ADMINISTRATION OF THE VOCATIONAL EDUCATION ACT OF 1917.—Section 18 of the Vocational Education Act of 1917 (20 U.S.C. 28) is repealed.

(f) REPORT BY THE INTERDEPARTMENTAL TASK FORCE ON COORDINATING VOCATIONAL EDUCATION AND RELATED PROGRAMS.—Subsection (d) of section 4 of the Carl D. Perkins Vocational and Applied Technology Education Act Amendments of 1990 (20 U.S.C. 2303(d)) is repealed.

(g) REPORT ON THE EVALUATION OF THE GATEWAY GRANTS PROGRAM.—Subparagraph (B) of section 322(a)(3) of the Adult Education Act (20 U.S.C. 1203a(a)(3)(B)) is amended by striking "and report the results of such evaluation to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate".

(h) REPORT ON THE BILINGUAL VOCATIONAL TRAINING PROGRAM.—Paragraph (3) of section 441(e) of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2441(e)(3)) is amended by striking the last sentence thereof.

(i) REPORT ON ANNUAL UPWARD MOBILITY PROGRAM ACTIVITY.—Section 2(a)(6)(A) of the Act of June 20, 1936 (20 U.S.C. 107a(a)(6)(A)), is amended by striking "and annually submit to the appropriate committees of Congress a report based on such evaluations,".

SEC. 1042. REPORTS MODIFIED.

(a) REPORT ON THE CONDITION OF BILINGUAL EDUCATION IN THE NATION.—Section 6213 of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988 (20 U.S.C. 3303 note) is amended—

(1) in the section heading, by striking "**report on**" and inserting "**information regarding**"; and

(2) by striking the matter preceding paragraph (1) and inserting "The Secretary shall collect data for program management and accountability purposes regarding—".

(b) REPORT TO CONGRESS ON THE STEWART B. MCKINNEY HOMELESS ASSISTANCE ACT.—Subsection (b) of section 724 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11434(b)) is amended by striking paragraph (4) and the first paragraph (5) and inserting the following:

"(4) The Secretary shall prepare and submit a report to the appropriate committees of the Congress at the end of every other fiscal year. Such report shall—

"(A) evaluate the programs and activities assisted under this part; and

"(B) contain the information received from the States pursuant to section 722(d)(3).".

(c) REPORT TO GIVE NOTICE TO CONGRESS.—Subsection (d) of section 482 of the Higher Education Act of 1965 (20 U.S.C. 1089(d)) is amended—

(1) in the first sentence by striking "the items specified in the calendar have been completed and provide all relevant forms, rules, and instructions with such notice" and inserting "a deadline included in the calendar described in subsection (a) is not met"; and

(2) by striking the second sentence.

(d) ANNUAL REPORT ON ACTIVITIES UNDER THE REHABILITATION ACT OF 1973.—Section 13 of the Rehabilitation Act of 1973 (29 U.S.C. 712) is amended by striking "twenty" and inserting "eighty".

(e) REPORT TO THE CONGRESS REGARDING REHABILITATION TRAINING PROGRAMS.—The second sentence of section 302(c) of the Rehabilitation Act of 1973 (29 U.S.C. 774(c)) is amended by striking "simultaneously with the budget submission for the succeeding fiscal year for the Rehabilitation Services Administration" and inserting "by September 30 of each fiscal year".

(f) ANNUAL AUDIT OF STUDENT LOAN INSURANCE FUND.—Section 432(b) of the Higher Education Act of 1965 (20 U.S.C. 1082(b)) is amended to read as follows:

"(b) FINANCIAL OPERATIONS RESPONSIBILITIES.—The Secretary shall, with respect to the financial operations arising by reason of this part prepare annually and submit a budget program as provided for wholly owned Government corporations by chapter 91 of title 31, United States Code. The transactions of the Secretary, including the settlement of insurance claims and of claims for payments pursuant to section 1078 of this title, and transactions related thereto and vouchers approved by the Secretary in connection with such transactions, shall be final and conclusive upon all accounting and other officers of the Government.".

Subtitle E—Department of Energy

SEC. 1051. REPORTS ELIMINATED.

(a) REPORTS ON PERFORMANCE AND DISPOSAL OF ALTERNATIVE FUELED HEAVY DUTY VEHICLES.—Paragraphs (3) and (4) of section 400AA(b) of the Energy Policy and Conservation Act (42 U.S.C. 6374(b)(3), 6374(b)(4)) are repealed.

(b) REPORT ON WIND ENERGY SYSTEMS.—Section 9(a)(3) of the Wind Energy Systems Act of 1980 (42 U.S.C. 9208(a)(3)) is repealed.

(c) REPORT ON COMPREHENSIVE PROGRAM MANAGEMENT PLAN FOR OCEAN THERMAL ENERGY CONVERSION.—Section 3(d) of the Ocean Thermal Energy Conversion Research, Development, and Demonstration Act (42 U.S.C. 9002(d)) is repealed.

(d) REPORTS ON SUBSEABED DISPOSAL OF SPENT NUCLEAR FUEL AND HIGH-LEVEL RADIOACTIVE WASTE.—Subsections (a) and (b)(5) of section 224 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10204(a), 10204(b)(5)) are repealed.

(e) Report on Fuel Use Act.—Sections 711(c)(2) and 806 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8421(c)(2), 8482) are repealed.

(f) Report on Test Program of Storage of Refined Petroleum Products Within the Strategic Petroleum Reserve.—Section 160(g)(7) of the Energy Policy and Conservation Act (42 U.S.C. 6240(g)(7)) is repealed.

(g) Report on Naval Petroleum and Oil Shale Reserves Production.—Section 7434 of title 10, United States Code, is repealed.

(h) Report on Effects of Presidential Message Establishing a Nuclear Nonproliferation Policy on Nuclear Research and Development Cooperative Agreements.—Section 203 of the Department of Energy Act of 1978—Civilian Applications (22 U.S.C. 2429 note) is repealed.

(i) Report on Written Agreements Regarding Nuclear Waste Repository Sites.—Section 117(c) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10137(c)) is amended by striking the following: "If such written agreement is not completed prior to the expiration of such period, the Secretary shall report to the Congress in writing not later than 30 days after the expiration of such period on the status of negotiations to develop such agreement and the reasons why such agreement has not been completed. Prior to submission of such report to the Congress, the Secretary shall transmit such report to the Governor of such State or the governing body of such affected Indian tribe, as the case may be, for their review and comments. Such comments shall be included in such report prior to submission to the Congress.".

(j) Quarterly Report on Strategic Petroleum Reserves.—Section 165(b) of the Energy Policy and Conservation Act (42 U.S.C. 6245(b)) is repealed.

(k) Report on the Department of Energy.—The Federal Energy Administration Act of 1974 (15 U.S.C. 790d), is amended by striking out section 55.

(l) Report on Current Status of Comprehensive Management for Nuclear Safety Research, Development, and Demonstration.—Section 8(c) of the Nuclear Safety Research, Development, and Demonstration Act of 1980 (42 U.S.C. 9707(c)) is repealed.

(m) Report on Activities of the Geothermal Energy Coordination and Management Project.—Section 302(a) of the Geothermal Energy Research, Development, and Demonstration Act of 1974 (30 U.S.C. 1162(a)) is repealed.

(n) Report on Activities Under the Magnetic Fusion Energy Engineering Act of 1980.—Section 12 of the Magnetic Fusion Energy Engineering Act of 1980 (42 U.S.C. 9311) is repealed.

(o) Report on Activities Under the Electric and Hybrid Vehicle Research, Development, and Demonstration Act of 1976.—Section 14 of the Electric and Hybrid Vehicle Research, Development, and Demonstration Act of 1976 (15 U.S.C. 2513) is repealed.

(p) Report on Activities Under the Methane Transportation Research, Development, and Demonstration Act of 1980.—Section 9 of the Methane Transportation Research, Development, and Demonstration Act of 1980 (15 U.S.C. 3808) is repealed.

SEC. 1052. REPORTS MODIFIED.

(a) Reports on Process-Oriented Industrial Energy Efficiency and Industrial Insulation Audit Guidelines.—

(1) Section 132(d) of the Energy Policy Act of 1992 (42 U.S.C. 6349(d)) is amended—

(A) in the language preceding paragraph (1), by striking "Not later than 2 years after October 24, 1992, and annually thereafter" and inserting "Not later than October 24, 1995, and biennially thereafter";

(B) in paragraph (4), by striking "and" at the end;

(C) in paragraph (5), by striking the period at the end and inserting "; and"; and

(D) by adding at the end the following new paragraph:

"(6) the information required under section 133(c).".

(2) Section 133(c) of the Energy Policy Act of 1992 (42 U.S.C. 6350(c)) is amended—

(A) by striking, "October 24, 1992" and inserting "October 24, 1995"; and

(B) by inserting "as part of the report required under section 132(d)," after "and biennially thereafter,".

(b) Report on Agency Requests for Waiver From Federal Energy Management Requirements.—Section 543(b)(2) of the National Energy Conservation Policy Act (42 U.S.C. 8253(b)(2)) is amended—

(1) by inserting ", as part of the report required under section 548(b)," after "the Secretary shall"; and

(2) by striking "promptly".

(c) Report on the Progress, Status, Activities, and Results of Programs Regarding the Procurement and Identification of Energy Efficient Products.—Section 161(d) of the Energy Policy Act of 1992 (42 U.S.C. 8262g(d)) is amended by striking "of each year thereafter,"; and inserting "thereafter as part of the report required under section 548(b) of the National Energy Conservation Policy Act,".

(d) Report on the Federal Government Energy Management Program.—Section 548(b) of the National Energy Conservation Policy Act (42 U.S.C. 8258(b)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (A), by striking "and" after the semicolon;

(B) by redesignating subparagraph (B) as subparagraph (C); and

(C) by inserting after subparagraph (A) the following new subparagraph:

"(B) the information required under section 543(b)(2); and";

(2) in paragraph (2), by striking "and" after the semicolon;

(3) in paragraph (3), by striking the period at the end and inserting "; and"; and

(4) by adding at the end the following new paragraph:

"(4) the information required under section 161(d) of the Energy Policy Act of 1992.".

(e) Report on Alternative Fuel Use by Selected Federal Vehicles.—Section 400AA(b)(1)(B) of the Energy Policy and Conservation Act (42 U.S.C. 6374(b)(1)(B)) is amended by striking "and annually thereafter".

(f) Report on the Operation of State Energy Conservation Plans.—Section 365(c) of the Energy Policy and Conservation Act (42 U.S.C. 6325(c)) is amended by striking "report annually" and inserting ", as part of the report required under section 657 of the Department of Energy Organization Act, report".

(g) Report on the Department of Energy.—Section 657 of the Department of Energy Organization Act (42 U.S.C. 7267) is amended by inserting after "section 15 of the Federal Energy Administration Act of 1974," the following: "section 365(c) of the Energy Policy and Conservation Act, section 304(c) of the Nuclear Waste Policy Act of 1982,".

(h) Report on Cost-Effective Ways To Increase Hydropower Production at Federal Water Facilities.—Section 2404 of the Energy Policy Act of 1992 (16 U.S.C. 797 note) is amended—

(1) in subsection (a), by striking "The Secretary, in consultation with the Secretary of the Interior and the Secretary of the Army," and inserting "The Secretary of the Interior and the Secretary of the Army, in consultation with the Secretary,"; and

(2) in subsection (b), by striking "the Secretary" and inserting "the Secretary of the Interior, or the Secretary of the Army,".

(i) Report on Progress Meeting Fusion Energy Program Objectives.—Section 2114(c)(5) of the Energy Policy Act of 1992 (42 U.S.C. 13474(c)(5)) is amended by striking out the first sentence and inserting in lieu thereof "The President shall include in the budget submitted to the Congress each year under section 1105 of title 31, United States Code, a report prepared by the Secretary describing the progress made in meeting the program objectives, milestones, and schedules established in the management plan.".

(j) Report on High-Performance Computing Activities.—Section 203(d) of the High-Performance Computing Act of 1991 (15 U.S.C. 5523(d)) is amended to read as follows:

"(d) Reports.—Not later than 1 year after the date of enactment of this subsection, and thereafter as part of the report required under section 101(a)(3)(A), the Secretary of Energy shall report on activities taken to carry out this Act.".

(k) Report on National High-Performance Computing Program.—Section 101(a)(4) of the High-Performance Computing Act of 1991 (15 U.S.C. 5511(a)(4)) is amended—

(1) in subparagraph (D), by striking "and" at the end;

(2) by redesignating subparagraph (E) as subparagraph (F); and

(3) by inserting after subparagraph (D) the following new subparagraph:

"(E) include the report of the Secretary of Energy required by section 203(d); and".

(l) Report on Nuclear Waste Disposal Program.—Section 304(d) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10224(d)) is amended to read as follows:

"(d) Audit by GAO.—If requested by either House of the Congress (or any committee thereof) or if considered necessary by the Comptroller General, the General Accounting Office shall conduct an audit of the Office, in accord with such regulations as the Comptroller General may prescribe. The Comptroller General shall have access to such books, records, accounts, and other materials of the Office as the Comptroller General determines to be necessary for the preparation of such audit. The Comptroller General shall submit a report on the results of each audit conducted under this section.".

Subtitle F—Department of Health and Human Services

SEC. 1061. REPORTS ELIMINATED.

(a) Report on the Effects of Toxic Substances.—Subsection (c) of section 27 of the Toxic Substance Control Act (15 U.S.C. 2626(c)) is repealed.

(b) Report on Compliance With the Consumer-Patient Radiation Health and Safety Act.—Subsection (d) of section 981 of the Consumer-Patient Radiation Health and Safety Act of 1981 (42 U.S.C. 10006(d)) is repealed.

(c) Report on Evaluation of Title VIII Programs.—Section 859 of the Public Health Service Act (42 U.S.C. 298b-6) is repealed.

(d) Report on Model System for Payment for Outpatient Hospital Services.—Paragraph (6) of section 1135(d) of the Social Security Act (42 U.S.C. 1320b-5(d)(6)) is repealed.

(e) REPORT ON MEDICARE TREATMENT OF UNCOMPENSATED CARE.—Paragraph (2) of section 603(a) of the Social Security Amendments of 1983 (42 U.S.C. 1395ww note) is repealed.

(f) REPORT ON PROGRAM TO ASSIST HOMELESS INDIVIDUALS.—Subsection (d) of section 9117 of the Omnibus Budget Reconciliation Act of 1987 (42 U.S.C. 1383 note) is repealed.

SEC. 1062. REPORTS MODIFIED.

(a) REPORT OF THE SURGEON GENERAL.—Section 239 of the Public Health Service Act (42 U.S.C. 238h) is amended to read as follows:

"BIANNUAL REPORT

"SEC. 239. The Surgeon General shall transmit to the Secretary, for submission to the Congress, on January 1, 1995, and on January 1, every 2 years thereafter, a full report of the administration of the functions of the Service under this Act, including a detailed statement of receipts and disbursements.".

(b) REPORT ON HEALTH SERVICE RESEARCH ACTIVITIES.—Subsection (b) of section 494A of the Public Health Service Act (42 U.S.C. 289c–1(b)) is amended by striking "September 30, 1993, and annually thereafter" and inserting "December 30, 1993, and each December 30 thereafter".

(c) REPORT ON FAMILY PLANNING.—Section 1009(a) of the Public Health Service Act (42 U.S.C. 300a–7(a)) is amended by striking "each fiscal year" and inserting "fiscal year 1995, and each second fiscal year thereafter,".

(d) REPORT ON THE STATUS OF HEALTH INFORMATION AND HEALTH PROMOTION.—Section 1705(a) of the Public Health Service Act (42 U.S.C. 300u–4) is amended in the first sentence by striking out "annually" and inserting in lieu thereof "biannually".

Subtitle G—Department of Housing and Urban Development

SEC. 1071. REPORTS ELIMINATED.

(a) REPORTS ON PUBLIC HOUSING HOMEOWNERSHIP AND MANAGEMENT OPPORTUNITIES.—Section 21(f) of the United States Housing Act of 1937 (42 U.S.C. 1437s(f)) is repealed.

(b) INTERIM REPORT ON PUBLIC HOUSING MIXED INCOME NEW COMMUNITIES STRATEGY DEMONSTRATION.—Section 522(k)(1) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 1437f note) is repealed.

(c) BIENNIAL REPORT ON INTERSTATE LAND SALES REGISTRATION PROGRAM.—Section 1421 of the Interstate Land Sales Full Disclosure Act (15 U.S.C. 1719a) is repealed.

(d) QUARTERLY REPORT ON ACTIVITIES UNDER THE FAIR HOUSING INITIATIVES PROGRAM.—Section 561(e)(2) of the Housing and Community Development Act of 1987 (42 U.S.C. 3616a(e)(2)) is repealed.

(e) COLLECTION OF AND ANNUAL REPORT ON RACIAL AND ETHNIC DATA.—Section 562 of the Housing and Community Development Act of 1987 (42 U.S.C. 3608a) is amended—

(1) in subsection (a)—

(A) in the first sentence—

(i) by striking "the Secretary of Housing and Urban Development and"; and

(ii) by striking "each", the first place it appears; and

(B) in the second sentence, by striking "involved"; and

(2) in subsection (b)—

(A) by striking "The Secretary of Housing and Urban Development and the" and inserting "The"; and

(B) by striking "each".

SEC. 1072. REPORTS MODIFIED.

(a) REPORT ON HOMEOWNERSHIP OF MULTIFAMILY UNITS PROGRAM.—Section 431 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12880) is amended—

(1) in the section heading, by striking "**ANNUAL**"; and

(2) by striking "The Secretary shall annually" and inserting "The Secretary shall no later than December 31, 1995,".

(b) TRIENNIAL AUDIT OF TRANSACTIONS OF NATIONAL HOMEOWNERSHIP FOUNDATION.—Section 107(g)(1) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701y(g)(1)) is amended by striking the last sentence.

(c) REPORT ON LOW-INCOME HOME ENERGY ASSISTANCE PROGRAM.—Section 2605(h) of the Low-Income Home Energy Assistance Act of 1981 (Public Law 97–35; 42 U.S.C. 8624(h)), is amended by striking out "(but not less frequently than every three years),".

Subtitle H—Department of the Interior

SEC. 1081. REPORTS ELIMINATED.

(a) REPORT ON AUDITS IN FEDERAL ROYALTY MANAGEMENT SYSTEM.—Section 17(j) of the Mineral Leasing Act (30 U.S.C. 226(j)) is amended by striking the last sentence.

(b) REPORT ON DOMESTIC MINING, MINERALS, AND MINERAL RECLAMATION INDUSTRIES.—Section 2 of the Mining and Minerals Policy Act of 1970 (30 U.S.C. 21a) is amended by striking the last sentence.

(c) REPORT ON PHASE I OF THE HIGH PLAINS STATES GROUNDWATER DEMONSTRATION PROJECT.—Section 3(d) of the High Plains States Groundwater Demonstration Program Act of 1983 (43 U.S.C. 390g–1(d)) is repealed.

(d) REPORT ON RECLAMATION REFORM ACT COMPLIANCE.—Section 224(g) of the Reclamation Reform Act of 1982 (43 U.S.C. 390ww(g)) is amended by striking the last 2 sentences.

(e) REPORT ON GEOLOGICAL SURVEYS CONDUCTED OUTSIDE THE DOMAIN OF THE UNITED STATES.—Section 2 of Public Law 87–626 (43 U.S.C. 31(c)) is repealed.

(f) REPORT ON RECREATION USE FEES.—Section 4(h) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–6a(h)) is repealed.

(g) REPORT ON FEDERAL SURPLUS REAL PROPERTY PUBLIC BENEFIT DISCOUNT PROGRAM FOR PARKS AND RECREATION.—Section 203(o)(1) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484(o)(1)) is amended by striking "subsection (k) of this section and".

SEC. 1082. REPORTS MODIFIED.

(a) REPORT ON LEVELS OF THE OGALLALA AQUIFER.—Title III of the Water Resources Research Act of 1984 (42 U.S.C. 10301 note) is amended—

(1) in section 306, by striking "annually" and inserting "biennially"; and

(2) in section 308, by striking "intervals of one year" and inserting "intervals of 2 years".

(b) REPORT ON EFFECTS OF OUTER CONTINENTAL SHELF LEASING ACTIVITIES ON HUMAN, MARINE, AND COASTAL ENVIRONMENTS.—Section 20(e) of the Outer Continental Shelf Lands Act (43 U.S.C. 1346(e)) is amended by striking "each fiscal year" and inserting "every 3 fiscal years".

Subtitle I—Department of Justice

SEC. 1091. REPORTS ELIMINATED.

(a) REPORT ON DRUG INTERDICTION TASK FORCE.—Section 3301(a)(1)(C) of the National Drug Interdiction Act of 1986 (21 U.S.C. 801 note; Public Law 99–570; 100 Stat. 3207–98) is repealed.

(b) REPORT ON EQUAL ACCESS TO JUSTICE.—Section 2412(d)(5) of title 28, United States Code, is repealed.

(c) REPORT ON FEDERAL OFFENDER CHARACTERISTICS.—Section 3624(f)(6) of title 18, United States Code, is repealed.

(d) REPORT ON COSTS OF DEATH PENALTY.—The Anti-Drug Abuse Act of 1988 (Public Law 100–690; 102 Stat. 4395; 21 U.S.C. 848 note) is amended by striking out section 7002.

(e) MINERAL LANDS LEASING ACT.—Section 8B of the Mineral Lands Leasing Act (30 U.S.C. 208–2) is repealed.

(f) SMALL BUSINESS ACT.—Subsection (c) of section 10 of the Small Business Act (15 U.S.C. 639(c)) is repealed.

(g) ENERGY POLICY AND CONSERVATION ACT.—Section 252(i) of the Energy Policy Conservation Act (42 U.S.C. 6272(i)) is amended by striking ", at least once every 6 months, a report" and inserting ", at such intervals as are appropriate based on significant developments and issues, reports".

(h) REPORT ON FORFEITURE FUND.—Section 524(c) of title 28, United States Code, is amended—

(1) by striking out paragraph (7); and

(2) by redesignating paragraphs (8) through (12) as paragraphs (7) through (11), respectively.

Subtitle J—Department of Labor

SEC. 1101. REPORTS ELIMINATED.

Section 408(d) of the Veterans Education and Employment Amendments of 1989 (38 U.S.C. 4100 note) is repealed.

SEC. 1102. REPORTS MODIFIED.

(a) REPORT ON THE ACTIVITIES CONDUCTED UNDER THE FAIR LABOR STANDARDS ACT OF 1938.—Section 4(d)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 204(d)(1)) is amended—

(1) by striking "annually" and inserting "biannually"; and

(2) by striking "preceding year" and inserting "preceding two years".

(b) ANNUAL REPORT OF THE OFFICE OF WORKERS' COMPENSATION.—

(1) REPORT ON THE ADMINISTRATION OF THE LONGSHORE AND HARBOR WORKERS' COMPENSATION ACT.—Section 42 of the Longshore and Harbor Workers' Compensation Act (33 U.S.C. 942) is amended—

(A) by striking "beginning of each" and all that follows through "Amendments of 1984" and inserting "end of each fiscal year"; and

(B) by adding the following new sentence at the end: "Such report shall include the annual reports required under section 426(b) of the Black Lung Benefits Act (30 U.S.C. 936(b)) and section 8194 of title 5, United States Code, and shall be identified as the Annual Report of the Office of Workers' Compensation Programs.".

(2) REPORT ON THE ADMINISTRATION OF THE BLACK LUNG BENEFITS PROGRAM.—Section 426(b) of the "Black Lung Benefits Act (30 U.S.C. 936(b)) is amended—

(A) by striking "Within" and all that follows through "Congress the" and inserting "At the end of each fiscal year, the"; and

(B) by adding the following new sentence at the end: "Each such report shall be prepared and submitted to Congress in accordance with the requirement with respect to submission under section 42 of the Longshore Harbor Workers' Compensation Act (33 U.S.C. 942).".

(3) REPORT ON THE ADMINISTRATION OF THE FEDERAL EMPLOYEES' COMPENSATION ACT.—(A) Subchapter I of chapter 81 of title 5, United States Code, is amended by adding at the end thereof the following new section:

"§ 8152. Annual report

"The Secretary of Labor shall, at the end of each fiscal year, prepare a report with respect to the administration of this chapter. Such report shall be submitted to Congress in accordance with the requirement with respect to submission under section 42 of the

Longshore Harbor Workers' Compensation Act (33 U.S.C. 942).".

(B) The table of sections for chapter 81 of title 5, United States Code, is amended by inserting after the item relating to section 8151 the following:

"8152. Annual report.".

(c) Annual Report on the Department of Labor.—Section 9 of an Act entitled "An Act to create a Department of Labor", approved March 4, 1913 (29 U.S.C. 560) is amended by striking "make a report" and all that follows through "the department" and inserting "prepare and submit to Congress the financial statements of the Department that have been audited".

Subtitle K—Department of State

SEC. 1111. REPORTS ELIMINATED.

Section 8 of the Migration and Refugee Assistance Act of 1962 (22 U.S.C. 2606) is amended by striking subsection (b), and redesignating subsection (c) as subsection (b).

Subtitle L—Department of Transportation

SEC. 1121. REPORTS ELIMINATED.

(a) Report on Deepwater Port Act of 1974.—Section 20 of the Deepwater Port Act of 1974 (33 U.S.C. 1519) is repealed.

(b) Report on Coast Guard Logistics Capabilities Critical to Mission Performance.—Sections 5(a)(2) and 5(b) of the Coast Guard Authorization Act of 1988 (10 U.S.C. 2304 note) are repealed.

(c) Report on Marine Plastic Pollution Research and Control Act of 1987.—Section 2201(a) of the Marine Plastic Pollution Research and Control Act of 1987 (33 U.S.C. 1902 note) is amended by striking "biennially" and inserting "triennially".

(d) Report on Applied Research and Technology Program.—Section 307(e)(11) of title 23, United States Code, is repealed.

(e) Reports on Highway Safety Improvement Programs.—

(1) Report on railway-highway crossings program.—Section 130(g) of title 23, United States Code, is amended by striking the last 3 sentences.

(2) Report on hazard elimination program.—Section 152(g) of title 23, United States Code, is amended by striking the last 3 sentences.

(f) Report on Highway Safety Performance—Fatal and Injury Accident Rates on Public Roads in the United States.—Section 207 of the Highway Safety Act of 1982 (23 U.S.C. 401 note) is repealed.

(g) Report on Highway Safety Program Standards.—Section 402(a) of title 23, United States Code, is amended by striking the fifth sentence.

(h) Report on Railroad-Highway Demonstration Projects.—Section 163(o) of the Federal-Aid Highway Act of 1973 (23 U.S.C. 130 note) is repealed.

(i) Report on Uniform Relocation Act Amendments of 1987.—Section 103(b)(2) of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4604(b)(2)) is repealed.

(j) Report on Federal Railroad Safety Act of 1970.—Section 211 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 440) is repealed.

(k) Report on Railroad Financial Assistance.—Section 308(d) of title 49, United States Code, is repealed.

(l) Report on Use of Advanced Technology by the Automobile Industry.—Section 305 of the Automotive Propulsion Research and Development Act of 1978 (15 U.S.C. 2704) is amended by striking the last sentence.

(m) Report on Obligations.—Section 4(b) of the Federal Transit Act (49 U.S.C. App. 1603(b)) is repealed.

(n) Report on Suspended Light Rail System Technology Pilot Project.—Section 26(c)(11) of the Federal Transit Act (49 U.S.C. App. 1622(c)(11)) is repealed.

(o) Report on Saint Lawrence Seaway Development Corporation.—Section 10(a) of the Act of May 13, 1954 (68 Stat. 96, chapter 201; 33 U.S.C. 989(a)) is repealed.

(p) Reports on Pipelines on Federal Lands.—Section 28(w)(4) of the Mineral Leasing Act (30 U.S.C. 185(w)(4)) is repealed.

(q) Reports on Pipeline Safety.—

(1) Report on natural gas pipeline safety act of 1968.—Section 16(a) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1683(a)) is amended in the first sentence by striking "of each year" and inserting "of each odd-numbered year".

(2) Report on hazardous liquid pipeline safety act of 1979.—Section 213 of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2012) is amended in the first sentence by striking "of each year" and inserting "of each odd-numbered year".

SEC. 1122. REPORTS MODIFIED.

(a) Report on Oil Spill Liability Trust Fund.—The quarterly report regarding the Oil Spill Liability Trust Fund required to be submitted to the House and Senate Committees on Appropriations under House Report 101–892, accompanying the appropriations for the Coast Guard in the Department of Transportation and Related Agencies Appropriations Act, 1991, shall be submitted not later than 30 days after the end of the fiscal year in which this Act is enacted and annually thereafter.

(b) Report on Joint Federal and State Motor Fuel Tax Compliance Project.—Section 1040(d)(1) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 101 note) is amended by striking "September 30 and".

(c) Report on Public Transportation.—Section 308(e)(1) of title 49, United States Code, is amended by striking "January of each even-numbered year" and inserting "March 1995, March 1996, and March of each odd-numbered year thereafter".

(d) Report on Nation's Highways and Bridges.—Section 307(h) of title 23, United States Code, is amended by striking "January 1983, and in January of every second year thereafter" and inserting "March 1995, March 1996, and March of each odd-numbered year thereafter".

Subtitle M—Department of the Treasury

SEC. 1131. REPORTS ELIMINATED.

(a) Report on the Operation and Status of State and Local Government Fiscal Assistance Trust Fund.—Paragraph (8) of section 14001(a) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (31 U.S.C. 6701 note) is repealed.

(b) Report on the Antirecession Provisions of the Public Works Employment Act of 1976.—Section 213 of the Public Works Employment Act of 1976 (42 U.S.C. 6733) is repealed.

(c) Report on the Asbestos Trust Fund.—Paragraph (2) of section 5(c) of the Asbestos Hazard Emergency Response Act of 1986 (20 U.S.C. 4022(c)) is repealed.

SEC. 1132. REPORTS MODIFIED.

(a) Report on the World Cup USA 1994 Commemorative Coin Act.—Subsection (g) of section 205 of the World Cup USA 1994 Commemorative Coin Act (31 U.S.C. 5112 note) is amended by striking "month" and inserting "calendar quarter".

(b) Reports on Various Funds.—Subsection (b) of section 321 of title 31, United States Code, is amended—

(1) by striking "and" at the end of paragraph (5),

(2) by striking the period at the end of paragraph (6) and inserting "; and", and

(3) by adding after paragraph (6) the following new paragraph:

"(7) notwithstanding any other provision of law, fulfill any requirement to issue a report on the financial condition of any fund on the books of the Treasury by including the required information in a consolidated report, except that information with respect to a specific fund shall be separately reported if the Secretary determines that the consolidation of such information would result in an unwarranted delay in the availability of such information.".

(c) Report on the James Madison-Bill of Rights Commemorative Coin Act.—Subsection (c) of section 506 of the James Madison-Bill of Rights Commemorative Coin Act (31 U.S.C. 5112 note) is amended by striking out "month" and inserting in lieu thereof "calendar quarter".

Subtitle N—Department of Veterans Affairs

SEC. 1141. REPORTS ELIMINATED.

(a) Report on Adequacy of Rates for State Home Care.—Section 1741 of such title is amended—

(1) by striking out subsection (c); and

(2) by redesignating subsections (d) and (e) as subsections (c) and (d), respectively.

(b) Report on Loans To Purchase Manufactured Homes.—Section 3712 of such title is amended—

(1) by striking out subsection (l); and

(2) by redesignating subsection (m) as subsection (l).

(c) Report on Compliance With Funded Personnel Coding.—

(1) Repeal of report requirement.—Section 8110(a)(4) of title 38, United States Code, is amended by striking out subparagraph (C).

(2) Conforming amendments.—Section 8110(a)(4) of title 38, United States Code, is amended by—

(A) redesignating subparagraph (C) as subparagraph (D);

(B) in subparagraph (A), by striking out "subparagraph (D)" and inserting in lieu thereof "subparagraph (C)"; and

(C) in subparagraph (B), by striking out "subparagraph (D)" and inserting in lieu thereof "subparagraph (C)".

TITLE II—INDEPENDENT AGENCIES

Subtitle A—Action

SEC. 2011. REPORTS ELIMINATED.

Section 226 of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 5026) is amended—

(1) by striking subsection (b); and

(2) in subsection (a)—

(A) in paragraph (2), by striking "(2)" and inserting "(b)"; and

(B) in paragraph (1)—

(i) by striking "(1)(A)" and inserting "(1)"; and

(ii) in subparagraph (B)—

(I) by striking "(B)" and inserting "(2)"; and

(II) by striking "subparagraph (A)" and inserting "paragraph (1)".

Subtitle B—Environmental Protection Agency

SEC. 2021. REPORTS ELIMINATED.

(a) Report on Allocation of Water.—Section 102 of the Federal Water Pollution Control Act (33 U.S.C. 1252) is amended by striking subsection (d).

(b) Report on Variance Requests.—Section 301(n) of the Federal Water Pollution Control Act (33 U.S.C. 1311(n)) is amended by striking paragraph (8).

(c) REPORT ON IMPLEMENTATION OF CLEAN LAKES PROJECTS.—Section 314(d) of the Federal Water Pollution Control Act (33 U.S.C. 1324(d)) is amended—

(1) by striking paragraph (3); and

(2) by redesignating paragraph (4) as paragraph (3).

(d) REPORT ON USE OF MUNICIPAL SECONDARY EFFLUENT AND SLUDGE.—Section 516 of the Federal Water Pollution Control Act (33 U.S.C. 1375) (as amended by subsection (g)) is further amended—

(1) by striking subsection (c); and

(2) by redesignating subsections (d) and (e) as subsections (c) and (d), respectively.

(e) REPORT ON CERTAIN WATER QUALITY STANDARDS AND PERMITS.—Section 404 of the Water Quality Act of 1987 (Public Law 100-4; 33 U.S.C. 1375 note) is amended—

(1) by striking subsection (c); and

(2) by redesignating subsection (d) as subsection (c).

(f) REPORT ON CLASS V WELLS.—Section 1426 of title XIV of the Public Health Service Act (commonly known as the "Safe Drinking Water Act") (42 U.S.C. 300h-5) is amended—

(1) in subsection (a), by striking "(a) MONITORING METHODS.—"; and

(2) by striking subsection (b).

(g) REPORT ON SOLE SOURCE AQUIFER DEMONSTRATION PROGRAM.—Section 1427 of title XIV of the Public Health Service Act (commonly known as the "Safe Drinking Water Act") (42 U.S.C. 300h-6) is amended—

(1) by striking subsection (l); and

(2) by redesignating subsections (m) and (n) as subsections (l) and (m), respectively.

(h) REPORT ON SUPPLY OF SAFE DRINKING WATER.—Section 1442 of title XIV of the Public Health Service Act (commonly known as the "Safe Drinking Water Act") (42 U.S.C. 300h-6) is amended—

(1) by striking subsection (c);

(2) by redesignating subsection (d) as subsection (c); and

(3) by redesignating subsections (f) and (g) as subsections (d) and (e), respectively.

(i) REPORT ON NONNUCLEAR ENERGY AND TECHNOLOGIES.—Section 11 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5910) is repealed.

(j) REPORT ON EMISSIONS AT COAL-BURNING POWERPLANTS.—

(1) Section 745 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8455) is repealed.

(2) The table of contents in section 101(b) of such Act (42 U.S.C. prec. 8301) is amended by striking the item relating to section 745.

(k) 5-YEAR PLAN FOR ENVIRONMENTAL RESEARCH, DEVELOPMENT, AND DEMONSTRATION.—

(1) Section 5 of the Environmental Research, Development, and Demonstration Authorization Act of 1976 (42 U.S.C. 4361) is repealed.

(2) Section 4 of the Environmental Research, Development, and Demonstration Authorization Act of 1978 (42 U.S.C. 4361a) is repealed.

(3) Section 8 of such Act (42 U.S.C. 4365) is amended—

(A) by striking subsection (c); and

(B) by redesignating subsections (d) through (i) as subsections (c) through (h), respectively.

(l) PLAN ON ASSISTANCE TO STATES FOR RADON PROGRAMS.—Section 305 of the Toxic Substances Control Act (15 U.S.C. 2665) is amended—

(1) by striking subsection (d); and

(2) by redesignating subsections (e) and (f) as subsections (d) and (e), respectively.

Subtitle C—Equal Employment Opportunity Commission

SEC. 2031. REPORTS MODIFIED.

Section 705(k)(2)(C) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-4(k)(2)(C)) is amended—

(1) in the matter preceding clause (i), by striking "including" and inserting "including information, presented in the aggregate, relating to";

(2) in clause (i), by striking "the identity of each person or entity" and inserting "the number of persons and entities";

(3) in clause (ii), by striking "such person or entity" and inserting "such persons and entities"; and

(4) in clause (iii)—

(A) by striking "fee" and inserting "fees"; and

(B) by striking "such person or entity" and inserting "such persons and entities".

Subtitle D—Federal Aviation Administration

SEC. 2041. REPORTS ELIMINATED.

Section 7207(c)(4) of the Anti-Drug Abuse Act of 1988 (Public Law 100-690; 102 Stat. 4428; 49 U.S.C. App. 1354 note) is amended—

(1) by striking out "GAO"; and

(2) by striking out "the Comptroller General" and inserting in lieu thereof "the Department of Transportation Inspector General".

Subtitle E—Federal Communications Commission

SEC. 2051. REPORTS ELIMINATED.

(a) REPORT TO THE CONGRESS UNDER THE COMMUNICATIONS SATELLITE ACT OF 1962.—Section 404(c) of the Communications Satellite Act of 1962 (47 U.S.C. 744(c)) is repealed.

(b) REIMBURSEMENT FOR AMATEUR EXAMINATION EXPENSES.—Section 4(f)(4)(J) of the Communications Act of 1934 (47 U.S.C. 154(f)(4)(J)) is amended by striking out the last sentence.

Subtitle F—Federal Deposit Insurance Corporation

SEC. 2061. REPORTS ELIMINATED.

Section 102(b)(1) of the Federal Deposit Insurance Corporation Improvement Act of 1991 (Public Law 102-242; 105 Stat. 2237; 12 U.S.C. 1825 note) is amended to read as follows:

"(1) QUARTERLY REPORTING.—Not later than 90 days after the end of any calendar quarter in which the Federal Deposit Insurance Corporation (hereafter in this section referred to as the 'Corporation') has any obligations pursuant to section 14 of the Federal Deposit Insurance Act outstanding, the Comptroller General of the United States shall submit a report on the Corporation's compliance at the end of that quarter with section 15(c) of the Federal Deposit Insurance Act to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives. Such a report shall be included in the Comptroller General's audit report for that year, as required by section 17 of the Federal Deposit Insurance Act.".

Subtitle G—Federal Emergency Management Agency

SEC. 2071. REPORTS ELIMINATED.

Section 201(h) of the Federal Civil Defense Act of 1950 (50 U.S.C. App. 2281(h)) is amended by striking the second proviso.

Subtitle H—Federal Retirement Thrift Investment Board

SEC. 2081. REPORTS ELIMINATED.

Section 9503 of title 31, United States Code, is amended by adding at the end thereof the following new subsection:

"(c) The requirements of this section are satisfied with respect to the Thrift Savings Plan described under subchapter III of chapter 84 of title 5, by preparation and transmission of the report described under section 8439(b) of such title.".

Subtitle I—General Services Administration

SEC. 2091. REPORTS ELIMINATED.

(a) REPORT ON PROPERTIES CONVEYED FOR HISTORIC MONUMENTS AND CORRECTIONAL FACILITIES.—Section 203(o) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484(o)) is amended—

(1) by striking out paragraph (1);

(2) by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively; and

(3) in paragraph (2) (as so redesignated) by striking out "paragraph (2)" and inserting in lieu thereof "paragraph (3)".

(b) REPORT ON PROPOSED SALE OF SURPLUS REAL PROPERTY AND REPORT ON NEGOTIATED SALES.—Section 203(e)(6) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484(e)(6)) is repealed.

(c) REPORT ON PROPERTIES CONVEYED FOR WILDLIFE CONSERVATION.—Section 3 of the Act entitled "An Act authorizing the transfer of certain real property for wildlife, or other purposes.", approved May 19, 1948 (16 U.S.C. 667d; 62 Stat. 241) is amended by striking out "and shall be included in the annual budget transmitted to the Congress".

Subtitle J—Interstate Commerce Commission

SEC. 2101. REPORTS ELIMINATED.

Section 10327(k) of title 49, United States Code, is amended to read as follows:

"(k) If an extension granted under subsection (j) is not sufficient to allow for completion of necessary proceedings, the Commission may grant a further extension in an extraordinary situation if a majority of the Commissioners agree to the further extension by public vote.".

Subtitle K—Legal Services Corporation

SEC. 2111. REPORTS MODIFIED.

Section 1009(c)(2) of the Legal Services Corporation Act (42 U.S.C. 2996h(c)(2)) is amended by striking out "The" and inserting in lieu thereof "Upon request, the".

Subtitle L—National Aeronautics and Space Administration

SEC. 2121. REPORTS ELIMINATED.

Section 21(g) of the Small Business Act (15 U.S.C. 648(g)) is amended to read as follows:

"(g) NATIONAL AERONAUTICS AND SPACE ADMINISTRATION AND REGIONAL TECHNOLOGY TRANSFER CENTERS.—The National Aeronautics and Space Administration and regional technology transfer centers supported by the National Aeronautics and Space Administration are authorized and directed to cooperate with small business development centers participating in the program.".

Subtitle M—National Council on Disability

SEC. 2131. REPORTS ELIMINATED.

Section 401(a) of the Rehabilitation Act of 1973 (29 U.S.C. 781(a)) is amended—

(1) by striking paragraph (9); and

(2) by redesignating paragraphs (10) and (11) as paragraphs (9) and (10), respectively.

Subtitle N—National Science Foundation

SEC. 2141. REPORTS ELIMINATED.

(a) STRATEGIC PLAN FOR SCIENCE AND ENGINEERING EDUCATION.—Section 107 of the Education for Economic Security Act (20 U.S.C. 3917) is repealed.

(b) BUDGET ESTIMATE.—Section 14 of the National Science Foundation Act of 1950 (42 U.S.C. 1873) is amended by striking subsection (j).

Subtitle O—National Transportation Safety Board

SEC. 2151. REPORTS MODIFIED.

Section 305 of the Independent Safety Board Act of 1974 (49 U.S.C. 1904) is amended—

(1) in paragraph (2) by adding "and" after the semicolon;

(2) in paragraph (3) by striking out "; and" and inserting in lieu thereof a period; and

(3) by striking out paragraph (4).

Subtitle P—Neighborhood Reinvestment Corporation

SEC. 2161. REPORTS ELIMINATED.

Section 607(c) of the Neighborhood Reinvestment Corporation Act (42 U.S.C. 8106(c)) is amended by striking the second sentence.

Subtitle Q—Nuclear Regulatory Commission

SEC. 2171. REPORTS MODIFIED.

Section 208 of the Energy Reorganization Act of 1974 (42 U.S.C. 5848) is amended by striking "each quarter a report listing for that period" and inserting "an annual report listing for the previous fiscal year".

Subtitle R—Office of Personnel Management

SEC. 2181. REPORTS ELIMINATED.

(a) REPORT ON SENIOR EXECUTIVE SERVICE.—(1) Section 3135 of title 5, United States Code, is repealed.

(2) The table of sections for chapter 31 of title 5, United States Code, is amended by striking out the item relating to section 3135.

(b) REPORT ON PERFORMANCE AWARDS.—Section 4314(d) of title 5, United States Code, is repealed.

(c) REPORT ON TRAINING PROGRAMS.—(1) Section 4113 of title 5, United States Code, is repealed.

(2) The table of sections for chapter 41 of title 5, United States Code, is amended by striking out the item relating to section 4113.

(d) REPORT ON PREVAILING RATE SYSTEM.—Section 5347(e) of title 5, United States Code, is amended by striking out the fourth and fifth sentences.

(e) REPORT ON ACTIVITIES OF THE MERIT SYSTEMS PROTECTION BOARD AND THE OFFICE OF PERSONNEL MANAGEMENT.—Section 2304 of title 5, United States Code, is amended—

(1) in subsection (a) by striking out "(a)"; and

(2) by striking subsection (b).

SEC. 2182. REPORTS MODIFIED.

(a) REPORT ON DISTRICT OF COLUMBIA RETIREMENT FUND.—Section 145 of the District of Columbia Retirement Reform Act (Public Law 96–122; 93 Stat. 882) is amended—

(1) in subsection (b)—

(A) in paragraph (1)—

(i) by striking out "(1)";

(ii) by striking out "and the Comptroller General shall each" and inserting in lieu thereof "shall"; and

(iii) by striking out "each"; and

(B) by striking out paragraph (2); and

(2) in subsection (d), by striking out "the Comptroller General and" each place it appears.

(b) REPORT ON REVOLVING FUND.—Section 1304(e)(6) of title 5, United States Code, is amended by striking out "at least once every three years".

Subtitle S—Office of Thrift Supervision

SEC. 2191. REPORTS MODIFIED.

Section 18(c)(6)(B) of the Federal Home Loan Bank Act (12 U.S.C. 1438(c)(6)(B)) is amended—

(1) by striking out "annually";

(2) by striking out "audit, settlement," and inserting in lieu thereof "settlement"; and

(3) by striking out ", and the first audit" and all that follows through "enacted".

Subtitle T—Panama Canal Commission

SEC. 2201. REPORTS ELIMINATED.

(a) REPORTS ON PANAMA CANAL.—Section 1312 of the Panama Canal Act of 1979 (Public Law 96–70; 22 U.S.C. 3722) is repealed.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of contents in section 1 of such Act is amended by striking out the item relating to section 1312.

Subtitle U—Postal Service

SEC. 2211. REPORTS MODIFIED.

(a) REPORT ON CONSUMER EDUCATION PROGRAMS.—Section 4(b) of the mail Order Consumer Protection Amendments of 1983 (39 U.S.C. 3001 note; Public Law 98–186; 97 Stat. 1318) is amended to read as follows:

"(b) A summary of the activities carried out under subsection (a) shall be included in the first semiannual report submitted each year as required under section 5 of the Inspector General Act of 1978 (5 U.S.C. App.).".

(b) REPORT ON INVESTIGATIVE ACTIVITIES.—Section 3013 of title 39, United States Code, is amended in the last sentence by striking out "the Board shall transmit such report to the Congress" and inserting in lieu thereof "the information in such report shall be included in the next semiannual report required under section 5 of the Inspector General Act of 1978 (5 U.S.C. App.)".

Subtitle V—Railroad Retirement Board

SEC. 2221. REPORTS MODIFIED.

Section 502 of the Railroad Retirement Solvency Act of 1983 (45 U.S.C. 231f–1) is amended by striking "On or before July 1, 1985, and each calendar year thereafter" and inserting "As part of the annual report required under section 22(a) of the Railroad Retirement Act of 1974 (45 U.S.C. 231u(a))".

Subtitle W—Thrift Depositor Protection Oversight Board

SEC. 2231. REPORTS MODIFIED.

Section 21A(k)(9) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(k)(9)) is amended by striking out "the end of each calendar quarter" and inserting in lieu thereof "June 30 and December 31 of each calendar year".

Subtitle X—United States Information Agency

SEC. 2241. REPORTS ELIMINATED.

Notwithstanding section 601(c)(4) of the Foreign Service Act of 1980 (22 U.S.C. 4001(c)(4)), the reports otherwise required under such section shall not cover the activities of the United States Information Agency.

TITLE III—REPORTS BY ALL DEPARTMENTS AND AGENCIES

SEC. 3001. REPORTS ELIMINATED.

(a) REPORT ON PART-TIME EMPLOYMENT.—(1) Section 3407 of title 5, United States Code, is repealed.

(2) The table of sections for chapter 34 of title 5, United States Code, is amended by striking out the item relating to section 3407.

(b) BUDGET INFORMATION ON CONSULTING SERVICES.—(1) Section 1114 of title 31, United States Code, is repealed.

(2) The table of sections for chapter 11 of title 31, United States Code, is amended by striking out the item relating to section 1114.

(c) SEMIANNUAL REPORT ON LOBBYING.—Section 1352 of title 31, United States Code, is amended by—

(1) striking out subsection (d); and

(2) redesignating subsections (e), (f), (g), and (h) as subsections (d), (e), (f), and (g), respectively.

(d) REPORTS ON PROGRAM FRAUD AND CIVIL REMEDIES.—(1) Section 3810 of title 31, United States Code, is repealed.

(2) The table of sections for chapter 38 of title 31, United States Code, is amended by striking out the item relating to section 3810.

(e) REPORT ON RIGHT TO FINANCIAL PRIVACY ACT.—Section 1121 of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3421) is repealed.

(f) REPORT ON PLANS TO CONVERT TO THE METRIC SYSTEM.—Section 12 of the Metric Conversion Act of 1975 (15 U.S.C. 205j–1) is repealed.

(g) REPORT ON TECHNOLOGY UTILIZATION AND INTELLECTUAL PROPERTY RIGHTS.—Section 11(f) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710(f)) is repealed.

(h) REPORT ON EXTRAORDINARY CONTRACTUAL ACTIONS TO FACILITATE THE NATIONAL DEFENSE.—Section 4(a) of the Act entitled "An Act to authorize the making, amendment, and modification of contracts to facilitate the national defense", approved August 28, 1958 (50 U.S.C. 1434(a)), is amended by striking out "all such actions taken" and inserting in lieu thereof "if any such action has been taken".

(i) REPORTS ON DETAILING EMPLOYEES.—Section 619 of the Treasury, Postal Service, and General Government Appropriations Act, 1993 (Public Law 102–393; 106 Stat. 1769), is repealed.

SEC. 3002. REPORTS MODIFIED.

Section 552b(j) of title 5, United States Code, is amended to read as follows:

"(j) Each agency subject to the requirements of this section shall annually report to the Congress regarding the following:

"(1) The changes in the policies and procedures of the agency under this section that have occurred during the preceding 1-year period.

"(2) A tabulation of the number of meetings held, the exemptions applied to close meetings, and the days of public notice provided to close meetings.

"(3) A brief description of litigation or formal complaints concerning the implementation of this section by the agency.

"(4) A brief explanation of any changes in law that have affected the responsibilities of the agency under this section.".

SEC. 3003. TERMINATION OF REPORTING REQUIREMENTS.

(a) TERMINATION.—

(1) IN GENERAL.—Subject to the provisions of paragraph (2), each provision of law requiring the submittal to Congress (or any committee of the Congress) of any annual, semiannual, or other regular periodic report specified on the list described under subsection (c) shall cease to be effective, with respect to that requirement, 4 years after the date of the enactment of this Act.

(2) EXCEPTION.—The provisions of paragraph (1) shall not apply to any report required under—

(A) the Inspector General Act of 1978 (5 U.S.C. App.); or

(B) the Chief Financial Officers Act of 1990 (Public Law 101–576), including provisions enacted by the amendments made by that Act.

(b) IDENTIFICATION OF WASTEFUL REPORTS.—The President shall include in the first annual budget submitted pursuant to section 1105 of title 31, United States Code, after the date of enactment of this Act a list of reports that the President has determined are unnecessary or wasteful and the reasons for such determination.

(c) LIST OF REPORTS.—The list referred to under subsection (a) is the list prepared by the Clerk of the House of Representatives for the first session of the 103d Congress under clause 2 of rule III of the Rules of the House of Representatives (House Document No. 103–7).

Mr. HATCH. Mr. President, I move to reconsider the vote.

Mr. GLENN. I move to lay that motion on the table.

The motion to lay on the table is agreed to.

MAKING TECHNICAL CORRECTIONS TO SENATE RESOLUTION 120

Mr. HATCH. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Resolution 153, submitted earlier today by Senators DOLE and DASCHLE.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

A resolution (Senate Resolution 153) to make certain technical corrections to Senate Resolution 120.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. HATCH. I ask unanimous consent that the resolution be considered and agreed to, and the motion to reconsider be laid upon the table, and that any statements relating to the resolution appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the resolution (S. Res. 153) was considered and agreed to.

The resolution is as follows:

S. RES. 153

Resolved, That Senate Resolution 120, agreed to May 17, 1995 (104th Congress, 1st Session), is amended—(1) in section 2(a)(1)(A) by inserting ", except that Senator Frank H. Murkowski shall substitute for Senator Phil Gramm" before the semicolon;

(2) in section 5(b)—

(A) in paragraph (11) by inserting "with the approval of the Committee on Rules and Administration" before the period; and

(B) in paragraph (12) by inserting "and the Committee on Rules and Administration" after "concerned"; and

(3) in section 8 by adding at the end the following: "There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the Special Committee from May 17, 1995 through February 29, 1996, to be paid from the appropriations account for 'Expenses of Inquiries and Investigations' of the Senate.".

IMMIGRATION AND NATIONALITY ACT AMENDMMENT

Mr. HATCH. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 130, S. 457, a bill to amend the Immigration and Nationality Act to update references in the classification of children for purposes of U.S. immigration laws.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 457) to amend the Immigration and Nationality Act to update references in the classification of children for purposes of U.S. immigration laws.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. HATCH. Mr. President, I ask unanimous consent that the bill be considered deemed read a third time, passed, that the motion to reconsider be laid upon the table, and that any statements relating to the bill be placed at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (S. 457) was deemed read for the third time, and passed as follows:

S. 457

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DEFINITION OF CHILD.

Section 101(b) of the Immigration and Nationality Act (8 U.S.C. 1101(b)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (A), by striking "legitimate child" and inserting "child born in wedlock"; and

(B) in subparagraph (D), by striking "an illegitimate child" and inserting "a child born out of wedlock"; and

(2) in paragraph (2), by striking "an illegitimate child" and inserting "a child born out of wedlock".

ORDERS FOR TUESDAY, JULY 18, 1995

Mr. HATCH. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 9 a.m., on Tuesday, July 18, 1995; that following the prayer, the Journal of Proceedings be deemed approved to date, the time for the two leaders be reserved for their use later in the day, and there then be a period for morning business until the hour of 10 a.m., with Senators permitted to speak for up to 5 minutes each; with the following exceptions: Senator NUNN, 30 minutes; Senator GORTON, 5 minutes; Senator MURRAY, 5 minutes; Senator PRESSLER, 10 minutes; and Senator THURMOND, 10 minutes.

Further, that at the hour of 10:00, the Senate immediately resume consideration of S. 343, the Regulatory Reform bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. I now ask unanimous consent that the Senate stand in recess on Tuesday between the hours of 12:30 p.m. and 2:15 p.m. in order to accommodate respective party luncheons.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. HATCH. Mr. President, for the information of all Senators, the Senate will resume consideration of the Regulatory Reform bill at 10 a.m. on Tuesday. Pending to the bill is the Glenn substitute amendment to the Dole/Johnston substitute amendment. Under the previous order, there will be a vote on the Glenn substitute at 2:15 p.m. and a cloture vote on the Dole/Johnston substitute amendment immediately following the Glenn vote. As a reminder to all Senators, under the provisions of rule XII, any second degree amendment must be filed by 12:30 p.m. on Tuesday. Further, the majority leader has filed a third cloture motion today on the Dole/Johnston substitute, therefore Members may file first degree amendments with respect to that third cloture motion until 12:30 p.m. on Tuesday.

RECESS UNTIL 9 A.M. TOMORROW

Mr. HATCH. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in recess under the previous order.

There being no objection, the Senate, at 7:18 p.m., recessed until Tuesday, July 18, 1995, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate July 17, 1995:

DEPARTMENT OF STATE

EILEEN B. CLAUSSEN, OF THE DISTRICT OF COLUMBIA, TO BE ASSISTANT SECRETARY OF STATE FOR OCEANS AND INTERNATIONAL ENVIRONMENTAL AND SCIENTIFIC AFFAIRS, VICE ELINOR G. CONSTABLE.

NUCLEAR REGULATORY COMMISSION

GRETA JOY DICUS, OF ARKANSAS, TO BE A MEMBER OF THE NUCLEAR REGULATORY COMMISSION FOR THE TERM OF 5 YEARS EXPIRING JUNE 30, 1998, VICE JAMES R. CURTISS, TERM EXPIRED.

EUROPEAN BANK FOR RECONSTRUCTION AND DEVELOPMENT

LEE F. JACKSON, OF MASSACHUSETTS, TO BE U.S. DIRECTOR OF THE EUROPEAN BANK FOR RECONSTRUCTION AND DEVELOPMENT, VICE JAMES H. SCHEUER, RESIGNED.

DEPARTMENT OF THE INTERIOR

ELUID LEVI MARTINEZ, OF NEW MEXICO, TO BE COMMISSIONER OF RECLAMATION, VICE DANIEL P. BEARD, RESIGNED.

EXECUTIVE OFFICE OF THE PRESIDENT

ERNEST J. MONIZ, OF MASSACHUSETTS, TO BE AN ASSOCIATE DIRECTOR OF THE OFFICE OF SCIENCE AND TECHNOLOGY POLICY, VICE MARY RITA COOKE GREENWOOD, RESIGNED.

FEDERAL LABOR RELATIONS AUTHORITY

DONALD S. WASSERMAN, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE FEDERAL LABOR RELATIONS AUTHORITY FOR A TERM OF 5 YEARS EXPIRING JULY 1, 2000, VICE PAMELA TALKIN, TERM EXPIRED.

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

HARRIS WOFFORD, OF PENNSYLVANIA, TO BE CHIEF EXECUTIVE OFFICER OF THE CORPORATION FOR NATIONAL AND COMMUNITY SERVICE, VICE ELI J. SEGAL.

IN THE NAVY

THE FOLLOWING-NAMED OFFICER FOR PROMOTION IN THE NAVY OF THE UNITED STATES TO THE GRADE INDICATED UNDER TITLE 10, UNITED STATES CODE, SECTION 624:

SENIOR HEALTH CARE EXECUTIVE

To be rear admiral

REAR ADM. (LH) S. TODD FISHE[redacted].

WITHDRAWAL

Executive message transmitted by the President to the Senate on July 17, 1995, withdrawing from further Senate consideration the following nomination:

NUCLEAR REGULATORY COMMISSION

ROBERT M. SUSMAN, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE NUCLEAR REGULATORY COMMISSION FOR A TERM OF 5 YEARS EXPIRING JUNE 30, 1998, VICE JAMES R. CURTISS, TERM EXPIRED, WHICH WAS SENT TO THE SENATE ON JANUARY 5, 1995.

HOUSE OF REPRESENTATIVES—*Monday, July 17, 1995*

The House met at 10:30 a.m. and was called to order by the Speaker pro tempore [Mr. EVERETT].

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
July 17, 1995.

I hereby designate the Honorable TERRY EVERETT to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12, rule I, the House will stand in recess until 12 noon.

Accordingly (at 10 o'clock and 31 minutes a.m.), the House stood in recess until 12 noon.

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. EVERETT) at 12 noon.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We speak about Your sovereignty, O God, and yet we often act as if You did not exist; our prayers of devotion call upon Your name and yet we think we can walk alone; our public petitions invoke Your grace and yet privately we do not care; our mouths call upon You with requests and appeals and yet our hearts and souls go their own way. Slow us down, O gracious God, and turn us to the truth to see You as the author of all creation, the redeemer of all that is good, the pilot that gives us direction and our guardian through all the perils of life. Bless us this day and every day, we pray. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Michigan [Mr. DINGELL] come forward and lead the House in the Pledge of Allegiance.

Mr. DINGELL led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

ON MEDICARE

(Mr. DINGELL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DINGELL. Mr. Speaker, like the many seniors who have contacted me, I am shocked that the Republican budget slashes Medicare by $270 billion.

It now appears that Republicans are preparing to end Medicare as we know it. Recent media reports indicate that they want to privatize this valuable program, as they did when it was enacted in 1965.

Sadly, the Republicans are hiding their plans for reforming Medicare. The current legislative schedule allows for only a few days in September to introduce, review, and vote on their proposed changes. If my colleagues across the aisle have such wonderful ideas for ensuring the solvency of Medicare and the health of their seniors, why are they keeping them a secret? What are they afraid of?

It appears that they are trying to sneak their radical and extreme cuts by the American public. I can understand why they would be inclined to do so, given the fact that they are also pushing a $240 billion tax cut for the wealthy.

Raiding Medicare to pay for this unwise tax cut will inflict unacceptable pain on this Nation's seniors. Out-of-pocket expenses for seniors will rise by $850 by the year 2002. These cuts will also greatly diminish the ability of older Americans to access quality care.

Seniors have a right to know what is in store for Medicare, especially if they are being asked to bear skyrocketing premiums and limited access to care to help finance tax breaks for the wealthy.

I call upon my Republican colleagues to deliver a full and open debate on how best to improve and strengthen Medicare. I also urge them to join me in rejecting the unfair tax break/Medicare cut tradeoff being advanced.

DO NOT TAKE AWAY HEALTH CARE SECURITY FROM OUR SENIORS

(Mr. LEWIS of Georgia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEWIS of Georgia. Mr. Speaker, while I was in my district yesterday, I met senior citizens who are frightened. They don't have much money to spare, and they watch what they spend. They are worried that they will lose the security of Medicare.

They understand that cuts to Medicare are not reform. They understand that they will pay more.

I share their concern. The Republicans say they will give seniors more choice. But they do not mention that many seniors cannot afford the choice. Our elderly will pay more and get less.

Republicans say they must cut Medicare to save it. If my Republican colleagues are concerned about the Medicare Program, why do they cut Medicare to pay for tax cuts for the rich? This will not help Medicare.

Thirty years ago, Congress and the President signed a sacred trust with our seniors—Medicare. We must not stand by while that trust is broken.

WAKE UP, AMERICA

(Ms. FURSE asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. FURSE. Mr. Speaker, I want to issue a wake-up call to the American people. I want to say to the American voters: Please watch closely what's happening here in Congress. I don't think you'll like what you'll see.

What you'll see during this appropriations process is a back-door attack on the environment. Instead of reauthorizing and finetuning laws in the light of day, this Congress is covertly starving programs to death through lack of funding.

The American people trust that the environmental laws that we've had on the books for the past two decades will continue to be enforced, because they're law. Wrong. This new Republican Congress is in the process of: Taking away money from the Fish and Wildlife Service which lists species that are on the brink of extinction; taking away money from the EPA which stops polluters from dumping waste into our rivers; and taking away money from the Forest Service which ensures logging operations don't harm salmon spawning habitat.

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface **indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.**

So even if though there's a law soon to protect the environment, there will be no money to enforce it.

America, is this really what you voted for? I don't think so.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

U.S. HOUSE OF REPRESENTATIVES,
Washington, DC, July 14, 1995.

Hon. NEWT GINGRICH,
The Speaker, U.S. House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 5 of Rule III of the Rules of the U.S. House of Representatives, I have the honor to transmit a sealed envelope received from the White House on Friday, July 14, 1995 at 10:18 a.m. and said to contain a message from the President whereby he transmits the fourth biennial report (1995–2000) to the United States Arctic Research Plan.

Sincerely yours,
ROBIN H. CARLE,
Clerk, U.S. House of Representatives.

BIENNIAL REVISION TO U.S. ARCTIC RESEARCH PLAN—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Science:

To the Congress of the United States:

Pursuant to the provisions of the Arctic Research and Policy Act of 1984, as amended (15 U.S.C. 4108(a)), I transmit herewith the fourth biennial revision (1996–2000) to the United States Arctic Research Plan.

WILLIAM J. CLINTON.
THE WHITE HOUSE, *July 14, 1995.*

REPUBLICAN SNEAK ATTACK ON THE ENVIRONMENT

The SPEAKER pro tempore. Under a previous order of the House the gentleman from Colorado [Mr. SKAGGS] is recognized for 5 minutes.

Mr. SKAGGS. Mr. Speaker, I am afraid that the new Republican majority in the House is carrying out what is in effect a sneak attack on public health, on environmental protection and on our national park system, among other things.

Following the unfortunate example of James Watt, they are distorting the normal legislative process around here, acting against House rules by using the appropriations process to rewrite law and reshape policy, so that they can achieve, by stealth, objectives that lack real public support.

We saw the start of this pattern with the first rescissions bill, with its pages of legislative language waiving environmental and forest management laws, language that under the normal rules of the House should not have been in any bill of that kind.

We are seeing it again now in the Interior appropriations bill, which we will take up again later today, with its provisions to dissolve the National Biological Service, transfer its functions to the U.S. Geological Service, again, legislating on an appropriations bill, again, an attack on research and on sound wildlife conservation; also, in the same bill, with its provisions to essentially eliminate the Mojave National Preserve in California as a unit of the National Park Service, by a back door attack instead of a straightforward proposal to repeal or amend the California Desert Protection Act.

Later this week we will see it in even more outrageous ways when the full Committee on Appropriations takes up the bill to fund the Environmental Protection Agency. That bill has more riders than the Long Island Railroad. Most of them are intended to prevent the government from doing its job in protecting our water, our air, our wetlands, our health. Let us just take a look quickly at the passenger count, the number of riders on that bill.

In just 7 pages of the bill dealing with the EPA, there are 21 anti-environment riders, including the following provisions: blocking enforcement of air pollution permits; limiting enforcement of storm water and sanitary sewer provisions in the Water Pollution Control Act; handicapping the EPA's ability under the Clean Air Act to regulate toxic emissions from certain refineries; putting other limits on enforcing environmental laws affecting other parts of the oil and gas industry; stopping EPA from taking steps to keep arsenic, radon and other radionuclei out of our drinking water; limiting the EPA's efforts to control toxic releases from cement kilns and other incinerators; restricting the gathering and publishing of information about the use of chemicals; restricting the protection of the country's wetlands, blocking efforts to encourage car pooling; restricting efforts to improve water quality in the Great Lakes; and, undermining the regulation of pesticides in foods.

Mr. Speaker, the pattern could not be clearer. Just take a look at it, page after page of regressive anti-environmental and underhanded provisions aimed at handcuffing efforts to protect our food supply, keep our air and water clean, protect vital wetlands, all things vital to our natural systems all over the country.

It is no wonder, Mr. Speaker, that Carol Browner, the EPA administrator, has concluded that we are seeing "an organized, concerted effort to undermine public health and safety and the environment."

If anything, Carol Browner understates the situation. The American people need to know what is going on. They need to know that this new Republican majority is determined to undermine the progress that we have made in the last several decades in protecting our environment, progress that the American people are proud of and want to see continued. They need to know that we are in the midst of a full-fledged attack on the safeguards of the water we drink and the air we breathe. They need to know because, when they do know, they will reject this assault on public health, public safety and public lands.

We need to be doing more, not less, to clean up the environment and to protect people's health.

For instance, two new studies this year tell us that 53 million Americans are drinking tap water that is below standards. What is the response of the new majority here in the Congress to this? To do more to clean up the nation's water? No. The Republican response is to come up with eight different legislative riders to determine the Clean Water Act and the Safe Drinking Water Act. Hard to imagine.

This Republican sneak attack on the environment should not and will not go unopposed. The American people did not vote last November to roll back 25 years of environmental progress. They did not vote for more pollution or for backhanded legislative shenanigans to under cut environmental standards just to satisfy the greed and the campaign access paid for by many industrial polluters.

Together with other members of the Committee on Appropriations and of this House as a whole, we must do all that we can to spread the word about this sneak attack and to keep it from succeeding.

Nothing is more important than protecting our air, our water, our lands, the public's health.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12 of rule I, the Chair declares the House in recess until 4 p.m. today.

Accordingly (at 12 o'clock and 14 minutes p.m.), the House stood in recess until 4:00 p.m.

□ 1602

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. SHAYS) at 4 o'clock and 2 minutes p.m.

PROVIDING FOR CONSIDERATION OF H.R. 1976, AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 1996

Mr. DREIER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 188 and ask for its immediate consideration.

The Clerk read as follows:

H. RES. 188

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 1976) making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 1996, and for other purposes. The first reading of the bill shall be dispensed with. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations. After general debate the bill shall be considered for amendment under the five-minute rule, and the amendment printed in the report of the Committee on Rules accompanying this resolution shall be considered as pending. That amendment shall be considered as read, shall be debatable for ten minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. If that amendment is adopted, the provisions of the bill, as amended, shall be considered as the original bill for the purpose of further amendment under the five-minute rule. Further consideration of the bill for amendment shall proceed by title rather than by paragraph. Each title shall be considered as read. Points of order against provisions in the bill for failure to comply with clause 2 or 6 of rule XXI are waived. During further consideration of the bill for amendment, the Chairman of the Committee of the Whole may accord priority in recognition on the basis of whether the Member offering an amendment has caused it to be printed in the portion of the Congressional Record designated for that purpose in clause 6 of rule XXIII. Amendments so printed shall be considered as read. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from California [Mr. DREIER] is recognized for 1 hour.

Mr. DREIER. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to my very good friend, the gentleman from Ohio [Mr. HALL], pending which I yield myself such time as I may consume. During consideration of this rule, all time yielded is for purposes of debate only.

Mr. Speaker, House Resolution 188 is an open rule providing for consideration of H.R. 1976, the Agriculture, Rural Development, Food and Drug Administration and Related Agencies appropriations bill for fiscal year 1996.

The rule provides for 1 hour of general debate divided equally between the chairman and ranking minority member of the Committee on Appropriations. The bill is to be read by title for amendment, and each title is to be considered as read.

The rule waives clause 2 of rule XXI—which prohibits unauthorized appropriations and legislation on an appropriations bill—and also waives clause 6 of rule XXI—which prohibits reappropriating unexpended balances of appropriations in general appropriations bills—against provisions of the bill.

Under the rule, it is in order to consider first an amendment printed in the rule to be offered by Mr. SKEEN of New Mexico. This amendment shall be considered as read. The amendment is debatable for 10 minutes divided between the chairman and ranking member of the Appropriations Committee. The amendment offered by Mr. SKEEN is not subject to amendment or to a demand for a division of the question in the House or Committee of the Whole. If this amendment is adopted, it shall be considered as a part of the original text for the purpose of further amendment under the 5 minute rule. In allowing this amendment, we are following past practices of previous Congresses, in order to be as fair as we possibly can be on these appropriations bills.

This rule accords priority in recognition to Members who have preprinted their amendments in the CONGRESSIONAL RECORD. The rule does not require pre-printing, but simply encourages Members to take advantage of the option in order to facilitate consideration of amendments on the House floor.

Finally, House Resolution 188 provides for one motion to recommit, with or without instructions, as is the right of the minority members of the House.

Mr. Speaker, this is the fifth open rule to be offered during the consideration of the 1966 appropriations process—the sixth if you count the first Interior appropriations rule. House Resolution 188 is a typical open rule to be considered for general appropriations bills. This rule does not restrict the normal open amending process and any amendments that comply with the standing rules of the House may be offered.

H.R. 1976 appropriates a total of $62.7 billion dollars, which is $6.3 billion less than was appropriated last year. This bill provides $13 billion in discretionary spending and $49 billion in mandatory spending, a decrease of about $5.3 billion below the amount available for fiscal year 1995. Clearly, the Appropriations Committee has had to balance a wide array of interests and had to make very difficult choices with drastically reduced resources.

With that in mind, I want to commend the close work of the authorizing and appropriating committees in crafting the legislation that will soon be before the House. They have worked together under an incredibly tight budget to ensure that all funding is spent where it is needed most. Together, they have responsibly sought to maintain functions that are crucial to the health and safety of the American consumer and the future success of this nation's farming communities.

H.R. 1976 was favorably reported out of the Committee on Appropriations, as was the open rule by the Rules Committee. I urge my colleagues to support the rule so that we may proceed with consideration of the merits of the legislation.

Mr. Speaker, I include for the RECORD information on the amendment process. The document referred to is as follows:

THE AMENDMENT PROCESS UNDER SPECIAL RULES REPORTED BY THE RULES COMMITTEE,[1] 103D CONGRESS V. 104TH CONGRESS

[As of July 14, 1995]

Rule type	103d Congress		104th Congress	
	Number of rules	Percent of total	Number of rules	Percent of total
Open/Modified-open[2]	46	44	34	72
Modified Closed[3]	49	47	12	26
Closed[4]	9	9	1	2
Totals:	104	100	47	100

[1] This table applies only to rules which provide for the original consideration of bills, joint resolutions or budget resolutions and which provide for an amendment process. It does not apply to special rules which only waive points of order against appropriations bills which are already privileged and are considered under an open amendment process under House rules.

[2] An open rule is one under which any Member may offer a germane amendment under the five-minute rule. A modified open rule is one under which any Member may offer a germane amendment under the five-minute rule subject only to an overall time limit on the amendment process and/or a requirement that the amendment be preprinted in the Congressional Record.

[3] A modified closed rule is one under which the Rules Committee limits the amendments that may be offered only to those amendments designated in the special rule or the Rules Committee report to accompany it, or which preclude amendments to a particular portion of a bill, even though the rest of the bill may be completely open to amendment.

[4] A closed rule is one under which no amendments may be offered (other than amendments recommended by the committee in reporting the bill).

SPECIAL RULES REPORTED BY THE RULES COMMITTEE, 104TH CONGRESS

[As of July 14, 1995]

H. Res. No. (Date rept.)	Rule type	Bill No.	Subject	Disposition of rule
H. Res. 38 (1/18/95)	O	H.R. 5	Unfunded Mandate Reform	A: 350–71 (1/19/95).
H. Res. 44 (1/24/95)	MC	H. Con. Res. 17	Social Security	A: 255–172 (1/25/95).
		H.J. Res. 1	Balanced Budget Amdt	
H. Res. 51 (1/31/95)	O	H.R. 101	Land Transfer, Taos Pueblo Indians	A: voice vote (2/1/95).
H. Res. 52 (1/31/95)	O	H.R. 400	Land Exchange, Arctic Nat'l. Park and Preserve	A: voice vote (2/1/95).
H. Res. 53 (1/31/95)	O	H.R. 440	Land Conveyance, Butte County, Calif	A: voice vote (2/1/95).
H. Res. 55 (2/1/95)	O	H.R. 2	Line Item Veto	A: voice vote (2/2/95).
H. Res. 60 (2/6/95)	O	H.R. 665	Victim Restitution	A: voice vote (2/7/95).
H. Res. 61 (2/6/95)	O	H.R. 666	Exclusionary Rule Reform	A: voice vote (2/7/95).
H. Res. 63 (2/8/95)	MO	H.R. 667	Violent Criminal Incarceration	A: voice vote (2/9/95).
H. Res. 69 (2/9/95)	O	H.R. 668	Criminal Alien Deportation	A: voice vote (2/10/95).
H. Res. 79 (2/10/95)	MO	H.R. 728	Law Enforcement Block Grants	A: voice vote (2/13/95).
H. Res. 83 (2/13/95)	MO	H.R. 7	National Security Revitalization	PQ: 229–100; A: 227–127 (2/15/95).
H. Res. 88 (2/16/95)	MC	H.R. 831	Health Insurance Deductibility	PQ: 230–191; A: 229–188 (2/21/95).
H. Res. 91 (2/21/95)	O	H.R. 830	Paperwork Reduction Act	A: voice vote (2/22/95).
H. Res. 92 (2/21/95)	MC	H.R. 889	Defense Supplemental	A: 282–144 (2/22/95).
H. Res. 93 (2/22/95)	MO	H.R. 450	Regulatory Transition Act	A: 252–175 (2/23/95).
H. Res. 96 (2/24/95)	MO	H.R. 1022	Risk Assessment	A: 253–165 (2/27/95).
H. Res. 100 (2/27/95)	O	H.R. 926	Regulatory Reform and Relief Act	A: voice vote (2/28/95).
H. Res. 101 (2/28/95)	MO	H.R. 925	Private Property Protection Act	A: 271–151 (3/2/95)
H. Res. 103 (3/3/95)	MO	H.R. 1058	Securities Litigation Reform	
H. Res. 104 (3/3/95)	MO	H.R. 988	Attorney Accountability Act	A: voice vote (3/6/95)
H. Res. 105 (3/6/95)	MO			A: 257–155 (3/7/95)
H. Res. 108 (3/7/95)	Debate	H.R. 956	Product Liability Reform	A: voice vote (3/8/95)
H. Res. 109 (3/8/95)	MC			PQ: 234–191 A: 247–181 (3/9/95)
H. Res. 115 (3/14/95)	MO	H.R. 1159	Making Emergency Supp. Approps.	A: 242–190 (3/15/95)
H. Res. 116 (3/15/95)	MC	H.J. Res. 73	Term Limits Const. Amdt	A: voice vote (3/28/95)
H. Res. 117 (3/16/95)	Debate	H.R. 4	Personal Responsibility Act of 1995	A: voice vote (3/21/95)
H. Res. 119 (3/21/95)	MC			A: 217–211 (3/22/95)
H. Res. 125 (4/3/95)	O	H.R. 1271	Family Privacy Protection Act	A: 423–1 (4/4/95)
H. Res. 126 (4/3/95)	O	H.R. 660	Older Persons Housing Act	A: voice vote (4/6/95)
H. Res. 128 (4/4/95)	MC	H.R. 1215	Contract With America Tax Relief Act of 1995	A: 228–204 (4/5/95)
H. Res. 130 (4/5/95)	MC	H.R. 483	Medicare Select Expansion	A: 253–172 (4/6/95)
H. Res. 136 (5/1/95)	O	H.R. 655	Hydrogen Future Act of 1995	A: voice vote (5/2/95)
H. Res. 139 (5/3/95)	O	H.R. 1361	Coast Guard Auth. FY 1996	A: voice vote (5/9/95)
H. Res. 140 (5/9/95)	O	H.R. 961	Clean Water Amendments	A: 414–4 (5/10/95)
H. Res. 144 (5/11/95)	O	H.R. 535	Fish Hatchery—Arkansas	A: voice vote (5/15/95)
H. Res. 145 (5/11/95)	O	H.R. 584	Fish Hatchery—Iowa	A: voice vote (5/15/95)
H. Res. 146 (5/11/95)	O	H.R. 614	Fish Hatchery—Minnesota	A: voice vote (5/15/95)
H. Res. 149 (5/16/95)	MC	H. Con. Res. 67	Budget Resolution FY 1996	PQ: 252–170 A: 255–168 (5/17/95)
H. Res. 155 (5/22/95)	MO	H.R. 1561	American Overseas Interests Act	A: 233–176 (5/23/95)
H. Res. 164 (6/8/95)	MC	H.R. 1530	Nat. Defense Auth. FY 1996	PQ: 225–191 A: 233–183 (6/13/95)
H. Res. 167 (6/15/95)	O	H.R. 1817	MilCon Appropriations FY 1996	PQ:223–180 A: 245–155 (6/16/95)
H. Res. 169 (6/19/95)	MC	H.R. 1854	Leg. Branch Approps. FY 1996	PQ: 232–196 A: 236–191 (6/20/95)
H. Res. 170 (6/20/95)	O	H.R. 1868	For. Ops. Approps. FY 1996	PQ: 221–178 A: 217–175 (6/22/95)
H. Res. 171 (6/22/95)	O	H.R. 1905	Energy & Water Approps. FY 1996	A: voice vote (7/12/95)
H. Res. 173 (6/27/95)	C	H.J. Res. 79	Flag Constitutional Amendment	PQ: 258–170 A: 271–152 (6/28/95)
H. Res. 176 (6/28/95)	MC	H.R. 1944	Emer. Supp. Approps.	PQ: 236–194 A: 234–192 (6/29/95)
H. Res. 185 (7/11/95)	O	H.R. 1977	Interior Approps. FY 1996	PQ: 235–193 D: 192–238 (7/12/95)
H. Res. 187 (7/12/95)	O	H.R. 1977	Interior Approps. FY 1996 #2	PQ: 230–194 A: 229–195 (7/13/95)
H. Res. 188 (7/12/95)	O	H.R. 1976	Agriculture Approps. FY 1996	

Codes: O-open rule; MO-modified open rule; MC-modified closed rule; C-closed rule; A-adoption vote; D-defeated; PQ-previous question vote. Source: Notices of Action Taken, Committee on Rules, 104th Congress.

Mr. Speaker, I reserve the balance of my time.

Mr. HALL of Ohio. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as my colleague has described, House Resolution 188 is a rule which provides 1 hour of general debate on the Department of Agriculture and Related Agencies bill for fiscal year 1996. The rule does provide waivers of clause 2 of rule XXI to allow unauthorized appropriations in provisions in the bill, as well as clause 6 of rule XXI prohibiting reappropriations in some provisions. The rule also provides priority recognition to Members who have preprinted their amendments in the CONGRESSIONAL RECORD.

Mr. Speaker, I am concerned that the rule does provide waivers to allow certain legislative language in the bill which will weaken our Nation's food safety. This language in the bill will cut off funding for the Department of Agriculture's new plan to modernize its meat and poultry inspection program. I am very concerned over the protection of this language which will delay tougher food inspection standards which could expose thousands of people to deadly levels of the E. coli bacteria and other pathogens.

This is not the time, Mr. Speaker, to be weakening food inspection, especially inspection of safe meat. We all remember the 1993 outbreak of the deadly E. coli bacteria in a fast food restaurant that resulted in over 600 illnesses and 4 deaths. According to the Center for Disease Control, E. coli causes 20,000 illnesses and up to 500 deaths each year, primarily among senior citizens and children. The Department has taken the correct action in moving forward to modernize and upgrade its food inspection system. Halting the program through this bill is unacceptable, and frankly, not in the interests of public safety. Just in the last few days, another strain of E. coli bacteria made 18 people ill in Montana. Unfortunately, an amendment offered to the rule to remove the protection for the weakening language failed in the Rules Committee.

If the weakening language in the bill is removed on a point of order, it will not in any way preclude the Agriculture Committee, in its oversight capacity, from continuing to negotiate with the USDA on updating its meat inspection program. In fact, if the provision is not removed, we will have to go back to square one and start the food safety negotiations all over again. We just can't afford to prolong these new meat inspection regulations indefinitely. Human lives are at stake.

In addition to the food inspection issue, Mr. Speaker, I am concerned with several of the provisions in the bill which affect nutrition programs. While the committee, to its credit, included an increase to cover inflation in the Women, Infants, and Children's feeding program [WIC], the Administration's request for an additional $90 million was not included. Had this request been honored, another 180,000 women and children per month would have been eligible to receive nutrition supplements. The bill also caps the total number of people who may receive WIC. I am afraid that a cap on total numbers of people served will eliminate an incentive for innovative cost savings to make the money go further.

With respect to food stamps, I note that the bill eliminates the $2.5 billion reserve for food stamps that the Agriculture Department maintains to handle unexpectedly high demand. This is risky because in a sudden recession, we could see the people who legitimately qualify for help, unable to receive benefits. Also disturbing is the freeze in calculating the standard deduction for food stamp eligibility which will have the effect of forcing people to become ineligible for food stamps or having their benefits reduced.

The committee did increase funds for child nutrition programs such as school lunch and school breakfast. However, we will see some of the smaller programs such as donations to soup kitchens and TEFAP shrink.

Finally, in the Rules Committee hearing, Representative HARMAN did request an amendment known as the Brewster-Harman deficit reduction lockbox amendment. This would have allowed any savings obtained through floor votes to go into a special deficit reduction trust fund. Given the interest that many of us have in deficit reduction, I believe the Rules Committee should have made a lockbox amendment in order.

Because of these serious shortcomings in the bill, I do plan to ask for a "no" vote on the previous question. If the previous question is defeated, I will move to include language to strike the protection of the weakening language for USDA's meat inspection program, and to include the Brewster-Harman amendment under the rule.

Mr. Speaker, I reserve the balance of my time.

□ 1615

Mr. DREIER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, first let me say that again this is an open rule, and the gentleman is right that we protect the provisions that deal with the issue of meat inspection. While I am not an expert myself on meat inspection, I am very expert on consumption. With that, I should say that I am convinced, based on the action that was taken by the committee, that there is a tremendous effort that has been made in the area of inspection.

Mr. Speaker, I yield such time as he may consume to the gentleman from New Mexico [Mr. SKEEN], the distinguished chairman from the Subcommittee on Agricultural Appropriations, to deal with this issue.

Mr. SKEEN. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, let me say right now insofar as meat inspection is concerned, and I understand the concern of the gentleman from Wisconsin and others who have worked with this, but the program that we are undergoing now does not extend the time for the adoption of new standards for meat inspection. It cuts it much shorter and expedites the process of initiating the HACCP Program.

This is taken at the behest of the Secretary of Agriculture, along with other people who have been very much interested and very much involved in trying to speed up this process and make it one of common understanding and agreement between the processors as well as those who are concerned about the health and safety of the meat inspection program. But it is a new scientific program that must be initiated. It is a drastic change, I do admit, that has caused a great deal of controversy.

The process is ongoing, as we speak, at the behest of the Secretary of Agriculture, and I would ask the gentleman to consider this when considering voting against or opposing the previous question. I do not have any other comment.

The gentleman from New York [Mr. WALSH] is on his way over, Mr. Speaker, and he is in direct negotiation on this particular program. I would say this, that voting against the previous question is not going to help this matter be resolved or speed it up or anything else. As a matter of fact, it may delay it.

Mr. HALL of Ohio. Mr. Speaker, I yield 5 minutes to the gentleman from Wisconsin [Mr. OBEY].

Mr. OBEY. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, let me simply say, because of my great respect for the distinguished subcommittee chairman, I am very reluctant to oppose the rule and the previous question on the rule but I feel compelled to, nonetheless.

Mr. Speaker, I come from a district that has a lot of farmers. I come from a district that has a lot of small towns. I also come from a district that has had direct recent experience with E. coli. In my hometown just this weekend, for instance, we had another case of E. coli break out. I think that drives home to everyone, whether you work on a farm or you work in the city, the seriousness of the issue that will be debated when this bill eventually reaches the floor.

Mr. Speaker, I would say simply that I would like to see some middle ground on this. I understand the reasons why the gentleman from New York [Mr. WALSH] offered the amendment, because anybody who represents small businesses, and I have an awful lot of them in my district, you are bound to be concerned about the impact of any rule and any rulemaking process on small business.

I am also concerned, however, because I think that our committee frankly is not the right forum in which this issue ought to be discussed. This issue ought to be dealt with by the Committee on Agriculture. They know the most about the issue. The Committee on Appropriations is essentially a committee that is supposed to deal with budgets. If you want to have effective nonpolitical discussion of this issue, I think that it belongs in the policy committee, not a finance committee.

Nonetheless, it is here. If it is here, I would prefer, for instance, that in addition to the choice of either having the Walsh amendment or not having the Walsh amendment, that we would have a third option such as that proposed by the gentleman from Illinois [Mr. DURBIN] when he was in the full committee last week. It seems to me that would be a way to force compromise in the regulatory process without going to the extremes that the Walsh amendment does.

For that reason, I very reluctantly would simply state that I will also oppose the previous question on the rule and the rule itself, because I believe that something like the Durbin amendment perhaps would give us a much better way to deal with this issue than having to either go up or down on the Walsh amendment, which I personally prefer not to do.

Mr. SKEEN. Mr. Speaker, will the gentleman yield?

Mr. OBEY. I yield to the gentleman from New Mexico.

Mr. SKEEN. I thank the distinguished gentleman for yielding.

Mr. Speaker, the gentleman from Illinois [Mr. DURBIN] as I understand it is on his way here, and we are certainly going to give him every opportunity, and also the gentleman from New York [Mr. WALSH] is on his way.

I understand the argument that this matter should be debated in the Committee on Agriculture, but unfortunately that is not the case. This was dealt with through the Committee on Appropriations and begun through the Committee on Appropriations. We would be very happy to lend that purview to the Committee on Agriculture, but they are not up to speed on it. We have been in the thick of the negotiations.

At the behest of the Secretary of Agriculture, we have kept out of the negotiations between the two sides. Protecting small producers, small processors, is absolutely of major concern to us, because in many respects I think they view this as a threat to continuing business. We do not want that to happen. We want our food situation safe.

Mr. OBEY. Mr. Speaker, I would certainly agree with that. I would also say, however, that assuring the consuming public that they can safely consume these products to me is of utmost importance, obviously because of the public health questions involved and also because, frankly, people in the industry need to have the market security of people knowing that their products are perfectly safe.

But the problem with this rule is that the gentleman from Illinois [Mr. DURBIN] would not be able to offer the compromise proposal that he tried to offer in full committee, and because this rule goes out of its way to protect the base amendment, the Walsh amendment, which would not be in order normally under the rules of the House, it seems to me that we would be better off if we had another choice to choose from. But under the rule, we do not.

Mr. DREIER. Mr. Speaker, I am happy to yield such time as he may consume to my friend, the gentleman from Dodge City, KS [Mr. ROBERTS], the distinguished chairman of the Committee on Agriculture.

Mr. ROBERTS. I thank the gentleman for yielding me the time.

Mr. Speaker, I am out of breath. This is one of these I had not intended to speak but was viewing the proceedings on the floor and overheard the concern that was voiced by the distinguished gentleman from Wisconsin in regards to meat inspection and the rule that pertains to this issue.

As I catch my breath, I would like to inform the gentleman from Wisconsin that we held a meeting, a very important meeting, in this regard with Secretary Glickman of the Department of Agriculture. By we, I mean the distinguished ranking member, the chairman emeritus, if I can use that term, of the Committee on Agriculture, the gentleman from Texas [Mr. STENHOLM], who has been extremely active in regards to meat inspection and this subject; the gentleman from Missouri [Mr. VOLKMER] who is the ranking member of the appropriate subcommittee; and the gentleman from Wisconsin [Mr. GUNDERSON], the chairman of the subcommittee.

We will be doing, regardless of what happens on the proposed rulemaking, a bill, or legislation as it applies to meat inspection, not only in regards to meat but fish and also poultry.

The gentleman from New York who is not present and can speak for himself in regards to his amendment simply proposed that there would be some kind of rulemaking to make sure that there would be an open process as we arrive at the proposed rules that make sense to guarantee food safety and the safety of our meat supply.

In meeting with Secretary Glickman, those of us who serve on the Committee on Agriculture expressed some concern with the proposed rulemaking. By that, I mean there are now two proposals: One involves the current regulations in regards to food safety and how the USDA conducts its meat inspection, which quite frankly in my personal opinion is not based entirely on sound science, it is very complex, it is very burdensome, and it is very costly.

Then we have this new proposal called HACCP. That is the hazard analysis control point. That is the better system. That is a system that we have all proposed in the Committee on Agriculture and all throughout agriculture to try to use sound science to guarantee the safety of our meat and to address the tragedy that happened in the Northwest in regards to E. coli.

The problem is that we cannot layer the two together without really getting to a real problem. The problem is the small meat locker industry and the meat processing industry, according to their concerns, have not been part of the process.

The problem is in regards to sound science again, we have some concerns that a better approach might be used. Then we have a small business concern where a lot of small meat lockers might be put out of business. That is a very real concern in farm country.

So we met with the Secretary. I have here a draft of a letter that the committee gave to the Secretary and the Secretary is working on it. He has another draft. It was supposed to be back at about 4:30.

I think that if we reach an agreement with Secretary Glickman, and I have talked this over with the gentleman from New York [Mr. WALSH], that if there is an open process and if we can guarantee at least the future of the small meat locker industry, and if we can use sound science approaches, and if the cowboys and all the livestock producers and the meat processors and the meat industry can be saying, "We are part of this process, we can sit at the table," and if in fact we can make sure in the layering of this process that we do not get into more red tape and regulations and a lot of perception but very little protection for the American consumer, I think we can work this out.

I would say to the gentleman that there is a process ongoing and hopefully in working with Secretary Glickman and the Committee on Agriculture, I think we can find an answer. It may be that the gentleman from New York at that particular time, who is part of the process, can simply withdraw his amendment, and we can all declare victory and we can all reach a product that we could agree upon.

Mr. OBEY. Mr. Speaker, will the gentleman yield?

Mr. ROBERTS. I yield to the gentleman from Wisconsin.

Mr. OBEY. Let me simply say that I would very much like to see something worked out, as a representative of a rural area myself. My concern, however, is that I would like to avoid a repeat of what we had on the rescissions bill where we were actually debating the language of one provision on the floor, on timber, for instance, while the language, itself, was being worked out between the administration and the committee in a room one floor below us in this building.

I would kind of like to know what agreements have been worked out before we decide whether we have to deal with the specifics of the Walsh amendment or not. All we have to go on at this time is the comment from Secretary Glickman which says, "I am writing to express my strong concerns and objections to the adoption of the amendment in question."

Like the gentleman, I would like to see something worked out. My concern about this rule is that it does not give us the opportunity to have another approach to this problem the way the gentleman from Illinois [Mr. DURBIN] would have liked to have had in the amendment that he offered.

I do not have any objection to the goals that I think all of us share.

Mr. ROBERTS. I thank the gentleman for his contribution.

The statement by the Secretary, I feel—I cannot speak for Secretary Glickman although I try a lot, in Kansas, we try to get him to go at least 65 in a 55-mile-an-hour zone—but I think in regards to his comment on meat inspection, that it is somewhat dated.

We have had a lengthy meeting, as I have said, a bipartisan one, with the members of the Committee on Agriculture, the leadership of the committee that will have to produce the legislation to follow up in regards to the rulemaking.

We are negotiating now with language that I think may have a chance to work. I would just urge the gentleman to maybe consider that. There will be ample time, I think, for the gentleman to raise his points of concern.

Mr. OBEY. If the gentleman will yield further, I like to hear that, because frankly you are the people that should be working the language out. Those of us on the Committee on Appropriations, I do not think, have the expertise that your committee has to deal with the issue.

Mr. ROBERTS. I would like for the gentleman to say that again about 4 times on virtually every subject that has come up under this appropriation bill if he would.

Mr. OBEY. I have said that on at least one other occasion in the past 2 weeks.

Mr. ROBERTS. The gentleman has got two to go. Reclaiming my time, we have worked out a partnership arrangement with the gentleman from New Mexico [Mr. SKEEN] and others on the committee. I am quite confident of the total package.

I see no further use to discuss this at this time unless the gentleman from New Mexico has a question or the distinguished gentleman from California.

Mr. DREIER. Mr. Speaker, I simply would like to say that this is a new day. We have seen tremendous cooperation between the authorizing committee and the appropriations subcommittee that is dealing with this.

Mr. Speaker, I yield 30 seconds to my friend, the gentleman from New Mexico [Mr. SKEEN], the chairman of the subcommittee.

Mr. SKEEN. I thank the gentleman for yielding me the time.

Mr. Speaker, I want to assure the gentleman from Wisconsin that there is going to be every opportunity for any other approach to this during the consideration of this particular bill and rule. The gentleman from Illinois [Mr.

DURBIN] has one of them. I appreciate the concern, but I think this tactic of trying, if we do not pass the rule, delays the process of coming up with an adequate solution to this problem in itself. I would not like to see the delayed. I appreciate the concerns of the gentleman from Wisconsin.

Mr. DREIER. Mr. Speaker, I yield 3 minutes to my friend, the gentleman from Syracuse, NY [Mr. WALSH].

Mr. WALSH. I thank my good friend the gentleman from California for yielding me the time.

Mr. Speaker, I would like to first of all rise in strong support of this rule and commend our chairman, the gentleman from New Mexico [Mr. SKEEN], who has worked very, very closely with our ranking minority member, the gentleman from Illinois [Mr. DURBIN], on this bill all the way along. The same sense of fairness that the gentleman from Illinois [Mr. DURBIN] presented last year, the gentleman from New Mexico [Mr. SKEEN] has reciprocated, and we have all worked very closely on this together.

Let me just say, I hope we can pass this rule today. I think it is a good rule. It provides for full and open discussion. It is an open rule. I do not think they get any better than that.

Let me just suggest, regarding this amendment that I had offered in the subcommittee and full committee which was accepted, that if there is indeed a compromise worked out, that would be fine. But I want to make sure that the compromise does not gut the amendment.

I think it is very important to show that the subcommittee and the full committee support this amendment for good reasons, because this legislation, the standards that have been proposed by the Secretary will in fact change the way meat is inspected. The meat industry supports that idea. They support the higher standards. I think everyone does. It is how we get to them that matters.

What I have proposed is simply a 9-month process of negotiated rulemaking that would allow all the principals to come together, work out the differences, everyone be on equal footing, no one with special promises, everyone working basically with a plain white canvas with the same set of paints to get to a finished product on this legislation.

□ 1630

This is not a delay in any sense. In fact, if this negotiated rulemaking process were followed, I think we would avoid a lot of lengthy, costly lawsuits.

But again, if a compromise is worked out that is fair to everyone, I am going to support it. But I have not seen that agreement yet. I have worked very closely with the gentleman from Illinois [Mr. DURBIN]. I have discussed this fully with the staff, with the agriculture commissioner, and we are working conscientiously to resolve this important issue, and it is an important issue.

But just let me enter a couple of facts into this. First of all, 90 percent of the meat currently inspected in this country meets these higher standards. We are talking about 10 percent. Also, let me say 90 percent of food-borne illness in this country comes not from meat processing but from the failure to cook it properly, and the Secretary would do us all a service if he would get up on his bully pulpit and tell people: "Cook your hamburger, cook it; cook it until it is black if you have to, but cook it," because that is where the problem is. It is not steaks and chops and poultry and so on. It is because of the way that hamburger is made that we have so much problem with that meat. So cook it. If we did that, if we would all cook it properly, we could substantially reduce this problem.

I thank the gentleman from Kansas [Mr. ROBERTS], the gentleman from New Mexico [Mr. SKEEN], the gentleman from Wisconsin [Mr. OBEY], the gentleman from Illinois [Mr. DURBIN], and the gentleman from California [Mr. DREIER] all for their interest. If there is to be a compromise, I will support it, but it has to be a real compromise.

Mr. HALL of Ohio. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I have no further requests for time. I would say though that I would urge a no vote on the previous questions. And if the previous question would be defeated, I would offer an amendment to the rule which would make in order an amendment which would remove the protection from a point of order under clause 2 of rule XXI for language pertaining to the prevention of implementation of new meat and poultry inspection regulation by the USDA.

I will also offer the Brewster-Harman lockbox amendment, and I include the text of the two amendments at this point in the RECORD.

The amendments referred to are as follows:

On page 2, line 25 strike the period and insert the following: ", except as follows: beginning with ": Provided" on page 24, line 13, through page 25, line 5."

After the period on page 3, line 7 insert the following: "All points of order are waived against the amendment numbered 1 printed in the Congressional Record of July 10, 1995 pursuant to clause 6 of rule XXIII, to be offered by Representative Brewster or his designee."

Mr. HALL of Ohio. Mr. Speaker, if there are no further requests for time from my colleague, I yield back the balance of my time.

Mr. DREIER. Mr. Speaker, I yield myself such time as I might consume to simply say that this is a very fair, balanced, and open rule. It is obvious that we have members of the appropriations subcommittee and the authorizing committee working very closely together to deal with the issue of meat inspection. We also are working on a compromise to deal with the question of the lockbox.

It is very important that we overwhelmingly pass first the previous question, and then the rule, and I urge an "aye" vote on both.

Mr. Speaker, I yield back the balance of my time and I move the previous question on the resolution.

The SPEAKER pro tempore (Mr. SHAYS). The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. HALL of Ohio. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I, further proceedings on this question are postponed until later today.

PROVIDING FOR FURTHER CONSIDERATION OF H.R. 1977, DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 1996

Mr. DREIER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 189 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 189

Resolved, That during further consideration of H.R. 1977 pursuant to House Resolution 187, further consideration of the bill for amendment in the Committee of the Whole House on the state of the Union shall proceed without intervening motion except: (1) amendments printed in the portion of the Congressional Record designated for that purpose in clause 6 of rule XXIII before July 14, 1995; (2) motions that the Committee rise offered by the majority leader or his designee; and (3) motions that the Committee rise and report the bill to the House with such amendments as may have been adopted offered as preferential under clause 2(d) of rule XXI. Each further amendment to the bill may be offered only by the Member who caused it to be printed, shall be considered as read, shall be debatable for ten minutes equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. The Chairman of the Committee of the Whole may postpone until a time during further consideration in the Committee of the Whole a request for a recorded vote on any amendment made in order by this resolution. The Chairman of the Committee of the Whole may reduce to not less than five minutes the time for voting by electronic device on any postponed question that immediately follows another vote by electronic device without intervening business: *Provided*, That the time for voting by electronic device on the first in any series of questions shall be not less than fifteen minutes.

The SPEAKER pro tempore. The gentleman from California [Mr. DREIER] is recognized for 1 hour.

Mr. DREIER. Mr. Speaker, for the purposes of debate only, I yield the customary 30 minutes to the gentleman from California [Mr. BEILENSON] pending which I yield myself such time as I might consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, the Rules Committee brings to the floor of the House today the third rule providing for the consideration of H.R. 1977, legislation making appropriations for the Department of the Interior and related agencies in fiscal year 1996.

The rule which the House passed last week for this legislation was a very straightforward and balanced rule. It was open, it was fair, and it was reasonable given the importance of moving ahead with this year's appropriations process. Unfortunately, despite the wide open amendment process called for in that rule, we saw the bill become needlessly bogged down in partisan politics, and we witnessed the deliberative process being taken hostage by dilatory tactics.

Mr. Speaker, I suggest that the time has now come to rescue this bill, and the deliberative process, from the clutches of partisan delay and obstruction. This additional rule is offered simply as a precaution, to enable the House to move this critical funding legislation forward, but in a manner which is fair and reasonable to both sides of the aisle.

First, the rule provides for the further consideration of H.R. 1977 for amendment without any intervening motions, except for: amendments which have been printed in the CONGRESSIONAL RECORD prior to July 14, 1995; motions that the Committee rise if offered by the Majority Leader or his designee; and motions that the Committee rise and report with bill back to the House with any amendments adopted in the Committee of the Whole, as a preferential motion pursuant to clause 2(d) of rule XXI.

Second, under the rule, amendments which have been printed in the RECORD may be offered only by the Members who submitted them to be printed. Such amendments shall be considered as read, and are debatable for a period not to exceed 10 minutes each, equally divided and controlled by the proponent and an opponent. Moreover, such amendments are not amendable, and are not subject to a demand for a division of the question either in the House or in the Committee of the Whole.

Furthermore, the rule authorizes the Chairman of the Committee of the Whole to postpone any request for a recorded vote on an amendment to a later time. Finally, the Chair may reduce to 5 minutes the time for a vote on any amendment in a series of amendments, provided that the time for voting on the first in any such series of amendments is not less than 15 minutes.

Mr. Speaker, the Rules Committee recognizes that there are a number of amendments on issues important to both sides of the aisle, such as funding for the arts and humanities, which merit additional debate time beyond the 10 minutes allowed under this new rule. Accordingly, I intend to offer an amendment to the rule which would permit the House to debate nine specific amendments already printed in the RECORD, each for a period not to exceed 20 minutes, equally divided and controlled by the proponent and an opponent. The amendment is the result of close cooperation and consultation with the minority, and in light of our cooperation with the minority on this amendment, I hope very much we will be able to maintain strong bipartisan support for it.

Mr. Speaker, in recent months the House has made remarkable progress toward fulfilling its legislative agenda. On the very first day of this session, the House passed a sweeping set of congressional reforms. Within the first 100 days we completed the historic Contract With America, often with bipartisan support. Just last month we passed an equally historic plan to balance the Federal budget in 7 years.

Now we have the obligation and the responsibility to move ahead with the annual appropriations process. I do not have to remind our colleagues, Mr. Speaker, just how important these funding bills are. Without prompt passage of these bills by both Chambers, the continued operations of the Federal Government would most certainly be in jeopardy. The August district work period is just 3 short weeks, I hope they are short weeks away, and the end of the fiscal year itself is just over the horizon. Clearly, time is of the essence, and our work is cut out for us.

While the Rules Committee continues to support a generally open amendment process, as much as possible, when considering appropriations bills, I believe we owe it to our constituents, whom we are elected to serve, to legislate in a responsible and efficient manner. These are not mutually exclusive goals, Mr. Speaker, and that is the principle underlying the rule which we consider this afternoon.

Mr. Speaker, I reserve the balance of my time.

□ 1645

Mr. BEILENSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 189 reflects an agreement between the chairman and the ranking minority member of the Appropriations Committee for completing consideration of amendments to the Interior appropriations bill for fiscal year 1996. Although we have some concerns about this rule, we urge Members to support it.

This new rule would limit the offering of all further amendments to the Interior appropriations bill for fiscal year 1996 to those that were printed in the CONGRESSIONAL RECORD prior to July 14. No amendments printed on July 14 or later, including secondary amendments, would be in order.

Debate time on each of those amendments would be restricted to 10 minutes, although under the amendment to the rule to be offered by the gentleman from California [Mr. DREIER], nine specified amendments would be debatable for 20 minutes each, rather than 10 minutes. Those amendments are ones that Democratic Members, particularly, believe require more than 10 minutes to adequately debate, and we appreciate the fact that time for their consideration will be extended.

In addition, this new rule would restrict all other motions, except a motion to rise if offered by the majority leader or his designee, and a motion to rise and report with adopted amendments as a preferential motion pursuant to rule XXI, clause 2(d), which is a prerogative of the majority leader or his designee. Thus, no other Member would have the right to make a motion to rise, or a motion to strike the enacting clause, or any other motion that, under normal procedure, any Member is allowed to make.

Finally, the new rule gives the chairman of the Committee of the Whole the authority to postpone recorded votes, and to reduce to 5 minutes a recorded vote on any amendment in a series of amendments that follow an initial 15-minute vote. By enabling the chairman to cluster and reduce the allotted time for recorded votes, the House will be able to save a great deal of time that would otherwise be spent voting.

Mr. Speaker, this new rule will help assure that consideration of the Interior appropriations bill will come to a close in a matter of hours, rather than be prolonged for several more days. Both the chairman and the ranking minority member of the Appropriations, and our respective leaders, in the interest of moving appropriations bills through the House more expeditiously, agreed last Thursday night to limit debate on all the remaining amendments following completion of title I of H.R. 1977.

Because the rule reflects the concurrence of the two parties, we are supporting it. However, I do want to mention the concerns that many Members on this side of the aisle have about this rule.

First, the fact that the rule will not allow second-degree amendments means that there will be less flexibility in the amending process. For example, in a case where a last-minute change to an amendment could produce a compromise that would be supported by a majority of Members, that change will be prohibited unless unanimous consent is obtained.

Second, although leaders on both sides support limiting time on the remaining amendments to 10 or 20 minutes apiece, these limits mean that many Members who wish to participate in debate on particular amendments will not have that opportunity, and that some very important issues will not be aired nearly to the extent that they deserve to be aired before we cast votes on them. We hope that on future appropriations bills, it will not be necessary to curtail debate on amendments to the extent provided for here.

Third, and most importantly, fundamental rights of Members in floor procedure—which are particularly important to Members of the minority—would be waived by this rule. As I mentioned earlier, no Member other than the majority leader or his designee would have the right to offer motions to rise or other motions that are the prerogative of any Member under the standing Rules of the House.

Although we understand the reason the majority has written into the rule the denial of that right, I would like to point out that it is highly unusual for the House to waive or limit that right. In fact, to the best of our knowledge, it is unprecedented for that right to be waived in a rule. We raise this matter in the hope that it will not be included in future rules.

Finally, Mr. Speaker, beyond our concerns about the rule itself, as I have said in previous statements, many of us have strong objections to the bill this rule makes in order.

We do not believe that the majority of Americans support the bill's deep cuts in the many important and useful programs it funds—programs that cost very little for the immense value they add to the quality of our lives.

We are dismayed that the bill cuts funding for these programs by 12 percent, especially since many of them have already been reduced in recent years. What we find particularly troubling is the fact that the reason the bill cuts so deeply is because those spending reductions are needed to help pay for an unnecessary increase in defense spending, and a tax cut that will mainly benefit the wealthiest among us. We think that those budget priorities are wrong.

We are further dismayed that many sensible amendments that have been offered since debate began on H.R. 1977—amendments that would have improved the bill's protection of our natural and cultural resources—have not been accepted by a majority of Members. We hope that pattern will change with some of the remaining amendments to be considered, particularly the amendments that would help protect our Nation's forests.

We also hope that the membership will not agree to amendments that would provide less protection for some of these programs. In particular, we hope that the amendments which would cut or eliminate funding for the NEA, the National Endowment for the Arts, will be rejected.

Mr. Speaker, to repeat, despite our concerns about the rule, we do support it, and we urge Members to vote for it.

Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Speaker, Members, the press, and the public should understand the cynical and dangerous strategy being pursued by the Republican majority on this bill. The Republican plan, like this legislation, is not designed to improve management of the Department of the interior, or even the laws and policies administered by that Department.

Instead, it is intended to wreak havoc with the environmental laws, the resource management laws, the species protection laws that we have implemented over the past quarter century to protect the land, the health and the safety of the American people.

The Republican majority offers up a new rule, a more restrictive rule, to cut off debate and limit our ability to learn what is in this bill or to offer alternatives to it. The Republican majority claims this new rule is designed to make the House proceed more efficiently.

That is untrue. It is designed to allow them to undermine, subvert, and repeal basic environmental, management and safety laws without giving dissenting Members—and the public—a reasonable opportunity to learn what their legislation would do.

The cynicism of this approach can be demonstrated by reading a memo, dated July 6, 1995, from the chairman of the Rules Committee to the Republican leadership. In this memo, which I move be placed in the RECORD, Chairman SOLOMON discussed several different "alternatives to restrict rules on appropriations bills." The memo identifies several procedural ways for the majority to curtail the debate and prevent a full airing of the issues and policies they are attempting to impose.

I find it especially intriguing that one of the Republican strategies is to "Limit Legislative Amendments." Chairman SOLOMON notes that, "The more legislative policy debates that are injected into the appropriations process, beyond mere cutting amendments, the longer the amendment process on each bill will take."

That is, of course, true, because appropriations bills are not supposed to contain authorizing language under the rules. This sweeping authorizing language is contained in these bills only because the Republican majority has waived points of order against them, and because Republican majorities have voted to include them in the bills in the first place. It goes without saying that Democrats lack the votes to include authorizing language, to delete authorizing language, or do much of anything else in these bills.

They are slashing away at the scientific knowledge on which we base sensitive resource decisions, placing in jeopardy our ability to plan management practices to minimize the impact on communities.

They are compromising law enforcement capability even as over 20,000 crimes from murder to resource violations occurred on Fish and Wildlife Service lands last year.

They have crippled the ability of the Park Service to enforce the law creating the Mojave National Preserve, which passed this Congress by overwhelming margins last year.

They have handicapped the effective implementation of the Endangered Species Act by depriving the EPA of funds needed for prelisting actions that could minimize more drastic action down the road.

They have killed the Urban Parks Program that serves dozens of needy communities and was expanded by last year's crime bill.

They have dissolved critical assistance to both Indian children and adults to assist their education in public schools.

This bill undoes major changes enacted just last year to improve self governance by Indian tribes.

It crippled the Land and Water Conservation Fund by slashing funds for acquiring lands by nearly 80 percent.

Altogether, this bill makes over 70 substantive changes in law, most without a day of hearings by the authorizing committees to see what impact those devastating cuts and changes would have on the ability of agencies to do the jobs they are charged with doing for the American people. This is not rational law-making; this is slash and burn, shoot-from-the-hip legislating and it is bad for America.

I know Republican Members will say that Democrats included authorizing language when we were in the majority, and they are right.

The difference is that the authorizing committees regularly objected to such practices. As an authorizing chairman, I vigorously objected to that misuse of the legislative process, as did other authorizing chairman. We changed the rules to limit authorization law changes in appropriations bills.

By contrast, the new Republican majority came into office in January having denounced the so-called tyranny of Democratic rules, only to issue restrictive rule after restrictive rule. They have made a mockery of their pledge of open debate and open rules. Indeed, Republican authorizing chairmen are cocomplicitous in this backdoor strategy for changing the law, and the Republican rules are preventing us from using the House Rules they wrote to block this unconscionable practice.

Now, as if this is not cynical enough, let me quote from Chairman SOLOMON's memo again. He writes that if his various schemes for limiting amendments and debates on these terrible bills are "not sufficient," "the leadership can always seek a second rule"—as they are doing today—"to further restrict amendments (as was done on the foreign ops bill) and blame Democrats for the need to do so."

"And blame Democrats for the need to do so."

What a cynical and deceitful strategy.

Let us remember, first of all, that many of the amendments that are delaying this process are being offered by Republicans, not Democrats, including the one by Mr. GILCHREST concerning the use of volunteers—an amendment that passed with overwhelming bipartisan support because the original restrictions voted by the Republican majority were so punitive and counterproductive. Other Republican amendments, like that by Mr. NEUMANN, are so terrible that they prompt extended debate, including the opposition of the Speaker himself.

Second, let me note that the reason so many amendments are needed is that these bills are bad legislation, written with a hand on the bible of right wing extremism and an eye on the calendar, noting how late we are in the legislative year without a single appropriations bill through the process—not because of Democratic obstructionism, but purely because of the mismanagement of the process by the Republican majority.

So now, the Republicans who castigated Democrats for allegedly restrictive rules and who promised open rules, are not only bringing initially restricted rules to the floor, but are plotting even more restrictive rules on sweeping legislation.

And no one should be confused as to why the Republican majority seeks these new rules: it is because they want these sweeping changes to fundamental laws to take place without public scrutiny and without full debate.

They do not want the press, or the American people, to know what is in this legislation. They want to proceed with the fiction that this is a dry bill of numbers that appropriates money for fiscal year 1996 when, in fact, it is anything but; it is an insidious and extremist bill that rips up the ability of this government to continue to manage our resources, waste taxpayer money, or protect our citizens.

And it is for that reason that we oppose this legislation and seek to modify it through the regular amendment process. And because the Republicans are embarrassed to have their handiwork found out, and because they want to prevent good faith efforts to change their flawed product—by Democrats and Republicans alike—that they come forward with this rule to clamp down on the debate and steamroll their flawed product through the House.

The memorandum referred to follows:

[Memorandum—July 6, 1995]

Re alternatives to restrictive rules on appropriations bills

To: The Republican Leadership.

From: Jerry Solomon.

So far, the majority leadership and Appropriations Committee have not taken advantage of existing House rules to manage and control the amendment process, even though the Rules Committee has followed the Majority Leader's guidelines on appropriations rules to allow for a greater management and control. These include opening appropriations bills to amendment by title instead of by paragraph, and by encouraging Members to pre-print their amendments in the RECORD to receive priority in recognition. This should have paved the way for unanimous consent agreements and motions, if necessary, to limit debate on particular amendments and amendments thereto, and even to limit debate on further amendments to a particular title. Under House Rules, once such a motion has been agreed to, only preprinted amendments are allowed upon the expiration of the time limit, and such amendments may only be debated for 10 minutes—5 minutes for and 5 minutes against. In addition, the Leadership has not exercised the Majority Leader's new prerogative under the Rules to offer the motion to rise once House is considering limitation amendments at the end of the process. This could be done, for instance, after allowing two limitation amendments per side, with time agreements on each.

Below is a listing of suggestions for alternative approaches to restrictive rules:

Time Limit Agreements—The majority managers of appropriations bills should make a greater effort to seek unanimous consent to limit time on amendments, including amendments thereto.

Time Limit Motions—The majority managers should take greater advantage of moving reasonable time limits on amendments, and, if necessary, on further amendments to a title. None has been moved to date as far as we know. Such motions on titles would still allow for ten minute debates on preprinted amendments after the time has expired for debating priority amendments offered by both sides to the title.

Limiting Legislative Amendments—The more legislative policy debates that are injected into the appropriations process, beyond mere cutting amendments, the longer the amendment process on each bill will take. A greater effort could be made by the Leadership to limit legislative provisions and amendments on appropriations bills in favor of debating and voting on these through the regular authorization process. In this way, the Leadership could reserve such debates in the appropriations process to only those major issues which the Leadership strongly feels must be attached to appropriations bills.

Limit Dilatory Motions—Special rules could confine the minority to not more than one motion to strike the enacting clause per bill and also authorize not more than one motion to rise per day by anyone other than the majority manager or the majority leader. At present, motions to strike the enacting clause are in order at any time there has been a change in the bill, i.e., an amendment adopted; and motions to rise are in order at any time after there has been only one intervening speech since the last such motion.

Second Rule—If the above suggestions are still not sufficient in expediting action, the Leadership can always seek a second rule to further restrict amendments (as was done on the foreign ops bill), and blame Democrats for the need to do so.

Mr. DREIER. Mr. Speaker, I yield myself such time as I may consume to express my very deep appreciation to my friend, the gentleman from Martinez, CA, the former chairman of the authorizing committee, for his very kind words in support of our efforts to proceed with the open amendment process.

He has described us as being both cynical and deceitful. The fact of the matter is when we began this appropriating process, we had a wide-open rule that had the goal of allowing every Member to participate in this process.

□ 1700

Only when we had to stay in session very, very late at night and deal with this process of delay did it lead us to conclude that this was necessary.

Mr. Speaker, I yield 6 minutes to the distinguished gentleman from Ohio [Mr. REGULA], the chairman of the subcommittee.

Mr. REGULA. Mr. Speaker, I think it is important that we set the record straight here. We have had some allegations here about what is in this bill. I noted with interest that among the things that were mentioned that the bill does, it was not mentioned that it saves the taxpayers $1.5 billion dollars.

There was an election on November 8, 1994, and the message was clear: We want deficit reduction. We do not want to leave our children and our grandchildren with a continuing legacy of big debt.

When we put this bill together, we looked at all the functions and said, "Where can we effectively get the job done and save money?" And as a result of this approach, we have a savings in here, as I mentioned before, of $1.5 billion. Now, if that includes interest, in 20 years it is probably $4 or $5 billion, and on, and on, and on.

So, I think it is important that we note that.

Also, as I said when the bill was introduced, we really dealt with three categories of functions:

The must-dos. The must-dos are keeping the parks open, keep the forests open for the visitors, recreation users, keep the Fish and Wildlife facilities open for the visitors, keep the BLM lands open for the visitors, keep the Smithsonian open for the visitors, keep the National Gallery open, keep the Kennedy Center open for those who want to visit—this is one of our memorials—and we did that job.

These are must-dos. The must-dos are pretty much flat-funded in spite of the fact that we were faced with a 10-percent-plus reduction in the amount of money available.

The second category was the need-to-dos, and the need-to-dos are to finish buildings that are under construction. They include health and safety in our parks, and forests, and public lands generally. So we took care of those projects that were under way or that affected the health and safety of those that would visit our public facilities.

We took care of basic science. We recognized that, if we are to go into the next century with a nation that is on it toes, that if we are to leave a legacy of a highly developed economy in these United States, we have to continue a program of science.

So the United States Geologic Survey was kept pretty much at their 1995 levels. Again they deal with earthquakes, they did the mapping that was used in Desert Storm, they deal with water quality, the things that are important as a legacy to the future.

What we are really talking about in this bill is what kind of a world we are going to leave for future generations. Are we going to preserve the crown jewels of the national parks and forests? Are we going to leave a legacy of good science? Are we going to leave a legacy of good management? Because we do not want to burden future generations with an inordinate amount of debt to achieve our goals.

We put a freeze on land acquisition. Let us not buy more land until we take care of what we have. Let us not start new programs or new construction until we take care of what is already on the books.

The third category is the nice-to-dos, and there are a lot of nice things that we could do, but we do not have the money to do it, and we have that in our own lives. There are many things that people would like to do in their own personal lives, if they had a lot of money, but what we feel is important is to apply common sense, to apply balance. Therefore, on some of the things that would be nice to do we had to cut back severely, such as land acquisition.

We had over 400 letters from Members requesting some kind of a project or some kind of a program, many of those nice to do, but we had to say, "No, we can't afford it if we are going to get a responsible budget in the future," and one of the things we did was try to avoid programs or construction that would have large downstream costs. It is a goal, as outlined in the budget adopted by the House and the other body, the budget of the Congress, if my colleagues will, to achieve balance by the year 2002; that is only 7 years away. To do that we have to start on a glide path to achieve savings, and that means not starting new programs that would be expensive, not starting new construction that would be expensive, not acquiring land that would cost big dollars to manage.

So that is the commonsense, that is the responsible, approach, and that is what we attempted to do in this bill, and I think we did it with fairness, without partisanship, and I certainly believe the bill and the rule deserve support.

I had to smile a little bit when there was some mention of the endangered species issue and the fact that this does not provide for listing or prelisting. The reason is that there is no authorization. The authorization expired a couple of years ago when this body was in the control of what is now the minority party, and that party chose to not reauthorize the Endangered Species Act. I do not know why, because I just heard comments that this is very important, and yet for a period of approximately 2 years nothing was done to enact a reauthorization. Therefore, under the rules of this House, we are not in a position to appropriate money because there is no authorization.

Now I have to say that the Committee on Resources is working on an authorization bill, and we have funding in there, in this bill, subject to authorization. That is the proper way to do it, and that is what we have tried to do throughout this bill, and I certainly urge the Members to support the rule and support the bill.

Mr. BEILENSON. Mr. Speaker, before yielding to our next speaker, may I just say very briefly I think it is fair to say that there is no finer or respected Member than the distinguished member from Ohio who just spoke, but I would say to our friend from Ohio that the reason the gentleman has been forced to make such large cuts in so many programs that are, in fact, not only nice to do, but many of us think are important to do, is because his party adopted a budget resolution which requires us over the next 7 years to spend an additional $77 billion on defense which I think perhaps the majority of us would like to argue against and because they are setting aside $245 billion for tax cuts, the benefits of which, the majority of benefits of which, go to the wealthiest among us. If we were not having to pay for those $350 billion worth of cuts and raises in spending for defense and tax cuts, the gentleman would have had available to him and to his committee an additional several billions of dollars which would have made his job, and our job, a good deal less difficult and painful.

Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Wisconsin [Mr. OBEY], the ranking minority member of the Committee on Appropriations.

Mr. OBEY. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, I would simply like to say that, because the gentleman from California has indicated accurately this is a rule which has been worked out between both sides, I certainly have absolutely no objection to the rule. I certainly have misgivings about the process by which we have gotten here, but I certainly do not have any objection to the specific rule and will, in fact, support the rule.

Let me simply say, having done that, however, that I would like to respond to some of the thoughts that we heard from the gentleman from California earlier with respect to the need to finish the appropriations process by August. I certainly want to see that happen, too. I know of no one on this side of the aisle who does not feel a strong degree of responsibility to try to finish the appropriation bills in the House by the time we leave here for the scheduled August recess, and I want to say that I fully intend to provide whatever cooperation is required to get that done. What I do not want to see in the process, however, is to see policy issues buried and budget issues buried so we do not have adequate ability to discuss them in a manner which will make those issues most understandable to the general public who will be affected by our decisions on those issues. I think the gentleman from California [Mr. MILLER] indicated earlier his concerns about what is happening, and frankly, Mr. Speaker, there are some of us who feel what is happening is this:

We feel that after the original news stories came out about the kind of meetings with lobbyists that led to the deregulation bill that passed this House and was then turned down in the Senate 100 to nothing because it was looked at as simply being a lobbyists' dream list, we feel that people who are pushing those kinds of changes in regulatory practices which are desired by special interests and are not desired by the general public, we feel that there is a very high potential for the appropriations process being abused by bringing those issues into the appropriations process, burying them in an appropriations bill debate strong policy issues that have to do with the Clean Water Act, the Clean Air Act, the food inspection, basic labor law, basic rights of working people under that law, basic law with respect to housing. And we do not believe that those issues ought to be slipped into the appropriations process, debated for 5 or 10 minutes a side, and in essence have this House make major policy decisions with absolutely no ability to really discuss those issues, absolutely no ability to amend the amendments that are being offered, and no ability for the people on the committees who know the most about those issues, the policy committees, the authorizing committees, to actually participate in that discussion so that Members of this House know what they are doing when they do it.

I do not want to wake up after we have walked out of here in August and discover that only then is the press able to find out what has been slipped through here on appropriation bill after appropriation bill—something which we would not have had the ability to debate and which the press would not have had the ability to cover until after we are out of here in August. So I want to repeat: I am very willing to cooperate to see to it that we meet our responsibilities to get the budget issues through. That is the job of the Committee on Appropriations, to help see to it we get the budget issues through by the time we get out of here. But I do not want that cooperation to be abused by then also bringing into the mix a huge number of policy issues which on their merits deserve to be discussed in full public view, in the light of day, not at 10, 11, or 12 o'clock at night on the floor, or as was the case last week, not in subcommittee at 1, 2, 3, and 4 o'clock in the morning when certainly there is no member of the public attending, no members of the press, and the message about what has been done to people never gets out.

So if we could accommodate that distinction, I think we could get along here a whole lot better than was the case Thursday night, and the public we are supposed to serve will have been served much better in the process.

Mr. DREIER. Mr. Speaker, I yield 1 minute to the gentleman from Ohio [Mr. REGULA].

Mr. REGULA. Mr. Speaker, I just want to make it very clear that this is a bill to appropriate money, and every dollar in this bill was subject to amendment. There is no restriction on the ability of Members to add or subtract the amount of money. So I think there has to be an understanding, while there are some policy questions involved in the bill, that basically the money issues are open for amendment in every dimension.

□ 1715

Mr. OBEY. Mr. Speaker, if the gentleman will yield, I am sure the gentleman understands, however, that is these language amendments are protected by the rule, we are operating outside of the normal confines of the House rules, and that has very serious implications for some laws that are very important to the consuming public.

Mr. BEILENSON. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois [Mr. YATES] the ranking member.

Mr. YATES. Mr. Speaker, I want to talk about family values briefly tonight, because we are going to vote on them later in the evening.

Love of family, respect for our fellow man, a well-educated and ethically minded people is our ideal and our goal for all Americans. You know how important education is in attaining these goals. To that end, the National Endowment for the Arts, the National Endowment for the Humanities, and the Institute for Museum Services are three of the most powerful educational forces in existence.

Mr. Speaker, we now fund the National Science Foundation at nearly $3 billion, and we do not cut that foundation, and we should not cut that foundation, because it fosters the development of science and mathematics, which is very important. But the National Science Foundation does not provide funds to foster education in history, in languages, in philosophy, in ethics, in religion, in literature, in the arts. In other words, the National Science Foundation does not contribute to the disciplines that will educate our children in the ways of peace in communities at home and in nations abroad.

Do you believe that education in science and math is enough without education in the other disciplines? Of course you do not. If you do not, then why should you attack the Endowments and the Institute of Museum Services which contribute to fostering those important educational subjects. These are very powerful educational agencies, and I do hope that the attacks against them tonight will be thwarted.

Mr. Speaker, I would submit for the RECORD a letter which I have received, dated July 10, from Dr. Norman Rice, Mayor of Seattle, who is also president of the United States Conference of Mayors.

THE UNITED STATES
CONFERENCE OF MAYORS,
Washington, DC, July 10, 1995.

Hon. SIDNEY YATES,
U.S. House of Representatives,
Washington, DC.

DEAR MR. YATES: At our 63rd Annual Conference of Mayors, held June 16–20, in Miami, the mayors passed a strong resolution in support of the National Endowments for the Arts and Humanities and the Institute for Museum Services.

As you begin your final deliberations over the future of these three federal agencies, I strongly urge you to take into consideration the support the arts and humanities have at the local level and the vital role they play in improving the lives of all Americans, especially our young children.

We are all aware of the budget constraints and the need to work towards a balanced budget, but we feel Congress would be making a grave error to eliminate, or drastically reduce, federal support for the arts which, in turn, leverages critical private support for the arts. Every mayor has witnessed how federal leadership in the arts and humanities has benefited his or her community in the creation of jobs, businesses, tourism, and overall quality of life.

I have enclosed a copy of our Arts and Humanities resolution that was passed unanimously by the mayors.

We urge you to support continued federal involvement in the arts and humanities.

Sincerely,

NORMAN RICE,
Mayor of Seattle, President.

ARTS, HUMANITIES AND MUSEUMS FUNDING AND REAUTHORIZATION

Whereas, the arts, humanities and museums are critical to the quality of life and livability of America's cities; and

Whereas, the National Endowment for the Arts' and the National Endowment for the Humanities' thirty years of promoting cultural heritage and vitality throughout the nation has built a cultural infrastructure in this nation of arts and humanities agencies in every state and 3,800 local arts agencies throughout the country; and

Whereas, the National Endowment for the Arts (NEA), National Endowment for the Humanities (NEH), Institute of Museum Services (IMS) are the primary federal agencies that provide federal funding for the arts, humanities and museum programs, activities, and efforts in the cities and states of America; and

Whereas, federal funding serves as a catalyst to leverage additional dollars for cultural activity—the $373 million invested in these three agencies by the federal government leverages up to 12 times that amount from state and local governments, private foundations, corporations and individuals in communities across the nation to support the highest quality cultural programs in the world; and

Whereas, federal funding for cultural activities stimulates local economies and improves the quality of civic life throughout the country—the NEA, NEH and IMS support programs that enhance community development, promote cultural planning, stimulate business development, spur urban renewal, attract new businesses, draw significant tourism dollars, and improve the overall quality of life in our cities and towns; and

Whereas, the nonprofit arts industry generates $36.8 billion annually in economic activity and supports 1.3 million jobs—from large urban to small rural communities, the nonprofit arts industry annually returns $3.4 billion in federal income taxes; $1.2 billion in state government revenue and $790 million in local government revenue; and

Whereas, federal arts funding to cities, towns and states has helped stimulate the growth of 3,800 local arts agencies in America's cities and counties and $650 million annually in local government funding to the arts and humanities; and

Whereas, federal funding for cultural activities is essential to promote full access to and participation in exhibits, performances, arts education and other cultural events regardless of geography and family income; and

Whereas, federal funding for cultural activities is essential to maintaining the delicate balance in shared responsibility and partnership for public funding of the arts and humanities at the federal, state and local government levels; and

Whereas, the NEA and NEH have been placed in a precarious position because of difficult economic times; and

Whereas, draconian cuts to the NEA's and NEH's budget would have a disastrous effect on the survival of arts and humanities institutions, arts organizations, artists, and cultural programming at the national, state and local level; and

Whereas, the NEA's budget has already incurred repeated funding cuts for several consecutive years and currently operates at its 1984 funding level,

Now, therefore, be it resolved, that the U.S. Conference of Mayors calls upon the President and Congress to reauthorize the National Endowment for the Arts, National

Endowment for the Humanities and the Institute of Museum Services for five years at a funding level that enables the agencies to exercise a strong national leadership role to invest in the social, economic and cultural well-being of the American public.

Be it further resolved, that the U.S. Conference of Mayors calls upon the President and Congress to oppose eliminating or phasing-out our federal cultural agencies; to oppose reducing their budgets; and to oppose mandating all funds be blockgranted to the states, which would eliminate the national leadership role of these federal agencies.

Mr. BEILENSON. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Michigan [Mr. DINGELL] the ranking member of the Committee on Energy and Commerce.

Mr. DINGELL. Mr. Speaker, I am hard put to explain why such a punitive and harsh rule is before this body at this time.

This is a bad rule for a bad piece of legislation. It establishes bad precedence. It curtails the rights of the Members to adequately debate the measure before us, and it confines Members to a straitjacket with regard to the amendment process, the opportunity to speak and to explain these amendments.

It is, all in all, a bad rule, and it should be rejected by the House. It permits only Members on the Republican side to offer a motion to rise, it permits only Members on the Republican side to have a motion which would require the House to rise and report the bill back to the House with such amendments as may have been adopted. It requires that amendments which are offered may be only debatable for 10 minutes, 5 minutes for the proponents, 5 minutes for the opponents.

Legislative amendments which would deal with fuel efficiency standards for appliances and buildings would get 5 minutes on each side. Those are important matters and they were debated in this House for a number of hours at an earlier time. The action which is being taken here is not being taken by a legislative committee, but rather by the Committee on Appropriations.

I would make the observation to this body that fuel efficiency and energy efficiency standards for appliances are something which are of importance to American industry, and the standards which are now on the books with regard to energy efficiency for appliances was adopted as a result of the solicitation of American industry.

This is something which is probably not known to my Republican colleagues, because most of those who are pushing this kind of change were not present in the House at the time it was adopted. The reason industry wanted those standards was so that they would not confront the certain probability of every State in the Union coming forward with different energy efficiency standards for appliances. Why? Because they could not have meaningful interstate commerce in appliances when they have to have standards which are enacted in 50 different ways, in 50 different sets of language, by 50 different States.

Five minutes on each side is going to be afforded to this body to discuss a proposal of that importance.

Let me make another observation. The language of the rule prohibits division of the question. It sets up the curious situation where we may find that two amendments will be adopted, after no reading and after no debate. Members who might wish to amend an amendment to perfect it are now precluded by this rule. For example, if a member of the legislative committee desires to offer an amendment which would perfect a rule, perhaps the one offered by the gentleman from Mississippi [Mr. PARKER] or perhaps by the gentleman from Massachusetts [Mr. OLVER], he will not be permitted to do so.

Why? Because of the rule. That is the amendment under the rules, which is a normal action which is taken by this body, to perfect amendments and to make the legislation more meaningful, more correct, and more in the broad, overall public interest.

Mr. DREIER. Mr. Speaker, it is my great pleasure to yield 2 minutes to my very good friend from Michigan, Mr. DINGELL, pending which I hope he will yield to me just a moment so that I might clarify some of the things the gentleman has said.

Mr. DINGELL. I will be happy to yield to the distinguished gentleman from California.

Mr. DREIER. Mr. Speaker, I would simply like to clarify a statement made. In my opening statement, I said that at the end of this rule debate, I will, having a request that came from Members on my friend's side of the aisle, ask for a doubling of the amount of time for debate on nine amendments, including amendments that were raised. If I could continue, I say that because we did have an agreement of 10 minutes per side, a total of 10 minutes. Now we have doubled that, because Members on your side made that request of us.

Mr. DINGELL. Mr. Speaker, reclaiming my time, this is a little like rape. The issue here is not how much force is used, but just that force is used. The hard fact is 10 minutes to discuss a matter on one side, to discuss a matter of this importance, is not an adequate amount of time in which to engage in responsible debate. The gentleman has not corrected any of the concerns, and I thank the gentleman for yielding, I have enormous respect for him, but he has not corrected nor has he proposed to correct the fact that the amendments may not be amended.

Mr. DREIER. Mr. Speaker, if the gentleman will continue to yield, we simply did that at the request of the minority.

Mr. DINGELL. The gentleman's kindness is extraordinary, but it is not adequate, nor does it do the things that have to be done to make this rule the kind that a responsible legislator may support.

Mr. BEILENSON. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. NADLER].

Mr. NADLER. Mr. Speaker, I rise today in opposition to this restrictive rule which does not allow us to consider fully the magnitude of the changing proposes in this bill. To limit debate on whether to eliminate all support of the arts, the soul of America, to 10 minutes, is outrageous.

Those supporting eliminating funding for the National Endowment for the Arts argue that it is too costly. If given more than a minute, I could argue, with verity, that cutting the National Endowment for the Arts would in actuality do damage to our national economy.

Mr. DREIER. Mr. Speaker, will the gentleman yield?

Mr. NADLER. I yield to the gentleman from California.

Mr. DREIER. Mr. Speaker, I thank my friend for yielding. I would like to clarify one more time the time for debating the amendment to which my friend is referring has been doubled, or will be when I offer an amendment at the end of the debate. We are doubling the amount of time.

Mr. NADLER. Mr. Speaker, reclaiming my time, for a relatively small Federal investment, millions of dollars are generated each year in our communities as a result of NEA funding. In 1992, the $166 million invested by the National Endowment for the Arts is estimated to have generated local economic activity throughout the country totalling $1.68 billion. In fact, the Federal Government received an average of $3.4 billion in income tax revenue from nonprofit arts organizations, according to a recent study. To cut this funding would be fiscally imprudent.

But there is much more than money at stake here. What is at stake is the soul of America—the richness, the texture, the intangible verve which courses through our daily existence in ways that we do not always recognize in the short run.

To argue that we must sell our soul to pay our bills is downright irresponsible. Some might argue that the work spurred by NEA funding is not a worthwhile investment of our federal tax dollars. Yes, it is difficult to quantify the noneconomic benefits we gain from our Federal commitment to the arts. But what of our grandfather's pocketwatch that we keep always, for which we invest in repairs, which has no real value in an economic sense? We cannot describe why it is valuable to us, but it is part of who we are—it feeds our soul in an intangible way. Similarly, it is difficult to quantify the smile on a child's face when she sees her first play at a children's theater, or the self-exploration we may experience when we look at a painting. These are things on which we cannot put a price, but are made possible through our Federal commitment to the arts and humanities.

Some may argue that they support the arts—but taxpayers should not be forced to finance the NEA. But without NEA support, many of the smaller, community based arts organizations would perish. Private funds are stimulated by the NEA imprimatur and matching requirements.

When this body established the NEA, we said, "The Congress hereby finds and declares * * * that it is necessary and appropriate for the Federal Government to help create and sustain not only a climate encouraging freedom of thought, imagination, and inquiry but also the material conditions facilitating the release of this creative talent." This remains an important goal. Let us not act rashly and put in jeopardy the future of America's soul with only 10 minutes of debate.

Mr. BEILENSON. Mr. Speaker, I ask Members to support this rule.

(Mr. BEILENSON asked and was given permission to include extraneous material in the RECORD.)

The material referred to follows:

FLOOR PROCEDURE IN THE 104TH CONGRESS; COMPILED BY THE RULES COMMITTEE DEMOCRATS

Bill No.	Title	Resolution No.	Process used for floor consideration	Amendments in order
H.R. 1*	Compliance	H. Res. 6	Closed	None.
H. Res. 6	Opening Day Rules Package	H. Res. 5	Closed; contained a closed rule on H.R. 1 within the closed rule	None.
H.R. 5*	Unfunded Mandates	H. Res. 38	Restrictive; Motion adopted over Democratic objection in the Committee of the Whole to limit debate on section 4; Pre-printing gets preference.	N/A.
H.J. Res. 2*	Balanced Budget	H. Res. 44	Restrictive; only certain substitutes	2R; 4D.
H. Res. 43	Committee Hearings Scheduling	H. Res. 43 (OJ)	Restrictive; considered in House no amendments	N/A.
H.R. 2*	Line Item Veto	H. Res. 55	Open; Pre-printing gets preference	N/A.
H.R. 665*	Victim Restitution Act of 1995	H. Res. 61	Open; Pre-printing gets preference	N/A.
H.R. 666*	Exclusionary Rule Reform Act of 1995	H. Res. 60	Open; Pre-printing gets preference	N/A.
H.R. 667*	Violent Criminal Incarceration Act of 1995	H. Res. 63	Restrictive; 10 hr. Time Cap on amendments	N/A.
H.R. 668*	The Criminal Alien Deportation Improvement Act	H. Res. 69	Open; Pre-printing gets preference; Contains self-executing provision	N/A.
H.R. 728*	Local Government Law Enforcement Block Grants	H. Res. 79	Restrictive; 10 hr. Time Cap on amendments; Pre-printing gets preference	N/A.
H.R. 7*	National Security Revitalization Act	H. Res. 83	Restrictive; 10 hr. Time Cap on amendments; Pre-printing gets preference	N/A.
H.R. 729*	Death Penalty/Habeas	N/A	Restrictive; brought up under UC with a 6 hr. time cap on amendments	N/A.
S. 2	Senate Compliance	N/A	Closed; Put on Suspension Calendar over Democratic objection	None.
H.R. 831	To Permanently Extend the Health Insurance Deduction for the Self-Employed.	H. Res. 88	Restrictive; makes in order only the Gibbons amendment; Waives all points of order; Contains self-executing provision.	1D.
H.R. 830*	The Paperwork Reduction Act	H. Res. 91	Open	N/A.
H.R. 889	Emergency Supplemental/Rescinding Certain Budget Authority	H. Res. 92	Restrictive; makes in order only the Obey substitute	1D.
H.R. 450*	Regulatory Moratorium	H. Res. 93	Restrictive; 10 hr. Time Cap on amendments; Pre-printing gets preference	N/A.
H.R. 1022*	Risk Assessment	H. Res. 96	Restrictive; 10 hr. Time Cap on amendments	N/A.
H.R. 926*	Regulatory Flexibility	H. Res. 100	Open	N/A.
H.R. 925*	Private Property Protection Act	H. Res. 101	Restrictive; 12 hr. time cap on amendments; Requires Members to pre-print their amendments in the Record prior to the bill's consideration for amendment, waives germaneness and budget act points of order as well as points of order concerning appropriating on a legislative bill against the committee substitute used as base text.	1D.
H.R. 1058*	Securities Litigation Reform Act	H. Res. 105	Restrictive; 8 hr. time cap on amendments; Pre-printing gets preference; Makes in order the Wyden amendment and waives germaneness against it.	1D.
H.R. 988*	The Attorney Accountability Act of 1995	H. Res. 104	Restrictive; 7 hr. time cap on amendments; Pre-printing gets preference	N/A.
H.R. 956*	Product Liability and Legal Reform Act	H. Res. 109	Restrictive; makes in order only 15 germane amendments and denies 64 germane amendments from being considered.	8D; 7R.
H.R. 1158	Making Emergency Supplemental Appropriations and Rescissions	H. Res. 115	Restrictive; Combines emergency H.R. 1158 & nonemergency 1159 and strikes the abortion provision; makes in order only pre-printed amendments that include offsets within the same chapter (deeper cuts in programs already cut); waives points of order against three amendments; waives cl 2 of rule XXI against the bill, cl 2, XXI and cl 7 of rule XVI against the substitute; waives cl 2(e) od rule XXI against the amendments in the Record; 10 hr time cap on amendments. 30 minutes debate on each amendment.	N/A.
H.J. Res. 73*	Term Limits	H. Res. 116	Restrictive; Makes in order only 4 amendments considered under a "Queen of the Hill" procedure and denies 21 germane amendments from being considered.	1D; 3R
H.R. 4*	Welfare Reform	H. Res. 119	Restrictive; Makes in order only 31 perfecting amendments and two substitutes; Denies 130 germane amendments from being considered; The substitutes are to be considered under a "Queen of the Hill" procedure; All points of order are waived against the amendments.	5D; 26R
H.R. 1271*	Family Privacy Act	H. Res. 125	Open	N/A
H.R. 660*	Housing for Older Persons Act	H. Res. 126	Open	N/A
H.R. 1215*	The Contract With America Tax Relief Act of 1995	H. Res. 129	Restrictive; Self Executes language that makes tax cuts contingent on the adoption of a balanced budget plan and strikes section 3006. Makes in order only one substitute. Waives all points of order against the bill, substitute made in order as original text and Gephardt substitute.	1D
H.R. 483	Medicare Select Extension	H. Res. 130	Restrictive; waives cl 2(1)(6) of rule XI against the bill; makes H.R. 1391 in order as original text; makes in order only the Dingell substitute; allows Commerce Committee to file a report on the bill at any time.	1D
H.R. 655	Hydrogen Future Act	H. Res. 136	Open	N/A.
H.R. 1361	Coast Guard Authorization	H. Res. 139	Open; waives sections 302(f) and 308(a) of the Congressional Budget Act against the bill's consideration and the committee substitute; waives cl 5(a) of rule XXI against the committee substitute.	N/A.
H.R. 961	Clean Water Act	H. Res. 140	Open; pre-printing gets preference; waives sections 302(f) and 602(b) of the Budget Act against the bill's consideration; waives cl 7 of rule XVI, cl 5(a) of rule XXI and section 302(f) of the Budget Act against the committee substitute. Makes in order Shuster substitute as first order of business.	N/A.
H.R. 535	Corning National Fish Hatchery Conveyance Act	H. Res. 144	Open	N/A.
H.R. 584	Conveyance of the Fairport National Fish Hatchery to the State of Iowa.	H. Res. 145	Open	N/A.
H.R. 614	Conveyance of the New London National Fish Hatchery Production Facility.	H. Res. 146	Open	N/A
H. Con. Res. 67	Budget Resolution	H. Res. 149	Restrictive; Makes in order 4 substitutes under regular order; Gephardt, Neumann/Solomon, Payne/Owens, President's Budget if printed in Record on 5/17/95; waives all points of order against substitutes and concurrent resolution; suspends application of Rule XLIX with respect to the resolution; self-executes Agriculture language.	3D; 1R
H.R. 1561	American Overseas Interests Act of 1995	H. Res. 155	Restrictive; Requires amendments to be printed in the Record prior to their consideration; 10 hr. time cap; waives cl 2(1)(6) of rule XI against the bill's consideration; Also waives sections 302(f), 303(a), 308(a) and 402(a) against the bill's consideration and the committee amendment in order as original text; waives cl 5(a) of rule XXI against the amendment; amendment consideration is closed at 2:30 p.m. on May 25, 1995. Self-executes provision which removes section 2210 from the bill. This was done at the request of the Budget Committee.	N/A
H.R. 1530	National Defense Authorization Act FY 1996	H. Res. 164	Restrictive; Makes in order only the amendments printed in the report; waives all points of order against the bill, substitute and amendments printed in the report. Gives the Chairman en bloc authority. Self-executes a provision which strikes section 807 of the bill; provides for an additional 30 min. of debate on Nunn-Lugar section; Allows Mr. Clinger to offer a modification of his amendment with the concurrence of Ms. Collins.	36R; 18D; 2 Bipartisan
H.R. 1817	Military Construction Appropriations; FY 1996	H. Res. 167	Open; waives cl. 2 and cl. 6 of rule XXI against the bill; 1 hr. general debate; Uses House passed budget numbers as threshold for spending amounts pending passage of Budget.	
H.R. 1854	Legislative Branch Appropriations	H. Res. 169	Restrictive; Makes in order only 11 amendments; waives sections 302(f) and 308(a) of the Budget Act against the bill and cl. 2 and cl. 6 of rule XXI against the bill. All points of order are waived against the amendments.	5R; 4D; 2 Bipartisan

FLOOR PROCEDURE IN THE 104TH CONGRESS; COMPILED BY THE RULES COMMITTEE DEMOCRATS—Continued

Bill No.	Title	Resolution No.	Process used for floor consideration	Amendments in order
H.R. 1868	Foreign Operations Appropriations	H. Res. 170	Open; waives cl. 2, cl. 5(b), and cl. 6 of rule XXI against the bill; makes in order the Gilman amendments as first order of business; waives all points of order against the amendments; if adopted they will be considered as original text; waives cl. 2 of rule XXI against the amendments printed in the report. Pre-printing gets priority (Hall) (Menendez) (Goss) (Smith, NJ).	N/A
H.R. 1905	Energy & Water Appropriations	H. Res. 171	Open; waives cl. 2 and cl. 6 of rule XXI against the bill; makes in order the Shuster amendment as the first order of business; waives all points of order against the amendment; if adopted it will be considered as original text. Pre-printing gets priority.	N/A
H.J. Res. 79	Constitutional Amendment to Permit Congress and States to Prohibit the Physical Desecration of the American Flag.	H. Res. 173	Closed; provides one hour of general debate and one motion to recommit with or without instructions; if there are instructions, the MO is debatable for 1 hr.	N/A
H.R. 1944	Recissions Bill	H. Res. 175	Restrictive; Provides for consideration of the bill in the House; Permits the Chairman of the Appropriations Committee to offer one amendment which is unamendable; waives all points of order against the amendment.	N/A
H.R. 1868 (2nd rule)	Foreign Operations Appropriations	H. Res. 177	Restrictive; Provides for further consideration of the bill; makes in order only the four amendments printed in the rules report (20 min each). Waives all points of order against the amendments; Prohibits intervening motions in the Committee of the Whole; Provides for an automatic rise and report following the disposition of the amendments.	....
H.R. 1977 *Rule Defeated*	Interior Appropriations	H. Res. 185	Open; waives sections 302(f) and 308(a) of the Budget Act and cl 2 and cl 6 of rule XXI; provides that the bill be read by title; waives all points of order against the Tauzin amendment; self-executes Budget Committee amendment; waives cl 2(e) of rule XXI against amendments to the bill; Pre-printing gets priority.	N/A
H.R. 1977	Interior Appropriations	H.Res. 187	Open; waives sections 302(f), 306 and 308(e) of the Budget Act; waives clauses 2 and 6 of rule XXI against provisions in the bill; waives all points of order against the Tauzin amendment; provides that the bill be read by title; self-executes Budget Committee amendment and makes NEA funding subject to House passed authorization; waives cl 2(e) of rule XXI against the amendments to the bill; Pre-printing gets priority.	N/A
H.R. 1976	Agriculture Appropriations	H. Res. 188	Open; waives clauses 2 and 6 of rule XXI against provisions in the bill; provides that the bill be read by title; Makes Skeen amendment first order of business, if adopted the amendment will be considered as base text (10 min.); Pre-printing gets priority.	N/A
H.R. 1977 (3rd rule)	Interior Appropriations	H. Res. 189	Restrictive; provides for the further consideration of the bill; allows only amendments preprinted before July 14th to be considered; limits motions to rise.	....

*Contract Bills, 67% restrictive; 33% open. **All legislation, 62% restrictive; 38% open. ***Restrictive rules are those which limit the number of amendments which can be offered, and include so called modified open and modified closed rules as well as completely closed rules and rules providing for consideration in the House as opposed to the Committee of the Whole. This definition of restrictive rule is taken from the Republican chart of resolutions reported from the Rules Committee in the 103rd Congress. ****Not included in this chart are three bills which should have been placed on the Suspension Calendar. H.R. 101, H.R. 400, H.R. 440.

Mr. BEILENSON. Mr. Speaker, I yield the balance of my time to the gentleman from California [Mr. MILLER].

The Speaker pro tempore. The gentleman from California [Mr. MILLER] is recognized for 2 minutes.

Mr. MILLER of California. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I would ask my colleagues to oppose this rule. It was said by the gentleman from California in his opening statement that this rule was here to rescue this important bill from Democratic tactics. Let me just say on last Thursday we had 14 amendments offered on the floor of the House, 8 of which were Republican amendments. The total time for Democratic debate on those amendments was 3½ hours. We spent over 2 hours just on the Gilchrest amendment alone, the Gilchrest amendment, which was to remove legislation from this appropriations bill dealing with the use of volunteers in the environmental field by the National Biological Survey.

So most of the time was in fact spent trying to figure out how to remove legislation that was unacceptable both to Republicans and to Democrats. But because of that debate, we now see that all of a sudden debate on this bill, on issues ranging from endangered species to the National Endowment for the Arts, are now collapsed into 20 minutes or 10 minutes on these most important issues.

This is clearly a gift to those who do not want to take the heat for the policy considerations that they want to have this bill enact. They do not want to take the heat for the changes in the law. If you can get this down so later tonight at 10 or 11 o'clock at night we are spending 10 minutes a side to debate these issues, then you can go on about your business.

It is the wrong way to legislate. The House deserves better, the members of the authorizing committees who are disenfranchised by this effort deserve better, and the American people deserve better about these kinds of major changes being presented to us now, in as restrictive a rule essentially as you can have, which is to offer you the minimum time per side as opposed to the minimum time you have under the 5-minute rule for the Members of the House, which is 5 minutes per Member who can stand up and argue these debates.

□ 1730

That is open and free debate. This rule is not about open and free debate. This rule is about closing down debate so you do not have to answer the hard questions.

Mr. DREIER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we did hear from my friend from Woodland Hills that there is support of this rule. I guess I am speaking for the leadership on both sides of the aisle in stating that there is strong support for this rule.

I hope that we can pass it.

AMENDMENT OFFERED BY MR. DREIER

Mr. DREIER. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DREIER:

Page 2, line 13, insert the following after the period:

"Notwithstanding the preceding sentence, the following amendments (identified by numerical designation pursuant to clause 5 of rule XXIII) shall be debatable for 20 minutes equally divided and controlled by the proponent and an opponent: the amendments numbered 11, 31, 40, 41, 57, 61, 65, 66, and 72. The amendment numbered 57 is hereby modified to insert on page 94 after line 24.".

The SPEAKER pro tempore (Mr. SHAYS). The gentleman from California [Mr. DREIER] has 15 minutes remaining on the amendment and the rule.

Mr. DREIER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as I mentioned in my opening statement and in response to statements from the gentleman from New York [Mr. NADLER] and the gentleman from Michigan [Mr. DINGELL], this amendment would simply permit the House to debate a specific group of 9 amendments for up to 20 minutes each, rather than the 10 minutes provided for under the pending rule.

Debate time on these amendments shall be equally divided and controlled between the proponent and an opponent. As the new rule already stipulates, the amendments shall be considered as read, are not subject to amendment or to a demand for a division of the question.

Mr. Speaker, as I was saying earlier, we are offering this amendment in a spirit of bipartisanship, recognizing that certain issues that are associated with this bill, such as funding for the arts and humanities, deserve additional time on the floor for debate. As I have said, we have doubled the amount of time on that. This amendment was developed in close consultation and cooperation with the minority and I urge my colleagues to support this fair and straightforward amendment.

Mr. Speaker, I yield to the gentleman from California [Mr. BEILENSON]

Mr. BEILENSON. Mr. Speaker, we have no time over here. If we did, I would have recognized myself and would have joined in support of the amendment which we are pleased that the gentleman is offering. We ask for its support.

Mr. DREIER. Mr. Speaker, that is the reason that I was very careful in maintaining time over here so that I would get those wonderful words from the distinguished minority manager of this rule.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the amendment and on the resolution.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the amendment and on the resolution.

There was no objection.

The question is on the amendment offered by the gentleman from California [Mr. DREIER].

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the resolution, as amended.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. MILLER of California. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 5, rule I, further proceedings on this motion will be postponed until 6 p.m.

The point of no quorum is considered as withdrawn.

PERMISSION FOR SUNDRY COMMITTEES AND THEIR SUBCOMMITTEES TO SIT TODAY DURING THE 5-MINUTE RULE

Mr. DREIER. Mr. Speaker, I ask unanimous consent that the following committees and their subcommittees be permitted to sit today while the House is meeting in the Committee of the Whole House under the 5-minute rule. The Committee on Government Reform and Oversight, the Committee on the Judiciary, and the Committee on Resources.

It is my understanding that the minority has been consulted and that there is no objection to these requests.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. BEILENSON. Mr. Speaker, reserving the right to object, I shall not object, we have been advised that the Democratic leadership has been consulted and has no objection to the request.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12, rule I, the Chair declares the House in recess until 6 p.m. today.

Accordingly (at 5 o'clock and 34 minutes p.m.), the House stood in recess until 6 p.m.

□ 1803

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. SENSENBRENNER) at 6:03 p.m.

PROVIDING FOR FURTHER CONSIDERATION OF H.R. 1977, DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 1996

The SPEAKER pro tempore. The pending business is the de novo vote on the passage of House Resolution 189, as amended.

The Clerk read the title of the resolution.

(For text of House Resolution 189, as amended, see prior proceedings of the House of today.)

The SPEAKER pro tempore. The question is on the resolution, as amended.

The resolution, as amended, was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. REGULA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 1977, which we are about to consider, and that I may be permitted to include tables, charts, and other materials.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 1996

The SPEAKER pro tempore. Pursuant to House Resolution 187 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 1977.

□ 1804

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 1977) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1996, and for other purposes, with Mr. SHAYS (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. When the Committee of the Whole rose on Thursday, July 12, 1995, title II was open for amendment at any point.

Pursuant to House Resolution 189, further consideration of the bill for amendment shall proceed without intervening motion except amendments beginning in title II printed in the CONGRESSIONAL RECORD before July 14, 1995; motions that the committee rise offered by the majority leader or his designee, and motions that the committee rise and report the bill to the House with such amendments as may have been adopted offered a preferential under clause 2(d) of rule XXI.

Each further amendment to the bill may be offered only by the Member who caused it to be printed, is considered read, is debatable for either 10 or 20 minutes, as the case may be, equally divided and controlled by the proponent and an opponent of the amendment, shall not be subject to amendment, and shall not be subject to a demand for division of the question.

The Chairman of the Committee of the Whole may postpone until a time during further consideration in the Committee of the Whole a request for a recorded vote on any amendment.

The Chairman of the Committee of the Whole may reduce to not less than 5 minutes the time for voting by electronic device on any postponed question that immediately follows another vote by electronic device without intervening business, provided that the time for voting by electronic device on the first in any series of questions shall not be less than 15 minutes.

Are there any amendments to title II?

AMENDMENT OFFERED BY MR. BASS

Mr. BASS. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. BASS: Page 47, line 25, insert before the period the following:

": *Provided:* That the Forest Service shall make a priority emergency purchase of the Bretton Woods tract within the White Mountain National Forest in New Hampshire."

The CHAIRMAN pro tempore. Pursuant to House Resolution 189, the gentleman from New Hampshire [Mr. BASS] will be recognized for 5 minutes, and a Member opposed will be recognized for 5 minutes.

The Chair recognizes the gentleman from New Hampshire [Mr. BASS].

Mr. BASS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I understand that this amendment is subject to a point of order and I plan to withdraw it shortly. However, I would like to enter into a very brief colloquy with the chairman of the Subcommittee on the Interior of the Committee on Appropriations.

Is this acceptable to the gentleman from Ohio?

Mr. REGULA. Mr. Chairman, if the gentleman will yield, yes, it is. We do object to the amendment, but I think the colloquy will clear that up.

Mr. BASS. I thank the gentleman very much.

Mr. Chairman, it is my understanding that certain funds will be available in this bill for emergency land acquisitions. These acquisitions include tracts of land which are surrounded by existing national forest land and are imminently threatened by development. It is my further understanding that the Bretton Woods tract in the White Mountain National Forest is the type of acquisition that might qualify for funding.

Is this also the understanding of the gentleman from Ohio?

Mr. REGULA. If the gentleman will yield further, yes, it is. I would point out, as the gentleman did earlier, that the money in here only applies in the event of an emergency. This is the type of thing that might qualify.

Mr. BASS. Very well. I thank my colleague for his courtesy.

Mr. Chairman, I rise today to express my strong support for the acquisition of the Bretton Woods tract and its incorporation into the White Mountain National Forest. Historically, aesthetically, and recreationally, this 480-acre tract is invaluable to New Hampshire's North Country. This expanse is one of the last remaining undeveloped private ownerships that lies within the panorama of the historic Mt. Washington Hotel where the Bretton Woods Treaty was signed 50 years ago. The property contains over 10 miles of trails that provide the area's many visitors with outstanding recreational opportunities, including hiking, mountain biking, cross-country skiing, and snowmobiling.

The Forest Service has informed me that this tract's acquisition would qualify as an emergency. The land is surrounded on three sides by the national forest. While the land is zoned for development, the owner is ready to sell the parcel to the Forest Service. However, if an emergency acquisition of this land is not made, the land will be developed for economic reasons. I believe that it would be a serious mistake to allow development of this land located in the midst of the White Mountain National Forest.

Mr. Chairman, I include a letter from the Forest Service for the RECORD, as follows:

DEPARTMENT OF AGRICULTURE,
FOREST SERVICE,
Washington, DC.

Hon. CHARLES F. BASS,
House of Representatives, Washington, DC.

DEAR REPRESENTATIVE BASS: The President's FY 1996 Budget included $1,000,000 for land acquisition within the White Mountain National Forest. The funding request is intended to allow for a partial purchase of the Bretton Woods property. We are currently working with the landowners and the Trust for Public Land to complete an appraisal of the property.

This property is a priority for acquisition. National Forest System lands about the property on three sides and we believe development is likely if we are unable to purchase. The property would qualify for emergency and inholdings land purchase funding, as currently identified in the Department of Interior and Related Agencies FY 1996 Appropriations bill. However, the current funding level of $7,100,000 is inadequate to meet our emergency acquisition needs, and we are unable to commit how this funding will be utilized.

Brent Handley of my staff is available to work with you if you have any additional questions. He can be reached at 205–0945.

Sincerely,

GORDON H. SMALL,
for Director of Lands.

Mr. BASS. Mr. Chairman, I ask unanimous consent to withdraw the amendment.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from New Hampshire?

There was no objection.

AMENDMENT OFFERED BY MR. COBURN

Mr. COBURN. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. COBURN: Page 45, line 24, strike "$1,276,688,000" and insert "$1,266,688,000".

Page 66, strike lines 11 through 15 and insert the following:

Department of Education

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

INDIAN EDUCATION

For necessary expenses to carry out, to the extent not otherwise provided, title IX of the Elementary and Secondary Education Act of 1965, $52,500,000, to be allocated to local educational agencies.

AMENDMENT, AS MODIFIED, OFFERED BY MR. COBURN

Mr. COBURN. Mr. Chairman, I ask unanimous consent that my amendment be considered as modified and reported in the CONGRESSIONAL RECORD.

The CHAIRMAN pro tempore. The Clerk will report the modification.

The Clerk read as follows:

Amendment, as modified, offered by Mr. COBURN: Page 45, line 24, strike "$1,276,688.000" and insert "$1,266,688,000".

Page 66, strike lines 11 through 15 and insert the following:

Department of education

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

INDIAN EDUCATION

For necessary expenses to carry out, to the extent not otherwise provided, title IX, Part A, Subpart 1 of the Elementary and Secondary Education Act of 1965, as amended, and section 215 of the Department of Education Organization Act, $52,500,000.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

The CHAIRMAN pro tempore. Pursuant to House Resolution 189, the gentleman from Oklahoma [Mr. COBURN] will be recognized for 5 minutes, and a Member opposed will be recognized for 5 minutes.

The Chair recognizes the gentleman from Oklahoma [Mr. COBURN].

Mr. COBURN. Mr. Chairman, there is no one in this House who is more committed than I to cutting unnecessary spending and balancing the budget. I strongly support streamlining programs and cutting the bureaucracy in Washington. However, as written, this bill cuts more than just bureaucracy in the Office of Indian Education. It guts grant money for schools and for children.

My amendment does not restore the Office of Indian Education. However, it sends money directly to those schools who depend on it for educating their students. Again, the Coburn amendment restores money for schools, not for bureaucracy. Although the amendment does not restore the Office of Indian Education, I am willing to work with the Department of Education to see and to assure that the grant money is administered.

The Coburn amendment pays for these school grants by reducing an offsetting amount from the general administration accounts within the Forest Service, an amount for that general administration account in excess of $1.3 billion.

Balancing the budget includes balancing priorities. If money for schoolchildren is more important than money for bureaucracy, then you should vote for the Coburn amendment.

We must as we bring this budget down and control the spending not throw babies out with the bath water.

In educating our children, there cannot be a higher priority for this country. We must spend the dollars wisely, we must spend it on the children, not on bureaucracies.

It is my hope that the Congress will honor this amendment and will make the necessary correction in this appropriations bill so that school children throughout this country will receive the appropriate dollars required to educate themselves.

Mr. REGULA. Mr. Chairman, will the gentleman yield?

Mr. COBURN. I yield to the gentleman from Ohio.

Mr. REGULA. Mr. Chairman, we have no objection to this amendment. We had a discussion on this on Thursday on a previous amendment concerning Indian education. At that time, it was stated by myself and others that we would support this amendment. The reason that we are in favor of this is the following:

First, it does restore the $52,500,000 to Indian education. The previous amendment was a larger amount.

Second, it offsets from administrative costs as opposed to program reductions.

I think this is a very important element. What it really means is that this money will actually go to programs for the Indian children and will not be spent on administrative costs.

One of the things we have tried to do in this bill is to get more money on the ground and less in administrative-type functions.

Third, the money is directed to local schools only and no special programs are funded. In other words, it gives the school districts the flexibility to design programs for the Indian children that will perhaps meet their needs in unique ways.

Mr. YATES. Mr. Chairman, will the gentleman yield?

Mr. COBURN. I yield to the gentleman from Illinois.

Mr. YATES. Mr. Chairman, how will these funds be distributed? If there is no longer an Office of Indian Education, who will receive the money for distribution to the various school districts that are to receive them?

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Mr. REGULA. Mr. Chairman, I think, in response to the gentleman from Illinois [Mr. YATES], it would be done through the BIA or some other administrative function. And what we are trying to do is to avoid overhead costs and get the money out to the children and to the schools.

It is basically a formula grant, so a computer can designate the amount that goes to each school, depending on the evidence the school would present as to the number of Indian children that are enrolled in that particular school district.

Mr. YATES. If the gentleman would continue to yield, does the amendment by the gentleman from Oklahoma [Mr. COBURN] provide for that duty to be undertaken by either BIA or some other agency?

Mr. REGULA. It is structured in a way that it will take care of getting the money to the school districts on a per capita basis. That has been historically the case.

Mr. YATES. But my question, Mr. Chairman, is there in the gentleman's amendment a provision that will have some authority providing the distribution?

Mr. REGULA. That would be in the agency known as the Office of Indian Education and that office would be responsible for distributing the money on a formula basis.

Mr. YATES. Mr. Chairman, I thank the gentleman.

Mr. REGULA. I think this discussion brings this out, and that is that this amendment will greatly reduce administrative overhead in the office. In the age of computers, it is fairly easy to distribute funds that are on a per capita basis and are strictly by formula. For all of these reasons, we support the amendment.

The CHAIRMAN. Does any Member rise in opposition?

Mr. YATES. Mr. Chairman, I claim the time in opposition to the amendment.

The CHAIRMAN. The gentleman from Illinois [Mr. YATES] is recognized for 5 minutes.

Mr. YATES. Mr. Chairman, I yield myself such time as I may consume.

Mr. WILLIAMS. Mr. Chairman, will the gentleman yield?

Mr. YATES. I yield to the gentleman from Montana.

Mr. WILLIAMS. Mr. Chairman, it seems to me that this additional money for Indian education is well worthwhile. I think the committee has recognized that they are incorrect to chop Indian education, although I share the ranking member's concern that without an Office of Indian Education, you will have trouble getting this money to the schools.

By the way, the Office of Indian Education money did not go to the schools. It did not follow the schools. It follows the students. That is the value of it, because it will follow them off of the reservation.

Mr. Chairman, I appreciate the gentleman restoring the money and understanding the error that the subcommittee made.

Mr. YATES. Mr. Chairman, like the chairman of the committee, I have no objection to this amendment and I think it ought to be adopted.

Mrs. CLAYTON. Mr. Chairman, I wish to commend my colleague from the other side of the aisle, Congressman COBURN, for his amendment on funding for the Office of Indian Education. However, I have some concerns about this amendment.

First, the amount addressed here—$52.5 million is not adequate to reinstate the Office of Indian Education, and instead gives the money to the local Indian education programs. Some program areas will benefit, some may not.

Second, I am concerned about the source Mr. COBURN has earmarked to secure this $52.5—worthwhile programs under the general administration of Forest Service will be sacrificed.

I filed an amendment which will restore the funding level to the current $81 million because I believe in the Office of Indian Education and the programs which it offers. I cannot concede that the programs will be as well run as they were when monitored by the Office of Indian Education. This office serves unique cultural and academic needs of Indians. These needs will not be adequately met at a funding level of $52.5 million.

I agree that—in most cases—some money is better than no money. But to cut a limited program which has proven to work is not good. It should be our charge to find the money to fund the Office of Indian Education at a level which will at least maintain the current level of solvency.

If not here today, then through the conference process.

Mr. YOUNG of Alaska. Mr. Chairman, I rise in support of my esteemed colleague, Mr. TOM COBURN's amendment to the Interior appropriations bill. His amendment restores funding to local schools which receive funding from the Department of Education to support the special educational needs of Alaska Native or American Indian students. While Mr. COBURN's amendment does not restore the Office of Indian Education, it provides for program funds within the Department of Education to schools who provide academic tutoring, personal counseling, career counseling and other services to Alaska Native and American Indian students who are at risk. As a former educator, I believe it is vital that native students be given a fair opportunity to achieve their highest potential. I urge my colleagues to vote for the Coburn amendment to restore $52 million for the Department of Education program funding to schools who help disadvantaged children meet high standards.

Mr. HAYWORTH. Mr. Chairman, I rise in strong support of the Coburn amendment to restore $52.5 million to the Office of Indian Education. As I noted during debate on the Obey amendment last week, over a century ago the United States entered into treaties with many native American Indian tribes. My congressional district contains portions of eight sovereign Indian nations, including the Navajo Nation, America's largest reservation.

Although I would prefer restoring the entire $80 million cut from this important program, I am grateful for the opportunity to restore a good portion of these funds. I believe that if this amendment should fail to be adopted, Congress would be reneging on an important promise made to native American children. I hope that my colleagues will join me in keeping our treaty obligations by supporting the Coburn amendment.

The CHAIRMAN. The question is on the amendment, as modified, offered by the gentleman from Oklahoma [Mr. COBURN].

The amendment, as modified, was agreed to.

The CHAIRMAN. Are there further amendments to title II?

Mr. DEAL of Georgia. Mr. Chairman, I ask unanimous consent to strike the last word for the purposes of engaging in a colloquy with the gentleman from Ohio [Mr. REGULA].

The CHAIRMAN. Without objection, the gentleman from Georgia [Mr. DEAL] is recognized for 5 minutes.

There was no objection.

Mr. DEAL of Georgia. Mr. Chairman, I would like to engage the gentleman from Ohio [Mr. REGULA] in a colloquy with regard to the source of continued funding for an ongoing project which involves the construction for a bypass route around the Chickamauga-Chattanooga National Military Park, which is the oldest and largest military park in the country.

By way of background, this project was initially authorized in 1987 and has been continually funded since then on agreement between the National Park Service and the State of Georgia. The land acquisition necessary for this route has been substantially completed and construction has begun.

The State of Georgia has already spent $7 million on this project under its agreement with the Park Service.

It is my understanding, Mr. Chairman, that the gentleman from Ohio has consulted with the Park Service and that there is an agreement with the director of the Park Service to use discretionary Federal Highway Administration dollars to fund this project.

Mr. REGULA. Mr. Chairman, the gentleman from Georgia is correct. Because I believe it is important to continue to fund projects such as this one on which construction has begun, I have contacted the director of the National Park Service on this issue.

I have been assured by the director of the National Park Service that he will use $4.544 million in discretionary Federal Highway Administration dollars allotted to the Park Service to proceed with construction of the project.

I might add that the highway money is a separate pool that is allocated from the Committee on Transportation specifically for highway projects that affect parks.

Mr. DEAL of Georgia. I thank the gentleman from Ohio.

AMENDMENT OFFERED BY MR. STEARNS

Mr. STEARNS. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. STEARNS: Page 72, line 19, strike "$82,259,000" and insert "$74,033,100".

Page 73, line 4, strike "$17,235,000" and insert "$15,511,500".

Page 73, line 6, strike "$7,500,000" and insert "$6,750,000".

The CHAIRMAN. Pursuant to House Resolution 189, the gentleman from Florida [Mr. STEARNS] and a Member opposed will each be recognized for 10 minutes.

The Chair recognizes the gentleman from Florida [Mr. STEARNS].

Mr. STEARNS. Mr. Chairman, I yield myself such time as I may consume. I think the gentleman from Wisconsin [Mr. OBEY] was here Friday night saying, "Let us bring the Stearns amendment forward," so I appreciate the gentleman advertising the Stearns amendment.

Mr. Chairman, I think many of my colleagues know what this is about. This is about a reduction to the National Endowment for the Arts. I rise today to offer this amendment to H.R. 1977. It cuts an additional $10 million from the fiscal year appropriations for 1996 for the NEA.

I want to recognize, of course, my colleague on the other side of the aisle, the gentleman from Illinois [Mr. YATES]. Both he and I have discussed this in the past for a number of years, and I have great respect for him and great respect for his opinion. But I think the time has come now to bring this debate forward to a higher level.

I know that people on both sides of the aisle have different opinions on this, but I think we are now at a point of not only fiscal responsibility, but we are talking about good stewardship.

So as I said before, I have offered reductions to the NEA funding for many years and I believe that at this time, in this time of fiscal crisis, we must put each and every Federal program under the microscope.

And so my colleagues bear with me, let us take a good look at this program. Is this program vital to our Nation's well-being or could it be reduced and phased out? H.R. 1977, as reported, reduces funding for the NEA 39 percent from the fiscal year 1995 levels of $167 million; a small but timed step in the right direction.

My amendment would cut closer to what I believe the majority want; reduce, saving further, saving the taxpayers $77 million. In addition, my amendment moves us one step closer to full and total phaseout of the NEA. This is the first of a 2-year phaseout. Under my amendment, the NEA would be eliminated during this, the 104th Congress.

Unlike the agreement reached and outlined in the rule, my amendment would not guarantee the NEA a fiscal year 1997 funding level of $99 million. It would give the NEA only those funds necessary for the agency to close its door with all deliberate speed.

The amendment also, as I mentioned earlier, strikes a strong blow for fiscal responsibility. I think, my colleagues, we must demonstrate tonight that we are serious about reducing spending and only fund those projects that are absolutely necessary.

Ask yourself this question: Does the NEA defend Americans against invasion? Does it protect Americans from crime? Does it shield them from economic hardship? In other words, does it do these things that are important for the Federal Government to do for its citizens?

Simply put, the NEA has not proved itself necessary of this Federal funding. In a world where every American family now owes $80,000 of the national debt, every penny counts and in this type of world, we must look at the NEA.

Many of my colleagues might say to themselves, "Well, the NEA has done a lot of good projects." But, Mr. Chairman, over the years there has been a great deal of controversy from this agency.

This agency continues to have controversy. This very summer, the NEA has been embroiled in controversy surrounding its support, but financially and philosophically, of Highways, a Los Angeles Performing Arts Center.

Mr. Chairman, I am sure most people in the House do not know what Highways, a Los Angeles performing arts center, does. As reported in the newspaper, the center received $15,000 this year from the NEA. I have here a brochure, if people in the House would like to look at this brochure. It has all the lurid details and the photographs that will help my colleagues understand that there has not been good stewardship.

My colleagues will notice in the left-hand corner of the brochure, there is the good seal of approval from the National Endowment for the Arts. I think most of my colleagues would realize that this brochure, which talks about the performing arts schedule out at Santa Monica, is not the kind of literature the taxpayers should be supporting.

This is sexually explicit homosexual art material and it is entitled, and I am reading right off the brochure, "Ecco Lesbo—Ecco Homo," series of plays. Apparently, the chief purpose of this festival is to provoke conservatives and religious Americans with their presentation.

Mr. Chairman, I am not going to go into all the details, but for some of my colleagues I just want to take one moment to read what one of the scheduled performances on July 2, in fact from June 28 to July 2, they are talking about pain, regret, self-pity, doom, and quote, "Sex With Newt Gingrich's Mother."

I bring that forward not because it is inflammatory—which it is—but to point out this is just a small sample of the things that are in this brochure. These are performances that are occurring in July and August: The Funny Gay Males in July 5 through 9, and it just goes on and on with things that I think are just too lurid to talk about, even on a Monday night.

Mr. Chairman, we could say to ourselves, "Where is Jane Alexander? Let us talk to her about this. She is the chairwoman of the NEA." Well, she has written a letter to all my colleagues. She argued that NEA paid only for general administrative support to the Highways Arts Center and none of the money went to the performing artists.

Furthermore, she goes on to say "Federal funding is simply a reflection of the community they are attempting to serve with our help." But the majority of taxpayers do not agree.

She actually defends this lurid junk by claiming that such performances are an exemplification of Los Angeles. I do not think this is. I think my colleagues from Los Angeles should be offended. I know I am.

There is no argument here. By giving Highways one taxpayer dollar, the Government and its Federal arts agency implicitly supports the Highways Arts Center. They put the NEA sealer on this flyer, so we have to endorse it. After all, we wrote the check. My colleagues, it is wrong and there are no two ways about it.

Mr. Chairman, I would like to stop at this moment to allow the other side an opportunity, before I continue.

Mr. Chairman, I reserve the balance of my time.

Mr. YATES. Mr. Chairman, I rise in opposition to the amendment of the gentleman from Florida [Mr. STEARNS].

The CHAIRMAN. The gentleman from Illinois [Mr. YATES] is recognized for 10 minutes.

Mr. YATES. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, here again, like the swallows that return annually to Capistrano, the gentleman from Florida [Mr. STEARNS] has made his annual return to his attack on the NEA. This time, he wants to cut it by an additional 10 percent. The Committee has already cut it by 40 percent. The NEA has literally been crippled by the amount of money that the committee will be taking from it.

We also know that this bill will kill the arts in 2 years, there will be no more NEA, according to our bill.

The question is whether you will listen to the gentleman from Florida [Mr. STEARNS] in his attack on the NEA. The gentleman has pointed to one grant, one grant by NEA out of 4,000. Out of 4,000 grants that it makes annually, he has pointed to just one of them.

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He says nothing about the grant of the NEA to the symphonies. He says nothing about the grants of the NEA to chamber music. He says nothing about the grants of the NEA to the theaters. He says nothing about the grants of the NEA to educational institutions to bring the arts to the curricula of school children.

Will you accept what the gentleman from Florida [Mr. STEARNS] says about the NEA, or will you listen to what all of the Presidents of the United States since 1965 have said in favor of the NEA? President Kennedy was very strongly in favor of the NEA. President Johnson was strongly in favor of the NEA. President Nixon strongly supported the NEA. President Ford, President Carter, President Bush, and President Clinton, all of them favored Federal support for the arts. As a matter of fact this is what President Nixon said about the arts, and I quote from December 1969, "The attention and support we give the arts and the humanities, especially as they affect our young people, represent a vital part of our commitment to enhancing the quality of life for all Americans."

The gentleman from Florida [Mr. STEARNS] spoke about the fact that we find ourselves in stringent budget circumstances. This is what President Nixon said at a time of severe budget stringency: "Doubling of the appropriation for the arts and humanities might seem extravagant. However, I believe the need for a new idea has a compelling claim on our resources. Studies in the humanities will expand the range of our current knowledge about the social conditions underlying the more difficult and far-reaching of the Nation's domestic problems." That was in a speech that President Nixon made to the Congress.

And so, Mr. Chairman, I hope that the House will recognize that the NEA has already taken a beating. It has taken a beating by our committee. It has been cut 50 percent already. Another cut of $10 million will cripple it further. I do not think the House wants to do that.

And so I urge the House to reject the amendment offered by the gentleman from Florida [Mr. STEARNS].

Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Montana [Mr. WILLIAMS].

Mr. WILLIAMS. Mr. Chairman, I thank the ranking member for yielding me this time.

The gentleman from Florida asked some good questions. He asks if the NEA is vital. Most Americans can answer that for him. The answer is "yes." It is vital to American culture. It is vital to American enlightenment.

In the past 25 years of success, extraordinary success of culture and the arts of this country are testimony to how vital it is.

He asks if the continuation of the NEA is in the wishes of the majority. The majority have answered that time and again in poll after poll. The answer is overwhelmingly "yes." The American people support the National Endowment for the Arts and its continuation.

He asks if it defends America against invasion, and again the answer is "yes." It defends us against the invasion of misunderstanding. Any promotion of the arts does. It protects us against the invasion of ignorance. Federal promotion of the arts does that.

He asks if it shields us from economic hardship, and the answer is "yes." In major cities and small towns across this country, its cultural institutions have risen up and been shielded from economic hardship because of the National Endowment for the Arts.

And, finally, he raised the question of obscenity. Four years ago this House, the U.S. Senate, and under signature of the President of the United States, for the first time made obscenity funded by the NEA illegal, and if they are doing it, if they are doing it, action can be taken against them. Obscenity is not protected speech. The Supreme Court has found, and this House and the U.S. Senate and President Bush made obscenity by the NEA illegal.

I know many of the Members on that side have recently come to this Chamber, but obscenity is not permitted by the NEA. It is illegal. The NEA can be taken to court. There are restrictions.

Is the NEA vital? Absolutely. Do not kill it tonight. It is vital to this country and to the cultural improvement of this country.

Mr. STEARNS. Mr. Chairman, I yield myself 1 minute.

The gentleman from Montana [Mr. WILLIAMS] should realize that a poll done by the Los Angeles Times in the early part of this year showed 69 percent of Americans felt the NEA should be reduced drastically. A poll done by CNN in June said 54 percent said it should be eliminated.

Let me just tell the gentleman from Montana [Mr. WILLIAMS], and I ask him the question rhetorically, he does not have to answer it, in this grant that went to Highways on July 24 they are going to show a performance of "Boys Are Us, the next installment in our continuing series of hot summer nights with hot fags." Now, on August 14, there is going to be "dyke night, our series of hot nights with hot dykes.

Mr. Chairman, this has the seal of approval of the NEA. This is a rhetorical question. There is the seal of the NEA. There has got to be public stewardship here somewhere down the line. I say to the gentleman from Montana [Mr. WILLIAMS], in all deference to him, the American people do not believe we cannot eliminate this program.

Mr. YATES. Mr. Chairman, I yield 1 minute to the distinguished gentleman From New York [Mr. HOUGHTON].

Mr. HOUGHTON. Mr. Chairman, ladies and gentlemen, I do not know why we are whipping this horse again. The House voted a few days ago to phase out the NEA in 2 years, period, paragraph, end of story.

I do not agree with it. I do not think it was a good idea. But that was the vote.

Now we are going at this thing again. It is absolutely crazy. Is an agreement an agreement? I do not know around here anymore.

I would like to feel that vote last week was an agreement. We ought to hold to it.

I do not think the Stearns amendment is worthwhile approving.

Mr. YATES. Mr. Chairman, I yield I minute to the distinguished gentleman from Washington [Mr. DICKS].

Mr. DICKS. Mr. Chairman, I want to stand and say that I believe that we should continue to support the National Endowment for the Arts. If you go back as far as 1964, when the endowment was created, and you look at the private sector involvement since that time, the NEA's impact has been dramatic.

Because we put in a few seed dollars into the Arts through the NEA, we have seen a dramatic increase in private funding for the Arts, and we have seen arts institutions spring up all over this country, and not just in the big eastern cities. I believe that if you look at the numbers, they will demonstrate that for every 1 Federal dollar we invest in the Arts, $11 are invested from the private sector. That is a dramatic indication of the success of this partnership between the public and private sector.

Again, the subcommittee has already reduced funding for the National Endowment for the Arts by 40 percent, which is clearly too large a reduction.

Therefore, I would strongly urge the House to vote against the Stearns amendment. I know that there are those who want to play politics with this issue. However, the endowment, if viewed in any objective way, has been an enormous success.

Mr. Chairman, I rise in strong opposition to the gentleman's amendment to cut funding for the National Endowment for the Arts [NEA]. This action would be highly irresponsible and I believe against the interests of the American people.

For those in this body concerned and conscious of deficit reduction, let me point out that the Interior Appropriation Subcommittee has already drastically reduced funding for the Arts for fiscal year 1996, by 40 percent. The NEA's base funding has gone down from $171 million in fiscal year 1994, to a further reduced base of $162 million in fiscal year 1995, to only $99.4 million in the fiscal year 1996 bill that is being brought to the floor today.

Let me also remind you that the funding level for the arts agency as reported out by the subcommittee is consistent with the level proposed for fiscal year 1996 in H.R. 1557, the reauthorization bill for the NEA that was prepared by Chairman GOODLING and the Economic and Educational Opportunities Committee. So the NEA has given to deficit reduction. In fact, the NEA has given more than its share, and we have nearly crippled the agency's ability to be viable at the levels we have reported out in this bill.

Those who believe the NEA funding should be reduced further or eliminated are saying to this Nation and their constituents that we should not invest in our culture and in creativity. To be against the arts agency's existence is to say that we should not support ballets, symphonies, or theatre performances. It's time to look at the real truth and the real value of the NEA, and move beyond the scapegoating for convenience of this important cultural institution for our Nation.

Let's examine the real record, and stop viewing this agency through a prism of distortion. Since its creation in 1965, the NEA has awarded over 100,000 grants and less than 40 have been considered to be very controversial. It is estimated that the Endowment costs each American just 64 cents a year. However, with this modest investment, the agency helps enhance the quality of life for our citizens, by supporting theatres, touring dance companies, folk festivals, arts education, orchestras, museums, and a wide variety of other programs.

Many widely acclaimed programs began with the talent of individuals who had received seed money from the NEA, and many rural areas of our Nation would not be able to enjoy arts programs without outreach by the Endowment.

We must recognize that the small investment made by the Federal Government in funding the NEA creates tremendous leverage in obtaining private investment. For every dollar spent by the Endowment, it attracts $11 in investment from the private sector. In fact, many private sector contributors rely heavily on the NEA's grant selection process as a guide to the kinds of programs that should be supported.

Endowment support has helped to increase audience support for all art forms. For example, the annual audience for professional dance has grown from 1 million to more than 16 million over the past 28 years. Audiences for the work of professional opera companies have grown to over 7.6 million, compared to only 5 million a decade ago. Non-profit theaters serve an audience that has grown to over 20 million. Symphony performance attendance has risen to over 27 million annually. All of this has occurred with seed support from the NEA.

Each year radio programs reach millions of Americans bringing the best of the arts to urban and rural communities through such Endowment-funded series as "American Jazz Radio Festival" and "Mountain Stage."

The NEA's Underserved Communities Initiative, created in 1990, has awarded grants in every State to broaden public access to art in rural, inner-city, and artistically underserved areas.

Also, support for the arts is support for the economy. The NEA's modest budget has annual generated matching funds estimated at over $1.2 billion. These moneys permeate the economy. At least 1.3 million full time jobs are supported by the arts; $25.2 billion is earned through salaries, wages, and entrepreneurial income; local governments receive $790 million in taxes and fees; State governments receive $1.2 billion; and the Federal Government receives $3.4 billion in income tax revenue.

It is clear that the outreach and support granted by the NEA to the arts has an incredible ripple effect throughout our economy, and restricting or eliminating the NEA's ability to perform that outreach would be both economically and culturally devastating.

In my home State of Washington, many arts and cultural institutions have benefitted from NEA grants, including: Tacoma's Broadway Theatre, the Tacoma Art Museum, the Centrum Foundation, the Washington State Arts Commission, the Before Columbus Foundation, the Pacific Northwest Ballet, the Bainbridge Island Arts Council, the Seattle Art Museum, the Spokane Symphony Society, the Washington State Historical Society, and the Seattle Children's Theatre Association.

Not just in my district, but throughout the Nation, the National Endowment for the Arts [NEA] is serving our Nation well. It is important for our future, and it should receive the support of this Congress because that is what the American people expect of us, and we should not let them down.

Reject this amendment, and any other amendments offered today to cut or eliminate the arts. Let's do what's right for the Nation, let's support the NEA.

Mr. STEARNS. Mr. Chairman, I yield myself 1 minute to respond to the gentleman from Washington [Mr. DICKS].

The gentleman from Washington will remember our debate in prior times. He will remember that I tried to cut the NEA by 5 percent, and his side said we could not cut it 5 percent, we could only cut it 1 percent. We had a vote on that. Then we went up to 2 percent and the 2.5.

But I would say, in all deference to the gentleman, you have to admit now you are saying that you are not necessarily supporting, but you acknowledge a 40 percent cut is something you are not arguing against. You are not here saying restore more money to the NEA.

Mr. DICKS. If the gentleman will yield, I am, too. I would like to. I realize realities.

Mr. STEARNS. These are all rhetorical questions. You can use your time.

You worked as hard as you could to represent a 2 percent cut as the maximum the NEA could take, The gentleman from Illinois [Mr. YATES] said 1 percent was all he could accept.

By golly, now, we are taking 39 percent. I am asked for another 10 percent tonight, another 10-percent cut. I ask people on this side to realize there has got to be some stewardship when the chairwoman of the NEA says it is all right to give money to this.

Mr. YATES. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. FARR].

Mr. FARR. Mr. Chairman, I rise in opposition to this amendment. Invest in creativity, do not cut it.

Funding for the National Endowment for the Arts is an investment in our culture, our civilization, our future, which must be protected.

The background material that my office has received against the NEA is tantamount to propaganda and is untrue and offensive and adds nothing to honest debate.

The truth is, the NEA enables struggling performers to bring their art to the masses.

In my district in Monterey, CA, the Endowment has awarded eight grants totaling $160,000.

It is not much, but with those funds, the Monterey Peninsula Museum of Art and the Monterey Jazz Festival were able to survive Prop 13 and an economy in flux. And despite those financially troublesome times, the people of the Monterey Bay area knew affordable arts were always available to them. It was the NEA that guaranteed that access.

The oddity, Mr. Chairman is that of $160,000, hundreds and hundreds of people got a chance to experience music, or theater or art, while at the same time, the Republicans are proposing tax breaks for more than that.

There's something wrong with that equation, Mr. Chairman.

The majority is right when they say we have to set spending priorities. But I want to know why they define priority as meaning only those options that destroy middle class access to government programs.

Defense contractors haven't lost access.

Stockbrokers and bankers haven't lost access.

Let's set priorities but let's set them in favor of the people. The budget bulldozer weaves out of control when it turns over the poor, runs over children, runs over the elderly, and now is set to run over artists, musicians, and actors.

The arts are something to be cultivated and encouraged in our youth. A "yes" vote on the Stearns amendment sends a message that there is something wrong with art, that persons with artistic abilities should hide their talents and be ashamed of their creativity.

Censorship and irresponsible deficit reduction are ugly things that do not have a place in this chamber or our country.

I urge you all to vote "no" on this amendment!

Mr. YATES. Mr. Chairman, I yield 30 seconds to the gentleman from Massachusetts [Mr. TORKILDSEN].

Mr. TORKILDSEN. Mr. Chairman, I thank the gentleman for yielding me this time.

We have all heard the term "throwing the baby out with the bathwater." I think that is what this amendment does.

I think some of the critics of NEA have legitimate points, but those criticisms have been addressed.

Obscenity is no longer fundable, as it should not be. Certainly, that is progress that has been made in this area.

But while grants are talked about for NEA funding, most people do not realize far more funding goes to education programs. Consider the NEA places thousands of teachers in schools to teach young people art.

I understand the gentleman's concern for budget restraints. I urge Members to vote against this amendment and support responsible funding for the arts.

Mr. YATES. Mr. Chairman, I yield 1 minute to my good friend, the gentleman from Ohio [Mr. REGULA], the distinguished chairman from the committee.

Mr. REGULA. Mr. Chairman, I thank the gentleman for yielding me this time.

I simply want to point out to the Members that what was alluded to, a poll, that people would like to reduce funding for the NEA; we have reduced it $63 million from 1995 levels. That is a 40-percent reduction.

It was said that the people would like this ended. In 2 years, it is over. This is a phasedown, and in 2 years the NEA would no longer exist.

Third, it is subject to authorization, and the agreement is that, hopefully, the authorization committee will limit these grants during this phasedown of NEA to institutional grants, such as the concert on the mall. I do not know how many watched this on July 4, but if you saw the credits, one of the sponsoring agencies, was the National Endowment for the Arts. That was a good example of what they can do with these funds.

Also, there are many worthy education programs where groups go into the schools, and so all I am saying is that in the committee we have taken the steps that have been shown to be what the public wants by the polling that was described by the gentleman from Florida.

The CHAIRMAN. Each side has 1 minute remaining.

Mr. STEARNS. Mr. Chairman, I yield myself the remainder of my time.

Mr. Chairman, this is a very important vote. The agreement that was reached on the rule is self-actuating. It was done in the middle of the night. Now, however, we have the opportunity to put this vote on the House floor, an up or down, on taking this program and eliminating it in 2 years.

It is accountable to the public? No, I do not think it is. This kind of literature that the NEA is supporting is wrong.

The NEA betrayed the people who made its existence possible. Would you get reelected tomorrow if you betrayed the public trust? No.

Sure, you have done a lot of good things. But if you continue to betray the public trust day in and day out, year in and year out, you are not going to get reelected. NEA should not be reelected.

This is an important vote. You will have to vote up or down. It is for a 2-year phaseout. My colleagues, we deserve this vote, and I appreciate the leadership giving it to me.

Can you really say the NEA has exercised good stewardship of your public money? Send a message to this organization. Make this agency know they are not being responsible. Vote for decency, morality, and stewardship, and vote "yes" on the Sterns amendment to the NEA. It cuts a further 10 percent. That is all. It phases the NEA down in 2 years.

□ 1845

Mr. YATES. Mr. Chairman, I yield the remaining minute to the gentlewoman from New York [Ms. SLAUGHTER].

Ms. SLAUGHTER. Mr. Chairman, I thank the gentleman from Illinois [Mr. YATES] for yielding this time to me, and I have so little time, I want to be as concise as I can.

This is not a debate about any money at all. This is purely philosophy. Anytime we spend $160 million in this House and get back $3.4 billion, we make a pretty good deal, so it does not have anything to do with money. It simply has to say, what is Government doing in this? What Government always does, it is leveling the playing field when hundreds and hundreds of people can go to Central Park and watch a Shakespeare performance that they would never have an opportunity to see otherwise, when the kids in my colleague's district, Mr. STEARNS', go to concerts that they would not have any other opportunity to. It is important, and let me tell my colleagues something as crass as I can say this because it is pretty terrible, and I am ashamed.

Mr. STEARNS, every child in this country that studies art for 4 years, their SAT scores, verbal scores, go up 57 percent, their math scores go up 45 percent. Can you match that? It is not your children, Mr. STEARNS, who are going to be hurt. It's going to be the children in every nook and cranny of the United States who will not have any opportunity to develop who they are. The children who create do not destroy, and this is the only way we reach children at risk, and it is cheap at the price, and the United States of America cannot say we don't care for creativity here.

Mr. Chairman, if we ever say to the Pentagon, You make a mistake, we won't give you any more money, I would sure like to be here to hear it.

Mr. Chairman, today I rise in strong opposition to the Stearns amendment. As Chair of the Arts Caucus, I have watched in amazement year after year, as Mr. STEARNS attacks the pittance that the National Endowment for the Arts receives. And all this from an agency whose entire budget is below what is allocated for military bands.

While Federal funding for the National Endowment for the Arts costs a mere 64 cents a year, per person, it is no secret that for each $1 the NEA spends, $11 of economic activity results. The non-profit arts industry alone contributes $36.8 billion to the U.S. economy and provides over 1.3 million jobs to Americans nationwide.

The arts support more jobs than either the legal services sector or the police and firefighter sector. These jobs have a tremendous economic impact, they provide $790 million in local government revenue, $1.2 billion in State government revenue, and $3.4 billion in Federal income tax revenue. Based on these numbers alone, we cannot afford not to fund the arts.

Business, tourism, restaurants, and hotels thrive on the arts. Further reductions in funding for the NEA would have adverse implications on both constituents and the cultural agencies in our districts. In my district of Rochester, NY, the National Association of Local Arts Agencies found that non-profit arts organizations spent approximately $124 million annually and supported more than 4,000 full-time jobs.

What my colleagues on the other side fails to understand year after year, is that most importantly, the NEA provides equal access and opportunity to the people of our Nation and specifically to the people of our congressional districts—many of whom would otherwise be deprived from experiencing the arts in American society. There are people all over this country who without the NEA would not have access to some our Nation's greatest cultural treasures.

I am sure that the constituents in Mr. STEARNS' district value the money that the Studio Theater of Sarasota received (fiscal year 1995) so that it could bring its Write a Play Program to Jacksonville, Ocala, Belleview, and Green Coves Springs, FL. This valuable NEA program helps strengthen the language skills and creative thought of at-risk students, minority, and financially disadvantaged youth. These are the people who really depend on the NEA.

The arts serve as a medium of documentation, the essence of the American experience is recorded through art. Art remains a living record of civilization and society. Every civilization judges the civilization before it by the art it has left behind. Are we going to leave anything behind? I urge my colleagues to vote against further cuts to the National Endowment for the Arts. Vote no on the Stearns amendment.

Mr. TORRES. Mr. Chairman, the orchestrated, deliberate assault against public support for American arts and culture—led by my colleagues from the other side of the aisle; the self-described conservative revolutionaries—is, I believe, a smokescreen, covering a darker agenda, which strikes directly to the heart of the universality of art and, most importantly, of the potential which art possesses to unify our diverse cultures. It is true that art often surprises, provokes, and even angers the viewer. By definition, artists seek to express thoughts, feelings and perspectives that may never have been seen or heard before. The artists' unique perspective can act as a societal lens which brings its problems and flaws into sharper focus. These expressions can be the catalyst of debate and of conflict, they can be the insights promoting understanding.

As we are witnessing from today's debate over the value of public funding for our national arts and cultural institutions, the vital societal role of the artist is becoming more difficult in today's angry climate. On both ends of the political spectrum across the full range of American society, it is now becoming almost routine to challenge and attempt to suppress any kind of expression one finds objectionable for any reason. Art is just one of the many forms of expression threatened by the rising tide of intolerance in America today. These battles are becoming a proxy for political differences and social conflicts that should be discussed openly and worked out rather than removed from the public view—and support.

Bashing the NEA has become a high profile, low cost way, for the GOP revolutionaries to shift the political focus to some "cultural elite," rather than tackle our society's economic and social inequalities. Opponents of public funding for the arts argue that the arts are a frill for an elite. This statement is a part of a deliberate misinformation campaign.

Intellectually elite cultural institutions from the Metropolitan Opera in New York, to the Los Angeles Philharmonic, receive less than 1 percent of their yearly budgets from the NEA; they'd hardly feel a cut. Direct grants to individual artists—the targets of the revolutionaries from the GOP, total only 4 percent of the NEA pie.

The biggest victims of a maimed NEA will be the smaller arts organizations—including, say, the Atlanta Opera and Center for Puppetry Arts, both of which use NEA funds and perform in the Speaker's own district.

Now, the cultural watchdogs of our revolutionary GOP, have combed NEA files for a new victim to justify their pursuit of cultural correctness and purity. They have targeted a performing arts center from southern California, called "Highways", Inc. You've heard the attacks on Highways, let me share with you some information on this community cultural center which the protectors of cultural purity have not provided to you. Highways, Inc., presents more than 200 performances of music, dance and theater each year. It serves its audience with programs, workshops and professional training. Highways serves the Los Angeles community, which is comprised of groups with widely varying ethnic/cultural, geographic, economic, and social backgrounds—as well as the physically challenged, and victims of abuse. Highway's programs reflect the make-up of its home community, and address the goals of fostering mutual respect for the diverse beliefs and values of all persons and groups.

The rich participation of all culturally and ethnically diverse constituencies of Los Angeles has made this theater an invaluable school for citizens—described by some as the highest function a theater can fulfill. The Los Angeles Drama Critics Circle recognized the special importance of Highways with an award in 1995.

NEA seed money has brought private sector funds from groups such as: The Lila Wallace-Readers Digest Fund, the Rockefeller, Getty, Annenberg, Irvine, Warhol, and Norton Families, the Pepsi and Target Corporations, the California Arts Council, the Los Angeles National State/County Partnership, the Los Angeles Department of Cultural Affairs, and the Santa Monica Arts Commission.

The defenders of cultural purity have targeted Highways programs which reflect the diverse sentiments of the Los Angeles community. So Highways is now suspect because it reflects sentiments—and opinions—which are unpopular to our guardians of cultural purity. Highways is now being used as a vehicle to attack the NEA because it has been a forum for the city's diverse voices. Highways is committed to a critical principle.

I would urge my colleagues to pay close attention to the principle which is the subject of this attack. The principle is that a community, and a nation, can be enriched, uplifted, and unified—not torn apart—by our differences as people, if these differences are articulated, shared and understood. Simply put, that is what the arts do best. In attacking NEA through Highways the assault is aimed at the very dream and promise of our united diversity. As spoken so eloquently by the artistic director of the Mark Taper Forum in Los Angeles:

> The NEA must continue its work, and continue supporting highways, so that we can be sure of properly continuing the democratic experiment, the alchemical process of self-government, and the great debate: where did we come from? where are we going? what kind of people are we? what kind of people should we be? If the right-wing revolutionaries and protectors of cultural purity truly deplore what they see as a culture of trashy values—I would think they would want to increase, rather than reduce the NEA seed money which is promoting a higher culture, promote understanding, and provide the desperately needed bridges of unity between the diverse cultures and communities of thought which comprise this great country.

Mr. Chairman, I urge my colleagues to resist these waves of cultural purity and correctness, to stay the course of over 30 years, and continue our policy of supporting public funding for our arts and cultural groups.

Mr. Chairman, if the spirit of this country is not its foremost national interest, what is? And when government abdicates its responsibility to nourish that spirit, who is being served? I urge my colleagues to defeat this misdirected amendment.

Mrs. MORELLA. Mr. Chairman, I am opposed to the Stearns amendment which would reduce funding for the National Endowment for the Arts [NEA] by $10 million.

I wholeheartedly believe that government should support the arts: Americans value the arts. Other great nations fund the arts. We spend 64 cents per capita for the NEA. That is 50 percent lower than our major allies spend on the arts.

The Federal Government can afford to fund arts and cultural programs at a time of fiscal restraint: Funding for cultural arts programs is two one-hundredths of one percent of the budget. The not-for-profit arts create $37 billion in economic activity. Arts programs create 1.3 million jobs, and return $3.4 billion to the Federal Treasury through income taxes.

The majority of Americans say they want the Federal Government to continue support for the arts: According to a recent Lou Harris poll, 60 percent of Americans believe that the arts should receive assistance from the Federal Government. Fifty-six percent said they would be willing to pay $15 of their own money to help government support the arts.

The NEA is not an elitist for the upper class: The NEA increases community access to the arts and culture. The NEA supports community programs where families can experience the arts. I invite anyone who thinks the NEA funds elitist programs to visit the Puppet Co. Playhouse in Glen Echo Park, just a few miles from the Capital. The facility that houses the Puppet Co. is a two-hundred seat theater created out of a portion of an historic ballroom at Glen Echo Park.

The audience is usually made up of children accompanied by their families and teachers, representing the cultural and economic diversity of Maryland, Virginia, and the District of Columbia. An NEA grant allows the Puppet Co. to keep the ticket prices low enabling many young families to attend the performances. The Puppet Co. is run by four dedicated associates who work very hard for modest salaries, in the true spirit of keeping their company non-profit. I think most taxpayers would be pleased to know that they support such a worthwhile project.

Mr. Chairman, I know that the appropriations bill before us will eventually phase out government support for the Arts. The NEA needs time to reorganize and adjust to the provisions in the Interior Bill. I urge my colleagues to vote against the Stearns amendment.

Mrs. JOHNSON of Connecticut. Mr. Chairman, I rise in strong support of NEA funding and regret the narrow 2-year window this bill provides for the reorganization and restructuring of support for the arts in this great Nation.

First, supporting the arts is as much sound economic policy as the Government building the interstate highway network, funding airports, or paying for basic research in agriculture, energy, health, or any other area.

Not-for-profit arts organizations, many leveraged by small amounts of Federal dollars, generate $37 billion in economic activity and $3.4 billion in Federal tax revenues every year. The not-for-profit arts industry provides

$1.3 million Americans with jobs and is a key component of the complex of attractions that has made tourism big business in our big, diverse, beautiful and creative Nation.

Since NEA was funded, the number of performing arts companies, museums—chamber orchestras, local art leagues—and other arts organizations has grown from 50 to 900 in my State, with all the impact on the economy and cultural strength of our towns and cities that dramatic growth implies.

But the arts are not just good business, and preserving this industry that has grown as a result of Federal incentives, is not just good economic policy. Preserving the NEA is about more than money. It is also about quality and culture.

The highest quality product in any sector is the result of great knowledge, good communications, and competition. The Federal Government has broadened and accelerated the growth of top quality manufacturing by sponsoring the Mac Baldridge Awards and providing tax credits for research and development. It has provoked great achievement in science by sponsoring national merit scholars and challenging people and organizations to excel and invest in research. The Federal Government plays a key role in fostering a rising standard of excellence in every aspect of our society.

Likewise in the arts. Opponents of NEA are overlooking the value of the NEA's role as bringing experienced, brilliant minds to the evaluation of our symphony orchestras, theaters, and arts projects of all kinds. One of the most important aspects of receiving an NEA grant is the imprimatur of quality it conveys. NEA has the breadth and expertise to validate both the quality of vision and quality of organization of specific arts organizations and projects. Few local communities, not even all States, can mobilize an organization that is sufficiently knowledgeable in all areas of the arts to judge the quality of grant applications. Without NEA, fewer private funds will flow to the arts because many contributors are not in a position to judge the value of projects and have relied on NEA for guidance.

Not only does the NEA play a very valuable national role in stimulating private support for the arts and the development of arts organizations of international repute, but it has enabled the arts to help our children in the inner cities. An NEA grant—given to the Bushnell for Language Arts Education for Elementary School Students—is creating new options in the inner-city schools of Hartford, helping kids make sense of their harsh world, grow in self-esteem through being able to express their hopes and fears, and see a whole range of career opportunities that they could not possibly see through the adults in their lives.

In sum, no nation in history has developed a great culture, or a strong spiritual life, without some significant government involvement, not to determine the message but to assure the resources of growth and to stimulate the competition that produces greatness. Just as the Federal Government funds basic research, pays for a transportation network and funds educational opportunity for special needs kids, so the Federal Government must assure the continuation of those small dollars that enable orchestras and theaters to compete for national recognition, leverage private funds, and make the arts a far stronger component of local economies offering both jobs and inspiration to our people.

Mr. MENENDEZ. Mr. Chairman, I rise today to vehemently oppose this misguided amendment. I believe the National Endowments for the Arts and Humanities provide a valuable service both to groups and individuals in the artistic community, but also to the American people.

Annually, New Jersey receives $2.7 million from the NEA to conduct programs like the cultural diversity initiative, folk art apprenticeships, and arts education programs for teachers and students. NEA grants are made to the Jersey City Museum, the American Boychoir School, the New Jersey Ballet Company, the Newark Museum, the New Jersey Symphony Orchestra, and the Paper Mill Playhouse. NEH grants have supported projects for the New Jersey Historical Society, Rutgers University, New Jersey Institute of Technology and the Foundation for New Media in Hoboken.

If the NEA and NEH were privatized, large institutions would survive, but many community-based programs, touring exhibits, and mid-size and smaller institutions would be crippled by the cuts.

The Endowments provide access to the richness of our culture for the poorest of our people. In supporting artists and writers they open the door for all of us to learn and experience their work.

In New Jersey each year, 8.5 million people visit museums, performances, or art exhibits; 3.5 million New Jerseyans view or listen to broadcast programs; and 3 million school children visit cultural attractions on field trips or participate in school-sponsored art in education programs.

Wealthy communities will always enjoy the generosity of art patrons. But national programs sponsored by the Endowments disseminate resources for these activities throughout the Nation, in every community. Thanks to the Endowments, the creative energy once confined to a few cities is finding expression in the minds and hands and voices of a diverse people in every community.

The NEA is able to generate $11 of activity for every 1 dollar of Federal funding and the NEH requires many grants to have $1 to $4 dollars in non-Federal funding for every $1 of Federal funding. To highlight just how effective funding is, consider the fact, that the annual budget for the Lincoln Performing Arts Center is greater than the total Federal funding received by the NEA.

The limited funding received by the Endowments is carefully regulated. Since becoming Chairperson, Jane Alexander has successfully implemented steps to tighten and strengthen the Endowment's grant and reporting procedures. The NEA has made a concerted effort to assure that grants are artistically meritorious. To assure adherence, if the NEA finds that a grantee has failed to meet congressional or Endowment requirements the Endowment may suspend payments, terminate a grant, recover grant funds already awarded, and declare an applicant ineligible for any future funding.

The arts also generate important economic activity. The arts provide over 1.3 million full-time jobs to Americans nationwide paying $25.2 billion in salaries, wages, and entrepreneurial income. Local governments receive $790 million in taxes and fees, State governments receive $1.2 billion, and the Federal Government receives $3.4 billion in income tax revenue. These returns are far greater than the $167 million operating budget for the NEA. Perhaps, most importantly, the arts revitalize downtown business areas attracting conferences, conventions and increased tourism, and boosting the value of commercial and residential real estate. The elimination of funding for the arts will have a definitive economic impact on our communities.

While I share the belief that we need to balance the Federal budget, we must consider the benefits of modest Federal funding for the Endowments, the ability it has to generate private funding, and the income it generates for local economies. Lastly, we must not forget the unique ability of the Endowments to touch the minds and hearts of those who benefit from their endeavors.

Mr. LEVIN. Mr. Chairman, I rise in strong opposition to the amendments before the House to further cut funding for the National Endowments for the Arts and Humanities.

I have received literally hundreds of letters from the people I represent in support of continued Federal support for the arts and humanities. One of my constituents from Southfield, MI, wrote and told me how much our Nation's art and culture meant to her immigrant grandmother during the Great Depression. She writes:

> Rep. Levin, how well I remember my immigrant grandmother taking me for a walk on Sundays during the depression, and pointing out with great pride the museum (Detroit Institute of Arts) and the Main Detroit Public Library in her own language. We'd go in and spend hours gazing at the paintings.
>
> My grandmother would ask me to read the names of the artists for her since she was unable to read or write English.
>
> She soon learned the names by heart and as my younger sister and brother grew older and joined us, she was able to tell them the names of many artists and paintings.
>
> I hope I have, in some way, convinced you that these institutions, aforementioned, are absolutely necessary to maintain our standard of achievement in the humanities which is so important for an enlightened society.

Mr. Chairman, I am amazed by the misplaced priorities of this Congress. This House recently voted to build two more B–2 bombers at a cost of over $1 billion apiece. The Secretary of Defense does not want these planes. the B–2 is expensive, unneeded, and, according to recent news reports, the B–2 may not be nearly as stealthy as advertised.

The House is willing to spend billions on a bomber we do not need that does not work. At the same time, beginning in just 2 years, the majority is unwilling to spend even a dime on our country's arts and humanities. These are not my priorities and I don't think these are the priorities of the vast majority of the American people.

Ms. ESHOO. Mr. Chairman, I rise in strong opposition to the Stearns-Crane amendment.

Republicans are trying to run roughshod over the majority of the American people.

A nationwide poll shows that 60 percent of Americans want Federal support for the arts.

And why not? The arts attract tourist dollars, stimulate business development, spur urban renewal, and improve the overall quality of life—they are an investment in our communities and in our children.

Some of my colleagues justify terminating this worthwhile program in the name of budget austerity. Yet cultural funding costs only about 64 cents a year per capita and helps generate $37 billion in economic activity, including over $3 billion in Federal income taxes.

Mr. Chairman, this is not deficit reduction—it's a mean-spirited attempt to do away with what benefits the American people. I urge my colleagues to defeat his amendment.

Mrs. ROUKEMA. Mr. Chairman, I rise today in support of Chairman REGULA's bill and against the Stearns amendment that would make additional cuts in the National Endowment for the Arts.

Let me begin by saying that I am truly disappointed in the events that took place late last week regarding this bill and, specifically, funding for the NEA. Those Members who oppose any arts funding are entitled to their position, but it is a position that should be debated on the House floor. Putting NEA funding into a special category and changing authorization conditions should be debated, not mandated.

Today, in this debate democracy wins!

As a member of the authorizing committee, I supported Chairman GOODLING's bill providing arts funding as a means of assuring that funding for the arts was authorized prior to consideration of appropriations.

With that said, I do not think that we should be eliminating the Endowment for the Arts nor do I think we should be cutting as deep as we are. I support the proposal in the other body sponsored by Senator JEFFORDS, chairman of the Labor and Human Resources Subcommittee on Education, Arts and the Humanities, and cosponsored by Senator KASSEBAUM, the chairwoman of that full committee that authorizes the arts for 5 years at reduced funding levels without a phase-out or elimination. And, I hope that we are able to move toward the Senate bill when we do go to conference.

However, I commend the chairman of the Interior Appropriations Subcommittee for his efforts to protect funding for the NEA and for using our authorizing bill as an original guideline for that funding. Faced with a $4.7 trillion debt, $200 billion annual deficits, and fierce opposition to all funding for the arts, Chairman REGULA saved as much money possible.

Mr. Chairman, there has been much name calling and finger pointing in this debate over the arts. As in the debate over the flag, it is unfortunate that there is little tolerance for those with deeply held visceral convictions regarding these important issues. This is not a matter of partisan politics. That is evident by the expression of a diversity of opinions on both sides of the aisle. Republicans do not favor censorship or limitation on the freedom of expression, just as Democrats do not.

That brings me to my central point: That is, the limitations that a great many people, including myself, feel that necessarily must come with the expenditure of Federal dollars have little to do with censorship and everything to do with sponsorship.

No one doubts the right of the Federal Government to proscribe how Federal dollars are spent in the hundreds of programs created by Congress over the years. Congress explains in excruciating detail how federal funds must be spent in everything from education programs to farm programs. Every Federal agency must operate within the confines of legislative restrictions and the intent of Congress. This is as it should be . . . And, this is the way it should be with the National Endowment for the Arts. This is not inconsistent with freedom of speech or artistic expression.

As with any other federally funded organization, project or program, the Government is able to fund or not fund art as it chooses. Does this mean that Congress should be in the business of determining what is and what is not art? Absolutely not. However, Congress has the right and, yes, the duty to proscribe standards and selection parameters to determine that the taxpayers' money is spent according to its wishes.

In deed, obscenity and blasphemy are no longer tolerated by the chairs of these programs.

Past funding by the Endowment of the Mapplethorpe and Serrano exhibits and, most recently, the Highways Inc. grants to a performing arts center in Santa Monica, CA, which my colleagues will continue to hear about this evening, exhibits a clear violation of the intent of Congress. Certainly, refusing to subsidize obscene art is reasonable exercise of the prerogative of Congress.

It was for reasons such as these that we enacted the Arts, Humanities, and Museums Amendments of 1990. These strong reforms improved the NEA grant process and allowed NEA funds to be recovered if that art was deemed obscene "in the final judgment of a court." I have long argued that it is the constitutional duty of Congress not to subsidize obscenity as it is defined by the Supreme Court in Miller versus California. Beyond that, I believe it is possible and reasonable for Congress to adopt and expand the Miller decision through statutory language that can withstand judicial scrutiny. In fact, I was successful in 1992 in changing the statutory standards.

The primary need for this is to ensure that Federal funds are spent according to congressional intent. This is what we are elected to do. And, in fact, the 1992 Interior Appropriations bill added an authorizing statute stating that, when awarding future grants, "general standards of decency and respect for diverse beliefs and values of the American public" must be considered.

Also part of the 1990 reforms, the Chairperson of the NEA was given final authority to approve each application and, in instances when a project is determined obscene "in the final judgment of a court," the Chairperson is required to recover those funds. In past discussions that I have had with Jane Alexander, Chairwoman of the NEA, she acknowledged that these reforms greatly enhanced the responsibility of her office. And, we must continue to hold her completely accountable for each and every grant that the NEA makes so that lewd and objectionable works of art are not subsidized by the Federal Government.

We also passed more specific reforms that substantially changed the NEA decisionmaking process. For example, the NEA application must include a detailed project description, date of completion, interim reports,and a final report describing the applicants compliance with regulations that ensure artistic merit and which clearly indicate that obscenity neither has artistic merit nor is protected speech and, therefore, should not be funded. Moreover, the policy meetings held by the members of the National Council on the Arts who help to determine grant recipients must be open to the public including written records of meetings, discussions, and recommendations. And, the reforms require the GAO to conduct studies evaluating the roles of the NEA, State, and local arts agencies in making arts funding most efficient.

In 1994 alone, these reforms helped to direct 56 grants totalling almost $2.4 million to New Jersey for various dance, theater, orchestra, museum and other projects throughout the State. And, widespread support over the years for the Vietnam Veterans Memorial, productions such as "Driving Miss Daisy" and "A Chorus Line," and the Fourth of July concert on the Washington Mall were all made possible by the National Endowment for the Arts. So, certainly, not all NEA funds are misspent.

However, as in the case of the misspending of Federal dollars, whether it is in the housing industry or the defense industry, Congress has the duty to search out and punish fraud and abuse. How can we justify continuing to spend billions of taxpayer dollars on defense programs that are unable to meet minimum test requirements while banning an endowment with current funding of $168 million? Yes, I know the argument of protecting American citizens from attacks abroad versus protecting American citizens from attacks on morality here at home, but the issue goes much deeper.

It is incumbent upon every Member of this body to ensure that Federal funds are being spent according to congressional intent. And, in the case of the National Endowment for the Arts, on a few occasions, as I have already mentioned, the public trust was violated and Federal funds were misspent. Therefore, we have a duty to continue to correct these problems.

Many would argue that out of the over 100,000 plus grants awarded through the National Endowment, only a handful have been controversial. And, this is admittedly a good record. Over the past 30 years, the Endowment has done well in its grant-making procedures, and recent reforms have revamped the entire grant-making process so as to prevent scandals of years past.

Just like every other agency, the National Endowment for the Arts is not perfect. It too has had its share of controversy and questionable spending. But, it has been the role of the NEA to leverage, not replace, the private funding that allows the NEA to make valuable contributions to communities throughout the country.

I strongly support continued funding and oppose this Stearns amendment which further savages the Arts.

I urge my colleagues to prevent this from happening. Support the arts, and support Chairman REGULA's bill. Oppose the Stearns amendment.

The CHAIRMAN. The time of the gentlewoman from New York [Ms. SLAUGHTER] has expired.

The question is on the amendment offered by the gentleman from Florida [Mr. STEARNS].

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. STEARNS. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to the rule, further proceedings on the amendment offered by the gentleman from Florida [Mr. STEARNS] will be postponed.

The point of no quorum is considered withdrawn.

Are there further amendments to title II?

AMENDMENT OFFERED BY MRS. SMITH OF WASHINGTON

Mrs. SMITH of Washington. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mrs. SMITH of Washington: Page 72, line 12, strike "$6,152,000" and insert "$5,140,100".

Mrs. SMITH of Washington. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, my amendment reduces taxpayer-supported funding for the Woodrow Wilson International Center. This center is something for all Americans to be proud of. However it is not something that all Americans should continue to support to the tune of over $6 million every year. This amendment will reduce funding by approximately $1 million for fiscal year 1996, leaving over $5 million in taxpayer subsidies in addition to approximately $2 million in public support. This will leave the Wilson Center ample funding to continue to fulfill their functions until offsetting private support is identified.

The House budget resolution passed by this Congress assumed that the center's funding would be totally terminated. We know that there is a big difference between no funding and $6 million. It is time that this Congress live up to its commitment to balance the budget and reduce funding.

In the well is a graph that will show my colleagues how different the Woodrow Wilson International Center is from other centers, Presidential centers, that have been established. The Woodrow Wilson Center started with a good idea, but became very heavily federally funded. I say to my colleagues, If you'll look, 76 percent of its budget is Federal funding, while all of the other Presidential foundations are totally private-funded. If you look at the staffing, you'll also see that it is very helpfully staffed with very little money going out to grants.

What we believe is it is time to convert this, give it a chance; it has a worthy objective, but downsize the funding a little bit; and encourage it to move toward private funding.

I would urge my fellow colleagues to support this. This amendment is supported by the National Taxpayers Union, Citizens Against Government Waste, and Americans for Tax Reform.

Mr. YATES. Mr. Chairman, I rise in opposition to the amendment offered by the gentlewoman from Washington [Mrs. SMITH].

Mr. Chairman, I think this is an outrageous and a grossly unfair amendment. In our subcommittee in the past, as the gentleman from Ohio can testify, we have appropriated funds for remembering Republican Presidents. Four Republican Presidents come to mind immediately. President Taft, President McKinley, President Garfield, even President Harding were remembered appropriately in our committee.

The Woodrow Wilson Institution is a living institution that is a memorial to the 28th President of the United States. I think that as one of our greatest Presidents the effort by the gentlewoman is subject to very strong criticism. The Woodrow Wilson Memorial does very good work; as a matter of fact, the Woodrow Wilson Institute has already been cut by 40 percent in this bill, and the gentlewoman's amendment could cut it even more than that. This is the Nation's official memorial to its 28th President. Would the gentlewoman consider cutting the appropriation for the Washington Monument, or the Lincoln Memorial, of the Jefferson Memorial? Of course she would not.

Mr. Chairman, the Wilson Center uses its modest appropriation, and it is a modest appropriation, for a very wide variety of donors, effectively doubling the value of its appropriation. As President Ronald Reagan once said, this unique national institution exists because Congress chose not to erect a traditional memorial to the 28th President, but instead to charter a living institution for outstanding scholars. The work of this organization symbolizes the yearnings by Americans to understand the past and to bring the lessons of history to bear on the present. That is the statement by President Ronald Reagan.

I urge the House to strongly reject the amendment offered by the gentlewoman.

Mrs. SMITH of Washington. Mr. Chairman, I yield such time as he may consume to the gentleman from Ohio [Mr. REGULA].

Mr. REGULA. Mr. Chairman, I would point out that we did take a $2.7 million cut below 1995, but part of that was originally designated for a move of the center, and in the gentlewoman's amendment she eliminates postage for the "Wilson Quarterly" which the subscriber should pay, eliminates paid internships for college students—we have eliminated those on the Hill—cuts stipends for foreign national scholars—their own government should pay those—cuts a portion of other services, and cuts a portion of grants and subsidies, and I think in the time of tight budgets this in no way denigrates the memory of Woodrow Wilson, but I think it is a practical matter, it is economically responsible, and I, therefore, am pleased to accept the amendment on our side.

Mr. YATES. Mr. Chairman, will the gentlewoman yield?

Mr. REGULA. I yield to the gentleman from Illinois.

Mr. YATES. The gentleman recalls; does he not, the truth of my assertion that previously four Republican Presidents—the truth of my assertion about the fact our committee has appropriated funds to reestablish the homes of Presidents Taft, McKinley, Garfield, and Harding? Those are memorials to those Presidents. We had recognized them as memorials to those Presidents. This is the memorial to Woodrow Wilson. This memorial should not be cut——

Mr. REGULA. I simply say they do not offer stipends or internships or have a quarterly. Those are nice-to-do things. It does not go to the question of the memorial itself.

Mrs. SMITH of Washington. Mr. Chairman, I would again like to make a comment on the chart in front of us, and my colleagues can see clearly this is a different memorial, but there will still be sizable amounts of Federal money going to this memorial, and the $3 million that they requested will not be needed because they will not be moving.

Mr. Chairman, I yield the balance of my time to the gentleman from Texas [Mr. STENHOLM].

The CHAIRMAN. The gentleman from Texas [Mr. STENHOLM] is recognized for 30 seconds.

Mr. STENHOLM. Mr. Chairman, I thank the gentlewoman from Washington for yielding this time to me, and I rise in support of her amendment.

Mr. Chairman, I think this is another one of these efforts in which we have to make priority decisions. I think this is a responsible amendment because it does not suggest shutting down what apparently is a very worthwhile organization. It cuts $1 million and suggests that it should go the private route, as many other similar-type institutions.

I can concur that it is a worthwhile endeavor, but this is a time for prioritization, and it seems this is a very reasonable amendment to be taken at this time, and I urge its support.

Mr. Chairman, I rise in strong support of the Smith-Metcalf amendment to H.R. 1977, the Interior appropriations bill for fiscal year 1996. First, I would like to commend my colleagues from Washington for identifying this amendment and for their hard work in ferreting out low-priority spending.

This amendment reduces $1 million from the Woodrow Wilson International Center's current $6 million appropriation.

While I believe that the Woodrow Wilson Center is a worthwhile organization, the Federal Government can no longer afford to fund every good idea. Therefore, organizations such as the Woodrow Wilson Center are finding themselves in competition with other worthwhile programs. As we are trying to set reasonable budget priorities, we should try to encourage more significant support from the private sector on programs where this type of relationship makes sense.

Several other foundations similar to the Woodrow Wilson Center, such as the James Madison Memorial Fellowship and the Harry S. Truman Scholarship, do not rely on the Federal Government for their existence. They have sought, and found, significant outside support. The purpose of this amendment is to encourage the Woodrow Wilson Center to follow the example set by these other foundations and seek support from outside organizations as their primary source of funding.

I strongly urge my colleagues to support the Smith-Metcalf amendment.

Mr. YATES. Mr. Chairman, I yield myself the balance of my time.

The CHAIRMAN. The Chair recognizes the gentleman for 2½ minutes.

Mr. YATES. Mention has been made, Mr. Chairman, of the fact that this is an unusual memorial in that the memorials to Presidents Taft, McKinley, Garfield, and Harding did not make grants to scholars; that is true, but this memorial takes the form that it does because it was created by the Congress to do exactly what the Woodrow Wilson Institute does. Congress decided that the Woodrow Wilson Institute would be a living institution, expressing the ideals and concerns of Woodrow Wilson as the 28th President of the United States, a distinguished scholar, an outstanding university president, and a brilliant advocate of international understanding. Such a center, continues the congressional resolution, symbolizes and strengthens the fruitful relationship between the world of learning and the world of public affairs. It would be a suitable memorial to the spirit of Woodrow Wilson.

I regret my good friend, the gentleman from Texas [Mr. STENHOLM], finds himself in agreement with those supporting the amendment to cut the Woodrow Wilson Center. He finds that this is a worthy institution. A $1 million cut unfortunately will severly harm the institution. It would reduce the number of scholars that would be able to attend the institution. It would impair its important operations.

Mr. Chairman, I would hope that the amendment would be defeated.

Mr. REGULA. Mr. Chairman, will the gentleman yield?

Mr. YATES. I yield to the gentleman from Ohio.

Mr. REGULA. Mr. Chairman, I ask the gentleman, "Would you agree that the Institution would still, with this amendment, have $5.7 million to operate, and since it is housed in the Smithsonian, its overhead and operating costs are not large, and therefore there would be a considerable fund of money for the scholars?

Mr. YATES. I say to my colleague, "If you cut the center by a million dollars, the opportunity to invite scholars from all over the world to participate in its activities will be forever lost."

Mr. LAZIO of New York. Mr. Chairman, I rise today to support the Woodrow Wilson International Center for Scholars. The Wilson Center is the nation's official memorial to Woodrow Wilson, our 28th President. It was established by the 90th Congress, on the recommendation of a bipartisan Commission.

The Wilson Center conducts activities that strengthen relations between the academic world and the world of public affairs. Using the words of the Appropriations Committee, the Wilson Center's role as "an international institute for advanced study, as well as a facilitator for discussions among scholars, public officials, journalists and business leaders on major long-term issues facing America and the world" is a fitting tribute to President Wilson's lifelong commitment to this type of exchange.

Unlike any other advanced study center or think tank, the Wilson Center is both non-partisan, and focused on topics that cross national boundaries and academic disciplines. It is also unique in its extensive outreach to the public. Accordingly, it has enjoyed the support of every President since Lyndon Johnson.

The Wilson Center has already received a 40% cut from the President's fiscal year 1996 request. We must cut no further. Congress chose to create the Wilson Center, rather than a more traditional memorial to the 28th President. We must honor that choice by continuing to support this important institute.

I urge my colleagues to oppose the Smith amendment and preserve this vital center.

The CHAIRMAN. All time for debate on this amendment has expired.

The question is on the amendment offered by the gentlewoman from Washington [Mrs. SMITH].

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. DICKS. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to the rule, further proceedings on the amendment offered by the gentlewoman from Washington [Mrs. SMITH] will be postponed.

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AMENDMENT OFFERED BY MR. KLECZKA

Mr. KLECZKA. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. KLECZKA: Page 55, line 5, strike "$384,504,000" and insert "$379,524,000".

The CHAIRMAN. Pursuant to House Resolution 189, the gentleman from Wisconsin [Mr. KLECZKA] will be recognized for 10 minutes, and a Member opposed will be recognized for 10 minutes.

The Chair recognizes the gentleman from Wisconsin [Mr. KLECZKA].

Mr. KLECZKA. Mr. Chairman, I offer this amendment on behalf of myself and the gentleman from Massachusetts [Mr. KENNEDY].

Mr. Chairman, I yield 3 minutes to the gentleman from Massachusetts [Mr. KENNEDY].

Mr. KENNEDY of Massachusetts. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I rise in strong support of the amendment offered by the gentleman from Wisconsin [Mr. KLECZKA] that he and I are offering together to cut a pork barrel set-aside for the National Institute of Petroleum and Energy Research, or NIPER.

Mr. Chairman, our amendment does not eliminate all funding for NIPER by any stretch. NIPER would still be able to get funding from the traditional fossil fuel accounts. In fact, even with this cut, we will be spending over $300 million for fossil fuel research. With the taxpayer money, we are supporting NIPER, paying for research for a multibillion dollar industry. This special earmark is corporate welfare for a congressional pork barrel project. There are other Federal energy labs, the Morgantown Energy Technology Center in West Virginia and the Pittsburgh Energy Technology Center in Pennsylvania, that do the same kind of research, yet are prevented from competing for this money.

As we reevaluate the mission of our national labs, we must insist that the work being done there is of the highest possible caliber. The best way to do this is to have our labs participate in a competitive selection process, meaning good scientific research would get the funding.

NIPER does research and funding in various ways to get more oil out of oil fields so that they will not be abandoned before their time. This certainly is a worthwhile endeavor, but with such little money available, we cannot afford to squander the money the way it is being done. All of our labs should be able to propose research and have an equal chance at getting funding. That way, we can ensure that good science is the basis for research.

Under the committee bill, science has nothing to do with this particular program. It is all politics, and pure pork at that. The report from the Committee on Appropriations states, "The committee directs that those fossil energy fuel research funds in the bill allocated to oil research should be utilized at NIPER, and that such work should be not transferred to any other research laboratory."

Funding of research programs with taxpayer dollars should be done on merit. By not using the competitive merit review, we face the real danger of putting research in a particular Member's district.

That is all this bill comes down to. We have simply gone and taken money out of the general research fund and said that we are not going to allow it to go out under competitive bid to the other Federal agencies that have the same capability; we are going to select this particular $5 million and put it in a particular Member's district. The Member that offered this amendment at the committee designed the program for his particular district, and it is just simply pork.

Now, I understand that there are a lot of people that are concerned about how we spend money in the Congress of the United States and have run on the basis that they are opposed to pork. I would hope that those Members stand up and vote against the funding that goes into this particular project for the various reasons that I have gone through.

Mr. REGULA. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from Ohio [Mr. REGULA] is recognized for 10 minutes in opposition.

Mr. REGULA. I yield myself such time as I may consume.

Mr. Chairman, how quickly we forget. For those in this body that were here in the 1970's we forget the crisis that faced America. We forget the long gasoline lines waiting for gasoline. We forget the industries that were shut down, the schools that were curtailed, because of a shortage of energy. As a result of that, we passed the Energy Policy Act so that we would not again be caught short on energy. But how quickly we forget.

In the Washington Post on June 14 of this year, 1995, is a story headlined, "Panel Warns of Crisis if Energy's Funding for Research Is Cut." That says it all. The panel, a blue ribbon panel of analysts, concluded that the Department of Energy's research and development has helped, and I emphasize this, has helped, the United States keep up with major advances and international competition in energy technology. The report warned of a looming crisis if these efforts are not continued at current funding levels. Mind you, this blue ribbon panel said we should continue at current funding levels.

In reality, we are 10 percent below the level of funding of 1995, 10 percent below current levels, and we are on a glidepath, in conformance with the authorizing committee to eventually get to zero. But in the meantime, we have contractual obligations, we have money invested by the private sector in energy technology. But I think it is vitally important that we continue these programs.

How quickly we forget that just a few years ago we sent American service people in harm's way with a resultant loss of life, to say nothing of the expenditure of funds, to protect our energy sources. We are now dependent, for more than 50 percent of our domestic oil on sources outside the United States. Yet we are saying in this amendment that we should reduce our research on alternative sources, we should reduce our effort to stretch a gallon of oil further. We should not worry about energy independence, we should not worry about the impact of our energy dependence on our foreign policy.

Mr. Chairman, I say again to my colleagues, let us remember the lessons of the 1970's; let us remember the lessons of Desert Storm; let us ensure that the United States will never again be dependent totally on outside sources for our energy needs.

Mr. Chairman, I yield 1 minute to the gentleman from Virginia [Mr. DAVIS].

Mr. DAVIS. Mr. Chairman, I thank the gentleman for yielding, and I rise in opposition to the amendment. When they say pork, last year we had $77 million earmarked for oil technology. The administration this year asked for $87 million, and, of course, this $5 million is part of the $64 million committee mark. So that is down from last year significantly. It is way down from the administration's proposal, and why should it not go to the NIPER facility in Barboursville, which I might add, is a long way from my district across the river in Northern Virginia. Because Barboursville, the NIPER there, the National Institute for Petroleum Energy Research lab there, has won awards from the National Performance Review, and been awarded by Vice President GORE for its privatization efforts, showing how a model facility can be not just Federal employees working together, but the private sector working in partnership.

The other two main facilities where this could go, for example, Morgantown and Pittsburgh, tend to specialize in the coal side. I think that is a good reason.

Mr. Chairman, I rise in opposition to this amendment. I think we need to keep this money in oil research.

Mr. KLECZKA. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. BROWN].

Mr. BROWN of California. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I have no problems whatsoever with the research being done at Barboursville. As far as I know, it is excellent research and it deserves to be continued.

I listened with great interest to the remarks of the chairman of the subcommittee about how we should not cut energy research, despite the fact that this bill cuts it substantially. As a matter of fact, the budget of the Republican majority provides, if they cannot abolish the Department of Energy, which is doing this research, to cut all of its energy R&D by 20 percent. I think this is short-sighted.

My problem is not with the energy research. If anything, I would probably increase it. But the fact is I have spent a number of years trying to develop a habit in this House of not making site-specific designations for energy or any other research and development money, but this flies in the fact of what I have been trying to accomplish for a number of years.

At the same time that this bill specifically designates a certain amount of money for this facility, other similar energy technology centers are undergoing vast reorganizations and are being cut specifically. There will be, for example, 90 jobs cut at the Pittsburgh and Morgantown Energy Technology Centers. They are not being protected by this bill, as the language with regard to Barboursville would protect that facility.

I think that is wrong. I think that the Department of Energy should at least retain the discretion, and we have urged that in my own Committee on Science and in the energy authorization, energy R&D authorization bill, which we passed not too many weeks ago in the committee. We had a provision that required competitive peer review for all of these kinds of facilities.

Mr. Chairman, I would strongly urge that we adopt this amendment, not from the standpoint of cutting energy research, but from the standpoint of making sure that all programs are peer-reviewed and that we get the best bang for the buck.

Mr. KLECZKA. Mr. Chairman, I yield 30 seconds to the gentleman from Massachusetts [Mr. KENNEDY].

Mr. KENNEDY of Massachusetts. I would just like to point out, I heard the gentleman from Virginia [Mr. DAVIS] say the NIPER facility is a long way from his district. It is not, however, so far that the major contractor, as I understand from his district, has not bid on this very contract.

So if we are going to deal with pork, I do not mind dealing with it. I would just ask to be straightforward about what is going on in this bill. This NIPER program has money that is going to go into Mr. DAVIS' district, and that is why it is written into the bill the way it is.

Mr. REGULA. Mr. Chairman, I yield 20 seconds to the gentleman from Virginia [Mr. DAVIS].

Mr. DAVIS. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, first of all, the corporation is not in my district. There is a facility in the district of the gentleman from Virginia [Mr. MORAN].

Second, in the interest of straight talk, this removes the money entirely. This does not just take it away from NIPER; this removes money for oil and petroleum research, and I think that is what we are opposed to in the administration's mark. This does not just put it in.

Mr. KENNEDY of Massachusetts. If the gentleman from Virginia would yield. That is $5 million out of the $300 million fund that the gentleman put in, or that the gentleman from Oklahoma [Mr. ISTOOK] put in.

Mr. REGULA. Mr. Chairman, I yield 3 minutes to the gentleman from Oklahoma [Mr. ISTOOK].

Mr. ISTOOK. Mr. Chairman, I thank the gentleman from Ohio for yielding.

Mr. Chairman, I think it is very important to understand here that what happens in fossil energy research is that for every one dollar that is being spent on oil research, and that is all that the gentleman from Massachusetts and the gentleman from Wisconsin want to attack, is oil research, for every one dollar in oil research, there are two dollars in coal research under this piece of legislation. I think it is significant to understand that.

For example, for the gentleman from Massachusetts, we looked it up, and currently Massachusetts is receiving over $51 million from the Department of Energy for coal research.

Mr. Chairman, I submit that had the purpose of the gentleman from Massachusetts been to try to be even-handed at anything, then he would propose that for every one dollar you cut in oil research, you would cut two dollars in coal research, and I am certain that he would volunteer that that should come from the State of Massachusetts, were that his objective.

Mr. Chairman, the only reason that $5 million was added back in committee was to maintain that same two-to-one ratio, two-to-one in favor of coal research, which has been the ratio for many, many, many years. So that is all that is sought to be done with this legislation, and it is important to understand that, you know what, Mr. Chairman, under this bill research money for oil is being reduced. It is being reduced by over $12 million. And yet, for the gentleman from Massachusetts, that is not sufficient. He wants to protect coal, but make further reduction in oil.

Now, I realize people in Massachusetts may not care about oil. They may not care about the energy independence that is important to the country.

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But it is important, Mr. Chairman, to the rest of us. So I would certainly ask Members to oppose the amendment of the gentleman from Massachusetts. Oppose the attempt to attack one industry while protecting a different one that is important to the sponsor of the amendment.

And finally, Mr. Chairman, the bill does not have any sort of line item in favor of NIPER or Bartlesville. In fact, if you look at the report, the only specific line items with specific funding going to specific institutions are for West Virginia and Pittsburgh in Pennsylvania, when it comes to that fossil energy research.

So, Mr. Chairman, I certainly urge a "no" vote. Let us keep the funding as it has been proposed. It is an absolute reduction. It maintains the historical ratio between oil and coal. it is no disadvantage to either one of them. I would ask that my colleagues join in voting "no" on the amendment.

Mr. REGULA. Mr. Chairman, how much time remains on each side?

The CHAIRMAN. The gentleman from Ohio [Mr. REGULA] has 2 minutes and 40 seconds remaining, and the gentleman from Wisconsin [Mr. KLECZKA] has 4½ minutes remaining.

Mr. KLECZKA. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. DOGGETT].

Mr. DOGGETT. Mr. Chairman, I do come from Texas, and believe in energy independence. But I do not think this measure is about energy independence. It is about pork futures.

I took a shot at NIPER, which is what this is all about, it is the National Institute for Petroleum and Energy Research, known by its acronym of NIPER, in the Committee on Science. And we came within one vote of eliminating this earmark, which is a good indication of how really disputed this whole issue is.

If energy independence is the goal, then why is the authorizing committee cutting fossil fuel research by 45 percent and why is it being reduced in this bill?

The issue here is not energy independence. It is whether or not we are going to earmark these moneys to be spent on one research institute of all those in the country that just happens to be in Bartlesville, Oklahoma.

When we begin earmarking to these particular institutes and particular facilities, we violate the tradition that has gone on in the Committee on Science up until this year. And we also essentially in doing an earmark are doing nothing but having a sow's earmark. People talk about cutting pork up here, but this is one of those little $5 million piglets that is squealing around this floor tonight.

If you believe we ought to provide not only for energy independence but a little independence for the taxpayer and see that this kind of special interest amendment is not included, then you vote for the amendment that my colleagues have offered.

Mr. KENNEDY of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. DOGGETT. I yield to the gentleman from Massachusetts.

Mr. KENNEDY of Massachusetts. Mr. Chairman, I want to answer the gentleman from Oklahoma [Mr. ISTOOK]. This happens to be a boy from Massachusetts that spent some time in the oil business. I have frac wells and I understand exactly what this technology is designed to do and how much is available in this country to get more oil out of existing wells.

The fact of the matter is, I would be in favor of this kind of oil research. I would just like to see it go out to bid. I do not want to see it to go to one guy's district and be denied from other Members' districts that have the same capabilities of doing the research that is in your district. That is all I am asking for.

Mr. REGULA. Mr. Chairman, I yield 1 minute to the gentleman from Oklahoma [Mr. ISTOOK].

Mr. ISTOOK. Mr. Chairman, I just want to establish that this was put out for bid. It was bid only just about a year ago. So this is the product of bidding.

Furthermore, this institution has been involved in privatizing and reduction of the number of government employees and the research is at the government-owned institution.

Mr. KENNEDY of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. ISTOOK. I yield to the gentleman from Massachusetts.

Mr. KENNEDY of Massachusetts. Mr. Chairman, why did the gentleman have to write NIPER into the legislation, if it was put out to bid?

Mr. ISTOOK. Reclaiming my time, Mr. Chairman, NIPER is not mentioned in the legislation.

Mr. KENNEDY of Massachusetts. Mr. Chairman, it most certainly is.

Mr. ISTOOK. Mr. Chairman, the bill does not have any mention of NIPER. It only mentions it during the report language. The report language has specific line items for the institutions in West Virginia and in Pennsylvania.

The language is only reflective of what the Committee on Science has already established, what the Department of Energy has already established. It is not creating anything. Frankly, the amendment does not specify where any cut would be made. It is trying to attack oil funding in general to protect coal.

Mr. KLECZKA. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, what the gentleman from Oklahoma, the author of the amendment in committee, states is not really accurate. In fact, if it was accurate, the committee report language would not have to read, "The committee recognizes the accomplishments of NIPER and directs that these research funds in the bill be allocated to oil research to be used by NIPER and such work should not be transferred to another research laboratory."

The last campaign by most of us in this Chamber was one about pork. There were instances like the Lawrence Welk farm of years past, which people just were abhorred over. Now here the gentleman from Oklahoma, who he himself says pork is pork, even if it lives at home, goes to the committee he serves on and puts in an additional $5 million above and beyond the committee level to squirrel it away, to earmark it for his district and an entity in his district.

I say to my colleagues, all 435 of us would like to bring home the bacon, but in this atmosphere, we cannot. For a person who is opposed to it to put it in, I think that is inexcusable. There is $59 million left in this portion of the oil research part of the bill for oil research, fossil research that will be put out by bid. And if, in fact, the program is as good as the gentleman indicates, they will be competitive. They will win a piece of that $59 million. But that is not what happened in committee.

The gentleman introduced an amendment and first he wanted to take the money from the endowment for the arts. He changed his mind and scratched that and just out of thin air found $5 million and put it into that line of the budget.

I am saying to you, that is not the way you talk in your campaign. It is not the way the balance of us talk. However, when the campaigns are over, at that point in time, you forget about that and when no one is looking, you put in a little bacon for your district. I am saying, if NIPER is as good as you say, they can compete, they can be successful for a portion of the $59 million. Why did we put in the $5 million cut?

The only way you get at this pork project, the only way that we, under the rules of the House, can get at it is to take an amendment, reduce the appropriation reflecting your amendment in committee by $5 million, thus we take down the entire energy research and development budget from $384 million to some $379 million; clearly, not devastating to the appropriation, but recognizing the $5 million add-on that was provided in committee is not fair, is not equitable, should not be done. It is descried by everyone on the House floor.

When we find it, when it is bills like the one we are talking about today, at that point in time I think the House has to stand up and say what is good for Oklahoma is good for Wisconsin. If it is not good for Oklahoma, Wisconsin should not do it either. I ask the Members to adopt the amendment which in essence would strike this one pork project.

Mr. REGULA. Mr. Chairman, I yield myself such time as I may consume.

I want to make it clear to the Members, this technology, this money that goes into the technology is used to take wells that are no longer productive and put them back into production. It includes enhanced fracturing techniques. It would include advanced injection techniques so that the people of the United States could recover some additional resources from our own domestic supply and thereby enhance our energy independence.

I might also point out that most of these projects have a very sizable amount of private money in them.

Mr. KLECZKA. Mr. Chairman, will the gentleman yield?

Mr. REGULA. I yield to the gentleman from Wisconsin.

Mr. KLECZKA. Mr. Chairman, I agree with all the gentleman says. However his mark coming before the committee was a $59 million appropriations. If in fact he wanted more dollars in that line, why did not the committee from the git-go put in the $64 million or $84 million or whatever.

Mr. REGULA. Mr. Chairman, it was the feeling of the majority of the full committee that we needed some additional funding for this technology. In fact, we have many wells that are no longer productive.

Mr. KLECZKA. Mr. Chairman, if the gentleman will continue to yield, why was the $5 million earmarked for one project in Oklahoma?

Mr. REGULA This was the amount that was offered as an amendment in the full committee and accepted by the members of the full committee.

Mr. Chairman, I yield the balance of my time to the gentleman from Oklahoma [Mr. ISTOOK].

The CHAIRMAN. The gentleman from Oklahoma [Mr. ISTOOK] is recognized for 15 seconds.

Mr. ISTOOK. Mr. Chairman, the bill speaks for itself. It is a reduction in the funding. It maintains simply the two-to-one ratio in favor of coal with oil. It is clear that it is $12,914,000 below last year's. It is not,increasing anything. And the amendment did not line item $5 million for NIPER.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Wisconsin [Mr. KLECZKA].

The question was taken; and the Chair being in doubt, the committee divided and there were—ayes 21, noes 16.

Mr. ISTOOK. Mr. Chairman, I demand a recorded vote and, pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Pursuant to the rule, further proceedings on the amendment offered by the gentleman from Wisconsin [Mr. KLECZKA] will be postponed.

The point of order no quorum is considered withdrawn.

Mr. YATES. Mr. Chairman, I ask unanimous consent to strike the last word.

The CHAIRMAN. Without objection, the gentleman from Illinois [Mr. YATES] is recognized for 5 minutes.

There was no objection.

Mr. YATES. Mr. Chairman, the gentlewoman from North Carolina sought time to speak on the amendment relating to Indian education. Unfortunately, there was not enough time that could be allotted to her to make her comments.

She seeks to have her comments inserted into the RECORD during the discussion on the Indian education amendment.

I ask unanimous consent that that may be done.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

AMENDMENT OFFERED BY MR. TIAHRT

Mr. TIAHRT. Mr. Chairman, I offer an amendment, amendment No. 65.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. TIAHRT: Page 55, line 5, strike "$384,504,000" and insert "$220,950,000".

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The CHAIRMAN. Pursuant to H. Res. 189, the gentleman from Kansas [Mr. TIAHRT] and a Member opposed will each be recognized for 10 minutes.

The Chair recognizes the gentleman from Kansas [Mr. TIAHRT].

Mr. TIAHRT. Mr. Chairman, in this amendment I seek to restore the appropriation to the level authorized by the Committee on Science. The chairman of the committee, the gentleman from Ohio [Mr. KASICH], in the House budget resolution had set the fossil energy program at $150 million for 1996. The Committee on Science then, after careful deliberation, reviewing all research and development programs, authorized even more funding at $220 million. The Interior appropriations bill, however, adds an extra $170 million to the level authorized by the gentleman from Pennsylvania [Mr. WALKER] in the Committee on Science.

Mr. Chairman, it is important for the American people to realize that money is spent in Congress after the rigorous authorization process. The committees in Congress study the issues, hold long hearings and vote on the funding levels after long and tough debates. This process is not perfect, but it is the process that usually results in responsible compromise.

To add $170 million more to the level authorized by the Committee on Science is excessive and thumbs the nose at the Committee on Science. We worked hard to follow fiscal responsibility principles, because we want to balance the budget for the future of this country and for the future of our children.

Almost one-half of the increase to the fossil energy program goes to the clean coal program. The clean coal program is to study technology that has been around for decades. The question is not if we can burn coal more efficiently; the question is can we afford it; and clearly, we simply cannot.

Mr. Chairman, the chairman of the committee eloquently explains that basic scientific research is a responsible Federal function. It is quite a stretch to put the clean coal boondoggle under the banner of basic research. In fact, the bill appropriates $12 million more than the President even requested. If we pass the bill, we will spend more on this program than even the administration wants.

Mr. Chairman, once again, I urge my colleagues to support this amendment. We can and must do better than adding millions of dollars to programs of dubious nature. Let us reject the concept of appropriating money that has not been authorized. Let us listen to the chairman of the committee, who arrived at the responsible funding level for fossil energy, and follow the bold example of the gentleman from Ohio [Mr. KASICH], of making tough choices.

Let us stop asking middle-class taxpayers to fund research of some of America's most profitable companies. Exxon, G.E., DuPont, Amoco, Westinghouse deserve our credit for being industry leaders, but they do not need our subsidies.

I come from a district in a State, Mr. Chairman, that is a large oil and gas producer. No industry has had to sacrifice more in the changing market. I have received phone calls and letters from small energy producers in my district who are struggling. How can we look at them and tell them we are broke and cannot help, but then give millions to subsidize the big energy companies?

Mr. Chairman, I urge my colleagues, if they are serious about deficit reduction, then let us vote to keep the authorized levels for funding. I urge my colleagues to support this amendment and help end corporate welfare. Join me and the gentleman from Pennsylvania [Mr. WALKER], the gentleman from Ohio [Mr. KASICH], the chairman, the subcommittee chairman [Mr. ROHRABACHER], the National Taxpayers Union, and Citizens for a Sound Economy to make the tough choices and stand up for the future of our children.

Mr. REGULA. Mr. Chairman, I rise in opposition to this amendment.

The CHAIRMAN. The gentleman from Ohio [Mr. REGULA] is recognized for 10 minutes.

Mr. REGULA. Mr. Chairman, once again, let me point out that we have already cut 10 percent from this budget. We are on a glidepath to achieve the goals outlined by the authorizing committee. I have communicated repeatedly with the gentleman from Pennsylvania [Mr. WALKER], the chairman of the Science Committee, and it is our understanding as a result of our conversations that we will get to the authorized level in a period of 4 or 5 years.

However, let me point out to all Members here, that are listening and viewing, that we have contractual obligations. These projects, over 300, have been established with the private sector. In many instances, the private sector is putting up the bulk of the money. We have contracts, and if we violate those contracts, we are going to be subject to lawsuits. We have closing costs. In the meantime, we will be losing enormously valuable research.

The Blue Ribbon Committee on energy R&D says this in their report:

> Federal energy R&D has been cut by 75 percent since the late 1970s. Currently the Japanese Government spends more than twice as much on energy R&D as does the United States,

and keep in mind, that Government has half the population to serve.

They go on to say: "Energy is fundamental," and let me emphasize this,

> Energy is fundamental to the ability of industrial societies to function. Global energy demand arising mainly from developing economies is expected to grow by 40 percent is 15 years.

This report goes on to say,

> Trends in the world oil markets point to growing stress and tension. Oil demand is expanding rapidly, and projected to grow by 30 percent. In less than 5 years oil demand in Asia will outstrip all of North America.

Mr. Chairman, I have to say if we care about the future of this Nation, if we care about preserving jobs, we have to care about energy. I do not believe there is a job in our society that is not in some way dependent on energy.

Energy is the lifeblood of an industrial society. It fuels all that we do. Energy lights this room tonight. Energy, through many different ways, is a part of the industrial fabric of this Nation. I think it is foolish to not continue research, to keep our Nation energy-independent.

We remember when OPEC decided to put an embargo on the shipment of oil and raise the price. We had long lines at the gasoline stations. We do not want to repeat that. Yet, we are "sleepwalking into a disaster," as Secretary Hodel said in a recent op-ed piece. What we are trying to do in funding this research is ensure that we can use resources that are available in the United States, that we can enhance wells that produce oil and gas, but are no longer functioning because of lack of technology, that we can use coal to produce electricity.

The gentleman in his arguments said we already know how to burn coal efficiently. That is true. However, we do not know how to burn coal cleanly, and we just passed a clear Air Act a short time ago in an effort to improve the quality of our air, and one of those ways we do that is to burn coal in a clean manner, an environmentally safe manner. That research is important.

I would also point out that we did not add any new budget authority in clean coal. That is not the issue. The money here that is being proposed for reduction does not impact on clean coal. It is not part of this amendment. That is, nevertheless, a very important feature of our enery research.

Mr. Chairman, I think we should be very careful in this budget, that we do not do things that will precipitate a crisis down the road, that will cripple the ability of future generations to have adequate supplies of energy, to have the jobs that go with energy, to have the freedom from involvement in military conflicts that result from the absence of access to energy sources.

For all of these reasons, I think it is a great mistake at this point to reduce our reseach. We are a nation that has prospered because of science. We are the world's leader because we have developed technology in many different fields, and certainly energy should be a vital concern to all of us, because the quality of life, the quality of the air we breathe, the quality of our standard of living, will be very strongly tied to our ability to have access to energy. Let us not make the mistake of the 1970's. Let us ensure that we do adequate research.

Mr. Chairman, we recognize that we need to get out of the business. Our proposal gets on the glidepath to achieve exactly what the Committee on Science has put in their authorization. As I said, the chairman and I have discussed this and have a consensus that we have to get there, but we have to recognize that we have close-down and contractual costs that would otherwise result if we were to pass this amendment.

I have a list here. There are over 30 States that would be severely impacted by this amendment in terms of lost jobs, in terms of lost research projects, but most importantly, all of the people of the United States would be severely impacted if they were to have a diminution of their access to energy of all forms in the years ahead.

Mr. Chairman, I reserve the balance of my time.

Mr. TIAHRT. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. ROHRABACHER], the distinguished chairman of the Subcommittee on Energy and Environment of the Committee on Science.

Mr. ROHRABACHER. Mr. Chairman, I heard the saying a long time ago that government is the most efficient method known to man of turning pure energy into solid waste. Unfortunately, that is the feeling I get when I see the way we are handling our budget decisions. We are taking a perfectly good economy and we are trashing it by being irresponsible. That is one of the reasons that I am supporting the Tiahrt amendment.

The Committee on Appropriations has again seen fit to add $163 million in funds not authorized by the Committee on Science. In the case of coal programs, the figure is $126 million. That is 2½ times the authorized level. There are millions of dollars earmarked in this bill that the Department of Energy never requested. These funds will not be for basic research in fossil fuels technology. Rather, it will be used for large demonstration projects sponsored in many cases by some of our largest corporations, corporate welfare.

The Members should know that electric and gas utility customers already provide several hundred million dollars through a fossil R&D surcharge that funds the Gas Research Institute and the Electric Power Research Institute, so here we are, the people are being double taxed for these very same research and development programs, this very same welfare for corporations, welfare for the rich.

Mr. Chairman, I urge Members to save the taxpayers some money, support the authorization process. Let us bring some responsibility to the process. We are just starting out now. Let us make sure that appropriators and authorizers work together, and vote for this amendment. Support the Tiahrt amendment.

Mr. REGULA. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. DOYLE].

Mr. DOYLE. Mr. Chairman, I rise today in strong opposition to the Tiahrt amendment, and in support of fossil energy research funding contained in this bill.

First of all, I would like to thank the subcommittee chairman, Mr. REGULA, and ranking member, Mr. YATES for their continued commitment to this important area.

What is fossil energy research? We all know what fossil energy is, oil, gas and—our most abundant domestic resource—coal. But I get the sense that many Members who seem anxious to cut research in these areas do not understand the type of work that is going on.

Especially in the area of coal research, we are talking about extremely innovative research that is being undertaken by small companies throughout the country.

Without the help of the Federal Government, these small companies would be unable to undertake these important research efforts. Do we really want to accept the status quo in our ability to utilize our coal resources—or do we want to take advantage of our brainpower to make cleaner, more efficient use of our most abundant energy resource.

By cutting the fossil energy budget, you are killing Advanced Clean Fuels Research in both direct and indirect liquefaction—work that is going on right now in Louisiana, New Mexico, California, New Jersey, and elsewhere.

You are also killing work in Advanced Clean/Efficient Power Systems—such as important work on Advanced Research & Environmental Technology that is taking place in Texas, Illinois, Massachusetts, Colorado, Ohio, and elsewhere.

Let me also point out how much these programs have already been cut. The fossil R&D line in the bill represents a cut of over 100% from FY 1995 in a program that has been decimated over the last decade.

Just last month, the Yergin Commission, an independent task force on strategic energy research and development, found that energy R&D is essential to the U.S. Economy and that cutbacks in R&D could put our Nation at risk. Task force Chairman Daniel Yergin, President of Cambridge Energy Research Associates and a Pulitzer Prize-winning author, stated that, "the wholesale demolition of [DOE's R&D programs] would not only hurt America's energy position but contribute to a 'brewing R&D crisis' in the United States.

In conclusion, I want to point out that Federal energy R&D is only about one-half of one percent of the Nation's annual energy expenditures. Since 1978, DOE R&D has been reduced by 75% in constant dollars. Let's not be shortsighted about our long-term economic well-being. Vote to maintain fossil R&D.

Mr. TIAHRT. Mr. Chairman, I yield 2 minutes to the gentlewoman from California [Mrs. SEASTRAND], a Member of the Committee on Science.

Mrs. SEASTRAND. Mr. Chairman, I support the Tiahrt amendment. This amendment would authorize appropriations of $22.95 million, which is consistent with the level contained in H.R. 1816, the Civilian Energy Research and Development Act of 1995, reported out of the Committee on Science on June 22.

All of this was done with the thought of definitely giving dollars to research, and balancing the budget. However, I am amazed to see what has now come out of the Committee on Appropriations, which definitely increases appropriations to such areas such as coal, up $11.3 million above even what the Department of Energy requested, and up $76 million above what the Committee on Science authorization of $49.9 million was.

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Oil appropriations were up $20.5 million above the Committee on Science authorization of $63 million; gas appropriations, $113 million, up $53.9 million above the Committee on Science authorization of $59.8 million.

I want to state that the Committee on Science, which I serve on, adequately funded basic research. In addition, we have dollars now that are funding institutes such as the Electric Power Research Institute and the Gas Research Institute, provided they do this research with surcharges on utility customers. This is being done.

Appropriations are funding far beyond what the Committee on Science decided would be appropriate levels. Where are these dollars going? The corporate giants.

Exxon in 1994 made sales of over $101 billion with profits of $5 billion. General Electric had 1994 sales of nearly $65 billion with profits of $4.7 billion. Dupont, profits again of $2.7 billion in 1994. We can go to Amoco, Westinghouse, and so on.

My point here is that this amendment, the Tiahrt amendment, is a commitment to basic research and, most importantly, a balanced budget, what the American people asked for in the last election.

Mr. REGULA. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. BROWN], the ranking member of the Committee on Science with jurisdiction on this issue.

Mr. BROWN of California. Mr. Chairman, I rise in strong opposition to the Tiahrt amendment.

Mr. Chairman, coal research is extremely important. It may not be the highest priority, but it ranks up amongst highest priority for energy research and development in this country.

The chairman of the Subcommittee on Appropriations has already described in great detail how we need to cut energy research as little as possible in order to achieve energy independence and energy security for this country.

Mr. Chairman, I particularly want to call attention to the assertion made that this does not conform to the authorization. There is no authorization for this bill.

A majority of the members of the Committee on Science have voted under the leadership of the gentleman from Pennsylvania [Mr. WALKER] to cut the amount authorized in a bill that we passed out, but the House should know, and this has as a matter of fact been adopted by the Republican Conference, that the Conference reaffirmed that only authorization levels in public law can bind appropriation action and such binding action assumes that points of order are not waived against appropriation bills as they have been done in this case.

Please vote "no" on the Tiahrt amendment.

Mr. Chairman, I rise in opposition to the Tiahrt amendments eliminating research and development funds at the Department of Energy. While both of these amendments can, and should, be opposed simply on their merits, I would like to briefly address the claim that these amendments reduce spending levels to their allegedly authorized levels.

Mr. Chairman, I have long argued for the importance of the authorization process. The authorizing committees are the expert committees and certainly their views are entitled to some deference by the members. But the single step of reporting a bill from a House authorizing committee does not constitute an authorization. An authorization bill must pass the House and the Senate and be signed by the President. As we all know, this sometimes untidy democratic process often wreaks significant changes in what the original House committee reported. In the case of the Science

Committee's authorization of the Department of Energy's research and development programs, we are barely through step one.

Simply put, the claim that Science Committee actions to date equate in some way to an authorization is false. It is true that the Science Committee has reported a bill with dramatically lower numbers for fossil and conservation R&D that contained in the appropriations bill before us today. However, the House as a whole has never considered the Science Committee bill. Thus, the Science Committee bill does not meet even the first test of being a—quote—"House-passed authorization bill." If the Science Committee had truly wanted to affect the process, it would have reported its authorization bills in May and brought them to the floor before appropriations action began.

Even then there is an important legal difference between a House-passed bill and one that is signed into law. This difference was recognized in the Republican Conference on House Rules. The conference reaffirmed that only authorization levels in public law can bind appropriations actions. And, such binding action assumes that points of order are not waived against appropriations bills, as was done for consideration of H.R. 1977.

Certainly the decisions of a majority of the Committee on Science are entitled to some respect and deference by the Members. At the same time, Members have an obligation to exercise their own independent judgment on the wisdom of those recommendations; certainly, the House has never operated to rubber-stamp the product of any Committee.

But Members should not be confused by the argument that the appropriations bill exceeds the authorization for these energy R&D programs. They do exceed the recommendations of a majority of the Science Committee members—nothing more and nothing less. The fact is that this is the first vote of the full House to consider these issues. There is nothing to bind Members actions in law—including nothing in the budget resolution since report language is also not binding.

I urge Members to reject the Tiahrt amendment.

Mr. TIAHRT. Mr. Chairman, I yield 1 minute to my good friend, the gentleman from Maryland [Mr. BARTLETT].

Mr. BARTLETT of Maryland. Mr. Chairman, I rise in support of this amendment with some sense of frustration. I certainly support energy research, particularly coal research. That is not the issue here. I am a member of the authorizing committee. We have developed a balanced program.

My concern is where will the money go that is saved here? When we violate the orderly authorization/appropriation process, we create chaos. Thus, I support this amendment because it supports the process we should be followed in this House.

Mr. TIAHRT. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, I just wanted to point out that it was referred to here earlier that this was not authorized. If that is the situation, then apparently none of this bill has been authorized.

We have gone through the authorization process in the Committee on Science. We have looked at the basic research and development. This was done. We came in at the $220 million level. Now we are coming with an additional $170 million.

We are even outspending the administration on the coal programs. We are adding $24 million for special interests for the liquefaction process, adding $36 million to General Electric for gas turbines, an additional $8 million to the administration's request for molten carbonate fuel development.

All of these are in a $1 billion industry, when I have to go back to Kansas and talk to my little energy developers who get no help from the Federal Government, out there trying to make a living pumping wells, stripper wells. They get no help, yet we give millions of dollars to these big energy corporations.

We heard about commitments to contracts. We have gone and reviewed this. This is not beyond what was authorized by the Committee on Science. Beyond that, we have a commitment to the American people.

Of course we care about energy. We do not want to have another energy crisis, but we are not killing research and development that would go to help supply more energy. What we are doing is, we are cutting out the corporate pork. One hundred seventy million dollars additional in research and development to billions of dollars in revenue that these corporations have is not going to drive them into bankruptcy.

This is supported by the gentleman from Pennsylvania [Mr. WALKER], the chairman. It is over the resolution of the Committee on the Budget, it is over the resolution of the Committee on Science. It is supported by the gentleman from Ohio [Mr. KASICH], the chairman, by the gentleman from California [Mr. ROHRABACHER], the chairman of the subcommittee. This is practical common sense to go back to the research and development that was authorized by the Committee on Science and not add in any additional pork.

Mr. Chairman, I yield back the balance of my time.

Mr. REGULA. Mr. Chairman, I yield such time as he may consume to the gentleman from Kentucky [Mr. WARD].

Mr. WARD. Mr. Chairman, I rise to state my opposition to this amendment.

Mr. REGULA. Mr. Chairman, I yield 15 seconds to the gentleman from Alabama [Mr. CALLAHAN].

Mr. CALLAHAN. Mr. Chairman, I rise in opposition to the Tiahrt amendment and urge Members to vote "no." Either we are going to have the technology that this country deserves or we are going to transport it overseas. This amendment would deny this country the opportunity to create jobs to participate in the world environment with respect to technology. I urge a "no" vote on this amendment.

Mr. REGULA. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, I urge Members to vote "no" on the Tiahrt amendment. A vote "no" is to preserve jobs in the United States. A vote "no" is to preserve research in a majority of the States of this Nation. A vote "no" is to maintain our energy independence. A vote "no" is to prevent these jobs and this research from going overseas.

I strongly urge Members to vote "no" on this amendment.

Mr. POSHARD. Mr. Chairman, I rise in strong opposition to the Tiahrt amendment to the Interior Appropriations bill.

The fossil fuel research accounts in this bill have been taking continued and direct hits which the coal industry cannot survive. In southern Illinois we have hundreds of people who once worked good jobs that paid well in the coal mines which provided power to the economy of this Nation. They've been laid off because we don't have the clean-coal technology necessary to burn the tremendous resources of coal which are available to meet the energy needs of this Nation.

I strongly urge a "no" vote to help the coal mining families of this Nation and to provide for a thriving domestic energy industry.

Mr. FAZIO of California. Mr. Chairman, Mr. TIAHRT's amendment would cut energy conservation R&D from $411.2 million to $230.1 million. The fiscal year 1995 level was $468.5 million.

Large cuts have already been taken. Energy R&D has fallen 75 percent since the late 1970's, in constant dollars. The committee's bill already contains a 23 percent cut in energy R&D relative to the President's request.

Total U.S. energy efficiency R&D costs each taxpayer about $5.50 per year and saves them $65.

This amendment would cut critical programs assisting in the development of new, clean transportation technologies including electric vehicles.

It would cut the Federal Energy Management Program, which installs money-saving equipment in Federal buildings, saving taxpayers $4 in Federal operating expenses for every $1 spent.

These are just to mention a few of the programs which will help to reduce our dependence on foreign oil in the future.

The bottom line is this cut would be penny wise and pound foolish.

I urge the committee to oppose the Tiahrt amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Kansas [Mr. TIAHRT].

The question was taken; and the chairman announced that the noes appeared to have it.

Mr. TIAHRT. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to the rule, further proceedings on the amendment offered by the gentleman from Kansas [Mr. TIAHRT] will be postponed.

SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The CHAIRMAN. Pursuant to the rule, proceedings will now resume on those amendments on which further proceedings were postponed in the following order:

Amendment No. 72 offered by the gentleman from Florida [Mr. STEARNS]; amendment No. 47 offered by the gentlewoman from Washington [Mrs. SMITH]; amendment No. 31 offered by the gentleman from Wisconsin [Mr. KLECZKA]; and amendment No. 65 offered by the gentleman from Kansas [Mr. TIAHRT].

The Chair will reduce to 5 minutes the time for any electronic vote after the first vote in this series.

AMENDMENT NO. 72 OFFERED BY MR. STEARNS

The CHAIRMAN. The pending business is the request for a recorded vote on amendment No. 72 offered by the gentleman from Florida [Mr. STEARNS] on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

PARLIAMENTARY INQUIRY

Mr. DICKS. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. DICKS. Mr. Chairman, I am confused. Could the Chair remind us who prevailed on this vote? Was it the ayes and the noes?

The CHAIRMAN. The noes prevailed.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 179, noes 227, not voting 28, as follows:

[Roll No. 512]

AYES—179

Allard
Archer
Armey
Baker (CA)
Baker (LA)
Barr
Bartlett
Barton
Bateman
Bilirakis
Bliley
Boehner
Bonilla
Bono
Brewster
Browder
Bryant (TN)
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clement
Coble
Coburn
Collins (GA)
Combest
Cooley
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Ehrlich
Emerson
Ensign
Everett
Ewing
Fields (TX)
Franks (CT)
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Goodlatte
Gordon
Goss
Graham
Gutknecht
Hall (TX)
Hancock
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hostettler
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson, Sam
Kasich
Kim
King
Kingston
Klug
Largent
Latham
Laughlin
Lewis (KY)
Lightfoot
Linder
Lucas
Manzullo
McCollum
McCrery
McHugh
McIntosh
McKeon
Metcalf
Mica
Miller (FL)
Molinari
Montgomery
Moorhead
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Ortiz
Orton
Oxley
Packard
Parker
Paxon
Petri
Pombo
Porter
Portman
Pryce
Quillen
Radanovich
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Seastrand
Sensenbrenner
Shadegg
Shays
Shuster
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stenholm
Stockman
Stump
Talent
Tanner
Tate
Tauzin
Taylor (NC)
Thornberry
Tiahrt
Traficant
Vucanovich
Walker
Wamp
Watts (OK)
Weldon (FL)
Weller
Wicker
Young (AK)
Young (FL)
Zimmer

NOES—227

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Ballenger
Barcia
Barrett (NE)
Barrett (WI)
Bass
Beilenson
Bentsen
Bereuter
Berman
Bevill
Bilbray
Bishop
Blute
Boehlert
Bonior
Borski
Boucher
Brown (CA)
Brown (OH)
Brownback
Bryant (TX)
Bunn
Burr
Cardin
Castle
Clay
Clayton
Clyburn
Coleman
Collins (IL)
Conyers
Costello
Coyne
Danner
Davis
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Dunn
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fawell
Fazio
Fields (LA)
Filner
Flake
Flanagan
Foglietta
Foley
Forbes
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goodling
Greenwood
Gunderson
Hall (OH)
Hamilton
Hansen
Hastings (FL)
Hefner
Hilliard
Hinchey
Hoekstra
Hoke
Holden
Horn
Houghton
Hoyer
Jackson-Lee
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
Knollenberg
Kolbe
LaFalce
LaHood
Lantos
LaTourette
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lincoln
Lipinski
Livingston
LoBiondo
Lofgren
Longley
Lowey
Luther
Manton
Markey
Martini
Mascara
Matsui
McCarthy
McDade
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Meyers
Mfume
Miller (CA)
Mineta
Minge
Mink
Mollohan
Moran
Morella
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Pickett
Pomeroy
Poshard
Quinn
Ramstad
Rangel
Reed
Regula
Rivers
Roemer
Roukema
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schiff
Schroeder
Schumer
Scott
Serrano
Shaw
Sisisky
Skaggs
Skeen
Slaughter
Spratt
Stokes
Studds
Stupak
Tejeda
Thomas
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Upton
Velazquez
Vento
Visclosky
Volkmer
Waldholtz
Walsh
Ward
Waters
Watt (NC)
Weldon (PA)
White
Whitfield
Williams
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Yates

NOT VOTING—28

Bachus
Becerra
Brown (FL)
Clinger
Collins (MI)
Condit
Ehlers
English
Ford
Green
Gutierrez
Harman
Jacobs
Jefferson
Jones
Maloney
Martinez
McInnis
Moakley
Peterson (MN)
Rahall
Reynolds
Richardson
Stark
Taylor (MS)
Tucker
Waxman
Zeliff

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The Clerk announced the following pair:

On this vote:

Mr. Jones for, with Mr. Richardson against.

Mr. BARCIA and Mr. WHITFIELD changed their vote from "aye" to "no."

Messrs. FRANKS of Connecticut, BONO, and BROWDER changed their vote from "no" and "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. EHLERS. Mr. Chairman, on rollcall No. 512, I was not present because my flight was delayed 3½ hours by severe thunderstorms.

Had I been present, I would have voted "no."

PERSONAL EXPLANATION

Mr. JONES. Mr. Chairman, on rollcall No. 512, I was inadvertently detained.

Had I been present, I would have voted "yes."

PERSONAL EXPLANATION

Mr. RAHALL. Mr. Speaker, due to a delayed flight on July 17, 1995, I was forced to miss rollcall vote 512 on H.R. 1977, the Stearns amendment to reduce the bill's $99.5 million for the NEA to $89.5 million, beginning the phase out of the agency over 2 years rather than 3 years as envisioned under the bill. Had I been present, I would have voted "no" on rollcall vote 512.

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN. Pursuant to the rule, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device will be taken on each amendment on which the Chair has postponed further proceedings.

Members should also be aware that the paging system in the Democratic cloakroom is inoperative this evening, so Members should be very aware that the votes will be taken and they may not be able to be notified by the cloakroom. Members should please keep that in mind.

AMENDMENT NO. 47 OFFERED BY MRS. SMITH OF WASHINGTON

The CHAIRMAN. The pending business is the request for a recorded vote on amendment No. 47 offered by the gentlewoman from Washington [Mrs.

SMITH] on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 286, noes 124, not voting 24, as follows:

[Roll No. 513]

AYES—286

Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bentsen
Bevill
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brewster
Brown (OH)
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cardin
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clement
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Costello
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeFazio
DeLay
Deutsch
Diaz-Balart
Dickey
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Edwards
Ehrlich
Emerson
Ensign
Eshoo
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Furse
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Goodling
Gordon
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hilliard
Hobson
Hoekstra
Hoke
Holden
Hostettler
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Johnston
Kasich
Kelly
Kim
King
Kingston
Kleczka
Klink
Klug
LaHood
Largent
Latham
LaTourette
Laughlin
Levin
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Lipinski
Livingston
LoBiondo
Longley
Lucas
Luther
Manzullo
Markey
Martini
Mascara
McCarthy
McCollum
McCrery
McDade
McHale
McHugh
McIntosh
McKeon
McNulty
Meehan
Metcalf
Meyers
Mica
Miller (FL)
Minge
Molinari
Montgomery
Moorhead
Moran
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Orton
Oxley
Packard
Parker
Pastor
Paxon
Payne (VA)
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Rivers
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Sawyer
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Sisisky
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stenholm
Stockman
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (NC)
Thomas
Thornberry
Thurman
Tiahrt
Torkildsen
Upton
Visclosky
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Ward
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wilson
Wolf
Wyden
Young (AK)
Young (FL)
Zimmer

NOES—124

Abercrombie
Ackerman
Baldacci
Bateman
Beilenson
Bereuter
Berman
Bishop
Bonior
Borski
Boucher
Browder
Brown (CA)
Brown (FL)
Bryant (TX)
Clay
Clayton
Clyburn
Coleman
Collins (IL)
Conyers
Coyne
DeLauro
Dellums
Dicks
Dingell
Dixon
Doggett
Durbin
Engel
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Frost
Gejdenson
Gephardt
Gibbons
Gonzalez
Goodlatte
Gutierrez
Hastings (FL)
Hefner
Hinchey
Horn
Houghton
Hoyer
Jackson-Lee
Johnson (SD)
Johnson, E.B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Knollenberg
Kolbe
LaFalce
Lantos
Lazio
Leach
Lewis (GA)
Linder
Lofgren
Lowey
Manton
Matsui
McDermott
McKinney
Meek
Menendez
Mfume
Miller (CA)
Mineta
Mink
Mollohan
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Payne (NJ)
Pelosi
Rahall
Rangel
Reed
Rose
Roybal-Allard
Sabo
Sanders
Schroeder
Schumer
Scott
Serrano
Skaggs
Spratt
Stokes
Studds
Tejeda
Thompson
Thornton
Torres
Torricelli
Towns
Traficant
Velazquez
Vento
Volkmer
Waters
Watt (NC)
Williams
Wise
Woolsey
Wynn
Yates

NOT VOTING—24

Becerra
Clinger
Collins (MI)
Cox
Ehlers
English
Ford
Green
Harman
Jacobs
Jefferson
Jones
Maloney
Martinez
McInnis
Moakley
Reynolds
Richardson
Rush
Stark
Taylor (MS)
Tucker
Waxman
Zeliff

□ 2023

The Clerk announced the following pairs:

On this vote:

Mr. Jones for, with Mr. Richardson against.

Mr. Zeliff for, with Mr. Waxman against.

Mrs. LOWEY changed her vote from "aye" to "no."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. EHLERS. Mr. Chairman, on rollcall No. 513, I was not present because my flight was delayed 3½ hours by severe thunderstorms.

Had I been present, I would have voted "No."

PERSONAL EXPLANATION

Mr. JONES. Mr. Chairman, on rollcall No. 513, I was inadvertenly detained.

Had I been present, I would have voted "yes."

Mr. TAYLOR of Mississippi. Mr. Chairman, earlier this evening, July 17, 1995, I was unvoidably detained because of circumstances beyond my control. Due to a malfunction with the air traffic control system at the Cincinnati airport, my connecting flight to Washington was postponed. Unfortunately, having arrived here just moments ago, I was informed that I missed two roll call votes to the Fiscal Year 1996 Interior Appropriations Bill (H.R. 1977). Had I been present at the time the votes were called, I would have voted "yea" on rollcall vote 512 and "yea" on rollcall 513.

AMENDMENT NO. 31 OFFERED BY MR. KLECZKA

The CHAIRMAN. The pending business is the demand for a recorded vote on amendment No. 31 offered by the gentleman from Wisconsin [Mr. KLECZKA] on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 251, noes 160, not voting 23, as follows:

[Roll No. 514]

AYES—251

Abercrombie
Ackerman
Andrews
Baldacci
Ballenger
Barcia
Barrett (WI)
Bass
Beilenson
Bentsen
Berman
Bevill
Bishop
Boehlert
Bonior
Borski
Browder
Brown (CA)
Brown (FL)
Bryant (TX)
Burton
Canady
Cardin
Chabot
Chambliss
Chapman
Clay
Clayton
Clement
Clyburn
Coble
Collins (GA)
Collins (IL)
Condit
Conyers
Cooley
Costello
Cox
Coyne
Cramer
Crane
Cremeans
Cunningham
de la Garza
Deal
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Dornan
Doyle
Duncan
Durbin
Edwards
Emerson
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Flanagan
Foglietta
Foley
Forbes
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk

Furse
Ganske
Gejdenson
Gephardt
Geren
Gibbons
Gonzalez
Goodlatte
Goodling
Gordon
Greenwood
Gunderson
Gutierrez
Hamilton
Hancock
Hastings (FL)
Hefley
Hefner
Heineman
Hilliard
Hinchey
Hoke
Holden
Horn
Hyde
Inglis
Jackson-Lee
Jacobs
Johnson (SD)
Johnson, E.B.
Johnston
Kanjorski
Kaptur
Kasich
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
King
Kingston
Kleczka
Klink
Klug
LaFalce
LaHood
Lantos
LaTourette
Lazio
Leach
Levin
Lewis (GA)
Lincoln
Lipinski
LoBiondo
Lofgren
Longley
Lowey
Luther
Manton
Markey
Martini
Mascara
Matsui
McCarthy
McDermott
McHale
McHugh
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Miller (FL)
Mineta
Minge
Mink
Mollohan
Murtha
Nadler
Neal
Neumann
Nussle
Oberstar
Obey
Olver
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pomeroy
Porter
Portman
Poshard
Quinn
Rahall
Ramstad
Rangel
Reed
Rivers
Roberts
Roemer
Rohrabacher
Roth
Roukema
Roybal-Allard
Royce
Rush
Sabo
Sanders
Sanford
Saxton
Schroeder
Schumer
Scott
Sensenbrenner
Serrano
Shays
Sisisky
Skaggs
Skelton
Slaughter
Smith (NJ)
Solomon
Spence
Spratt
Stearns
Stenholm
Stokes
Studds
Stump
Stupak
Talent
Tanner
Taylor (MS)
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Traficant
Upton
Velazquez
Vento
Visclosky
Volkmer
Waldholtz
Walsh
Ward
Waters
Watt (NC)
Weldon (PA)
Williams
Wise
Woolsey
Wyden
Wynn
Yates
Young (FL)
Zimmer

NOES—160

Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Barr
Barrett (NE)
Bartlett
Barton
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehner
Bonilla
Bono
Boucher
Brewster
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Buyer
Callahan
Calvert
Camp
Castle
Chenoweth
Christensen
Chrysler
Coburn
Coleman
Combest
Crapo
Cubin
Danner
Davis
DeLay
Diaz-Balart
Dickey
Doolittle
Dreier
Dunn
Ehrlich
Ensign
Everett
Ewing
Fawell
Fields (TX)
Franks (CT)
Gallegly
Gekas
Gilchrest
Gillmor
Gilman
Goss
Graham
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Herger
Hilleary
Hobson
Hoekstra
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Istook
Johnson (CT)
Johnson, Sam
Kelly
Kim
Knollenberg
Kolbe
Largent
Latham
Laughlin
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
Lucas
Manzullo
McCollum
McCrery
McDade
McIntosh
McKeon
Metcalf
Meyers
Mica
Molinari
Montgomery
Moorhead
Moran
Morella
Myers
Myrick
Nethercutt
Ney
Norwood
Ortiz
Oxley
Packard
Parker
Paxon
Pombo
Pryce
Quillen
Radanovich
Regula
Riggs
Rogers
Ros-Lehtinen
Rose
Salmon
Sawyer
Scarborough
Schaefer
Schiff
Seastrand
Shadegg
Shaw
Shuster
Skeen
Smith (MI)
Smith (TX)
Smith (WA)
Souder
Stockman
Tate
Tauzin
Taylor (NC)
Tejeda
Thomas
Thornberry
Tiahrt
Vucanovich
Walker
Wamp
Watts (OK)
Weldon (FL)
Weller
White
Whitfield
Wicker
Wilson
Wolf
Young (AK)

NOT VOTING—23

Allard
Bateman
Becerra
Brown (OH)
Clinger
Collins (MI)
Ehlers
English
Ford
Green
Harman
Jefferson
Jones
Maloney
Martinez
McInnis
Moakley
Reynolds
Richardson
Stark
Tucker
Waxman
Zeliff

☐ 2031

The Clerk announced the following pair:

On this vote:

Mr. Waxman for, with Mr. Jones against.

Mr. Richardson for, with Mr. Zeliff against.

Mr. FRANKS of Connecticut and Mr. EHRLICH changed their vote from "aye" to "no."

Mr. CREMEANS and Mr. LAZIO of New York changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. EHLERS. Mr. Chairman, on rollcall No. 514, I was not present because my flight was delayed 3½ hours by severe thunderstorms. Had I been present, I would have voted "Yes."

PERSONAL EXPLANATION

Mr. JONES. Mr. Chairman, on rollcall No. 514, I was inadvertently detained. Had I been present, I would have voted "Yes."

AMENDMENT OFFERED BY MR. TIAHRT

The CHAIRMAN. The pending business is the request for a recorded vote on amendment No. 65 offered by the gentleman from Kansas [Mr. TIAHRT] on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 144, noes 267, not voting 23, as follows:

[Roll No. 515]

AYES—144

Allard
Andrews
Archer
Baker (CA)
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bereuter
Boehlert
Bono
Brownback
Bryant (TN)
Burr
Burton
Camp
Canady
Castle
Chabot
Chenoweth
Christensen
Chrysler
Coble
Coburn
Collins (GA)
Cooley
Cox
Crane
Crapo
Cunningham
Danner
Deal
DeFazio
DeLay
Deutsch
Dickey
Doolittle
Dreier
Duncan
Ensign
Filner
Foley
Franks (NJ)
Funderburk
Ganske
Goss
Graham
Gutknecht
Hancock
Hastings (WA)
Hayworth
Hefley
Heineman
Herger
Hilleary
Hinchey
Hoekstra
Hoke
Horn
Hostettler
Inglis
Jacobs
Johnson, Sam
Kasich
Kennedy (RI)
Kim
Kingston
Klug
Kolbe
LaHood
Largent
Latham
Leach
Lewis (GA)
Lincoln
Linder
Lipinski
LoBiondo
Luther
Manzullo
Martini
McCarthy
McHugh
McIntosh
Menendez
Metcalf
Meyers
Miller (CA)
Miller (FL)
Minge
Myrick
Nadler
Neumann
Norwood
Nussle
Obey
Paxon
Peterson (MN)
Petri
Pombo
Portman
Ramstad
Reed
Riggs
Roberts
Rohrabacher
Ros-Lehtinen
Roth
Royce
Sabo
Salmon
Sanders
Sanford
Scarborough
Schumer
Seastrand
Sensenbrenner
Shadegg
Shays
Smith (MI)
Smith (NJ)
Souder
Spence
Spratt
Stockman
Stump
Talent
Tate
Taylor (MS)
Tiahrt
Torkildsen
Upton
Velazquez
Vento
Visclosky
Waldholtz
Walker
White
Wyden
Zimmer

NOES—267

Abercrombie
Ackerman
Bachus
Baesler
Baker (LA)
Baldacci
Bateman
Beilenson
Bentsen
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehner
Bonilla
Bonior
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Bunn
Bunning
Buyer
Callahan
Calvert
Cardin
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Combest
Condit
Conyers
Costello
Coyne
Cramer
Cremeans
Cubin
Davis
de la Garza
DeLauro
Dellums
Diaz-Balart
Dicks
Dingell
Dixon
Doggett
Dooley
Dornan
Doyle
Dunn
Durbin
Edwards
Ehrlich
Emerson
Engel
Eshoo
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Fields (LA)
Fields (TX)
Flake
Flanagan
Foglietta
Forbes
Fowler
Fox
Frank (MA)
Franks (CT)
Frelinghuysen
Frisa
Frost
Furse
Gallegly
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Gordon
Greenwood
Gunderson
Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Hansen
Hastert
Hastings (FL)
Hayes
Hefner
Hilliard
Hobson
Holden
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Istook
Jackson-Lee
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kelly
Kennedy (MA)
Kennelly
Kildee
King
Kleczka
Klink
Knollenberg
LaFalce
Lantos
LaTourette
Laughlin
Lazio
Levin
Lewis (CA)
Lewis (KY)
Lightfoot
Livingston
Lofgren
Longley
Lowey
Lucas
Manton
Markey
Mascara
Matsui
McCollum
McCrery
McDade
McDermott
McHale
McKeon

McKinney
McNulty
Meehan
Meek
Mfume
Mica
Mineta
Mink
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murtha
Myers
Neal
Nethercutt
Ney
Oberstar
Olver
Ortiz
Orton
Owens
Oxley
Packard
Pallone
Parker
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Pickett
Pomeroy
Porter
Poshard
Pryce
Quillen
Quinn
Radanovich
Rahall
Rangel
Regula
Rivers
Roemer
Rogers
Rose
Roukema
Roybal-Allard
Rush
Sawyer
Saxton
Schaefer
Schiff
Schroeder
Scott
Serrano
Shaw
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (TX)
Smith (WA)
Solomon
Stearns
Stenholm
Stokes
Studds
Stupak
Tanner
Tauzin
Taylor (NC)
Tejeda
Thomas
Thompson
Thornberry
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Volkmer
Vucanovich
Walsh
Wamp
Ward
Waters
Watt (NC)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Williams
Wilson
Wise
Wolf
Woolsey
Wynn
Yates
Young (AK)
Young (FL)

NOT VOTING—23

Armey
Becerra
Berman
Chambliss
Clinger
Collins (MI)
Ehlers
English
Ford
Green
Harman
Jefferson
Jones
Maloney
Martinez
McInnis
Moakley
Reynolds
Richardson
Stark
Tucker
Waxman
Zeliff

☐ 2041

The Clerk announced the following pairs:

On this vote:

Mr. Jones for, with Mr. Moakley against.

Mr. Richardson for, with Mr. Zeliff against.

Mr. WELLER and Mr. DOGGETT changed their vote from "aye" to "no."

Mr. HINCHEY and Mr. VENTO changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. JONES. Mr. Chairman, on rollcall No. 515, I was inadvertently detained.

Had I been present, I would have voted "yes."

PERSONAL EXPLANATION

Mr. EHLERS. Mr. Chairman, on rollcall No. 515, I was not present because my flight was delayed 3½ hours by severe thunderstorms.

Had I been present, I would have voted "no."

PERSONAL EXPLANATION

Mr. CLINGER. Mr. Chairman, due to inclement weather, my connecting flight from Pittsburgh was delayed 4 hours. As a result, I missed four rollcall votes earlier this evening. If I had been present, I would have voted "nay" on rollcall vote No. 512, "yea" on rollcall vote No. 513, "nay" on rollcall vote No. 514, and "nay" on rollcall vote No. 515.

PERSONAL EXPLANATION

Mr. MCINNIS. Mr. Speaker, on Monday, July 17, 1995, due to severe thunderstorms between Chicago and Washington, DC which delayed the scheduled arrival of my flight, I regrettably missed a series of rollcall votes which occurred as I was returning from the Third District of Colorado.

Mr. DICKS. Mr. Chairman, I ask unanimous consent to strike the last words.

The CHAIRMAN. Without objection, the gentleman from Washington [Mr. DICKS] is recognized for 5 minutes.

There was no objection.

Mr. DICKS. Mr. Chairman, I would like to engage the distinguished chairman of the Subcommittee on Interior, if he could tell the Members, we have some concern about what the plan into the evening is.

Mr. REGULA. Mr. Chairman, will the gentleman yield?

Mr. DICKS. I yield to the gentleman from Ohio.

Mr. REGULA. Mr. Chairman, it is the plan at this juncture to go forward and complete the bill tonight. We think that we can probably get it done in about 3 hours. We will roll the votes on an hourly basis. So essentially, give or take 10 minutes or so, when we get two or three amendments in about an hour, we will vote on those, a 15-minute vote and then five-minute votes to follow on however many amendments. Then we will go on an hour and roll again until we get finished.

The CHAIRMAN. Are there further amendments to title II?

AMENDMENT OFFERED BY MR. KENNEDY OF MASSACHUSETTS

Mr. KENNEDY of Massachusetts. Mr. Chairman, I offer an amendment, amendment No. 55.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. KENNEDY of Massachusetts: Page 45, line 24, strike "$1,276,688,000" and insert "$1,263,234,000".

Page 47, line 5 strike "$120,000,000" and insert "$114,980,000".

POINT OF ORDER

Mr. REGULA. Mr. Chairman, I rise to a point of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. REGULA. Mr. Chairman, I make a point of order against the gentleman's amendment because it seeks to amend a paragraph previously amended.

In the procedures in the U.S. House of Representatives, chapter 27, section 27.1 states the following: "It is fundamental that it is not in order to amend an amendment previously agreed to. Thus the text of a bill perfected by amendment cannot thereafter be amended."

☐ 2045

Mr. Chairman, this amendment seeks to amend text previously amended, and is therefore not in order. I respectfully ask the Chair to sustain my point of order.

The CHAIRMAN. Does the gentleman from Massachusetts [Mr. KENNEDY] wish to be heard on the point of order?

Mr. KENNEDY of Massachusetts. Yes, Mr. Chairman, I would.

The fact of the matter is this amendment was filed. It was previously approved by the Parliamentarian. Everything was in order. The Committee on Rules devised the rule which essentially, although it appears to have made this amendment in order, on a technical basis, is being objected to.

The reality is that all we are trying to do is knock out high-cost timber sales. This is an attempt to continue to keep corporate welfare in this bill, and to try to get by on a technical amendment to knock this amendment out.

Mr. Chairman, I just cannot tell the Members how strongly I object to those that are not going to allow this issue to even be debated on the House floor. I paid attention to every single rule. The only thing that has happened is because, on a voice vote earlier this evening, an amendment was passed which knocked $10 million out of this bill, the number that I have written into the bill has been changed, and therefore, I am not allowed to offer the amendment.

Mr. Chairman, this is technocratic politics at its worst. It essentially denies anybody the ability of having an open debate about a critical issue before this country, and I would very much appeal that the Parliamentarian would rule in my favor and against the gentleman from Ohio [Mr. REGULA].

Mr. REGULA. Mr. Chairman, I respectfully submit that the gentleman from Massachusetts [Mr. KENNEDY] has discussed the merits of his amendment, but he has not addressed the point of order. I think the rules clearly state that this amendment is not in order at this time, or during the balance of the bill.

The CHAIRMAN. Does the gentleman from Massachusetts [Mr. KENNEDY] wish to be heard further on the point of order?

Mr. KENNEDY of Massachusetts. I would like to be heard further on the point of order, Mr. Chairman.

Again, Mr. Chairman, I would just like to point out that I know that the gentleman from Ohio [Mr. REGULA] is a fair-minded individual. We have worked closely on a number of other issues Mr. Chairman, I would just point out that this is really a technical way of knocking out and closing off debate on an important issue.

The reality is that if we are interested in being able to reduce the amount of money that this bill spends, because inadvertently there was a vote that prior to this time took place which knocked out $10 million, we are not going to be allowed to again open this bill and knock out further funds because of this technical rule, which dates back prior to the establishment of a Committee on the Budget. Why not allow this debate to go forward and have an up-or-down vote? I would appeal to the gentleman from Ohio to withdraw his point of order and to allow us to have the debate.

Mr. REGULA. Mr. Chairman, let me say, and again I respectfully submit that any Member can offer a point of order. If I were to withdraw, there will be another Member offer a point of order. The gentleman well knows this rule has been in place for along time. It was not established just in this particular term. It was a rule that was put in place by the gentleman's party. I think we have to respect the rules of the House. Clearly, this is subject to a point of order. If I as chairman of the committee were not to raise it, we have a lot of other Members ready to do so.

The CHAIRMAN. The Chair is prepared to rule on the point of order. For the reasons stated by the gentleman from Ohio [Mr. REGULA] the adoption of the Coburn amendment precludes the offering of the amendment of the gentleman from Massachusetts [Mr. KENNEDY] as printed in the RECORD under the Chair's rulings of March 15 and 16 of this year, so the point of order is sustained.

Are there further amendments to title II?

AMENDMENT OFFERED BY MR. SCHAEFER

Mr. SCHAEFER. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. SCHAEFER: Page 57, line 7, strike "$287,000,000" and all that follows through "Reserve" on line 21, and insert the following: $187,000,000, to remain available until expended, which shall be derived by transfer of unobligated balances from the "SPR petroleum account".

The CHAIRMAN. The gentleman from Colorado [Mr. SCHAEFER] is recognized for 10 minutes.

Mr. SCHAEFER. Mr. Chairman, I yield 5 minutes to the gentleman from Louisiana [Mr. TAUZIN] and I ask unanimous consent that he may use that time as he so wishes.

The CHAIRMAN. Is there objection to the request of the gentleman from Colorado?

There was no objection.

Mr. SCHAEFER. Mr. Chairman, I yield myself such time as I may consume. Mr. Chairman, I am offering this amendment today to protect a valuable asset of this country, and that is the Strategic Petroleum Reserve. This reserve has been in operation since the 1970s, and this in one case here, we are, in essence, cutting $100,000,000 in order to save the reserve, because in its wisdom, the committee decided they wanted to sell 7 million barrels of this particular oil in order to try and gain $100 million for the operation of the SPR.

Mr. Chairman, I think if we look at some of the past situations we have had with the Middle East oil situation where prices escalated, by dipping into the reserve we were able to hold that amount down, and the second thing is if we sell that oil, we have about $33 in it. If we sell it we may get $16 or $17. That does not make a lot of sense to me as far as this whole situation is. I just do not think economically we are thinking right, that this is the way to do it.

Mr. Chairman, I reserve the balance of my time.

Mr. REGULA. Mr. Chairman, I claim the time in opposition to the amendment, but I would like to withhold the use of my time so the gentleman from Louisiana [Mr. TAUZIN] can speak.

The CHAIRMAN. The gentleman from Ohio [Mr. REGULA] will be recognized in opposition to the amendment.

The Chair recognizes the gentleman from Louisiana [Mr. TAUZIN].

Mr. TAUZIN. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, the amendment before the House today is to strike from the bill the provisions that would allow the Government to sell 7 million barrels of our Strategic Petroleum Reserve. Why on earth would we want to sell 7 million barrels of the Strategic Petroleum Reserve, especially when we are going to sell it at one-half the price we acquired it for? Why would we want to sell one drop of that oil when we know how critical it is, how critical it was during the Persian Gulf conflict, in maintaining the price of oil for Americans, so that Saddam Hussein could not beat us at home economically when he could not beat us in the field of battle.

Mr. Chairman, this amendment needs to be adopted. We are more dependent on foreign oil today than ever in our history. DOE has recently confirmed it to the President, and said maintenance of the Strategic Petroleum Reserve is essential to national security. This is a bad move. This amendment corrects it. Members ought to vote for it.

Mr. Chairman, I reserve the balance of my time.

Mr. REGULA. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this is a budget-buster. Let me say it loud and clear, this is a budget-buster. We have in Weeks Island 70 million barrels of oil. Weeks Island leaks, so this is an environmental vote. A vote for this amendment is against the environment, because this leaking causes water to go into the oil. It allows seepage, and everybody agrees, we have to move the 70 million barrels.

It is going to cost approximately $100 million to move it into another SPR location. The only place we could find $100 million was to sell 7 million barrels. Instead of losing $100 million, we will move 63 million and sell 7 million first. This is a last-in-first-out. What went in the last, the last 7 million that went in was $17.50 a barrel, not $33. The market today is close to that amount. Therefore, logically, for environmental reasons, for practical reasons, we have no choice. We do not have another $100 million.

The gentleman from Louisiana [Mr. TAUZIN] mentioned national security. Let me tell the Members, we have SPR because of national security. However, if we do not take care of the SPR facilities, and I am talking about the hardware that is there to pump out the other 520 million barrels. We have 590 million barrels total. We want to sell only 7 million barrels out of a total of 590. The Secretary of Energy strongly endorses the sale, because if we do not sell this oil, the Secretary will have to take $100 million out of the rest of her budget which is designed to take care of the SPR facilities.

Some of this equipment is almost 20 years old. It has to be replaced. If we do not, in a period of national security crisis, it very possibly will not work.

Mr. DICKS. Mr. Chairman, will the gentleman yield?

Mr. REGULA. I yield to the gentleman from Washington.

Mr. DICKS. Mr. Chairman, let me ask the gentleman, is he saying if we do not sell the oil then we are going to be over our 602(b) allocation, and therefore we are going to have to cut back a whole series of other programs that are funded under this budget, whether it is the Forest Service or the Park Service, or heaven forbid, individual Member projects that have been funded in this bill?

Mr. REGULA. Reclaiming my time, Mr. Chairman, the gentleman is absolutely correct. We have no extra money. We are right to the allocation, which is, of course, about 11 percent less than last year.

If we do not sell the 7 million barrels to pay for taking care of SPR the other money in the budget is going back into maintaining the SPR facilities in top-notch condition. Therefore if there is an energy crisis, if there is a threat to national security, we can get the oil out of the ground. If we fail to have the sale, as provided in the bill, we do not know where the $100 million will come from.

I know where it will come from, it will come from letting the rest of the SPR facilities deteriorate. We have no extra money to do it so it is clearly a budget-buster. If Members are maintaining our reductions in the budget, if we are for maintaining an environmentally safe SPR we have to vote "no" on this amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. SCHAEFER. Mr. Chairman, I yield 1 minute to the gentleman from Virginia [Mr. BLILEY], chairman of the Committee on Commerce.

Mr. REGULA. Mr. Chairman, I yield 1 minute to the gentleman from Virginia.

The CHAIRMAN. The gentleman from Virginia [Mr. BLILEY] is recognized for 2 minutes.

Mr. BLILEY. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Colorado [Mr. SCHAEFER] and the gentleman from Louisiana [Mr. TAUZIN].

Mr. Chairman, we are all aware of the difficulties in balancing the budget. Sometimes in balancing the budget, we have to look for creative solutions to make ends meet. Today we are seeing a budget-balancing act that is just about as creative as we can get. We are balancing the budget by buying high and selling low. H.R. 1977 allows the sale of 7 million barrels low in order to raise $100 million to close a Strategic Petroleum Reserve facility and to pay for some of the operations of the remaining facilities.

The average cost of acquiring and storing oil in the reserve is $33.50 a barrel. Because of current oil prices, we will probably get about $15 per barrel. This is foolishness. It is just plain common sense that buying high and selling low will never balance the budget. During the Persian Gulf crisis, this oil was vital. If we have another crisis, it will be vital again. If we do this today, we will be doing it forever.

Mr. REGULA. Mr. Chairman, will the gentleman yield?

Mr. BLILEY. I yield to the gentleman from Ohio.

Mr. REGULA. Mr. Chairman, I would ask the gentleman, where does he suggest we get the $100 million to take care of the balance of the SPR facilities, the 583 million barrels that will be left?

Mr. BLILEY. Mr. Chairman, I am sure that the distinguished chairman of the subcommittee, who has long experience on this committee, knows exactly where to get it if he needs to get it.

The fact of the matter is if we sell this today for this case, next year when we have an even more difficult time to balance the budget, we will be back selling more, and pretty soon there will be nothing in the SPR, and when we have a crisis, as we surely will in the future, with oil disruptions, and we need this SPR, it will not be there. I thank the gentleman for yielding time to me.

Mr. TAUZIN. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Michigan [Mr. DINGELL], the ranking minority member of the Committee on Commerce.

Mr. DINGELL. Mr. Chairman, he who does not learn from history is doomed to repeat it. This House has debated time after time the energy crisis which we had in the 1970's and 1980's. To deal with that, one of the principal weapons we achieved was to set aside the Strategic Petroleum Reserve, which was supposed to constitute 1 billion barrels. We have 592, less than half of what it is.

This bill, in an improper procedure which had to be sanctified by an immunity bath given by the Committee on Rules, which waived points of order against this particular proposal, which would be subject to a point of order as legislation in an appropriation bill, has presented us a device which will encourage this country to buy oil at $33.50 a barrel and sell it for $15. The net cost of this kind of folly is twofold. One, it is going to cost this country $106 billion that we are going to lose. The total cost of what we are going to sell is going to be double that. The loss is $106,500,000.

However, the real loss is if this country gets into some kind of a crunch, because when this country produces less than half the oil that it uses, the one mechanism we have to protect our industry, to protect our military, to enable us to protect the force that is necessary to defend ourselves, and to address the problem of stabilizing the petroleum market, is the Strategic Petroleum Reserve. Adopt the amendment, reject the language of the bill, and let us get down to the business of legislating wisely.

□ 2100

Mr. REGULA. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, let me make it clear again, the last 7 million barrels cost us $17.50, not $33. That is a straw man. That is just put out there to confuse the issue. The real cost is $17.50.

But the real cost in terms of national security will be a diminution of the ability to use the balance of the 583 million barrels of oil if we do not take care of the SPR facilities. The facilities are wearing out, and they need to be replaced. This is information I get from the Secretary of Energy. The SPR facilities, when called upon to respond to a national crisis, will not be able to do so.

Because we do not have $100 million without the sale, therefore we have no choice but to take that $100 million out of the money designed to maintain SPR in top quality condition. It will have an enormous impact on the ability to use SPR in the future.

I know this sounds easy to vote to not sell the oil and let somebody else worry about the $100 million. Somebody, I do not know exactly who, but I know what the Secretary of Energy will do. She will not be able to take care of SPR. Therefore, I think it would be a very poor judgment.

I have no objection to the Committee on Rules bringing this out, even though it is subject to a point of order in protecting it. I think it is a very important policy issue. I think 435 Members ought to vote on it. If you want to let SPR deteriorate, vote for the amendment. If you want to maintain the facilities in first-class condition and not bust the budget, vote against the amendment.

If you care about the environment, vote against the amendment, but these facilities are leaking at Weeks Island. There is agreement that we have to move the 70 million barrels to another location. It costs money to move that oil.

Mr. TAUZIN. Mr. Chairman, I yield 1 minute to the gentleman from Massachusetts [Mr. MARKEY].

Mr. MARKEY. I thank the gentleman for yielding me the time.

Mr. Chairman, the Strategic Petroleum Reserve is aptly named. Strategic comes from its military importance to our country. The reason that we need the Strategic Petroleum Reserve is that it calms our economic, our financial and our energy marketplaces during military crisis, during crises in the Middle East. It gives the United States time to think. It allows our financial markets the time to be able to absorb the shock which is coming out of the Middle East.

More important than the B-2 bomber, more important than the Strategic Defense Initiative, the Strategic Petroleum Reserve in a modern world, where most of the risks are going to come from places that we can identify that send shocks throughout our system, it is needed in order to give us the time to think. It tells our enemies that they cannot panic our economy the way in the 1970's we were panicked.

Let us vote not to reduce it. If we need to spend the money, let us find it from the other defense items which are less important than the role which the Strategic Petroleum Reserve has played over the last 20 years in telling our enemies they cannot spook us.

Mr. REGULA. Mr. Chairman, I reserve the balance of my time.

Mr. SCHAEFER. Mr. Chairman, I yield 1½ minutes to the gentleman from Illinois [Mr. HASTERT].

Mr. HASTERT. Mr. Chairman, this is a common sense issue. It is about economics and it is about common sense. First of all, this debate about being an environmental issue, that is ridiculous. You pump water into this well to raise the oil to pump it out in the first place. There is not one drop of oil that has gone out of this reserve into any natural environment, so let us not talk about that.

The second point is we have to have a billion barrels of oil to protect our military, to protect our economy against what could happen, our trust in the Middle East. We do not know what those people are going to do. We do not know what is going to happen to us in the Middle East.

But if we give it away, we do not have the billion barrels of oil. We have 591 million barrels. What happens is, sure, the last 7 million cost $17.50 a barrel. But there are 591 million barrels that cost us $33 a barrel, so the average cost of that barrel of oil is about $32.27.

If we want to sell something for $15 that we bought for $32, I have got a lot of good deals for you. But in order to keep the integrity of our economy, the integrity of our defense and the integrity of the whole SPR system, we have to defeat what is there. We have to pass the Schaefer amendment. I ask for an expedient effort to do so.

Mr. TAUZIN. Mr. Chairman, I yield 1 minute to the gentleman from New Jersey [Mr. PALLONE], ranking minority member of the Subcommittee on Energy of the Committee on Commerce.

Mr. PALLONE. Mr. Chairman, I have the greatest respect for the gentleman from Ohio [Mr. REGULA], the chairman, but I have to say from listening to the debate today, it is very obvious to me that it is inappropriate for us to move this Strategic Petroleum Reserve without having a hearing, without having action by the authorizing committee. We have not had a single hearing on this issue in our subcommittee.

The talk about the environmental impact, we do not really know what the environmental impact is. Just listening to the debate in the last few minutes here, you can see there is great variation in terms of how people feel the environmental impact is going to be or what it is going to mean to move this reserve component.

In addition to that, we are talking about a situation now where something like 50 percent of our oil that we use in this country is imported oil. We know this is a major problem.

I listened to the gentleman from Ohio [Mr. REGULA], the chairman, before when he talked about a previous amendment and he talked about how we do not want to go back to the long lines that existed in the 1970's during the oil crisis. The Strategic Petroleum Reserve is designed to prevent that from happening again.

It makes no sense, at this hour when we really have not looked at the issue, when the authorizing committee has not had a hearing, to move on such an important issue on an appropriations bill. I ask that this amendment by the gentleman from Colorado [Mr. SCHAEFER] be supported.

Mr. SCHAEFER. Mr. Chairman, I yield myself the balance of my time.

The CHAIRMAN. The gentleman from Colorado is recognized for 1 minute.

Mr. SCHAEFER. Mr. Chairman, in my last 1 minute, I just want to make one point that has not been made at this point in time. That is, of that $100 million that we have been talking about from the sale of the 7 million barrels of oil, which by the way is in the district of the gentleman from Louisiana, only $60 million is going to be going for closing down Weeks Island. The rest of it is for general operations.

So we are not talking about something that we are going to get into immediately, and no new money has been appropriated to reserve this year. I fully expect next year when a $250 million bill comes up, you know we are going to jump into that giant piggy bank in Louisiana and find some more dollars somewhere.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. SCHAEFER. I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, the amount of the sale is $200-plus million. The amount which is wasted in selling at half the cost the government paid for it is over $100 million. That is the economy we are practicing here tonight.

Mr. SCHAEFER. The gentleman is correct.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The gentleman from Ohio [Mr. REGULA] has the right to close.

Mr. TAUZIN. Mr. Chairman, I yield myself the balance of my time.

The CHAIRMAN. The gentleman from Louisiana is recognized for 1 minute.

Mr. TAUZIN. Mr. Chairman, I will tell you a quick story. I was privileged to join senior members of the Congress in a visit to the Persian Gulf right before the outbreak of hostilities there.

When we returned, the President asked us to the White House to seek our advice on anything we had noticed, anything we had seen that he ought to know about before we entered that period of crisis. He called upon me for a word of advice.

When you are called upon by your President in a period of crisis, you think long and hard. The one advice I gave the President then was, "If and when hostilities break out and the price of oil begins to ratchet up rapidly as the oil traders take advantage of us, be prepared to announce in that severe crisis that the strategic petroleum oil is available to our marketplace."

The President, whether he took my advice or others, did exactly that. The oil traders, when the outbreak of hostilities occurred, immediately began to ratchet the price up. The price of oil began going up rapidly every day as that crisis accelerated. The President announced that the Strategic Petroleum Reserve would be available in the American marketplace if it went any higher and immediately the price dropped.

That is how critical this reserve is. Do not sell a drop of it. Vote for the Schaefer-Tauzin amendment.

Mr. REGULA. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, I feel like the Lone Ranger on this one. You notice there has been overwhelming support for it. I think I am the only one that has spoken, but as chairman of the committee, I am saying you have to make responsible judgments when you mark up a bill.

This is what the Secretary of Energy said in the hearing. I said, "What are the budget implications for the SPR program?" I believe in SPR. I have been working for years in that committee to put oil in SPR, but what are the implications if you do not get authority to sell Weeks Island oil and use the proceeds?

Answer, Secretary of Energy: If the Department does not obtain authority to sell 7 million barrels of Strategic Petroleum Reserve oil and use the proceeds, the Department would necessarily reduce Strategic Petroleum Reserve site security, reduce the guards, reduce the security, draw down readiness of delivery systems, machinery will be in disrepair, curtail maintenance and life extension activities and defer some Weeks Island decommissioning requirements.

Mr. DICKS. Mr. Chairman, will the gentleman yield?

Mr. REGULA. I yield to the gentleman from Washington.

Mr. DICKS. Mr. Chairman, in essence what the gentleman is saying is one of the biggest problems has been getting the oil out of the ground, and we are going to undermine the ability to do that. So this reserve that we think is going to be there to help us in the crisis, as a result of striking out your amendment, will make it less plausible that the oil will be there because we will not be able to maintain the strategic petroleum oil reserve.

I want to associate myself with the gentleman. I think he is doing the right thing here. I think if we cut $100 million out of this bill, we will make a very serious mistake, because it is going to undermine the bill and put us in a situation where we are over our 602(b) allocations.

Mr. REGULA. Reclaiming my time, just let me say again, the gentleman mentioned that there was no problem environmentally. There is a problem. This oil is stored in a salt cavern. The soil is leaching into the aquifer, so there is a problem.

In the absence of being able to sell any of the oil, the Secretary may not be able to decommission Weeks Island. We may lose 70 million barrels instead of 7 to contamination. I have to say to you again, after the hearing, listening to the testimony, it was my judgment in putting together the chairman's mark that this was responsible management of SPR. I am an advocate of SPR.

Mr. YATES. Mr. Chairman, will the gentleman yield?

Mr. REGULA. I yield to the gentleman from Illinois.

Mr. YATES. Mr. Chairman, the gentleman and I were in charge of providing the initial appropriations for the Strategic Petroleum Reserve.

Mr. REGULA. The gentleman is correct.

Mr. YATES. If the gentleman will yield further, we have reviewed the Strategic Petroleum Reserve from its beginning. We have followed it thoroughly. We have had oversight hearings. We know just about everything that one should know about it. In this case the gentleman from Ohio is exactly right, and I hope the House sustains him.

Mr. REGULA. Reclaiming my time, I thank the gentleman for his comments.

Mr. DICKS. Mr. Chairman, if the gentleman will yield further, we are saying now we have got 590 million barrels in this reserve.

Mr. REGULA. The gentleman is correct.

Mr. DICKS. And we are talking about 7 million to deal with this emergency situation, and we are still going to have a very large and significant reserve. This is less than 1 day's imports.

Mr. REGULA. The gentleman is correct.

Mr. DICKS. If the gentleman will yield further, I think this is a pragmatic decision on the part of the chairman. I think we ought to support him.

Mr. REGULA. Mr. Chairman, I strongly urge Members to vote against this amendment. It is good management and the only alternative we have.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Colorado [Mr. SCHAEFER].

The question was taken; and the Chairman being in doubt, the committee divided, and there were—ayes 8; noes 19.

Mr. TAUZIN. Mr. Chairman, I demand a recorded vote, and pending that I make a point of order that a quorum is not present.

The CHAIRMAN. Pursuant to the rule, further proceedings on the amendment offered by the gentleman from Colorado [Mr. SCHAEFER] are postponed.

The point of no quorum is considered withdrawn.

□ 2115

AMENDMENT OFFERED BY MR. SANDERS

Mr. SANDERS. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

> Amendment offered by Mr. SANDERS: Page 55, line 5, strike "$384,504,000" and insert "$284,504,000".
>
> Page 56, line 3, strike "$552,871,000" and insert "$652,871,000".
>
> Page 56, line 10, strike "$133,946,000" and insert "$233,946,000".
>
> Page 56, line 17, strike "$107,446,000" and insert "$207,446,000".

POINT OF ORDER

Mr. REGULA. Mr. Chairman, I have a point of order against the gentleman's amendment.

The CHAIRMAN. The gentleman will state his point of order.

Mr. REGULA. Mr. Chairman, I make a point of order against the gentleman's amendment because it seeks to amend a paragraph previously amended.

In the procedures in the U.S. House of Representatives, chapter 27, section 27.1, it states as follows:

> It is fundamental that it is not in order to amend an amendment previously agreed to. Thus, the text of a bill perfected by amendment cannot, thereafter, be amended.

Mr. Chairman, this amendment seeks to amend a text previously amended and is, therefore, not in order.

The CHAIRMAN. Does the gentleman from Vermont [Mr. SANDERS] wish to be heard on this point of order?

Mr. SANDERS. Mr. Chairman, it was my intention to withdraw this amendment and announce my support for another amendment to follow. I would respectfully request unanimous consent to have 5 minutes to explain my position.

The CHAIRMAN. Does the gentleman reserve his point of order?

Mr. REGULA. Mr. Chairman, yes, I reserve my point of order.

The CHAIRMAN. The gentleman from Vermont is recognized for 5 minutes.

Mr. SANDERS. Mr. Chairman, what I, and in a few moments the gentleman from Pennsylvania [Mr. FOX], are attempting to do is something that is extremely important and that is to transfer $50 million into the low-income weatherization assistance program.

I have proposed taking money from the Fossil Energy Research Fund. The gentleman from Pennsylvania [Mr. FOX] has another fund. But what is most important is that we replenish the fund that has been severely cut.

Without this amendment, the bill provides for only half of the weatherization funds that were provided for last year. That is a cut of more than $100 million.

What I am attempting to do, and what the gentleman from Pennsylvania [Mr. FOX] is attempting to do, is to restore $50 million to that fund.

Mr. Chairman, the low-income weatherization assistance program is an enormously sensible and cost-effective partnership between the Federal Government and local and State governments. What weatherization does in Vermont, and in every state in America, is prevent the waste of energy, whether that energy is oil, gas, electric, or whatever.

It is enormously inefficient for low-income people all over this country to waste fuel because their homes or apartments lack adequate insulation, windows, or efficient heating or cooling systems.

The Department of Energy reports that this program has a favorable benefit-cost ratio of 1 to 1.61. That is, for every $1 we invest in weatherization, we get $1.61 in energy savings and economic benefits.

Clearly, if we are interested in saving money, that is not the program to cut.

Mr. Chairman, we should be clear that this is a program that works well, not only in northern States but in every State in America. It is a national program that provides for the cold weather States and the warm weather States as well.

Weatherization assistance is a prime example of a successful Federal-State-community partnership. Each year, State and local resources leverage an additional $200 million for weatherization, doubling the core Federal funds.

Mr. FOX of Pennsylvania. Mr. Chairman, will the gentleman yield?

Mr. SANDERS. I yield to the gentleman from Pennsylvania.

Mr. FOX of Pennsylvania. Mr. Chairman, the fact is we do have an amendment before the desk that we would like to present which would be an amendment for weatherization.

Mr. REGULA. Mr. Chairman, my point of order is pending here. I do not think we can go to another amendment. And I renew my point of order against it.

The CHAIRMAN. Does the gentleman from Vermont [Mr. SANDERS] wish to be heard on the gentleman's point of order?

Mr. SANDERS. Mr. Chairman, all over this country we have elderly people who must in their homes, in order to survive, prevent their homes from becoming very, very cold or in fact very, very warm. The Chairman is aware that today on the front page of the Washington Post was an article about the suffering of so many people whose homes have overheated and, in fact, 200 deaths have occurred.

Mr. Chairman, I will ask for support of the Fox amendment, which will follow. This is a humane amendment and a cost-effective amendment. It makes no sense to waste energy and to increase human suffering.

Mr. REGULA. Mr. Chairman, I renew my point of order.

The CHAIRMAN. Does the gentleman from Vermont want to be heard further on this point of order?

Mr. SANDERS. No, Mr. Chairman, I am finished.

The CHAIRMAN. The Chair is prepared to rule on the point of order. For the reasons stated by the gentleman from Ohio [Mr. REGULA], the adoption of the Kleczka amendment precludes the offering of the amendment of the gentleman from Vermont as printed in the RECORD under the Chair's rulings of March 15 and 16 of this year.

The point of order is sustained.

AMENDMENT OFFERED BY MR. SKAGGS

Mr. SKAGGS. Mr. Chairman, I offer an amendment, No. 64.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. SKAGGS: On page 56, line 3, strike "$552,871,000," and in lieu thereof insert "$567,871,000"; page 56, line 10, strike "$133,946,000" and in lieu thereof insert "$148,946,000"; on page 56, line 17, strike "$107,446,000" and in lieu thereof "$120,446,000"; and on page 56, line 18, strike "$26,500,000" and in lieu thereof insert "$28,500,000".

MODIFICATION TO AMENDMENT OFFERED BY MR. SKAGGS

Mr. SKAGGS. Mr. Chairman, I ask unanimous consent to modify the amendment and offer the amendment that I have at the desk in its revised form.

The CHAIRMAN. The Clerk will report the modification.

The Clerk read the modification, as follows:

Amendment, as modified, offered by Mr. SKAGGS:

AMENDMENT NO. 64

On page 56, line 3, strike "$552,871,000", and in lieu thereof insert "$556,371,000"; page 56, line 10, strike "$133,946,000" and in lieu thereof insert "$148,946,000"; on page 56, line 17, strike "$107,446,000" and in lieu thereof insert "$110,946,000".

The CHAIRMAN. Is there objection to the request of the gentleman from Colorado?

There was no objection.

Mr. SKAGGS. Mr. Chairman, this amendment would add into the weatherization program the available monies now existing underneath our 602(b) allocation budget authority of about $3.5 million that has been freed up by virtue of earlier amendments adopted this evening.

Mr. Chairman, I could not agree more with the arguments made by the gentleman from Vermont [Mr. SANDERS], and I anticipate being made by the gentleman from Pennsylvania [Mr. FOX]. I would like to do much more to increase weatherization. I think this modest increase is all that is practicable, given the restraints on the bill. I would urge my colleagues to support it.

Mr. REGULA. Mr. Chairman, I respect the effort by a member of the subcommittee, the gentleman from Colorado [Mr. SKAGGS], and we have no objection to the amendment. We think it is logical. Under the circumstances, it does not have any impact on our 602(b) allocation.

Mr. YATES. Mr. Chairman, on our side, we accept the amendment as well.

The CHAIRMAN. The question is on the amendment, as modified, offered by the gentleman from Colorado [Mr. SKAGGS].

The amendment, as modified, was agreed to.

AMENDMENT OFFERED BY MR. CHABOT

Mr. CHABOT. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. CHABOT: Page 73, strike line 16 and all that follows through page 74, line 15.

The CHAIRMAN. The gentleman from Ohio [Mr. CHABOT] is recognized for 10 minutes.

Mr. CHABOT. Mr. Chairman, we face a lot of hard budget choices, but we have still got some pretty easy decisions to make as well, like ending the National Endowment for the Humanities, the NEH. My amendment would do just that.

Mr. Chairman, this amendment will save the taxpayers of this country nearly $100 million and that is why groups like the National Taxpayers Union, Citizens Against Government Waste, Citizens for a Sound Economy, and Americans for Tax Reform have all weighed in and strongly support this amendment.

We will have to make some sacrifices, sacrifices like the Conversation Kit that the NEH has produced to teach folks how to talk to one another. It is true, the National Endowment for the Humanities spent $1.7 million to teach the American public how to talk to each other.

They also, in that same kit, suggested that there are conversation starters from obscure movies like "Casablanca" that we ought to watch and then we all can talk about the movie, and they have spent tax dollars in order to educate the American public so we can all talk to each other. I think that is absurd.

I, for one, do not really think that we need the Federal Government spending our money to tell us that we should watch "Casablanca." But I am here to tell you that the NEH folks, they have not backed off one bit from their view that the Conversation Kit represents the best use of the NEH dollars.

Consider some of the other ways that the NEH has spent our tax dollars. They spent $114,000 to Catholic University to support the preparation of a database for indexes for Gregorian chants. They spent $135,000 for 24 college teachers to travel to a summer institute to chat about sex and gender in the Middle Ages.

They spent $201,000 for Laurie Conlevit of Filmmakers Collaborative for a feature length documentary of the life and world of the 18th century midwife, Martha Ballard. They gave $400,000 to Doran H. Ross at UCLA for something called the "Art of Being Cuna," which is an expressive culture of some islands in Panama.

Now, many of these projects I am sure, are nice to do if we have got the money to do it. I would argue that at a time when we are serious about finally balancing the Federal budget, that we should not be spending hard-earned taxpayers' dollars on the NEH at this point. These types of programs, if they are going to be funded, should be funded privately through philanthropy, not Federal tax dollars.

But the problem is not just that the NEH wastes tax dollars; it also breeds arrogance in the culture bureaucrats who sneer at the citizens who pay the freight. I recently received a letter from the chief NEH functionary in Ohio who asserted, and this is his exact language, "If there were no NEH, the public intellectual life of Ohio would shrink considerably."

I have little doubt that he actually believes that and, perhaps, in his limited circle the intellectual climate is indeed that errant. But the intellectual life of Ohio is strong, it is vibrant and, I might add, that it predates 1965, when the NEH was formed. We got along just fine before Federal tax dollars started being spent for this back in 1965.

□ 2130

Mr. CHABOT. Mr. Chairman, I know a very good way that we can save the $9.5 million in the next fiscal year, and that is to defund the NEH. Even the most distinguished former chairman of the NEH, Lynn Cheney, has concluded that the NEH does more harm than good and should be eliminated. I urge support for this amendment.

Mr. Chairman, again, I want to emphasize something very strongly, and that is that I am not against the arts, and neither are any of my colleagues who are in favor of defunding the NEH. What we are in favor of is finally balancing the Federal budget.

I have people in my district, mothers and fathers who work two jobs to pay their taxes, and they are willing to make some sacrifices. I would argue very strongly that if we are serious about balancing the budget, things like the NEA and the NEH should be supported by private dollars, not by our Federal tax dollars.

Mr. Chairman, I will reserve the balance of my time.

The CHAIRMAN. The gentleman from Illinois [Mr. YATES] is recognized for 10 minutes in opposition to the amendment.

Mr. YATES. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, NEH and the National Endowment for the Humanities is a unique organization. It fosters democracy in this country; it fosters all of the elements of democracy in this country. Every year the National Endowment for the Humanities enables over 3,200 teachers from all over the country to participate in teacher institutes and summer seminars that help them improve their teaching. What do they teach? These are the teachers who teach history, languages, philosophy, ethics, religion, literature, arts. In other words, the very foundation of a democracy.

This organization as well is currently engaged in preserving all of the old books that are disintegrating with time. The NEH's Brittle Books Program has already preserved almost three-quarters of a million volumes.

NEH is an outstanding organization of approximately 100,000 grants that have been made since 1965 when the organization was created without a breath of scandal.

Mr. CHABOT. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from California [Mr. ROHRABACHER].

Mr. ROHRABACHER. Mr. Chairman, I see some of my old and dear friends discussing an issue that I discussed, which was this issue as well as the National Endowment for the Arts, shortly after I first came to Congress.

Mr. Chairman, I rise in strong support of Mr. CHABOT's amendment.

The Appropriations Committee has done a good thing in this bill by reducing the appropriation for the National Endowment for the Humanities with the intention of completely eliminating funding in 3 years. However, I believe that this Congress should go further.

The citizens of this country sent a strong message to this body last November to cut both the size and scope of the Federal Government. If we are truly serious about reducing the dangerously high level of deficit spending, we must have the courage to cut from the Federal budget anything that is not absolutely necessary for the Federal Government to do.

When I first ran for Congress in 1988, I campaigned in support of eliminating unnecessary Federal programs such as the National Endowment for the Humanities, the National Endowment of the Arts and the Corporation for Public Broadcasting. The National Endowment for the Humanities, which was begun 30 years ago with a $5.5 million appropriation, has exploded into an agency which consumed $177 million of Federal money in fiscal year 1995. At a time when our Government has piled up trillions of dollars of debt and is struggling to fund critical programs such as Medicare, housing and education, Congress should not continue to appropriate precious taxpayer dollars to subsidize this program.

I urge my colleagues to support the Chabot amendment to zero out funding for the NEH. We need to show the American people we mean business by getting the Federal debt under control. We can't leave taxpayer-funded arts and humanities in place when we find it necessary in the name of balancing the budget to cut programs that are much more vital to the lives and health of needy American citizens.

Mr. Chairman, I would congratulate the gentleman from Ohio [Mr. CHABOT] for the amendment that he has offered, his courage, his responsibility, and sense of responsibility for offering this very positive amendment.

Mr. DICKS. I yield 1 minute to the distinguished gentleman from Montana [Mr. WILLIAMS].

Mr. WILLIAMS. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I say to my colleagues, do not kill the NEH. Reflection matters; the Nation's memory matters; publications, translations, research, education matters; identity matters; conversation counts; distinctions matter; history matters; the National Endowment for the Humanities matters. It is this Nation's singular effort to expand and foster the development and availability of these things that matter.

There are a lot of things in America that matter. You cannot see them, but they matter, and they matter more than bridges and highways and B-1's, as important as those are. The humanities and those things that it expands and protects and preserves and fosters matter. Please do not cut or eliminate the National Endowment for the Humanities. The humanities matter.

Mr. CHABOT. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, I would agree with the gentleman that many of these programs do matter. My argument is very simple. Despite the fact they matter. My argument is very simple. Despite the fact they matter, they should be paid for with private dollars, basically through philanthropy, not through Federal tax dollars. If we are serious about balancing this budget, these are the types of programs that we are going to have to take a very close look at. The Federal Government just cannot afford to go on paying for these types of programs, however nice they might be. If we are going to balance the budget, these are the types of programs that we have to cut.

Mr. REGULA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I take this time to explain to the Members what the program will be for the balance of the evening. The leadership on both sides have reached an agreement to continue to debate all amendments to Title II and close out Title II, but the votes on Title II, there is one pending and this one I am sure will be pending and any others, votes on Title II amendments will all be rolled over to tomorrow. So for the Members that are interested, there will be no more votes tonight.

The House meets on Tuesday at 10 a.m., and the order will be 1 minute; then we are going to do the rule on Treasury-Post Office, and Treasury general debate tomorrow, and then we will return to Interior. We will do the votes that have been rolled over from tonight. There are approximately four or five amendments left for title II. Then we will, of course, finish title III and complete the bill tomorrow.

Mr. Chairman, this is an agreement that has been reached by leadership on both sides, and I will say at this point two things. Any Members who have colloquies, it would be helpful if we could do those tonight to save time tomorrow.

Second, I would ask unanimous consent, and this is just for information only, for myself and the gentleman from Illinois [Mr. YATES] to each have 5 minutes before we do the roll-over votes to just refresh the information of all of the Members as to what votes will be coming up, because it will be a 15-minute plus the fives.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. DICKS. Mr. Chairman, I yield a minute to the distinguished gentleman from Colorado [Mr. SKAGGS].

Mr. SKAGGS. Mr. Chairman, I rise in opposition to the gentleman's amendment. I think the gentleman from Montana put the case very well regarding the fundamental need for any civilization, and certainly our American civilization, to make some modest investment in understanding its history, where this country has been, where our roots are, so we can better understand where we would take the Nation in the future, as a people, and especially the leadership here in Congress.

That is a broad abstraction. Some specifics: without the Endowment, we will lose the record of so much of this country's past, in the form of the Endowment's program to preserve the newspapers of America. Without the Endowment, that program vanishes. Without the Endowment, we will not through the private sector have the program, now funded through the Endowment, to collect and integrate and explain the papers of the great figures in American history. We are now in the middle of the papers, for instance, of Benjamin Franklin.

These are critical elements in the American people's understanding of our roots and therefore their ability to understand our potential, our future, to guide us in making intelligent judgments about where this country should be headed.

Mr. Chairman, I urge my colleagues to defeat the gentleman's amendment.

Mr. DICKS. Mr. Chairman, I yield 1 minute to the gentleman from Pennsylvania [Mr. GOODLING], the distinguished chairman of the Education and Labor Committee.

Mr. GOODLING. Mr. Chairman, I rise in opposition to the amendment. As the authorizing committee, we did the proper thing. We orderly phased out the program over a 3-year period so that the private sector could pick up the very useful things that are done in this program. I might also say that the committee's funding is below our authorized phaseout figures.

Mr. Chairman, let me very quickly talk about some of the good things.

Ken Burns' Civil War series, Ken Burns' Baseball series, Historian David Brion Davis' Pulitzer Prize-winning "Slavery and Human Progress," publication of the journals of Henry David Thoreau, "Archaeological Treasures from the People's Republic of China," the seven-part television series "Columbus and the Age of Discovery," preservation of important Presidential papers, preservation of brittle books, preservation of historic newspapers. All of these things are things that are done. I think the phaseout that we have proposed from our committee is the way to do this.

Mr. Chairman, let me just say, people got upset, as all of us did, over some of the things that came out on history standards. It was not the standards themselves, if you look at the standards carefully. What came out was the booklet that went to the teachers for the teaching of the standards. The chairman of this committee, myself, called the chairman of that committee that wrote those teacher benefit programs and called him on the carpet, told him to scrub them, told him that no one asked him to write curriculum, and then we took the money away from him to do anything else.

Mr. Chairman, I would say the phaseout that our authorizing committee has done is the way we should go.

Mr. CHABOT. Mr. Chairman, I yield 30 seconds to the gentleman from Washington [Mr. TATE].

Mr. TATE. Mr. Chairman, first of all, I would like to commend the gentleman from Ohio for bringing this amendment forward. We have heard a lot of talk tonight about the importance of different programs. What it really comes down to, it might be 100 million here, 100 million there. It adds up.

What we are really talking about is burdening our children with more debt. There might be some great programs good ideas, things we really need. But does my daughter have to pay for this huge debt that is coming her way? That is what it really comes down to, the future of our children. These may be important programs. But is it that important that we want to fund another $100 million to put more of a debt and more of a burden on our children. Let us do it tonight and let us end it.

Mr. Chairman, I urge your support of the Chabot amendment.

□ 2145

Mr. DICKS. Mr. Chairman, I yield 1 minute to the distinguished gentlewoman from California [Ms. PELOSI].

Ms. PELOSI. Mr. Chairman, I thank the gentleman for yielding time to me.

I rise in opposition to this amendment. I am so pleased that the House earlier defeated the Stearns amendment because I put both of these amendments in the same category. They ignore the central fact that the arts and humanities are important to our very existence as a country.

The poet Shelley once wrote that the greatest force for moral good is imagination. So when we talk about the arts and humanities, we are not only talking about those disciplines, we are talking about what they do to and for people, the confidence they build in our young students.

Mr. Chairman, when I go into their neighborhoods, some of the poor neighborhoods in my district, the parents there will say, I know they are concerned about jobs and crime, et cetera, in their neighborhoods, but they will say, Please do not cut funding from the arts and humanities. This gives our children hope.

They build confidence in themselves by engaging in the higher ideals of life that they learn through the arts and the humanities. So I hope that our colleagues will defeat this amendment, with all due respect that I have for the author of the amendment.

I urge a no vote on this amendment.

Mr. CHABOT. Mr. Chairman, I yield myself 30 seconds.

I agree with the gentlewoman that the arts and the humanities are very important. I agree that they certainly have a place. The argument here, the real question is, should it be Federal tax dollars, $100 million in 1 year of Federal tax dollars to go to the National Endowment for the Humanities? I think not. The National Taxpayers Union, the Citizens Against Government Waste, Citizens for a Sound Economy and Americans for Tax Reform, all strongly support this amendment to defund the National Endowment for the Humanities.

Mr. DICKS. Mr. Chairman, I yield 1 minute to the distinguished gentlewoman from Florida [Mrs. FOWLER].

Mrs. FOWLER. Mr. Chairman, I rise in strong opposition to the amendment by the gentleman from Ohio.

The committee's bill provides for a 40 percent cut and the elimination of the NEH over 3 years. This allows for an orderly end to Federal funding while providing the State humanities councils an opportunity to finish existing ongoing projects, to find alternative funding sources, or to achieve the necessary reprogramming of State funds.

As a former chairman of the Florida Humanities Council, I know that the NEH provides important programs in many of our districts. The NEH is critical in providing funding and seed money for museums, libraries, language programs and historical programs.

In Florida, the NEH was responsible for helping to replace the library resources, books, maps and other documents ruined by hurricane Andrew.

In spite of its laudable work, I support phasing out Federal funding for the NEH. Like many other useful federally funded projects, the NEH must learn to do more with less and must learn to survive without our scarce Federal tax dollars.

I support the committee's recommendation to eliminate funding for the NEH over a 3-year time frame. I urge my colleagues to oppose this amendment.

Mr. CHABOT. Mr. Chairman, I yield such time as he may consume to the gentleman from Kentucky [Mr. LEWIS].

Mr. LEWIS of Kentucky. Mr. Chairman, I rise in strong support of the Chabot amendment.

Mr. DICKS. Mr. Chairman, I yield 1 minute to the distinguished gentlewoman from Connecticut [Mrs. JOHNSON].

Mrs. JOHNSON of Connecticut. Mr. Chairman, I rise in strong opposition to the proposed amendment. The gentleman from Ohio asks, why should these be federal tax dollars? The answer is that there are projects that NEH funds that no private sector group, no corporation, no individual could possibly fund.

The brittle books program is a good example. NEH will save 12 million unique items, books, maps, music scores from literally crumbling. How can a great nation shape its future if it does not have the information through which it must understand its past?

NEH is also developing a project through which it will put the Founding Father's papers on the computer system so that children in public schools and libraries all over America can read George Washington's letters and Thomas Jefferson's notebooks in their school libraries.

This has been a privilege reserved only to those in the most elite institutions. That is the kind of thing that NEH does. That is why it is nationally funded, because it serves a national purpose that addresses the needs of all of our children and adults, to understand who we are, how we got here and to help in the great mission of shaping America's future.

I urge opposition to the amendment.

Mr. CHABOT. Mr. Chairman, I yield 30 seconds to the gentleman from California [Mr. ROHRABACHER].

Mr. ROHRABACHER. Mr. Chairman, the gentlemen from Ohio has stated over and over again, this is not a question about the humanities. It is a question of who is going to finance the very work that we have heard about. I hope some of you have noticed that there is something in this country besides the government and the taxpayers. We have got foundations. We have got universities. We have not-for-profit and for-profit people who do things like this. Ted Turner, for example, just worked and restored so much film that has preserved this part of our history, not one cent of government money. But if the government as going it, I can tell you, it would have cost a lot more money, and it would have cost the taxpayers more.

Let us leave this up to the private sector where it can be done without fleecing the taxpayer.

Mr. DICKS. Mr. Chairman, I yield such time as he may consume to the gentleman from Vermont [Mr. SANDERS].

Mr. SANDERS. Mr. Chairman, I rise to strongly oppose this amendment. We spend less than any other country in the world on the humanities. We should continue to fund it.

Mr. DICKS. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Texas [Ms. JACKSON-LEE].

Ms. JACKSON-LEE. Mr. Chairman, I rise to vigorously oppose this amendment, undermining the NEH which helps to spread the word of our culture and this nation, as I did oppose the undermining of the NEA, because that, together with the NEH, is the basis of our nation.

Mr. DICKS. Mr. Chairman, I yield 30 seconds to the distinguished gentlewoman from Maryland [Mrs. MORELLA].

Mrs. MORELLA. Mr. Chairman, I rise in opposition in strong opposition to this amendment that would eliminate the National Endowment for the Humanities. As has been mentioned, we have teachers throughout the country that have been undergoing courses to help to teach. We have had films of the Civil War, baseball, that we have viewed that have been funded by the National Endowment for the Humanities. It is something we cannot afford to eliminate. It has been phased out. Let us not terminate it now.

Mr. Chairman, I rise in opposition to the amendment by Mr. CHABOT to eliminate the National Endowment for the Humanities [NEH].

The NEH budget is $99.49 million. It is less than one one-hundreths of the Federal budget and it spends 70 cents per person on the humanities—on history, English literature, foreign languages, sociology, anthropology, comparative religion, and other disciplines.

Remember the "Civil War" series by Ken Burns on public television? I watched it after I read an editorial by noted columnist George Will, who praised this series as one of the best productions in the history of television. NEH's work preserved the photographs which Ken Burns used in his award-winning series. Without this NEH support, the film would not have been possible, because there would be no known corpus of photographs on the Civil War.

I know that each of us in Congress can point to worthwhile projects in our districts that are aided by NEH. In my district, the NEH funds numerous educational projects by the Montgomery County school system.

The NEH is the primary source for study programs that help teachers learn more about what they teach and pass it on to their students. More than a million teachers have participated in the writing project, an NEH-funded project that brings together teachers at the elementary and secondary levels to develop successful approaches to teaching writing. It is estimated that the 1,000 teachers who participate each summer in NEH-funded summer institutes directly impact 85,000 students each year.

The National Endowment for the Humanities has already absorbed its fair share of budget cuts. I urge my colleagues to oppose the Chabot amendment.

The CHAIRMAN. The gentleman from Ohio [Mr. CHABOT] has 1 minute remaining, and the gentleman from Washington [Mr. DICKS] has 2 minutes remaining.

Mr. CHABOT. Mr. Chairman, I yield 30 seconds to the gentleman from California [Mr. DOOLITTLE].

Mr. DOOLITTLE. Mr. Chairman, I rise to strongly support the gentleman's amendment. Regardless of what one thinks about the record of the National Endowment for the Humanities and the controversial programs, the fact of the matter is, with a $4.7 trillion national debt, we cannot afford as a country to be borrowing money for the purpose of entertainment. It is totally inappropriate. It is time to balance the budget. Let the cutting start here. Vote for the Chabot amendment.

Mr. DICKS. Mr. Chairman, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. FATTAH].

Mr. FATTAH. Mr. Chairman, I rise in opposition to the amendment, notwithstanding my deep respect for the author of the amendment.

Mr. DICKS. Mr. Chairman, I yield 1 minute to the gentleman from Massachusetts [Mr. TORKILDSEN].

Mr. TORKILDSEN. Mr. Chairman, I rise in strong opposition to this amendment. Some critics think the National Endowment for the Humanities only presents one point of view. Clearly, that is not accurate. The NEH has expanded educational opportunities in many traditional and nontraditional ways. As one speaker alluded to, sometimes that education does take the form of entertainment, such as when the Civil War series was on television, people enjoyed it as entertainment. They also enjoyed it as education. The NEH also does something that the private sector cannot do, and that is present our history and our culture through the brittle books program.

Try to imagine that the private sector could microfilm hundreds of thousands of volumes. There is just not an incentive in it. Yet if these books are destroyed through time we are going to lose that part of our history, that part of our culture.

I rise in strong opposition to the amendment. Support responsible funding for the humanities.

Mr. CHABOT. Mr. Chairman, I yield myself the balance of my time.

The CHAIRMAN. The gentleman from Ohio [Mr. CHABOT] is recognized for 30 seconds.

Mr. CHABOT. I think what the gentleman from California said is the bottom line. We have got almost a $5 trillion debt. These dollars that are going to go to the National Endowment for the Humanities are being borrowed. They are being borrowed from American taxpayers all across this country, and we just do not have the money.

If we are serious about balancing the budget, these are the types of cuts that have to be made. This is the type of vote where we determine who is really serious about balancing the budget and who is not. That is the type of vote that this particular amendment says.

I strongly support this amendment.

Mr. DICKS. Mr. Chairman, I yield such time as she may consume to the gentlewoman from New York [Mrs. MALONEY].

Mrs. MALONEY. Mr. Chairman, I rise in opposition to the amendment.

Mr. DICKS. Mr. Chairman, I yield myself the balance of my time.

I want to thank all the Members who spoke tonight. This has been a very bipartisan debate. Our committee operates on a very bipartisan way. We have cut back the National Endowment for the Humanities much deeper than I would like to see by about $40 million.

This amendment would eliminate it. The agreement here, as the distinguished chairman of the Committee on Economic and Educational Opportunities, the gentleman from Pennsylvania [Mr. GOODLING] pointed out, is to phase these things out over several years.

To come in here tonight and offer this meat-ax approach to end this thing abruptly like this is unfair to the scholars all over this country who do so much for the humanities.

This is an important program. It has been able to leverage all kinds of private investment in projects where scholars come from the public sector and work with people in the private sector.

I urge Members to be almost unanimous, I hope, tonight in opposition to this ill-considered amendment.

Mr. Chairman, I rise in strong opposition to the amendment being offered by the gentleman from Ohio, to strike all funding in the bill for the National Endowment for the Humanities [NEH]. I believe that this is a highly irresponsible amendment which goes against the national interest.

The National Endowment for the Humanities [NEH] is one of our most significant cultural institutions, and I believe has the strong support of the American people. Grants provided by the NEH greatly enhance scholarly research, education, and public programs in the Humanities. The NEH supports literature, history, preservation of the works of classic scholars, archaeology, philosophy, comparative religion, linguistics, and aspects of the social sciences with humanistic content. The Endowment helps ensure that we pass the cultural torch from generation to generation.

In fiscal year 1994 alone, the NEH: Supported 70 hours of radio and television, reaching an audience of 244 million people; enabled 3,273 teachers from all over the country to participate in teacher institutes, summer seminars, and study grants, offering these teachers access to the best experts in their discipline; 500 scholars received scholarships or stipends to conduct research as a result of NEH efforts.

In the course of its existence, the NEH has put forward a brittle books project, which has enabled over 628,000 volumes to be microfilmed so that their content was not forever lost, and its national heritage program has stabilized and preserved over 26 million archaeological, ethnographic, and historical objects of importance to our cultural heritage.

The NEH is a strong investment in preserving our national heritage. By supporting such projects as the papers of George Washington, Frederick Douglass, and Mark Twain, the NEH helps keep our historical record intact for new generations of Americans. NEH is the primary funding source for these complex research undertakings, which often require a team of scholars.

The NEH strengthens our communities. A strong community requires a sense of its history and traditions. The NEH and State humanities councils make grants that engage Americans where they live and work. In 1992, more than 6 million Americans participated in reading-and-discussion groups and other local educational programs through State councils alone.

The evidence demonstrates that the NEH is a good economic investment. The cost for the endowment to each citizen is only 68 cents a year. It is one one-hundredth of 1 percent of the Federal budget. The NEH also leverages private giving. Many NEH grants require from $1 to $4 in non-Federal money for every NEH dollar. Since the Agency's inception, these grants have attracted $1 billion in private funds in challenge grants alone, and $400 million in other matching programs.

I believe that it is also important to point out that the National Endowment for the Humanities [NEH] also stimulates local economies. In the home State of the gentleman offering this amendment, "The Age of Rubens" exhibition in Toledo, OH, broke attendance records during 1994 and was credited with pumping $22.8 million into the local economy. Visits to Virginia's Civil War attractions jumped from 7,000 to 45,000 in the month following the airing of "The Civil War."

Let us continue the National Endowment for the Humanities. I urge my colleagues to reject the amendment.

Mr. MARTINI. Mr. Chairman, I rise today to urge opposition to the Chabot amendment that will eliminate all funding for the National Endowment for the Humanities (NEH).

Unlike many Federal Government programs, NEH serves as one of America's sound investments. Only careful attention to the various cultures and religions that form this wondrous melting pot can ensure our Nation's future success. NEH embodies Government's commitment to the preservation of America's diverse, beautiful, and often fragile culture.

Do not misunderstand, I supported the budget proposal to phase out funding for NEH and I support the principles of privatization; however, when dealing with matters of such importance, time and careful planning are necessities. Passage of this amendment would amount to a hurried mistake.

As a representative of a Congressional District rich in diversity, I have utmost appreciation for the education made possible through the existence of NEH. Few institutions provide the means by which tolerance can be achieved.

Through NEH, we have also preserved history—both good and bad. Some Members of Congress oppose the NEH because of this. Those Members believe that painful history is best forgotten. I do not agree with this philosophy. It has been said time and time again, and I hesitate to repeat it—but history does repeat itself and societies can learn from their mistakes.

Many also believe that the discussion of the humanities is one that only effects the elite of this country. Again, I disagree. In fact, the NEH is what ensures us that all Americans can have access to the vast knowledge found in the humanities. By eliminating NEH immediately, Congress would risk depriving citizens of exemplary education programs and literary works of art, where we have already provided for a reasonable transition.

Since our Founding Fathers, the United States Government has been involved in promoting the knowledge of all that is included in the Humanities. I must believe that Thomas Jefferson, if he could speak to us today, would defend that the pursuit of happiness lies not only in the marketplace, but more importantly in education—namely the arts, philosophy, literature and history.

I truly believe that our purpose here in the House of Representatives is one of careful deliberation—not one of rash decision making. We have already taken well intentioned steps towards the privatization of NEH, steps which I applaud. We are moving towards a balanced budget and are rethinking and addressing problems previously ignored. Must we dare to push our limits and risk responsibility?

Please ask yourselves, are we willing to jeopardize past brilliance and future intellectual progress? Are we willing to stifle all that makes America rich? Are we willing to distort the purpose of our Founders? I am not.

And because I am not, I ask my colleagues to oppose this amendment and to allow the NEH the time in which to plan an orderly transition to privatization. Some investments are simply too grand.

Mr. JOHNSON of South Dakota. Mr. Chairman, I rise today to express my strong opposition to an amendment offered by Representative CHABOT which would eliminate funding for the National Endowment for Humanities. As presented, the Interior Appropriations Bill cuts the NEH budget nearly in half; a cut which I believe will devastate many existing educational programs nationwide. As the only voice for South Dakota in the House of Representatives, I must speak out against the outright elimination of programs which help the people of my State preserve the rich and unique cultural heritage of South Dakota and the surrounding great plains States.

NEH programs exemplify the types of public-private partnerships that have traditionally fostered a collective dedication to cultural and historical education. The NEH gives State humanities councils the necessary freedoms to meet local educational needs. In the last 5 years, institutions in South Dakota have received $2.7 million from the NEH and the South Dakota Humanities Council for library programs and exhibits, literary publications, and cultural heritage visitor centers.

In one example, more than 49,000 visitors have seen Proving Up: The History of South Dakota, a long-term exhibition sponsored by the South Dakota State Heritage Fund, and a recipient of more than $200,000 in support funds from the NEH. In just the first 3 months of the exhibition, attendance at the Cultural Heritage Center in Pierre increased by 49 percent.

Additionally, because of money provided by the NEH, A Literary History of the American West, considered the standard reference work in the field since its publication in 1987, will be updated through a $71,000 grant to Augustana College in Sioux Falls. The supplement will include such authors as Tony Hillerman, Willa Cather, and John Steinbeck. These and countless other worthy public education programs will disappear in my rural state, and the creativity behind this type of education programming will be thwarted if the Chabot amendment becomes law.

In the face of severe cuts to the Institute for Museum Services, the only other Federal funding mechanism specifically chartered to work with States in recording, preserving and educating our children on the American experience, we cannot stand by and allow the complete elimination of the programs vital to public education that are funded through the National Endowment for Humanities.

Mrs. SLAUGHTER. Mr. Chairman, today I rise in strong opposition to the Chabot amendment to eliminate the National Endowment for the Humanities. Mr. CHABOT's amendment is an unwarranted attack on an institution that has done nothing more than effectively promote the progress of the humanities in the United States.

The National Endowment for the Humanities is the single largest source of support for the humanities. While humanities activities in our Nation would still exist without the NEH, they would no longer be accessible to the entire country. They would in all likelihood be reserved only for the rich who could afford them. What would the constituents of our districts say when there is no NEH to support museums or libraries or to preserve historical documents; when there is no longer an NEH to teach generations to come about history, literature and philosophy, about who we are as Americans? Because of the NEH, in fiscal year 1994, 3,273 teachers from all over the country were able to participate in teacher institutions, summer seminars, and study grants, offering these teachers access to the best experts in their discipline. Roughly 500,000 students benefited from these teacher programs.

We must not neglect the value of the NEH to our Nation's children. Children who are exposed to the humanities learn to foster a dialog between themselves and the voices of writers, the visions of artists, and the thoughts of historians and philosophers. It is an argument that should begin in school and continue throughout life.

If Mr. CHABOT's amendment were to pass, thousands of valuable programs across the country would be destroyed. Yet Mr. CHABOT is assaulting the NEH based on a project that was designed to bring all Americans together—left, right, center; black, white, Hispanic—to evaluate what they share as Americans. To realize that despite their differences, what they have in common is America. "National Conversation," which is just one of the thousands of the NEH's valuable programs, was formed out of Chairman Hackney's concern that we in this country spend too much time focussing on what divides us rather than what we have in common.

A major portion of the NEH's funding for the humanities each year is awarded to projects that document and illuminate the American experience—this is of course the great experiment in democracy and freedom that is our Nation's history and legacy. I urge my colleagues to do a service to the children in their districts by saving this irreplaceable cultural institution. Vote no on this devastating amendment.

Mrs. LOWEY. Mr. Chairman, here we go again. You'd think that the opponents of the arts and humanities would be satisfied with a 40-percent cut next year and a 2-year phase-out of the National Endowment for the Arts—but it is very clear that their vendetta against these programs knows no bounds.

All over America, artists, musicians, orchestras, dance companies, theaters, and public schools rely on the National Endowment for the Arts for essential support. Their work has enriched our communities and our quality of life. But this amendment will pull the rug out from under many of these organizations and damage our cultural heritage.

The argument that the programs supported by the NEA would survive—or even flourish—in the marketplace is dubious. According to the president of the J. Paul Getty Trust, foundations would have to raise an $8 billion endowment in order to generate a reliable stream of money to replace Federal funding for the NEA, NEH, and the Institute of Museum Services. And, given the massive cuts in education and social services my colleagues on the other side of the aisle are pushing, foundation giving will be under even greater stress than usual.

The total budget for the NEA costs each of us about the same price of a candy bar. In fact, the total cost of the National Endowment for the Arts, the National Endowment for the Humanities, and the Corporation for Public Broadcasting is still less than the cost of one B–1 bomber.

Eliminating the NEA is a classic case of being penny-wise and pound-foolish. For every $1 the NEA spends, it generates more than 11 times that in private donations and economic activity. This has a huge economic and cultural impact on our society.

We did not abolish the Department of Defense because of $400 toilet seats, we did not abolish the U.S. Navy because of the Tailhook scandal, and we certainly should not abolish the NEA because a small fraction of projects a few years ago were controversial. It's simply absurd.

Defeat this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio [Mr. CHABOT].

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. CHABOT. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to the rule, further proceedings on this motion will be postponed.

Mr. DICKS. Mr. Chairman, I ask unanimous consent to strike the last word.

The CHAIRMAN. Is there objection to the request of the gentleman from Washington?

There was no objection.

Mr. DICKS. Mr. Chairman, I yield to the gentleman from California [Mr. FARR].

Mr. FARR. Mr. Chairman, I have a question for the chairman of the Subcommittee on Interior, the gentleman from Ohio [Mr. REGULA].

I understand that the committee's allocation made it impossible to provide full funding for the Land and Water Conservation Fund acquisition request received by the committee. I also understand the committee has recommended $14.6 million for the Forest Service budget to be allocated by the Forest Service for emergency and hardship acquisitions.

As you know, the Los Padres National Forest has worked extensively with private land owners and others to protect the land along the world-renowned Big Sur coast through Federal acquisitions from willing sellers. This has been an ongoing effort and has saved thousands of acres of the Big Sur landscape from development.

Mr. Chairman, would the committee's instructions to the Forest Service regarding its emergency and hardship use of the Land and Water Conservation Fund appropriations in FY 1995 allow the continuation of the Big Sur project?

2200

Mr. REGULA. Mr. Chairman, will the gentleman yield?

Mr. DICKS. I yield to the gentleman from Ohio.

Mr. REGULA. Mr. Chairman, it is my understanding that certain funds will be available in this bill for emergency land acquisitions, and I have to emphasize "emergency." These acquisitions could possibly include the area mentioned in the gentleman's opening statement that involves Big Sur. The determination would have to be made by the Forest Service as to whether this truly constituted an emergency. The Forest Service then would have to submit a request to the committee, the Subcommittee on Interior of the Committee on Appropriations in both the Senate and the House for approval as provided in the emergency land acquisition legislation in the bill.

Mr. FARR. In response to the question, then, Mr. Chairman, it may be eligible for those funds?

Mr. REGULA. Certainly if it is a high priority, as I understand it, in the Forest Service, then it is very possible that they would feel that the circumstances surrounding this purchase qualified as an emergency, and it is possible they could bring that to the appropriate subcommittees for approval. However, as I said earlier, the budget has a moratorium on land acquisition. We did not provide any earmarks on land acquisition, recognizing that these are not imperative, but we also recognize there will be emergency opportunities that should be exercised in land acquisition for a variety of reasons. I think each project will have to stand on its own merits as to whether it qualifies under the emergency conditions.

Mr. FARR. I thank the gentleman. I understand that continuing for emergency and hardship use that these lands may qualify.

AMENDMENT OFFERED BY MR. FOX OF PENNSYLVANIA

Mr. FOX of Pennsylvania. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. FOX of Pennsylvania: Page 56, line 3, strike "$552,871,600" and insert "$602,871,000".

Page 56, line 10, strike "$133,946,000" and insert "$183,946,000".

Page 56, line 17, strike "$107,466,000" and insert "$157,446,000".

Page 58, line 12, strike "$79,766,000" and insert "$29,766,000".

Mr. FOX of Pennsylvania. Mr. Chairman, I ask unanimous consent that the amendment be modified.

The CHAIRMAN. Has the gentleman submitted a modification?

Mr. FOX of Pennsylvania. Only orally at this time, Mr. Chairman.

The CHAIRMAN. The gentleman must have it in writing. Would the gentleman care to withdraw his amendment at this time so he can prepare it?

Mr. FOX of Pennsylvania. Mr. Chairman, I will withdraw my amendment in order to prepare a written amendment in conformance with the change which was effectuated because of the Skaggs amendment.

The CHAIRMAN. The modification has to be in writing at the desk. Has the gentleman withdrawn his amendment?

Mr. FOX of Pennsylvania. Mr. Chairman, I have an amendment at the desk which is subject to the rule, because the gentleman from Colorado [Mr. SKAGGS], had a $3.5 million increase in weatherization. We are trying to have a $50 million increase. Now I am trying to make an amendment which would be $50 million from EIA, but would go to the State energy conservation program.

POINT OF ORDER

Mr. REGULA. Mr. Chairman, I have a point of order against the amendment.

However, Mr. Chairman, if the gentleman will withdraw his amendment, I will withdraw the point of order.

The CHAIRMAN. At this point the gentleman's amendment is at the desk, but the modification has to be in writing. That is why the Chair asks if the gentleman wishes to withdraw it.

Mr. FOX of Pennsylvania. Mr. Chairman, I withdraw my amendment, and I will file a corrected amendment in writing.

The CHAIRMAN. Without objection, the amendment is withdrawn.

There was no objection.

AMENDMENT OFFERED BY MR. TIAHRT

Mr. TIAHRT. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. TIAHRT: Page 56, line 3, strike "$552,871,000" and insert "$364,066,000".

POINT OF ORDER

Mr. DICKS. Mr. Chairman, I have a point of order against the amendment.

The CHAIRMAN. The gentleman will state his point of order.

Mr. DICKS. Mr. Chairman, I make a point of order because the amendment seeks to amend a paragraph previously amended. In the procedures of the U.S. House of Representatives, chapter 27, section 27.1, it states the following:

> It is fundamental that it is not in order to amend an amendment previously agreed to * * *. Thus the text of a bill perfected by amendment cannot thereafter be amended.

Mr. Chairman, this amendment seeks to amend text previously amended, and therefore is not in order.

The CHAIRMAN. Does the gentleman from Kansas [Mr. TIAHRT] wish to be heard on this point of order?

Mr. TIAHRT. Mr. Chairman, I ask unanimous consent to modify my amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Kansas?

Mr. DICKS. Mr. Chairman, I have to object to that.

The CHAIRMAN. Objection is heard.

Does the gentleman from Kansas [Mr. TIAHRT] wish to comment on the point of order?

Mr. TIAHRT. Mr. Chairman, I was merely trying to present an opportunity for us to discuss an issue regarding the Committee on Science's level of authorization in the area of energy conservation.

The CHAIRMAN. The Chair is prepared to rule on the point of order.

For the reasons stated by the gentleman from Washington [Mr. DICKS] the adoption of the Skaggs amendment precludes the offering of this amendment printed in the RECORD under the Chair's rulings of March 15 and March 16 of this year and earlier rulings today. The point of order is sustained.

Are there further amendments to title II?

Mr. SKAGGS. Mr. Chairman, I ask unanimous consent to strike the last word to proceed to a colloquy with the chairman of the Committee on Science.

The CHAIRMAN. Without objection, the gentleman is recognized for 5 minutes.

There was no objection.

Mr. SKAGGS. Mr. Chairman, I would like to ask the chairman of the subcommittee a question about section 315 of the bill, which provides for a pilot user fee program to demonstrate the feasibility of user fees to recover some of the costs of proper management of public lands. I support this, especially in connection with the Mt. Evans area in Colorado. There the State has been working with the Forest Service to try to reach an agreement for sharing some of the management responsibilities there, including fee collection. The Forest Service has identified this area as one where a fee would be appropriate, but they were uncertain whether they could move forward with the State for a couple of reasons; first because the facilities there have been constructed with HUTF money; and second, because the Forest Service was not sure that it had the authority.

As I read section 315 of this bill, both of these points would be resolved, because that section provides that the Forest Service in fact could implement such a pilot program on lands under their jurisdiction, and could contract with any public or private entity to provide visitor services, such as the State of Colorado.

Mr. Chairman, would the chairman of the committee agree with me that enactment of section 315 should resolve these matters so the Forest Service could designate an area such as the Mt. Evans area in Colorado as one of the sites for one of these fee demonstration projects, and could contract with the State for the provision of visitor services?

Mr. REGULA. Mr. Chairman, will the gentleman yield?

Mr. SKAGGS. I yield to the gentleman from Ohio.

Mr. REGULA. Mr. Chairman, I would say to the gentleman from Colorado, a member of the committee, this is exactly the type of situation or provision that we put in which the subcommittee bill is intended to address. The Forest Service could, if they chose, designate Mt. Evans as one of the sites for collection of fees, and could contract with the State of Colorado, or any other private or public entity, for the provision of visitor services. I would hope that this will happen many places. That is the goal of this provision in the bill, is to allow flexibility in the services to contract, privatize, to provide in the most efficient way services to the visitors.

Mr. SKAGGS. Mr. Chairman, I thank the gentleman for his comments, and thank him also for including this provision in the bill, which I think will make a great deal of difference as we especially deal with some of these difficult budget constraints.

Mr. JONES. Mr. Chairman, I ask unanimous consent to strike the last word to enter into a colloquy with the gentleman from Ohio.

The CHAIRMAN. Without objection, the gentleman is recognized for 5 minutes.

There was no objection.

Mr. JONES. Mr. Chairman, I appreciate the gentleman from Ohio [Mr. REGULA] agreeing to take a few questions regarding the fate of the coast of eastern North Carolina. Mr. Chairman, it is my understanding that there are really two separate groups of leases off the coast of North Carolina. One is called the Manteo Unit, the large natural gas prospect covering 21 leases in a contiguous area, while the remaining leases are a series of 32 individual leases which are widely scattered. Is that correct?

Mr. REGULA. Mr. Chairman, will the gentleman yield?

Mr. JONES. I yield to the gentleman from Ohio.

Mr. REGULA. Mr. Chairman, the gentleman is correct.

Mr. JONES. Mr. Chairman, the Manteo Unit is the only prospect in which industry has expressed any interest, is that the gentleman's understanding?

Mr. REGULA. That is correct, that is my understanding.

Mr. JONES. Mr. Chairman, does the repeal of the Outer Banks Protection Act have any effect on the status of the Manteo Unit?

Mr. REGULA. No, the Manteo Unit is no longer protected under that provision of law.

Mr. JONES. Therefore, the repeal of the Outer Banks Protection Act does nothing to change the status of the area most likely to be drilled?

Mr. REGULA. The gentleman is absolutely correct. This is merely a housekeeping provision which corrects a technicality which inadvertently has kept these other leases under suspension.

Mr. JONES. Mr. Chairman, the repeal of the Outer Banks Protection Act will allow the remaining leases, which are extremely unlikely to be drilled, to expire over the next couple of years, I would ask the gentleman?

Mr. REGULA. Yes, Mr. Chairman, the gentleman is correct.

Mr. JONES. Unless this provision is repealed, these leases will remain under suspension indefinitely, and at some point could be open for exploration and drilling?

Mr. REGULA. If the gentleman will continue to yield, he is correct.

Mr. JONES. Mr. Chairman, therefore it is clearly in the interests of the coasts of eastern North Carolina to allow these leases to be removed from suspension so they can be allowed to run their course?

Mr. REGULA. I believe that to be the case, Mr. Chairman.

Mr. JONES. Mr. Chairman, I would ask the gentleman, can he assure me that a vote for this bill will in no way undermine the position of those who are opposed to the exploration of the so-called Manteo Unit?

Mr. REGULA. If the gentleman will yield further, Mr. Chairman, let me emphasize that this bill in no way affects the disposition of the Manteo Unit.

Mr. JONES. I thank the gentleman, Mr. Chairman.

AMENDMENT OFFERED BY MR. FOX OF PENNSYLVANIA

Mr. FOX of Pennsylvania. Mr. Chairman, I offer an amendment, amendment No. 5.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. Fox of Pennsylvania:

Page 56, line 3, strike "$552,871,000" and insert "$602,871,000".

Page 56, line 10, strike "$133,946,000" and insert "$183,946,000".

Page 56, line 17, strike "$107,466,000" and insert "$157,446,000".

Page 58, line 12, strike "$79,766,000" and insert "$29,766,000.

POINT OF ORDER

Mr. REGULA. Mr. Chairman, I make a point of order against the gentleman's amendment, because it seeks to amend a paragraph previously amended.

The CHAIRMAN. Does the gentleman from Pennsylvania [Mr. FOX] wish to be heard on the point of order?

Mr. FOX of Pennsylvania. I do, Mr. Chairman.

Mr. Chairman, this amendment, as amended, in fact does add $50 million under technical and financial assistance to the State energy conservation programs which are so vital to each of our States, and it takes the $50 million from the Energy Information Administration. Previously, Mr. Chairman, we may recall there was an amendment offered by the gentleman from Colorado [Mr. SKAGGS] which added $3.5 million to the weatherization program, but this is not the weatherization program. Therefore, I believe it is in order, Mr. Chairman.

Mr. REGULA. Mr. Chairman, reserving my point of order, I renew it, because in the procedures of the United States House of Representatives, chapter 27, section 27.1, it states the following: "It is fundamental that it is not in order to amend an amendment previously agreed to. Thus, the text of a bill perfected by amendment cannot thereafter be amended."

Mr. Chairman, this amendment seeks to amend text previously amended, and is therefore not in order.

The CHAIRMAN. Does any Member wish to be heard on the point of order?

Mr. SANDERS. Mr. Chairman, I oppose the point of order offered by the gentleman from Ohio [Mr. REGULA] for the following reason. Originally what the gentleman from Pennsylvania [Mr. FOX] had intended to do was to put the money into the weatherization program. That is what we all wanted to do. However, in fact, because the gentleman from Colorado [Mr. SKAGGS] placed $3.5 million more into that program, the gentleman from Ohio [Mr. REGULA] made a point of order that any more money going into that program would be out of order.

What the gentleman from Pennsylvania [Mr. FOX] is doing is attempting to put $50 million into a fund for the State Energy Conservation Program, which has not been amended. So I would argue very strongly that the gentleman from Ohio [Mr. REGULA] is incorrect that this is a fund that has not been amended, and that the amendment offered by the gentleman from Pennsylvania [Mr. FOX] is in fact in order.

PARLIAMENTARY INQUIRY

Mr. DICKS. Parliamentary inquiry, Mr. Chairman.

The CHAIRMAN. The gentleman will state it.

Mr. DICKS. Is it not true that under the rule, Mr. Chairman, the gentleman would have to ask unanimous consent in order to change the amendment that he had printed in the RECORD?

The CHAIRMAN. Once the printed amendment is pending, the gentleman is correct.

Mr. DICKS. Therefore, in order to do this, he would have to ask for unanimous consent?

The CHAIRMAN. The gentleman is correct.

Mr. DICKS. I do not think he has yet asked for unanimous consent.

The CHAIRMAN. The gentleman is correct.

Mr. FOX of Pennsylvania. Mr. Chairman, I ask unanimous consent that the modification be accepted.

Mr. REGULA. I object, Mr. Chairman.

The CHAIRMAN. Objection is heard.

Under the rule, the gentleman from Pennsylvania [Mr. FOX] may only offer an amendment as printed in the RECORD. Once it is pending, but only then, he may ask unanimous consent to modify the printed amendment. For the reason stated by the gentleman from Ohio [Mr. REGULA], the adoption of the Skaggs amendment precludes the offering of this amendment as printed in the RECORD under the Chair's rulings of March 15, and 16 of this year and the previous rulings of today. The point of order is sustained.

PARLIAMENTARY INQUIRY

Mr. FOX of Pennsylvania. Parliamentary inquiry, Mr. Chairman.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. FOX of Pennsylvania. Mr. Chairman, inasmuch as the amendment which I had asked for through unanimous consent, did not alter, as we know, originally I was trying to add $50 million to weatherization, which, because the gentleman from Colorado [Mr. SKAGGS] was successful in having a prior amendment, which I could not have known would be adopted, I could not have it preprinted, not knowing the flow of events in the House this evening.

Therefore, I did all which was reasonably calculated to a reasonable man, Mr. Chairman, to have made an amendment on the floor, along with the gentleman from Vermont [Mr. SANDERS].

Mr. Chairman, I was hoping maybe the gentleman from Ohio [Mr. REGULA], the esteemed chairman, would in a bright moment think how wonderful it would be to at least hear this amendment and not have an objection in order.

Mr. REGULA. Mr. Chairman, I am very aware of what the amendment was going to do, without hearing any further conversation. I might add that even with the modification, which I objected to, but even with it, it would still have been subject to a point of order.

The CHAIRMAN. The Chair has ruled.

Are there other amendments to title II?

□ 2215

The Clerk will designate title III.

The text of title III is as follows:

TITLE III—GENERAL PROVISIONS

SEC. 301. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 302. No part of any appropriation under this Act shall be available to the Secretary of the Interior or the Secretary of Agriculture for the leasing of oil and natural gas by noncompetitive bidding on publicly owned lands within the boundaries of the Shawnee National Forest, Illinois: *Provided*, That nothing herein is intended to inhibit or otherwise affect the sale, lease, or right to access to minerals owned by private individuals.

SEC. 303. No part of any appropriation contained in this Act shall be available for any activity or the publication or distribution of literature that in any way tends to promote public support or opposition to any legislative proposal on which congressional action is not complete.

SEC. 304. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 305. None of the funds provided in this Act to any department or agency shall be obligated or expended to provide a personal cook, chauffeur, or other personal servants to any officer or employee of such department or agency except as otherwise provided by law.

SEC. 306. No assessments may be levied against any program, budget activity, subactivity, or project funded by this Act unless notice of such assessments and the basis therefor are presented to the Committees on Appropriations and are approved by such Committees.

SEC. 307. (a) COMPLIANCE WITH BUY AMERICAN ACT.—None of the funds made available in this Act may be expended by an entity unless the entity agrees that in expending the funds the entity will comply with sections 2 through 4 of the Act of March 3, 1933 (41 U.S.C. 10a–10c; popularly known as the "Buy American Act").

(b) SENSE OF CONGRESS; REQUIREMENT REGARDING NOTICE.—

(1) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—In the case of any equipment or product that may be authorized to be purchased with financial assistance provided using funds made available in this Act, it is the sense of the Congress that entities receiving the assistance should, in expending the assistance, purchase only American-made equipment and products.

(2) NOTICE TO RECIPIENTS OF ASSISTANCE.—In providing financial assistance using funds made available in this Act, the head of each Federal agency shall provide to each recipient of the assistance a notice describing the statement made in paragraph (1) by the Congress.

(c) PROHIBITION OF CONTRACTS WITH PERSONS FALSELY LABELING PRODUCTS AS MADE IN AMERICA.—If it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a "Made in America" inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, the person shall be ineligible to receive any contract or subcontract made with funds made available in this Act, pursuant to the debarment, suspension, and ineligibility procedures described in sections 9.400 through 9.409 of title 48, Code of Federal Regulations.

SEC. 308. None of the funds in this Act may be used to plan, prepare, or offer for sale timber from trees classified as giant sequoia (sequoiadendron giganteum) which are located on National Forest System or Bureau of Land Management lands in a manner different than such sales were conducted in fiscal year 1995.

SEC. 309. None of the funds made available by this Act may be obligated or expended by the National Park Service to enter into or implement a concession contract which permits or requires the removal of the underground lunchroom at the Carlsbad Caverns National Park.

SEC. 310. Where the actual costs of construction projects under self-determination contracts, compacts, or grants, pursuant to Public Laws 93–638, 100–413, or 100–297, are less than the estimated costs thereof, use of the resulting excess funds shall be determined by the appropriate Secretary after consultation with the tribes.

SEC. 311. Notwithstanding Public Law 103–413, quarterly payments of funds to tribes and tribal organizations under annual funding agreements pursuant to section 108 of Public Law 93–638, as amended, may be made on the first business day following the first day of a fiscal quarter.

SEC. 312. None of funds in this Act may be used for the Americorps program.

SEC. 313. (a) On or before April 1, 1996, the Pennsylvania Avenue Development Corporation shall—

(1) transfer and assign in accordance with this section all of its rights, title, and interest in and to all of the leases, covenants, agreements, and easements it has executed or will execute by March 31, 1996, in carrying out its powers and duties under the Pennsylvania Avenue Development Corporation Act (40 U.S.C. 871–885) and the Federal Triangle Development Act (40 U.S.C. 1101–1109) to the General Services Administration, National Capital Planning Commission, or the National Park Service; and

(2) except as provided by subsection (d), transfer all rights, title, and interest in and to all property, both real and personal, held in the name of the Pennsylvania Avenue Development Corporation to the General Services Administration.

(b) The responsibilities of the Pennsylvania Avenue Development Corporation transferred to the General Services Administration under subsection (a) include, but are not limited to, the following:

(1) Collection of revenue owed the Federal Government as a result of real estate sales or lease agreements entered into by the Pennsylvania Avenue Development Corporation and private parties, including, at a minimum, with respect to the following projects:

(A) The Willard Hotel property on Square 225.

(B) The Gallery Row project on Square 457.

(C) The Lansburgh's project on Square 431.

(D) The Market Square North project on Square 407.

(2) Collection of sale or lease revenue owed the Federal Government (if any) in the event two undeveloped sites owned by the Pennsylvania Avenue Development Corporation on Squares 457 and 406 are sold or leased prior to April 1, 1996.

(3) Application of collected revenue to repay United States Treasury debt incurred by the Pennsylvania Avenue Development Corporation in the course of acquiring real estate.

(4) Performing financial audits for projects in which the Pennsylvania Avenue Development Corporation has actual or potential revenue expectation, as identified in paragraphs (1) and (2), in accordance with procedures describe in applicable sale or lease agreements.

(5) Disposition of real estate properties which are or become available for sale and lease or other uses.

(6) Payment of benefits in accordance with the Uniform Relocation Assistance and Real Property Acquisitions Policies Act of 1970 to which persons in the project area squares are entitled as a result of the Pennsylvania Avenue Development Corporation's acquisition of real estate.

(7) Carrying out the responsibilities of the Pennsylvania Avenue Development Corporation under the Federal Triangle Development Act (40 U.S.C. 1101–1109), including responsibilities for managing assets and liabilities of the Corporation under such Act.

(c) In carrying out the responsibilities of the Pennsylvania Avenue Development Corporation transferred under this section, the Administrator of the General Services Administration shall have the following powers:

(1) To acquire lands, improvements, and properties by purchase, lease or exchange, and to sell, lease, or otherwise dispose of real or personal property as necessary to complete the development plan developed under section 5 of the Pennsylvania Avenue Development Corporation Act of 1972 (40 U.S.C. 874) if a notice of intention to carry out such acquisition or disposal is first transmitted to the Committee on Transportation and Infrastructure and the Committee on Appropriations of the House of Representatives and the Committee on Environment and Public Works and the Committee on Appropriations of the Senate and at least 60 days elapse after the date of such transmission.

(2) To modify from time to time the plan referred to in paragraph (1) if such modification is first transmitted to the Committee on Transportation and Infrastructure and the Committee on Appropriations of the House of Representatives and the Committee on Environment and Public Works and the Committee on Appropriations of the Senate and at least 60 days elapse after the date of such transmission.

(3) To maintain any existing Pennsylvania Avenue Development Corporation insurance programs.

(4) To enter into and perform such leases, contracts, or other transactions with any agency or instrumentality of the United States, the several States, or the District of Columbia or with any person, firm, association, or corporation as may be necessary to carry out the responsibilities of the Pennsylvania Avenue Development Corporation under the Federal Triangle Development Act (40 U.S.C. 1101–1109).

(5) To request the Council of the District of Columbia to close any alleys necessary for the completion of development in Square 457.

(6) To use all of the funds transferred from the Pennsylvania Avenue Development Corporation or income earned on Pennsylvania Avenue Development Corporation property to complete any pending development projects.

(d)(1)(A) On or before April 1, 1996, the Pennsylvania Avenue Development Corporation shall transfer all its rights, title, and interest in and to the property described in subparagraph (B) to the National Park Service, Department of the Interior.

(B) The property referred to in subparagraph (A) is the property located within the Pennsylvania Avenue National Historic Site depicted on a map entitled "Pennsylvania Avenue National Historic Park", dated June 1, 1995, and numbered 840–82441, which shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior. The Pennsylvania Avenue National Historic Site includes the parks, plazas, sidewalks, special lighting, trees, sculpture, and memorials.

(2) Jurisdiction of Pennsylvania Avenue and all other roadways from curb to curb shall remain with the District of Columbia but vendors shall not be permitted to occupy street space except during temporary special events.

(3) The National Park Service shall be responsible for management, administration, maintenance, law enforcement, visitor services, resource protection, interpretation, and historic preservation at the Pennsylvania Avenue National Historic Site.

(4) The National Park Service may enter into contracts, cooperative agreements, or other transactions with any agency or instrumentality of the United States, the several States, or the District of Columbia or with any person, firm, association, or corporation as may be deemed necessary or appropriate for the conduct of special events, festivals, concerts, or other art and cultural programs at the Pennsylvania Avenue National Historic Site or may establish a nonprofit foundation to solicit funds for such activities.

(e) Notwithstanding any other provision of law, the responsibility for ensuring that development or redevelopment in the Pennsylvania Avenue area is carried out in accordance with the Pennsylvania Avenue Development Corporation Plan—1974, as amended, is transferred to the National Capital

Planning Commission or its successor commencing April 1, 1996.

(f) SAVINGS PROVISIONS.—

(1) REGULATIONS.—Any regulations prescribed by the Corporation in connection with the Pennsylvania Avenue Development Corporation Act of 1972 (40 U.S.C. 871–885) and the Federal Triangle Development Act (40 U.S.C. 1101–1109) shall continue in effect until suspended by regulations prescribed by the Administrator of the General Services Administration.

(2) EXISTING RIGHTS, DUTIES, AND OBLIGATIONS NOT AFFECTED.—Subsection (a) shall not be construed as affecting the validity of any right, duty, or obligation of the United States or any other person arising under or pursuant to any contract, loan, or other instrument or agreement which was in effect on the day before the date of the transfers under subsection (a).

(3) CONTINUATION OF SUITS.—No action or other proceeding commenced by or against the Corporation in connection with administration of the Pennsylvania Avenue Development Corporation Act of 1972 (40 U.S.C. 871–885) and the Federal Triangle Development Act (40 U.S.C. 1101–1109) shall abate by reason of enactment and implementation of this Act, except that the General Services Administration shall be substituted for the Corporation as a party to any such action or proceeding.

(g) Section 3(b) of the Pennsylvania Avenue Development Corporation Act of 1972 (40 U.S.C. 872(b)) is amended as follows:

"(b) The Corporation shall be dissolved on April 1, 1996. Upon dissolution, assets, obligations, and indebtedness of the Corporation shall be transferred in accordance with the Department of the Interior and Related Agencies Appropriations Act, 1996.".

SEC. 314. (a) Except as provided in subsection (b), no part of any appropriation contained in this Act or any other Act shall be obligated or expended for the operation or implementation of the Interior Columbia River Basin Ecoregion Assessment Project (hereinafter "Project").

(b) From the funds appropriated to the Forest Service and the Bureau of Land Management, $600,000 is made available to publish by January 1, 1996, for peer review and public comment, the scientific information collected, and analysis undertaken, by the Project prior to the date of enactment of this Act concerning forest health conditions and forest management needs related to those conditions.

(c)(1) From the funds appropriated to the Forest Service, the Secretary of Agriculture (hereinafter "Secretary") shall—

(A) review the land and resource management plan (hereinafter "plan") for each national forest within the area encompassed by the Project and any policy which is applicable to such plan (whether or not such policy is final or draft, or has been added to such plan by amendment), which is or is intended to be of limited duration, and which the Project was tasked to address; and

(B) determine whether such policy modified to meet the specific conditions of such national forest, or another policy which serves the purpose of such policy, should be adopted for such national forest.

(2) If the Secretary makes a decision that such a modified or alternative policy should be adopted for such national forest, the Secretary shall prepare and adopt for the plan for such national forest an amendment which contains such policy, which is directed solely to and affects only such plan, and which addresses the specific conditions of the national forest and the relationship of such policy to such conditions.

(3) To the maximum extent practicable, any amendment prepared pursuant to paragraph (2) shall establish procedures to develop site-specific standards in lieu of imposing general standards applicable to multiple sites. Any amendment which would result in any change in land allocations within the plan or reduce the likelihood of achievement of the goals and objectives of the plan (prior to any previous amendment incorporating in the plan any policy referred to in paragraph (1)(A)) shall be deemed a significant plan amendment pursuant to section 6(f)(4) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604(f)(4)).

(4) Any amendment prepared pursuant to paragraph (2) which adopts a modified or alternative policy to substitute for a policy referred to in paragraph (1)(A) which has undergone consultation pursuant to section 7 of the Endangered Species Act of 1973 shall not again be subject to the consultation provisions of such section 7. No further consultation shall be undertaken on any policy referred to in paragraph (1)(A).

(5) Any amendment prepared pursuant to paragraph (2) shall be adopted on or before March 31, 1996: *Provided*, That any amendment deemed a significant amendment pursuant to paragraph (3) shall be adopted on or before June 30, 1996.

(6) No policy referred to in paragraph (1)(A) shall be effective on or after April 1, 1996.

SEC. 315. (a) The Secretary of the Interior (acting through the Bureau of Land Management, the National Park Service and the United States Fish and Wildlife Service) and the Secretary of Agriculture (acting through the Forest Service) shall each implement a fee program to demonstrate the feasibility of user-generated cost recovery for the operation and maintenance of recreation sites and habitat enhancement projects on Federal lands.

(b) In carrying out the pilot program established pursuant to this section, the appropriate Secretary shall select from areas under the jurisdiction of each of the four agencies referred to in subsection (a) no fewer than 10, but as many as 30, sites or projects for fee demonstration. For each such demonstration, the Secretary, notwithstanding any other provision of law—

(1) shall charge and collect fees for admission to the area or for the use of outdoor recreation sites, facilities, visitor centers, equipment, and services by individuals and groups, or any combination thereof;

(2) shall establish fees under this section based upon a variety of cost recovery and fair market valuation methods to provide a broad basis for feasibility testing;

(3) may contract with any public or private entity to provide visitor services, including reservations and information, and may accept services of volunteers to collect fees charged pursuant to paragraph (1); and

(4) may encourage private investment and partnerships to enhance the delivery of quality customer services and resource enhancement, and provide appropriate recognition to such partners or investors.

(c)(1) Amounts collected at each fee demonstration site in excess of 104 percent of that site's total collections during the previous fiscal year shall be distributed as follows:

(i) Eighty percent of the amounts collected at the demonstration site shall be deposited in a special account in the Treasury established for the administrative unit in which the project is located and shall remain available for expenditure in accordance with paragraph (3) for further activities of the site or project.

(ii) Twenty percent of the amounts collected at the demonstration site shall be deposited in a special account in the Treasury for each agency and shall remain available for expenditure in accordance with paragraph (3) for use on an agencywide basis.

(2) For purposes of this subsection, "total collections" for each site shall be defined as gross collections before any reduction for amounts attributable to collection costs.

(3) Expenditures from the special funds shall be accounted for separately.

(4) In order to increase the quality of the visitor experience at public recreational areas and enhance the protection of resources, amounts available for expenditure under paragraph (1) may only be used for the site or project concerned, for backlogged repair and maintenance projects (including projects relating to health and safety) and for interpretation, signage, habitat or facility enhancement, resource preservation, annual operation, maintenance, and law enforcement relating to public use. The agencywide accounts may be used for the same purposes set forth in the preceding sentence, but for sites or projects selected at the discretion of the respective agency head.

(d)(1) Amounts collected under this section shall not be taken into account for the purposes of the Act of May 23, 1908 and the Act of March 1, 1911 (16 U.S.C. 500), the Act of March 4, 1913 (16 U.S.C. 501), the Act of July 22, 1937 (7 U.S.C. 1012), the Act of August 8, 1937 and the Act of May 24, 1939 (43 U.S.C. 1181f et seq.), the Act of June 14, 1926 (43 U.S.C. 869–4), chapter 69 of title 31, United States Code, section 401 of the Act of June 15, 1935 (16 U.S.C. 715s), the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601), and any other provision of law relating to revenue allocation.

(2) Fees charged pursuant to this section shall be in lieu of fees charged under any other provision of law.

(e) The Secretary of the Interior and the Secretary of Agriculture shall carry out this section without promulgating regulations.

(f) The authority to collect fees under this section shall commence on October 1, 1995, and end on September 30, 1996. Funds in accounts established shall remain available through September 30, 1997.

SEC. 316. The Forest Service and Bureau of Land Management may offer for sale salvageable timber in the Pacific Northwest in fiscal year 1996: *Provided*, That for public lands known to contain the Northern spotted owl, such salvage sales may be offered as long as the offering of such sale will not render the area unsuitable as habitat for the Northern spotted owl: *Provided further*, That timber salvage activity in spotted owl habitat is to be done in full compliance with all existing environmental and forest management laws.

SEC. 317. None of the funds made available in this Act may be used for any program, project, or activity when it is made known to the Federal entity or official to which the funds are made available that the program, project, or activity is not in compliance with any applicable Federal law relating to risk assessment, the protection of private property rights, or unfunded mandates.

Mr. REGULA. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. GUTKNECHT) having assumed the chair, Mr. BURTON, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 1977) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1996, and for other purposes, had come to no resolution thereon.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 2020, TREASURY, POSTAL SERVICE, EXECUTIVE OFFICE OF THE PRESIDENT, AND CERTAIN INDEPENDENT AGENCIES APPROPRIATIONS ACT, 1996

Mr. SOLOMON, from the Committee on Rules, submitted a privileged report (Rept. No. 104–190) on the resolution (H. Res. 190) providing for the consideration of the bill (H.R. 2020) making appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain Independent Agencies for the fiscal year ending September 30, 1996, and for other purposes, which was referred to the House Calendar and ordered to be printed.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK,
HOUSE OF REPRESENTATIVES,
Washington, DC, July 14, 1995.

Hon. NEWT GINGRICH,
The Speaker, House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 5 of Rule III of the Rules of the U.S. House of Representatives, the Clerk received the following message from the Secretary of the Senate on Friday, July 14, 1995 at 2:00 p.m.: that the Senate passed without amendment H. Con. Res. 82.

Sincerely yours,
ROBIN H. CARLE,
Clerk, House of Representatives.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

WEATHERIZATION ASSISTANCE PROGRAM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. FOX] is recognized for 5 minutes.

Mr. FOX of Pennsylvania. Mr. Speaker, I rise today to work with my colleagues to try to make those adjustments to our budget which are reasonable and fair to all citizens.

In my own county and across Pennsylvania and for that matter the United States, we need to make those kinds of adjustments to our energy budget which, in fact, would give assistance to the weatherization assistance program.

I salute the gentleman from Colorado [Mr. SKAGGS] for his assistance in making an initial change of $3.5 million additional for this program. I would have preferred having the program that was supported by many Members on both sides of the aisle, working with the gentleman from Vermont [Mr. SANDERS] and others for the figure of $50 million, and correspondingly we would have made a reduction in the Energy Information Administration. Frankly I think the need for the assistance, whether they be poor or elderly, to have the weatherization programs to help them get through the winters that can be so severe in many parts of the country, that this tradeoff of technical assistance to companies frankly that could in fact through user fees take that particular information and receive it rather than taking funds away from weatherization.

I thank those Members of the body, both Republican and Democrat, who have worked with us on this weatherization program. The intent of our amendment tonight would be to protect a program which is important to many families across the United States. The weatherization program is a cost-conscious energy conservation program which makes renovations to low-income homes to increase energy efficiency and make health and safety improvements.

These improvements make a significant difference in the home heating bills of thousands of families every year. For instance, Mr. Speaker, in the cold climate region, a 1989 study found that the first year net saving for natural gas consumption represented a 25-percent reduction in gas used for space heating and an 18-percent reduction in total gas usage. This program can be the difference in whether or not an elderly couple maintains their independence and are able to stay in their own home.

I would like to stress that the amendment we were offering which was scored by CBO as being budget neutral and, in fact, reduced outlays by $15 million, the offset would come out of the Energy Information Administration. We believe that the EIA data which is valuable and currently provided free of charge could best be provided on a fee-for-service basis.

When I am given the choice between documents and statistics for helping people who are cold or trapped in unhealthy, dilapidated homes, I think most colleagues on both sides of the aisle in both Chambers, the House and the Senate, would agree that this is an intelligent use of funds as opposed to giving statistics and not the taking care of services.

I thank those Members on both sides of the aisle who have helped me on this. I yield to my friend and colleague, the gentleman from Florida [Mr. STEARNS], who has been very active in this movement.

Mr. STEARNS. I thank my colleague.

I also am sorry that you were not able to offer the amendment because I think it is an important amendment. People in rural counties like Lake County in Florida which is part of my congressional district often use this assistance to make the necessary improvements that keep homes livable while reducing the portion of their budget which they must also spend on utilities. Without such assistance, the homes can become too expensive to maintain and often become uninhabitable. I want to congratulate my colleagues. I hope my colleagues on both sides of the aisle will realize this is an important amendment and that we can have an opportunity to debate on it and vote on it up or down in the near future.

Mr. FOX of Pennsylvania. I thank the gentleman from Florida [Mr. STEARNS] for his support on this program. It has been very helpful. I thank the gentlewoman from New York [Ms. MOLINARI] who has been very helpful and many others who have given their assistance and their support. I frankly say the group involved in my community, the CADCOM, the community action group, has been working day and night to help those who are in need. Weatherization is a major program that CADCOM has been involved with. Keith Sampson, their executive director, knows full well that the needs keep growing. While the Federal Government cannot answer all those needs, the weatherization program administered by the States is one that is financially secure and one where the funds are checked to make sure that those who need the assistance get the assistance and we reduce the amount of bureaucracy involved but expand the services to those who are in need has been an excellent program under CADCOM's assistance in Montgomery County and all the poverty agencies in Pennsylvania administered through each county.

I thank the Speaker for this time to speak out for weatherization and to make the changes that we figure are intelligent with energy assistance to make sure we do less on bureaucracy and more on direct services for the people. I thank my colleagues for their thoughtful attention and support.

NATIONAL ENDOWMENT FOR ARTS AND HUMANITIES CAPTURES SPIRIT OF AMERICA

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Texas [Ms. JACKSON-LEE] is recognized for 5 minutes.

Ms. JACKSON-LEE. Mr. Speaker, it has been said to many of us that if you are not able to remember the past, sometimes you may be doomed to repeat some of the negatives that occur. That does not mean that history is all negative. But it means that it gives us a sense of direction and future. It helps us understand where we should be going.

Mr. Speaker, I rise to talk about the value of the National Endowment for Humanities and the National Endowment for the Arts. Because for many when we begin to talk about budget cutting and assuring that we are fiscally responsible in this Congress on behalf of the American people, I think we must also ask the question and answer it about focus, about where we would like to go in the 21st century.

Allow me to tell a simple story about a man named John Biggers, a gentleman who has created a mosaic of art and history over 50 years of his life. Coming from North Carolina and now a resident of Texas, this gentleman has painted the mosaics of life. He has painted the canvases of life and he has been able to share with young people and old people and middle-aged people a continuing history of America. His art has been touted internationally and nationally. He has traveled to Africa and he has brought back the dreams and aspirations of those who live there and he has shared them with those of us who live here in America.

More importantly, he has opened the eyes of children, inner city children who would wonder whether or not they too could paint a brush and make a picture. He has been very instrumental in a program in Houston, TX, called the artists in residence program.

What does that mean? It takes middle-school children and introduces them to famous artists and allows them to have the same creativity and spark of interest and thrill and excitement about being creative. This project is sponsored by the Museum of Fine Arts and, yes, it receives dollars from the National Endowment for the Arts.

Pornography? No. Sinfulness? No. opportunity? Yes, I salute both John Biggers and these many artists who have contributed to this program but more importantly I think it reinforces the value of the National Endowment for the Arts and likewise the history-telling of the National Endowment for the Humanities.

We wonder about art and whether or not it is part of culture. I would say if you asked the Houston Grand Opera or the Museum of Fine Arts or the Ensemble Theater or Mecca or the Asian Dance Company in Houston or the Acres Home Dance Theater, they could be able to tell the story of the eyes it has opened of children, children who thought for a moment that they had no creativity, that they could not be a danger, a speaker, an orator or an artist, or maybe someone who might have never had the opportunity to see some of our history unfold, not so much in a story book but on the theater stage as produced by the Human Grand Opera or any opera in this Bation.

I always believe that we must do things constructively and positively. I also believe we should do it with reason and a focus on the future. I do not think this country directs itself well if we take away the value of our culture, if we do not preserve it, if we do not teach it, if we do not understand it.

The National Endowment for the Arts and National Endowment for the Humanities captures the spirit of what America is. It reflects on its diversity but more importantly it helps to uplift those who want to share our story.

It is important to have your story shared, whether it is in music, whether it is in the story teller or the history professor, whether it is in the opera singer, whether it is in the actor or on the stage, it is important to have the story of a nation told so that all people can understand the story.

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Mr. Speaker, let me share with you that the American public is willing to spend $15 of its tax money, per family, to have the National Endowment for the Arts. Does that sound like a nation that wants to cut from underneath its very soul the opportunity to spread its culture? How proud we are when we share European history and African history and history from Latin America and history from Canada and history from the Pacific Rim. All of that is valuable.

Should we deny the American public the same opportunity to preserve both its history and its culture? I think not. Let us be instructed wisely. Shakespeare said the first thing we should do is kill all the lawyers. Some would say, as a trained lawyer, I would want to burn that and not want to hear the play that offered those words.

But I think in the spirit of art, certainly, there are limitations, but it is important to have that kind of diversity, that kind of contradiction and conflict, but as well, the opportunity for artists to express themselves.

The National Endowment for the Arts helps us do that. The National Endowment for the Humanities helps us preserve our culture. And with the great culture of the American Indian and all that is rested in this Nation, we would not want to lose that.

So my instruction, Mr. Speaker, is that we as Americans should draw together, yes, and be fiscally responsible. We have many, many challenges and many, many tasks. Many, many responsibilities for this Government. But I would say to you that to the child who stands in the classroom learning about his or her culture, or expressing himself or herself creatively through art or in the inner city or down in the stages in downtown Houston or New York or Chicago or Los Angeles, it is valuable to have entities that help us preserve who we are.

I support the National Endowment for the Arts and National Endowment for the Humanities and I think the amendments cutting these particular entities do us a disservice in this Nation. Let us preserve who we are.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. CLINGER (at the request of Mr. ARMEY) for today, on account of weather/mechanical travel-related difficulties.

Ms. HARMAN (at the request of Mr. GEPHARDT) for today, on account of official business.

Mr. UNDERWOOD (at the request of Mr. GEPHARDT) for today and the balance of the week, on account of official business.

Mr. TUCKER (at the request of Mr. GEPHARDT) for today, on account of official business.

Miss COLLINS of Michigan (at the request of Mr. GEPHARDT) for today and the balance of the week, on account of medical reasons.

Mr. RUSH (at the request of Mr. GEPHARDT) for today, on account of travel problems.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore, entered, was granted to:

(The following Members (at the request of Mr. LUTHER) to revise and extend their remarks and include extraneous material:)

Mr. SKAGGS, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

Mr. OWENS, for 5 minutes, today.

(The following Members (at the request of Mr. FOX of Pennsylvania) to revise and extend their remarks and include extraneous material:)

Mr. CANADY of Florida, for 5 minutes, on July 18.

Mr. GOSS, for 5 minutes each day, on July 17, 18, 19, 20, and 21.

Mr. FOX of Pennsylvania, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following members (at the request of Mr. FOX of Pennsylvania) and to include extraneous matter:)

Mr. BAKER of California.
Mr. HANSEN.
Mr. BACHUS.
Mr. LAUGHLIN.
Mr. MARTINI.
Mr. CALLAHAN.
Mr. WALKER.

(The following members (at the request of Mr. LUTHER) and to include extraneous matter:)

Mr. JOHNSON of South Dakota in two instances.
Mr. SERRANO.
Mr. SKELTON.
Mr. GORDON.
Mrs. MALONEY.
Mr. BONIOR.
Mr. MENENDEZ in two instances.
Ms. WOOLSEY.
Mr. WARD.

ADJOURNMENT

Ms. JACKSON-LEE. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 32 minutes p.m.), under its previous order, the House adjourned until tomorrow, Tuesday, July 18, 1995, at 9 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1203. A communication from the President of the United States, transmitting a report on revised estimates of the budget receipts, outlays, and budget authority for fiscal years 1995–2000, pursuant to 31 U.S.C. 1106(a) (H. Doc. No. 104–98); to the Committee on Appropriations and ordered to be printed.

1204. A communication from the President of the United States, transmitting amendments to the fiscal year 1996 appropriations requests for the Department of Defense, the Department of Health and Human Services, and the Social Security Administration, pursuant to 31 U.S.C. 1106(b) (H. Doc. No. 104–99); to the Committee on Appropriations and ordered to be printed.

1205. A communication from the President of the United States, transmitting amendments to the fiscal year 1996 appropriations requests for the Departments of Commerce, Energy, Health and Human Services, Justice, State, Transportation, and the Treasury; the General Services Administration; and the Federal Emergency Management Agency, pursuant to 31 U.S.C. 1106(b) (H. Doc. No. 104–100); to the Committee on Appropriations and ordered to be printed.

1206. A letter from the Secretary of the Treasury, transmitting a copy of a report entitled: "Study of Specialized Government Securities Brokers and Dealers," pursuant to 15 U.S.C. 78o–5 note; to the Committee on Commerce.

1207. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a Memorandum of Justification for Presidential Determination on drawdown of Department of Treasury Commodities and Services to Support Serbia-Montenegro Sanctions Program Enforcement Efforts, pursuant to 22 U.S.C. 2348a; to the Committee on International Relations.

1208. A letter from the Secretary for Legislative Affairs, Department of State, transmitting notification of a proposed license for the export of major defense articles and services sold commercially to French Guiana (Transmittal No. DTC–38–95), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

1209. A letter from the Director, Office of Management and Budget, transmitting OMB's estimate of the amount of change in outlays or receipts, as the case may be, in each fiscal year through fiscal year 2000 resulting from passage of H.R. 483, pursuant to Public Law 101–508, section 13101(a) (104 Stat. 1388–582); to the Committee on Government Reform and Oversight.

1210. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11–93, "District of Columbia Campaign Finance Reform and Conflict of Interest Temporary Amendment Act of 1995," pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

1211. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11–92, "Prohibition on the Transfer of Firearms Act of 1995," pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

1212. A letter from the Auditor, District of Columbia, transmitting a copy of a report entitled, "Fiscal Year 1993 Annual Report on Advisory Neighborhood Commissions," pursuant to D.C. Code, section 47–117(d); to the Committee on Government Reform and Oversight.

1213. A letter from the Auditor, District of Columbia, transmitting a copy of a report entitled, "Review of the Agency Fund of the Office of the People's Counsel for Fiscal Year 1994," pursuant to D.C. Code, section 47–117(d); to the Committee on Government Reform and Oversight.

1214. A letter from the Archivist, National Archives and Records Administration, transmitting the Administration's report on disposal of Federal records for fiscal year 1994, pursuant to 44 U.S.C. 303a(f); to the Committee on Government Reform and Oversight.

1215. A letter from the Secretary of Commerce, transmitting a report entitled, "Antarctic Marine Living Resources Convention Act of 1984: Program Development Plan," pursuant to 16 U.S.C. 2431 et seq.; to the Committee on Resources.

1216. A letter from the Deputy Associate Director for Compliance, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Resources.

1217. A letter from the Clerk of the House, transmitting the annual compilation of personal financial disclosure statements and amendments thereto filed with the Clerk of the House of Representatives, pursuant to 2 U.S.C. 703(d)(1) and Rule XLIV, clause 1, of the House Rules (H. Doc. 104–97); to the Committee on Standards of Official Conduct and ordered to be printed.

1218. A letter from the Chairman, Federal Trade Commission, transmitting the Commission's 78th annual report covering its accomplishments during the fiscal year ended September 30, 1992, pursuant to 15 U.S.C. 46(f); jointly, to the Committees on Commerce and the Judiciary.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. ARCHER: Committee on Ways and Means. House Joint Resolution 96. Resolution disapproving the extension of nondiscriminatory treatment—most-favored-nation treatment—to the products of the People's Republic of China; adversely (Rept. 104–188). Referred to the Committee of the Whole House on the State of the Union.

Mr. YOUNG of Alaska: Committee on Resources. S. 268. An act to authorize the collection of fees for expenses for triploid grass carp certification inspections, and for other purposes (Rept. 104–189). Referred to the Committee of the Whole House on the State of the Union.

Mr. DIAZ-BALART: Committee on Rules. House Resolution 190. Resolution providing for consideration of the bill (H.R. 2020) making appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1996, and for other purposes (Rept. 104–190). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. WALKER (for himself, and Mr. SENSENBRENNER):

H.R. 2043. A bill to authorize appropriations to the National Aeronautics and Space Administration for human space flight, science, aeronautics, and technology, mission support, and inspector general, and for other purposes; to the Committee on Science.

By Mr. ACKERMAN (for himself, Mr. KING, Mr. LAZIO of New York, Mr. FRISA, and Mr. FORBES):

H.R. 2044. A bill to remove police officers employed by the Long Island Rail Road Company from coverage under the Employer's Liability Act, the Railway Labor Act, the Railroad Retirement Act, and the Railroad Unemployment Insurance Act, and for other purposes; to the Committee on Transportation and Infrastructure, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. CRANE (for himself, Mr. GIBBONS, and Ms. DUNN of Washington):

H.R. 2045. A bill to amend the Internal Revenue Code of 1986 to provide tax treatment for foreign investment through a U.S. regulated investment company comparable to the tax treatment for direct foreign investment and investment through a foreign mutual fund; to the Committee on Ways and Means.

By Mr. REED:

H.R. 2046. A bill to amend the Coastal Zone Management Act of 1972 to authorize grants to coastal States for development of State coastal zone management program changes to support adoption of procedures and policies to evaluate and facilitate siting of certain aquaculture facilities in the coastal zone, and to establish in the National Oceanic and Atmospheric Administration a marine aquaculture development program to be known as the Nantucket Program; to the Committee on Resources.

By Mr. SMITH of New Jersey (for himself, Mr. LIPINSKI, Ms. ROS-LEHTINEN, Mr. WOLF, Mr. KING, and Mr. SALMON):

H.R. 2047. A bill concerning the Fourth World Conference on Women in Beijing; to the Committee on International Relations.

By Mr. BREWSTER:

H. Res. 191. Resolution amending the Rules of the House of Representatives to require the reduction of section 602(b)(1) suballocations to reflect floor amendments to general appropriation bills, and for other purposes; to the Committee on Rules.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. GEKAS introduced a bill (H.R. 2048) to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel *Babs*; which was referred to the Committee on Transportation and Infrastructure.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 32: Mr. LAFALCE.

H.R. 72: Ms. ROS-LEHTINEN.

H.R. 104: Mr. ENGEL and Mr. STUPAK.

H.R. 127: Mr. QUINN.

H.R. 218: Mr. STUPAK.

H.R. 325: Mr. TOWNS and Mr. GENE GREEN of Texas.

H.R. 427: Mr. HALL of Texas, Mr. ENSIGN, Mr. STEARNS, Mr. BEREUTER, and Mr. MCINNIS.

H.R. 552: Mr. FRANK of Massachusetts, Mr. PARKER, Mr. BRYANT of Tennessee, Ms. RIVERS, Ms. KAPTUR, Mr. MCKEON, Mr. ROHRABACHER, and Mr. WELDON of Florida.

H.R. 628: Mr. SAXTON.

H.R. 743: Mr. WAMP and Mr. SALMON.

H.R. 789: Mr. KINGSTON.

H.R. 852: Ms. LOFGREN and Mr. MEEHAN.

H.R. 863: Mr. BENTSEN, Mr. ACKERMAN, Mr. CLYBURN, Mrs. THURMAN, Mr. KILDEE, Mr. ROMERO-BARCELO, Mr. LUTHER, and Mr. STUPAK.

H.R. 883: Mr. TAYLOR of Mississippi.

H.R. 899: Mr. CALLAHAN, Mr. TOWNS, Mr. SALMON, Mrs. KELLY, Mr. MOORHEAD, Mr. SHADEGG, and Mr. STEARNS.

H.R. 910: Mr. FALEOMAVAEGA.

H.R. 949: Mr. HEFLEY.

H.R. 1006: Ms. VELAZQUEZ and Mr. WYDEN.

H.R. 1021: Mr. KLUG.

H.R. 1100: Mr. BROWN of California.

H.R. 1169: Mr. NEY.

H.R. 1202: Mr. GENE GREEN of Texas, Mr. HASTINGS of Florida, Mr. MENENDEZ, Mr. BECERRA, Mr. MATSUI, Mr. MARTINEZ, Ms. JACKSON-LEE, and Mr. TEJEDA.

H.R. 1254: Mr. TAYLOR of Mississippi.

H.R. 1278: Mr. WYNN.

H.R. 1329: Mr. JOHNSTON of Florida.

H.R. 1352: Mr. COOLEY, Ms. FURSE, Mr. DINGELL, and Mr. TIAHRT.

H.R. 1362: Mr. FUNDERBURK, Mr. BURTON of Indiana, Mr. TIAHRT, Mr. EMERSON, and Mr. GOODLATTE.

H.R. 1527: Mr. CRAPO.

H.R. 1535: Mr. STUPAK.

H.R. 1594: Mr. FAWELL and Mr. GOODLING.

H.R. 1610: Mr. YOUNG of Alaska.

H.R. 1637: Mr. CAMP.

H.R. 1692: Mr. SCHIFF.

H.R. 1693: Mr. POSHARD, Mr. SCHIFF, and Mr. LUTHER.

H.R. 1694: Mr. POSHARD and Mr. SCHIFF.

H.R. 1695: Mr. POSHARD and Mr. SCHIFF.

H.R. 1701: Mr. STUPAK.

H.R. 1707: Ms. SLAUGHTER, Mr. REYNOLDS, and Mr. SERRANO.

H.R. 1715: Mr. CONDIT, Mr. CUNNINGHAM, Mr. FOLEY, Mr. HEFNER, Mr. MATSUI, Mrs. MEYERS of Kansas, Mr. MONTGOMERY, Mr. PETERSON of Florida, Mr. SISISKY, and Mr. SPRATT.

H.R. 1735: Mr. GOODLATTE and Mr. FARR.

H.R. 1744: Mr. KIM, Mr. CHRISTENSEN, and Mr. BARRETT of Wisconsin.

H.R. 1749: Mr. HOKE, Mr. COYNE, Ms. RIVERS, Mr. SALMON, Mr. STOCKMAN, Ms. VELAZQUEZ, Mr. DELLUMS, and Mrs. SCHROEDER.

H.R. 1801: Mr. MCCOLLUM.

H.R. 1856: Mr. HOYER, Mr. BERMAN, Mr. HASTINGS of Florida, Mr. CHRISTENSEN, and Mr. LIGHTFOOT.

H.R. 1876: Ms. MCKINNEY, Ms. LOFGREN, and Mr. OBERSTAR.

H.R. 1892: Mr. BAKER of Louisiana.

H.R. 1903: Mr. OWENS.

H.R. 1912: Mr. OBERSTAR, Mr. DELLUMS, Mr. TORRES, Mr. SERRANO, Mr. CARDIN, Mr. HILLIARD, Mr. FATTAH, and Mr. BROWN of Ohio.

H.R. 1915: Mr. SHAW and Mr. PICKETT.

H.R. 1932: Mr. SMITH of New Jersey, Mr. HEFLEY, Mr. UNDERWOOD, Mr. EMERSON, Mr. RAHALL, Mr. INGLIS of South Carolina, Mr. HASTINGS of Washington, Mr. POSHARD, Mr. BURTON of Indiana, Mr. KNOLLENBERG, Mr. BUNN of Oregon, and Mr. DELAY.

H.R. 2008: Mr. SERRANO, Mrs. JOHNSON of Connecticut, Mr. FOX, and Mr. ANDREWS.

H.R. 2011: Ms. MCKINNEY, Mr. WAXMAN, Mr. FROST, Mr. POMEROY, and Mr. HALL of Texas.

H.R. 2017: Mr. WYNN.

H.J. Res. 70: Mr. KILDEE and Mr. ENGEL.

H.J. Res. 97: Mr. HILLIARD, Mr. LIPINSKI, Mr. TAYLOR of Mississippi, and Mr. LUTHER.

H. Con. Res. 31: Ms. HARMAN.

H. Con. Res. 42: Ms. HARMAN, Ms. MCKINNEY, Ms. MOLINARI, Mr. GALLEGLY, Mr. DEFAZIO, and Mr. OBEY.

H. Con. Res. 47: Mr. ACKERMAN, Mrs. KENNELLY, Mr. DURBIN, and Mr. FAZIO of California.

H. Con. Res. 79: Mr. MARKEY, Mr. KILDEE, and Mr. LUTHER.

H. Res. 30: Mr. SPRATT, Mr. YOUNG of Alaska, Mr. LONGLEY, Mr. BEREUTER, Ms. RIVERS, Ms. LOFGREN, and Mr. CLINGER.

H. Res. 37: Mr. CRAMER.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 1976

OFFERED BY: MR. ALLARD

AMENDMENT NO. 30: Page 2, line 11, strike "$10,227,000, of which $7,500,000" and insert "$9,204,300, of which $6,750,000".

Page 3, line 3, strike "$3,748,000" and insert "$3,373,200".

Page 3, line 15, strike "$5,899,000" and insert "$5.309,100".

Page 3, line 21, strike "$4,133,000" and insert "$3,719,700".

Page 4, line 19, strike "$596,000" and insert "$536,400".

Page 5, line 23, strike "$800,000" and insert "$720,000".

Page 7, line 19, strike "$3,797,000" and insert "$3,607,150".

Page 8, line 3, strike "$8,198,000" and insert "$7,378,200".

Page 9, line 3, strike "$27,860,000" and insert "$26,467,000".

Page 9, line 12, strike "$520,000" and insert "$468,000".

Page 9, line 17, strike "$53,131,000" and insert "$50,474,450".

Page 10, line 3, strike "$81,107,000" and insert "$77,051,650".

H.R. 1976

OFFERED BY: MR. BEREUTER

AMENDMENT NO. 31: Page 40, after line 25, insert the following:

In addition, for the cost (as defined in section 502 of the Congressional Budget Act of 1974) of guaranteed loans under a demonstration program of loan guarantees for multifamily rental housing in rural areas, $1,000,000, to be derived from the amount made available under this heading for the cost of low-income section 515 loans and to become available for obligation only upon the enactment of authorizing legislation.

H.R. 1976

OFFERED BY: MR. CARDIN

AMENDMENT NO. 32: Page 71, after line 2, insert the following new section:

"SEC. 726. None of the funds made available in this Act may be used by the Food and Drug Administration to carry out the consolidation of its field laboratories, other than the renovation of the National Center for Toxicological Research.".

H.R. 1976

OFFERED BY: MRS. CLAYTON

AMENDMENT NO. 33: Page 40, line 10, insert "(less $50,000,000)" before "for loans".

Page 40, line 11, insert "(less $50,000,000)" before "shall".

Page 40, line 20, insert "(less $85,000)" before ", of which".

Page 40, line 20, insert "(less $85,000)" before "shall be for".

Page 45, line 10, strike "$6,437,000" and insert "$7,080,700".

Page 45, line 19, strike "$500,000,000" and insert "$550,000,000".

H.R. 1976

OFFERED BY: MRS. CLAYTON

AMENDMENT NO. 34: Page 40, line 10, insert "(less $70,000,000)" before "for loans".

Page 40, line 11, insert "(less $70,000,000)" before "shall".

Page 40, line 14, strike "$150,000,000" and insert "$220,000,000".

Page 40, line 20, insert "(less $119,000)" before ", of which".

Page 40, line 20, insert "(less $119,000)" before "shall be for".

Page 40, line 23, strike "$82,035,000)" and insert "$92,973,000".

H.R. 1976

OFFERED BY: MRS. CLAYTON

AMENDMENT NO. 35: Page 40, line 11, insert "(less $300,000,000) before "shall".

Page 40, line 20, insert "(plus $62,460,000)" before ", of which".

Page 40, line 20, insert "(less $510,000)" before "shall be for".

H.R. 1976

OFFERED BY: MR. CONDIT

AMENDMENT NO. 36: Page 3, line 3, strike "$3,748,000" and insert "$4,240,000".

Page 25, line 20, strike "$805,888,000" and insert "$805,396,000".

H.R. 1976

OFFERED BY: MR. CONDIT

AMENDMENT NO. 37: Page 3, line 3, strike "$3,748,000" and insert "$4,240,000".

Page 31, line 19, strike "$629,986,000" and insert "$629,494,000".

H.R. 1976

OFFERED BY: MR. CONDIT

AMENDMENT NO. 38: Page 3, line 3, strike "$3,748,000" and insert "$4,240,000".

Page 44, line 4, strike "$1,000,000" and insert "$508,000".

H.R. 1976

OFFERED BY: MR. CONDIT

AMENDMENT NO. 39: Page 3, line 3, strike "$3,748,000" and insert "$4,240,000".

Page 3, line 21, strike "$4,133,000" and insert "$3,641,000".

H.R. 1976

OFFERED BY: MR. MCINTOSH

AMENDMENT NO. 40: At page 71 of the bill, after line 2, insert after the last section the following new section:

SEC. 726. None of the funds made available in this Act may be used to prevent the dissemination of reprints of articles when it is made known to the Federal official having authority to obligate or expend such funds that the articles have been published in peer-reviewed scientific publications or other generally recognized scientific materials, including articles discussing cost-effectiveness claims.

H.R. 1976

OFFERED BY: MR. MCINTOSH

AMENDMENT NO. 41: At page 71 of the bill, after line 2, insert after the last section the following new section:

SEC. 726. None of the funds made available in this Act shall be used to increase, from the fiscal year 1995 level, the level of Full time Equivalency Positions (whether through new hires or by transferring full time equivalents from other offices) in any of the following Food & Drug Administration offices: Office of the Commissioner, Office of Policy, Office of External Affairs (Immediate Office, as well as Office of Health Affairs, Office of Legislative Affairs, Office of Consumer Affairs, and Office of Public Affairs), and the Office of Management & Systems (Immediate Office, as well as Office of Planning and Evaluation and Office of Management).

H.R. 1976

OFFERED BY: MR. MILLER OF CALIFORNIA

AMENDMENT NO. 42: Page 13, line 24, strike "$31,485,000" and insert in lieu thereof "$15,050,000".

Page 14, line 20, strike "$389,372,000" and insert "$372,937,000".

Page 53, line 17, strike "3,729,807,000" and insert in lieu thereof "$3,746,242,000".

H.R. 1976

OFFERED BY: MR. SANFORD

AMENDMENT NO. 43: Page 5, line 17, strike "$25,587,000" and insert "$9,000,000".

H.R. 1976

OFFERED BY: MR. SANFORD

AMENDMENT NO. 44: Page 5, line 18, after the semi-colon, insert the following new language: "provided that no funds may be expended for the Department's Strategic Space Plan;".

H.R. 1976

OFFERED BY: MR. SANFORD

AMENDMENT NO. 45: Page 26, strike lines 7 through 10.

H.R. 1976

OFFERED BY: MR. WATT OF NORTH CAROLINA

AMENDMENT NO. 46: Page 40, line 16, before the period insert the following:

": *Provided*, That, notwithstanding section 520 of the Housing Act of 1949, the Secretary of Agriculture may make loans under section 502 of such Act for properties in the Pine View West Subdivision, located in Gibsonville, North Carolina, in the same manger as provided under such section for properties in rural areas".

H.R. 1977

OFFERED BY: MR. SANDERS

AMENDMENT NO. 73: Page 55, line 5, strike "$384,504,000" and insert "$334,504,000".

Page 56, line 3, strike "$552,871,000" and insert "602,871,000".

Page 56, line 10, strike "$133,946,000" and insert "$183,946,000".

Page 56, line 17, strike "$107,446,000" and insert "$157,446,000".

H.R. 2002

OFFERED BY: MR. DELAY

AMENDMENT NO. 1: Page 15, line 8, strike $1,600,000,000" and insert "$1,700,000,000".

Page 26, line 4, insert before the final period the following:

: *Provided further*, That each dollar amount otherwise specified under this heading is hereby reduced by $100,000,000, and such reductions shall be made by the Secretary of Transportation solely from the amounts apportioned to urbanized areas with populations of more than 1,000,000

H.R. 2002

OFFERED BY: MR. RICHARDSON

AMENDMENT NO. 2. Page 12, line 7, strike "$4,600,000,000" and insert "$4,591,250,000".

H.R. 2020

OFFERED BY: MR. BREWSTER

AMENDMENT NO. 1. At the end add the following new title:

TITLE VI—DEFICIT REDUCTION LOCK-BOX

DEFICIT REDUCTION TRUST FUND

DEFICIT REDUCTION LOCK-BOX PROVISIONS OF APPROPRIATION MEASURES

SEC. 701. (a) DEFICIT REDUCTION LOCK-BOX PROVISIONS.—Title III of the Congressional Budget Act of 1974 is amended by adding at the end the following new section:

"DEFICIT REDUCTION LOCK-BOX PROVISIONS OF APPROPRIATION BILLS

"SEC. 314. (a) Any appropriation bill that is being marked up by the Committee on appropriations (or a subcommittee thereof) of either House shall contain a line item entitled 'Deficit Reduction Lock-box'.

"(b) Whenever the Committee on Appropriations of either House reports an appropriation bill, that bill shall contain a line item entitled 'Deficit Reduction Account' comprised of the following:

"(1) Only in the case of any general appropriations for Treasury and Postal Service (or resolution making continuing appropriations (if applicable)), an amount equal to the amounts by which the discretionary sending limit for new budget authority and outlays set forth in the most recent OMB sequestration preview report pursuant to section 601(a)(2) exceed the section 602(a) allocation for the fiscal year covered by that bill.

"(2) Only in the case of any general appropriation bill (or resolution making continuing appropriations (if applicable)), an amount not to exceed the amount by which the appropriate section 602(b) allocation of new budget authority exceeds the amount of new budget authority provided by that bill (as reported by that committee), but not less than the sum of reductions in budget authority resulting from adoption of amendments in the committee which were designated for deficit reduction.

"(3) Only in the case of any bill making supplemental appropriations following enactment of all general appropriations bills for the same fiscal year, an amount not to exceed the amount by which the section 602(a) allocation of new budget authority exceeds the sum of all new budget authority provided by appropriations bills enacted for that fiscal year plus that supplemental appropriation bill (as reported by that committee).

"(c) It shall not be in order for the Committee on Rules of the House of Representatives to report a resolution that restricts the offering of amendments to any appropriation bill adjusting the level of budget authority contained in a Deficit Reduction Account.

"(d) Whenever a Member of either House of Congress offers an amendment (whether in subcommittee, committee, or on the floor) to an appropriation bill to reduce spending, that reduction shall be placed in the deficit reduction lock-box unless that Member indicates that it is to be utilized for another program, project, or activity covered by that bill. If the amendment is agreed to and the reduction was placed in the deficit reduction lock-box, then the line item entitled 'Deficit Reduction Lock-box' shall be increased by the amount of that reduction. Any amendment pursuant to this subsection shall be in order even if amendment portions of the bill are not read for amendment with respect to the Deficit Reduction Lock-box.

"(e) It shall not be in order in the House of Representatives or the Senate to consider a conference report or amendment of the Senate that modifies any Deficit Reduction Lock-box provisions that is beyond the scope of that provision as so committed to the conference committee.

"(f) It shall not be in order to offer an amendment increasing the Deficit Reduction Lock-box Account unless the amendment increases rescissions or reduces appropriations by an equivalent or larger amount, except that it shall be in order to offer an amendment increasing the amount in the Deficit Reduction Lock-box by the amount that the appropriate 602(b) allocation of new budget authority exceeds the amount of new budget authority provided by that bill.

"(g) It shall not be in order for the Committee on Rules of the House of Representatives to report a resolution which waives subsection (c).".

(b) CONFORMING AMENDMENT.—The table of contents set forth in section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by inserting after the item relating to section 313 the following new item:

"Sec. 314. Deficit reduction lock-box provisions of appropriation measures.".

CHANGES IN SUBALLOCATIONS

SEC. 702. (a) DOWNWARD ADJUSTMENTS.—The discretionary spending limit for new budget authority for any fiscal year set forth in section 601(a)(2) of the Congressional Budget Act of 1974, as adjusted in strict conformance with section 251 of the Balanced Budget and Emergency Deficit Control Act of 1985, shall be reduced by the amount of budget authority transferred to the Deficit Reduction Lock-box for that fiscal year under section 314 of the Budget Control and Impoundment Act of 1974. The adjusted discretionary spending limit for outlays for that fiscal year and each outyear as set forth in such section 601(a)(2) shall be reduced as a result of the reduction of such budget authority, as calculated by the Director of the

Office of Management and Budget based upon such programmatic and other assumptions set forth in the joint explanatory statement of managers accompanying the conference report on that bill. All such reductions shall occur within ten days of enactment of any appropriations bill.

(b) DEFINITION.—As used in this section, the term "appropriation bill" means any general or special appropriation bill, and any bill or joint resolution making supplemental, deficiency, or continuing appropriations.

(c) RESCISSION.—Funds in the Deficit Reduction Lockbox shall be rescinded upon reductions in discretionary limits pursuant to subsection (a).

SEC. 703. (a) SECTION 302(e) AMENDMENT.—Section 302(e) of the Congressional Budget Act of 1974 is amended to read as follows:

"(e) CHANGES IN SUBALLOCATIONS.—(1) After a committee reports suballocations under subsection (b), that committee may report a resolution to its House changing its suballocations, which resolution shall not take effect unless adopted by that House.

"(2) A resolution reported to the House of Representatives under paragraph (1) shall be placed on the Union Calendar and be privileged for consideration in the Committee of the Whole after the report on the resolution has been available to Members for at least three calendar days (excluding Saturdays, Sundays and legal holidays). After general debate which shall not exceed one hour to be equally divided and controlled by the chairman and ranking minority member of the committee reporting the resolution, the resolution shall be considered for amendment under the five-minute rule. No amendment shall be in order in the House or in the Committee of the Whole except amendments in the nature of a substitute containing changes in suballocations under subsection (b) which do not breach any allocation made under subsection (a). Priority in recognition for offering the first such amendment shall be accorded to the chairman of the Committee on the Budget or a designee. No amendments to such amendments shall be in order except substitute amendments. Following the consideration of the resolution for amendment, the Committee shall rise and report the resolution to the House together with any amendment that may have been adopted. The previous question shall be considered as ordered on the resolution to final adoption without intervening motion. It shall not be in order to consider a motion to reconsider the vote by which the resolution is agreed to or disagreed to.".

(b) SECTION 602(b)(1) AMENDMENT.—The last sentence of section 602(b)(1) of the Congressional Budget Act of 1974 is amended by striking "or revised".

CBO TRACKING

SEC. 704. Section 202 of the Congressional Budget Act of 1974 is amended by adding at the end the following new subsection:

"(i) SCOREKEEPING.—To facilitate compliance by the Committee on Appropriations with section 314, the Office shall score all general appropriation measures (including conference reports) as passed by the House of Representatives, as passed the Senate and as enacted into law. The scorecard shall include amounts contained in the Deficit Reduction Lock-Box. The chairman of the Committee on Appropriations of the House of Representatives or the Senate, as the case may be, shall have such scorecard published in the Congressional Record.".

H.R. 2020

OFFERED BY: MR. DUNCAN

AMENDMENT NO. 2: Page 31, strike lines 7 through 10.

Page 30, line 13, insert "(less $65,764,000)" after each of the two dollar amounts.

Page 39, line 17, insert "(less $65,764,000)" after the dollar amount.

H.R. 2020

OFFERED BY: MR. HOYER

AMENDMENT NO. 3: On page 22, line 2 (Under The White House Office), delete $39,459,000 and insert $40,193,000.

On page 14, line 10 (Under IRS Information Systems), delete $1,575,216,000 and insert $1,574,482,000.

H.R. 2020

OFFERED BY: MR. HOYER

AMENDMENT NO. 4: On page 23 following line 10 insert the following:

"COUNCIL OF ECONOMIC ADVISORS

SALARIES AND EXPENSES

For necessary expenses of the Council in carrying out its functions under the Employment Act of 1946 (15 U.S.C. 1021), $3,439,000.

On page 13, line 3 (Under IRS Processing, Assistance and Management), delete $1,682,742,000 and insert $1,681,060,000.

On page 14, line 10 (Under IRS Information Systems), delete $1,575,216,000 and insert $1,573,459,000 and amend the report accordingly.

H.R. 2020

OFFERED BY: MR. HOYER

AMENDMENT NO. 5: On page 28 line 5 delete $26,521,000 and insert $27,721,000.

On page 14, line 10 (IRS Information Systems), delete $1,575,216,000 and insert $1,574,016,000.

H.R. 2020

OFFERED BY: MR. HOYER

AMENDMENT NO. 6: Strike everything from "Sec. 524" on page 63 line 22 through "term." on line 5 page 64.

H.R. 2020

OFFERED BY: MR. HOYER

AMENDMENT NO. 7: On page 84, following "above." on line 17, insert:

Provided further, That the Commission shall be under the operation of the Advisory Commission on Intergovernmental Relations: *Provided further*, For necessary expenses for the Advisory Commission on Intergovernmental Relations, $1,000,000, and additional amounts collected from the sale of publications shall be credited to and used for the purposes of this appropriation.

On page 12, line 10 delete $180,065,000 and insert $178,975,000 and

On page 12, line 17 delete $170,000,000 and insert $168,910,000.

For expenses necessary to carry out the provisions of the Advisory Commission on Intergovernmental Relations Act of 1959, as amended (42 U.S.C. 4271–79); $1,000,000, and additional amounts collected from the sale of publications shall be credited to and used for the purposes of this appropriation.

On page 12, line 9 delete $180,065,000 and insert $178,975,000 and

On page 12, line 16 delete $170,000,000 and insert $168,910,000.

H.R. 2020

OFFERED BY: MR. HOYER

AMENDMENT NO. 8: On page 84, following line 17, insert:

SEC. 628. (a) None of the funds appropriated by this or any other Act may be expended by any Federal agency to procure any product or service that is subject to the provisions of Public Law 89-306 and that will be available under the procurement by the Administrator of General Services known as "FTS2000" unless—

(1) such product or service is procured by the Administrator of General Services as part of the procurement known as "FTS2000"; or

(2) that agency establishes to the satisfaction of the Administrator of General Services that—

(A) the agency's requirements for such procurement are unique and cannot be satisfied by property and service procured by the Administrator of General Services as part of the procurement known as "FTS2000"; and

(B) the agency procurement, pursuant to such delegation, would be cost-effective and would not adversely affect the cost-effectiveness of the FTS2000 procurement.

(b) After July 31, 1995, subsection (a) shall apply only if the Administrator of General Services has reported that the FTS2000 procurement is producing prices that allow the Government to satisfy its requirements for such procurement in the most cost-effective manner.

H.R. 2020

OFFERED BY: MR. MCINTOSH

AMENDMENT NO. 9: At the end of the bill add the following new title:

TITLE —REGULATORY TRANSITION

SHORT TITLE

SEC. 01. This title may be cited as the "Regulatory Transition Act of 1995".

FINDING

SEC. 02. The Congress finds that effective steps for improving the efficiency and proper management of Government operations, including enactment of a new law or laws to require (1) that the Federal rulemaking process include cost/benefit analysis, including analysis of costs resulting from the loss of property rights, and (2) for those Federal regulations that are subject to risk analysis and risk assessment that those regulations undergo standardized risk analysis and risk assessment using the best scientific and economic procedures, will be promoted if a moratorium on new rulemaking actions is imposed and an inventory of such action is conducted.

MORATORIUM ON REGULATIONS

SEC. 03. (a) MORATORIUM.—Until the end of the moratorium period, a Federal agency may not take any regulatory rulemaking action, unless an exception is provided under section 05. Beginning 30 days after the date of the enactment of this Act, the effectiveness of any regulatory rulemaking action taken or made effective during the moratorium period but before the date of the enactment shall be suspended until the end of the moratorium period, unless an exception is provided under section 05.

(b) INVENTORY OF RULEMAKINGS.—Not later than 30 days after the date of the enactment of this Act, the President shall conduct an inventory and publish in the Federal Register a list of all regulatory rulemaking actions covered by subsection (a) taken or made effective during the moratorium period but before the date of the enactment.

SPECIAL RULE ON STATUTORY, REGULATORY, AND JUDICIAL DEADLINES

SEC. 04. (a) IN GENERAL.—Any deadline for, relating to, or involving any action dependent upon, any regulatory rulemaking actions authorized or required to be taken before the end of the moratorium period is extended for 5 months or until the end of the moratorium period, whichever is later.

(b) DEADLINE DEFINED.—The term "deadline" means any date certain for fulfilling any obligation or exercising any authority established by or under any Federal statute or regulation, or by or under any court order implementing any Federal statute or regulation.

(c) IDENTIFICATION OF POSTPONED DEADLINES.—Not later than 30 days after the date of the enactment of this Act, the President shall identify and publish in the Federal Register a list of deadlines covered by subsection (a).

EMERGENCY EXCEPTIONS; EXCLUSIONS

SEC. 05. (a) EMERGENCY EXCEPTION.—Section 03(a) or 04(a), or both, shall not apply to a regulatory rulemaking action if—

(1) the head of a Federal agency otherwise authorized to take the action submits a written request to the Administrator of the Office of Information and Regulatory Affairs within the Office of Management and Budget and submits a copy thereof to the appropriate committees of each House of the Congress;

(2) the Administrator of the Office of Information and Regulatory Affairs within the Office of Management and Budget finds in writing that a waiver for the action is (A) necessary because of an imminent threat to health or safety or other emergency, or (B) necessary for the enforcement of criminal laws; and

(3) the Federal agency head publishes the finding and waiver in the Federal Register.

(b) EXCLUSIONS.—The head of an agency shall publish in the Federal Register any action excluded because of a certification under section 06(3)(B).

(c) CIVIL RIGHTS EXCEPTION.—Section 03(a) or 04(a), or both, shall not apply to a regulatory rulemaking action to establish or enforce any statutory rights against discrimination on the basis of age, race, religion, gender, national origin, or handicapped or disability status except such rulemaking actions that establish, lead to, or otherwise rely on the use of a quota or preference based on age, race, religion, gender, national origin, or handicapped or disability status".

DEFINITIONS

SEC. 06. For purposes of this title:

(1) FEDERAL AGENCY.—The term "Federal agency" means any agency as that term is defined in section 551(1) of title 5, United States Code (relating to administrative procedure).

(2) MORATORIUM PERIOD.—The term "moratorium period" means the period of time—

(A) beginning November 20, 1994; and

(B) ending on the earlier of—

(i) the first date on which there have been enacted one or more laws that—

(I) require that the Federal rulemaking process include cost/benefit analysis, including analysis of costs resulting from the loss of property rights; and

(II) for those Federal regulations that are subject to risk analysis and risk assessment, require that those regulations undergo standardized risk analysis and risk assessment using the best scientific and economic procedures; or

(ii) December 31, 1995.

except that in the case of a regulatory rulemaking action with respect to determining that a species is an endangered species or a threatened species under section 4(a)(1) of the Endangered Species Act of 1973 (16 U.S.C. 1533(a)(1)) or designating critical habitat under section 4(a)(3) of that Act (16 U.S.C. 1533(a)(3)), the term means the period of time beginning on the date described in subparagraph (A) and ending on the earlier of the first date on which there has been enacted after the date of the enactment of this Act a law authorizing appropriations to carry out the Endangered Species Act of 1973, or December 31, 1996.

(3) REGULATORY RULEMAKING ACTION.—

(A) IN GENERAL.—The term "regulatory rulemaking action" means any rulemaking on any rule normally published in the Federal Register, including—

(i) the issuance of any substantive rule, interpretative rule, statement of agency policy, notice of inquiry, advance notice of proposed rulemaking, or notice of proposed rulemaking, and

(ii) any other action taken in the course of the process of rulemaking (except a cost benefit analysis or risk assessment, or both).

(B) EXCLUSIONS.—The term "regulatory rulemaking action" does not include—

(i) any agency action that the head of the agency and the Administrator of the Office of Information and Regulatory Affairs within the Office of Management and Budget certify in writing is limited to repealing, narrowing, or streamlining a rule, regulation, or administrative process or otherwise reducing regulatory burdens;

(ii) any agency action that the head of the agency and the Administrator of the Office of Information and Regulatory Affairs within the Office of Management and Budget certify in writing is limited to matters relating to military or foreign affairs functions, statutes implementing international trade agreements, including all agency actions required by the Uruguay Round Agreements Act, or agency management, personnel, or public property, loans, grants, benefits, or contracts;

(iii) any agency action that the head of the agency and the Administrator of the Office of Information and Regulatory Affairs within the Office of Management and Budget certify in writing is limited to a routine administrative function of the agency;

(iv) any agency action that—

(I) is taken by an agency that supervises and regulates insured depository institutions, affiliates of such institutions, credit unions, or government sponsored housing enterprises; and

(II) the head of the agency certifies would meet the standards for an exception or exclusion described in this title; or

(v) any agency action that the head of the agency certifies is limited to interpreting, implementing, or administering the internal revenue laws of the United States.

(4) RULE.—The term "rule" means the whole or a part of an agency statement of general or particular applicability and future effect designed to implement, interpret, or prescribe law or policy. Such term does not include the approval or prescription, on a case-by-case or consolidated case basis, for the future of rates, wages, corporation, or financial structures or reorganizations thereof, prices, facilities, appliances, services or allowances therefor, or of valuations, costs, or accounting, or practices bearing on any of the foregoing, nor does it include any action taken in connection with the safety of aviation or any action taken in connection with the implementation of monetary policy or to ensure the safety and soundness of federally insured depository institutions, any affiliate of such an institution, credit unions, or government sponsored housing enterprises or to protect the Federal deposit insurance funds. Such term also does not include the granting an application for a license, registration, or similar authority, granting or recognizing an exemption, granting a variance or petition for relief from a regulatory requirement, or other action relieving a restriction (including any agency which establishes, modifies, or conducts a regulatory program for a recreational or subsistence activity, including but not limited to hunting, fishing, and camping, if a Federal law prohibits the recreational or subsistence activity in the absence of the agency action) or taking any action necessary to permit new or improved applications of technology or allow the manufacture, distribution, sale, or use of a substance or product.

(5) RULEMAKING.—The term "rulemaking" means agency process for formulating, amending, or repealing a rule.

(6) LICENSE.—The term "license" means the whole or part of an agency permit, certificate, approval, registration, charter, membership, statutory exemption, or other form of permission.

(7) IMMINENT THREAT TO HEALTH OR SAFETY.—The term "imminent threat to health or safety" means the existence of any condition, circumstance, or practice reasonably expected to cause death, serious illness, or severe injury to humans, or substantial endangerment to private property during the moratorium period.

LIMITATION ON CIVIL ACTIONS

SEC. 07. No private right of action may be brought against any Federal agency for a violation of this title. This prohibition shall not affect any private right of action or remedy otherwise available under any other law.

RELATIONSHIP TO OTHER LAW; SEVERABILITY

SEC. 08. (a) APPLICABILITY.—This title shall apply notwithstanding any other provision of law.

(b) SEVERABILITY.—If any provision of this title, or the application of any provision of this title to any person or circumstance, is held invalid, the application of such provision to other persons or circumstances, and the remainder of this title, shall not be affected thereby.

REGULATIONS TO AID BUSINESS COMPETITIVENESS

SEC. 09. Section 03(a) or 04(a), or both, shall not apply to any of the following regulatory rulemaking actions (or any such action relating thereto):

(1) CONDITIONAL RELEASE OF TEXTILE IMPORTS.—A final rule published on December 2, 1994 (59 Fed. Reg. 61798), to provide for the conditional release by the Customs Service of textile imports suspected of being imported in violation of United States quotas.

(2) TEXTILE IMPORTS.—Any action which the head of the relevant agency and the Administrator of the Office of Information and Regulatory Affairs certify in writing is a substantive rule, interpretive rule, statement of agency policy, or notice of proposed rulemaking to interpret, implement, or administer laws pertaining to the import of textiles and apparel including section 334 of the Uruguay Round Agreements Act (P.L. 103–465), relating to textile rules of origin.

(3) CUSTOMS MODERNIZATION.—Any action which the head of the relevant agency and the Administrator of the Office of Information and Regulatory Affairs certify in writing is a substantive rule, interpretive rule, statement of agency policy, or notice of proposed rulemaking to interpret, implement, or administer laws pertaining to the customs modernization provisions contained in title VI of the North American Free Trade Agreement Implementation Act (P.L. 103–182).

(4) ACTIONS WITH RESPECT TO CHINA REGARDING INTELLECTUAL PROPERTY PROTECTION AND MARKET ACCESS.—A regulatory rulemaking action providing notice of a determination that the People's Republic of China's failure to enforce intellectual property rights and to provide market access is unreasonable and constitutes a burden or restriction on United States commerce, and a determination that trade action is appropriate and that sanctions are appropriate, taken under section 304(a)(1)(A)(ii), section 304(a)(1)(B), and section 301(b) of the Trade Act of 1974 and with respect to which a notice of determination was published on February 7, 1995 (60 Fed. Reg. 7230).

(5) TRANSFER OF SPECTRUM.—A regulatory rulemaking action by the Federal Communications Commission to transfer 50 megahertz of spectrum below 5 GHz from government use to private use, taken under the Omnibus Budget Reconciliation Act of 1993 and with respect to which notice of proposed rulemaking was published at 59 Federal Register 59393.

(6) PERSONAL COMMUNICATIONS SERVICES LICENSES.—A regulatory rulemaking action by the Federal Communications Commission to establish criteria and procedures for issuing licenses utilizing competitive bidding procedures to provide personal communications services—

(A) taken under section 309(j) of the Communications Act and with respect to which a final rule was published on December 7, 1994 (59 Fed. Reg. 63210); or

(B) taken under sections 3(n) and 332 of the Communications Act and with respect to which a final rule was published on December 2, 1994 (59 Fed. Reg. 61828).

(7) WIDE-AREA SPECIALIZED MOBILE RADIO LICENSES.—A regulatory rulemaking action by the Federal Communications Commission to provide for competitive bidding for wide-area specialized mobile radio licenses, taken under section 309(j) of the Communications Act and with respect to which a proposed rule was published on February 14, 1995 (60 Fed. Reg. 8341).

(8) IMPROVED TRADING OPPORTUNITIES FOR REGIONAL EXCHANGES.—A regulatory rulemaking action by the Securities and Exchange Commission to provide for increased competition among the stock exchanges, taken under the Unlisted Trading Privileges Act of 1994 and with respect to which proposed rulemaking was published on February 9, 1995 (60 Fed. Reg. 7718).

DELAYING EFFECTIVE DATE OF RULES WITH RESPECT TO SMALL BUSINESSES

SEC. 10. (a) DELAY EFFECTIVENESS.—For any rule resulting from a regulatory rulemaking action that is suspended or prohibited by this title, the effective date of the rule with respect to small businesses may not occur before six months after the end of the moratorium period.

(b) SMALL BUSINESS DEFINED.—In this section, the term "small business" means any business with 100 or fewer employees.

EXTENSIONS OF REMARKS

INTRODUCTORY STATEMENT FOR CONCESSION REFORM LEGISLATION—H.R. 2028

HON. JAMES V. HANSEN

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Monday, July 17, 1995

Mr. HANSEN. Mr. Speaker, last Thursday I introduced comprehensive legislation to reform the concession policies on Federal lands. This is a topic which has been extensively debated in recent years, with particular emphasis on National Park Service concession policies.

Currently, there are over 8,000 concession operations on lands managed by the Forest Service, National Park Service, Corps of Engineers, Bureau of Land Management, Bureau of Reclamation, and Fish and Wildlife Service. Each agency has its own independent set of rules and regulations designed to implement at least 11 different and sometimes conflicting laws. Concessioners have to wade through a mountain of differing requirements from agency to agency and are even required to collect and file different information with each agency on a single trip.

In report after report, the General Accounting Office and others have suggested that Federal concession management needs reform. My legislation is based on three primary principles as follows:

First, provide for a uniform and consistent concession policy among the Federal land management agencies to the extent feasible.

Second, recognition of the importance of the public-private partnership in providing a high quality recreation experience on Federal lands, and

Third, utilization of the competitive process to ensure quality service to the public at reasonable prices and a fair return to the Government.

This legislation includes many features which have not been included in previous legislative proposals. For example, this bill provides a consistent concession policy among all land management agencies, allows rates to the public to be set by the market place to the maximum extent possible, provides a truly competitive selection process which recognizes the value of concessioners with a proven record of performance, ensures a higher rate of return for the Government and permits concession fees collected to remain with the agencies, provides incentives to encourage the private sector to develop and maintain private recreation facilities on Federal lands, provides an independent appeals process to resolve disputes and permits the privatization of certain concession activities on Bureau of Land Management and Forest Service lands.

I believe that the policies outlined in this bill are sound. I encourage my colleagues to join with me in the further refinement of this legislation to ensure a high quality, concession-provided recreation experience awaits the American public on all their Federal lands.

REMEMBERING LIVEO "OLLIE" OLIVOTTI

HON. BILL BAKER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 17, 1995

Mr. BAKER of California. Mr. Speaker, later this summer, America will celebrate the 50th anniversary of the end of the war in the Pacific. One of the heroes of that war, Ollie Olivotti, recently passed away and will soon be interred at Arlington National Cemetery. Ollie was a long-time resident of the city of Livermore in my district, and I wanted to take this opportunity to honor him for his sterling service to his country and his community and for his devotion to his family.

Ollie was a young serviceman in the Army Air Corps stationed at Clark Field in the Philippines when the war began. He fought on the Bataan Peninsula until the surrender to the Japanese in April, 1942. He survived not only the brutal Bataan Death March but also 3½ years in captivity, finally being liberated by Russian troops in 1945.

He retired as CWO from the U.S. Air Force in 1960 after winning the Bronze Star, the Prisoner of War Medal, and a host of other military honors. He then began working at Sandia National Laboratory, where he retired as a section supervisor after 21 years of service.

Active in community affairs, Ollie was married for 48 years to his beloved wife Harriet. He leaves her, their three daughters and their husbands, and nine grandchildren. And he also leaves a legacy of commitment to the values of family and freedom that have helped make America great.

It is an honor for me to recognize Ollie Olivotti today in the CONGRESSIONAL RECORD. Our country has lost a hero, his family a loving husband and friend, and his community a loyal supporter.

CONGRATULATING THE BIRMINGHAM SOUTHERN COLLEGE MEN'S BASKETBALL TEAM

HON. SPENCER BACHUS

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 17, 1995

Mr. BACHUS. Mr. Speaker, I rise today to congratulate Birmingham Southern College and it's men's basketball team for winning the NAIA championship in Tulsa, OK.

Birmingham-Southern College is ranked "among the best and most noteworthy in North America" by "The Insiders Guide to the Colleges 1994" edition, compiled and edited by the staff of the Yale Daily News. Birmingham-Southern College has again been ranked as one of the top "National Liberal Arts Colleges" by U.S. News and World Report in the magazine's recent "Best Colleges" issue. Southern is recognized in the magazine's October 1994, issue as one of the best values in higher education. Birmingham-Southern is ranked No. 8 among the 160 National Liberal Arts Colleges in the category of Most Efficient Schools.

Enrollment has reached a high in recent years. From an enrollment of only 727 in 1976, Birmingham-Southern enrolled some 1,800 students this Fall.

The recognition and enrollment are the result of the college's outstanding academic reputation and the leadership its president, Dr. Neal R. Berte, who is an acknowledged national leader in higher education across the country, and the leadership and hard work of the trustees and the faculty.

Four prestigious guides, "The National Review College Guide," "The Fiske Guide to Colleges 1994," the "Princeton Review 1994 edition of The Student Access Guide to The Best 286 Colleges," and U.S. News & World Report magazine have ranked Birmingham-Southern College as among 58 of "America's Top Liberal Arts Schools," according to National Review; as among "315 of the best and most interesting colleges in America," according to Fiske; among the highest ranked in academics, quality of life and financial aid, according to the Princeton Review, and among the 140 top national liberal arts colleges, according to U.S. News in its October 4, 1993 issue.

Birmingham-Southern graduates' records indicate the quality of the educational experience at Birmingham-Southern. They are admitted to graduate schools, law schools, and medical schools at rates two to three times higher than most colleges across America.

These recognitions and impressive enrollment standards at Birmingham-Southern are the result of the outstanding academic reputation and hard work of the trustees and faculty along with the superior leadership of BSC's president, Dr. Neal R. Berte. Accomplishments such as the ones mentioned above would make any school proud, but Birmingham-Southern College's successes go far beyond the classroom.

The Birmingham-Southern College Men's basketball team was unranked in the preseason poll and selected to finish fourth in the Southern States Conference. Despite these predictions, the Panthers were the first team to go 14–0 in Southern States competition and made their fourth trip to the tournament in only 6 years, and their second championship in that time. They completed the season with an incredible 32-consecutive-game winning streak, the longest in college basketball. Their record for the year was 35 wins, with only 2 losses, setting a record for the most wins in school history.

The record setting performance of the Birmingham-Southern College men's basketball team can be attributed to the relationships that are developed between coach and player. The Panthers winning attitude and success is a direct correlation with the accomplishments of Head Coach Duane Reboul and his assistant coaches Dwight Evans and Paul Arthur. Winning 83 percent of his games, coach Reboul

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

has the best winning percentage in the NAIA. As one of Birmingham-Southern College's most successful basketball coaches, the biggest achievement for Reboul is not the records he attains, but the respect he receives from former players. Each year, the goals remain the same—winning a championship and striving to make each player the best possible person he can be. Consequently, the student-athletes take these ideals and this winning attitude into the classroom and win them for the rest of their lives.

Finally, the winning attitude that has been instilled in the minds of the players should not go unnoticed. At this time, I would like to congratulate the student athletes who have worked so hard, and dedicated their time and efforts to achieving these accomplishments. Chris Armstrong, Obra Carter, James Cason, Nigel Coates, Bo Coln, Tommy Dalley, Dwayne Elliot, Paul Fleming, Todd Largen, Jay Mitchell, Mike Schwallie, Eddie Walter, Damon Wilcox, and Will Worrell are each to be applauded for their accomplishments both on and off of the court. I wish them all success in their academic as well as athletic pursuits.

Congratulations to Coach Reboul and his team for an outstanding year. We look forward to your continued success and achievement of excellence.

TRIBUTE TO LT. COL. MICHAEL J. LEPPER

HON. GREG LAUGHLIN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 17, 1995

Mr. LAUGHLIN. Mr. Speaker, I rise today to recognize Lt. Col. Michael J. Lepper for his distinguished and exemplary service to the U.S. Air Force and this great Nation as Deputy Chief of the House Liaison Office from March 29, 1993, to July 5, 1995. In this capacity, Mike has excelled in providing the House of Representatives with outstanding service and unselfish commitment above and beyond the call of duty. He quickly established a solid reputation with both Members and staff, displaying his extensive knowledge of Air Force programs and issues, as well as national defense strategy. As a highly trained and experienced fighter pilot, I can think of no one who has provided better guidance, advice, and real-world expertise on a wide array of aerospace and other national security issues than Mike Lepper. His intelligence, charm, keen wit, and can-do attitude have made an indelible impact on us. He has aided us immeasurably in our day-to-day operations, and his effectiveness on Capitol Hill is legendary. No one has a better feel for the congressional pulse. In the challenging arena of international travel, Mike has always been the military escort of choice. He was brilliant in planning, organizing, and executing numerous congressional delegation trips to virtually every corner of the Earth. Having personally traveled with Mike, he has a way of making the difficult look effortless, and the impossible a reality. Because of Mike's credibility and goodwill, the Air Force and the Department of Defense will long reap the benefits of his tenure on the Hill. My colleagues and I bid a fond farewell to Lt. Col. Mike Lepper and his wife, Joanne, and wish them continued success in their next assignment at National War College.

IN HONOR OF ALL THE VOLUNTEERS WHO MAKE PROJECT CHILDREN A REALITY FOR THE YOUNG PEOPLE OF NORTHERN IRELAND

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, July 17, 1995

Mr. MENENDEZ. Mr. Speaker, I rise today to pay tribute to all the people who make Project Children a great success. Project Children is an organization that brings together children from Northern Ireland and American host families. These volunteers give up their time to dedicate themselves to providing these children with a peaceful and fun-filled summer.

There are many heroes involved with Project Children. John and Joan Hughes coordinate the Project Children in New Jersey and I am grateful for their devotion. The Hughes' have dedicated much of their time to raising funds that make it possible for these children to travel. They are assisted by many others, including Carolyn Malizia, Maryanne McAdams, Patty Moreale, Kevin Ferrick, Joe Masterson. They have all dedicated their time and resources to provide a summer away from the troubles and pain of Northern Ireland. I have singled out some of the people responsible for Project Children, but there are many other volunteers, too numerous to mention here, who also deserve our thanks. Every year I hold a luncheon for these young children and their host families. For the past 2 years Mr. and Mrs. Liam Benson, owners of O'Donohues Pub in Hoboken, NJ, have been gracious enough to donate their services.

Project Children is an organization founded by Denis Mulcahy and his brother Pat Mulcahy. Through the years, the organization has grown and has provided thousands of children many wonderful summers in the United States. It is an opportunity for these children to experience a different type of life, a life away from the threat of violence with which they live daily. Project Children aims to touch each individual child and imprint in their heart and mind the memories of a lifetime.

This year there is new hope for Northern Ireland with the recent signing of a ceasefire agreement. Hopefully, this will mark the dawn of a new era. These children can, perhaps now, return to a Northern Ireland that is free of bloodshed. May they return to a country united by a common cultural heritage and accepting of its religious diversity.

Please join me in honoring all those responsible for this summer of peace. Let us hope that the cease-fire agreement will be the first stepping stone to a peaceful resolution. We hope that next year these children will enjoy a wonderful summer in a peaceful Northern Ireland.

A NATIONAL LATINA ORGANIZATION HONORS RITA DI MARTINO

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, July 17, 1995

Mr. SERRANO. Mr. Speaker, I rise to pay tribute to Rita Di Martino, a national Latina leader who will be honored on July 27, 1995 by MANA: A National Latina Organization. On that evening the organization will announce the establishment of the Rita Di Martino Scholarship in Communications.

MANA was founded over 20 years ago and through its programs has worked to achieve recognition for Latin American women throughout the United States. The Rita Di Martino Scholarship is the first of many scholarships that MANA will establish in the future to recognize the impressive accomplishments of Latin American women in this country. Latina leaders' achievements and service in the fields of business, education, politics, science, medicine, and the space industries will be honored in this way.

Rita Di Martino is the first Latin American woman to be recognized by MANA for her outstanding contribution to both the Hispanic community and to our Nation as a whole. She is an esteemed spokesperson for the Hispanic community and a nationally recognized expert on Hispanic affairs.

Ms. Di Martino is a member of the Council of Foreign Relations, the Ana Mendez University System, and Gems Television International. She serves on the Executive Committee of the National Council of La Raza, the National Hispanic Corporate Council, the Cuban American National Council, the National Association of Latino Elected and Appointed Officials, the U.S. Senate Republican Task Force, is the Vice-Chair of the Congressional Hispanic Caucus Institute, and is a Presidential appointee to the USO World Board of Governors.

In 1982, President Ronald Reagan appointed Ms. Di Martino as the U.S. Ambassador to the UNICEF Executive Board. Ms. Di Martino influenced policy regarding the relationship of the United States and UNICEF, achieved increases in UNICEF's financial support, and extended the scale of programs in the areas of child health, water quality and sanitation, nutrition, and education. Ms. Di Martino conducted oversight and program review visits in Central and South America, East and West Africa, Egypt, and Morocco.

Ms. Di Martino is currently the Director of Federal Government Affairs for AT&T where she coordinates the company's relations with the administration, Congress, and various State governments. She enhanced the political standing of At&T by securing recognition of AT&T as a major corporate citizen by the current administration. As a leader in the Hispanic community, Ms. Di Martino provides information and guidance to the company's administration about this growing segment of the population and offers leadership and direction with respect to multicultural issues. She is frequently called upon to act as a spokesperson for AT&T in both Spanish and English publications, broadcasts, electronic media, and live events.

Ms. Di Martino has been recognized by Who's Who in America, 100 Hispanic Influentials in America Today, and Cattell's Who's Who in American Politics. She has been widely honored and recognized for her efforts in the areas of public policy, communications, and public service by businesses and community organizations, colleges, universities, and various educational institutions, in addition to numerous publications and journals.

Through MANA's scholarship program Ms. Di Martino and her achievements will continue to inspire and enable generations of young Hispanic women to strive to be the leaders of tomorrow.

CONGRATULATIONS GEN. CHARLES G. BOYD ON HIS RETIREMENT

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, July 17, 1995

Mr. SKELTON. Mr. Speaker, today I wish to congratulate Gen. Charles G. Boyd, Deputy Commander-in-Chief of the United States European Command, who will retire on July 31, 1995. General Boyd's career spans 36 years, over a third of a century in which he has given distinguished service as a leader in the United States Air Force.

Born in Rockwell City, IA, Chuck Boyd's roots extend deep into the heartland of America. He graduated from Aviation Cadet Program, Greenville Air Force Base, MI and was commissioned as a second lieutenant in July 1960. As a captain, General Boyd piloted the F-105 "Thud" over Vietnam, logging 105 combat missions before being shot down. He also interned for 7 years as a prisoner of war at various locations throughout Southeast Asia. Following his release, Chuck Boyd served in a variety of assignments throughout Europe, the Pacific, and the Continental United States. The positions included vice commander of the Strategic Air Command's 8th Air Force, director of plans at Headquarters U.S. Air Force, Washington, D.C., and commander of the Air University, Maxwell Air Force Base, AL. General Boyd retires as the most senior command pilot of the Gray Eagle of the United States Air Force.

Commander at the Air University was one of many positions of high importance in which General Boyd faithfully served his country. As commander, he was responsible for the management of 21 separate Air Force schools. His leadership has had a great impact on the professional military education of the entire Air Force. His stewardship took the command from a position of being widely criticized in this Chamber to one which was praised from the House floor as the finest educational command in the Department of Defense. His stellar leadership of the schools and visionary application of Airpower is best demonstrated by the conception and implementation of the School for Advance Airpower Studies. This is a graduate level program to teach the employment of Airpower in Joint Coalition and Air Force pure operations. This school, General Boyd's project from start to finish, will have the greatest single impact of any educational entity in insuring that the United States Air Force is prepared for the challenges of the 21st Century.

As the Deputy Commander in chief of the United States European Command, General Boyd has guided his staff through the most eventful and challenging period of its postwar history. Having planned over 58 operations in direct response to National Command Authority tasks, and ultimately executing 32 of those operations, General Boyd's strong and positive influence on U.S. foreign policy and national security strategy will be felt well into the next decade.

The United States Air Force will not forget General Boyd's many years of faithful and dedicated service to his country. Throughout his service he has demonstrated not only courage and bravery, but shown his patriotism toward his country. Perhaps he is best represented by the statue of Karl W. Richter, a statue dedicated to the brave souls from the Vietnam War. General Boyd's leadership, like this statue at the center of Academic Circle at Maxwell Air Force Base, will continue to inspire future generations of Air Force leaders.

WILLIAM SICKLICK HONORED FOR LIFETIME OF SERVICE

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, July 17, 1995

Mrs. MALONEY. Mr. Speaker, I rise today to honor the life and mourn the sad passing of William Sicklick, a long-time community activist, an auxiliary police officer, and a great New Yorker.

Like all great Americans, Bill Sicklick often answered his community's call to action. He courageously served as a captain of the Auxiliary Police Force, Seventh Precinct. At Governor's Hospital, he served on the advisory board. He was a member of Community Board #3, and always sought to improve the lives of the disadvantaged.

With the passing of Mr. Sicklick, we mourn not only a proud and capable community leader, but also a loving family man. Mr. Sicklick is survived by his wife, Norma, and his two children, Jeffrey and Leslie.

Mr. Speaker, I would ask that my colleagues join me in saluting the life of Bill Sicklick and extending sympathy to his wife, children, and family. His life demonstrates truly American values. His tireless dedication to public service and family are an example to us all.

MACON COUNTY, TN

HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Monday, July 17, 1995

Mr. GORDON. Mr. Speaker, it is with great pride that I share with my fellow Members some of my thoughts about one of the most beautiful areas of my district, Macon County, TN.

Tucked away on the Tennessee-Kentucky border is a place that has attracted many visitors to enjoy its unique natural features, while still retaining a sense of community for those who call it home.

Macon County has endured good times and bad because Macon citizens have a tremendous pride in their community. We all know the strong tobacco tradition in Macon County and tobacco is enjoying one of its strongest years ever. Last year Macon County farmers placed second in the State in burley tobacco production, bringing home more than $11.5 million to boost the local economy.

It is the people of Macon County that have made all this hard work possible. The spirit of community, the willingness to always look for new ways to make your community a better place to live is contagious. The Donoho Hotel and the Red Boiling Springs Inn are two examples. They're enjoying a rebirth and the Macon County Chamber of Commerce is working to spread the word to potential tourists about the beauty of Macon County.

I am proud of all our efforts and am eager to help write the next, successful chapter of Macon County's history.

TRIBUTE TO DAVID PRUITT

HON. SONNY CALLAHAN

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 17, 1995

Mr. CALLAHAN. Mr. Speaker, it is with deep sadness that I report the death of David Carl Pruitt, III, a long-time Capitol Hill staffer, and my former administrative assistant.

I know many of my colleagues and Hill staffers remember David. He served as AA to former Congressman Jack Edwards from 1965 until 1985, when he joined my office to help get a new freshman acclimated to Washington.

David Pruitt died tragically after suffering a heart attack at his home in Mobile, AL, on July 10. He was 61 years old.

David grew up in Birmingham, AL, and graduated from the University of Alabama. He was a die-hard Tide fan all his life. After graduating and military service, he moved to Mobile where he was the first director of what became the America's Junior Miss Pageant. He remained active in this pageant as well as in the Miss Alabama and Miss America pageants during his years in Washington and after his return to Mobile.

David retired from the House of Representatives to set up a florist business in Mobile where he was quite successful. He was active in Mobile area civic activities. Most notably, he helped found the Betbeze-Rocco House, an organization offering relief and solace to those infected with HIV and AIDS. He also was a major fund raiser for Mobile AIDS Support Services. His contributions to our community helped improve the quality of life for our residents.

One of David's finest qualities was his generosity to his friends and family. Whenever someone was in need, David was the one called because we could rely on his unfailing efforts to help. He leaves many, many friends who will relish delightful memories of him. To them and to his sister, Jean Pruitt Holtsford, I offer my most sincere condolences.

NOTING THE PASSING OF MONROE SALVANT

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, July 17, 1995

Mr. STOKES. Mr. Speaker, I am saddened to report the passing of a distinguished resident of my congressional district. The Cleveland community recently mourned the passing of Monroe C. Salvant. For 34 years, Mr. Salvant operated Monroe's Flower Shop in Cleveland. Mr. Salvant was a respected member of the business community. He was also well known for his involvement in community-based organizations, including the NAACP and the Catholic Interracial Council.

His friends recall that Mr. Salvant was also an avid golfer. When he was not operating his flower shop, he could be found on the golf course. In addition to winning numerous golfing trophies, Mr. Salvant was a member of the Sixth City Golf Club and the Hisen Golf Club.

Mr. Speaker, Monroe was a long-time friend and a businessman whom I greatly admired and respected. I also have a great amount of respect for Odessa Salvant, his wife, who is very much involved in our community as an officer in the NAACP, and holds memberships in other organizations. I join members of the Cleveland community in mourning the passing of Mr. Salvant. I take this opportunity to extend my deepest sympathy to members of the Salvant family. It is my hope that the family will find comfort in knowing that others share their loss.

MONROE SALVANT, RAN FLOWER SHOP, GOLFED

MAYFIELD HEIGHTS.—Monroe Covington Salvant and his wife, Odessa, operated Monroe's Flower Shop at E. 84th St. and Cedar Ave. for 34 years. When the shop was not open, Monroe could be found on a golf course, where he won numerous trophies.

Mr. Salvant last swung a club when he took a few chip shots in his yard in Mayfield Heights Monday. He suffered a heart attack later that day and was flown to Meridia Huron Hospital. He died there Tuesday morning. He was 82.

Mr. Salvant was born in Pass Christian, Miss. His family moved to Cleveland in the early 1920s. He developed his interest in golf while working as a caddy at local country clubs. He graduated from Central High School in 1932 and from John Carroll University with a degree in psychology in 1939. He then worked in the headquarters of the Standard Oil Co. (Ohio) until he was drafted into the Army during World War II. He served in the Counterintelligence Corps in the United States.

Mr. Salvant married Odessa Christopher in 1941. He was a lifetime member of the NAACP, of which his wife was a local officer.

Mr. Salvant was also a member of the Catholics Interracial Council; the 6th City Golf Club, the Hi Sen Golf Club, the Reynards Social Club and the Sunday Night Bridge Club.

In addition to his wife, Mr. Salvant is survived by a daughter, Carolyn Jean Bradford of Baltimore; five grandchildren; a great-grandchild; and a sister.

Services will be at 9:30 a.m. Saturday at St. Francis of Assisi Catholic Church, 6850 Mayfield Rd., Gates Mills.

Arrangements are being handled by the E.F. Boyd & Son Funeral Home of Cleveland.

IN HONOR OF THE FAMILIES AND PARTICIPANTS OF PROJECT CHILDREN 95

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, July 17, 1995

Mr. MENENDEZ. Mr. Speaker I rise today to recognize the work of some very special volunteers. I would like to take this moment to pay tribute to those families who have opened their hearts and homes to some very special kids from Northern Ireland as part of Project Children. These children come from a land that for too long has been steeped in violence. Everyday of their young lives these children have lived with the threat of violence and terror. This year they received some news of hope. The hope came in the form of a peace agreement that was signed several months ago.

This year 26 families from my home State of New Jersey are sharing their homes with 30 Irish children. As part of the program, these children are given the opportunity to come to the United States to enjoy a carefree, fun-filled summer. It gives them an opportunity to get away from the violence. These 30 children will enjoy the simple pleasures of childhood thanks to the generosity of caring American volunteers.

This year, we welcome Gemma Walker, Paul Kerr, Joanne Brady, Daniel Fearon, Claire McKinley, Lorraine Fitzpatrick, Jennifer Kenny, Alice Crilly, Danielle McLonglin, David Tierney, Colum Haddock, Seadhna Billings, Seainin Keenan, Denise Burt, Terence Austin, Barye Dobbin, Matthew Anderson, Margaret McKee, Michelle Johnston, Christopher Melrose, Kenneth Murphy, Leeanne Doyle, Martina O'Hare, Darren Diamond, Marc Hegney, Elaine Murray, Margaret White, Sonia O'Neill, Darren Coghlan, and Padraig O'Hara.

The people that are gracious enough to open their hearts and their homes to these children are Cheryl Stone, Brian and Patricia Carmen, Dennis and Mary Crowley, Anthony and Marge DeSando, Al and Ellen Dorso, John and Mary Garcia, Brian and Lorri McGorty, Robert and Dyan Moore, Gary and Tina Shannon, Douglas and Susanna Stroud, Joseph and Barbara Wells, Steven and Aileen Williamson, James and Beverly Aibel, Dominick and Carolyn Daniele, Arnold and Madeline Fatteross, Rick and Arlene Faustini, Kenneth and Arleen Ferguson, Al and Bernie Gillio, John and Anne Neebling, Stephen and Jean Revis, John and Lori Rose, Micheal and Diane Scheller, Gary and Kathryn Seaman, James and Louise Sweeney, Micheal and Anne Tizio, John and Barbara White, and John and Christine Woods.

I know that my colleagues will join me in extending our best wishes to our young visitors, and in commending the generosity and warmth displayed by their American hosts. Furthermore, we pray that the ceasefire-agreement is the beginning of a new era for Northern Ireland. Perhaps, in the future these children will be enjoying fresh summer breezes in their beloved Emerald Isle.

CONDOLENCES TO FAMILY AND FRIENDS OF FOUR ALCOHOL RELATED DEATHS

HON. WILLIAM J. MARTINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, July 17, 1995

Mr. MARTINI. Mr. Speaker, I would like to take this time to send my condolences to the family and friends of four women who died tragically in an alcohol-related accident on July 3, 1995. All four of them resided in my congressional district.

Evelyn Dotson, Henrietta Lathon, Jeanne Ruth Sanford, and Gwendolyn King had been paying a visit to an elderly woman who was housebound with a bad heart. Before heading home, they decided to spend the evening in Atlantic City. On their way back to the eighth district their van was struck head on by a sports car driving in the wrong direction on the Garden State Parkway. The four women died in the accident. A 24-year-old man was charged with drunk driving in the incident. Miraculously, the driver of the van, Matthew Buie, and his wife, Jonnie Ruth, were saved when they were pulled from the burning van by a passing motorist.

Mr. Speaker, these four women were extremely active members in the Paterson, NJ community. They donated their time and effort to help others in a selfless manner. They prayed for the sick, fed the hungry, and comforted the lonely. They exhibited the qualities we should all strive to emulate.

Furthermore, each of the women spent a great deal of time at the St. Augustine Presbyterian Church. This congregation will not easily replace the void that was created by the passing of Evelyn, Henrietta, Jeanne, and Gwendolyn. I am sure, Mr. Speaker, that you share the sadness that Mr. Donald Curtis, the president of the church's board of trustees, feels in the passing of these magnanimous individuals.

It is sad that it takes tragic times such as these to bring people together and to realize the importance of charitable qualities. Fortunately, the passion for life and the commitment to the church that these women shared will live on in the memories of their family and friends.

MICHIGAN NEEDS THE NATIONAL BIOLOGICAL SERVICE [NBS]

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, July 17, 1995

Mr. BONIOR. Mr. Speaker, I rise today to express my strong opposition to Speaker GINGRICH and the congressional Republican efforts to eliminate the National Biological Service [NBS] in the Interior Appropriations bill. Eliminating the NBS is yet another attempt to roll back the progress we have made in improving our water quality.

The current Interior Appropriations bill will result in shutting down four biological science facilities—including the one in Ann Arbor, MI. The Ann Arbor facility has been instrumental in contributing information and knowledge about zebra mussels and water quality issues in Lake St. Clair.

This ill-conceived bill also transfers the responsibility of researching living resources to the U.S. Geological Survey—an agency which has never in its entire existence studied a living resource let alone a foreign species like the zebra mussel.

For those of us who live along the lake wondering each and every day if the water is safe, scientific research is the only way we can control foreign organisms and find solutions to what is happening in Lake St. Clair. With this legislation, Congress is saying to the people in the 10th District of Michigan, and to everyone along the Great Lakes, that they don't care about one of the most important economic and recreational resources we have—our water.

It is time to stop turning back the clock. We don't want our lakes to become ecologically dead or our rivers to become so polluted that they catch on fire again. What we want is to move forward, to find solutions and provide answers. That's what the National Biological Service does and that's why we should be funding its research—not abolishing it.

Perhaps my feelings about the elimination of the NBS are best stated by a recent Detroit Free Press editorial, which I would now like to submit for the RECORD.

[From the Detroit Free Press, Monday, July 10, 1995]

RISKY REFORM—CUTTING THE NBS WOULD HARM GREAT LAKES AND MORE

If Congress carries out its threat to kill or castrate the National Biological Service, the Great Lakes will be enormous losers. Most people in Michigan may never have heard of the NBS, but while the name may be new and unfamiliar, the federal research activities it comprises have been around for a while, and are much too valuable to lose.

It is the unhappy fate of the NBS that it was put together in 1993 by Interior Secretary Bruce Babbitt, who is widely regarded by the Wise Use Gang as a traitor to his class—a rancher who doesn't believe that beef cattle are God's second highest creation, or that the federal government should butt out of everything west of the 100th meridian. The mere fact that Mr. Babbitt's fingerprints are on the NBS has made it a prime target of the anti-science, anti-environment, anti-government crowd.

The NBS houses many research activities formerly conducted under the letterhead of the U.S. Fish and Wildlife Service. It includes 16 regional science centers, including the Great Lakes Science Center in Ann Arbor, which is high on the hit list if NBS funding is eliminated or curtailed.

Closing up shop in Ann Arbor would break the chain of nearly 100 years of science and fishery data compiled there, and cripple efforts to protect the lakes. Working with other state and federal agencies, the center has helped identify DDT as a problem in eagles, mercury as a threat in Lake Erie walleye, PCBs as a bioaccumulating toxin in a wide range of species. It helped to solve the alewife problem (remember the stinking mounds of trash fish that once piled up on some Great Lakes beaches?) and to develop methods to control the voracious lamprey.

Across the country, the agencies that make up the NBS have performed similar services for science, commerce, recreation, water quality, protection of species and habitat. The famed wildlife center at Patuxent, Md., brought back the whooping crane from the edge of extinction. Rachel Carson worked at Patuxent, and relied on data from there and Ann Arbor to write "Silent Spring." This is the scientific tradition and research base whose existence and continuity are now at risk.

The NBS, despite the propaganda of its detractors, doesn't regulate a flea; it merely provides information on which others may act. Sometimes that information is inconvenient, as when it shows how reckless logging practices are destroying the Pacific salmon fishery. What the country should do about logs vs. salmon is a legitimate policy question; at least we ought to know what's happening out there before we answer it.

The people with knives out for the NBS want to conduct the debate without the science. In the Great Lakes, that sort of know-nothingism could be fatal to the fishery, to water quality, to health, recreation and tourism. Michigan's members of Congress may differ on environmental issues, but they ought to share a genuine interest in preserving Great Lakes science and research—and the mission of the NBS nationally, for the same reasons.

It's one thing to argue over policies and decisions, another to trash the bioscientific base on which they should be made. The environment can survive a few wrongheaded policy decisions. It's doubtful any of us can survive the kind of willful ignorance the NBS' detractors seek to impose.

INTRODUCTION OF THE AQUACULTURE EMPLOYMENT INVESTMENT ACT

HON. JACK REED

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, July 17, 1995

Mr. REED. Mr. Speaker, I am pleased to introduce today the Aquaculture Employment Investment Act. This bill is based upon legislation I sponsored last Congress with my colleague from Massachusetts, Representative STUDDS.

Aquaculture represents a promising economic development opportunity for the State of Rhode Island. At the turn of the century, Rhode Island shellfishermen harvested so much shellfish from Narragansett Bay that this harvest would be worth almost $1 billion at today's prices.

The bill I am introducing today attempts to foster economic growth and create jobs by encouraging aquaculture development in our lakes and coastal areas. The Aquaculture Employment Act amends the Coastal Zone Management Act [CZMA] to authorize grants to States to formulate, administer, and implement strategic plans for marine aquaculture. This provision would enable States like Rhode Island that have no comprehensive plan for aquaculture development to get started in the process of creating jobs and economic development through aquaculture.

The legislation also creates a grant program modeled after a shellfish seeding program operating in Nantucket. Under this program, funds would be made available to States to expand ongoing projects relating to aquaculture, such as the State quahog transplant operations. By transplanting clams from high bacteria areas of Narragansett Bay to clean areas of the Bay, the clams are given the opportunity to clean themselves and eventually be ready for harvest.

This is not to say that development of a marine aquaculture industry will be easy. Difficult issues such as private use of public resources, conflicts with other coastal user groups, and the development of streamlined regulatory and permitting requirements will have to be addressed.

Other nations around the world have already recognized the potential of aquaculture and the important role that government can play in developing this industry. The governments of Japan, Norway, and Chile are supporting aquaculture development programs, and giving their citizens the opportunity to reap the accompanying economic rewards. In fact, these countries are exporting their aquaculture harvests of fish and shellfish to America.

This bill calls for a modest commitment of Federal resources, but it does not take a large Federal investment to join marine aquaculture and economic development. I urge my colleagues to join with me in support of its passage.

INTRODUCTION OF H.R. 2043, THE NATIONAL AERONAUTICS AND SPACE ADMINISTRATION AUTHORIZATION ACT

HON. ROBERT S. WALKER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 17, 1995

Mr. WALKER. Mr. Speaker, today I am introducing H.R. 2043, the National Aeronautics and Space Administration Authorization Act, fiscal year 1996. Mr. Speaker, the Committee on Science has devised a visionary, yet prudent alternative to the two very different approaches we have seen thus far this budget year.

The first approach was contained in the President's Budget Request for NASA. It said, "don't worry, trust us, we'll cut NASA's budget by $5 billion over the next 5 years." At the time, the President didn't say how the budget would be cut by $5 billion, but he said it could be cut without closing NASA field centers or cancelling programs.

To some of my colleagues, that promise sounded incredible—so much so that the Appropriations Subcommittee that pays NASA's bills, the Subcommittee on Veterans Affairs, Housing and Urban Development and Independent Agencies, took the exact opposite approach: it proposed closing NASA field centers and cancelling major science programs.

The role of the Science Committee is to provide guidance to the Nation's civil space program. We are operating under the fiscal imperatives that weigh upon all Members of the

House. Our job is to propose a new direction for NASA that meets both the needs of the nation's space program and the budget of the nation's taxpayer. H.R. 2043 does just that.

THE PATH OF THE FUTURE

Our bill lays the groundwork for a direct path to the future by focussing NASA's energies on basic research and development. The International Space Station, which is fully authorized to completion in H.R. 1601, should be seen as the foundation on which this bill rests. H.R. 2043, builds on the commitment made to human space exploration by fully funding the Space Shuttle program and takes the first steps toward privatizing the Shuttle while maintaining safe and productive operations.

But that's not enough. H.R. 2043 also fully funds the Reusable Launch Vehicle initiative aimed at low-cost, simple, reliable space transportation systems whose operational vehicles will be entirely developed by the private sector. This basic research is fundamental to industry's being able to privately finance and profitably operate the next generation of space vehicles. With this program, Mr. Speaker, we will begin a new era in space, led not by large engineering bureaucracies, but by skillful space entrepreneurs.

We are fully funding the President's proposal to fund two reusable X-type vehicles, the X–33 and the X–34. The X–33 is intended to be the development "footprint" for a single-stage-to-orbit fully reusable launch vehicle; the actual step of capitalizing and developing this system will be the private sector's responsibility. The program is designed to make that next step technologically feasible. The X–34 is already changing the way NASA does business because it reverses the contracting relationship; reverse contracting means that industry can decide how NASA will contribute its expertise to the program, and not the other way around.

PIONEERING BASIC SCIENCE

We are committed in H.R. 2043 to complete development of the highest priority basic science missions in NASA. These programs, Gravity Probe-B, Cassini, the Advanced X-ray Astrophysics Facility [AXAF], the Mars Surveyor, the Stratospheric Observatory for Infrared Astronomy [SOFIA], represent the core science mission that NASA should be focussing on as it returns to its original mission as the Nation's leader in basic scientific, air and space research. Originally NASA had proposed terminating Gravity Probe-B, if possible, to make room for two new programs in infrared astronomy, SOFIA and the Space Infrared Telescope Facility [SIRTF]. Our bill makes the difficult choice to fund Gravity Probe-B and SOFIA, but not SIRTF.

Originally, the Appropriations Subcommittee had proposed terminating Cassini, NASA's high reward science mission to Saturn. Cassini is an extremely valuable basic science mission, as evidenced by the fact that our European partners have devoted the equivalent of an entire year's science funding to develop the Cassini Huygens probe, which is their contribution to the program. If terminated now, with less than 25 percent of its development cost remaining, Italy's bilateral contribution to the Cassini mission would also be wasted. As America seeks to do more in space with less money, Mr. Speaker, we cannot afford to abandon international agreements where other nations have pledged their national treasure to work with the United States. H.R. 2043 funds the complete development and launch of Cassini.

Similarly, it would be a mistake to summarily terminate the Gravity Probe-B mission, which was first conceived of by Stanford University in 1967, to empirically prove Albert Einstein's Theory of Relativity. Less than 30 percent of the spacecraft, launch, and operations cost to complete this singularly important research remains. Rather than throw away nearly 30 years of dedicated research and development aimed at testing, at last, the most fundamental of physics assumption of our century, H.R. 2043 funds Gravity Probe-B.

SETTING FISCAL PRIORITIES

Mr. Speaker, some of our colleagues will wonder at hearing this news, how come NASA is not cutting its budget? Well, in fact, we are cutting NASA's budget by a total of $598 million—or 4% in real terms—below the President's request. H.R. 2043 authorizes NASA at $741 million—or 5% in real terms—below the current spending level.

How did we do it, Mr. Speaker? We decided to put our eggs in the basic science and research basket, and back away from applied research and applications. While spending more than $1 billion in fiscal year 1996, it is hard to suggest we have abandoned the Mission to Planet Earth. We will scale if back and restructure it in order for basic science to obtain priority once again. When the Earth Observing System was started in 1989, NASA was given the job of developing spacecraft sensors and satellites for each science researchers to use. As a result, as long as the funding for this service to others continued to be provided in Presidential budget requests, NASA enjoyed a growing budget and its outreach to the earth science community.

Mr. Speaker, those days are over. The government added Mission to Planet Earth to NASA's programs at a time when NASA expected its budget to grow by some 10 percent a year to accommodate this new application of the agency's technical capabilities. If those expectations were ever realistic, they certainly are not now. This does not mean that we need to cancel Mission to Planet Earth at this time, however. Instead, two things must now happen for NASA to continue applying its capabilities to earth data collection in a fiscally sound manner.

First, we must consider the size and scope of the Earth Observing Satellite [EOS] system and its data distribution system, EOSDIS. The Mission to Planet Earth program will extend to the year 2022 and in the year 2000 the budget for this program will grow to $1.6 billion. NASA has been reticent to provide detailed cost data beyond the year 2000. The General Accounting Office estimates that the EOS will cost some $33 billion through its completion.

Mr. Speaker, we must ask ourselves if this $33 billion dollar expenditure to collect earth environmental data is efficient, especially for the user community it will directly serve. For example, NASA estimates that EOSDIS will receive some 2,100 gigabytes of new data every day, or 766,550 gigabytes of data every year. NASA estimates that the entire earth science community has some 10,000 potential users, including graduate and undergraduate students. Mr. Speaker, that means that each user will have to analyze 76.6 gigabytes of data every year just to process the data. For comparison, a new personal computer with a Pentium processor is capable of holding .008 gigabytes of data in its RAM memory, and perhaps 0.9 gigabytes on its hard-drive. Our fear, Mr. Speaker, is that NASA is buying a present for earth watchers that is too big to fit under their tree.

Second, we must recognize that the government no longer has a monopoly on the production of earth images and scientific data sets. Several companies are in the process of selling earth-remote sensing data commercially. More are preparing to launch their own satellites to gather data. Proceeding without regard to the cost savings that will be made possible by the emergency of this industry is foolhardy. EOS could also become a competitor of this new commercial enterprise, throwing people who build satellites, and analyze and collect data for the private sector out of work.

Mr. Speaker, our bill does not end Mission to Plant Earth. It cuts the President's request by some $324 million, or 24%, but still authorizes NASA to spend over $1 billion dollars for this activity in fiscal year 1996. H.R. 2043 simply directs NASA to rescope the program for maximum efficiency and in the context of the private sector's growing capability to meet NASA's data requirements.

In Aeronautical research we make some hard choices, again favoring the more basic, more fundamental, and less applied research over those things that already bear communical value and in which the private sector already has sufficient incentive to pursue.

Mr. Speaker, Subcommittee Chairman Jim Sensenbrenner and I are proud of the bill we are introducing today, not only for what it does to solve the problems facing NASA this year, but because our bill takes NASA on the high road to the future.

NASA UNDERFUNDING

Looking back, my colleagues should recognize that NASA's reductions to help achieve a balanced federal budget are nothing new. Since 1992, NASA's budget has been declining each year. In all NASA has reduced it's total budget by 35 percent since 1991. Using the current year as an example, NASA had planned programs in its budget for fiscal year 1991 that today would require a NASA budget of nearly $21 billion. Instead of $20.9 billion, NASA got $14.4 for fiscal year 1995. The problem is not only that NASA's budget has been reduced, but the way in which it has been reduced.

Like no other, NASA is an agency that has consistently asked for less money than it needed to do the job. Since 1992, NASA's budget has been declining against looming programmatic requirements. The result has been devastating to agency morale and missions. The failure to produce realistic budget estimates to carry out the programs underway led to the cancellation of programs that had already consumed billions of taxpayer dollars. The Comet Rendezvous Asteroid Fly-by, the original Advanced X-ray Astrophysics Facility, the Advanced Solid Rocket Motor, and Space Station Freedom are among the casualties of this reckless budget strategy.

The fiscal year 1996 Request once again underfunds what is needed to do the job, based on the programs approved by Congress last year. Yet, the underfunding of $140 million in the fiscal 1996 budget request came the closest of all years in matching program requirements with the budget requested.

Beginning in fiscal 1997, the President's budget proposes to widen the gap again, based on arbitrary budget reductions of 3 percent in 1997, 5 percent in 1998, 7 percent in 1999 and 9 percent in 2000. We believe this will lead only to repeating the mistakes of the past and the summary cancellation of important missions into which taxpayers have already invested significant amounts. The only reasonable way to reduce NASA's budget is to address program requirements, including the size the scope of missions undertaken.

NASA IN A BALANCED FEDERAL BUDGET

Breaking the pattern of underfunding mission requirements is especially challenging in the fiscal environment demanded by a balanced federal budget. We believe NASA must adhere to basic research as its principal mission in order to set a strategic direction for itself in a future of declining budgets.

Therefore, the reductions in mission content proposed by this bill are aimed not only at the current year budget resolution target, but are also chosen to reduce future years' funding requirements. Every effort is made to prevent cancellation of programs in which large investments have already been made.

The priority is given to roles and missions of NASA aimed at basic research and discovery, as opposed to applications work. The long-term goal implied by the bill is to achieve a balance among NASA's strategic enterprises that allows basic space science—astronomy, astrophysics, life and microgravity science, and planetary science—to become a full 20 percent of the NASA budget as recommended by the Augustine Committee in 1990.

In order to ultimately reduce the overhead launch cost of performing any space activities, the development of the next generation of reusable launch vehicles, is an essential investment that NASA must make to survive. Basic research in cutting-edge technologies like single stage to orbit systems will enable yet greater science and discovery at lower costs.

Other enterprises of the agency will compete for the remaining resources provided in a declining budget. The opportunity for funding of these enterprises, including the earth science applications, applied technology programs for aircraft, and various outreach and academic program efforts, will depend on the ability of NASA to right-size its base of assets to the sharper focus of its missions henceforth.

RESTRUCTURING NASA

Our bill recognizes the real necessity for NASA to restructure itself in order to meet the challenges facing space in the next century. The Administrator of NASA has worked hard to produce a zero-base review which will help him reorganize NASA's activities into lead centers and specialized institutes. We applaud this effort, and will work with NASA to carry out the reforms of the zero-base review, including privatization of the Space Shuttle.

At the same time, we recognize the Administrator had two constraints placed on him that prevent a permanent solution to the underfunding problem. The zero-base review was not allowed to cancel NASA programs and was not allowed to result in the closing of any of NASA's field center installations. Those constraints were self-imposed, but as a result, the promised savings from this effort ring hollow.

In H.R. 2043, we propose the only credible, reasonable way to achieve a radical restructuring of NASA. That is, by a complete review of all NASA's capital assets: every piece of equipment, every building, every truck, every test facility, every everything. By looking at assets, we can see two costs: people who support the asset, and the mission supported by the asset. This kind of review is needed since NASA now owns more things—and has more people to use those things—than for which there is a purpose.

Up until our proposal, the conventional budget cutters would look only at the number of people or the missions. Decisions were being made on whether to cut raw numbers of people, close whole research centers, or cancel missions. These decisions can be terribly flawed and costly since missions require specialized skills and equipment that are, in fact, well distributed across the NASA system.

Our asset base review will turn the system on its head and look at the building blocks of the modern NASA budget: the maintenance and operations of capital assets. We propose to go to each such asset and ask, "What does this piece of equipment do for a mission? Who uses it? Why do they need it?" This approach will avoid the political and scientific pitfalls that have destroyed NASA's previous efforts to reform itself.

Our approach will not be vague. You won't hear us say, "Let's cut the fat." If it's not being used to perform a mission, it's fat. If it's not being used enough, or alternatives exist elsewhere in Government or through the private sector, NASA will go elsewhere, and not retain an underutilized asset. At the same time, if assets are needed, but are too old or too inefficient to do the job they are assigned, we will work to upgrade or replace essential assets on a cost-benefit basis.

Once the asset base review is completed, the President will propose to Congress, no later than September 30, 1996, legislation to implement the Administrator's recommendations based on the asset base review. In the meantime, we prohibit the Administrator from closing any of NASA's field centers. The Administrator may only close a field center if it is rendered obsolete as a result of the Administrator's recommendations, after enactment of the implementing legislation submitted by the President.

Mr. Speaker, H.R. 2043 is a real alternative. We navigate between the constraints NASA imposed on itself to bring fundamental change to the Nation's space agency. We navigate between the pressures facing our colleagues on the Appropriations Committee and suggest a way to set NASA's priorities on basic research. In conclusion, I urge all of my colleagues to read the bill and consider the direction H.R. 2043 takes NASA and the Nation toward. We are moving forward, building great science, and appropriately right-sizing the NASA infrastructure. We commend our approach to our colleagues, and look forward to working with the Senate to enact the kind of reform-oriented NASA authorization proposed here today.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, July 18, 1995, may be found in the Daily Digest of today's RECORD .

MEETINGS SCHEDULED

JULY 19

8:30 a.m.

Energy and Natural Resources

Business meeting, to mark up S. 852, to provide for uniform management of livestock grazing on Federal land.

SD–366

9:00 a.m.

Agriculture, Nutrition, and Forestry

Business meeting, to continue to mark up proposed legislation to strengthen and improve U.S. agricultural programs.

SR–332

9:30 a.m.

Environment and Public Works

Clean Air, Wetlands, Private Property, and Nuclear Safety Subcommittee

To hold oversight hearings on the implementation of section 404 (relating to wetlands) of the Clean Water Act.

SD–406

Finance

To hold hearings to examine Medicare payment policies, focusing on how doctors, hospitals, and other providers are paid.

SD–215

Labor and Human Resources

Business meeting, to mark up S. 856, to amend the National Foundation on the Arts and the Humanities Act of 1965, the Museum Services Act, and the Arts and Artifacts Indemnity Act to improve and extend the Acts, S. 916, to amend the Individuals With Disabilities Education Act to extend the Act, and proposed legislation relating to health centers consolidation, and to consider the nominations of Mary S. Furlong, of California, to be a Member of the National Commission on Libraries and Information Science, Richard J. Stern, of Illinois, to be a Member of the National Council on the Arts, National

Foundation on the Arts and the Humanities, and Lynn Waihee, of Hawaii, to be a Member of the National Institute for Literacy Advisory Board.

SD-430

Select on Intelligence

To hold hearings to examine intelligence roles and missions.

SD-106

Special Committee To Investigate Whitewater Development Corporation and Related Matters

To continue hearings to examine issues relating to the President's involvement with the Whitewater Development Corporation.

SH-216

2:00 p.m.

Appropriations

Business meeting, to mark up H.R. 1817, making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 1996.

SD-192

Foreign Relations

To hold hearings on the nominations of Frances D. Cook, of Florida, to be Ambassador to the Sultanate of Oman, Richard Henry Jones, of Nebraska, to be Ambassador to the Republic of Lebanon, and Thomas W. Simons, Jr., of the District of Columbia, to be Ambassador to the Islamic Republic of Pakistan.

SD-419

Governmental Affairs

To hold hearings to review criminal debt collection efforts.

SD-342

JULY 20

8:30 a.m.

Judiciary

Business meeting, to consider pending calendar business.

SD-226

9:00 a.m.

Agriculture, Nutrition, and Forestry

Business meeting, to continue to mark up proposed legislation to strengthen and improve U.S. agricultural programs.

SR-332

Environment and Public Works

Drinking Water, Fisheries, and Wildlife Subcommittee

To resume hearings on proposed legislation authorizing funds for programs of the Endangered Species Act.

SD-406

9:30 a.m.

Commerce, Science, and Transportation

Business meeting, to consider pending calendar business.

SR-253

Finance

To continue hearings to examine Medicare payment policies, focusing on the Medicare services experiencing the most rapid growth in spending, including home health care, skilled nursing, rehabilitation hospitals and clinical laboratories.

SD-215

Finance

Social Security and Family Policy Subcommittee

To hold hearings on provisions of S. 1029, to establish and strengthen policies and programs for the early stabilization of world population through the global expansion of reproductive choice.

SR-418

Labor and Human Resources

To hold hearings on proposed legislation to authorize funds for the Organ Transplant Act, focusing on the role of the Government in the oversight, regulation, and financing of solid organ and bone marrow transplantation.

SD-430

Special Committee To Investigate Whitewater Development Corporation and Related Matters

To continue hearings to examine issues relating to the President's involvement with the Whitewater Development Corporation.

SH-216

2:00 p.m.

Foreign Relations

African Affairs Subcommittee

To hold hearings to examine the situation in Nigeria.

SD-419

JULY 21

9:30 a.m.

Finance

To hold hearings to examine foreign tax issues, including the deferral of income tax on the earnings of U.S. businesses operating overseas, section 956A of the Internal Revenue Code, and the tax treatment of passive foreign investment companies and foreign sales corporations.

SD-215

10:00 a.m.

Judiciary

To hold hearings to examine certain activities of the Bureau of Alcohol, Tobacco and Firearms of the Department of the Treasury, and recent events in Tennessee.

SD-226

JULY 24

10:00 a.m.

Judiciary

To hold hearings to examine child pornography on the Internet.

SD-226

JULY 25

9:30 a.m.

Energy and Natural Resources

Forests and Public Land Management Subcommittee

To hold hearings on S. 45, to require the Secretary of the Interior to sell Federal real and personal property held in connection with activities carried out under the Helium Act, S. 738, to prohibit the Bureau of Mines from refining helium and selling refined helium, and to dispose of the United States helium reserve, and S. 898, to cease operation of the government helium refinery, authorize facility and crude helium disposal, and cancel the helium debt.

SD-366

Indian Affairs

To resume hearings on S. 487, to amend the Indian Gaming Regulatory Act.

Room to be announced

10:00 a.m.

Judiciary

To hold hearings to examine issues relating to prison reform.

SD-226

JULY 26

9:30 a.m.

Labor and Human Resources

To hold hearings to examine emerging infections and their impact on society.

SD-430

10:00 a.m.

Judiciary

To hold hearings to examine punitive damagesreform.

SD-226

2:00 p.m.

Commission on Security and Cooperation in Europe

To resume hearings to examine the Chechnya crisis, focusing on prospects for peace.

2200 Rayburn Building

JULY 27

10:00 a.m.

Judiciary

Business meeting, to consider pending calendar business.

SD-226

AUGUST 1

2:00 p.m.

Judiciary

To hold hearings on pending nominations.

SD-226

AUGUST 2

9:30 a.m.

Indian Affairs

Business meeting, to consider pending calendar business; to be followed by oversight hearings on the implementation of the Indian Tribal Justice Act (P.L. 103-176).

SR-485

CANCELLATIONS

JULY 20

9:30 a.m.

Energy and Natural Resources

To hold hearings on S. 871, to provide for the management and disposition of the Hanford Reservation, and to provide for environmental management activities at the Reservation.

SD-366